UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
FIRST SESSION

VOLUME 123—PART 23

SEPTEMBER 12, 1977 TO SEPTEMBER 20, 1977

(PAGES 28633 TO 30064)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1977

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

SENATE—*Monday, September 12, 1977*

The Senate met at 12:30 p.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God who has made and preserved us a nation, we beseech Thee to direct us in all our doings with Thy most gracious favor, and further us with Thy continual help; that in all our works begun, continued, and ended in Thee, we may glorify Thy holy name.

In our witness to human rights, keep us mindful that all human rights are divine gifts as part of man's createdness and that human personality is sacred because man has an immortal soul with an eternal destiny for whom the Redeemer gave His life, and in whose name we pray. Amen.

RECOGNITION OF LEADERSHIP

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 9, 1977, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for time at this moment.

The PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order. I see the distinguished Senator from Oklahoma is present. I believe he has a special order to speak.

Mr. President, I yield back my time under the standing order.

The PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

MORE AND BETTER JOBS FOR AMERICANS

Mr. BARTLETT. Mr. President, the latest figures from the Bureau of Labor Statistics reveal that the American economy is generating a phenomenal number of new jobs. Presently there are 90.7 million people at work in the United States. This is over 4 million more jobs than existed in the first quarter of 1976. Yet there are still 7 million individuals unemployed for an unemployment rate of 7 percent. This is far too high. If the United States is to reduce permanently this unacceptably high rate of unemployment and create the conditions necessary to provide enough productive jobs for everyone willing to work, we must return to basics.

For too long now the Federal Government has depended upon the tools of demand management, via fiscal and monetary policy, to stimulate our economy. Unfortunately, the Government's application of these Keynesian tools has often been clumsy and wrongheaded—ignoring many of the caveats that Keynes himself issued about the use and effects of his policies. For example, the Government has increased the Federal deficit at times when the economy was operating at full employment, thereby generating inflation and creating the conditions for future unemployment. Congress has consistently failed to show restraint or the necessary sophistication in using the powerful tools of demand management.

Another example of the effects of the Government's single-minded concentration on demand management has been its general ignoring of the effects of Government regulations on the cost patterns of American enterprises, that is, on the supply side of the picture. Government actions have been one of the major contributors to increasing costs and decreasing supplies since the Second World War—in housing, energy, credit, automobiles—the list is nearly endless. And such increases of costs are, presently, almost completely outside the ability of demand management to halt.

The now traditional precepts for economic intervention by the Government can be characterized by comparing them to a sailor trying to bring his sails into racing trim as his boat is sinking. We have become preoccupied with technique and have forgotten substance; we have become so used to reacting to every monthly squiggle in the economic statistics that we have ignored the trends; and, we have allowed the promises of an ever-growing Government to close our eyes to the dangers of "Big Brother."

We must encourage savings and capital formation, and we must regain our faith in the productive capabilities of our private enterprise system.

Increased productivity—that is, increased output per man-hour—is one of the necessary ingredients to providing more and better jobs for Americans in the future. Yet our record in this regard in recent times has been discouraging. A Treasury Department study indicates that total U.S. fixed investment as a percentage of national output during the period 1960 to 1973 was 17.5 percent. This ranks last among a group of 11 major industrial nations. In addition, over the past 15 years or so Japan, West Germany, France, Canada, Italy, and the United Kingdom have all experienced rates of productivity growth greater than has the United States. Taken together, their rate of productivity growth is more than double ours.

We need not, however, accept our low productivity growth as inevitable. But we do need to change some of our national policies. If we are going to create more and better jobs for Americans, jobs that will keep people permanently employed, that will meet the demands of a growing labor force, and that will reduce our inflation by expanding our output of goods and services, then we must encourage our private sector to equip our workers with new and efficient plant, machinery, and tools. More machinery is not sufficient; having more people and more machines of the 17th century variety would not be likely to take us far beyond the standards of living of the *Mayflower* Pilgrims. Better machines—through increased technical productivity—are needed for growth.

Saving and investment are the sources of this needed capital. But savings are currently being drained by excessive Federal deficits, and our tax policies encourage present consumption rather than saving and investment for the future. If we truly desire more and better jobs for America's labor force, we must reduce the size of government expenditures in order to reduce our operating deficits and change the anti-investment bias built into our tax system.

Resources absorbed by the government for its spending today cannot simultaneously be invested in expanded plant and machinery to employ more people tomorrow. We cannot have both bigger government and a healthy, expanding private sector. It is the old dilemma of guns or butter. Government does not create wealth—individuals in the private sector do. We cannot continue to transfer each year an increasing percentage of our national wealth from the most productive sector to the least productive sector of our economy without endanger-

ing the economic future of our children. Such a route all too clearly leads to fewer and less satisfactory jobs for our people.

There are three main domestic sources of savings: saving by individuals; corporate retained earnings; and government budget surpluses. Obviously, we have seen very little in the way of government savings. In fact, the Federal Government has accumulated significant amounts of negative savings by running deficits, even in periods of full employment.

We must change our fiscal policies so that levels of Government savings increase. We must make our fiscal policy more responsive to changes in the business cycle rather than letting it continue on its present path of blind spending.

Typically, personal savings account for two-thirds of the total net saving in the economy, with corporate savings accounting for most of the rest. As I mentioned, these savings serve as the "seed corn" for investment in new plant and equipment—for capital formation in any economy. Yet our present tax system discourages such savings by increasing the cost of saving relative to the cost of consumption.

In other words, our tax system is not nearly neutral enough in this regard. And all of us, whatever our personal saving habits, bear the cost of this anti-saving bias in the form of less total output, less total production capability, less productivity, and less total income.

Among the possibilities to remove the present disincentives to saving and investment are: reduction in corporate income tax rates; increasing the investment tax credit; elimination of the double tax on corporate dividends; and tax incentives to encourage stock ownership and individual retirement accounts.

America's long-term ability to create more and better jobs will, to a considerable degree, depend upon whether we can encourage saving by measures such as these. We need the savings because we need the capital formation which will form the basis of our future prosperity.

Increasing productivity, however, depends on other things besides reducing the Federal deficit and increasing saving. These measures help provide the necessary environment for increasing productivity, but increasing the productivity of American workers is essentially a creative process—a process of imagination and risk taking.

The role of government in such a process is, first of all, not to discourage innovation and entrepreneurial activity; but, more positively, to encourage constructive change by supporting research, development, and investment in what economists call human capital—education and training.

Increasing technical productivity has historically been largely responsible for America's ability to create new and better jobs. Unfortunately, the United States is losing its momentum in making technical change. For the last 10 years, the percentage of the U.S. gross national product devoted to R. & D. has been declining. The Federal Government has been cutting back its funds for R. & D. We must reverse this trend.

Just as machinery is capital for society, so too are people. If we can improve a person's ability to produce efficiently by providing more in the way of education and training—and the record shows that we can—then we ought to increase our investment in people for the same reasons we ought to increase investment generally. The Government needs to increase its support of schools, colleges, universities, and vocational training institutes for these strictly economic reasons, as well as for civic and humanistic reasons.

Creating more and better jobs for Americans is a job in itself—a job that the Government can participate in, but which must ultimately be borne by our free enterprise system itself. The best thing the Government can do is to let it work—and to help it work better. Increasing productivity is the key to providing more and better jobs for Americans and the private competitive marketplace is where such increases spring from.

QUORUM CALL

Mr. BARTLETT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL ENERGY CONSERVATION POLICY ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2057, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2057) to establish a comprehensive national energy conservation policy.

Mr. ALLEN. Mr. President, I note in the RECORD, on page 28583, that there is supposed to be a period for the transaction of routine morning business at this time. An order was entered.

The PRESIDENT pro tempore. Under the agreement, when the Senator from Oklahoma concluded his remarks, the Senate was to resume consideration of S. 2057.

Mr. ALLEN. I do not desire to make a point of it, Mr. President. Nevertheless, there is an order for routine morning business.

Mr. ROBERT C. BYRD. I think that was superseded by the order to which the President pro tempore has alluded, I say to the Senator from Alabama. However, does the Senator wish to transact morning business?

Mr. ALLEN. For 5 minutes, yes.

The PRESIDENT pro tempore. That order was rescinded.

Mr. ROBERT C. BYRD. It was superseded.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, for the purpose only of statements by Senators, introduction of bills and resolutions, petitions and memorials into the RECORD; that there be a limitation on any statements by Senators of 5 minutes each, with an overall time limit of 10 minutes for the transaction of morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly, without the time being charged against him?

Mr. ALLEN. I yield.

ORDER FOR CONSIDERATION OF S. 1360 AND S. 995

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the national energy conservation bill, the Senate proceed to the consideration of Calendar No. 310, S. 1360, the timber sales bill; and that upon the disposition of that measure, the Senate proceed to the consideration of Calendar No. 308, S. 995.

Mr. BAKER. Mr. President, reserving the right to object—and I shall not object—I have discussed this matter of scheduling with the distinguished majority leader, and I thank him for suggesting this course of action at this time. It will give us a degree of certainty that will be useful, I am sure, to all Members.

It is my best estimate that we will not finish the present measure—that is, the energy conservation bill—until tomorrow, so that in all likelihood, the timber sales bill would be before the Senate for consideration sometime during the day tomorrow; then upon the disposition of that bill, we would proceed to Calendar No. 308.

Mr. ROBERT C. BYRD. That is the bill to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

Mr. BAKER. We have no objection to it, and I thank the majority leader for suggesting that schedule.

The PRESIDENT pro tempore. Without objection, it so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader, and I thank the distinguished Senator from Alabama for his courtesy in yielding.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, in the September 11 issue of the New York Times appeared a most interesting and informative article by Capt. Paul B. Ryan, USN retired, a research associate at the Hoover Institute, Stanford University.

From this article it can be seen that there are two areas, at least, in the Panama Canal Treaty on which the American negotiators placed one construction

and the Panamanians placed another construction.

Both of these provisions or the construction of both of these provisions is most important to the rights the United States would have in the event this treaty is approved by the Senate.

The first has to do with the right of the United States to defend the canal. The article points out:

But does this ostensibly forthright interpretation of treaty terms—

That is, the United States would have the right to defend the canal—

which presumably protect vital United States strategic interests, coincide with that held by Panama? The answer is no, if you listen to its chief treaty negotiator, Dr. Romulo Escobar Bethancourt, who analyzed the treaty's provisions at a news conference in Panama City on Aug. 24.

Dr. Escobar's comments were broadcast by radio and subsequently published in the Daily Report of our Government's Foreign Broadcast Information Service. Surprisingly, Dr. Escobar's astonishing views, which directly contradict the White House's, appear to have been given very little publicity or were entirely overlooked by the United States news media.

Dr. Escobar roundly rejects the Carter Administration's claim that the United States may send in troops.

Mind you, this was the chief negotiator on the part of the Panamanians.

Quoting from his interview:

"The treaty does not establish that the United States has the right to intervene [that is, send in troops] in Panama," he said. He denied that the treaty gives the United States the right to decide when neutrality is violated or not. Neither, in his view, do United States warships have the right of expeditious transit without conditions.

As Dr. Escobar inelegantly put it: "If the gringos—

Referring to the people of the United States—

with their warships say, 'I want to go through first,' then that is their problem with the other ships there." Presumably, Panamanian officials would look idly on while United States Navy captains, during an international crisis—

And that is a word for war or close proximity—

haggled with merchant skippers for a place at the head of the waiting line of ships. So much for the United States right to unimpeded transit and the defense of the waterway!

Faced with Panama's refusal to allow "privileged passage," the Americans finally accepted the term "expeditious transit," in order, said Dr. Escobar, to "sell" the treaty to the Pentagon. "Now they [the United States diplomats] could explain that this means privileged passage. . . . Do not believe that we mean that," he emphasized.

So you have two different constructions placed on two different sections of the treaty: one, the right of the United States to defend the canal, and Dr. Escobar says the United States will not have the right to say when the neutrality is being violated nor, he says, does she have the right to send in troops.

How are we going to defend the canal if we do not have the right to say when neutrality is in danger or if we do not have the right to send in troops? So if they do not have a meeting of the minds, Mr. President, if the Panamanians and the United States negotiators differ on these two most important points, how is it we can say this treaty is in the best interests of the people of the United States?

So I am hopeful, of course, when this matter does come up—and I see the distinguished majority leader here on the floor—I am hopeful, even though the distinguished majority leader says he wants to carry this matter over until next year, it will be brought up this year, and that the Senate will be allowed to express its will, that is, decide to give or not to give its advice and consent to the treaty.

So I am hopeful we can have action on this treaty this year. But if we do not have a meeting of the minds between Panama and the United States as to what these important provisions mean—these are just two of them, I do not know how many other instances there are—but this is Dr. Escobar himself saying he has a difference of opinion with the U.S. negotiators, so if we do not know what the treaty means, if there is a sharp difference of opinion about what it means, how can the Senate be called upon to give its advice and consent to the approval of this treaty?

Mr. President, I ask unanimous consent that this article be placed in the RECORD, and also an article this morning in the Washington Post by Congressman PHILIP CRANE, "Our Standing in the World Would Diminish"; and an article by our distinguished colleague, Mr. Helms, in the Washington Post of this morning, "This Alternative to the Carter Proposals."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 11, 1977]

THE CANAL TERMS, ARGUED FROM DIFFERENT PREMISES

(By Paul B. Ryan)

STANFORD, CALIF.—In his frenetic blitz to gain public approval of the two Panama Canal treaties, President Carter has stressed that he wishes to dispel misinformation by laying out the facts. Thus, he and his chief negotiators, Ellsworth Bunker and Sol M. Linowitz, repeatedly have assured the public that the United States would have the permanent right to defend the canal by sending troops into Panama in time of crisis. Additionally, the White House says that United States warships would have "the permanent right to transit the canal expeditiously and without conditions, for an indefinite period."

But does this ostensibly forthright interpretation of treaty terms, which presumably protect vital United States strategic interests, coincide with that held by Panama? The answer is no, if you listen to its chief treaty negotiator, Dr. Romulo Escobar Bethancourt, who analyzed the treaty's provisions at a news conference in Panama City on Aug. 24.

Dr. Escobar's comments were broadcast by radio and subsequently published in the Daily Report of our Government's Foreign Broadcast Information Service. Surprisingly, Dr. Escobar's astonishing views, which directly contradict the White House, appear to have been given very little publicity or entirely overlooked by the United States news media.

Dr. Escobar roundly rejects the Carter Administration's claim that the United States may send in troops. "The treaty does not establish that the United States has the right to intervene [that is, send in troops] in Panama," he said. He denied that the treaty gives the United States the right to decide when neutrality is violated or not. Neither, in his view, do United States warships have the right to expeditious transit without conditions.

As Dr. Escobar inelegantly put it: "If . . . the gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships there." Presumably, Panamanian officials would look idly on while United States Navy captains, during an international crisis, haggled with merchant skippers for a place at the head of the waiting line of ships. So much for the United States right to unimpeded transit and the defense of the waterway!

Were these wildly different interpretations known to the United States negotiators during the talks? As Dr. Escobar told the newsmen, these points had been thrashed out with the Americans but Panama had stood firm against their demands.

Faced with Panama's refusal to allow "priviliged passage," the Americans finally accepted the term "expeditious transit," in order, said Dr. Escobar, to "sell" the treaty to the Pentagon. "Now they [the United States diplomats] could explain that this means privileged passage. . . . Do not believe that we mean that," he emphasized.

Placed side-by-side Mr. Carter's reassuring assessment and Dr. Escobar's belligerent and cynical evaluation present the apparent paradox of two Governments outwardly reaching an agreement but secretly retaining entirely different perceptions of its provisions. Or is it a case where both negotiating teams assumed that the "real" meaning of the terms could be safely debated after both nations had won ratification from their respective Governments?

Plainly, such a treaty is fraught with peril for future United States operations involving canal transits. The danger of jeopardizing the Navy's use of the waterway was apparent to Presidential candidate Carter and he implied as much during his televised debate on Oct. 6, 1976, with Gerald R. Ford. Mr. Carter said, "I would not relinquish practical control of the Panama Canal Zone at any time in the foreseeable future."

As a former naval officer, Mr. Carter understands, probably better than most people, the need for the United States to retain such "practical control" to permit its Navy to carry out missions worldwide in support of United States diplomatic policies and strategic objectives.

This is particularly true in an era when international tension, as well as mini-wars of the Angola type, are much more likely to occur than an allout war.

In the light of Dr. Escobar's dismissal of United States treaty rights, can President Carter really mean what he says?

A poor treaty is worse than no treaty at all. United States diplomacy must serve the national interest, as we have recently been reminded. The Carter Administration should clear up these glaring ambiguities at once. As matters now stand, the American people have no guarantee from Panama for the protection of United States defense and security interests in the Canal Zone.

[From the Washington Post, Sept. 12, 1977]

THE CASE AGAINST THE CANAL TREATIES

OUR STANDING IN THE WORLD WOULD DIMINISH

(By Philip Crane)

I do agree with my colleague Paul Simon [op-ed, Aug. 30] on one point: The American people would be violently opposed to "giv-

ing away" the Panama Canal. But their opposition to what the treaties actually propose will be even greater. We are, in fact, paying the Panamanian government to take away our multibillion-dollar interest in Panama—to the tune of about $50 million per year plus approximately $350 million in economic and military aid!

One supporter of the treaties not mentioned by Simon is the U.S. banking community. Since they have huge sums of money in loans obligated to Panama, they cannot afford to oppose the treaties. Under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39 per cent of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot afford to have the treaties rejected either. In fact, Torrijos' initial request was for a payment of $5 billion plus a $300-million annuity—but he will have to settle for the smaller package now under discussion.

If, as Simon states, our primary interest is keeping the canal open, then he had better study the definition of "open" as understood by Panama. According to Dr. Rómulo Betancourt, head of the Panamanian negotiating team, in a report to the Panamanian National Assembly on Aug. 19, when the U.S. proposed that Panama be obliged to keep the canal permanently open and neutral, Panama cited these grounds for not keeping it open: because of an earthquake, because of a landslide or because the canal was not making money.

I question why we shouldn't be proud of the current treaty, approved by the U S. Senate in 1904. It granted the U.S. "all rights, power, authority in the Zone . . . which the U.S. would possess and exercise if it were the sovereign" for an initial payment of $10 million plus an annuity of $250,000—an annuity that has now been increased to $2.3 million. The Provisional Government of Panama ratified the treaty, as did the Constitutional Government of Panama when it took office in 1904 and reaffirmed all acts of the previous regime. The Supreme Court decision in 1907 on *Wilson* v. *Shaw* held that the United States does maintain legal sovereignty and ownership under the 1903 treaty, a ruling upheld in 1972.

Obviously, national pride—for both Panamanians and Americans—is still an issue. But if we base our return of the canal on the fact that the Panamanians "don't like" our having acquired the property, then we had better consider giving Louisiana back to France and Alaska back to the U.S.S.R.

I would truly like to believe that we know the position of the U.S. military brass on the treaty question. But the Singlaub affair has convinced military personnel that they jeopardize their military standing and job security by publicly opposing any administration policies. If military officials in a spot to accurately analyze the risks involved in ratifying a treaty with Panama were free to speak their minds, we could fully assess the validity of apparent U.S. military support for the treaties.

Torrijos' regime—created by a coup in 1968—is known for its friendliness with Castro and pro-Communist tendencies. In fact, the Soviets, who do not even have diplomatic relations with Panama, have recently concluded tentative economic and commercial agreements with the country—a foot in the door, as it were. Of course, Panamanian Communists oppose the treaties: They want control of the canal right now. Moreover, Torrijos as director has been a consistent violator of human rights in Panama. In light of President Carter's strident—and laudable—campaign for human rights, isn't signing the treaties a blatant act of hypocrisy?

The canal will be in much graver danger if a treaty is agreed to. First, sabotage is a remote possibility because of the economic importance of the canal to Panama. If we surrender the Zone, the entire isthmus becomes the focus of international envy and, possibly, combat. Betancourt stated outright in his assembly address that "we are not giving the U.S. the right of intervention." Moreover, the neutrality agreed to is not one "so only the U.S. ships travel through peacefully" but it is one "so that all ships of all flags in the world travel through peacefully . . . communist . . . fascist . . . monarchy." Under these terms, Panama is simply inviting the wolf to dine at his own table.

Simon is absolutely correct: The United States is a leader in the Free World. But, if we relinquish the canal our power and standing in Latin America and throughout the world would diminish. This is particularly true in light of recent retreats from other spots on the globe. How can it be termed "moral" to pull the rug out from under the Panamanian economy at a particularly feeble moment in its history? During 1976 the United States infused over $29 million into Panama by direct purchases from U.S. government agencies; over $108 million in wages to non-U.S. citizens employed in the Zone; over $39 million in personal expenditures by U.S. employees—not to mention major construction, obliteration of yellow fever, and countless apprentice and job-training programs. In fact, per capita income in Panama is currently the highest in Central America—thanks to you-know-who. Actually, I do share Simon's sincere hope that the "sensible" answer to this crucial question holds forth. That sensible answer, in my opinion, is sound rejection of the proposed treaties.

[From the Washington Post, Sept. 12, 1977]

THE ALTERNATIVE TO THE CARTER PROPOSALS

[By Jesse Helms]

Let someone say it: What happens if the Panama Canal treaties fail? Does it mean the collapse of relations between the United States and our Latin American friends—or a new beginning?

I believe in the new beginning, one that can mean an end to the tortured distrust and falsity so characteristic of our relations with Latin America in the past 30 years. Not only have we failed to make good the promised unity of the Rio Treaty of 1947, but we also have ignored profound changes that have taken place in the past 10 years.

We have ignored, for example, the painful effort of most of the southern contingent to exorcise the double menace of terrorism and Marxism. We have treated as pariahs those proud countries that have been engaged in the difficult task of restoring social justice to shattered civil societies and of recreating their authentic cultural traditions and religious values. And now, at the moment when President Carter's advisers suddenly feel the need to create a showpiece tapestry of unity against which to display the dubious transaction with Panama, these same nations are suddenly recognized and brought forward, much as dotty old relatives might be brought down from the attic for dinner on Christmas Day. This is the same kind of exploitation of which our Latin friends have complained in the past.

The very premises of the Panama treaties are based on the shaky foundations of outmoded ideologies. No one really believes that the United States can be convicted of that rhetorical offense of the 1950s, colonialism. Panama and the Panama Canal were born together as if Siamese twins, under separate sovereignties, but yoked together for life. Those who question the legitimacy of that point birth must question the legitimacy of both.

The treaty proponents speak of "the year 2000," as though any transfer of power will take place in another era, or perhaps in another galaxy. The fact is, "the year 2000" is only 23 years off. To imagine the dramatic shift in the world balance of power that can take place in the next 23 years, one need only reflect on the massive shifts of power in the past 23. One notes, for example, the dramatic rise in Soviet offensive strategic missiles and the Soviets' parallel effort to build a naval force capable of dominating the seas—not to speak of the strategic waterways that connect the seas.

Despite assurances to the contrary, the texts of the proposed treaties show that practical control passes to the Republic of Panama as soon as the United States gives up its sovereign rights. We would be, in effect, strangers in a strange land. Whoever controlled Panama would control our right to defend the canal. The power relationships in the treaty would be inverted. We would become a pyramid standing on its point.

Would the treaties be worth more than the paper they are written on? As the British found out, an agreement in principle to get out on a fixed date usually means that the date gets moved up in practice. Moreover, the task of supporting an inverted pyramid will crush any free Panamanian government. Terrorism and civic unrest are tools in the worldwide phenomena of subversion and do not depend upon reasonable pretexts. We must not imagine that Panama will be exempted from bloodshed and violence if we ratify these treaties, rather, we must expect intensified efforts to bring the pyramid down.

The United States would then be faced with a dilemma: whether to violate Panama's independence with another Dominican Republic-style incursion or whether to cut and run away from a handful of expiring treaty rights no longer workable in a revolutionary environment. Either way, Panama would lose, and so would we. That is why there is no overwhelming sentiment in the Senate to approve these treaties.

What is the alternative?

On June 30, I spent 40 minutes alone with President Carter discussing what might happen should the treaties he has proposed not be approved by the Senate. On Aug. 19, Sen. Strom Thurmond, Sen. Orrin Hatch and I had a similar discussion with President Lakes of Panama. I assured both Presidents that it would be a mistake to interpret a vote against the treaties as a vote against the people of Panama. On the contrary, those who oppose the treaties want to work with the Panamanian people in an even closer relationship, but there is no practical way to do this unless we retain our sovereign rights in the Canal Zone.

I proposed to both Presidents that a work such as the major modernization of the Panama Canal would provide an investment of substantial sums in our future relationship with Panama. It would be more than just an investment in our own sovereign territory; the terms of the program would be mandated to ensure broad Panamanian participation across the social spectrum, to upgrade education and skills-training for the people, to provide detailed managerial experience and to set up joint ventures with Panamanian firms.

Indeed, had this necessary modernization been adopted a dozen years ago, instead of stress and the threat of doomed aspirations, Panama would presently enjoy one of the most advanced environments for development and social progress in Latin America. Pan-

ama could now be ready to catapult forward as a model nonsocialist country.

Would this satisfy the hot demands of some Panamanian extremists? Neither Panama nor the United States can afford to cater to a miniscule minority, no matter how determined, that wants to use the name of nationalism to destroy a nation, rather than to build it. There is a cooler satisfaction that comes from pride in one's own achievement, from having worked at something and built it. If the treaties fail, that kind of satisfaction could be the basis of a better relationship with all of Latin America.

Mr. ALLEN. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

NATIONAL ENERGY CONSERVATION POLICY ACT

The PRESIDENT pro tempore. The Senate will resume consideration of S. 2057, which the clerk will report.

The assistant legislative clerk read as follows:

S. 2057, a bill to establish a comprehensive national energy conservation policy.

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in the order which I entered just a few minutes ago which provided for the consideration of the transaction of morning business, I meant only as I phrased that order to rule out the call of the calendar under rule VIII and also to preclude any resolution coming over under the rule. I meant for other ordinary morning business to be transacted such as the receiving of committee reports, statements, petitions, memorials, introductions of bills and resolutions, and so forth.

So, I meant only to waive the call of the calendar under rule VIII and to preclude the coming over under the rule of any resolutions on the calendar.

The PRESIDING OFFICER. The clarification will be so construed.

Mr. ROBERT C. BYRD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proor bicycling or waiting for mass transit. ceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENERGY CONSERVATION POLICY ACT

The Senate continued with the consideration of the bill (S. 2057).

UP AMENDMENT NO. 798

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. FORD, proposes an unprinted amendment No. 798.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, strike lines 19 and 20 and insert in lieu thereof "Secretary of Transportation, in consultation with the Administrator of General Services, shall by".

On page 76, line 11, strike "Administrator" and insert in lieu thereof "Secretary of Transportation".

Mr. JOHNSTON. Mr. President, this amendment is offered on behalf of Senator FORD and the Commerce Committee.

Part f of S. 2057 requires that all passenger vans and automobiles purchased by the Federal Government after fiscal year 1978 be equipped with passive crash protection systems to the maximum extent technically feasible. The Federal Energy Agency Administrator, in consultation with the Secretary of Transportation, would be required to prescribe to the regulations governing the various aspects of installation of these systems in the Federal fleet, recognizing the relative unavailability of the systems in the first years following fiscal year 1978.

The amendment I offer would require the Secretary of Transportation, as opposed to the FEA Administrator, in consultation with the Administrator of the General Services Administration, to prescribe passive restraint devices in Federal vehicles. The Secretary of Transportation, not the FEA Administrator, has both the statutory responsibility and the expertise in the area of passive restraint protection, technology, and availability. There simply is no good reason for involving the FEA Administrator in the issuance of regulations in such a highly technical area as passive restraint devices. On the other hand, there is every good reason for maintaining the central role of the Secretary of Transportation in this area.

With regard to the matter of the installation of the devices in the Federal fleet, the Secretary should be required to consult with the GSA Administrator since, under the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 481), the GSA has the general authority to procure vehicles for the Federal Government.

So all this is doing, Mr. President, is putting the responsibility for the administration's new program where it ought to be, with the DOT, and taking it from the FEA.

Mr. HANSEN. Mr. President, the amendment is acceptable to this side of the aisle.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 799

Mr. McINTYRE. Mr. President, I send to the desk my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. McINTYRE) for himself and Mr. BROOKE proposes unprinted amendment No. 799.

On page 24, line 24, after "energy" insert the following: "either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive or radiant energy transfer or some combination of these types"

Mr. HANSEN. Will the distinguished Senator from New Hampshire yield without losing his right to the floor, in order that I may make a unanimous-consent request?

Mr. McINTYRE. Under those conditions, I yield to my good friend from Wyoming.

Mr. HANSEN. Mr. President, I ask unanimous consent that the privilege of the floor may be accorded, during the debate and any votes on this measure, to Tom Iverson of the Energy Committee, Kathryn Bruner of Senator HAYAKAWA's staff, and Ed Zajonc, on Senator PACKWOOD's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Mr. William Donovan of my staff may be accorded the privilege of the floor during debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSIVE SOLAR ENERGY MEASURES

Mr. McINTYRE. Mr. President, the bill before us provides a new definition of solar energy systems for use in Federal housing programs. Under that definition—and, I should add, under the older definition that it replaces—it is not clear whether so-called passive solar energy systems are eligible for Federal assistance.

This may seem like a fine point. But it is not. We are preparing to invest

hundreds of millions of Federal dollars—perhaps billions of dollars—in Federal incentives for solar energy in American homes.

To date, most of our attention has been focused on rooftop collectors. These solar collector systems are complicated, with systems of pipes or ducts, pumps, storage systems and controls.

We all know they are expensive.

The typical installed cost of a solar hot water heating system is $1,200 to $2,000, and the typical cost of a system that provides 70 percent of a home's heating needs can run $6,000 to $12,000 or more.

Before going to this expense, a homeowner should make highly cost-effective investments in energy conservation measures, and in passive solar energy measures which use natural means to bring some of the Sun's heat into the home.

Some of my colleagues may well ask, "What is a passive solar energy measure?" It is any component of a home which collects the sun's heat without the use of active collector systems, tanks, pipes, and pumps. The simplest examples of a passive solar energy system is a south-facing window. The sunlight that passes into the room from this window can help warm the room in winter.

Another example of a passive solar energy measure is a thermal storage wall. This is a wall of masonry or other rock-like material that is in the path of the sunlight passing into the room. This kind of wall will collect and store sunlight, in the form of heat, for hours, and release that heat into the room at night. This concept is already known very well to the solar energy industry. Some homes with active solar energy systems use large insulated beds of crushed rock to store the heat underground. A masonry or rock wall is just as effective, and is a far less costly way to store the sun's heat.

Passive energy measures, properly used, are much like basic energy conservation measures. Often the cheapest, and most obvious measures are also the most effective in saving energy. Many homes, if built with good insulation and some passive design concepts will need only a small heating system, whether it uses solar energy system, natural gas, oil, or another kind of heat.

By using passive solar energy measures, a homeowner can save money in the construction of a heating system as well as save on fuel bills.

In the same fashion, the Federal Govearnment can do far more to reduce the Nation's dependence on imported fuels by providing incentives for the cheapest, most effective steps first, before urging everyone to put a solar collector on the roof.

For these reasons, this proposal to broaden the definition of solar energy systems should not be looked upon as an attempt to put more Federal money into solar energy. To the contrary, it is reasonable to expect that it will result in less Federal spending on solar energy to achieve the same results, or far greater results for the same expenditure.

I understand that the Senate has already accepted a perfecting amendment to incorporate this definition for the purposes of section 116 of the bill. My amendment would modify the definition of solar energy earlier in the bill to conform with section 116.

In effect, this amendment makes it clear that the solar energy programs of the Department of Housing and Urban Development should include passive solar energy as well as active solar collectors.

Admittedly there are some administrative difficulties involved in providing Federal incentives for the use of passive solar energy measures. The biggest problem is that it is sometimes difficult to separate the costs of a passive solar energy measure from other construction or remodeling costs.

This is because passive solar energy measures are usually integral parts of the structure of a home, designed to collect the sun's energy when heat is needed.

This issue has already been addressed by the State of New Mexico, which provides a State income tax credit of up to $1,000 for a solar energy system. The New Mexico law permits the credit to be applied for passive measures as well as active collector systems.

The U.S. Department of Housing and Urban Development has already begun its own studies of passive solar energy, which will lead to standards that cope with this issue.

Another administrative problem associated with passive solar energy systems is that it is difficult to assign an energy rating to each individual passive measure.

This issue is now being studied by the Los Alamos Scientific Laboratory under a grant from the U.S. Energy Research and Development Administration. This study will provide the basis for calculating the amount of heat gained through passive solar energy systems.

This proposed amendment would not automatically provide Federal assistance for passive solar energy measures. Under the language that is already in S. 2057, the Secretary of Housing and Urban Development would have to issue standards, after consulting with the Federal Energy Administration, before any Federal loan programs or other HUD assistance is used for passive energy.

This gives the Government ample time to do its homework and to protect the public.

In closing my remarks in support of this amendment, Mr. President, let me quote from a report issued by the Los Alamos Scientific Laboratory under the auspices of the Energy Research and Development Administration:

> Passive solar heating works very well. This has been demonstrated time and again in a wide variety of climates. The occupants of these buildings testify to their comfort, to the ease of their natural operation, and especially to their low fuel bills.[1]

[1] Passive Solar Heating of Buildings: Balcomb, J. D., Hedstrom, J. C. and McFarland, R. D., Los Alamos Scientific Laboratory under U.S. Energy Research and Development Administration Contract W-7405-ENG. 36x. Paper presented to Workshop on Solar Energy Applications at Los Alamos Scientific Laboratory.

I urge the distinguished floor manager to accept this amendment.

Mr. JOHNSTON. Mr. President, as I understand this amendment, the Secretary of Housing and Urban Development would determine what specific technologies under the passive program would be eligible for the loans. Is that correct?

Mr. McINTYRE. That is my understanding, that the standards will be set by the Secretary of Housing and Urban Development.

Mr. JOHNSTON. So that even though something might be construed as being a passive system, it would not necessarily be eligible for a loan unless it were so certified by the Secretary of Housing and Urban Development. Am I correct on that?

Mr. McINTYRE. I have full faith in the Secretary of Housing and Urban Development to be able to make a determination as to what is a passive solar system and to be able to help finance that, if it is a reasonable and good thing for that home.

Mr. JOHNSTON. That is correct.

So, in other words, all we are doing here is giving the Secretary of Housing and Urban Development an additional area to consider for funding, but she need not do so if she disagrees as to the priority status of any particular kind of technology.

Mr. McINTYRE. I would agree to that understanding of the amendment.

Mr. JOHNSTON. Very well.

Mr. President, with that understanding, we believe this amendment helps improve the bill. It gives further discretion to the Secretary of Housing and Urban Development. We accept the amendment.

Mr. HANSEN. Mr. President, I recommend adoption of the amendment.

Mr. McINTYRE. I thank my good friend from Wyoming.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 800

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. JOHNSTON), for Mr. CHILES, proposes unprinted amendment No. 800.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 29, line 23, delete the words "Outstanding at any one time."
>
> On page 30, line 22, delete "; and" and insert the following:
>
> ", provided that the receipts from the sale of such loans and advances of credit shall be used only for the retirement of obligations issued by the Association to the Treasury under Subsection (c); and".
>
> On page 31, line 1, delete the word "Outstanding".
>
> On page 31, line 5, delete the words "at any one time".

Mr. CHILES. Mr. President, the Committee on Energy and Natural Resources is to be commended for the bill before us. However, one section of the bill would create a problem—a problem that can be easily avoided.

Section 115 of the bill would authorize the Government National Mortgage Association to purchase federally insured loans for energy conservation improvements. The program is intended to encourage private lenders to make such loans even at below market interest rates or during periods of tight credit.

The language of the bill as it is now before us would establish the program as a revolving fund. And as a revolving fund, the program would not adequately be subject to congressional control in the future. GNMA's practice is to resell the loans it purchases to some other investor. As the bill is now worded, GNMA would have the authority to reuse the proceeds of those sales to purchase additional loans. Thus, GNMA would purchase loans with a total value equal to many times the appropriated budget authority. Although appropriations acts could limit GNMA's ability to reuse mortgage purchase authority, any reuse would not be scored as budget authority and thus would not be subject to the discipline of the budget process.

The amendment would require that the proceeds of the sale of loans be used only for the repayment of borrowing from the Treasury. Thus, the total purchase of loans could not exceed the total budget authority that this Congress and future Congresses choose to provide.

I note that this amendment would make the GNMA energy conservation loan purchase program fully subject to congressional control without otherwise constraining its operation. The budget resolution which has just been passed by the Senate could accommodate funding for this program at a very generous level. The second budget resolution and this amendment would allow the program to be fully implemented.

Mr. JOHNSTON. Mr. President, this is an amendment proposed by Senator CHILES, and we agree with it. All it does is provide for full congressional review of the total loans purchased by GNMA. We have in the bill a revolving fund of $5 billion for the purchase of energy conservation loans under this program. Senator CHILES has pointed out that it might be possible to have more than $5 billion total loans purchased by GNMA under the language of the bill as reported. GNMA could market those loans to the private sector and use the receipts to purchase additional loans, thus making the actual total of loans purchased by the Federal Government exceed $5 billion. What he proposes here is an annual review, an annual oversight of the amount to be purchased. With that goal, we can very much agree that this addition will be an excellent amendment. I move the acceptance of the amendment.

Mr. HANSEN. Mr. President, I endorse the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I have been involved in the debate over whether to establish Federal involvement in utility conservation programs since last winter when I testified in opposition to the so-called Rosenberg proposals for gas utility programs. And I was distressed when on April 20 the President's energy program was unveiled and contained in it a similar plan for all utilities to become involved in the business of providing credit and home improvement contracting services to customers.

In the more than half a year I have worked on these questions and reviewed them in the Banking, Housing, and Urban Affairs Committee, I have yet to see any convincing evidence that the dangers of allowing these regulated monopolies to move directly into the business of consumer credit and home improvement financing are any way outweighed by an overwhelming need to replace both our traditional enterprises and the new conservation programs that the Congress has already enacted in the past 2 years.

When the administration came before the Senate Banking Committee as it considered the utility program I questioned whether or not the utilities could hold conservation retrofit costs down. I questioned whether they would not weaken competition in the market for contractor services for materials and for credit. I suspect some utilities might well be involved in the kinds of consumer credit abuses which the Congress has moved so effectively to eliminate in the past few years. And I saw no reason to encourage utilities to take over the do-it-yourself sector of the home energy improvement market which, in fact, accounts for 85 percent of all residential energy conservation improvements.

Nor was I alone in my concerns. Numerous consumer groups and the Federal Trade Commission testified before the committees in both the House and the Senate of their concerns about these exact same issues.

I was deeply disappointed by the House bill which mandates that utilities become lenders and allows them to offer contracting services if they choose. The unique access utilities have to every American home so attracted the administration as an energy program tool, but they and the House majority have failed to see that this access also constitutes an unfair competitive advantage. The Senate Energy Committee is to be commended—and I hereby commend the distinguished chairman and ranking minority member—on its prudent approach to the problem. They have wisely kept most utilities out of lending or installing and this program is both innovative and practical.

But, Mr. President, I do still have a number of serious questions about the way the utility program is drawn up. I would, for example, like to raise a question with the distinguished floor managers of the bill as to what exactly they envision as the utilities' role in this program. It is clear that we have invented a new set of economic relationships in which most utilities have never participated. Therefore, I would like to establish clear legislative history on this, and, at the same time, clarify for myself the exact intent of the committee.

I do have an amendment which would strike the provision that the utility is charged with arranging such transactions. But, I frankly have drafted this amendment because of my extreme discomfort with the uncertainty of the meaning of this provision; and, I would like to try to clarify the intent of the committee before deciding to file it.

According to the bill, a utility must offer, if requested to do so by the customer, "to arrange" to have the energy conservation measures installed, and for a lender to make a loan. Although I am aware of the nature of the committee and committee staff discussions I feel it is difficult from reading the language in the bill or the report to tell what is intended to happen or what will happen under this provision.

For example, the utility is already required to estimate the cost of installing the measures it recommends and to provide the customer with a list of contractors and lenders. So the "to arrange" language must mean more than this.

But, the bill prohibits the utility from actually offering to sell or install the measures, or from lending the money directly. So the language must mean something less than actually offering to sell or install, directly or through subcontractors.

The report language does not clarify what is meant. The report says that the utility is to serve as a "systems manager" and that the objective is to enable the customer to complete all arrangements such as a purchase and a loan at one time, but the sale cannot be made by the utility representative. The report does not explain how this is to take place, on what basis the "sale" or contract is to be made.

There are several possibilities, all of which raise serious concerns.

If it means that customers will be asked to make purchase decisions based on estimated costs that could perhaps be provided together with the list of contractors and suppliers, then customers could somehow enter into binding contracts with those on the list without having a guaranteed price. There is here a tremendous potential for rip-offs. If the contractor is bound only by the price estimates of the utility energy audit, then the utility is in fact serving as the agent of the contractor and not of the consumer. Cost estimates cannot be made for items such as furnace modifications without examination of the individual home. How does the committee expect to have bids or a contract presented to the homeowner in just one meeting?

Now, would the committee address itself to that question?

Mr. JOHNSTON. Yes. I thank the distinguished Senator from Massachusetts. He has raised the most important issue discussed before the committee.

This very concept took more time before the committee than any other part of the bill. The reason is, of course, because in the President's bill the utilities themselves were not only to make the inspection, but to do the work.

Every one of the concerns the distinguished Senator from Massachusetts has spoken of, I spoke about in committee, because I thought that the potential for consumer ripoffs in the President's bill was almost limitless. Under the President's bill the utility would make the inspection, the utility would do the work, and no one could compete. There would be no competition, and honest though the utilities may be and fine for this country though they may be, human nature is human nature and there would be limitless potential for ripoff.

Mr. BROOKE. In addition, they even could do the financing.

Mr. JOHNSTON. They could do the financing as well and charge for the monthly payments on the utility bill.

So we on the committee felt very strongly that utilities should be prevented from getting into that business, should be prevented from making the loans themselves, except to the very limited extent they already have done and to the extent they are already in the business.

Mr. BROOKE. How many are in the business, if the distinguished Senator from Louisiana knows?

Mr. JOHNSTON. We quoted only two or three examples nationwide during committee markup. I cannot tell the Senator how many are in it now in their phases of the business, but there are not very many. In those cases where they have plans and they are operating, we did not feel that through this legislation we should prohibit that.

Mr. BROOKE. I think if the Senator will look further, he will find that there are considerably more. I believe that in my own State of Massachusetts alone we have two or three which already are in the business.

Mr. JOHNSTON. That may be possible. Only two or three were brought to our attention.

Mr. BROOKE. I wholeheartedly agree with the distinguished floor manager. And I commend him again and again for what he did in the committee on the administration bill. But I would be somewhat distressed to learn that there are, say, several hundred utility companies already in business. I take it what the Senator is saying to me is that we would grandfather them in, if I am correct.

Mr. JOHNSTON. That is correct.

Mr. BROOKE. We would grandfather them in, and that would be somewhat alarming, if there are that number. I may be wrong. I do not know how many there are.

Mr. JOHNSTON. I recognize that there is a problem. There were many compromises we had to strike on this bill. Both from a political standpoint and a practical standpoint, we did not want to prohibit those already going on, because we have received no complaints and, in fact, we have heard a great deal of praise for the limited number of programs that have been brought to our attention. We did not want to offset that program, where the utilities have a good, ongoing program, one that is working.

Mr. BROOKE. I think the Senator and I are in agreement, that neither of us is indicting any of the utility companies, by any means. We are not alleging any irregularities or wrongdoing. However, as the Senator has said, the potential for consumer ripoff is limitless. I like that phrase. It is limitless.

Mr. JOHNSTON. The reason we came up with what might be called the project manager concept was in answer to the critics who were trying to put in the utility companies themselves directly to do the work.

They said, "Look, we've got to get this insulation done. It has to be done for the good of the country. If you let the utility companies do it, in fact you require them to do it, and it will be done." There is a very persuasive argument that it would be done. Indeed, I think it would be.

In the original amendment which I offered in committee prohibited the utility companies from doing this work. My amendment limited the utility companies to the sole function of inspection. But the critics pointed out that the work simply would not get done.

Suppose the ordinary person, sitting in his home, has his home inspected. He receives through the mail a form which shows such and such is deficient and such and such work needs to be done. Then he wonders where to go to find the contractor, where to go to find the loan. He has a limited amount of time and a limited amount of knowledge, and the chances are that he will do nothing, simply because of the bureaucratic complications and the inertia of the average person's thought processes.

So we thought about a way we could present him a package, make it possible for him to say, in effect, yes or no, and yet give maximum protection against any anticompetitive practice. That is where we came up with this project manager concept.

It is the role of the utilities, first, to inspect and, in effect, then to come up with the checkoff sheet about what needs to be done. Then the utility would help to bring the consumer and the lender and the contractor together—in effect, to seek to find a contractor for the consumer, with the final choice always being that of the consumer.

Contractors will be certified according to each State plan. Each State must come with a plan as to how they certify their contractors. We have in mind that each State will certify its contractors in much the same way that the FHA does—that in order for a contractor to be certified, he would have to agree to a certain kind of warranty, to agree to claim adjustments, to agree to whatever other standards the State sets.

The State, further, would set up within the confines of the bill the kinds of work which are eligible and the standards for that work—again, much as the FHA does in certifying their construction standards.

Then the utility, in furnishing the list of certified contractors, would furnish a list only of those who are certified. When the customer picks one of the contractors, the utility would help in bringing the contractor and the consumer together on price.

The same is true on financing. The idea here is to greatly facilitate the consumer in finding the contractor, in getting a bid, and in getting his loan.

We prohibit any set practice, and complete information must be compiled in a nondiscriminatory manner. What this means is that the list of all the contractors would have to be furnished and furnished in a nondiscriminatory manner. So it would be against the law for the utility to be pushing somebody's brother-in-law who might happen to be in the business of insulation.

Are there potentials for some kind of favoritism? All I can say is that we have built protections against that to the maximum extent we knew how; but we thought it was a risk we should run in order to put the utility in the business of helping to accommodate the consumer to find his contractor at the best price and to find his lender, while prohibiting the utility, itself, from getting into the business.

We are aware of the concerns of the Senator from Massachuetts. We share those concerns, and we have tried to build in the maximum amount of protection, while at the same time assuring that the work would get done.

(Mr. BAYH assumed the chair.)

Mr. BROOKE. Mr. President, I perhaps would have preferred the distinguished floor manager's original position and I would have answered those questions differently. I am sure the distinguished Senator from Wyoming would agree with me, inasmuch as we are strong believers in the free enterprise system, that the consumer would have gone to a contractor to get the contract work and would have gone to a banking or financial institution to get the financing for it.

But I think the Senator from Louisiana and his committee have done as good a job as they could under the circumstances, considering all the problems they have had to face.

Much of the underlying reasoning is not contained in the language of the bill, as the distinguished floor manager understands. Therefore, I think it necessary—as this will be most helpful to the Senate and, more important, it will be helpful to the country—that we make this legislative history. There are certain questions I should like to ask, if I may, and have the distinguished floor manager of the bill respond.

Does it mean that customers will be asked to make the purchase decision based on estimated costs that perhaps could be provided together with a list of contractors and suppliers, and that customers could somehow enter into binding contracts with those on the list without having a guaranteed price?

Here, again, is a potential for, say, a ripoff. If the contractor is bound only by the price estimates of the utility energy audit, then the utility is in fact serving as the agent of the contractor and not of the consumer. Cost estimates obviously cannot be made for items such as furnace modifications without examination of the individual home.

How does the committee expect to have bids or a contract presented to the homeowner in just one meeting?

Mr. JOHNSTON. It is up to the owner to determine whether he wants bids or

whether he wants one estimate or whether he wants an estimate in writing. We thought it best not to set forth in exquisite detail precisely what the utility should do. After all, these utilities are in business and depend on public good will, and we would expect that they would devise business practices that would treat the consumer fairly and at the same time achieve the purposes of this act.

When you take out the profit motive, which we have taken out—in other words, the utility cannot do the work and therefore it has no profit motive in seeking to rip off the consumer or seeking to make a higher price for the consumer—we assume that they will devise business practices which are designed to maximize the benefit for the consumer.

The State, as I mentioned a moment ago, will have its own residential energy conservation plan. That must be submitted by the Governor of each State to the Administrator for approval.

On page 10 of our bill, subsection (d) points out that no plan can be approved unless it—

> Contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which related to the implementation of utility and home heating supplier programs within such State.

So the Administrator would be charged with reviewing the State plans to determine whether there are adequate safeguards in there for the consumer.

I think it would be a mistake to define in all of this exquisite detail precisely what the utility is supposed to do and how many bids and whether they can recommend the highest bid or how they seek the bids. I think all of that has got to be subject to some extent to the good faith of the utility.

Mr. BROOKE. But the committee report said this should be done in one meeting, and I just wanted to know if you foresaw that the energy auditor, for example, would carry with him or her detailed price lists from various lenders and contractors and show these to the homeowner upon request? Is that anticipated?

Mr. JOHNSTON. Well, there is no requirement in the bill that it all be concluded at one meeting. What the committee report meant to be saying is we prefer the turnkey approach. In other words, we want to try to simplify this as much as possible so that you can reduce the amount of time the consumer has to be involved in it. We may be talking about an average expenditure in each home of, let us say, $300.

Now, that $300 expenditure does not justify repeated meetings, trips down to the utilities, and trips by the utility man out to the home and all of that. That would simply be too burdensome, too expensive, a process.

We want to try to reduce that time and, for that reason, we have not tried to define precisely how the utility will go about its business. But we do hope they could devise systems for making a turnkey approach practical.

Mr. BROOKE. Can the homeowner then place an order for equipment directly through the utility representative?

Mr. JOHNSTON. There is no prohibition against that in the bill. I would expect the contractors themselves would give the utilities a price list, if you will, and I would doubt that utilities would want to get into the position of acting as agents.

If I were a utility, I would very carefully avoid taking any more responsibility than I had to because there is no profit motive in this for the utilities. But there is no prohibition in the bill if a utility wanted to act as agent except to the extent that the State and the FEA must approve the plan submitted by the State, and any action taken by the utility must be consistent with that State-approved plan.

Mr. BROOKE. Will the costs associated with the task be included in the fee to be charged by the utility?

Mr. JOHNSTON. That is correct. Now, the State commission which normally regulates utilities, you understand, determines and sets those fees.

Mr. BROOKE. Does the cost to be charged for the energy audit also include the services involved in arranging the installation?

Mr. JOHNSTON. The State regulatory commission would, as I say, set those fees.

Mr. BROOKE. So the costs would be included, is that correct?

Mr. JOHNSTON. If the State regulatory commission wishes to include it.

Mr. BROOKE. What provision of the bill prohibits a utility from collecting a kickback in the form of finance fees from contractors and banks for sales of contracts arranged for?

Mr. JOHNSTON. That would, I think, clearly be an unfair practice, deceptive practice, which would be prohibited. If the Senator will look at the top of page 11 of the bill, a plan could not be approved unless it "contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices," and the plan must initially be perfected at the State level by the Governor and then approved by FEA.

Mr. BROOKE. Well, they may not think it is unfair, that is the only thing I am concerned about.

Mr. JOHNSTON. I think the Senator brings out a good point. But I think those kinds of practices the Senator is talking about are unfair and deceptive under anybody's definition.

Mr. BROOKE. Mr. President, I thank the distinguished chairman for this classification. I think, obviously, there are still some problems in the drafting of this language which should be worked out in the conference. It could be clarified further in FEA's regulations, and I trust the committee, in its oversight, will see that that is done.

But clearly the committee has come up with a satisfactory alternative, which is a vast improvement, in my opinion, over the administration's "Big Brother" utility program, and over the House version of this act, I might also mention.

I certainly offer my hope, my fervent hope, that this program remains intact in the House-Senate conference. I would implore the distinguished chairman to hold firm in conference because I think for the good of the country his committee's version of this legislation is much better than is the House version of it.

Mr. JOHNSTON. I thank the distinguished Senator from Massachusetts. He can be assured that this Senator, and a big majority on the Energy Committee, will fight for this basic concept and will fight very hard to keep utility companies themselves from getting into this business because, in my view, there is no way that could work.

There is no way that could keep from being anything but monopolistic, and you can just kiss your private contractors goodby, and we do not want to see that happen.

Mr. BROOKE. I am concerned over the protection of the banks and finance companies that, you know, are in the business and regulated, over which we have jurisdiction. There are so many problems, a myriad of problems, that we can foresee if your version of the bill is not finally accepted by the Congress.

Mr. SCOTT. Mr. President, would the Senator permit me to interrupt briefly? I did not want to interrupt in the middle of a sentence.

Mr. BROOKE. Yes.

Mr. SCOTT. I just wanted to pose a question to the floor manager of the bill, if the Senator will permit.

Mr. BROOKE. Yes.

Mr. SCOTT. I wonder if the distinguished Senator from Louisiana might comment on the purpose of this legislation. I notice on page 30 it speaks of reducing the growth of domestic energy consumption, and then the second paragraph says, "in order to move toward lower levels of energy use."

I just wonder in an industrial nation such as we have whether we want to use less energy, and whether that will mean we will have more unemployment. Would not the key be to find substitute or greater sources of energy? Could the distinguished Senator comment on that?

Mr. JOHNSTON. Yes. There is no intent in this bill to restrict energy use as a growth inhibitor. Rather we are talking about energy conservation.

Mr. SCOTT. No one can be against conservation if there is waste.

Mr. JOHNSTON. That is right. That is what this bill strikes at.

For example, we are talking about insulation in homes, the kind of program that I know the Senator from Virginia would support. That one paragraph refers to the need to hold the increased use of energy down through such measures as conservation, insulation in homes, gas mileage, efficiency on appliances—those kinds of things—rather than the no-growth kind of concept that the Senator might have feared from reading an isolated paragraph.

Mr. SCOTT. If the Senator will yield further, is there anything in the bill to obtain more energy, a greater degree of energy? I notice something about solar energy in the outline of the bill, and not being on the committee I am not familiar with the details of this bill. But is there something here other than conservation that would be the basis for more energy?

Mr. JOHNSTON. This bill is principally a conservation bill. However, we do have a title on the use of solar energy in Federal buildings and a solar energy demonstration program. So in that narrow sense it does deal with additional production of energy or, shall we say, capture of energy that is already there, that is, the energy from the Sun.

I also share the Senator's view that in other parts of the energy program not brought up in this area encompassed by this bill we do need to do something for production. But that is not, basically, the subject matter of this legislation.

Mr. SCOTT. My concern in reading that is that we keep the economy on an even keel, certainly that we not do anything by this or other legislation that would bring about more unemployment or would reduce our amount of production in the country, and this is the thrust of the question, and as I understand the Senator this bill would not reduce production capacity.

Mr. JOHNSTON. That is correct.

Mr. SCOTT. I appreciate the Senator yielding.

Mr. JOHNSTON. I believe that is the kind of bill that the Senator from Virginia could wholeheartedly support.

Mr. SCOTT. I have introduced, together with many others, legislation with regard to conserving energy through the use of insulation, and certainly I agree with that. I would not want to see waste of our energy supply in any way, but when we talk about reducing the amount of energy then it does bring to mind the fact that our Nation is dependent on energy. If we were in the wood-carving state, where everything was done by hand, possibly we would not need the energy, but I think we need to expand the amount of energy rather than reduce, while at the same time not wasting any. I appreciate the distinguished Senator yielding to me.

Mr. BROOKE. Mr. President, I also have some deep concerns over the regulations applicable to nonregulated utilities as well.

Section 102(e) contains requirements for the energy conservation plan proposed by a nonregulated utility. As I see it, there are only four things that are required that the plan contain: First, a utility plan as described in section 103; second, procedures for annual reporting to the administrator; third, procedures for coordination of its programs with those of State, local, and Federal governments; and fourth, it meets other requirements that may be prescribed in the rules promulgated under section 102(a).

It is not clear from this provision that nonregulated utilities will be required to do any of the following: implement a program to prevent unfair, deceptive, or anticompetitive acts or practices in its programing.

My first question is: Is there the provision that nonregulated utilities will be required to implement a program to prevent unfair deceptive or anticompetitive acts and practices in these programs?

Mr. JOHNSON. The simple answer is that the nonregulated utilities are not covered under this program for the purpose of approval of their plans. The Senator puts his finger on a very difficult question. There are two principal classes of nonregulated fuel suppliers, the New England fuel dealers and municipal utilities. In the case of municipal utilities, the answer is reasonably easy and that is that they are not in business. Their stockholders, their board of directors are in effect voters, the people. We thought that was a sufficient sanction for them. With the fuel oil dealers we discussed it and did include them.

Does the Senator from Massachusetts want to include the fuel oil dealers in New England?

Mr. BROOKE. I certainly do.

Let me just point out to the distinguished chairman: Not only does it not then require implementation of the program to prevent unfair, deceptive, or anticompetitive acts and practices of the program, it also does not require them to adopt procedures to assure that charges would be fair and reasonable or to adopt the procedures for approving suppliers and contractors who sell and install residential conservation measures, including procedures for loss of such approval or adopt procedures for adjusting complaints against suppliers and contractors. I just fail to see why nonregulated utilities should be exempt from these requirements when regulated utilities are, and if it is not the intent that nonregulated utilities be required to provide for the programs and procedures which I have referred to in that case, may I respectfully suggest to the distinguished floor managers a possible amendment to clarify this situation?

For example, if the chairman would refer to page 13, line 2, I think if we were to strike the period and insert in lieu thereof the following, "and which contains the programs and procedures required by subsection (d)(3), (d)(5), (d)(6), and (d)(7)," that would correct it because all these refer to regulated utilities but not to unregulated utilities. So I would hope that the chairman would seriously consider an amendment to that effect.

He may want time to look at that, and I am not going to offer it personally as an amendment at this time, but I do suggest serious consideration of putting unregulated utilities under these requirements. I think it is only fair. I think it is only equitable and gives the protection that I am sure the committee wants.

Mr. JOHNSTON. We do want those protections with respect to the nonregulated utilities included for some purposes, as the Senator I am sure is aware.

Mr. BROOKE. Yes.

Mr. JOHNSTON. It is on page 12, subsection (e), but the Senator does point out properly that some of these areas are left out. We were trying very carefully to keep from being charged that we were trying to put Federal regulation on nonregulated utilities, and we did not want by indirection to bring in under Federal regulations, approval of prices, and all the other things that are done for regulated utilities. We just thought that was a very sensitive area, and that is the reason why we struck the balance where we did.

We have no great objection to making the nonregulated utilities avoid deceptive practices, and all of those kinds of protections which the Senator envisions.

The difficulty is in trying to draw that language carefully enough so as to avoid the appearance of regulating the nonregulated utilities.

We will be happy to work with the Senator between now and the time the bill comes up for passage, and if the Senator wants to try to draw some language very carefully to that effect, we would not be adverse to accepting it.

Mr. BROOKE. I thank the Senator.

Mr. JOHNSTON. With the one proviso that we do not want to regulate the nonregulated utilities, at least in this bill. That would be a matter for another day, and another measure.

Mr. BROOKE. Mr. President, I want to assure the distinguished Senator that it is not my purpose to attempt to regulate nonregulated utilities in this measure, but it is my conviction that this amendment should apply to nonregulated utilities as well.

I am willing to go along with the Senator's suggestion and seek to draft improved language for later consideration.

Mr. JOHNSTON. Very well. I would suggest that the Senator is plowing a lot of new ground here. I would expect that we will have continuing upgrading of the program as we see how it works, and as we try to plug a loophole here or make changes in modifications there to make it work better.

We are not thinking entirely unlike on what the Senator from Massachusetts wants to achieve. In the process, though, we do not want to stir up a lot of opposition to this bill, and stir up the charge that we are trying to bring the nonregulated utilities under Federal or State regulations.

Mr. BROOKE. I agree with the Senator, though I believe it could be done without that charge. I thank the Senator, and withdraw the amendment.

AMENDMENT NO. 843

Mr. BROOKE. I call up my amendment No. 843, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 843:

On page 9, strike all between—

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, strike all between lines 17 through 22 and insert in lieu thereof the following new subparagraphs (2) and (3):

"(2) shall include—

"(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

"(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

"(C) standards for the programs and procedures required under subsection (d)(3) and standards, developed in close consulta-

tion with the Federal Trade Commission, for the programs and procedures required under subsections (d) (5), (6), and (7).

"(3) may include such other requirements as the Administration may determine to be necessary to carry out this subpart.".

Mr. BROOKE. Mr. President, the committee bill contains permissive and very general language with respect to the development of standards and procedures to protect the consumer against shoddy materials and workmanship. I believe every policymaker who has studied the potential impact of this program is deeply concerned over the potential for fraud and poor workmanship. The Nation will be short of materials, equipment and experienced workers. Homeowners are not familiar with office energy conservation techniques and offers unsuspecting targets for the con artist. It is essential that the Federal Government provide clear standards which can be adopted or improved upon by the Governors as they draw up their plans.

My amendment makes it mandatory rather than voluntary that FEA develop standards for the materials to be used and for the installation of residential energy conservation measures. FEA previously has recognized the need for these standards to assure that the products sold pursuant to this program are both safe and effective and are properly installed. Some product standards are being developed for determining tax-credit-eligible expenditures in the event that credit is finally enacted into law. Without such a requirement, we would be inviting massive consumer fraud, and encouraging the installation of potentially hazardous materials in millions of American homes.

Mr. President, I know from my own experience as a former attorney general of my State of Massachusetts that there was so much fraud involved in some of the installation cases in which some of these fly-by-night contractors ran in and obtained contracts for siding and other insulation materials, and once second and third mortgages were taken on homes they even left town and left the people, with these big bills to pay and nothing delivered or else shoddy and dangerous work that had to be protected. So I speak from experience when I say there is great potential for fraud, and I hope we all understand that.

My amendment therefore also requires the FEA to develop standards for States to follow in developing their consumer protection programs and their procedures to assure that fair and reasonable prices and rates of interest are charged; procedures for approving suppliers and contractors; and procedures of adjusting complaints against suppliers and contractors. These guidelines are to be developed in close cooperation with the Federal Trade Commission, which has extensive experience in giving specific meaning to similar statutory mandates and should be directly involved in the development of such standards.

Mr. President, this utility program can be dangerous, but I believe it could also be constrained so as to assure most of the protection our homeowners are sorely going to need. I hope the committee can accept this proposal to conform the Senate bill to the provision wisely adopted by the House.

Mr. JOHNSTON. Mr. President, this is an excellent amendment. It is a protection that will be important to the consumer, and will give the FEA Administrator the duty to set these standards.

I would suggest one amendment to the Senator, and that is that on page 2, after the word "standards," he put in the phrase, "which the Administrator determines necessary."

I think the Senator has that same phrase in subsections (A) and (B), and could simply conform it to that.

Mr. BROOKE. I am willing to do that, Mr. President. I so modify my amendment.

Mr. JOHNSTON. If I may read what the amendment would be, it would be, after the word "standards" on page 2, line 1, to insert the phrase "which the Administrator determines necessary"; then on page 2, line 3, after the word "standards," that the same phrase be inserted, so that it would then be made clear that it is the Administrator who determines the necessity of the standards.

Did the Senator move to amend his amendment?

Mr. BROOKE. Yes. Mr. President, I move to so modify my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 9, strike all between lines 17 through 22 and insert in lieu thereof the following new subparagraphs (2) and (3):

"(2) shall include—

"(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

"(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

"(C) standards which the Administrator determines necessary for the programs and procedures required under subsection (d) (3) and standards which the Administrator determines necessary, developed in close consulation with the Federal Trade Commission, for the programs and procedures required under subsections (d) (5), (6), and (7).

"(3) may include such other requirements as the Administration may determine to be necessary to carry out this subpart.".

Mr. JOHNSTON. Mr. President, as I stated, we approve this amendment. We think it improves the bill and adds to the protections for the consumer, and we thank the Senator from Massachusetts very much for pointing out this deficiency in the bill.

Mr. BROOKE. I thank the Senator. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

AMENDMENT NO. 846

Mr. BROOKE. Mr. President, I call up my amendment No. 846, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 846: On page 23, line 12—

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 12, insert the following:

PRODUCT STANDARDS

SEC. 110. The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

Mr. BROOKE. I yield to the Senator from Oregon for a unanimous-consent request.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Doug Logan of Senator STEVENS' staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that during the consideration of this measure, Dr. Meg Power of my staff be given floor privileges and rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, the extreme tight time limitations imposed by the National Energy Act bill for promulgation of utility programs or other programs virtually assures that the Administrator of FEA must rely upon private industry standards in implementing the act. Though many, indeed perhaps most, of the privately developed standards will be suitable for use in implementing the act, there is, as indicated above, significant potential for abuse. The Federal Trade Commission has developed valuable expertise in evaluating potential anticompetitive and consumer protection impacts of privately developed standards. If consulted by the FEA Administrator, the Federal Trade Commission could point out potential adverse impacts of specific standards, and recommend methods of either avoiding those impacts or disclosing them to consumers.

My amendment conforms the Senate bill to the House version by inserting the language recommended by the FTC. In a letter to Senator JOHNSTON, the FEA said it agreed with the intent of this language, but did not think it necessary because the FEA Authorization Act of 1977 requires consultation with FTC on product standards. I dispute this inter-

pretation. The FEA Authorization Act requires consultation with FTC only concerning questions involving anticompetitive impact of standards, not their tendency or capacity to deceive consumers which must be a major concern for us as we enter this new field of energy conservation materials sales.

I sincerely hope the Energy Committee can agree to include this important protection.

Mr. JOHNSTON. Mr. President, speaking for the majority, and I believe for the minority though they will speak for themselves—I am advised they do concur—this amendment would very substantially improve this bill. There is no concern that we have on the bill which is any greater than the concern about going into a new multibillion dollar field where there are no standards, where the consumer is going to be asked to buy some insulation package about which he knows very little, and the effectiveness of which he has no idea.

We see on television and read in newspapers every day about some unknown hazards which appear in some consumer products, whether it is a cancer caused by some element in pajamas or some inflammable quality of clothing or insulation. I am advised cigarettes can be a hazard to your health. I am advised of that by the distinguished Senator from Oregon.

All of these hazards in insulation products are totally unknown to the consumer because he has no idea about them. Yet he is being urged by the President, by the Congress, by the utilities, and by everyone else to insulate his home.

What the Senator is saying is that we need a program whereby the efficacy, the safety, and the cost-effectiveness of all of these products will be assayed by the FTC in consultation with the Department of Commerce on product standards. With this goal we very much agree and we will accept the amendment.

Mr. BROOKE. Mr. President, I move the adoption of the amendment and I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that Dr. Jerry Cohen, from the staff of Senator MOYNIHAN, be granted the privileges of the floor in connection with the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 801

Mr. JACKSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes unprinted amendment No. 801.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 39 after line 24 insert the following:

"PART D—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"FINDINGS AND PURPOSE

"SEC. 131. (a) The Congress finds that—

"(1) buildings owned by units of local government are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

"(2) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

"(3) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

"(b) It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures and energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

"DEFINITIONS

"SEC. 132. As used in this part,

"(1) The terms 'State', 'school', 'hospital' and 'Governor' have the meanings assigned them in the Education and Health Care Facilities Energy Efficiency Act of 1977.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(3) The term 'building owned by a unit of local government' means any building, other than a building utilized primarily by a school or hospital which is owned by one or more units of local government, and which, throughout a normal year, is primarily intended for the use of such unit or units.

"(4) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

"(A) in identifying the type, size and energy use level of such building and the major energy using systems of such building;

"(B) in determining appropriate energy conservation and maintenance and operating procedures;

"(C) in identifying the need, if any, for the acquisition and installation of energy conservation measures;

"(D) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or the installation of energy conservation measures;

"(E) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, or

"(F) in such other planning as the Administrator may deem appropriate.

"GRANT AUTHORIZATION

"SEC. 133. (a) The Administrator is authorized to make grants pursuant to the provisions of this part for payment of the Federal share of the costs of the approved technical assistance program of—

"(1) a State:

"(2) a unit of local government within a State;

"(3) any combination of more than one units of local government within a State; or

"(4) a State on behalf of such State and one or more units of local government within such State;

"(b) The Federal share of technical assistance costs incurred in connection with any technical assistance program approved pursuant to this part shall not exceed 50 per centum thereof and the remainder of such costs shall be provided from sources other than Federal funds.

"FEDERAL GUIDELINES

"SEC. 134. (a) The Administrator shall by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development and implementation of technical assistance programs for buildings owned by units of local government. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and the potential for energy conservation;

"(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation; and

"(3) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other energy conservation programs in existence in such State.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 135. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

"(b) The total of all funds allocated to programs in any State for a fiscal year under this section shall not exceed an amount which bears the same ratio to the sums avaliable in such fiscal year under this part as the population of such State, as determined by the Administrator, bears to the population of all States.

"(c) The Administrator shall prescribe rules limiting the amount of funds allocated under this section which may be expended for administrative expenses.

"APPLICATIONS

"SEC. 135 (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(a) Applications for technical assistance programs shall be accompanied by a description of the technical assistance programs proposed to be funded under this part during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance for any technical assistance program under this part unless the applicant has provided reasonable assurances that it has—

"(1) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(2) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local,

or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(3) demonstrated, to the satisfaction of the Administrator, that such technical assistance program is coordinated with and does not overlap or conflict with other similar energy conservation programs, if any, available to such applicant; and

"(4) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"AUTHORIZATION OF APPROPRIATION

"SEC. 137. (a) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $40,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 138. The Administrator shall, on April 1 of 1978 and April 1 of 1979 submit to the Congress a detailed report of the actions taken under this part. Such report shall show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 139. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

(b) On page 2 at the end of the TABLE OF CONTENTS for Title I insert the following:

"PART D—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"Sec. 131. Findings and Purpose.
"Sec. 132. Definitions
"Sec. 133. Grant Authorization
"Sec. 134. Federal Guidelines.
"Sec. 135. Allocation of financial assistance.
"Sec. 136. Applications.
"Sec. 137. Authorization of appropriations.
"Sec. 138. Annual report.
"Sec. 139. Administration.".

(c) On page 94 replace line 16 with

"parts A and D of Title I of this Act, the Education and Health Care Facilities Energy Efficiency Act of 1977, part C of Title III of the Energy Policy"

Mr. JACKSON. Mr. President, this amendment is designed to close a significant gap in the energy conservation policy proposed by the administration. That policy provides a broad range of financial incentives for improving the energy efficiency of the Nation's existing private and Federal buildings. Legislation before the Senate does not, however, adequately address the problems of local government in coping with rising energy costs. Under the National Energy Act, individuals would be eligible for tax credits to defer a part of the cost of installing energy conservation measures in their homes. The National Energy Conservation Policy Act, S. 2057, as reported by the Committee on Energy and Natural Resources, also authorizes federally subsidized loans to cover the cost of these energy conserving improvements as an alternative for individual homeowners. S. 701, enacted by the Senate on August 20, provides for grants to the Nation's nonprofit schools and hospitals to defray the cost of planning and implementing needed energy conserving improvements. Finally, a comprehensive program to improve the energy efficiency of Federal buildings is contained in the bill under consideration today.

A major gap in this program is the absence of any program to assist local government in beginning the task of upgrading the efficiency of the more than 100,000 buildings other than schools and hospitals which are owned and operated by local government. This category includes, among other things, office buildings, libraries, museums, and custodial facilities. The cost of maintenance and operation of these buildings is borne directly by local taxpayers. The enormous escalation in energy costs and the resulting acceleration in the rate of general inflation are principal reasons why local taxes have been rising rapidly, to the dismay of both local officials and taxpayers.

Local government is in the same trap that frustrates the efforts of local school boards or hospital administrators. The reaction against the need to raise taxes to cover rising fuel and other general inflationary costs totally prevents the accumulation of funds to deal with the energy cost problems in a fundamental way: by implementing energy conservation measures.

The House of Representatives has recognized this omission in our proposed national energy conservation policy. In floor action on H.R. 8444, the House-passed National Energy Act, an amendment offered by Congresswoman BARBARA MIKULSKI was adopted. The Mikulski amendment authorizes $65 million for the next 2 fiscal years to assist local governments including Indian tribes in identifying and planning the implementation of energy conservation in buildings other than schools and hospitals owned by these units of government.

The amendment I offer today is very similar to the Mikulski amendment adopted in the House. The only minor differences relate to the administrative mechanisms. In this regard my amendment follows more closely than the House proposal the procedures outlined in S. 701, the Senate bill dealing with energy conservation in public schools and hospitals which has already been sent to the House. I will simply summarize the principal provisions of the amendment here.

First, $25 million is authorized for fiscal year 1978 and $40 million for fiscal year 1979 for Federal grants to units of local government for the identification of energy conservation opportunities and the planning of energy conserving improvements in buildings—other than schools and hospitals—owned by local government;

Second, the Federal share of costs under this program could not exceed 50 percent;

Third, no funds would be used for the purchase of materials or for construction;

Fourth, available appropriations would be apportioned among States on the basis of population;

Fifth, applications for financial assistance may be made directly to the Administrator by State government, by individual units of local government or combinations thereof or by the State on behalf of several units of local government; and

Sixth, each applicant would be required to demonstrate to the satisfaction of the Administrator that activities supported by these funds would not overlap or conflict with other State or Federal energy conservation programs and that funding made available will supplement and increase the effectiveness of funds otherwise available for energy conservation.

Mr. President, I urge the Senate to adopt this amendment. I believe its incorporation in S. 2057 will significantly accelerate the implementation of necessary, cost effective energy conservation measures in a category of building which are sorely in need of improvement. Implementation of effective energy conservation in these buildings will substantially reduce the cost of government at the local level while materially strengthening the process aimed at achieving the Nation's energy goals which we are beginning in this legislation.

Mr. President, I ask unanimous consent that a letter from the National League of Cities supporting the proposed amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, D.C., August 18, 1977.

Hon. HENRY JACKSON,
Chairman, Energy and Natural Resources Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: The National League of Cities would like to urge you in your capacity as Chairman of the Senate Energy and Natural Resources Committee to endorse and mark-up the "Mukulski Amendment" which was added to the National Energy Act (H.R. 8444) by the House of Representatives. This amendment now constitutes Title I Sub Part i of the National Energy Act as passed by the House. The amendment which was supported by the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties and their members across the nation, is vital to achieving energy conservation goals as defined by the President's energy plan.

The amendment provides some $65 million dollars over fiscal '78 and '79 for energy audits and energy technical assistance grants to local governments. It would allow local governments to audit their existing buildings and facilities, and with the use of technical assistance grants, devise and implement conservation measures for these buildings. The amendment was endorsed by the Carter Administration at the $65 million dollar matching level. The House Democratic caucus also endorsed it and the Republicans included it in their alternative energy program. The amendment passed by a margin of 317–105 on the House floor.

The National League of Cities feels that this is a critical first step in getting the cities and towns throughout the country to

first achieve their own energy conservation goals, and secondly, to create a general community awareness for energy conservation. This money will be well spent in helping the country implement the national energy plan. We hope that you will be able to mark-up this section and add it to the Energy Act which is before your Committee before it goes to the Senate floor. Please contact Tom Tatum, Deputy Director of NLC's Office of Federal Relations on any questions which you have with regard to this matter. We look forward to working with you on this issue.

Sincerely,

PHYLLIS LAMPHERE,
President.

ALAN BEALS,
Executive Director.

Mr. JOHNSTON. Mr. President, as I understand the Senator's amendment, it will create a $40 million program to be divided among the States on a per capita basis with the money remaining available until it is spent, with the Administrator setting up the rules and guidelines for the expenditure of the money and approving the grants to municipalities within each State. Is that correct?

Mr. JACKSON. That is correct.

Mr. JOHNSTON. So during the first year, if not enough cities or municipalities within a State submitted applications which were approved, then that money for each State would remain available in succeeding years until such applications were properly made and approved.

Mr. JACKSON. That is correct.

Mr. JOHNSTON. Mr. President, we think this amendment fills a void which our original legislation did not cover. We have already passed S. 701, the schools and hospitals bill, but, frankly, we just could not do all the good things in one piece of legislation. This amendment helps fill a gap and we would support it.

Mr. HATFIELD. We concur.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, this morning before the Finance Committee, a very excellent statement was given by Mr. James Dale Davidson, chairman of the National Taxpayers' Union on the energy bill now pending before the Finance Committee. That is the bill relating to the tax and more specifically to the so-called oil and gas use tax.

Mr. President, I commend this article to the Members of the Senate and other readers of the CONGRESSIONAL RECORD. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JAMES DALE DAVIDSON, CHAIRMAN, NATIONAL TAXPAYERS UNION TO SENATE FINANCE COMMITTEE, SEPTEMBER 12, 1977

Mr. Chairman: I represent some one million Americans organized through National Taxpayers Union and affiliated local groups in all 50 states. As a non-partisan, consumer-oriented movement, we are deeply concerned with the bread and butter issues which affect the life of the average citizen. Senator Roth has been gracious enough to describe NTU as "the most necessary lobby we have." We are, in any case, embarked upon an increasingly popular mission. Americans from all walks of life are becoming ever more alert to the dangers of runaway government spending and political manipulation of the economy. It is to represent these Americans that I am here to oppose Title II of the so-called "Energy Program" H.R. 8444.

Much could be said to dispute the nature of the alleged "energy crisis." And much has been said. Sober observors representing all degrees of political opinion have questioned just about every substantive aspect of the Administration's case. Even the intellectual origins of the "energy crisis" have proven embarrassing upon close examination. A critique by Lewis H. Lapham, editor of Harper's, which appeared in that magazine's August issue, reveals the distortions and confusion at the heart of the original agitation for an energy program. National Taxpayers Union has distributed a copy of this article to each member of Congress. We feel that the more thoroughly and carefully Congress investigates the specifics of the alleged crisis, the more obvious it will be that the facts tell one story and the proponents of the energy program another.

There is no need for panic on energy. Conventional supplies, including petroleum and natural gas are still far more plentiful in the world than it is fashionable to admit. While we at National Taxpayers Union don't claim to know what the eventual limits might be, we can be sure that Dr. James Schlesinger doesn't know either. All that is known for certain is that only a small fraction of the areas where oil might exist have even been explored. And it is only through actual exploration that reserves can be "proven" and anyone can speak authoritatively about what supplies are available. Examination of the proven reserves does not reveal a bleak picture. They now stand at 657 billion barrels, greater than they have ever been. These reserves are almost twice as great as they were in 1967 and three times greater than in 1957. And there is substantial excess capacity on existing wells. With U.S. annual consumption of oil now a smaller percentage of proven reserves than it has been for most of this century, there is no danger of running out of oil in the near future. For the time being, at least, there is actually a glut of oil on the world markets.

There is no "energy crisis."

But we do face two separate crises which jointly affect the availability of energy to the American people. On the one hand, there is a monetary crisis, caused by inflationary, deficit spending, which has eroded the value of the U.S. dollar and brought on an unprecedented disorder in the world monetary system. This has raised the price of oil. And, if inflation worsens, it may limit the availability of otherwise ample supplies to the U.S. market. Secondly, there is a general crisis in American life brought on by government regulations and tax policy which have a particularly adverse effect in the energy field. Excessive political manipulation and price controls of basic energy stocks have created distortions in the market detrimental to the energy consumer.

There is not time here to analyze both of these crises in full detail, so I shall confine myself to some general remarks about their impact on energy.

The monetary crisis arose from the repeated failure of Congress to confine expenditures to a level which can be financed by a tolerable rate of taxation. Incessant budget deficits not only inflated the cost of living in America, they also destroyed the international monetary structure. So much money was created without backing that it was no longer possible to settle America's international debts with gold. On August 15, 1971, Richard Nixon "closed the gold window" at the Federal Reserve. This left foreign central banks without recourse to enforce fiscal and monetary responsibility in America.

The results are clearly seen in the procession of federal budget deficits since 1971, which have led to severe inflation. Under such conditions, international trade is disrupted. As Carter Henderson, co-director of the Princeton Center for Alternative Futures put it:

"At issue is the advanced countries' use of the printing press to create dollars, pounds and other intrinsically worthless fiat currencies which are then exchanged for the developing countries' valuable and frequently irreplacable raw materials. . . . The OPEC countries have chosen indexing to offset the declining exchange value of Western currencies. The 1973 quadrupling of the quantity of these currencies needed to buy a barrel of OPEC crude, for example, was an illustration of simple, brute force indexing by which years of inflation were wiped away by a single 400 per cent price increase. . . ."

As the oil producers have made clear themselves, the prime American consumers must pay for oil is higher because of inflation. We pay a premium equal to the expected deterioration in the value of the dollar. Thus the negative interest rate on all dollar holdings increases the relative price of oil.

When "funny money" is disrupting international trade, the increasing insolvency of almost all the world's countries places severe strains on banking institutions. In the short run, to be sure, the existence of these difficulties gives large banks an opportunity to maximize their earnings by lending billions at high interest rates to finance the trade imbalances of the countries in the worst financial condition. Large American banks have done exactly that, and are now owed from $42 to $70 billion by underdeveloped countries. The seriousness of the situation is underlined by the fact that even the low figure—$42 billion—is more than the banks could lose and remain solvent. This connects directly to the alleged "energy crisis" as was pointed out by Senator Jacob Javits in a recent Senate speech. Said Senator Javits: "There is an urgent need for the most drastic conservation policy in oil on the part of the United States—the largest importer of oil—to materially reduce the imbalance in international payments resulting from these imports. The danger is so great that even gasoline rationing cannot be ruled out as a last resort."

While we appreciate Senator Javits' candor in confirming that the "energy crisis" is not an energy crisis, we believe that it is time for Congress to face up to monetary disorder by a reform of monetary policy, not by proposals, such as those in H.R. 8444, which would treat some of the symptoms of monetary disorder by raising taxes and reducing the American standard of living. Senators Curtis and Byrd on this committee have proposed more fundamental reform which would restore value to the dollar by constitutionally eliminating deficit spending. If the government were content to live within the formidable productive capacity of the American economy, sufficient stability would be restored to make the dollar a dependable unit for international trade. This would restore order to international currency movements, and relieve the pressure for reduced American living standards.

It is no coincidence that America's past "energy crises" have arisen in periods of monetary instability when high inflation, combined with politically imposed price controls, have led to overconsumption of energy and underinvestment in new energy production. In 1919, after the substantial currency inflation of World War I, government experts claimed we would be out of oil within twenty years. The Bureau of Mines sent experts to Scotland on an urgent mission to develop a crash program to extract shale oil. Shortly thereafter, in 1920, the

Secretary of the Navy called for immediate nationalization of the oil industry as the only remedy for the "oil shortage". In 1946, another "shortage" was purported to be on the horizon. Economists such as John Kenneth Galbraith urged that wartime controls be continued on the petroleum industry to "combat" this problem. This bad advice was rejected by Congress, and within a few years, another "energy crisis" had been forgotten.

The current alleged "crisis" could also be solved by elimination of the political manipulation of energy markets and some sensible changes in tax policy. In particular, the rollover provisions on capital gains tax, which now apply to private homes and vessels used in fishing, should be extended to all productive investments. This would lead to a rapid modernization of the American capital plant, and thus to increasingly efficient use of energy. Newer industrial equipment is generally more energy-efficient than that it replaces, a factor which has contributed to a decline in the energy consumption per dollar of real GNP since 1920. It fell from 140,000 BTU's per 1958 dollar in 1920 to about 90,000 BTU's in the 1950's. This ratio has stabilized somewhat, perhaps because of the low level of investment in new equipment in recent years. Antiquated production facilities in this country are far more energy consuming than the newer equipment in use in countries such as Germany and Japan, which have far more enlightened capital gains tax policies. In Germany, for example, the average ton of steel is produced using 33 percent less energy than is consumed for the same purpose in America.

At the very least, Congress should adopt a capital gains rollover in the energy area to encourage the investment necessary to develop and deliver energy. Congressman Jacobs of Indiana, has introduced such a proposal, the Freedom of Energy Investment Act of 1977. When combined with an elimination of all energy price controls, such an approach would allow stockholders to make capital available, through a free market mechanism, to finance development of some of the tremendous energy resources available to us. In this country we have the means to reduce energy costs to the consumer by introducing competition from alternative energy sources. Automobiles, for example, can be powered by methanol and ethanol. With the farmers of America able to produce more grain than can be sold as food, all that is lacking to make alcohol power practical is the investment capital. The capital gains rollover would free that capital, and thus bring the full inventive abilities of the American people to bear in solving energy distribution problems.

The proposals which this committee is considering as part of H.R. 8444, would do nothing to solve the energy distribution problem, and would in fact, worsen it.

The Oil and Gas Use Tax will squander billions in capital and unnecessarily raise the living costs of the average American. Oil and gas should remain the preferred fuels as long as they are the most economic. They are certainly cleaner to burn than coal. Coal-fired power plants account for 50 percent of the sulphur dioxide in our air. And even the coal industry's best friends acknowledge that doubling coal production will be a difficult and costly challenge. Drainage from coal mines has polluted some 6,700 miles of streams in this country with sulfuric acid. In this century alone, some 100,000 men lost their lives in coal mines. It is wrong to require that utilities and industries shift prematurely to coal.

The de-control of natural gas and oil would yield sufficient supplies to allow a gradual, economic transfer to other sources at such time in the future when such a changeover makes sense. As time passes, new technologies and the exploitation of new energy sources may prove Dr. Schlesinger's forced conversion totally unnecessary. Congress should not force the waste of $60 to $100 billion in capital against such a prospect.

The proposed "gas guzzler" tax is equally unjustifiable. The American people, who work hard for the standard of living they enjoy, are entitled to drive a car which meets their needs. The gas guzzler tax is a political attempt to eliminate the large family car. With the price of fuel rising and mileage standards already mandated by the federal government, there is no need for further penalties on large cars. If manufacturers are effectively prohibited from producing large vehicles, the effect might be to keep large car drivers using older, less efficient vehicles. In the end, this might result in waste, rather than reduce it.

The crude oil equalization tax is another dismaying example of the type of proposal which has all of the disadvantages of allowing the market price to rise, but none of its advantages. Consumers are to pay more for petroleum. But there is to be no incentive to increase production. Simply allowing the free market to function would eliminate the need for such a tax. Experts writing in the Public Interest suggest that if the domestic price of energy had been allowed to rise to the world price level, oil imports would be only 28% of their current level. Much of the increased production would come from otherwise depleted wells.

But that won't happen if H.R. 8444 is enacted. As has been the case so often in the past when government intervened, the unnecessary crisis would likely become permanent. National Taxpayers Union asks the members of this committee not to rush to pass this legislation, not to raise taxes and reduce our living standards without taking ample time for deliberation over the many alternative possibilities, a few of which I have suggested here.

You are told, of course, that there is no time to stop and think. "This is the moral equivalent of war." And what is that? We have heard the phrase over and over, but what is the "moral equivalent of war" anyway? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmartial suffering, something which involves "discomfort and annoyance, hunger and wet, pain and cold, squalor and filth." We at National Taxpayers Union do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their own government. I hope that the members of this committee agree, and that you will defeat Title II of H.R. 8444.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—ENERGY MEASURES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, as each energy measure subsequent to the pending one has been advanced to third reading, the manager of such bill be authorized to proceed, without debate or intervening motion, point of order, or appeal, to a House bill agreed to by both the majority and minority leaders, including, if necessary, discharge from committee; that the manager of such energy bill be authorized to add to that bill amendments adding the text of the Senate bill as amended, if amended, and the pertinent text of H.R. 8444, which deals with the same subject matter as the instant Senate bill, all without intervening debate, motions, further amendments, points of order or appeals; and that the House measure thus amended be immediately advanced to third reading and passed, without further intervening action; and a motion to reconsider the passage of that measure be laid on the table.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I inquire of the distinguished majority leader if the request just put is essentially the same as the arrangement that we have worked out for the procedure to accommodate the conference situation with the other body as it related to the two previous energy bills?

Mr. ROBERT C. BYRD. It is, and it is more specifically in keeping with the arrangement worked out in connection with the pending energy conservation bill.

Mr. BAKER. Mr. President, I thank the majority leader.

I think that is a good arrangement. I think that it creates the maximum opportunity for the Senate to work its will with maximum freedom and to track our own requirements and special considerations in this body and I do not object to the arrangement.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENERGY CONSERVATION POLICY ACT

The Senate continued with the consideration of S. 2057.

AMENDMENT NO. 841

Mr. PERCY. Mr. President, I call up my amendment No. 841.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 841.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, between lines 15 and 16, insert the following:

"PART G—FEDERAL EMPLOYEE PARKING

"SEC. 371. (a) No real property located in the United States, which is owned or leased

by, or otherwise under the jurisdiction of the United States Government, which is principally utilized, as determined by the Administrator of General Services, to provide parking facilities for privately owned motor vehicles in connection with employment, business, or visitation at Federal offices or installations, may be utilized for such purpose unless there is assessed against each such vehicle a charge or fee within the range of charges or fees generally applicable for public parking purposes in similar facilities in the same general locality.

"(b) As used in this section the term 'similar facilities' shall refer to publicly available parking facilities in nearby business or commercial areas which are of the same kind (lot, garage, or on-street parking), convenience, and quality as that granted on the Federal property. If such similar facilities do not exist in nearby areas a fee shall be assessed which reflects fees charged in any public or private parking facility in a comparable area elsewhere in the United States.

"(c) The restrictions imposed by subsection (a) of this section shall not be applicable to parking facilities provided in connection with any Federal employee's residence, including, but not limited to, housing and visitation facilities at military bases and installations.

"(d) The Administrator of General Services, the Director of the Administrative Office of the United States Courts, and the Architect of the Capitol shall take such steps as may be necessary to coordinate the respective activities of the executive, judicial, and legislative branches of the Government in the implementation of the restrictions imposed under subsection (a) of this section.

"(e) The provisions of this section shall become effective upon enactment; except that the restrictions imposed by subsection (a) of this section shall become effective on the first day of the first month which begins more than ninety calendar days after the date of enactment of this Act.

"(f) All revenues collected pursuant to the provisions of this section shall be deposited into the Treasury of the United States as miscellaneous receipts.".

On page 3, the table of contents is amended by inserting immediately after section 361 the following:

"PART G—FEDERAL EMPLOYEE PARKING

Sec. 371. Federal employee parking.".

Mr. PERCY. Mr. President, those of us who support a comprehensive national energy policy have also maintained that that policy must be balanced so that the burdens fall as equally as possible. Such a position implies that we in the Congress must be willing to make sacrifices. If we expect the citizens of the United States to accept these policies, we must demonstrate our own sincerity when issues surface which directly affect us. I believe subsidized parking for Federal and congressional employees is just such an issue.

I am offering an amendment to S. 2057 which would institute a system of parking fees for all Federal employees. This amendment requires the Administrator of the General Services Administration, the Director of the Administrative Office of U.S. Courts, and the Architect of the Capitol to identify all Federal properties in the United States which are used primarily for private parking. They would determine parking fees for the use of those properties based on the rates charged for public parking facilities in the immediate area. In suburban or rural areas where no parking fees are customarily charged for any facilities, no fee would be required.

Priority and eligibility for parking privileges would still be determined in accordance with current seniority systems. Carpooling, vanpooling, or other energy saving plans would remain in effect.

On July 15, the distinguished Senator from Colorado, Senator HART, introduced an amendment to the legislative appropriations bill to require congressional employees to pay for their parking privileges on Capitol Hill. This proposal was not particularly popular on this floor, and was defeated by a considerable margin.

Mr. President, I supported the Hart amendment. I did so, Mr. President, simply because in the early days of the energy crisis, at a staff meeting of my own staff members in my office, we took on the challenge on a personal basis. We determined to compare our utility bills with preceding utility bills to see whether we could cut down our energy consumption. And decided to try to car pool. We decided in many respects to use fewer appliances—certainly those that were big energy consumers—to see what we could do to encourage efforts to use smaller automobiles, to turn the lights off, and to do all those things that we deemed necessary to conserve energy.

One of the interesting things that came up in that discussion was the fact that, when I asked them when the subway system opens if they intended to use mass transit to come down to the Capitol, a number of them said they could not afford it. They could not afford it because, first of all, gasoline was cheap and, secondly, they get free parking down here.

Mr. President, how can mass transit compete with that?

Then I began thinking about all the people that do use mass transit to get to their places of business, and a great many of them live and work in areas where parking is an expensive operation. If they are charged $3 a day, or $60 a month to park their cars, then mass transit becomes much more attractive in comparison.

But how can we compare mass transit to an automobile that will use a gallon or two of gasoline which we can buy at the present relatively low rates compared to gasoline as it is sold anyplace else in the world, probably other than Kuwait and Saudi Arabia, along with the added bonus of free parking?

Now, non-Government employees in Washington, for the most part, do not have free parking. They pay for it. For that reason, they use more mass transit. But many of my staff said they could not afford to use mass transit, being too expensive simply because of the gasoline subsidy and the way we subsidize parking.

Mr. JOHNSTON. Will the Senator yield?

Mr. PERCY. I am happy to.

Mr. JOHNSTON. Is the Senator suggesting that members of his staff are anxious to pay for their parking places?

Mr. PERCY. In all honesty, when I announced to my staff a few weeks ago that my disappointment was so great when Senator HART's amendment failed that I intended to introduce an amendment of that kind that would apply to Senators which would force them to pay a rate for indoor parking that is commercially comparable, and to staff also, who would pay, a rate for outdoor parking, if they park outdoors, it is the only time in 11 years that—I hope it was in jest and in good humor—I was openly booed by by own staff.

[Laughter.]

Mr. JOHNSTON. It has been suggested to me by some staff members that we should allow the staff to vote on this measure and when the vote is brought up by the Acting President that they be allowed to join their voices, either yea or nay, as the case may be, who knows what they would say, but they should be allowed to vote.

Does the Senator think that that might enhance chances of passage of his amendment?

Mr. PERCY. I am not optimistic about the outcome, but I am going to ask for a record vote.

All of us claim to believe in the need for conservation. We ought to get down and assess abuse of energy and if it means some adjustments, it does not mean great sacrifices, just some adjustments.

When we get right down to it, why should the Federal Government be paying for my free parking, and why should the taxpayers be paying for my free parking, encouraging me to drive rather than use mass transit when almost all of my own constituents pay for their own parking when they drive downtown?

And that is why in Chicago, many people will drive to train stations and take the train to work due to expensive parking costs downtown.

Here we subsidize Federal employees. While all over this city, people who work for GE and General Motors, and, of course, for Garfinckel's, have to pay for parking. If we work for the Federal Government and have the right sticker on the car and have stature and great seniority, whatever it may be, we can park for free. This puts an unfair burden on mass transit because it cannot compete successfully against free, subsidized parking paid for by the taxpayer.

I have enjoyed for 11 years the privilege of parking indoors in the Senate. Simple adjustments to this privileged situation must be made. Besides, it would raise a little revenue and help reduce our own expenses.

I hope that everyone who looks upon himself as a fiscal conservative and wants to work toward a balance budget will vote for this.

I hope everyone who has allied himself with the Alliance To Save Energy—and we have more than 150 Members of Congress who have done so—will vote to save energy in this practical manner.

As I have indicated, several criticisms were leveled at the Hart amendment. The language of that amendment specified that it was applicable only to congressional employees, while other Federal employees continued to receive free parking. That seemed discriminatory to me; and though I voted for it, I did so

on the basis that I would certainly have put in a bill to apply to all Federal employees. What is good for the goose is good for the gander.

I can imagine the feelings people would have as they walk into those big, spacious offices in the executive branch of Government and then come down to our crowded, congested, tenementlike offices which we have up here if the executive branch did not charge for parking and we did.

For this reason I found Senater HART's amendment to be discriminatory. But it was soundly defeated. It also was based on employees' salaries rather than market-based rates, and I think that would have been hard to administer. Side by side, one person would pay twice as much for a space as would another, simply due to differences in salary. That would not have been market pricing, which I have followed faithfully in this amendment.

Nobody on the floor—I read the debate and I was present for some of it—attacked the basic premise of Senator HART's amendment that in the interests of equity and in support of our avowed conservation energy policies, the taxpayers of the United States should not subsidize the use of private automobiles by congressional employees.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. JOHNSTON. Does the Senator know how many parking spaces there are for Federal employees throughout this Government, to which this amendment would apply?

Mr. PERCY. I do not know. We used to have a rule of thumb in industry. Every time you built a factory, you had to have a proportionate square footage for parking. It became the most expensive operation. Whenever you built a factory, you had to take into account that either mass transit was available or you had to build parking lots.

At the Federal building in Chicago there is extraordinarily valuable space in the basement, which Congressmen and most of their staffs can use, in the heart of the Loop. They have at their disposal indoor parking, with guards and attendants to watch their car while they are there, paid for by the taxpayer, while everyone else in the city of Chicago pays for his parking.

Mr. JOHNSTON. How much would the parking space that the Senator describes cost on the private market—$90 or $100 a month?

Mr. PERCY. I have no idea. I could get a report. If this amendment is not overwhelmingly adopted today, I will request information from appropriate authorities to find out if we can get an estimate as to how much space for parking the Federal Government is maintaining and at what cost.

Mr. JOHNSTON. Let me see if I understand the amendment. The Senator is not going to utilize this space for something else?

Mr. PERCY. Oh, no.

Mr. JOHNSTON. The Senator is still going to use it for parking.

Mr. PERCY. Unless the number of cars that are parked—if they have to pay a market rate—suddenly declines.

Mr. JOHNSTON. The Senator would take the parking spaces of several hundred thousand Federal employees—that is an inexact estimate, but it is in that neighborhood—and would put on the back of each of these several hundred thousand Federal employees an additional tax, if you will, of $50 to $100 a month.

Mr. PERCY. No, I am not putting on an additional tax. I am just saying, "The free ride is over. Your subsidy to drive your automobile is over. You are going to be like any other citizen. Your salary will be reflective of your contribution. You have to start paying the costs that the Federal Government is now assuming for parking your cars."

As a matter of fact, under the new regulations of the Internal Revenue, I suggest that perhaps the Director of Internal Revenue should look at whether or not this is, after all, untaxed compensation. He is looking now, and looking hard, at certain benefits private employees have in the private sector, whether or not they are getting services there which are not taxed but which are, in a sense, compensation. Is this not, in a sense, compensation, and should not the employee, including ourselves, be paying a tax on it?

I think it is a question that possibly will be raised as the Internal Revenue starts to crack down on a lot of these frills and fringe benefits which may be classified as income.

Mr. JOHNSTON. I say to the Senator that if I understand his amendment correctly, what it amounts to is a pay reduction for several hundred thousand Federal employees, which, from my understanding and my opinion, is not justified at this time. It does not make any more space available to the Federal Government to conduct its business. It simply adds a cost on the backs of the Federal employees.

I say to the Senator that what we need in the Senate and in this Nation is leadership and someone to set an example. Perhaps the Senator from Illinois would be a good one to start setting the example by paying this parking fee or giving up his automobile or including in his income tax return the cost of the parking place. Then let us see if that leadership takes seed and grows as an idea, and perhaps soon the Senator's own staff would no longer boo but would support him in this effort.

Mr. PERCY. I do not think the Senator from Illinois intends to be a martyr or intends to do something that is not uniformly done.

I can recall when George Romney, unilaterally, took a pay cut. He thought the Cabinet people were paid too much, and he unilaterally took a cut in pay. I can imagine what Mrs. Romney thought of that judgment. He quietly rescinded it unilaterally.

The Senator from Illinois has not the slightest doubt that there would not be a single Senator who would follow such an example. I would be walking to work or bicycling or waiting for mass transit. I would be setting an example. I would probably set an example of stupidity, because no one would follow me. [Laughter.]

I am saying that if we are going to do it, let us do it uniformly and consider whether we are serious about this.

For example, Senator GOLDWATER and I sent a letter to the chairman of the Rules Committee and the ranking minority member saying that we should be paying for our haircuts around here. That was a radical idea, and I am not that radical a person. Perhaps if we paid for our haircuts they might be even better.

Why should we have the taxpayer pay for our haircuts? How long did it take to win that battle? Almost as long as it took to get girl pages. That took 6 months. Look at them. Think of all the phony reasons that were raised at that time. The Sergeant at Arms testified that we would bring the public down on us if we had girl pages. The same arguments are going to be used against parking fees for Federal employees.

I swear—not in this Chamber. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber and in the gallery?

The PRESIDING OFFICER (Mr. RIEGLE). The Senate will be in order.

Mr. PERCY. What may seem to some to be a ludicrous idea now, will not be thought of in that light sometime down the road, because we will have to make many adjustments if we are really going to be serious about energy conservation. We have to examine the perks we have that really should not be overlooked. Senator GOLDWATER and I felt that one of them was haircuts, and the Rules Committee has agreed with us. There is a charge for haircuts now, as I understand it. These are the gradual sorts of changes necessary to bring about greater equity in our system.

Seriously, I think this is the kind of litmus test we should put to ourselves. Mass transit simply cannot compete with subsidized automobiles. That is the reason why I have advocated for years abolishing the highway trust fund. No other area of expenditure gets the privilege of having income come in that is used exclusively for highways. It should be abolished, or at least, it should be converted into a transportation trust fund which equitably and fairly treats all modes of transportation. The time has come to cease subsidizing the automobile as we have constantly, steadily and consistently done in the past.

Automobiles consume 30 percent of all petroleum products. We have got to find a way to cut down our insatiable appetite for expending money, as our trade balance suffers accordingly. Our excessive consumption of gasoline also increases our dependence on foreign oil.

In conclusion, Mr. President, the crude oil equalization tax will raise the cost of gasoline to motorists. The gas-guzzler tax would make large automobiles more expensive. I firmly support

the goals of these measures. However, I doubt that many taxpayers will be pleased to have the energy-saving tax dollars continue to subsidize Members of Congress and members of the executive branch of Government driving to work, sometimes only one person to a car.

Parking fees will have many positive effects. They will save energy directly as Federal employees switch to carpools and mass transit. This could stimulate mass transit systems and cut air pollution in areas such as Washington, D.C., where there are significant numbers of Federal workers.

The issue is simple: Is the self-interest in free parking more important to us than the national interest in equity? I hope my colleagues will join me in voting for fair parking fees.

Mr. President, just last Thursday the Architect of the Capitol released a revised master plan. The plan concluded, and I quote:

> The Capitol transportation program presumes a reduction of single-occupant auto trips, increasing carpooling, and heavy reliance on mass transit.

The Architect says, "Alterations in Capitol Hill parking policy are needed."

My amendment is consistent with what the Architect of the Capitol said last Thursday.

Mr. HART. Mr. President, will the Senator yield?

Mr. PERCY. I am delighted to have the Senator from Colorado on the floor. I supported his bill and his effort. I only hope that we might be more successful today.

Mr. HART. First of all, I congratulate the Senator from Illinois for offering this amendment. This goes well beyond the amendment I offered several weeks ago to the appropriations bill which would have required reasonable parking fees for employees on Capitol Hill and for Members of Congress.

I am not, frankly, in total sympathy with the approach the Senator from Illinois has taken. I think there are some Federal installations around the country where there is no comparable charge for private parking, where there is ready access to space for public employees, and so forth. But, nevertheless, I think the issue involved here is an extremely important one. It is not only the energy conservation measures, which the Senator has pointed out; it is not only the need for mass transit and carpooling, which the Senator has pointed out; it is not only to help educate Federal employees about the use of energy in their transportation patterns, but I think primarily it is a symbolic suggestion to the people of this country that we in the Federal Government, not only people in the clerical level or the policymaking level but even Members of Congress are willing to put our own convenience on the line, are willing to in effect impose penalties on ourselves that we are asking the people of this country to impose on *themselves*, and, in effect take the lead.

I have been educated to believe that part of being in public life is leadership, and leadership means being willing to at least do what you are asking other people to do, and really to do it first.

We are asking people to carpool, we are asking them to use their cars less, we are asking people to use mass transit.

In this city we have one of the finest new mass transit systems in the country built at great expense to the taxpayers. We are asking the people in this country to do all these things, and yet we are not willing to do them ourselves or to take the steps that would provide the disincentives to continue the patterns we have adopted in the past.

So I think at the very least the people on Capitol Hill ought to be able to accept this proposition as a leadership proposition to tell the people of this country that we are serious when we talk about energy conservation and the end of waste and the end of needless consumption.

If we want to apply that, as the Senator from Illinois suggests, to all the Federal employees around the country and the world, we may have to do that. I do not think necessarily we have to take that Draconian step right now, but it is a symbolic gesture to the people of this country that Federal employees and, particularly, people in Congress are willing to penalize themselves and are willing to take the steps necessary to conserve and to change the wasteful patterns we have fallen into in the past 20 or 30 years. So I will vote for the Senator's amendment.

Mr. PERCY. I am very grateful for that comment, and I certainly admire the leadership the Senator from Colorado offered on a similar amendment some time ago.

I would also like to advise my distinguished colleague that I intend to introduce tomorrow an amendment to S. 2057 called the automobile fuel economy disclosure. You might call it "truth in disclosure," or "truth in advertising." This amendment would allow us to really know what sort mileage a car gets, making this information publicly available. I certainly invite my distinguished colleague to cosponsor that amendment if he feels so inclined.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield to my distinguished colleague from Arizona.

Mr. GOLDWATER. As one who supported the Senator from Colorado's proposition in this field, I intend to vote for this amendment. To be honest with you, I do not think it is going to pass but, nevertheless, I am happy to support it.

I offer a suggestion that I do not think will help the idea of reducing consumption of gasoline, but, if this city continues to grow, as it will, we are going to need more parking places regardless of the fine subway system we have built, at an exorbitant price. For several years, I have been suggesting to various Presidents that they consider offering to private enterprise the area under the mall to build a gigantic parking garage.

I am no expert on square footage of garages, and so forth, but I believe we could park probably 25,000 to 30,000 cars in a properly constructed garage under the mall without changing the appearance of the mall at all.

While this does not go along with the general concept of what the Senator from Colorado had in mind or what the Senator from Illinois had in mind, I am trying to project into the future, 10 or 20 years from now, when the number of Federal employees may well have doubled what it is today. I will be very thankful to be sitting out in my desert where parking is no problem unless you park on a cactus, and then you get the point right away.

[Laughter.]

But I do want to support the amendment, and I think it is a very fine thing that you have offered it.

Mr. PERCY. I thank my distinguished colleague.

I want to make it perfectly clear I am not trying to discriminate against the automobile. I am just saying we ought to have free choices. We ought to use auto transportation, but we ought not to discriminate against mass transit. We ought not to make it impossible for mass transit to compete by constantly subsidizing the automobile.

But, certainly, we must charge for parking, that is all the Senator from Illinois is asking. As a director of the Kennedy Center, I supported putting parking in, but we charged commercial rates for that parking, and we get revenue from it. Hopefully, we are meeting some of our expenses as a result of that revenue.

If we had free parking, in fact, you would have to get there 1½ or 2 hours before the performance in order to grab the spaces available.

What I do not like about the parking system here is that it is so discriminatory. It is applicable to a class of employees based on seniority. Everyone else is outside that system. Because of all that free parking for congressional employees people cannot park who just want to come visit the Capitol. Where do they park? Since they do not have that free parking, they have to drive around and around looking for an empty space.

The hardest thing to find is a parking place around the Capitol. But I think if we put meters right outside here, this choice space right in front of the Capitol would not be grabbed up so quickly.

We put meters out at the airport, so why not have the same thing here? Put meters right outside our door for people to pay for parking, and then they would have to think whether it is worth it or not. Let us just have the marketplace set the pricing. That is all I am asking. The choice is up to the individual, but charge them what it cost us, because if you add up all the expenses, for the value of the land, the value of maintaining it, the guards, and all of that goes along with it, it is very expensive parking, and at a cost that is not disclosed. This really suggests that we are not facing up to our own responsibilities. Charging for parking would encourage the use of mass transit and other means of transportation; it would encourage carpooling in a way that rhetoric would not do. The pricing system is a very effective one. Let the marketplace operate and work in that area.

I yield to my distingushed colleague from Connecticut.

Mr. WEICKER. I rise to support the amendment of the distinguished Senator from Illinois and state that is a minimal step in the direction of conservation that could be taken during the course of this bill.

It is an awful bill from the point of view of conservation. It does very little. It asks for no sacrifice whatsoever from either the American people, Congress, industry, or labor. It asks for nothing. It is going to conserve nothing.

I think in the sense of setting an example of sacrifice, Senator PERCY's amendment would be an excellent step. I do not know whether the Senator from Illinois has pointed out the fact that if you charged for these spaces, a good number of the spaces would be relinquished and you would not have to build additional parking, something which is currently being considered at great cost.

So I think that from the point of view of saving money and more particularly from the point of view of setting an example for the American people to show them that we are serious about conservation, something which is going to require self-discipline and sacrifice from the American people, this is a small move that fits well within the concepts of this bill. I completely support it and commend the distinguished Senator from Illinois for his amendment.

Like everything else, I might add, I think he should be prepared to get bombed out of the water when the vote gets taken. The other day in the committee I suggested some minimal form of mandatory rationing, and got beaten 13 to 1.

We like to talk about all these things. We like to talk about saving fuel. We like to talk about additional production. And what do we do? We allow volunteerism on the user's side and controls on the production side, and we wonder why we have nothing.

We are using more and producing less and this whole exercise has become a charade. This is the basic difficulty. I have additional comments to make when I put in my rationing proposal, for which I do not imagine I will get many votes.

The American people who expect leadership from us wonder why in 4 years prices continue to rise and supplies continue to decline. For 4 years there has been nothing but volunteerism.

So, there is a very simple reason why we sit where we do. Our inaction has directly resulted in, what is it this year, a $25 billion to $30 billion deficit in the balance of payments, most of which is attributable to the importation of oil? How many years do you think the United States of America can stand that kind of imbalance? And if "balance of payments deficit," is an academic term, let me tell you exactly what it means. It means that that money is not in the United States for jobs in the United States; it means that money is not in your pocket to spend in the United States. It is as simple as that.

I commend the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague. His support is extraordinarily valuable.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PERCY. I will yield in just one minute.

I wish to comment on the comments of the Senator from Connecticut. I look upon his support as comparable to the support given to the Senator from Illinois by Senator JENNINGS RANDOLPH of West Virginia when the Senator from Illinois introduced an amendment calling for a 55-mile-per-hour speed limit. There were a great many derogatory comments made about the 55-mile-per-hour speed limit. It looked like it was a ludicrous thing to do to tell the people in this country to put a limit of 55 miles an hour on the highways. But we pointed out at the time that maybe this limit would not be adhered to, but people would no longer go 80 or 90. As a result of this amendment, we have, as a matter of fact, reduced deaths by 12,000 a year, and saved 78 million barrels of oil a year, even though the limit is not fully enforced. However it was a step in the right direction, and it set the right tone. It was only because of JENNINGS RANDOLPH'S support that the amendment of the Senator from Illinois was really taken seriously.

These are gradual, small steps but they are symbolic, I think, of the direction in which we are moving. I think the momentum will pick up.

We have not increased the gasoline tax for 25 years, and it is still the same 4 cents a gallon that it was 25 years ago. The proportion of the tax to the total price of gas has dropped steadily every single year since it was imposed. When the Senator from Illinois introduced a 1-cent-a-gallon tax increase it was overwhelmingly defeated by a vote of 65 to 21. But I would say now, since the President of the United States has come out in favor of an increase in the gasoline tax, it has been very seriously considered by the House of Representatives, and we are moving in the direction of more realistically priced gasoline. Today we are subsidizing it with the smallest Federal tax of probably any country on the face of the Earth save Kuwait and Saudi Arabia.

I am happy to yield to my distinguished colleague from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator and I, too, wish to commend the Senator from Illinois. Even before the matter was introduced at this time on an energy conservation bill, the Senate, over a year and a half ago, appointed a very distinguished panel of authorities from the field of business and the public, as well as from Congress itself, to study the management practices of the U.S. Senate. The purpose of this panel was to make suggestions for a better-managed operation. It was known as the Culver Commission. I believe that that commission recommended that free parking now enjoyed by both employees and by the Members of Congress be abolished and that we be placed on a more comparable standing with people in private industry and other enterprises.

So I merely add this additional thought to the very eloquent case made by the Senator, that just from a sound-management point of view, we have already a recommendation that we should move in this direction. Coupled with the Senator's argument on behalf of supporting more use of mass transit systems and less reliance upon the automobile, I think it makes a very sound case for his amendment.

I wish to be a cosponsor of the amendment he is proposing at this time.

Mr. PERCY. I am very happy to add the distinguished Senator from Oregon as a cosponsor of the amendment and very much appreciate his support.

Mr. WEICKER. Does the distinguished Senator from Illinois feel, along this line, that as soon as all lines become operational on the Metro system—and I believe they already are from here to the National Airport—that there is a great deal of space that can be relinquished by Congressmen and Senators at National Airport? We have free parking here, but there is also free parking over there. Very frankly, once those lines are totally operational, it is a darn sight faster and easier to get on Metro here and go to National Airport. Very frankly I do not think we should be special characters there either.

Mr. PERCY. I think we should take a good hard look at it, and I think it should be given serious consideration.

Obviously, we have to look at the net overall cost. A Senator or Congressman has to travel because of the very nature of his job. It is a unique job. You work and live in two places. This is one of the few jobs I know where you are required by the nature of your work to maintain two homes and to work in two different places, Washington and your own district or your State. If you went to straight commercial parking rates, it would be very difficult because you never could park out there.

Then you would have to have someone drive you out or go out in a cab, or you could go out on the Metro and take your suitcases along with you, I suppose.

But I would think before the Senator from Illinois would agree to Senator WEICKER'S suggestion, it will be necessary to look at all the implications and see whether in the end you are not using more energy as a result of a car going back and forth. It would have to take you out with your baggage and luggage, then come back 2 or 3 days later because the parking for 3 days would be rather expensive. However, I think the point is well taken. We should challenge every one of these policies and see whether it makes sense to continue them in the light of present conditions.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. PERCY. I am happy to yield for a question.

Mr. JOHNSTON. When the Hart amendment was up on July 18, and the Hart amendment did not go far as this did, it was defeated 65 to 28. In view of that I wonder if the Senator would want an oral vote or whether the Senator would insist on rollcall.

Mr. PERCY. The Senator would like to have a rollcall vote.

The Senator from Illinois asks for the yeas and nays on his amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, speaking for the committee, we are ready to vote, if the Senator is ready to vote.

Mr. PERCY. The Senator from Illinois is ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senate is not in order. Senators will please retire or take their seats. The clerk will refrain from proceeding with the call of the roll until the Senate is in order. Will Senators please clear the well?

The clerk may proceed with the rollcall.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANOLPH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Georgia (Mr. NUNN) would each vote "yea."

Mr. BAKER. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Alaska would vote "nay."

The result was announced—yeas 25, nays 56, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—25

Abourezk	Clark	Hart
Allen	Culver	Hatfield
Bellmon	Curtis	Heinz
Biden	Danforth	Helms
Chafee	Goldwater	Kennedy
Long	Percy	Weicker
McGovern	Proxmire	Zorinsky
Morgan	Roth	
Pell	Stevenson	

NAYS—56

Baker	Eagleton	McIntyre
Bartlett	Eastland	Metcalf
Bayh	Garn	Metzenbaum
Bentsen	Glenn	Moynihan
Brooke	Gravel	Nelson
Bumpers	Griffin	Packwood
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Haskell	Ribicoff
Byrd, Robert C.	Hatch	Riegle
Cannon	Hathaway	Sarbanes
Case	Hayakawa	Sasser
Chiles	Huddleston	Schmitt
Church	Inouye	Schweiker
Cranston	Jackson	Scott
DeConcini	Javits	Sparkman
Dole	Johnston	Stafford
Domenici	Lugar	Talmadge
Durkin	Magnuson	Tower
	Matsunaga	Williams

NOT VOTING—19

Anderson	McClellan	Stevens
Ford	McClure	Stone
Hollings	Melcher	Thurmond
Humphrey	Muskie	Wallop
Laxalt	Nunn	Young
Leahy	Randolph	
Mathias	Stennis	

So Mr. PERCY's amendment was rejected.

UC AMENDMENT NO. 802

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment No. 802.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of this amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 15, insert the following: "(h) In no event shall interest rates charged for loans to purchase or install residential energy conservation measures in residential buildings as described in this Section exceed the rates set by individual state usury laws or comparable state laws setting rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions."

Mr. BUMPERS. Mr. President, I yield to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent that Miss Eve Lubalin of my staff be granted the privilege of the floor during debate and vote on this and other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I ask unanimous consent that Erich Evered of my staff may have the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Barry Direnfeld, Mr. Rick Wilson, and Roger Berliner may have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Stuart Brahs of my staff be accorded the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN RECOGNITION AND COMMENDATION OF LOU BROCK FOR ESTABLISHING A NEW MAJOR LEAGUE RECORD FOR STOLEN BASES

Mr. EAGLETON. Will the Senator yield me 15 minutes?

Mr. BUMPERS. I am happy to yield.

Mr. EAGLETON. Mr. President, I have a resolution at the desk and I ask for its immediate consideration. It is a resolution that has been cleared on both sides, relating to the achievement of Lou Brock for a new record of stolen bases in the National League. I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Resolution (S. Res. 260) recognizing and commending Lou Brock of the St. Louis Cardinals for establishing a new major league record for stolen bases.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. EAGLETON. Mr. President, long before I became a Member of the U.S. Senate, I became a fan of the St. Louis Cardinals, and it is as a Cardinal fan that I rise to address the Senate today.

As a Cardinal fan, I well remember the season of 1964. It was a year of triumph for the Cardinals, as they sneaked past the Philadelphia Phillies on the last day of the season to win the pennant, and then went on to defeat the New York Yankees in a thrilling seven-game World Series. It was a glorious October in St. Louis, but it might never have happened except for the events of the previous June.

It was in June of 1964 that the Cardinals made one of their most controversial trades, a trade about which even Cardinal General Manager Bing Devine had reservations. The deal saw the Cardinals trading their standout pitcher, Ernie Broglio, to the Chicago Cubs in exchange for an unproven young outfielder named Lou Brock. Broglio was a veteran hurler, a past 20-game winner and he was very popular with the St. Louis fans. Brock, on the other hand, was batting .251 and as yet had not realized his full baseball potential.

As the records now show, however, the trade did not turn out that badly for the Cardinals. While Ernie Broglio went on to compile a 7 and 19 record for the Cubs before retiring in 1965, Brock boosted his average to .346 for the remainder of 1964, hit .300 in the World Series, and helped lead the Cardinals to pennants in 1964, 1967, and 1968.

But as baseball fans all across the country know, it is not Brock's outstanding batting record which almost certainly will assure him entry in baseball's Hall of Fame. Rather, Mr. President, it is his record as a thief—specifically, as the

most prolific stealer of bases in the history of the game.

During his first 16 seasons in the major leagues, Lou Brock broke almost every base-stealing record on the books, including most thefts in one season, 118 in 1974, and most consecutive years stealing 50 or more bases, 12 years, 1965–76. Through the 1976 season, Brock averaged more than 57 steals per year, with a success rate of .756. As the 1977 season began, there remained only one major base-stealing record which did not belong to Lou Brock. That was the record for most stolen bases in a career, a record of 892 thefts set by the immortal Ty Cobb 49 years ago, a record which for many years seemed unbreakable.

During the August recess, Lou Brock completed his sweep of the record books, stealing bases number 892 and 893 against the San Diego Padres on August 29. I join with baseball fans everywhere in saluting Lou Brock for achieving this great record, and as a lifelong Cardinal fan, I am proud to offer the following Senate resolution, for which I request immediate consideration and approval by the Senate.

Mr. ROBERT C. BYRD. Mr. President, has this matter been cleared, may I ask for the record, with the minority leader and all others concerned?

Mr. EAGLETON. It has been cleared with the minority leader and staff on both sides.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 260) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 260

Senate Resolution recognizing and commending Lou Brock of the St. Louis Cardinals for establishing a new major league record for stolen bases

Whereas, Louis Clark Brock, generally known as Lou Brock, a great American and outstanding athlete, on August 29, 1977, at 8:33 p.m., in San Diego, California, stole his 893rd major league base thereby breaking the record held by Ty Cobb for over forty-nine years;

Whereas Lou Brock of the St. Louis Cardinals, by virtue of his feat in equaling and surpassing Ty Cobb's previous record of 892 career stolen bases, has established himself as the best base-stealer in major league baseball history;

Whereas, the athletic ability of Lou Brock is not limited to base-stealing inasmuch as he is second among active players in major league baseball in base hits, having passed the twenty-eight hundred hit mark on August 23, 1977, and has, in ten of his thirteen seasons as a St. Louis Cardinal, hit over .297;

Whereas Lou Brock, in addition to his exceptional contributions in the field of sports, has also made numerous and significant contributions to the American people by devoting many hours of his time, while off the playing field, to helping children, through activities such as the founding of and active participation in, the Lou Brock Boys' Club of St. Louis, and serving as a member of the Board of Directors of the Big Brothers and Big Sisters of America;

Now, therefore, be it resolved, that the U.S. Senate wishes to honor and pay tribute to Louis Clark Brock for his outstanding achievements in major league baseball, especially his herculean feat of establishing a new major league base-stealing record of 893 career stolen bases and thereby breaking the previous record of eight hundred and ninety-two stolen bases established by Ty Cobb over forty-nine years ago, and the Senate further wishes to recognize and commend Lou Brock for his outstanding contributions to the people of this nation by reason, among others, of his exemplary conduct on and off the baseball playing field, his founding and active participation in the Lou Brock Boys' Club of St. Louis, and his service as a member of the Board of Directors of the Big Brothers and Big Sisters of America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Louis Clark Brock.

NATIONAL ENERGY CONSERVATION POLICY ACT

The Senate continued with the consideration of S. 2057.

Mr. BUMPERS. I yield to the Senator from Michigan for a unanimous-consent request.

Mr. RIEGLE. I ask unanimous consent that Susan Poor and Lars Peterson may have the privilege of the floor during consideration and votes of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent that I be recognized following the disposition of the amendment and following the remarks of the Senator from Arkansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Dick Burdette of my staff have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, before I proceed with the amendment I ask unanimous consent that Bill Moomaw, Richard Arnold, and Ark Monroe of my staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I have cleared this amendment with the floor manager, Mr. JOHNSTON, but I should like to take about 2 minutes to explain the reasons for the amendment.

There is a provision in this bill which allows a utility company to make energy audits of residences and also to help the home owner find financing, so, if they come into your home and tell you how much insulation you need, how many storm windows you need, and the cost of it, they can also tell you that certain financial institutions will be available to make a loan to make these energy installations and energy savings. There is also a provision in here that the lending institutions may not charge more interest than the national mortgage rate under the National Housing Act at that time.

It is my understanding that that rate, right now, is about 12 percent and that is fine for those States that permit 12 percent interest. The States of Arkansas and Tennessee both have constitutional limitations against 10 percent.

So that I am not put in a conflicting position here, I have championed the extension of a provision called the Brock bill, which allows banks in those States—it has been on the books for a couple of years—to make loans in excess of that rate as long as it does not exceed 5 percent more than the Federal Reserve rediscount rate. That provision, incidentally, only goes to business and agricultural loans.

Here, we are talking about the ordinary homeowner. This certainly falls in the category of a consumer loan. I do not want the people of my State and, quite frankly, the people of the State of Tennessee, to be forced to pay more than the fundamental laws of those States would permit under different circumstances. This amendment provides that the rate charged may not exceed the national mortgage rate. It provides further, however, that it may not also exceed the State laws on interest limits in those States.

To my knowledge, and I do not want to say categorically that this is true, Arkansas and Tennessee are the only two States that will be affected by this. It would permit, of course, the charging of up to 10 percent interest.

I urge the approval of this amendment, Mr. President.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to the amendment.

Mr. BUMPERS. Mr. President, I do not want to take undue advantage of the floor manager here.

Mr. JOHNSTON. Mr. President, we have no objection to this amendment. It is a matter that is primarily within the jurisdiction of the Banking Committee.

I point out that the Banking Committee recommendations to the Committee on Energy and Natural Resources had a provision precisely the opposite of this. That is, the Banking Committee said that, State laws with respect to usury or relating to interest rates shall not apply and shall not prevent the loans from being made. However, we, perhaps, have a little stronger feeling for States rights than does the Banking Committee. For that reason, we voice no objection, but we feel that we should point out that this is contrary to the position of the Banking Committee.

It is also contrary to a standby provision contained in the House bill. But, having put the Senate on notice to that effect, we, on behalf of our committee, have no objection.

Mr. BUMPERS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 803

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I have an amendment at the desk. I ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes unprinted amendment No. 803.

Mr. RIEGLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, beginning on line 16, strike out all through page 93, line 12.

The Table of Contents of such bill is amended by striking out:

"Sec. 412. Amendment to title V of Motor Vehicle Information and Cost Savings Act.".

Mr. RIEGLE. Mr. President, I am going to take a minute or two to explain this to my colleagues. This amendment, addresses a section of the bill which was added by my good friend from Ohio (Mr. METZENBAUM).

I want to say at the outset that it gives me no pleasure to move to strike something that he has added to the bill, because I have great regard for him—so much so that I am hoping that, perhaps in the course of my remarks, he will change his mind and perhaps support my amendment.

The amendment deals with the section of the bill that would put into effect a new set of minimum miles per gallon automobile standards. Now, we have taken a good deal of action in the area of energy efficiency standards for automobiles. The Energy Policy and Conservation Act of 1975, what are now referred to as the EPCA standards, have established fleet average fuel economy standards for the model years 1978, going through model year 1985.

For example, in 1978, they set an average figure of 18 miles a gallon and they climb steadily, year by year, until 1985, when, as a matter of law, based on action that we have already taken and that is on the statute books, the average for all cars produced by all manufacturers has to average 27.5 miles per gallon. That is a very substantial change over the situation in 1974. As a matter of fact, that level of achievement in 1985, the 27.5 miles per gallon per car, will represent a 100-percent improvement over the figure that was in effect across the board in 1974. That is a tough standard.

The industry has pledged itself to meet those requirements. The evidence that is in so far is that they are on track in doing so. Having talked at length with them about it, I am convinced that the good-faith effort that needs to take place to see that this is done is underway and will continue and that they will meet these standards.

Now, in addition to that, there has been discussion about the possibility of adding a gas guzzler tax on cars that would get so many miles per gallon on a certain fuel. That proposal right now is before the Senate Finance Committee, a version of that has passed in the House, and were that to become law at a later point, that would be a second standard in effect, coming from a different direction, but also impinging on this question of what will or will not be produced by automobile manufacturers in the future.

The provision of the bill that my amendment addresses comes at still a third set of standards. This is part of the thing that troubles me, because what in effect it is doing is creating—in addition to the one that is on the books and the gas guzzler tax which is prospectively coming toward us—one that comes from still another direction and would establish basic minimums that no car below a certain level could be produced in a given year.

On the face of it, that might seem like a reasonable approach. But let me say that that concept has been looked at before. It has been evaluated before. As a matter of fact, it was evaluated at some length when we set the standards I just referred to in 1975, and the decision was to deal with fleet averages rather than an absolute cutoff level for the reason that we produced lots of different kinds of vehicles.

Probably the case most significant is that of a station wagon vehicle designed for a large family and the fact that those vehicles, because they are larger, tend to be less fuel efficient, so the miles per gallon figure tends to be lower. If we set an absolute minimum below which a manufacturer is prohibited by law from going, even to one-tenth of a gallon, we in effect preclude development and the availability of this particular kind of model.

It was the thinking of the Commerce Committee when we established these standards 2 years ago that, rather than take that kind of arbitrary cutoff approach, it was far better to leave some flexibility by striking an average figure. So, if a given manufacturer wanted to bring in a model in a given year that perhaps got fewer miles per gallon because it was a larger car, designed for a larger family, or even if it was a model testing a new technology where perhaps for a period of time, for design either of the engine or the car itself, it would tend to produce a lower miles per gallon figure. If the manufacturer would balance that off in some other part of the product line by producing a car where perhaps they could get even higher miles per gallon, they would have the flexibility under existing law to do that.

What we were after in the end was the best answers on fuel economy and an average level we thought was a tough standard the industry would have to achieve.

That is what we have. That is on the books today. That is why I am most reluctant to see us act here before we resolve in the committee what will happen with the gas guzzler concept.

We say, "Well, let people make other choices if they're in that situation."

Well, they will, of course, make other choices if we want to be that arbitrary here today.

But what are the other choices? The practical other choice is that if we have a station wagon we have had for 2 or 3 years and that accommodates the needs of the family and gets low gas mileage, what do we do? We do not sell it to get the car that does not meet the needs, and if it does not get good mileage, the effect in terms of conservation is the contrary of what we are after.

We want people to trade out of inefficient cars and up into cars more fuel efficient. But the way to do that is, I think, within these averages which this body considered and adopted and put into law, to leave the flexibility so we can balance these model lines in a fashion that leaves open the option of having cars that may be somewhat less fuel efficient, but have certain other features that would serve the public interest.

I might say to the Senator from Ohio that I am being very careful not to delete all of the amendment he has added, because there are two parts to the amendment he put into the bill and which is now part of the bill. One part of his amendment which is now part of the bill would double the size of the dollar penalties that the manufacturers will pay if they violate the standards that are on the books, and I am not touching that. I am prepared to agree with the Senator from Ohio that we double the penalties because I am convinced that, first of all, the standards will be met, but secondly, if they are not, there have to be significant dollar penalties involved to prompt the kind of compliance and to make absolutely certain we hit the standards that are on the books.

So I have not touched that, and that part of the initiative he is endeavoring to make, I find myself in agreement with.

I am only addressing that part that has to do with setting these absolute minimum standards. I think it does not make good sense under existing minimum standards of, say, 19 miles per gallon, and a manufacturer comes in with a model that seems to be a sensible model, but does not make 19 miles per gallon, maybe 18.9 or 19, for us to mandate that that particular model which cannot be produced, rather than to give the manufacturer the option of squeezing better mileage out of another car in the line to strike an average that will meet the legal requirements we set. This seems to be much sounder.

I might hasten to say this has not been thoroughly debated. As a matter of fact, the abbreviated debate we are having today will constitute, in a sense, the entire debate on this issue because when the committee took this up there were only 2 hours of hearings—hardly enough, in my judgment, on a matter as serious as this to really fully weigh the merits and implications of this kind of argument, a third level of laws and standards in this area.

So for that reason, also, I have great reservation about it.

Also, in terms of energy saving that is anticipated, we ought to know, for example, that the administration itself has not asked for this additional standard, the Department of Transportation within the administration has not come out and asked for minimum standards, in fact, they expressed themselves as being averse to them.

The Federal Energy Administration has estimated that this provision, if it were to be enacted today, and if my amendment were to fail, in terms of the documented saving as to what this will produce in the way of energy savings, which presumably is its purpose, it would save us less than one-tenth of 1 percent of the gasoline usage in the year 1985.

So to add a whole third layer of regulation and constraint here when the saving as anticipated by FEA is as tiny as this, just does not make good sense to me.

Bear in mind, I am after exactly the same thing the Senator from Ohio is after, at least in my judgment, and that is, I want to strike a fleet average here. I want to make sure we are extracting the maximum economy we can that technology will give us within the range of vehicles that need to be produced to meet the needs of all the people of the country.

I emphasize again the fact that it does have some bearing on technology; because if a given model which had the change to come on line and function for, say, an entire model year were to fall slightly below what would then be an illegal figure, if we were to go with the provision in the bill, it seems to me that to deny the chance to test something out has to be offset somewhere else in the line, not in that year but in the subsequent year. In my judgment, it seems reasonable that that producer would want to find a way to improve that particular car—either test out that technology and demonstrate that it can work at a more efficient level or discard it and go to something else.

I point out something else, because I think this is not well enough known by people who are concerned about the degree to which we are getting energy efficiency and conservation from automobiles. Frankly, we are tougher on automobiles than on any other part of the American economy today. I am willing to have the automobile industry stacked up against appliances, utilities, anything anyone wants to talk about. We have set the toughest standards in the area of automobile production. I am not complaining about that. I voted for these things.

I am saying that there is a point at which continuing to add more when we have other things pending in the Finance Committee that are unresolved does not make good sense.

As a matter of fact, of the 10 percent fuel saving that the President has asked for, 8.5 percent is going to result from the Energy Policy and Conservation Act alone. That gives some measure of the toughness of the standards we already have put into place, the fact that there is a good faith compliance going on and the fact that we have not been as tough in other areas.

So I think there is a point where reasonableness should argue that if we really want to achieve this goal, we should leave ourselves a little flexibility, so long as in the end we are holding the manufacturers to tough fleet averages, which are the ones we wrote. They did not come out of the air. They were not recommended by the industry. They were proposed by Congress.

For those reasons, I hope we can delete this part of the bill that would set these minimum standards. I think we are much better off staying with the existing law.

Let us wait and see what the Finance Committee has to recommend with respect to its thoughts on a gas-guzzler tax. After that has been resolved, we can take up the matter in the normal fashion. To do it in a hurry, to do it without sufficient hearings, to do it when it is redundant and overlaps things that are already on the books and have what I think are minimal benefits and some material disadvantages, does not make sense to me.

For those reasons, I hope we can adopt my amendment and delete that portion of the bill.

Mr. JOHNSTON. Mr. President, we oppose this amendment. I say to the Senate that the amendment which the Committee on Energy adopted after a day's hearing is, in my view, sweet reasonableness itelf. This amendment is so reasonable and so easily achievable that the United Auto Workers, themselves, the group most affected by any layoffs, most affected by any difficulties in the automobile industry, appeared and testified in favor of this amendment.

It does not require any new technology. The present provisions of this bill do not require any real readjustments. Indeed, the 1977 Buick Regal automobile—that is R-e-g-a-l—which is a full-sized automobile, today gets 20 miles per gallon. All General Motors has to do to be in compliance with these standards through 1985 is add 1 mile per gallon to that standard which they already have for the Buick Regal. In other words, the Buick Regal, a full-sized 1977 automobile, complies with the standards of the bill through 1984. That one fact, it seems to me, stands out as eloquently as anything else as to the reasonabless of this amendment.

Mr. President, August 1977 marked the month of highest gasoline consumption since the Arab boycott. At a time when we are trying to make the public aware of the energy crisis, at a time when we are trying to conserve energy, consumption goes not down but up.

So what is our solution? How do we cut down consumption? The administration comes in and says we should have a gas guzzler tax. In my view, a gas guzzler tax would be a mistake. That would be an additional tax on the consumer. The administration also comes up with a crude oil equalization tax. They say that would discourage consumption. Speaking for myself, I believe that is also a mistake, because it would cost the consumer 6, 7, or 8 cents a gallon more at the gas pump.

I believe, and the committee believes, that the best way to conserve energy in automobiles is by direct action, by setting forth a standard that is reasonable enough to comply with, by setting forth a standard which does not result in any unemployment among auto workers, by setting forth a standard that does not make the American public unduly sacrifice in terms of the size of automobiles. Drive a full-sized Buick Regal if you wish and, indeed, you can do that under the committee's bill. But what it does say is that the day of the gas-guzzler—12 miles per gallon, 10 miles per gallon, or whatever unreasonable figure you want to take—that day is and should be over in the United States.

That is why I think the Metzenbaum amendment is very reasonable and not excessively burdensome.

Mr. President, one additional word: In my view, the auto manufacturers will be well served by this amendment being adopted. They may have some mild opposition to the Metzenbaum amendment, and I think that fairly characterizes their opposition. It is mild; it is tentative. What their opposition is based upon is not so much this amendment but the setting of a precedent; that perhaps next year another Congress, which is not so wisely led as this one, may come in with standards that are worse.

I sympathize with the need for definitude, for some degree of reliance on these Federal standards. For my part—and I think for the committee's part—we would oppose a yearly readjustment of these standards. We should get a standard and stick to it. That is what we have tried to do by the Metzenbaum amendment, to get a reasonable standard so we can stick to it and not have to come back and readjust them every year.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. RIEGLE. I appreciate the point the Senator has just made, because I, too, feel strongly that we have to lock in on a set of standards, with the kind of leadtime faced at the manufacturing end. They should not be changed lightly or frequently.

I say to the Senator that there is discussion even now—and I have heard other Senators discussing—the possibility of changing the very standards that are on the books, some feeling that they should be made higher than they are, because of the problem of the balance of payments and the continued use of gasoline, which in most cases is involuntary. It happens to be the nature of the way the country lives, where housing is, and the absence of mass transportation. That is the reason why it is a principal mode of transportation in our country.

However, what I am concerned about when I hear other Senators talk about changing those standards is that I see the possibility of the worst of all worlds, in which not only would immediate cutoffs be established and cars below that be made illegal, but also, we might see coming out of the Finance Committee a gas guzzler tax. The Senator from Louisiana says he is opposed to that, but it passed the House. The existing standards are subject to adjustment and may well be adjusted.

It seems to me that what we are doing here is adding one more level of uncertainty and a kind of finality to it, because there is no margin for error. You cannot be a tenth of a gallon under, no matter how promising the technology might be or the demand for a certain size vehicle for large families, or whatever. They are prohibited. That is a thing I would like to see us avoid.

I am prepared to argue for a compensating saving somewhere, and that is where the fleet average can have the kind of elasticity to make that kind of accommodation.

Mr. JOHNSTON. Let me say to the Senator we agree very much on the need for something definite and, as far as this Senator is concerned, once we adopt this Metzenbaum amendment as part of this legislation, I am personally opposed to further changes, because the automobile industry needs to know what the rules of the road are, and I think the original EPCA standards, in my view, were too lax.

In my view, there is no place for the gas guzzler that gets 10 miles a gallon. I mean, there is just no reason for it. You can drive a full-sized automobile, a Buick Regal today, it is full-sized, and it gets 20 miles per gallon. So there is no reason for driving around in a car or manufacturing a car that gets 10 miles per gallon. So it is in that sense that the Metzenbaum amendment is being passed by the committee.

Let me also say General Motors and Ford both testified they will meet the standards currently planned, their current plans, for 1980, and Chrysler said they were going to miss the standards by their lowest most gas-guzzling car by some two-tenths of a mile per gallon.

So that all this amendment would require in the first year of its operation is that one automobile dealer add two-tenths of a mile per gallon for its most gas-guzzling model. It is a small technological problem to add on two-tenths and, indeed, to add on much more than that. In fact, all that Chrysler would have to do is not junk that model but put a little smaller engine already designed, put that smaller engine in that model.

That is the sense in which, I think, the UAW supported this amendment. The UAW would not have been in supporting this amendment if it was going to result in any loss of jobs or any difficulty.

Mr. RIEGLE. If the Senator, Mr. President, will yield just briefly for one other set of points—that is, the UAW support that the Senator cited is very much conditional on the fact that these standards not be tinkered with and changed, and they made it very explicit to me if there were to be a later change in any of the model years between here and 1985 that would alter their position.

Mr. JOHNSTON. The Senator is correct.

Mr. RIEGLE. The other thing is nobody is going to produce a car that is going to get 10 miles per gallon. I think those days are gone forever, as they should be.

But when the Senator suggests slightly changing the engine, with all due respect it is a lot tougher than that. What happens is the design of a model of an automobile is such that everything goes together at once—the size of the vehicle, the weight, the emission system. We just fought that out here. We all know the tougher the emission standards the poorer the fuel economy, and we mandated some very tough auto emission standards. As a matter of fact, it involves technology that is not here yet, so we do not quite know what the effect is going to be on the reduction of gas mileage, although we know it is adverse.

So what happens when you get all these components together in a working model automobile—I do not mean a prototype—if you find out, for example, a standard in a given year is 19, and after all your efforts you had a car that was just over 19, and you put it all together, and it is coming off the line and you find out it is coming off at 18.9? What happens at that point is that you really are stuck. I mean, you just cannot turn around and tinker with this and that, because you are talking about a full production assembly, and that is what I would prefer because I am confident, as you say that you are, too, from the representations the industry has made they are going to hit the standards, and if they are off by just a very small amount that they be allowed to make that up somewhere else in their line, because there may be some other model or some other technology in terms of engine design where they can tinker with it to elicit a greater saving that can offset the fact they may be just slightly under in some other area.

Why does it not make good sense not just in the auto industry but any other place as long as we are going to get to the savings we want to allow that flexibility as to where it finally is put rather than the other approach which is what is now in the bill, and that is an arbitrary cutoff that says if you come in at 18.9 you can just scrap everything you have done in that area.

We are after the same thing, and I just think the approach I am proposing works better. It does not cost us a thing. Nobody can verify energy-saving less than one-tenth of 1 percent in 1985 under the other approach, and I just think the approach I am arguing for is one that is a much more reasonable approach, and I think it will give us better results in the end.

I thank the Senator for yielding.

Mr. JOHNSTON. I appreciate the Senator's comments, and I think there is a philosophical argument to be made in terms of an overall standard allowing the building of gas guzzlers for those who want to pay for them. That is a legitimate philosophical view.

It was the philosophical view adopted by the committee that this amendment will save some 20,000 to 74,000 barrels of oil per day, a small amount compared to the total overall national consumption. But we also found that as we look at all these methods of saving energy that, for the most part, you talk about saving in small increments. There is no magic wand to wave that says we are going to save 10 percent or even 5 percent.

The most we can do is work on each little increment we can find, whether it be solar energy in Federal buildings or whether it be coal conversion which is, perhaps, our most promising thing, or whether it be doing away with the big gas-guzzling automobile.

What we tried to do, and what I think we were successful in doing, is to set standards that were so reasonable they could be embraced even by the United Auto Workers, and that is what the committee has done.

The standards are reasonable, and I would hope the Senator, upon reflection, can accept them. I can understand if he cannot, but I would say they are as reasonable as they are going to get, and from this Senator's standpoint these will be the standards on which the automobile industry can rely.

Mr. JACKSON. Mr. President, I want to express my appreciation to the distinguished Senator from Ohio for having offered the amendment in committee. I strongly supported it, and he was likewise supported by the chairman of the subcommittee, the manager of the pending conservation bill, the distinguished Senator from Louisiana (Mr. JOHNSTON).

Mr. President, if you are going to talk about conservation in honest terms, you have to talk about the automobile. In the first 6 months of this year we consumed an average of 18.5 million barrels of oil a day. Roughly speaking, half of the 18.5 million barrels per day burned under boilers, large and small; 42 percent, over 7 million barrels per day, roughly, were consumed by automobiles.

Mr. President, if you really want to do something about conservation you deal with the first problem, and we made that beginning last week in connection with the coal conversion bill, the 50 percent that we burn.

Today the amendment before this body deals with the automobile. The truth is if we are going to utilize the great scientific and technological talents that we have—and they have them in Detroit—it is necessary, at least from my point of view, for Congress to play a special role here to bring about a proposal that will act as an action-forcing device, a signal, if you please, to the automobile industry that, as a matter of national policy, we have made the decision and the decision is that we must have more fuel-efficient automobiles. We are not trying to be a bunch of bureaucrats and say the car has to be so long and so wide; all we are saying is that however you design it we feel there are certain minimum standards.

So starting in the fall of 1979 for the automobile year of 1980, the automobile industry cannot turn out an automobile that gets less than 16 miles per gallon.

Mr. President, another alternative, of course, is to tax the so-called gas guzzler which is in the House-passed bill. My own personal view is that no one in America should be allowed to buy his way by paying a tax to utilize a gas guzzler. I think we have to decide in this country as a matter of national policy that we are not going to permit a certain course of conduct that really results in a wastage of precious natural resources.

I believe that the Metzenbaum amendment is the right direction to go, to put a floor under the consumption of gasoline by the automobiles that we are turning out in this great country.

Mr. President, we are really helping the automobile industry, in my view, both the management and the workers, by laying down some clearcut guidelines so they know in advance what we expect of them. It is just sensible planning. The way we are going now, Mr. President, if we had

a cut-off of oil, if we had an oil embargo, do you know what would happen? The largest company, of course, that has over half of the market is General Motors. If you refresh your recollection, in 1974 they did not even make enough money to pay their dividend, because they were turning out big automobiles. But the company that has been struggling to survive, American Motors, that turns out small automobiles, made a lot of money.

And I observed with interest in reading the Wall Street Journal from time to time during this calendar year that the compact automobile assembly lines turning out small cars are being closed down while the assembly lines turning out big automobiles were operating on an overtime basis.

Mr. President, who are we kidding? We are talking about conservation. We have to address these two fundamental topics: as to burning of oil and gas in the boilers, and we made that beginning it takes half of that 18.5 million barrels we consume every day. And the automobile takes 42 percent of that 18.5 million barrels. I believe that if we are going to have any kind of a conservation bill that is worthy of that name we must move in this direction.

Mr. RIEGLE addressed the Chair.

Mr. JACKSON. I strongly support the Metzenbaum amendment approved in the committee, and I trust and hope that this body will recognize that this is a fundamental issue of conservation, and that the Senate will so indicate by an overwhelming vote.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator.

Mr. RIEGLE. I thank the Senator for yielding, and I would not have interrupted but I thought he concluded a moment ago.

I appreciate the comments he makes, and I do not know that it pays to inquire as to what kind of a car every Member of the Senate drives because everybody has different needs and different circumstances, and what have you.

Mr. JACKSON. I drive a 1961 Chevrolet.

Mr. RIEGLE. I thought the Senator did. I am a little further along than that. I am driving a 1975 Chevrolet, but it is a 6-cylinder and it does not have air conditioning, as I doubt the Senator's does.

Mr. JACKSON. Mine does not work. I plan to sell it to the Smithsonian if they do not go too far on the capital gains tax in another 10 years.

Mr. ROBERT C. BYRD. May we have order in the rear of the Senate and in the Senate gallery?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIEGLE. I might say to the Senator from Washington that his car is a legend, and I applaud him.

Mr. JACKSON. Think of compact cars.

Mr. RIEGLE. In any event, if you want to really get tough here in the fuel conservation area one of the quickest ways to get a miles-per-gallon saving without any changes is to prohibt air-conditioning units in cars. The Senator knows that and I know that. That is true. It depends on how serious this problem is. But there are ways to really get a big change in a hurry.

But as far as the gas guzzler itself is concerned, I just want to say this: I think that terminology gets used to the point where it sort of takes on a life of its own. I do not think anybody today wants to build a car and I do not know any manufacturer who wants to build a car that gets poor mileage rather than better mileage.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. JACKSON. When is the American automobile industry really going to meet head-on the competition from abroad? I picked up the Wall Street Journal just a few days ago. And correct me if I am wrong. I think imports of small cars are up 35 percent. Their sales are going up and up and up. And we are not meeting that challenge, and American workers are being put out of jobs.

Mr. RIEGLE. I would say to the Senator that I have exactly the same concern that he does about that. Plus a lot of those models are actually sold and merchandised by American manufacturers who happen to build those models abroad. At the same time that is changing. Volkswagen, as the Senator may know, is beginning to undertake production of their cars here in the United States. So that situation is in a state of flux.

But the point I wanted to make is this: We have acted on this already. Just 2 years ago we met and we—and I am sure the Senator was a part of it at that time—set the standards that are now a matter of law. We require in terms of the fleet averages in 1978—18 miles per gallon, in 1979—19 miles per gallon, up to 1985, when the average has to be 27.5 miles per gallon.

The FEA estimates that the amendment that the Senator is speaking in support of would not generate a fuel savings greater than one-tenth of 1 percent in the year 1985. So, all I am saying to the Senator is that there is no great windfall, no great bonanza in terms of saving. If there were, I might favor it. But the fact is that it is not there, and I would like to see us retain some flexibility. I hope also that as to what the Senator said about the gas-guzzler suggestion, that it is not something that he is for. Should the Metzenbaum amendment stay in the bill I would hope that what the Senator's comments were saying was that that would be in lieu of the gas guzzler. I do not know if the Senator wants to indicate one way or the other, but I would certainly hope that would be the case.

Mr. JACKSON. I think that would depend on the willingness of the House of Representatives to go along on the Metzenbaum amendment. Could the Senator give me a reassurance on that? Could the Senator get his colleagues from Michigan to go along on that?

Mr. RIEGLE. I was in the House of Representatives for 10 years.

I would say that if the Senator from Washington were advocating a course that said the gas-guzzler tax was not a good concept and it was much better to go with an absolute minimum standard—if that were his position, I could agree.

Mr. JACKSON. I can tell the Senator right now what my position is. It is that I do not favor a gas-guzzler tax. I would prefer that we mandate the minimums under which production would take place in the usage of gasoline fuel. That is my view.

I do not think a person should be able to buy his right to go down the road in a great big car with 7 or 8 miles per gallon gasoline consumption at a time when we are trying to be serious about conservation.

Mr. RIEGLE. Let me just say this to the Senator. I appreciate what he just said. I think I could agree with him on that. But my concern here is that we are going to get both. My worry is that we may get the Metzenbaum amendment today and we may get what is called the gas-guzzler tax at some future time and we will end up maybe with someone wanting to rewrite the standards themselves, because this thing never seems to end. It keeps changing almost day to day.

Mr. JACKSON. If the Senator has the Metzenbaum amendment, the gas guzzler tax would not apply, would it?

Mr RIEGLE. No. It does not address that at all. That is the problem.

Mr. JACKSON. They would not have a tax because that would be covered, I think.

Mr. RIEGLE. It depends on what we decide is a gas guzzler. If we decide in a given year that a car to be manufactured still does not get a mileage figure that someone else wants, sure, we can apply a gas guzzler tax on it.

Mr. JACKSON. Let us get to work on the House side of the Capitol and see if they will not support the Senate's position on the Metzenbaum amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. RIEGLE. The Senator from Washington has the time.

Mr. JACKSON. I yield to the Senator from Louisiana.

Mr JOHNSTON. All right. Will the Senator from Michigan—I hope he is convinced that the best way to beat the gas-guzzler tax is to accept the Metzenbaum amendment, and I would hope, in that spirit, he would withdraw his amendment at this time.

If not, I wonder if he would want a record vote, and, while there are enough Senators present, I would like to ask for the yeas and nays.

Mr. RIEGLE. Yes, I do want a record vote, and I ask for a vote at this time.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on a motion to table, as well as on the Riegle amendment itself, but I will withhold that motion because the Senator from Ohio wanted to say a few words on the amendment, after which I shall move to table.

I ask unanimous consent that it be in order to ask for the yeas and nays on a motion to table and on the amendment at this time.

Mr. RIEGLE. Mr. President, will the Senator yield one second further before yielding to the Senator from Ohio? If

the Senator from Washington and the Senator from Louisiana could persuade the senior Senator from Louisiana (Mr. LONG) to indicate today that he would be willing to set aside the gas-guzzler tax in deference to the Metzenbaum amendment, that would be very persuasive to me. There is nothing I would like better than to strike an agreement with my friends here, rather than to end up in separate camps. But the problem is that we may get both.

The PRESIDING OFFICER. Will the Senator from Michigan suspend?

The question is on agreeing to the request of the Senator from Louisiana.

Without objection, it is so ordered.

Is there a sufficient second on the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair would like to make clear that the yeas and nays have been ordered on the amendment and on the motion to table.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am very grateful for the amendment that was placed in this legislation and the support indicated by the distinguished chairman of the committee (Mr. JACKSON) and the distinguished chairman of the subcommittee (Mr. JOHNSTON).

I do have difficulty in opposing the Senator from Michigan, except that in this particular instance we are in diametrically opposite positions. It is a fact that I come from a State almost similar to his as far as having employment in the auto industry is concerned. I would be the last person in the Senate to propose anything in this body that would result in less employment for those who work in the auto industry, unless, of course, it was in the national interest to do so.

But the fact is that the UAW, which represents the auto workers, has sent a telegram indicating:

> The UAW supports your amendment to set minimum mileage standards for new automobiles as a constructive alternative to the ill-advised gas-guzzler tax. It makes far more sense to ban the least efficient automobiles than to tax family-sized cars or to license the right of the very wealthy to drive wasteful gas guzzlers. Also doubling the fine under existing law for failure to comply with fleet average standards should put to rest any notion that the fleet averages will not be complied with.
>
> The UAW strongly opposes the gas guzzler tax and supports your amendment approved by the Energy Committee as an alternative.

The telegram is signed Douglas Frasier, president, United Auto Workers.

I believe that when you can change the law in a manner that, as proposed in this legislation, will result in an actual saving of 264,000 barrels of oil a day—and I am aware of the fact that the Senator from Michigan is not suggesting that we delete the entire amendment, but only a portion of it; but even that portion that would be deleted under the proposal of the Senator from Michigan would still involve anywhere from 20,000 to 74,000 barrels of oil a day that can be saved—I firmly believe that if we can save 20,000 to 74,000 barrels of oil a day, at a cost of no money as far as the Federal Government is concerned, and at a cost of no significant impact upon the employment picture in the auto industry, would accomplish the objectives that this body and Congress as a whole, and certainly the administration, want to accomplish, then I cannot find any reason not to be for it.

The National Automobile Dealer's Association came forth and testified for this legislation. When I asked them this question:

> As I understand the NADA position, (a) you are against the gas guzzler tax; (b) you are not opposed to doubling the penalties with respect to the proposed amendment; and (c) with the assurance, which I agree with you cannot be definite because the Chairman of the subcommittee and I are only two members of the Senate, but with the assurance that neither he nor I have any intention of changing those standards and would resist such an effort in the future, that the NADA would not have difficulty in supporting the amendment as proposed here. Is that a fair statement?

They answered as follows:

> Mr. BARRY. I would concur with that, yes.
>
> Mr. TIGHE. That is correct, Senator. We do not oppose the intent of the amendment as it is presently drafted.

Now, I think that there are those who really have to have some concern about this amendment, and I think those are some from whom we have received messages in the very recent weeks since this amendment was added in the Energy Committee.

I think that there will be a problem with respect to the importing of Rolls Royces, a car that costs $49,000 to $55,000, and that gets only 10 miles per gallon in the city and 14 miles per gallon on the highway. They will have a problem in complying with this legislation, and it may be that particular car that highlights the nature of the problem.

But would it not be appropriate to say to someone who pays $49,000 to $55,000, "Yes, you can buy a Rolls Royce if you will pay about $6,000"—which I believe is the highest figure in the last year—"if you want to import that car."

I take issue with the Senator from Michigan to say, of course, it does not make sense that anyone who would buy that car is going to be deterred in any way by that additional amount. Some of the Rolls Royces, I might add, cost as much as $88,000 to $104,000, and the tax will still be the same.

The Rolls Royce is not the only one. The Mercedes Benz, which costs around $25,000 and gets 12 miles per gallon——

Mr. RIEGLE. Mr. President, will the Senator yield on that point?

Mr. METZENBAUM. I yield.

Mr. RIEGLE. That is a powerful example, but in terms of the existing law, that would be a part of the fleet averages which existing law establishes. Is the Senator really prepared to argue that we are going to prohibit those cars from coming into the country? Is that his view?

Mr. METZENBAUM. I am prepared to say that if they cannot comply with the mileage standards we set for American-made cars, I am certainly not going to suggest that we have any exemptions for foreign-made cars, whether Rolls Royce, Mercedes, Maserati, Lancia-Ferrari, or whatever they are. I believe these minimums should be the minimum for every car sold in this country.

Mr. RIEGLE. Would that not mean that the maker of the Rolls Royce would have to have other models it was selling at offsetting figures, in order to reach a fleet average?

Mr. METZENBAUM. No, Senator. As a matter of fact, that is exactly the reason for my amendment; because under the present law, with fleet averages, if Rolls Royce can combine with Volkswagen, if they happened to be owned by the same company, and they are not, and I know that, but if they could, there would be no problem, because under the present law, with fleet averages, if some cars get 30 miles to a gallon, then other cars may be sold that get 10 miles per gallon.

That is exactly what I am driving at with this amendment.

Mr. RIEGLE. I guess what I am asking is what if the Rolls Royce model gets, in this case, 30 miles per gallon? I think that example, while it is an interesting theoretical example, is not a real one.

Mr. METZENBAUM. The fact is that there are some of the other major cars which are built that do have offsetting smaller cars which are made by other manufacturers. I think Mercedes may be one of them that very well would fit.

I believe we are talking about General Motors, if it should not come forward with a car that gets 12 miles to the gallon just because other cars that they make get 24 miles to the gallon. I think the real question is, are we going to have mandatory conservation of energy in this country, or are we going to say that those who can afford it will pay an additional tax and, therefore, they will be permitted to drive whatever they want?

I, for one, believe that if the Senator really wants to defeat the gas-guzzler tax, then the Senator ought to be the loudest voice in support of this amendment. I do not support the gas-guzzler tax. The Senator from Louisiana does not. The Senator from Washington does not. I could not feel more strongly about the fact that at least I for one feel that this is the best way to bring about a defeat of the gas-guzzler tax.

I would join in that effort if the House adopts my amendment.

Mr. JOHNSTON. Mr. President, I do not want to cut anybody off, but I believe the matter has been fully debated. I would therefore move to table the amendment——

Mr. GRIFFIN. Will the Senator yield briefly?

Mr. JOHNSTON. Mr. President, I will withhold that and allow the Senator from Michigan to speak.

Mr. GRIFFIN. Mr. President, ordinarily I am not exercised or concerned about committee jurisdiction, but there is a serious question here as to whether or not the Energy Committee, having had, with a minimum of notice, 2 hours of hearing on this important matter, should have undertaken to have overridden the judgment made by the Committee on Commerce and the Senate earlier in the Energy Policy and Conservation Act of 1975. Then, having con-

sidered these options—whether or not to set a minimum standard for each car or to set a fleet average standard—the Commerce Committee and the Senate opted to require the fleet average.

It is all well and good to point out that General Motors can make a Buick Regal which will get 21 miles per gallon. But under the Metzenbaum amendment, if those Buick Regals come off the assembly line achieving only 20.9 miles per gallon, the automobile company, and ultimately the consumers, will be fined $10,000 for each such car so manufactured.

I hope the UAW has made the right decision in deciding to support the Metzenbaum amendment. It seems to me that an automobile company would not take any chances building an automobile that would even come close to these standards. In other words, it seems to me, if we adopt the Metzenbaum approach, we are taking away not just the automobile companies' choices but consumer choices and the flexibility that was built into the earlier fleet average approach.

It would be a different matter if we were going to save a lot of gasoline by doing this. But the administration in testifying against it, said it did not believe any fuel would be saved.

The Metzenbaum amendment gambles that assembly lines will not be shut down. But it seems to me that we are marking for extinction, and maybe this is what the Senate wants to do, station wagons and some of the larger cars that larger families need. I heard one Senator with eight kids go by and say, "If this passes, it means I will need at least three small cars instead of a station wagon, and another car," for his family.

That will be the alternative, of course. Either carowners will keep the large gas guzzlers they have today, or they will have to buy additional small cars, which is not saving energy.

Incidentally, the standards are higher in the 1975 act than in the Metzenbaum amendment by a considerable amount. Current law will save as much gasoline, meet the President's goal of a 10-percent reduction in fuel consumption, and provide much more assurance that the UAW workers will continue to have jobs. I support the pending amendment motion to strike the Metzenbaum amendment.

Mr. HANSEN. Mr. President, one of the many unique things about Wyoming is that we have the highest per capita consumption of gasoline of any State in the Union. That results from the fact that Wyoming is a rather large State, and we have a small population scattered throughout the 90,000 odd square miles of area. There is no other way to get from one town to another except by private automobile.

I also happen to live in a part of the State where we see a great number of people who come to visit the national parks. We have two in western Wyoming, as the distinguished Presiding Officer knows, Grand Teton and Yellowstone. A great number of people come through there.

When I am on the highway I am always amazed at seeing the number of people who are traveling in station-wagons or in what we might refer to as gas-guzzler cars. Oftentimes they are older cars. It is perfectly obvious that the head of the family probably uses that car during weekdays to haul carpenter tools, paint equipment, wallpapering equipment, electrical equipment, or whatever it may be. Then when the family has an opportunity to take a vacation, it takes that car and makes the trip.

I am especially impressed with the point made by the distinguished senior Senator from Michigan in saying that if we want to disrupt the ability of a family to travel together, this is a good way to do it. I must also observe that in the long run we really would not be saving any gasoline. The figures on gasoline which might be saved are rather infinitesimal anyway.

I do think the point made by the distinguished junior Senator from Michigan is a valid one, however. That is that we ought not to go both ways. I do not think we ought to have a gas guzzler tax and this same kind of a specific prohibition as is contemplated by the Metzenbaum minimum mileage provision at the same time.

I do not know how we are going to handle that situation because as a member of the Finance Committee—and the Presiding Officer as well as the senior Senator from Wyoming both happen to be members of the Finance Committee—I do not see how we can foreclose now what, in my opinion, is clearly within the jurisdiction of the Finance Committee. We have not yet started to mark up that part of the tax bill.

My question would be, Would it not be better strategy to lay aside the Metzenbaum proposal now and give the Finance Committee an opportunity to render its report to this body? After we have heard both the arguments for the gas guzzler tax and the Metzenbaum minimum standards provision, the Senate would make a determination as to which one would best serve America.

I am persuaded that we certainly do not want to put a double burden on industry by adopting a minimum efficiency standard and also imposing the gas guzzler tax.

I should think that people who are willing to pay one or the other penalty have been penalized enough. I just hope we would not take an action now which would create a burden which would be added to later if the Senate Finance Committee were to conclude that it made good sense to impose the gas guzzler tax.

Mr. JOHNSTON. Mr. President, I move to table the amendment of the Senator from Michigan.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to table the amendment of the Senator from Michigan.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. SASSER assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE) and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. BAKER. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay".

The result was announced—yeas 55, nays 27, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—55

Bayh	Hart	Nelson
Biden	Haskell	Nunn
Brooke	Hatfield	Pearson
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Huddleston	Proxmire
Cannon	Inouye	Ribicoff
Case	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Johnston	Schweiker
Church	Kennedy	Stafford
Clark	Long	Stennis
Cranston	Magnuson	Stevenson
Culver	Matsunaga	Talmadge
DeConcini	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Metcalf	Zorinsky
Goldwater	Metzenbaum	
Gravel	Moynihan	

NAYS—27

Allen	Domenici	Morgan
Baker	Eastland	Packwood
Bartlett	Garn	Riegle
Bellmon	Glenn	Roth
Bentsen	Griffin	Schmitt
Byrd, Harry F., Jr.	Hansen	Scott
Curtis	Hatch	Sparkman
Danforth	Hayakawa	Tower
Dole	Helms	
	Lugar	

NOT VOTING—18

Abourezk	Leahy	Randolph
Anderson	Mathias	Stevens
Ford	McClellan	Stone
Hollings	McClure	Thurmond
Humphrey	Melcher	Wallop
Laxalt	Muskie	Young

So the motion to lay on the table Mr. RIEGLE'S amendment was agreed to.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the previous amendment was tabled.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 804

Mr. RIEGLE. Mr. President, I have another amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 804.

Mr. RIEGLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(d) This Section shall not be applicable during the time that there is in effect a Federal tax popularly known as a "gas guzzler" tax on passenger automobiles based on their inability to meet specified fuel economy standards in miles per gallon.

Mr. RIEGLE. Mr. President, I will explain very briefly what this amendment does, while a number of Senators are on the floor.

Mr. HANSEN. Will the Senator yield for a unanimous consent request without losing his right to the floor?

Mr. RIEGLE. Yes.

Mr. HANSEN. Mr. President, I ask unanimous consent that Dick Getzinger of Senator DOMENICI's staff be granted privilege of the floor during the discussion and voting on any of these.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I thank the Senator.

Mr. JOHNSTON. Will the Senator yield?

Mr. RIEGLE. Yes, I yield to the Senator.

The PRESIDING OFFICER. The Senate is not in order. Will Senators kindly take their seats or retire to the cloakroom, and staff take their seats in the rear of the Chamber?

The Senator from Michigan.

Mr. RIEGLE. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I simply want to say, and I thank my colleague from Michigan, we plan to have a very short debate on this followed by a record vote, for the information of Senators, and at this time I ask for the yeas and nays on the Riegle amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. I thank the Senator.

Mr. President, I hope we can hold this debate to 3 or 4 minutes, if we can handle it in that fashion.

Having now by tabling my previous amendment accepted the Metzenbaum amendment which is part of the bill, what I am proposing is the following language, and I will read this section, the Metzenbaum section:

Shall not be applicable during the time that there is in effect a Federal tax, popularly known as a gas guzzler tax, on passenger automobiles based on their inability to meet specified fuel economy standards in miles per gallon.

What I am saying, in effect, is that I am responding to the points of the Senator from Louisiana, the chairman of the committee; the Senator from Washington, and the Senator from Ohio, who said that their intent here, in adopting the Metzenbaum language to establish these new minimum miles per gallon standards, is in face of and a substitute for a gas guzzler tax.

Now that we have expressed ourselves on that, what I am proposing is that we bind that in terms of the agreement and the understanding of this legislation, that by taking this additional step in terms of setting these minimum standards, this would be in lieu of what is popularly called a gas guzzler tax.

This would still leave us the choice in the future of going either way we wish. If, in fact, the predisposition of the Senate is to go with the Metzenbaum minimum standards, so be it. But if, in fact, later the Senate is persuaded to go with the gas guzzler tax as an alternative, then it would set aside the Metzenbaum standards we have just adopted. Frankly, I prefer the Metzenbaum language, as do most of the people who spoke today, to the gas guzzler tax.

In order to resolve this ambiguity and to make crystal clear what our intent is, I offer this amendment, and I ask for its support. The Senator from Wyoming (Mr. HANSEN) cosponsors the amendment with me, and in light of the general understanding here, we hope it will be adopted.

Mr. JOHNSTON. Mr. President, I shortly will move to table, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Michigan (Mr. RIEGLE) is correct with respect to the expressions by me, by Senator JACKSON, the chairman of the full committee, and by Senator METZENBAUM, the author of the Metzenbaum amendment, in our opposition to the gas guzzler tax.

However, the gas guzzler tax is a matter that is within the jurisdiction of the Finance Committee, and I know it is the view of the chairman of the Finance Committee that the two should not be tied together. In other words, if we tied the Metzenbaum amendment with the gas guzzler tax, we would be treading, by indirection, on the jurisdiction of the Finance Committee—in effect, tying their hands.

I suggest to the Senator from Michigan—at least, from what I have heard from other Senators—that there is not a very good chance of passing any gas-guzzler tax.

The PRESIDING OFFICER. The Chair reminds the Senator from Louisiana that the request for the yeas and nays on the motion requires unanimous consent.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, what I am saying is that I do not believe it is necessary to tie the gas-guzzler tax with the Metzenbaum amendment in order to beat the gas-guzzler tax. The two are separate and distinct ideas. The gas-guzzler tax should address itself to the Finance Committee. Frankly, I believe that it would be beaten there. That is the basis of the opposition of the committee to the Riegle amendment.

I believe that attacking the problem directly, through the setting of minimum standards for automobiles, as the Metzenbaum amendment does, is the proper way to set standards for automobiles, not through a gas-guzzler tax. Orderly procedure, I think, would dictate that we not tie the two together. Therefore, we oppose the Riegle amendment.

If the Senator from Alabama does not wish to be heard, I will now——

Mr. ALLEN. I would like to be heard, if the Senator would withhold his motion to table.

Mr. JOHNSTON. If I may retain the floor and yield momentarily to the Senator from Alabama. I do not want to cut him off, but we do want to get a vote as quickly as we can.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, I support the Riegle-Hansen amendment. I do not believe it infringes on the jurisdiction of the Finance Committee at all.

What the Metzenbaum amendment does is to provide that no automobile that fails to meet certain standards may be sold or offered for sale. That would not prevent the gas guzzler tax from being enacted, and we would have both provisions. By adopting the Riegle amendment, it would leave the Finance Committee free to operate—they would not be hampered in the slightest—to enact the gas-guzzler tax. Without the Riegle amendment, it is possible that we would end up with both provisions, but with the Riegle amendment, we would end up only with one. If the Finance Committee comes up with a gas-guzzler tax and Congress enacts it, under the Riegle amendment that would supplant the Metzenbaum amendment. Without the Riegle amendment we could have both.

The distinguished Senator from Ohio (Mr. METZENBAUM) read from a wire or other statement from Mr. Douglas Fraser, president of the United Auto Workers, in behalf of the Metzenbaum amendment. I read the last sentence of that wire:

The UAW strongly opposes the gas guzzler tax and supports your amendment approved by the Energy Committee as an alternative.

So the Riegle amendment would prevent having the possibility of having both. The Metzenbaum amendment would remain in full force and effect until such time as a gas-guzzler tax is adopted. If Congress opts for the gas-guzzler tax, it would wipe out the Metzenbaum amendment.

So all the Riegle amendment does is to allow Congress to retain its options. It can go either way, but it cannot go both ways under the Riegle amendment. I believe that the idea of retaining the option is a consideration that should be taken into account. I believe that the Riegle amendment does make sense. It would assure us of having only one of these methods of approaching this problem, rather than two, which would create considerable chaos, as I see it. So I favor the Riegle amendment.

Mr. JOHNSTON. Mr. President, for the reasons previously stated, I move to table the Riegle amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BELLMON (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE) and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. BAKER. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 52, nays 28, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—52

Bayh	Haskell	Pearson
Biden	Hathaway	Pell
Brooke	Heinz	Percy
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Sarbanes
Cannon	Javits	Sasser
Case	Johnston	Schweiker
Chafee	Kennedy	Sparkman
Church	Long	Stafford
Clark	Matsunaga	Stennis
Cranston	McGovern	Stevenson
Culver	McIntyre	Talmadge
DeConcini	Metcalf	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Moynihan	Zorinsky
Gravel	Nelson	
Hart	Nunn	

NAYS—28

Allen	Domenici	Helms
Baker	Eastland	Lugar
Bartlett	Garn	Morgan
Bentsen	Glenn	Packwood
Byrd, Harry F., Jr.	Goldwater	Riegle
	Griffin	Roth
Chiles	Hansen	Schmitt
Curtis	Hatch	Scott
Danforth	Hatfield	Tower
Dole	Hayakawa	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bellmon, against.

NOT VOTING—19

Abourezk	Magnuson	Stevens
Anderson	Mathias	Stone
Ford	McClellan	Thurmond
Hollings	McClure	Wallop
Humphrey	Melcher	Young
Laxalt	Muskie	
Leahy	Randolph	

So the motion to lay Mr. RIEGLE'S amendment (No. 804) on the table was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 805

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted amendment No. 805.

Mr. BROOKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 2 insert the following:

"and which contains the programs and procedures required by subsections (d)(3), d(5), d(6) and d(7)."

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield just briefly without losing his right to the floor?

Mr. BROOKE. Yes.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, under the order of yesterday there will be no more rollcall votes today; however, amendments may be called up and accepted on voice vote, and I hope that there will be some.

I thank the Senator for yielding.

Mr. BROOKE. Mr. President, earlier today the distinguished Senator from Louisiana and I engaged in a colloquy regarding the way we might assure that nonregulated utilities are required to protect consumers and are constrained by all the same consumer statutes as the regulated utilities.

I understand the staff has worked out the technicalities on the best ways to accomplish this, and I understand further that the distinguished floor managers, the distinguished Senator from Louisiana and the distinguished Senator from Wyoming, will agree to accept this amendment.

Mr. JOHNSTON. Mr. President, this amendment is in accord with the colloquy we previously provided. It does require nonregulated utilities to adhere to four different standards, including, for example, an adequate program for preventing unfair deceptive or anticompetitive acts or practices which everyone has to agree with as being in the interest of the consumer as well as in the interest of this program.

We do not regard this as a step toward regulation of nonregulated utilities, and for that reason, Mr. President, we can accept this amendment.

Mr. HANSEN. Mr. President, the distinguished Senator from Massachusetts has accurately reported the position of the minority. I endorse the amendment.

Mr. BROOKE. Mr. President, before we vote on it, I just reiterate what I stated earlier in colloquy and reaffirm the position that the distinguished floor managers of the bill took, namely, that there is no intent to regulate nonregulated utilities.

Mr. BROOKE. Mr. President, I move the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

UP AMENDMENT NO. 806

Mr. BROOKE. Mr. President, at this time I send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Masachusetts (Mr. BROOKE), for himself and Mr. MCINTYRE proposes unprinted amendment No. 806.

Mr. BROOKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the table of contents of page 2, after "Sec. 116. Loans for solar heating and cooling equipment."

insert

"Sec. 117. Insured energy conservation and solar energy system project loans.".

On page 39, between lines 8 and 9, insert the following:

INSURED ENERGY CONSERVATION AND SOLAR ENERGY SYSTEM PROJECT LOANS

SEC. 117. Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(c)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of section 2(a) of this Act, and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or solar energy system therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(II) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment."

Mr. BROOKE. Mr. President, this measure, which I offer on behalf of myself and Senator MCINTYRE, is the recommendation of the Banking, Housing, and Urban Affairs Committee to the Energy Committee for loan insurance for multifamily building energy conservation loans.

This program, established under section 241 of the National Housing Act, would permit HUD to coinsure loans for weatherization improvements and the conversion of master electrical meters to single unit meters. It applies to both FHA-insured and conventionally financed projects. It was our committee's intent that FHA allow the loans for individual metering only in buildings which have been weatherized.

Both the Energy and Banking Committees have been concerned about the availability of credit for single family home owners, and the Banking Committee has also worried about owners of multifamily buildings, especially those with low and moderate income tenants, which often do not provide adequate rate of return to allow for significant reinvestment and which are typically heavily mortgaged.

Mr. President, there is very little in the conservation package which provides incentives for retrofitting these apartment buildings which are the characteristic dwelling type in so many of our older urban areas. We have not succeeded in designing a plan which assures that tenants would enjoy the benefits of conservation measures taken by their landlords. By making conservation investments eligible for loan guarantees established under the National Housing Act, we can at least expand the availability of credit for conscientious owners who wish to weatherize such units.

It is my understanding, again, that the distinguished floor managers for the majority and the minority have examined this amendment, together with their able staff, and it is my understanding that they will accept the amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BROOKE. Yes.

Mr. JOHNSTON. Is there any limit on the amount of insurance that could be granted for any one building?

Mr. BROOKE. No, there is no limit.

Mr. JOHNSTON. And would an owner of a building be automatically eligible for an unlimited amount of insurance for his building, without it being a discretionary matter with HUD?

Mr. BROOKE. The Secretary can only make such loans as are necessary, in her own determination.

Mr. JOHNSTON. What I have in mind here is whether we ought to put some limit on the amount of the insurance, because these will be soft loans, more or less, with a lower interest rate.

Mr. BROOKE. Right.

Mr. JOHNSTON. Ordinarily, with HUD, for apartment buildings, in building those in the first instance HUD will check those out very carefully to determine whether they serve the public interest, et cetera, as to whether they grant the loan.

My only concern here is that an owner could get an unlimited amount of money and a concessionary interest rate, and, there being no discretion in HUD—in other words, that would be a matter between himself and his banker——

Mr. BROOKE. I would hope that the Senator would agree that this language is sufficient. It reads as follows:

not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or solar energy system therein;

I would think the discretion given to the Secretary with those provisions would be sufficient to alleviate the kind of problem which the Senator from Louisiana foresees could occur.

Mr. JOHNSTON. Could the Senator point out where that language is?

Mr. BROOKE. It is in the amendment. It is section 117.

Mr. JOHNSTON. I have it here.

Mr. BROOKE. It is subsection (2)(A). "Notwithstanding the provisions of subsection (b), a loan insured under this section shall (A) not exceed an amount"——

Mr. JOHNSTON. All right. The provision just referred to, subsection (2)(A), does that refer to new construction?

Mr. BROOKE. No.

Mr. JACKSON. Only retrofit?

Mr. BROOKE. Only retrofit. The buildings would already have to be in existence.

Mr. JOHNSTON. Does the Secretary make this determination on a case-by-case basis, or does he make it by a general rule, which each owner must satisfy?

What I am getting at is, FHA sets its general guidelines.

Mr. BROOKE. Right.

Mr. JOHNSTON. Then you come in with a high-rise apartment that has 400 units in it; does the FHA Director or the Secretary have the right to determine whether that particular project is necessary for the purchase and installation of individual utility meters, and these other matters considered in (2)(A)?

In other words, does he measure each project by these requirements?

Mr. BROOKE. The answer is yes. I would just like to point out to my distinguished colleague that many other kinds of improvements are eligible under this same title.

Mr. JOHNSTON. That satisfied my concern. As long as it is clear that the Secretary approves each apartment building, and measures each apartment building by these standards so that he does have discretion as to whether to grant or not to grant a loan based on whether it is likely to reduce the amount of energy consumed over the term of the loan. That answers my question, and I move we adopt the amendment.

Mr. HANSEN. The amendment is acceptable on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 807

Mr. BROOKE. Mr. President, I send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and Mr. MCINTYRE, proposes an unprinted amendment No. 807.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the table of contents on page 3, after—

"SEC. 361. Policy with respect to purchase of Federal vehicles."

insert

"PART G—Federal Home Mortgage Credit Energy Program

"SEC. 371. Energy performance standards.

On page 76, between lines 15 and 16, insert the following:

PART G—Federal Home Mortgage Credit Energy Program

ENERGY PERFORMANCE STANDARDS

SEC. 371. (a) Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Weatherization Act.".

Mr. BROOKE. Mr. President, this is an amendment which I offer in behalf of myself and Senator MCINTYRE.

Our Banking, Housing, and Urban Affairs Committee, in examining the existing energy conservation standards set under the FHA and FmHA minimum property standards, found that they were well below in many aspects the level which could be achieved under current building practices. This, therefore, amends section 526 of the National Housing Act and title V of the Housing Act of 1949 to require that the minimum property standards set under these two provisions include energy performance requirements that will achieve a significant increase in energy efficiency of new construction, until such time as the standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. The FHA and FmHA standards need not be identical, however, they must achieve a similar energy efficiency.

In essence, this brings the energy standards for properties built or insured under our major housing programs up to the state of the art in energy conservation. It corrects an anachronistic situation which simply need not continue until the comprehensive performance code is available and adopted.

It is my understanding, again, that the distinguished majority and minority floor managers of the bill have looked at this amendment and are prone to accept it.

Mr. JOHNSTON. Mr. President, the Senator from Massachusetts is correct. Again he has come up with an amendment which would improve this bill. It superimposes upon existing law, that is, the National Housing Act, and brings under energy conservation standards the Farmers Home Administration and the FHA, established under existing law, for standards set for new buildings. We think it is a great improvement, and are willing to accept the amendment.

Mr. HANSEN. Mr. President, I share the opinion expressed by the distinguished floor manager of the bill.

Mr. BROOKE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 808

Mr. BROOKE. Mr. President, I send to the desk another amendment, on behalf of myself and Senator MCINTYRE, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and Mr. MCINTYRE, proposes an unprinted amendment numbered 808.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the table of contents on page 3, after—

"SEC. 361. Policy with respect to purchase of Federal vehicles."

insert

"Part G—Federal Home Mortgage Credit Energy Program

"SEC. 372. Residential housing energy incentives studies.".

RESIDENTIAL HOUSING INCENTIVES STUDIES

SEC. 372. (a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficiency standards. The Secretary shall report, no later than 1 year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

Mr. BROOKE. Mr. President, this, too, is a recommendation of the Senate Banking Committee and it adds a study provision to the bill. The study which would be performed by HUD within 1 year, would provide the Congress with an analysis of the costs and benefits of the various ways energy performance standards for existing buildings could be made mandatory.

The issue of mandatory retrofit standards has surfaced in the Senate debate and was more seriously considered in both the Banking and the Commerce Committee in the House. Quite frankly, Mr. President, the idea of making retrofitting a condition of reselling or re-insuring existing buildings scares me. My intuition, as one who has been overseeing housing market activity for some year, is that the increases in already skyrocketing housing costs would be significant. And, the potential cost of inspecting bureaucratic regulation and paperwork might well be intolerable to the American homeowner.

However, I foresee this debate resuming if we do not meet the President's goal of retrofitting 90 percent of American homes. And, I think that target was pulled out of the hat and is so high that we may well not meet it. Therefore, I would like to see an objective study of how various kinds of sanctions might be structured, what each would cost, and what the energy savings could be. The study should cover both single and multifamily dwellings.

Mr. President, the Banking Committee language was extremely detailed as to the topics of study and this amendment is an abbreviated version which will accomplish the same purpose in the same time. I propose that the Banking Committee send HUD its longer version for guidance if and when the bill's managers accept this provision. It seems to me that one does not have to share my fears about sanctions to feel the need for some well organized factual material on this matter, and I would hope his amendment will be accepted so we can have an empirical basis for discussion if we need it in the future.

I do believe the majority and minority floor managers of this bill have reviewed this and have agreed that a study of this nature would be beneficial. I am hopeful they will accept the amendment.

Mr. JOHNSTON. Mr. President, we think a study should be made. This same kind of an amendment was discussed in our committee. In the committee the amendment was not for a study, but for the establishment of Federal standards even for existing housing. Various mechanisms to require that homes be retrofitted to meet the minimum standards before a sale could be made were suggested in that amendment.

I, among others in the committee, opposed that kind of legislation because we felt we simply did not know enough about it.

Another suggestion made by the distinguished Senator from Ohio (Mr. METZENBAUM) would call for the mandatory retrofitting with a furnace flue device of all homes. That would restrict the size of the flue coming from gas- and oil-fired heaters. It was the suggestion of the Senator from Ohio that this kind of retrofit, which could be undertaken at a very reasonable price, could save huge amounts of energy.

Again, the committee rejected that suggestion because we simply did not know enough about that particular kind of device and whether or not it might cause the pilot light to snuff out, or whether or not it might cause some kind of a problem with fumes within the house, that kind of thing.

I would hope that this study would include details on the practicality and feasibility of all those different kinds of devices for retrofitting homes. We very

much welcome this kind of study because it needs to be made.

Mr. BROOKE. I would just like to say that the guidelines the Senate Banking Committee adopted are very broad. Sometimes we are skeptical when a study has been recommended, neverthless, as the Senator said, we just do not know enough about it to mandate it at this time without further study. I think if HUD uses those guidelines the Senate Banking Committee adopted, they will be sufficient to cover those areas of concern to the Senator's committee.

Mr. JOHNSTON. I thank the Senator. I believe his amendment would improve the bill. I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was greed to.

AMENDMENT NO. 845

Mr. BROOKE. Mr. President, I call up an amendment No. 845 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUMPERS). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment No. 845.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 6, insert the following: "(10) contains provisions to assure that no utility will inspect any furnace or install any replacement furnace or make or inspect furnace modification in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by such utility, except that a furnace which uses a fuel not supplied by any utility may be inspected by a utility if the customer has no access to services provided under a home heating supplier program.".

On page 13, line 3, insert the following:

"(5) contains provisions to assure that no utility will inspect any furnace or install any replacement furnace or make or inspect furnace modification in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by such utility, except that a furnace which uses a fuel not supplied by any utility may be inspected by a utility if the customer has no acccess to services provided under a home heating supplier program.".

Mr. BROOKE. Mr. President, this amendment would insure that any utility conservation program plan submitted included a prohibition against utilities inspecting furnaces for which they did not supply the heating source. A number of States have laws to this effect already and in those States it would probably be reflected in the plan. The problem that could arise if such a protection were not provided is clearly that utilities could present the information they give so as to suggest that furnaces fueled by alternative energy sources were in some way less efficient. In many cases they will be inspecting inefficient furnaces simply because of the age of most furnaces in many American homes and it is conceivable that they could advocate switching to whichever source of fuel they provide.

It is not within the scope of either our knowledge or expertise in the Congress nor of the national energy program to have the utility conservation program generating an accelerated switching from one residential fuel source to another. Since there is no way to predict whether the gas or electric utility will be the one selected by the homeowner we cannot judge which the bias might be in any given region.

The line between good salesmanship and true bias is a fine one under any circumstances, and it will be very hard indeed to make the distinction when a utility auditor is chatting with a homeowner. The House bill does provide explicit protection of this nature and I feel the Senate bill should not allow this potential for abuse to remain uncorrected.

I would hope that the distinguished floor manager would agree with the premise of this amendment.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Massachusetts has, I think, batted 1,000 today up until now. He has given us a whole battery of amendments, all of which improve this bill. But I am afraid at this late hour we would draw the line on this amendment. The reason is this, Mr. President: This program for energy audits, insofar as the audit is made, is essentially an information program. It is designed to give to the homeowner the information on which the homeowner can make decisions as to what to do about his home to save energy. Those decisions and those recommendations will relate not only to the kind of heating device which the home has, but also to such things as whether he ought to have storm windows, whether he ought to have insulation in the ceilings, and a whole host of other things which relate to energy conservation.

In trying to formulate a program, we had to pick as the person or the group to make the audit those we thought would best be in a position to make those audits. After a great deal of deliberation in both the House and in the Senate we determined that the audits ought to be made by the utilities.

Is there a danger that, say, a gas utility would suggest to a homeowner who has his home heated by home heating oil that he should switch to gas?

All I can say to that, Mr. President, is that the bill does provide for the requirement that each State plan must contain procedures for preventing deceptive practices. Giving out a pattern of biased information or incorrect information would be a violation of the State plan and that, in turn, would be contrary to the provisions of this act.

I simply feel that what the Senator is concerned about would not be a danger under this bill. We are not trying to promote one form of heating over another. The only way a utility will be able to recommend that switch is if it were correct information. Otherwise, it would be in violation of this act. As a practical matter, I know of no region of people, shall we say, who can be advised to switch to another kind of heat and thereby ruin the business of heating oil dealers, or whatever. I think there is sufficient protection in the bill to prevent that kind of bias and incorrect information from getting out to consumers.

Mr. BROOKE. Will the Senator yield?

Mr. JOHNSTON. Surely.

Mr. BROOKE. What information does the committee expect the energy auditor to provide to the homeowner so as to allow for unbiased consideration of furnace replacement alternatives or fuel switching?

Mr. JOHNSTON. Does the Senator mean with respect to the kind of heating device in the home or the whole range of matters?

Mr. BROOKE. Heating devices.

Mr. JOHNSON. Recommendations would be made, first of all, for insulation. The lack of insulation in the ceiling is probably the most common fault of homes in terms of insulation, and the easiest thing to correct. That, along with weatherization, storm windows in areas that have particularly cold weather, and then, of course, there might be, with respect to some furnaces, certain changes that ought to be made. For example, we may find that the size of the flue can be easily corrected. As I pointed out a moment ago, the Senator from Ohio pointed out that changes in the size of the flue could be made and save a great deal of energy.

What we envision by this conservation program are not dramatic changes in each home involving thousands of dollars, but those simple and, for the most part, fairly inexpensive steps that can be made in the average American's home to save significant amounts of energy.

Mr. BROOKE. Well, if the Senator will yield further, do the managers of the bill agree that, among the issues FEA can deal with as it promulgates guidelines for the State consumer protection plans is this matter of furnace inspections by potential competitors? If, for example, FEA can find no other good way, after consulting with the FTC, to protect the consumer against potential unfair practices, then can it tell States to include such prohibitions in their consumer protection plans?

Mr. JOHNSTON. Well, it is very clear that each State must provide in its plan procedures for preventing deceptive practices and biased information. All I can say is that the FEA must do what is necessary to see that that is carried out. There is no intent here to cause a wholesale switch from one form of fuel to another, because, actually, the reason that most regions are using a particular fuel is that that is the available fuel and that is the one that ought to be used, in every region that I know anything about. I simply do not know the situation in which the Senator's concern would be a real concern. In New England, for example, I do not know what New England people would be advised to switch to.

Mr. BROOKE. Well, I do have a basis for concern. That is the reason I proposed this amendment. As the Senator knows, I proposed it in all good faith. I confess that I find it a little naive to rely on the good faith of a company tied to a particular product line. But, as I believe the administration and the Federal Trade Commission share these concerns,

I just would like to work with the administration and the FTC prior to the conference to try to save the House provisions, the House language, which I think really provides these protections.

I have the greatest respect for the distinguished Senator from Louisiana and the Senator from Wyoming and their committee. I think this colloquy has been very, very beneficial. Accordingly, so I can keep my batting record intact, I think I shall withdraw this amendment and, as I said, still try to see what can be worked out in the Senate-House conference. I hope both my colleagues will respect my strong feelings about this.

Mr. JOHNSTON. I thank the distinguished Senator from Massachusetts. I can assure him that if his concerns become a problem, we shall investigate it on oversight, and if necessary, change the law to make explicit what we think is abundantly implicit in the bill as it is. I do not think that is a concern because of the provisions of the bill, but if it should become a concern to the Senator from Massachusetts, I am sure he will communicate it to us in our committee on oversight and we shall do whatever is necessary to correct whatever the fault may be.

Mr. BROOKE. I thank my distinguished friend from Louisiana. I am further assured by that assurance.

I withdraw my amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 809

Mr. BROOKE. Mr. President, I send to the desk an amendment for myself and Senator KENNEDY, Senator TOWER, and Senator MCINTYRE and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) for himself, Mr. KENNEDY, Mr. TOWER, and Mr. MCINTYRE, proposes unprinted amendment No. 809.

Mr. BROOKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, strike lines 23 through 26.

On page 24, strike lines 1 through 8.

On page 24, line 9, strike "(b)" and insert in place thereof "SEC. 111.".

Mr. BROOKE. This is the last amendment I shall offer tonight. Mr. President, this amendment strikes the provision mandating that FHA insurance be available for the loans made by the "grandfathered" utilities for energy conservation. I should like to note that the cosponsors of this measure include the chairman of the Antitrust Committee, the chairman of the Subcommittee on Government Regulations of the Small Business Committee, and the distinguished and most senior Republican member of the Banking Committee.

The committee bill permits utilities with conservation programs in effect as of the date of enactment of this bill to continue their activity including making energy conservation loans. It then goes on to define these few utilities as "financial institutions" for purposes of the FHA Home Improvement loan coinsurance program. Our concern is that, by establishing this unprecedented relationship to an FHA program currently only available to regulated conventional lending institutions, the committee bill would set up exactly the kind of anticompetitive situation the Federal Trade Commission and many consumer groups have feared this program would cause. Mr. President, utilities simply are not and should not be financial institutions.

The special status as FHA lenders would not only put the utilities in direct competition with savings and loans companies and other lending institutions but it would also give yet another special Federal protection to those few utilities whose programs are "grandfathered" under this bill.

Neither the utilities nor these potential customers need this extra authority. The utilities who would receive it are the ones which voluntarily set up lending programs in the pool. Clearly, they reviewed their lending capabilities and decided they had the resources to do so.

In any case, FHA insurance to financial institutions does not increase literally the capital supply. Rather, it expands the number of potential borrowers by assisting the less credit-worthy. If the argument for this measure is to insure that marginal credit risks can participate in utility programs, the Senate should recognize that any would-be borrowers whom utilities turn down for credit reasons are free to apply to conventional lending institutions for an insured loan. And each year there has been more FHA money for these purposes than has been spent, and lenders are trying actively to promote the use of these funds for energy conservation.

I urge my colleagues to support removal of this special benefit provision.

I assure them that it is not necessary and that, after lengthy research in this matter and working with it in the Banking Committee, this is not sound.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BROOKE. Yes.

Mr. JOHNSTON. Under the bill as amended by this amendment, if it is accepted, those grandfathered utilities would still be able to do what they are doing today. They would be able to do the work and make the loans and arrange for the loans through the separate institution. All they would be prevented from doing would be acting as an agent, in effect, of FHA and becoming, themselves, an FHA-insured institution. Is that not correct?

Mr. BROOKE. That is exactly correct.

Mr. JOHNSTON. Mr. President, I think this is an excellent amendment, and we will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the manager and his comanager, Mr. JOHNSTON and Mr. HANSEN, respectively, on the fine work they have done and the progress they have made thus far today.

There will be no further action on this bill this evening.

In view of the fact that the Committee on Energy which is chaired by Mr. JACKSON, and on which both Mr. JOHNSTON and Mr. HANSEN serve will be meeting tomorrow to mark up another energy bill, I should state that the Senate will not resume consideration of this pending measure until 1 p.m. tomorrow.

This will facilitate the presence of Mr. JOHNSTON and Mr. HANSEN at the markup of the committee tomorrow on natural gas.

I thank both Senators.

So in view of the fact that they cannot be in two places at once, this will aid them to fulfill their duties before returning to the floor to pick up where they left off today and at that point it will be 1 p.m. tomorrow.

ADDITIONAL STATEMENTS SUBMITTED

Mr. MATSUNAGA. Mr. President, the bill presently before the Senate is without a doubt one of the most vital components in our effort to reshape our national energy policy to conform with the energy realities of our time. S. 2057, the proposed National Energy Conservation Policy Act, represents a recognition on our part that development of a true national conservation ethic can possibly contribute more than any other effort toward the solving of our continuing energy crisis.

In my view, one of the most important provisions of the bill is found in title III, which seeks to mandate certain Federal energy conservation initiatives. As the largest single energy consumer in our country, the Federal Government is in the unique position of being potentially the greatest contributor to the development of such a conservation ethic. Not only would a concerted energy saving effort on the part of the Federal Government result in a vastly wiser and more effective use of the taxpayers' dollars, but also the example it would set would be invaluable to the development of national energy conservation practices. In addition, a valuable boost to the development of fledgling renewable resource and energy conservation industries, with their attendant employment opportunities, would be provided.

During consideration of S. 2057 by the Senate Committee on Energy and Natural Resources of which I am a member, I proposed an amendment to the Federal energy initiatives section designed to strengthen the effectiveness of the Federal conservation effort. The provisions of my amendment were similar to those proposed in S. 800, a bill introduced earlier this year by the Senator from Colorado (Mr. HART) and cosponsored by myself and several other colleagues. Language closely paralleling that of S. 800 and of my amendment had earlier been adopted by the revelant House committees working on H.R. 8444, the President's proposed national energy bill, and

was subsequently incorporated in the bill as passed by the House.

My amendment sought to recognize the vast energy savings which could result from the institution of energy conservation measures and the installation of renewable energy systems in our over 400,000 Federal buildings. Among other provisions, it proposed that determinations of the costs of new Federal buildings were to be based not on the initial cost of construction, but on life cycle costs; that is, the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs. It also proposed that an energy survey be performed by August 15 of next year on each Federal building containing floor space of over 30,000 square feet. The provision was designed not only to identify energy waste, but to encourage Federal building managers to develop a greater awareness of the manner in which energy is being utilized in these buildings. My amendment also called for the Federal Government to give preference in leasing buildings to those using renewable energy systems or having a high degree of energy efficiency.

A key provision of my amendment proposed that energy saving practices and equipment be implemented and/or installed in 1 percent of the total gross square footage of all Federal buildings by September 30, 1979. The square footage in which such action was to be taken was to be chosen from a list of those buildings identified by the energy survey as particularly suited to the implementation of energy conservation measures. It was intended that this schedule be only the initial step toward the ultimate goal of implementing energy conservation measures in all Federal buildings. By Government estimates, such implementation, if carried to all 400,000 Federal buildings, would cost approximately $2.5 billion but result in energy savings of more than $4 billion in utility costs.

Reflecting its commitment to conservation, the committee adopted my amendment unanimously, and it is presented in the pending bill, S. 2057, as title III, part C: Energy conservation and solar energy in Federal buildings. I am pleased that the Senate is prepared to adopt my amendment as an integral part of the pending bill.

I wish at this time to express my appreciation and commendation to the chairman of the committee, my distinguished colleague from Washington, Senator JACKSON, and other members of the committee, for their support of my amendment. It is my strong belief that in the years to come, the conservation program provided in the pending bill will prove most instrumental in leading us out of our present energy predicament.

Mr. CHILES. Mr. President, as the Senate considers S. 2057, the National Energy Conservation Act, it is appropriate to comment on the second budget resolution's relationship in function 300 to forthcoming energy legislation. This month will be "energy month" in the Senate, as we consider various bills that will comprise the national energy plan.

Funding for energy is classified in function 300: Natural resources, environment, and energy. The ceilings for this function in the second budget resolution for fiscal year 1978 as passed the Senate are $24.9 billion in budget authority and $20.8 billion in outlays.

These amounts are sufficient to accommodate the various programs found in function 300. These programs include Federal energy activities including those of FEA, ERDA, and the Nuclear Regulatory Commission, the environmental activities of the EPA, the water resources activities of the Corps of Engineers and the Bureau of Reclamation, and various activities of the Department of the Interior such as parks and Federal land management.

Mr. President, the ceilings for function 300 are ample. They are designed to accommodate major new energy legislation that comprises the national energy plan, to fund additional environmental programs, as well as to supplement current funding for important natural resources programs.

Let me outline the situation in this function. Appropriations to date total $15.5 billion in budget authority and $18.9 billion in outlays. These amounts are $9.4 billion in budget authority and $1.9 billion in outlays below the ceilings of the second budget resolution as passed the Senate. While this difference is sizeable, the expected requests for additional funding in this function from legislation not yet enacted are even greater.

Mr. President, I ask unanimous consent that a table showing these expected requests for additional fiscal year 1978 funding in function 300 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Function 300: Expected requests for additional fiscal year 1978 funding

[In billions]

	Budget authority
Action completed and underway	$15.5
Expected requests:	
EPA construction grants	4.5
Natural resources supplemental	0.5
Energy:	
S. 701—weatherization grants to schools and hospitals	0.2
S. 977—coal conversion	0.9
S. 2057—national energy conservation policy	5.3
S. —natural gas/utility reform	0.1
Indirect costs associated with energy plan	0.3
Subtotal, expected requests	(11.8)
Total	27.3
Total	27.3
Function 300 recommended ceiling, as passed the Senate	24.9
Difference	2.4

Mr. CHILES. The table shows that expected requests for additional funding in function 300 total $11.8 billion in budget authority. Together with the other expected additional funding requests in this function, the amounts for energy—if all were enacted and fully funded—would bring the functional total to $27.3 billion in budget authority. This is $2.4 billion above the recommended ceiling of $24.9 billion. What this means is that the recommended ceiling for budget authority in function 300 cannot accommodate every possible item that might emerge.

Outlay totals associated with this budget authority are within the outlay ceiling of the second budget resolution as passed the Senate. However, one reason we are so concerned with limiting budget authority is the future year outlay implications of such authority.

I firmly believe that the function 300 ceilings passed by the Senate are generous. Not extravagant, but generous. We are recommending, afterall, a level that is $9.4 billion in budget authority and $1.9 billion in outlays above what already has been appropriated. And we have accepted ceilings that are $4.2 billion in budget authority and $0.8 billion in outlays above the function 300 targets of the first budget resolution.

But in fiscal year 1978, we are facing a budget deficit of $65 billion, and we simply cannot afford to be extravagant. We cannot afford everything that we would like to have. But we can afford—and the ceilings in function 300 of the second budget resolution as passed the Senate allow for—additional spending in fiscal year 1978 for environment and natural resource programs and ample funding for the national energy program.

Mr. CRANSTON. Mr. President, I would like to take just a moment to ask a question of the distinguished floor manager, Mr. JOHNSTON, about the impact of section 103 on State utility regulatory agencies. Specifically, I would like to know whether this bill would have the effect of preempting the State utility regulatory agency's traditional role in determining for the regulated utilities the following items:

First, the utility's recovery of costs of utility conservation through rate relief;

Two, fees for energy audits, provided that they are at a level to encourage customers to take advantage of the service;

Third, interest rates charged by utilities in financing conservation measures, provided that they are fair and reasonable and do not exceed prevailing rates; and

Fourth, the utility's expensing of civil penalties provided they are not charged to utility customers as part of any rate or charge.

Mr. JOHNSTON. I thank the Senator from California for raising this question for clarification. S. 2057 would not preempt the State public utility regulatory agencies from exercising their traditional role in determining these costs for the regulated utilities.

Mr. TOWER. In the definitions under title I, part A, that is the utility and home heating supply program, is it not the intention of the Senator from Louisiana to include under the list of residential energy conservation measures those glazing devices which would offer significant energy conservation in residences? I refer to such things as multiglazing, heat-absorbing and heat-reflective glazing?

Mr. JOHNSTON. It is most certainly my intention that the approach just mentioned by the Senator should be encompassed in this bill, and I thank the Senator from Texas for bringing this point to my attention.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission, which was referred to the Committee on Commerce, Science, and Transportation.

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the bill (H.R. 6669) to establish a national climate program, and for other purposes in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 126) to reduce the hazards of earthquakes, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1929. A letter from the Chairman of the Civil Rights Commission transmitting, pursuant to law, a report entitled "Window Dressing on the Set: Women and Minorities in Television" (with an accompanying report); jointly, by unanimous consent, to the Committees on Human Resources and Commerce, Science, and Transportation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Civil Rights Commission submitting a report relating to women and minorities in television be referred jointly to the Committee on Human Resources and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–1930. A letter from the Assistant Secretary of Defense transmitting, pusuant to law, the first quarter fiscal year 1977 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products (with an accompanying report); to the Committee on Appropriations.

EC–1931. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to Mexico; to the Committee on Banking, and Housing, and Urban Affairs.

EC–1932. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to Mexico concerning the construction of an 840-mile gas pipeline; to the Committee on Banking, Housing, and Urban Affairs.

EC–1933. A letter from the Chairman of the Cost Accounting Standards Board transmitting, pursuant to law, a proposal for promulgation concerning contract coverage, modified contract coverage, basic requirements and cost accounting standards (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

EC–1934. A letter from the Chairman of the Export-Import Bank of the United States transmitting pursuant to law, a report with respect to a transaction with the Bank of Tokyo, Ltd. in purchasing raw cotton from the United States; to the Committee on Banking, Housing, and Urban Affairs.

EC–1935. A letter from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, the National Transportation Safety Board's 1979 budget submission (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–1936. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus for alterations at the Tallahassee, Florida, U.S. Post Office and Courthouse, in the amount of $978,000 (with an accompanying report); to the Committee on Environment and Public Works.

EC–1939. A confidential report from the Director of the Defense Security Assistance Agency concerning notification of Department of Air Force's proposed foreign military sale to Egypt; to the Committee on Armed Services.

EC–1938. A confidential report from the Director of the Defense Security Assistance Agency concerning notification of the Department of the Air Force's proposed foreign military sale to Iran; to the Committee on Armed Services.

EC–1939. A confidential report from the Director of the Defense Security Assistance Agency concerning notification of the Department of the Army's proposed foreign military sale to Switzerland; to the Committee on Armed Services.

EC–1940. A letter from the Assistant Administrator for Legislative Affairs for the Department of State transmitting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1977 program in the United Nations Fund for Population Activities; to the Committee on Foreign Relations.

EC–1941. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Most Agency Programs for Employees with Alcohol-Related Problems Still Ineffective" (HRD 77–75) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1942. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–77, An act to provide Spanish language versions of certain forms, brochures, and other materials published by the government of the District of Columbia (with accompanying papers); to the Committee on Governmental Affairs.

EC–1943. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–67, An act to provide for additional notice requirements to Advisory Neighborhood Commissions from certain governmental agencies (with accompanying papers); to the Committee on Governmental Affairs.

EC–1944. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–16, An act to authorize variable periods for the issuance and expiration of licenses, registrations and permits (with accompanying papers); to the Committee on Governmental Affairs.

EC–1945. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–78, An act to select private financial institutions to be depositories for District funds (with accompanying papers); to the Committee on Governmental Affairs.

EC–1946. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–64, An act to provide standards for definitions by the Board of Appeals and Review and to provide for an expedited procedure in cases involving certification of certain persons with prior criminal convictions as security officers, and for other purposes (with accompanying papers); to the Committee on Governmental Affairs.

EC–1947. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–63, An act to provide for the elimination of lead in public property frequented by children (with accompanying papers); to the Committee on Governmental Affairs.

EC–1948. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–79, An act to establish standards and procedures to protect users of hearing aids (with accompanying papers); to the Committee on Governmental Affairs.

EC–1949. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–62, An act to amend the Rental Accommodations Act of 1975 (with accompanying papers); to the Committee on Governmental Affairs.

EC–1950. A letter from the Chairman of the Council of the District of Columbia transmitting pursuant to law, a copy of Council Act 2–68, An act to amend the District of Columbia Health Care Facilities Regulation to provide for licensing community residence facilities (with accompanying papers); to the Committee on Governmental Affairs.

EC–1951. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act adopted by the Council of the District of Columbia authorizing variable periods for the issuance and expiration of licenses, registrations, and permits (with accompanying papers); to the Committee on Governmental Affairs.

EC–1952 A letter from the Assistant Secretary of Commerce transmitting, pursuant to law, a report on a new system of records in addition to those previously noticed in the Federal Register for the White House Conference on Balanced National Growth and Economic Development (with an accompanying report); to the Committee on Governmental Affairs.

EC–1953. A letter from the Assistant Secretary of Commerce transmitting, pursuant to law, a report on a new system of records entitled "Biographical Files" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1954. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Problems and Needed Improvements in Evaluating Office of Education Programs" (with an acompanying report); to the Committee on Governmental Affairs.

EC–1955. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Overseas Private Investment Corporation, Fiscal Years 1976 and 1975" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1956. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Millions of Dollars in Delinquent Mortgage Insurance Premiums Should Be Collected by the Department of Housing and Urban Development" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1957. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Problems in the Federal Employee Equal Employment Opportunity Program Need To Be Resolved" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1958. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report on Definition of Developmental Disabilities (with an accompanying report); to the Committee on Human Resources.

EC–1959. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a published regulation entitled "Final regulations for the technical amendments to Title IV of the Elementary and Secondary Education Act made by the Education Amendments of 1976" (with accompanying papers); to the Committee on Human Resources.

EC–1960. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Indochina Migration and Refugee Assistance Act of 1975 (with accompanying papers); to the Committee on Human Resources.

EC–1961. A letter from the Commissioner of Education transmitting, pursuant to law, a report entitled "Administration of Public Laws 81–874 and 81–815" (with an accompanying report); to the Committee on Human Resources.

EC–1962. A letter from the Director of the Community Services Administration transmitting a draft of an amendment to proposed legislation entitled "Economic Opportunity Amendments of 1977" (with accompanying papers); to the Committee on Human Resources.

EC–1963. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare transmitting a copy of published regulation entitled "Final Regulations for the State Student Financial Assistance Training Program" (with accompanying papers); to the Committee on Human Resources.

EC–1964. A letter from the Chairman of the Tennessee Valley Authority transmitting, pursuant to law, a report entitled "The Structure of the Energy Markets: A Report of TVA's Antitrust Investigation of the Coal and Uranium Industries" (with an accompanying report); to the Committee on the Judiciary.

EC–1965. A letter from the Commissioner of Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in 1,198 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens (with accompanying papers); to the Committee on the Judiciary.

EC–1966. A letter from the Director of Defense Research and Engineering transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1976–March 1977 (with an accompanying report); to the Select Committee on Small Business.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM–297. Resolution No. 5 adopted by the Great Lakes Conference of Public Utilities Commissioners on August 10, 1977, concerning the Consumer Communications Reform Act of 1976; to the Committee on Commerce, Science, and Transportation.

POM–298. Resolution No. 7 adopted by the Great Lakes Conference of Public Utilities Commissioners on August 10, 1977, concerning the national energy program; to the Committee on Energy and Natural Resources.

POM–299. A petition from the Mental Patients Liberation Front transmitting the Front's final position paper in opposition to psychosurgery for behavior modification; to the Committee on Human Resources.

POM–300. Resolution No. 114 adopted by the Legislature of the Territory of Guam relative to respectfully requesting the President and Congress of the United States to pursue and support such actions as are necessary and expedient to enrich the quality of life on Guam and improve the political and economic condition of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION NO. 114

"1. Guam, a territory of the United States for more than three quarters of a century, is desirous of achieving economic self-sufficiency and aspires to political and social equality with the rest of America; and

"2. These goals, noble as they are, can be attained only with the support and assistance of the Federal Government; and

"3. Guam has been, and continues to be, a priceless military, economic, and political possession of the United States saving America billions of dollars because of her strategic location in the western Pacific and is, in fact, the only American soil in this part of the world; and

"4. Guamanians have fought in all major wars since 1918, many having died in Europe, at Pearl Harbor, in Korea and South Vietnam in defense of America and the free world; and hundreds more having lost their lives during enemy occupation in World War II; and

"5. The presence of nuclear weapons in the territory renders Guam and her people a priority Pacific target in the event of nuclear war; and

"6. Some 100,000 residents of Guam have historically exhibited unflinching loyalty and support for the United States government and the policies it has fostered both abroad and at home; and

"7. In addition to moral and political support, Guam contributes to the continental economy and estimated 100 Million Dollars per annum through purchases made from mainland business; and

"8. Because of Guam's geographic isolation from the mainstream of continental America, her citizens are deprived of the economic and social mobility that the average American possesses; and

"9. The per capita income in the territory is 40 percent less than the average in the rest of the country, and the cost of living is at least 20 percent greater than the national average; and

"10. Guam has a voice but not a vote in the U.S. House of Representatives, and has neither a voice nor a vote in the U.S. Senate and her people are denied the right to participate in the election of their President and Vice President simply because they reside in Guam; and

"11. Guam has historically been denied a vote in the formation of Federal policy, law, or regulation which affects our territory. Without the right or opportunity for input, except for a non-voting delegate in the House, Guam has been, and continues to be, adversely affected by decisions made at the Federal level. Federal laws and regulations, and, to some extent, certain compacts and trade agreements with foreign nations pose obstacles to political and economic progress; and

"12. The Guam Political Status Commission has been duly and properly established and recognized as the entity to represent Guam in negotiations with the Federal government; and

"13. The expedient resolution of these requests by the President and U.S. Congress and where necessary with the duly and properly established Guam negotiators, Guam Political Status Commission, is in the interest of social justice and imperative to Guam's economic and political survival, thus it is respectfully requested that the Federal government act on the issues raised in this resolution immediately; now, therefore, be it

"Resolved, that the President and Congress of the United States are respectfully requested to pursue such actions as are necessary to enrich the quality of life on Guam and to improve the political and economic condition of the territory, including but not limited to the following:

"RIGHT TO VOTE IN THE PRESIDENTIAL ELECTIONS

"Among basic democratic tenets is the concept of government deriving its powers from the consent of the governed. This democratic principle has not been extended to American citizens residing in Guam. It is our belief that all Americans, irrespective of residency, must be equal before the law in all respects, and thus must have the right to select those who govern them; in this instance, the highest office in the land. The time is now to rectify this obvious inequity.

"VOTING RIGHTS IN HOUSE OF REPRESENTATIVES

"Representation in the House of Representatives has been granted to Guam, along with the Virgin Islands, Puerto Rico, and the District of Columbia, but none of these American communities has the right to vote on the floor of the House, a denial that undermines the true meaning of representation. Until Guam and the other American territories are granted voting representation, true participatory democracy cannot be said to exist in all American communities.

"REPRESENTATION IN UNITED STATES SENATE

"Because off-shore American territories are generally affected to a great extent by international treaties and agreements, and because the U.S. Senate has jurisdiction over such matters, it is important that Guam and other U.S. territories be granted representation in the Senate.

"EXEMPTION FROM IMPORT TARIFFS

"The territory should be allowed to export locally manufactured products to the mainland United States without tariff restrictions. Such a tariff exemption will encourage the development of a substantive industrial base and spur on America's economic development on Guam.

"ELIMINATE VISA REQUIREMENTS FOR TOURISTS

"It is double difficult for the territory to compete with sophisticated tourist promotions of foreign countries when tourists to Guam are required to obtain U.S. visas. The Republic of the Philippines and Hong Kong, among other tourist attraction areas, do not require visas of tourists. Lifting of the visa requirement for tourists from nations friendly to the U.S. will boost the territory's ailing tourist industry, a mainstay of our economy.

"ADOPT 'OPEN SKY' POLICY FOR GUAM

"Because of the territory's great distance to the continental United States and its

proximity to Pacific and Asian countries, it is important that the island be served by as many air carriers as are interested in serving the territory. Monopolistic air service, as it exists today, is a definite hindrance to the economic development of the island. Competition in the open market among several air carriers will ensure a more equitable price structure for passenger and freight.

"LESSEN IMPACT IN CASE OF SHIPPING STRIKE

"Because of the territory's virtual total dependence on imported goods, primarily from the U.S. mainland, the island's existence is easily jeopardized by shipping strikes, especially on the West Coast. Our people's survival should not be made pawns in labor or management disputes. Federal regulations should be enacted to provide that in the event of a shipping strike, military cargo bottoms be directed to assist in the transportation of essential life-preserving commodities to the territory and that foreign surface carriers be authorized to service Guam from either foreign or domestic ports.

"REASSESS THE IMPACT OF THE JONES ACT

"The Jones Act requires utilization of U.S. shipping vessels in the transportation of goods from one American port to another, eliminating competition from foreign flag carriers. This circumstance is a significant causation factor in the high cost of living in the territory and its applicability to Guam should be reassessed.

"CEASE FEDERAL EXEMPTIONS FROM LOCAL TAXATION

"Because of Federal legislation and regulations, certain major companies doing business in Guam are exempt from liability for paying local taxes. These companies derive substantial revenues from their operations in Guam, and equity demands that they help contribute to the financial needs of the island from which they are benefitting.

"FEDERAL COGNIZANCE OF SUBSTANDARD ECONOMIC CONDITIONS

"Federal assistance to Guam should reflect the territory's low per capita income and high cost of living. Any Federal decision involving allocation of funds to Guam should take into account the relationship of Guam's per capita income and cost of living with the national average. Use of the national average should not apply to the territory since per capita is 40 percent less than the national average and the cost of living is generally 20 percent more—a margin of 50 percent between the earning and purchasing power of a local resident compared to his mainland counterpart. Compounding this circumstance is the fact that Guam's level of employment is 30 percent less than the U.S. national average. Equitable consideration should be given Guam because of these factors, especially for welfare and other social programs geared toward uplifting the lives of the indigent.

"EXTEND TO GUAM COVERAGE OF DAVIS-BACON ACT

"The Davis-Bacon Act should be amended to provide coverage to Guam. Its amendment will promote the development of a strong and viable labor force, and at the same time protect the interest of American business and labor on Guam. Presently, the local construction industry is dominated by locally-formed companies controlled by foreign investors with work force complements that are almost totally composed of foreign nationals. Under the Davis-Bacon Act, construction companies performing Federal projects are required to pay prevailing wages of the specific locale, which generally reflect wages established through labor negotiations. It is recommended that prevailing wage be defined as the corresponding wages paid to Federal Civil Service employees in the building trades. Beneficiaries of this recommended change would be Guam-resident workers and U.S. owned construction firms. Commensurate with a phased in implementation of the provisions of the Davis-Bacon Act should be the development of Federally assisted training centers to train and provide the skilled labor that will be needed in the local job market.

"REASSESSMENT OF NON-IMMIGRANT FOREIGN LABOR POLICY

"Under treaty agreements with certain countries, foreign-owned businesses may transfer employees to their Guam operation, presumably without restrictions as to classes of employees. This practice severely limits employment opportunities for local workers. The irony of the situation is that while some 2,000 local residents remain unemployed, approximately 4,000 non-immigrant aliens enjoy job security. Many foreign nationals do not pay social security taxes, and most of their earnings flow back to their country of origin.

"FEDERAL SUPPORT FOR ASSIMILATION OF IMMIGRANTS

"Consideration should be given to obtaining Federal assistance to help the territorial government assimilate new immigrants. Guam is fast becoming an island of immigrants, approximately 40 per cent of her inhabitants being non-indigenous. Some 20,000 immigrants have settled in Guam during the past 15 years. While the territory's social and economic growth can partially be attributed to the contributions of non-native U.S. citizens, immigration has nevertheless severely taxed the island's resources and continued unlimited inflow the well-being of all residents, including the many new Americans. The territorial government would have to expend millions of dollars annually to assimilate 2,000 new non-citizen residents per annum. Guam's population density is approximately 520 persons per square mile, almost four times more dense than California (126 persons per square mile) and Hawaii (119 persons per square mile).

"FEDERAL LAND OWNERSHIP

"Guam's total land mass is approximately 210 square miles. One-third of this area is owned by the U.S. Government and used primarily for military installations. Guam's spiraling population requires more land than is available. Federal needs for property should be reassessed and excess lands should be reverted back to the government of Guam to alleviate the burgeoning demand for land resources.

"EDUCATIONAL ASSISTANCE

"Federal educational subsidies to impacted areas, densely populated by Department of Defense dependents such as Guam, is $850 per dependent student per annum, although the actual cost to the territorial government is $1,750 yearly. Federal contributions should rectify this disparity between subsidy and actual cost.

"DEPORT ILLEGAL ALIENS

"It has been estimated by U.S. Immigration and Naturalization Service officials that from 1,500 to 2,000 illegal aliens are living in the territory, most of whom presumably are gainfully employed. Their continued stay in the territory is a further burden to the local government, and is an obstruction to the hiring of local residents. Serious efforts must be exerted by Immigration and Naturalization Service to seek out these people and initiate deportation proceedings against them. Federal legislation should be enacted prescribing civil or criminal sanctions for any person, firm, or corporation hiring or sheltering aliens illegally within the territory.

"FEDERAL AGENCIES SHOULD PATRONIZE LOCAL PRODUCTS AND SERVICES

"Guam can hardly achieve economic self-sufficiency if Federal agencies patronize non-local products and services. "Buy or Use American" should be reinstituted as a policy of the Federal government, and as long as services are available locally the U.S. government is obliged to buy domestic products and services.

"RESEARCH ON POTENTIAL NATURAL RESOURCES

"The Federal government should undertake an aggressive investigation to determine the exploitation of Guam's natural resources, to wit:

"'1. What minerals and other properties inhabit the ocean floor within Guam's 140,000 square miles economic zone.

"'2. The feasibility of converting ocean currents to electric power.

"'3. The potential development of solar energy.'

"TYPHOON BARRIER

"Efforts should be expended to determine whether tropical storms can be destroyed or arrested before they become destructive typhoons. Guam loses hundreds of millions of dollars every decade as a result of typhoon damage.

"TERRITORIAL WATERS

"Federal and international recognition of a 200-mile offshore Guam territorial limit.

"ESTABLISHMENT OF GUAM FEDERAL RELATIONS COUNCIL

"A Guam Federal Relations Council should be established and comprised of various representatives from the branches of the government and the Federal government, including the Office of Guam Delegate to Washington. The Council would, among other things, assess the impact of Federal legislation on Guam and be authorized to recommend matters for veto to the President of the United States insofar as they relate to Guam except in instances of national security legislation.

"TERRITORIAL HIGHWAY DEVELOPMENT

"The resident forces of the U.S. military represent the largest owner of motor vehicles on Guam and yet do not contribute to the construction and maintenance of our public highways. Federal aid to Guam's territorial highways should take under consideration the high volume of military traffic on local roadways in determining the amount and extent of Federal assistance to be granted to Guam for highway development.

"VETERAN'S SERVICES

"Veteran services on Guam must be augmented to provide thorough and complete benefits, especially in the areas of medical treatment, drug and alcoholic rehabilitation, and opportunities for procuring Veteran Administration loans. Guam has the highest per capita participation in the United States of its citizenry in the armed forces of the United States.

"IMPROVEMENT OF COMMUNICATION LINKS WITH MAINLAND

"The costs of telegraphic and telephone communication between Guam and the mainland is the highest in the United States and is a primary obstacle to Guam's political and economic development. Federal assistance should be injected to make communication more affordable to the territory; and be it further

"Resolved, that this resolution shall be known as the Declaration on Territorial-Federal Relations; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the

United States; the President of the U.S. Senate; the Speaker of the U.S. House of Representatives; Chairpersons of the Standing Committees of the U.S. Congress; the Secretary of the U.S. Department of Commerce; the Secretary of the U.S. Department of State; the Secretary of the U.S. Department of Interior, the Chairman of the U.S. Civil Aeronautic Board, the Secretary of the U.S. Department of Transportation; the Chairman of the U.S. Maritime Commission; the U.S. Attorney General; the Secretary of the U.S. Department of Defense; the Secretary of the Navy; the Secretary of the Air Force; the Secretary of the U.S. Department of Labor; the Director of the U.S. Immigration and Naturalization Service; the Secretary of the U.S. Department of Health, Education and Welfare; the Director of Veterans Administration; the Resident Commissioner of Puerto Rico; the District of Columbia Delegate to Congress; the Virgin Islands Delegate to Congress; the Guam Delegate to Congress; the Delegate-at-large of American Samoa; the Washington Liaison Officer of the Congress of Micronesia; the Washington Liaison Officer of the Government of the Northern Marianas; the Mayor of Washington, D.C.; the Northern Marianas District Legislature; to the Speaker and President of the Virgin Islands Legislature; the Speaker and President of the American Samoa Legislature; the Speaker of the Congress of Micronesia; the President, Guam Constitutional Convention; Vice President Territorial Federal Affairs, Guam Constitutional Convention; to all Commissioners of Guam; and to the Governor of Guam."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

S. 2083. An original bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes; to the Committee on Environment and Public Works (Rept. No. 95-427).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Joseph D. Duffery, of the District of Columbia, to be chairman of the National Endowment for the Humanities.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 2082. A bill for the relief of Norma Hudson; to the Committee on the Judiciary.

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

S. 2083. An original bill to establish a uniform and comprehensive legal regime governing liability and compensation for damages and cleanup costs caused by oil pollution, and for other purposes; to the Committee on Environment and Public Works, by unanimous consent.

By Mr. MOYNIHAN (for himself, Mr. WILLIAMS, and Mr. JAVITS):

S. 2084. A bill to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are not available for work by reason of disability, age, or family circumstance; jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.

By Mr. WEICKER:

S. 2085. A bill to encourage the orderly development of deep ocean mining and to provide for environmental regulation of such mining pending adoption and transition to an international regime; jointly, by unanimous consent, to the Committees on Commerce, Science, and Transportation; Environment and Public Works; Foreign Relations; and Energy and Natural Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. WILLIAMS, and Mr. JAVITS):

S. 2084. A bill to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low-income citizens able to work and income suport for low-income citizens in need who are not available for work by reason of disability, age, or family circumstance; jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.

Mr. MOYNIHAN. Mr. President, I am today introducing President Carter's welfare reform proposals, entitled a "Program for Better Jobs and Income." I have already characterized this plan as "superbly crafted." The President has, as he pledged, undertaken the great task of making this Nation's welfare system more rational, equitable, and humane, and has done so with vigor and good faith, mindful of the general proposition that most people do, can, and ought to work for their livings. Surely this is the right direction for welfare reform, and surely the administration is also right to propose simplification of the welfare system through consolidation of several major programs that now operate in piecemeal fashion.

Although we have not had a specific bill to examine until today, we have had more than a month to familiarize ourselves with the general direction of this extraordinarily intricate set of policy proposals. The fundamental assumptions behind the plan are clearly praiseworthy: The concept of a national floor under cash benefits, paid for by the National Government; the attention to improved financial incentives for work; the provision of income supplementation for the "working poor"; and the conscientious effort to relieve some of the fiscal burden now borne by State and local taxpayers, particularly in those jurisdictions that have historically been most generous toward their least fortunate residents.

Receipt of the administration's proposed legislative language enables the Congress now to commence its careful scrutiny and review of these proposals. I am confident that the legislative process will yield improvements, refinements, and changes. This is appropriate both to the importance of the subject and the intricacy of the proposals.

The Subcommittee on Public Assistance of the Committee on Finance will hold preliminary hearings on this bill in early October. As the committee begins its review, several aspects of the plan particularly suggest themselves as areas where we shall want additional insight from administration spokesmen, from experts in the field, and from those most directly affected by the legislation. What has been learned in recent years about the process of bringing welfare recipients into regular employment? What has been learned about the costs and benefits of public service jobs, particularly in large numbers? What is known about the design of administrative procedures capable of promoting efficiency and economy in the welfare system and of reducing fraud and abuse? How is fiscal relief best measured in a knotty policy domain where some familiar programs are to be altered or eliminated even as new measures are being put into place?

The President has clearly made a strong and praiseworthy effort to deliver on his promises and on those contained in the platform of the Democratic Party. I am confident that his proposals provide a solid basis for much-needed improvement in this field which has occupied so much of our attention as a nation during the past decade. The forthcoming deliberations will not be brief nor will they be free from controversy. But nothing on the domestic policy agenda of the United States is more deserving of our sustained attention.

Mr. President, in view of the very great importance of President Carter's welfare reform bill, and the need to have the entire contents of that bill available for reference, I ask that the text be printed in the RECORD.

Mr. President, I also ask unanimous consent that the following be printed in the RECORD at the conclusion of these remarks:

First. The transmittal letter from Secretaries Califano and Marshall to the President of the Senate.

Second. The administration's summary of "The Better Jobs and Income Program."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2084

A bill to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are

not available for work by reason of disability, age, or family circumstance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Better Jobs and Income Act."

TABLE OF CONTENTS

Sec. 2. Declaration of purpose.

TITLE I—CASH ASSISTANCE PROGRAM UNDER THE SOCIAL SECURITY ACT

Sec. 101. Establishment of cash assistance program.

TITLE XXI—INCOME SUPPLEMENT AND INCOME SUPPORT FOR FAMILIES AND INDIVIDUALS

PART A—ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT

"Sec. 2101. Eligbility of household unit for payments.
"Sec. 2102. Exclusions from household unit.
"Sec. 2103. Referral for employment or rehabilitation services.
"Sec. 2104. Amount of payment.
"Sec. 2105. Computation of maximum payable amount.
"(a) Individual amounts.
"(b) Increments for household units.
"(c) Limitations in special cases.
"(d) Computation for units subject to work requirement.
"Sec. 2106. Available income.
"Sec. 2107. Exclusions from available income.
"(a) Exclusion related to Federal assistance and nonemployment income.
"(b) Exclusions related to earned income.
"Sec. 2108. Distribution of available income over accountable period.
"Sec. 2109. Assets.
"Sec. 2110. Definitions.
"Sec. 2111. Savings provision in the case of aged, blind, or disabled individuals.
"Sec. 2112. Special provisions for the Commonwealth, of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam.

"PART B—STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS, MAINTENANCE OF STATE EFFORT, AND LIMITATION OF STATE FISCAL LIABILITY

"Sec. 2121. State supplementation of maximum payable amounts.
"Sec. 2122. Supplementation agreement.
"Sec. 2123. Special payment to household unit if supplementation percentage engenders personal income tax liability.
"Sec. 2124. Effect of benefit reduction rate of earned income exclusion.
"Sec. 2125. Federal participation in State supplementation payment.
"Sec. 2126. Maintenance of effort.
"Sec. 2127. Limitation on fiscal liability of States.
"Sec. 2128. State plans for services to disabled children.

"PART C—ADMINISTRATION OF INCOME SUPPLEMENT AND INCOME SUPPORT PROGRAM

"Sec. 2131. Application.
"Sec. 2132. Determination of eligibility for and amount of payment.
"Sec. 2133. Payments of benefits.
"Sec. 2134. Reports and furnishing of information.
"Sec. 2135. Overpayments and underpayments.
"Sec. 2136. Disagreement with determinations of the Secretary.
"Sec. 2137. Furnishing of information by other Federal agencies.
"Sec. 2138. State agreement to receive applications and develop eligibility and payment information.
"Sec. 2139. Information and referral.
"Sec. 2140. Assurances on benefit reduction rates.
"Sec. 2141. Miscellaneous Federal-State administrative provisions.
"Sec. 2142. Determinations of blindness and disability.
"Sec. 2143. Administrative arrangements.
"Sec. 2144. Penalties for fraud.
"Sec. 2145. Adjustment of payment amounts."
Sec. 102. Assistance to meet emergency needs.

"PART B—ASSISTANCE TO MEET EMERGENCY NEEDS

"Sec. 2011. Appropriations authorized.
"Sec. 2012. Payments to States.
"Sec. 2013. Program reporting; filing of claims.
"Sec. 2014. Plan of assistance.
"Sec. 2015. State adoption of plan.
"Sec. 2016. Assistance for special categories of needy families and individuals.
"Sec. 2017. Definitions."
Sec. 103. Amendment to earned income tax credit.
Sec. 104. Repeals.
Sec. 105. Conforming amendments.
Sec. 106. Federal employment of certain State and local employees or specially qualified personnel; acquisition of buildings and equipment; start-up funds; advance appropriations.
(a)(1) Employee eligibility for appointment.
(2) Conditions of appointment in special cases.
(3) Compensation of appointees.
(4) Credit for prior service.
(5) Sick leave.
(6) Retirement annuity.
(b)(1) Employment of specal qualified personnel.
(2) Direct hiring and pay of new appointees.
(c) Acquisition of buildings and equipment.
(d) Start-up funds.
(e) Advance appropriations.
Sec. 107. Effective dates.

TITLE II—EMPLOYMENT OPPORTUNITIES PROGRAM UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

Sec. 201. Establishment of program.

"TITLE IX—JOB OPPORTUNITIES PROGRAM

"Sec. 901. Statement of purpose.

"PART A—JOB OPPORTUNITIES PROGRAM

"Sec. 911. Authorization of appropriations.
"Sec. 912. Allocation of funds.
"Sec. 913. Financial assistance to prime sponsors.
"Sec. 914. Comprehensive job opportunities plan.
"Sec. 915. Review by Governor and State Manpower Services Council.
"Sec. 916. Statewide planning.
"Sec. 917. Definition.

"PART B—JOB SEARCH ASSISTANCE

"Sec. 931. Eligible individuals.
"Sec. 932. Job search assistance program.
"Sec. 933. Work requirement.
"Sec. 934. Notification regarding determinations.
"Sec. 935. Joint agreement for job search assistance responsibilities.

"PART C—SUBSIDIZED WORK AND TRAINING

"Sec. 951. Eligible participants.
"Sec. 952. Authorization of appropriations.
"Sec. 953. Allocation of funds.
"Sec. 954. Federal wage payments.
"Sec. 955. Federal financial assistance.
"Sec. 956. Wage supplementation.
"Sec. 957. Subsidized work and training opportunities.
"Sec. 958. Special conditions."

DECLARATION OF PURPOSE

SEC. 2 It is the intent of the Congress, in establishing the Better Jobs and Income Program, to increase economic independence within the United States by providing training and job opportunities to principal earners in families with children, and by providing income support and supplementation to low income families and individuals. To attain these objectives equitably and with efficient use of Federal and State resources, the Congress finds it necessary to consolidate and reform currently fragmented Federal and State income assistance programs, to eliminate provisions that create disincentives to work or to family stability, and to reallocate responsibility among Federal and State governments in the financing and administration of income assistance and employment programs.

TITLE I—CASH ASSISTANCE PROGRAM UNDER THE SOCIAL SECURITY ACT

ESTABLISHMENT OF CASH ASSISTANCE PROGRAM

SEC. 101. The Social Security Act (42 U.S.C. 301, et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXI—INCOME SUPPLEMENT AND INCOME SUPPORT FOR FAMILIES AND INDIVIDUALS

"PART A—ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT

"ELIGIBILITY OF HOUSEHOLD UNIT FOR PAYMENTS

"SEC. 2101. (a) The Secretary of Health, Education, and Welfare shall make payments, in the amount prescribed in section 2104, to an eligible household unit (as defined in subsection (b)) for any month in which its available income (as described in section 2106) does not exceed the maximum payable amount applicable to such unit under section 2105, and the value of its assets does not exceed the amount prescribed in section 2109.

"(b) A household unit is either—

"(1) an adult individual who is not living with a related individual other than an adult individual who is aged, blind, or disabled, or

"(2) any of the following groups (as set out in subparagraph (A), (B), (C), or (D) below) of one or more related (as defined in section 2110(5)) individuals who are living in a single place of residence:

"(A) an aged, blind, or disabled individual who is not a child, his spouse (if any), and any child with respect to whom the individual or spouse is exercising parental responsibility, as determined in accordance with such criteria as the Secretary may, by regulation, prescribe;

"(B) an adult individual and his spouse (if any), neither of whom is an aged, blind, or disabled individual, and any child with respect to whom the adult individual or spouse is exercising parental responsibility, if there are at least two such individuals living together in the single place of residence;

"(C) two or more adult individuals who are living in a single place of residence, none of whom is described in clause (A) or (B); or

"(D) any child who is not living in the same place of residence as either of his parents or of any other individual who is legally responsible for the support and maintenance of such child if the child has been de-

prived of the support and care of both parents by reason of either death or desertion, or both, or removed from parental control by judicial authority.

"(c)(1) Any individual other than an individual described in subsection (b)(2) who is living in the same place of residence as a household unit described in such subsection and is related to its members is also a member of that unit if he applies for payment under this title. If that individual is living in the same place of residence as more than one household unit and applies for a payment under this title, he is a member of the household unit to the members of which is most closely related, as determined in accordance with the Secretary's regulations.

"(2) Notwithstanding subsection (b), a child who is not related to the members of an eligible household unit with which he is living in a single place of residence may be considered to be a member of that unit when he is living there in order to safeguard his health or safety or because it will otherwise assure his well-being or be in his best interests. The Secretary shall by regulation specify the classes of circumstances which are consistent with conditions of the preceding sentence, in which living with an unrelated household unit is necessary to assure a child's well-being or to protect his best interests.

"(d) The term 'eligible household unit' means a household unit that maintains a place of residence within the United States and has applied for payment under this title.

"EXCLUSIONS FROM HOUSEHOLD UNIT

"SEC. 2102. (a) No individual is included in a household unit unless he is either (1) a citizen of the United States, or (2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

"(b) No individual is included in a household unit for any month if, on the last day of such month, he has been sentenced to and is confined in a penal or correctional institution

"(c)(1) Except as provided in paragraph (2), no individual (not otherwise excluded from a household unit by subsection (b)) is included in a household unit for any month if, throughout that month and the preceding two months, he is an inmate of a public institution.

"(2) In any case after an individual has been, throughout any month and the preceding two months, in a hospital, extended care facility, or intermediate care facility receiving payment (with respect to such individual) under a State plan approved under title XIX, the maximum payable amount for each month thereafter with respect to that individual, notwithstanding section 2105(a), is $25 until the first month on the last day of which the individual is no longer in such a facility.

"(3) The Secretary may establish a maximum payable amount (not to exceed the maximum payable amount otherwise applicable under section 2105) with respect to institutionalized members of household units to which neither paragraph (1) nor paragraph (2) applies.

"(d) The maximum payable amount of an eligible household unit is determined as though an individual were not a member of that unit if, after notice to that individual by the Secretary that it is likely that the individual is eligible for any payments of the type enumerated in section 2106(b)(1) or (2), the individual fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

"REFERRAL FOR EMPLOYMENT OR REHABILITATION SERVICES

"SEC. 2103. (a) In order to assist in the effective implementation of title IX of the Comprehensive Employment and Training Act of 1973, the Secretary shall provide notice to the Secretary of Labor concerning and refer to him each adult member of an eligible household unit with respect to which amounts are payable under this title, other than—

"(1) one adult member of an eligible household unit, other than the principal earner (as defined in section 951(b) of the Comprehensive Employment and Training Act of 1973) of that unit, if the unit consists of at least two or more adult members and at least one child,

"(2) one adult member (who is not an aged, blind, or disabled individual, is not incapacitated, an (if the unit contains more than one adult who is not an aged, blind, or disabled individual or incapacitated) is not the principal earner of the unit) of an eligible household unit that includes (A) at least one child under the age of 7 years, or (B) an individual determined by the Secretary to be aged, blind, or disabled individual, or by the Secretary of Labor to be an incapacitated individual, requiring regular or full-time care and attention (as defined by regulations of the Secretary);

"(3) an aged, blind, or disabled individual;

"(4) an adult member of an eligible household unit who is under the age of 21 and enrolled in a full-time course of study in an elementary or secondary school; or

"(5) an adult member of an eligible household who is enrolled in full-time study if such member either (A) has monthly earnings at least equal to the Federal minimum wage multiplied by 20 hours a week, or (B) is the only adult in a household that includes a child over the age of 6 years and below the age of 14 years.

"(b)(1) In the case of any blind or disabled individual who—

"(A) has not attained age 65, and

"(B) is receiving payments (or with respect to whom payments are made) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (and is authorized to pay to such agency the costs incurred under the plan in providing services to such individual), or in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under section 2128, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(2) The maximum payable amount of an eligible household unit is determined as though an individual over the age of 16 were not a member of that unit if he is referred by the Secretary under paragraph (1) but refuses without good cause to accept vocational rehabilitation services which are made available to him.

"AMOUNT OF PAYMENT

"SEC. 2104. (a) The payment to an eligible household unit for any month shall be the amount (hereinafter in this title referred to as the 'maximum payable amount' of the unit) specified by section 2105, reduced by an amount (hereinafter in this title referred to as the 'available income' of the unit) determined under section 2106.

"(b)(1) If a household unit receives a payment under the preceding subsection for a month in which the earned income of the unit is an amount that, if multiplied by 12, would exceed an amount determined under regulations of the Secretary to subject the unit to liability for personal income tax under the Internal Revenue Code of 1954 in the taxable year in which that month accurs, then for each one dollar of earned income (within the meaning of section 2106(b)(3)) subject to such tax and attributable to that unit for that month the unit shall receive 20 cents from the Secretary as an additional payment, subject to paragraph (2). For the purpose of determining liability for personal income tax under the preceding sentence, the members of the unit are deemed to elect the standard deduction allowed by section 141 of the Code for that year.

"(2) If a household unit with respect to which paragraph (1) applies becomes ineligible for a payment for any month under subsection (a) by reason of the earned income attributable to that unit for a month, the unit shall nevertheless receive a payment equal to the additional payment the unit would have received by reason of paragraph (1), reduced by 20 cents for each one dollar of earned income attributable to the unit for that month in excess of the minimum amount of earned income by reason of which the unit would become ineligible for a payment for that month under that subsection.

"COMPUTATION OF MAXIMUM PAYABLE AMOUNT

"SEC. 2105. (a) INDIVIDUAL AMOUNTS. Except as provided by subsections (d) and (e), the maximum payable amount of an eligible household unit for a month is the total of (1) the sum of the increments or amounts provided by subsections (b) and (c), and section 2121 (pertaining to State supplementation) with respect to that unit, and (2) the sum of the amounts shown with respect to the members of the unit in the following table:

"For each unit member who is—	the amount payable with respect to the member is—
an adult who is aged, blind or disabled	$133.33;
any other adult	91.67;
a child who is blind or disabled	91.67; or
any other child	50.00.

"(b) INCREMENTS FOR HOUSEHOLD UNITS. The maximum payable amount of an eligible household unit for a month, as determined under subsection (a), is increased as provided in the following table:

"If a unit consists of—	the maximum payable amount of the unit is increased by—
one adult who is aged, blind, or disabled	$75.00
one individual and the individual's spouse, each of whom is aged, blind, or disabled	45.83
one adult and one or more children	108.33; or
two or more adults and one or more children	66.67

"(c) LIMITATIONS IN SPECIAL CASES.

"(1) If an adult who is a member of an eligible household unit consisting of aged, blind, or disabled individuals, or having a child as a member, lives in a common place of residence in any month with one or more other individuals to whom he is related but who are not members of that unit, the maximum payable amount of that unit under section 2105 is reduced as follows:

"(A) If no member of that unit has an ownership or leasehold interest in the common place of residence, the reduction is $66.67.

"(B) If a member of that unit has an ownership or leasehold interest in the common place of residence, and that interest is shared with one or more individuals living in the common place of residence who are not members of that unit, the reduction is $33.33.

This paragraph applies to the maximum payable amount of each of the eligible household units living in a single place of residence.

"(2) If an eligible household unit consists of more than 7 individuals, the unit's maximum payable amount shall be determined as though the unit consisted of 7 individuals. For purposes of the preceding sentence, the unit is deemed to consist only of those 7 of its members whose membership in the unit results in a determination of the highest maximum payable amount for the unit under this section.

"(d) COMPUTATION FOR UNITS SUBJECT TO WORK REQUIREMENT.

"(1)(A) In the case of an eligible household unit a member of which is eligible for subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973, and required to be referred to the Secretary of Labor under section 2103, other than a unit described in paragraph (2), the maximum payable amount of that unit for any month is determined as though that member were not included in the unit for that month and the increment under subsection (b) for that unit is reduced for that month by $66.67, unless the Secretary of Labor has certified to the Secretary that the member is incapacitated, or that no employment or training has been offered to that member, and that certification has not been withdrawn with respect to that month.

"(B) In the case of a member of an eligible household unit to which subparagraph (A) applies who is employed in subsidized work or training as described in that subparagraph, and who ceases to be so employed by reason or incapacity (as defined in title IX of the Comprehensive Employment and Training Act of 1973), the member is included in the household unit for purposes of determining the maximum payable amount of that unit, and no reduction is made in the increment of that unit (as would otherwise be required to be made by subparagraph (A)) during the period of that incapacity, except as provided by subparagraph (C).

"(C) If the incapacity described in subparagraph (B) continues or is expected to continue in excess of 90 days, and the unit contains an adult member who is not incapacitated, that adult member shall become eligible for a subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973 in lieu of the incapacitated member, unless the incapacitated member is found by the Secretary to require regular or full-time care and attention and the unit contains no more than one adult member who is not incapacitated. In the case of an adult member of a unit who becomes eligible for subsidized work or training under this subparagraph and has been referred to the Secretary of Labor under section 2103, subparagraph (A) applies to the household unit only after the month in which by the Secretary of Labor certifies to the Secretary that the eligible member (i) did not report to the Secretary of Labor by the close of the seventh day following the day the member was referred, or (ii) has been offered employment or training, or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and the member should continue to be excluded until the month after the month the certification is withdrawn.

"(2) In the case of an eligible household unit that consists of not more than one adult, one or more children over the age of 6 years and below the age of 14 years, and no child below the age of 7 years, paragraph (1)(A) applies only after the month in which the Secretary of Labor certifies to the Secretary that the adult has been offered employment or training, or has failed to comply with any requirement under of title IX of the Comprehensive Employment and Training Act of 1973; and paragraph (1)(A) shall continue to apply until the month after the month in which the certification is withdrawn.

"(3) In the case of an eligible household unit other than a unit described in paragraph (1)(A) or (2), a member of which has been referred to the Secretary of Labor under section 2103, the maximum payable amount of that unit is determined as though that member were not included in the unit after the month in which the Secretary of Labor certifies to the Secretary that the member (A) did not report to the Secretary of Labor by the close of the seventh day following the day the member was referred, or (B) has been offered employment or training or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and the member shall continue to be excluded until the month after the month in which the certification is withdrawn.

"AVAILABLE INCOME

"SEC. 2106. (a) For purposes of determining the payment to an eligible household unit for any month under section 2104, the available income of the unit for that month is, except as provided by section 2123 (pertaining, in part, to rules applicable to increases in benefit reduction rates), the sum of—

"(1) 100 percent of Federal assistance income,

"(2) 80 percent of nonemployment income, and

"(3) 50 percent of earned income, received by each member of the household unit in that month, including excess available income of the unit attributed to that month by section 2108, but excluding income described in section 2107.

"(b) As used in this section—

"(1) the term 'Federal assistance income' means a cash payment received by or for the use of an individual from any agency of the United States the eligibility for, or amount of, which is dependent upon the financial resources of that individual or his need for financial assistance, including veterans' pensions;

"(2) the term 'nonemployment income' means all income, other than Federal assistance income and earned income, in cash or in kind, including—

"(A) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' or workmen's compensation and old-age, survivors, and disability insurance, railroad retirement, and unemployment benefits, and similar benefits;

"(B) prizes and awards;

"(C) training allowances or stipends not described in paragraph (3).

"(D) gifts and support and alimony payments;

"(E) rents, dividends, interest, and royalties;

"(F) income imputed from nonbusiness assets under section 2109; and

"(G) the value of in kind income established by the Secretary under section 2107(a)(17); and

"(3) the term 'earned income' means—

"(A) wages as determined under section 203(f)(5)(C),

"(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10) and the last paragraph of subsection (a) (each pertaining to an exclusion of a portion of the proceeds of certain agricultural labor)), including earnings for services described in paragraphs (4) (pertaining to services by ordained ministers), (5) (pertaining to services by Christian Science practitioners), and (6) (pertaining to self-employment income of members of certain religious faiths) of subsection (c).

"(C) training stipends or allowances received under title IX of the Comprehensive Employment and Training Act of 1973;

"(D) amounts (not otherwise wages under subparagraph (A)) paid to a blind or disabled individual by a sheltered workshop (as that term is defined by the Secretary);

"(E) amounts received by an individual under a program of any State as compensation for the care of any relative of the individual; and

"(F) income imputed from business assets under section 2109(a).

"EXCLUSIONS FROM AVAILABLE INCOME

"SEC. 2107. (a) EXCLUSIONS RELATED TO FEDERAL ASSISTANCE AND NONEMPLOYMENT INCOME. There are excluded from the income to which section 2106(a) applies—

"(1) support and maintenance in kind furnished to an individual by an individual with whom he shares a single place of residence;

"(2) support and maintenance furnished to an individual by a nonprofit retirement home or similar nonprofit institution in which he resides to the extent that it is furnished to the individual without the institution's receiving payment therefor except from another nonprofit organization;

"(3) when provided by an agency of the United States, a State, or a political subdivision of a State, or by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, in consideration of an individual's need for that assistance, the value of housing (or any payment required to be used for housing), aid to meet an emergency need, and any social service;

"(4) gifts, prizes, or awards, in cash or kind, to the extent that they do not exceed $20 in that month;

"(5) personal or real property, or equitable interests therein, that are inalienable and unavailable for use as food, clothing, or shelter by the individual who receives it or by any other member of the individual's household unit;

"(6) lump-sum insurance proceeds, inheritances, judgments, and similar nonrecurring payments;

"(7) one-half of the amount furnished to an individual by the United States by reason of the individual's prior service in a uniformed service of the United States and current enrollment in any course of education or training;

"(8) student assistance to the extent it is used for tuition and mandatory school fees;

"(9) the value of food received under any program or activity financed in whole or in part by any department or agency of the United States;

"(10) the value of home produce consumed by the household unit by which grown;

"(11) amounts received as a payment under section 2104 or under an agreement with a State entered into under section 2121 or section 2111; and

"(12) amounts, if not otherwise excluded under paragraph (10), received as a cash payment by or for the use of an individual from any agency of a State or a political subdivision thereof the eligibility for, or amount of which, is dependent upon the financial resources of that individual or his need for financial assistance;

"(13) amounts received as a cash payment under any program of the State assisted under part B of title XX;

"(14) medical vendor payments as defined by the Secretary;

"(15) reimbursements, for expenses incurred with respect to work or volunteer activities, that do not exceed expenses actually incurred and that do not represent a gain or benefit to a household unit receiving them;

"(16) the proceeds of any loan to a member of a household unit (other than a loan made under an agreement whereby cash payment of the loan, or any portion thereof,

loan will be repaid by any organization or agency, or by any individual not a member of the unit, except in the case of default); and

"(17) income in kind, the value of which the Secretary finds cannot be readily ascertained, except that the Secretary, by regulation, may set, or establish procedures for the setting, of an amount that reasonably represents the value of any such income, in which case this paragraph does not apply to that income.

"(b) EXCLUSIONS RELATED TO EARNED INCOME.—There are also excluded from the income to which section 2105(a)(3) applies—

"(1) in the case of an eligible household unit that includes not more than one adult member, an amount for each month equal to expenditures for such care of each member of the unit who is a child below the age of 14 years as is necessary, or any other dependent with respect to whom it is demonstrated to the satisfaction of the Secretary to be necessary, to enable the adult member of the unit to accept part- or full-time employment, but not in excess of the lesser of (A) the earned income of the household unit in that month, or (B) $150 per month with respect to a unit containing only one such child or dependent and $300 per month with respect to a unit containing more than one such child or dependent;

"(2) in the case of an eligible household unit having a child as a member and having also a member who is not included in the unit for any month by reason of section 2105(d)(1) or (2) for purposes of computing the maximum payable amount of the unit, an amount equal to so much of the earned income of that member for that month as does not exceed $316.67 or the amount specified by section 2124, whichever is applicable; and

"(3) in the case of an eligible household unit described in section 2105(d)(3) having two or more members, a member of which is not included in the unit for any month by reason of that section, an amount equal to so much of the earned income of that member for that month as does not exceed (A) twice the maximum payable amount specified for the member (had he been included in the unit for that month) by section 2104(a), or (B) the amount specified by section 2124, whichever is applicable.

"DISTRIBUTION OF AVAILABLE INCOME OVER ACCOUNTABLE PERIOD

"SEC. 2018. (a)(1) For the purpose of determining the payment under section 2104 to an eligible household unit for a month, the excess available income attributed to that month is an amount equal to the sum of the excess available income for each of the five immediately preceding months. The excess in each preceding month is the amount (if any) by which the available income for that month (determined without regard to this paragraph) exceeds (after reduction under paragraph (2)) the maximum payable amount of the unit (computed under section 2105) for that month.

"(2) Whenever, during the period of the five immediately preceding months referred to in paragraph (1), there occurs a month for which the maximum payable amount exceeds the available income for that month (determined without regard to paragraph (1)), the amount of that difference is applied to reduce the amount of the excess available income for the earliest preceding month of that period in which there is excess available income. The remainder (if any) of that difference is then applied to reduce the amount of the excess available income (if any) for each successive month of that period that precedes the month in which that difference occurs, until the difference is reduced to zero.

"(b) For purposes of the preceding subsection, an eligible household unit with respect to which a payment under section 2104 is determined for any month is deemed, in each of the five months preceding that month, to have the same composition as, under regulations of the Secretary, it has during such month.

"ASSETS

"SEC. 2109. (a) No payments under this title may be made to an eligible household unit if the value of its nonbusiness assets, other than those excluded under subsection (b), exceeds $5000 in any month, or if the value of its business assets held for the production of self-employment income (as defined in accordance with criteria prescribed by the Secretary) exceeds, in any month, a limit prescribed by the Secretary. For purposes of section 2106, the income of an eligible household unit for a month shall be increased by 1.25 percent of so much of the value of its nonbusiness assets, other than those excluded under subsection (b), as exceeds $500, less the amount of any income derived from those assets and received by the household unit in that month; and that income shall be increased by 0.83 percent of the value of its business assets less the amount of any income so derived.

"(b) In determining the value of the nonbusiness assets of a household unit, the Secretary shall exclude—

"(1) the home (including so much of the land that appertains thereto as the Secretary determines is reasonable) if it is the place of residence of the household unit,

"(2) the household goods and personal effects (including vehicles) of members of the household unit (including tools or other similar items necessary for a member to engage in gainful employment, up to such limits as the Secretary may by regulation prescribe), and

"(3) separate, identifiable amounts (or the value of any plot of land) set aside by a member of an eligible household unit for meeting the expenses (or requirements) of his burial, to the extent they do not exceed the amount (or value) that the Secretary determines to be reasonable for this purpose.

"(c) For purposes of this section—

"(1) the term 'assets of a household unit' means the total of the assets of each member of the household unit;

"(2) an asset becomes an asset of the household unit in the first month throughout all of which it was owned by and within the control of a member of the unit;

"(3) the value of a business asset shall be determined by its fair market value reduced by the amount of any encumbrances thereon; and

"(4) the value of a nonbusiness asset shall be determined by its fair market value.

"(d)(1) If a member of an eligible household unit disposes of an asset, other than a business asset or an asset referred to in subsection (b), the value received, if any, (whether in cash or in kind) shall be treated by the Secretary as an asset (and not income).

"(2) If a member of an eligible household unit disposes of a business asset or an asset described in paragraph (1), (2), or (3) of subsection (b), or a plot of land described in paragraph (4) of subsection (b), the Secretary shall not consider the value received as either an asset or income until the expiration of one calendar month, or, in the case of an asset described in subsection (b)(1), six calendar months, succeeding the month of disposition, or such longer period as he determines there is good cause to allow. Thereafter, he shall apply subsections (a) and (b) to determine whether any payment may be made to the household unit.

"DEFINITIONS

"SEC. 2110. For purposes of this title—

"(1) The term 'child' and 'children' mean only an individual or individuals under the age of 18 years who are not parents of another child living in the same place of residence.

"(2) The term 'adult' means an individual other than a child.

"(3) In determining whether an individual is married or whether one individual is the spouse of another, appropriate State law shall be applied, except that if two individuals have been determined to be husband and wife under section 216(h)(1) of the Social Security Act and no change affecting that relationship or that determination has since occurred, they shall be considered to be married for purposes of this title.

"(4) The term 'related', as used in this title, means bearing a relationship to an individual that is the same as one of the relationships to a taxpayer described by paragraphs (1) through (8) of section 152 of the Internal Revenue Code of 1954 and an individual is 'related' to the members of a household unit if he is related to at least one member of the unit.

"(5) An individual is considered to be a member of a household unit for a month if he was a member of that unit on the last day of that month.

"(6) Individuals are 'living in a single place of residence' when, as defined by regulations of the Secretary, each of them has that residence as his abode and is not absent therefrom (except to seek or engage in employment) for a period in excess of three consecutive months.

"(7) A student (other than a student who is an aged, blind, or disabled individual) at an educational institution (as the terms 'student' and 'educational institution' are defined by the Secretary) is a member of a household unit any other members of which is furnishing or has furnished to the student more than one-half of his support for the 12 months preceding the month for which payment with respect to the student is sought under this title.

"(8) The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

"(9)(A) The term 'aged, blind, or disabled individual' means an individual who is 65 years of age or older, is blind (as determined under subparagraph (B)), or is disabled (as determined under subparagraph (C)).

"(B) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he was determined to be blind as defined under title XVI of the Social Security Act (as in effect for the 50 States) prior to the effective date of this title and received payments pursuant thereto on the basis of blindness for the month before the first month for which this title is in effect, so long as he is continuously blind as so defined.

"(C)(i) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

"(ii) For purposes of subparagraph (i), an individual shall be determined to be under

a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), the term 'work that exists in the national economy' means work positions that exist in significant numbers either in the region where such individual lives or in several regions of the country.

"(iii) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities that are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

"(iv) The Secretary shall by regulation prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (ii), an individual whose services or earnings meet such criteria, except for purposes of paragraph (D), shall be found not to be disabled.

"(v) Notwithstanding the provisions of subparagraphs (i) through (iv), an individual shall also be considered to be disabled for purposes of this title if he was determined to be disabled as defined under title XVI of the Social Security Act (as in effect prior to the effective date of this title) and received payments pursuant thereto on the basis of disability for the month before the first month for which this title is in effect, so long as he is continuously disabled as so defined.

"(D)(i) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (ii)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (C) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term 'services' means activity that is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

"(ii) The term 'period of trial work', with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (C) of this subsection), means a period of months beginning and ending as provided in subparagraphs (iii) and (iv).

"(iii) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

"(iv) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

"(I) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

"(II) the month in which his disability (as determined under paragraph (4)(C) of this subsection) ceases (as determined after the application of subparagraph (i) of this paragraph).

"SAVINGS PROVISION IN THE CASE OF AGED, BLIND, OR DISABLED INDIVIDUALS

"SEC. 2111. (a) In the case of an individual who is an aged, blind, or disabled individual, as defined by section 2110(4)(A), and, for the month immediately preceding the month for which section 2101 comes into effect, was for a recipient of (and was eligible to receive) a supplemental security income benefit under title XVI of this Act as in effect for that preceding month, the payment under this title for any month shall be the greater of the benefit under title XVI that the individual would receive if that title were still in effect as it was for the month preceding the month for which this title became effective, or the payment with respect to that individual for the household unit of which that individual is a member, shall under this section, without regard to section 2121 (pertaining to State supplementation of maximum payable amounts). The benefit under such title XVI shall be the amount specified by section 1611 and 1612 of this Act, as increased by the operation of section 211 of P.L. 93-66 and as in effect in that preceding month, except as provided by subsection (c) of this section, but without regard to section 1617 or 1618.

"(b) At the request of a State that had in effect an agreement with the Secretary under section 1616 for the month immediately preceding the month with which section 2101 comes into effect, the Secretary shall continue to pay to an individual, for each month that subsection (a) remains applicable to that individual, the amount of the optional State supplementary payment that would have been made under that agreement had the agreement continued in effect and section 2101 not come into effect, provided that the State enters into an agreement with the Secretary to reimburse him, at such times and under such conditions as he may specify, for his expenditures with respect to each such optional State supplementary payment.

"(c) Subsection (a) shall cease to apply to an individual for and after the month beginning with whichever of the following months first occurs—

"(1) the month in which an application for payment under this title ceases to be effective as specified by section 2131(b);

"(2) the first month in which the individual ceases to be an aged, blind, or disabled individual;

"(3) the first month for which the amount of a payment to an individual, or to a household unit with respect to the individual, under section 2104, would be greater than the supplemental security income benefit that the individual received (and was eligible to receive) under title XVI of this Act for the month immediately preceding the first month for which section 2101 came into effect;

"(4) the first month for which an individual would have been ineligible to receive a supplemental security income benefit under title XVI (as in effect for the month immediately preceding the first month for which section 2101 came into effect) by reason of the provisions of section 1611(e)(1)(A), (2), or (3), 1611(f), or 1615(c), had title XVI remained in effect.

"SPECIAL PROVISIONS FOR THE COMMONWEALTH OF PUERTO RICO, THE VIRGIN ISLANDS, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND GUAM

"SEC. 2112. (a) In applying this title to the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam—

"(1) the payment to an eligible household unit under section 2104 is an amount that bears the same ratio to that payment in each of those territories as the per capita incomes of the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam, respectively, in the fiscal year 1980 bear to the per capita income of that one of the other fifty States that has the lowest per capita income in that year, which amount, if not a multiple of $0.10, shall be raised to the next higher multiple of $0.10 except that in any case in which the ratio exceeds 0.9 it is deemed to be 1.0;

"(2)(A) the percentage used for determining available income under section 2106(a)(2) (pertaining to nonemployment income) or 2106(a)(3) (pertaining to earned income) shall, in lieu of the percentage set forth in that section, the percentage equal to the product of that percentage and the ratio determined under paragraph (1), except that if such product is not a multiple of 5 percent it shall be raised or reduced to the nearest such multiple (and if a multiple of 2.5 percent, but not a multiple of 5 percent, to the next higher multiple of 5 percent);

"(B) the amount of any exclusion related to earned income under section 2107(b) shall, in lieu of the amount set forth in that section, be an amount equal to the product of that exclusion and the ratio determined under paragraph (1), except that if such amount is not a multiple of $1.00 it shall be raised to the next higher multiple of $1.00; and

"(C) the value of any nonbusiness assets specified by the first sentence of section 2109(a) (pertaining to maximum allowable amounts of assets) shall, in lieu of the value so specified, be a value equal to the product of that value and the ratio determined under paragraph (1), except that if such value is not a multiple of $1.00 it shall be raised to the next higher multiple of $1.00;

"(3) section 2105(d)(1)(A) (pertaining to computation for units with members required to seek employment) is applicable in the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam only upon the extension to that territory (as determined by the Secretary of Labor) of title IX of the Comprehensive Employment and Training Act of 1973 on the same terms and conditions upon which the title is extended to each of the 50 States and the District of Columbia, except that such section shall be applicable to any household unit described therein if the Secretary of Labor certifies to the Secretary that a member of the unit referred to the Secretary of Labor under section 2103 has been offered employment or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and

"(4) sections 2121 through 2125 (pertaining to State supplementation) are inapplicable.

"(b) The ratio to be used under subsection (a) in the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam, shall be promulgated by the Secretary between July 1 and September 30 of 1981.

"PART B—STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS, MAINTENANCE OF STATE EFFORT, AND LIMITATION OF STATE FISCAL LIABILITY

"STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS

"SEC. 2121. A State may enter into an agreement with the Secretary under which the maximum payable amounts established by section 2105 and the percentage prescribed by section 2106(a)(3) (pertaining to the rate at which amounts payable under this title are reduced in consideration of earned income) shall be increased, with respect to household units within the State eligible for payments under this title by an amount prescribed by the State consistent with sections 2122, 2123, and 2124. The Secretary shall prescribe rules with respect to the time of entering into and amending the agreement in order to assure the Secretary an

adequate opportunity to prepare for the implementation of the agreement and any amendments thereto.

"SUPPLEMENTATION AGREEMENT

"SEC. 2122. An agreement between the Secretary and a State entered into under section 212 shall contain terms that comply with the following requirements:

"(1) Each amount, increment, and reduction used, under section 2105, to determine the maximum payable amount of an eligible household unit shall be increased by such percentage (hereinafter in this part referred to as the 'supplementation percentage') as the State, by the agreement and consistent with this section, may prescribe, subject to regulations of the Secretary governing the number and composition of categories of household units to which different supplementation percentages may apply.

"(2) The State may also increase the percentage prescribed by section 2106(a)(3) (hereinafter in this part referred to as the 'benefit reduction rate applicable in the case of earned income'), uniformly with respect to each dollar of income, consistent with this section, provided that the sum of the benefit supplementation percentage established under paragraph (1) and 100, when divided by the benefit reduction rate established under this paragraph, is a quotient equal to or greater than 2.

"(3) The maximum payable amount (as increased by the supplementation percentage) and the benefit reduction rate applicable in the case of earned income shall apply within all geographic areas of the State with respect to all members of the category or class of household unit eligible therefor.

"(4)(A) Subject to any offset under section 2125 (pertaining to Federal participation in State supplementation payments) and section 2126 (pertaining to limitation of State fiscal liability) the State shall, at such times and in such installments as the Secretary may prescribe, pay to the Secretary an amount (hereinafter in this part referred to as the 'supplementation payment') equal to the expenditures made by the Secretary because of the increase of a maximum payable amount, with respect to household units within the State, by a supplementation percentage.

"(B) The supplementation payment, in the case of a State, is an amount, computed by the Secretary for each month in which an agreement is in effect between the Secretary and the State under section 2121, that is the sum of all payments to household units that received payments within the State under section 2104 for that month, reduced by an amount equal to the sum of all payments that those units would have received for that month under section 2104 (a) had the agreement not been in effect.

"(5) The State shall make the payments to the Secretary prescribed by section 2123.

"(6) The State shall allocate to each of its political subdivisions the portion of any offset received under section 2125, with respect to any month, that bears the same ratio to the offset as the political subdivision's financial contribution (if any) to the State's supplementation payment with respect to that month bears to the total supplementation payment with respect to that month.

"(7) The State shall make the payments with respect to wage supplements required by section 953 of the Comprehensive Employment and Training Act of 1973.

"SPECIAL PAYMENT TO HOUSEHOLD UNIT IF SUPPLEMENTATION PERCENTAGE ENGENDERS PERSONAL INCOME TAX LIABILITY

"SEC. 2123. If the additional payment to a household unit under section 2104(b) is increased by reason of a supplementation agreement entered into under section 2121, the State shall reimburse the Secretary for 75 percent of that increase, at such times and in such manner as the Secretary's regulations prescribe.

"EFFECT OF BENEFIT REDUCTION RATE ON EARNED INCOME EXCLUSION

"SEC. 2124. In any case in which the benefit reduction rate applicable in the case of earned income for any month exceeds 50 percent, or a supplementation percentage exceeds 0.0 percent, with respect to a household unit to which paragraph (2) or (3) (pertaining to earned income exclusion) of section 2107(b) applies, there is excluded from the income of that unit for that month, in lieu of the exclusion provided by each such paragraph, an amount equal to the product of $158.33 with respect to paragraph (2), or $91.67 with respect to paragraph (3), and a ratio the numerator of which is 100 plus the supplementation percentage applicable to that unit, and the denominator of which is the benefit reduction rate applicable in the case of earned income of members of the unit.

"FEDERAL PARTICIPATION IN STATE SUPPLEMENTATION PAYMENT

"SEC. 2125. (a)(1) The Secretary shall offset against the supplementation payment for each month, in the case of each State that has entered into an agreement with the Secretary under section 2121 that is in effect for that month, an amount equal to the Federal share of each supplemental payment to a household unit for that month computed under this section.

"(2) For purposes of this section a supplemental payment to a household unit for a month is the difference between the payment to that unit under section 2104 for that month and the payment (hereinafter in this section referred to as the 'Federal portion' of the supplemental payment to that unit) under that section if computed without regard to sections 2121, 2122, 2123, and 2124.

"(b) With respect to that portion of a supplementation payment for a month that is attributable to a payment under section 2104 to an eligible household unit described in the case of an eligible household unit described in section 2105(d)(1)(A), an eligible household unit a member of which is eligible for subsidized work or training under section 2105(d)(1)(C), or an eligible household unit described in section 2105(d)(3), the Federal share of that portion, except as otherwise provided in this section, is equal to the sum of—

"(1) an amount equal to the product of 75 percent and so much of the supplemental payment to that household unit for that month as does not exceed 12.32 percent of the Federal portion of the supplemental payment to that household unit for that month, computed without regard to this supplementation agreement; and

"(2) an amount equal to the product of 25 percent and so much of the supplemental payment to that household unit for that month as exceeds 12.32 percent of the maximum payable amount of the household unit for that month (as so computed) and does not exceed—

"(A) in the case of Alaska or Hawaii, the amount payable to the unit under section 2104 if the supplementation agreement is deemed to establish with respect to that unit for the month a supplementation percentage equal to 75 percent of the weighted average official statistical poverty thresholds (as defined by the Office of Management and Budget) applicable to either State (as appropriate) divided by the maximum payable amount computed under section 2105 (without regard to the supplementation agreement) for a household unit consisting of one adult and three children (one of whom is under the age of 7 years), none of whom is an aged, blind, or disabled individual, and a benefit reduction rate of 52 percent.

"(B) in the case of the remaining States, the amount payable to the unit under section 2104 if the supplementation agreement is deemed to establish, with respect to that unit for the month a supplementation percentage of 12.32 percent and a benefit reduction rate of 52 percent.

"(c) With respect to that portion of a supplementation payment for a month that is attributable to a payment under section 2104 to an eligible household unit not described in subsection (b) or subsection (d), the Federal share of that portion, except as otherwise provided in this section, is equal to the sum of the amounts described by paragraphs (1) and (2) of subsection (b), except that in paragraph (2)(A) of that subsection 100 percent is substituted for 75 percent and 70 percent is substituted for 52 percent, and in paragraph (2)(B) of that subsection 51.2 percent is substituted for 12.32 percent, and 70 percent is substituted for 52 percent.

"'(d) With respect to that portion of a supplementation payment for a month that is attributable to payment under section 2104 to a household unit all adult members of which are aged, blind, or disabled, the Federal share of that portion, except as otherwise provided in this section, is an amount equal to the product of 25 percent and so much of the supplemental payment to that household unit for that month as does not exceed 51.2 percent of the Federal portion of the supplemntal payment to that unit computed without regard to the supplementation agreement, and with the applicable benefit reduction rate deemed to be 70 percent.

"(e)(1) In the case of an eligible household unit described in subsection (b), the Federal share of a supplemental payment to the unit may not exceed the amount that would be payable if the supplementation agreement under section 2121 established—

"(A) a benefit reduction rate that is the lesser of (1) the benefit reduction rate established by the agreement, and (ii) 52 percent; and

"(B) a supplementation percentage that is the lesser of (i) the supplementation percentage established by the agreement and (ii) 12.32 percent.

"(2) In the case of an eligible household unit described in subsection (c) or (d), paragraph (1) applies, except that 70 percent is substituted for 52 percent in subparagraph (a)(ii), and 51.2 percent is substituted for 12.32 percent in subparagraph (B)(ii).

"(f) If the earned income of a household unit (computed without regard to any payment under section 2104(b), (pertaining to tax rebates), and after the exclusion of any amount provided under section 2107(b)(1) (pertaining to dependent care expenses)) exceeds 216 percent of the maximum payable amount applicable to that unit, or, in the case of a unit in Alaska or Hawaii, exceeds 144.23 percent of the poverty level described in subsection (b)(2)(A), and the unit remains eligible for a payment under section 2104(a), subsection (a)(1) of this section shall apply as though the unit ceased to be eligible for a payment under section 2104(a) when its earned income (as so computed) exceeded such 216 percent or 144.23 percent, as applicable.

"(g) Subsection (a)(1) does not apply to a supplemental payment, for any month, to a household unit described in section 2105 (a)(1) (A) or (C) (pertaining to certain household units having members eligible for subsidized work or training), or a supplemental payment, for any month, to a household unit described in section 2105(d)(2) (pertaining to one adult household units with children over 6 and under 14 years of age), or to a household unit consisting of one adult and at least one child under the age of 7, if the supplementation agreement

entered into under section 2121 establishes in the case of each such household a different supplementation percentage or benefit reduction rate applicable with respect to earned income for the same month: *Provided*, That this subsection does not apply in any case in which the benefit reduction rates applicable with respect to earned income of household units described in sections 2105 (d)(1) (A) and (C) are equal to 52 percent, and the benefit reduction rate applicable with respect to earned income of a household unit described in section 2105(d)(2) and of a household unit consisting of one adult and at least one child under the age of 7, is equal to or greater than 52 percent.

"MAINTENANCE OF EFFORT

"SEC. 2126. (a) In order to assure that each State will continue to share responsibility for meeting the title's objectives, each State shall pay to the Secretary with respect to that fiscal year, an amount equal to 10 percent of the Federal expenditure (computed without regard to sections 2123(a) and 2124) for payments under section 2104 to eligible household units residing in such State (but not in excess of that amount based on the primary maintenance of effort amount which a State is required under subsection (b)(1)(A) to spend in the first fiscal year) and shall continue to expend for income maintenance and related purposes described in subsection (c), such additional amount as necessary to achieve the applicable total described in subsection (b).

"(b)(1)(A) In the first fiscal year in which this title is in effect, a State shall expend an amount equal to the sum of (i) 90 percent of the primary maintenance of effort amount determined under suparagraph (B) with respect to that State, adjusted for use in that fiscal year, and (ii) the amount of that State's allotment of Federal funds for emergency needs under part B of title XX for that fiscal year, unless that State demonstrates to the Secretary, while spending a lesser amount, it has made all the expenditures necessary for that fiscal year to satisfy the alternate State maintenance of effort requirement (as specified in subparagraph (C)). The Secretary shall prescribe by regulation the standards and criteria which he will employ, and the requirements for a detailed showing by the State to the satisfaction of the Secretary that the alternative State maintenance of effort requirement will be met for a year, if the State chooses to make such showing before the close of that fiscal year.

"(B) There shall be determined for each State an amount known as its 'primary maintenance of effort amount' which amount is the sum of the following amounts determined with respect to that State for quarters in fiscal year 1977:

"(i) the non-Federal share of expenditures as aid to families with dependent children (as defined in subsection (d)(1)),

"(ii) the non-Federal share of State supplementary payments for the aged, blind, and disabled (as defined in subsection (d)(2)),

"(iii) the non-Federal share of emergency assistance to needy families with children (as defined in subsection (d)(4)), and

"(iv) amounts expended, by that State (or a political subdivision thereof) in fiscal year 1977 as cash payments to the needy in that State under a program of general assistance or other similar income maintenance program supported by State or local funds (determined in accordance with such criteria as the Secretary may by regulation prescribe).

"(C) For purposes of subparagraph (A), the 'alternate State maintenace of effort requirement' has been satisfied when the State has (or the Secretary determines that the State will have by the close of the fiscal year) done the following:

"(i) made the payment to the Secretary in the amount required by subsection (a),

"(ii) made payments, or entered into an agreement with the Secretary under section 2121 for the making of payments to each eligible household unit receiving payments under section 2104 (or who would but for their available income be eligible for payments under such section) up to the amount (if any) that would have been payable to such a unit with the same available income under the plan of such State approved under part A of title IV, as in effect for the month before the effective date of this section, or up to the amount (if any) that would have been payable with respect to an aged, blind or disabled individual with the same available income as a supplementary payment of such State under section 1616 for the month prior to the effective date of this title, such amounts having been adjusted for use in such year,

"(iii) paid the amount required for that fiscal year for the purpose of making wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973,

"(iv) made payments to aged, blind, and disabled individuals who received a payment under section 1602 or 1616 of this Act or under section 212 of P.L. 93-66 (as such sections were in effect prior to the effective date of this section) for the month prior to the effective date of this section, in an amount sufficient to assure that the sum of the payment under section 2104 with respect to each such individual, his available income (as defined in section 2106), and such supplementary payment will not be less than the sum, adjusted for use in such fiscal year (as defined in subsection (d)(6)), of such individual's benefit under title XVI, his other income not excluded under section 1612(b) of this Act, and the amount of the State supplementary payment he received for the month before the effective date of this section; and

"(v) made payments to at least 75 percent of the eligible household units that received a payment under the plan of that State approved under part A of title IV for the month prior to the effective date of this section, in an amount sufficient to assure that the sum of the payment under section 2104 with respect to each such household unit, its available income (as defined in section 2106), and such payment will not be less than the sum (adjusted for use in such fiscal year as defined in subsection (d)(6)) of the household unit's income which was taken into consideration by the State, as required by section 402(a)(7) and (8) of this Act, and the amount of aid to families with dependent children it received under the State's plan approved under part A of title IV for the month before the effective date of this section.

"(2) In the second fiscal year in which this title is in effect, in lieu of the amount specified in paragraph (1)(A), the State is required to expand an amount equal to the sum of 75 percent of its primary maintenance of effort amount, adjusted for use in such second, rather than the first, fiscal year (as defined in subsection (d)(6) and its allotment of Federal funds for emergency needs under part B of title XX for that second fiscal year or to meet the alternate State maintenance of effort requirement.

"(3) In the third fiscal year in which this title is in effect, in lieu of the amount specified in paragraph (1)(A), the State is required to expend an amount equal to the sum of 65 percent of its primary maintenance of effort amount, adjusted for use in such third, rather than the first fiscal year and its allotment of Federal funds for emergency needs under part B of title XX for that third fiscal year, or to meet the alternate State maintenance of effort requirement.

"(c) In determining whether a State has expended in any fiscal year the amount based on the primary maintenance of effort amount prescribed in subsection (b) for income maintenance and related purposes, the Secretary shall include the following expenditures by the State in that fiscal year as expenditures which qualify towards achieving that amount—

"(1) the amount paid to the Secretary by the State under subsection (a),

"(2) the non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 (as defined in subsection (d)(3)),

"(3) the amount paid by the State in that fiscal year for the purpose of wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973;

"(4) non-Federal expenditures for payments to or for the use of an individual, the eligibility for, or the amount of which, is dependent upon the financial resources of that individual or his need for financial assistance,

"(5) the non-Federal share of expenditures for child care services (as defined in subsection (d)(5)), but only to the extent that that amount exceeds the non-Federal expenditures for child care services in the fiscal year immediately preceding the fiscal year for which this title first became effective,

"(6) expenditures for emergency needs under the State plan approved under part B of title XX, and

"(7) the costs of administration paid by the State (or a political subdivision thereof) related to expenditures described in paragraph (4) or (6).

"(d) As used in this title—

(f) the term 'non-Federal share of expenditures as aid to families with dependent children' with respect to any State in fiscal year 1977 means the difference between—

"(A) the total expenditures under the plan of that State approved under part A of title IV as aid to families with dependent children in quarters in that year, and

"(B) the total of the amounts determined under section 403 or section 1118, and under section 9 of the Act of April 9, 1950, with respect to those expenditures in that quarter in that fiscal year but without regard to any reductions which may have been applied to those amounts pursuant to subsection (c), (f), (g), or (h) of section 403;

"(2) the term 'non-Federal share of State supplementary payments for the aged, blind, and disabled' in the case of any State (other than the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) means the difference between—

"(A) the total amount expended in fiscal year 1977 (whether by that State or a political subdivision thereof) as optional State supplementation (as defined in section 1616 (a)) and as a mandatory State supplementation (as defined in section 212 of P.L. 93-66) (as those sections were in effect prior to the effective date of this section), and

"(B) any amount that State would have had to pay the Secretary with respect to such optional or mandatory State supplementation but for the operation of section 401 of P.L. 92-603;

"(3) the term 'non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121' means, in the case of any State in a fiscal year, the total expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 made in that year to eligible household units residing in the State reduced by the sum of—

"(A) the Federal share of such expenditures determined under section 2125, and

"(B) any amount the State would have been required to expend for such supplementary payments but for the operation of section 2127;

"(4) the term 'non-Federal share of expenditures for emergency assistance to needy families with children' with respect to any State in fiscal year 1977 means 50 percent of the total expenditures for that year under the plan of that State approved under part A of title IV as emergency assistance to needy families with children;

"(5) the term 'non-Federal share of expenditures for child care services' in the case of any State in a fiscal year means, the total amount expended in that year for the provision of child care services under the plan of that State approved under a part A of title XX, reduced by amounts paid by the Secretary to that State under section 2002 with respect to those services; and

"(6) the term 'adjusted for use in' a particular year with respect to a specified amount (or amounts) means the amount (or amounts) multiplied by the ratio of (A) the arithmetical mean of the Consumer Price Index for Urban Wage Earners and Clerical Workers for months in the fiscal year for which the amount is to be used or applied by the Secretary, to (B) the arithmetical mean of that Index for months in the fiscal year with reference to which the amount was ascertained.

"(e) If this title first becomes effective beginning with a month other than the first month of a fiscal year, then for that first (partial) fiscal year, all amounts referred to in this section or in section 2127 which are determined by considering total expenditures for the 12 months in fiscal year 1977 shall be adjusted for use in that first fiscal year by multiplying each such amount by the ratio that the number of months (in such first fiscal year) that this title is in effect bears to 12.

"(f)(1) For purposes of applying the provisions of this section and of section 2127 to the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, all references in such sections to 'supplemental security income benefits' or 'State supplementary payments', either under section 1602 or section 1616 or under section 212 of P.L. 93-66, shall be deemed to be references to payments under the plan of such State approved under title I, X, XIV, or XVI (as in effect in those jurisdictions) of this Act, as such plan was in effect for the month immediately preceding the month beginning with which this title becomes effective; the non-Federal share of payments under title I, X, XIV, or XVI (as so in effect) for a fiscal year with respect to those three States means the difference between total expenditures for quarters in that fiscal year and the amount determined for that State under section 3(a)(2), 1003(a)(2), 1403(a)(2), and 1603(a)(2); and references to 'income not excluded under section 1612(b)(2) of this Act' shall be deemed to be references to income required to be taken into consideration under the plan of such State approved under title I, X, XIV, or XVI of this Act, as such plan was in effect for the month preceding the month for which this title becomes effective.

"(2) This section and section 2127 are not applicable to the Commonwealth of the Northern Mariana Islands.

"LIMITATION ON FISCAL LIABILITY OF STATES

"SEC. 2127. (a)(1) If a State, in the first fiscal year in which this program is in effect, makes expenditures for income supplements and services related to the purposes of this title (as defined in subsection (c)) in an amount in excess of the amount based on the primary maintenance of effort amount which a State is required to spend under section 2126(b)(1)(A), the Secretary shall pay to that State an amount equal to that excess.

"(2) If, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the first fiscal year exceed the sum of the amount specified in subsection (a)(1) and 90% of the non-Federal share of administrative costs of a State's plan for aid to families with dependent children (as defined in subsection (c)(2)), adjusted for use in that fiscal year (as defined in section 2126(d)(6)), the Secretary shall pay to the State an amount equal to that excess.

"(3) As a condition of any State receiving a payment under paragraph (1) or (2) of this subsection or under subsection (b), the State must agree to pay to any political subdivision thereof which participates in the expenditures for income supplements and services related to the purposes of this title, a portion of such payment which bears the same ratio to such payment as such political subdivision's financial contribution to such expenditures bears to the total amount of such expenditures.

"(b) In the second, third, fourth, and fifth fiscal years subsequent to the first fiscal year that this program is in effect, the payments provided for in subsection (a) shall be adjusted as follows:

"(1)(A) in the second fiscal year that this program is in effect, the Secretary shall pay to a State an amount equal to the excess of (i) its expenditures for income and services related to the purposes of this title, over (ii) the sum of that State's primary maintenance amount (as defined in section 2116(b)(1)(B) and adjusted for use in that year) and its allotment of Federal funds for emergency needs under part B of title XX for that year;

"(B) in the third, fourth, and fifth fiscal years that this program is in effect, the Secretary shall pay to a State an amount equal to the excess of (i) its expenditures for income and services related to the purposes of this title, over (ii) the sum of (I) 110, 130, and 150 percent, respectively, of that State's primary maintenance amount (as defined in section 2126(b)(1)(B), adjusted for use in such third, fourth, and fifth fiscal years, respectively, and (II) its allotment of Federal funds for emergency needs under part B of title XX for such third, fourth, and fifth fiscal years, respectively.

"(2)(A) If, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the second fiscal year exceed 90 percent of the sum of (i) the State's primary maintenance of effort amount (as defined in section 2126(b)(1)(B)), and (ii) the non-Federal share of a State's administrative costs of its plan for aid to families with dependent children, such sum having been adjusted for use in such second fiscal year, further increased by the State's allotment of Federal funds for emergency needs under part B of title XX for such second fiscal year, the Secretary shall pay to the State an amount equal to that excess; and

"(B) if, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the fourth and fifth fiscal years exceed 95 percent of the sum of (i) the State's primary maintenance of effort amount (as defined in section 2126(b)(1)(B)), and (ii) the non-Federal share of a State's administrative costs of its plan for aid to families with dependent children, such sum having been adjusted for use in such third, fourth, and fifth fiscal years, respectively, further increased by the State's allotment of Federal funds for emergency needs under part B of title XX for such third, fourth, and fifth fiscal years, respectively, the Secretary shall pay to the State an amount equal to that excess.

"(c) As used in this section—

"(1) the term 'expenditures for income supplements and services related to the purposes of this title' with respect to a State in a fiscal year means the sum of—

"(A) the amount paid to the Secretary by that State with respect to that year under section 2126(a);

"(B) the non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 (as defined in section 2126(d)(3)), but not including (i) expenditures with respect to supplemental payments to any class of household units specified in clauses (I) through (VII) if the supplemental payments to a unit in that class are determined in a manner inconsistent with the applicable limits prescribed in section 2125:

"(I) units with all the adult members of which are aged, blind, or disabled individuals,

"(II) units with only one adult member who is not aged, blind, or disabled, that includes at least one child under the age of 7 years,

"(III) units with only one adult member who is not aged, blind, or disabled, that includes no child under the age of 7 years and at least one child under the age of 14 years,

"(IV) units with only one adult member who is not aged, blind, or disabled, that include no child under the age of 14, and at least one child,

"(V) units with at least two adult members, one of whom is available for employment, and at least one child,

"(VI) units with at least two adult members neither of whom is available for employment by reason of incapacity or custodial responsibility, and at least one child, and

"(VII) units having one member (if that member is not aged, blind, or disabled, or incapacitated) or units having two or more adults, at least one of whom is available for employment, and no child, and

(ii) any expenditures which result in payments in excess of the amount (if any) that would have been payable to a unit with the same available income, under the plan of such State approved under part A of title IV, would have been paid as a supplementary payment of such State under section 1616, or would have been received by a household unit within that State under a program of general assistance or other similar income maintenance program described in section 2126(a)(2), whichever may be applicable, for the month prior to the month this title becomes effective, adjusted for use in that fiscal year;

"(C) the amount paid by the State in that fiscal year for the purpose of wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973;

"(D) non-Federal expenditures for payments to aged, blind, or disabled individuals who received a payment under section 1602 or 1616 of this Act or under section 212 of P.L. 93-66 (as such sections were in effect prior to the effective date of this section) for the month prior to the effective date of this section in the least amount sufficient to assure that the sum of the payment under section 2104 with respect to each such individual, his available income (as defined in section 2106), and such supplementary payment will not be less than the sum, adjusted for use in such fiscal year (as defined in section 2126(d)(6)), of such individual's benefit under title XVI, his other income not excluded under section 1612(b), and the amount of the State supplementation he received for the month before the effective date of this section;

"(E) in the case of subsection (a)(1) and (b)(1), 75 percent of the non-Federal expenditures (or, in the case of subsection (a)(2) and (b)(2), all of such expenditures) for payments to eligible household units that received a payment under the plan of that State approved under part A of title IV (as such part was in effect prior to the

effective date of this section) for the month prior to the effective date of this section in the least amount sufficient to assure that the sum of the payment under section 2104 with respect to each such household unit, its available income (as defined in section 2106), and such supplementary payment will not be less than the sum (adjusted for use in such fiscal year as defined in section 2106(d)(6)) of the household unit's income which was taken into consideration by the State, as required by section 402(a)(7) and (8) and the amount of aid to families with dependent children it received under the State's plan approved under part A of title IV for the month before the effective date of this section; and

"(F) expenditures by the State for emergency needs under part B of title XX to the extent they do not exceed the State's allotment under such part B for that fiscal year; and

"(2) the term 'non-Federal share of administrative costs of a State's plan for aid to families with dependent children' with respect to a State means the total amount expended by that State in fiscal year 1977 for the proper and efficient administration of its plan approved under part A of title IV, reduced by the amount determined under section 403(a)(3) with respect to such expenditures (without regard to any reductions which may have been imposed under subsection (c), (f), (g), or (h) of section 403).

"STATE PLANS FOR SERVICES TO DISABLED CHILDREN

"SEC. 2128. (a)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to section 2103(b) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, or medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(b)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (a) of this section, the costs incurred in each fiscal year, in carrying out the State plan approved pursuant to such subsection.

"(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 percent thereof shall be paid with respect to costs incurred with respect to activities described in subsections (a)(1)(A), (B), and (C).

"(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

"(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

"(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State bears to the under age 7 population of all the States. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

"PART C—ADMINISTRATION OF INCOME SUPPLEMENT AND INCOME SUPPORT PROGRAM

"SEC. 2131. (a) Each household unit seeking payment under this title must apply therefore in such form and include in such application such information required in the administration of this Act as the Secretary may by regulation prescribe. A household unit has filed an application, for purposes of this section, on the day that an individual described in the following sentence makes, in person and at any location designated by the Secretary to receive applications or sends written request received at such a location containing, what may reasonably be interpreted as a request for payment under this title. The application may be filed by any adult individual claiming to be a member of the household unit on behalf of which the application is filed, or by any other person, on behalf of a household unit containing no adult member able to file, and shall apply with respect to all members of the household unit.

"(b) The application prescribed by the Secretary under subsection (a) shall include (1) those provisions necessary for each adult member of the household unit to assign to the State in which he resides any rights to support from any other person such member may have in his own behalf or in behalf of any other member of the household unit, and (2) the agreement of such adult member to cooperate with the State (A) in establishing the paternity of a child born out of wedlock who is a member of the same household unit, and (B) in obtaining support payments for such member and such child, or in obtaining any other payments or property due such member or child, unless (in either case) such member is found to have good cause for refusing to cooperate as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of such child. In the case of an adult member (referred to in the preceding sentence) who does not take all actions necessary to implement the application provisions required by this subsection, the maximum payable amount of such household unit is determined as though such member were not in that unit.

"(c) For purposes of this section, an application is effective as of the first day of the month in which it was filed, and is an application for benefits for each month beginning with the second month preceding the month of application and ending with (1) the month in which the Secretary denies the application, (2) the sixth consecutive month in which no amount is payable to a household unit which had previously been determined to be an eligible household unit, or (3) the month in which the application is withdrawn (in accordance with such rules as the Secretary may prescribe), whichever occurs first. Thereafter, payments under this title may only be made upon the filing of a new application.

"DETERMINATION OF ELIGIBILITY FOR AND AMOUNT OF PAYMENT

"SEC. 2132. (a) A household unit's eligibility for and amount of any payment under this title for any month shall be promptly determined at such time or times after the end of that month as the Secretary may provide.

"(b) A determination under subsection (a) may not be reopened or reconsidered for any reason after the expiration of twelve months following the close of the fiscal year in which that determination is made if—

"(A) the individual affected or an individual representing the household unit affected, had notice of the determination and did not seek timely consideration of this determination under section 2136, or

"(B) timely consideration of the determination was sought under section 2136 and the revised determination has become final.

"PAYMENTS OF BENEFITS

"SEC. 2133. (a) The Secretary shall make payments with respect to a household unit determined to be eligible therefor under this title at such time or times and in such installments as will best effectuate the purposes of this title.

"(b) The Secretary may make payments under this title to the member of the household unit whom he determines to be the principal earner of the unit, to any other adult member of the unit, or to two or more adult members of the unit in accordance with criteria prescribed by the Secretary to assure that all members of the eligible household unit receive the use and benefit of the payment. The Secretary may make all or any portion of the payment to any person (including a public or private agency) not a member of the unit who is interested in or concerned with the welfare of one or more members of the household unit upon the request of any member of the unit or upon the Secretary's finding that such manner of payment is necessary in order to ensure the availability of the payment on behalf of the unit or any member thereof.

"(c) The Secretary shall make provision for notice (including the transmittal of all relevant information), not later than the time of the first payment under this title, to the child support collection agency (established pursuant to part D of title IV), of the application for payment under this title with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established).

"(d) The maximum payable amount of an eligible household unit with respect to any individual who is under age 65 and has been determined by the Secretary to be blind (as defined by section 2110(4)(B)) or disabled (as defined by section 2110(4)(C)), and who ceases to be blind or be under such disability shall not be reduced on account of such cessation until the third month following the month in which such blindness or disability ceases.

"REPORTS AND FURNISHING OF INFORMATION

"SEC. 2134. (a) The member of an eligible household unit who has filed an application for payment under this title or, if different, the principal earner of an eligible household unit, or such other member as the Secretary may specify, shall file periodic reports on income and other relevant information, such as household unit composition and assets, as may be required by the Secretary and shall keep such other records, and file such information in such form and at such time or times as the Secretary may by regulation prescribe for the effective and efficient administration of this title.

"(b) In case of failure by an individual to keep records or furnish information as may be required by the Secretary under subsection (a), the Secretary may apply such presumptions or rules as he finds necessary to carry out the program, and, in the case of further failure, may suspend payment until such documentation of relevant facts and circumstances as he may find necessary, shall have been provided.

"OVERPAYMENTS AND UNDERPAYMENTS

"SEC. 2135. (a) Whenever the Secretary finds that more or less than the correct amount, as determined in accordance with section 2104, has been paid for any month with respect to an eligible household unit, proper adjustment shall, subject to the succeeding provisions of this part, be made by appropriate adjustments in future payments under this title with respect to such unit, by appropriate adjustments to future payments due a member of the unit under any other title of this Act administered by the Secretary if the action of such member is found to have caused the overpayment, or by recovery (in an amount that represents an equitably proportionate share of the total overpayment, as determined in accordance with regulations of the Secretary) from the unit or from a member or the estate of a member of the unit if the Secretary determines that the action of such member caused the overpayment. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount with a view to avoiding penalizing any member of such unit in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) would impede its effective or efficient administration.

"(b) If, in the case of any individual receiving payment from the Secretary under section 1602 or under an agreement under section 1616 of this Act for the month immediately preceding the month with which this title becomes effective, overpayments were made under such sections which have been neither waived nor fully recovered by the Secretary, the Secretary may make appropriate adjustments in future payments to the household unit of which such individual is a member in order to recover the remaining overpaid amount.

"DISAGREEMENT WITH DETERMINATIONS OF THE SECRETARY

"SEC. 2136. (a) The Secretary shall prescribe by regulation procedures for resolving any disagreement by an affected individual with a determination under this title affecting the eligibility of or the amount of payment to an eligible household unit. The regulations shall include provision for (1) prompt written notice of the determination to the individual who has applied for benefits on behalf of the household unit (or to the member required under section 2134(a) to submit periodic reports); (2) an opportunity for the affected individual to obtain an oral explanation of the basis for the determination; (3) procedures for resolving disputed issues remaining after resort to the procedures provided under clause (2), including, with respect to disputed issues of fact, an opportunity for an affected individual (A) to present his views and evidence to the Secretary or to an impartial individual designated by the Secretary, (B) to review any materials or evidence relied upon by the Secretary in making the determination, and (C) to confront and cross-examine adverse witnesses upon whose evidence the determination is based in whole or in part; (4) the issuance of a revised determination reaffirming or modifying the Secretary's initial determination, together with an explanation of the basis for that revised determination; and (5) procedures for administrative review of such determinations. The regulations shall also provide for the prompt issuance of supplementary payments or other actions to ensure that an affected individual or household unit that has been receiving payments continues to receive payments without reduction by reason of the disputed determination at previous levels pending the issuance of a revised determination. Any portion of a payment made pending the issuance of a revised determination solely by reason of the preceding sentence shall be subject to subsequent adjustments or recovery.

"(b) If the Secretary enters into an agreement with a State under section 2138(a), he may reserve the right to review and revise a determination made by the State under subsection (a).

"(c) An affected individual may obtain review of a final decision by the Secretary affecting the eligibility for or the amount of payment to a household unit, by filing a civil action, within sixty days of the date of the issuance of the Secretary's final decision, in the district court of the United States for the district in which such individual resides or has his principal place of business. Such district court shall have jurisdiction to affirm, modify or set aside the Secretary's order, under the standard of review set forth in 5 U.S.C. 706, or to remand the case to the Secretary for the taking of additional evidence or for other appropriate proceedings.

"FURNISHING OF INFORMATION BY OTHER FEDERAL AGENCIES

"SEC. 2137. (a) The head of any Federal agency including the Internal Revenue Service, the Veterans' Administration, and the Railroad Retirement Board, shall, at the written request of the Secretary, provide any records within the control of the agency as found by the Secretary to be needed to determine eligibility for or amount of payments under this title, or for verifying information related thereto with respect to any individual or household unit seeking payment under this title. Use and disclosure of information received by the Secretary under this section is restricted to purposes directly connected with the administration of this Act.

"(b) With respect to any certification submitted to the Secretary by the Secretary of Labor with respect to matters described in section 2105(d) (pertaining to computation for units subject to work requirements), the Secretary shall treat the certification as effective from the date by which it is required by law or regulation to be submitted, or the date specified by the certification, as may be applicable.

"STATE AGREEMENT TO RECEIVE APPLICATIONS AND DEVELOP ELIGIBILITY AND PAYMENT INFORMATION

"SEC. 2138. (a) The Secretary, at the request of a State, shall enter into a written agreement with the State specifying in full the actions which the State will take to receive applications under this title, verify the information contained therein, secure any additional information that may be necessary to determine the composition and eligibility of the household unit and the income and assets of such unit, receive and review the periodic reports required under section 2134 and as necessary certify any information contained in those reports, receive any notice of disagreement by an individual with a determination by the Secretary and, in accordance with the procedures specified by the Secretary under section 2136, hear and consider the individual's disagreement and make a revised determination if appropriate and provide for the performance of such related functions as the Secretary may find necessary. All information received (including the fact that a household unit has failed to file a required periodic report) shall be communicated to the Secretary at such time or times and in such manner as may be set out in the agreement between the State and the Secretary, consistent with regulations prescribed by the Secretary for the implementation of this section. The Secretary may, however, to the extent he deems it consistent with the efficient administration of the program established under this title, retain responsibility in any State for the administration of that program with respect to aged, blind, and disabled individuals who received supplemental security income benefits under title XVI for the month before the month that this title became effective.

"(b) All determinations made by the State under an agreement with the Secretary under subsection (a) shall be made in accordance with the regulations or other written guidelines of the Secretary adopted under this title.

"(c) The Secretary shall promulgate regulations prescribing the general content and procedures to be followed by the State in the administration of the agreement under subsection (a). Such regulations may include rules pertaining to all or any of the following matters:

"(1) prospective budget submissions by the State,

"(2) principles or criteria for the establishment of allowable administrative costs and applicable cost allocation rules,

"(3) fiscal control procedures which the State will be required to establish,

"(4) standards with respect to administrative structure and personnel matters, and

"(5) standards to be applied procedures to be followed in evaluating the State's administrative performance, including quality control procedures, fiscal reports, and access of appropriate Federal officials to State records relating to the administration of the program established under this title.

"(d)(1) Any State that has notified the Secretary under section 107(a) of the Better Jobs and Income Act of its intent to enter into an agreement with the Secretary under subsection (a) must agree to (A) administer or supervise the administration of the program in all political subdivisions of the State, and (B) administer or supervise the administration of the program for at least 12 months after it first becomes effective, and (C) advise the Secretary 12 months in advance and by written notice from the chief executive officer of the State, should the State wish to terminate the agreement. The Secretary may undertake administration of the program within the State at a time earlier than 12 months from the date of the notice if he determines it to be feasible.

"(2) If the Secretary finds that, in the implementation of the agreement entered into under subsection (a), the State has failed adequately to carry out its functions, or he shall so advise the State and set a schedule under which the State shall take corrective action. If the State fails to take corrective action in accordance with the schedule the Secretary may, terminate the agreement (A) with respect to some or all of the household units within the State having their place of residence within the boundaries of a reservation of an Indian tribe, as defined in the Indian Self-Determination Act (25 U.S.C. 4506(b)), or (B) in its entirety, upon such notice to the State as he finds

necessary to prepare for Federal administration, but in no event less than 90 days.

"(e)(1) The Secretary shall prescribe the time or times at which he will make payments to the State for 90 percent of the cost of carrying out the agreement under subsection (a) less 10 percent of the cost on any Indian reservation as to which the agreement has been terminated. If the Secretary finds, upon review of the accuracy and effectiveness of the administration by the State of the agreement, that the State's performance has been of unusually or exceptionally high level, he may increase such percentage up to 110 percent of the established and allowable costs, the amount of such increase to be related to the quality of the State's performance.

"(2) Notwithstanding paragraph (1), if the Secretary administers the program under this title with respect to household units described in subsection (d)(2)(A), at the time or times prescribed in paragraph (1), the State shall pay to the Secretary an amount equal to 10 percent of the cost of administering the program with respect to those household units, and the Secretary shall not make payments under that paragraph in excess of 90 percent of the cost of that State in carrying out the agreement.

"INFORMATION AND REFERRAL

"SEC. 2139. (a) The Secretary shall promptly notify the Secretary of Labor of each individual included as a member of an eligible household unit in an application for payment under this title who is likely to be eligible for subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973.

"(b) The Secretary shall provide for, as appropriate, the furnishing of information to and the referral of any member of a household unit concerning his possible eligibility for or the availability of subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973, medical assistance under a State plan approved under title XIX, services under a State plan under part A of title XX, assistance to meet the living expenses of needy families and individuals under a State plan under part B of title XX, and other aid or services that may be appropriate for such individual.

"ASSURANCES ON BENEFIT REDUCTION RATES

"SEC. 2140. Each State receiving financial assistance pursuant to this title shall, in accordance with regulations issued by the Secretary with the full participation of the Secretary of Labor, file a written assurance that it will not adopt or administer supplementation programs or other programs of financial assistance to household units receiving payments under this title which establish or result in the imposition of benefit reduction rates which exceed the maximum benefit reduction rates specified in section 2125. If the Secretary determines, after providing notice and opportunity for a hearing, that a State has violated the terms of the assurance, he shall impose appropriate sanctions pursuant to such regulations, including reducing Federal payments to the State under this Act sufficient to assure that the State will remedy the violation.

"MISCELLANEOUS FEDERAL-STATE ADMINISTRATIVE PROVISIONS

"SEC. 2141. (a) In any case in which a State has failed to pay the Secretary at the time prescribed the amount determined in accordance with any term of the agreement entered into under section 2121 or under subsection (c) of this section, or the amount required under section 2126(a) or section 2138(e)(2), the Secretary, after reasonable notice to the State and opportunity for hearing, may appropriate to his use under this title, in lieu of that payment or those payments, any amount (not in excess of an amount equal to that payment or those payments) otherwise payable to the State or any of its political subdivisions under this Act by the United States. Notwithstanding any law to the contrary, the Secretary, in execution of this subsection, shall notify the Secretary of the Treasury with respect to any such amount payable to the State under this Act but not yet expended, and the Secretary of the Treasury shall credit such amount to the appropriation for this title.

"(b) There shall be no reduction or adjustment in any amount payable by the Secretary to a State, or by a State to the Secretary, under this title by reason of errors made on the part of either the State or the Secretary in connection with determination of eligibility for or amount of the payment to be made under this title with respect to any individual or household unit.

"(c) If, within 12 months after this title becomes effective, it comes to the attention of the Secretary that less than the correct amount of aid to families with dependent children, supplemental security income benefits, or State supplementary payments under an agreement under section 1616 of this Act, for any month within the 12 month period prior to the month with which this title becomes effective, has been paid, he shall pay such benefits and, subject to an agreement by the State to reimburse him for the amount of such State supplementary payments, or one-half the amount of aid to families with dependent children payable, make such payments or pay such aid.

"DETERMINATIONS OF BLINDNESS AND DISABILITY

"SEC. 2142. (a) Subject to subsection (b), the Secretary may, if he finds it will facilitate the making of payments under this title, make arrangements with one or more agencies or other organizations for the determination of blindness or disability under section 2110 of an individual applying for payments under this title. Arrangements under this subsection for determinations of blindness and disability, if made with the agency of a State which makes such determinations for the Secretary under title II, shall generally be in the same manner and subject to the same conditions as provided with respect to disability determinations under section 221, except that the Secretary may reverse a decision in whole or in part, and if he finds that the State has failed to make accurate determinations in a significant number of cases, or that the State agency has not made reasonably prompt determinations in a significant number of cases, the Secretary may, upon 90 days' notice to the State, terminate the agreement with the State and make other arrangements for the performance of all or any portion of the blindness and disability determination function in that State.

"(b) In determining, for purposes of this title, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whomever the individual may select.

"ADMINISTRATIVE ARRANGEMENTS

"SEC. 2143. The Secretary may enter into contracts, or make such administrative or other arrangements, with individuals or with agencies or organizations, as he finds appropriate to enable him to carry out the program established under this title in the most effective and efficient manner.

"PENALTIES FOR FRAUD

"SEC. 2144. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such payment, or (B) the initial or continued right to any such payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized, or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"ADJUSTMENT OF PAYMENT AMOUNTS

"SEC. 2145. (a) Effective with respect to months beginning with the month in which section 2101 comes into effect, each individual amount under subsection (a), each increment for a household unit under subsection (b), and each reduction under subsections (c)(1) and (d)(1) of section 2105, the amount of $316.67 specified by section 2107(b)(2), the amount of $158.33 specified by section 2124, and the amount of $25 specified in section 2102(c) are increased by an amount derived by multiplying that amount, increment, or reduction by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers for the third calendar quarter preceding the quarter in which occurs the month in which section w101 comes into effect exceeds that index for the calendar quarter ending March 31, 1978. The Consumer Price Index for a quarter is the arithmetical mean of that index for the 3 months in that quarter.

"(b) The Secretary shall publish in the Federal Register the amount of each individual amount, increment, and reduction, as so increased, within 45 days of the close of the later quarter described in subsection (a)".

ASSISTANCE TO MEET EMERGENCY NEEDS

SEC. 102. (a) Title XX of the Social Security Act is amended—

(1) by adding "AND ASSISTANCE TO MEET EMERGENCY NEEDS" after "SERVICES" in the title,

(2) by inserting "PART A—SOCIAL SERVICES" as a caption between the caption of the title and the caption of section 2001,

(3) by striking out "this title" each place it appears and inserting "this part" in lieu thereof, and

(4) by adding at the end of title XX the following new part:

"PART B—ASSISTANCE TO MEET EMERGENCY NEEDS

"APPROPRIATIONS AUTHORIZED

"SEC. 2011. (a) For the purpose of enabling each State to furnish assistance to meet the living expenses of needy families and individuals not met under title XXI of this Act, there is authorized to be appropriated for fiscal year 1981, and each fiscal year thereafter, a sum sufficient to make payments to States and territories under section 2012.

"(b) For the purpose of aiding States to furnish assistance to meet the living expenses of special categories of needy families and individuals not met under title XXI of this Act or from appropriations under subsection (a), there is authorized to be appropriated for fiscal year 1981, and each fiscal year thereafter, a sum of $20,000,000 to be used by the Secretary as provided under section 2016.

"PAYMENTS TO STATES

"SEC. 2012. (a)(1) From the sums appropriated therefor, the Secretary shall, subject to the provisions of this section and section 2013, pay to each State that has a plan approved under section 2013(d)(2), for each quarter, the total expenditures during that quarter for the provision of the assistance described in section 2011, including expenditures for administration.

"(2)(A)(1) No payment (other than a payment with respect to a natural disaster or other occurrence described in paragraph (3)) with respect to any expenditure may be made under this section to any State except as provided by clauses (ii), (iii), and (iv).

"(ii) For the first fiscal year for which this part is effective, a payment to a State under this part may not exceed an amount equal to the product of—

"(I) $600,000,000 and

"(II) a fraction, the numerator of which is the amount determined under section 2126(b)(1)(B) (pertaining to the base for maintenance of State effort) with respect to that State, and the denominator of which is the sum of such amounts determined under that section with respect to the 50 States and the District of Columbia.

"(iii) For the second fiscal year for which this part is effective, a payment to a State under this part may not exceed the sum of an amount equal to 75 percent of the amount determined under clause (ii), and 25 percent of an amount equal to the product of—

"(I) $600,000,000 and

"(II) a fraction, the numerator of which is the population of the State, and the denominator of which is the population of the 50 States and the District of Columbia, during the most recent preceding calendar year for which the Secretary finds satisfactory data to be available.

"(iv) For each subsequent fiscal year for which this part is effective, clause (iii) applies, except that the terms '75 percent' and '25 percent', as used in that clause, are respectively deemed to be—

"(I) for the third fiscal year from which this part is effective, 50 percent each;

"(II) for the fourth fiscal year for which this part is effective, 25 percent and 75 percent, respectively; and

"(III) for the fifth fiscal year for which this part is effective, and each subsequent fiscal year, 0.0 percent and 100 percent, respectively.

"(v) For purposes of this subparagraph (A), the term 'State' does not include the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

"(B)(i) No payment (other than a payment with respect to a natural disaster or other occurrence described in paragraph (3)) with respect to any expenditure may be made under this section to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands except as provided by clause (ii).

"(ii) The payment to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands shall be made in the manner provided by subparagraph (A) (without regard to clause (v) thereof), except that the term 'State' as used in that paragraph is deemed to mean the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands, as applicable; the term '50 States and the District of Columbia' as used in that paragraph is deemed to mean the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands; and the ratios are determined with respect to $10,000,000 for the purposes of applying each clause of that subparagraph (A).

"(C) The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph at the time and in the manner prescribed by section 2002(a)(2)(A) for payments under part A.

"(3) The President, upon the recommendation of the Secretary, may authorize the Secretary to pay to each State that has a plan approved under section 2013(d)(2), for each quarter, an amount equal to the all or any portion of the expenditures during that quarter for the provision of the assistance described in section 2011, including expenditures for administration, if the President finds, that by reason of natural disaster or other occurrence of regional or national significance beyond its control, a State has been subjected to an extraordinary increase, for any quarter, in its expenditures for emergency assistance. Upon his finding of such a natural disaster or other occurrence, the President may authorize the Secretary, in advance of State expenditures with respect to the disaster or occurrence, may enter into an agreement with any State under which he will reimburse those expenditures under this paragraph.

"(b)(1) Prior to the beginning of each quarter the Secretary shall estimate the amount to which a State will be entitled under this section for that quarter on the basis of a report filed by the State containing its estimate of the amount to be expended during that quarter with respect to which payment must be made under this section, together with an explanation of the basis for that estimate.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment that the Secretary determines was made under this section to the State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"PROGRAM REPORTING; FILING OF CLAIMS

"SEC. 2013. (a) Each State that participates in the program established by this part shall make such reports concerning its expenditures under this part as the Secretary may by regulation require.

"(b)(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsection (a) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 2012 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

"(2) The Secretary may suspend implementation of any termination of payments under paragraph (1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2012 for expenditures during that period by 3 per centum for each requirement of subsection (a) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

"(c) The Secretary may not make any payment to a State under section 2012, unless the State has submitted its claim for that payment to the Secretary, in accordance with the Secretary's regulations, not later than the close of the second fiscal year succeeding the fiscal year in which the claim arose.

"PLAN OF ASSISTANCE

"SEC. 2014. (a) Each State that participates in the program established by this part shall have a plan applicable to its provision of assistance under this part that—

"(1) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for assistance described in section 2012 is denied or is not acted upon with reasonable promptness;

"(2) provides that the use or disclosure of information obtained in connection with administration of the State's program described in section 2012 will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of this title, the income supplement and income support program established by title XXI, or the plan of the State approved under title XIX;

"(3) provides for the designation by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency that will administer or supervise the administration of the State's program for the provision of the assistance described in section 2012;

"(4) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in the program of the State for the provision of the assistance described in section 2012;

"(5) provides that the State's program for the provision of the assistance described in section 2012 will provide only assistance to meet the living expenses of needy families and individuals and will be in effect in all political subdivisions of the State;

"(6) provides that no more than 15 percent of any payment under section 2012 will be used for administrative expenses (as defined by regulations of the Secretary);

"(7) provides that the proposed and final program plan of the State under section 2015 will comply with such regulations as the Secretary may promulgate for the allocation of assistance among classes or categories of needy families and individuals;

"(8) provides that the State has in effect a plan approved under part D of title IV and is operating a child support program in conformity with that plan; and

"(9) in the case of assistance provided under section 2012(a)(3), provides administrative arrangements to assure the coordination of that assistance with aid (if any) provided by other departments and agencies of the United States.

"(b) The Secretary shall approve any plan that complies with the provisions of subsection (a).

"(c)(1) No payment may be made under section 2012 to any State that does not have a plan approved under this section.

"(2) In the case of any State plan that has been approved by the Secretary under this section, if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

"(A) that the plan no longer complies with the provisions of subsection (a), or

"(B) that in the administration of the plan there is a substantial failure to comply with any such provision,

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 2012 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

"(3)(A) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2012 for expenditures during that period by 3 percent for each paragraph of subsection (a) with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

"(B) In the event of a finding of noncompliance with paragraph (6) of subsection (a) with respect to any fiscal year, the Secretary, in lieu of any reduction of payment to a State under subparagraph (A), may reduce the payment to the State for a fiscal year under this part by an amount equal to the amount by which the State's expenditures for administrative expenses exceeded the amount allowable under paragraph (6). Any such reduction shall be offset against the State's administrative expenses under this part allowable under paragraph (6) for the year to which the offset is applied.

"STATE ADOPTION OF PROGRAM PLAN

"SEC. 2015. A State's program planning meets the requirements of this section if, for the purpose of assuring public participation in the development of the program for the provision of the assistance described in section 2012 within the State—

"(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's program year; and

"(2) at least ninety days prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes and makes generally available (as defined in regulations prescribed by the Secretary after consideration of State laws governing notice of actions by public officials) to the public a proposed assistance for emergency needs program plan prepared by the agency designated pursuant to the requirements of section 2014(a)(3) and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the State's plan for the provision of the services described in section 2012 during that year, including—

"(A) the objectives to be achieved under the program,

"(B) the assistance to be provided under the program and the circumstances under which the State will provide that assistance, as the State may impose,

"(C) a description of the planning, evaluation, and reporting activities to be carried out under the program,

"(D) the sources of the resources to be used to carry out the program,

"(E) a description of the organizational structure through which the program will be administered,

"(F) a description of how the provision of assistance under the program will be coordinated with the assistance provided under the income supplement and income support program established by title XXI,

"(G) the estimated expenditures under the program, including estimated expenditures with respect to classes of individuals to whom assistance is to be provided, and a comparison between estimated non-Federal expenditures under the program and non-Federal expenditures for the provision of assistance described in section 2012 in the State during the preceding services program year, and

"(H) a description of the steps taken, or to be taken, to assure that the needs of all residents of, and all geographic areas in, the State were taken into account in the development of the plan; and

"(3) public comment on the proposed plan is accepted for a period of at least forty-five days; and

"(4) at least forty-five days after publication of the proposed plan and prior to the beginning of the State's program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes a final program plan prepared by the agency designated pursuant to the requirements of section 2014(a)(3) and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the same information required to be included in the proposed plan, together with an explanation of the differences between the proposed and final plan and the reasons therefor; and

"(5) any amendment to a final program plan is prepared by the agency designated pursuant to section 2014(a)(3), approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a proposed amendment on which public comment is accepted for a period of at least thirty days, and then prepared by the agency designated pursuant to section 2014(a)(3), approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a final amendment, together with an explanation of the differences between the proposed and final amendment and the reasons therefor.

"ASSISTANCE FOR SPECIAL CATEGORIES OF NEEDY FAMILIES AND INDIVIDUALS

"SEC. 2017. (a) If the Secretary finds that a State has adopted, with respect to a fiscal year, a final program plan or plan amendment under section 2015 that makes provision for assistance to classes of needy families and individuals in exceptional need, or with respect to whom services provided under part A of this title are not readily available, such as migrants, he may, from amounts appropriated for that year under section 2011(b), augment the amounts set aside by the State under that plan for any such class.

"(b) The Secretary may enter into an agreement with a State to pay to the State an amount authorized under subsection (a) in consideration of the State's adoption of a final program plan or plan amendment that meets the conditions of that subsection.

"(c) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that the State has failed to comply with that portion of its final program plan with respect to which he made any payment under subsection (a), he may offset all or any portion of that payment against any payment to the State under this part for any fiscal year.

"DEFINITIONS

"SEC. 2017. The following definitions apply to this part—

"(1)(A) The term 'assistance to meet the living expenses of needy families and individuals' means—

"(i) money payments, payments in kind, or such other payments as the agency designated under section 2014(a)(3) may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, the families or individuals with respect to whom the assistance is provided, and

"(ii) such services as the Secretary may specify;

furnished for such period as the State may determine.

"(B)(i) Except as provided by clause (ii) of this subparagraph, the term 'needy families and individuals' excludes families (as defined by the Secretary), and individuals who are members of families, the monthly gross income of which exceeds twice the maximum payable amount under section 2105 for a family of like kind in the State adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of family. The term also excludes an individual who is not a member of a family if the individual's income exceeds such limits, consistent with clauses (i) and (ii) of this subparagraph, as the Secretary shall prescribe.

"(ii) Notwithstanding clause (i), the term does not exclude an individual who is a member of a household unit eligible for, or receiving, a payment under title XXI.

"(2) As used in this part, the term 'State' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands."

AMENDMENT TO EARNED INCOME TAX CREDIT

SEC. 103. EARNED INCOME TAX CREDIT.

(a) Subsection (a) of section 43 of the Internal Revenue Code of 1954 (relating to the allowance of a credit with respect to earned income) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of so much of the earned income for the taxable year as does not exceed $4,000, and

"(2) 5 percent of the amount by which such individual's earned income for the taxable year or the amount specified in subsection (c)(4), whichever is less, exceeds $4,000."

(b) Subsection (b) of section 43 of such Code (pertaining to the limitation on the amount of the earned income credit) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to an individual under subsection (a) for any taxable year is reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the individual for the taxable year as exceeds the amount established with respect to the individual by subsection (c)(4)."

(c) Clause (i) of section 43(c)(2)(A) (defining earned income) is amended by inserting after "compensation" the following: "(other than amounts received as compensation from subsidized work and training as defined in paragraph (3))".

(d) Subsection (c) of section 43 (defining terms related to the earned income credit) is amended by adding the following new paragraphs:

"(3) SUBSIDIZED WORK AND TRAINING.—The term 'subsidized work and training' means employment the compensation for which is funded under title IX of the Comprehensive Employment and Training Act of 1973.

"(4) MAXIMUM INCOME AMOUNT.

"(A) For purposes of subsection (b), the amount established with respect to an individual is an amount in accordance with the following table:

If the number of deductions for personal exemption provided to the individual under section 151 is:	The amount is:
2	$6,500
3	7,800
4	9,100
5	10,400
6	11,700
7 or more	13,000.

"(B) Effective with respect to taxable years beginning with the taxable year in which section 103 of the Better Jobs and Income comes into effect, each amount specified in the table in subparagraph (A) of this paragraph is increased by an amount derived by multiplying that amount by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers for the third calendar quarter preceding the quarter in which occurs the month in which section 2101 of that Act comes into effect exceed that index for the calendar quarter ending March 31, 1978. The Consumer Price Index for a quarter is the arithmetical mean of that index for the 3 months in that quarter."

(e) Section 3402 of the Code (relating to the withholding of income tax on the payment of wages) is amended by adding at the end thereof the following new subsection:

"(r) EMPLOYEES ELIGIBLE FOR THE EARNED INCOME CREDIT. Notwithstanding any other provision of this section, an employer is required to reduce the amount of tax deducted and withheld under this chapter upon the payment of wages to an employee, if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary may prescribe) furnished to the employer by the employee certifying that—

"(1) the employee will be eligible to receive the credit provided in section 43 for the taxable year;

"(2) the employee does not have a withholding exemption certificate described in this subsection in effect for the taxable year with respect to the payment of wages by another employer; and

"(3) the employee's spouse does not have a withholding exemption certificate described in this subsection in effect for the taxable year with respect to the payment of wages by such spouse's employer.

The amount by which the tax otherwise withheld under this chapter is reduced by reason of this subsection shall be determined from tables prescribed by the Secretary. In the tables so prescribed, the amounts set forth shall be determined in accordance with the computation of the credit provided in section 434."

(f) Section 3102 of the Code (relating to the deduction of the employee's share of FICA tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYEES ELIGIBLE FOR THE EARNED INCOME CREDIT. In the case of an employee who has made a request for reduced withholding under section 3402(r), the amount of tax imposed by section 3101 which is deducted from an employee's wages shall be reduced by the amount, if any, by which the credit provided in section 43 prorated to the payroll period (as set forth in the tables prescribed by the Secretary under section 3402(r)), exceeds the amount of tax that would have been withheld under section 3402 if the employee had not requested reduced withholding under section 3402(r)."

(g) Section 6302 of the Code (relating to the mode or time or collection of taxes) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR THE PAYMENT OF TAX IMPOSED BY SECTION 3111.

"(1) In the case of an employee who has made a request for reduced withholding under section 3402(r), the employer shall pay the amount determined under paragraph (2) directly to such employee. Such payment shall be treated as a payment to the Secretary of the tax imposed by section 3111.

"(2) The amount of the tax imposed by section 3111 to be paid directly to the employee under paragraph (1) shall be the amount, if any, by which the credit provided in section 43 prorated to the payroll period (as set forth in the tables prescribed by the Secretary under section 3402(r)), exceeds the amount by which such employee's withholding has been reduced by reason of sections 3402(r) and 3102(d)."

(h) The amount by which the taxes collected under section 3101 of the Internal Revenue Code of 1954 is reduced by reason of subsection (f) of this section and the amount of the taxes imposed by section 3111 of such Code which are paid directly to employees under subsection (g) of this section shall be transferred monthly from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund in the same proportion as would be taxes in that amount collected under sections 3101 and 3111.

(i) Subsection (b) of section 6401 of the Internal Revenue Code (relating to the treatment of excessive credits as overpayments) is amended by adding at the end thereof the following: "The amount considered to be an overpayment in the case of the earned income credit under section 43 shall be reduced by the amount, if any, that the taxes withheld under section 3102(a) were reduced by the application of section 3102 (d), plus the amount of any payment of the taxes imposed by section 3111 made directly to the employee under section 6302(d)."

REPEALS

SEC. 104. (a) Title XVI and parts A and C of title IV of the Social Security Act are repealed.

(b) The Food Stamp Act of 1964 is repealed.

(c) Section 303(b) of the Social Security Amendments of 1972 (P.L. 92-603) (making inapplicable to Puerto Rico, Guam, and the Virgin Islands the repeal of titles I, X, and XIV of the Social Security Act and the amendment of title XVI of that Act) is repealed.

(d) Section 212 of P.L. 93-66 is repealed.

(e) Section 9 of the Act of April 19, 1950 (authorizing additional Federal participation in State expenditures for aid to families with dependent children to certain Navajo and Hopi Indians) is repealed.

(f) Notwithstanding the preceding provisions of this section, the Secretary of Health, Education, and Welfare shall make payments as prescribed by the Social Security Act as in effect prior to the effective date of the amendment made by section 101 for (1) activities carried out prior to such effective date under plans approved under title I, X, XIV, or XVI of such Act (applicable to Puerto Rico, Guam, and the Virgin Islands), under part A of title IV of such Act, or under agreements entered into by a State and the Secretary under title XVI of such Act or section 212 of P.L. 93-66 (as such title and such section were in effect prior to the effective date of this section), and (2) administrative activities carried out after the effective date of this section which the Secretary determines are necessary to bring to a close activities carried out under such plans or such agreements, and each State shall pay to the Secretary any amounts which are determined, in accordance with whatever procedures applied prior to the effective date of this section, to be owed to the Secretary in connection with his administration of State supplementation under such agreement.

CONFORMING AMENDMENTS

SEC. 105. (a) Title IV of the Social Security Act is amended by—

(1) striking out subparagraph (B) of section 422(a)(1); and

(2) repealing section 422(c).

(b) Title XI of such Act is amended by—

(1)(A) amending the final sentence in paragraph (1) of section 1101(a) to read as follows: "Such term when used in title XXI includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam and the Virgin Islands.", and

(B) repealing paragraph (8) of such section;

(2) deleting subsections (a) and (b) of section 1108;

(3) repealing section 1109;

(4) repealing section 1111;

(5)(A) striking out "title I, VI, X, XIV, XVI, XIX, or XX, or part A of title IV" in the first sentence of section 1115 and inserting in lieu thereof "title XIX or XX",

(B) striking out "section 2, 402, 602, 1002, 1402, 1602, 1902, 2002, 2003, or 2004" in such sentence and inserting in lieu thereof "section 1902, 2002, 2003, or 2004", and

(C) striking out "section 3, 403, 603, 1003, 1403, 1603, 1903, or 2002" in such sentence and inserting in lieu thereof "section 1903 or 2002";

(6)(A) striking out "title I, VI, X, XIV, XVI, XIX, or XX, or part A of title IV" wherever it appears in section 1116 and inserting in lieu thereof "title XIX or XX", and

"(B) striking out "section 4, 404, 604, 1004, 1404, 1604, 1904, or 2003" in subsection (a)(3) of such section and inserting in lieu thereof section 1904 or 2003";

(7) repealing section 1118; and

(8) repealing section 1119.

(c) Title XIX of such Act is amended by—

(1) striking out "except that the determination of eligibility" and all that follows in clause (5) of section 1902(a) and inserting in lieu thereof "except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the agreement entered into by such State and the Secretary under section 2138;";

(2) striking out "all individuals receiving aid or assistance" and all that follows in clause (A) of section 1902(a)(10) and inserting in lieu thereof "all individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month immediately prior to the effective date of title XXI;";

(3) striking out "individuals receiving aid or assistance" and all that follows in clause (B) of section 1902(a)(13) and inserting in lieu thereof "individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month immediately prior to the effective date of title XXI, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1905(a), and";

(4)(A) striking out, in subparagraph (A) of section 1902(a)(14), "individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resource requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment" and inserting in lieu thereof "individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month prior to the effective date of title XXI, or who would meet the income and resource requirements of such appropriate State plan or of title XVI, and individuals with respect to whom there

would be paid, or who would be eligible (including individuals who would be eligible if they were not in a medical institution) to have paid with respect to them a State supplementary payment";

(B) amending so much of subparagraph (B) of section 1902(a)(14) as precedes clause (i) to read as follows:

(B) with respect to individuals (other than individuals with respect to whom there would be paid, or who would be eligible (including individuals who would be eligible if they were not in a medical institution) to have paid with respect to them, a State supplementary payment (if application had been made for such payment) and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)) who would not be eligible to receive aid or assistance under any such State plan and with respect to whom supplemental security income benefits would not be paid under title XVI (if application had been made for such benefits) and who would not meet the income and resource requirements of the appropriate State plan, or the supplemental security income program, as the case may be,";

(5)(A) striking out, in the matter that precedes clause (A) of paragraph (17) of section 1902(a), who are not receiving aid or assistance under any plan of the State approved under title I, XI, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" and inserting in lieu thereof "who would not receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits would not be paid under title XVI (even if application had been made for such aid or assistance or for such benefits)",

(B)(i) inserting, immediately following "provide for" in clause (B) of such paragraph, "disregarding from the income of the applicant or recipient any amount paid with respect to such individual under section 2104 or section 2111, or any amounts received as a cash payment by or for the use of such individual from any agency of a State or its political subdivisions the eligibility for, or amount of which, is dependent upon the financial resources of that individual or his need for financial assistance, and", and

(ii) striking out, in clause (B) of such paragraph "in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI" and inserting in lieu thereof "in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV or to have paid with respect to him supplemental security income benefits under title XVI, if such plans and such title had remained as they were in effect for the month prior to the effective date of title XXI", and

(C) striking out all that follows "who is under age 21" down to the first semicolon in clause (D) of such paragraph and inserting in lieu thereof "or is blind or disabled as defined in section 2110";

(6) striking out all that follows "who is under age 21" in paragraph (18) of section 1902(a) and inserting in lieu thereof "is blind or disabled as defined in section 2110 of any medical assistance correctly paid on behalf of such individual under the plan;";

(7) inserting "(as such sections were in effect prior to the effective date of title XXI)" in paragraph (20)(C) of section 1902(a) immediately following "section 1603(a)(4)(a)(i) and (ii);

(8) amending section 1902(b)(2) to read as follows:

"(2) effective July 1, 1967, any age requirement which excludes any individual who has not attained the age of 21 and would (or would except for the provisions of section 406(a)(2)) have been a dependent child under part A of title IV (as such title was in effect prior to the effective date of title XXI);";

(9) repealing section 1902(c);

(10) amending section 1902(e) to read as follows:

"(e) Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which would be eligible to receive aid pursuant to the plan of the State approved under part A of title IV (if such plan had remained as in effect for the month prior to the effective date of title XXI) in at least three of the six months immediately preceding the month in which such family would become ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family were eligible to receive aid under the plan approved under part A of title IV) for four calendar months beginning with the month in which such family would become ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan."

(11)(A) striking out "not eligible to participate in the State plan program established under title XVI" in subsection (f) of section 1902;

(B) by striking out of such subsection "(within the meaning of title XVI)" and inserting "(as defined in section 2110)" in lieu thereof;

(C) striking out "after deducting any supplemental security income payment and State supplementary payment" in such subsection and inserting in lieu thereof "after deducting any payment made under title XXI";

(D) striking out "there is payable a State supplementary payment" in the second sentence of such subsection and inserting "there would be payable a State supplementary payment" in lieu thereof, and striking out in the same sentence "an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable" and inserting in lieu thereof "an aged, blind, or disabled individual (as defined in section 2110) with respect to whom amounts are payable under section 2104, without regard to part B of title XXI";

(12) striking out "are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment" in section 1903(a)(1) and inserting in lieu thereof "would have received aid or assistance under any plan of the State approved under title I, XI, XIV, or XVI, or under part A of title IV, or with respect to whom supplemental security income benefits would have been payable under title XVI (if application had been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month prior to the effective date of title XXI, or (B) with respect to whom there would have been paid a State supplementary payment (if application had been made therefor)";

(13)(A) striking out "133⅓ percent of the highest amount which would ordinarily be paid" in section 1903(f)(1)(B)(i) and inserting "133⅓ percent of the highest amount which would ordinarily have been paid" and by inserting "as in effect for the month prior to the effective date of title XXI" immediately before the period at the end thereof,

(B)(i) striking out "highest amount which would ordinarily be paid" in section 1903(f)(3) and inserting "highest amount which would ordinarily have been paid" in lieu thereof,

(ii) striking out "which would ordinarily be payable" in such section and inserting "which would ordinarily have been payable" in lieu thereof, and

(iii) inserting immediately before the period at the end of such section 1903(f)(3) "(as such part and as such section were in effect for the month prior to the effective date of title XXI)",

(C) amending subparagraph (A) of section 1903(f)(4) to read as follows:

"(A) who would receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid (if application had been made for such aid or assistance or for such benefits) or would have been eligible for such aid or assistance or such benefits if he were not in a medical institution (if such plans and such title had remained in effect as they were prior to the effective date of title XXI), or" and

(D) repealing subparagraph (B) of section 1903(f)(4) and redesignating subparagraph (C) as subparagraph (B) and amending it to read as follows:

"(B) with respect to whom there would be paid (or would be payable with respect to him if he were not in a medical institution) a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the sum of the public assistance income, the unearned income, and the earned income (as defined in section 2106(a) without regard to section 2107) of such individual in such month does not exceed 300 percent of the maximum payable amount established by section 2105 applicable to such individual,";

(14)(A) striking out all after "at the option of the State," in section 1905(a) down to clause (i) and inserting in lieu thereof "to individuals (other than individuals with respect to whom there would be paid or with respect to whom there would be payable if they were not in a medical institution (if application were made therefor) a State supplementary payment and are eligible for medical assistance made available to individuals described in section 1902(a)(10)(A)) who would not have received aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits would not have been payable (even if application had been made for such aid or assistance or for such benefits) if such plans and such title had remained as they were in effect for the month prior to the effective date of title XXI, who are—",

(B) inserting "(as such sections and such part were in effect prior to the effective date of title XXI)" immediately before the comma at the end of clause (ii) of section 1902(a),

(C) amending clause (iv) of such section to read as follows:

"(iv) blind or disabled as defined in section 2110, or",

(D) repealing clauses (v) and (vi) of section 1905(a) and redesignating clause (vi) as clause (v) and amending it to read as follows:

"(v) persons essential (as described in the second sentence of this subsection) to individuals who would have received aid or assistance under a State plan approved under title I, X, XIV, or XVI (if such plans had remained in effect as they were for the month prior to the effective date of title XXI).

(E) amending the second sentence of section 1905(a) to read as follows:

"For purposes of clause (v) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person would be taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI (if such plans had remained in effect as they were prior to the effective date of title XXI)), and such person would be determined, under such a State plan, to be essential to the well being of such an individual.";

(15) amending subsection (j) of section 1905 to read as follows:

"(j) The term 'State supplementary payment' means any cash payment which would be made by a State on a regular basis to an individual eligible to receive supplemental security income benefits under title XVI (if such title had remained in effect as it was prior to the effective date of title XXI) or who would, but for his income, be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary)."

(d) Title XX of such Act is amended as follows:

(1) Section 2002(a)(4) of the Social Security Act is amended by (A) redesignating subparagraph (E) as subparagraph (B), and (B) by striking out each subparagraph preceding that subparagraph and inserting in lieu thereof the following—

"(A) who are receiving a payment or who are eligible to receive a payment under title XXI, or".

(2) Section 2002(a)(5) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following—

"(A) who is receiving a payment under title XXI, or".

(3) Section 2002(a)(8) of the Act is amended by striking out "403 or".

(4) Section 2003(d)(1)(B) of the Act is amended by striking out "the plan of the State approved under part A" and all that follows, and inserting in lieu thereof "the plan of the State developed under part B of this title, the earned income supplement and income support program established by title XXI, or the plan of the State approved under title XIX:".

(5) Section 2004(2)(B) of the Act is amended by striking out "for individuals who are recipients of supplemental security income benefits under title XVI" and inserting instead "for individuals who are recipients of payments under title XXI and who are aged, blind, or disabled individuals within the meaning of section 2110(4)(A)".

(6) Section 2004(2)(H) of the Act is amended by striking out "the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title, the supplemental security income program established by title XVI," and inserting instead the following: "the earned income supplement and income support program established by title XXI, the plan of the State developed under part B of title IV,".

FEDERAL EMPLOYMENT OF CERTAIN STATE AND LOCAL EMPLOYEES OR SPECIALLY QUALIFIED PERSONNEL; ACQUISITION OF BUILDINGS AND EQUIPMENT; START-UP FUNDS ADVANCE APPROPRIATIONS

SEC. 106. (a)(1) The Secretary of Health, Education, and Welfare shall, consistent with the law governing appointment to the competitive service, take measures, during the period beginning with the date of enactment of this Act and ending 12 months after the month in which section 101 of this Act becomes effective, to provide priority in the selection of individuals described in paragraph (2) for appointments to positions in the competitive service of the United States for which they apply and are qualified, to perform functions of the Secretary authorized under this Act.

(2) An individual is eligible for assistance under paragraph (1) if, upon the date of enactment of this Act:

(i) he was an employee of a State or any political subdivision of a State who was compensated in whole or in part from sums paid under title XVI or XIX, or part A of title IV, of the Social Security Act or under the Food Stamp Act of 1964; and

(ii) he was the incumbent of a position all or a major part of the duties of which (I) were directly related to determining on behalf of the State or political subdivision the eligibility of persons for assistance payments or food stamps from sums paid to the State under such provisions of the Social Security Act or Food Stamp Act of 1964, or directly related to the making of such assistance payments (other than medical assistance payments) or providing food stamps or (II) were in support of such determinations or the making of such assistance payments (other than medical assistance payments) or providing food stamps.

(b)(1) EMPLOYMENT OF SPECIALLY QUALIFIED PERSONNEL. The Secretary is authorized until the close of the twelfth month following the month in which section 101 becomes effective to establish and fix the compensation for not more than 50 positions, each such position being established to effectuate those activities of the Secretary in the administration of this Act that require the services of specially qualified professional or administrative personnel. The rates of compensation of positions established under this paragraph shall not exceed the grade of GS–18 of the General Schedule (5 U.S.C. 5332), or, in the case of five such positions, the rate specified, at the time the service in the position is performed, in the case of one such position for level III, two such positions for level IV, and three such positions for level V of the Executive Schedule (5 U.S.C. 5313). Positions created under this paragraph (other than a position under clause (B)) are in the competitive service of the United States, but appointments to such positions within 12 months after section 101 of this Act becomes effective shall be made without competitive examination, upon the Secretary's determination that the appointee's qualifications are consistent with the basis, set forth in section 5104 of title 5, United States Code, for grading comparable positions.

(2) DIRECT HIRING AND PAY OF NEW APPOINTEES. Until the close of the twelfth month following the month in which section 101 becomes effective, if the Secretary finds that it will promote the efficient administration of this Act with respect to procuring the services of individuals in occupations for which the rates of pay in private enterprise are found by the Secretary to be substantially above the pay rates established by 5 U.S.C. 5332, or individuals whose services cannot otherwise readily and expeditiously be procured, the Secretary is authorized—

(A) to administer to an applicant for employment, at such times and places as the Secretary may determine, any examination prescribed under 5 U.S.C. 3305, and to appoint the applicant to a position in the competitive service of the United States for which the Secretary finds the applicant qualified, notwithstanding that the name of the applicant is not entered on a register or list of eligibles established under 5 U.S.C. 3313 or certified under 5 U.S.C. 3317; and

(B) to employ a new appointee at a step rate, within the grade in which he is appointed, that is above the first step of that grade established by the General Schedule.

(c) ACQUISITION OF BUILDINGS AND EQUIPMENT. The Secretary is authorized, until the close of the twelfth month following the month in which section 101 becomes effective—

(1) to authorize the Administrator of General Services to procure from any State or any of its political subdivisions, on terms and conditions to which the State or political subdivision, the Administrator, and the Secretary may agree, and without regard to any other law or regulation governing the procurement of property, for use in the administration of this Act, real or personal property used by the State or political subdivision in the administration of any program or activity assisted under the Social Security Act and Food Stamp Act of 1964: *Provided*, That a State or political subdivision may not be compensated for such real or personal property in an amount that exceeds the amount determined by the Administrator to be the fair market value of that property, adjusted for the contribution to the cost of the building attributable by the Secretary of Health, Education, and Welfare or the Secretary of Agriculture to amounts received by the State under either such Act as may be applicable.

(2) to enter into any agreement for the lease of real property or the lease or purchase of personal property or the acquisition of services and related facilities for use in the administration of this Act, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(d) START-UP FUNDS. There are hereby authorized to be appropriated such sums for fiscal years 1978, 1979, 1980, and 1981, as may be required for taking all actions, including receipt and processing of applications in advance of the effective date of section 101, the conduct of advance tests of planned administrative procedures and related actions, data systems, or other related materials necessary for the Secretary of Health, Education, and Welfare to prepare for and implement that program.

(e) ADVANCE APPROPRIATIONS. To the end of assuring continuity in planning and otherwise preparing for the implementation of section 101 of this Act, appropriations under subsection (b) are authorized to be included in any appropriation Act—

(1) for fiscal year 1978, appropirations available for obligation for fiscal years 1979, 1980, and 1981,

(2) for fiscal year 1979, appropriations available for obligation for fiscal years 1980 and 1981, and

(3) for fiscal year 1980, appropriations available for obligation for fiscal year 1981.

EFFECTIVE DATES

SEC. 107. (a) The amendment made by section 101 shall become effective on the first day of the month following the thirty-sixth month after enactment of this Act. Each State (including for this purpose the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Is-

lands, Guam, and the Virgin Islands) may notify the Secretary of Health, Education, and Welfare whether it intends to enter into an agreement with him under section 2133 of the Social Security Act (as added by section 101 of this Act) and, if after the expiration of two full calendar months following enactment of this Act, any such State has not advised him of its choice in this regard, such failure shall be considered as notice that such State does not wish to enter into such an agreement.

(2) Notwithstanding paragraph (1), sections 2112(b), 2128(b)(3), and 2138, and 2145 of the Social Security Act, as added by section 101 of this Act, are effective upon enactment.

(b) The amendments made by sections 102, 104, and 105 shall become effective on the first day of the month following the thirty-sixth month after enactment of this Act.

(c) The amendments made by section 103 are effective with respect to taxable years beginning after the close of the calendar year in which section 101 of this Act becomes effective.

(d) The amendments by section 106 are effective upon enactment.

TITLE II—EMPLOYMENT OPPORTUNITIES PROGRAM

ESTABLISHMENT OF PROGRAM

SEC. 201. The Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE IX—EMPLOYMENT OPPORTUNITIES PROGRAM

"STATEMENT OF PURPOSE

"SEC. 901. It is the purpose of this title to provide employment opportunities programs to assist jobseekers, who might otherwise have to rely solely on income assistance, in finding unsubsidized employment in the private and public sectors, to provide training for those who need it, and to create subsidized jobs and training opportunities which shall be designed for principal earners in household units which include children, for whom unsubsidized employment cannot be found.

"PART A—ADMINISTRATION OF EMPLOYMENT OPPORTUNITIES PROGRAMS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 911. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title for fiscal year 1981 and each succeeding fiscal year; but, with respect to fiscal year 1981, the Secretary of Labor shall make available for part C such amounts, out of such appropriations, as may be necessary, not to exceed an amount sufficient to provide 1,400,000 subsidized work and training opportunities on an annual basis.

"ALLOCATION OF FUNDS

"SEC. 912. Eighty percent of the amounts appropriated to carry out this title shall be allocated by the Secretary of Labor among prime sponsor areas in each State in accordance with the relative numbers of persons in each such prime sponsor area as compared with the total number of persons in all such areas who are estimated by the Secretary to be eligible for assistance under this title. The remainder shall be allocated in such a manner that, of the total appropriated amounts, there shall be made available not to exceed 2.5 percent for Puerto Rico, not to exceed one-half of 1 percent in the aggregate for Guam, the Virgin Islands, and the Northern Marianas, and not to exceed 2 percent for Native American programs, and the remaining amounts shall be made available on such basis as the Secretary shall deem appropriate. Such amounts as the Secretary determines will not be needed for use in a particular area during any fiscal year for purposes of this title may be reallocated to other areas for obligation during that fiscal year or the succeeding fiscal year for use over a period of not to exceed 12 months.

"FINANCING ASSISTANCE TO PRIME SPONSORS

"SEC. 913. (a) The Secretary of Labor shall provide financial assistance under this part to prime sponsors (designated in accordance with subsection (b) of this section) for the purpose of carrying out programs approved by the Secretary of Labor under this title.

"(b) The Secretary of Labor shall designate as the prime sponsor of programs to be carried out under this title in the particular geographical area served by the prime sponsor so designated—

"(1) any prime sponsor qualified under section 102 of this Act;

"(2) any eligible applicant under section 602(e) of this Act; or

"(3) any other entity eligible to be a prime sponsor under section 102 or 110 of this Act, in cases where a prime sponsor described in paragraph (1) or (2) of this subsection has not been designated or such a designation has been denied or revoked in accordance with procedures of the type set forth in sections 108, 109, and 110 of this Act.

"(c) In the event that a prime sponsor under this title ceases to be as an eligible applicant under title VI, such prime sponsor may continue as a prime sponsor for purposes of this title for the remainder of the grant period, in the discretion of the Secretary.

"(d) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated to serve under this title is—

"(1) maintaining a pattern or practice of discrimination in violation of section 703(1) or section 712(a) of this Act or otherwise failing to serve equitably eligible individuals under part B or eligible participants under part C of this title in the area it serves;

"(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation; or

"(3) otherwise materially failing to carry out the purposes and provisions of this title;

the Secretary may revoke the prime sponsor's plan for the area, in whole or in part, and to the extent necessary and appropriate shall not make further payments to such prime sponsor under this title, and shall notify such sponsor to return all or part of the unexpended sums paid under this title during that fiscal year.

"(e) To the extent necessary to assure the delivery of services in the area served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under this title to serve such area) to carry out directly the delivery of such services, or to make grants to or enter into contracts for such purpose with public or private nonprofit agencies or organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

"(f) The Secretary shall, prior to making any payments under this title for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this title which contains provisions adequate to assure that the provisions of this section are carried out effectively.

"EMPLOYMENT OPPORTUNITIES PLAN

"SEC. 914. The Secretary of Labor shall approve an employment opportunities plan submitted by a prime sponsor designated under section 913 only if the Secretary determines that it sets forth satisfactory provisions for carrying out programs under this title in the geographical area served by such prime sponsor, including but not limited to—

"(1) a job search assistance program meeting the conditions set forth in part B of this title;

"(2) a subsidized work and training opportunities program meeting the conditions set forth in part C of this title;

"(3) provisions to assure a continuous sequence of services for eligible individuals under parts B and C, including job search, placement in unsubsidized work, and, for eligible participants under part C, placement in subsidized work or training designed to lead to unsubsidized work;

"(4) provisions of relating activities under this title to activities under other titles of this Act and to other relevant public and private programs and activities, including but not limited to community and economic development, social services, vocational education and vocational rehabilitation;

"(5) provisions for a hearing or hearings to afford an opportunity for public comment;

"(5) such other conditions and assurances as the Secretary of Labor may require pursuant to regulations.

"REVIEW BY GOVERNOR AND STATE MANPOWER SERVICES COUNCIL

"SEC. 915. (a) Each plan submitted by a prime sponsor described in section 913(b)(1) of this Act shall, prior to its submission to the Secretary of Labor, be transmitted to the Governor of the State and to the State Manpower Services Council (established under section 107 of this Act) for their review and recommendations.

"(b) The State Manpower Services Council shall afford interested parties an opportunity to submit views at a hearing or hearings on the proposed plan of all prime sponsors within the State.

"(c) After their review, the Governor and the State Manpower Services Council shall each submit any recommendations they deem appropriate for modification of any prime sponsor's plan under this title, first, to the prime sponsor, and, after the prime sponsor has had an opportunity to accept or reject such recommendations, to the Secretary of Labor.

"STATEWIDE PLANNING

"SEC. 916. The Secretary of Labor shall provide financial assistance to the Governors of the States, for use in accordance with plans approved by the Secretary, for such purposes as—

"(1) continuous review, monitoring, and evaluations of programs and services assisted under this title, including arrangements for providing job search assistance and subsidized work and training opportunities under this title in prime sponsor areas in the State;

"(2) providing technical assistance and consultative services to prime sponsors throughout the State during the development by prime sponsors of plans to be submitted under this title to the Secretary of Labor;

"(3) developing multi-year numerical projections of job opportunities anticipated in labor market areas throughout the State, and turnover rates in employment in various sectors of the economy in such labor market areas;

"(4) developing plans for coordinating with prime sponsor's plans under this title such related Statewide activities as community and economic development, social services, vocational education, and vocational rehabilitation programs, as are or may be designed to enhance the opportunities for eligible individuals and eligible participants un-

der this title to move into regular unsubsidized employment in the economy; and

"(5) development of on-the-job training arrangements with private employers in the State who have established places of business in more than one prime sponsor area.

"PENALTIES FOR FRAUD

"SEC. 917. Any person who—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for assistance or participation under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such assistance or participation;

"(3) having knowledge of the occurrence of any event affecting (A) the initial or continued right to any payment, or (B) the initial or continued right to any payment of any other person in whose behalf such person has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized; or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"DEFINITION

"SEC. 918. As used in this title—

"(1) 'child' and 'children' mean only an individual or individuals under the age of 18 years who are not parents of another child living in the same place of residence;

"(2) 'adult' means an individual other than a child;

"(3) 'State' includes each of the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, Guam, and the Virgin Islands;

"(4) 'household unit' has the same meaning as the definition set forth in section 2101(b) of the Social Security Act;

"(5) the term 'incapacity' means (as defined in regulations which the Secretary of Labor shall prescribe, with the concurrence of the Secretary of Health, Education, and Welfare) a medically determined inability to perform work on a regular basis, which is expected to last for not more than twelve months;

"(6) 'Federal minimum wage' means the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, except that with respect to Puerto Rico and the Virgin Islands, the Secretary of Labor shall by regulation prescribe the meaning of such term for purposes of this title;

"(7) 'State or local minimum wage' means the State or local minimum wage for the most nearly comparable private employment.

"PART B—JOB SEARCH ASSISTANCE

"ELIGIBLE INDIVIDUALS

"SEC. 931. In accordance with regulations which the Secretary of Labor shall prescribe, an eligible individual for assistance under this part shall be—

"(1) any adult individual who is a member of a household unit which includes a child; or

"(2) any adult individual who is a member of a household unit which does not include a child and who is a member of a household unit determined by the Secretary of Health, Education, and Welfare to be eligible for a payment under section 2104 of the Social Security Act.

"JOB SEARCH ASSISTANCE PROGRAM

"SEC. 932. (a) Job search assistance programs under this part shall consist of appropriate services and activities in accordance with regulations which the Secretary of Labor shall prescribe, which shall include but not be limited to—

"(1) the administration of an intake process through the State employment security agency or other comparable arrangements, including provisions for receiving applications of eligible individuals seeking assistance under this part (including those referred to the Secretary of Labor under section 2103 of the Social Security Act), determining whether such individuals are eligible individuals in accordance with section 931 or eligible participants in accordance with section 951 of this Act, verifying the statements and information submitted in connection with such applications, and taking appropriate actions with respect to such applications;

"(2) use of a computerized job matching program, where available, pursuant to an agreement with the State employment security agency;

"(3) a program of job search assistance services, including counseling and testing as needed;

"(4) referral to job opportunities in the private or public sectors, which are not subsidized under this title, of eligible individuals under part B of this title during an initial eight-week job search period, and, thereafter, referral to such job opportunities of eligible individuals under part B who are members of household units receiving cash assistance under title XXI of the Social Security Act and have not found unsubsidized private or public employment;

"(5) referral of eligible participants (as defined in section 951 of this Act) to subsidized work or training opportunities under part C of this title, after the fifth week from the time such eligible participant applies for job search assistance under this part, if such eligible participant has not been determined to have refused without good cause an unsubsidized bona fide job offer during such job search period;

"(6) job development and related services, to be carried out through arrangements with the State employment security agency, or comparable arrangements with other public or private nonprofit agencies or organizations, including community-based organizations;

"(7) follow-up services to provide referrals and other information, with respect to the availability of non-subsidized job opportunities, to eligible participants under part C of this title who have been placed in subsidized work or training positions under this title;

"(8) a renewed eight-week period of job search activity for any eligible participant after a total of 52 weeks has passed since the eligible participant first entered a subsidized work or training position under this title;

"(9) provisions for the establishment, by the prime sponsor, of annual goals for placement of eligible individuals under this part in unsubsidized work.

"(b) An individual shall be deemed to have applied for assistance under this title from the time such person enters an appropriate intake office and registers for such assistance.

"WORK REQUIREMENT

"SEC. 933. In accordance with standards and procedures which the Secretary of Labor shall prescribe by regulation, an eligible individual or participant shall not be found to have refused a bona fide job offer for good cause if—

"(1) the rate of pay for the job offered to such person is less than an amount equal to the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918 of this Act) plus, in the case of eligible participants (as defined in section 951 of this Act), any wage supplement (as determined in accordance with section 953 of this Act) which is payable, in the State where such employment is offered, for a subsidized work or training opportunity under this title;

"(2) the conditions of work or training are unreasonable for such individual in light of such factors as the hours of work, health or safety conditions, or geographical location;

"(3) the job offered to such person (A) in the case of a single parent of any child between the ages of 7 and 13, inclusive, involves hours of work which would make it impractical for such person to be at home during hours when such child is out of school and at home, or (B) in the case of any other person, provides weekly earnings which are not at least equal to the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918) multiplied by 40 hours; or

"(4) the job offered is available due directly to a strike, lockout, or other labor dispute.

"DETERMINATIONS BY THE SECRETARY OF LABOR

"SEC. 934. (a) The Secretary of Labor shall, in accordance with regulations, provide for—

"(1) determinations of claims of incapacity with respect to individuals referred to the Secretary of Labor under section 2103 of the Social Security Act, with review from time to time of the continuance of any such incapacity;

"(2) determinations as to whether a bona fide job offer has been refused without good cause by an eligible individual under part B or an eligible participant under part C;

"(3) an administrative review process, consistent with the types of procedures set forth in section 2136 of the Social Security Act, affording opportunities for hearings and appeals with respect to determinations affecting the applications for assistance under this title of eligible individuals under part B or eligible participants under part C, determinations of incapacity, and whether any such eligible individual or eligible participant has refused a bona fide job offer without good cause.

"(b) The Secretary of Labor shall provide for timely notification to the Secretary of Health, Education, and Welfare whenever a determination has been made—

"(1) of incapacity (including its expected duration) with respect to any individual referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act;

"(2) that a bona fide job offer has been refused without good cause by an eligible individual under part B or by an eligible participant under part C who has been referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act;

"(3) that a prime sponsor will be unable to place an eligible participant in a subsidized work or training position prior to the end of the eighth week after such individual applies for job search assistance under this part;

"(4) that an eligible individual referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act has applied for job search assistance under this part; and

"(5) that an eligible participant referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act is con-

cluding an eight-week period of job search assistance under this part or has been placed in a subsidized or unsubsidized job.

"(c) The Secretary of Labor may enter into arrangements for the delegation to the Secretary of Health, Education, and Welfare of any functions with respect to determinations of incapacity under subsection (a) of this section.

"JOINT AGREEMENT FOR JOB SEARCH ASSISTANCE RESPONSIBILITIES

"SEC. 935. (a) Any prime sponsor submitting an employment opportunities plan under section 914 of this Act shall—

"(1) transmit, as part of such plan, a copy of any joint agreement between the prime sponsor and the State employment security agency for carrying out specific job search assistance functions under this part; or

"(2) if no such joint agreement has been reached, set forth as a part of such plan, the prime sponsor's proposed arrangements for carrying out specific job search assistance functions through the State employment security agency or other public or private agencies or organizations.

"(b) As part of its review in accordance with section 915(b) of this Act, the State Manpower Services Council shall, after considering any comments and recommendations submitted by the State employment security agency or other interested parties, make any recommendations such Council deems appropriate for joint arrangements between the prime sponsor and the State employment security agency for carrying out specific job search assistance functions under this part.

"PART C—SUBSIDIZED WORK AND TRAINING

"ELIGIBLE PARTICIPANTS

"Sec. 951. (a) In accordance with regulations which the Secretary of Labor shall prescribe, an eligible participant for assistance under this part shall be an adult individual (1) who is a member of a household unit which includes a child and (2) who, during the six-month period preceding application for assistance under this title, was a principal earner or was the sole earner in any such household unit, or had no earned income and no other adult in such household unit had any earned income during such six-month period; but no individual in a particular household unit shall qualify as an eligible participant if another such individual is already a participant.

"(b) For purposes of this title, the term 'principal earner' means that adult in a household unit who had the largest total amount of earned income during the six-month period preceding application for such assistance, except that another adult in the same household unit may, in lieu thereof and pursuant to regulations prescribed by the Secretary of Labor, qualify as the principal earner if that adult worked the largest total amount of hours during such preceding six-month period, or if the adult otherwise determined to be the principal earner during such preceding six-month period is disabled or incapacitated or otherwise not currently available for work.

"FEDERAL FINANCIAL ASSISTANCE

"SEC. 952. (a) The Secretary of Labor shall provide financial assistance for a prime sponsor submitting a plan under section 914 of this title for work and training opportunities under this part if such plan provides that funds under this part will be made available only in accordance with the provisions of this section.

"(b)(1) From its allocation, each prime sponsor may use for purposes of paying the costs of wages and allowances an amount equal to the sum of the Federal contributions to wages and allowances (as determined under paragraph (2) of this subsection) payable on behalf of all eligible participants in subsidized work or training positions funded by such prime sponsor.

"(2) The Federal contribution to wages and allowances on behalf of any eligible participant shall be equal to the product obtained when the Federal minimum wage (as defined in section 918 of this Act) is multiplied by the number of hours spent by such eligible participant in subsidized work or training activities under this part. The maximum weekly Federal contribution to wages and allowances on behalf of any eligible participant shall be the Federal contributions to wages and allowances for subsidized work or training for 40 hours per week.

"(c) From its allocation, each prime sponsor, in addition to the limitation on allowable costs under subsection (b) of this section, may also use an amount, which shall not exceed 30 percent of the total made available to such prime sponsor under subsection (a) of this section, for the purpose of covering—

"(1) administrative and supervisory costs;

"(2) necessary supplies, equipment, and materials;

"(3) non-wage benefits, including social security employer tax contributions (but not unemployment insurance contributions or contributions to retirement funds), appropriate worker's compensation, and other benefits in accordance with regulations which the Secretary of Labor shall prescribe;

"(4) payment of amounts (not otherwise provided by the prime sponsor) to cover wages in excess of the Federal minimum wage—

"(A) to the extent that the State or local minimum wage exceeds the Federal minimum wage (as defined in section 918 of this Act); and

"(B) to the extent that wages paid to work leaders exceed wages otherwise paid under this part, except that the number of work leaders so paid shall not exceed 15 percent of the total number of eligible participants employed in the program and the total rate of pay for such work leaders shall not exceed an amount equal to 125 percent of the rate of pay otherwise paid under this part to eligible participants employed in that program.

"WAGE SUPPLEMENTATION

"SEC. 953. (a) Each State which enters into an agreement with the Secretary of Health, Education, and Welfare for State supplementation of cash assistance under part B of title XXI of the Social Security Act shall make payments to enable prime sponsors to pay wage supplements in accordance with this section to participants in subsidized work and training positions under this title.

"(b) The wage supplement payable to a participant in subsidized work or training under this section in any State shall be an amount equal to the product obtained when the supplementation percentage (as defined in subsection 2122(1) of the Social Security Act), applicable to a household unit consisting of one adult and at least one child under the age of 7, multiplied by the Federal minimum wage as defined in section 918, or, if the State so elects, the State minimum wage as defined in section 918 (if higher), except that in no State shall the total wages paid to any such participant (other than to a work leader as provided in section 952(c)(4)(B) of this Act) exceed 110 percent of the Federal minimum wage as defined in section 918.

"SUBSIDIZED WORK AND TRAINING OPPORTUNITIES

"SEC. 954. (a) The Secretary of Labor shall provide financial assistance to a prime sponsor under this title only if the employment opportunities plan submitted by such prime sponsor under section 914 of this Act contains satisfactory provisions for carrying out subsidized work and training programs, including—

"(1) the provision of full-time opportunities for subsidized work and training designed to lead to unsubsidized work;

"(2) the provision of part-time opportunities for subsidized work and training designed to lead to unsubsidized work, with special provisions for such opportunities during hours which accommodate the needs of single parents, including hours enabling them to be home when their children are out of school;

"(3) appropriate provisions for subsidized training opportunities, including classroom instruction, skills training, on-the-job training, and appropriate work experience, in accordance with regulations which the Secretary shall prescribe;

"(4) assurances that on-the-job training arrangements will not be inconsistent with paragraph (5) of section 101 of this Act;

"(5) assurances that programs providing subsidized work and training opportunities under this part, including projects carried out by community-based organizations and other public or private agencies and organizations, will be carried out under the supervision of the prime sponsor;

"(6) assurances that rates of pay for jobs supported under this part will be not less than the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918 of this Act), and that the total wages and allowances for such jobholder for hours spent participating in such work and supervised training opportunities shall not exceed such applicable minimum wage (except as otherwise provided by this part) multiplied by the hours spent in work and supervised training per week (which may not include hours spent in job search);

"(7) assurances that provisions will be made for sick leave with pay, in accordance with regulations which the Secretary shall prescribe;

"(8) provisions for the establishment, by the prime sponsor, of goals for placement of participants under this part in unsubsidized work;

"(9) appropriate provisions for flexible working arrangements, including part-time work and flexible working hours;

"(10) appropriate provisions designed so that, in the case of any eligible participant who is away from a job due to incapacity or a short-term unsubsidized work or training opportunity, the same subsidized work or training position under this part which was vacted by such individual (or a similar position) shall, to the maximum extent feasible, remain open for the eligible participant's return to such position;

"(11) provisions for terminating an eligible participant 52 weeks after such participant began participating in subsidized work or training under this part (without excluding therefrom any time such participant spent away from a job, as described in paragraph (10) of this subsection), with provisions for continued payment of wages or allowances for the first two weeks of a renewed period of job search activity which such eligible participant agrees to undertake for a period of not less than five nor more than eight weeks; and

"(12) appropriate provisions developed by the prime sponsor, with respect to eligible participants who have not found unsubsidized jobs after five weeks of renewed job search activity, for placing such eligible participants in other subsidized work or training positions under this part which shall be designed to lead to unsubsidized work.

"(b) Where a labor organization represents employees who are engaged in similar work in the same geographical area to subsidized work under this title proposed to be performed under the program for which an employment opportunities plan is being developed for submission under section 914 of

this title, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of any such plan in which to make comments to the prime sponsor and to the Secretary.

"SPECIAL CONDITIONS

"SEC. 955. (a) The Secretary of Labor shall provide financial assistance under this part only if the Secretary determines, in accordance with regulations, that the activities to be assisted meet the requirements of this section.

"(b) Each prime sponsor under this title shall provide assurances, satisfactory to the Secretary, that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of funds under this title for other funds in connection with work that would otherwise be performed;

"(4) will not hire any person when any other person is on layoff by the employer from the same or any substantially equivalent job in the same geographical area; and

"(5) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring an eligible participant to be supported under this part.

"(c) With respect to work supported under this part, jobs in each promotional line shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

"(d) The provisions of section 605(b) of this Act shall apply to this part.

"(e) Activities funded under this part shall meet such other conditions as the Secretary may deem appropriate to carry out the purposes of this Act."

SPECIAL PROVISION

SEC. 202. State unemployment compensation statutes shall not be considered to be out of conformity with the unemployment compensation provisions of the Social Security Act and the Federal Unemployment Tax Act of 1973 are not covered by such State statutes.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
September 12, 1977.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are not available for work by reason of disability, age, or family circumstances." The bill would be cited as the "Better Jobs and Income Act."

The draft bill embodies the recommendations contained in the Message from the President to the Congress of August 6, 1977, transmitting proposals to abolish the existing welfare system, and to replace it with a job-oriented program for those able to work and a simplified, uniform, equitable cash assistance program for those in need who are unavailable for employment by virtue of disability, age, or family circumstance.

Title I of the bill would amend the Social Security Act to establish a program of cash assistance. Title II of the bill would amend the Comprehensive Employment and Training Act of 1973 to establish a program of employment assistance. The program is described both generally and in detail by the enclosed summary of the program and the sectional explanation of the bill.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that its enactment would be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

RAY MARSHALL,
Secretary of Labor.

THE PROGRAM FOR BETTER JOBS AND INCOME: A SUMMARY

OVERVIEW

The proposed Program for Better Jobs and Income is intended to (1) increase job opportunities for the low-income population, and (2) consolidate our major income support programs into one simple and efficient program. These objectives are not simple to achieve, as many intelligent and well-intentioned reformers have discovered through the years. One reason is that any reform must strike a balance between many competing—and at times irreconcilable—values. For example, we want to preserve work incentives so we do not wish to reduce, dollar for dollar, benefits to assistance recipients who start to earn. But we want to hold down costs and use the money for the most needy. The full answer proposed to such problems can only be seen in the detailed provisions of the bill. But a brief listing of major thrusts may be useful.

The proposal would:

Create up to 1.4 million public service jobs for the primary earner in families with children, which should serve as many as 2.5 million different people on a temporary basis during any year. The emphasis is on providing income through jobs and wages.

Consolidate the three current major income assistance programs—Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and Food Stamps—into a single system with simpler, uniform rules which will make the system fairer.

Permit families headed by two parents to receive income supplements if the husband's earnings are insufficient to support the family. Low-income fathers would no longer have an incentive to leave their families in order to make them eligible for support.

Provide a basic federal benefit floor for all persons, which will substantially increase income support in some states. In higher benefit states, the states will be encouraged to supplement the basic federal minimum to maintain income support at present levels.

Provide for a transition period of three years after the new rules go into effect during which federal support will help states maintain benefits to particular recipients of current programs. During the first year, states will be required to maintain a substantial portion of their present level of effort in supporting programs for low-income people.

Provide for a three-year preparatory period before the new rules would go into effect, during which a centralized computer system will be constructed. States, at their option, may perform intake for the new consolidated program. The federal government will compute benefits and make payments. Fraud and error should be reduced.

Expand the current Earned Income Tax Credit for workers in private sector and regular public sector jobs as a supplement to the income of low wage earners and as a positive incentive for the maintenance of their work effort. This EITC supplement would not apply to the new specially-created public sector jobs, so that private employment would be more desirable than special public employment.

The net cost of the program is estimated to be $2.8 billion (in 1978 dollars).

State and local governments should realize savings of about $2.1 billion, the precise amount depending on state actions that are difficult to predict. No state will save less than 100 percent of the current costs. States that traditionally have paid the highest benefits—California, Illinois, Massachusetts, Michigan, New York, and Pennsylvania—will all realize savings in excess of 25 percent of their present outlays.

Here is an example of how the new program would work: The husband in a husband-wife family with two children who could find no job would be provided with a minimum wage job (paying $5512 in 1978 dollars). If the family had no other income, it would also receive a cash supplement of $1444, yielding a total income of $6956. This is above the projected 1978 poverty level of $6400. If such a worker were in a private sector or regular public sector job at the same minimum wage, he would receive, in addition, an Earned Income Tax Credit of $476, bringing total income to $7432. This contrasts to the current situation in many states in which a two-percent family is not eligible for any cash support whether or not the father can find a job, or becomes ineligible if the father works more than 100 hours.

Thus the program is designed to be pro-work and pro-family. It is also designed to be fair. Under a single, nationwide system with all benefits paid in cash, the available money for welfare is distributed more equitably so that persons in similar circumstances are treated similarly. And being simpler, the system is also less demeaning to those who do need support, more understandable to both recipients and taxpayers, and less susceptible to error and fraud.

SOME SPECIFICS

The jobs program and the earned income tax credit

The Program for Better Jobs and Income not only imposes a work requirement on adults expected to work, as under the present system, but also offers them a work opportunity. It would provide up to 1.4 million special public service jobs and training slots for principal earners in families with children, at or slightly above the minimum wage. About 15 percent of these jobs can pay 25 percent more than the minimum wage, thus allowing states to pay higher wages to work leaders and providing incentives for extra effort leading to promotion. Public service jobs may last no longer than one year, at which point those involved must spend at least five weeks searching for a job in the private economy. The purpose of this provision is to insure that public service jobs do not become institutionalized but are seen as temporary earning opportunities transitional to the private economy.

The new program of job search and job creation will be administered by CETA prime sponsors and the existing local state employment service offices—state and local officials with experience in this area and knowledge of local needs and potential.

This new jobs program will be open to two-parent families with children and single-parent families with children. As described below, families participating in the jobs program may also receive cash income support if their earnings are insufficient to

meet the needs of their families. However, if an unemployed parent in an expected-to-work family refuses a job offer, a lower level of cash assistance is provided to the family.

The proposal also provides that private jobs—even at the minimum wage—will be more attractive than the new public jobs. This is accomplished by expanding the present Earned Income Tax Credit for workers in private-sector or regular public sector jobs, but not extending it to workers in the specially-created public jobs. Specifically, the proposed EITC will maintain the 10 percent added payment on earnings up to $4000, as under current law. It will add a five percent supplement to earnings from $4000 up to the point at which cash assistance benefits stop. Thereafter it will phase out.

Cash benefits for those not expected to work

Cash benefits for aged, blind and disabled persons without other income are set at $2500 for single individuals and $3750 for a couple. This is about what many SSI recipients are now receiving from the federal government including the bonus value of their food stamps. Thus SSI recipients who do not now also receive food stamps will have their purchasing power increased by the new support levels.

Single-parent families in which the youngest child is under 7 are also not expected to work, although they are eligible for the public service jobs. The basic federal cash benefit for such families without other income is $1900 for the head of household, $1100 for the first child and $600 for each additional child. This amounts to about 65 percent of the poverty threshold, or $4200 for a family of four—a substantial increase in income for former AFDC recipients in 12 states. Moreover, actual payments will be higher in the many states which supplement the basic federal benefits.

When persons in families which are not required to work do take jobs, their cash benefits will be reduced by not more than 50 cents for each dollar of earnings under the basic federal programs (and not more than 70 cents in states which supplement benefit levels).

Cash benefits for those who are expected to work

Those "expected to work" are two-parent families, single-parent families with children of school age and above (when the children are 7 through 13 only part-time work is expected), childless couples, and single individuals.

The spouse and children in two-parent families will receive $1100 and $600 each, respectively, as the basic federal benefit, while the adult expected to work will receive nothing during an initial eight-week period of job search and nothing thereafter if he or she refuses work. If a job cannot be found, a job will be created at the minimum wage, and the family's income will be augmented with cash. The worker in such a family may keep all of the first $3800 of earned income. Above that level, cash payments are reduced by 50 cents for each dollar of earnings under the federal program (and not more than 52 cents in states which supplement). For a family of four under the basic federal program, this means that federal payments would end at total income of $8400 (higher in states which supplement). In the cases of workers for whom no job can be found or created, after eight weeks the family will receive a $1900 cash benefit in addition to the cash assistance payment going to the wife and children, bringing the family's benefit to $4200, the same as that paid to a family of the same size which is not required to work.

For single parents with all children over 14, the structure of benefits is the same as that for two-parent families.

For single-parent families with the youngest child aged 7 through 13 years, the parent is expected to work at least part-time while the children are in school, and a part-time job will be provided. The only difference between the benefits for this kind of family and those described previously is that the adults involved receive their basic benefit while initially searching for work or waiting to be placed, and lose their benefits only if they refuse a job. As with the other families, the adult's cash supplement is paid if no work can be found or created for families of this type. For each dollar earned, cash benefits are reduced by 50 cents under the federal program (and not more than 70 cents in states which supplement).

For childless couples and single individuals a basic benefit of $1100 per adult is paid during the job search period and continues thereafter if a job cannot be found. It is cut off if the individual refuses a job at the minimum wage. A reduction of benefits by 50 cents for each dollar of earnings begins with the first dollar of earnings.

State supplements

Currently, benefit levels vary dramatically across states, from a high of $6132 for a family of four with AFDC and food stamps in New York City to a low of $2556 for such a family in Mississippi. Narrowing this range is one of the goals of welfare reform, but complete uniformity is not expected. Some states desire, and can afford, higher levels of assistance than others. Federal policy will be to provide the basic minimum in all states and to encourage state supplements that are consistent with the basic federal program by paying (for a family of four) 75 percent of a state supplementary payment between $4200 and $4700 and 25 percent from $4700 to the poverty threshold.

While the federal government will not support specific supplements which do not fit the incentive structure of the basic federal program, it will nevertheless encourage the protection of existing recipients against decreases in benefits due to changes in eligibility rules in the new program, even if such protection runs counter to the incentives in the new program. It will do this by guaranteeing the states against total increased expenditures to the extent that they are the result of maintaining benefits now being received by current recipients of the existing programs.

Eligibility and administrative provisions

The major administrative provisions of the proposal, contrasted with those in the three programs it would replace, are as follows:

The form of the benefit would be cash plus wages from specially-created jobs, as opposed to the current mixture of cash and food stamp coupons.

The unit eligible to apply is family-based. Relatives who care for children for whom they are not legally responsible (e.g., aunts or grandparents) will have an economic incentive to continue to do so.

The period for counting income to determine eligibility will be the six months prior to application. This is in contrast to the practice of current programs in which eligibility is determined by estimating income over the following 1-to-3 month period. Among other advantages, the six-month retrospective period is fairer because it increases the likelihood that families with similar annual incomes will receive similar benefits, and it should do much to reduce fraud and error. Adverse effects of the longer accounting period would be felt essentially by families with an annual income of more than $8400 (for a family of four). Emergency needs will be handled by emergency funds, not general rules. (See below.)

Th definition of income to determine need will include 50 percent of wages from a job, 80 percent of non-employment income (income from dividends, property, private pensions, or social insurance programs), and 100 percent of income from other federally-funded mean-tested assistance programs such as veterans pensions. Expenses of child care, up to certain limits, will be deducted from earnings in determining "available income." This will replace the variety of definitions of "countable income" in the present programs.

An assets test will preserve fair treatment among those who do and do not have assets. A fraction of the value of assets will be added to income in determining whether income is low enough to make a person or family eligible for the program. Excluded from assets will be $500 of liquid assets, plus a reasonable allowance for a car, plus the total value of an owner-occupied house. Beyond that, 15 percent of non-business assets up to $5000 and 10 percent of business assets will be added to income. Those with assets in excess of the $5000 figure will be ineligible.

Emergency needs

Because there are always cases which do not fit general rules, the federal government will also provide $600 million "emergency needs" grants to be divided among the states to handle special situations based on local judgments of emergencies which cannot be met under the general rules.

Transitional features

This program will change welfare from hundreds of different state and county programs partially funded by the federal government to a single federal program, partly supplemented and administered by the states. Care must be taken to make this transition smoothly so that those in need do not suffer during the changeover. As mentioned previously, each state will save at least 10 percent of its current welfare expenditures as a result of the changeover and several will save over 25 percent. But in order to fund the new program without escalating federal costs or harming current recipients, certain requirements will be imposed on the states:

During the transitional period of three years, each state will be required to maintain a substantial fraction of its current expenditures in AFDC, SSI, Emergency Assistance and General Assistance. During the first year the fraction will be 90 percent. States now making extraordinarily high expenditures per case on welfare programs will be permitted a lower percentage so long as they maintain current benefit levels and provide certain other benefits.

The federal government will guarantee that regardless of the need to conform to the federal program, maintain current levels of effort, and not reduce benefits to existing recipients, no state will have to spend more than 90 percent of its current level of effort on welfare programs.

Administration

The states have the option—subject to federal policies, rules and standards—of performing the "intake" function of the administration of the cash assistance program. The federal government will, in all instances, perform the functions of benefit computation and payment and thus make the final eligibility determinations.

The proposal envisions a total nationwide staff of 100,000 to 120,000 state and federal employees to administer cash benefits, compared with 143,000 state and federal employees now involved in administering welfare programs. The total cost of administering the program is estimated at $2.2 billion in 1978 dollars, compared with a current cost of $2.7 billion.

The combination of a single data system and the use of advanced systems technology is expected to improve efficiency and reduce error and fraud.

Phase-in

The proposal will be phased in over a three-year period after enactment. Following is a likely timetable:

Within two months after enactment, each state must declare its choice of state or federal intake.

The first two years following enactment will be devoted to creating a computer network linking some 4,000 field offices to a centralized computer system and to training personnel.

Starting two years after enactment, the first groups of recipients will begin applying for cash benefits.

Three years after enactment, benefit checks will begin to go out under the new system.

This long phasing process is designed to avert interruptions in payments and other dislocations during the conversion to the new system and to minimize error.

Relation to medicaid

The benefits afforded under the new Better Jobs and Income Program should be coordinated with those received under Medicaid. However, this is best dealt with as part of the National Health Insurance proposal to be presented to the Congress early next year. If the implementation of National Health Insurance and this program cannot be synchronized, the bill provides that existing Medicaid eligibility criteria be preserved. This will insure that new eligibility rules do not automatically expand the Medicaid rolls, thus imposing large additional costs on both federal and state governments.

More on the jobs program

Recent experience with the CETA program provides encouraging evidence that the creation of 1.4 million jobs will not exceed the capacity of the existing employment and training system. Three years ago the CETA package contained 50,000 slots. With the onset of the recession, this level was increased to 310,000 positions. Under the stimulus package, the level will be increased to approximately 725,000 positions by the Spring of 1978. Thus there is ample reason to believe that the achievement up to 1.4 million job and training slots can be accomplished by 1981.

Under CETA, projects such as the following are currently under way:

In West Palm Beach, Florida, CETA workers aid the elderly by doing such tasks as heavy cleaning, cooking meals, and providing transportation to doctors' offices.

In Stark County, Ohio, CETA workers are operating anticrime patrols in housing projects.

In Chicopee, Massachusetts, CETA workers are building and repairing such recreational facilities as baseball diamonds, community swimming pools and picnic areas.

In Flint, Michigan, a comprehensive child development program trains and hires nonprofessionals in day care work.

In Piedmont, California, CETA workers are installing water conservation equipment.

In Madison, Wisconsin, CETA workers are measuring water quality in local streams.

Because the jobs will be created on the local level, it is impossible to project with accuracy the types of jobs that will be created. However, experience under the current expansion of the CETA program indicates the types of work which will be developed under the jobs portion of welfare reform.

Thirteen major categories of jobs have been identified. These jobs provide needed services to local communities, and they can be conducted on a relatively large scale in these communities. The job categories are as follows:

200,000 jobs aiding the elderly and the sick.

200,000 jobs building and repairing local recreation facilities.

150,000 jobs improving public safety.

150,000 jobs providing child care.

150,000 jobs for paraprofessionals in the schools.

125,000 jobs running local recreation programs.

100,000 jobs improving school facilities.

100,000 jobs cleaning up neighborhoods and controlling insects and rodents.

75,000 jobs involving cultural activities.

50,000 jobs monitoring environmental quality.

50,000 jobs weatherizing homes to save energy.

25,000 jobs providing facilities for the handicapped.

25,000 jobs aiding in waste treatment and recycling.

Not all the jobs that will be created by this program will be run by state and local governments. Many will be in private nonprofit agencies. Community-based organizations now carry out public service projects in the CETA program, and will continue to do so under welfare reform.

Mr. JAVITS. Mr. President, I am pleased to join my distinguished colleague from New York, Senator MOYNIHAN, and the distinguished chairman of the Human Resources Committee, Senator WILLIAMS, in cosponsoring the program for better jobs and income. The legislation addresses two compelling needs—the need for comprehensive programmatic revision of the Federal welfare program; and the necessity for fiscal relief for our Nation's cities and States. I join as a consponsor of this legislation to support the broad principles that it incorporates and to join in the debate that will ensue.

Title I establishes a uniform national basic benefit and provides fiscal relief for State and local governments. The pattern of fiscal relief is different from that which I proposed in S. 1977, my bill to provide a uniform 75 percent Federal matching of AFDC and medicaid costs. But for the present time, the form which fiscal relief takes is not as important as the urgency that such relief occurs and does so as soon as possible. We in the Congress must work together to furnish the specifics. I urge my colleagues to do so with the speed which the critical need compels.

Before I go on to title II, I would like to take a moment to deal with our Nation's housing program and its relationship to reform of the income security system of the instant bill. The bill we are introducing today does not attempt to fold into the income security system the various forms of housing assistance to our Nation's poor, and I commend this decision. I feel it is important to maintain the separate identity of the housing programs, for to cash them in would cause housing prices—which already consume 50 percent or more of a family's budget in too many urban areas—to escalate even further. We must continue to encourage expanded housing construction and to improve the workings of these Federal housing programs, but these tasks should not be bound up in the already very difficult job before us of establishing the income security system.

Title II of the bill we introduce today would authorize the establishment of a comprehensive program of job opportunities for poor adults. This program would be authorized as a new title of the existing Comprehensive Employment and Training Act, our major job training and employment legislation. The job opportunities program would provide comprehensive job search assistance program for all adults who are members of household units with children under 18 and for those adults in childless households who are cash assistance recipients. In addition, the bill would authorize a program of subsidized work and training for principal wage earners who are unable to obtain unsubsidized employment and who are members of such household units with children under age 18.

The comprehensive job search assistance program, in my opinion, is one of title II's more innovative features, and offers real promise of improving our ability to place the unemployed and those whose lives have been characterized by such dependency hopefully in permanent unsubsidized full time employment. It would enable prime sponsors to develop integrated programs of intake, job matching, referral, counseling, job development, and follow-up for eligible participants, and to coordinate these activities with State employment security agencies and other public or private nonprofit agencies.

Clearly, our experience in recent years indicates that because so many of the unemployed seem to be slipping through the cracks so to speak, as to finding jobs, it would be useful to try to develop a comprehensive and coordinated approach to the provision of job search assistance for them. I am not certain at this point whether it will be possible to coordinate more efficiently the various separate systems that now purport to deliver these services or whether total integration can be made to conform with the spirit and intent of the principle of local decisionmaking that is CETA's hallmark. But I believe it is worth trying and that the Senate Human Resources Committee, has the expertise and the grasp of issues to consider also this complex question.

For those principal wage earners who are members of households with children under eighteen and who are unable to obtain unsubsidized employment, even after the intensive period of job search, the legislation would provide subsidized work in employment projects of 1 year's duration. According to the Labor Department, the total estimated number of public service employment positions that will have to be made available, assuming an unemployment rate of 5.6 percent, is 1.4 million.

While in principle I am in agreement with the overall thrust of title II, I must confess that I have a number of concerns in respect of the jobs program that I will urge our committee to look at during consideration of the bill. I do not wish at this point to dwell on these but I do think it useful at least to raise them today.

My first concern is the effect this program may have on the existing levels of public service employment funded under titles II and VI of CETA. Currently, 725,000 public service jobs have been authorized, with 600,000 of these funded under title VI. What is to happen to these jobs when the welfare reform program is implemented? Early reports were that all but 50,000 of the existing slots would be transferred to the welfare program. However, areas suffering from high unemployment—and my State has more than its share—have come to depend on

CETA–PSE to help alleviate some of their burden of severe structural unemployment. I know that title VI is supposed to be a countercyclical program but, for many areas of our country, the last recession has not yet ended. Thus, while the national unemployment rate may decline—and recent evidence dissuades us even from jumping to that conclusion—above average unemployment is likely to continue in many areas. For this reason, I am inclined to favor maintaining existing levels of public service employment at least until economic conditions improve materially and unemployment declines substantially.

A second concern I have is that the payment of minimum wages in accordance with either Federal or State law may displace existing civil servants or erode existing wage levels. I realize reliance on the so-called project approach is intended to minimize displacement but, nevertheless, I think the potential is there. As time passes, projects may evolve to closer proximity with existing services and occupations and, therefore, local governments may be encouraged to fill vacancies with federally funded, minimum wage workers. With so few State and local employees now earning the minimum wage, there is a clear and present danger of displacement and erosion of wage standards, and we may as well acknowledge it. I am hopeful, however, that our committee will be able successfully to resolve this problem and remove the danger of displacement.

A final concern I would like to mention briefly is the work requirement for welfare mothers. According to the briefing document on the jobs component issued by the Labor Department on August 6, mothers of children over 6 who receive cash assistance must register for and accept employment. If the youngest child is between 6 and 13 years old, the mother must accept part-time work. If the child is 14 or over, she must accept full-time work. I do not agree that mothers of young children can or should be required to work. Many, of course, do work now and will work after this program begins. But a blanket requirement on all welfare mothers, even for those who need to remain at home to care for children, seems to me to be impractical. Caring for children, even those over 13, is a full-time proposition for many mothers, especially in the poor areas of our country where children may need special attention at home. To require all to work may turn out to be an extremely shortsighted proposal.

Mr. President, I would like to reiterate my general support for this bill. I believe it represents a stunning breakthrough in our long effort to reform our welfare system. The relevant committees will have to examine this bill closely and look at the concerns I have raised; others to be studied as well. But I am hopeful that we can have an agreed upon bill and that it can move quickly through the Congress. I shall do all I can to bring this about.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from New York (Mr. MOYNIHAN), for himself and Senators WILLIAMS and JAVITS, introducing the President's welfare reform proposal entitled "A Program for Better Jobs and Income," be jointly referred to the Committees on Finance and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WEICKER:

S. 2085. A bill to encourage the orderly development of deep ocean mining and to provide for environmental regulation of such mining pending adoption and transition to an international regime; jointly, by unanimous consent, to the Committees on Commerce, Science, and Transportation; Environment and Public Works; Foreign Relations; and Energy and Natural Resources.

Mr. WEICKER. Mr. President, I am pleased to introduce today a bill entitled the "Transitional Deep Ocean Mining Act." This legislation is based upon extensive consideration of the complex deep seabed mining issue as it exists at the present time, and it represents, I believe, a reasonable balance between the many elements involved.

Bills to regulate and support our fledgling deep seabed mining industry have been introduced before the Congress since 1971. Many hearings have been held, and much testimony has been logged, but legislation has never been passed. In the meantime, the industry has moved ahead and time has altered both the form and necessity for such legislation. I believe that this bill provides for the fulfillment of an idea whose time has finally come of age.

As a result of our exploratory marine research programs, we have determined that vast amounts of hard mineral resources in the form of nodules, lie scattered over the deep seabeds of all the oceans of the world, beyond the limits of jurisdiction of any nation. These nodules are composed of a wide assortment of minerals, but those of most immediate interest to the United States are copper, cobalt, nickel, and manganese.

All of these minerals play a significant role in the defense and economy of the United States. With the exception of copper, the United States has no land-based deposits of these minerals and must rely on supplies imported from a variety of other nations. In addition, the United States' demand for copper generally exceeds the amount that can be supplied domestically, and must also be imported. Such a major reliance on foreign suppliers is economically unsound both from the standpoint of national security and balance of payments. Complacency about the situation is dangerous, especially when an alternate supply of these minerals is available and has yet to be fully evaluated. Although we have no immediate strategic need for these minerals, all projections for the future indicate that the demand will be increasing. We need to plan ahead for the time when we will require a supply of these minerals that is independent of the export policies of other nations. Since any exploitation of deep seabed nodules will require many years of planning and development, we must begin to develop the necessary technology and evaluate instead of waiting to respond to a crisis that may develop in the future.

Under existing international law, most of the nodules lie in areas of the seabed beyond the jurisdiction of any nation. They can, therefore, be collected and exploited as a freedom of the high seas by anyone.

Unfortunately, the deep seabed mining situation is not simply a matter of allowing our inventive industry to pursue the high seas freedom they already enjoy. The issue is made more complex by continued international uncertainty. In 1970 the United Nations declared the mineral resources of the deep seabed to be the "common heritage of mankind," to be used for the benefit and in the interest of all mankind. In 1968 the United States began working with other nations through the United Nations Seabed Committee to explore the means of establishing a new international regime for development of seabed resources. A few years later the seabed issue was joined with other ocean issues and the third United Nations Conference on the Law of the Sea was convened in 1974 to establish a new legal order for the oceans.

Although there are many ocean interests at stake in these negotiations, the system of seabed resource allocation and exploitation has grown to be the key issue. For many years it has been felt that any unilateral action by the United States with respect to deep seabed mining would jeopardize our chances of reaching an agreement. It was believed that any action to encourage deep seabed mining on our part might alienate the developing nations by making it appear to them that we were making a half-hearted attempt to negotiate an equitable distribution of seabed resources while at the same kind raping the common heritage of mankind.

Now, after the sixth session of the conference, it appears unlikely that any solution to the deep seabed problem which is acceptable to the United States, will be reached in the very near future. As with so many of the United Nations conferences involving negotiations between the developed and developing worlds, the deep seabed issue within the Law of the Sea Conference has become bogged down by North-South disputes based upon ideological rather than practical considerations.

Mr. President, I believe that time has now altered the course of action we must take. The United States has more to gain in overall ocean interests than any other nation by the successful negotiation of a comprehensive law of the sea treaty. We cannot afford to give up the negotiating process now in spite of the setbacks we have experienced recently with respect to deep seabed mining. Neither can we afford to continue to discourage the progress of our deep seabed mining industry. Time has shown that the industry is not only anxious and determined to move ahead with their exploratory efforts, but they have already expended considerable effort in doing so. Now is the time for us to assure the orderly development of the deep seabed mining industry and, the economic potential of these resources more importantly, to assure the protec-

tion of the environment in which it will be taking place.

The environmental effects of deep seabed mining are only poorly understood at this point. Without acceleration of the environmental assessment programs and proper regulation of the industry, development of deep seabed mining is likely to take place with little regard for the environment.

The bill I am introducing today considers all of these aspects. First, it is internationalistic. It is transitional and expresses support for the successful conclusion of a law of the sea agreement. At the same time, however, it indicates what the bottom line for the United States should be in that agreement with respect to deep seabed mining. It makes no claims of extraterritorial sovereignty and clearly states that until a new agreement is reached, such mining activities are entirely legal as freedom of the high seas. The bill also prohibits commercial recovery before January 1980.

Second, it establishes a regulatory system for the orderly development of the deep seabed mining industry applicable to U.S. citizens, and recognizing similar activities by reciprocating States.

Third, it provides for the acceleration of environmental assessment programs and regulation of mining activities for protection of the environment.

Fourth, it establishes a risk-sharing program which provides minimal compensation for some investment losses that may be caused by the future agreement of the United States to a new international regime. It also establishes a program to explore additional sources of financing and insurance for losses beyond those covered by the program.

I believe that the time has come for us to move ahead on deep seabed mining legislation. Such action is necessary not only for protection of the environment and the orderly development of a new industry, but it will also provide a stronger negotiating position for our delegation to the Law of the Sea Conference, by demonstrating to the ideologists in the developing world that the United States is determined to move ahead with or without them, and that in order for them to share in the benefits of the common heritage of mankind, their cooperation will be necessary.

I welcome the participation of my colleagues in exploring the avenues I have suggested in this bill as well as any others they may envision. I urge them also to recognize the importance of moving ahead on this legislation now.

I ask unanimous consent that the text of the bill along with a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Transitional Deep Ocean Mining Act".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the United States' requirements for hard minerals to satisfy national needs, will continue to expand and that the demand for such minerals will evenutally exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and that the acquisition of such minerals from foreign sources is a significant factor in the national balance-of-payments position;

(3) it is in the national interest of the United States that hard mineral resources be available which are independent of the export policies of foreign nations;

(4) there is an alternate source of supply of certain hard minerals, including nickel, copper, cobalt, and manganese, which may be significant in relation to national needs, contained in the nodules existing in great abundance on the deep seabed;

(5) major deposits of such nodules have been proven to exist in areas of the deep seabed which are seaward of the limits of national resource jurisdiction recognized by international law;

(6) at the present time the United States is engaged in international negotiations to formulate a comprehensive Law of the Sea Treaty;

(7) it is in the national interest of the United States to encourage a widely acceptable Law of the Sea Treaty which will provide a new legal order for the oceans covering a broad range of United States' ocean interests, including deep seabed mining;

(8) with respect to deep seabed mining, in addition to providing for development of the resources of the deep seabed as the common heritage of mankind, an acceptable treaty must also fully protect assured and nondiscriminatory access to the resources of the deep seabed by all nations and an adequate environmental regulatory regime;

(9) the environmental effects of deep seabed mining are poorly understood, and in the interest of compliance with the National Environmental Policy Act of 1969 it is important that the program of environmental assessment of deep seabed mining be accelerated;

(10) it is in the national interest, and in the international interest in early derivation of benefits from development of the common heritage of mankind, that the United States maintain a strong and innovative deep seabed mining industry;

(11) various United States' mining companies are engaged in developing the technology necessary for the commercial recovery and processing of nodules;

(12) given the necessary investment and working climate, some United States mining companies are prepared to undertake programs for the commercial recovery and processing of hard minerals from the deep seabed;

(13) in the absence of domestic legislation, such mining may not be conducted in an orderly manner or with regard to its environmental impact; and

(14) until such time as an internationally agreed regime is adopted for the United States as part of an international agreement, deep seabed mining remains a freedom of the high seas, subject to a duty of reasonable regard to the interests of other states in their exercise of this and other freedoms recognized by the general principles of existing international law.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to encourage conclusion of a comprehensive Law of the Sea Treaty giving effect to the principle of the common heritage of mankind which assures among other things, access to the hard mineral resources of the deep seabed by all nations while equitably providing benefits for developing nations;

(2) pending an acceptable Law of the Sea Treaty, to preserve the right of access to the resources of the deep seabed by all nations, by reaffirming the international legal position that mining the deep seabed beyond the limits of national jurisdiction is a present high seas freedom;

(3) to accelerate the program of environmental assessment of ocean mining and to establish the necessary environmental regulations to insure protection of the marine environment in any area affected by such mining operations pending regulation under an internationally agreed regime; and

(4) to establish a transitional program to encourage and regulate the development of the hard mineral resources of the deep seabed by United States citizens, pending the entering into force with respect to the United States of a superseding international agreement relating to such activities.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(a) "Secretary" means the Secretary of Commerce;

(b) "deep seabed" means the seabed, and the subsoil thereof, lying seaward and outside the continental shelf of any nation;

(c) "continental shelf" means, until such time as a new definition of the limits of national jurisdiction over seabed mineral resources of the continental margin is agreed as part of a comprehensive law of the sea treaty, the "continental shelf" as defined in the 1958 Geneva Convention on the Continental Shelf;

(d) "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate (without regard to profit or loss) for the primary purpose of marketing or commercially using such resource; and, if such recovered resource will be processed at sea, such processing;

(e) "exploration" means—

(A) any onsite observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, and tenor of a hard mineral resource, and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, installation, and testing of equipment which is intended to be used in the commercial recovery of such resource.

(f) "development" means exploration and commercial recovery;

(g) "hard mineral resource" means any deposit or accretion on, or below the surface of the deep seabed which contains one or more minerals;

(h) "international agreement" means any convention which may be adopted by a United Nations Conference on the Law of the Sea, relating to (among other matters), and establishing an international regime for the regulation of, the development of hard mineral resources of the deep seabed;

(i) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States and the Trust Territory of the Pacific Islands;

(j) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 percent of the interest of therein owned by citizens of the United States and seventy-five percent of the interest in the

corporation shall not be deemed to be owned by citizens of the United States—

(1) if the title to 75 percent of its stock is not vested in such citizens free from any trust of fiduciary obligation in favor of any person not a citizen of the United States;

(2) if 75 percent of the voting power in such corporation is not vested in citizens of the United States;

(3) if through any contract or understanding it is so arranged that more than 25 percent of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(4) if by any other means whatsoever control of any interest in the corporation in excess of 25 percent is conferred upon or permitted to be exercised by any person who is not a citizen of the United States; and

(k) "reciprocating state" means any foreign nation designated as such by the President.

INTERNATIONAL OBJECTIVES OF THIS ACT—DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY

SEC. 4. (a) By enactment of this Act, the United States exercises its jurisdiction to regulate United States citizens in the carrying out of development of hard mineral resources of the deep seabed but does not thereby assert sovereignty or sovereign rights over, or the ownership of, any areas of the deep seabed.

(b) The Secretary of State is encouraged to carry out United States ocean policy by concluding a comprehensive law of the sea treaty meeting vital United States ocean needs which, among other things, provides access to deep seabed resources for all nations and implementing the principle that the resources of the deep seabed shall be developed as the common heritage of mankind.

(c) As part of any such treaty agreement, the Secretary of State is directed to seek protection for investments for deep ocean mining development made by U.S. mining firms prior to conclusion of such treaty.

(d) Until such a comprehensive agreement can be concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the marine environment from adverse impacts that may be created by deep seabed mining operations carried out by persons not subject to this Act.

SEC. 5. Prohibited Activities by United States Citizens.

(a) IN GENERAL—

Pending an international agreement binding on the United States and providing a comprehensive regime for deep seabed mining, no person subject to the jurisdiction of the United States shall engage directly or indirectly in exploration or commercial recovery without complying with the environmental criteria and/or regulations issued pursuant to this Act and unless authorized to do so—

(1) under a license for exploration or permit for commercial recovery issued under this Act;

(2) under a license, permit, or equivalent authorization issued by a reciprocating state.

(b) EXISTING EXPLORATION—Subsection (a) (1) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the date of the enactment of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license with respect to such exploration within such reasonable period of time, after the date on which initial regulations are issued, as the Secretary shall prescribe; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of the issuance of such license. The timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license. In any case in which more than one application referred to in paragraph (1) is filed with respect to all or part of the same area of the deep seabed, the Secretary shall, in taking action on such applications, apply principles of equity based on the date on which the applicants commenced exploration activities and the amount of funds expended with respect to such activities by each applicant regarding the area concerned.

(c) INTERFERENCE—No United States citizen may engage in development or other activities that unreasonably interfere with lawful uses of the high seas by others, or that would contravene any obligation of the United States pursuant to an international agreement.

(d) EXCEPTIONS—The prohibitions of subsection (a) shall not apply with respect to any of the following activities carried out by any United States citizen:

(1) Scientific research with respect to hard mineral resources.

(2) The taking of any geophysical or geochemical measurements, or random bottom samplings, of the deep seabed; if such taking does not significantly alter the surface or subsurface of the deep seabed.

(3) The design, construction, or testing of equipment and facilities which will or may be used in support of any exploration or commercial recovery operation engaged in by a licensee or permittee.

(4) The furnishing of machinery, products, supplies, services, or materials in support of any exploration or commercial recovery operation engaged in by a licensee or permittee.

(e) This section shall apply to all persons subject to the jurisdiction of the United States whether or not their operations are based abroad or are conducted under a foreign flag.

ENVIRONMENTAL CRITERIA AND REQUIREMENTS

SEC. 6. (a) Environmental Assessment Program—the Secretary shall accelerate the program of environmental assessment of deep seabed mining with a view to ascertaining the environmental impact of such mining, including associated retrieval and processing, both seabased and landbased, at the earliest possible time.

(b) Impact Statement and General Criteria—The Secretary shall accelerate preparation of a general programmatic environmental impact statement for deep seabed mining pursuant to the National Environmental Policy Act of 1969. Such impact statement shall be prepared within one year after the effective date of this Act. In addition, based upon appropriate studies, the Secretary shall establish general criteria, if necessary, to be effective until the detailed regulations pursuant to subsection (c) of this section can be issued, for the carrying out of deep seabed mining operations in a manner that will ensure the maximum protection of the marine environment.

(c) Regulations—Based on the assessments and environmental impact statement developed under subsection (a) and (b) of this section, the Administrator of the Environmental Protection Agency in cooperation with the Secretary, the Secretary of State, officials of other appropriate Federal agencies, and representatives of affected industry and environmental groups, and pursuant to section 553 of title 5, United States Code shall prepare and promulgate (and thereafter from time to time revise) regulations as may be needed and appropriate for the carrying out of deep seabed mining operations in a manner that will ensure the maximum protection of the marine environment from damage which may result from such operations, including associated retrieval and processing, both seabased and landbased. Such regulations shall remain in effect until a comprehensive law of the sea treaty with adequate environmental provisions can be brought into effect or provisionally applied by the United States. Such regulations shall:

(1) implement the general criteria established by the Secretary under subsection (b) of this section;

(2) be based upon utilization of the best available technology that is economically feasible; and

(3) be accompanied by an environmental impact statement;

(4) include—

(A) such notification requirements as are necessary and appropriate to ensure that the Secretary and the Administrator of the Environmental Protection Agency are timely advised by each ocean mining firm of the location, nature and extent of each such operation being engaged in;

(B) such reporting requirements with respect to the actual or potential effect of any such operation on the marine environment, including appropriate baseline date and routine monitoring information as the Administrator of the Environmental Protection Agency shall deem appropriate, and,

(C) requirements that each mining firm permit employees of the National Oceanic and Atmospheric Administration or the Environmental Protection Agency, or both, to be aboard vessels engaged in ocean mining operations for purposes of monitoring, performing tests and sampling, and carrying out such other duties as the Secretary and the Administrator of the Environmental Protection Agency may specify for purposes of ensuring compliance with the regulations issued to carry out this section.

(d) The Secretary of State is encouraged to work within the Law of the Sea Conference to seek international agreement on environmental provisions consistent with this Act.

(e) As soon as feasible the Administrator of the Environmental Protection Agency in cooperation with the Secretary shall begin preparation of comprehensive national environmental regulations for deep seabed mining designed to implement the provisions of any new international regime that may be established as part of a Law of the Sea Treaty and to supplement the environmental regulations which are established by such an international regime as needed and appropriate in light of the criteria and regulations referred to in subsection (b) and (c) of this section, for persons engaged in ocean mining subject to United States jurisdiction. Such regulations shall be prepared and promulgated pursuant to the procedures in subsection (c) of this section and shall be brought into effect as soon as practicable after an international regime is brought into force for the United States.

LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY

SEC. 7. (a) AUTHORITY TO ISSUE.—Subject to the provisions of this Act, the Secretary shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this Act shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Secretary to carry out the provisions of this Act, and the specific terms, conditions, and restrictions applied with respect to the license or permit by the Secretary and the Administrator of the Environmental Protection Agency.

(2) Any license for exploration or permit for commercial recovery issued under this Act shall be exclusive with respect to the holder thereof as against any other United

States citizen or any citizen, national, or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating State.

(c) STATUTORY RESTRICTIONS AND CONDITIONS—(1) The Secretary may not issue—

(A) any license for exploration or any permit for commercial recovery after the date on which an international agreement enters into force with respect to the United States;

(B) a permit authorizing commercial recovery within any area of the deep seabed to other than the licensee for such area;

(C) any permit which authorizes commercial recovery before January 1, 1980;

(D) any license for exploration of, or any permit for commercial recovery within, any area of the deep seabed if, within the 3-year period before the date of application of such license or permit, the applicant therefor surrendered or relinquished such area under a previous license or permit issued to him or such area was covered under a license or permit previously issued to such applicant and such license or permit was revoked under section 8; or

(E) any license for exploration of, or permit for commercial recovery within, any area of the deep seabed which is covered by any pending application to which priority of right for issuance applies under section 7(e); or which is covered by any license, permit, or equivalent authorization issued by a reciprocating State.

(d) APPLICATIONS.—(1) Any United States citizen may apply to the Secretary for a license for exploration.

(2) Any licensee may apply to the Secretary for a permit for commercial recovery.

(3) Applications for such licenses and permits shall be made in such form and manner as the Secretary shall by regulation prescribe, and shall contain such relevant financial, technical, environmental, and other information, as the Secretary may by regulation require as being necessary or appropriate to make determinations under subsection (f) with respect to applications.

(e) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 7(b) priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements prescribed under subsection (d)(3), are filed with the Secretary. Priority of right shall not be lost in the case of any application filed which is not in full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Secretary shall provide.

(f) ACTION ON APPLICATIONS.—(1) Before the Secretary may approve any application for a license or permit, the Secretary must determine that—

(A) the applicant is financially responsible to meet all obligations which may be required to engage in exploration or commercial recovery, as the case may be, proposed in the application;

(B) the applicant has the technological capability to engage in such exploration or commercial recovery; and

(C) the exploration or commercial recovery activity proposed in the application will not—

(i) unreasonably interfere with the interests of other States in their exercise of the freedoms of the high seas, as recognized under the general principles of international law,

(ii) conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, and

(iii) pose an unreasonable threat to the quality of the environment, and in making such determination the Secretary shall take into account the programmatic environmental impact statement prepared under section 6(b).

(2) Upon making the determinations required under paragraph (1) with respect to any applicant and the exploration or commercial recovery proposed by such applicant, and payment by the applicant of the fee required under subsection (h), the Secretary shall approve the application.

(g) TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After approving any application for a license or permit under subsection (f) the Secretary shall establish terms, conditions, and restrictions that are consistent with the criteria set forth in section 9(b) and 6(b) and (c) with respect to the carrying out of the exploration or commercial recovery proposed in the application for the license or permit.

(2) The Secretary shall provide to each applicant a written statement of the terms, conditions, and restrictions established by the Secretary under paragraph (1). The applicant shall be deemed to have accepted such terms, conditions, and restrictions if the applicant does not notify the Secretary, before the close of the 60-day period beginning on the day on which the written statement is provided to the applicant, of each term, condition, or restriction with respect to which the applicant takes exception. If the Secretary and the applicant are thereafter unable to resolve their differences with respect to any term, condition, or restriction to which the applicant has taken exception, the applicant is entitled to an adjudication on the record after opportunity for agency hearing with respect to such term, condition, or restriction. Any determination made by the Secretary pursuant to such adjudication is subject to judicial review as provided for in chapter 7 of title 5, United States Code.

(3) Upon acceptance by the applicant for any license or permit of the terms, conditions, and restrictions established by the Secretary under paragraph (1) (which terms, conditions, and restrictions shall be incorporated as a part of the license or permit), the Secretary shall issue the license or permit to the applicant.

(h) FEES.—No application for a license or permit may be approved under this section unless the applicant pays to the Secretary an administrative fee. The amount of the administrative fee imposed by the Secretary on any applicant shall, to the extent ascertainable, reflect the reasonable administrative costs incurred by the Secretary in processing the application.

(i) MODIFICATION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance of any license or permit, the Secretary may modify any term, condition, or restriction in such license or permit if he finds that such modification is necessary to—

(A) avoid unreasonable interference with the interests of other States in their exercise of the freedoms of the high seas, as recognized under the general principles of international law; and

(B) avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States; or

(C) protect the quality of the environment; if relevant data and other information (including, but not limited to, data resulting from the carrying out of exploration or commercial recovery operations under the license or permit) indicate that modification is required. Any modification under this subsection must be consistent with the criteria set forth in section 9(b) (8) or (9), as the case may be.

(2) No modification may be made under paragraph (1)(C) if the Secretary determines, on the basis of substantial evidence, that the potential injury to the environment from the proposed modification outweighs the national interest in obtaining hard mineral resources from the area which is covered by the license or permit.

(3) The procedures set forth in subsection (g)(2) shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Secretary.

(4) The Secretary may suspend any license or permit issued under this section if such suspension is necessary—

(A) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States; or

(B) in the interests of national security as determined by the president.

The procedures set forth in section 8 shall apply with respect to any suspension under this subparagraph.

DENIAL OF APPROVAL OF APPLICATIONS AND SUSPENSION AND REVOCATION OF LICENSES AND PERMITS

SEC. 8. (a) DENIAL, SUSPENSION, AND REVOCATION.—(1) The Secretary may—

(A) deny approval of any application made for a license or permit if the Secretary finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 7(f)(1); and

(B) In addition to, or in lieu of, the imposition of any civil penalty under section 14(a), or in addition to the imposition of any fine under section 14, suspend or revoke any license or permit issued under this section if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit.

(2) No action may be taken by the Secretary to deny approval of any application or to suspend or revoke any license or permit unless—

(A) the Secretary gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, or revoke and the reason therefor, and

(B) if the reason for the proposed denial, suspension, or revocation is a deficiency which the applicant, licensee, or permittee can correct, the Secretary gives the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice (or such longer period as the Secretary may establish for good cause shown), to correct such deficiency.

(3) The Secretary shall deny approval of any application and suspend or revoke any license or permit—

(A) on the 30th day after the date of the notice given to the applicant, licensee, or permittee under paragraph (2)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, or revocation; or

(B) on the last day of the period established under paragraph (2)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATIVE REVIEW OF DENIAL OR PROPOSED SUSPENSION OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial or a proposed suspension or revocation of a license or permit, is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON OPERATIONS.—The issuance of any notice of proposed suspension or revocation shall not affect the continuation of exploration or commercial recovery operations by the licensee or permittee under the

license or permit unless the Administrator of the Environmental Protection Agency determines, and issues an emergency order declaring, that such operations, if continued, will cause an unreasonable threat to the quality of the environment by creating significant injury to that environment, or would be contrary to the national interest.

(d) JUDICIAL REVIEW.—Any determination of the Secretary under subsection (b) to deny approval of any application or to suspend or revoke any license or permit is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code.

REGULATIONS

SEC. 9. (a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, but not later than January 1, 1980, the Secretary shall issue such regulations, in addition to the regulations referred to in subsection (b), as are necessary and appropriate to carry out this Act, or to implement the provisions of an international agreement which enters into force for the United States.

(b) REGULATIONS RELATING TO LICENSES AND PERMITS.—The Secretary shall issue such regulations as may be necessary and appropriate relating to procedural matters pertaining to the issuance, denial, suspension, and revocation of licenses and permits under sections 7 and 8, and shall issue regulations consistent with the following criteria (which criteria shall be applied uniformly by the Secretary in establishing the terms, conditions, and restrictions imposed with respect to each such license and permit):

(1) SIZE OF AREA OF EXPLORATION OR COMMERCIAL RECOVERY.—(A) The Secretary shall determine and specify in each license or permit the size of the area of the deep seabed in which the licensee or permittee may undertake exploration or commercial recovery. The size of any area shall be neither smaller nor larger than necessary to satisfy the following objectives:

(i) The area for exploration shall be sufficient to allow for intensive exploration activities (but may not exceed twice the size of the estimated area in which commercial recovery may be undertaken).

(ii) The area for commercial recovery shall be sufficient to satisfy the permittee's stated production requirements over the term of the permit, taking into account the state of the technology then available for ocean mining and the relevant physical characteristics of the area.

(B) When a licensee obtains a permit for commercial recovery, the area not covered by the permit shall be relinquished.

(2) The Secretary shall specify in each license or permit the location of the area of the deep seabed in which the licensee or permittee may undertake exploration or commercial recovery, based upon the request of the applicant subject to the restrictions of section 7(f).

(3) DURATION.—(A) The term of any license shall be of sufficient duration to allow for a thorough survey of the area of the deep seabed covered by the license and the design, construction, and testing of prototype mining equipment for the area and of prototype processing facilities.

(B) The term of any permit shall be of sufficient duration to allow for commercial recovery of the hard mineral resources in the area which is authorized to be recovered under the permit (which duration shall be based upon related factors such as the depletion of the hard mineral resources within the area concerned, the useful life of the mining equipment and processing facilities, and commercial viability) and shall include a reasonable period of time for the construction of commercial scale mining and processing systems.

(4) PERFORMANCE REQUIREMENTS.—(A) Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Secretary shall establish, taking into account the size of the area of the deep seabed covered by the license and the amount of funds which is estimated by the Secretary to be required to commence commercial recovery of hard mineral resources within the area within the time limit established by the Secretary (except that such required expenditures shall not be established at a level which would discourage explorations by persons with less costly technology than is prevalently in use).

(B) The Secretary shall establish with respect to each license a maximum time interval after exploration is completed within which commercial recovery must commence. Such interval shall take into account the time necessary for the construction of the mining and processing system, with allowance made for unavoidable delays in such construction.

(C) Once commercial recovery commences, the Secretary shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit.

(5) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(A) surrender a license or a permit issued to him; or

(B) relinquish in whole or in part, any area of the deep seabed covered by the license or permit.

Any licensee or permittee who surrenders a license or permit, or relinquishes any area of the deep seabed, shall remain liable with respect to all violations and penalties incurred by him, and damages to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(6) RECORDS AND AUDITS.—(A) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Secretary shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for development and onshore processing of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the licensee or permittee that are necessary and pertinent to verify the expenditures referred to in subparagraph (A).

(7) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Secretary such necessary and reasonable data or other information as the Secretary may need for purposes of making determinations with respect to the issuance, denial, or revocation of any license or permit; complying with the reporting requirement in section 9(7) and evaluating the exploration or commercial recovery operations engaged in by the licensee or permittee.

(8) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Secretary containing data or information required under this title shall be made available to the public, upon identifiable request therefor, at reasonable cost, unless—

(A) such data or information relates to trade secrets or other confidential matter referred to in section 1905 of title 18 of the United States Code; or

(B) the public release of such data or information is prohibited under any provision of law, including, but not limited to, section 552(b) of title 5 of the United States Code.

(9) PREVENTION OF INTERFERENCE WITH REASONABLE USES OF THE HIGH SEAS.—Each license and permit shall include such restrictions as may be necessary and appropriate to insure that exploration or commercial recovery operations carried out by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under the general principles of international law.

(10) PROTECTION OF THE ENVIRONMENT.—Each license and permit shall contain such terms, conditions, and restrictions with respect to the carrying out of exploration and commercial recovery operations authorized thereunder as are necessary to protect the quality of the environment through utilization of the best available technology that is economically achievable. Such terms, conditions, and restrictions shall be established by the Administrator of the Environmental Protection Agency in coordination with the Secretary, taking into account the information contained in the environmental assessment and environmental impact statement prepared pursuant to Section 6.

(11) NAVIGATIONAL SAFETY.—Each license and permit shall contain such terms, conditions and restrictions for navigational safety which the Secretary in consultation with the Secretary of the Department in which the Coast Guard is situated, shall determine are necessary for the promotion of safety of life and protection of property at sea, subject to general principles of international law.

APPLICATION OF CERTAIN LAWS

SEC. 10. For purposes of the laws of the United States relating to export control, customs, duties, and taxes, all hard mineral resources recovered under the authority of a permit for commercial recovery issued under section 7 of this Act shall be deemed to have been recovered within the United States. In the administration of such laws, there shall be no discrimination between hard mineral resources recovered under any such permit and similar minerals recovered within the United States.

RECIPROCATING STATES

SEC. 11. (a) DESIGNATION.—The President may designate any foreign nation as a reciprocating state if the President finds that such foreign nation—

(1) regulates the carrying out of development of hard mineral resources of the deep seabed in a manner comparable to that provided for in this Act and the regulations and environmental criteria issued thereunder;

(2) recognizes existing licenses and permits issued under this Act to the extent that such nation prohibits any person engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit; and

(3) recognizes, under its procedures, priorities of right for applications for licenses or permits that are consistent with those provided for in this Act and the regulations issued thereunder.

(b) EFFECT OF DESIGNATION.—If any foreign nation is designated as a reciprocating state under subsection (a), no license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by such reciprocating state.

TRANSITION TO AN INTERNATIONAL REGIME

SEC. 12. At such time as an international agreement providing for establishment of an international regime for the development of the resources of the deep seabed becomes legally binding on the United States or is provisionally applied for the United States, this Act will be superseded by such regime or application. Any provision of this Act or any regulation issued thereunder, which is not inconsistent with such international agreement shall continue in effect with re-

spect to United States citizens. The Administrator of the Environmental Protection Agency shall assure that environmental regulations and criteria established pursuant to section 6 are modified, if necessary, to be compatible within the international regime, however, such regulations and criteria shall remain in effect until environmental regulations are issued under the international regime as referred to in subsection 6(e) of this Act.

RISK SHARING PROGRAM

SEC. 13. (a) DEFINITION.—For purposes of this section, the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase of equipment, facilities, and service utilized for exploration, commercial recovery, and the onshore processing in the United States of hard mineral resources, if such expenditure is made, or such obligation is incurred, on or after the date of the enactment of this Act. Such term does not include (1) funds expended for research on, and the development, testing, and evaluation of, the technology necessary for such exploration, recovery, or processing; or (2) the potential value of hard mineral resources.

(b) IN GENERAL.—(1) Any licensee or permittee who is a citizen of the United States who suffers loss of investment by reason of the entering into force with respect to the United States of an international agreement is, if eligible therefore under subsection (c), entitled to compensation of such loss in accordance with this section.

(c) ELIGIBILITY.—(1) Except as provided in paragraph (2), any licensee or permittee who is a citizen of the United States is eligible for compensation under this section if—

(A) the license or permit was issued under this Act before, and is in effect on, the date on which an international agreement enters into force with respect to the United States;

(B) by reason of the agreement so entering into force, or the later implementation of the provisions of such agreement—

(i) such license or permit is rendered void, or

(ii) such licensee or permittee is permitted to continue exploration or commercial recovery but under terms and conditions not substantially the same as the terms and conditions of such license or permit;

(C) such licensee or permittee suffers a loss of investment as a result of the circumstance described in subparagraph (b) (i) or (ii); and

(D) such licensee, or such permittee while a licensee, elected under subsection (h) to pay annual compensation premiums, has paid all such premiums assessed against him by the Secretary, and has not rescinded such election.

(2) No permittee is eligible for compensation under this section if the permittee has held such permit for ten years or more before the date on which an international agreement enters into force with respect to the United States.

(d) ACTION FOR COMPENSATION.—Any licensee or permittee who is eligible under subsection (c)(1) may institute an action against the United States in an appropriate district court of the United States for a determination of the amount of compensation to which he is entitled under this section. No such action may be instituted by any licensee or permittee after the close of the ten-year period beginning on the day on which an international agreement enters into force with respect to the United States.

(e) DETERMINATION OF THE AMOUNT OF COMPENSATION.—(1) The amount of compensation to which any licensee or permittee is entitled under this section shall be an amount equal to the amount of the loss of investment suffered by such licensee or permittee; except that no licensee or permittee is entitled to compensation under this section exceeding 50 percent of the investment or $200,000,000, whichever is less, for the loss of investment incurred with respect to the development of, and the onshore processing of hard mineral resources from, the same area of the deep seabed covered by his license or permit, or both.

(2) In determining the actual loss of investment of any licensee or permittee for purposes of this section, the court shall offset against the investment made by such licensee or permittee amounts equal to—

(A) the remaining commercial market value of the equipment, facilities, materials, and supplies used in exploration or commercial recovery under the license or permit and the onshore processing of hard mineral resources so recovered; and

(B) After tax revenues, other tax benefits, and any compensation received incident to such exploration, commercial recovery, and processing.

(3) No compensation shall be awarded under this section for any element of loss incurred by any licensee or permittee in carrying out exploration or commercial recovery operations under a license or permit or onshore processing of hard mineral resources so recovered if such loss is attributable to failure of technology, variation in market values of recovered hard mineral resources, force majeure, administrative fees paid under section 7(h) or events which are within the coverage of usual and customary insurance or for which remedy may be available under the admiralty laws.

(f) JURISDICTION.—United States district courts shall have original jurisdiction of cases and controversies involving claims for compensation under this section, without regard to the diversity of citizenship or amounts involved. Proceedings with respect to any such claim may be instituted in the judicial district in which the defendant resides, or may be found, or in the judicial district nearest the place where the cause of action arose.

(g) PAYMENT OF COMPENSATION.—The amount of each final award of compensation made under this section shall be certified by the court concerned to the Secretary who shall pay such award from the Ocean Mining Risk Sharing Fund established under subsection (h).

(h) OCEAN MINING RISK SHARING FUND AND ANNUAL COMPENSATION PREMIUMS.—(1) There is established in the Treasury of the United States the Ocean Mining Risk Sharing Fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary as a revolving fund for purposes of paying compensation which is awarded to licensees and permittees under this section. The fund shall consist of—

(A) any sums appropriated to the fund;

(B) any annual compensation premiums deposited by the Secretary under subparagraph (3); and

(C) any interest earned on sums invested pursuant to the last sentence of this paragraph.

Compensation shall be paid by the Secretary from the fund only to the extent provided for in appropriation Acts. Sums in the fund which are not currently needed for the payment of compensation shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(2)(A) Under such procedures as the Secretary shall establish, each United States citizen whose application for a license is approved under section 7(f) shall be allowed an opportunity, before the license is issued, to elect whether or not to pay annual compensation premiums with respect to the license and to the permit which may thereafter be issued with respect to the same area of the deep seabed. Any election not to pay such premiums is irrevocable. Any election to pay such premiums may be rescinded at any time; except that such rescission is irrevocable and does not entitle the licensee or permittee to a refund of any premiums paid before rescission.

(B) Each licensee who so elects, and each permittee who so elected while a licensee, shall pay to the Secretary for each calendar year, or part thereof, in which the license or permit is in effect an annual compensation premium the amount of which shall be determined by the Secretary; except that the amount of any annual compensation premium assessed against any licensee or permittee for any calendar year may not be less than one-quarter, nor more than three-quarters, of 1 percent of the value of the investment of the licensee or permittee as of the close of the calendar year immediately preceeding the calendar year for which the premium is assessed.

(C) all annual compensation premiums collected by the Secretary under this paragraph shall be deposited into the fund.

(3) If any moneys remain in the fund after all awards of compensation under this section are paid, the Secretary shall transfer all such moneys to the general fund of the Treasury and shall close the fund.

(4) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the provisions of this subsection.

(5) The Secretary shall cooperate with the deep seabed mining industry to seek secondary sources of non-government financed insurance for compensation for investment losses beyond those covered by this section.

PENALTIES

SEC. 14. (a) CIVIL PENALTIES.—(1) Any person subject to the jurisdiction of the United States who violates any provision of this Act, or any rule or regulation issued pursuant thereto, shall be liable to a civil penalty of $50,000 for each day during which the violation continues. The penalty shall be assessed by the Secretary who in determining the amount of the penalty, shall consider the gravity of the violation, any prior violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of the violation. No penalty may be assessed until the person charged shall have been given notice of the violation involved, and an opportunity for a hearing. For good cause shown, the Secretary may remit or mitigate any penalty assessed. Upon failure of the person charged to pay an assessed penalty, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty wihout regard to the amount involved, together with such other relief as may be appropriate.

(b) CRIMINAL PENALTIES.—In addition to any other penalty, any person subject to the jurisdiction of the United States who willfully and knowingly violates any provision of this Act, or any rule or regulation issued pursuant thereto, shall be punished by a fine or not more than $250,000 for each day during which such violation continues.

(c) LIABILITY OF VESSELS.—Any vessel, except a public vessel engaged in noncommercial activities, used in a violation of this Act, or any rule or regulation issued pursuant thereto, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but, no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charters was, at the time of the violation, a consenting party, or privy to such violation.

(d) ENFORCEMENT.—The provisions of this Act, any regulation issued pursuant to this Act, and any term, condition, and restriction of any license or permit issued under section 7 shall be enforced by the Secretary. The

Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency in the performance of such duties. The Secretary shall issue such regulations as may be necessary and appropriate to carry out the Secretary's enforcement duties under this section.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 15. (a) FOR ADMINISTRATION.—There are authorized to be appropriated such sums as may be necessary for the administration of this Act.

(b) FOR COMPENSATION.—To the extent that the moneys in the Ocean Mining Risk Sharing Fund established under section 13 (h) are not sufficient to pay compensation awarded under section 13, there are authorized to be appropriated to such fund such sums as may be necessary for such payments.

EFFECTIVE DATE: SEPARABILITY

SEC. 16. This Act shall take effect on the date of its enactment. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

DETAILED EXPLANATION OF THE TRANSITIONAL DEEP OCEAN MINING ACT

Sections 1 through 3 state the Findings, Purposes and Definitions pertaining to the bill.

Section 4 describes the international objectives of the Act which are:

(1) to regulate the deep ocean mining activities of persons subject to the jurisdiction of the United States without claiming sovereignty over any portion of the deep seabed that is beyond the limits of national jurisdiction;

(2) to encourage a more permanent program for the development of deep seabed mining as the common heritage of mankind through a law of the sea treaty which will consider all United States ocean interests. With respect to deep seabed mining it encourages an agreement that includes assured access to the resources of the deep seabed for all nations and grandfather rights for existing mining operations;

(3) until a treaty agreement is reached, the Secretary of State is encouraged to promote any international agreements necessary for protection of the environment from persons engaged in deep seabed mining but not subject to this Act.

Section 5 states that until an international agreement is reached, no persons subject to the jurisdiction of the United States may engage in deep seabed mining without obtaining a license or permit from the Secretary of Commerce. Exceptions are made for scientific research and some kinds of testing and support services. In addition, no persons subject to the jurisdiction of the United States may engage in deep seabed mining activities that interfere with other lawful uses of the high seas. These prohibitions apply to all persons subject to the jurisdiction of the United States regardless of the location of their operations or state of registry of their vessels.

Section 6 details environmental regulations for deep seabed mining. If provides for the acceleration of environmental assessment programs for retrieval and processing operations, both landbased and sea based. It requires the Secretary of Commerce to prepare a programmatic Environmental Impact Statement within one year of the enactment of the Act and to establish general criteria for the protection of the environment from the effects of deep seabed mining activities which will be effective until the detailed regulations can be issued.

In cooperation with the Secretary of Commerce, other agencies and affected environmental and industry groups, the Administrator of the Environmental Protection Agency is directed to establish detailed environmental regulations, which are to be accompanied by an Environmental Impact Statement, as soon as possible.

The Secretary of Commerce may establish reporting and monitoring requirements to be carried out by the mining firms and may require government personnel to be carried by mining ships for collection of additional environmental information.

As soon as an international agreement is reached, the Secretary of Commerce is directed to begin any necessary preparations for implementing the new regime that may be established, supplementing international regulations, if necessary, to adequately protect that environment.

Section 7 describes the nature, conditions and restrictions on licenses and permits. Until an international agreement enters into force for the United States, the Secretary of Commerce may issue licenses for exploration and permits for commercial recovery of deep seabed minerals. However, no commercial recovery can be authorized before January 1, 1980 and commercial recovery cannot be authorized for an area to anyone who does not hold a license for that area. Priority of right shall be allowed to persons who are engaged in mining activities at the time of enactment of the Act, and priorities for subsequent applications shall be determined chronologically. Provisions are made for collection of reasonable administrative application fees, and procedures and causes for modification of license and permit conditions and terms are established.

Section 8 details the grounds and procedures for denial of applications and revocation of licenses and permits.

Section 9 provides for the issuance of regulations for deep seabed mining either for carrying out the purposes of the Act or implementing the provisions of an international agreement, by the Secretary of Commerce, no later than January 1, 1980. The regulations, which must be uniformly applied, will establish the sites of the areas to be covered and the duration of the licenses and permits as well as performance requirements. Among other things, the regulations also establish record keeping procedures and the availability of information to the public and provides for participation of the Coast Guard is establishing navigational safety regulations.

Section 10 provides for the nondiscriminatory treatment of minerals recovered from the deep seabed for purposes of export control, customs and taxes.

Section 11 provides for the designation by the President of nations with similar deep mining regulation as reciprocating states. Licenses, permits or similar authorizations from reciprocating states will be recognized by the United States.

Section 12 provides for the transition to an international regime when such a regime becomes binding on the United States.

Section 13 establishes an optional Risk Sharing Program for recovery of certain investment losses by United States citizens that may result from the establishment of an international regime. License and permit holders will be eligible for participation in the program if they elect to participate and pay annual fees to be established by the Secretary of Commerce. The amount of compensation to be received will be determined by the district courts, based upon actual investment losses and will be limited to a maximum of 50% or $200,000,000, whichever is less.

In addition, the Secretary of Commerce is directed to cooperate with the deep seabed mining industry to seek additional sources of non-government financed insurance to cover losses not covered by the Risk Sharing Program.

Section 14 describes the civil and criminal penalties provided for noncompliance with the Act, and provisioned for enforcement.

Section 15 provides for funding authorization.

Section 16 provides for the effective date as the day of enactment, and separability.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Connecticut (Mr. WEICKER), to encourage the orderly development of deep ocean mining and to provide for environmental regulation of such mining pending adoption and transition to an international regime, be jointly referred to the Committees on Commerce, Science, and Transportation; Environment and Public Works; Foreign Relations; and Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 218

At the request of Mr. HANSEN, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 218, to establish a program of comprehensive medical and dental care.

S. 247

At the request of Mr. GOLDWATER, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 247, a bill to provide recognition of the Women's Air Forces Services Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans' Administration.

S. 418

At the request of Mr. BAYH, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 418, the Displaced Homemakers Act.

S. 694

At the request of Mr. KENNEDY, the Senator from New York (Mr. MOYNIHAN) and the Senator from Maryland (Mr. MATHIAS), were added as cosponsors of S. 694, a bill to adjust the status of Indochinese refugees to that of lawful permanent residents of the United States.

S. 995

At the request of Mr. WILLIAMS, the Senator from Iowa (Mr. CULVER) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 995, to amend the Civil Rights Act of 1964.

AMENDMENT NO 746 TO S. 1469

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of amendment No. 746, intended to be proposed to S. 1469, to establish a comprehensive national energy policy.

AMENDMENTS SUBMITTED FOR PRINTING

CONSUMER DEPOSIT SERVICES—S. 2055

AMENDMENT NO. 850

(Ordered to be printed and to lie on the table.)

Mr. MORGAN for himself, Mr. TOWER, and Mr. LUGAR) submitted an amendment intended to be proposed by them jointly to the bill (S. 2055) to provide improved consumer deposit services, to promote competitive balance among financial institutions, and to enhance the effectiveness of the Federal Reserve System.

COMPREHENSIVE NATIONAL ENERGY CONSERVATION POLICY—S. 2057

AMENDMENT NO. 851

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I submit an amendment for printing to S. 2057, the National Energy Conservation Policy Act, and I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 851

On page 50, between lines 13 and 14, insert the following new section:

AUTOMOBILE FUEL ECONOMY DISCLOSURE

SEC. 202. Not later than 6 months after the date of enactment of this Act, the Federal Trade Commission shall initiate a proceeding to prescribe rules requiring disclosure—

(1) of the applicable fuel economy rating, for each identifiable new automobile model which is required to be disclosed through labeling or otherwise by the manufacturer or importer pursuant to section 506 (a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), in any advertisement (whether in print or broadcast media or outdoors or at point of sale) that makes any representation, express or implied, with respect to fuel consumption, or cost of operation of such automobile; and

(2) in the owner's manual or similar notice device, (a) the minimum acceptable octane rating of gasoline used by such vehicle; and (b) information to assist the owner in saving fuel through proper self-maintenance and operating procedures.

The table of contents is amended by inserting immediately after

"Sec. 201. Amendment to part B of title III of Energy Policy and Conservation Act."

the following new paragraph:

"Sec. 202. Automobile fuel economy disclosure."

AMENDMENT NO. 852

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, a primary goal of the energy legislation before the Senate is to encourage energy conservation. The amendment which I offer is designed to increase industrial utilization of energy-saving recovered materials used in the wool textile industry.

It is well known that the use of recycled waste materials results in less air and water pollution and resolves problems of solid waste disposal. But more importantly, the use of these recoverable materials provides increasingly significant energy savings since their processing consumes less energy than that of virgin materials.

In the United States, the use of recycled wool materials is at a standstill. In 1976, only 7.3 percent of the 201.8 million pounds of fibers consumed in woolen system mills were recycled wool fibers. This low level of use has actually been declining. In 1973, 8.2 percent of the total woolen system consumption consisted of recycled wool fibers.

This is a direct result of the outdated Wool Products Labeling Act of 1939 which requires that any product that does not consist of virgin wool be labeled "reprocessed" or "reused." The negative connotation of these terms in the consumer's mind has proven to be a barrier to the wool industry's use of recycled materials.

The amendment I am offering would simply amend the Wool Products Labeling Act so that the terms "reprocessed wool" and "reused wool" are replaced by the term "recycled wool." Reprocessed or reused wool is recycled wool. The fibers are separated, completely reclaimed, and reconstituted into their original state as wool fibers.

Market experience indicates that some consumers read "reprocessed" as "repossessed" while still others believe that a fabric or garment labeled "reused" is itself reused, or secondhand. In fact, however, the fibers are completely recycled, restored to their original state as wool fibers, and then spun, woven, or felted into new fabrics which are then manufactured into apparel or other textile products. This is true of both cutting from apparel—"reprocessed wool"—and apparel which has been used by consumers—"reused wool." By combining these two categories into the single term "recycled," my amendment provides both a more accurate and understandable description of these products.

The use of recycled wool materials saves energy in three important ways. First, since the recovered wool materials have already been scoured, this process is eliminated and results in a savings of 6,000 Btu's for each pound of material. Second, the recycled fibers are presorted for color which eliminates the need for dyeing. This saves about 2,200 Btu's per pound. Last, the use of the recycled materials means that no energy is expended in disposing of the waste materials, an energy savings of 500 Btu's per pound.

Altogether, use of recycled wool materials represents a savings in energy of 8,700 Btu's per pound. In plain terms, this means that for every 13 pounds of recycled wool used, the equivalent of 1 gallon of gasoline is saved.

These recycled wools are used primarily in heavy winter clothing, gloves, caps, felts, blankets, carpets, and rugs. For the most part, these are products which the American consumer is increasingly relying upon as thermostats are turned down to cope with the energy crisis. It is clear that additional production of recycled wool products is needed to meet anticipated future demand for these products. I would also point out that increasing the availability of these products will help decrease our reliance upon synthetic—man-made fibers—which are highly dependent upon oil and gas in their production processes.

In recent years, widespread use of the term "recycled" in other industries such as paper and glass has increased consumer awareness of the inherent energy-saving advantages of recycled products. By encouraging the production and purchase of recycled wool products, this amendment is a meaningful step in the direction of energy conservation.

AMENDMENT NO. 853

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (S. 2057), supra.

NOTICES OF HEARINGS

PANAMA CANAL PACTS

Mr. SPARKMAN. Mr. President, on behalf of the Committee on Foreign Relations, I wish to announce that starting the week of September 26, the committee will begin hearings on the proposed Panama Canal treaties.

During that week, the committee has set aside 4 days to hear from top administration officials, leading off on the first day with Secretary of State Cyrus Vance, treaty negotiators Ellsworth Bunker and Sol Linowitz and U.S. Ambassador to Panama William Jorden.

On the second day, the committee will take testimony from Secretary of Defense Harold Brown; Chairman of the Joint Chiefs of Staff Gen. George S. Brown; Commander-in-Chief of the U.S. Southern Command Lt. Gen. D. P. McAuliffe; and Chief of Naval Operations Adm. James L. Holloway.

On the third day, the committee will hear from Attorney General Griffin Bell and State Department Legal Adviser Herbert Hansell, followed by Secretary of the Army Clifford Alexander and U.S. Governor of the Canal Zone Maj. Gen. H. R. Parfitt.

On the fourth and final day of this round of hearings, the committee will receive testimony on economic considerations from State Department Under Secretary Richard N. Cooper; Treasury Under Secretary Anthony Solomon; a spokesman for the Department of Transportation; and a spokesman for the Maritime Administration.

The precise dates and times during the week of September 26 for the appearance of these witnesses has yet to be determined.

The following week, on October 4 and 5, the committee will take testimony from Members of the House and Senate who wish to express their views on the proposed Panama Canal treaties.

Following these hearings and at a time yet to be determined, the committee will hear public witnesses on the proposed Panama Canal arrangements. Throughout the hearing process, the committee

will make a genuine effort to listen to all interested parties and endeavor to compile as complete and full a record as we can in order to guarantee to the Senate, the Congress, and the American people that every effort has been made to obtain all points of view on this very important, but highly controversial, issue.

Mr. President, in considering the Panama Canal agreements, the committee will pursue one clear course of action: to review fully the issues involved in the new Panama Canal pacts; to inform ourselves and the citizenry of the United States about those issues; and, in the final analysis, to give the Senate its best judgment on the proposed agreements.

HUMAN RESOURCES DEVELOPMENT ACT

Mr. JAVITS. Mr. President, I am pleased to announce today that on Tuesday, September 27, the Subcommittee on Employment, Poverty and Migratory Labor of the Human Resources Committee will conduct a day of hearings on S. 533, The Human Resources Development Act of 1977. I deeply appreciate the willingness of our distinguished chairman, Senator NELSON, to afford us this day of hearings when our schedule is so crowded. I introduced this bill on January 31, and have since been joined by Senators HATHAWAY and MATHIAS. The bill has been introduced in the House of Representatives by Mr. LUNDINE of Jamestown, N.Y., and many cosponsors. The House Banking Committee has already reported the bill and it is now awaiting action by the Education and Labor Committee.

Our bill is designed principally to authorize the Department of Labor to foster the establishment of plant-level labor-management committees in order to expand worker participation in decision-making on matters outside the purview of the collective bargaining process.

An example of the tremendous positive impact labor-management committees can have is the recent decision of the Carborundum Co. to undertake a major capital improvement program in Falconer, N.Y. The total cost of the project is expected to be about $5.1 million.

According to Carborundum officials, the Falconer plant's labor-management committee deserves much of the credit for this capital program. For what may be the first time in history, representatives of labor and management jointly presented the proposal to senior company officials. This joint presentation is, in the words of John Eldred, the Jamestown Area Committee Coordinator, "a breakthrough" in the field of labor-management cooperation.

I am convinced that this experience can be replicated throughout our country if we will provide the legislative authority to make available the necessary seed money for establishment of labor-management committees. In Buffalo, N.Y., the Buffalo-Erie County Labor-Management Council has been trying to obtain funding to expand its efforts, but so little money is available through EDA. If enacted, our bill would make possible more of these committees, and would place the U.S. Government squarely behind the principle of enlightened labor-management cooperation.

Mr. President, I ask unanimous consent to have included in the RECORD the Carborundum press release.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

LABOR-MANAGEMENT COOPERATION RESULTS IN CAPITAL INVESTMENT

Two years of cooperation between labor and management at the Falconer, New York plant of the Refractories Division of The Carborundum Company will culminate in groundbreaking ceremonies on August 15 for a major capital improvement program. When the project is completed in December 1979, Carborundum will have spent $5.1 million on a new plant layout, an 18,000 sq. ft. employee facility and office building, production and dust control equipment, a shipping facility, access road and railroad spur. The Falconer plant uses electric furnaces to produce molten cast refractory furnace linings for the glass and metallurgical industries.

The committee is the result of the efforts of the Falconer's plant's labor-management committee, a charter member of the Jamestown Area Labor Management Committee. Late in 1975, foremen, union officials and production workers were asked for suggestions to improve quality of working life, productivity and product quality. Of 200 recommendations received, Carborundum estimates that at least 75 percent will be incorporated into the plant design. Suggestions ranged from relocation of a machine to a complete departmental layout redesign.

A unique aspect of the project, according to G. Read Woodworth, Falconer Plant Manager and Clinton Alverson, President of Local 27 of the International Brotherhood of Firemen and Oilers, was the second step, union participation in presenting the project to Carborundum corporate officers for approval. In April, both management and labor, including representatives of the International Association of Machinists and Aerospace Workers, outlined the program to senior Carborundum officers including William H. Wendel, President of the Niagara Falls based company, in Falconer.

John C. Eldred, Coordinator of the Jamestown Area Labor Management Committee, said the joint presentation to a corporation is the most advanced level of cooperation he has encountered in labor-management relations. Eldred, who has researched similar programs throughout the U.S., said the experience at Carborundum's Falconer plant "extends the frontier of voluntary labor management cooperation in an unparalleled way, and is a breakthrough in this field."

Woodworth and Alverson believe the new plant layout will provide additional areas for joint efforts between their groups. Alverson, who led present and former union officers in coordinating the union's efforts said the current project is "just a beginning."

DIPLOMATIC IMMUNITY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations will hold hearings on October 11 on three bills regarding diplomatic immunity, H.R. 7819, S. 1256, and S. 1257.

Any person wishing to testify should advise the chief clerk of the Committee on Foreign Relations, Abner Kendrick.

ADDITIONAL STATEMENTS

NATIONAL FOREST TIMBER SALE BIDDING POLICY

Mr. CHURCH. Mr. President, in the July 29, 1977, CONGRESSIONAL RECORD, my colleague from Massachusetts, Senator KENNEDY, made a statement in opposition to S. 1360, a bill which I introduced in order to allow the Forest Service to return to traditional bidding methods on national forest timber sales in the West. In supporting his position, the Senator made several statements which deserve comment. As the author of S. 1360, I take issue with the implication that this legislation would somehow increase the risk of collusion on national forest timber sales. This is not so. For one thing, there is no evidence that collusive bidding is now, or ever has been, common or widespread. In fact, Forest Service Chief John McGuire testified before the Senate Energy and Natural Resources Committee in May that he believes collusion among purchasers of Forest Service timber to be "relatively rare—isolated."

The objective of S. 1360 is to protect communities dependent upon national forest timber in the West. The economic health of these communities is currently threatened by Forest Service use of sealed bidding.

For the most part, sealed bidding is not appropriate in the West because this sale method denies mills in local communities the opportunity to respond to outside competition for nearby timber. In many parts of the West, the national forests are the only source of timber, and individual Forest Service timber sales tend to be large. Failure to successfully obtain one or two critical sales can create an economic hardship on a local mill and on the community which the mill supports. Oral bidding is often the best way to insure a full opportunity for local mill operators to compete for the timber.

Contrary to what the opponents of this legislation contend, all that S. 1360 would do is allow the Forest Service to return to historic bidding methods, while retaining the flexibility to require sealed bidding where appropriate, including those situations in which collusion is suspected. In addition, the amendment would authorize the continuation of the present Forest Service system of monitoring timber sale bidding patterns and require that the Forest Service notify the Justice Department if collusion is suspected.

Senator KENNEDY made several statements, which I would like to discuss in some detail:

First. Since sealed bidding is the usual method for sale of Government property, there is no reason western timber should be treated differently.

The fact that sealed bidding methods are used for the disposal of other Government property should not be a basis for concluding that it is in the public interest to use sealed bidding to sell Federal timber in the West. The characteristics of industries bidding upon Federal procurement contracts, oil and gas leases, and other similar contracts are fundamentally different from the forest products industry in the West.

Walter J. Mead, professor of economics at the University of California, in a paper published in the April 1967, Natural Resource Journal, discussed the characteristics of buyer industries which

indicate the desirability of utilizing oral bidding methods:

The basic characteristics of buyer industries may constrain the public policy choice of bidding method. Thus, an industry which has an existing heavy fixed investment, uses raw materials which are relatively immobile economically, must acquire several successive leases or sales in the life of its fixed plant, is dependent on a single raw material source, must plan its purchases subject to severely limited financing, and requires that specific rather than random sales be obtained, will probably insist on the oral bidding method. Oral bidding is more suitable under these circumstances (or even a few of them) since it permits a buyer to react to challenges from other bidders and to protect his resource position.

The above are characteristics of the forest products industry, particularly that segment of the industry which is heavily dependent upon national forest timber.

Second. Forest Service bidding regulations adequately protect against adverse effects on dependent communities.

Forest Service bidding regulations require that at least 25 percent of the volume of timber sold be offered on a sealed bid basis, even in those communities identified as being dependent on national forest materials for their livelihood. Although the final regulations are an improvement over those initially drafted, they still represent a substantial threat to dependent communities. In order to compete successfully, small operators in many parts of the West specialize in certain types of sales that have particular species or grades of logs. Since most sales do not have the particular species or grades which are required by an operator, he must often obtain every single sale which comes up having the kinds of products he specializes in. If, by chance, that sale happens to be one of those offered under sealed bidding, it puts the operator in a very difficult position due to the guess he must make as to what he must bid to obtain the sale.

A further difficulty is caused by the fact that the volume of timber offered from the national forests has been declining significantly in certain parts of the West. In these areas the Forest Service is selling barely enough to satisfy the timber supply needs of existing local mills in a break-even point. Putting into jeopardy 25 percent of the volume in these areas would be enough to severely damage the local economy.

Third. There is no pervasive evidence that section 14(e) has, or will cause, any long-term disruptions.

The obvious fallacy with this reasoning is that by the time "pervasive evidence" does exist, companies will have gone out of business, jobs will have been lost, and communities will have been severely disrupted. We are not dealing with an abstract exercise. We are talking about people's jobs, their communities, and their life savings which are tied up in homes and businesses located in communities whose existence is threatened by present Forest Service bidding policies.

Although data on this issue is admittedly sketchy, what there is indicates substantial dislocations have occurred already as a result of Forest Service use of sealed bidding. I ask unanimous consent that a summary statement detailing these dislocations be printed at the conclusion of my remarks.

Fourth. Neither bidding system—oral or sealed—offers any guarantee that timber will be milled in a dependent area.

This is true. No bidding system can guarantee that timber will be processed in local dependent areas. However, the use of sealed bidding greatly increases both the risk and the opportunity for timber to be purchased by outside firms since mills within the dependent area will not have an opportunity to respond to competition from the outside. During conference committee consideration of the National Forest Management Act last year, Senator PACKWOOD described the rationale for oral bidding in the West.

In many areas of Oregon there is only one lumber mill in town. The town depends upon the mill for employment. When a mill owner knows that he is going to be short of timber, he will go out and bid to the sky, if necessary, to keep that mill going. And so long as the bidding is open, he knows how high he has to go. But when the bids are sealed, that owner may put in what he regards as a very high bid, but if for some reason somebody bids higher, that owner does not get the timber and the mill shuts down.

What you end up with is a mill out of timber and a town out of jobs solely because sealed bids rather than open bids are used.

In supporting his position that no change in existing law is necessary to protect dependent communities, Senator Kennedy listed several options which he states "would afford the needed protection without any changes in existing law." Most of these options are not options at all since they afford no protection to dependent communities. I will discuss them in the order they were originally listed. Since the first and second "options" are virtually identical they will be discussed together:

First. "Under 223.7, an unsuccessful bidder or community which believes either that it is dependent or that loss of a sale will affect jobs or close a mill may protest the award of the sale to the high bidder. This has been done only once since 1960.

"If the unsuccessful bidder believes a monopoly by a bidder may threaten other mills in the area or result in timber being removed from the area, it may protest the award to the high bidder."

The Forest Service has seldom found in favor of those protesting the award of a sale on the basis of community stability or monopoly. Many such protests have been made, but only one has been successful. In fact, it is present Forest Service policy that 36 CFR 223.7 cannot be used as a basis for denying award of a timber sale just because it will be processed outside of the local area. The one successful challenge under this provision involved a Canadian firm that would have exported unprocessed logs for manufacture in Canada.

Second. "A formal request under 16 U.S.C. 583 (b) and (d) may be filed for a community unit to allocate defined Federal timber to a defined market area. Bidding would be restricted to mills in the area."

Several cooperative and Federal sustained yield units have been established pursuant to 16 U.S.C. 583 after the law was passed in 1944. However, during at least the last 20 years the Forest Service has denied all requests for establishment of such sustained yield units. Current Forest Service policy is to continue to deny all requests for such timber allocation units.

Third. "The Secretary may, on his own motion, increase the use of oral bidding—as the new regulations provide—if, in his judgment, this will protect a dependent community."

Although the Forest Service regulations do provide for increasing the percentage of timber offered by oral auction if a substantial portion of the sales end up being purchased by outside firms, this provision has the obvious and critical flaw that nothing will be done unless substantial and, in all likelihood, disabling damage has been done to the local economy.

Fourth. "Where special needs for small business are defined, a greater volume of sales can be placed under set-asides as provided by the 1958 law. Competitive bidding is then restricted to small firms and may also be restricted to small firms in the dependent community."

Present small business set-asides policies do not solve the community stability problem. Sales can be purchased, and frequently are, by small business firms. In 1976, small business purchased over 47 percent of all Federal timber. Although bidding can be restricted to small business purchasers, that, in itself, does not protect the local community from purchase and removal of the timber by a small business puchaser in another area. Contrary to the Senator's statement, it is currently against Forest Service and SBA policy to restrict purchase of timber sales to small firms within a defined local community.

I hope the above clearly shows that these options are, indeed, not options at all. They point, rather, to the need for passage of S. 1360 if dependent communities are to be adequately protected.

In his closing remarks, the Senator from Massachusetts described his concern about the increasing concentration that is occurring in many segments of American industry. The problem of concentration in America industry is very legitimate, and I share the Senator's concern. However, I do not believe such concern is relevant to the timber sale bidding question. In 1976, small business' purchased 63 percent of the sales and over 47 percent of the volume of Federal timber offerings. It is significant that the vast majority of these small business firms strongly favor oral auction bidding and so testified at the hearings which were conducted by two Senate committees on this bill. The timber industry itself is not a highly concentrated industry. In lumber, the top 10 manufacturers in the industry account for only about 27 percent of the lumber production. Many of the largest companies do not rely on the national forests for a significant proportion of their timber supply needs. Weyerhaeuser and

Louisiana-Pacific are examples of large companies who supply a substantial proportion of their needs from their own lands and so are less affected by the national forest bidding issue.

In fact, sealed bidding discriminates against the small operator who has a difficult enough time surviving as it is. Many such small operators are able to compete because of their specialization in certain types of sales, as described previously. Under sealed bidding, these operators are put in a hazardous position due to the uncertainty over what must be bid to obtain a sale. Loss of only one or two sales can create a severe economic hardship for the small mill operator.

Sealed bidding also raises the specter of predatory bidding in which large operators, able to absorb short-term losses, anticipate the sale in which a small operator will be interested and bid higher than they normally would in an attempt to deprive the small operator of the sale. Under sealed bids the small operator is unable to meet such competition. In the long run, this will reduce competition, increase concentration, and ultimately the risk of collusion itself.

Mr. President, I also ask unanimous consent that a summary statement concerning the effects of sealed bidding on industry concentration be printed in the RECORD.

There being no objection, the summary statement was ordered to be printed in the RECORD, as follows:

THE SEALED BIDDING REQUIREMENT HAS CAUSED SUBSTANTIAL ECONOMIC DISRUPTION AND WILL REDUCE COMPETITION

A survey of National Forest timber sales in Oregon since passage of Section 14(e) dramatically demonstrates that disruption of community stability is no academic, theoretical consequence of sealed bidding. Consider the following examples, which are by no means exhaustive.

SOME EXAMPLES OF ECONOMIC DISRUPTION AND COMMUNITY INSTABILITY

1. Roseburg, Oreg.

Roseburg is located in Douglas County whose population was 78,000 in 1973. Of the 10,810 persons employed that year in manufacturing, 9,160 or 85 percent were employed in the wood products industry. Roseburg is the headquarters of the Umpqua National Forest. Ease of access from surrounding areas has caused increasing pressure on local timber supplies.

In calendar 1976, when oral bidding was used, 80.2 percent of Umpqua National Forest timber remained in the Roseburg area. By February 8, 1977, 41.3 percent of the timber sold by sealed bid left the area—some of it purchased by mills that had never before bid on Umpqua timber. Fred Sohn, President of Sun Studis, Inc., a Roseburg mill, testified that "if this rate of outflow is sustained, in a couple of years one or two major operating plants in our area will probably be eliminated." During the succeeding months the outflow continued, as the following table indicates:

Sample sales from the Umpqua National Forest to companies outside the Roseburg community

Date, company, location of nearest mill, million board feet purchased

March 9, 1977, Southwest Forest Industries, Medford, Oreg., 13.0.

March 16, 1977, Nordic Plywood, Eugene, Oreg., 3.2.

March 24, 1977, Cabax Mills, Eugene, Oreg., 7.1.

April 27, 1977, Robert Dollar Company, Glendale, Oreg., 7.1.

May 25, 1977, Boise Cascade, Medford, Oreg., 1.8.

June 9, 1977, Rosboro Lumber Company, Springfield, Oreg., .24.

June 9, 1977, Golden State Building Products, Shingle Springs, Calif., .21.

To make matters worse, the U.S. Forest Service has announced that it intends to reduce the annual sales volume on the Upmqua.

2. The Klamath Basin, Oreg.

In 1973, the Klamath County population was 52,750. Of the 5,990 persons employed in manufacturing in the county, 3,650 or 61 percent were employed in the wood products industry. The city of Klamath Falls is the headquarters of the Winema National Forest. The entire Klamath Basin is a dependent community.

Before sealed bidding, about one-third of the volume of National Forest timber sold left the Basin. During the recent period of sealed bid sales, outside operators purchased 67 percent of the volume. These figures prompted the Forest Supervisor to take steps to change back to oral sales. "To do otherwise, in my judgment, would be contrary to the intent of the regulations and would be disadvantageous to the dependent community." He warned that "timber supply problems west of the Klamath Basin will be causing an increase in competition for Klamath Basin timber," and urged "maximum flexibility in making these kinds of decisions at the Forest level."

3. The Bend-Prineville Bidding War

Bend and Prineville are both dependent communities, located about 35 miles apart. Bend is west of Prineville, and is tributary to the Deschutes National Forest located west of Bend. Prineville is tributary to the Ochoco National Forest, located east of Prineville. The bend mills have always looked to the Deschutes for their supply, and the Prineville mills to the Ochoco. But the introduction of sealed bidding made "raiding" possible, and touched off a destructive bidding war.

Bend, Oreg. The 1973 Deschutes County population was 36,800. There were 2,150 persons employed in the wood products industry out of a total manufacturing payroll of 3,080 (over 70 percent). On May 31, 1977, Louisiana-Pacific of Prineville purchased 18.3 million feet at a sealed bid sale in Bend. The second high bidder was Boise-Cascade from Medford. The third high bidder was a local company, Brooks-Scanlon. The community lost more than 18 million board feet of timber to an outside mill—nearly a year's supply for a small mill which would employ about 75 persons directly and another 75 in logging, transportation and related operations.

The State and local press understood the adverse consequences and dire implications of this raid. On June 1, the day after Louisiana-Pacific's purchase, the Portland Oregonian reported:

BEND.—The controversial sealed-bid system has cost Brooks-Scanlon Corp. a majority timber sale in Deschutes National Forest, company President Michael Hollern said Wednesday.

"In confirms what we've been saying since the Forest Service introduced sealed bidding. It offers a less than adequate means for a local mill to protect its tremendous investment in plant, equipment and people," Hollern said.

* * * * *

The sale would have provided about 10.5 months log supply for the Brooks-Wilamette sawmill at Redmond that employs 60 persons, the company reported.

"We submitted a sealed bid that was $400,000 more than the advertised price of the timber. Because of the inherent unfairness of sealed bidding, we were not allowed to exceed the bids of outside competitors as we have consistently done in the past through open oral auction," Hollern said.

On June 6, 1977, The Prineville Central Oregonian printed an editorial entitled "Black Marble Bingo," a reference to the Forest Service's practice of picking black and white marbles, to determine which sales should be by sealed bids and which by oral. It expressed the vain hope that:

"Now that blood has been drawn on the Deschutes National Forest, let us hope that the Forest Service continues to "gets its money" there without the game getting out of hand here.

"We might do alright if Brooks-Scanlon doesn't find out L–P is a Prineville mill. Because, if the white marble shows up in Prineville, Brooks-Scanlon might, also."

The white marble showed. On June 30, 1977, Brooks-Scanlon took nearly 20 million board feet out of the Ochoco.

Prineville, Oregon. In 1976, the Cook County population was approximately 11,500; about one-third of those employed were engaged with the wood products industry (1,700 of 5,000). Less than a month after the raid by Louisiana-Pacific of Prineville, Brooks-Scanlon struck back. At a sealed bid sale, Scanlon purchased 19.8 million board feet on the Ochoco, out-bidding all local Prineville firms. The sale equaled 17 percent of the entire annual cut from the Ochoco.

The loss of this timber to Prineville will have severe consequences. Prineville is a community in which mill capacity far exceeds supply. The loss of a sale of this magnitude, particularly to the local mill with the shortest supply, could be catastropric. Ironically, L–P, the company that started the war, it least likely to suffer from it. A large company with mills throughout the West, L–P has the deep pocket to withstand a bidding war while smaller, independent mills may be driven out of business.

Following this classic example of retaliatory bidding, which sealed bid proponents said would never happen, an editorial in the Bend Bulletin lamented another aspect of the wasteful results of sealed bidding:

"The 18 million board feet of logs from the Pine Flat sale now will be hauled 50 miles to Prineville, on the average, rather than 31 miles to Bend. That's an extra 19 miles for each of 3,272 truckloads of logs, plus an extra 19 miles on the empty return trip, if we figure it correctly. That's about 125,000 miles of extra log-truck driving on the sale purchased by Louisiana-Pacific.

"The Sand Springs sale, bought by Brooks-Scanlon, is 86 miles from Bend, 54 from Prineville. The Toggle sale is 110 miles from Bend, and 78 from Prineville. About 3,600 truckloads of logs are involved. Each truck will have to cover an extra 64 miles on the round trip. That's about 230,000 extra miles of driving.

"Between the three sales Forest Service bidding regulations caused more than 350,000 extra miles of driving. (Log trucks get about 4.5 miles to the gallon of diesel fuel. That's 77,777 extra gallons of fuel.) That's saving energy with a vengence."

The Prineville Central Oregonian was even more concerned about the situation.

"Last week's unprecedented action by Brooks-Scanlon seemed to signal the beginning of an undeclared timber sale war that would see Prineville firms bidding consistently on the Deschutes National Forest and Brooks-Scanlon continuing their interest on the Ochoco National Forest.

"When Brooks-Scanlon came to the Ochoco National Forest last week they won the largest and generally considered the best timber sale by the controversial sealed bidding method of timber sale purchase.

"Others speculated that Prineville opera-

tors might move further east in an effort to replace lost timber from last week's action. An effort in that direction would create a confrontation between local operations and Hines Lumber Company, Burns, as well as Hudspeth Sawmill Company, John Day.

* * * * *

"Speculation will continue, but one thing is certain and that is the repercussions will be felt for years to come and some traditional operation areas are likely to become very confused."

The areas mentioned as possible targets for raids by Prineville operators are, of course, themselves dependent communities. Burns, Oregon had a population of 4,900 in 1973. The lumber industry accounts for 100 percent of the manufacturing payroll. John Day, Oregon had a 1975 population of 1,900. The wood products industry in that community is nearly 100 percent of the total manufacturing payroll.

Unfortunately, in March 1977, on the Umatilla National Forest, the Kinzua Corporation made an unexpected bid in an area outside their customary purchasing territory, buying 17.7 million feet in the Heppner District where L–P has never before bid. The message is clear: the bid wars are spreading.

4. The long-range buyers and the timber speculators

Tomco Lumber Company of Sweet Home and Albany, Oregon recently purchased 8.2 million feet on the Suislaw National Forest. Tomco is located in the Willamette National Forest area between Salem and Eugene and has only recently begun purchasing timber in the Suislaw. Since the introduction of sealed bidding, Tomco has also made a sealed bid purchase in the La Grande area (nearly 300 miles from its closest mill) and has been attempting to purchase timber in the panhandle country of Northern Idaho, nearly 450 miles away.

Tomco does in fact process at least some of the timber it has been able to buy through long-range, "surprise" sealed bids. But some of the surprise bidders are speculators. Anyone can bid on federal timber who can post the necessary bond. Speculators purchase timber contracts which they never intend to process themselves. Rather, they treat the 3 to 6 years contract term as an opportunity to play the timber "futures" market. If the price goes up, they can resell later, perhaps at a handsome profit.

Even if the price does not increase, the speculator may be able to sell at a handsome profit to a local mill which must make a purchase to stay in business. For example, on January 26, 1977, a retired logger, who owns no mill, was the successful high bidder on a 13.9 million board foot sealed bid sale within the Federal sustained yield unit in the Fremont National Forest. Three local mills are dependent on the Fremont sustained yield unit for raw material. Their combined capacity exceeds the annual supply. Under regulations governing sustained yield units, the timber must be processed locally. Therefore the successful bidder must either build a new facility in an area which already has excess capacity or, much more likely, sell the timber to one of the three existing mills at a handsome profit.

Speculation poses a serious threat to operating mills, especially in view of the current shortage of supply. Sealed bidding has made it easier for speculators to move into the timber markets by removing the option of bidding further on a sale which a local operator needs to stay in business.

SEALED BIDDING WILL INCREASE CONCENTRATION IN THE TIMBER INDUSTRY

The final irony of the uneconomic and disruptive raiding caused by sealed bidding is that it will ultimately lessen competition. It will thereby defeat the very purpose of the sealed bid provision. Daniel L. Goldy, Oregon's Economic Development Director, testified about the inevitable anticompetitive effect of sealed bidding:

If this continues, we will have mortality, particularly [among] the small independent operators. Only the giants in the industry will survive.

Right now we have in the . . . forest products industry, in lumber and plywood, one of the most competitive industries in the United States. We have an industry where prices go up and down with suply and demand.

This is unlike many basic industries in this country where if demand falls off and overhead goes up prices go up to cover the costs.

We have here a case, in terms of end products, of perfect competition.

If [sealed bidding] persists and we undermine these communities and we undermine the small plants that are in them, we will wind up with an industry of giants where, again, prices will go up when demand falls off and you will eliminate any competitive bidding for Government timber.

Chief McGuire also testified as to the anticompetitive effects of sealed bidding during a colloquy with Congressman Johnson:

"Mr. JOHNSON. In the area, the scene where I am, it seems to me that sealed bidding could result in higher prices or in actually driving smaller timber operators out of business. Would you agree with that?

"Mr. MCGUIRE. It could do that.

"Mr. JOHNSON. It could, couldn't it, even if there were no collusion involved?

"Mr. MCGUIRE. That's right. Whether it could continue over a period of time is something about which I am uncertain. Certainly, it could take away from small business some vital sale that the business would have to have, and it might be the marginal sale that would drive that small business out of production."

It is indeed ironic that the sealed bidding provision, intended to stop supposed anticompetitive activity, will lessen competition by concentrating the industry. The winners of the bid wars, the mills that survive the disruption caused by sealed bidding, will be the large, deep pocket companies. Independent mills will no longer have the capability to keep their supply of raw material up at competitive prices. Sealed bidding may cause the very events it was supposed to eradicate.

OUR CHINA POLICY

Mr. GOLDWATER. Mr. President, because I have the floor and because of the timeliness of the subject—in view of Secretary Vance's proposed visit to mainland China in August—I will take this opportunity to discuss our Government's China policy and the direct relationship between this policy and our country's outspoken goal of seeking to bring greater respect for human rights around the world.

First, Mr. President, I would remind my colleagues that the United States today legally and diplomatically recognizes the Republic of China, which is based on Taiwan, as the only China. Although the administration is pursuing a policy of what is called the "normalization" of relations with the Chinese on the mainland, our Government still has full diplomatic relations only with one China—the China on Taiwan.

The fact that totalitarian Communists control by force some 800,000,000 unfortunate people who live on the mainland is no reason for giving standing to these tyrants as the lawful representatives of the people whom they have enslaved.

Clearly, it is only by continuing a policy of support for the Mutual Security Treaty and our official diplomatic relations with the Republic of China that we can have a moral foreign policy that actually represents what our people stand for, that adheres to our commitments, and that will convey strength around the world.

Mr. President, there are many reasons why the administration must not be enticed with the possibilities of recognizing Red China or weakening our ties with the Republic of China. One of these is the value of our word—if we care about it anymore—the willingness of the United States to be faithful to its commitments and not to betray its promises.

The Chinese on Taiwan have lived up to our expectations in every respect and supported the United States on all international issues of major importance. For us now to scrap our Mutual Defense Treaty with a loyal ally would make our signature to other defense treaties worthless anywhere in the world.

In fact, President Carter himself said the same thing last October, when he was a candidate. He then explained that "as far as the trust of our country among the nations of the world, as far as dependence of our country in meeting the needs and obligations that we have expressed to our allies, as far as the respect of our country even among our particular adversaries, we are weak" when we depart from our principles and our commitments.

Another statement that President Carter made when he was still running for that office confirms the need for continuing our official relations and defense treaty with the Republic of China. President Carter said:

> We ought to be a beacon for nations who search for peace and who search for freedom, who search for individual liberty, who search for basic human rights.

Well, I know and he knows that we cannot be those things if we cater to the Communists on the Chinese mainland. We can hold firm to our basic principles only if we uphold the friendship and ties we have with the free Chinese people on Taiwan.

Mr. President, people in the Republic of China are not searching for freedom and individual liberty—they have already achieved it and are in the process of strengthening it.

Taiwan is a land which allows free expression and free elections. Thirty-one daily newspapers and 1,400 magazines compete with three national television networks for the attention of audiences. Free world publications from foreign countries are openly circulated throughout the Republic.

In fact, one distributor of American magazines imports over 200 different titles for circulation to subscribers in the general public. Popular U.S. news magazines, such as Newsweek or Time, are available for reading by students in the libraries of nearly all middle schools and colleges.

American political books, such as the paperback edition of "To Make Men Free" sell 20,000 copies or more. This is a work by Frank Kelly about the U.S. Bill of Rights and how we Americans won our freedom.

Another paperback, by Duane Bradley, entitled, "The Newspaper: Its Place in a Democracy," has sold over 10,000 issues in Taiwan.

How many copies of it do you think were sold in Communist China? What do you think the Communists would do to anyone who owned a copy?

These are interesting questions which Secretary Vance might explore when he goes there in August.

On Taiwan, free education is extended to all. In fact, next only to the United States, the Republic of China has more school students per 1,000 population than any other country in the world. The figures are 99.3 percent of school age children attending elementary school and 90.1 percent of youth attending middle school, which is equivalent of our high school.

Mr. President, it is also important to note that religion is freely practiced on Taiwan. Buddhists, Taoists, Catholics, Protestants, and Moslems are all active in the Republic of China.

There are more than 2,500 active Buddhist temples on Taiwan and 2,000 Taoist temples. The great majority of people adhere to these religions.

Today, there are approximately 300,000 Roman Catholics in the Republic. Catholics operate 900 churches, 26 hospitals, 362 primary schools and kindergartens, 26 high schools, 13 technical schools, 1 university, 3 colleges and 8 seminaries.

Protestant worshippers have 3,000 churches and more than half a million members in Taiwan. Protestants operate 21 seminaries, 13 Bible schools, 9 hospitals, 2 universities, 4 colleges, 9 high schools, and 350 primary schools and kindergartens.

What are the statistics on the mainland of China? How many Baptist churches or active religious buildings of any kind, will Secretary Vance find on his visit to Red China, if he looks for them?

Except for one or two churches or temples in Peking operated for a few foreign visitors, he will find none—that's how many.

Does this count with this administration? Does it consider freedom of religion to be one of the human rights it is concerned with? Well, of course, I believe it does and keeping our relations with the Republic of China, an open society that allows freedom of worship, as contrasted with Communist China, an atheistic society that has cruelly suppressed religion, is a good way of demonstrating that concern.

Mr. President, the advancement of human rights in the Republic of China is matched by the economic progress of the people. From an island which was a predominantly agricultural area, Taiwan has become a major industrial power of the world. Not that agriculture has been slighted. To the contrary, the General Accounting Office has singled out the Republic of China as the model of how a developing nation can achieve tremendous success in food production with a system of economic incentives to private farmers.

In contrast, Mr. President, the performance of the Communist dictators on the China mainland depart in every instance from the principles of our Constitution's Bill of Rights and from every principle for which Americans have struggled throughout our history. The Chinese Communists are known to have executed several millions of landowners during the agrarian reform of 1949 to 1952. They are known to have conducted mass public trials at which more than 2 million political prisoners have been executed. They have, by all knowledgeable accounts, exterminated a minimum of 50 million people during their first quarter century of rule. Even today, the Red Chinese arbitrarily imprison over 30 million innocent political prisoners in labor reform camps, where they are subjected to the harshest of hard labor.

Moreover, there is no independent judiciary in Red China. There is no freedom of travel. There are no free elections, no freedom of the press, no free expression, no free trade unions.

And freedom of religious worship has been brutally suppressed by the Communists. Devotion to an almighty supreme being is persecuted and punished in Communist China. Millions of Protestants, Catholics, Moslems, and Buddhists have been intimidated imprisoned, beaten, and murdered. Churches and religious buildings have been destroyed or converted into warehouses, stables, and the like. Missionaries have been forecably removed and religious schools, hospitals, and orphanges outlawed. In fact, there is only one Roman Catholic cathedral and a single mosque still open in Peking, these for small numbers of visitors from foreign nations. To all purposes, for the first time in centuries there is no open practice of any religion in mainland China today.

Mr. President, it would be impossible for the United States to serve as a beacon for peoples who are searching for freedom and for the most basic human rights if we should grant legitimacy to such an inhuman government. No, if our Nation is to hold forth a posture and an image to make us proud, we must not reward the lawlessness existing in Communist China.

A policy of retaining our official relations and defense treaty with the Republic of China would be in keeping with the wishes of the American people. If we follow the good judgment of ordinary Americans, we will preserve our commitment to Taiwan. The voice of the American people is loud and clear on this issue.

A Gallup poll of November 1975 revealed that 70 percent of Americans favor continuing our formal diplomatic relations with the Republic of China. The same majority of 70 percent opposed diplomatic relations with Communist China on the terms demanded by the so-called People's Republic.

In May of this year, a new poll was released showing that the already overwhelming public opinion in support of the Republic of China has increased over the findings in 1975. The latest public opinion survey was conducted between March 26 and April 3, 1977, by Decision-Making Information. According to this survey, 80 percent of the American public favors continuing full diplomatic ties with the Republic of China. This is an increase of 14 percent over the comparable finding in 1975.

Moreover, 74 percent of Americans are found in this latest survey to favor adherence to U.S. Mutual Defense Treaty with the Republic of China. This result indicates an increase of 27 percent as compared with the 1975 result.

Finally, when presented with the demand of "the People's Republic of China" that the United States should withdraw recognition from the Republic of China as the condition of establishing diplomatic relations with mainland China, 77 percent of Americans indicated we should not withdraw recognition from free China.

Mr. President, these indications of public opinion are backed up with other evidence. For example, in 1976, a resolution was introduced in the House of Representatives by a clear majority of that body urging the President to do nothing to compromise the freedom of the Republic of China. Numerous petitions and official statements which have been adopted by local governments throughout the United States also uphold a policy of continuing diplomatic relations with free China.

Thus, if we are to follow the voice of the American people and if we are to tap their sound, commonsense, as President Carter himself has suggested, then we must adhere to our present policy of recognizing the Republic of China and maintaining the Mutual Security Treaty with Taiwan.

Now, Mr. President, I must ask, what good would a policy of dropping Taiwan for Peking have for the American people? Actually, it would destabilize the chances for world peace.

It would not transform Communist China into a decent, God-fearing country.

It is not needed as a counterweight to the Soviet Union because Red China needs contact with the United States due to its fear of the Soviets regardless of what we do about Taiwan.

And, surely no one in the Carter administration is duped by the prospect of large-scale trade with Red China. Oh, I know the Communists are mouthing this propaganda. In fact, it is identical to the sweet-talk used by the Nazis before World War II. They held parties for prominent American businessmen and industrialists who were urged to switch sides between Britain and Germany. They were held out promises by German trade officials who reportedly said that "the prospects for American trade with the New German Empire will be beyond your wildest dreams."

Now, these executives of U.S. corporations were supposedly susceptible to the argument that the Nazis would allow American business to operate in a Nazi-

dominated Europe. They were actually offered trade monopolies inside the New Nazi Empire. Nevertheless, these American businessmen understood the correct political responsibilities of international corporations. They understood the meaning of morality and human freedom. They saw through the phony, gold-coated arguments of the Nazis and totally rejected them.

As I often mention, Mr. President, let us remember the past. Because today, the efforts of the Red Chinese can be likened to those of the Nazis. The Communists cover their statements with glitter and gold, but in back of them there is neither substance, nor human decency.

The truth is that there are not prospects of major trade with Communist China. And if there ever were, dropping Taiwan and allowing the Communists to take it over would enable them to absorb Western technology in place on Taiwan of the kind which our exporters hope to sell.

Thomas Corcoran, the distinguished attorney, businessman and diplomat, has explained that:

> As with all totalitarian nations, all trade with mainland China will be politically—not competitively—motivated. All such trade will be barter of advantages in political warfare. Totalitarian trade in commercial negotiations will put competing and divided United States entrepreneurs against a monolithic totalitarian buyer and seller.

Dreams of commercial profit to United States firms are a "will-o'-the-wisp." According to Mr. Corcoran:

> Contrary to hopes of United States industry to do business with an indefinite mainland market, the takeover of Taiwan could directly solve many of mainland China's economic problems without the cost of any of the imports from the western world from which American exporters and transporters could make a commercial profit.

What Mr. Corcoran means is that if our policy is so stupid as to permit the Communists to acquire by intimidation or force the very technology and resources they want, then the Communists will have no need for engaging in the trade from which certain American exporters hope to make a commercial killing. The very policy which these business interests promote of breaking defense and diplomatic relations with the Republic of China will backfire on them by enabling the Communists to obtain the technology they want without trade.

Moreover, as the American Chamber of Commerce on Taiwan has concluded, the potential market for U.S. products in Red China is limited to but a small number of select product categories. The chamber also advises that the absence of free choice by the consumer in a state-controlled economy will block the ability of U.S. exporters to develop new markets for their products.

Thus, the prospect for enormous commercial trade with Communist China is a facade. The opportunity just isn't there and never will be. On the other hand, the real trade opportunities are between the United States and the Republic of China. In 1976, our trade with Taiwan reached $4.5 billion. In comparision, our trade with Communist China was only $325 million. Trade between the Republic of China, and the United States is 14 times greater than our trade with Red China.

Mr. President, in summary, I will repeat that the Chinese government on Taiwan is the true model by which our commitment to traditional American principles should be measured. The 16 million people of Taiwan have achieved a great degree of freedom and individual liberty and they are constantly working for the expansion of these principles.

There is no stage management for foreign visitors to Taiwan. American and other foreign nationals can travel freely throughout the island. Private enterprise is encouraged. Religious worship among diverse faiths is promoted. Free world publications are visibly evident and available to both residents and tourists. Sizable and steady advances in the economic well-being of the average citizens living on Taiwan is also apparent to any regular visitor to the Republic of China.

In other words, a policy that would shun a people, who are endeavoring to follow many of the same moral, economic, and political principles that we ourselves practice, would betray our innermost beliefs and convey weakness.

To reward a system of government which has suppressed the most basic human rights of its population, and which has just recently flaunted its lawlessness and disregard of world concern for the environment by poisoning the atmosphere with dangerous radiation from atmospheric nuclear testing, would disgrace our Nation and defeat human rights.

Mr. President, if this administration's human rights efforts mean anything, it means that we must pursue a policy that will keep the 16 million Chinese on Taiwan free from enslavement by totalitarian communism.

HUMAN RIGHTS IN POLAND

Mr. RIEGLE. Mr. President, I recently have had the good fortune to read a poignant and insightful message dealing with human rights in Poland. In his Corpus Christi 1977 Sermon, His Eminence Cardinal Jan Wojtyla, Archbishop of Krakow, Poland, expressed many of the most fundamental aspirations not only of his countrymen, but of people everywhere who treasure truth and human dignity. Cardinal Wojtyla's remarks are especially appropriate in light of our own increasing efforts in behalf of human rights throughout the world and the currently ongoing Belgrade Conference to review progress under Helsinki accords.

The cardinal's sermon followed by a number of days the consecration of the new church in the city of Nowa Huta. Thousands of Poles stood for hours in the rain to witness that consecration. This ceremony was particularly significant in that it represented a triumph over years of Polish Government refusals to approve the construction of new churches. The consecration also coincided with student demonstrations in Krakow protesting the mysterious death of a student who had been involved with the worker defense committees. These groups had emerged in the hope of obtaining the freedom of workers arrested during last year's protests of the drastic food price increases which the Polish Government had sought to impose. Thus, Cardinal Wojtyla's inspired defense of student behavior at the time of the consecration of the new church in Nowa Huta, as well as his criticism of the lies and distortions regarding these students which were carried in the Government-controlled press, have considerable importance.

Cardinal Wojtyla, as he denounces the falsehoods of the controlled Polish press, exposes what must be the central dilemma for governments which seek to control the thoughts as well as the actions of their citizens. Cardinal Wojtyla understands that governments which exist without popular support cannot allow the people to learn of failings of official government policy or permit them to gain inspiration from the disenchantment, protests, or even hopes of others. For such governments, truth can have no meaning, and events must be molded after the fact to fit, like all other parts of repressive centrally controlled societies, the predetermined mold cast by the state. But Cardinal Wojtyla sees the contradictions remain. Even the most repressive denial of truth can neither correct the shortcomings of government policies which fail to meet the needs of the people nor stamp out the human yearnings of people who in their hearts are still free.

Mr. President, I believe we can all gain insight from the words of Cardinal Wojtyla, and I ask unanimous consent that this excerpt from his sermon be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM CORPUS CHRISTI 1977 SERMON BY H.E. CARDINAL JAN WOJTYLA, ARCHBISHOP OF KRAKOW, POLAND

Responsibility for the future of both our country and Church rests, in a special way, upon the shoulders of mature and independent academic students. Our youth is our social, political, cultural and religious future. We should, for this reason, positively rejoice when confronted with signs that our youth is not only merry or even frivolous but also given to serious thoughts about life in general and problems of a personal or wider social nature.

In this context it is necessary to refer to the events of May 15. Everybody was happy that the day, also memorable because of the consecration of a church in Nowa Huta-Bieńczyce, ended peacefully in Krakow. It is, however, vital to understand the importance of "Poland is not yet lost," sung by Krakow's academic youth when assembled that evening at the foot of Wawel (castle). They could scarcely have sung anything different since the future is theirs. No less significant is the fact that "God, Thou who save Poland" was also sung.

The usual noise of annual student festivities was deliberately forsaken on that day in favor of quiet concentration. This proves that the tens of thousands of students in Krakow are capable of meditating upon such fundamental matters as the great mystery of death which sometimes touches the young. It also demonstrates their ability to think about social justice and peace, human rights, the rights of a nation and responsibility for the impressive heritage of our country. The latter is felt by everyone of us.

So much, for example, is now being written and said about educational reform and new school programs for history, Polish language and literature, that we greatly fear lest these subjects be presented in biased fashion and in accordance with only one interpretation. It is as though all Poles without exception are supposed to be revealed by turning this one key. Of course, this cannot be true because we feel free. It is impossible, therefore, to be surprised at the behavior of the young. Their maturity should invite respect and engender gratitude that it has not been destroyed.

On the other hand, I have some reservations about the press which succeeded in presenting May 15 as little more than a day of rowdy student capers. I consider this to be improper. The truth should be spoken and the profound truth of every human being, especially the young, must be respected. A person cannot be moulded in conformity with some preconceived pattern, and this is something the Polish press ought definitely to take into account. The manipulation of public opinion by the press in many countries of the world should not be imitated in Poland. Man is a thinking being in search of truth and Poles have been seeking the truth for more than a thousand years. This creates a singular maturity even among those seemingly immature or on the threshold of full development. If what they read in the newspapers the next day is contrary to what really happened, they are embittered by the knowledge that they live in a state promoting lies and the falsification of the truth about them. They are afraid that all Poles, Polish history and ideas, might be victims of the same process.

Anybody, for example, deriving his information about and opinions of contemporary Poland and the Polish people from our daily press, called the instrument of government, would be utterly astounded at finding himself here today in the midst of a Corpus Christi procession. If society is to give due weight and attention to the press, the latter cannot distort the former's image. The responsibility of the press is not confined to any one institution or authority, but extends to society as a whole, to the nation and to each individual. Together with all those anxious for the welfare of the country, we fervently appeal to the press to serve the rights of man and nation and end the one-sided presentation of certain information, opinions and points of view. That predisposition towards an unobjective approach is particularly unpleasant when it concerns somebody deprived of the means of self-defense. It would be permissible only if freedom of the press were allowed and if it were possible to discuss everything from different angles.

The Polish press, unfortunately, is uniformly biased. For this very reason, writers are under the obligation of taking extra care not to affront individuals or groups unable to reply in their own defense. This is demanded both in the name of common decency and Poland's tradition of tolerance. Such a policy can be detrimental to none and certainly will not harm our rulers. Power is always strengthened by truth and the truth is powerful. At least in our culture and national tradition, matters should be viewed in this light.

THE CERTIFIED PROFESSIONAL SECRETARY (CPS)

Mr. HATFIELD. Mr. President, I am pleased this year to be able to join colleagues in both the House and Senate in bringing the program of certified professional secretary, CPS, to the attention of the American people once again. The purposes of the CPS program are:

First. To improve secretarial personnel by giving specific direction to an education program and by providing a means of measuring the extent of professional development.

Second. To provide secretaries with the assurance which comes from having attained a professional educational standard.

Third. To promote the professional identity of the exceptional secretary.

Fourth. To assist management in selecting qualified secretaries.

Fifth. To plan and sponsor additional programs of continuing professional development for the certified professional secretary.

The Institute for Certifying Secretaries, a department of the National Secretaries Association — International — was established in 1952 to prepare and administer certifying examinations, to determine qualification of applicants, and to award certificates to those who successfully complete the 2-day, 16-hour examination. This examination is administered each year in May in the United States, Canada, Jamaica, Puerto Rico, Trinidad, and Tobago.

Members of the institute come from the ranks of management, NSA, and business educators. Many colleges award up to 2 years of credit toward a degree for passing this examination. During the International Convention of NASA in Detroit in July, it was announced by Rita Huff, Ed. D., CPS, CPA, dean of the institute, that the American Education Council this year will recommend that colleges and universities award 30 hours of credit toward a degree to those who have attained the CPS rating. Several State governments already give professional recognition to CPS, an idea that should be pursued vigorously within the Federal Government. The CPS is an integral part of any office, not just someone who claims the title of "secretary" while sitting behind a desk until "something better" comes along.

Candidates for the CPS rating are tested in areas of environmental relationships in business, psychology; business and public policy, law; financial analysis and the mathematics of business, accounting; economics and management; office procedures, including data and word processing, parliamentary procedures; and communications skills and decisionmaking, priorities, actions shorthand, typing.

Of the 5,117 sitting for the examinaton in 1977, 1,057 passed. In the 25 years that the examination has been given, only 11,116 have attained the CPS rating. To those who attained this rating in the past or in 1977, my sincerest congratulations.

Dr. Rita Huff will be in Washington, D.C., on September 20 to present CPS certificates to members of the District of Columbia Chapter, NSA, who attained their rating this year. We welcome Dean Huff to our city, and extend best wishes to our new CPS.

I believe that those of us who are dependent on good secretaries should welcome and encourage this program to enhance the professionalism of secretaries and identify those of superior quality with the designation of CPS.

INTERNATIONAL NUCLEAR FUEL REPROCESSING DEVELOPMENTS

Mr. CHURCH. Mr. President, during the past 5 months the United States has engaged in intense efforts to persuade Western European nations and Japan to follow the administration's policy of halting fast breeder reactor projects and foregoing spent nuclear fuel reprocessing development. It has been my contention that this policy would fail because it does not recognize the strong forces compelling these nations to seek a measure of energy self-sufficiency through the available technology of breeder reactors and reprocessing. The danger of this approach is that we are in the position of opposing the inevitable instead of trying to deal with reality by displaying international leadership in this field.

Two recent articles in the Washington Post chronicle further evidence that this policy has suffered several predictable setbacks. After months of difficult negotiations, the United States has backed off from its demands and has agreed to allow the Japanese to open their reprocessing facility. Additionally, France has reaffirmed its intentions to proceed with the sale of a reprocessing plant to Pakistan.

The plutonium era is upon us, as illustrated by these developments, and we must alter our policy approach to begin the serious task of working with our allies to structure effective and efficient international control mechanisms to deal with it. There is much to lose and little to gain by continuing our policy of self-abnegation.

Mr. President, because of the importance of these recent developments, I request unanimous consent that the texts of these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 2, 1977]

UNITED STATES-JAPAN A-PLANT AGREEMENT SEEN AS TURNABOUT BY CARTER

(By William Chapman)

TOKYO, September 1.—Japan has won approval from the United States for operation of a controversial nuclear fuel reprocessing plant in an agreement that represents a partial turnabout by the Carter administration.

Japanese officials regard the agreement, announced here today by U.S. and Japanese negotiators, as a victory for the government of Premier Takeo Fukuda.

Fukuda's government had staked considerable prestige in getting the experimental plant into operation this year despite the Carter administration's contention that it would endanger U.S. efforts to halt nuclear proliferation.

While the chief U.S. negotiator, Gerard Smith, called the agreement a "very equitable arrangement" and said both sides had gained points in the four days of talks here this week, the few details of the agreement that trickled out indicated that the Japanese have gotten pretty much what they wanted.

The United States had objected to Japan's plan for starting up the pilot project this year and had urged Japan to modify the plant to provide for a system of "co-processing" of uranium and plutonium in a form that could not be transformed into material for nuclear weapons.

Japan, however, contended that the modifications the United States proposed would cost more than $2 billion and require more than 10 years to complete.

Under the agreement, the Japanese will be able to start up the plant using the simpler reprocessing method they originally preferred and will be able to reprocess as much fuel as they had planned.

The only restriction appears to be a two-year limitation on the use of this reprocessing system but sources on both sides said that the agreement does not clearly define what happens after the two years.

The agreement still must receive the approval of Fukuda and President Carter. The Japanese said they expect final approval later this month when a delegation of experts visits Washington.

Smith defended the agreement today, saying that "the United States has no doubt about Japan's strong determination not to possess nuclear weapons."

The spent fuel to be used at Tokai comes from the United States which, under a 1958 agreement, has the right to insist on safeguards for any of the reprocessed fuel.

If finally adopted, the agreement would remove one of the major controversies between the two countries.

Encouraged by previous U.S. administrations, the Japanese had spent about $300 million developing the plant at Tokai, 60 miles northeast of Tokyo for reprocessing plutonium. When the Carter administration, as part of its worldwide effort to curb nuclear proliferation, raised objections, Japan countered that it would not tolerate delays and a lengthy, costly modification. Japan insisted on a single-extraction process that would produce pure plutonium.

According to official U.S. sources, the agreement provides that Japan may process with its original plan for two years. During that period, Japanese scientists will intensively study ways to shift to a co-processing method. In the meantime, the sources said, the plutonium produced at Tokai would be stored separately from the uranium and in liquid form.

The U.S. sources insisted that they won some points in the negotiations. They said that the Japanese side offered to defer the planned construction of a fuel-conversion plant that would have transformed the plutonium into a form from which weapons-grade material could be produced. They also said the Japanese co-processing studies would provide valuable technical information that other nations could use as a guide.

Japanese sources seemed elated by the outcome. An official of the science and technology agency said the U.S. negotiators had made "fairly big concessions" to Japan.

Neither side specified what would happen after the two-year experimental operations are over. There apparently was no understanding that the Japanese would have to cease operations then or would have to begin a co-processing method.

The U.S. official said there was only an agreement to reconsider the problem in the light of Japanese technical discoveries in the period.

A Japanese official was asked what would happen if no new technique is discovered during the two years. "Well, Japan will go on the same way," he said. "Anyway, that will be the point which will be discussed after two years."

[From the Washington Post, Sept. 9, 1977]

FRANCE REAFFIRMS NUCLEAR SALE

PARIS, September 8.—Foreign Minister Louis de Guiringaud reaffirmed strongly today that France will go ahead with its sale of a nuclear fuel-reprocessing plant to Pakistan.

Both the Ford and the Carter administrations have sought to persuade France and Pakistan to cancel the sale, which the United States fears will lead to proliferation of nuclear weapons.

But the military government that took power earlier this year in Pakistan has said it would carry on the nuclear program started by former Prime Minister Zulfiqar Ali Bhutto. After meeting with a Pakistani delegation here today, De Guiringaud told reporters that he had "confirmed that France will honor the contract." The contract was being carried out "as scheduled," he said.

A senior French official indicated privately that France has given up an earlier hope that American pressure would lead Pakistan to cancel the deal to avoid controversy. The official said that deliveries of French equipment for the plant had begun and were being carried out on schedule.

JOURNEYS TO THE NORTH LED OLAUS MURIE INTO BATTLES FOR WILDERNESS

Mr. HANSEN. Mr. President, it is not often that I use these pages to bring individuals to the attention of the American public. However, I want to recognize two citizens who have, over the years, contributed to the well-being of the environment and studied our relationship to it in the wild areas of this country, particularly in Wyoming and Alaska.

I wish to call your attention to an article by Peter Wild, who has in his writings covered some of the most distinguished instigators and leaders of the conservation movement. His biographies include those of Stephen Mather, John Wesley Powell, Aldo Leopold, Bernard DeVoto, Gifford Pinchot, and last but not least, the story of Olaus and Mardy Murie.

I have had the privilege of knowing Olaus and Mardy Murie, as they were neighbors upstream from us in Jackson Hole. They came as young biologists to Jackson Hole in the 1920's. The U.S. Biological Survey had sent Olaus there to study the elk herd that ranged near the Tetons. He is probably best known for the "Field Guide for Animal Tracks," part of the Peterson Field Guide Series, and he has done several books on the elk of North America.

It is with great pleasure that I ask to be printed this article from the High Country News which acknowledges the contributions of the Muries.

The High Country News is a biweekly newspaper that focuses attention on the environmental and conservation issues in the Rocky Mountain West, along with the energy and energy conservation issues that affect us and our way of living today. It serves as a voice for accurate and timely reports of what is happening to our environment and natural resources, and to our way of life in the West.

So it is fitting that this profile of Olaus and Mardy Murie appear in this newspaper. And it is most appropriate that it appear as part of a series paying homage to the conservation pioneers. For Olaus and Mardy Murie are truly conservation pioneers and as such deserve the gratitude and recognition of Congress and the country. I ask unanimous consent that the article be printed in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOURNEYS TO THE NORTH LED OLAUS MURIE INTO BATTLES FOR WILDERNESS

(By Peter Wild)

Perhaps no country in history altered its environment as quickly as did the United States in the first dozen or so decades of its existence. Cheap land, new technologies, and a swelling population—the very factors that gave the new nation muscle—also tended to leave the land a shambles, its wild species extinct or pushed into remnant populations.

By 1885 Yellowstone National Park sheltered the only buffalo herd of any size, reduced to 400 individuals from the estimated 60 million that once grazed from the Appalachians to the Pacific. Though a contingent of the U.S. Calvary tried to protect them, the species dwindled as scarcity made its destruction more profitable. Poachers sold the shaggy heads for $500 in Billings and Helena.

For generations migrating passenger pigeons causes trees to collapse, so great were their numbers. In 1914, Martha, the last of her kind, died ignobly in the Cincinnati Zoo. Similar if less dramatic fates awaited the white-tailed deer, bear, elk, moose, prairie chicken, and other animals that meat packers had shipped East by the carload. Whether in New Hampshire or Colorado, hunters stepped into the emptied woods and wondered where their free supply of protein had gone.

They ignored their own role in the obvious habitat destruction and the world's greatest animal slaughter. Instead they did the human thing: they blamed coyotes, foxes, eagles—whatever was at hand. Equally eager for handy villains, the government launched poisoning programs aimed at the few predators left on the eroded and clear-cut lands of the public domain. A twisted concept of democracy, that each man was free to exploit resources as he saw fit, had combined with ignorance to decimate the nation's game in one enthusiastic burst.

The United States was not alone. According to their abilities, other developing countries of the New World joined in the free-for-all. Yet it is ironic that the nation most efficient in the destruction also led in research and reform.

The colonists had brought the concept of hunting regulation from Europe. By 1880 all the estates in existence had restrictions of one sort or another, but enforcement was spotty, and the laws did not face the real problems behind the decline. What had worked in Europe, where few but the wealthy pursued large game, and these on well-regulated reserves, was failing in a land of free enterprise v. nature.

In the midst of the rout, Thomas Jefferson, John James, and George Bird Grinnell represented a kind of naturalists' counter-culture. They studied flora and fauna, frequently out of sheer fascination—eccentrics indeed in a land thriving on exploitation.

Such men as John Wesley Powell kept prodding Congress for needed support, and when the government embraced science in the closing years of the 19th century, a new era began. Professional botanists, foresters, and mammalogists now found places in a government that was creating the forerunners of the Park Service, the Forest Service, and the Fish and Wildlife Service.

With the other hand, however, the government continued to give away the public's land, nod at the clearcutting of forests, and poison innocent wildlife. With the rest of the

country, the government shared a double standard toward the natural heritage. But gaining a foothold, a few men were revealing to an increasingly educated and sympathetic public the subtleties involved, that the passenger pigeon didn't simply fly away into oblivion. And though their interests extended far beyond game species, they began to receive acclaim for their wildlife studies from hunters, especially city hunters, and from arms manufacturers, who saw their profits disappearing with the animals.

In the ranks of the scientific bureaucracy that coalesced in the first decades of the century. Olaus Murie is at once typical and outstanding. Like many ambitious boys, he worked his way through school to obtain the necessary credential, a degree in science. Then followed field trips, years of government service, publishing. However, it wasn't only that he became an expert in several areas that distinguished him from other colleagues—though that certainly helped; his scientific expertise gave his voice authority in a society that dotes on the specialist. It was more the voice itself, the warmth and vision of the personality behind it. Murie could move others to preserve America's wild places.

His government career was not a series of plodding steps up the bureaucrat's ladder to success. In the youth of our grandparents, there were still blank spots on the maps of Canada and Alaska, species that had not been studied in depth, Eskimos that had not seen a white face. His career contained the stuff of adventure that kept the readers of Jack London on the edges of their chairs, though for his part the young biologist emphasized the thrills of everyday nature rather than of danger. Furthermore, Murie had the luck to explore and investigate independently in a way that perhaps is not possible today.

One, tired of driving a dog team for hours, only to spend the evening filling out meaningless forms about his activities, he informed his superiors that they'd have to be satisfied with one report a month. They nodded and let him have his lead—a phenomenon hard to imagine in the age of the computer.

A close family life and wild countryside offered compensations for his financially poor and strenuous boyhood. Less than 10 years after arriving from Norway, Murie's father died, leaving his immigrant wife with a house, one cow, and three young sons. The boys pitched in, selling milk, picking potatoes, plowing for local farmers. With his brother Adolph, who also became a distinguished biologist, Murie paddled a homemade canoe up and down the Red River near his home in Moorhead, Minn., looking for bird nests while keeping an eye out for imaginary Indians—good training, it would turn out, for his future work.

After high school, he enrolled in Fargo College, across the river in North Dakota. Money was short, graduation uncertain. But when his biology professor, Dr. A. M. Bean, took a new teaching position in Oregon, he wrangled an assistantship for his most ambitious student.

In 1912, at the age of 23, Murie graduated from Pacific University. During World War I, he would have his nerves tested in the Army balloon service, whose observers studied enemy lines suspended from large and bulbous targets. Ten years later, he would earn a Masters of Science degree from the University of Michigan, and he eventually received an honorary doctorate from his alma mater of undergraduate years.

For the time being, however, he began his 30-year profession as a field biologist by collecting specimens and taking wildlife photographs for the Oregon State Game Warden. It was not a prestigious job, but it was a job, the first in his chosen field, and he was learning the skills that would make a distinguished career possible.

When a break came two years later, he was still young, relatively inexperienced but eager, and there were no entanglements to hold him back. The Carnegie Museum in Pittsburgh had hired a collector to accompany explorations in subarctic Canada, but the man weighed the dangers against family responsibilities and backed out. Would Murie like to go in his place? Of course he would.

The expedition consisting of an ornithologist leader and Murie as assistant, stepped off the train near the southern end of Hudson Bay, where they met their two Ojibway guides. "I looked around," the young biologist remembers. "We were on the bank of a river thickly flanked by spruce forest as far as one could see. . . Before us, stretching far into the north, lay the unknown." Then they got into their canoe to spend the summer paddling north through the bank spaces on their map.

At one point they beached on a barren island in the bay to prepare bird specimens and rest from hours of fighting a head wind. Far from the routes traveled by Indians, in the brief respite the tiny expedition nearly met its end. After the four had stretched their legs a bit, they looked up to see the canoe gliding away high in the water. Impulsively, Murie plunged in, only to feel that "a deadly chill was creeping over me as I floundered in the icy water" of the subarctic sea. A cramp gripped his leg as the canoe skimmed blithely off before the wind. He barely made it back. Meanwhile, the two Indians were busy lashing together drift logs with a bit of wire that happened to be in the skinning outfit. They managed to retrieve the canoe, which had blown against another island.

For all the dangers, Murie reveled in the experiences. In the fall the expedition officially ended, but he stayed on in the north, traveling with Eskimos and Cree Indians on their winter hunts over the snowbound muskeg. Temperatures of 40 degrees below zero brought out both his endurance and sensitivity. "There was a feeling of purity about the whole thing," he says wandering about in a frigid night, "as if I were in a holy place. . . ." Echoing Enos Mills, he called what others looked on as harsh and uncivilized a "wonderland."

Two years later, in the spring of 1917, Olaus Murie again struck out by canoe for the Carnegie Museum, this time up the Ste. Marguerite River. The goal of the little band was to become the first scientific expedition to cross Labrador from the St. Lawrence River north to Ft. Chimo, a trading post near the Arctic Circle. From the end of May through the middle of August the group met three people, an Indian carrying a canoe, followed by his wife with their baby in her pack. Again, maps were inaccurate or nonexistent. For 750 miles they paddled and portaged, sometimes losing their way in Labrador's labyrinth of river systems.

At one point the Indian guides threatened mutiny. But to Murie wildlife was the main excitement: "All at once I found the place alive with birds. A ruby-crowned kinglet appeared. . . . He came up close, showing his ruby crown and his bright white-ringed eye. At intervals he sang and I could see his throat vibrate. . ."

Though he might not have been consciously aware of the fact, by the time he was 30 Murie had added impressive skills to his college training. He was adept at collecting, he could speak Eskimo, and most importantly he had proved that he could do scientific work in the inhospitable northland. The U.S. Biological Survey (now called the Fish and Wildlife Service) sent him to Alaska in 1920. Despite frantic gold rushes and the establishment of fishing and lumber industries there were great gaps in solid information about the territory, which had been in the nation's possession for less than 60 years. Areas as large as some states in the Lower 48 were practically unknown.

Geography at least stays out. Even less was known about Alaska's wildlife. In a country hard on most barnyard species, white men as well as natives depended on the wandering caribou for much of their protein. If the herds declined, it meant hardship, if not starvation, in the North. For six years—by dogteam, on snowshoes, by poling boat, by river steamer—Murie crisscrossed Alaska, serving as a fur warden, studying the brown bear, banding waterfowl. The duties were incidental to his main assignment: probing the dynamics of Alaska's caribou. The result, "Alaska-Yukon Caribou" (1935), remains a standard text for mammalogists.

Romance is difficult in Alaska, at least it was in the days when hunter or biologist might be gone in the wilderness for months at a time. But at three o'clock on a summer morning in the little log church of Anvik, Margaret Thomas, carrying a bouquet of arctic poppies, married Olaus Murie.

As field biologists will testify, the choice of a wife was crucial. Some friends of the couple considered Murie's work and doubted that the marriage would last. They didn't count on the spunk of Mrs. Murie, the first woman graduate of the University of Alaska. Nor did they count on her own joy in wilderness, on her love for her husband. The first day of their marriage, Margaret Murie says, ". . . we suddenly looked at each other with laughing eyes, knowing that we were together and ready for anything." Hundreds of miles from the nearest pediatrician or marriage counselor, they worked as a team. When a baby came, they took it along on trips, feeding it powdered milk mixed with water from the Yukon River. In 1962 Margaret Murie captured the ruggedness and charm of their experiences in "Two In The Far North," a book illustrated by her husband.

Pleased with his work on caribou, in 1927 the Biological Survey sent him to Jackson Hole, Wyo., to investigate the famous elk herd that ranged near the Tetons. Like the caribou, the elk were suffering from the pressures of modern civilization. Murie's "The Elk Of North America" (1951) joined his earlier book as a necessary text. In 1954 his "Field Guide To Animal Tracks" became a unique aid for amateurs and professionals alike in identifying wildlife.

Over the years he traveled widely—to Norway, British Columbia, New Zealand, the Aleutian Islands—and had a variety of interests—writing, lecturing, and illustrating books, notably J. Frank Dobie's "The Voice of the Coyote" (1949). Still, until his death in 1963 the log cabin on the banks of the Snake River would be his home base and still is a gathering place for conservationists from around the world.

There is a photograph of Murie that tells more about him than a list of his publications or a summary of his awards. The biologist is dancing with a group of Aleuts, arms raised, smiling. The spontaniety comes through the snapshot: this is no civilized white on a condescending lark with the local natives, but a man sharing a central joy. He reflects on his research that "the happiest experience of all (was) getting acquainted with the people."

Yet Murie was no sentimental pushover. Once during their courtship, his future wife snapped at his "everlasting good nature." His response was: "Look, if you want a fight, you can have it." Beneath the warmth, she testifies, "was steel within."

These qualities—his authority in science and long experience with the government bureaucracy, combined with amiability and a strength based on self-confidence—served him well in his most lasting contribution: motivating others. In 1945 he retired from government service and became director of

the Wilderness Society, an organization he served in executive capacities until his death.

His life began before the invention of the automobile and ended after Hiroshima. He recognized the deception in a technological society that offered a lavish degree of physical comfort in some areas but at the price of overcrowding, pollution, and constant spiritual frustration. His philosophy is best summed up in a comment he made on the Eskimos, who each winter faced the possibility of starving.

"As I think of my sojourn among the Eskimos of Hudson Bay, I realize that there was no law here—no officers in uniform. People reacted to each other in a natural way. We, as humans, have certainly not reached our human goal; we are only on the way. I am convinced that in the evolution of the human spirit something much worse than hunger can happen to a people."

For him a reserve of wilderness was necessary to a sane civilization, a wilderness that had largely disappeared during his lifetime.

In the main that philosophy parallels the thinking of Aldo Leopold. Basically, they arrived at similar views from different approaches. As in nature, variety means strength, and the differences meant unique contributions from each. Because of bureaucratic frustration, Leopold quit the Forest Service in 1928. On the other hand, Murie made a career in the Biological Survey, far more sympathetic to wildlife than a direct bearing on the government's wildlife policies. Because of his love of hunting and his utilitarin training in forestry, it took Leopold years of struggle to arrive at his philosophy—one that Murie seems to have accepted from boyhood.

Significantly, Leopold deserves the credit for establishing the nation's first wilderness area; in later years he helped found the Wilderness Society. Yet his lasting monument is "A Sand County Almanac," a book that endeared him to the public. Much of Murie's writing is specialized; his greatest contribution was his personal ability to move others.

For years along with Leopold, Howard Zahniser and others, Murie worked for passage of the Wilderness Act, which now protects at least a portion of America's wild heritage. Unfortunately, he died a year before the act became law. However, he had one great satisfaction in later years. At the age of 67 he led an expedition to Alaska's Brooks Range. Soon after, partially as the result of his urgings, the Secretary of the Interior created the Arctic National Wildlife Range in northeastern Alaska.

The posthumous "Journeys To The Far North" (1973) is a good place to catch the flavor of Murie in the wilderness. The Muries' reminiscences of Jackson Hole country, "Wapiti Wilderness," appeared in 1966. John G. Mitchell's "Where Have All The Tuttu Gone?", in the March 1977 issue of Aodubon, is an uprate on Alaska's beleaguered caribou.

SUPPORT FOR DR. JOSEPH DUFFEY, NOMINEE TO BE CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. PELL. Mr. President, I am pleased to support wholeheartedly Senate confirmation of the appointment of Dr. Joseph Duffey, President Carter's nominee for the chairmanship of the National Endowment for the Humanities.

I am also very pleased that Dr. Duffey's nomination has received the unanimous approval of the Committee on Human Resources under the distinguished leadership of its chairman, Senator WILLIAMS.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, as Senate author of the original legislation which created 12 years ago our Federal program to support both the Arts and Humanities, and as one who as chairman of the subcommittee has been responsible for the oversight and reauthorizations of this program since its beginning, I welcome this opportunity to express not only my full support of Dr. Duffey, but also my deep concern for the role of the Humanities in our Nation's life.

My concerns have sometimes been misinterpreted and distorted. There should be no mistake about them today.

I care intensely about the welfare of this program. I have followed it with close attention through these many years, and have seen certain weaknesses and shortcomings in it in the past.

But we are not here to review the past. Today I want to look toward the future.

So, let me express my concerns, and my deep caring, in terms of the goals and challenges which I see for the National Endowment for the Humanities.

First, I believe the potentials of this endowment need now to be fully addressed. They have immense significance. I have often said that the humanities serve to translate knowledge into wisdom. We need that wisdom—and, above all, we need it to be broadly available to us as a Nation. Without limitations. With no narrow bias toward organizations or individuals who may have an unwarranted sense of superiority.

The humanities themselves instruct us against such a bias. We need, therefore, a clear awareness that the results of great scholarship should apply as widely as possible—and that the sources of wisdom are many and varied, and to be developed and nourished in all parts of the country, in institutions large and small.

Second, I believe a full working partnership between the endowment and our States should be rapidly developed, in accord with the directives of the Congress approved last year. Some steps have been taken. Much more needs to be done.

The leadership of the endowment should establish new relationships with State governments and new ways to disseminate the values of the humanities at State and local levels. State officials should be closely involved in this process.

I would add here that in the 11 years of its existence the arts endowment, sister to the humanities, has built a strong base in each of our States and with each of our State governments. Funding for the arts from State appropriations has grown from $4 million to almost $60 million annually—and almost 1,800 community arts agencies have been developed from an original 125. Think of how that program is reaching out across the country.

That leads me to the third point I wish to make in these remarks: the challenge that confronts the humanities endowment in these next years.

When we were drafting this legislation in the early 1960's, we clearly recognized the difference between the arts and the humanities. The legislation we approved clearly provided for those differences, and called for two different programs. Yet the relationship between the two broad cultural areas, arts and humanities, was also recognized. Each would serve to complement the other.

In my view one has outdistanced the other. One has fulfilled its congressional mandate to our people better than the other. The challenge is for the Humanities to catch up—and perhaps, in its own way, to move ahead.

Some would suggest that when we think in terms of greater outreach for either the Arts or the Humanities, we are advocating procedures which will lessen quality. That is not my view at all.

I continue to believe that the quality of the Endowment's work must be of the highest. Otherwise, it will not enrich us. It will not achieve its mission of improving the quality of our lives.

And that is the final point I want to make: our lives—the lives of all of us.

Leading civilizations throughout history have placed an abiding emphasis on both the Arts and the Humanities—but in times past a philosopher, for example, was as highly regarded as a great dramatist or musician. The great philosopher was perhaps even more relevant to his particular time.

It is time to assert the significance of the great subject areas of the Humanities, and I believe Dr. Duffey can provide the leadership we need.

He has the scholarly credentials necessary to this high post, and from the statement he made to us in the hearing on his nomination and from the answers he gave to careful questioning by the Committee on Human Resources, I believe that he also has that sense of mission required to reinvigorate the Humanities, and to give them a new sense of direction and purpose for the betterment of our Nation as a whole.

I am pleased that Dr. Duffey's own expressed concerns appear so closely to parallel mine and that we share in resolute desire to move forward. I commend President Carter for his nomination of Dr. Duffey, and I greatly look forward to working with him.

AWACS AIRCRAFT POTENTIAL

Mr. GOLDWATER. Mr. President, soon the Congress must make up its mind whether or not we will allow the E3A, otherwise known as the AWACS aircraft, to be sold to Iran. I know that some of my colleagues are bitterly opposed to this sale and they have very rightly expressed their opinions. I happen to disagree with them because I cannot think of a country which could use the aircraft better than Iran and by its use, give us more detailed information as to activities of the Soviets on their own soil and on the perimeter of the Indian Ocean which, to me, is the strategic center of the world today. I realize that there is a danger of its secrets falling into the hands of the Russians but, frankly, I think that danger would be less in Iran than right here in our own country. A very interesting

article appears in an Air Force magazine relative to this aircraft, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW THE E–3A GIVES THE BIG BATTLE PICTURE

(By Maj. Gen. Lawrence A. Skantze, USAF)

The first delivery of a production E–3A to the Tactical Air Command took place at Tinker AFB, Okla., on March 24, 1977. This event marked the beginning of a new era in our ability to manage and control tactical forces in massive, complex battle environments. Full development of the concept and tactics for most effectively exploiting this remarkable airborne warning and control system will be an exciting challenge to the Air Force over the next decade.

The focus of the E–3A system is the high-power, multimode airborne radar. Rotating at six revolutions a minute within the conspicuous black-and-white rotodome, while electronically scanning in elevation, it can be operated in either a pulse doppler (PD) mode or pulse mode, or both modes interleaved. The high pulse repetition frequency (PRF) pulse doppler mode provides the means to look down and detect low-flying targets against severe background clutter reflected from rugged terrain features. By a sophisticated filtering process, the ground clutter is removed from the return signals, leaving only valid target returns. In the pulse, or Beyond the Horizon (BTH) mode, the radar beam is pointed above the horizon out of the ground clutter region, so a simple pulse mode can be used, extending the coverage well beyond the geometrical radar horizon of about 220 nautical miles.

The operation of the radar can be tailored to as many as thirty-two sectors within the 360-degree scan, utilizing the pulse doppler mode, with or without elevation scan, or BTH mode, or PD/BTH interleaved, or passive receiving as desired. The radar thus can provide a wide variety of target information across the interface to the data processor. This information is also supplemented by sensor data from the IFF, whose antenna is also located within the rotodome, on the back side of the radar antenna. Both streams of sensor data, correlated with inputs from the navigational functional group, flow through the interface adapter unit (IAU) to the IBM 4 Pi CC-1 data processor, which provides the high-speed, high-capacity digital processing that truly exploits the full radar potential. All sensor data are provided in digitized format, which gives great flexibility, and facilitates growth potential through software changes rather than hardware modifications.

The data-processing functional group executes the mission operational computer programs, maintenance programs, and utility computer programs in performing major system computational functions. It has a processing speed of 740,000 operations a second and a total memory of 917,000 words, expandable to 1,410,000 words by inserting additional memory storage units. The E–3A Airborne Operational Computer Program (AOCP) operates on a ten-second cycle and uses data received from all avionics subsystems. Processing this information enables the E-3A to detect, track and identify aircraft; communicate with and relay messages to and from external sources; select, analyze, and display data; and perform onboard training. Almost all of this information provided by the computer is visually displayed to the crew on the multipurpose consoles of the Data Display and Control Functional Group (DDCFG), which is the heart of the man-machine interface on the E-3A system.

Two types of data display and control equipment, consisting of nine multipurpose consoles (MPCs) and two auxiliary display units (ADUs) are used directly by the mission crew to perform the E-3A mission. The MPCs provide the mission crew with all display and control features required to carry out their surveillance, weapons direction, and battle staff functions. The ADUs support the communications, maintenance, and data-processing functions of the mission crew.

To accomplish their assigned surveillance and control tasks, the mission crew can configure the MPCs to serve as battle staff, surveillance, or weapons direction consoles. The MPC presents the appropriate pictorial representation of the situation required to support the function assigned the MPC by the operator. The pictorial representations of the available data range from individual symbols transmitting only sensor type and target position information, to a combination of symbols and tabular notes that display such information as target type, speed, direction of flight, bearing, friendly mission, and altitude. Supporting tabular data are presented in the lower portion of the display screen. From this data, and from such background pictorial information as maps and landmarks, the MPC operator can take actions in response to a developing situation. With the flexibility of configuring his nine MPCs to the appropriate mix of surveillance and weapons directors, the E–3A Mission Commander can optimize his ability to manage the air situation.

DISPLAY REMOTING EQUIPMENT

A recent and dramatic capability added to the E–3A system is Display Remoting Equipment (DRE), using a conventional TV camera to transmit the picture on the MPC display directly, in real time, to high-level command authorities on the ground. Using commercial off-the-shelf equipment, a DRE set was installed and used during the three complex Initial Operational Test and Evaluation (IOT&E) exercise conducted during the last quarter of 1976. This demonstration equipment, with a single mobile ground station and microwave relays, provided commanders on the ground a constant overview of the total air situation as seen by the E–3A, including prehostility warning from long-range deep surveillance forming up and movement of hostile aircraft formations, positioning of friendly defensive and strike aircraft, location of in-flight refueling and SAR activity, and the over-all ebb and flow of the air battle. Several ground-based IFF transponders were used to display the identification, location, and status of simulated key ground force units. A similar overview of critical maritime activity will be displayed when the maritime surveillance radar mode is installed.

In the massive tactical test (TACEX), the DRE capability allowed the Blue Force commander on the ground to continuously monitor this intense, simulated NATO air war, beginning with early warning of massive air formations building deep behind the political border. This overview enabled him to most effectively use a numerically smaller force to counter more than twice as many attacking aircraft, despite intense airborne and ground-based jamming. If you project this scenario to the NATO Central Region, the same type of prehostility warning of developing air movements deep beyond the political borders, with all the unique intelligence features, could be displayed simultaneously in real time via downlink and microwave relays to all the political and military authorities in the NATO capitals.

The TV downlink has clearly demonstrated a dramatic potential for any crisis environment in which aggregated real-time intelligence is vital. As a result, the incorporation of DRE into the E–3A system will be accomplished rapidly. Although the basic development program is complete, engineering and test of the Block II enhancements already are under way to add a new high data rate, jam-resistant communications terminal and a maritime surveillance capability as the first block change to the E–3A. Over the expected thirty-year life of the E–3A, additional enhancements and increased capabilities will emerge, continually improving its flexibility and effectiveness.

THE DEVELOPMENT PROGRAM

The development of the basic E–3A has had a long and turbulent history, which, in retrospect, underscores the ability of the United States to marshal its best talents to exploit technological know-how and management capability and produce a system that provides a significant leap forward, multiplying battle management efficiency as a counter to numerically superior forces. Delivery of the first production aircraft within four months of the date laid down in July 1970, and within four percent of target cost, must certainly be characterized as the culmination of a highly successful development program, but one not without problems and difficulties that had to be met and resolved.

The initial Air Force requirement for an overland lookdown radar system was identified in 1963, culminating in a Specific Operational Requirement (SOR) jointly developed by the Tactical and Aerospace Defense Commands. Exploratory technology was conducted with small-scale radar models during the mid- and late 1960s to verify technical feasibility. Then, having established that technology, a development program was initiated in July 1970, following a formal Defense Systems Acquisition Review (DSARC). A philosophy of risk management was defined and the program was structured to verify early proof of radar performance and minimize large-scale fund commitments until success was assured. To do this, a brassboard flight-test program was defined in which two full-scale radars were flown competitively in two minimally modified Boeing 707 commercial aircraft. Go-ahead on full-scale development was tied to demonstration that the radar could provide an operationally useful overland capability. That was accomplished in late 1972, and full-scale development go-ahead was approved by the DSARC in January 1973, following detailed review of the brassboard results. The original risk assessment criteria, which focused on the radar but also included those other critical elements associated with the full E–3A system, continued to be the critical criteria for decision milestones throughout the DSARC review of development program progress.

After some 900 flying hours with the brassboard aircraft, the next major step was the System Integration Development phase, commonly referred to as the SID Flight Test Program. An early prototype set of mission avionics—principally the IBM 4 Pi Computer, an IFF system, and four of the nine planed multipurpose consoles—was added to the Westinghouse brassboard radar in the Boeing 707 to provide an equivalent prototype E-3A system. Another 900 hours were then flown with the System Integration Demonstration (SID) aircraft, leading to a production DSARC decision in December 1974. The primary risks to be resolved were successful operation of an integrated system, and demonstration of a complex airborne operational computer program that would manage and execute all of the mission avionics functions in flight.

Paralleling the SID Flight Test activity were the development, manufacture, and test of the repackaged radar, from brassboard into production configuration. It would be flown in the full-scale development Flight Test Program intended to complete the formal qualification of the complete E-3A system, including verification of reliability, maintainability, and operational suitability. Formal initial Operational Test and Evaluation would also be conducted as it had been

in the earlier brassboard and SID phases of the E-3A program. Therefore, since the production decision would be made prior to the Development Test and Engineering (DT&E) flight program, the final critical element in the DSARC risk assessment in December 1974 was evaluation of and confidence in the development status of the repackaged brassboard radar.

The degree of concurrency planned in the program's development and production phases was considered and assessed as reasonable and necessary for an efficient program during the initial program approval (DSARC I in July 1970) and reassessed at DSARC II (Development Go-ahead) and DSARC III (Production Go-ahead). Both the brassboard and SID Flight Test phases provided the performance checks on which to base confidence, and the degree of concurrency reduced the total program schedule and made possible delivery of the first operational aircraft a year early.

In actual execution of the program, the performance data amassed during the brassboard and SID flight phases allowed us to reassess the requirements of the full system DT&E Flight Program and reduce that phase by seven months, resulting in additional program savings. Nevertheless the critical path in DT&E was clearly the development and successful flight test of the prototype radar. While the brassboard performance had provided high confidence in the design and performance of the radar, the repackaging challenge did entail schedule risk in terms of the amount of design refinement and qualification testing that would have to take place.

REPACKAGING THE RADAR

The primary task was to complete a repackaged design that would meet stringent weight and operability requirements. Extensive use of integrated circuits and multilayer printed circuit boards achieved much denser packaging in low power units. A complete redesign of the high-power transmitter was undertaken to reduce weight and to break it into a number of units, each capable of being manhandled, instead of the two large tanks used in the brassboard radar. The net result was to reduce the total weight from 14,000 pounds to 7,600 pounds. This one reduction increased the system's critical time-on-station by nearly forty minutes, thereby contributing significantly to the E–3A system effectiveness.

Another major effort in DT&E was to meet radar reliability and maintainability requirements. These were achieved by extensive use of redundant elements, including redundant transmitter chains, and by incorporating a Built-In-Test (BIT) system. This system detects and reports radar failures, automatically switches to a redundant element, and provides on-board fault isolation. The inherent reliability of the radar was also substantially improved by reducing the number of parts (100,000 on brassboard to 78,000 in the DT&E design), by using more reliable parts, and by stringent attention to environmental control and the effects of vibration and shock. Finally, in some selected areas we took advantage of advances in the state-of-the art during the course of the brassboard program. Without changing the initial basic philosophy that only well-proven technology would be used, some minor design changes were made to improve performance and reliability largely by changes in system timing and some other parameters.

In retrospect, there appeared to be ample time in the schedule during early manufacturing and testing of the prototype radars to accomplish all debugging and critical interface testing of the full radar system. However, it became evident during the first weeks of testing following full-scale radar assembly that we faced a considerable challenge in debugging the system. While it was clearly evident that the repackaged design was sound and would meet performance requirements, the process of isolating and eliminating the noise and instability contributors took much longer than anticipated.

By the end of 1975, it was clear that we would incur some minor schedule slippage to accommodate the design refinement process, which was compounded by a number of critical spares shortages in the development activity as well as a delay in completing the BIT/FIT (Fault Isolation Test) software. Fortunately, the problems were identified early enough so that the maximum slip in schedule was four months for the first production aircraft delivery, with a forecast back-on-schedule delivery by the fifth aircraft. A revised program plan was initiated and vigorously implemented by Boeing and Westinghouse during 1976. This plan met all commitments in an outstanding manner. Not only was a successful Flight Test Program completed on schedule but a series of three operational tests, including a severe high-density air battle environment test called TACEX, were completed with highly successful results.

COUNTERING CONGRESSIONAL CRITICISM

While the critical manufacturing, assembly, test, and refinement of the production prototype radar design was taking place, the first production budget for six aircraft was proceeding through the FY '75 congressional cycle. It came under strong criticism from the General Accounting Office, which published two reports raising serious questions about the system. These criticisms led to significant congressional concern. The major issues were the ability of the system to meet its performance requirements and the ability of an E–3A to survive in a hostile environment, characterized by intense jamming. Although the first issue was largely answered by the SID flight performance and the early DT&E radar testing, the survivability issue persisted.

In order to protect its oversight responsibility and avoid any premature decision, Congress wrote into the FY '75 Authorization Legislation requirements that a special ECCM Committee be formed by the Secretary of Defense to review the E–3A radar resistivity to jamming, and that the Secretary of Defense certify to the effectiveness of the E–3A in a high-density European environment prior to approval of the FY '75 production decision. The result was a period of intense activity during 1974 and early 1975, involving a significant amount of additional SID flight testing, including a special survivability test that featured dedicated attacking aircraft with airborne standoff and escort jamming. A significant number of engineering flight tests were flown against ground and airborne jammers at the request of the ECCM Committee. Although the originally planned SID Flight Program was completed by mid-1974, this expanded Flight Test Program continued through late 1974 and was not concluded until a final series of additional special tests were flown in May 1975, following a successful flight demonstration in Europe in April 1975.

The DSARC production decision was approved in December 1974, based on the final reports and data from the E–3A SID Flight Test Program, the Air Force Test and Evaluation Center assessment of IOT&E, and the report of the ECCM Committee. Go-ahead was held in abeyance, however, until the test results and the Secretary of Defense certification could be briefed to Congress. These results and conclusions were presented as special hearings before both the Senate and House Armed Services Committees in March 1975. A production go-ahead was recommended and endorsed by both Committees in April 1975.

The net effect of GAO and congressional criticism was to force a large increase in testing in the SID Flight Program, which severely taxed program resources and management's ability to react rapidly to a steady stream of increasingly stringent test requirements from a variety of sources. The planning, execution, scope, and perception of these special tests were heavily influenced by the fact that survivability, and jamming resistivity in particular, are relative—not absolute—issues. No radar will ever be "jam proof," so the issue is really how much jamming resistivity is enough.

It was always clear that the E–3A radar design offered the most jam-resistant airborne radar ever built, and subsequent testing verified that, in fact, the depth of the E–3A radar sidelobes, the most important single measure of resistivity, far exceeded the design specification. The highest available jamming levels were used in these tests, including a specially built ground-based "Super Jammer" to thoroughly explore the radar's performance and limitations in intense jamming environments. Although accepted analytical techniques had been used to predict the expected radar performance in jamming environments, testing became the *sine qua non* and did in fact verify what had been predicted analytically.

A UNIQUE ASSET

Looking back on that period, recollections of trying to keep the development program on schedule and within cost are vivid. The continuous influx of special test requirements had to be handled with rapid identification and reallocation of test resources, as well as adjustment of internal budgets to cover costs. Nevertheless, in retrospect that hectic period and the additional testing can be viewed as a positive contribution.

First, the additional testing clearly defused the criticisms of E–3A system performance. Second, the tests satisfied genuine concerns of the Congress which felt—and in retrospect rightly—that additional tests rather than analytical results were necessary to support the production decision. Third, we in both the DoD and the Air Force gained greater confidence and insight into the capabilities of this revolutionary airborne warning and control system. Finally, the findings and recommendations of the special ECCM panel, which found the E–3A to be a remarkable achievement and a highly effective system, set us on the road to early definition of a number of ECCM improvements that will enhance the E–3A's effectiveness well into the foreseeable future.

In summary, there seems to have been a singular dichotomy in the E–3A development history. On the one hand, it was an unusually successful development program that has met performance, cost, and schedule goals. Yet, it has been highly controversial in terms of perceived effectiveness and unit cost. The effectiveness issue has now been resolved. Since development is completed, the remaining cost issue is really a function of how many systems are to be built and how efficiently they are produced. The original production rate was to be two per month at an estimated procurement cost of $42.5 million per E–3A. The current production rate for the first sixteen aircraft is one every two months at a procurement cost of $69.5 million per E–3A, including all trainers, ground support and depot repair equipment, and spare parts.

The E–3A has been a truly unique development that has produced an outstanding capability of providing deep-look prehostility warning, dramatically increasing force management effectiveness, and of becoming a genuine catalyst for improved communication and command and control of large tactical forces.

(By Gen. Robert J. Dixon, Commander, Tactical Air Command)

ON THE BRINK OF A REVOLUTION

The United States Air Force has made no more important investment for national se-

curity than the commitment of resources to the development of the E–3A Airborne Warning and Control System (AWACS). The E–3A will have a revolutionary impact on command and control capability at both a national and international level.

The extension of surveillance horizons for warning and control with survivability far beyond the limits of ground-based systems, through the employment of the E–3A, can provide civil and military leaders, as well as battle managers with a never-before-available view of the battle area—potential or actual—and on a real-time basis. For the first time in history man can have an instant real, certain view of air and, if desired, ground and sea operations, before or during conflict.

With AWACS, our peacetime vision will extend far beyond the border. The knowledge we gain of our opponent's air activity will give us a higher level of understanding of preparations, and hence intent. This insight can enable national authorities to decide whether to mobilize or not to mobilize. The perfect vision of potentially hostile air activity will enable a commander to position his forces with economy and mass at the proper time and place to deter, or to fight. We will have time to think, reason and act rather than just react.

In the battle itself, the E–3A will enhance manyfold the capabilities of a commander's forces. This revolutionary technological edge will help us offset numerically greater hostile forces.

We have proven the E–3A's capability to see and to help manage in the largest, most complex peacetime test in the history of the Air Force. Last November, in the Southwestern United States, using the Nellis and Edwards AFB test ranges, an environment was simulated for the E–3A which permitted the time and space compression of opposing air operations of sufficient density to represent the threat environmental potential in Central Europe. The purpose was to stress the system—both men and machine—to determine its operational capability.

From twenty-one bases in nine states, 413 Air Force, Navy, Air National Guard, and Air Force Reserve aircraft were employed, with an enemy/friend ratio of two-to-one. The Red Force was given ground control elements and extensive ECM capabilities to employ against the E–3A, which provided the Blue Force its only source of surveillance and control information. With the E–3A providing a real-time picture of more than 250,000 square miles—three million cubic miles of airspace—of prehostility Red Force activities, the Blue Force commander was able to make timely decisions and to concentrate his forces to meet the main threat. Despite intense ECM and intense operational activities, the E–3A enabled the air commander to achieve economic and effective battle management of a massive defensive/offensive air battle.

I am convinced that the E–3A the most significant single tactical force improvement since the advent of radar, has us on the brink of a revolution in command and control.

CONGRESS AND THE DEFENSE INDUSTRY: ROLES IN DETERMINING DEFENSE POLICY AND NEEDS

Mr. LEAHY. Mr. President, this evening, I will be delivering a speech to the Management Club of Lockheed Aircraft Corp. in Atlanta, Ga. The speech concerns what I see to be the proper roles and responsibilities of both the U.S. Congress and the defense industry in determining U.S. defense policy and needs. We all know the many instances in which the defense industry has been guilty of cost overruns, providing inaccurate performance data, irresponsible lobbying techniques, and illegal actions. But we in Congress must also accept a degree of responsibility as partners in some of those mistakes.

So that all Members can share my thoughts on this subject, I ask unanimous consent that the prepared text of my speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LOCKHEED SPEECH, SEPTEMBER 12, 1977

I am pleased to be here at Lockheed, both to see first-hand the new South that produced our President, and to have a chance to speak to you. I have some familiarity with some Lockheed programs, particularly in the area of airlift. As many of you know, I conducted an investigation and study of airlift requirements and programs while I was a member of the Senate Armed Services Committee. That study, requested by the Chairman of the Committee, Senator John Stennis had as its basic overall conclusions criticisms of the Pentagon's process of evaluating the requirements for various proposed airlift programs and the lack of coherent, coordinated planning. I found us rushing headlong into multi-billion dollar programs which had not been adequately justified. Many Lockheed airlift programs fell into that category, although most of them were well-designed and well-built.

I am happy to note that Defense Secretary Brown and the Joint Chiefs of Staff have taken a serious look at my report, have conducted their own study, and have reached many of the same conclusions. The airlift program is being reconsidered and reevaluated, and some changes are being made. And, of course, Lockheed will play a major role in any plan to enhance U.S. airlift capabilities.

I appreciate the opportunity to speak here, to give you some insight into the thoughts of one Senator on national defense and the defense industry, and to hear your thoughts on the same topics.

My first thought when I was invited here to address a group involved in the defense industry was to deliver a stinging attack on past indiscretions, such as massive cost overruns, bribes, and so on. But I know that you are all aware, some of you maybe even painfully aware, of those past problems, and therefore I won't dwell on them.

However, I do want to make two brief comments on that subject before moving on.

The first is that I hope that the industry has recognized those past acts for what they are, in order that the mistakes of the past will not be repeated.

Secondly, I recognize, as I'm sure all of you do, that an accusing finger can be pointed in several directions, not just at the defense industry, or the Pentagon, but also at the United States Congress, for fostering a climate in which those past mistakes were condoned, and often even encouraged.

Instead, I would like to explain to you what I see as the proper role and responsibility of both the defense industry and the Congress in providing for our national defense.

But first, a few basics.

The facts of life are somewhat different for Congress and defense contractors. In your case, you are businessmen, concerned with designing a product or providing a service in the best and most efficient way you can, and then translating that work into a profit for your stockholders. In my case, I am a legislator concerned with legislating in what I perceive to be the best interests of the country, and at the same time pleasing and aiding my constituents.

While we cannot ignore these different motives we have in approaching our work, we must all recognize that when we are dealing with issues that are vital to the survival of our country, your profit motives and my political motives must become secondary.

When assessing our roles and responsibilities, I think that the best place to start is with a statement with which we can all agree.

The primary goal for all of us involved in the defense of our nation is to guarantee that the defense is strong enough to assure our nation's security and survival. And the primary reason for designing and building weapons systems is to further that aim in the best and most economical fashion possible.

But after we agree on that noble cause, we have problems, for that concept is not easily defined. Certainly, one hundred men in the United States Senate have never been able to agree on a definition of national security that satisfies all of us.

It would be easy, and seemingly safe, to simply take the position that the more defense capabilities we possess, the more secure we are. But that simply is not true when we consider the many factors which contribute to our national security and to our national survival. I think that one of the many lessons of the Vietnam war is that we cannot have unlimited quantities of guns and butter at the same time. Yes, we might be secure from enemy attack if we were to spend $200 billion, or $300 billion, or more, annually on the defense budget, but what kind of society would we be defending? Without a sound economy and a just society, talk of our country and our way of life is empty rhetoric. One political figure warned several years ago that excessive defense spending could lead to a situation in which America has the best defended slums in the world. To have to say that would be to speak in bitter irony, and not in pride.

We should not lose sight of the fact that, despite differing interpretations of national security, not one of us is willing to sell this country out to its enemies.

However, that charge is often leveled at those members of Congress, including myself, who, for one reason or another, find themselves disagreeing with or criticizing various proposed defense plans or weapons systems. This is not only personally annoying, but also, I think, quite dangerous to our democratic system of government.

I recognize and defend the right of any citizen to disagree with critics of various defense programs, but I view with dismay the great political pressure that is often applied to members of Congress to accept, without questions, all programs proposed by the Pentagon. It disturbs me that responsible members of Congress and private citizens are labeled "unpatriotic" or "unAmerican" by some if they so much as question, let alone criticize, programs being planned by the Pentagon, regardless of their potential impact on our economy and our society.

I know, simply from reading my mail, that the general public recognizes that members of Congress are fallible, on defense issues as well as countless others, and I am not going to argue that point. But we also need to recognize the fallibility of all the partners in the formulation of defense policy—the President, the Pentagon, and the defense contractors.

The fallibilities of the Congress in dealing with defense matters emerge chiefly in the form of its failures and omissions. Congress, with its Constitutional power of the purse, is charged with setting national priorities—whether between defense spending and other forms of spending, or among various components of the defense budget itself. For many years now, Congress has been a pushover for the Pentagon—rarely has a new weapon sys-

tem, no matter how costly or controversial, been voted down in either house. The ABM system was a conspicuous exception to this rule.

The problem stems, partly, I think, from the failure of each Senator and Representative to take on the responsibility of being well informed on the admittedly difficult and technical issues involved in setting defense policy. Too many of my colleagues have been content to let the generals and the admirals, with their technical knowledge, make those tough decisions. The attitude among some of my fellow Senators, I regret to say, is that if the brass at the Pentagon want it, we must let them have it, with no questions asked. This rubber stamp mentality amounts to an abdication of the Constitutional responsibility of the legislative branch of our government. The role of Congress is to make impartial judgments for the good of the country as a whole, and this attitude I often see makes no more sense than for a judge and jury to rely on a defense attorney to provide them with the full, unbiased facts of a court case.

The other major failure of the Congress stems from our political motives. Many Congressional advocates of cutting and tightening our defense budget stop abruptly when it comes to cutting programs in their own state or district. There is a very natural concern for the economic well-being of one's own constituency, and it is very difficult to stick to hard and fast principles when those we represent are urging us to save their jobs. We in the Congress have all too often lacked the courage to make the decisions which are right for our national security but wrong for our political profit. We must realize that the purpose of ma'or weapon's systems and other defense spending is to enhance our nation's defense and not to provide jobs for our constituents.

How do defense contracts fit in this picture? What is their proper role in the formulation of defense policy? When I stated earlier that your profit motive must not be preeminent when working on weapons systems, I did not mean that profit must or can be forgotten. That would be patently ridiculous. Contractors are businessmen who must continue to seek their profits, by designing and building good products and trying to sell them to the Pentagon, the Congress, and, through the Congress, the public. However, salesmanship of defense systems must be strictly limited to discussing the capabilities of the particular weapon system and explaining how the system could add to our overall national defense capabilities as opposed to self-serving claims that the system is a vital component of our national defense. Such tactical and strategic decision making is properly the function of the Congress, the President, and the Pentagon.

The defense contractor is an expert, a skilled technician, but not a policymaker. His obligation is to provide the policymakers with the honest and accurate technical and cost data needed to make the best decisions about our defense needs. In this regard, the defense contractor is an indispensable component of defense decision making. And the U.S. defense industry is without a doubt technically the most sophisticated in the world.

When I think of the ways in which weapons systems must *not* be sold to the nation, I think of the recent campaign on the part of Rockwell to sell the B–1 bomber.

Without going into the pros and cons of the controversy, I will simply state that I was opposed to the production of the B–1. As a member of the Senate Armed Services Committee for the first two years of my term, I was almost constantly faced with that issue and, recognizing its importance, I spent a great deal of time studying the arguments on both sides before I made my decision to oppose the B–1.

However, at one point in the controversy, employees at a subcontractor's plant in Vermont were told that they might lose their jobs if funds for the development and production of the B–1 were not approved, and that the vote of their Senator was crucial. As a result, I was inundated with letters and phone calls from concerned employees and their families and friends. At the same time, many were calling in to radio talk shows upbraiding me for what they mistakenly believed to be a callous disregard for their economic security, to say nothing of our national security.

The fact of the matter is that at that time only 10 jobs at the plant were connected with the B–1 program. Furthermore, the defeat of the B–1 bomber would have meant only that *additional* employees would not be hired in the future. The manager of that plant admitted that fact, but not until after the B–1 program was cancelled by President Carter. He then flatly stated that the President's decision would not have any major impact on his plant's operations

At another point, Rockwell officials wrote me a letter detailing the purported economic benefits of the B–1 to Vermont, and the purported disastrous consequences that would result from the cancellation of the B–1. Oddly enough, the Vermont media received copies of that letter two days before I did.

A few days before an important vote in the Senate, top Rockwell executives flew to a small Vermont corporate subsidiary. Their public relations people turned out all of the local media to hear what an important part of Rockwell's B–1 team the local workers were. Again, I was flooded with letters and phone calls from working men and women who were misled into believing that their jobs might depend on the continuation of the B–1 program.

Perhaps the most flagrant lobbying abuse during the B–1 campaign involved the efforts by Rockwell to discredit Senators and Congressmen who opposed the B–1, even going so far as to accuse them of furthering the aims of the Soviet Union. As you can well imagine, this sort of inflammatory rhetoric did more harm than good to Rockwell's cause. Congressional supporters as well as opponents of the B–1 took offense at this line of irresponsible attack.

While Rockwell was employing what amounted to scare tactics in an attempt to create political pressure, I did recognize the possibility of future beneficial economic effects of the B–1 bomber program for the communities involved and the state as a whole. However, I did not believe that the B–1 or any other weapon system should be viewed as a public works project. The efforts of Rockwell and its thousands of subcontractors, scattered about in all but one or two of the fifty states, to sell the B–1 program solely on the basis of its economic benefits were, in my opinion, detrimental to the sincere attempts of all members of Congress and the President to provide for a strong national defense without bankrupting the country at the same time. Decisions to spend billions of dollars on controversial weapons systems such as the B–1 must be made on the basis of the military requirements for those systems, and not on the basis of the number of jobs that would be created.

The defense industry, then, must continue to do its job designing and rebuilding the best weapons systems they can. But the industry must recognize the boundaries of its role.

The Congress and the executive branch of the government are charged with the responsibility for making the final decisions on what weapons are and are not needed for our national defense. Just because a particular weapon is technically feasible and can outperform anything in our inventory, does not mean that it is vital to our nation. We must buy only what we need.

As I have said, there are many other factors which figure in the determination of our national goals. The Congress and the President must weigh all those factors, and should be allowed to perform that job free of inaccurate data, exaggerated performance claims, exaggerated cost data, and especially irresponsible rhetoric.

I thank you for listening to me, and I now want to hear your questions and comments. It is only by working in an honest, cooperative fashion that together we can accomplish our most important task of guaranteeing our national security.

AN OUTSTANDING CBS DOCUMENTARY ON ENERGY

Mr. PERCY. Mr. President, on Wednesday, August 31, 1977, CBS aired an excellent documentary entitled "Energy: The Facts—the Fears—the Future." As we are all aware, the vast and complicated subject of energy has produced as many opinions and ideas as there are people in this country. By a skillful presentation of the ideas of the most divergent and outspoken advocates on all sides of the energy crisis, CBS was able to present a balanced and thoughtful picture of the problems facing our Nation.

Walter Cronkite performed a great public service by presenting the facts, clarifying the issues, and once again, driving home to the American public that the energy crisis does in fact exist. I was particularly pleased to note that a half hour of the program was devoted entirely to conservation. Promoting conservation was the guiding force behind Senator HUMPHREY's and my decision to create the alliance to save energy.

SENATORS BAYH AND ABOUREZK REQUEST PRIVACY SAFEGUARDS FOR PLANNED IRS COMPUTER SYSTEM

Mr. BAYH. Mr. President, the Internal Revenue Service has proposed the implementation of a new tax administration system—TAS—which will involve the computerized collection, use, maintenance and dissemination of large amounts of personal information about American citizens. Obviously, such a system raises serious questions concerning the potential for abuse of our right to privacy. While the proper enforcement of our revenue laws entails the collection of vast amounts of information we must do all we can to insure that this activty does not also present us with a danger to our civil liberties.

Basically, TAS embodies an attempt to increase the availabilty of tax records by decentralizing the computer system which currently houses them. There will be a central computerized account directory which will also serve as a master switching point for transmission of messages among 10 field sites. If fully implemented TAS will be composed of a network of some 8,000 terminals located in various service centers around the country.

Mr. President, the intent of TAS is surely a noble one. The quicker access

to information, and its more current status, should enable IRS to carry out its tasks with an increased efficiency. There are, however, unfortunate side effects as well as benefits to be gained by these new developments in informational systems. Each year Americans file 125 million tax returns. These records provide a detailed account of a person's life style, habits, health and financial conditions. When the Federal Government requires citizens to divulge such personal information it should also be able to insure us that the information will not be diverted for improper uses. Certainly the fact that TAS may carry with it the potential to make every American's tax return rapidly available at some 8,000 locations scattered around the country should give us cause for concern over the privacy implications presented by this system.

Mr. President, Senator ABOUREZK and I have written to the Secretary of the Treasury to inquire about the privacy safeguards built into TAS. As chairman of the Subcommittee on the Constitution I feel a special responsibility to do all I can to insure that the collection of information by our Government does not become a threat to our civil liberties. It was not very long ago, Mr. President, that several agencies in the Federal Government, including the IRS and the FBI, were misused by persons in power as weapons in an assault on our constitutional freedoms; they were formidable weapons indeed. We must see to it that these powerful agencies are never again turned on our own people. I recently contacted the Attorney General concerning the FBI's plans for a computerized central message switching system for criminal information.

It should be made clear that I do not consider either TAS or the planned FBI system to be designed to chill the exercise of civil liberties by American citizens. At the same time we cannot ignore the potential for abuse inherent in such massive information storage systems. These systems must be properly designed to do only what they were intended to do and not what some future plumber's unit might want them to do.

Mr. President, I ask that our letter to the Secretary be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON THE CONSTITUTION,
Washington, D.C., September 6, 1977.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to request that you provide our Subcommittees with information concerning the Internal Revenue Service's plans to establish a full computerized Tax Administration System (TAS). As we understand the preliminary plans for this system it would involve the collection, use, maintenance and dissemination of large amounts of personal information about citizens. While the administration of the revenue laws naturally requires the collection of personal and financial information, we are sure you would agree that we must provide safeguards to insure that these data systems do not, even inadventently, lend themselves to becoming potential threats to civil liberties and invasions of privacy.

We are requesting, therefore, that you provide our Subcommittees with your plans to insure that TAS will adequately protect the privacy of the American taxpayer. Further, we hope that you will continue to keep us informed as to the status and progress of the Tax Administration System.

Sincerely,

BIRCH BAYH,
Chairman, Subcommittee on the Constitution.

JAMES ABOUREZK,
Chairman, Subcommittee on Administrative Practice and Procedure.

Mr. ABOUREZK. Mr. President, the Internal Revenue Service is currently seeking authorization from Congress to replace its existing data processing equipment with a new computerized tax administration system—TAS. The proposed system would integrate the collection, processing, use, maintenance, and dissemination of large amounts of personal information about citizens. Once operational, TAS will probably be the "world's largest and most sophisticated computer system."

While officials of IRS point to the benefits of such a system in terms of improved efficiency, the potential for misuse and abuse of personal information in the system is enormous. Consequently, Senator BAYH, chairman of the Subcommittee on the Constitution, and I, as chairman of the Administrative Practice and Procedure Subcommittee, have joined in a request to the Internal Revenue Service that our respective subcommittees be kept fully and currently informed of its plans to establish the tax administration system.

Apart from the obvious issues of privacy and confidentiality, I am concerned about the implications of computer and telecommunications technology for the administrative process. Meaningful debate of fundamental policy questions such as privacy, confidentiality, due process, and security may be foreclosed unless careful consideration is given to the technical features of a computerized system. The size and design of TAS, as well as the impact of this system on future large-scale computerization in other Federal agencies, mandate an indepth congressional review before the system is acquired. Specific laws, rules, and policies should be determined not only to address immediate problems, but in anticipation of future problems as well. The sufficiency of the policies and practices governing the operation of TAS will be an issue of great concern to the Administrative Practice and Procedure Subcommittee.

NEED TO BALANCE COSTS AND BENEFITS OF REGULATION

Mr. SCHMITT. Mr. President, recently I introduced S. 2011, the Regulatory Reduction and Congressional Control Act of 1977. This bill would provide, among other things, for congressional oversight over major rulemaking activities of the executive branch. At this time I request that Senators GOLDWATER, BARTLETT, and ZORINSKY be added as cosponsors of S. 2011. I welcome their interest in insuring the separation of powers and reducing the regulation of the economy.

One of the unfortunate trends observed in our economy today is the rapidly increasing regulation of individual decisionmaking in the business community. There are many areas in the economy where regulation by Government can be justified; however it is essential that there be clear gains to the introduction of such regulation.

The Congress recently addressed the question of the need to regulate third party debt collectors at the Federal level (H.R. 5294). On balance, the legislation which we are sending to President Carter is probably one of the better "consumer" bills to come out of the Banking Committee in recent years. It is directed at the elimination of abusive practices by third party collectors; however, the potential for actually increasing the burden to consumers by overregulating the collection of debts by third parties is considerable. Recent experiences with legislation directed at truth-in-lending have shown that some common sources of credit can be eliminated by the careless design of "consumer" legislation.

It is, therefore, important to note the extent to which abusive practices occur in the collection of debts. Fortunately, some information is available to us from a study conducted of the Puerto Rican economy—consumer credit in Puerto Rico, by the Puerto Rico Development Group, January 1975. In fact, this is the only comprehensive study of its type available to date. Interestingly, of 600 households sampled, using a statistically scientific sampling method, none of the respondents indicated that abusive threats were employed by banks, loan companies, savings and loans, finance companies, or private debt collectors.

As we pursue legislative initiatives designed to protect the consumer from various forms of abuse, we should always balance our desire to eliminate the undesirable conduct with a recognition of the costs imposed on innocent consumers and business persons by the regulations which we write. This rule should apply not only in the writing of consumer legislation, but also in the consideration of other legislation to come before the Congress.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unan-

imous consent to have printed in the RECORD the five notifications I have just received.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA.
Washington, D.C., September 9, 1977.
In reply refer to: I-5645/77ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77-70, concerning the Department of the Navy's proposed Letter of Offer to Iran, not major defense equipment as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $28.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 77-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value: Major Defense Equipment*, $0.0 million; other, $28.7 million; total, $28.7 million.

(iii) Description of Articles or Services Offered: Provides for the training of 200 Iranian Air Force personnel as Naval Flight Officers/Weapon System Operators beginning in October 1977 and ending in April 1983.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 9, 1977.
In reply refer to: I-5648/77ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77-71, concerning the Department of the Navy's proposed Letter of Offer to Spain for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $9.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 77-71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major Defense Equipment*, $9.0 million; other, $0.0 million; total, $9.0 million.

(iii) Description of Articles or Services Offered: Sixty-four (64) SEASPARROW (RIM-7H-5) tactical missiles, ten (10) flight evaluation missiles, two (2) inert missiles, one (1) training missile and five blast test vehicles.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc., Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 9, 1977.
In reply refer to: I-6308/77ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77-72, concerning the Department of the Army's proposed Letter of Offer to Thailand for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $9.5 million and support costs of $1.0 million for a total estimated cost of $10.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 77-72

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: Major Defense Equipment*, $9.5 million; other, $1.0 million; total, $10.5 million.

(iii) Description of Articles or Services Offered: Thirteen (13) UH-1H helicopters and support for Air Force.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 9, 1977.
In reply refer to: I-6311/77ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77-74, concerning the Department of the Navy's proposed Letter of Offer to Thailand for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $12.8 million and support costs of $.6 million for a total estimated cost of $13.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 77-74

Notice of Proposed Issuance of Letter of offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: Major Defense Equipment *, $12.8 million; other, $.6 million; total, $13.4 million.

(iii) Description of Articles or Services Offered: Six (6) OV-10C aircraft, two (2) spare engines, and spare parts.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

DEFENSE SECURITY ASSISTANCE AGENCY, DEPUTY ASSISTANCE SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 9, 1977.
In reply refer to: I-6843/77ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77-81, concerning the Department of the Army's proposed Letter of Offer to Pakistan for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $9.7 million and support costs of $1.1 million for a total estimated cost of $10.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 77-81

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act—

(i) Prospective Purchaser: Pakistan.

(ii) Total Estimated Value: Major Defense Equipment*, $9.7 million; other, $1.1 million; total, $10.8 million.

(iii) Description of Articles or Services Offered: Twenty-eight thousand (28,000) rounds of 105mm (M392) ammunition.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sales may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the four notifications I have just received. A portion of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
September 9, 1977.

In reply refer to: I-4048/77ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 77-68, concerning the Department of the Navy's proposed Letter of Offer to the United Kingdom for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $7 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 77-68

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) *Prospective Purchaser:* United Kingdom.

(ii) *Total Estimated Value:*

Major Defense Equipment*------	[Deleted]
Other ----------	[Deleted]
Total ----------	[Deleted]

(i) *Military Department:* Navy.

(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.

(vi) *Date Report Delivered to Congress:* September 9, 1977.

(Classified by the Department of State, subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two-year intervals. Declassified on December 31, 1983.)

WASHINGTON, D.C.,
September 9, 1977.

In reply refer to: I-4534/77ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 77-69, concerning the Department of the Army's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $50.0 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 77-69

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment*----------	$50.0
Other ----------	0.0
Total ----------	50.0

(iii) Description of Articles or Services Offered: [Deleted] I-HAWK rocket motors; [Deleted] I-HAWK actuators, explosives; [Deleted] I-HAWK warheads; [Deleted] I-HAWK accumulators, hydraulic; [Deleted] I-HAWK ignitors, rocket motors; [Deleted] I-HAWK safe and arming devices.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

(Classified by the Department of State. Subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two year intervals. Declassified on December 31, 1983.)

WASHINGTON, D.C.,
September 9, 1977.

In reply refer to: I-6130/ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 77-73, concerning the Department of the Army's proposed Letter of Offer to the Republic of China for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $7.8 million and support costs of $.3 million for a total estimated cost of 8.1 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 77-73

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Republic of China.

(ii) Total Estimated Value:

	Million
Major Defense Equipment *----------	7.8
Other ----------	.3
Total ----------	8.1

(iii) Description of Articles or Services Offered: [Deleted] M48A1 tanks.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

(Classified by the Department of State. Subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two year intervals. Declassified on December 31, 1983.)

WASHINGTON, D.C.,
September 9, 1977.

In reply refer to: I-6840/77ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 77-75, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $20.9 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency, and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 77-75

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value:

Major Defense Equipment*----------	$20.9
Major Defense Equipment *----------	$20.9
Other ----------	0.0
Total ----------	20.9

(iii) Description of Articles or Services Offered: [Deleted] (M483) of 155mm [Deleted] conventional munitions and support equipment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: September 9, 1977.

(Classified by the Department of State. Subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two year intervals. Declassified on December 31, 1983.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

TESTIMONY OF SENATOR PERCY ON SMALL POWER PRODUCERS

Mr. HEINZ. Mr. President, I want to bring to the attention of the Senate some thoughtful and innovative testimony by the Senator from Illinois (Mr. PERCY) before the Energy and Natural Resources Subcommittee on Conservation and Regulation on his small power producers amendment to the national energy plan.

Senator PERCY points out the potential of small power producers for contributing to our total supply of electricity through production at small, dispersed sites, for on-site use and sale of the surplus back to utilities. Though the President's energy program partially recognizes this concept in its section on cogeneration, and though the House bill also has some special provisions for solar and wind-generated electricity, neither of those plans is sufficiently comprehensive. We need to include small hydroelectric systems in the definition, and we have to expand the concept beyond cogeneration. Senator PERCY's amendment to the utility reform bill now being considered by the Energy Committee does that, and at the same time it protects the interests and concerns of existing utilities. I support the amendment, and I urge Senators to read this testimony before voting. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR CHARLES H. PERCY

Mr. Chairman, I thank the Energy Committee for this opportunity to testify. Members of this panel have contributed a great

deal of time in the past few months to the evaluation of many energy issues. The Senate and the country owe you a great debt for your work and dedication.

The complexity of even the one part of the Administration's package now before the Energy Committee—electric utility rate reform—is evident from the number and diversity of those testifying before this Subcommittee. Mr. Chairman, I wish to speak on behalf of one problem area which S. 1469 does not address: small hydroelectric facilities and other small electric power producers.

The economics of electric power generation have changed dramatically in this decade. Electric rate reform would not be an important issue here today if not for the rapid rise in power costs. Technological innovation provides one of the few means of relief from ever-higher electric bills.

Fortunately, a new range of intermediate technologies holds promise of soon being cost-competitive. For example, the Federal Power Commission states that small hydroelectric facilities at 48,000 existing factories and abandoned dams could add several percent to our electric supplies. Demonstration projects for this technology are underway in New Jersey and Idaho, and feasibility studies are being conducted in several other states, including Vermont and New York. Several dozen wind generators are in operation. Photovoltaic solar cells may soon be economical in some applications.

All of these systems are small compared to today's electric power plants. All would reverse the trend toward central generating stations. They would produce electricity at dispersed sites, primarily for on-site use.

Mr. Chairman, the attitude of electric companies is crucial to the success of small producers because almost all of these small-scale technologies can work economically only if they operate in conjunction with a central electric system. The cost of energy storage sufficient to allow operation without utility backup is prohibitive.

To date, the number of cases involving interaction of utilities and small producers is limited. Many electric companies have been willing to interconnect with small producers on an experimental basis. I commend these companies for their foresight.

There have, however, been some disturbing problems. The Public Service Commission in New York City had to order the local electric company to provide backup power and to purchase electrictiy from a small windmill. A utility in Montana denied any service to a home after the homeowner hooked up a six kilowatt hydroelectric system. A few total energy systems which provide both heat and electricity to housing and commercial developments, now exist in New Jersey and New York. The local electric companies charged such costly rates for backup power that the New York systems had to buy their own inefficient backup generators, and operate independently of the utility.

Many electric companies have been willing to interconnect with small producers, but offer unfair rates. For example, one manufacturer of interconnect equipment reports seventy windmills, hydro systems, and photovoltaic arrays use its machinery to connect with electric utilities. The company reports that in two-thirds of these cases, the electric company will accept power from small producers but does not pay for it. Other companies have offered to pay only very low rates—less than the cost of fuel to their least costly generating plants. This is certainly less than the electricity is worth. An ERDA official reports that utilities whose industrial customers produce power generally refuse to purchase surplus power.

Mr. Chairman, I do not want possibly unfair actions of electric utility companies to stifle the blossoming of these frontier electric technologies. I have therefore introduced an amendment, co-sponsored by Senator Heinz, to protect the interests of small producers while also guaranteeing a fair deal for electric companies.

The legislation before this Committee, S. 1469, would provide cerain protections for one type of small technology: cogeneration of industrial process steam and electricity. The Administration's bill would require electric companies to connect with cogenerators. Utilities would have to provide backup power, purchase surplus power, and transmit electricity for cogenerators. The Secretary of Energy could also prescribe regulations which give exemptions for cogenerators from Federal utility laws and from regulation as public utilities by states. These exemptions would remove the burden of unwarranted paperwork and the fear of antitrust prosecution.

My amendment expands these protections to include not only cogenerators but also all other small power producers—hydroelectric dams, solar, wind, municipal trash-to-electricity systems and others. It would make certain that reluctance on the part of electric companies to interconnect will not prevent the growth of these technologies.

The Secretary of Energy will issue regulations to determine which systems will qualify and what exemptions will pertain to each class and site. States could then continue to handle hookups of small producers on a case-by-case basis.

My amendment also guards electric company interests. It would be wrong to subsidize small producers at the expense of other customers. Therefore, all rates which utilities or state commissions set would be based upon the cost to the utility of providing service.

The technical reliability of small systems is a major consideration. Power sold to electric companies must be delivered at a prescribed voltage and frequency to prevent damage to utility systems. Today's technology appears fully adequate to this task: the coupling units have for years been used in many elevators to generate small amounts of electricity. The Office of Technology Assessment expects technical obstacles to be minimal. However, my amendment provides that the Secretary of Energy shall issue technical standards for producers to qualify for hookups with their local electric companies.

Mr. Chairman, I note that the House, as part of its Energy Plan legislation, H.R. 8444, has adopted a section which addresses part of the problem of small producers. It forbids discrimination against solar and wind systems. However, the House version does not cover other small systems, especially hydroelectric dams. It leaves unanswered whether electric companies may base rates on cost of service. Electric companies are worried that the House provision might allow rates unfair to them. I have discussed my amendment with Illinois Power Company officials, and they approve of it. The House version also fails to address the problems which state and Federal public utility regulation create. For these reasons, I urge adoption on this amendment as a substitute for the House amendment.

The problems which my amendment addresses may not appear significant to some critics today. But the problem could become acute in the next few years as cities, industry and individuals develop alternate sources of power. Let us not stifle the small producer. These individuals could contribute in a major way towards meeting our energy needs in the 1980's.

BRITISH HARRIER CARRIER SHOWS SMALL V/STOL SHIPS ARE FEASIBLE

Mr. HART. Mr. President, I would like to bring to the attention of my colleagues an article from the February 1977 issue of Maritime Defense concerning the Harrier carrier. The Harrier carrier, a proposal by the British firm of Vosper Thornycroft, will weigh about 6,000 tons and carry eight combat aircraft. As this article indicates, the ship is designed to be quite inexpensive, yet effective.

A ship such as the Harrier carrier could provide important naval capability at a reasonable price in a number of roles. Equipped with antisubmarine helicopters, it would be a much more effective antisubmarine ship than are the destroyers and frigates we now build for that mission. Equipped with British Sea Harrier or U.S. AV–8B V/STOL aircraft, it could engage in antisurface warfare, projection, or interception of attacking bombers.

The Harrier carrier appears to be a highly efficient design, in terms of the number of aircraft carried for the size, hence the ship cost. Eight aircraft on 6,000 tons compares with only two aircraft—helicopters—on the 9,000 tons of the standard DD–963 class U.S. destroyer; three aircraft on 4,700 tons for the Japanese *Haruna* class air capable destroyer; and 18 aircraft on 17,000 tons for the Soviet *Moskva* class helicopter carriers. The new U.S. air capable 963-class destroyers, two of which were authorized in the fiscal year 1978 Defense Authorization Act, should be able to carry eight LAMPS III helicopters on about 9,000 tons displacement.

The Harrier carrier illustrates the type of ship which, in my view, the U.S. Navy should be procuring today. Thanks to its inherent ability to change the mix of aircraft, it is versatile and adaptable to changes in technology. It has a long-range Backfire intercept capability, which can only be achieved with aircraft. It has enough projection capability to be an effective presence ship in many situations. Most importantly, it is, through its aircraft, a far more effective antisubmarine ship than are traditional destroyers and frigates.

I hope my colleagues will consider this ship as an example of what the Senate should be authorizing and appropriating, and that the Navy will also give the Harrier carrier careful consideration. I ask unanimous consent that the article, "The Harrier Carrier," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HARRIER CARRIER

When the Harrier Carrier design was unveiled at the Greenwich Naval Exhibition in 1975, the Preliminary Design Group of Vosper Thornycroft hoped to receive a certain amount of enquiry and comment. In the event, the volume of such interest far exceeded even that expected by the most enthusiastic members of the design team, and more than justified the large amount of effort expended on the project.

It was gratifying to find that the vast majority of comments were very favorable. However, as always, it is adverse comment which is of the most value in development.

Unfortunately, most of the adverse critics appear to have missed the point of the Harrier Carrier, which is that it should be the smallest (and, by implication, cheapest) ship capable of operating fixed-wing aircraft effectively at sea. This immediately implies

using a V/STOL aircraft, which in turn leaves no choice but the Hawker Siddeley Harrier. This is not to say that allowance has not been made for projected larger and heavier versions of the Harrier, but the ship is a Harrier Carrier. To carry any other existing type of modern fixed wing aircraft it would have to be substantially larger, and fitted with catapults, arrester gear, and sundry other expensive paraphernalia, thus defeating the design objective.

The ship as designed is also well-suited to the operation of even large A/S helicopters such as the Sea King, and eight of these could be carried in place of the fixed-wing aircraft complement. This is a feature which adds to the deployment flexibility. Very few concessions need be made to the helicopters in the basic design of the ship.

Note also that the intention is to operate the aircraft effectively and not to their absolute design limits, although under most conditions a full operational payload could be launched. A longer flight deck would sometimes allow a better payload to be lifted, but it would need a disproportionately more expensive ship to support it. As in all design problems the answer is a compromise, and a good deal of thought and discussion with Hawker Siddeley Aviation went into arriving at the eventual overall length of about 450 ft. A few degrees of sheer in the forward end of the flight deck, increase the Harrier take off performance significantly since in the absence of pitching movement the ramp is theoretically equivalent to an increased wind-over-deck of 15 knots.

Having decided the length of the flight deck, the width of which is determined by the requirements of aircraft handling, this approximately determined the overall size of the ship, which in turn led to the conclusion that eight Harriers and two Search and Rescue (SAR) helicopters could be accommodated comfortably. There is, therefore, no other significance in this number of Harriers; indeed it can be argued that, for many tasks, four to five aircraft would be sufficient to form an effective Air Group.

The normal complement of eight aeroplanes and two Lynx helicopters can all be accommodated and maintained in the hangar. If considered acceptable, additional aircraft could be carried on deck.

The stated objective of being able to operate the aircraft effectively requires that, in addition to landing, take-off, maintenance and stowage facilities, a comprehensive surveillance and aircraft control facility should be fitted. This means a good air surveillance radar and some means of height finding, together with IFF. In order to maintain a high data handling capacity without the need for large numbers of operators, and to cope with the very rapidly changing tactical situations a computerized Action Information System is essential.

Choice of radars is not wide when one considers the requirements. These are: a set which will be able to detect a fighter/bomber-type aircraft at well over 100 miles; a good height coverage; a good ECCM capability and anti-clutter performance. It should also be compact and reliable and already in existence, at least in prototype form. If height finding is to be included in the same radar, the choice is narrower still. The new Plessey AR–3D is one of the very few such sets which are both suitable and available. Whilst the choice of two-dimensional radars is a little wide, that of the necessarily associated height finder is not. However, the Marconi S613 is a proven 'C' band transportable land-based height finder which, with some modification would be ideally suited to the task.

The display and data processing system is less of a problem, and there are several existing systems which could be adapted to the special needs of the Harrier Carrier. We have discussed these at some length, and received a number of excellent proposals. Marconi, who have considerable experience in Air Traffic Control systems, have put forward a system based on their proven Locus 16 computers and display technology. Hollandse Signaalapparaten, whose capability and experience are well known, have proposed a comprehensive integrated outfit which will be of particular interest to the many navies already using Signaal equipment. The consortium of American companies responsible for the Naval Tactical Data System have been consulted and it is clear that a suitable variant could be produced, using some of the many proven hardware and software modules. A proposal from Ferranti Limited, based on their proven CAAIS system, which has already been widely publicized has also been received.

A data link, which would form part of the data processing system would clearly be a great asset, although the Harrier itself currently does not have an automatic link. It is considered that Link 10 (formerly Link X) is adequate for most purposes and in line with the cost effectiveness philosophy of the design. Link 11, whilst possible, is considered to be probably in excess of the requirements of most potential users of the ship, and the basic requirements of receiving surveillance information from a picket could be fulfilled adequately and automatically by a much simpler means than either of these. In practice, the system chosen will be greatly influenced by that already in use by the customer.

Apart from a suitable communications fit, an ESM outfit, a commercial navigation radar, and, probably, a small panoramic sonar, the ship's only remaining major requirement is to defend herself. This means point defence against aircraft or missiles—all other defensive functions, as well as offensive ones, are vested in either the aircraft or escorting vessels. The Harrier Carrier is not its own escort cruiser or picket, it is not an anti-submarine frigate, a fast patrol boat, a guided missile destroyer, or indeed a platform for for the Admiral and his Flag. It therefore has no need of area defence AA weapons, A/S weapon systems, SSMs, or large calibre guns. On the other hand, if used correctly, neither does it require more than a modest supporting force, and Fleet Command Facilities are almost implicit in the A10 system, or could be incorporated relatively easily It is not intended as a one-ship navy but neither must it be helpless without its aircraft or escort.

There are several alternative solutions to the point defence problem; the difficulty is to select one which is compatible with the cost effectiveness and low-risk development philosophy of the ship; this means a weapon which is effective as well as inexpensive. Whilst there are several missile systems which could be fitted to advantage, provided that cost is not a major consideration, some considerable studies have been carried out and it is believed that three twin 40mm automatic gun mountings (Breda-Bofors are proposed) controlled by a two-headed fire control system, are likely to be extremely effective against aircraft and many types of missiles.

Whatever point defence weapon is selected, a high definition Target Indication search radar, preferably fitted with MTI, is essential, and will have several useful secondary functions. Active ECM and chaff deployment facilities are also proposed.

It is perhaps worth pointing out at this stage that the Harrier not only makes the small aircraft carrier possible, but also confers on it several advantages not shared by large carriers with conventional aircraft.

The vertical take-off (VTO) capability permits one or more aircraft to be at very short alert in the interceptor role. Because they can be launched from a separate part of the deck, these need have little or no effect on short take-off (STO) operations required to lift maximum payload, from the main deck runway. Similarly, all the ship's aircraft are quite capable of operating in the VTOL mode whilst the ship is in harbour, regardless of surrounding obstructions. Thus aircraft do not need to be flown off before entering harbour if they are to remain operational, and requirements on airfields ashore are eased.

Another important factor is the ability of the Harrier to be deployed onto a suitable picket (i.e , a frigate with a large helicopter deck), and remain almost as effective as if it were airborne, but without expending engine, pilot or air-frame hours. It could also be refuelled without much difficulty, but of course fuel load would be limited by VTO (as opposed to STO) capability, and it is not considered that the provision of other than rudimentary maintenance facilities on such ships would be of value.

The operational capability of the ship and aircraft combination as affected by wind and weather is a subject deserving special mention. This is so, primarily, because of the very different characteristics of the Harrier compared to those of fixed-wing aircraft currently in use at sea. It is very clear to all those with any experience of conventional aircraft carrier operations that landing on is the operation which governs whether aircraft can be flown or not, because of the extreme accuracy with which they have to be flown at the carrier to engage the arrester gear and to avoid improper impact with the ship. This operation is difficult in calm weather, and must be very frightening in higher sea states. The Harrier, however, always lands vertically, and it becomes possible to land aircraft on, without the need to provide a special wind over deck. This enables the ship to be steamed in any desired direction during recovery; thus in severe weather a course may be chosen which results in least deck motion, and the aircraft can land on a selected part of the ship where such motion is at a minimum. Further, the aircraft can wait in the air for a suitable opportunity to land during a short lull in the rolling and pitching sequence, which experience shows always happens from time to time. Finally, a hovering approach in low visibility or at night is much less worrying than approaching a carrier at some speed well in excess of 100 knots. The aircraft's on board radar/computer combination will also give it an autonomous bad weather approach capability independent of the ship's radar. Thus in Harrier Carrier operations there is much more confidence that the aircraft can always be recovered.

Vertical take-off is also independent of wind over deck and the need for the ship to steam head to wind is not a requirement. Moreover, the aircraft can be positively tied to the VTO grid until full engine thrust is available. The grid gives a significant increase in VTO payload compared to the flat deck. For the short take-off with full payload however, ship head to wind is a general requirement to maximize wind over deck (i.e. along the runway) and to reduce cross-wind velocity to a safe value. All the same, there will be a limit on account of the impossibility of handling aircraft or moving about in the open when the wind over deck is above 50 knots and this means that, in practice, rolling take-off in the head to wind and sea conditions will be limited to Beaufort 7 or perhaps just 8. In such conditions the bow ramp confers a considerable degree of safety by ensuring that the aircraft cannot leave the ship in STO on a downward-inclined trajectory, the risk of which would require the payload to be reduced. Aircraft launch recovery and deck maneuvering operations are further assisted by the fitting of roll damping fins to the ship, which equipment has not been a feature of aircraft carriers in the past.

It should not be necessary to enumerate in detail the more conventional advantages of operating fixed wing aircraft at sea. However, a brief discussion of the roles foreseen for the Sea Harrier is necessary in order to put the ship itself in the correct perspective.

The Sea Harrier is designated as a fighter, reconnaissance and strike aircraft. There is, in addition, a useful role for it to play in ASW. Harriers have been used in this mode to lay a sonobuoy screen ahead of the ship by the USMC.

The principal fighter role is protecting military shipping formations and convoys from air attack. Were this simply a case of destroying enemy aircraft or missiles which are actually attacking, or about to attack, the problem might be soluble by a suitable combination of surface-to-air gun and/or missile systems. However, some types of anti-shipping missile are particularly difficult to destroy and if saturation attack tactics are employed, point defence systems quickly become overloaded. It is thus necessary to have "defence in depth" not only to permit a given target to be engaged for a longer period of time, but also with a view to destroying air-to-surface missile carriers before missile launch. Because of the range of modern air-to-surface missiles, it is virtually impossible, without air support, to detect and destroy attacking aircraft in time, unless surface radar pickets, armed with long range missile systems, are stationed a considerable distance from the main body of the fleet. To cover a threat over a large arc requires several such pickets. These are complex and expensive ships, unlikely to be in plentiful supply, and almost certainly in demand for the "last ditch" defence of the main body. Moreover as isolated pickets, they would themselves be more vulnerable to submarine attack.

The availability of fixed-wing aircraft not only allows raiders or shadowers to be destroyed at the necessary distance from the main body of ships, but also allows such raiders to be positively identified before being engaged. This is a vital consideration in all situations short of total war, and even in peacetime the capability of a manned aircraft to present a demonstrable threat to shadowing aircraft, or even to turn such aircraft away without resorting to violence, is virtually essential. Such duties cannot be carried out by a missile systems. Shadowing aircraft may also be used to provide targeting information to long-range surface-launched missile systems, and as such must be destroyed quickly and effectively.

In practice, fighters may be deployed on Combat Air Patrol (CAP) stations at some distance from the main body of ships. Depending on this distance, they may or may not remain within the coverage of the carrier's radar, but they will require an additional source of long range warning. This can be provided by surface pickets and/or Airborne Early Warning aircraft. Such AEW aircraft may in some cases be available, operating from shore bases but could not operate from a Harrier Carrier. The Sea Harriers' own Blue Fox radar does however give some capability. A surface picket can give adequate high level cover, and in many cases sufficient low level cover over the limited arc available, to enemy aircraft flying at low altitudes. The minimum requirements of such a picket are a good surveillance radar, a suitable communications system, and the ability to stay at sea and keep station relative to the main body. Provided, that adequate provision (which need not be very complex) is made to communicate picket surveillance data to the carrier, aircraft control can remain with the latter. However, if suitably equipped, the picket could take control of the CAP aircraft, and, if fitted with a large enough deck, could even accept a Sea Harrier for refueling.

There are many existing frigates and destroyers throughout the world which could fulfill these roles of picket to varying degrees, with little or no modification.

The Harrier Carrier, with a complement of eight aircraft, could operate a continuous CAP of two aircraft at a distance of 100 miles from the ship, during a passage of 2,000 miles at 23 knots. This is on the basis of two aircraft on CAP, two at Deck Alert 5, two refueling and rearming, and two spare or in maintenance. There is no requirement for refueling at sea during this period (of about 3½ days) some 30% of the total available fuel aboard remaining unused. Naturally, in the event of the two standby aircraft being prematurely scrambled to intercept a raid, there would almost certainly be a resultant gap continuity. However, since the enemy's resources will also have some limit, this is not considered significant. The large quantity of common ship/aircraft fuel carried allows considerable operational flexibility, and further examples can be extracted from the accompanying diagram.

Reconnaissance roles at sea can, to some extent, be undertaken by helicopters, the principal advantage of the Harrier being the speed at which an area search can be undertaken. For example, one Harrier can search 5,000 square miles starting at a distance of 120 miles from the ship, and return before a Lynx helicopter could even have reached the search area. Four Harriers can carry out all round surveillance to a depth of some hundreds of miles during one day's flying. Such capabilities can be of vital importance even in peacetime, or in cold war situations when it is necessary to locate and identify an enemy who may be hidden amongst offshore islands or in shipping lanes crowded with neutral ships. In hot war situations, the speed of the Harrier gives it a better chance of obtaining a positive identification at close range and escaping before the unmasked enemy can retaliate.

In the Strike role, the Harrier offers an accurate and economical means of attacking ship targets at considerable ranges. Using stand-off missiles, it has an excellent chance of disabling the target with relatively little risk to itself. A useful load of unguided iron bombs can be delivered against ship or shore targets. Tactical bombing of shore targets is a task which can only be effected by manned aircraft. The destruction which can be obtained with modern naval guns is relatively insignificant and in any case limited to coastal targets.

The use of the Harrier for rapid deployment of sonobuoy screens and A/S weapons has already been demonstrated, and it should be borne in mind that, in addition to the eight Harriers, the two Lynx helicopters, carried primarily for Search and Rescue (SAR), also have a useful A/S capability.

As already mentioned, eight Sea King (or similar) A/S helicopters could be accommodated aboard the Harrier Carrier, in place of the eight Harriers and two Lynxes. The role change is simple, involving only the substitution of the appropriate maintenance facilities, which can be effected very quickly by means of containerised maintenance cabins located in the hangar deck. The ship has ample accommodation for the resulting increased complement.

With its dunking sonar and integrated A/S weapon system, the Sea King constitutes an almost independent A/S unit. Eight such helicopters are a very significant contribution to the A/S screening of a task force, and would reduce substantially the requirements for surface escorts.

It may prove desirable under some circumstances to carry a mixed complement of Harriers and Sea Kings.

There are, of course, several possible secondary roles for the Harrier Carrier, such as amphibious assault or, with its large capacity for supplying electrical power and other facilities, disaster relief. However, sufficient has already been said to illustrate the versatility which the concept possesses, without any escalation of cost or size. We have been asked whether the design would permit increased size, more space for aircraft, more weapons and so on. To most such questions, the answer is yes; it is a flexible design at the beginning of its development life; many things are possible—technically. But one of the principal advantages of the basic Harrier Carrier design is that it is within the budgetary grasp of many navies. A few seemingly modest improvements, however, are quite capable of placing it beyond the reach of almost all. Cost effectiveness is the keynote.

U.N. CONFERENCE ON DESERTIFICATION

Mr. KENNEDY. Mr. President, last week marked the end in Nairobi, Kenya, of the United Nations Conference on the alarming problem of desertification—the avoidable and manmade problem of fertile land falling victim to spreading desert.

The Nairobi conference marks an important extension of the international community's effort, through the United Nations, to address those fundamental issues affecting our small planet—from the Stockholm conference on the environment, to the Rome conference on world food, to the Bucharest conference on population, and, earlier this year, the Mar del Plata conference on water.

In each case, Mr. President, these United Nations conferences have served as an important catalyst to help governments come to grips with the fundamental problems affecting basic human needs. In this context the Nairobi desertification conference is especially important, since nothing affects human life and human potential more than the manmade tragedy of fertile land becoming lifeless desert.

Mr. President, the problems confronting the international community in dealing with desertification are clearly stated in a recent essay by the distinguished economist Barbara Ward—which is also the subject of editorials in today's Washington Post. I commend to the attention of all Senators the important points discussed by Barbara Ward, and I ask unanimous consent that her article, and those from today's Washington Post, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 9, 1977]

DENYING THE DESERT

On the opposite page today, Jonathan Power discusses the rapid and potentially disastrous rate at which humankind has been creating deserts in its "scramble for survival." It is an awesome problem, only now starting to receive the technological and political priority it deserves. About 43 per cent of the earth's land surface is desert or semi-desert. Experts estimate that 14 million more acres of once-fertile land annually become arid. Some part of over 100 nations is either undergoing desertification or being threatened.

Deserts, by a natural process, are constantly moving. But the more urgent part of their spread is now caused by human exploitation of the land beyond its natural ability to recover. The process can occur in industrialized countries as a result of over-intensive farming or mining, but it occurs more often and more painfully in underde-

veloped countries, generally as a result of efforts to modernize rapidly or to keep up with galloping population growth. People who are, politically and geographically, on the margins of their societies are particularly vulnerable.

The grim prospect of widespread desertification was conspicuously foreshadowed in the drought that devastated the six-nation Sahel region of Africa in the early 1970s. That tragedy did have one beneficial effect, however. It inspired the U.N. Conference on Desertification in Kenya, which ends its two-week session today.

By the standards of such necessarily diffuse and technical gatherings, the Nairobi conference seems to have been a success. Attention was focused on past efforts to retard desertification or reclaim arid land and on possible ways to draw together the political, economic and scientific resources to make further progress. After some initial political posturing, especially by Arab delegates unhappy over Israel's presence, the delegates settled down to work on a worldwide approach. If their governments and citizens and scientists and the international development agencies follow up in a serious way, then the conference will have been a critical event in the lives of hundreds of millions of people around the world.

[From the Washington Post, Sept. 9, 1977]

MAN AND ENVIRONMENT—AN UNENDING BATTLE

(By Jonathan Power)

Four hundred and fifty million years ago the Sahara Desert was probably located near the South Pole. Over the years it has slowly migrated up to North Africa. Now it is drifting northward at a rate of one or two centimeters per year, and over millions of years it will come to change the world's climate and vegetation in unforeseen ways.

Deserts and dustbowls, their comings and goings, have always evoked a fascination for man—no less so in the 20th century. T. E. Lawrence, Patrick White and John Steinbeck have caught for our generations the sting of the sandstorm and the strange loneliness of a land without trees or water.

History and its literature are full of the stories of the wasteland advancing, encroaching, creeping over, submerging, enveloping life in its multitudinous particles, each so innocent, but collectively totally suffocating. Plato, writing of Attica, lamented: "Our land, compared with what it was, is like the skeleton of a body wasted by disease. The plump soft spots have vanished, and all that remains is the carcass." The cedars of Lebanon? Phoenician wealth was built in part on these grand trees of Mount Lebanon. Prized for their strength and size, they were used for shipbuilding and great architecture. The cedar was exported to Solomon for his temple, to the pharaohs and the Mesopotamians. But greed and ignorance took their toll—the cedars of Lebanon now only exist in 12 small widely separated groves. Scrub land and rock cover the rest. Not desert yet, but well on the way.

All over the world man continues to wreak havoc on his environment. Aurelio Peccei of the club of Rome warns us that the tropical rain forests are now being destroyed at the rate of 20 hectares a minute. In the Himalayan foothills desperate farmers and wood merchants are uprooting anything that gets in their way. The runoff of tropical rainstorms now pours unimpeded onto the lowlands beneath with devastating consequences. A world bank study group has noted that high floods on the Indus plains of Pakistan have occurred more frequently during the last 25 years than over the previous 65 years. In August 1973 the worst flood in Pakistan's history covered two million hectares of standing crops and 10,000 villages.

But misuse of land is no prerogative of the poorer regions of the earth. In 1934 New York was obscured in a half light similar to a partial eclipse: dust from the great plains, half a continent away. And even today agricultural experts caution that if the United States attempts to keep up with the gathering pace of world food demand, a new dustbowl is in the making. In the U.S.S.R. in the 1950's, Nikita Khruschev drove his tractors deep into the virgin lands of eastern Russian, western Siberia and northern Kazakhstan. Both the soil and Khruschev came to grief.

Eric Eckholm of the Worldwatch Institute, in his submission to the U.N. Conference on Desertification in Nairobi that ends today, went to great lengths to argue that it would be a mistake to view the problems of deforestation and desertification as isolated localized threats. "Local threats they are," he write, "but unfortunately they also form a mosaic whose patterns help define one of the key global concerns of our age"—the growing world food shortage.

The deterioration of so much of the world's landscape is pushing more and more countries to become dangerously dependent on North America for their food supplies. For 20 years now Africa has had a continuous fall in its per capita food productions. Malnutrition is on the increase in most of the poorer countries. Self-sufficiency, which was the norm in pre-World War II times, exists now for most countries only in odd bountiful years.

The pressures to work the land past its ecological limit are overpowering. The scramble for survival has never been more intense.

Barbara Ward of the International Institute for the Environment and Development in a special essay "How Deserts Grow," written for a recent issue of the Economist, attempts to maintain a cautious optimism. Salvation is possible, she argues, for something like an annual investment in conservation of $400 million a year. "If all the lands now tending to relative desertification were brought back to their full production, the value of the yearly gain in increased food output would be of the order of six thousand million dollars."

She concludes bitingly: "The estimate given for the emergence of effective results from the needed investment is only a dozen years. The duration of failure is millenial time."

[From the London Eronomist]
Aug. 13, 1977]

HOW DESERTS GROW

GIVING GROUND

(By Barbara Ward)

(Barbara Ward looks ahead to the UN conference on desertification, beginning on August 29th.)

"What, not *another* United Nations conference?" is the complaint hinted at or openly voiced in many of the world's chanceries and, one suspects, in many bureaucraries and newspaper offices as well. "We have had Stockholm for the environment and Rome for food, Bucharest for population and Mexico City for women, Vancouver for Habitat, Geneva for employment and Mar del Plata for water, all within a five-year span. And now, heaven help us, a desertification conference in Nairobi. This is not education. It is suffocation."

But a number of points can be made about this litany of discontent. The 1970s have, in fact, been a decade of remarkable innovation within the UN system. Virtually every subject of real substance in planetary existence has been brought in to the open, discussed and pulicised in a way unique in human history. (Which governments were conferring about world food production in 1914, or about workless men and the deterioration of cities in 1939?) The transnational impact of certain basic problems (for instance, the high interdependence of winds, seas and climates in the natural environment, or the similar interdependence of the world grain and fuel markets in man's direct domain) has been recognised in the only way in which recognition could have been secured so speedily—by the participation of virtually all governments in open conference.

The resolutions passed at the various encounters have, no doubt, remained all too often in the twilight of pious hope. Yet their cumulative effect has yet to be measured, and in fact there has been an element of mutual reinforcement—first of all in understanding, with possibly a later increase in the will to act.

For instance, the variety and fragility of the world's ecological systems, first "officially" recognised at the Stockholm conference in 1972, had at least some influence on the agricultural discussions held later in Rome. The Roman debate increased the sense of need for fundamental enquiries into proper land use and the development of land use surveys to provide the needed data. By this time the discussion was taken up at Habitat (the UN Conference on Human Settlements), land use, the siting of the settlements, the urban-agricultural balance and regional planning for naturally unified transnational systems—watersheds, flood plains—were becoming incorporated in formal resolutions. Those relating to water—above all, clean water for human use—were elaborated at Mar del Plata. Now all of them reappear, with new contexts and emphases, in the admirable preparatory documents of the desertification conference.

It is only when knowledge becomes both general and self-reinforcing that it has any chance of overcoming traditional thinking. People may chafe about delays and inactivity. Perhaps they are overlooking the most fundamental (and sometimes painful) of all activities—the acceptance of a new idea.

The desertification conference could prove to be a litmus paper to test this process of learning. It is highly specific. Its research has been thorough and inclusive. Its action plan, having been concentrated on a limited number of "priority" objectives, is clear and to the point. It does, of course, raise intractable problems of social change in certain areas. But a large part of the action that is needed is of the self-evident kind that makes it easier to turn conviction into strategy. In short, Nairobi could stage a conference that brings together certain deepening insights into the human condition and, on that basis, launches international action on a wholly new level of urgency and determination.

AND A HIGHER FOOD BILL FOR YOU, TOO

This possibility is especially important for three reasons. We can call the subject of "desertification" a specific one. But its implications are vast. There is now a single world market for grain and serious crop failures in any area can have—as was seen in 1973—drastic repercussions on food prices everywhere. Moreover, half the world's cereals are grown in the drylands—the lands where rainfall is either uncertain, as in the monsoon belt, or tends to fluctuate round a low level—say, 200–600 mm a year. And it is precisely this uncertainty and fluctuation that can unleash disaster, for in the "fat years" fields and herds expand, only to overload the soil in the "lean years" and push it towards permanent destruction.

Thus the risk of these regions literally "giving ground" to their menacing desert neighbours could become a permanent disturbance in world food supplies. Above all, there are over 600m people living on the desert fringes, on the most vulnerable of all the planet's lands. The advance of the deserts—desertification—can mean higher costs and lower food

standards for everyone. But for a seventh of the human race, it means quite simply famine and death.

The real deserts are, of course, the result of movements in the world's basic climate. The distribution of heat, wind and water freezes the extreme north and south and creates a vast waterless belt across the eastern hemisphere, with few intermissions, from the Sahara to the Gobi. Then there are patches of desert—the Chilean coast, the Kalahari—caused by local factors of desiccation. But the issue at Nairobi is not whether these areas will spread because of changes in world climate; the evidence about that is uncertain. The issue is whether man will make things worse.

Three distinct main zones have to be considered. The first is the pastoral fringe, where the problem is to ensure that the raising of stock on dry rangelands does not produce irreversible erosion. In the second zone, that of dry-land farming, the task is to protect the land from over-cropping and deterioration. The third zone embraces the big irrigation systems which are, almost invariably, built in areas of low and uncertain rainfall precisely to offset the uncertainties of water supply.

PASTORAL TRAGEDY

The recent tragedy of the Sahel is already a classic example of the first problem. This belt, which runs across four states—Senegal, Mali, Upper Volta and Chad—on the southern edge of the Sahara, has under normal conditions a traditional system of moving herds according to the capacities of local water systems—boreholes, irregularly rain-fed rivers, oases—often with a careful matching of types of beast to fit the local pasturage. The process is called "nomadic", but in modern usage this gives far too random an impression. The system is in fact a form of stockraising based on careful rotation, and it often works in harmony with neighbouring cereal producers farther south, since cattle go south to eat up harvest wastes and leave manure behind there. The exchange also includes seasonal labour.

But between 1973 and 1976, the annual rainfall dropped from 200 mm to less than 50 mm. Only the terrible drought of 1911 had exceeded this severity. The herds were stricken, between 100,000 and 250,000 people died and many thousands were driven into refugee camps and border cities. The eating of the last vestiges of food and fodder in the land they abandoned left it to enroachment and, worse still, to the risk that some of the encroachments would be irreversible.

DRY-LAND DANGERS

The dangers attendant upon the dry-land farming of the second zone can be clearly illustrated from one of the case studies prepared by the conference secretariat. The Luni block in India covers nearly 2,000 square kilometres on the eastern rim of the Rajasthan desert. Its rainfall lies within the arid and semi-arid range—310–390 mm a year—and all the rain falls during the summer monsoon. Nearly 90% of the area is devoted to rain-fed cereal production—millet, wheat, sorghum—and this is combined with the feeding of stock on harvest forage and wastes and on the natural vegetation of village common lands. Virtually every problem that dry-land farming must confront can be found in the area.

Fluctuations in water supply over-extend and then contract production. Natural plants survive on only 13% of the land and are in any case endangered. Valuable trees and perennial grasses have given way to annual plants and inedible species. The estimated loss of productivity in grazing areas is as high as 80–85%. On cultivated land, losses in productivity—grass cover or harvest wastes—have reached 60%, mainly as a result of shorter fallowing and the pushing of cultivation into more fragile and infertile soils.

To these pressures on crops and vegetation must be added the villages' continuous search for firewood and the burning of cow dung for cooking all the year round and for heating in the chilly winters. Nor should one forget the pests. Gerbils (small rodents), in swarms of more than 500 for each hectare, can eat more than a tonne of food a year. All these conditions were worsened after 1956 by more than a decade of low rainfall. This, together with a doubling of irrigation from groundwater since 1966, means that the water levels are falling. The estimate of over-use has increased from 6% in 1966 to 77% only 10 years later.

The result of these pressures is a steady encroachment of sand. It piles up round the hummocks of shrubs and along fence lines and it covers flat land with a sand sheet. In 1956, 25 percent of the block gave evidence of this encroachment. By the mid-1970's a further 12 percent of the land was in decline.

The basic cause of the decline—as in parts of the Sahel—is the best-known cause in the world, the rising pressure of population. The number of people has nearly tripled, largely since the early 1930's when epidemic diseases began to be brought under control. Given the youth of this growing population and a lack of response to any form of family planning, the rise will continue. It will bring with it further degradation of the land, deeper poverty and, vicious circle, an even more desperate feeling that children must be raised to help with the heavy work and their parents' old age.

INDUS IRRIGATION RESCUED

The third category of problem—the risk of disruption to irrigation systems in arid lands—is well illustrated by the Greater Mussayeb project in Iraq. The case study prepared for the conference says:

This is an area of 40 km by 16 km in the Euphrates plain above the Hindiya Barrage. The project was begun in 1953 and was beset with problems from the outset. The irrigated lands were inadequately surveyed and levelled, and there was no proper assessment of soil types and capability. There was little knowledge of the hydraulic properties of the soils, or the water needs of crops, or of requirements for leaching and drainage. The technical and managerial staff were inadequate and lacked the necessary authority and support funds for their operations. In consequence, maintenance of the irrigation canals was poor and they became silted and choked with weeds. The open-ditch drains were too widely spaced and were badly maintained, and there was much evidence of inadequate drainage, for instance stagnant water. Waterlogging and salinisation were consequently widespread, and two thirds of the soils were reported as saline or strongly saline by 1969, particularly in seepage areas near canals and ditches.

In addition, farmers were illiterate, there was no health service, waterborne diseases multiplied, absentee landlordism dominated the system of land tenure and no sharecropper had any inducement to improve the land.

Many of these problems had appeared on an even larger scale in the Indus valley, where, after the second world war, the old irrigation works were found to be so poorly maintained and so inadequate in fundamental design that underground water was rising by seepage from the channels to damage the roots, while an insufficient surface flow left the channels themselves to become clogged with silt, and hence exposed to high evaporation and salinity. The British had constructed the system half a century earlier primarily as an insurance against famine. The aim then was to bring as many farmers as possible within reach of some water. But it was precisely this "thin" spread that accelerated the deterioration.

However, when the Indus problem moved into the political arena in the 1950's, with India and Pakistan disputing the distribution of water from the five great tributaries, one of the world's most creative acts of political and developmental imagination was carried out through the mediation of the World Bank. Not only was a division of rivers agreed on, but experts moved in to study the actual working of the system and devised an ingenious combination of measures to restore stability and fertility. Channels were relined with tube wells sunk to lower the water table and use the resulting water to flush out the salinity above. At the same time, the long-term flow was increased by the construction of new barrages; within a decade, the results could be seen and the white scrofulous saline soils began to give way before the brave green lines of the advancing wheat.

IT CAN BE TURNED BACK

In other words, the downward trend to the total loss of fertility and the desert wastes first seen by man in the ravaged fields of Sumer and Akkad can be reversed. In each of the three examples of desertification considered here—Sahel, Rajasthan, the Euphrates plain—there are already reasonably secure hopes of revival, if action is taken in time. These solutions are both particular, exactly suited to each problem and each eco-system, and also general, applying to all systems because, basically, they apply to the people who will or will not make them work.

To begin with the general principles, many of them take up again the most significant conclusions of the earlier UN conferences. As became clear at Bucharest, the stabilization of family size—in rural or urban areas—depends upon a change in the context of hope. Children surviving their early years, schools and clinics within reach, jobs secure, sites and services assisting the self-construction of homes—all these are means by which parents come to take a new view of their own interest in producing a more modest number of children. In this process, infant mortality may be the most critical factor. And so the vital importance of clean water for all—and an end to all the gastric killers—was underlined at Vancouver and at Mar del Plata and is reiterated in the Nairobi documents.

Services to secure these ends require a certain hierarchy of support—from infant school to university, from mobile clinic to specialised hospitals. The farmer, too, requires specialised help with nationwide implications—markets, credit, co-operatives and appropriate tools locally produced and suited to the nature of the district's soils and farms. Such new manufacturing helps to create alternative forms of regular or seasonal employment which are often the only means of lessening population pressure on the land.

All these needs point to the creation of intermediate urban centres, land use surveys to determine their best location and a switching of investment away from the big centres into the rural regions. The debate on all these points began at the Rome conference and has developed in each subsequent encounter. It will be at the centre of the Nairobi debates.

Another common theme is the need to involve the people themselves in their own works of redevelopment. This may mean their direct employment in relining channels, planting wind breaks and reterracing eroded hills. China's agrarian programme may be the best known but is not the only example of reform based upon these fundamental activities. Popular in-

volvement may also require, as in large parts of Latin America, a change in land tenure.

Feudal farming is not a possible base for a modern economy. In Guatemala, the fertile valley bottoms are the domain of the feudal landowners. As a result, the peasants are forced farther and farther up the mountain slopes, causing erosion and devastation as they go. In San Salvador, priests have been murdered for trying to form peasant co-operatives. Such combinations of social and ecological imbalance make long-term development the idlest dream.

TUNNELLING AND FALLOWING

To turn now to local and specific action, first in the irrigation areas, the Indus valley points part of the way—relining channels, clearing salinity, constructing new dams. But there are other well-known necessities, and also new possibilities. If, for instance, the catchment areas of the dams are not scrupulously conserved with forest or plant cover, the silting and salinity processes begin all over again. In the Negev, the Israelis have evolved an even more effective general system of protection. Water and nutrients are brought to the fields by underground pipes and the crops are planted above the water vents. This process can reduce inputs by as much as three quarters and, since farmers are not exposed to open channels, it also eliminates the tragic waste of waterborne disease. Were it not for the political barriers to creative imitation, Iraq's Mussayeb project could be transformed by similar techniques. In dry-land farming, a fundamental necessity is not to extend cultivation into vulnerable areas during periods of unusually heavy rainfall. Another is to preserve soil fertility in the normally used lands by fallowing, letting the fragile soils recover from cultivation. Clear fallowing should be avoided to prevent wind erosion; much can be done, as has been planned, for instance, in southern Tunisia, by careful rotation of crops (including legumes), by contour ploughing and furrowing and cropping in strips—all techniques which were first used systematically in America after the catastrophic droughts of the 1930s.

ANOTHER INDUS?

In dry-land farming, too, some improvement in types of crop is possible, although the full "green revolution" of hybrids and fertiliser demands constant water. Yet this possibility does not imply blanket approval of all "modern" agricultural innovations. In too many areas, the lessons of Britain's groundnut fiasco are still not learnt. Heavy tractors and deep-furrowing steel ploughs can irretrievably mutilate or destroy light soils and their plant cover. One reason why, in many lands, the output per acre from small farms is consistently higher than from large ones is that the man with the hoe or a Japanese-type garden tractor does infinitely less damage to the soil than the big harvesters of the "big men". The social consequences of replacing labour by machines must also be watched in all extensions of the water-hybrid-fertiliser revolution of productivity. Nevertheless, wherever possible, an extension of irrigation is the most complete answer to an irregular and disorienting rain cycle. And one is wistfully tempted to wonder whether in the 1980s there might not be, again perhaps under World Bank leadership, another act of political and economic vision comparable to the Indus valley scheme. At present some of the most dangerous erosion in the world is occurring in the Himalayan foothills, where the pressure of population and cultivation and the desperate search for firewood are denuding the slopes, sliding the soil into the river systems and threatening the whole Indus, Ganges and Brahmaputra system with a fatal alternation of drought and flood.

If, however, the monsoon rains could be stored in aquifers and behind barrages, open and pipe irrigation introduced and regular water supplies secured for the whole year, double and triple cropping would become possible on the northern plains of the subcontinent, pressure could be removed from the marginal hill country farmers and, according to some estimates, 600m people could be fed from the area. Such a scheme, known under the picturesque name of the " Himalayan Water Machine", already exists in outline. What a triumph in Nairobi it would be were the first step towards its amplification taken by persuading the governments concerned—those of Pakistan, India, Bangladesh and China—to make an incomparably heartening gesture of both political reconciliation and economic common sense.

THINK PLANTS, NOT ANIMALS

For the pastoralists of the fringes of the deserts, one priority is accepted as essential. It is, in the words of the UN report of case studies, to "place all possible stress on the native vegetation as the fundamental resource and on the need to conserve it". It is technically possible. But it is not traditionally a priority either for the nomads of Niger or the sophisticated rangeland managers of Australia or the United States. They all tend to think in terms of animals, not their fodder—hence the disastrous expansion explanation of herds during periods of heavier rainfall, hence the utter denuding of all cover (and the steady advance of the desert) with the coming of the next drought. An "optimum stocking rate", coupled with a wider variety of boreholes and watering places, a strict observance of rotation between them, including closing some of them and alternating stock routes, is being attempted in the Sahel. In wealthier lands, such as Australia, fencing is also used to relieve pressure and allow the native species of forage to recover. If the stock itself is improved, smaller numbers can equal the older herds. But there can be little doubt that in many pastoral areas the ultimate answer is, as in Somalia, to provide the nomads with alternative settled farming areas or, as in Niger, to attempt an expansion of urban employment. Poverty, of government and people, is the ultimate obstacle.

THE BILL AND THE BENEFITS

And this of course, brings the governments to the fundamental question. Since a large part of the land threatened by the advance of the deserts lies in the poorest countries, how are the massive sums of money needed for general improvement to be secured? The figures produced in preparation for the Nairobi conference are, inevitably, approximations, but the annual rates of land degradation, their effect upon land values, the cost of corrective measures and the gains that would accrue from them seem to have been carefully estimated. The calculated cost of corrective measures is of the order of $400m a year—a little fraction of the world's annual arms budget. But the annual losses are now calculated to be some $900m. Correction could provide a highly favourable balance. And this calculus is based only on present practice. The conference secretariat has made an estimate of the gain to world food production if all the lands now tending to relative desertification were brought back to their full potential production. The value of the yearly gain would then be of the order of $16,000m. More settled and prosperous agriculture would also stem the flood of immigrants to the cities, help to stabilise family size, and provide, after a time, more savings for regional and local industrialisation and more purchasing power for basic needs.

A massive addition to the world's genuine resources would reduce inflationary pressures everywhere—given the inter-connectedness of the global market—and the increased productivity of many millions in the poor world could give as big a boost to the flaccid economies of the developed north as did the Marshall Plan to both sides of the Atlantic after that great "unsordid act" of 1947. In short, the Nairobi conference may begin with issues as specific as contour ploughing and the desalination of groundwater; but as it builds up to the scale of the needs and the magnitude of the alternatives, it could do something else. It could turn all governments, in both north and south, to the thought of their fundamental interdependence, to the vulnerability of their terrestrial home and thus to the need to act in partnership—and to do so promptly. The estimate given for the emergence of effective results from the needed investments is only a dozen years. The duration of failure is millennial time.

FROM THE BEACH: RANDOM THOUGHTS ON THE WORLD

Mr. HEINZ. Mr. President, I have recently received several articles written by Dr. Richard H. Heindel, Professor of international relations at the Pennsylvania State University. Dr. Heindel edits the international affairs department of the magazine "Intellect" published in Pennsylvania. In addition, the professor personally writes the "State of the World" column for the magazine. Dr. Heindel was kind enough to send me several of his recent columns.

In these articles, he provides us with his thoughts on a range of foreign relations issues. As always, this kind of input from the academic community is welcomed, particularly when it is of Dr. Heindel's caliber. The article warrants our attention, and I ask unanimous consent that Dr. Heindel's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE STATE OF THE WORLD—FROM THE BEACH: RANDOM THOUGHTS ON THE WORLD

(By Richard H. Heindel)

I tried, but failed, to produce a mildly amusing, upbeat column for the summer, partly because it is winter in the Southern hemisphere. You try. Here are my notes as a starter.

No one after World War II fully comprehended the strains on the global fabric of rapid decolonization and of "self-determination" and "liberation" of peoples. In spite of the poor track record for security and progress, the nation-state model continues to elicit fascination, devotion, bombs, and terror, including "liberation" from the "liberated." Everyone knew the "united" part of the United Nations would require patient perisistence and constant striving. The "nations" part—the small scale, the dubious viability, the repressive, scotch-tape unity, the miniaturization, and the fragmentation—dampens the spirit and boggles the mind.

South Molucca, Quebec, Nantucket, Muslim secessionists in Mindanao, Puerto Rico, Basques, Rhodesia, Palestinians, Scotland, Canary Islands, Armenians, and so on rumble to join Nauru (pop. 7,000) and 159 other sovereignties, and the State Department projects 50 more statelets in the near future. Just responding to "voices," the Central African Republic and Life-President-Field-Marshall Bokassa become Empire and Emperor. This puts a strain on protocols, foreign representation budgets, Rand McNally, and even those political scientists drawing

wisdom for international policies from computers. Even so, 25% of the UN budget is still a bargain for the U.S. and New York City. The critical situation is not that 80 nations, each with an equal vote, pay only 1.6%—rather, it is that all nations feel increasingly powerless to cope with global forces and problems. Dictatorial Brazil has sovereignty over the Amazon jungle, which produces 25% of the earth's oxygen supply—but what can it do about it?

What is worse, as the Misches say in their almost-encouraging *Towards a Human World Order* (1977), all nations are wrapped in a "national security straightjacket." Still worse, the UN has been so enmeshed in "peoples'" and "national" rights, it could not give compelling attention to individual-centered human rights. Jimmy Carter's insistence on observance of the Helsinki Agreement (1975) will dramatize this situation in Belgrade this autumn.

Before David Wall's excellent *The Charity of Nations* (1973), we knew that the aid policies of rich countries are based on motives of national self-interest like trade policies, and suspected that neither donor nor recipient could ever agree on scientific criteria. The "trickle-down" assumptions did not work. The rich nations get richer and, regrettably, the gap grows between rich and poor in the less-developed countries (LDC's). When pressures and counsels are needed to make the most "honest" and "effective" use of grants and loans, it matters little whether these come from the World Bank, the International Monetary Fund, the Arabs, or Chase Manhattan. Necessary measures can shake shaky governments, anywhere.

There is the universal glamor of "showpieces"—the expensive medical school where there is a miserable health-care system, or 5,000 tractors without spare parts and repairmen, or a national airline. There are many reasons recipients must be careful about the source and nature of aid. Is it "labor"- or "capital"-intensive, and so forth? A labor and city aristocracy can be created at the expense of peasant welfare. It is tempting for an American multinational corporation (MNC) to sell an unnecessarily sophisticated communications system to Indonesia. If the Africans had persuaded either the Americans or the Russians, rather than the Chinese, to build the 1,060-mile railroad ("Tanzam") from the port of Dar es Salaam, Tanzania, to the Copper Belt in Zambia, the two African countries would have been bankrupted and all U.S. aid to Africa would have been eaten up, with abandoned air-conditioned compounds and golf courses along the tracks.

Governments, bankers, and economists of both donors and recipients have been misled for too long by drawing misleading analogies from the successful Marshall Plan for the recovery of post-war Western Europe. Many LDC's lack the skills, motivations, infrastructures, and political institutions for modernization and have pursued highly statist, nationalistic, and insular approaches. In this regard, while I have always appreciated the appeal of the humanist-personalist worldview of Karl Marx, it escapes me why, after 60 years, the Soviet Union, even with its mighty military power and resulting consumer repression, remains such an attractive "model" for struggling peoples.

I was especially struck by Wall's "The poor of the world could absorb the total existing wealth and current incomes of the rich countries, and they would still be relatively poor by comparison with contemporary standards of living in rich countries" (p. 153). He goes on: "If all the gold and foreign exchange reserves were invested now in India and managed to generate an income flow of around 10%, the income of the average Indian would only about double to the still-miserable level of about $175"—not calculating for the increasing population!

I always suspected that the world could not afford another U.S.—five per cent of the world's population consuming 30% of its resources.

As always, terminology is troublesome. As used originally by Nehru, the "Third World" connoted a moral force between the superpowers. Now, it means a mixture of both recently rich oil countries and nations not so impoverished as the "Fourth World" countries, whose annual per capita income is less than $200.

"Developing" is a diplomatic euphemism used for "underdeveloped" or "pre-modern," contrasted with industrial, rich, or "developed" nations. For over 150 years, even the fast-moving U.S. was an "underdeveloped" nation—and, I hope, like the Soviet Union or Italy, is still "developing." Development is a total social process. Zero growth in any sphere does not appeal to me, nor do static 7.5% unemployment, urban ghettos, and rural poverty.

The 18-month-long Conference on International Economic Cooperation and Development—the so-called "North-South dialogue" between eight developed countries and 19 LDC's that just ended in Paris—did not strengthen the belief in the values of countless international conferences, except for those persons who love to get away from home, and did not produce a New International Economic Order. However, there were additional signals that heavily indebted LDC's—strangely, nobody quite knows how much, but $200,000,000,000 or so is close enough—want moratoriums or cancellations. Bankers and politicians keep assuring themselves and the public that the international cerdit system has not yet collapsed.

Especially perplexing is the mounting borrowing from the West by Russia and the Eastern European bloc. Why? Russia itself is still viewed as a good credit risk—perhaps so we can lend more. Yet, one has been told repeatedly that a Russian objective was to lessen the dependence of the LDC's on the West and to erode its economic viability. Brezhnev said "capitalism is a society without a future." It would seem relatively simple to trigger the collapse peacefully. Why not? Is it because shooting would be more traditional, existing, and liberating, and also convincing justification for the $300,000,000,000 of world resources plowed annually into arms? Or, rather, is there some global "order" that realizes that that way would also be MAD (mutual assured destruction)?

A force in that "order" are the multinational corporations—of the largest economic units in the world, 100 are MNC's, whose combined gross sales exceed the GNP of every country except the U.S. and the U.S.S.R. They inspire the most fascinating hope-fear, love-hate relationships one can imagine, and they are both wooed and harassed in the quest for development.

Here are random tidbits for beachside speculation.

So far, Royal Dutch/Shell has not bombed Nestle and IBM has not hijacked a Russian airplane.

About half of my business students of each of four successive classes consider it slightly immoral for American private business to make any profit in an LDC.

Primitive barter—Pepsi Cola for vokda—seems to be getting more prevalent. Soon, complex MNC's will need to add specialized Barter Divisions.

Recently, as reported in the Wall Street Journal, Vietnam adopted a foreign-investment code much more liberal than those of most communist countries. Foreign ownership is limited to 49%, but the government can grant advantageous terms to investors.

What about resources? Some 200,000 potential candidates for the world's labor force are born daily. Soothingly, forecasts on world oil and food supplies change daily. A long time ago, Hugh Bennett of the Soil Conservation Service said that "this nation and civilization is founded upon nine inches of top soil and when that is gone there will be no longer any nation or any civilization." An agriculturalist recently added that the U.S. has been losing about 1,000,000 acres of cropland each year for the past 30 years. A certainty is a global shortage of water. A consequence of that will be the collapse of interior plumbing systems and postcard memories of past civilizations' aqueducts and irrigation ditches. Nor is the Earth Resources Technology Satellite (now called LANDSAT) designed to find the most essential resource of all—courageous politicians and statesmen! No politician will choose the theme of global interdependence as his main platform to get into office or to stay there. Still, examining Jimmy Carter's workload to date proves conclusively that interdependence is a fact.

When the sands have gone from between your toes, but a sense of "powerlessness" still benumbs you, you may wish to explore New Directions (2021 L St., N.W., Washington, D.C. 20036). Many prestigious intellects and consciences from public-interest organizations have recently formed this political action movement. Its agenda includes a safe energy future, reducing arms sales, and making the world's food system work for everyone.

OPPOSITION TO NOMINATION OF LYNN COLEMAN AS GENERAL COUNSEL FOR DEPARTMENT OF ENERGY

Mr. PROXMIRE. Mr. President, on Thursday of last week I wrote a letter to Energy Secretary James Schlesinger urging him not to recommend the appointment of Lynn R. Coleman as General Counsel for the new Department of Energy.

From all reports Mr. Coleman is a fine and talented young man. I am sure that he would serve the Federal Government to the best of his ability. But I feel that his membership in a Texas law firm which has represented the oil and gas industry before Congress and executive agencies should disqualify him from further consideration as the chief legal advisor to the Secretary of Energy.

The creation of a cabinet level energy department gives President Carter an excellent opportunity to begin fulfilling his campaign promise to end "revolving door" transfers between executive departments and regulated industries in the private sector. I very much hope that the President's appointees to high level staff positions in the Department of Energy will come to their new jobs without prior involvement with the energy industries.

Mr. President, I ask unanimous consent that the text of my September 8 letter to Dr. Schlesinger be printed in the RECORD so that my colleagues will understand the reasons for my opposition to this possible nomination.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., September 8, 1997.

Hon. JAMES R. SCHLESINGER,
Secretary of Energy, The White House, Washington, D.C.

DEAR MR. SECRETARY: I am very concerned about recent press reports that Lynn R. Coleman may be nominated as General Counsel for the new Department of Energy.

I urge you to oppose this nomination before it is sent to the President and on to the Senate for approval.

The Department of Energy was established by Congress to coordinate all of the major energy programs in the federal government. Furthermore, it was designed to provide for a permanent mechanism to develop and implement a comprehensive long-term national energy policy.

If the Department of Energy is going to do an effective job, then it is going to have to win the credibility of the American people from the beginning. The nomination of an oil and gas industry lobbyist to be the chief legal officer of this new department is no way to begin the first major battle—the credibility battle—in the war to save energy and forge a national consensus on energy policy.

As your primary legal advisor, the General Counsel will have enormous influence on the day-to-day administration and implementation of energy policy. It is imperative that whoever fills this post bring a fresh and independent view to bear on our energy problems.

As a member of a Texas law firm which has represented the oil and gas industries before federal regulatory agencies and lobbied the U.S. Congress on their behalf, Lynn Coleman simply does not fit the bill.

I do not in any way doubt that Mr. Coleman is a competent, professional and talented attorney. And I am certain that he would go out of his way to avoid getting into a conflict-of-interest situation. But the nature of the General Counsel's job is such that avoiding such conflicts would be a full-time occupation in itself. He will constantly be in the position of having to make recommendations and interpretations which affect the industries which he has represented in a private capacity.

One of the major criticisms which has been made of federal energy policy in the past is that it has been disproportionately influenced by the oil and gas industries. I can think of no better opportunity to break with this tradition than in the staffing of a brand new cabinet level energy agency. This is an excellent chance for a fresh start, and I hope that you will take advantage of it.

The Department of Energy will undoubtedly need the advice and assistance of energy experts who are intimately acquainted with the energy industries. But I believe that executive level positions within the agency, particularly those requiring Senate confirmation, should be filled by men and women who have no close ties to industry.

As you know, President Carter has promised to do all that he can to put an end to the "revolving door" approach to government service and industry regulation. The appointment of an oil lobbyist as General Counsel of the Department of Energy would not fulfill that pledge.

Thank you for considering my opposition to Lynn Coleman's nomination in your final recommendation to the President.

Sincerely,

WILLIAM PROXMIRE, U.S.S.

A GEM OF AN IDEA

Mr. STAFFORD. Mr. President, a former colleague of ours, Senator James Buckley of New York, was the principal author in the 94th Congress of the Public Buildings Cooperative Use Act. It is an excellent law, one which I was pleased to support actively.

But, sadly, it appears as if work under this law may be mired, due to bureaucratic inertia. Mr. Buckley, in his regular commentary program on National Public Radio, discussed this inertia in a recent broadcast, "A Bureaucracy in Action."

Because of the interest in this innovative law and the views of our former colleague regarding it, I ask unanimous consent that Mr. Buckley's radio commentary be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

JAMES L. BUCKLEY, NATIONAL PUBLIC RADIO
"A BUREAUCRACY IN ACTION"

A few weeks ago, a former member of my Senate staff sent me an article with the following headline: "Bureaucrats May Flaw a Gem of an Idea." He sent it to me because that gem of an idea happened to have been mine.

It was adopted by the Senate in 1975, and enacted into law last fall. As far as I am aware, this modest effort of mine was the only one to have won me a kind word in the New York Times.

Among the virtues of my bill is that it doesn't cost the taxpayers a cent. What it does do—or at least was intended to do, the bureaucracy permitting—is to redirect and huumanize some of the investment which the Federal government now makes in buildings that house its myriad bureaus and agencies across the country.

In years past, when the Federal government felt the need for additional space in a given city, it would buy some land, tear down existing structures, and build itself a sterile-looking enclave for its own exclusive use, isolated from the life of the community.

The purpose of my bill was twofold: First, to encourage the Federal government, where feasible, to acquire and convert to its use old buildings of historic, architectural, or cultural significance. In this way, we would save some of our most interesting structures that might otherwise be destroyed, thus preserving much of the flavor and individuality of our cities.

The second objective was to encourage the government to permit ground floor space in its buildings to be used for a variety of public purposes—restaurants, theatres, and the like—in order to introduce a little life and humanity into the otherwise forbidding federal presence.

Now it takes some architectural imagination to recycle old buildings; but anyone who has seen the restoration and conversion to shops and restaurants of the old sardine canneries in San Francisco knows that old buildings of great interest and charm can be converted into efficient, highly useful space. And yes, for the Federal government to act as landlord for a few shops or theatres would no doubt add to someone's work load; but the income to be earned from the rental of choice space would more than offset any additional costs imposed on the government.

It is one thing, however, for Congress to enact a law, and something else to have it implemented. My bill involved new ideas, new concepts, and they cut across the grain of old habits. So, the people in the General Services Administration entrusted with writing the guidelines for implementing the new law have spent most of their time thinking up reasons why this or that proposal isn't practical.

I mention all this not because of pride of authorship or because the GSA is other than an exemplary agency. I bring it up, rather, because the GSA's reaction is so typical of the bureaucratic heel-dragging and resistance that make it so difficult for a President or a Congress to nudge the Federal establishment in the directions they want it to go.

The author of the article put it this way: "The real problem is the mind-set of the bureaucrats. Change . . . does not come easily, not at the GSA, not in any other bureaucracy. If Jimmy Carter really thinks he is going to reorganize the Federal government, he might consider this exquisite little problem in bringing human scale to our public building policy."

It is always hard to change mind-sets, especially in bodies that are essentially autonomous. That is why I believe our long-term goal in seeking regulatory reform is not so much to try to make our bureaucracy more efficient (an effort that is surely doomed to failure) but rather, to reduce the number of areas that are subject to bureaucratic intervention or control. To do so, admittedly, may take as much ingenuity as the bureaucrats routinely exhibit in frustrating the clear intent of those who write our laws.

MAGNET SCHOOLS: A POSITIVE APPROACH TO SCHOOL DESEGREGATION

Mr. GLENN. Mr. President, 1 year ago, I was successful in having the School Integration Innovation Act enacted into law as part of the Education Amendments of 1976. This act, for the first time, authorized direct Federal assistance to school districts undertaking desegregation plans for the operation and development of magnet schools, neutral site schools, and pairings of schools with colleges and businesses. I introduced this act and fought for it, because I wanted to provide a positive direction in the often ugly and acrimonious debate over school desegregation. Magnet schools and the other innovative methods have been proven effective in encouraging integrated student bodies by virtue of the superior educational opportunity that they offer in the form of specialized curriculums and training programs. I honestly believe that had we in Congress, and those at local levels, spent more time over the past 20 years encouraging efforts like this, that we could have avoided much of today's turmoil. These efforts can reduce the necessity for much mandatory transportation while providing superior educational opportunity. Mr. President, there is tremendous support for these innovative methods. Last March, I delivered the opening speech to the International Conference on Magnet Schools in Dallas, Tex. and heard hundreds of educators' endorsement of magnets. I met with Rev. Jesse Jackson of Operation Push who informed me that his daughter had just enrolled in one of Chicago's magnet schools. Here in Congress, we have been successful in winning appropriations of $7.5 million for fiscal year 1977 and $20 million for fiscal year 1978 for the School Integration Innovation Act.

I was particularly heartened to read in the September 12, 1977. Newsweek report on urban education "City Schools

in Crisis" a very encouraging report attesting to the success of magnets and of business and college cooperation with various local desegregation plans. It was certainly interesting to learn that in Boston one-fourth of district students are now enrolled in 22 magnet schools, the largest of which has an integrated student body of 2,155 students. So, I think the rhetoric of "magnets can't work," spoken by those who would prefer to deal in nonproductive emotional rhetoric, is beginning to fall on its face.

Mr. President, I would like to share an excerpt from the Newsweek article with my colleagues and to strongly urge that we in Congress support these types of quiet, yet educationally sound efforts. There is no State in the Nation with as many major school desegregation situations pending as Ohio. I am very hopeful that magnets and other innovative programs, along with sound local leadership will help us avoid the destructive turmoil of other areas. I intend to continue to fight to help Ohio in this way. I am not "for" busing or "for" tinkering with the courts. I am "for" high quality education which is the major issue that all of our children face.

I ask unanimous consent that the articles from Newsweek and the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, Sept. 1, 1977]

BIG CITY SCHOOLS: CAN THEY BE SAVED?

One of the most encouraging developments for big-city education may be the recognition by local community leaders that good schools are good business. San Francisco superintendent Alioto has reformed his chaotic system with the help of business volunteers from corporations like Bank of America, Standard Oil of California and Southern Pacific. A woman who had retired early from her job as vice president of a bank developed an early-retirement system for San Francisco's teachers—a plan, Alioto's administrators say, that would have cost a fortune if designed by a paid consultant. A deputy auditor from another bank is designing the district's first internal-audit system.

In Atlanta, the chamber of commerce's task force on schools encourages real estate salesmen not to denigrate the public system to prospective buyers, and tries to keep salesmen and parents informed about the latest improvements in city classrooms. This year, school officials are cautiously optimistic that the effort is paying off: they expect about 1,000 white students, who had left city classrooms for private and parochial institutions, to return to public schools.

The most impressive of all the business efforts, however, may well be that of Dallas. In the fall of 1975, U.S. District Judge William M. Taylor, who had ordered the city to desegregate its classrooms, issued a challenge to community leaders: "I say that the business leaders of Dallas have defaulted," he charged. "They have left the district to meet the problem alone and unaided." If the schools were to collapse, Taylor warned, so would the city's economy and its ability to lure new industry to the city.

Jack Lowe, chairman of the Dallas Alliance, a civic-action group, was struck by Taylor's charge. He called together a task force of white, black and Mexican-American businessmen and community leaders who haggled out a desegregation plan, then fanned out in the corporate community asking for support. They got it, reports Newsweek's Lea Donosky. The Dallas chamber of commerce provided $100,000 to make two films promoting voluntary desegregation. Corporate executives offered advice to the schools on career education. Today, 179 local businesses participate in an "Adopt a School" program. The companies give employees time off to work as teacher aides, they donate money for special equipment and they provide workmen to do repair and construction work in school buildings. This fall, a new foundation will attempt yet another innovation: it will try to raise private donations for the public schools, much as colleges raise their capital.

In some big-city school districts the efforts of committed citizens and farsighted administrators have produced bright experiments that could be duplicated elsewhere. Among them:

"Magnet schools" that emphasize thematic curriculums were invented as tools to promote voluntary desegregation by attracting both middle-class whites and poor blacks. Some offer exemplary programs in the humanities. Others stress the arts or career training in fields such as business and public health. The schools are designed to give students a chance to continue their studies in areas that genuinely interest them. And educators in Boston, Milwaukee, St. Louis, Chicago and Dallas have found that they attract good teachers and keep potential dropouts who are turned off by ordinary schools.

In Boston, one-fourth of the district students are now enrolled in 22 magnet schools, many of which are run with the help of local colleges and corporations. The largest, with 2,155 students, is English High School, which offers college preparatory work, business courses and a special theater program developed by Brandeis University. Its students also have special access to internships and summer jobs with the John Hancock Mutual Life Insurance Co.

[From the New York Times, Sept. 12, 1977]

"MAGNET SCHOOLS" IN BOSTON TERMED AID TO INTEGRATION

BOSTON, September 11.—As Boston schools opened peacefully this year for the first time since Federal District Judge W. Arthur Garrity Jr., ordered the city to desegregate in 1974, parents and educators got the opportunity to notice something else that finally seemed to be working properly: the experimental "magnet school" program, established by the court in 1975 as an alternative to the busing program.

One-fourth of the approximately 70,000 students in the Boston public schools will attend the 25 magnet schools this year, making them the largest single district in the system.

The magnet school buildings, some old, some new, are scattered throughout the city; under the Federal court order, 75 percent of the students who attend them must come from outside the surrounding neighborhood. The schools offer special educational programs, but to reach them some children must travel more than an hour by bus. But all of the 17,394 students who attend do so by choice.

Dr. Muriel Harris, the community superintendent for the magnet district, pointed to the James Hennigan elementary school in the Jamaica Plain section as an illustration of how the program should work.

"VOLUNTARY DESEGREGATION"

"The Hennigan is a classic example of voluntary desegregation," Dr. Harris said. "It is located in a black neighborhood, but attracts white kids from all over the city."

Joseph J. Prendergast, the school principal, said he expected that by next month, when all the kindergarten and special education students had registered, the school, which has a capacity of 800 students, would be full

The Hennigan school, considered one of the more academically advanced schools in the system, has always been a bit ahead of its time. When it opened in 1972, three years before the court established citywide school districts, the school accepted students from all areas of the city. More than 100 students enrolled, attracted in part by the school's swimming pool, gymnasium and open space classrooms, where children grouped into "pods" learn at their own rate of ability.

There were some drawbacks, too. The Hennigan, a massive, multilevel concrete structure, is on the edge of the city's most decrepit housing project, Bromley-Heath. It is also opposite the predominantly white Mission Hill neighborhood, adjacent to a Hispanic section and three blocks from Brookline, a wealthy community whose luxury apartment towers are visible from the school.

NO SECURITY PROBLEMS

White parents were wary, at first, of sending their children to the school. Mary Krauss said she still would not walk the three blocks from her home to the school at night, but her four children attended Hennigan and had no security problems.

"When I sent my kids and found that it was perfectly safe, I told my friends about it," Mrs. Krauss said, and they began sending their children.

Similar to its surroundings, the Hennigan school is racially diverse. Thirty-six percent of its students are black, 32 percent white and 32 percent are members of minority groups other than black—in this case, Hispanic, Oriental and American Indian.

In addition to the basic subjects, the school's curriculum includes bilingual instruction for every age group, programs for the physically handicapped, a reading program affiliated with nearby Lesley College, and the advanced work classes for the entire magnet school district.

THE GENOCIDE CONVENTION DOES NOT THREATEN OUR CHURCHES' MISSIONARY ACTIVITIES

Mr. PROXMIRE. Mr. President, during the May 1977 hearings on the United Nations' Genocide Convention, an argument was raised that its ratification would result in a need to limit or curtail the completely moral activities of American missionaries. Mr. E. Stanley Rittenhouse, legislative aide for the Liberty Lobby, stated in part:

Under articles II and III of this treaty, every missionary, both domestic and foreign who attempted to convert anyone to Christianity would be guilty of attempting to destroy ones culture.

He stated that when carried to its logical conclusion, such attempts at evangelism would fall within the convention's definition of a criminal act. In addition to conversion, he testified that even white objections to black demonstrations in South Africa would be considered an act of genocide.

A large number of American churches and synagogues, however, have studied the Genocide Convention and do not agree with this interpretation. Among those who have urged its ratification are the American Jewish Congress, the National Catholic Conference for Interracial Justice, the Methodist Church, the American Baptist Convention, the Episcopal Church, the United Church of

Christ, the Society of Friends, and the National Conference of Christians and Jews.

Chief among the objections to Mr. Rittenhouse's testimony is the very real difference between intending to destroy a national, ethnic, racial, or religious group, and an attempt to destroy its culture. In addition, even the most extreme of modern missionary efforts do not attempt to destroy culture, but attempt instead to enable each convert to remain integrated in their native society. Finally, few would deny that these churches and synagogues are responsible institutions which have studied the convention and have their own best interests at heart.

Mr. President, under President Carter America has renewed and reemphasized its determination to take a position of world leadership in human rights. In spite of denominational differences, our Nation's churches have been in almost complete agreement, and have been most outspoken in their support for the President. I urge my colleagues to support President Carter by ratifying the Genocide Convention.

VIETNAM'S HUNGRY CHILDREN

Mr. KENNEDY. Mr. President, a hallmark of the American Nation since its founding has been our tradition of humanitarian concern for people in need, wherever that need exists. This concern has never permitted political differences, or changes in political geography, to change the basic concern of the American people for those in need of food or medicine or shelter.

During this century, this tradition has found expression in America's effort, under the leadership of Herbert Hoover, to respond to starvation needs among the Russian people after World War I—in the Marshall plan under President Truman—and in the offer of President Kennedy to send emergency food to famine areas in the People's Republic of China. Over the years, countless other nations and people, all across the globe, have been offered America's helping hand when they have faced manmade or natural tragedies.

However, today, Mr. President, we are in serious default of this tradition in our response to the growing humanitarian needs among the people of Southeast Asia in the aftermath of the Indochina war. Although we are contributing to the needs of refugees in Thailand, as well as to refugees resettling in the United States, we have forgotten the needs of refugees who remain in their native lands.

Many humanitarian problems—including growing food shortages, the resettlement of displaced persons, and the rehabilitation of other war victims—continue in Vietnam and Laos. We must be mindful of such problems and of our responsibilities as a nation in helping the people of Indochina to rebuild their countries and normalize their lives.

Nowhere has this case been more eloquently stated than in a recent article by Marian Wright Edelman in the New York Times. For those Members of Congress who have expressed reservations over a positive American policy toward Indochina, I hope they will carefully consider the arguments and the concerns articulated by Ms. Edelman. As she writes, it would be in the finest humanitarian tradition of the American people if our country could now provide food assistance to the people of Vietnam and Laos under United Nations auspices.

Mr. President, I commend to the attention of all Senators this very important article by Ms. Edelman, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM'S HUNGRY CHILDREN

(By Marian Wright Edelman)

WASHINGTON.—When I was in Hanoi with the Presidential commission dealing with the missing-in-action headed by Leonard Woodcock, I asked to be informed about orphans and child-care problems in Vietnam because of my personal and professional interest in the subject.

In response, the Vietnamese described their efforts to care for orphans and children who they said numbered some 500,000—and to rehabilitate "street children" in Saigon and other cities. They also took me to visit a model day-care center that was lovely, and arranged a meeting with the Minister of Education.

However, when I asked what Vietnam's main child-care problem was, the answer was disturbing: nutrition. While orphans and lack of day-care and education facilities and street delinquency concerned the Vietnamese, a basic lack of adequate food was the most pressing problem.

Vietnam is traditionally a family and child-oriented country, and I'm sure its people are doing what they can to keep their children nourished, but the relatively unpublicized food shortages facing the country in recent months have become so severe that outside help specifically aimed at meeting the special needs of children is now urgently needed.

Bad weather is the main cause of the shortages, which, according to refugee reports, have reduced some of the population to one meal a day. First, cold weather sharply reduced the main rice crop and hindered spring planning, then drought in central and southern Vietnam dropped water levels in the Mekong River valley to the lowest level in 20 years and parched traditional croplands along the coast.

According to United Nations figures, Vietnam's rice shortage this year is estimated to have exceeded one million tons, more than double the normal annual rice deficit. During the last years of the war and continuing into 1975, the United States sent to Vietnam more than 300,000 tons of rice per year and other food grains. Those shipments stopped entirely with the fall of Saigon in April 1975. United States funds from Red Cross food shipments to Vietnam were also withdrawn.

Since the food shortages have become evident, there has been a modest international effort to offer assistance. The International Committee of the Red Cross and the United Nations High Commissioner for Refugees have started programs. Private groups in a number of countries have sent food and agricultural equipment, including the Church World Service in the United States, which sent $500,000 worth of rice in May.

Now UNICEF, the United Nations Children's Fund, has quietly undertaken a program to feed children. UNICEF has representatives in Vietnam working with officials of the World Food Program, who report that child-feeding centers have been established in five provinces that, because of their remoteness from food-producing areas, have been hardest hit by the shortages. According to UNICEF, there are a million children under the age of 7 in these provinces urgently in need of high-protein food to supplement already inadequate diets.

While other countries have responded to this appeal, the United States has not. Switzerland has sent dried milk and wheat flour. The European Economic Community has given rolled oats, powdered milk and butter oil. Scandinavian countries are sending specially formulated high-protein food and sugar. Particularly useful to meet the current needs would be an enriched food known as "C.S.M."—corn, soya, milk—that was developed in the United States, is in abundant supply, and has been of major assistance to other famine areas such as Biafra and the Sahel.

I have always believed that Americans would not object to purely humanitarian shipments to Vietnam, so I have been perplexed at Congressional actions that, perhaps unintentionally, have had the effect of denying such aid, including food and medicine.

Now The New York Times/CBS News poll reports that 66 percent of Americans want their Congressmen to approve food and medicine aid to Vietnam, with only 29 percent opposed.

This would obviously not be reconstruction aid or reparations based on past agreements, but a simple expression of American generosity toward a people with whom we have been deeply involved and toward children—the unwitting victims of differences between our two countries.

Obviously there are other problems in Vietnam: for example, a further accounting of our missing-in-action, and continuing concerns about human rights. But surely none of these problems are resolved by withholding food from children and their families who need it urgently.

The United States is now embarking on a new program to admit an additional 15,000 Indochinese refugees, including those now fleeing Vietnam in small boats at the rate of 500 a month, many of whom cite the food shortage as the reason for their departure.

It is right that we should help those able to leave. But if our concern is genuinely for the people of Vietnam, the vast number of whom have no choice but to remain in their country, we have as great an obligation to do what we can to help those who stay behind. International-agency channels assure that food we send would reach those who need it most—particularly hungry children.

Available information indicates the shortages are especially severe right now, with the series of bad harvests coinciding with the low point of the annual food cycle. The Carter Administration and the Congress should act quickly to remove impediments to humanitarian assistance and provide a United States food contribution to Vietnamese children without further delay.

SENATE PASSES IMPORTANT VETERANS LEGISLATION

Mr. PELL. Mr. President, I am delighted that the Senate has passed H.R. 1862, the Veterans Disability Compensation and Survivor Benefits Act of 1977. This legislation contains a series of important veterans measures, including a provision drawn from legislation I introduced earlier this year, calling for the early delivery of veterans benefit checks when normal delivery would be delayed by a weekend or holiday.

My original bill, S. 543, is an effort to make sure that benefit checks will be delivered to veterans so that they have

their checks when they are needed, not afterward.

Under present law most veterans benefit checks are mailed so as to arrive on the first of every month, but when that date falls on a Saturday, a Sunday, or a Monday Federal holiday, the delivery of that check is delayed until the next weekday. In the case of a Saturday delivery followed by a Monday public holiday, this can mean that the veteran would get his or her check 3 days late. Late delivery of benefit checks is a real burden to the beneficiary, as we can all imagine. Often veterans rely exclusively on the benefit check for their whole monthly income, and when the check comes late, it is impossible to pay bills on time, or even to afford the necessities at the drug store or the supermarket.

My legislation, contained in section 403 of this bill, requires the Veterans' Administration to correct this problem to the maximum extent practicable, by delivering these benefits a day early so that the checks can be cashed in time for when the money is really needed.

The "practicable" language in the legislation is intended, as the committee noted, to take care of that rare instance when the beginning of a fiscal year begins on a weekend, a situation which could cause some accounting problems.

I believe that this is a provision which enhances the responsiveness of the Veterans' Administration to the veterans and the dependents it serves.

It makes the Government work better for the individual citizen, and that is something we all must focus on. Large bureaucracies cannot be let alone, and blindly trusted, to deliver services to our citizens. We must continually assure ourselves that these benefits are delivered conveniently, promptly, and in a way which will do the most good for every veteran.

I want to thank Senator HATHAWAY, who introduced this legislation with me and with 28 other Senators, and Senator CRANSTON, chairman of the Committee on Veterans' Affairs, and Senator STAFFORD, the ranking minority member on that committee, for their assistance in incorporating the intention of my legislation in this bill.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the Senator from Indiana (Mr. BAYH) as chairman to the delegation to the North Atlantic Assembly, to be held in Paris, France, September 18 to 24, 1977, in lieu of the Senator from Alabama (Mr. SPARKMAN).

The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the Senator from Iowa (Mr. CULVER) as a delegate to the North Atlantic Assembly, to be held in Paris, France, September 18 to 24, 1977.

ORDER THAT NO ROLLCALL VOTES OCCUR TOMORROW PRIOR TO 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur tomorrow prior to the hour of 5 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this will allow rollcall votes to be ordered and stacked up and at 5 o'clock p.m. tomorrow any such rollcall votes can begin to occur.

ORDER FOR ADJOURNMENT UNTIL 12:45 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12:45 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE ENERGY CONSERVATION BILL AT NO LATER THAN 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, and no later than 1 o'clock p.m., the Senate resume the consideration of the unfinished business, the energy conservation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2083, the Oil Pollution Liability and Compensation Act of 1977, be referred to the Committee on Environment and Public Works.

This original bill is being referred by the Committee on Commerce, Science and Transportation.

Since these two committees share joint jurisdiction over this type legislation, it has been agreed on this procedure for dealing with it.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO MEET DURING SENATE SESSION ON WEDNESDAY, THURSDAY, AND FRIDAY THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Wednesday, Thursday, and Friday this week in relation to the Lance matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, I gather that we are coming to the close of this session. I ask the majority leader if he could give us some estimate of the length of the session tomorrow. I know the order for our convening time and our return to the consideration of this measure and the time to commence rollcall votes. Can the majority leader give us some idea how long we will be in tomorrow?

Mr. ROBERT C. BYRD. Mr. President, I would hope that the Senate would be able to complete action on the energy conservation measure tomorrow. By virtue of the meeting of the Energy Committee tomorrow morning and presumably until around 1 p.m. tomorrow, the Senate would not be able to resume floor consideration of the energy conservation measure until 1 p.m.

Any rollcall votes will be withheld until 5 o'clock p.m. It is conceivable that several rollcall votes would be ready to occur by that time.

I would hope that at that point it appears that the Senate can complete action on the bill tomorrow evening without staying in unduly late, that we would do so. I cannot really make a judgment at this point as to what that situation will be at that time.

Following the disposition of the energy conservation bill, may I say for the record, the distinguished minority leader already is aware of this, the Senate will then take up the timber sales bill, which would be on Wednesday, and following that the Senate will take up the civil rights bill dealing with sex discrimination and, hopefully, at that point, the Senate can proceed to take up the nonunion military bill or the saccharin bill, not necessarily in that order.

But it would seem to me that these measures which I have enumerated are sufficient to occupy the Senate's attention through Wednesday and into Thursday and then, in the meantime, there may be conference reports which are privileged and other measures on which clearance has been gotten.

ORDER FOR ADJOURNMENT UNTIL 1:15 P.M. TOMORROW

Mr. President, it is the intention to give the Energy Committee ample time to act on the natural gas pricing bill, which is of utmost importance. I say that it is of the utmost importance because once the Senate completes action on the energy conservation bill, there is no other bill on the assembly line for floor action. I hope we can keep energy bills moving toward the floor.

In view of the remarkable record that the Senate has made thus far in clearing the decks for energy legislation, I do not know of other measures that can fill the gap for a long period of time—at this moment, at least.

So, in order to facilitate action on the natural gas pricing bill tomorrow, if at all possible, and to give the Finance Committee additional time in which to move its part of the energy package along, also to permit the Budget Committee, which is in conference on the second budget resolution, to work on the conference without interruption, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 1:15 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION TOMORROW OF S. 2057, NATIONAL ENERGY CONSERVATION POLICY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Sen-

ate resume consideration of the pending measure, National Energy Conservation Policy Act, no later than 1:30 p.m. tomorrow or at the conclusion of the orders recognizing the majority and the minority leader on tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1:15 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate adjourn until 1:15 p.m. tomorrow.

The motion was agreed to; and at 6:32 p.m. the Senate adjourned until tomorrow, Tuesday, September 13, 1977, at 1:15 p.m.

NOMINATION

Executive nomination received by the Senate September 12, 1977:

FEDERAL COMMUNICATIONS COMMISSION

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1977, vice Richard E. Wiley, term expired.

HOUSE OF REPRESENTATIVES—*Monday, September 12, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is good; His mercy is everlasting; and His truth endureth to all generations.—Psalms 100: 5.

God of our fathers and our God, who has safely brought us to the beginning of another week, keep us aware of Thy presence as we set out upon the duties of this day. Grant unto us the courage of our convictions and the fortitude of our faith which will enable us to promote the highest good of our country. Guide us with Thy truth, lead us with Thy love, and make us one in spirit as we do our best to lift the level of our people to a higher plane of life and liberty for all.

Bless our beloved land with peace and prosperity and help us to seek an order of life where justice prevails and good will lives in every heart. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 275) entitled "An act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5027. An act to amend title 38 of the United States Code to clarify the requirement that medical services be provided by the Veterans' Administration in certain cases;

H.R. 5146. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges; and

H. Con. Res. 341. Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal year 1978.

The message also announced that the Senate insists upon its amendments to the concurrent resolution (H. Con. Res. 341) entitled "Concurrent resolution revising the congressional budget for the United States Government for the fiscal year 1978," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CRANSTON, Mr. CHILES, Mr. ABOUREZK, Mr. BELLMON, Mr. DOLE, Mr. MCCLURE, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1626. An act to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave;

S. 1724. An act to establish a Neighborhood Reinvestment Corporation;

S. 1731. An act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services; and

S. 2076. An act to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon National Park, Ariz., to the Grand Canyon Unified School District, Ariz., and for other purposes.

The message also announced that Mr. INOUYE be a conferee, on the part of the Senate, on the bill (H.R. 7555) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes," vice Mr. ROBERT C. BYRD, excused.

THE NEW PANAMA CANAL TREATIES DO NOT INSURE AMERICA'S DEFENSE RIGHT AFTER 2000

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, ever since the Panama Canal Treaty was announced in August, administration spokesmen have repeatedly claimed that the treaty preserves the right of the United States to defend the canal after we leave the zone in the year 2000.

I have now had an opportunity to study the wording of the two treaties signed in Washington last week, and I think it is time to advise the House that there is not a single word in either of the two treaties that guarantees the right of the United States to defend the canal after the year 2000.

The administration says this right is implied in article 4 of the Second Treaty on Neutrality. But I urge Members to read this article very carefully. I do not know how one gets "defense" out of "neutrality."

The fact of the matter is that the Foreign Minister of Panama, Dr. Romulo Escobar Bethancourt specifically refuted the interpretation that this article gives the United States any meaningful defense rights after 2000. "The treaty does not establish that the United States has the right to intervene in Panama," Dr. Escobar is quoted as saying.

In view of all the repeated assertions by the administration that the new treaties guarantee our right to defend the canal, these are most disturbing facts. To say the very least, they suggest that these treaty spokesmen have been seriously misleading both the Congress and the public.

If the Senate ratifies these treaties without insisting that our defense right be spelled out unequivocally, we will be back where we were with SALT I—with nobody agreeing on what the treaty permits and what it prevents.

The Senate should insist that unless this grave omission is corrected, the treaties be rejected.

PERSONAL EXPLANATION

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, it was necessary for me to attend two conventions in my State of Wyoming beginning on Friday, September 9. I was absent for the following votes. Had I been present, I would have voted in the following manner:

Vote No. 526. House Resolution 640, resolution to consider H.R. 6566, ERDA authorizations for national security programs: "aye"; passed 348 to 85.

Vote No. 527. House Resolution 657, resolution to consider H.R. 6796, ERDA authorizations for nonnuclear programs, fiscal year 1978: "aye"; passed 338 to 14.

Vote No. 528. House Resolution 728, resolution to consider H.R. 2176, Federal Banking Agency Audit Act: "aye"; passed 312 to 47.

Vote No. 529. House Resolution 738, resolution to consider H.R. 5383, Age Discrimination in Employment Act Amendments of 1977: "aye"; passed 362 to 0.

Vote No. 530. House Resolution 638, resolution to consider H.R. 6683, Earthquake Hazards Reduction Act of 1977: "aye"; passed 350 to 3.

Vote No. 531. House Resolution 641, resolution to consider H.R. 6669, National Climate Program Act of 1977: "aye"; passed 348 to 2.

Vote No. 532. Final vote on the passage of H.R. 6683, the Earthquake Hazards Reduction Act of 1977: "aye"; passed 229 to 80.

Vote No. 533. Final vote on the passage of H.R. 6669, the National Climate Program Act of 1977: "aye"; passed 282 to 60.

VETERANS' BENEFITS TO WOMEN'S AIR FORCE SERVICE PILOTS

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, at 9 a.m., Tuesday, September 20, 1977, the Committee on Veterans' Affairs is scheduled to hold hearings on H.R. 3321 and related bills which would provide veterans' benefits to members of the Women's Air Force Service pilots. Members who desire to submit a statement for the record should do so by the close of business, Friday, September 23.

CONFERENCE REPORT ON S. 275, FOOD AND AGRICULTURE ACT OF 1977

Mr. FOLEY submitted the following conference report and statement on the bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-599)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, with the following table of contents, may be cited as the "Food and Agriculture Act of 1977".

TABLE OF CONTENTS

TITLE I—PAYMENT LIMITATION FOR WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Sec. 101. Payment limitation.
Sec. 102. Family farms.
Sec. 103. Study on prohibiting payments to certain legal entities.
Sec. 104. Conforming amendment.

TITLE II—DAIRY AND BEEKEEPER PROGRAMS

Sec. 201. Dairy base plans.
Sec. 202. Producer handlers.
Sec. 203. Milk price support.
Sec. 204. Transfer of dairy products to the military and veterans hospitals.
Sec. 205. Dairy indemnity program.
Sec. 206. Standard of quality for ice cream.
Sec. 207. Beekeeper indemnity program.

TITLE III—WOOL AND MOHAIR

Sec. 301. Declaration of policy.
Sec. 302. Extension of Act; support base.

TITLE IV—WHEAT

Sec. 401. Loan rates and target prices for the 1977 through 1981 crops.
Sec. 402. Program acreage and payment yields; set-aside program.
Sec. 403. Nonapplicability of certificate requirements.
Sec. 404. Suspension of marketing quotas and producer certificate provisions
Sec. 405. Finality of determinations.
Sec. 406. Suspension of quota provisions.
Sec. 407. Application of terms in the Agricultural Act of 1949.
Sec. 408. Commodity Credit Corporation sales price restrictions for wheat and feed grains.
Sec. 409. Nonapplicability of section 107 of the Agricultural Act of 1949 to 1977 through 1981 crop of wheat.
Sec. 410. Nonapplicability of section 107 of the Agricultural Act of 1949, as amended, to the 1977 crop of wheat.

TITLE V—FEED GRAINS

Sec. 501. Loan rates and target prices for the 1977 through 1981 crops.
Sec. 502. Program acreages and payment yields; set-aside program.
Sec. 503. Nonapplicability of section 105 of the Agricultural Act of 1949 to the 1977 through 1981 crops of feed grains.
Sec. 504. Nonapplicability of section 105 of the Agricultural Act of 1949, as amended, to the 1977 crop of feed grains.

TITLE VI—UPLAND COTTON

Sec. 601. Base acreage allotments; suspension of marketing quotas, and related provisions.
Sec. 602. Cotton production incentives; loan rate and target price; set-aside program.
Sec. 603. Commodity Credit Corporation sales price restrictions.
Sec. 604. Miscellaneous cotton provisions.
Sec. 605. Skiprow practices.
Sec. 606. Preliminary allotments for 1982 crop of upland cotton.
Sec. 607. Extra long staple cotton.

TITLE VII—RICE

Sec. 701. National acreage allotment and allocation.
Sec. 702. Loan rates, target prices, and set-aside for the 1978 through 1981 crops.
Sec. 703. Suspension of marketing quotas and other provisions.
Sec. 704. Definition of cooperator.
Sec. 705. Conforming amendment.

TITLE VIII—PEANUTS

Sec. 801. Annual marketing quota and State acreage allotment.
Sec. 802. National acreage allotment; national poundage quota; farm poundage quota; and definitions.
Sec. 803. Sale, lease, and transfer of average allotments.
Sec. 804. Marketing penalties; disposition of additional peanuts.
Sec. 805. Reports and records.
Sec. 806. Preservation of unused allotments.
Sec. 807. Price support program.

TITLE IX—SOYBEANS AND SUGAR

Sec. 901. Soybean price support.
Sec. 902. Sugar price support.

TITLE X—MISCELLANEOUS

Sec. 1001. Set-aside of normally planted acreage.
Sec. 1002. American agriculture protection program.
Sec. 1003. Budget amendment.
Sec. 1004. Special grazing and hay program.
Sec. 1005. Daily release of reports of export sales of agricultural commodities.
Sec. 1006. Filberts.

TITLE XI—GRAIN RESERVES

Sec. 1101. Produce storage program for wheat and feed grains.
Sec. 1102. International emergency food reserve.
Sec. 1003. Disaster reserve.
Sec. 1104. Farm storage facility loans.
Sec. 1105. Emergency feed program.

TITLE XII—PUBLIC LAW 480

Sec. 1201. Authority for the Commodity Credit Corporation to act as purchasing or shipping agent under title I.
Sec. 1202. Title I sales procedures.
Sec. 1203. Increased appropriation limit for title II.
Sec. 1204. Availability of commodities.
Sec. 1205. Financing the sale of food and fiber commodities.
Sec. 1206. Valuation of commodities acquired through price support programs.
Sec. 1207. Revised regulations governing operations; bagged commodities.
Sec. 1208. Extension of the program.
Sec. 1209. Use of non-price-supported commodities under Public Law 480.
Sec. 1210. Special task force on the operation of Public Law 480.

TITLE XIII—FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

Sec. 1301. Food Stamp Act of 1964 amendments.
Sec. 1302. Conforming amendments.
Sec. 1303. Implementation of the Food Stamp Act of 1977.
Sec. 1304. Commodity distribution programs.

TITLE XIV—NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

Sec. 1401. Short title.

SUBTITLE A—FINDINGS, PURPOSES, AND DEFINITIONS

Sec. 1402. Findings.
Sec. 1403. Purposes.
Sec. 1404. Definitions.

SUBTITLE B—COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Sec. 1405. Responsibilities of the Secretary and Department of Agriculture.
Sec. 1406. Federal Subcommittee on Food and Renewable Resources.
Sec. 1407. Joint Council on Food and Agricultural Sciences.
Sec. 1408. National Agricultural Research and Extension Users Advisory Board.
Sec. 1409. Existing research programs.
Sec. 1410. Secretary's report.
Sec. 1411. Libraries and information network.
Sec. 1412. Support for the Joint Council and Advisory Board.
Sec. 1413. General provisions.

SUBTITLE C—AGRICULTURAL RESEARCH AND EDUCATION GRANTS AND FELLOWSHIPS

Sec. 1414. Program of competitive, special, and facilities grants for agricultural research.
Sec. 1415. Grants to establish or expand schools of veterinary medicine.
Sec. 1416. Amendments to the Research Facilities Act of 1963.
Sec. 1417. Grants and fellowships for food and agricultural science education.
Sec. 1418. National agricultural research award.

Sec. 1419. Grants for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products, and agricultural chemicals and other products from coal derivatives.
Sec. 1420. Pilot projects for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products.
SUBTITLE D—NATIONAL FOOD AND HUMAN NUTRITION RESEARCH AND EXTENSION PROGRAM
Sec. 1421. Findings and declarations.
Sec. 1422. Duties of the Secretary of Agriculture.
Sec. 1423. Research by the Department of Agriculture.
Sec. 1424. Study.
Sec. 1425. Nutrition education program.
Sec. 1426. Nutrition education materials.
Sec. 1427. Report to Congress.
Sec. 1428. Nutritional status monitoring.
SUBTITLE E—ANIMAL HEALTH AND DISEASE RESEARCH
Sec. 1429. Purpose.
Sec. 1430. Definitions.
Sec. 1431. Authorization to the Secretary of Agriculture.
Sec. 1432. Animal Health Science Research Advisory Board.
Sec. 1433. Appropriations for continuing animal health and disease research programs.
Sec. 1434. Appropriations for research on national or regional problems.
Sec. 1435. Availability of appropriated funds.
Sec. 1436. Withholding of appropriated funds.
Sec. 1437. Requirements for use of funds.
Sec. 1438. Matching funds.
Sec. 1439. Allocations under this subtitle not substitutions.
SUBTITLE F—SMALL FARM RESEARCH AND EXTENSION
Sec. 1440. Small farm research and extension programs.
Sec. 1441. Program moneys.
Sec. 1442. Definition of small farmer.
Sec. 1443. Reports.
SUBTITLE G—1890 LAND-GRANT COLLEGE FUNDING
Sec. 1444. Extension at 1890 land-grant colleges, including Tuskegee Institute.
Sec. 1445. Agricultural research at 1890 land-grant colleges, including Tuskegee Institute.
SUBTITLE H—SOLAR ENERGY RESEARCH AND DEVELOPMENT
PART 1—EXISTING PROGRAMS
Sec. 1446. Agricultural research.
Sec. 1447. Agricultural extension.
Sec. 1448. Rural development.
PART 2—COMPETITIVE GRANTS PROGRAM
Sec. 1449. Competitive grants program.
PART 3—INFORMATION SYSTEM AND ADVISORY COMMITTEE
Sec. 1450. Solar energy research information system.
Sec. 1451. Advisory Committee.
PART 4—MODEL FARMS AND DEMONSTRATION PROJECTS
Sec. 1452. Model farms.
Sec. 1453. Demonstration projects.
Sec. 1454. Authorization for appropriations.
PART 5—REGIONAL SOLAR ENERGY RESEARCH AND DEVELOPMENT CENTERS
Sec. 1455. Regional solar energy research and development centers.
PART 6—APPROPRIATIONS AND DEFINITIONS
Sec. 1456. Authorization for appropriations.
Sec. 1457. Definitions.
SUBTITLE I—INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION
Sec. 1458. International agricultural research and extension.
SUBTITLE J—STUDIES
Sec. 1459. Evaluation of the Extension Service and the Cooperative Extension Services.
Sec. 1460. Weather and water allocation study.
Sec. 1461. Organic farming study.
Sec. 1462. Agricultural research facilities study.
SUBTITLE K—FUNDING AND MISCELLANEOUS PROVISIONS
Sec. 1463. Authorization for appropriations for existing and certain new agricultural research programs.
Sec. 1464. Authorization for appropriations for extension education.
Sec. 1465. Extension programs for Guam and the Virgin Islands of the United States.
Sec. 1466. Amendments to the Hatch Act.
Sec. 1467. Payment of funds.
Sec. 1468. Withholding of funds.
Sec. 1469. Auditing, reporting, bookkeeping, and administrative requirements.
Sec. 1470. Rules and regulations.
TITLE XV—RURAL DEVELOPMENT
Sec. 1501. Agricultural conservation program.
Sec. 1502. Inclusion of aquaculture and human nutrition among the basic functions of the Department of Agriculture.
Sec. 1503. Aquaculture loan authority.
Sec. 1504 Disposition of excess Federal property to rural fire forces.
Sec. 1505. Rural community fire protection program.
Sec. 1506. Congressional approval of watershed protection and flood prevention projects.
Sec. 1507. Congressional approval of resource conservation and development project loans.
Sec. 1508. Watershed loan authority.
Sec. 1509. Multiyear set-aside.
Sec. 1510. Authority to make deferred loan payments.
Sec. 1511. Critical lands resource conservation program.
TITLE XVI—FEDERAL GRAIN INSPECTION
Sec. 1601. Records.
Sec. 1602. Supervision fees.
Sec. 1603. Establishments of temporary advisory committee.
Sec. 1604. Technical amendments.
Sec. 1605. Studies of grain inspection and weighing; effective date.
Sec. 1606. Miscellaneous amendments.
Sec. 1607. Conforming amendments.
Sec. 1608. Retention of designations following convictions.
TITLE XVII—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ACT
Sec. 1701. Short title.
Sec. 1702. Findings and declaration of policy.
Sec. 1703. Definitions.
Sec. 1704. Issuance of orders.
Sec. 1705. Permissive terms in orders.
Sec. 1706. Required terms in orders.
Sec. 1707. Exemption.
Sec. 1708. Requirement of referendum.
Sec. 1709. Refund.
Sec. 1710. Petition and review.
Sec. 1711. Enforcement.
Sec. 1712. Suspension and termination of orders.
Sec. 1713. Investigations; power to subpena and take oaths and affirmations; aid of courts.
Sec. 1714. Certification of organizations.
Sec. 1715. Effect on other programs.
Sec. 1716. Regulations.
Sec. 1717. Provisions applicable to amendments.
Sec. 1718. Separability.
Sec. 1719. Authorization.
TITLE XVIII—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES
Sec. 1801. Purposes.
Sec. 1802. Definitions.
Sec. 1803. Establishment of advisory committees.
Sec. 1804. Additional duties of the Secretary.
Sec. 1805. Membership on advisory committees.
Sec. 1806. Advisory committee charter requirements—operating costs.
Sec. 1807. Annual report.
Sec. 1808. Budget prohibitions.
Sec. 1809. Termination of advisory committees.
TITLE XIX—EFFECTIVE DATE
Sec. 1901. Effective date.

TITLE I—PAYMENT LIMITATION FOR WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

PAYMENT LIMITATION

SEC. 101. Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under—

(A) one or more of the annual programs established under the Agricultural Act of 1949, as amended, and the Agricultural Adjustment Act of 1938, as amended, for wheat, feed grains, and upland cotton shall not exceed $40,000 for the 1978 crop and $45,000 for the 1979 crop;

(B) the annual rice program established under such Acts shall not exceed $52,250 for the 1978 crop and $50,000 for 1979 crop; and

(C) one or more of the annual programs established under such Acts for wheat, feed grains, upland cotton, and rice shall not exceed $50,000 for each of the 1980 and 1981 crops.

(2) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this section which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970.

FAMILY FARMS

SEC. 102. (a) Congress hereby specifically reaffirms the historical policy of the United States to foster and encourage the family farm system of agriculture in this country. Congress firmly believes that the maintenance of the family farm system of agricul-

ture is essential to the social well-being of the Nation and the competitive production of adequate supplies of food and fiber. Congress further believes that any significant expansion of nonfamily owned large-scale corporate farming enterprises will be detrimental to the national welfare. It is neither the policy nor the intent of Congress that agricultural and agriculture-related programs be administered exclusively for family farm operations, but it is the policy and the express intent of Congress that no such program be administered in a manner that will place the family farm operation at an unfair economic disadvantage.

(b) In order that Congress may be better informed regarding the status of the family farm system of agriculture in the United States, the Secretary of Agriculture shall submit to Congress, not later than July 1 of each year, a written report containing current information on trends in family farm operations and comprehensive national and State-by-State data on nonfamily farm operations in the United States. The Secretary shall also include in each such report (1) information on how existing agricultural and agriculture-related progams are being administered to enhance and strengthen the family farm system of agriculture in the United States, (2) an assessment of how Federal laws may encourage the growth of nonfamily farm operations, and (3) such other information as the Secretary deems appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.

STUDY ON PROHIBITING PAYMENTS TO CERTAIN LEGAL ENTITIES

SEC. 103. In furtherance of the policy stated in section 102 of this Act, the Secretary of Agriculture shall conduct a study and report to Congress no later than January 1, 1979, on the impact on participation in the wheat, feed grain, cotton, and rice programs and the production of such commodities in carrying out a statutory provision such as that included in the Food and Agriculture Act of 1977, as passed by the Senate on May 24, 1977, prohibiting the making of payments to certain corporations and other entities under such programs. The study shall, in addition, assess the impact of extending the prohibition against making commodity program payments to tenants on land owned by such corporations and other entities which would be excluded from payments under such a provision. The study shall utilize, to the greatest extent possible, the information on commodity program payments compiled by the Agricultural Stabilization and Conservation Service in determining payment eligibility under section 101 of the Agricultural Act of 1970, as amended, and section 101 of this Act. The Secretary may collect such other information as may be necessary to determine the impact of such a statutory provision and to identify the number and characteristics of producers that would be affected by such a provision.

CONFORMING AMENDMENT

SEC. 104. Section 101(1) of the Agricultural Act of 1970, as amended, is amended to read as follows:

"(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop of the commodities shall not exceed $20,000.".

TITLE II—DAIRY AND BEEKEEPER PROGRAMS

DAIRY BASE PLANS

SEC. 201. Section 201(e) of the Agricultural Act of 1970, as amended, is amended to read as follows:

"(e) The provisions of this section shall not be effective after December 31, 1981, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1984.".

PRODUCER HANDLERS

SEC. 202. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 as it was prior thereto.

MILK PRICE SUPPORT

SEC. 203. Section 201 of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out the second sentence in subsection (c) and inserting in lieu thereof a new sentence as follows: "Notwithstanding the foregoing, effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1979, the price of milk shall be supported at not less than 30 per centum of the parity price therefor."; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d) Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. The Secretary is authorized to adjust the support price of milk at the beginning of each remaining quarter in the marketing year to reflect any substantial change in the parity index during such quarterly period. Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable."

TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS

SEC. 204. Section 202 of the Agriculture Act of 1949, as amended, is amended by striking out "1977" in subsections (a) and (b) and inserting in lieu thereof "1981".

DAIRY INDEMNITY PROGRAM

SEC. 205. The Act of August 13, 1968 (82 Stat. 750, as amended; 7 U.S.C. 450 j, k, and l), is amended by—

(i) inserting after the first sentence a new sentence as follows: "The Secretary is also authorized to make indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or any residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer: *Provided*, That no indemnity payment may be made for contamination resulting from such residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer."; and

(2) striking out "June 30, 1977" in section 3 and inserting in lieu thereof "September 30, 1981".

STANDARD OF QUALITY FOR ICE CREAM

SEC. 206. Section 203(c) of the Agricultural Marketing Act of 1946 is amended by adding at the end thereof the following: "Within thirty days after the enactment of the Food and Agriculture Act of 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which, meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for 'ice cream'.".

BEEKEEPER INDEMNITY PROGRAM

SEC. 207. Section 804(f) of the Agricultural Act of 1970, as amended, is amended by striking out "December 31, 1977" and inserting in lieu thereof "September 30, 1981".

TITLE III—WOOL AND MOHAIR

DECLARATION OF POLICY

SEC. 301. Section 702 of the National Wool Act of 1954, as amended, is amended to read as follows:

"SEC. 702. It is hereby recognized that wool is an essential, strategic, and energy-efficient commodity which is not produced in the United States in sufficient quantities and grades to meet the domestic needs; and that the desired domestic production of wool is impaired by predatory animals and by the depressing effects of wide fluctuations in the price of wool in the world markets. It is hereby declared to be the policy of Congress, as a measure of national security and to promote the general economic welfare, a positive balance of trade, and the efficient use of the Nation's resources, to encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner which will assure a viable domestic wool industry in the future.".

EXTENSION OF ACT; SUPPORT PRICE

SEC. 302. Section 703 of the National Wool Act of 1954, as amended, is amended by—

(1) striking out "1977" in subsection (a) and inserting in lieu thereof "1981";

(2) striking out "1977" in subsection (b) and inserting in lieu thereof "1976"; and

(3) inserting immediately before the period at the end of subsection (b) a new proviso as follows: ": *Provided further*, That for the marketing years beginning January 1, 1977, and ending December 31, 1981, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula"; and

(4) striking out "1977" in subsection (c) and inserting in lieu thereof "1976".

TITLE IV—WHEAT

LOAN RATES AND TARGET PRICES FOR THE 1977 THROUGH 1981 CROPS

SEC. 401. Effective only for the 1977 through 1981 crops of wheat, the Agricultural Act of 1949, as amended, is amended to add subsections (a) through (c) to a new section 107A as follows:

"SEC. 107A. Notwithstanding any other provision of law—

"(a) The Secretary shall make available to producers loans and purchases at such level, not less than $2.25 per bushel for the 1977 crop of wheat and $2.35 per bushel for each of the 1978 through 1981 crops of wheat, nor, in the case of each of the 1977 through 1981 crops, in excess of 100 per centum of parity, as the Secretary determines will maintain its competitive relationship to other grains in domestic and export markets: *Provided*, That if the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of

loans and purchases for wheat for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $2.00 per bushel.

"(b)(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of wheat in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the projected yield established for the farm for such crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater average than the acreage actually planted to wheat.

"(B) The payment rate for wheat shall be the amount by which the higher of—

"(i) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(ii) the loan level determined under subsection (a) of this section for such crop

is less than the established price per bushel. The established price for wheat shall be $2.90 per bushel for the 1977 crop and $3.00 per bushel for the 1978 crop: *Provided*, That for the 1977 crop, the established price shall be $2.47 per bushel with respect to any acreage not planted to wheat within the wheat acreage allotment: *Provided further*, That for the 1978 crop, the established price shall be $3.05 per bushel if the 1978 crop of wheat is 1.8 billion bushels or less. For the 1979 crop, the established price shall be $3.00 per bushel adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the 1979 crop year from (ii) the average adjusted cost of production for the two crop years immediately preceding the 1978 crop year. For the 1980 and 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for wheat in accordance with the proviso in subsection (a) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided*, That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 101 of the Food and Agriculture Act of 1977.

"(D) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

"(2)(A) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage which the producers were prevented from planting to wheat or other nonconserving crop in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel for wheat.

"(B) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

"(C) In the case of the 1977 crop of wheat, disaster payments for prevented planting shall be computed as provided in section 107 of this Act, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: Provided, That producers may elect to receive disaster payments for low yield computed as provided in section 107 of this Act, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further*, That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

"(c) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.".

PROGRAM ACREAGES AND PAYMENT YIELDS; SET-ASIDE PROGRAM

SEC. 402. Effective only for the 1978 through 1981 crops of wheat, the Agricultural Act of 1949, as amended, is amended by adding subsections (d) through (i) to section 107A to read as follows:

"(d)(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of wheat. The proclamation shall be made not later than August 15 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1978 crop the proclamation shall be made as soon as practicable after enactment of the Food and Agriculture Act of 1977. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for wheat shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of wheat. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of wheat be more than 100 per centum nor less than 80 per centum.

"(3) The individual farm program acreage for each crop of wheat shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the wheat acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than August 15 prior to the year in which the crop is harvested, or in the case of the 1978 crop, the proclamation first made after enactment of the Food and Agriculture Act of 1977. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for wheat, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(e) The farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for wheat was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(f)(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to

meet a national emergency. The Secretary shall announce any such set-aside not later than August 15 prior to the year in which the crop is harvested, except that in the case of the 1978 crop, the announcement shall be made as soon as practicable after enactment of the Food and Agriculture Act of 1977. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(2) The Secretary may make land diversion payments to producers of wheat, whether or not a set-aside for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

"(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(h) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.".

NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

SEC. 403. Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982.

SUSPENSION OF MARKETING QUOTAS AND PRODUCER CERTIFICATE PROVISIONS

SEC. 404. Section 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended, shall not be applicable to the 1978 through 1981 crops of wheat.

FINALITY OF DETERMINATIONS

SEC. 405. Effective only for the 1978 through 1981 crops, section 385 of the Agricultural Adjustment Act of 1938, as amended, is amended by amending the first sentence to read as follows: "The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 and this Act, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.".

SUSPENSION OF QUOTA PROVISIONS

SEC. 406. Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981.

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 407. Section 408(k) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended, to be effective for the 1971 through 1977 crops, shall be effective for the 1978 through 1981 crops, and shall read as follows:

"REFERENCES TO TERMS MADE APPLICABLE TO WHEAT AND FEED GRAINS

"(k) References made in sections 402, 403, 405, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the level of loans and purchases for wheat and feed grains under this Act; and references made to the terms 'price support', 'price support operations,' and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for wheat and feed grains under this Act.".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS FOR WHEAT AND FEED GRAINS

SEC. 408. Effective only with respect to the marketing years for the 1978 through 1981 crops, section 407 of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out in the third sentence the language following the third colon and inserting in lieu thereof the following: "Provided, That the Corporation shall not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, plus reasonable carrying charges.";

(2) striking out in the fifth sentence "current basic county support rate including the value of any applicable price-support payment in kind (or a comparable price if there is no current basic county support rate)" and inserting in lieu thereof the following: "current basic county loan rate (or a comparable price if there is no current basic county loan rate)"; and

(3) striking out in the seventh sentence ", but in no event shall the purchase price exceed the then current support price for such commodities" and inserting in lieu thereof the following: "or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use".

NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1977 THROUGH 1981 CROPS OF WHEAT

SEC. 409. Section 107 of the Agricultural Act of 1949, as amended, shall not be applicable to the 1977 through 1981 crops of wheat.

NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949, AS AMENDED, TO THE 1977 CROP OF WHEAT

SEC. 410. Except as otherwise provided in section 401 of this Act, section 107 of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended, to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat.

TITLE V—FEED GRAINS

LOAN RATES AND TARGET PRICES FOR THE 1977 THROUGH 1981 CROPS

SEC. 501. Effective only for the 1977 through 1981 crops, the Agricultural Act of 1949, as amended, is amended by adding subsections (a) through (c) to a new section 105A as follows:

"SEC. 105A. Notwithstanding any other provision of law—

"(a)(1) The Secretary shall make available to producers loans and purchases at such level, not less than $2.00 per bushel, for each of the 1977 through 1981 crops of corn, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States: *Provided*, That if the Secretary determines that the average price of corn received by producers in any

marketing year is not more than 105 per centum of the level of loans and purchases for corn for such marketing year, the Secretary may reduce the level of loans and purchases for corn for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $1.75 per bushel.

"(2) The Secretary shall make available to producers loans and purchases on each of the 1977 through 1981 crops of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 401(b) of this Act, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

"(b)(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of corn, grain sorghums, and, if designated by the Secretary, oats and barley, in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater acreage than the acreage actually planted to such feed grains.

"(B) The payment rate for corn shall be the amount by which the higher of—

"(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under subsection (a) for such crop

is less than the established price per bushel. The established price for corn shall be $2.00 per bushel in the case of the 1977 crop, except that the established price shall be $1.70 per bushel with respect to any acreage not planted to corn within the feed grain allotment. The established price for corn shall be $2.10 per bushel in the case of the 1978 crop, and for the 1979 through 1981 crops the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for corn in accordance with the proviso in subsection (a)(1) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for corn by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided*, That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 101 of the Food and Agriculture Act of 1977.

"(D) The payment rate for grain sorghums and, if designated by the Secretary, oats and barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

"(E) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

"(2)(A) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage which the producers were prevented from planting to feed grains or other nonconserving crop in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year multiplied by 75 per centum of the farm program payment yield for feed grains established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel.

"(B) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

"(C) In the case of the 1977 crop of feed grains, disaster payments for prevented planting for feed grains shall be computed as provided in section 105 of this Act, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: *Provided*, That producers may elect to receive disaster payments for low yield computed as provided in section 105 of this Act, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further*, That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

"(c) The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.".

PROGRAM ACREAGES AND PAYMENT YIELDS; SET-ASIDE PROGRAM

SEC. 502. Effective only for the 1978 through 1981 crops of feed grains, the Agricultural Act of 1949, as amended, is amended by adding subsections (d) through (i) to section 105A to read as follows:

"(d)(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of feed grains. The proclamation shall be made not later than November 15 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of feed grains are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of feed grains. The allocation factor for feed grains shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of feed grains be more than 100 per centum nor less than 80 per centum.

"(3) The individual farm program acreage for each crop of feed grains shall be determined by multiplying the allocation factor by the acreage of feed grains planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the feed grain acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of feed grains planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than November 15 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of feed grains planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for feed grains, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(e) The farm program payment yield for each crop of feed grains shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for feed grains was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual

yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(f)(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of feed grains will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Any such set-aside shall be announced by the Secretary not later than November 15 of each calendar year for the crop harvested in the next calendar year. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section on corn, grain sorghums, and, if designated by the Secretary, barley and oats, respectively, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the feed grain acreage planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to feed grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, titicale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(2) The Secretary may make land diversion payments to producers of feed grains, whether or not a set-aside for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

"(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(h) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.".

NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1977 THROUGH 1981 CROPS OF FEED GRAINS

SEC. 503. Section 105 of the Agricultural Act of 1949, as amended, shall not be applicable to the 1977 through 1981 crops of feed grains.

NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949, AS AMENDED, TO THE 1977 CROP OF FEED GRAINS

SEC. 504. Except as otherwise provided in section 501 of this Act, section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended, to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains.

TITLE VI—UPLAND COTTON

BASE ACREAGE ALLOTMENTS; SUSPENSION OF MARKETING QUOTAS; AND RELATED PROVISIONS

SEC. 601. Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended, shall not be applicable to upland cotton of the 1978 through 1981 crops.

COTTON PRODUCTION INCENTIVES; LOAN RATE AND TARGET PRICE; SET-ASIDE PROGRAM

SEC. 602. Effective only with respect to the 1978 through 1981 crops of upland cotton, except as otherwise provided herein, section 103 of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new subsection (f) as follows:

"(f)(1) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available for the 1978 through 1981 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (i) 85 per centum of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during the four-year period ending July 31 in the year in which the loan level is announced, or (ii) 90 per centum of the average, for the first two full weeks of October of the year in which the loan level is announced, of the five lowest priced growths of the growths quoted for Strict Middling one and one-sixteenth inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average Northern Europe price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9)). The loan level for any crop of cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective, and such level shall not thereafter be changed. The rate of interest on loans to cooperators under the provisions of this paragraph shall be established quarterly by the Commodity Credit Corporation on the basis of the lowest current interest rate on ordinary obligations of the United States. Nonrecourse loans provided for in this subsection shall, upon request of the cooperator during the tenth month of the loan period for the cotton, be made available for an additional term of eight months: *Provided*, That such request to extend the loan period shall not be approved in a month when the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for the preceding month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thixty-six month period: *Provided further*, That whenever the Secretary determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for a month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

"(A) The amount of the special quota shall be equal to twenty-one days of domestic mill consumption of upland cotton at the seasonally adjusted acreage rate of the most recent three months for which data are available;

"(B) If a special quota has been estab-

lished under this subsection during the preceding twelve months, the amount of the quota next established hereunder shall be the smaller of twenty-one days of domestic mill consumption calculated as set forth in clause (A) of this subsection or the amount required to increase the supply to 130 per centum of the demand;

"(C) As used in clause (B) of this paragraph, the term 'supply' means, using the latest official data of the Bureau of the Census, the United States Department of Agriculture, and the United States Department of the Treasury, the carryover of upland cotton at the beginning of the marketing year (adjusted to four hundred and eighty-pound bales) in which the special quota is established, plus production of the current crop, plus imports to the latest date available during the marketing year, and the term 'demand' means the average seasonally adjusted annual rate of domestic mill consumption in the most recent three months for which data are available, plus the larger of average exports of upland cotton during the preceding six marketing years or cumulative exports of upland cotton, plus outstanding export sales for the marketing year in which the special quota is established; and

"(D) When a special quota is established under the provisions of this subsection, a ninety-day period from the effective date of the proclamation shall be allowed for entering cotton under such quota.

"(2) Notwithstanding the foregoing provisions of this subsection, a special quota period shall not be established that overlaps an existing special quota period.

"(3) Notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota shall become effective upon the effective date of the Food and Agriculture Act of 1977 even though the cotton may be of a crop prior to the 1978 crop.

"(4) Payments stall be made for each crop of upland cotton to the producers on each farm at a rate equal to the amount by which the higher of—

"(A) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(B) the loan level determined under paragraph (1) for such crop

is less than the established price per pound times in each case (i) the farm program acreage for cotton, determined in accordance with paragraph (9) of this subsection (but in no event on a greater acreage than the acreage actually planted to cotton for harvest), multiplied by (ii) the farm program payment yield for cotton determined in accordance with paragraph (10) of this subsection. For the 1978 through 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop: *Provided*, That in no event shall the established price for the 1978 crop be less than 52 cents per pound and for each subsequent crop be less than 51 cents per pound. The total quantity on which payments would otherwise be payable to a producer for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (5)(B) of this subsection.

"(5)(A) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for cotton to cotton or other nonconserving crops because of drought; flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to cotton for harvest (including any acreage which the producers were prevented from planting to cotton or other nonconserving crop in lieu of cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price for the crop.

"(B) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of cotton which the producers are able to harvest on any farm is less than the result of multiplying 75 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted to harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 33⅓ per centum of the established price for the crop for the deficiency in production below 75 per centum for the crop.

"(6) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

"(7) The Secretary shall establish for each of the 1978 through 1981 crops of upland cotton a national program acreage. Such national program acreage shall be announced by the Secretary not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary may revise the national program acreage first announced for any crop year for the purpose of determining the allocation factor under paragraph (8) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall announce such revised national program acreage as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of the estimated weighted national average of the farm program yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

"(8) The Secretary shall determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 per centum) shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop.

"(9) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the acreage of cotton planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the cotton acreage eligible for payment on a farm shall not be further reduced by application of the allocation factor if the producers reduce the acreage of cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the announcement of the national program acreage made not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of cotton planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(10) The farm program payment yield for each crop of upland cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(11)(A) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments on upland cotton, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage as determined by the Secretary (but not to exceed 28 per centum), of the acreage of upland cotton planted for harvest for the crop year for which a set-aside is in effect. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acre-

age to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income. The Secretary may limit the acreage planted to upland cotton. Such limitation shall be applied on a uniform basis to all cotton producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments with respect to that farm.

"(B) The Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(C) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(12) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to the producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of agricultural commodities.

"(13) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(14) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(15) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

"(16) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

"(17) The provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act, as amended (relating to assignment of payments), shall apply to payments under this subsection.".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS

SEC. 603. Effective only with respect to the period beginning August 1, 1978, and ending July 31, 1982, the tenth sentence of section 407 of the Agricultural Act of 1949, as amended, is amended by striking out all of that sentence through the words "110 per centum of the loan rate, and (2)" and inserting in lieu thereof the following: "Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and (2)".

MISCELLANEOUS COTTON PROVISIONS

SEC. 604. (a) Section 408(b) of the Agricultural Act of 1949, as amended, is amended by inserting immediately before the period at the end of the first sentence the following: ": *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the average required under section 103(f)".

(b) Section 408(l) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended, to be effective for the 1971 through 1977 crops, shall be effective for the 1978 through 1981 crops, and shall read as follows:

"REFERENCES TO TERMS MADE APPLICABLE TO UPLAND COTTON

"(1) References made in sections 402, 403, 406, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the level of loans and purchases for upland cotton under this Act; and references made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act.".

(c) Sections 103(a) and 203 of the Agricultural Act of 1949, as amended, shall not be applicable to the 1978 through 1981 crops.

SKIPROW PRACTICES

SEC. 605. Section 374(a) of the Agricultural Adjustment Act of 1938, as amended, is amended by striking out "1977" in the last sentence and inserting in lieu thereof "1981".

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

SEC. 606. Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended, shall again become effective as preliminary allotments for the 1982 crop.

EXTRA LONG STAPLE COTTON

SEC. 607. Section 101(f) of the Agricultural Act of 1949, as amended, is amended by striking out the words "Middling one-inch" appearing in the first sentence and inserting in lieu thereof "Strict Low Middling one and one-sixteenth inch".

TITLE VII—RICE

NATIONAL ACREAGE ALLOTMENT AND ALLOCATION

SEC. 701. Effective beginning with the 1978 crop of rice, section 101 of the Rice Production Act of 1975 is amended by striking out "1976 and 1977" each place it occurs and inserting in lieu thereof "1976 through 1981".

LOAN RATES, TARGET PRICES, AND SET-ASIDE FOR THE 1978 THROUGH 1981 CROPS

SEC. 702. Effective only for the 1978 through 1981 crops of rice, section 101 of the Agricultural Act of 1949, as amended, is amended by adding a new subsection (h) as follows:

"(h) Notwithstanding any other provision of law—

"(1) For the 1978 through 1981 crops of rice, the established price for the purpose of making payments under this subsection shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases for each of the 1978 through 1981 crops of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level for any of the 1978 through 1981 crops would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may, notwithstanding the foregoing provisions of this paragraph, establish loans and purchases for such crop or crops at such level, not less than $6.31 per hundredweight nor more than the parity price thereof, as the Secretary determines necessary to avoid such consequences. The loans and purchases shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manned described in the second sentence of paragraph (4)(A) of this subsection.

"(3) The Secretary shall make available to cooperators payments for each of the 1978 through 1981 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

"(A) the national average market price received by farmers during the first five months of the marketing year for such crop as determined by the Secretary, or

"(B) the loan level determined under paragraph (2) for such crop.

"(4)(A) The payments for each such crop shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying that portion of the allotment planted to rice by the yield established for the farm: *Provided*, That an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the cooperators shall be considered to be an acreage planted to rice. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or other condition beyond the control of the cooperators. The total quantity on which payments would otherwise be payable to a cooperator for any crop under this subparagraph shall be reduced by the quantity on which any disaster payment is made to the cooperator on a farm for the crop under this paragraph.

"(B) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acreage allotments of producers on the farm or the farm acreage allotment to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to cooperators on a farm in an amount determined by multiplying (i) the number of such acres so affected, by (ii) the yield established for the farm, by (iii) 33⅓ per centum of the established price for rice, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 352(d) of the Agricultural Adjustment Act of 1938, as amended, with respect to the transferred acreage.

"(C) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice which the persons involved in producing rice on a farm are able to harvest on the acreage allotments of producers on the farm or the farm acreage allotment is less than the result of multiplying 75 per centum of the yield established for the farm by the acreage within the allotment planted to rice for harvest for such crop, the Secretary shall make a farm disaster payment to the cooperators on the farm for the deficiency in production below 75 per centum of the crop at a rate equal to 33⅓ per centum of the established price for the crop.

"(D) Any payment made under subparagraphs (B) and (C) of this paragraph with regard to acres transferred under section 352 (d) of the Agricultural Adjustment Act of 1932, as amended, shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

"(5) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of such set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments under this subsection, the cooperators on a farm must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceeding years to soil conserving uses, as determined by the Secretary. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorgham, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, it is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(6) The Secretary may make land diversion payments to cooperators, whether or not a set-aside for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such cooperators. The amounts payable to cooperators under land diversion contracts may be determined through the submission of bids for such contracts by cooperators in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(7) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(8) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

"(9) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under this subsection.

"(10) In any case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(11) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

"(12) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

"(13) The provisions of subsection 8(q) of the Soil Conservation and Domestic Allotment Act (relating to assignment of payments) shall apply to payments under this subsection.".

SUSPENSION OF MARKETING QUOTAS AND OTHER PROVISIONS

SEC. 703. Sections 353, 354, 355, 356, and 377 of the Agricultural Adjustment Act of 1938, as amended, shall not be applicable to the 1978 through 1981 crops of rice.

DEFINITION OF COOPERATOR

SEC. 704. The last proviso in the first sentence of section 408(b) of the Agricultural Act of 1949, as added by section 303 of the Rice Production Act of 1975, is amended by striking out "and 1977" and inserting in lieu thereof "through 1981".

CONFORMING AMENDMENT

SEC. 705. Section 408(m) of the Agricultural Act of 1949, as added by the Rice Production Act of 1975, to be effective for the 1976 and 1977 crops, shall be effective for the 1978 through 1981 crops, and shall read as follows:

"REFERENCES TO TERMS MADE APPLICABLE TO RICE

"(m) References made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the level of loans and purchases for rice under this Act; and references made to the terms 'price support', 'price support operation', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for rice under this Act.".

TITLE VIII—PEANUTS

ANNUAL MARKETING QUOTA AND STATE ACREAGE ALLOTMENT

SEC. 801. Section 358 of the Agricultural Adjustment Act of 1938, as amended, is amended as follows:

(a) Subsections (a) and (e) shall not be applicable to the 1978 through 1981 crops of peanuts.

(b) Subsection (c)(1) is amended, effective for the 1978 through 1981 crops of peanuts, by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ": Provided, That the peanut acreage allotment for the State of New Mexico shall not be reduced below the 1977 acreage allotment as increased pursuant to subsection (c)(2) of this section.".

NATIONAL ACREAGE ALLOTMENT; NATIONAL POUNDAGE QUOTA; FARM POUNDAGE QUOTA; AND DEFINITIONS

SEC. 802. Effective for the 1978 through 1981 crops of peanuts, section 358 of the Agricultural Adjustment Act of 1938, as amended, is

amended by adding at the end thereof new subsections (k) through (p) as follows:

"(k) The Secretary shall, not later than December 1 of each year, announce a national acreage allotment for peanuts for the following crop taking into consideration projected domestic use, exports, and a reasonable carryover: Provided, That such allotment shall be not less than one million six hundred and fourteen thousand acres.

"(l) The Secretary shall, not later than December 1 of each year, announce a minimum national poundage quota for peanuts for the following marketing year of the following amounts: 1978, 1,680,000 tons; 1979, 1,596,000 tons; 1980, 1,516,000 tons; and 1981, 1,440,000 tons. If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements.

"(m) For each farm for which a farm acreage allotment has been established, a farm yield for peanuts shall be determined. Such yield shall be equal to the average of the actual yield per acre on the farm for each of the three crop years in which yields were highest on the farm out of the five crop years 1973 through 1977: *Provided*, That if peanuts were not produced on the farm in at leat three years during such five-year period or there was a substantial change in the operation of the farm during such period (including, but not limited to, a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that amount determined to be fair and reasonable on the basis of yields established for similar farms which are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

"(n) For each farm, a farm base production poundage shall be established equal to the quantity determined by multiplying the farm peanut acreage allotment by the farm yield determined in accordance with subsection (m) of this section.

"(o) For each farm, a farm poundage quota shall be established by the Secretary for each marketing year equal to the farm base production poundage multiplied by a factor determined by the Secretary, such that the total of all farm poundage quotas will equal the national poundage quota for such marketing year. The poundage quota so determined, beginning with the 1979 crop for any farm, shall be increased by the number of pounds by which marketings of quota peanuts from the farm during the immediately preceding marketing year were less than the farm poundage quota: *Provided*, That total marketings shall not exceed actual production from the farm acreage allotment: *Provided further*, That the grower must have planted in such preceding marketing year that part of the farm allotment estimated on the basis of the farm yield to be sufficient to produce the total farm poundage quota: *Provided further*, That if the total of all such increases in individual farm poundage quotas exceeds 10 per centum of the national poundage quota for the marketing year, the Secretary shall adjust such increases so that the total of all increases does not exceed 10 per centum of the national poundage quota.

"(p) For the purposes of this part and title I of the Agricultural Act of 1949, as amended—

"(1) 'quota peanuts' means, for any marketing year, any peanuts which are eligible for domestic edible use as determined by the Secretary, which are marketed or considered marketed from a farm, and which do not exceed the farm poundage quota of such farm for such year;

"(2) 'additional peanuts' means, for any marketing year, any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for such year but not in excess of the actual production of the farm acreage allotment;

"(3) 'crushing' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary; and

"(4) 'domestic edible use' means use for milling to produce domestic food peanuts and seed and use on a farm.".

SALE, LEASE, AND TRANSFER OF ACREAGE ALLOTMENTS

SEC. 803. Effective for the 1978 through 1981 crops of peanuts, section 358a of the Agricultural Adjustment Act of 1938, as amended, is amended by—

(1) in subsection (a)—

(i) striking out ", if he determines that it will not impair the effective operation of the peanut marketing quota or price support program,"; and

(ii) striking out "may" each place that term appears and inserting "shall" in lieu thereof; and

(2) adding at the end thereof a new subsection (i) as follows:

"(i) Notwithstanding any other provision of this section, transfers shall be on the basis of the farm base production poundage, and the acreage allotment for the receiving farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the receiving farm, and the acreage allotment for the transferring farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferring farm.".

MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS

SEC. 804. Effective for the 1978 through 1981 crops of peanuts, section 359 of the Agricultural Adjustment Act of 1938, as amended, is amended by—

(1) striking out in the first sentence of subsection (a) "75 per centum of the support price for" and inserting in lieu thereof "120 per centum of the support price for quota";

(2) inserting after the first sentence of subsection (a) a new sentence as follows: "The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 108(b) of the Agricultural Act of 1949 and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section.";

(3) striking out "normal yield" in subsection (a) and inserting in lieu thereof "farm yield"; and

(4) adding at the end thereof new subsections (f) through (j) as follows:

"(f) Only quota peanuts may be retained for use as seed or for other uses on a farm and when so retained shall be considered as marketings of quota peanuts. Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use. Seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

"(g) Upon a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by such handler from such crop for such marketing, such handler shall be subject to a penalty equal to 120 per centum of the loan level for quota peanuts on the peanuts which the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

"(h) The Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 108(c) of the Agricultural Act of 1949. Quota and additional peanuts of like type and segregation or quality may, under regulations prescribed by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

"(i) Handlers may, under regulations prescribed by the Secretary, contract with producers for the purchase of additional peanuts for crushing, export, or both. All such contracts shall be completed and submitted to the Secretary (or if designated by the Secretary, the area association) for approval prior to June 15 of the year in which the crop is produced.

"(j) Subject to the provisions of section 407 of the Agricultural Act of 1949, as amended, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use in accordance with regulations established by the Secretary. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus (1) 100 per centum of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season upon delivery by the producer, or (2) 105 per centum of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year, or (3) 107 per centum of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.".

REPORTS AND RECORDS

SEC. 805. Effective for the 1978 through 1981 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938, as amended, is amended by inserting immediately before "all brokers and dealers in peanuts" the following: "all farmers engaged in the production of peanuts,".

PRESERVATION OF UNUSED ALLOTMENTS

SEC. 806. Effective for the 1978 through 1981 crops of peanuts, section 377 of the Agricultural Adjustment Act of 1938, as amended, is amended by inserting after the words "farm acreage allotment for such year" the following: "or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota".

PRICE SUPPORT PROGRAM

SEC. 807. Effective for the 1978 through 1981 crops of peanuts, title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section 108 as follows:

"PEANUT PROGRAM

"SEC. 108. Notwithstanding any other provision of law—

"(a) The Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts for each of the 1978 through 1981 crops at such levels as the Secretary finds appropriate, taking into consideration the eight factors specified in section 401(b) of this Act, and any change in the index of prices

paid by farmers for production items, interest, taxes, and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the marketing year for which the level of support is being determined, but not less than $420 per ton. The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage: Provided, That the Secretary may make adjustments for location of peanuts and such other adjustments as are authorized by section 403 of this Act.

"(b) The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1978 through 1981 crops. In determining support levels, the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets. The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for which the level of support is being determined.

"(c)(1) In carrying out subsections (a) and (b) of this section, the Secretary may make warehouse storage loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under this section and section 359 of the Agricultural Adjustment Act of 1938, as amended. Such loans shall include, in addition to the price support value of the peanuts, such costs as such association reasonably may incur in carrying out such responsibilities in its operations and activities under this section and section 359 of the Agricultural Adjustment Act of 1938, as amended.

"(2) The Secretary may require that each such association establish pools and maintain complete and accurate records by type for quota, peanuts handled under loans and for additional peanuts produced without a contract between handler and producer described in section 359(i) of the Agricultural Adjustment Act of 1938. Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed in proportion to the value of the peanuts placed in the pool by each grower. Net gains for peanuts in each pool shall consist of (A) for quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts and (B) for additional peanuts the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (A) of this paragraph. Notwithstanding any other provision of this subsection, any distribution of net gains on additional peanuts of any type to any producer shall be reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts of a different type placed under loan by such grower.".

TITLE IX—SOYBEANS AND SUGAR

SOYBEAN PRICE SUPPORT

SEC. 901. Effective only with respect to the 1978 through 1981 crops of soybeans, section 201 of the Agricultural Act of 1949, as amended, is amended by—

(1) inserting in the first sentence after "tung nuts," the following: "soybeans,"; and

(2) adding at the end thereof a new subsection (e) as follows:

"(e) The price of the 1978 through 1981 crops of soybeans shall be supported through loans and purchases at such levels as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors: *Provided*, That notwithstanding the provisions of section 1001 of the Food and Agriculture Act of 1977, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any commodity supported under the provisions of this Act.".

SUGAR PRICE SUPPORT

SEC. 902. Effective only with respect to the 1977 and 1978 crops of sugar beets and sugar cane, section 201 of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out in the first sentence "honey, and milk" and inserting in lieu thereof the following: "honey, milk, sugar beets, and sugar cane"; and

(2) adding at the end thereof a new subsection (f) as follows:

"(f)(1) The price of the 1977 and 1978 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor: *Provided*, That the support level may in no event be less than 13.5 cents per pound raw sugar equivalent. In carrying out the price support program authorized by this subsection, the Secretary shall establish minimum wage rates for agricultural employes engaged in the production of sugar.

"(2) Notwithstanding any other provision of law, the Secretary may suspend the operation of the price support program authorized by this subsection whenever the Secretary determines that an international sugar agreement is in effect which assures the maintenance in the United States of a price for sugar not less than 13.5 cents per pound raw sugar equivalent.

"(3) Nothing in this subsection shall affect the authority of the Secretary to establish under any other provision of law a price support program for that portion of the 1977 crop of sugar cane and sugar beets marketed prior to the implementation of the program authorized by this subsection.".

TITLE X—MISCELLANEOUS

SET-ASIDE OF NORMALLY PLANTED ACREAGE

SEC. 1001. Notwithstanding any other provision of law, whenever a set-aside is in effect for one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, as amended, that the acreage normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers, shall be reduced by the acreage of set-aside or diversion.

AMERICAN AGRICULTURE PROTECTION PROGRAM

SEC. 1002. (a) Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any commodity, as defined in subsection (c) of this section, to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended, if a loan program is in effect for the commodity, at 90 per centum of the parity price for the commodity, as such parity price is determined on the day the suspension is initiated.

(b) Any loan level established pursuant to subsection (a) of this section shall remain in effect as long as the suspension of commercial export sales described in subsection (a) remains in effect.

(c) For purposes of this section, the term "commodity" shall include any of the following: wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed, and cotton.

BUDGET AMENDMENT

SEC. 1003. (a) Effective only with respect to the 1978 through 1981 crops, section 301 of the Agricultural Act of 1949 is amended by adding at the end thereof a new sentence as follows: "The Secretary is authorized to make price support available under this title for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for any other nonbasic commodity not designated in title II, except that such authority shall terminate with respect to any commodity other than those listed in this sentence, at the end of any crop year in which the net outlays for the commodity exceed $50 million.".

(b) The amendment made by this section to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act.

SPECIAL GRAZING AND HAY PROGRAM

SEC. 1004. Title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section 109 as follows:

"SEC. 109. Notwithstanding any other provision of law—

"(a) The Secretary is authorized to administer a special wheat acreage grazing and hay program (hereinafter in this section referred to as the 'special program') in each of the crop years 1978 through 1981. Under the special program, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

"(b) Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

"(c) The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

"(d) Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside program otherwise provided for by law.

"(e) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(f) The Secretary shall carry out the special program through the Commodity Credit Corporation.".

DAILY RELEASE OF REPORTS OF EXPORT SALES OF AGRICULTURAL COMMODITIES

SEC. 1005. Section 812 of the Agricultural Act of 1970 is amended by inserting immediately after the third sentence thereof a new sentence as follows: "When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.".

FILBERTS

SEC. 1006. Section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended by inserting after "oranges, onions, walnuts, dates," the following: "filberts,".

TITLE XI—GRAIN RESERVES

PRODUCER STORAGE PROGRAM FOR WHEAT AND FEED GRAINS

SEC. 1101. Title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section 110 as follows:

"PRODUCER STORAGE PROGRAM FOR WHEAT AND FEED GRAINS

"SEC. 110. (a) The Secretary shall formulate and administer a program under which producers of wheat and, in the discretion of the Secretary, producers of feed grains will be able to store wheat and feed grains when such commodities are in abundant supply and extend the time period for their orderly marketing. The Secretary shall establish safeguards to assure that wheat and feed grains held under the program shall not be utilized in any manner to unduly depress, manipulate, or curtail the free market. The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

"(b) In carrying out the producer storage program, the Secretary may provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time in order to promote orderly marketing when wheat or feed grains are in abundant supply. Among such other terms and conditions as the Secretary may prescribe by regulation, the program shall provide for (1) repayment of such loans in not less than three years nor more than five years; (2) payment to producers of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program; (3) a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges in the event such loans are repaid by producers before the market price for wheat or feed grains has reached the price levels specified in clause (5) of this subsection; (5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price of wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains, as determined by the Secretary; and (6) conditions prescribed by the Secretary under which the Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever the Secretary determines that the market price for the commodity is not less than 175 per centum of the then current level of price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act.

"(c) The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of such commodities. The quantity of wheat shall not be less than three hundred million bushels nor more than seven hundred million bushels: Provided, That such maximum amount may be adjusted by the Secretary as necessary to meet such commitments as may be assumed by the United States pursuant to an international agreement containing provisions relating to grain reserves.

"(d) Notwithstanding any other provision of law, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 per centum of the then current level of price support for such commodity: Provided, That such restriction shall not apply to—

"(1) sales of such commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; and

"(2) sales or other disposals of such commodities under (A) the fifth and sixth sentences of section 407 of this Act; (B) the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), and (C) section 813 of the Agricultural Act of 1970.

"(e) The Secretary may, with the concurrence of the owner of grain stored under the program authorized by this section, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary deems to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations which assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by his commitment.

"(f) Whenever grain is stored under the provisions of this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such commodities which the Commodity Credit Corporation owns or controls. Such purchases to offset sales shall be made within two market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

"(g) The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. In addition, to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.".

INTERNATIONAL EMERGENCY FOOD RESERVE

SEC. 1102. Title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section 111 as follows:

"INTERNATIONAL EMERGENCY FOOD RESERVE

"SEC. 111. The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserve shall be known as the International Emergency Food Reserve.".

DISASTER RESERVE

SEC. 1103. Section 813 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973, is amended as follows:

(a) Subsection (b) is amended to read as follows:

"(b) The Secretary shall acquire such commodities through the price support programs. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other livestock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation, and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.".

(b) Subsection (d) is amended to read as follows:

"(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 407 of the Agricultural Act of 1949 (63 Stat. 1055, as amended; 7 U.S.C. 1427), the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 1105 of the Food and Agriculture Act of 1977; or (2) use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).".

FARM STORAGE FACILITY LOANS

SEC. 1104. Effective only with respect to the fiscal years beginning October 1, 1977, and ending September 30, 1981, section 4(h) of the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended; 15 U.S.C. 714b (h)) is amended by inserting immediately before the period at the end of the second sentence the following: ": And provided further, That to encourage the storage of dry or high moisture grain, soybeans, and rice, and high moisture forage and silage on farms, where the commodities can be stored at the lowest cost, the Corporation shall—during the period beginning October 1, 1977, and ending September 30, 1981—make secured storage facility loans not to exceed $50,000 to growers of such commodities in amounts not less than 75 per centum of the total construction cost of such facility, including but not limited to the cost of structural and equipment foundations, electrical systems, grain handling systems, drying equipment, and site preparation, or, in the discretion of the Corporation, such loans may be made in such amounts

not to exceed $50,000 to cover remodeling costs of existing storage facilities, as are set forth in regulations issued by the Secretary; the size of such facility for which a loan is obtained shall be based upon the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period; such loans shall be for a period not to exceed ten years at an interest rate based upon the rate of interest charged the Corporation by the United States Treasury; and the loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers".

EMERGENCY FEED PROGRAM

Sec. 1105. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may implement an emergency feed program for assistance in the preservation and maintenance of livestock in any area of the United States, including Puerto Rico, Guam, and the Virgin Islands of the United States, where, because of flood, drought, fire, hurricane, earthquake, storm, or other natural disaster, the Secretary determines that an emergency exists.

(b) The Secretary shall not provide assistance under this section to any person unless all of the following conditions created by the emergency are present:

(1) The person has suffered a substantial loss in the livestock feed normally produced on the farm for such person's livestock;

(2) The person does not have sufficient feed for such person's livestock for the estimated period of the emergency; and

(3) The person is required to make feed purchases during the period of the emergency in quantities larger than such person would normally make.

(c) Persons eligible for assistance under the program formulated under this section may be reimbursed for not to exceed 50 per centum of the cost of the feed purchased by such eligible persons during the period of emergency, as announced by the Secretary of Agriculture, or at such lower rate as may be established by the Secretary.

(d) Any person who disposes of any feed for which such person is reimbursed under this section, in any manner other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose. In addition, such person shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

(e) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Notwithstanding any other provision of law, the Secretary shall not delegate the authority to administer the emergency feed program to any other department, agency, or entity, public or private.

TITLE XII—PUBLIC LAW 480

AUTHORITY FOR THE COMMODITY CREDIT CORPORATION TO ACT AS PURCHASING OR SHIPPING AGENT UNDER TITLE I

Sec. 1201. Section 102 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by inserting immediately before the period at the end thereof the following: "and, when requested by the purchaser of such commodities, may serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of such commodities".

TITLE I SALES PROCEDURES

Sec. 1202. Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by adding at the end thereof a new section 115 as follows:

"Sec. 115. (a) No purchases of food commodities shall be financed under this title unless they are made on the basis of an invitation for bid publicly advertised in the United States and on the basis of bid offerings which shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities financed under this title shall be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary of Agriculture. Commissions, fees, or other payments to any selling agent shall—unless waived by the Secretary—be prohibited in any purchase of food commodities financed under this title.

"(b) Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid or to be paid by any supplier of a commodity or ocean transportation financed by the Commodity Credit Corporation under this title, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary of Agriculture by the supplier of the commodity or ocean transportation. The report shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made. The Secretary shall maintain such information for public inspection, publish a report thereof annually, and forward a copy of the report to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Any supplier of a commodity or ocean transportation who fails to file such a report or who files a false report shall be ineligible to furnish—directly or indirectly—commodities or ocean transportation financed under this title for a period of five years.".

INCREASED APPROPRIATION LIMIT FOR TITLE II

Sec. 1203. Section 204 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out "$600,000,000" in the first sentence and inserting in lieu thereof "$750,000,000".

AVAILABILITY OF COMMODITIES

Sec. 1204. Section 401(a) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof a comma and the following: "unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.".

FINANCING THE SALE OF FOOD AND FIBER COMMODITIES

Sec. 1205. Section 402 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by adding at the end thereof a new sentence as follows: "In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities.".

VALUATION OF COMMODITIES ACQUIRED THROUGH PRICE SUPPORT PROGRAMS

Sec. 1206. Section 403 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by—

(1) inserting "(a)" immediately after the section designation; and

(2) adding at the end thereof a new subsection (b) as follows:

"(b) Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this Act, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be valued at the export market price therefor, as determined by the Secretary of Agriculture, as of the time the commodity is made available under this Act.".

REVISED REGULATIONS GOVERNING OPERATIONS; BAGGED COMMODITIES

Sec. 1207. Section 408 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d)(1) Not later than six months following the date of enactment of this subsection, and at each two-year interval thereafter, the Secretary of Agriculture shall issue revised regulations governing all operations under title I of this Act, including operations relating to purchasing countries, suppliers of commodities or ships, and purchasing or shipping agents. The regulations shall include, but not be limited to, prohibitions against conflicts of interest, as determined by the Secretary, between (A) recipient countries (or other purchasing entities) and their agents, (B) suppliers of commodities, (C) suppliers of ships, and (D) other shipping interests.

"(2) The regulations shall be designed to encourage an increase in the number of exporters participating in the program.

"(3) All revised regulations governing operations under title I and title III of this Act shall be transmitted to Congress by the Secretary as soon as practicable after their issuance.

"(e) Bagged commodities for the purpose of financing by the Commodity Credit Corporation under this Act may, subject to regulations issued by the Secretary of Agriculture, be considered 'exported' upon delivery at port, and upon presentation of a dock receipt in lieu of an on-board bill of lading.".

EXTENSION OF THE PROGRAM

Sec. 1208. Section 409 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out "1977." and inserting in lieu thereof the following: "1981. New spending authority provided for title I of the Act by the amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

USE OF NONPRICE SUPPORTED COMMODITIES UNDER PUBLIC LAW 480

Sec. 1209. It is the sense of Congress that there be no discrimination between "price-supported" and "nonprice-supported" commodities in the programing of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

SPECIAL TASK FORCE ON THE OPERATION OF PUBLIC LAW 480

Sec. 1210. (a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I allocation criteria and procedures, quality control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

(c) Not later than eighteen months fol-

lowing enactment of this Act, the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes.

TITLE XIII—FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

FOOD STAMP ACT OF 1964 AMENDMENTS

SEC. 1301. Effective October 1, 1977, the Food Stamp Act of 1964, as amended, is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Food Stamp Act of 1977'.

"DECLARATION OF POLICY

"SEC. 2. It is hereby declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

"DEFINITIONS

"SEC. 3. As used in this Act, the term:

"(a) 'Allotment' means the total value of coupons a household is authorized to receive during each month.

"(b) 'Authorization card' means the document issued by the State agency to an eligible household which shows the allotment the household is entitled to be issued.

"(c) 'Certification period' means the period for which households shall be eligible to receive authorization cards. In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant. In the case of all other households the period shall be not less than three months: *Provided*, That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.

"(d) 'Coupon' means any coupon, stamp, or type of certificate issued pursuant to the provisions of this Act.

"(e) 'Coupon issuer' means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of coupons to households.

"(f) 'Drug addiction or alcoholic treatment and rehabilitation program' means any such program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970) and Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972) as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

"(g) 'Food' means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), and (5) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over who receive supplemental security income benefits under title XVI of the Social Security Act, and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, and (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence.

"(h) 'Food stamp program' means the program operated pursuant to the provisions of this Act.

"(i) 'Household' means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or else pays compensation to the others for such meals, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption or else live with others and pay compensation to the others for such meals. In neither event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house. For the purposes of this subsection, residents of federally subsidized housing for the elderly and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions.

"(j) 'Reservation' means the geographically defined area or areas over which a tribal organization (as that term is defined in section 3(p) of this Act) exercises governmental jurisdiction.

"(k) 'Retail food store' means (1) an establishment or recognized department thereof or house-to-house trade route, over 50 per centum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices, (2) an establishment, organization, or program referred to in subsections (g) (3), (4), and (5) of this section, (3) a store purveying the hunting and fishing equipment described in subsection (g)(6) of this section, and (4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

"(l) 'Secretary' means the Secretary of Agriculture.

"(m) 'State' means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this Act for participation as a State agency.

"(n) 'State agency' means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering a food distribution program under section 4(b) of this Act or a food stamp program under section 11(d) of this Act.

"(o) 'Thrifty food plan' means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household-size adjustments taking into account economies of scale, (2) make cost adjustments in the thrifty food plan for Alaska and Hawaii to reflect the cost of food in those States, (3) make cost adjustments in the separate thrifty food plans for Guam, Puerto Rico, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia, and (4) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively.

"(p) 'Tribal organization' means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term 'Indian tribe' is defined in the Indian Self-Determination Act (25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

"ESTABLISHMENT OF THE FOOD STAMP PROGRAM

"SEC. 4. (a) Subject to the availability of funds appropriated under section 18 of this Act, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

"(b) In jurisdictions where the food stamp program is in operation, there shall be no distribution of federally donated foods to

households under the authority of any law, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the commodity supplemental food program. Distribution of commodities, with or without the food stamp program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization. In the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for such distribution, except that, if the Secretary determines that the tribal organization is capable of effectively and efficiently administering such distribution, then such tribal organization shall administer such distribution: *Provided*, That the Secretary shall not approve any plan for such distribution which permits any household on any Indian reservation to participate simultaneously in the food stamp program and the distribution of federally donated foods. The Secretary is authorized to pay such amounts for administrative costs of such distribution on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

"(c) The Secretary shall issue such regulations consistent with this Act as the Secretary deems necessary or appropriate for the effective and efficient administration of the food stamp program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5 of the United States Code. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it.

"ELIGIBLE HOUSEHOLDS

"SEC. 5. (a) Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Assistance under this program shall be furnished to all eligible households who make application for such participation.

"(b) The Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

"(c) The income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d), for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, and Guam, respectively: *Provided*, That in no event shall the standards of eligibility for Puerto Rico, the Virgin Islands of the United States, or Guam exceed those in the forty-eight contiguous States: *Provided further*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the income poverty guidelines for 1977 by the change between the average 1977. Consumer Price Index and the Consumer Price Index for March 1978, utilizing the most current procedures which have been used by the Office of Management and Budget, and the income poverty guidelines for future periods shall be similarly adjusted.

"(d) Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household, (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter, (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is a student, and who has not attained his eighteenth birthday, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, and (10) any income that any other laws specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program.

"(e) In computing household income, the Secretary shall allow a standard deduction of $60 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction determined by the Secretary in accordance with the best available information on the relationship of actual or potential itemized deductions claimed under the food stamp program in those areas to such deductions in the forty-eight contiguous States and the District of Columbia. Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction shall not exceed $75 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, amounts determined by the Secretary in accordance with the best available information on the relationship of the actual shelter costs in those areas to such costs in the forty-eight contiguous States and the District of Columbia, adjusted annually (commencing July 1, 1978) to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve-month period ending the preceding March 31, or (3) a deduction combining the dependent care and excess shelter expenses deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection.

"(f) Household income shall be calculated by the State agency for the purpose of determining household eligibility. The State agency in calculating household income shall take into account the income reasonably anticipated to be received by the household in the certification period for which eligibility is being determined and the income which has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period, except that for (1) those households which by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than one year, income shall be calculated by being averaged over a twelve-month period and (2) those households which receive nonexcluded income of the type specified in subsection (d)(3) of this section, income shall be calculated by being averaged over the period for which it is provided.

"(g) The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed $1,750, or, in the case of a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000. The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1977, and shall, in addition, (1) include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income) used for household transportation or used to obtain or continue employment or to transport disabled household members to the extent that the fair market value of any such vehicle exceeds $4,500, and (2) study and develop means of improving the effectiveness of these resource requirements in limiting participation to households in need of food assistance, and implement and report the results of such study and the Secretary's plans to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than June 1, 1978.

"(h)(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by section 302(a) of the Disaster Relief Act of 1974, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of tem-

porary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be promulgated without regard to section 4(c) of this Act or the procedures set forth in section 553 of title 5 of the United States Code.

"(2) The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials.

"ELIGIBILITY DISQUALIFICATIONS

"SEC. 6. (a) In addition to meeting the standards of eligibility prescribed in section 5 of this Act, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the food stamp program.

"(b) No individual who is a member of a household otherwise eligible to participate in the food stamp program shall be eligible to participate for (1) three months after such individual has been found by a State agency after notice and hearing at the State level, or after failure to appeal a local hearing to the State level, to have fraudulently used, presented, transferred, acquired, received, possessed, or altered coupons or authorization cards, or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have been criminally or civilly fraudulent in the use, presentation, transfer, acquisition, receipt, possession, or alteration of coupons or authorization cards, or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each such period of ineligibility is to take effect immediately upon the relevant administrative or judicial finding and to remain in effect, without possibility of administrative stay, unless and until the finding of fraud is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of disqualification be subject to judicial review.

"(c) No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility. Every household that is participating in the food stamp program shall report or cause to be reported to the State agency, on a form designed or approved by the Secretary (that shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this Act, including the penalties therefor, by members of an eligible household) changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations. The reporting requirement prescribed by this subsection shall be the sole such requirement for reporting changes in income or in household circumstances for participating households.

"(d)(1) Unless otherwise exempted by the provisions of paragraph (d)(2) of this subsection, no household shall be eligible for assistance under this Act if it includes a physically and mentally fit person between the ages of eighteen and sixty who (i) refuses at the time of application and once every six months thereafter to register for employment in a manner determined by the Secretary; (ii) refuses to fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary; (iii) is head of the household and voluntarily quits any job without good cause, unless the household was certified for benefits under this Act immediately prior to such unemployment: *Provided*, That the period of ineligibility shall be sixty days from the time of the voluntary quit; or (iv) refuses without good cause to accept an offer of employment at a wage not less than the higher of either the applicable State or Federal minimum wage, or 80 per centum of the wage that would have governed had the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), been applicable to the offer of employment, and at a site or plant not then subject to a strike or lockout.

"(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system; (B) a parent or other member of a household with responsibility for the care of a dependent child under age twelve or of an incapacitated person; (C) a parent or other caretaker of a child in a household where there is another able-bodied parent who is subject to the requirements of this subsection; (D) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person shall be subject to the requirements of paragraph (1) of this subsection during any period of more than thirty days when such school or program is in vacation or recess and any such person enrolled in an institution of higher education shall be subject to the requirements of subsection (c)(3)(B) of this section as well); (E) a regular participant in a drug addiction of alcoholic treatment and rehabilitation program; or (F) employed a minimum of thirty hours per week or receiving earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours.

"(3) To the extent that a State employment service is assigned responsibility for administering the provisions of subsection (d) of this section, it shall comply with regulations issued jointly by the Secretary and the Secretary of Labor, which regulations shall be patterned to the maximum extent practicable on the work incentive program requirements set forth in title IV of the Social Security Act (42 U.S.C. 630 et seq.) and shall take into account the diversity of the needs of the food stamp work registration population.

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if he or she (1) has reached his or her eighteenth birthday, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household or (B) during the regular school year (i) is not employed a minimum of twenty hours per week or is not participating in a federally financed work study program, (ii) does not have weekly earnings which at least equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by twenty hours, (iii) is not registered for work amounting to at least twenty hours per week, (iv) is not the head of a household containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (c) is not covered by an exemption from the work registration requirement contained in subsection (d) of this section other than clause (D) of paragraph (2) of that subsection.

"(f) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259); or (D) an alien who has qualified for conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity; or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)) because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion. No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household.

"(g) No individual who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93–66, as amended, shall be considered to be a member of a household for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act and section 212(a) of Public Law 93–66, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

"(h) No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

"ISSUANCE AND USE OF COUPONS

"SEC. 7. (a) Coupons shall be printed under such arrangements and in such denominations as may be determined by the Secretary to be necessary, and shall be issued only to households which have been duly certified as

eligible to participate in the food stamp program.

"(b) Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided*, That nothing in this Act shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores: *Provided further*, That eligible households using coupons to purchase food may receive cash in change therefor so long as the cash received does not equal or exceed the value of the lowest coupon denomination issued.

"(c) Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

"(d) The Secretary shall develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon issuers for the purpose of providing that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such issuers). Such procedures shall provide that coupon inventories in the hands of such issuers are not in excess of the reasonable needs of such issuers taking into consideration the ease with which such coupon inventories may be resupplied. The Secretary shall require each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary or the Secretary's designee, which may include the State agency, a written report of the issuer's operations during such period. In addition to other information deemed by the Secretary to be appropriate, the Secretary shall require that the report contain an oath, or affirmation, signed by the coupon issuer, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon issuer, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

"(e) The Secretary shall prescribe appropriate procedures for the delivery of coupons to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensue adequate accountability.

"(f) Notwithstanding any other provision of this Act, the State agency shall be responsible to the Secretary for any financial losses involved in the acceptance, storage, and issuance of coupons.

"VALUE OF ALLOTMENT

"SEC. 8. (a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 of this Act, rounded to the nearest whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be $10 per month. The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination.

"(b) The value of the allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of an allotment under this Act.

"APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

"SEC. 9. (a) Regulations issued pursuant to this Act shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (1) the nature and extent of the food business conducted by the applicant; (2) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (3) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

"(b) No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time.

"(c) Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act.

"(d) Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 14 of this Act.

"REDEMPTION OF COUPONS

"SEC. 10. Regulations issued pursuant to this Act shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through banks, with the cooperation of the Treasury Department, except that retail food stores defined in section 3(k)(4) of this Act shall be authorized to redeem their members' food coupons prior to receipt by the members of the food so purchased and private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs shall not be authorized to redeem coupons through banks.

"ADMINISTRATION

"SEC. 11. (a) The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this Act.

"(b) Certification of a household as eligible in any political subdivision shall, in the event of removal of such household to another political subdivision in which the food stamp program is operating, remain valid for participation in the food stamp program for a period of sixty days from the date of such removal.

"(c) In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.

"(d) The State agency (as defined in section 3(n)(1) of this Act) of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State in every political subdivision. In the case of all or part of an Indian reservation, the State agency as defined in section 3(n)(1) of this Act shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 3(n)(1) of this Act) is failing, subsequent to the enactment of this Act, properly to administer such program on such reservation in accordance with the purposes of this Act and further determines that the State agency as defined in section 3(n)(2) of this Act is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qualify as expeditiously as possible as a State agency pursuant to section 3(n)(2) of this Act. A State agency, as defined in section 3(n)(1) of this Act, before it submits its plan of operation to the Secretary for the administration of the food stamp program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

"(e) The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

"(1) that the State agency shall (A) inform low-income households about the availability, eligibility requirements, and benefits of the food stamp program, including, but not limited to, notification to recipients of aid to families with dependent children, supplemental security income, and unemployment compensation, distribution of application forms, and associated instructions in filling out such forms, and on the documentation required pursuant to paragraph (3) of this subsection; (B) not conduct any other outreach activities of a noninformational nature in those areas in which a federally funded community action program is in operation and conducting food stamp outreach; and (C) use appropriate bilingual personnel and printed material in the adminis-

tration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

"(2) that each household which contacts a food stamp office in person during office hours to make what may reasonably be interpreted as an oral or written request for food stamp assistance shall receive and shall be permitted to file, on the same day that such contact is first made, a simplified uniform national application form for participation in the food stamp program designed by the Secretary, unless the Secretary approves a deviation from that form by a particular State agency because of the use by that agency of a dual public assistance food stamp application form pursuant to subsection (i) of this section, the requirements of an agency's computer system, or other exigencies as determined by the Secretary. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this Act, including the penalties therefor, by members of an eligible household. The State agency shall comply with the standards established by the Secretary for points and hours of certification, and for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person at a certification office or through a representative pursuant to paragraph (7) of this subsection, so that such persons may have an adequate opportunity to be certified properly;

"(3) That the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification only of income other than that determined to be excluded by section 5(d) of this Act and such other eligibility factors as the Secretary determines to be necessary to implement sections 5 and 6 of this Act, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application;

"(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification immediately prior to or at the start of the last month of its certification period advising it that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection;

"(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 5 and 6 of this Act and shall include no additional requirements imposed by the State agency;

"(6) that (A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this Act; (B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the United States Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis; and (C) the State agency shall undertake to provide a continuing, comprehensive program of training for all personnel undertaking such certification;

"(7) that any applicant household may be represented in the certification process and that any eligible household may be represented in coupon issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances;

"(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act;

"(9) that households in immediate need because of no income as defined in section 5 (d) and (e) of this Act receive coupons on an expedited basis;

"(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier;

"(11) for the prompt restoration in the form of coupons to households of any allotment or portion thereof which has been wrongfully denied or terminated;

"(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

"(13) for compliance with standards set by the Secretary with respect to points and hours of coupon issuance;

"(14) for indicators of expected performance in the administration of the program;

"(15) that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet; and

"(16) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program.

"(f) To encourage the purchase of nutritious foods, the Secretary shall extend the expanded food and nutrition education program to the greatest extent possible to reach food stamp program participants. The program shall be further supplemented by the development of single concept printed materials, specifically designed for persons with low reading and comprehension levels, on how to buy and prepare more nutritious and economical meals and on the relationship between food and good health.

"(g) If the Secretary determines that in the administration of the food stamp program there is a failure by a State agency to comply with any of the provisions of this Act, the regulations issued pursuant to this Act, or the State plan of operation submitted pursuant to subsection (d) of this section, the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

"(h) If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any coupon or coupons issued as a result of such negligence or fraud.

"(i) Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education, and Welfare shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act; (2) households in which all members are recipients of supplemental security income shall be permitted to apply for participation in the food stamp program by executing a simplified affidavit at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration; (3) households in which all members are included in a federally aided public assistance or State or local assistance grant shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form; and (4) new applicants as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file.

"(j) The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, is authorized to prescribe regulations permitting applicants for and recipients of social security benefits to apply for food stamps at social security offices and be certified for food stamp eligibility in such offices in order that

the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

"(k) Subject to the approval of the President, post offices in all or part of the State may issue, upon request by the State agency, food stamps to eligible households.

"CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

"SEC. 12. Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to $5,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this Act or the regulations issued pursuant to this Act. Such disqualification shall be for such period of time as may be determined in accordance with regulations issued pursuant to this Act. The action of disqualification or the imposition of a civil money penalty shall be subject to review as provided in section 14 of this Act.

"DETERMINATION OF DISPOSITION OF CLAIMS

"SEC. 13. The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this Act or the regulations issued pursuant to this Act, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients. Such powers with respect to claims against recipients may be delegated by the Secrtary to State agencies.

"ADMINISTRATIVE AND JUDICIAL REVIEW

"SEC. 14. Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 9 of this Act, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 12 of this Act, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 13 of this Act, or a claim against a State agency is stated pursuant to the provisions of section 13 of this Act, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved. Such notice shall be delivered for certified mail or personal service. If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this Act, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate. If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final. If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be received by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination. If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination. The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process. The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless an application to the court on not less than ten days' notice, and after hearing thereon and a showing of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

"VIOLATIONS AND ENFORCEMENT

"SEC. 15. (a) Notwithstanding any other provision of this Act, the Secretary may provide for the issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this Act or the regulations issued pursuant to this Act.

"(b) Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such coupons or authorization cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons or authorization cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(d) Coupons issued pursuant to this Act shall be deemed to be obligations of the United States within the meaning of section 8 of title 18, United States Code.

"(e) Any coupon issuer or any officer, employee, or agent thereof convicted of failing to provide the report required under section 7(d) of this Act or of violating the regulations issued under section 7 (d) and (e) of this Act shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(f) Any coupon issuer or any officer, employee, or agent thereof convicted of knowingly providing false information in the report required under section 7(d) of this Act shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"ADMINISTRATIVE COST-SHARING AND QUALITY CONTROL

"SEC. 16. (a) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) outreach, (2) the certification of applicant households, (3) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (4) the issuance of coupons to all eligible households, and (5) fair hearings: *Provided*, That the Secretary is authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all or part of an Indian reservation under section 11(d) of this Act such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program.

"(b) The secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the States, including, but not limited to, staffing standards such as caseload per certification work limitations, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection. If the Secretary finds that a State has failed without good cause to meet any of the Secretary's standards, or has failed to carry out the approved State plan of operation under section 11(d) of this Act, the Secretary shall withhold from the State such funds authorized under subsections (a) and (c) of this section as the Secretary determines to be appropriate.

"(c) Effective October 1, 1978, the Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the exception clause of subsection (a) of this section, by increasing such share to 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section is less than five per centum.

"(d) Effective October 1, 1978, and annually thereafter, each State not receiving an increased share of administrative costs pursuant to subsection (c) of this section shall be required to develop and submit to the Secretary for approval, as part of the paln of operation required to be submitted under section 11(d) of this Act, a quality control plan for the State which shall specify the actions such State proposes to take in order to reduce—

"(1) the incidence of error rates in and the value of—

"(A) food stamp allotments for households which fail to meet basic program eligibility requirements;

"(B) food stamp allotments overissued to eligible households; and

"(C) food stamp allotments underissued to eligible households; and

"(2) the incidence of invalid decisions in certifying or denying eligibility.

"(e) As used in this section 'quality control' means monitoring and reducing the

rate of errors in determining basic eligibilty and benefit levels.

"RESEARCH, DEMONSTRATION, AND EVALUATIONS

"SEC. 17. (a) The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition-related benefits.

"(b)(1) The Secretary is authorized to conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, including projects involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act, the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. The Secretary may waive the requirements of this Act to the degree necessary for such projects to be conducted, except that no project shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 5 and 8 of this Act.

"(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 6(d) of this Act, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days after the initial registration for employment referred to in section 6(d)(1)(i) of this Act, to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph: *Provided*, That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further*, That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848 (a) and (c) and 983). The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following enactment of this Act, and shall issue a final report describing the results of such pilot projects no later than eighteen months following enactment of this Act.

"(c) The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence.

"(d) Notwithstanding any other provision of law, the Secretary shall, in consultation with the Secretary of the Treasury, conduct a study, through the use of Federal income tax data, of the feasibility, alternative methods of implementation, and the effects of a program to recover food stamp benefits from members of eligible households in which the adjusted gross income of members of such households for a calendar year (as defined by the Internal Revenue Code of 1954) may exceed twice the income poverty guidelines set forth in section 5(c) of this Act. Such study shall be conducted in rural and urban areas only on a voluntary basis by food stamp recipients. The Secretary shall, no later than twelve months and eighteen months from the date of enactment of this Act, report the results of the study to the Committees on Agriculture and Ways and Means of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Finance of the Senate, together with such recommendations as the Secretary deems appropriate.

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 18. (a) To carry out the provisions of this Act, there are hereby authorized to be appropriated not in excess of $5,847,600,000 for the fiscal year ending September 30, 1978; not in excess of $6,158,900,000 for the fiscal year ending September 30, 1979; not in excess of $6,186,600,000 for the fiscal year ending September 30, 1980; and not in excess of $6,235,900,000 for the fiscal year ending September 30, 1981. Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 17 of this Act. Sums appropriated under the provisions of this Act shall, notwithstanding the provisions of any other law, continue to remain available until expended.

"(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

CONFORMING AMENDMENTS

SEC. 1302. (a)(1) Section 3(b) and section 4(c) of Public Law 93-86 are repealed.

(2) The last sentence of section 416 of the Act of October 31, 1949 (as added by section 411 (g) of Public Law 92-603), is repealed.

(3) Section 8(c) of Public Law 93-233 is amended by striking out "the last sentence of section 3(e) of the Food Stamp Act of 1964 (as amended by subsection (a) of this section)" and inserting in lieu thereof "section 6(g) of the Food Stamp Act of 1977".

(4) Section 8(f) of Public Law 93-233 is amended by striking out everything through "during such period," and inserting in lieu thereof "The amendment made by subsection (e) shall not".

(b) The amendments made by this section shall be effective October 1, 1977.

IMPLEMENTATION OF THE FOOD STAMP ACT OF 1977

SEC. 1303. (a) The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977. Coupons issued pursuant to the Food Stamp Act of 1964, as amended, and in general use as of the effective date of the Food Stamp Act of 1977, shall continue to be usable to purchase food, and all other liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1964, as amended, shall continue in force until finally resolved or terminated by administrative or judicial action, or otherwise.

(b) Pending proceedings under the Food Stamp Act of 1964, as amended, shall not be abated by reason of any provision of the Food Stamp Act of 1977, but shall be disposed of pursuant to the applicable provisions of the Food Stamp Act of 1964, as amended, in effect prior to the effective date of the Food Stamp Act of 1977.

(c) Appropriations made available to carry out the Food Stamp Act of 1964, as amended, shall be available to carry out the provisions of the Food Stamp Act of 1977.

(d) The Secretary shall, within six months of enactment of this Act, submit a quarterly report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, setting forth the previous quarter's expenditure, by State, for the food stamp program. Such report shall also include the number of individuals participating in the program and the cost of administering the program at each State level and at the national level.

COMMODITY DISTRIBUTION PROGRAMS

SEC. 1304. (a) Effective October 1, 1977, sections 4(a) and 4(b) of the Agriculture and Consumer Protection Act of 1973, as amended, are amended to read as follows:

"SEC. 4. (a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1978, 1979, 1980, and 1981 purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs

wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

"(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.".

(b) Effective October 1, 1977, the Agriculture and Consumer Protection Act of 1973, as amended, is amended by—

(1) redesignating section 5 as section 6; and

(2) inserting after section 4 a new section 5 as follows:

"COMMODITY SUPPLEMENTAL FOOD PROGRAM

"SEC. 5. (a). In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program) to which reference is made in section 4 of this Act, the Secretary of Agriculture shall pay to each State or local agency administering any such program, for each of the fiscal years 1978 through 1981, an amount equal to its administrative costs not in excess of an amount equal to 15 per centum of the total amount of the value of commodities made available to the State or local agency for such program in such fiscal year.

"(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully; *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

"(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, startup costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

"(d) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.".

TITLE XIV—NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

SEC. 1401. This title may be cited as the "National Agricultural Research, Extension, and Teaching Policy Act of 1977".

Subtitle A—Findings, Purposes, and Definitions

FINDINGS

SEC. 1402. Congress finds that—

(1) the Federal Government of the United States has provided funding support for agricultural research and extension for many years in order to promote and protect the general health and welfare of the people of the United States, and this support has significantly contributed to the development of the Nation's agricultural system;

(2) the agencies conducting such federally supported research were established at different times in response to different and specific needs and their work is not fully coordinated;

(3) these agencies have only been partially successful in responding to the needs of all persons affected by their research, and useful information produced through such federally supported research is not being efficiently transferred to the people of the United States;

(4) expanded agricultural research and extension are needed to meet the rising demand for food and fiber caused by increases in worldwide population and food shortages due to short-term, localized, and adverse climatic conditions;

(5) increased research is necessary to alleviate inadequacies of the marketing system (including storage, transportation, and distribution of agricultural and forest products) which have impaired United States agricultural production and utilization;

(6) advances in food and agricultural sciences and technology have become increasingly limited by the concentration upon the thorough development and exploitation of currently known scientific principles and technological approaches at the expense of more fundamental research, and a strong research effort in the basic sciences is necessary to achieve breakthroughs in knowledge that can support new and innovative food and agricultural technologies;

(7) Federal funding levels for agricultural research and extension in recent years have not been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation;

(8) new Federal initiatives are needed in the areas of—

(A) research to find alternatives to technologies based on fossil fuels;

(B) research and extension on human nutrition and food consumption patterns in order to improve the health and vitality of the people of the United States;

(C) research to find solutions to environmental problems caused by technological changes in food and agricultural production;

(D) aquacultural research and extension;

(E) research and extension directed toward improving the management and use of the Nation's natural and renewable resources, in order to meet the increased demand for forest products, conserve water resources (through irrigation management, tail water reuse, desalination, crop conversion, and other water conservation techniques), conserve soil resources, and properly manage rangelands;

(F) improving and expanding the research and extension programs in home economics;

(G) extension programs in energy conservation;

(H) extension programs in forestry and natural resources, with special emphasis to be given to improving the productivity of small private woodlands, modernizing wood harvesting and utilization, developing and disseminating reliable multiple-use resource management information to all landowners and consumers, and the general public, wildlife, watershed, and recreational management, and cultural practices (including reforestation, protection, and related matters);

(I) research on climate, drought, and weather modification as factors in food and agricultural production;

(J) more intensive agricultural research and extension programs oriented to the needs of small farmers and their families and the family farm system, which is a vital component of the agricultural production capacity of this country;

(K) research to expand export markets for agricultural commodities;

(L) development and implementation, through research, of more efficient, less wasteful, and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, waste products, other nonfood agricultural products, and forest and rangeland products;

(M) expanded programs of animal disease and health care research and extension;

(N) research to develop new crops, in order to expand our use of varied soils and increase the choice of nutritional and economically viable crops available for cultivation; and

(O) investigation and analysis of the practicability, desirability, and feasibility of using organic waste materials to improve soil tilth and fertility, and extension programs to disseminate practical information resulting from such investigations and analyses; and

(9) the existing agricultural research system consisting of the Federal Government, the land-grant colleges and universities, other colleges and universities engaged in agricultural research, the agricultural experiment stations, and the private sector constitute an essential national resource which must serve as the foundation for any further strengthening of agricultural research in the United States;

PURPOSES

SEC. 1403. The purposes of this title are to—

(1) establish firmly the Department of Agriculture as the lead agency in the Federal Government for the food and agricultural sciences, and to emphasize that agricultural research, extension, and teaching are distinct missions of the Department of Agriculture;

(2) undertake the special measures set forth in this title to improve the coordination and planning of agricultural research, identify needs and establish priorities for such research, assure that high priority research is given adequate funding, assure that national agricultural research, extension, and teaching objectives are fully achieved, and assure that the results of agricultural research are effectively communicated and demonstrated to farmers, processors, handlers, consumers, and all other users who can benefit therefrom;

(3) increase cooperation and coordination in the performance of agricultural research by Federal departments and agencies, the States, State agricultural experiment stations, colleges and universities, and user groups;

(4) enable the Federal Government, the States, colleges and universities, and others to implement needed agricultural research, extension, and teaching programs, including the initiatives specified in section 1402(8) of this title, through the establishment of new programs and the improvement of existing programs, as provided for in this title;

(5) establish a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities;

(6) establish a new program of grants for facilities and instrumentation used in agricultural research; and

(7) establish a new program of education grants and fellowships to strengthen train-

ing and research programs in the food and agricultural sciences, to be awarded on the basis of competition.

DEFINITIONS

SEC. 1404. When used in this title—

(1) the term "Advisory Board" means the National Agricultural Research and Extension Users Advisory Board;

(2) the term "agricultural research" means research in the food and agricultural sciences;

(3) the term "aquaculture" means the propagation and rearing of aquacultural species, including, but not limited to, any species of finfish, mollusk, or crustacean (or other aquatic invertebrate), amphibian, reptile, or aquatic plant, in controlled or selected environments;

(4) the terms "college" and "university" mean an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association;

(5) the term "cooperative extension services" means the organizations established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349), and section 208(b) of the Act of October 26, 1974 (88 Stat. 1428; D.C. Code, sec. 31–1609);

(6) the term "Department of Agriculture" means the United States Department of Agriculture;

(7) the term "extension" means the informal education programs conducted in the States in cooperation with the Department of Agriculture;

(8) the term "food and agricultural sciences" means sciences relating to food and agriculture in the broadest sense, including the social, economic, and political considerations of—

(A) agriculture, including soil and water conservation and use, the use of organic waste materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

(B) the processing, distributing, marketing, and utilization of food and agricultural products;

(C) forestry, including range management, production of forest and range products, multiple use of forest and range lands, and urban forestry;

(D) aquaculture;

(E) home economics, human nutrition, and family life; and

(F) rural and community development;

(9) the term "Joint Council" means the Joint Council on Food and Agricultural Sciences;

(10) the term "land-grant colleges and universities" means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 USC 301–305, 307 nad 308), or the Act of August 30, 1890 (26 Stat 417–419, as amended; 7 USC 321–326 and 328), including the Tuskegee Institute;

(11) the term "Secretary" means the Secretary of Agriculture of the United States;

(12) except as provided in subtitle II of this title, the term "State" means any one of the fifty States, Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States;

(13) the term "State agricultural experiment stations" means those institutions eligible to receive funds under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–3611); and

(14) the term "teaching" means the formal classroom and laboratory instruction and training in the food and agricultural sciences conducted at colleges and universities and leading to baccalaureate and other recognized degrees.

Subtitle B—Coordination and Planning of Agricultural Research, Extension, and Teaching

RESPONSIBILITIES OF THE SECRETARY AND DEPARTMENT OF AGRICULTURE

SEC. 1405. The Department of Agriculture is designated as the lead agency of the Federal Government for agricultural research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease), extension, and teaching in the food and agricultural sciences, and the Secretary, in carrying out the Secretary's responsibilities, shall—

(1) establish jointly with the Secretary of Health, Education, and Welfare procedures for coordination with respect to nutrition research in areas of mutual interest;

(2) keep informed of developments in, and the Nation's need for, research, extension, teaching, and manpower development in the food and agricultural sciences and represent such need in deliberations within the Department of Agriculture, elsewhere within the executive branch of the United States Government, and with the several States and their designated land-grant colleges and universities, other colleges and universities, agricultural and related industries, and other interested institutions and groups;

(3) coordinate all agricultural research, extension, and teaching activity conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other agencies of the executive branch of the United States Government.

(4) take the initiative in establishing coordination of State-Federal cooperative agricultural research, extension, and teaching programs, funded in whole or in part by the Department of Agriculture in each State, through the administrative heads of land-grant colleges and universities and the State directors of agricultural experiment stations and cooperative extension services, and other appropriate program administrators;

(5) consult the Joint Council Advisory Board, and other appropriate advisory committees of the Department of Agriculture in the formulation of basic policies, goals, strategies, and priorities for programs of agricultural research, extension, and teaching;

(6) report (as a part of the Department of Agriculture's annual budget submissions) to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations actions taken to support the recommendations of the Advisory Board;

(7) establish appropriate review procedures to assure that agricultural research projects are timely and properly reported and published and that there is no unnecessary duplication of effort or overlapping between agricultural research units;

(8) establish Federal or cooperative multidisciplinary research teams on major agricultural research problems with clearly defined leadership, budget responsibility, and research programs; and

(9) in order to promote the coordination of agricultural research of the Department of Agriculture, conduct a continuing inventory of ongoing and completed research projects being conducted within or funded by the Department.

FEDERAL SUBCOMMITTEE ON FOOD AND RENEWABLE RESOURCES

SEC. 1406. Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (90 Stat. 471; 42 U.S.C. 6651(h)) is amended by adding at the end thereof the following: "Among such standing subcommittees and panels of the Council shall be the Subcommittee on Food and Renewable Resources. This subcommittee shall review Federal research and development programs relevant to domestic and world food and fiber production and distribution, promote planning and coordination of this research in the Federal Government, and recommend policies and other measures concerning the food and agricultural sciences for the consideration of the Council. The subcommittee shall include, but not be limited to, representatives of each of the following departments or agencies: the Department of Agriculture, the Department of State, the Department of Defense, the Department of the Interior, the Department of Health, Education, and Welfare, the National Oceanic and Atmospheric Administration, the Energy Research and Development Administration, the National Science Foundation, the Environmental Protection Agency, and the Tennessee Valley Authority. The principal representative of the Department of Agriculture shall serve as the chairman of the subcommittee.".

JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

SEC. 1407. (a) The Secretary shall establish within the Department of Agriculture a committee to be known as the Joint Council on Food and Agricultural Sciences which shall have a term of five years.

(b) The Joint Council shall be composed of representatives from the Department of Agriculture and those of its agencies with significant research and extension responsibilities, the Office of Science and Technology Policy, the land-grant colleges and universities, State agricultural experiment stations, State cooperative extension services, and those colleges and universities, other public and private institutions, producers, and representatives of the public who are interested in and have a potential to contribute, as determined by the Secretary, to the formulation of national policy in the food and agricultural sciences. The Joint Council shall be jointly chaired by the Assistant Secretary of Agriculture responsible for research, extension, and teaching, and a person to be elected from among the non-Federal membership of the Joint Council.

(c) The Joint Council shall meet at least once during each three-month period. At least one meeting each year shall be a combined meeting with the Advisory Board

(d)(1) The primary responsibility of the Joint Council shall be to foster coordination of the agricultural research, extension, and teaching activities of the Federal Government, the States, colleges and universities, and other public and private institutions and persons involved in the food and agricultural sciences.

(2) The Joint Council's responsibilities shall also be to—

(A) provide a forum for the interchange of information among the organizations represented by the members of the Joint Council that will assure improved awareness among these organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization;

(B) analyze and evaluate the economic, environmental, and social impacts of agricultural research, extension, and teaching programs conducted in the United States and determine high priority agricultural research areas, and submit annual reports identifying such high priority research areas to the Secretary;

(C) develop and review the effectiveness of of a system, for use by the Secretary, of compiling, maintaining, and disseminating information about each federally supported agricultural research or extension project and, to the maximum extent possible, information about private agricultural re-

search and extension projects conducted by colleges and universities, foundations, contract research groups, businesses, and others. Information about private agricultural research and extension projects shall not be included in this system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects agree to the inclusion of information about such projects;

(D) assist the parties in developing, reviewing, and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Secretary and the participants in agricultural research, extension, and teaching programs under this Act and other Acts;

(E) assist the Secretary in carrying out the responsibilities assigned to the Secretary under this title through planning and coordination efforts in the food and agricultural sciences that utilize an effective system of regional and national planning, and by the development of recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences and means to achieve these goals;

(F) develop, and review the effectiveness of, guidelines for use by the Secretary in making competitive grants under section 2(b) of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), as amended by section 1414 of this title; and

(G) prepare and submit to the Secretary, not later than December 31 of each year, a statement of recommendations which shall include—

(i) the Joint Council's recommendations as to unified national, regional, or interstate agricultural research, extension, or teaching programs to be implemented during the following fiscal year, delineating suggested areas of responsibility for Federal and State agencies in carrying out such programs, and the overall planning, evaluation, coordination, and support necessary for such programs, and

(ii) a summary of agricultural research, extension, and teaching achievements made during, and the status of ongoing projects as of the end of the prior fiscal year, with respect to the programs conducted by the organizations represented by the members of the Joint Council.

Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Advisory Board.

NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD

SEC. 1408. (a) The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board which shall have a term of five years.

(b) The Advisory Board shall be composed of the following twenty-one members to be appointed by the Secretary—

(1) four members representing producers of agricultural commodities, forest products, and aquacultural products,

(2) four members representing consumer interests,

(3) two members representing farm suppliers and food and fiber processors,

(4) two members representing food marketing interests,

(5) two members representing environmental interests,

(6) one member engaged in rural development work,

(7) two members engaged in human nutrition work,

(8) one member representing animal health interests,

(9) one member engaged in transportation of food and agricultural products to domestic or foreign markets.

(10) one member representing labor organizations primarily concerned with the production, processing, distribution, or transportation of food and agricultural products; and

(11) one member representing private sector organizations involved in development programs and issues in developing countries.

(c) The Advisory Board shall select a chairman and vice-chairman from its membership, at its first meeting each year, who shall serve in those positions for a term of one year.

(d) The Advisory Board shall meet at least once during each four-mouth period. At least one meeting each year shall be a combined meeting with the Joint Council.

(e) The Advisory Board is authorized to establish such panels as it deems appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting its responsibilities. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal Government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

(f)(1) The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences.

(2) The Advisory Board shall have the specific responsibilities for—

(A) reviewing the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this title;

(B) reviewing and assessing the extent of agricultural research and extension being conducted by private foundations and businesses, and the relationships of such research and extension to federally supported agricultural research and extension;

(C) reviewing and providing consultation to the Secretary on national policies, priorities, and strategies for agricultural research and extension for both the short and long term;

(D) assessing the overall adequacy of, and making recommendations to the Secretary with regard to, the distribution of resources and the allocation of funds authorized by this title;

(E) preparing and submitting to the Secretary, not later than October 31 of each year, a statement of recommendations as to allocations of responsibilities and levels of funding among federally supported agricultural research and extension programs, which shall include a review and an assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by the organizations represented on the Joint Council. Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Joint Council; and

(F) not later than March 1 of each year submitting a report on its appraisal of the President's proposed budget for the food and agricultural sciences for the fiscal year beginning in such year and the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to the provisions of section 1410 of this title. Such report shall be submitted to the President, the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations. The report may include the separate views of members of the Advisory Board. The first report shall be due not later than March 1, 1979.

EXISTING RESEARCH PROGRAMS

SEC. 1409. It is the intent of Congress in enacting this title to augment, coordinate, and supplement the planning, initiation, and conduct of agricultural research programs existing prior to the enactment of this title, except that it is not the intent of Congress in enacting this title to limit the authority of the Secretary of Health, Education, and Welfare under any Act which the Secretary of Health, Education, and Welfare administers.

SECRETARY'S REPORT

SEC. 1410. The Secretary shall submit to the President and Congress by February 1 of each year a report on the Nation's agricultural research, extension, and teaching activities, and such report report shall include—

(1) a review covering the following three categories of activities of the Department of Agriculture with respect to agricultural research, extension, and teaching activities and the relationship of these activities to similar activities of other departments and agencies of the Federal Government, the States, colleges and universities, and the private sector—

(A) a current inventory of such activities organized by statutory authorization and budgeted outlay;

(B) a current inventory of such activities organized by field of basic and applied science; and

(C) a current inventory of such activities organized by commodity and product category;

(2) the statements of recommendations of the Joint Council developed pursuant to the provisions of section 1407(d)(2)(G) of this title and the statement of recommendations of the Advisory Board developed pursuant to the provisions of section 1408(f)(2)(E) of this title; and

(3) in the second and succeeding years, a five-year projection of national priorities with respect to agricultural research, extension, and teaching, taking into account both domestic and international needs.

LIBRARIES AND INFORMATION NETWORK

SEC. 1411. (a) It is hereby declared to be the policy of Congress that—

(1) cooperation and coordination among, and the more effective utilization of, disparate agricultural libraries and information units be facilitated;

(2) information and library needs related to agricultural research and education be effectively planned for, coordinated, and evaluated;

(3) a structure for the coordination of the agricultural libraries of colleges and universities, Department of Agriculture libraries, and their closely allied information gathering and disseminating units be established in close conjunction with private industry and other research libraries;

(4) effective access by all colleges and universities and Department of Agriculture personnel to literature and information regarding the food and agricultural sciences be provided; and

(5) programs for training in information utilization with respect to the food and agricultural sciences, including research grants for librarians, information scientists, and agricultural scientists be established or strengthened.

(b) There is hereby established within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center. Such Center shall be responsible for—

(1) assembling and collecting food and nutrition education materials, including the

results of nutrition research, training methods, procedures, and other materials related to the purpose of this title;

(2) maintaining such information and materials in a library; and

(3) providing for the dissemination of such information and materials on a regular basis to State educational agencies and other interested persons.

(c) Funds are hereby authorized to be appropriated annually in such amounts as Congress may determine necessary to support the purposes of this section. The Secretary is authorized to carry out this section with existing facilities through the use of grants, contracts, or such other means as the Secretary deems appropriate and to require matching of funds. No funds appropriated to support the purposes of this section shall be used to purchase additional equipment unless specifically authorized by law subsequent to the date of enactment of this title.

SUPPORT FOR THE JOINT COUNCIL AND ADVISORY BOARD

SEC. 1412. (a) To assist the Joint Council and Advisory Board in the performance of their duties, the Secretary is authorized to appoint—

(1) not to exceed five full-time professional staff employees qualified in the food and agricultural sciences, and

(2) an executive director for such staff who shall perform such duties as the chairmen of the Joint Council and the chairman of the Advisory Board may direct, and who shall receive compensation at a rate not in excess of the rate for GS–18 in the General Schedule set out in section 5332 of title 5 of the United States Code.

(b) The Secretary shall provide such additional clerical assistance and staff personnel as may be required to assist the Joint Council and Advisory Board in carrying out their duties.

(c) In formulating their recommendations to the Secretary, the Joint Council and Advisory Board may obtain the assistance of Department of Agriculture employees, and, to the maximum extent practicable, the assistance of employees of other Federal departments and agencies conducting related programs of agricultural research, extension, and teaching, and of appropriate representatives of colleges and universities, including State agricultural experiment stations, cooperative extension services, and other non-Federal organizations conducting significant programs in the food and agricultural sciences.

GENERAL PROVISIONS

SEC. 1413. (a) Any vacancy in the Joint Council or the Advisory Board shall not affect their powers under this title and shall be filled in the same manner as the original position.

(b) Members of the Joint Council and Advisory Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5 of the United States Code.

Subtitle C—Agricultural Research and Education Grants and Fellowships

PROGRAM OF COMPETITIVE, SPECIAL, AND FACILITIES GRANTS FOR AGRICULTURAL RESEARCH

SEC. 1414. Section 2 of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), is amended to read as follows:

"SEC. 2. (a) In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

"(b) The Secretary of Agriculture is authorized to make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for reseach to further the programs of the Department of Agriculture. To the greatest extent possible the Secretary shall allocate these grants to high priority research taking into consideration, when available, the determinations made by the Joint Council on Food and Agricultural Sciences identifying high priority research areas. In seeking research proposals and in performing peer review evaluations of such proposals under this subsection, the Secertary shall seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, State agricultural experiment stations, and the private sector. The research grants shall be made without regard to matching funds by the recipient or recipients of such grants. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this subsection, $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 3, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of the Food and Agriculture Act of 1977 be authorized by law for any subsequent fiscal year.

"(c) The Secretary of Agriculture is authorized to make grants, for periods not to exceed five years in duration—

"(1) to land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research, as determined by the Secretary, to carry out research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the Nation; and

"(2) to land-grant colleges and universities and State agricultural experiment stations, to facilitate or expand on-going State-Federal food and agricultural research programs that (A) promote excellence in research, (B) promote the development of regional research centers, or (C) promote the research partnership between the Department of Agriculture and such colleges and universities or State agricultural experiment stations.

These grants shall be made without regard to matching funds.

"(d) The Secretary of Agriculture shall make annual grants to support the purchase of equipment, supplies, and land, and the construction, alteration, or renovation of buildings, necessary for the conduct of food and agricultural research, to—

"(1) each State agricultural experiment station in an amount of $100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), and the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1–582a–7), whichever is greater: *Provided*, That of any amount in excess of $50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the purposes for which grants under this paragraph are made available; and

"(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year.

Any college or State agricultural experiment station eligible for annual grants under this subsection may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided*, That the total amounts deferred may not exceed $1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirements of this subsection and the availability of appropriations under this subsection.

"(e) Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

"(f) The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

"(g) Except as otherwise provided in subsection (b) of this section, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

"(h) The Secretary of Agriculture is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this section.".

GRANTS TO ESTABLISH OR EXPAND SCHOOLS OF VETERINARY MEDICINE

SEC. 1415. (a) The Secretary shall conduct a program of grants to States for the purpose of meeting the costs of construction, employing faculty, acquiring equipment, and taking other action relating to the initial establishment and initial operation of schools of veterinary medicine, or the expansion of existing schools of veterinary medicine, as determined by the Secretary by regulations. This grant program shall be based on a matching formula of 50 per centum Federal and 50 per centum State funding.

(b) Except with respect to the States of Alaska and Hawaii, the Secretary shall give preference in awarding grants to States which file, with their application for funds under this section, assurances satisfactory to the Secretary that—

(1) the State has established, or has made a reasonable effort to establish, a veterinary medical training program with one or more States without colleges of veterinary medicine which consists of appropriate cooperative agreements providing for a sharing of curriculum and costs by the individual States; and

(2) the clinical training of the school to be established or expanded shall emphasize care and preventive medical programs for food-producing animals.

Notwithstanding clause (1) of this subsection, no State which the Secretary determines has made a reasonable effort to establish appropriate cooperative agreements shall be denied a grant or otherwise prejudiced because of its failure to establish such cooperative agreements.

(c) Funds appropriated to carry out this section for any fiscal year shall be apportioned and distributed as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to eligible States and program coordination.

(2) The remainder shall be apportioned and distributed by the Secretary to those States which have applied for funds under this section on such basis as the Secretary may deem appropriate: *Provided*, That not less than 50 per centum of such funds shall be made available to States which have accredited schools of veterinary medicine.

AMENDMENTS TO THE RESEARCH FACILITIES ACT OF 1963

SEC. 1416. The Act of July 22, 1963 (77 Stat. 90–92 as amended; 7 U.S.C. 390, 390a–390k), is amended by—

(1) amending paragraph (2) of section 3 to read as follows:

"(2) the term 'eligible institution' means a department established under provisions of the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), and under the direction of a college or university established in any State in accordance with the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), a department otherwise established pursuant to standards prescribed by any State the purpose of which is to conduct agricultural research, the Connecticut Agricultural Experiment Station at New Haven, Connecticut, the Ohio Agricultural Experiment Station at Wooster, Ohio, and those colleges, universities, and other legal entities in each State now receiving, or which may hereafter receive, benefits under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, or the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a–582a–1–582a–7); and";

(2) striking out sections 4 through 12 and inserting in lieu thereof the following new sections:

"SEC. 4. (a) There are hereby authorized to be appropriated for allocation to eligible institutions under this Act to be used for the purpose set out in section 2 of this Act, $15,000,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 30, 1980, $27,000,000 for the fiscal year ending September 30, 1981, and $31,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of the Food and Agriculture Act of 1977 be authorized by law for any subsequent fiscal year.

"(b)(1) The first $4,000,000 appropriated for research facilities pursuant to this section for any fiscal year shall be apportioned equally among eligible institutions.

"(2) Any amount in excess of $4,000,000 appropriated under this section for any fiscal year shall be apportioned as follows: Each eligible institution shall be entitled to an amount which bears the same ratio to the total amount of funds being allocated in such fiscal year under this paragraph as the amount received by such institution in the preceding fiscal year bears to the total amount received by all eligible institutions in such preceding fiscal year. The amount received by eligible institutions in the preceding fiscal year shall be determined on the basis of funds received under section 3 of the Act of March 2, 1887, section 3 of the Act of October 10, 1962, and—with respect to institutions receiving benefits under the Act of August 30, 1890, including Tuskegee Institute—on the basis of funds received under section 2 of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 4501), during the fiscal years ending September 30, 1977, and September 30, 1978, and on the basis of funds received under section 1445 of the Food and Agriculture Act of 1977 in subsequent years.

"(c) It shall be the duty and responsibility of the Secretary to administer the provisions of this Act under such rules and regulations as the Secretary may prescribe as necessary therefor.

"SEC. 5. As a condition for receiving funds apportioned under section 4 of this Act, each eligible institution shall submit, in such form as the Secretary may require, specific proposals for planning, acquisition, construction, repair, rehabilitation, renovation, or remodeling of buildings, laboratories, and other capital facilities including the acquisition of fixtures and equipment, including scientific instrumentation, which are to become part of such buildings. In a State having more than one eligible institution the Secretary shall devise procedures to insure that the facility proposals of the eligible institutions in such State provide for a coordinated food and agricultural research program among eligible institutions in such State.

"SEC. 6. Any unused portion of the allotment to any eligible institution for any fiscal year shall remain available at the option of such institution for payment to such institution for a period of not more than five fiscal years following the fiscal year in which such allotment is first made available.

"SEC. 7. With respect to multiple-purpose physical facilities, the segment or portion thereof which is to be utilized for food and agricultural research shall be the basis for determination of fund support under this Act.

"SEC. 8. For each fiscal year that funds are made available for allocation the Secretary shall ascertain, at the earliest practicable date during such year, the amount of the allocation to which each eligible institution is entitled and shall notify each such institution in writing promptly thereafter as to the amount of such allocation.

"SEC. 9. (a) Any eligible institution authorized to receive payments under the provisions of section 4 of this Act shall have a chief administrative officer and a duly designated fiscal officer, who shall be the persons responsible for receipt of payments under the Acts referred to in section 4(b) of this Act, to whom payments can be directed by the Secretary. Such fiscal officer shall receive and account for all funds, paid to such institution pursuant to the provisions of this Act, and shall submit a report, approved by the chief administrative officer of such institution, to the Secretary on or before the first day of December of each year. Such report shall contain a detailed statement of the amount received under the provisions of this Act during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

"(b) If any portion of the allotted funds received by the duly authorized fiscal officer of any eligible institution shall be any action or contingency be diminished, lost, or misapplied, it shall be repaid by the institution concerned, and until repaid no part of any subsequent appropriation shall be allocated or paid to such institution.

"SEC. 10. The Secretary shall make an annual report to Congress during the first regular session of each year with respect to (1) payments made under this Act, (2) the facilities, by institution, for which such payments were made, and (3) whether any portion of the appropriation available for allotment to any of the eligible institutions has been withheld and, if so, the reasons therefor.

"SEC. 11. Three per centum of funds appropriated under this Act shall be available to the Secretary for administration of this Act."; and

(3) striking out "the State agricultural experiment stations" each time it occurs in the title, section 1, and section 2 and inserting in lieu thereof "eligible institutions", and striking out "on a matching basis," section 1.

GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION

SEC. 1417. (a) The Secretary shall conduct a program of competitive grants for all colleges and universities for the purpose of furthering education in the food and agricultural sciences. These grants shall be made in the following two categories:

(1) Grants to strengthen programs of training and research in the food and agricultural sciences for scientists at the graduate and postdoctoral levels at all colleges and universities. Grants in this category may be used for exploratory research by such scientists, the acquisition of instruments, equipment, and facilities for research and training and other programs and activities aimed at meeting departmental, interdepartmental, or institutionwide training and research needs, or a combination thereof. Grants shall be made on a competitive basis and may cover periods not to exceed four years. Competition for such grants shall be open to all colleges and universities in the United States which have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(2) Grants to strengthen undergraduate programs in the food and agricultural sciences at all colleges and universities. Grants in this category may be used to support programs designed to improve such undergraduate programs through traditional or nontraditional courses, curriculums, or teaching modes. Grants shall be made on a competitive basis and may cover periods not to exceed two years. Competition for such grants shall be open to all colleges and universities or to groups of such institutions which individually or collectively have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(b) The Secretary shall conduct a program of predoctoral and postdoctoral fellowships in the food and agricultural sciences. These fellowships shall be made in the following two categories:

(1) Predoctoral fellowships, each for a period of up to four years. The purpose of these fellowships shall be to provide training and increase research capabilities in areas of need as identified by each State. These fellowships shall be awarded on the basis of merit, as determined by review panels established annually by the Secretary to graduate students from each of the States, if the following criteria are satisfied:

(A) the student is enrolled in a graduate degree program in a college or university; and

(B) the student intends to pursue or is pursuing a course of study in the food and agricultural sciences which is directly related to an area of need as identified by the Governor or chief executive officer of the State.

At least three such fellowships shall be awarded to students from each State in every year.

(2) Postdoctoral fellowships, each for a period of from one to five years. The purpose of these fellowships shall be to attract highly promising investigators to research careers in the basic sciences related to agriculture and to provide stipends and research support for their training and establishment as independent investigators. In making awards under this paragraph, the Secretary shall give priority to individuals doing basic research at colleges and universities.

(c) Funds authorized in section 22 of the Act of June 29, 1935 (49 Stat. 439, as amended; 7 U.S.C. 329), are transferred to and shall be administered by the Secretary of Agriculture.

(d) There are hereby authorized to be appropriated for the purposes of carrying out

the provisions of this section $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

NATIONAL AGRICULTURAL RESEARCH AWARD

SEC. 1418. (a) The Secretary shall establish the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences. Two such awards, one for each of the categories described in subsection (c) of this section, shall be made in each fiscal year.

(b) The awards shall not exceed $50,000 per year for a period of not to exceed three years to support research or study by the recipient.

(c) Awards under this section shall be made in each fiscal year in two categories as follows:

(1) to a scientist in recognition of outstanding contributions to the advancement of the food and agricultural sciences; and

(2) to a research scientist in early career development or a graduate student, in recognition of demonstrated capability and promise of significant future achievement in the food and agricultural sciences.

(d) The Secretary may establish such nominating and selection committees, to consist of scientists and others, to receive nominations and make recommendations for awards under this section, as the Secretary deems appropriate.

GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS, AND AGRICULTURAL CHEMICALS AND OTHER PRODUCTS FROM COAL DERIVATIVES

SEC. 1419. The Secretary shall make grants under this section to colleges and universities for the purpose of conducting research related to the production and marketing of (1) coal tar, producer gas, and other coal derivatives for the manufacture of agricultural chemicals, methanol, methyl fuel, and alcohol-blended motor fuel (such agricultural chemicals to include, but not be limited to, fertilizers, herbicides, insecticides, and pesticides), (2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products, and (3) other industrial hydrocarbons made from agricultural commodities and forest products. There are hereby authorized to be appropriated for the purposes of carrying out the provisions of this section, $3,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the four subsequent fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982: *Provided*, That the total amount of such appropriations shall not exceed $24,000,000 during the five-year period beginning October 1, 1977, and ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year: *Provided further*, That not more than a total of $3,000,000 may be awarded to the colleges and universities of any one State.

PILOT PROJECTS FOR THE PRODUCTION AND MARKETING OF INDUSTRIAL HYDROCARBONS AND ALCOHOLS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS

SEC. 1420. Title V of the Rural Development Act of 1972 (86 Stat. 671–674, as amended; 7 U.S.C. 2661–2668) is amended by adding at the end thereof a new section as follows:

"SEC. 509. (a) The Secretary is authorized and directed to formulate and carry out a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons.

"(b) The Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans, not to exceed $15,000,000 per each such project, to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender.

"(c) No loan may be guaranteed under this section unless (1) research indicates the total energy content of the products and byproducts to be manufactured by the loan applicant will exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts, and (2) such other conditions as the Secretary deems appropriate to achieve the purposes of this section are met.

"(d) In order to assure that the recipients of loans made under this section have a dependable supply of agricultural commodities at a stable price for use in the pilot projects provided for in this section, the Secretary is authorized to enter into long-term contracts, not exceeding five years, with the recipients of such loans. Such contracts shall guarantee the recipients of such loans a specified quantity of agricultural commodities annually at mutually agreed upon prices, but the agricultural commodities shall not be sold under any such contracts at less than the price support level prescribed for the commodity concerned unless the commodities are out of condition, unstorable, or sample-grade or lower, as prescribed in Department of Agriculture standards.

"(e) The Secretary shall supply from Commodity Credit Corporation stocks or, to such extent or in such amounts as are provided in appropriation Acts, purchase such quantities of agricultural commodities as may be necessary to comply with the terms of agreements entered into under this section.

"(f) The provisions of this section shall be carried out through the Commodity Credit Corporation.".

Subtitle D—National Food and Human Nutrition Research and Extension Program

FINDINGS AND DECLARATIONS

SEC. 1421. (a) Congress hereby finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States; that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.

(b) It is hereby declared to be the policy of the United States that the Department of Agriculture conduct research in the fields of human nutrition and the nutritive value of foods and conduct human nutrition education activities, as provided in this subtitle.

DUTIES OF THE SECRETARY OF AGRICULTURE

SEC. 1422. In order to carry out the policy of this subtitle, the Secretary shall develop and implement a national food and human nutrition research and extension program that shall include, but not be limited to—

(1) research on human nutritional requirements;

(2) research on the nutrient composition of foods and the effects of agricultural practices, handling, food processing, and cooking on the nutrients they contain:

(3) surveillance of the nutritional benefits provided to participants in the food programs administered by the Department of Agriculture;

(4) research on the factors affecting food preference and habits; and

(5) the development of techniques and equipment to assist consumers in the home or in institutions in selecting food that supplies a nutritionally adequate diet.

RESEARCH BY THE DEPARTMENT OF AGRICULTURE

SEC. 1423. (a) The Secretary shall establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the policy of this subtitle.

(b) The Secretary, in administering the food and human nutrition research program, shall periodically consult with the administrators of the other Federal departments and agencies that have responsibility for programs dealing with human food and nutrition, as to the specific research needs of those departments and agencies.

STUDY

SEC. 1424. The Secretary shall perform a study assessing the potential value and cost of establishing regional food and human nutrition research centers in the United States. This assessment shall examine the feasibility of using existing Federal facilities in establishing such centers. The Secretary shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings, as a part of the plan the Secretary is required to submit to Congress pursuant to section 1427 of this title, not later than one year after the effective date of this title.

NUTRITION EDUCATION PROGRAM

SEC. 1425. (a) The Secretary shall establish a national education program which shall include, but not be limited to, the dissemination of the results of food and human nutrition research performed or funded by the Department of Agriculture.

(b) In order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program presently conducted under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, as amended; 7 U.S.C. 343(d)), shall be expanded to provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education for low-income families and in other appropriate nutrition education programs. Funds for carrying out the provisions of this subsection shall be allocated to each State in an amount which bears the same ratio to the total amount to be allocated as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted pursuant to section 625 of the Economic Opportunity Act of 1964 (86 Stat. 697, as amended; 42 U.S.C. 2971d)), bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decen-

nial census at the time each such sum is first appropriated. To the maximum extent practicable, program aides shall be hired from the indigenous target population. The provisions of this subsection shall not preclude the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subsection.

NUTRITION EDUCATION MATERIALS

SEC. 1426. In order to encourage nutrition education programs in the classrooms and lunchrooms of elementary and secondary schools, the Secretary shall, in consultation with appropriate officers in the Department of Health, Education, and Welfare, develop and distribute to State departments of education a comprehensive set of educational materials on food and nutrition education which shall be appropriate for all levels of the elementary and secondary education programs.

REPORT TO CONGRESS

SEC. 1427. The Secretary shall submit a comprehensive plan for implementing the national food and human nutrition research and extension program provided for by this subtitle to Congress within one year after the effective date of this title. The plan shall include, but not be limited to, recommendations relating to research direction, funding levels, needed facilities grants, and use of Federal facilities in cooperation with States and others, necessary to achieve the policy set forth in section 1421 of this title.

NUTRITIONAL STATUS MONITORING

SEC. 1428. (a) The Secretary and the Secretary of Health, Education, and Welfare shall formulate and submit to Congress, within ninety days after the date of enactment of this title, a proposal for a comprehensive nutritional status monitoring system, to include:

(1) an assessment system consisting of periodic surveys and continuous monitoring to determine: the extent of risk of nutrition-related health problems in the United States; which population groups or areas of the country face greatest risk; and the likely causes of risk and changes in the above risk factors over time;

(2) a surveillance system to identify remediable nutrition-related health risks to individuals or for local areas, in such a manner as to tie detection to direct intervention and treatment. Such system should draw on screening and other information from other health programs, including those funded under titles V, XVIII, and XIX of the Social Security Act and section 330 of the Public Health Service Act; and

(3) program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks to individuals and populations.

(b) The proposal shall provide for coordination of activities under existing authorities and contain recommendations for any additional authorities necessary to achieve a comprehensive monitoring system.

Subtitle E—Animal Health and Disease Research

PURPOSE

SEC. 1429. It is the purpose of this subtitle to promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals which are essential to the Nation's food supply and the welfare of producers and consumers of animal products; to improve the health of horses; to facilitate the effective treatment of, and, where possible, prevent, animal and poultry diseases in both domesticated and wild animals which, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the Nation's food supply; to minimize livestock and poultry losses due to transportation and handling; to protect human health through control of animal diseases transmissible to humans; to improve methods of controlling the births of predators and other animals; and otherwise to promote the general welfare through expanded programs of research and extension to improve animal health. It is recognized that the total animal health and disease research and extension efforts of the several State colleges and universities and of the Federal Government would be more effective if there were close coordination between such programs, and it is further recognized that colleges and universities having accredited colleges of veterinary medicine or departments of veterinary sciences or animal pathology, and similar units conducting animal health and disease research in the State agricultural experiment stations, are especially vital in training research workers in animal health.

DEFINITIONS

SEC. 1430. When used in this subtitle—

(1) the term "eligible institution" means any college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or a similar unit conducting animal health and disease research in a State agricultural experiment station;

(2) the term "dean" means the dean of a college or university which qualifies as an eligible institution;

(3) the term "director" means the director of a State agricultural experiment station which qualifies as an eligible institution;

(4) the term "Board" means the Animal Health Science Research Advisory Board; and

(5) the term "animal health research capacity" means the capacity of an eligible institution to conduct animal health and disease research, as determined by the Secretary.

AUTHORIZATION TO THE SECRETARY OF AGRICULTURE

SEC. 1431. In order to carry out the purpose of this subtitle, the Secretary is hereby authorized to cooperate with, encourage, and assist the States in carrying out programs of animal health and disease research at eligible institutions in the manner hereinafter described in this subtitle.

ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD

SEC. 1432. (a) The Secretary shall establish a board to be known as the Animal Health Science Research Advisory Board which shall have a term of five years, and which shall be composed of the following eleven members—

(1) a representative of the Agricultural Research Service of the Department of Agriculture,

(2) a representative of the Cooperative State Research Service of the Department of Agriculture,

(3) a representative of the Animal and Plant Health Inspection Service of the Department of Agriculture,

(4) a representative of the Bureau of Veterinary Medicine of the Food and Drug Administration of the Department of Health, Education, and Welfare, and

(5) seven members appointed by the Secretary—

(A) two persons representing accredited colleges of veterinary medicine,

(B) two persons representing State agricultural experiment stations, and

(C) three persons representing national livestock and poultry organizations.

The members shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5 of the United States Code.

(b) The Board shall meet at the call of the Secretary, but at least once annually, to consult with and advise the Secretary with respect to the implementation of this subtitle and to recommend immediate priorities for the conduct of research programs authorized under this subtitle, under such rules and procedures for conducting business as the Secretary shall, in the Secretary's discretion, prescribe.

APPROPRIATIONS FOR CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS

SEC. 1433. (a) There are hereby authorized to be appropriated such funds, not to exceed $25,000,000 annually, as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions. Funds appropriated under this section shall be used: (1) to meet expenses of conducting animal health and disease research, publishing and disseminating the results of such research, and contributing to the retirement of employees subject to the provisions of the Act of March 4, 1940 (54 Stat. 39–40, as amended; 7 U.S.C. 331); (2) for administrative planning and direction; and (3) to purchase equipment and supplies necessary for conducting such research.

(b) Funds appropriated under subsection (a) of this section for any fiscal year shall be apportioned as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to the eligible institutions, and program coordination.

(2) Forty-eight per centum shall be distributed among the several States in the proportion that the value of and income to producers from domestic livestock and poultry in each State bears to the total value of and income to producers from domestic livestock and poultry in all the States. The Secretary shall determine the total value of and income from domestic livestock and poultry in all the States and the proportionate value of and income from domestic livestock and poultry for each State, based on the most current inventory of all cattle, sheep, swine, horses, and poultry published by the Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the several States in the proportion that the animal health research capacity of the eligible institutions in each State bears to the total animal health research capacity in all the States. The Secretary shall determine the animal health research capacity of the eligible institutions with the advice, when available, of the Board.

(c) In each State with one or more accredited colleges of veterinary medicine, the deans of the accredited college or colleges and the director of the State agricultural experiment station shall develop a comprehensive animal health and disease research program for the State based on the animal health research capacity of each eligible institution in the State, which shall be submitted to the Secretary for approval and shall be used for the allocation of funds available to the State under this section.

(d) When the amount available under this section for allotment to any State on the basis of domestic livestock and poultry values and income exceeds the amount for which the eligible institution or institutions in the State are eligible on the basis of animal health research capacity, the excess may be used, at the discretion of the Secretary, for remodeling of facilities, construction of new facilities, or increase in staffing.

proportionate to the need for added research capacity.

(e) Whenever a new college of veterinary medicine is established in a State and is accredited, the Secretary, after consultation with the dean of such college and the director of the State agricultural experiment station and, where applicable, deans of other accredited colleges in the State, shall provide for the reallocation of funds available to the State pursuant to subsection (b) of this section between the new college and other eligible institutions in the State, based on the animal health research capacity of each eligible institution.

(f) Whenever two or more States jointly establish an accredited regional college of veterinary medicine or jointly support an accredited college of veterinary medicine serving the States involved, the Secretary is authorized to make funds which are available to such States pursuant to subsection (b)(2) of this section available for such college in such amount that reflects the combined relative value of and income from domestic livestock and poultry in the cooperating States, such amount to be adjusted, as necessary, pursuant to the provisions of subsections (c) and (e) of this section.

APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS

SEC. 1434. (a) There are hereby authorized to be appropriated such funds, not to exceed $15,000,000 annually, as Congress may determine necessary to support research on specific national or regional animal health or disease problems.

(b) Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done, as mutually agreed upon between the Secretary and the eligible institution or institutions. The Secretary shall, whenever possible, consult the Board in developing plans for the use of these funds.

AVAILABILITY OF APPROPRIATED FUNDS

SEC. 1435. Funds available for allocation under the terms of this subtitle shall be paid to each State or eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

WITHHOLDING OF APPROPRIATED FUNDS

SEC. 1436. If the Secretary determines that a State is not entitled to receive its allocation of the annual appropriation under section 1433 of this title because of its failure to satisfy requirements of this subtitle or regulations issued under it, the Secretary shall withhold such amount. The facts and reasons concerning the determination and withholding shall be reported to the President; and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

REQUIREMENTS FOR USE OF FUNDS

SEC. 1437. With respect to research projects on problems of animal health and disease to be performed at eligible institutions and supported with funds allocated to the States under section 1433 of this title, the dean or director of each eligible institution shall cause to be prepared and shall review proposals for such research projects, which contain data showing compliance with the purpose in section 1429 of this title and the provisions for use of funds specified in section 1433 (a) of this title, and with general guidelines for project eligibility to be provided by the Secretary with the advice, when available, of the Board. Such research proposals that are approved by the dean or director shall be submitted to the Secretary prior to assignment of funds thereto with a brief summary showing compliance with the provisions of this subtitle and the Secretary's general guidelines.

MATCHING FUNDS

SEC. 1438. No funds in excess of $100,000, exclusive of the funds provided for research on specific national or regional animal health and disease problems under the provisions of section 1434 of this title, shall be paid by the Federal Government to any State under this subtitle during any fiscal year in excess of the amount from non-Federal sources made available to and budgeted for expenditure by eligible institutions in the State during the same fiscal year for animal health and disease research. The Secretary is authorized to make such payments in excess of $100,000 on the certificate of the appropriate official of the eligible institution having charge of the animal health and disease research for which such payments are to be made. If any eligible institution certified for receipt of matching funds fails to make available and budget for expenditure for animal health and disease research in any fiscal year sums at least equal to the amount for which it is certified, the difference between the Federal matching funds available and the funds made available to and budgeted for expenditure by the eligible institution shall be reapportioned by the Secretary among other eligible institutions of the same State, if there are any which qualify therefor, and, if there are none, the Secretary shall reapportion such difference among the other States.

ALLOCATIONS UNDER THIS SUBTITLE NOT SUBSTITUTIONS

SEC. 1439. The sums appropriated and allocated to States and eligible institutions under this subtitle shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to such States and institutions pursuant to other provisions of law.

Subtitle F—Small Farm Research and Extension

SMALL FARM RESEARCH AND EXTENSION PROGRAMS

SEC. 1440. Section 502 of the Rural Development Act of 1972 (86 Stat. 671; 7 U.S.C. 2662) is amended by—

(1) amending subsection (c) to read as follows:

"(c) SMALL FARM RESEARCH PROGRAMS.—Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farmer operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance."; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d) SMALL FARM EXTENSION PROGRAMS.—Small farm extension programs shall consist of extension programs to improve operations of small farmers using, to the maximum extent practicable, paraprofessional personnel to work with small farmers on an intensive basis to initiate and improve management techniques, agricultural production techniques, farm machinery technology, marketing techniques, and small farm finance, and to increase utilization by small farmers of existing services offered by the United States Department of Agriculture and other public and private agencies and organizations.".

PROGRAM MONEYS

SEC. 1441. Section 503 of the Rural Development Act of 1972 (86 Stat. 672, as amended; 7 U.S.C. 2663) is amended by—

(1) inserting in subsection (a) a comma and the phrase "except subsections (c) and (d) of section 502," after the phrase "this title";

(2) redesignating subsections (c), (d), and (e) as (e), (f), and (g), respectively;

(3) adding new subsections (c) and (d) as follows:

"(c) There are hereby authorized to be appropriated to carry out the purposes of subsections (c) and (d) of section 502 of this title not to exceed $20,000,000 for each of the fiscal years ending September 30, 1978, and September 30, 1979.

"(d) Such sums as Congress shall appropriate to carry out the purposes of this title pursuant to subsection (c) of this section shall be distributed by the Secretary as follows:

"(1) 4 per centum to be used by the Secretary for Federal administration;

"(2) 19 per centum to be allocated among the several States to carry out the programs authorized in subsection (c) of section 502 of this title in such amounts as determined by the Secretary; and

"(3) 77 per centum to be allocated among the several States to carry out the programs authorized in subsection (d) of section 502 of this title in such amounts as determined by the Secretary."; and

(4) striking out in subsection (f), as redesignated by subsection (b) of this section, the word "and" after "(b)," and inserting a comma and the phrase "and (d)" after "(c)".

DEFINITION OF SMALL FARMER

SEC. 1442. Section 507 of the Rural Development Act of 1972 (86 Stat. 674; 7 U.S.C. 2667) is amended by adding at the end thereof a new subsection (c) to read as follows:

"(c) 'Small farmer' means any farmer with gross sales from farming of $20,000 or less per year.".

REPORTS

SEC. 1443. Title V of the Rural Development Act of 1972 (86 Stat. 671–674, as amended; 7 U.S.C. 2661–2668) is amended by adding at the end thereof a new section 510 to read as follows:

"REPORTS

"SEC. 510. The Secretary shall evaluate annually the effectiveness of the programs established under subsection (c) and (d) of section 502 of this title and make a report to Congress not later than February 1 of each year on that evaluation and the operation of the programs during the preceding fiscal year.".

Subtitle G—1890 Land-Grant College Funding

EXTENSION AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE INSTITUTE

SEC. 1444. (a) There are hereby authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural and forestry extension at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute (hereinafter in this section referred to as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 4 per centum of the total appropriations for such year under the Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349): *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available for the fiscal year ending September 30, 1978, to such eligible institutions under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, as amended; 7 U.S.C. 343(d)). Funds appropriated under this section shall be used for expenses of conducting extension programs and activities, and for contributing to the retirement of employees subject to the provisions of the Act of March 4, 1940 (54 Stat. 39–40, as amended; 7 U.S.C. 331). No more than 20 per centum of the funds received by an institution in any fiscal year may be carried forward to the succeeding fiscal year.

(b) Beginning with the fiscal year ending September 30, 1979—

(1) any funds annually appropriated under this section up to the amount appropriated for the fiscal year ending September 30, 1978, pursuant to section 3(d) of the Act of May 8, 1914, as amended, for eligible institutions, shall be allocated among the eligible institutions in the same proportion as funds appropriated under section 3(d) of the Act of May 8, 1914, as amended, for the fiscal year ending September 30, 1978, are allocated among the eligible institutions; and

(2) any funds appropriated annually under this section in excess of an amount equal to the amount appropriated under section 3(d) of the Act of May 8, 1914, for the fiscal year ending September 30, 1978, for eligible institutions, shall be distributed as follows:

(A) A sum equal to 4 per centum of the total amount appropriated each fiscal year under this section shall be allotted to the Extension Service of the Department of Agriculture for administrative, technical, and other services, and for coordinating the extension work of the Department of Agriculture and the several States.

(B) Of the remainder, 20 per centum shall be allotted among the eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census.

In computing the distribution of funds allocated under paragraph (2) of this subsection, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) The State director of the cooperative extension service and the administrative head for extension at the eligible institution in each State where an eligible institution is located shall jointly develop, by mutual agreement, a comprehensive program of extension for such State to be submitted for approval by the Secretary within one year after the date of enactment of this title.

(d) On or about the first day of October in each year after enactment of this title, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriation for extension work under this section and the amount which it is entitled to receive. Before the funds herein provided shall become available to any eligible institution for any fiscal year, plans for the work to be carried out under this section shall be submitted by the proper officials of each institution and approved by the Secretary. Such sums shall be paid in equal quarterly payments on or about October 1, January 1, April 1, and July 1 of each year to the treasurer or other officer of the eligible institution duly authorized to receive such payments and such officer shall be required to report to the Secretary on or about the first day of December of each year a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary.

(e) If any portion of the moneys received by any eligible institution for the support and maintenance of extension work as provided in this section shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be apportioned or paid to such institution. No portion of such moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college course teaching, lectures in college, or any other purpose not specified in this section. It shall be the duty of such institution, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary.

(f) If the Secretary finds that an eligible institution is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the next Congress in order that the institution may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(g) To the extent that the official mail consists of correspondence, bulletins, and reports for furtherance of the purposes of this section, it shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each item shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such items may be mailed from a principal place of business of each eligible institution or from an established subunit of such institution.

AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE INSTITUTE

SEC. 1445. (a) There are hereby authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural research at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute (hereinafter referred to in this section as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 15 per centum of the total appropriations for such year under section 3 of the Act of March 2, 1887 (24 Stat. 441, as amended; 7 U.S.C. 361c): *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available in the fiscal year ending September 30, 1978, to such eligible institutions under the Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 4501). Funds appropriated under this section shall be used for expenses of conducting agricultural research, printing, disseminating the results of such research, contributing to the retirement of employees subject to the provisions of the Act of March 4, 1940 (54 Stat. 39–40, as amended; 7 U.S.C. 331), administrative planning and direction, and purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. The eligible institutions are authorized to plan and conduct agricultural research in cooperation with each other and such agencies, institutions, and individuals as may contribute to the solution of agricultural problems, and moneys appropriated pursuant to this section shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(b) Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

(1) Three per centum shall be available to the Secretary for administration of this section.

(2) The remainder shall be allotted among the eligible institutions as follows:

(A) $100,000 to each eligible institution.

(B) Of the remaining funds, one-half in an amount which bears the same ratio to the total amount to be allotted as the rural population of the State in which the eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and one-half in an amount which bears the same ratio to the total amount to be allotted as the farm population of the State in which the eligible institution is located bears to the total farm population of all the States in which eligible institutions are located, as determined by the last preceding decennial census. In computing the distribution under this paragraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) The director of the State agricultural experiment station in each State where an eligible institution is located and the chief administrative officer specified in subsection (d) of this section in each of the eligible institutions in such State shall jointly develop, by mutual agreement, a comprehensive program of agricultural research in such State, to be submitted for approval by the Secretary within one year after the date of enactment of this title.

(d) Sums available for allotment to the eligible institutions under the terms of this section shall be paid to such institutions in equal quarterly payments beginning on or about the first day of October of each year upon vouchers approved by the Secretary. The President of each eligible institution shall appoint a chief administrative officer who shall be responsible for administration of the program authorized herein. Each eligible institution shall designate a treasurer or other officer who shall receive and account for all funds allotted to such institution under the provisions of this section and shall report, with the approval of the chief administrative officer, to the Secretary on or before the first day of December of each year a detailed statement of the amount received under the provisions of this section during the preceding fiscal year and its disbursement on schedules prescribed by the Secretary. If any portion of the allotted moneys received by any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be allotted or paid to such institution. Funds made available to eligible institutions shall not be used for payment of negotiated overhead or indirect cost rates.

(e) Bulletins, reports, periodicals, reprints or articles, and other publications necessary for the dissemination of results of the research and experiments funded under this section, including lists of publications available for distribution by the eligible institutions, shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each publication shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such publications may be mailed from the principal place of business of each eligible institution or from an established subunit of such institution.

(f) The Secretary shall be responsible for the proper administration of this section, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such ad-

vice and assistance as will best promote the purposes of this section, including participation in coordination of research initiated under this section by the eligible institutions, from time to time to indicate such lines of inquiry as to the Secretary seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several eligible institutions, the State agricultural experiment stations, and between them and the Department of Agriculture.

(g)(1) On or before the first day of October in each year after the enactment of this title, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriations under this section and the amount which thereupon each is entitled, respectively, to receive.

(2) Whenever it shall appear to the Secretary from the annual statement of receipts and expenditures of funds by any eligible institution that any portion of the preceding annual appropriation allotted to that institution under this section remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the institution.

(3) If the Secretary withholds from any eligible institution any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(4) The Secretary shall make an annual report to Congress during the first regular session of each year of the receipts and expenditures and work of the eligible institutions under the provisions of this section and also whether any portion of the appropriation available for allotment to any institution has been withheld and if so the reasons therefor.

(h) Nothing in this section shall be construed to impair or modify the legal relationship existing between any of the eligible institutions and the government of the States in which they are respectively located.

Subtitle H—Solar Energy Research and Development

PART 1—EXISTING PROGRAMS

AGRICULTURAL RESEARCH

SEC. 1446. Section 1 of the Act of June 29, 1935 (49 Stat. 436, as amended; 7 U.S.C. 427), is amended by—

(1) inserting after "electricity and other forms of power;" in the third sentence the following: "research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation);"; and

(2) adding at the end thereof the following new sentence: "For purposes of this title, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended.".

AGRICULTURAL EXTENSION

SEC. 1447. The Act of May 8, 1914 (38 Stat. 372–374, as amended; 7 U.S.C. 341–349), is amended by—

(1) inserting after "subjects relating to agriculture" in section 1 the following: ", uses of solar energy with respect to agriculture,";

(2) adding at the end of section 1 the following new sentence: "For the purposes of this Act, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended."; and

(3) inserting after "demonstrations in agriculture" in section 2 the following: ", uses of solar energy with respect to agriculture,".

RURAL DEVELOPMENT

SEC. 1448. (a) Section 303 of the Consolidated Farm and Rural Development Act (75 Stat. 307, as amended; 7 U.S.C. 1923) is amended by inserting "(a)" immediately before the first sentence and by adding the following new subsection:

"(b) For purposes of this subtitle—

"(1) the term 'improving farms' includes, but is not limited to, the acquisition and installation of any qualified non-fossil energy system in any residential structure located on a family farm; and

"(2) the term 'qualified non-fossil energy system' means any system that utilizes technologies to generate fuel, energy, or energy intensive products from products other than fossil fuels as included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, which meets such standards as may be prescribed by the Secretary, taking into consideration appropriate and available standards prescribed by the Secretary of Housing and Urban Development.".

(b) Section 312(a) of the Consolidated Farm and Rural Development Act (75 Stat. 312, as amended; 7 U.S.C. 1942(a)) is amended by—

(1) inserting after "poultry, and farm equipment" in clause (2) the following: "(including equipment which utilizes solar energy)"; and

(2) adding at the end thereof a new sentence as follows: "For the purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended.".

PART 2—COMPETITIVE GRANTS PROGRAM

SEC. 1449. The Secretary shall carry out a program of competitive grants to persons and organizations, subject to the requirements and conditions provided for in sections 2(e), 2(f), and 2(h) of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), as amended by section 1414 of this title, for carrying out research and development relating to—

(1) uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including, but not limited to, equipment used to dry or cure farm crops or forest products, or to provide irrigation); and

(2) uses of biomass derived from solar energy, including farm and forest products, byproducts, and residues, as substitutes for nonrenewable fuels and petrochemicals.

PART 3—INFORMATION SYSTEM AND ADVISORY COMMITTEE

SOLAR ENERGY RESEARCH INFORMATION SYSTEM

SEC. 1450. The Secretary shall, through the Cooperative State Research Service and other agencies within the Department of Agriculture which the Secretary considers appropriate, in consultation with the Energy Research and Development Administration, other appropriate United States Government agencies, the National Academy of Sciences, and private and nonprofit institutions involved in solar energy research projects, by June 1, 1978, and by June 1 in each year thereafter, make a compilation of solar energy research projects related to agriculture which are being carried out during such year by Federal, State, private, and nonprofit institutions and, where available, the results of such projects. Such compilations may include, but are not limited to, projects dealing with heating and cooling methods for farm structures and dwellings (such as greenhouses, curing barns, and livestock shelters), storage of power, operation of farm equipment (including irrigation pumps, crop dryers and curers, and electric vehicles), and the development of new technologies to be used on farms which are powered by other than fossil fuels or derivatives thereof.

ADVISORY COMMITTEE

SEC. 1451. In order to assist the Secretary in carrying out functions assigned to the Secretary under part 4 of this subtitle, the Secretary is authorized to establish an advisory committee within the Department of Agriculture or utilize an existing advisory committee, if a suitable one exists, for such purposes.

PART 4—MODEL FARMS AND DEMONSTRATION PROJECTS

MODEL FARMS

SEC. 1452. (a) In order to promote the establishment and operation of solar energy demonstration farms within each State, the Secretary shall distribute funds to carry out the activities described in subsections (b) and (c) of this section and section 1453 of this title to one or more of the following in each State: the State department of agriculture, the State cooperative extension service, the State agricultural experiment station, forestry schools eligible to receive funds under the Act of October 10, 1962 (76 Stat. 806–807, as amended; 16 U.S.C. 582a, 582a–1—582a–7), or colleges and universities eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute (hereinafter in this part referred to as "eligible institutions"), in accordance with such rules and regulations as the Secretary may prescribe.

(b) The recipient or recipients in each State shall—

(1) establish at least one large model farm which—

(A) demonstrates all the solar energy projects determined by the Secretary, in consultation with the recipient or recipients, to be useful and beneficial to the State;

(B) is located in the State on land owned or operated by that State and, if practicable, on the State agricultural experiment station farm land; and

(C) includes other farming practices, such as raising livestock and crops, in order to provide a model of a farm which applies new and improved methods of agriculture through the use of solar energy as a means of heating, cooling, drying, or curing crops, and providing other farm needs;

(2) sell the products of the model farm established under paragraph (1) of this subsection and pay to the Secretary that portion of the proceeds received through each such sale as bears the same proportion to the total proceeds as the grants under this section bear to the total cost of operating the farm. The Secretary shall deposit such funds into a fund which shall be available without fiscal year limitation for use in carrying out the provisions of this part;

(3) provide tours of the model farm to farmers and other interested groups and individuals and, upon request, provide such farmers, groups, and individuals with information concerning the operation of such model farm and the demonstrations, if any, established by it under section 1453 of this title;

(4) determine the costs of energy, the income, and the total cost of the model farm; and

(5) annually compile a report concerning energy usage, income costs, operating difficulties, and farmer interests with respect to the model farm and the demonstrations, if any, established by it under section 1453 of this title, and submit the report to the Secretary along with any recommendations concerning project changes and specific needs of such farm or demonstrations.

(c) The results obtained from each model farm established under subsection (b) of

this section which prove to be economically practical shall be extended to other farms in each State through the State cooperative extension service as part of its ongoing energy management and conservation education programs.

DEMONSTRATION PROJECTS

SEC. 1453. (a) During each calendar year after the first two calendar years for which eligible institutions in a State receive grants pursuant to section 1452 of this title the recipient or recipients of such grants in each State, in consultation with the Secretary, shall establish not less than ten demonstrations of solar energy projects which they shall select from among the projects demonstrated on the model farm established in the State pursuant to section 1452 of this title. Such demonstrations shall be carried out on farms which are already operating in the State.

(b) The recipient or recipients in each State shall enter into written agreements with persons who own farms and who are willing to carry out solar energy project demonstrations under this section. Such agreements shall include the following provisions concerning solar energy projects which the owners agree to demonstrate on such farms:

(1) The owner shall carry out the projects on the farm for such period as the Secretary determines to be necessary to fairly demonstrate them.

(2) Tools, equipment, seeds, seedlings, fertilizer, equipment, and other agricultural materials and technology which are necessary to carry out the projects and which, on the date of such agreement, are not commonly being used on farms in such State, shall be provided by the recipient or recipients.

(3) During the demonstration period, the recipient or recipients, with the assistance of the Extension Service of the Department of Agriculture, shall provide the owner with technical assistance concerning such projects.

(4) During the demonstration period and for such other periods as the recipient or recipients deem necessary, the owner shall—

(A) keep a monthly record for the farm of changes, if any, in energy usage and costs, the amount of agricultural commodities produced, the costs of producing such amount, and the income derived from producing such amount, and of such other data concerning the projects as the recipient or recipients may require; and

(B) transmit to the recipient or recipients such monthly records, along with a report containing his or her findings, conclusions, and recommendations concerning the projects.

(5) During the demonstration period, the owner shall give tours of the farm to farmers and other interested groups and individuals and provide them with a summary of the costs of carrying out such projects.

(6) All right, title, and interest to any agricultural commodity produced on the farm as a result of the projects shall be in the owner.

(7) At the end of the demonstration period, the owner shall have all right, title, and interest to any materials and technology provided under paragraph (2) of this subsection.

(8) Such other provisions as the Secretary may, by rule, require:

AUTHORIZATION FOR APPROPRIATIONS

SEC. 1454. There are hereby authorized to be appropriated for distribution to eligible institutions for use in establishing model farms and solar energy project demonstrations under the provisions of this part, $20,000,000 for the period beginning October 1, 1977, and ending September 30, 1981, and thereafter such sums as may subsequent to the date of enactment of this title be authorized by law for any subsequent fiscal year.

PART 5—REGIONAL SOLAR ENERGY RESEARCH AND DEVELOPMENT CENTERS

SEC. 1455. In order to provide for agricultural research, development, and demonstration projects having a national or regional application, the Secretary shall establish in existing Federal facilities or in cooperation with State and local government agencies, including State departments of agriculture, colleges and universities, or other qualified persons and organizations, including local nonprofit research groups, not less than three nor more than five regional solar energy research, development, and demonstration centers in the United States for the performance of agricultural research, extension work, and demonstration projects relating to use of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation), to be variously located so as to reflect the unique solar characteristics of different latitudes and climatic regions within the United States. Funds used in the operation of such regional centers may be used for the rehabilitation of existing buildings or facilities to house such centers, but may not be used for the construction or acquisition of new buildings.

PART 6—APPROPRIATIONS AND DEFINITIONS

SEC. 1456. There are hereby authorized to be appropriated such funds as are necessary to carry out the provisions of parts 2, 3, and 5 of this subtitle.

DEFINITIONS

SEC. 1457. For purposes of this subtitle—

(1) the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended; and

(2) the term "State" means any State of the United States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, America Samoa, and the Virgin Islands of the United States.

Subtitle I—International Agricultural Research and Extension

SEC. 1458. The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to agriculture in the United States;

(2) assist the Agency for International Development with agricultural research and extension programs in developing countries;

(3) work with developed countries on agricultural research and extension, including the stationing of United States scientists at national and international institutions in such countries;

(4) assist United States colleges and universities in strengthening their capabilities for agricultural research and extension relevant to agricultural development activities overseas; and

(5) further develop within the Department of Agriculture highly qualified experienced scientists who specialize in international programs, to be available for the activities described in this section.

Subtitle J—Studies

EVALUATION OF THE EXTENSION SERVICE AND THE COOPERATIVE EXTENSION SERVICES

SEC. 1459. The Secretary shall transmit to Congress, not later than March 31, 1979, an evaluation of the economic and social consequences of the programs of the Extension Service and the cooperative extension services, including those programs relating to agricultural production and distribution, home economics, nutrition education (including the Expanded Family and Nutrition Education Program), community development, and 4–H youth programs.

WEATHER AND WATER ALLOCATION STUDY

SEC. 1460. The Secretary shall conduct a comprehensive study of the effects of changing climate and weather on crop and livestock productivity and, within twelve months after the date of the enactment of this title, submit to the President and Congress a report, together with pertinent recommendations, on this study. The study shall include—

(1) an assessment of current climate and weather conditions in the United States and the possible impact of changes in climate and weather conditions on the Nation's economy and future food and feed availability and prices;

(2) a review of Federal and State water allocation policies; and

(3) a consideration of strategies and techniques for dealing with water shortages in the United States that could occur if current climate and weather conditions continue or become more severe.

ORGANIC FARMING STUDY

SEC. 1416. The Secretary shall conduct, and, within twelve months after the date of enactment of this title, submit to the President and Congress a report containing the results of and the Secretary's recommendations concerning, an investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting or similarly treating such materials, and transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices.

AGRICULTURAL RESEARCH FACILITIES STUDY

SEC. 1462. (a) The Secretary shall conduct a comprehensive study of the status and future needs of agricultural research facilities and, within fourteen months after the date of enactment of this title, submit to the President and Congress a report on this study.

(b)(1) The report shall cover agricultural research facilities and materials including, but not limited to, buildings and farms, laboratories, plant, seed, genetic stock, insect, virus, and animal collections, and lease and purchase items such as computers, laboratory instruments, and related equipment.

(2) The report shall include recommendations for a program to provide the United States with the most modern and efficient system of research facilities needed to advance agricultural research in all fields, and recommendations with regard to priority requirements for research instrumentation and facilities needing modernization, construction, or renovation in accordance with the requirements of State, regional, and national priority programs of research and based on the fullest utilization of human, monetary, and physical resources.

Subtitle K—Funding and Miscellaneous Provisions

AUTHORIZATION FOR APPROPRIATIONS FOR EXISTING AND CERTAIN NEW AGRICULTURAL RESEARCH PROGRAMS

SEC. 1463. (a) Notwithstanding any authorization for appropriations for agricultural research in any Act enacted prior to the date of enactment of this title, there are hereby authorized to be appropriated for the purposes of carrying out the provisions of this title, except subtitle II and sections 1416, 1417, 1419, 1420, and the competitive grants program provided for in section 1414, and except that the authorization for moneys

provided under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), is excluded and is provided for in subsection (b) of this section, $505,000,000 for the fiscal year ending September 30, 1978, $575,000,000 for the fiscal year ending September 30, 1979, $645,000,000 for the fiscal year ending September 30, 1980, $715,000,000 for the fiscal year ending September 30, 1981, and $780,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

(b) Notwithstanding any authorization for appropriations for agricultural research at State agricultural experiment stations in any Act enacted prior to the date of enactment of this title, there are hereby authorized to be appropriated for the purpose of conducting agricultural research at State agricultural experiment stations pursuant to the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), $120,000,000 for the fiscal year ending September 30, 1978, $145,000,000 for the fiscal year ending September 30, 1979, $170,000,000 for the fiscal year ending September 30, 1980, $195,000,000 for the fiscal year ending September 30, 1981, and $220,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

AUTHORIZATION FOR APPROPRIATIONS FOR EXTENSION EDUCATION

SEC. 1464. Notwithstanding any authorization for appropriations for the Cooperative Extension Service in any Act enacted prior to the date of enactment of this title, there are hereby authorized to be appropriated for the purposes of carrying out the extension programs of the Department of Agriculture $260,000,000 for the fiscal year ending September 30, 1978, $280,000,000 for the fiscal year ending September 30, 1979, $300,000,000 for the fiscal year ending September 30, 1980, $320,000,000 for the fiscal year ending September 30, 1981, and $350,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

EXTENSION PROGRAMS FOR GUAM AND THE VIRGIN ISLANDS OF THE UNITED STATES

SEC. 1465. Section 3 of the Act of May 8, 1914 (38 Stat. 373, as amended; 7 U.S.C. 343), is amended by adding thereto a new subsection (e) to read as follows:

"(e) Insofar as the provisions of subsections (b) and (c) of this section, which require or permit Congress to require matching of Federal funds, apply to the Virgin Islands of the United States and Guam, such provisions shall be deemed to have been satisfied, for the fiscal years ending September 30, 1978, and September 30, 1979, only, if the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in such years equal the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in the fiscal year ending September 30, 1977.".

AMENDMENTS TO THE HATCH ACT

SEC. 1466. (a) Section 3(c)(4) of the Act of March 2, 1887 (24 Stat. 441, as amended; 7 U.S.C. 361c (c)(4)), is hereby repealed.

(b) Section 3(c)(5) of such Act (24 Stat. 441, as amended; 7 U.S.C. 361c(c)(5)) is amended by adding at the end thereof a new sentence to read as follows: "These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.".

PAYMENT OF FUNDS

SEC. 1467. Except as provided elsewhere in this Act or any other Act of Congress, funds available for allotment under this title shall be paid to each eligible institution or State at such times and in such amounts as shall be determined by the Secretary.

WITHHOLDING OF FUNDS

SEC. 1468. Except as provided elsewhere in this Act or any other Act of Congress, if the Secretary determines that an institution or State is not entitled to receive its allotment of an annual appropriation under any provision of this title because of a failure to satisfy requirements of this title or regulations issued under it, the Secretary shall withhold such amounts, the facts and reasons concerning the determination and withholding shall be reported to the President, and the amount involved shall be deposited in the miscellaneous receipts of the Treasury.

AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS

SEC. 1469. Except as provided elsewhere in this Act or any other Act of Congress—

(1) assistance provided under this title shall be subject to the provisions of sections 2(e), 2(f), and 2(h) of the Act of August 4, 1965 (79 Stat. 431; 7 U.S.C. 450i), as amended by section 1414 of this title;

(2) the Secretary shall provide that each recipient of assistance under this title shall submit an annual report. At such times and on such forms as the Secretary shall prescribe, stating the accomplishments of projects (on a project-by-project basis) for which such assistance was used and accounting for the use of all such assistance. If the Secretary determines that any portion of funds made available under this title has been lost or applied in a manner inconsistent with the provisions of this title or regulations issued thereunder the recipient of such funds shall reimburse the Federal Government for the funds lost or so applied, and the Secretary shall not make available to such recipient any additional funds under this Act until the recipient has so reimbursed the Federal Government;

(3) three per centum of the appropriations shall be retained by the Secretary for the administration of the programs authorized under this title; and

(4) the Secretary shall establish appropriate criteria for grant and assistance approval and necessary regulations pertaining thereto.

RULES AND REGULATIONS

SEC. 1470. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this title.

TITLE XV—RURAL DEVELOPMENT AND CONSERVATION

AGRICULTURAL CONSERVATION PROGRAM

SEC. 1501. (a) Section 8 of the Soil Conservation and Domestic Allotment Act (49 Stat. 1149, as amended; 16 U.S.C. 590h) is amended by—

(1) striking out the first three sentences of subsection (b) and inserting in lieu thereof the following: "The Secretary is authorized to carry out the policy and purposes specified in section 7(a) of this Act by providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. Eligibility for financial assistance shall be based upon the existence of a conservation or environmental problem which reduces the productive capacity of the Nation's land and water resources or causes degradation of environmental quality.

"The amount of financial assistance to be provided shall be that portion of the cost of installing conservation and environmental enhancement measures which the Secretary determines is necessary. In determining the level of payment, consideration will be given to (A) the amount of expected conservation or environmental benefit accruing to society, (B) the total cost of carrying out the needed measures, (C) the degree to which appropriate conservation or pollution abatement practices will be applied in the absence of financial assistance, and (D) in order to avoid duplication of assistance, the degree to which the agricultural producer benefits from other public programs for conservation and environmental enhancement.

"The Secretary, in formulating the national program, shall take into consideration (A) the need to control erosion and sedimentation from agricultural land and to conserve the water resources on such land, (B) the need to control pollution from animal wastes, (C) the need to facilitate sound resources management systems through soil and water conservation, (D) the need to encourage voluntary compliance by agricultural producers with Federal and State requirements to solve point and nonpoint sources of pollution, (E) national priorities reflected in the National Environmental Policy Act of 1969 and other congressional and administrative actions, (F) the degree to which the measures contribute to the national objective of assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy, and (G) the type of conservation measures needed to improve water quality in rural America.";

(2) designating as a separate paragraph that portion of the first paragraph of subsection (b) not amending by paragraph (1) of this subsection; and

(3) striking out the first three paragraphs of subsection (e) and inserting in lieu thereof the following: "Payments made by the Secretary under subsection (b) of this section to agricultural producers shall be divided among landlords, tenants, and sharecroppers in proportion to the extent such landlords, tenants, and sharecroppers contribute to the cost of carrying out the conservation or environmental enhancement measures. The maximum payment which may be made to any person shall be determined by the Secretary.".

(b) Section 15 of the Soil Conservation and Domestic Allotment Act (49 Stat. 1151, as amended; 16 U.S.C. 590o) is amended by—

(1) adding at the end of the first sentence three new sentences as follows: "The amount appropriated shall be available until expended. A specified amount or percentage of the appropriation shall be designated for long-term agreements based on farm and ranch conservation plans approved by local conservation districts, where such districts are organized. The Secretary shall distribute the funds available for financial assistance among the several States in accordance with their conservation needs, as determined by the Secretary."; and

(2) striking out the second paragraph.

INCLUSION OF AQUACULTURE AND HUMAN NUTRITION AMONG THE BASIC FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE

SEC. 1502. (a) Section 520 of the Revised Statutes, as amended (7 U.S.C. 2201), is amended by striking out "agriculture and rural development" and inserting in lieu thereof "agriculture, rural development, agriculture, and human nutrition".

(b) Subsection (a) of section 526 of the Revised Statutes, as amended (7 U.S.C. 2204(a)), is amended by striking out "agriculture and rural development" and inserting in lieu thereof "agriculture, rural development, aquaculture, and human nutrition".

AQUACULTURE LOAN AUTHORITY

SEC. 1503. (a) Section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (50

Stat. 526, as amended; 7 U.S.C. 1011(e)) is amended by—

(1) inserting immediately after "land utilization" the following: "or plans for the conservation, development, and utilization of water for acquacultural purposes"; and

(2) inserting immediately before the second sentence a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants.".

(b) Section 310B(a) of subtitle A of the Consolidated Farm and Rural Development Act (86 Stat. 663; 7 U.S.C. 1932(a)) is amended by—

(1) striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and the conservation, development, and utilization of water for aquaculture purposes."; and

(2) adding at the end thereof a new sentence as follows: "As used in this subsection, the term 'aquaculture' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of creating or augmenting publicly owned and regulated stocks of fish.".

DISPOSITION OF EXCESS FEDERAL PROPERTY TO RURAL FIRE FORCES

SEC. 1504. Section 402 of the Rural Development Act of 1972 (86 Stat. 670; 7 U.S.C. 2652) is amended by inserting "(a)" before the first sentence and adding at the end thereof new subsections (b) and (c) as follows:

"(b) The Secretary, with cooperation and assistance from the Administrator of the General Services Administration, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by rural fire forces receiving assistance under this title.

"(c) To promote maximum program effectiveness and economy, the Secretary shall closely coordinate the assistance provided under this title with assistance provided under other fire protection and rural development programs administered by the Secretary.".

RURAL COMMUNITY FIRE PROTECTION PROGRAM

SEC. 1505. Section 404 of the Rural Development Act of 1972 (86 Stat. 671, as amended; 7 U.S.C. 2654) is amended by adding at the end thereof a new sentence as follows: "There is further authorized to be appropriated to carry out the provisions of this title not to exceed $7,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.".

CONGRESSIONAL APPROVAL OF WATERSHED PROTECTION AND FLOOD PREVENTION PROJECTS

SEC. 1506. The Watershed Protection and Flood Prevention Act (68 Stat. 666, as amended) is amended as follows:

(a) Section 2 (16 U.S.C. 1002) is amended by striking out "$250,000" and inserting in lieu thereof "$1,000,000".

(b) Section 5(3) (16 U.S.C. 1005(3)) is amended by striking out "$250,000" and inserting in lieu thereof "$1,000,000".

(c) Section 5(4) (16 U.S.C. 1005(4)) is amended by striking out "$250,000" and inserting in lieu thereof "$1,000,000".

CONGRESSIONAL APPROVAL OF RESOURCE CONSERVATION AND DEVELOPMENT PROJECT LOANS

SEC. 1507. The third sentence of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, as amended; 7 U.S.C. 1011(e)) is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

WATERSHED LOAN AUTHORITY

SEC. 1508. The last sentence of section 8 of the Watershed Protection and Flood Prevention Act (70 Stat. 1090, as amended; 16 U.S.C. 1006a) is amended by striking out "five million dollars" and inserting in lieu thereof "$10,000,000".

MULTIYEAR SET-ASIDE

SEC. 1509. Section 1005 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (87 Stat. 243; 16 U.S.C. 1505) is amended by—

(1) striking out "1977" and inserting in lieu thereof "1981";

(2) striking out "1978" and inserting in lieu thereof "1982"; and

(3) amending the fourth sentence to read as follows: "Grazing of livestock under this section shall be prohibited, except in areas of a major disaster determined by the President if the Secretary finds there is a need therefor, as a result of such disaster."

AUTHORITY TO MAKE DEFERRED LOAN PAYMENTS

SEC. 1510. The Consolidated Farm and Rural Development Act (75 Stat. 307, as amended) is amended as follows:

(a) Section 309 (7 U.S.C. 1929) is amended by adding in subsection (f)(3) between the words "any" and "defaulted" the words "deferred or".

(b) Section 309A (7 U.S.C. 1929a) is amended by adding in subsection (g)(3) between the words "any" and "defaulted" the words "deferred or".

CRITICAL LANDS RESOURCE CONSERVATION PROGRAM

SEC. 1511. Notwithstanding any other provision of law—

(a) The Secretary of Agriculture is authorized to formulate and carry out a program with owners and operators of land in the Great Plains area as described in section 16(b) of the Soil Conservation and Domestic Allotment Act (49 Stat. 1151, as amended; 16 U.S.C. 590p(b)) to reduce runoff, soil and water erosion, and otherwise to promote the conservation of soil and water resources in such area through the conversion of cropland from soil depleting uses to conserving uses including the production of soil conserving cover crops.

(b) To effectuate the purposes of the program, the Secretary may enter into an agreement for a two-year period with an owner or operator as described in subsection (a) whereby the owner or operator shall agree to devote to a soil conserving cover crop a specifically designated acreage of cropland on the farm up to 50 per centum of the acreage which had been planted to any soil depleting crop or crops in any of the two years preceding the date of the agreement. The agreement shall be renewable for annual periods thereafter subject to the mutual agreement of the owner or operator and the Secretary. In such agreement, the owner or operator shall agree (1) to plant a legume, or if not adapted to such area, an annual, biennial, or a perennial cover crop, as specified in the agreement; (2) to divert from production such portion of one or more crops designated by the Secretary as the Secretary determines necessary to effectuate the purpose of the program; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; (4) to give adequate assurance, as specified by the Secretary, that the land was not acquired for the purpose of placing it in the program: *Provided*, That the foregoing provision shall not prohibit the continuation of an agreement by a new owner if an agreement has once been entered into under this section nor prevent an owner or operator from placing a farm in the program if the farm was acquired by the owner to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain; (5) to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder upon his violation of the agreement at any stage during the time he has control of the land if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if the Secretary determines that the violation by the owner or operator does not warrant termination of the agreement; (6) upon transfer of his right and interest in the farm, during the agreement period, to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement; (7) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and (8) to such additional provisions as the Secretary determines are desirable to effectuate the purposes of the program or to facilitate the practical administration of the program, including such measures as the Secretary may deem appropriate to keep the designated acreage from eroding and free from weeds and rodents in accordance with good conservation systems.

(c) In consideration for such agreement, the Secretary shall make annual adjustment payments to the owner or operator for the period of the agreement at such rate or rates not in excess of $30 per acre as the Secretary determines to be fair and reasonable. The Secretary may use an advertising and bid procedure in determining the lands in any area to be covered by agreements and the payment rate therefor. The Secretary and the owner or operator may agree that the annual adjustment payments for the agreement period shall be made either upon approval of the agreement or in such installments as they may agree to be desirable: *Provided*, That for each year an annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum.

(d) The Secretary may terminate any agreement under the program, by mutual agreement with the owner or operator, if the Secretary determines that such termination would be in the public interest, and may agree with the owner or operator to such modification of agreements as the Secretary may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(e) The Secretary may, to the extent the Secretary deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops to establish vegetative cover for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(f) In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act (49 Stat. 1149, as amended; 16 U.S.C. 590h) and the technical services of the Soil Conservation Service and soil and water conservation districts.

(g) In case any producer who is entitled to any payment under the program dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable.

(h) The Secretary shall provide adequate safeguards to protect the interests of tenants

and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(i) The Secretary shall prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(j) There are hereby authorized to be appropriated for the period beginning October 1, 1977, and ending September 30, 1981, such sums as may be necessary to carry out the program provided for in this section. The Secretary is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation in discharging the Secretary's functions and responsibilities under the program, including payment of costs of administration: *Provided*, That, the Commodity Credit Corporation shall not make any expenditures for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this section.

TITLE XVI—FEDERAL GRAIN INSPECTION

RECORDS

SEC. 1601. Section 12(d) of the United States Grain Standards Act (90 Stat. 2882; 7 U.S.C. 87a(d)) is amended by striking out "shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain," and inserting in lieu thereof the following: "shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this Act,".

SUPERVISION FEES

SEC. 1602. (a) Section 7(j) of the United States Grain Standards Act (90 Stat. 2873; 7 U.S.C. 79(j)) is amended to read as follows:

"(j) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated cost of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.".

(b) Section 7A(l) of the United States Grain Standards Act (90 Stat. 2877; 7 U.S.C. 79a(1)) is amended to read as follows:

"(l) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable, cover the costs of the Service incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.".

(c) Section 21 of the United States Grain Standards Act of 1976 (90 Stat. 2886) is amended by striking out "those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain" and inserting in lieu thereof the following: "Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain".

(d) Section 27 of the United States Grain Standards Act of 1976 (90 Stat. 2889) is amended by striking out ", who pays fees when due, in the same manner as prescribed in section 7 or 7A of the United States Grain Standards Act, as amended by this Act,".

ESTABLISHMENT OF TEMPORARY ADVISORY COMMITTEE

SEC. 1603. (a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary of Agriculture shall establish a temporary advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the implementation of the United States Grain Standards Act of 1976. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of grain producers, consumers, and all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this Act.

(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act.

(c) The Administrator of the Federal Grain Inspection Service shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

(e) The advisory committee shall terminate eighteen months after the date of enactment of this Act.

(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

TECHNICAL AMENDMENTS

SEC. 1604. The United States Grain Standards Act (39 Stat. 482–485, as amended; 7 U.S.C. 71, 74–79, 79a and 79b, 84–87, and 87a–87h) is amended as follows:

(a) Section 3 is amended by—

(1) striking out "grain sorghum" in subsection (g) and inserting in lieu thereof "sorghum";

(2) amending subsection (m) to read as follows:

"(m) the term 'official agency' means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 7A of this Act for the conduct of official weighing or supervision of weighing (other than appeal weighing);";

(3) inserting "for" immediately after "under standards provided" in subsection (x); and

(4) amending subsection (y) to read as follows:

"(y) the term 'supervision of weighing' means such supervision by official inspection personnel to the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance;".

(b) Section 3A is amended by adding at the end thereof the following: "The Secretary may delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture. Notwithstanding any other provision of law, the Secretary is authorized to appoint four individuals to positions at grade 10 of the General Schedule, in the Service.".

(c) Section 4(a) is amended by—

(1) striking out "grain sorghum" and inserting in lieu thereof "sorghum";

(2) inserting a comma after "equipment calibration and maintenance"; and

(3) inserting "or procedures" after "(2) standards" and after "revoke such standards" and striking out "procedures" after "weight certification".

(d) Section 7 is amended by—

(1) designating the third sentence in paragraph (2) of subsection (e) as paragraph (4) of subsection (e) and inserting it at the end of subsection (e);

(2) amending subsection (f) by—

(A) in the first sentence of paragraph (2), inserting "or State delegated authority pursuant to subsection (e)(2) of this section" immediately after "Not more than one official agency", inserting "inspection" immediately before "provisions of this Act", and striking out ", but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968";

(B) striking out "No" in the second sentence of paragraph (2) and inserting in lieu thereof "Except as authorized by the Administrator, no";

(C) designating the second sentence of paragraph (2) as paragraph (3) of subsection (f); and

(D) designating the third sentence of paragraph (2) as paragraph (4) of subsection (f);

(3) striking out "subsections (e) and (f)" in paragraph (1) of subsection (g) and inserting in lieu thereof "subsection (f)"; and

(4) adding at the end of subsection (i) a new sentence as follows: "All of specified functions of such inspections shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.".

(e) Section 7A is amended by—

(1) in subsection (b), inserting "official weighing or" immediately after "The Administrator is authorized to cause" and inserting "at export elevators" immediately after "located other than";

(2) amending paragraph (2) of subsection (c) by—

(A) in the first sentence, inserting "or supervision of weighing" immediately after "to delegate authority to perform official weighing", inserting "official weighing or" immediately before "supervision of weighing, if such agency or person qualifies", and striking out "number" and inserting in lieu thereof "under";

(B) in clause (A) of the second sentence, striking out "at export elevators", and inserting "or supervision of weighing" immediately after "official weighing"; and

(C) inserting "official weighing or" immediately before "supervision of weighing" wherever this phrase appears in clause (B) of the second sentence;

(3) adding at the end of subsection (d)

a new sentence as follows: "All or specified functions of such weighing shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.";

(4) striking out the second sentence of subsection (e);

(5) amending subsection (f) by—

(A) in clause (2), striking out "employ" and inserting in lieu thereof "permit", and inserting "and who are approved by the Administrator" immediately before "to operate the scales"; and

(B) in clause (3), striking out "employees of the facility" and inserting in lieu thereof "persons other than official inspection personnel", and striking out "employees to operate" and inserting in lieu thereof "such persons to operate";

(6) inserting "or supervision of weighing" immediately after "official weighing" in subsection (g);

(7) inserting "or local governmental agency" immediately after "No State" in subsection (i); and

(8) adding at the end of subsection (i) a new sentence as follows: "Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act.".

(f) Section 7B is amended by—

(1) inserting "for the purpose of official inspection, official weighing, or supervision of weighing" immediately before "of grain located at all grain elevators" in subsection (a);

(2) at the end of subsection (a), inserting "Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of such testing by employees of the Service. Such fees shall be deposited into the fund created by section 7(j) of this Act."; and

(3) inserting "for the purposes of this Act" immediately after "no person shall use" in subsection (c).

(g) Section 8 is amended by—

(1) amending subsection (a) by—

(A) inserting ", other than appeal weighing," immediately after "supervision of weighing" in clause (1);

(B) striking out "of grain" in clause (2) (B) and inserting in lieu thereof ("including appeal weighing) of grain in the United States, or of United States grain in Canadian ports"; and

(C) in clause (3), inserting "or governmental agency" immediately after "(3) to contract with any person", and striking out "specified sampling and laboratory testing" and inserting in lieu thereof "specified sampling, laboratory testing, and similar technical functions"; and

(2) adding at the end of subsection (e) a new sentence as follows: "The Administrator may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5 of the United States Code.".

(h) Section 11 is amended by—

(1) inserting "official weighing or" immediately before "supervision of weighing" in paragraph (3) of subsection (b);

(2) in the first sentence of paragraph (5) of subsection (b), inserting "official weighing or" immediately before "supervision of weighing except", and inserting "director," immediately before "officer, employee,"; and

(3) inserting "or State agency delegated authority under this Act" immediately after "official agency" in subsection (c).

(i) Section 12 is amended by—

(1) inserting ", every State agency delegated authority under this Act," immediately after "official agency" wherever this phrase appears in subsections (a), (b), and (c); and

(2) striking out "delegate authority of this Act" in subsection (c) and inserting in lieu thereof "delegated authority under this Act".

(j) Section 13(a) is amended by—

(1) inserting ", or that any weighing service under this Act has been performed with respect to grain" immediately before the semicolon at the end of paragraph (6);

(2) striking out in paragraph (11) "5, 6, 7(f)(2), 7A, 7B(c), 8, 11, or 12" and inserting in lieu thereof "5; 6; 7(f) (2), (3), or (4); 7A; 7B(c); 8; 11; 12; or 17A";

(3) striking out "testing" in paragraph (12) and inserting in lieu thereof "weighing"; and

(4) in paragraph (13), striking out "the grain" and inserting in lieu thereof "grain", and inserting "the" immediately after "observing the loading of".

(k) Section 16 is amended by—

(1) striking out, in subsection (a), the second sentence and all that follows "or other person;" in the first sentence down through "by the Administrator." and inserting in lieu thereof the following: "and prescribe such rules, regulations, and institutions, as the Administrator deems necessary to effectuate the purposes or provisions of this Act. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that person having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator"; and

(2) striking out "additional" in subsection (f).

(l) Section 17A is amended by striking out "All persons registered" in paragraph (1) of subsection (b) and inserting in lieu thereof "All persons required to register".

(m) Section 17B is amended in clause (2) of subsection (b) by inserting "notwithstanding the provisions of section 812 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1978 (7 U.S.C. 612c–3)," immediately after "(2)" and inserting "notice of" immediately after "Administrator or the Secretary of".

(n) Section 21 is amended by striking out "SEC. 21" and inserting in lieu thereof "SEC. 19".

STUDIES OF GRAIN INSPECTION AND WEIGHING, EFFECTIVE DATE

SEC. 1605. (a) Section 8(b) of the United States Grain Standards Act of 1976 (90 Stat. 2874) is amended by—

(1) inserting in paragraph (3) "(which may include the application of statistical tolerances for expected variations)" immediately after "error rates of such agencies";

(2) striking out in paragraph (4) "eighteen months" and inserting in lieu thereof "thirty months"; and

(3) striking out in paragraph (5) "two years" and inserting in lieu thereof "three years".

(b) Section 27 of the United States Grain Standards Act of 1976 (90 Stat. 2889) is amended by—

(1) striking out all that follows "SEC. 27." down through "without a designation under the United States Grain Standards Act, as amended by this Act" and inserting in lieu thereof the following: "This Act shall become effective thirty days after enactment hereof; and thereafter no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act as amended by this Act, at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act";

(2) inserting "or other authorization under such Act" immediately after "may continue to operate in that area without a delegation or designation"; and

(3) striking out "and export elevators located at export port locations" in clause (3).

MISCELLANEOUS AMENDMENTS

SEC. 1606. The United States Grain Standards Act is further amended as follows:

(a) Section 3(i) is amended by striking out "or, upon request of the interested party applying for inspection, the quantity of sacks of grain,".

(b) Section 5(a) is amended by inserting "or procedures" immediately after "standards" each place it appears therein.

(c) Section 6(a) is amended by striking out "factor information" and inserting in lieu thereof "criteria".

(d) Section 7(b) is amended by striking out "or quantity of sacks of grain,".

(e) Section 7A is amended by inserting in subsections (a), (b), and (e) "or procedures" immediately after "standards".

(f) Section 8(f) is amended by inserting "and weighing" immediately after "integrity of the official inspection".

(g) Section 11(b)(4) is amended by inserting "or supervision of weighing" immediately after "official weighing".

(h) Section 13(a)(6) is amended by striking out "condition, or quantity" and inserting in lieu thereof "or condition".

(i) Sections 16(b) and 17B are amended by striking out "Committee on Agriculture and Forestry" each place these words appear therein and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry".

(j) Section 17B(a) is amended by inserting "and weighing" immediately after "inspection".

CONFORMING AMENDMENTS

SEC. 1607. The United States Grain Standards Act of 1976 (90 Stat. 2874 and 2890) is amended as follows:

(a) Section 8(b)(4) is amended by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry".

(b) Section 27 is amended by inserting "or" immediately after the semicolon at the end of clause (2).

RETENTION OF DESIGNATIONS FOLLOWING CONVICTIONS

SEC. 1608. Section 27 of the United States Grain Standards Act (90 Stat. 2890) is amended by inserting immediately before the semicolon at the end of clause (2) the following: ": *Provided*, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: *Provided further*, That the Administrator shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination".

TITLE XVII—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ACT

SHORT TITLE

SEC. 1701. This title may be cited as the "Wheat and Wheat Foods Research and Nutrition Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1702. (a) Wheat is basic to the American diet and the American economy. It is grown by thousands of farmers and consumed, in various forms, by millions of people in the United States.

(b) The size of the American wheat crop and how it is marketed and ultimately consumed determines whether many Americans receive adequate nourishment. Wheat has a strong impact on the Nation's well-being. Additional research on the optimal use of wheat products can improve the American diet. Consumer education about the nutritional value and economic use of wheat products can enhance the national welfare.

(c) It has long been recognized that it is in the national interest to have a regular, adequate, and high quality wheat supply. It would be extremely difficult, without an effective coordinated research and nutrition education effort, to accomplish this objective. A programed effort of research and nutrition education is of great importance to wheat producers, processors, end product manufacturers, and consumers.

(d) It is the purpose of this title and in the public interest to authorize and enable the creation of an orderly procedure, adequately financed through an assessment, for the development and initiation of an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products to ensure an adequate diet for the people of the United States. The maximum rate of assessment authorized hereunder represents an infinitesimal proportion of the overall cost of manufacturing wheat end products. Therefore, such assessment will not significantly affect the retail prices of those products. Furthermore, any price effect will be more than offset by the increased efficiency in end product manufacture and increased consumer acceptance, due to nutritional improvements in wheat products, which may be expected to follow from adoption of a plan under this title. Nothing in this title shall be construed to provide for control of production or otherwise limit the right of individual wheat producers to produce wheat.

DEFINITIONS

SEC. 1703. For the purposes of this title:

(a) The term "wheat" means all classes of wheat grains grown in the United States.

(b) The term "processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) The term "end product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) The term "wheat producer" means any person who grows wheat within the United States for market.

(e) The term "processor" means any person who commercially produces processed wheat within the United States.

(f) The term "end product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

(g) The term "research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

(h) The term "nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(i) The term "Council" means the Wheat Industry Council established pursuant to section 1706 of this title.

(j) The term "Department" means the United States Department of Agriculture.

(k) The term "Secretary" means the Secretary of Agriculture of the United States.

(l) The term "person" means any individual, partnership, corporation, association, or other entity.

(m) The term "United States" means the several States and the District of Columbia, including any territory or possession.

ISSUANCE OF ORDERS

SEC. 1704. (a) Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 1714 of this title, or by any interested person affected by the provisions of this title, including the Secretary.

(b) After notice and opportunity for hearing as provided in section 1704(a) of this title, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this title.

PERMISSIVE TERMS IN ORDERS

SEC. 1705 Any order issued pursuant to this title shall contain one or more of the following terms and conditions, and, except as provided in section 1706 of this title, no others:

(a) providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products, and for the disbursement of necessary funds for such purposes: *Provided*, That in carrying out any such plan or project, no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against wheat, processed wheat, and end products of other persons: *Provided further*, That no such plans or projects shall make use of unfair or deceptive acts or practices in behalf of wheat, processed wheat, and end products or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product;

(b) providing for the establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization, or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that the marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable, and for the disbursement of necessary funds for such purposes;

(c) providing that processors, distributors of processed wheat, and endproduct manufacturers shall maintain and make available for inspection by the Secretary or the Council such books and records as may be required by any order issued pursuant to this title and for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information shall be made available to the Council and to the Secretary which are appropriate or necessary to the effectuation, administration, or enforcement of this title, or of any order or regulation issued pursuant to this title: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (3) the publication by direction of the Secretary of the name of any person who has been adjudged to have violated any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee of the Department, the Council, or a contracting agency violating the provisions of this clause shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office;

(d) providing for exemption of specified end products, or types or categories thereof, from the assessments required to be paid under section 1706 of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder; and

(e) terms and conditions incidental to and not inconsistent with the terms and conditions specified in this title and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDERS

SEC. 1706. Any order issued pursuant to this title shall contain such terms and conditions as to provide—

(a) for the establishment and appointment by the Secretary of a Wheat Industry Council which shall consist of not more than twenty members and alternates therefor, and for the definition of its powers and duties which shall include only the powers enumerated in this section, and shall specifically include the powers to (1) administer such order in accordance with its terms and provisions, (2) make rules and regulations to effectuate the terms and provisions of such order, (3) receive, investigate, and report to the Secretary complaints of violations of such order, and (4) recommend to the Secretary amendments to such order. The term of an appointment to the Council shall be for two years with no member serving more than three consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms;

(b) that the Council and alternates therefor shall be composed of wheat producers or representatives of wheat producers, processors or representatives of processors, end

product manufacturers or representatives of end product manufacturers, and consumers or representatives of consumers appointed by the Secretary from nominations submitted by eligible organizations or associations certified pursuant to section 1714 of this title, or, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers, or consumers are not members of, or their interests are not represented by any such eligible organizations or associations then from nominations made by such wheat producers, processors, end product manufacturers, and consumers in the manner authorized by the Secretary, so that the representation of wheat producers, processors, end product manufacturers, and consumers on the Council shall be equal: *Provided,* That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of wheat producers, processors, end product manufacturers, and consumers throughout the United States;

(c) that the Council shall, subject to the provisions of clause (g) of this section, develop and submit to the Secretary for approval any research plans or projects and nutrition education plans or projects resulting from research, and that any such plan or project must be approved by the Secretary before becoming effective;

(d) that the Council shall, subject to the provisions of clause (g) of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probate costs of research and nutrition education projects;

(e) that, except as provided in sections 1705(d) and 1707 of this title, each end product manufacturer shall pay to the Council, pursuant to regulations issued under the order, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products, from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of the same company. Such assessment shall be used for such expenses and expenditures defined above, including provisions for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary and the Council under this title, as the Secretary finds are reasonable and likely to be incurred under the order during any period specified by the Secretary. The circumstances under which such a purchase or intra-company transfer will be deemed to have occurred will be prescribed by the Secretary in the order. Such assessment shall be calculated and set aside on the books and records of the end product manufacturer at the time of each purchase or intra-company transfer of processed wheat, and shall be remitted to the Council in the manner prescribed by the order. In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products, shall disclose to such end product manufacturers, as prescribed by the Secretary in the order, the amount or proportion of processed wheat contained in such products. The rate of assessment shall not exceed five cents for hundredweight of processed wheat purchased or transferred. The Secretary may maintain a suit against any person subject to such assessment for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy;

(f) that the Council shall maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Council, with respect to the receipt and disbursement of all funds entrusted to it;

(g) that the Council, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order pursuant to terms and conditions specified in clauses (a) and (b) of section 1705 of this title and for the payment of the cost thereof with funds collected through the assessments pursuant to the order. Any such contract or agreement shall provide that the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall slow estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) that the Council, with the approval of the Secretary, may invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under this title in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) that no funds collected by the Council under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by clause (a)(4) of this section; and

(j) that the Council members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

EXEMPTION

SEC. 1707. Any end product manufacturer who is a retail baker shall be exempt from the provisions of this title. For the purposes of this section, the term "retail baker" shall be deemed to include all end product manufacturers who sell end products directly to the ultimate consumer; *Provided,* That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food products sales revenues from the sale of such products manufactured or produced by others.

REQUIREMENT OF REFERENDUM

SEC. 1708. The Secretary shall conduct a referendum as soon as practicable among end product manufacturers not exempt hereunder who, during a representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the manufacture of end products, for the purpose of ascertaining whether the issuance of an order is approved or favored by such manufacturers. Qualified end product manufacturers may register with the Secretary by mail to vote in such referendum during a period ending not less than thirty days prior to the date of the referendum. Within ten days thereafter, the Secretary shall determine which end product manufacturers are eligible to vote in such referendum and cause to be published the list of such eligible voters. The Secretary shall issue ballots to all such persons who have so registered and been declared eligible to vote. No order issued pursuant to this title shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of such registered end product manufacturers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the end product manufacturers voting in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured by those voting in the referendum, during the representative period defined by the Secretary: *Provided,* That at the time of the registration provided under this section each end product manufacturer so registering shall certify to the Secretary the amount of processed wheat contained in the end products manufactured by such end product manufacturer during such representative period. The Secretary shall be reimbursed from assessments collected by the Council for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate.

REFUND

SEC. 1709. (a) Subsequent to the approval by the Secretary of the annual budget of the Council or amendments thereto, a summary of such budget or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, shall be published in the Federal Register. All end product manufacturers not exempt hereunder shall have sixty days from the date of such publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under subsection (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such sixty-day period.

(b) Notwithstanding any other provision of this title, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under subsection (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided,* That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

PETITION AND REVIEW

SEC. 1710. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the

Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 1711. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this title. Any civil action authorized to be brought under this title shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this title whenever the Secretary believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any end product manufacturer or other person who willfully violates any provision of any order issued by the Secretary under this title, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 1712. (a) The Secretary shall, whenever he finds that any order issued under this title, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to the order, to determine whether such manufacturers favor the termination or suspension of the order, and the Secretary shall suspend or terminate such order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this title.

INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS: AID OF COURTS

SEC. 1713. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this title or to determine whether any person subject to the provisions of this title has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this title, or of any order, or rule or regulation issued under this title. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

CERTIFICATION OF ORGANIZATIONS

SEC. 1714. The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 1704(a) of this title and to participate in the making of nominations under section 1706(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,

(c) evidence of stability and permanency of the organization,

(d) sources from which the organization's operating funds are derived,

(e) functions of the organization, and

(f) the organization's ability and willingness to further the aims and objectives of this title: *Provided*, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further*, That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this title.

EFFECT ON OTHER PROGRAMS

SEC. 1715. Nothing in this title shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

REGULATIONS

SEC. 1716. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this title.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 1717. The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEPARABILITY

SEC. 1718. If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 1719. There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this title. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this title.

TITLE XVIII—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES

PURPOSES

SEC. 1801. The purposes of this title are to—

(1) require strict financial and program accounting by advisory committees of the Department of Agriculture;

(2) assure balance and objectivity in the membership of such advisory committees; and

(3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.

DEFINITIONS

SEC. 1802. When used in this title—

(1) the term "Secretary" means the Secretary of Agriculture of the United States;

(2) the term "Department of Agriculture" means the United States Department of Agriculture; and

(3) the term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is established or utilized by the Department of Agriculture in the interest of obtaining advice or recommendations for the President or the Department of Agriculture, except that such term excludes any committee which (A) is composed wholly of full-time officers or employees of the Federal Government, (B) is established by statute or reorganization plan, or (C) is established by the President.

ESTABLISHMENT OF ADVISORY COMMITTEE

SEC. 1803. No advisory committee shall be established by the Department of Agriculture unless the Secretary determines that—

(1) the advisory committee will serve an essential function;

(2) the proposed membership for the advisory committee represents a balance of differing views;

(3) the proposed work and goals of the advisory committee cannot be carried out by an existing advisory committee;

(4) the proposed budget of the advisory committee reflects the reasonably anticipated costs of performing the function of the advisory committee; and

(5) the establishment of the advisory committee is in the public interest.

ADDITIONAL DUTIES OF THE SECRETARY

SEC. 1804. In addition to any responsibilities which the Secretary has under the Federal Advisory Committee Act, as amended, or other provision of law with respect to advisory committees, the Secretary shall ensure that all advisory committees—

(1) comply with all provisions of law relating to advisory committees, including this title;

(2) submit all reports and recommendations in written form;

(3) retain a written record of any responses made by the Department of Agriculture to the recommendations of the advisory committees; and

(4) do not exceed their proposed budgets by 10 per centum or $500, whichever is greater, without receiving prior approval for such additional expenditures from the Secretary as provided under section 1808 of this title.

MEMBERSHIP ON ADVISORY COMMITTEES

SEC. 1805. (a) No person other than an officer or employee of the Department of Agriculture shall serve on an advisory committee for more than six consecutive years.

(b) No person shall simultaneously serve on more than one advisory committee unless authorized by the Secretary.

(c) All advisory committees shall, to the extent practicable, have—

(1) a balanced membership reflecting the differing views of the groups substantially affected by the matters to be considered by such advisory committees; and

(2) ethnic, racial, and sexual balance.

(d) Each member of an advisory committee shall use his or her full name and principal place of residence, and shall provide the Secretary with (1) the names of persons or companies by whom he or she is employed, (2) his or her principal occupation, and (3) his or her major sources of income. Such information shall be forwarded to the appropriate committees of Congress having legislative jurisdiction or oversight responsibility with respect to the agency within the Department of Agriculture which established the advisory committee, as part of the annual report provided for in section 1807 of this title.

(e) Not more than one officer or employee of any corporation or other entity, including all subsidiaries and affiliates thereof, shall serve on the same advisory committee at any one time, unless excepted by the Secretary.

ADVISORY COMMITTEE CHARTER REQUIREMENTS—OPERATING COSTS

SEC. 1806. In addition to complying with the other requirements of section 9(c)(G) of the Federal Advisory Committee Act, each advisory committee shall provide the following information to the Secretary when it files its charter—

(1) a statement that the estimate of annual operating costs developed pursuant to section 9(c)(G) of the Federal Advisory Committee Act is inclusive of all private and public moneys to be spent by or on behalf of the advisory committee; and

(2) specific estimates of—

(A) the amount of Federal funds that will be used annually to support directly or indirectly the operation of the advisory committee;

(B) the dollar value of the time and the expenses that will be incurred annually by Federal agencies and employees in assisting in the operation of the advisory committee;

(C) the travel expenses, including per diem or subsistence in lieu thereof, that will be incurred annually by advisory committee members and Department of Agriculture employees in attending meetings of the advisory committee, including travel performed in support of the advisory committee's operation; and

(D) all expenses that will be paid annually by sources outside the Government, including, but not limited to, expenses borne by the committee members or other individuals, such as their employers, corporations, organizations, associations, or labor organizations.

ANNUAL REPORT

SEC. 1807. (a) In addition to the other requirements of section 10 of the Federal Advisory Committee Act, as amended, each advisory committee within the Department of Agriculture, including all advisory committees as defined in section 1802(c) of this title and all other advisory committees within the Department of Agriculture established by statute or reorganization plan or established by the President, shall prepare, at least annually, a written report which shall contain—

(1) a description of all recommendations and suggestions it has provided to any executive department, agency, or other authority of the United States, or any State, or any individual during the immediately preceding year;

(2) a description of the response it has made during the immediately preceding year to specific recommendations and suggestions from any executive department, agency, or other authority of the United States, or any State, or any individual;

(3) an itemization, in detail, of all costs incurred by it during the immediately preceding year, including, but not limited to—

(A) public money spent on transportation for advisory committee members and other Department of Agriculture employees engaged in the business of the advisory committee, including individuals who are not members of the advisory committee;

(B) per diem allowances for temporary duty expenses for advisory committee members and for Department of Agriculture employees engaged in the work of the advisory committee who are not members of the advisory committee;

(C) salaries and consultant fees paid to the advisory committee members, guest presenters, or other advisors or assistants to the advisory committee at meetings of the advisory committee;

(D) the value of Department of Agriculture staff support time spent on the business of the advisory committee;

(E) the cost of leasing, renting, or purchasing equipment, meeting rooms, and supplies for the advisory committee;

(F) any additional cost involved in meetings of the advisory committee, including receptions, luncheons, dinners, and entertainment;

(G) miscellaneous expenses, with a separate category for any major expense item peculiar to the advisory committee; and

(H) such other expenses or cost items as may be relevant to full disclosure of the costs of operating the advisory committee; and

(4) a list of the members of the advisory committee and, where applicable, the background information on each member required to be submitted under section 1805 of this title.

(b) The report required by this section shall be transmitted to the Secretary, the appropriate committees of Congress having legislative jurisdiction or oversight with respect to the agency within the Department of Agriculture which established the advisory committee, and the Library of Congress. A copy of such report shall also be available at the central location of each such advisory committee's files.

BUDGET PROHIBITIONS

SEC. 1808. (a) No advisory committee shall expend funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, unless it files a request therefor with the Secretary prior to any such expenditure which shall specify the use to which such funds will be put together with a comprehensive explanation as to why such expenditures were not known at the time of the annual estimate of operating costs, and the Secretary approves such request.

(b) The Secretary shall not approve the release of any funds under the Secretary's control to an advisory committee for any such overrun expenditure unless the Secretary finds that such funds are essential to the performance of the advisory committee's mission and the need for such funds could not have been reasonably anticipated.

TERMINATION OF ADVISORY COMMITTEES

SEC. 1809. (a) The Secretary shall terminate any advisory committee upon a finding that any such advisory committee—

(1) has expended funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, without having obtained the prior approval of the Secretary pursuant to the provisions of section 1808 of this title;

(2) has failed to file in a timely manner all reports required under the provisions of the Federal Advisory Committee Act, as amended, or this title;

(3) has failed to meet for two consecutive years;

(4) has failed to issue any written reports other than reports required under the Federal Advisory Committee Act, as amended, and this title for two consecutive years;

(5) has failed to comply with any provision of the Federal Advisory Committee Act, as amended, or this title;

(6) is responsible for functions which otherwise would be or should be performed by Federal employees; or

(7) does not serve or has ceased to serve an essential public function.

(b) Any advisory committee terminated under the provisions of this section may be reestablished only under the procedures set out in section 9 of the Federal Advisory Committee Act. If an advisory committee terminated under the provisions of this section is reestablished, all records, reports, and the complete files of such advisory committee so terminated shall be maintained together with the files of such reestablished advisory committee.

TITLE XIX—EFFECTIVE DATE

SEC. 1901. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1977.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

And the Senate agree to the same.

THOMAS S. FOLEY,
W. R. POAGE,
E DE LA GARZA,
WALTER B. JONES,
ED JONES,
DAWSON MATHIS,
DAVID R. BOWEN,
CHARLES ROSE,

FREDERICK W. RICHMOND,
RICHARD NOLAN,
JIM WEAVER,
BILL WAMPLER,
KEITH G. SEBELIUS,
PAUL FINDLEY,
CHARLES THONE,
CLEMENT J. ZABLOCKI
(on issues involving Public Law 480—Title XII, International Research—Title XIV, and provisions of S. 275 on international reserves),
DONALD J. PEASE
(on issues involving Public Law 480—Title XII, International Research—Title XIV, and provisions of S. 275 on international reserves),
Managers on the Part of the House.
HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
ROBERT DOLE,
MILTON R. YOUNG,
CARL T. CURTIS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

SHORT TITLE

The *Senate* bill provides that the Act may be cited as the "Food and Agriculture Act of 1977".

The *House* amendment provides that the Act may be cited as the "Agricultural Act of 1977".

The *Conference* substitute adopts the *Senate* provision.

TITLE I—PAYMENT LIMITATION

*(1) Payment Limitation—Wheat, Feed Grains, and Upland Cotton (Sec. 101)**

The *Senate* bill increases the present annual total payment limitation for wheat, feed grains, and upland cotton from $20,000 to $50,000 for the 1978 through 1982 crops.

The *House* amendment provides for a $35,000 payment limitation for 1978 increased by 10 percent each year through the 1981 crop.

The *Conference* substitute provides for a payment limitation of $40,000 for the 1978 crop of wheat, feed grains, and upland cotton, increased to $45,000 for the 1979 crop of such commodities, and to $50,000 for the 1980 and 1981 crops of such commodities (including rice).

(2) Payment Limitation—Rice and ELS Cotton (Sec. 101)

Existing law provides for a $55,000 payment limitation for rice, but none for extra long staple cotton. The *Senate* bill includes rice and extra long staple cotton as annual crops subject to the $50,000 payment limitation.

The *House* amendment does not include these commodities among those covered by the payment limitation in section 101. It would, in section 704 of the amendment, decrease the current $55,000 payment limitation for rice by 5 percent each year, beginning with the 1978 crop, but not below that in effect for wheat, feed grains, and upland cotton. The *House* amendment contains no provision relating to ELS cotton.

The *Conference* substitute adopts the *House* amendment for rice for the 1978 and 1979 crops by reducing the payment limitation on rice to $52,250 for the 1978 crop and to $50,000 for the 1979 crop. Beginning with the 1980 crop, the *Conference* substitute adopts the *Senate* provision for rice by including rice as one of the annual crops subject to the $50,000 limitation which also applies to payments on wheat, feed grains, and upland cotton. The *Conference* substitute deletes the *Senate* provision which would subject extra long staple cotton to the payment limitation.

(3) Exclusions from the Payment Limitation (Sec. 101)

The *Senate* bill amends the definition of the term "payments" to provide that it does not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss or resource adjustment (excluding diversion payments).

The *House* amendment retains the definition in existing law providing that the term "payments" does not include any part of any payment determined by the Secretary to represent resource adjustment or public access for recreation. The *House* amendment also provides in section 602 of the amendment that compensation for disaster loss on upland cotton shall not be regarded as payment for purposes of the payment limitation.

The *Conference* substitute adopts the exclusions provided in the *Senate* provision and the exclusion for compensation for public access contained in the *House* amendment. Also excluded from the payment limitation are any increases in target price payments for wheat and feed grains under title IV and V of the *Conference* substitute from resulting decreases in the loan rate.

(4) Family Farms (Sec. 102)

The *Senate* bill states the policy of Congress that no agricultural or agricultural-related program be administered so as to place family farm operations at an unfair economic disadvantage. It also requires the Secretary to submit to Congress by July 1 of each year a written report concerning family farming operations.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(5) Persons Eligible for Payments (Sec. 103)

The *Senate* bill adds a new subsection which provides that no payment for the 1978 through 1982 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice may be made to any person except—

"(1) a sole proprietorship farming operation (including any individual operating a farm as a tenant);

"(2) a corporation or other entity engaged in a farming operation if a controlling interest in such corporation or other entity is held by individuals engaged primarily in farming;

"(3) a small business corporation as defined in section 1371(a) of the Internal Revenue Code of 1954;

"(4) a trust or similar arrangement which involves the production of wheat, feed grains, cotton, or rice, and which was established on or after the date of enactment of the Food and Agriculture Act of 1977 by one or more persons who would have been eligible for payments under this subsection had such persons been engaged in a farming operation themselves on the land with which such trust or similar arrangement is concerned;

"(5) a trust or similar arrangement which involves the production of wheat, feed grains, cotton, or rice, and which was established by any person prior to the date of enactment of the Food and Agriculture Act of 1977;

"(6) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and which is exempt from taxation under section 501(a) of such Code;

"(7) a partnership or similar arrangement in which each partner or owner would, if engaged in a farming operation on his own, be eligible for payments under this subsection; and

"(8) any State, political subdivision, or agency thereof."

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision and provides, instead, for the Secretary to conduct a study and report to Congress by January 1, 1979, on the impact that would result from carrying out the *Senate* provision on (1) participation in the wheat, feed grain, cotton, and rice programs and (2) the production of such commodities. The study is also required to assess the impact of extending the exclusions to tenants on land owned by entities which would not be eligible for payment under the *Senate* provision. To the extent possible, the study shall use information compiled by the Department of Agriculture in administering the payment limitation in current and prior years. The Secretary is authorized to collect such other information as may be necessary for the study.

TITLE II—DAIRY AND BEEKEEPER PROGRAMS

DAIRY

(1) Dairy Base Plans (Sec. 201)

The *Senate* bill extends for five years (through December 31, 1985) provisions of the Agricultural Act of 1970 relating to milk marketing order authorizations for base excess plans, Louisville plans, and Class I base plans and related matters.

The *House* amendment extends the same provisions for four years (through December 31, 1984).

The *Conference* substitute adopts the *House* amendment.

(2) Legal Status of Producer Handlers (Sec. 202)

The *Senate* bill provides that the legal status of producer handlers of milk be the same subsequent to the adoption of the amendment made by the bill as it was prior thereto.

The *House* amendment does not contain this explicit provision but—like the *Senate* bill—extends a provision in the Agricultural Act of 1970 providing that the legal status of producer handlers shall be the same subsequent to the adoption of the amendments made by that Act as it was prior thereto.

The *Conference* substitute adopts the *Senate* provision.

(3) Dairy Price Support Level (Sec. 203)

The *Senate* bill requires that the price of milk be supported at not less than 80 percent of parity from the date of enactment until March 31, 1979.

The *House* amendment contains the same provision as the *Senate* bill but extends the required support level for two additional years, until March 31, 1981.

The *Conference* substitute adopts the *Senate* provision with the period for the re-

*Except as otherwise noted herein, the section references are references to the Conference substitute.

quired support to begin on the effective date of the bill.

(4) Dairy Price Support Adjustments (Sec. 203)

The *Senate* bill requires semiannual adjustments of the support price of milk, from the date of enactment to March 31, 1979, to reflect any estimated change in the parity index and gives the Secretary of Agriculture discretionary authority to make quarterly adjustments in the support price.

The *House* amendment contains the same provision as the *Senate* bill but extends the requirement for semiannual adjustments for two additional years to March 31, 1981.

The *Conference* substitute adopts the *House* amendment with the period for the required adjustment to begin on the effective date of the bill.

(5) Transfers of Dairy Products to the Military and Veterans Hospitals (Sec. 204)

The *Senate* bill extends for five years (1978–1982) the authority for donating dairy products to the military and to veterans hospitals to increase the use of such products.

The *House* amendment extends the authority for four years (1978–1981).

The *Conference* substitute adopts the *House* amendment.

(6) Dairy Indemnity Program—Expansion (Sec. 205)

A. The *Senate* bill adds a provision, effective October 1, 1977, for indemnity payments to dairy farmers because of contamination from nuclear radiation or fallout or residues of chemicals or toxic substances which were not used contrary to applicable regulations or labeling instructions.

The *House* amendment adds a provision for indemnity payments to dairy farmers who—because of contamination from nuclear radiation or fallout—are directed since the enactment of the bill to remove their milk from commercial markets.

The *Conference* substitute adopts the *Senate* provision. The *Conferees* intend that the Secretary give full and careful consideration to all claims for indemnity payments. The proviso in the *Senate* provision stating that no indemnity payment may be made if the Secretary determines within 30 days that other legal recourse is available to the farmer would not preclude the Secretary from reopening the case at a date and making a different determination.

B. The *Senate* bill also provides for such payments to manufacturers of dairy products.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(7) Dairy Indemnity Program—Extension (Sec. 205)

The *Senate* bill extends the authority for the dairy indemnity program for 5 years (to September 30, 1982).

The *House* amendment extends this authority for four years (to September 30, 1981).

The *Conference* substitute adopts the *House* amendment.

ICE CREAM STANDARDS (SEC. 206)

The *House* amendment requires the Secretary to issue milk content standards for ice cream within thirty days after enactment of the bill. The standard will require that (1) ice cream shall contain a minimum of 1.6 pounds of solids per gallon, weigh at least 4.5 pounds per gallon, and contain at least 20 percent milk solids constituted of not less than 10 percent milkfat; (2) the content of milk solids not fat shall not be less than 6 percent; and (3) whey cannot constitute more than 25 percent by weight of the milk solids not fat. Only those products meeting the standards could bear the symbol indicating that they meet the USDA standards for ice cream.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment. It is intended that the standard of quality established by the Secretary prescribe ingredients at least equal to those contained in the present standard of identity for ice cream established by the Food and Drug Administration. Manufacturers of ice cream meeting the standard of quality could voluntarily submit to supervision by the Department of Agriculture and display the USDA symbol of quality on the package, much the same as is the current practice for butter.

The adoption of the amendment is the outgrowth of the current consideration by the Food and Drug Administration of a proposal to modify the existing standard of identity for ice cream, substituting a protein level of 2.7 percent for the present 10 percent milk solids not fat when accompanied by 10 percent milkfat (20 percent total milk solids). The change would permit the displacement of whole milk solids not fat by whey, whey concentrates, and caseinates in the manufacture of ice cream.

The *Conferees* are disturbed by the proposal before the Food and Drug Administration. The *Conferees* are concerned about the impact the change would have on the dairy price support program, forcing ever-greater purchases of nonfat dry milk by the Commodity Credit Corporation as this product is displaced.

The amendment directs activity by the Secretary of Agriculture to establish a standard of quality for ice cream, and it is evident from the legislative history that Congress is using this means to object strongly to the proposal currently before the Food and Drug Administration to modify the existing standard of identity for ice cream.

BEEKEEPER INDEMNITY PROGRAM (SEC. 207)

The *Senate* bill extends the program under which beekeepers are indemnified for losses sustained as a result of pesticides to December 31, 1982.

The House amendment extends the program to September 30, 1981.

The *Conference* substitute adopts the *House* amendment.

TITLE III—WOOL AND MOHAIR

(1) Extension of National Wool Act (Sec. 302)

The *Senate* bill extends section 703(a) of the National Wool Act of 1954, which requires the Secretary of Agriculture to provide price support for wool and mohair, through December 31, 1982.

The *House* amendment extends section 703(a) through December 31, 1981.

The *Conference* substitute adopts the *House* amendment.

(2) Shorn Wool—Price Support (Sec. 302)

The *Senate* bill amends and extends section 703(b), which specifies the method for calculating price support to provide price support on shorn wool from January 1, 1977, to December 31, 1977, at *85 percent* of the amount calculated according to the formula specified in the Act, and from January 1, 1978, to December 31, 1982, at *90 percent* of the amount calculated according to the formula.

The *House* amendment provides price support from January 1, 1977, to December 31, 1981, at *85 percent* of the formula amount for the entire period.

The *Conference* substitute adopts the *House* amendment.

TITLE IV—WHEAT

(1) Period of Program

Generally, the *Senate* bill extends and amends the wheat provisions through the 1982 crop, while the *House* amendment extends and amends the provisions through the 1981 crop.

The *Conference* substitute adopts the *House* amendment.

(2) Wheat Loan Rate—1977 and Beyond (Sec. 401)

A. The *Senate* bill provides a minimum loan level for the 1977 crop of $2.25 per bushel. It also provides that the loan and purchase level on each of the 1978 through 1982 crops shall be not less than 85 percent of the cost of production. The cost of production per bushel would be established at $2.91 for the 1978 crop and would be determined for the 1979 through 1982 crops in accordance with new section 411 of the Agricultural Act of 1970 added by the *Senate* bill. This would result in a minimum loan level of $2.47 per bushel for the 1978 crop.

The *House* amendment provides for a loan level of not less than $2.25 per bushel for the 1977 crop and $2.35 for the 1978 through 1981 crops, and, in the case of the 1977 through 1981 crops, not in excess of 100 percent of parity, as the Secretary of Agriculture determines will maintain the competitive relationship of wheat to other grains in domestic and export markets.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill would prohibit the Secretary from reducing the effective loan level by deductions for storage costs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

C. The *House* amendment provides that if the average price received by wheat producers is not more than 105 percent of the wheat loan level in any marketing year, the Secretary shall reduce the wheat loan level in the next marketing year as necessary to maintain domestic and export markets for grain.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment to provide that (1) the reduction in the wheat loan level is discretionary with the Secretary, (2) the reduction cannot exceed 10 percent in any year, and (3) the loan level cannot be reduced below $2.00 per bushel. It is intended by the *Conferees* that if a reduction is made in the loan level for any year, the minimum loan level, would "snap back" to $2.35 per bushel in the succeeding year unless the average price received by producers in the preceding year is not more than 105 percent of the loan level for that year resulting from the reduction.

(3) Wheat Deficiency Payments for 1978 through 1981 (Sec. 401)

A. The *Senate* bill provides that the total amount of deficiency payments for the 1978 through 1982 crops would be determined by multiplying the payment rate times the *farm program acreage* times the *farm program yield*.

The *House* amendment provides that the total amount of deficiency payments would be determined by multiplying the payment rate times the *farm acreage allotment* times the *projected farm yield* established for the farm, as adjusted.

The *Conference* substitute adopts the *Senate* provision with respect to the 1978 through 1981 crops.

B. The *Senate* bill provides for a target price per bushel to be used in calculating wheat deficiency and disaster payments as

follows: For the 1978 crop—$3.10 per bushel; and for the 1979 through 1982 crops—the cost of production, but not less than $3.10 per bushel.

The *House* amendment provides for a target price per bushel for such purposes as follows: For the 1978 crop—$3.00 per bushel; and for the 1979 through 1981 crops—the target price for the previous year's crop adjusted for changes in the average adjusted cost of production (i.e., variable costs, machinery ownership costs, and general farm overhead costs).

The *Conference* substitute adopts the *House* amendment but provides that the target price for the 1978 crop shall be $3.05 per bushel if the 1978 crop is 1.8 billion bushels or less and that the base for adjustments for the 1979 crop shall be $3.00 per bushel.

C. The *House* amendment provides that if the Secretary adjusts the wheat loan level because wheat producers are receiving not more than 105 percent of the wheat loan level, he will provide emergency compensation by increasing the wheat target price to provide the same return to producers as if adjustments in the loan level had not been made. This increase in target price would not be subject to the payment limitation.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment and clarifies its provisions by making explicit that adjustments will be made in target price *payments* and that such increases in target price *payments* (rather than target prices) would not be subject to the payment limitation.

(4) 1977 Wheat Deficiency Payments (401)

The *House* amendment provides that deficiency payments for the 1977 crop would be made on the farm allotment *but* in no event on a greater acreage than the acreage actually planted to wheat.

The *Senate* bill continues existing law under which deficiency payments would be made on the farm allotment.

The *Conference* substitute provides that deficiency payments would be made on the farm allotment. However, the target price for any acreage within the allotment not actually planted to wheat would be $2.47 per bushel (the target price established under existing law) instead of $2.90, the target price otherwise applicable to the 1977 crop as provided in the *Conference* substitute.

(5) Wheat Disaster Payments for 1978 and 1979—Prevented Planning (Sec. 401)

The *Senate* bill provides for prevented planting disaster payments for the 1978 and 1979 crops of wheat on the smaller of (1) the acreage intended to be planted to wheat or (2) the acreage planted for harvest in the preceding year. Payments would be made at a rate determined by multiplying 75 percent of the farm program yield times *33⅓ percent* of the established price.

The *House* amendment provides for prevented planting disaster payments for such crops on the smaller of (1) the acreage intended to be planted to wheat or (2) the average acreage planted to wheat for harvest in the immediately preceding *three years*. Payments would be made at a rate determined by multiplying 75 percent of the projected farm yield times *20 percent* of the target price.

The *Conference* substitute adopts the *Senate* provision.

(6) Wheat Disaster Payments—Low Yields (Sec. 401)

1978 AND 1979 CROPS

A. The *Senate* bill provides that low yield disaster payments for the 1978 and 1979 crops of wheat will be made if the total quantity of wheat harvested is less than the result of multiplying *75 percent* of the farm program yield times the acreage planted to harvest. Payments would be made at a rate equal to *33⅓ percent* of the established price for the deficiency in production below *75 percent*.

The *House* amendment provides that low yield disaster payments for such crops will be made if the total quantity of wheat harvested is less than the result of multiplying *50 percent* of the projected yield established for the farm for the current year times the acreage planted to harvest. Payment would be made at a rate equal to *80 percent* of the target price for the deficiency in production below *50 percent* of the projected yield on the acreage planted to harvest.

The *Conference* substitute provides that low yield payments would be made at a rate equal to 50 percent of the target price for the deficiency in production below 60 percent of the farm program yield times the acreage planted to harvest.

1977 CROP

B. The *House* amendment provides that for the 1977 crop of wheat low yield disaster payments shall be made as provided in the *House* amendment for the 1978 and 1979 crops of wheat, but such payments shall not be made prior to October 1, 1977. Also, if producers have received low yield disaster payments for the 1977 crop under existing law prior to October 1, 1977, they may retain the payments and the Secretary would be required to pay them any additional amount they would be entitled to under this amendment.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment making it clear that any producer could elect to receive low yield disaster payments for the 1977 crop on the basis of the formula provided under existing law. Producers who elect to receive payments under the amendment—and who have already received payments under existing law—could, of course, retain the payments they have received and be paid any additional amount they are entitled to under the amendment.

(7) Wheat National Program Acreage (Sec. 402)

The *Senate* bill provides that, if deficiency payments are required, the Secretary would determine a national program acreage.

The *House* amendment provides for a national wheat acreage allotment based on the same factors, such allotment to be proclaimed by August 15 of each calendar year for the following year's crop.

The *Conference* substitute adopts the *House* amendment but (1) uses the term "national program acreage" in lieu of "national wheat acreage allotment" throughout the bill, and (2) provides that the proclamation for the 1978 crop shall be made as soon as practicable after enactment of the bill.

(8) Wheat Program Acreage Allocation Factor (Sec. 402)

The *Senate* bill provides that the Secretary shall determine a program allocation factor for wheat by dividing the national program acreage by the number of acres the Secretary estimates will be harvested. The allocation factor could not be less than 90, nor more than 100, percent.

The *House* amendment provides for an allocation factor to be determined by dividing the national wheat allotment by the number of harvested acres each year or in such previous years as determined by the Secretary. The allocation factor could not be less than 80, nor more than 100, percent of the acreage of wheat harvested on the farm during the current year.

The *Conference* substitute adopts the *House amendment*, except that it provides for the allocation factor to be based on the acreage harvested in the current year, as in the *Senate* provision. The Secretary could revise the national program acreage proclaimed by August 15 at a later date to reflect more current information for the purpose of calculating the wheat program allocation factor used in making payments to producers. Any such revised national program acreage would not, however, affect the Secretary's obligation to make payments on a producer's entire planted acreage if the producer voluntarily reduced his plantings based on the original proclamation.

(9) Wheat—Individual Farm Program Acreage (Sec. 402)

A. The *Senate* bill provides that an individual farm program acreage shall be determined by multiplying the allocation factor by the acreage planted to wheat for harvest.

The *House* amendment provides for farm acreage allotments to be determined by multiplying the allocation factor by the acreage harvested in the current year, or in such previous years as determined by the Secretary. Acreage not harvested because of a condition beyond the producer's control would be considered as harvested.

The *Conference* substitute adopts the *Senate* provision.

B. The *House* amendment provides that if producers voluntarily reduce their planted acreage from the previous year's planted acreage based on the August 15 announcement of the national wheat allotment, or comply with the set-aside, if one is in effect, they would receive target price payments on 100 percent of the harvested wheat acreage. The Secretary is also required to provide equitable treatment to producers on farms where the planted wheat acreage is less than for the preceding year but not sufficient to exempt them from the allocation factor.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but deletes the provision that would extend the guarantee to producers who comply with the set-aside program, if one is in effect for wheat.

(10) Wheat Farm Program Payment Yield (Sec. 402)

The *Senate* bill provides that the farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, as adjusted. If no payment yield for wheat was established for the farm for the previous year, the Secretary would be authorized to determine such yield as he finds fair and reasonable. The Secretary would be required, notwithstanding these provisions, to take into account actual yields proved by the producer. The Secretary would also be authorized to establish national, State, and county program payment yields, if necessary, on the basis of historical yields, as adjusted. If national, State, or county yields are established, the farm program payment yields shall balance to them.

The *House* amendment uses projected yields, as adjusted, for payment purposes—the same as under current law. Projected yields are determined based on harvested yields in the five preceding years, as adjusted, with provision for the Secretary to take into account actual yields proved by the producer for the base period.

The *Conference* substitute adopts the *Senate* provision, but provides that the farm program payment yield established on the basis of actual yields shall not be reduced under other provisions of the subsection.

(11) Wheat Set-Aside (Sec. 402)

A. The *Senate* bill requires a set-aside if the wheat carryover at the end of a marketing year exceeds 175 percent of domestic use for such year.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

B. The *Senate* bill provides that if the Secretary establishes a set-aside of cropland, then as a condition of eligibility for loans, purchases, and payments, producers must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the cropland planted to wheat in the preceding year.

The *House* amendment provides that if a set-aside is in effect, then as a condition of eligibility for loans, purchases, and payments, producers must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the acreage planted to wheat in the preceding year, as adjusted, or in the current year.

The *Conference* substitute adopts the *House* amendment with an amendment (1) providing for the set-aside to be based on a specified percentage of the acreage planted to wheat in the current year and (2) authorizing the Secretary to make adjustments in individual set-aside acreages to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, and other factors he deems necessary.

C. The *Senate* bill authorizes the Secretary, as a condition of any wheat set-aside program, to limit the acreage planted in wheat.

The *House* amendment authorizes the Secretary to limit the acreage planted to wheat to a percentage of the planted acreage in the previous crop year and requires the limitation to be applied on a uniform basis to all wheat producing farms. Section 912 of the *House* amendment also authorizes the Secretary as a condition of eligibility for loans, purchases and payments, if a wheat set-aside is in effect, to require that acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion.

The *Conference* substitute adopts the *Senate* provision and section 912 of the *House* amendment (section 1001 of the *Conference* substitute).

D. The *House* amendment requires the set-aside to be announced by August 15 for the next year's crop.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, with an amendment to provide that the announcement for the 1978 crop shall be made as soon as practicable after enactment of the bill.

(12) Use of Set-Aside Wheat Acreage (Sec. 402)

The *Senate* bill authorizes the Secretary to permit producers to graze or harvest hay from the wheat set-aside.

The *House* amendment retains provisions of current law under which the Secretary would, in addition, be required to permit planting or grazing of sweet sorghum and be authorized to permit grazing or planting of other commodities if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

The *Conference* substitute adopts the *House* amendment with an amendment authorizing the Secretary to permit, subject to such terms and conditions as he may prescribe (such as an adjustment in the payment rate), all or any of the set-aside to be devoted to sweet sorghum, haying or grazing or the production of specified crops if he makes the determinations provided for in the *House* amendment. (Comparable provisions apply to feed grains, upland cotton, and rice.)

(13) Wheat Acreage Diversion Payments (Sec. 402)

The Senate bill provides that the Secretary is authorized to make land diversion payments for the 1978 through 1982 crops in accordance with land diversion contracts whether or not a wheat set-aside is in effect. The amounts payable under the contracts may be determined through a bid procedure, or through such other means as the Secretary deems appropriate.

The *House* amendment extends current law under which the Secretary is authorized to make land diversion payments to producers who devote to approved conservation uses an acreage of cropland in addition to acreage otherwise required to be set aside. The land diversion payments are to be set at such rates as the Secretary determines to be fair and reasonable.

The *Conference* substitute adopts the *Senate* provision for the 1978 through 1981 crops

(14) Protection of Set-Aside Wheat Acreage (Sec. 402)

A. The *Senate* bill requires that the set-aside acreage be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of set-aside acreage from wind and water erosion.

The *House* amendment extends through 1981 the authority for the Secretary to require that producers take the necessary measures to protect the set-aside acreage and diverted acreage from erosion, insects, weeds, and rodents.

The *Conference* substitute adopts the *Senate* provision with an amendment to require protection of the set-aside acreage from weeds.

B. The *House* amendment authorizes the Secretary to make aditional payments to producers who permit, without other compensation, public access to all or part of their farm, for recreational purposes. The *House* amendment also authorizes cost-share payments for wildlife practices.

The *Senate* bill contains a related provision under which the Secretary may enter into public access contracts with any producer.

The *Conference* substitute adopts the *House* amendment.

(15) Extension of Allotment Provision

Section 378 and section 379 of the Agricultural Adjustment Act of 1938 set out provisions relating to the reestablishment and transfer of allotments in connection with eminent domain and the reconstitution of farms, respectively. The *House* amendment extends the applicability of these sections to wheat allotments through the 1981 crop

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(16) CCC Sales Price Restrictions for Wheat and Feed Grains (Sec. 408)

The *Senate* bill extends through 1982 section 407 of the Agricultural Act of 1949, as amended, for the 1971 and later crops, which requires that CCC stocks of wheat, corn, grain sorghum, barley, oats, and rye not be sold at less than 115 percent of the current national average loan rate, excepting certain sales and dispositions of such stocks. The *Senate* bill provides that whenever the extended loan program authorized by the bill (grain reserves) is in effect, a different sales price restriction shall apply.

The *House* amendment contains two sections—one relating to extended loans and the other to reserves—both of which would require that wheat, corn, barley, rye, oats, or sorghum owned or controlled by the CCC not be sold for less than 150 percent of the current loan level, except for sales of commodities which are deteriorated or in danger of deterioration, dispositions in acute distress areas and in areas of major disaster, dispositions under the Act of September 21, 1959, to provide livestock feed in emergency areas, and under section 813 of the Agricultural Act of 1970, which provides for a disaster reserve of CCC-acquired inventories.

The *Conference* substitute adopts the *Senate* provision through 1981.

(17) Cost of Production (Sec. 402)

The *Senate* bill requires the Secretary to determine for each of the 1979 through 1982 crops of wheat, corn, and upland cotton the cost of production based upon charges for direct or variable costs, overhead costs, management costs, and a charge for land based on a composite using share rent, cash rent, and average acquisition value. These criteria are used in the establishment of loan and payment rates. The *Senate* bill also provides that yields used in determining per unit costs shall be based on the most recent five-year weighted national average harvested yields for wheat and cotton and the most recent five-year weighted national average yields of corn harvested for grain.

The *House* amendment provides that the target price for the 1979–1981 crops of wheat would be adjusted to reflect changes in variable costs, machinery ownership costs, and an allocation of general farm overhead costs, in the past two years as compared with the two-year period immediately preceding the year previous to the one for which the determination is made.

The *Conference* substitute adopts the *House* amendment.

(18) International Agreement on Wheat Prices

The *Senate* bill provides that it is the sense of Congress that the President continue to negotiate agreements with major exporting and importing countries to establish a mutual minimum world price for wheat at no less than the cost of production in the United States, adjusted to reflect transportation costs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

TITLE V—FEED GRAINS

(1) Period of Program

Generally, the *Senate* bill extends and amends the feed grain provisions through the 1982 crop, while the *House* amendment extends and amends the provisions through the 1981 crop.

The *Conference* substitute adopts the *House* amendment.

(2) Feed Grain Loan Rate and Target Price (Sec. 501)

A. The *Senate* bill leaves unchanged current provisions of law regarding the 1977 crop corn loan and purchase level at present set by the Secretary of Agriculture at $1.75 per bushel. The bill provides a minimum loan and purchase level for the 1978 crop of $2 per bushel and 85 percent of the cost of production for the 1979 through 1982 crops.

The *House* amendment provides for a corn loan and purchase level of not less than $2.00 per bushel for each of the 1977 through 1981 crops, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

The *Conference* substitute adopts the *House* amendment.

B. The *House* amendment provides that if the average price received by corn producers in any marketing year is not more than 105 percent of the corn loan level the Secretary will reduce the corn loan level in the next marketing year as necessary to maintain domestic and export markets for grain.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment to provide that (1) the reduction in the corn loan level is discretionary with the Secretary, (2) the reduction cannot exceed 10 percent in any year, and (3) the loan level cannot be reduced below $1.75 per bushel. It is in-

tended by the *Conferees* that if a reduction is made in the loan level for any year, the minimum loan level would "snap back" to $2.00 per bushel in the succeeding year unless the average price received by producers in the preceding year is not more than 105 percent of the loan level for that year resulting from the reduction.

(2a) Feed Grain Deficiency Payment (Sec. 501)

A. The *Senate* bill authorizes the Secretary to make producers of barley eligible for target price payments.

The *House* amendment authorizes the Secretary to make producers of oats and barley eligible for such payments.

The *Conference* substitute adopts the *House* amendment. Both the *Senate* bill and the *House* amendment provide for the payment rate for feed grains other than corn to be established at such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The target prices for corn are established under the Act at such rate as to cover certain components of the cost of production. The *Conferees* consider that if target prices for the other feed grains are established using the same components of the cost of production, such target prices would be fair and reasonable in relation to the rate at which payments are made available for corn.

B. The *Senate* bill provides that the deficiency rate for corn would be based upon the established price per bushel (which would equal the cost of production). The cost of production for the 1978 crop would be set at $2.28 per bushel, with the cost of production for the 1979 through 1982 crops to be determined by the Secretary.

The *House* amendment provides that the deficiency payment rate for corn would be based upon the target price per bushel. The target price for the 1977 crop would be $2.00 per bushel. $2.10 per bushel for the 1978 crop, and for the 1979 through 1981 crops the target price would be the target price for the previous year's crop adjusted to reflect any change in the average adjusted cost of production for the immediately preceding two years from the average adjusted cost of production for the prior two-year period.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill provides that the total amount of deficiency payments would be determined by multiplying the payment rate times the *farm program acreage* for feed grains times the *payment yield*.

The *House* amendment provides that the total amount of deficiency payments would be determined by multiplying the payment rate times the *farm acreage allotment* times the *farm yield for the preceding crop* adjusted by the Secretary to provide a fair and equitable yield.

The *Conference* substitute adopts the *Senate* provision with respect to the 1978 through 1981 crops.

D. The *House* amendment provides that if the Secretary adjusts the corn loan level because corn producers are receiving not more than 105 percent of the corn loan level, he shall provide emergency compensation by increasing the corn target price to provide the same return to producers as if adjustments in the loan level had not been made. The increase in target prices would not be subject to the payment limitation.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment and clarifies its provisions by making explicit that adjustments will be made in target price *payments* and that such increases in target price payments (rather than target prices) would not be subject to the payment limitation.

E. The *Senate* bill authorizes the Secretary to designate a payment rate for barley.

The *House* amendment authorizes the Secretary to designate a payment rate for oats and barley.

The *Conference* substitute adopts the *House* amendment. While the provision authorizes the Secretary to designate a payment rate for oats for the 1977 crop as well as for the 1978 through 1981 crops, the *Conferees* do not anticipate that the Secretary will make use of this authority for the 1977 crop of oats.

(3) 1977 Feed Grain Deficiency Payments (Sec. 501)

The *House* amendment provides that deficiency payments for the 1977 crop would be made on the farm allotment *but* in no event on a greater acreage than the acreage actually planted to feed grains.

The *Senate* bill continues existing law under which deficiency payments would be made on the farm allotment.

The *Conference* substitute provides that deficiency payments would be made on the farm allotment. However, the target price for any acreage within the allotment not actually planted to feed grains would be the target price established under existing law. In the case of corn, such target price would be $1.70 per bushel instead of $2.00, the target price otherwise applicable to the 1977 crop of corn as provided in the *Conference* substitute.

(4) Prevented Planting Disaster Payments for the 1978 and 1979 crops of Feed Grains (Sec. 501)

The *Senate* bill provides for prevented planting disaster payments for the 1978 and 1979 crops of feed grains on the smaller of (1) the acreage intended to be planted to feed grains or (2) the acreage planted for harvest in the preceding year. Payments would be made at a rate determined by multiplying 75 percent of the farm program yield times *33⅓ percent* of the established price.

The *House* amendment provides for prevented planting disaster payments for such crops on the smaller of (1) the acreage intended to be planted to feed grains or (2) the average acreage planted to feed grains for harvest in the immediately *three* preceding years. Payments would be made at a rate determined by multiplying 75 percent of farm yield established for the current year times *20 percent of the target price.*

The *Conference* substitute adopts the *Senate* provision.

(5) Low Yield Disaster Payments—Feed Grains (Sec. 501)

1978 AND 1979 CROPS

A. The *Senate* bill provides that low yield disaster payments for the 1978 and 1979 crops of feed grains will be made in the total quantity of fed grains harvested is less than the result of multiplying *75 percent* of the farm program yield times the acreage planted to harvest. Payments would be made at a rate equal to *33⅓ percent* of the established price for the deficiency in production below 75 percent.

The *House* amendment provides that low yield disaster payments for such crops will be made if the total quantity of feed grains harvested is less than the result of multiplying *50 percent* of the projected yield established for the farm for the current year times the acreage planted to harvest. Payments would be made at a rate equal to *80 percent* of the target price for the deficiency in production below 50 percent of the established yield on the acreage planted to harvest.

The *Conference* substitute provides that low yield payments would be made at a rate equal to 50 percent of the target price for the deficiency in production below 60 percent of the farm program yield times the acreage planted to harvest.

1977 CROP

B. The *House* amendment provides that for the 1977 crop of feed grains low yield disaster payments shall be made as provided in the *House* amendment for the 1978 and 1979 crops of fed grains, but such payments shall not be made prior to October 1, 1977. Also, if producers have received low yield disaster payments for the 1977 crop under existing law prior to October 1, 1977, they may retain the payments and, if the payments are less than they would receive under this amendment, the Secretary would be required to pay them any additional amount they would be entitled to under this amendment.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment making it clear that any producer could elect to receive low yield disaster payments for the 1977 crop on the basis of the formula provided under existing law. Producers who elect to receive payments under the amendment—and who have already received payments under existing law—could, of course, retain the payments they have received and be paid any additional amount they are entitled to under the amendment.

(6) National Program Acreage (Sec. 502)

The *Senate* bill provides that if deficiency payments are required, the Secretary shall determine a national program acreage.

The *House* amendment provides for a national feed grain acreage allotment, such allotment to be proclaimed by November 15 of each calendar year for the following year's crop.

The *Conference* substitute adopts the *House* amendment except that the term "national program acreage" is used in lieu of "national feed grain allotment" throughout the bill.

(7) Feed Grain Program Allocation Factor (Sec. 502)

The *Senate* bill provides that the Secretary shall determine a program allocation factor by dividing the national program acreage by the number of acres the Secretary estimates will be harvested. The allocation factor could not be less than 90, nor more than 100, percent.

The *House* amendment provides for an allocation factor to be determined by dividing the national acreage allotment by the number of harvested acres each year, or in such previous years as determined by the Secretary. The allocation factor could not be less than 80, nor more than 100, percent of the acreage of feed grains harvested on the farm during the current year.

The *Conference* substitute adopts the *House* amendment, except that it provides for the allocation factor to be based on the acreage harvested in the current year, as in the *Senate* provision. The Secretary could revise the national program acreage proclaimed by November 15 at a later date to reflect more current information for the purpose of calculating the feed grain program allocation factor used in making payments to producers. Any such revised national program acreage would not, however, affect the Secretary's obligation to make payments on a producer's entire planted acreage if the producer voluntarily reduced his plantings based on the original proclamation.

The *Conferees* understand that a national program acreage and allocation factor could be determined on an individual feed grain crop basis (i.e., separate national program acreages for corn, grain sorghums, and, if designated by the Secretary, barley and oats, based upon the estimated domestic and export utilization of each). Likewise, because supplies of each of these feed grains may differ in relation to estimated demand, the Secretary would have discretionary authority to determine the need for a set-aside and the extent of such set-aside individually for

each of the feed grains. Thus, a different level of set-aside could be determined for corn than for grain sorghums, and, if designated by the Secretary, barley and oats.

(8) Feed Grain Individual Farm Program Acreage (Sec. 502)

A. The *Senate* bill provides that the individual farm program acreage for feed grains shall be determined by multiplying the allocation factor by the feed grain acreage planted for harvest on the farms for which individual farm program acreages are required.

The *House* amendment provides that the farm acreage allotment for feed grains shall be determined by multiplying the allocation factor by the feed grain acreage harvested on the farm during the current year, or in such previous years as determined by the Secretary. The *House* amendment specifies that acreage will be considered harvested if it was planted but not harvested because of drought, flood, or other disaster or condition beyond the producer's control.

The *Conference* substitute adopts the *Senate* provision.

B. The *House* amendment provides that if producers voluntarily reduce their planted acreage from their previous year's planted acreage based on the annual announcement of the national feed grain acreage allotment, or comply with the set-aside, if one is in effect, they would receive target price payments on 100 percent of the harvested feed grain acreage. The Secretary is required to provide equitable treatment to producers on farms where the planted feed grain acreage is less than for the preceding year but not sufficient to exempt them from the allocation factor.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but deletes the provision that would extend the guarantee to producers who comply with the set-aside program, if one is in effect for feed grains.

(9) Feed Grain Farm Program Payment Yield (Sec. 502)

The *Senate* bill provides for a farm program payment yield based upon the yield established for the farm for the previous crop year. If no payment yield for feed grains was established for the farm for the previous crop year, as adjusted, the Secretary would be authorized to determine such yield as he finds fair and reasonable. Notwithstanding the foregoing provisions, the Secretary would be required to take into account actual yields in determining yields. The Secretary would also be authorized to establish national, State, or county program payment yields, if necessary, on the basis of historical yields, as adjusted. If national, State, or county yields are established, the farm program payment yields shall balance to them.

The *House* amendment bases payments, instead, on the yield established for the farm for the preceding crop with adjustments deemed necessary by the Secretary.

The *Conference* substitute adopts the *Senate* provision, but provides that the farm program yield established on the basis of actual yields shall not be reduced under other provisions of the subsection.

(10) Feed Grain Set-Aside (Sec. 502)

A. The *Senate* bill provides that if the Secretary establishes a set-aside of cropland, then as a condition of eligibility for loans, purchases, or payments, producers must set-aside and devote to approved conservation uses an acreage of cropland equal to a specified percentage of the acreage planted to feed grains in the preceding year.

The *House* amendment provides that if a set-aside is in effect, then as a condition of eligibility for loans, purchases, and payments producers must set-aside an acreage of cropland equal to a specified percentage of the acreage planted to feed grains in the preceding crop year, as adjusted, or in the current crop year.

The *Conference* substitute adopts the *House* amendment with an amendment providing for the set-aside to be based on a specified percentage of the acreage planted to feed grains in the current crop year. The *Conference* substitute also adopts a provision contained elsewhere in the *House* amendment which authorizes the Secretary to make adjustments in individual set-aside acreages to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, and other factors he deems necessary. Finally, the *Conference* substitute includes oats as one of the feed grains which the Secretary is authorized to include in the feed grain set-aside in view of the provision adopted from the *House* amendment providing authority for a payment rate to be established for oats. In implementing any set-aside program for feed grains (or wheat or other commodities), the *Conferees* expect that the Secretary will prescribe terms and conditions that recognize regional differences and meet overall agricultural needs.

B. The *House* amendment requires the set-aside to be proclaimed by November 15 for the next year's crop.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill authorizes the Secretary to limit the acreage planted to feed grains.

The *House* amendment authorizes the Secretary to limit the acreage planted to feed grains to a percentage of the planted acreage in the previous crop year and requires the limitation to be applied on a uniform basis to all feed grain producing farms. Section 912 of the *House* amendment also authorizes the Secretary as a condition of eligibility for loans, purchases and payments, if a feed grain set-aside is in effect, to require that acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion.

The *Conference* substitute adopts the *Senate* provision and section 912 of the *House* amendment (section 1001 of the *Conference* substitute).

D. The *Senate* bill authorizes the Secretary to permit producers to graze or harvest hay from set-aside acreage.

The *House* amendment retains provisions of current law under which the Secretary would, in addition, be required to permit planting or grazing of sweet sorghum and be authorized to permit grazing or planting of other commodities if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

The *Conference* substitute adopts the *House* amendment with an amendment authorizing the Secretary to permit, subject to such terms and conditions as he may prescribe (such as an adjustment in the payment rate), all or any of the set-aside to be devoted to sweet sorghum, haying or grazing or the production of specified crops if he makes the determinations provided for in the *House* amendment. (Comparable provisions apply to wheat, upland cotton, and rice.)

(11) Land Diversion Payments (Sec. 502)

The *Senate* bill authorizes the Secretary to make land diversion payments for the 1978 through 1982 crops in accordance with land diversion contracts whether or not a set-aside is in effect. The amounts payable would be determined by a bid procedure, or through such other means as the Secretary deems appropriate.

The *House* amendment retains for the 1978 through 1981 crops the provisions of current law authorizing the Secretary to make diversion payments to producers who devote to approved conservation uses an acreage of cropland in addition to acreage otherwise required to be set aside. The land diversion payments are to be set at such rates as the Secretary determines to be fair and reasonable.

The *Conference* substitute adopts the *Senate* provision for the 1978 through 1981 crops.

(12) Protection of Set-Aside Acreage (Sec. 502)

A. The *Senate* bill requires that the set-side acreage be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of set-aside acreage from wind and water erosion.

The *House* amendment extends through 1981 the authority for the Secretary to require that producers take necessary measures to protect the set-aside acreage and diverted acreage from erosion, insects, weeds, and rodents.

The *Conference* substitute adopts the *Senate* provision with an amendment to require protection of the set-aside acreage from weeds.

B. The *House* amendment authorizes the Secretary to make additional payments to producers who permit, without other compensation, public access to all or part of their farms, for recreational purposes. The *House* amendment also authorizes cost-share payments for wildlife practices.

The *Senate* bill contains a related provision under which the Secretary may enter into public access contracts with any producer.

The *Conference* substitute adopts the *House* amendment.

TITLE VI—COTTON

(1) Period of Program

Generally, the *Senate* bill extends and amends the cotton provisions through the 1982 crop, while the *House* amendment extends and amends the provisions through the 1981 crop.

The *Conference* substitute adopts the *House* amendment.

(2) Cotton Deficiency Payments (Sec. 602)

A. The *Senate* bill provides that deficiency payments for cotton would be made at a rate based upon the established price per pound. The established price per pound for the 1978 crop would be 51.1 cents per pound; the established price per pound for the 1979 through 1982 crops would equal the cost of production, as determined by the Secretary of Agriculture in accordance with new section 411 of the Agricultural Act of 1970 added by the *Senate* bill.

The *House* amendment also provides that deficiency payments would be made at a rate based upon the established price per pound. The established price per pound would equal 110 percent of the loan level for such crop, but in no event could the established price be less than 51.0 cents per pound.

The *Conference* substitute adopts the *Senate* provision with an amendment to provide that the established price shall be the established price for the previous year's crop adjusted on the same basis as the target prices for wheat, feed grains, and rice. The adjustment would reflect any change in the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. In no event shall the established price be less than 52 cents per pound for the 1978 crop and 51 cents per pound for each subsequent crop.

B. The *Senate* bill provides that the total quantity on which deficiency payments for cotton would otherwise be made shall be re-

duced by the quantity on which any low yield payments are made.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(3) Disaster Payments (Sec. 602)

The *Senate* bill provides for disaster payments on the 1978 and 1979 crops, while the *House* amendment provides for such payments for the four year period 1978 through 1981.

The *Conference* substitute adopts the *Senate* provision.

(4) Cotton Deficiency Payments—Small Farmers

The *House* amendment provides that the deficiency payment rate for small cotton farmers shall be increased by 30 percent.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(5) Cotton National Program Acreage (Sec. 602)

A. The *House* amendment provides that the national program acreage for cotton shall be announced by December 15 of the calendar year preceding the year for which such acreage is established.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill provides that the Secretary may adjust the national program acreage by such amount as he determines necessary to provide for a desired increase or decrease in carryover stocks.

The *House* amendment provides that the Secretary may adjust the national program acreage in order to provide for an adequate, but not excessive, total supply of cotton; but, in no event, shall the national program acreage be less than 10 million acres.

The *Conference* substitute adopts the *House* amendment.

(6) Cotton Program Acreage Allocation Factor (Sec. 602)

The *Senate* bill provides that the program allocation factor for cotton cannot be less than 90, nor more than 100, percent.

The *House* amendment provides that the program allocation factor for cotton cannot be more than 100 percent.

The *Conference* substitute adopts the *House* amendment. The Secretary could revise the national program acreage announced by December 15 at a later date to reflect more current information for the purpose of calculating the program allocation factor used in making payments to producers. Any such revised national program acreage would not, however, affect the Secretary's obligation to make payments on a producer's entire planted acreage if the producer voluntarily reduced his plantings based on the original announcement.

(7) Cotton Individual Farm Program Acreage (Sec. 602)

The *House* amendment provides that the cotton acreage eligible for payment shall not be further reduced by the allocation factor if producers had reduced the planted acreage from the previous year by the percentage recommended by the Secretary in announcing the national program acreage. The Secretary would be required to provide fair and equitable treatment for producers on farms on which the acreage planted to cotton is less than the preceding year but on which the reduction is insufficient to exempt the farms from the allocation factor. The Secretary is also authorized, in establishing the allocation factor, to make adjustments to take into account the exemption of farms from such allocation factor.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(8) Cotton Farm Program Payment Yield (Sec. 602)

A. The *Senate* bill provides that the farm program payment yield for each crop shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide for a fair and equitable yield. If no payment yield for cotton has been established for the farm in the previous crop year, the Secretary would be authorized to determine such yield as he found to be fair and reasonable. The Secretary would be required, notwithstanding these provisions, to take into account the actual yields proved by the producer.

The *House* amendment provides that the farm program payment yield shall be determined on the basis of the actual yield per harvested acre for the three preceding years, adjusted for abnormal yields caused by adverse conditions. If farm yield data are not available or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area.

The *Conference* substitute adopts the *House* amendment with an amendment from the *Senate* provision that the Secretary shall take into account actual yields proved by the producer. In such event, neither such yields nor the farm program yield established on the basis of such yields shall be reduced under other provisions of the paragraph.

B. The *Senate* bill provides that the Secretary could, if he determined it necessary, establish National, State, or county program payment yields on the basis of historical yields, as adjusted. In the event National, State, or county yields are established, the farm program payment yields shall have to balance to them.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(9) Cotton Set-Aside (Sec. 602)

The *Senate* bill provides that if a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments, producers must set-aside and devote to conservation uses an acreage of cropland equal to a specified percentage as determined by the Secretary of the acreage planted to cotton (including any set-aside or diverted acreage) in the preceding year, as adjusted for abnormal factors.

The *House* amendment provides that producers must set-aside and devote to conservation uses, an acreage of cropland equal to a specified percentage as determined by the Secretary (but not to exceed 28 percent) of the acreage planted to cotton on the farm in the year for which the set-aside is established.

The *Conference* substitute adopts the *House* amendment.

(10) Limiting Acreage Planted (Sec. 602)

The *Senate* bill generally authorizes the Secretary to limit the acreage planted to cotton.

The *House* amendment authorizes the Secretary to limit the acreage planted to cotton by establishing a factor which shall be multiplied by the highest acreage planted to cotton on the farm (including any acreage not planted because of adverse conditions) in any one of the preceding five years. Such limitation is to be applied uniformly to all cotton producing farms. Section 912 of the *House* amendment also authorizes the Secretary as a condition of eligibility for loans, purchases and payments, if a cotton set-aside is in effect, to require that acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion.

The *Conference* substitute adopts the *Senate* provision and section 912 of the *House* amendment (section 1001 of the *Conference* substitute).

(11) Use of Set-Aside Cotton Acreage (Sec. 602)

The *Senate* bill authorizes the Secretary to permit haying or grazing on the set-aside acreage.

The *House* amendment would also permit haying or grazing and allow the planting of certain other designated crops on the set-aside acreage, subject to such terms and conditions as the Secretary may prescribe, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

The *Conference* substitute adopts the *House* amendment with the understanding that the Secretary could provide for an adjustment in payments made under the program as a condition for permitting such use of the cotton set-aside.

(12) Planting Cotton in Excess of Permitted Acreage (Sec. 602)

The *House* amendment provides that producers who knowingly exceed the permitted cotton acreage on the farm shall be ineligible for cotton loans or payments for that farm.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(13) Cotton Acreage Diversion Payments (Sec. 602)

The *Senate* bill provides that the Secretary is authorized to make land diversion payments, whether or not a set-aside is in effect, to producers who devote cotton acreage to approved conservation uses on the basis of land diversion contracts. The amounts payable under such contracts could be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe, or through other means as the Secretary deems appropriate.

The *House* amendment extends current law through 1981 which provides that the Secretary is authorized to make land diversion payments, to producers who devote to approved conservation uses an acreage of cropland in addition to the cropland required to be set aside. The land diversion payments are to be at such rates as the Secretary determines to be fair and reasonable.

The *Conference* substitute adopts the *Senate* provision.

(14) Public Access Payments (Sec. 602)

The *House* amendment authorizes the Secretary to make additional payments to producers who permit, without other compensation, public access to all or part of their farm, for recreational purposes. The *House* amendment also authorizes cost-share payments for wildlife practices.

The *Senate* bill contains a related provision under which the Secretary may enter into public access contracts with any producer.

The *Conference* substitute adopts the *House* amendment.

(15) CCC Sales Price Restriction for Cotton (Sec. 603)

The *Senate* bill provides that the Commodity Credit Corporation shall sell (during the period August 1, 1978, to July 31, 1983) any of its stocks of upland cotton for unrestricted use at the same prices it sells cotton for export, but in no event at less than *115* percent of the loan rate for

Strict Low Middling one and one-sixteenth inch upland cotton (with adjustments as provided under existing law) plus reasonable carrying charges.

The *House* amendment extends through July 31, 1982, the provisions of current law whereby CCC is required to sell upland cotton for unrestricted use at the same prices it sells cotton for export, but in no event at less than *110* percent of the loan rate for *Middling one-inch* upland cotton (with adjustments) plus reasonable carrying charges.

The *Conference* substitute adopts the *Senate* provision through July 31, 1982.

(16) Inclusion of Cotton Allotments in Section 379 of the 1938 Act

The *House* amendment extends through the 1981 crop the provisions of section 605 of the Agricultural Act of 1970, as amended, which include farm base acreage allotments for upland cotton under the term "acreage allotments" as used in section 379 of the Agricultural Adjustment Act of 1938.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(17) Suspension of Support Provisions Relating to Cottonseed and Soybeans (Sec. 604)

The *Senate* bill extends through the 1982 crop section 608 of the Agricultural Act of 1970, as amended, which makes inapplicable section 203 of the Agricultural Act of 1949, as amended, relating to price support on cottonseed and soybeans.

The *House* amendment provides for an extension of this section through the 1981 crop.

The *Conference* substitute adopts the *House* amendment.

(18) Reconstitution of Farms (Sec. 606)

The *Senate* bill provides that the provisions of section 379 of the Agricultural Adjustment Act of 1938 relating to the reconstitution of farms shall remain applicable (for reconstitution purposes) for the 1977 acreage allotments for wheat, feed grains, and upland cotton, and that the adjusted 1977 permanent allotments for those crops shall again become effective as preliminary allotments for the 1983 crops.

The *House* amendment provides that the adjusted permanent allotments for the 1977 crop of upland cotton shall be the preliminary allotments for the 1982 crop.

The *Conference* substitute adopts the *House* amendment. (It is assumed by the *Conferees* that the Department would handle acreage allotments for wheat in a similar manner.)

(19) Transfer of Acreage Allotments on State Farms

The *House* amendment extends through the 1981 crops the amendment to section 706 of Public Law 89-321, which permits the transfer of acreage allotments on State farms, providing that the term "acreage allotments" as used therein shall include the farm base acreage allotments for upland cotton.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(20) Extra Long Staple Cotton (Sec. 607)

The *House* amendment amends section 101 (f) of the Agricultural Act of 1949, which provides that loans shall be available for extra long staple cotton at a level related to the loan rate for upland cotton, by deleting "Middling one-inch" as such term applies therein to upland cotton and inserting in lieu thereof "Strict Low Middling one and one-sixteenth inch".

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

TITLE VII—RICE

(1) Period of Program

Generally, the *Senate* bill extends and amends the rice provisions through the 1982 crop, while the *House* amendment extends and amends the provisions through 1981.

The *Conference* substitute adopts the *House* amendment.

(2) Rice Target Price Adjustment (Sec. 702)

The *Senate* bill provides that the target price shall be adjusted annually to reflect any changes in the index of prices paid by farmers during the previous 12-month period and may be further adjusted for changes in yields during the previous 3 years.

The *House* amendment provides that the target price for each crop shall be the previous year's target price adjusted to reflect changes in the cost of production in the 2-year period ending in the year previous to the current year as compared to the 2-year period ending in the year immediately preceding the year previous to the current year. Cost of production would be limited to variable costs, machinery costs, and general farm overhead costs allocated to rice.

The *Conference* substitute adopts the *House* amendment.

(3) Rice Loan Rate Adjustment (Sec. 702)

The *House* amendment provides that if the Secretary of Agriculture determines that loans and purchases at the formula rate would substantially discourage the exportation of rice and result in excessive stocks in the United States, he may establish loans and purchases for such crops at such level, not less than $6.31 per hundredweight nor more than the parity price, as he determines necessary to avoid such consequences.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(4) Rice Deficiency Payments (Sec. 702)

The *Senate* bill provides that, with respect to the 1978 through 1982 crops of rice, deficiency payments shall be made only on that portion of the allotment planted to rice.

The *House* amendment has a similar provision, which would apply through the 1981 crop of rice, but makes two exceptions. It provides that payments for the entire allotment shall be made to cooperators planting no less than 90 percent of the allotment; and that any acreage which the Secretary determines was not planted to rice because of drought, flood, or other natural disaster, or a condition beyond the control of the producer shall be considered as acreage planted to rice.

The *Conference* substitute adopts the *Senate* provision, and the second exception contained in the *House* amendment.

(5) Rice Disaster Payments—Prevented Planting (Sec. 702)

The *Senate* bill provides for prevented planting disaster payments at 33⅓ percent of the established price.

The *House* amendment extends existing law providing for such payments at the larger of the deficiency payment rate or 33⅓ percent of the established price.

The *Conference* substitute adopts the *Senate* provision.

(6) Rice Disaster Payments—Low Yields (Sec. 702)

The *Senate* bill provides for low yield disaster payments if there is a deficiency in production on the allotted acres below 75 percent of the yield at a rate equal to ⅓ of the target price for the deficiency below 75 percent.

The *House* amendment extends current law which provides for such payments if production for the entire farm is less than 66⅔ percent of the farm acreage allotment times the yield established for the farm. Payments would be made on the deficiency below 100 percent at the larger of the deficiency payment rate or ⅓ of the target price.

The *Conference* substitute adopts the *Senate* provision.

(7) Rice Set-Aside (Sec. 702)

A. The *Senate* bill provides for a mandatory set-aside program if the Secretary determines that the total supply of rice will likely be excessive. The set-aside acreage shall be devoted to conservation uses.

The *House* amendment extends current law which provides for a non-mandatory set-aside program if the Secretary estimates that the carryover of rice at the end of the marketing year for the current crop will exceed 15 percent of the total supply for the previous marketing year. The Secretary must make a final determination on the need for a set-aside by April 1 of the year in which the crop will be grown, and the determinations and the estimates on which they are based are to be published in the Federal Register.

The *Conference* substitute adopts the *Senate* provision.

B. The *Senate* bill provides that to be eligible for loans, purchases, and payments under the rice program, producers must set aside an acreage of cropland equal to the percentage of the allotment specified by the Secretary.

The *House* amendment extends current law which has provisions similar to those of the *Senate* bill, except that: (1) the percentage to be set aside cannot exceed 30 percent, and (2) the Secretary can require the set-aside of cropland which in preceding years was devoted to conserving uses, in addition to the set-aside of the percentage of rice allotment.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill would authorize the Secretary to limit the acreage planted to rice.

Section 912 of the *House* amendment authorizes the Secretary as a condition of eligibility for loans, purchases, and payments, if a rice set-aside is in effect, to require that acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion.

The *Conference* substitute adopts the *House* amendment (section 1001 of the *Conference* substitute).

D. The *Senate* bill requires that cooperators be permitted to graze or harvest hay on set-aside acreage.

The *House* amendment would authorize the Secretary to permit haying and grazing on the set-aside acreage or the production of certain specified commodities, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

The *Conference* substitute adopts the *House* amendment with an amendment authorizing the Secretary to permit, subject to such terms and conditions as he may prescribe (such as an adjustment in the payment rate), all or any of the set-aside to be devoted to sweet sorghum, haying or grazing or the production of specified crops if he makes the determinations provided for in the *House* amendment. (Comparable provisions apply to wheat, feed grains, and upland cotton.)

(8) Rice Acreage Diversion Payments (Sec. 702)

The *Senate* bill provides that the Secretary is authorized to make land diversion payments for the 1978 through 1982 crops in accordance with land diversion contracts whether or not a rice set-aside is in effect. The amounts payable under the contracts

may be determined through a bid procedure, or through such other means as the Secretary deems appropriate.

The *House* amendment extends current law under which the Secretary is authorized to make land diversion payments to producers who devote to approved conservation uses an acreage of cropland in addition to acreage otherwise required to be set aside. The land diversion payments are to be set at such rates as the Secretary determines to be fair and reasonable.

The *Conference* substitute adopts the *Senate* provision.

(9) Protection of Set-Aside Acreage (Sec. 702)

A. The *Senate* bill requires that the set-aside acreage be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of set-aside acreage from wind and water erosion.

The *House* amendment extends through 1981 the authority for the Secretary to require that producers take necessary measures to protect the set-aside acreage and diverted acreage from erosion, insects, weeds, and rodents.

The *Conference* substitute adopts the *Senate* provision but adds a requirement from the *House* amendment to assure protection of the set-aside acreage from weeds.

B. The *House* amendment authorizes the Secretary to make additional payments to producers who permit, without other compensation, public access to all or part of their farm, for recreational purposes. The *House* amendment also authorizes cost-share payments for wildlife practices.

The *Senate* bill contains a related provision under which the Secretary may enter into public access contracts with any producer.

The *Conference* substitute adopts the *House* amendment.

TITLE VIII—PEANUTS

(1) Period of Program

The *Senate* bill applies to the 1978 through 1982 crop of peanuts, while the *House* amendment applies to the 1978 through 1981 crops of peanuts.

The *Conference* substitute adopts the *House* amendment.

(2) New Mexico Peanut Acreage Allotment (Sec. 801)

The *Senate* bill provides that the 1977 acreage allotment for New Mexico, increased by 4,000 acres as a result of a short supply determination by the Secretary of Agriculture, shall be the minimum for that State.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(3) National Acreage Allotment for Peanuts (Sec. 802)

The *Senate* bill provides for a minimum national acreage allotment of 1,614,000 acres, for the 1978 through 1982 crops.

The *House* amendment provides for a minimum national acreage allotment of 1,610,000 acres for the 1978 through 1981 crops.

The *Conference* substitute adopts the *Senate* provision for the 1978 through 1981 crops.

(4) Peanut Minimum National Poundage Quota (Sec. 802)

The *Senate* bill specifies minimum national poundage quotas for peanuts for the 1978 through 1982 crops, including a quota of 1,440,000 tons in 1982.

The *House* amendment specifies the same poundage quotas for the 1978 through 1981 crops, but sets no quota for 1982.

The *Conference* substitute adopts the *House* amendment.

TITLE IX—SOYBEANS AND SUGAR

SOYBEAN PRICE SUPPORT PROGRAM

(1) Period of Mandatory Price Support (Sec. 901)

The *Senate* bill amends the Agricultural Act of 1949 to require soybean price support for the 1978 through 1982 crops.

The *House* amendment amends the Agricultural Act of 1949 to require soybean price support as a permanent provision of law.

The *Conference* substitute adopts the *Senate* provision for the 1978 through 1981 crops.

(2) Minimum Level of Price Support (Sec. 901)

The *Senate* bill provides that the Secretary of Agriculture shall make available loans and purchases at not less than $4 per bushel.

The *House* amendment specifies no floor on the level of price support.

The *Conference* substitute adopts the *House* amendment.

(3) Prohibition on Set-Aside Program for Soybeans (Sec. 901)

The *House* amendment provides that, notwithstanding section 912 of the *House* amendment (section 1001 of the *Conference* substitute), the Secretary may not require a set-aside of soybeans as a condition of eligibility for price support for any commodity.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

SUGAR PRICE SUPPORT PROGRAM (902)

The *House* amendment requires the price of the 1977 and 1978 crops of sugar beets and sugar cane to be supported through loans and purchases at fifty-five to sixty-five percent of their respective parity prices. The Secretary is authorized and directed to establish minimum wage rates for agricultural employees engaged in the production of sugar.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment to provide that (1) the minimum level of support for sugar beets and sugar cane would be 52.5 percent of parity, but not less than 13.5 cents per pound raw sugar equivalent; (2) the Secretary would be authorized to suspend operations of the provisions at such time as he determines there is an international sugar agreement in effect which would effectively maintain a raw sugar price of at least 13.5 cents per pound; and (3) the provision would not affect the Secretary's existing authority under any other provision of law to establish a price support program for that portion of the 1977 crop of sugar cane and sugar beets marketed prior to the implementation of the program authorized by the *House* amendment. (If no international sugar agreement is in effect or effective to assure the maintenance of a raw sugar price of at least 13.5 cents per pound, the provision would, of course, remain in effect for the 1977 and 1978 crop years.)

The Department currently has authority under existing law to carry out the price support program required by this amendment to the Agricultural Act of 1949. It is the recommendation of the *conferees* that the Secretary of Agriculture implement the program called for by the *House* amendment as soon as possible—even before the Act is signed into law. The *Conferees* intend that the implementation of the loan and purchase program not be delayed even if there should be a delay in the establishment of minimum wage rates for agricultural employees engaged in the production of sugar because of any public hearings that may be held thereon. It is the *Conferees'* intent, however, that the loan and purchase and wage rate provisions of section 902 be implemented without any delay upon the bill becoming effective.

The *Conferees* intend that the processed products of sugar cane and sugar beets shall not be sold by the Commodity Credit Corporation at less than 105 percent of the current support price, plus reasonable carrying charges. It is not expected, however, that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugar cane or sugar beets. The *Conferees* expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price.

The language in the provision relating to the Secretary's existing authority to establish a price support program for sugar was added by the *Conferees* for purposes of clarifying the status of 1977 crop sugar beets and sugar cane marketed before the program authorized by the *House* amendment can be made effective. This provision does not add to or detract from whatever authority the Secretary already has under existing law. The language was included because sugar from beets and cane would not be available for loans or purchases, and producers in some States would be discriminated against solely because they happened to be farming in areas with crop years somewhat different from producers in other areas. It was not intended by the amendment to create a hardship in any producing area. Consistent with existing law, the added language thus makes clear the *Conferees'* intent that fair and equal treatment be afforded all domestic producers by extending price support to that portion of the 1977 crop marketed before the new program can be made effective, it being a purpose of this section that a substantially equal level of price support be provided for all sugar cane and sugar beets of the 1977 crop.

TITLE X—MISCELLANEOUS

(1) Set Aside of Normally Planted Acreage (Sec. 1001)

The *House* amendment requires, effective for the 1978 through 1981 crops, that, whenever a set-aside is in effect for wheat, feed grains, upland cotton, or rice, the Secretary of Agriculture may require as a condition of loans, purchases, and payments that the acreage normally planted to the crops designated by the Secretary must be reduced by the amount of the set-aside or diversion.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

Under this provision, whenever a set-aside is in effect for any one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may require that, as a condition of eligibility for price support through loans, purchases, and payments on any commodity, the acreage normally planted to any crops which are designated by the Secretary must be reduced by the amount of the set-aside or diversion. In addition, section 1001 provides that whenever such a set-aside is in effect, the producer may be required to participate in, and comply fully with all of the requirements of each of the programs for wheat, feed grains, upland cotton, and rice in order to receive any benefits under any programs providing for loans, purchases, and payments. (Section 901 of the *Conference* substitute provides that, notwithstanding the provisions of section 1001, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any com-

modity supported under the provisions of the Agricultural Act of 1949.)

(2) *American Agriculture Protection Program (Sec. 1003)*

The *House* amendment provides that whenever export sales of wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed, or cotton are suspended by any member of the executive branch of the Federal Government to any country or area with which the United States continues commercial trade, the Secretary shall set the loan level for such commodity at 100 percent of the parity price for the commodity. This loan level will remain in effect as long as the suspension remains in effect.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment. As amended, (1) the provision is to be operative whenever any member of the executive branch causes to be suspended—based upon a determination of short supply—the commercial export sales of any of the named commodities to any country or area with which the United States otherwise continues commercial trade, and (2) the loan level is to be set at 90 percent of the parity price. The *Conferees* intend that any suspension of commercial export sales based upon a determination of short supply—together with the reasons therefor—be reported immediately to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

(3) *Budget Amendment (Sec. 1003)*

During the four-year period ending with the 1981 crop, the *House* amendment would terminate a price support program for any commodity established under section 301 of the Agricultural Act of 1949 after any crop year in which the net outlays exceeded $50 million. Excepted from this limitation are soybeans, flaxseed, dry edible beans, sugar and gum naval stores for which the Secretary is authorized to carry out a price support program for the 1978 through 1981 crops.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment specifically stating that the limitation is not applicable in any way to any price support program in effect on the date of enactment of the bill. The *Conference* substitute also deletes any reference to soybeans and sugar (in the case of the 1978 crop) for which price support is specifically provided under the *Conference* substitute by amendments to title II of the Agricultural Act of 1949.

(4) *Special Grazing and Hay Programs (Sec. 1004)*

The *House* amendment adds a provision to the Agricultural Act of 1949 authorizing the Secretary to administer, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program in each of the crop years 1978 through 1981. A producer would be permitted to designate a portion of the wheat, feed grain, or upland cotton farm acreage allotment for the preceding year or acreage planted for harvest (not in excess of 40 percent thereof, or 50 acres, whichever is greater) which would be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program would receive a payment based on the projected yield for wheat established for the farm times the number of acres included in the special program times $1. No crop other than hay could be harvested from the special program acreage. The producer would not be eligible for any other payment or price support on the special program acreage. Acreage included in the special program would be in addition to any acreage included in any acreage set-aside program otherwise provided for by law.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment under which (1) participation would be based on the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton in the current year, and (2) the rate of payment would be determined by the Secretary.

(5) *Export Sales Reporting (Sec. 1005)*

The *Senate* bill provides that when the Secretary requires information on a daily basis from exporters, the information compiled from individual reports will be made available to the public daily.

The *House* amendment requires all large sales to be reported by exporters to the Secretary by 3 p.m. on the business day following the day of the sale and that the Secretary make the large sales public by the end of the business day following the date of reporting. Large sales are defined as sales of at least one hundred thousand metric tons and smaller sales as designated by the Secretary.

The *Conference* substitute adopts the *Senate* provision.

(6) *Contracts With Land Owners to Utilize Their Lands for Public Use*

The *Senate* bill authorizes the Secretary to make payments to producers who agree to permit access, without other compensation, by the general public for outdoor recreation. The Secretary, after consultation with the Secretary of the Interior, would be required to develop guidelines for (1) providing technical assistance for wildlife and habitat improvement practices; (2) reviewing applications and selecting eligible areas; (3) determining accessibility; (4) evaluating effects on surrounding areas; (5) considering esthetic values; (6) checking compliance; and (7) carrying out programs of wildlife stocking and management on the acreage included in the program.

Agreements could be terminated by mutual agreement if the Secretary determines termination would be in the public interest.

Funds would be authorized to be appropriated to the Secretary of the Interior for use in assisting State wildlife agencies to carry out the provisions of this section and in administering such assistance.

The Secretary could not during any fiscal year enter into agreements with producers which would require payments to producers in any calendar year in excess of $10,000,000 plus any unused amount from the prior fiscal year or enter into agreements with States or local agencies which would require payments to such agencies in any calendar year in excess of $10,000,000 plus any unused amount from the previous fiscal year. These payment limitations would be chargeable to the year in which performance is rendered regardless of when the payment is made.

The *House* amendment contains related provisions within the wheat, feed grain, upland cotton, and rice programs, under which the Secretary may make additional payments to producers who permit, without other compensation, public access to all or part of their farms for recreational purposes.

The *Conference* substitute deletes the *Senate* provision. However, the related public access provisions in the *House* amendment are included in the *Conference* substitute.

(7) *Rescue Operations by the Secretary of Agriculture on National Forest System Lands*

The *Senate* bill gives the Secretary new authority to utilize Department personnel and equipment and incur necessary expenses in cases of emergency to provide emergency medical services for persons seriously ill or injured within the National Forest System, or while in transit to the nearest medical facility. The *Senate* bill also authorizes the Secretary to cooperate with any State or political subdivision in conducting rescue activities. The Secretary may reimburse cooperators under terms of a written agreement in connection with such activities. Also, appropriations are authorized for such rescue activities and reimbursements.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(8) *Other Rescue Operations by the Secretary of Agriculture in Cases of Emergency*

The *Senate* bill provides general authority to the Secretary to conduct rescue operations similar to that contained in section 1604 of the *Senate* bill with respect to National Forest System lands, in cases of emergency when called upon by local or State authorities. He may utilize departmental personnel and equipment and incur necessary expenses in performing such operations. Appropriations as necessary to carry out this section are authorized.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(9) *Fifteen Percent Reserve on Guaranteed Loans*

The *Senate* bill amends the Farmers Home Administration's business and industrial loan program to require the maintenance of a reserve against the losses by the Secretary of not less than 15 percent of the program's guaranteed loans.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(10) *Set-Aside on Summer Fallow Farms*

The *House* amendment provides that for the 1971 through 1981 crops of wheat, feed grains, and cotton, if at least 55 percent of cropland acreage in an established summer fallow farm is devoted to summer fallow use in any year, no additional acreage would be required to be set aside in such year.

The *Senate* bill contains no comparable provision

The *Conference* substitute deletes the *House* amendment. However, the wheat and feed grain titles of the *Conference* substitute authorize the Secretary to make adjustments in individual farm set-aside acreages.

(11) *Report on Recommendations for Revised Allotment System*

The *House* amendment requires the Secretary to collect and analyze information regarding the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers and submit a report to the congressional agriculture committees.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(12) *Imported Tomatoes*

The *House* amendment requires that imported tomatoes conform to standards relating to the pack of containers imposed on domestic tomatoes under marketing orders.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(13) *Golden Nematode Act Indemnification Payments*

The *House* amendment adds authority for indemnification payments to persons engaged in the production of potatoes (including seed potatoes), commercial crops, including turf and nursery stock, who suffer losses, including decreases in land value,

after January 1, 1977, as a result of infestation or exposure to infestation of the golden nematode or as a result of any quarantine imposed because of the golden nematode.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

TITLE XI—GRAIN RESERVES

PRODUCER STORAGE PROGRAM FOR WHEAT AND FEED GRAINS

(1) Long Period (Sec. 1101)

The *Senate* bill requires the Secretary of Agriculture to formulate and administer a producer storage program for wheat and feed grains by providing original or extended price support loans, repayable in 3 to 5 years. The Secretary must establish safeguards to assure that wheat and feed grains held under the program will not be used to unduly depress, manipulate, or curtail the free market. The authority added here supplements other existing authorities for producer loan and storage operations.

Section 902 of the *House* amendment provides that at the end of the initial repayment period (not less than eleven months) for a loan on wheat or feed grain, the borrower may extend the loan for an additional 12 months. At the end of this extension, the borrower may extend the period of repayment for another 12 months, except that the consent of the Secretary is required to obtain a second extension if the market price of the commodity is more than 75 percent of its parity price. Section 913 of the *House* amendment authorizes the Secretary to establish, maintain, and dispose of a separate reserve of wheat, corn, and other enumerated feed grains through 3 to 5 year storage contracts with producers who have eligible commodities under Commodity Credit Corporation loans or purchase agreements. This provision is comparable to the *Senate* bill.

The *Conference* substitute adopts the *Senate* provision but provides that the inclusion of feed grains in the program is at the discretion of the Secretary.

(2) Interest Charges on Loans (Sec. 1101)

The *Senate* bill provides for the charging of interest on loans to producers based upon the rate of interest charged to the Commodity Credit Corporation by the United States Treasury.

The *House* amendment provides that the Secretary shall not charge interest on loans extended under section 902. There is no interest charge on loans on grain held under section 913 reserve agreements.

The *Conference* substitute adopts the *Senate* provision with an amendment authorizing the Secretary to adjust the rate of interest or waive any interest charge.

(3) Storage Costs (Sec. 1101)

The *Senate* bill requires the Secretary to make payment to producers of such amounts as he deems appropriate to cover the cost of storing the commodities.

Section 902 of the *House* amendment requires the Secretary to pay one cent per bushel per month storage costs on grain under loans which have been extended. Section 913 of the *House* amendment provides for storage payments in such amounts as the Secretary deems appropriate on commodities under storage agreements but requires that the grain must initially have been stored at the producer's expense for the first 8 months of the marketing year in which it was produced.

The *Conference* substitute adopts the *Senate* provision.

(4) Penalties (Sec. 1101)

The *Senate* bill authorizes the Secretary to recover storage payments and to assess penalty interest or other charges if loans are repaid by producers before the market price for the commodity reaches a specified level between 140 and 160 percent of the current support price.

Section 913 of the *House* amendment requires the Secretary to establish interest and storage penalties if producers redeem commodities under storage loans before the market price exceeds 140 percent of the current loan rate or otherwise violate the provisions regarding storage agreements. Section 902 of the *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment requiring the recovery of storage payments and the assessment of additional interest or other charges if loans are redeemed before the market price reaches the specified level.

(5) Repayment of Loans (Sec. 1101)

A. The *Senate* bill requires the Secretary to provide conditions to induce producers to redeem and market the grain regardless of the maturity date of the loans whenever the market price of the grain has reached a level specified by the Secretary between 140 and 160 percent of the current price support level.

Section 902 of the *House* amendment contains no comparable provision. Section 913 of the *House* amendment provides that whenever the market price for a commodity exceeds *140 percent* of the current loan rate, storage payments are suspended and producers may cancel storage agreements and redeem the commodities from loan.

The *Conference* substitute adopts the *Senate* provision with respect to wheat and provides the Secretary with discretion to establish the "trigger levels" for feed grains.

B. The *Senate* bill provides that the Secretary may call the loan and require producers to repay loans with accrued interest, refund storage payments, and pay additional interest and other charges, whenever the market price reaches 200 percent and the current price support level.

Section 902 of the *House* amendment contains no comparable provision but provides that if the market price of the commodity is more than 75 percent of its parity price at the end of the first 12 month extension period, consent of the Secretary is required to obtain a second extension. Section 913 of the *House* amendment permits the Secretary to cancel storage contracts or loans if the market price for the commodity exceeds the higher of *165 percent* of the current loan rate or *130 percent* of the average market price for the 3 preceding years, except that such cancellations are limited to the net quantity by which domestic consumption and exports exceeds the available supply.

The *Conference* substitute (1) adopts the Senate provision as to wheat with an amendment providing that the Secretary may call the loan whenever the market price is not less than 175 percent of the current price support level, and (2) with respect to feed grains, accords the Secretary discretion to establish the level at which the loan would be called.

(6) Quantity Under the Program (Sec. 1101)

The *Senate* bill requires the Secretary to announce, as far as possible in advance of making loans, the terms and conditions of the program, including the quantity of wheat or feed grains to be stored. The quantity of wheat is to be no less than 300 million bushels—*9 million tons*—nor more than 700 million bushels—*21 million tons*—adjustable upward to meet commitments on grain reserves in international agreements.

Section 902 of the *House* amendment provides no limitations on the total amount of commodities to be placed under extended loan. Section 913 of the *House* amendment provides for a minimum commodity reserve of 25 million tons and a maximum of 35 million tons of wheat and feed grains, also adjustable upward for international agreements, but contains the following exceptions not in the *Senate* bill:

(1) The Secretary would be authorized to proportion the reserve stocks to correspond to usual market demands; and

(2) Totals and proportions of stocks would be considered norms or averages and shall not prohibit the accumulation or release of stocks as authorized by that section.

The *Conference* substitute adopts the *Senate* provision.

(7) Sale of CCC Stocks (Sec. 1101)

The *Senate* bill provides that whenever the extended loan program is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains for unrestricted domestic use at less than *110 percent* of the minimum price at which producers may redeem and market such grain held under the program. (This is an exception to section 408 of the *Senate* bill which extends current law to provide that the CCC sales price restriction is 115 percent of the current loan rate).

Sections 902 and 913 of the *House* amendment provides that the CCC may not sell any wheat or feed grains owned or controlled by it for less than *150 percent* of the current loan level except for commodities which are substantially deteriorated or in danger of deterioration, or for specified emergency or disaster assistance programs.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the sales price shall not be less than 150 percent of the then current level of price support for the commodity. The *Conference* substitute also includes the two exceptions to the sales price restriction in the *House* amendment.

(8) Reconcentration of Grain and Rotation of Stocks in Commercial Warehouses (Sec. 1101)

Section 913 of the *House* amendment authorizes the Secretary to reconcentrate grains stored commercially at such points as is in the public interest, taking into account transportation and normal marketing patterns. Section 913 also requires the Secretary to permit rotation of stocks and facilitate quality maintenance under regulations assuring that the holding producer and warehouseman will have available at all times the quantity and quality of grain under his storage contract. Section 902 of the *House* amendment contains no comparable provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment making it clear that (1) the provision is applicable only to grain stored under the 3 to 5 year extended loan program in commercial warehouses, and (2) the reconcentration authority is subject to the concurrence of the owner of the grain. The amendment does not affect the existing authority of the Commodity Credit Corporation with respect to grain not under the program.

(9) Penalties for Deficiencies

Section 913 of the *House* amendment provides that, if the producer or warehouseman fails to cover his commitment with grain of the quality and quantity specified, the producer must reimburse the government for the deficiencies in value, and the warehouseman must pay twice the amount of the deficiency. Section 902 of the *House* amendment contains no comparable provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(10) Reserve Adjustments

Section 913 of the *House* amendment requires that the net quantity of a commodity

added to the reserve in any marketing year should not exceed the lesser of the net additional estimated carryover in excess of normal or the amount the maximum allowable reserve for the commodity exceeds the total stocks in reserve at the beginning of the marketing year. Section 902 of the *House* amendment contains no comparable provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(11) Offset Purchases and Sales by CCC (Sec. 1101)

Section 913 of the *House* amendment permits the Secretary to buy and sell substantially equivalent quantities at equivalent prices in order to handle rotation, distribution, and location of commodities owned or controlled by the CCC, but purchases to offset sales must be made within two market days and the Secretary must make public all transactions daily. Section 902 of the *House* amendment contains no comparable provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment making it clear that the provision is applicable only when stocks of grain are actually held in the producer storage program.

(12) Program Administration (Sec. 1101)

Section 913 of the *House* amendment requires the Secretary to utilize the CCC and usual methods of trade to the maximum extent practicable in administering the grain reserve provisions. Section 902 of the *House* amendment contains no comparable provision.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

INTERNATIONAL EMERGENCY FOOD RESERVE

(13) Authorization (Sec. 1102)

The *Senate* bill authorizes the President to negotiate an international system of food reserves for humanitarian food relief needs and to maintain an International Emergency Food Reserve as a contribution of the United States toward that system.

The *House* amendment contains no comparable provision.

The *Conference* substitute encourages the President to enter into negotiations to develop an international system of food reserves and to establish and maintain the reserve.

(14) Quantity of Reserve Stocks

The *Senate* bill requires the Secretary, as soon as practicable, to build minimum stocks of food (including processed and blended foods) for the international reserve of not less than 2 million tons. The Secretary would be authorized to increase minimum stocks to a level of not more than 6 million tons pursuant to an international agreement on food reserves.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(15) Maintenance of Reserve Stocks

The *Senate* bill requires that as soon as practicable following the effective date of any international agreement, the Secretary shall increase the minimum level of stocks to the level established as a provision for the participation of the United States in the agreement. The Secretary must reestablish the reserve in the event it is drawn down to a level less than 2 million tons. Reserve stocks may be acquired by the Commodity Credit Corporation through loan defaults under the price support programs or Commodity Credit Corporation purchases on the market if adequate quantities are not available through price support programs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(16) Disposition of Reserve

The *Senate* bill limits disposition of food in the reserve to: (1) humanitarian relief to any foreign country that suffers a major disaster as determined by the President, and (2) assisting any developing country to meet its food requirement in any year in which there has been a severe shortfall in food production as determined by the Secretary.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(17) Stock Rotation

The *Senate* bill requires the Secretary to provide for the periodic rotation of stocks in the reserve, utilizing programs authorized by the Agricultural Trade Development and Assistance Act of 1951, as amended (Public Law 480). The bill requires that any quantity removed for rotation purposes be promptly replaced with an equivalent quantity.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(18) Carryover

The *Senate* bill provides that the reserve will not be included in determining the carryover of wheat, feed grains, rice, or soybeans.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

DISASTER RESERVE

(19) Establishment (Sec. 1103)

The *Senate* bill amends section 813 of the Agricultural Act of 1970, which provides for the establishment of a disaster reserve through the price support program, to provide that when no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress due to natural disaster, the Secretary is authorized to purchase, through Commodity Credit Corporation facilities, such wheat, feed grains, soybeans, hay, and other livestock forages as are needed.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Maintenance and Distribution of Reserves (Sec. 1103)

The *Senate* bill gives the Secretary, in addition to his authority to maintain the reserve inventory, the authority to acquire the commodities when needed rather than maintain them in a reserve, and to pay transportation costs necessary to distribute the commodities in case of a disaster.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the reference in subsection (b) relating to maintenance of reserve inventories.

(21) Authority for Distribution (Sec. 1103)

The *Senate* bill gives the Secretary new authority to use commodities acquired under this section in connection with the emergency livestock feed programs administered by the Secretary under section 407 of the Agricultural Act of 1949, as amended, and the Act of September 21, 1959.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

DIRECT FARM STORAGE FACILITY LOANS

(22) Direct Farm Storage Facility Loans Through CCC (Sec. 1104)

The *Senate* bill authorizes the making of storage facility loans to growers of dry or high moisture grain, soybeans, and rice, and high moisture forage and silage.

The *House* amendment contains a comparable provision but adds dry forage.

The *Conference* substitute adopts the *Senate* provision.

(23) Loan Security (Sec. 1104)

The *Senate* bill requires that facility loans are to be secured.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Loan Authority (Sec. 1104)

The *Senate* bill provides permanent authority to make facility loans under the Charter Act of the Commodity Credit Corporation.

The *House* amendment limits this authority to the four-year period ending September 30, 1981.

The *Conference* substitute adopts the *House* amendment.

(25) Interest (Sec. 1104)

The *Senate* bill bases the rate of interest on loans upon the rate of interest charged the Commodity Credit Corporation by the U.S. Treasury.

The *House* amendment provides that the interest rate shall approximately reflect the current cost of money to the Government, as determined by the Secretary, but in no event more than 7 percent.

The *Conference* substitute adopts the *Senate* provision.

(26) Limitations on Loans (Sec. 1104)

The *House* amendment limits the maximum loan amount to $50,000 and requires that it cover not less than 75 percent of the total cost of constructing the facility, including the cost of structural and equipment foundations, electrical systems, grain handling systems, drying equipment, and site preparation.

The *Senate* bill does not limit the loan amount or specify included costs, but does authorize loans for the purchase of facilities, as well as the construction of facilities.

The *Conference* substitute adopts the *House* amendment.

(27) Financing of Loans (Sec. 1104)

The *Senate* bill requires facility loans to be deducted from the proceeds of price support loans or purchase agreements made between the Commodity Credit Corporation and producers.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(28) Facility Size (Sec. 1104)

The *House* amendment provides that the size of a facility for which a loan could be obtained would be based on the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(29) Loans for Remodeling of Existing Facilities (Sec. 1104)

The *House* amendment provides discretionary authority for the Commodity Credit Corporation to make loans up to $50,000 to cover remodeling costs of existing farm storage facilities.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(30) Loan Maturity (Sec. 1104)

The *House* amendment requires that loans shall have a maximum repayment period of ten years.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

EMERGENCY FEED PROGRAM

(31) Authorization (Sec. 1105)

The *Senate* bill authorizes the Secretary to implement an emergency feed program to assist producers in preserving and maintaining livestock in any area of the United States, including Puerto Rico and the Virgin Islands, where he determines that an emergency exists due to natural catastrophe.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(32) Eligibility for Assistance (Sec. 1105)

The *Senate* bill requires that the Secretary provide program assistance only to persons who (a) have suffered substantial loss in livestock feed normally produced on their farm for their livestock, (b) do not have sufficient feed for their livestock for the projected period of the emergency, and (c) are required to make larger than normal purchases of feed quantities.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(33) Reimbursement (Sec. 1105)

The *Senate* bill provides for reimbursement to eligible persons not to exceed 50 percent (or at a lower rate established by the Secretary) of the cost of feed purchased by an eligible person.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(34) Program Operation (Sec. 1105)

The *Senate* bill requires the Secretary to carry out the program through the Commodity Credit Corporation and to issue the rules and regulations necessary for program operations.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment prohibiting the Secretary from delegating the authority to administer the program to any other Department, agency, or entity, public or private.

(35) Penalty for Program Abuse (Sec. 1105)

The *Senate* bill provides that any person who disposes of feed for which he has been reimbursed under the program in an unauthorized manner will be subject to a penalty equal to the market value of the feed, and, in addition, be guilty of a misdemeanor and subject to a maximum fine of $10,000 or imprisonment for not more than one year.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(36) Repeal of Current Law Program

The *Senate* bill repeals existing provisions of law which provide for sale or disposition of CCC stocks in acute distress areas, areas of major disaster, and in emergency areas.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

FARM STORAGE FACILITY LOAN GUARANTY PROGRAM THROUGH CCC

The *Senate* bill authorizes the Secretary to guarantee secured loans, through the Commodity Credit Corporation, to producers for the construction or purchase of farm storage facilities for dry or high moisture grain, soybeans, rice, or high moisture forage or silage with the following provisions:

(1) The maximum guarantee would be 80 percent of the total purchase or construction cost of the facility, including the cost of preparation, up to $50,000.

(2) The Secretary shall not limit the amount of storage space available to a producer upon which the loan would be based to less than the average quantity of the commodity produced by the borrower during the two preceding crop years.

(3) The term of guaranteed loans cannot exceed 10 years.

(4) The loan guaranty program would be carried out by the Secretary through the Commodity Credit Corporation.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

TITLE XII—PUBLIC LAW 480

(1) Title I—Public Tender for Sales (Sec. 1202)

The *Senate* bill modifies title I commodity purchasing procedures by requiring that all *food* commodities financed under title I be purchased on the basis of a public tender, publicly opened in the United States.

The *House* amendment contains the same provision as the *Senate* bill but is applicable to *all* commodities and adds that the purchase of all commodities financed shall be consistent with open, competitive, and responsive bid procedures as determined by the Secretary of Agriculture.

The *Conference* substitute adopts the *Senate* provision and that part of the *House* amendment which provides that the purchase of all commodities is to be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary.

(2) Title I—Selling Agents (Sec. 1202)

The *Senate* bill prohibits the payment of any commissions to any selling agent in connection with purchases of *food* financed under title I, unless the Secretary waives this requirement.

The *House* amendment contains the same provision but makes it applicable to *any* commodity and does not provide for a waiver by the Secretary.

The *Conference* substitute adopts the *Senate* provision. The Conferees expected that any waiver by the Secretary of the prohibition will, among other things, require that any compensation paid or to be paid by any supplier of a commodity or product thereof to a selling agent shall be reported to the Secretary by the supplier. The information is expected to be handled in a manner consistent with the supplier reporting requirements added by the *Conference* substitute.

(3) Title I—Supplier Reporting Requirements (Sec. 1202)

The *House* amendment requires that any compensation paid or to be paid by any supplier of a commodity or ocean transportation financed under title I to any representative of the importer or importing country shall be reported to the Secretary by the supplier. The information will be available for public inspection and published annually. Failure to report such information or filing a false report will result in a 5-year suspension of privileges under title I.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(4) Title II—Appropriations (Sec. 1203)

The *Senate* bill provides a title II authorization level of $750,000,000, and allows for indefinite carryover of unobligated authorizations.

The *House* amendment contains the same authorization level as the *Senate* bill but allows the carryover of unobligated balances of the preceding calendar year only.

The *Conference* substitute adopts the *House* amendment.

(5) Availability of Commodities (Sec. 1204)

The *Senate* bill authorizes the Secretary to determine that a part of the supply of agricultural commodities could be used to carry out *humanitarian* or *development* purposes of the Act although the supply does not exceed estimated domestic requirements, adequate carryover, and anticipated exports for dollars.

The *House* amendment contains the same provision as the *Senate* bill but limits it to *urgent humanitarian* purposes.

The *Conference* substitute adopts the *House* amendment. While the criterion in the *House* amendment is applicable to all of Public Law 480, the *Conferees* anticipate that the criterion could likely be met only under the title II program.

(6) Priority to Food and Fiber (Sec. 1205)

The *House* amendment provides that priority shall be given to financing the sale of food and fiber in allocation of funds under title I.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment. (An identical provision was added to title I as a new section 113 by the International Development and Food Assistance Act of 1977, Public Law 95–88, approved August 3, 1977.)

(7) CCC Reimbursement (Sec. 1206)

The *Senate* bill requires that in determining the reimbursement due the Commodity Credit Corporation, commodities acquired under a domestic price support program will be valued at the export market price at the time the commodity is made available under the Act.

The *House* amendment contains the same reimbursement provision but relates to title II programs only.

The *Conference* substitute adopts the *Senate* provision.

(8) Revised Regulations Governing Operations (Sec. 1207)

The *Senate* bill mandates the revision of title I regulations within six months after enactment of the bill and revision at each two-year interval thereafter. The regulations would include, but not be limited to, prohibitions against conflicts of interests between (A) recipient countries and their agents; (B) suppliers of commodities; (C) suppliers of ships; and (D) other shipping interests. The regulations are to be designed to increase the number of exporters participating in the program, especially small businesses and cooperatives. In this regard, unless waived by the Secretary, the financing of any commodity exported during any fiscal year by an individual, cooperative, firm or subsidiary, or affiliate thereof, shall be limited to no more than 25 percent by volume of the planned programing of the commodity under the Act for that fiscal year.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment (1) deleting the language which limits the amount of financing to any individual, cooperative, or firm to 25 percent of the planned programing of the commodity, and (2) stating that the regulations are to encourage an increase in the number of exporters participating in the program.

(9) Bagged Commodities (Sec. 1207)

The *Senate* bill provides that bagged commodities for the purpose of financing by CCC shall be considered "exported" upon delivery at port and upon presentation of a dock receipt in lieu of an on-board bill of lading.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment making the application of the provision discretionary with the Secretary.

(10) Extension of the Program (Sec. 1208)

The *Senate* bill extends the program for 5 years.

The *House* amendment extends the program for 2 years.

The *Conference* substitute provides for a 4-year extension of the program.

(11) Title I—Spending Authority (Sec. 1208)

The *House* amendment provides that new spending authority for title I made by the Agricultural Act of 1977 shall be effective for any fiscal year only to such extent or in small amounts as are provided in appropriation Acts.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(12) Special Task Force on the Operation of Public Law 480 (Sec. 1210)

The *Senate* bill expresses the sense of Congress that improvement be made in the operation of the program, and requires the Secretary to appoint a special task force to review the operations of the program and report the results to Congress within 18 months following enactment of the bill.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Hunger Impact Statement

The *House* amendment requires that beginning January 31, 1978, the Secretary shall biannually submit to Congress a hunger impact statement concerning international and domestic food assistance programs administered through the Department of Agriculture and the Agency for International Development. The statement shall include (1) a description of the areas in which food assistance has been or will be given, including levels, nutritional characteristics, and food production; (2) the nutritional value of commodities distributed; and (3) an evaluation of such food assistance programs.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment. However, the *Conferees* intend that—to the extent practicable—the special task force on the operation of Public Law 480 will study the usefulness of requiring a hunger impact staatement for international food assistance programs.

TITLE XIII—FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

(1) Purpose of the Food Stamp Act (Sec. 2) *

The *Senate* bill authorizes a food stamp program to permit low-income households to obtain a nutritionally adequate diet through normal channels of trade by increasing food purchasing power for all eligible households which apply for participation. A "nutritionally adequate diet" is defined as being based on the thrifty food plan.

The *House* amendment contains the same provision as the *Senate* bill but substitutes "a more nutritious diet" for "a nutritionally adequate diet" in this section and in other sections of the *House* amendment. The definition of the "thrifty food plan" is substituted for the definition of "nutritionally adequate diet" in this section and elsewhere in the *House* amendment.

The *Conference* substitute adopts the *House* amendment.

(2) Certification Period: Elderly (Sec. 3)

The *Senate* bill mandates a 1-year certification period for eligible households containing at least one member 65 years of age or older, and no wage earners, and requires reporting by such households of changes in income over $25 per month. The certification period for households consisting entirely of persons 60 through 64 years of age could be up to 1 year.

The *House* amendment provides that for households consisting entirely of the elderly the certification period could be up to 1 year.

The *Conference* substitute adopts the *House* amendment.

(3) Hunting and Fishing Equipment

The *Senate* bill allows eligible households living in remote areas of Indian reservations to purchase certain types of hunting and fishing equipment with food stamps.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(4) Definition of "Tribal Organization"

The *Senate* bill includes State recognized tribes within the definition of "tribal organization".

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(5) Establishment of the Food Stamp Program (Sec. 4)

The *Senate* bill authorizes the Secretary of Agriculture to formulate and administer a food stamp program.

The *House* amendment contains the same provision as the *Senate* bill but conditions it on the availability of appropriated funds.

The *Conference* substitute adopts the *House* amendment.

(6) Commodity Distribution on Indian Reservations (Sec. 4)

The *Senate* bill provides that there will be commodity distribution on Indian reservations if the tribal organization so requests.

The *House* amendment requires a written request by the tribal organization.

The *Conference* substitute adopts the *Senate* provision.

(7) Prior Submission of Regulations and Instructions (Sec. 4)

The *House* amendment requires the Secretary to submit a copy of regulations and instructions, together with a detailed justification statement, to the agriculture committees of Congress prior to their issuance.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment but deletes the requirement for prior submission of instructions. The *Conferees* intend that (1) regulations be submitted at the time they are proposed in the Federal Register, (2) all internal instructions regarding operation of the food stamp program be available for examination by the public upon request (except for those instructions exempt from disclosure under the Freedom of Information Act), and (3) all instructions and a detailed justification statement be transmitted, upon request, to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(8) Eligible Households (Sec. 5)

The *Senate* bill limits participation in the food stamp program to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritionally adequate diet.

The *House* amendment contains the same provision as the *Senate* bill but would include "other financial resources held singly or in joint ownership" in addition to income.

The *Conference* substitute adopts the *House* amendment.

(9) Exclusions from Income: Reimbursements (Sec. 5)

The *Senate* bill excludes, from income, reimbursements to *volunteers and persons engaged in work training programs* which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household.

The *House* amendment excludes, from income, reimbursements to *all persons* which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household.

The *Conference* substitute adopts the *House* amendment.

(10) Dependent Care Deduction (Sec. 5)

The *Senate* bill establishes an $85 per month per household maximum for the dependent care deduction.

The *House* amendment establishes a $75 per month per household maximum for the dependent care deduction.

The *Conference* substitute establishes the maximum allowable per month per household dependent care deduction at the same level as the maximum excess shelter expense deduction.

(11) Excess Shelter Expense Deduction (Sec. 5)

The *Senate* bill allows an excess shelter expense deduction which would be applied in computing household income for determining both eligibility and benefits.

The *House* amendment contains the same excess shelter expense deduction as the *Senate* bill but limits its application to benefit determinations and requires annual adjustment of the ceiling on this deduction, beginning January 1, 1978, to the nearest $5 to reflect changes in the shelter, fuel, and utilities components of housing in the Consumer Price Index published by the Labor's Department's Bureau of Labor Statistics for the 12-month period ending the preceding September 30.

The *Conference* substitute adopts both the *Senate* provision and the *House* amendment. A third deduction for a combination of the household's dependent care costs and excess shelter expenses is also provided. There will be one indexed maximum allowable level for the dependent care deduction, the excess shelter expense deduction, or the combination of these two deductions. No household would be allowed to deduct (for any of these three deductions), for purposes of determining food stamp program eligibility and benefits, more than the maximum allowable level of the excess shelter expense deduction. The indexing of the maximum allowable excess shelter expense deduction will commence on July 1, 1978.

(12) Assets Criteria (Sec. 5)

The *Senate* bill directs the Secretary to prescribe the allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may possess.

The *House* amendment contains the same provision as the *Senate* bill but establishes the following statutory assets limits: $1,500 for one person households; and $2,250 for households of two or more ($3,000 if household contains a person age 60 or over). The Secretary is required to follow the regulations in force on June 1, 1977, and to include as financial resources recreational vehicles, vacation homes, mobile homes used primarily for vacation purposes, and any licensed vehicle (except income producing) used for transportation, employment or to transport

*The section references for differences (1) through (57) are references to the Food Stamp Act of 1977.

disabled household members (to the extent the fair market value exceeds $4,500).

The *Conference* substitute adopts the *House* amendment but substitutes a $1,750 rather than a $1,500/$2,250 assets limitation for all households (other than those of two or more, containing one member age 60 or over).

(13) Eligibility Disqualifications (Sec. 6)

The *Senate* bill provides that no household shall be eligible to participate for *up to 1 year* after the *head of the household* has been found guilty of fraud in connection with *obtaining coupons* in a State administrative or court proceeding.

The *House* amendment provides that no individual who is a member of a household shall be eligible to participate for (1) *3 months* after such *household member* has been found guilty of fraud in connection with *using, presenting, transferring, acquiring, receiving, possessing, or altering coupons or authorization cards*, in a State administrative proceeding (or in a local proceeding if no appeal therefrom to the State has been taken), or (2) for an additional *6 to 24 months* if found guilty by a court of criminal or civil fraud in regard to program participation, or (3) both. The *House* amendment further provides that periods of disqualification will not be subject to judicial review, and that there will be no administrative stay.

The *Conference* substitute adopts the *House* amendment.

(14) Form for Reporting Changes in Income or Household Circumstances (Sec. 6)

The *House* amendment requires that the form for reporting changes in income or household circumstances contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of the Food Stamp Act, including the penalty provisions.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendmett.

(15) Exemption From Work Requirement: Other Systems (Sec. 6)

The *Senate* bill exempts from the work registration requirement persons already registered under the Work Incentive (WIN) program.

The *House* amendment contains the same provision as the *Senate* bill but adds registration under the Federal-State unemployment compensation system as an exemption.

The *Conference* substitute adopts the *House* amendment.

(16) Exemption From Work Requirement: Drug Addicts and Alcoholics (Sec. 6)

The *Senate* bill exempts from the work registration requirement regular participants in a drug or alcoholic treatment program.

The *House* amendment contains the same provision as the *Senate* bill but adds the condition that the chief administrative officer certify in writing to the State agency that the work registration requirement would interfere with rehabilitation.

The *Conference* substitute adopts the *Senate* provision.

(17) Student Eligibility (Sec. 6)

The *Senate* bill provides that one of the criteria for students in qualifying for the food stamp program is that they are enrolled in an institution of higher education.

The *House* amendment contains the same provision as the *Senate* bill but requires that students be enrolled *at least half-time* in an institution of higher education.

The *Conference* substitute adopts the *House* amendment.

(18) Student Work Requirement (Sec. 6)

The *House* amendment provides that no student would be eligible to participate in the program, even if he were otherwise eligible, if he did not meet one of the five following additional tests during the regular school year. A student would have to be either: (1) employed at least 20 hours a week or working pursuant to a federally financed work study program; (2) working and receiving the minimum wage equivalent of 20 hours a week ($16 a week now); (3) registered for work on a 20-hour-per-week minimum basis; (4) acting as the head of a household containing at least one other person besides the student to whom the student supplied more than one-half of the person's annual support; or (5) exempt other than as a student from the general work registration requirement because of fitness, age (over 60), WIN participation, parental status, caretaker status, or the other exemptions from the work registration requirement.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(19) Aliens (Sec. 6)

The *Senate* bill provides that illegally and temporarily present aliens may not participate in the food stamp program (only aliens lawfully admitted for permanent residence and aliens permanently residing under "color of law" would be eligible for participation.)

The *House* amendment specifies the five categories of aliens who would be eligible for participation. Aliens who have been granted extended or indefinite voluntary departure status, or deferred action cases in which the Attorney General declines to institute deportation proceedings, terminate deportation proceedings already begun, or decides not to execute an order of deportation, for humanitarian or practical reasons, would not be eligible for participation, in addition to illegally or temporarily present aliens. The *House* amendment also provides that the income and resources of a sponsor shall be attributed to an alien on whose behalf an affidavit of support was executed, for the duration of the assurance of support (up to 3 years), for the purpose of determining the alien's food stamp eligibility (except for blind or disabled aliens whose condition commenced after their entry into this country).

The *Conference* substitute adopts the *House* amendment but deletes the requirement that the income and resources of a sponsor shall be attributed to an alien on whose behalf an affidavit of support was executed for the purpose of determining the alien's food stamp eligibility.

(20) Transfer of Assets to Qualify for the Program (Sec. 6)

The *House* amendment makes ineligible for program participation, for up to 1 year from the date of discovery of the transfer, any household that knowingly transfers assets for purposes of qualifying or attempting to qualify for the program.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(21) Cash Change (Sec. 7)

The *Senate* bill provides that participants may be given cash change for food stamps so long as the cash received is less than the value of the lowest coupon denomination issued ($1 at the present time).

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(22) Report on Elimination of the Purchase Requirement (Sec. 8)

The *House* amendment requires the Secretary to report to Congress within 6 months after implementation of the elimination of the purchase requirement and annually thereafter on its effect on program participation and cost.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(23) Disasters: State Plan of Operation and Food Stamp Disaster Task Force (Sec. 11)

The *House* amendment would require each State to include in its plan of operation a plan of operation for providing food stamps to disaster victims. The *House* amendment requires the Secretary to establish a Food Stamp Disaster Task Force to assist States in conducting the disaster program. The task force will be available to go into disaster areas and provide direct assistance to State and local officials.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(24) Administration on Indian Reservations (Sec. 11)

The *Senate* bill permits Indian tribal organizations to administer the food stamp program on reservations if the Secretary determines that the tribal organization is capable of effectively and efficiently conducting the program.

The *House* amendment permits Indian tribal organizations to administer the food stamp program on reservations if the Secretary determines that (1) the State agency is not capable of administering the program on the reservation, and (2) the tribal organization is capable of effectively and efficiently conducting the program in light of the distance between the reservation and State agency-operated certification and issuance centers, previous program experience under the Indian Self-Determination Act and similar acts, management and fiscal capabilities, and anti-discrimination measures.

The *Conference* substitute adopts the *House* amendment but permits Indian tribal organizations to administer the food stamp program on reservations if the Secretary determines that the State agency is failing properly to administer the program on the reservation after the enactment of the bill (rather than if the Secretary determines that the State agency is incapable of program administration on the reservation).

(25) Outreach (Sec. 11)

The *Senate* bill requires the State agency to *supply* low-income households with instructions in filling out application forms.

The *House* amendment requires the State agency to *provide* instruction in filling out application forms.

The *Conference* substitute adopts the *Senate* provision.

(26) Application Form (Sec. 11)

The *Senate* bill provides that the application form be designed or approved by the Secretary.

The *House* amendment provides for a simplified, uniform national application form designed by the Secretary, unless the Secretary determines that deviation from the form is necessary because of a dual public assistance food stamp application form or an agency's computer system. A duplicate of applicant's application form will be furnished to the head of household or its authorized representative. The *House* amendment requires that the application form contain a description in understandable terms in prominent and bold lettering of the appropriate civil and criminal provisions dealing with violations of the Food Stamp Act, including the penalty provisions.

The *Conference* substitute adopts the *House* amendment but (1) deletes the requirement that a duplicate of the applicant's application form be furnished to the head

of the household or its authorized representative, and (2) permits the Secretary to approve deviation from the uniform national application form for other exigencies.

(27) Points and Hours of Certification (Sec. 11)

The *Senate* bill requires the States to provide reasonably accessible points and hours of certification as determined by the Secretary.

The *House* amendment requires the States to comply with standards established by the Secretary for points and hours of certification.

The *Conference* substitute adopts the *House* amendment.

(28) Transportation Difficulties and Similar Hardships (Sec. 11)

The *Senate* bill requires States that do not provide reasonably accessible points and hours of certification to provide for alternative certification methods for the elderly, physically or mentally handicapped, or persons otherwise unable, *because of transportation difficulties and similar hardships*, to appear in person or by authorized representative at a certification office.

The *House* amendment contains the same provision as the *Senate* bill but substitutes *solely because of transportation difficulties and similar hardships*.

The *Conference* substitute adopts the *House* amendment, substitutes "standards established by the Secretary for points and hours of certification" for "reasonably accessible points and hours of certification", and makes clear that standards for special certification methods for the elderly, handicapped, or others unable to appear in person must also be provided.

(29) Notification of Expiration of Certification Period (Sec. 11)

The *House* amendment requires the State agency to ensure that each participating household receive a notice of expiration of its certification period by the start of the last month of the certification period advising it that it must submit a new application in order to renew its eligibility for a new certification period.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(30) Recertification of Households (Sec. 11)

The *House* amendment provides that if a household which has been recertified is found to be ineligible for program participation or eligible for a reduced allotment during the new certification period, it will not continue to participate and receive benefits on the basis of its prior certification period, even if a timely request for a fair hearing is made.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(31) Authorized Representative (Sec. 11)

The *Senate* bill requires a clear designation of an authorized representative who is sufficiently aware of relevant household circumstances.

The *House* amendment requires that the designation be in writing and further requires that the authorized representative be sufficiently aware of relevant household financial resources and circumstances.

The *Conference* substitute adopts the *Senate* provision. The *Conferees* intend that the term "household circumstances" include all factors relevant to certification.

(32) Immediate Certification (Sec. 11)

The *Senate* bill provides that households with no income after applicable deductions will receive their allotment on an expedited basis, commensurate with their need for immediate assistance.

The *House* amendment limits this provision to households with no income after the standard deduction.

The *Conference* substitute adopts the *Senate* provision.

(33) Continuation of Benefits During Fair Hearing (Sec. 11)

The *House* amendment provides that—upon State agency notice of reduction or termination of its benefits during the certification period—any household that timely requests a fair hearing on such matter will continue to participate and receive benefits on the basis authorized immediately before notice of the adverse action until a fair hearing is completed and an adverse decision rendered, or until the current certification period expires, whichever occurs first.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(34) Restoration of Wrongfully Denied or Terminated Benefits (Sec. 11)

The *Senate* bill provides for cash payments to households in the amount of wrongfully denied or terminated benefits.

The *House* amendment provides for the restoration of such benefits in food stamps.

The *Conference* substitute adopts the *House* amendment. The *Conferees* intend that the Secretary may distribute these restored benefits over such period of time as he determines to be appropriate.

(35) Coupon Issuance: Contracting or Delegation

The *House* amendment provides that the State agency will be primarily responsible for coupon issuance points and may not contract or delegate this responsibility unless the Secretary is satisfied that such contracting or delegation will result in reduced issuance costs or improved issuance service to recipients.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(36) Nutrition Education (Sec. 11)

The *Senate* bill requires the Secretary to develop and distribute printed materials to advise low-income persons on buying and preparing more nutritious and economic meals.

The *House* amendment authorizes the Extension Service, with the technical assistance of the Food and Nutrition Service, to extend its expanded food and nutrition program to the greatest extent possible to reach food stamp recipients and develop printed materials for persons with low reading and comprehension levels on how to buy and prepare more nutritious meals and on the relationship between food and good health. Effective fiscal year 1979, the Secretary is authorized to allocate food stamp program funds to the Extension Service to perform these functions. The *House* amendment further requires that in food stamp and public assistance offices, posters prepared or obtained by the Secretary be displayed and pamphlets be available for home use, containing information on food meeting the RDA menus, eligibility for other USDA nutrition programs, and general information on the relationship of diet to health.

The *Conference* substitute requires the Secretary to extend the expanded food and nutrition education program to the greatest extent possible to reach food stamp recipients and develop printed materials for persons with low reading and comprehension levels on how to buy and prepare more nutritious meals and on the relationship between food and good health. The *Conference* substitute further requires that in food stamp and public assistance offices, posters prepared or obtained by the Secretary, be displayed and pamphlets be available for home use, containing information on menus meeting the recommended daily allowances of vitamins, minerals, and protein, eligibility for other USDA nutrition programs, and general information on the relationship of diet to health.

The *Conferees* intend no derogation of the existing work of the Extension Service through its expanded food and nutrition education program. Further, the *Conferees* understand that there will be a thorough review of the Department's nutrition education activities and that the Secretary will make every effort not to duplicate existing nutrition education activities in implementing the results of this study.

(37) Public Assistance and General Assistance Households (Sec. 11)

The *Senate* bill requires the Secretary and the Secretary of Health, Education, and Welfare to develop a single interview to determine eligibility for the food stamp, AFDC, and to the extent feasible, supplementary security income programs. To the greatest extent feasible, the food stamp program application form for AFDC and supplemental security income recipients and applicants shall not include information collected under the other programs. Where administratively feasible, social security or SSI applicants and recipients may apply and be certified for food stamp benefits at Social Security offices.

The *House* amendment requires that the *food stamp application for public assistance* or general assistance households be contained in the public or general assistance application form. Certifications of new public assistance or general assistance households or households which recently lost their benefits under those programs will be based on information in their case file to the extent verification is available. The *House* amendment requires the Secretary and the Secretary of Health, Education, and Welfare to permit households in which all members are supplemental security income recipients to apply for food stamps by executing a simplified affidavit at social security offices and be certified utilizing information in the SSI files. The *House* amendment authorizes, but does not require, the Secretary to permit social security applicants to apply and be certified for food stamps at social security offices.

The *Conference* substitute adopts (1) the *Senate* provision requiring a single interview for determining eligibility for the food stamp and Aid to Families with Dependent Children (AFDC) programs, (2) the *House* amendment requiring that supplemental security income (SSI) households be allowed to apply for food stamps by executing a simplified affidavit at social security offices and be certified utilizing information in the SSI files. (3) the *House* amendment requiring that public assistance or general assistance households have their application for participation in the food stamp program contained in the public or general assistance application form, and (4) the *House* amendment requiring that certifications of new public assistance or general assistance recipient households or households who recently lost their benefits under those programs will be based on information in their case file to the extent verification is available. The *Conferees* understand that a single interview may not be possible where the agency that administers the AFDC program is not the same agency that administers the food stamp program.

(38) Post Office Issuance (Sec. 11)

The *House* amendment requires the Post Office to serve as an issuance agent if (1) the State agency so requests and (2) the State agency satisfies the Secretary that Post Office issuance will result in either reduced issuance costs or in improved issuance service to recipients.

The *Senate* bill contains no comparable provision.

The *Conference* substitute authorizes the Post Office to serve as an issuance agent if (1) the State agency so requests and (2) the President approves the use of the Post Office for this purpose.

(39) Elderly, Disabled, and Blind Cash-Out

The *House* amendment requires the Secretary, if a State requests, in accordance with arrangements entered into with the Secretary of Health. Education, and Welfare, to pay each household (1) of which every member is over 65 or otherwise eligible for supplemental security income benefits or eligible for blind or disabled grants in Guam, Puerto Rico, and the Virgin Islands, and (2) which is eligible to participate in the food stamp program, an amount equal to the authorized allotment values.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(40) Program Investigations and Prosecutions (Sec. 16)

The *Senate* bill authorizes the Secretary to pay State agencies *an amount equal to 75 percent* of the costs of State food stamp program investigations and prosecutions.

The *House* amendment authorizes the Secretary to pay State agencies *an amount not less than 75 percent of such costs.*

The *Conference* substitute adopts the *House* amendment.

(41) Withholding of Federal Share of State Administrative Costs (Sec. 16)

The *Senate* bill requires the Secretary to withhold such part of the Federal share of administrative costs as he determines appropriate if he finds the State has failed without good cause to meet any of his standards or to carry out its plan of operation.

The *House* amendment contains the same provision as the *Senate* bill but makes the Secretary's withholding permissive, not mandatory.

The *Conference* substitute adopts the *Senate* provision.

(42) Administrative Costs on Indian Reservations (Sec. 16)

The *Senate* bill requires the Secretary to pay 100 percent of the necessary administrative costs on Indian reservations. This would specifically include the cost of establishing and operating tribally owned and operated nonprofit food sales systems in areas that are not reasonably served by existing retail food systems.

The *House* amendment authorizes the Secretary to pay such amounts for administrative costs on Indian reservations as he determines necessary for effective program operation.

The *Conference* substitute adopts the *House* amendment.

(43) National Error Tolerance Goals

The *Senate* bill requires the Secretary to establish a realistic set of national error tolerance level goals (interim tolerance levels to be achieved 1 and 2 years after enactment).

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(44) Increased Federal Cost-Sharing (Sec. 16)

The *House* amendment authorizes the Secretary, beginning in fiscal year 1979, to adjust the Federal share of State administrative costs, other than those already in excess of 50 percent, by increasing the Federal share to 60 percent for State agencies whose cumulative error rate is less than 10 percent, but greater than 5 percent, and to 65 percent if the error rate is less than 5 percent.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment but provides 60 percent Federal cost-sharing to those State agencies whose cumulative error rate is less than 5 percent. This increased payment would not apply to the Federal share of the costs of certifying AFDC recipient households for food stamps, if the Federal share of such costs is being reimbursed by the Department of Health, Education, and Welfare under an agreement with the Department of Agriculture.

(45) State Quality Control Plan (Sec. 16)

The *Senate* bill requires all States in their plan of operation to include a quality control plan specifying anticipated caseload, manpower requirements, and administrative mechanisms to carry out the program and to meet the Secretary's error tolerance goals.

The *House* amendment requires—effective October 1, 1978—that only those States not eligible for increased Federal cost-sharing include in their plan of operation specification of anticipated State action to reduce errors.

The *Conference* substitute adopts the *House* amendment.

(46) Definition of Quality Control (Sec. 16)

The *Senate* bill defines "quality control" as monitoring and correcting the rate of errors committed in determining the correct level of benefits to be provided households upon certification of their eligibility.

The *House* amendment contains no comparable provision.

The *Conference* substitute defines "quality control" as monitoring and reducing the rate of errors in determining basic eligibility and benefit levels.

(47) Withholding of 10 Percent of Federal Share of State Administrative Costs

The *Senate* bill requires the Secretary to withhold not less than 10 percent of the Federal share of State administrative expenses for failure to carry out the State quality control plan approved by the Secretary.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(48) Research Authority (Sec. 17)

The *House* amendment mandates (by grant or contract) research designed to improve program administration and the effectiveness of the program in delivering nutrition-related benefits, with particular mention of the value of relying upon data processing and other computer technology in program administration.

The *Senate* bill contains no comparable provision.

The *Conference* substitute authorizes the Secretary to undertake (by grant or contract) research designed to improve program administration and the effectiveness of the program in delivering nutrition-related benefits.

(49) Pilot and Demonstration Projects (Sec. 17)

The *Senate* bill specifically authorizes the Secretary to conduct demonstration projects to identify means of improving rural outreach for the elderly and directs the Secretary to implement pilot projects testing the effects of requiring recipient photo-identification cards, implementing an earnings clearance system, and establishing application cross-checks between political jurisdictions (in a statistically significant number of urban and rural areas) with a report on the projects to the appropriate congressional committees within one year of the effective date of the bill.

The *House* amendment specifically authorizes the Secretary to conduct projects involving cashing-out food stamp benefits for households composed entirely of persons 65 years old or older or supplemental security income recipients, use of counter-signatures on food stamps or similar identification mechanisms (not invading personal privacy), and the use of food checks or other voucher-type forms instead of food coupons.

The *Conference* substitute adopts the *House* amendment.

(50) Workfare Projects (Sec. 17)

The *House* amendment requires joint Department of Agriculture/Department of Labor pilot projects in each of the 50 States and the District of Columbia involving work performed in return for food stamp benefits. Any person subject to the food stamp work requirement in a household without earned income equal to or exceeding its allotment will be ineligible to participate in the food stamp program, as a member of any household, during any month in which the individual refuses, after not being offered private employment for more than 30 days after initial work registration, to accept public service work in exchange for food stamp benefits. Each hour of employment entitles the household to a portion of the allotment equal to 100 percent of the Federal minimum hourly wage. Such employment shall not exceed 40 hours per week and shall not be used by an employer to fill jobs created by laying off or terminating any employee not supported under this provision with one who is. The Departments of Agriculture and Labor will report to the appropriate congressional committees on the progress of the projects no later than 6 and 12 months after enactment of the bill, and will submit a final report no later than 18 months after enactment of the bill.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment but (*1*) limits the number of pilot projects to 14 (two in each of the Department's Food and Nutrition Service's seven regions, divided evenly in each region between urban and rural areas, and representative of a cross-section of political subdivisions in the respective States within the region), (2) requires prior approval of the congressional agriculture committees of project sites and the agencies or organizations that will be involved in the projects, and (3) makes applicable to these projects certain limitations and conditions contained in the Comprehensive Employment and Training Act.

(51) Annual Evaluation Plan (Sec. 17)

The *Senate* bill requires the Secretary to submit, with the President's budget, an annual evaluation plan covering plans for evaluating major objectives of the program, the extent achieved, and the cost and time requirements for such plan. The areas to be covered include the nutritional intake of participants, relative fairness of the program to different income and age groups and geographic regions, and evaluation of outreach programs.

The *House* amendment requires the Secretary to develop and implement measures for evaluating, on an annual or more frequent basis, program effectiveness (including nutritional and economic status of households), its impact on the agricultural economy, and the program's fairness to various households.

The *Conference* substitute adopts the *House* amendment.

(52) Annual Report

The *Senate* bill requires the Secretary to submit, with the President's budget, an annual report on the food stamp program, including status of the States in meeting quality control goals, recommendation for an analysis of quality control goals for the next 1 and 2 years, a summary of evaluation activities in accordance with the annual

evaluation plan, and recommendations for program modifications.

The House amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(53) Poverty Study

The *House* amendment requires the Secretary, in conjunction with the Secretary of Health, Education, and Welfare, to develop alternate poverty line definitions at different levels and to report to Congress annually beginning April 1, 1978, on their efforts (with the final report presented as soon as possible). Up to one-fortieth of 1 percent of program appropriations may be used for this study.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(54) Recoupment Study (Sec. 17)

The *House* amendment requires the Secretary, in consultation with the Secretary of the Treasury, to conduct, in urban and rural areas, using Federal income tax data, a study of recouping food stamp benefits from households with annual gross incomes exceeding twice the poverty guidelines, alternative methods of implementation, and program effects. Reports on the study (and appropriate recommendations) will be submitted to the congressional agriculture committees, the House Ways and Means Committee, and the Senate Finance Committee, no later than 12 and 18 months after enactment.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House amendment*.

(55) Study of Nutrition Needs of Indians

The *Senate* bill requires the Secretary to conduct, in consultation with the Department of the Interior and Indian Health Service (DHEW) officials and tribal organizations and food stamp and food distribution participants, a study of the nutritional needs of Indians and the responsiveness of the stamp and food distribution programs in meeting those needs. The bill requires a report to Congress within 1 year after the effective date of the bill and requires the Secretary to take whatever corrective action necessary and authorized.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(56) Authorization for Appropriations (Sec. 18)

The *Senate* bill authorizes appropriations of such sums as Congress may appropriate for fiscal years 1978 and 1979.

The *House* amendment limits appropriations to $5.85 billion, $6.16 billion, $6.19 billion, and $6.24 billion for fiscal years 1978 through 1981, respectively.

The *Conference* substitute adopts the *House* amendment.

(57) Reduction of Allotments (Sec. 18)

The *House* amendment provides that if the Secretary determines that food stamp allotments will exceed appropriations, the Secretary will direct the State agencies to reduce the value of allotments to participating households to the necessary extent.

The *Senate* bill contains no comparable provisions.

The *Conference* substitute adopts the *House* amendment.

(58) Implementation (Sec. 1303)

A. The *Senate* bill provides that the provisions of the 1964 Act, as amended, which are relevant to current program regulations, will remain in effect until those regulations are revoked, superseded, amended, or modified by regulations issued under the 1977 Act.

The *House* amendment contains the same provision as the *Senate* bill but limits its applicability to *current regulations* and not statutory provisions.

B. The *Senate* bill provides that food stamps issued under the 1964 Act, as amended, and in general use on the effective date of the 1977 Act will continue to be usable to purchase food.

The *House* amendment contains the same provision but substitutes "date of enactment" for "effective date".

C. The *House* amendment repeals the Food Stamp Act of 1964 effective July 1, 1978.

The *Senate* bill revises the Food Stamp Act of 1964 in its entirety effective October 1, 1977.

D. The *Senate* bill provides that pending food stamp proceedings will not be abated because of enactment of the Food Stamp Act of 1977, but will be disposed of under the applicable provisions of the 1964 Act, as amended, in effect prior to October 1, 1977.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provisions.

(59) Quarterly Reports (Sec. 1303)

The *House* amendment requires the Secretary, within 6 months after enactment of the bill, to submit a quarterly report on program expenditures by State, including the number of individuals in the program and State and Federal level administrative costs.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment. The *Conferees* intend that the Secretary take steps to combine, into one report, the quarterly report that is to be submitted at the same time as the report on the elimination of the purchase requirement (required under new section 8(a)).

COMMODITIES

(60) Length of Extension (Sec. 1304)

The *Senate* bill extends for 5 years (through fiscal year 1982) the requirement that the Secretary purchase and distribute, with appropriated funds, sufficient foods to maintain the traditional level of food donations to specified outlets.

The *House* amendment contains the same provision as the *Senate* bill but (1) extends the provision for 4 years (through fiscal year 1981), (2) does not provide for distribution of commodities, and (3) authorizes but does not require the Secretary to purchase commodities.

The *Conference* substitute adopts the *House* amendment but authorizes the Secretary to distribute as well as purchase commodities.

(61) Commodity Donations to Indians (Sec. 1304)

The *Senate* bill requires that Indian households in the food distribution program be provided with a sufficient quantity and variety of commodities to provide them with a nutritionally adequate diet based on their food consumption patterns.

The *House* amendment contains no comparable provision.

The *Conference* substitute requires the Secretary to improve the variety and quantity of commodities he supplies to Indians in order to provide them an opportunity to obtain a more nutritious diet. The *Conferees* do not intend that the commodity package will necessarily in and of itself constitute a "nutritionally adequate diet."

(62) Furnishing Commodities to Summer Camps for Children (Sec. 1304)

The *House* amendment provides, notwithstanding any other provision of law, that the Secretary may furnish commodities to summer camps for children in which the ratio of children under age 18 to adults is not unreasonable in light of the nature of the camp and the characteristics of the children in attendance.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(63) Commodity Supplemental Food Program (Sec. 1304)

The *Senate* bill denominates the supplemental feeding program as the "Commodity Supplemental Food Program".

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(64) Supplemental Feeding Program Administrative Costs (Sec. 1304)

The *Senate* bill provides that the Secretary will pay an amount up to 20 percent of the value of commodities donated to the State or local agency for the cost of administration, but never less than the payment received in the fiscal year in which this provision is enacted.

The *House* amendment provides that the Secretary will pay an amount up to 10 percent of the value of commodities donated to the State or local agency for the cost of administration.

The *Conference* substitute provides that, for fiscal years 1978 through 1981, the Secretary will pay an amount up to 15 percent of the value of commodities donated to the State or local agency for the cost of administration.

(65) Report

The *Senate* bill requires State and local agencies participating in the commodity supplemental food program to submit a report to the Secretary, within 6 months after enactment, describing the nutrition education services provided to program recipients. The payment of administrative expenses by the Secretary will not be contingent upon submission of the report.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(66) Startup Costs (Sec. 1304)

The *Senate* bill requires the Secretary to pay the costs necessary to commence successful operations that are incurred by a new commodity supplemental food program during its first three months of operation or until the program reaches its projected caseload level, whichever comes first.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision but adds the limitation that startup costs cannot cause the total administrative costs payable in any fiscal year to exceed 15 percent of the value of commodities donated.

(67) Medical and Nutritional Requirements and Cultural Eating Patterns

The *Senate* bill requires the Secretary to take into account medical and nutritional requirements and cultural eating patterns to the extent necessary to provide recipients (in conjunction with other available Federal food programs) a nutritionally adequate diet.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(68) Substitution of Commodities

The *Senate* bill requires the Secretary to make provision for the substitution of equivalent commodities when shortages occur in commodities traditionally included in the supplemental food program package.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(69) Definition of Administrative Costs (Sec. 1304)

The *Senate* bill defines administrative costs as including—but not limited to expenses for information and referral, operation, monitoring, nutrition, education, startup costs and general program administration, including staff, warehouse and transportation p sonnel, insurance, and administration of State or local offices.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The *Conferees* do not intend that regular medical services be included as administrative costs.

(70) Available Foods

The *Senate* bill specifies the foods which must be made available, at a minimum, to any supplemental food program recipient. These foods are to include commercially formulated preparations necessary, in the opinion of physicians and other qualified medical personnel, to meet the medical and nutritional needs of any eligible recipient.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(71) Types and Varieties of Commodities (Sec. 1304)

The *Senate* bill requires that the types and varieties of commodities made available shall be maintained in the same proportional amounts throughout each fiscal year the supplemental food program is in operation. These types and varieties shall not be less than those which were available during fiscal year 1976.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision but (1) deletes the mandate for maintenance of the types and varieties of commodities and their proportional amounts at the higher of the fiscal year 1976 level or the start of a given future fiscal year, and (2) authorizes the Secretary to determine the types and varieties of commodities and their proportional amounts. The Secretary is required to report to the congressional agriculture committees any significant changes in these categories before implementing such changes.

(72) Supplementary Nature of the Program

The *Senate* bill declares the supplementary nature of the program and that it may be carried out in food stamp program areas and in connection with the food distribution program. The supplemental commodity food program could be carried out in the WIC project area but State and local agencies must provide safeguards to prevent participation by households or individuals in both programs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(73) Disqualification of Children Because of Age

The *Senate* bill declares that children under age six may not be denied the program if they are otherwise eligible.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(74) Regulations (Sec. 1304)

The *Senate* bill authorizes the issuance of regulations to implement the commodity supplemental food program.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

TITLE XIV—NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

(1) Short Title (Sec. 1401)

The *House* amendment provides that title XIV may be cited as the "National Agricultural Research, Extension, and Teaching Policy Act of 1977".

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

Subtitle A: Findings, Purposes, and Definitions

(2) Findings (Sec. 1402)

Both the *Senate* bill and the *House* amendment state several findings to the effect that the Nation's food and agricultural research and extension efforts should be expanded and improved. However, there are numerous specific differences in language.

Generally, the *Senate* bill states that—

(1) there are problems in coordinating research and extension efforts and disseminating research findings;

(2) Federal funding levels are not commensurate with research and extension needs; and

(3) specific Federal initiatives are needed in the areas of: finding alternative sources of energy, solving environmental problems caused by agricultural production, aquaculture, renewable resources, improving the extension programs, regional agriculture, and weather and climate research. Research and extension related to human nutrition, animal health, and small scale farming are covered in other subtitles of the *Senate* bill.

The *House* amendment makes similar findings; however, the following findings do not appear in the *Senate* bill—

(1) there is a need to improve *teaching* in the food and agricultural sciences, as well as *research* and *extension* efforts;

(2) a strong research effort in the basic sciences is a prerequisite to breakthroughs in knowledge;

(3) the public wants plentiful supplies of nutritious foods from our lands and waters at reasonable prices; and

(4) expansion of agricultural exports depends on coordinated research efforts.

The *Conference* substitute adopts a statement of findings that combines—

(1) all the findings in the *Senate* bill, except those relating to the need for Federal research and extension initiatives in the areas of regional agriculture and improving extension programs for energy conservation and forestry;

(2) the findings in the *House* amendment relating to worldwide population demands for United States agricultural production, the need to improve the agricultural marketing system, the existing research system as the foundation for improving the research effort, the need for a strong research effort in the basic sciences, the importance of research oriented to the needs of small farmers, the importance of expanding our agritural exports, and the reduction of wood cultural exports, and the reduction of wood products losses as a means of increasing the supply of wood products. In addition, the *Conferees* believe that research is needed to find more efficient and economical methods of controlling noxious brush in order to increase agricultural production and the availability of water in the Southwest;

(3) provisions contained in the purposes section of the *House* amendment relating to the need for research and extension with respect to human nutrition, the need to develop environmentally sound methods of agricultural production, the need for expanded programs of animal disease and health research and extension, the need for "new crop" research, and the need for research into the use of organic waste materials; and

(4) several provisions contained in the *House* amendment itemizing the priority missions for the Smith-Lever Act extension education program.

(3) Purposes (Sec. 1403)

The *Senate* bill declares it to be the policy of the United States: that special measures be undertaken to improve the coordination, planning, and dissemination of food and agricultural research, identify needs and establish priorities for such research, and assure the full achievement of national food and agricultural research and extension objectives; and that the Secretary of Agriculture should have the primary role in the overall national food and agricultural research and extension effort.

The *House* amendment itemizes these purposes and also states as purposes of the title: the establishment of new programs of grants and fellowships; to continue the existing programs in the food and agricultural sciences; to provide for examination of the feasibility of using organic waste material to improve soil tilth and fertility; and to provide for programs of "new crop" research.

The *Conference* substitute adopts a statement of purposes that combines—

(1) the declaration of policy in the *Senate* bill relating to the special measures to be undertaken;

(2) the purposes contained in the *House* amendment relating to: the establishment of the Department of Agriculture as the lead Federal agency for the food and agricultural sciences; emphasizing that research, extension, and teaching in the food and agricultural sciences are distinct missions of the Department of Agriculture; cooperation and coordination in the implementation of agricultural research programs; and the establishment of programs for competitive research grants, facilities support grants, and education grants and fellowships; and

(3) a provision contained in the *House* amendment relating to assuring the dissemination of research results.

(4) Definitions (Sec. 1404)

A. The *Senate* bill defines the term "food and agricultural research" to mean research in the fields of agriculture, forestry, aquaculture, associated marketing systems, water and and soil resources, home economics, human nutrition, and animal health.

The *House* amendment defines agricultural research as research in the food and agricultural sciences, which, in turn, is broadly defined to include substantially the same subjects as contained in the *Senate* bill, plus plant and animal health, family life, and rural and community development.

The *Conference* substitute adopt the *House* amendment.

B. The *Senate* bill defines the term "extension" to mean the education programs conducted by State cooperative extension services.

The *House* amendment defines the term "extension" to mean the informal education process conducted by university personnel to extend information and identify problems.

The *Conference* substitute adopts the *Senate* provision, but the term is clarified to mean the informal education process and "in the States in cooperation with the Department of Agriculture" is substituted for "by State cooperative extension services".

C. The *House* amendment defines the terms "colleges and universities" "basic research", "applied research", "State", "aqua-

culture", "aquacultural species", and "teaching".

The *Senate* bill contains no comparable definitions.

The *Conference* substitute adopts the *House* amendment, but deletes the definitions of "basic research" and "applied research".

Subtitle B: Coordination and Planning of Agricultural Research, Extension, and Teaching

(5) Responsibilities of the Secretary (Sec. 1405)

The *House* amendment, in a separate section of the title, designates the Department of Agriculture as the lead agency for agricultural research (except with respect to the biomedical aspects of nutrition), extension, and teaching in the food and agricultural sciences, and charges the Secretary of Agriculture with fourteen specific responsibilities with respect to the coordination and planning of research, extension, and teaching activities.

The *Senate* bill does not contain a separate "coordination" section.

The *Conference* substitute adopts the *House* amendment, but—

(1) the Department of Agriculture is designated as the lead agency of the Federal Government for agricultural research, except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease;

(2) the following specific requirements are deleted: that the Secretary utilize the Federal Coordinating Council for Science, Engineering, and Technology in coordinating research, extension, and teaching activities; assist recipients of Federal funds establish coordination of their programs; review the agricultural research, extension, and teaching requirements of agencies within the Department of Agriculture and other agencies and departments; assure that promising research products are developed to the point of practical use; and disseminate research findings; and

(3) the specific requirement that the Secretary of Agriculture consult with the Advisory Board on policies and priorities is changed to also require the Secretary to consult with other departmental advisory committees.

(6) Federal Subcommittee on Food and Renewable Resources (Sec. 1406)

Both the *Senate* bill and the *House* amendment amend section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 to establish a standing Subcommittee on Food and Renewable Resources. The principal difference is in the membership of the Subcommittee.

The *Senate* bill provides that the Subcommittee will be composed of representatives of the following eight agencies: the Department of Agriculture, the Agency for International Development of the Department of State, the Department of the Interior, the Department of Health, Education, and Welfare, the National Oceanic and Atmospheric Administration of the Department of Commerce, the Energy Research and Development Administration, the National Science Foundation, and the Environmental Protection Agency.

The *House* provides that the Subcommittee will include, but not be limited to, representatives of these agencies, and (1) specifies the Department of State rather than the Agency for International Development, and (2) includes, in addition, representatives of the Department of Defense and the Tennessee Valley Authority.

The *Conference* substitute adopts the *House* amendment. If the Federal Coordinating Council is abolished by a reorganization plan and its functions transferred to the President, the *Conferees* would expect the President in redelegating the functions of the Federal Coordinating Council to give most serious attention to the functions contained in this section, since the need for better coordination of agricultural research activities among the Federal agencies will remain strong.

(7) Joint Council (Sec. 1407)

A. The *Senate* bill provides for the establishment, by the Secretary of Agriculture, of a Joint Council on Food and Agricultural Research and Extension within the Department of Agriculture. The Council will have a five-year term.

The *House* amendment provides that the Secretary establish a Joint Council on Food and Agricultural Sciences subject to the provisions of the Federal Advisory Committee Act. (It would thus terminate at the end of two years, unless extended.)

The *Conference* substitute adopts the *Senate* provision but incorporates from the *House* amendment the title "Joint Council on Food and Agricultural Sciences".

B. The *Senate* bill provides that the Council will have 22 members as follows: 7 from the Department of Agriculture, including the Assistant Secretary in charge of research; 7 from other Federal agencies; and 8 non-Government representatives primarily from land-grant universities. The Council is to be co-chaired by the Assistant Secretary of Agriculture with responsibility for research and the representative from the Division of Agriculture of the National Association of State Universities and Land-Grant Colleges.

The *House* amendment gives the Secretary of Agriculture discretion to name the members of the Council and provides that the Assistant Secretary of Agriculture with the responsibility for research will be the Chairman.

The *Conference* substitute adopts the *House* amendment except that the Assistant Secretary of Agriculture with the responsibility for research and a person to be elected from among the non-Federal membership shall serve as co-chairman.

C. The *Senate* bill requires that the Joint Council meet at least once every three months and that one meeting annually be a joint meeting with the Advisory Board.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

D. The *Senate* bill establishes the following functions for the Joint Council—

(1) to serve as a forum for the interchange of information among the organizations represented on the Council which are involved in food and agricultural research and extension;

(2) the development of a system for compiling and disseminating information on current research and extension work;

(3) to develop and recommend to the Secretary of Agriculture methods to expand cooperation among the various organizations involved in food and agricultural research;

(4) the development of a system to review and evaluate research and extension programs;

(5) to develop and review guidelines to be used by the Secretary in making competitive grants; and

(6) to review developments in food and agriculture in order to identify high priority needs and submit a report to the Secretary annually for use in making competitive grants.

The *House* amendment provides that the primary purpose of the Joint Council is to foster coordination of the research, extension, and teaching activities of the Federal Government, the States, colleges and universities, and other public and private institutions and persons involved in the food and agricultural sciences. Under the *House* amendment, the Council's responsibilities are also as follows:

(1) to analyze and evaluate the impacts of research, extension, and teaching programs in the food and agricultural sciences conducted in the United States;

(2) to assist in developing, reviewing, and evaluating memoranda of understanding or other documents that detail terms and conditions between the Secretary and participants in programs under this Act and other Acts dealing with research, extension, and teaching in the food and agricultural sciences; and

(3) to assist the Secretary in carrying out his planning responsibilities under this Act.

The *Conference* substitute incorporates substantially all of the responsibilities assigned to the Joint Council by both the *Senate* bill and the *House* amendment. The *Conferees* intend that the Joint Council should identify all high priority research areas and not simply those which would be of use to the Secretary in making competitive grants.

E. The *Senate* bill requires the Joint Council to make an annual report to the Secretary of Agriculture of its recommendations regarding funding of unified national, regional, or interstate research or extension projects, and which will also include status reports on all ongoing research and extension projects. The Secretary will submit copies of this report to the Subcommittee on Food and Renewable Resources, the Advisory Board, and to Congress.

The *House* amendment gives the Council responsibility for performing a comprehensive review of research, but does not specifically require an annual report.

The *Conference* substitute adopts the *Senate* provision.

(8) Advisory Board (Sec. 1408)

A. The *Senate* bill provides that the Secretary of Agriculture shall establish a 25 member Users Advisory Board for Food and Agricultural Research and Extension which is to have a term of five years. The Board will be composed of a specific number of representatives from each of eight designated categories. The chairperson and vice-chairperson will be elected by the members from the Board's membership.

The *House* amendment provides for a comparable 15-member advisory committee appointed by the President and to be known as the National Agricultural Research, Extension, and Teaching Policy Advisory Board, subject to the Federal Advisory Committee Act. (It would thus terminate at the end of two years, unless extended.) The Board will be composed of representatives from national organizations whose interests are similar to those designated in the *Senate* bill. The President will have the discretion to select the members of the Board from among such national organizations. The Assistant Secretary of Agriculture responsible for research will be the chairman.

The *Conference* substitute adopts the *Senate* provision but modifies it to rearrange and reduce the total membership to twenty-one, provide a substitute title, the "National Agricultural Research and Extension Users Advisory Board", and provide for one member each representing three additional constituencies, to wit: persons engaged in transportation of food and agricultural products to domestic or foreign markets, labor organizations primarily concerned with the production, processing, distribution, or transportation of food and agricultural products, and private sector organizations involved in development programs and issues in developing countries.

B. The *Senate* bill requires that the Advisory Board meet at least once every four months and that one meeting annually be held jointly with the Joint Council.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

C. The *Senate* bill establishes five "working panels" within the Advisory Board whose responsibilities are to obtain the views of the public in the five following areas:

(1) agricultural input requirements;
(2) agricultural and food production;
(3) food marketing;
(4) human nutrition; and
(5) forestry and renewable resources.

The panels will be required to submit the views of the public to the Secretary of Agriculture. They will meet at least once every four months. The chairpersons of the Advisory Board and of each working panel, and the vice chairperson of the Advisory Board will constitute and executive board to consult with the Secretary on Advisory Board staff personnel and related matters.

The *House* amendment provides that the Advisory Board may establish such panels as it deems appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board. Such panels may include members of the Advisory Board, Advisory Board staff members, Department personnel, and persons from other Federal agencies and the private sector. The *House* amendment makes no provision for an executive board.

The *Conference* substitute adopts the *House* amendment. However, the *Conferees* expect that the Advisory Board will promptly establish working panels to solicit and submit to the Secretary the views of the public in the five subject areas indicated in the *Senate* bill.

D. Both the *Senate* bill and the *House* amendment assign the Advisory Board similar responsibilities to review and assess ongoing programs in the food and agricultural sciences, and to make annual recommendations as to needs.

In the *Senate* bill there is a mandate, not contained in the *House* amendment, that the Advisory Board review private foundation and business research programs and their relationships to Federal programs.

In the *House* amendment there is a mandate, not contained in the *Senate* bill, that the Advisory Board be a forum for the exchange of information.

The *Conference* substitute adopts substantially all of the responsibilities outlined in both the *Senate* bill and the *House* amendment except for redundant provisions requiring the Advisory Board to review and assess, or provide a forum for exchange of information on, the agricultural research programs of the Federal Government.

E. Both the *Senate* bill and the *House* amendment require the Advisory Board to submit annual reports concerning food and agricultural research efforts. Under the *Senate* bill, the report will be submitted to the Secretary of Agriculture for transmission to the Federal Coordinating Council for Science, Engineering, and Technology, and the Joint Council.

The *House* amendment provides that the Advisory Board will report directly to the President and to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations on all activities financed under this title during the preceding fiscal year and on research, extension, and teaching activities under other statutes administered by the Secretary.

The *Conference* substitute adopts the provisions of both the *Senate* bill and the House amendment and provides for two separate annual reports, one containing the Advisory Board's recommendations, and the other containing its appraisal of the Secretary's recommendations and the President's budget in the food and agricultural sciences.

(9) Impact on Existing Programs (Sec. 1409)

The *House* amendment contains a provision stating the intent of Congress to augment, coordinate, and supplement agricultural research programs existing prior to the enactment of this Act and disclaiming any intention to limit the authority of the Secretary of Health, Education, and Welfare under any Act which he administers.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(10) Secretary's Report (Sec. 1410)

The *Senate* bill requires the Secretary of Agriculture to submit to Congress and the President, by February 15 of each year, an annual report of the recommendations of the Joint Council and Advisory Board as to priority needs for food and agricultural research and extensions programs, and as to allocations of responsibilities and levels of funding among these programs. The fifth such report shall include a five-year plan.

The *House* amendment requires the Secretary to submit a report to the President and to Congress by December 31 of each year. The *House* amendment requires the Secretary to include in his report a 5-year plan, updated annually, covered present and future research, extension, teaching, and manpower development priorities, and a current annual inventory review of these activities organized into 3 categories as follows: statutory authorization and budget outlay; field of basic and applied science; and commodity and product category.

The *Conference* substitute adopts the *House* amendment but modifies it to require the Secretary's report to be submitted by February 1 of each year, to require the second and subsequent reports to include a five-year projection of national food and agricultural research, extension, and teaching priorities rather than a five-year program plan, and to require the report to include the statements of the recommendations of the Joint Council and Advisory Board.

(11) Libraries and Information Network (Sec. 1411)

The *House* amendment states that it is congressional policy to facilitate more effective utilization of agricultural libraries and to—

(1) assure planning, coordination, and evaluation of agricultural research needs;
(2) establish coordination of libraries;
(3) provide access to information services for all colleges, universities, and Department of Agriculture personnel; and
(4) strengthen or establish programs for training in information utilization.

In addition, the *House* amendment establishes within the National Agricultural Library a Food and Nutrition Information and Education Resources Center. Its responsibilities are—

(1) assembling and collecting food and nutrition education, training, and other materials; and

(2) maintaining such material and disseminating it on a regular basis to State educational agencies and other interested persons.

The Secretary of Agriculture is authorized to carry out this section through the use of grants, contracts, or such other means as he deems appropriate and to require matching funds.

This provision is designed to complement and facilitate the Secretary's responsibility to coordinate research and extension.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(12) Staff Support for Joint Council and Advisory Board (Sec. 1412)

The *Senate* bill requires the Secretary to furnish the necessary clerical and staff assistance needed by the Council and the Advisory Board, and provides for the employment of a staff director for the Advisory Board by the Secretary of Agriculture.

The *House* amendment authorizes the Secretary to appoint up to 15 professional staff employees to assist the Joint Council in its duties. Compensation for these staff will be at rates not lower than those for grade GS–13 nor higher than those for grade GS–16, except that not more than 5 persons can be compensated at the rates for grade GS–16. The Executive Director of the staff will be compensated at the rates prescribed for grade GS–18. For the Advisory Board, the *House* amendment provides for an Executive Secretary at grade GS–18 and for up to 10 full-time professional staff employees (for terms not to exceed 4 years) at rates of pay not lower than those for grade GS–13 nor higher than these for grade GS–16, except that not more than 3 employees can be compensated at grade GS–16. The function of the Advisory Board's staff will be to examine matter of agricultural research, extension, and teaching policy.

The *Conference* substitute adopts the *Senate* provision but modifies it to provide that the Secretary is required to appoint a single staff organization consisting of up to five professional members and one executive director to support both the Joint Council and the Advisory Board. The rate of compensation for these positions is not specified and will be determined by the Secretary, except that the person holding the position of executive director may be compensated at a rate which shall not exceed the rate for grade GS–18. The Secretary will also supply clerical assistance and staff personnel as may be required to assist the Joint Council and Advisory Board in carrying out their duties. The Joint Council and Advisory Board will be authorized, in addition, to obtain the assistance of employees of the Department and other agencies and other persons involved in the food and agricultural sciences in formulating their recommendations to the Secretary. The *Conferees* anticipate that of the 5 professional staff members, one will serve also in the capacity of executive secretary of the Joint Council and another in the capacity of executive secreatry of the Advisory Board. The Secretary will be expected to supply such additional clerical and administrative support, and space, supplies, and equipment as are reasonable under the circumstances.

(13) General Provisions (Sec. 1413)

The *Senate* bill contains provisions, covering both the Joint Council and the Advisory Board, which govern the filling of vacancies and the delegation of functions, and which provide that members will serve without compensation if they are not otherwise officers or employees of the United States. In addition, members of the Joint Council are authorized to designate representatives to attend meetings of the Joint Council in their stead.

The *House* amendment provides that members of the Advisory Board will serve without compensation from the Federal Government, and authorizes the Board to obtain the assistance of employees of the Department of Agriculture and other agencies. However, the *House* amendment does not provide that members of the Joint Council will likewise serve without compensation from the Federal Government.

The *Conference* substitute adopts the *Senate* provision but deletes the authority to delegate functions or designate representatives to attend meetings.

(14) Appropriations

The *Senate* bill authorizes appropriations in such sums as necessary to carry out this subtitle.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

Subtitle C: Agricultural Research and Education Grants and Fellowships

(15) Competitive Research Grants (Sec. 1414)

The *Senate* bill amends section 2 of Public Law 89–106 to require the Secretary of Agriculture to establish a competitive grants program for high priority research to further the programs of the Department of Agriculture. Competition for these grants will be open to all, and the duration of individual grants will be limited to five years. The *Senate* bill authorizes the appropriation of such sums as are necessary to carry out the program.

The *House* amendment establishes a new provision of law requiring the Secretary to establish a program of competitive grants, open to all, for the purpose of conducting basic and applied research in agriculture, forestry, human nutrition, and development of new crops. The Secretary must give priority to research which promises to yield break-throughs in new areas applicable to agriculture, human nutrition, aquaculture, and forestry. The Secretary must seek the widest participation of qualified scientists. The *House* amendment authorizes appropriations which range from $25 million in fiscal year 1978 to $50 million in fiscal year 1982.

The *Conference* substitute adopts the Senate provision but clarifies that all colleges and universities are eligible to compete for these grants and also incorporate provisions from the *House* amendment which require the Secretary to seek the widest participation of qualified scientists in submitting and in evaluating research proposals and require that grants be made without regard to matching funds. In addition, the *Conference* substitute incorporates the provision in the *House* amendment authorizing appropriations for these grants ranging from $25 million in fiscal year 1978 to $50 million in fiscal year 1982. While the *Conference* substitute provides flexibility for the determination of specific research efforts, the *Conferees* intend that the following types of research be given priority consideration in this program:

(1) basic research aimed at the discovery of new scientific principles and techniques that may be applicable in agriculture and forestry;

(2) research aimed at the development of new and innovative products, methods, and technologies relating to biological nitrogen fixation, photosynthesis, and other fields that will improve and increase the productivity of agriculture and forestry resources;

(3) basic and applied research in the field of human nutrition; and

(4) research to develop and demonstrate new, promising crops, including guayule and jojoba.

(16) Special Research Grants (Sec. 1414)

The *Senate* bill amends section 2 of the Public Law 89–106 to add a new subsection (c) which authorizes the Secretary to make grants for periods of up to 5 years to State agricultural experiment stations and agricultural and mechanical colleges for special research programs. Such grants will be used to facilitate or expand ongoing State-Federal research program which (1) support research which requires funding in excess of normal program levels; (2) promote excellence in research; (3) promote the development of regional research centers; or (4) promote the research partnership between the Department of Agriculture and the experiment stations or agricultural and mechanical colleges. The *Senate* bill permits the Secretary to limit overhead costs.

The *House* amendment establishes a new statutory provision which provides for such grants to land-grant colleges, State agricultural experiment stations, and all colleges and universities having a demonstrable capacity in agricultural research. The grants will be used to support promising breakthroughs in research in areas of national importance in the food and agricultural sciences. The *House* amendment prohibits use of grant funds for overhead costs and provides that no institution can receive more than one special grant in any fiscal year.

The *Conference* substitute amends section 2 of Public Law 89–106 to add a new subsection (c) which authorizes the Secretary to make grants for periods of up to five years without regard to matching funds, to—

(1) land-grant colleges and universities, State agricultural experiment stations, and all colleges and universities having a demonstrable capacity in agricultural research, as determined by the Secretary, to carry out research to facilitate or expand promising breakthroughs in knowledge; and

(2) land-grant colleges and universities and State agricultural experiment stations to facilitate or expand State-Federal research programs that (a) promote excellence in research, (b) promote development of regional research centers, or (c) promote the research partnership between the Department of Agriculture and such colleges or State agricultural experiment stations.

The *Conference* substitute does not limit the number of grants which an institution can receive under this section in any fiscal year but permits the Secretary to limit overhead costs.

(17) Research Facilities Grants (Sec. 1414)

The *Senate* bill amends section 2 of Public Law 89–106 by adding a new subsection (d) which establishes a new program for research facility grants to support purchases of land and equipment and construction or renovation of buildings. Under this program, each State agricultural experiment station is assured of an annual grant in the amount of $100,000 or an amount equal to 10 percent of the agricultural research funds it receives under the Hatch Act and McIntyre-Stennis Act, whichever is greater. There is a matching funds requirement for amounts in excess of $50,000. Each experiment station and veterinary college will also receive an annual facilities grant equal to 10 percent of Federal animal health research funds it receives. The grantees can elect to defer receipt of annual grants under this program for up to five years, but can not defer more than $1 million.

The *House* amendment contains a provision for expansion or construction of veterinary medical schools which is not tied to animal health research.

The *Conference* substitute adopts the *Senate* provision.

(18) Construction or Expansion of Schools of Veterinary Medicine (Sec. 1415)

The *House* amendment requires the Secretary of Agriculture to make grants to States on a 50–50 matching basis for the purpose of construction or expansion of new or existing schools of veterinary medicine. Not less than 50 percent of the grants must be made available to States which have accredited schools of veterinary medicine. Preference will be accorded to States which (1) make a reasonable effort to establish veterinary medical training programs with States without colleges of veterinary medicine, and (2) assure the Secretary that the clinical program of the school to be established or expanded will emphasize food-producing animals.

The *Senate* bill contains no provision for construction of new veterinary medical schools.

The *Conference* substitute adopts the *House* amendment.

(19) Amendments to the Research Facilities Act of 1963 (Sec. 1416)

Both the *Senate* bill and the *House* amendment amend the Research Facilities Act of 1963 to make eligible for research facility grants under that Act the Connecticut Agricultural Experiment Station at New Haven, the Ohio Agricultural Experiment Station at Wooster, and the colleges and universities eligible to receive funds under the Act of August 30, 1890, including the Tuskegee Institute. The *House* amendment, in addition, makes colleges, universities, and other legal entities eligible to receive benefits under the McIntyre-Stennis Act, eligible for such grants.

The *Senate* bill also amends section 5 of this Act by adding at the end thereof a new sentence which provides that, in States having more than one eligible institution, the Secretary of Agriculture shall insure that facility proposals provide for a coordinated agricultural research program among such eligible institutions. The *House* amendment contains no comparable provision.

The *House* amendment also substantially revises sections 4 through 11 of the Act to provide, *inter alia*, for a new formula for distribution of funds under the Act, eliminate the requirement for matching funds, and add specific authorizations for appropriations ranging from $15 million in fiscal year 1978 to $31 million in fiscal year 1982. The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment but incorporates the *Senate* provision amending section 5 to require the Secretary to assure that there is a coordinated agricultural research program in States which have more than one eligible institution.

(20) Grants and Fellowships for Food and Agricultural Science Education (Sec. 1417)

The *House* amendment requires the Secretary to conduct a program of competitive grants for all colleges and universities to further education in the food and agricultural sciences. These grants will be made in the following categories:

(1) grants for up to four years to strengthen programs of training and research for scientists at the graduate and post-doctoral levels;

(2) grants for up to two years to strengthen undegraduate programs;

(3) pre-doctoral fellowships to graduate students for up to four years, to provide training and increase research capabilities in areas of need as identified by each State. At least three such fellowships must be awarded annually to students from each State; and

(4) post-doctoral fellowships for one to five years with priority to be given to individuals doing basic research.

Authorizations for the program range from $25 million in fiscal year 1978 to $50 million in fiscal year 1982.

In addition, the *House* amendment transfers administration of teaching funds authorized in section 22 of the Bankhead-Jones Act from the Secretary of the Department of Health, Education, and Welfare to the Secretary of Agriculture.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(21) National Agricultural Research Award (Sec. 1418)

The *House* amendment requires the Secretary of Agriculture to establish a National Agricultural Research Award for research or advanced studies in the food and agricultural sciences. The award will not exceed $50,000 per year, for up to three years, to support research or study by the recipient. Two awards shall be made in each fiscal year—

(1) one to a scientist in recognition of outstanding contributions; and

(2) one to a graduate student or post-doctoral research worker in recognition of dem-

onstrated capability and promise of significant future achievements.

The *Senate* bill contains no comparable vision.

The *Conference* substitute adopts the *House* amendment but modifies it to make eligible for one of such awards each year a research scientist in early career development rather than a post-doctoral research worker.

(22) Hydrocarbon and Alcohol Research and Development (Secs. 1419–20)

A. The *Senate* bill requires that the Secretary of Agriculture make grants to colleges and universities with capacity for agricultural research for the purpose of conducting research on producing and marketing (1) coal tar for the manufacture of agricultural chemicals and alcohol-blended motor fuel; and (2) industrial hydrocarbons from agricultural commodities and forest products.

The *House* amendment is identical to the *Senate* bill except that (1) grants may be made to any college or university; and (2) it provides, in addition, for research projects related to the production and marketing of producer gas and other coal derivatives for the manufacture of methanol and methyl fuel.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill requires the Secretary of Agriculture to provide loan guarantees for four pilot projects for the production of industrial hydrocarbons from agricultural commodities and forest products.

The *House* amendment is identical to the *Senate* bill except that is requires the Secretary to provide for pilot projects for the production of industrial hydrocarbons *and alcohols* from agricultural commodities and forest products.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill requires the Secretary of Agriculture to purchase such quantities of agricultural commodities as may be necessary to supply the pilot projects with commodities.

The *House* amendment requires that the Secretary supply such commodities from Commodity Credit Corporation stocks, or, to such extent and in such amounts as are provided in appropriation acts, through purchase.

The *Conference* substitute adopts the *House* amendment.

(23) Subtitle D: National Food and Human Nutrition Research and Extension Program

The *Senate* bill provides for a national food and human nutrition research and extension program. The Secretary of Agriculture is directed to establish nutrition research as a separate and distinct mission of the Department of Agriculture and increase support for nutrition research to a level adequate to meet needs. The subtitle also includes provisions for (1) a study assessing the feasibility of establishing regional food and nutrition research centers; (2) expansion of nutrition extension and education efforts by the Department; (3) development, within one year, of a comprehensive plan for implementing the subtitle; and (4) the development, within 90 days, of a comprehensive monitoring system to identify and assess nutrition-related health risks.

The *House* amendment contains no comparable subtitle.

The *Conference* subtitle adopts the *Senate* subtitle, but deletes provisions within the subtitle specifically assigning certain program responsibilities to the Agricultural Research Service and the Extension Service of the Department of Agriculture and, instead, generally assigns them to the Secretary of Agriculture and the Department of Agriculture. However, the *Conferees* understand that the purpose of these changes is to provide the Secretary with flexibility, and that there is no intent to eliminate existing programs or to duplicate these efforts, specifically with reference to the work of the Extension Service expanded food and nutrition education program.

Subtitle E: Animal Health and Disease Research

(24) Purpose (Sec. 1429)

A. The *Senate* bill includes among the purposes of subtitle E to improve the health of companion animals and to improve methods of controlling the births of predators and other animals.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, but deletes the purpose relating to companion animals.

B. The *House* amendment includes among the purposes of subtitle E to provide for research in the productive use of animal waste products and to provide for the health of horses.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but deletes the purpose relating to productive use of animal waste products.

C. In the statement of purpose in the *Senate* bill, recognition is given that (1) the total animal health research efforts of the State colleges and the Federal Government would be more effective if they were more closely coordinated; and (2) colleges of veterinary medicine and departments of veterinary science and animal pathology and units of the State agricultural experiment stations conducting animal health research are vital in training research workers in animal health.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, except that language describing the institutions considered vital in training research workers is conformed with the *House* definition of "eligible institution."

(25) Definitions (Sec. 1430)

The *Senate* bill defines "eligible institution" to include (1) State agricultural experiment stations; and (2) accredited colleges of veterinary medicine.

The *House* amendment defines the term to include these institutions and, in addition, all colleges and universities having a department of veterinary science or animal pathology.

The *Conference* substitute adopts the *House* amendment.

(26) Animal Health Science Research Advisory Board (Sec. 1432)

The *Senate* bill provides for the establishment of an advisory board for a term of five years to consult with and advise the Secretary of Agriculture with respect to the implementation of this subtitle and to recommend research priorities. It will be composed of eleven members as follows:

(1) three representatives of the Department of Agriculture;

(2) one representative of the Bureau of Veterinary Medicine of the Food and Drug Administration; and

(3) seven members appointed by the Secretary, including two persons representing the veterinary colleges, two persons representing the State agricultural experiment stations, and three persons representing national livestock and poultry organizations.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(27) Appropriations for Continuing Research Programs (Sec. 1433)

The *Senate* bill authorizes appropriations not to exceed $25 million annually, to support continuing animal health research programs at eligible institutions.

The *House* amendment authorizes general appropriations for carrying out agricultural research for fiscal years 1978 through 1982, without allocating any particular amount for animal health research.

The *Conference* substitute adopts the *Senate* provision.

(28) Allocation of Funds Awarded for Continuing Programs Among Institutions (Sec. 1433)

The *Senate* bill provides that in each State with one or more veterinary colleges, the deans of such colleges and the director of the State agricultural experiment station shall develop a comprehensive animal health research plan for the State. This program is to be used for the allocation of funds awarded to the State among the eligible institutions in the State.

The *House* amendment provides that, with respect to funds allocated among the States based on the value of livestock in each State, the Secretary shall distribute the funds to eligible institutions within a State in proportion to their relative capacity for research.

The *Conference* substitute adopts the *Senate* provision.

(29) Use of Excess Funds (Sec. 1433)

The *House* amendment provides that when funds available to an institution based on livestock values exceed the funds for which it is entitled based on research capacity, the excess may be used for remodeling or the construction of facilities or for an increase in staffing.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but the use of excess funds for remodeling facilities or constructing new facilities, as well as use of excess funds to increase staffing, is made subject to the approval of the Secretary.

(30) Additional Appropriations in Future Years

The *House* amendment provides that to the extent that total appropriations are increased in years subsequent to the first year in which funds are appropriated under this section, the additional funds are to be apportioned among States and institutions on the basis of data relating to livestock and poultry values and research capacities current at the time they are appropriated.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(31) Reallocation of Funding (Sec. 1433)

The *Senate* bill provides for the reallocation of funding among institutions in a State whenever a new veterinary college is established.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(32) Regional Colleges and Jointly Supported Colleges (Sec. 1433)

The *Senate* bill provides for the allocation of funds to regional colleges or colleges jointly supported by two or more States.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(33) Appropriations for Research on National or Regional Problems (Sec. 1434)

A. The *Senate* bill provides that funds may be appropriated, in amounts not to exceed $15 million annually, to support research on national or regional animal health problems.

The *House* amendment provides no limit on annual appropriations for such research.

The *Conference* substitute adopts the *Senate* provision.

B. The *Senate* bill provides that the Secretary shall, whenever possible, consult with the Advisory Board in developing plans for the use of these funds.

The *House* amendment contains no provisions relating to an Advisory Board.

The *Conference* substitute adopts the *Senate* provision.

(34) Availability of Appropriated Funds (Sec. 1435)

The *Senate* bill provides that funds available for allocation under this subtitle are to remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(35) Withholding of Appropriated Funds (Sec. 1436)

The *Senate* bill provides for the purposes of this subtitle that, if funds are withheld from a State because of its failure to satisfy the requirements of this subtitle or regulations issued under it, the funds shall be kept separate in the Treasury until the end of the next Congress. If the next Congress does not direct the funds to be paid, they will be carried to surplus.

The *House* amendment contains a similar provision that applies to all of Title XIV. However, withheld funds must be directly deposited into miscellaneous receipts of the Treasury.

The *Conference* substitute adopts the *Senate* provision with respect to this subtitle.

(36) Requirements for Use of Funds (Sec. 1437)

The *Senate* bill provides that, with respect to continuing animal health research projects funded under this subtitle, the dean or director of the eligible institution performing the project must obtain and review factual proposals for such projects prior to assignment of funds thereto. The proposals must show compliance with the purpose of this subtitle and general guidelines for project eligibility provided by the Secretary of Agriculture. A summary of proposals that are accepted must be submitted to the Secretary.

The *House* amendment contains a similar provision which applies to all of title XIV and also provides that the Secretary must establish appropriate criteria and regulations governing grant and assistance approval.

The *Conference* substitute adopts the *Senate* provision with respect to this subtitle. However, the *Conferees* understand that the requirement to submit a summary of proposals to the Secretary is to keep him advised of projects and is not a prerequisite to the funding or commencement of work on projects at the State level.

(37) Matching Funds (Sec. 1438)

The *Senate* bill establishes a matching funds requirement with respect to grants awarded for continuing research programs. All amounts awarded to an institution annually in excess of $100,000 are to be subject to a 50/50 match requirement.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

Subtitle F: Small Farm Research and Extension

(38) Research and Extension (Sec. 1440)

There are several differences in wording.

A. The *Senate* bill states that the purpose of the small farm research program is "upgrading" small farmer operations.

The *House* amendment uses the phrase "initiate and upgrade".

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill provides that small farm extension programs will consist of programs to "improve" small farm "marketing techniques".

The *House* amendment uses the phrases "initiate and improve" and "new products marketing techniques".

The *Conference* substitute adopts the language "initiate and improve" of the *House* amendment, but deletes the words "new products".

(39) Allocation of Funds (Sec. 1441)

The *Senate* bill provides for allocation of funds appropriated for small farm research and extension programs among the States in proportion to the number of small farmers in each State.

The *House* amendment leaves the allocation of such funds to the discretion of the Secretary of Agriculture.

The *Conference* substitute adopts the *House* amendment.

(40) Report (Sec. 1443)

The *Senate* bill requires the Secretary of Agriculture to report to Congress no later than February 1 of each year on the effectiveness of the small farm research and extension programs.

The *House* amendment requires that the report be submitted by April 1 of each year.

The *Conference* substitute adopts the *Senate* provision.

Subtitle G: 1890 Land-Grant College Funding

(41) Support of Extension Work (Sec. 1444)

A. The *Senate* bill authorizes, beginning in fiscal year 1979, annual appropriations to support extension work at colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee Institute, *not in excess of* 4 percent of the total amount appropriated under the Smith-Lever Act.

The *House* amendment provides that there shall be appropriated under this section for each fiscal year, beginning in fiscal year 1979, an amount *not less than* 4 percent of the total appropriations for such year under the Smith-Lever Act, and further provides that the amount appropriated in fiscal year 1979 shall not be less than the amount made available to eligible institutions in fiscal year 1978 under section 3(d) of that Act. The *House* amendment also provides that no more than 20 percent of the funds received by an institution in any fiscal year may be carried forward to the succeeding fiscal year.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill provides that funds shall be distributed under a formula which reserves 4 percent to the Extension Service for administration and distributes the balance among eligible institutions as follows:

(1) 20 percent equally;

(2) 40 percent in proportion to rural population; and

(3) 40 percent in proportion to farm population.

The *House* amendment provides that, beginning in fiscal year 1979, appropriations up to the level appropriated in fiscal year 1978 under section 3(d) of the Smith-Lever Act shall be allocated among the eligible institutions in the same relative proportion as under section 3(d) for fiscal year 1978. Any funds appropriated in addition to this amount shall be distributed by a formula which is substantially the same as the formula contained in the *Senate* bill.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill provides that the States will act as intermediaries with respect to the extension programs between the 1890 institutions and the Secretary of Agriculture in the same manner as currently exists for 1862 institutions.

The *House* amendment removes the States as intermediaries and provides for a direct relationship between the eligible institutions and the Secretary.

The *Conference* substitute adopts the *House* amendment.

D. The *Senate* bill provides that persons employed by the eligible institutions shall be deemed to be Federal employees for the purpose of eligibility for Federal health and life insurance, workman's compensation, and retirement benefits.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(42) Development of Research and Extension Programs (Sec. 1444 and Sec. 1445)

A. Both the *Senate* bill and the *House* amendment provide that, in States in which 1890 schools are located, the extension program for each State is to be jointly developed by the Director of the State's cooperative extension service and the 1890 institution in the State.

The *House* amendment further requires that this program be mutually agreed to by these individuals and submitted to the Secretary of Agriculture for his approval within one year after the date of enactment of the bill.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment but deletes the phrase "administrative head of outreach" and substitutes therefor the phrase "administrative head of extension".

B. Both the *Senate* bill and the *House* amendment provide that, in States in which 1890 schools are located, a comprehensive program of research is to be jointly developed by the director of the State agricultural experiment station and the chief administrative research officer of the 1890 school in the State.

The *House* amendment further requires that the program be mutually agreed to by these individuals and that it be submitted to the Secretary for his approval within one year after the date of enactment of the bill.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

The *Conferees* understand that coordination and cooperation are imperative to achieve the objectives of this title and to insure maximum efficiency and productivity of the research and extension programs administered by the State agricultural experiment stations and extension services at the 1862 land-grant universities and those at the 1890 institutions. However, the *Conferees* do not intend that this coordination impinge on the self-determination of these institutions in project selection or specific program features. Nor are these provisions meant to extend jurisdiction of the Secretary or either of these institutions to programs and efforts funded with non-Department of Agriculture grants. The purpose of these provisions is recognized by the Department of Agriculture. This fact is clearly indicated in a letter from Secretary Bob Bergland to Chairman Foley, dated July 14, 1977. The matter is further clarified by the colloquy on the *House* floor, as reported in the CONGRESSIONAL RECORD of July 28, 1977, on page 25498. Secretary Bergland's letter reads as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 14, 1977.

Hon. THOMAS S. FOLEY,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. FOLEY: This letter is in response to your request for the Department's interpretation of the coordination provisions of Sections 1323 and 1325 of H.R. 7171. These sections provide continuous funding for research and extension to the 1890 land-grant colleges and universities and Tuskegee Insti-

tute. They bring these institutions in as full partners in the USDA-land-grant system for research and extension. The Department fully supports these sections.

The provisions for coordination of programs between the 1862 and 1890 institutions of each State are essential to ensure that the use of Federal funds will result in a single program tailored to the needs of the people of the State rather than two separate programs with potential duplication and fragmentation of effort. We expect this to be done by a reciprocal exchange of ideas between the institutions and by mutual agreement regarding the division of responsibilities and areas of active cooperation.

It is not intended that either the 1862 or the 1890 institutions would have veto power. We accept the statements of the 1890 Presidents to Members of Congress and to our Department that this will not occur on their part and trust that the 1862 institutions also will avoid this abuse of the partnership. Furthermore, if this should occur despite the good intentions of both parties, the Secretary can monitor and correct such activity.

There is no reason to believe that these sections will impair the strong and continuing cooperative relationships between the Department and the States. The Secretary never has had jurisdiction over the use of State and local funds in agricultural research and extension and this will not change. Such information as the States submit on State appropriations is and will be voluntary and in the interest of cooperation.

These sections will not be carried out by the Department in a manner that will impinge on the present responsibilities of directors of State agricultural experiment stations or of cooperative extension to carry out the administration of Hatch or Smith-Lever funds for their State, or to coordinate and direct the State and local appropriations under their jurisdictions.

This information is offered as the Department's position and intent should the provisions of H.R. 7171 become law.

Sincerely,

BOB BERGLAND,
Secretary.

(43) Support of Research (Sec. 1445)

A. The *Senate* bill authorizes annual appropriations, beginning in fiscal year 1979, to support continuing agricultural research at colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee Institute, *not in excess of* 15 percent of the total amount appropriated under section 3 of the Hatch Act.

The *House* amendment provides that, beginning in fiscal year 1979, there shall be appropriated under this section to support continuing agricultural research at the 1890 institutions an amount *not less than* 15 percent of the total appropriations for such year under section 3 of the Hatch Act, and further provides that the amount appropriated in fiscal year 1979 shall not be less than the amount made available to such institutions in fiscal year 1978 under Public Law 89–106.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill provides for the distribution of funds as follows:

(1) 3 percent to the Department of Agriculture for administrative purposes; and

(2) the remainder among the eligible institutions—

(A) 20 percent in equal shares;

(B) 40 percent in proportion to the rural population of the State; and

(C) 40 percent in proportion to the farm population of the State.

The *House* amendment provides a distribution formula as follows:

(1) 3 percent will be available to the Secretary of Agriculture for administration; and

(2) the remainder is to be allocated among the eligible institutions as follows:

(A) $100,000 to each; and

(B) of the remaining funds, one-half among the institutions in proportion to rural population and one-half among the institutions in proportion to farm population.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill provides that the governing board of each eligible institution is to designate the treasurer to receive and account for funds.

The *House* amendment provides for the direct appointment of a treasurer by the eligible institution.

The *Conference* substitute adopts the *House* amendment.

D. The *House* amendment provides that funds shall not be used for payment of negotiated overhead or indirect cost rates.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

E. The *Senate* bill provides for use of the U.S. mails for the dissemination of the results of projects funded under this section.

The *House* amendment authorizes use of the mails to disseminate the results of all research and experiments at the eligible institutions, not simply those funded under this section.

The *Conference* substitute adopts the *Senate* provision.

Subtitle H: Solar Energy Research and Development

(44) Short Title

The *House* amendment provides that the solar energy portion of the title may be cited as the "Agricultural Solar Energy Research, Development, and Demonstration Act of 1977".

The *Senate* contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(45) Definition of "Solar Energy" (Secs. 1446–1448, 1457)

Both the *Senate* bill and the *House* amendment define "solar energy" for the purpose of this subtitle and add this definition to section 1 of the Bankhead-Jones Act of 1935, section 1 of the Smith-Lever Act, and section 312(a) of the Consolidated Farm and Rural Development Act.

The *Senate* bill defines the term to mean energy (other than energy derived from the fossilization process) obtained from solar radiation, including solar heat, wind, and biomass.

The *House* amendment defines the term to mean energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended.

The *Conference* substitute adopts the *House* amendment.

(46) Farm Machinery

The *Senate* bill specifies in several places in the subtitle that term "farm machinery" shall include machinery used to cure crops, as well as other specified machinery.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(47) Agricultural Research

The *House* amendment adds a new section 10(f) to the Bankhead-Jones Act of 1935, which provides that of the sums authorized to be appropriated for research for any fiscal year under section 10(a) of the Act, $25,000,000 is authorized to be appropriated to carry out research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry crops and provide irrigation).

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment. It was the judgment of the *Conferees* that the Department of Agriculture should, under existing authorizations for appropriations and to the extent practicable, annually allocate $25,000,000 of its research appropriations to agriculture-related solar energy research projects. However, the $25,000,000 will be reduced by any other funds made available to the Department of Agriculture for solar energy research.

(48) Agricultural Extension

The *House* amendment adds at the end of section 3(a) of the Smith-Lever Act a new sentence which provides that 5 percent of the sums authorized by that section to be appropriated for extension work for each fiscal year is authorized to be appropriated for extension work with respect to uses of solar energy.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment. It was the judgment of the *Conferees* that the Department of Agriculture should, to the extent practicable, devote 5 percent of the funds made available to it under the Smith-Lever Act to extension work relating to the uses of solar energy.

(49) Rural Development (Sec. 1448)

The *Senate* bill amends section 303 of the Consolidated Farm and Rural Development Act, which enumerates purposes for which Farmers Home Administration real estate loans may be made, by designating the existing language as subsection (a) and adding a new subsection (b) which defines—

(1) the term "improving farms" to include the acquisition and installation in a family farm home of any qualified solar energy thermal conversion system; and

(2) the term "qualified solar energy thermal conversion system" to mean solar heating and cooling equipment (within the meaning of the Solar Heating and Cooling Demonstration Act of 1974) which meets the Department of Housing and Urban Development minimum property standards.

The *House* amendment contains the same provision except that it refers to "qualified nonfossil energy system", which is defined to mean any system which utilizes technologies to generate fuel, energy, or energy intensive products from products other than fossil fuels, as included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, and meets standards set by the Secretary of Agriculture, taking into consideration appropriate and available HUD standards.

The *Conference* substitute adopts the *House* amendment.

(50) Competitive Grants Program (Sec. 1449)

The *Senate* bill directs the Secretary of Agriculture to carry out a program of competitive grants (subject to the requirements and conditions for agricultural research grants provided for in subsections (e), (f), and (h) of section 2 of the Act of August 4, 1965, as amended by section 1414 of this title) for research and development relating to—

(1) uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry or cure farm and forest products); and

(2) uses of biomass derived from solar energy, including farm and forest products, byproducts, and residues, as substitutes for nonrenewable fuels and petrochemicals.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(51) Solar Energy Research Information System (Sec. 1450)

Both the *Senate* bill and the *House* amendment require the Secretary of Agriculture to annually compile a list of solar energy projects.

A. The *Senate* requires a compilation of solar energy projects related to agriculture.

The *House* amendment requires a compilation of all solar energy projects.

The *Conference* substitute adopts the *Senate* provision.

B. The *House* amendment provides that, in making this compilation, the Secretary shall consult with appropriate agencies of the United States.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

C. The *Senate* bill provides for the compilation of projects relating to heating and cooling methods for curing barns.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

D. The *House* amendment provides for the compilation of projects involving electric vehicles.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

E. The *Senate* bill provides for the compilation of projects relating to new technology powered by solar energy.

The *House* amendment provides for the compilation of projects relating to new technology powered by other than fossil fuels or derivatives thereof.

The *Conference* substitute adopts the *House* amendment.

(52) Advisory Committee (Sec. 1451)

The *House* amendment authorizes the Secretary of Agriculture to establish an advisory committee or to utilize an existing advisory committee to:

(1) meet with regional representatives of the State departments of agriculture to determine and to make recommendations concerning solar energy projects that are useful and beneficial to each State and region;

(2) review and evaluate each solar energy model farm and demonstration farm project being carried out under this subtitle;

(3) recommend which solar energy projects should be started, continued, continued with modifications, or discontinued;

(4) make recommendations to the Secretary regarding applications for grants submitted by State departments of agriculture; and

(5) submit to the Secretary and to each House of Congress an annual report of its recommendations and the results of its evaluations.

Provisions are made for administrative support of the advisory committee, for the procurement of services of consultants, for assistance by the Department of Agriculture and other Federal agencies, and for the acquisition of needed information concerning solar energy research projects. The advisory committee may not continue in existence beyond September 30, 1981, unless extended by act of Congress.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment authorizing the establishment of the advisory committee, but deletes the provisions relating to the membership of the committee, its specific functions, and administrative matters.

(53) Grants for Model Farms and Demonstration Projects (Sec. 1452)

A. The *Senate* bill directs the Secretary of Agriculture to distribute funds to State extension services, State agricultural experiment stations, forestry schools, and 1890 colleges, including Tuskegee Institute, for use in establishing model and demonstration farms.

The *House* amendment directs the Secretary to use 80 percent of the funds authorized to be appropriated for model farms and demonstration farms (which would be $16 million for fiscal years 1978–1981) to make grants to State departments of agriculture to establish the model farms and demonstration farms.

The *Conference* substitute adopts the *Senate* provision, but State departments of agriculture are included among those eligible to receive grants for use in establishing model farms and demonstration projects and the Secretary will choose one or more of those eligible in each State to receive the grant, rather than being required to distribute the funds among them.

B. The *House* amendment also contains a number of administrative provisions conditioning such grants, and limits the amount which any State department of agriculture may receive in any fiscal year to no more than 5 percent of the funds appropriated.

The *Senate* bill contains no comparable provisions.

The *Conference* substitute deletes the *House* amendment.

(54) Model Farms (Sec. 1452)

A. The *Senate* bill provides that the eligible institutions in each State are to, by mutual agreement, determine which solar energy projects will be demonstrated in that State. The *Senate* bill requires that the eligible institutions in each State establish, in cooperation with the State department of agriculture and local nonprofit research groups in the State, at least one large model farm on which to demonstrate the solar energy projects.

The *House* amendment requires that, after receiving recommendations from the Secretary of Agriculture as to solar energy projects to be carried out in the State with grants made available under this subtitle, each State department of agriculture will meet with its regional representative and select the projects to be carried out in that State during such fiscal year. The *House* amendment requires that during the first fiscal year for which a State department of agriculture receives a grant under this subtitle it establish (working with the Extension Service of the Department of Agriculture and with State agricultural experiment stations, agricultural institutes of higher education, and private and nonprofit institutions which are located in the State and which carry out solar energy research projects in the State) a model farm on which to demonstrate the solar energy projects.

The *Conference* substitute adopts the *Senate* provision, but the model farm in each State will be established by the recipient of the grant, rather than by the eligible institutions in the State. Also, selection of the solar energy projects to be demonstrated on the farm will be made by the Secretary, in consultation with the recipient, rather than by mutual agreement among the eligible institutions.

B. The *Senate* bill requires that the model farm be located in the State on land owned or operated by the State, if practicable, on State agricultural experiment station farm land.

The *House* amendment requires that the farm be located in the State on land owned by the State.

The *Conference* substitute adopts the *Senate* provision.

C. The *Senate* bill requires that the model farm demonstrate the use of solar energy as a means of heating, cooling, drying crops, and providing other farming needs.

The *House* amendment requires that the model farm demonstrate new and improved methods of agriculture.

The *Conference* substitute adopts both the *Senate* provision and the *House* amendment.

D. The *Senate* bill requires that the products of the model farms be sold and the proceeds deposited into the miscellaneous receipts of the State agricultural experiment station of the land-grant college or university in such State.

The *House* amendment permits the sale of any livestock and crops produced by the model farms and requires that the proceeds be deposited into the miscellaneous receipts of the Treasury of the United States through the Department of Agriculture.

The *Conference* substitute adopts the *House* amendment, with an amendment that only the pro rata share of proceeds resulting from Federal grants will be paid to the Secretary, and that the funds will then be deposited into a fund for use in carrying out the model farm program, instead of being deposited into miscellaneous receipts.

E. The *House* amendment requires that persons touring model farms be provided, on request, with information concerning the operation of model farms and the demonstration projects.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

F. The *Senate* bill requires that a report be compiled and submitted to the Secretary of Agriculture annually concerning each model farm.

The *House* amendment has the same reporting requirement, except that the reports are to be submitted to the regional representatives who shall submit the reports at the next meeting of the advisory committee.

The *Conference* substitute adopts the *Senate* provision.

G. The *Senate* bill requires that the results obtained from each model farm which prove to be economically practical be extended to other farms in each State through the State cooperative extension service as part of its ongoing energy management and conservation education program.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(55) Demonstration Projects (Sec. 1453)

A. The *Senate* bill requires that during each calendar year after the first two calendar years for which eligible institutions in a State receive grants under this part, such eligible institutions must, by mutual agreement, select from among the projects demonstrated on the model farm not less than ten demonstrations of solar energy projects to be carried out on farms which are already operating in the State.

The *House* amendment is the same as the *Senate* bill except that (1) the demonstration project must be selected and established by the State's department of agriculture, and (2) reference is made to fiscal years rather than calendar years.

The *Conference* substitute adopts the *Senate* provision, but the demonstration projects will be selected and established by the recipients of the grants in each State, rather than by the eligible institutions, and the recipients will consult with the Secretary of Agriculture in selecting the demonstration projects.

B. The *House* amendment requires that a State department of agriculture enter into a written agreement with any person who owns a farm selected by the department and who is willing to carry out a demonstration

of solar energy projects, which shall include the following provisions:

(1) the owner must carry out such projects for five years, report monthly on his findings, conclusions, and recommendations, keep a monthly record of data relating to the projects, and give tours of the farm and provide persons touring the farm a summary of the costs of carrying out such projects;

(2) the State department of agriculture must provide agricultural production materials needed for the projects (if they are not commonly being used on farms) and provide the owner technical assistance concerning such projects;

(3) the owner shall have all right, title, and interest to any agricultural commodity producer on such farm as a result of such projects; and

(4) the owner shall, at the end of the five-year period, have all right, title, and interest to materials provided by the State department of agriculture.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but the recipient of the grant in each State, rather than the State department of agriculture, will enter into the agreements, and the agreements will be for such period of time as the Secretary determines to be necessary to fairly demonstrate the projects, rather than for five years.

(56) Authorizations for Appropriations (Secs. 1454–1456)

The *Senate* bill generally authorizes such appropriations as are needed to carry out the provisions of the solar energy subtitle.

The *House* amendment authorizes to be appropriated for model farms and demonstration projects: $20 million for the four year period covered by fiscal years 1978, 1979, 1980, and 1981; and thereafter such sums as may be authorized by Congress.

The *Conference* substitute adopts the *House* amendment but retains the *Senate* provision for a general authorization with respect to the balance of the subtitle.

(57) Regional Solar Energy Research and Development Centers (Sec. 1455)

Both the *Senate* bill and the *House* amendment provide for the etablishment of 3 to 5 regional solar energy research and development centers in the United States, to be variously located so as to reflect the unique solar characteristics of different latitudes and climatic regions within the United States. It was the judgment of the *Conferees* that the regional centers be established as soon as possible and that, although no funding level is provided for the establishment of the Centers, a reasonable funding level be made available by the Secretary of Agriculture for each Center. Also, the *Conferees* reaffirmed the intent of the sponsors of this section that funds for the establishment of the Centers be available for new structures as well as the renovation of existing facilities over the next two years, but that future operating funds not be available for new structures.

(58) Definitions (Sec. 1457)

The *House* amendment contains definitions of the terms "institute of higher education", "region", "State", and "State agricultural experiment station".

The *Senate* bill contains no comparable definitions.

The *Conference* substitute adopts the *House* definition of "State", but deletes the definitions of "institute of higher education", "region", and "State agricultural experiment station".

(59) Subtitle I—International Agricultural Research and Extension

The *House* amendment authorizes the Secretary of Agriculture to expand the operational coordination of the Department of Agriculture with agricultural research and extension activities around the world. The Secretary is also authorized to work with developed countries, assist AID programs in developing countries, assist in strengthening research and extension capabilities relevant to agricultural development activities overseas at colleges and universities in the United States, and further develop within the Department a staff of highly qualified experienced scientists who specialize in international agricultural programs.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

Subtitle J—Studies

(60) Extension Education; Small Farms, Nutrition, Energy Conservation, Water Conservation, Forestry, and Animal Diseases

The *House* amendment directs the State cooperative extension services to give increasing attention to education programs in the areas of small farm operations, human nutrition, energy and water conservation, forestry and natural resources, animal disease and health care, and the utilization of organic waste materials to improve soil tilth and fertility.

The *Senate* bill contains no comparable provision, but does identify similar needs in other sections of this title.

The *Conference* substitute deletes the *House* amendment, but includes mention of the need for increased attention in these areas in the findings in section 1402 and other appropriate sections of this title.

(61) Evaluation of the Extension Service and the State Cooperative Extension Services (Sec. 1459)

The House amendment directs the Secretary of Agriculture to transmit to Congress not later than March 31, 1979, an evaluation of the economic and social consequences of the programs of the Extension Service and the State cooperative extension services. Not less than $1,500,000, nor more than $2,500,000, of the funds appropriated for the purposes of carrying out the extension programs of the Department of Agriculture will be used for this evaluation.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but deletes the provision which earmarks between $1,500,000 and $2,500,000 of the appropriations for extension for the evaluation.

(62) Weather and Water Allocation Study (Sec. 1460)

The *House* amendment requires the Secretary of Agriculture to conduct a comprehensive study of the effects of changing climate and weather on crop and livestock productivity and, within 12 months of the enactment of this Act, to submit a report and recommendations to the President and to Congress. The study will include:

(1) an assessment of the impact of changes in weather on our economy and on future food and feed availability and prices;

(2) a review of Federal and State water allocation policies; and

(3) a consideration of strategies and techniques for dealing with water shortages.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(63) Organic Farming Study (Sec. 1461)

The *House* amendment requires the Secretary of Agriculture to conduct, and, within 12 months after the date of enactment of this Act, submit to the President and to Congress a report containing the results of his recommendations concerning, an investigation and analysis of the practicability, desirability, and feasibility of collecting and using organic waste materials to improve soil tilth and fertility. The analysis will include the projected cost of collection, transportation, and placement of organic waste material in accordance with sound locally approved soil and water conservation practices.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(64) Agricultural Research Facilities Study (Sec. 1462)

The *House* amendment directs the Secretary of Agriculture to conduct a comprehensive study of agricultural research facilities and to report within 14 months to the President and Congress on his findings. The Secretary may appoint a committee of not to exceed 13 persons to assist him. The report is to cover agricultural research facilities and materials and include an analysis of the operation and impact of the Research Facilities Act of 1963 and recommendations for a modern and efficient system of research facilities.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House amendment*, but deletes the authority for the Secretary to appoint a committee to assist him and reimburse them for their travel expenses, and omits as unnecessary the specific reference to the Research Facilities Act of 1963 since the study includes facilities provided for under this Act.

Subtitle K—Funding and Miscellaneous Provisions

(65) Funding Targets (Secs. 1463 and 1464)

A. The *Senate* bill expresses the sense of Congress that minimum Federal funding for food and agricultural research and extension should equal, in any fiscal year, an amount not less than ½ of 1 percent of—

(1) the total value of personal consumption expenditures for food in the United States, and

(2) the gross value of United States agricultural exports, for the preceding calendar year.

For fiscal year 1978 this calculation would be: .005×($224.4 billion+$23 billion)=$1.237 billion.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

B. The *House* amendment makes specific overall authorizations for the five fiscal year period 1978–1982, for research, extension, and Hatch Act programs. For research, the overall authorizations range from $505 million in fiscal year 1978 to $780 million in fiscal year 1982. These totals do not include authorizations for Hatch Act or extension programs, nor do they include the authorizations for the competitive grants, educational grants and fellowships, hydrocarbon and alcohol research, solar energy research, or facilities grants under the Research Facilities Act of 1963, all of which are subject to separate authorizations. For extension, the overall authorizations range from $260 million in fiscal year 1978 to $350 million in fiscal year 1982. For Hatch Act programs, the overall authorizations range from $120 million in fiscal year 1978 to $220 million in fiscal year 1982.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment. This provision is not intended by the *Conferees* to result in the termination of these programs after 1982. The *Conference* substitute clearly sets forth the need for expanding existing research and extension programs. The *Conferees* intend that early oversight hearings be held and

that funding levels for these programs for future years will be considered and enacted well before fiscal year 1982.

(66) Extension Programs for Guam and the Virgin Islands of the United States (Sec. 1465)

The *House* amendment provides that the matching funds provision of section 3 of the Smith-Lever Act will be deemed to have been satisfied for fiscal years 1978 and 1979 for Guam and the Virgin Islands of the United States if the amounts budgeted and available for expenditure by Guam and the Virgin Islands of the United States in such years equal the amounts budgeted and available for expenditure by them in fiscal year 1977.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(67) Amendment to the Hatch Act (Sec. 1466)

The House amendment amends section 3 (c)(5) of the Hatch Act to permit the use of administrative funds reserved to the Secretary of Agriculture for transportation of non-Federal scientists to research meetings for purposes of assessing research opportunities and for research planning.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(68) Technical Provisions (Secs. 1467–1470)

A. The *House* amendment gives the Secretary of Agriculture discretion to determine when to pay and withhold funds available for allotment under this title.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

B. The *House* amendment provides for rulemaking, reporting requirements, and audits with respect to grants awarded under this title.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

C. The *House* amendment provides for the retention by the Secretary of Agriculture of 3 percent of the funds appropriated under this title, for grant administration purposes, and limits allowable overhead.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

D. The *Senate* bill provides that the Secretary of Agriculture and the Comptroller General of the United States will have access to books and records of recipients of Federal assistance for animal health and disease research for three years after the completion of the projects in which Federal funds are used.

The *House* amendment provides for access to records with respect to all of this title, and sets no time limit on such access.

The *Conference* substitute adopts the *House* amendment.

E. The *Senate* bill authorizes the Secretary of Agriculture to prescribe rules and regulations necessary to carry out subtitles A, D, and E of this title.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provisions, but substitutes a single provision to apply to the entire title.

TITLE XV—RURAL DEVELOPMENT AND CONSERVATION

(1) Agricultural Conservation Program (Sec. 1501)

The *Senate* bill amends section 8(b) of the Soil Conservation and Domestic Allotment Act, which authorizes the making of payments to agricultural producers for purposes of conservation treatment and pollution control. The *Senate* bill amends section 8(b) to specify that financial assistance will be provided to agricultural producers for carrying out enduring conservation and environmental enhancement measures Eligibility for financial assistance would be determined by the existence of conservation or environmental problems that reduce the productive capacity of the land and water or that cause environmental degradation. Financial assistance would be a portion of the cost of the installation of conservation measures. The Secretary of Agriculture would be given discretion to set the level of payment based on a number of considerations relating to the level and distribution of benefits and costs accruing from the conservation problem and the applied remedy, including (1) the farmer's inability to carry out the needed measures with his own resources, (2) the level of expected benefits to society, (3) the total cost of the conservation practice, (4) the degree to which the farmer benefits from other conservation programs, and (5) the degree to which conservation would be applied in the absence of financial assistance. The Secretatry would be required to consider national and local needs and priorities in developing a national cost-share assistance program.

The *Senate* bill would also amend section 8(e) of the Act. As amended, section 8(e) would establish the policy for dividing payments among landlords, tenants, and sharecroppers for conservation measures. The provisions for payment allocation related to allotment and production adjustment activities would be deleted. The provision for making small cost-share increase payments would be deleted. The Secretary would be given the authority to establish a payment limitation.

With respect to appropriations, funds would remain available until expended. A specified percentage or part of the total appropriated would have to be allocated to long-term conservation agreements. The allocation of funds among States would be based on conservation needs, as determined by the Secretary.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with two amendments. The first amendment deletes the requirement for consideration to be given to the producer's inability to carry out the needed measures with his own resources—it being the intent of the *Conferees* that cost-share assistance under the program should not be predicated on a financial means test. The second amendment clarifies the intent that, in determining the level of assistance to be provided under the program, consideration is to be given to the extent that the producer obtains benefits from other government programs which would duplicate benefits under the Agricultural Conservation Program.

It is the intent of the *Conferees* that the local ASC committees continue to be used in accordance with provisions of the Act and criteria established by the Secretary to determine the types of conservation problems that exist on farms and ranches, the priority of such problems, and the practices needed to solve them.

The Secretary is encouraged to provide cost-share assistance under the program for the establishment of shelter belts in the Midwest. Many of the shelter belts established in the aftermath of the devastating droughts of the 1930's have been plowed up and land used for crop production. The amount of such land has been estimated to total 28 million acres. This land is once again subject to blowing dust and serious erosion. The establishment of shelter belts is needed to conserve the remaining soil resources of the Nation.

It is also expected that assistance under the program will be provided for controlling mesquite and other noxious brush in the Southwest. The Soil Conservation Service estimates that in Texas alone over 92 million acres of rangeland are infested with noxious brush and an additional 2 to 3 million acres are becoming infested each year. The SCS further estimates that this brush annually wastes 20 times as much water as is used by all industry, municipalities, and irrigation farmers in the State of Texas. A similar situation exists in many other Southwestern and Western States.

(2) Inclusion of Agriculture and Human Nutrition Among the Basic Functions of the Department of Agriculture (Sec. 1502)

The *Senate* bill amends sections 520 and 526(a) of the Revised Statutes to include fresh water aquaculture and human nutrition as basic functions of the Department of Agriculture.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting "fresh water" in the reference made to aquaculture.

(3) Aquaculture Loan Authority (Sec. 1503)

A. The *Senate* bill amends the Bankhead-Jones Farm Tenant Act, as amended, to provide authority for the Secretary to cooperate with Federal, State, territorial, and other public agencies, and nonprofit organizations, in developing plans for a program for the conservation, development, and utilization of water for aquacultural purposes. Aquaculture is defined to mean the culture or husbandry of aquatic animals and plants.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

B. The *Senate* bill amends the Consolidated Farm and Rural Development Act to clarify that "aquaculture" is an authorized loan purpose under the business and industrial loan program of the Farmers Home Administration.

The *Conference* substitute adopts the *Senate* provision.

(4) Disposition of Excess Federal Property to Rural Fire Forces (Sec. 1504)

The *Senate* bill requires the Secretary, with cooperation and asisstance from the Administrator of General Services, to encourage the use of Federal excess personal property by rural fire forces, and to closely coordinate the assistance provided under the rural community fire protection program with assistance provided under other fire protection and rural development programs which he administers.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(5) Reports to Congress on the Rural Community Fire Protection Program

The *Senate* bill requires the Secretary to report to Congress by March 1 of each year regarding the operation of the rural community fire protection program.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(6) Congressional Approval of Watershed Protection and Flood Prevention Projects (Sec. 1506)

The *Senate* bill raises from $5 million to $10 million the amount of any project under the Watershed Protection and Flood Prevention Act requiring congressional approval, transmittal to Congress of the watershed or subwatershed area plan, and transmission of certain plans and recommendations to Congress.

The *House* amendment raises the threshold to $500,000.

The *Conference* substitute adopts the *Senate* provision.

(7) Watershed Loan Authority (Sec. 1508)

The *Senate* bill raises from $5 million to $10 million the amount a local watershed district may borrow from the Farmers Home Administration to finance the local share of a watershed project.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(8) Multiyear Set-Aside Contracts (Sec. 1509)

The *Senate* bill extends through the 1982 crop the Secretary's authority to establish multiyear set-aside contracts for feed grains, wheat, and cotton.

The *House* amendment extends this authority through the 1981 crop and prohibits livestock grazing, except in areas determined to be a major disaster if the Secretary finds that such grazing is needed as a result of the disaster.

The *Conference* substitute adopts the *House* amendment.

(9) Authority To Defer Payments on Certain Emergency Farm Loans (Sec. 1510)

The *Senate* bill provides specific authority for the Secretary to defer for up to three years principal and interest payments on any Farmers Home Administration loan in an area eligible for Farmers Home Administration emergency loans.

The *House* amendment amends sections 309 and 309A of the Consolidated Farm and Rural Development Act to provide specific authority for the Secretary to use funds contained in the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund to pay installments of the principal and interest to holders of notes of Farmers Home Administration borrowers whose payments of principal and interest have been deferred by the Secretary.

The *Conference* substitute adopts the *House* amendment.

(10) Critical Lands Resource Conservation Program (Sec. 1511)

The *House* amendment authorizes the Secretary to provide, for the purpose of promoting conservation of soil and water, incentive payments of up to $30 per acre for farmers in the Great Plains Conservation Program area under two-year agreements to convert certain cropland from soil depleting crops to soil conserving cover crops. Up to 50 percent of a farmer's acreage which had been planted to any soil depleting crop or crops in any of the two preceding years would be eligible. The agreement will be annually renewable after the first two years.

The *House* amendment authorizes the Secretary to provide for preservation of cropland, crop acreage, and allotment history for acreages diverted to vegetative cover for the purpose of a Federal program under which history is used as a basis for an allotment or for participation in a program.

Appropriations for this program would be authorized through fiscal year 1981.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(11) Rural Water Program Assessment

The *House* amendment declares it to be the policy of Congress that citizens and all levels of government should become aware of programs concerned with water resources that may impact on agricultural production and other aspects of rural life. The *House* amendment requires the Secretary to conduct a study to:

(1) Identify governmental programs concerned with assessing water resource supplies which have an impact on agriculture and life in rural areas:

(2) Identify geographical areas which may suffer shortages in either quantity or quality of water;

(3) Describe water conservation, storage, and allocation methods and procedures that may be pursued to relieve water shortages; and

(4) Assess the extent and manner in which important water related information is disseminated to users. The Secretary would cooperate with Federal, State, and local governmental agencies in carrying out this study. The Secretary would be required to complete the study and submit a report to the agriculture committees of Congress within 180 days of the enactment of this bill. Effective October 1, 1977, $160,000 would be authorized to be appropriated to carry out the study.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment with the understanding that the Secretary has a more comprehensive study with regard to rural water resources already underway making use of his existing authority. The Secretary is encouraged by the *Conferees* to expedite completion of the study, to include the objectives of the *House* amendment in the study, and to report the results thereof to Congress upon its completion.

TITLE XV.—FEDERAL GRAIN INSPECTION

(1) Supervision Fees (Sec. 1602)

The *Senate* bill repeals the provisions in current law requiring that Federal field supervision of inspection or weighing under the United States Grain Standards Act be supported by fees. Supervision would, instead, be financed by appropriated funds.

The *House* amendment provides for an equal (50/50) sharing of the costs for Federal field supervision of inspection and weighing under the Act. Fifty percent of the costs would be covered by appropriated funds and 50 percent by fees charged to those to whom services are provided.

The *Conference* substitute adopts the *Senate* provision.

(2) Definition of "Supervision of Weighing" (Sec. 1604)

The *Senate* bill amends the definition of "supervision of weighing" in section 3(y) of the Act to include "certification of the weight of the grain" as a part of the supervision process. Under the current definition, the issuance of weight certificates is not authorized as part of the certification process.

The *House* amendment does not expand the definition to include issuance of weight certificates, but does amend it to require supervision adequate to reasonably assure the integrity and accuracy of weight certificates.

The *Conference* substitute adopts the *House* amendment.

(3) Authorization for Expansion is Responsibilities of the Federal Grain Inspection Service (Sec. 1604)

The *House* amendment amends section 3A of the Act, which authorizes the creation of the Federal Grain Inspection Service to administer the Act. The Secretary of Agriculture would be authorized to delegate to the FGIS the additional responsibilities of performing related functions for grain and similar commodities and products under other statutes administered by the Department of Agriculture. Also, the Secretary would be authorized to appoint 4 individuals to grade GS–16 positions in the FGIS.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(4) Standards or Procedures for Grain Weighing (Sec. 1604)

The *House* amendment amends section 4 (a) of the Act to authorize the Administrator of the FGIS to establish procedures as well as standards for accurate weighing and weight certification.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(5) Official Inspection and Weighing in Canadian Ports (Sec. 1604)

Both the *Senate* bill and the *House* amendment amend sections 7(l) and 7A(d) of the Act to permit non-Service personnel (including Canadian nationals), under contract to the FGIS, to perform Federal inspection and weighing of American export grain being transshipped through Canadian ports.

The *House* amendment also adds provisions, not contained in the *Senate* bill, prohibiting the contract personnel from performing appeal inspection or weighing.

The *Conference* substitute adopts the *House* amendment.

(6) Official Weighing at Interior Locations (Sec. 1604)

Both the *Senate* bill and the *House* amendment amend section 7A(b) of the Act to authorize the Administrator to cause "official weighing", as well as "supervision of weighing", to be performed at interior inspection points.

Under the *Senate* bill, this would be a general authorization.

Under the *House* amendment the Administrator could implement "official weighing" at any interior facility only at the request of the operator of the facility. Also, the *House* amendment would make a technical amendment to make clear that official weighing is required at "export elevators at export port locations" rather than at export port locations.

The *Conference* substitute adopts the *Senate* provision and the technical amendment made by the *House* amendment.

(7) Fees for Equipment Testing (Sec. 1604)

The *House* amendment adds new provisions to (1) require that regulations issued by the Administrator provide for the charging and collection of reasonable fees to cover the costs to the FGIS incident to equipment testing; and (2) direct that such fees be deposited in the fund created by section 7(j) of the Act. The Act now requires the Administrator to provide for the periodic testing of all sampling, grading, inspection, and weighing equipment used in the official inspection, official weighing, or supervision of the weighing of grain under the Act.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(8) Reporting Requirements (Sec. 1604)

The *House* amendment amends section 17B(b) of the Act, which requires the Administrator to notify the agriculture committees of Congress within 30 days whenever the Secretary or the Administrator receives notice that a contract for the export of more than 100,000 tons of grain has been cancelled. A clause would be added to section 17B(b) providing that this notification would be required notwithstanding the provisions of section 812 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973. Section 812 states that reports made to the Secretary by exporters shall, individually, remain confidential.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(9) Studies of Grain Inspection and Weighing (Sec. 1605)

The *House* amendment amends section 8(b) of the United States Grain Standards Act of 1976 to extend the time schedule for the completion of the studies of inspection and weighing procedures and management practices in the interior marketing areas mandated by section 8(b). Each reporting agency (the Federal Grain Inspection Service, Office of the Inspector General, and General Accounting Office) would be given an additional year to complete its work.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(10) Hard Red Winter Wheat

The *Senate* bill prohibits any person acting under a license or authority under the United States Grain Standards Act from certifying or performing any analysis to determine (1) the subclass of Hard Red Winter wheat on the basis of color or on the basis of dark, hard, and vitreous kernel content, or (2) the percentage of dark, hard, and vitreous kernels in Hard Red Winter wheat. This provision would become effective on May 1, 1977, but such certifications or analyses may be performed after that date if required by a contract for the sale of wheat entered into prior to the date of enactment of the bill.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(11) Conflict of Interest—Establishment of Criteria

The *House* amendment amends section 11(b)(5) of the Act which authorizes the Administrator to waive the conflict of interest rules for inspection agencies whenever the Administrator determines that any conflict of interest which may exist is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by the agency. A new provision would be added which would require the Administrator, in determining whether or not to grant a waiver, to consider:

(1) the historical record of integrity of the organization and its employees;

(2) whether there exists a balance of buyers and sellers on the governing body of the inspection service provided by the organization;

(3) whether there exists an autonomous committee or other governing body to manage the inspection service; or

(4) such other criteria as the Administrator may decide are necessary and proper after consultation with the grain trade industry.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment. However, the Administrator of the Federal Grain Inspection Service may apply these criteria in determining whether to grant waivers under the provisions of current law.

(12) Miscellaneous Amendments (Secs. 1606–1607)

The *House* amendment makes several technical and conforming changes to the United States Grain Standards Act.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

(13) Retention of Designations Following Convictions (Sec. 1608)

The *House* amendment amends section 17(2) of the United States Grain Standards Act of 1976, which provides that during the implementation period of the 1976 Act, existing agencies may continue to perform official inspection or weighing functions without a designation or delegation under the 1976 Act *unless* the agency, or two or more members or employees thereof, have been convicted of any offense under the Act or other Federal law relating to the handling, weighing, or official inspection of grain. The *House* amendment adds a proviso to this provision which states that the Administrator may allow the agency to continue to provide official inspection or weighing, notwithstanding the convictions, if he determines that such continued operations are necessary or desirable. The Administrator must, within 30 days after making such a determination, report to the agriculture committees of Congress on the factual basis for the determination.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment.

TITLE XVII—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ACT

The *Senate* bill establishes a new program whereby wheat producers, processors, end product manufacturers, and consumers of wheat foods can work together in a Wheat Industry Council in a coordinated program of research and education to promote and improve human nutrition through the use of wheat and wheat foods. The program will be supported by an annual assessment on end product manufacturers at a rate of not more than 5 cents per hundredweight of processed wheat purchased. The program is contingent on approval by end product manufacturers in a referendum. The *Senate* bill provides end product manufacturers, subject to the assessment, the right to obtain a refund of their assessment.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. The amendment provides that all retail bakers shall be exempt from the provisions of the title. The exemption is a matter of statutory right with no regulatory conditions thereon. The amendment defines "retail bakers" as end product manufacturers who sell end products directly to ultimate consumers. End product manufacturers who derive less than 10 percent of gross end product sales revenues from sales to ultimate consumers are excluded from the definition so that wholesale bakers who do some minor retail sales will remain subject to the provisions of the title. End product manufacturers who derive 10 percent or more of gross food sales revenues from sales of products manufactured or produced by others are excluded from the definition of retail baker, so that large chain store bakery operations will remain subject to the title. It is the intent of the *Conferees* that the Secretary of Agriculture endeavor to keep any recordkeeping or reporting obligations imposed under the program to the absolute minimum necessary, consistent with achievement of the objectives of the title, so as not to constitute a burden on those subject to the title.

TITLE XVIII—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES

The *Senate* bill—

(1) prohibits the establishment of any advisory committee by the Department of Agriculture unless the Secretary of Agriculture determines that it serves an essential function, its membership is balanced, its work cannot be carried out by an existing committee, the proposed budget reflects its anticipated costs, and it is in the public interest;

(2) directs the Secretary to insure that all advisory committees comply with all provisions of law relating to advisory committees, submit their reports in written form, retain responses made by the Department on their recommendations, and not exceed their proposed budgets unless approved by the Secretary;

(3) with respect to the membership of such committees, establishes a 6-consecutive year limit for service on committees; a limit on simultaneous service on more than one committee; reporting requirements for members as to full name, place of residence, occupation, and sources of income; and a prohibition against more than one official of a business entity serving on the same advisory committee at the same time;

(4) requires advisory committees to provide the Secretary specific estimates as to their cost of operation;

(5) requires advisory committees to make annual reports to the Secretary and the appropriate committees of Congress detailing their activities and expenditures; and

(6) directs the Secretary to terminate any advisory committee that is not complying with the requirements of the Federal Advisory Committee Act or the bill, that is not performing an essential function, or that is inactive.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The provision does not apply generally to any advisory committee established by statute, reorganization plan, or the President.

THOMAS S. FOLEY,
W. R. POAGE,
E DE LA GARZA,
WALTER B. JONES,
ED JONES,
DAWSON MATHIS,
DAVID R. BOWEN,
CHARLES ROSE,
FREDERICK W. RICHMOND,
RICHARD NOLAN,
JIM WEAVER,
BILL WAMPLER,
KEITH G. SEBELIUS,
PAUL FINDLEY,
CHARLES THONE,
CLEMENT J. ZABLOCKI
(on issues involving Public Law 480—Title XII, International Research—Title XIV, and provisions of S. 275 on international reserves),
DONALD J. PEASE
(on issues involving Public Law 480—Title XII, International Research—Title XIV, and provisions of S. 275 on international reserves),

Managers on the Part of the House.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
ROBERT DOLE,
MILTON R. YOUNG,
CARL T. CURTIS,

Managers on the Part of the Senate.

AUTHORIZING PRINTING OF CONFERENCE REPORT TO ACCOMPANY S. 275, FOOD AND AGRICULTURE ACT OF 1977

Mr. FOLEY. Mr. Speaker, I offer a resolution (H. Res. 757) and ask unani-

mous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 757

Resolved, That there shall be printed for the use of the Committee on Agriculture of the House of Representatives the maximum number of copies of the conference report to accompany the bill (S. 275) and entitled the "Food and Agriculture Act of 1977" which may be printed at a cost not to exceed $1,200.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

POINT OF ORDER

Mr. ASHBROOK. Mr. Speaker, a point of order.

Mr. Speaker, I move a call of the House, since there is not a quorum present and not even close to a quorum present.

The SPEAKER. The gentleman is aware of the rule of the House that the Chair cannot recognize the gentleman for a point of no quorum unless there is a pending question being put to a vote.

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The gentleman is aware of the fact that we are postponing votes on the suspensions.

Mr. ASHBROOK. Mr. Speaker, a point of order.

I make a point of order for the record that under the Constitution of the United States a quorum must be present for transaction of business notwithstanding the rules.

The SPEAKER. There is no question or business being put to a vote at the moment, so under clause 6 of rule XV the gentleman's point is not well taken.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION, FISCAL YEAR 1978

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3455) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION

SECTION 1. (a) There is authorized to be appropriated to the Nuclear Regulatory Commission (hereafter in this Act referred to as the "Commission") to carry out its functions and authorities under the Atomic Energy Act of 1954 (42 U.S.C. 2017) and the Energy Reorganization Act of 1974 (42 U.S.C. 5875) for the fiscal year 1978 to remain available until expended:

(1) For "Nuclear Reactor Regulation", not more than $39,390,000;

(2) For "Standards Development", not more than $10,630,000;

(3) For "Inspection and Enforcement", not more than $34,759,000, of which an amount not to exceed $6,000,000 is authorized for additional personnel not to exceed three hundred in number in the Office of Inspection and Enforcement;

(4) For "Nuclear Materials Safety and Safeguards", not more than $17,246,000;

(5) For "Nuclear Regulatory Research", $121,226,000, of which an amount not to exceed $4,500,000 is authorized to carry out the Improved Safety Systems Research program pursuant to section 4 of this Act;

(6) For "Program Technical Support", $17,204,000, of which an amount not to exceed—

(A) $5,000,000 is authorized for the development and implementation of an unresolved Safety Issues Plan pursuant to section 3 of this Act; and

(B) $600,000 is authorized for a fellowship program pursuant to section 5 of this Act; and

(7) For "Program Direction and Administration", not more than $29,310,000.

(b) Of the total amount authorized under section 1(a), the Commissioners may, by majority vote, reallocate among program activities specified in subsection (a) or pursuant to the authority granted in subsection (d) an amount not exceeding $10,000,000 except that the amount transferred from any of the major program activities specified in subsection (a) shall not exceed 10 per centum of the amount so specified. Prior to any reallocation of an amount in accordance with the provisions of this subsection, where such amount is in excess of $200,000, the Commission shall inform the appropriate congressional committees. Such reallocation may be made notwithstanding the limitations of subsection (a).

(c) There is hereby authorized to be appropriated $15,000,000 for contracts for research, studies, and technical assistance on domestic safeguard matters. No amount authorized to be appropriated under subsection (a) including any amount reallocated under subsection (b) may be used for such contracts and no amount authorized to be appropriated under this subsection may be used by the Office of Nuclear Regulatory Research for such contracts until a statement supporting the need for such research, study, or technical assistance has been prepared and published by one or more of the following: the Commission, the Executive Director for Operations, the Director of the Office of Reactor Regulation, the Director of the Office of Nuclear Material Safety and Safeguards, the Director of the Office of Inspection and Enforcement, or the Director of the Office of Standards Development.

(d) There is hereby authorized to be appropriated $17,185,000 for contracts for regulatory research related to advanced reactor safety. No amount authorized to be appropriated under this Act may be used for such contracts except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation supporting the need from the Advisory Committee on Reactor Safeguards.

COMMISSION PERSONNEL

SEC. 2. Section 201 of title II of the Energy Reorganization Act of 1974 is amended by adding the following new subsections at the end thereof:

"(h) The Commission shall prepare and submit to the Congress a quarterly report which documents, in the case of each person hired for or promoted to a position at the Commission which is at grade GS–11 or above, the procedures followed by the Commission—

"(1) in preparing the job description for such position;

"(2) in informing potential applicants of the availability of such position;

"(3) in selecting from candidates the persons to be employed in such position; and

"(4) to document other steps taken to meet provisions of the Equal Employment Act.

The first such quarterly report shall be submitted to the Congress not later than January 31, 1978, and subsequent reports shall be submitted prior to the end of one calendar month after the end of each calendar quarter thereafter.

"(i) Beginning with the fiscal year 1978 not more than one hundred and ninety positions at the Commission may be at grade GS–16 or above.".

UNRESOLVED SAFETY ISSUES

SEC. 3. Title II of the Energy Reorganization Act of 1974, is amended by adding the following new section at the end thereof:

"UNRESOLVED SAFETY ISSUES PLAN

"SEC. 210. The Commission shall develop a plan providing for the specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues.".

IMPROVED SAFETY SYSTEMS RESEARCH

SEC. 4. (a) Section 205 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(f) The Chairman of the Commission shall, in coordination with the Administrator, develop a long-term plan for projects for the development of new or improved safety systems respecting the design and operation of reactor powerplants. Such plan shall provide that such projects shall be sponsored by the Office of Nuclear Regulatory Research.".

FELLOWSHIP PROGRAM

SEC. 5. Section 29 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977. To assist the committee in carrying out its function, the committee shall establish a fellowship program under which persons having appropriate engineering and scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowships shall be for two-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.".

CONSOLIDATION OF OFFICES

SEC. 6. (a) The Commission, in consultation with the Administrator of the General Services Administration, shall develop, and not later than December 31, 1977, submit to the Congress a plan for the consolidation of offices of headquarters personnel of the Commission into not more than two buildings, one to be located in the District of

Columbia and one to be located in Bethesda, Maryland. Such plan shall provide that such consolidation shall be completed before the end of the fiscal year 1978.

(b) The Commission is authorized to enter into leases for such property and facilities as may be necessary to carry out the plan required under subsection (a). Such leasing shall be carried out subject to the rules and regulations applicable to leasing of property by the Administrator of General Services.

ORGANIZATIONAL CONFLICTS OF INTEREST

SEC. 7. The Commission shall by December 31, 1977, promulgate guidelines to be applied by the Commission in determining whether an organization proposing to enter into a contractual arrangement with the Commission has a conflict of interest which might impair the contractor's judgment or otherwise give the contractor an unfair competitive advantage.

COOPERATIVE RESEARCH FUNDING

SEC. 8. Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

TRANSFER OF FUNDS

SEC. 9. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 10. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

The SPEAKER. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio (Mr. ASHBROOK) has just pointed out the fact that there are possibly less than 50 Members present on the floor at this point. He made the further point that the Constitution, article I, section 5, requires that the House have a quorum at all times to do business. We are in the full House. We are not in the Committee of the Whole. I raise again the question whether or not the House can conduct its business for 4 or 5 hours today on 13 separate bills under suspension without having a majority of the membership here and recorded present.

I think any legislation we act upon could be challenged in court as not having been considered by a quorum, and a quorum is not here.

Also I am under the impression that rule XV requires or permits at least one quorum call to establish a quorum at the opening of each day's session.

The SPEAKER. With regard to the gentleman's statement, the Constitution does require what the gentleman says—a quorum to do business. The rules of the House reflect this requirement. But under the circumstances, the chair will recognize a Member to move a call of the House.

CALL OF THE HOUSE

Mr. UDALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 534]

Allen	Eckhardt	Moakley
Ambro	Edwards, Calif.	Moffett
Andrews, N.C.	Ford, Mich.	Moorhead, Pa.
Applegate	Frenzel	Moss
Archer	Frey	O'Brien
Ashley	Gammage	Obey
Aspin	Goldwater	Pattison
Badillo	Gonzalez	Quie
Barnard	Harrington	Risenhoover
Boland	Harsha	Rodino
Bolling	Heckler	Rosenthal
Breaux	Holt	Ruppe
Burke, Calif.	Hubbard	Santini
Burton, John	Ichord	Sarasin
Burton, Phillip	Jenrette	Scheuer
Butler	Johnson, Calif.	Seiberling
Carr	Kastenmeier	Shuster
Cederberg	Koch	Sisk
Chappell	LaFalce	St Germain
Chisholm	Leggett	Thompson
Cochran	Lehman	Ullman
Collins, Ill.	Long, La.	Vanik
Conyers	McCormack	Waggonner
Cotter	McDonald	Waxman
Crane	McHugh	Wiggins
D'Amours	McKinney	Wilson, Bob
Davis	Meeds	Wolff
Dent	Mikulski	Young, Alaska
Diggs	Mikva	
Early	Milford	

The SPEAKER pro tempore (Mr. RICHMOND). On this rollcall 346 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1978

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (House Concurrent Resolution 341) revising the congressional budget for the United States Government for the fiscal year 1978, with a Senate amendment thereto, disagree to the Senate amendment, and agree to a conference with the Senate on the disagreeing votes of the 2 houses.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut? The Chair hears none, and appoints the following conferees: Messrs. GIAIMO, ASHLEY, and STOKES, Ms. HOLTZMAN, Messrs. DERRICK, LEHMAN, SIMON, FISHER, MATTOX, LATTA, and CONABLE, Mrs. HOLT, and Mr. ROUSSELOT.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 341, SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1978

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the concurrent resolution (House Concurrent Resolution 341) revising the congressional budget for the U.S. Government for the fiscal year 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION, FISCAL YEAR 1978

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) is recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us H.R. 3455 which authorizes funds for the Nuclear Regulatory Commission for fiscal year 1978. The committee reported one amendment which substantially rewrites the bill proposed by the administration. The committee amendment to H.R. 3455 authorizes appropriations in the amount of $301,950,000. As reported by the Committee on Interior and Insular Affairs, this year's NRC authorization is more specific in several respects than have been prior NRC authorizations.

In the past, the NRC authorization provided for a lump sum which could be allocated among various activities by the Commission in consultation with the joint committee. This year's bill is a line item authorization which strictly limits the Commission's authority to reallocate funds among major budget categories. The committee believes that by stipulating specific amounts for particular activities we will establish a more appropriate relationship between the Congress and the Commission.

The committee amendment provides $4.5 million for a new program encompassing research on a new or improved reactor safety systems. This program will fill a gap in existing research activities. A stipulation is included that any such research be for the purpose of improving reactor safety and not to promote nuclear power vis-a-vis alternative energy sources, $5 million is also included for development and conduct of a program to identify and resolve safety problems that are common to many or all nuclear reactors.

In line with the President's policy that there should be increased inspection of nuclear facilities, the committee added $6 million to the Commission's funding request for its Office of Inspection and Enforcement.

The committee amendment to H.R. 3455 also establishes a fellowship program under the aegis of the Commission's Advisory Committee on Reactor Safeguards; this program will enhance the ability of the ACRS to perform its essential role of providing the Commission independent advice on the safety of nuclear powerplants.

Nearly half the Commission's appropriation is earmarked for research on nuclear reactor safety. Because the merits of such research are difficult to evaluate, the authorization bill requires the ACRS to prepare an annual assessment of the Commission's reactor safety research program. The first such assessment would be scheduled for submittal to the Congress not later than December 31 of this year.

The committee believes that the Commission's operating efficiency is seriously degraded by the dispersed location of its offices. At present the NRC staff are housed in nine buildings located in downtown Washington, Bethesda, Silver Spring, and Rockville. We believe this situation must be corrected. The authorization bill includes, therefore, a requirement that the Commission prepare a plan for consolidation of its offices prior to the end of fiscal 1978. This plan is to be submitted to the Congress by December 31 of this year.

Mr. Speaker, as the separate and additional views to the committee report accompanying this legislation make clear, one of the more controversial issues before the committee was the authorization of funding for intervenors in licensing proceedings.

By a narrow vote of 20 to 19, the committee rejected an amendment offered by my good friend and colleague JOHN SEIBERLING to fund intervenors. I supported this amendment because I believe the record demonstrates that citizen intervenors have made a substantial contribution to the licensing process and have helped to assure the safety of licensed facilities. I recognize, however, that this is a very controversial issue that will finally be decided by the full House and the other body.

Because of the parliamentary situation, an amendment to fund intervenors will not be offered today. I want to emphasize that the issue is not dead because it will surely be before the committee, and eventually the House when we take up legislation to reform the licensing process. I think it is appropriate to address the question of intervenor funding in the context of the licensing system itself and I am sure the committee will give the issue the full airing called for by those who opposed Mr. SEIBERLING's amendment to this authorization bill.

While I am on the topic of intervenor funding, I want to point out that the committee report erroneously states on page 5 that Mr. George L. Gleason of the American Nuclear Energy Council testified in favor of funding intervenors in the Commission's generic proceedings on the use of recycled plutonium in light water reactors. Mr. Gleason did not so testify and the Council, an industry group, does not support intervenor funding in any NRC licensing proceeding.

In the course of its oversight activities, the committee requested the Commission to provide information concerning hiring of women and minorities. The data suggested that the Commission's equal opportunity program was not sufficiently effective with regard to hiring of professional level staff. In order that the Congress might have assurance that the Commission was fulfilling its equal opportunity obligations, the committee included a requirement that a quarterly report be prepared to document procedures followed in hiring professional level staff.

The committee believes H.R. 3455 sets a new tone which will add an important measure of credibility to the nuclear regulatory process. My colleagues and I urge your support.

Mr. Speaker, on May 8, 1977 the Committee on International Relations withdrew its request for a sequential review of H.R. 3455 without prejudice to its jurisdiction in this area on the understanding that Chairman ZABLOCKI would offer, and I would accept, an amendment on the floor to increase the amount authorized for NRC program technical support and to earmark such amount for the Office of International Programs. Our agreement on this point is recorded in an exchange of correspondence which has been printed in my committee's report on this bill.

In light of the fact that the NRC authorization bill is to be brought up under a suspension of the rules, however, we have had to consider other ways of accomplishing the objectives of this mutually-agreed-to amendment. Accordingly, I am prepared to assure that efforts will be made—by means of a letter which Chairman ZABLOCKI and I will send to the NRC—to have an additional $85,000 transferred from funds appropriated to the NRC for fiscal year 1978 to the International Programs Office of that agency. I have already notified the NRC of our intentions on this matter and they foresee no difficulty at this time.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, at the outset, I want to thank the able chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), for his cooperation on this matter. The efforts that he will make to have an additional $85,000 administratively transferred from funds appropriated to the Nuclear Regulatory Commission to the Office of International Programs in lieu of an amendment should resolve the problem.

Mr. Speaker, as such the proposal of the gentleman from Arizona (Mr. UDALL) for dealing with the problem is acceptable to me. I believe that the manner in which our two committees have proceeded on this question should be a welcome indication of the kind of cooperation that is possible in the jurisdictionally complex nuclear area.

As we know, Mr. Speaker, the Anti-Proliferation Act of 1977, which has been reported by the Committee on International Relations, will be considered later this week. Substantially, it reaffirms and reenforces the role of the Nuclear Regulatory Commission as an independent check on sensitive international nuclear exports. The Committee on International Relations wishes to see the NRC play an important role, not only on export licenses per se, but in inter-agency discussions and reviews of the proliferation issues generally. We believe that the added support provided by the action suggested by the gentleman from Arizona will make it possible for the NRC to function more effectively in this area, and I appreciate the cooperation of the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I thank the chairman. I am certainly happy that we have been able to work this out in this fashion.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I want to commend the gentleman from Arizona (Mr. UDALL) and his committee for their efforts in enacting this first NRC legislation under the new House rules. The gentleman has worked closely with our committee which shares nuclear jurisdiction under the new rules with the Committee on Interior and Insular Affairs. I look forward to a continued cooperative relationship with Chairman UDALL and his committee.

However, there are several matters that concern me.

Section 1(a) of H.R. 3455 would earmark $6 million to expand the Office of Inspection and Enforcement up to 300 additional people. Included in this figure would be a large number of new inspectors. Clearly, there is a need for more inspectors. However, I am concerned about how the NRC will utilize these additional inspectors. For example, there have been suggestions that NRC station an inspector at each facility. I do not see the wisdom of that suggestion. Moreover, I believe that such an inspector would soon become a part of the operation.

I hope that the gentleman from Arizona shares my view that before the NRC hires these personnel, the NRC should submit a detailed plan to Congress which will indicate how these inspectors and the entire NRC inspection force will be utilized and what training and retraining they will receive.

Would the gentleman concur that such a plan is needed before these funds are obligated? I yield to the gentleman from Arizona for purposes of responding.

Mr. UDALL. I agree. I hope, however, that the NRC will not delay preparing and submitting such a plan for our review. I would not want the Office of Management and Budget to use this plan as an excuse for not utilizing these funds early in fiscal year 1978.

On another matter, I would like to note that section 3 of the authorization directs the Commission to develop and put into effect a plan for the identification and resolution of safety issues common to many or all nuclear reactors. There has been some question in the minds of some Members of Congress and the public whether the failure to resolve these

issues has resulted in inadequate safety margins or unnecessarily stringent regulations. Because this is a subject that has drawn close attention and concern, I think it important that Congress be well informed on the progress of NRC plans and actions for their resolution.

Mr. DINGELL. I agree that this should be done. I hope the NRC will submit to Congress, within 90 days after this section is enacted, their plan for resolution of outstanding safety issues. This plan should identify the safety issues relating to nuclear power reactors which are unresolved on the date the section is enacted, and provide a brief description of the problems. It should set forth Commission actions taken directly or indirectly by the end of the 90 days to develop and implement corrective measures, and additional actions planned concerning such measures. I would also like to see the estimated cost of such actions, and a timetable for their implementation. The commission should indicate to us the priority it has assigned to each issue, and the basis on which priorities have been assigned. I hope Mr. UDALL agrees that this would be an important briefing process for our committees and the entire Congress.

Mr. UDALL. This is an excellent suggestion. I think we should also receive an update of this plan each year no later than January 10 until all such safety issues are resolved and corrective measures have been taken.

Mr. DINGELL. Our subcommittee is also concerned that NRC again not be put in the position of promoting nuclear power by doing developmental research and then having to evaluate its own work.

My understanding of NRC's role in research is for NRC to develop plans that will tell us what is needed to be done, to then contract for the needed research through an independent organization, and independently review all such results. I understand that your committee shares our view and intends that NRC follow this approach in the case of this needed research.

Mr. UDALL. That is correct. Clearly, Congress did not want NRC to be in the business of promoting nuclear power. Our committee is also interested in making sure that NRC does not step, even slightly, into the promotion area.

Mr. DINGELL. I understand that the bill includes another new commission planning process which warrants the ongoing attention of our committees. Section 4(a)(f) of the bill before us provides that the Chairman of the Commission, in coordination with the ERDA Administrator, prepare a long-term plan for the development of new or improved safety systems respecting the design and operation of reactor powerplants. In so providing, we are sending the NRC out into some new territory. In the past they have concentrated on confirming the adequacy of standards and regulations. I would appreciate Chairman UDALL providing us with his views with regard to the plan that the NRC will prepare for the conduct of this new program.

Mr. UDALL. As I see it, the plan would include brief descriptions of the projects which are proposed, the need for each project, a timetable for its implementation, the cost of the project, and other pertinent information. This plan will provide both the Congress and the public an essential guide for judging how much progress is being made. I believe the initial plan should be submitted to the Congress within 120 days after enactment of this legislation. I would envision the plan being updated annually and submitted to the Congress by February 1 of each year.

Mr. DINGELL. I understand that the sole purpose of this research is the improvement of reactor safety and not the enhancement of the economic attractiveness of nuclear power versus alternative energy sources. Is my understanding correct?

Mr. UDALL. The gentleman is correct.

Mr. DINGELL. The Advisory Committee on Reactor Safeguards is a board of part-time advisers providing the Commission with advice on a variety of matters relating to the protection of the public health and safety. Section 5 of this bill provides a new fellowship program under the direction of the ACRS and participants will be assigned tasks relating to the functions of the committee. In addition, this section directs an annual study by the ACRS of reactor safety research.

My understanding of the fellowship program is that it could help to alleviate delays in the licensing process. The tasks of the persons in the fellowship program would be under the direct control of the advisory committee. The advisory committee will utilize the fellowship personnel to assist in preparation of the annual reactor safety research study or other such analysis of research data as needed to assist the advisory committee in carrying out its duties in a timely manner.

Because the advisory committee is already burdened with work and pressed for time, I just want to assure myself that these fellows will in fact be under the direction of the committee and that they will not be given work outside the scope of the committee.

Mr. UDALL. Your understanding of the intent of this section is correct. These fellowships are to be assigned work of the ACRS and will be closely monitored by the committee.

Mr. DINGELL. I would like to clarify a small administrative matter. Section 8 of H.R. 3455 authorizes the money received by the Commission for the cooperative nuclear safety research programs to be used for salaries and expenses associated with those programs. I would ask the chairman of the committee, Mr. UDALL, if it is the intent of the Congress that such use be as provided in annual appropriation acts enacted after the date of enactment of this section?

Mr. UDALL. I will tell the gentleman from Michigan he has correctly stated the intention behind this provision.

Mr. DINGELL. Finally, H.R. 3455 contains an organizational conflict of interest provision which is somewhat different than that adopted recently by Congress for ERDA and the FEA. I understand that in conference you would hope to revise the provision in H.R. 3455 to conform to the one adopted for those two agencies.

Mr. UDALL. That is correct. When you mentioned this matter to us, the bill had already been adopted by our committee. But if the other body concurs, we will revise the provision to conform to the one adopted for ERDA and the FEA.

Mr. DINGELL. Mr. Speaker, at this juncture, I wish to insert in the RECORD letters to the Speaker initially requesting sequential referral of this legislation and a subsequent letter from Chairman STAGGERS to Chairman UDALL indicating that such referral would not be necessary if amendments to the bill could be worked out. I am pleased to say that Chairman UDALL was quite willing to follow this process, recognizing that our committee was preoccupied with the National Energy Act legislation of President Carter.

Mr. Speaker, several days ago, the administration submitted a draft proposal concerning nuclear regulatory reform. The objective of the proposal is to shorten the period for consideration of nuclear powerplants. On September 6, 1977, I wrote to Secretary of Energy Schlesinger commenting on the proposal. My letter, together with a staff memorandum dated September 2, appear at the end of my remarks. Also included is a letter from the Council on Environmental Quality to the Secretary concerning this proposal and a letter from the president of the Atomic Industrial Forum, Mr. Carl Walske.

It appears that both opponents and proponents are quite skeptical about this proposed legislation and have suggested that a great deal more study is needed prior to submitting it to the Congress. As my letter indicates, I share that view. Clearly, such legislation should not result in nuclear power receiving greater support at the Federal level than other forms of energy.

The correspondence that I refer to is included in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 23, 1977.

Hon. THOMAS P. O'NEILL, JR.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 21, 1977, the Chairman of the Nuclear Regulatory Commission submitted an Executive proposal for the authorization of appropriations for the Commission. This Executive Communication was referred to the Interior and Insular Affairs Committee, the International Relations Committee and the Interstate and Commerce Committee.

The NRC proposal was introduced on February 9 as H.R. 3455 and referred to Chairman Udall's Committee, as provided in a Memorandum of Understanding discussed on the House Floor during the consideration of H. Res. 6 (see *Congressional Record*, January 4, 1977, page H-16). The Memorandum notes that our Committee has concurrent jurisdiction over measures such as H.R. 3455 and could request sequential referral of the bill.

At this time, I want to indicate our interests in the bill and reserve a request for sequential referral of this legislation at the appropriate time. I am sending a copy of this letter to Chairman Udall for his information.

Sincerely yours,

HARLEY O. STAGGERS,
Chairman.

FEBRUARY 23, 1977.

Hon. MORRIS K. UDALL
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter I sent to the Speaker reserving sequential referral of H.R. 3455, which authorizes appropriations for the Nuclear Regulatory Commission.

I have referred the Executive Communication to the Subcommittee on Energy and Power, chaired by Representative John D. Dingell. Some of the provisions in the NRC bill concern the Subcommittee. I have asked Chairman Dingell and his staff to discuss these with appropriate representatives of your Committee.

Sincerely yours,

HARLEY O. STAGGERS,
Chairman.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 6, 1977.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We have already spoken about some of the problems that the Committee on Interstate and Foreign Commerce has identified with the legislation authorizing funds for the Nuclear Regulatory Commission for FY 1978 (H.R. 3455). It is my impression from discussions with the staffs of the two Committees that there is general agreement about the nature of these problems and a willingness on the part of the Committee on Interior and Insular Affairs to reach some accommodation on those problems. We have discussed some specific amendments with the staff of your Committee and will communicate the language of those amendments to you at an early date.

As you also know, our Committee had indicated earlier to the Speaker that we might be forced to seek sequential referral of this legislation following its having been reported by your Committee. Our Committee is now beginning work on President Carter's National Energy Act and, to be frank, we would prefer not to have to go through the process of considering and writing a report on H.R. 3455.

Assuming, therefore, that we can jointly arrange to have favorably considered the amendments which we propose when the legislation reaches the Floor, we will not ask a sequential referral of this legislation but instead will proceed in this manner.

This, of course, is entirely without prejudice to our Committee's right to sequential referral of similar legislation at a later date, but I gather from our conversation that you have no objection to this occurring under appropriate circumstances.

Your consideration in this matter is appreciated.

Sincerely,

HARLEY O. STAGGERS,
Chairman.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 6, 1977.

Hon. JAMES R. SCHLESINGER,
Secretary of Energy, The White House, Washington, D.C.

DEAR JIM: Several days ago the FEA provided a copy of a nuclear regulatory reform proposal for our review and comment by September 6, 1977. While I greatly appreciate that opportunity, I am surprised to see that the FEA, which is not the agency which administers the nuclear regulatory program, drafted the proposal and is seeking comments.

Enclosed for your information is a Subcommittee staff memorandum which raises a number of serious problems with the proposal.

I suggest that the Administration not move too fast on this proposal, particularly since data available to our Subcommittee from the NRC does not appear to lead one to the conclusion that there is a pressing need for it. The problem of trying to accelerate development of nuclear and fossil energy powerplants is not new nor is it simple to resolve. Our Subcommittee held hearings on the matter last spring, and plans additional hearings soon. Those hearings did not indicate that delays in issuing licenses and permits were significant. Other factors, particularly in the construction phase, may be more significant.

As chief sponsor of the National Environmental Policy Act of 1969 in the House, I am not ready to emasculate it by reverting to the pre-NEPA days when Federal agencies failed to consider environmental values in carrying out their programs. I believe Senator Jackson, who sponsored NEPA in the Senate, would also have grave doubts about any proposal that has this result. Yet that result is possible under the FEA proposal because it would transfer principal responsibilities under NEPA to the States once a State program is approved by the NRC. The Administration might reconsider that aspect of the proposal.

I note that several States and the NRC have initiated steps to conduct joint hearings "to consider and take evidence on matters common to both and within the concurrent jurisdiction of both". This joint effort appears to be a step in the right direction and should be encouraged.

Finally, I believe it important that the Administration provide data to show the extent to which the licensing process is, in fact, delaying construction of nuclear facilities and the extent to which delays are due to other factors, such as construction delays, including problems relating to quality control, availability of equipment and parts, poor or inadequate designs, labor disputes, mismanagement, and financial problems.

Please keep my staff and myself informed about the progress of this proposal and provide us with all future revisions of this proposal. Also, please provide a copy of each of the written comments obtained by the FEA and others in the Administration from Federal and non-Federal agencies and organizations and others concerning this proposal and earlier versions thereof.

With best wishes,

Sincerely,

JOHN D. DINGELL,
Chairman.

MEMORANDUM

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 2, 1977.

To: JOHN D. DINGELL.
From: Subcommittee Staff.
Subject: Nuclear Regulatory Reform Proposal.

The FEA recently provided a draft proposal to amend the Atomic Energy Act relating to the siting of nuclear facilities, reliability and other aspects of economic regulation of proposed nuclear power plants, and the application of NEPA to these plants. The proposal establishes a new procedure for advance planning and early notice by utilities of proposed nuclear powerplants, provides for State determination of power needs, authorizes combined construction permits and operating licenses, authorizes site preparation and limited construction prior to issuing a construction permit or combined permit and license, authorizes interim amendments to operating licenses, provides for early site approval that is good for up to 10 years, authorizes the Advisory Committee on Reactor Safeguards to dispense with reviewing applications, provides for State environmental reviews pursuant to NEPA and authorizes funding for intervenors. The FEA asked for comments by September 6, 1977.

On August 29, 1977, the President of the Atomic Industrial Forum, Inc., Mr. Carl Walske, wrote to Secretary Schlesinger criticizing the draft proposal. He said:

"While our reaction to the bill is thus preliminary, it is nonetheless apparent to us that the nuclear industry generally is greatly disappointed with the draft in its present form. It is difficult to visualize this bill as a significant contribution to the President's announced goal of shortening the time required to license needed nuclear reactors. It clearly fails to resolve the important problems of uncoordinated interagency regulatory procedures, extended intervention in proceedings, continuing changes in existing regulations and licensing requirements, and the unduly cumbersome NEPA approval process. Indeed, the additional uncertainties injected into the licensing scheme by some of the bill's provisions make probable a lengthened project time due to licensing impacts. In my opinion, unless the present bill is substantially revised, it is unlikely to find any significant support from the nuclear industry."

He added that "this bill appears worse than no bill at all."

The staff has reviewed the proposed bill and our comments follow for your consideration.

A. BACKGROUND DATA

In connection with the Subcommittee's hearings earlier this year on NRC licensing, you asked the NRC to respond to several questions relative to the issue of delay in the licensing of nuclear facilities. The NRC responses showed as of April 1, 1977 that there were 63 nuclear power facilities licensed to operate in the United States, that 34 construction permit applications were pending, and that 18 operating licenses were pending.

The tables showed that the 34 construction permit applications were docketed as follows:

1971	1
1973	9
1974	12
1975	5
1976	2
1977	2

Of this number, the environmental review was completed in six cases, but not the safety review. In the other cases, both environmental and safety review issues remain, but decisions in most cases are expected, according to the NRC, in all but 3 cases in 1977 or 1978.

There are six applications in a "hold" status as follows:

Facility, docket date, and reason for hold

1. Barton (Ala.), 9–27–74, financial consideration.
2. Douglas Point (Md.), 8–9–73, financial problems.
3. Fulton (Pa.), 11–14–73, awaiting reactivation by applicant.
4. Greenwood (Mich.), 9–7–73, financial problems.
5. Summit (Del.), 6–27–73, pending applicant's decision on reactor type.
6. Koshbonong (Wis.), 8–26–74, State of Wisconsin determined that site was unacceptable re: water quality and quantity.

The 18 operating license applications were docket as follows:

1971	3
1973	3
1974	4
1975	3
1976	2
1977	3

Of this number, the environmental review was complete in 7 cases, but safety issues remained. The safety and environmental review was complete in 3 cases. In the remaining cases, environmental and safety issues remained. Except in the 3 cases where both reviews were complete, construction was not yet complete.

In addition, the NRC said:

"Neither the NRC, nor its predecessor, the AEC, has formally denied an application to construct and operate a nuclear power facility. However, there have been a number of instances where applications have been withdrawn, as a result of safety or environmental concerns raised by the Commission's staff or by the public related to the site characteristics.

"Early in its considerations of any application, the staff brings to the attention of the utility any site-related characteristics that appear to have particular significance with regard to acceptability of the site. Several utilities have proposed sites which, for reasons indicated in the following table, led to subsequent withdrawal of their applications or their request that the staff suspend its review of their proposals."

The NRC Table is enclosed. It indicates that seismic problems and population density are principal areas of concern. In many cases, however, such withdrawal or suspension did not occur until several years after the application was docketed.

The NRC data identifies the NRC direct costs for processing construction permits (CP) and operating licenses (OL) applications as follows:

Professional man-years and cost

CP: 10.39; $1,068,954.
OL: 11.63; $1,024,472.

The NRC has proposed a new fee schedule to be effective August 1, 1977, but it does not cover all NRC costs. The schedule has not yet been implemented as proposed.

Lastly, the NRC also provided a list of 241 pending amendments to operating licenses as of April 1, 1977. The NRC said:

"The date listed under "estimate of time to process to final" represents the prospective decision date for the amendment. Many requests for amendments involve license changes that have little or no safety significance and accordingly, the time required to process such amendments is not critical. Experience has shown that in many such cases, the estimated decision date often slips due to manpower being expended on higher priority efforts.

"The 'staff years required' includes professional, clerical, administrative, and management time. A total of 44.6 manyears will be required to process the 241 current amendments during FY 1977 and 16.5 for FY 1978 on the target date indicated."

While the above data are probably not conclusive about the delay situation, particularly since there probably are some specific cases where delay has been horrendous, it does appear to show that safety reasons are more frequently the causes for the so-called "delay." This may be due to the fact that each plant is designed differently (sometimes due to improvements in technology and experience), but this raises safety issues. A contributing factor may also be manpower. Moreover, these data do not show what is the optimum time for NRC consideration of any license or permit application. Presumably, if the proposal of FEA is designed to reduce the time factor, the Administration should be expected to provide supporting data indicating the optimum time for considering a license or permit and the estimated savings of time expected by the proposal consistent with the need to insure safety and comply with applicable environmental laws.

B. RELATION OF PROPOSAL TO NATIONAL ENERGY PLAN LEGISLATION

As you know, Part F of House-Passed H.R. 8444 prohibits the use of natural gas and petroleum as a primary energy source of any new electric powerplant. The purpose of Part F is to foster greater use of coal and other fuels, but in a "manner consistent with applicable environmental requirements." Unless a powerplant obtains an exemption from this prohibition, it must use coal or some other fuel, including uranium, at the option of the utility. It unequivocally requires that *all* utilities subject to that Part shall comply with applicable environmental requirements which are defined to include requirements established under the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act and NEPA.

The proposed bill does not contain that requirement or anything like it. Indeed, it contains a finding that "an essential element" of the national energy policy is to develop a licensing process to facilitate siting, construction and operation of nuclear power reactors "which meet reasonable and objective safety and environmental criteria" and that "interstate commerce is substantially affected by the imposition of environmental and safety restrictions" on such reactors.

The phrase "reasonable and objective" environmental criteria in the new proposal is vague and ambiguous and implies that there are some environmental criteria that are not "reasonable and objective." But it is not clear what these criteria are or who would decide which criteria are "reasonable and objective." Presumably, any standards, requirements, or regulations established by, or pursuant to, the above Federal laws or State laws are "reasonable and objective." If they are not, then they should be identified and changed by the agencies responsible for administering them or by Congress.

Presumably, nuclear and fossil energy powerplants should be subject to the same Federal and State environmental laws as is provided in H.R. 8444. There should be no distinction between the two forms of energy. Yet the proposal seems to create one that favors some lesser environmental requirements for nuclear plants.

The proposal also requires that before a State issues a construction permit, the State must furnish a certificate of "convenience and necessity." We understand that this provision is designed to transfer the "need for power" question from the NRC to the State. Again we note that H.R. 8444 provides for exemptions from the prohibitions if the applicant shows that there is "no site" at which certain criteria for an exemption can be met. Administration personnel repeatedly noted during consideration of H.R. 8444 that this provision means that they will consider any alternative site, not just the one picked by the utility. They point out that it might be wiser to locate a plant in State X to serve a region rather than in State Y. This concept implies that not only must the State agree that the power is needed, but there also must be a broader consideration of regional power needs. The proposal may subvert that concept.

C. NEPA

The proposal provides a procedure whereby a State may determine that "construction and operation of the nuclear power reactor and directly associated facilities will be environmentally acceptable" pursuant to a State program. Such determinations must be made in accordance with NEPA or with "State law" which the NRC "finds" meets the requirements of NEPA. Each Governor is required to submit a "program for making such determinations" to the NRC for approval. Such State "determinations" are not subject to "further review" by the NRC under NEPA. Once the State gives notice of such determination, the NRC and all Federal agencies are discharged from the "responsibilities" under NEPA.

The proposal, however, does not directly amend NEPA. As you know, section 102 requires that "the policies, regulations, and public laws of the United States", including the Atomic Energy Act of 1954, "shall be interpreted and administered in accordance with the policies set forth" in NEPA. It also provides for the preparation of environmental impact statements where there is a major Federal action and requires that such statement "accompany the proposal through the existing agency review processes."

In 1975, Congress amended NEPA to provide for the delegation to the States of the preparation of impact statements for any major Federal action funded under a grant program to the States. Certain statutory criteria for such delegation was included, but Congress specifically stated that such delegation "shall not relieve" Federal officials of their "responsibilities" under NEPA, including the scope, objectivity, and content of the entire statement.

The proposed bill appears to go well beyond the 1975 amendments to NEPA. If we understand the proposal, it would remove the NRC and all Federal agencies having any responsibility in the development of nuclear powerplants from complying with NEPA in all respects. No longer would these agencies need to "insure that presently unquantified environmental amenities and values" be given "appropriate consideration in decisonmaking along with economic and technical considerations." No longer would these agencies be required to prepare environmental impact statements. In short, these agencies could return to operating as they did prior to enactment of NEPA when they paid little attention to environmental concerns.

There is precedent for delegating to the States authority to prepare some environmental impact statements, including the conduct of the necessary environmental reviews associated with such preparation. But there is no precedent for the approach suggested by the FEA proposal. The basic concept of NEPA is to include environmental concerns in Federal decisionmaking. This proposal appears to subvert that concept.

As noted, the proposal provides that State determinations shall be made in accordance with NEPA or State law which the NRC "finds," after consulting with the Council on Environmental Quality, "meets the requirements" of NEPA. There is some question about the ability of the NRC or any agency to make such a finding, particularly when the proposal fails to state which "requirements" of NEPA the State law must conform to. There is also some question about the NRC being the appropriate agency to make any such finding.

D. ADVANCE PLANNING AND EARLY NOTICE

The proposal adds a new section to the Atomic Energy Act directing NRC "to take such action as it may deem necessary or desirable", including establishment of "priorities" for reviewing permit and licensing applications, to encourage utilities to engage in advance planning in the selection of sites. The NRC must establish guidelines and priorities for this purpose which shall be published at least 90 days before they are effective. If there are "significant objections" to the proposed guidelines, there must be an "informal public hearing" to "consider" the objections.

It is not clear what "action" the NRC could take. It is a very vague authority, yet it appears to give the NRC a blank check to do whatever it "deems necessary or desirable" without any statutory guidelines or criteria.

The concept of advance planning may be sound. But there is a question whether it should be performed by the NRC. Possibly the new Energy Department would be more appropriate.

E. GENERAL

There are a number of other provisions which raise questions. For example:

1. What is the significance of the new provisions for hearings and how will they streamline the procedure?

2. What matters would be considered in issuing an early site approval prior to submission of any application for a license or permit?

3. Should not the proposal establish some guidelines for the NRC to use establishing "siting criteria and other requirements," rather than leave it up entirely to the NRC's discretion?

4. Is 10 years too long a time for a site permit to be in effect given the possibility that circumstances could change substantially in that time frame?

5. On what basis would the Advisory Committee on Reactor Safeguards decide that its review of a license or permit application "is not warranted"?

6. What impact, if any, will this proposal have in license, permit, and other proceedings pending before the NRC?

7. To what extent is public participation enhanced or restricted by this proposal?

8. Should not the provisions for advance planning apply to "utility sites," regardless of the form of energy planned to be used and should not a prerequisite to such planning be that there is a demonstrated need for the power to be generated at the site?

9. What procedures would be used to insure early participation by the public in advance planning activities?

10. What will be the cost and personnel needs of the NRC and the States under this proposal?

11. (a) What percentage of the cost of developing and administering a State environmental program will the NRC pay through the use of grants and for what period?

(b) What amount should be authorized for such grants over the next five fiscal years and how will those grants be allocated to the States?

12. (a) Does the intervenor program apply to actions by the States in conducting environmental reviews as part of the NRC proceeding for a license or permit?

(b) What is the estimated annual cost of the intervenor program?

APPLICATIONS WITHDRAWN OR SUSPENDED

Plant name: Utility	Year of application	Year application withdrawn or review suspended	Principal concern
Ravenswood: Consolidated Edison Co.	1962	1964	High population density.
Bodega Bay: Pacific Gas & Electric Co.	1962	1964	Need to design against fault displacement.
Malibu: Los Angeles Department of Water and Power.	1963	1967	Do.
Burlington No. 1 and 2: Public Service Electric & Gas Co.	1966	1968	High population density.
Bolsa Island: Los Angeles Department of Water and Power; South California Edison Co.	1967	1968	High population density, uncertain seismicity.
Easton Station: Niagara Mohawk Power Corp.	1967	1968	Thermal effects, interference with nearby historic landmark.
Bell Station: New York State Electric & Gas Corp.	1968	1973	Thermal effects.
Newbold Island: Public Service Electric & Gas Co.	1970	1973	Alternate site available with lower population density.
Aquirre: Puerto Rico Water Resources Authority.	1970	1972	Seismicity.
Mendocino No. 1 and 2: Pacific Gas & Electric Co.	1971	1973	Do.
Rome Point: Yankee Atomic Electric Co.	1971	1973	Need to design against impact of heavy aircraft.
Fermi-3: Detroit Edison	1974	1976	Alternate site available with lower population density.

ATOMIC INDUSTRIAL FORUM, INC,
Washington, D.C., August 29, 1977.

Dr. JAMES R. SCHLESINGER,
Assistant to the President for Energy,
The White House, Washington, D.C.

DEAR JIM: The Forum staff has reviewed the Administration's proposed "Nuclear Regulatory Reform Act of 1977", sent us under cover of a letter from Robert Hanfling of FEA dated August 20, 1977, and discussed its provisions with a number of members of our cognizant committees. The bill is lengthy and complex, and the deadline for providing our views has permitted only a first review of the draft legislation. We intend to develop more detailed reactions and comments for presentation to the appropriate Congressional committees as the bill comes before them for review.

While our reaction to the bill is thus preliminary, it is nonetheless apparent to us that the nuclear industry generally is greatly disappointed with the draft in its present form. It is difficult to visualize this bill as a significant contribution to the President's announced goal of shortening the time required to license needed nuclear reactors. It clearly fails to resolve the important problems of uncoordinated interagency regulatory procedures, extended intervention in proceedings, continuing changes in existing regulations and licensing requirements, and the unduly cumbersome NEPA approval process. Indeed, the additional uncertainties injected into the licensing scheme by some of the bill's provisions make probable a lengthened project time due to licensing impacts. In my opinion, unless the present bill is substantially revised, it is unlikely to find any significant support from the nuclear industry.

Let me at this time relate to you four major areas which our preliminary analysis has identified as causing great industry concern. They are major reasons why the bill augurs more harm than good for any speed-up of nuclear licensing.

First, Section 3 authorizes NRC to establish priorities for reviewing license applications to encourage "adequate and open advance planning", which is presently undefined. The Commission has little experience or expertise in this area, and there is great apprehension as to the appropriateness of whatever regulations may finally be established, undoubtedly after extensive public hearings and follow-up litigation. Such new legislatively designated Commission authority, and the inevitable disagreements that will surround its implementation, afford little confidence that any assistance towards expedition will be found here. While some may argue that this risk will be outweighed by an increase in public confidence arising from greater open planning, this line of reasoning is not cogent. A significant portion of active nuclear opposition is increasingly ideological, and not likely to diminish its efforts to impede nuclear licensing because it is somehow partially "brought into the system".

Secondly, Section 8 decrees that state reviews for environmental acceptability shall be performed strictly in accordance with the requirements of the National Environmental Policy Act. This provision's potential for creating further licensing delays is enormous. NEPA, though not without redeeming social value, has been interpreted monstrously, causing delays of projects without compensating environmental benefits. It has become the intervenors' most effective weapon for delaying energy projects. The licensing delays caused by the recent D.C. Circuit's fuel cycle decisions now before the Supreme Court show that NEPA continues to be a trap even for an agency as experienced and sophisticated as NRC. Adding these inherently imprecise requirements to the review processes of many states will result in an avalanche of litigation, much of it successful, challenging the state reviews. This obviously will not contribute to expediting licensing.

Thirdly, Section 9 provides for funding of intervenors in the Commission's rulemaking and adjudicatory proceedings. The nuclear industry has consistently opposed the use of public funds to finance intervention in NRC hearings, particularly adjudicatory ones, as bad public policy and an unwise use of limited funds. If the arguments favoring it are cogent, the concept should be applied to government proceedings generally. Perhaps it may be appropriate for one agency to test the validity of contradictory theories of the value of funding intervenors. But such experimentation hardly seems appropriate in the context of an attempt to expedite the licensing process. Moreover, in addition to the inevitable encouragement of individuals seeking a subsidy, the present bill lacks even the minor saving grace—present in former proposals—of a provision specifying that litigation over NRC's criteria for payment may not be used to delay an on-going proceeding. This section is thus wholly counterproductive to expedition and reform of licensing.

Finally, we are greatly troubled by the requirement in Section 8, as a specified part of environmental acceptability, that provisions be made for siting reactors "away from population centers." If the safety of existing sites were determined to be inadequate, this provision would meet little opposition. However, every existing site has been reviewed and granted approval by hearing boards and the ACRS, and the Commission presently requires reactors to be operated safely whether they are located in the midst of a desert, or near large cities. The fact of such safety is demonstrated both by industry experience and by the results of the Reactor Safety Study. Thus, while population should be one of the many considerations in an environmental cost/benefit analysis, it is illogical and indefensible to call for its use as a threshold screening criterion. In todays' political atmosphere utilities are not even considering metropolitan sites. But as the ACRS has recognized, population density many miles away from sites is not really a significant safety consideration in siting nuclear power plants. Thus, this provision highlights a "problem" that is illusory and political. As a "solution," however, it would likely erode needed public confidence.

In summary, while the bill contains a number of individual, long discussed features which the nuclear industry can support (e.g., non-mandatory ACRS review, authority for issuance of interim amendments to an operating license prior to completion of hearings, de-coupling of site reviews from design reviews, site banking, and leaving NRC with radiological determinations while taking away from it need for power determinations), the projected benefits of these provisions are far outweighed by the danger of the unknowns and readily predictable pitfalls, such as those above. On balance, without sub-

stantial modifications, this bill appears worse than no bill at all.

I urge you and your colleagues in the Administration to reconsider generally the proposed legislation based on this and similar comments that you will receive and, specifically, the recommendations previously included in the enclosed *Statement on Licensing Reform* which I sent to you on June 3. My staff and I would be pleased to discuss these matters with you in greater detail as we both refine our views.

Sincerely,

CARL.

[MEMORANDUM FOR JOHN AHEARNE]

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., September 2, 1977.

From: Gus Speth.

Subject: Current Draft of the Propcsed Nuclear Regulatory Reform Act of 1977.

The Council on Environmental Quality's comments on the current draft of the Nuclear Regulatory Reform Act of 1977 are attached.

As these comments indicate, we believe this draft is seriously deficient and should be substantially modified before it becomes the Administration's position.

COMMENTS OF THE COUNCIL ON ENVIRONMENTAL QUALITY ON REVISED DRAFT "NUCLEAR REGULATORY REFORM ACT OF 1977"

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., September 2, 1977.

The current draft of the proposed "Nuclear Regulatory Reform Act" remains seriously inadequate. Some of the worst features of earlier drafts have been deleted or modified, but many important deficiencies are still in the bill. We think that this version:

Unduly limits, in connection with licensing of nuclear power plants, opportunities for citizens to obtain public hearings, to raise issues at hearings, and to get a full and open hearing on such issues;

Exempts federal agencies from meeting their responsibilities under the National Environmental Policy Act and provides inadequately for state implementation of NEPA;

Unjustifiably limits the ability of the states to make their own determinations on radiation issues and develop and enforce their own programs and standards to protect public health and safety;

Provides inadequate assurances that state programs will make adequate provision for public review and hearing;

Fails to address the unresolved health and safety issues associated with nuclear power development;

Fails to address the need for greater openness and freedom of dissent with the NRC;

Fails to require that new nuclear power plants not be constructed where there is a feasible conservation or solar alternative;

Is too broad in scope, and could lead to licensing, without adequate review, of unproven nuclear technologies;

Overall, conveys a message that expedited licensing of nuclear plants might come at the expense of public health, safety, and environmental protection.

Since so many of our earlier comments still apply to the draft bill, we have attached a copy of our August 12th memorandum with marginal notations. Our principal comments follow:

SECTION 2. FINDINGS AND PURPOSES

This section has undergone some improvements, but still reflects an overall balancing of purpose in favor of expediting licensing at the expense of health, safety and environmental protection.

SECTION 3. ADVANCE PLANNING AND EARLY NOTICE

Our earlier comment on subsection (a) still applies. The draft limits the scope of the "open advance planning" process to nuclear reactors. This is too narrow; considered in conjunction with the site permit provisions in section 6, the "advance planning" process could skew state land use planning toward nuclear power without comparable and adequate analysis of needs and alternatives.

SECTION 4. CONSTRUCTION PERMITS AND OPERATING LICENSES

This section is virtually unchanged from the earlier version and retains its deficiencies.

The standards for issuing licenses in subsections (b) (for plans of standardized design) are too ambiguous. They should be tightened (1) to ensure that the NRC makes the required "definitive finding of safety" prior to issuance of the combined permit and license, and (2) to place the burden on the applicant to demonstrate that the power plant has been properly constructed and, after a period of operation, that it has operated safely. The post-construction review of the plant must include an opportunity for both the NRC staff and the public to raise safety or environmental issues after a *prima facie* showing of significant new evidence.

In addition, the scope of subsection (b)—allowing expedited siting of plants of standardized design—should be limited to light water reactors, or at most, thermal reactors. It should not extend to other types of nuclear facilities such as reprocessing plants or other fuel cycle facilities where the number of facilities or new reactor types to be licensed remains limited and where we are not operating from a background of years of licensing experience. The reference in the current draft to section 202 of the Energy Reorganization Act is not adequate to achieve this important limitation. This general point—the need to restrict novel provisions of this bill to commercial light water power reactors—applies throughout the bill.

SECTION 5. HEARINGS

This section has been improved somewhat by the restoration of adjudicatory hearings on contested issues, the preclusion of an issue from hearing only if it had previously been resolved, and the insertion of a notice requirement concerning receipt of an application. Other important deficiencies remain, however. The most significant of these are:

Failure to provide for adjudicatory hearings in "rulemaking" proceedings for the approval of standardized design reactors;

Restricting issues at hearing to "factual issues" and requiring that non-compliance be "likely" (rather than "possible") before reopening issues;

Restricting any hearing, where a plant of standard design is proposed for a previously approved site, to "special circumstances" which an intervenor must show; in effect this makes citizens—instead of the applicant—bear the burden of showing whether a standard plant is properly designed for a site;

Failure to provide that in the hearings authorized in paragraph (3) that (i) the continuing acceptability of a previously approved site can be reopened where there is significant new evidence and (ii) post-construction proceeding will be available to review quality assurance and compliance during construction with design specifications;

Allowing the Commission to dispense with public notice of applications to amend licenses.

SECTION 6. EARLY SITE REVIEW

This section has been changed from the earlier draft in a single, minor fashion to indicate clearly that specific site-related issues, as well as entire sites, can be approved. All the other problems with this section in the earlier draft remain, including:

No procedures or standards for early site approval;

No tie-in between early site approval and an overall energy planning process; and

Allowing site work, including safety-related construction, to begin before need is determined and safety findings are made. Current limited work authorization procedures should be sufficient in this context.

In addition, if an early site provision is included in the bill, we recommend that approvals be limited to five years, as provided in the Commission's current early siting regulations.

SECTION 8. STATE ENVIRONMENTAL REVIEW

This section is the most important part of the bill with respect to forging effective state-federal cooperation in nuclear licensing. If duplication is to be avoided, if states' prerogatives and expertise are to be given greater deference, and if health, safety, and environmental protection is to be assured, this section must be thoughtfully and carefully re-written.

This draft reflects improvement from the prior draft with respect to the adequacy of state environmental reviews. It continues to have six important defects, however.

First, it allows a state program to be approved if the state satisfies a vaguely defined requirement that it have an alternative to the National Environmental Policy Act. Our recommendation is that such state laws not be permitted to substitute for NEPA and that option (A) be the only alternative included in subsection (d)(1) of section 194. NEPA is an established law with settled interpretations. These interpretations will be further clarified in forthcoming SBQ regulations. We believe that this settled, sound experience is far preferable to the possibility of vast new litigation surrounding state laws which may be similar to NEPA, but sufficiently different to raise new legal questions. Indeed, substituting untested state requirements for NEPA could increase delay and uncertainty. The course advocated here is similar to that now applicable to the HUD community block grant program.

Second, compliance by a state with NEPA with respect to issues the state is authorized to decide under this bill should not absolve federal agencies from compliance with NEPA with respect to issues they must resolve. The current bill would eliminate NEPA's applicability to the NRC's decision on whether to grant operating licenses and to the NRC's conclusive determinations on radiological issues under subsection (c). Moreover, a state may examine alternative instate sites for a nuclear plant, for example, but not sites in other states; the Commission may need to retain responsibility to make regional site comparisons, and if so, to make them in compliance with NEPA. Finally, other federal agencies, including EPA and the Corps of Engineers, have responsibilities related to siting and design that are not met by the NRC's approval of a state program. The NEPA responsibilities of these other federal agencies should be integrated with states' and the NRC's NEPA review, not dropped out.

Third, the section should make clear that state programs should include provisions for public participation—including adjudicatory hearings and intervenor funding—at least to the degree that NRC procedures provide. The intervenor funding provision should be expanded to make funds available to states in their proceedings.

Fourth, the section completely deprives the states of the ability to assess radiological impacts (subsection (c)) and of the ability to enforce its own laws where it does not have qualified program (subsection (b)). These restrictions should be eliminated and the bill changed to allow states to set more stringent radiological and environmental standards if they choose.

Fifth, the bill leaves it ambiguous whether the NRC radiological determinations under subsection (c) are subject to public notice

and hearing requirements. One presumes that they would be.

Sixth, subsection (d)(2) should place the burden on the applicant in state proceedings to demonstrate, as a condition of approval, that there are no conservation or solar alternatives to the proposed nuclear power plant.

SECTION 9. FUNDING FOR INTERVENORS

We fully support funding to enable responsible citizen groups to participate effectively in federal and state proceedings. The draft provision is vague and unduly crabbed, however. It fails to distinguish, for example, between standards of eligibility for intervenor funding and rules for determining allowable expenses or for dividing available funds among several intervenors. The listed "criteria" are also vague. As an alternative, we suggest that some of the current funding models pending before Congress, such as the proposed Kennedy bill, or in use by other agencies be examined for use here.

Other Needed Measures

In our earlier memo, we outlined what an Administration bill should contain if it is to address the most important licensing-related issues of public concern. We still believe that a bill broader than the current draft is necessary. In addition to addressing state-federal roles, early site review, standardized design, and combined construction permits and operating licenses, the bill should include:

Authority for the states to set stricter environmental, health and safety standards;

Positive steps to open up NRC decision-making and ventilate dissenting staff views on technical issues;

Positive steps to upgrade safety assurance, including, for example, (i) a statutory directive to the Commission to address the ACRS-identified unresolved health and safety issues systematically and on a definite schedule, (ii) a requirement that the NRC halt the issuance of new construction permits if at a specified date in the future it cannot make definitive findings of safety with regard to management of high-level radioactive wastes; and

A requirement that the NRC or a state, as appropriate, find that no feasible solar or conservation alternative to a proposed nuclear plant exists in order to grant a new construction permit.

These points are explained in more detail in our earlier memo. On them, as well as on the other points discussed in this and in our earlier memo, we would be happy to assist in drafting a substitute bill.

Mr. BAUMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to address at least two questions to the chairman of the Interior Committee so I, too, may become a part of this magnificent legislative history we are spreading upon the RECORD.

I would like to direct the attention of the chairman of the committee to section 2 of the committee amendment.

This section amends the Energy Reorganization Act of 1974 to require the Commission to submit a quarterly report to the Congress documenting certain procedures regarding hiring practices.

My question to the chairman is this: Is it the intention of the committee that this section requires the preparation and submission of information in addition to, or other than, the information required to be submitted to the Civil Service Commission?

Mr. UDALL. The answer to the gentleman's question is no. It is not the committee's intent to place additional reporting requirements on the NRC. It would be satisfactory to the committee if the report is similar to that required by the Civil Service Commission. Of course, if special information is required, the committee staff can so advise the NRC pursuant to the committee's general oversight responsibilities.

Mr. BAUMAN. Mr. UDALL, the Interior Committee was concerned about what seemed to be a disproportionately large number of NRC personnel at "supergrade" positions of GS–16 or higher. I see that section 2(i) of the committee amendment of H.R. 3455 requires that:

Beginning with the fiscal year 1978, not more than 190 positions at the Commission may be at grade GS–16 or higher.

Is that reduction of top-level personnel to have been accomplished by the beginning of fiscal 1978, or is this phasing out to take place over the year?

Mr. UDALL. I appreciate my colleague's raising that question. This language is a little ambiguous. The committee is asking that the NRC begin phasing out some of these supergrades at the beginning of the fiscal year, but we did intend that the Commission have the full year to get their number of top-salaried people down to the statutory level.

Mr. BAUMAN. I thank the chairman for clarifying that for me.

Mr. Speaker, I rise in support of H.R. 3455. The bill before us represents the Committee on Interior and Insular Affairs' first attempt at authorizing appropriations for the Nuclear Regulatory Commission. Chairman UDALL has indicated that as the Interior Committee assumes this new responsibility, one of its guiding principles is to begin to "open up" the NRC budgetary process. This bill certainly reflects an opening up of the NRC budgetary process by including such irrelevant areas as an employment provision contained in section 2 and the fellowship program contained in section 5 to the tune of $600,000. There was also an attempt to authorize an appropriation of $1,000,000 for the purpose of funding "intervenors." The latter provision, I am pleased to say, was defeated in committee by a bipartisan vote of 20 to 19.

These new areas added to the bill in committee do not reflect the concerns expressed by public witnesses nor the NRC staff. There has been no record established to justify the insertion of such Provisions. Personnel matters of this type are more properly the responsibility of the Office of Management and Budget. Furthermore, I do not believe that justification exists to warrant the quarterly reporting requirement in section 2 as it pertains to each and every hiring or promotion of an NRC employee at a grade of GS–11 or above. This requirement imposes a severe administration burden on the NRC. Here again, there has been no record established to justify this type provision. I believe that this is more properly an area in which OMB should be involved.

I am going to vote for this measure because I believe that many of my concerns will be mitigated in a conference with the other body as well as by the assurances given by the gentleman from Arizona.

Mr. Speaker, I yield 2 minutes to the ranking minority member on the subcommittee, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 3455. The bill authorizes $302 million in appropriations for fiscal year 1978 to cover the salaries and expenses of the Nuclear Regulatory Commission.

My interest in nuclear regulatory matters has been intense dating back to the Atomic Energy Commission's activities in Kansas. As you may recall, the AEC in the late 1960's decided to give high priority to establishing geologic repositories for disposal of nucelar wastes. A decision reached tentatively by AEC was to make the salt mine at Lyons, Kans., one such repository. This decision was made in haste and without sufficient information. As a matter of fact the then director for the Kansas Geological Survey was raising questions at the same time as to the geologic integrity of the Lyons site. I became very active at this point and challenged the AEC decision and, in 1971, this distinguished body directed the AEC not to proceed until the repository project could be certified as safe. After it was learned that numerous exploratory oil and gas wells had been drilled near the site and that some 175,000 gallons of water had mysteriously disappeared during the hydraulic fracturing operation once attempted at a nearby salt mine, the AEC abandoned the Lyons project in early 1972.

The point I am making here is directed at one of the successor agencies of AEC, the Nuclear Regulatory Commission. I believe that Congress must scrutinize the activities of the NRC so that a near disastrous situation as the one in Lyons, Kansas will not recur. The budget process is an excellent means of looking into the activities of any agency, specifically H.R. 3455, as reported by the Interior Committee outlines the programs and how they are to be carried out by the NRC. I favor this procedure as compared to that of H.R. 3455 as originally introduced which would have authorized a lump sum without specific congressional direction as to how such funds should be expended.

I urge my colleagues to support the measure now before us.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank the ranking Member for giving me time on this bill.

Mr. Speaker, I rise in support of H.R. 3455. I must admit, I had some misgivings going into committee. I felt we were getting into some areas that perhaps we should not, mandating how many employees at a certain level we should have in the intervener funding. I was not quite sure that the approach that the committee was taking on spelling out amounts of money for each item was the

proper way; but after sitting through the various committee meetings, I became convinced that that was, indeed, the way to go.

Mr. Speaker, I compliment the committee on having put together what I consider an excellent bill.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES), my last request.

Mr. JONES of Oklahoma. Mr. Speaker, last month when Congress was not in session, the NRC held hearings in my district on a proposed nuclear power facility near Tulsa. There was an enormous amount of public interest in these hearings. Among the electronic news media in my district, there was an attempt to cover these with live broadcasts. The NRC denied the request of the electronic news media.

We called the NRC and they told us that all nuclear regulatory commissions had this policy of no live broadcasts. We checked on this and apparently the NRC is alone in this kind of policy to decline live broadcasts, NRC spokesmen said it would take a full commission vote to change this policy.

My question to the chairman is, does the chairman agree, as I do, that under situations such as this where there is such interest, that the NRC should allow live broadcasting under whatever rules and regulations they prescribe and would the gentleman join me in recommending to the Commission that they change their policy in this regard?

Mr. UDALL. Mr. Speaker, I am in general agreement with the gentleman's thrust and philosophy. The old AEC started out with a heavy national security constraint in their proceedings.

Since we do have a good deal of nuclear power and will have more as time goes on, one of the things we have been trying to do with this new jurisdiction of ours is to encourage the NRC, to open up their proceedings, let the public come in and on proceedings where national security is not a factor that open hearings could be held.

I would join the gentleman in urging that the NRC examine the practice in which we now find ourselves.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the chairman.

Mr. OTTINGER. Mr. Speaker, I rise to express my reasons for voting against the Nuclear Regulatory Commission authorization, H.R. 3455, today under Suspensions.

My objection goes solely to the fact that this is a $300 million authorization bill that should not be considered under suspension of the rules.

Although the Budget Act does not specify that authorization bills may not be considered under suspension, my own view is that major allocations of Federal dollars should be subjected to the closest possible scrutiny by all House Members and, further, that Members should have an opportunity to offer such amendments as they wish.

Mr. BINGHAM. Mr. Speaker, I rise in support of H.R. 3455 and wish to commend my colleague from Arizona for his efforts on its behalf. As my colleagues have noted, the NRC's authorization was handled this year in a manner that represents a significant departure from past practice. I believe this bill will help to bring about a much needed improvement in the credibility of the nuclear regulatory process.

I was an early proponent of the idea that responsibilities for the regulation and the promotion of nuclear power should be placed in different agencies. I supported the breakup of the AEC into the NRC and ERDA, and I sponsored the proposal to redistribute the responsibilities of the Joint Committee on Atomic Energy.

As a member of the NRC's legislative and oversight committee, it is, therefore, with some chagrin that I am compelled to express disappointment at the Commission's record thus far in establishing itself as an independent regulator. We have too often seen a tendency for the NRC to act in a manner reminiscent of its AEC forbears. This tendency is manifest in the Commission's testimony before the Interior Committee and in its responses to the committee's requests for information.

The old biases also appear in major reports sponsored by the Commission. I take particular note of two of these. One is the reactor safety study, commonly known as the Rasmussen report. The other is the GESMO, the environmental impact statement on the use of recycled plutonium in light water reactors. Both reports seem to show an inclination on the part of the authors toward the position of the industry which the NRC is responsible for regulating.

The Rasmussen report's executive summary gave a misleading impression of the significance of the study's results. The GESMO presents an overly optimistic assessment of the benefits of the use of nuclear fuel reprocessing. I hope that the NRC's new chairman will take great care to insure that future reports will be more objective. In this regard, I look forward to receiving the results of the Commission's review of the Rasmussen report's accomplishments and limitations.

I applaud Mr. Udall's recent request that the Commission prepare transcripts of its open meetings and that it promptly place these transcripts as well as records of its closed meetings in the NRC public document room. I urge Chairman Hendrie to act promptly on this request.

Another matter which I believe needs to receive more scrutiny is the relationship of the NRC's safeguards research to actual security in the field. Frankly, I was not convinced that the Commission's proposed research in this area has much to do with the problem of protecting against nuclear terrorism. This year the committee gave the Commission the benefit of the doubt; we recommended authorization of most of the funds that were requested for safeguards research. But I believe the Commission should take immediate steps to bring the safeguards research program into balance with the practical problems which exist in the real world.

In making these comments, I do so with full recognition of the difficult nature of the tasks entrusted to the Commission. I am also aware of the dedication and talent of the Commission's staff. The point I would like to make is that the Commission must do a better job.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill (H.R. 3455) and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 3455, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ENDANGERED AMERICAN WILDERNESS ACT

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered American Wilderness Act of 1977".

STATEMENT OF FINDINGS AND POLICY

SECTION 1. (a) The Congress finds that—

(1) many areas of undeveloped public lands possess and exhibit outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) certain of these undeveloped public lands meet all statutory criteria for suitability as wilderness as established by subsection 2(c) of the Wilderness Act (78 Stat. 890), but are not adequately protected and lack statutory designation pursuant to the Wilderness Act as units of the National Wilderness Preservation System;

(3) certain other undeveloped public lands are of evident wilderness resource value, but require more thorough study of boundary locations prior to designation as wilderness by Act of the Congress;

(4) these and other undeveloped public lands exhibiting wilderness values are im-

mediately threatened by pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, restoration, and enhancement of their wilderness character; and

(5) among such immediately threatened areas are lands not being adequately protected or fully studied for wilderness suitability by the agency responsible for their administration.

(b) Therefore, the Congress finds and declares that it is in the national interest that certain of these endangered areas be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, and scientific research and educational use, primitive recreation, solitude, physical and mental challenge and inspiration, for the benefit of all of the American people of present and future generations.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. (a) In furtherance of the purpose of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas"), as generally depicted on maps appropriately referenced, dated June 1977, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Coronado National Forest, Arizona, which comprise about fifty-six thousand four hundred and thirty acres, are generally depicted on a map entitled "Pusch Ridge Wilderness Area—Proposed", and shall be known as the Pusch Ridge Wilderness;

(2) certain lands in the Inyo and Sequoia National Forests, California, which comprise about one hundred seventy-nine thousand six hundred and twenty-five acres and are generally depicted on a map entitled "Golden Trout Wilderness Area—Proposed" and shall be known as the Golden Trout Wilderness;

(3) certain lands within and adjacent to the Los Padres National Forest, California, which comprise about twenty-one thousand two hundred and fifty acres, are generally depicted on a map entitled "Santa Lucia Wilderness Area—Proposed", and shall be known as the Santa Lucia Wilderness: *Provided, however*, That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 4 of this Act. In order to guarantee the continued viability of the Santa Lucia watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Santa Lucia area to be prepared following designation as wilderness will authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including but not limited to acceptable fire pre-suppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Santa Lucia Wilderness area will be incorporated in the planning for the Los Padres National Forest: *Provided*, That the Forest Service is authorized to continue fire pre-suppression, fire suppression measures and techniques, and watershed maintenance pending completion of the management plan for the Santa Lucia area;

(4) certain lands in the Los Padres National Forest, California, which comprise about sixty-one thousand and eighty acres, which are generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, Ventana Wilderness as designated by Public Law 91-58. In order to guarantee the continued viability of the Ventana watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Ventana area to be prepared following designation as wilderness will authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including but not limited to acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana Wilderness area will be incorporated in the planning for the Los Padres National Forest;

(5) certain lands in Coronado National Forest, Arizona, which comprise approximately fifty-five thousand two hundred and ten acres and are generally depicted on a map entitled "Galiuro Wilderness Additions", and which are hereby incorporated in, and shall be deemed to be a part of, the Galiuro Wilderness as designated by subsection 3(a) of the Wilderness Act;

(6) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty-seven thousand acres, are generally depicted on a map entitled "Manzano Mountain Wilderness Area—Proposed", and shall be known as the Manzano Mountain Wilderness;

(7) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty thousand nine hundred and thirty acres, are generally depicted on a map entitled "Sandia Mountain Wilderness Area (North and South Units)—Proposed", and shall be known as the Sandia Mountain Wilderness;

(8) certain lands in the Willamette National Forest, Oregon, which comprise about forty-five thousand four hundred acres, which are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and which are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by subsection 3(a) of the Wilderness Act;

(9) certain lands within and adjacent to the Siskiyou National Forest, Oregon, which comprise about thirty-eight thousand two hundred acres, are generally depicted on a map entitled "Wild Rogue Wilderness Area—Proposed", and shall be known as the Wild Rogue Wilderness;

(10) certain lands in the Wasatch and Uinta National Forests, Utah, which comprise about twenty-nine thousand five hundred and sixty-seven acres, are generally depicted on a map entitled "Lone Peak Wilderness Area—Proposed", and shall be known as the Lone Peak Wilderness: *Provided*, That as relates to the Lone Peak Wilderness Area, the Forest Service is directed to utilize whatever sanitary facilities are necessary (including but not limited to vault toilets), to insure the continued health and safety of the communities serviced by the Lone Peak watershed; furthermore, as it relates to Lone Peak, nothing in this Act shall be construed to limit motorized access and road maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities exist in the Lone Peak area;

(11) certain lands in the Umatilla National Forest, Washington and Oregon, which comprise about one hundred and seventy-five thousand acres, are generally depicted on a map entitled "Wenaha-Tucannon Wilderness Area—Proposed", and shall be known as the Wenaha-Tucannon Wilderness;

(12) certain lands in the Santa Fe and Carson National Forests, New Mexico, which comprise approximately fifty thousand three hundred acres and are generally depicted on a map entitled "Chama River Canyon Wilderness Area," and shall be known as the Chama River Canyon Wilderness;

(13) certain lands in the Medicine Bow National Forest, Wyoming, which comprise about fourteen thousand nine hundred and forty acres, are generally depicted on a map entitled "Savage Run Wilderness Area", and shall be known as the Savage Run Wilderness;

(14) certain lands in the Siskiyou National Forest, Oregon, which comprise about two hundred and eighty thousand acres, as generally depicted on a map entitled "Kalmiopsis Wilderness Additions", and which are hereby incorporated in, and shall be deemed to be a part of the Kalmiopsis Wilderness designated by subsection 3(a) of the Wilderness Act;

(15) certain lands in the White River National Forest, Colorado, which comprise approximately sixty-seven thousand acres, and are generally depicted on a map entitled "Hunter-Fryingpan Wilderness Area", and shall be known as the Hunter-Fryingpan Wilderness: *Provided*, That no right, or claim of right, to the diversion and use of the waters of Hunter Creek, the Fryingpan or Roaring Fork Rivers, or any tributaries of said creeks or rivers, by the Fryingpan-Arkansas Project, Public Law 87-590, Eighty-seventh Congress, and the reauthorization thereof by Public Law 93-493, Ninety-third Congress, under the laws of the State of Colorado, shall be prejudiced, expanded, diminished, altered, or affected by this Act: *Provided further*, That nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said Fryingpan-Arkansas Project facilities, nor the operation thereof, pursuant to the Operating Principles, House Document Numbered 130, Eighty-seventh Congress, and pursuant to the water laws of the State of Colorado; and

(16) certain lands in the Lolo National Forest, Montana, which comprise approximately twenty-eight thousand four hundred and forty acres and generally depicted on a map entitled "Welcome Creek Wilderness Area—Proposed", and shall be known as the Welcome Creek Wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

MANAGEMENT OF AREAS

SEC. 4. Subject to valid private rights, the wilderness areas designated by this Act shall be managed by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act wilderness areas.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3454, the Endangered American Wilderness Act, was reported by the Committee on Interior and Insular Affairs on July 13 by a resounding vote of 40-to-4. The bill as reported would designate 16 areas of our national forests, totaling 1,170,372 acres, as components of the national wilderness preservation system. There are no wilderness study areas in the bill reported by the committee.

H.R. 3454 is basically a response to the previous administration's 1972 roadless area review and evaluation, RARE, of some 56 million acres of national forest roadless areas. Of the 1,449 roadless areas identified during that 1972 review, only 274 were targeted for further study as to their potential for inclusion in the wilderness system; 1,175 roadless areas, totaling over 44 million acres, plus some unidentified roadless areas were rejected out of hand from further wilderness consideration. Subsequent Forest Service land use planning has designated many of these nonselected areas for timber harvest and other activities inconsistent with wilderness values. While no group is suggesting that all 56 million acres of roadless land be added to the Wilderness System, criticism has been leveled at the Forest Service's planning process and rating system used to disqualify the 44 million plus acres of nonselected areas. Among other things, the 1972 Forest Service RARE review: First, arbitrarily fragmented large roadless tracts into smaller units, thus lowering possible points given on the Forest Service's rating system for "solitude"; second, deducted points for areas containing commercial timber reflecting a Forest Service policy that wilderness should not contain commercial timber—a policy certainly not contained in the Wilderness Act; and third, adopted a definition of wilderness so stringent that few areas could qualify for further wilderness study.

As a result of these and other inadequacies in the 1972 RARE review, the Carter administration will take another complete look—the so-called RARE II program—at the roadless and undeveloped lands in the national forest system that are not included in H.R. 3454 or other wilderness proposals pending before Congress. This roadless area inventory will be completed during the next 12 months with a view toward recommending additional roadless lands in some areas for wilderness or wilderness study and toward returning those roadless areas not suited for wilderness to extractive uses such as timber harvesting. The committee strongly supports this RARE II review, and believes it will help bring an end to the wilderness limbo that currently prevails on millions of acres of national forest roadless lands.

The 16 areas that are contained in H.R. 3454 as reported from committee are ready for designation as wilderness now—further study is not needed. The committee heard from 331 witnesses at 6 days of public hearings on the bill in Washington, and 1 day each in Eugene, Oreg.; Creede, Colo.; and Saratoga, Wyo.

After a review of the status of planning and study, the resource values, nonconforming features, and the importance of each area for community and regional development, the administration endorsed either wilderness designation or study, with some boundary adjustments, of each of the 22 areas contained in H.R. 3454 as introduced. The Hunter-Fryingpan proposal, inserted in the bill by Congressman JIM JOHNSON during markup, also has the administration's support. In spite of this support, the committee dropped several areas from the bill for further study under the Forest Service's new roadless area review, and made numerous boundary changes to accommodate timber, mining, and mechanized recreation interests.

Not the least of the items withdrawn from consideration was the 405,000-acre West Cichagof-Yakobi area in southeast Alaska, which was dropped in consideration of our colleague from Alaska.

Other areas dropped from the bill were: Middle Santiam, in Oregon, 24,500 acres; MacGregor-Thompson, in Montana, 89,000 acres; Mount Henry, in Montana, 22,000 acres; Goose Creek in Colorado, 69,000 acres; and La Garita, in Colorado, 187,000 acres. In addition the Golden Trout area of California, which was so controversial, was decreased by the close vote of 24 to 20 in committee from its original 410,000 acre size to the less than 180,000 acres now in the bill—a major concession to the member from that area and to the timber industries in the area.

It is my firm belief that the committee acted to eliminate the most serious matters of controversy in H.R. 3454, especially in areas of potential mineralization. In addition, the committee dropped in excess of half a million acres from the bill so that timber values could be more carefully studied under RARE II. While many of the areas in H.R. 3454 contain some commercial timber, this was done purposefully to add balance to the present wilderness system which generally lacks such areas. This should promote increased winter season use of wilderness areas when many of the existing higher altitude areas are inaccessible or inhospitable for recreation.

Another important aspect of H.R. 3454 is that over half of the proposals in the bill reported by the committee are in close proximity to important national or regional population centers, and as such will bring valuable recreation and, in some cases, watershed benefits to the areas involved.

For these reasons, I urge my colleagues' strong support of H.R. 3454.

WILDERNESS DESIGNATIONS IN H.R. 3454

(1) Pusch Ridge Wilderness, Coronado National Forest, Arizona, 56,430 acres.

(2) Golden Trout Wilderness, Sequoia National Forest and Inyo, California, 179,625 acres.

(3) Santa Lucia Wilderness, Los Padres National Forest, Calif., 21,250 acres.

(4) Ventana Wilderness Addition, Los Padres National Forest, California, 61,080 acres.

(5) Galluro Wilderness, Coronado National Forest, Arizona, 55,210 acres.

(6) Manzano Mountain Wilderness, Cibola National Forest, New Mexico, 37,000 acres.

(7) Sandia Mountain Wilderness, Cibola National Forest, New Mexico, 30,930 acres.

(8) French Pete Additions to Three Sisters Wilderness, Willamette National Forest, Oregon, 45,400 acres.

(9) Wild Rogue Wilderness, Siskiyou National Forest, Oregon, 38,200 acres.

(10) Lone Peak Wilderness, Wasatch and Uinta National Forests, Utah, 29,567 acres.

(11) Wenaha-Tucannon Wilderness, Umatilla National Forest, Oregon, 175,000 acres.

(12) Chama River Canyon Wilderness, Santa Fe and Carson National Forests, New Mexico, 50,300 acres.

(13) Savage Run Wilderness, Medicine Bow National Forest, Wyoming, 14,940 acres.

(14) Kalmiopsis Wilderness Additions, Siskiyou National Forest, Oregon, 280,000 acres.

(15) Hunter-Fryingpan Wilderness, White River National Forest, Colorado, 67,000 acres.

(16) Welcome Creek Wilderness, Lolo National Forest, Montana, 28,440 acres.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, just recently, this weekend, I heard a news report from San Francisco, Calif., where the American Mining Congress is meeting, and the president of the American Mining Congress was talking about the crisis in the United States with minerals—and I know the gentleman from Wyoming is concerned about minerals in the United States—and he was making the statement that we have now locked up a landmass in the United States, excluding it from mineral extraction, equal to all of the land east of the Mississippi River.

I wonder if that does not concern the gentleman, to see this continued piecemeal movement toward more land locked up, in protecting the minerals from being extracted for the use of the people in this country, without any long-range plan of where we are going. We have no mineral plan.

Mr. RONCALIO. Mr. Speaker, let me say to the gentleman that if the statement were anywhere near true, of course, it would concern me; but the statement is not true. It sounds like a little bit of hyperbole and should be closely examined. We have gone to a lot of trouble, as I said in my remarks, to exclude areas of mineralization in this bill.

Mr. SYMMS. I thank the gentleman for his comment. If the gentleman will

yield further, I know that members of the Sierra Club, and others, say they can mine in wilderness areas, which is not true, practically, because they have to meet the regulations which are published by the administrative body; and that has always been impossible. So I think the statement about the amount of land we cannot mine in the country is true. But I think the difficulty is that we really do not know what we are locking up in any of these areas, and that is one of my concerns. We do not know, unless someone drills to see what the mineral potential of an area is, whether there are minerals in there or not.

Mr. RONCALIO. I would like to assure my friend from Idaho—and I do so in the hope that he can appreciate my sincerity—that we have listened with care and with impartial and open minds to the objections about locking up minerals. To the extent possible we have examined areas in person. In many instances, areas originally in H.R. 3454 have been deleted from wilderness, because I am aware, as the gentleman can appreciate, that once you put something in the wilderness you only have until 1984 to proceed with prospecting. Indeed, I appreciate that even prospecting may be difficult in wilderness because you are limited. Often, you have to go in with helicopters, because there are no roads in wilderness areas.

As such, I understand what the gentleman is saying, but feel that we have done everything possible in this legislation to exclude mineralized areas. I also believe the statement made by the Mining Congress was exaggerated.

Mr. SYMMS. Mr. Speaker, I thank the gentleman very much.

Mr. RONCALIO. Mr. Speaker, I yield back the balance of my time.

Mr. JOHNSON of Colorado. I yield myself 5 minutes.

Mr. Speaker, I would just like to bring up a few points that I believe the gentleman from Wyoming (Mr. RONCALIO) has passed over during his presentation.

As this bill was taken through the subcommittee, there were originally 14 proposed wilderness areas and 8 proposed study areas. After we finally came through the full committee and bring the bill to the floor, the bill now has 16 proposed wilderness areas, with no study areas.

I would like to point out to the body and for the RECORD that there is no wilderness area included in this particular bill that has not met the approval of the local Representative. That in itself, I think, is a step in the right direction, because we have within this body and within society at large a number of people who insist on imposing their viewpoints and their will with respect to wilderness areas or with respect to any of the other multiple uses on people other than in their own areas.

For example, we had witnesses testify before us in the subcommittee who were in favor of wilderness areas but who had never been in more than just two or three of the wilderness areas. They were in favor of 22 wilderness designations, and yet they had only been in 3 or 4.

Conversely, we had people who had never been in any of the wilderness areas who were opposed to any wilderness designations. That kind of attitude, that closed-mind attitude on the part of both sides in this particular controversy seems to me to be something that we should ignore.

Without imposing the right of a veto on the part of the Representative who comes from the area that is involved, it seems to me we ought to be listening to its Representative most carefully and quite closely, because they are the ones who do know their areas. This has not been done in the past. In the past we have ignored the feelings of the local Representative, but in this bill we have listened to the Representatives from the affected areas, and each one of them has agreed to the present status of wilderness areas.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, may I ask the gentleman, is this true in the case of Montana?

Mr. JOHNSON of Colorado. It is true of every wilderness area that is contained in the bill.

Mr. SYMMS. Is there not a wilderness area in western Montana contained in this bill to which the gentleman from Montana (Mr. BAUCUS) is opposed?

Perhaps some Member on the majority side could speak up and give us an answer. I thought the gentleman from Montana (Mr. BAUCUS) was opposed to this. Perhaps the gentleman from Montana (Mr. BAUCUS) is here.

Mr. JOHNSON of Colorado. There is the Lolo area, of course, comprising approximately 28,000 acres.

Mr. SYMMS. Perhaps the gentleman from Montana (Mr. BAUCUS) can tell us. I thought the gentleman was opposed to that.

If the gentleman will yield further, my understanding is that the gentleman from California (Mr. PHILLIP BURTON) wanted to put it in the bill because the gentleman from California (Mr. KETCHUM) did not want the Golden Trout area included. He is a Republican, and the gentleman from California (Mr. PHILLIP BURTON) said that we will put in the Montana area, and the gentleman does not want that included because he is a Democrat.

Is that true? If it is, I would say that two wrongs do not make a right.

Mr. BAUCUS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Montana.

Mr. BAUCUS. Mr. Speaker, it is true that I did object to it, and that there were two contestants. It is true there is one area that was included within the First District of Montana, and I think that area should not be included. The full committee did include that portion.

Mr. SYMMS. And do I understand the gentleman felt it should not be included in this legislation?

Mr. BAUCUS. The gentleman is correct.

Mr. SYMMS. And if what the gentleman is telling us is a fact, if this bill were being brought up under an open rule, he would be offering amendments to take it out?

Mr. BAUCUS. The gentleman is correct.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for clearing that up, because it was my understanding the gentleman from Montana (Mr. BAUCUS) had agreed to the 28,000-acre boundary.

It was my understanding the gentleman had agreed to the 28,000 acres in the Lolo area. That is not correct?

Mr. BAUCUS. No. Let me state my recommendations.

There are three areas in Montana at the present: Mount Henry, MacGregor-Thompson, and Welcome Creek.

This is my recommendation:

I believe the three areas in Montana should be excluded. That was my recommendation to the subcommittee, and the subcommittee accepted my recommendation and deleted all three areas.

However, when the matter came to the full committee, without any prior knowledge of mine, an amendment was offered to include Welcome Creek—one of those three areas.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for that correction. I thank the gentleman from Idaho (Mr. SYMMS) as well because I do stand corrected.

It was my understanding that the big controversy was over the Gold Trout area and that the gentleman from California (Mr. KETCHUM) had agreed to the Golden Trout boundary. I thought we had eliminated all of the controversies.

Mr. BAUCUS. If the gentleman will yield further, I still am going to vote for the bill in spite of my objection to the handling of one phase of it.

Mr. JOHNSON of Colorado. Again, Mr. Speaker, I thank the gentleman for that correction. I understood he supported the bill and misunderstood his position on the Welcome Creek area in the Lolo National Forest.

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 2 additional minutes.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. JOHNSON) is recognized for 2 additional minutes.

Mr. JOHNSON of Colorado. Mr. Speaker, I would like to point out that the problem of managing our forests has been improved to a great extent.

I traveled through the Hunter-Fryingpan Wilderness area during this last recess. For 5 days we traveled through there. It took me a long time to recover from 5 days on horseback. However, the process of managing the national forests has been improved to such an extent that people can ride through an area that is being heavily timbered and not even recognize it.

I think we must go a little bit slower as we progress down the road with respect to our attitude toward wilderness

areas because the Forestry Service's wildlife management and the recreational aspects of management of the national forests has increased and been enhanced to a very great degree.

I endorse this bill, but I think we must slow down in our rush toward wilderness designation. Each area must be carefully studied.

Mr. Speaker, I would like to engage the chairman of the committee and of the subcommittee in one little colloquy.

As we were traveling through the forest, we saw trees that had fallen down across the trail. The forest rangers, under the present regulations, have to get off their horses and saw by hand through these enormous timbers in some cases and in some other cases, rather than saw them, they go around them.

What has happened as a result of that regulation that one cannot use chain saws in the wilderness areas, is that trails are becoming more and more dilapidated and rundown, and that fact is actually contributing to the deterioration of the wilderness.

Therefore, I would ask the chairman of the committee, is it not contemplated that the Forest Service, in clearing the trails and in overseeing the management of the wilderness areas, should be allowed to use modern equipment such as chain saws?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, as the wilderness system and its administration has evolved, we try to apply a rule of commonsense. Clearly, the idea of isolation and of not having noises of mechanical equipment in there applies to some extent and is applied rather rigidly.

However, if there was a big storm or if the passage of time has caused the trails to be blocked by knocking trees down and that sort of thing, as the gentleman recounts, surely at the end of the season or after the storm or after some appropriate time, we could go to work to save the wilderness, which includes, I think, permitting the managers to go in there with mechanical equipment to open trails and do the necessary repair work.

Mr. Speaker, I want to say that the gentleman from Wyoming (Mr. RONCALIO), in preparing the report on this bill, on page 6, reviews some of these rules and, in connection with the report, says, in the middle of page 6 as follows:

> Trail construction or maintenance can include the use of mechanical equipment where appropriate and/or necessary."

Therefore, I would hope that we can apply some common sense to this matter. I agree with the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, along that line, it has been brought to my attention that down in the Los Padres National Forest and Wilderness Area there was a major forest fire out there recently, and thousands of acres burned because they could not take the mechanical equipment in to address the forest fire problem. Therefore, it is not unique just to those areas which have been mentioned. I think we are going to have to take a hard look at this whole question of managing these areas, particularly when we are dealing with a unique drought question in the West which we have been confronted with just recently.

Mr. JOHNSON of Colorado. Mr. Speaker, I would like to point out to the gentleman from California (Mr. DON H. CLAUSEN) that on page 6 of the report one of the paragraphs entitled, "Fire, Insects, Disease" specifically addresses that point.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will be glad to yield to the gentleman from Wyoming if the gentleman will, in turn, yield some time to our side.

Mr. RONCALIO. Mr. Speaker, I would be happy to comply with the gentleman's request.

I would like to say to my good friend, the gentleman from California (Mr. DON H. CLAUSEN) and to the gentleman from California (Mr. LAGOMARSINO), if he is here, that the act itself specifically states that such measures may be taken as may be necessary in the control of fire. That includes mechanical equipment.

If some firefighter should say, "No, keep it out of here," he knows that the bill itself allows him to use mechanical means to fight a fire.

There is nothing more we can say to make that any clearer.

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 1 additional minute.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 additional minute.

Mr. JOHNSON of Colorado. Mr. Speaker, I would like to ask the gentleman from Wyoming (Mr. RONCALIO) if he concurs that the use of chain saws for clearing trails should be permitted and should be encouraged in the management of the national wilderness areas?

Mr. RONCALIO. I concur in that.

Mr. DON H. CLAUSEN. If the gentleman will yield further, I want to state that we have got to get the word down to the people implementing the program. They are not utilizing this. They are still living by the old rules.

Mr. RONCALIO. We will do the best we can, as it is in the report, and see that the Chief of the Forest Service understands.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I rise in support of the bill as it is now written. During the process of the hearings I think that there were accommodations made on all sides and on all fronts to accommodate the Members representing those areas, as my colleague, the gentleman from Colorado, pointed out. The end result has been reported by some members of the conservation organizations that this accommodation was made for the timber industry and for the industry alone. This is simply not true.

The golden trout are indigenous to the eastern Sierra, not to the western Sierra, and the main propagation point, that is, where the Department of Fish and Game of the State of California do the propagation for the golden trout, would have fallen within the confines of this wilderness area and does not now do so. Had it remained within that wilderness area, we would probably have seriously damaged the propagation of golden trout because we would have had to remove the facilities that the California Department of Fish and Game now have there.

Additionally, the one road that gives access to the high Sierra for those individuals who are unfortunate enough not to be able to hike or to ride horses into the area, as a road through Inyo County just outside of Lone Pine. This has really, in my opinion, given access, and the only access, to those individuals. Certainly we should not be so arrogant as to deny all people the right of access into some of the areas that many of us who are perhaps more healthy or more vigorous can get into.

I congratulate the committee on their accommodation, and I thank the chairman for his efforts on my behalf and certainly on behalf of the constituents of my district. I support the bill, and I certainly hope we do pass it with no problem.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 3454, the Endangered American Wilderness Act of 1977. This bill designates as additions to the national wilderness preservation system 16 areas totaling 1,172,372 acres in national forests in nine Western States.

The bill seeks a balance of wilderness goals and economic development interests in so-called de facto wilderness areas. The Subcommittee on Indian Affairs and Public Lands, which conducted hearings in the field and in Washington, and the full Interior Committee redrew boundaries and in several cases deleted entire areas in order to reduce potential resource use conflicts. A series of amendments resulted in a net reduction of some 211,000 acres from the total contained in the original bill.

The committee's changes affecting several areas were not entirely satisfactory to the parties concerned. Nevertheless, the committee believes that the bill as reported reflects reasonable compromises between competing interests.

H.R. 3454 does not authorize any expenditures of Federal funds. It is supported by the administration, by local and national conservationist groups, and the Interior Committee adopted it by a vote of 40 to 4. I therefore, urge its speedy passage by this House.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 3454, the Wilderness Act. At the insistence of myself and

my colleague, Congressman PANETTA, language was included in H.R. 3454 during consideration by the Interior Committee to meet the concerns of several cities in San Luis Obispo County concerning fire presuppression and suppression in the Santa Lucia area under full wilderness status. This proposed addition to the wilderness system includes the primary watershed for Lopez and Santa Margarita reservoirs which serve the domestic water needs for the communities of Oceano, Grover City, Pismo Beach, San Luis Obispo, Shell Beach, and Port San Luis. Several of these affected cities expressed serious concern as to whether the Forest Service would be able to continue with standard fire presuppression, fire suppression, and watershed maintenance activities in the new wilderness area. A major wildfire in this critical watershed could have a serious detrimental impact on the sediment rate and the ultimate life expectancy of Lopez and Santa Margarita reservoirs. These concerns are further heightened by the disastrous Marble Cone fire which last month burned 173,000 acres of the Los Padres National Forest including almost 80 percent of the proposed Ventana wilderness area just north of the Santa Lucia wilderness area.

There is little doubt that under the Wilderness Act of 1964, the Forest Service is authorized to undertake fire suppression activities once a fire has started. Section 4(d)(1) of the Wilderness Act provides that in a designated wilderness area, "...such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable." The problem lies in whether such activities can be undertaken in a wilderness area in the absence of a wildfire—for fire prevention. At the very least, there seems to be considerable confusion as to whether these activities are prohibited under the Wilderness Act.

The Forest Service considers fire presuppression activities vital to the continued protection of the watershed and the future wilderness area. Fire records do not show a major fire within 2 miles immediately above Lopez reservoir since 1911 and the upper watershed since 1922 and 1929. Neither has the high mountain country burned since 1911, indicating that the brush age ranges from 48–66 years old. The Forest Service says their research indicates that once the brush age exceeds 30 years, a fire has a good chance to become a major or campaign fire unless it is contained within the first 15 minutes. It is also important to note that the Los Padres National Forest has the highest fatality rate for firefighters nationwide because of the rugged terrain and the explosive brush conditions.

The Forest Service has started constructing the Garcia-East Cuesta fuelbreak in the proposed wilderness area in an effort to allow quick containment of any future fire. I have also been informed by the Los Padres National Forest supervisor that it is his opinion that designating the Santa Lucia area as a wilderness area without specific provisions for fire pre-suppression activities could halt the construction of this fuelbreak. In addition, it is feared that the formation of the Santa Lucia Wilderness Area without clarifying language would prevent the construction of approximately 7 miles of fuelbreaks, four helispots and the prescribed burning of about 1,000 acres. Prohibition of these activities would seriously threaten the continued viability of the watershed and make firefighting more difficult and dangerous.

In order to speak to these concerns, Congressman PANETTA and I included language in H.R. 3454 to insure that the management plan authorized the Forest Service to continue necessary fire presuppression, fire suppression, and watershed maintenance activities in the new wilderness area. These activities should include the construction of fuel breaks, to quickly contain future fires; helispots, to allow quick and safe access to any future fire; and motorized access to construct these facilities. These activities should also include prescribed burning to lower the average age class of the chaparral.

Because of the seriousness of the situation and the potentially disastrous impact of a runaway wildfire to the health and safety of the communities dependent on the Santa Lucia watershed, I felt it necessary to include this language so as to eliminate any misunderstandings that may arise. I urge this language be retained in the House bill.

Mr. RONCALIO. Mr. Speaker, I yield 3 minutes to the chairman of the full committee, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I rise in support of the Endangered American Wilderness Act of 1977. This is one of the most important pieces of conservation legislation the Interior Committee has acted on this session. Passed by an overwhelming majority in committee, this legislation seeks to place 16 carefully selected western Forest Service areas into the National Wilderness Preservation System.

If it had not been for the perseverance of my good friend and colleague from Wyoming, TENO RONCALIO, this legislation would not be where it is today. As chairman of the Subcommittee on Indian Affairs and Public Lands, Mr. RONCALIO held extensive hearings here in Washington and in many areas throughout the West directly affected by this legislation. In this process, the concerns of local residents over immediate wilderness designation for these areas were heard, and every attempt was made to redraw boundaries to balance wilderness goals with economic development. For some areas, more careful study will be needed to achieve this goal. These areas were therefore dropped without prejudice from the bill during committee consideration. So we stand here today with a good bill, a bill that will provide an enduring resource of wilderness for present and future generations and at the same time allow for the rational extraction of our natural resources on other lands.

Of particular interest to me are the two areas in Arizona included in the original bill. The first is Pusch Ridge. As the scenic backdrop for the rapidly expanding city of Tucson, this 56,430-acre addition to the system will enable the nearly half million residents of Tucson to enjoy not only the spectacular view that Pusch Ridge provides, but also a true wilderness experience in close proximity to their homes. But more importantly, by placing the Pusch Ridge into the system now, we are insuring that our children's children will be able to experience this area as we know it today.

I am also proud to note that the committee, at the suggestion of the Pima County Citizens Trail Access Advisory Committee, deleted certain areas around the wilderness boundary to provide for trailhead locations, thus insuring maximum public access to this great outdoor treasure.

The second area in Arizona included in the bill is the 55,210-acre expansion of the existing Galiuro Wilderness. It was by my action in 1964 when we were considering the original Wilderness Act that the existing Galiuro Wilderness unit was placed into the system. So, in the years since then, the questions have not been whether there should be a Galiuro Wilderness, but what, if any, lands should be added to the existing unit to better protect its wilderness values.

When this bill was being put together, it was my intention to cover in all the States the additions to the wilderness system that had been discussed and studied by interested parties and where little or no controversy had been expressed by local interests. Other areas such as the proposed additions to the Galiuro Wilderness were included as study areas. Upon the recommendation of the administration the committee amended the bill to provide for instant wilderness designation rather than study status for the Galiuro additions.

As this legislation progressed it became clear that the Galiuro proposal was not appropriate for instant wilderness designation at this time because it is controversial and requires extensive additional consideration. Local cattle operators argued strenously that the proposed additions would seriously interrupt or even curtail their ranching operations. It was also argued that adequate studies and hearings had not yet been held.

I have found these concerns to be legitimate, persuasive ones. It has always been my policy that wise wilderness decisions can only be made in a careful process leading to ultimate congressional action. Such was not the situation here.

I am, therefore, prepared to remove the Galiuro additions from this bill. I cannot do this today because of the parlimentary situation. If this legislation is passed today, and I fervently hope that it is, I will advise Senators CHURCH, JACKSON, DECONCINI, and GOLDWATER of my concerns and urge that the Galiuro additions be deleted before any final action is taken.

I do not wish by this action to totally foreclose any possible future action on the Galiuro additions. Perhaps at some later date we can get all the interested

parties together and identify areas which are clearly wilderness in character that would not adversely affect other values and uses of the area if they were placed into wilderness. However, this should occur, if it does, only after careful studies and adequate hearings had been completed.

As one of the original sponsors of the Wilderness Act of 1964, I am proud of what we have achieved. Clearly we owe it to ourselves and to future generations of Americans some reasonable set aside of wilderness in States like Arizona. To date, in Arizona, there are 11 wilderness areas encompassing 627,000 acres. We have always sought balance in our wilderness designations. To say, in effect, that yes we can have the best of both worlds. We can set aside the prime areas of wilderness to meet our obligation to the millions of yet unborn Americans and at the same time insure that there are enough multiple use lands remaining to meet the Nation's needs for minerals, timber, and livestock.

While the ultimate size and shape of the Wilderness System is not quite fixed in the lower 48 States, we are nearing an end of a 13-year process whereby my fellow Arizonans, citizens of other States, and the Congress have sorted out the basic values of our public domain. Those who are involved in commercial and extractive uses of the public domain have feared that each year bigger and bigger chunks of available land are being "locked up" in wilderness. I have pulled together the relevant figures for my home State of Arizona and hope that these statistics will reassure those who question the balanced approach I have always suggested we strive for.

Arizona (in acres)

Total State land area	72,688,000
Total federally owned land	32,433,000
Percent of State owned by Federal Government	44.6
Breakdown of federally owned land:	
BLM	12,596,000
Forest Service	11,272,000
National Park Service	1,630,000
Fish and Wildlife Service	1,537,000
Bureau of Reclamation	1,390,000
Military (including Corps of Engineers)	3,620,000
Other	388,000
Total	32,433,000
Breakdown of National Wilderness Preservation System:	
Forest Service	496,000
National Park Service	131,000
Fish and Wildlife Service	-------
Total	627,000

Percent of Forest Service Wilderness to total Forest Service Lands: 496,000/11,272,000=4.4%.

Percent of total Wilderness to total Federal Lands: 627,000/32,433,000=2.0%.

Percent of total Wilderness to total State land area: 627,000/72,688,000=0.86%.

The Pusch Ridge Wilderness contained in H.R. 3454 will add about 56,000 acres of national forest land to the wilderness system in Arizona and would increase the above percentages slightly to 4.9 percent, 2.1 percent, and 0.94 percent, respectively.

I do not believe that these percentages are all that large. There are a number of other important potential additions to the Wilderness System pending before the Congress. Most of these will be within already existing national parks and wildlife refuges and thus will not affect the land base now available for economic development and resource extraction. As we round out the wilderness system on Forest Service land in Arizona in the coming years I expect we will find a few significant additions that qualify. I intend to take a careful look at each such proposal to insure that any future additions to the system do not impair the health of the Arizona economy, while providing protection to a small portion of our State's natural heritage.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I rise in support of the bill H.R. 3454 and commend the committee for its work.

In particular, I am pleased there are two areas in my district that are included under these wilderness designations. In addition to the over 21,000 acres in the Santa Lucia area, there are some 61,000 acres added to the Ventana wilderness. I am pleased because these areas deserve wilderness designations. These are beautiful areas and are appropriately protected under this bill.

I am also pleased because the amendment offered by the gentleman from California (Mr. LAGOMARSINO) and myself was included in this bill. We require the Forest Service to provide for fire suppression and watershed protection techniques within the wilderness areas. This amendment was offered and adopted in July of this year. In August in the Ventana wilderness area, a large part of that wilderness was destroyed by a fire which consumed almost 200,000 acres. I do not know all of the factors that may have contributed to the fire but I do know that there were absolutely no fire suppression techniques being implemented in that area at all since it became a wilderness.

The result was that there was a tremendous fuel content within these areas and no access routes to establish a fire line. Close to 200,000 acres had to burn before they could gain control of the fire. Whether the law provides that the Forest Service can conduct these fire suppression techniques now, I am not sure. It is apparent that the Forest Service seems to be confused whether they have that authority or not. But in the least, within the two additional wilderness areas that are included in this bill, our amendment makes it very clear that the Forest Service is authorized to take fire control measures, including presuppression and watershed protection techniques to be incorporated in a management plan. That is absolutely essential, not only to the protection of the watershed, which was almost totally destroyed in many areas as a result of the fire, but it is also essential in terms of protection of the wilderness itself. Today a large part of the Ventana wilderness has been destroyed in part because of these problems. I am hopeful that we can learn from these lessons and avoid similar tragedies in the future.

I would also like to comment on two matters affecting the specific boundary of the proposed Ventana Wilderness area. My hope is that each of these issues can be resolved administratively in perfecting the exact boundaries of the wilderness since specific amendments are excluded under this suspension process. Should legislative amendments be required, however, it is my intent to pursue appropriate action on the Senate side.

The first issue deals with the controversy of relocating an observatory within the Ventana. For many years, the University of California at Santa Cruz has been searching for a new location to rebuild the world famous Lick Astronomical Observatory. Just as plans for the new wilderness area were completed, the university concluded that the Junipero Serra Peak, located within the proposed wilderness, would be an ideal location for the new observatory. This proposal has been opposed by environmental groups as well as native-American groups concerned over the environmental effects and the heritage of Serra Peak.

As a result of a serious effort at negotiation by the university along with representatives of the Sierra Club, at least the environmental concerns appear to be resolved. Just this last weekend, representatives from both groups met with me to indicate that a general agreement as to boundary and usage had been approved. Obviously, there remains the controversy with certain native-American concerns and it is my understanding that the university will attempt to resolve these in the near future.

It is my hope as the representative from the district affected that the intent of the committee and the congress as well as those officials implementing this legislation will be that the exact boundary of the wilderness area in the vicinity of Junipero Serra Peak shall recognize the agreements arrived at by the university and the Sierra Club and others regarding both the exact boundary, usage and access to the proposed observatory. As I indicated, should these agreements require specific amendments through the legislative process, I will be prepared to work on the Senate side to see that appropriate action is taken.

The second issue, while not controversial, also involves the problem of developing the specific boundary of the wilderness. One of my constituents, Dr. Gerald Petkus, owns property within the wilderness area and is attempting to set up an animal sanctuary. He discovered recently that if the boundaries portrayed in the rough maps available now are adhered to, he may conceivably lose access by vehicle to his property. It is again my hope that the actual drawing of the boundaries can take his particular situation into consideration. Should that not be feasible administratively, I will work with the Senate in its markup of the bill to make adjustments on behalf of Dr. Petkus.

Having raised these points, Mr. Chairman, I would like to reiterate my support for the bill and my admiration for the immense amount of work it repre-

sents on the part of the Committee. I urge its adoption by the House.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. BAUCUS), whose State has so many hundreds of thousands of acres of matchless beauty.

Mr. BAUCUS. Mr. Speaker, I commend the chairman of the full committee and the chairman of the subcommittee.

It is difficult to decide what acreage the United States should set aside either for wilderness study or as wilderness. There are tremendous pressures on our public lands in America. It is a very complex and difficult matter to handle.

I commend the gentlemen for what I regard as the fair and open way they have handled this legislation. However, I would like to address certain questions to the chairman of the full committee, the gentleman from Arizona (Mr. UDALL).

The bill includes three areas that are in Montana, and all are located in my district. I have visited each of these areas. I walked through them and spent a good portion of my time studying them.

Mr. Speaker, there are 10 other potential wilderness study areas in Montana that are now the subject of legislation. After looking at most of these 13 areas, I recommended to exclude the three in this bill.

I would like to identify these three areas and to tell you why I recommended their exclusion. The first is McGregor-Thompson, an area with high timber potential and extensive checkerboard ownership which is expensive to purchase and is difficult to maintain. The second is Mt. Henry, an area included in other legislation I support. The third is Welcome Creek, because it has never been studied before and it should not be instant wilderness.

I made those recommendations on June 23, 1977, and the subcommittee adopted them. But when the bill went to the full committee in July, an amendment was offered, unknown to me, to insert Welcome Creek back into the bill.

I am asking the chairman of the committee, when the House goes to conference, whether the chairman will inform the Senate conferees that Welcome Creek was included, despite this Member's objection. I feel this is important because the area is in the First District of Montana.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the gentleman is certainly one of the most conscientious Members of the House. There will be a conference on this bill. There undoubtedly will be sufficient differences to press for a conference. I will recommend very strongly the position of the gentleman. In the meantime, I would urge the gentleman to work with the Senate membership of his own State.

We have had a policy of conferring as much as possible with the men and women representing the areas involved in legislation of this kind. That is our policy, though it is not always followed and cannot always be controlling, because there is a national interest here and that must prevail; but the views of the Members representing the areas involved ought to have heavy weight.

The SPEAKER pro tempore. The time of the gentleman from Montana has expired.

Mr. UDALL. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman.

There are 2.5 million acres in Montana under potential wilderness classification that are under study right now. This particular portion, Welcome Creek, is only 29,000 acres.

As I mentioned, there is another bill to study other areas of Montana that includes about 1 million acres. That bill should pass. We should study those portions; but this one portion with only 29,000 acres is an area that should not be included.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I rise in support of this bill for the very reason that the chairman of the full committee indicated, namely, that I feel it is a balanced piece of legislation. In that connection, I would like to commend both the chairman of the subcommittee, who worked very hard to make this legislation possible, as well as the members of the subcommittee and the chairman of the full committee.

Having said that, I feel it is incumbent upon me to point out certain things about the Golden Trout Wilderness, which is located entirely in the congressional district of my colleague, the gentleman from California (Mr. KETCHUM) and whose concern I share on the issue of employment.

Nevertheless, it is a wilderness area which also lies immediately adjacent to my congressional district, and I have been just as concerned about the ramifications and the impact that this wilderness bill would have on the Golden Trout management.

In that connection, I would like to ask unanimous consent, Mr. Speaker, to introduce a telegram which I received from the State Director of Resources of the State of California which outlines in very specific terms his concern about the ability of the Fish and Game Department to manage the Golden Trout should this legislation become final in its present form.

At the time of the consideration of this bill, I offered what I thought was a reasonable compromise reducing the wilderness areas that came out of the subcommittee, by approximately 85,000 acres. However, the full committee in its wisdom decided on the acreage before us.

As I said at the outset, I am supporting this bill. However, I would hope that in conference some compromise can be struck so that the legitimate concerns on the issue of employment, as well as the issue of management of the Golden Trout, can be struck at that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KREBS. Mr. Speaker, the telegram which I referred to follows:

SARCRAMENTO, CALIF., *September 6, 1977.*

Congressman JOHN KREBS,
Cannon House Office Building, Washington, D.C.

I am very concerned that H.R. 3454 may pass the House of Representatives with only 179,625 acres designated for the proposed Golden Trout Wilderness. This acreage is inadequate to protect the unique fish, wildlife, recreational, and scenic values of the 417,000 acres of roadless area originally considered by the House Committee on Interior and Insular Affairs. The committee's 179,625 acre proposal, which soon will be before you for consideration, excludes the entire southern portion of the Little Kern and Kern River drainages that contain the threatened Little Kern Golden Trout. Another important area excluded from the proposal is the Horseshoe Meadow-Cottonwood Creek area that is the home of South Fork Kern Golden Trout and Sierra Bighorn Sheep.

Many other important wildlife species are found in these areas. Development of roads, logging, soil disturbance, off-road vehicle use, and the influx of people as a result of improved access will endanger the fish, wildlife, esthetic and recreational values of the area. I strongly support an enlarged Golden Trout Wilderness, not only because it protects this fragile land from the impacts of man, but also because it helps assure future Americans an opportunity to witness an unspoiled wilderness and to establish a personal relationship with the basic values of nature. In this nation, wilderness not only belongs to today but tomorrow, and to tomorrow's tomorrow, our successors are entiled to a fair share of the unspoiled wilderness that is representative of the California landscape. An enlarged Golden Trout Wilderness offers not only Sierra Forests and Meadows but also an undulating plateau and a piece of unroaded chaparral that are not represented in previously designated wilderness.

Therefore, I urge you to introduce and actively support an amendment to H.R. 3454 to enlarge the proposed Golden Trout Wilderness to the entire 333,100 acres that deserve preservation. Specifically, these areas include the Moses-Maggie, lower Little Kern, Rattlesnake Creek, Casa Vieja, Eastern Sierra Escarpment and Horseshoe Meadow-Cottonwood Creek roadless areas. An additional 83,900 acres, known as the Wildrose and Rincon roadless areas, should also be considered for inclusion in the proposed Golden Trout Wilderness; however, I am reserving final comment on these areas until this agency can obtain better information on their resource values. Copies of this telegram are being sent to Members of the California congressional delegation and other interested Members of Congress.

HUEY D. JOHNSON,
Secretary for Resources, State of California.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I rise in emphatic support of H.R. 3454, which I believe represents an eminently reasonable compromise between our Nation's need to expand the protection of some of nature's finest ecosystems, and the demand for natural resources.

Three of the sixteen areas in H.R. 3454, and 31 percent of the acreage, lies within my congressional district. Even so, less than 1 percent of the Federal lands in Oregon are included in this bill, and less than 1 percent of the timber harvests from the national forest in Oregon are affected by H.R. 3454. I would like to point out to the House that wilderness is

a multiple-use system. It includes watershed enhancement, wildlife habitat, hunting, fishing, other forms of recreation that are better satisfied in wilderness. Wildersness comprises a broad use of our national forests. We owe it to ourselves, our children, and theirs, to place a small portion of our land in this State. Two of the wildernesses in this bill, the Kalmiopsis and the French Pete Creek, are among our finest heritages, for their beauty, so irreplaceable and so wonderful. We owe it as well to the Creator to make sure that we give back some small portion as we found it.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would like to commend the gentleman for the role he played in helping put this bill together. He has been constructive, and if I may say so, it took a good deal of political courage. I commend him very much for the action he has taken.

Mr. WEAVER. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield the balance of our time to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I almost hesitate to take the well on this legislation and throw any cold water out on this love-in we have seen here this afternoon. I would like to say that anything I may say certainly would not reflect on my personal admiration for the distinguished gentleman from Wyoming, about the way he has conducted the activities of his committee to come up with this bill, but I think there are some other subjects we should talk about, and would say the same about Chairman UDALL.

I know Chairman UDALL thinks he has a balanced program. The idea of my good friend of a balanced program is like a friend of mine who threw a big party one time to invite all of the party to come in and have a stew. He used a 1-ton horse and a 2-pound rabbit, and he called it horse-rabbit stew. He thought that was what was called a balanced program, 1 horse, 1 rabbit.

I might point out to the Members of the House that in the Golden Trout Wilderness, their idea of compromise was to give up 6,000 acres and put 410,000 acres in. I agree that we reduced it to 179,000 acres, but only by a vote of 24 to 20. The only reason the gentleman from California (Mr. KETCHUM) supported this bill is because he is afraid that the House might have in the amendment process pass an amendment raising the Golden Trout back up to 410,000 acres. I do not think the chairman would argue with me, probably, that if we came to the floor under a proper rule, this bill would be amended extensively.

My question is, how much is enough? We are talking about—I think the Members of the House would be wise to note the minority views—are talking about how much we are putting in the wilderness.

MINORITY VIEWS OF STEVEN D. SYMMS, WITH THE CONCURRENCE OF ELDON D. RUDD

I oppose H.R. 3454.

H.R. 3454 as reported out of this committee would establish 16 instant wilderness areas totaling 1.17 million acres with little real understanding of the commitments involved. In the rush to establish more wilderness it seems all too apparent that the proponents of this bill do not want to know the commitments. I do not believe that Dr. M. Rupert Cutler, Assistant Secretary, Department of Agriculture, correctly reflected widely held public opinion when he reported in his May 6 testimony that a "rising tide of public demand for more wilderness designations, without delay, continues to swell," and that the studied approach is "too slow and costly." To my thinking, now more than ever there is a need to be deliberate. Now more than ever Congress must take the lead to guarantee that lands proposed for wilderness be put to an objective review by the professional of Forest Service in the way the primitive areas were reviewed. Congress was very explicit in the 1964 Act when it outlined the review process, and I cannot believe that now is the time to depart from the process.

The recent "Final Report of the Task Force on the Availability of Federally Owned Mineral Lands," prepared by an interdisciplinary team of the Department of Interior, documents a withdrawal problem of Federal lands. No one seems to be aware of or concerned about the cumulative and long-term economic impacts of these withdrawals, whatever the kind, and that withdrawal decisions continue without adequate information on all resources being committed. Congress should not blindly continue to lock up Federal mineral lands without knowing what potential mineral resources are at stake before it acts. What testimony on H.R. 3454 told me is that only in certain cases can we identify specifically what mineral may underlie some of the areas involved. No doubt some of the H.R. 3454 areas are devoid of important minerals, but I want a report by the Geological Survey and Bureau of Mines on each area that puts their best judgments on the line. The time for a decision is when the facts, or our best efforts to ascertain the facts, are in. The hastily assembled information supplied by the Department of Agriculture, which seems to be tied to preservationist philosophy rather than reality, leads me to believe that we have lost touch with the intent of the 1964 Congress.

Lately I have heard talk that minerals are not really lost with wilderness designation and if need arises they can be declassified and the minerals recovered. The language of the Wilderness Act, ". . . it is hereby declared to be the policy of the Congress to assure for the American people of present and future generations the benefits of an enduring resource of wilderness," does not provide for temporary wilderness. In other words, Congress in 1964 created a special system of lands that is to endure. That is my concept of wilderness. In 1964, Congress was considering a finite system and took special care in planning for new additions to have all of the facts on hand. The concept now has changed. The system is open-ended and no one has asked the question: How much wilderness is enough? Those that talk of declassifying wilderness areas show a lack of understanding of the time-frame involved in exploration, development, and production of minerals. No matter how great the crisis—it would almost have to be an impending national disaster to declassify—there is no shortcut mineral development, and the crisis will have to be resolved one way or another without the benefit of minerals recovered from a wilderness.

I also want to say something about the re-evaluation of roadless areas in the National Forest System that Dr. Cutler reported that he was initiating at the May 6 hearing. Dr. Cutler promised, in light of the "need" for more wilderness without delay, to review all roadless areas and report back to Congress in one year with one of three classifications: wilderness, wilderness study, or nonwilderness. I am disturbed with this hurried approach that will vitiate a process that has worked since 1964. In one year this re-evaluation cannot produce a satisfactory analysis for decisions of this magnitude. There is no way for anyone to make adequate determinations of surface values much less those of the subsurface. One of the assumptions that Dr. Cutler apparently has made is that a gentleman's agreement will be reached with Congress not to propose for wilderness the areas classified by him as nonwilderness. This is a false assumption Most of the bills for new wilderness areas proposed after the Forest Service RARE study of 1973 were those not originally chosen for study by Forest Service, although that agency went on record that it intended to study other areas. It therefore does not take a crystal ball to envision that most new proposals after the second RARE study will similarly come from the nonwilderness list, it being a safe bet for those advocating unlimited wilderness to assume that areas on the other two lists will eventually wind up in the system without their help.

The Congress must also be sure of its information before placing huge areas of harvestable timber in the national forests, willynilly, into wilderness classification without a complete assessment of the impact such designation would have on the local, State and national economies. The Golden Trout Wilderness in California provides a good example why. Before the Full Committee reduced the Golden Trout from 410,000 to 179,000 acres, one lumber mill entirely dependent on the federal timber in the Golden Trout area would have had to shut down, while two others faced serious curtailment of operations. All but the environmentalist witnesses who testified in Golden Trout opposed its designation as instant wilderness, as did the Member in whose district most of the area is located. The opponents argued that some 3,000 jobs would be directly or indirectly affected—adversely—by putting another 410,000 acres, an area ten times the size of the District of Columbia, into wilderness. They also pointed out that 33 percent of the national forest in California is already in wilderness and another 17 percent is under study for wilderness. Fully one half of the national forest in California is off limits to timbering. H.R. 3454 does not concern itself with those people whose jobs would be wiped out by wilderness, or the local governments which would lose revenues. Nor in its consideration has any attempt been made to assess the cumulative effect of wilderness on the nation's timber base or on the future ability of the timber industry to meet the demand for forest products in the future. Hopefully even environmentalists understand the relationship between supply, demand and prices.

Despite such considerations, the committee vote to reduce Golden Trout was only 24 to 20 (with 12 of the no votes cast by proxy). That is the problem with this bill and other wilderness bills now pending before the Congress. Their cumulative impacts are unknown and the immediate impacts are ignored. How much is enough? How much more wilderness will satisfy the hunger of the "little green people" who insist on stampeding the Congress into passing legislation which will have far-reaching consequences, consequences which can be known and anticipated, provided we proceed to consider the issues in an orderly, unhurried fashion?

The following chart of Wilderness acreage gives a very clear picture of the magnitude of the problem:

WILDERNESS ACREAGE EXCLUSIVE OF ALASKA D-2 LANDS AND H.R. 3454

1964 Designated Primitive Areas: 5,580,185 Acres.

1964 Designated Wilderness Areas: 9,600,561 Acres.
1965 No areas designated in this year.
1966 No areas designated in this year.
1967 No areas designated in this year.
1968 Designated Wilderness Areas: 782,750 Acres.
1969 Designated Wilderness Areas: 161,500 Acres.
1970 Designated Wilderness Areas: 203,984 Acres.
1971 No areas designated in this year.
1972 Designated Wilderness Areas: 632,200 Acres.
1973 No areas designated in this year.
1974 Designated Wilderness Areas: 1,264,091 Acres.
1975 Designated Wilderness Areas: 429,070 Acres.
1976 Designated Wilderness Areas: 1,737,252 Acres.
1977 Proposed Wilderness Areas (excluding H.R. 3454): 69,160,216 Acres.
1964–76 Designated Wilderness Areas: 14,-811,508 Acres.
1964 Primitive Areas plus 1964–76 Wilderness Areas: 20,391,593 Acres.
1964–76 Wilderness plus 1977 Proposed Wilderness Areas: 83,971,623 Acres.
1964 Primitive plus 1964–76 Wilderness plus 1977 Proposed Wilderness Areas: 89,551,-808 Acres.

It is not the wilderness that is ultimately in danger. It is the American citizen who is unaware of the havoc being wreaked on his state and national economy in the name of dashing headlong to embrace trees for posterity.

During Full Committee mark-up I offered a substitute to H.R. 3454 that I felt was an excellent compromise that recognized many of the problems outlined here. My substitute left all of the Subcommittee's wilderness designations intact but provided for the conveyance of certain public domain lands administered by the Bureau of Land Management to the States in which areas were designated as wilderness under H.R. 3454. These lands conveyed to the State would have been equal in acreage to the lands designated as wilderness. This substitute was offered recognizing the value of having the States manage these lands, since the States are in a much better position to evaluate their economic needs, and recognizing that wilderness designations substantially lessen the economic base of a State. Although the substitute failed by a 12 to 8 vote, I am hopeful that this Congress and future Congresses will see the wisdom of conveying certain federal lands to the States.

In summary, the American people should be fully aware that every acre of land that is designated as wilderness will hasten the impending mineral crisis, will permanently remove needed trees from the timber base and will eventually increase the price of virtually everything that is purchased in this country.

Yours for a free society,

STEVE SYMMS.
ELDON RUDD.

The chairman of the committee, Mr. UDALL, did not mention Alaska, where he is talking about some 100 million acres plus put into wilderness classification this year.

The wilderness system, as I understood it when it passed the Congress in 1964, was to be a finite system, but all I have seen is, we are going on, going on, going on. In my State of Idaho we now have 55 percent of the National Forest System presently shut down from timber production because we have roadless areas classification, primitive classification, wilderness classification, and all these various studies underway so that, in fact, when they speak of 1 million, 1 percent, that is not really the case. People also say, "You can mine in a wilderness area."

I would challenge the members of the committee to go out and check someplace where there is any capital investment being made in wilderness areas by people in the business of producing minerals. There is no place. Do the Members know why? It is because they have to meet the regulations. They get a permit from a bureaucrat from the Federal Government to drill. They get a permit to drill a hole. If they find something, they have to get another permit to move the drill. They have to get permission to operate with equipment. They have a way of slowing them down so that they wait 6 months between holes, and they give up.

We have a situation where the United States imports most of its mineral materials, and our big adversaries in world politics, the Soviet Union, imports hardly anything, but we keep putting land in wilderness areas.

I think the question is, how much is enough? I know the gentleman from Arizona and the gentleman from Wyoming are sincere in their efforts and in thinking we are going to wrap this up, but from what my experience has been, we always get to the point where they come in and ask for some more. It will probably shock the gentleman from Arizona to know that I am introducing a bill myself to put a wilderness area in Idaho, but it has been classified primitive since 1924, so it will have virtually no impact on the productive capacity of the Nation.

What I would like to see done is to have a national mineral policy accepted and have an inventory of minerals in this country and get its report in ahead of these bills so that we could see where it is going to stop. I do not think anybody in this Congress can tell me how much wilderness we are going to have. The chairman made some comments about the bill, but I do not think he or anyone else can say where it will stop.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield.

Mr. UDALL. The gentleman is right, there is a cloud over the land. They cannot develop or make plans, but I would suggest that before the seventies end we will know the functions of land. We are talking about millions of acres now which are under study—roadless areas that are under review. Many of these will be released from restrictions and we will have the multiple-use lands available in the years ahead. I believe that when we get through there is going to be less than one percent—maybe 1.2 percent—of the Nation's land in the lower 48 which is going to be wilderness.

Mr. SYMMS. The gentleman is talking about the lower 48 States. I hope the gentleman is right. I say to the chairman that the point to be agreed upon is where we have all these other pseudotype wilderness areas.

We are talking about jobs and about people who are trying to make a living. We are denying them this opportunity. And, in turn, we are denying the rest of the United States of the resources we need, it's interesting that in some parts of the world; that is, Switzerland, the people live and work in the wilderness areas.

I realize this bill will pass and I would say further that it probably could be worse and probably will be when the other body gets through adding acreage to it.

Mr. RHODES. Mr. Speaker, this country's wilderness lands are perhaps the finest monument that we could pass on to future generations of Americans. Nothing we could ever design or construct could come close to competing with the job Mother Nature has done over millions of years. It is for that reason that I firmly believe in the preservation of certain public lands by including them in the National Wilderness Preservation System. A bill that is before the House today proposes to do just that: The Endangered American Wilderness Act of 1977 (H.R. 3454).

The lands that are included in the National Wilderness Preservation System must be selected only after deliberate and detailed study. The costs of the industrial or recreational activities foregone, must be carefully weighed against the benefits that accrue from wilderness status. It appears to me that, with one exception, the lands proposed in H.R. 3454 meet that criteria.

The one exception is an addition to an existing wilderness area in the Corondo National Forest, the Galiuro Wilderness in Arizona. The proposed addition would more than double the size of the existing protected area. I feel this is unwarranted considering the mineral deposits, the size of the area, and the strong adverse public sentiment against placing this parcel of land in the wilderness category. I was pleased to learn that I was not alone in my concern for this area, and thus I will support .

The Endangered American Wilderness Act with the understanding that section (5) "Galiuro Wilderness Additions, Arizona," will be deleted by amendment in the Senate. As such, I will then support the amended version of this legislation in that regard.

Finally, I would be remiss not to mention the attention that the Forest Service roadless area review and evaluation, phase II, has drawn in Arizona. As the Forest Service continues its study of the Federal lands as potential components to the Wilderness Preservation System, let me encourage the utmost interaction between that agency and all the state and local representatives and people. Only then, in a spirit of cooperation, can a monument be produced of which we will all be proud.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 3454, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII,

and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

ELIGIBILITY FOR VETERANS' BENEFITS PURSUANT TO UPGRADED DISCHARGES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8698) to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges for service during the Vietnam era, and for other purposes.

The Clerk read as follows:

H.R. 8698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3103 of title 38, United States Code, is amended—

(1) by inserting before the period at the end of subsection (a) the following: ", notwithstanding any subsequent action by a board established pursuant to section 1553 of title 10, United States Code"; and

(2) by adding at the end of such section the following new subsections:

"(e)(1) Notwithstanding any other provision of law, no benefits under law administered by the Veterans' Administration shall be provided on the basis of an award of an honorable or general discharge under revised standards for the review of discharges (A) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (B) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (C) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under less than honorable conditions.

"(2) With respect to any person who was discharged or released from active military, naval, or air service under less than honorable conditions and who has been awarded a general or honorable discharge under revised standards described in paragraph (1), the board of review concerned under section 1553 of title 10, United States Code, subject to review by the Secretary concerned, shall, on its own initiative, make a separate determination based on the merits of each individual case whether or not such person would have been awarded an upgraded discharge under standards for the review of discharges applicable to all persons administratively discharged or released from active military, naval, or air service under less than honorable conditions. If the board determines under this paragraph that a person would have been awarded an upgraded discharge under standards for the review of discharges applicable to all persons so administratively discharged or released, such person shall be entitled, if otherwise eligible, to benefits under laws administered by the Veterans' Administration just as though the upgraded discharge had been awarded under such standards and shall be given written notice by the board that he or she may be entitled to such benefits. If the board determines that such person would not have been awarded an upgraded discharge under such standards, such person shall be entitled to an appearance before the board as provided in section 1553(c) of such title and shall be given written notice by the board of its determination and of his or her right to such appearance.

"(f) For the purposes of subsection (a), the term 'deserter' includes any individual who as a member of the Armed Forces was absent without authority from active duty for a continuous period of at least one hundred and eighty days.".

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall, pursuant to such regulations as the Administrator may prescribe, provide benefits pursuant to chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in performance of military duty by a person, other than a person barred from receiving benefits by section 3103(a) of such title, but not, pursuant to this section, for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. The Administrator of Veterans' Affairs, in promulgating, or in making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, should, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans who have received upgraded discharges under revised standards described in section 3103(c)(1) of title 38, United States Code, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 4. It is the sense of Congress that the President should take all necessary action to provide that discharges and releases of former members of the Armed Forces which discharges and releases were administratively issued under conditions other than honorable with respect to any period of war and which discharges and releases have not been reviewed under revised standards similar to those described in section 3103(e)(1) of title 38, United States Code, be reviewed under such standards to the extent that such standards are applicable to such period of war.

SEC. 5. Paragraph (18) of section 101 of title 38, United States Code, is amended as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 6. This Act shall become effective on the date of its enactment, except that—

(1) section 2 of this Act shall become effective on October 1, 1977, or on the date of the enactment, whichever occurs later; and

(2) the amendments made by the first section of this Act shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, but the United States shall not make any claim to recover the value of any benefits provided under such laws prior to the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

Mr. DOWNEY. Mr. Speaker, I wish to inquire whether the gentleman is opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from Arkansas (Mr. HAMMERSCHMIDT) opposed to the bill?

Mr. HAMMERSCHMIDT. Mr. Speaker, I am not opposed to the bill.

Mr. DOWNEY. Mr. Speaker, I demand a second.

Mr. WYLIE. Mr. Speaker, is the gentleman from New York (Mr. DOWNEY) opposed to the bill?

The SPEAKER pro tempore. Is the gentleman from New York (Mr. DOWNEY) opposed to the bill?

Mr. DOWNEY. Yes, Mr. Speaker, I am opposed to the bill.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from New York (Mr. DOWNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8698.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, on January 19, 1977, our former President, Gerald Ford, directed that the discharges of those who had applied for clemency under the program he announced on September 16, 1974, and who had been wounded in combat or who had received decorations for valor in combat in Vietnam, be reviewed on an individual basis. He further directed that those discharges be recharacterized as under honorable conditions in absence of a compelling reason to the contrary in any case. As a result of this program, 288 discharges have been upgraded to general or honorable discharges.

On March 28, 1977, Secretary of Defense Harold Brown announced that President Carter had approved a program for the review of certain administrative discharges received during the Vietnam era, defined as August 4, 1964, through March 28, 1973. Under this special discharge review program as of September 1, 1977, approximately 12,000 less than honorable discharges have been upgraded to general or honorable discharges.

Mr. Speaker, under both "special programs" thousands of veterans not otherwise eligible are automatically entitled to veterans' benefits.

The reported bill would deny automatic entitlement to veterans' benefits to persons who would otherwise become so entitled solely by virtue of the administrative upgrading under the temporarily advised standards.

During 4 full days of hearings in late June, testimony was received from 26 witnesses, including the Secretary of the Army, the Honorable Clifford Alexander. Although the Secretary testified that the program approved by President Carter does not amount to a substantial departure from previous generally applicable standards, further testimony presented by Department of the Army officials revealed that prior to the implementation of the special review programs, undesirable discharges were being upgraded at a rate of approximately 41.4 percent. Under the "revised standards," the approval rate has been increased to about 72 percent. No one disputes the fact that the two mentioned programs have made several thousand veterans eligible for veterans' benefits who would not otherwise have been eligible.

Members of the House have expressed their opposition to the automatic granting of veterans' benefits to individuals who receive upgraded discharges solely as a result of the Ford and Carter programs. This view was strongly heard when the House recently voted twice on the so-called Beard amendment to prohibit the use of fiscal year 1978 VA appropriations for the payment of benefits to individuals whose discharges are upgraded under the special discharge review programs.

The Senate has passed S. 1307, a bill somewhat similar to H.R. 8698. I feel the review procedure provided for in H.R. 8698 and S. 1307, as reported by the Senate Committee on Veterans' Affairs, provides for an equitable solution to the problem.

H.R. 8698 provides that the discharge review board concerned must make a separate determination whether it would have granted an upgrading of the discharge under generally applicable standards existing prior to the announced special discharge review programs. That determination, if favorable, would entitle the individual to veterans' benefits, if otherwise eligible. If, however, the determination is that the individual's discharge is upgraded solely as a result of the "revised criteria," the Administrator of Veterans' Affairs would be required to review the record and make a determination that the individual's service was other than dishonorable before veterans' benefits could be provided.

In addition, section 1 of the bill would provide that any subsequent action by a Discharge Review Board will not overturn a bar to benefits under section 3103 (a) of title 38, United States Code. Under current law the discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or of an officer by the acceptance of his designation for the good of the service, or—except under certain conditions—the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed.

A reasonable interpretation of the law would indicate that so long as the reasons for discharge or release remain unchanged, the individual will continue to be barred from receiving veterans' benefits under section 3103(a), notwithstanding the fact that a new upgraded discharge is issued by a Discharge Review Board. Only in instances when the Board for Correction of Military Records changes the reasons for discharge should the bar be removed. However, such is not the case. With respect to discharges upgraded from undesirable to general or honorable, the Veterans' Administration does not look beyond the face of the newly issued discharge paper in determining whether the individual is eligible for veterans' benefits even though such individual may have been previously barred from receiving benefits. The agency does not inquire into the reasons or conditions under which a veteran receives an upgraded discharge. Instead, it merely looks at the face of the new discharge in determining eligibility to benefits. Section 1 of the bill would require the agency to look beyond the character of discharge to determine whether an individual may be eligible for benefits when a discharge has been upgraded by a Discharge Review Board, and where the individual was previously barred from receiving such benefits under section 3103 (a).

The bill would bar the payment of benefits to those individuals whose discharge or release was for prolonged unauthorized absence without authority from active duty for a continuous period of at least 180 days.

The committee was greatly disturbed to learn of the unannounced decision by the administration to give special favor to returning deserters. As everyone knows, several thousand individuals fled to foreign countries during the Vietnam war. These individuals have been living in Sweden, Canada, and elsewhere for many years. Administration witnesses revealed that the Federal Government was paying transportation expenses for deserters returning to the United States from these foreign countries.

According to Department of the Army witnesses, deserters-at-large who reside outside the country and claim that they do not have financial resources to return to the United States have their air fare paid for by the Federal Government with apparently little investigation as to their actual income and assets. On the other hand, the same witnesses revealed that individuals who did not desert but remained in the United States and who received undesirable discharges must pay their own transportation expenses in seeking to have their discharges upgraded before the Discharge Review Board.

We found that in far too many instances deserters were transported back to the United States and given an undesirable discharge for "prolonged unauthorized absence." Then, all they had to do was walk across the street and get the undesirable discharge upgraded under the special criteria to general or honorable and start receiving veterans' benefits. This provision would keep this from happening. It would bar the payment of such benefits to those who left the service without authority and remained on unauthorized leave for a continuous period of 180 days or more.

The bill would provide for the treatment of service-connected disabilities incurred in performance of military duty, regardless of whether the individual has been discharged under conditions less than honorable. This would allow the VA to provide health care and related benefits for the treatment of service-connected disabilities for individuals with undesirable discharges.

As my colleagues know, we have continued to place a high priority on providing proper health care to veterans. This is especially true for the treatment of service-connected disabilities. Accordingly, the reported bill would provide health care and related services to former active-duty personnel for service incurred or aggravated disabilities who may otherwise be precluded from treatment due to their discharges. This provision would not apply to those individuals barred from benefits under section 3103 of title 38, nor to persons whose disabilities were incurred during a period of service terminated by a bad conduct discharge. In addition, the services authorized to be provided are to be limited to the treatment of disabilities incurred or aggravated in performance of military duty.

Section 3 of the bill precludes the Administrator from providing any unique or special advantage to veterans who have received upgraded discharges or making any special distinction between such veterans and other veterans.

Section 4 of the bill expresses the sense of Congress that President Carter, as a matter of equity, should take whatever steps necessary to provide that administrative discharges of former members of the Armed Forces of other periods of war issued under conditions other than honorable be reviewed under similarly revised standards.

Section 5 expands the term "discharge or release" to include the satisfactory completion by an individual of a period of service equal in length of time to his or her originally intended period of service when he or she did not receive a discharge or release at the completion of that period because of having agreed to extended active duty service.

The Veterans' Administration has previously indicated its support for this provision. In reporting on a similar provision pending in the 91st Congress, the Administrator said:

In some cases the present law has brought results which seem harsh. We have encoun-

tered cases where persons with many years of service were ineligible for disability compensation because after 3 or 4 years of the service in which they incurred their disability, they received a conditional discharge or release, and their ultimate separation from service was by a disqualifying discharge. These cases include persons who suffered disability in combat and served honorably and faithfully during the full period of their war service, but who after a conditional discharge committed acts which led to a disqualifying discharge and a denial of benefits. Similar harsh results have occurred in cases involving claims for service-connected death benefits.

The enactment of this provision of the reported bill will alleviate results as described above.

Section 6 provides that section 2 of the bill shall become effective on October 1, 1977, or on the date of enactment, whichever occurs later in order to comply with the Budget Act. In addition, it provides that although the amendments made by the first section of the bill shall apply retroactively to deny benefits, no claim to recover the value of any benefits provided under the discharge review program prior to the date of enactment of the act shall be made by the U.S. Government.

Mr. Speaker, the reported bill is a reasonable compromise to what the President has proposed, and I urge that it be adopted by the House.

Mr. DOWNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a subject the House has debated on a number of occasions in the form of the Beard amendment. If I might, let me briefly trace the history of this issue.

The Beard amendment was quite onerous to some of the Members, and a request was made by those of us who felt the President's special discharge review program should be fully implemented that the Committee on Veterans' Affairs closely consider the facts of President Ford's clemency program and President Carter's program for upgrading discharges as they related to veterans' benefits eligibility.

The committee, I believe, comes up with a compromise that is better than the Beard language. It is not necessarily the language that I would like to see, but it is a compromise. I think it is a workable compromise.

Let me also state that I am not here to defend desertion.

I believe very fundamentally that veterans' benefits are a privilege that must be earned, and that the language in title 38 specifically spells out the criteria for earning those benefits.

There is one provision in this bill that is not in the bill of the other body which I find particularly troublesome, and this is the reason I am opposed to the bill as it now stands.

This provision provides that if an individual is continuously absent without authority for 180 days, that person, for the purposes of determining veterans' benefits, shall be considered a deserter.

Mr. Speaker, traditional military law—and I cite Article of War 58—and the present Uniform Code of Military Justice—require a "twofold test" for desertion. One, they require the proof of an unauthorized absence from military service. The other and I believe, most important portion of this test is the proof of an intent to remain away permanently.

In fact, in one particular case, the United States against Cothern, the UCMA said that an absence of 17 days or 17 months or 17 years is only an absence—though its probative value, may be great—and the length of absence alone is not a substitute for intent.

In any event, what does this dry legalism mean? Very simply, it means this: Let us take a Vietnam era veteran who served in that war, a combat veteran who was wounded during that tenure of service. He returns home to this country 10 days prior to separation from service and decides that his marital problems are such that they require attention at home. He goes away for 181 days and then comes back and resubmits himself to the service from which he has absented himself. He says, "I am sorry; I deserted."

What about that individual? According to this particular provision in the veterans' bill that is before us today, the 180-day unauthorized absence is an absolute. No finding of intent is involved, and that individual who served honorably, who may have been wounded and may have been decorated, is precluded from benefits under the bill.

Obviously, someone who is away from the service for 180 days should not be given an honorable discharge. In a majority of cases this type of individual will have been discharged according to chapter 10 proceedings, that is to say a resignation in lieu of court martial. Prior to this bill, that same individual could have gone to the Veterans' Administration and said, "I have an undesirable discharge, but the mitigating circumstances are such that I would like to have an opportunity to change that. I have been wounded. I have been decorated. I have only been gone for 181 days. I have resubmitted myself to the service. I have never intended to remain away permanently."

Mr. Speaker, if I might ask the chairman a question, because we discussed this at some length, Is it possible that the committee, when it goes to conference, recognizing that the other body does not have this particular provision in its bill, might possibly strike this 180-day definition of deserter?

Let me ask that question first. I have another one which I would like to ask.

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, certainly in the conference with the other body, some sort of compromise might be worked out. However, I think the gentleman from New York (Mr. DOWNEY) made one statement that he did not intend to make. The gentleman ruins his own illustration by saying that the man came back to his commanding officer and said, "I am sorry. I deserted."

Therefore, he did admit that he was a deserter, and there is no way by which he can be judged otherwise.

Mr. DOWNEY. All right. Absent that admission, am I correct, Mr. Chairman, in stating that according to the provisions of this bill as it was written, that individual who has been wounded in action, who has served honorably, who has been absent for 180 days, is in such a position that that fact alone precludes him from benefits?

Mr. ROBERTS. That is correct. Under the armed services regulations, even if he deserted, if he was just absent for 30 days, he was a deserter, and this would preclude him from getting veterans' benefits.

Mr. DOWNEY. Mr. Speaker, if I may reclaim my time, the point I want to reemphasize is that in the armed services, under title X, of the Uniform Code of Military Justice, you are not considered a deserter if you are absent just for a certain period of time. That is only one of the tests. The other test is the intent to stay away permanently. There are a whole host of criteria that the armed services look into when they are upgrading discharges. I think 180 days is an arbitrary figure which flies in the face of the concept of case-by-case review which has been a major theme in this entire issue and was consistently cited by proponents of the Beard amendment as a major objection to the special discharge upgrade programs for Vietnam era veterans.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. WYLIE. There is a remedy for mitigating circumstances, but if the Congressman representing such a veteran is worth his salt, he will probably suggest that he go to the Board for Correction of Military Records, which he can do, and which I have done in, at least, one veteran's case.

Mr. DOWNEY. I do not see where in the record that provision is called for. If I read it correctly, and I might add that I have already discussed this with counsel, it says on page 3, line 23:

"(f) For the purposes of subsection (a), the term 'deserter' includes any individual who as a member of the Armed Forces was absent without authority from active duty for a continuous period of at least one hundred and eighty days.".

In title 38, subsection 3103, subsection (a), you can take a look at that, and that clarifies that particular absence as desertion by precluding him from benefits. You have already defined the term "deserter". You have defined it as a period of time of 180 days and you have taken no other look at that absence so far as intent is concerned.

All I am suggesting to my friend the gentleman from Ohio (Mr. WYLIE) that this just does not permit for a review before the board of corrections of military discharges.

Mr. WYLIE. The provision to which I refer is under title 10 of the United States Code. I do not have that before me, but in the military code under title 10 a civilian review board is provided for in the Department of Defense. It is an ongoing civilian review board. I would suggest to the gentleman that the particular veteran in his example would be taken care of.

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, I would agree that

the 180 days is an absolute mandate and that there could be mitigating circumstances in addition, and during the course of the conference with the Senate we believe that we might be able to arrive at something on mitigating circumstances. I think that is the best we can hope for.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to commend the gentleman in the well for picking out one provision which has a particularly destructive or negative impact, and also to commend the chairman of the committee, the gentleman from Texas (Mr. ROBERTS) and some of the other members on the Committee on Veterans' Affairs, who have said that they would seriously consider taking another look at this provision when it goes to conference with the Senate, in view of the fact that the Senate-passed bill does not have this restrictive definition in it. I think the gentleman in the well is correct in suggesting that this definition does have some problems associated with it. I would, however, say to the gentleman in the well that I am constrained, as one of the strongest opponents against the Beard amendment, to support this legislation, because I believe that the members of the Committee on Veterans' Affairs have thoroughly examined the problem and have come up with a moderating compromise which, while it does not include all of the things that I would like to see included, or take the direction that I would like to see it take, it does have some very positive provisions that will give some medical care to a person who was wounded in action, which will be given consideration in the processing of the cases, so, while I respect the gentleman in the well for his suggestion, I think that his taking the floor on this issue today will do more to make this compromise possible with the Senate, and I will therefore support the committee on this legislation.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman from Pennsylvania. I understand that the committee has worked hard, and this is a compromise which is one of the things that is provided in the bill, and that the bill does close down certain restrictions as to the veterans but that it does provide for an individual who has served and who has been wounded to receive benefits so that he might be able to recover from any medical disability received during that period of his service.

It is interesting to note that if that individual qualifies under that particular provision but has absented himself 180 days, he is not eligible.

Mr. ROBERTS. The gentleman is an able member of the Committee on Armed Services and as such, for those who have the necessary responsibility for raising armies in time of war, must realize the difficulty we are going to be in if we do not have some restriction like this, because who is going to be drafted and go to war and get shot at if he can leave for 6 years and then come back and get benefits?

Mr. DOWNEY. I think the gentleman points out one of the problems of this legislation in general. If the Members will avail themselves of the committee report, they will find on pages 4 or 5 a number of examples—egregious ones, I might add—where an individual who has been away for 2,000 days and comes back would be eligible for benefits.

It is pretty clear under the Code of Military Justice that, taking a look at the length of absence and the intent to stay away, that person can be convicted as a deserter, as opposed to the case I cited where there were substantial mitigating circumstances, where most members of this committee would like to see even this individual get some benefits. That is what I am referring to.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

If, as the chairman of the committee stated, this is an absolute bar to any and all benefits ad infinitum, I would be agreeing with you, but I submit that is not the case. The Board for Correction of Military Records can in a specific case expunge that portion of a record referring to a 180-day requirement, and benefits can thereafter inure to the veteran. In any event, I think what we should do today is pass this bill, and then when we go to conference we can clear this up, because I think we are in agreement on this point.

Mr. DOWNEY. I agree with the gentleman with but one exception. In the committee report the committee language addresses that point rather clearly. They were concerned, for instance, with a lot of the action that would be taken by the Veterans' Administration, and they addressed themselves to that point in particular. They say that here the Board of Corrections of Military Review has an opportunity, almost commensurate with the responsibility and the authority of Congress, to change an individual's discharge, and the committee report goes further to say that they want that to end. They will restrict that authority with this legislation. So while I agree with the gentleman, I personally think that that right is still retained. The inference I draw from the committee language and from the bill would include those mitigating circumstances.

Mr. WYLIE. Mr. Speaker, will the gentleman yield further?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. WYLIE. The point I am making is that there are two different agencies involved here. One is the Military Discharge Review Board, and the other is the Board for Corrections of Military Records. I submit the latter, which is a civilian review board, could handle the case to which the gentleman has referred.

Mr. DOWNEY. Except that—and I think I have worn out my welcome here—the point is that a 180-day period of time, as I read this—and this is my reason for concern—means a total bar to benefits. If that is not the case, I am happy, but I am afraid that from my discussion with counsel and the chairman that that is the case.

Mr. Speaker, I reserve the remainder of my time.

Mr. ROBERTS. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I would like to say that I had the privilege of attending all the meetings when we considered H.R. 8698, and when the gentleman from Texas (Mr. ROBERTS), the chairman, was not there, I had the privilege of chairing this Ad Hoc Committee on Veterans' Benefits. As he said earlier, we had 26 witnesses; we had 4 days of hearings; and we think we have thoroughly covered this subject. This is compromised legislation.

I might say that we worked out compromises with the gentleman from Pennsylvania (Mr. EDGAR) even though not a member of the ad hoc committee, who had first opposed the legislation, and also with the gentleman from Wisconsin (Mr. CORNELL) both now support this bill.

In effect, let me rehash what we have done in this legislation. We have said that on the upgrading of discharges by the Carter criteria, under this legislation every veteran who becomes eligible for veterans' benefits, would have to be handled on a case-by-case basis. The Veterans' Administration will have to look at each case. If the Veterans' Board feels they are eligible, they will get veterans' benefits if not more. This bill does not effect or change the Carter upgrading. We took no action pertaining to upgrading of individuals. That is up to the Department of Defense and up to the Carter administration. But we do think we have something to say about the VA benefits.

We went a step further in this legislation that was mentioned earlier. In the past a veteran who had a less-than-honorable discharge is not eligible for hospital benefits. If he has not been wounded in Vietnam, under this piece of legislation, and that wound is giving him trouble now, even though he does not have an honorable or a general discharge, he will be able to go to the Veterans' Hospital where he will receive treatment for the old wound.

We have found out that the person who had his leg severely wounded during the war and has a less than honorable discharge, might develop further leg troubles. We feel that it is only right to give this veteran a chance to get this wound treated. So that is a plus provision in the bill.

Yes: there is a 6 months' provision that a continuous 6 months' AWOL will result in a veteran not being eligible for a case-by-case review. If I have the privilege of serving on the conference committee with the chairman, we will take a look at this provision which has been pointed out by the gentleman from New York (Mr. DOWNEY).

I would like to say also in this bill—and we discussed it in the Beard amendment discussion several weeks ago—it is just the Vietnam-era veteran who would be eligible for upgrading of discharges

under the Carter criteria. But why not all wars? So under this legislation we make it now apply to the Spanish-American War, World War I, World War II, and the Korean veterans, in addition to the Vietnam veterans.

My last point, and it came out in the committee, is all these soldiers who had deserted and had gone to Canada and Sweden or other countries in Europe, under the Carter proposal can go to the Embassies and if the person who deserted tells the Embassy in Sweden or elsewhere that he does not have enough funds to get home, to come back and have his discharge upgraded, the Army will pay his expenses back to the United States. I personally think this is wrong. I think we should not take the taxpayers' money and pay a deserter to come home from Canada or Sweden or elsewhere.

Our committee has no jurisdiction over this matter. I just thought the Members of the House should know that this is being done. The Secretary of the Army admitted this was being done. Personally a person getting this opportunity should be able to pay his own way home or find his way home without having the taxpayers of this country paying for it.

I hope the Members will support this legislation.

Mr. DOWNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. CORNELL).

Mr. CORNELL. Mr. Speaker, first of all I want to say I agree with the position of the gentleman from New York (Mr. DOWNEY) on the 180 days AWOL provision, but as he stated the Senate bill does not include this provision and I hope modification will result in conference to provide some equitable handling of such cases.

As one who strongly opposed the Beard amendment, however, I would like to commend the committee and say I think the legislation under consideration is a reasonable compromise. There are a few points that I think ought to be clarified and I would ask the chairman a few questions in regard to some points of the legislation.

First of all, in opposition to this bill it has been claimed that the measure created more procedural steps which a veteran must go through before he can receive Veterans' Administration benefits. I would like to ask the chairman: Does the veteran face a more elaborate, more complex, more expensive procedure than now exists?

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, the answer is no.

Mr. CORNELL. Would the gentleman enlarge upon that, please?

Mr. ROBERTS. The procedure as outlined will be exactly the same as he would go through otherwise, no additional benefits, and his medical benefits are automatic even under this bill.

Mr. CORNELL. In regard to the question of medical benefits, I understand that this bill makes it easier for a veteran with a less than honorable discharge to receive medical benefits. Is that true?

Mr. ROBERTS. That is absolutely true. As I said in my statement, the medical benefits are automatic as a result of the upgrade, either under the Ford or the Carter procedure.

Mr. CORNELL. Thirdly, does this bill affect at all the actual discharge upgrading program of the President?

Mr. ROBERTS. None whatsoever.

Mr. CORNELL. Last, does this bill allow the Veterans' Administration to grant benefits to veterans who would have had benefits denied because of the Beard amendment to the appropriation bill providing for VA funding?

Mr. ROBERTS. If the gentleman will yield further, the answer is yes, it would provide those benefits.

Mr. CORNELL. I think these points demonstrate what I said before, that certainly this legislation is far preferable than the Beard amendment. I think it it a very reasonable compromise on this issue.

Mr. ROBERTS. Mr. Speaker, I wish to thank the gentleman from Wisconsin.

Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, first I wish to discuss the opposition of the gentleman from New York to barring veterans' benefits for deserters of 6 months. The section referred to in H.R. 8698 is: First, 3103(a), of title 38, which limits its application to those who were discharged for the particular period of absence. As such, a person who returned to military control and stood trial, then served the remainder of his enlistment, would not be affected.

Second. It is required that the person be absent for more than 180 consecutive days. Intermittent periods of absence that total that number of days do not preclude benefits.

Third. It is necessary to draw the line somewhere. I do not believe that the Congress ever anticipated that long-term absentees and deserters would receive the type of discharge that would technically qualify them for benefits. Under present law, if a serviceman or woman is absent only 30 days, he or she can be charged with desertion. This period is six times that long, and is a fair place to draw the line, but even beyond that, and this is the important point to the statement of the gentleman from New York earlier, the Board of Correction of Military Records could still find the veteran eligible for benefits under the provisions of this law.

Mr. Speaker, this bill addresses an issue that has excited the passions of the Congress like few others, Mr. Speaker, as evidenced by the two debates we have already had regarding the Beard amendment to the HUD and independent agencies appropriations bill. Notwithstanding the emotion that has accompanied so much of our deliberations, I believe we have come up with a thoughtful and equitable piece of legislation.

The most important provision of the legislation is section 1, which allows the Discharge Review Board to exercise what the President calls "compassion" by upgrading the great majority of these discharges under reduced, all-embracive standards. At the same time, though, it precludes recipients of these artificial upgrades from receiving veterans' benefits, unless they meet a further test which compares their service records against historical standards.

This, Mr. Speaker, is fair to all individuals concerned. First, the veteran himself may still receive an upgraded discharge, thus alleviating the "stigma" in employment that so many witnesses addressed during our hearings. Second, a distinction is maintained between honorable and less-than-honorable service. This is vitally important, and I think we often lose sight of the millions who maintained their self-discipline and performed honorably, and whose only reward during the Vietnam era came not from an expression of public gratitude by our citizens, but from an inner sense of having performed honorably and well during trying times. We will never solve the Vietnam veterans' many problems by eliminating the notion that any service had any particular merit whatsoever, and that is exactly what would happen if we allowed this special program to go through, and reduced all service to the lowest common denominator. And third, Mr. Speaker, we are saving the taxpayers of this country both the expenditure and the indignity of having to dig into their pockets and reward service that was either incompetent or downright dishonorable. We are talking about more than $12,000 for every individual, in educational benefits alone. And it goes further than that: We are talking about rewarding service by paying compensation for injuries for the rest of a person's life, when he or she gave us nothing in return. We are talking about awarding the person a pension in his or her old age. For what?

The Budget Office estimates that this legislation will save more than $200 million over the coming 5 years alone. I submit that it is money that we should never require our citizens to spend.

There are other provisions of the bill that deserve comment, Mr. Speaker, and I invite those of my colleagues who voted against the Beard amendment to examine them closely. The bill allows treatment in VA hospitals for service-connected injuries incurred by persons whose discharges are not upgraded. It expresses the sense of the Congress that the President actually extend this program to veterans from other war periods, consistent with the limitations of the legislation. It allows a person with one tour of satisfactory service, and a subsequent tour that resulted in a bad discharge, to receive benefits based on his initial honorable tour of duty. It prevents persons who applied to the Carter program from being penalized if they are later found to have been ineligible for veterans benefits.

This is good, responsible legislation, Mr. Speaker, and I urge all of my colleagues, whatever their previous vote on the Beard amendment, to vote for it.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 8698. The granting of VA benefits to veterans who received an upgraded dis-

charge is a complex issue surrounded with emotion. To further complicate the matter, the President's special discharge review program was poorly constructed and filled with many ambiguous terms along with several inequalities. H.R. 8698 is an attempt to insure that all veterans receive the same considerations for entitlement to VA benefits, and that the flaws of the President's program are corrected.

As a member of the Veteran's Affairs Committee, I had the honor of serving on the ad hoc subcommittee which held hearings on the President's special discharge review program. In the 4 days of hearings, the subcommittee received testimony from organizations both in favor of and against the efforts of the President. Every viewpoint was given full consideration. H.R. 8698 is a result of those hearings. This measure provides an orderly review of all upgraded discharges to insure that only deserving veterans receive VA benefits. The sacrifices made by thousands of young men during the American involvement in Vietnam demand that be done.

There have been some articles and editorials in the newspapers which state that the intent of Congress in considering this measure is to punish opponents of the Vietnam war. This conclusion can only be made by someone who has not taken the time and effort to become familiar with the complexities of the issues involved. I can assure my colleagues that the members of the Veterans' Affairs Committee are well aware of the many problems facing our Vietnam-era veterans. The President is attempting to help eliminate the stigma of a bad discharge which has made it difficult for veterans who received one to find meaningful employment. However, the President's efforts, while done in the spirit of compassion and forgiveness, should not automatically entitle these veterans to the full range of VA benefits. These benefits should only be given to veterans who served honorably.

It should be noted that the majority of men who deserted during the Vietnam war did so for the same reasons that soldiers have always deserted. While the President's program does not apply to any veterans who were discharged prior to August 4, 1964, or after March 28, 1973, H.R. 8698 expresses the sense of Congress that President Carter should take whatever steps necessary to provide the administrative discharges given during any period of war should also be reviewed.

H.R. 8698 provides a much better, and a more equitable method of preventing undeserving veterans from collecting VA benefits than does the Beard amendment to the Housing and Urban Development/Independent Agencies Appropriations Act of fiscal year 1978. That amendment stated that no funds contained within the act could be used to grant VA benefits to any veteran who received an upgraded discharge under the President's special discharge review program. Should the President sign H.R. 8698, the Beard amendment will be no longer be needed.

I hope that my colleagues will join me in supporting passage of H.R. 8698. The need to preserve VA benefits for only the deserving cannot be overstated.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from North Dakota.

Mr. ABDNOR. Mr. Speaker, I rise to give my strong support to H.R. 8698, I need not take the time to recount the debate on the issue of President Carter's special discharge upgrade program. My opposition has not waned. The debate has been extremely emotional on both sides. The House has twice voted overwhelmingly in favor of the so-called Beard amendment, which prohibited the use of any funds for the Carter program. I sat on the select committee convened by Chairman ROBERTS to review the many pieces of legislation which were introduced pertaining to the upgrade. The committee did not look at the upgrade, because we had no authority. However, we are charged with oversight of veteran's benefits, which recipients to Mr. Carter's upgrade would have automatically been entitled to.

The subcommittee heard a great number of witnesses, and as a member of the subcommittee, I received a voluminous amount of mail on the subject. The testimony we received covered the entire spectrum. The witnesses were often very emotional, as was much of the debate we have heard on this issue. As a result of this, I believe that the legislation which the Veterans' Committee has recommended is the most equitable to all involved.

We have heard numerous people say that Vietnam was a special war, different from World War II or Korea. It was in many ways. However, the figures show that bad paper discharges for Vietnam, which this bill deals with, were in fact less than the two aforementioned conflicts. We have heard many say that we should show compassion to those with bad paper discharges. How about compassion for those who served honorably? We on the Veterans' Affairs Committee have responsibility to provide benefits to veterans who served honorably.

In the past few years, our budget has been extremely tight. We have not been able to do all that we have wanted to do for them. I honestly feel that they deserve our support more than those who did not serve honorably. I believe this legislation addresses the problem most effectively. The administration has indicated that the upgrade was initiated to reduce the stigma of a bad paper discharge to assist the veteran in obtaining employment. I have no quarrel with that premise. I do feel, however, that to receive the same benefits we award to those who served honorably, deserves more scrutiny. This bill does that by providing for review of each upgrade on an individual basis. I feel that there are those with bad paper discharges who deserve to have them upgraded. History has proved this over many times; H.R. 8698 continues that practice. It specifies that the Veterans' Administration will look at each case before providing benfits. Before closing, I must add that I believe that the one thing most prominent in my investigation was that the stigma of bad papers has tainted the lives of men and women of previous wars, as much or more than those who received them during the Vietnam era. This bill urges the President to look at them as well. I wholeheartedly agree. I urge that you join me in support of this measure.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I would just like to rise in strong support of this piece of legislation, the Roberts-Hammerschmidt bill, and commend the committee for its work in bringing it before this legislative body. I hope it will be strongly supported.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Speaker, I rise in support of H.R. 8698.

This body has spent a great amount of time debating the issue that is before us in H.R. 8698, and I will not belabor the points that I know we are all familiar with by now. I suppose, in many ways, we all have our minds pretty well made up on whether or not we are going to vote for the bill.

In many ways, Mr. Speaker, that is a shame, because this bill should receive the unanimous vote of the House of Representatives. It is an eminently fair piece of legislation which is the product of months of open and fair debate. There is no vindictiveness in the bill. Its concepts have been endorsed even by the two most vocal opponents of the Beard amendment during our other two debates on the measure.

This bill takes nothing away from a person who is receiving a windfall by virtue of the Carter program. He still gets his discharge upgraded. He will not have to repay any benefits he has already received, prior to the enactment of the legislation. In other words, there is no penalty for having taken part in the Carter program. In addition, even those who have not qualified for an upgrade under the ridiculously lenient provisions of the Carter program, will now be entitled to VA hospital care for injuries incurred in the line of duty. Furthermore, those who served a full term of honorable service, and later got into trouble, can now have their first period of service count for veterans' benefits.

I honestly do not know what else can be expected of a rational and fair Congress, Mr. Speaker. This is the outer limit of reasonableness—in many ways perhaps overlenient—and I would suggest that every Member of Congress vote in favor of the bill.

Mr. WYLIE. Mr. Speaker, referring back to the colloquy with the gentleman from New York (Mr. DOWNEY) a little while ago, I would like to have this placed in the RECORD.

Section 1552(a) of the United States Code, title 10, specifically says that the Board of Corrections of Military Records

may correct any military record of that department when it considers it necessary to correct an error or remove an injustice.

So I submit that the problem could be solved. I would just like to have code reference in the RECORD.

I do not think the fears of the gentleman from New York (Mr. DOWNEY) are well founded, but I respect and understand the position he has taken.

When General Alexander was before our committee and suggested that the President was going to issue a blanket upgrading of all less-than-honorable discharges, I suggested to him at that time that the President can upgrade all less-than-honorable discharges for Vietnam veterans. He can, as a matter of fact, issue an order to pin a medal on them, but he cannot give them veterans' benefits without the intervention of this Congress. It is in that spirit that this bill is before us today.

Under this bill, if there are mitigating or extenuating circumstances in a case where a veteran has received a less-than-honorable discharge for the Vietnam conflict, he can go to a Discharge Review Board after his discharge upgrade and qualify for Veterans' Administration benefits.

What this bill provides, in effect, is that a person who has received a less-than-honorable discharge and his discharge is upgraded by Presidential order, under provisions of this bill he will be treated the same as anybody else who had his discharge upgraded by other than Presidential pardon.

I urge my colleagues to vote for the bill. It is more than fair for the veteran to which it applies.

Mr. DOWNEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, if I might engage my colleague, the gentleman from Ohio (Mr. WYLIE) in colloquy, let me concede for a moment that he is correct in stating that the Board for Corrections of Military Records can, in fact, supersede the action of this legislation and allow the granting of benefits anyway. While I am not necessarily conceding at this point, let us assume that is the case. That Board is only located here in Washington.

Mr. WYLIE. Right.

Mr. DOWNEY. It takes at least 1 year before you get an appeal before that Board, and the exhaustion of Discharge Review Board appeals must come first. That Board presently has anywhere from a 3- to 5-year backlog of cases for correction of military records, and because the Correction Board only decides matters of law, there are no personal appearances.

It seems to me that the intent of this legislation and the intent of the President's program is not that someone wait 5 years, if the gentleman's point is correct, in reference to their absolute ability to change the record.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, let me say that in the one case to which I referred as a personal example, the time taken was less than a year. We were able to get a favorable result in much less time. I do not know what their backlog is today. My point is there is a procedure provided for in the law for injustices.

Mr. DOWNEY. I am suggesting, whether or not that is superseded by the specific provision in law which states a deserter is anyone absent without authorization for 180 days continuously, if the gentleman is correct, my point is that the Board of Corrections for Military Records does have a backlog. It would take some time. And that still, for instance, would not touch the person I mentioned before, one who had been in the service. That individual would still be precluded from benefits.

Mr. WYLIE. If the gentleman will yield, the gentleman is suggesting his person would be precluded on the basis that the Board would not act or could not act within 180 days?

Mr. DOWNEY. My position is that anyone who served in Vietnam, who had been injured or decorated, if, prior to separation from service, absents himself for 180 days or more, he would be precluded under this bill from veterans' benefits totally, unless he came to the Board of Corrections of Military Records, if the gentleman is correct, and that would take from 3 to 5 years.

Mr. WYLIE. If the gentleman will yield further, I think we are in general agreement, and I would suggest any difference could be cleared up in conference.

Mr. DOWNEY. Mr. Speaker, I hope that the gentleman, when he is acting as a conferee, will use his power as a conferee to correct this deficiency.

Mr. WYLIE. I certainly will.

Mr. DOWNEY. Mr. Speaker, I thank the gentleman, and I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a matter of equity. Do we want to pay a deserter exactly the same benefits that we pay a Silver Star winner or within $25 a month of what we would pay a Medal of Honor winner? That is the whole basis of this bill.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I believe that in the testimony we have heard from witnesses of all the major veterans' organizations, they have come out in favor of this bill. Is it not true that the veterans' organizations are in support of this bill?

Mr. ROBERTS. All of the veterans' organizations are in support of this bill.

Mr. Speaker, I hope that the Members will be unanimous in their support of this bill.

Mr. ASHBROOK. Mr. Speaker, I rise in strong support of H.R. 8698, which would deny automatic entitlement to veterans' benefits for those whose discharges are upgraded by President Carter's discharge review program. This is an important step in upholding honorable military service.

Under the provisions of H.R. 8698, entitlement to veterans' benefits could not be based solely on the special discharge program. Instead, the Discharge Review Board would have to make a separate determination as to whether it would have upgraded the discharge under its normal standards. If it is determined that the discharge is upgraded solely because of the new criteria, then the Administrator of Veterans' Affairs would have to review the record and determine whether the individual's service was other than dishonorable before benefits could be awarded. In addition, the bill would prohibit payment of benefits to anyone whose discharge was due to an unauthorized absence for a continuous period of at least 180 days.

Earlier this year I introduced legislation similar to the one before us today. My bill would specifically prohibit automatic veterans' benefits to those with less than honorable discharges whose discharges are upgraded under the President's program. I am pleased that the Committee on Veterans' Affairs has now acted on this important issue.

I believe Congress should be rewarding honorable military service. Those who served with honor are the ones who truly deserve praise and the gratitude of our Nation. Rather than pouring out millions of dollars to deserters and those who were dishonorably discharged Congress should give the money to deserving veterans.

Let us not put those who were dishonorably discharged on the same level with those who served their country with honor. I urge the passage of this legislation.

Mr. EDWARDS of California. Mr. Speaker, it is not often that I find myself rising in opposition to a measure reported by the Committee on Veterans' Affairs. Having served on the committee ever since I entered Congress in 1963, I am generally very proud of the work we do and can wholeheartedly support the legislation we develop. However, I simply cannot support this bill we now have under consideration.

H.R. 8698 seeks to restrict payment of veterans' benefits to certain veterans whose discharges are upgraded under the Carter special discharge review program. The number of veterans who will be affected if this bill is enacted into law is quite small. In fact, as of September 1 only 51,000 veterans had even applied under the Carter program. Of these, only some 31,000 actually were eligible to be considered under the program, and an even smaller number received upgraded discharges. The termination date for the Carter program is October 4, so few additional veterans will be considered before it expires. Frankly, I question the wisdom of further complicating the bureaucratic maze of the VA and the Department of Defense simply to prevent this small group of veterans from obtaining VA benefits.

While the numbers of veterans who applied under the program are few, those who did apply did so in full expectation that a favorable determination on their request for an upgrade would enable them to receive veterans benefits. To deny them this opportunity at such a late date, when the life span of the program is almost over, seems grossly un-

fair. I strongly urge my colleagues to reject H.R. 8698.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 8698.

The question was taken.

Mr. DOWNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GI BILL IMPROVEMENTS ACT

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8701) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

The Clerk read as follows:

H.R. 8701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "GI Bill Improvements Act of 1977".

TITLE I—GI BILL RATE INCREASES

VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$240	$298	$350	$26
Three-quarter-time	181	223	263	19
Half-time	120	149	175	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	209	253	292	19".

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended—

(1) by striking out "$270" in the last sentence of section 1677(b) and inserting in lieu thereof "$287";

(2) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$310	$369	$421	$26
Three-quarter-time	233	276	316	19
Half-time	155	185	211	13
Cooperative	250	293	333	19";

(3) by striking out "$292" in section 1682(b) and inserting in lieu thereof "$310";

(4) by amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$250	$293	$333	$19
Three-quarter-time	187	220	250	15
Half-time	125	147	167	10";

(5) by striking out "$65" and "$780" in section 1692(b) and inserting in lieu thereof "$69" and "$828", respectively; and

(6) by striking out "$292" in section 1696(b) and inserting in lieu thereof "$310".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended—

(1) by striking out "$235" in section 1732(b) and inserting in lieu thereof "$250"; and

(2) by striking out "$292", "$92", "$92", and "$9.76" in section 1742(a) and inserting in lieu thereof "$310", "$98", "$98", and "$10.34", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended—

(1) by amending subsection (b) of section 1774 to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$630
Over $5,000 but not exceeding $10,000	$1,134
Over $10,000 but not exceeding $35,000	$1,134 for the first $10,000 plus $1,050 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$6,862
Over $40,000 but not exceeding $75,000	$6,862 for the first $40,000 plus $908 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$13,608
Over $80,000	$13,608 for the first $80,000 plus $793 for each additional $5,000 or fraction thereof.";

(2) by striking out "$292" in section 1786(a)(2) and inserting in lieu thereof "$310";

(3) by amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$225	$253	$276	$12
Second 6 months	169	197	220	12
Third 6 months	113	140	164	12
Fourth and any succeeding 6-month periods	56	84	107	12";

(4) by striking out "$292" in section 1798(b)(3) and inserting in lieu thereof "$310".

TITLE II—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

DISAPPROVAL OF ENROLLMENT IN CERTAIN COURSES

SEC. 201. Subsection (d) of section 1673 of title 38, United States Code, is amended to read as follows:

"(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V, any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title, or by both the educational institution and the Veterans' Administration under this title. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government.".

SATISFACTORY PROGRESS

SEC. 202. The second sentences of sections 1674 and 1724 of title 38, United States Code, are each amended by inserting immediately before the period at the end thereof the following: ", or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable".

COURSES EXCEPTED FROM REQUIRED PERIOD OF OPERATION FOR APPROVAL

SEC. 203. Section 1789 of title 38, United States Code, is amended—

(1) by inserting "and civilians in the case of courses offered outside the United States" in subsection (b)(6) after "dependents"; and

(2) by adding after subsection (c) the following new subsection:

"(d) Notwithstanding the provisions of subsection (c) of this section, the Administrator may, in his discretion, waive the application of such subsection in the case of any branch or extension where he finds it to be in the interest of the eligible veteran and the Federal Government.".

DEFINITION OF DISABLED VETERAN FOR PROGRAMS FOR EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM-ERA VETERANS

SEC. 204. Section 2011(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "10".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The amendments made by this Act shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without

objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 8701 proposes to increase the education and training rates for veterans and their dependents and making improvements in the administration of the GI bill. The only part of this bill which has any impact on the budget is the proposed rate increase of approximately 6.6 percent for all education and training programs handled by the Veterans' Administration. The cost is estimated to be $483 million for the fiscal year beginning 1978. The 5-year cost is estimated to be $1.5 billion. There is sufficient money in the budget resolution approved for the Veterans' Affairs Committee.

The Veterans' Administration appeared before our committee and supports a 5-percent increase. Because of increases in other costs of veterans in obtaining education and training under the GI bill and other VA education programs, the committee has recommended a greater increase.

Mr. Speaker, our Subcommittee on Education and Training held 10 separate hearings over a period of 4 months to review veterans education and training programs.

I want to commend the Honorable RONALD MOTTL for chairing these hearings. Our subcommittee heard testimony from representatives from associations of educational institutions, national veterans' organizations, Members of Congress, and the public. This bill was recommended by the subcommittee following these comprehensive hearings.

The bill responds to a number of complaints and criticisms by the educational community with regard to some tightening provisions of Public Law 94–502, which was enacted to curb abuses and exploitations of the GI bill. The modifications of the administration of the GI bill are as follows:

First. Provides a 5-percent increase in the reimbursable administrative expenses paid to State approving agencies.

Second. Eliminates the counting of basic economic opportunity grants—BEOG's—and supplemental economic opportunity grants, SEOG's, as part of the 85 percent of the 85–15 rule.

Third. Provides that courses offered by educational institutions under contract with the Department of Defense that are offered outside the United States will be available to the veterans, their dependents, and civilians.

Fourth. Provides for the waiver of the 2-year rule for a course offered at a branch when in the interest of the veteran or Federal Government.

Fifth. Allows the Administrator to determine the circumstances under which an extension may be granted to the approved length of time for satisfactory progress.

Sixth. Lastly, H.R. 8701 makes a change in the law regarding employment of disabled veterans by defining a disabled veteran for employment purposes in the Department of Labor programs to be a person disabled at 10 percent or more, rather than the present 30 percent.

Mr. Speaker, over 1.8 million veterans and their dependents will benefit by the passage of this bill during the coming year. I strongly urge that this bill be favorably considered and passed at this time.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. MOTTL), who has done an outstanding job as a subcommittee chairman.

Mr. MOTTL. Mr. Speaker, I would first like to compliment the subcommittee chairman, the gentleman from Texas (Mr. TEAGUE) for the outstanding job he has done on this piece of legislation. I would compliment as well the chairman of the full committee and the ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. Speaker, I rise in support of H.R. 8701, the GI Bill Improvements Act of 1977. It was my privilege and honor to be designated by our chairman of the Subcommittee on Education and Training, the great OLIN E. "TIGER" TEAGUE to chair the oversight hearings of the veterans' education and training program, with special emphasis on the provisions of Public Law 94–502. It will be recalled that a number of provisions in Public Law 94–502 were aimed at eliminating abuses of the GI bill which had been identified in hearings before the subcommittee during the 94th Congress. In addition, the subcommittee was shocked to have the Veterans' Administration tell them that educational overpayments to veterans had not only reached a total of $1.4 billion during the fiscal year 1976, but would continue to increase into fiscal year 1977. Our subcommittee, based on the evidence and testimony received by our subcommittee during the 94th Congress, approved a number of Senate amendments aimed at strengthening and tightening the law with regard to educational overpayments and abuses in VA education and training programs.

As the provisions of Public Law 94–502 were implemented, our committee began to hear an increasing number of complaints, almost all from educational institutions who were encountering difficulties complying with some of the new requirements of Public Law 94–502. Accordingly, during the months of March, April, May, and June our subcommittee held 10 hearings on the provisions of Public Law 94–502, as well as the overall VA education and training programs.

Needless to say, our subcommittee heard a variety of criticisms and complaints of some of the provisions of Public Law 94–502. As a result of these hearings, a bill, H.R. 8701 of which I am a cosponsor, was recommended by the subcommittee and the full committee and is now before the House for consideration and vote. The main thrust of the bill is to provide for an approximately 6.6 percent increase in the education and training rates of all VA education programs. There are also a number of other provisions in the bill including a 5-percent increase in the reimbursable expenses which the VA provides for the State approving agencies. The other provisions of the bill are as follows:

First. Eliminates the counting of basic economic opportunity grants, BEOG's, and supplemental economic opportunity grants, SEOG's, as part of the 85 percent of the 85–15 rule and provides for waiver of the 85–15 rule when in the interest of the veteran and the Federal Government.

Second. Provides that courses offered by educational institutions under contract with the Department of Defense that are offered outside the United States will be available to the veterans, their dependents, and civilians.

Third. Provides for the waiver of the 2-year rule for a course offered at a branch when in the interest of the veteran or Federal Government.

Fourth. Defines disabled veteran for employment purposes in the Department of Labor programs to be a person disabled at 10 percent or more, rather than the present 30 percent.

Fifth. Allows the Administrator to determine the circumstances under which an extension may be granted to the approved length of time for satisfactory progress.

Mr. Speaker, this is a fair and equitable bill, which will provide additional assistance to Vietnam veterans and their dependents during a crucial period of their lives. H.R. 8701 will add $483 million to the monthly checks of over 1.8 million veterans during the next year. Together with the other assistance Congress has authorized for the Vietnam veteran, such as a VA education loan of up to $1,500, work-study assistance of up to $625, tutorial assistance of up to $720, and other provisions of the GI bill, I believe all reasonable persons will agree that the Congress has made it possible for Vietnam veterans to obtain viable and meaningful assistance in their efforts to readjust and rehabilitate themselves following their service in the Armed Forces. It is a meritorious bill which will help Vietnam veterans and modifies a number of the requirements of the GI bill to make the program work more smoothly for educational institutions and veterans. For these reasons, I urge H.R. 8701 be approved by the House.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 8701. This bill will authorize a 6.6-percent increase in the educational assistance allowances for veterans and their eligible dependents and survivors who are participating in the educational benefits program administered by the Veterans' Administration.

It also addresses itself to certain administrative problems which the faculties of some schools have called to the attention of the Subcommittee on Education and Training. This subcommittee, incidentally, under the guidance of the distinguished former chairman of the full committee, the gentleman from Texas (Mr. TEAGUE) assisted by the gentleman from Ohio (Mr. MOTTL) and on the minority side, the gentlelady from Massachusetts (Mrs. HECKLER) has

worked extremely hard in holding lengthy hearings and perfecting this measure, which responds to the major objections received from educators.

In addition to providing a cost-of-living increase for trainees, the measure will increase by 5 percent the administrative expenses paid to State approval agencies. These are the agencies in each State that, in effect, police the GI bill to insure that schools are complying with the standards set forth by law and regulation.

Under existing law, a course cannot be approved under the GI bill unless there are at least 15 percent nonveterans enrolled therein. This provision is loosely termed "the 85–15 rule." An amendment approved in the 94th Congress required that recipients of the basic educational opportunity grant and the supplemental educational opportunity grant administered by the Department of HEW be included with veterans in applying the 85–15 rule. This, according to testimony of educators, imposes an administrative hardship upon educational institutions. H.R. 8701 eliminates the requirement that BEOG and SEOG recipients be included with veterans in computing the 85–15 ratio.

Another provision of this measure will permit the waiver of the so-called 2-year rule under which branches of existing educational institutions must have been in operation for at least 2 years when it is in the interests of the veteran or the Federal Government to do so.

These are the major provisions of the bill before us, Mr. Speaker. It is a good bill and its provisions will permit a more efficient administration of the veterans' educational program. I urge that it be passed.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to voice my support for this bill. I am happy to be a cosponsor of H.R. 8701, because it provides needed assistance to our veterans and corrects some problems which occurred as a result of passage of Public Law 94–502. The significant change that our veterans will be most interested in is the 6.6 percent across-the-board rate increase for education and training. Considering the rate of inflation and the rising cost of education, this increase will be most important to our student veterans. The passage of this bill with the new school year just beginning is most timely. The problems which this bill alleviates are another story.

Since the conception of the GI bill, there have been those who have taken advantage of the situation for profit. The Congress has reacted, quite often with strict regulations, to protect the veteran and the Government from unscrupulous operations. Public Law 94–502 has proved to be one of those instances. The outcry of the education community has been loud and continuous. The committee findings have shown that on some counts the education community has justifiable reason to protest; however, in other instances they do not.

The 85–15 and 2-year rules have created the biggest commotion. Public Law 94–502 definitely causes problems with its strict application of these two provisions. I believe that our hearings have proven that these two sections need improvement. H.R. 8701 provides that refinement. We must remember that quality education of our veterans is the utmost responsibility we have under the GI bill. Regulations must then conform to provide that education and also provide that the Government's investment is also protected. This bill will assist in doing both. I urge you to join me in supporting it.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to gentleman from Indiana.

Mr. HILLIS. Mr. Speaker, I rise in support of the measure H.R. 8701. I am sure that most of my colleagues are aware of the efforts to change the basic provisions of the GI bill. The Subcommittee on Education and Training held many days of hearings on the problems confronting both the VA and schools due to attempts to eliminate abuses of the GI bill. The chairman of the subcommittee is on record promising more hearings. Hopefully, before the 95th Congress is over some major improvements can be made.

However, while all these hearings and debates continue in Congress, we must not forget the needs of the individual veteran attempting to complete his education under the GI bill. H.R. 8701 provides for a 6.6 percent increase in the monthly tuitional assistance benefits. The measure also revises the language of the 85–15 rule in order to eliminate the problems caused by the inclusion of BEOG's and SEOG's recipients.

This Congress cannot allow the differences which exist among us to prevent veterans from receiving quality education. I, therefore, urge all of my colleagues to support passage of H.R. 8701.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER), the ranking minority member of the subcommittee.

Mrs. HECKLER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I feel very strongly that H.R. 8701 is desirable legislation and legislation which this House should support. It does not go as far as I would like in terms of correcting some of the flaws in implementation of the GI education bill.

However, it does include substantial improvements in the existing law.

First of all, this legislation, H.R. 8701, increases the amount of educational assistance allowances by more than 6 percent. The legislation was developed after extensive hearings by the House Committee on Veterans' Affairs, and I believe through very deliberative oversight, which resulted in constructive changes in the law.

Section 201 of the law, while it does not go as far as I would like, does provide some measure of relief for institutions of higher learning and for veterans with regard to the administrative burdens which have been imposed by the extension of the 85–15 requirements to standard degree-granting institutions.

Section 202 provides new standards which are related to the rate of progress a veteran may pursue in seeking a college degree. Previously, under the standards of progress of Public Law 95–502, we found that many veterans were being unreasonably terminated from obtaining their benefits. As a result of this and the fact that the standards of progress imposed by the Veterans' Administration were, indeed, unfair and unreasonable, the committee acted and approved a standards of progress requirement which I proposed, which permits a veteran to pursue his or her course of study at a rate which is reasonable and which takes into account the unique circumstances of the individual's case.

Section 203, which provides a waiver of the 2-year operational requirement, is a very welcome addition to title 38. Our subcommittee found that the absolute prohibition against veterans obtaining benefits while attending an institution which is less than 2 years old was too inflexible.

This provision, which I introduced in my first bill last spring, has been incorporated into the legislation before us today; and I feel that it is absolutely essential for the fair administration of the educational assistance program by the VA.

In summary, Mr. Speaker, the provisions of this legislation have been developed after extensive oversight hearings and are an attempt to fine-tune Public Law 95–502. While in some instances I would like to have seen the committee take a step that would have been more extensive, I believe that basically we have developed a bill which is geared in the right direction and will benefit the veterans, the Federal Government, and the taxpayer.

Mr. Speaker, I wish to commend the leadership of the committee, the gentleman from Texas (Mr. ROBERTS), the gentleman from Texas (Mr. TEAGUE), the gentleman from Ohio (Mr. MOTTL), and our ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), for the cooperative spirit which pervaded the discussions on this legislation. Our legislation is a result of honorable compromise, and I think it is in the best interest of the veterans and of our society to support it.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I, and I suspect other Members, have run into some very bothersome problems with respect to the administration of the 2-year rule by the Veterans' Administration.

As I understand it, current law requires that an institution establishing a new branch that is not "within normal commuting distance" of the major institution itself cannot be eligible for these benefits for a period of 2 years.

The Veterans' Administration informed me earlier this year that it, in its wisdom, had determined that 55 miles constituted the distance for normal commuting purposes universally throughout this country.

As luck would have it, I happen to have two new branches of an institution recently established, which are both approximately 60 miles from the institution's major campus in the city of Boston. They both lie in areas of our State where thousands of people commute every day and have done so for years to the city of Boston, so that it is clearly a normal commuting procedure. In one case it is from the area of Cape Cod and in the other case from the area of the city of New Bedford.

I note with pleasure in the committee report that there is a provision of the bill before us now which constitutes a change, which would allow the Administrator to exempt from the 2-year rule branches of institutions where the Administrator finds it to be in the interest of eligible veterans and of the Federal Government.

I would like to ask the chairman, the gentleman from Texas (Mr. TEAGUE) to confirm whether or not in his opinion this would allow the Administrator of the VA the flexibility to deal with the problem which I have just described?

Mr. TEAGUE. Mr. Speaker, if I understand this bill correctly it gives the Administrator complete waiver authority. I might add that a few years ago we made a study as to why the veterans wanted to go to college and that the nearness of the college to home was the most important factor. This gives the Administrator a complete waiver of the 2-year rule.

Mr. STUDDS. Mr. Speaker, I would like to further make a very strong suggestion, which is one that I believe many of the Members join in, and that is that in administering the program they direct their efforts toward trying to maximize the number of veterans eligible for the educational program rather than efforts exactly to the contrary in trying to go to the greatest length to try to find reasons to disqualify a veteran. There is no reason in the world why the institutions I have described should not be covered.

Again I thank the chairman, the gentleman from Texas (Mr. TEAGUE) and the members of the committee for giving this flexibility to the Administrator.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Speaker, I would like to associate myself with the remarks made by my colleague from the neighboring congressional district. We in Massachusetts have had a problem with the VA regarding a well established and distinguished junior college, which had been in existence for 75 years in Boston but that, when it opened up associate campuses, in Fall River, on Cape Cod at Hyannis, and in New Bedford, veterans attending these institutions were ineligible for GI bill benefits because of a narrow interpretation of the 2-year rule. The educational standards provided on all these campuses were identical to each other but if a veteran attended the Boston institution GI benefits would pay the academic costs, whereas the student who lived in the other locations and attended the school close to his home was denied benefits completely. As the gentleman from Massachusetts knows, and as the chairman, the gentleman from Texas (Mr. TEAGUE) knows, I requested that language be inserted in the report of this legislation which would clarify the legislative history and the intent of the Congress to have benefits available to veterans for their education on the basis of the quality of that education. The narrow interpretation of the 2-year rule has denied veterans an education and sets up an artificial standard. I know that the distinguished chairman agrees that the purpose of this legislation is to help veterans receive an education, and that the interpretation which we, and the committee, accepted was one which would authorize the waiver of the 2-year rule based on a review of the curriculum of the particular institution and an evaluation of the standards of learning which the institutions offer as well as serving the educational needs of veterans. I think we all agree that we do not wish to see veterans' benefits cut back, deprived or limited in any way by narrow bureaucratic thinking in the interpretation of this law.

Mr. TEAGUE. The gentlewoman is correct.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE), a member of the committee.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise to express my strong support for this bill. The GI bill through its educational benefits program has been an important instrument in providing for readjustment assistance to millions of veterans since its inception in 1944. The Congress has always felt that this was a good investment in the youth of our country and in the future of our Nation.

This particular bill before us provides for a 6.6 percent increase in GI educational benefits. It also makes certain changes in the administration of Public Law 94–502, which I think are all desirable, and about which I have become acquainted through personal discussions with officials at Ohio State University. I think those changes are warranted. I urge my colleagues to join in supporting this very much needed piece of legislation.

Mr. CONTE. Mr. Speaker, I rise to express my vigorous objections to the way that this GI bill legislation, which will control the expenditure of some $10 billion over the next 5 years, is being handled. It was scheduled without warning on Friday after the whip's notice came around. No amendments are being allowed on an expenditure that involves billions of dollars. The formula has been severely criticized in the past and is being challenged anew. I am one of more than a hundred Members sponsoring legislation attempting to see that their States and, more importantly, that all veterans are treated fairly. I think that given the new budget process there is no reason why a piece of veterans legislation should come up on the suspension calendar.

As a product of the World War II GI bill, I have taken a personal interest in seeing that our Vietnam-era veterans get the same fair shake that their fathers and uncles did under their version of the GI bill.

In my investigations, beginning with my work with the Special Veterans Opportunity Committee of the National League of Cities/U.S. Conference of Mayors and continuing with the Northeast-Midwest Economic Advancement Coalition, I have found that in many parts of the country, equal military duty is not being equally rewarded through the GI bill. A veterans geographic location has as much or more to do with his use of the GI bill benefits he is entitled to as his ability and desire to continue his education.

The situation cries out for remedy. Several changes have been suggested. Hearings on legislation to change the GI bill funding formula to reinstitute a measure of equality of opportunity have been scheduled by the House Veterans Affairs Committee for this Thursday. I believe the legislation scheduled today should have been put off until the House Veterans Affairs Committee has had a chance to air the many views on revamping the GI bill.

I would like to take the time now to provide my reasons for urging a restructuring of the GI bill.

Recently, the gentleman from Massachusetts (Mr. HARRINGTON), the chairman of the Northeast-Midwest Economic Advancement Coalition, and I released a Northeast-Midwest Research Institute report showing how today's GI bill formula produces an inequitable result for veterans from our States. This must be changed, for military service under an unfair draft took advantage of people without political power. We cannot stand by and let them be taken advantage of when they have returned and that is, in fact, what has happened. I chaired, for the National League of Cities and U.S. Conference of Mayors, a series of hearings in 1972 and 1973 designated to strengthen projects that those organizations were running in conjunction with mayors' offices in a number of cities. We found during those hearings in Newark, Cleveland, and Seattle that the GI bill, the most important single readjustment tool, operates unevenly across the country. It continues to do so despite the loud protestations of equality from the leadership of the Veterans' Administration and the House Veterans' Affairs Committee.

The truth is that this formula that has been in effect since the Korean war, giving all veterans equal dollars from which to pay their tuition, living, and book costs, does not work. One flat equal payment across the Nation does not give everyone equal access to educational opportunities. The World War II formula, under which all veterans got the same amount of money to live on, which was equitable, and paid their tuition whereever their desire and ability took them, is the kind of formula that we need to return to. I have introduced legislation to that effect, as have Congressmen QUIE, FORD, BINGHAM, and others while Congressman LESTER WOLFF, along with some 90 cosponsors, has pushed for an accelerated payments plan that would also go far to remedy the inequities.

The statistics from my State of Mas-

sachusetts and for other States show the problems. Only 29.9 percent of our Massachusetts veterans have used the GI bill to go to college or junior college and only 43.4 percent have used the GI bill for any purpose. In contrast, 53.9 percent of California's veterans and 38.7 percent of Texas' veterans have gone to college or junior college and 69.9 percent of the Californians have used the GI bill for other education while 56.9 percent of the Texans have done so. It is not simply the fact that our State has done so badly in terms of money. We have 25.4 percent of the veterans that California does, but our veterans have used only 14.6 percent of the GI bill payments between fiscal 1968–76, during which time some $20 billion was spent on the GI bill. It is not just important that we would have gotten another $343 million in scholarships into our State, but what matters is the effect on the lives of primarily young men who have served our country and received little thanks for it. I know what the GI bill once meant to me. It changed my entire life. I constantly tell audiences when I speak that if it were not for the GI bill, I would not be a Member of Congress today.

CUMULATIVE GI BILL USE RATES FOR COLLEGE AND JUNIOR COLLEGE AND FOR ALL PURPOSES, DECEMBER 1976

States ranked by GI bill college participation rate	1976 Vietnam veteran population	Rank	Junior and 4-yr college GI bill use rate (percent)	Rank	Total GI bill use rate (percent)
1. Arizona	84,000	1	55.3	5	74.9
2. California	911,000	2	53.9	6	69.9
3. Hawaii	33,000	3	53.5	3	82.4
4. South Dakota	18,000	4	48.5	2	83.7
5. North Dakota	17,000	5	48.3	1	92.7
6. New Mexico	38,000	6	45.4	4	77.4
7. Colorado	111,000	7	43.6	10	66.6
8. Washington	181,000	8	39.8	11	60.6
9. Alabama	113,000	9	39.7	7	69.9
10. North Carolina	176,000	10	39.7	8	67.4
11. Utah	49,000	11	38.7	31	54.0
12. Texas	451,000	12	38.7	24	56.9
13. Oklahoma	114,000	13	37.4	18	58.1
14. Oregon	105,000	14	37.1	35	52.8
15. Rhode Island	41,000	15	37.0	30	54.4
16. Wyoming	13,000	16	36.8	17	58.3
17. Idaho	28,000	17	36.6	20	57.5
18. Florida	293,000	18	36.2	14	59.2
19. South Carolina	100,000	19	36.2	9	67.3
20. Kansas	83,000	20	34.4	27	55.9
21. Nevada	25,000	21	33.9	29	54.6
22. Virginia	191,000	22	33.4	32	53.6
23. Delaware	24,000	23	33.2	28	55.3
24. Nebraska	55,000	24	32.9	12	59.8
25. Tennessee	148,000	25	32.6	13	59.7
26. Michigan	333,000	26	32.6	33	53.2
27. Mississippi	57,000	27	32.6	15	58.7
28. Missouri	183,000	28	32.2	26	56.0
29. Montana	28,000	29	31.7	21	57.4
30. New York	570,000	30	31.5	36	51.3
31. Illinois	393,000	31	30.4	40	49.2
32. Kentucky	108,000	32	30.2	34	53.1
33. Alaska	14,000	33	29.9	37	51.3
34. Massachusetts	231,000	34	29.9	46	43.4
35. Maine	38,000	35	29.7	23	56.9
36. New Hampshire	36,000	36	28.9	42	46.9
37. West Virginia	57,000	37	28.9	25	56.7
38. Louisiana	118,000	38	28.8	16	58.5
39. Maryland	174,000	39	28.8	43	46.0
40. Georgia	192,000	40	27.2	19	57.6
41. Arkansas	67,000	41	26.4	22	57.1
42. Wisconsin	164,000	42	26.2	39	50.5
43. Connecticut	118,000	43	24.3	47	43.3
44. Ohio	410,000	44	24.2	44	44.6
45. Iowa	102,000	45	24.1	41	49.0
46. Minnesota	169,000	46	23.9	38	50.9
47. New Jersey	262,000	47	22.1	49	39.0
48. Pennsylvania	442,000	48	20.0	45	43.4
49. Indiana	207,000	49	20.0	48	43.1
50. Vermont	19,000	50	17.0	50	35.8
Total	7,894,000	.....	[1] 33.7	.....	[1] 57.1

[1] Average.

Some say that this system is fair and avoids the problems of the World War II GI bill. But if the GI bill were only a bonus and were given in such a way that New York veterans, who are two-thirds the number of California veterans, yet who have received only one-third of the dollars—$1,124 million versus $3,173 million—then there would be loud protests about how inequitable it was. In fact, one of the prime obligations of a Congressman is to protect his citizens and see that they get a fair amount of money under Federal programs. I hope the Speaker and the leadership will join with me in seeing that justice is done for Vietnam veterans. I consider the GI bill to be much more important than a bonus, it is something that can change peoples' lives and has changed millions of lives. But, when veterans in the Northeast and Midwest use only 40 percent of the $20 billion in benefits while Westerns and Southerners use 60 percent and yet their numbers are equal, something is seriously wrong.

The expensive across-the-board increase that we voted in 1974, because this House refused to accept the Senate-passed tuition equalizer legislation, has not made a difference. Some $10 billion was spent on the GI bill between the time that legislation passed. The National League of Cities and U.S. Conference of Mayors released a study on the impact of that money. The result was that Sunbelt States' veterans continued to reap a GI bill bonanza while Easterners and Midwesterners never began to catch up.

In fiscal 1976 there were equal numbers of veterans in Texas and Pennsylvania, but the Pennsylvania veterans used $156 million in GI benefits while Texans used $319 million. This result to me is hideously unfair and I will fight tooth and nail to see that this House does something to correct it. The present legislation, which fails to take into account tuition differences, has been compared to a situation where Congress would have given a veteran from Vietnam the price of an airline ticket home when he landed in California, with ticket payments based on the average cost of airline tickets in the United States. Under a formula like that, half of the veterans never would have made it home and, indeed, half of them have never made it home to decent education and training opportunities.

GI BILL PAYMENTS BY STATE GIVING TOTALS AND PAYMENTS ON A PER CAPITA BASIS (FISCAL YEAR 1968–76)

States ranked by Vietnam veteran population	Vietnam veteran population	Rank	State GI bill payments (fiscal years 1968–76)	Rank	Payments on per capita basis (fiscal year 1968–76)
1. California	891,000	1	$3,173,570,000	8	3,562
2. New York	561,000	3	1,124,349,000	43	2,004
3. Texas	441,000	2	1,235,637,000	15	2,802
4. Pennsylvania	433,000	6	781,276,000	47	1,804
5. Ohio	400,000	8	747,161,000	46	1,868
6. Illinois	385,000	4	900,584,000	33	2,339
7. Michigan	325,000	7	762,480,000	32	2,346
8. Florida	284,000	5	825,071,000	13	2,905
9. New Jersey	256,000	14	418,551,000	49	1,635
10. Massachusetts	226,000	13	464,041,000	42	2,053
11. Indiana	202,000	22	350,087,000	48	1,733
12. Georgia	188,000	10	508,434,000	19	2,704
13. Virginia	188,000	18	374,404,000	45	1,992
14. Missouri	178,000	11	483,093,000	17	2,714
15. Washington	177,000	12	479,665,000	18	2,710
16. North Carolina	172,000	9	537,879,000	10	3,127
17. Maryland	170,000	21	361,091,000	39	2,124
18. Minnesota	164,000	19	373,209,000	34	2,276
19. Wisconsin	160,000	20	362,710,000	35	2,267
20. Tennessee	145,000	16	400,236,000	16	2,760
21. Connecticut	115,000	29	230,062,000	44	2,001
22. Louisiana	115,000	26	307,021,000	21	2,670
23. Oklahoma	111,000	24	325,173,000	12	2,929
24. Alabama	110,000	15	410,780,000	5	3,734
25. Colorado	107,000	17	384,883,000	6	3,597
26. Kentucky	105,000	28	249,356,000	31	2,375
27. Oregon	101,000	29	262,789,000	24	2,602
28. Iowa	100,000	30	210,163,000	40	2,102
29. South Carolina	97,000	26	290,811,000	11	2,998
30. Kansas	82,000	31	200,670,000	29	2,447
31. Arizona	81,000	23	331,725,000	2	4,095
32. Arkansas	66,000	32	176,842,000	20	2,679
33. Mississippi	57,000	34	150,990,000	23	2,649
34. West Virginia	56,000	38	125,152,000	37	2,235
35. Nebraska	55,000	35	146,468,000	22	2,663
36. Utah	48,000	33	153,975,000	9	3,208
37. Rhode Island	40,000	39	115,185,000	14	2,880
38. Maine	37,000	40	91,919,000	27	2,484
39. New Mexico	37,000	37	133,069,000	7	3,596
40. New Hampshire	35,000	41	73,427,000	41	2,098
41. Hawaii	32,000	36	143,048,000	1	4,470
42. Idaho	29,000	43	71,746,000	28	2,474
43. Montana	28,000	44	70,647,000	26	2,523
44. Nevada	25,000	46	63,793,000	25	2,552
45. Delaware	24,000	47	53,711,000	38	2,238
46. Vermont	19,000	50	26,647,000	50	1,402
47. North Dakota	18,000	42	73,260,000	3	4,070
48. South Dakota	18,000	45	70,344,000	4	3,900
49. Alaska	14,000	48	31,385,000	36	2,242
50. Wyoming	13,000	49	31,136,000	30	2,395

Source: Federal outlays compiled annually for U.S. Treasury by OEO/CSA and VA's Department of Veterans Benefits information bulletin.

Note: Fiscal year 1976 figures from unpublished VA data.

STATE GI BILL PAYMENTS AND VETERAN POPULATION COMPARED TO CALIFORNIA (FISCAL YEAR 1968–76)

	GI bill payments fiscal year 1968–76	State payments as percent of California payments	State veteran population as percent of California veterans population	Additional State GI bill payments if used at California rate
1. California	$3,173,600,000	100.0	100.0	
2. New York	1,124,300,000	35.4	63.0	$875,914,000
3. Texas	1,235,600,000	38.9	49.5	336,400,000
4. Pennsylvania	781,300,000	24.6	48.6	761,600,000
5. Ohio	747,200,000	23.5	44.9	679,150,000
6. Illinois	900,600,000	28.4	43.2	469,690,000
7. Michigan	762,500,000	24.0	36.5	396,700,000
8. Florida	825,100,000	26.0	31.9	187,272,000
9. New Jersey	418,500,000	13.2	29.7	523,644,000
10. Massachusetts	464,000,000	14.6	25.4	342,750,000
11. Indiana	350,100,000	11.0	22.7	371,311,000
12. Georgia	508,400,000	16.0	21.1	161,854,000
13. Virginia	374,400,000	11.8	21.1	295,145,000
14. Missouri	483,100,000	15.2	20.0	152,333,000
15. Washington	479,700,000	15.1	19.9	152,333,000
16. North Carolina	537,900,000	16.9	19.3	76,166,000
17. Maryland	361,100,000	11.4	19.0	241,194,000
18. Minnesota	373,200,000	11.8	18.4	209,458,000
19. Wisconsin	362,700,000	11.4	18.0	209,458,000
20. Tennessee	400,200,000	12.6	16.3	117,423,000
21. Connecticut	230,100,000	7.2	12.9	180,895,000
22. Louisiana	307,000,000	9.7	12.9	101,555,000
23. Oklahoma	325,200,000	10.3	12.5	69,819,000
24. Alabama	410,800,000	12.9	12.4	
25. Colorado	384,900,000	12.1	12.0	
26. Kentucky	249,400,000	7.9	11.8	123,770,000
27. Oregon	262,800,000	8.3	11.3	94,208,000
28. Iowa	210,200,000	6.6	11.2	145,986,000
29. South Carolina	290,800,000	9.2	10.9	53,951,000
30. Kansas	200,700,000	6.3	9.2	92,034,000
31. Arizona	331,700,000	10.5	9.1	
32. Arkansas	176,800,000	5.6	7.4	57,125,000
33. Mississippi	151,000,000	4.8	6.4	50,778,000
34. West Virginia	125,200,000	3.9	6.3	76,166,000
35. Nebraska	146,500,000	4.6	6.2	50,778,000
36. Utah	154,000,000	4.9	5.4	15,868,000
37. Rhode Island	115,200,000	3.6	4.5	28,562,000
38. Maine	91,900,000	2.3	4.2	60,298,000
39. New Mexico	133,100,000	4.2	4.2	
40. New Hampshire	72,400,000	2.3	3.9	50,778,000
41. Hawaii	143,000,000	4.5	3.6	
42. Idaho	71,700,000	2.3	3.3	31,736,000
43. Montana	70,600,000	2.2	3.1	28,562,000
44. Nevada	63,800,000	2.0	2.8	25,389,000
45. Delaware	53,700,000	1.7	2.7	31,736,000
46. Vermont	26,600,000	.8	2.1	41,257,000
47. North Dakota	73,300,000	2.3	2.0	
48. South Dakota	70,300,000	2.2	2.0	
49. Alaska	31,400,000	1.0	1.6	19,042,000
50. Wyoming	31,100,000	1.0	1.5	15,868,000

Note: This chart compares GI bill use in 49 States to California. If the GI bill worked equally well in other States as it does in California, then the State payments would be the same percentage as is the State veterans population in comparison to California's. For example, a State like Colorado is almost an exact par and does slightly better. Unfortunately, most other States do not do this well.

The closed rule under which this bill is being considered today is the opposite of democracy. I do not understand, given these horrendous figures and this kind of information which was developed first in the 1973 report that I put out for the National League of Cities and U.S. Conference of Mayors and the report that the Educational Testing Service did for the Veterans' Administration in 1973 and the continued problems, the failure of the House committee to hold hearings on this problem until after they reported out an across-the-board increase which simply continues the status quo. Hearings, we are told, are now scheduled for Thursday, which is good. I might contrast the activity of the House with that of the Senate in which Chairman CRANSTON of California, most of whose veterans would not benefit, took the leadership with Senator DURKIN and tried to see that right was done by veterans all over the country. Hearings are completed in the Senate and the committee has voted a comprehensive veterans' readjustment bill. It does not go as far as I would like, for I believe my tuition equalizer provision is better than the accelerated payments plan adopted by the Senate which only helps people whose tuition is more than $1,000 a year.

I might point out that this argument about the suspension situation preventing amendments raises the same point that Congressmen ALBERT QUIE and NEAL SMITH raised in the GI bill debate of February 1974. I cannot understand a leadership of the Veterans Committee which stands on a principle that does not harm their veterans but hurts those in half the country. Furthermore, we now have a budget process that protects us against unfunded entitlement programs. The Senate Veterans Committee has made a determination that the budget resolution has room for corrective provisions like mine which will cost $159 million in fiscal year 1978 according to the Veterans' Administration.

The solution that I recommend is legislation that takes into account tuition differences. All veterans would pay the first $400 of tuition and then the Federal Government would pick up 80 percent of the next $1,000 or for a maximum tuition grant of $800. Congressmen QUIE and FORD, two of the most expert persons in the Congress on higher education, have taken a slightly different approach paying 75 percent of the moneys between $400 and $1,600. The Senate-passed GI bill tuition legislation in 1974 that took another tack, picking up 80 percent of the funds of the tuition cost between $100 and $1,000. The accelerated payments plan which, I am sure, will be described clearly by Congressman WOLFF is another important approach. There are safeguards that could be built into this legislation to guard against the abuses of the World War II GI bill. Abuses which were least frequent by colleges, if I can quote from the 1952 Teague report:

1. The veterans' training program at the college level, although experiencing some administrative difficulties, has been carried out successfully. Participating colleges and universities have rendered outstanding service in training veterans under many adverse conditions.

2. Difficulties have arisen in equitably applying the Veterans' Administration formula for establishing a 'fair and reasonable' tuition rate based on 'cost of teaching personnel and supplies for instruction.'

3. The policies of the Veterans' Administration relating to furnishing books, tools, and supplies to veterans have not been satisfactory to either the colleges and universities or the Veterans' Administration.

4. Many university and college officials advocate a modest scholarship-aid program and warn that subsidizing the total cost of the veteran's course leads to education for subsistence. Many college officials recommend that the veterans be required to make a small contribution to the cost of his course.

Among the safeguards are a price freeze, payment by a voucher system I advocate, where the veterans would get a voucher good for 80 percent of his tuition in the range cited before and he would give that voucher to the school which would then submit it to the VA. The final payment could be made reliant upon evidence of completion.

THE JUSTIFICATION

The unfairness of the draft means that we should do everything we can for Vietnam veterans. The fact is that middle class children and many of the children of the Members of this Congress were excluded by the college deferment from the draft. Those who were drafted are people from the lower-middle-class blue-collar families. They need the benefits of education and training. This is not a Sunbelt versus Snowbelt State issue. We are not proposing to take any money from veterans in the West and the South. They will have the same amount of money to live on they get now and will have more than veterans in higher tuition States. The fact that Senator CRANSTON is leading the struggle for the legislation in the Senate is indicative of that fact.

Many of the opponents of such legislation have claimed that their States should not have to pay for our taxpayers' failure to underwrite the cost of public education. But, the taxpayers in our States have already paid enormous sums to the benefit of veterans in other States, which we have no complaint about. We simply want our people to have opportunities.

Those arguments attacking our mixed system of private colleges and private institutions reflecting private initiative, fail to take into account the substantial tax exemptions granted by cities and other jurisdictions to these institutions ranging from the famous like Harvard to the less famous that provide important business education like Drexel and Fairleigh Dickinson, all of which are more or less unavailable to Vietnam veterans.

One of the ironies of today's legislation is that a disabled veteran who has to go to a school paying a thousand dollars tuition receives less money to live on, $226 a month, than does a veteran attending a free junior college who get $292 a month to live on and only has to pay out $150 for books. The difference could be as much as $60 a month, yet one man

is disabled. The House Veterans Committee's leadership says that a tuition provision would lead to abuses but, in fact, the disabled veterans' tuition is now paid and thousands of veterans have used the program. I have seen no facts citing abuses in that program. Finally, there appear to be many abuses now, in overpayments to people who take the minimum number of courses, in fact, frequently fail to attend at all and who yet get $292 a month, while veterans in our States who are serious about education cannot begin to attend.

Normal Federal legislation contains allocation formulas to insure that all States are treated fairly based on population. The GI bill does not, because it is assumed that the Federal Government is picking up the bulk of the cost. That is what the Federal budget stated in 1974.

The Veterans' Administration and President Carter have done no better than the House Veterans Committee by Vietnam veterans to date. The Veterans' Administration, in writing to the House Veterans Committee, said that for those veterans who choose to go to high-cost education institutions HEW loan programs are available and other student-aid programs. But, what choice does a veteran have when the only institutions open to him are public colleges charging $800 to $1,300 a year and private trade schools, unlike the vast systems of community colleges and technical schools which have been built in the South and West. There is no choice, and to argue that a veteran has one is wrong, for we know better. Citing gross expenditure figures and national averages does not help my veterans in Pittsfield and in the whole State of Massachusetts, even though they served in the same company that veterans in Texas and other States have served.

If Congress expects States to put up matching money for legislation, the normal procedure is to write matching requirements into the law. There are hundreds of such laws like the highway program that contain explicit matching requirements. Instead, the Veterans' Administration has said that the GI bill is better than the World War II GI bill, putting our State legislatures off from doing anything. If the Veterans Committee intended that the States should have low-cost public education systems available or offsetting scholarship programs, it should have written those requirements into the law thereby putting State legislature and Governors on notice to act. It did nothing of the sort. I would hope that a number of Congressmen would join with me in urging the Veterans Committee to reconsider their actions and to vote out legislation offsetting tuition differences and seeing that all veterans get equal opportunities and equal education for equal military service. I thank you.

I wish to insert into the RECORD numerous editorials that support the argument that I have made here today:

[From the Boston Sunday Globe, July 31, 1977]

MAKING BENEFITS BENEFICIAL

While some government policies, docisions on military procurement for instance, can be skewed by undue attention to geographic interests, other policies can be as badly warped by a failure to consider legitimate regional interests. This is nowhere better illustrated than in the matter of veterans' benefits.

The heart of the problem is that since the Korean War, veterans across the country have received the same flat monthly sum—currently $292—regardless of the cost of living where they reside or the tuition at the educational institution they attend.

The result, according to two recent studies, is that veterans in the Northeast and Midwest—where college tuitions are relatively high and where the development of inexpensive junior colleges and technical schools lags behind the Southwest and West—have been unable to take advantage of the veterans' benefit program.

A recent study by Susan Unterberger of the Northeast-Midwest Research Institute in Washington reported: "Although the Southern and Western states have almost the same number of eligible veterans as the Northeastern and Midwestern states, veterans in Sunbelt states received $3.7 billion more in federally financed GI Bill scholarships than did veterans in the Northeast and Midwest between 1968 and 1976."

The Senate Veterans Committee has approved a proposal that would allow veterans, whose annual tuition bills exceed $1000, to accelerate use of their 45 months of benefits, thereby granting them larger (but fewer) benefit payments. The committee has also approved a 6.6 percent increase in overall benefits.

The Senate committee has taken a step in the right direction with approval of the accelerated-benefits plan; a House subcommittee, on the other hand, has done nothing to ease the regional inequities, satisfying itself with an across-the-board 6 percent increase. And to date, the Carter Administration has also failed to address the issue, advocating simply a 5 percent increase in benefits.

The most meaningful reform proposal, sponsored by Pittsfield Republican Rep. Silvio O. Conte, among others, would authorize a supplemental educational benefit with the government paying 80 percent of tuition bills between $400 and $1400 annually.

The across-the-board increase will do nothing to lessen the regional disparities. What is needed is a strong statement now from President Carter and leadership from Speaker O'Neill to limit at least the general increase and to use money instead to improve the accelerated benefits plan or to adopt outright an equilization formula. Only such a substantial restructuring of the program will assure that the young and often troubled veterans of Vietnam, no matter where they reside, will be able to secure the benefits they are due.

[From the Berkshire Eagle, July 26, 1977]

EQUALIZING THE GI BILL

There is a move afoot this year in Congress to raise GI Bill benefits. That's nothing new, but what is new is that some members of Congress, including Representative Silvo Conte, would like to see this done rationally. Instead of granting simply an across-the-board hike in the monthly allotments, Congress would adjust the payments to take into account the higher tuition levels prevelant at colleges and universities in the Northeast and Midwest.

The discrepancy between tuition in those parts of the country and in the West and South constitutes one of the major reasons that veterans are considerably less likely to take advantage of the education program in the East. The extremes are represented by Pennsylvania, with 19.7 of its fromer servicemen using the GI Bill, and California, with 52.5 per cent. Pennsylvania's low ranking is aggravated by the absence in that state of a network of community colleges, but even in Massachusetts, which has such schools, relatively high tuitions keep the veteran-participation rate down to a discouraging 28.9 per cent.

In the high-tuition states, too much of a single veteran's basic $292 per month allotment is consumed by his tuition and fees bill. With little left over for living expenses, the tendency is to drop out of the program or pass it up altogether. It wasn't always this way. In the post-World War II era, the Veterans Administration paid tuition in a direct payment to the schools involved and granted the student a flat living expense of $75 a month.

A tuition-equalization payment, which has one of its chief sponsors Representative Silvio Conte, would bring the system back somewhat toward that postwar model. Veterans in states with high tuition would receive both their basic allotments and up to $800 a year in extra tuition payment. The cost of this reform to the Treasury is estimated at just $250 million a year, no more than what would be generated by the 6.6 per cent across-the-board increase which seems to have greater support among members of the Veterans Committees in the two houses.

A 6.6 per cent increase would be welcome to many veteran-students struggling to make ends meet as inflation diminishes the value of their $292 allotments, but it would not get veterans who have not been able to start school in this part of the country over the tuition hump. The GI Bill will not achieve its promise if it appears to many veterans to be more a cause of frustration than a ticket to opportunity.

[From the Charleston Gazette, July 20, 1977]

SENATE HAS A CHANCE TO EVEN VETS' SCORE

Four years ago in this space we said that "Vietnam veterans, to describe their plight in plain language, are being shafted by their countrymen and by President Nixon's pinch penny policies."

Today, we could write the same statement, minus, of course, the reference to Nixon and substituting the name Carter.

Vietnam veterans often have to pay as much as $1,300 to go to a public university and as much as $4,000 in tuition alone to go to private institutions of higher learning.

U.S. armed forces throughout the Vietnam War had far more of the country's culturally and economically deprived: high school dropouts, slum dwellers, hill and hollow residents, blacks, than the armed services of the other two wars.

Why veterans of those wars, who undoubtedly were better able to cope with the society to which they returned than Vietnam veterans, should receive superior benefits and how lawmakers can justify such a discrepancy, especially lawmakers who have been in Congress long enough to vote on the three sets of legislation, make no sense.

Friday, the Senate Veteran's Committee will have a chance to improve the package of benefits accessible to the Vietnam veteran, including adoption of an amendment to reduce the sum of money the veteran must pay before the federal government defrays any tuition expense.

What's wrong with free tuition for Vietnam veterans? The World War II veteran had free tuition at America's most expensive private institutions of higher learning: Harvard, Yale, Princeton, Stanford, Williams, Amherst.

We trust West Virginia's Jennings Randolph, a member of the committee, keeps this fact in mind. We trust that he also will bear

in mind that West Virginia has 6.3 per cent of the veterans California has but they have used only 3.9 percent of the benefits Californians have. Had West Virginians used the GI bill at the same rate Californians did another $76 million in scholarships would have been provided West Virginia veterans. The state's senior senator already knows that West Virginia's Vietnam death rate was highest in the nation and that its Vietnam veteran population in proportion to the state's total population is among the nation's highest.

[From the Washington Post, May 30, 1977]

THOSE WHO SERVED—CONTINUED

Among those reflecting upon the meaning of Memorial Day, we would assume, are approximately eight million veterans of the Vietnam years. For many of them, it comes as one more painful reminder that this country still lacks a comprehensive program to deal with their needs and entitlements. It cannot have escaped their notice that a nation capable of prolonged discussion and strong emotion on the merits of amnesty for no more than 10,000 young men who did not serve—by evading the draft—is strongly incapable of dealing equitably with those who served, including two and a half million who actually went to Vietnam and 400,000 who suffered wounds. To examine some of the current attitudes about Vietnam-era veterans is to see graphically why so many of them feel ignored or frustrated. It is also to understand why those who are trying to help them are finding it so difficult.

There is, to begin with, the GI Bill itself. At the moment, many of the most needy veterans are denied meaningful access to educational assistance. The GI Bill was inadvertently structured to provide benefits to veterans with access to low-cost public institutions. The problem is that many states and cities have few, if any, of these institutions. Sen. Alan Cranston, chairman of the Veterans Affairs Committee, has spoken of this unfairness and has pledged to "explore the matter and to come up with a remedy." Unfortunately, the leadership of the House Veterans Committee, and, surprisingly the new administrator of the Veterans Administration, Max Cleland, have not made a similar commitment. Another group with limited access includes some veterans who are married and have children; for them, the GI Bill's allowances are too low to be meaningful. Veterans with less than high-school educations are often left out also. Still another group is the one comprised of veterans who fought during the years 1966 to 1972; they were discharged at a time when benefits in many states were effectively so low that the most needy could not afford to go to school.

A second problem is the lack of attention given to the personal adjustment problems of Vietnam veterans, especially the disabled. Many came home unthanked and unnoticed for their sacrifice. Being forgotten became one of the heaviest emotional burdens, particularly as South Vietnam collapsed and the country's leaders were content, as President Ford urged, to put Vietnam behind us. One of the government's failures is that it hasn't conducted the research to learn how widespread the emotional problems may be. One unofficial VA estimate holds that one out of five new veterans suffers serious and prolonged readjustment problems.

From these examples alone—and there are others—it is clear that, despite the efforts of a few public officials as well as some of the more alert veterans groups, there is no coherent national policy for dealing with the problems of returned service personnel. It is not as though solutions are unknown, or that teachers, counselors and others are unwilling to work individually with the veterans. An article on the opposite page today tells the story of a few people involved in programs that are as worthwhile on the local level as they are deserving of support from higher levels.

In other words, it can be done—it just isn't being done enough.

At the moment, Congress is considering an across-the-board increase in GI benefits. This approach, as a recent report to the National League of Cities and the U.S. Conference of Mayors notes, is far from ideal: It may overcompensate those veterans who already are receiving too much, while others will remain without access to schooling. Rep. Lester Wolff (D-N.Y), along with 75 cosponsors, has introduced legislation that would accelerate the availability of GI Bill benefits. This bill and another—providing tuition equalization—deserve immediate attention.

Evidence suggests that the veterans have a number of supporters scattered throughout Congress. But it is the responsibility of the President to pull together that support, as well as coordinate the energies of his own administration. In January, the Secretary of Labor, with considerable fanfare, announced a $1.3 billion program to provide more jobs for veterans. Four months later, unemployment among veterans remains high with veterans groups still awaiting signs of effective followup. One issue that has aroused the anxiety of these groups is that the mandatory veterans quotas—ones assuring that the jobs go to veterans rather than others—have been dropped from the administration's bill now on its way through Congress.

The President has spoken movingly of the plight of the Vietnam veterans. But his actions—the efforts to provide a form of amnesty for deserters and veterans with "bad paper" discharges, the hastily assembled jobs program—fall short of the sort of comprehensive, high-priority approach that is needed. Today, as always, we salute those who served and suffered in all wars—and, above all, those who gave their lives. But our urgent concern is with the veterans of the Vietnam years—and with the unfinished business of that war.

COMMENTARY, ABC EVENING NEWS,
MAY 30, 1977

Government and media have given lots of attention to restoring to normal life the young men who fled the callup for Vietnam or who deserted.

Memorial Day is a good day to recall you've seen or read very little about the nearly 3 million who went to Vietnam, about half a million of whom were wounded.

Their educational grants nowhere nearly approached those given GI's of past wars, not nearly enough to get through a college of average costs. Other forms of help have been equally meager and sporadic.

Yet these veterans needed education more than past ones, for Vietnam was our first war fought almost entirely by the poor and the black, who returned at a grave disadvantage in competition for jobs. In March this year nearly half a million Vietnam veterans were jobless; the number unemployed increased in April.

President Carter seemed to acknowledge the injustice when he appointed a disabled Veteran as head of the Veterans Administration. Yet the most conspicuous thing that has happened since was the dropping from an Administration jobs bill of a requirement that Vietnam veterans be given a preference in hirings.

The generous World War Two GI Bill gave us our best educated generation of Americans, and our greatest time of prosperity and confidence. I can't swear there's a casual relation but our worst time since the Depression has been the years since Vietnam when we have neglected our veterans shamefully.

[From the Washington Post, May, 30, 1977]

WHO IS CARING FOR THE VIETNAM VETERANS?

(By Colman McCarthy)

Peggy Nolan, an English teacher in the Veterans Upward Bound program at Prince George's Community College, received a surprising phone call the other evening from Bill White, one of the 15 Vietnam veterans in her course. He couldn't get to the next class, White explained, but he wanted to get the assignment so he could keep up. What amazed Mrs. Nolan was that the call came from Tusla. "I knew Bill liked the course," she said, "but I was touched that it meant so much that he would go to the expense of calling long distance."

The veterans in Mrs. Nolan's class have been studying the basics of English grammar. Some had reading and writing skills well below eighth-grade level. Few had ever been exposed to advanced grammar, much less the delights of literature. But one motivation was common to them: Learning English was a survival skill; if they didn't grasp it now they could expect to remain in the exile that has been the fate of so many Vietnam veterans.

America's mistreatment of its Vietnam-era veterans is a well-known story: The inadequacy of the GI Bill, high unemployment rates, shifting and often stringent VA guidelines, neglected or dropped veterans' programs, job-offer runarounds—these are among the complaints heard by a reporter when he met recently with Mrs. Nolan's class.

But aside from the anguish of grown men who are blessed with street-wise intelligence but who struggle and sweat to learn simple English, another reality came through: In Mrs. Nolan, and the others in the Prince George's Upward Bound program and its supporting English Department, the veterans had finally met people who care about them. The significance of that should not be dismissed. A few years ago, Rep. Silvio Conte of Massachusetts, one of the Vietnam veterans' more reliable friends in Congress, said that "somebody has got to take these guys by the hand and help them decide what to do. We've got to let them know that somebody cares."

The congressman didn't say where these "somebodies" are to be found. But the lesson from Prince George's is that they do exist.

The Veterans Upward Bound program at Prince George's is one of the few remaining out of the 60 in operation across the country five years ago. These programs are said to attract zealous teachers like Mrs. Nolan, who confesses that "I had the deepest sense of fulfillment I've ever had in any school, because of the veterans' needs and motivations." Another effort is the Veterans Cost of Instruction Program (VCIP), HEW's program that provides 1,200 colleges with funds to counsel and help veterans, particularly the poor, jobless and uneducated. In classrooms and counseling offices that these programs have set up, the invaluable one-to-one work is done.

Although VCIP and Upward Bound are small programs that serve only a portion of the eight million Vietnam-era veterans, their success serves notice that effective ways of reaching and educating the neediest veterans are known. Instead of expanding a program like VCIP, however, it appears that the results of federal decisions subject local directors and staff workers to one frustration after another.

At Prince Georges Community College, Dave Borchard, director of veterans' affairs, tells of having to cut two people from his five-member staff last year. VCIP funds were reduced from $72,000 to $52,000. Borchard says that "decisions at high levels are made haphazardly without an effort at really finding out what is happening on campus. We

kept hearing from lower- and middle-level officials in HEW that this was a good program. But this information never made its way to the top."

The communications problem has always been present. When $25 million was appropriated by Congress in 1972, the National Association of Concerned Veterans had to sue the Nixon administration to get the impounded money spent. During the Nixon years, no funding requests were made to Congress. Owing to the pushing of a few members of Congress, the program received its money. Because it was backed by Congress but not the administraiton, VCIP was a stepchild at HEW. In the field among the program's administrators, worries about funding became a major distraction.

At the moment, the Carter administration has included VCIP in its budget—for $23.5 million. The irony is that at the same moment the program is receiving some mild support at HEW, a new threat appears: Under the terms of the legislation, a school must maintain its veterans enrollment at its qualifying levels or face at the least a reduction in funds and possible termination. Some dropoffs are occurring as veterans graduate. The National Association of Veterans Program Administrators is now trying to amend the Higher Education Act, so that it takes into account the large numbers of veterans still needing the program, despite the decline. This is the new fight.

One of those planning to wage it is Robert Martinez, the VCIP director at HEW. In a recent issue the Chronicle of Higher Education, he said that "the commitment of the colleges to the disadvantaged students, including veterans, is only as deep as the dollars to assist them. Without programs like VCIP, the ones who are most in need of help will be cut off and left to fend for themselves. I think it's a shabby way to treat these guys. Talk to veterans now and you'll find that they are tired, frustrated, apathetic. No one is listening to them."

The larger entity of which VCIP and Upward Bound are the smaller parts is the GI Bill itself. In 1966, with Vietnam heating up, an educational-benefits bill was passed by Congress, but the veto threats of President Johnson held its payments to $100 a month. That was less than the Korean-war level of $110 a month. That law base has penalized veterans ever since. Any increase from that, in percentage terms, looked large, although for many—particularly the poor and the schools serving them—the money has been meager compared to the generous levels of World War II.

Another complication was the Johnson administration's policy of recruiting an army from mostly the poor and lower middle class. This meant that many of those who served in Vietnam went with the idea that after the war "a grateful nation" would at least come across with the promised educational benefits that otherwise would have been out of reach.

On returning, though, these veterans found themselves victimized by the traditional powerlessness of the poor and lower middle class. In a recent report on the GI Bill to the National League of Cities and the U.S. Conference of Mayors, detailed examination was made of veterans educational programs in Nashville. The report concludes:

From this overview of a part of Tennessee, it is possible to see a reflection of the national picture. The GI Bill—and the Vietnam-era veterans it is intended to serve—has been burdened by a string of problems which seems to lengthen as the war recedes from public consciousness. The problems are varied, complex and at times contradictory. Costs have risen sharply to the highest level in the history of the Bill. Overpayments have reached into the hundreds of millions of dollars. The VA has been first too lax and then too rigid in the administration of the program. Some colleges and universities have been inhospitable to veterans, others indifferent, still others too aggressively exploitative. Some veterans have abused the Bill. . . . Presidents Johnson, Nixon and Ford, under whose administrations the war was fought, showed something less than enthusiasm for extending full educational benefits to all those who fought it for them.

The discouraging situation outlined by the report was articulated in a recent letter from the veterans coordinator at Highline Community College, Midway, Washington. Steve White wrote to his fellow administrators of the VCIP program that he was quitting because he could stomach no more frustration from above. "When I began we were all involved in helping other veterans accomplish some educational goals in their lives. We bent rules, broke through red tape, and anything else we could to assist our school's veteran population. Each of us in our own way did one hell of a job. For many veterans it was the first time anyone helped them in an individual way since that historic induction day took place in each of our lives. The first time that anyone really cared about them, and gave a damn! Without a doubt, my first year or two saw many battles aginst VA bureucracy won by each of us. . . . [But now] years of work and efforts on the part of VCIP coordinators are being destroyed by this state's institutions knuckling under to the VA threats."

A few months ago, veterans' groups became guardedly optimistic when a new administration took over. President Carter's appointment to the VA of Max Cleland, a triple-amputee Vietnam veteran, was welcomed. "I think my appointment," Cleland said, "is an indication that [the President] is extremely sensitive to the problems of young veterans."

If that sensitivity is to mean anything, the first test is whether it can be expanded not only Cleland's own agency, but also to HEW—which runs VCIP and Upward Bound—and the Labor Department. Last January, the latter trumpeted a new jobs program for Vietnam veterans, but four months later several veterans' groups complained bitterly that neither Labor nor Congress was following through. Meanwhile, in April, 474,000 veterans in the 20–35 age group were unemployed, a rise of 32,000 from March.

At the moment, the government's veteran policy is suffering from formlessness. Bits and pieces of the whole—programs like VCIP and Upward Bound—have proven their worth. But rather than being supported by those in power, they are allowed to remain fragmented. Thus, as one part of the government goes after unemployment, another seeks to rouse the VA. And education remains someone else's concern. At the least, the veterans deserve the kind of whole care and attention from the powerful that they are receiving from the Peggy Nolans, Dave Borchards and Steve Whites in the classrooms and counseling offices. If there is a light at the end of the tunnel, it should be shined by those in power who may be out of the dark themselves but who haven't brought many Vietnam veterans with them.

[From the Washington Post, July 19, 1977]

VIETNAM VETERANS AND THE GI BILL

The Congress is discovering, and rightly so, that the unfinished business having to do with equity and reasonable opportunity for the veterans of the Vietnam era cannot be wished away. The other day we talked about the efforts of sensitive and responsible members of Congress to rescue the administration's program for speedier review of less-than-honorable discharges. Today, as the Senate Veterans Affairs Committee begins to debate amendments to improve the GI Bill, we would like to take note of another effort by those in Congress who recognize the importance of working for air and humane solutions to the particular problems confronting the veterans of Vietnam as a consequence of the particular nature of that conflict.

Sens. Alan Cranston (D-Calif.), John Durkin (D-N.H.), Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.) are aware of the flaws in the current provisions of the GI Bill. But doing repair work on this legislation is not one of the appealing pursuits in Congress. For one thing, the GI Bill is perhaps the best known of the veterans' programs, which means that its failures receive the most publicity. For another, when Vietnam veterans are involved in the failures, a kind of general, anti-Vietnam prejudice sets in. A few years ago, when abuses involving Vietnam veterans began to be reported—overpayments, payments to those who didn't attend classes, creation of training courses that had no substance—the critics seemed not to remember that similar abuses occurred after World War II and Korea; only the glowing successes of those programs were well remembered. That almost nobody seemed to remember any *successes* of the GI Bill for Vietnam veterans may have something to do with a general inclination on the part of politicians as well as the public not to want to be reminded about anything having to do with the first war America lost.

In any case, Sens. Cranston and Durkin have set out, first of all, to correct some of the abuses that have come to light. This is expected to be handled without great difficulty by balancing the needs of the schools with a prudent use of federal funds. Other problems will not be resolved so easily. For example, the GI Bill as it is now operating favors veterans in states that have educational systems providing low-cost schools—unlike the World War II program, which gave all veterans equal amounts to live on. An example of this, as Stuart Feldman has pointed out in a report to the National League of Cities and the U.S. Conference of Mayors, is that "a veteran at Temple University, the public college in Philadelphia, would have to pay $1,498 for tuition fees and books. A veteran attending San Francisco State would have only to pay $200 tuition. When coupled with expenditures for average book and supply costs, this means that the California vet, who may have served in the same company with the Philedalphia vet, has to spend only 15.1 per cent of his yearly GI Bill benefits for education costs—while the Philadelphia vet has to spend 57 per cent of his benefits. The California vet has $122 more per month to apply to his living expenses."

Sen. Cranston would take a step toward correcting these inequities by allowing veterans whose tuition is more than $1,000 a year to use their benefits at a faster rate to cover the differences. This is the "acceleration provision," which was part of the World War II GI Bill. It has the support of the VFW and American Legion. An alternative, which also has merit and which passed the Senate in 1974, is being offered by Sens. Javits and Humphrey. It would pay 80 per cent of a veteran's tuition between $400 and $1,400. The Javits-Humphrey proposal would help veterans who are now locked out of high-cost schools that may be the only ones in their area. A third alternative, favored by the Veterans Administration, is to provide a five per cent increase in educational benefits. But this does little to affect the geographical inequities.

Another proposal, offered by Sens. Cranston and Durkin, would allow veterans whose benefits have run out to pick them up again so they can complete their training or schooling. This would extend the delimiting period that cut off benefits to veterans whose time has or will run out 10 years after eligibility began.

Although the GI Bill legislation is in only the mark-up period in the Senate, it is important that a strong bill emerge now. In the past, the leadership of the House Veterans Committee has resisted such proposals as the tuition-equalization plan, accelerated payments and delimiting-date removal. The President has an obvious role to play in the debate. In his campaign, he spoke out in behalf of Vietnam veterans. He now has the opportunity to involve his administration in ensuring that the money that it has already committed goes to those legislative approaches that promise to serve veterans with the greatest need.

[From the Washington Post, July 25, 1977]

THE HOUSE AND THE GI BILL

As the Senate and House get further along into legislation on the GI Bill, it ought to be kept in mind exactly whose lives are being discussed. Out of eight million Vietnam-era veterans, less than three million served in Southeast Asia. Of these less than one million saw combat. The average Vietnam-era veteran, according to the Veterans Administration, is 30 years old, married with one or two children, and has a high-school education. Average income is $13,400. Within this relatively stable picture, though, is the considerably bleaker lot endured by perhaps as many as one million veterans who are unemployed, underemployed, shut out of school, denied help for psychological readjustment problems and, in general, are the forgotten victims of a lost war. A few weeks ago, we reported on a survey done in Cleveland on the lives of 346 veterans. More than 40 per cent of the combat veterans were unemployed. More than a fourth were divorced. Forty-one per cent had alcohol problems. More than half had drug problems.

With these men in mind, Rep. Lester Wolff (D-N.Y.) has introduced the Comprehensive Veterans Readjustment Assistance Act. Its major purpose is to remove the structural inequities found in many parts of the current GI Bill. At the moment, for example, the majority of GI Bill veterans receive an average of $350 a month for as little as 12 hours a week attendance in a community college. Meanwhile, the nearly one million unemployed or underemployed veterans are shut out because the GI Bill lacks the provisions for effective readjustment assistance. Rep. Wolff's legislation would address this problem by allowing veterans to draw a larger monthly check over a proportionately reduced time. This is the accelerated-entitlement concept. For veterans who demonstrate need and can complete their education in less than 45 months, the effect of the Wolff bill would be to make available sufficient funds to support their families and pay for the kind of schooling that previously they couldn't get. The Wolff bill is co-sponsored by 90 House members, as well as a majority of the Veterans Affairs subcommittee on education and training.

On Friday, the Senate Veterans Affairs Committee unanimously approved a similar approach that was offered by Sens. Alan Cranston (D-Calif.) and John Durkin (D-N.H.). But it doesn't look as hopeful in the House. The leadership of its Veterans Affairs Committee appears eager to rush through a proposal for a six percent cost-of-living increase for those veterans lucky enough to be in school. The effect of this would be to spend much of the available money on veterans who are comparatively well off. According to the VA, the majority of this group is employed full time and earning an average of $1,000 per month. It is one thing for such House committee members as Texas Democrats Ray Roberts and Olin Teague to favor a cost-of-living increase, but it is something else for them to be acting as though little time exists for considering alternative proposals. Although hearings on the Wolff bill are now promised, the full committee has a responsibility to wait until it can be determined how best to spend the limited funds that are available.

In July 1974, President Nixon revealed his feelings about Vietnam veterans when, in a letter to the House committee, he threatened to veto any bill that would allow those veterans locked out of school to use their benefits, Mr. Nixon stated that if only a small percentage of them came forward it would be excessive and inflationary—that veterans didn't need it anyway. That narrow view prevailed, and has held until today. This time, the veterans have a President who has stressed both his appreciation for their sacrifices and their right to assistance. With legislation in both the Senate and House, this is the time for Mr. Carter to put this year's presidential influence behind last year's campaign rhetoric.

Mr. TEAGUE. Mr. Speaker, H.R. 8701 proposes to increase the education and training rates for veterans and their dependents and making improvements in the administration of the GI bill. The only part of this bill which has any impact on the budget is the proposed rate increase of approximately 6.6 percent for all education and training programs handled by the Veterans' Administration. The cost is estimated to be $483 million for the fiscal year beginning 1978. The 5-year cost is estimated to be $1.5 billion. There is sufficient money in the budget resolution approved for the Veterans' Affairs Committee.

The Veterans' Administration appeared before our committee and supports a 5-percent increase. Because of increases in other costs of veterans in obtaining education and training under the GI bill and other VA education programs, the committee has recommended a greater increase.

Mr. Speaker, our Subcommittee on Education and Training held 10 separate hearings over a period of 4 months to review veterans' education and training programs. I want to commend the Honorable RONALD M. MOTTL for chairing these hearings which came in a period when my health prevented me from chairing the subcommittee. Our subcommittee heard testimony from representatives from associations of educational institutions, national veterans' organizations, Members of Congress, and the public. This bill was recommended by the subcommittee following these comprehensive hearings. The bill responds to a number of complaints and criticisms by the educational community with regard to some tightening provisions of Public Law 94–502, which was enacted to curb abuses and exploitations of the GI bill. The modifications of the administration of the GI bill are as follows:

First. Provides a 5-percent increase in the reimbursable administrative expenses paid to State approving agencies.

Second. Eliminates the counting of basic economic opportunity grants—BEOG's—and supplemental economic opportunity grants—SEOG's—as part of the 85 percent of the 85–15 rule.

Third. Provides that courses offered by educational institutions under contract with the Department of Defense that are offered outside the United States will be available to the veterans, their dependents, and civilians.

Fourth. Provides for the waiver of the 2-year rule for a course offered at a branch when in the interest of the veteran or Federal Government.

Fifth. Allows the Administrator to determine the circumstances under which an extension may be granted to the approved length of time for satisfactory progress.

Sixth. Lastly, H.R. 8701 makes a change in the law regarding employment of disabled veterans by defining disabled veteran for employment purposes in the Department of Labor programs to be a person disabled at 10 percent or more, rather than the present 30 percent.

Mr. Speaker, over 1.8 million veterans and their dependents will benefit by the passage of this bill during the coming year. I strongly urge that this bill be favorably considered and passed at this time.

Mr. Speaker, the underlying philosophy of the GI bills has been to provide readjustment assistance to those persons who served in the Armed Forces during a period of war or national peril to help them overcome and make up for the time lost while serving in the Armed Forces. In addition, it was never the intent of Congress to provide a veteran with assistance to meet all of his educational expenses and costs. This committee reaffirmed the intent of Congress when H.R. 12828, the Veterans Education and Training Amendments of 1972, was reported. House Report 92–887 stated, in part:

> It should be recalled from the outset of the program it was the intent to provide a reasonable measure of assistance to an eligible veteran who elects to pursue an educational program. In fact, the basic authorization language provided "The Administrator shall pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs."

Notwithstanding that it has never been the intent of Congress to provide all the cost of education and training for veterans under the GI bill, and notwithstanding that the Congress has made it abundantly clear that the present GI bill for veterans is that it is a readjustment benefit, there is much confusion and misinformation among veterans, educational institutions, and the public that the GI bill was enacted for some other purpose. Our committee has heard, for example, that GI bill payments are an economic supplement, aid for higher educational institutions, or just a plain, outright bonus to be paid to the veteran when he thinks he needs it. All of these concepts are alien to the philosophy of the GI bill, which is assistance to the veteran to help him catch up to those who did not serve for the time the veteran lost while in the Armed Forces.

In addition to the basic educational payments, the Congress has enacted a number of other types of assistance in recognition of the special problems that

some Vietnam veterans are faced with. At this time, I want to discuss the monthly assistance available to a veteran under the current GI bill and the other assistance to which a veteran is entitled not only from the Veterans' Administration but under other Federal programs.

1. MONTHLY ASSISTANCE ALLOWANCE

The reported bill would increase from $292 per month to $310 per month the amount a veteran without dependents would receive in institutional training on a full-time basis. Benefits for a veteran with one dependent would be increased from $347 to $369 per month. The rate for a veteran with two dependents would be increased from $396 to $421 per month.

2. LOAN PROGRAM

Public Law 93–508 authorized an education loan program for eligible veterans. Under the program an eligible veteran may obtain a loan if he or she pursues training in a State and need is established. Initially the maximum loan for a regular academic school year was $600. Public Law 94–502 increased the amount to $1,500. Latest statistics indicate there has been an increase in the number of loans since the maximum was raised to $1,500. The Veterans' Administration revised its regulations this year so that the procedures for obtaining a loan is much simpler and easier for the veteran.

A compelling reason for raising the maximum loan amount last year was to provide additional assistance to veterans attending higher cost institutions to help meet higher education and living expenses at those institutions.

3. WORK STUDY PROGRAM

Veteran-student enrolled as full-time students may agree to perform services and receive an additional allowance. A student who agrees to work 250 hours receives $625. A student who agrees to work a lesser number of hours gets a proportionately lesser amount. If 100 hours or more are agreed to be worked, the amount of $250 is paid in advance—(proportionately less if less than 100 hours are to be performed. The hours are to be worked during or between enrollment periods during a semester or other applicable enrollment period. The benefits are paid by the Veterans' Administration, but the student's work may be performed at a VA office or at the school.

4. TUTORIAL ASSISTANCE

Veterans or service personnel in postsecondary—above high school—training at educational institutions on a half-time or more basis, who need tutorial assistance may qualify for tutorial payments not to exceed $65—increased to $69 under the reported bill—a month for a maximum amount of $780—$828 under the reported bill—with no charge against basic entitlement.

5. SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

Special assistance is available to educationally disadvantaged veterans to encourage and assist such veterans who have academic deficiencies to attain a high school education or its equivalent in order to pursue postsecondary education. Under this program a monthly educational assistance allowance of $292 presently, and $310 under the reported bill, is provided without charge to any period of entitlement the veteran may have earned. Thus, the veteran may complete his high school education receiving his monthly assistance, and then continue his education under this program for the maximum additional 45 months.

6. ASSISTANCE UNDER OTHER FEDERAL PROGRAMS

The Federal Government also provides educational assistance to veterans and other students through five programs administered by the Department of Health, Education, and Welfare. The basic educational opportunity grant program—BEOG—makes funds available to eligible students attending approved colleges, community/junior colleges, vocational schools, technical institutes, hospital schools of nursing, and other posthigh school institutions. The amount of grants under this program is calculated by the school and is based on determination of eligibility and the cost of attendance at the school.

Grants are also available under the supplemental educational opportunity grant program—SEOG—which may range between $200 and $1,500 per year, but may not exceed $4,000 for a 4-year course or $5,000 for a 5-year course. These grants are available to undergraduate or vocational students who can demonstrate exceptional financial need.

HEW also has a college work-study program which provides jobs for students who have great financial need and who must earn a part of their educational expenses. Under this program, a student may work up to 40 hours per week with a salary at least equal to the current minimum wage.

Two additional loan programs are available through HEW to provide educational assistance. The national direct student loan program—NDSL—and the guaranteed student loan program—GSLP—provide immediate assistance with the repayment deferred until at least 9 months after termination of training. Loan amounts under NDSL are limited depending on the program being pursued but may not exceed $10,000 in any case. The loan limit under the GSLA program is $15,000.

The Federal Government also provides educational assistance through a wide variety of other programs. Many federally backed scholarship programs are available through Government agencies—for example—National Science Foundation—and through enactment of public laws—for example—Harry S. Truman memorial scholarship program. Other federally supported programs through which veterans may obtain education assistance include the law enforcement education program, the nursing student loan program, and the health professions student loan program.

Another frequent complaint heard at our subcommittee hearings was that the Vietnam veteran does not participate in the GI bill to the same extent as veterans of previous wars. Another allegation heard quite often is that the present GI bill is inadequate and does not pay enough money for a veteran to go to school or take vocational training. The record shows that the opposite is true.

For example, the present program of assistance under the Veterans' Administration makes it possible for practically all veterans to meet their educational costs and living expenses at almost all schools. In this regard the latest VA statistics indicates that all veterans who are in training under chapter 34 of the GI bill who have one or more dependents is 75.4 percent. Under the proposed increases in the bill, a veteran with one dependent would be entitled to receive $369 a month for a total of $3,321 which together with a VA loan of $1,500, would be a total of $4,821 for a school year. For a veteran with two dependents, a veteran under the proposed increases in the bill would be entitled to receive $3,789 in education assistance, which together with an additional $1,500 VA loan would be a total of $5,289. It is readily apparent, therefore, that veterans under the proposed rates in this bill who also utilize the VA loan program would have sufficient educational assistance for tuition, books, and fees and living expenses in the great majority of educational institutions throughout the Nation.

In further regard to the adequacy of the present VA education assistance program, a study conducted by the Veterans' Administration authorized by Public Law 93–508 on education tuition assistance indicated that tuition cost was not the principal factor in the selection of a school for over 90 percent of Vietnam veterans training under the GI bill. The main reasons given for selection of a school were geographic location of the school and the field of study. Again the increased rates proposed in this bill should be adequate for the great majority of veterans with the VA educational loan making it possible for most veterans to meet the cost of tuition, fees, and living expenses at almost all schools.

With regard to the participation in the three GI bills there has been considerable misinformation about the participation of Vietnam veterans in the current GI bill as contrasted with the previous two GI bills. Most recent statistics indicate that 59.1 percent of the post-Korean veterans have used the GI bill. About 64.3 percent of the Vietnam veterans have used the GI bill. The participation by both post-Korean and Vietnam era veterans compare most favorably with the percentage of veterans who trained under the Korean GI bill, which was only 43.4 percent. Almost exactly one-half—50.5 percent—of World War II veterans trained under the World War II GI bill.

Is there a wide discrepancy in variance in tuition and fees at postsecondary institutions based on the region of the country? Our committee looked into this question, and I want to share with my colleagues some of the information that

our committee developed, which will show that the rate increases proposed in our reported bill, H.R. 8701, are more than adequate for average tuition and fees across the country for both single and married veterans. With respect to regional expenses there is clearly a difference in the mean tuition and fees in postsecondary institutions based on the region of the country. As the following table shows, there is a difference of approximately $471 in the tuition and fees charges at public institutions among the six regional areas; the highest charges are reported in the Middle States, and the lowest in the West. Among the various regions, the maximum differences in tuition and fees for private institutions is about $909; the Northeast reports the highest charges and the Southwest the lowest. For proprietary institutions the highest tuitions and fee charges are found in the Southwest; the lowest in the Midwest and the South. The difference in costs between public and private institutions is largest in the Western region—$2,116—and smallest in the Southwest—$1,389. The relative position of the regions remained the same this year as last with respect to tuition and fee charges for both public and private institutions.

TABLE 4.—MEAN TUITION AND FEES BY REGION, 1977–78

Region	Public Institutions	Private Institutions	Proprietary Institutions
New England	$566	$2,665	$2,023
Middle States	779	2,611	1,919
South	410	2,044	1,765
Midwest	554	2,274	1,765
Southwest	367	1,756	2,525
West	308	2,424	2,214

The regional breakdown is as follows: New England—Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine; Middle States—New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia; South—Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana; Midwest—North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Michigan, Ohio, and West Virginia; Southwest—New Mexico, Texas, Oklahoma, and Arkansas; West—Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, Alaska, and Hawaii.

Mr. Speaker, as I indicated in the beginning of my remarks, our subcommittee held 10 separate hearings over a period of 4 months. So that the Members will know who the subcommittee heard, I want to make a part of my statement the witnesses, which were as follows:

LIST OF WITNESSES

Honorable James H. (Jimmy) Quillen of Tennessee; Honorable Larry Pressler of South Dakota; Lt. Col. Richard W. Hamm, El Paso, Tex.; Mr. A. H Thornton, Director, Education and Rehabilitation Service, the Veterans Administration; Mr Melvin A. Eggers, Chancellor, Syracuse University, Syracuse, N.Y.; Mr. Ewald B. Nyquist, Commissioner of Education, State of New York; Mr. John J. Connolly, President, Duchess County Community College, Poughkeepsie, N.Y.; Mr. Jack Davis, Vice President for Student Services, Asheville Buncombe Technical Institute, Asheville, N.C.; Ms. Karen A. Meyer, Administrator, Monmouth Airlines, Farmingdale, N.J.; Mr. Jack Tirrell, Vice President for Governmental Affairs, American Association of Community and Junior Colleges, Washington, D.C.; Mr. Richard Fulton, Counsel, Association of Independent Colleges and Schools, Washington, D.C.; Mr. Marvin Busbee, National Director, National Association of State Approving Agencies, Columbia, S.C.; Mr. Cecil C. Byrd, Acting Executive Director, National Association of Veterans Program Administrators, University of Alabama, Tuscaloosa, Ala.; Mr. Marvin J. Peterson, Vice-Chairman National Association of Veterans Program Administrators, Ogden, Utah; Mr. Lloyd Davis, Executive Director, National University Extension Association, Washington, D.C.;

Chancellor Robert J. Kibbee, City University of New York, on behalf of the American Association of Community and Junior Colleges, the American Association of State Colleges and Universities, the American Council on Education, the Association of Jesuit Colleges and Universities, and the National Association of State Universities and Land-Grant Colleges; Mr. Stephen B. Friedheim, Executive Vice President, Association of Independent Colleges and Schools, Washington, D.C.; Mr. Don Schwab, Director, National Legislative Service, Veterans of Foreign Wars, Washington, D.C.; Mr. Frank E. G. Weil, National Secretary and Chairman, Veterans Affairs Commission, American Veterans Committee, Washington, D.C.; Mr. Jim Deal, President, National Association of Concerned Veterans, Washington, D.C.; Mr. Dennis McClure, National Service and Legislative Director, AMVETS, Washington, D.C.; Mr. Ronald W. Drach, National Director of Employment, the Disabled American Veterans, Washington, D.C.; Mr. Larry Roffee, Legislative Director, Paralyzed Veterans of America, Inc., Washington, D.C.; Mr. Thorne Marlow, Director, Washington News Bureau, Veterans of Foreign Wars, Washington, D.C.; Mr. Tom Wincek, Executive Director National Association of Veterans Program Administrators, Minneapolis, Minn; Mr. Edward J. Lord, Assistant Director, National Legislative Committee, Mr. Robert E. Lyngh, Deputy Director for National Veterans Affairs and Rehabilitation Commission and Mr. Austin Kerby, Director for Economics, The American Legion, Washington, D.C.; Ms. Jo Torres, Director At Large for Employment, National Association of Concerned Veterans, Washington, D.C.; Mr. William E. Lawson, Chairman of the Board, American Association of Minority Veteran Program Administrators, Washington, D.C., and Mr. C. A. "Mack" McKinney, Staff Director, National Capital Office, Non-Commissioned Officers Association, Washington, D.C.

The reported bill reflects the results of these extensive hearings.

Mr. Speaker, as I indicated, the bill provides for modifications of the 85–15 rule which has engaged the attention of most Members of this body during the past year. As near as can be determined, the 85–15 rule is working well at this time and accomplishing its purpose of preventing abuses in the GI bill programs by keeping Veterans' Administration programs from being exploited by some educational institutions and veterans.

One of the provisions of Public Law 94–502 extended generally to all courses of education and training a statutory limitation with respect to the percentage of veterans eligible to enroll in a course referred to as the 85–15 rule. The act prohibits the Veterans' Administration from approving the enrollment of any veteran in any course where more than 85 percent of the students are wholly or partially subsidized by the Veterans' Administration, the educational institution, or Federal grants.

In its implementation of the 85–15 rule, the VA exempted until June 30, 1977, the counting of Federal grants which were determined to be only the 1977, the counting of Federal grants (BEOG) and the supplemental education opportunity grants (SEOG) assistance as provided by the Department of HEW.

During the course of the hearings, a considerable number of complaints were registered by the educational community that counting of BEOG's and SEOG's as part of the 85–15 rule was one of the most objectionable provisions of this comprehensive education law. It is the belief of the committee that since this is a veterans' education bill and that one of the purposes of the 85–15 rule is to protect veterans to assure that they receive quality education, then BEOG's and SEOG's should not be counted as part of the 85–15 rule. In the meantime, the VA has extended its exemption on the counting of HEW grants as part of the 85–15 rule for another year to June 30, 1978. In addition, the Veterans' Administration in its implementation of the 85–15 rule has exempted educational institutions which have 35 percent or fewer veterans on a school basis from having to comply with the 85–15 rule. Testimony presented by the Veterans' Administration indicated that 95 percent of the educational institutions in the Nation are exempted, therefore, from the 85–15 rule because the student body in these institutions have 35 percent or fewer veterans enrolled in the institution.

The reported bill repeals the statute that BEOG's and SEOG's will be counted as part of the 85–15 rule. However, the authority to waive the 85–15 rule when in the interest of the veteran or the Federal Government continues. The waiver authority will provide the Veterans' Administration with flexibility in making exceptions to the 85–15 when a course of training is in the interest of the veteran and the Federal Government.

The subcommittee was informed that a number of waivers of the 85–15 rule have been granted by the Veterans' Administration where the number of veterans exceeded 85 percent in a particular course. Notwithstanding, some schools have been extremely disappointed that their appeals for exemption of the rule have not been forthcoming. The VA is reminded by the committee to carefully review each application for a waiver of the 85–15 rule and to keep in mind that the primary objective of the GI bill is for the veteran to have every opportunity available to obtain quality education or training towards a reasonable educational, vocational, or professional goal.

Mr. Speaker, at this point. I would like to provide a summary of the bill with a detailed section-by-section analysis, which is as follows:

SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—GI BILL RATE INCREASES

Section 101 would amend the table contained in section 1504(b) of title 38 to provide an approximate 6.6 percent increase in benefits paid to disabled veterans pursuing programs of vocational rehabilitation under chapter 31.

Section 102 would (1) amend section 1677 (b) of title 38 to provide an approximately 6.6 percent increase in the monthly benefit for flight training; (2) amend the table contained in paragraph (1) of section 1682(a) to provide an approximately 6.6 percent increase in monthly educational assistance rates for institutional and cooperative training; (3) amend section 1682(b) to provide a 6 percent increase in benefits paid to servicemen pursuing programs of education while on active duty and to those individuals pursuing training on less than a half-time basis; (4) amend the table contained in paragraph (2) of section 1682(c) to provide an approximately 6.6 percent increase in educational assistance rates for pursuit of farm cooperative training; (5) amend section 1692(b) to provide a 6 percent increase in the monthly tutorial assistance benefits as well as the maximum tutorial assistance which can be allowed; and (6) provide a 6 percent increase in the PREP program benefit allowance.

Section 103 would (1) amend section 1732 (b) to provide an approximately 6.6 percent increase in the monthly assistance rates for dependents pursuing cooperative training programs; and (2) amend section 1742(a) to provide an approximately 6.6 percent increase in monthly benefit rates for dependents pursuing special restorative training programs.

Section 104 of the proposal would (1) amend section 1774(b) to provide a 6 percent increase in the formula upon which payments to State and local agencies for performing necessary services for the Veterans' Administration are based; (2) amend section 1785(a) (2) to provide a 6 percent increase in the benefit payable for pursuing correspondence training; (3) amend section 1787(b)(3) to increase by approximately 6.6 percent apprenticeship or other on-job-training; (4) amend section 1798(b)(3) to increase by approximately 6.6 percent the base figure on which the amount of an educational loan may be made to eligible veterans and dependents.

TITLE II—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Section 201 would amend section 1673(d) to title 38 to revise the language of the so-called 85–15 veteran-nonveteran enrollment ratio requirement to eliminate counting of individuals receiving Federal grants. Public Law 94–502, enacted last fall, extended the 85–15 requirement to institutions of higher learning and required counting in the 85–15 computation those students receiving grants from Federal agencies. This latter provision requires, for example, counting those students receiving grants such as the Basic Educational Opportunity Grants (BEOG's) and Supplemental Educational Opportunity Grants (SEOG's) from the Department of Health, Education, and Welfare. The proposal would require counting only those individuals having all or part of their tuition, fees, or other charges paid to or from them by the educational institution, by the Veterans Administration, or by both. However, the Administrator may waive these requirements if he determines it to be in the interest of the eligible veteran and the Federal Government.

Section 202 would amend sections 1674 and 1724 of title 38, United States Code which relates to unsatisfactory progress. Under present law, unless the VA finds there are mitigating circumstances, progress will be considered unsatisfactory when the veteran is not progressing at a rate that will permit the veteran to graduate within the approved length of the course based on the training time as certified to the VA. The following would be added to the sections as follows: "or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable," thus providing the VA with more flexibility and discretion in determining when a person is making satisfactory progress.

Section 203 of the proposal would amend section 1789 of title 38 to make two changes in the so-called 2-year operation requirement. The first change would provide an exemption which would permit civilians to attend courses offered outside the United States on or adjacent to military bases under contract with the Department of Defense. Current law restricts pursuit to active duty military personnel and/or their dependents. The second change would allow the Administrator to exempt from the 2-year operation rule branches or extensions where the Administrator finds it to be in the interest of the eligible veteran and the Federal Government.

Section 204 would amend section 2011(1) of title 38 to define a disabled veteran as one who has a disability rated at 10 percent or more. Current law sets a 30 percent minimum. The provision would extend employment and training assistance through the Department of Labor to additional disabled veterans since the definition of a disabled veteran would be reduced from a 30 percent disability minimum to a 10 percent minimum.

TITLE III—EFFECTIVE DATE

Section 301 provides that the act shall become effective on October 1, 1977.

A comparison of existing benefit rates compared to the proposed rates in H.R. 8701 follows:

VOCATIONAL REHABILITATION (CH. 31, SEC. 1504(b))

	Existing law				H.R. 8701, GI Bill Improvement Act of 1977			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	additional dependent
Institutional:								
Full-time	$226	$280	$329	$22	$240	$298	$350	$26
3d-quarter	170	210	247	18	181	223	263	19
Half-time	113	140	165	12	120	149	175	13
On-farm, OJT or apprenticeship; Full-time	197	238	275	18	209	253	292	19

INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING) (CH. 34, SEC. 1682(a))

Full-time	292	347	396	24	310	369	421	26
Three-quarter	219	260	297	18	233	276	316	19
Half-time	146	174	198	12	155	185	211	13
Cooperative	235	276	313	18	250	293	333	19

FARM COOPERATIVE TRAINING (CH. 34, SEC 1682(c))

Farm cooperatives:								
Full-time	235	276	313	18	250	293	333	19
3-quarter	176	207	235	14	187	220	250	15
Half-time	118	139	157	9	125	147	167	10

APPRENTICESHIP OR OTHER ON-JOB TRAINING (CH. 36, SEC. 1787)

	Present law				H.R. 8701			
Periods of training	No dependents	1 dependent	2 dependents	Additional for each dependent above 2	No dependents	1 dependent	2 dependents	Additional for each dependent above 2
1st 6 mo	$212	$238	$260	$11	$225	$253	$276	$12
2d 6 mo	159,	185	207	11	169	197	220	12
3d 6 mo	106	132	154	11	113	140	164	12
4th and any succeeding 6-mo periods	53	79	101	11	56	84	107	12

OTHER PROVISIONS (CH. 34)

	Present law	H.R. 8701
Flight training	$270	[1] $287
Active duty and less than half-time	292	[1] 310
Correspondence courses	292	[2] 310
Special supplementary assistance	[3] 65	[4] 69
Predischarge education program	292	310
Loan	[5] 292	[5] 310

[1] 90 percent established charges, with 1-mo charge to entitlement for each $286 cost.
[2] Established charge for tuition and fees, but not to exceed full-time rate of $310 per month.
[3] Per month, maximum of $780.
[4] Per month, maximum of $828.
[5] Per month, maximum of $1,500.

OTHER PROVISIONS—WAR ORPHANS, WIDOWS, AND WIVES EDUCATIONAL ASSISTANCE (CH. 35)

	Present law	H.R. 8701
Full-time	$292	$310
3-quarter-time	219	232
Half-time	146	155
Institutional-business courses	235	250
Special restorative training	292	310

Mr. BINGHAM. Mr. Speaker, the Veterans' Affairs Committee is bringing before us today H.R. 8701, which would increase veterans' education benefits by 6.6 percent and make a few revisions in this program's operation. It is a sound bill which is open to criticism not for what its provisions include but for what they ignore.

For several years, an increasing number of Members of Congress have been criticizing the GI bill because its usefulness depends too much on which State a veteran returns to when he is discharged from military service. The GI bill offers every veteran exactly the same level of benefits, adjusted only for the number of dependents he or she has and the number of courses he or she is taking. As a result, veterans who return to States with a large number of inexpensive public colleges find the GI bill far easier to use than veterans who return to States with fewer public colleges and higher tuitions. California vets, with a wide array of public institutions to choose from, use the GI bill at a rate which far exceeds that of vets in other States not because they are more interested in improving their educations but because it is so much easier for them to return to school under the current GI bill.

More than 100 Members of the House have introduced bills to correct this basic flaw in the GI bill, but to date the Veterans' Affairs Committee has ignored them.

During the markup of H.R. 8701, however, I understand that the committee did agree that the Subcommittee on Education and Training would at least hold hearings on bills which would authorize accelerated payments or supplemental tuition assistance as a means of making the GI bill a more realistic opportunity for vets in many States. It had been my hope that action on the bill before us today would be postponed until that hearing had been completed and the committee had a chance to consider these proposals, or that the bill had come up under a rule which would have permitted amendments to be considered. Once H.R. 8701 has passed, it will be difficult to get the Congress to act on other needed amendments to the GI bill in this session. However, I am determined that every effort should be made to this end.

Mr. MINISH. Mr. Speaker, I would like to take this opportunity to comment favorably upon H.R. 8701, the G.I. Bill Improvements Act, which is before us today under suspension of the rules.

As the Nation makes vital progress towards economic recovery, I feel it is especially important that we assure the veterans—those who served their country with honor—of the opportunity to share in the resurgence.

Much has been said of our appreciation for the courage shown by those who served. Passage of H.R. 8701 will prove that there is substance behind our rhetoric.

The provisions of the G.I. Bill Improvements Act will make it possible for a greater number of qualified and deserving young people to receive the benefits of a higher education.

The bill, as reported, increases the allowances and loans available for veterans' educational and rehabilitational programs, reflecting the increase in expenses felt by students at all post-secondary institutions.

The provisions of the bill, while beneficial to each and every section of the Nation, particularly will ease conditions in the middle States, where tuition and fees, on the average, cost more per year than in any other part of the country.

H.R. 8701 makes increases in the monthly assistance allowance and in the amounts of money available through work-study programs. Funds are also increased for those who need tutorial assistance.

The reported bill also increases the amount of money available to those veterans with educational deficiencies who wish to improve their academic standing.

Of course, in addition to the very real benefits to be received by the veterans, we must also consider a less concrete, but equally important, value of this legislation. That is, that these and other benefits will make service in the U.S. Armed Forces more attractive to those young people who are considering volunteering.

For these and other reasons, Mr. Speaker, I support passage of H.R. 8701, the G.I. Bill Improvements Act.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation, H.R. 8701.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. TEAGUE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill H.R. 8701.

Mr. WYLIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PHYSICIAN AND DENTIST PAY COMPARABILITY ACT EXTENSION

Mr. TEAGUE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8175) to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669), as amended (Public Law 94–581; 90 Stat. 2852), is further amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

SEC. 2. Section 4118 of title 38, United States Code, is amended by—

(1) striking out in subsection (a)(1) "he" and inserting in lieu thereof "the Administrator";

(2) striking out in subsection (a)(1) "number of years" after "specified" and inserting in lieu thereof "period"; and

(3) amending subsection (e)(1) by—

(A) striking out "not to exceed four years", and

(B) adding at the end thereof the following new sentences: "Upon completion of the terms of any agreement entered into under this section, subsequent new agreements may be entered into by any such physician or dentist for additional periods of service. No agreement entered into under this section shall extend beyond September 30, 1981.".

SEC. 3. Amendments made by this Act shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. TEAGUE) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SATTERFIELD),

chairman of the subcommittee on this legislation.

Mr. SATTERFIELD. Mr. Speaker, in October 1975 we enacted Public Law 94–123 giving the Administrator of Veterans' Affairs authority to pay special and incentive pay to certain physicians and dentists employed by the Veterans' Administration. The pay structure at that time was such that the quality of care provided in VA health care facilities could have been adversely affected due to the inability of the Department of Medicine and Surgery to recruit and retain highly qualified physicians and dentists to provide quality care for veterans throughout the country.

Although there has been some improvement, problems continue to exist. The military services and the Public Health Service have experienced similar difficulties, and the Congress has found it necessary to provide monetary incentives in order to recruit and retain quality professionals in those uniformed services also.

The Chief Medical Director of the Veterans' Administration has informed the committee that the additional pay incentives authorized by Public Law 94–123 have substantially improved the Department of Medicine and Surgery's capability to recruit and retain physicians and dentists in numbers and in quality during the past 2 years. The VA has been able to increase the number of full-time physicians from 5,440 on June 30, 1975, to 6,047 as of March 31, 1977, an 11.2-percent increase. During the same period the full-time physician loss rate has decreased about 18.7 percent.

The administration recognizes the need to restructure the current pay schedules in order to resolve the matter governmentwide. The subject of compensation for physicians and dentists in the Federal Government has been extensively examined by the Office of Management and Budget and the Comptroller General. The Director of OMB has informed the committee that the administration will submit its legislative recommendation to the Congress early in 1978. In the interim the administration favors a 1-year extension of the current law giving the Administrator authority to enter into agreements with physicians and dentists through September 30, 1978.

I am hopeful we can resolve this problem on a permanent basis during the next session of Congress. In the meantime, the Committee on Veterans' Affairs strongly recommends the extension of the authority to provide special and incentive pay for another year or until September 30, 1978.

Mr. Speaker, I urge passage of H.R. 8175.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8175. This measure will extend for 1 additional year the authority of the Administrator of Veterans' Affairs to enter into contracts with physicians and dentists to provide special incentive pay for employment in the Veterans' Administration, Department of Medicine and Survey.

The Administrator's authority in this respect was initially contained in Public Law 94–123, enacted in 1975 for a 1-year period and then extended by Public Law 94–581 for 1 additional year. This extended authority will expire September 30th of this year.

Enacted initially as a stop gap measure to enable the Veterans' Administration to compete with the military and community facilities in recruiting and retaining physicians and dentists, we anticipated a report and legislative recommendations for a permanent solution to this problem from the Office of Management and Budget. We have finally received the report but legislative recommendations, according to the Office of Management and Budget, will not be forthcoming until January when the President's fiscal year 1979 budget is unveiled.

The Administrator's authority, contained in this requested extension, permits him to pay physicians up to $13,500 per annum and dentists up to $6,750 per annum, in incentive pay depending upon their tenure and qualifications. Testimony received by the subcommittee reveals that the incentive pay bill has been of considerable assistance in recruiting physicians and dentists. As the cost of living continues to spiral, however, the ability to retain highly qualified professional personnel in VA's Department of Medicine and Surgery lessens.

It, therefore, becomes obvious that the legislation before us today is temporary and must be replaced by a permanent solution.

I intend to introduce a measure on this subject that I hope will receive consideration along with OMB's recommendations early next year. Meanwhile, Mr. Speaker, I urge that this bill, H.R. 8175, be approved.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I rise to support H.R. 8175. This bill's passage is mandatory if we are to continue to provide care for patients in our Veterans' Administration hospitals. I have long hoped that we could come up with legislation which would bring the pay levels of our VA physicians and dentists up to the levels of those physicians and dentists in other areas of Federal employment. A bill of that nature should be coming in the future, but immediate passage of H.R. 8175 is necessary to continue the ongoing incentive program, which is assisting the VA in recruiting and retaining qualified physicians and dentists to provide the care needed by patients in VA facilities. I think the Members will agree with me when I say that we must do all we can to provide quality care for patients in VA facilities. The ever-increasing demands placed on the medical profession are too well known to many of us. The VA faces an even bigger problem in first recruiting and then retaining doctors and dentists because of its low salaries. This bill provides a pay incentive and will be most useful to the VA. I hope that the Members will join me in supporting it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS), a member of the committee.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 8175 which amends the Veterans' Administration Physicians' and Dentists' Comparability Act of 1975.

In many ways, it is unfortunate that the House is again asked to extend the authority of the Veterans' Administration to give incentive pay to physicians and dentists. When the incentive pay program was first enacted by Public Law 94–123, it was the intent of the Congress that the program act only as a temporary solution to the problems of recruiting qualified physicians and dentists to work in VA medical facilities. However, a permanent solution has not been forthcoming.

In August of 1976, the Comptroller General of the United States submitted to Congress a report on the recruiting problems of the VA and other Federal agencies. The Comptroller General recommended that a uniform compensation plan be developed for all Federal physicians and dentists. The OMB is scheduled to submit its proposed uniform compensation plan in January 1978. The measure before us now will allow the VA to continue the incentive pay program until the Congress is able to study the recommendations of the OMB and enact a permanent uniform compensation plan. It should be noted that the VA's current authority to use the incentive pay program expires September 30, 1977.

I realize that too much time and money has already been spent in studying the problems facing the VA in recruiting qualified physicians and dentists. Nevertheless, the needs of our veterans to receive only the best quality of medical care mandates passage of H.R. 8175. Failure to enact this legislation would prove very harmful to the VA's efforts to provide this care. I, therefore, urge all of my colleagues to join with me in supporting H.R. 8175.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I too rise to give my support to H.R. 8175. The physician and dentist pay bill has been extremely important to the Veterans' Administration since its enactment. Because of its salary structure, the VA has always had problems recruiting and retaining physicians and dentists to fill its ranks. This program has helped ease the problem and has resulted in providing the physicians and dentists necessary to provide quality care to the patients in our VA hospitals. The extension of the program which H.R. 8175 mandates will definitely go a long way in assisting the Veterans' Administration in filling its professional ranks. I know the Members all will agree with me when I say that the proper care of our veterans is an extremely important function which must be manned by the most qualified person-

nel. I, therefore, urge that the Members join me in supporting this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER), a member of the committee.

Mrs. HECKLER. Mr. Speaker, having obtained consent to revise and extend my remarks concerning H.R. 8175, a bill to amend the Physician and Dentist Pay Comparability Act of 1975, I now do so.

Mr. Speaker, the basic thrust of this legislation is to extend for 1 additional year the authority granted to the Veterans' Administration by the Congress to enter into agreements with physicians and dentists to pay the special pay authorized by Public Law 94–123. The authority would be extended from September 30 of this year to September 30, 1978.

H.R. 8175 provides that, upon completion of the terms of an agreement authorized by this extending legislation by a physician or dentist in the Department of Medicine and Surgery, an individual can enter into subsequent new agreements. Such additional agreements, however, cannot exceed 4 years. I fully support this provision. This provision is necessary in order to overcome an interpretation of the law by the Veterans' Administration that no agreement or combination of agreements could be entered into which would exceed a total of 4 years. In other words, a physician or dentist who has signed an agreement under current or prior law which will be completed during the extended authorization period may execute an additional agreement not to exceed 4 years even if the total period of any combination of agreements does exceed 4 years.

Mr. Speaker, the approach taken by this legislation to the upgrading of salaries for physicians and dentists is a proven one. Begun with Public Law 94–123, the concept and practice of special pay and special incentive pay to physicians and dentists in order to make their pay more comparable to physician and dentist pay in the uniformed services and the U.S. Public Health Service has worked well for the Veterans' Administration. According to Dr. John D. Chase, Chief Medical Director of the Veterans' Administration, this approach has increased the Department's ability to provide quality health care to eligible veterans.

Prior to initial enactment of this type of legislation, the pay structure of the Veterans' Administration had become a major impediment to the Department of Medicine and Surgery in its attempts to achieve sustained and satisfactory levels of recruitment and retention of physicians and dentists to provide quality care to eligible veterans. It subsequently was determined that the No. 1 priority requirement in this regard was to increase salaries for physicians and dentists and certain other title 38 professional personnel. This has been accomplished.

As I understand it, Mr. Speaker, the President has requested that a limitation be placed on the length of time that special pay agreements may be made, and that this length of time should be no longer than 4 years upon the completion of terms of an existing agreement. H.R. 8175 does accomplish this result; however, it also provides for a cutoff date of September 30, 1981, for all such agreements. We are now working toward a permanent solution to the need for increased pay and salaries as a means of continuing to provide quality health care for our Nation's veterans. Indeed, we on the Veterans' Affairs Committee hope that such a permanent solution can be obtained prior to the expiration of the authority provided in this bill.

I, therefore, am pleased to support this legislation and to vote for its passage.

Mr. ROBERTS. Mr. Speaker, in 1975 we enacted Public Law 94–123 giving the Administrator of Veterans' Affairs authority to pay special and incentive pay to certain physicians and dentists employed by the Veterans' Administration. The pay structure at that time was such that the quality of care provided in VA health care facilities in the future could have been seriously affected due to the inability of the Department of Medicine and Surgery to recruit and retain the very best physicians and dentists to provide quality care for our veterans throughout the country.

Although there has been some improvement, problems continue to exist. The situation in which the VA continues to find itself is not unique with that agency. The military services and the Public Health Service have experienced similar difficulties and the Congress has also found it necessary to provide monetary incentives in order to recruit and retain quality professionals in all the military services.

The Chief Medical Director of the Veterans' Administration, Dr. John D. Chase, has informed the committee that the additional pay incentives provided during the past 2 years have substantially increased the Department of Medicine and Surgery's capability to recruit and retain good physicians and dentists. The agency has been able to increase the number of full-time physicians from 5,440 on June 30, 1975, to 6,047 as of March 31, 1977, an 11.2-percent increase. During the same period the full-time physicians loss rate has decreased about 18.7 percent.

The administration recognizes the need to restructure the current salary structure in order to resolve the matter government-wide.

The subject of compensation for physicians and dentists in Government has been extensively examined by the Office of Management and Budget. Mr. Bert Lance has informed the committee that the administration will submit its legislative recommendation to the Congress early next year. In the interim the administration favors a 1-year extension of the current law giving the administrator authority to enter into agreements with physicians and dentists through September 30, 1978.

I am hopeful we can resolve this problem on a permanent basis during the next session of Congress. In the meantime, we have no alternative but to extend the authority to provide special and incentive pay for another year.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. TEAGUE. Mr. Speaker, I ask for a vote on the bill at this time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill H.R. 8175, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ELIMINATING INSPECTIONS OF MOBILE HOME MANUFACTURING BY VETERANS' AFFAIRS ADMINISTRATOR

Mr. TEAGUE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4341) to amend title 38, United States Code, to eliminate the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs, as amended.

The Clerk read as follows:

H.R. 4341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1819 of title 38, United States Code, is amended—

(a) by striking out the last sentence in subsection (i); and

(b) by striking out all of subsection (k) following the word "financing", and inserting in lieu thereof, "of any mobile homes constructed by a manufacturer which fails or is unable to discharge its obligations under the warranty required by subsection (j) of this section; or in the case of mobile homes which are determined by the Administrator not to conform to the standards prescribed pursuant to subsection (i) of this section."; and

(c) by striking out in subsection (m), "the results of inspections required by subsection (i) of this section,".

SEC. 2. This Act shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. TEAGUE) is recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4341.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Housing, the distinguished gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, the Subcommittee on Housing, which it is my honor to chair, held hearings on June 15, 1977, for the purpose of reviewing the operation of the Veterans' Administration mobile home loan guaranty program and to receive testimony on H.R. 4341, a bill, proposed by the administration, to repeal the requirement, now contained in section 1819(i) of title 38, which provides that the Administrator shall, from time to time, inspect the manufacturing process of mobile homes to be sold to veterans and conduct random on-site inspections of mobile homes purchased with a Veterans' Administration guaranteed loan.

Testimony was received from the Veterans' Administration, the Veterans of Foreign Wars, AMVETS, the Disabled American Veterans, and the American Legion.

On June 22, 1977, the Subcommittee on Housing unanimously recommended H.R. 4341 to the full committee, and on August 2, 1977, the full committee ordered the bill reported with one technical amendment.

In carrying out the purpose the law, the Veterans' Administration has adopted the standards established by the National Mobile Home Construction and Safety Standards Act of 1974. These standards did not exist 7 years ago when the Veterans' Administration began mobile home plant inspections. The 1974 act directs the Secretary of the Department of Housing and Urban Development to establish Federal mobile home construction and safety standards which are applicable to all new mobile homes sold. Section 614 provide that the Secretary shall conduct inspections necessary to enforce such standards. Based on its experience, using these standards in its inspections, the Veterans' Administration believes that they are sufficient to insure that new mobile homes sold to veterans are properly manufactured and are of high quality. For VA personnel to conduct identical manufacturing process inspections amounts to a duplication of effort already being accomplished by the Department of Housing and Urban Development without tangible benefit to veterans.

In addition to the mobile home manufacturing process inspections, and in further compliance with the law, for the past 5 years, the Veterans' Administration has required its field station personnel to contact veterans who have purchased a mobile home after they have resided in the home for 45 to 60 days. The reports of these random onsite inspections show that a high degree of satisfaction is being experienced by the veteran mobile home purchaser with his mobile home unit and the services and facilities incident thereto. Where there are construction complaints very little or no difficulty has been experienced in getting either the dealer or the manufacturer to resolve the problem. Based on the veterans' high degree of satisfaction, as reflected in the results of the random onsite inspections and the ease of resolving any problems, should they occur, the Veterans' Administration and the Veterans' Affairs Committee believe that the time and manpower required do not justify a continuation of these inspections.

Mr. Speaker, the amount involved is a cost savings of $117,000 in fiscal year 1978, and over a 5-year period it will result in a cost savings of $628,800 which is almost three-fourths of a million dollars. If we make savings in the little things fiscally, where we can, without any diminution in quality of service, the big things will fall in line.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to concur fully with the remarks and the explanation given by the gentleman from Georgia.

Mr. Speaker, I rise in support of this bill, which will eliminate the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs. The requirement for the inspection was initially established when the Veterans' Administration began its loan guaranty program for mobile homes. The Veterans' Affairs Committee felt that it was imperative that inspections were necessary to protect the veteran's investment, as well as the Government's. Since that time, the Department of Housing and Urban Development has promulgated regulations which protect mobile home buyers. The committee has found that continued inspections by VA is a virtual duplication of HUD practices. This bill eliminates the VA inspection role. It is legislation which will be beneficial to the Government and the veteran, plus result in a cost savings. I urge that all of my colleagues support H.R. 4341.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. ABDNOR), the ranking member of the subcommittee.

Mr. ABDNOR. Mr. Speaker, I rise in support of H.R. 4341. As my good friend and colleague from Georgia (Mr. BRINKLEY) has explained, this bill is not controversial. It is a simple bill. I will not go into an explanation of the bill for he has already done so. I would, however, like to note that this bill is somewhat unique to most of those we would deal with on the floor. First, it will save money and secondly, and more importantly, it cuts the bureaucracy. I want to take this time to once again commend the Veterans' Administration for recommending that this legislation be enacted. As all of us know, once bureaucracy gets entrenched, it is extremely difficult to jar it out of place. I would hope that this move, as small as it is, will be a trend of the future—one which will trim the bureaucracy and eliminate unnecessary duplication. I urge the members to join me in my support of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE).

(Mr. WYLIE asked and was given permission to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, the gentleman from Georgia (Mr. BRINKLEY) is to be commended for his work and efforts on behalf of this bill. Everyone ought to be for this bill. It saves the taxpayers $628,000 at no cost to veterans, and does so by avoiding duplication.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me.

This is a splendid bill. I hope the sponsor and cosponsors and members of the committee will follow with more of the same kind. They are greatly to be congratulated. I hope it starts a trend.

Mr. ROBERTS. Mr. Speaker, H.R. 4341 would repeal the requirement under current law that the Administrator of Veterans' Affairs inspect the manufacturing process of mobile homes to be sold to veterans and that he conduct random onsite inspections of mobile homes purchased with VA guaranteed home loans.

The Veterans' Administration has adopted the standards established by the National Mobile Home Construction and Safety Standards Act of 1974. That act directs the Secretary of the Department of Housing and Urban Development to establish Federal mobile home construction and safety standards, which are applicable to all new mobile homes sold.

During oversight hearings on the mobile home loan program, VA officials assured the committee that these standards are sufficient to insure that new mobile homes sold to veterans are properly manufactured and are of high quality. The agency further believes that requiring its personnel to conduct manufacturing process inspections is a duplication of effort since HUD is already conducting such inspections. Therefore, based on the veteran's high degree of satisfaction as reflected in the results of random onsite inspections conducted by the VA during the past several years, the committee agrees with the Administration that the time and manpower required can best be utilized elsewhere within the agency.

The elimination of these inspections will result in a cost savings of $117,000 in fiscal year 1978 and a savings of about $628,000 over the next 5 years.

For the reasons I have outlined, I urge that the bill be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker. I have no further requests for time.

Mr. TEAGUE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend

the rules and pass the bill H.R. 4341, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6803) to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

TITLE I—DOMESTIC OIL POLLUTION LIABILITY, COMPENSATION, AND FUND

DEFINITIONS

SEC. 101. For the purposes of this title, the term—

(a) "Secretary" means the Secretary of Transportation;

(b) "fund" means the fund established by section 102;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof, which causes, or poses an imminent threat of, oil pollution;

(e) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo:

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

(h) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(i) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transferring, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(j) "onshore facility" means any facility, other than an offshore facility, located in, on, or under any land within the United States;

(k) "offshore facility" means any facility located in, on, or under the navigable waters or, if the facility is subject to the jurisdiction of the United States, the high seas;

(l) "terminal" means a permanently situated facility, located within the territorial limits of the United States and not owned by any agency of the Federal Government, which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, onshore pipeline, or a pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.);

(m) "refinery" means a terminal which receives crude oil for the purpose of refinement;

(n) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(A) in or on the navigable waters or their connecting or tributary waters within the United States, or on land or waters within the United States immediately adjacent thereto; or

(B) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended by this Act (33 U.S.C. 1501 et seq.);

(B) causing injury to or loss of natural resources belonging to appertaining to, or under the exclusive management authority of the United States; or

(C) when such oil was discharged from a ship which received oil at the terminal facilities of the pipeline authorized by the Trans-Alaska Pipeline Authorization Act, as amended by this Act (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from such ship prior to being brought ashore in such a port; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(o) "navigable waters" means those waters of the United States (including the territorial sea) the general character of which is navigable and which, either by themselves or by uniting with other waters, form a continuous waterway on which vessels may navigate or travel between two or more States or to or from any foreign nation;

(p) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or political subdivision thereof, who asserts a claim;

(q) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(r) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(s) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(t) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(u) "person in charge" means the individual immediately responsible for the operation of a vessel or facility;

(v) "claim" means a demand in writing for a sum certain;

(w) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(x) "owner" means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who, without participating in the management or operation of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(y) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(z) "property" means littoral, riparian, or marine property;

(aa) "removal costs" means—

(1) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, as amended by this Act, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974 as amended by this Act; and

(2) cleanup costs, other than the costs described in clause (1); and

(bb) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator.

(cc) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside such base line which are a part of the Gulf Intracoastal Waterway.

(dd) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel.

(ee) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

SEC. 102. (a) There is hereby established in the Treasury of the United States a Comprehensive Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

(b) The fund shall be constituted from—

(1) all fees collected pursuant to subsection (d);

(2) all moneys recovered on behalf of the fund under section 108;

(3) all other moneys recovered or collected on behalf of the fund, under this title.

(c) In addition to the processing and settlement of claims under section 107, the fund shall be immediately available for the removal costs described in section 101(aa)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

(d)(1) Subject to the provisions of section 202(b), the Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export or entry into the United States, whether for import or trans-

fer to a foreign country, a fee, not to exceed three cents per barrel of oil received. In the case of crude oil received at a refinery by pipeline, the collection of the fee shall be waived, upon the certification by the Secretary to the Secretary of the Treasury that the oil is handled, in the pipeline and at the refinery, in such a manner that it does not constitute a significant threat of oil pollution. Oil upon which a fee has been levied under this paragraph shall not be subject to a subsequent levy hereunder.

(2) The Secreary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall shall become effective on the date specific therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner of a refinery or a terminal pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e) (2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 103. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) loss of use of real or personal property;

(4) injury to, or destruction of, natural resources;

(5) loss of use of natural resources;

(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

(7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel or facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 104(c)(1) or 104(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 104(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized by the claimant;

(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under item 7, by any State or political subdivision thereof;

(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended by this Act (33 U.S.C. 1501 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however*, That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline authorized under the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port; and

(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 106 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

(d) If the number of members of a class in an action brought under subsection (b) (7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

LIABILITY

SEC. 104. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of a facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 101(aa)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 103.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

(2) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

(3) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

(4) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal costs plus $50,000,000; or

(5) in the case of a facility other than one described in clause (4), $50,000,000 or such lesser limit as is established under subsection (d).

(c) There shall be no liability under subsection (a)—

(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractural relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clause (4) of subsection (b). These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents involving those classes. Such limits shall, to the extent practicable, be comparable to those limits established under subsection (b)(3), taking into account the relative potential threat of oil pollution.

(e) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

(f)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 103, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 101(aa), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the damages for which claims may be asserted under section 103, and without regard to the limitation of liability provided in section 104(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 106, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

(i) Nothing in this title, including the provisions of subsection (h) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(j) To the extent that they are in conflict with, or otherwise inconsistent with, any other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 105. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), over three hundred gross tons, which uses an offshore or onshore facility or the navigable waters, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 104(b) of this title and the provisions of subsection (f) and (g) of section 311 of the Federal Water Pollution Control Act, as amended. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations promulgated by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection which, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 104(b) of this title, or $50,000,000 whichever is less.

(c) Any claim authorized by section 103(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, onshore facilities, and offshore facilities subject to liability under section 104, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, co-insurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 106. (a) The person in charge of a vessel or facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

(2) When a source designated under paragraph (1) is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

(2) the source of the discharge was a public vessel or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 107. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 106(c), or

(2) where the owner or operator may recover under the provisions of section 103(b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 106(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 104(b) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c), or (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 106(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 104(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 103(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 108. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be com-

menced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 107(b)(1), or (where there has been a denial of liability) pursuant to section 107(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 104(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund pursuant to section 107(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 106, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 109. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 110. (a) Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 103(a), a claim for which may be asserted under this title, and

(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

PENALTIES

SEC. 111. (a)(1) Any person who fails to comply with the requirements of section 105, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 105(a)(1), and by the Secretary, in connection with section 105(a)(3) and section 105(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the fund to collect the penalty assessed.

(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 106(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

APPROPRIATIONS

SEC. 112. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

(b) The Secretary is hereby authorized to incur indebtedness on behalf of the United States, as provided in section 102(f), to the extent provided, in appropriation Acts, for that purpose.

ANNUAL REPORT

SEC. 113. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

TITLE II—EFFECTIVE DATES; CONFORMING AMENDMENTS

SEC. 201. (a) This section, subsection (d) of section 105, section 203, and all provisions of title I authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of title I, the regulations applicable thereto, and section 202 shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

SEC. 202. (a) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence, by inserting after "any area", the words "in the State of Alaska"; by inserting after "any activities", the words "related to the trans-Alaska oil pipeline", and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 101(n) of the Comprehensive Oil Pollution Liability and Compensation Act.".

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Comprehensive Oil Spill Liability Fund established by section 102 of this Act. The Comprehensive Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act.

(2) The Secretary of the Interior shall certify to the Secretary the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (1) is made. If the Secretary finds that—

(A) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, the Secretary shall waive the collection of the fee required under section 102(d) of this Act on barrels of oil until such time as the total amount of the fees so waived equals the difference between the amount of the transferred assets and the amount of the certified outstanding claims; or

(B) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary shall increase by 2 cents per barrel the fee imposed under such section 102(d) on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(3) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(4) For purposes of paragraph (2):

(A) The term "barrels of oil" means only barrels of oil which would, but for the repeal made by paragraph (1), be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act.

(B) The term "Secretary" means the Secretary of the Treasury.

(c) Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act shall be available to the Secretary for actions and activities taken under section 5 of this Act.".

(d) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321) is further amended as follows:

(1) Subsection (a) is amended by replacing the period at the end of clause (14) thereof with a semicolon and adding a new clause (15) to read as follows:

"(15) 'person in charge' means the individual having immediate operational responsibility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence, by inserting after the word "person", the words "or his employer".

(3) Paragraph (6) of subsection (b) is amended by striking the beginning phrase "Any owner or operator of any vessel," and inserting in lieu thereof the following: "Any owner, operator, person in charge, or employer of such person in charge, of any vessel,". The second sentence of paragraph (6) of subsection (b) is amended by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Paragraph (1) of subsection (c) is amended by (A) deleting the comma after the words "contiguous zone" and inserting in lieu thereof the words "or of the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976, or from an artificial island or fixed structure operating under authority of the Outer Continental Shelf Lands Act,", and (B) adding after the word "vessel," the words "artificial island or fixed structure,".

(5) Clause (II) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate,".

(6) Subsection (d) is amended by deleting all after the words "incurred under this subsection" and inserting in lieu thereof "shall be reimbursed from the fund established under subsection (k) of this section or the fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate. Any expense incurred thereunder for which reimbursement may be had from the fund established under subsection (k) of this section shall be recoverable from the owner or operator of the vessel in accordance with subsection (f) of this section.".

(7) Paragraph (5) of subsection (b) and subsections (f), (g), (h), (i), and (o) are amended by inserting after the word "oil" wherever it appears the words "(other than petroleum, crude oil, or any fraction or residue therefrom)".

(8) Subsection (f) is further amended, in the last sentence of paragraph (1), by inserting a comma after the world "vessel" and by adding immediately thereafter "or against the person furnishing financial responsibility under section 105 of the Comprehensive Oil Pollution Liability and Compensation Act,".

(9) Subsection (g) is further amended, by inserting in the last sentence, after the word "party" the words "or against the person providing financial responsibility for that party under section 105 of the Comprehensive Oil Pollution Liability and Compensation Act,".

(10) Subsection (k) is amended to read as follows:

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provision of subsections (e), (d), (i), and (l) of this section respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom) and hazardous substances. Any other funds received by the United States under this section respecting such discharges shall also be deposited in this fund for these purposes. All sums appropriated to, or deposited in, the fund shall remain available until expended.".

(11) Subsection (l) is amended by deleting the period at the end of the second sentence and by inserting in lieu thereof the words "respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom).".

(12) Paragraph (1) of subsection (p) is amended by deleting the words "Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel," and inserting in lieu thereof "Any non-self-propelled barge over three hundred gross tons that carries oil (other than petroleum, crude oil, or any fraction or residue therefrom) or hazardous substances as cargo or fuel.".

(13) Subsection (p) is amended by deleting the words "vessel" or "vessels" wherever they appear, and inserting in lieu thereof "barge" or "barges", respectively.

(e) The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1), strike "section 18(1) of this Act;" and insert in lieu thereof "section 105 of the Comprehensive Oil Pollution Liability and Compensation Act;".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "fund established under section 102 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(4) Subsection (k) of section 18 is amended to read as follows:

"(k) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively.

SEC. 203. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) is recognized for 20 minutes, and the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the passage of H.R. 6803, the Oil Pollution Liability and Compensation Act. The bill, as we present it to the House today, represents the culmination of many long months of detailed consideration of the problem of providing a comprehensive system whereby the Federal Government can assure the adequate compensation of U.S. citizens who are damaged by oil spills.

For many years, we have been working on methods to reduce oil pollution, and in many respects, we have seen some measure of success. Nevertheless, as long as this Nation needs oil to provide a substantial part of its energy, that oil must be produced, transported, refined, and gotten to market. During those processes, despite our best efforts, oil pollution occasionally occurs. It is doubtful that we will ever be able to guarantee an absolute termination of oil pollution incidents. And so, until we do, it behooves us to provide for the protection of persons damaged by that pollution and to require those responsible for it to assume the burden of furnishing that compensation. This will accomplish those two purposes.

During the long and careful consideration of the bill, there were many issues examined and solutions proposed. We do not contend that this solution is necessarily the only solution that could be devised. However, those of us who have been involved in this long deliberation do contend that this bill is a rational, balanced, and effective bill which will accomplish the purposes intended.

First of all, the bill establishes a compensation fund, to be derived from fees collected at refineries in the United States receiving crude oil where the handling of that oil at the refinery or in the transportation system involves a threat of pollution in the navigable waters of the United States and from fees collected at terminals generally on all petroleum received at the terminal, whether for entry into or exportation from the United States.

That fund would be maintained at a level not to exceed $200 million and, once established, at a minimum level of $150 million. It would be available, without any limitation, to respond to oil pollution injuries to property or naural resources in any case where the owner or operator of a vessel or facility, which was the source of the oil pollution, would not provide the compensation. The single instance under which the fund would not be responsible would be a situation where the oil pollution was caused primarily by an act of war, hostilities, civil war, or insurrection. Or, as to a particular claimant, where his right to recover could be extinguished because of his own gross negligence or willful misconduct.

Second, the bill imposes upon the owner or operator of any vessel or any oil-handling facility a strict liability for oil pollution injuries. Such an owner or operator would be required to settle, within 90 days, any proved claim for damage ensuing from an oil spill from his vessel or facility. In some cases, the

owner or operator would be exonerated from his liability based primarily on situations beyond his reasonable control, such as an unexpected and unpredicted tornado or the independent action of a third party. In such cases, the liability would be shifted to the fund. Also, the owner or operator would be exonerated, as would the fund, where the oil pollution incident was caused by an act of war, hostilities, civil war, or insurrection or, as to a particular claimant, whose rights could be extinguished depending upon his own gross negligence or willful misconduct.

Having placed this strict liability upon the owner or operator, the bill entitles him to limit the extent of that liability in situations where there has been no willful misconduct or gross negligence connected with him; where he has not been involved in any violation of applicable safety, construction or operating standards or regulations of the Federal Government; and when he has cooperated in every reasonable fashion to assist in the furtherance of cleanup activities. The limitation involved was generally revised to reflect the levels at which the owner or operator could obtain the necessary insurance protection, and reflecting the maximum likely damage which a pollution incident would cause under ordinary circumstances. The figures were derived fom past incidents and analyses of the costs attached to them. For instance, in the case of a vessel which does not carry oil in bulk as cargo, the limitation would be $150 per gross ton of the vessel. In the case of inland oil barges, that is, one carrying oil in bulk as cargo but restricted to operation in sheltered waters, the limitation would be $150,000 or $150 per gross ton, whichever is greater. For other vessels carrying oil in bulk as cargo, the limitation would be $250,000 or $300 per gross ton, up to a maximum of $30 million, whichever is greater. For Outer Continental Shelf facilities, the limitation would be the total of removal costs plus $50 million. Finally, for other facilities such as onshore terminals, refineries, and transportation rolling stock, the limitation would be at a level to be established for each class of facility, by the Secretary of Transportation, taking into account the facility's size, type, location, oil storage and handling capacity, and any other matters relating to the likelihood of an oil pollution incident involving them. The limits established would be comparable to the limitation available to vessels carrying oil in bulk as cargo.

In connection with the Outer Continental Shelf production facilities, the Ad Hoc Select Committee on the Outer Continental Shelf, of which I serve as chairman, has recently reported to the House H.R. 1614, the Outer Continental Shelf Lands Act Amendments of 1977. Included in that bill in title 3 is the establishment of an offshore oil pollution fund designed to accomplish the same type of protection for oil pollution emanating from those facilities. The provisions of title 3 are very similar to the overall provisions contained in this bill.

Consideration was given as to whether title 3 should be dropped from H.R. 1614 and the problem left to this comprehensive bill. That resolution was not adopted, because it was felt that it would leave a gap in the Outer Continental Shelf Lands Act amendments until the bill before us today, the comprehensive scheme covering all types of oil pollution threats, is finally enacted into law. It is intended, however, that at the appropriate time in the legislative process, this comprehensive bill and its provisions will supersede the provisions of title 3 of H.R. 1614 and that one comprehensive scheme will cover the entire array of oil transportation activities.

Another specific area which I would like to refer to involves preemption of other laws. As in connection with the Outer Continental Shelf activities, this bill will preempt differing provisions of compensation funds relating to the trans-Alaskan pipeline oil movements and the activities at deepwater ports. Thus, we will have one uniform scheme covering storage and transportation along our navigable waterways, transportation of oil from Alaska to other parts of the United States, the activities at future deepwater ports, and the activities in connection with Outer Continental Shelf production, victims of pollution from any of these varied activities will be governed by one set of rules and will be able to look to one compensation fund for ultimate recourse should claims against the responsible spiller be unsatisfied.

In addition to the Federal law involved, this bill would supersede the many State laws now in eixstence, to the extent that they involve compensation procedures and compensation funds. Unless that is accomplished, the creation of the fund under this bill will simply add one more program to the many conflicting and inconsistent programs now in existence. At the same time, this bill does not in any way infringe upon the rights of individual States to enact their own laws and to provide for their own funds for matters other than liability provisions and compensation of victims. We have made it clear, the instance, by specific language in the bill, that nothing in this bill shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purpose and the prepositioning of oil pollution cleanup and removal equipment. We have further specifically provided that the State has a standing as a claimant for the recovery of any cleanup costs resulting from spills in its waters. And, finally, we provide that the State and local governments have specific standing as claimants for the recovery of tax revenues which are lost due to injury to real or personal property from oil pollution in their respective jurisdictions.

In conclusion, I would like to express my appreciation to the members of the Committee on Public Works and Transportation and to its chairman for the cooperation of that committee in joining us in support of this legislation. Since the bill was jointly referred to our two committees, and since the holding of separate hearings would have resulted in unnecessary duplication, the Committee on Public Works and Transportation decided to use the hearings and report of our committee as the basis for their consideration of the bill.

They reviewed our report and supported the result; but, in doing so, they found the basis for improving several features of the bill and recommended several amendments. Our committee considered those proposed amendments and agreed with them. Subsequently, I placed in the CONGRESSIONAL RECORD, on July 27, 1977, for the information of Members, the language of the amendments proposed. The amendments have been incorporated in the bill which we are considering today.

I urge the support of all Members for the passage of H.R. 6803 as amended.

The material follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 30, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to let you know that the Committee on Public Works and Transportation concurs in the Merchant Marine and Fisheries Committee report (H. Rep. 95–340 Part 1) on H.R. 6803, the "Comprehensive Oil Pollution Liability and Compensation Act". This concurrence is based on the inclusion of several technical and conforming amendments to be added to the bill when it is considered on the House floor and certain legislative history clarifying other provisions, all of which have been coordinated by our staffs and approved by our Committee.

This Committee recommends the following amendments:

(1) Page 2, line 1, strike out "fix 'means' " and insert in lieu thereof "means".

(2) Page 2, line 15, immediately after "or" insert "political".

(3) Page 3, line 2, after "States" insert "while operating in such waters".

(4) Page 8, after line 3, insert the following:

(cc) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside such base line which are a part of the Gulf Intracoastal Waterway.

(dd) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel.

(ee) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(5) Page 8, line 7, immediately before the period insert a comma and the following: "except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund".

(6) Page 8, line 16, strike out "; and" and insert in lieu thereof a period.

(7) Page 8, strike out lines 17 through 25, inclusive.

(8) Page 10, line 9, after the period add the following: "No modified fees paid by any owner of a refinery or a terminal pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination."

(9) Page 32, line 23, before the period insert the following: "to the extent of the admitted liability".

(10) Page 44, line 7, after the period add the following: "The second sentence of paragraph 6 of subsection (b) is amended by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

This Committee further recommends that appropriate legislative history be made on the following matters:

(1) At page 6, line 16—the term "person in charge" requires clarification. A vessel at a terminal may be in the charge of either the owner or operator of the vessel or the terminal. For example, when a barge is loading or unloading at a terminal, it is often the practice that the person in charge is the manager of the dock area rather than the barge operator. In such cases any penalty for a spill should not be leveed on the barge owner or operator.

(2) At page 9, lines 12–20—with respect to the waiver of fees, the provision could be construed to permit the Secretary of Transportation to conclude that oil from deepwater ports being transported in a pipeline passing through the navigable waters (or other waters) is not a significant threat. Legislative history should discourage such a waiver.

(3) At page 14, lines 10–13—Section 103 (b)(4) may be narrowly construed to apply to annual earnings. This would effectively preclude recovery by a seasonal business or employee. The legislative history should clarify that the qualifying "25 percentum" refers to a period relating to the incident rather than to the entire year.

(4) At page 16, lines 4–11—The legislative history should indicate that section 103(c) does not preclude the Attorney General from taking appropriate action with respect to class actions at any time.

(5) Legislative history should reflect that the requirement of evidence of financial responsibility for owners or operators of any vessel over 300 gross tons with respect to hazardous substances is transferred from section 311 of the Federal Water Pollution Control Act to section 105(a)(1) of this Act.

Our acquiescence in order to expedite passage of this very important and urgently needed bill, of course, is not to be construed in any way as an abandonment of the jurisdiction of the Committee on Public Works and Transportation over oil pollution control legislation or any aspect thereof.

I congratulate you and the Committee on Merchant Marine and Fisheries on an excellent job, and it is a pleasure as always to work with you.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

ANALYSIS OF AMENDMENTS PROPOSED BY THE CHAIRMAN, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION—H.R. 6803

The effect of the amendments proposed in Chairman Johnson's letter of June 30, 1977 on H.R. 6803 is as follows:

1. Page 2, line 1—corrects a printing error.

2. Page 2, line 15—makes clear that the State subdivisions referred to are "political" subdivisions.

3. Page 3, line 2—expands the definition of "inland oil barge" to make it clear that a vessel to fall within the definition must actually be operating in "the internal waters of the United States," as well as being certificated to operate only in that area.

4. Page 8, after line 3—a specific definition for "internal waters of the United States," meaning waters lying inside the territorial sea base line, as well as those waters outside the base line, which are a part of the Gulf Intracoastal Waterway.

5. Page 8, line 7—the addition of specific language to make it clear that the $200 million limitation on the fund shall be increased to the extent of monies recovered or collected by the fund.

6. Page 8, line 16—technical amendment to reflect the change made by Amendment No. 7.

7. Deletes paragraph 4 which provides for the payment into the fund of civil and criminal penalties for fines assessed under various Acts. The result would be that such fines or penalties would go to the general treasury. The amendment would avoid relieving oil owners from certain fee obligations resulting from the transfer to the fund of penalties and fines collected from spillers, who, in many cases, are also the owners against whom the fees are assessed.

8. Page 10, line 9—prohibits rebate of any fees required by regulation modification, regardless of a successful legal challenge to that modification.

9. Page 32, line 23—in connection with legal actions where the fund is a party, limits the right of the fund to be dismissed from the action (when the owner, operator, or guarantor admits liability), such right to dismissal extending only to the liability admitted by the owner, operator, or guarantor.

10. Page 44, line 7—technical and conforming in nature in relation to an amendment to the Federal Water Pollution Control Act which expands the civil penalty provisions to a "person in charge" or his employer, in addition to the owner or operator.

In addition to the proposed amendments, Chairman Johnson suggests clarification in the construction of certain provisions. In each of the cases, this clarification can be taken care of by Floor Statements.

STATEMENT BY THE HONORABLE JOHN M. MURPHY, CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES, AT THE COMMITTEE MEETING TO CONSIDER CHAIRMAN JOHNSON'S LETTER PROPOSING AMENDMENTS TO H.R. 6803

The purpose of the meeting this morning is to consider a letter from Chairman Johnson of the Committee on Public Works and Transportation in relation to H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act.

As Members are doubtlessly aware, the bill was referred jointly to our committee and to the Public Works and Transportation Committee. Our committee completed action on the bill and filed a report on May 16, 1977.

After consideration of our report, the Public Works Committee decided that it need not hold separate hearings and file a separate report on the bill. Instead, the chairman of the Subcommittee on Water Resources directed a staff study and a report to the subcommittee on the legislation. Subsequently, it endorsed the bill as reported by our committee, with certain recommendations for amendment. Thereafter, the full Public Works Committee agreed to the recommendation of its subcommittee and directed its chairman to concur in our report, the concurrence to be based upon the inclusion of several technical and conforming amendments to be added to the bill when it is considered on the House floor. Chairman Johnson also requested certain legislative history clarifying some of the provisions.

A copy of Chairman Johnson's letter, together with a staff analysis of the effect of the amendments proposed in the letter, is contained in each Member's folder. The amendments proposed are, in general, technical and nonsubstantial. They do not in any way change the basic concept of the bill.

I hope that the committee can speedily agree to accept the amendments recommended by the Public Works Committee and take advantage of the cooperative manner in which they have handled their part of the legislation. If we can do so, the bill can move promptly to the floor and, since it enjoys wide support from committee members of both the Merchant Marine and Fisheries and the Public Works and Transportation Committees, as well as the maritime industry and environmentalists, I hope that the matter can be disposed of under suspension of the rules.

If any Members have specific questions on the proposed amendments, the committee counsel and subcommittee counsel are available to respond to those questions.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to the distinguished chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I would like to say to the committee chairman that I have had some concern expressed to me that although the bill might well serve the major companies, the intermediate and smaller type businesses might have serious difficulties in meeting the requirements of the bill. I am not sufficiently versed in the matter to be absolutely sure of the validity of the concern which has been expressed to me, but I would hope that the bill would not make it imposible for the intermediate and smaller type businesses to comply with the law and with the probable regulations which might ensue.

I would like, Mr. Speaker, to have the distinguished chairman of the committee comment on that matter to some extent, if he would.

Mr. MURPHY of New York. Mr. Speaker, the committee did consider the problems of major concerns and, of course, independent and smaller interests, and the distinguished chairman of the subcommittee, the gentleman from New York (Mr. BIAGGI), who shepherded the legislation through subcommittee and has contributed so much to it, would be happy to respond to that gentleman's question.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Texas Gas Transmission Corp. has protested, and its officials expressed the concern for themselves as well as for smaller units. They also referred to the $50 million for onshore facilities.

As for the onshore facilities, the bill clearly provides that the Secretary will set the appropriate level for liability limitations; that will be similar to that applicable to tankers, and it, therefore, will be substantially less than $50 million for the offshore facilities. It will be less than $50 million for the offshore facilities, and the bill provides for an insurance study.

I believe this subject deals with the committee chairman's concern. It provides for an insurance study and an interim report to be filed by the President of the United States 3 months after the passage of the bill. Since the requirements of the bill for the certificates will not go into effect until 6 months after passage, the Congress will have 3 months to evaluate the President's report and to determine whether appropriate changes in the bill are needed.

The committee was careful to weigh the impact on every one of the suppliers. A special emphasis was given to the

smaller concerns, and the question of insurance was very critical in our deliberations.

One of our colleagues introduced an amendment that would provide for this study. In my judgment, it was most salutory, and it would put us in a position to alleviate the gentleman's concerns, to provide a fuller response, and also to see how the insurance companies respond.

Historically, insurance companies have always stated that they would not be able to insure, but once after a proposition was being considered, and then after the bill became law, the insurance companies came into the business and did, in fact, insure. That seems to be a pattern of conduct clearly demonstrated by the insurance companies in the past. We are hopeful at least and we believe that they may follow suit in this case.

In any event, again to respond more precisely to the gen'leman's concern, this study will provide us with more accurate, detailed knowledge and then guide us as to what we will do in the interim 3-month period, bearing in mind that we have no intention of imposing undue hardship on any small supplier.

Mr. MAHON. Mr. Speaker, I want to thank my friends and express appreciation for the assurances and the statement which has been made by him with respect to this bill.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I wish to congratulate the Committee on Merchant Marine and Fisheries, the chairman Mr. MURPHY and subcommittee chairman BIAGGI on the excellent job done in developing H.R. 6803. This legislation establishes a comprehensive system of liability and compensation for damages caused by oil pollution. It establishes strict liability for the owners and operators of the sources of oil discharges and creates a backup compensation fund to cover damage claims which are not satisfied. It will supersede duplicative funds and procedures which now exist and provide a more comprehensive and efficient means of taking care of damages caused by oil spills.

H.R. 6803 was jointly referred both to the Merchant Marine and Fisheries Committee and to our Committee on Public Works and Transportation in recognition of our committee's jurisdiction over matters involving oil pollution. After the bill was reported by the Merchant Marine and Fisheries Committee, we reviewed it very carefully. We concluded that a fine job had been done on the legislation and, in order to expedite its passage, expressed our concurrence in it subject to certain technical amendments and clarifying legislative history being made, and subject also, of course, to the understanding that this action not be construed as an abandonment of our jurisdiction over oil pollution control legislation. Merchant Marine and Fisheries Committee agreed to this procedure. I would ask that our letter to the chairman of that committee concerning this matter be inserted in the record at this point. I note that our letter included five items of legislative history on pages 2 and 3 which are to be considered and are made part of the legislative history of H.R. 6803.

I wish to express our deep appreciation to the Merchant Marine and Fisheries Committee for providing us the opportunity to cooperate with them in this matter so as not to delay passage of this very important and needed legislation.

Mr. Speaker, I strongly urge passage of H.R. 6803.

Mr. Speaker, I insert our letter to the chairman of the Committee on Merchant Marine and Fisheries at this point, as follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 30, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to let you know that the Committee on Public Works and Transportation concurs in the Merchant Marine and Fisheries Committee report (H. Rep. 95-340 Part 1) on H.R. 6803, the "Comprehensive Oil Pollution Liability and Compensation Act". This concurrence is based on the inclusion of several technical and conforming amendments to be added to the bill when it is considered on the House floor and certain legislative history clarifying other provisions, all of which have been coordinated by our staffs and approved by our Committee.

This Committee recommends the following amendments:

(1) Page 2, line 1, strike out "fix 'means' " and insert in lieu thereof "means".

(2) Page 2, line 15, immediately after "or" insert "political".

(3) Page 3, line 2, after "States" insert "while operating in such waters".

(4) Page 8, after line 3, insert the following:

(cc) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside such base line which are a part of the Gulf Intracoastal Waterway.

(dd) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel.

(ee) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(5) Page 8, line 7, immediately before the period insert a comma and the following: "except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) and (3) of this section being paid into such fund".

(6) Page 8, line 16, strike out "; and" and insert in lieu thereof a period.

(7) Page 8, strike out lines 17 through 25, inclusive.

(8) Page 10, line 9, after the period add the following: "No modified fees paid by any owner of a refinery or terminal pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination."

(9) Page 32, line 23, before the period insert the following: "to the extent of the admitted liability".

(10) Page 44, line 7, after the period add the following: "The second sentence of paragraph 6 of subsection (b) is amended by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

This Committee further recommends that appropriate legislative history be made on the following matters:

(1) At page 6, line 16—the term "person in charge" requires clarification. A vessel at a terminal may be in the charge of either the owner or operator of the vessel or the terminal. For example, when a barge is loading or unloading at a terminal, it is often the practice that the person in charge is the manager of the dock area rather than the barge operator. In such cases any penalty for a spill should not be levied on the barge owner or operator.

(2) At page 9, lines 12–20—with respect to the waiver of fees, the provision could be construed to permit the Secretary of Transportation to conclude that oil from deepwater ports being transported in a pipeline passing through the navigable waters (or other waters) is not a significant threat. Legislative history should discourage such a waiver.

(3) At page 14, lines 10–13—Section 103 (b)(4) may be narrowly construed to apply to annual earnings. This would effectively preclude recovery by a seasonal business or employee. The legislative history should clarify that the qualifying "25 percentum" refers to a period relating to the incident rather than to the entire year.

(4) At page 16, lines 4–11—The legislative history should indicate that section 103(c) does not preclude the Attorney General from taking appropriate action with respect to class actions at any time.

(5) Legislative history should reflect that the requirement of evidence of financial responsibility for owners or operators of any vessel over 300 gross tons with respect to hazardous substances is transferred from section 311 of the Federal Water Pollution Control Act to section 105(a)(1) of this Act.

Our acquiescence in order to expedite passage of this very important and urgently needed bill, of course, is not to be construed in any way as an abandonment of the jurisdiction of the Committee on Public Works and Transportation over oil pollution control legislation or any aspect thereof.

I congratulate you and the Committee on Merchant Marine and Fisheries on an excellent job, and it is a pleasure as always to work with you.

Sincerely,
HAROLD T. (BIZZ) JOHNSON,
Chairman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 6803, a comprehensive measure governing compensation for damage and cleanup costs resulting from oil pollution. It is a sensible piece of legislation, striking a balance between energy and environmental objectives, and has won widespread support.

It has the effect of replacing or coordinating a number of existing State laws, increasing overall the individual liability of parties responsible for oil spills, broadening the legal grounds for claiming damage, and extending the principle that oil-handling operations which create the danger of spills bear the responsibility for damages.

In urging its enactment, I particularly wish to say a good word about the work of the Committee on Merchant Marine and Fisheries, which shares jurisdiction with the Committee on Public Works and Transportation in this area.

As ranking minority member of the Public Works Subcommittee on Water Resources, I can tell you we examined H.R. 6803 closely upon its joint referral to us. Rather than subject it to formal markup—we have been immersed in many other matters, including other aspects of water pollution control—we supported it on the understanding that certain technical and clarifying changes would be made. I note that Mr. SNYDER of Kentucky a member of both committees was most helpful during the committees' efforts to coordinate this bill.

These changes have been made in an outstanding example of informal cooperation between members and staffs of two committees sharing jurisdiction over a priority area of public policy, and I therefore urge enactment of the bill.

As I mentioned, this is a comprehensive bill covering both cleanup costs and liability for damages. Liability for damages would be unlimited in case of willful or gross negligence, limited in other cases, and nonexistent when a spill resulted from war or "natural phenomenon" impossible for the operator to avoid.

For offshore oil production wells, the bill requires total costs of removal of spilled oil, plus damages up to $50 million. For other facilities including deepwater ports, a maximum liability for cleanup and damage combined is $50 million. The Secretary of Transportation will set limits for different classes of facilities comparable with the risk of oil pollution.

The bill also imposes costs of cleanup and damages combined as follows on other potential sources of spills: Ocean-going vessels not carrying oil as cargo, $150 per gross ton; inland oil barges, $150,000 or $150 per gross ton, whichever is greater; ships carrying oil in bulk, $300 per gross ton up to a maximum of $30 million.

Grounds for an individual party to claim damages include cleanup costs incurred by an individual claimant, and losses due to destruction of property or its use.

Loss of the use of natural resources is newly added as grounds for claim of injury, which would compensate fishing interests where loss of marine life resulted from a spill: also recoverable is loss of profits suffered by a commercial operation damaged by a spill.

Another new basis for claims is injury to natural resources, which could be invoked by the Government with no requirement that damage to any specific individual be shown.

This bill authorizes establishment of a fund to be maintained at a level between $150 million and $200 million and financed by a tax of up to 3 cents per barrel of oil, levied at its point of entry, such as a refinery or terminal.

The fund would finance damage and cleanup costs beyond the liability of individuals responsible for spills, who would be required to maintain insurance up to the limits of their liability. If claims exceed amounts in the fund, it would borrow additional amounts from the Treasury.

Finally, the bill includes conforming amendments to the Trans-Alaska Pipeline Authorization Act, the Deepwater Ports Act of 1974, the Intervention on the High Seas Act, and the Federal Water Pollution Control Act, to reflect the relationship of those acts to the provisions of this bill.

As the foregoing suggests, this bill is indeed a comprehensive piece of legislation and should be enacted. The Merchant Marine and Fisheries Committee did a good job, my committee discharged the responsibilities conferred by its continuing jurisdiction in this field, and the result is a bill which we can all support. I urge its passage.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I rise in support of H.R. 6803.

I have previously cosponsored legislation to increase the liability of spillers of oil in our coastal and inland waterways. As have other members of the Committee on Merchant Marine and Fisheries, I have been working toward a solution to this problem for some time.

For this reason especially, I want to commend my distinguished colleague from New York, Mr. BIAGGI, chairman of the Coast Guard Subcommittee on which I serve, for his leadership and diligence. The bill which we are here to consider is a good bill, and it is due to the chairman's work that we are provided with this opportunity to improve the present law governing oilspill cleanup and liability.

Ocean City, Md., is one of the most recent coastal cities to be victimized by the blight of oilspills which has become all too common a national phenomenon, although the problem was slight and short lived. A primary reason these spills have become so common is because of vagueness in the present law which assigns risk against those who discharge oil in the open waters. The bill we are here to consider solves this problem by imposing strict liability on the owner-operator of any vessel or facility source of oil pollution. By doing this, the liability acts as an incentive which will lead to fewer discharges and to less damage. It is certainly not too difficult a principle to understand, that anyone who causes pollution damage ought to be made to pay for it. The creation of a compensation fund, as provided for in H.R. 6803, will assure that money is available to finance cleanup costs and any other assumption of liability caused by an oilspill or similar catastrophic event. It does this, of course, without having to create a new level of Federal bureaucracy or having to further tax the already beleaguered American citizen.

The past has been marked by a crazy-quilt patchwork of laws intended to cover marine hazards of every variety, including oilspills. However, existing laws like the Water Quality Improvement Act of 1970, the Deepwater Port Act of 1974, and other outer continental related laws do not effectively address this serious problem. Only with the passage of this legislation, the Comprehensive Oil Spill Liability and Compensation Act, will the Congress have clearly demonstrated the importance of providing a strong incentive for the prevention of future oilspill tragedies.

These tragedies highlighted an additional problem, a problem directly affecting the oil spill victims. As we have so often read, oil spills have been caused without known sources of the spill. Yet no present law effectively covers the oil spill victims of such unknown-source occurrences, and a means of compensation did not exist for those victimized. H.R. 6803, however, extends the claims for damage in such occurrences to all economic costs.

Mr. Speaker, I have never thought that Americans wanted a lower rather than a higher standard of living; and therefore, I have never thought that we could settle for less, but in fact must have increased oil and energy production. This is certainly essential for our Nation's economy.

With such increased energy production, we must have increased safeguards against oil spills and pollution. We must have increased means to quickly seek the recovery of losses in those instances where spills occur. The bill now before us is a major step in assuring all of this, and I encourage its quick passage.

Mr. MURPHY of New York. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. BIAGGI), the chairman of the subcommittee.

The SPEAKER pro tempore. The gentleman is recognized for 4 minutes.

Mr. BIAGGI. Mr. Speaker, it is with great personal satisfaction that I rise today to urge the passage of H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act. This bill is the result of extensive, dedicated efforts by many individuals, all of them devoted to the principle of providing for a simple and yet comprehensive system to protect the innocent victims of oil spills.

I need not remind this House of the dependence of our national economy on the use of oil and oil products. This administration and previous administrations, this Congress and previous Congresses have devoted untold numbers of hours to an attempt to develop a rational national energy policy. Hopefully, the goal will be reached in the near future; but, whatever the policy developed, there is no question that looming large in that policy are petroleum and petroleum products which provide a basic support for our national economy and our national life.

To obtain that oil and to utilize it effectively requires massive movements by all forms of transportation, and with those movements comes the constant possibility that some of that oil will escape and cause pollution problems, resulting in damage inflicted on innocent victims.

Since the oil must move, must be transferred, and must be processed, all of which involve the possibility of equipment failure and human error, it behooves us to take every reasonable meas-

ure to make these necessary operations as safe and foolproof as possible. At the same time, we must prepare to face the consequences of those instances when our best prevention efforts are not 100 percent effective.

One of the most visible areas of operations where pollution occurs is in transportation of the crude oil to the refineries and the subsequent distribution of the refined products to the marketplace. While petroleum and petroleum products move by many modes of transportation, the greatest bulk of the movement is in ships which carry about 2 billion tons of oil each year, almost 15 percent of which involves movement through or into U.S. coastal waters. We simply cannot permit that volume of oil to be moved without the most rigid prevention measures to avoid its loss, not only because of the threatened damage involved in such loss but also because of the actual waste of the oil itself.

In the past 10 years, as the movement of oil has increased, and as the size of the transporting tankers has grown, more and more attention has been devoted both internationally and nationally to devising adequate, feasible prevention measures. While such efforts have at times seemed to be excruciatingly slow, statistics will demonstrate that they have been, at least partially, successful. Although there was an increase of 50 percent in the amount of oil carried over a recent 5-year period, the total of all oil lost from all causes remained approximately constant. Recent statistics indicate that the annual loss is now decreasing.

As we move forward to insure better construction of tankers, provided with more reliable equipment, and manned with better trained and more competent personnel, subjects which our committee is now pursuing, we must not ignore adequate provisions for those occasions, hopefully rare in number, when oil pollution occurs despite everyone's best efforts. This bill is directed toward that goal.

Under present law, in the absence of statutory provisions governing oil spill damage liability and compensation, injured individuals—whether shorefront property owners, municipalities or fishermen dependent upon natural resources—must either bear the costs of the damage themselves or must pursue their remedies in long, drawn-out litigation with the spillers.

With the *Torrey Canyon* incident in 1967, when approximately 100,000 tons of oil were spilled into the ocean off the British coast, as a result of the grounding and subsequent destruction of the vessel, international attention was directed to the problem. With uncharacteristic rapidity, work was begun in the intergovernmental Maritime Consultative Organization (IMCO) to provide adequate solutions. Not only did that organization reach agreement on more stringent provisions for the oil pollution convention of 1974, related primarily to operational oil discharges, but an international conference, meeting in November 1969, concluded with the signing of two conventions, one of which has been ratified by the United States and implemented in the 93d Congress. That convention extends to coastal States the right to intervene on the high seas and to take appropriate measures to prevent or minimize oil pollution resulting from vessel casualties.

The second of the two conventions addressed itself to liability for pollution damages, providing that the owner or operator of a vessel from which oil is spilled would be strictly liable for the damages caused by that spill, up to a limitation of approximately $160 per ton of the vessel size, with a maximum of $16.8 million per incident. That convention, while now in effect internationally, has never been ratified by the United States because of the low liability limits.

In 1971, a new conference was held which resulted in a convention for the establishment of an International Compensation Fund which, in effect, made cargo owners liable as a backup for the spiller's liability, up to a total of $36 million per incident.

Domestically, the first significant Federal legislation relating to liability was the Water Quality Improvement Act of 1970. That act, which amended the Federal Water Pollution Control Act, included a legislative requirement for a national contingency plan for the removal of discharged oil in our navigable waters and established liability for removal costs. It did not address the question of any damages other than removal costs.

In subsequent years, the Congress, in the enactment of the Trans-Alaskan Pipeline Authorization Act and the Deepwater Port Act of 1974, established compensation funds, differing somewhat in the two acts, which would be available to respond to other damages, as well as cleanup costs, for oil pollution resulting from vessels moving oil on the marine leg from the trans-Alaska pipeline to other areas of the United States, and oil pollution from deepwater ports or from the vessels using those ports.

Recognizing the deficiencies of approaching the problem piecemeal, the Congress, in the Deepwater Port Act of 1974, directed the Attorney General, in cooperation with various governmental bodies, to study the matter and make recommendations for legislation to provide a comprehensive system for liability and cooperation. As a result of the Attorney General's study, legislation was proposed in the 94th Congress to establish just such a system.

Hearings were commenced in October 1975, considering 12 proposals on the subject. Eight days of hearings were held, with testimony received from 10 Federal departments and agencies; State representatives; and from 10 groups representing the maritime community, the oil industry, the insurance industry, and environmental interests. The Committee on Merchant Marine and Fisheries ultimately reported a bill to the House; but, because of the late date during the Congress on which the report was filed, final action could not be completed.

In the present Congress, the Subcommittee on Coast Guard and Navigation began the hearing process anew. Four additional days of hearings and countless conferences were held on the subject, and 17 bills were considered, all of which were based on the bill reported in the 94th Congress but differing in some degree on the details.

At the conclusion of the hearings, the subcommittee met in 3 days of markup sessions, incorporated a number of individual changes to the basic bill, and finally approved a clean bill, which is now before the House. The Committee on Merchant Marine and Fisheries considered the bill on May 4, 1977 and ordered the bill, as amended, to be reported by unanimous voice vote.

Subsequent to the action of the Committee on Merchant Marine and Fisheries, the Committee on Public Works and Transportation, to whom the bill was jointly referred, reviewed the action of the Committee on Merchant Marine and Fisheries and, on June 29, 1977, again by unanimous voice vote, directed its chairman to address a letter to the Committee on Merchant Marine and Fisheries, endorsing its bill as reported, subject to the inclusion of several clarifying amendments.

On July 13, 1977, the Committee on Merchant Marine and Fisheries adopted the recommended amendments from the Committee on Public Works and Transportation and has incorporated those amendments in the bill now before the House.

I would like to express my appreciation to the Committee on Public Works and Transportation and, particularly, to its chairman, the gentleman from California—the honorable HAROLD T. JOHNSON—and to the chairman of the Subcommittee on Water Resources, the gentleman from Texas—the honorable RAY ROBERTS—for the manner in which they have extended their cooperation to our committee in moving this landmark legislation forward. It is refreshing to be able to work in such a manner with another committee whose concern and dedication to resolve this vital problem is certainly no less than our own. They have reviewed the work which we have done and placed their stamp of approval on it, subject only to the inclusion of certain clarifying provisions which they felt desirable to make the bill even a better one. Our committee was happy to adopt their suggestions, and is gratified for the support and cooperation which they have extended.

The concept of the bill is a simple solution to a complex problem. As presented to you today, it satisfies the needs of all the divergent groups which are concerned—the Government, the transportation interests, the oil industry, the insurance industry, the environmentalists and above all, the thus-far relatively unprotected citizen. All of these groups have indicated their support for the bill. I doubt that any of them would agree with every detail, but I am sure they will all endorse the overall product. In my opinion, this simple fact demonstrates clearly that the bill is a workable, balanced, and rational piece of legislation. We have provided every legitimate interest with what they need, even

though we may not have provided any of them with everything they desire.

The bill provides for the imposition of strict liability on the owner or operator of vessels or facilities involved, in any way, in the handling of oil. Regardless of the lack of negligence on his part, the owner of an oilspill source must satisfy the claim of individuals, groups, or governmental entities for oilspill damages caused by pollution from his vessel or facility, and he must furnish proof of financial responsibility as specified in the bill. He is exonerated from such liability in some cases where the cause of the spill is demonstrably beyond his control, such as when the pollution incident is caused primarily by an act of war or similar incident, or by a natural phenomenon such as an earthquake or other violent activities of nature which are unexpected and unforecast—a suddenly developing hurricane or an unforeseen tornado.

In addition, his liability is reduced, in total or in part, as to a particular claimant has been guilty of causing the incident, or his economic loss, through his own negligence or willful misconduct. Finally, the owner or operator is exonerated to the extent that the incident is caused by a third party, including a governmental entity—who or which is not subject to the owner or operator's control.

Having imposed upon the owner or operator this strict liability, the bill recognizes that such an owner or operator may have done everything possible to prevent the spill, and may have done everything reasonable to cooperate in the furtherance of cleanup activities. Therefore, when the primary cause of the incident is not in any way attributable to the owner himself, he is entitled to limit his strict liability to certain levels. Those levels vary, depending upon the types of vessels or facilities involved.

In the case of a vessel which does not carry oil in bulk as cargo—such as a passenger ship which may spill fuel oil—the limitation is based upon a figure of $150 per gross ton of the vessel.

In the case of an inland oil barge—one which operates solely on the internal waters of the United States where cleanup can be accomplished more quickly and more effectively—the limitation is based upon $150,000 or $150 per gross ton of the barge, whichever is greater.

In the case of other vessels which carry oil in bulk as cargo, the available limitation is $250,000 or $300 per gross ton, whichever is greater, up to a maximum of $30,000,000 per incident.

In the case of an outer continental shelf—OCS—production facility, the limitation available is the total of all removal costs plus $50,000,000.

Finally, in the case of a facility other than an OCS facility, the limitation is that prescribed in regulations of the Secretary of Transportation, at a level no higher than $50 million.

In establishing such limitations for various types of facilities, the Secretary is enjoined to take into account the size, type, location, handling capacity, and other matters relating to the pollution threat; and, taking all these factors into account, is directed to establish limits for classes of facilities comparable to the limitation available to vessels, other than inland oil barges, carrying oil in bulk as cargo.

The issue on the limitation of liability feature of the bill was one which involved many differing viewpoints. Some interests opposed the idea of a "floor." Some proposed higher "floors." Some opposed the maximum limitations involved for facilities and for tankers. Others proposed a lower ceiling. Some interests proposed that all vessels and facilities be treated alike. Others proposed that the bill itself, in addition to differentiating between vessel types, should also differentiate and provide for specific maximum limitations for each of the various classes of facilities which handle oil.

The ultimate result on the liability provisions, the exoneration provisions, and the limitation provisions were arrived at by a careful consideration of all factors involved. It involves a recognition of individual responsibilities, and a reasonable level of limitation reflecting not only the practical factor of need but also the ability to obtain the necessary insurance coverage for the operations involved.

Although there have been several well-publicized spills of a major nature, thus far none of them has involved a spill where the total settlement exceeded the limitations provided in the bill. That is not to say that one will never occur. But if it does, the victims of that spill are not left unprotected, since the compensation fund provided will serve as a backup for the owner or operator's liability, thereby shifting, in catastrophic cases, a part of the liability burden to the oil owner, from whom the compensation fund will be derived.

As to the exoneration of an owner or operator because of the conduct of a third party, the solution is a pragmatic one. That defense could have been omitted, and the owner could have been required to respond, leaving him to take appropriate recourse against the responsible third party. This procedure would have created a more complex problem in the early settlement of the claim by the owner, and therefore, the committee decided that it would be better to exonerate the owner in such a case, to require the fund to settle the claim and authorize the fund later to pursue the responsible third party through appropriate legal action. If the third party turned out to be judgment-proof, the burden would be shifted to the oil owner, through the fund, rather than to impose it upon the innocent owner or operator.

A second subject which concerned the committee involved the question of preemption of other compensation laws, both Federal and State. Many of the States expressed their concern over the preemption issue, believing that it would severely handicap those States which have existing laws on the subject of oil pollution.

As to the Federal laws, there are two presently in existence which would be superseded. The first of these is the Trans-Alaska Pipeline Authorization Act. In that supersession, the new bill establishes a higher liability on the vessels involved, from $14,000,000 to $30,000,000, and also provides for an unlimited fund response rather than the $100,000,000 fund liability under that act. The second law involved is the Deepwater Port Act of 1974. H.R. 6803 will provide for the same liability for the deepwater port facilities as provided in that act and will increase the limitation level for vessels utilizing the ports from $20,000,000 to $30,000,000. In connection with the Outer Continential Shelf facilities, the bill for the first time will impose by law a liability which is similar to that presently provided by regulations as to the unlimited liability for cleanup costs. In addition, the bill provides for liability for other damages with a permissible limitation of $50 million. In that connection, the language of the report, at the top of page 8, is inaccurate. The committee realizes that this new requirement could cause some difficulties in connection with obtaining insurance. However, this liability is similar to that already contained in the Deepwater Port Act of 1974 and, thus far, there is no indication that it is expected to cause difficulties.

The history of the insurance industry with all oil pollution has been a checkered one. When the Federal Water Pollution Control Act was first amended to include insurance requirements for vessels, the insurance industry protested that the amounts envisioned would probably not be insurable. And yet, after passage of that bill, the insurance became available. The same situation occurred in connection with the regulations concerning liability for oil spills from Continental Shelf facilities. Faced with lack of ready commercial coverage, eight major oil companies created an insurance pool providing for coverage up to $100 million. Subsequently, and perhaps influenced by the establishment of the oil company insurance pool, the commercial market consented to cover offshore pollution risks and now writes policies up to $22 million for such incidents.

The committee is somewhat uncertain as to the future actions of the insurance industry after the passage of the present bill. For that reason, it included section 105(d), which directs the President to conduct a study as to the adequacy of private oil pollution insurance protection. He is to determine whether it is available on reasonable terms and conditions to provide the owner and operator with the means to satisfy the requirements of the bill for furnishing certificates of financial responsibility. If the interim Presidential report, to be made 3 months after passage of the bill, indicates that the insurance industry is not willing to provide the necessary insurance protection, it will be necessary to consider alternatives prior to the time that the bill requirements actually become effective, 6 months after passage.

Those alternatives would include some change in the requirements for furnishing certificates of financial responsibility

and possibly the creation of a form of governmental insurance or reinsurance. We believe that this will adequately satisfy the present concerns as to these new requirements for offshore production facilities.

Further, in connection with the Outer Continental Shelf activities, there is now pending a report on H.R. 1614, the Outer Continental Shelf Lands Act Amendments. That bill also includes requirements for strict liability for damages for shelf spills. Should H.R. 6803 be enacted into law, it is anticipated that it would supersede the provisions of H.R. 1614 in regard to the liability and compensation fund so that there would be one comprehensive fund, as this bill envisions.

As to the State preemption problem, this bill preempts only those parts of State law which provide for compensation funds for damages covered by this bill. It thereby replaces a conglomeration of State provisions which presently serve as a handicap to the movement of interstate and foreign commerce.

The existing State laws, originating without coordination among the States, provide for different liabilities, different defenses, different coverage, different methods of establishing compensation funds, and different levels of permissible limitation. In addition, the various State laws differ considerably in requirements as to proof of financial responsibility. As a result, the free movement of vessels is constrained to a degree which is detrimental to the national interest.

Further, State laws are limited in application because of State jurisdiction. Under existing State laws, an oilspill from a vessel outside the State's jurisdiction, intruding into the State's territory, means that the State victims are unprotected.

To bring order out of that chaos, this bill establishes one uniform scheme for liability, provides one fund for backup protection, and guarantees to the States the recovery for damages to State property, restitution for tax losses to State and local governments, and compensation for State cleanup costs. State citizens are completely protected. There is presently no State law which provides the same measure of protection.

In addition, I may say that, despite the erroneous interpretation of the language of the bill, the bill specifically does not intrude upon any State's right to conduct cleanup activities, nor upon any State's authority to impose taxes or fees in order to finance necessary cleanup preparation and equipment. Any belief that this bill is an unwarranted invasion of State prerogatives is simply not based upon the provisions of the bill. Without its limited preemption feature, this bill would not improve the present chaos—it would compound it.

Finally, the bill establishes a compensation fund derived from fees on oil movements. The fund will be maintained at a level not to exceed $200,000,000; and, once that level is reached, at a level not less than $150,000,000. In the event that the fund should ever be unable to settle proved claims, the Secretary of Transportation is authorized to issue appropriate obligations of the United States in order to obtain funds necessary to satisfy such claims. Those moneys will subsequently be repaid as the fund once again reaches adequate levels.

There is one more matter which I would like to call to the attention of the House. In section 202(d)(2) of the bill, there is an amendment to the Federal Water Pollution Control Act, the purpose of which is to extend to the employer of a person in charge the same immunity from criminal prosecution under other acts as is enjoyed by the person in charge who is required to report, under penalty if imprisonment or fine, any oilspill emanating from the facility of which he is in charge. In the bill report, it is stated that the amendment would make the employer subject to criminal penalty if the person in charge fails to provide the required notification. That statement is simply not correct, and should not have been contained in the report. In order to make the legislative history clear, I would like to make the correction at this time.

Mr. Speaker, I am proud of the part that I have played in producing this bill. I am grateful to the other members of my subcommittee, to the members of the Committee on Merchant Marine and Fisheries, and particularly, to its distinguished chairman, the gentleman from New York—the Honorable JOHN M. MURPHY—for their dedicated efforts. And I express my appreciation to the members of the Public Works and Transportation Committee for their cooperation in this matter. Without reservation, I support this bill as an outstanding piece of landmark legislation, long overdue, and I urge the House to pass it by an overwhelming vote.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Texas.

Mr. HALL. Mr. Speaker, in looking through the report I do not find that there is a right of a trial by jury provided for in this bill. Is that correct or not?

Mr. BIAGGI. That is correct.

Mr. HALL. Is there any particular reason why there would not be the right of a trial by jury?

Mr. BIAGGI. If the gentleman is talking about third party actions, or going to court, that is within the judicial realm. If the gentleman is talking about violations of the regulations in respect to the Coast Guard then there is an administrative procedure provided. I do not know exactly which area the gentleman is referring to.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield so that I might attempt to answer that question.

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, there are no criminal penalties in this bill, and that is the reason that the right to a trial by jury is not included.

Mr. HALL. Would it be a rule 9–H case under admiralty law if a suit were to be brought?

Mr. MURPHY of New York. I believe it would come in under the administrative provisions.

Mr. HALL. Under the administrative provisions it would not be a rule 9–H case?

Mr. MURPHY of New York. It would come in under administrative law and any appeals, of course, could be made through the administrative law provisions.

Mr. HALL. But there would not be the right of a trial by jury under any circumstances under this bill.

Mr. MURPHY of New York. There would not be and the reason for that is that there are no criminal conditions.

Mr. BIAGGI. In relation to the administrative procedure, once a final determination has been made administratively and there is an appeal from that decision, then the plaintiff or whomsoever the aggrieved party is can go to court.

Mr. HALL. But the parties cannot ask for a trial by jury as I understand it.

Mr. BIAGGI. I cannot respond to that with any certainty.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HALL. Mr. Speaker, could the gentleman be yielded an additional minute?

The SPEAKER pro tempore. The chair will state that the time of the gentleman from New York (Mr. MURPHY) has expired and that the gentleman from California (Mr. DON H. CLAUSEN) has control of his own time.

Mr. HALL. I thank the Speaker.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. TREEN), the ranking minority member on the Subcommittee on the Coast Guard and Navigation.

Mr. TREEN. If the gentleman wishes to direct his question, I will try to respond.

Mr. HALL. If the gentleman will, please.

Mr. TREEN. Any action involving navigable waters would be in the nature of an admiralty action, in which there is not a right to a trial by jury under our Constitution anyway.

Mr. HALL. The question I ask is, Would this be a rule 9(h) case, which is an admiralty suit, where a party does not have a right to a trial by jury, or would it come under the Jones Act where a party would have a right to ask for a trial by jury?

Mr. TREEN. I will have to confess that I am not sufficiently familiar with that aspect of the statute the gentleman is referring to. I cannot answer that. Maybe somebody else on the committee can.

Mr. HALL. Why is there not the right to a trial by jury supplied here, if it is not an admiralty suit under rule 9(h)?

Mr. TREEN. If, under the Constitution, there is not a right to a trial by jury, of course, under this legislation we can provide or not provide a right to a trial by jury.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

There is one provision in this bill that deals with criminal penalties—if the spiller fails to report. In that case the spiller would be charged criminally, and hence would be subject to a trial by jury. But this bill does not address itself in any form or fashion to administrative procedures.

Mr. HALL. But it does apply, except to a civil remedy in the event that one would go to court, because the gentleman has indicated here the jurisdiction and venue of these cases would be in the Federal district court.

Mr. BIAGGI. That is true.

Mr. HALL. Where the injury occurred—on page 31 of the report—or where the defendant resides or is found, or in the case of a business association, where it has its principal office. The complaint need not allege diversity, on the amount in controversy.

Mr. BIAGGI. But he would have the same rights under this bill as exist in law today when he applies for civil remedies in the courts. This bill does not create anything new in that regard.

Mr. HALL. I understand, but does it take away the right of trial by jury?

Mr. BIAGGI. This bill does not deal with any facet of the jurisprudence system.

Mr. HALL. Of course, section 109 of H.R. 6803 sets out the jurisdictional and venue requirements as being in U.S. district courts, and deals with the civil liabilities of a party who could be made a party to a suit. The point I am trying to make, as indicated by the gentleman from Louisiana, is that if this is a suit to be brought in admiralty, which is a rule 9(h) case, there would not be a right of trial by jury. If it is brought, however, under the Jones Act of the United States Code, there would be a right of trial by jury. What I seek to determine is, is there any language in this bill that indicates whether a suit to be brought in court would be brought in strict admiralty jurisdiction or under the general statutory provisions of the United States Code?

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield the gentleman from Louisiana 2 additional minutes. I would like to have the gentleman finish his statement.

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield, I will respond to that question.

There is nothing in this bill that was intended to alter any portion or make any addition to the existing law. There is no diminution, no accretion, and no amendment.

Mr. HALL. Mr. Speaker, if the gentleman will yield, we should develop legislative history in view of what the gentleman from Louisiana said. If this matter is filed in a district court having jurisdiction and venue of the suit, will that suit be brought as a suit in admiralty where there is no right to a jury trial, or could it be brought as a Jones Act case where there is a right to request a trial by jury? I think it is very important to know whether or not when the parties go to court they will have a right to trial by jury or they will not have that right.

Mr. BIAGGI. Mr. Speaker, if the gentleman will yield further, if it is against the vessel, the suit goes to admiralty. If the suit is against the owner it is not admiralty.

Mr. HALL. Will the gentleman repeat that? If it is against the vessel, it goes where?

Mr. BIAGGI. If it is against the vessel, it goes to admiralty.

Mr. HALL. Which would be without a trial by jury. That is a rule 9(h) position.

Mr. BIAGGI. Yes, that is right. If it is against the owner, it is not admiralty.

Mr. HALL. Of course one would have to bring a suit against the owner, whoever owned the ship, who is responsible for the spill, would that not be so? Would that give the right to trial by jury?

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Louisiana. I would like to have the gentleman finish his statement.

Mr. TREEN. Mr. Speaker, I do have a statement to make, but I think the gentleman raises a very important question. I do not think the bill really addresses itself to that particular question. If the Jones Act applies I do not think there is anything in the legislation that would obviate that. If it does not apply, it does not. In other words, I do not think the legislation addresses that—and I would be pleased if anyone disagrees with me if he will correct me. If it is the type of action in which a jury would be permitted, then I believe it would be permitted. If it is not, it is not.

I would hate to have that become part of the legislative history because, frankly, I am not versed enough in admiralty law to be in any way definite on it.

I support this legislation and I commend the chairman of the subcommittee, the gentleman from New York (Mr. BIAGGI), for his untiring effort, and the staff, both the majority and the minority staff that worked on the bill, and of course the chairman of the full committee, the gentleman from New York (Mr. MURPHY). I think it is a good piece of legislation.

The use of petroleum in the United States has played a major role in the tremendous growth of our national industrial complex. The continued need for oil for the foreseeable future is unquestioned. Currently, the United States imports about 45 percent of its oil requirements. It is estimated that by 1980, oil imports will increase to about 70 percent. This need to import large volumes of oil could present a serious threat of oil pollution to our waters.

The grounding of the tanker *Torrey Canyon* off the southeast coast of England in 1967, and the blowout of the production platform off Santa Barbara, Calif., in 1969, focused public attention on the problem of oil pollution. Then existing law proved inadequate to handle the claims arising from oil spills. First, recovery under common law theories of negligence proved difficult. In order to recover, claimants had to identify the spiller and had the burden of proving that the spiller failed to exercise reasonable care to prevent the spill. Second, statutory law allows a vessel owner under certain circumstances to limit his liability to the value of the vessel and its cargo after the incident. In the case of collisions, groundings, or other circumstances which result in extensive oil spills, this value may often be little or nothing since the vessel is destroyed and the cargo lost.

In response to these problems, Congress has enacted several statutes which contain provisions governing oil-spill liability. These include: the Federal Water Pollution Control Act; the Trans-Alaska Pipeline Authorization Act; the Deepwater Port Act; and the regulations implementing the Outer Continental Shelf Lands Act. In addition, approximately one-half of the States have enacted legislation concerning liability for oil spills. This patchwork of laws contained sometimes conflicting provisions relating to oil pollution liability and compensation.

The comprehensive oil pollution liability and compensation bill consolidates the provisions of these many acts with regard to damages caused by oil pollution.

Damages are defined in the bill to include economic losses from oil pollution and include: removal costs; injury or destruction of real or personal property; loss of use of real or personal property; injury to or destruction of natural resources; loss of use of natural resources; loss of profit or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and loss of tax revenues for a period of 1 year due to injury to real or personal property.

The bill establishes strict liability for the owners or operators of the sources of oil discharges for these cleanup costs and damages. However, the bill recognizes that limitation of liability should be provided to owners or operators who are in effect "innocent of any personal faults."

Basically, the amount to which an owner or operator may limit his liability depends on whether the source is: an offshore facility, total of removal costs plus $50 million; a facility, $50 million or such lesser limit as is established by the Secretary of Transportation; a ship, $250,000 or $300 per gross ton—up to a maximum of $30 million—whichever is greater; an inland oil barge, $150,000 or $150 per gross ton, whichever is greater; or a vessel, $150 per gross ton.

The bill provides that the owner or operator will incur no liability where the incident was caused primarily by: an act of war or insurrection; a natural phenomenon of an exceptional, inevitable, and irresistible character; or the gross negligence or willful misconduct of the claimant. Where the incident or economic loss is caused by ordinary negligence of the claimant or by the act or omission of a third party, damages will be divided proportionately.

To insure compensation by the spiller, the bill requires owners or operators to

establish and maintain evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which they would be exposed in a case where they would be entitled to claim a limitation of liability.

Evidence of financial responsibility may be established by evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. In cases where an owner or an operator owns, operates, or charters more than one vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

The bill creates a comprehensive oil spill liability fund. This fund, which is not to exceed $200 million, is primarily derived by a fee imposed on the owners of terminals of not to exceed 3 cents per barrel of oil received at the terminal. The fund is liable when the spiller cannot be identified, has a defense to liability, where the claim exceeds the spiller's limitation of liability, or the spill is caused by a public vessel.

A procedure is established for processing claims. Basically, the primary response to a claim will be from the owner or operator of the source of the spill. If the spiller fails to provide prompt settlement, the claimant may file his claim with the fund. Where the fund fails to settle the claim promptly, the claimant may submit his dispute to the Secretary of Transportation for adjudication, or, in certain cases may proceed directly in court against the fund.

The bill contains a preemption section to prevent duplicate sources of compensation for damages covered by the bill. It provides that no action may be brought in a State or local court for damages covered by the bill. Also, no one can be required: First, to contribute to a fund to pay compensation for losses similar to those covered in the bill; or, second, to maintain evidence of financial responsibility for such losses. The bill does not, however, preclude a State from providing relief for damages not covered in the bill such as personal injuries. Nor, does the bill preclude creating a fund to purchase pollution abatement equipment, or a fund for the prevention, detection, or observation of oil pollution such as environmental monitoring or research programs. A State may compel payment of a tax or fee to finance such a fund.

H.R. 6803 was reported unanimously by the Committee on Merchant Marine and Fisheries. The Committee on Public Works and Transportation, to which the bill had been jointly referred, concurred, subject to inclusion of several technical amendments. This bill enjoys bipartisan support, and support of both the maritime industry and environmentalists. I believe we have a good bill and urge its passage.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Texas.

Mr. HALL. Mr. Speaker, as far as the legislative history is concerned on this bill we are discussing now, it is not intended to be one that would prohibit a jury trial from being sought and provided for if it now exists.

Mr. TREEN. I would think that if under the act the gentleman referred to, the Jones Act, a jury trial would otherwise be permissible, that this act would not diminish that. That would be my offhand opinion.

Mr. HALL. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of H.R. 6803, the Oil Pollution Liability and Compensation Act.

As a cosponsor of this legislation, I am pleased that the House has scheduled it today for action and I urge my colleagues to give it their overwhelming support.

As many of my colleagues know, the purpose of this legislation is to establish a comprehensive system of liability and compensation for damages caused by oil pollution in the navigable waters of the United States, their connecting or tributary waters, and in the high seas areas.

The legislation establishes strict liability for the owners and operators of the sources of oil discharges and creates a back-up compensation fund to respond to damage claims which are not satisfied, for whatever reasons, by the parties responsible for the discharge or to respond to damage claims where the responsible parties cannot be identified. The fund would be maintained at a level between $150 and $200 million and would be made up from a 3-cent per barrel tax on oil received from vessels, pipelines, or offshore facilities.

Mr. Speaker, I will not go into detail on the provisions of this legislation, since it has already been discussed at great length by the managers of the bill. Rather, I wish to spend a few moments discussing what this type of legislation means to the State of Delaware and other coastal States which share the same situation as my State.

As you know, the State of Delaware has what I consider to be unparalleled coastal resources. Over the years, we in Delaware have sought to protect those resources from abuse. However, those coastal resources lie along one of the major shipping lanes in the United States. According to a recent GAO survey, more than 4,000 vessels arrive yearly at ports along the Delaware River. About 40 percent of those vessels are oil tankers. Thus, Delawareans are particularly concerned about the dangers posed by oil tanker operations.

From 1973 to 1976, 180 oil pollution incidents involving tankers were reported. Seven of these resulted in oil spills of more than 10,000 gallons. During the same period, there were 83 tank ship casualties reported.

Mr. Speaker, I strongly support tougher standards for both oil tankers and their crews, and I am hopeful that this body will consider such legislation, which has already passed the Senate, in short order. However, as the GAO report indicates, the prime contributing factor to spill mishaps along the Delaware River is human error. Thus, it appears inevitable that, despite whatever technological progress we make, oil spills can and probably will happen. It is therefore imperative that we enact legislation such as the Oil Pollution Liability and Compensation Act so that those who are adversely impacted by such spills are adequately compensated.

I might also point out that during the August work period, I joined with the distinguished chairman of our subcommittee, Congressman BIAGGI, as well as my good friend from Massachusetts, Mr. STUDDS, in a journey to the Cape Cod area where we held hearings on both oil spill prevention and cleanup. I must tell the House, however, that I came away from those hearings with increased concern about our ability to contain oil spills once they happen. The hearings clearly pointed out that moderately adverse weather conditions can easily prevent any type of cleanup activity on the high seas. That experience further reenforced my belief that legislation which is before the House today is critical to the well-being of the coastal States in this country.

Mr. Speaker, H.R. 8603 does not remove the dangers of oil spills. What it does, however, is place strict liability on those who would spill oil and thus spoil our precious natural resources. Further, it guarantees to the watermen, the men and women in the tourist industry, and even the States affected that they will receive some compensation both for the loss of income and the damages done to irreplaceable coastal areas. This is legislation which desperately needs to pass the House and be signed into law and I join with my subcommittee chairman, Mr. BIAGGI, who has done so much to shepherd this legislation through the committee and onto the House floor, in urging that the House overwhelmingly endorse this much-needed protection for our Nation's coastal areas.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I rise in support of H.R. 6803, "The Oil Pollution Liability and Compensation Act of 1977."

Today, the United States imports more than 8 million barrels per day of crude oil, or almost 50 percent of total domestic demand.

Each oil laden tanker coming to the United States poses a threat to our marine environment.

This bill will establish a comprehensive system of liability and compensation for damages caused by an oil spill. In other words, if you are responsible for the oil pollution, you must pay for the cleanup.

The owner or operator of a vessel that transports oil in bulk as cargo is liable for cleanup costs of $250,000 or $300 per gross ton of the ship, whichever is larger, up to a maximum of $30 million.

This is overdue legislation that will address a problem that began in 1967 with the grounding of the tanker *Torrey*

Canyon off the coast of England, and the blowout of the production platform off Santa Barbara, Calif., in 1969. The recent spill from the *Argo Merchant*, and others, once again points to the need for this law.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I rise in strong support of what I consider to be genuinely landmark legislation.

Mr. Speaker, let me just state very briefly that as a Representative of a coastal district in whose waters rust buckets, such as the *Argo Merchant*, come to rest with distressing regularity, this is absolutely critical legislation, not only because it provides a mechanism for providing compensation to those who are damaged by spills, but also because it provides an incentive for those human steps to be taken that will minimize the chances of that occurring in the first place.

I am willing to bet that the owner of the *Argo Merchant*, whoever that is, would not have had that captain, would not have had that crew, would have had a functioning gyrocompass, and would have had the right month's charts in the wheelhouse, had he known he faced the very strict liability imposed on all vessels henceforth once this becomes law.

Mr. Speaker, I think this is deserving of the support of every Member and I urge its favorable consideration.

Mr. Speaker, I rise in strong support of H.R. 6803, a bill which I consider to be a landmark in environmental legislation, and one which forms a major component of what I hope will prove to be a comprehensive legislative package dealing with oil spills during this Congress.

Under the aggressive and extremely effective leadership of the gentleman from New York (Mr. BIAGGI) the House Merchant Marine and Fisheries Committee has taken the lead in developing this highly complex, but now almost universally supported, piece of legislation. The bill is designed to place the financial responsibility for oil spill incidents where it belongs, on the spiller; it will provide those suffering economic damage as a result of an oil spill with a prompt and equitable means of obtaining compensation; and it will streamline the bureaucracy which has begun to mushroom through various other, less coordinated attempts to deal with the oil pollution problem.

Rather than take any additional time, I would like to submit as an extension of my remarks, an article which I prepared earlier this year giving the history of oil spill liability legislation as it relates to the entire oil pollution problem.

OIL AND WATER

(By U.S. Representative GERRY E. STUDDS)

On December 15, 1976, the largest oil spill in the history of the United States began 27 miles off Nantucket Island when the Liberian tanker *Argo Merchant* grounded itself on Nantucket Shoals. After several days of typical Nantucket winter weather, the vessel broke up and spewed oil in a slick which grew to cover some 12,000 square miles of the Northwest Atlantic.

In succeeding weeks, the disaster off Massachusetts was followed by a series of smaller tanker spills, explosions, and groundings, and by the complete disappearance of the Panamanian tanker *Grand Zenith*, a vessel carrying even more oil than the *Argo Merchant*.

These grim events have drawn widespread attention to a host of issues related to oil transportation. Who is and who should be liable for oil spills? Why do we allow unsafe foreign flag vessels to enter our ports? Why is our oil spill cleanup equipment so inadequate?

In this article, I plan to discuss primarily the issue of liability for oil spills. This choice of emphasis is not meant to downplay the importance of improving tanker construction and operating safety standards, or the need to develop as rapidly as possible some far more effective oil spill cleanup and containment equipment. It should be clear from the *Argo Merchant* spill, for example, that while we may have splendid equipment for cleaning up a spill on Walden Pond in good weather, we have nothing for spills in turbulent offshore areas such as Georges Bank.

NEEDED: OIL SPILL LIABILITY LAWS

Effective oil spill liability laws are urgently needed. The US Government has already spent close to $2 million as a result of the *Argo Merchant* spill, but the Coast Guard has no authority to investigate the incident, and no other manner in which to obtain compensation for its expenses. If great damage has been caused to fishing resources or to Georges Bank—the richest fishing area in the world—we will have no way to recover.

By setting high standards of liability for those transporting oil within 200 miles of our shore and by requiring such vessel owners to post a bond equal to their liability in advance of coming into our waters, a strong oil spill liability law would create an important incentive for the prevention of oil spills. Tanker owners such as those of the *Argo Merchant* would think twice about operating with third-rate crews and equipment if they knew in advance they would be forced to pay the high costs of any spill which might occur.

Any comprehensive oil spill liability law should also guarantee that those damaged by a spill will have access to a prompt and equitable mechanism for obtaining compensation for the injuries which they suffer. This is a matter of particular importance to commercial fishermen, and for persons employed in those tourist-related industries which are most vulnerable to the threat of massive economic damage from an oil spill.

In analyzing the form which oil spill liability legislation should take, it is important to look beyond the emotion of the moment to examine our over-all petroleum production and transportation system, to understand the environmental and economic problems posed by oil operations, and to consider our past and current attempts to come to grips with these problems.

Oil pollution on a large scale can result from incidents involving tankers, as with the *Argo Merchant*, or from offshore oil production facilities, as was the case with the Santa Barbara blow-out of 1967. Deepwater ports, which should become operable in the fairly near future, also pose a potential threat.

The best estimates are that we dump from five to ten million tons of petroleum into the world's waterways every year. About 46% of this is from ocean shipping and related operations. Only about 2% to 3% is from offshore drilling. This figure may increase however, as the search for oil drives industry's efforts into more and more new coastal areas.

Scientists do not agree on the cumulative effect of oil pollution on marine life. The seriousness of a particular oil spill depends on the type of oil involved, weather conditions, the ability of the Coast Guard or industry to clean it up, and—most important—on the location of the spill. If the *Argo Merchant* had come aground in the summer, ocean currents and prevailing winds might well have carried the oil into huge fish spawning grounds, enormously productive estuarine areas near shore, and perhaps onto the incalculably valuable beaches of Nantucket itself. The economic and environmental damage from such a spill would have been staggering. One study has estimated the cost of a worst case spill on the east coast at $2.8 billion

LIABILITY

At present, international, federal, and state oil spill liability laws are a maze of duplicative and contradictory statutes, with gaps in liability so wide you could drive a Liberian tanker through them, even without a functioning gyrocompass.

To date, international activity with respect to oil liability has been centered within the Intergovernmental Maritime Consultative Organization (IMCO), an agency which was born in the same year, 1948, as the Liberian maritime shipping industry.

In response to the huge spill of oil following the grounding in 1967 of the tanker *Torry Canyon*, IMCO moved in 1969 to suggest worldwide oil spill liability standards. These were set for tanker owners at the lesser of $160/ton or $16.8 million. Two years later, a supplemental "Fund Convention" was proposed, designed to create a cargo-owner financed fund of $36 million to meet the costs of incidents in excess of the limits of liability under the '69 Convention. In response to tanker industry pressure, however, this latter convention would also have further reduced liability limits for most vessels to the lower limit of $120 a ton or $10 million.

The first nation to ratify each of these conventions was Liberia, a country which, incidentally, has as many American citizens as Liberians in its delegation at IMCO. The Liability Convention became effective, without US participation, in the summer of 1975, but the Fund Convention is not yet in effect.

Essentially, the two IMCO conventions would pre-empt domestic oil spill liability laws, and would freeze into law for all time some extremely low limits of liability for all of the world's oil tankers. There is little wonder that these pacts were strongly supported by the Ford Administration and by the oil industry, as well as by tanker fleet owners and by many segments of the international insurance community.

The principal difference in the 94th Congress between the Ford Administration oil spill bill and a bill on the same subject which I had proposed, was whether or not the International Conventions should be ratified. I argued against ratification because the conventions would have failed to create a strong oil spill prevention incentive, and they would have stopped us in the future from taking strong steps to protect our shores and marine resources from oil pollution. After months of wrangling in committee, it became clear that Congress would not accept the conventions, and the Administration agreed to drop them and support a compromise bill. Approved by the House Merchant Marine and Fisheries Committee in September 1976, this bill has been re-introduced, in somewhat stronger form, this year.

The proposed legislation for this year would establish a $300 per ton limit on liability for vessels, with no over-all ceiling. The oil industry is strongly interested in placing a ceiling on liability so that larger new supertankers would face a reduced standard. Last year's committee bill, for example, has an over-all ceiling of $30 million, which would have meant that a 200,000 ton ship would

have the same liability as a vessel only half as large.

The new bill would require vessel owners to obtain federal certificates of responsibility demonstrating their ability—through insurance or through other means—to meet the costs of an oil spill up to their limit of liability. This provision would apply to both domestic and foreign flag tankers.

More than 95% of our imported petroleum comes in on foreign flag tankers, much of it from so-called "flag of convenience" nations, including Liberia and Panama. The fleets of these nations do have some of the newest and safest ships afloat, but they also have too many rust buckets of the *Argo Merchant* variety. That particular vessel had been involved in some 18 previous safety violations and small oil spill incidents. Despite some occasional claims to the contrary, the safety record of flag of convenience ships is abominable. In 1973, for example, 22.8% of the world's tanker tonnage was flag of convenience, and 50.8% of the marine casualties were from these nations. It is critical that the United States assert its authority over all vessels—of whatever flag—which come into our ports.

The proposed bill would also establish liability limits for deepwater ports and for offshore oil production, storage, and transportation facilities.

THE FUND

Past experience has demonstrated the need to improve the procedures by which those damaged by an oil spill are compensated. Most oil spill damage cases in the past have been settled out of court, apparently due to the reluctance of most damaged parties to take on Exxon, Shell, et al. in court. They have, instead, elected to settle for partial payments of their claims.

The new proposed bill would allow oil spill damage claimants an alternative. While preserving the old options, a damaged party could seek to recover his claim from a specially created government fund. If the claimant's request were to be judged valid and the claim paid, the fund would then move against the spiller to recover the claim.

This fund would be financed, up to $200 million, by a three cents per barrel fee on imported and offshore oil (a sum equal to 1/14 cent per gallon), and would be administered by the Secretary of Transportation. In addition to acting as an intermediary when necessary between claimants and spillers, the fund would be available to provide compensation in those cases where the source of a spill is not known, and in the rare event when the liability limit of a particular spiller has been exceeded.

DAMAGES

In the past, common and maritime law have done little to protect victims of oil pollution damage. Maxine Lipeles described the situation as follows:

"Although an owner of a fouled resort or a fisherman with soiled gear may theoretically proceed under the tort principles of negligence, trespass, nuisance, or unseaworthiness, none of those principles offer damage victims a reliable means of recouping their losses. Except when the courts invoke the doctrine of *res ipsa loquitur*, a claimant alleging negligence faces the difficult tasks of proving that the spiller failed to take care and that such failure caused the particular damage. A suit based upon trespass must demonstrate that the spiller's negligence, deliberation, or intent produced damage arising from direct contact with oil. Nuisance actions succeed only if a claimant suffers losses unique in kind, not in degree, from the general public. In a 1973 nuisance case arising from the *Tamano* spill in Maine, the court awarded damages to commercial fishermen and clam diggers but denied compensation to motel owners and restauranteurs. In 1972, a federal court ruled that unseaworthiness would not establish liability for oil pollution claims. In addition to the formidable burdens of proof imposed upon claimants seeking to establish a spiller's liability, tort recovery is generally limited—except in trespass suits—to physical damages. Economic and consequential losses are usually not compensable." ("Oil: Study of Pollution Insurance Liability Laws." Environmental Policy Institute, 1976.)

The proposed legislation would alter this by specifically including loss of profits or impairment of earning capacity in the list of compensable damages. Also included for various classes of claimants are cleanup costs, the value of injured or destroyed real and personal property, injury to natural resources, loss of use of natural resources, and loss of tax revenue for up to one year.

OTHER FUNDS

The new bill would apply to all of the potential sources of oil spills into the marine environment. As a result, its enactment would enable us to reduce the scope of an already small oil spill fund set up under the Federal Water Pollution Control Act, allow us to completely eliminate separate similar funds authorized by the Deepwater Port and the Trans-Alaska Pipeline Act, and eliminate the need for a fund to handle spills from offshore oil drilling activities, as is currently proposed in amendments to the Outer Continental Shelf Lands Act.

The need for a strong oil spill liability bill is very clear. It is equally clear that our efforts will be opposed—either openly or rather quietly—from several different directions. The oil and tanker industries give lip service support to this *type* of bill, but their view of fair, specific provisions is a great deal different from that of many members of Congress. The argument will be made that high liability means high insurance, which means, in turn, high oil prices.

Evidence indicates that oil pollution insurance costs are not a significant part of the overall operating costs of most oil production and transportation companies. A strong argument could be made, in any case, that the expense should be where the risk is. If the liability burden is not placed on the tanker owner, or the oil producer, it will continue to rest squarely where it does now—on the taxpayer.

Others will argue that the United States should not take unilateral action with regard to oil spill liability or tanker safety. Oil pollution is a world-wide problem; the maritime industry is a world-wide business. These problems must, some say, be dealt with at the international level. I can understand this argument, as can many others, but I do not not believe that it should be accepted in this case.

I do not believe that flag of convenience nations, particularly Liberia, are—or should be treated as—sovereign, independent, and responsible states insofar as their tanker policies are concerned. IMCO delegates from these states are primarily US oil company and world tanker industry people wearing different hats, and their negotiating positions continually reflect this.

If the US is going to make any serious effort to reduce the threat of tanker pollution in our waters it must act on its own. International standards mean lowest common denominator standards, oil industry supported standards, standards over which we will not be able to maintain control.

We must act to prevent tragedies such as that of the *Argo Merchant* from occurring again. Certainly accidents will happen no matter what we do, but we should be satisfied that we have done all we could to prevent them.

When a spill occurs from an apparently unsafe vessel, following an obviously wrong course, using navigational equipment which did not work, whose weather charts were for the wrong month, and whose crew was allegedly incompetent, we are not doing enough. All of this was true with the *Argo Merchant* and it seems recently that this type of incident is the rule rather than the exception.

Congress must change the rules now, while the memory of tanker spill headlines is still firmly imprinted on its mind.

Mr. DON H. CLAUSEN. Mr. Speaker, just to conclude very briefly, I am pleased that my colleague from the east coast, the gentleman from Massachusetts (Mr. STUDDS), has taken the time to relate his strong support for this legislation. The gentleman from Massachusetts and I represent coastal districts, myself, the west coast, and the gentleman from Massachusetts on the east coast. We've worked together to protect the fish and marine resources when we established the 200-mile limit and this legislation will protect our coastal areas from oil spills and the related liability factors involved. The fact there has been this kind of coordinated effort in the committees provides a very meaningful legislative day for the committees we represent, as well as the Congress in its entirety.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I appreciate the gentleman from California yielding.

Mr. Speaker, I rise in support of H.R. 6803, the Oil Pollution Liability and Compensation Act.

I want to applaud the chairman and the members of the committee for an outstanding job on this particular bill.

I, too, share a district on Puget Sound in the State of Washington. Puget Sound may be used to transport a lot of oil that will be coming down to the United States. This legislation is absolutely essential to protecting and providing compensation for people who potentially may be damaged because of oil spills.

I would say to the gentleman from Massachusetts that he has touched upon the problem, that is, the continuing problem we have with foreign oil tankers coming into the United States. I just think it is a national disgrace that we allow ships of substandard quality to enter into this country.

I just hope that the distinguished chairman of the committee, Mr. MURPHY, will move forward with legislation similar to that which is moving in the other body, dealing with the question of tanker safety.

I think this is just phase one of the problem, getting a compensation bill enacted. Now we have to deal with the very difficult question of trying to come up with safety standards necessary to build tankers properly. If foreign tankers are to come into the United States, then they must have the best available equipment from a safety viewpoint. If IMCO will not do it, we will have to do it unilaterally, as we did with the 200-mile limit.

I just encourage our chairman to continue working in this area.

Mr. Speaker, the list of bills under consideration today is long, and the time allotted for general debate on H.R. 6803 is short, so I will be brief. The Oil Pol-

lution Liability and Compensation Act which we are considering here today is a vital piece of legislation. All of us who represent areas of the country through which pass considerable amounts of hazardous cargoes carried in bulk are especially mindful of the need for such legislation. As one who represents a district on Puget Sound—a body of water which will be handling a goodly share of the crude oil from Alaska—I am particularly grateful for the expeditious handling of this bill by the Merchant Marine and Fisheries Committee, and by the strong support this legislation has received from the committee chairman, and the ranking minority member.

I would hasten to add, however, that this proposed legislation does not address the question of tanker safety. It is therefore imperative that we pass companion tanker safety legislation before the 95th Congress adjourns. Only then will we have fashioned an adequate insurance policy to protect our ports and waterways against catastrophic polluting accidents. The other body, working under the continued leadership of the chairman of the Commerce Committee, has already passed such legislation. I understand that the Merchant Marine and Fisheries Committee will draw up companion tanker safety legislation shortly. I think we owe it to our constituencies to pass tough tanker safety provisions—especially a provision which will establish Vessel Traffic Services—VTS—at our most congested ports and waterways.

Mr. DRINAN. Mr. Speaker, I rise in enthusiastic support of the Oil Spill Liability and Compensation Act of 1977, H.R. 6803. This legislation will finally place financial responsibility for offshore oilspills upon those at fault—rather than with the Federal Treasury—and assures that American taxpayers will not get stuck with the $5.2 million price tag of another *Argo Merchant* mishap, or $15 million for a spill similar to the *Torrey Canyon* disaster of 1967.

There are clearly aspects of this legislation which could be strengthened—such as a liability requirement which favors supertankers over small ones—but the mechanism and basic thrust of the bill are both appropriate and workable. By requiring crude oil refineries and terminal operators to pay a fixed 3-cent tax per barrel, by collecting damages from those who cause oilspills by negligence, and by requiring that minimum levels of liability insurance be carried by oil shippers, we can guarantee a greater margin of environmental protection, and a more appropriate level of caution by the petroleum and shipping industries.

It is high time, Mr. Chairman, that the price of petroleum products reflects the cost of social and environmental responsibility. As a representative of a coastal State which depends heavily on its ocean resources for commerce and recreation, I can assure you that H.R. 6803 represents not an infringement upon our energy industries, but an assertion of economic justice. I urge my colleagues to support this vital legislation.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act.

I want to compliment the chairman of the Merchant Marine and Fisheries Committee, Mr. MURPHY, and the chairman of the subcommittee, Mr. BIAGGI, for making the work of the Public Works and Transportation Committee easy by working so closely with us.

Mr. Speaker, complaints are always heard about Federal laws being overly complex. This legislation unravels the existing maze of laws affecting oil spill cleanup and compensation to victims. H.R. 6803 has the support of the President and the environmental organizations around the country. Everyone recognizes that is an important step in simplifying existing law.

Both the Public Works and Transportation and the Merchant Marine and Fisheries Committees share jurisdiction over the complex problem, and the legislation before you today establishes an equitable program for dealing with the ever-increasing problem of oil spills.

I again want to thank the Merchant Marine and Fisheries Committee for their cooperation. I now refer to the letter which the gentleman from Texas (Mr. ROBERTS) placed in the RECORD and that our committee sent to the Merchant Marine Committee with respect to the amendments that we sought to make certain that H.R. 6803 conformed to other pollution legislation under the jurisdiction of the Public Works and Transportation Committee.

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 30, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to let you know that the Committee on Public Works and Transportation concurs in the Merchant Marine and Fisheries Committee report (H. Rept. 95-340 Part 1) on H.R. 6803, the "Comprehensive Oil Pollution Liability and Compensation Act". This concurrence is based on the inclusion of several technical and conforming amendments to be added to the bill when it is considered on the House floor and certain legislative history clarifying other provisions, all of which have been coordinated by our staffs and approved by our Committee.

This Committee recommends the following amendments:

(1) Page 2, line 1, strike out "fix 'means' " and insert in lieu thereof "means".

(2) Page 2, line 15, immediately after "or" insert "political".

(3) Page 3, line 2, after "States" insert "while operating in such waters".

(4) Page 8, after line 3, insert the following:

(cc) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside such base line which are a part of the Gulf Intracoastal Waterway.

(dd) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel.

(ee) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(5) Page 8, line 7, immediately before the period insert a comma and the following: "except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such fund".

(6) Page 8, line 16, strike out "; and" and insert in lieu thereof a period.

(7) Page 8, strike out lines 17 through 25, inclusive.

(8) Page 10, line 9, after the period add the following: "No modified fees paid by any owner of a refinery or a terminal pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination."

(9) Page 32, line 23, before the period insert the following: "to the extent of the admitted liability".

(10) Page 44, line 7, after the period add the following: "The second sentence of paragraph 6 of subsection (b) is amended by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

This Committee further recommends that appropriate legislative history be made on the following matters:

(1) At page 6, line 16—the term "person in charge" requires clarification. A vessel at a terminal may be in the charge of either the owner or operator of the vessel or the terminal. For example, when a barge is loading or unloading at a terminal, it is often the practice that the person in charge is the manager of the dock area rather than the barge operator. In such cases any penalty for a spill should not be levied on the barge owner or operator.

(2) At page 9, lines 12-20—with respect to the waiver of fees, the provision could be construed to permit the Secretary of Transportation to conclude that oil from deepwater ports being transported in a pipeline passing through the navigable waters (or other waters) is not a significant threat. Legislative history should discourage such a waiver.

(3) At page 14, lines 10–13—Section 103 (b) (4) may be narrowly construed to apply to annual earnings. This would effectively preclude recovery by a seasonal business or employee. The legislative history should clarify that the qualifying "25 per centum" refers to a period relating to the incident rather than to the entire year.

(4) At page 16, lines 4–11—The legislative history should indicate that section 103(c) does not preclude the Attorney General from taking appropriate action with respect to class actions at any time.

(5) Legislative history should reflect that the requirement of evidence of financial responsibility for owners or operators of any vessel over 300 gross tons with respect to hazardous substances is transferred from section 311 of the Federal Water Pollution Control Act to section 105(a) (1) of this Act.

Our acquiescence in order to expedite passage of this very important and urgently needed bill, of course, is not to be construed in any way as an abandonment of the jurisdiction of the Committee on Public Works and Transportation over oil pollution control legislation or any aspect thereof.

I congratulate you and the Committee on Merchant Marine and Fisheries on an excellent job, and it is a pleasure as always to work with you.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

Mr. DON H. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 6803, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 6803.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MARINE MAMMAL PROTECTION ACT AUTHORIZATION, FISCAL YEAR 1978

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4740) to increase the appropriations authorization for fiscal year 1978 and authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, as amended.

The Clerk read as follows:

H.R. 4740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 110(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(c)) is amended to read as follows:

"(c) There are authorized to be appropriated, for the purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

"(1) $2,500,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, September 30, 1976, and September 30, 1977, of which one-third of the sum appropriated for any such fiscal year shall be available to the Secretary of the Interior and two-thirds of any such sum available to the Secretary of Commerce.

"(2) $1,200,000, all of which shall be available to the Secretary of the Interior, for the fiscal year ending September 30, 1978.

"(3) $200,000, all of which shall be available to the Secretary of Commerce, for the fiscal year ending September 30, 1978.".

SEC. 2. Section 114 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1384) is amended—

(1) by amending subsection (a) by inserting ", and not to exceed $11,500,000 for the fiscal year ending September 30, 1978," immediately after "fiscal years";

(2) by amending subsection (b)—

(A) by striking out "and" immediately after "June 30, 1973,", and

(B) by inserting ", and not to exceed $850,000 for the fiscal year ending September 30, 1978" immediately after "thereafter".

SEC. 3. Section 27 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1407) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 207. There are authorized to be appropriated for the fiscal year in which this title is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

Mr. SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from New Jersey (Mr. FORSYTHE) are recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4740.

H.R. 4740 would extend the Marine Mammal Protection Act for 1 year, and would authorize appropriations under the act for fiscal year 1978. The Committee on Merchant Marine and Fisheries unanimously reported this legislation to the House.

The Marine Mammal Protection Act was enacted in 1972 for the purpose of insuring that marine mammals did not diminish below their optimum sustainable population. In passing the act, Congress responded to the growing concern about man's impact on marine mammals which include whales, dolphins, seals, sea otters, polar bears, and manatees.

The act gave to the Secretaries of the Interior and Commerce the authority and direction to establish general limitations upon the taking of all marine mammals. Criminal and civil penalties are prescribed for violations of the act, and the importation of marine mammals and their products is subject to regulation. The act created a three-member Marine Mammal Commission which is charged with the responsibility of monitoring the implementation of the act, recommending policies to the two Secretaries, and undertaking such research as is deemed appropriate.

This bill would authorize modest increases in appropriations to the Departments of the Interior, and Commerce and the Marine Mammal Commission to carry out the Marine Mammal Protection Act. I believe that the increases are justified if the Marine Mammal Protection Act is to be effectively administered and enforced.

We know that the Marine Mammal Protection Act is not totally free of problems. We are all aware of the tuna-dolphin controversy which disrupted the American tuna industry for months earlier this year. Nevertheless, the only long term solution to the tuna-dolphin and other controversies lies in expanded knowledge about marine mammal populations.

We have seen in the case of the tuna-dolphin controversy how modest increases in research funds can help to alleviate marine mammal problems. Over the last 2 years the Department of Commerce and the Marine Mammal Commission have devoted a great deal of effort to improving our information on dolphin populations and developing fishing technologies that reduce incidental dolphin mortality. The Department of Commerce has worked with the tuna fleet to develop fishing gear which allows the dolphin to escape from the net. The preliminary data from this fishing season indicates that the new gear is dramatically successful in reducing dolphin mortality.

H.R. 4740 will continue this important progress

I now yield to the gentleman from California (Mr. LEGGETT), chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, and author of the legislation.

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 4740.

This legislation would authorize appropriations in fiscal year 1978 of $2.05 million for the Department of the Interior; $11.7 million for the Department of Commerce; and $2 million for the Marine Mammal Commission. The committee has spent a considerable amount of time reviewing the programs of these agencies; we feel that the authorization levels expressed in this bill are necessary to cover the Agencies' responsibilities under the Marine Mammal Protection Act.

The legislation originally included a supplemental authorization for the Department of Commerce in fiscal year 1977. This authorization was intended to cover the cost of an expanded tuna-dolphin observer program. Unfortunately, the National Marine Fisheries Service has informed us that it will be impossible to implement an expanded observer program before the end of the fiscal year. Accordingly, the bill now includes a committee amendment to delete the supplemental authorization.

I remain in complete support of a 100-percent tuna-dolphin observer program. The only way that we are ever going to find out exactly what is going on in the eastern tropical Pacific is if we get an observer on every vessel.

This is not to say that we have not made significant progress in protecting dolphin populations. The observer reports for this fishing season indicate that dolphin mortality has been cut to a quarter of what it was last year. The tuna fishermen are now taking about one dolphin for every 4 tons of yellowfin tuna landed. To put this figure into perspective, in 1971 the fishermen took nearly four dolphins for every ton of yellowfin tuna landed. In other words, American tuna fishermen have improved their performance by 400 percent since last year and by 1,500 percent since 1971.

This vast improvement in reducing dolphin mortality can be directly traced to improvements in fishing technology—technology developed in a cooperative effort between the tuna fleet and the Department of Commerce.

The entire tuna fleet is now using fine mesh nets which reduce dolphin mortality by preventing the animals from becoming entangled in the nets. The proposed regulations for 1978 require the

fleet to further refine the fine mesh nets by installing porpoise safety aprons. Research conducted pursuant to the Marine Mammal Protecton Act has demonstrated that these aprons reduce dolphin mortality by assisting the animals escape from the net during backdown.

We know a good deal more about dolphins today than we did a few years ago because of our efforts under the Marine Mammal Protection Act. Our knowledge of many other marine mammal species, however, remains woefully inadequate. Activities under the Marine Mammal Protection Act are helping to eliminate this information void. The Department of Commerce is currently engaged in research on fur seals and their ecosystems, whales and related species, and the population status of several species of dolphin.

The Department of the Interior is engaged in a number of research projects designed to provide information on polar bears, walruses, sea otters, and manatees.

H.R. 4740 would permit the agencies to continue and accelerate these various research and management problems.

Mr. FORSYTHE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today to urge the adoption of H.R. 4740—legislation which is absolutely critical if our Nation's marine mammals are to be afforded adequate protection. The bill authorizes funds for fiscal year 1978 for the three key agencies responsible for implementing the Marine Mammal Protection Act—the Department of Commerce, the Department of the Interior, and the Marine Mammal Commission.

The incidental taking of porpoises during the course of commercial tuna operations has troubled Congress for many years. During recent hearings, the Merchant Marine and Fisheries Committee found some hope that this problem can be resolved. Research conducted by the Department of Commerce, in conjunction with the Marine Mammal Commission, has led to the discovery of tuna fishing techniques which have the potential of reducing the kill of porpoises to levels approaching zero.

This research has been conducted principally on a tuna vessel dedicated to scientific research and funded under the Marine Mammal Protection Act. The $11.7 million authorized to the Secretary of Commerce under H.R. 4740 will be used in part to further this research into fishing techniques. In addition, the research conducted by this vessel will provide extremely valuable data on the population sizes of the various species of eastern Pacific porpoises—information which will help insure the proper protection of these species. The funds provided to the Department of Commerce under this legislation will also permit the continuation of the Department's other marine mammal research programs including the scientific observer program on tuna vessels.

H.R. 4740 also authorizes $2.05 million for the Secretary of the Interior to conduct the basic scientific research needed to ensure the proper protection of species such as polar bears, walruses, and sea otters.

Importantly, H.R. 4740 authorizes $2 million for the Marine Mammal Commission, a body of tremendous importance in implementing the act. This three-member panel and its dedicated staff is charged with the responsibility of monitoring the implementation of the act, recommending policies to the two Secretaries, and undertaking timely research.

Mr. Speaker, the Marine Mammal Protection Act was a landmark piece of legislation aimed at providing valued wildlife with strong protection. In order to achieve the goals of this act, considerable scientific research must be conducted—research which will not be possible without the passage of H.R. 4740. Therefore, I stand today to urge my colleagues to support this legislation.

Mr. MURPHY of New York. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore (Mr. LEVITAS). The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 4740, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972."

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1522) to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes, a similar bill, and ask for immediate consideration of the Senate bill.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. LEVITAS). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 110(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(c)) is amended to read as follows:

"(c) There are authorized to be appropriated, for the purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

"(1) $2,500,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, September 30, 1976, and September 30, 1977, of which one-third of the sum appropriated for any such fiscal year shall be available to the Secretary of the Interior and two-thirds of any such sum shall be available to the Secretary of Commerce.

"(2) $1,100,000, all of which shall be available to the Secretary of the Interior, for the fiscal year ending September 30, 1978.".

SEC. 2. Section 114 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1384) is amended—

(1) by amending subsection (a)—

(A) by striking out "four" and inserting in lieu thereof "three", and

(B) by inserting ", not to exceed $8,000,000 for the fiscal year ending September 30, 1977, and not to exceed $11,500,000 for the fiscal year ending September 30, 1978," immediately after "fiscal years"; and

(2) by amending subsection (b)—

(A) by striking out "and" immediately after "June 30, 1973,", and

(B) by inserting ", and not to exceed $700,000 for the fiscal year ending September 30, 1978" immediately after "thereafter".

SEC. 3. Section 207 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1407) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. There are authorized to be appropriated for the fiscal year in which this title is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000.".

SEC. 4. Section 102 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372) is amended by adding at the end thereof the following new subsection:

"(f) It is unlawful for any person or vessel or other conveyance to take any species of whale in the fishery conservation zone of the United States as defined in section 3(8) of the Fishery Conservation and Management Act (16 U.S.C. 1802(8)).".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill S. 1522 and insert in lieu thereof the provisions of H.R. 4740, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended to read as follows: "A bill to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4740) was laid on the table.

House Resolution 714 was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MAKING IMPROVEMENTS IN THE SURVIVOR BENEFIT PROGRAM FOR RETIRED MILITARY PERSONNEL

Mr. STRATTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3702) to amend title 10, United

States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1434 is amended by adding the following new subsection at the end thereof:

"(e) Whenever retired or retainer pay is increased under section 1401a of this title, each annuity that is payable under this subchapter on the day before the effective date of that increase to a spouse or a child of a member who died on or before March 20, 1974, shall be increased at the same time by the same total percent.".

(2) Clause (2) of section 1447 is amended by—

(A) striking the semicolon at the end of Clause (B) and inserting a period in lieu thereof; and

(B) deleting the words "as increased from time to time under section 1401a of this title".

(3) Section 1450 is amended by adding the following new subsection "(j)" at the end thereof:

"(j) Where the annuity has been adjusted under subsection (c) of this section and there is no entitlement to compensation under section 411(a) of title 38, due to remarriage of the spouse after reaching age sixty, annuity shall be readjusted to the rate of entitlement existing prior to the adjustment under subsection (c) of this section, if any amounts refunded under subsection (e) of this section are repaid.".

(4) Section 1451(a) of title 10, United States Code, is amended to read as follows:

"(a) If the widow or widower is under age sixty-two the monthly annuity payable to the widow, widower, or dependent child under section 1450 of this title shall be equal to 55 percent of the base amount as increased from time to time under section 1401a of this title. When the widow or widower reaches age sixty-two, the monthly amount shall be reduced by an amount equal to 50 percent of the amount of any survivor benefit which the widow or widower receives under subchapter II of chapter 7 of title 42 based solely upon service by the person concerned as described in section 410(l)(1) of title 42 and calculated assuming that the person concerned lived to age sixty-five. The reduction prescribed by the second sentence of this subsection shall not be made if the only service by the person concerned as described in section 410(l)(1) of title 42 involves periods of service of less than thirty continuous days for which the person concerned is entitled to receive a refund under section 6413(a) of title 26 of the social security tax which he had paid.".

(5) Section 1452 is amended by adding the following new subsection (g) at the end thereof:

"(g) The reductions in the retired pay as prescribed by this section shall be increased at the same time and by the same percent as retired or retainer pay is increased under section 1401(a) of this title.".

SEC. 2. Each annuity that is payable under subchapter I of chapter 73 of title 10, United States Code, to a spouse or a child of a member who died on or before March 20, 1974, shall be increased effective October 1, 1977, or on the first day of the month after the date of enactment of this Act, whichever is later, by the total percent that retired or retainer pay has been increased under section 1401a of that title since September 21, 1972.

SEC. 3. This Act shall be effective October 1, 1977, or on the first day of the month after the date of enactment, whichever is later. No pay shall accrue to any person by virtue of enactment of this Act for any period before the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MITCHELL of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to suspend the rules and pass H.R. 3702, which makes a number of very much needed improvements in the Survivor Benefit Plan for military personnel.

During the latter part of the 94th Congress, the Committee on Armed Services reported favorably and the House passed and sent to the Senate H.R. 14773, which included most of the provisions of this bill and, in addition, included two changes that were patterned on the Civil Service Survivor Benefit Plan. The Senate, pleading the lack of time to consider the remaining provisions, enacted only those changes which were patterned on the Civil Service system. Since the Congress was in the preadjournment rush, the House reluctantly accepted the Senate version.

On March 14 of this year the Committee on Armed Services reported favorably this bill, H.R. 3702, which includes those features of the bill which the House passed last year and which the Senate did not have time to consider, as well as one additional provision to conform the military plan to the Civil Service plan.

Very briefly, Mr. Speaker, the bill before us will do the following things:

First of all, it will authorize cost-of-living increases to those persons receiving annuities under the Retired Serviceman's Family Protection Plan whose military retiree sponsors died before March 20, 1974. I might add that those whose military retiree sponsors died after March 20, 1974, already get those cost-of-living increases if they participated in the new Survivors Benefit Plan.

Second, it provides a new formula for calculating contributions for military retirees participating in the Survivor Benefit Plan, and that is identical to the same formula used for Civil Service retirees.

Third, the bill permits full benefits to a spouse beneficiary who remarries after the age of 60 and who had been entitled to dependency and indemnity compensation and consequently had received a refund of the deductions from her deceased husband's retired pay, provided she repays the amount of the refund received.

Fourth, the bill reduces the social security offset against survivor benefit plan payments from 100 to 50 percent of the amount of such benefits which are attributable to military service. In other words, in determining the amount of benefits received, we do not reduce them by the entire amount of social security receipts, which is the situation that now exists, but only by 50 percent of that amount, so in effect it increases the benefits.

Fifth and finally, the bill eliminates the social security offset altogether under the following circumstances:

First, where there is a dependent child.

Second, where the only military service involved is a period of duty of less than 30 days.

Third, where no social security benefits are payable because the beneficiary is employed in social security-covered employment.

Fourth, when the beneficiary is entitled to a greater social security benefit based on her own employment and consequently is receiving no social security benefits whatsoever based upon her husband's service.

Mr. Speaker, this bill, therefore, will eliminate a number of serious deficiencies and inequities that now exist in the survivor-benefit plan. It will eliminate one of the principal deterrents to participation in the plan by enlisted personnel.

At the present time, with the full social security offset, many survivors of enlisted personnel will receive only minimal benefits under the present plan after they reach the age of 62. The reduction or elimination of that offset, therefore, will make the plan more attractive to all military personnel, particularly to enlisted men.

Mr. Speaker, another noteworthy feature of the bill is the provision of a cost-of-living escalator for widows and children of retired military members getting benefits under the retired serviceman's family protection plan. The cost-of-living escalator, as I have already indicated, would be provided for those survivors of retired members who died before having the opportunity to elect into the survivor benefit plan, which does have an escalator.

Mr. Speaker, these retired members who elect to participate in the retired serviceman's family protection plan were paying the full actuarial cost of the benefit for their survivors. However, with the high rate of inflation which has been experienced in recent years, the monthly benefit that the retiree purchased to provide for his widow in his declining years has, of course, been seriously eroded with the passage of time. For example, a military retiree who died in 1956 had provided an annuity for his wife under that plan of $300 a month. The dollar amount of that annuity, however, remains the same today; but to purchase the same amount of goods and services today, one would have to have an annuity of $672. In the last 20 years, in other words, that widow has had the purchasing power of her annuity reduced by more than 50 percent.

H.R. 3702 will provide her with a cost-of-living escalator that will restore the purchasing power of her annuity to the level it had in September 1972, and pro-

tect its purchasing power against further erosion.

In conclusion, Mr. Speaker, I urge that the rules be suspended and that H.R. 3702 be passed.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I rise in support of the passage of H.R. 3702, which makes several sorely needed revisions in the military survivor benefits plan. I feel strongly about the merits of this legislation, which will affect every career serviceman or woman and their spouses and dependent children.

Mr. BOB WILSON of California who has been a long-time advocate of improvements in the military survivor benefit plan was originally going to present the case for H.R. 3702 from this side of the aisle. Unfortunately, urgent business in his district made it necessary that he be in California today and he asked me to make the case in his absence.

The gentleman from New York (Mr. STRATTON) has already detailed the terms of this legislation, and I would like to take a few minutes to highlight several sections.

First, H.R. 3702 adds a long-overdue cost-of-living provision to the previous survivor plan, the retired serviceman's family protection plan, originally established in 1953, was replaced in 1972 by the vastly superior and fairer survivor benefit plan. RSFPP, unlike the survivor plan in operation for civil service retirees, was fully financed by the retired member's reductions in retired pay, plus interest. The cost of coverage was high in relation to the benefit provided, resulting in very low participation in the plan. Those who did join paid dearly for that protection. Despite the price tag to the retiree, RSFPP has never had a cost-of-living provision, so that the amount the widow receives today remains unchanged from the time of the retiree's death which, in some cases was more than 20 years ago.

We should have added a cost-of-living factor into RSFPP when the survivor benefit plan was signed into law in 1972, but this unfortunately was overlooked. According to Congressional Budget Office figures, there are only 9,686 RSFPP widows in the program today. They receive an average annual benefit of less than $1,600—or less than $140 per month. Simple fairness demands that this situation be rectified now.

Second, H.R. 3702 makes several changes in the social security offset provisions of the survivor benefit plan, which will provide far greater equity to the retiree and his widow. Under the survivor benefit, at age 62 the widow's SBP annuity, for which her husband had paid by reductions in his retired pay during his lifetime, is reduced or offset dollar-for-dollar by the social security attributable to the husband's military service. In practical application, the 100-percent offset, in some cases, makes the survivor benefit plan a bad financial investment, particularly for those who need the coverage most—our enlisted personnel.

Because the enlisted man's retired pay is small, a major part of the survivor annuity is eaten up by the social security offset when the widow reaches age 62. Not only is this situation unfair, but it also encourages opting out of the survivor benefit plan by those with the least resources to make other arrangements for their widows. Only about one-half of those retiring last year elected survivor benefit plan coverage. Participation has been decreasing for several years. H.R. 3702 would reduce the offset or reduction from 100 to 50 percent, based on the Government's contribution of half the cost of the retiree's military-earned social security credits.

In the case of working wives, an even more incredible situation exists. As the 1972 law reads, the offset applies if the widow is "entitled" to social security benefits based on the late husband's military service, even though she does not actually "receive" such benefits. Although there are other situations where this may occur, the most common is the widow who has worked for many years and earned her own social security benefits. She receives no social security payments from her last husband's account but, nonetheless, her survivor benefit plan annuity is reduced by $100 to $200 each month.

It is important to remember that, particularly in the prevolunteer Army days, the wives of many enlisted men—and the majority of military retirees are enlisted men—had to work to keep food on the family table. Those were often low-paid jobs, subject to the frequent changes of station required by military life. The application of the offset in this situation is unconscionable, and H.R. 3702 would eliminate the offset completely when the widow receives no social security payments from her husband's military service.

As a final provision, this legislation includes a technical amendment to assure that the formula used to apply cost-of-living increases to the reduction in retired pay is the same as that used for civil service. The survivor benefit plan is closely modeled on the survivor annuity plan available to civil service retirees. It was the intent of Congress that the plans be very similar in terms of both the costs to participants and the survivor benefits provided. H.R. 3702 carries out this original design by clarifying the language of the statute relative to the proper computation formula.

H.R. 3702 is nearly identical to legislation which the House last September passed by a 379–to–6 vote, H.R. 14773. While the Senate approved several sections of H.R. 14773, which have subsequently been enacted into law, action was deferred on the remaining provisions because of the lateness of the session and the desire of Congress to adjourn for election campaigns. These remaining provisions have been incorporated in H.R. 3702. I want to reemphasize that these changes are necessary in the interest of equity to the widows and will bring the military program into closer conformance with the civil service plan in accordance with congressional intent. The only feature not included in last year's bill is language clarifying the computation formula so that it is identical to the civil service system. I urge my colleagues full and wholehearted support of this sorely needed legislation.

Mr. STRATTON. Mr. Speaker, before yielding further time, let me pay a very sincere tribute to the gentleman from California (Mr. BOB WILSON), who by necessity is unable to be here today at the time this bill came up because of a longstanding prior commitment in his district. BOB WILSON is chiefly responsible for having developed most of the ideas of this bill and for pushing them most determinedly in the committee. I think that he deserves a very great deal of credit for this legislation if it passes the House today, as we certainly hope it will.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alabama (Mr. NICHOLS), the chairman of the Subcommittee on Military Compensation of the Committee on Armed Services.

Mr. NICHOLS. Mr. Speaker, I want to add my own words to those of the distinguished gentleman from New York on behalf of our colleague, the gentleman from California (Mr. BOB WILSON), who steered this bill through the committee and is certainly entitled to a great deal of credit for its being on the floor here today.

Mr. Speaker, I rise in support of H.R. 3702.

As the successor to the gentleman from New York as the chairman of the Subcommittee on Military Compensation, I strongly support H.R. 3702 as a much-needed improvement in the system of survivor benefits for retired military personnel.

With the enactment of this bill, I feel that we will have a well-rounded system of monetary compensation for survivors of retired military personnel. It will eliminate the inequities in the present system which have been of principal concern to military personnel.

I would like to address two particular inequities which the bill will correct.

Under the present law there is a reduction in the military widow's payment when she attains age 62 equal to the amount of a hypothetical social security benefit to which she becomes entitled at that age based on her husband's military service. I say a hypothetical social security benefit because if she is entitled to a greater social security benefit based on her own employment, she is not entitled to any social security benefit based on her husband's military service. H.R. 3702 will permit that widow to receive the social security retirement benefits which she has earned and toward which she contributed through her working lifetime without suffering any reduction in the benefit to which her husband contributed through deductions from his retired pay.

Where the widow at age 62 would, in fact, be entitled to a social security benefit based on her deceased husband's

military service, H.R. 3702 will reduce the amount of the reduction in her annuity payment to an amount equal to 50 percent of the social security benefit to which she would be entitled based on her husband's military service. This change is eminently reasonable since under the social security system her husband contributed equally with the Department of Defense to the social security system by reason of his military service. This change will do much to make the survivor benefit plan more attractive and beneficial particularly for the enlisted members of the Armed Forces.

Mr. Speaker, I strongly urge my colleagues to suspend the rules and pass H.R. 3702.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. MITCHELL) have any further requests for time?

Mr. MITCHELL of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. STRATTON) have any further requests for time?

Mr. STRATTON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I commend the distinguished gentleman from New York (Mr. STRATTON) and the distinguished gentleman from Alabama (Mr. NICHOLS) and the members of their committees for reporting this needed and significant measure. Many deserving people will benefit from H.R. 3702. There is a definite need for improvements in the retired serviceman's family protection plan and the survivor benefit plan. The recipients have waited a long time.

I want, also, to express appreciation to those among the annuitants and others who, because of dedicated interest, have brought to our attention the need for improvements and who have helped by providing facts and statistics to justify the passage of this bill. The program of survivor benefits have had a long history.

The retired serviceman's family protection plan—RSFPP—was established by law in 1953. The plan enabled a retired member of the uniformed service to share his retired pay with his wife and children if he predeceased them. The plan was established on an actuarial-equivalent basis so that the deductions taken from the retired pay of the participants, plus interest, funded the authorized benefits. These annuities, however, have been drastically reduced in value in recent years because of the impact of inflation.

In recognition of the serious erosion of purchasing power of RSFPP annuities which has occurred in recent years, H.R. 3702 would authorize increases in RSFPP annuities in cases of retired members who died on or before March 20, 1974—the last date on which retired members could elect to participate in the SBP. In addition to providing future increases, the bill authorizes annuities to be increased effective October 1, 1977, or the first day of the month after the date of enactment, whichever is later, by the percentage by which retired pay has been increased since September 21, 1972, the date of establishment of the survivor benefit plan.

Probably the most important feature of the bill is the fact that benefits provided under the SBP are to be automatically adjusted in the same manner as is military retired pay; that is, annuities are adjusted for increases in the cost of living.

While living retired members who had enrolled in the RSFPP were given an 18-month option during which they could elect to participate in the SBP, those retired members who died before enactment of the SBP did not have this opportunity. Thus, they were precluded from taking steps to provide their survivors with an annuity that would take into consideration increases in the cost of living.

Last year, the House of Representatives passed a bill, H.R. 14773, that would have authorized among its provisions increases in RSFPP annuities in cases of retired members who died on or before March 20, 1974. However, as this measure was not sent to the Senate until the last weeks of the 94th Congress, there was not adequate time for the Committee on Armed Services to look fully into the details of the proposed legislation.

The bill now before us would provide a number of improvements to both the retired serviceman's family protection plan and the survivor benefit plan. In summary the bill would:

One, authorize cost-of-living increases to RSFPP survivor annuitants whose military spouses died before March 20, 1974—the last day a retired serviceman could have converted to the survivor benefit plan. The cost-of-living increases would be the same as for military retired and retainer pay and would include an initial adjustment for all increases that have occurred since September 21, 1972, when the survivor benefit plan was established.

Two, modify the method for calculating contributions to the survivor benefit plan from military retirees pay to make the method consistent with the civil service survivor benefit plan.

Three, permit full benefits from the survivor benefit plan to be reestablished for a spouse beneficiary who remarries after age 60, who had been entitled to dependency and indemnity compensation, and who had received a refund of SBP contributions from her deceased husband's retired pay, provided she repays the refund to the survivor benefit plan.

Four, reduce the social security offset to the survivor benefit plan at age 62 from 100 to 50 percent of the amount of social security attributable to military service.

Five, eliminate the offset completely when there is a widow and one child, when the only military service involved period of duty of less than 30 days, when no social security benefit is payable because the beneficiary is employed in social security covered employment, and when the beneficiary is receiving social security benefits based on her own employment.

The bill would be effective October 1, 1977, or if enacted later, on the first of the month after enactment.

Earlier this year, I introduced legislation which included the provisions of H.R. 3702 and also provided that remarriage of a spouse at or after age 60 shall not result in the termination of annuities under this plan. While I am disappointed that the remarriage provision is not included in H.R. 3702, I fully support the legislation and urge that it receive deserved favorable consideration of this body.

Mr. STRATTON. Mr. Speaker, I have no further request for time and yield back the balance of my time.

Mr. MITCHELL of New York. Mr. Speaker, I have no further request for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill H.R. 3702.

The vote was taken.

Mr. MITCHELL of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

APPORTIONMENT FOR INTERSTATE HIGHWAY SYSTEM

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the concurrent resolution (H. Con. Res. 282) making apportionment of funds for the National System of Interstate and Defense Highways.

The Clerk read as follows:

H. CON. RES. 282

Resolved by the House of Representatives (the Senate concurring), That the Secretary of Transportation shall apportion the sums authorized to be appropriated for the fiscal year 1979 for immediate expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95–16 of the Committee on Public Works and Transportation of the House of Representatives.

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUSTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. HOWARD) for 20 minutes.

Mr. HOWARD. Mr. Speaker, we commend to the House Concurrent Resolution 282, a resolution which directs the apportionment to the States of $3.25 billion for fiscal year 1979 for the con-

struction of the Interstate Highway System.

This is a routine measure similar to those we have passed in prior years, Mr. Speaker. It is not a new authorization. It is simply congressional approval of an apportionment table which indicates how previously authorized sums are to be allocated among the States. It is important that we approve this resolution so that fiscal year 1979 interstate funds can be apportioned to the States on October 1, 1977, as the law provides. An additional $125 million is provided in the 1976 Highway Act so that each State will be assured of receiving a minimum of one-half of 1 percent of total interstate apportionments for the year.

Each State's share is based on the ratio of the cost of completing the Interstate System in each State to the cost of completing the entire national system. The Secretary's latest cost report is contained in committee print 95–11; however the factors in that report represent net cost needs to complete the System as of January 1, 1976. Because of System changes since that time, the committee has updated the figures as contained in committee print 95–16 to more accurately reflect the current relative needs of each State. Specifically, the new figures reflect system changes since January 1, 1976, resulting adjustments in unobligated apportionments, and the inclusion of additional work approved by the Secretary since January 1, 1976. This includes system withdrawals in Arizona and the District of Columbia and the approval of new work in 18 others States.

Mr. Speaker, these adjustments are consistent with revisions we have made in the past, and I urge approval of the resolution.

Mr. SHUSTER. Mr. Speaker, I rise in support of House Concurrent Resolution 282.

I am pleased to join with my good friend and colleague, Mr. HOWARD, the chairman of our Surface Transportation Subcommittee, in support of this measure, which will enable the Secretary of Transportation to apportion $3.250 billion from the highway trust fund for interstate system construction for fiscal year 1979.

This is a relatively routine procedure, Mr. Speaker, provided for in section 107 of the Federal-Aid Highway Act of 1976, but one essential to permit the interstate construction program to proceed in an orderly fashion.

We are basing today's action on a revised table 5 of committee print 95–16, reflecting a $27 billion Federal share of the latest cost to complete the interstate system. The revision represents an updating of the Secretary's estimate as of January 1, 1976, reflecting such changes as system withdrawals in Tucson, Ariz., and the District of Columbia and the approval of New York totaling $236 million in 18 States approved between January 1, 1976, and July 1, 1977.

I think it significant to note that the current estimate of the Federal share is considerably above the comparable figure of $20,790,321,000 contained in the latest table 5 approved by this committee and serving as a basis for apportionment for the interstate system for the fiscal years 1977 and 1978. This increase reflects changes in construction costs—by far the largest single factor—system adjustments, increased costs of preliminary engineering and right-of-way, construction items such as upgraded roadway design and additions of or changes to interchanges and grade separations, social, economic, or environmental considerations, lanes in addition to those reported in the 1975 estimate, project overruns in increased construction engineering costs.

Nevertheless, completion of the interstate system remains an indisputably sound investment and should proceed as rapidly as possible. Our committee, and indeed the Congress, is on record as supporting the rapid and orderly completion of the interstate system, and the Congress has approved interstate authorizations through to completion. While costs, not surprisingly nor uniquely, have gone up, I am encouraged to believe that they are stabilizing and that the inflation factor should be considerably lower when we approve a new table 5 for apportionment of 1980 funds with enactment of future legislation now under development.

I understand that there may be some concern with respect to some project costs incorporated in this estimate, as to whether all eligible costs have been included. At the same time, I am confident that no project concerning which there is any dispute over cost will, in fact, be adversely affected by the action we take today in that future cost estimates will reflect the resolution of such disputes well in advance of any effect on actual construction.

Allow me to reflect for a moment at this point, Mr. Speaker, on just what the Interstate System has meant to our Nation. In addition to the obvious defense implications, it has brought markets closer to producers and products nearer to consumers. This network of highways, by far the most advanced in the world, has helped to foster a standard of living for most Americans unattainable anywhere else in the world.

Additionally, it has generated substantial economic growth along its corridors and has made it possible for millions of American workers to reach job opportunities never before possible.

But most important, Mr. Speaker, it has saved countless lives and prevented many more serious injuries. Statistics show that the Interstate Highway System, with all its advanced safety designs and features, is three times safer than old, worn out, two-lane country roads.

So the Interstate System is more than just concerte slabs crisscrossing our countryside. It is vital to our national defense, our economy, and our health and safety. This simple but important bill will allow us to move it even closer to completion.

I urge my colleagues to join me in supporting this resolution so that this important and lifesaving program can continue.

Mr. ROBERTS. Mr. Speaker, I rise in support of House Concurrent Resolution 282 offered by my good friends and distinguished colleagues from New Jersey and Pennsylvania (Mr. HOWARD and Mr. SHUSTER).

This is a simple resolution, Mr. Chairman, but it is no less important for that fact. The law requires each State to annually estimate the cost of completion of the Interstate System within its borders, and to submit that estimate to the Federal Highway Administration. The Highway Administration, after compiling this information and consulting with the Committee on Public Works and Transportation, computes the percentage that each State's remaining portion is of the national total, and these percentages, known as apportionment factors, then serve as the basis for allocation to the States the moneys authorized from the highway trust fund for interstate highway construction.

Section 107 of the 1976 Federal-Aid Highway Act mandates that apportionment factors be approved by Congress prior to the apportionment of interstate funds. The law further provides that this apportionment be made on the first day of the fiscal year—in other words, October 1. Therefore, if we are to satisfy the requirements of the law, expeditious action on this resolution is imperative, and I urge your support for its passage.

Mr. JOHNSON of California. Mr. Speaker, section 107 of the Federal-Aid Highway Act of 1976 requires congressional approval of interstate cost factors which are to be used as the basis for apportioning interstate highway funds for the upcoming fiscal year. The usual adjustments have been made in committee to update the estimate to reflect changes in the system which have occurred since the cutoff date for the estimate. This is typical of changes made each year in the Secretary's submission.

I should also point out the fact that each State will be assured of receiving at least one-half of 1 percent of total funds apportioned for the coming fiscal year. The 1976 Highway Act authorizes an additional $125 million for this purpose.

Mr. Speaker, this is a routine measure, and I urge its approval.

Mr. WEISS. Mr. Speaker, I am voting for this resolution even though I am opposed to one of the authorizations contained in it—funds for the construction of Interstate Route 478, Westway, in New York City. I am voting affirmatively because—contrary to the claims of proponents of the highway—the same base figure that is available for Westway is available for mass transit purposes should the State of New York choose to apply to use the money in this way, a position I have advocated since Westway was proposed.

It is extremely important that this money be used for mass transit. At a time when energy conservation is vital to the national interest and when, as President

Carter has noted, we waste 85 percent of our energy, it is unwise to spend money on modes of transportation that waste money.

Automobile transportation on Manhattan's West Side is much less efficient than mass transit. New Yorkers, in fact, use 47 percent less energy per capita than non-New Yorkers because of the city's mass transport system. It is in the long-range interest of New York to promote energy conservation, reduce pollution, reduce the cost of doing business in the city, and give New York competitive advantage when fuel resources run low.

Given this, it is grossly extravagant to spend almost a billion dollars—the cost will probably be even higher by the time actual construction begins—in Federal aid for a 4.2-mile stretch of interstate highway, especially when 87 percent of those who travel to the central business district do so via mass transit, and only 1 percent of New York's peak-hour commuters used the West Side Highway—the site of Westway—when it was in operation.

There is also reason to believe that Westway would disrupt residential and business districts in the city. Under another proposal, which would extend Westway to 72d Street, truck traffic would be prohibited above 57th Street, forced off Westway at this point and routed across town on 57th Street. Should this occur, not only will the many pedestrians who frequent landmarks on 57th Street, such as Carnegie Hall and Tiffany's, be exposed to high levels of air and noise pollution, but the many shopping and cultural facilities that line 57th Street will not remain there for long amid a crosstown truckway congested with large rigs and vans.

The opportunity for economic expansion has always been put forth as a reason for building Westway. Mr. David Rockefeller and Mr. Harry Van Arsdale, for example, have claimed that the highway will attract $7.3 billion in investments. Included in this total, however, are $280 million for a regional burn center and $60 million commitment to New York City museums. While both investments are certainly welcome, neither is in any way linked to Westway. Most of the other projects in the $7.3-billion estimate have an equally tenuous relationship to the highway. Furthermore, of the investments directly related to Westway, no binding commitments have been made even assuming that the highway will be built.

Proponents of the highway claim that building it will create 15,000 man-years of construction work. This is, indeed, a lot of jobs, but according to a New York City Transit Authority official, 20,000 to 30,000 man-years of work would be created by using the same amount of money for mass transit construction. In effect, up to twice as many jobs could result from using the money for mass transit instead of using it for Westway.

Also at stake are thousands of permanent jobs in the Gansevoort Meat Market, the printing industry and the many smaller local businesses threatened by construction of Westway. In addition, four of the city's newest piers would be destroyed by the highway.

Backers of the highway refer to something they call West Side "blight" and offer Westway's landfill development as the cure. But to the extent that any blight exists, it has been fostered by uncertainty over the proposed construction; investors are reluctant to pour money into the community until the Westway issue is resolved. What blight there is will be cured by private investment when the interstate threat is removed.

Finally, there is the report of the Environmental Protection Agency on the environmental impact of Westway. For the first time in the agency's history, it gave an "environmentally unsatisfactory" rating to a highway project. The Westway evaluation is only the seventh time in the last 3 years the EPA has reached such a conclusion for any type of project.

I do not deny the need for a north-south road on Manhattan's West Side. But it is needed now, not 10 or 15 years in the future when it is estimated that Westway would be completed. Nor can it be too costly, either in terms of dollars, resources, loss of jobs, loss of transit aid or the community's well-being. Construction of a more modestly scaled roadway on Manhattan's West Side and significant Federal investment in New York City's mass transit system would be a balanced and successful approach to the city's economic, transportation and environmental needs.

It is this kind of rational approach which the mayor of New York City and the Governor of New York State must support. It is the only appropriate plan, at the time of a grave national energy crisis, which deserves the approval of the Secretary of Transportation and the President of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 282).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

HOUR OF CONCLUDING BUSINESS

Mr. O'NEILL. Mr. Speaker, I would hope we would conclude for the day and have the votes on the suspensions at 4:30, in view of the fact that some Members, because of the religious holidays, have to leave early. Wherever we are on the suspensions, I would hope that we could begin voting at 4:30 on the motions on which action was postponed.

FEDERAL RESERVE REFORM ACT

Mr. REUSS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8094) to promote the accountability of the Federal Reserve System, as amended.

The Clerk read as follows:

H.R. 8094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL-FEDERAL RESERVE DIALOG ON MONETARY POLICY

SECTION 1. Insert a new section 2A immediately after section 2 of the Federal Reserve Act to read as follows:

"SEC. 2A. GENERAL POLICY: CONGRESSIONAL REVIEW

"The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. The Board of Governors shall consult with Congress at semiannual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates for the upcoming twelve months, taking account of past and prospective developments in production, employment, and prices. Nothing in this Act shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions.".

BOARDS OF DIRECTORS OF FEDERAL RESERVE BANKS

SEC. 2. The following paragraphs of section 4 of the Federal Reserve Act are amended:

(a) the tenth paragraph by inserting after th comma the following: "without discrimination on the basis of race, creed, color, sex, or national origin,".

(b) the eleventh paragraph by striking all after "members," and substituting "who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.".

(c) the twelfth paragraph by inserting immediately after the first sentence thereof the following sentence: "They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor and consumers.".

SENATE CONFIRMATION OF CHAIRMAN OF BOARD OF GOVERNORS

SEC. 3. The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is

amended by inserting after the third sentence thereof the following: "Except that of the persons thus appointed, beginning on February 1, 1982, and at four-year intervals thereafter, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairman of the Board for a term of four years. Whenever a vacancy shall occur, other than by expiration of term, among the Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.".

CONFLICTS OF INTEREST

SEC. 4. (a) Subsection 208(a) of title 18, United States Code, is amended by adding "a Federal Reserve bank director, officer, or employee," immediately before "or of the District of Columbia".

(b) Subsection 208(b) of title 18, United States Code, is amended by adding the following new sentence at the end thereof: "In the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be the Government official responsible for appointment.".

REFERENCES TO FEDERAL RESERVE ACT PARAGRAPHS

SEC. 5. References in this Act to paragraphs of the Federal Reserve Act refer to the paragraphs as designated in the compilation of the Federal Reserve Act as amended through 1974, compiled under the direction of the Board of Governors of the Federal Reserve System in its legal division.

SHORT TITLE

SEC. 6. The short title of this Act shall be the "Federal Reserve Reform Act of 1977".

The SPEAKER pro tempore. Is a second demanded?

Mr. STANTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. REUSS) and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Federal Reserve Reform Act of 1977 is an important step forward in making the "Fed" more accountable to Congress and the public. The 40 to 0 vote of the House Banking, Finance and Urban Affairs Committee speaks for the committee's view of the need for this legislation.

The bill, H.R. 8094, increases the accountability of the Federal Reserve in four important respects:

One. It establishes clear guidelines for the conduct of monetary policy, and establishes quarterly oversight hearings as a matter of law. Building on the base of House Concurrent Resolution 133 of the 94th Congress, the bill requires the Board of Governors of the Fed not only to disclose targets of growth of the money supply for the upcoming 12 months, as they did under House Concurrent Resolution 133, but to provide some assessment of the impact of these targets on the economy. In giving its targets, the Fed will be asked to "take into account past and prospective developments in production, employment and prices." This will require discussion though not explicit projections, of such matters as fiscal policy, monetary velocity, and interest rates.

The expanded dialog will provide Congress and the public with a better understanding of what monetary policies are needed to achieve the Nation's economic goals.

Two. The bill will broaden representation on the boards of directors of the 12 reserve banks.

An extensive Banking Committee study has shown the unduly heavy representation of bankers at the expense of other groups in the society which have just as vital a stake in the decisions and activities of the Federal Reserve System. The bill will correct the imbalance by providing greater representation for consumers, labor and services along with the existing requirement for representation of banking, commerce, industry, and agriculture.

The bill also provides that all Directors shall be chosen without discrimination as to race, creed, color, sex, or national origin—an important requirement in view of the singular lack of representation over the years of women and minorities.

Third, the bill requires the Senate confirmation of the Chairman of the Board of Governors, which the Board itself agrees would be desirable considering the enormous responsibility lodged in the Chairman. It takes effect February 1, 1982, and will not affect the appointment due to be made next February 1.

The measure also coordinates the terms of the Fed Chairman and Vice Chairman with that of the President. The 4-year terms would be set so that these officials would take office 1 year after the President takes office. This change has been recommended by many past and present Board members, as well as many outside experts. The administration has no objection to their Senate confirmation or coordination of terms of office.

Fourth, the bill prevents officers, employees, and Directors of the Federal Reserve System from acting where they have a conflict of interest. Essentially this extends to the Fed the same kind of conflict-of-interest regulation that already applies to other Government agencies.

Mr. Speaker, this bill, if enacted, will make the Fed more accountable for its actions and contribute greatly to the enlightenment of the public on issues of national economic policy. On behalf of the full membership of the Banking Committee, I urge its adoption.

Mr. STANTON. Mr. Speaker, I rise in support of the bill, H.R. 8094.

In general, the bill has laudable aims which we all endorse. At the same time, we should be clear that this is not a bill which can be expected to accomplish great things and must not be used as a vehicle for overturning the banking and monetary system we have built up so carefully, so painfully, over many, many years.

I am sure the Members are aware, Mr. Speaker, that the Committee on Banking, Finance and Urban Affairs, and the counterpart committee in the other body have been holding regular quarterly hearings on the conduct of monetary policy since the spring of 1975. At that time, we agreed to House Concurrent Resolution 133 which expressed the sense of Congress that maximum production and employment, and the attainment of stable prices and, therefore, of moderate long-term interest rates, required careful control of monetary and credit aggregates. Pursuant to this, provision was made for quarterly hearings at which the Board of Governors of the Federal Reserve through their Chairman as spokesman would consult with Congress, through the Banking Committees, on the Fed's view of the economy and what was planned with respect to changes in monetary and credit aggregates for the coming year.

Everyone has found these consultations useful, and they have continued, despite the fact that House Concurrent Resolution 133 expired with the end of the 94th Congress. What section 1 of the present bill aims to do is simply to put into permanent law the requirement for these quarterly consultations between the Fed and our respective committees.

I must emphasize that something different was proposed in H.R. 8094 as introduced. In that original language, the Fed was also to be called on to predict interest rates and monetary velocity. Both the Board of Governors and the Treasury made it clear to the committee that such predictions were very difficult to make with any reliability and that, more importantly, any predictions would have a dangerously destabilizing effect on financial markets.

The crucial point is that the Fed is able to peg short-term interest rates for at least a short period of time, and any prediction of what these rates might be in the future would be taken by the market as a promise or at least a target which the Fed might attempt to reach. The Secretary of the Treasury warned that this might well inhibit participation in the market for Government securities and could threaten the success of Government financing operations at different times.

The committee, therefore, very wisely decided to delete the language of section 1 as introduced and substitute provisions that seek solely to continue what is already being done. This committee has explicitly rejected any notion of requiring the Fed to predict or set targets for interest rates or monetary velocity.

Section 3 is the part of the bill which gives many of us real concern. As introduced, this section provided simply for Senate confirmation of the Chairman of the Board of Governors. On that proposition, I note that members of the Board are already confirmed when appointed, so it is not clear that anything is gained by having separate confirmation for the Chairman. Also, the Banking Committee in the other body has already rejected such a provision this year in a different bill.

Your committee retained the provisions as it was introduced, and added provisions which provide for Senate confirmation of the Vice Chairman of the Fed Board of Governors, and synchronizes the 4-year terms of these officers so that they will always start on February 1 of the year following the inauguration of the President. Presently, a new 4-year term starts with appointment of the Chairman, whether or not his predecessor served a full term. This term is independent of the 14-year term which the Chairman serves as a member of the Board of Governors.

Mr. Speaker, I cannot rest easy with the provisions of section 3, which would tie the Chairman's term of office to that of the President. First, there is no demonstrated need for this change. Despite the assertions that undesirable situations may possibly arise with our present timing of the Chairman's appointment, it is a matter of historical fact that such situations have not occurred in the past. All the difficulties that this section is supposed to overcome are strictly speculative.

In trying to look into the future, we should base our speculations on what we have experienced in the past. In this case, we have not experienced any difficulties. There is absolutely no need for this provision.

Second, this section would politicize the Chairman's appointment. We are clearly making the Chairman "the President's man" and thus placing into the hands of the Executive greater control over the monetary policy of this country.

Finally, there are serious defects in the proposed process. Just imagine the consequences of having a lame-duck Chairman. What will happen in the event a Chairman fails to finish his term? Will we expect continuity and effectiveness of leadership with two or even three short-term Chairmen? Just imagine the potential decline in the caliber of Fed leadership under such conditions. Dr. Arthur Burns, speaking for a majority of the members of the Federal Reserve Board, had this to say about the proposal when he testified before the subcommittee on June 23, 1977:

> . . . because (the proposal) would link the Chairmanship to the incumbency of a President, the likely result is that the person selected for that position would not serve his full term and would leave the Board only a year after the President who appointed him left his office. The consequence could be some politicizing of the Federal Reserve, and perhaps some erosion of the independence of the Nation's monetary authority.
>
> A corollary of the "linked" terms procedure, of course, is that vacancies in the offices of Chairman and Vice Chairman can be filled only for the unexpired portions of the terms. This aspect of the proposal is also quite troubling. Where only a relatively short portion of the 4-year term remains to be served, it may be quite difficult for a President to recruit a highly qualified individual in view of the need for an appointee to sever his prior relationship and divest or put in trust his investments. Nor could the President give any assurance of reappointment to a full term—where, for example, he himself was not eligible for reelection.
>
> Even where it might be possible for the President to reappoint his nominee for a full term, the individual appointed to fill an unexpired term would in effect be on probation until the partial term expired. The implications of this for the independence of the Federal Reserve during that period—the possibility that the individual will be inclined to act in such a way as to promote his own reappointment—are obvious. Moreover, the procedure for filing unexpired terms might result in the office of Chairman being unfilled until the President was in a position to make an appointment for a full 4-year term, thus leaving the central bank handicapped for that period. To my mind, these are serious limitations.

Mr. Speaker, this provision will, in my judgment, be a step backward and will encourage a return of control to the Executive after 60 years of proven experience under a policy of Fed independence.

I am most fearful of the consequences, and I am distrustful of congressional tinkering without justifying the need for such a change. I want the record to show that I supported this bill for its stated purpose and that I do strongly disagree with politicization of the Fed as drawn in section 3.

Mr. REUSS. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. I thank the distinguished chairman for yielding to me.

I have looked at the bill. Basically, it looks pretty good to me, but I am concerned about the delicate balance between the Federal Reserve Board, this Congress, and the administration. I am also concerned, perhaps a bit more than some other Members, about preserving the independence so that the Federal Reserve System does not become directly subject to political whims, as perhaps this body might. At the same time, I hate to see us without some improvement.

I just want to make sure that the provisions of the bill, particularly relating to the time of selection of the members of the Federal Reserve Board, do not in any way take away, at least at this point in time, the independence of that board.

Mr. REUSS. The gentleman may rest assured that the independence of the Federal Reserve Board of Governors from the Executive remains unimpaired. Before this bill, the terms of Governors were a very long 14 years; after it, they remain a very long 14 years. Before this bill, the Fed prints its own money, writes its own budget; after this bill, the Fed prints its own money, writes its own budget. The independence, for better or for worse, is unimpaired.

Mr. GLICKMAN. I thank the chairman.

Mr. ANNUNZIO. Mr. Speaker, I rise today in support of H.R. 8094, the Federal Reserve Reform Act of 1977. It is most essential that this bill become law to insure a continuing relationship between Congress and the Federal Reserve Board.

H.R. 8094 would insure the continuation of the dialog between Congress and the Federal Reserve Board Chairman which was made possible by House Concurrent Resolution 133. Since its passage in March of 1975, House Concurrent Resolution 133 has provided a mechanism for quarterly meetings of monetary policy between banking committees and the Board Chairman. Congressional awareness of the Board Chairman's monetary policy thinking is essential for the development of a consistent fiscal policy.

As the law reads now only the special interests of commerce, industry and agriculture must be considered when choosing directors of the Federal Reserve System. H.R. 8094 seeks to expand this consideration for class B and C directors to include interests of consumers, services and labor. This bill would also write into law antidiscrimination requirements for all classes of directors. The importance of this provision is obvious.

H.R. 8094 would also require Senate confirmation of the Chairman and Vice Chairman of the Board of Governors. A Wall Street Journal article pointed out that most people would "be surprised to learn that the Chairman is not now confirmed by the Senate." It is quite surprising that this important confirmation has not had the checks and balances of other important positions in our country. I urge you to vote today in favor of this provision and thus rectify the current situation.

One provision of this bill has received much debate and revision. The measure we vote upon today would require the term of the Chairman of the Board to last 4 years and to begin 1 year after the President's term. This provision would allow an essentially coterminous situation, which is felt by many to be essential for the coordination of monetary policy. At the same time the provision would make possible a smooth transitional period between terms of the Chief Executives. It would allow the newly entering President to have the time necessary to make a thorough study of the existing monetary policy and make an informed decision for the direction he wishes to pursue.

Members of the Board of Governors, directors, officers, and employees of the Federal Reserve System have not been under the same antilobbying provisions as other Federal employees. The last provision of H.R. 8094 would end this discrepancy. The Banking Committee, of which I am a member, received much testimony concerning the necessity of this provision. If Congress is to take seriously its oversight responsibilities and make nonprejudicial decisions regarding the financial institutions, this provision must become part of our legal structure.

I urge you to support this important legislation and write into law the provisions of House Concurrent Resolution 133.

Mr. ROUSSELOT. Mr. Speaker, at the risk of disappointing those of my colleagues who may be searching the committee report in vain for my dissenting views, I rise in support of the Federal Reserve Reform Act. This is a far more important bill than one would suppose, given the fact that it is being considered under a suspension of the rules. Under this legislation the Federal Reserve Board will be directed to "maintain long-run growth of the monetary and credit aggregates commensurate with the economy's longrun potential to increase production." The Fed will be required to appear twice yearly before each House of Congress, as it has done under House Concurrent Resolution 133 of the 94th Congress, to disclose its intentions with respect to monetary policy for the suc-

ceeding 12 months. There are a number of reasons why these permanent statutory requirements can play a vital role in promoting the Nation's economic well-being:

First. The directive to the Fed to use "the economy's longrun potential to increase production" as its basis for regulating growth of the monetary and credit aggregates requires the Fed to view monetary policy from a longer term perspective than it has been accustomed to doing in the past. Inflationary fits and deflationary starts in money growth, which have contributed to booms and depressions in the past, should not occur, if this congressional policy is followed faithfully.

Second. The bill states that the purpose of the congressional directive is "to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates." The committee report states that, "In your committee's judgment, these goals are mutually compatible." This recognition that a policy which achieves stable monetary and credit aggregates and stable prices will also promote high employment and moderate long-term interest rates, is highly significant because policies based upon the notion that there was a trade-off between inflation and unemployment and upon the assumption that the way to reduce interest rates was to inflate the currency have caused a tremedous amount of economic hardship in the past.

Third. Despite the fact that the Fed has been providing regular reports on monetary policy to the Banking Committees of Congress, the Fed has been exceeding its own targets in recent months. The oversight procedure provided in this bill will enable Congress to exert pressure upon the Fed not only to announce targets for monetary and credit growth commensurate with the longrun growth rate of the economy, but also to stay within the announced target range.

Fourth. Finally, officials of the Carter administration have been making disturbing noises recently about the alleged need for our allies in Germany, Japan, and other major industrial countries to "reflate" their economies—that is, to abandon for a time their efforts to curtail monetary growth. The oversight procedure provided in this bill will provide a forum for the expression of congressional opposition to any policy which would involve the United States in the promoton of worldwide inflation.

For all of the reasons stated above, I strongly urge my colleagues to support this legislation.

Mr. MITCHELL of Maryland. Mr. Speaker, the bill before us is a modest attempt to make the Federal Reserve more accountable, hence more responsible. In the final analysis, in a democracy, responsibility requires that those charged with managing the affairs of government be accountable to, that is responsible to, the electorate.

The Federal Reserve is charged with conducting the Nation's monetary policy. H.R. 8094 would increase its accountability in four ways.

First, under present law, the guidelines for conducting monetary policy refer to "furnish[ing] an elastic currency," "accommodation" of commerce, "maintenance of sound credit" and prevention of "injurious credit expansion or contraction." These references have always been ambiguous, and for many years they also have been archaic as criteria for the conduct of monetary policy. H.R. 8094 would supplement these references. It would establish both clear statutory guidelines for the conduct of monetary policy and a procedure to implement them. Specifically, H.R. 8094 would require the Federal Reserve Board and Federal Open Market Committee to "maintain longrun growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long term interest rates." Recent history indicates that tradeoffs between these goals are ephemeral, and that in the long run, these are mutually compatible and achievable goals.

Section 1 of the bill also codifies the procedure, first established under House Concurrent Resolution 133 2 years ago, whereby the Chairman of the Federal Reserve consults with the Congress quarterly on "objectives and plans with respect to ranges of growth or diminution of the monetary and credit aggregates in the upcoming 12 months."

In addition, under H.R. 8094, these discussions will now explicitly cover "past and prospective developments with respect to production employment and prices." Though these consultations the Congress will be able to effectively oversee the conduct of monetary policy and assure thereby that the Federal Reserve is promoting the national goals of "maximum employment, stable prices, and moderate, long-term interest rates."

Second, H.R. 8094 would improve accountability by broadening representation on the Boards of Directors of Federal Reserve banks. Currently, out of 108 Reserve bank directors, only four are women and only three are minority persons. H.R. 8094 would require that all directors be chosen "without discrimination on the basis of race, creed, color, sex, or national origin." The bill would also broaden economic representation by designating class B directors as "public" and adding "labor" and "consumers" as interests entitled to "due but not exclusive consideration" in the selęction of class B and C directors.

Third, beginning February 1, 1982 and not applying to the appointment of the Chairman now scheduled for February 1, 1978, H.R. 8094 requires Senate confirmation of the Chairman of the Board of Governors of the Federal Reserve and provides for coordinating the term of the Chairman with that of the President. These changes will improve accountability first by assuring routine quadrennial review by the Senate of the capabilities of the Chairman-designate, and second by assuring the President a meaningful voice in the councils of the Federal Reserve early in each administration.

Under existing law, members of the Federal Reserve Board of Governors, who serve 14-year terms, are subject to Senate confirmation at the time of their appointment. The President appoints a Chairman and Vice Chairman to serve 4-year terms from among the seven Governors. Thus, the President can designate as Chairman or Vice Chairman someone who may have been confirmed by the Senate years earlier and is not questioned again, even though he or she is assuming a position far more important than the one to which he or she was confirmed. H.R. 8094 would correct this by making the President's choice of Chairman, and also Vice Chairman, subject to the advice and consent of the Senate.

Further, the bill provides that the terms of the Chairman and Vice Chairman shall always begin 1 year and 12 days after inauguration of the President, and that vacancies which occur during a term will be filled only for the unexpired portion of the term.

Under present law the Chairman and Vice Chairman are appointed for 4-year terms, beginning when they are appointed, regardless of whether their predecessor has served a full 4-year term. Thus, the question of when a President is able to appoint a Chairman and Vice Chairman in his term is subject to random events—unexpected retirements and deaths. If by chance the chairmanship becomes open only shortly before a President's first term expires, a new President would not have a chance to appoint a Chairman of his choice until almost the end of his first term. This could throw the appointment into election year politics.

Furthermore, if by chance the chairmanship becomes open in an odd-numbered year when there is no automatic vacancy on the Board of Governors, the President would have to select the Chairman from among only the seven sitting Governors—including the Governor whose term as Chairman has just expired. Both election year appointments and appointments restricted to the seven sitting Governors have occurred in the past. H.R. 8094 would prevent any recurrence by setting the terms of the Chairman and Vice Chairman to begin 1 year and 12 days after inauguration of the President.

In hearings held before my Domestic Monetary Policy Subcommittee, Chairman Burns expressed his personal opposition to this provision, but under questioning he stated that at least some current Board members favored the provision. Furthermore, I solicited views from many experts including former Federal Reserve officials. Overwhelmingly, they supported regularizing appointment of the Chairman and Vice Chairman of the Federal Reserve Board as soon after the President is inaugurated as a vacancy on the Board is scheduled to occur. Those in support include former Vice Chairman of the Federal Reserve Board J. Louis Robertson, former Governors Frederick L. Deming and Robert C. Holland, former Reserve bank Presidents George H. Ellis, Alfred Hayes, Charles J. Scanlon and Allan Sproul, and economists George L. Bach and Milton Friedman.

Fourth, the bill would prevent conflict of interest. Specially, it would prohibit

Federal Reserve employees, officers and directors from participating in any matter before the Federal Reserve or Government in which they or a member of their family or business have an interest, unless there is full disclosure of such interest and written official determination that this interest is not substantial. This will close an unnecessary gap in our conflict of interest statutes.

In summary, Mr. Speaker, H.R. 8094 makes four changes in the Federal Reserve Act. Each will make an important contribution to assuring that monetary policy is conducted in the public interest.

Mr. REUSS. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore (Mr. LEVITAS). The question is on the motion offered by the gentleman from Wisconsin (Mr. REUSS) that the House suspend the rules and pass the bill H.R. 8094, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REUSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days wherein to extend and revise their remarks on the bill just enacted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

END STAGE RENAL DISEASE PROGRAM

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8423) to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal diseases program presently authorized under section 226 of that act, as amended.

The Clerk read as follows:

H.R. 8423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title II of the Social Security Act is amended by inserting immediately after section 226 the following new section:

"SPECIAL PROVISIONS RELATING TO COVERAGE UNDER MEDICARE PROGRAM FOR END STAGE RENAL DISEASE

"SEC. 226A. (a) Notwithstanding any provision to the contrary in section 226 or title XVIII, every individual who—

"(1)(A) is fully or currently insured (as such terms are defined in section 214 of this Act) or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (B) is entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included in the term 'employment' as defined in this Act, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act or an annuity under the Railroad Retirement Act of 1974; and

"(2) is medically determined to have end stage renal disease, and requires renal dialysis or renal transplantation for such disease,

shall be deemed to be disabled (and to have satisfied the requirements of section 226(b)(2)) for purposes of entitlement to benefits under parts A and B of title XVIII, subject to the deductible, premium, and coinsurance provisions of that title.

"(b) Subject to subsection (c), entitlement of an individual to benefits under parts A and B of title XVIII by reason of this section on the basis of end stage renal disease—

"(1) shall begin with—

"(A) the third month after the month in which a regular course of renal dialysis is initiated, or

"(B) the first month in which such individual is admitted as an inpatient to an institution which is a hospital meeting the requirements of section 1861(e) (and such additional requirements as the Secretary may prescribe under section 1881(b) for such institutions) in preparation for or anticipation of kidney transplant surgery, but only if surgery occurs in that month or in either of the next two months,

whichever first occurs; and

"(2) shall end, in the case of an individual who receives a kidney transplant, with the thirty-sixth month after the month in which such individual receives such transplant or, in the case of an individual who has not received a kidney transplant and no longer requires a regular course of dialysis, with the twelfth month after the month in which such course of dialysis is terminated.

"(c) Notwithstanding the provisions of subsection (b)—

"(1) in the case of any individual who participates in a self-care dialysis training program prior to the third month after the month in which such individual initiates a regular course of renal dialysis in a renal disease facility or provider of services meeting the requirements of section 1881(b), entitlement to benefits shall begin with the month in which such regular course of renal dialysis is initiated; and

"(2) in any case where a kidney transplant fails (whether during or after the thirty-six month period specified in subsection (b)(2)) and as a result the individual who received such transplant initiates or resumes a regular course of renal dialysis, such individual shall be entitled to benefits under parts A and B of title XVIII beginning with the month in which such failure occurs.".

(b) Section 226 of such Act is amended—

(1) by striking out subsection (e), (f), and (g), and

(2) by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

SEC. 2. Part C of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"MEDICARE COVERAGE FOR END STAGE RENAL DISEASE PATIENTS

"SEC. 1881. (a) The benefits provided by parts A and B of this title shall include benefits for individuals who have been determined to have end-stage renal disease as provided in section 226A, and benefits for kidney donors as provided in subsection (d) of this section. Notwithstanding any other provision of this title, the type, duration, and scope of the benefits provided by parts A and B with respect to individuals who have been determined to have end-stage renal disease and who are entitled to such benefits without regard to section 226A shall in no case be less than the type, duration, and scope of the benefits so provided for individuals entitled to such benefits solely by reason of that section.

"(b)(1) Payments under this title with respect to services, in addition to services for which payment would otherwise be made under this title, furnished to individuals who have been determined to have end-stage renal disease shall include (A) payments on behalf of such individuals to providers of services and renal dialysis facilities which meet such requirements as the Secretary shall by regulation prescribe for institutional dialysis services, transplantation services, self-dialysis services in a self-care dialysis unit maintained by the provided or facility, and home dialysis support services which are furnished by the provider or facility, and (B) payments to or on behalf of such individuals for home dialysis supplies and equipment. The requirements prescribed by the Secretary under subparagraph (A) shall include requirements for a minimum utilization rate for covered procedures and for self-dialysis training programs.

"(2)(A) With respect to payments for dialysis services furnished by providers of services and renal dialysis facilities to individuals determined to have end-stage renal disease for which payments may be made under part B of this title, such payments (unless otherwise provided in this section) shall be equal to 80 percent of the amounts determined in accordance with subparagraph (B); and with respect to payments for services for which payments may be made under part A of this title, the amounts of such payments (which amounts shall not exceed, in respect to costs in procuring organs attributable to payments made to an organ procurement agency or histocompatibility laboratory, the costs incurred by that agency or laboratory) shall be determined in accordance with section 1861(v). Payments shall be made to a renal dialysis facility only if it agrees to accept such payments as payment in full for covered services, except for payment by the individual of 20 percent of the costs for such services (as determined in accordance with subparagraph (B)) and the deductible amount imposed by section 1833(b).

"(B) The Secretary shall prescribe in regulations any methods and procedures to (i) determine the costs incurred by providers of services and renal dialysis facilities in furnishing covered services to individuals determined to have end-stage renal disease, and (ii) determine, on a cost-related basis or other economical and equitable basis (including any basis authorized under section 1861(v)), the amounts of payments to be made for part B services furnished by such providers and facilities to such individuals. Such regulations shall provide for the implementation of appropriate incentives for encouraging more efficient and effective delivery of services (consistent with quality care), and shall include, to the extent determined feasible by the Secretary, prospectively set rates, a system for classifying comparable providers and facilities, and target rates with arrangements for sharing such reductions in costs as may be attributable to more efficient and effective delivery of services.

"(C) Such regulations, in the case of services furnished by proprietary providers and facilities may include, if the Secretary finds it feasible and appropriate, provision for recognition of a reasonable rate of return on equity capital, providing such rate of return does not exceed the rate of return stipulated in section 1861(v)(1)(B).

"(D) For purposes of section 1878, a renal dialysis facility shall be treated as a provider of services.

"(3) With respect to payments for services furnished by physicians to individuals determined to have end-stage renal disease, the Secretary may make payment for such services on an individual service basis (and may, in such case, make payment on the basis of the customary and prevailing charges of other physicians for comparable services), or on the basis of an aggregate of services pro-

vided over a period of time (as defined in regulations); and, with respect to aggregate physician services expected to be provided over a period of time, the Secretary may provide for payment on a comprehensive fee basis.

"(4) Pursuant to agreements with approved providers of services and renal dialysis facilities, the Secretary may make payment to such providers and facilities for the cost of home dialysis supplies and equipment and home dialysis support services furnished to patients dialyzing at home whose home dialysis care is under the direct supervision of such provider or facility, on the basis of a target reimbursement rate (as defined in paragraph (6)).

"(5) An agreement under paragraph (4) shall require that the provider or facility will—

"(A) assume full responsibility for directly obtaining or arranging for the provision of—

"(i) such medically necessary dialysis equipment as is prescribed by the attending physician;

"(ii) dialysis equipment maintenance and repair services;

"(iii) the purchase and delivery of all necessary medical supplies; and

"(iv) where necessary, the services of trained home dialysis aides;

"(B) perform all such administrative functions and maintain such information and records as the Secretary may require to verify the transactions and arrangements described in subparagraph (A);

"(C) submit such cost reports, data, and information as the Secretary may require with respect to the costs incurred for equipment, supplies, and services furnished to the facility's home dialysis patient population; and

"(D) provide for full access for the Secretary to all such records, data, and information as he may require to perform his functions under this section.

"(6) The Secretary shall establish, for each calendar year, commencing with January 1, 1978, a target reimbursement rate for home dialysis which shall be adjusted for regional variations in the cost of providing home dialysis. In establishing such a rate, the Secretary shall include—

"(A) the Secretary's estimate of the cost of providing medically necessary home dialysis supplies and equipment;

"(B) an allowance, in an amount determined by the Secretary, to cover the cost of providing personnel to aid in home dialysis; and

"(C) an allowance, in an amount determined by the Secretary, to cover administrative costs and to provide an incentive for the efficient delivery of home dialysis;

but in no event shall such target rate exceed 70 percent of the national average payment, adjusted for regional variations, for a maintenance dialysis service furnished in approved providers and facilities during the preceding fiscal year. Any such target rate so established shall be utilized, without renegotiation of the rate, throughout the calendar year for which it is established. During the last quarter of each calendar year, the Secretary shall establish a home dialysis target reimbursement rate for the next calendar year based on the most recent data available to the Secretary at the time. In establishing any rate under this paragraph, the Secretary may utilize a competitive-bid procedure, a prenegotiated rate procedure, or any other procedure which the Secretary determines is appropriate and feasible in order to carry out this paragraph in an effective and efficient manner.

"(7) For purposes of this title, the term 'home dialysis supplies and equipment' means medically necessary supplies and equipment (including supportive equipment) required by an individual suffering from end-stage renal disease in connection with renal dialysis carried out in his home (as defined in regulations), including obtaining, installing, and maintaining such equipment.

"(8) For purposes of this title, the term 'self-care home dialysis support services', to the extent permitted in regulation, means—

"(A) periodic monitoring of the patient's home adaptation, including visits by qualified provider or facility personnel (as defined in regulations), so long as this is done in accordance with a plan prepared and periodically reviewed by a professional team (as defined in regulations) including the individual's physician;

"(B) installation and maintenance of dialysis equipment;

"(C) testing and appropriate treatment of the water; and

"(D) such additional supportive services as the Secretary finds appropriate and desirable.

"(9) For purposes of this title, the term 'self-care dialysis unit' means a renal disease facility or a distinct part of such facility or of a provider of services, which has been approved by the Secretary to make self-dialysis services, as defined by the Secretary in regulations, available to individuals who have been trained for self-dialysis. A self-care dialysis unit must, at a minimum, furnish the services, equipment and supplies needed for self-care dialysis, have patient-staff ratios which are appropriate to self-dialysis (allowing for such appropriate lesser degree of ongoing medical supervision and assistance of ancillary personnel than is required for full care maintenance dialysis), and meet such other requirements as the Secretary may prescribe with respect to the quality and cost-effectiveness of services.

"(c)(1) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish, in accordance with such criteria as he finds appropriate, renal disease network areas, such network organizations (including a medical review board for each network area) as he finds necessary to accomplish such purpose, and a national end stage renal disease medical information system. The Secretary may by regulations provide for such coordination of network planning and quality assurance activities and such exchange of data and information among agencies with responsibilities for health planning and quality assurance activities under Federal law as is consistent with the economical and efficient administration of this section and with the responsibilities established for network organizations and medical review boards under this section.

"(2) The network organization and the medical review board of each network shall be responsible, in addition to such other duties and functions as may be prescribed by the Secretary, for—

"(A) encouraging, to the maximum extent possible, consistent with sound medical practice, the use of those treatment settings most compatible with the successful rehabilitation of the patient.

"(B) developing, on the basis of normative data derived from the renal disease medical information system and criteria and standards developed within the network, network goals relating to the quality and appropriateness of patient care, including goals with respect to the appropriate proportion of network patients dialyzing in self-care settings and undergoing or preparing for transplantation;

"(C) evaluating the procedures by which facilities and providers in the network assess the appropriateness of patients for proposed treatment modalities;

"(D) identifying facilities and providers that are not cooperating toward meeting network goals; requesting explanations and plans for correction from such facilities and providers; and approving or recommending plans for such correction; and

"(E) submitting an annual report to the Secretary on July 1 of each year which shall include a full statement of the network's goals, data on the network's performance in meeting its goals (including data on the comparative performance of facilities and providers with respect to the idenification and placement of suitable candidates in self-care settings and transplantation), identification of those facilities that have consistently failed to cooperate with network goals, and recommendations with respect to the need for additional or alternative services or facilities in the network in order to meet the network goals, including self-dialysis training, transplantation, and organ procurement facilities.

"(3) The Secretary shall evaluate the adequacy of each network's goals, in relation to the national objective established in accordance with paragraph (4), and the performance of the network in meeting these goals, and may recommend such modifications in the goals and the methods for achieving them as he deems appropriate. Where the Secretary determines, on the basis of the data contained in the network's annual report and such other relevant data as may be available to him, that a facility or provider has consistently failed to cooperate with network plans and goals, he may terminate or withhold certification of such facility or provider (for purposes of payment for services furnished to individuals with end stage renal disease) until he determines that such provider or facility is making reasonable and appropriate efforts to cooperate with the network's plans and goals.

"(4) The national objective with respect to the appropriate proportion of patients in self-dialysis settings and preparing for or undertaking transplantation is that a majority of new patients being accepted for end-stage renal disease treatment should be in self-dialysis settings or be transplanted. The Secretary shall, after consultation with appropriate professional and network organizations, and after taking into account available evidence relating to developments in research, treatment methods and technology, periodically evaluate and, when he determines necessary, recommend revision of the national objective to the Congress.

"(5) The Secretary shall, in determining whether to certify additional facilities or expansion of existing facilities within a network, take into account the network's goals and performance as reflected in the network's annual report, and assure himself that where a network has a low self-dialysis treatment percentage such percentage can be satisfactorily justified before certifying additional beds or facilities.

"(6) The Secretary shall, on the basis of the annual network reports, determine the extent to which self-dialysis training within each network is adequate to the patient size and referral patterns of the area. Where the Secretary finds that self-training programs in any network are of insufficient capacity or are not distributed throughout the network in a manner which assures that self-dialysis training is adequate to meet the needs of individuals with renal disease, he shall place in effect a program under which self-dialysis training is provided in renal disease facilities or providers which shall be designated by him for this purpose. Where a provider or facility so designated is subsequently found by the Secretary to have failed to provide the required self-dialysis training, he may terminate or withhold certification of such provider or facility (for purposes of payment for services furnished to individuals with end stage renal disease) until such provider or facility is in compliance with the requirements concerning the provision of self-dialysis training.

"(d) Notwithstanding any provision to the contrary in section 226, any individual who donates a kidney for transplant surgery shall be entitled to benefits under parts A and B of this title with respect to such donation. Reimbursement for the reasonable expenses incurred by such an individual with respect to a kidney donation shall be made (without regard to the deductible, premium, and coinsurance provisions of this title), in such manner as may be prescribed by the Secretary in regulations, for all preparatory, operation, and postoperation recovery costs associated with such donation, including but not limited to the costs for which payment could be made if he were an eligible individual for purposes of parts A and B of this title without regard to the subsection. Postoperation recovery costs shall be limited to the actual period of recovery.

"(e)(1) Notwithstanding any other provision of this title, the Secretary may, pursuant to agreements with approved providers of services and renal dialysis facilities, reimburse such providers and facilities (without regard to the deductible and coinsurance provisions of this title) for the reasonable cost of the purchase, installation, maintenance and reconditioning for subsequent use of artificial kidney and automated dialysis peritoneal machines (including supportive equipment) which are to be used exclusively by entitled individuals dialyzing at home.

"(2) An agreement under this subsection shall require that the provider or facility will—

"(A) make the equipment available for use only by entitled individuals dialyzing at home;

"(B) recondition the equipment, as needed, for reuse by such individuals throughout the useful life of the equipment, including modification of the equipment consistent with advances in research and technology;

"(C) provide for full access for the Secretary to all records and information relating to the purchase, maintenance, and use of the equipment; and

"(D) submit such reports, data, and information as the Secretary may require with respect to the cost, management, and use of the equipment.

"(3) For purposes of this section, the term 'supportive equipment' includes blood pumps, heparin pumps, bubble detectors, other alarm systems, and such other items as the Secretary may determine are medically necessary.

"(f)(1) The Secretary shall initiate and carry out, at selected locations in the United States, pilot projects under which financial assistance in the purchase of new or used durable medical equipment for renal dialysis is provided to individuals suffering from end stage renal disease at the time home dialysis is begun, with provision for a trial period to assure successful adaptation to home dialysis before the actual purchase of such equipment.

"(2) The Secretary shall conduct experiments to evaluate methods for reducing the costs of the end stage renal disease program. Such experiments shall include (without being limited to) reimbursement for nurses and dialysis technicians to assist with home dialysis, reimbursement to family members assisting with home dialysis, and (to the extent medically sound) incentives to home dialysis patients to clean and reuse their dialysis filters.

"(3) The Secretary shall conduct experiments to evaluate methods of dietary control for reducing the costs of the end stage renal disease program, including (without being limited to) the use of protein-controlled products to delay the necessity for, or reduce the frequency of, dialysis in the treatment of end stage renal disease.

"(4) The Secretary shall conduct a comprehensive study of methods for increasing public participation in kidney donation and other organ donation programs.

"(5) The Secretary shall conduct a full and complete study of the reimbursement of physicians for services furnished to patients with end stage renal disease under this title, giving particular attention to the range of payments to physicians for such services, the average amounts of such payments, and the number of hours devoted to furnishing such services to patients at home, in renal disease facilities, in hospitals, and elsewhere.

"(6) The Secretary shall conduct a study of the number of patients with end stage renal disease who are not eligible for benefits with respect to such disease under this title (by reason of this section or otherwise), and of the economic impact of such noneligibility of such individuals. Such study shall include consideration of mechanisms whereby governmental and other health plans might be instituted or modified to permit the purchase of actuarially sound coverage for the costs of end stage renal disease.

"(7) The Secretary shall submit to the Congress no later than October 1, 1978, a full report on the experiments conducted under paragraphs (1), (2), and (3) and the studies under paragraphs (4), (5), and (6). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of such experiments and studies.

"(g) The Secretary shall submit to the Congress on October 1, 1978, and on October 1 of each year thereafter, a report on the end stage renal disease program, including but not limited to—

"(1) the number of patients, nationally and by renal disease network, on dialysis (self-dialysis or otherwise) at home and in facilities;

"(2) the number of new patients entering dialysis at home and in facilities during the year;

"(3) the number of facilities providing dialysis and the utilization rates of those facilities;

"(4) the number of kidney transplants, by source of donor organ;

"(5) the number of patients awaiting organs for transplant;

"(6) the number of transplant failures;

"(7) the range of costs of kidney acquisitions, by type of facility and by region;

"(8) the number of facilities providing transplants and the number of transplants performed per facility;

"(9) patient mortality and morbidity rates;

"(10) the average annual cost of hospitalization for ancillary problems in dialysis and transplant patients, and drug costs for transplant patients;

"(11) medicare payment rates for dialysis, transplant procedures, and physician services long with any changes in such rates during the year and the reasons for those changes;

"(12) the results of cost-saving experiments;

"(13) the results of basic kidney disease research conducted by the Federal Government, private institutions, and foreign governments;

"(14) information on the activities of medical review boards and other network organizations; and

"(15) estimated program costs over the next five years.".

SEC. 3. (a) Section 226(a) of the Social Security Act is amended—

(1) by striking out "specified in subparagraph (B)" and inserting in lieu thereof "specified in paragraph (1)"; and

(2) by striking out "specified in subparagraphs (A) and (B)" and inserting in lieu thereof specified in paragraphs (1) and (2)".

(b) Paragraphs (2) and (3) of section 226(e) of such Act (as redesignated by subsection (b)(2) of the first section of this Act) are each amended by striking out "subsection b" and inserting in lieu thereof "subsection (b)".

SEC. 4. (a) Section 1833(a) (1) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (C), and

(2) by adding the following after "and" in clause (D):

"(E) with respect to services furnished to individuals who have been determined to have end stage renal disease, the amounts paid shall be determined pursuant to section 1881, and".

(b) Section 1833(a)(2) of such Act is amended by inserting "(unless otherwise specified in section 1881)" after "other services".

(c) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of clause (C),

(2) by inserting "and" at the end of clause (D), and

(3) by adding the following new clause after subclause (D):

"(E) home dialysis supplies and equipment, self-care home dialysis support services, and self-dialysis services;".

(d) The first sentence of section 1866(a)(2)(A) of such Act is amended by inserting the following before the period: "(but in the case of items and services furnished to individuals with end-stage renal disease, an amount equal to 20 percent of the estimated amounts for such items and services calculated on the cost-related basis established by the Secretary)".

SEC. 5. The third sentence of section 1817(b) of the Social Security Act, and the third sentence of section 1841(b) of such Act, are each amended by striking out "Commissioner of Social Security" and inserting in lieu thereof "Administrator of the Health Care Financing Administration".

SEC. 6. The amendments made by this Act shall become effective with respect to services, supplies, and equipment furnished after the third calendar month which begins after the date of the enactment of this Act, except that those amendments providing for the implementation of an incentive reimbursement system shall become effective with respect to a facility's or provider's first accounting period which begins on or after October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are now considering a bill, H.R. 8423, reported by the Committee on Ways and Means after extensive committee studies and hearings, which is designed to make several needed improvements in the medicare end-stage renal disease program. Although this program has been successful in meeting the need of renal disease patients for medicare insurance protection, the committee has concluded that improvement can and must be made both to contain

rising program costs and to enhance its effectiveness. The committee believes that H.R. 8423 effectively accomplishes these objectives.

Mr. Speaker, the high and steadily rising cost of the renal disease program is a matter of serious concern. In part, this high cost is a reflection of the expensive technology required for the treatment of this disease, the need in most cases for lifetime care, and the inflation of health care costs generally. But rising program costs are also a reflection of disincentives in the program to the use of lower cost procedures and services. There are, for example, statutory impediments to the broader use of self-dialysis and transplantation by patients who are medically suitable candidates for these treatment methods.

In the case of transplantation, the major disincentives are related to certain inequities in the present entitlement provisions. H.R. 8423 would help to overcome these disincentives to transplantation in four ways. First, it would extend the posttransplant period of coverage from the present 12 months to 36 months. Second, it would provide for the immediate resumption of coverage without a waiting period whenever the transplant fails. Third, it would modify present law by beginning coverage initially with the month of hospitalization if transplant surgery takes place within the following 2 months. And fourth, it would provide coverage for the expenses incurred by live kidney donors.

Mr. Speaker, it has been estimated that the elimination of these disincentives could significantly increase the percentage of patients undertaking transplantation. And in view of the fact that transplantation is far less costly than lifetime dialysis, such a development would result in considerable program savings over time.

In the case of self-dialysis, there are several disincentives in the program which have discouraged patients from undertaking this mode of treatment. Some of these disincentives are a direct consequence of the benefit structure of the medicare program which was not designed originally with the unique problems of renal disease patients in mind. Others flow from the special arrangements required for the treatment of renal patients. Nevertheless, the fact that the percentage of rental patients on self-dialysis has steadily declined during the 4 years the program has been in effect makes it imperative to modify present law. Since the cost of self-dialysis, and particularly home dialysis, is generally one-third to one-half less than the cost of dialysis in an institution, the potential program saving from increased use of self-dialysis is substantial.

H.R. 8423 includes several provisions intended to encourage the use of self-dialysis by suitable patients. First, it provides for waiver of the 3-month waiting period for an individual who enters a *self-dialysis* training program. Second, it provides for the coverage of disposable supplies required for the effective performance of home dialysis, and for home dialysis support services furnished by facilities to home dialysis patients. Third, it provides coverage for services in a lower cost self-dialysis unit maintained by a renal dialysis facility. Fourth, it provides for full reimbursement to facilities for dialysis equipment purchased by facilities for the exclusive use of patients dialyzing at home. And fifth, it provides for the implementation of an incentive reimbursement method for services furnished by facilities to patients dialyzing at home.

H.R. 8423 also includes provisions specifically designed to reinforce professional and patient motivation to carefully consider the use of self-dialysis and transplantation by suitable candidates.

The bill provides two mechanisms for encouraging attention to this decision. First, the bill assigns responsibility to the physician peer review organizations in each renal disease network for establishing network goals for the placement of suitable candidates in self-care settings and transplantation, and for assuring the cooperation of facilities in meeting these goals.

Second, it establishes a long-range national objective, based on the experience and recommendations of professional peer review organizations, with respect to the use of self-dialysis settings and transplantation. The national objective, which would be subject to continuing evaluation and revision if necessary, would be that in the future a majority of new patients being accepted for end-stage renal disease treatment should be in self-care dialysis settings or be transplanted.

Mr. Speaker, the committee shares the widespread belief of professional people in the field of renal disease that appropriate incentives for more cost-effective use of self-care dialysis settings and transplantation can help significantly to contain program costs without impairing the quality or availability of needed services. Moreover, the Department, in commenting on this bill, has stated that it anticipates increased potential for significant program savings immediately and in future years as a result of increased use of self-care dialysis settings.

H.R. 8423 also addresses the need to provide a more cost-effective reimbursement method for institutional dialysis services. To an increasing degree, congressional attention has been focused on the need to develop prospective reimbursement methods and target rates to encourage more efficient management of health facilities and to stimulate better planning in the delivery of services. The incentive reimbursement method included in H.R. 8423 reflects this general philosophy; it provides for the use of prospectively set rates, target rates and the use of arrangements under which efficiently managed facilities may share in the savings they produce.

Finally, Mr. Speaker, the bill requires the Secretary to conduct a variety of experiments and studies on ways to reduce program costs without impairing the quality of care, and to report annually to the Congress on the cost and operation of the program.

Mr. Speaker, the medicare renal disease program has been an effective one. It has made the fruits of medical research and technology available to many people who might not otherwise have been able to afford the care. The program is a costly one, however, and it is our responsibility to assure the most effective use of program funds. This bill does that and, at the same time, assures that the program will provide the incentives and the scope of protection needed to preserve the program's continued stability.

Mr. Speaker, the Committee on Ways and Means has worked on this legislation for a period of 12 to 15 months, and I am pleased to report that it was reported out of that committee unanimously.

I want to congratulate the members of my subcommittee, the Subcommittee on Health, for having done so much to formulate this legislation. In particular I wish to commend the gentleman from Ohio, Mr. CHARLES VANIK, who has done a great deal of research and work on this legislation.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 8423—medicare renal disease program amendments. As many of my colleagues are well aware, the legislation that this Congress enacted in 1972 was a milestone in providing assistance to our citizens who literally would not survive in the absence of Federal financial help. Since that time, it is obvious that there has been great success, and that many people who might otherwise not be alive today are able to lead normal, productive lives.

While we can be proud of our achievements, it has become apparent that there are several problems in the implementation of the renal disease program that need to be corrected. I am pleased to say that, in my opinion, H.R. 8423 will go a long way toward addressing those needs and making this program more equitable and cost-effective.

Let me briefly recap some of the provisions of H.R. 8423 that I find particularly significant:

I believe, first of all, that the provisions of the bill which provide incentives for increased use of self-dialysis are very important. The cost of institutional dialysis is extremely high, and it is clear that in the past there have been too many disincentives to patients who might otherwise be willing to take self-care dialysis. By eliminating the 3-month waiting period under present law, and by providing coverage of supplies necessary to perform home dialysis, the bill should encourage those who otherwise are able to use self-care dialysis and home dialysis to do so.

The provision of the bill that facilitates the opportunity to purchase, rather than rent, equipment in cases where such purchase is more economically feasible, may also save the medicare program and beneficiaries a great deal of money—perhaps as high as $3 million a year. Moreover, patients will be assured of continuous and professional supervision over the medical management of the care that they receive while dialyzing at home and using that equipment.

I also believe the provisions of the bill that provide target reimbursement rates and other incentives for reimbursing renal dialysis facilities should be singled out for praise. I am confident that this program will result in great savings for the facilities and the beneficiaries alike. I would, however, urge that the Secretary provide safeguards in connection with promulgating regulations, to insure that the quality of care delivered to patients undergoing home dialysis remains at a high level and that facilities that have an incentive to economize do not do so at the expense of quality of patient care.

Mr. DUNCAN of Tennessee. One point that I would like to reiterate, Mr. Speaker, is the nature of the new reimbursement system which we authorized in the bill. This is to be an incentive reimbursement system designed to encourage the cost efficient delivery of services. It is not designed to be a "cost-plus" reimbursement program. I fully support the concept of the incentive reimbursement method that the bill provides for services furnished by a renal dialysis facility to patients dialyzing at home under the supervision of the facility.

The intent of the committee working on this bill has been to design a program which places a premium on efficiency and cost-saving to the Government so that program costs can be held down while the quality of care is kept high.

Similarly, the bill contains provisions which assign responsibility to the network peer review organizations for establishing goals for identifying and placing suitable candidates in self-care settings and transplantation, and for assessing the performance in meeting these goals. Although, in general, these provisions will provide a very valuable function, I believe it is very important to insure that all such evaluations are made primarily on the basis of medical judgments, with the needs of each individual patient remaining the most important factor.

Finally, H.R. 8423 provides for studies, reports, and mechanisms to improve the administration of the renal disease program. I believe that these studies and experiments will shed a great deal of light on ways to improve the program and make it even more cost-effective.

In conclusion, Mr. Speaker, I believe that H.R. 8423 will be an extremely valuable addition to our health legislation. It is vital to strengthen this program and make it cost-effective, both for its own sake and to the extent that we may look to it for guidance in constructing any program of national health insurance. I strongly urge my colleagues to give this bill their support.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding this time to me.

I wish to commend the chairman and the members of the subcommittee for an excellent work product with this particular legislation. This bill does two things:

In the first place, it reaffirms the commitment of the Congress in its concern and empathy for patients with end-stage renal disease, and second, it affirms a genuine commitment to cut down on the tremendous cost increases of this particular program.

I hope that what we are doing, in passing this and in adopting some amendments to put in new incentives for home care and self-dialysis care, means that we will in fact reduce the cost of this program. I hope it means that we will give a signal to institutional health care providers that Congress is going to take a closer look at the rapid increase in the cost of health care in general and the cost of this program in particular.

Mr. Speaker, I again commend the chairman and appreciate his willingness to accept some of the amendments which make this program, I think, even better in the future.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN) for yielding.

Mr. Speaker, I would like to say at the outset that I support H.R. 8423 and the improvements that it makes in the end stage renal disease program. I do, however, have one specific concern which I addressed in the full committee markup of the bill with regard to the program goals for patients on self-dialysis.

It is important to understand that although the bill establishes a national objective that a majority of new patients being accepted for end stage renal disease treatments should be in self-dialysis settings or be transplanted, this objective is not intended to in any way interfere with the physician-patient relationship nor to interpose a barrier to sound medical judgment. We recognize that not all patients have identical needs and it will not be possible for all patients to be treated in the same or similar manner. Moreover, the authority of the Secretary to withhold certification for a facility is intended to be exercised only as a last resort in the most extreme cases where the failure to reach the national objective is the result of nonmedical decisions not related to the treatment of the patient. It is not the intent of Congress to legislate the mode of medical treatment to be utilized for each particular patient, and this section of the bill should not be construed as granting the Secretary any similar authority.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Speaker, I thank the gentleman for yielding.

I asked for this time in order to engage in a colloquy with the chairman of the subcommittee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

There are a number of constituents in my district who are concerned about the original provisions of H.R. 3112, which would have mandated that by a specified time there be an ongoing increasing percentage of patients involved in self-dialysis. I just wonder whether or not in the legislation before us, H.R. 8423, those mandated percentage requirements are still in the bill.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, I will state that they are no longer in the legislation. The legislation does provide incentives, but there are no mandating provisions in this legislation at all.

Mr. CORCORAN of Illinois. Mr. Speaker, I thank the gentleman.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to extend my overwhelming support to H.R. 8423, the end stage renal disease program amendments. There is a tremendous need for this legislation not only in my district in Tennessee but also in districts throughout the country. My office has been in close and constant contact with agencies and individuals who are strongly supportive of this measure.

I share their support for three basic reasons:

First. The bill is economical;

Second. It provides allowances for needed health care services; and

Third. It is a human and positive way to administer a self-dialysis program.

There is so much "talk" these days about cost containment. H.R. 8423 is not "talk" about it, is is precisely that: cost containment. There are many health care provider agencies throughout the country which can administer home self-dialysis programs at costs less than half that of institutional dialysis programs. Laurel Reisman, a constituent of mine in Memphis, who is also executive director of Home Health Services, documents this claim. She furthermore underscores the need for the enactment of this legislation on the grounds that agencies similar to Home Health Services receive frequent requests for home self-dialysis assistance, but cannot provide this assistance under present law unless the patient is willing and able to pay; and in most cases, the patients are not able to pay.

And finally, H.R. 8423 is a more humane and private way to administer dialysis services. Patients should not have to be subjected to institutional treatment—among many insensitive strangers—when they can get the same service in their bedrooms at home.

I therefore challenge my colleagues to join me and support passage of the end stage renal disease program amendments.

Mr. CARTER. Mr. Speaker, I wish to add my strong support for this legislation, H.R. 8423, which amends the Social Security Act to make improvements in the end stage renal disease program. For some time I have had a special interest in the development of legislation in this area, and I have sponsored bills in the 94th Congress and 95th Congress to provide incentives for more effective use of home dialysis and to encourage early kidney transplantation. Moreover, I had the pleasure of testifying before the Sub-

committee on Oversight of the Ways and Means Committee in September, 1975 in support of such legislation, and I would like to congratulate the members of the committee who worked so diligently to improve disability coverage under Medicare for Americans who have lost kidney function.

Mr. Speaker, during the past 15 years, great advances have been made in the treatment of this dreaded catastrophic disease, and many individuals' lives have been saved. Thanks to the 1972 renal disease amendment thousands of our citizens who have experiencerd kidney failure have been provided needed medical treatment. In addition, this 1972 legislation saved many families from bankruptcy. However, Mr. Speaker, coverage for renal disease under medicare has become very expensive, and has put a burden on the Medicare trust funds.

In fact, it has been estimated that the renal disease program costs will reach $1.3 billion in 1980 and $6.3 billion by 1992 if no changes in the law are made. Moreover, we know that while the annual cost of institutional dialysis ranges over $15,000 to $30,000, the annual cost of home dialysis is in the $8,000–$12,000 range. Given this situation, I applaud the committee's efforts to develop appropriate incentives for most cost-effective use of self-care dialysis settings to help contain rising program costs without impairing the quality or availability of needed services.

H.R. 8423 includes many of the provisions which I had endorsed in the legislation I sponsored, as well as some additional incentives. Basically, the incentives in H.R. 8423—

One. Provide for the waiver of the 3-month waiting period under present law for a beneficiary who enters a self-care training program prior to the end of the third month after the month his regular course of dialysis begins;

Two. Provide for the coverage of disposable supplies (such as syringes, needles, and sterile drapes) required for the effective performance of home dialysis;

Three. Provide coverage for periodic supportive services, including emergency visits and servicing of dialysis equipment, furnished by facilities to individuals dialyzing at home;

Four. Provide coverage for services of a self-care dialysis unit maintained by renal dialysis facility; and

Five. Authorize full reimbursement to facilities for dialysis equipment purchased by faclities for the exclusive use of patients dialyzing at home.

In addition, H.R. 8423 includes provisions to eliminate disincentives to transplantation which were also features of the legislation I sponsored.

Mr. Speaker, I believe the amendments made by this bill to the renal disease program have been carefully considered and are very much needed. This legislation will help enhance the protection afforded to kidney disease patients at the same time it will assure that the program's costs—and costs to the taxpayers—are maintained at a reasonable level. I urge that H.R. 8423 be favorably considered.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill H.R. 8423, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EXTENSION OF CERTAIN ELEMENTARY AND SECONDARY EDUCATION ACT PROGRAMS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes.

The Clerk read as follows:

S. 1752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1977".

EXTENSION OF CERTAIN PROGRAMS UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 2. (a)(1) Section 102 of the Elementary and Secondary Education Act of 1965 (hereinafter in this section referred to as the "Act") is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(2) Section 125 of the Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

(3) Section 148(c) of the Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

(b)(1) Section 201(b) of the Act is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "for each succeeding fiscal year ending prior to October 1, 1979".

(2) Section 204(b) of the Act is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1979".

(c)(1)(A) Section 301(b) of the Act is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "for each succeeding fiscal year ending prior to October 1, 1979".

(B) The second sentence of such section 301(b) is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "for each succeeding fiscal year ending prior to October 1, 1979".

(2) Section 305(c) of the Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

(3) Section 309(c) of the Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

(d)(1) Section 401(a)(1) of the Act is amended by striking out "each of the two succeeding fiscal years" and inserting in lieu thereof "each succeeding year ending prior to October 1, 1979".

(2) Section 401(b)(1) of the Act is amended by striking out "each of the two succeeding fiscal years" and inserting in lieu thereof "each succeeding fiscal year ending prior to October 1, 1979".

(3) Section 401(d) of the Act is amended by striking out "the fiscal year ending September 30, 1978" and inserting in lieu thereof "each fiscal year ending prior to October 1, 1979".

(e)(1) Section 501(b) of the Act is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "each succeeding fiscal year ending prior to October 1, 1979".

(2) Section 521(b) of the Act is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "each succeeding fiscal year ending prior to October 1, 1979".

(3) Section 531(b) of the Act is amended by striking out "each of the five succeeding fiscal years" and inserting in lieu thereof "each succeeding fiscal year ending prior to October 1, 1979".

(4) Section 541 of the Act is amended by inserting the following new subsection:

"(c)(1) Notwithstanding any other provision of law the National Council established by subsection (a) of this section shall continue to exist until October 1, 1979.

"(2) Notwithstanding the provisions of section 401(b) there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) of this section.".

"(3) Section 811(d) of the Act is amended by striking out "July 1, 1978" and inserting in lieu thereof October 1, 1979".

EXTENSION OF ADULT EDUCATION ACT

SEC. 3. (a)(1) Section 310(b) of the Adult Education Act is amended by striking out "1978" and inserting in lieu thereof "1979".

(2) Section 311(b) of such Act is amended by striking out "1978" and inserting in lieu thereof "1979".

(b) Section 313(a) of such Act is amended by striking out "for each of the fiscal years ending June 30, 1977, and June 30, 1978" and inserting in lieu thereof "for the fiscal year ending September 30, 1977, and for each of the succeeding fiscal years ending prior to October 1, 1979".

(c) Section 314(d) of such Act is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1979".

EXTENSION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 4. The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

EXTENSION OF APPROPRIATIONS PROVISION

SEC. 5. Section 412(b) of the General Education Provisions Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) and the gentleman from Alabama (Mr. BUCHANAN) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

The purpose of this bill is to extend for 1 additional year three of the Federal education programs which expire in fiscal 1978 which have advanced funding. We are doing this in order to enable the Appropriations Committees to continue to make advance appropriations for these three vital programs as the authorizing committees complete their work next year on extending and revising the programs.

These programs are the compensatory education program under title I of the Elementary and Secondary Education Act, the consolidated programs under title IV of that act, and the Adult Education Act. The reason that we need this bill is rather complicated so I would like to take a minute to explain it more fully.

All of the major Federal elementary and secondary education programs expire at the end of fiscal year 1978. The Education and Labor Committee has been conducting hearings all this year in order to be able to write a bill early next year revising and extending these programs. The Senate committee is on the same schedule. We anticipate that our bills will be reported from committee to the respective houses before the Budget Act's deadline of May 15, 1978.

Now, ordinarily we would have no problem with the Appropriations Committees' moving ahead with their appropriations for all of these programs at the same time that we are considering an extension bill, because we have provided in our education laws that all expiring Federal education programs are automatically extended for 1 year beyond their formal expiration date unless the Congress decides otherwise. That provision of law gives the Appropriations Committees the authority they need to continue with their work. But unfortunately that provision does not work with advanced funded programs since their authority must really be provided 2 years ahead of time.

I believe that it would be best to illustrate this point with an example using the largest Federal education program, title I of the Elementary and Secondary Education Act, the compensatory education program. That program expires on September 30, 1978, but its authorization is automatically extended until September 30, 1979, by the provision of law I just mentioned. Now, since title I is an advanced funded program, the House and Senate Appropriations Committees provided the funding for title I for fiscal year 1979 in the fiscal year 1978 appropriations bill which is now in conference. In the process, the committees used the automatic 1-year extension which I just mentioned.

So now, when the Appropriations Committees begin work on the fiscal 1979 appropriations bill next January, there will be no authority for them to provide the advanced funding for title I for fiscal year 1980 because the automatic 1-year extension would have been used already. And, since our authorization bill extending title I will not be signed into law until late in the session next year that program stands to lose its advanced funding unless we pass this bill.

Let me mention to the House that in the thousands of days of hearings I have sat through on education programs in my years in Congress, no other problem has been mentioned as consistently as the problem of the unreliability and lateness of Federal funding. We have come a long way in solving that problem in education by advance funding education programs, and I hope that we do not lose that today.

For the information of the Members, I would like to mention that this bill has been requested by the administration and is enthusiastically endorsed by all the major education organizations. It is also a bipartisan measure since Congressman QUIE and I have introduced a companion House measure, H.R. 8040.

Therefore, I urge my colleagues to suspend the rules and to pass S. 1752.

Tables follow:

TABLE 1

FISCAL YEAR 1978

Authorization

Last year of authorization.

Appropriation

Advance funding provided in fiscal year 1977 appropriation bill.

FISCAL YEAR 1979

Authorization

Automatic one-year extension.

Appropriation

Advance funding provided in fiscal year 1978 appropriation bill.

FISCAL YEAR 1980

Authorization

No authorization.

Appropriation

Lose advance funding from fiscal year 1979 appropriation bill.

TABLE 2.—*Authorizations and appropriations for fiscal year 1978*

[In millions]

	Authorizations	*Appropriations*
Title I	$5,520	$2,280
Consolidated programs:		
Libraries and learning resources	395	154
Support and innovation	350	194
Adult education	200	81

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Chairman PERKINS' motion to suspend the rules and pass S. 1752. As the chairman has stated, this bill is a simple 1-year extension of the forward funded programs in the Elementary and Secondary Education Act. In addition, the act would provide for a 1-year extension of the Adult Education Act and title III of the National Defense Education Act.

As Members know, the Subcommittee on Elementary, Secondary and Vocational Education is in the middle of an extensive set of hearings to consider the reauthorization of ESEA and a number of other programs providing assistance to local school districts. Hearings on ESEA will continue through the remainder of this session. Because these hearings are so extensive, it will not be possible to finish the legislation to amend and extend these programs in time to permit the respective appropriations committees to act on the President's fiscal year 1979 budget request when it is sent to the Congress in January.

The programs encompassed by S. 1752 have all been forward funded for the past several years. What this means very simply is that an appropriation is made in 1 year to be available to school districts in the following year. For example, in the fiscal year 1978 Labor-HEW appropriations bill now awaiting final congressional action, funds are included for title I of ESEA for the school year which will begin a year from this month. By including funds a year in advance, the Congress and executive branch are then able to notify school districts of the exact amount of funds which will be available to them in time so that they may take this information into consideration in establishing their annual school district budgets in the spring of next year. In the absence of S. 1752, the Appropriations Committees, under the House Rules, would not be able to include funding for these programs in the fiscal year 1979 appropriations bill until a more extensive revision of the law was considered in committees, passed by both Houses and signed by the President. Realistically, I do not expect that to happen until the summer of next year which will be several weeks after the House will have considered the fiscal year 1979 appropriations bill. By enacting S. 1752, which was passed by the other body last week, we will be able to preserve the forward funding nature of these programs and continue to assist school districts in sound and prudent fiscal management.

I wish to make very clear to my colleagues that this bill in no way should be construed as meaning that the Education and Labor Committee will not engage in extensive examination and possible revision of all of the programs covered by this bill as well as other programs due to expire next year. The 35 days of hearing which have been held to date have revealed a number of issues which need to be thoughtfully and carefully examined in the course of committee consideration during the remainder of this session and early in the second session.

It should also be pointed out that this bill does not extend the Impact Aid Act, the Bilingual Education Act, nor any of the programs under the heading of Special Projects Act nor the National Reading Improvement Act since none of these programs are forward funded. By not including those programs in this bill, there is adequate insurance that the Congress will act in the second session of the 95th Congress on a comprehensive revision of all of these programs since the appro-

priations committees will be unable to provide funding for these nonforward funded programs for fiscal year 1979 until such a bill is enacted.

I know of no opposition to this measure from any quarters. In fact, it has the enthusiastic support of virtually every major association involved in elementary and secondary education.

I urge my colleagues to support this measure.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. LEVITAS) The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS), that the House suspend the rules and pass the Senate bill, S. 1752.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

The yeas and nays have been ordered on all of the motions and votes will be taken in the following order:

H.R. 3455, H.R. 3454, H.R. 8698, H.R. 8701, H.R. 8175, H.R. 4341, H.R. 6803, and H.R. 3702.

The chair will reduce to 5 minutes the time for electronic votes after the first such vote in this series.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION, FISCAL YEAR 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3455, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill (H.R. 3455), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 2, answered "present" 1, not voting 35, as follows:

[Roll No. 535]

YEAS—396

Abdnor	Ashley	Blanchard
Addabbo	Aspin	Blouin
Akaka	AuCoin	Boggs
Alexander	Badham	Bonior
Ambro	Bafalis	Bonker
Ammerman	Baldus	Bowen
Anderson, Calif.	Baucus	Brademas
	Bauman	Breaux
Anderson, Ill.	Beard, R.I.	Breckinridge
Andrews, N.C.	Beard, Tenn.	Brinkley
Andrews, N. Dak.	Bedell	Brodhead
	Beilenson	Brooks
Annunzio	Benjamin	Broomfield
Applegate	Bennett	Brown, Calif.
Archer	Bevill	Brown, Mich.
Armstrong	Biaggi	Brown, Ohio
Ashbrook	Bingham	Broyhill
Buchanan	Hammer-schmidt	Moorhead, Pa.
Burgener		Mottl
Burke, Fla.	Hanley	Murphy, Ill.
Burke, Mass.	Hannaford	Murphy, N.Y.
Burleson, Tex.	Hansen	Murphy, Pa.
Burlison, Mo.	Harkin	Murtha
Burton, John	Harrington	Myers, Gary
Burton, Phillip	Harris	Myers, John
Butler	Hawkins	Myers, Michael
Byron	Heckler	Natcher
Caputo	Hefner	Neal
Carney	Heftel	Nedzi
Carr	Hightower	Nichols
Carter	Hillis	Nix
Cavanaugh	Holland	Nolan
Cederberg	Hollenbeck	Nowak
Chisholm	Holt	O'Brien
Clausen, Don H.	Horton	Oakar
	Howard	Oberstar
Clawson, Del	Hubbard	Obey
Clay	Huckaby	Panetta
Cleveland	Hughes	Patten
Cohen	Hyde	Patterson
Coleman	Ichord	Pattison
Collins, Ill.	Ireland	Pease
Collins, Tex.	Jacobs	Pepper
Conable	Jeffords	Perkins
Conte	Jenkins	Pettis
Corcoran	Johnson, Colo.	Pickle
Corman	Jones, N.C.	Pike
Cornell	Jones, Okla.	Poage
Cornwell	Jones, Tenn.	Pressler
Coughlin	Jordan	Preyer
Crane	Kasten	Price
Cunningham	Kastenmeier	Pritchard
D'Amours	Kazen	Pursell
Daniel, Dan	Kelly	Quayle
Daniel, R. W.	Kemp	Quillen
Danielson	Ketchum	Rahall
Davis	Keys	Railsback
de la Garza	Kildee	Rangel
Delaney	Kindness	Regula
Dellums	Kostmayer	Reuss
Derrick	Krebs	Rhodes
Derwinski	Krueger	Richmond
Devine	LaFalce	Rinaldo
Dickinson	Lagomarsino	Roberts
Dicks	Latta	Robinson
Dingell	Le Fante	Rodino
Dodd	Leach	Roe
Dornan	Leggett	Rogers
Downey	Lehman	Roncalio
Drinan	Lent	Rooney
Duncan, Oreg.	Levitas	Rose
Duncan, Tenn.	Livingston	Rosenthal
Early	Lloyd, Calif.	Rostenkowski
Eckhardt	Lloyd, Tenn.	Rousselot
Edgar	Long, La.	Roybal
Edwards, Ala.	Long, Md.	Rudd
Edwards, Calif.	Lott	Runnels
Edwards, Okla.	Lujan	Russo
Eilberg	Luken	Ryan
Emery	Lundine	Satterfield
English	McClory	Sawyer
Erlenborn	McCloskey	Scheuer
Ertel	McCormack	Schroeder
Evans, Colo.	McDade	Schulze
Evans, Del.	McDonald	Sebelius
Evans, Ga.	McEwen	Seiberling
Evans, Ind.	McFall	Sharp
Fary	McHugh	Shipley
Fascell	McKay	Shuster
Fenwick	McKinney	Sikes
Findley	Madigan	Simon
Fish	Maguire	Skelton
Fisher	Mahon	Skubitz
Fithian	Mann	Slack
Flippo	Markey	Smith, Iowa
Flood	Marks	Smith, Nebr.
Florio	Marlenee	Snyder
Flowers	Marriott	Solarz
Flynt	Martin	Spellman
Foley	Mathis	Spence
Ford, Mich.	Mattox	Staggers
Ford, Tenn.	Mazzoli	Stangeland
Forsythe	Meeds	Stanton
Fountain	Metcalfe	Stark
Fowler	Meyner	Steed
Fraser	Michel	Steers
Fuqua	Mikulski	Steiger
Gaydos	Mikva	Stockman
Gephardt	Milford	Stokes
Giaimo	Miller, Calif.	Stratton
Gibbons	Miller, Ohio	Studds
Gilman	Mineta	Stump
Ginn	Minish	Symms
Glickman	Mitchell, Md.	Taylor
Goodling	Mitchell, N.Y.	Teague
Gore	Moakley	Thompson
Grassley	Moffett	Thone
Gudger	Mollohan	Thornton
Guyer	Montgomery	Traxler
Hagedorn	Moore	Treen
Hall	Moorhead, Calif.	Trible
Hamilton		Tsongas
Tucker	Weaver	Wolff
Udall	Weiss	Wright
Van Deerlin	Whalen	Wydler
Vander Jagt	White	Wylie
Vento	Whitehurst	Yates
Volkmer	Whitley	Yatron
Walgren	Whitten	Young, Fla.
Walker	Wiggins	Young, Mo.
Walsh	Wilson, C. H.	Young, Tex.
Wampler	Wilson, Tex.	Zablocki
Watkins	Winn	Zeferetti
Waxman	Wirth	

NAYS—2

Holtzman	Ottinger

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—35

Allen	Frenzel	Risenhoover
Badillo	Frey	Ruppe
Barnard	Gammage	Santini
Boland	Goldwater	Sarasin
Bolling	Gradison	Sisk
Burke, Calif.	Harsha	St Germain
Chappell	Jenrette	Ullman
Cochran	Johnson, Calif.	Vanik
Conyers	Koch	Waggonner
Cotter	Lederer	Wilson, Bob
Dent	Moss	Young, Alaska
Diggs	Quie	

The Clerk announced the following pairs:

Mr. Jenrette with Mr. Goldwater.
Mr. Dent with Mr. Young of Alaska.
Ms. Burke of California with Mr. Sarasin.
Mr. Moss with Mr. Gradison.
Mr. Badillo with Mr. Ruppe.
Mr. Koch with Mr. Harsha.
Mr. Risenhoover with Mr. Frey.
Mr. Chappell with Mr. Cochran of Mississippi.
Mr. Boland with Mr. Quie.
Mr. Conyers with Mr. Allen.
Mr. Cotter with Mr. Barnard.
Mr Diggs with Mr. Gammage.
Mr. Santini with Mr. Frenzel.
Mr. Sisk with Mr. Waggonner.
Mr. Vanik with Mr. Bob Wilson.
Mr. St Germain with Mr. Ullman.
Mr. Lederer with Mr. Johnson of California.

Mr. GONZALEZ changed his vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes."

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1131)) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, a bill similar to the bill just passed by the House, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1978

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1954, as amended, for salaries and expenses, $299,640,000 for fiscal year 1978, to remain available until expended.

(b) In the event that the license application is withdrawn or the construction of the Clinch River Breeder Reactor is not authorized, the authorization in subsection (a) shall be reduced by $3,700,000.

(c) In the event that the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, South Carolina, the authorization in subsection (a) shall be reduced by $3,100,000.

SEC. 102. Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

SEC. 103. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

MR. UDALL moves that all after the enacting clause be stricken and the text of H.R. 3455, as passed, be inserted in lieu thereof.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for the Nuclear Regulatory Commission for the fiscal year 1978, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3455) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

ENDANGERED AMERICAN WILDERNESS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3454, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 3454, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 380, nays 18, not voting 36, as follows:

[Roll No. 536]

YEAS—380

Abdnor	Downey	Kostmayer
Addabbo	Drinan	Krebs
Akaka	Duncan, Oreg.	Krueger
Alexander	Duncan, Tenn.	LaFalce
Ambro	Early	Lagomarsino
Ammerman	Eckhardt	Latta
Anderson, Calif.	Edgar	Le Fante
	Edwards, Ala.	Leach
Anderson, Ill.	Edwards, Calif.	Leggett
Andrews, N.C.	Eilberg	Lehman
Andrews, N. Dak.	Emery	Lent
	English	Levitas
Annunzio	Erlenborn	Livingston
Applegate	Ertel	Lloyd, Calif.
Armstrong	Evans, Colo.	Lloyd, Tenn.
Ashley	Evans, Del.	Long, La.
Aspin	Evans, Ga.	Long, Md.
Badham	Evans, Ind.	Lott
Bafalis	Fary	Lujan
Baldus	Fascell	Luken
Baucus	Fenwick	Lundine
Bauman	Findley	McClory
Beard, R.I.	Fish	McCloskey
Beard, Tenn.	Fisher	McCormack
Bedell	Fithian	McDade
Beilenson	Flippo	McEwen
Benjamin	Flood	McFall
Bennett	Florio	McHugh
Bevill	Flowers	McKay
Biaggi	Foley	McKinney
Bingham	Ford, Mich.	Madigan
Blanchard	Ford, Tenn.	Maguire
Blouin	Forsythe	Mahon
Boggs	Fountain	Mann
Bonior	Fowler	Markey
Bonker	Fraser	Marks
Bowen	Fuqua	Marlenee
Brademas	Gaydos	Marriott
Breaux	Gephardt	Martin
Breckinridge	Giaimo	Mathis
Brinkley	Gibbons	Mattox
Brodhead	Gilman	Mazzoli
Brooks	Ginn	Meeds
Broomfield	Glickman	Metcalfe
Brown, Calif.	Gonzalez	Meyner
Brown, Mich.	Goodling	Michel
Brown, Ohio	Gore	Mikulski
Broyhill	Grassley	Mikva
Buchanan	Gudger	Milford
Burgener	Guyer	Miller, Calif.
Burke, Fla.	Hagedorn	Miller, Ohio
Burke, Mass.	Hall	Mineta
Burlison, Mo.	Hamilton	Minish
Burton, John	Hammer-schmidt	Mitchell, Md.
Burton, Phillip		Mitchell, N.Y.
Butler	Hanley	Moakley
Byron	Hannaford	Moffett
Caputo	Harkin	Mollohan
Carney	Harrington	Montgomery
Carr	Harris	Moore
Carter	Hawkins	Moorhead, Calif.
Cavanaugh	Heckler	
Cederberg	Hefner	Moorhead, Pa.
Clausen, Don H.	Heftel	Mottl
	Hightower	Murphy, Ill.
Clay	Hillis	Murphy, N.Y.
Cleveland	Holland	Murphy, Pa.
Cohen	Hollenbeck	Murtha
Coleman	Holt	Myers, Gary
Collins, Ill.	Holtzman	Myers, John
Collins, Tex.	Horton	Myers, Michael
Conable	Howard	Natcher
Conte	Hubbard	Neal
Corcoran	Huckaby	Nedzi
Corman	Hughes	Nichols
Cornell	Hyde	Nix
Cornwell	Ichord	Nolan
Coughlin	Ireland	Nowak
Cunningham	Jacobs	O'Brien
D'Amours	Jeffords	Oakar
Daniel, Dan	Jenkins	Oberstar
Daniel, R. W.	Johnson, Colo.	Obey
Danielson	Jones, N.C.	Ottinger
Davis	Jones, Okla.	Panetta
de la Garza	Jones, Tenn.	Patten
Delaney	Jordan	Patterson
Dellums	Kasten	Pattison
Derrick	Kastenmeier	Pease
Derwinski	Kazen	Pepper
Dickinson	Kelly	Perkins
Dicks	Kemp	Pettis
Dingell	Ketchum	Pickle
Dodd	Keys	Pike
Dornan	Kildee	Pressler
Preyer	Shipley	Van Deerlin
Price	Shuster	Vander Jagt
Pritchard	Sikes	Vento
Pursell	Simon	Volkmer
Quillen	Skelton	Walgren
Rahall	Skubitz	Walker
Railsback	Slack	Walsh
Rangel	Smith, Iowa	Wampler
Regula	Smith, Nebr.	Watkins
Reuss	Snyder	Waxman
Rhodes	Solarz	Weaver
Richmond	Spellman	Weiss
Rinaldo	Spence	Whalen
Roberts	Staggers	White
Robinson	Stangeland	Whitehurst
Rodino	Stanton	Whitley
Roe	Stark	Whitten
Rogers	Steed	Wiggins
Roncalio	Steers	Wilson, C. H.
Rooney	Steiger	Wilson, Tex.
Rose	Stockman	Winn
Rosenthal	Stokes	Wirth
Rostenkowski	Stratton	Wolff
Roybal	Studds	Wright
Runnels	Taylor	Wydler
Russo	Teague	Wylie
Ryan	Thompson	Yates
Satterfield	Thone	Yatron
Sawyer	Thornton	Young, Fla.
Scheuer	Traxler	Young, Mo.
Schroeder	Treen	Young, Tex.
Schulze	Trible	Zablocki
Sebelius	Tsongas	Zeferetti
Seiberling	Tucker	
Sharp	Udall	

NAYS—18

Archer	Devine	Poage
Ashbrook	Edwards, Okla.	Quayle
AuCoin	Flynt	Rousselot
Burleson, Tex.	Hansen	Rudd
Clawson, Del	Kindness	Stump
Crane	McDonald	Symms

NOT VOTING—36

Allen	Diggs	Quie
Badillo	Frenzel	Risenhoover
Barnard	Frey	Ruppe
Boland	Gammage	Santini
Bolling	Goldwater	Sarasin
Burke, Calif.	Gradison	Sisk
Chappell	Harsha	St Germain
Chisholm	Jenrette	Ullman
Cochran	Johnson, Calif.	Vanik
Conyers	Koch	Waggonner
Cotter	Lederer	Wilson, Bob
Dent	Moss	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Chappell and Mr. Jenrette for, with Mr. Risenhoover against.

Until further notice:

Mr. Dent with Mr. Goldwater.

Mrs. Burke of California with Mr. Young of Alaska.

Mr. Moss with Mr. Sarasin.

Mr. Badillo with Mr. Gradison.

Mr. Koch with Mr. Ruppe.

Mr. Boland with Mr. Harsha.

Mr. Conyers with Mr. Frey.

Mr. Cotter with Mr. Cochran of Mississippi.

Mr. Diggs with Mr. Quie.

Mr. Santini with Mr. Allen.

Mr. Sisk with Mr. Barnard.

Mr. Vanik with Mr. Gammage.

Mr. Lederer with Mr. Frenzel.

Mrs. Chisholm with Mr. Johnson of California.

Mr. St Germain with Mr. Waggonner.

Mr. Ullman with Mr. Bob Wilson.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' BENEFITS PURSUANT TO UPGRADED DISCHARGES

The SPEAKER pro tempore. The unfinished business is the question of sus-

pending the rules and passing the bill, H.R. 8698.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 8698, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 321, nays 75, answered "present" 1, not voting 37, as follows:

[Roll No. 537]

YEAS—321

Abdnor	Early	Leach
Addabbo	Eckhardt	Leggett
Akaka	Edgar	Lehman
Alexander	Edwards, Ala.	Lent
Ambro	Edwards, Okla.	Levitas
Ammerman	Emery	Livingston
Anderson, Calif.	English	Lloyd, Calif.
	Erlenborn	Lloyd, Tenn.
Anderson, Ill.	Ertel	Long, La.
Andrews, N.C.	Evans, Colo.	Long, Md.
Andrews, N. Dak.	Evans, Del.	Lott
	Evans, Ga.	Lujan
Annunzio	Evans, Ind.	Luken
Archer	Fary	McClory
Armstrong	Fascell	McCormack
Ashbrook	Fenwick	McDade
AuCoin	Findley	McDonald
Badham	Fish	McEwen
Bafalis	Fithian	McHugh
Baldus	Flippo	McKay
Baucus	Flood	Madigan
Bauman	Florio	Mahon
Beard, R.I.	Flowers	Mann
Beard, Tenn.	Flynt	Marks
Benjamin	Foley	Marlenee
Bennett	Ford, Mich.	Marriott
Bevill	Ford, Tenn.	Martin
Biaggi	Forsythe	Mathis
Blanchard	Fountain	Mattox
Blouin	Fowler	Mazzoli
Boggs	Fuqua	Meeds
Bonker	Gephardt	Meyner
Bowen	Giaimo	Michel
Breaux	Gibbons	Mikulski
Breckinridge	Gilman	Milford
Brinkley	Ginn	Miller, Ohio
Brooks	Glickman	Minish
Broomfield	Goodling	Mitchell, N.Y.
Brown, Mich.	Gore	Moakley
Brown, Ohio	Grassley	Mollohan
Broyhill	Gudger	Montgomery
Buchanan	Guyer	Moore
Burgener	Hagedorn	Moorhead, Calif.
Burke, Fla.	Hall	
Burke, Mass.	Hamilton	Moorhead, Pa.
Burleson, Tex.	Hammer-schmidt	Mottl
Burlison, Mo.		Murphy, Ill.
Butler	Hanley	Murphy, N.Y.
Byron	Hannaford	Murphy, Pa.
Caputo	Hansen	Murtha
Carney	Harris	Myers, Gary
Carter	Heckler	Myers, John
Cederberg	Hefner	Natcher
Clausen, Don H.	Heftel	Neal
	Hightower	Nedzi
Clawson, Del	Hillis	Nichols
Cleveland	Holland	Nix
Cohen	Hollenbeck	Nowak
Coleman	Holt	O'Brien
Collins, Tex.	Horton	Oakar
Conable	Howard	Oberstar
Conte	Hubbard	Obey
Corcoran	Huckaby	Panetta
Cornell	Hughes	Patten
Cornwell	Hyde	Patterson
Coughlin	Ichord	Pattison
Crane	Ireland	Pease
Cunningham	Jeffords	Pepper
D'Amours	Jenkins	Perkins
Daniel, Dan	Johnson, Colo.	Pettis
Daniel, R. W.	Jones, N.C.	Pickle
Danielson	Jones, Okla.	Pike
Davis	Jones, Tenn.	Poage
de la Garza	Jordan	Pressler
Delaney	Kasten	Preyer
Derrick	Kazen	Price
Derwinski	Kelly	Pritchard
Devine	Kemp	Pursell
Dickinson	Ketchum	Quayle
Dicks	Kildee	Quillen
Dingell	Kindness	Railsback
Dodd	Krebs	Regula
Dornan	Krueger	Rhodes
Duncan, Oreg.	Lagomarsino	Rinaldo
Duncan, Tenn.	Latta	Roberts
Robinson	Spence	Walgren
Roe	Staggers	Walker
Rogers	Stangeland	Walsh
Roncalio	Stanton	Wampler
Rooney	Steed	Watkins
Rose	Steers	Waxman
Rostenkowski	Steiger	White
Rousselot	Stockman	Whitehurst
Rudd	Stratton	Whitley
Runnels	Stump	Whitten
Russo	Symms	Wiggins
Satterfield	Taylor	Wilson, C. H.
Sawyer	Teague	Wilson, Tex.
Schulze	Thone	Winn
Sebelius	Thornton	Wolff
Sharp	Traxler	Wright
Shuster	Treen	Wydler
Sikes	Trible	Wylie
Simon	Tucker	Young, Fla.
Skelton	Udall	Young, Mo.
Skubitz	Van Deerlin	Young, Tex.
Smith, Iowa	Vander Jagt	Zablocki
Smith, Nebr.	Vento	Zeferetti
Snyder	Volkmer	

NAYS—75

Applegate	Harkin	Rahall
Aspin	Harrington	Rangel
Bedell	Hawkins	Reuss
Beilenson	Holtzman	Richmond
Bingham	Jacobs	Rodino
Bonior	Kastenmeier	Rosenthal
Brademas	Keys	Roybal
Brodhead	Kostmayer	Ryan
Brown, Calif.	LaFalce	Scheuer
Burton, John	Le Fante	Schroeder
Burton, Phillip	Lundine	Seiberling
Carr	McCloskey	Slack
Cavanaugh	McFall	Solarz
Chisholm	McKinney	Spellman
Clay	Maguire	Stark
Collins, Ill.	Markey	Stokes
Corman	Metcalfe	Studds
Dellums	Mikva	Thompson
Downey	Miller, Calif.	Tsongas
Drinan	Mineta	Weaver
Edwards, Calif.	Mitchell, Md.	Weiss
Eilberg	Moffett	Whalen
Fisher	Myers, Michael	Wirth
Fraser	Nolan	Yates
Gaydos	Ottinger	Yatron

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—37

Allen	Frenzel	Ruppe
Ashley	Frey	Santini
Badillo	Gammage	Sarasin
Barnard	Goldwater	Shipley
Boland	Gradison	Sisk
Bolling	Harsha	St Germain
Burke, Calif.	Jenrette	Ullman
Chappell	Johnson, Calif.	Vanik
Cochran	Koch	Waggonner
Conyers	Lederer	Wilson, Bob
Cotter	Moss	Young, Alaska
Dent	Quie	
Diggs	Risenhoover	

The Clerk announced the following pairs:

On this vote:

Mr. Cotter and Mr. Jennette for, with Mr. Risenhoover against.

Mr. Chappell and Mrs. Burke of California for, with Mr. Koch against.

Mr. Santini and Mr. Boland for, with Mr. Badillo against.

Until further notice:

Mr. Dent with Mr. Barnard.

Mr. Lederer with Mr. Cochran of Mississippi.

Mr. Ashley with Mr. Frenzel.

Mr. Sisk with Mr. Young of Alaska.

Mr. St. Germain with Mr. Goldwater.

Mr. Ullman with Mr. Harsha.

Mr. Waggonner with Mr. Frey.

Mr. Moss with Mr. Gradison.

Mr. Diggs with Mr. Quie.

Mr. Shipley with Mr. Bob Wilson.

Mr. Conyers with Mr. Sarasin.

Mr. Gammage with Mr. Ruppe.

Mr. Johnson of California with Mr. Vanik.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3103 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) benefits under laws administered by the Veterans' Administration for a person described in the second sentence of this paragraph shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, only upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under uniform standards (historically consistent with criteria for determining honorable service) and procedures generally applicable to all persons so discharged who apply for such review; and (B) this paragraph shall apply, for such period of time for application (but in no event for less than one year after the date of enactment of this paragraph) as the President shall establish, to any person who, prior to the date of enactment of this paragraph, was administratively discharged under other than honorable conditions from active military, naval, or air service performed at any time if any part of such service occurred on or before March 28, 1973.

"(2) Notwithstanding any other provision of law, any person who was discharged from active military, naval, or air service under other than honorable conditions and who, under revised standards (A)(i) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (ii) as implemented after January 1, 1977, and (B) not made generally applicable to all persons to whom paragraph (1) of this subsection applies, has been awarded a general or honorable discharge prior to the date of enactment of this paragraph, shall be entitled to benefits under laws administered by the Veterans' Administration only upon a case-by-case review on an expedited basis under standards meeting the requirements of paragraph (1) of this subsection applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, after notification by the Veterans' Administration to such Secretary that such person has applied for such benefits or after receiving a written request by such person for a decision regarding prospective entitlement. In the event that such board determines that such person is not entitled

to the award of an upgraded discharge under standards meeting such requirements, such person shall be entitled to notice thereof and appearance before the board as provided for under section 1553(c) of such title prior to a final determination on such question. Notwithstanding the first sentence of this paragraph, with respect to any person in receipt of benefits under this title on the date of enactment of this paragraph, such benefits shall not be terminated under this paragraph until such time as a final determination not favorable to the person concerned is made on an expedited basis under this paragraph or the expiration of one hundred and eighty days after the date of enactment of this Act, whichever is the earlier, and the United States shall not make any claim to recover the value of any benefits provided to such person prior to the date of such final determination. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits by any person described in the preceding sentence or of the application for such benefits by any person described in the first sentence of this paragraph.".

(b) The Secretary of Defense shall inform each person whose discharge was upgraded under circumstances described in section 3103(e)(2) of title 38, United States Code, as added by subsection (a) of this section of the implications of the provisions of this Act for each such person.

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs, may, in the Administrator's discretion pursuant to such regulations as the Administrator shall prescribe, provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103 of such title, but not, pursuant to this section, for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. The Administrator of Veterans' Affairs, in promulgating, or in making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, providing any unique or special advantage to veterans who have received upgraded discharges under the standards (A) (i) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (ii) as implemented after January 1, 1977, and (B) not made generally applicable to persons who served at any time, or otherwise making any special distinction between such veterans and other veterans.

MOTION OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROBERTS moves to strike out all after the enacting clause of S. 1307 and insert in lieu thereof the provisions of H.R. 8698, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To deny entitlement to veteran's benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges for service during the Vietnam era, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8698) was laid on the table.

GI BILL IMPROVEMENTS ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8701.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill (H.R. 8701), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 37, as follows:

[Roll No. 538]

YEAS—397

Abdnor	Broomfield	Delaney
Addabbo	Brown, Calif.	Dellums
Akaka	Brown, Mich.	Derrick
Alexander	Brown, Ohio	Derwinski
Ambro	Broyhill	Devine
Ammerman	Buchanan	Dickinson
Anderson, Calif.	Burgener	Dicks
	Burke, Fla.	Dingell
Anderson, Ill.	Burke, Mass.	Dodd
Andrews, N.C.	Burleson, Tex.	Dornan
Andrews, N. Dak.	Burlison Mo.	Downey
	Burton, John	Drinan
Annunzio	Burton, Phillip	Duncan, Oreg.
Applegate	Butler	Duncan, Tenn.
Archer	Byron	Early
Armstrong	Caputo	Eckhardt
Ashbrook	Carney	Edgar
Ashley	Carr	Edwards, Ala.
Aspin	Carter	Edwards, Calif.
AuCoin	Cavanaugh	Edwards, Okla.
Badham	Cederberg	Eilberg
Bafalis	Chisholm	Emery
Baldus	Clausen, Don H.	English
Baucus		Erlenborn
Bauman	Clawson, Del	Ertel
Beard, R.I.	Clay	Evans, Colo.
Beard, Tenn.	Cleveland	Evans, Del.
Bedell	Cohen	Evans, Ga.
Bellenson	Coleman	Evans, Ind.
Benjamin	Collins, Ill.	Fary
Bennett	Collins, Tex.	Fascell
Bevill	Conable	Fenwick
Biaggi	Conte	Findley
Bingham	Corcoran	Fish
Blanchard	Corman	Fisher
Blouin	Cornell	Fithian
Boggs	Cornwell	Flippo
Bonior	Coughlin	Flood
Bonker	Crane	Florio
Bowen	Cunningham	Flowers
Brademas	D'Amours	Flynt
Breaux	Daniel, Dan	Foley
Breckinridge	Daniel, R. W.	Ford, Mich.
Brinkley	Danielson	Ford, Tenn.
Brodhead	Davis	Forsythe
Brooks	de la Garza	Fountain
Fowler	McHugh	Rooney
Fraser	McKay	Rose
Fuqua	McKinney	Rosenthal
Gaydos	Madigan	Rostenkowski
Gephardt	Maguire	Rousselot
Giaimo	Mahon	Roybal
Gibbons	Mann	Rudd
Gilman	Markey	Runnels
Ginn	Marks	Russo
Glickman	Marlenee	Ryan
Gonzalez	Marriott	Satterfield
Goodling	Martin	Sawyer
Gore	Mathis	Scheuer
Grassley	Mattox	Schroeder
Gudger	Mazzoli	Schulze
Guyer	Meeds	Sebelius
Hagedorn	Metcalfe	Seiberling
Hall	Meyner	Sharp
Hamilton	Michel	Shipley
Hammer-schmidt	Mikulski	Shuster
	Mikva	Sikes
Hanley	Milford	Simon
Hannaford	Miller, Calif.	Skelton
Hansen	Miller, Ohio	Skubitz
Harkin	Mineta	Slack
Harrington	Minish	Smith, Iowa
Harris	Mitchell, Md.	Smith, Nebr.
Hawkins	Mitchell, N.Y.	Snyder
Heckler	Moakley	Solarz
Hefner	Moffett	Spellman
Hightower	Mollohan	Spence
Hillis	Montgomery	Staggers
Holland	Moore	Stangeland
Hollenbeck	Moorhead, Calif.	Stanton
Holt		Stark
Holtzman	Moorhead, Pa.	Steed
Horton	Mottl	Steers
Howard	Murphy, Ill.	Steiger
Hubbard	Murphy, N.Y.	Stockman
Huckaby	Murphy, Pa.	Stokes
Hughes	Murtha	Stratton
Hyde	Myers, Gary	Studds
Ichord	Myers, John	Stump
Ireland	Myers, Michael	Symms
Jacobs	Natcher	Taylor
Jeffords	Neal	Teague
Jenkins	Nedzi	Thompson
Johnson, Colo.	Nichols	Thone
Jones, N.C.	Nix	Thornton
Jones, Okla.	Nolan	Traxler
Jones, Tenn.	Nowak	Treen
Jordan	O'Brien	Trible
Kasten	Oakar	Tsongas
Kastenmeier	Oberstar	Tucker
Kazen	Obey	Udall
Kelly	Ottinger	Van Deerlin
Kemp	Panetta	Vander Jagt
Ketchum	Patten	Vento
Keys	Patterson	Volkmer
Kildee	Pattison	Walgren
Kindness	Pease	Walker
Kostmayer	Pepper	Walsh
Krebs	Perkins	Wampler
Krueger	Pettis	Watkins
LaFalce	Pickle	Waxman
Lagomarsino	Pike	Weaver
Latta	Poage	Weiss
Le Fante	Pressler	Whalen
Leach	Preyer	White
Leggett	Price	Whitehurst
Lehman	Pritchard	Whitley
Lent	Pursell	Whitten
Levitas	Quayle	Wiggins
Livingston	Quillen	Wilson, C. H.
Lloyd, Calif.	Rahall	Wilson, Tex.
Lloyd, Tenn.	Railsback	Winn
Long, La.	Rangel	Wirth
Lott	Regula	Wolff
Lujan	Reuss	Wright
Luken	Rhodes	Wydler
Lundine	Richmond	Wylie
McClory	Rinaldo	Yates
McCloskey	Roberts	Yatron
McCormack	Robinson	Young, Fla.
McDade	Rodino	Young, Mo.
McDonald	Roe	Young, Tex.
McEwen	Rogers	Zablocki
McFall	Roncalio	Zeferetti

NAYS—0

NOT VOTING—37

Allen	Frey	Risenhoover
Badillo	Gammage	Ruppe
Barnard	Goldwater	Santini
Boland	Gradison	Sarasin
Bolling	Harsha	Sisk
Burke, Calif.	Heftel	St Germain
Chappell	Jenrette	Ullman
Cochran	Johnson, Calif.	Vanik
Conyers	Koch	Waggonner
Cotter	Lederer	Wilson, Bob
Dent	Long, Md.	Young, Alaska
Diggs	Moss	
Frenzel	Quie	

The Clerk announced the following pairs:

Mr. Cotter with Mr. Barnard.
Mr. Jenrette with Mr. Allen.
Mr. Heftel with Mr. Cochran of Mississippi.
Mr. Ullman with Mr. Frenzel.
Mr. St Germain with Mr. Harsha.
Mr. Waggonner with Mr. Bob Wilson.
Mr. Chappell with Mr. Sarasin.
Mrs. Burke of California with Mr. Gradison.
Mr. Boland with Mr. Goldwater.
Mr. Badillo with Mr. Frey.
Mr. Koch with Mr. Long of Maryland.
Mr. Lederer with Mr. Quie.
Mr. Moss with Mr. Ruppe.
Mr. Dent with Mr. Risenhoover.
Mr. Diggs with Mr. Young of Alaska.
Mr. Gammage with Mr. Johnson of California.
Mr. Sisk with Mr. Vanik.
Mr. Santini with Mr. Conyers.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERAN'S ADMINISTRATION PHYSICIAN AND DENTIST COMPARABILITY ACT EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8175, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill (H.R. 8175), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 1, not voting 36, as follows:

[Roll No. 539]

YEAS—397

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Russo
Ryan
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Dingell

NOT VOTING—36

Allen
Badillo
Barnard
Boland
Bolling
Burke, Calif.
Chappell
Cochran
Conyers
Cotter
Dent
Diggs
Frenzel
Frey
Gammage
Goldwater
Gradison
Harsha
Jenrette
Johnson, Calif.
Koch
Lederer
Moss
Quie
Risenhoover
Runnels
Ruppe
Santini
Sarasin
Sisk
St Germain
Ullman
Vanik
Waggonner
Wilson, Bob
Young, Alaska

The Clerk announced the following pairs:

Mr. Cotter with Mr. Barnard.
Mr. Jenrette with Mr. Allen.
Mr. Ullman with Mr. Cochran of Mississippi.
Mr. St Germain with Mr. Frenzel.
Mr. Waggonner with Mr. Harsha.
Mr. Chappell with Mr. Bob Wilson.
Ms. Burke of California with Mr. Sarasin.
Mr. Boland with Mr. Gradison.
Mr. Badillo with Mr. Goldwater.
Mr. Koch with Mr. Frey.
Mr. Lederer with Mr. Runnels.
Mr. Moss with Mr. Ruppe.
Mr. Dent with Mr. Risenhoover.
Mr. Diggs with Mr. Young of Alaska.
Mr. Gammage with Mr. Johnson of California.
Mr. Santini with Mr. Vanik.
Mr. Sisk with Mr. Conyers.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELIMINATING INSPECTIONS OF MOBILE HOME MANUFACTURING BY THE ADMINISTRATOR OF VETERANS' AFFAIRS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 4341, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill H.R. 4341, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 1, not voting 39, as follows:

[Roll No. 540]

YEAS—394

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bonior
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.

Early	Latta	Rangel
Eckhardt	Le Fante	Regula
Edgar	Leach	Reuss
Edwards, Ala.	Leggett	Rhodes
Edwards, Calif.	Lehman	Richmond
Edwards, Okla.	Lent	Rinaldo
Eilberg	Levitas	Roberts
Emery	Livingston	Robinson
English	Lloyd, Calif.	Rodino
Erlenborn	Lloyd, Tenn.	Roe
Ertel	Long, La.	Rogers
Evans, Colo.	Long, Md.	Roncalio
Evans, Del.	Lott	Rooney
Evans, Ga.	Lujan	Rose
Evans, Ind.	Luken	Rosenthal
Fary	Lundine	Rostenkowski
Fascell	McClory	Rousselot
Fenwick	McCloskey	Roybal
Findley	McCormack	Rudd
Fish	McDade	Russo
Fisher	McDonald	Ryan
Fithian	McEwen	Satterfield
Flippo	McFall	Sawyer
Flood	McHugh	Scheuer
Florio	McKay	Schroeder
Flowers	Madigan	Schulze
Flynt	Maguire	Sebelius
Foley	Mahon	Seiberling
Ford, Mich.	Mann	Sharp
Ford, Tenn.	Markey	Shipley
Forsythe	Marks	Shuster
Fountain	Marlenee	Sikes
Fowler	Marriott	Simon
Fraser	Martin	Skelton
Fuqua	Mathis	Skubitz
Gaydos	Mattox	Slack
Gephardt	Mazzoli	Smith, Iowa
Giaimo	Meeds	Smith, Nebr.
Gibbons	Metcalfe	Snyder
Gilman	Meyner	Solarz
Ginn	Michel	Spellman
Glickman	Mikulski	Spence
Gonzalez	Mikva	Staggers
Goodling	Milford	Stangeland
Gore	Miller, Calif.	Stanton
Grassley	Miller, Ohio	Stark
Gudger	Mineta	Steed
Guyer	Minish	Steers
Hagedorn	Mitchell, Md.	Steiger
Hall	Mitchell, N.Y.	Stockman
Hamilton	Moakley	Stokes
Hammer-schmidt	Moffett	Stratton
	Mollohan	Studds
Hanley	Montgomery	Stump
Hannaford	Moore	Symms
Hansen	Moorhead, Calif.	Taylor
Harkin		Teague
Harrington	Moorhead, Pa.	Thompson
Harris	Mottl	Thone
Hawkins	Murphy, Ill.	Thornton
Heckler	Murphy, N.Y.	Traxler
Hefner	Murphy, Pa.	Treen
Heftel	Murtha	Trible
Hightower	Myers, Gary	Tsongas
Hillis	Myers, John	Tucker
Holland	Myers, Michael	Udall
Hollenbeck	Natcher	Van Deerlin
Holt	Neal	Vander Jagt
Holtzman	Nedzi	Vento
Horton	Nichols	Volkmer
Howard	Nix	Walgren
Hubbard	Nolan	Walker
Huckaby	Nowak	Walsh
Hughes	O'Brien	Wampler
Hyde	Oakar	Watkins
Ichord	Oberstar	Waxman
Ireland	Obey	Weaver
Jacobs	Ottinger	Weiss
Jeffords	Panetta	Whalen
Jenkins	Patten	White
Johnson, Colo.	Patterson	Whitehurst
Jones, N.C.	Pattison	Whitley
Jones, Okla.	Pease	Whitten
Jones, Tenn.	Pepper	Wiggins
Jordan	Perkins	Wilson, C. H.
Kasten	Pettis	Wilson, Tex.
Kazen	Pickle	Winn
Kelly	Pike	Wirth
Kemp	Poage	Wright
Ketchum	Pressler	Wydler
Keys	Prever	Wylie
Kildee	Price	Yates
Kindness	Pritchard	Yatron
Kostmayer	Pursell	Young, Fla.
Krebs	Quayle	Young, Mo.
Krueger	Quillen	Young, Tex.
LaFalce	Rahall	Zablocki
Lagomarsino	Railsback	Zeferetti

NAYS—1

Kastenmeier

NOT VOTING—39

Allen	Barnard	Bolling
Badillo	Boland	Breaux
Burke, Calif.	Gradison	Ruppe
Chappell	Harsha	Santini
Cochran	Jenrette	Sarasin
Conyers	Johnson, Calif.	Sisk
Cotter	Koch	St Germain
Dent	Lederer	Ullman
Diggs	McKinney	Vanik
Frenzel	Moss	Waggonner
Frey	Quie	Wilson, Bob
Gammage	Risenhoover	Wolff
Goldwater	Runnels	Young, Alaska

The Clerk announced the following pairs:

Mr. Cotter with Mr. Barnard.
Mr. Jenrette with Mr. Allen.
Mr. Ullman with Mr. Cochran of Mississippi.
Mr. St Germain with Mr. Frenzel.
Mr. Waggonner with Mr. Harsha.
Mr. Chappell with Mr. Bob Wilson.
Mrs. Burke of California with Mr. Sarasin.
Mr. Boland with Mr. Gradison.
Mr. Badillo with Mr. Goldwater.
Mr. Koch with Mr. Frey.
Mr. Lederer with Mr. Quie.
Mr. Moss with Mr. Ruppe.
Mr. Dent with Mr. Risenhoover.
Mr. Diggs with Mr. Young of Alaska.
Mr. Gammage with Mr. Johnson of California.
Mr. Santini with Mr. Vanik.
Mr. Sisk with Mr. Conyers.
Mr. Breaux with Mr. Wolff.
Mr. Runnels with Mr. McKinney.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6803, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 6803, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 332, nays 59, not voting 43, as follows:

[Roll No. 541]

YEAS—332

Abdnor	Blouin	Clausen, Don H.
Addabbo	Boggs	Clay
Akaka	Bonior	Cleveland
Alexander	Bonker	Cohen
Ambro	Brademas	Coleman
Ammerman	Breaux	Collins, Ill.
Anderson, Calif.	Breckinridge	Conable
	Brinkley	Conte
Anderson, Ill.	Brodhead	Corcoran
Andrews, N.C.	Broomfield	Corman
Annunzio	Brown, Calif.	Cornell
Applegate	Brown, Mich.	Coughlin
Armstrong	Brown, Ohio	Cunningham
Ashley	Broyhill	D'Amours
Aspin	Buchanan	Daniel, R. W.
AuCoin	Burgener	Danielson
Badham	Burke, Fla.	Davis
Bafalis	Burke, Mass.	Delaney
Baldus	Burlison, Mo.	Dellums
Baucus	Burton, John	Derrick
Bauman	Burton, Phillip	Derwinski
Beard, R.I.	Byron	Devine
Bedell	Caputo	Dicks
Beilenson	Carney	Dingell
Benjamin	Carr	Dodd
Bennett	Carter	Dornan
Biaggi	Cavanaugh	Downey
Bingham	Cederberg	Drinan
Blanchard	Chisholm	Duncan, Oreg.
Duncan, Tenn.	Le Fante	Regula
Early	Leach	Reuss
Eckhardt	Leggett	Rhodes
Edgar	Lehman	Richmond
Edwards, Ala.	Lent	Rinaldo
Edwards, Calif.	Levitas	Roberts
Eilberg	Livingston	Robinson
Emery	Lloyd, Calif.	Rodino
English	Long, La.	Roe
Erlenborn	Long, Md.	Rogers
Ertel	Lujan	Roncalio
Evans, Colo.	Luken	Rooney
Evans, Del.	Lundine	Rosenthal
Evans, Ind.	McClory	Rostenkowski
Fary	McCloskey	Roybal
Fascell	McCormack	Rudd
Fenwick	McDade	Russo
Findley	McEwen	Ryan
Fish	McFall	Sawyer
Fisher	McHugh	Scheuer
Fithian	McKay	Schroeder
Flippo	Madigan	Schulze
Florio	Maguire	Sebelius
Flowers	Mann	Seiberling
Foley	Markey	Sharp
Ford, Mich.	Marks	Shipley
Ford, Tenn.	Marlenee	Shuster
Forsythe	Marriott	Sikes
Fowler	Martin	Simon
Fraser	Mathis	Skelton
Fuqua	Mazzoli	Skubitz
Gaydos	Meeds	Slack
Gephardt	Metcalfe	Smith, Iowa
Giaimo	Meyner	Smith, Nebr.
Gibbons	Michel	Snyder
Gilman	Mikulski	Solarz
Ginn	Mikva	Spellman
Glickman	Miller, Calif.	Spence
Goodling	Miller, Ohio	Staggers
Gore	Mineta	Stangeland
Grassley	Minish	Stanton
Gudger	Mitchell, Md.	Stark
Guyer	Mitchell, N.Y.	Steed
Hagedorn	Moakley	Steers
Hamilton	Moffett	Steiger
Hammer-schmidt	Mollohan	Stockman
	Moore	Stokes
Hanley	Moorhead, Calif.	Stratton
Hannaford		Studds
Harkin	Moorhead, Pa.	Taylor
Harrington	Mottl	Thompson
Harris	Murphy, Ill.	Thone
Hawkins	Murphy, N.Y.	Traxler
Heckler	Murphy, Pa.	Treen
Hefner	Murtha	Trible
Heftel	Myers, John	Tsongas
Hillis	Myers, Michael	Tucker
Holland	Neal	Udall
Hollenbeck	Nedzi	Van Deerlin
Holt	Nix	Vander Jagt
Horton	Nolan	Vento
Howard	Nowak	Volkmer
Hughes	O'Brien	Walker
Hyde	Oakar	Walsh
Ireland	Oberstar	Wampler
Jacobs	Obey	Waxman
Jeffords	Ottinger	Weaver
Johnson, Colo.	Panetta	Weiss
Jones, N.C.	Patterson	Whalen
Kasten	Pattison	Whitehurst
Kastenmeier	Pease	Wiggins
Kelly	Pepper	Wilson, C. H.
Kemp	Perkins	Winn
Ketchum	Pettis	Wirth
Keys	Pike	Wydler
Kildee	Pressler	Wylie
Kindness	Preyer	Yates
Kostmayer	Price	Yatron
Krebs	Pursell	Young, Fla.
LaFalce	Quillen	Young, Mo.
Lagomarsino	Rahall	Young, Tex.
Latta	Railsback	Zablocki
	Rangel	Zeferetti

NAYS—59

Archer	Hall	Natcher
Ashbrook	Hansen	Nichols
Beard, Tenn.	Hightower	Pickle
Bevill	Hubbard	Poage
Bowen	Huckaby	Quayle
Brooks	Ichord	Rose
Burleson, Tex.	Jenkins	Rousselot
Butler	Jones, Okla.	Satterfield
Clawson, Del	Jones, Tenn.	Stump
Collins, Tex.	Jordan	Symms
Cornwell	Kazen	Teague
Crane	Krueger	Thornton
Daniel, Dan	Lloyd, Tenn.	Walgren
de la Garza	Lott	Watkins
Dickinson	McDonald	White
Edwards, Okla.	Mahon	Whitley
Evans, Ga.	Mattox	Whitten
Flynt	Milford	Wilson, Tex.
Fountain	Montgomery	Wright
Gonzalez	Myers, Gary	

NOT VOTING—43

Allen	Frenzel	Quie
Andrews, N. Dak.	Frey	Risenhoover
Badillo	Gammage	Runnels
Barnard	Goldwater	Ruppe
Boland	Gradison	Santini
Bolling	Harsha	Sarasin
Burke, Calif.	Holtzman	Sisk
Chappell	Jenrette	St Germain
Cochran	Johnson, Calif.	Ullman
Conyers	Koch	Vanik
Cotter	Lederer	Waggonner
Dent	McKinney	Wilson, Bob
Diggs	Moss	Wolff
Flood	Patten	Young, Alaska
	Pritchard	

The Clerk announced the following pairs:

Mr. Cotter with Mr. Barnard.
Mr. Jenrette with Mr. Allen.
Mr. Ullman with Mr. Cochran of Mississippi.
Mr. St Germain with Mr. Frenzel.
Mr. Waggonner with Mr. Harsha.
Mr. Chappell with Mr. Bob Wilson.
Ms. Burke of California with Mr. Sarasin.
Mr. Boland with Mr. Gradison.
Mr. Badillo with Mr. Goldwater.
Mr. Koch with Mr. Frey.
Mr. Lederer with Mr. Quie.
Mr. Moss with Mr. Ruppe.
Mr. Dent with Mr. Risenhoover.
Mr. Diggs with Mr. Young of Alaska.
Mr. Gammage with Mr. Johnson of California.
Mr. Santini with Mr. Vanik.
Mr. Sisk with Mr. Conyers.
Mr. Wolff with Mr. Pritchard.
Mr. Patten with Mr. Andrews of North Dakota.
Mr. Flood with Mr. Runnels.
Ms. Holtzman with Mr. McKinney.

Messrs. KAZEN, SATTERFIELD, CHARLES WILSON of Texas, WHITE, BOWEN, and COLLINS of Texas changed their vote from "yea" to "nay."

Mr. FLOWERS and Mr. BEDELL changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IMPROVEMENTS IN THE SURVIVOR BENEFIT PROGRAM FOR RETIRED MILITARY PERSONNEL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3702.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the bill H.R. 3702, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 43, as follows:

[Roll No. 542]

YEAS—391

Abdnor	Annunzio	Baldus	Biaggi	Fowler	Meyner	Steiger	Udall	Whitten
Addabbo	Applegate	Baucus	Bingham	Fraser	Michel	Stockman	Van Deerlin	Wiggins
Akaka	Archer	Bauman	Blanchard	Fuqua	Mikulski	Stokes	Vander Jagt	Wilson, C. H.
Alexander	Armstrong	Beard, R.I.	Blouin	Gaydos	Mikva	Stratton	Vento	Wilson, Tex.
Ambro	Ashbrook	Beard, Tenn.	Boggs	Gephardt	Milford	Studds	Volkmer	Winn
Ammerman	Ashley	Bedell	Bonior	Giaimo	Miller, Calif.	Stump	Walgren	Wirth
Anderson, Calif.	Aspin	Beilenson	Bonker	Gibbons	Miller, Ohio	Symms	Walker	Wright
Anderson, Ill.	AuCoin	Benjamin	Bowen	Gilman	Mineta	Taylor	Walsh	Wydler
Andrews, N.C.	Badham	Bennett	Brademas	Ginn	Minish	Teague	Wampler	Wylie
	Bafalis	Bevill	Breaux	Glickman	Mitchell, Md.	Thompson	Watkins	Yates
			Breckinridge	Gonzalez	Mitchell, N.Y.	Thone	Waxman	Yatron
			Brinkley	Goodling	Moakley	Thornton	Weaver	Young, Fla.
			Brodhead	Gore	Moffett	Traxler	Weiss	Young, Mo.
			Brooks	Grassley	Mollohan	Treen	Whalen	Young, Tex.
			Broomfield	Gudger	Montgomery	Trible	White	Zablocki
			Brown, Calif.	Guyer	Moore	Tsongas	Whitehurst	Zeferetti
			Brown, Mich.	Hagedorn	Moorhead, Calif.	Tucker	Whitley	
			Brown, Ohio	Hall	Moorhead, Pa.			
			Broyhill	Hamilton	Mottl			
			Buchanan	Hammer-schmidt	Murphy, Ill.			
			Burgener	Hanley	Murphy, N.Y.			
			Burke, Fla.	Hannaford	Murphy, Pa.			
			Burke, Mass.	Hansen	Murtha			
			Burleson, Tex.	Harkin	Myers, Gary			
			Burlison, Mo.	Harrington	Myers, John			
			Burton, John	Harris	Myers, Michael			
			Burton, Phillip	Hawkins	Natcher			
			Butler	Heckler	Neal			
			Byron	Hefner	Nedzi			
			Caputo	Heftel	Nichols			
			Carney	Hightower	Nix			
			Carr	Hillis	Nolan			
			Carter	Holland	Nowak			
			Cavanaugh	Hollenbeck	O'Brien			
			Cederberg	Holt	Oakar			
			Chisholm	Horton	Oberstar			
			Clausen, Don H.	Howard	Ottinger			
			Clawson, Del	Hubbard	Panetta			
			Clay	Huckaby	Patten			
			Cleveland	Hughes	Patterson			
			Cohen	Hyde	Pattison			
			Coleman	Ichord	Pease			
			Collins, Ill.	Ireland	Pepper			
			Collins, Tex.	Jacobs	Perkins			
			Conable	Jeffords	Pettis			
			Conte	Jenkins	Pickle			
			Corcoran	Johnson, Colo.	Pike			
			Corman	Jones, N.C.	Poage			
			Cornell	Jones, Okla.	Pressler			
			Cornwell	Jones, Tenn.	Preyer			
			Coughlin	Jordan	Price			
			Crane	Kasten	Pursell			
			Cunningham	Kastenmeier	Quayle			
			D'Amours	Kazen	Quillen			
			Daniel, Dan	Kelly	Rahall			
			Daniel, R. W.	Kemp	Railsback			
			Danielson	Ketchum	Rangel			
			Davis	Keys	Regula			
			de la Garza	Kildee	Reuss			
			Delaney	Kindness	Rhodes			
			Dellums	Kostmayer	Richmond			
			Derrick	Krebs	Rinaldo			
			Derwinski	Krueger	Roberts			
			Devine	LaFalce	Robinson			
			Dickinson	Lagomarsino	Rodino			
			Dicks	Latta	Roe			
			Dingell	Le Fante	Rogers			
			Dodd	Leach	Roncalio			
			Dornan	Leggett	Rooney			
			Downey	Lehman	Rose			
			Drinan	Lent	Rosenthal			
			Duncan, Oreg.	Levitas	Rostenkowski			
			Duncan, Tenn.	Livingston	Rousselot			
			Early	Lloyd, Calif.	Roybal			
			Eckhardt	Lloyd, Tenn.	Rudd			
			Edgar	Long, La.	Russo			
			Edwards, Ala.	Long, Md.	Ryan			
			Edwards, Calif.	Lott	Satterfield			
			Edwards, Okla.	Lujan	Sawyer			
			Emery	Luken	Scheuer			
			English	Lundine	Schroeder			
			Erlenborn	McClory	Schulze			
			Ertel	McCloskey	Sebelius			
			Evans, Colo.	McCormack	Seiberling			
			Evans, Del.	McDade	Sharp			
			Evans, Ga.	McDonald	Shipley			
			Evans, Ind.	McEwen	Shuster			
			Fary	McFall	Sikes			
			Fascell	McHugh	Simon			
			Fenwick	McKay	Skelton			
			Findley	Madigan	Skubitz			
			Fish	Maguire	Slack			
			Fisher	Mahon	Smith, Iowa			
			Fithian	Mann	Smith, Nebr.			
			Flippo	Markey	Snyder			
			Flood	Marks	Solarz			
			Florio	Marlenee	Spellman			
			Flowers	Marriott	Spence			
			Flynt	Martin	Staggers			
			Foley	Mathis	Stangeland			
			Ford, Mich.	Mattox	Stanton			
			Ford, Tenn.	Mazzoli	Stark			
			Forsythe	Meeds	Steed			
			Fountain	Metcalfe	Steers			

NAYS—0

NOT VOTING—43

Allen	Frenzel	Quie
Andrews, N. Dak.	Frey	Risenhoover
Badillo	Gammage	Runnels
Barnard	Goldwater	Ruppe
Boland	Gradison	Santini
Bolling	Harsha	Sarasin
Burke, Calif.	Holtzman	Sisk
Chappell	Jenrette	St Germain
Cochran	Johnson, Calif.	Ullman
Conyers	Koch	Vanik
Cotter	Lederer	Waggonner
Dent	McKinney	Wilson, Bob
Diggs	Moss	Wolff
Eilberg	Obey	Young, Alaska
	Pritchard	

The Clerk announced the following pairs:

Mr. Cotter with Mr. Barnard.
Mr. Jenrette with Mr. Allen.
Mr. Ullman with Mr. Cochran of Mississippi.
Mr. St Germain with Mr. Frenzel.
Mr. Waggonner with Mr. Harsha.
Mr. Chappell with Mr. Bob Wilson.
Ms. Burke of California with Mr. Sarasin.
Mr. Boland with Mr. Gradison.
Mr. Badillo with Mr. Goldwater.
Mr. Koch with Mr. Frey.
Mr. Lederer with Mr. Quie.
Mr. Moss with Mr. Ruppe.
Mr. Dent with Mr. Risenhoover.
Mr. Diggs with Mr. Young of Alaska.
Mr. Gammage with Mr. Johnson of California.
Mr. Santini with Mr. Vanik.
Mr. Sisk with Mr. Conyers.
Ms. Holtzman with Mr. McKinney.
Mr. Obey with Mr. Pritchard.
Mr. Wolff with Mr. Andrews of Indiana.
Mr. Eilberg with Mr. Runnels.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

House Resolution 659 pertaining to the bill just passed was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR DISTRICT OFFICE SPACE FOR MEMBERS OF HOUSE OF REPRESENTATIVES

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–600) on the resolution (H. Res. 687) providing for district office space for Members of the House of Representatives, which was referred to the House Calendar and ordered to be printed.

INTERNATIONAL EMERGENCY FOOD RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from New York (Mr. McHUGH) is recognized for 5 minutes.

Mr. McHUGH. Mr. Speaker, I am introducing legislation today to establish an international emergency food reserve. My bill is similar to language originally contained in the Senate version of the omnibus farm bill. That language was the source of some disagreement in conference, and was substantially weakened by the final decision taken by the conferees.

As reported by the conference committee, the farm bill now merely encourages the President to enter into negotiations with other nations to establish an emergency food reserve. Unfortunately, the provision which would have actually established the U.S. component of such a reserve was stripped from the bill. As I understand it, the major reason for its elimination was the belief by some of the conferees that the proposal had not been reviewed by one of the House committees having jurisdiction.

The bill which I am introducing will provide us with a fresh opportunity to take this most needed step. The problem of a hungry world and the need for a food reserve are as important today as they were 3 years ago when they were eloquently acknowledged in Rome. Three years later, the question remains as to whether the United States and the world community are prepared to make good on the commitments made at that World Food Conference in Rome in 1974.

Those were commitments entered into by the representatives of 130 nations, commitments to bring about a world by 1985 in which "no child will go to bed hungry * * * no family will fear for its next day's bread and * * * no human being's future and capacities will be stunted by malnutrition."

Yet today, 3 years later, neither the United States nor the world community generally have a consciously defined policy to establish and maintain reserves of grains and other commodities for emergencies. We have allowed good harvests in 1975 and 1976 to lull us into complacency.

THE DANGERS OF COMPLACENCY

The fact is that those harvests will not assure any long-term improvement in world food security unless their fruits become part of a conscious reserve policy. Moreover, while short-run surpluses in some places at some times will very likely continue, long-run prospects are questionable at best.

Even in years of good crops, there will continue to be hundreds of millions of people who go hungry. According to the U.S. Department of Agriculture, the trend of world food production over the next 8 years will just barely outpace population growth, to say nothing of allowing for improvement in the diets of half a billion chronically malnourished people. After 1985, food production may fall behind global human needs unless decisive remedial measures are taken between now and then.

That is why we must act now to establish an International Emergency Food Reserve, and that is why I am introducing this proposal today.

PROVISIONS OF THE BILL

Under the terms of this bill, the President would be authorized and encouraged to enter into negotiations with other nations to develop an internationally coordinated system of nationally held food reserves. Pending such an agreement, however, and as an indication of our commitment to this goal, the Secretary of Agriculture would be required to build minimum stocks of food reserves of no less than 2 million tons. At any time prior to an agreement, the Secretary would be authorized to increase these stocks to a maximum of 6 million tons.

Food for the reserve would be acquired by the Commodity Credit Corporation either as a result of defaults on loans made under price-support programs administered by USDA or through purchases on the open market to the extent that sufficient quantities were not available through defaults.

These foods could be disposed of only to provide humanitarian relief in countries struck by a major disaster, as determined by the President, or to assist any country to meet its food production requirements when there has been a severe shortfall in food production.

After an international agreement is reached, this reserve would be subject to the terms of that agreement. I should also stress that nothing in my bill precludes reserves being held in private hands, or requires a larger publicly held reserve than is here established.

This is a modest proposal, Mr. Speaker. The food reserve that would be established as an expression of our commitment is not very large. However, even relatively small reserves would be most helpful in meeting food emergency needs resulting from droughts, floods, earthquakes, and other natural disasters, as well as in helping to cover food production shortfalls.

All of or most of the food drawn to meet these pressing needs could be distributed through existing Public Law 480 channels so that the only real additional costs of such a reserve would be those involved in making modest purchases on the open market if necessary and those involved in storing relatively small amounts of food.

WHY WE SHOULD ACT NOW

As I indicated previously, Mr. Speaker, the United States was one of those 130 nations that made a commitment 3 long years ago. The time has come to begin making good on it. Moreover, there are several compelling reasons why the United States should act now to establish an emergency food reserve in addition to simply living up to our commitment.

In the first place, maintaining such reserves would assure our capacity to respond speedily to disasters and other food emergency situations, an assurance that we lack at the present time.

Second, even small reserves could be of significant help in providing adequate supplies for the humanitarian and developmental purposes of Public Law 480 in time of relatively tight supplies. In 1974, for example, U.S. food aid to the famine stricken Sahel region was actually held up until revised U.S. crop forecasts became available. Yet such aid, mostly in the form of title I concessional sales, represented only a small fraction of American commercial exports for dollars that year. This would not have occurred if an emergency food reserve had been in place, and much suffering could have been avoided.

Finally, this is the time to act because food stocks are readily available at very moderate prices. Costs to the Government could be minimized, both through defaults on nonrecourse commodity loans and through purchases on the open market should that prove necessary. Of course, such purchases could also have a mild but beneficial effect on prices received by producers.

CONCLUSION

For all of these reasons, Mr. Speaker, I believe that we should act now. I understand that the administration looks favorably on this type of legislation and would welcome its passage.

I know that President Carter and Secretary Bergland are committed to working out an international agreement on food reserves. Passage of this bill, or one like it, would enhance the climate needed to assure an international agreement because it would show that the United States is committed to this goal. At the same time, the bill would leave the administration with sufficient flexibility during the course of negotiations.

I sincerely hope that my colleagues will join with me in cosponsoring this legislation, and I am also hopeful that the Committees on Agriculture and International Relations will consider it in the very near future.

The bill follows:

H.R. 9045

A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Emergency Food Reserve Act of 1977".

FINDINGS

SEC. 2. The Congress hereby finds and declares that the health, well-being, and lives of people throughout the world are endangered by the absence of consistent and coordinated efforts among the governments of those people to establish and maintain food reserves as a safeguard against food emergency situations and severe crop shortfalls.

PURPOSES

SEC. 3. (a) It is the purpose of this Act to authorize and encourage the President of the United States of America or his designated representatives (hereinafter referred to as the "President") to enter into negotiations with representatives of other nations to establish and maintain a system of nationally held and internationally coordinated food reserves.

(b) It is the further purpose of this Act to require the Secretary of Agriculture of the United States of America or his designated representatives (hereinafter referred to as the "Secretary") to establish and maintain minimum stocks of food as a safeguard against food emergency situations and severe crop shortfalls, and to demonstrate the commitment of the United States to the

goal of establishing a system of nationally held and internationally coordinated food reserves.

AUTHORIZATION FOR NEGOTIATIONS

SEC. 4. The President is hereby authorized and encouraged to enter into negotiations with representatives of other nations to develop a system of nationally held and internationally coordinated food reserves to be used for noncommercial humanitarian food relief needs and for such other purposes as may be agreed upon: *Provided*, however, that nothing in this Act shall be construed to require the President to enter into an agreement under which the obligations of the United States would have to be met solely through publicly-held food reserves.

INTERNATIONAL EMERGENCY FOOD RESERVE

SEC. 5. (a) The Secretary shall establish and maintain a food reserve to meet food emergency needs and severe crop shortfalls, and to demonstrate the commitment of the United States to the goal of establishing a system of nationally held and internationally coordinated food reserves. Said reserve shall be known as the "International Emergency Food Reserve" (hereinafter referred to as the "Reserve").

(b) As soon as practicable, the Secretary shall establish the Reserve and build minimum food stocks of no less than two million tons, including processed and blended foods where practicable. Pending the completion of an international agreement negotiated pursuant to section 4, the Secretary is authorized to increase such food stocks to a level not greater than six million tons.

(c) Notwithstanding any other provision of law, food stocks in the Reserve may be disposed of for the following purposes pending the completion of an international agreement negotiated pursuant to section 4:

(1) Such food stocks may be utilized for the purpose of providing noncommercial humanitarian relief to any country which suffers a major disaster, as determined by the President.

(2) Such food stocks may be utilized for the purpose of assisting any country to meet its food requirements in any year in which it has experienced such a severe shortfall in food production, as determined by the President, to warrant the use of United States' food for such purposes.

Provided, however, that any quantity removed from the Reserve shall promptly be replaced with a quantity no less than is provided for under subsection (b).

(d) As soon as practicable following the effective date of an international agreement negotiated pursuant to section 4, the Secretary shall adjust the level of food stocks in the Reserve to such level as may be required to be held by the government of the United States pursuant to the terms of said agreement. Food stocks in the Reserve may then be used for the purposes designated in subsection (c), and for the purpose of meeting the obligations of the government of the United States pursuant to the terms of said agreement: *Provided, however*, that any quantity removed from the Reserve shall be promptly replaced with a quantity no less than is provided for under the terms of said agreement.

(e) Food stocks for the Reserve may be acquired by the Commodity Credit Corporation of the United States as a result of defaults on loans made under price support programs administered by the Secretary. The Secretary may also acquire such food stocks through purchases by the Commodity Credit Corporation on the open market to the extent that quantities acquired under price support programs are inadequate to meet the objectives of this Act.

(f) Nowithstanding any provision of this Act, or any other provision of law, the Secretary shall provide for the periodic rotation of food stocks in the Reserve to avoid spoilage and deterioration: *Provided, however*, that any quantity removed from the Reserve shall promptly be replaced with a quantity no less than is provided for under the respective cases above.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are hereby authorized to be appropriated such sums as may be required to carry out the provisions of this Act.

DROUGHT RESOLUTION: HOPEFULLY OBSOLETE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, today I am reintroducing legislation I had earlier sponsored, directing the House Agriculture and the House Public Works Committees to hold joint hearings to: First, document any inequities in the administration of the Federal drought assistance program; and second, determine the policies, practices, and priorities which the Farmers Home Administration and the Economic Development Administration should adopt in administering such a program.

Fortunately, on September 1, the Farmers Home Administration issued new regulations which made the efforts of these two agencies very similar. It is my hope and expectation that my resolution is now obsolete. Nonetheless, nine of my fellow colleagues have been very concerned about the drought situation and how the drought assistance program has been handled. To express their concern and to reiterate all of our hope that the Federal Government is properly responding to those adversely affected by the drought, I am reintroducing my resolution this afternoon.

Thank you.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

ANNOUNCEMENT OF HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the Subcommittee on Monopolies and Commercial Law will hold 2 further days of hearings on H.R. 8359, a bill to restore effective enforcement of the antitrust laws.

On September 16, 1977, the subcommittee will hear from opponents of the legislation in room 2237, Rayburn House Office Building, beginning at 9 a.m.

On September 28, 1977, the subcommittee will take testimony from academic witnesses who will address the technical aspects of the proposed legislation. That hearing will begin at 9 a.m. in room 2141, Rayburn House Office Building.

Any parties wishing to express their views on this or similar measures may submit their statements for the record.

REFORMING THE EXCHANGE STABILIZATION FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I am today introducing legislation that will, I believe, resolve a long-standing problem of U.S. international financial policy: Legislative control over the Treasury Department's Exchange Stabilization Fund—ESF.

The ESF is a kind of contingency fund of about $4.1 billion available to the Secretary of the Treasury for international financial transactions in support of the dollar. It is also used to pay certain administrative expenses, totaling about $18 million in 1976. The unbudgeted salaries of 555 Treasury Department employees came out of the ESF last year.

Its off-budget status has allowed the fund to escape congressional limits on Federal expenditures. Over the years the ESF has also been criticized as the Treasury Department's own slush fund, available for such uses as the maintenance of a house in Tokyo, travel costs and national security-related foreign programs.

Treasury Secretary Michael Blumenthal and Under Secretary Anthony Solomon began conscientiously regulating fund expenditures in January, when they joined the administration, so that much criticism of the ESF is no longer valid. But we all agree on the need for corrective legislation placing ESF administrative expenses in the congressionally approved Federal budget and requiring annual appropriations from Congress. Accordingly, that is the essential purpose of the bill I am introducing on behalf of the Treasury Department.

In addition to criticisms of ESF expenditures for off-budget administrative expenses, questions have arisen concerning the adequacy of oversight of fund expenditures for international financial transactions. Under Secretary Solomon has kept me and the other members of our subcommittee fully informed of these ESF expenditures. But as with the administrative costs, I believe our oversight should be formalized in legislation.

The second bill I am introducing adds two sections concerning congressional oversight to the bill submitted by the Treasury Department. The first additional provision requires that a monthly financial statement of ESF activities be provided to the appropriate committee and subcommittee chairmen of the House and Senate, and the second requires advance consultation between the Treasury Department and the appropriate committee and subcommittee chairmen before any international agreement for the account of the fund is formalized.

Undersecretary Solomon has approved of our additional provisions and I would like to thank him for his great cooperation. Whether these or other provisions are necessary will be determined at hearings our subcommittees will hold this winter on both of the bills I am introducing today.

I am inserting at this point in the RECORD the two bills and some supplemental material furnished by the Treasury Department.

H.R. —

A bill to provide that the Exchange Stabilization Fund shall not be available for the

payment of administrative expenses; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a(b)) is further amended by:

(1) striking "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking the second and third sentences;

(3) amending the fourth sentence to read as follows:

"The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided,* That the fund shall not be available for the payment of administrative expenses."

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is further amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended."

SEC. 3. The Secretary of the Treasury is authorized, without regard to the standards and procedures of section 3324 and chapter 51, title 5, United States Code, to appoint a total of 61 of the personnel of the Department of the Treasury (in addition to any positions which may be allocated to the Department of the Treasury presently or in the future at the discretion of the Civil Service Commission from those authorized under section 5108(a) of title 5, United States Code) in GS–16, 17, and 18, to carry out the international affairs functions of the Department of the Treasury: *Provided, however,* That when the person who has first filled such position leaves such position, the standards and procedures of section 3324 and subchapter 51, title 5, United States Code shall be applied in filling the position. For the purpose of this section, the aggregate number of positions authorized to be established by section 5108(a) of title 5, United States Code shall be increased to reflect the 61 positions created by this section.

SEC. 4. Section 51 of the Act of December 30, 1970, 84 Stat. 1659 (22 U.S.C. 276c–2) is amended by:

(1) amending the first sentence to read:

"Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States."

(2) striking from the second sentence the words "the fund established pursuant to section 822(a) of Title 31" and inserting in lieu thereof "funds appropriated to the Department of the Treasury."

(3) striking the last sentence of the section.

SEC. 5. There are hereby authorized to be appropriated, such sums as may be necessary, including sums for official functions and receptions and representation expenses, to carry out the international affairs functions of the Department of the Treasury.

SEC. 6. The provisions of this Act shall take effect on October 1, 1978, except the amendment made by Sec. 4(1) which shall be effective as of July 1, 1977.

H.R. 9066

A bill to provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by—

(1) striking out "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking out the second and third sentences; and

(3) amending the fourth sentence to read as follows: "The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided,* That the fund shall not be available for the payment of administrative expenses.".

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended.".

SEC. 3. The Secretary of the Treasury is authorized, without regard to the standards and procedures of section 3324 and chapter 51, title 5, United States Code, to appoint a total of 61 of the personnel of the Department of the Treasury (in addition to any positions which may be allocated to the Department of the Treasury presently or in the future at the discretion of the Civil Service Commission from those authorized under section 5108(a) of title 5, United States Code) in GS–16, 17, and 18, to carry out the international affairs functions of the Department of the Treasury: *Provided, however,* That when the person who has first filled such position leaves such position, the standards and procedures of section 3324 and subchapter 51, title 5, United States Code, shall be applied in filling the position. For the purpose of this section, the aggregate number of positions authorized to be established by section 5108(a) of title 5, United States Code, shall be increased to reflect the 61 positions created by this section.

SEC. 4. Section 51 of the Act of December 30, 1970 (84 Stat. 1659; 22 U.S.C. 276c–2), is amended by—

(1) amending the first sentence to read: "Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States.";

(2) striking from the second sentence the words "the fund established pursuant to section 822(a) of title 31" and inserting in lieu thereof "funds appropriated to the Department of the Treasury"; and

(3) striking out the last sentence of the section.

SEC. 5. There are authorized to be appropriated such sums as may be necessary, including sums for official functions and receptions and representation expenses, to carry out the international affairs functions of the Department of the Treasury.

SEC. 6. Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by inserting "(1)" immediately after "(b)" and by inserting at the end thereof the following:

"(2) Within fourteen days after the close of each calendar month beginning after the date of enactment of this paragraph, the Secretary of the Treasury shall transmit to the Chairman of the Committee on Banking, Finance and Urban Affairs (and the Chairman of the appropriate subcommittee thereof) of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs (and the Chairman of the appropriate subcommittee thereof) of the Senate a detailed financial statement of the fund respecting all agreements entered into or renewed and all transactions occurring during such month.".

SEC. 7. Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by inserting at the end thereof the following:

"(3) Before entering into any international agreement for the account of the fund, the Secretary of the Treasury or his delegate, shall consult with the Chairman of the Committee on Banking, Finance and Urban Affairs (and the Chairman of the appropriate subcommittee thereof) of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs (and the Chairman of the appropriate subcommittee thereof) of the Senate.".

SEC. 8. This Act shall take effect on October 1, 1978, except that the amendment made by paragraph (1) of section 4 shall take effect on July 1, 1977, and the amendments made by sections 6 and 7 shall take effect on the date of enactment of this Act.

THE SECRETARY OF THE TREASURY,
Washington, September 9, 1977.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft bill "To provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses; and for other purposes," together with a comparative type showing the changes that would be made in existing law by the bill.

The main purposes of this bill are: (1) to discontinue the use of the Exchange Stabilization Fund (ESF) as a source of payment of administrative expenses, which expenses have not been included in the past in the Federal budget; and (2) to authorize appropriations, beginning the fiscal year 1979, to meet all the administrative expenses associated with the Department's international affairs functions. The bill will help accomplish the President's objective that the Federal budget reflect Government spending. By including in the appropriations and budget review process, beginning FY 79, all administrative expenses associated with Treasury's

international affairs functions, the President and the Congress will be better able to assess such costs in relation to the various programs they support.

The ESF was created by the Gold Reserve Act of 1934 to provide financial resources for the Secretary of the Treasury to "stabilize the exchange value of the dollar." These resources are authorized to be used for financial and monetary transactions—i.e., ESF "operations"—and for the payment of administrative expenses associated with carrying out the ESF's purpose. In today's interdependent world, effective operations in the broad area of stabilization policy require an organization equipped to develop information on, and analyze foreign activities in, the monetary, exchange, trade, and development fields, and other matters bearing on the U.S. external payments position; to assist in formulating U.S. policy positions on international financial issues, including the evolution of the international monetary system; and to implement those policies.

Since 1934 the extent of administrative expenses paid from the ESF and the responsibilities of the Department of the Treasury in the area of international affairs have increased substantially. In addition to managing the Exchange Stabilization Fund, the Secretary of the Treasury serves as U.S. Governor of the International Monetary Fund, International Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Inter-American Development Bank, Asian Development Bank, and African Development Fund. The Secretary is the chief financial officer of the United States. In that capacity, the Secretary participates in a variety of inter-agency committees on international economic issues such as: the Trade Policy Committee; the Export Expansion Advisory Committee; and the Advisory Committee of P.L. 480, and serves as Chairman of the Economic Policy Group, the National Advisory Council on International Monetary and Financial Policies, and the East-West Foreign Trade Board. These responsibilities and others require an expert competent staff and other adequate administrative support.

The Treasury Department is of the view that the administrative expenses associated with this whole range of international functions—including the Secretary of the Treasury's responsibilities to manage the ESF—should be funded by appropriations beginning FY 79, with proposed outlays for this purpose included in the Treasury Department's budget submissions in FY 79. If enacted, the draft bill would accomplish this result.

It will be appreciated if you will lay the enclosed bill before the House of Representatives. An identical draft bill has been transmitted to the President of the Senate.

The Office of Management and Budget advises there is no objection to the presentation of this legislation for the consideration of the Congress and that its enactment would be in accord with the President's program.

Sincerely,

W. MICHAEL BLUMENTHAL.

SECTIONAL ANALYSIS

Sec. 1. Limitation on use of the ESF as to payment of administrative expenses:

Beginning FY 79, the Treasury Department will seek appropriations for all administrative expenses associated with the Department's international affairs functions. These include, for example: (a) personal services; (b) other services (includes Treasury share of State Department overseas administrative support and meeting expenses, professional service contracts, data programming and usage contracts, services performed by other Government agencies, and other similar services); (c) travel and transportation of persons; (d) receptions and representation; (e) rent, communication, and utilities; (f) reimbursement to Federal Reserve Banks; (g) printing and reproduction; (h) transportation of things; (i) supplies and materials; (j) depreciation expense; and (k) equipment.

Such expenses currently are paid from the Exchange Stabilization Fund created by Section 10 of the Gold Reserve Act of 1934. Subsection (b) of Section 10 therefore would be amended by the first section of this bill to reflect the proposed change in the source of funding and to specify that the ESF no longer will be available for payment of administrative expenses. The ESF, beginning FY 79, will be available solely for financial and monetary transactions—i.e., ESF "operations" (and for investment to the extent authorized by Sec. 10 of the Gold Reserve Act of 1934). The kinds of administrative expenses currently funded from the ESF and such other administrative expenses as may be associated with Treasury's international affairs functions, in accordance with section 1 of the bill, will be met in the future from appropriated funds.

Section 1 of the bill also makes a technical change in Sec. 10 of the Gold Reserve Act of 1934, by deleting the reference to the "Treasurer of the United States" and substituting therefor the "United States Treasury." This substitution reflects Reorganization Plan No. 26 of 1950 (31 U.S.C. 1001, note) and a reorganization of the Fiscal Service of the Treasury Department, effective February 1, 1974. All accounts of the "Treasurer of the United States" are now accounts of the "United States Treasury." The Department of the Treasury has and will continue to propose amendments to or repeal of other statutes, as and when appropriate, to make similar substitutions in the law.

Sec. 2. Authorization to provide certain allowances and benefits to Treasury employees abroad:

This section of the bill adds a new subsection (d) to the Gold Reserve Act of 1934 to authorize the Secretary of the Treasury to provide benefits and allowances to Treasury representatives serving in foreign countries comparable to those paid to similar officers and employees of the State Department and other USG employees at foreign posts. These benefits and allowances are currently provided to Treasury employees abroad under authority of Section 10 of the Gold Reserve Act of 1934.

Sec. 3. Appointment and compensation:

This section will authorize an increase in the government-wide pool of supergrade positions by 61 positions to be filled by Department of the Treasury personnel performing international affairs functions. The section gives the Secretary of the Treasury authority initially to appoint personnel to these positions without regard to the Civil Service Commission's general authority to classify and determine the qualifications of personnel filling supergrade positions. However, when the person who has first filled such position leaves the position, the Civil Service Commission's classification and qualification review procedures shall be applied in filling the position. The authority provided by this section is necessary to continue the ongoing international affairs functions of the Department.

Sec. 4. Payment of employee benefits for U.S. representatives in the international financial institutions:

This section of the bill amends 22 U.S.C. 276c–2 which had authorized U.S. representatives to the IMF, IBRD, IDB, and ADB to participate in certain civil service employee benefits and authorized the Secretary of the Treasury to use the ESF for agency contributions for this purpose by the Treasury Department. Section 4 of the bill: (1) includes U.S. representatives when appointed to the African Development Fund as eligible for these employee benefits and (2) makes the agency contributions payable, beginning FY 79, from Treasury appropriations rather than from the ESF.

Sec. 5. Funding of the international affairs functions of the Department of the Treasury:

The new section 5 would provide the continued authority for Treasury to effectively fulfill its international affairs functions by providing authorization of appropriations for this purpose. Thus, for example, sums appropriated will be used for the payment of compensation and benefits to Treasury employees (both full-time personnel and special experts and consultants) performing international affairs functions for the Department in Washington and in overseas posts. Employees performing these functions are in the Office of the Assistant Secretary for International Affairs as well as in several other offices within the Office of the Secretary, e.g., the Officer of the Under Secretary for Monetary Affairs, the Office of the Assistant Secretary for Administration, the Office of the General Counsel, and the Office of the Assistant Secretary for Economic Policy. Appropriations also will be necessary for the whole range of support required for these personnel—e.g., office space, equipment, supplies, communications, printing.

Treasury's responsibilities in the international area will also require, for example, appropriations adequate for U.S. representation at meetings abroad of the international financial institutions as well as for travel for periodic and ad hoc consultations, meetings, and conferences with foreign officials. In connection with meetings of Treasury officials, serving in Washington, and in foreign countries, with members of foreign governments and international financial and economic organizations, appropriations will be needed for receptions and other representation expenses.

Sec. 6. Effective date:

This section of the bill makes the provisions of the bill effective beginning FY 79, except for Sec. 4(1) of the bill which is to be effective as of July 1, 1977. The earlier date of effectiveness for Sec. 4(1) is necessary to effectively correct an oversight in the African Development Fund Act as provided in Sec. 4(1) of the bill.

COMPARATIVE TYPE SHOWING CHANGES WHICH WOULD BE MADE IN EXISTING LAW BY PROPOSED BILL

(Matter proposed to be omitted enclosed in brackets; new matter set in italic)

GOLD RESERVE ACT OF 1934

(48 Stat. 341, 31 U.S.C. 822a (1934))

* * * * *

31 U.S.C. 822a. Stabilization of exchange value of dollar; annual report; stabilization fund; audit by General Accounting Office; payment of subscription to International Monetary Fund; repayment covered into Treasury

* * * * *

(b) To enable the Secretary of the Treasury to carry out the provisions of this section there is appropriated, out of the receipts which are directed to be covered into the Treasury under 408b of this title, the sum of $2,000,000,000, which sum when available shall be deposited [with the Treasurer of the United States] *in the United States Treasury* in a stabilization fund (hereinafter called the "fund") under the exclusive control of the Secretary of the Treasury, with the approval of the President, whose decisions shall be final and not be subject to review by any other officer of the United States. [Subject to the foregoing provisions the administrative expenses of the fund shall be audited by the General Accounting Office at such times and in such manner as the Comptroller General of the United States may by regulation prescribe for the purpose of ascertaining that administrative funds are properly accounted for and that fully adequate accounting procedures and systems for control of such funds have been established.

Except for information determined by the Secretary to be of an internationally significant nature, there shall be furnished to the Comptroller General such information on the administrative expenses of the fund as is necessary to conduct the audit, and the Comptroller General or any of his representatives shall, for the purpose of securing this information, have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the United States Government (other than records, reports, files, or other papers or things containing or revealing information determined by the Secretary of the Treasury to be of an internationally significant nature). The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for stabilizing the exchange value of the dollar.] *The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: Provided, That the fund shall not be available for the payment of administrative expenses.* Such fund shall not be used in any manner whereby direct control and custody thereof pass from the President and the Secretary of the Treasury. The proceeds of all sales and investments and all earnings and interest accruing under the operations of this section shall be paid into the fund and shall be available for the purposes of the fund.

* * * * *

(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended.

* * * * *

ACT OF DECEMBER 30, 1970

(84 Stat. 1659, 22 U.S.C. 276c–2 (1970))

* * * * *

22 U.S.C. 276c–2. Employee benefits for United States representatives to International Monetary Fund, International Bank for Reconstruction and Development, Inter-American Development Bank, and Asian Development Bank; Treasury Department as collecting, accounting, and depositing agency for employee payments; effective date

Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, [and] the Asian Development Bank, *and the African Development Fund,* shall, *if they are citizens of the United States,* in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States. The Treasury Department shall serve as the employing office for collecting, accounting for, and depositing in the Civil Service Retirement and Disability Fund, Employees Life Insurance Fund, and Employees Health Benefits Fund, all retirement and health insurance benefits payments made by these employees, and shall make any necessary agency contributions from [the fund established pursuant to section 822a(a) of Title 31] *funds appropriated to the Department of the Treasury.* [This Section shall be effective as of December 14, 1966.]

PRO/CON ANALYSIS OF THE NEUTRON BOMB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 10 minutes.

Mr. DODD. Mr. Speaker, I have been following the recent controversy about neutron warheads since it began in May. In an effort to provide the Congress with as much information as possible about the military, economic, and foreign policy implications of these tactical nuclear weapons, I asked the Library of Congress to provide me with a "pro-con analysis" and to highlight the major issues involved.

I would like to take this opportunity to insert into the RECORD at this point the Congressional Research Service's responses to my requests. I think they will enable both Congress and the American people to begin to place the decision whether to produce and deploy such weapons in their proper context.

I commend these documents to my colleagues in anticipation of tomorrow's general debate on H.R. 6566, the ERDA National Security Authorization, and of consideration later this week of amendments to this measure.

The material follows:

PRO/CON ANALYSIS OF THE NEUTRON BOMB

(Prepared by Robert G. Bell, Analyst in National Defense, Foreign Affairs and National Defense Division, June 27, 1977)

1. Background: H.R. 7553, the FY 1978 Public Works for Water and Power Development and Energy Research Appropriation Bill, contains funds for the U.S. Energy Research and Development Administration (ERDA) nuclear weapons program. One element of this year's program is a request for funding the initial production of the W70–3 nuclear warhead. Mr. Alfred D. Starbird, ERDA's Assistant Administrator for National Security, has described the W70–3 as "an enhanced radiation warhead for the Lance missile which provides target destruction while greatly reducing collateral damage to the surrounding area and friendly populace." [1] On June 24, 1977, the Washington Post reported that enriched radiation projectiles were also being developed for firing from 8" and 155-mm howtizers. [2] The new projectiles are intended to replace current nuclear shells for the 8" and 155-mm howitzers.

All nuclear explosions produce four effects: blast, thermal radiation (heat), residual nuclear radiation (fallout and other contaminated materials), and initial nuclear radiation. This latter effect consists of highly penetrating and harmful invisible rays, including gamma rays, neutrons, and alpha and beta particles. In a typical air burst of a fission weapon, the four effects are distributed as follows: blast—50%, heat—35%, residual nuclear radiation—10%, initial nuclear radiation—5%. [3]

The intent of neutron weapons is to maximize the latter effect and minimize the other three. Mr. Starbird has stated that with an air burst of the W70–3, "You reduce the blast effect and get the kill radius you want through enhanced radiation." [4] The enhanced radiation caused by an explosion of the W70–3 consists primarily of neutron emissions, which has led to the labeling of the warhead as the so-called neutron bomb.

Since neutron weapons greatly reduce blast, heat, and residual radiation effects, their lethality accrues principally from the harmful effects on living things of neutron irradiation. Exposure to high levels of neutron radiation causes ionization to be produced in the cells composing living tissue. [5] As a result of the ionization, some of the constituents essential to the normal functioning of the cells are altered or destroyed, and some of the products formed may act as poison. [6] The clinical effects of acute neutron irradiation are summarized on Chart 1 (following page).

Protecting personnel from neutron irradiation is an extremely difficult task. Unless the shield is massive in size, the neutron radiations will penetrate the material readily with little attenuation of its harmful effects. For example, normal clothing will do little to block neutron radiations, although it may provide complete protection against thermal radiation. [7] A thickness of ten inches of concrete is required to decrease the integrated neutron flux by a factor of 10; twenty inches for a factor of 100. [8]

Footnotes at end of article.

SUMMARY OF CLINICAL EFFECTS OF ACUTE IONIZING RADIATION DOSES

		100 to 1,000 rems therapeutic range			Over 1,000 rems lethal range	
Range	0 to 100 rems subclinical range	100 to 200 rems	200 to 600 rems	600 to 1,000 rems	1,000 to 5,000 rems	Over 5,000 rems
		Clinical surveillance	Therapy effective	Therapy promising	Therapy palliative	
Incidence of vomiting	None	100 rems: 5 percent, 200 rems: 50 percent.	300 rems: 100 percent	100 percent	100 percent	
Delay time		3 hours	2 hours	1 hour	30 minutes	
Leading organ	None	Hematopoietic tissue			Gastrointestinal tract	Central nervous system.
Characteristic signs	None	Moderate leukopenia	Severe leukopenia; purpura; hemorrhage; infection. Epilation above 300 rems.		Diahhrea; fever; disturbance of electrolyte balance.	Convulsions; tremor ataxia; lethargy.
Critical period postexposure			4 to 6 weeks		5 to 14 days	1 to 48 hours.
Therapy	Reassurance	Reassurance; hematologic surveillance.	Blood transfusion; antibiotics.	Consider bone marrow transplantation.	Maintenance of electrolyte balance.	Sedatives.
Prognosis	Excellent	Excellent	Good	Guarded	Hopeless	
Convalescent period	None	Several weeks	1 to 12 months	Long		

SUMMARY OF CLINICAL EFFECTS OF ACUTE IONIZING RADIATION DOSES—Continued

Range	0 to 100 rems subclinical range	100 to 1,000 rems therapeutic range			Over 1,000 rems lethal range	
		100 to 200 rems	200 to 600 rems	600 to 1,000 rems	1,000 to 5,000 rems	Over 5,000 rems
		Clinical surveillance	Therapy effective	Therapy promising	Therapy palliative	
Incidence of death	None	None	0 to 80 percent (variable).	80 to 100 percent (variable).	90 to 100 percent	
Death occurs within			2 months		2 weeks	2 days.
Cause of death			Hemorrhage; infection		Circulatory collapse	Respiratory failure; brain edema.

Source: Glasstone, op. cit., p. 591.

2. PRO: Arguments which *could* be cited in support of deploying tactical neutron weapons:

a. NATO defense strategy is based on the concepts of flexible response and forward defense. Assuming the Warsaw Pact refrains from employing nuclear weapons in its initial attacks, NATO plans to defend allied territory with conventional forces holding a line as far forward as possible. The West Germans are particularly adverse to any NATO war plan which would call for a controlled strategic retreat, since it would be West German territory which would be yielded. If, however, the Warsaw Pact attack succeeds in forcing NATO armies back, and it appears that the war is on the verge of being lost, NATO plans to counterattack with tactical nuclear forces (TNFs). Since there is little rationale for using TNFs on one's own soil, with its inevitable collateral blast and fallout damage on friendly cities and populace, current "indiscriminant" TNFs provide a strong predisposition for an early use—before the retreat has yielded too much ground. Thus, it is argued, current NATO TNFs do not afford the conventional defenses much time to "hold".

On the other hand, if NATO should yield a substantial amount of territory before the nuclear decision is faced, it could be argued that NATO would never elect to order nuclear strikes on its own soil and would thus deter itself from a tactical nuclear defense. In this sense, it could be said that current NATO TNFs do not represent a credible deterrent.

Because weapons such as the W70–3 could be employed on one's own soil with significantly lower rates of death and injury to non-combatants and much less damage to property, it has been argued that, "Reduction of collateral damage should make it more credible to the WP (Warsaw Pact) that the Alliance will use nuclear weapons." [9] The greater the credibility of a defense, this argument maintains, the greater the deterrent value and the lower the likelihood of war. It could also be argued that since the neutron weapon's collateral damage is so limited, NATO's commanders could wait longer to see if a conventional defense will stop the attack. In this sense, the neutron bomb could be said to raise the nuclear threshold.

b. One of the cardinal objectives of U.S. arms control policy is to lessen destructiveness if efforts to avert war fail.[10] By significantly reducing the collateral damage caused by detonations of current tactical nuclear weapons, the neutron warheads could be said to be consistent with this goal.

c. Because the "kill radius" of enhanced radiation weapons exceeds that of a standard nuclear weapon (assuming the same yield), they can be utilized with much lower yield than that needed to achieve the same results with typical tactical nuclear weapons. As a result, it would be easier to differentiate visually between low-yield "battlefield" nuclear weapons and higher-yield weapons which might be confused with those normally associated with a strategic exchange. This might facilitate efforts to control nuclear warfighting to a tactical nuclear stage and avoid immediate escalation to a general exchange.

d. Because neutron weapons minimize residual radioactive effects, the battlefield is not "contaminated" and counterattacking forces can immediately follow up supporting nuclear artillery strikes with assaults on the disorganized and crippled attacking forces.

3. CON: Arguments which *could* be cited in opposition to deploying the W70–3.

a. Unless the Warsaw Pact follows the U.S. initiative in lowering the collateral damage caused by TNFs or responds to a NATO "first-use" by calling a truce, little will be gained. If the Warsaw Pact attacks first with nuclear weapons or responds to a NATO "first-use" of TNFs by launching massive tactical nuclear strikes with high-yield, "dirty" nuclear weapons, the physical destruction in Western Europe will still be enormous.

b. The concept of a limited "battlefield" use of tactical nuclear weapons remains theoretical. It has, of course, never been tested during actual combat. It is by no means certain that escalation to the level of a general exchange could be avoided, or that field commanders would even possess the means of correctly interpreting the nature of widespread battlefield detonations. For these reasons, it can be argued that, ipso facto, *any* TNF whose use is perceived to be more credible necessarily makes it more likely that it *would* be used at an early stage of combat—leading rapidly to a general exchange. In summary, this view holds that weapons such as the W70–3 tend to "blur" the distinction between conventional and nuclear warfare—a threshold which this view holds should be clearly demarcated and maintained sufficiently high to forestall all but "last resort" incentives for crossing it.

c. Neutron weapons could be said to represent a particularly inhumane method of killing. Rather than killing or injuring by direct physical trauma, the neutron radiation emitted by the warhead's detonation attacks the cellular processes of living things, causing death or injury over a period of time, as determined by the dosage received. Chart 1 suggests that even in cases of highly lethal damages, there may be a thirty minute period before nausea is induced. It has been reported that recent U.S. Navy tests on monkeys demonstrated that in lower lethal dosage ranges (2,500–3,500 rems), incapacitation occurred after five minutes but death did not occur for about four to six days.[11] Thus the effect of an attack using neutron warheads would be a battlefield on which thousands of enemy troops lay mortally wounded, yet their actual death could take days or even weeks. How NATO troops would react psychologically to such a scene, or how allied medical teams would cope with such a situation, is perhaps unfathomable. Whether such a battlefield would be any more horrible than a "standard" nuclear battlefield is of course judgmental; however, while similar effects are caused by any nuclear detonation, it is precisely because the W70–3 seeks to optimize this effect that it could be construed as so inhumane.

FOOTNOTES

[1] U.S. Congress. House: Committee on Appropriations, Subcommittee on Public Works. Public Works for Water and Power Development and Energy Research Appropriation Bill, 1978; Hearings, Part 6 (ERDA), 95th Congress, First session; Wash., D.C., U.S. Govt. Print. Off., 1977; p. 1092.

[2] The Washington Post, June 24, 1977, p. 41.

[3] Samuel Glasstone (ed.), The effects of Nuclear Weapons, Washington, D.C.: U.S. Atomic Energy Commission, April 1962; p. 8.

[4] U.S. Congress. House: Subcommittee on Public Works; ERDA Hearings, op. cit., p. 1089.

[5] Glasstone, op. cit., p. 577.

[6] Ibid.

[7] Glasstone, op. cit., p. 649.

[8] Ibid., p. 393.

[9] The Theater Nuclear Force Posture in Europe: A Report to Congress in Compliance with P.S. 93–365 by the Secretary of Defense; March 1975, p. 21.

[10] Arms Control Report, Publication 89, U.S. Arms Control and Disarmament Agency, July 1976, p. 1.

[11] "U.S. Navy Irradiates and Burns Monkeys to Death," The Manchester Guardian, May 29, 1977.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 11, 1977.

To: U.S. Representative CHRISTOPHER J. DODD.

From: Robert G. Bell, Analyst in National Defense, Foreign Affairs and National Defense Division.

Subject: Major Issues Related to the Debate on the Neutron Bomb.

1. In response to your request of July 8, 1977, I have identified four aspects of the continuing debate on the question of deploying enhanced radiation ("neutron bomb") weaponry which the Congress might consider investigating in greater depth. These issue-categories are (1) the validity of military arguments for and against the weapons system, (2) the humanitarian aspects of employing these weapons in battle, (3) the relevance of the neutron bomb debate to the larger issue of what constitutes an appropriate tactical nuclear force (TNF) for NATO, and (4) the implications of deploying these weapons for other U.S. foreign/defense policy interests, including SALT, a comprehensive test ban treaty (CTB), and the Mutual and Balanced Force Reduction negotiations (MBFR).

2. *Military Issue:*

a. *Do neutron bombs raise or lower the nuclear threshold?*

(1) *Background:*

NATO defense strategy is based on the concepts of flexible response and forward defense. Assuming the Warsaw Pact refrains from employing nuclear weapons in its initial attacks, NATO plans to defend allied territory with conventional forces holding a line as far forward as possible. The West Germans are particularly adverse to any NATO war plan which would call for a controlled strategic retreat, since it would be West German territory which would be yielded. If, however, the Warsaw Pact attack succeeds in forcing NATO armies back, and it appears that the war is on the verge of being lost, NATO plans include the option of counterattacking with TNFs.

Since there is little rationale for using tactical nuclear weapons on one's own soil, with an inevitably high degree of collateral blast and fallout damage to friendly cities and populace, it can be argued that NATO's current, "indiscriminant" TNFs provide a strong predisposition for their early use—before any retreat has yielded too much ground. In other words, it can be argued that the existing inventory of TNFs do not afford the conventional defense much time to "hold," thus lowering the nuclear threshold. Since collateral damage caused by enhanced radiation weapons is so confined, they could conceivably be used even in the highly industrialized central regions of Germany; therefore, NATO commanders could wait longer to see if a conventional defense would stop the attack. In this sense, enhanced radiation weaponry could be said to raise the nuclear threshold.

Conversely, it could be argued that it is precisely because the use of enhanced radiation weaponry is more *conceivable* that their actual use following a conventional phase of battle would be more *likely*. Where NATO's current high-yield TNFs offer disincentives for their use, no such restraint might be present in the case of enhanced radiation weaponry. Use of enhanced radiation weaponry might be approved in situations where use of more destructive "conventional" tactical nuclear weapons might not. In this sense, enhanced radiation weaponry could be said to lower the nuclear threshold.

(2) *Questions*:

(a) How probable is it that the Warsaw Pact would refrain from employing highly destructive tactical nuclear weapons in its initial attacks?

(b) If this probability is very low, what difference would the availability of enhanced radiation weaponry make?

(c) Is there any evidence that the Soviet Union is also moving towards the deployment of enhanced radiation weapons as substitutes for more indiscriminant tactical nuclear weapons?

(d) If not, will NATO's deployment of these less destructive weapons make any difference in terms of the total physical destruction in Western Europe following a NATO/Warsaw Pact tactical nuclear exchange?

(e) Whether or not the Warsaw Pact acquires enhanced radiation weaponry, what is the probability that a NATO "first use" of such weapons would convince the Warsaw Pact to halt its offensive and not retaliate with tactical nuclear weapons?

(f) Is the cost of the enhanced radiation weapons program justified by this probability?

(g) Would the West Germans in fact be more prepared to accept the loss of territory to a Warsaw Pact conventional assault if they knew that enhanced radiation weapons were being held in reserve? Might not the pressures for early use be the same? Are the West Germans less concerned with the loss of territory than they are with the physical destruction of urban areas caused by a tactical nuclear war?

(h) Assuming that the pressures from the West Germans were the same in either case, would the possession of enhanced radiation weapons provide the President of the United States more "leverage" in countering German demands for the early use of tactical nuclear weapons?

b. *Do neutron bombs make NATO's tactical nuclear deterrent more "credible?"*

(1) *Background*:

Because enhanced radiation weapons could be employed on one's own soil with significantly lower rates of death and injury to non-combatants and much less damage to property, former Secretary of Defense Schlesinger, among others, has argued that, "reduction of collateral damage should make it more credible to the WP (Warsaw Pact) that the Alliance will use nuclear weapons."[1] The greater the credibility of a defense, this argument maintains, the greater the deterrent value and the lower the likelihood of war.

(2) *Questions:*

(a) What will be the "mix" between enhanced radiation weapons and "conventional" high-yield tactical nuclear warheads? If the ratio of enhanced radiation weapons to other TNFs is low, will the credibility of NATO's TNFs in fact be raised?

(b) How vulnerable will the enhanced radiation weapons storage facilities be? If they are highly vulnerable, might not this encourage a Warsaw Pact first-use attack in order to destroy the weapons before they can be released to field units? To what degree is the credibility of the weapons a function of their security and relative invulnerability?

(c) How credible is NATO's flexible response doctrine itself? Will enhanced radiation weapons make it any more likely that nuclear war fighting could be confined to a tactical phase of battle? Would escalation to the strategic exchange level be rapid, or could it be forestalled long enough to permit negotiations?

(d) Could field commanders differentiate visually between the detonation of an enhanced radiation weapon and a "conventional" tactical nuclear blast which might be confused with an effect normally associated with a strategic exchange? If so, will this facilitate efforts to limit nuclear warfighting to a tactical phase? If not, might this not negate one of the basic rationales for the weapons development program?

(e) If the Soviet Union acquires enhanced radiation weaponry in time, what will be the *net* effect on the credibility of NATO's TNF?

3. *Humanitarian Issues:*

a. *Are enhanced radiation weapons more or less "moral" than existing tactical nuclear weapons?*

(1) *Background:*

Rather than killing or injuring by direct physical trauma, the neutron radiation emitted by enhanced radiation weaponry attacks the cellular processes of living things, causing death or injury over a period of time, as determined by the dosage received. Information published by the Atomic Energy Commission in the early 1960's suggests that (even in the case of highly lethal dosages, there may be a thirty minute period before nausea is induced.[2] It has been reported that recent U.S. Navy tests on monkeys demonstrated that in lower lethal dosage ranges, incapacitation occurred after five minutes, but death did not occur for about four to six days.[3] Thus the effect of an attack comprised exclusively of enhanced radiation weapons could be a battlefield upon which thousands of enemy troops lay mortally wounded, yet their death might not occur for days or even weeks. Whether such a battlefield would be any more horrible than a "standard" nuclear battlefield goes to the crux of this issue. Nevertheless, while similar radiation effects are caused by all nuclear explosions, it is precisely because enhanced radiation weapons are designed to optimize this effect that some have construed them to be so inhumane.

Conversely, it has been argued that by significantly reducing the collateral damage to property and non-combatants, enhanced radiation weapons are entirely consistent with "the rules of war" and coincide with one of the cardinal U.S. arms control objectives: i.e., to lessen destructiveness should efforts to avert war fail. In this sense, some contend that enhanced radiation weapons would make war more "moral."

(2) *Questions:*

(a) Does the United States believe as a matter of policy that weapons must either "kill quickly" or not be developed at all?

(b) What, exactly, are the probable times between detonation and incapacitation and death?

(c) Does the development of enhanced radiation weapons move the United States in the direction of sanctioning the kinds of weapons effects that it seeks to outlaw in the chemical/biological warfare area?

4. *NATO Tactical Nuclear Force Issues:*

a. *Does opposition to the neutron bomb reveal concern over the more general issue of the status and direction of NATO's tactical nuclear forces?*

(1) *Background:*

In 1974, congressional concern over the status of NATO's TNFs resulted in the inclusion of a provision in P.L. 93–365 directing the Secretary of Defense to study the overall concept for the use of tactical nuclear weapons in Europe; how the use of such weapons relates to deterrence and to a strong conventional defense; reduction in the number and type of non-essential TNFs; and the steps which could be taken to develop a rational NATO nuclear posture consistent with an emphasis on conventional defense.[4] In the report to Congress mandated by P.L. 93–365, Secretary of Defense Schlesinger stated that reducing the collateral damage caused by employment of the TNFs was an important objective of the Alliance. The Secretary declared, "Further reductions in collateral damage can be made by improvements in weapons systems (e.g., reduced yields, special warhead effects such as *enhanced radiation*, improved delivery system accuracy)."[5]

In this context, it could be argued that the "NATO force improvement program" represented by the development of the neutron bomb is not only consistent with an overall concept for the NATO TNF, but that it was also announced well in advance to the Congress. Aside from humanitarian objections to the deployment of enhanced radiation weapons, the argument that these weapons will lower the nuclear threshold in one sense can be said to challenge the more general thrust toward lower collateral damage identified in the Secretary of Defense's report to Congress. Thus in debating the neutron bomb, Congress might want to consider a broader review and assessment of the current status and direction of the entire NATO tactical nuclear force.

(2) *Questions:* Questions can be prepared should Congress indicate a desire to pursue this approach.

5. *Implications for other national security interests:*

a. *Would deployment of the neutron bomb make it more difficult to achieve a SALT II agreement?*

(1) *Background:*

In a July 9, 1977 *Tass* commentary, Soviet writer Yuri Kornilov wrote, "Development of these new weapons creates additional difficulties for further Soviet-American strategic arms limitation talks."[6] Nevertheless, none of the tactical *delivery systems* mentioned in press reports in regard to the enhanced radiation weapons development (i.e., the Lance missile, the 8" artillery, or the 155-mm howitzer) have ever been a subject of discussion at SALT.

(2) *Questions:*

(a) Does the administration believe that the development of enhanced radiation weaponry might complicate the attainment of a SALT accord?

(b) Does the administration believe that the *Tass* commentary was simply propaganda—for domestic and world public consumption—or a significant signaling of the attitude of the Soviet leadership?

(c) Are enhanced radiation weapons being developed or considered for *any* "gray-area" or "forward-based systems" which *might* have the operational capability of striking the Soviet Union?

b. *Would deployment of enhanced radiation weapons complicate the attainment of an agreement at the MBFR talks or a CTB treaty?*

(1) *Background:*

On July 6, 1977, the Washington *Post* reported that the draft arms control impact statement on the neutron bomb prepared by the U.S. Arms Control and Disarmament Agency (ACDA) points out possible adverse impacts on MBFR and CTB.[7]

(2) *Questions:*

(a) What is the basis for the claims attributed to ACDA?

(b) Is further testing of the neutron bomb required? If so, would a CTB as currently being discussed prevent effective development of the weapons systems?

(c) Has the neutron bomb development been challenged by the Soviet Union at MBFR?

(d) Has the Soviet Union demonstrated *any* opposition at MBFR to NATO's efforts to reduce the collateral damage likely to be caused by its TNFs?

(e) Could cancellation of the enhanced radiation weapons development programs be offered as a "bargaining chip" at MBFR in exchange for Soviet withdrawal of conventional forces, e.g., tank armies?

(f) To what degree has consultation taken place with the NATO allies on the development of the neutron bomb? Would unilateral U.S. cancellation at this point precipitate strife within the Alliance?

FOOTNOTES

[1] The Theater Nuclear Force Posture in Europe: A Report to Congress in Compliance with P.L. 93-365; March 1975, p. 21.

[2] Samuel Glasstone (ed.). The Effects of Nuclear Weapons. Washington, D.C.: U.S. Atomic Energy Commission, April 1962; p. 591.

[3] The Manchester Guardian, May 29, 1977.

[4] Public Law 93-365, Section 302(c).

[5] Theater Nuclear Force Posture report, op. cit., p. 21. [emphasis added]

[6] The Washington Post, July 10, 1977, p. A12.

[7] The Washington Post, July 6, 1977, p. A1.

ANNOUNCEMENT OF HEARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Friday, September 16, to consider H.R. 7148.

This bill would provide for the implementation of treaties for the transfer of offenders to or from foreign countries. The subcommittee will particularly review the implementing legislation as it pertains to the recently signed treaties with Mexico and Canada.

The hearing will be held in room 2141, Rayburn House Office Building and will commence at 9:30 a.m. Testimony on the legislation will be received from representatives of the Departments of State and Justice.

JUDICIAL TENURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, today I wish to introduce bipartisan legislation which is designed to improve public confidence in our judicial system by establishing a procedure, short of the traditional process of impeachment, by which a Federal judge who has abused his power may be censured or removed from office by his peers. Our bill is cosponsored by virtually the entire Subcommittee on Courts, Civil Liberties and the Administration of Justice. I would especially like to thank my Republican colleagues, TOM RAILSBACK and CALDWELL BUTLER, for the major role they played in the drafting of this legislation. As is required, our proposal is predicated on the judicial tenure article of the Constitution, article III, which provides that:

> The Judges [of the United States], both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

The concept of removal by a failure to maintain good behavior as required by article III is not new. Several nationally known scholars, notably Raoul Berger of Harvard Law School, have urged the legislation and Attorney General Griffin Bell, himself a former Federal circuit judge, noted during his testimony before our subcommittee in June that:

> We should examine some mechanism, short of impeachment, which would permit the removal of federal judges who have become physically or mentally disabled or whose conduct on the bench does not comport with the Constitutional requirement of good behavior. We are living in a time when our public institutions are under examination and the courts should not be exempt. * * * I know full well the importance to our society of an independent judiciary, but I believe legislation which would create an avenue for citizen complaints involving federal judges and provide for investigation and action on those complaints is necessary and timely.

The American Bar Association, represented by Mr. Justin Stanley and Judge Shirley Hufstedler of the Ninth Circuit Court of Appeals, also testified before us in support of this legislation.

Our bill, the text of which follows, simply stated, would create a commission, composed of article III Federal judges, which would be empowered to either involuntarily retire, with full pay, a mentally or physically disabled judge or censure or remove a judge, without pay, who had misused his authority or neglected the obligations of his office.

Our Constitution, and therefore our form of government, is laced with an intricate system of checks and balances. Impeachment is specifically referenced in both article I, the legislative article, of the Constitution and article II, the executive article. Section 4 of the latter notes that—

> The President, Vice President and all other civil Officers of the United States, shall be removed from Office on Impeachment for . . . high Crimes and Misdemeanors.

It does not say that these personages may be removed from office only for impeachment. The President, of course, as well as all Members of Congress, are also removable by the electorate. All other civil officers, with the notable exception of Federal judges, are also removable by their superiors. Federal judges, we contend, are also removable for a failure to perform their duties properly. They are, because of the uniquely independent nature of our judiciary, subject to a more tenuous standard, that of "good behavior." To argue otherwise would be to equate that standard in article III with the "high crimes and misdemeanor" language of article II. They are, quite clearly, not mutually inclusive. No clause in the Constitution is present without effect and had a redundancy been intended, the same reference, as in articles I and II, would have certainly been used.

One of the reasons members of the House Judiciary Committee are so interested in legislation in this field is our mandate to initiate proceedings and vote articles of impeachment against misbehaving Federal officers. Today, although instances of judicial misconduct are often brought to our attention, the Judiciary Committee's heavy workload makes it difficult, if not impossible, for us to set aside all other legislative activity to conduct an impeachment inquiry into the actions of either a district court or a court of appeals judge. While the independence of Federal judges is necessary and stability on the bench essential to our governmental scheme, it is important to institute an alternative procedure than the cumbersome impeachment process.

We feel that our statutory proposal does this and at the same time respects constitutional dictates.

Mr. Speaker, for the record I am submitting a section-by-section analysis of the bill for the RECORD.

A section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS: JUDICIAL TENURE ACT

Chapter 17, title 28, of the United States Code would be amended by adding the following new sections:

Proposed Section 377 Commission on Judicial Disabilities and Tenure.

Proposed section 377 establishes a Judicial Commission consisting of seven judges appointed under Article III of the Constitution. The Chairman must be appointed by the Chief Justice and the six additional members are representatives of the Federal courts generally, namely the Courts of Appeals, the District Courts, the Courts of Customs and Patent Appeals, Court of Claims, and Customs Court. The Commission's members are elected for terms, not exceeding five years, and the court when sitting in judgement of a fellow judge will sit as a court of the United States, thereby acquiring all the powers attendant thereto.

This section further provides for the appointment of a General Counsel by the Chief Justice with the consent of the Commission. His duties will include the acquisition and review of evidence against misbehaving judges, as well as its presentation before the Commission.

Proposed Section 378. Good Behavior of the Judge.

This proposed section provides that upon issuance of a complaint by any person against a sitting judge, the Commission, in the person of the General Counsel, may initiate a preliminary investigation. Should a determination be made that the conduct of the judge in question is inconsistent with "good behavior" as required by Article III, the Commission is empowerd to either censure or remove him. Guidelines for the Commission's consideration in determining whether the behavior of the judge demands removal are also contained in section 378 and include, but are not limited to, the canons

of judicial ethics, willful misconduct in office, and willful and persistent failure to perform duties of office.

Proposed Section 379. Disability of the Judge.

Section 379 is similar to the preceeding section. It differs, however, in that it relates to the involuntary retirement, with pay, of a sitting judge who has been found by the Commission to be unable, due to a physical or mental disability, to discharge the duties of his office. Habitual intemperance may be considered by the Commission as a grounds for disability.

Proposed Section 380. Procedures.

This section requires a preliminary investigation by the Counsel before the initiation of formal action against an accused judge. If probable cause exists, the Commission is empowered to hold a hearing to which the judge is invited. If he attends, all appropriate procedural rights, including representation by counsel, attach. Not more than 60 days after the conclusion of any hearing, a determination must be reached. Failure to issue an official decision within this span shall be deemed to be a decision in favor of the judge. In order for any judge to be removed, censured, or involuntarily retired a vote of five out of the seven Commission members must support the charges.

Proposed Section 381. Claims of Retired Judges Relating to Judicial Duties.

Section 381 provides that any judge involuntarily retired pursuant to preceding section 379 may return to active duty upon a showing to the Commission that the disability for which he was retired has been removed.

Proposed Section 382. Confidentiality.

Unless authorized by the judge involved, the record of hearings before the Commission shall be confidential. The filing of an application for review of the Commission's decision in the Supreme Court shall constitute authorization for public disclosure.

Proposed Section 1259. Review of Determinations by the Commission on Judicial Disabilities and Tenture.

Decisions by the Commission may be reviewed by the Supreme Court of the United States and in such cases a determination of the Commission shall be upheld unless the Supreme Court determines that the preponderance of the evidence dictates otherwise.

WHERE A WATERWAY TOLL WOULD PINCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, many misconceptions exist and much misinformation has been distributed about the proposed waterway users tax. Unfortunately, the reality is that such proposals pose a dire threat to a section of the country that has only recently begun to experience a measure of prosperity. I refer to the effect such taxes would have in the middle South and especially on the Arkansas River transportation system.

In order to expand the understanding of my colleagues as to the threat provided by the issue of waterway fees, I commend the following article published in the Washington Post on September 10.

WHERE A WATERWAY TOLL WOULD PINCH

(By T. R. Reid)

LITTLE ROCK.—They laughed in 1946 when Sen. John L. McClellan (D-Ark.) talked about building a port in this land-locked city 400 miles from the sea. Today the only ones laughing are the stevedores who earn $7.88 an hour unloading Japanese steel at the foreign trade zone maintained by the Little Rock Port Authority.

Thirty years and $1.2 billion in federal money have transformed the Arkansas River from a serpentine gulch of sandbars and mud banks to a shimmering blue freightway connecting Little Rock (and Tulsa, 300 miles upstream) with the sea.

The development of the river has been a factor—but not the only one—in a major economic reversal in the Arkansas basin that has turned the dusty agricultural states of Arkansas and Oklahoma into bustling centers of industry.

Now Congress is threatening to take away at least part of the bounty the river project has brought.

For this is where the waterway toll bill, S. 790, would pinch.

S. 790, which passed the Senate in June and should emerge in some form from the House this month, would force commercial barge lines to pay a toll for using federally maintained inland waterways such as the Arkansas.

That could seriously limit the Arkansas River's economic utility. Without the free right of way, bargemen here could not set their rates low enough to compete with truck and rail shippers.

A study by the Congressional Budget Office predicted that the Senate-passed bill would eliminate 96 percent of the Arkansas' freight traffic. The bill's sponsor, Sen. Pete Domenici (R-N.M.), says the impact would be far less.

"It would kill the goose that laid the golden egg, as far as we're concerned," said Wallace Gieringer, director of the Port Authority at Pine Bluff, 40 miles downstream from Little Rock.

"We're getting more and more development along the river, but we haven't even been open for navigation for 10 years yet. This system is too young to survive a blow like that Domenici bill."

If the river were to dry up economically, because of the legislation, it is not clear how seriously the region's overall economy would be affected. Some local planners suggest the impact would not be fatal.

"The river is a tool, I say, one tool, in our kit for attracting industry here," said Windell Adams of the Arkansas Industrial Development Commission.

"We'd hate to lose it. But we have some excellent rail lines here, we have interstates. Most of the economic revival here began before they built the river."

Congress authorized the Army Corps of Engineers to "build the river" in 1946, but construction did not begin until 1957.

The Army spent 15 years on the job which it proudly labeled "the largest civil works project in history."

To provide a navigable channel all the way to Tulsa, the Army put in 17 dams, each requiring a lock to permit boat passage. Where a river's oxbow turns were too sharp for barge traffic, the Army simply tunneled through the earth to build a new, straight river.

On completion in 1971, the Arkansas project was hailed as a triumph of man's reshaping of nature. It became the model for a host of other huge projects, including the Tennessee-Tombigbee waterway under construction in Mississippi.

To celebrate completion of the project, Army engineers prepared an official history of the river.

"For more centuries than man can count," the history notes disapprovingly, "the Arkansas River was left to its own devices. . . . Now the Arkansas works for mankind."

Barge traffic moving downstream carries coal, ore and agricultural products to ports along the Mississippi.

Coming up to Little Rock and Tulsa, are steel and other industrial materials and various forms of fuel, including diesel fuel for the Missouri Pacific Railroad, the waterway's arch competitor.

In a classic instance of carrying coals to Newcastle, the barges also are bringing bauxite to Bauxite, Ark.

Bauxite was the site of America's only significant deposits of the powdery red ore, the principal source of aluminum. The local mines are almost depleted, and so the Alcoa and Reynolds Aluminum Co. plants here are bringing in bauxite from Jamaica and Venezuela.

In addition to the commercial traffic, the river project has been a boon to recreational boaters creating a chain of placid lakes and eliminating the seasonal changes that used to turn the best fishing holes into sandbars during the dry months.

The recreational crafts move through the 17 locks just as the barge boats do, without paying any transit fee.

A 14-foot rowboat can pull into a $100 million lock anytime, and the eight-person Corps of Engineers lock crew will move 27 million gallons of water, free, to let the fisherman rise over the dam and go on his way.

The fear among waterway proponents here is that, if a harsh waterway fee bill is passed, the fishermen in their 14-footers will be the only people still using the $1.2 billion river the Army created.

"We're all proud of the river project and what Sen. McClellan got for us here," said James C. Oliver, a Little Rock freight broker who deals with all modes of transit.

"But nobody is moving things by water because of the romance of the river. It's just cheaper. If some bill passes that raises rates on the river, all that barge freight is going to move some other way."

CLAIRE FORD, "MISS BLACK AMERICA"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FORD) is recognized for 10 minutes.

Mr. FORD of Tennessee. Mr. Speaker, it greatly pleases me to call to the attention of my colleagues the new "Miss Black America," Claire Ford, of the Eighth Congressional District of Tennessee. Miss Ford, an exceptional beauty, an accomplished student of drama, and a scholar who is pursuing a legal career, won the coveted title in a televised broadcast carried by the National Broadcasting Co.—NBC. This is the first time any major national network has televised the Miss Black America Pageant. As I watched the telecast, I was both pleased and honored that a member of my district was outstanding enough to capture the crown of Miss Black America.

Please allow me to share with you two stories which were run in the Saturday editions of the Memphis Press-Scimitar and the Commercial Appeal:

[From the Memphis (Tenn.) Press-Scimitar, Saturday, Sept. 10, 1977]

MEMPHIAN BEGINS REIGN AS MISS BLACK AMERICA

Claire D. Ford, 18-year-old Memphis State University sophomore, was jubilant as she began the first full day of her year's reign as Miss Black America after winning the crown in competition shown on national television last night.

Miss Ford, an English major, who said she wants to become a lawyer, won the title in the Civic Auditorium in Santa Monica, Calif., with her parents, other family members and

a host of happy Memphis supporters looking on.

She is the daughter of Mr. and Mrs. Henry Claxton Ford, 1093 E. McLemore, and the youngest of three children in the family.

With the title comes $10,000 in prize money, a part in the planned "Roots" sequel ("Roots: The Next Generation") and screen tests at both NBC Television and Universal Pictures.

As Miss Ford prepared for her reign, officials were finishing preparations for tonight's Miss America 1977 pageant.

The first- and second-round winners of the swimsuit competition that contest were Miss Tennessee, 22-year-old Linda Moore, and Miss Arkansas, 20-year-old Bunnie Holbert.

Miss Ford won the Memphis and Tennessee "Miss Black" crowns before going to the national pageant.

She sang "Everything Must Change" by composer Quincy Jones in the talent portion of the contest.

Miss Ford's grandfather was one of the few family members who didn't get to go to California to watch the competition.

"But I saw it all on TV," said John R. Nelson, 992 Alaska.

"I'm as proud as proud can be of her. But I always thought she would (win). That child's been winning everything she's in. She's a good, sensible Christian girl."

Miss Ford's pastor, the Rev. Eugene Walker of Cummings Street Baptist Church, 1220 Cummings, said he and the members of the church "have got our chests out with pride for her and have ever since she won locally."

Mr. Waller said, "She's been an exceptional child all her life. She's very religious and sings in the choir."

Miss Ford's father is an undertaker with Jett's Funeral Home in Collierville and her mother is a city school teacher.

Judges for the competition included Pearl Bailey, Isabel Sanford, Lawrence Hilton-Jacobs, Dr. Joyce Brothers, Margeaux Hemingway and Jim Brown. U.N. Ambassador Andrew Young was to serve as a judge but was unable to attend the pageant.

The show was hosted by actor Billy Dee Williams, with help from entertainers Richard Pryor, Diahann Carroll and Cicily Tyson.

Friends in Memphis were anxiously awaiting news of when Miss Ford and her family will return to Memphis. Her grandfather said the family called him last night and said they would be returning Monday morning.

[From the Memphis (Tenn.) Commercial, Sept. 10, 1977]

MEMPHIAN WINS TITLE IN PAGEANT

Claire D. Ford of Memphis, a versatile singer and dancer who hoped her name would bring her luck, last night captured the Miss Black America crown for 1977.

In an emotion-filled nationally televised special, Miss Ford emerged the winner over first runner-up Miss Indiana, Mary Denise Bentley.

Miss Ford, 18, who won the Miss Black Memphis and Miss Black Tennessee pageants earlier this year, is a sophomore at Memphis State University majoring in English.

She was crowned by the outgoing queen, Twanna Gilmore of Washington.

An entourage of supporters including her parents, relatives and friends accompanied the contestant to Santa Monica, Calif., for the national pageant.

After winning the Miss Black Tennessee title last May, she said, "I hope everyone in Tennessee could go with me, but I'll settle for just a chartered planeload of supporters."

Miss Ford, daughter of Mr. and Mrs. Henry Claxton Ford of 1093 East McLemore, became the second Ford to capture the crown in the last three years.

In 1975, Helen Ford (no relation) of Hattiesburg, Miss., won the title. Claire Ford said prior to leaving for this year's pageant, "I hope that my last name brings me luck."

Miss Ford was the first contestant introduced at last night's pageant, which marked the first time the contest has been shown on national television.

Judges for the pageant were celebrities Jim Brown, Isabel Sanford, Lawrence Hilton-Jacobs, Dr. Joyce Brothers, Byron Lewis, Jermaine Jackson, Frank Price and Margeaux Hemingway.

Popular film star Billy Dee Williams was host of the show along with Diahann Carroll, Richard Pryor, Lou Gossett, Cicely Tyson and LeVar Burton.

Contestants from 31 states were represented in the 10th annual competition.

Miss Ford was selected as 1 of the 10 finalists in judging earlier in the week. She is a singer and dancer at the W. C. Handy Theatre at Libertyland.

Miss Ford won the $10,000 in prize money, a part in the upcoming "Roots" sequel, "Roots: The Next Generation," and screen tests at both NBC television studios and Universal Pictures.

NBC televised the two-hour pageant.

In the talent portion of the contest, Miss Ford sang "Everything Must Change," which was written and recorded by Quincy Jones.

But it was Miss Bentley, however, who won the talent award for her song, "Lean On Me," written by Van McCoy and recorded by Bill Withers.

Miss Bentley, 20, a telecommunications major at the University of Indiana, plans to be a broadcast journalist.

Second runner-up was Miss Ohio, 18-year-old Nina Maria Lucas of Dayton, a dance major at Ohio State University. She plans to be an actress.

Miss Nebraska, Johndrea Whitmore, 20, of Omaha, was third runner-up. She is a speech and drama major at the University of Nebraska.

The fourth runner-up was Miss South Carolina, Valerie Althea Hines, 20, of Florence, who is a musical theater major at Limestone College.

The other top 10 finalists were Miss Illinois, Belinda Livingston; Miss Florida, Olivia A. Jackson; Miss Georgia, Latrissa Gordon; Miss Oklahoma, Pinkie Alexander, and Miss New Jersey, Sheila Cethus.

After graduation from MSU, Miss Ford plans to enter law school or graduate school.

In another national contest 30 years ago, Barbara Walker of Memphis won the Miss America title. She is now Mrs. John V. Hummel. One other Miss America winner now living in Memphis is Lynda Lee Mead, now Mrs. John J. Shea Jr.

The Miss Black America pageant has gained considerable national recognition in recent years. Organizers of the pageant have said blacks have little chance of winning the traditional Miss America title.

REINTRODUCTION OF THE DOMESTIC VIOLENCE PREVENTION AND TREATMENT ACT OF 1977 WITH COSPONSORS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, today I have the pleasure of reintroducing the Domestic Violence Prevention and Treatment Act of 1977 with 30 additional cosponsors.

Originally introduced jointly by Representative STEERS and myself in June, this proposal to make demonstration project grants in the field of family violence has generated much interest among those concerned with family problems. As more and more citizens become aware of the extent and seriousness of spouse assault, child abuse, and violent attacks upon the elderly, we have seen an increasing number of articles in the press, programs on television and radio, and action from Government officials.

A recent development was the announcement on September 4 that the Law Enforcement Assistance Administration plans to develop a special initiative in the area of family violence, with a budget of $1 million.

In the past the LEAA has supported efforts to assist victims of crime through its Victim Witness program; through this program the agency learned that domestic violence is a tremendous problem affecting all segments of society—all sexes, all ages, all economic and social groups. Last year four projects related to family violence were funded by LEAA, and the success with these efforts led the agency to establish its new program for fiscal 1978.

Earlier this summer the White House expressed its strong interest in the problem of family violence by inviting representatives from women's shelters from all over the country to a meeting with Presidential assistant Midge Costanza. During the meeting, which took place in the White House, participants had the opportunity to describe firsthand the many problems faced by families caught in a web of violence.

I would also like to take this opportunity to commend my colleague, Representative MIKULSKI, on the introduction of her bill seeking to provide solutions to the tragedies of family violence. Her measure proposes stipends for local volunteers who work in their communities operating programs for battered spouses through the use of shelters, hotlines, and other supportive services. The program would be administered through ACTION.

Both the Mikulski bill and the Steers-Boggs bill are designed to help citizens groups working with victims of family violence. By introducing these proposals, we hope to call attention to the problems of domestic violence through hearings and other legislative action.

It is my hope that all the Members of the House will take a close look at our legislative proposals and assist us in working toward solutions to break the cycle of violence in which so many families are caught from one generation to the next.

ROSH HASHANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. STEERS) is recognized for 5 minutes.

Mr. STEERS. Mr. Speaker, I would like to call the attention of my colleagues to the fact that tonight at sundown begins the Jewish New Year, Rosh Hashana. Today begins a period of 10 days when all Jews review their religion as well as the past year of life and death, joy, and sadness. All of us would be well served to join in this examination

and rededicate ourselves to improving the lives of the citizens of this country and the entire world.

During these High Holy Days, Jews will look to be inscribed in the "Book of Life" for another year. Let us also work to insure that 5738, or 1977–78, will be a year of true peace in the Middle East and the rest of the world.

In ancient times, the Shofar, or ram's horn, was sounded to call all Jews to attention because of an incident or holiday was approaching. Once again the Shofar will be sounded. It will call our attention to the valiant struggle of a heroic people for years too numerous to count.

We will be reminded of persecution and discrimination suffered by Jewish people in many countries, while at the same time noting the resilience of these people, who have not wavered in their faith. We will also be reminded and heartened by the promise of the future. One such hope that will be foremost is peace for the homeland of the Jewish people, Israel. We should now all join with them in the hope for peace in that troubled area, the Middle East.

This then is the message of Rosh Hashana, recalling the trials of the past and the promise of the future. After careful reexamination at this most sacred of times, we should realize that we all stand a better chance of inscription into the "Book of Life" if we truly work toward and attain our goal of world peace.

EXTENDING DELIMITING DATE FOR VIETNAM-ERA VETERANS

(Mr. HAMMERSCHMIDT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, on Friday I introduced a proposed solution to some of the problems that our Vietnam-era veterans have encountered in obtaining educational and professional assistance from the Veterans' Administration. My legislation, which should be taken in concert with H.R. 8701, a bill that I heartily endorse, proposes to extend the delimiting date for Vietnam-era veterans in certain circumstances, and calls for a more comprehensive counseling program for all veterans eligible for chapter 34 educational assistance.

First, with regard to the conditional extension of the delimiting date in utilizing educational entitlements, I believe it is abundantly clear that the original GI bill for Vietnam-era veterans was insufficient, and actually acted as a deterrent for those veterans. In 1966, a veteran was provided a mere $100 a month for school if he or she was single. This was actually a reduction from the Korean GI bill of more than a decade earlier. By 1967, the Congress had raised that sum to only $130.

A veteran attending school full time during the first 4 years of the Vietnam-era GI bill would have received an average of only $1,100 per school year. The paucity of this amount can be seen by comparing it with the present stipend offered under H.R. 8701, which will provide a veteran under the same circumstances with $2,790, or more than two-and-a-half times that amount.

Not surprisingly, the number of veterans who utilized the GI bill during this early period was quite low. In the first 3 years of the Vietnam-era GI bill, the cumulative participation rate was a mere 20.7 percent, as contrasted to a rate of 26 percent during the same period of the World War II bill, and 25.6 percent in the Korean war bill. The importance of these figures becomes more graphic when we consider that the eventual participation rate, cumulatively, of the Vietnam-era bill has risen to almost 60 percent, as compared to 50 percent for World War II and only 43 percent for Korea. While the early Vietnam-era veteran was deterred at the outset from taking advantage of his benefits, participating at a yearly rate of about 10 percent, once the benefits improved he began participating at about a 25-percent yearly rate. This linkage between the betterment of benefits, and veteran participation, seems clear.

For these reasons—the initial very low stipend provided Vietnam-era veterans, the resulting low accession rate at the beginning of the period—plus the other, intangible difficulties that have accrued to this group of veterans, I believe it equitable to extend the delimiting date for 2 years, in those cases where a veteran is now in training, or can demonstrate that his training was interrupted by the termination of his delimiting date. This is the first proposition of my bill.

The second, equally important provision of my legislation relates to counseling. Few veterans seem to be aware that they are eligible for vocational and educational counseling under section 1663 of title 38. This is more dramatically demonstrated by the fact that there were fewer than 270,000 counseling visits in the ten years from 1967 to 1976, although more than 12 million persons were eligible for this service. By contrast, vocational rehabilitation counselors serviced some 330,000 veterans, out of an infinitesimally smaller group of eligibles.

The Veterans' Administration itself has recognized this deficiency in its programs. In a study just released, the VA notes that, for fiscal year 1975, the participation rate in counseling was a mere 1.7 percent of trainees. This, I presume, does not include those eligible for training who were not classified as trainees because they were not using that benefit. The VA study commented that "A new approach to creating awareness of the availability of counseling is needed. Concurrently, sufficient staff to handle increased demand is also needed."

My legislation is designed to meet that need, and to go one very necessary step beyond. First, it requires that the Administrator notify all veterans eligible for educational benefits that counseling is available. This responds to the VA study, and to the convincing statistics that indicate that more than 98 percent of our eligible veterans are not getting the word. Second, it expands the counseling itself to include "advice and guidance" counseling, which would reach a group of veterans who to this point have not been able to use their chapter 34 benefits: those who, for whatever reasons they have chosen, are not desirous of schooling, but are in great need of professional guidance.

I have long believed that the greatest remaining problem of our Vietnam veterans is not educational assistance, which under recent changes in the GI bill is quite generous, but in professional and vocational assistance. I am not talking about psychological assistance—although there remains some need there. I believe this has been overplayed, and is an insult to most of our Vietnam-era veterans in need of counseling. On the whole, they do not need to be psychologically assessed. They need to be professionally directed. They do not need to be shuttled into a hospital for "readjustment professional counseling," as one Senate bill demands, which is merely another euphemism for psychological evaluation. They need to be directed into professions and vocations that will most effectively utilize their talents.

For this reason, I have decided to sponsor this second part of my legislation, which calls for an expanded counseling system, and notification of all eligible persons of their right to such counseling.

Mr. Speaker, I feel very strongly that this bill, read in concert with H.R. 8701, provides the answers to a large portion of the remaining difficulties faced by our Vietnam-era veterans. It corrects the earlier inequities in payments by giving those potential recipients time to complete their schooling under the present, very generous system, and it opens up counseling in a way that can invigorate the whole concept, and make it meaningful to all veterans, whether or not they decide they need further education. The text of my bill follows:

H.R. 9011

A bill to amend sections 1662 and 1663 of title 38, United States Code, in order to provide for a conditional extension of the delimiting period for receiving educational assistance in the case of certain Vietnam era veterans, and to improve counseling for certain veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1662 of title 38, United States Code, is amended

(1) by amending subsection (a) to read as follows:

"(a) Except as provided in subsection (e) of this section, no educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after his last discharge or release from active duty after January 31, 1955."

(2) by redesignating subsection (e) as subsection (f);

(3) by adding immediately after subsection (d) the following new subsection:

"(e)(1) The Administrator may authorize an extension of the 10 year delimiting period provided for in subsection (a) of this section in the case of any eligible veteran discharged or released from active duty after August 5, 1964, if—

"(A) such veteran is enrolled in a program of education or can demonstrate that his or her enrollment in a program of education was previously terminated by reason of such delimiting period; and

"(B) an extension of such delimiting period is necessary to enable such veteran to complete his or her program of education.

"(2) The Administrator may not extend the 10 year delimiting period for any veteran under this subsection beyond whichever of the following dates first occurs:

"(A) The closing date of the period required by the veterans to complete his or her program of education.

"(B) The date occurring two years after the date of enactment of this subsection."

SEC. 2 Section 1663 of title 38, United States Code, is amended to read as follows:

"§ 1663. Educational and vocational counseling

"(a) The Administrator shall notify each veteran eligible for educational assistance under this chapter of the availability of educational, vocational, and advisement and guidance counseling under this section, and shall provide such counseling at the request of any eligible veteran. At such intervals as the Administrator deems necessary, the Administrator shall make available information respecting the need for general education and for training personnel in the various services, crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Administrator deems necessary and appropriate.

"(b) The counseling provided to any veteran under this section may include all services, assistance, and readjustment professional counseling as the Administrator deems necessary or appropriate for such veteran's effective readjustment. Such counseling may include, but shall not be limited to, assisting any veteran—

"(1) to select the occupation or training objective suitable to such veteran in terms of such veteran's personal circumstances, characteristics, financial resources, dependent responsibilities, and other relevant factors;

"(2) to select the occupation or training objective which will provide such veteran, after such veteran has developed the required skills, with reasonable opportunities for employment and job satisfaction;

"(3) to select the educational institution that will effectively assist such veteran in attaining such veteran's educational or vocational objective;

"(4) to develop a program of education that will lead to a recognized and predetermined educational, vocational, technical, or professional objective within the veteran's period of entitlement; and

"(5) to develop a reasonable employment objective, irrespective of any need for further training, such employment to be suited to such veteran's aptitudes and interests."

H.R. 9030: ADMINISTRATION'S WELFARE REFORM BILL

(Mr. CORMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORMAN. Mr. Speaker, I am pleased today to introduce H.R. 9030, the administration's welfare reform bill entitled the "Program for Better Jobs and Income."

The President and his administration officials are to be commended for this proposal. The months of work which they have poured into this plan have resulted in a proposal that addresses the major problems and objectives often associated with welfare reform.

The President's plan proposes a comprehensive reform of our present welfare structure. It would abolish several major welfare programs and replace them with a job-oriented program for people who are able and therefore required to work, and a simplified cash assistance program for people who are unable to work because of age, disability, or family circumstances.

Under the jobs component of the plan, every effort would be made to place people who are able to work in a private sector job, or in a public service job if no private employment is available. By creating up to 1.4 million full- and part-time public service jobs and job-training slots, the program would attempt to assure access to work or training for one adult in every family with children, and would pay salaries of at least the Federal minimum wage. The publicly subsidized job or training slot would be a measure of last resort. An applicant would be required to look for a private job for at least 5 weeks prior to placement in a subsidized job or training slot, and could not hold that job for more than a year, at which time another private job search would be required. Our experience with the expansion of the CETA program provides persuasive evidence that jobs and training can be created to provide a meaningful transition into private sector employment.

The proposal would streamline the present programs by replacing aid to families with dependent children, AFDC, the supplemental security income, SSI, and food stamp programs with a consolidated cash program. The consolidation is aimed at simplifying present welfare administration by eliminating disparate and complex eligibility criteria and making the program less prone to error and abuse. Benefit levels for present AFDC and SSI recipients would be maintained and needy individuals and families not eligible for Federal cash benefits under the present law, such as those now receiving general assistance, could receive aid under the President's proposal.

Under the President's proposal, persons who are aged or for some medical reason are unable to work, single parents with children under age 7, and two-parent families with young children where one parent is incapacitated, would be encouraged but not required to work to receive benefits. The proposed Federal benefit floor for a family of four with no employable family member would be $4,200 per year. An aged couple would receive $3,750. A lower tier of benefits would apply to families with children where one parent is expected to work. This level would basically be an earned income supplement to augment the earnings of low income workers whose wages are not high enough to support their families. The manner in which the earned income supplement and expanded earned income tax credit are applied will insure that work in the private sector will always be more profitable than dependency on cash benefits alone or on a subsidized public sector job.

Recognizing that the proposed national benefit level would not in itself represent fully adequate income in many parts of the country, State supplementation up to the poverty level would be encouraged and partially financed by the Federal Government. Fiscal relief would be provided to State and local governments through a plan that would assure every State a savings of at least 10 percent of its current expenditures, with certain high benefit States realizing savings in excess of 25 percent. By providing employment or Federal cash assistance for everyone in need, the plan would drastically reduce local general assistance expenditures.

The central focus of the proposal is to get people into jobs in the private sector. Any welfare reform proposal must attempt, as this one does, to break the cycle of welfare dependency which is an undesirable yet prominent feature of our present welfare system. We know that people in poverty want to work and in fact do work. This proposal represents the first realistic commitment on the part of the Federal Government to provide jobs for welfare recipients who can work.

Individuals who could not be expected to work will not have to deal with onerous and unnecessary work requirements in order to be eligible for a decent level of assistance. Recipients will no longer have to wait in long lines to receive their monthly allotment of food stamps, and then be faced with the embarassing stigma associated with the coupons as others look on when they make their purchases in the food stores. The piecemeal approach we have taken in the past in dealing with the poor and unemployed will be ended.

Many low-income families will be better off financially because the proposed level of $4,200 for a family of four with no employable family member is greater than the combined Federal-State benefit currently provided to the same size family in 12 States. The anticipated level of State supplementation should insure that people in most if not all States will receive more adequate benefits than they are now receiving.

A national income floor would create greater equity in the welfare system. Under our present program, families with similar needs qualify for very different benefits merely because of where they happen to live.

There will be some of my colleagues who will find parts of this bill unacceptable for one reason or another. Almost all of us agree, however, that the present welfare system is in need of improvement, and I think the President's proposal offers us an excellent blueprint for change.

Because of the great interest in this legislation, I request permission to print it in its entirety in today's RECORD. Along with the bill, I also request permission to print a summary of the proposal prepared by the administration:

H.R. 9030—The Program for Better Jobs and Income: A Summary

OVERVIEW

The proposed Program for Better Jobs and Income is intended to 1) increase job opportunities for the low-income population, and 2) consolidate our major income support programs into one simple and efficient program. These objectives are not simple to achieve, as many intelligent and well-intentioned reformers have discovered through the years. One reason is that any reform must strike a balance between many competing—and at times irreconcilable—values. For example, we want to preserve work incentives so we do not wish to reduce, dollar for dollar, benefits to assistance recipients who start to earn. But we want to hold down costs and use the money for the most needy. The full answer proposed to such problems can only be seen in the detailed provisions of the bill. But a brief listing of major thrusts may be useful.

The proposal would—

Create up to 1.4 million public service jobs for the primary earner in families with children, which should serve as many as 2.5 million different people on a temporary basis during any year. The emphasis is on providing income through jobs and wages.

Consolidate the three current major income assistance programs—Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and Food Stamps—into a single system with simpler, uniform rules which will make the system fairer.

Permit families headed by two parents to receive income supplements if the husband's earnings are insufficient to support the family. Low-income fathers would no longer have an incentive to leave their families in order to make them eligible for support.

Provide a basic federal benefit floor for all persons, which will substantially increase income support in some states. In higher benefit states, the states will be encouraged to supplement the basic federal minimum to maintain income support at present levels.

Provide for a transition period of three years after the new rules go into effect during which federal support will help states maintain benefits to particular recipients of current programs. During the first year, states will be required to maintain a substantial portion of their present level of effort in supporting programs for low-income people.

Provide for a three-year preparatory period before the new rules would go into effect, during which a centralized computer system will be constructed. States, at their option, may perform intake for the new consolidated program. The federal government will compute benefits and make payments. Fraud and error should be reduced.

Expand the current Earned Income Tax Credit for workers in private sector and regular public sector jobs as a supplement to the income of low wage earners and as a positive incentive for the maintenance of their work effort. This EITC supplement would be more desirable than special public employment.

The net cost of the program is estimated to be $2.8 billion (in 1978 dollars).

State and local governments should realize savings of about $2.1 billion, the precise amount depending on state actions that are difficult to predict. No state will save less than 10 percent of the current costs. States that traditionally have paid the highest benefits—California, Illinois, Massachusetts, Michigan, New York, and Pennsylvania—will all realize savings in excess of 25 percent of their present outlays.

Here is an example of how the new program would work: The husband in a husband-wife family with two children who could find no job would be provided with a minimum wage job (paying $5512 in 1978 dollars). If the family had no other income, it would also receive a cash supplement of $1444, yielding a total income of $6956. This is above the projected poverty level of $6400. If such a worker were in a private sector or regular public sector job at the same minimum wage, he would receive, in addition, an Earned Income Tax Credit of $476, bringing total income to $7432. This contrasts to the current situation in many states in which a two-parent family is not eligible for any cash support whether or not the father can find a job, or becomes ineligible if the father works more than 100 hours.

Thus the program is designed to be pro-work and pro-family. It is also designed to be fair. Under a single, nationwide system with all benefits paid in cash, the available money for welfare is distributed more equitably so that persons in similar circumstances are treated similarly. And being simpler, the system is also less demeaning to those who do need support, more understandable to both recipients and taxpayers, and less susceptible to error and fraud.

SOME SPECIFICS

The Jobs Program and the Earned Income Tax Credit

The Program for Better Jobs and Income not only imposes a work requirement on adults expected to work, as under the present system, but also offers them a work opportunity. It would provide up to 1.4 million special public service jobs and training slots for principal earners in families with children, at or slightly above the minimum wage. About 15 percent of these jobs can pay 25 percent more than the minimum wage, thus allowing states to pay higher wages to work leaders and providing incentives for extra effort leading to promotion. Public service jobs may last no longer than one year, at which point those involved must spend at least five weeks searching for a job in the private economy. The purpose of this provision is to insure that public service jobs do not become institutionalized but are seen as temporary earning opportunities transitional to the private economy.

The new program of job search and job creation will be administered by CETA prime sponsors and the existing local state employment service offices—state and local officials with experience in this area and knowledge of local needs and potential.

This new jobs program will be open to two-parent families with children and single-parent families with children. As described below, families participating in the jobs program may also receive cash income support if their earnings are insufficient to meet the needs of their families. However, if an unemployed parent in an expected-to-work family refuses a job offer, a lower level of cash assistance is provided to the family.

The proposal also provides that private jobs—even at the minimum wage—will be more attractive than the new public jobs. This is accomplished by expanding the present Earned Income Tax Credit for workers in private-sector or regular public sector jobs, but not extending it to workers in the specially-created public jobs. Specifically, the proposed EITC will maintain the 10 percent added payment on earnings up to $4000, as under current law. It will add a five percent supplement to earnings from $4000 up to the point at which cash assistance benefits stop. Thereafter it will phase out.

Cash Benefit For Those Not Expected to Work

Cash benefits for aged, blind and disabled persons without other income are set at $2500 for single individuals and $3750 for a couple. This is about what many SSI recipients are now receiving from the federal government including the bonus value of their food stamps. Thus SSI recipients who do not now also receive food stamps will have their purchasing power increased by the new support levels.

Single-parent families in which the youngest child is under 7 are also not expected to work, although they are eligible for the public service jobs. The basic federal cash benefit for such families without other income is $1900 for the head of household, $1100 for the first child and $600 for each additional child. This amounts to about 65 percent of the poverty threshold, or $4200 for a family of four—a substantial increase in income for former AFDC recipients in 12 states. Moreover, actual payments will be higher in the many states which supplement the basic federal benefits.

When persons in families which are not required to work do take jobs, their cash benefits will be reduced by not more than 50 cents for each dollar of earnings under the basic federal programs (and not more than 70 cents in states which supplement benefit levels).

Cash Benefits for Those Who Are Expected To Work

Those "expected to work" are two-parent families, single-parent families with children of school age and above (when the children are 7 through 13 only part-time work is expected), childless couples, and single individuals.

The spouse and children in two-parent families will receive $1100 and $600 each, respectively, as the basic federal benefit, while the adult expected to work will receive nothing during an initial eight-week period of job search and nothing thereafter if he or she refuses work. If a job cannot be found, a job will be created at the minimum wage, and the family's income will be augmented with cash. The worker in such a family may keep all of the first $3800 of earned income. Above that level, cash payments are reduced by 50 cents for each dollar of earnings under the federal program (and not more than 52 cents in states which supplement). For a family of four under the basic federal program, this means that federal payments would end at total income of $8400 (higher in states which supplement). In the cases of workers for whom no job can be found or created, after eight weeks the family will receive a $1900 cash benefit in addition to the cash assistance payment going to the wife and children, bringing the family's benefit to $4200, the same as that paid to a family of the same size which is not required to work.

For single parents with all children over 14, the structure of benefits is the same as that for two-parent families.

For single-parent families with the youngest child aged 7 through 13 years, the parent is expected to work at least part-time while the children are in school, and a part-time job will be provided. The only difference between the benefits for this kind of family and those described previously is that the adults involved receive their basic benefit while initially searching for work or waiting to be placed, and lose their benefits only if they refuse a job. As with the other families, the adult's cash supplement is paid if no work can be found or created for families of this type. For each dollar earned, cash benefits are reduced by 50 cents under the federal program (and not more than 70 cents in states which supplement).

For childless couples and single individuals a basic benefit of $1100 per adult is paid during the job search period and continues

thereafter if a job cannot be found. It is cut off if the individual refuses a job at the minimum wage. A reduction of benefits by 50 cents for each dollar of earnings begins with the first dollar of earnings.

State Supplements

Currently, benefit levels vary dramatically across states, from a high of $6132 for a family of four with AFDC and food stamps in New York City to a low of $2556 for such a family in Mississippi. Narrowing this range is one of the goals of welfare reform, but complete uniformity is not expected. Some states desire, and can afford, higher levels of assistance than others. Federal policy will be to provide the basic minimum in all states and to encourage state supplements that are consistent with the basic federal program by paying (for a family of four) 75 percent of a state supplementary payment between $4200 and $4700 and 25 percent from $4700 to the poverty threshold.

While the federal government will not support specific supplements which do not fit the incentive structure of the basic federal program, it will nevertheless encourage the protection of existing recipients against decreases in benefits due to changes in eligibility rules in the new program, even if such protection runs counter to the incentives in the new program. It will do this by guaranteeing the states against total increased expenditures to the extent that they are the result of maintaining benefits now being received by current recipients of the existing programs.

Eligibility and Administrative Provisions

The major administrative provisions of the proposal, contrasted with those in the three programs it would replace, are as follows:

The form of the benefit would be cash plus wages from specially-created jobs as opposed to the current mixture of cash and food stamp coupons.

The unit eligible to apply is family-based. Relatives who care for children for whom they are not legally responsible (e.g., aunts or grandparents) will have an economic incentive to continue to do so.

The period for counting income to determine eligibility will be the six months prior to application. This is in contrast to the practice of current programs in which eligibility is determined by estimating income over the following 1-to-3 months period. Among other advantages, the six-month retrospective period is fairer because it increases the likelihood that families with similar annual incomes will receive similar benefits, and it should do much to reduce fraud and error. Adverse effects of the longer accounting period would be felt essentially by families with an annual income of more than $8400 (for a family of four). Emergency needs will be handled by emergency funds, not general rules. (See below.)

The definition of income to determine need will include 50 percent of wages from a job, 80 percent of non-employment income (income from dividends, property, private pensions, or social insurance programs), and 100 percent of income from other federally-funded mean-tested assistance programs such as veterans pensions. Expenses of child care, up to certain limits, will be deducted from earnings in determining "available income." This will replace the variety of definitions of "countable income" in the present programs.

An assets test will preserve fair treatment among those who do and do not have assets. A fraction of the value of assets will be added to income in determining whether income is low enough to make a person or family eligible for the program. Excluded from assets will be $500 of liquid assets, plus a reasonable allowance for a car, plus the total value of an owner-occupied house. Beyond that, 15 percent of non-business assets up to $5000 and 10 percent of business assets will be added to income. Those with assets in excess of the $5000 figure will be ineligible.

Emergency Needs

Because there are always cases which do not fit general rules, the federal government will also provide $600 million "emergency needs" grants to be divided among the states to handle special situations based on local judgements of emergencies which cannot be met under the general rules.

Transitional Features

This program will change welfare from hundreds of different state and country programs partially funded by the federal government to a single federal program, partly supplemented and administered by the states. Care must be taken to make this transition smoothly so that those in need do not suffer during the changeover. As mentioned previous.y, each state will save at least 10 percent of its current welfare expenditures as a result of the changeover and several will save over 25 percent. But in order to fund the new program without escalating federal costs or harming current recipients, certain requirements wi.l be imposed on the states:

During the transitional period of three years, each state will be required to maintain a substantial fraction of its current expenditures in AFDC, SSI, Emergency Assistance and General Assistance. During the first year the fraction will be 90 percent. States now making extraordinarily high expenditures per case on welfare programs will be permitted a lower percentage so long as they maintain current benefit levels and provide certain other benefits.

The federal government will guarantee that regardless of the need to conform to the federal program, maintain current levels of effort, and not reduce benefits to existing recipients, no state will have to spend more than 90 percent of its current level of effort on welfare programs.

Administration

The states have the option—subject to federal policies, rules and standards—of performing the "intake" function of the administration of the cash assistance program. The federal government will, in all instances, perform the functions of benefit computation and payment and thus make the final eligibility determinations.

The proposal envisions a total nationwide staff of 100,000 to 120,000 state and federal employees to administer cash benefits, compared with 143,000 state and federal employees now involved in administering welfare programs. The total cost of administering the program is estimated at $2.2 billion in 1978 dollars, compared with a current cost of $2.7 billion

The combination of a single data system and the use of advanced systems technology is expected to improve efficiency and reduce error and fraud.

Phase-In

The proposal will be phased in over a three-year period after enactment. Following is a likely timetable:

Within two months after enactment, each state must declare its choice of state or federal intake.

The first two years following enactment will be devoted to creating a computer network linking some 4,000 field offices to a centralized computer system and to training personnel.

Starting two years after enactment, the first groups of recipients will begin applying for cash benefits.

Three years after enactment, benefit checks will begin to go out under the new system.

This long phasing process is designed to avert interruptions in payments and other dislocations during the conversion to the new system and to minimize error.

Relation to Medicaid

The benefits afforded under the new Better Jobs and Income Program should be coordinated with those received under Medicaid. However, this is best dealt with as part of the National Health Insurance proposal to be presented to the Congress early next year. If the implementation of National Health Insurance and this program cannot be synchronized, the bill provides that existing Medicaid eligibility criteria be preserved. This will insure that new eligibility rules do not automatically expand the Medicaid rolls, thus imposing large additional costs on both federal and state governments.

More on the Jobs Program

Recent experience with the CETA program provides encouraging evidence that the creation of 1.4 million jobs will not exceed the capacity of the existing employment and training system. Three years ago the CETA package contained 50,000 slots. With the onset of the recession, this level was increased to 310,000 positions. Under the stimulus package, the level will be increased to approximately 725,000 positions by the Spring of 1978. Thus there is ample reason to believe that the achievement up to 1.4 million job and training slots can be accomplished by 1981.

Under CETA, projects such as the following are currently under way:

In West Palm Beach, Florida, CETA workers aid the elderly by doing such tasks as heavy cleaning, cooking meals, and providing transportation to doctors' offices.

In Stark County, Ohio, CETA workers are operating anticrime patrols in housing projects.

In Chicopee, Massachusetts, CETA workers are building and repairing such recreational facilities as baseball diamonds, community swimming pools and picnic areas.

In Flint, Michigan, a comprehensive child development program trains and hires nonprofessionals in day care work.

In Piedmont, California, CETA workers are installing water conservation equipment.

In Madison, Wisconsin, CETA workers are measuring water quality in local streams.

Because the jobs will be created on the local level, it is impossible to project with accuracy the types of jobs that will be created. However, experience under the current expansion of the CETA program indicates the types of work which will be developed under the jobs portion of welfare reform.

Thirteen major categories of jobs have been identified. These jobs provide needed services to local communities, and they can be conducted on a relatively large scale in these communities. The job categories are as follows:

200,000 jobs aiding the elderly and the sick.

200,000 jobs building and repairing local recreation facilities.

150,000 jobs improving public safety.

150,000 jobs providing child care.

150,000 jobs for paraprofessionals in the schools.

125,000 jobs running local recreation programs.

100,000 jobs improving school facilities.

100,000 jobs cleaning up neighborhoods and controlling insects and rodents.

75,000 jobs involving cultural activities.

50,000 jobs monitoring environmental quality.

50,000 jobs weatherizing homes to save energy.

25,000 jobs providing facilities for the handicapped.

25,000 jobs aiding in waste treatment and recycling.

Not all the jobs that will be created by this program will be run by state and local governments. Many will be in private nonprofit agencies. Community-based organizations now carry out public service projects

in the CETA program, and will continue to do so under welfare reform.

H.R. —

A bill to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are not available for work by reason of disability, age, or family circumstance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Better Jobs and Income Act."

TABLE OF CONTENTS

Sec. 2. Declaration of purpose.

TITLE I—CASH ASSISTANCE PROGRAM UNDER THE SOCIAL SECURITY ACT

Sec. 101. Establishment of cash assistance program.

TITLE XXI—INCOME SUPPLEMENT AND INCOME SUPPORT FOR FAMILIES AND INDIVIDUALS

PART A—ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT

"Sec. 2101. Eligibility of household unit for payments.
"Sec. 2102. Exclusions from household unit.
"Sec. 2103. Referral for employment or rehabilitation services.
"Sec. 2104. Amount of payment.
"Sec. 2105. Computation of maximum payable amount.
"(a) Individual amounts.
"(b) Increments for household units.
"(c) Limitations in special cases.
"(d) Computation for units subject to work requirement
"Sec. 2106. Available income.
"Sec. 2107. Exclusions from available income.
"(a) Exclusion related to Federal assistance and nonemployment income.
"(b) Exclusions related to earned income.
"Sec. 2108. Distribution of available income over accountable period.
"Sec. 2109. Assets.
"Sec. 2110. Definitions.
"Sec. 2111. Savings provision in the case of aged, blind, or disabled individuals.
"Sec. 2112. Special provisions for the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam.

"PART B—STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS, MAINTENANCE OF STATE EFFORT, AND LIMITATION OF STATE FISCAL LIABILITY

"Sec. 2121. State supplementation of maximum payable amounts.
"Sec. 2122. Supplementation agreement.
"Sec. 2123. Special payment to household unit if supplementation percentage engenders personal income tax liability.
"Sec. 2124. Effect of benefit reduction rate of earned income exclusion.
"Sec. 2125. Federal participation in State supplementation payment.
"Sec. 2126. Maintenance of effort.
"Sec. 2127. Limitation on fiscal liability of States.
"Sec. 2128. State plans for services to disabled children.

"PART C—ADMINISTRATION OF INCOME SUPPLEMENT AND INCOME SUPPORT PROGRAM

"Sec. 2131. Application.
"Sec. 2132. Determination of eligibility for and amount of payment.
"Sec. 2133. Payments of benefits.
"Sec. 2134. Reports and furnishing of information.
"Sec. 2135. Overpayments and underpayments.
"Sec. 2136. Disagreement with determinations of the Secretary.
"Sec. 2137. Furnishing of information by other Federal agencies.
"Sec. 2138. State agreement to receive applications and develop eligibility and payment information.
"Sec. 2139. Information and referral.
"Sec. 2140. Assurances on benefit reduction rates.
"Sec. 2141. Miscellaneous Federal-State administrative provisions.
"Sec. 2142. Determinations of blindness and disability.
"Sec. 2143. Administrative arrangements.
"Sec. 2144. Penalties for fraud.
"Sec. 2145. Adjustment of payment amounts."
Sec. 102. Assistance to meet emergency needs.

"PART B—ASSISTANCE TO MEET EMERGENCY NEEDS

"Sec. 2011. Appropriations authorized.
"Sec. 2012. Payments to States.
"Sec. 2013. Program reporting; filing of claims.
"Sec. 2014. Plan of assistance.
"Sec. 2015. State adoption of plan.
"Sec. 2016. Assistance for special categories of needy families and individuals.
"Sec. 2017. Definitions."
Sec. 103. Amendment to earned income tax credit.
Sec. 104. Repeals.
Sec. 105. Conforming amendments.
Sec. 106. Federal employment of certain State and local employees or specially qualified personnel; acquisition of buildings and equipment; start-up funds; advance appropriations.
(a)(1) Employee eligibility for appointment.
(2) Conditions of appointment in special cases.
(3) Compensation of appointees.
(4) Credit for prior service.
(5) Sick leave.
(6) Retirement annuity.
(b)(1) Employment of special qualified personnel.
(2) Direct hiring and pay of new appointees.
(c) Acquisition of buildings and equipment.
(d) Start-up funds.
(e) Advance appropriations.
Sec. 107. Effective dates.

TITLE II—EMPLOYMENT OPPORTUNITIES PROGRAM UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

Sec. 201. Establishment of program.

"TITLE IX—JOB OPPORTUNITIES PROGRAM

"Sec. 901. Statement of purpose.

"PART A—JOB OPPORTUNITIES PROGRAM

"Sec. 911. Authorization of appropriations.
"Sec. 912. Allocation of funds.
"Sec. 913. Financial assistance to prime sponsors.
"Sec. 914. Comprehensive job opportunities plan.
"Sec. 915. Review by Governor and State Manpower Services Council.
"Sec. 916. Statewide planning.
"Sec. 917. Definition.

"PART B—JOB SEARCH ASSISTANCE

"Sec. 931. Eligible individuals.
"Sec. 932. Job search assistance program.
"Sec. 933. Work requirement.
"Sec. 934. Notification regarding determinations.
"Sec. 935. Joint agreement for job search assistance responsibilities.

"PART C—SUBSIDIZED WORK AND TRAINING

"Sec. 951. Eligible participants.
"Sec. 952. Authorization of appropriations.
"Sec. 953. Allocation of funds.
"Sec. 954. Federal wage payments.
"Sec. 955. Federal financial assistance.
"Sec. 956. Wage supplementation.
"Sec. 957. Subsidized work and training opportunities.
"Sec. 958. Special conditions."

DECLARATION OF PURPOSE

SEC. 2. It is the intent of the Congress, in establishing the Better Jobs and Income Program, to increase economic independence within the United States by providing training and job opportunities to principal earners in families with children, and by providing income support and supplementation to low income families and individuals. To attain these objectives equitably and with efficient use of Federal and State resources, the Congress finds it necessary to consolidate and reform currently fragmented Federal and State income assistance programs, to eliminate provisions that create disincentives to work or to family stability, and to reallocate responsibility among Federal and State governments in the financing and administration of income assistance and employment programs.

TITLE I—CASH ASSISTANCE PROGRAM UNDER THE SOCIAL SECURITY ACT

ESTABLISHMENT OF CASH ASSISTANCE PROGRAM

SEC. 101. The Social Security Act (42 U.S.C. 301, et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXI—INCOME SUPPLEMENT AND INCOME SUPPORT FOR FAMILIES AND INDIVIDUALS

"PART A—ELIGIBILITY FOR AND AMOUNT OF FEDERAL BENEFIT

"ELIGIBILITY OF HOUSEHOLD UNIT FOR PAYMENTS

"SEC. 2101. (a) The Secretary of Health, Education, and Welfare shall make payments, in the amount prescribed in section 2104, to an eligible household unit (as defined in subsection (b) for any month in which its available income (as described in section 2106) does not exceed the maximum payable amount applicable to such unit under section 2105, and the value of its assets does not exceed the amount prescribed in section 2109.

"(b) A household unit is either—

"(1) an adult individual who is not living with a related individual other than an adult individual who is aged, blind, or disabled, or

"(2) any of the following groups (as set out in subparagraph (A), (B), (C), or (D) below) of one or more related (as defined in section 2110(5)) individuals who are living in a single place of residence;

"(A) an aged, blind, or disabled individual who is not a child, his spouse (if any), and any child with respect to whom the individual or spouse is exercising parental responsibility, as determined in accordance with such criteria as the Secretary may, by regulation, prescribe;

"(B) an adult individual and his spouse (if any), neither of whom is an aged, blind, or disabled individual, and any child with respect to whom the adult individual or spouse is exrcising parental responsibility, if there are at least two such individuals living together in the single place of residence;

"(C) two or more adult individuals who are living in a single place of residence, none of whom is described in clause (A) or (B); or

"(D) any child who is not living in the same place of residence as either of his parents or of any other individual who is legally responsible for the support, and maintenance of such child if the child has been de-

prived of the support and care of both parents by reason of either death or desertion, or both, or removed from parental control by judicial authority.

"(c)(1) Any individual other than an individual described in subsection (b)(2) who is living in the same place of residence as a household unit described in such subsection and is related to its members is also a member of that unit if he applies for payment under this title. If that individual is living in the same place of residence as more than one household unit and applies for a payment under this title, he is a member of the household unit to the members of which is most closely related, as determined in accordance with the Secretary's regulations.

"(2) Notwithstanding subsection (b), a child who is not related to the members of an eligible household unit with which he is living in a single place of residence may be considered to be a member of that unit when he is living there in order to safeguard his health or safety or because it will otherwise assure his well-being or be in his best interests. The Secretary shall by regulation specify the classes of circumstances which are consistent with conditions of the preceding sentence, in which living with an unrelated household unit is necessary to assure a child's well-being or to protect his best interests.

"(d) The term 'eligible household unit' means a household unit that maintains a place of residence within the United States and has applied for payment under this title.

"EXCLUSIONS FROM HOUSEHOLD UNIT

"SEC. 2102. (a) No individual is included in a household unit unless he is either (1) a citizen of the United States, or (2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

"(b) No individual is included in a household unit for any month if, on the last day of such month, he has been sentenced to and is confined in a penal or correctional institution.

"(c)(1) Except as provided in paragraph (2), no individual (not otherwise excluded from a household unit by subsection (b)) is included in a household unit for any month if, throughout that month and the preceding two months, he is an inmate of a public institution.

"(2) In any case after an individual has been, throughout any month and the preceding two months, in a hospital, extended care facility, or intermediate care facility receiving payment (with respect to such individual) under a State plan approved under title XIX, the maximum payable amount for each month thereafter with respect to that individual, notwithstanding section 2105(a), is $25 until the first month on the last day of which the individual is no longer in such a facility.

"(3) The Secretary may establish a maximum payable amount (not to exceed the maximum payable amount otherwise applicable under section 2105) with respect to institutionalized members of household units to which neither paragraph (1) nor paragraph (2) applies.

"(d) The maximum payable amount of an eligible household unit is determined as though an individual were not a member of that unit if, after notice to that individual by the Secretary that it is likely that the individual is eligible for any payments of the type enumerated in section 2106(b)(1) or (2), the individual fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

"REFERRAL FOR EMPLOYMENT OR REHABILITATION SERVICES

"SEC. 2103. (a) In order to assist in the effective implementation of title IX of the Comprehensive Employment and Training Act of 1973, the Secretary shall provide notice to the Secretary of Labor concerning and refer to him each adult member of an eligible household unit with respect to which amounts are payable under this title, other than—

"(1) one adult member of an eligible household unit, other than the principal earner (as defined in section 951(b) of the Comprehensive Employment and Training Act of 1973) of that unit, if the unit consists of at least two or more adult members and at least one child,

"(2) one adult member (who is not an aged, blind, or disabled individual, is not incapacitated, and if the unit contains more than one adult who is not an aged, blind, or disabled individual or incapacitated) is not the principal earner of the unit) of an eligible household unit that includes (A) at least one child under the age of 7 years, or (B) an individual determined by the Secretary to be aged, blind, or disabled individual, or by the Secretary of Labor to be an incapacitated individual, requiring regular or full-time care and attention (as defined by regulations of the Scretary);

"(3) an aged, blind, or disabled individual;

"(4) an adult member of an eligible household unit who is under the age of 21 and enrolled in a full-time course of study in an elementary or secondary school; or

"(5) an adult member of an eligible household who is enrolled in full-time study if such member either (A) has monthly earnings at least equal to the Federal minimum wage multiplied by 20 hours a week, or (B) is the only adult in a household that includes a child over the age of 6 years and below the age of 14 years.

"(b)(1) In the case of any blind or disabled individual who—

"(A) has not attained age 65, and

"(B) is receiving payments (or with respect to whom payments are made) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (and is authorized to pay to such agency the costs incurred under the plan in providing services to such individual), or in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under section 2128, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

"(2) The maximum payable amount of an eligible household unit is determined as though an individual over the age of 16 were not a member of that unit if he is referred by the Secretary under paragraph (1) but refuses without good cause to accept vocational rehabilitation services which are made available to him.

"AMOUNT OF PAYMENT

"SEC. 2104. (a) The payment to an eligible household unit for any month shall be the amount (hereinafter in this title referred to as the 'maximum payable amount' of the unit) specified by section 2105, reduced by an amount (hereinafter in this title referred to as the 'available income' of the unit) determined under section 2106.

"(b)(1) If a household unit receives a payment under the preceding subsection for a month in which the earned income of the unit is an amount that, if multiplied by 12, would exceed an amount determined under regulations of the Secretary to subject the unit to liability for personal income tax under the Internal Revenue Code of 1954 in the taxable year in which that month occurs, then for each one dollar of earned income (within the meaning of section 2106(b)(3)) subject to such tax and attributable to that unit for that month the unit shall receive 20 cents from the Secretary as an additional payment, subject to paragraph (2). For the purpose of determining liability for personal income tax under the preceding sentence, the members of the unit are deemed to elect the standard deduction allowed by section 141 of the Code for that year.

"(2) If a household unit with respect to which paragraph (1) applies becomes ineligible for a payment for any month under subsection (a) by reason of the earned income attributable to that unit for a month, the unit shall nevertheless receive a payment equal to the additional payment the unit would have received by reason of paragraph (1), reduced by 20 cents for each one dollar of earned income attributable to the unit for that month in excess of the minimum amount of earned income by reason of which the unit would become ineligible for a payment for that month under that subsection.

"COMPUTATION OF MAXIMUM PAYABLE AMOUNT

"SEC. 2105. (a) INDIVIDUAL AMOUNTS. Except as provided by subsections (d) and (e), the maximum payable amount of an eligible household unit for a month is the total of (1) the sum of the increments or amounts provided by subsections (b) and (c), and section 2121 (pertaining to State supplementation) with respect to that unit, and (2) the sum of the amounts shown with respect to the members of the unit in the following table:

"For each unit member who is—	the amount payable with respect to the member is—
an adult who is aged, blind or disabled	$133.33;
any other adult	91.67;
a child who is blind or disabled	91.67; or
any other child	50.00.

"(b) INCREMENTS FOR HOUSEHOLD UNITS. The maximum payable amount of an eligible household unit for a month, as determined under subsection (a), is increased as provided in the following table:

"If a unit consists of—	the maximum payable amount of the unit is increased by—
one adult who is aged, blind, or disabled	$75.00
one individual and the individual's spouse, each of whom is aged, blind, or disabled	45.83
one adult and one or more children	108.33; or
two or more adults and one or more children	66.67

"(c) LIMITATIONS IN SPECIAL CASES.

"(1) If an adult who is a member of an eligible household unit consisting of aged, blind, or disabled individuals, or having a child as a member, lives in a common place of residence in any month with one or more other individuals to whom he is related but who are not members of that unit, the maximum payable amount of that unit under section 2105 is reduced as follows:

"(A) If no member of that unit has an ownership or leasehold interest in the common place of residence, the reduction is $66.67.

"(B) If a member of that unit has an ownership or leasehold interest in the common place of residence, and that interest is shared with one or more individuals living in the common place of residence who are not members of that unit, the reduction is $33.33.

This paragraph applies to the maximum payable amount of each of the eligible household units living in a single place of residence.

"(2) If an eligible household unit consists of more than 7 individuals, the unit's maximum payable amount shall be determined as though the unit consisted of 7 individuals. For purposes of the preceding sentence, the unit is deemed to consist only of those 7 of its members whose membership in the unit results in a determination of the highest maximum payable amount for the unit under this section.

"(d) COMPUTATION FOR UNITS SUBJECT TO WORK REQUIREMENT.

"(1)(A) In the case of an eligible household unit a member of which is eligible for subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973, and required to be referred to the Secetary of Labor under section 2103, other than a unit described in paragraph (2), the maximum payable amount of that unit for any month is determined as though that member were not included in the unit for that month and the increment under subsection (b) for that unit is reduced for that month by $66.67, unless the Secretary of Labor has certified to the Secretary that the member is incapacitated, or that no employment or training has been offered to that member, and that certification has not been withdrawn with respect to that month.

"(B) In the case of a member of an eligible household unit to which subparagraph (A) applies who is employed in subsidized work or training as described in that subparagraph, and who ceases to be so employed by reason of incapacity (as defined in title IX of the Comprehensive Employment and Training Act of 1973), the member is included in the household unit for purposes of determining the maximum payable amount of that unit, and no reduction is made in the increment of that unit (as would otherwise be required to be made by subparagraph (A)) during the period of that incapacity, except as provided by subparagraph (C).

"(C) If the incapacity described in subparagraph (B) continues or is expected to continue in excess of 90 days, and the unit contains an adult member who is not incapacitated, that adult member shall become eligible for a subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973 in lieu of the incapacitated member, unless the incapacitated member is found by the Secretary to require regular or full-time care and attention and the unit contains no more than one adult member who is not incapacitated. In the case of an adult member of a unit who becomes eligible for subsidized work or training under this subparagraph and has been referred to the Secretary of Labor under section 2103, subparagraph (A) applies to the household unit only after the month in which the Secretary of Labor certifies to the Secretary that the eligible member (i) did not report to the Secretary of Labor by the close of the seventh day following the day the member was referred, or (ii) has been offered employment or training, or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and the member should continue to be excluded until the month after the month the certification is withdrawn.

"(2) In the case of an eligible household unit that consists of not more than one adult, one or more children over the age of 6 years and below the age of 14 years, and no child below the age of 7 years, paragraph (1)(A) applies only after the month in which the Secretary of Labor certifies to the Secretary that the adult has been offered employment or training, or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and paragraph (1)(A) shall continue to apply until the month after the month in which the certification is withdrawn.

"(3) In the case of an eligible household unti other than a unit described in paragraph (1)(A), or (2), a member of which has been referred to the Secetary of Labor under section 2103, the maximum payable amount of that unit is determined as though that member were not included in the unit after the month in which the Secretary of Labor certifies to the Secretary that the member (A) did not report to the Secretary of Labor by the close of the seventh day following the day the member was referred, or (B) has been offered employment or training or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and the member shall continue to be excluded until the month after the month in which the certification is withdrawn.

"AVAILABLE INCOME

"SEC. 2106. (a) For purposes of determining the payment to an eligible household unit for any month under section 2104, the available income of the unit for that month is, except as provided by section 2123 (pertaining, in part, to rules applicable to increases in benefit reduction rates), the sum of—

"(1) 100 percent of Federal assistance income,

"(2) 80 percent of nonemployment income, and

"(3) 50 percent of earned income, received by each member of the household unit in that month, including excess available income of the unit attributed to that month by section 2108, but excluding income described in section 2107.

"(b) As used in this section—

"(1) the term 'Federal assistance income' means a cash payment received by or for the use of an individual from any agency of the United States the eligibility for, or amount of, which is dependent upon the financial resources of that individual or his need for financial assistance, including veterans' pensions;

"(2) the term 'nonemployment income' means all income, other than Federal assistance income and earned income, in cash or in kind, including—

"(A) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' or workmen's compensation and old-age, survivors, and disability insurance, railroad retirement, and unemployment benefits, and similar benefits;

"(B) prizes and awards;

"(C) training allowances or stipends not described in paragraph (3);

"(D) gifts and support and alimony payments;

"(E) rents, dividends, interest, and royalties;

"(F) income imputed from nonbusiness assets under section 2109; and

"(G) the value of in kind income established by the Secretary under section 2107(a)(17); and

"(3) the term 'earned income' means—

"(A) wages as determined under section 203(f)(5)(C),

"(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10) and the last paragraph of subsection (a) (each pertaining to an exclusion of a portion of the proceeds of certain agricultural labor)), including earnings for services described in paragraphs (4) (pertaining to services by ordained ministers), (5) (pertaining to services by Christian Science practitioners), and (6) (pertaining to self-employment income of members of certain religious faiths) of subsection (c).

"(C) training stipends or allowances received under title IX of the Comprehensive Employment and Training Act of 1973;

"(D) amounts (not otherwise wages under subparagraph (A)) paid to a blind or disabled individual by a sheltered workshop (as that term is defined by the Secretary);

"(E) amounts received by an individual under a program of any State as compensation for the care of any relative of the individual; and

"(F) income imputed from business assets under section 2109(a).

"EXCLUSIONS FROM AVAILABLE INCOME

"SEC. 2107. (a) EXCLUSIONS RELATED TO FEDERAL ASSISTANCE AND NONEMPLOYMENT INCOME. There are excluded from the income to which section 2106(a) applies—

"(1) support and maintenance in kind furnished to an individual by an individual with whom he shares a single place of residence;

"(2) support and maintenance furnished to an individual by a nonprofit retirement home or similar nonprofit institution in which he resides to the extent that it is furnished to the individual without the institution's receiving payment therefor except from another nonprofit organization;

"(3) when provided by an agency of the United States, a State, or a political subdivision of a State, or by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, in consideration of an individual's need for that assistance, the value of housing (or any payment required to be used for housing), aid to meet an emergency need, and any social service;

"(4) gifts, prizes, or awards, in cash or kind, to the extent that they do not exceed $20 in that month;

"(5) personal or real property, or equitable interests therein, that are inalienable and unavailable for use as food, clothing, or shelter by the individual who receives it or by any other member of the individual's household unit;

"(6) lump-sum insurance proceeds, inheritances, judgments, and similar nonrecurring payments;

"(7) one-half of the amount furnished to an individual by the United States by reason of the individual's prior service in a uniformed service of the United States and current enrollment in any course of education or training;

"(8) student assistance to the extent it is used for tuition and mandatory school fees;

"(9) the value of food received under any program or activity financed in whole or in part by any department or agency of the United States;

"(10) the value of home produce consumed by the household unit by which grown;

"(11) amounts received as a payment under section 2104 or under an agreement with a State entered into under section 2121 or section 2111; and

"(12) amounts, if not otherwise excluded under paragraph (10), received as a cash payment by or for the use of an individual from any agency of a State or a political subdivision thereof the eligibility for, or amount of which, is dependent upon the financial resources of that individual or his need for financial assistance;

"(13) amounts received as a cash payment under any program of the State assisted under part B of title XX;

"(14) medical vendor payments as defined by the Secretary;

"(15) reimbursements, for expenses incurred with respect to work or volunteer activities, that do not exceed expenses actually incurred and that do not represent a gain or benefit to a household unit receiving them;

"(16) the proceeds of any loan to a member of a household unit (other than a loan made under an agreement whereby cash payment of the loan, or any portion thereof,

loan will be repaid by any organization or agency, or by any individual not a member of the unit, except in the case of default); and

"(17) income in kind, the value of which the Secretary finds cannot be readily ascertained, except that the Secretary, by regulation, may set, or establish procedures for the setting, of an amount that reasonably represents the value of any such income, in which case this paragraph does not apply to that income.

"(b) EXCLUSIONS RELATED TO EARNED INCOME.—There are also excluded from the income to which section 2106(a)(3) applies—

"(1) in the case of an eligible household unit that includes not more than one adult member, an amount for each month equal to expenditures for such care of each member of the unit who is a child below the age of 14 years as is necessary, or any other dependent with respect to whom it is demonstrated to the satisfaction of the Secretary to be necessary, to enable the adult member of the unit to accept part- or full-time employment, but not in excess of the lesser of (A) the earned income of the household unit in that month, or (B) $150 per month with respect to a unit containing only one such child or dependent and $300 per month with respect to a unit containing more than one such child or dependent;

"(2) in the case of an eligible household unit having a child as a member and having also a member who is not included in the unit for any month by reason of section 2105(d)(1) or (2) for purposes of computing the maximum payable amount of the unit, an amount equal to so much of the earned income of that member for that month as does not exceed $316.67 or the amount specified by section 2124, whichever is applicable; and

"(3) in the case of an eligible household unit described in section 2105(d)(3) having two or more members, a member of which is not included in the unit for any month by reason of that section, an amount equal to so much of the earned income of that member for that month as does not exceed (A) twice the maximum payable amount specified for the member (had he been included in the unit for that month) by section 2104(a), or (B) the amount specified by section 2124, whichever is applicable.

"DISTRIBUTION OF AVAILABLE INCOME OVER ACCOUNTABLE PERIOD

"SEC. 2018. (a)(1) For the purpose of determining the payment under section 2104 to an eligible household unit for a month, the excess available income attributed to that month is an amount equal to the sum of the excess available income for each of the five immediately preceding months. The excess in each preceding month is the amount (if any) by which the available income for that month (determined without regard to this paragraph) exceeds (after reduction under paragraph (2)) the maximum payable amount of the unit (computed under section 2105) for that month.

"(2) Whenever, during the period of the five immediately preceding months referred to in paragraph (1), there occurs a month for which the maximum payable amount exceeds the available income for that month (determined without regard to paragraph (1)), the amount of that difference is applied to reduce the amount of the excess available income for the earliest preceding month of that period in which there is excess available income. The remainder (if any) of that difference is then applied to reduce the amount of the excess available income (if any) for each successive month of that period that precedes the month in which that difference occurs, until the difference is reduced to zero.

"(b) For purposes of the preceding subsection, an eligible household unit with respect to which a payment under section 2104 is determined for any month is deemed, in each of the five months preceding that month, to have the same composition as, under regulations of the Secretary, it has during such month.

"ASSETS

"SEC. 2109. (a) No payments under this title may be made to an eligible household unit if the value of its nonbusiness assets, other than those excluded under subsection (b), exceeds $5000 in any month, or if the value of its business assets held for the production of self-employment income (as defined in accordance with criteria prescribed by the Secretary) exceeds, in any month, a limit prescribed by the Secretary. For purposes of section 2106, the income of an eligible household unit for a month shall be increased by 1.25 percent of so much of the value of its nonbusiness assets, other than those excluded under subsection (b), as exceeds $500, less the amount of any income derived from those assets and received by the household unit in that month; and that income shall be increased by 0.83 percent of the value of its business assets less the amount of any income so derived.

"(b) In determining the value of the nonbusiness assets of a household unit, the Secretary shall exclude—

"(1) the home (including so much of the land that appertains thereto as the Secretary determines is reasonable) if it is the place of residence of the household unit,

"(2) the household goods and personal effects (including vehicles) of members of the household unit (including tools or other similar items necessary for a member to engage in gainful employment, up to such limits as the Secretary may by regulation prescribe), and

"(3) separate, identifiable amounts (or the value of any plot of land) set aside by a member of an eligible household unit for meeting the expenses (or requirements) of his burial, to the extent they do not exceed the amount (or value) that the Secretary determines to be reasonable for this purpose.

"(c) For purposes of this section—

"(1) the term 'assets of a household unit' means the total of the assets of each member of the household unit;

"(2) an asset becomes an asset of the household unit in the first month throughout all of which it was owned by and within the control of a member of the unit;

"(3) the value of a business asset shall be determined by its fair market value reduced by the amount of any encumbrances thereon; and

"(4) the value of a nonbusiness asset shall be determined by its fair market value.

"(d)(1) If a member of an eligible household unit disposes of an asset, other than a business asset or an asset referred to in subsection (b), the value received, if any, (whether in cash or in kind) shall be treated by the Secretary as an asset (and not income).

"(2) If a member of an eligible household unit disposes of a business asset or an asset described in paragraph (1), (2), or (3) of subsection (b), or a plot of land described in paragraph (4) of subsection (b), the Secretary shall not consider the value received as either an asset or income until the expiration of one calendar month, or, in the case of an asset described in subsection (b)(1), six calendar months, succeeding the month of disposition, or such longer period as he determines there is good cause to allow. Thereafter, he shall apply subsections (a) and (b) to determine whether any payment may be made to the household unit.

"DEFINITIONS

"SEC. 2110. For purposes of this title—

"(1) The term 'child' and 'children' mean only an individual or individuals under the age of 18 years who are not parents of another child living in the same place of residence.

"(2) The term 'adult' means an individual other than a child.

"(3) In determining whether an individual is married or whether one individual is the spouse of another, appropriate State law shall be applied, except that if two individuals have been determined to be husband and wife under section 216(h)(1) of the Social Security Act and no change affecting that relationship or that determination has since occurred, they shall be considered to be married for purposes of this title.

"(4) The term 'related', as used in this title, means bearing a relationship to an individual that is the same as one of the relationships to a taxpayer described by paragraphs (1) through (8) of section 152 of the Internal Revenue Code of 1954 and an individual is 'related' to the members of a household unit if he is related to at least one member of the unit.

"(5) An individual is considered to be a member of a household unit for a month if he was a member of that unit on the last day of that month.

"(6) Individuals are 'living in a single place of residence' when, as defined by regulations of the Secretary, each of them has that residence as his abode and is not absent therefrom (except to seek or engage in employment) for a period in excess of three consecutive months.

"(7) A student (other than a student who is an aged, blind, or disabled individual) at an educational institution (as the terms 'student' and 'educational institution' are defined by the Secretary) is a member of a household unit any other members of which is furnishing or has furnished to the student more than one-half of his support for the 12 months preceding the month for which payment with respect to the student is sought under this title.

"(8) The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

"(9)(A) The term 'aged, blind, or disabled individual' means an individual who is 65 years of age or older, is blind (as determined under subparagraph (B)), or is disabled (as determined under subparagraph (C)).

"(B) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he was determined to be blind as defined under title XVI of the Social Security Act (as in effect for the 50 States) prior to the effective date of this title and received payments pursuant thereto on the basis of blindness for the month before the first month for which this title is in effect, so long as he is continuously blind as so defined.

"(C)(i) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

"(ii) For purposes of subparagraph (i), an individual shall be determined to be under

a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), the term 'work that exists in the national economy' means work positions that exist in significant numbers either in the region where such individual lives or in several regions of the country.

"(iii) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities that are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

"(iv) The Secretary shall by regulation prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (ii), an individual whose services or earnings meet such criteria, except for purposes of paragraph (D), shall be found not to be disabled.

"(v) Notwithstanding the provisions of subparagraphs (i) through (iv), an individual shall also be considered to be disabled for purposes of this title if he was determined to be disabled as defined under title XVI of the Social Security Act (as in effect prior to the effective date of this title) and received payments pursuant thereto on the basis of disability for the month before the first month for which this title is in effect, so long as he is continuously disabled as so defined.

"(D)(i) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (ii)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (C) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term 'services' means activity that is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

"(ii) The term 'period of trial work', with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (C) of this subsection), means a period of months beginning and ending as provided in subparagraphs (iii), and (iv).

"(iii) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

"(iv) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

"(I) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

"(II) the month in which his disability (as determined under paragraph (4)(C) of this subsection) ceases (as determined after the application of subparagraph (i) of this paragraph).

"SAVINGS PROVISION IN THE CASE OF AGED, BLIND, OR DISABLED INDIVIDUALS

"SEC. 2111. (a) In the case of an individual who is an aged, blind, or disabled individual, as defined by section 2110(4)(A), and, for the month immediately preceding the month for which section 2101 comes into effect, was for a recipient of (and was eligible to receive) a supplemental security income benefit under title XVI of this Act as in effect for that preceding month, the payment under this title for any month shall be the greater of the benefit under title XVI that the individual would receive if that title were still in effect as it was for the month preceding the month for which this title became effective, or the payment with respect to that individual for the household unit of which that individual is a member, shall under this section, without regard to section 2121 (pertaining to State supplementation of maximum payable amounts). The benefit under such title XVI shall be the amount specified by section 1611 and 1612 of this Act, as increased by the operation of section 211 of P.L. 93-66 and as in effect in that preceding month, except as provided by subsection (c) of this section, but without regard to section 1617 or 1618.

"(b) At the request of a State that had in effect an agreement with the Secretary under section 1616 for the month immediately preceding the month with which section 2101 comes into effect, the Secretary shall continue to pay to an individual, for each month that subsection (a) remains applicable to that individual, the amount of the optional State supplementary payment that would have been made under that agreement had the agreement continued in effect and section 2101 not come into effect, provided that the State enters into an agreement with the Secretary to reimburse him, at such times and under such conditions as he may specify, for his expenditures with respect to each such optional State supplementary payment.

"(c) Subsection (a) shall cease to apply to an individual for and after the month beginning with whichever of the following months first occurs—

"(1) the month in which an application for payment under this title ceases to be effective as specified by section 2131(b);

"(2) the first month in which the individual ceases to be an aged, blind, or disabled individual;

"(3) the first month for which the amount of a payment to an individual, or to a household unit with respect to the individual, under section 2104, would be greater than the supplemental security income benefit that the individual received (and was eligible to receive) under title XVI of this Act for the month immediately preceding the first month for which section 2101 came into effect;

"(4) the first month for which an individual would have been ineligible to receive a supplemental security income benefit under title XVI (as in effect for the month immediately preceding the first month for which section 2101 came into effect) by reason of the provisions of section 1611(e)(1)(A), (2), or (3), 1611(f), or 1615(c), had title XVI remained in effect.

"SPECIAL PROVISIONS FOR THE COMMONWEALTH OF PUERTO RICO, THE VIRGIN ISLANDS, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND GUAM

"SEC. 2112. (a) In applying this title to the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam—

"(1) the payment to an eligible household unit under section 2104 is an amount that bears the same ratio to that payment in each of those territories as the year capita incomes of the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam, respectively, in the fiscal year 1980 bear to the per capita income of that one of the other fifty States that has the lowest per capita income in that year, which amount, if not a multiple of $0.10, shall be raised to the next higher multiple of $0.10 except that in any case in which the ratio exceeds 0.9 it is deemed to be 1.0;

"(2)(A) the percentage used for determining available income under section 2106(a)(2) (pertaining to nonemployment income) or 2106(a)(3) (pertaining to earned income) shall, in lieu of the percentage set forth in that section, the percentage equal to the product of that percentage and the ratio determined under paragraph (1), except that if such product is not a multiple of 5 percent it shall be raised or reduced to the nearest such mutiple (and if a multiple of 2.5 percent, but not a multiple of 5 percent, to the next higher multiple of 5 percent);

"(B) the amount of any exclusion related to earned income under section 2107(b) shall, in lieu of the amount set forth in that section, be an amount equal to the product of that exclusion and the ratio determined under paragraph (1), except that if such amount is not a multiple of $1.00 it shall be raised to the next higher mutiple of $1.00; and

"(C) the value of any nonbusiness assets specified by the first sentence of section 2109(a) (pertaining to maximum allowable amounts of assets) shall, in lieu of the value so specified, be a value equal to the product of that value and the ratio determined under paragraph (1), except that if such value is not a multiple of $1.00 it shall be raised to the next higher multiple of $1.00;

"(3) section 2105(d)(1)(A) (pertaining to computation for units with members required to seek employment) is applicable in the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam only upon the extension to that territory (as determined by the Secretary of Labor) of title IX of the Comprehensive Employment and Training Act of 1973 on the same terms and conditions upon which the title is extended to each of the 50 States and the District of Columbia, except that such section shall be applicable to any household unit described therein if the Secretary of Labor certifies to the Secretary that a member of the unit referred to the Secretary of Labor under section 2103 has been offered employment or has failed to comply with any requirement under title IX of the Comprehensive Employment and Training Act of 1973; and

"(4) sections 2121 through 2125 (pertaining to State supplementation) are inapplicable.

"(b) The ratio to be used under subsection (a) in the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Guam, shall be promulgated by the Secretary between July 1 and September 30 of 1981.

"PART B—STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS, MAINTENANCE OF STATE EFFORT, AND LIMITATION OF STATE FISCAL LIABILITY

"STATE SUPPLEMENTATION OF MAXIMUM PAYABLE AMOUNTS

"SEC. 2121. A State may enter into an agreement with the Secretary under which the maximum payable amounts established by section 2105 and the percentage prescribed by section 2106(a)(3) (pertaining to the rate at which amounts payable under this title are reduced in consideration of earned income) shall be increased, with respect to household units within the State eligible for payments under this title by an amount prescribed by the State consistent with sections 2122, 2123, and 2124. The Secretary shall prescribe rules with respect to the time of entering into and amending the agreement in order to assure the Secretary an

adequate opportunity to prepare for the implementation of the agreement and any amendments thereto.

"SUPPLEMENTATION AGREEMENT

"SEC. 2122. An agreement between the Secretary and a State entered into under section 2121 shall contain terms that comply with the following requirements:

"(1) Each amount, increment, and reduction used, under section 2105, to determine the maximum payable amount of an eligible household unit shall be increased by such percentage (hereinafter in this part referred to as the 'supplementation percentage') as the State, by the agreement and consistent with this section, may prescribe, subject to regulations of the Secretary governing the number and composition of categories of household units to which different supplementation percentages may apply.

"(2) The State may also increase the percentage prescribed by section 2106(a)(3) (hereinafter in this part referred to as the 'benefit reduction rate applicable in the case of earned income'), uniformly with respect to each dollar of income, consistent with this section, provided that the sum of the benefit supplementation percentage established under paragraph (1) and 100, when divided by the benefit reduction rate established under this paragraph, is a quotient equal to or greater than 2.

"(3) The maximum payable amount (as increased by the supplementation percentage) and the benefit reduction rate applicable in the case of earned income shall apply within all geographic areas of the State with respect to all members of the category of class of household unit eligible therefor.

"(4)(A) Subject to any Offset under section 2125 (pertaining to Federal participation in State supplementation payments) and section 2126 (pertaining to limitation of State fiscal liability) the State shall, at such times and in such installments as the Secretary may prescribe, pay to the Secretary an amount (hereinafter in this part referred to as the 'supplementation payment') equal to the expenditures made by the Secretary because of the increase of a maximum payable amount, with respect to household units within the State, by a supplementation percentage.

"(B) The supplementation payment, in the case of a State, is an amount, computed by the Secretary for each month in which an agreement is in effect between the Secretary and the State under section 2121, that is the sum of all payments to household units that received payments within the State under section 2104 for that month, reduced by an amount equal to the sum of all payments that those units would have received for that month under section 2104 (a) had the agreement not been in effect.

"(5) The State shall make the payments to the Secretary prescribed by section 2123.

"(6) The State shall allocate to each of its political subdivisions the portion of any offset received under section 2125, with respect to any month, that bears the same ratio to the offset as the political subdivision's financial contribution (if any) to the State's supplementation payment with respect to that month bears to the total supplementation payment with respect to that month.

"(7) The State shall make the payments with respect to wage supplements required by section 953 of the Comprehensive Employment and Training Act of 1973.

"SPECIAL PAYMENT TO HOUSEHOLD UNIT IF SUPPLEMENTATION PERCENTAGE ENGENDERS PERSONAL INCOME TAX LIABILITY

"SEC. 2123. If the additional payment to a household unit under section 2104(b) is increased by reason of a supplementation agreement entered into under section 2121, the State shall reimburse the Secretary for 75 percent of that increase, at such times and in such manner as the Secretary's regulations prescribe.

"EFFECT OF BENEFIT REDUCTION RATE ON EARNED INCOME EXCLUSION

"SEC. 2124. In any case in which the benefit reduction rate applicable in the case of earned income for any month exceeds 50 percent, or a supplementation percentage exceeds 0.0 percent, with respect to a household unit to which paragraph (2) or (3) (pertaining to earned income exclusion) of section 2107(b) applies, there is excluded from the income of that unit for that month, in lieu of the exclusion provided by each such paragraph, an amount equal to the product of $158.33 with respect to paragraph (2), or $91.67 with respect to paragraph (3), and a ratio the numerator of which is 100 plus the supplementation percentage applicable to that unit, and the denominator of which is the benefit reduction rate applicable in the case of earned income of members of the unit.

"FEDERAL PARTICIPATION IN STATE SUPPLEMENTATION PAYMENT

"SEC. 2125. (a)(1) The Secretary shall offset against the supplementation payment for each month, in the case of each State that has entered into an agreement with the Secretary under section 2121 that is in effect for that month, an amount equal to the Federal share of each supplemental payment to a household unit for that month computed under this section.

"(2) For purposes of this section a supplemental payment to a household unit for a month is the difference between the payment to that unit under section 2104 for that month and the payment (hereinafter in this section referred to as the 'Federal portion' of the supplemental payment to that unit) under that section if computed without regard to sections 2121, 2122, 2123, and 2124.

"(b) With respect to that portion of a supplementation payment for a month that is attributable to a payment under section 2104 to an eligible household unit described in section 2105(d)(1)(A), an eligible household unit a member of which is eligible for subsidized work or training under section 2105(d)(1)(C), or an eligible household unit described in section 2105(d)(3), the Federal share of that portion, except as otherwise provided in this section, is equal to the sum of—

"(1) an amount equal to the product of 75 percent and so much of the supplemental payment to that household unit for that month as does not exceed 12.32 percent of the Federal portion of the supplemental payment to that household unit for that month, computed without regard to this supplementation agreement; and

"(2) an amount equal to the product of 25 percent and so much of the supplemental payment to that household unit for that month as exceeds 12.32 percent of the maximum payable amount of the household unit for that month (as so computed) and does not exceed—

"(A) in the case of Alaska or Hawaii, the amount payable to the unit under section 2104 if the supplementation agreement is deemed to establish with respect to that unit for the month a supplementation percentage equal to 75 percent of the weighted average official statistical poverty thresholds (as defined by the Office of Management and Budget) applicable to either State (as appropriate) divided by the maximum payable amount computed under section 2105 (without regard to the supplementation agreement) for a household unit consisting of one adult and three children (one of whom is under the age of 7 years), none of whom is an aged, blind, or disabled individual, and a benefit reduction rate of 52 percent.

"(B) in the case of the remaining States, the amount payable to the unit under section 2104 if the supplementation agreement is deemed to establish, with respect to that unit for the month a supplementation percentage of 12.32 percent and a benefit reduction rate of 52 percent.

"(c) With respect to that portion of a supplementation payment for a month that is attributable to a payment under section 2104 to an eligible household unit not described in subsection (b) or subsection (d), the Federal share of that portion, except as otherwise provided in this section, is equal to the sum of the amounts described by paragraphs (1) and (2) of subsection (b), except that in paragraph (2)(A) of that subsection 100 percent is substituted for 75 percent and 70 percent is substituted for 52 percent, and in paragraph (2)(B) of that subsection 51.2 percent is substituted for 12.32 percent, and 70 percent is substituted for 52 percent.

"(d) With respect to that portion of a supplementation payment for a month that is attributable to payment under section 2104 to a household unit all adult members of which are aged, blind, or disabled, the Federal share of that portion, except as otherwise provided in this section, is an amount equal to the product of 25 percent and so much of the supplemental payment to that household unit for that month as does not exceed 51.2 percent of the Federal portion of the supplemental payment to that unit computed without regard to the supplementation agreement, and with the applicable benefit reduction rate deemed to be 70 percent.

"(e)(1) In the case of an eligible household unit described in subsection (b), the Federal share of a supplemental payment to the unit may not exceed the amount that would be payable if the supplementation agreement under section 2121 established—

"(A) a benefit reduction rate that is the lesser of (i) the benefit reduction rate established by the agreement, and (ii) 52 percent; and

"(B) a supplementation percentage that is the lesser of (i) the supplementation percentage established by the agreement and (ii) 12.32 percent.

"(2) In the case of an eligible household unit described in subsection (c) or (d), paragraph (1) applies, except that 70 percent is substituted for 52 percent in subparagraph (a)(ii), and 51.2 percent is substituted for 12.32 percent in subparagraph (B)(ii).

"(f) If the earned income of a household unit (computed without regard to any payment under section 2104(b) (pertaining to tax rebates), and after the exclusion of any amount provided under section 2107(b)(1) (pertaining to dependent care expenses)) exceeds 216 percent of the maximum payable amount applicable to that unit, or, in the case of a unit in Alaska or Hawaii, exceeds 144.23 percent of the poverty level described in subsection (b)(2)(A), and the unit remains eligible for a payment under section 2104(a), subsection (a)(1) of this section shall apply as though the unit ceased to be eligible for a payment under section 2104(a) when its earned income (as so computed) exceeded such 216 percent or 144.23 percent, as applicable.

"(g) Subsection (a)(1) does not apply to a supplemental payment, for any month, to a household unit described in section 2105 (a)(1)(A) or (C) (pertaining to certain household units having members eligible for subsidized work or training), or a supplemental payment, for any month, to a household unit described in section 2105(d)(2) (pertaining to one adult household units with children over 6 and under 14 years of age), or to a household unit consisting of one adult and at least one child under the age of 7, if the supplementation agreement

entered into under section 2121 establishes in the case of each such household a different supplementation percentage or benefit reduction rate applicable with respect to earned income for the same month: *Provided*, That this subsection does not apply in any case in which the benefit reduction rates applicable with respect to earned income of household units described in sections 2105 (d)(1)(A) and (C) are equal to 52 percent, and the benefit reduction rate applicable with respect to earned income of a household unit described in section 2105(d)(2) and of a household unit consisting of one adult and at least one child under the age of 7, is equal to or greater than 52 percent.

"MAINTENANCE OF EFFORT

"SEC. 2126. (a) In order to assure that each State will continue to share responsibility for meeting the title's objectives, each State shall pay to the Secretary with respect to that fiscal year, an amount equal to 10 percent of the Federal expenditure (computed without regard to sections 2123(a) and 2124) for payments under section 2104 to eligible household units residing in such State (but not in excess of that amount based on the primary maintenance of effort amount which a State is required under subsection (b)(1)(A) to spend in the first fiscal year) and shall continue to expend for income maintenance and related purposes described in subsection (c), such additional amount as necessary to achieve the applicable total described in subsection (b).

"(b)(1)(A) In the first fiscal year in which this title is in effect, a State shall expend an amount equal to the sum of (i) 90 percent of the primary maintenance of effort amount determined under subparagraph (B) with respect to that State, adjusted for use in that fiscal year, and (ii) the amount of that State's allotment of Federal funds for emergency needs under part B of title XX for that fiscal year, unless that State demonstrates to the Secretary, while spending a lesser amount, it has made all the expenditures necessary for that fiscal year to satisfy the alternate State maintenance of effort requirement (as specified in subparagraph (C)). The Secretary shall prescribe by regulation the standards and criteria which he will employ, and the requirements for a detailed showing by the State to the satisfaction of the Secretary that the alternative State maintenance of effort requirement will be met for a year, if the State chooses to make such showing before the close of that fiscal year.

"(B) There shall be determined for each State an amount known as its 'primary maintenance of effort amount' which amount is the sum of the following amounts determined with respect to that State for quarters in fiscal year 1977:

"(i) the non-Federal share of expenditures as aid to families with dependent children (as defined in subsection (d)(1)),

"(ii) the non-Federal share of State supplementary payments for the aged, blind, and disabled (as defined in subsection (d)(2)),

"(iii) the non-Federal share of emergency assistance to needy families with children (as defined in subsection (d)(4)), and

"(iv) amounts expended, by that State (or a political subdivision thereof) in fiscal year 1977 as cash payments to the needy in that State under a program of general assistance or other similar income maintenance program supported by State or local funds (determined in accordance with such criteria as the Secretary may by regulation prescribe).

"(C) For purposes of subparagraph (A), the 'alternate State maintenance of effort requirement' has been satisfied when the State has (or the Secretary determines that the State will have by the close of the fiscal year) done the following:

"(i) made the payment to the Secretary in the amount required by subsection (a),

"(ii) made payments, or entered into an agreement with the Secretary under section 2121 for the making of payments to each eligible household unit receiving payments under section 2104 (or who would but for their available income be eligible for payments under such section) up to the amount (if any) that would have been payable to such a unit with the same available income under the plan of such State approved under part A of title IV, as in effect for the month before the effective date of this section, or up to the amount (if any) that would have been payable with respect to an aged, blind or disabled individual with the same available income as a supplementary payment of such State under section 1616 for the month prior to the effective date of this title, such amounts having been adjusted for use in such year,

"(iii) paid the amount required for that fiscal year for the purpose of making wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973,

"(iv) made payments to aged, blind, and disabled individuals who received a payment under section 1602 or 1616 of this Act or under section 212 of P.L. 93-66 (as such sections were in effect prior to the effective date of this section) for the month prior to the effective date of this section, in an amount sufficient to assure that the sum of the payment under section 2104 with respect to each such individual, his available income (as defined in section 2106), and such supplementary payment will not be less than the sum, adjusted for use in such fiscal year (as defined in subsection (d)(6)), of such individual's benefit under title XVI, his other income not excluded under section 1612(b) of this Act, and the amount of the State supplementary payment he received for the month before the effective date of this section; and

"(v) made payments to at least 75 percent of the eligible household units that received a payment under the plan of that State approved under part A of title IV for the month prior to the effective date of this section, in an amount sufficient to assure that the sum of the payment under section 2104 with respect to each such household unit, its available income (as defined in section 2106), and such payment will not be less than the sum (adjusted for use in such fiscal year as defined in subsection (d)(6) of the household unit's income which was taken into consideration by the State, as required by section 402(a)(7) and (8) of this Act, and the amount of aid to families with dependent children it received under the State's plan approved under part A of title IV for the month before the effective date of this section.

"(2) In the second fiscal year in which this title is in effect, in lieu of the amount specified in paragraph (1)(A), the State is required to expand an amount equal to the sum of 75 percent of its primary maintenance of effort amount, adjusted for use in such second, rather than the first, fiscal year (as defined in subsection (d)(6) and its allotment of Federal funds for emergency needs under part B of title XX for that second fiscal year or to meet the alternate State maintenance of effort requirement.

"(3) In the third fiscal year in which this title is in effect, in lieu of the amount specified in paragraph (1)(A), the State is required to expend an amount equal to the sum of 65 percent of its primary maintenance of effort amount, adjusted for use in such third, rather than the first fiscal year and its allotment of Federal funds for emergency needs under part B of title XX for that third fiscal year, or to meet the alternate State maintenance of effort requirement.

"(c) In determining whether a State has expended in any fiscal year the amount based on the primary maintenance of effort amount prescribed in subsection (b) for income maintenance and related purposes, the Secretary shall include the following expenditures by the State in that fiscal year as expenditures which qualify towards achieving that amount—

"(1) the amount paid to the Secretary by the State under subsection (a),

"(2) the non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 (as defined in subsection (d)(3)),

"(3) the amount paid by the State in that fiscal year for the purpose of wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973,

"(4) non-Federal expenditures for payments to or for the use of an individual, the eligibility for, or the amount of which, is dependent upon the financial resources of that individual or his need for financial assistance,

"(5) the non-Federal share of expenditures for child care services (as defined in subsection (d)(5)), but only to the extent that that amount exceeds the non-Federal expenditures for child care services in the fiscal year immediately preceding the fiscal year for which this title first became effective,

"(6) expenditures for emergency needs under the State plan approved under part B of title XX, and

"(7) the costs of administration paid by the State (or a political subdivision thereof) related to expenditures described in paragraph (4) or (6).

"(d) As used in this title—

"(f) the term 'non-Federal share of expenditures as aid to families with dependent children' with respect to any State in fiscal year 1977 means the difference between—

"(A) the total expenditures under the plan of that State approved under part A of title IV as aid to families with dependent children in quarters in that year, and

"(B) the total of the amounts determined under section 403 or section 1118, and under section 9 of the Act of April 9, 1950, with respect to those expenditures in that quarter in that fiscal year but without regard to any reductions which may have been applied to those amounts pursuant to subsection (c), (f), (g), or (h) of section 403;

"(2) the term 'non-Federal share of State supplementary payments for the aged, blind, and disabled' in the case of any State (other than the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) means the difference between—

"(A) the total amount expended in fiscal year 1977 (whether by that State or a political subdivision thereof) as optional State supplementation (as defined in section 1616(a)) and as a mandatory State supplementation (as defined in section 212 of P.L. 93-66) (as those sections were in effect prior to the effective date of this section), and

"(B) any amount that State would have had to pay the Secretary with respect to such optional or mandatory State supplementation but for the operation of section 401 of P.L. 92-603;

"(3) the term 'non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121' means, in the case of any State in a fiscal year, the total expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 made in that year to eligible household units residing in the State reduced by the sum of—

"(A) the Federal share of such expenditures determined under section 2125, and

"(B) any amount the State would have been required to expend for such supplementary payments but for the operation of section 2127;

"(4) the term 'non-Federal share of expenditures for emergency assistance to needy families with children' with respect to any State in fiscal year 1977 means 50 percent of the total expenditures for that year under the plan of that State approved under part A of title IV as emergency assistance to needy families with children;

"(5) the term 'non-Federal share of expenditures for child care services' in the case of any State in a fiscal year means, the total amount expended in that year for the provision of child care services under the plan of that State approved under a part A of title XX, reduced by amounts paid by the Secretary to that State under section 2002 with respect to those services; and

"(6) the term 'adjusted for use in' a particular year with respect to a specified amount (or amounts) means the amount (or amounts) multiplied by the ratio of (A) the arithmetical mean of the Consumer Price Index for Urban Wage Earners and Clerical Workers for months in the fiscal year for which the amount is to be used or applied by the Secretary, to (B) the arithmetical mean of that Index for months in the fiscal year with reference to which the amount was ascertained.

"(e) If this title first becomes effective beginning with a month other than the first month of a fiscal year, then for that first (partial) fiscal year, all amounts referred to in this section or in section 2127 which are determined by considering total expenditures for the 12 months in fiscal year 1977 shall be adjusted for use in that first fiscal year by multiplying each such amount by the ratio that the number of months (in such first fiscal year) that this title is in effect bears to 12.

"(f)(1) For purposes of applying the provisions of this section and of section 2127 to the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, all references in such sections to 'supplemental security income benefits' or 'State supplementary payments', either under section 1602 or section 1616 or under section 212 of P.L. 93–66, shall be deemed to be references to payments under the plan of such State approved under title I, X, XIV, or XVI (as in effect in those jurisdictions) of this Act, as such plan was in effect for the month immediately preceding the month beginning with which this title becomes effective; the non-Federal share of payments under title I, X, XIV, or XVI (as so in effect) for a fiscal year with respect to those three States means the difference between total expenditures for quarters in that fiscal year and the amount determined for that State under section 3(a)(2), 1003(a)(2), 1403(a)(2), and 1603(a)(2); and references to 'income not excluded under section 1612(b)(2) of this Act' shall be deemed to be references to income required to be taken into consideration under the plan of such State approved under title I, X, XIV, or XVI of this Act, as such plan was in effect for the month preceding the month for which this title becomes effective.

"(2) This section and section 2127 are not applicable to the Commonwealth of the Northern Mariana Islands.

"LIMITATION ON FISCAL LIABILITY OF STATES

"SEC. 2127. (a)(1) If a State, in the first fiscal year in which this program is in effect, makes expenditures for income supplements and services related to the purposes of this title (as defined in subsection (c)) in an amount in excess of the amount based on the primary maintenance of effort amount which a State is required to spend under section 2126(b)(1)(A), the Secretary shall pay to that State an amount equal to that excess.

"(2) If, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the first fiscal year exceed the sum of the amount specified in subsection (a)(1) and 90% of the non-Federal share of administrative costs of a State's plan for aid to families with dependent children (as defined in subsection (c)(2)), adjusted for use in that fiscal year (as defined in section 2126(d)(6)), the Secretary shall pay to the State an amount equal to that excess.

"(3) As a condition of any State receiving a payment under paragraph (1) or (2) of this subsection or under subsection (b), the State must agree to pay to any political subdivision thereof which participates in the expenditures for income supplements and services related to the purposes of this title, a portion of such payment which bears the same ratio to such payment as such political subdivision's financial contribution to such expenditures bears to the total amount of such expenditures.

"(b) In the second, third, fourth, and fifth fiscal years subsequent to the first fiscal year that this program is in effect, the payments provided for in subsection (a) shall be adjusted as follows:

"(1)(A) in the second fiscal year that this program is in effect, the Secretary shall pay to a State an amount equal to the excess of (i) its expenditures for income and services related to the purposes of this title, over (ii) the sum of that State's primary maintenance amount (as defined in section 2116(b)(1)(B) and adjusted for use in that year) and its allotment of Federal funds for emergency needs under part B of title XX for that year;

"(B) in the third, fourth, and fifth fiscal years that this program is in effect, the Secretary shall pay to a State an amount equal to the excess of (i) its expenditures for income and services related to the purposes of this title, over (ii) the sum of (I) 110, 130, and 150 percent, respectively, of that State's primary maintenance amount as defined in section 2126(b)(1)(B), adjusted for use in such third, fourth, and fifth fiscal years, respectively, and (II) its allotment of Federal funds for emergency needs under part B of title XX for such third, fourth, and fifth fiscal years, respectively.

"(2)(A) If, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the second fiscal year exceed 90 percent of the sum of (i) the State's primary maintenance of effort amount (as defined in section 2126(b)(1)(B)), and (ii) the non-Federal share of a State's administrative costs of its plan for aid to families with dependent children, such sum having been adjusted for use in such second fiscal year, further increased by the State's allotment of Federal funds for emergency needs under part B of title XX for such second fiscal year, the Secretary shall pay to the State an amount equal to that excess; and

"(B) if, after application of paragraph (1), a State's expenditures for income supplements and services related to the purposes of this title in the fourth and fifth fiscal years exceed 95 percent of the sum of (1) the State's primary maintenance of effort amount (as defined in section 2126(b)(1)(B)), and (ii) the non-Federal share of a State's administrative costs of its plan for aid to families with dependent children, such sum having been adjusted for use in such third, fourth, and fifth fiscal years, respectively, further increased by the State's allotment of Federal funds for emergency needs under part B of title XX for such third, fourth, and fifth fiscal years, respectively, the Secretary shall pay to the State an amount equal to that excess.

"(c) As used in this section—

"(1) the term 'expenditures for income supplements and services related to the purposes of this title' with respect to a State in a fiscal year means the sum of—

"(A) the amount paid to the Secretary by that State with respect to that year under section 2126(a);

"(B) the non-Federal share of expenditures for State supplementation of the maximum payable amounts under an agreement under section 2121 (as defined in section 2126(d)(3)), but not including (i) expenditures with respect to supplemental payments to any class of household units specified in clauses (I) through (VII) if the supplemental payments to a unit in that class are determined in a manner inconsistent with the applicable limits prescribed in section 2125:

"(I) units all the adult members of which are aged, blind, or disabled individuals.

"(II) units with only one adult member who is not aged, blind, or disabled, that includes at least one child under the age of 7 years.

"(III) units with only one adult member who is not aged, blind, or disabled, that includes no child under the age of 7 years and at least one child under the age of 14 years.

"(IV) units with only one adult member who is not aged, blind, or disabled, that include no child under the age of 14, and at least one child.

"(V) units with at least two adult members, one of whom is available for employment, and at least one child,

"(VI) units with at least two adult members neither of whom is available for employment by reason of incapacity or custodial responsibility, and at least one child, and

"(VII) units having one member (if that member is not aged, blind, or disabled, or incapacitated) or units having two or more adults, at least one of whom is available for employment, and no child, and

(ii) any expenditures which result in payments in excess of the amount (if any) that would have been payable to a unit with the same available income, under the plan of such State approved under part A of title IV, would have been paid as a supplementary payment of such State under section 1616, or would have been received by a household unit within that State under a program of general assistance or other similar income maintenance program described in section 2126(a)(2), whichever may be applicable, for the month prior to the month this title becomes effective, adjusted for use in that fiscal year;

"(C) the amount paid by the State in that fiscal year for the purpose of wage supplements under section 956 of the Comprehensive Employment and Training Act of 1973;

"(D) non-Federal expenditures for payments to aged, blind, or disabled individuals who received a payment under section 1602 or 1616 of this Act or under section 212 of P.L. 93–66 (as such sections were in effect prior to the effective date of this section) for the month prior to the effective date of this section in the least amount sufficient to assure that the sum of the payment under section 2104 with respect to each such individual, his available income (as defined in section 2106), and such supplementary payment will not be less than the sum, adjusted for use in such fiscal year (as defined in section 2126(d)(6)), of such individual's benefit under title XVI, his other income not excluded under section 1612(b), and the amount of the State supplementation he received for the month before the effective date of this section;

"(E) in the case of subsection (a)(1) and (b)(1), 75 percent of the non-Federal expenditures (or, in the case of subsection (a)(2) and (b)(2), all of such expenditures) for payments to eligible household units that received a payment under the plan of that State approved under part A of title IV (as such part was in effect prior to the

effective date of this section) for the month prior to the effective date of this section in the least amount sufficient to assure that the sum of the payment under section 2104 with respect to each such household unit, its available income (as defined in section 2106), and such supplementary payment will not be less than the sum (adjusted for use in such fiscal year as defined in section 2106(d)(6)) of the household unit's income which was taken into consideration by the State, as required by section 402(a) (7) and (8) and the amount of aid to families with dependent children it received under the State's plan approved under part A of title IV for the month before the effective date of this section; and

"(F) expenditures by the State for emergency needs under part B of title XX to the extent they do not exceed the State's allotment under such part B for that fiscal year; and

"(2) the term 'non-Federal share of administrative costs of a State's plan for aid to families with dependent children' with respect to a State means the total amount expended by that State in fiscal year 1977 for the proper and efficient administration of its plan approved under part A of title IV, reduced by the amount determined under section 403(a)(3) with respect to such expenditures (without regard to any reductions which may have been imposed under subsection (c), (f), (g), or (h) of section 403).

"STATE PLANS FOR SERVICES TO DISABLED CHILDREN

"SEC. 2128. (a)(1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to section 2103(b) and their families.

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, or medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(b)(1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (a) of this section, the costs incurred in each fiscal year, in carrying out the State plan approved pursuant to such subsection.

"(2)(A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 percent thereof shall be paid with respect to costs incurred with respect to activities described in subsections (a)(1)(A), (B), and (C).

"(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

"(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

"(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to $30,000,000 as the under age 7 population of such State bears to the under age 7 population of all the States. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.

"PART C—ADMINISTRATION OF INCOME SUPPLEMENT AND INCOME SUPPORT PROGRAM

"SEC. 2131. (a) Each household unit seeking payment under this title must apply therefore in such form and include in such application such information required in the administration of this Act as the Secretary may by regulation prescribe. A household unit has filed an application, for purposes of this section, on the day that an individual described in the following sentence makes, in person and at any location designated by the Secretary to receive applications or sends written request received at such a location containing, what may reasonably be interpreted as a request for payment under this title. The application may be filed by any adult individual claiming to be a member of the household unit on behalf of which the application is filed, or by any other person, on behalf of a household unit containing no adult member able to file, and shall apply with respect to all members of the household unit.

"(b) The application prescribed by the Secretary under subsection (a) shall include (1) those provisions necessary for each adult member of the household unit to assign to the State in which he resides any rights to support from any other person such member may have in his own behalf or in behalf of any other member of the household unit, and (2) the agreement of such adult member to cooperate with the State (A) in establishing the paternity of a child born out of wedlock who is a member of the same household unit, and (B) in obtaining support payments for such member and such child, or in obtaining any other payments or property due such member or child, unless (in either case) such member is found to have good cause for refusing to cooperate as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of such child. In the case of an adult member (referred to in the preceding sentence) who does not take all actions necessary to implement the application provisions required by this subsection, the maximum payable amount of such household unit is determined as though such member were not in that unit.

"(c) For purposes of this section, an application is effective as of the first day of the month in which it was filed, and is an application for benefits for each month beginning with the second month preceding the month of application and ending with (1) the month in which the Secretary denies the application, (2) the sixth consecutive month in which no amount is payable to a household unit which had previously been determined to be an eligible household unit, or (3) the month in which the application is withdrawn (in accordance with such rules as the Secretary may prescribe), whichever occurs first. Thereafter, payments under this title may only be made upon the filing of a new application.

"DETERMINATION OF ELIGIBILITY FOR AND AMOUNT OF PAYMENT

"SEC. 2132. (a) A household unit's eligibility for and amount of any payment under this title for any month shall be promptly determined at such time or times after the end of that month as the Secretary may provide.

"(b) A determination under subsection (a) may not be reopened or reconsidered for any reason after the expiration of twelve months following the close of the fiscal year in which that determination is made if—

"(A) the individual affected or an individual representing the household unit affected, had notice of the determination and did not seek timely consideration of this determination under section 2136, or

"(B) timely consideration of the determination was sought under section 2136 and the revised determination has become final.

"PAYMENTS OF BENEFITS

"SEC. 2133. (a) The Secretary shall make payments with respect to a household unit determined to be eligible therefor under this title at such time or times and in such installments as will best effectuate the purposes of this title.

"(b) The Secretary may make payments under this title to the member of the household unit whom he determines to be the principal earner of the unit, to any other adult member of the unit, or to two or more adult members of the unit in accordance with criteria prescribed by the Secretary to assure that all members of the eligible household unit receive the use and benefit of the payment. The Secretary may make all or any portion of the payment to any person (including a public or private agency) not a member of the unit who is interested in or concerned with the welfare of one or more members of the household unit upon the request of any member of the unit or upon the Secretary's finding that such manner of payment is necessary in order to ensure the availability of the payment on behalf of the unit or any member thereof.

"(c) The Secretary shall make provision for notice (including the transmittal of all relevant information), not later than the time of the first payment under this title, to the child support collection agency (established pursuant to part D of title IV), of the application for payment under this title with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established).

"(d) The maximum payable amount of an eligible household unit with respect to any individual who is under age 65 and has been determined by the Secretary to be blind (as defined by section 2110(4)(B)) or disabled (as defined by section 2110(4)(C)), and who ceases to be blind or be under such disability shall not be reduced on account of such cessation until the third month following the month in which such blindness or disability ceases.

"REPORTS AND FURNISHING OF INFORMATION

"SEC. 2134. (a) The member of an eligible household unit who has filed an application for payment under this title or, if different, the principal earner of an eligible household unit, or such other member as the Secretary may specify, shall file periodic reports on income and other relevant information, such as household unit composition and assets, as may be required by the Secretary and shall keep such other records, and file such information in such form and at such time or times as the Secretary may by regulation prescribe for the effective and efficient administration of this title.

"(b) In case of failure by an individual to keep records or furnish information as may be required by the Secretary under subsection (a), the Secretary may apply such presumptions or rules as he finds necessary to carry out the program, and, in the case of further failure, may suspend payment until such documentation of relevant facts and circumstances as he may find necessary, shall have been provided.

"OVERPAYMENTS AND UNDERPAYMENTS

"SEC. 2135. (a) Whenever the Secretary finds that more or less than the correct amount, as determined in accordance with section 2104, has been paid for any month with respect to an eligible household unit, proper adjustment shall, subject to the succeeding provisions of this part, be made by appropriate adjustments in future payments under this title with respect to such unit, by appropriate adjustments to future payments due a member of the unit under any other title of this Act administered by the Secretary if the action of such member is found to have caused the overpayment, or by recovery (in an amount that represents an equitably proportionate share of the total overpayment, as determined in accordance with regulations of the Secretary) from the unit or from a member or the estate of a member of the unit if the Secretary determines that the action of such member caused the overpayment. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount with a view to avoiding penalizing any member of such unit in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) would impede its effective or efficient administration.

"(b) If, in the case of any individual receiving payment from the Secretary under section 1602 or under an agreement under section 1616 of this Act for the month immediately preceding the month with which this title becomes effective, overpayments were made under such sections which have been neither waived nor fully recovered by the Secretary, the Secretary may make appropriate adjustments in future payments to the household unit of which such individual is a member in order to recover the remaining overpaid amount.

"DISAGREEMENT WITH DETERMINATIONS OF THE SECRETARY

"SEC. 2136. (a) The Secretary shall prescribe by regulation procedures for resolving any disagreement by an affected individual with a determination under this title affecting the eligibility of or the amount of payment to an eligible household unit. The regulations shall include provision for (1) prompt written notice of the determination to the individual who has applied for benefits on behalf of the household unit (or to the member required under section 2134(a) to submit periodic reports); (2) an opportunity for the affected individual to obtain an oral explanation of the basis for the determination; (3) procedures for resolving disputed issues remaining after resort to the procedures provided under clause (2), including, with respect to disputed issues of fact, an opportunity for an affected individual (A) to present his views and evidence to the Secretary or to an impartial individual designated by the Secretary, (B) to review any materials or evidence relied upon by the Secretary in making the determination, and (C) to confront and cross-examine adverse witnesses upon whose evidence the determination is based in whole or in part; (4) the issuance of a revised determination reaffirming or modifying the Secretary's initial determination, together with an explanation of the basis for that revised determination; and (5) procedures for administrative review of such determinations. The regulations shall also provide for the prompt issuance of supplementary payments or other actions to ensure that an affected individual or household unit that has been receiving payments continues to receive payments without reduction by reason of the disputed determination at previous levels pending the issuance of a revised determination. Any portion of a payment made pending the issuance of a revised determination solely by reason of the preceding sentence shall be subject to subsequent adjustments or recovery.

"(b) If the Secretary enters into an agreement with a State under section 2138(a), he may reserve the right to review and revise a determination made by the State under subsection (a).

"(c) An affected individual may obtain review of a final decision by the Secretary affecting the eligibility for or the amount of payment to a household unit, by filing a civil action, within sixty days of the date of the issuance of the Secretary's final decision, in the district court of the United States for the district in which such individual resides or has his principal place of business. Such district court shall have jurisdiction to affirm, modify or set aside the Secretary's order, under the standard of review set forth in 5 U.S.C. 706, or to remand the case to the Secretary for the taking of additional evidence or for other appropriate proceedings.

"FURNISHING OF INFORMATION BY OTHER FEDERAL AGENCIES

"SEC. 2137. (a) The head of any Federal agency including the Internal Revenue Service, the Veterans' Administration, and the Railroad Retirement Board, shall, at the written request of the Secretary, provide any records within the control of the agency as found by the Secretary to be needed to determine eligibility for or amount of payments under this title, or for verifying information related thereto with respect to any individual or household unit seeking payment under this title. Use and disclosure of information received by the Secretary under this section is restricted to purposes directly connected with the administration of this Act.

"(b) With respect to any certification submitted to the Secretary by the Secretary of Labor with respect to matters described in section 2105(d) (pertaining to computation for units subject to work requirements), the Secretary shall treat the certification as effective from the date by which it is required by law or regulation to be submitted, or the date specified by the certification, as may be applicable.

"STATE AGREEMENT TO RECEIVE APPLICATIONS AND DEVELOP ELIGIBILITY AND PAYMENT INFORMATION

"SEC. 2138. (a) The Secretary, at the request of a State, shall enter into a written agreement with the State specifying in full the actions which the State will take to receive applications under this title, verify the information contained therein, secure any additional information that may be necessary to determine the composition and eligibility of the household unit and the income and assets of such unit, receive and review the periodic reports required under section 2134 and as necessary certify any information contained in those reports, receive any notice of disagreement by an individual with a determination by the Secretary and, in accordance with the procedures specified by the Secretary under section 2136, hear and consider the individual's disagreement and make a revised determination if appropriate and provide for the performance of such related functions as the Secretary may find necessary. All information received (including the fact that a household unit has failed to file a required periodic report) shall be communicated to the Secretary at such time or times and in such manner as may be set out in the agreement between the State and the Secretary, consistent with regulations prescribed by the Secretary for the implementation of this section. The Secretary may, however, to the extent he deems it consistent with the efficient administration of the program established under this title, retain responsibility in any State for the administration of that program with respect to aged, blind, and disabled individuals who received supplemental security income benefits under title XVI for the month before the month that this title became effective.

"(b) All determinations made by the State under an agreement with the Secretary under subsection (a) shall be made in accordance with the regulations or other written guidelines of the Secretary adopted under this title.

"(c) The Secretary shall promulgate regulations prescribing the general content and procedures to be followed by the State in the administration of the agreement under subsection (a). Such regulations may include rules pertaining to all or any of the following matters:

"(1) prospective budget submissions by the State,

"(2) principles or criteria for the establishment of allowable administrative costs and applicable cost allocation rules.

"(3) fiscal control procedures which the State will be required to establish,

"(4) standards with respect to administrative structure and personnel matters, and

"(5) standards to be applied procedures to be followed in evaluating the State's administrative performance, including quality control procedures, fiscal reports, and access of appropriate Federal officials to State records relating to the administration of the program established under this title.

"(d)(1) Any State that has notified the Secretary under section 107(a) of the Better Jobs and Income Act of its intent to enter into an agreement with the Secretary under subsection (a) must agree to (A) administer or supervise the administration of the program in all political subdivisions of the State, and (B) administer or supervise the administration of the program for at least 12 months after it first becomes effective, and (C) advise the Secretary 12 months in advance and by written notice from the chief executive officer of the State, should the State wish to terminate the agreement. The Secretary may undertake administration of the program within the State at a time earlier than 12 months from the date of the notice if he determines it to be feasible.

"(2) If the Secretary finds that, in the implementation of the agreement entered into under subsection (a), the State has failed adequately to carry out its functions, or he shall so advise the State and set a schedule under which the State shall take corrective action. If the State fails to take corrective action in accordance with the schedule the Secretary may, terminate the agreement (A) with respect to some or all of the household units within the State having their place of residence within the boundaries of a reservation of an Indian tribe, as defined in the Indian Self-Determination Act (25 U.S.C. 4506(b)), or (B) in its entirety, upon such notice to the State as he finds

necessary to prepare for Federal administration, but in no event less than 90 days.

"(e)(1) The Secretary shall prescribe the time or times at which he will make payments to the State for 90 percent of the cost of carrying out the agreement under subsection (a) less 10 percent of the cost on any Indian reservation as to which the agreement has been terminated. If the Secretary finds, upon review of the accuracy and effectiveness of the administration by the State of the agreement, that the State's performance has been of unusually or exceptionally high level, he may increase such percentage up to 110 percent of the established and allowable costs, the amount of such increase to be related to the quality of the State's performance.

"(2) Notwithstanding paragraph (1), if the Secretary administers the program under this title with respect to household units described in subsection (d)(2)(A), at the time or times prescribed in paragraph (1), the State shall pay to the Secretary an amount equal to 10 percent of the cost of administering the program with respect to those household units, and the Secretary shall not make payments under that paragraph in excess of 90 percent of the cost of that State in carrying out the agreement.

"INFORMATION AND REFERRAL

"SEC. 2139. (a) The Secretary shall promptly notify the Secretary of Labor of each individual included as a member of an eligible household unit in an application for payment under this title who is likely to be eligible for subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973.

"(b) The Secretary shall provide for, as appropriate, the furnishing of information to and the referral of any member of a household unit concerning his possible eligibility for or the availability of subsidized work or training under title IX of the Comprehensive Employment and Training Act of 1973, medical assistance under a State plan approved under title XIX, services under a State plan under part A of title XX, assistance to meet the living expenses of needy families and individuals under a State plan under part B of title XX, and other aid or services that may be appropriate for such individual.

"ASSURANCES ON BENEFIT REDUCTION RATES

"SEC. 2140. Each State receiving financial assistance pursuant to this title shall, in accordance with regulations issued by the Secretary with the full participation of the Secretary of Labor, file a written assurance that it will not adopt or administer supplementation programs or other programs of financial assistance to household units receiving payments under this title which establish or result in the imposition of benefit reduction rates which exceed the maximum benefit reduction rates specified in section 2125. If the Secretary determines, after providing notice and opportunity for a hearing, that a State has violated the terms of the assurance, he shall impose appropriate sanctions pursuant to such regulations, including reducing Federal payments to the State under this Act sufficient to assure that the State will remedy the violation.

"MISCELLANEOUS FEDERAL-STATE ADMINISTRATIVE PROVISIONS

"SEC. 2141. (a) In any case in which a State has failed to pay the Secretary at the time prescribed the amount determined in accordance with any term of the agreement entered into under section 2121 or under subsection (c) of this section, or the amount required under section 2126(a) or section 2138(e)(2), the Secretary, after reasonable notice to the State and opportunity for hearing, may appropriate to his use under this title, in lieu of that payment or those payments, any amount (not in excess of an amount equal to that payment or those payments) otherwise payable to the State or any of its political subdivisions under this Act by the United States. Notwithstanding any law to the contrary, the Secretary, in execution of this subsection, shall notify the Secretary of the Treasury with respect to any such amount payable to the State under this Act but not yet expended, and the Secretary of the Treasury shall chedit such amount to the appropriation for this title.

"(b) There shall be no reduction or adjustment in any amount payable by the Secretary to a State, or by a State to the Secretary, under this title by reason of errors made on the part of either the State or the Secretary in connection with determination of eligibility for or amount of the payment to be made under this title with respect to any individual or household unit.

"(c) If, within 12 months after this title becomes effective, it comes to the attention of the Secretary that less than the correct amount of aid to families with dependent children, supplemental security income benefits, or State supplementary payments under an agreement under section 1616 of this Act, for any month within the 12 month period prior to the month with which this title becomes effective, has been paid, he shall pay such benefits and, subject to an agreement by the State to reimburse him for the amount of such State supplementary payments, or one-half the amount of aid to families with dependent children payable, make such payments or pay such aid.

"DETERMINATIONS OF BLINDNESS AND DISABILITY

"SEC. 2142. (a) Subject to subsection (b), the Secretary may, if he finds it will facilitate the making of payments under this title, make arrangements with one or more agencies or other organizations for the determination of blindness or disability under section 2110 of an individual applying for payments under this title. Arrangements under this subsection for determinations of blindness and disability, if made with the agency of a State which makes such determinations for the Secretary under title II, shall generally be in the same manner and subject to the same conditions as provided with respect to disability determinations under section 221, except that the Secretary may reverse a decision in whole or in part, and if he finds that the State has failed to make accurate determinations in a significant number of cases, or that the State agency has not made reasonably prompt determinations in a significant number of cases, the Secretary may, upon 90 days' notice to the State, terminate the agreement with the State and make other arrangements for the performance of all or any portion of the blindness and disability determination function in that State.

"(b) In determining, for purposes of this title, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whomever the individual may select.

"ADMINISTRATIVE ARRANGEMENTS

"SEC. 2143. The Secretary may enter into contracts, or make such administrative or other arrangements, with individuals or with agencies or organizations, as he finds appropriate to enable him to carry out the program established under this title in the most effective and efficient manner.

"PENALTIES FOR FRAUD

"SEC. 2144. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any payment under this title.

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such payment, or (B) the initial or continued right to any such payment of any other individual in whose behelf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized, or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"ADJUSTMENT OF PAYMENT AMOUNTS

"SEC. 2145. (a) Effective with respect to months beginning with the month in which section 2101 comes into effect, each individual amount under subsection (a), each increment for a household unit under subsection (b), and each reduction under subsections (c)(1) and (d)(1) of section 2105, the amount of $316.67 specified by section 2107(b)(2), the amount of $158.33 specified by section 2124, and the amount of $25 specified in section 2102(c) are increased by an amount derived by multiplying that amount, increment, or reduction by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers for the third calendar quarter preceding the quarter in which occurs the month in which section 2101 comes into effect exceeds that index for the calendar quarter ending March 31, 1978. The Consumer Price Index for a quarter is the arithmetical mean of that index for the 3 months in that quarter.

"(b) The Secretary shall publish in the Federal Register the amount of each individual amount, increment, and reduction, as so increased, within 45 days of the close of the later quarter described in subsection (a)".

ASSISTANCE TO MEET EMERGENCY NEEDS

SEC. 102. (a) Title XX of the Social Security Act is amended—

(1) by adding "AND ASSISTANCE TO MEET EMERGENCY NEEDS" after "SERVICES" in the title,

(2) by inserting "PART A—SOCIAL SERVICES" as a caption between the caption of the title and the caption of section 2001,

(3) by striking out "this title" each place it appears and inserting 'this part" in lieu thereof, and

(4) by adding at the end of title XX the following new part:

"PART B—ASSISTANCE TO MEET EMERGENCY NEEDS

"APPROPRIATIONS AUTHORIZED

"SEC. 2011. (a) For the purpose of enabling each State to furnish assistance to meet the living expenses of needy families and individuals not met under title XXI of this Act, there is authorized to be appropriated for fiscal year 1981, and each fiscal year thereafter, a sum sufficient to make payments to States and territories under section 2012.

"(b) For the purpose of aiding States to furnish assistance to meet the living expenses of special categories of needy families and individuals not met under title XXI of this Act or from appropriations under subsection (a), there is authorized to be appropriated for fiscal year 1981, and each fiscal year thereafter, a sum of $20,000,000 to be used by the Secretary as provided under section 2016.

"PAYMENTS TO STATES

"SEC. 2012. (a)(1) From the sums appropriated therefor, the Secretary shall, subject to the provisions of this section and section 2013, pay to each State that has a plan approved under section 2013(d)(2), for each quarter, the total expenditures during that quarter for the provision of the assistance described in section 2011, including expenditures for administration.

"(2)(A)(1) No payment (other than a payment with respect to a natural disaster or other occurrence described in paragraph (3)) with respect to any expenditure may be made under this section to any State except as provided by clauses (ii), (iii), and (iv).

"(ii) For the first fiscal year for which this part is effective, a payment to a State under this part may not exceed an amount equal to the product of—

"(I) $600,000,000 and

"(II) a fraction, the numerator of which is the amount determined under section 2126(b)(1)(B) (pertaining to the base for maintenance of State effort) with respect to that State, and the denominator of which is the sum of such amounts determined under that section with respect to the 50 States and the District of Columbia.

"(iii) For the second fiscal year for which this part is effective, a payment to a State under this part may not exceed the sum of an amount equal to 75 percent of the amount determined under clause (ii), and 25 percent of an amount equal to the product of—

"(I) $600,000,000 and

"(II) a fraction, the numerator of which is the population of the State, and the denominator of which is the population of the 50 States and the District of Columbia, during the most recent preceding calendar year for which the Secretary finds satisfactory data to be available.

"(iv) For each subsequent fiscal year for which this part is effective, clause (iii) applies, except that the terms '75 percent' and '25 percent', as used in that clause, are respectively deemed to be—

"(I) for the third fiscal year from which this part is effective, 50 percent each;

"(II) for the fourth fiscal year for which this part is effective, 25 percent and 75 percent, respectively; and

"(III) for the fifth fiscal year for which this part is effective, and each subsequent fiscal year, 0.0 percent and 100 percent, respectively.

"(v) For purposes of this subparagraph (A), the term 'State' does not include the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marina Islands, Guam, or the Virgin Islands.

"(B)(i) No payment (other than a payment with respect to a natural disaster or other occurrence described in paragraph (3)) with respect to any expenditure may be made under this section to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marina Islands, Guam or the Virgin Islands except as provided by clause (ii).

"(ii) The payment to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands shall be made in the manner provided by subparagraph (A) (without regard to clause (v) thereof), except that the term 'State' as used in that paragraph is deemed to mean the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands, as applicable; the term '50 States and the District of Columbia' as used in that paragraph is deemed to mean the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands; and the ratios are determined with respect to $10,000,000 for the purposes of applying each clause of that subparagraph (A).

"(C) The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph at the time and in the manner prescribed by section 2002(a)(2)(A) for payments under part A.

"(3) The President, upon the recommendation of the Secretary, may authorize the Secretary to pay to each State that has a plan approved under section 2013(d)(2), for each quarter, an amount equal to the all or any portion of the expenditures during that quarter for the provision of the assistance described in section 2011, including expenditures for administration, if the President finds, that by reason of natural disaster or other occurrence of regional or national significance beyond its control, a State has been subjected to an extraordinary increase, for any quarter, in its expenditures for emergency assistance. Upon his finding of such a natural disaster or other occurrence, the President may authorize the Secretary, in advance of State expenditures with respect to the disaster or occurrence, may enter into an agreement with any State under which he will reimburse those expenditures under this paragraph.

"(b)(1) Prior to the beginning of each quarter the Secretary shall estimate the amount to which a State will be entitled under this section for that quarter on the basis of a report filed by the State containing its estimate of the amount to be expended during that quarter with respect to which payment must be made under this section, together with an explanation of the basis for that estimate.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment that the Secretary determines was made under this section to the State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"PROGRAM REPORTING; FILING OF CLAIMS

"SEC. 2013. (a) Each State that participates in the program established by this part shall make such reports concerning its expenditures under this part as the Secretary may by regulation require.

"(b)(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsection (a) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 2012 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

"(2) The Secretary may suspend implementation of any termination of payments under paragraph (1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2012 for expenditures during that period by 3 per centum for each requirement of subsection (a) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

"(c) The Secretary may not make any payment to a State under section 2012, unless the State has submitted its claim for that payment to the Secretary, in accordance with the Secretary's regulations, not later than the close of the second fiscal year succeeding the fiscal year in which the claim arose.

"PLAN OF ASSISTANCE

"SEC. 2014. (a) Each State that participates in the program established by this part shall have a plan applicable to its provision of assistance under this part that—

"(1) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for assistance described in section 2012 is denied or is not acted upon with reasonable promptness;

(2) provides that the use or disclosure of information obtained in connection with administration of the State's program described in section 2012 will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of this title, the income supplement and income support program established by title XXI, or the plan of the State approved under title XIX;

"(3) provides for the designation by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency that will administer or supervise the administration of the State's program for the provision of the assistance described in section 2012;

"(4) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in the program of the State for the provision of the assistance described in section 2012;

"(5) provides that the State's program for the provision of the assistance described in section 2012 will provide only assistance to meet the living expenses of needy families and individuals and will be in effect in all political subdivisions of the State;

"(6) provides that no more than 15 percent of any payment under section 2012 will be used for administrative expenses (as defined by regulations of the Secretary);

"(7) provides that the proposed and final program plan of the State under section 2015 will comply with such regulations as the Secretary may promulgate for the allocation of assistance among classes or categories of needy families and individuals;

"(8) provides that the State has in effect a plan approved under part D of title IV and is operating a child support program in conformity with that plan; and

"(9) in the case of assistance provided under section 2012(a)(3), provides administrative arrangements to assure the coordination of that assistance with aid (if any) provided by other departments and agencies of the United States.

"(b) The Secretary shall approve any plan that complies with the provisions of subsection (a).

"(c)(1) No payment may be made under section 2012 to any State that does not have a plan approved under this section.

"(2) In the case of any State plan that has been approved by the Secretary under this section, if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

"(A) that the plan no longer complies with the provisions of subsection (a), or

"(B) that in the administration of the plan there is a substantial failure to comply with any such provision,

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 2012 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

"(3)(A) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2012 for expenditures during that period by 3 percent for each paragraph of subsection (a) with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

"(B) In the event of a finding of noncompliance with paragraph (6) of subsection (a) with respect to any fiscal year, the Secretary, in lieu of any reduction of payment to a State under subparagraph (A), may reduce the payment to the State for a fiscal year under this part by an amount equal to the amount by which the State's expenditures for administrative expenses exceeded the amount allowable under paragraph (6). Any such reduction shall be offset against the State's administrative expenses under this part allowable under paragraph (6) for the year to which the offset is applied.

"STATE ADOPTION OF PROGRAM PLAN

"SEC. 2015. A State's program planning meets the requirements of this section if, for the purpose of assuring public participation in the development of the program for the provision of the assistance described in section 2012 within the State—

"(1) the beginning of the fiscal year of either the Federal Government or the State government is established as the beginning of the State's program year; and

"(2) at least ninety days prior to the beginning of the State's services program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes and makes generally available (as defined in regulations prescribed by the Secretary after consideration of State laws governing notice of actions by public officials) to the public a proposed assistance for emergency needs program plan prepared by the agency designated pursuant to the requirements of section 2014(a)(3) and unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the State's plan for the provision of the services described in section 2012 during that year, including—

"(A) the objectives to be achieved under the program,

"(B) the assistance to be provided under the program and the circumstances under which the State will provide that assistance, as the State may impose,

"(C) a description of the planning, evaluation, and reporting activities to be carried out out under the program,

"(D) the sources of the resources to be used to carry out the program,

"(E) a description of the organizational structure through which the program will be administered,

"(F) a description of how the provision of assistance under the program will be coordinated with the assistance provided under the income supplement and income support program established by title XXI,

"(G) the estimated expenditures under the program, including estimated expenditures with respect to classes of individuals to whom assistance is to be provided, and a comparison between estimated non-Federal expenditures under the program and non-Federal expenditures for the provision of assistance described in section 2012 in the State during the preceding services program year, and

"(H) a description of the steps taken, or to be taken, to assure that the needs of all residents of, and all geographic areas in, the State were taken into account in the development of the plan; and

"(3) public comment on the proposed plan is accepted for a period of at least forty-five days; and

"(4) at least forty-five days after publication of the proposed plan and prior to the beginning of the State's program year, the chief executive officer of the State, or such other official as the laws of the State provide, publishes a final program plan prepared by the agency designated pursuant to the requirements of section 2014(a)(3) and, unless the laws of the State provide otherwise, approved by the chief executive officer, which sets forth the same information required to be included in the proposed plan, together with an explanation of the differences between the proposed and final plan and the reasons therefor; and

"(5) any amendment to a final program plan is prepared by the agency designated pursuant to section 2014(a)(3), approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a proposed amendment on which public comment is accepted for a period of at least thirty days, and then prepared by the agency designated pursuant to section 2014(a)(3), approved by the chief executive officer of the State unless the laws of the State provide otherwise, and published by the chief executive officer of the State, or such other official as the laws of the State provide, as a final amendment, together with an explanation of the differences between the proposed and final amendment and the reasons therefor.

"ASSISTANCE FOR SPECIAL CATEGORIES OF NEEDY FAMILIES AND INDIVIDUALS

"SEC. 2017. (a) If the Secretary finds that a State has adopted, with respect to a fiscal year, a final program plan or plan amendment under section 2015 that makes provision for assistance to classes of needy families and individuals in exceptional need, or with respect to whom services provided under part A of this title are not readily available, such as migrants, he may, from amounts appropriated for that year under section 2011(b), augment the amounts set aside by the State under that plan for any such class.

"(b) The Secretary may enter into an agreement with a State to pay to the State an amount authorized under subsection (a) in consideration of the State's adoption of a final program plan or plan amendment that meets the conditions of that subsection.

"(c) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that the State has failed to comply with that portion of its final program plan with respect to which he made any payment under subsection (a), he may offset all or any portion of that payment against any payment to the State under this part for any fiscal year.

"DEFINITIONS

"SEC. 2017. The following definitions apply to this part—

"(1)(A) The term 'assistance to meet the living expenses of needy families and individuals' means—

"(i) money payments, payments in kind, or such other payments as the agency designated under section 2014(a)(3) may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, the families or individuals with respect to whom the assistance is provided, and

"(ii) such services as the Secretary may specify;

furnished for such period as the State may determine.

"(B)(i) Except as provided by clause (ii) of this subparagraph, the term 'needy families and individuals' excludes families (as defined by the Secretary), and individuals who are members of families, the monthly gross income of which exceeds twice the maximum payable amount under section 2105 for a family of like kind in the State adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of family. The term also excludes an individual who is not a member of a family if the individual's income exceeds such limits, consistent with clauses (i) and (ii) of this subparagraph, as the Secretary shall prescribe.

"(ii) Nothwithstanding clause (i), the term does not exclude an individual who is a member of a household unit eligible for, or receiving, a payment under title XXI.

"(2) As used in this part, the term 'State' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands."

AMENDMENT TO EARNED INCOME TAX CREDIT

SEC. 103. EARNED INCOME TAX CREDIT.

(a) Subsection (a) of section 43 of the Internal Revenue Code of 1954 (relating to the allowance of a credit with respect to earned income) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of so much of the earned income for the taxable year as does not exceed $4,000, and

"(2) 5 percent of the amount by which such individual's earned income for the taxable year or the amount specified in subsection (c)(4), whichever is less, exceeds $4,000."

(b) Subsection (b) of section 43 of such Code (pertaining to the limitation on the amount of the earned income credit) is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to an individual under subsection (a) for any taxable year is reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the individual for the taxable year as exceeds the amount established with respect to the individual by subsection (c)(4)."

(c) Clause (i) of section 43(c)(2)(A) (defining earned income) is amended by inserting after "compensation" the following: "(other than amounts received as compensation from subsidized work and training as defined in paragraph (3))".

(d) Subsection (c) of section 43 (defining terms related to the earned income credit) is amended by adding the following new paragraphs:

"(3) SUBSIDIZED WORK AND TRAINING.—The term 'subsidized work and training' means employment the compensation for which is funded under title IX of the Comprehensive Employment and Training Act of 1973.

"(4) MAXIMUM INCOME AMOUNT.

"(A) For purposes of subsection (b), the amount established with respect to an individual is an amount in accordance with the following table:

"If the number of deductions for personal exemption provided to the individual under section 151 is:	The amount is:
2	$6,500
3	7,800
4	9,100
5	10,400
6	11,700
7 or more	13,000.

"(B) Effective with respect to taxable years beginning with the taxable year in which section 103 of the Better Jobs and Income comes into effect, each amount specified in the table in subparagraph (A) of this paragraph is increased by an amount derived by multiplying that amount by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers for the third calendar quarter preceding the quarter in which occurs the month in which section 2101 of that Act comes into effect exceed that index for the calendar quarter ending March 31, 1978. The Consumer Price Index for a quarter is the arithmetical mean of that index for the 3 months in that quarter."

(e) Section 3402 of the Code (relating to the withholding of income tax on the payment of wages) is amended by adding at the end thereof the following new subsection:

"(r) EMPLOYEES ELIGIBLE FOR THE EARNED INCOME CREDIT. Notwithstanding any other provision of this section, an employer is required to reduce the amount of tax deducted and withheld under this chapter upon the payment of wages to an employee, if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary may prescribe) furnished to the employer by the employee certifying that—

"(1) the employee will be eligible to receive the credit provided in section 43 for the taxable year;

"(2) the employee does not have a withholding exemption certificate described in this subsection in effect for the taxable year with respect to the payment of wages by another employer; and

"(3) the employee's spouse does not have a withholding exemption certificate described in this subsection in effect for the taxable year with respect to the payment of wages by such spouse's employer.

The amount by which the tax otherwise withheld under this chapter is reduced by reason of this subsection shall be determined from tables prescribed by the Secretary. In the tables so prescribed, the amounts set forth shall be determined in accordance with the computation of the credit provided in section 434."

(f) Section 3102 of the Code (relating to the deduction of the employee's share of FICA tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYEES ELIGIBLE FOR THE EARNED INCOME CREDIT. In the case of an employee who has made a request for reduced withholding under section 3402(r), the amount of tax imposed by section 3101 which is deducted from an employee's wages shall be reduced by the amount, if any, by which the credit provided in section 43 prorated to the payroll period (as set forth in the tables prescribed by the Secretary under section 3402(r)), exceeds the amount of tax that would have been withheld under section 3402 if the employee had not requested reduced witholding under section 3402(r)."

(g) Section 6302 of the Code (relating to the mode or time or collection of taxes) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR THE PAYMENT OF TAX IMPOSED BY SECTION 3111.

"(1) In the case of an employee who has made a request for reduced withholding under section 3402(r), the employer shall pay the amount determined under paragraph (2) directly to such employee. Such payment shall be treated as a payment to the Secretary of the tax imposed by section 3111.

"(2) The amount of the tax imposed by section 3111 to be paid directly to the employee under paragraph (1) shall be the amount, if any, by which the credit provided in section 43 prorated to the payroll period (as set forth in the tables prescribed by the Secretary under section 3402(r)), exceeds the amount by which such employee's withholding has been reduced by reason of sections 3402(r) and 3102(d)."

(h) The amount by which the taxes collected under section 3101 of the Internal Revenue Code of 1954 is reduced by reason of subsection (f) of this section and the amount of the taxes imposed by section 3111 of such Code which are paid directly to employees under subsection (g) of this section shall be transferred monthly from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund in the same proportion as would be taxes in that amount collected under section 3101 and 3111.

(i) Subsection (b) of section 6401 of the Internal Revenue Code (relating to the treatment of excessive credits as overpayments) is amended by adding at the end thereof the following: "The amount considered to be an overpayment in the case of the earned income credit under section 43 shall be reduced by the amount, if any, that the taxes withheld under section 3102(a) were reduced by the application of section 3102(d), plus the amount of any payment of the taxes imposed by section 3111 made directly to the employee under section 6302(d)."

REPEALS

SEC. 104. (a) Title XVI and parts A and C of title IV of the Social Security Act are repealed.

(b) The Food Stamp Act of 1964 is repealed.

(c) Sectiin 303(b) of the Social Security Amendments of 1972 (P.L. 92-603) (making inapplicable to Puerto Rico, Guam, and the Virgin Islands the repeal of title I, X, and XIV of the Social Security Act and the amendment of title XVI of that Act) is repealed.

(d) Section 212 of P.L. 93-66 is repealed.

(e) Section 9 of the Act of April 19, 1950 (authorizing additional Federal participation in State expenditures for aid to families with dependent children to certain Navajo and Hopi Indians) is repealed.

(f) Notwithstanding the preceding provisions of this section, the Secretary of Health, Education, and Welfare shall make payments as prescribed by the Social Security Act as in effect prior to the effective date of the amendment made by section 101 for (1) activities carried out prior to such effective date under plans approved under title I, X, XIV, or XVI of such Act (applicable to Puerto Rico, Guam, and the Virgin Islands), under part A of title IV of such Act, or under agreements entered into by a State and the Secretary under title XVI of such Act or section 212 of P.L. 93-66 (as such title and such section were in effect prior to the effective date of this section), and (2) administrative activities carried out after the effective date of this section which the Secretary determines are necessary to bring to a close activities carried out under such plans or such agreements, and each State shall pay to the Secretary any amounts which are determined, in accordance with whatever procedures applied prior to the effective date of this section, to be owed to the Secretary in connection with his administration of State supplementation under such agreement.

CONFORMING AMENDMENTS

SEC. 105. (a) Title IV of the Social Security Act is amended by—

(1) striking out subparagraph (B) of section 422(a)(1); and

(2) repealing section 422(c).

(b) Title XI of such Act is amended by—

(1)(A) amending the final sentence in paragraph (1) of section 1101(a) to read as follows: "Such term when used in title XXI includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam and the Virgin Islands.", and

(B) repealing paragraph (8) of such section;

(2) deleting subsections (a) and (b) of section 1108;

(3) repealing section 1109;

(4) repealing section 1111;

(5)(A) striking out "title I, VI, X, XIV, XVI, XIX, or XX, or part A of title IV" in the first sentence of section 1115 and inserting in lieu thereof "title XIX or XX",

(B) striking out "section 2, 402, 602, 1002, 1402, 1602, 1902, 2002, 2003, or 2004" in such sentence and inserting in lieu thereof "section 1902, 2002, 2003, or 2004", and

(C) striking out "section 3, 403, 603, 1003, 1403, 1603, 1903, or 2002" in such sentence and inserting in lieu thereof "section 1903 or 2002";

(6)(A) striking out "title I, VI, X, XIV, XVI, XIX, or XX, or part A of title IV" wherever it appears in section 1116 and inserting in lieu thereof "title XIX or XX", and

(B) striking out "section 4, 404, 604, 1004, 1404, 1604, 1904, or 2003" in subsection (a)(3) of such section and inserting in lieu thereof "section 1904 or 2003";

(7) repealing section 1118; and

(8) repealing section 1119.

(c) Title XIX of such Act is amended by—

(1) striking out "except that the determination of eligibility" and all that follows in clause (5) of section 1902(a) and inserting in lieu thereof "except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the agreement entered into by such State and the Secretary under section 2138;";

(2) striking out "all individuals receiving aid or assistance" and all that follows in clause (A) of section 1902(a)(10) and inserting in lieu thereof "all individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month immediately prior to the effective date of title XXI;";

(3) striking out "individuals receiving aid or assistance" and all that follows in clause (B) of section 1902(a)(13) and inserting in lieu thereof "individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month immediately prior to the effective date of title XXI, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1905(a), and";

(4)(A) striking out, in subparagraph (A) of section 1902(a)(14), "individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resource requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment" and inserting in lieu thereof "individuals who would be eligible to receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid under title XVI (had application been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month prior to the effective date of title XXI, or who would meet the income and resource requirements of such appropriate State plan or of title XVI, and individuals with respect to whom there

would be paid, or who would be eligible (including individuals who would be eligible if they were not in a medical institution) to have paid with respect to them a State supplementary payment";

(B) amending so much of subparagraph (B) of section 1902(a)(14) as precedes clause (i) to read as follows:

(B) with respect to individuals (other than individuals with respect to whom there would be paid, or who would be eligible (including individuals who would be eligible if 406(a)(2)) have been a dependent child unhave paid with respect to them, a State supplementary payment (if application had been made for such payment) and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10)(A)) who would not be eligible to receive aid or assistance under any such State plan and with respect to whom supplemental security income benefits would not be paid under title XVI (if application had been made for such benefits) and who would not meet the income and resource requirements of the appropriate State plan, or the supplemental security income program, as the case may be,";

(5)(A) striking out, in the matter that precedes clause (A) of paragraph (17) of section 1902(a), who are not receiving aid or assistance under any plan of the State approved under title I, XI, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" and inserting in lieu thereof "who would not receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits would not be paid under title XVI (even if application had been made for such aid or assistance or for such benefits)",

(B)(i) inserting, immediately following "provide for" in clause (B) of such paragraph, "disregarding from the income of the applicant or recipient any amount paid with respect to such individual under section 2104 or section 2111, or any amounts received as a cash payment by or for the use of such individual from any agency of a State or its political subdivisions the eligibility for, or amount of which, is dependent upon the financial resources of that individual or his need for financial assistance, and", and

(ii) striking out, in clause (B) of such paragraph "in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI" and inserting in lieu thereof "in the case of any applicant or recipient who would, except for income and resource, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV or to have paid with respect to him supplemental security income benefits under title XVI, if such plans and such title had remained as they were in effect for the month prior to the effective date of title XXI", and

(C) striking out all that follows "who is under age 21" down to the first semicolon in clause (D) of such paragraph and inserting in lieu thereof "or is blind or disabled as defined in section 2110";

(6) striking out all that follows "who is under age 21" in paragraph (18) of section 1902(a) and inserting in lieu thereof "is blind or disabled as defined in section 2110 of any medical assistance correctly paid on behalf of such individual under the plan;";

(7) inserting "(as such sections were in effect prior to the effective date of title XXI)" in paragraph (20)(C) of section 1902(a) immediately following "section 1603(a)(4)(a)(i) and (ii);

(8) amending section 1902(b)(2) to read as follows:

"(2) effective July 1, 1967, any age requirement which excludes any individual who has not attained the age of 21 and would (or would except for the provisions of section 406(a)(2) have been a dependent child under part A of title IV (as such title was in effect prior to the effective date of title XXI);";

(9) repealing section 1902(c);

(10) amending section 1902(e) to read as follows:

"(e) Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which would be eligible to receive aid pursuant to the plan of the State approved under part A of title IV (if such plan had remained as in effect for the month prior to the effective date of title XXI) in at least three of the six months immediately preceding the month in which such family would become ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family were eligible to receive aid under the plan approved under part A of title IV) for four calendar months beginning with the month in which such family would become ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan."

(11)(A) striking out "not eligible to participate in the State plan program established under title XVI" in subsection (f) of section 1902;

(B) by striking out of such subsection "(within the meaning of title XVI)" and inserting "(as defined in section 2110)" in lieu thereof;

(C) striking out "after deducting any supplemental security income payment and State supplementary payment" in such subsection and inserting in lieu thereof "after deducting any payment made under title XXI";

(D) striking out "there is payable a State supplementary payment" in the second sentence of such subsection and inserting "there would be payable a State supplementary payment" in lieu thereof, and striking out in the same sentence "an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable" and inserting in lieu thereof "an aged, blind, or disabled individual (as defined in section 2110) with respect to whom amounts are payable under section 2104, without regard to part B of title XXI";

(12) striking out "are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment" in section 1903(a)(1) and inserting in lieu thereof "would have received aid or assistance under any plan of the State approved under title I, XI, XIV, or XVI, or under part A of title IV, or with respect to whom supplemental security income benefits would have been payable under title XVI (if application had been made for such aid or assistance or for such benefits) if such plans and such title had remained in effect as they were for the month prior to the effective date of title XXI, or (B) with respect to whom there would have been paid a State supplementary payment (if application had been made therefor)";

(13)(A) striking out "133⅓ percent of the highest amount which would ordinarily be paid" in section 1903(f)(1)(B)(i) and inserting "133⅓ percent of the highest amount which would ordinarily have been paid" and by inserting "as in effect for the month prior to the effective date of title XXI" immediately before the period at the end thereof,

(B)(i) striking out "highest amount which would ordinarily be paid" in section 1903(f)(3) and inserting "highest amount which would ordinarily have been paid" in lieu thereof,

(ii) striking out "which would ordinarily be payable" in such section and inserting "which would ordinarily have been payable" in lieu thereof, and

(iii) inserting immediately before the period at the end of such section 1903(f)(3) "(as such part and as such section were in effect for the month prior to the effective date of title (XXI)",

(C) amending subparagraph (A) of section 1903(f)(4) to read as follows:

"(A) who would receive aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits would be paid (if application had been made for such aid or assistance or for such benefits) or would have been eligible for such aid or assistance or such benefits if he were not in a medical institution (if such plans and such title had remained in effect as they were prior to the effective date of title XXI), or" and

(D) repealing subparagraph (B) of section 1903(f)(4) and redesignating subparagraph (C) as subparagraph (B) and amending it to read as follows:

"(B) with respect to whom there would be paid (or would be payable with respect to him if he were not in a medical institution) a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the sum of the public assistance income, the unearned income, and the earned income (as defined in section 2106(a) without regard to section 2107) of such individual in such month does not exceed 300 percent of the maximum payable amount established by section 2105 applicable to such individual,";

(14)(A) striking out all after "at the option of the State," in section 1905(a) down to clause (i) and inserting in lieu thereof "to individuals (other than individuals with respect to whom there would be paid or with respect to whom there would be payable if they were not in a medical institution (if application were made therefor) a State supplementary payment and are eligible for medical assistance made available to individuals described in section 1902(a)(10)(A)) who would not have received aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits would not have been payable (even if application had been made for such aid or assistance or for such benefits) if such plans and such title had remained as they were in effect for the month prior to the effective date of title XXI, who are—",

(B) inserting "(as such sections and such part were in effect prior to the effective date of title XXI)" immediately before the comma at the end of clause (ii) of section 1902(a),

(C) amending clause (iv) of such section to read as follows:

"(iv) blind or disabled as defined in section 2110, or",

(D) repealing clauses (v) and (vi) of section 1905(a) and redesignating clause (vi) as clause (v) and amending it to read as follows:

"(v) persons essential (as described in the second sentence of this subsection) to individuals who would have received aid or assistance under a State plan approved under title I, X, XIV, or XVI (if such plans had remained in effect as they were for the month prior to the effective date of title XXI).

(E) amending the second sentence of section 1905(a) to read as follows:

"For purposes of clause (v) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person would be taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI (if such plans had remained in effect as they were prior to the effective date of title XXI)), and such person would be determined, under such a State plan, to be essential to the well being of such an individual.";

(15) amending subsection (j) of section 1905 to read as follows:

"(j) The term 'State supplementary payment' means any cash payment which would be made by a State on a regular basis to an individual eligible to receive supplemental security income benefits under title XVI (if such title had remained in effect as it was prior to the effective date of title XXI) or who would, but for his income, be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary)."

(d) Title XX of such Act is amended as follows:

(1) Section 2002(a)(4) of the Social Security Act is amended by (A) redesignating subparagraph (E) as subparagraph (B), and (B) by striking out each subparagraph preceding that subparagraph and inserting in lieu thereof the following—

"(A) who are receiving a payment or who are eligible to receive a payment under title XXI, or".

(2) Section 2002(a)(5) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following—

"(A) who is receiving a payment under title XXI, or".

(3) Section 2002(a)(8) of the Act is amended by striking out "403 or".

(4) Section 2003(d)(1)(B) of the Act is amended by striking out "the plan of the State approved under part A" and all that follows, and inserting in lieu thereof "the plan of the State developed under part B of this title, the earned income supplement and income support program established by title XXI, or the plan of the State approved under title XIX;".

(5) Section 2004(2)(B) of the Act is amended by striking out "for individuals who are recipients of supplemental security income benefits under title XVI" and inserting instead "for individuals who are recipients of payments under title XXI and who are aged, blind, or disabled individuals within the meaning of section 2110(4)(A)".

(6) Section 2004(2)(H) of the Act is amended by striking out "the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title, the supplemental security income program established by title XVI," and inserting instead the following: "the earned income supplement and income support program established by title XXI, the plan of the State developed under part B of title IV,".

FEDERAL EMPLOYMENT OF CERTAIN STATE AND LOCAL EMPLOYEES OR SPECIALLY QUALIFIED PERSONNEL; ACQUISITIONS OF BUILDINGS AND EQUIPMENT; START-UP FUNDS ADVANCE APPROPRIATIONS

SEC. 106. (a)(1) The Secretary of Health, Education, and Welfare shall, consistent with the law governing appointment to the competitive service, take measures, during the period beginning with the date of enactment of this Act and ending 12 months after the month in which section 101 of this Act becomes effective, to provide priority in the selection of individuals described in paragraph (2) for appointments to positions in the competitive service of the United States for which they apply and are qualified, to perform functions of the Secretary authorized under this Act.

(2) An individual is eligible for assistance under paragraph (1) if, upon the date of enactment of this Act:

(i) he was an employee of a State or any political subdivision of a State who was compensated in whole or in part from sums paid under title XVI or XIX, or part A of title IV, of the Social Security Act or under the Food Stamp Act of 1964; and

(ii) he was the incumbent of a position all or a major part of the duties of which (I) were directly related to determining on behalf of the State or political subdivision the eligibility of persons for assistance payments or food stamps from sums paid to the State under such provisions of the Social Security Act or Food Stamp Act of 1964, or directly related to the making of such assistance payments (other than medical assistance payments) or providing food stamps or (II) were in support of such determinations or the making of such assistance payments (other than medical assistance payments) or providing food stamps.

(b)(1) EMPLOYMENT OF SPECIALLY QUALIFIED PERSONNEL. The Secretary is authorized until the close of the twelfth month following the month in which section 101 becomes effective, to establish and fix the compensation for not more than 50 positions, each such position being established to effectuate those activities of the Secretary in the administration of this Act that require the services of specially qualified professional or administrative personnel. The rates of compensation of positions established under this paragraph shall not exceed the grade of GS–18 of the General Schedule (5 U.S.C. 5332), or, in the case of five such positions, the rate specified, at the time the service in the position is performed, in the case of one such position for level III, two such positions for level IV, and three such positions for level V of the Executive Schedule (5 U.S.C. 5313). Positions created under this paragraph (other than a position under clause (B)) are in the competitive service of the United States, but appointments to such positions within 12 months after section 101 of this Act becomes effective shall be made without competitive examination, upon the Secretary's determination that the appointee's qualifications are consistent with the basis, set forth in section 5104 of title 5, United States Code, for grading comparable positions.

(2) DIRECT HIRING AND PAY OF NEW APPOINTEES. Until the close of the twelfth month following the month in which section 101 becomes effective, if the Secretary finds that it will promote the efficient administration of this Act with respect to procuring the services of individuals in occupations for which the rates of pay in private enterprise are found by the Secretary to be substantially above the pay rates established by 5 U.S.C. 5332, or individuals whose services cannot otherwise readily and expeditiously be procured, the Secretary is authorized—

(A) to administer to an applicant for employment, at such times and places as the Secretary may determine, any examination prescribed under 5 U.S.C. 3305, and to appoint the applicant to a position in the competitive service of the United States for which the Secretary finds the applicant qualified, notwithstanding that the name of the applicant is not entered on a register or list of eligibles established under 5 U.S.C. 3313 or certified under 5 U.S.C. 3317; and

(B) to employ a new appointee at a step rate, within the grade in which he is appointed, that is above the first step of that grade established by the General Schedule.

(c) ACQUISITION OF BUILDINGS AND EQUIPMENT. The Secretary is authorized, until the close of the twelfth month following the month in which section 101 becomes effective—

(1) to authorize the Administrator of General Services to procure from any State or any of its political subdivisions, on terms and conditions to which the State or political subdivisions, the Administrator, and the Secretary may agree, and without regard to any other law or regulation governing the procurement of property, for use in the administration of this Act, real or personal property used by the State or political subdivision in the administration of any program or activity assisted under the Social Security Act and Food Stamp Act of 1964: *Provided*, That a State or political subdivision may not be compensated for such real or personal property in an amount that exceeds the amount determined by the Administrator to be the fair market value of that property, adjusted for the contribution to the cost of the building attributable by the Secretary of Health, Education, and Welfare or the Secretary of Agriculture to amounts received by the State under either such Act as may be applicable.

(2) to enter into any agreement for the lease of real property or the lease or purchase of personal property or the acquisition of services and related facilities for use in the administration of this Act, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(d) START-UP FUNDS. There are hereby authorized to be appropriated such sums for fiscal years 1978, 1979, 1980, and 1981, as may be required for taking all actions, including receipt and processing of applications in advance of the effective date of section 101, the conduct of advance tests of planned administrative procedures and related actions, data systems, or other related materials necessary for the Secretary of Health, Education, and Welfare to prepare for and implement that program.

(e) ADVANCE APPROPRIATIONS. To the end of assuring continuity in planning and otherwise preparing for the implementation of section 101 of this Act, appropriations under subsection (b) are authorized to be included in any appropriation Act—

(1) for fiscal year 1978, appropriations available for obligation for fiscal years 1979, 1980, and 1981,

(2) for fiscal year 1979, appropriations available for obligation for fiscal years 1980 and 1981, and

(3) for fiscal year 1980, appropriations available for obligation to fiscal year 1981.

EFFECTIVE DATES

SEC. 107. (a) The amendment made by section 101 shall become effective on the first day of the month following the thirty-sixth month after enactment of this Act. Each

State (including for this purpose the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, and the Virgin Islands) may notify the Secretary of Health, Education, and Welfare whether it intends to enter into an agreement with him under section 2138 of the Social Security Act (as added by section 101 of this Act) and, if after the expiration of two full calendar months following enactment of this Act, any such State has not advised him of its choice in this regard, such failure shall be considered as notice that such State does not wish to enter into such an agreement.

(2) Notwithstanding paragraph (1), sections 2112(b), 2128(b)(3), and 2138, and 2145 of the Social Security Act, as added by section 101 of this Act, are effective upon enactment.

(b) The amendments made by sections 102, 104, and 105 shall become effective on the first day of the month following the thirty-sixth month after enactment of this Act.

(c) The amendments made by section 103 are effective with respect to taxable years beginning after the close of the calendar year in which section 101 of this Act becomes effective.

(d) The amendments by section 106 are effective upon enactment.

TITLE II—EMPLOYMENT OPPORTUNITIES PROGRAM

ESTABLISHMENT OF PROGRAM

SEC. 201. The Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE IX—EMPLOYMENT OPPORTUNITIES PROGRAM

"STATEMENT OF PURPOSE

"SEC. 901. It is the purpose of this title to provide employment opportunities programs to assist jobseekers, who might otherwise have to rely solely on income assistance, in finding unsubsidized employment in the private and public sectors, to provide training for those who need it, and to create subsidized jobs and training opportunities which shall be designed for principal earners in household units which include children, for whom unsubsidized employment cannot be found.

"PART A—ADMINISTRATION OF EMPLOYMENT OPPORTUNITIES PROGRAMS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 911. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title for fiscal year 1981 and each succeeding fiscal year; but, with respect to fiscal year 1981, the Secretary of Labor shall make available for part C such amounts, out of such appropriations, as may be necessary, not to exceed an amount sufficient to provide 1,400,000 subsidizd work and training opportunities on an annual basis.

"ALLOCATION OF FUNDS

"SEC. 912. Eighty percent of the amounts appropriated to carry out this title shall be allocated by the Secretary of Labor among prime sponsor areas in each State in accordance with the relative numbers of persons in each such prime sponsor area as compared with the total number of persons in all such areas who are estimated by the Secretary to be eligible for assistance under this title. The remainder shall be allocated in such a manner that, of the total appropriated amounts, there shall be made available not to exceed 2.5 percent for Puerto Rico, not to exceed one-half of 1 percent in the aggregate for Guam, the Virgin Islands, and the Northern Marianas, and not to exceed 2 percent for Native American programs, and the remaining amounts shall be made available on such basis as the Secretary shall deem appropriate. Such amounts as the Secretary determines will not be needed for use in a particular area during any fiscal year for purposes of this title may be reallocated to other areas for obligation during that fiscal year or the succeeding fiscal year for use over a period of not to exceed 12 months.

"FINANCING ASSISTANCE TO PRIME SPONSORS

"SEC. 913. (a) The Secretary of Labor shall provide financial assistance under this part to prime sponsors (designated in accordance with subsection (b) of this section) for the purpose of carrying out programs approved by the Secretary of Labor under this title.

"(b) The Secretary of Labor shall designate as the prime sponsor of programs to be carried out under this title in the particular geographical area served by the prime sponsor so designated—

"(1) any prime sponsor qualified under section 102 of this Act;

"(2) any eligible applicant under section 602(e) of this Act; or

"(3) any other entity eligible to be a prime sponsor under section 102 or 110 of this Act, in cases where a prime sponsor described in paragraph (1) or (2) of this subsection has not been designated or such a designation has been denied or revoked in accordance with procedures of the type set forth in sections 108, 109, and 110 of this Act.

"(c) In the event that a prime sponsor under this title ceases to be as an eligible applicant under title VI, such prime sponsor may continue as a prime sponsor for purposes of this title for the remainder of the grant period, in the discretion of the Secretary.

"(d) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated to serve under this title is—

"(1) maintaining a pattern or practice of discrimination in violation of section 703(1) or section 712(a) of this Act or otherwise failing to serve equitably eligible individuals under part B or eligible participants under part C of this title in the area it serves;

"(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation; or

"(3) otherwise materially failing to carry out the purposes and provisions of this title; the Secretary may revoke the prime sponsor's plan for the area, in whole or in part, and to the extent necessary and appropriate shall not make further payments to such prime sponsor under this title, and shall notify such sponsor to return all or part of the unexpended sums paid under this title during that fiscal year.

"(e) To the extent necessary to assure the delivery of services in the area served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under this title to serve such area) to carry out directly the delivery of such services, or to make grants to or enter into contracts for such purpose with public or private nonprofit agencies or organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

"(f) The Secretary shall, prior to making any payments under this title for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this title which contains provisions adequate to assure that the provisions of this section are carried out effectively.

"EMPLOYMENT OPPORTUNITIES PLAN

"SEC. 914. The Secretary of Labor shall approve an employment opportunities plan submitted by a prime sponsor designated under section 913 only if the Secretary determines that it sets forth satisfactory provisions for carrying out programs under this title in the geographical area served by such prime sponsor, including but not limited to—

"(1) a job search assistance program meeting the conditions set forth in part B of this title;

"(2) a subsidized work and training opportunities program meeting the conditions set forth in part C of this title;

"(3) provisions to assure a continuous sequence of services for eligible individuals under parts B and C, including job search, placement in unsubsidized work, and, for eligible participants under part C, placement in subsidized work or training designed to lead to unsubsidized work;

"(4) provisions of relating activities under this title to activities under other titles of this Act and to other relevant public and private programs and activities, including but not limited to community and economic development, social services, vocational education and vocational rehabilitation;

"(5) provisions for a hearing or hearings to afford an opportunity for public comment;

"(6) such other conditions and assurances as the Secretary of Labor may require pursuant to regulations.

"REVIEW BY GOVERNOR AND STATE MANPOWER SERVICES COUNCIL

"SEC. 915. (a) Each plan submitted by a prime sponsor described in section 913(b)(1) of this Act shall, prior to its submission to the Secretary of Labor, be transmitted to the Governor of the State and to the State Manpower Services Council (established under section 107 of this Act) for their review and recommendations.

"(b) The State Manpower Services Council shall afford interested parties an opportunity to submit views at a hearing or hearings on the proposed plan of all prime sponsors within the State.

"(c) After their review, the Governor and the State Manpower Services Council shall each submit any recommendations they deem appropriate for modification of any prime sponsor's plan under this title, first, to the prime sponsor, and, after the prime sponsor has had an opportunity to accept or reject such recommendations, to the Secretary of Labor.

"STATEWIDE PLANNING

"SEC. 916. The Secretary of Labor shall provide financial assistance to the Governors of the States, for use in accordance with plans approved by the Secretary, for such purposes as—

"(1) continuous review, monitoring, and evaluations of programs and services assisted under this title, including arrangements for providing job search assistance and subsidized work and training opportunities under this title in prime sponsor areas in the State;

"(2) providing technical assistance and consultative services to prime sponsors throughout the State during the development by prime sponsors of plans to be submitted under this title to the Secretary of Labor;

"(3) developing multi-year numerical projections of job opportunities anticipated in labor market areas throughout the State, and turnover rates in employment in various sectors of the economy in such labor market areas;

"(4) developing plans for coordinating with prime sponsor's plans under this title such related Statewide activities as community and economic development, social services, vocational education, and vocational rehabilitation programs, as are or may be designed to enhance the opportunities for eligible individuals and eligible participants un-

der this title to move into regular unsubsidized employment in the economy; and

"(5) development of on-the-job training arrangements with private employers in the State who have established places of business in more than one prime sponsor area.

"PENALTIES FOR FRAUD

"SEC. 917. Any person who—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for assistance or participation under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such assistance or participation;

"(3) having knowledge of the occurrence of any event affecting (A) the initial or continued right to any payment, or (B) the initial or continued right to any payment of any other person in whose behalf such person has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized; or

"(4) having made application to receive any such payment for the use and benefit of another and having received it, knowingly and willfully converts such payment or any part thereof to a use other than for the use and benefit of such other person;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"DEFINITION

"SEC. 918. As used in this title—

"(1) 'child' and 'children' mean only an individual or individuals under the age of 18 years who are not parents of another child living in the same place of residence;

"(2) 'adult' means an individual other than a child;

"(3) 'State' includes each of the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, Guam, and the Virgin Islands;

"(4) 'household unit' has the same meaning as the definition set forth in section 2101(b) of the Social Security Act;

"(5) the term 'incapacity' means (as defined in regulations which the Secretary of Labor shall prescribe, with the concurrence of the Secretary of Health, Education, and Welfare) a medically determined inability to perform work on a regular basis, which is expected to last for not more than twelve months;

"(6) 'Federal minimum wage' means the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, except that with respect to Puerto Rico and the Virgin Islands, the Secretary of Labor shall by regulation prescribe the meaning of much term for purposes of this title;

"(7) 'State or local minimum wage' means the State or local minimum wage for the most nearly comparable private employment.

"PART B—JOB SEARCH ASSISTANCE

"ELIGIBLE INDIVIDUALS

"SEC. 931. In accordance with regulations which the Secretary of Labor shall prescribe, an eligible individual for assistance under this part shall be—

"(1) any adult individual who is a member of a household unit which includes a child; or

"(2) any adult individual who is a member of a household unit which does not include a child and who is a member of a household unit determined by the Secretary of Health, Education, and Welfare to be eligible for a payment under section 2104 of the Social Security Act.

"JOB SEARCH ASSISTANCE PROGRAM

"SEC. 932. (a) Job search assistance programs under this part shall consist of appropriate services and activities in accordance with reguiations which the Secretary of Labor shall prescribe, which shall include but not be limited to—

"(1) the administration of an intake process through the State employment security agency or other comparable arrangements, including provisions for receiving applications of eligible individuals seeking assistance under this part (including those referred to the Secretary of Labor under section 2103 of the Social Security Act), determining whether such individuals are eligible individuals in accordance with section 931 or eligible participants in accordance with section 951 of this Act, verifying the statements and information submitted in connection with such applications, and taking appropriate actions with respect to such applications;

"(2) Use of a computerized job matching program, where available, pursuant to an agreement with the State employment security agency;

"(3) a program of job search assistance services, including counseling and testing as needed;

"(4) referral to job opportunities in the private or public sectors, which are not subsidized under this title, of eligible individuals under part B of this title during an initial eight-week job search period, and, thereafter, referral to such job opportunities of eligible individuals under part B who are members of household units receiving cash assistance under title XXI of the Social Security Act and have not found unsubsidized private or public employment;

"(5) referral of eligible participants (as defined in section 951 of this Act) to subsidized work or training opportunities under part C of this title, after the fifth week from the time such eligible participant applies for job search assistance under this part, if such eligible participant has not been determined to have refused without good cause an unsubsidized bona fide job offer during such job search period;

"(6) job development and related services, to be carried out through arrangements with the State employment security agency, or comparable arrangements with other public or private nonprofit agencies or organizations, including community-based organizations;

"(7) follow-up services to provide referrals and other information, with respect to the availability of non-subsidized job opportunities, to eligible participants under part C of this title who have been placed in subsidized work or training positions under this title;

"(8) a renewed eight-week period of job search activity for any eligible participant after a total of 52 weeks has passed since the eligible participant first entered a subsidized work or training position under this title;

"(9) provisions for the establishment, by the prime sponsor, of annual goals for placement of eligible individuals under this part in unsubsidized work.

"(b) An individual shall be deemed to have applied for assistance under this title from the time such person enters an appropriate intake office and registers for such assistance.

"WORK REQUIREMENT

"SEC. 933. In accordance with standards and procedures which the Secretary of Labor shall prescribe by regulation, an eligible individual or participant shall not be found to have refused a bona fide job offer for good cause if—

"(1) the rate of pay for the job offered to such person is less than an amount equal to the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918 of this Act) plus, in the case of eligible participants (as defined in section 951 of this Act), any wage supplement (as determined in accordance with section 953 of this Act) which is payable, in the State where such employment is offered, for a subsidized work or training opportunity under this title;

"(2) the conditions of work or training are unreasonable for such individual in light of such factors as the hours of work, health or safety conditions, or geographical location;

"(3) the job offered to such person (A) in the case of a single parent of any child between the ages of 7 and 13, inclusive, involves hours of work which would make it impractical for such person to be at home during hours when such child is out of school and at home, or (B) in the case of any other person, provides weekly earnings which are not at least equal to the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918) multiplied by 40 hours; or

"(4) the job offered is available due directly to a strike, lockout, or other labor dispute.

"DETERMINATIONS BY THE SECRETARY OF LABOR

"SEC. 934. (a) The Secretary of Labor shall, in accordance with regulations, provide for—

"(1) determinations of claims of incapacity with respect to individuals referred to the Secretary of Labor under section 2103 of the Social Security Act, with review from time to time of the continuance of any such incapacity;

"(2) determinations as to whether a bona fide job offer has been refused without good cause by an eligible individual under part B or an eligible participant under part C;

"(3) an administrative review process, consistent with the types of procedures set forth in section 2136 of the Social Security Act, affording opportunities for hearings and appeals with respect to determinations affecting the applications for assistance under this title of eligible individuals under part B or eligible participants under part C, determinations of incapacity, and whether any such eligible individual or eligible participant has refused a bona fide job offer without good cause.

"(b) The Secretary of Labor shall provide for timely notification to the Secretary of Health, Education, and Welfare whenever a determination has been made—

"(1) of incapacity (including its expected duration) with respect to any individual referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act;

"(2) that a bona fide job offer has been refused without good cause by an eligible individual under part B or by an eligible participant under part C who has been referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act;

"(3) that a prime sponsor will be unable to place an eligible participant in a subsidized work or training position prior to the end of the eighth week after such individual applies for job search assistance under this part;

"(4) that an eligible individual referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act has applied for job search assistance under this part; and

"(5) that an eligible participant referred to the Secretary of Labor by the Secretary of Health, Education, and Welfare under section 2103 of the Social Security Act is con-

cluding an eight-week period of job search assistance under this part or has been placed in a subsidized or unsubsidized job.

"(c) The Secretary of Labor may enter into arrangements for the delegation to the Secretary of Health, Education, and Welfare of any functions with respect to determinations of incapacity under subsection (a) of this section.

"JOINT AGREEMENT FOR JOB SEARCH ASSISTANCE RESPONSIBILITIES

"SEC. 935. (a) Any prime sponsor submitting an employment opportunities plan under section 914 of this Act shall—

"(1) transmit, as part of such plan, a copy of any joint agreement between the prime sponsor and the State employment security agency for carrying out specific job search assistance functions under this part; or

"(2) if no such joint agreement has been reached, set forth as a part of such plan, the prime sponsor's proposed arrangements for carrying out specific job search assistance functions through the State employment security agency or other public or private agencies or organizations.

"(b) As part of its review in accordance with section 915(b) of this Act, the State Manpower Services Council shall, after considering any comments and recommendations submitted by the State employment security agency or other interested parties, make any recommendations such Council deems appropriate for joint arrangements between the prime sponsor and the State employment security agency for carrying out specific job search assistance functions under this part.

"PART C—SUBSIDIZED WORK AND TRAINING

"ELIGIBLE PARTICIPANTS

"SEC. 951. (a) In accordance with regulations which the Secretary of Labor shall prescribe, an eligible participant for assistance under this part shall be an adult individual (1) who is a member of a household unit which includes a child and (2) who, during the six-month period preceding application for assistance under this title, was a principal earner or was the sole earner in any such household unit, or had no earned income and no other adult in such household unit had any earned income during such six-month period; but no individual in a particular household unit shall qualify as an eligible participant if another such individual is already a participant.

"(b) For purposes of this title, the term 'principal earner' means that adult in a household unit who had the largest total amount of earned income during the six-month period preceding application for such assistance, except that another adult in the same household unit may, in lieu thereof and pursuant to regulations prescribed by the Secretary of Labor, qualify as the principal earner if that adult worked the largest total amount of hours during such preceding six-month period, or if the adult otherwise determined to be the principal earner during such preceding six-month period is disabled or incapacitated or otherwise not currently available for work.

"FEDERAL FINANCIAL ASSISTANCE

"SEC. 952. (a) The Secretary of Labor shall provide financial assistance for a prime sponsor submitting a plan under section 914 of this title for work and training opportunities under this part if such plan provides that funds under this part will be made available only in accordance with the provisions of this section.

"(b)(1) From its allocation, each prime sponsor may use for purposes of paying the costs of wages and allowances an amount equal to the sum of the Federal contributions to wages and allowances (as determined under paragraph (2) of this subsection) payable on behalf of all eligible participants in subsidized work or training positions funded by such prime sponsor.

"(2) The Federal contribution to wages and allowances on behalf of any eligible participant shall be equal to the product obtained when the Federal minimum wage (as defined in section 918 of this Act) is multiplied by the number of hours spent by such eligible participant in subsidized work or training activities under this part. The maximum weekly Federal contribution to wages and allowances on behalf of any eligible participant shall be the Federal contributions to wages and allowances for subsidized work or training for 40 hours per week.

"(c) From its allocation, each prime sponsor, in addition to the limitation on allowable costs under subsection (b) of this section, may also use an amount, which shall not exceed 30 percent of the total made available to such prime sponsor under subsection (a) of this section, for the purpose of covering—

"(1) administrative and supervisory costs;

"(2) necessary supplies, equipment, and materials;

"(3) non-wage benefits, including social security employer tax contributions (but not unemployment insurance contributions or contributions to retirement funds), appropriate worker's compensation, and other benefits in accordance with regulations which the Secretary of Labor shall prescribe;

"(4) payment of amounts (not otherwise provided by the prime sponsor) to cover wages in excess of the Federal minimum wage—

"(A) to the extent that the State or local minimum wage exceeds the Federal minimum wage (as defined in section 918 of this Act); and

"(B) to the extent that wages paid to work leaders exceed wages otherwise paid under this part, except that the number of work leaders so paid shall not exceed 15 percent of the total number of eligible participants employed in the prgoram and the total rate of pay for such work leaders shall not exceed an amount equal to 125 percent of the rate of pay otherwise paid under this part to eligible participants employed in that program.

"WAGE SUPPLEMENTATION

"SEC. 953. (a) Each State which enters into an agreement with the Secretary of Health, Education, and Welfare for State supplementation of cash assistance under part B of title XXI of the Social Security Act shall make payments to enable prime sponsors to pay wage supplements in accordance with this section to participants in subsidized work and training positions under this title.

"(b) The wage supplement payable to a participant in subsidized work or training under this section in any State shall be an amount equal to the product obtained when the supplementation percentage (as defined in subsection 2122(1) of the Social Security Act), applicable to a household unit consisting of one adult and at least one child under the age of 7, multiplied by the Federal minimum wage as defined in section 918, or, if the State so elects, the State minimum wage as defined in section 918 (if higher), except that in no State shall the total wages paid to any such participant (other than to a work leader as provided in section 952(c)(4)(B) of this Act) exceed 110 percent of the Federal minimum wage as defined in section 918.

"SUBSIDIZED WORK AND TRAINING OPPORTUNITIES

"SEC. 954. (a) The Secretary of Labor shall provide financial assistance to a prime sponsor under this title only if the employment opportunities plan submitted by such prime sponsor under section 914 of this Act contains satisfactory provisions for carrying out subsidized work and training programs, including—

"(1) the provision of full-time opportunities for subsidized work and training designed to lead to unsubsidized work;

"(2) the provision of part-time opportunities for subsidized work and training designed to lead to unsubsidized work, with special provisions for such opportunities during hours which accommodate the needs of single parents, including hours enabling them to be home when their children are out of school;

"(3) appropriate provisions for subsidized training opportunities, including classroom instruction, skills training, on-the-job training, and appropriate work experience, in accordance with regulations which the Secretary shall prescribe;

"(4) assurances that on-the-job training arrangements will not be inconsistent with paragraph (5) of section 101 of this Act;

"(5) assurances that programs providing subsidized work and training opportunities under this part, including projects carried out by community-based organizations and other public or private agencies and organizations, will be carried out under the supervision of the prime sponsor;

"(6) assurances that rates of pay for jobs supported under this part will be not less than the higher of the Federal minimum wage or State or local minimum wage (as defined in section 918 of this Act), and that the total wages and allowances for such jobholder for hours spent participating in such work and supervised training opportunities shall not exceed such applicable minimum wage (except as otherwise provided by this part) multiplied by the hours spent in work and supervised training per week (which may not include hours spent in job search);

"(7) assurances that provisions will be made for sick leave with pay, in accordance with regulations which the Secretary shall prescribe;

"(8) provisions for the establishment, by the prime sponsor, of goals for placement of participants under this part in unsubsidized work;

"(9) appropriate provisions for flexible working arrangements, including part-time work and flexible working hours;

"(10) appropriate provisions designed so that, in the case of any eligible participant who is away from a job due to incapacity or a short-term unsubsidized work or training opportunity, the same subsidized work or training position under this part which was vacated by such individual (or a similar position) shall, to the maximum extent feasible, remain open for the eligible participant's return to such position;

"(11) provisions for terminating an eligible participant 52 weeks after such participant began participating in subsidized work or training under this part (without excluding therefrom any time such participant spent away from a job, as described in paragraph (10) of this subsection), with provisions for continued payment of wages or allowances for the first two weeks of a renewed period of job search activity which such eligible participant agrees to undertake for a period of not less than five nor more than eight weeks; and

"(12) appropriate provisions developed by the prime sponsor, with respect to eligible participants who have not found unsubsidized jobs after five weeks of renewed job search activity, for placing such eligible participants in other subsidized work or training positions under this part which shall be designed to lead to unsubsidized work.

"(b) Where a labor organization represents employees who are engaged in similar work in the same geographical area to subsidized work under this title proposed to be performed under the program for which an employment opportunities plan is being developed for submission under section 914 of

this title, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of any such plan in which to make comments to the prime sponsor and to the Secretary.

"SPECIAL CONDITIONS

"SEC. 955. (a) The Secretary of Labor shall provide financial assistance under this part only if the Secretary determines, in accordance with regulations, that the activities to be assisted meet the requirements of this section.

"(b) Each prime sponsor under this title shall provide assurances, satisfactory to the Secretary, that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of funds under this title for other funds in connection with work that would otherwise be performed;

"(4) will not hire any person when any other person is on layoff by the employer from the same or any substantially equivalent job in the same geographical area; and

"(5) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular emyployee or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring an eligible participant to be supported under this part.

"(c) With respect to work supported under this part, jobs in each promotional line shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public sevices not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

"(d) The provisions of section 605(b) of this Act shall apply to this part.

"(e) Activities funded under this part shall meet such other conditions as the Secretary may deem appropriate to carry out the purposes of this Act."

SPECIAL PROVISION

SEC. 202. State unemployment compensation statutes shall not be considered to be out of conformity with the unemployment compensation provisions of the Social Security Act and the Federal Unemployment Tax Act of 1973 are not covered by such State statutes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RISENHOOVER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. LEDERER (at the request of Mr. WRIGHT), for today through September 23, 1977, on account of illness.

Mr. COTTER (at the request of Mr. WRIGHT), for September 12, 13, and 14, 1977, on account of the death of his mother.

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of attending a funeral.

Mr. FRENZEL (at the request of Mr. MICHEL), for today through Wednesday, September 14, 1977, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOLLENBECK) and to revise and extend their remarks and include extraneous matter:)

Mr. COHEN, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. STEERS, for 5 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. DODD, for 10 minutes, today.
Mr. EILBERG, for 5 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. ALEXANDER, for 60 minutes, today.
Mr. FORD of Tennessee, for 10 minutes, today.
Mrs. BOGGS, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL, to include extraneous matter during consideration of H.R. 3455 today.

Mr. CORMAN, notwithstanding the fact that it exceeds two pages of the Con- in the CETA program, and will continue to do so under welfare reform.
GRESSIONAL RECORD and is estimated by the Public Printer to cost $8,291.50.

Mr. ROUSSELOT, to revise and extend his remarks immediately prior to the vote on H.R. 8094, the Federal Reserve Reform Act of 1977, today.

(The following Members (at the request of Mr. HOLLENBECK) and to include extraneous matter:)

Mr. ERLENBORN in two instances.
Mr. STOCKMAN.
Mr. MARKS in two instances.
Mr. CRANE in two instances.
Mr. STEIGER.
Mr. CARTER.
Mr. COLLINS of Texas in four instances.
Mr. ABDNOR in three instances.
Mr. LAGOMARSINO in three instances.
Mr. SHUSTER.
Mr. ASHBROOK in three instances.
Mr. BUCHANAN.
Mr. DERWINSKI in three instances.
Mr. WALSH.
Mr. LENT.
Mr. KETCHUM.
Mr. HYDE.
Mr. HANSEN in six instances.

(The following Members (at the request of Mr. BENJAMIN) and to include extraneous matter:)

Mr. BEDELL.
Mr. IRELAND.
Mr. HARRIS.
Mr. BRINKLEY.
Mr. EDWARDS of California.
Mr. FORD of Tennessee.
Mr. ROSENTHAL in six instances.
Mr. MARKEY in 10 instances.
Mr. WAXMAN in five instances.
Mr. KASTENMEIER.
Mr. BIAGGI in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. PATTEN.
Mr. HAMILTON.
Mr. MILFORD in two instances.
Mr. PEPPER.
Mr. TEAGUE in two instances.
Mr. AMBRO.
Mr. DINGELL in two instances.
Mr. ALEXANDER.
Mr. JONES of Oklahoma in two instances.
Mr. STUDDS.
Mr. FAUNTROY.
Mr. UDALL.
Mr. LUKEN.
Mr. NEDZI in two instances.
Mr. NEAL.
Mr. ZEFERETTI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1626. An act to clarify the status of the Librarian of Congress under subchapter I of chapter 63 of title 5, United States Code, relating to annual and sick leave; to the Committee on Post Office and Civil Service;

S. 1724. An act to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs;

S. 2076. An Act to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Grand Canyon National Park, Arizona, to the Grand Canyon Unified School District, Arizona, and for other purposes; to the Committee on Interior and Insular Affairs.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 9, 1977 present to the President, for his approval, bills of the House of the following title:

H.R. 5294. To amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors; and

H.R. 7933. Making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 13, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2317. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget

authority as of September 1, 1977, pursuant to section 1014(e) of Public Law 93–344; to the Committee on Appropriations and ordered to be printed.

2318. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Korea (transmittal No. 77–50), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2319. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to the Federal Republic of Germany (transmittal No. 77–52), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2320. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to Spain (transmittal No. 77–56), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2321. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Army of certain defense articles to Korea (transmittal No. 77–59), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2322. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Army of certain defense articles and services to Israel (transmittal No. 77–60), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2323. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Korea, pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2324. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Petroleos Mexicanos (Pemex), pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

2325. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Petroleos Mexicanos (Pemex), pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

2326. A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting the 26th annual report, covering fiscal year 1976, on Federal financial assistance for maintenance and operation of schools and for construction of school facilities in federally affected areas and disaster relief of schools in major disaster areas, pursuant to section 401(c) of Public Law 81–874 and section 12(c) of Public Law 81–815; to the Committee on Education and Labor.

2327. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing the State student incentive grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2328. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Lowell Bruce Laingen, Ambassador-designate to Malta, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2329. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, transmitting a report on programing and obligation of funds for Lebanon relief and rehabilitation as of August 31, 1977, pursuant to section 495C of the Foreign Assistance Act of 1961, as amended (90 Stat. 762); to the Committee on International Relations.

2330. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of International agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2331. A letter from the Attorney General, transmitting a draft of proposed legislation to establish within the Department of Justice the position of Associate Attorney General; to the Committee on the Judiciary.

2332. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Kenai Harbor, Alaska, in response to resolutions of the House and Senate Committee on Public Works, adopted July 16, 1958, and September 9, 1968, respectively; to the Committee on Public Works and Transportation.

2333. A letter from the Administrator, Federal Energy Administration, transmitting a draft of proposed legislation to amend the Naval Petroleum Reserves Production Act of 1976 with respect to crude oil from Naval Petroleum Reserve No. 1; jointly, to the Committees on Armed Services, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee of conference. Conference report on S. 275 (Rept. No. 95–599). Ordered to be printed.

Mr. THOMPSON: Committee on House Administration. House Resolution 687. Resolution providing for district office space for Members of the House of Representatives (Rept. No. 95–600). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 9029. A bill to allow injunctions to be issued against the Commodity Credit Corporation; to the Committee on Agriculture.

By Mr. CORMAN:

H.R. 9030. A bill to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are not available for work by reason of disability, age, or family circumstance; jointly, to the Committees on Ways and Means, Education and Labor, and Agriculture.

By Mr. ASPIN:

H.R. 9031. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

By Mr. BAFALIS (for himself, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. CRANE, Mr. COCHRAN of Mississippi, Mr. CORCORAN of Illinois, Mr. COLLINS of Texas, Mr. DUNCAN of Tennessee, Mr. DOWNEY, Mr. FORD of Tennessee, Mr. FREY, Mr. KINDNESS, Mr. KILDEE, Mrs. LLOYD of Tennessee, Mr. MATHIS, Mr. PEPPER, Mr. SNYDER, Mrs. SPELLMAN, Mr. TRAXLER, Mr. TREEN, Mr. WALSH, Mr. BOB WILSON, Mr. WHITEHURST, Mr. YOUNG of Florida, and Mr. ZEFERETTI):

H.R. 9032. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 9033. A bill to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in the administration of Federal laws in which population is a factor; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Ms. HOLTZMAN, Mr. PANETTA, and Mr. MINETA):

H.R. 9034. A bill to amend title XIX of the Social Security Act to provide that an individual who is unable to care for his or her personal needs without assistance shall be eligible as a disabled person (even though employable) for the services of a home health aide under the applicable State plan approved under such title; to the Committee on Interstate and Foreign Commerce.

By Mr. DELANEY (for himself and Mr. LEHMAN):

H.R. 9035. A bill to make any alien who becomes a public charge within 24 months of his arrival in the United States subject to deportation, and for other purposes; to the Committee on the Judiciary.

By Mr. EDGAR:

H.R. 9036. A bill to amend the Urban Mass Transportation Act of 1964, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FRASER:

H.R. 9037. A bill to prohibit aerial spraying using the chemical dioxin in the national forests; to the Committee on Agriculture.

By Mr. HANNAFORD (for himself, Mr. JONES of Oklahoma, Mr. BARNARD, Mr. GRADISON and Mr. STEERS):

H.R. 9038. A bill to declare a national policy on investment in the private sector of the U.S. economy; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARKIN (for himself, Mr. BONIOR, Mr. CORRADA, Mr. EDGAR, Mr. JENRETTE, and Mrs. COLLINS of Illinois):

H.R. 9039. A bill to amend title 38, United States Code, to improve the quality of hospital care and medical services in Veterans' Administration health care facilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HYDE:

H.R. 9040. A bill to reduce the gross compensations of U.S. executive directors and alternate directors of the international financial institutions to levels comparable with positions of similar responsibility within the U.S. Government; to the Committee on Banking, Finance and Urban Affairs.

By Mr. IRELAND:

H.R. 9041. A bill to amend section 447 of the Internal Revenue Code pertaining to accounting procedures for businesses operating nurseries; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. DANIELSON, Mr. SANTINI, Mr. ERTEL, Mr. RAILSBACK, and Mr. BUTLER):

H.R. 9042. A bill to amend title 28 of the United States Code to provide for improvements in the administration of the courts of the United States by the establishment of a commission on judicial disabilities and tenure, and for other purposes; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. FLOOD, and Mr. KRUEGER):

H.R. 9043. A bill to amend title 39 of the United States Code to prohibit the Postal Service from limiting regular daily mail delivery to fewer than 6 days each week, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LEDERER (for himself and Mr. SCHULZE):

H.R. 9044. A bill to amend the Internal Revenue Code of 1954 to provide that Federal employment tax provisions shall not apply to certain individuals; to the Committee on Ways and Means.

By Mr. McHUGH:

H.R. 9045. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MANN (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. COCHRAN of Mississippi, Mr. DAVIS, Mr. DERRICK, Mr. JENRETTE, and Mr. STOCKMAN):

H.R. 9046. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris is apparel, fabric, yarn or fiber and for other purposes; to the Committee on the Judiciary.

By Mr. NEAL (for himself, Mr. MINETA, Mr. GEPHARDT, Mr. HUGHES, Mr. BADILLO, Mr. PATTERSON of California, Mr. BOWEN, and Mr. LUNDINE):

H.R. 9047. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROONEY:

H.R. 9048. A bill to amend the act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907, as amended by Public Law 94-348, approved July 8, 1976; to the Committee on Interstate and Foreign Commerce.

H.R. 9049. A bill to amend the Railroad Regulatory Reform Act of 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself and Mr. MURPHY of Illinois):

H.R. 9050. A bill to establish an independent agency, to be known as the Visa and Naturalization Administration, in order to improve the efficiency and economy of the operations of the Federal Government with respect to immigration, and for other purposes; to the Committee on Government Operations.

By Mr. WALKER:

H.R. 9051. A bill to extend the time, from 1 to 6 years, during which a person may bring court action with respect to bonds required, under the act commonly known as the Miller Act, in connection with the construction, alteration, and repair of any public building or public work of the United States; to the Committee on the Judiciary.

By Mrs. BOGGS (for herself, Mr. STEERS, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. QUIE, Mr. RICHMOND, Mr. SEIBERLING, Mrs. SPELLMAN, Mr. VENTO, Mr. WALGREN, and Mr. FOWLER):

H.R. 9052. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mrs. BOGGS (for herself, Mr. STEERS, Mr. ADDABBO, Mr. BOWEN, Mr. BUCHANAN, Mrs. BURKE of California, Mr. CAPUTO, Mr. FRASER, Mr. FRENZEL, Mr. GEPHARDT, Mr. HANNAFORD, Mr. HAWKINS, Mrs. HECKLER, Ms. HOLTZMAN, Mr. HOWARD, Mr. JENRETTE, Mr. LENT, Mr. LONG of Maryland, Mr. MILLER of California, and Mr. MITCHELL of Maryland):

H.R. 9053. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. CUNNINGHAM:

H.R. 9054. A bill to direct the President to abrogate all treaties entered into by the United States with Indian tribes in order to accomplish the purposes of recognizing that in the United States no individual or group possesses subordinate or special rights, providing full citizenship and equality under law to Native Americans, protecting an equal opportunity of all citizens to fish and hunt in the United States, and terminating Federal supervision over the property and members of Indian tribes, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FISH:

H.R. 9055. A bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. FORD of Michigan (for himself, Mr. BADILLO, Mr. BRODHEAD, Mr. BRECKINRIDGE, Mr. EILBERG, Mr. HANNAFORD, Mr. PEPPER, Mr. RINALDO, Mrs. SPELLMAN, and Mr. THOMPSON):

H.R. 9056. A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals; to the Committee on Post Office and Civil Service.

By Mrs. HECKLER:

H.R. 9057. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself and Mr. PRESSLER):

H.R. 9058. A bill to amend section 504 of the Vocational Rehabilitation Act of 1973; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mr. ABDNOR, Mr. AKAKA, Mr. AMBRO, Mr. BADILLO, Mr. CARR, Mr. CONYERS, Mr. DRINAN, Mr. ECKHARDT, Mr. EDGAR, Mr. EDWARDS of California, Mr. FARY, Mr. FISHER, Mr. FRASER, Mr. FRENZEL, Mr. GUYER, Mr. HARRINGTON, Mr. HILLIS, Mr. JEFFORDS, Mrs. KEYS, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEHMAN, Mr. MCCLOSKEY, and Mr. MAGUIRE):

H.R. 9059. A bill to authorize the Secretary of Transportation to make grants for the construction of bikeways; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself and Mr. DRINAN):

H.R. 9060. A bill to promote the development of methods of research, experimentation, and testing that minimize the use of, and pain and suffering to, live animals; to the Committee on Science and Technology.

By Mr. LEHMAN (for himself, Mr. AKAKA, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. ASHLEY, Mrs. BOGGS, Mr. BONIOR, Mrs. BURKE of California, Mrs. CHISHOLM, Mr. CLAY, Mr. COHEN, Mr. CORRADA, Mr. DELLUMS, Mr. FASCELL, Mr. FLOOD, Mr. FLORIO, Mr. FORD of Michigan, Mr. FUQUA, Mr. GIAIMO, Mr. GIBBONS, Mr. HARRINGTON, Mr. HAWKINS, Mr. HEFTEL, Mr. HOWARD, and Mr. MIKVA):

H.R. 9061. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LEHMAN (for himself, Mr. IRELAND, Mr. KASTENMEIER, Mr. LAFALCE, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. RICHMOND, Mr. RODINO, Mr. ROSE, Mr. RYAN, Mr. STRATTON, Mr. SIMON, Mrs. SPELLMAN, Mr. STARK, Mr. THOMPSON, Mr. UDALL, Mr. VAN DEERLIN, Mr. WHITE, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, Mr. DOWNEY, and Mr. BRADEMAS):

H.R. 9062. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MADIGAN (for himself, Mr. ANDERSON of Illinois, Mr. MURPHY of Illinois, Mr. ANNUNZIO, Mr. DERWINSKI, Mr. ERLENBORN, Mr. FINDLEY, Mr. HYDE, Mr. METCALFE, Mr. MICHEL, Mr. MIKVA, Mr. O'BRIEN, Mr. RAILSBACK, Mr. ROSTENKOWSKI, Mr. SHIPLEY, Mr. SIMON, Mr. MCCLORY, and Mr. STAGGERS):

H.R. 9063. A bill to designate a certain Federal building in Champaign, Ill., the William L. Springer Building; to the Committee on Public Works and Transportation.

By Mr. MAZZOLI (for himself, Mr. BROWN of Michigan, Mr. YOUNG of Missouri, Mr. ADDABBO, Mr. EILBERG, Mr. DOWNEY, Mr. MCDADE, Mr. WOLFF, Mr. KRUEGER, Mr. WALKER, Mr. BRODHEAD, Mr. ERTEL, Mr. NEDZI, Mr. WHITEHURST, Mr. NOLAN, Mr. GEPHARDT, and Mr. BLANCHARD):

H.R. 9064. A bill to provide for financial assistance to improve the capabilities of units of local government to deal with career criminals and for other purposes; to the Committee on the Judiciary.

By Mr. NEAL:

H.R. 9065. A bill to provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NEAL (by request):

H.R. 9066. A bill to provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses; and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. QUILLEN:

H.R. 9067. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of

such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. ROONEY:

H.R. 9068. A bill to amend the International Travel Act of 1961 to provide for the registration of sellers of travel or travel services; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING (for himself and Mr. NIX):

H.R. 9069. A bill to amend the Clayton Act to clarify the application of the antitrust laws to cooperative organizations, and for other purposes; to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 9070. A bill to repeal the earnings limitation of the Social Security Act; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.J. Res. 589. Joint resolution to provide for the establishment of the Elvis Presley National Historic Site; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI (for himself and Mr. CONTE):

H.J. Res. 590. Joint resolution providing for the designation of a week in May of each year as National Burglary and Theft Prevention Week; to the Committee on Post Office and Civil Service.

By Mr. DE LA GARZA:

H.J. Res. 591. Joint resolution authorizing the President to proclaim the week in each year in which Veterans Day is observed as Love America Week; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H.J. Res. 592. Joint resolution to authorize the President to proclaim the last Friday of April each year as National Arbor Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. HAMMERSCHMIDT, Mr. BURGENER, Mr. TAYLOR, Mr. BROYHILL, Mr. NICHOLS, Mr. MOORHEAD of California, Mr. BURLESON of Texas, Mr. PRESSLER, Mr. SEBELIUS, Mr. ROBERT W. DANIEL Jr., Mr. JONES of North Carolina, Mr. HALL, Mr. DAN DANIEL, Mr. VANDER JAGT, Mr. ROBINSON, Mr. MCDADE, Mr. BROWN of Ohio, Mr. MARTIN, Mr. EMERY, Mr. BADHAM, Mr. JEFFORDS, Mr. WALKER, Mr. CUNNINGHAM, and Mr. ROE):

H. Con. Res. 350. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. KOCH (for himself, Mr. ROE, Mr. ROSENTHAL, Mr. STEERS, and Mr. CHARLES WILSON of Texas):

H. Con. Res. 351. Concurrent resolution urging the Soviet Union to release Yurij Shukhevych from prison on humanitarian grounds; to the Committee on International Relations.

By Mr. KOCH (for himself, Mr. BURKE of Florida, Mr. EDWARDS of Oklahoma, Mr. STEERS, and Mr. CHARLES WILSON of Texas):

H. Con. Res. 352. Concurrent resolution urging the Soviet Union to release Mykola Rudenko and Oleksa Tykhy; to the Committee on International Relations.

H. Con. Res. 353. Concurrent resolution expressing the request of the U.S. Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University; to the Committee on International Relations.

By Mr. GIBBONS:

H. Res. 758. Resolution relative to a national telecommunications policy; to the Committee on Interstate and Foreign Commerce.

By Mr. RAILSBACK (for himself, Mr. ANDERSON of Illinois, Mr. CEDERBERG, Mr. HARRINGTON, Mr. JENRETTE, Mr. KETCHUM, Mr. KINDNESS, Mr. MICHEL, Mr. RUPPE, and Mr. SANTINI):

H. Res. 759. Resolution expressing the concern of the House of Representatives with the inequitable administration of the Federal drought assistance program, and for other purposes; jointly, to the Committees on Agriculture, and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOGGS:

H.R. 9071. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight; to the Committee on the Judiciary.

By Mr. CORNELL:

H.R. 9072. A bill for the relief of the Kurz and Root Co., Appleton, Wis.; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 9073. A bill for the relief of Grace M. Caporino, Pamela Caporino, and Melanie Caporino; to the Committee on the Judiciary.

H.R. 9074. A bill for the relief of Louis Rizzo; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 9075. A bill for the relief of John F. Johnson; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.R. 9076. A bill for the relief of Agnes Jones; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. PEPPER:

(1) On page 47, line 8, insert at the end thereof the following:

"(c) knowingly and willfully charges any money or other consideration for services covered under the state plan over and above the rates established by the State or charges, solicits, accepts, or receives any gift, money, donation, or other consideration as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility or as a requirement for continued stay therein shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years or both."

(2) On page 47, line 9, strike out "(c)" and insert in lieu thereof "(d)".

(3) On page 47, strike out line 20 and insert in lieu thereof the following:

"(e) The amendments made by subsections (a), (b) and (c)"

H.R. 8309

By Mr. BEDELL:

Page 13, strike out line 1 and all that follows down through line 19 on page 15 and insert:

TITLE II—IMPOSITION OF USER CHARGES FOR USE OF CERTAIN INLAND WATERWAYS

SEC. 201. IMPOSITION OF USER CHARGES.

(a)(1) Not later than the last day of the tenth month which begins after the date of enactment of this Act, the Secretary shall, after consultation with the Secretary of Transportation, and after conducting public hearings and permitting not less than forty-five days for public comment, promulgate, in accordance with the provisions of subsection (b) of this section, preliminary regulations establishing a schedule of user charges to recover 25 per centum of the Federal costs of each navigation project constructed, operated, rehabilitated, or maintained by the Secretary on any inland or intracoastal waterway of the United States, and shall publish such preliminary regulations in the Federal Register.

(2) After reviewing any comments on the schedule of user charges set forth in the preliminary regulations promulgated pursuant to paragraph (1), the Secretary, not later than April 1, 1979, shall, in accordance with the provisions of subsection (b) of this section, promulgate final regulations establishing such schedule of user charges, and shall publish such schedule in the Federal Register. The schedule of user charges set forth in such final regulations shall take effect October 1, 1979.

(b) The schedule of user charges established by the Secretary pursuant to subsection (a)—

(1) shall require the payment of user charges pursuant to such schedule by the owner or operator of any shallow-draft cargo vessel for the use by such vessel of any navigation project of any inland or intracoastal waterway of the United States;

(2) shall be structured to collect—

(A)(i) in the fifth year beginning after the effective date of such user charges, and in each succeeding year, 25 per centum of the estimated Federal costs of the operation and maintenance of all navigation projects to be operated and maintained in such fifth year by the Secretary on any inland or intracoastal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date 5, 10, 15, and 20 per centum, respectively, of the estimated Federal costs; and

(B)(i) in the fifth year beginning after the effective date of such user charges, and each succeeding year, 25 per centum of the estimated Federal costs of the construction and rehabilitation of all navigation projects to be constructed and rehabilitated in such fifth year by the Secretary on any inland or intracoastal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date, 5, 10, 15, and 20 per centum, respectively, of the estimated Federal costs;

(3) shall be appropriately adjusted for a year to reflect the amounts by which the amounts collected in any previous year were in excess of, or less than, the amounts required to be collected;

(4) shall take into account the volume of traffic and seasonal and other repetitive peak demands for use of the inland and intracoastal waterways of the United States;

(5) shall allow, as an offset or deduction against such charges, the payment of any Federal tax (including tax imposed by section 4042 of the Internal Revenue Code of 1954) imposed on any vessel using the inland or intracoastal waterways of the United States enacted on or after the date of enactment of this Act; and

(6) may use, but is not limited to, one or more of the following mechanisms to collect the user charges established pursuant to this section:

(A) License fees.

(B) Congestion charges.

(C) Charges based on ton-miles over a given segment of an inland or intracoastal waterway.

(D) Lockage fees.

(E) Charges based on the capacity of cargo vessels, loaded or unloaded, over various segments of the inland or intracoastal waterways of the United States.

(C) Any owner or operator of a shallow-draft cargo vessel who fails to pay any user charge in accordance with the regulations promulgated pursuant to subsection (a)(2)

of this section shall be subject to a civil penalty of not more than $5,000 per day for each day during the period for which such violation continues and, during such period, shall be prohibited from the use of any lock on any inland or intracoastal waterway of the United States.

(d) Not later than three years after the effective date of the schedule of user charges established pursuant to subsection (a)(2) of this section, the Secretary, in cooperation with the Secretary of Transportation, shall submit to the Congress a report on the implementation of the provisions of this section. Such report shall describe—

(1) the economic impact of user charges on the commercial users of and consumers of goods shipped on the system of inland and intracoastal waterways of the United States;

(2) the economic impact of user charges on a regional and national basis;

(3) the effectiveness of user charges in establishing a more balanced national transportation system;

(4) the effectiveness of user charges in promoting the more efficient use of public investments in the Nation's system of waterborne transportation and reliance on the private sector; and

(5) the effectiveness of user charges in providing for the balanced use of the Nation's water resources.

(e) For purposes of this section—

(1) the term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to this Act by reason of section 103 of this Act (as in effect on the date of the enactment of this Act);

(2) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers; and

(3) the term "shallow-draft cargo vessel" means any cargo vessel other than a cargo vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

(f) Section 154 of the Federal-Aid Highway Act of 1976 is amended—

(1) in subsection (c), by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1979"; and

(2) in subsection (d), by—

(A) striking out "and" at the end of clause (E);

(B) striking out the period at the end of clause (F) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following new clause:

"(G) waterway user charges.".

SEC. 202. IMPOSITION OF TAX.

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—There is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1980, 2 cents a gallon,

"(2) in the case of a use after September 30, 1980, and before October 1, 1981, 5 cents a gallon,

"(3) in the case of a use after September 30, 1981, and before October 1, 1982, 8 cents a gallon,

"(4) in the case of a use after September 30, 1982, and before October 1, 1983, 12 cents a gallon, and

"(5) in the case of a use after September 30, 1983, 15 cents a gallon.

"(c) Exemptions—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State or political subdivision thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to the Navigation Development Act by reason of section 103 of such Act (as in effect on the date of the enactment of such Act).

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calender quarter shall be the last day of the first month following such quarter."

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways."

(d) The amendments made by this section shall take effect on October 1, 1979. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

EXTENSIONS OF REMARKS

THE AWACS SALE: PERSPECTIVE FROM THE GRASSROOTS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. STUDDS. Mr. Speaker, the following editorial from the Rockland, Mass., Standard, describes the very complex and often apparently esoteric issue of arms sales in terms which can be vividly understood by any American. I believe that it is a superb example of a kind of journalism which is not content to isolate itself and its readers from major national issues, on the assumption that these are properly addressed only by the major newsmagazines, the largest newspapers, or by television. I believe that small local newspapers have a unique but all too often unrecognized potential to translate broad issues into clearcut human terms, and that the exercise of this function is one which provides a great service both to the individual reader, and to those public officials who, like Members of Congress, must attempt to translate national issues into local terms every day.

[From the Rockland (Mass.) Standard, July 28, 1977

$6B TOO MUCH

Maybe it's really not all that important to the town of Rockland, but Congressman Gerry Studds' challenge of American military aid to Iran deserved to be noticed—and supported.

No, it won't cut two cents off the projected $14–16 increase in the property tax for this year, but the move in Congress to slash the Administration's aid request for the Middle Eastern police state should be backed here. President Carter, the staunch supporter of human rights (in communist countries) around the globe, has recommended a staggering $6 billion for our good friends in Iran.

It's probably not important that $6 billion represents better than $350,000 for every man, woman and child in Rockland. Nor that taxpayers here would be asked to contribute upwards of $60 apiece to the Iranian regime.

What is important is the size of the gift and the nature of the recipient. Six billion dollars is more than half our annual appropriation for military aid. Spent elsewhere, say in Africa, where we could use a few friends, that much money could buy the world a little more security. It couldn't buy peace, but it could smooth the road on the 20th century's longest, least successful journey.

If we can't think of a better way to spend $6 billion abroad, there is an area or two in this country that could use just a piece of it. Even Rockland, affluent compared to some communities in America, can use more than sewer pipes and a fire station addition.

If those alternatives are unsatisfactory, would it be unthinkable to suggest returning the money to taxpayers on the lower end of the income scale? Congress talks tax reform pretty well, but it's been too long coming.

But maybe the Administration really believes $6 billion in foreign military aid is a sound investment. If so, should we be spending it in Iran? The answer should be an emphatic no.

The President should either back his rhetoric on rights with action or abandon it. In the face of opposition from Congress, he should back down and reduce his request for aid to Iran to a more acceptable level.

And, although it's not likely to become the most burning issue in Rockland since the five-member board of selectmen, concerned citizens here should let Cong. Studds know he has their support.

FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ROSENTHAL. Mr. Speaker, in the very near future the House will vote on H.R. 2176—the Federal Banking Agency

Audit Act. This legislation will correct longstanding problems created by the inability of the General Accounting Office to audit the Federal bank regulatory agencies.

Atlhough the GAO has broad authority to investigate Government expenditures and programs on behalf of Congress, the Federal Reserve System, the Office of the Comptroller of the Currency, and, until recently, the Federal Deposit Insurance Corporation, have denied it the right to audit their operations.

These agencies are of vital importance to the economic well-being of our Nation. Their combined administrative and operating costs amount to almost a billion dollars a year. Moreover, various congressional committees over the years have documented serious inadequacies and failures in their operations, and yet no authority exists for regular audits by the GAO. Re:ent disclosures about bank lending practices and municipal bond dealings underscore the need to expand congressional oversight of these agencies.

During hearings on this legislation great emphasis was placed on the need to exempt the monetary policy responsibilities of the Federal Reserve from the GAO's audit authority. The importance of protecting the privacy of bank examination reports and financial records was also stressed by many witnesses.

Careful attention was paid to this testimony. H.R. 2176 excludes Federal Reserve monetary policy activities and has strong safeguards to protect the confidentiality of bank records. It should be noted that the monetary poli:y exclusion was drafted with the technical assistance of the Federal Reserve itself, and the confidentiality safeguard provisions were worked out in discussions among GAO, the FDIC and the Comptroller of the Currency.

Legislation authorizing the GAO to audit the Federal banking agencies is long overdue. I urge you to support the Federal Banking Agency Audit Act and by so doing assure that Congress will have adequate capability to oversee the operations of these important regulatory agencies.

THE COST TO WORKERS OF NOT INFLATION-PROOFING THE FEDERAL TAX SYSTEM

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. STOCKMAN. Mr. Speaker, income tax reform, particularly income tax reductions, are a popular item on the agenda of this body. Yet we continue to neglect the most basic reform of the income tax structure—creating a mechanism that will automatically adjust individual income tax rates to compensate for inflation.

Mr. Speaker, today I would like to call the attention of this body to just one dramatic example of why it is so important that we inflation-proof the Federal income tax system by means of some automatic index mechanism. Each year millions of American workers receive cost-of-living adjustments to their wages. But because of our failure to index tax rates to inflation, an increased tax burden renders these cost-of-living adjustments ineffective in performing their intended purpose. What happens is that workers find themselves paying a higher rate of tax as a result of their cost-of-living adjustment because they have been pushed into a higher tax bracket.

Mr. Speaker, one of my constituents, Mr. Melvin Scheske, treasurer of the Kirsch Co. in Sturgis, Mich., has provided me with some very useful statistics demonstrating how cost-of-living wage adjustments are completely undermined by our failure to create an automatic adjustment for inflation in the income tax. These tables, which I insert in the RECORD at this point, show very clearly that under the present tax laws, American workers face a never-ending series of decreases in their real wages:

	Labor grade		
	12	6	1
Present status:			
Hourly rate of pay	$5.93	$6.35	$7.76
Annual rate based upon 2,000 compensated hours	11,860	12,700	15,520
Federal taxable income assuming standard deduction, joint return and a total of 4 exemptions	5,660	6,500	9,320
Michigan taxable income, based on 4 exemptions	5,860	6,700	9,520
Computation of net income:			
Gross income	11,860	12,700	15,520
Federal income tax (from IRS table, less general tax credit)	(798)	(960)	(1,492)
Social security, 5.85 percent	(694)	(743)	(908)
Michigan income tax, 4.6 percent of Michigan taxable income (property tax credit ignored)	(270)	(308)	(438)
Net income	10,098	10,689	12,682
Prospective status: Assumption—all things remain equal except that the Consumer Price Index advances 10 percent from the 179.6 level at the time of our labor settlement to 197.6. This would trigger wage adjustments of 60¢ per hour:			
Hourly rate of pay (above figure plus 60¢)	6.53	6.95	8.36
Annual rate	13,060	13,900	16,720
Federal taxable income	6,860	7,700	10,520
Michigan taxable income	7,060	7,900	10,720

	Labor grade		
	12	6	1
Computation of net income:			
Gross income	$13,060	$13,900	$16,720
Federal income tax	(1,026)	(1,174)	(1,756)
Social security (note that labor grade 1 hits maximum)	(764)	(813)	(965)
Michigan income tax	(325)	(363)	(484)
Net income	10,945	11,550	13,515
Comparisons:			
Gross income:			
Present	$11,860	$12,700	$15,520
Prospective	$13,060	$13,900	$16,720
Percent increase in gross income (and in Kirsch Co. costs)	10.1	9.4	7.7
Net income:			
Present	$10,098	$10,689	$12,682
Prospective	$10,945	$11,550	$13,515
Percent increase in net income	8.4	8.1	6.6
Net income (constant dollars):			
Present	$10,098	$10,689	$12,682
Prospective	$9,851	$10,395	$12,164
Percent decrease	−2.4	−2.8	−4.3

SOL LINOWITZ—A STUDY IN CONFLICTS OF INTEREST

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HANSEN. Mr. Speaker, the administration's sellout of American security and rights in the proposed Panama Canal treaties are blatant attempts by the President to circumvent the Constitution of the United States and the will of the American people. I have fought this anti-American action for months in Congress, in the courts and with officials of the executive department.

The very circumstances surrounding the treaty negotiations are scandalous and absurd. President Carter is attempting via secret agreements, bending of the law, and attempted coercion of the American public to implement the biggest international welfare ripoff in history.

Mr. Speaker, the treaty talks began in earnest 6 months ago under scandalous conditions with negotiator Sol Linowitz being given a special appointment allowing him to bypass the scrutiny of the U.S. Senate and avoid disclosure of any conflicts of interest, some of which I have since exposed in the courts to the embarrassment of all parties concerned. Linowitz was forced to resign as a member of the board of directors of the Midland Bank of New York which has an $8 million loan with the Republic of Panama and is on the Federal Reserve's trouble list as a result of my legal actions. However, the scandal continued right to the time of the treaty agreement which came only 4 hours and 40 minutes before Linowitz's appointment was terminated.

One must ask, why the panic, why the rush, and what was the price for quick agreements that Americans will have to pay? With Panama owing commercial international banking interests some $200 million and the Nation reeling under a $1.2 billion total debt with loans coming due, was it Mr. Linowitz's job to get quick agreement to quickly shore up the revenue and asset picture of the Torrijos government? Furthermore, why

did President Carter refuse to let the Senate scrutinize Linowitz's Ambassadorial appointment?

The background of Ambassador Linowitz is a tingling web of intrigue when it is combined with the recently concluded negotiations. His leftist and one-world philosophy and background have been well-established through the years as is evidenced by his own biography.

Sol M. Linowitz was born in Trenton, N.J., December 7, 1913, the son of Joseph Linowitz and the former Rose Oglenskye. He was educated at Hamilton College—AB 1935—and Cornell University—JD 1938. He was admitted to the New York Bar in 1938 and on September 3, 1939 he married Evelyn Zimmerman.

According to his biography, he was employed as assistant general counsel of the Office of Price Administration from 1942 to 1944 and then became a partner in the law firm of Sutherland, Linowitz, and Williams—1946 to 1958. He then became a partner in the firm of Harris, Beach, Keating, Wilcox, and Linowitz of Rochester, N.Y. from 1958 to 1966. He joined the Xerox Corp. as chairman of the board, chairman of the executive committee and general counsel from 1958 to 1966. Beginning in 1966, he became chairman of the board and chief executive officer of Xerox International. In the same year he was appointed Ambassador to the Organization of American States, a post he held until 1969 when he became a senior partner in the international law firm of Coudert Bros. in Washington, D.C.

Linowitz's background includes: a directorship of Time, Inc., Pan American World Airways, Inc., and Marine Midland Banks, Inc.; a trusteeship of the Mutual Life Insurance Co. of New York; and active membership in the Rockefeller organization called the National Commission on Critical Choices of Americans. Another of his appointments was as Chairman of the State Department Advisory Committee on International Organizations—1963 to 1966. This particular committee, and its membership, was the subject of considerable interest to the Senate Internal Security Subcommittee in its lengthy investigation of "State Department Security—The Otepka Case."

Linowitz has served as chairman of the national council of the leftist, radical, world-government-promoting. Foreign Policy Association, and has been president of the New York State Division of the American Association for the United Nations. He has served as a director of the National Planning Association and a long-time member of the secretive world-government-promoting Council on Foreign Relations.

According to the official biography of Linowitz submitted to the Senate and shown in the CONGRESSIONAL RECORD of February 22, 1977, page 4807, Linowitz is shown as a member of the board of trustees of the Center for Inter-American Relations. It is the opinion of informed sources that the Rockefellers exert the major influence in the Center for Inter-American Relations, as they do in the Council on Foreign Relations. In addition to Nelson, other Rockefeller members in the Center are David, John D. III, Margaret, and Rodman. All but Margaret are also Council on Foreign Relations members, as are a large number of other members of the Center for Inter-American Relations.

The Center is another socialistic world-government-promoting organization dominated by the CFR for the purpose of influencing American policy in Latin America. Among its objectives are: to get the United States to relinquish sovereignty over the Panama Canal Zone, to restore diplomatic relations with Cuba, and to extend trade and credit to the Castro government.

Sol Linowitz was a registered foreign agent of the Communist government of Chile during the Salvador Allende regime; his Justice Department registration number was 2222. As of February 1, 1977, Linowitz was registered as an active foreign agent—2440—for the Government of Colombia as well as other vested interests in Latin America.

Linowitz is listed in Current Biography, 1967, as the oldest of the four sons of Joseph Linowitz; however, the three brothers used the name Linowes. His father was a fruit importer who reportedly lost a considerable amount of money during the Depression days. Linowitz, who majored in journalism at Hamilton College, considered becoming a rabbi and later decided to become a lawyer and joined a law firm in Rochester, N.Y. After being rejected for enlistment into the Armed Forces during World War II because of a troublesome knee, he went to Washington where he worked for the Office of Price Administration with the assignment of reviewing rent controlling cases. Two years later, he was able to get a commission as an ensign in the Naval Reserve and a job with the legal staff of the Secretary of the Navy.

After the war, he returned to Rochester and there he become president of the Rochester Institute of International Affairs, another world-government outfit, and of the Rochester Association for the United Nations; by 1951 he had become chairman of the board of the policy committee of the United Nations Association. To offset the dominating rightwing influence of Frank E. Gannett in local newspapers and broadcasting, Linowitz directed a group of young veterans in setting up a new radio station. He, himself, was heard on radio as moderator of a panel show called "Court of Public Opinion," which later, in 1951, became a popular weekly program on local television—WHAM–TV. While with the Xerox Corp., Linowitz was instrumental in having his company sponsor several CBS Reports and a production of Arthur Miller's drama about American business, "Death of a Salesman," and over the protests of organizations such as the John Birch Society, Xerox also sponsored four dramatic television specials about the goals and accomplishments of the U.N. This won him a citation in April of 1966 from U.N. Secretary-General U Thant.

President Lyndon B. Johnson, whom Linowitz supported continuously both on foreign and domestic issues, appointed him to the President's General Advisory Committee on Foreign Assistance Programs in 1965. On October 6, 1966 he was brought into the Democratic administration itself and given a policy-making rather than advisory role in twin posts of the U.S. representative to the Organization of American States with rank of Ambassador and U.S. representative on the Inter-American Committee for the Alliance for Progress.

Linowitz was chairman of a Ford and Rockefeller brothers funded Commission on United States-Latin American Relations—Linowitz Commission—whose report is being used as a guide for U.S. abandonment of its leadership role in the Western Hemisphere and for the institution of a new policy of nonintervention against Communist aggression on America's doorstep.

Persons involved with the Linowitz Commission state that an Institute for Policy Studies' Transnational Institute, IPS/TNI, report entitled "The Southern Connection: Recommendations for a New Approach to Inter-American Relations," is being called the "Son of Linowitz" report. The report was produced by an ad hoc group working on Latin America formed in 1976 by Roberta Salper, coordinator of IPS's Latin American unit, and Orlando Letelier, IPS/TNI Director.

The ad hoc IPS/TNI group staff consists of the following, among others:

Abraham F. Lowenthal was special consultant to the Linowitz Commission. In a broadcast interview Lowenthal argued that diplomatic and trade relations with Cuba would benefit U.S. businessmen and the U.S. economy.

Riordan Roett was also a consultant to the Linowitz Commission and is director of the Latin American Studies at Johns Hopkins University's School of Advanced International Studies. After the Allende Unidad Popular government was deposed in 1973, Roett headed the Emergency Committee to Aid Latin American Scholars, which received a $40,000 grant from the Ford Foundation to organize the placement of Chilean Marxists as instructors at American colleges and universities. Among those "placed" was Orlando Letelier, the Cuban agent.

Richard Rees Fagen, another consultant to the Linowitz Commission, traveled to Cuba in July 1969 with a group of U.S. revolutionaries, mostly members of the Weatherman faction of SDS, to meet with North Vietnamese Communists and Vietcong officials. He was a recipient of Ford Foundation grants in 1967–68, 1969, and 1972–73 during which period he lived in Chile as a "consultant" under the Marxist Allende regime. In 1967, he was a founding sponsor of the U.S. Committee for Justice to Latin American Political Prisoners, USLA, a front of the Socialist Workers Party, the U.S. section of the Fourth International which has organized the training of Latin American Trotskyites as terrorists by the Cubans since 1962. The USLA's function

is to provide support to arrested members of revolutionary groups.

Both the Linowitz Commission and the IPS/TNI report are demanding that the U.S. Government prevent terrorist actions against Cuba. However, the Cuban Communists began exporting revolutionary terror to many Latin American countries in the 1960's. These activities continue unabated and have caused death and injury to thousands.

In this country, the Cubans coordinate support work for a wide range of Soviet-sponsored terrorist groups in Africa, the Middle East, Far East, and Latin America. The Cubans are linked to the Weather Underground Organization and the FALN terrorists in this country and dominate the Marxist-Leninist Puerto Rican Socialist Party which has been involved in violent activities for over 15 years. Selected members of the Venceremos Brigade have received training in sabotage and terror tactics in Cuba; and Cuba has provided sanctuary for a number of U.S. revolutionaries wanted for criminal activities.

Nevetherless, Linowitz Report I stated:

Whatever the case in the early 1960's, Cuba's material support of subversive movements in other Latin American countries has diminished in recent years. Its residual activities appear to be largely rhetorical; they do not threaten the security of the United States nor the Latin American countries.

That particular report was published in mid-1975, the year after the founding of a "terrorist international," the Revolutionary Coordinating Committee—JCR—by Castroite and Trotskyite groups in Argentina, Chile, Bolivia, and Uruguay. Even as the report appeared, the JCR had as many as 6,000 armed guerrillas in Argentina with many additional supporters, and was attempting to infiltrate 2,000 heavily armed guerrillas over the Andes into Chile to lead a planned uprising.

On nonintervention and "ideological diversity," the Linowitz report said:

Unilateral U.S. military intervention, such as occurred in the Dominican Republic in 1965, must not be repeated. Covert U.S. involvement in the domestic politics of Latin America, such as occurred recently in Chile, is indefensible and should be ended . . . such activities . . . are inconsistent with a mutually respectful world order . . . Overt or covert intervention by other nations does not necessarily justify employment of such . . . practices by the United States . . .

On Human Rights, the report says that the U.S. Government should try to assure that its programs do not aid or abet repressive regimes in carrying out inhumane activities. The United States, therefore, is asked to deny economic and security assistance to countries like Argentina, Brazil, Chile, and Uruguay on the grounds that they are authoritarian. Yet in those countries, the authoritarianism was a survival response against aggression in the form of subversion, terrorism, and attempted civil war instigated by the Marxist-Leninists with Cuban backing. In each of these countries there is economic freedom, the right to own private property, businesses and land, freedom of worship, and the right to travel or to emigrate. There are, however, varying amounts of press censorship in political and national security areas. The United States is asked to cut off security assistance, forbid arms sales and end economic arrangements in these countries where the individual has more freedoms than exist in any Communist regime. This cutoff would apply pressure in support of the Communist revolutionaries. On the other hand, the Commission is recommending the establishment of relations in order to provide aid and economic assistance to the totalitarian regime in Cuba.

In brief, both the Linowitz Commission reports and the IPS/TNI "Son of Linowitz" call for sweeping changes in U.S. foreign policy toward Latin America and the Caribbean. They call for the United States to state that it will never intervene directly with military force or with any economic or other politcal pressure to try to stop the imposition of a totalitarian Marxist-Leninist regime; that the United States give away the Canal Zone and Panama Canal to the leftist dictator of Panama; that the United States withdraw militarily from the Caribbean leaving the Cuban Communists free to carry out subversion and/or direct intervention; and that the United States provide the technology and food and finished goods to subsidize the Communists.

In February 1974, Sol Linowitz participated in a Capitol Hill Conference organized by the Fund for New Priorities on the overthrow of Allende. His role as foreign agent for the Allende government was not published. This conference's recommendations on United States-Cuban relations were: that the President should make clear the determination of the U.S. Government to use its powers to the full extent permitted by law to prevent terrorist actions against Cuba; that the administration take steps to enforce national and international laws barring the use of U.S. territory and personnel or resources as a basis for terrorist acts or plans and also by cutting whatever ties may still exist between U.S. Government agencies and those who engage in terrorism or sabotage against Cuba; that the U.S. embargo on food and medicine be lifted, as a gesture that the United States wishes to enter negotiations on other outstanding issues.

On March 8, 1977 Congressman LARRY MCDONALD addressed the Members of the House, elaborating on many of the programs and recommendations of the Linowitz Commission. He ended his address by saying:

I find it disturbing and significant that Americans in influential government and academic positions are working to promote U.S. foreign policy changes in Latin America with Castroite intelligence-gathering organizations like NACLA (North American Congress on Latin America); and that their views coincide in a number of areas with those of Cuban intelligence agents like Orlando Letelier with whom they have been in contact. The activities of the Cuban DGI spy agency in this country are long overdue for investigation by this body, and I recommend such an investigation be commenced immediately.

Conflict of interest charges against Linowitz were pressed with the White House and in the Senate by Senator JESSE HELMS, of North Carolina, one of the leaders of the Senate group opposing the turning of the strategic waterway over to Panama. Senator HELMS called attention to Linowitz's role as a director of the Marine Midland Bank and Pan American Airways, both of which have a direct financial interest in the support of the Torrijos regime. It was revealed that the bank had made substantial risky loans directly to the Republic of Panama. Senator HELMS reported:

The proposed treaty, which Linowitz has long advocated and is now negotiating for the United States, would give away billions of dollars of U.S. investments in the Canal Zone, vastly increase payments to the Republic of Panama, and strengthen the Torrijos regime, which is tottering both financially and politically.

It was revealed that Linowitz served not only on the board of directors of the Marine Midland Bank but also on its executive committee which approved major loans. Senator HELMS noted that the Panamanian Government is in deep financial crisis as a result of its own mismanagement and the international banking community has grave doubts whether the outstanding indebtedness incurred by Torrijos can be paid. Senator HELMS revealed that if the Panamanian Government fails because of its financial crisis, it could well mean the end of the bankers' paradise created by Torrijos which provides United States and other banks with a tax haven for international financial transactions outside the United States.

When Marxist dictator Omar Torrijos took over Panama in a military coup, he reorganized the banking law of that country in 1970, and the new laws were so favorable that the banking industry in Panama went through a startling expansion from what then was a few banks until today there are 73 banks in Panama with assets of $8.6 billion involved in transactions throughout the world.

"Ambassador-negotiator" Linowitz represents the international bankers, the one worlders, and has acted as agent for a Communist country. Little wonder he has been working hard to relinquish U.S. sovereignty of the Panama Canal and Zone and turn it over to Marxist dictator Omar Torrijos who is supported by Communist Cuba.

Mr. Speaker, the conflicts of interest which infect the representation of the United States in negotiating a treaty over the Panama Canal fall into three separate classes, any one of which would and should have made Linowitz inappropriate to be a negotiator for the United States.

When this issue was first raised, it arose in the context of Linowitz' appointment with the personal rank of Ambassador. The law, 22 U.S.C. 901a, clearly requires an appointed ambassador to reveal his campaign contributions. Linowitz to this day has refused to do so. The intent and purpose of the law was to preclude purchase of a position of eminence and power.

The device of personal appointment served to prevent exposure of the matters which the law required revealed in 901a. It also prevented a confirmation hearing before the U.S. Senate in which any real and potential conflicts of interest would be revealed. That is, a confirmation hearing would have revealed those interests of the nominee which would have made the post worth purchasing in the first place. Instead, a State Department formality was substituted for a confirmation hearing.

At first, the State Department declared that there was nothing in Mr. Linowitz' interests which would conflict with his negotiating away U.S. interests in the Panama Canal. Within a week of my filing a suit contesting the legality of Linowitz' appointment, he resigned his seat on the board of directors of the Marine Midland Bank of New York. Marine Midland as part of a consortium of banks was a creditor of Panama for $8,000,000. Marine Midland is near the top of the Federal Reserve trouble list as overextended in soft loans to third world countries, of which Panama is one. Until the suit, neither the State Department nor Linowitz thought that such a situation could be construed as a conflict. It is also difficult to see how his subsequent resignation could have cured the conflict of interest. Will any of the side money benefits inure to the benefit of Marine Midland or the other banks over extended in Panama. Is it to their interest to prop up Torrijos as dictator of Panama lest a successor repudiate the loans.

To this day no one has seen the alleged State Department clearance on Linowitz. No one outside the administration knows how many "Marine Midlands" it contains. But the public record tells us a few more conflict of interest connections which do not lend confidence in the treaty negotiated under the aegis of Mr. Linowitz.

First, Mr. Linowitz represented the Republic of Panama over the Panama Canal issue to President-elect Carter in late 1976. Mr. Boyd of Panama boasted of the fact. Two months later, Mr. Linowitz began representing the United States on the same issue between the same parties. By its terms such a situation is a conflict of interest. Added to the Marine Midland connection, Mr. Linowitz had to be influenced to see that Panama got enough money from the United States for taking back the Panama Canal. Among the few terms of the proposed treaty now known is that Panama will receive at least $2 billion in addition to the canal itself.

Second, Linowitz was negotiating the treaty while Linowitz' law firm, from which he has not resigned, remained a registered agent for South American governmental interests—perhaps an oversight. Certainly the fact that Linowitz himself and his law firm have represented South and Central American interests for at least two decades in more than a half dozen cases is not an oversight. Panama, Chile, sugar interests all have been represented by Linowitz and his firm and all are interested in one way or another in a resolution of the canal issue favorable in their lights to Panama. Linowitz could not be so insensitive to the realities of international interests to be ignorant of the obvious interconnection of all these issues.

The ultimate issue remains that Linowitz was a foreign agent for the very countries pressuring for U.S. divestiture of the canal. He is on boards which have a vested interest in retaining favorable connections and even money recovery from Panama, a country with a deficit worse than the United States on a per capita basis. Finally, he represented Panama in these very negotiations. Both the reality and the appearance make the treaty produced with his connivance more than suspect.

Much more suspect is a State Department which gave him a clean bill of health until the pressure was on. Then came the stuttering explanations that if matters touching Linowitz' business interests should arise, State was sure he would recuse himself from those parts of the treaty negotiations touching those interests. Did Linowitz withdraw from the money negotiations? There is no public record of his doing so.

What is to be said of an administration which trades on morality as its daily staple? Was it unaware of Linowitz' interests and the conflicts? Did not Vance tell the White House? Or did it not matter? Will the Senate now be asked to save the face of the President at the expense of the Nation? When should they have known the facts? Will the House be asked to pass enabling legislation and appropriations on a treaty with such suspect antecedents? Why should the United States give up the Canal for a set of Linowitz' to profiteeer at the expense of its citizens?

ANOTHER WARNING FLAG?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ABDNOR. Mr. Speaker, whether the bus industry will follow other national public transportation industries remains to be seen, but the warning signs are clearly out as this editorial from the Watertown, S. Dak., Public Opinion points out. As with other forms of transportation the implications are more worrisome to rural areas than to urban. Moreover, they are particularly worrisome to lower-income people, particularly the elderly, who find a bus their only economical means of transportation—where bus service is available.

The article follows:

WARNING FLAG RAISED OVER BUS INDUSTRY CONDITION

South Dakota, and much of the rest of the nation, is facing steady erosion of its railroad network as branch lines everywhere disappear under a widespread program to get rid of non-productive trackage.

In the air, the talk is of federal government deregulation and opening of airlines to a cutthroat competitive situation which could result in serious, even critical, deterioration of scheduled air service in all but metropolitan and high-traffic sectors.

Now comes the nation's bus lines with a warning from Fred G. Currey, Continental Trailways board chairman, that "bus service could disappear to some of the 16,000 communities buses serve if the industry's slim profit margins continue to shrink. If trends continue, profits will disappear before 1980 for the bus industry."

Currey has told the National Conference of State Transportation that the industry's economic status is "dire" and that operating profits, after allowing for inflation, are only a third of what they were during 1968–71.

He says, "Bus service will be forced to disappear as losses mount. This situation also makes us consider disinvestment. Our return on capital investment was well below what could have been gained in the bond market last year."

Currey offers some illuminating facts and figures:

Forty per cent of the bus industry's revenues are received from intrastate operations but rate increase approvals often take more than a year in many states, bringing "some tough decisions on where we will cut service."

Buses serve 16,000 communities compared to 670 by airlines and 500 by train.

Seventy per cent of bus travelers have no alternate form of public transportation.

About a third of the passengers earn less than $5,000 a year. Fifty per cent of bus riders are over 64 or under 20 years of age.

Intercity buses are at least four times as fuel efficient as autos, five times more efficient than airplanes and three to six times more fuel efficient than trains. Buses get between 90 and 162 passenger miles per gallon at present loads, autos 25 to 41, trains 14 to 64 and planes 18 to 28.

Currey thus raises a warning flag over the condition of a form of transportation of which relatively little is heard but which, especially in the face of the nation's energy crisis, not only is important but may be about to become considerably more so. Its serious situation, it would appear, should not go unrecognized nor Currey's warning be ignored.

DOWN TO BRASS TACKS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. MILFORD. Mr. Speaker, I would like to insert an editorial that concerns me very much: The financing of future social security benefits.

I agree with the Dallas Morning News that this is one of the toughest problems confronting Congress today, and we are going to have to do something about it because we cannot continue to pay out more than we take in.

I believe the editorial speaks for itself.

Mr. Speaker, I now insert into the RECORD:

DOWN TO BRASS TACKS

Today the House Ways and Means subcommittee on Social Security starts to work on one of the toughest problems facing the federal government: The financing of future Social Security benefits.

This task is political dynamite and congressmen are understandably afraid of it. But it can no longer be put off.

The system is paying out more than it is taking in. The difference is currently being made up out of reserve funds, but the first of those is expected to run dry within a year or two. The others can go on only a few years more, under the current arrangements.

President Carter's proposals for reform of the system provide a good starting point for what promises to be an exceedingly brisk debate, both in Congress and in the society as a whole.

In our opinion, a proposal that should get immediate approval is the removal of the double-indexing that lets SS payments rise, not at the same rate as inflation, but faster than inflation. This blunder by Congress means that by the year 2000 retirees would be receiving SS payments that were higher than the income they had earned during their working years.

That's in theory. Far more likely is that, if this slip-up remains in effect, the system would have bankrupted itself.

But if removal of double-indexing deserves immediate passage, another of President Carter's proposals deserves a speedy trip to the legislative junkpile.

His plan of bailing out the SS deficit by shifting money from the income taxes is a maneuver similar to the type that Bert Lance is accused of doing with his personal bank accounts. If the deficit between income and outgo is large in the SS system, the deficit in the income-tax-supported general revenues is gigantic. The smaller deficit is not eliminated by shifting it over into the larger. This is not solving the problem; it is rather an attempt to hide it.

Fortunately two men who will have much to say about the final shape of the Social Security legislation have come out vigorously against this get-it-from-general-revenues shell game. Rep. Al Ullman and Sen. Russell Long should get the support of both employes and employers, because both groups will lose if this feature is incorporated in the system.

Between these two extremes, unfortunately, the alternatives that the Congress must choose between are not so clearly defined, for nearly every one available is going to be painful for large numbers of Americans.

Perhaps oversimplified, the dilemma is this: Either the taxes on workers must be boosted considerably to increase the system's income or the benefits paid out must be cut back.

Nobody is pleased with either. But we are approaching the point at which the question will be, not whether the system is perfect but whether it can survive.

OSHA—LOST AGAIN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HANSEN. Mr. Speaker, on Monday, July 11, 1977, the Occupational Safety and Health Administration—OSHA—lost its seventh Federal court case.

The U.S. District Court for the Souththern District of California—San Diego—ruled that the OSHA provisions providing for warrantless inspections violate the fourth amendment to the U.S. Constitution, thus becoming the second Federal court to hold section 8(a) of the OSHA Act unconstitutional, as written, and not interpreting it to authorize a warrant procedure.

The case, Ray Marshall, Secretary of Labor, U.S. Department of Labor, petitioner against Great Lakes Dredge & Dock Co., respondent, miscellaneous civil action No. 785, was heard by Chief Judge Edward J. Schwartz. Judge Schwartz stating that he would pass over the procedural issues of the case said that there was a fair argument that the regulations issued by the U.S. Coast Guard do preempt OSHA. He said that the real problem was with the application of the fourth amendment. Judge Schwartz quoted the Barlow case presently pending in the U.S. Supreme Court as his reasoning for declaring section 8(a) unconstitutional. Schwartz concluded his comments saying:

> OSHA envisages walking authority to make inspections. Courts are not attracted by that concept. I am not either.

The California decision follows earlier decisions against OSHA in Idaho, New Mexico, Texas, Ohio, Georgia, and Rhode Island. Judge Schwartz joins 31 other Federal and State judges in rejecting the Department of Labor's claim that warrantless OSHA inspections are constitutional.

Mr. Speaker, the California decision is a most significant one. It proves that once again that with courageous action, rights of the individual can be preserved by the Constitution and the Bill of Rights.

A SUMMARY OF TITLE I, PART V OF H.R. 8444 PUBLIC UTILITY REGULATORY POLICIES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. DINGELL. Mr. Speaker, the National Energy Act, as recently passed the House, contained very important provisions dealing with public utility regulatory policies. Although these policies differed from the original administration policies in many respects, the basic thrust of the House-passed version is the same as the administration's proposal: To effect vast savings of oil and gas by utilizing coal and nuclear baseload electric generating facilities more efficiently and thereby reducing unnecessary use of costly oil and gas peaking facilities through rate reform; and to reduce the need for new electric generating facilities through conservation of electric energy and a more efficient wholesale supply of electric power, thereby lessening the future capital requirements for these new facilities.

I am sure that my colleagues will find this summary of the public utility regulatory policies of assistance to them in understanding these important provisions and in answering inquiries from concerned constituents and other members of the public who wish more information on the effect of these proposals:

SUMMARY OF TITLE I, PART V OF H.R. 8444 AS PASSED THE HOUSE

PUBLIC UTILITY REGULATORY POLICIES

(Prepared by Subcommittee on Energy and Power of the House of Representatives Committee on Interstate and Foreign Commerce, September 6, 1977.)

Part V—Public utility regulatory policies

Chapter 1—General Purposes

Sec. 501. Purposes.
Sec. 502. Definitions.
Sec. 503. Application to Federal Power Act.
Sec. 504. Advisory Committee.

A Utility Advisory Committee is established. The Committee is to be composed of at least 12 members from utilities, state regulatory authorities, consumers, and conservation organizations to advise the Commission respecting duties and functions under the bill.

Chapter 2—Improved Efficiency of Use of Electricity

Sec. 505. Coverage.

Coverage for Chapter 2 is limited to electric utilities with annual retail sales of electricity of 750 million kilowatt-hours per year (from 2 years to 7 years after date of enactment) and 200 million kilowatt-hours per year (after 7 years after date of enactment). The FPC may grant up to a 2-year extension to a particular utility (upon application and for good cause shown).

Subchapter B—Minimum Standards for Rates of Service

Sec. 511. Minimum Standards for Rates.

Each state regulated electric utility shall comply with the following minimum standards:

Rates shall be based, to the maximum extent possible, on cost of service,

Declining block rates are prohibited unless justified by cost of service,

Rates to each class of consumers shall be on a time of day basis and a seasonal basis unless not cost effective for that class, and

Interruptible rates shall be offered.

A state regulatory authority may allow:

Lower than cost-based rates for essential needs of residential consumers, and

Temporary exceptions to cost-based rates for particular consumers (upon application) if significant economic hardship can be proven and if the exemption does not remain in effect more than 5 years after date of enactment.

Electric utilities shall gather data on the cost of providing service as required by the FPC and make such data available to the FPC, the state regulatory authority, and the public.

Sec. 512. Minimum Standards Respecting Advertising.

Electric utilities may not recover expenses from their ratepayers for the following types of advertising:

Promotional advertising,

Political advertising, and

Institutional advertising.

These restrictions do not cover advertising which deals with energy conservation; notices required by law; public information on safety measures, service interruptions, or emergency conditions; employment opportunities; or information regarding rate schedules.

Sec. 513. Minimum Standards Respecting Pollution Control Costs.

Electric utilities may recover from ratepayers reasonable costs of pollution control equipment.

Sec. 514. Automatic Adjustment Clauses.

Rates (other than interim rates subject to refund) of electric utilities may not be increased unless:

The increase has been examined in an evidentiary hearing,

The increase reflects increased costs from a centrally dispatched power pool, or

The increase is pursuant to an automatic adjustment clause.

An automatic adjustment clause must be examined every 4 years in an evidentiary hearing and reviewed every 2 years to insure the maximum economies are being followed by the utility. Such a clause must provide incentives for efficient use of resources and be needed by the utility to meet short term financial obligations.

Sec. 515. Prohibition Against Special Nonaggregate Inclusions.

An electric utility which is a state agency cannot have rates which assign the costs of specific generating facilities within its system to specific customers of that system but must base its rates by assigning all costs of generation to all customers.

Sec. 516. Relationship to Other Applicable Law.

Nothing in this subchapter shall be construed as allowing an electric utility to have a rate of return greater than that allowed by existing state or Federal law.

Sec. 517. Solar, Wind, and Small Electric Generating Systems.

Within 2 years after enactment, electric utilities shall have rates which do not discriminate against solar, wind or other small (15 megawatts or less) generating facilities and have rates which allow for sales of excess power from such facilities back to the utility (these rates cannot force a utility, however, from purchasing this power when less expensive power is available to them).

Subchapter C—Other Requirements for State Regulated Electric Utilities

Sec. 521. Load Management Techniques.

Electric utilities shall offer to its consumers load management techniques which have been determined to be cost effective. Utilities shall submit to state regulatory authorities analyses of load management techniques.

Sec. 552. Standards for Information to Consumers.

Electric utilities shall provide consumers with present and proposed rate schedules and statements on consumption by consumers of electricity.

Sec. 523. Minimum Procedures for Termination of Electric Service.

Electric utilities may not terminate service unless rules set by the state regulatory authority for termination are followed. These rules must have provisions for prior notice, opportunity to contest, and prohibition on termination if the life of a consumer would be threatened by termination and consumer demonstrates inability to pay at that time.

Subchapter D—Nonregulated Utilities

Sec. 526. Requirements.

The requirements of Subchapters B and C must be met by nonregulated utilities except for Sections 512 (advertising) and 514 (automatic adjustment clauses) in the case of nonregulated cooperatives (these exceptions are necessary because of the particular structure of nonregulated cooperatives where the consumers are also the owners and regulators of the utility).

Subchapter E—Requirements Applicable to Regulatory Authorities

Sec. 531. Determination by State.

A state regulatory authority may determine compliance of electric utilities (with which it has authority) with provisions of subchapters B and C if:

It notifies the FPC that it assumes such responsibility and has the authority to do so,

It determines compliance in an evidentiary hearing, and

It complies with the provisions of Subchapter E.

Otherwise, the FPC, upon application of the electric utility, shall determine compliance. State regulatory authorities shall report to the FPC every 2 years on the extent to which they have implemented the provisions of this chapter. If the FPC finds that a state regulatory authority has exhibited a pattern of noncompliance it shall publish such a finding which shall be prima facie evidence in any court that rates of that utility or utilities are not in compliance with Subchapters B and C.

Sec. 532. Determination of Costs of Service.

The state regulatory authority shall prescribe to its electric utilities methods for determining cost of service. Such methods shall be consistent with differences in costs attributable to time of use of electric service. The state authority shall take into account the extent to which costs due to peak demand exceed those of base demand and the cost effect of added energy supplied to consumers. State authorities shall not make determinations of compliance until they have made certain findings of fact regarding cost of service. State regulatory authorities are required to conduct a hearing to determine the appropriateness of implementation of a lifeline rate by utilities which do not have a "lifeline" rate in effect 2 years after enactment.

Sec. 533. Alternative Load Management Techniques.

State regulatory authorities shall hold hearings biennially to review load management techniques.

Sec. 534. Master Metering.

The FPC shall prescribe rules which may prohibit or restrict the use of master metering.

Sec. 535. Participation in Regulatory Proceedings by States and by Electric Consumers.

Electric consumers and state agencies may intervene as a matter of right in rate proceedings. Unless a state has a means for compensating consumers for intervention in rate cases where the consumer:

Meets a means test,

Represents an interest otherwise not represented, and

Represents an interest needed for a fair determination,

the consumer can recover certain reasonable costs of intervention from the utility if the consumer prevails.

Sec. 536. Prohibitions.

An electric utility may not increase any rates at which it sells electric energy unless it has been determined to comply with this chapter. Wholesale contracts between Federal agencies and electric utilities may not have provisions inconsistent with this chapter.

Sec. 537. Enforcement.

Any Federal agency, or any state agency (which is affected by these proceedings of the state regulatory authority) may petition a U.S. district court to enjoin a utility from violating Section 536.

Sec. 538. Judicial Review.

The FPC, or any state agency (which is affected by these proceedings of the state regulatory authority) may obtain review of the determination referred to in Section 536 in a U.S. court of appeals. Utilities and consumers may obtain a review of such determination in the U.S. court of appeals if the determination was made:

By a nonregulated public system which is a Federal agency,

By a regulatory authority whose determination is not reviewable in a state court,

By a regulatory authority whose determination is reviewable but in which the FPC may not intervene as a matter of right or in which the FPC finding under Section 531 was not treated as prima facie evidence of noncompliance.

Any Federal agency which is an electric consumer may obtain a review of a determination in a U.S. court of appeals. Unless otherwise provided by law, no review of determination of compliance in Federal courts shall be available except as provided in this chapter.

Chapter 3—Improving Efficiency of, and Preserving Competition in, Generation and Transmission of Electricity

Sec. 541. Interconnection, Pooling, Wheeling, and Central Dispatch.

The FPC is authorized to order electric utilities or qualifying cogenerators to interconnect, wheel, pool, or otherwise coordinate with other electric utilities or qualifying cogenerators. Wheeling orders may not be for retail consumers except for backup power for qualifying cogenerators. No order may be issued unless the FPC determines that such order will benefit consumers and that no utility subject to the order or its consumers will suffer economic hardship thereby and that the party which applies for the order demonstrates to the Commission that it is ready, willing, and able to reimburse capital and operating cost incurred by reason of the order. The FPC can order a utility to increase its transmission facilities but not its generating facilities. The FPC shall determine if centrally dispatched power pools are appropriate in regional districts and, if so, require their implementation.

Sec. 542. Continuance of Service.

Public utilities shall notify the FPC of anticipated shortages of electric energy which would affect wholesale sales and must accommodate such shortages in a manner which affects the retail consumers of the utility and the retail consumers of the utility to which it sells wholesale power in a nondiscriminatory fashion.

Sec. 543. Consideration of Proposed Rate Increases.

A public utility which wishes to increase its charges for wholesale power must notify its customers 30 days before filing. The FPC may suspend the new rate and enter into an evidentiary hearing to determine the lawfulness of the proposed charges. The FPC must render a decision within 10 months after the filing or lose its authority with respect to the filing. Such authority then passes to the Chairman of the FPC who has 2 additional months to render a final order. "Pancaked" rates are prohibited during the 10-month period specified above.

Sec. 544. Automatic Adjustment Clauses.

Rates (other than interim rates subject to refund) of electric utilities may not be increased unless:

The increase has been examined in an evidentiary hearing,

The increase reflects increased costs from a centrally dispatched power pool, or

The increase is pursuant to an automatic adjustment clause.

An automatic adjustment clause must be examined every 4 years in an evidentary hearing and reviewed every 2 years to insure the maximum economies are being followed by the utility. Such a clause must provide incentives for efficient use of resources and be needed by the utility to meet short term financial obligations.

Sec. 545. Electric Utility Reliability.

Within 2 years after date of enactment, the FPC shall prescribe rules regarding electric utility reliability. These rules shall be reviewed at least every 5 years. Authority given to the FPC under this section may be delegated to state authorities.

Sec. 546. Cogeneration.

Within 1 year after enactment, the FPC shall issue rules regarding cogeneration. Such rules shall insure that rates for cogenerators are nondiscriminatory and provide for excess power to be sold to utilities by cogenerators (a utility cannot be required, however, to purchase power from a cogenerator when less expensive power is available elsewhere). A qualifying cogenerator must give the electric utility to which it is interconnected first right of refusal in constructing and operating the facility and meet certain size and fuel efficiency limitations that the FPC prescribed. Authority given to the FPC under this section may be delegated to state authorities.

Sec. 547. Interlocking Directorates.

Existing law remains the same. In addition, 1 year after enactment, any person who is an officer or director of a public utility and of:

Financial institutions (other than mutual banks or savings and loan institutions or banks covered by existing law),

Suppliers of fuel to utilites, or

One of the largest 20 customers of a utility

must file a written statement with the FPC concerning all such positions held by the person. If the FPC finds that the holding of such positions by an individual or class of individuals is not in the public interest it can prohibit the holding of such position after conducting public hearings.

Sec. 549. Applicability of Antitrust Laws.

Nothing in this chapter may be deemed to grant immunity from provisions of antitrust laws.

Chapter 4—Consumer Representation and Assistance to State Agencies

Sec. 551. Financial Assistance for State Agencies and for Consumer Representation.

The following authorizations are made:

$40 million to states for grants to improve staffing,

$5 million to states for consumer participation in rate proceedings, and

$5 million to states for rate innovation.

Sec. 552. Representation of Consumer Interests before the Federal Power Commission.

An Office of Public Counsel is established within the FPC which shall present to the FPC the views of consumers and states and their local subdivisions if their views would not otherwise be represented. The Director of this office may provide for compensation for cost of participation to any person who meets a means test and represents a views which are necessary for a fair determination and which would not otherwise be heard.

Sec. 553. Responsibilities of Administrator.

The FEA shall inform states of load management techniques and innovations in ratemaking which arise.

Chapter 5—Natural Gas Utilities

Sec. 561. Findings.

Sec. 562. Definitions.

Sec. 566. Coverage.

Coverage is limited to gas utilities with retail sales of 10 billion cubic feet after 2 years after enactment.

Sec. 567. Gas Utility Rate Design Proposals.

The FEA, in consultation with the FPC and with states, is to conduct a study with regard to gas utility rate design. This study is to be transmitted to Congress 12 months after enactment.

Sec. 568. Minimum Standards Respecting Advertising.

The provisions of Section 512 are extended to gas utilities.

Sec. 569. Minimum Procedures for Termination of Gas Service.

The provisions of Section 523 are extended to gas utilities.

Sec. 570. Nonregulated Utilities.

The provisions of this chapter shall apply to nonregulated gas utilities except for Section 568 in the case of nonregulated cooperatives.

Sec. 581. Prohibitions.

The provisions of Section 536 are extended to gas utilities.

Sec. 582. Enforcement.

The provisions of Section 537 are extended to gas utilities.

Sec. 583. Compliance Determination Authority for State Regulated Gas Utilities.

The provisions of Section 531 are extended to gas utilities.

Sec. 584. Judicial Review.

The provisions of Section 538 are extended to gas utilities.

Chapter 6—Small Hydroelectric Power Projects

Sec. 586. Incentive Program.

The purpose of this section is to establish a grant and loan program for the hydroelectric development of existing dams which are not being used to generate electric power. Up to 50 percent of the cost of a project can be covered by a grant; up to 50 percent by a loan; or up to 75 percent by a combination of a grant and loan. There is authorized $50 million per year for grants and $50 million per year for loans for the next 3 fiscal years. The project must be 15 megawatts or less. Nothing in the section exempts a project from existing environmental laws.

Sec. 587. License Charges.

License charges for a government dam shall be no more than $1 annually for each kilowatt of installed capacity.

Sec. 588. Transfers of Authority.

If the FPC is terminated, authority given to the FPC in this chapter (except for licensing) shall be given to the FEA or its successor.

Sec. 589. Conduit Hydroelectric Facilities.

The FPC shall grant an exemption to Part I of the Federal Power Act to any facility of less than 15 megawatts which is located on non-Federal lands and uses the hydroelectric potential of manmade conduits not built primarily for the generation of electricity.

OUR SECURITY WILL FOLLOW B–1 TO THE SCRAP HEAP

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. KETCHUM. Mr. Speaker, during the recent recess, an excellent article by our colleague from California (Mr. BADHAM) was published in the Los Angeles Times. As a freshman member of the House Committee on Armed Services, our colleague took a fresh look at the defensive posture of our Nation and the recent decision of the President on the B–1 bomber. The points he raised are worthy of consideration by all Members of this body, and I would like to share the article with them. I insert the article to be printed at this point in the RECORD:

OUR SECURITY WILL FOLLOW B–1 TO THE SCRAP HEAP

(By Robert E. Badham)

To some observers, it made sense when President Carter recently decided to scrap the B–1 bomber just as it was about to go into production. In their view—and the President's—the price tag of $100 million-plus per plane was too high for aircraft specifically designed to perform a task that could as well be handled by cruise missiles launched from B–52 bombers.

But the B–1 decision cannot be considered in a vacuum. The plane was planned as an integral and major part of a three-pronged defense system consisting of manned bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles. Indeed, Carter's decision to abandon the production of this weapon should prompt us to take a hard look at his overall defense policies.

As a member of the House Armed Services Committee, I am privy to the same top-secret military information as the President. Obviously, however, Jimmy Carter and I have widely divergent interpretations of that information. For my part, I cannot help but conclude that the Administration, either by design or from naivete, has chosen a course that will weaken our nation and cause it to become a second-rate power. The B–1 decision is just one indication of our growing weakness in defense strategy.

The courses open to today's world powers can be likened to those facing youngsters who grow up in tough neighborhoods. They can either be so tough that roughnecks dare not attack them, or they can be so weak that they pose no threat that would invite attack.

So it is, also, in the neighborhood of nations. As long as the United States remains strong, other countries will not bully it. No shots will be fired, no foreign adventures undertaken, no wars started, for the consequences would be too terrible for the perpetrators. If, however, this country drifts—as it seems to be doing—onto a course of weakening itself step by step, then it will simply have to hope for the best.

Consider these measures the Carter Administration has taken so far, above and beyond scrapping the B–1:

Rescinding funds for the construction of a nuclear aircraft carrier to back up the two now in active service and one about to be commissioned.

Terminating all production of the Minuteman III, an intercontinental missile capable of carrying multiple nuclear warheads.

Reducing by more than 50% the budget for a new land-based M–X ballistic missile system, for which engineering development will not begin until fiscal 1978. The proposed M–X could carry four times the payload of present missiles, and do so with greater accuracy. Yet Carter has indicated that he may go beyond the budget cut and bargain this weapon away entirely to obtain agreement with the Soviet Union on a future strategic arms limitation treaty.

Canceling production of the short-range attack missile, part of the arsenal that would have been fired from the B–1.

Moreover, all these steps were taken under the following problematic circumstances:

Cruise missiles are not yet in full operation, nor has their ability to substitute adequately for manned bombers been established.

Now a quarter-century old, the B–52 bomber is unlikely to maintain absolute superiority over Russian aircraft for 20 more years, which is the period through which the B–1 was to have served.

No production line in the free world is turning out intercontinental-range bombers or land-based intercontinental ballistic missiles.

The Soviet Union is continuing new weapon production at a steady rate.

Nevertheless, Carter apparently believed that the scrapping of present and future weapon systems would result in a better bargaining position for the United States in pending SALT talks with the Russians. In fact, however, our unilateral disarmament has received not so much as an encouraging

work word, let alone, a reciprocal gesture, from the Soviet Union, nor should we have expected that it would. But because we did harbor that hope, the Russians, in effect, have shot down the B–1 without wasting a single round of ammunition.

Without serious objection by the Russians, the President decided to forgo development of the B–1 bomber, the most advanced weapon we are capable of producing—and he did so voluntarily, with his characteristic smile.

Several leaders of the House Armed Services Committee, Democrats as well as Republicans, have become concerned about the defense policies of our current commander in chief. The chairman, Rep. Melvin Price (D-Ill.) recently indicated that the committee would undertake a review of our whole defense posture—a commendable decision that comes none too soon.

Unless we exploit our best available brainpower and technology in planning future weapon systems, America cannot continue to operate from a position of strength in the world community. To do less will lead to further U.S. concessions at the negotiating table—and that could prove disastrous for our country, now and for generations to come.

PROBLEMS IN AMERICAN STEEL INDUSTRY

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BUCHANAN. Mr. Speaker, unemployment remains a persistent problem in our Nation's economy. While the August figure of 7.1 percent is an improvement over the high levels of unemployment experienced during the recent recession, we cannot tolerate any joblessness. Statistics offer little comfort to the father, mother, or teenager who is unable to find a job.

It is impossible to pinpoint a single cause of unemployment. The export of jobs, chiefly in the manufacturing sector, however, is becoming an ever-increasing factor and one of great concern to me.

Historically, steel has been the lifeblood of my congressional district and the backbone of American industry. Today, the importation of foreign steel, particularly from Japan, is devastating the American steel industry and throwing thousands of American workers out of jobs.

Last week, I submitted testimony to the U.S. International Trade Commission urging a continuation of the current restrictions on imports of specialty steel, and co-soponsored a bill introduced by the gentleman from Pennsylvania, Mr. MYERS, requiring congressional consultation before the President can terminate or reduce import controls.

Recognizing the gravity of the matter, the distinguished chairman from Ohio, Mr. VANIK, has scheduled a hearing for September 20 on Steel Trade: Current Trends and Structural Problems. I commend the gentleman for this action and hope that this hearing will focus greater attention on the problem.

The following article published by the National Steel Corp. in the Washington Post on Thursday, September 8, 197, excellently portrays the life and problems of the steel industry in this country. I recommend it for your reading and hope that the Congress will act in a timely manner to insure fair competition and protection for American business from government-subsidized. foreign competition.

LET'S SET THE RECORD STRAIGHT ABOUT THE AMERICAN STEEL INDUSTRY

There has been considerable comment recently about the "problems" of the American steel industry. Much of this comment is ill-informed and misleading. It is also potentially damaging to the steel industry, its employees, stockholders, customers and the general public.

We believe the American people will be interested in the facts of the matter from the best-informed source . . . the steel industry itself. This statement and others to follow will attempt to put the most pertinent facts on the record.

That the industry has genuine problems no one should doubt. The steel industry shares many of them with all other industries. Other problems are special to steel. The important thing is to understand exactly what these latter problems are. Much of the comment we hear these days misdiagnoses these difficulties, identifies some that don't exist and attaches too little significance to some very real concerns.

Let's begin by listing some problems that do not exist:

Technology is not the problem. Most American-made steel is produced by technology that compares favorably with the best in the world. The industry includes some less efficient mills but the same is true of Japan and the European Community.

American steel has been the world pioneer, over the longer term but also in the recent past, of many major advances in steelmaking and has been quick to adopt worthwhile developments abroad. Consider these American pioneering achievements as examples: the first giant-sized basic oxygen steelmaking furnaces; the first large electric arc furnaces; the initiation of the new generation of highly automated hot rolling mills.

National Steel, for instance, was the first company in the world steel industry to install 300-ton and larger vessels for oxygen steelmaking. For the past 10 years it has made 95 percent of its steel by this advanced method and the remaining 5 percent in new, advanced electric furnaces. For the past 10 years, National has continuously cast a substantial part of its steel and this autumn will put into operation the world's widest continuous slab-caster, which will raise about 30% the proportion of our steel continuously cast. National Steel has one of only two continuous cold reduction mills in operation in the world today. Other American companies can cite many similar achievements.

The American steel industry is cost competitive for servicing the United States market. Lower labor rates abroad are substantially offset by shipping costs to handle and transport steel from foreign countries such and the European Community, South Korea, Japan, and South Africa.

Productivity in our domestic steel industry is not significantly different from the best productivity abroad. The growth of productivity has slowed here, but this is natural for a long-time efficient American industry. Rapid growth abroad is also natural, since there was much catching-up to do.

If technology, cost competitiveness, and productivity are not the problems, then what are the real concerns?

These are two predominant and somewhat interrelated difficulties.

First, low profitability. The steel industry has, for 15 years, borne the brunt of the government's inadequate efforts to control inflation. Needed price increases have been opposed and condemned by various agencies of the federal government, despite the fact that inflation in many elements of steel's costs—such as energy, labor costs of environmental control, the cost of producing raw materials—have far outrun the national indexes. The result is that steel is currently among the least profitable basic industries in America. Our cash flow, consequently, is pinched, our long-term debt has grown, and needed capital expenditures for expansion and further technological advances are greatly handicapped.

Second, rapidly expanding imports. Our volume is being eroded by cut-price foreign steel being dumped here, in most cases at an outright loss to the producers. More than 60 percent of world steel is owned or controlled by foreign governments which send their steel here to support employment at home. Without foreign government support, sale of low-price foreign steel here would not be feasible economically. Antidumping legal actions are being pressed by American steel producers, but more direct action on governmental levels is being urged, thus far unsuccessfully.

Americans must ponder the question of whether this nation can afford any longer to pursue policies which threaten the strength and well-being of this vital basic industry.

The American steel industry needs to be able to make its products, sell them at fair prices set by the marketplace, enjoy the freedom from foreign opportunism that our government owes to every citizen, return an equitable profit for its investors, and have sufficient capital left for continued growth.

These are not unreasonable demands. They are in keeping with the basic principles and best traditions of free enterprise.

A PERSPECTIVE ON THE BERT LANCE AFFAIR

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. WALSH. Mr. Speaker, I would like to share with my colleagues some thoughts on a commentary presented during the August 29 NBC Evening News by John Chancellor on the Bert Lance affair; and also some thoughts on whether the confirmation process of Presidential appointees should be expanded to include the House of Representatives.

The following is my weekly news column which discusses both topics:

REP. WILLIAM F. WALSH WEEKLY NEWS COLUMN

In the five years I have been writing my weekly column, I have always maintained the policy that its purpose is to take a nonpartisan, informational stance on issues confronting Congress and the President. For this reason, I have some hesitation in commenting on the current controversy over Budget Director Bert Lance, but I do feel quite strongly about two issues that have arisen in this affair.

The first concerns a commentary delivered by newsman John Chancellor during the NBC Evening News August 29, in which Mr.

Chancellor said that Lance's banking practices should have no bearing on his ability to serve as the director of the Office of Management and Budget. I would like to quote several paragraphs from Mr. Chancellor's statement, as follows:

"He (Lance) is not being criticized for anything he has done as an official of the Carter administration. As a matter of fact, his record seems to be quite good. He is a popular man and everything indicates that he has done a good job as Director of the Office of Management and Budget.

"What if Willie Sutton, the bank robber, should be made Director of the U.S. Mint, and suppose he had done a perfectly good job of running it? Would it be fair to attack him for what he had done before?

"That's a hard question to answer and even harder in Mr. Lance's case. Mr. Lance's record is that of an honest banker and good businessman.

"Lance is a victim of several things. One of them is that most of us don't understand the way small town bankers do business. Maybe the system ought to be changed or the rules tightened up, but Lance believed that his overdrafts and borrowings were not out of line at the time."

Granted, Mr. Lance did not take money or gifts from other businessmen for official favors. He did not break into the opposition party's headquarters, nor wiretap phones, nor try to interfere with FBI investigations.

But he did seek out the acting comptroller of currency in December, 1976, a man who was seeking permanent appointment and who had to know that Mr. Lance was close to the President and would probably be appointed as OMB director, to ask the acting comptroller's recommendation of him to the Senate as well-qualified. Furthermore, the losses his banks have suffered hardly qualify Mr. Lance as a good businessman as Mr. Chancellor suggests.

Fifty times as an officer of two Georgia banks, Lance did not report to his directors, as rules required, that he had taken personal loans from outside institutions, twice using the same large bloc of bank shares as collateral. And there is the ethical question about the overdrafts he and his wife ran at Lance's own bank—as high as $450,000 at one time—on which no interest was paid. Under federal banking regulations, no bank is supposed to make advances to their officers for such large amounts and depriving other depositors of the income interest on Mr. Lance's loans is certainly a violation of banking law.

Mr. Chancellor calls Lance a "small town banker." Since when is Atlanta a small town? And since when does a man qualify as a "small town banker" when his bank is the fourth largest in the State of Georgia?

In a favorable light, the best that can be said about Lance is that he is a careless banker. His supporters point out his humane and magnanimous attitude toward the local community. But that cannot erase his image of a banker cutting every possible corner to make himself rich.

Mr. Chancellor's commentary also raises my second question. He says ". . . still another problem (in the Lance affair) lies with the Senate, which swiftly confirmed Lance as budget director without making public details of his business practices. That surely should have been done."

The Senate did a slipshod job in many Presidential appointment confirmations, because it acted too quickly. Senators are now claiming that information was withheld from the Senate Governmental Operations Committee during their investigation of Mr. Lance. It's hard to believe that if there had been more time for the investigation that the committee would have missed the 50 times Lance took out large loans or the question of overdrafts.

The Senate, as did most of Washington, bought the picture of Lance as a financial and organizational wizard, a man who could make a bureaucracy work, a model of wise common sense. How the image is that of a man who is unaware, slip-shod and absentminded. Is that the type of man we want in the demanding job of disciplining the budget and organization of the United States government?

If the Senate doesn't have time to handle the confirmation of Presidential appointees properly, perhaps we should change the Constitution to involve the House of Representatives in this process also. Maybe we wouldn't do it any better, but the old adage about "two heads are better than one" would certainly increase the chances of doing a more thorough investigation.

In spite of all the evidence that casts a shadow on Lance's ability, Mr. Chancellor closed his August 29 commentary with "there is no certainty he (Lance) will be able to hold on to his job, even though he has done it well, worked hard, broken no laws and played by the rules as he understood them. "As President Kennedy said, 'life is not fair' and that seems to apply in the case of Bert Lance."

It's hard for me to understand how a responsible newsman, in light of all that has transpired in this affair, could make a statement like that. Whether or not Lance has done anything ethically or legally wrong, and there remains strong evidence that some of his banking practices were borderline on both counts, his entire manner of operation plus his track record as a banker raises serious doubts about his qualifications for the job. That is the question the other body and Mr. Chancellor chose to ignore.

GOVERNMENT NEEDS OWN ENERGY DATA

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. UDALL. Mr. Speaker, as one who has worked for several years for a comprehensive national energy program, I am well aware that if the Federal Government does not set our energy policy, the monopolistic energy giants will set it for us.

For those who mistakenly think this is an antibusiness position, I highly recommend the following article by Harold Willens and Leopold S. Wyler. A shortened version of this piece appeared in this month's Progressive. The authors, both business executives, convincingly argue that the Government cannot even begin constructing a coherent energy policy until it develops its own information on energy supplies, costs, prices, and production. The Nation will continue to be at the mercy of the energy barons as long as the Government bases its energy proposals on data provided by the industry itself. Willens and Wyler also point out that through excessive profits the energy industry is sapping the strength of other businesses by taking dollars out of the hands of consumers.

This excellent article follows:

Like Oliver Twist the oil industry cried "More!" when a foreign cartel quadrupled petroleum prices in 1973. Our government gave more and suddenly "new" domestic oil became worth four—and then five—times its previous price.

That's where the trouble began.

The price of oil produced in our country had long been artificially inflated through production limits and import protection. We compounded a felony by pinning American oil, a product without a history of cost-based pricing, on the coattails of a faraway decision to set arbitrary prices plucked from the sky.

The magnitude of the mistake becomes more clear when we consider this fact: at the time of the OPEC (Organization of Petroleum Exporting Countries) 1973 price hike our country's total oil imports (from all foreign nations) represented no more than 16% of our total energy consumption (oil, gas, coal, etc.).

A 16% tail was allowed to wag an 84% dog, and we were on our way to an Alice in Wonderland energy pricing pattern.

The pitfalls of upside-down price formulation come into sharper focus when seen against the backdrop of the current natural gas controversy. Presidential energy advisor James R. Schlesinger recently told a congressional committee that major oil companies would make more than $120 billion in windfall profits if natural gas prices were freed from federal control. But Mr. Schlesinger's windfall profit estimate, which relates to prices above $1.75 per 1,000 cubic feet (mcf), made no mention of the profit windfall from the $1.75 price he himself has recommended—a bonanza estimated by some at $200 billion for the next ten years. This unmentioned windfall can create serious economic damage and cannot be logically justified. Mr. Schlesinger's $1.75 figure is an oil-B.T.U.-equivalent spawned by an unwarranted domestic oil price increase which was itself fathered by OPEC's decision to blackmail the world.

Here are several reminders of how far from cost-based realities we have wandered in just a few years . . .

"In 1972 natural gas was sold for an average price of 18½c. Our total national outlay for the 22 billion mcf used (interstate and intrastate combined) by the whole country came to about $4 billion. The breathtaking and backbreaking scope of the economic shifts at stake strike our minds more meaningfully when we juxtapose this $4 billion total figure with the $120 billion and $200 billion windfall profit estimates mentioned above.

"The $1.75 Schlesinger wants to give the industry now is almost ten times the 1972 price. Not a bad bonus when one considers that seven years ago producers publicly promised to increase production if they were granted an increase to 26c, a figure which they said would provide all the price "incentive required to bring forth additional supplies." They got the 26c they wanted. We got a decrease rather than an increase in production.

"Today industry again promises higher production for higher prices. Should we believe them? The same people also made the same promise in 1974 when asking for higher domestic oil prices. The writers of this piece were among those who predicted that industry would never deliver on its promise. It didn't.

"At that time we got—in exchange for higher prices—lower oil production. The same scenario will be rerun if the $1.75 natural gas price is granted now. High energy prices which bear no relationship to costs yield excessive profits which in turn cause companies to cut production."

As part of his energy program President Carter has called for a detailed Petroleum Industry Reporting System. That request should be the President's top priority item. The government, on behalf of the American people, must at last penetrate the iron curtain of "proprietary information" behind which the oil industry has, for fifty years, successfully stonewalled the facts and figures on which sensible price desicions, as well as all rational energy plans, depend. As a former businessman, President Carter can appreciate the need for having reliable facts and figures before permitting his energy advisor to recommend a natural gas price wnich protects our national economic well-being while providing procedures with legitmate price incentives. By putting the natural gas price horse before the cart, Jimmy Carter can break away from industry pressures to perpetuate OPEC-induced oil increases as the price peg for all American-produced energy.

It is not the purpose of this piece to argue for low energy prices. The people of Sweden, whose standard of living is comparable to ours, pay much more for energy than we do. Their per capita energy consumption is only 60% of the American rate. It seems clear that higher consumer energy prices can cut consumption without damaging a country's economy, or its standard of living—if the proceeds from higher energy prices flow to the government and then back to the people rather than into excessive profits for producers.

That explains why we, as business executives, believe that corporate boardrooms are not the best place to plan the best use of diminishing energy resources. Those boardrooms are the place where energy company executives concentrate on plans to increase ownership of scarce resources and then maximize profits from their sale. That is what energy company decisionmakers are paid to do. That's their job.

The government's job is to protect our economy, our people, and even our non-energy corporate leaders, who seem oblivious to the fact that their industry's piece of the economic action will steadily shrink if an OPEC-related price mechanism continues to transform an ever-increasing portion of consumer dollars into energy industry profits which bear little or no relationship to real costs. The only way the government can do that job is to demand the detailed data that will assure financial accountability. For years such information has been supplied by bus and truck lines, banks, broadcasters and other industries. But big oil's political clout has protected its exclusivity of information, a potent weapon used with consummate skill by its sophisticated five- and six-move chess players.

Now the Carter Administration has an opportunity to prove that even the power of the petrogiants can no longer dominate the needs of the nation. This is no less than a historic opportunity for a president to show that he will not permit the public interest to be dominated by an industry which controls the product—energy—that is literally the lifeblood of our body politic.

ARTHUR DELLORUSSO HONORED

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. MARKEY. Mr. Speaker, I would like to take this opportunity to commend Arthur DelloRusso for his years of service to his community and his fellow citizens. Mr. DelloRusso was just named South Medford Man of the Year. We thank him for his time and efforts and hope that he will serve as an example to all of us.

NUCLEAR REGULATORY COMMISSION SHOULD OPEN TO NEWS MEDIA

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. JONES of Oklahoma. Mr. Speaker, comment is often made that congressional "power over the purse" is the most effective legislative control that can be exercised. The bill before us today provides over $300 million for the Nuclear Regulatory Commission to carry out the myriad of activities this regulatory agency is charged with administering.

Unfortunately, one of those activities entrusted to the NRC does not seem to entail allowing the media open and free access to the public hearing process conducted by the Commission.

In my district, the NRC recently conducted field hearings on development of a nuclear powerplant at Inola, Okla. The subject of nuclear power has sparked intense interest and emotion among the citizens of Oklahoma, as it has in other parts of the country. As an issue of immense importance, the local news media sought to cover the public hearings in a responsible and complete manner, only to be confronted by an internal Commission rule barring the use of film cameras during a hearing.

As most of my colleagues know, technical advances in television transmission has made the awkward battery of lights, cables, and whirring cameras a thing of the past. No longer are we faced with a carnival atmosphere in meetings covered by responsible television journalists.

Other regulatory commissions are aware of these advances, and have taken steps to adjust their operations accordingly. The FTC and FPC both have policies that allow live coverage of hearings provided that disruption is held to a minimum, and the physical facilities used for the hearings are adequate to the needs of the journalists. The ICC even allowed live coverage of a recent hearing in Washington, D.C.

I submit that the policy of the NRC is out of step with fresh wind that has blown into our Government. No longer do we conduct our business behind closed doors. No longer do we make decisions first, and inform the citizens after the fact. The rays of sunshine fall on all public servants, elected and nonelected.

There is no justification for allowing the print journalist with the tools of his trade into hearings, and penalizing the electronic journalist with arbitrary, unbending rules.

While the parliamentary situation of the bill before us today does not permit me to suggest pulling the purse strings a bit tighter to encourage a solution to the problem I am describing, I would hope the Commission, with its new members, would reconsider their policy in this area and take steps to correct this antiquated rule.

DEVELOPMENT AND EXPLORATION OF OIL RESERVES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. DERWINSKI. Mr. Speaker, one of the most penetrating commentaries on the energy debate, especially the question of development and exploration of oil reserves, was carried in yesterday's Washington Star, in a piece by one of its resident columnists, Michael Novak.

The column very properly discusses the hypocrisy of the Eastern liberal establishment and the imperfect reasoning behind President Carter's energy bill. The editorial follows:

THE WORLD NEEDS MORE RICH AMERICANS

(By Michael Novak)

There's a question I'd like any ten anti-oil senators to answer: What is wrong with windfall profits for American oilmen, that is right with windfall profits for Arab oilmen? Does not the same windfall blow in Araby that blows in Texas? If someone in this world is going to make money on oil, wouldn't you rather have it be Americans? President Carter and Mr. Schlesinger are shameless in caving in to Arab interests.

To be sure, there is one thing wrong with the oilmen of America. They have the misfortune to hail from conservative parts of the country. If there were oil in Massachusetts and New York, you'd hear more liberal reasons for pumping oil than there are barrels. But northeastern power isn't built on oil. It's built on industry and banking. As conservative states inherit more wealth from oil, liberal senators feel power slip away from them. (Is it possible that power is the name of anti-oil politics?) It's a shame that Minnesota, South Dakota and Oregon have so few pumps.

Picture New York bankers today. They do not have the oil the Arabs have. But they do have ways to get a cut of the Arab's action: Build banks in every Arab land. Manage Arab money here. Better to have Arab money than to let Texans build bigger banks than Chase Manhattan.

A lot becomes clear about President Carter's Mideast policy if you grasp its connections to powerful interests in the Northeast (perhaps via Secretary Vance). Oil and banking promise to remain entwined for at least another generation, through the Araby connection. Thirty years from now, the Rockefellers should be wealthier than they are today. And other bankers like them.

In normal politics, an economic stranglehold exercised by a foreign cartel would be broken by a self-respecting government. The means are readily available. First, the government would allow the price of oil to rise with the world market, building incentives for finding, pumping, and refining substitutes for oil. Next the

government would beg, cajole, support, and praise American oil companies, to encourage them to flood the earth with oil until the spine of the cartel has snapped.

Oil is a finite resource. So oil companies would have strong internal reasons to invest a high percentage of their profits in the development of new forms of power. The government could mandate such a course. If the oil companies hope to be in existence 50 years from now, they darn well better find alternatives. The oil companies have every reason to attack the energy problem head-on, except one. Mr. Carter's policy protects the Arabs.

Oil was refined for worldwide use by an economic system that extravagantly rewarded pioneers like the Rockefellers. A third of the world leaped out of poverty because of an oil-based economy. It's high time to promote new Rockefellers in our midst, who might discover new ways to power industry and automobiles. Let a few get rich, so long as all of us advance a little, too. The world needs more, not fewer, rich families, and in America rather than in Araby. (So they can put up libraries and other philanthropic mementos, for their sins.)

The best way to get the Arabs off our back—and off Israel's back—is to break the power of their oil, and to divert their windfall profits elsewhere. Why should a great nation pay tribute to the Arabs? Many travellers have paid as much as $2 for a gallon of gas in other parts of the world. For the good of the nation—to break a foreign cartel—and to wrest greater U.S. independence, many of us would pledge our lives, our fortunes, and our sacred honor, plus an extra $1.30 per gallon at the pump. We really wouldn't mind if Louisiana, Oklahoma, and Texas received the "windfall."

Discovery, invention and production are the keys to a prosperous future. Smallmindedness will not produce.

One thing is certain. We'd get more astute leadership from the White House, if there were oil under Georgia. You can depend on it.

H.R. 6803—OIL SPILL LIABILITY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. LENT. Mr. Speaker, I rise in support of H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act of 1977, which was unanimously reported by the Merchant Marine and Fisheries Committee.

This bill, which I am cosponsoring, provides added protection for the Nation's beaches and riverbanks against the harmful effects of oil pollution. By establishing strict accountability for oil spills by tanker operators, oil drilling rig operators, and deepwater port operators, this legislation will work to prevent oil spills before beaches are fouled and wildlife destroyed.

The bill does not confine itself to simply prevention, but also establishes a mechanism for dealing with spills after the fact. With a 3-cent-a-barrel tax on oil, this legislation establishes a $200 million fund for damages and cleanup costs. In view of the benefits, this fee is a cost-effective means for providing for the revitalization of areas which have borne the brunt of an oil spill.

Some of our Nation's priceless wildlife sanctuaries and wetlands are vulnerable to the harm of an oil spill. Much commercially valuable beach land is similarly open to spills which are as unpredictable as they are deleterious. This Nation faces the continued prospect of extensive oil tanker traffic, and of offshore drilling in the Atlantic. I urge my colleagues to support this legislation so the odds will be greater that ecological disaster will be averted.

NEW JERSEY COMMISSIONER OF ENERGY SUPPORTS ELECTRIC UTILITY REFORM PROPOSALS AS PASSED THE HOUSE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. DINGELL. Mr. Speaker, I am sure my colleagues will be interested in correspondence I have recently received from Joel R. Jacobson, commissioner of energy for the State of New Jersey.

As the former president of the New Jersey Public Utility Commission and now commissioner of New Jersey's newly created cabinet-level department of energy, he has had great experience in dealing with the complex issues of utility regulation on the State level. His remarks therefore should be of particular value to the House and to the country in assessing the urgent need for passage of these provisions to protect States which are trying to do a responsible job and the manner in which these great potential savings of energy may be achieved.

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC UTILITIES,
Newark, N.J., August 22, 1977.

Hon. JOHN DINGELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: A number of New Jersey utility executives have expressed criticism of your proposals for electric utility reform contained in H.R. 8444 and S. 1469.

As the former President of the New Jersey Public Utility Commission and now the Commissioner of New Jersey's newly-created cabinet-level Department of Energy, I have responded to these criticisms, and thought you might be interested in seeing the details.

In short, I am arguing that a progressive state like New Jersey, which has already instituted most of the reforms contained in your program, needs the federal legislation to protect the New Jersey utilities from being placed in an unfair competitive position as they seek funds for expansion in the capital market.

If I can be of any help, please do not hesitate to call upon me.

Sincerely,

JOEL R. JACOBSON,
Commissioner of Energy.

STATE OF NEW JERSEY,
DEPARTMENT OF PUBLIC UTILITIES,
Newark, N.J., August 19, 1977.

JOHN D. FEEHAN,
President, Atlantic City Electric Co., Atlantic City, N.J.

DEAR JOHN: Thank you for sending me a copy of your August 12, 1977, letter to President Carter. While I appreciate your views on the two pieces of legislation (H.R. 8444 and S. 1469) which affect electric utilities, I feel the need to respond to some of the points made in your letter.

One of the major problems I faced as President of the Board of Public Utility Commissioners was judging the effect of reform measures on the utility industry. For example, how would Wall Street view a reform of the fuel adjustment charge? Similarly, how would large industries in New Jersey view a lifeline plan which would have them subsidizing a low-income user? If the investment community doesn't take kindly to a consumer-oriented regulatory commission, it can easily take its money to another place, leaving those utilities under that commission's jurisdiction in serious financial trouble. The large industries who must subsidize the small user could threaten to move to other states where lifeline rates have been barred, thus severely damaging that state's economy. This is the chance which the regulatory commission takes in passing reforms in the system.

The New Jersey PUC has historically been one of the more progressive regulatory commissions in the nation. In the past few years, the PUC has flattened rate schedules, designed tariffs to promote conservation, levelized fuel adjustment charges, required utilities to finance home insulation, limited advertising expenditures, curtailed discontinuances for the financially-indigent, and approved a number of other items which have differed sharply from traditional regulatory practices. In doing so, we recognized that our actions could be viewed adversely by those who have been used to a system which has remained virtually unchanged for decades. Our actions were taken, though, because we felt they were right, and that some state was going to have to take the lead in these areas so that others, hopefully, would follow.

It's my thinking that the President's plan will aid reform-minded states like New Jersey, and the utilities which serve them. By requiring all states to adopt uniform policies—or, at least, minimum standards—with regard to their electric utilities, no one state will be put in the position of risking its own economy or that of its utilities by adopting plans which may be beneficial to consumers or conservation, but which go against the philosophy practiced by less progressive states. In other words, New Jersey will be one of the prime beneficiaries of this legislation.

While I know you have no desire to precipitate an international crisis, I must also respond to your question: "When will we ever learn to profit from the mistakes made in England?"

To be blunt about it, there may be a great deal we can learn from England and the operation of its nationwide electric power grid whose reliability should be emulated by some of the less-reliable systems in the United States. The last disruption of service in Great Britain was a controlled one resulting from the coal strike of 1973. Consumers were advised that they were not to use electricity for certain hours during the day, and they responded in typical British "stiff upper lip" fashion. I don't believe that smugness should permit anyone in this country to overlook the fact that the two blackouts sustained by New York in the past 12 years

were delivered by its investor-owned-utility, while the last total blackout sustained by London was not delivered by its national electric system, but by Hitler's blitz.

In order to give everyone involved a clear view of all sides to the issue, I am sending copies of this letter to all those people who received copies of your August 12, 1977, letter.

Sincerely,

JOEL R. JACOBSON,
Commissioner of Energy.

ATLANTIC ELECTRIC,
Atlantic City, N.J., August 12, 1977.

President JAMES E. CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: Back in April we were so impressed with your efforts to alert the American people to the length and depth of the energy problem, that we published the attached ad in all the newspapers in our service area. We serve the electric energy needs of a million people in Southern New Jersey.

However, I write to you now to express my concern over those provisions of H.R. 8444 and S. 1469 which relate to electric utilities. These provisions are generally the Dingell proposals which have been around for several years and which have been so lacking in merit as to be rejected every time in the past. Now this bit of extreme social engineering has been slipped in to your high priority energy legislation. These proposals lack both merit and urgency. They are designed to destroy the most efficient electric system in the world.

The provisions of Part V of H.R. 8444 and Part E of S. 1469 will have the following adverse effects:

1. They will take regulation away from the States and management away from the utilities.

2. They will take money away from the large user who is generally conserving and give it to the small user who is generally not conserving.

3. They will take from the 80% of the customers served by investor-owned utilities and give to the 20% served by publicly-owned.

4. They will revolutionize rate structures regardless of individual State differences and uniqueness. (Gives all the children a dose of castor oil because one child broke his arm.)

5. The provisions fly in the face of your avowed effort to reduce the size and scope of federal government, for they create a whole new federal bureaucracy to tell States and investor-owned utilities what to do.

6. The provisions take a giant step down the road to nationalizing the electric utilities, an experiment that has been a major failure in Great Britain. (When will we ever learn to profit from the mistakes made in England?)

Mr. President, we ask you to take a closer look at Part V of H.R. 8444 and see how extreme these measures are. Then we ask that you clearly indicate to the Senate that the investor-owned utilities should not and need not be destroyed in order to address the energy challenge. The answer is to delete Part V in H.R. 8444 and Part E in S. 1469.

Very truly yours,

JOHN D. FEEHAN.

P.S. To aid you in perceiving the impact of what Congress is doing in the utility program, I am enclosing an analysis by Joseph Swidler of the provisions of the Senate version of the bill. Mr. Swidler, former FPC Chairman and former New York PSC Chairman, testified before a Senate hearing on July 28. Also enclosed is a Wall Street Journal editorial of August 3, on the same subject. J.D.F.

CANADA GOES METRIC

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. TEAGUE. Mr. Speaker, a few months ago, the Federal Highway Administration of the Department of Transportation proposed a plan for the conversion of the Nation's highway signs to the metric system. Along with many other Members of the House, I was opposed to the plan because it did not provide for a careful public education effort, including the use of dual sign.

Our neighbor to the North, Canada, like all the other advanced industrial countries in the world which are still nonmetric, are now converting to the metric system. In the field of highway markers for both speed and distance, the changeover to metric in Canada is taking place this month. Americans who travel in Canada, especially those living in the States bordering the United States, will be affected by this change. For the information of my colleagues, I include in the RECORD a newspaper article from the New York Times of September 6 which describes this change.

[From the New York Times, Sept. 6, 1977]

METRIC ROAD SIGNS DUE IN CANADA TODAY—SOME CONFUSION IS LIKELY BECAUSE MOST SPEEDOMETERS WILL STILL BE MARKED IN MILES NOT KILOMETERS

(By Robert Trumbull)

OTTAWA, Sept. 5.—Motorists in most of Canada will find new figures posted for all posted for all speed limits and distances tomorrow as the highways here switch from the familiar English measurements to the metric system, using kilometers instead of miles.

Drivers accustomed to a 30-mile speed limit in urban areas will find that they are allowed to move at 50 kilometers an hour. But some adjustments have been made to keep the figures even. For instance, the common Canadian highway speed limit of 65 miles an hour will be changed to 100 kilometers—a little more than 60 miles an hour.

Authorities expected some confusion, since most speedometers are still calibrated in miles (new models sold in Canada from now on must have metric speedometers). Motorists are being advised to get the metric pasteover that is available free at some stores, or to mark the key figures on their mileage scales with crayon, lip stick or nail polish.

However, the radar sets used by the highway police to clock speed cannot be altered from miles to kilometers easily, so officers on guard for violators will have to make the conversion by mental arithmetic for the time being, which means dividing the miles per hour by .6, to use one simple method with a minimal error factor.

"METRIFICATION" OF CANADA

The change in road signs, officially set for the day after Labor Day in order to avoid complicating the usual traffic problems of heavy holiday travel, is part of the move to complete "metrification" of Canada by 1980.

When Canada completes the changeover to the metric system, the United States will be the last major industrial power still sticking to the more cumbersome English measurements, although some smaller countries like Liberia and Southern Yemen still retain the English system. Moves to put the United States on the metric system have been delayed by Congressional opposition.

The shift to metric measurements here began in 1970, with the changes being introduced gradually. For two years, Canadians have been getting temperature readings on the Celsius scale, which makes 35 degrees equivalent to 95 degrees Fahrenheit and puts the freezing point at 0. The Celsius system, also called centrigrade, is named for Anders Celsius, the 18th century Swedish astronomer who invented it.

The Government frowns on the practice of some newspapers and broadcasters of giving temperature in both Celsius and Fahrenheit (the latter can be worked out by taking nine-fifths of the Celsius figure and adding 32; the figures are the same on both scales at 40 degrees below zero, a temperature not unknown in Canada).

SCHOOLS USING METRIC SYSTEM

"Think metric" is the Government watchword in the "metrification" campaign. Officials point out that coming generations will have no problem, for the public schools are now using metric measurements exclusively.

"The big crunch will come in July 1979, when retail scales change from ounces and pounds to grams and kilograms," says an official of the Metric Commission, the government agency in charge of the conversion. A kilogram, or 1,000 grams, is equivalent to slightly more than 2.2 pounds.

For various reasons, the change to kilometers is being delayed in a few parts of Canada. In the Yukon Territory, a federally administered area, the shift is awaiting the next meeting of the governing council. In Manitoba it is reported that the provincial Government has postponed the move, which some sections of the public oppose, until after the election expected in the fall.

ENERGY IN THE COMING CENTURY

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. MARKS. Mr. Speaker, I have recently read a summary report entitled "Energy in the Coming Century," prepared by John F. Houlihan, associate professor of physics at Shenango Valley Campus of the Pennsylvania State University in Sharon, and David P. Madacsi, associate professor of physics, University of Connecticut at Groton.

While the report does not necessarily reflect my views as such, I found it to be quite informative and a good basis of discussion on a very vital topic and I should like to share its contents.

ENERGY IN THE COMING CENTURY

In the closing months of 1973 the citizens of the United States were suddenly faced with the reality of an "energy crisis." Subsequently, much has been written and discussed concerning the finite limits of fossil fuel supplies and the ramifications of such limits on our capacity for economic growth, for maintenance of our standard of living,

and ultimately, for survival as a social order. However, the end of the Arab oil boycott and the concomitant return of adequate gasoline supplies, signaled the return of a national apathy toward the energy crisis.

For those who are familiar with projected world energy demand and with the estimates of world-wide primary energy reserves and resources available to meet this demand, the apparent apathy seems incredible. However, much of the cause for this public attitude is a direct result of our failure to clearly communicate the gravity and the true essence of the energy crisis to our fellow citizens. Succinctly (if somewhat simplistically) stated, there is no shortage of energy in the world today—what there is, is a serious and rapidly growing shortage of cheap energy. However, since an adequate and secure supply of energy—produced at low cost, with minimal environmental effects—is prerequisite to modern technological societies, the very raison d'etre of the entire industrialized world is today being challenged.

It is of cardinal importance that we delineate the true nature of this crisis, because both the understanding and the cooperation of the American public will be absolutely essential to its successful resolution. Failure to stress the fact that we are faced with a "cheap supply" shortage rather than an "absolute supply" shortage in the past has led many of our citizens to view our current energy problems with cynical apathy—and who can blame them? During the oil embargo we were told the world was running out of oil, yet as soon as the price of gasoline and heating oil doubled, we had no difficulty in obtaining adequate supplies.

We do not mean to imply here that the energy crisis was caused by the Arab oil boycott, nor that it was the result of a conspiracy by energy producers (despite some windfall profits and possible energy market manipulations). However, in the minds of many citizens the roots of the crisis are perceived in just this way.

If such contrived factors are not responsible for our current energy dilemma, we must then ask what factors have conspired to drive us from our Eden of abundant, cheap energy?

The answer to this question resides in a number of somewhat unrelated factors which came to confluence in the early 1970's.

1. "Easy Pickins" are gone. Large, easy to detect and exploit natural gas and oil fields have been or are rapidly being depleted world-wide. Thus, remaining supplies will require more time, effort and money to find and extract, and production costs which have been climbing steadily will continue to do so in the future.

2. Environmental Awareness. As a result of Earth Day and other clean air and clean water movements, the nation's level of environmental awareness was heightened beginning about 1970. This has led to a number of federally mandated pollution control programs which have decreased the efficiency of automobile engines and increased the production costs of other forms of energy. In addition, environmental concern has eliminated some easily obtainable fuel supplies from development because of possible deleterious effects.

3. Intrinsic Value of Oil. Increased usage of crude oil as a feedstock for the rapidly growing petrochemical industry has made us more cognizant of the intrinsic value of these limited resources for their chemical properties, rather than their usage for fuels. Nealy 10% of the crude oil used in this country today is consumed in the manufacture of petrochemical products, including synthetic fibers, plastics, pharmaceuticals and fertilizers.

4. O.P.E.C. At the beginning of this decade many of the underdeveloped countries that represented the major oil exporting nations, realized: (1.) that their oil supplies were limited; and (2.) the direct relationship between the per capita energy consumption and the per capita gross national product of the more developed nations. These factors led O.P.E.C. members to demand a larger share of the economic pie and resulted in a quadrupling of the price of crude oil.

5. Increased worldwide consumption. In addition to, and in some cases because of the factors alluded to above, worldwide consumption of oil and natural gas has been increasing rapidly. This increased consumption has resulted both from higher per capita energy use in developed nations, as well as the rapid increase in energy usage in underdeveloped nations as they attempt to move toward a more technologically oriented society.

The net result of these various factors to date has been a substantial increase in energy costs worldwide, and a serious disruption of the world's economic stability. Thus, if our technological societies are to survive into the future, it is imperative that our supplies of fossil fuels which have in the past provided the energy basis for such societal development, be extended. Extension of such fuels will serve a necessary "rear guard" function in allowing for the development of, and orderly penetration of markets by, alternative sources of economical energy.

By the year 2020 or slightly later this country must be prepared to rely primarily on new sources of energy which are nearly limitless. Our long-range plans should provide that, at that point in time, these new sources should be almost completely supplemented by other renewable sources of energy, such as solar heating and cooling, geothermal, ocean thermal gradient, and wind energy systems. All fuel-related use of fossil resources at that time should be into or beginning a phase-out role, thus preserving what remains of these valuable resources as raw materials for other vital uses.

Three sources which fit the description of nearly limitless energy sources are now being developed—breeder reactors, solar electricity and nuclear fusion. At this point however, only the breeder reactor has been shown to be both technically and economically feasible. (Solar electricity, although technically feasible requires cost reductions of several orders of magnitude to be economical.) It is imperative therefore that research on the various breeder systems continue until and/or unless the hopes and optimistic forecasts for both solar electricity and nuclear fusion are verified. We simply do not have time for the luxury of long delays in breeder reactor development. Thus, while both solar electric and nuclear fusion research and development should be continued, and even accelerated, prudence suggests continued emphasis on a system of proven feasibility. However, it is not the period beyond the year 2020 that will present us with our greatest energy challenges, but rather, those challenges will come during the period of transition from our current, hydro-carbon based economy to that of an electric-hydrogen based economy—a period of transition which has already begun.

In order to meet the energy needs of our society during this critical era, it is imperative that we institute and maintain nationwide programs in Energy Education, Energy Conservation and Improved and Alternative Methods of Energy Production.

ENERGY EDUCATION

Probably the greatest difficulty to be overcome in the resolution of our energy problems is, as was alluded to above, the apathy of the American public. The citizens of the United States have historically possessed tremendous inertia—however, that inertia can be one of rest or one of motion. We must once again, "Wake the sleeping giant, and fill him with a terrible resolve."

To this end we must expand our educational activities to raise the level of "energy-consciousness" of all our citizens. In particular, the Energy Action Program as outlined in ERDA 76-26, must be expanded, funded and pursued vigorously.

ENERGY CONSERVATION

By far the most dramatic increases in fuel supplies can be achieved through the conservation of those supplies currently available. There are many areas in our economy where energy is now being wasted. This has become particularly apparent since the increase in petroleum prices. Industrial processes, heating systems, transportation systems, and building insulation practice which made good economic sense from a cost benefit standpoint prior to 1973 no longer do; and as these areas are reanalyzed and modified to reflect current energy costs, vast amounts of energy, money and environmental degradation can be saved. Eliminating such waste can improve the quality of living while significantly reducing energy consumption. Considerable discussion of numerous suggestions for energy conservation has appeared elsewhere and will not be repeated here. However, there are two areas worthy of further mention. First, it now seems obvious that solar energy is currently economically competitive with more traditional fuels for hot water and space heating and cooling applications over a substantial portion of the country. Since approximately 25% of our total energy is used for this purpose, shifting to a renewable solar source would free up significant (though limited) amounts of natural gas and petroleum for other uses. In order to help develop solar technology and in particular to expedite its penetration into the heating/cooling marketplace, we recommend that all new federal buildings be partially heated by solar energy to the maximum extent compatible with their location.

Second, we propose setting up a nationwide system of recycling and material storage centers. Substantial energy savings could be realized in recycling aluminum, ferrous metals, paper, glass, etc. With such a combined system, recycled materials could be stored in material storage facilities during lulls in demand for them, thus eliminating one of the most critical problems now facing volunteer recycling centers. In addition, such centers could be operated in conjunction with "trash burning" or pyrolysis units which could utilize any overabundance of paper products for electrical power generation during periods of low demand for such material for recycling. During periods of high demand for recyclable material, these units could generate power using coal. Thus, the operation of both recycling centers and "trash burning" power plants could be put on a less uncertain and less costly basis.

While the economics of such a system might not be too impressive if viewed only from the immediate energy conservation standpoint, there are other benefits to be derived. For example, one of the most perplexing problems facing the nation as we begin our third century is to develop the means to allow all those who want to work to do so, in a meaningful job. Most recent attempts to create federally subsidized jobs have resulted in many jobs of the "make work" variety. If we must have such programs they should assure that both the employee and the public stand to benefit from the government's subsidy. We feel that a nationwide system of recycling and material

storage centers would create thousands of meaningful jobs which would transform millions of tons of rapidly diminishing natural resources from a problem—solid waste—to a national asset—increased raw materials for our industries. In particular, many of the jobs created would meet the needs of the unskilled teenage unemployed who now number over 2 million in the United States. In addition, such a program would decrease our degree of dependence on foreign suppliers for both energy and raw materials, and indirectly at least contribute to our national security.

IMPROVED AND ALTERNATIVE METHODS OF ENERGY PRODUCTION

Even if the programs for education and conservation are successful, it is doubtful if an orderly transition from fossil fuels can be made unless we are able to increase our domestic production of energy in the near future. In order to do this increased support for, and emphasis on the following technologies is advised: (1.) accelerated exploration for petroleum on the outer continental shelf—particularly off the energy-hungry Atlantic Coast; (2.) secondary and tertiary recovery methods for both oil and natural gas; (3.) development of geothermal power from dry and wet steam fields should be vigorously pursued, and additional basic research into the potential of the more numerous hot water fields and the potential of the oceans should be funded; (4.) We do not have the luxury of neglecting the development of conventional nuclear reactors for the generation of electricity. A larger portion of U.S. energy needs must be borne by this resource if we are to maintain a reasonable standard of living over the crucial years of transition; (5.) Increased use of coal, particularly Eastern coal located near the areas of acute energy shortfalls must be achieved. This can most likely be done through the production of both low and high B.T.U. synthetic fuels. Capital costs for large scale production in these coal gasification technologies are expected to be high, and government subsidies and/or loan guarantees will be required to hasten market peneration on a meanful scale; (6.) Finally, methods to utilize the tremendous energy potential in oil shale must be found—although successful, large scale exploitation of this resource may not be possible soon enough to ease our growing energy problems as our nation approaches its third century of challenge and opportunity.

THE CACHE RIVER PROJECT

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ALEXANDER. Mr. Speaker, as you are aware, there has been a great deal of discussion about the Cache River basin flood control and fish and wildlife habitat preservation project in Arkansas. Much confusion has arisen from the conflicts between the claims of the opponents and the comments of the governmental and quasi-governmental agencies having responsibilities for the project.

This project presents a classic example of the conflict between the needs of food production and environmental preservation. The Cache River basin is a complicated area with conflicting needs. Designers of the congressionally approved solutions proposed to the problems of the Cache have worked to achieve a harmonius balance between production and environmental protection needs.

In view of the continuing controversy and confusion, I believe it would be useful to share an essay on the Cache project recently prepared by Trusten Holder. Mr. Holder is a nationally known Arkansas conservationist who has spent much of his professional and private life working to preserve the fish and wildlife habitat in eastern Arkansas' Delta lands. He is chief of the Environmental Preservation Division of the Arkansas Department of Pollution Control and Ecology.

Mr. Holder has titled his essay "The Unvarnished Truth About the Cache River Project."

To put Mr. Holder's comments and observations into perspective it would be useful, I believe, to make some remarks about his background. His long and distinguished career as a conservationist began in 1938 when he spent a year working on the White River National Wildlife Refuge as a biological aide for the Bureau of Biological Survey. The WRNWR is located in the heart of eastern Arkansas. During the next year Mr. Holder was employed making a wildlife survey of the Ouachita River basin for the University of Arkansas.

In June 1940, Mr. Holder became coordinator of Federal Aid for the Arkansas Game and Fish Commission. With the exception of 4½ years spent as a World War II U.S. infantry officer, he worked continuously in this position until March 1969.

This post gave him supervisory and operational control of the commission's research, deer trapping and transplanting and all other restoration activities. But, his most important work was the acquisition and development of public hunting and fishing areas. Mr. Holder promoted, and in many instances personally negotiated, the acquisition of the vast majority of individual tracts in the quarter million acres of valuable wildlife habitat the commission now owns in Arkansas.

He left the commission in 1969 to conduct a study of the woodlands in eastern Arkansas for the Arkansas Planning Commission and the U.S. Bureau of Outdoor Recreation. "Disappearing Wetlands in Eastern Arkansas," which Mr. Holder wrote as one of the results of this study, helped win him national prominence as a conservationist. It aided in focusing attention on the need to preserve wetlands nationwide.

His conservation laurels also include:

Representing, in 1965, the 11 Southeastern States on an International Association of Game and Fish Commissioner's Committee charged with revising the Federal Aid to Wildlife and Federal Aid to Fisheries regulations;

Receiving the 1970 Arkansas Wildlife Conservationist Award of the Year from the Arkansas Wildlife Federation;

Being presented in 1971 with the coveted C. W. Watson Award, a joint recognition of the Southeastern Section of the Wildlife Society, the Southern Division of the American Fisheries Society and the Southeastern Association of Game and Fish Commissioners;

Receiving, in 1971, an appointment by the U.S. Secretary of Agriculture to the National Advisory Board for the Water Bank Act;

Having the Arkansas Game and Fish Commission name the Trusten Holder Wildlife Management Area in his honor in 1972; and,

Successfully negotiating, with some assistance from the National Audubon Society, the Singer Co. donation to the State of Arkansas of a 519-acre remnant of the eastern Arkansas woodlands.

The following is Mr. Holder's essay:

THE UNVARNISHED TRUTH ABOUT THE CACHE RIVER PROJECT

(By Trusten Holder)

On April 18 President Carter announced he was withdrawing his opposition to 8 of the 30 water resource development projects that he had previously selected for probable abandonment. He also announced he was recommending a continuing review of 2, a partial funding to 5 and continuing his opposition to funding 15. His continued opposition to the Cache River-Bayou De View Channelization Project in Arkansas was no surprise.

Just the mere mention of channelization is enough to raise the dander of virtually every environmentalist throughout the entire nation. And here was a channelization project that had faced strong opposition from almost all local and national conservation organizations.

Newspapers within the State, and a considerable number in other states, had hammered against the project with news releases and editorials, plus a whole series of some of the cleverest and most effective cartoons that had ever been published on any subject anywhere. Seven northern states had joined the Environmental Defense Fund and the local opponents in trying to kill the project by court action.

If there are any surprises in the long and continuing battle over the Cache it is not to be found in what the President did. Nor is it likely to be found in the downright stubborness that was displayed by Corps of Engineers for several years after conservationists first tried to get the Corps to cooperate with fish and wildlife interests.

The surprise is most likely to be found in the willingness of conservation interests to go along with a false propaganda campaign. This demonstrated that at least some of the conservation leaders are more interested in continuing a vendetta against their old enemy the Corps of Engineers than they are in the preservation of environmental qualities.

The unvarnished truth about the controversy is not very complimentary to either side. In order to understand what happened it is necessary to know a little about the project and the environment.

The project, which was authorized by Congress in 1950, was designed to reduce the frequency, depth and duration of flooding on about 750,000 acres in northeastern Arkansas and 30,000 acres in southeastern Missouri. It provided for improving 140 miles of the main channel of Cache River, 15 miles of the upper tributaries and 77 miles of its major tributary—Bayou De View. The cost of the rights-of-way and maintenance after completion to be paid by the Cache River-Bayou De View Improvement District, and the Corps to construct the project at government expense.

There was little concern in 1950 that this 232 miles of ditching might have a detrimental effect upon extremely valuable wildlife habitat. The general concensus of opinion way back then was that too much of Eastern Arkansas was wooded. What was needed was to provide flood relief not only to

the farmers who had cleared considerable acreages in the upper and mid portions of the basin but also to make it easier for other farmers to move in and clear additional land.

Although no construction was begun for more than twenty years after the project was authorized it was subjected to several reviews and many meetings and discussions. Many of these discussions pertained to how to reduce project induced fish and wildlife losses. These discussion were pretty much one sided until after Congress passed the Fish and Wildlife Coordination Act of 1958. That Act forced construction agencies to consider fish and wildlife values.

Not much progress was made even then. The U.S. Fish and Wildlife Service, in September 1959, recommended adoption of mitigation measures which included the purchase of 40,000 acres of woodlands at federal expense. The Corps recommended against the purchase of mitigation lands because they said it was not economically feasible. But they did agree that spoil from the ditch be strategically placed to achieve greatest benefits to fish and wildlife provided it didn't increase construction costs or cause any interference with drainage.

Some of the more conservation minded employees of the Corps had been striving all along to have the preservation of environmental qualities made an integral part of Corps projects. This was especially true of those that loved to hunt and fish and those who hadn't spent their professional careers kowtowing to rich landowners and politicians. Their desires, however, didn't carry much weight until after Congress passed the National Environmental Policy Act of 1969.

The meeting which was most crucial to the forward advancement of both the mitigation plan and the construction was held in Memphis on August 27, 1970. In addition to Corps personnel this meeting was attended by six of the nine Board of Directors, the Executive Secretary and both attorneys of the Improvement District and the Executive Vice-President of the Lower Mississippi Valley Flood Control Association. Three officials of the U.S. Fish and Wildlife Service were present. The Arkansas Game and Fish Commission was represented by a Member of the Commission, the Director, the Chief of Game, the Chief of Fisheries, the Waterfowl Biologist and the Administrative Assistant in Charge of River Basin Studies.

The District Engineer explained at this meeting that they planned to award a contract in December 1970 for the first segment of the ditching. He also explained that the Corps would have to get specific congressional authority for acquisition of mitigation lands.

The flood control and drainage interests, which admittedly had had much more experience and success in dealing with Congress, made it plain that they would assist in obtaining authorization for the mitigation lands only if construction is not stopped or slowed.

All present agreed to cooperate in the effort to obtain congressional authorization for acquisition of mitigation lands.

The Corps postponed its plan to award a contract in December 1970 in order to provide time for the mitigation plan to be prepared and then reviewed by the various interests.

The Fish and Wildlife Mitigation Plan requested authorization for the acquisition of 30,000 acres at federal expense. Conservation interests that reviewed the plan all emphasized the need for early implementation in order to buy the woodlands before they were cleared. About half of the conservationists recommended that the lands be purchased along with the implementation of construction and the other half recommended the lands be acquired before construction began. Agricultural and drainage interests supported the plan on condition that construction was not delayed.

One serious hitch remained. The construction project had been authorized, construction of Item 1 had been funded but the mitigation plan had not been authorized or funded.

On October 4, 1971, the Corps filed the advance notice for bids on construction of seven miles of channelization on the lower end of the project. Two days later the Environmental Defense Fund and others filed a suit in Federal Court to stop the project. The basis of the suit was that the 12 page Environmental Impact Statement the Corps had filed was not adequate to comply with the provisions of the National Environmental Policy Act of 1969.

The legal battle has see-sawed back and forth. The Corps started and then had to stop construction because of court action but later was permitted to resume digging that first seven miles of channel.

Back in September 1972, leaders of state and national conservation organizations appeared before a Senate Committee to urge approval of the mitigation. Those submitting strong statements supporting mitigation included the Executive Vice-President of the Washington based National Wildlife Federation, the Chief Counsel of the New York based Environmental Defense Fund and the Executive Secretary of the Cache River-Bayou De View Improvement District.

The Water Resource Development Act, which was signed into law on March 7, 1974, contained authorization for expanded mitigation. It called for the purchase of up to 30,000 acres of woodlands and the preservation of 40,000 acres of additional woodlands through the acquisition of perpetual easements that would prevent the land from being cleared. The most significant part of this authorization is the requirement that no less than 20 percent of each future appropriation for the project must go for mitigation until all authorized mitigation is completed.

It is no wonder that the project became a contested issue. Nor is it any wonder that the project is still so widely misunderstood even though valid conservation objections for opposing it no longer exist.

When the tempo of the opposition was being developed, there were only 30,000 acres of woodlands being offered as mitigation, and there was no assurance that even that amount could be obtained.

To make things worse, past performance of the Corps of Engineers in actually providing mitigation lands that had been previously authorized was disappointing, to say the least.

Considerable misunderstanding emerged over the number of acres remaining in the Basin. Even the Corps had failed to realize the rapidity with which woodlands were being destroyed and how little remained.

One state agency, in all sincerity but lacking up to date information, estimated that "about 294,000 acres of woodlands will be subjected to clearing by landowners as a result of the project." With estimates like this coming from responsible public agencies, one can hardly blame some of the emotionally oriented recent devotees to environmental protection for adding a few wild and inflamatory exaggerations to an already muddled situation.

The fact is that the number quoted by the agency (294,000) is about twice the acres of woodlands, counting every little tiny patch, that remain. And those remaining are being rapidly cleared for conversion of the land to soybean production.

The March 7, 1974 signing, which made the mitigation plan part of the law of the land, turned the Cache River controversy into one of the most lopsided environmental issues this nation has ever faced.

On one side is the preservation of up to 70,000 acres of woodlands which are in addition to the 16,000 previously purchased in the basin by the Game and Fish Commission. On the other side there is no guarantee for the preservation of a single acre of woodlands which would be in addition to those which have already been acquired by the Game and Fish Commission.

There are, of course, other elements of the environment which are in addition to woodlands. But when all the woodlands are gone, virtually all other desirable elements of the natural environment are also gone.

The woodlands serve as the only buffer in the Cache River Basin between damages from increases in siltation and insecticides and other agricultural chemicals and damages from decreases in wildlife habitat; declines in the water table; and deterioration in air, water and scenic quality.

Although originally widely disputed, it is now generally conceded that economic pressures are strong enough to place in jeopardy every remaining acre of privately owned woodlands in the entire Basin, even if the ditch never were completed.

The woodlands that have not been cleared are located on land that is no lower in elevation, or no wetter, than some other previously wooded tracts which have already been cleared and placed in cultivation. The risks to growing crops in the Cache River floodplains are great, but these risks are not sufficiently great to prevent the woodlands from being cleared.

In some places levees have been constructed around some of the wetter land, and pumps have been installed to keep the cropland dry during the crop growing season. Now that the price of soybeans is more than three times what it was when most of the land had been cleared additional clearing will be speeded; and leveeing and pumping will be increased. (On April 18, the day the President announced his decision, soybeans were selling at $10.23 a bushel on the Chicago Board of Trade.) Both the proponents and opponents to the project can claim a part in getting more mitigation than originally proposed. It would seem that both sides could join in a concentrated effort to preserve, by all available means, virtually every wooded tract that does remain and precious little remains.

Unfortunately, this has not occurred. By the time Congress had authorized the mitigation plan the dedicated and knowledgeable conservationists, who had helped launch the opposition in an honest effort to preserve environmental qualities, had already lost their dominant influence. The more radical element consisting primarily of those who are in the business of confrontation for confrontation's sake had assumed the dominant role. The avalanche of public opinion which they generated by raising the levels of emotions and lowering the levels of reason was overwhelming. It had become abundantly clear that the only realistic hope of preserving a significant portion of the remaining woodlands was to ride the coat-tail of the Corps of Engineers. But in all fairness it should be pointed out that it was too much to expect from some of the more experienced conservationists. They had been outmaneuvered by the Corps on too many previous coordination efforts.

There were, however, a few attempts made to make an honest evaluation of the environmental consequences to do what was best for the environment. The Director of the State Game and Fish Commission had to back down after almost losing his job in trying to counteract the false propaganda. He said that after he got his five children educated and on their own he could afford to be brave.

Now, there are some valid non-environmental reasons for opposing the project. The real reason behind much of the local opposition is opposition to the mitigation plan.

There are those who have exclusive, or fairly exclusive, hunting and fishing rights, a goodly portion of which is on land they do not own. They would like to maintain status quo and resent the threat of having the general public come in even on the neighboring tracts.

Then there are those who are genuinely opposed to state or federal ownership of any more land. Add on those who are opposed to spending money to benefit agricultural interests, plus those who are opposed to spending tax dollars on anything and everything, and a pretty good base has been built for opposing the Cache project.

But these are hardly the type of reasons to be shoved in front of the gullable public in order to generate an emotional wave of opposition. Neither can those vague and partly imaginary environmental complexities, which most of the instant ecologists are so concerned about, be used very successfully to generate nation-wide opposition. There are, of course, environmental complexities but certainly nothing as overriding and as catastrophic as having all the woodlands destroyed.

What, then, was used to generate this opposition which reached all the way to the White House? Perhaps most effective and vicious was the claim that the project was just an expensive boondoggle to make a few rich people richer. Newspapers in and out of Arkansas have been emphasizing this contention for the past five years. The following is an exact quote from a Missouri paper. "This Channelization Project is designed to eliminate a natural river system by creating a 231 mile ditch draining 2,000 square miles of land, directly destroying 30,000 acres of wet lands and 170,000 acres of hardwood forests; all to benefit approximately 20 soybean, rice and cotton producers with land adjoining the ditch who regularly receive tax money under federal programs *not* to grow crops!"

Such statements were widely circulated in spite of the fact that there are 5,091 farms in the benefitted area. It would take a monster flood to ruin the crops of all these farms. But flooding is so much worse than it used to be, caused by upstream clearing and ditching and downstream clogging of the natural outlets, that hundreds and hundreds of these farms receive flood damages, ranging from partial to complete loss of crops, in about one of every two years.

The majority of these farms are owner occupied. In fact, the Cache basin is more of a stronghold of family type farming than most any other delta portion of Eastern Arkansas.

Even if a particular tract is owned by some rich person who does not live on the land the one who farms the land has to assume most of the risks. Arrangements between landowners and sharecroppers vary but in many cases one fourth of the crop is the only thing that the landowner has at stake. The sharecropper, on the other hand, may have borrowed money to pay for seed, fertilizer and all other expenses and furnished all the equipment and labor used in growing the crop. Then the sharecropper may stand to loose all of his threefourths if even a moderately heavy but general rain occurs during the crop growing season, like it did in early October 1972.

There are 2,988 of these farms in the benefitted area that are 80 acres of less, 1,617 are between 81 and 320 acres, while 486 are over 320 acres.

The only ownership of over 10,000 acres is within the lower 25 mile portion of this 150 mile long basin. This portion will not be benefitted by the Cache project because its flooding is caused by backwater from White River. All but 1,900 acres of this largest tract, incidentally, has already been cleared for soybean production. The part of this tract adjacent to Cache River, like most of the upstream land that borders the Cache, has been cleared all the way to the bank of the river.

The "natural river system" portion of this also leaves the wrong impression. The upper 83 miles of Cache River and the upper 47 miles of Bayou De View were channelized from north to south many years ago by the Improvement District. The Corps project calls for new ditches on the unditched portion and an enlargement of the previously dug ditches.

The claim that was used to make most of the duck hunters and nature lovers oppose the project was that a major portion of all ducks in the Mississippi flyway would be lost if the project were not stopped. To understand the absurdity of this contention it is necessary to know quite a bit about the habits and the changing preferences of these adaptable and highly mobile birds.

The fact that the project will have no appreciable detrimental effect upon the waterfowl population has been well documented. The Director of the U.S. Fish and Wildlife Service, before an audience composed mostly of active opponents to the project, touched very carefully on the subject. In a question and answer session at the 2nd International Waterfowl Symposium in St. Louis in February 1976 said ". . . I am not really sure in the first instance that one can assume that in the absence of acreages in Cache River, that necessarily means that those particular ducks are doomed . . . ."

The clearing of the overflow bottom hardwood timberlands has had a very detrimental effect upon the sport of duck hunting. The timberlands that have been flooded, by either natural or artificial means, is where the ducks spread out the most, move around more in small and medium size flocks, and are very much easier to call in and kill.

Ducks still eat acorns to some extent but they are not as dependent upon them, nor do they utilize them as much as they use to even when there is an abundant crop of acorns.

Instead, they fatten up on the wintering grounds by gleaning soybeans, rice, wild millet and other weed seeds from the cultivated fields.

One of the other effective claims that was published and republished is that, "the mitigation plan is just a horrible hoax because all the trees would die," and "any person that is happy with mitigation is one that would smile and be happy with the payment from an insurance company for the life of your loved one."

Not a single one of those who were opposing the project even hinted publicly that this statement about the trees dying might not be true. Instead they all seemed to revel in the popular support that was being drummed up for their side of the conflict. And it would have been so easy for them to point out what had happened in other heavily drained portions of Eastern Arkansas. Farmers in such portions of Eastern Arkansas haven't permitted many tracts of timber to remain. But where they have a luxuriant growth of trees has always continued.

When some of the more knowledgeable opponents of the project realized that the ditch plus mitigation was much better for the environment than no ditch and no mitigation they justified their continued opposition by stating that the battle over the Cache was just a small part of a much larger battle. They stated that they were also fighting the Alaska pipeline, strip mining in Wyoming, the Garrison Diversion in North Dakota, the destruction of the redwoods in California, et cetera. More recently, some of the opponents would brush off a challenge for the truth by merely stating that, "the other side is lying too."

Now that last excuse really does make the battle over the Cache just a small part of a much larger battle.

The effort to preserve environmental qualities in this Nation is an honorable and worthwhile effort. The recognition of the worthwhileness of this effort has enabled tremendous accomplishments to be achieved, during the past 100 years, in the preservation of forests, parklands, and wildlife. Indications prevail that if any additional accomplishments will be achieved of a substantial and lasting nature those accomplishments will be achieved on the high plain of factual analysis and ethical behavior.

THE CANAL ZONE—PANAMA AND THE UNITED STATES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HANSEN. Mr. Speaker, the Panama Canal question is one of grave concern to all Americans. The occurrences of the next year will make an impact on American history for generations to come.

For the benefit of my colleagues and all interested Americans I submit for the RECORD a copy of a recent study by the Heritage Foundation of the Panama Canal question. The Heritage Foundation is a local nonprofit organization noted for their careful and concise studies of major questions facing America today. I highly commend this article to my colleagues as a very reliable and concise study of the Panama situation. The article follows:

THE CANAL ZONE—PANAMA AND THE U.S.

I. BRIEF HISTORICAL BACKGROUND

Early interest

Almost two centuries ago there was evidence of multi-national interest in the construction of a connecting waterway through central America. Spain had contemplated building a canal across the isthmus as early as 1814, but the Spanish imperial power collapsed at about that time and the construction was never begun. Both the United States and Britain expressed interest in a canal either across the isthmus, or through Nicaragua. In 1878 a French company attempted to build a canal across the isthmus, but beset by graft, tropical diseases, and engineering problems the enterprise went twice bankrupt and finally collapsed in 1887. The river canal through Nicaragua begun the same year by American entrepreneurs went bankrupt three years later.

The Spooner Act of 1902 authorized the United States to negotiate with Colombia for a canal route, and if the negotiations with Colombia failed, to negotiate with Nicaragua. The Spooner Act mandated the President to obtain perpetual control of the necessary territory. Negotiations with Colombia led to the Hay-Herran Treaty of 1903. That treaty included a concession of 100 years, renewable at the option of the United States.

During the time of the negotiations Colombia was being pressed by revolutionaries. In a state of siege, the government was administratively disorganized and in financial straits. Colombia was anxious to have the canal as a source of revenue which could aid its recovery. Moreover, there existed the possibility that if the canal were not built

through the isthmus of Panama, the province of Panama might well revolt. Colombia's negotiator with the U.S. wrote to the head of his government:

"... the Panamanians ... will never willingly submit to the opening of the canal in any other place than at the isthmus. They understand very very well that the adoption of the Nicaragua route will be the moral material ruin of Panama; and this sacrifice, which will have no compensations, may very well prove superior to the concept of a platonic patriotism."

The Hay-Herran Treaty of 1903 was ratified by the U.S. Congress, but during the seven months between the end of the civil war in Colombia (November, 1902) and the meeting of its congress (June, 1903) a number of Colombian objections to the treaty arose and the Colombian congress never ratified it. With the failure of this treaty, the United States prepared to negotiate with Nicaragua in accordance with the Spooner Act.

Creation of Panama

From the beginning Panama was geographically and psychologically separated from the rest of Colombia by the mountainous terrain. Since Colombia's independence from Spain there had been several eruptions of Panamanian discontent in an effort to establish an independent Panamanian state. Panamanians were fairly vocal in warning that should Colombia fail to ratify the treaty, rebellion would result on the isthmus. Not quite three months after Colombia's rejection of the treaty, Panama declared its independence in a virtually bloodless coup.[1] Colombia agreed to recognize the Republic of Panama in return for an indemnity of $25 million, special transportation privileges, and a U.S. apology. The apology was never forthcoming.

Acquisition of zone

Shortly after its declaration of independence, the provisional government of Panama offered to the U.S. what is known today as the Hay-Bunau-Varilla Treaty of 1903. This treaty incorporated the Hay-Herran treaty but also widened the Zone to ten miles and more clearly stipulated American sovereignty over the Zone. It contained a sovereignty clause which granted the U.S. "all rights, power and authority within the Zone . . . which the U.S. would possess and exercise as if it were the sovereign of the territory within which said land and waters are located to the entire exclusion of the exercise of the Republic of Panama of any such sovereign rights, power or authority." The treaty was amended in 1936 and in 1955, but the sovereignty and perpetuity clauses have not been disturbed.

Further, in addition to acquiring the Zone by treaty, the United States paid Panama $10 million as "price or compensation" plus $250,000 annuity (raised first to $430,000 and currently at $2,328,999).[2] Private claims were bought at fair market value (set by a U.S.-Panama Joint Commission).

[1] A transisthmanian railroad had been constructed by private American interests during 1850–1855. Uprisings in this area occurred from time to time and on at least seven different occasions the United States had sent in troops to protect free transit on the rail route, with Colombian consent. When Panama declared its independence, the railroad, adhering to a neutral position, refused to transport Colombian troops attempting to suppress the rebellion. U.S. Naval forces were on hand to prevent more Colombian troops from landing. Only one death resulted.

[2] Not rent, as sometimes alleged, but rather payment to cover a loss of the annual franchise payment to the Panamanian Railroad as a result of American acquisition of sovereignty.

Property transfers in addition to private titles and claims include property in Panama City and Colon (1943)—$11,759,956; water system in those two cities—$669,226; and 1955 Treaty transfers—$22,260,500.[3]

II. IMPORTANCE TO THE UNITED STATES AND TO THE WESTERN WORLD

Economic importance

The Canal is important to the United States and to the entire free world; to close it would cause considerable dislocation in the economies of the Western world. For example, an average of about 70% of all cargo sent through the Canal either originates in or is bound for the United States. Japan sends about one-third of its oceanic trade through the Canal, and when viewed in terms of specific trade patterns [4] curtailment of its use of the Canal could bring economic disruption not only to Japan but also to the United States and the rest of the Western world. Great Britain is consistently second or third largest user of the Canal, with over 60% British-registered shipping crossing the oceans via the Panama Canal.

For Latin American countries, the trade through the canal is quite significant. The trade in particular between the countries of South America's West Coast and the Gulf and East Coast states of the United States relies heavily upon the use of the Panama Canal. For example, Nicaragua, El Salvador, and Ecuador send respectively 55.1%, 68.1%, and 72.4% of their oceanic trade through the Canal. Countries such as Australia and New Zealand relay on the Canal to reach vital European markets. All have a keen interest in the smooth and indiscriminatory operation of the canal.

It is not only the volume of trade passing through the Canal, but its diversity which is also an important factor in the significance of the Canal. The diversity of the trade passing through the Panama Canal can be contrasted with that going through the Suez Canal—chiefly oil—and for that reason too, disruptions in economies would be more severe if the Panama Canal were to be inoperative than were the Suez to be closed. Not to be overlooked is the amount of fuel saved by each ship in avoiding the additional 8,000-mile journey around the Horn.

In sum, continued access for all countries, and at reasonable rates, is important to the economies of the entire Western world. For these reasons the issue of a new treaty is to be viewed as broader than a U.S.-Panama, or U.S.-Latin American concern.

Military importance

The military importance of the canal can be easily recognized when it is realized that the distance around the Horn represents several weeks of additional sailing time when compared to the route across the isthmus. Our modern Navy stresses smaller, speedier ships, nuclear power, and independent missile capability. The Panama Canal is an important aspect of our assurance of speed and mobility.

Except for the large aircraft carriers, our Naval fleet can travel through the Canal, thus allowing our Naval planners a great deal of flexibility and versatility. Without the use of the Canal, the United States would need a larger ("two-ocean") navy, larger storage and harbor facilities on both the East and West Coasts, and provide additional merchant ships and escorts and fuel. Interocean mobility would be threatened, both for the United States and for our allies.

[3] Compare:

	Million
1803 Louisiana Purchase	$15.0
1821 Florida Purchase	6.7
1848 Mexican Cession, including California	15.0
1853 Gadsden Purchase	10.0
1867 Alaska Purchase	7.2

[4] Coal and coke shipped from Hampton Roads through the Canal to Japan, and back again through the Canal as steel, automobiles and ships; also shipments to Brazil, where Japan has a sizable market, and to Western Europe.

III. BENEFITS TO PANAMA

Income generated by the Canal make a large contribution to the Panamanian economy. During 1976 it included over $29 million generated in direct purchases in Panama by U.S. government agencies; over $108 million in wages to non-U.S. citizens employed in the Zone; expenditures in Panama of U.S. employees of over $39 million; and an annuity of over $2 million. The United States has contributed substantially in various ways to Panama's well-being. Construction of the Canal encouraged a large infusion of capital and employment; U.S. health officers' battle against yellow fever transformed the Zone as well as Panama City and Colon from a tropical graveyard into a relatively healthful location; U.S. constructed and maintains the Transisthmanian Highway; and is constructing the Balboa Bridge. The United States has also contributed to various technical and special assistance programs, and U.S. private investments amount to about 50% of private capital invested in Panama.

Numerous special assistance programs have been instituted for the benefit of Panamanians, such as cooperative education programs, apprenticeship programs, office service intern programs, leadership programs, and Latin American student assistant employment programs.

In 1975, U.S. economic aid to Panama amounted to $21.8 million. During 1976, total payments and income flow to Panama generated by the Zone amounted to $243.2 million. With a population of only two million, it can easily be seen why per capita income is the highest in Central America.

IV. TOWARD A NEW TREATY

Demonstrations

In 1960 President Eisenhower allowed some Panamanian students attending school in the Zone area to fly the Panamanian flag beside the American flag and in this manner encouraged the Panamanians to believe that they did have some sovereignty within the Zone. This act clearly violated the 1903 treaty. Moreover, the House reflected this view by passing by a 382–12 vote a resolution opposing display of the Panamanian flag on U.S. Canal Zone territory. This unwarranted and arbitrary indication that the United States did not have complete sovereignty over the Zone encouraged further demands by the Panamanians for some control over the Zone.

In January, 1964, extensive rioting took place in conjunction with a further dispute sourrounding the flying of Panamanian flags in the Canal Zone. The Panamanians did little to restore order and before the rioting ended, four Americans and eighteen Panamanians were killed and $200 million in property damage took place. Limited American force was used to help restore order and Panama broke off diplomatic relations and charged aggression against the United States before the Organization of American States. At the time President Johnson stated that ". . . violence is never justified and is never a basis for talks." But in September he announced the United States would engage in negotiations with the Panamanian government.

Kissinger-Tack principles

The basic concepts of the Joint Statement between the U.S. and Panama were established by President Johnson after the Communuist-inspired riots of 1964. Offered as a

panicked response to a manipulated crisis, the concepts are now offered as a permanent solution. These principles have served as the basis for discussion regarding the new treaty. In brief, they are as follows:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

2. The concept of perpetuity will be eliminated. The treaty concerning the lock canal shall have a fixed termination date.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

4. The Republic of Panama shall be the sovereign over the Panama Canal Zone. During the life of the treaty, Panama shall grant to the United States the right to use the lands, water and airspace necessary for operation, maintenance and defense of the Canal and the transit of ships.

5. Panama will have a "just and equitable share" of the benefits derived from the operation of the Canal in its territory.

6. Panama shall participate in the administration of the Canal and will have total responsibility for the operation of the Canal upon the termination of the treaty. Panama shall grant to the United States the rights necessary to regulate, operate, maintain and protect the Canal, and to take specific steps related to those ends as agreed upon in the treaty.

7. Panama shall participate with the United States in defense of the Canal.

8. There shall be bilateral provisions for new projects to enlarge and improve the Canal. These shall be incorporated in the treaty.

Summary of major arguments

In favor:

1. The United States is entering upon a new era in its dealings with Latin America, and, indeed, with the entire underdeveloped world. Secretary Kissinger spoke of a "new dialogue" with Latin America. The trip to Central and South America by the First Lady indicates President Carter's strong interest. Many of the regimes are nationalistic, militaristic and socialistic to an unprecedented degree. They are more confident of themselves and can no longer be counted on to support the United States as they did in the past. Even our closest allies in Latin America publicly favor a revision in the status quo. They support Panamanian aspirations and will judge the United States by how we respond.

2. The situation, as it now stands, is potentially violent. There have been riots and demonstrations in the past. The Panamanian government has served notice that it will become a "thorn" to the United States if a submitted treaty is rejected. Panamanian Ambassador Gabriel Lewis, for example, warned that if the negotiations fail, there will be such a storm of protest that the U.S. "will have no other alternative than to let it (the Canal) go." Violence could disrupt transit and make it politically embarrassing for the U.S. to continue to cling to the Canal.

Even if sufficient forces were brought in to give full protection to the Zone, a single saboteur could still succeed in closing the Canal. A new treaty, by fostering a friendly relationship with Panama, is most conducive to protecting U.S. interests in a free and open Canal.

3. During the life of the treaty the United States would retain primary responsibility for the operation and defense of the Canal. Gradually during this period Panama will assume more operational responsibility until it has the necessary expertise to assume full control. This time period will be at least twenty years; certainly long enough for Panamanians to learn how to operate the Canal. The transition phase, likewise, means that it would not be until the year 2000 that the U.S. retires as the principal party in the defense and operation of the Canal. This provides a considerable length of time to prepare all the parties concerned, both in Latin America and elsewhere, on the implications of the new relationship.

4. During the life of the treaty the United States will retain its base rights (although they will probably be reduced in number) and will retain its rights to intervene militarily. Furthermore, there is a proposed second treaty to be signed by other nations, guaranteeing the Canal's open and nondiscriminatory usage after Panama takes control. This document would also give the United States the right to intervene if the Canal became threatened or if access should be denied.

5. Panama has an economic self-interest in keeping the Canal operative; it derives more income from the Canal than from any other source.

Opposed:

1. The United States has a legal right to remain in the Canal Zone "in perpetuity" and as "if it were sovereign" according to the 1903 treaty with Panama. The United States acquired the Zone by treaty and also by direct purchase, it has operated it evenhandedly for all nations since it was first opened in 1914. The decision of the Supreme Court in the 1907 *Wilson* v. *Shaw* case held that the United States has legal sovereignty and ownership for the purposes enumerated in the 1903 treaty.[5] This ruling was reaffirmed in 1972.

2. To relinquish the statutory right to remain in the Zone amounts to a classic giveaway, opposed by a majority of the American public.[6] The building of the canal is an American achievement which amounted to the technological "moonshot" of its time, and which has remained a testimony to American creativity and ingenuity.

3. The Canal has great importance for U.S. military and economic policies. A significant amount of total U.S. trade passes through its locks. Although our aircraft carriers are too large to transit the Canal, all other naval vehicles can. In limited war situations such as Korea and Vietnam the Canal has great importance for both supply and military vessels. The necessity for the United States to maintain absolute control over the operations and defense of the Canal is even more evident during emergency or crisis situations where quick response and unquestioned access are necessary.

4. Although all Latin American nations have publicly called for a new treaty, there is ample reason to believe that this is more of a *pro forma* diplomatic stance taken out of necessity rather than conviction. If the United States relinquishes the Canal, our power and standing both in Latin America and throughout the world would diminish. This is particularly the case in the light of recent U.S. retreats from other areas of the world. A Canal treaty seen in this perspective would be interpreted as another example of the continued erosion of American willpower and influence.

5. Panama is a weak and unstable country controlled by a nationalist dictator known for pro-Communist sympathies. General Torrijos is on excellent terms with Fidel Castro and he has on several occasions deliberately embarrassed the United States in front of "third world" audiences. There is the possibility that in the hands of Torrijos the Canal might fall under Communist influence, or that the United States might be denied access. Almost certainly tolls would rise dramatically. In short, once the United States relinquishes control, it will be subject to the intentions and capabilities of Panama's dictator, none of which can be fully anticipated.

6. Torrijos' regime has been a consistent violator of human rights inside Panama. In light of President Carter's emphasis on human rights, especially since that issue has taken on important symbolic and concrete meaning throughout Latin America, the United States would be guilty of bold hypocrisy in relinquishing the Canal.

7. Over the last decade the Soviets have made monumental strategic gains at the expense of the West. The Kremlin has moved into a number of power vacuums during this time and is expected to attempt to gain control over the Canal, either remotely or directly, should the United States relinquish its treaty rights. The Canal is seen as a vital "choke point" in part of a global power struggle directly related to the security of the United States and the West.

In fact, the Soviets, who do not even have diplomatic relations with Panama, have recently concluded tentative economic and commercial agreements with Panama. It is fully expected that the Soviets will move to supply engineers to operate the canal lock system as a preliminary move toward further influence over operation and control of the canal as the Americans withdraw.

V. SPECIAL INTERESTS

U.S. banks

Maintaining the favorable climate for international banking currently enjoyed in Panama is one major reason cited by those who allege that the rush toward a new treaty is propelled by special interests. In 1970, Torrijos reorganized the country's banking laws to allow international banking transactions free of taxation, together with other advantages, which resulted in the unprecedented expansion of the banking industry in Panama. Today, it is alleged that those institutions, having provided loans to Panama's sagging economy, favor a new treaty with increased annual payments in order to insure that Panama will be able to repay its debts to these institutions.

It has been noted that the chief co-negotiator of the new treaty, sits on the board of directors of a bank that has made a number of risky loans to Panama's troubled economy. This situation has raised questions of possible conflict of interest among the Congress and the public.

It is noteworthy in view of these facts that Mr. Linowitz's appointment was a special short-term appointment of only six months, thus precluding the opportunity for the Senate to question him regarding possible conflicts of interest through the formal procedure of advice and consent. The rush toward agreement to the broad treaty concepts came just hours before the Linowitz appointment expired.

Panama economy

Economic conditions in Panama have grown steadily worse over the years. Panama's indebtedness has grown from $167 million when Torrijos took power to approximately $1.5 billion currently. It is estimated that debt service alone will consume 39%

---

[5] *Wilson* v. *Shaw*, 204 U.S. 24, 1907. "This new republic (Panama) has by treaty granted to the U.S. rights, territorial and otherwise . . . It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

[6] Opinion Research Corporation poll conducted May, 1975, 76 percent answered "no" when asked "Should the U.S. give up its sovereignty over the Panama Canal?"

of that country's budget this year (compared with 7% in the United States), and Panama's Department of Planning indicates that to refinance loans coming due, together with the deficit of $193 million, will require a total of $323.6 million. A document from the Department of Planning for Panama states (in translation) that ". . . it will be extremely difficult to syndicate loans with the commercial banks in the amounts previously mentioned. . . ." Also, ". . . the relation between servicing the debt, and current revenues . . . suggest a deteriorating capacity to service this debt. . . ."

A confidential memorandum sent last October by the U.S. Embassy in Panama to the U.S. State Department implies that the increase in commercial loans has made the situation worse, and "permit Panama to defer grappling with the core problem. . . ." It states further that "much of the capital inflow of the past three years has aggravated Panama's ecomoic malaise by exacerbating its debt service burden without enhancing overall productivity."

The financial situation has been aggravated by government measures which result in pricing Panama's exports out of the world market, through imposition of minimum wage, price supports, and rent control.[7]

In light of the above, the timely and generous financial arrangements arrived upon this week will be crucial to Torrijos in shoring up his sagging regime. He had originally requested a payment from the United States of $5 billion, together with an annuity of $300 million until the year 2000; he was persuaded to accept the current figure of about $50 million per year, plus a generous military and economic aid package of approximately $350 million.

VI. CONGRESSIONAL APPROVAL

The Administration is aware that it will have a difficult time in persuading the Senate to ratify the new treaty, and the American public to accept it. According to Congressional leaders, current count in the Senate is around fifty favorable votes, with a total of sixty-seven needed for approval. Polls indicate that the majority of the American public opposes any treaty which relinquishes sovereignty over the Zone and control of the canal.[8]

Although ratification will be difficult, the next few months are viewed as more favorable for proponents than the months approaching, or during, 1978, which is an election year for one-third of the members of the Senate. In addition, the fact that the agreement was reached at a time when Congress is not in session is seen as advantageous in diminishing the possibility for protests from Members of Congress. Further, most of the comprehensive package of payments to Panama is presented in a way which would not require Congressional action, reducing the possibility for friction and disagreement with that body.

Ratification of a new treaty is effected by agreement of two-thirds of the Senate. However, the House of Representatives is also expected to participate in the debate on the broad package of proposals designed to relinguish the Canal, as disposition of U.S. territory and other property of the United States is involved; Article IV, Section 3, Clause 2 of the United States Constitution provides that only the Congress has the authority to dispose of "the Territory or other Property belonging to the United States." As one Member of Congress warned upon hearing of the conceptual agreement:

"The House will not abide by an agreement which unilaterally relinquishes U.S. Territory, nor will the House abide by back-door loans and grants to Panama made without its consent."

VII. CONSEQUENCES

Two interrelated considerations should be examined as the terms of the actual treaty are studied. The first is the necessity for the Canal to remain open at all times to international shipping. The second is to assure American sovereignty until the turn of the century when the property and territory would be ultimately relinquished.

Currently, two treaties govern the status of the Canal. The Hay-Bunaua-Varilla treaty of 1903 discusses the rights of the United States and is described earlier. The Hay-Paunceforte treaty of 1900 is between the United States and Britain wherein the United States pledges to keep any canal across the isthmus free and open to all nations, without discrimination. Panama has no such obligation, and would not be hindered from either denying transit or imposing discriminatory tolls.

Secondly, the proposed new treaty would require the gradual ceding to Panama of control over the operation of the Canal. However, any comprehensive transfer of jurisdictional rights before the turn of the century could be interpreted as a ceding of sovereignty. With sovereignty prematurely divested (either by implication or otherwise) it would not be difficult to harass the United States on every matter not specifically dealt with in the treaty. If sovereignty is to be transferred over a period of time, it should occur at the conclusion of the agreement.[9]

Should sovereignty be prematurely relinquished under the new treaty, the power of the new sovereign to evict would invite international pressures to that end, and agitation would be encouraged and intensified. The pattern of revolutionary turmoil and frequent changeovers in governments indicate that Panama would not be resistant to such pressure.

A lesson can be drawn from the Suez Canal, where an ostensibly private company, with British government participation, operated under the sovereignty of another country. Rights retained by the British to protect their property, and the declaration of the Convention of Constantinople guaranteeing right of passage to vessels of all nations were of no avail when Egypt expropriated and later closed the Canal. Similarly, a new treaty with Panama as sovereign would not insure unimpeded passage through the Canal nor would it particularly deter expropriation of the Canal.

It is believed that Panama intends to raise the tolls substantially once it controls operation of the Canal. Panama's representatives have made statements to the effect that they would like the tolls to be raised sharply, and that they do not intend to "subsidize" world shipping.

With respect to security of the Canal, the control of the Zone is as important as is control over the Canal. The Zone acts as a buffer area for any disturbances which may occur. This defensive buffer will be lost should the Zone merge into Panama, and the Canal would then be truly indefensible.

It is unreasonable to believe that the transfer of sovereignty would remove an irritant and bring about improved relations with Panama and Latin America. In attempting to appease and accommodate hostile ideological elements, the United States ignores a valid lesson of history.

[7] See *Congressional Record*, February 22, 1977, page S2820.

[8] See "The Canal Treaty: Words of Caution," by Charles Maechling, Jr., *The New York Times*, Monday, August 8, 1977, p. C23.

[9] See "The Canal Treaty: Words of Caution," by Charles Maechling, Jr., *The New York Times*, Monday, August 8, 1977, p. O23.

WORRIED ABOUT A GIVEAWAY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans are gravely concerned about what appears to them to be the administration's determination to give away the Panama Canal regardless of any consequences to our Nation. These misgivings have in no way been allayed by the endorsements of Government officials to the press and to congressional committees even before the exact language had been set down on paper.

Quite rightly, they are asking: "If this treaty is so good for us, why is the high-powered sales pitch needed?" "Why the rush to sign the treaty when so many Senators, who must ratify it, have expressed opposition?" "What are we not being told?" "Why are we paying Panama so much money for taking the canal?"

These are good questions: questions which merit answers.

South Dakota's misgivings are reflected in Knowles C. Trippler's recent editorial in the Canova, S. Dak., Herald. It merits careful consideration:

TO GIVE AWAY—OR KEEP IT

One big item of discussion at this time seems to be the Panama Canal. This question is to be brought to the members of the United States Senate for a show down by President Carter in the near future. A couple of our national leaders made a trip down south not too long ago and came back with an agreement that they thought sounded good and that they thought the United States government and its people should agree to. It states that the U.S. will give the Canal away in the year 2000. Just what all the stipulations are is unknown at this time for it seems that the Washington "bunch" tells us "common folks" out here in the sticks just what they want us to know. We have not been able to find out where all the squabble on the Canal started or why it came up. There are a lot of people in our country that are against this "give away" program, fact is there seems to be a large majority that are against the agreement. In order for this to pass the US Senate it must have 67 votes out of the 100 from the senators. If the percentage of people that are against the agreement at this time have anything to do with it it will not pass, for more than half of the people at this time seem to say "No". We have not made up our minds at this time for it is very hard to get all the facts. However we are afraid this would turn out just like too many of our other major political decisions have the past several years. If we give the Canal away and then in a few years some other country, like Russia, steps in and takes it over from them, the same old thing would happen, the United States would have to go down and fight to get back what was ours in the first place. Too many times in the past have the U.S. citizens tried to be a "good fellow" and we ended up in war to settle some matter that could have been avoided by a little bit of diplomacy. A group of South Dakotans are getting out petitions to present to our Senators to state that the people in our state do not want to give away the Panama Canal, not now or never. A slogan that they are using is "we bought it, we paid for it, we built it, and we damned well

intend to keep it." If our country would lose a right to use the Panama Canal or the cost became so large that we could not afford to use it we might be sorry we had given it away to anyone. This canal is very important to our Navy and could become an item of National Security if not available. Many from both political parties think it sounds like a good deal but we think we people of this country do not "trust" anyone in Washington after many of the shady deals of the past twenty or thirty years. We are against the "give away" until we get more information. When the time comes that we are sure it will be in good friendly hands and operated in a fair manner then everyone will take a good look at the entire program.

10TH ANNIVERSARY OF YOUTH PRIDE, INC. OF D.C.

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. FAUNTROY. Mr. Speaker, for more than a decade, Youth Pride, Inc., has faithfully and effectively served the citizens of the District of Columbia. Pride has provided a very positive influence by training over 15,000 inner-city youth and by directly affecting, through its programs, at least 5 percent of the city's population.

Pride began its operation under a 30-day challenge contract awarded by former Secretary of Labor, Willard Wirtz. Mr. Wirtz later wrote on August 19, 1975:

It takes time to sift out what is important in the doings of Government and what isn't. Looking back now, I think of Pride as one of the two proudest things I had anything to do with when I was in the Department of Labor. If we could just learn to gamble more often on people's own good sense instead of our made-in-the-bureaucracy programs, we could be so much better off.

On the occasion of its 10th anniversary, I think it important that we, in the Congress, give recognition to the fine work of this community organization. In celebration of its 10th anniversary, Pride has planned several activities which I urge my colleagues to attend and participate. The calendar of activities follows:

PRIDE TENTH ANNIVERSARY CELEBRATION
CALENDAR OF EVENTS

WEEK OF SEPTEMBER 6–9

Family Social Service Week:

Tuesday.—"The Role of the Black Church in the Social and Political History of the Black Community."

Wednesday.—"Performing Arts as a Protest Mechanism."

Thursday.—"The Impact of Urban Life on the Black Family."

Friday.—"Full Home Rule in the District of Columbia."

Place: All Souls Unitarian Church—16th and Harvard Street, N.W.

Time: 2 p.m.–6 p.m.

MONDAY, SEPTEMBER 12

Consumer Education Day "Consumer Workshop."

Place: Pride Headquarters.

Time: 9 a.m.–2 p.m.

SATURDAY, SEPTEMBER 17

Athletic Competition: "Running for Jobs":

Track and Field Competition 9 a.m.–11:30 a.m.

Tennis Clinic—9 a.m.–11 a.m.

Outdoor Basketball Game—10 a.m.–11:30 a.m.

Karate Exhibit—11:45 a.m.

Softball Game—(Upper level) 12:30 p.m.

Craftmobile (Upper level) 10:30 a.m.–12:30 p.m.

Place: All events held at the Banneker Center, Georgia Avenue and Euclid Street, N.W.

SATURDAY, SEPTEMBER 17

Pride Archives Dedication Ceremony.

Place: Moorland Spingarn Research Center, Founders Library, Howard University.

Time: 12 Noon.

MONDAY, SEPTEMBER 19

Teacher/Counselor Institute.

Place: American University, School of International Service.

Time: 9:30 a.m.–12:30 p.m.

SEPTEMBER 20–23

Career and Higher Education Week:

Tuesday—"Careers in Government and Military Service."

Wednesday—"The World of Work."

Thursday—"The Business World."

Friday—"Higher Education: One Route to a Career."

Place: Various D.C. Public High Schools (Actual sites to be announced)*

Time: 9:30 a.m.–12:30 p.m.

WEEK OF SEPTEMBER 26–30

Community Health Week:

Mobile health screening units on location throughout the city during the entire week.*/**

SUNDAY, SEPTEMBER 25

Pride Tenth Annual Open House:

Invitational art exhibit/guest speakers/street entertainment/refreshments.

Place: Pride Headquarters.

Time: 1 p.m.–6 p.m.

*Check radio, television and newspapers for location of events (or call Pride, Inc. at 483–1900).

**Check radio, television and newspapers for time of events (or call Pride, Inc. at 483–1900).

PROBLEMS OF NUCLEAR PROLIFERATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the problem of nuclear proliferation:

PROBLEMS OF NUCLEAR PROLIFERATION

(By Henry Huglin)

Growing concern over proliferation of nuclear weapons was given a jolt recently by reports, subsequently denied, that South Africa was building such weapons.

The Carter Administration is trying to curb the possibilities for more nations to build nuclear weapons, through restrictions on our nation's export of nuclear fuel reprocessing technology and equipment, and by trying to persuade other nations with such technology to restrict their similar exports.

But a major aspect of limiting proliferation is the avoidance of incentives of other nations to acquire these weapons. And the Administration's well-intentioned attitudes and actions in other fields may well be increasing incentives for South Africa and other nations to opt for nuclear arms.

Leaders of nations feeling threatened, picked on, or isolated may turn to building nuclear weapons, if they can manage the technology—which is now not too difficult or expensive for many countries.

The government of South Africa is clearly feeling more and more picked on and isolated. In particular, President Carter's public crusade against the white minority government's apartheid policy has obviously promoted such feelings.

Other prospects for joining the nuclear weapons "club," in the next decade or so, now include South Korea and Japan. The President's decision to phase down our troops in South Korea may have just such profound, and unintended, results. Reportedly, many South Koreans and Japanese regard this decision—made without prior consultation with their governments—as a reason for growing mistrust of our nation's constancy and reliability as a superpower and protector ally. Hence, the President's following up on his campaign rhetoric about reducing our troops in Korea could contribute to a major undermining of his goal of curbing nuclear weapons spread.

Israel and her Arab neighbors may also decide to join the "club." By President Carter laying all his Mideast cards on the table, with his "open" diplomacy, he has brought on hardened positions on both sides, and may have diminished chances for an enduring Mideast settlement. And, if tensions long continue in that area and hopes for lasting peace fade, Israel will likely build nuclear weapons. And, if she does, so will Egypt, with Saudi Arabia's help; and so may other Arab countries.

The prospects of proliferation are horrendous. In addition to the countries mentioned, dozens more, including some unstable ones, will have the technical and economic capability to build at least a few nuclear weapons in the next couple of decades. The crucial point will be whether they will have the political incentives to do so.

And there is no agreement in prospect, among those nations possessing nuclear fuel processing technology, on measures to control its spread and, hence, to curb the potential for building weapons.

This whole field is highly complex. And it provides a clear example of how one aspect of our foreign policy can affect another.

Our government's pressures on human rights in South Africa or Brazil or others, could contribute to their decision to go nuclear. Furthermore, if we flatly abrogate our defense treaty with Taiwan, the leaders there may build nuclear weapons in a desperate attempt to remain independent of mainland China.

And not being able to help solve the big trouble spots, such as the Mideast or the imbroglio of Greece and Turkey over Cyprus may eventually lead some or all of the countries involved to break their ties with us and build nuclear weapons.

So, trying to prevent nuclear weapons proliferation—or at least to slow it down as much as possible—takes much more than idealistic rhetoric, pleas to other nations' leaders for reason and restraint, cutting off nuclear energy technology, or even the use of sanctions.

It entails performing—as we generally did until the Vietnam trauma affected our national spirit—as a dedicated, dynamic superpower and trustworthy ally, and countering the Soviets' military threat and mischief-making in the world.

In particular, our government needs to consider more the impact and possible consequences of such policies as the overly-zealous human rights crusade, that provokes strong reactions, and of such an action as the unilateral troop phase down in Korea,

that creates the impression that we are pulling back and losing our will to measure up to our responsibilities and challenges abroad.

Hence, the Carter Administration needs to leaven its idealism and moralism with more realism and pragmatism. Further, quiet diplomacy, national unity and will, unsurpassed military strength, and perserverance are all needed to help curb the proliferation of nuclear weapons, as well as to insure our interests and security in a still-dangerous world.

THE PANAMA CANAL TREATY: QUESTIONABLE DEFENSE PROVISIONS

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. Speaker, after careful consideration of the recently signed Panama Canal treaty, I have made known my staunch opposition to its enactment. One of my major concerns is the section dealing with our defense of the canal and our use of the waterway should the United States become involved in a military conflict.

I am submitting, for the record, a recent article appearing in the September 11 edition of the New York Times, authored by Paul B. Ryan. Mr. Ryan, a retired Naval officer, is currently a research associate at the Hoover Institute at Stanford University, and a former desk officer in the Pentagon's division of International Security Affairs, Latin American section. He is also the author of the forthcoming book, "The Continuing Controversy: Panama Canal Diplomacy and U.S. Interests."

The defense issue is vital to the future of the Panama Canal; therefore, I wish to share Mr. Ryan's treatise with my colleagues at this time:

THE CANAL TERMS, ARGUED FROM DIFFERENT PREMISES

STANFORD, CALIF.—In his frenetic blitz to gain public approval of the two Panama Canal treaties, President Carter has stressed that he wishes to dispel misinformation by laying out the facts. Thus, he and his chief negotiators, Ellsworth Bunker and Sol M. Linowitz, repeatedly have assured the public that the United States would have the permanent right to defend the canal by sending troops into Panama in time of crisis. Additionally, the White House says that United States warships would have "the permanent right to transit the canal expeditiously and without conditions, for an indefinite period."

But does this ostensibly forthright interpretation of treaty terms, which presumably protect vital United States strategic interests, coincide with that held by Panama? The answer is no, if you listen to its chief treaty negotiator, Dr. Rómulo Escobar Bethancourt, who analyzed the treaty's provisions at a news conference in Panama City on Aug. 24.

Dr. Escobar's comments were broadcast by radio and subsequently published in the Daily Report of our Government's Foreign Broadcast Information Service. Surprisingly, Dr. Escobar's astonishing views, which directly contradict the White House's, appear to have been given very little publicity or entirely overlooked by the United States news media.

Dr. Escobar roundly rejects the Carter Administration's claim that the United States may send in troops. "The treaty does not establish that the United States has the right to intervene [that is, send in troops] in Panama," he said. He denied that the treaty gives the United States the right to decide when neutrality is violated or not. Neither, in his view, do United States warships have the right of expeditious transit without conditions.

As Dr. Escobar inelegantly put it: "If . . . the gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships there." Presumably, Panamanian officials would look idly on while United States Navy captains, during an international crisis, haggled with merchant skippers for a place at the head of the waiting line of ships. So much for the United States right to unimpeded transit and the defense of the waterway!

Were these wildly different interpretations known to the United States negotiators during the talks? As Dr. Escobar told the newsmen, these points had been thrashed out with the Americans, but Panama had stood firm against their demands.

Faced with Panama's refusal to allow "privileged passage," the Americans finally accepted the term "expeditious transit," in order, said Dr. Escobar, to "sell" the treaty to the Pentagon. "Now they [the United States diplomats] could explain that this means privileged passage. . . . Do not believe that we mean that," he emphasized.

Placed side by side, Mr. Carter reassuring assessment and Dr. Escobar's belligerent and cynical evaluation present the apparent paradox of two Governments outwardly reaching an agreement but secretly retaining entirely different perceptions of its provisions. Or is it a case where both negotiating teams assumed that the "real" meaning of the terms could be safely debated after both nations had won ratification from their respective Governments?

Plainly, such a treaty is fraught with peril for future United States operations involving canal transits. The danger of jeopardizing the Navy's use of the waterway was apparent to Presidential candidate Carter and he implied as much during his televised debate on Oct. 6, 1976, with Gerald R. Ford. Mr. Carter said, "I would not relinquish practical control of the Panama Canal Zone at any time in the foreseeable future."

As a former naval officer, Mr. Carter understands, probably better than most people, the need for the United States to retain such "practical control" to permit its Navy to carry out missions worldwide in support of United States diplomatic policies and strategic objectives.

This is particularly true in an era when international tension, as well as mini-wars of the Angola type, are much more likely to occur than an all-out war.

In the light of Dr. Escobar's dismissal of United States treaty rights, can President Carter really mean what he says?

A poor treaty is worse than no treaty at all, United States diplomacy must serve the national interest, as we have recently been reminded. The Carter Administration should clear up these glaring ambiguities at once. As matters now stand, the American people have no guarantee from Panama for the protection of United States defense and security interests in the Canal Zone.

AGE DISCRIMINATION AGAINST THE ELDERLY IN FEDERAL SERVICES

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. PEPPER. Mr. Speaker, recently, the U.S. Civil Rights Commission held a very important hearing in my district as part of its congressionally mandated study on how to effectively implement the Age Discrimination Act of 1975.

I commend the Civil Rights Commission for its leadership in this area. The Commission's Chairman, Dr. Arthur Flemming, is both a close personal friend and a formidable ally in the cause of the elderly.

It was particularly appropriate that one of their hearings was held in Miami. While 1 out of every 10 persons in the United States is over 65, approximately 1 in 7 is 65 or older in Florida. In fact, Florida's 16.1 percent of the population over 65 is more than 3 percent higher than any other State in the Union. There are more than 220,000 elderly persons living in Dade County alone and that number is expected to rise to 323,000 by the year 1985.

As chairman of the Select Committee on Aging, I had the privilege of testifying before the Commission at this hearing. I would like to insert in the RECORD my remarks concerning age discrimination in mental health centers, medical school training, vocational rehabilitation, revenue sharing, employment programs, medicare, and medicaid.

TESTIMONY BY REPRESENTATIVE CLAUDE PEPPER

Elderly persons and all persons who plan one day to reach 65 share a concern about the subtle and insidious form of discrimination which punishes persons for reaching an arbitrary age. The Age Discrimination Act of 1975, which calls for the study you are conducting, must signal a national effort to eradicate discrimination against persons who by some arbitrary standard are "too old". In 1979 this important act will join the Age Discrimination in Employment Act in the battery of remedies and protections available to the elderly.

However, by limiting its protection to persons between 40 and 65, the Age Discrimination in Employment Act has in effect sanctioned discrimination in employment against those 65 and over. By the end of September the House will have passed my bill to extend the upper age limit in the act and signal the beginning of the end for all age-based discrimination in employment.

Efforts to eradicate age discrimination are hampered by subtle and insidious stereotyping of the elderly. Consequently, at first, I was disappointed that the U.S. Civil Rights Commission report on women and minorities in television devoted less than two columns of a 181 report to discussion of treatment of the one minority every person plans one day to join. However, Commissioner Flemming told my staff last week that he was barred by law—ironically, the Civil Rights Act—from examining age discrimination in the report. What a tragedy, especially since I know Dr. Flemming's deep commitment to the aging in his other job of United States Commissioner on Aging as well.

The Civil Rights law's omission of the elderly and the report's resulting treatment of the aging are symptomatic of the extent of the problem we are addressing today. The elderly are, too often, the forgotten minority.

Consequently, next year, when the Civil Rights Act is renewed, I intend to do everything possible to insure that age is added to race and sex as an explicitly prohibited reason for discrimination.

The Civil Rights Commission study examines the role of minority and female news correspondents and notes that their exclusion from network news suggests that minorities and women "may not matter". But unlike women and minorities, persons age 65 are forced off the news programs by network policies of mandatory retirement. As a re-

sult there are no persons over 65, male or female, black or white, on network news. The loss of Eric Severeid to mandatory retirement this fall bears tragic witness to the damage mandatory retirement inflicts.

Elderly persons spend more time watching television than engaging in any activity other than sleeping. How do they feel when they see few elderly on game shows, elderly portrayed as villians or victims on crime shows, so-called comics masquerading as toothless, sexless, feeble-minded, constipated elderly?

One study found that children view the elderly as foul-smelling, toothless and dependent. How can that ignorant view be dispelled when there are few elderly characters in cartoons?

Because I am concerned that television may contribute to discrimination against the elderly by unbalanced, stereotypic portrayal, I have invited network representatives, scholars who have studied the issue and performers accused of stereotypic portrayal of the elderly to testify before the House Committee on Aging, which I Chair, on September 8, in Washington.

I would now like to turn to your current study of age discrimination in federally funded health and social service programs. In the hope that you will recommend rooting out *all* age discrimination, I would like to present some of our House Aging Committee's shocking findings:

First, in order to be eligible for services under Medicare, a person must be 65 years of age or have been on Social Security disability benefits for 24 consecutive months. A list of covered and non-covered services would suggest that Medicare was set up for young people. For example, the program is ill-suited to deal with chronic illness. Moreover, there are no provisions for covering preventive check-ups, prescriptions, glasses, hearing aids, dentures or long-term care for chronic diseases. Medicare treats acute illness as though its intended population was 20 or 30 and unlikely to suffer chronic illness. Thus, even a program supposedly set up for the elderly discriminates against the elderly. As a result, the elderly now pay a higher percentage of medical expenses out of their own pocket than they did before Medicare.

Second, the Medicaid program has a statutory limitation on the ages of persons who may receive certain services, including services available under the early and periodic screening, diagnosis and treatment program which are available only to persons under age 21; and inpatient psychiatric hospital services which also are for individual under age 21. In addition, Medicaid favors costly and often needless institutionalization of the elderly over home health alternatives.

Third, under the Community Mental Health Centers Act, there is a statutory requirement that centers serve older persons and children, yet the services disproportionately favor younger persons. Services in the center are oriented toward the problems of young and middle-aged adults and families with children. In fact, some studies indicate that only about two percent of the persons receiving community mental health benefits are elderly. Yet one out of every four suicides in the United States is committed by people over 65 years of age.

Fourth, in fiscal year 1977, it is estimated that the Federal government will spend over $400 million to provide grants to medical schools for training primary care practitioners and over $85 million on health facilities construction. In spite of this, there is only one chair of geriatric medicine in the United States, and medical schools in the main offer minimal geriatric training.

Fifth, another program that seems to warrant close examination is the vocational rehabilitation program. The preliminary national data for fiscal year 1976 show the average of those rehabilitated was 32. A 1972 Social Security survey of the disabled, however, shows that whereas the median age of the general population 10 through 64 is 40, for the disabled population, it is 50. Elderly persons requiring rehabilitation are apparently being ignored.

Sixth, of particular concern to our Committee has been the extremely low level of services received by older persons under employment programs funded by federal dollars. I realize that most employment related activities are not within the scope of the act or your study. Any program or activity receiving federal financial assistance for public service employment under CETA is covered, however, and I would like to recommend that your Commission examine the Committee on Aging's findings on employment programs and older Americans, which documents the practice of age discrimination in CETA programs. The statistics at that time indicated that those 55 and over constituted less than 3.4% of the 1.5 million job holders under CETA, but represented 8.9% of the unemployed.

Finally, and perhaps most revealing, a report two years ago by the United States General Accounting Office indicated that two-tenths of one percent of all federal revenue sharing funds goes to services for the elderly, who comprise over 10% of the population. Since then, some improvement has been registered, but when you are starting near zero, small improvements leave an unacceptable situation. A tremendous reversal of our priorities is needed.

Because I share your concern about the unmet needs of the elderly, I have scheduled in Miami hearings November 15th and 16th which will address age discrimination in employment including mandatory retirement, and the health, housing and social service needs of those 65 and over.

When the Age Discrimination Act of 1975 was passed, many hoped that it would constitute a genuine breakthrough in demonstrating that our government believes that an individual should be judged on his or her merits and not on the basis of such irrelevant factors as age, sex, race, color, religion or national origin. I am hopeful that this will be the case once the act becomes operative in 1979. We must end the anomalous form of discrimination which punishes people for growing old.

After my statement, Dr. Arthur Flemming, the Commission Chairman stated that—

The act establishing our study says we should study and make recommendations concerning 'unreasonable' age discrimination.

Dr. Flemming asked, "How should we interpret 'unreasonable'?"

I replied by saying:

Unless Congress specifically targets funding to special age groups for some reason by statute, such as youth employment or the Older Americans Act or Social Security, it is my view that any age discrimination is unreasonable. Ageism is as odious as racism or sexism. I hope you will use your mandate for your study, and I urge you to write a strong report recommending that age discrimination be rooted out in all forms.

I might say, too, that while there is discrimination against various ages, the elderly are particularly severely affected. The fact that your study was enacted as part of the Older Americans Act amendments (of 1975) is evidence of Congress's intent to direct your study toward the problems of older Americans.

In addition, the Commission staff was extremely interested in how to enforce the Anti-Age Discrimination Act of 1975 once it becomes fully effective in 1979. My view is that the enforcement procedures in other laws relating to age might be used for precedents.

First, although it is not perfect, we can use the current 40 to 65, soon to be 70, employment age law as a model. There is an appeals mechanism for that and there should be a similar appeals process in all Federal health and social service agencies. Each agency should also be empowered to assist individuals who need information or other help in obtaining benefits.

Second, as the Federal revenue sharing statute has just been amended to require that senior citizens must be heard in hearings before revenue sharing funds are distributed, there should be a requirement for hearings involving senior citizens representatives before the distribution of any Federal funding for health or social services is distributed.

Third, where State or local plans are required before Federal approval of funds, I suggest that State or area aging directors be required formally to offer comments during this process.

Finally, I would recommend that notices be placed in the radio, television, press, and other outlets when funds are actually made available, so that all citizens know how to obtain them. Furthermore, senior citizen organizations should be given the means to reach out to persons who are eligible to encourage them to take advantage of their rights.

ADVISORY NEIGHBORHOOD COMMISSION PRAISED BY ELDERLY

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. JONES of Oklahoma. Mr. Speaker, the Advisory Neighborhood Commissions in the District of Columbia are effective, if ANC 6B on Capitol Hill is taken as an example.

One testimonial to that effect is from Mrs. Christine McNair, president of the Kentucky Courts Senior Citizens Housing Project group. Mrs. McNair reports on the help they received in getting locks on the hall doors, secure mailboxes, and plans for window guards on all first floor apartments.

This type of citizen action in the neighborhoods deserves continued funding by Congress.

Mrs. McNair's letter follows:

SEPTEMBER 22, 1977.

We were distressed to hear that the House Sub-Committee on Appropriations for the District of Columbia had voted to eliminate funding the Advisory Neighborhood Commissions.

We senior citizens have been greatly aided by this elected body. To cite a specific example: Ever since the construction of our public housing complex, residents tried to get the local housing authorities to put locks on our entryways. We lived in constant anxiety because strangers had easy access to our hallways 24 hours a day.

Our Commissioner, who lives only a few blocks away, took a special interest in our

problems and discussed them with the full Commission, ANC 6B.

Within a few days, ANC 6B held a public meeting with a representative of housing and several residents from this housing project. The Commissioners told the representative that they were deeply concerned about the absence of security in our buildings, and urged the housing authorities to take immediate steps to correct this serious problem.

For the first time, since this complex was built about 5 years ago, we have locks on our hall doors; our mailboxes are secure; and window guards are scheduled to be placed on all first floor apartments.

We need this community-based elected body to help us live better lives. Please don't kill them. Vote to refund the ANCs!! We thank you.

Sincerely yours,

Mrs. CHRISTINE MCNAIR,
President.

WHAT IS RIGHT WITH BUSINESS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. COLLINS of Texas. Mr. Speaker, in Washington we have too many advocates for an all-powerful Federal Government. This same group is critical of American business.

Many folks do not realize business pays the taxes to keep the Government going. They do not realize the importance of business nor understand that it is only when business moves forward that we all move forward. I think we all should sound off and be proud of the part that American business plays in making our civilization the best in the world.

I was proud to read a copy of last week's Fort Worth Star Telegram where they had a full page on this subject. The headline was "What Is Right with American Business." It was a statement by Norwood P. Dixon, who is a retired partner in the accounting firm, Ernst & Ernst and is now on the faculty of Texas Christian University. The Fort Worth Star-Telegram devoted an entire page to his factual analysis. I would like to quote one section where he summarized some of the strong points about business. Dixon asked these questions:

What are some of the things businesses do beside make reasonable profits? Here are a few:

1. Pay dividends which benefit, directly or indirectly, nearly every American.

2. Provide more than 90 million jobs.

3. Pay one-half of all social security taxes.

4. Pay all of the unemployment taxes.

5. Pay all of the workmen's compensation insurance.

6. Contribute more than $1 billion annually to worthwhile charitable and educational causes.

7. Provide retirement income to millions of Americans.

8. Provide various fringe benefits to employees such as life and health insurance, paid vacations, recreation facilities, scholarships for employees' children, health facilities, etc.

9. Spend billions of dollars on research developing products to enhance the health and enjoyment of the American citizen.

10. Pay income taxes to help finance the government and its many welfare programs.

11. Encourage its executives and employees to devote millions upon millions of "company-time" hours annually in volunteer work for charitable, health, educational, arts and many other such organizations.

TRIBUTE TO CHARLES KILLINGER

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. MARKS. Mr. Speaker, recently I had the honor of paying tribute to one of the outstanding senior citizens in my congressional district, Mr. Charles Killinger. As a member of the Select Committee on Aging, I have become especially aware of the many contributions our senior citizens have to offer our Nation, and I would like to call the attention of my colleagues to the outstanding work of my friend and frequent liaison on aging matters in the 24th District of Pennsylvania.

The occasion for this tribute was a testimonial dinner given for Charlie by the Senior Citizen Advocate Office of Erie, Pa., August 24, 1977.

It has been my pleasure to work with Charles Killinger in connection with my congressional assignment on the Select Committee on Aging. I have long been interested in the welfare of senior citizens, but since coming to Congress and assuming a position on the Aging Committee, I have become even more aware of the particular needs of the elderly and more capable of addressing those needs.

Serving on the Aging Committee has also made me much more aware of those in the 24th District who sincerely care for the health and well-being of the elderly. Clearly, one such person is the man we are honoring tonight. Charlie has brought his abilities as a field representative for the UAW and a representative for the United Farm Equipment and Metal Workers Industry to his current tasks of acting as advocate for senior citizens. I am always pleased to hear from my constituents, but when the message comes from one so knowledgable, effective, and concerned as Charlie Killinger, that message carries a tremendous impact. Every senior citizen in the 24th Congressional District has an especially articulate voice in Charles Killinger.

The list of Charlie's accomplishments in the area of helping the aged is an extensive one. During the past 18 years, Charlie has served as a volunteer and as director of the Senior Citizens Advocate Center. He has served in various capacities on the Governor's Council on Aging, the Executive Board for the National Council of Senior Citizens, the Pennsylvania Association of Older Persons, the Erie County Senior Citizens Council, and the Presque Isle Senior Citizens Club. In recognition of his services, Charlie received the Robert W. Behrend Award from Governor Shapp in 1966, and was honored nationally in 1972 by an award from the National Council of Senior Citizens for Outstanding Service.

Outstanding service. That is an understatement. Charlie has served Pennsylvania, the Nation's elderly, and all of us exceedingly well. We certainly could use more committed individuals like Charlie, and I want to extend my personal "thank you" to this most outstanding man for the work he has done.

PET MEDICINE KILLS TOT; HAD NO CHILDPROOF CAP

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. IRELAND. Mr. Speaker, I offer the following remarks in writing in order to avoid tying up the House's time for oral discussion.

The following article appeared in the Bradenton, (Fla.) Herald on July 30, 1977, and I believe it is of sufficient import to warrant my bringing it to the attention of our colleagues.

It describes the tragic death of a beautiful child who lost her life by accidentally ingesting a drug which was not dispensed in child-proof packaging.

The article follows:

PET MEDICINE KILLS TOT; HAD NO CHILD-PROOF CAP

(By Ilene Jacobs)

A 23-month-old girl died last week after she swallowed a drug prescribed for her babysitter's pet.

Her parents, Robert and Lori Bub of Bradenton, say the accident would not have happened if the law required veterinarians to dispense medicines in child-proof containers.

The Bubs, who also have a 3½-month-old daughter, have vowed to fight for legislation that requires veterinarians to dispense medicines in something other than containers "as easy to open as a fliptop box of cigarettes," Bub said.

"We checked with five animal clinics after this happened to see how they give out their medicines," Bub said Saturday. "Only one of the five dispense them in child-proof containers. The rest use plastic vials or plastic bags."

By federal law, pharmacists must package medicines with safety caps unless a customer requests otherwise and signs the prescription to prove it.

But doctors and veterinarians are not bound by that law. They can put these medicines in pill envelopes if they wish. And so, as the receptionist at one local animal clinic said, "most drugs we give out are in cellophane wrappers."

On July 18, Jennifer Bub was crawling around her babysitter's home, when she discovered a small container of pills. The pills were digitoxin, used to regulate the heart rate in animals and humans.

Jennifer pulled the top off the container and ate about half of the pills. The babysitter rusher Jennifer to Manatee Memorial Hospital, where she died more than nine hours later.

At that moment, Mrs. Bub was in the hospital, recovering from a gall bladder operation, with her husband at her side.

One Bradenton veterinarian says that even if the bottle has no safety cap every label has a safety warning.

But on the digitoxin that Jennifer consumed there was no warning that it should be kept out of the reach of children. Only the drug's name and dosage appeared on the container.

The same veterinarian, who said he dispenses some medicines in child-proof containers, said one medicine he prescribes is a sweet-flavored syrup "a child would eat right up." The syrup is contained in a screw-top bottle.

Many veterinarians support legislation to require child-proof bottles.

THE BENEFITS OF SEALED BIDDING IN TIMBER SALES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BROWN of California. Mr. Speaker, the House Agriculture Subcommittee on Forests was recently involved in marking up a controversial piece of legislation, H.R. 6362, which repeals the sealed bidding provisions of the National Forest Management Act of 1976. As a member of this subcommittee and one of the 14 Agriculture Committee members who offered dissenting views on H.R. 6362, I would like to draw my colleagues' attention to a recent editorial from the California-based McClatchy papers which further illustrates the reasoning for rejection of H.R. 6362 by this Congress. The bill passed the Agriculture Committee by only a vote of 22 to 20.

[From the Fresno (Calif.) Bee, Sept. 6, 1977]

SEALED BIDS EARN MORE

When members of Congress get back to work this week, we hope they take a look at some conclusions which the U.S. Forest Service has reached about the sealed bidding vs. oral bidding methods of selling government-owned timber.

The senators and representatives may be persuaded to agree with Rep. John Krebs, D-Fresno, not to repeal a federal law which requires sealed bidding in 25 per cent of the timber sales in the West.

Figures collected by the Forest Service show sealed bidding in six sales earned the U.S. Treasury from $10.59 to $69.53 a thousand board-feet in premiums above government appraised prices. Premiums in oral biddings only ranged from $5.24 to $46.18 a thousand board-feet.

Sealed bidding for timber on the west side of the Cascade Mountains produced $274.7 million, $115.9 million more than the appraised prices. Oral bidding on the east side of the mountains brought $51.1 million, only $19.2 million above the appraised prices.

Why this would be so is obvious. Under sealed bidding, firms each submit one secret bid, with the sale going to the high bidder. Oral bidding allows potential purchasers to raise bids in public competition. Since the firms know what each is bidding, there is less incentive to be competitive.

There have been several bid-rigging convictions in Oregon and criminal investigations are underway elsewhere. A federal grand jury investigation is going on in the Sierra National Forest east of Fresno.

Krebs cosponsored a bill last year to require sealed bids in timber sales, but pressure by the forest products industry persuaded committees in the House and Senate to repeal the provision. Even the original bill was watered down. As interpreted by the Forest Service, sealed bidding would have had to applied to nearly every sale in the West. Then this was cut to 25 per cent.

The timber belongs to the taxpayers. Krebs thinks they have a better chance of getting their money's worth from sealed bidding, than oral bidding. We think so, too.

WHEN URANIUM RUNS OUT—WHAT THEN?

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. TEAGUE. Mr. Speaker, the administration proposal to indefinitely defer the reprocessing of spent nuclear fuel and the construction of the demonstration breeder reactor at Clinch River have been put forth despite many expert opinions that these steps will endanger America's energy alternatives for the future.

In the August 29, 1977, issue of the Energy Daily an article appeared on projected world uranium supplies and how long they will last. I wish to offer several excerpts from that article.

Terry Price, secretary-general of the Uranium Institute, a joint producer-user think-tank in London, warned the Windscale public inquiry last week that uranium discovery was unlikely to match the increasing pace of world demand. The long-term future of nuclear power depends—"as it has always depended"—on reprocessing and breeding, he said. Given those technologies, uranium supplies will be sufficient to see the industry into the second quarter of the 21st century, he added. And by then, breeding can begin to reduce the demand.

Price's assumptions began with International Atomic Energy Agency/Nuclear Energy Agency estimates of total world resources of four million tons of uranium at costs up to $30 per pound (oxide). Using the IAEA's "low growth" scenario, and without uranium or plutonium recycle, total reserves will cover world requirements only up to 2010, he said—not including any additional requirements for the remaining lifetime of reactors already built.

If "estimated additional resources" are excluded, leaving only those "reasonably assured," the timescale shortens to 1999. If the "high growth" scenario is used instead, those "reasonably assured" resources would be exhausted by 1994, Price maintained.

Adm. Hyman Rickover was even more forceful when he appeared before the Committee on Science and Technology's Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration on February 24, 1977. He stated, "If you don't recycle, you had better forget atomic power as a source of electrical energy for the future."

Without the reprocessing and recycling of spent fuel and the use of breeder reactors, nuclear power will be a has-been by the early 21st century.

If we postpone the demonstration of various breeder technologies such as the liquid metal fast breeder originally slated for construction at Clinch River, we cannot hope to have a strong technological base in place to insure future energy stability.

Although the experimental reactor at Shippingport, Pa., just recently went critical, we must not be deluded by thinking that this thorium-uranium success is sufficient ground to cancel other alternatives. The Shippingport reactor is a tremendous achievement, but one must remember that it is an experimental size reactor and will need several years of operation and evaluation before a demonstration size facility can be considered.

Our experimental breeder reactor II (EBR II) is the forerunner for the Clinch River breeder reactor and has been in operation for 13 years. We have now accrued enough knowledge from EBR II to approach the next step—the demonstration facility at Clinch River—with confidence.

To cancel the Clinch River breeder reactor at this point would be to discard one of our most substantial and secure energy alternatives. To cancel it in the hope that future sizeable deposits of uranium might be found is foolhardy.

ONCE MORE ON LOBBYING BILL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. DERWINSKI. Mr. Speaker, there was a great deal of pertinent editorial commentary across the country when we returned to session last week after the August recess.

A bill of more than passing interest, the so-called "lobbying bill," was the subject of a very spirited editorial in the Chicago Daily News of September 6, which I certainly recommend to the Members:

ONCE MORE ON LOBBYING BILL

A funny thing happened to a major post-Watergate reform as it worked its way through Congress last year. Most of the "good guys"—Ralph Nader and friends, the Sierra Club and other environmental groups and the League of Women Voters, to name a few—joined their frequent enemies in business and labor to oppose it. The reform was lobby disclosure legislation that would have shown the public who was spending how much to say what to our congressmen and, in some cases, to members of the administration. A different version emerged from each house, but the clock ran out on the 94th Congress before they could be reconciled.

The reformers in this Congress have started early to avoid that pitfall. We would like to see their traditional allies lend a hand. The House bill already has been diluted in a subcommittee.

The main objection of "grassroots" lobbying groups was that disclosure would place an unbearable burden on small organizations and thus curtail their activities to the benefit of the big-moneyed interests. But it won't take an accountant to meet the disclosure requirements in pending bills: total expenditures, lobbyists' salaries, gifts in excess of $35, receptions that cost more than $500, major solicitations of members or citizens to contact their legislators, and descriptions of main issues and how positions are arrived at. The Senate bill even provides a "short form" for small-scale lobbyists.

Requiring the disclosure of major contributors—those who give $3,000 or more is the current proposal—also drew a lot of flak. The practical objection was that it would scare off contributors; the philosophical objection, that it would hinder freedom of association. But such disclosure is required under the existing, loophole-ridden lobbying law. It is essential for painting a picture of the pressures on Congress. For example, knowing that the soft drink industry is behind the Calorie Control Council gives perspective to the council's case against a ban on saccharin. The example comes from Common Cause, the only major lobbying organization that supported last year's bills.

Lobbying, which consists more of facts and figures than wining and dining, is an essential part of our democratic system. But so is the disclosure of its dimensions. Opening its operations to public view will discourage the abuses that have given lobbying a bad name and promote fuller debate in the public's interest.

THE STORY OF A MAN WHO MADE IT: MARIANO MARTINEZ, JR.

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. MILFORD. Mr. Speaker, a new Mexican restaurant and cantina that opened in Arlington, Tex., recently is enjoying great popularity.

Good times—good food—good drink—that is what Mariano's restaurant offers, that's what his customers get.

Mariano Martinez is an example of what can be done when a young restaurateur puts his ideas into action. He opened his first restaurant in Dallas in 1971.

His success story proves that in our free enterprise system, anyone who is willing to work hard and has a good idea to begin with, can succeed.

Mr. Speaker, I would like to include this article which was written for Dallas magazine by Daniel Garza in the RECORD:

THE STORY OF A MAN WHO MADE IT—MARIANO MARTINEZ, JR.

(For Martinez, it helps to be Mexican. But that's only one asset he's used to build his profitable restaurant.)

Fast, twisty Mexican music in the late night thunders through the *cantina*, gushing out in torrents into the fancy shopping center, as a crowd of finely tailored and manicured *gringos* in the raucous, serape-draped *cantina* whoop and holler, occasionally sending a fist in the air and effecting as best they can, the classic Mexican *grito* or yell.

Then, a *gringo*—one who is completely engrossed in the frolic—says he'd like to hear *La Bamba*, and that gives Chucho and Renan and the other musicians the cue to further increase the feverish tempo and rattle the walls and windows more.

Chucho's fingers dance nimbly, rapidly across the guitar strings, reflecting glistening dart-like rays into his audience. Suddenly, all four musicians cut loose with the lyrics in Spanish.

Para bailar La Bamba, para bailar La Bamba se necesita un poca de gracia, una poca de gracia y otra cosita y arriba y arriba . . .

After the initial frenzied stanzas, Chucho takes the lead, and being the rascal that he is, he weaves in his own lyrics which the *gringos* don't understand. But it's OK. They clap along with the music and laugh at Chucho's wisecracks about *gringos*.

Seated at a front table is the person most enjoying this merriment. He's not *gringo*, but a young Mexican-American. There's a continental look about him evidenced by his sporty goatee, moustache and natty attire. He smiles thoughtfully at Chucho's antics, all the while, absorbing the throbbing excitement with apparent satisfaction.

At that moment, as though he'd carefully weighed his thoughts, he turns to the others at the table, shaking a finger to emphasize the fact he's very proud of this musical group he calls *Musica Illimitada* because it has been so successful with his clientele.

But in the same breath, he adds, "You know, the guy I'm really proud of is Chucho—that stocky guy with the moustache over there," he nods towards his guitarist. "In just a short period, he's come on strong. He didn't used to be the entertainer he is today. He was sort of a quiet guy. But now, like you just saw him, he's dynamite. He makes people laugh and feel good. And that's what I want to give my customers—a good fun feeling along with good Mexican food and drink."

Just as Chucho has grown in stature, so has his boss developed a mounting business through his Mexican restaurant/cantina complex in Old Town. Since its debut in May 1971, Mariano's has grown at a steady clip with sales tripling over the four-year period ending this month. At the outset, however, it wasn't all roses for the dapper, 30-year-old Mariano Martinez, Jr. since a $16,000 debt hung over his head

But the daring Mexican with a flair for winning friends and influencing people convinced his contractor to whom he owed the money that it would be in the best interest of all for the business to open as planned.

Martinez recalls that in keeping with his policy of going to top decision-makers, he flew to Houston to confer with the top man at the construction company. "Man, I went directly to the heart of the matter. I explained to him we had three options. First, he could padlock my restaurant, and I'd remain indebted to him. Secondly, I said, 'you, Mr. Construction Man, can go into the restaurant business,' and thirdly, which is the most logical, is you can let me open up for business and I'll repay you out of all the profits I'm going to make.

"Well, he was a very understanding person, and he decided to let me pay him the $16,000 over a four-month period. I was really pleased with his offer. That was more than I expected, so I was very grateful for the break he gave me.

"With that ticklish problem solved, the next thing I faced was a way of promoting the business. There just weren't any advertising bucks in the kitty, so it was left up to my ingenuity on how well I could get exposure for my restaurant. I suppose this is the time I became good at promotion."

In earlier years when he was playing with musical groups around Dallas, he'd been exposed to press parties and sort of knew how they were organized. So with this elementary grasp for public relations, he set forth to launch one of Dallas' most memorable press parties for his grand opening.

In the true spirit of a public relations man, Martinez was primarily concerned with providing his press guests with a news hook, something unique they could write about. Creative juices began flowing with Madison Avenue type ideas springing forth.

Plans called for the man bringing the furniture from Mexico to stop along the border for an ample supply of *cabrito*, the Mexican favorite. A Dallas wine merchant offered up champagne. And Martinez capped it all off by donning a *bandido* outfit complete with bandoliers, leather pants, and a big sombrero, the kind worn by Emiliano Zapata.

Word of the upcoming press *soiree* at the new Mexican restaurant got around. Friends said they knew somebody important at one of the newspapers. "Man, invite him," urged Martinez. A former college roommate offered to take Mariano's picture in his *bandido* outfit, so that he could have photos available for the press.

Even before the doors opened, the young restaurateur was getting ink in the newspapers with such comments as, ". . . grand opening with an arresting menu of cabrito and champagne."

Noted columnists, entertainment writers, television personalities, sports writers, newspaper photographers, other members of the press, as well as local celebrities took notice of his bravura and began embracing him as a true *companiero*.

For Martinez, it helps to be Mexican. But really, being ethnic hasn't been all that essential since he has some other aces in the hole—like all those tangibles and intangibles it takes to be an entrepreneur.

The need to achieve and the paralleling drive to accomplish objectives quickly, effectively with a minimum of interruptions came to him at an early age. For example, his mother, Mrs. Mariano Martinez Sr., recalls that her son insisted on playing complete songs on the piano without having to practice the basics for too long a period of time.

An impatient teen-ager, he dropped out of school in the tenth grade because he found it "boring and meaningless." School was taking too much time away from his true interests, music and golf—two fields which would later have a direct influence on him and the success of his business.

Modeling himself after a teen-age musician friend, Martinez quickly learned to play, in his early teens, the electric bass guitar and began moving around in Dallas' entertainment circles with such names as Jesse Lopez and through the younger Lopez, grew to know Trini. Likewise, he befriended Lee Trevino at the Pitch 'n Putt driving range before the golfer began hitting the big time.

Eventually, he formed his own musical group serving as business manager and promoter Only this was an intermediate step since his overpowering amibition was to excel at higher levels. He saw friends like Trini Lopez and Trevino succeed. At that point in his young career, Martinez became more determined that he'd fulfill his ambitions to become a "somebody."

"When Trini and Lee hit the big time, all of a sudden new horizons opened up. Opportunities seemed more accessible," Martinez says. "These two guys showed me that if you have ability and the willingness to work, you can be a success. It doesn't take wealth. Both of those guys were poor. It doesn't require education because Trini and Lee had very little. What it does require is the desire, the ability, and the willingness to work at it. Armed with those thoughts, I decided that I was going to be great at whatever I did."

While his thoughts were sound in theory, Martinez was realistic enough to see that his liabilities offset his assets. "I knew what I wanted, but I didn't know which avenue to take," he says. "What I was sure of was that I'd reached a plateau in the music business and with golf."

Education seemed to provide an answer to a perplexed 21-year-old Martinez. After passing the GED battery of tests, qualifying him as a high school graduate, he moved on to North Texas State University where he found the going a bit tough. He regrouped at El Centro, and with two years of college credits under his belt, he undertook North Texas State again, only to discover that there was greater opportunity, not so much in the business courses he was taking, but in a potentially sound market for a Mexican restaurant in Denton.

"For the first time in my life, I was ecstatic about a possible business venture," he relates. "My enthusiasm overwhelmed everybody I came in contact with. My mind was buzzing with ideas—the theme of the restaurant, for instance, was 'leave Texas behind and enter the placid surroundings of Mexico.' I had an artist do a bunch of renderings for me, and I carried them in a big box wherever I went."

Financing posed a problem, but Martinez overcame it by forming an investment group that included his parents, his wife's parents, a kitchen equipment supplier, and friends. He raised $30,000 in collateral, enough to qualify for a $70,000 loan a Denton bank was willing to make.

The potential, yet maturing businessman began to develop more of a perspective toward his goals with the aid of business professors from El Centro and North Texas State University. "Since the time in grade school when I was a fledgling photo-journalist with my Argus 35mm camera, I've been visualizing things that weren't, but could be. So now, here I was with this great opportunity; my mind was preoccupied with plans and ideas."

One thing he didn't foresee, however, was a snag in the construction schedule for the Denton shopping center that was to house his restaurant. Talk of building the shopping center continued, but for a year nothing concrete materialized. An inpatient Martinez, still a student at North Texas, and his investors began thinking of an alternate plan.

About the same time, the chic Old Town Village Shopping Center was being built in Dallas, and it had strong appeal. Martinez could see a viable market "for his restaurant/cantina complex.

"I decided Old Town was the place for Mariano's Restaurant, but I was afraid my shareholders would back out. When I discussed this new possibility with them, they were all in accord with 100 percent support," he says.

Getting a second wind, Martinez decided to drop out of college and concentrate on his venture full time. Packing his ideas along with him, he began negotiating financing in Dallas since his Denton banker wasn't all that interested in putting money in Dallas. What followed was round after round of involved and detailed discussion with the Small Business Administration and a number of banks.

He says, "All I heard from these people were negative things—that it was a bad time to start a business, that the dollar had shrunk considerably. Plus, there was lots of red tape, but I persisted, all along adjusting and improvising. Then, one day I walked into the First National Bank in Dallas carrying my box of drawings and plans . . . I carried that wherever I went in those days.

"I walked in cold and started talking to a receptionist about my plans," he recalls. "As luck would have it, an officer of that big bank strolled by and overheard my conversation, and he invited me and my box of drawings into his office. In short, what he told me was that he wanted to help me, that he wasn't promising anything, but that he thought I had a 10 to 20 percent chance."

Subsequently, First National Bank in Dallas agreed to a $56,000 SBA guaranteed loan. That financing agreement was complemented by a $30,000 note endorsed by the Watson Kitchen Equipment Company, one of Martinez's original investors.

However, it wasn't quite as simple as that, Martinez recounts, "I found myself in a trap. Everybody was waiting on everybody else to commit. The SBA was waiting on the bank to sign the deal; First National was waiting on the SBA; and the equipment people were waiting on the other two, and no one wanted to be the first to commit."

As though these annoying situations weren't enough, he faced another hurdle with the SBA. Even though his loan had been approved, the SBA couldn't commit since it had reached a budget ceiling. It had to wait for Congress to pass a bill appropriating more funds.

Red tape needed untangling. Martinez's future was at the mercy of Washington's bureaucracy. Meanwhile, back in Dallas, the landlord at Old Town was pressuring Martinez to commit; otherwise he'd have to give up his space to another merchant.

"Well, I've never been able to take no for an answer," he says. "So I go to the top man at the SBA here in Dallas and present my case. He's understanding and sympathetic, but says that the bill has to wait for President Nixon's signature. I tell him, 'well, let's call him and encourage him along.' The SBA man says, 'call who?' 'President Nixon,' I said. That guy got the biggest charge out of my suggestion. He said he wouldn't call President Nixon, but some other contacts he had in Washington in an effort to unclog the works.

"A week later, that bill was signed and passed and the bank, the SBA, and my kitchen equipment man and myself all got together to sign the formal papers to get my restaurant underway," he adds.

Years ago, he was faced with a similar situation. Only it didn't involve as many people—just a high school counselor who discouraged the spirit of entrepreneurship he was developing at the time.

Martinez relates the occasion. "I had a strong need to achieve when I was a teenager, but I wasn't known for anything. I wasn't a real bright student, or a cheerleader, or an athlete. So I was frustrated, because I wanted to succeed, be a somebody.

"The counselor gave me some tests and afterward told me that the results indicated I wanted to be the boss, the headman. But she said that wasn't possible, that I couldn't get there from the level I was at. She also said I'd have to finish school, go through college, and then work for somebody before I could achieve the level I wanted. Someday when you get to be 40 or 50 years old, you may become the headman, she told me. But she really didn't think I'd ever make the grade as an entrepreneur because she felt this type person was becoming extinct."

Disproving others' negativism has become a way with Martinez for the past 15 years since the time he launched his business career as the manager of a musical group. The experience he gained as an entertainer has served as a vital link in the sequence of events leading him to the pinnacle of success.

The promotion savvy gained through earlier musical days as well as his business acumen have been applied in yet another role he's played more recently—that of benefactor to El Centro Junior College and SMU's Caruth Institute of Owner-Managed Business.

At the Caruth Institute, Martinez finehoned his business and management skills, and earlier, a number of economics and business professors at El Centro encouraged him with his business endeavors. To show his appreciation, he instituted Dallas' first Tortilla Eating Contest. The initial one in 1972 brought $675 that went toward El Centro's Mariano's Scholarship Fund.

Building on the first Tortilla Eating Contest, Martinez put his public relations talents to work and came up with what many considered his craziest idea. Donning his *bandido* outfit and looking like Alfonso Bedoya's twin, the bold and flamboyant Mariano staged a prearranged robbery of the Bank of Texas with the help of SMU's C. Jackson Grayson and Caruth's director, John Welsh.

The whole idea was to promote the 1973 Tortilla Eating Contest, and his publicity stunt proved successful, with local television and newspapers giving it considerable play.

Resulting from this contest was $8,000. With this money scholarships were awarded to 30 outstanding Junior Achievement students, allowing them to attend entrepreneurship study courses at the Caruth Institute.

Lately, a tight business schedule has limited Martinez to few promotional projects, although he talks about getting back into the swing of things. But then, he isn't as physically close to his restaurant as he used to be. Taking charge of the day-to-day activities at the Old Town Mexican restaurant are three managers. Meanwhile, Martinez moves in business circles around Dallas, and when he isn't doing that, he's pondering the future of his business in his modern office on the eight floor of the 6060 Building on Central Expressway.

Currently, the action for Martinez isn't so much in his personal office, but in his mind and in an adjoining room containing walls of blueprints, floorplans, and an artist's renderings of future buildings.

Plans call for expansion to other cities in the United States. However, for competitive reasons, he hesitates to be specific about future markets in which he expects to engage. But what he does offer is that he and his planners have devised a 7000-square-foot prototype, free-standing restaurant building designed to be built anywhere.

"My initial plan wasn't to build only the Old Town restaurant and cantina," Martinez contends. "I wanted to build on the experience gained there and expand our business. Right now, we have available engineering specifications and drawings for the prototype restaurant building plus cost figures. But we don't have specific dates for setting up a business in another city because I think that today is the time to remain liquid. Interest rates are too high, and I think they'll be coming down. I don't want to be strapped at a higher interest rate for 20 years when I feel I can get a better deal by waiting."

The goateed Mexican in the finely tailored suit gazes out the window as if deep in thought. After a moment, he continues, deliberately choosing his words, "I'm sitting on *go* right now. I have my plans, my staff, and my cost figures for future expansion. When the time is right, we'll be ready to move."

ROSH HASHANAH MESSAGE 5738/1977

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HARRIS. Mr. Speaker, recently, Eugene Gold, the National Conference on Soviet Jewry Chairman, issued his message for the Jewish New Year 5738. His statement is an excellent one and it represents the thoughts of many of my colleagues, as well as myself. At this time I wish to call his remarks to your attention:

ROSH HASHANAH MESSAGE 5738/1977

Soviet Jews today, are a people who face a bitter irony—they are not permitted to be Jews, nor are they permitted to stop being Jews. The next twelve months will be a crucial period for Soviet Jews, whose struggle to leave the USSR, or live as Jews within the USSR, has captured the hearts and minds of men and women around the world.

Despite ongoing harassment by Soviet authorities, a blatant anti-Semitic campaign in the Soviet media and trials against those attempting to exercise their basic human rights, Soviet Jews have displayed imaginative and ongoing courage . . . a courage we must match with our solidarity.

The last decade has witnessed a historic exodus of Soviet Jews. Since 1967, more than 150,000 have left the USSR to rejoin their families in Israel and elsewhere. But their departure represents only the tip of the iceberg, for thousands more daily petition Soviet authorities for their right to leave the USSR, or live openly as Jews within the USSR, with all cultural and religious rights accorded other minorities by Soviet law.

We would hope that in this coming year, the Soviet government would cease its arbitrary refusal to emigration applicants—refusals which breach both Soviet and international law, most recently the Helsinki Final

Act. We urge the USSR to free Soviet Jewish Prisoners of Conscience, and release those who have been illegally denied their right to emigrate so that they may rejoin their loved ones. We especially appeal on behalf of emigration activist Anatoly Shcharansky, whose imprisonment is unjustified, undignified and who wishes to rejoin his wife in Israel.

GREENHILLS: TRIBUTE TO A VISION

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. LUKEN. Mr. Speaker, "God," wrote a Roman poet, "made the country, and man made the town." The experiment in community which we know as Greenhills, Ohio, has boldly combined the work of God and of man alike, creating a township in which the virtues of both country life and of civic order flourish.

It is now over four decades since Greenhills was established: the building of the town began on December 16, 1935. Its first families were settled in April of 1938, and the following year it was incorporated as a village. Conceived in the midst of the Great Depression, Greenhills took form on the very eve of the Second World War. It has survived and prospered as a viable experiment in community because of the character of its people and their understanding of the ideals which it has embodied.

Greenhills, one of three "greenbelt" towns, was planned as an American adaption of the English "garden city" pioneered in the last century by Ebenezer Howard. The unique character of Greenhills as a planned community realizing the environmental ideals of modern city planning is reflected in its history, ably recounted in the "Greenhills History Booklet" prepared by the Greenhills Civic Foundation for the Bicentennial of the United States in 1976 and formally presented at Greenhills town meeting to Congressman LUKEN.

The greenbelt vision, combining urban life and open spaces in a harmonious community, was truly prophetic not only for America but for the world at large. The pres...es of urbanism, the immense expansion of our cities in what has been called urban sprawl, the attendant problems of population density and pollution, crime and poverty—all these contemporary phenomena which challenge our best efforts for solution were foreseen and avoided in the planning of Greenhills, a community conceived and built by the President of the United States and by act of Congress. Greenhills is a shining example of what can be achieved when Federal planning utilizes and nurtures local initiative and the creative resources of our people.

Already in 1938, the Under Secretary of Agriculture, Rexford Guy Tugwell, a crucial figure in the establishment of Greenhills, could note with pride that the town was among the few in America to be completely electrified, with modern sanitary, storm water sewage, and firefighting systems. An integrated urban-rural setting, low population density, and settlement by moderate-income families assured wholesome, solid, and stable patterns of community life, further reflected in the activities of the community council, whereby the voice of the people was able to make itself heard. It has been said that the freedom given to town planners in Greenhills was unprecedented in the history of civic planning. It is a continuing example today of what can be done when men and women of vision set their minds and hearts toward the achievement of a better community.

The village of Greenhills, often called the "New Deal in the Suburbs," was and is an act of faith in America—in the enterprise and initiative of her people and in their ability to build for the future in the present. It demonstrates, in the words of Franklin Roosevelt, that "heedless self-interest" is both "bad morals" and "bad economics." It shows that there is a better way of dealing with those very modern problems of rural decay and urban blight, and that quality of life can be given the primary place which it deserves in the fabric of American society.

I congratulate the people of Greenhills as they celebrate their community's story, sharing their pride in what has been accomplished, inspired by their determination to uphold the ideals of civic responsibility which they have demonstrated for over 40 years of our history.

THIS SOAP ISN'T CLEAN

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BRINKLEY. Mr. Speaker, for a person to take a stand is perhaps the finest example of them all. And for that stand to be based on commonsense, principle, and conviction makes it particularly compelling.

I invite each Member to be refreshed by the stand and reasoned logic demonstrated by Dr. Charles Granade in his column, attached, from the Saturday Enquirer and Ledger of September 10, 1977:

THIS "SOAP" ISN'T CLEAN

(By Dr. Charles Granade)

It is unfortunate that when Columbus appears to be making progress toward cleaning up pornography and prostitution, a local television station will counteract this positive effect by beginning a filthy weekly television program. Many community leaders have started working toward getting rid of much undesirable and sickening pornographic materials. The city fathers have passed an ordinance aimed at showing who profits from such filth, aimed at curtailing its spread.

Now comes a weekly television called "Soap" to premiere on channel 9 at 9:30 p.m. Tuesday, September 13. According to the local TV sales manager, there has been nothing negative said about the show to date. The problem with so many television shows is most of them are shown without the local viewers having any idea of what is taking place until the filth is in the living room.

I have not seen the show, but according to an Associated Press account the "comedy," seeks to take adultery, promiscuity, impotence, and homosexuality and make these laughing matters. Actually, for many innocent people involved, these are serious and tragic matters. To say the least, they are hardly matters to be lampooned before people of all age groups.

According to those who have viewed previews of the show, we are in for the following glorious and thrilling scenes: "a tennis pro who's bedding mother and daughter, a boy who wears his mother's clothing and wants a sex change operation, a girl with the hots for a Jesuit priest, and a young man whose ambition is to be a gangland hit man." These are hardly geared to improve the moral quality of life in these United States.

Several church groups have voiced their opposition to "Soap," among these, the Southern Baptist Convention, United Church of Christ, and the Catholic Church.

Dr. Harry Hollis Jr., director of Family and Special Moral Concerns of the Christian Life Commission of the Southern Baptist Convention warns: "The American people are going to ask why any responsible network would have accepted such trash for public consumption in the first place, why any local television station committed to public service would air it, and why any responsible American business would sponsor it."

It has been reported a number of national potential sponsors for the series "Soap" will not sponsor the show, at least temporarily. In other words, they are going to wait and see how much the American public will tolerate before they spend large amounts of money that can be counter-productive in advertising.

Hopefully, any local advertisers in Columbus will have the good sense to refrain from sponsoring anything as degenerate as "Soap" is purported to be.

Moreover, let it not be said there is no local opposition to "Dirty Soap." Let this program, like commercials of a well-known soap become 99 per cent pure, and it might be accepted. After all, soap is for the express purpose of making dirty things clean, not making clean things dirty. Let's leave both the purpose and end results of genuine soap as they have always been.

And let the message be given to the various television giants and individual stations that their licenses to operate are not licenses to corrupt.

SOUND ADVICE FOR THE ALL-VOLUNTEER FORCE RECRUITMENT EFFORT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. STEIGER. Mr. Speaker, there are some provisions of this year's Defense Appropriations bill that merit special attention. First I want to note, however, the superb job accomplished by our distinguished colleague, Mr. MAHON. Once again the chairman has brought us a bill that assures a strong national defense and maintains at the same time a reasonable cost for that defense.

An aspect of the legislation that I would like to address pertains to recruiting and the all-volunteer force—AVF. Both the House and Senate Appropriations Committees addressed this important issue during development of the appropriations measure.

In the chance that many of our colleagues have not reviewed the report of the Senate Appropriations Committee on the bill, I would like to share with you the report's comments on recruiting and the AVF. The committee, chaired by Senator STENNIS in Chairman MCCLELLAN'S absence, concluded, "The successful implementation of the All Volunteer Force by the Department of Defense represents a major management achievement. The challenge of voluntarily enlisting over 400,000 people—the equivalent of 1 out of every 3 qualified and available male youths—on an annual basis has been successfully met, albeit some problems and issues still remain."

The report points out that all services met or exceeded their recruiting goals in fiscal year 1976. At the same time, accession quality continues to remain high by historical standards.

"Initial fears that an All Volunteer Force would be nonrepresentative do not appear to be justified," the report says. "The present force is remarkably representative with respect to income and geographic region. Women are entering the service in greater numbers. The black percentage of overall enlisted accessions has decreased since 1974, while showing only moderate growth in the Army."

Along with these accomplishments, several challenges to the future management and sustainment of the AVF remain, the report stated. They include: Reserve force manning shortfalls; high recruitment and retention costs; a declining youth population; and the prospect of reduced unemployment.

"Although these problems may appear to be formidable to those not intimately familiar with current military management policies, the committee has carefully examined them," the report continued. "It is the committee's considered view that the All Volunteer Force is a success and can continue to be so, but only if there is a significant change in the management approach taken by the military services and the Defense Department."

This last is an excellent point which cannot be emphasized too much. It is my feeling that perhaps the most critical factor in the continued success of the AVF, in addition to strong congressional support, of course, is the willingness of the Defense Department to review, revise and improve its management initiatives as they pertain to manpower policy and the AVF.

With the advent of the AVF, we saw on the part of Pentagon officials not only the willingness, but the capability, to shift gears and develop new manpower approaches to attract and maintain a force of volunteers. This was not a simple thing, after more than 30 years of conscription. Defense Department officials deserve great credit for the management initiatives and policy changes they implemented. Were it not for their efforts, it is doubtful we would today be seeing the degree of success we are from both quality and quantity viewpoints in the AVF.

It is important that Pentagon management officials continue to pursue new approaches. Perhaps more important, we in Congress must continue to follow closely the development of manpower management policy. This was done very well by the House and Senate Appropriations Committees in preparing this bill.

The Senate committee report lists a number of management options which could be used to meet current recruiting difficulties and cope with the expected decline in the number of eligible males.

The report said:

The committee is convinced that systematic changes in defense manpower policies can avoid a great deal of the potential cost increases, sustain the All Volunteer Force, and possibly achieve overall savings in defense manpower—both military and civilian costs—as well.

It continued:

Achieving systematic change in manpower policies is not an easy task, nor is it an unsurmountable problem as some critics have contended. The chief problem appears to be an institutional one—the military services themselves are unsure of whether or not they can truly meet the management challenges posed by an AVF, or would prefer the easier management choices available under a draft system. This is reflected in many of the current policies and procedures in defense manpower, which, if not changed, indicate strongly that the AVF may fail before it has been given a serious opportunity by this nation. The Committee believes that before the AVF is abandoned and replaced by any form of military conscription, it is essential that serious consideration and experimentation be given to certain realistic management options. There is a variety of options available.

Among the options are these: Utilize more women; reduce the attrition rate of first term personnel; civilianize more military positions; revise current restrictive male enlistment standards; set fiscal year 1974 recruiting performance as a minimum standard; reduce the high rate of physical disqualification somewhat by extending maximum and minimum weight limits by 10 percent; and consider the adoption of a "market approach" strategy to accessions.

The Senate committee's conclusions regarding the AVF are these:

The foregoing discussion highlights the need for a change in attitude on the part of the military services in their management of military personnel resources if an all volunteer force is to be achieved. The Committee explicitly rejects the notion so prevalent in the military services today, that the problem is simply a financial one and that spending ever increasing quantities of money is a way to insure success. The Committee will provide only as a last resort such costly supply-increasing options as sharply increased recruiting and advertising budgets, expanded bonuses or significantly increased pay levels. Prudent increases in resources may be required, but changes in attitudes and management policies appear to be far more important future determinants of whether this country will be able to achieve and sustain an all volunteer force.

Complementing the Senate Appropriations Committee report are some encouraging comments by Dr. John P. White, Assistant Secretary of Defense for Manpower and Reserve Affairs, in his testimony before the House Budget Committee's Task Force on National Security July 13. Dr. White showed an excellent awareness of the problems confronting the AVF and a strong commitment to developing forward-looking manpower policies. I am very impressed with his testimony and with his commitment to successful management.

Dr. White said:

The manning of the military on a voluntary basis will be a continuing managerial challenge just as is force structure design, weapons system development, and logistical system operations. We recognize the challenges, understand the manpower management techniques available, and are confident that we can define and implement the solutions to sustain the volunteer force.

The assistant secretary continued:

The decline in the youth population is real and must be adapted to via flexible and creative manpower management. We will aggressively evaluate every option for its ability to contribute to the sustainment of the volunteer force. We will look hard at opportunities to reduce the requirement for male non-prior service accessions. Some examples are: Reduce first-term attrition; utilize more women; substitute more civilians; increase the ratio of career to first-term service members with increased reenlistments and recruiting of more prior service personnel; and increase the proportion of longer initial enlistments. We will also examine the potential to increase the supply of male non-prior service recruits by: Lessening physical standards for enlistment; lowering minimum aptitude standards; and improving recruiting efficiency. . . .

I believe that we can find ways to maintain force effectiveness while meeting the challenge of a declining youth population. I believe that we will be able to reduce somewhat the out-year requirements for quality male non-prior service enlistees, by improved management of the volunteer force. I expect that we will be able to sustain the volunteer force without dramatic real growth in recruiting resources, assuming that military pay and benefits remain comparable to compensation in the private sector. . . .

The end of the draft forced us to compete for people in the open market. It also forced us to pay more attention to manpower costs, manpower requirements, and how we train and use our people. I firmly believe that the volunteer force has resulted in better manpower management in DoD and will stimulate more improvements in the future.

The volunteer force is successfully meeting the manpower requirements of the Active force. With dedication and commitment on the part of defense manpower managers, the Congress, and the American people, I am confident that we will be able to meet the challenge of the declining youth market.

We are just beginning to address adequately, with resources and management attention, the problem of manning the Reserve forces in the volunteer context. I think that the success achieved in transforming the Active forces from draft dependence to total voluntarism can be repeated for the Reserve forces.

The volunteer force is not perfect and maintaining it will not be easy. An institution maintaining a total force—Active and Reserve—of about three million men and women, with annual replacement needs of over 600,000 people, will face problems. I believe we have the capability to manage and solve these problems. The record, to date, is a good one. It is time to recognize that as a peacetime military personnel procurement policy, the volunteer force is working well.

THE INSTANT VOTE FRAUD BILL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HANSEN. Mr. Speaker, it appears that Congress will now delay until next year considering the President's instant voter registration plan. H.R. 5400 has been in serious trouble since its introduction. At one point it was withdrawn from consideration because of the large majority of people who questioned its merits. It was again scheduled for floor action, only to be further postponed. President Carter has been forced to compromise and completely gut the mandatory aspects of this bill. All that remains is a proposal to spend unneeded Federal tax dollars as an incentive in States to voluntarily agree to adopt the instant registration plan.

Mr. Speaker, I am appalled by this proposal. In my opinion the President and chief sponsors of the bill are bribing vote fraud with our tax dollars. The constituents of my district are strongly opposed to bankrolling such anticipated massive vote fraud in the large urban areas of this country.

If the instant voter registration program is to only be optional, why is Federal involvement needed at all? Any State is free to adopt this type of program at any time. This legislation adds only one thing—coercive money, and lots of it. In the past voter education and outreach programs have been carried out at the local level and largely paid for by the political parties and other private interests. This I believe is their function and not the taxpayers.

Federal money will not take care of voter apathy. Most apathetic voters are already registered. To get people to the polls requires good grassroots organizations, attractive candidates and issues, and strong and vigorous campaigns.

This proposal by the President to federalize elections violates his pledge to the American people—to cut down the size of the Federal bureaucracy and Government expenditures. The size of the bureaucracy necessary to administer such a program would be staggering. The size of the Federal Election Commission would explode with new employees. There would also be considerable hidden costs to this bill. The proposal of up to 85 cents in Federal funds per each registered voter is merely the beginning. Add to that the increased costs of the Federal Election Commission and various State agencies and the burden on American taxpayers will rise sharply—a burden that is unnecessary.

The results of a recent American Conservative Union poll of State secretaries of state—or chief election officials—show that the vast majority oppose this plan. The margin was 30 against, 12 in favor, with 8 having no position. Even among Democrats, the margin was more than 2 to 1 against the proposal.

It is not surprising to me at all, Mr. Speaker, that those officials charged with operating an efficient and fair election system should so overwhelmingly oppose a bill such as the one we will soon be considering. This legislation would create untold confusion at the polls and lead to lengthy waiting periods discouraging potential voters from exercising their constitutional franchise. Worst of all, this bill would make the timely detection of voter fraud almost impossible, thus offering more encouragement to attempt such fraud than under our present system.

Mr. Speaker, careful analysis demonstrates that:

Thirty secretaries of state oppose the instant registration bill.

U.S. attorneys who handle vote fraud cases have stated H.R. 5400 will make it more difficult to discover vote fraud and prosecute it.

Election officials and good government groups around the country have stressed that progress toward eliminating vote fraud will be dealt a serious setback if H.R. 5400 passess.

A majority of the American people are opposed to registration on election day—Gallup poll.

The Bureau of the Census released a report on voter participation from 1966 to 1974 revealing that only 3.8 percent gave "unable to register" as the reason for not voting, compared to 15.9 percent who said they were "not interested."

Election day registration will only increase vote fraud, not participation.

Making this proposal voluntary, not mandatory is no solution, since the fraud potential is still there.

Federal funds are available to induce—bribe—States to adopt this proposal.

Voluntary programs easily become mandatory.

Federalizing voting procedures would be a blow at States rights in conducting their own elections.

Instant registration equals instant fraud.

Any change in the rules by which we administer our elections must be done fairly and equitably and not be based upon the partisan concerns of a few party leaders. The American electoral process has served as a model to the free world for over 200 years and I sincerely hope that we will not taint our image by passing legislation such as the instant voter registration bill.

SUCCESS STORY: VAN POOLING

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. NEDZI. Mr. Speaker, a few days ago, the Macomb Daily, published in Mount Clemens, Mich., had a very interesting story on an unusual and promising development; namely, "van pooling." In essence, van pooling gets cars off the road and also saves gas while apparently meeting with the approval of the people involved.

Under leave to extend my remarks in the RECORD, the article follows:

CHRYSLER HAS A BETTER IDEA—VAN POOL SAVES WOMEN WORKERS MONEY

(By Bob Campbell)

For $1.37 a day, 10 women from Sterling Heights and Warren, who once dreaded fighting traffic five days a week on the way to Highland Park's Chrysler Corp. headquarters, are now chauffeured to and from their jobs in a 12-passenger "commuter van."

But van driver Kathy Smartt, a secretary at Chrysler, thinks she has the best deal. For the extra 15 minutes it takes driving to work than when she had her own car, she gets personal use on nights and weekends of the $8,000 vehicle.

"It's perfect for my sheepdog," she says.

Mrs. Smartt and her 10 passengers are among a small but growing contingent of commuters across the country now swearing by "van pooling" as a money, energy, space and worry saver.

Chrysler Corp. is the leading advocate and user of van pools in metropolitan Detroit with 52 vans on the road today and another 25 expected by November 1.

"We think it's a reasonable estimate that 12 per cent of our employes will soon be riding to work in van pools, instead of their own cars," said T. M. McDonald, manager for Chrysler's transportation systems planning department and Detroit's most avid van pool pusher.

McDonald, who expects the number of Chrysler van pools will double within a year, is a driver of one of the front door service mini-busses himself and among a throng of company executives taking the slightly bumpy ride to work.

"I'm really not trying to sell our vans to anybody. I'm trying to promote the idea of van pooling," he says.

McDonald takes every chance he gets to explain to employers the advantages of van pools for their employes. Any company with 50 or more employes is a prime candidate, he says.

The Federal Energy Administration—now seeking tax incentives to encourage the approach—estimates that an average 10-passenger pool gets six cars off the already crowded highways and saves 3,750 gallons of gasoline yearly.

Though most of Chrysler's pools are from the Highland Park center, a few have destinations at suburban plants, including the Center Line Parts Depot.

That plant boasts the pool with the longest round trip. A dozen employes there commute from Marysville, a one-way drive of approximately 50 miles. Each rider pays about $41 a month for the taxi service.

At Chrysler, the company leases a van and turns it over to a volunteer driver who in exchange for the inconvenience gets free use of the vehicle on nights and weekends, but must keep it clean and maintained.

The driver keeps a receipt of all maintenance and gasoline expenses for which he or she is reimbursed by the company. The program pays for itself from the monthly fees the riders pay.

It costs $27.84 a month to get into a pool with a round trip of about 30 miles a day. That is roughly the same price an individual would pay for gasoline alone with a car averaging 15 miles per gallon.

"I know I'm saving a lot of money. My insurance rates have dropped about $30," said Jan Kirouac, a secretary in the Sterling-Warren pool.

Sylvia Studzinski, manager of Chrysler's public relations center, said her insurance rates have dropped, too, but her kids who now have a car at home to use during the day are the biggest van pool supporters in her family.

Peer pressure has a lot to do with everyone being ready, as soon as the van pulls up to the curb. On a recent drive monitored by a reporter, only one of the 10 passengers didn't make it to the van.

"This never happens," several riders pleaded Bea Montgomery, it seems, just had a nasty case of oversleep.

When they get to work, van pools get preferred parking status in a specially-marked lot that is a much shorter walk to desks than where most employes have to park.

Diane Stevens, a financial analyst, says it's the drive home where she's saving money.

"When I was driving my own car, I used to stop at Oakland Mall all the time and spend my money," Mrs. Stevens said.

Even on the worst mornings of last winter's record-setting cold, the vans would push through snow that kept many employes home.

McDonald said while van pools are in a transportation category subject to regulation by the Michigan Public Service Commission, the state has been looking the other way.

In fact, several state employe van pools make regular runs between Lansing and Detroit. There exists a need, however, for legislation which would encourage more van pooling and remove the possibility of PSC entanglement, McDonald said.

Such legislative changes have already been made in Tennessee and California.

Though McDonald is quick to say van pools aren't out to compete with mass transit, he points out that for commuters, who because of spreadout suburban housing patterns may live long distances from bus lines, the door-to-door service is the best alternative.

"This is the only mass transit effort going that doesn't cost the taxpayer a cent," he said.

In Knoxville, Tenn., vans are leased to housewives who arrange regularly scheduled commuter and shopping trips The federal Urban Mass Transportation Authority subsidized the program with a $900,000 grant.

Similar programs through UMTA have been started in California and Virginia.

The federal government is planning to purchase 6,000 vans for employe pools, according to the Automotive Information Council.

"Van pooling could become a way of life for millions of working Americans," the council said in a recent press release.

From the employers viewpoint, van pooling enhances community public relations by conserving energy and reducing pollution and traffic congestion. It also reduces parking space firms need for their employes.

Among the more than 80 private companies with van pool programs, the leader is 3M Company of Minnesota which started with six vans in 1973 and now has close to 100 pools bringing employes to work.

The nearly 400,000 gallons of gasoline saved yearly by 3M would be enough to power a fleet of 2,400 cars averaging 15 miles per gallon from Detroit to San Francisco.

AGENCY FOR CONSUMER PROTECTION MEETS THE ENERGY DEPARTMENT

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ERLENBORN. Mr. Speaker, not that it would make a nickel's worth of difference to some people, but an article in the September issue of Conservative Digest skillfully explains how the proposed Agency for Consumer Protection could prevent other agencies from carrying out policies in the public interest. I commend it to my colleagues:

THE DEPARTMENT OF ENERGY: GUARANTEED NOT TO WORK

The following mock interview with energy expert Suand Delais of the Sorbonne in Paris reveals how President Carter's new energy and consumer agencies will soon be at loggerheads.

CD: Europeans are generally very pleased with the President's energy proposals. Why are you so skeptical?

Prof. Delais: Because he has succeeded in persuading Congress to create a Department of Energy.

CD: Won't coordination of an overall energy policy be possible with all energy programs in one place?

Prof. Delais: To the contrary. Concentrating all programs in one agency will make it much easier to attack the coordination with lawsuits in the courts.

CD: Who would do that?

Prof. Delais: Another agency the President and Congress are creating to sue the Department in the courts called the Agency for Consumer Advocacy. If there is no single energy department, the consumer agency will have to run all over town and into the suburbs to issue subpoenas and lawsuits, and it might get tired or even lost. But if there is one single department, then the agency can just camp out on Schlesinger's doorstep.

CD: But what you are saying is that the President is creating one agency so he can coordinate energy policy, and creating another agency to sue the first one to disrupt the policy. The President would be suing himself. That can't be. You must be pulling my leg.

Prof. Delais: It's your country, not mine. De Tocqueville said more than 100 years ago that the genius of America was its ability to convert every difficult political problem into a judicial question to be bucked to the courts for resolution by lawyers, whom De Tocqueville called America's aristocracy.

CD: Hold it a second, not so fast with the philosophy bit. Let's get back to the facts. Why would the consumer agency sue the energy agency?

Prof. Delais: I told you already. Sue is what the consumer agency is supposed to do. Look at it this way. If you give a group of 200 qualified lawyers $15 million a year and authority to sue other government agencies, what would you expect them to do? Lawyers are workaholics in your country, you know that. They are not likely to become ordinary bureaucrats and do nothing.

CD: What would the agency sue for?

Prof. Delais: I don't know. Anything it wants. The legislation doesn't say. It just says the agency can sue if government does something that affects some consumers.

CD: You must be wrong. Take nuclear power plants. Schlesinger recently said that the Administration anticipates constructing 200 new plants in 13 years and that environmentalists accept this goal in exchange for Carter's commitment to conservation. If environmentalists don't object, what opposition is there? The consumer agency should welcome the additional energy supply to lower prices.

Prof. Delais: Not necessarily. If the consumer agency thinks nuclear energy is dangerous, it will try to stop it. My guess is that it will bring suits to stop or delay it. After all, the agency will have to do something.

CD: Come on now. The environmental interest is in safety—The consumer interest is in lower costs—for home heating, appliances, cars—you name it. If the environmentalists say OK, it will be OK.

Prof. Delais: No. The consumer interest is what the consumer agency says it is, and the legislation specifically includes health and safety along with cost, supply and prices.

CD: But the President can fire the head of the agency if he goes too far, right?

Prof. Delais: Wrong. The agency in all likelihood will be independent of the President.

CD: I see that, but Congress can control it.

Prof. Delais: Only after the fact, so to speak, by cutting off future appropriations, something your Congress almost never does. There will, in any event, be no month-by-month control.

CD: It cannot be as bad as you say.

Prof. Delais: Maybe not. Indeed, the consumer agency may keep President Carter's new Department of Energy so tied up in lawsuits it won't have time to meddle in the business of energy production—which it would undoubtedly mess up.

COLLECTIVE BARGAINING FOR STATE AND LOCAL EMPLOYEES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. CRANE. Mr. Speaker, on August 10, just after Congress went into its traditional summer recess, the Nation was shocked by a strike episode that took place in Dayton, Ohio. Insisting upon a 6-percent pay increase coupled with a 4 hour per week reduction in working time, the city's firemen went out on strike and stayed out while 11 homes burned—before the very eyes of residents and neighbors who lacked the means and the experience to put the flames out.

Disregarding for the moment the fire damage and the threat to public safety posed by the unavailability of trained firemen, the disquieting thing about this episode is that some union leaders are using it as justification for demanding mandatory collective bargaining and/or the right to strike for public employees. Such legislation would reduce employee frustration, they say, but such arguments are not only illogical and inconsistent with past experience but completely overlook the fact that there are fundamental and irreconcilable differences between public and private sector employees. Since when, for instance, does making it easier to strike reduce the temptation to strike, especially when the means of resistance—the use of alternative services—are, due to the unique nature of government, not readily available.

Regardless of what people may say, there are four essential distinctions that must be drawn between government workers and those who labor in the private sector of our economy. For one thing, not only are ready alternatives to government services unavailable but such services are often indispensable—which is why they were brought under government control in the first place.

Second, coupled with the unique nature of government services is the fact that there are no competitive forces operating within government to keep costs in line with other sections of the economy.

Third, government decisions are, ultimately, political decisions affecting everybody and, as such, cannot be recon-

ciled with a process—such as collective bargaining by public employees—which takes decisionmaking power away from elected officials and places it in the lap of union leaders.

Finally, for government to function properly it must be sovereign; to maintain public confidence, and respect for democratic values, it cannot grant to one special interest group—in this case public employee unions—power, leverage, and access that no other individual or group can match. Adding it all up, why should certain union leaders—of public employee unions—responsible only to their own membership and utilizing pressure tactics that amount to blackmail, be able effectively to raise your tax rates—and those of your neighbors. If public employee union leaders were elected by popular vote of all the registered voters of the jurisdiction or if everyone could join the union the situation might be different; but such is obviously not the case, nor is it likely to be in the foreseeable future.

Throughout our history, recognition of these basic differences has led numerous public officials, both conservative and liberal, to oppose collective bargaining and the right to strike for public employees. Following on the heels of the famous Boston police strike of 1919, then Governor, later President, Calvin Coolidge declared:

> There is no right to strike against the public safety by anybody, anywhere, or anytime.

Eighteen years later, following on the heels of passage of the National Labor Relations Act, President Franklin D. Roosevelt, who was poles apart from Coolidge philosophically, wrote:

> Collective bargaining, as usually understood, cannot be transplanted into the public service.

It was not until 1959 that the first compulsory public sector collective bargaining law was enacted, and even now most States have refused to grant their employees the right to strike. Moreover, the arguments of those who have opposed collective bargaining for public employees have been more than borne out by the experience of the past 20 years; public employee strikes are, on average, four times more frequent—in States which allow public employees to bargain collectively—than they were before collective bargaining rights were granted.

A few statistics are illustrative. In Michigan there was only one illegal strike in the 7 years prior to the passage of collective bargaining legislation for public employees in 1965. But, in the 9 years following enactment, there have been no less than 410 public sector strikes. The Pennsylvania example is likewise striking. There, the average number of public sector strikes increased from six per year during the 12-year period prior to the onset of mandated collective bargaining to 73 per year over the 4-year period after its advent. Put in other terms, the 4-year result of collective bargaining legislation in Pennsylvania was over 117,000 public servants out on strike at one time or another with the concurrent loss of over 1.5 million man-days of work.

Nationally, the trend has been going strongly in the same direction. In no State that has adopted collective bargaining for public employees has the number of strikes declined. In a few, passage of such legislation has had little effect but in most there has been a sharp increase in the number of public sector strikes. In 1974 alone, according to the Public Service Research Council, there were 382 public sector strikes idling 160,000 workers for the equivalent of more than 1.4 million man-days of work.

If the question of governmental sovereignity, coupled with the increasing incidence of public sector strikes, is not enough to discourage support of collective bargaining for public employees then the constitutional implications of such legislation, if enacted on a Federal level, should be. Even a cursory examination suggests no less than three constitutional challenges were such legislation to become Federal law.

The first, and perhaps most striking, constitutional conflict involves the 10th amendment and last year's Supreme Court decision in *National League of Cities* v. *Usery* (96 S. Ct. 2465 (1976)). In that case, the Court ruled that Congress may not exercise its power to regulate interstate commerce—granted in article I, section 8 of the Constitution—so as to force directly upon the States its preference relative to the conduct of their internal government. Or, to put it another way, the Court said that for Congress to dictate wages and working conditions for State and local employees, via the Fair Labor Standards Act, would be inconsistent with the concept of States rights as embodied in the 10th amendment of the Constitution.

In so ruling, the Supreme Court not only reaffirmed the federalist restraints implicit in the Constitution as a whole, but put renewed emphasis on the 10th amendment in particular. Moreover, and most significant to this discussion, the National League of Cities decision implies significant restrictions on the powers of the Federal Government to supersede local autonomy. If it is unconstitutional for Congress to alter the wages and working conditions of State and local government employees, the Court seems to be suggesting that it is equally unconstitutional for Congress to try and alter those same things indirectly by extending collective bargaining rights to State and local employees. In fact, a recent study commissioned by the Congressional Research Service of the Library of Congress concludes that the Court decision prevents Congress from constitutionally "establishing and protecting the right of State and local governmental employees to organize and to bargain collectively."

The study also notes that, in traditional areas where the government has provided services—such as education, public health, police protection and fire prevention—

> The simple fact that the agency is a state imposes upon Congress a limitation that it may not discipline state freedom to structure its own operations.

In his majority opinion, Associate Justice William Rehnquist touched on this very point. He wrote:

> It is one thing to recognize the authority of Congress to enact laws regulating individual business necessarily subject to the government of the Nation and of the State in which they reside. It is quite another to uphold a similar exercise of Congressional authority directed not to private citizens but to the States as States.

Without a doubt, H.R. 777, which would apply the National Labor Relations Act—and collective bargaining—to State and local government workers falls in the latter category.

Additionally, legislation such as H.R. 777 poses a problem relative to article IV, section 4 of the Constitution. Not only is that section the only one that gives the Federal Government the affirmative power to regulate State operations, but the Supreme Court has ruled, in *South Carolina* v. *United States* (199 U.S. 437, 447 (1905)) that its scope—guaranteeing every State a republican form of government—expresses the total limit of Federal control over the internal affairs of a State. Granted, the Court has modified that ruling over the years but it has never reversed it, thus maintaining in effect the general rule that an otherwise valid Federal regulation of interstate commerce may apply only to State and local government operations which compete with already regulated private enterprises. Therefore, it may be extrapolated that—even without the National League of Cities ruling—there is a constitutional impediment in the way of mandating collective bargaining for certain public employees, such as firemen and policemen, who are the only providers of their particular type of service.

Finally, it has been contended that the interstate commerce clause of the Constitution somehow authorizes Congress to regulate State and local governments, particularly in the area of employment relations, simply because State and local governments purchase and use large quantities of goods shipped in interstate commerce. However, this line of reasoning is not consistent with recent Supreme Court rulings either. While the States may affect commerce they are structured and largely operate in accordance with strictly noncommercial considerations. The fact that a noncommercial government agency purchases items covered by interstate commerce regulations has never been deemed sufficient by the Court to define the agency's operations as commercial. Thus mandatory collective bargaining and/or the right to strike for public employees is unlikely to meet the constitutional test even with the most liberal possible translation of the interstate commerce clause.

Given all these considerations--political, practical, and constitutional—it is my hope that Congress will reject the arguments of those who claim incidents like the Dayton firemen's strike are cause of the enactment of legislation granting public employee unions more power rather than less. If anything, Congress should make it clear that it will accept

no abridgement of its governing responsibility, nor will it force other governmental units to make any compromise of their sovereignty. We can argue back and forth, as we no doubt shall, over whether a government has too much or too little power, but there should be no argument as to that government's right to enjoy the sole exercise of whatever power it has within its geographical and jurisdictional limits.

For the people to bring about a change in government policy through the electoral process is one thing; to allow a special interest group to alter policy without benefit of electoral approval invites not only popular discontent but ultimately anarchy. The American people can accept a lot as long as everyone is treated equally under the law, but to give one group—public employees—leverage no one else enjoys can only lead to dissatisfaction and a further loss of confidence in our governing institutions.

H.R. 9029, TO ALLOW INJUNCTIVE RELIEF AGAINST THE COMMODITY CREDIT CORPORATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ABDNOR. Mr. Speaker, today I have introduced H.R. 9029, to allow injunctive relief against the Commodity Credit Corporation—CCC. Title 15, United States Code, section 714(b)(c) currently prohibits such relief.

I have introduced this legislation on behalf of a group of my constituents who have filed a class action suit against the Department of Agriculture and find themselves at a disadvantage because they are denied the right to injunctive relief against the CCC.

Their legal counsel, Mr. John T. Hughes, discussed this matter in a letter addressed to me on July 11, 1977. The letter follows:

MORMAN, SMIT, SHEPARD & HUGHES,
Sturgis, S. Dak., July 11, 1977.

Re: Amendments to 15 U.S.C. 714b(c).
Congressman JAMES ABDNOR,
Longworth House Office Building,
Washington, D.C.

DEAR JIM: As you are probably aware, we have filed suit on the so-called Feed Grain Cases in the U.S. District Court, Western Division at Rapid City. The government answered during the last week of June and I'm now advised by the Judge's clerk that it will probably be August before we even get to a hearing on the class action aspect of the case.

As you are no doubt aware, 15 U.S.C. 714b(c) prohibits injunctive relief against Commodity Credit Corporation. This is extremely disabling in the case such as the one we now have pending, since the government cannot be ordered to cease and desist placing on going program payments on the debt register during the pendency of the suit. This is particularly damaging to the wool growers, since all their incentive payments have been set off against the amount the government alleges to be due. I would therefore suggest that an amendment be drafted to the above mentioned statute deleting the provision which denies injunctive relief. Better yet, I think the statute should affirmatively allow injunctive relief so that this kind of case could get the hearing in a more timely fashion.

If you have any questions, please don't hesitate to write or give me a call. Thank you. Best personal regards.

Yours truly,

JOHN T. HUGHES.

Pursuant to Mr. Hughes' suggestion, the legislation I have drafted and have introduced today affirmatively allows injunctions to be issued against the CCC. H.R. — will simply provide for the Government to be treated equally, rather than as a "big brother," in legal actions brought by our citizens. As such, I believe it is worthy of enactment, and I urge my colleagues' favorable consideration.

The text of H.R. — follows:

H.R. 9029

To allow injunctions to be issued against the Commodity Credit Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (c) of section 4 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(c)) is amended to read as follows: "May sue or be sued and injunctions may be issued against the Corporation, but no attachment, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property.".

REDUCTION OF WELFARE FRAUD ESSENTIAL TO WELFARE REFORM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BIAGGI. Mr. Speaker, the President's announcement of his long awaited welfare reform proposal was most welcome. The hope remains that it can be enacted by Congress in an expeditious fashion.

One of the most compelling areas for reform is the reduction of welfare fraud. The present system is obese with waste. One representative example—of the $4.2 billion spent annually on medicaid and public assistance programs in New York City, some $910 million of almost 25 percent was lost through waste.

The President's welfare reform proposal provides for major streamlinings of existing public assistance programs. According to the President—

One of the most significant benefits of consolidation of existing cash assistance programs is the opportunity to apply sophisticated management techniques to improve their operation.

The key factors contributing to waste and fraud are ineligibility of beneficiaries and overpayments. In addition to consolidation, welfare reform to be truly effective will require strict enforcement of rules by localities, States, and Federal officials. Our major public assistance programs were conceived to provide aid to the needy. Today many of these programs are not serving the needy as they should because chiselers are ripping off the system.

Our present Secretary of HEW, Joseph Califano was the architect of many of our public assistance programs. He has also been instrumental in the development of the administration's position. It is a strange twist to have to reassess in this fashion, but Secretary Califano like a majority of the Congress recognizes the urgent need for welfare reform.

At this point in the RECORD I wish to insert an article from the Ridgewood Times of New York discussing the extent to which welfare fraud and waste exist in New York State:

HORAN: 37 PERCENT OF WELFARE RECIPIENTS INELIGIBLE

Eighteen percent of New York City Welfare recipients are ineligible and 19% of those who are eligible are overpaid, according to a preliminary report of a study released by the New York State Office of Welfare Inspector General.

Richard V. Horan, the Welfare Inspector General, said that this total error rate of 37% emerged from an in-depth examination of a statistically valid sample of the 361,700 welfare cases carried on the rolls of the New York City Department of Social Services during August 1976.

The study is the first complete audit undertaken of the New York City welfare program based on a valid sampling of the entire program including Home Relief (HR) cases. Estimates of ineligibility made by the State Department of Social Services are based on Aid-to-Dependent Children (ADC) cases only to satisfy a Federal auditing requirement. The City Department of Social Services does no auditing of its own.

Horan said that the 37 percent error rate found in the OWIG study was significantly higher than the Department of Social Services' audits because of the inclusion of HR cases. He added that HR cases, which are funded by the State and City, comprise 30 percent of the total City Welfare caseload. The error rate for HR cases in the OWIG study was 50 percent, as compared to an er ror rate of 32.3 percent among the ADC cases.

The HR caseload comprises individuals and family heads between the ages of 16 and 64 who do not qualify under Federal guidelines for ADC. By definition, they include those unable to work; others who are employable but not working and not eligible for unemployment insurance compensation, and those who work full time but do not earn enough to meet their family needs. Horan said that among HR cases, there is a high incidence of unemployed single persons, many of whom have serious problems with drugs and alcohol.

"The overall error rate of 38 percent translates to an estimated loss of $244 million a year in Public Assistance alone," the State official observed. "It is exclusive of losses for other related services to welfare recipients such as Medicaid and Day Care."

Because the State and City jointly fund the HR cases without Federal participation, each bears an $83 million share of this waste. The Federal government's share of the ADC waste amounts to $78 million.

The study was made on the basis of a computer-selected random sample of New York City welfare cases provided by the U.S. Department of Health, Education and Welfare's Audit Agency. The sample included 164 cases in the ADC category and 64 HR cases.

Horan said that of the $4.2 billion spent annually on Medicaid and Public Assistance programs in New York City, $910 million was lost through waste. Of this total, he estimated an annual loss of $266 million through Public Assistance ineligibility and overpayments—a figure close to that indicated by the results of the current study.

The study showed that 78 percent of the error factor among ineligibiles was attributable to recipients, and 22 percent was caused by administrative errors on the part of the Department of Social Services. In overpayments, recipients were responsible for 79 percent of the errors and the City agency for 21 percent.

"The high rate of ineligibility and overpayments revealed by this study adds further weight to my position that the present system of welfare administration is seriously in need of substantive reform," Horan said. "This calls for a return to the case management system associated with home visits and the reinvolvement of caseworkers in the eligibility determination process."

THE HUMAN NEED TO FEEL ONE BELONGS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. NEDZI. Mr. Speaker, one of the best dance groups in Michigan is the Galicia Dancing Ensemble.

The recitation of this fact, however, is not enough. The group has quite a story to tell, and recently it was told.

The Detroit Free Press of August 8 carried the following story entitled "The Human Need To Feel One Belongs." Under leave to extend my remarks in the RECORD, the story appears below:

THE HUMAN NEED TO FEEL ONE BELONGS

(By Carol Stocker)

The sound of Slavic folk harmonies can be heard throughout the halls and auditoriums of Motown these summer nights, in counterpoint to the relentless rhythms of soul music.

The ethnic pride which swept Detroit's black population over a decade ago has infected members of the newest generation descended from some white ethnic groups.

The number of Polish folk-dance groups have quadrupled in the last five years, according to Stanislaw Drya-lisiecki, a spokesman for the Michigan division of the Polish American Congress.

One of the oldest and—by the consensus of Polish-community observers—probably the best of these is the Galicia Dancing Ensemble, which will perform Friday at the Polish Ethnic Festival at the corner of Third and Michigan. Some rank it among the top groups in the country.

Galicia, its parent organization, the Polish American Folk Theatre, and its ethnic militancy only recently have become respectable among parts of the Polish community.

"When it was one of the first Polish organizations to demonstrate over ethnic slurs, Galicia was stuck with a lot of labels, such as 'hippies' and 'radicals' because cultural militancy was unknown to the Polish community," Drya-lisiecki said. "I remember just a few years ago, some parents would discourage their children's participation in something like a Polish dance group, because they felt being identified as a Pole was an economic drawback. People had even changed their names."

During its early years, Galicia director Michael Krolewski said he and several other teachers involved with the group lost teaching jobs in a Hamtramck school, and the dance group was asked to leave several parochial auditoriums used for practice. Being "too ethnic" was a reason Krolewski cited for the displacements.

The change now seems to be in the other direction. "I'm seeing people changing their names back again now," said Drya-lisiecki. "Galicia has proved themselves and been accepted by the community. They were just ahead of their time."

The Polish American Folk Theater has always been more than just a dance group. PAFT, which consists of about 100 people with an average age of 20 and their parents, also includes a choir, a teacher group, a nine-piece orchestra, a monthly newspaper, a 10,000-volume library and a collection of Polish crafts and antique costumes.

Still on the cutting edge of the Polish ethnic movement, PAFT, which has never received any grants or governmental aid, has just assumed its greatest financial burden to date: the purchase, creation and operation of the city's first Polish cultural center—or Dom Kultury at the corner of Farnsworth and McDougall, next to St. Hyacinth Church in the decaying heart of one of the original Polish inner-city neighborhoods.

The arrangement has not gone through any bank but, rather, has been financed by members' candy and bake sales, troupe performances and low-interest loans by the parents of some of the members.

The PAFT people plan to open the building this fall as a center for Polish film and for craft and language instruction. Their newspaper Pokoj will begin printing out of the building next month, and a series of exhibitions of Polish costumes and folk art is planned for the beginning of October. PAFT also is aiming to open its Adam Mickiewicz Liberty by Christmas Eve, the Polish poet's birthday.

Another purpose of the center is to help reverse the Polish exodus from the neighborhood.

"It's a big financial risk," admitted Sharlene Varga, the group's 26-year-old treasurer. "But we've taken risks in the past and somehow we've always come through."

Paft is classical in its devotion to historical authenticity. Krolewski studied Polish folk culture and dance under masters in Poland for eight months and is a perfectionist—demanding, for instance, that each song the troupe choir sings is not only in Polish, but in correct dialect for the region and era of the song's origin. In fact, PAFT members are promoting not their own Polish-American culture, or even modern Polish culture, but the peasant culture of a time and place far removed from their own lives.

What would prompt young people mostly born in this country of parents born in this country to spend six months hand embroidering a copy of an ancient peasant costume in this age of polyester, or to embrace each other and toast the rye vodka and swear at traffic in sibilant Polish phrases which many laboriously learned in a classroom?

Their answers begin with a nod to the human need to feel that one belongs to a place or a people or a cause larger than oneself.

There is a palpable familiar feeling of affection among the members of the group, who call each other "brother" and "sister." Four performing tours of Poland, as many as four nights a week of group practice and work, rousing block parties and such intimate ceremonies as the hand-holding circle-prayer which concludes each practice session have fostered the group's feeling of intimacy.

PAFT, with members from Belleville to Port Huron, comprises a kind of far-flung little village which regularly converges in Detroit.

"In Poland, the village was a large extended family," explained Drya-lisiecki. "When Poles get spread around in suburbia like Warren or Sterling Heights, they become uncomfortable, because they lose that feeling of community."

The idea of the village is so important that the patterns and color combinations of the famous folk costumes are really flags identifying the town the wearer is from, said Krolewski.

"Poles have a strong territorial consciousness. The Poles in the suburbs still talk about 'the old neighborhood' back in the city," said Dr. John Gutowski, Wayne State assistant professor of folklore. "You can see how strong this sense of place is when you realize that the Poles kept the idea of their country alive even when it ceased to exist on the map." (Poland was swallowed up by its neighbors for 130 years, re-emerging in 1918.)

The group has a striking sense of reverence for the elderly in its audiences, almost a sense of paying back a debt to the older generation which came to this country and worked for six and seven cents an hour so their descendants could achieve affluence and freedom.

"There are always eight or nine old people coming back stage to kiss and hug us, and they're my favorite audience," said Charlie Lamendola, 19, troupe vice president.

Troupe members say one ancient woman died soon after a PAFT Christmas performance that the group gave in a nursing home, having explained to her daughter that singing angels had come all the way from Poland to see her and she couldn't miss the opportunity to return with them.

"Freaky things like that are always happening, and they keep you going," said Krolewski as he flung himself back in his chair. "One of our members was considering quitting at the time, and he took it as a sign that he was meant to stay with the group."

PAFT encourages participation by people from all ethnic backgrounds, and over 30 percent of its membership—and its dances—represent non-Polish nationalities.

John Mitchell, a 26-year-old Dearborn speech therapist who is third-generation Irish, explained at a rehearsal why he dances with a Polish folk group: "I just don't want to be so narrow as to watch out only for my own traditions. I can relate to any dancing that has feeling. And you can feel the ripples of good feeling in this group."

As he talked, scores of dancers twirled across the gymnasium floor. Their soft-soled boots made only a gentle rustling sound. They did not stomp.

CHAOS FORESEEN IN "UNHATCHING"

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. DERWINSKI. Mr. Speaker, Hugh F. McKenna, a Government employee of some 39 years of service, has written a very thoughful commentary on the perils of "unhatching" Federal employees.

Mr. McKenna strongly believes as I do, "that the great majority of Federal employees, both union and nonunion, welcomes the restraints of the Hatch Act."

The commentary, appearing in the Federal Times of August 29, follows:

CHAOS FORESEEN IN "UNHATCHING"

(By Hugh F. McKenna)

"Unhatching" is the term used by the Civil Service Commission in its favorable report to the House of Representatives Committee on Post Office and Civil Service as related to the Federal Employees Political Activities Act of 1977 HR 10. That act has since been passed by the House of Representatives and will come before the Senate Committee on Government Affairs for consideration.

In essence, "unhatching" has far reaching implications for the management of the fed-

eral government which many who have not had experience with it may fail to realize. Maybe it would be worthwhile to examine a few of the ramifications of "unhatching" and what this could mean to managers in the federal government and ultimately to the taxpayer.

Although the Congressional Budget Office advised the House committee that on the basis of its review "no significant additional cost to the government would be incurred as the result of enactment of this bill" there are potentials for very substantially increased costs arising out of administrative confusion, conflicts of interest and greatly enhanced union political power and influence that can develop from "unhatching."

The original "Hatch Act" was developed because investigation revealed that there was a tendency in the early "New Deal" days for federal employees who were involved in the then new "welfare programs" to become involved in political activities and indeed use that base as a way to gaining elective and other offices.

Having been in the federal government since 1936, I can attest that some of this behavior was evident in the thirties, and the Hatch Act was to me a welcome restriction on the political activities of federal employees.

I was working for the Social Security Board which was headed by John G. Winant, the former Republican governor of New Hampshire and subsequently by Arthur J. Altmeyer, a Democrat from Wisconsin. They were men of impeccable honesty and integrity and the policies of the organization were predicated on that kind of basic position.

Coming from private business to the federal government was an experience that I thought would have value for me and I also thought that I could make a contribution over the period of a year or two. I stayed for 39 years—in major management capacities for the Social Security Administration—and one of the arms that always helped me was the Hatch Act.

I think it was clear to the executive and management people who worked under my direction that I was not involved in any political activity and that selections for promotion would be made on merit. At the same time, I had assurance that the management staff and the rank and file employees were not themselves engaging in political activities. A clear sense of good faith developed that is so essential to building and maintaining a fully effective organization devoted to the public service.

Imagine the difference in atmosphere and approach had the organization been permeated with individuals running for elective public office. Successful candidates march on perhaps without major negative effects remaining from their political activities but what about the defeated candidate who returns to his position from leave without pay—what of his own attitude and perhaps, more important, what of the attitudes of his associates and subordinates? What kind of management atmosphere will this engender and will it enhance the service to the public? The answer seems rather obvious.

And what about the position of union leaders local and national? Remember that when the Hatch Act came into being, unions in the public service and the federal service in particular were but a gleam in the eye of a few union advocates.

Today, of course, they are established and in many instances quite militant, with a tendency in the federal service, in contrast to most unions in the private sector, to push for and get 100 percent "official time" for officers of locals.

When such union officials use that time for promoting candidates and in some instances actually running for public office themselves, how will management control the situation? It has the potential of becoming a chaotic problem.

("Official time" permits the union officer to use his normal working time for union business while being paid by the government as though he or she were performing assigned duties.)

As to employees of the federal government being regarded as second class citizens because of the controls exercised by the Hatch Act—I have never heard that kind of complaint in all of my associations with federal employees both in management and among the rank and file.

In fact, I would hazard the view that the great majority of federal employees, both union and non-union welcomes the restraints of the Hatch Act. They know that they can vote as they please and they know as well that they can't be coerced into any type of political activity either by management or union officials. It is a far better position than they would find themsleves in under HR 10.

In essence, "unhatching" of federal employees presents many potential discordant elements which can complicate life for federal employees generally and more particularly for federal managers with very little potential benefit to any.

ILLEGAL ALIENS: THE PROBLEM GETS WORSE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ASHBROOK. Mr. Speaker, I oppose President Carter's amnesty program for illegal aliens. I believe a sensible approach to this problem is contained in legislation—H.R. 7762—that I have introduced.

Recently, the New York Times News Service distributed an article that shows the problems of paperwork that will be created by the President's proposal. As a result of a Chicago court case, thousands of illegal aliens have applied to stay within this country. The Immigration and Naturalization Service is using its manpower to process all the paperwork instead of investigating illegal aliens.

The Chicago case allows illegal aliens to stay in this country if they had applied for a visa in their home country before coming to the United States. What has happened is that aliens who decided not to wait for a legal visa are being rewarded for their illegal activity in entering this country without a visa.

At this point I include the text of the article:

PAPERWORK FLOOD: A PREVIEW OF NEW IMMIGRANT POLICY?

(By James P. Sterba)

HOUSTON.—Federal immigration agents, in what they say is a preview of what will happen if President Carter's amnesty proposal for illegal aliens becomes law, are drowning in paperwork generated by a court ruling six months ago. As a result, they have virtually abandoned their investigations of alien job holders.

The U.S. Immigration and Naturalization Service, undermanned and demoralized, has curtailed its investigations despite hundreds of complaints daily from citizens, labor unions and others who say they have evidence pinpointing illegal immigrants who are holding jobs.

Already more than 100,000 investigations behind, agents have been diverted from field inquiries in dozens of major cities to handle an avalanche of applications for what is, in effect, amnesty for tens of thousands of aliens who have entered the United States illegally in the last eight years. Agents call the ruling "the Chicago loophole."

The ruling, made March 10 by federal Judge John F. Grady in Chicago, allows certain illegal aliens to stay without threat of arrest if they can show that they applied for a visa to the United States before crossing the border illegally.

The resulting overload demonstrates how the snarl of red tape has diverted immigration agents from cracking down on employers who use illegal aliens as workers.

The President's proposal calls for finding employers who knowingly hire illegal aliens, and for the hiring of 2,000 additional border guards. But it makes no provision for increasing manpower in the Immigration Service's district offices, where the provisions would be enforced.

As word of the Chicago ruling has filtered through immigrant communities, undocumented aliens who think that they qualify have flooded into district offices.

Even under normal circumstances, the district offices say they receive many more complaints than their agents can investigate. Without investigating new complaints, Houston agents say that they know the whereabouts of about 45,000 illegal aliens, many of whom hold well-paying jobs. But the office cannot work on even the known aliens, R. W. Heston, the district director, said, because his 10 investigators are all busy processing forms stemming from the Chicago decision.

That decision was made after Congress passed a law allowing Cuban refugees to gain resident alien status. As a result, they used up hundreds of thousands of visas which otherwise would have been distributed to applicants in other Western Hemisphere countries. The Cubans, in effect, received preferential treatment at the expense of such applicants as Mexicans.

So to remedy the unfair advantage, Grady ruled that anyone from a Western Hemisphere country who applied for an entrance visa between July 1, 1968, and Dec. 31, 1976, before entering the United States illegally, could stay here without threat of arrest or deportation simply by presenting evidence of a visa application.

Agents say the Chicago ruling is a loophole because it rewards those aliens who decided not to wait in their home countries for a visa and instead entered the United States illegally. Meanwhile, those who waited for visas to enter legally are still waiting.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. EDWARDS of California. Mr. Speaker, the case of the Wilmington 10 continues to haunt our Nation's conscience as a terrible violation of individual rights. This group of nine black men and one white woman were convicted in 1971 of firebombing and conspiracy during racial disturbances in Wilmington, N.C. The three chief witnesses against the defendants at trial have long since

recanted their testimony which they say was given in response to promises from the prosecutor for leniency and gifts. Yet, in spite of the recantations of their accusers, nine of the defendants—all black men—are still in jail.

Numerous efforts have been made by people throughout the country to intercede with North Carolina Gov. James B. Hunt, Jr., requesting that a pardon be granted for the Wilmington 10. The Raleigh, N.C., News and Observer on September 2 published an account of a letter signed by 67 white Southerners and presented to Governor Hunt requesting a pardon. I think that the presentation of this letter indicates the continuing concern of Americans for the plight of these unfortunate victims and I commend the article to my colleagues:

APPEAL FOR "10" PARDON GIVEN HUNT

(By Dawn Maria Clayton)

A letter signed by 67 white Southerners from 10 states requesting pardons for the Wilmington 10 was presented to Gov. James B. Hunt Jr. Thursday by three North Carolina church leaders and a law professor.

Hunt said he would continue to listen to the arguments and to study the case, "but did not make any commitment" that he would pardon the Wilmington 10, said the Rev. W. W. Finlator, pastor of Pullen Memorial Baptist Church in Raleigh.

Finlator, one of those signing the letter was among the four who presented it to Hunt in a 30-minute closed meeting.

"We asked for executive clemency, we tried to tell him the concern of politicians, labor leaders, civic leaders, church leaders, of the white leaders, that they (the Wilmington 10) are not to be kept one day longer in jail," Finlator said.

Finlator said this letter, the latest in a series of appeals to Hunt, was significant because it came from a Southern white group concerned about the fairness of convictions in the Wilmington 10 case.

The letter states in part: "Since the trial, the principal state witnesses have recanted and now say their false trial testimony was induced by promises of favors. Alibi witnesses, including an ordained minister, now place most of the defendants away from the store on the night of the firebombing. There is a widespread feeling abroad in our land that these defendants were imprisoned not because they had committed any crime, but because they were organizing to achieve the full rights due them under the Constitution of our country."

The Wilmington 10 are a group of nine black men and one white woman convicted in 1971 of firebombing and conspiracy during racial disturbances in Wilmington, N.C. The white woman is on parole.

The Rev. H. C. Mulholland, priest at St. Gabriel's Catholic Church in Greenville, said Hunt told the group that it was "a very serious matter for a governor to intervene and undo what the courts have done," and that a governor could only intervene as a "last resort."

However, Daniel H. Pollitt, Kenan professor of law at the University of North Carolina at Chapel Hill, one of those at the meeting, said a pardon was needed because "the courts are not adequate to deal with this case."

Pollitt said that if the Wilmington 10 case came to court today there would not be a trial because the state would not have a case.

The letter was signed by white Southern church, labor, professional, civic and academic leaders from Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and the District of Columbia. The other presenter-signer of the letter was the Rev. Collins Kilburn director of social ministries, N.C. Council of Churches.

INVOLVEMENT IN NORTHEAST AFRICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on America's growing involvement in Northeast Africa:

INVOLVEMENT IN NORTHEAST AFRICA

(By Henry Huglin)

Northeast Africa is in ferment; nations' hostilities are smouldering; military skirmishes have broken out; and international ties are shifting.

Territorial greeds, ethnic divisions, ideology, and leaders' political ambitions are all factors in the current instabilities of this region.

Our country is concerned—and, through recent actions of the Carter Administration, becoming more involved—because, as a superpower, we have worldwide responsibilities and we want to curb Soviet expansionism in Africa.

Recently flareups of fighting have broken out between Egypt and Libya and between Ethiopia and Somalia.

Libya's erratic and fanatical leader, Moammar Khadafy, has long been a thorn in the side of moderate Arab leaders. He has tried to overthrow Presidents Sadat of Egypt and Numeiry of Sudan, and he covets part of neighboring Chad.

Like Faust and his deal with the devil, anti-communist Khadafy has made a deal with the Soviets for a huge supply of arms and support of his mischief-making.

To the south of Libya, Egypt, and Sudan, on the "horn" of Africa, there have recently been major political changes.

The radical military regime that has seized power in Ethiopia has swung that country from being pro-West and pro-U.S. to being pro-Soviet—and now the recipient of Soviet arms and Cuban military advisors.

Neighboring Somalia, which is ruled by a regime with an ideological mix of Marxism, Mohammedanism, and nationalism—and has long been linked to Soviet Russia ideologically and militarily—covets the Ogaden Region of Ethiopia (and a chunk of Kenya) in which live many ethnic Somalis.

But now President Barre of Somalia is reducing his ties to the Soviets. He has, obviously, been upset by their aid to Ethiopia, and also influenced by the Saudi Arabian leaders' offer of $300 million if he will break with Moscow.

Meanwhile, there is increasing fighting in the Ogaden Region between the Ethiopian army and guerrillas supported by Somalia.

The Ethiopian junta, in addition to its problems in Ogaden, is faced with rebellions in the majority of its provinces. Especially serious is a strong secessionist movement in the highly important province of Eritrea which borders on the Red Sea; this secession is backed by Saudi Arabia and other moderate Arab states.

And between Ethiopia and Somalia is the newly-independent mini-state of Djibouti which both want to annex and which is, therefore, a potential battleground.

As to our country's involvement, in July the Carter Administration, in conjunction with a number of other countries and in a move to supplant Soviet influence there, offered Somalia military equipment "to defend its present territory."

And, if the Soviets can be gotten out of Somalia—which was their first successful African penetration—they will not only suffer an important geopolitical setback but will lose their key base at Berbera, from which they can survey and, potentially, interdict the sea lanes of the Red Sea, Persian Gulf, and Indian Ocean.

The Administration has also informed Sudan that it was prepared to contribute to its "legitimate defense needs." Further, Chad has been told that the Administration would "consider sympathetically" any request for military assistance. And these steps are in addition to an Administration proposal for $200 million of "non-lethal" arms for Egypt.

So, what are developing in northeast Africa are several crazy-quilt, politically fluid, and potentially serious situations.

We really cannot prudently avoid playing the grim game of global power politics. And northeast Africa is now one of the arenas.

Some African nations seem to be getting disillusioned with Soviet ties. Hopefully, this disillusionment will now spread. And our country is, prudently, providing a feasible alternative to ties with the Soviets, but one without imperialistic and ideological motives.

There no doubt will be vociferous opposition from the head-in-the-sand isolationist and the idealists, who will conjure up a specter of Vietnam and try to rationalize away our taking any additional responsibilities or risk abroad.

There are, of course, risks in our growing involvement in northeast Africa, as indeed there are in our involvement anywhere. Good judgment is certainly crucial in weighing the pros and cons—and selecting, sometimes, that which is the least bad of the feasible courses of action. In this case, the long-term risks of getting further involved have been assessed by the Administration, seemingly properly, as less than the risks would be from opting out.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues a communication from the Export-Import Bank which has been referred to me as chairman of the Banking Subcommittee on International Trade, Investment and Monetary Policy. The communication notifies the Congress of a proposed Eximbank transaction to assist in the purchase of U.S. raw cotton by Japan.

Section 2(b)(3) of the Export-Import Bank Act of 1945 requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

The Bank proposes to extend a loan of $75,000,000 to The Bank of Tokyo, Ltd., the official foreign exchange bank of Japan, to assist Japanese mills in the purchase of raw U.S. cotton. Eximbank's participation will cover 100 percent of the total cost of the U.S. exports. The loan will bear interest at 8 percent per annum, and will be repayable by July 31, 1979.

I am inserting at this point in the RECORD the letter from the Eximbank pertaining to this transaction together with the accompanying materials and I welcome any comments any of my colleagues may wish to offer concerning this proposed loan. The correspondence follows:

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, House Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank of the United States.

EXPORT-IMPORT BANK,
OF THE UNITED STATES,
Washington, D.C., September 7, 1977.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Rooms,
U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. Description of Transaction

1. Purpose:

Eximbank is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton.

2. Identity of Parties:

The Bank of Tokyo is Japan's ninth largest commercial bank and was established in 1947 as successor to the Yokohama Specie Bank, Ltd.

By a law enacted in 1954, the Bank of Tokyo was specifically authorized to specialize in foreign trade financing. Although other Japanese banks are authorized to engage in foreign transactions, the 1954 law established the Bank of Tokyo as the official foreign exchange bank of Japan.

In Japan, the Japan Spinners Association, under the administrative guidance of the Ministry of International Trade and Industry, allocates foreign loan funds available for cotton imports to mills wishing to purchase cotton. Thereafter, loan funds are made available to the mills through Japanese commercial banks acting as agents of the Bank of Tokyo.

The indebtedness of the Bank of Tokyo to Eximbank will be evidenced by twelve month drafts drawn on and acepted by the Bank of Tokyo. The Bank of Tokyo will hold the obligations of the Japanese foreign exchange banks issuing letters of credit at the request of the mills which purchase the cotton, and these banks in turn will hold the obligations of the mills.

3. Nature and Use of Goods:

The Eximbank Credit will finance the purchase of raw cotton of all grades and staples for use in the Japanese spinning industry.

B. Explanation of Eximbank Financing:

1. Reason:

Since the early 1950's, Japan has been a steady purchaser of U.S. cotton, and each year since then Eximbank has provided loans to Japanese banks to enable Japanese cotton spinning mills to finance a significant portion of their U.S. cotton requirements. In the past five years, Japan has imported an average of approximately 3,447,000 bales of cotton each year from all sources. Thirty percent of this total has come from the United States, making the United States the largest supplier of cotton to Japan. It is anticipated that the proposed Eximbank credit for the 1977-78 cotton year will support between 20%–35% of Japan's cotton imports from the U.S. As has been the case in the past, these exports will have a favorable impact on many important sectors of the U.S. economy such as cotton growing, processing and transportation. Eximbank perceives no adverse impact on the United States economy from this transaction.

Eximbank's proposed credit is especially appropriate in view of developments anticipated in the world cotton market over the next few months. During the 1977–78 crop year total world production is expected to increase by 10 percent, from 58 to 64 million bales. As a result, competition among cotton exporting nations for sales to Japan, the world's largest importer, should be intense. The Soviet Union, the world's largest cotton grower and second largest exporter behind the United States, is expected to harvest 12.5 million bales—a 3.3 percent increase over their 1976–77 output. Due to this increase, the Soviets are expected to strengthen their marketing efforts in Japan. Substantial production increases in Mexico, Japan's third largest cotton supplier, could produce the same result. The offer of continued Eximbank support could avoid giving the Japanese any reason to decrease the purchase of United States cotton in the light of mounting international competition.

It should also be noted that the United States has been experiencing a trade balance deficit of unprecedented magnitude throughout 1977. For the first six months of this year, the deficit amounted to some $12.5 billion; a full-year deficit of $20–25 billion has been predicted. Our trade deficit with Japan was some $1.4 billion during the first quarter alone. The proposed Eximbank credit will have a favorable impact on the United States' trade balance with Japan.

2. The Financing Plan:

The Eximbank Credit of $75,000,000 will bear interest at a rate of 8% per annum. The credit will be repaid one year from each respective drawdown. Drawdowns will take place periodically during the 1977–78 cotton year through July 31, 1978.

Sincerely,

JOHN L. MOORE, Jr.

THE ITALIAN-AMERICAN BOXING HALL OF FAME

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HYDE. Mr. Speaker, ever since an Italian, Christopher Columbus, discovered America in 1492, citizens of Italian ancestry have contributed significantly to our cultural, social and religious heritage. I am particularly proud to represent a district whose largest ethnic population is comprised of Italian-Americans.

One could not discuss the many contributions of Italian-Americans without mentioning those legendary greats who excelled in the world of sports—most notably, boxing. We all feel a combination of pride and nostalgia when we remember those fighters who were our heroes even long before the days when televised broadcasting of boxing matches made the first family on the block with a television set the most popular people around on a Friday night—champions like the late Rocky Marcino, the late Tony Canzoneri, Rocky Grazino, Carmen Basilio, Willie Pep, Sammy Angott, the late Primo Carnera, and Jake LaMotta.

Mr. Speaker, I am pleased to announce that the Italian-American Boxing Hall of Fame will be holding its first annual fund raiser on September 16, in the heart of my congressional district, Rosemont, Ill., and all of the eight champions listed above will be inducted as the first members of this new and prestigious Hall of Fame. In addition, all 23 of the living Italian-American boxing champions will be in attendance—men like 85-year-old Johnny Wilson, the 1920 middleweight champion of the world and the oldest living boxing champion. His real name was Johnny Panica and the new Boxing Hall of Fame will provide recognition the champions and lesser-known fighters never received fighting under aliases.

Special credit for making the dream of an Italian-American Boxing Hall of Fame a reality must go to its director, Mr. George Randazzo of Northlake, Ill. Mr. Randazzo expects a sellout crowd at the September 16 fundraiser, and I know I will be there along with Congressmen RODINO, RUSSO, and ANNUNZIO, as well as Governor Thompson, Mayor Bilandic, and a long list of celebrities including the star of Rocky, Sylvester Stallone.

I would also like to add that the Italian American Boxing Hall of Fame, in addition to honoring boxing greats, has applied for incorporation as a nonprofit organization to support and promote underprivileged, distressed, and poor youngsters of all races, nationalities, and creeds. And the organization plans to foster and promote the athletic ability and physical fitness of these youngsters through the art of boxing.

The directors of the Italian-American Boxing Hall of Fame are Joseph Granata and George Randazzo; the Board of directors are Chairman Dominick Buttitta and Cochairman Edward J. Mullins; and the members of the board are: Representative FRANK ANNUNZIO, Frank Bruno, Ben Bently, Len Bertini, Jack Buttitta, James E. Coli, John Drummond, Angelo Dundee, Domenick J. DiFrisco, Representative HENRY J. HYDE, Michael A. Longo, Ralph Massey, Richard Parrillo, Nate Passaro, Representative PETER W. RODINO, Representative MARTY RUSSO, James L. Schwartz, and Allen Segal.

On behalf of myself and the members and directors listed above, may I say that it is an honor to be part of an organization formed to honor and recognize the significant contributions of so many Italian-American champions.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extension of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 13, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 14

8:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 897 and S. 1432, to strengthen U.S. policies on nuclear non-proliferation, and to reorganize certain nuclear export functions.
3110 Dirksen Building

8:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on automatic auto crash protection devices.
5110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1868, the National Crude Oil Supply and Transportation Act of 1977.
1224 Dirksen Building

Finance
To continue hearings on the proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1423, to establish a Council on Judicial Tenure in the judicial branch of the Government.
2228 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1710, proposed Federal Insurance Act of 1977.
5302 Dirksen Building

Human Resources
To mark up S. 1871, to increase the Federal minimum wage, and S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To hold hearings on issues pertaining to international terrorism.
4221 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on H.R. 2931, to establish uniformity in benefits and coverage under the Federal employees' health benefits program.
1202 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To hold hearings on S. 2013, to require, for the purpose of identification and detection, the addition of labels to explosive materials.
S-146, Capitol

Rules and Administration
Business meeting on pending calendar business.
301 Russell Building

Select Intelligence
Closed business meeting.
S-407, Capitol

10:30 a.m.
Foreign Relations
Arms, Control, Oceans and International Environment Subcommittee
To mark up S. 897, to strengthen U.S. policies on nuclear nonproliferation, and to reorganize certain nuclear export functions.
4200 Dirksen Building

SEPTEMBER 15

8:00 a.m.
Finance
Health Subcommittee
To receive testimony concerning the confidentiality of medical records provisions contained in H.R. 3, Medicare and Medicaid Anti-fraud and Abuse Amendments
2221 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on consumer protection and education in the energy conservation area.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 1594, to revise and extend the Renegotiation Act, and H.R. 7738, to revise the President's power to place emergency controls on international economic transactions.
5320 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To continue hearings on the proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Foreign Relations
To resume hearings on Treaties with the Soviet Union on the Limitation of Underground Nuclear Explosions for Peaceful Purposes (Ex. N. 94th Cong., 2nd sess.).
4221 Dirksen Building

Governmental Affairs
To hold hearings to receive testimony from Bert Lance, Director of the Office of Management and Budget concerning his appointment and personal financial arrangements.
3302 Dirksen Building

Governmental Affairs
Reports, Accounting, and Management Subcommittee
To resume hearings on problems involved in the use of Federal consultants and contractors by the Federal Government.
1224 Dirksen Building

Judiciary
To hold hearings on the nominations of Proctor R. Hug, Jr., of Nevada, to be U.S. circuit judge for the ninth circuit; Alvin B. Rubin, of Louisiana, to be U.S. circuit judge for the fifth circuit; and Harry H. MacLaughlin, of Minnesota, to be U.S. district judge for the district of Minnesota.
2228 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on the Freedom of Information Act.
S-126, Capitol

10:30 a.m.
Banking, Housing, and Urban Affairs
Business meeting on pending calendar business.
235 Russell Building

SEPTEMBER 16

8:00 a.m.
Energy and Natural Resources
To hold hearings to receive testimony on the national energy and economic policy implications of the proposed crude oil equalization tax.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on consumer protection and education in the energy conservation area.
5110 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs.
To hold hearings on the nominations of Roberta S. Karmel, of New York, to be a Member of the Securities and Exchange Commission, and Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.
5302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume hearings on biomedical research programs.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 684 and S. 711, relating to the reorganization of bank regulatory agencies.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To resume consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and proposals affecting social security system financing.
2221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To continue oversight hearings on the Freedom of Information Act.
2228 Dirksen Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To hold hearings to consider the economic and social factors affecting American women in a full employment economy.
6226 Dirksen Building

SEPTEMBER 19

8:00 a.m.
Energy and Natural Resources
To continue hearings to receive testimony on the national energy and economic policy implications of the proposed crude oil equalization tax.
3110 Dirksen Building

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1819, proposed Federal Criminal Diversion Act (voluntary use of intensive supervision at the time of arrest or soon thereafter).
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 684 and S. 711, relating to the reorganization of bank regulatory agencies.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Finance
To mark up proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Government Affairs
To hold hearings on S. 80, S. 980, and H.R. 10, bills to amend the Hatch Act.
3302 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
Room to be announced

Human Resources
Health and Scientific Research Subcommittee
To mark up S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 11:30 a.m. 4232 Dirksen Building

7:00 p.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1180, to designate certain endangered public lands for preservation as wilderness.
3110 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Human Resources
Handicapped Subcommittee
To hold hearings to review the reorganization of the Office of Human Development in HEW as it impacts on programs for the handicapped.
Until 1:00 p.m. 1114 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 12:30 p.m. 318 Russell Building

Human Resources
Labor Subcommittee
To hold hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the relationships between welfare reform and public housing programs.
5302 Dirksen Building

Commerce, Science, and Transportation
To continue hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Finance
To continue mark up of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building

7:00 p.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1180, to designate certain endangered public lands for preservation as wilderness.
3110 Dirksen Building

SEPTEMBER 21

8:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on automatic auto crash protection devices.
2228 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Human Resources
Health and Scientific Reseach Subcommittee
To continue hearings on S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 12:30 p.m.
235 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. 6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up Truth in Lending Simplification legislation, including S. 1312, S. 1501, S. 1653, and S. 1846.
5302 Dirksen Building

Energy Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To continue mark up of proposed Energy Tax Act of 1977 as embodied in H.R 8444.
2221 Dirksen Building

*Government Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on H.R. 7792, to establish certain limitations on the use of franking privileges, and on simplifying mailing procedures.
154 Russell Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building

Select Small Business
Government Regulation and Small Business Advccacy Subcommittee
To hold hearings on SBA suggestions for simplification of loan application forms.
424 Russell Building

10:30 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

SEPTEMBER 22

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strength the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs Financial Institutions Subcommittee
To hold hearings on protecting the privacy of public financial records.
5302 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 473, 533, 624, 688, 824, 917, 920, 1000, 1318, 1403, 1744, 2033, 2041, H.R. 1403, 2501, 2527, and H.R. 4974; various land conveyance bills.
3110 Dirksen Building

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on the proposed increase in the temporary debt limit (as embodied in H.R. 8655).
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 80, S. 980, and H.R. 10, bills to amend the Hatch Act.
3302 Dirksen Building

Human Resources
Education (Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
5202 Dirksen Building

SEPTEMBER 23

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1791, to establish the Chattahooche River National Recreation Area; S. 1156, to establish the San Antonio Mission National Historical Park; and S. 1671, to designate the Absaroka-Beartooth as a wilderness area.
3110 Dirksen Building

9:30 a.m.
Human Resources Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Select Nutrition and Human Needs
To hold hearings on the role that nutrition plays in the needs of the elderly.
Until 1:00 p.m. 1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on protecting the privacy of public financial records.
5302 Dirksen Building

Finance
To resume markup of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

SEPTEMBER 26

8:00 a.m.
Energy and Natural Resources
To hold hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building

9:30 a.m.
Foreign Relations
To hear testimony on the proposed Panama Canal treaties from Secretary of State Vance, Ambassadors Ellsworth Bunker and Sol Linowitz, and Ambassador to Panama William Jorden.
Room to be announced

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4332 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 2016, to establish fees for services performed by U.S. marshals, and S. 2049, to allow per diem and mileage expenses for witnesses before U.S. courts.
2228 Dirksen Building

SEPTEMBER 27

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Labor Subcommittee
To hold hearings on S. 533, the Human Resources Development Act of 1977.
Until 1:00 p.m. 1224 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building

9:30 a.m.
Foreign Relations
To hear Secretary of Defense Harold Brown and Chairman of the Joint Chiefs of Staff General George S. Brown on the proposed Panama Canal treaties.
Room to be announced

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 1633, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and S. 661, to restore Federal recognition of certain Indian tribes.
Room to be announced

Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

SEPTEMBER 28

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To continue hearings on the implementation of the Juvenile Justice and Deliquency Prevention Act of 1974.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the currency's report on OMB Director Lance.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
Room to be announced

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal treaties.
Room to be announced

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession. Until 12:30 p.m.
457 Russell Building

10:00 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 1920, relating to the Tlingit and Haida Indian Tribes; S. 2046, to enable Alaska Natives to maintain and consolidate tribal governing bodies; and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charegs on certain Pueblo Indian lands.
Room to be announced

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:30 a.m.
Foreign Relation
To receive testimony on economic considerations from executive branch officials on the proposed Panama Canal treaties.
Room to be announced

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession.
Until 12:30 p.m. 1202 Dirksen Building

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedures Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal treaties.
Room to be announced
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

OCTOBER 4

10:00 a.m.
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5320 Dirksen Building
Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building
Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
Room to be announced

OCTOBER 5

9:30 a.m.
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal treaties.
Room to be announced
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced
Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building
Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
Room to be announced

OCTOBER 7

9:00 a.m.
*Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

OCTOBER 11

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 25

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To hold oversight hearings on drug enforcement policies.
2228 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housting, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on drug enforcement policies.
2228 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 15

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 1423, to establish a Council on Judicial Tenure in the judicial branch of the Government.
235 Russell Building

SEPTEMBER 20

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building

SEPTEMBER 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, September 13, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 13, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rev. Richard M. Thornton, Centenary United Methodist Church, Fort Ashby, W. Va., offered the following prayer:

Our Heavenly Father, shape the desires and deeds of Thy people in accordance with Thy purpose for the world, that seeking first Thy kingdom and righteousness, we may be good citizens of our country.

Grant we pray, that those who are in Government may be of one mind to establish justice and promote the welfare of all Thy people. Bless all Members of Congress with a right understanding and pure purposes. Grant them wisdom and strength to know and to do Thy will. Fill them with love of truth and righteousness. Make us a disciplined and devoted people, that we may do Thy will on Earth as it is done in Heaven. Through Jesus Christ our Lord and Saviour we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. RICHARD M. THORNTON

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I want to thank the Speaker and Dr. Latch for giving the Reverend Richard M. Thornton the opportunity to open the Congress this morning with a prayer.

Reverend Thornton was born in Chicago, Ill., on October 25, 1950. He and his wife, Ruth Ann, have a daughter, Christine. Mr. Thornton received his bachelor of science degree in education from Indiana State University at Terre Haute, Ind. He attended DeMotte High School in Indiana, where he also played football, and also participated in intramural football at Indiana State University. Later on, he taught at Lowell High School in Indiana.

In June 1977, Reverend Thornton received his master of divinity degree from the United Theological Seminary at Dayton, Ohio. He pastored for 3 years in Middletown, Ohio, and came to Fort Ashby, W. Va., in June 1977. He serves at Centenary United Methodist Church, Reese's Mill, and Trinity United Methodist Church, Fort Ashby, W. Va. Mr. Thornton joined the West Virginia conference because he was, in his own words, impressed with his association with West Virginians in his school and church work. He asked to join the West Virginia conference for this reason and then was assigned to the position he now occupies at Trinity Methodist Church at Fort Ashby and the one at Reese's Mill.

We certainly are proud and happy to have Reverend Thornton with us today.

CARGO PREFERENCE

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute.)

Mr. EVANS of Delaware. Mr. Speaker, I want to bring to the attention of my colleagues in the House, if they are not already aware, that the General Accounting Office has in the last few days released their report on the costs to the American consumer of the cargo preference bill.

According to GAO, this boondoggle of a bill would end up costing the public $550 to $610 million a year in higher fuel bills. This figure is, interestingly enough, five times higher than the Carter administration estimate of only 2 months ago, and reinforces my feeling that the cargo preference measure is an economic ripoff of the American consumer.

Of course, I can fully understand why the administration would seek to deflate the costs of this bill. That reason is politics, pure and simple. In fact, it seems that the administration, which is supporting this bill for political purposes, has said, "The public be damned."

I do not believe the House can allow this blatant piece of special interest legislation to pass. I hope that each Member of Congress will closely examine this important GAO study.

AUTHORIZING APPROPRIATIONS FOR THE USE OF THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR FISCAL YEAR 1978 FOR NATIONAL SECURITY PROGRAMS

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Will the gentleman from Idaho withhold his point of order and discuss the matter with the Chair momentarily?

Mr. SYMMS. Mr. Speaker, I reserve the right to make this point of order.

Mr. Speaker, I withdraw the point of order.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Will the gentleman from Maryland come and discuss the matter with the Chair?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I withdraw the point of order.

The SPEAKER pro tempore. Will the gentleman from Illinois temporarily withdraw his motion?

Mr. PRICE. Mr. Speaker, I temporarily withdraw my motion.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 341, SECOND CONCURRENT BUDGET RESOLUTION FOR FISCAL YEAR 1978, ON THURSDAY, SEPTEMBER 15, 1977

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that it shall be in order to consider the conference report and any amendments in disagreement on House Concurrent Resolution 341, the second concurrent budget resolution for fiscal year 1978, on Thursday, September 15, 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 543]

Addabbo	Frenzel	Pressler
Akaka	Frey	Pritchard
Ambro	Fuqua	Quayle
Andrews, N.C.	Gammage	Quie
Andrews, N. Dak.	Gilman	Rangel
	Glickman	Risenhoover
Applegate	Gradison	Rosenthal
Archer	Harrington	Rostenkowski
Ashbrook	Harsha	Runnels
Badillo	Heckler	Ruppe
Baldus	Hefner	Russo
Beard, Tenn.	Holland	Sarasin
Boland	Holtzman	Scheuer
Bolling	Jenrette	Smith, Nebr.
Breaux	Johnson, Calif.	Snyder
Brown, Calif.	Kasten	Solarz
Burgener	Koch	Stark
Burke, Calif.	Krueger	Steed
Burton, John	Le Fante	Treen
Burton, Phillip	Lederer	Tsongas
Chappell	Lehman	Udall
Clay	Levitas	Vander Jagt
Collins, Ill.	Lloyd, Calif.	Vanik
Conte	Lloyd, Tenn.	Waggonner
Conyers	Long, Md.	Walker
Cotter	Luken	Walsh
Coughlin	McDade	Waxman
Daniel, R. W.	McEwen	Weiss
Dent	McKinney	Whalen
Derwinski	Mahon	Whitehurst
Diggs	Marks	Whitten
Eckhardt	Martin	Wiggins
Edwards, Ala.	Milford	Wilson, Bob
Edwards, Calif.	Minish	Winn
Edwards, Okla.	Moakley	Wolff
Eilberg	Moss	Wydler
English	Mottl	Wylie
Ertel	Murphy, N.Y.	Yates
Fish	Myers, Michael	Young, Alaska
Ford, Tenn.	Neal	Zeferetti
Fowler	Ottinger	
Fraser	Pike	

The SPEAKER pro tempore. On this rollcall 311 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ERDA AUTHORIZATIONS FOR NATIONAL SECURITY PROGRAMS, FISCAL YEAR 1978

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6566, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 30 minutes, the gentleman from Texas (Mr. TEAGUE) will be recognized for 15 minutes, and the gentleman from Pennsylvania (Mr. GARY A. MYERS) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly urge the support of H.R. 6566 because of the critical importance of the programs it supports for our defense and national security. This bill realistically faces the facts of the nuclear age we are in and provides, as best can be foreseen, for activities which will promote our national security and advance the cause of peace throughout the world.

I want to take special note of the accomplishments of the subcommittee which handled this legislation. As you know, I was absent because of illness for a considerable portion of the time during which this legislation was being developed. During this time, under the able leadership of Mr. CHARLES H. WILSON, as acting chairman, my Subcommittee on Intelligence and Military Application of Nuclear Energy worked diligently to obtain a basic understanding of the facts concerning these programs. The subcommittee has developed a balanced piece of legislation which would best support the national interests. A great deal of time was spent by the subcommittee obtaining a basic familiarization with the programs. Actual visits were also made by members to the laboratories engaged in carrying out ERDA's programs. The members applied the time and energy which was needed to do the job. The legislation we now have before us is testimony to their successful efforts. I want to commend and thank all of the subcommittee members for an outstanding job.

FUNDING AUTHORIZATIONS RECOMMENDED

The bill covers efforts carried out by the Energy Research and Development Administration in the national security field.

The principal areas of activity involved in the national security program of ERDA are the development and production of nuclear weapons, the production of the special nuclear material required in all of the nuclear national security programs, the naval reactor development program, and the laser fusion program. The amounts recommended in the bill for operating expenditures in each of these areas is essentially the same as requested by the administration.

Besides the preceding authorizations for operating expenses, the bill before us also provides an authorization of $458 million for new plant construction and capital equipment, plus an additional $225 million for projects authorized in prior years.

DEVELOPMENTS IN THE NUCLEAR WEAPONS FIELD

Our efforts in the field of nuclear weapon development and production have been and continue to be influenced by changes in national policies and U.S. advances in technology. Over the past decade the number of weapons in the stockpile has been generally constant and, in fact, over the past several years the number has been decreasing. Weapons have been returned for retirement and recovery of the special nuclear material, because of their limited military capability in a situation of changing threats. We are developing more modern weapons with much improved safeguards and security systems and retiring old ones for reasons of aging and technological obsolescence in general.

For this reason, for the first time in many years, we have a moderate increase in our production effort. It behooves us to press this effort as much as possible since, in addition to the superior military capabilities of the new units, these weapons possess much superior safeguards and security characteristics.

All of our vast spending for strategic defense systems would be meaningless without this relatively small, additional expense for the nuclear warheads themselves. And our effort to assure safeguarding of nuclear weapons material must continue.

The House has long supported the weapons programs necessary to defend this Nation. This bill is a small but important part of that effort.

I urge all Members to support it.

The Armed Services Committee bill, H.R. 6566, contains $107 million for the laser fusion program. This includes $93,840,000 for laser-induced implosion fusion and $13,160,000 for electron beam-induced implosion fusion.

I must note that this committee authorization is $6 million above what the administration asked for.

The bill also contains $234.1 million for the naval reactor program.

The Committee on Science and Technology, after obtaining sequential referral of the bill, reported proposed amendments to do two things as regards laser fusion research:

First, to add $9.2 million to the bill. That is $9.2 million above the $6 million our committee added—for a new total of $116 million.

Second, to require that 60 percent of the total of $116 million be used for civilian applications of laser fusion.

The Committee on Science and Technology also proposed amendments to strike all authorization for naval reactors and subsequently proposed a similar amount for the program in its own bill.

Mr. Chairman, the Committee on Armed Services does not wish in any way to intrude into the authority of the Committee on Science and Technology in regard to energy research for civilian purposes. Likewise, the Committee on Armed Services has no intention of relinquishing its historic responsibility for all military research and development.

I hope, if I can engage in a colloquy with the chairman of the Science and Technology Committee, we can clarify the legislative intent of both committees and lay the groundwork for more careful submission of these authorization requests in the future.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. TEAGUE. On behalf of my committee, I am more than willing to attempt to clarify this jurisdictional problem. We should all recognize that the fiscal year 1978 budget submission was the first opportunity for the Committee on Armed Services and the Committee on Science and Technology to exercise their new responsibilities for nuclear energy legislation which was given to the committees by rules adopted in the 95th Congress. ERDA was not prepared to submit legislation to the two committees in a form that would coincide with their jurisdictions. Is that not true?

Mr. PRICE. That is correct.

Mr. TEAGUE. So, initially in their actions on both this bill, H.R. 6566 and the bill reported from the Committee on Science and Technology, H.R. 6796, the committees were in effect feeling their way in taking steps to assure that jurisdiction would be protected while these matters were clarified. Would the chairman agree with that statement?

Mr. PRICE. I would say that is essentially correct.

LASER FUSION

As regards laser fusion, that act provides $104 million for the program's operating expenses. This compares to the figures I indicated earlier of $107 million in H.R. 6566 and $116.2 million as proposed by the Committee on Science and Technology.

First of all, while I will not go into the technical details of laser fusion, the program at present is basically a research program to determine whether inertial confinement fusion will work. The military application of the laser fusion program involves simulating weapons effects in the lab and measuring weapons system and component vulnerability and hardness. By contrast, the civilian application of laser fusion relates to energy output. ERDA experts tell us that it is difficult to split the programs at this point since the same basic research is being used for both applications—the military application in the short term and the civilian application in the long term. It would therefore seem to be impossible to determine precisely what percent of that research is necessarily going for civilian application.

The Science and Technology Committee which has legitimate concern for the continuation of research that could eventually lead to dramatic civilian applications for laser fusion, has added $9.2 million which we agree is a modest yet appropriate addition to the authorization bill. Laser fusion applications are programs which require additional support although the amount is not great when compared with other forms of fusion and fission energy.

The Committee on Armed Services recognizes the legitimate interest of the Committee on Science and Technology and we have worked out an agreement to accept this amendment in modified form, deleting the proviso which had been added by the Committee on Science and Technology that 60 percent of the total of $116 million be used for civilian applications of laser fusion.

Mr. TEAGUE. I thank the gentleman for his cooperation, his recognition of the interest to both of our committees in laser fusion development, and feel that we have reached a reasonable compromise at this point.

Mr. PRICE. I accept that understanding and our committee will offer an amendment to the Science amendment which we can all agree on.

NAVAL REACTORS

The Committee on Armed Services has no wish to prevent the Committee on Science and Technology from pursuing legitimate interests in energy research and development which continues to be part of the naval reactor program.

The Committee on Armed Services agrees that the Committee on Science and Technology will have jurisdiction over the light water breeder reactor program now being administered by the Division of Naval Reactors within ERDA. H.R. 6566 contains no funds for the light water breeder reactor program. The Committee on Armed Services has included in the bill the naval reactor authorizations. The naval reactor program provided for in H.R. 6566 is concerned with the design, development, construction, testing, maintenance, and safety of nuclear powerplants for naval vessels. This program is part of the nuclear energy R. &. D. program of the ERDA, as it was part of this program in the AEC.

The amendment of the Committee on Science and Technology would have all of this R. & D. program removed from H.R. 6566 and put it all in a non-weapons authorization bill.

I recognize that the Committee on Science and Technology is merely protecting its jurisdictional interest until these matters are clarified, but this has been the subject of considerable concern to us on the Armed Services Committee.

Since the proposed amendment of the Committee on Science and Technology does not change the dollar amounts for naval reactors, I would suggest that the Committee on Science and Technology refrain from offering its amendment regarding naval reactors at this time with the understanding that the jurisdiction of the Committee on Science and Technology as regards the naval reactor research and development program and such other energy-related progams which might develop through the naval reactor program would be protected. To this end, I would agree with the chairman of the Committee on Science and Technology that we would direct the Energy Research and Development Administration or its successor agency, to provide the Congress in next year's authorization request clearly defined programs, and that as part of that directive that ERDA would submit its authorization request in a form consistent with the jurisdiction of the involved committees.

Mr. TEAGUE. As the gentlemen knows the naval reactor program is a paramount example of the positive interaction between civilian and military programs in the ERDA. This result is possible because the program has always had a unified management in ERDA with the civilian applications closely tied to the development of naval reactors.

This national asset was clearly recognized by the Congress in its passage of the Department of Energy Organization Act which places this program with the fuel cycle for nuclear energy resources in the Department of Energy.

I think we can agree that the responsibilities of the two committees must be more clearly recognized by the administration and that the authorization requests submitted in fiscal year 1979 and subsequent years should be separated as nearly as possible into the appropriate categories and divided between the two authorization requests.

Mr. PRICE. That is correct.

Mr. TEAGUE. On that basis, understanding that the interest of the Committee on Science and Technology is protected, I will, with the concurrence of my committee, withdraw our proposed naval reactor amendment to H.R. 6566. Is it understood that all energy research and development, as prescribed by the House rules, is and will remain within the jurisdiction of the Science and Technology Committee?

Mr. PRICE. Yes, I can assure the chairman.

And it is understood that all military research and development, as prescribed by House rules, is and will remain within the jurisdiction of the Armed Services Committee.

Mr. TEAGUE. That is correct. We have no desire to intrude on the historical jurisdiction of the Armed Services Committee in military R. & D.

Mr. PRICE. I very much appreciate the cooperation of the chairman of the Committee on Science and Technology in this understanding.

As part of this understanding, finally, I would expect that the Committee on Science and Technology will offer, during consideration of its bill, H.R. 6796, the amendments proposed by the Committee on Armed Services to clarify the general provisions of that bill, as well as deleting naval reactors from that legislation. The proposed Armed Services Committee amendments to the general provisions merely are designed to assure that the general provisions are limited to the matters contained in H.R. 6796 and do not apply to weapons programs under the jurisdiction of the Committee on Armed Services. It is my understanding that during the presentation of the bill to the Rules Committee the representatives of the Committee on Science and Technology indicated that those amendments are acceptable.

Mr. TEAGUE. We are aware of those amendments and we have no difficulty with them and we will offer them at the appropriate time during consideration of H.R. 6796.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I completely concur in the chairman's statement in support of H.R. 6566. I am pleased to inform my colleagues that there was no opposition to the bill in the subcommittee or the full committee.

The bill provides $2,665.5 million for the national security programs of ERDA. This is essentially the same as what was requested by the administration.

The programs covered by this authorization bill cover all of the activities of ERDA in the national security field. These include nuclear weapon design, development, and production; development of naval propulsion reactors and other military reactors; production of special nuclear material for the military programs; and control of restricted data, as defined in the Atomic Energy Acts of 1946 and 1954, as amended.

The nuclear weapon program is a joint program of the Department of Defense and ERDA. The level of effort and general composition of the program are jointly established by DOD and ERDA, approved annually by the President, and reviewed and acted upon by the Congress through the annual budget authorization and appropriation process.

The division of responscibility between DOD and ERDA was set by a 1953 joint agreement. The DOD is responsible for the military characteristics, development priority, suitability, and acceptability of nuclear weapons; custody and maintenance of the stockpile; development and production of delivery systems and support equipment for nuclear weapons; and the training and deployment of forces for their use. DOD also directs some nuclear-effects and vulnerability tests and evaluation programs, and establishes threat assessments in response to which nuclear weapons are developed. ERDA is responsible for the design, development, testing, and production of nuclear weapons; conducting a vigorous exploratory and advanced development program; production of special nuclear material for weapons; surveillance and certification of the technical quality of weapons in stockpile; provisioning of limited-life components; and budgeting for the annual appropriation required to conduct these activities. DOD and ERDA jointly review the safety of handling and operating procedures for each weapon.

The naval reactors program is a joint undertaking of ERDA and the Department of the Navy. Within ERDA the responsibility is carried out by the Director, Division of Naval Reactors, and in the Navy by the deputy commander for nuclear propulsion, Naval Sea Systems Command. Since the inception of the program, both of these positions have been filled by the same person, Adm. H. G. Rickover.

ERDA's Division of Naval Reactors is directly responsible for the design, development, construction, testing, maintenance, and safety of nuclear power plants for naval vessels and their land-based prototypes. Naval Reactors Division also assists the Navy in the selection, training, and qualification of personnel for operating and maintaining naval nuclear propulsion plants.

The nuclear weapons and naval reactor programs provide the backbone of our nuclear defense capability. The ERDA efforts funded under the bill are aimed at achieving and maintaining weapons systems which are militarily effective, invulnerable, responsive to control, and safe. The objective of the program supported by this authorization is to maintain an ability to develop and produce nuclear weapons which is second to none. The ERDA program authorized by this bill has as its purpose the production and maintenance of a ready stockpile which can be relied upon under a broad spectrum of threats. The committee has endeavored to provide a bill which will provide the resources to accomplish this objective.

The naval reactor program supported by this bill is also aimed at the maintenance of position second to none in the nuclear propulsion of warships. The development program covered by this bill has as its purpose the development and demonstration of nuclear powerplants for surface and submersible warships which have all of the special military characteristics required to produce superior warships. The program is aimed at developing energy sources for propulsion, aircraft and missile launching, and other military auxiliary energy requirements with reliability, safety, and effluent emission limitation factors not equalled in any other application. Although we have been successful in the attainment of acceptable levels of performance relative to these factors in the past, attainments of even higher degrees of performance in these areas provide major increases in military effectiveness. In our view the funding of the naval reactor program provides reasonable assurance that such military advancements will be attained.

The principal operations authorized by this bill for the national security activities of ERDA are weapons activities, special nuclear materials production, laser fusion, and naval reactor development. The total funding provided for all of these activities for fiscal year 1978 is $1,981,900,000. The funding levels authorized by this legislation for each of these activities, and subactivities thereunder, are indicated on page 11 of the committee's report, House report 95–272, part 1.

As previously stated, the total amount in this bill for these operations is essentially the same as was requested by the administration.

The most significant increase in these activities relative to fiscal year 1977 levels of effort are for nuclear weapon development and production activities. The proposed increase in the category is $200 million or approximately 20 percent. If one discounts this magnitude to reflect present inflationary trends, the increase, in terms of actual levels of effort, is approximately 10 percent.

The primary reason for the increase in weapons activities over last year concern changes which are starting this year in composition and numbers of weapons in the stockpile. The stockpile of weapons has been, for the past several years, decreasing. Weapons have been retired from the stockpile, because of their limited military capability in a situation of changing threats, developments involving increased safety standards, decreased reliability, because of aging and the availability of new technologies which provide greater protection potential against terrorist threats. The funding covered by this bill provides for the start of an increased production program of weapons with significant improvements in these areas. A continuation of this program is also planned for future years to assure greater availability of such improved weapons to replace those presently in the stockpile. The recent decision of the administration to rely upon the cruise missile as a major part of our nuclear strategic deterrent will require significant increases in expenditures for warhead production. An appreciation of the magnitude of the advancements we are now crossing the threshold of can be obtained by taking note of the fact that we are starting the production of seven new advanced weapons systems for the stockpile. I believe that the importance of replacement weapons with such improvements in safety, reliability, versatility, decreased support costs, and increased invulnerability to terrorist threats is axiomatic. Furthermore, in my view, this shift should be pursued with all reasonable speed to obtain maximum value from our development efforts in this critical and controlling area of national security.

In addition to the above-mentioned operating funds, this authorization bill provides for new plant and capital equipment funding totaling, $683,550,000. The

amount proposed by the committee for capital expenditures is slightly less than what was requested by the administration. The committee made a number of plus and minus changes in the individual projects proposed by the administration and added a new project to fund the replacement of a facility which was destroyed by an explosion and fire subsequent to the submission of the administration's budget request. This resulted in a net decrease of $27,500,000 for capital plant expenditures. The individual projects are tabulated starting on page 14 of the committee report on the bill.

My most sincere concern is that what we have proposed in this national security area is enough to provide a reasonable degree of assurance of such security. I believe the committee did its very best to attain this objective with the most prudent use of funds possible. I strongly urge the support of all of my colleagues for this bill.

Mr. PRICE. Mr. Chairman, I yield 15 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, the bill, H.R. 6566, would authorize appropriations for certain nuclear national security programs to be carried out by the Energy Research and Development Administration—ERDA. This bill is the first nuclear energy authorization bill reported by the Armed Services Committee since 1946. The rules adopted by the House in January of this year restored the jurisdiction which our committee exercised prior to the Atomic Energy Act of 1946.

President Carter requested a total authorization of $2,663.0 million for the ERDA national security programs contained in the bill. The committee bill, as reported, would provide a total of $2,665.5 million. The committee will offer an amendment to reduce the amount to be authorized by $1 million. Thus, the bill would provide only $1.5 million in authorizations above the President's request.

While the total authorization in the committee bill is very close to the amount requested, the committee has made several changes. These changes reflect the committee's view as to where more emphasis should be placed during the next fiscal year.

The ERDA authorization recommended by the committee is reflected in the bill in three major categories, which are: "Operating Expenses," "Plant and Capital Equipment," and "Additional Authorizations for Prior Year Projects."

Funds ultimately appropriated for these categories are, in turn allocated to five ERDA national security programs—the weapons, nuclear explosives, laser fusion, and naval reactor development programs, and to the national security area's share of common support items.

The $1 million recommended for the nuclear explosives program will be deleted by the committee amendment which I mentioned earlier.

"Operating Expenses" include the funds required to operate the several Government owned-contractor operated laboratories and production facilties necessary to carry out the previously mentioned programs.

"Plant and Capital Equipment" expenses represent the cost of new research and development and production facilities, waste management, security and fire protection facilities, and the expenses necessary to comply with new environmental and OSHA requirements.

The "Additional Authorizations for Prior Year Projects" category would provide additional funding for projects which were started in prior fiscal years and which are being funded on an incremental basis.

COMMITTEE RECOMMENDED CHANGES

The committee bill would increase "operating expenses" in the weapons research and development area by $24 million. This increase would provide for a greater advanced research effort within the ERDA laboratories in order to assure that the United States retains a qualitative advantage over the Soviet Union.

The committee bill would also increase laser fusion research and development by $6 million. This program is now underfunded.

The bill would reduce the "plant and capital equipment" request in the net amount of $27.5 million. The committee added $6 million to a laser fusion project, to prevent a year's delay in the project, and $5 million to authorize the replacement of a facility destroyed by an explosion after the budget was submitted.

To offset these additions, $38.5 million in various authorizations were deferred.

The bill was adopted by the committee by a unanimous vote. No opposition surfaced during consideration of the bill.

Mr. Chairman, our colleagues on the Science and Technology Committee requested and obtained sequential referral of H.R. 6566 after the Armed Services Committee had ordered it reported. In part 2 of the report, the Science and Technology Committee recommends the addition of $9.2 million for so-called civilian applications of laser fusion. That committee would also amend the bill in such a way as to require that 60 percent of all of the operating funds authorized for the current laser fusion R. & D. program be expended on these so-called civilian applications.

In addition, the Science and Technology Committee would remove from the bill all funds which would authorize the naval reactor development program on the theory that this program is somehow a civilian energy program and not a military program within the jurisdiction of the Committee on Armed Services. We will, of course, vigorously oppose any amendments of this nature.

The laser fusion R. & D. program is highly classified and is now contributing to the weapons program. While there is hope for civilian applications within one or two decades, there are simply no existing civilian applications for this technology. The naval reactor development program has been a military program throughout its existence.

Mr. Chairman, I would ask that a few other points be kept in mind as we consider this bill.

This bill is before the House following thorough hearings into the merits of President Carter's request—a request very close, but slightly higher than President Ford's request.

Notwithstanding the deterrent defensive power represented by the bill, the funds it would authorize represent—

About one-half of 1 percent of the Federal budget, and

About 2 percent of the Department of Health, Education, and Welfare and 2 percent of the defense budgets.

The bill is vastly more important than its cost.

The bill is before the House at a time when the President's initial efforts to achieve further SALT agreements have apparently failed. The interim agreement, signed along with the ABM Treaty of 1972, expires this October. While we all hope for an equitable arms control agreement, the prospects do not appear promising. An enforcible agreement with adequate inspection procedures to detect violations appears most difficult to come by, considering the posture taken by the Soviet Union.

No responsible official of the United States or of our NATO allies disagrees that there has been a massive buildup of Soviet nuclear and conventional armament over the past 8 to 10 years. The Soviets have a substantial quantitative advantage over us in most military systems and the trend is increasing in their advantage. The only missing piece of the puzzle is Soviet intent.

Since there are only two major powers with modern conventional and nuclear forces—the United States and the Soviet Union—the intent of the Soviet buildup is not too obscure. At best, the Soviets intend to neutralize the military power of the United States and to spread their own influence worldwide. At worst, the Soviets intend to eclipse the military power of the United States with the possible purpose of military adventures in Western Europe and in other parts of the world.

No matter how much we may hope to limit military arms, or to remove them from the face of the Earth, we must live with the world's realities. In the light of those realities we must assure the protection of our national security.

President Carter and President Ford, Secretary Brown and Secretary Rumsfeld, the Joint Chiefs of Staff, and other officials here and abroad, have expressed their concern that the Soviets have moved from a position of nuclear inferiority to a position of "rough equivalence" with the United States. The term "rough equivalence," in the opinion of some, means "Soviet superiority" in several areas.

The Soviet military establishment includes heavy intercontinental strategic nuclear forces, large and growing theater nuclear forces, a wide range of tactical nuclear forces, as well as large and diverse conventional ground, air, and naval forces.

The Soviet intercontinental ballistic missile—ICBM—force exceeds that of the United States by 50 percent. In just 10 years, the Soviet ICBM force increased

by about 600 percent—from 224 to over 1,500 launchers. They have 75 ballistic missile submarines capable of attacking the United States—some never need leave their home waters. Their sea-launched ballistic missile—SLBM—launchers have increased from about 29—10 years ago, to about 800 today.

The United States has developed only one new ICBM in the past 12 years—the Minuteman III. The Soviets have developed seven. Their SS–17, SS–18, and SS–19 have greater throwweight and higher-yield MIRVed warheads than the Minuteman III.

It is agreed among responsible officials that, depending upon U.S. strategy and procurement over the next few years, the Soviet Union may well exceed the quality, quantity, and destructive power of American forces.

In the face of these facts, the United States must have a national policy which insures its national security. In the absence of timely U.S. action, the Soviet Union could soon become the dominant military power in the world. The implications of that need not be described in detail.

On behalf of the Armed Services Committee, I wish that I could assure this House that this bill would reverse the trend which now appears to favor Soviet nuclear dominance. But, even if every dollar which this bill would authorize were to be appropriated, this would not be the case. Given the inflation in the cost of labor, materials, and equipment, this year's budget will only hold the line.

In real terms, this bill will fund only a minimum effort to improve current weapons systems and to develop a few new ones. It is only an increment toward arresting the decline of U.S. nuclear capabilities relative to those of the Soviets. We must not go further down the road of giving up our numerical and technical superiority.

Mr. Chairman, I strongly urge the adoption of the bill.

Mr. DODD. Mr. Chairman, as we all know, the decision whether the United States will produce enhanced radiation tactical nuclear warheads, also known as neutron warheads, for our Lance missiles has caused a great deal of controversy here and in Europe.

This decision has been perceived as having serious military and foreign policy ramifications for our Nation and its allies in the North Atlantic Treaty Organization, NATO.

It is only proper that we debate at length the many complicated issues raised by this decision as we consider today the legislation containing production funds for neutron warheads—H.R. 6566, the fiscal 1978 authorization for national security programs of the Energy Research and Development Administration, ERDA.

Personally, I think there has been too much emotion and not enough calm deliberation about these weapon systems.

Reasoned debate about the pros and cons of enhanced radiation warheads, and there are cogent arguments which should be duly considered on both sides of the question, has at times given way to misleading editorials in the press, for example.

The issues surrounding neutron warheads are quite serious for they involve whether these weapons contribute to deterrence against attack by the Soviet Union and the Warsaw Pact or lower the threshold against nuclear war.

They further involve some discussion of the concepts of "limited" and "unlimited" nuclear war, whether the former is possible without the latter, and whether enhanced radiation weapons might enable us to fight a restricted nuclear campaign or lead us to an all-out strategic conflict of mass destruction.

Central to our deliberations about neutron warheads should be consideration of how they relate to our policy of the necessity to strengthen the conventional war-fighting capabilities of NATO.

We must consider how deployment of enhanced radiation tactical devices will affect the prospects for progress in the mutual and balanced force reductions, MBFR, talks with the Soviets.

We also must ask ourselves:

How militarily effective will these weapons be?

How much more will they add to our deterrence or detract from maintaining a sufficiently high threshold between conventional and nuclear war?

If the increase to deterrence is marginal, we must ask whether neutron warheads are worth the economic and diplomatic costs?

We must ask ourselves how our NATO allies truly perceive production and deployment of enhanced radiation weapons?

Sadly, Mr. Chairman, these and other central issues have been obscured by initial over-reaction from the media and other well-intentioned sources of comment.

Congress must begin to "clear the air" about the many issues surrounding enhanced radiation devices, and we must endeavor to place these weapons, and any decision whether to produce and deploy them, in proper perspective.

I shall attempt to contribute to this effort during general debate today, and I shall be offering an amendment to H.R. 6566 later this week to further that purpose.

My amendment will allow Congress to fully consider all the military, economic and foreign policy issues surrounding neutron warheads and require the President to study these issues much more comprehensively before production begins. My proposal also would provide a legislative veto if Congress disagrees with the President's decision about production.

I would add that my amendment would not delete production funds for neutron warheads from H.R. 6566, for I believe that would be an inappropriate action at this time. I would not want to deny us or our NATO allies any military or deterrent advantages possibly offered by production and deployment of these tactical nuclear weapons, if it is reasonably established that such advantages are obtainable.

Instead, my amendment would allow Congress to fulfil its constitutional role as equal partner in deciding our Nation's national security policies.

It also would allow proper time for a full airing and evaluation of the many questions regarding neutron warheads. It would signal President Carter we are concerned with what appears to have been his administration's initial superficial examination of these weapons.

And it would present Congress with the opportunity to correct many misimpressions on both sides of the issues—misimpressions unfortunately appearing in the news media and only serving to frighten the public rather than contribute to a constructive debate about these weapons.

In my own remarks, Mr. Chairman, I would like to focus on several areas which I think must be discussed during our debate on enhanced radiation warheads:

First, the congressional and Presidential decisionmaking process;

Second, the myths versus the realities;

Third, the NATO context;

Fourth, arguments pro and con;

Fifth, positions of our allies;

Sixth, morality versus immorality; and

Seventh, a net assessment.

Mr. Chairman, the congressional and Presidential decisionmaking processes have been less than fully adequate in dealing with the neutron warhead production decision.

In the beginning of the controversy, the White House expressed a disturbing lack of awareness about this particular weapon system—a warhead about which many defense experts are divided in opinion as to its need, effectiveness, and ability to deter or provoke a military conflict with the Soviet Union.

I was quite distressed to learn from an official source that the Carter White House overlooked this controversial warhead program in its hurried review of the fiscal 1978 ERDA budget it inherited from the Ford administration.

I also have been informed that, contrary to popular conception, President Ford did not review the enhanced radiation warhead program last year when he approved production of other nuclear warheads for the Lance missile.

President Carter, then, will be the first President faced with a production approval or disapproval review of this sensitive weapon system. Thus his decision becomes even more important.

The present administration's oversight regarding the presence of the neutron warhead for Lance in the ERDA budget is understandable, given the pressures of the transition period and the short time available to review the entire Federal budget before submitting it to Congress.

But this oversight is still lamentable, Mr. Chairman. This, coupled with the fact that President Carter is the first, not the second Chief Executive to face the Lance neutron warhead issue, underscores the necessity for him and his top assistants to assign a high priority to more carefully evaluating this weapon and deciding its advantages and disadvantages.

Now I understand that we already have spent money in the past for research and development of the weapon, and that past administrations made those spending decisions. I understand that the idea or theory of a "low-yield, low-blast" nu-

clear weapon aimed at reducing collateral damage to civilian populations certainly is not new.

But the decision whether to enter into full-scale production of any nuclear weapon is a decision of major importance—one that should be carefully examined from every angle before it is made. Production of the Lance neutron warhead should be no exception.

And I believe such a decision should be debated by the full Congress, not just by the limited memberships of two committees or subcommittees. The entire Congress should evaluate the costs, benefits, and present and future implications of neutron warheads.

Mr. Chairman, it is only by a stroke of journalistic fortune that we are even debating the issue of Lance neutron warheads today.

Without the newspaper disclosure of this warhead program's existence, I would venture that the general membership of Congress would still be unaware of any of its national security and foreign policy ramifications.

This is because there is scant mention of Lance neutron warhead production in committee reports and public hearing testimony.

Most of the information about this warhead is classified, and I have been reliably informed that there even is "very little" about the Lance neutron warhead in the classified versions of the hearings before the House Armed Services Committee for fiscal 1978.

I also have been told that the Senate Armed Services Committee did not spend much time dealing with this program this fiscal year.

The House should not be expected to make an intelligent decision whether to approve funds for this program based on such a paucity of information, Mr. Chairman.

Since the controversy began, while more information has been forthcoming from the administration, the committees, and the Library of Congress, this information has succeeded in raising as many questions about neutron warheads as it has tried to answer.

Even the exact amount of funds to be spent in fiscal 1978 for the Lance neutron warhead is classified, so we cannot debate the present and future cost implications of this weapon system on the American taxpayers. I think our taxpayers might have a right to know how much of their hard-earned dollars we are spending.

Whether there are other neutron warhead programs, either in research and development or production, in the fiscal 1978 ERDA budget also is classified. We cannot even discuss the military and cost implications of such programs if they do exist, despite press reports which indicate they do and that these implications could be substantial.

It was not until just before the beginning of our August district work period that Congress received a formal "arms control impact statement" from ERDA on the Lance neutron warhead. I was informed that the Agency originally had not intended to provide one for the fiscal 1978 budget submission, and I would suggest that it was only prompted to do so because of the public controversy.

Congress and the President cannot fully and properly exercise their constitutional roles in the formulation and implementation of national security policy, including defense, arms control and general foreign policy without such a statement.

It is similarly restrained without more information than is currently available publicly about the Lance neutron warhead. At the very least, there should be further hearings, Mr. Chairman.

I understand and agree with the need for secrecy in certain areas of our defense program, and certainly the nuclear weapons component of that program involves the most sensitive information.

But I am concerned that we do not have another example of excessive Government secrecy here, which prevents this Congress from adequately considering this program, let alone allowing it to be understood by most of the Members and by the American people.

Because the national security of this country may be involved, I believe that telling the American people everything about enhanced radiation programs which could not aid a possible enemy clearly is in the national interest.

Mr. Chairman, the "myths versus the realities" about neutron warheads concern me. A great amount of bad information has been circulated about these weapons—obscuring the essential issues.

First, this type of weapon is not a chemical-biological weapon. It is a radiological weapon, just as is every other nuclear warhead in our tactical and strategic arsenal. All nuclear weapons emit neutron radiation, and to confuse them with chemical-biological devices is to engage in self-deception.

If one is to oppose this weapon, or to promote it, it should not be a position based on value judgments about chemical-biological weapons. They are just not the same types of devices.

Second, the news media and the Soviets to the contrary, enhanced radiation weapons are not a "new generation" of destructive devices. As I said before, the concept of neutron warheads was under serious discussion among Government scientists as far back as 1958, and we tested such a device underground in 1963.

Third, the actual term "enhanced radiation" is a misnomer for these weapons, and when one realizes this, some of its allegedly more terrible aspects become far less awesome.

These devices emit only slightly more radiation on detonation than do non-neutron warheads of equal explosive power. What is significant is that the accompanying blast and heat associated with atomic weapons is reduced as much as 20 times with a neutron warhead of equal size.

So any "enhancement" of radiation is purely a relative measurement. What is enhanced is the reliance on radiation as the kill mechanism, as opposed to blast and heat. The actual amount of radiation emitted changes only slightly.

Finally, I would like to address the "ultimate capitalist weapon" theory which condemns neutron warheads because they "kill people, but leave buildings standing."

This theory implies that these warheads are to be used in a strategic sense against the population centers of our enemies, and that the outcome of such use will be ghost towns with dying people and warm coffee cups sitting on kitchen tables.

I think the science fiction or Twilight Zone aspects of neutron warheads become less frightening when one addresses the realities of their existence and intended purpose.

Neutron warheads are designed and intended for tactical, or battlefield, use against the soldiers of our enemies if actual combat begins. I am afraid that the name of the game in war is to kill enemy soldiers, Mr. Chairman, and in that context, neutron weapons become another killing mechanism.

The United States does not intend to use these weapons against civilian populaces in Warsaw or Moscow, nor are we designing this system to enable us to accumulate the physical assets of our enemies should war break out.

If there is a next war, it will not be a war of "enrichment" as far as NATO is concerned, and one of our goals will not be to acquire the wealth and territory of Eastern Europe.

NATO's goal will be to defeat enemy armies, to push them back into their own territory and hopefully force them to sue for peace, and to limit damage and civilian casualties as much as possible in combat areas.

Our military planners contend that neutron warheads will enable NATO to accomplish these objectives more effectively, and we must evaluate whether to produce these systems on those terms and on the terms of whether their existence or use could lead to all-out nuclear war.

If these weapons can do what is intended, and the judgment is not certain on that score, then one might legitimately argue that neutron warheads are a positive development, since they may reduce civilian casualties.

If these warheads mean nuclear armageddon, with millions of civilians killed, then one obviously can say they are a negative development.

But neutron warheads should be evaluated on such terms, and not from the mistaken perspective that our goal is to maximize conquest of property at the expense of human lives.

Before I address the pros and cons of neutron warheads, specifically, Mr. Chairman, I think it is important to note the military and political context in which the production and deployment of these weapons should be placed. That is the present military and political status of the NATO allance as it relates to deterrence, defense, and tactical nuclear weapons.

The Congressional Research Service and the Congressional Budget Office have made some interesting general observations about the military status of NATO, and some of their specific comments are directly applicable to any discussion of enhanced radiation devices.

In its recently issued, controversial comparison of United States and Soviet military capabilities, the Library of Congress paints a gloomy picture of NATO's defenses and even questions whether neutron warheads can achieve their intended objective of limiting civilian casualities and collateral damage.

I do not necessarily agree entirely with CRS' assessment of the military balance, but I find its comments about enhanced radiation devices thought-provoking. I would like to place two passages of the report in the RECORD at this point for my colleague's consideration and make this observation.

This report convincingly emphasizes the absolute need for NATO to improve and standardize as much as possible its conventional forces.

I am convinced that tactical nuclear weapons, especially neutron warheads, must not be seen by NATO and this country as an excuse to avoid making the politically difficult and economically costly efforts to improve our conventional force posture. Here are the passages from the CRS study—

[From the Library of Congress, Congressional Research Service, Washington, D.C.]

AMERICAN AND SOVIET MILITARY STRENGTH, CONTEMPORARY TRENDS COMPARED, 1970–76

(By John M. Collins)

No change by itself is crucial, but emerging Soviet capabilities, with great stress on offensive shock power, create a new strategic environment when considered in combination. NATO obviously has made some significant progress during the seven-year period surveyed by this study. However, it failed to keep pace, because member states continually compromised on requirements. Consequently, the overall balance has not been so lopsided since the early 1950s, before NATO's bulwark was complete.

Tactical Nuclear Defense.—If conventional defenses crumble, NATO plans to use tactical nuclear weapons, after consultation among its members. The time, place, and circumstances under which the Alliance would "go nuclear" have deliberately been left vague to complicate enemy planning.

Rational For a High Nuclear Threshold.—Early resort to nuclear weapons theoretically could improve NATO's ability to sustain a strong forward defense, but a high threshold (crossed only after pressures became unbearable) would be salutary for several reasons.

Severe civilian casualties and collateral damage would be unavoidable if tactical nuclear weapons were exploded in large numbers. Limited target acquisition capabilities make it technically impossible to deliver ordnance infallibly onto stationary targets, let alone military forces on the move. Moreover, in a war for survival, the temptation to engage "suspected" targets would be high. Numerous deaths from accidental fallout probably would follow, even if both sides agreed to abstain from surface and subsurface detonations. Neutron weapons available to NATO, but not the Warsaw Pact, would alleviate such problems very little.

Controls would be tenuous at best. Nuclear weapons could be administered very selectively—for defense purposes only; on NATO territory only; against military targets only; using air bursts only or atomic land mines only; and low yields only—but none of those restrictions would be as readily distinguishable by the enemy as the "firebreak" between nuclear and conventional combat.

Since the first side to disregard arbitrary restraints might accrues a decisive advantage, the pressures to escalate would be enormous. Surprise Soviet ballistic missile strikes on key installations at the onset of a war could in fact confront NATO with the shocking choice between surrender and suicide, by blasting essential installations and blocking the arrival of reinforcements and resupply. The absence of missile defenses, therefore, constitutes a potentially fatal flaw for NATO, but not for the Soviet Union, which faces no similar threat.

The Congressional Budget Office's January 1977 report on theater nuclear forces emphasizes conventional improvements in NATO and calls for action to make our tactical nuclear weapons less vulnerable to a preemptive first strike by the Soviets.

CBO also suggests additional thought should be devoted to more clearly defining the role of our tactical nuclear weapons in deterrence and defense and to correlating force improvements with doctrine.

Its report further states that—

Technical improvements (in tactical nuclear weapons), such as improved accuracy, greater artillery ranges, or tailored nuclear effects, do not appear to contribute strongly to deterring Soviet first use of nuclear weapons.

Naturally, other experts might disagree, and I think Congress should consider these positions before approving production of neutron warheads.

The political context of NATO that we should recognize is that, despite U.S. Army statements to the contrary, our allies are far from convinced one way or the other about the benefits, and costs of neutron warheads.

I have tried to obtain the official positions of our NATO allies by writing to each of their embassies. The responses have ranged from non-answers to very cautiously-worded statements about avoiding premature positions on the subject.

The most direct responses indicate that there has been little detailed consultation among the NATO countries about neutron warheads, despite discussions in the NATO nuclear planning group about modernizing our tactical nuclear forces.

I shall have more to say about the reactions of our allies to neutron warheads in a later statement, but think it is sufficient to state now that this European ambivalence is enough reason for Congress to refrain from approving production until more substantial discussions take place in NATO.

I understand that these discussions might begin this week, and that is a productive development, but until they conclude, and until Congress can evaluated on such terms, and not from the more deliberately toward our own production decision.

Let me summarize the arguments on both sides of the neutron warhead debate, and then I will conclude by statement.

Proponents claim that the Soviets and the Warsaw Pact will be more inclined to believe we will use a more precise, *damaging limiting* nuclear weapon against them. This is because we would not have to worry about destroying Europe in order to save it.

Thus, deterrence is enhanced, and nuclear war is less of a possibility. Such weapons also would contribute to defense, it is argued, because should an attack begin, use of these more discriminate weapons will show NATO's commitment to fight and could force the Soviets to the negotiating table.

Neutron warhead opponents argue that the very qualities which make this weapon more of a threat to the Soviets, its "usability" if you will, also could make it more attractive as a military option to NATO commanders and the U.S. President, once deterrence fails.

Thus, the threshold between conventional and nuclear war is lowered, and once a nuclear conflict begins, there is no way to avoid it escalating into World War III.

Critics also suggest that because neutron warheads might be more threatening to the Soviets, the Warsaw Pact would be tempted to launch a preemptive nuclear attack immediately on them when it decides to go to war. Thus the 'nuclear threshold is breached at the outset of hostilities, with all the terrible consequences of atomic warfare and escalation.

This discussion could all come down to whether one believes "limited" or "unlimited" nuclear war is possible or likely, Mr. Chairman.

My own opinion at this point, is while I would hope that the threat of atomic warfare will deter both sides from ever initiating even a conventional exchange, that once deterrence fails, an option for one side to use nuclear weapons in a limited way, if that becomes necessary, could be beneficial.

The alternative to such an option, even if its contribution to forcing a peace is in doubt, would be the use of much more destructive nuclear weapons whose escalation potential might be greater. I am not very comfortable with the prospect of facing that alternative immediately, if it ever is decided we must use atomic weapons.

The last area I would like to address is the morality of neutron weapons, Mr. Chairman, and I will do so simply by quoting the man who is credited with developing the neutron bomb concept, Samuel T. Cohen:

He wrote recently:

All military weapons (more correctly, their employment) are immoral. The recipients of their effects in the main have been ordinary human beings who have had the misfortune to be on the other side. Regarding the choice of weapons to be used in a possible war, the immoralities having to do with differences in kill mechanisms logically must be assessed in the context of a vastly larger immorality—the great obscenity of war itself.

Since all war is obscene, Mr. Chairman, it is not very productive to argue the morality or immorality of neutron warheads versus that of other nuclear weapons or other conventional destructive devices. They are all immoral and, if the world had any real sense and could agree, we should get rid of all of them.

But we both know, Mr. Chairman, that that shall never happen, or it will never happen until the survivors of a nuclear war realize what led to the destruction of their civilization.

So we must deal with these immoralities as best we can and try to make the

most responsible decisions which will lessen the potentialities that nuclear weapons, or even conventional weapons, ever again will be used in a worldwide conflict.

Whether neutron warheads move in this direction, or in the opposite direction, however, is not yet clear, as I think I have demonstrated by reviewing in this statement the complicated questions involved. It is far from apparent that neutron warheads will either save the West or bring about the end of civilization. It is far from apparent that these warheads are even a marginal asset or a marginal liability.

I think that the most definite conclusion Congress can reach about neutron warheads presently is that we ought to spend a great deal more time examining the many national security, economic and foreign policy ramifications before we decide whether to produce these weapons or end their development.

I would hope my colleagues will see fit to undertake these serious considerations in depth before resolving the issues of enhanced radiation weapons in the fiscal 1978 ERDA authorization.

Mr. GARY A. MYERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I have no further requests for time.

Mrs. HOLT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. VOLKMER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 6796.

ERDA AUTHORIZATION FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. TEAGUE) will be recognized for 1 hour; the gentleman from Pennsylvania (Mr. GARY A. MYERS) will be recognized for 1 hour; the gentleman from California (Mr. CHARLES H. WILSON) will be recognized for 15 minutes; the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 15 minutes; the gentleman from New York (Mr. BINGHAM) will be recognized for 15 minutes; and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of the bill, H.R. 6796, the ERDA authorization bill for fiscal year 1978.

I urge my colleagues to vote for and support this bill, because of the many new programs and authorizations which it contains, which will help our country solve its energy problems. This bill contains all of the nonnuclear and nuclear nonweapons programmatic authorizations for the Energy Research and Development Administration. It also contains legislation which will give to ERDA the authority to make loan guarantees for the demonstration of needed energy technologies. It contains legislation establishing a new automotive research and development program. It contains grants and loan authority for a municipal waste reprocessing plant demonstration program to be administered by ERDA. Finally, it also contains technical amendments to the geothermal loan guarantee demonstration program.

This bill contains authorization for ERDA amounting to $6.74 billion, an increase of $267 million over the administration's authorization request of February 1977. The amount recommended by the committee represents an increase of 15.6 percent over the estimated fiscal year expenses of ERDA. This is a responsible increase for such a vitally important subject to our country.

In fossil energy development, the committee recommendations contain bold new initiatives but the amount authorized is almost the same as the request of the administration. It calls for an increase of 67 percent over the estimated fiscal year 1977 expenses.

The committee also substantially increased geothermal by 85.7 percent and conservation research and development by 145 percent. The committee increased solar energy development by 16.4 percent and the nuclear nonweapons programs were slightly decreased, —2.5 percent, in accordance with the redirection of the nuclear programs by the new administration. Finally, in environmental research and safety, the committee increased funding by 18.3 percent over the 1977 level.

The committee has worked to significantly advance the fossil energy technologies toward actual use in the marketplace. The committee added $6 million for the design of two low Btu fuel gas demonstration plants for small industries, such as kilns, or glass manufacturers. The scale of these facilities will be at least one-third the size of commercial facilities, however the proposers will be free to select the process, plant location, plant size and the coal to be processed in exchange for cost sharing with the Government. The committee also added $30 million for a solvent refined coal demonstration plant. After the committee acted the administration indicated its support. An SRC demonstration plant will provide a solid fuel which is increasigly in demand as a boiler fuel, or as a feedstock for steel and aluminum processes. The SRC process has gone through 2 years of testing at the Fort Lewis, Wash., pilot plant, run by ERDA.

The committee also added $30 million to start work on a high Btu coal gasification test facility which would be a multipurpose, modular test facility for this technology. The United States must move aggressively to develop full sized components and test them on a full range of available coals. This initiative will begin this important effort at the scale needed to make commercial decisions. The initial authorization, to include the technical planning and conceptual design of the test facility, is to provide a feasibility analysis of the equipment and accommodation essential to the change of components. The committee also authorized increased amounts for two coal gasification demonstration plants which had been previously authorized: a high Btu, second generation demonstration facility and a low Btu demonstration facility.

This was the first year that the committee had jurisdiction over ERDA's nuclear program. To familiarize itself with the issues and alternatives, the committee heard from representatives of all points of view, and a complete list of witnesses was included in the committee report accompanying this bill. The committee has greatly increased the number of technical alternatives available so that the many questions which have been raised about nuclear power can be better researched and understood. In so doing, the committee agreed with many of President Carter's nuclear nonproliferation programs which he proposed:

First. The committee added $15.5 million for an expansion of work in the thorium fuel cycle;

Second. The committee added $7 million for nuclear energy assessments. This will allow studies of low proliferation risk systems and conceptual design for the more promising concepts;

Third. The committee added $32 million to permit new work on alternate fuel cycle concepts;

Fourth. The committee voted to discontinue design of light water reactor fuel cycle facilities and redirect funds to alternative fuel cycle technologies and the thorium fuel cycle;

The net effect of these actions is an increase of $14.4 million;

Fifth. The committee also voted $20 million for an international spent fuel storage program in ERDA; and

Sixth. The committee adopted the administration's proposal to change the technology for the new uranium enrichment add-on plant to gas centrifuge. This will significantly reduce the amount of electricity required for uranium enrichment operations and will allow the United States to reopen its order books. This is in accordance with the President's philosophy to reduce the requirement of foreign nations to build their own enrichment facilities.

As you may know, the administration has proposed to indefinitely postpone the construction of the Clinch River Breeder Reactor, as the demonstration plant for the LMFBR program. The committee has worked very hard and in full cooperation with the administration on this issue. However, at the time that the committee voted on this issue, in order to comply with the requirement for reporting the authorization bill, the administration had not provided the committee with a full and complete explanation of the administration's redirection of the LMFBR program. The committee therefore voted to maintain the original budget level requested by the administration in its February budget, that is, $150 million.

The committee then studied this subject exhaustively. We visited the Oak Ridge National Laboratories, which is the site of the CRBR, and then visited the French Phenix LMFBR. We also met with the International Atomic Energy Agency, French officials and the International Energy Agency. In subsequent hearings on this matter which were held on June 7, 8, 9, and 10, the administration was asked to explain the new program. Several outside witnesses were also heard so that the committee could be certain that it had carefully considered any new information pertaining to Clinch River plant before taking this bill to the floor. The committee then met and voted 19 to 11 to recommend the $150 million level for the CRBR and not to terminate the project.

Our Subcommittee on the Environment and the Atmosphere, chaired by GEORGE BROWN of California, held extensive hearings on the portion of the bill relating to ERDA's environment and safety program. Section 8 of title I of the bill authorizes appropriations in support of environmental and safety research and development. The amount recommended by the subcommittee and agreed upon by the committee, $252.9 million for fiscal 1978, contains a modest increase of $11.9 million over the President's original request. This funding will help achieve the important goal of insuring the environmental, health and safety acceptability of emerging energy technologies and policies.

More specifically, $8.9 million of the proposed increases will support overview and assessment research activities. Included among these activities will be an expedited national assessment of the environmental implications of increased coal use and a study of the safety and control of liquefied natural gas (LNG), both technologies that are emphasized in the President's energy plan but which have not been thoroughly investigated as to their environmental implications. Also, $2 million was added to the bill for the funding of two important studies on the decommissioning and decontamination or nuclear facilities, an area in which increased attention was also found necessary by the subcommittee. The remainder of the subcommittee-recommended and committee-adopted increase was distributed throughout the environment and safety program, as detailed in the committee report.

I wish to commend the gentleman from California and the subcommittee he chairs for the thorough job they did in considering the environment and safety portion of the bill. The changes recommended by the Environment and Atmosphere Subcommittee both support and enhance the energy technologies areas by providing for needed environment and safety assessments of those technologies and policies.

Critical as our fossil and nuclear programs are for our Nation's economic security, they are not enough by themselves. We must support an aggressive energy conservation program and we must explore and develop inexhaustible and renewable energy production technologies such as solar, geothermal and fusion. Recognizing this, the Committee on Science and Technology is recommending an authorization for energy conservation research and development of $593.3 million, an increase of $274,000,000 over the President's budget. Most of this increase—$200 million—is for financial support for municipalities to demonstrate waste-to-energy systems. Other major increases in energy conservation are for improving the efficiency of energy use, whether industrial, residential or transportation. Improvements in the technology of energy use must be found and used if we are to significantly reduce the rate of growth of our energy consumption without seriously affecting our economy and our high standard of living.

The Committee on Science and Technology is recommending an increase of $74.05 million for solar energy research, development and demonstration and $38.4 million for geothermal energy to bring the funding for these programs up to the levels they must be to bring these technologies into common use as soon as possible. The increases in solar energy covered heating and cooling of buildings, wind energy, electricity from solar cells and ocean temperature differences, and initial funding for a program for satellite solar power systems.

The most significant changes to the President's budget in geothermal energy are for small scale hydroelectric power and for development of the geopressured resources along our Gulf Coast that hold so much promise for the future.

Another new approach for the demonstration of energy technologies is contained in section 210 of this bill which gives ERDA loan guarantee authorization to demonstrate new energy technologies.

This new program will provide the opportunity for ERDA to demonstrate energy technologies at the least possible cost to the government, utilizing loan guarantees.

Our committee has received hundreds of pages of testimony on the insurmountable problems that companies and municipalities have faced in trying to build the first plant using an untried technology. It was clear from our hearings that Federal assistance was needed to back up these first plants. Without this assistance our economy would never assimilate these untried energy technologies.

This proposed amendment to section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 provides authority for the Administrator of ERDA to make loan guarantees. All loan guarantees would be issued with controls to protect the government's interest, the local community and the environment within the following guidelines:

First, proposed projects must demonstrate the technical, environmental, economic, and social cost benefits and impacts of the new energy technology;

Second, competition is to be encouraged and protected;

Third, socioeconomic and community impact assistance will be provided, where needed, to affected communities;

Fourth, loan guarantees are full faith and credit obligations of the United States, and

Fifth, borrowing authority as provided in subsequent appropriation or authorization acts may be given to the Administrator.

This amendment does not provide loan guarantee or socioeconomic aid without further action by the Congress.

Loan guarantees, as a form of assistance, provide a valuable new form of financial assistance for ERDA to use. ERDA already has authority under section 7 of the Federal Nonnuclear Energy Research and Development Act to utilize joint Federal-industry corporations, contractual arrangements, contracts for the construction and operation of federally owned facility, Federal purchases or guaranteed prices, direct loans and incentives to investors.

The addition of loan guarantee authority would complement existing authority and provide a needed means of achieving public objectives in demonstrating new nonnuclear technologies.

This amendment addresses the need for demonstrating energy conserving technologies, urban waste conversion and technologies utilizing renewable resources, as well as the demonstration of the production of synthetic fuels. However, it must be clearly understood at the outset, that these demonstrations are not of full-sized commer-

cial facilities. The Federal Nonnuclear Act, which this amends, only authorized demonstration of energy technologies, not commercialization of them. For example, the Administrator, pursuant to section 7(d), could demonstrate a high Btu coal gasification plant which is approximately half the size of a commercially viable plant.

During committee deliberations the definition of new energy technologies was discussed.

The committee recommends that new coal technologies under development since World War II be considered as new technologies since commercial plants have not been operated except in South Africa—which was constructed with loan guarantees. The committee notes that since the discovery of oil in Libya, interest in developing coal technologies has declined, until the oil embargo in 1973.

If we vote to eliminate all but "new technologies" we will be throwing out existing technology which may hold a promise of more energy, sooner. By voting to force ourselves to wait for later developments in coal technologies, we could be denying ourselves a source of quick energy. This could be a tragic mistake.

BREEDER—EAGLE OR OSTRICH?

Madam Chairman, an ostrich, according to Webster's Dictionary, is "one who attempts to avoid danger by refusing to face it." Unfortunately, there is a serious correlation between this definition and the new administration profile with regard to nuclear proliferation.

The administration assumes that if we, the United States, unilaterally withdraw from the further development of breeder reactors, we can, by this act, influence other nations to take similar action and not build breeders. This basic premise leads to the administration's further assumption that our deferral of continued breeder development will preclude the ominous consequences of widespread nuclear weapons production. The assumption connecting U.S. breeder development with foreign breeder development is highly presumptuous; the assumption linking breeder reactors with nuclear weapons is illogical and unrealistic.

The most serious facet of the ostrich posture reflected in these policy statements is the refusal of the administration to face the energy dangers that could threaten future world economic stability. These dangers are not being recognized in realistic terms if the administration refuses to see the relationship between the vulnerability of a nation's energy resources and that nation's need for breeder technology. Of the six nations that have breeders either operating or under construction today, all six have industrially and technologically advanced economies, dependent on large and uninterrupted energy supplies. These nations are the United States, Britain, France, the Soviet Union, Japan, and Germany—breeder 30 percent complete.

Of these six nations, the United States, Britain, France, and the Soviet Union had developed nuclear weapons' capability before they developed their breeders. Japan, whose first breeder went critical 2 months ago, and Germany, which is in the beginning stages of building a breeder, do not possess nuclear weapons and have ratified the Non-Proliferation Treaty as non-nuclear-weapon states with a commitment not to develop these weapons in the future.

In examining these six situations, it appears that the administration's nuclear policies, which unalterably fuse the intent to develop breeders with a coexisting intent to make nuclear weapons, are not valid.

A nation will make a nuclear weapon to protect itself against the perceived threat—military, economic, political—of another nation or group of nations. If a nation is intent on fabricating a nuclear weapon it can do so through several different methods, all of which are less expensive than building a breeder reactor and then trying to convert the breeder fuel to weapons material. India, for example, built its atomic weapon in 1974 from a research reactor. There was an August report in the press that South Africa was just completing work on a nuclear weapon. The nation of South Africa has no civilian nuclear capability. Their projection is to have two nuclear reactors on line by 1985 for electrical power generation. However, South Africa is more likely to have a weapon in place long before that.

What the existing breeder nations all have in common is that they have highly developed economies that depend on a large and constant energy supply. What four out of six of these nations—except Germany and Japan—have in common is that they built their weapons before their breeders. With both weapons and breeders, the United States, Britain, and the Soviet Union have signed the Non-Proliferation Treaty with the commitment to reduce nuclear armaments. In tandem with this commitment is the promise to cooperate with nonnuclear-weapon signers of the treaty in the peaceful development of civilian nuclear power within those nations in exchange for the promise that those nations not develop nuclear weapons in the future. France, with both weapons and breeders, has to date refused to sign the Non-Proliferation Treaty.

Let us examine the case of these same six nations and what has prompted them to spend multitudinous time, money, and effort to develop breeder reactors.

France has 0.01 percent of the world's total proved reserves of crude oil and natural gas liquids, 0.1 percent of the world's proved reserves of coal, 0.21 percent of world natural gas reserves, and 3 percent of the free world's recoverable reserves of uranium—at $30/pound. France imports 99 percent of the oil and natural gas liquids it uses and 42 percent of the coal it consumes. The total energy picture for France is thus one of heavy dependence on imported oil and coal to maintain its technologically advanced economy. The breeder reactor offers France an alternative for a less dependent energy future. Considering this portrait, it is most unlikely that the United States' deferral of continued breeder construction could influence France in any way.

West Germany has 0.21 percent of the world's proven reserves of crude oil and natural gas liquids, 5.6 percent of world coal reserves, 0.32 percent of world natural gas reserves, and less than 0.05 percent of the free world's recoverable reserves of uranium—at $30/pound. Most of Germany's present coal requirements are met from domestic production, but Germany has to import 96 percent of the crude oil and natural gas liquids it consumes. Conventional nuclear power and breeder reactors will play an important role in Germany's ability to maintain a stable industrial economy in the future.

Japan is a severely energy dependent nation with insignificant petroleum reserves, 0.1 percent of the world's recoverable coal reserves, and 0.4 percent of the free world's recoverable reserves of uranium—at $30/pound. Japan is in a most vulnerable position, having to import 99.9 percent of the petroleum and natural gas liquids it consumes and 77 percent of the coal it uses. The Japanese have planned for extensive increases in nuclear energy production to keep the economy at a modest growth rate without resorting to drastic increases in oil imports. Japan has been worried about uranium supply in the past few years and is hopeful that reprocessing and recycling of spent fuel and breeders will stretch uranium reserves and give them some future relief from the albatross of oil imports.

In 1976, Great Britain imported 87 percent of the crude oil and natural gas liquids that it consumed but produced almost all of the coal it used. With the expansion of oil production from the North Sea, Britain is expected to become a net exporter of energy until perhaps 1990. Britain has one-tenth percent of the free world's recoverable reserves of uranium—at $30 per pound—and after 1990 it is expected to rely increasingly on nuclear power. In preparation for that time, they have a firmly established nuclear program which includes light water reactors, breeders, and both uranium enrichment and spent fuel reprocessing. They are presently contemplating expansion of their reprocessing capability to coincide with projected breeder commercializaton by the end of the century.

The Soviet Union has almost 12 percent of the world's total proved reserves of petroleum and natural gas liquids and 19.2 percent of the world's proved reserves of coal. No reliable estimate of Soviet uranium reserves is available. In 1976, the Soviet Union was a net exporter of both coal and petroleum. Although it appears from these statistics that the Soviet Union would be in a moderately secure energy position for the foreseeable future, the statistics do not present the entire picture. A major portion of Soviet fossil fuel reserves is located in eastern Siberia, as far north as the Arctic Sea. Thus development of these reserves will be exceedingly expensive. A recent Tass article stated that toward the end of this century the Soviet

Union will depend mainly on nuclear energy for continued expansion of energy supply. In preparation for that time, the Soviets have both uranium enrichment and nuclear fuel reprocessing capability in place as well as a demonstration size breeder reactor that has been in operation since 1972.

The United States has 5.73 percent of the world's total proved reserves of petroleum and natural gas liquids, 27.9 percent of world recoverable reserves of coal, and 28.3 percent of the free world's recoverable reserves of uranium—at $30 per pound. Although the United States has been a net exporter of coal, we imported 57 percent of the petroleum and natural gas liquids that we consumed last year, pushing our trade deficit to its highest point in history. Until April of this year, the United States had a timetable for breeder development which would have demonstrated and perfected that technology to a state of readiness in the event our future energy situation would warrant its commercialization and use. With the recent and drastic changes in our nuclear policy—such as the recommended deferral of the Clinch River breeder reactor—many experts believe we have jeopardized this country's energy future. Although we have large coal reserves, the myriad problems associated with mining, transporting, and burning coal make it an unacceptable energy source in many respects. Expanded nuclear production thus offers us one of the few viable alternatives to an ever-increasing dependence on imported oil.

Even our original timetable for construction of the demonstration breeder at Clinch River would have left the United States substantially behind other nations in breeder technology development. Our indefinite deferral of the Clinch River breeder will not convince energy-hungry nations that their breeder reactors are enhancing nuclear proliferation—the history of existing nuclear weapons' development proves this argument invalid. Therefore, a halt in our breeder development does nothing more than deprive us of technology that may well be needed but not available in the future.

To say that the decision of the United States concerning breeder development will have no real impact on nuclear proliferation is not to deny the very real existence of proliferation problems. However, the military problems of proliferation can be solved through prohibitions against the development of civilian technology. In order to address a problem of such complexity, the participation and cooperation of all world nations is necessary.

In the late 1950's two international organizations evolved, one which would attempt to address the dangers of nuclear proliferation and the other to deal with world concerns about economic stability. The first of these, the International Atomic Energy Agency (IAEA) was established in 1957. The basic principle behind the IAEA is to enlarge the useful and beneficial role of nuclear energy while actively deterring the misuse of nuclear material for weapons. In furtherance of IAEA goals, the Treaty on the Nonproliferation of Nuclear Weapons (1970) strengthened international commitments to share and continue to develop useful and safe nuclear technology while guarding against the use of nuclear material for weapons' purposes.

To date, although several nations either with present nuclear weapons' capability or with an industrial base strong enough to produce nuclear weapons have refused to become parties to the Treaty—Argentina, Brazil, Egypt, France, India, Israel, Pakistan, People's Republic of China, South Africa and Spain—the IAEA and the Non-Proliferation Treaty offer the best framework within which to pursue international nonproliferation goals. With our unilateral action to cancel breeder development we may have alienated many non-nuclear-weapon signers of the Treaty who view our new policy as an attempt to renege on the Treaty commitment to transfer peaceful nuclear technology. We would thus have undermined the very cooperation and sense of obligation the Treaty was designed to insure.

Along with concern about the problem of proliferation, there is growing awareness that energy deprivation and its accompanying economic instability could pressure a nation to resort to the use of a nuclear weapon. In 1960, the Organization for Economic Cooperation and Development (OECD) was founded to promote the highest sustainable economic growth and standard of living in member nations. In 1974 16 member nations of OECD further enunciated their economic concerns by forming the International Energy Agency (IEA) within the OECD framework. IEA proposes to achieve a common level of emergency self-sufficiency in oil supplies coupled with the development of a long-term program to reduce dependence on imported oil.

The emergence of these two international agencies—one to deter nuclear proliferation and one to contend with the problems of energy dependence and its effects on economic growth—is an indication of global comprehension of the dangers in both areas. It has not been an uncommon historical event for a nation to translate its internal economic stresses into external aggressive actions. History books are filled with accounts of nations going to war for a complex series of motivations, not the least of which has been the acquisition of warm water ports, important trade routes, colonies offering an outlet for manufactured products, or a source of raw materials.

The commercial and colonial rivalry among European nations before World War I is well known. And although World War II began with the German invasion of Poland, the decade preceding 1939 was filled with war preparations in the nations poorest in natural resources relative to the extent of their industries and their population. Germany, Italy, and Japan needed new markets, raw materials, and colonies—and they set out to acquire them.

History books chronicle the repeated instances in which economic needs have fanned the fires of war. We are familiar with names such as Canton, Silesia, the Bosphorus, the Dardanelles, the Suez Canal, and numerous others because the strategic economic importance of those areas has sparked endless historical conflicts.

Today, nations define their expectations in terms of energy rather than trade routes or colonies, but they still translate to economic self-sufficiency and survival.

Ultimately, then, it is obvious that the decision to defer breeder development in the United States is not a panacea to halt nuclear proliferation throughout the world. Civilian nuclear development—including development of the breeder reactor—is a natural step in the progression from finite energy sources to those more suited to the intense energy demands of modern industrial nations. It is not logical to link civilian nuclear development with weapons production—except perhaps in the sense that the lack of a reliable energy supply could create economic circumstances drastic enough to promote the use or threatened use of nuclear weapons. By continuing to stand with its head in the sand, the ostrich may create the very conditions from which it hides. A decision by the United States to discontinue development of breeder technology may in the final analysis encourage rather than limit nuclear proliferation.

The chronology of Science and Technology Committee activities on breeder program and Clinch River project follows:

CHRONOLOGY OF SCIENCE AND TECHNOLOGY COMMITTEE ACTIVITIES ON BREEDER PROGRAM AND CLINCH RIVER PROJECT

JANUARY

Received ERDA Briefings on Breeder Program since civilian nuclear R&D jurisdiction was new responsibility for the Committee.

FEBRUARY

Held Full Committee ERDA Authorization posture hearing on first Carter budget request for Breeder Program.

Held hearing with panel of outside experts on ERDA Nuclear Program.

Held Fossil and Nuclear Energy Subcommittee Authorization Hearings with ERDA witnesses on first Carter Budget request for Breeder Program funding. This funding included $150 million for the Clinich River Breeder Program.

MARCH

Received Testimony from industry and utility witnesses on status and emphasis of ERDA breeder program.

Industry: General Atomic, Exxon Nuclear, Allied-General Nuclear Service, Westinghouse, General Electric Company.

Utilities: Edison Electric Institute.

Received testimony from other outside witnesses including Environmentalists, and representatives of technical societies on the value of the breeder program.

Environmentalists: Friends of the Earth, Natural Resources, Defense Council, Environment Policy Center.

Societies: American Nuclear Energy Council.

Received additional material for the record from other interest groups.

Public Interest Research Group; American Public Power Association; Fusion Energy Foundation; and Stone and Webster Engineering Corporation.

All hearings are printed and available from the Committee.

Held special hearings on Ford Foundation/ Mitre Study "Nuclear Power: Issues and Choices" with six witnesses from study group. The Ford study served as rationale for Administration policy decision on Clinch River termination. The Subcommittee issued a report which included its findings on the study. The report, entitled, "A Report of the Nuclear Energy Policy Study Group" is printed and available from the Committee.

APRIL–MAY

Received briefings from ERDA on second (revised Carter budget) request for the Breeder.

MAY

Conducted Subcommittee mark-up with Subcommittee Amendments to first Carter Budget request since revised Administration levels for Breeder Base Program were not available. These amendments addressed Administration concerns by increasing levels for R&D on non-proliferation alternatives to uranium-plutonium fuel cycle.

Conducted Full Committee mark-up of ERDA Authorization for Breeder with qualification that Subcommittee would hold special hearings on Clinch River Project before taking bill to floor.

Visited Oak Ridge National Laboratory to review status of Clinch River Breeder Project cost and schedule.

MAY–JUNE

Conducted an extensive European Oversight Trip to survey breeder technology which included discussions with representatives of the International Atomic Energy Agency, the International Energy Agency, the International Institute for Applied Systems Analysis, the French Atomic Energy Commission and Western European scientists and engineers. Also visited the Phenix, the French Breeder Reactor, at Marcoule, and the West German Nuclear Research Lab at Julich. Discussions were held with the following:

IAEA

Ambassador Hon. Galen L. Stone, U.S. Representative; Dr. Hall, Deputy U.S. Representative.

Technical representatives of 10 countries including:

Dr. Morawiecki, Poland; Dr. Rainer, Austria; Dr. Delcoigne, Belgium; Dr. Cameron, United Kingdom; Dr. Shmelev, USSR; Dr. Hafinoya, Japan; Dr. Skjoldebrand, Sweden, and Dr. Krymm, France; (Representative from Norway—not listed); and Dr. Catlin, United States.

IIASA

Dr. Roger Levien, Director.

Prof. Wolfe Haefele, Deputy Director.

French Atomic Energy Commission

Dr. Giraud, Administrator General.

Super Phenix Breeder Component Testing Facility

Mr. Jean Masse, Chief.

Julich Nuclear Center, West Germany

Prof. Beckurts, Director.

JUNE

Held discussions with Science Policy representatives from France, West Germany, United Kingdom, and Japan on their breeder programs and their goals.

Solicited opinions of former Atomic Energy Commissioners on the question of terminating Clinch River Project.

Held discussions with prominent scientists from U.S. and abroad on the breeder program including such people as Dr. Edward Teller and Dr. Frank Press, Presidential Science Advisor.

Solicited opinions on merits and demerits of the U.S. commitment to breeder technology from 98 people including prominent scientists, high government officials, leading economists, businessmen, public interest advocates, utility representatives and heads of scientific and technical societies as well as former heads of the Atomic Energy Commission and Nuclear Regulatory Commission.

Conducted four days of hearings on Clinch River Project with testimony from Dr. Schlesinger, ERDA, industry, the utilities, environmental groups and independent witnesses.

Concluded hearings with Subcommittee and Full Committee votes to retain Clinch River funding at $150 million, the level of the first Carter budget request.

Chairman Teague had private discussions with the following individuals on the Breeder question:

Dr. James Schlesinger, Secretary Designate;
Mr. Jack O'Leary, Head, FEA;
Dr. Jim Elms, ERDA Consultant;
Dr. Robert Seamans, Former Administrator, ERDA;
Mr. Howard Brown, Former Administrative Officer, AEC;
Dr. Ted Roberts, General Electric, former Director Nuclear Programs, ERDA;
Dr. Stubenrauch, West Germany;
Dr. Denis Bauchard, France;
Dr. Frank Press, Presidential Science Adviser;
Mr. Bob Fri, Acting Administrator, ERDA;
Former AEC Chairmen: David Lilienthal; John McCone; Glenn Seaborg; and Dixie Lee Ray.
Gen. James Gavin, Chairman of the Board, Arthur D. Little and Company; and
Dr. Edward Teller.

Madam Chairman, I yield such time as he may consume to the chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Madam Chairman, I rise in support of the bill, H.R. 6796, the ERDA Authorization for fiscal year 1978.

I urge all of my colleagues to support this bill because of the important new energy research programs which are included. Passage of this bill will provide the funds to achieve breakthroughs in many energy consumption and production areas. I am convinced that an aggressive energy R. & D. program is the key to providing the energy required for our Nation in the years ahead. The policy that we establish today is of great potential benefit as we challenge our greatest asset, human resources, to find better ways of using our finite natural resources such as fossil fuels and uranium. For example, in addition to the authorization for ERDA for the next fiscal year, ERDA will also be authorized to issue loan guarantees for demonstrating new energy technologies, a program for accelerated automobile R. &. D., a loan and grants program for municipal waste reprocessing, and technical amendments to the geothermal loan guarantee program.

I plan to go over the highlights of the program which our subcommittee, the Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee. worked on in its deliberations of this bill. First, the ERDA authorization in fossil energy development. The committee increased operating expenses for coal by 37 percent over the fiscal year 1977 estimated expenditures. Oil and gas operating expenses were increased by 96 percent over the fiscal year 1977 expenditure level. Finally, programs in oil shale were increased by 33 percent over the fiscal 1977 level.

For fossil energy plant and capital expenses, the committee increased the authorization by 208 percent over the 1977 authorization. This is $105 million below the request made by the administration. The committee took this approach in order to explore other methods of demonstrating new coal technologies before committing the country to ERDA's original coal demonstration plant program. Therefore, the committee has authorized an intensive study of a large test facility, called the high Btu coal gasification test facility.

A high Btu coal gasification test facility would demonstrate and evaluate first and second generation gasification technologies in a single installation. The advantages of this arrangment are at least twofold: More rapid full size testing of a number of alternative high Btu technologies; and economic and technical information that can be compared easily. A GOCO arrangement is proposed as a financing mechanism to avoid the complications and time delays of the present cost-sharing arrangement in the demonstration program. Certainly, the present demonstration program in ERDA should be preserved whenever feasible; however, the test facility offers an important option that ERDA agreees is attractive.

The present demonstration program for high Btu gasification processes proposes building stand-alone facilities for each of several second generation gasification processes. Each facility could cost up to $600 million. Much of the equipment at these facilities will duplicate each other. This will occur particularly for coal handling, storage, preparation and delivery systems for gasifiers. Considerable duplications may also in the handling of the product and waste streams for the gasifiers.

The single site and single system of coal and waste handling equipment of a test facility would avoid the duplication of the present demonstration plant program. Several full size units of different second generation gasifiers would be located on the site. Common feeds and controls would allow the different product and waste streams of the gasifiers to be examined from a common base. This would facilitate and accelerate technical, environmental, and economic evaluations and comparisons among gasifiers. Ultimate commercialization decisions for these technologies would thus be assisted and accelerated at minimum cost.

ERDA has expressed their support for this concept in a letter from Dr. Phillip White dated May 2, 1977. In the letter ERDA agreed with many of the potential advantages which the committee sees in such a facility. ERDA also agreed that before any full commitment is made to such a facility that his concept must be studied completely and compared with the phase one design studies now proceeding under ERDA's demonstration plant program for high Btu gas. In approximately 15 to 20 months the studies of all demonstration possibilities will be completed, and by that time the Congress will have had enough information to decide which approach is best.

In addition, the committee is continuing to authorize or newly authorize the following demonstration projects:

Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined. The committee authorized $6 million for this project, which will consist of two demonstration plants approximately one-third the size of commercial facilities. These plants will be used for individual industrial users of energy, such as kilns or glass manufacturers.

Project 78–d–2, solvent refined coal demonstration plant. The committee authorized $30 million for this project to get a plant underway for a coal technology which can be built now. This demonstration-size solvent refined coal plant would make solids from coal, and is thought attractive by utilities which presently burn coal, as well as by the steel and aluminum industries which require a high grade coke for their processes.

Project 76–1–b, high Btu synthetic pipeline gas demonstration plant, site undetermined. The committee authorized an additional $30 million for this project. It will demonstrate second generation high Btu coal gasification technology, under the original philosophy of ERDA's coal demonstration program.

Project 76–1–c, low Btu fuel gas demonstration plant, site undetermined. The committee fully authorized $131.25 million for fiscal year 1978. This project will be used to demonstrate the low Btu fuel gas technology, under ERDA's original coal demonstration program.

Second, I wish to discuss the ERDA authorization for nuclear energy research, development, and demonstration. The committee authorized new programs and funding in order to provide numerous alternatives in nuclear energy to answer many of the questions raised about different nuclear technologies. However, the actual authorization reported out of the committee is 2.5 percent less than the fiscal year 1977 level. This is mostly due to the administration's decision to redesign the add-on uranium enrichment plant, to convert it to the new gas centrifuge technology. This allowed the committee to delay further authorization of this plant until subsequent years. After final cost estimates of this new plant are determined, the committee will be able to more accurately authorize this.

By far the most controversial item that the committee has handled in this authorization is in the liquid metal fast breeder reactor program. The committee has studied this program extensively in its original authorization hearings in February and March. The committee has had 4 additional days of hearings in June. The committee has visited the site of the Clinch River breeder reactor plant in Oak Ridge, Tenn., and toured the Phenix reactor which is similar to the size of the Clinch River demonstration plant in the south of France.

Because of discussion both domestically and internationally, the committee feels that the LMFBR base program is adequately funded and fully justified. In fact, our program provides many areas in which the United States is far ahead of the rest of the world. The committee therefore recommends that the base program be funded at the level of $333 million.

With respect to the Clinch River breeder reactor plant, the committee in this bill has authorized an additional $150 million. This represents the level of funding in the February 22 budget request. The subsequent request by the administration to indefinitely delay the CRBR in April, was not justified in the view of the committee. After completing 4 days of hearings on the Clinch River demonstration plant where we heard from Dr. James Schlesinger and several outside witnesses, the committee voted to retain the budget level recommended by the administration in February.

For light water reactor development the committee provided $525.3 million in operating expenses and $6.5 million in plant and capital equipment. This represents a decrease of $50 million which represents the termination of activities for designing fuel reprocessing facilities. The committee also added $3.5 million for architect and engineering work on an advanced isotope separation facility. Advanced isotope separation technology is very attractive because of its potential to conserve uranium resources. The major goal of the program is to reduce the cost of uranium separation by the development of technologies which are significantly less capital intensive and require less energy than current methods. Detailed, independent cost analyses for the major processes being pursued have shown their potential to reduce the cost of uranium enrichment by 50 to 75 percent compared to existing technologies. The potentially lower cost systems have significant conservation benefits.

For waste management research and development the committee has provided $185 million in operating expenses and $10 million in plant and capital equipment. Included is an additional $11 million for domestic waste management research, mainly to investigate the problems associated with alternate fuel cycles. Also added by the committee was $20 million for an international spent fuel storage program, which would significantly aid the Nation's new initiative in international nonproliferation cooperation. Finally, the committee added $1 million for a study of the West Valley, N.Y., facility and the problems in handling the high-level liquid wastes there. Another $1 million was added by the committee for a companion study in the environment and safety category.

In the area of other advance reactor concepts the committee provided $84.2 million in operating expense. The committee added $15 million for work in the high-temperature gas-cooled reactor program utilizing low-enriched uranium. The committee felt that the issues of nuclear materials diversion and weapons proliferation make it desirable to consider low-enrichment uranium—LEU—fuels for HTGR. While the preferred HTGR fuel cycle for resource utilization and economics is the high-enrichment uranium-thorium cycle, the flexibility afforded by the HTGR coated particle fuel design allows the use of attractive alternate cycles having special advantages under different circumstances.

In the area of advanced fuel cycle concepts the committee provided $92.4 million in operating expenses. This represents an addition by the committee of $15.5 million for an investigation of the thorium fuel cycle. The main attraction of thorium for use in breeders is its ability to be denatured, that is, mixing U–233 and U–238. This approach offers difficulty in separating the fissile material, severely complicating nuclear weapons production from this material.

The committee authorized $23.3 million for operating expenses for nuclear energy assessments. The committee added $7 million to the authorization request for this area in order to fully respond to the President's new policy on nonproliferation. The money will be used for studies dealing with the international fuel cycle evaluation program which has been recently initiated. There are approximately 17 studies involved.

In magnetic fusion, the committee authorized $207.9 million in operating expenses and $118.2 million in plant and capital equipment. This represents an increase of $25.4 million over the administration's request. This increase includes $10 million for funds which are required to prevent serious slippage in achieving near term milestones in the Tokamak and Mirror approaches to magnetic fusion. The committee also added $14.4 million to initiate design and construction of fusion materials irridiation test facility. This facility is required to support the objective of operating fusion test reactor by the mid-1980's, and the prototype reactor in the 1990's. The committee also recommends that the rescission for the 14MeV intense neutron source facility at Los Alamos Laboratories be reinstated. The necessary legislative language to accomplish this is in this bill.

Finally, the committee provided for naval reactor development an authorization of $211.7 million in operating expenses. The committee added the naval reactor program to this bill because of the continuity of effort required for energy power systems fueled by nuclear energy. The amount authorized is that amount requested by the administration. Testimony on this program was received by the committee during its authorization hearings.

The naval reactor development program is a continuing program of research and development of power reactors. The development efforts being conducted today on the design of advanced reactors and improvements to existing ones utilize a technology base built to a very large extent on earlier research and development. Since this early work, this activity has held a direct linkage with commercial development of land-based power reactors.

The output power density of the reactors being developed is small compared to nuclear powerplants, but the applications go far beyond powering naval vessels. For example, these small reactors are being considered for civil applications such as pumping on the ocean floor,

where lightweight, high reliability energy systems are required.

The primary nature of the program is energy research and development, and this keeps it in the mainline of other energy programs in ERDA, which are also within the jurisdiction of our committee.

The last item I wish to discuss is title V of the bill which deals with the basis for Government's charge for uranium enrichment services. This new title V allows ERDA to charge a fair value for uranium enrichment services. Prices based upon recovery of the Government's costs are significantly lower than can reasonably be expected from any future source. This is because ERDA's current prices do not include a provision for Federal, State and local taxes, insurance, and an equity return. Uranium enriching is the only step in the nuclear fuel cycle that is not privately owned and priced on a commercial basis.

The enactment of this new title allows ERDA to obtain fair value for enriching services sold to domestic—approximately 20 percent of services at the present time—and foreign customers. The anticipated additional revenue as it would accrue to the Government during the period of the fiscal year 1978 authorization is estimated to be approximately $120 million.

This provision was actually agreed to by both House and Senate last year, but was not embraced in the appropriations because of the failure to adopt the fiscal year 1977 ERDA authorization conference report prior to adjournment sine die. Therefore, both Houses of Congress have already passed this bill at least once and I hope this Congress will act similarly.

In conclusion, I urge passage of this legislation because of its many new and strong initiatives for the new frontiers in energy. I hope that my colleagues will carefully consider this and vote speedy passage of the bill, H.R. 6796.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. Madam Chairman, I yield to the gentleman from Washington (Mr. McCormack), the chairman of the other energy subcommittee, the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration. He is a very valuable member of my subcommittee.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

I want to congratulate him for the outstanding job he has done in preparing this authorization bill in these vital areas of energy research, development, and demonstration.

I would like to raise a certain specific point which I think is important now to have in the Record.

Madam Chairman, years of research have gone into developing chemical processes to convert coal into clean boiler and turbine fuels. Solvent refining, the most promising and well tested process, has been under development since 1962 supported by ERDA. Since 1974, ERDA's large-scale pilot plant at Fort Lewis, Wash., has been operated successfully producing SRC fuel. Recently, this plant was converted from a solid to liquid process and 3,000 tons of this low-sulfur and low-ash fuel were successfully burned in a commercial powerplant test.

Utilizing the advanced "recycle SRC" technology which allows the natural catalysts found in high-sulfur bituminous coal to increase the conversion, the Fort Lewis pilot plant is now producing 3,000 barrels of liquid SRC fuel. Combustion tests indicate with most of the sulfur and nitrogen and all of the ash removed, the liquid SRC fuel made from eastern high-sulfur coal will comply with the stringent clean air standards of the Los Angeles Basin.

Located near the coal source, a full scale solvent refining plant would convert 30,000 tons per day of high-sulfur coal into the equivalent of a 100,000 barrels per day of clean utility and industrial fuels and pipeline gas. This would eliminate the requirement for stack gas scrubbers and disposal of the sludge and fly ash at the powerplant. Liquid SRC fuel means lower transportation and operating and maintenance costs as well as avoiding costly conversion. Removal of the pollutants in coal can be better controlled in the solvent refining plant. Even the ash is removed as a rock-like inert slag. With the use of a domestic resource and high initial investment, SRC fuels will be largely immune to the escalating pressures on world oil and can serve to reduce domestic dependence upon foreign residual fuel oil.

The important pilot plant data gathering on the technical potential of solvent refining is now being completed.

The next critical step is a commercial scale demonstration with full size equipment. This must be done before an industry can proceed. The facility must be large enough to confirm process viability; and in fact should be a module plant that after demonstration can be expanded to full size—several modules. This approach will assure rapid availability of SRC fuels for utility and industry conversion to coal. With program commitment in fiscal year 1979, the SRC demonstration module feeding 6,000 T/D coal producing the equivalent of 20,000 bbl/day, could begin in 1981.

The SRC technology developed by ERDA is publicly owned, and accelerated demonstration can lead to similar plants in the mid to latter 1980's to meet our coal conversion and environmental needs.

It is the committee's intent that the Federal Government support the most advanced version of the solvent refining technology through this authorization?

Mr. FLOWERS. Madam Chairman, I would say to my friend, the gentleman from Washington (Mr. McCormack), that this committee wants the country to have the benefits of a reliable SRC process or processes, whether it be solid or liquid, or both. Obviously, the recycle SRC process which produces a liquid product is the more advanced version of the technology, but we currently do not have as complete a data base on it as we have on the SRC I.

The current tests on the recycle SRC process will be completed in the near future. The committee expects ERDA to evaluate this data and select the process or processes which will serve the national interest. In developing the recommendation, ERDA is to consider markets, the urgent national timetable for conversion to coal in the near future and compliance with environmental requirements, and the size plant needed to demonstrate commercial viability with potential recovery of the Government's investment.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for that statement.

Mr. FLOWERS. Madam Chairman, I thank the gentleman from Washington (Mr. McCormack) for his comments.

Mr. DAVIS. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I am happy to yield to the gentleman from South Carolina (Mr. Davis).

Mr. DAVIS. Madam Chairman, I want to thank the gentleman from Alabama (Mr. Flowers) for yielding me this time, and I want to congratulate him and commend him for the leadership he has provided on this subcommittee this year, the Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, and I rise in support of the bill.

Madam Chairman, my State of South Carolina will, if current forecasts are correct, be more than 50 percent dependent on nuclear energy by the year 2000. We have been supporters of the Savannah River project, which is a Government facility dedicated to the production of materials essential for our nuclear deterrent capability as well as research and development on civilian nuclear energy programs. We have also encouraged other nuclear programs, such as the nuclear fuel reprocessing plant, in Barnwell, S.C., which today stands partially completed and idle after construction started in 1970 with many assurances from the Federal Government.

On April 7, President Carter announced that Barnwell would receive neither Federal encouragement nor funding to operate as a commercial reprocessing venture. Aside from the economic implications of this decision on South Carolina, there are broader implications that influence international and domestic policies related to nuclear energy development and the control of nuclear proliferation.

Other nations have announced that they are moving ahead on reprocessing technology development irrespective of any unilateral actions by the United States. This raises serious questions as to whether the United States should completely withdraw all reprocessing technology development programs or continue selected programs in the interest of continuing to exert leadership on the actions of other nations through a positive rather than a unilateral negative approach. Clearly, the best place to carry forward any reprocessing evaluations on technology related to safeguards or proliferation resistant fuel cycles is at the Barnwell facility.

Domestically, utilities in South Carolina and nationwide have expressed grave reservations about the merits of a "throw-away fuel cycle," where spent fuel rods are taken from reactors and discarded as waste instead of reprocessing them to recover the unused uranium and valuable plutonium. This reservation

about national policy in the backend of the nuclear fuel cycle has resulted in a virtual moratorium on utilities ordering more nuclear plants at a time when President Carter and Dr. Schlesinger are both calling for a dramatic increase in our domestic nuclear online capacity if future energy demands are to be met.

International and domestic pressures necessitate that we use the Barnwell facility to shape international safeguards programs for other nations to follow while at the same time preserving the reprocessing option for possible domestic use at some future date. With this in mind, I urge my colleagues in the House to accept the Senate authorization bill provisions on Barnwell which provide $1 million to Dr. Schlesinger to study future uses of the facility as well as $13 million for research and development programs aimed at preserving the technical team at Barnwell until optional, noncommercial uses for that unique facility can be developed.

Mr. FLOWERS. Madam Chairman, I yield momentarily to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Madam Chairman, I thank the gentleman for yielding and I would merely like to say that on behalf of the minority of the Committee on Armed Services that we have no requests for time and that I yield back the balance of my time.

Mr. FLOWERS. Madam Chairman, I have no further requests for time and reserve the balance of my time.

Madam Chairman, I reserve the balance of my time.

Mr. CHARLES H. WILSON of California. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in view of the understanding that has been arrived at by the chairman of the full Committee on Armed Services, that there is no requirement or necessity for us to exercise our right to use time, I want to compliment the gentleman from Texas, (Mr. TEAGUE), the chairman of the Committee on Science and Technology, and all of the members on his committee for working in cooperation with us.

Madam Chairman, I yield back the balance of my time.

Mr. TEAGUE. Madam Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. MCCORMACK), the chairman of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration.

Mr. McCORMACK. Madam Chairman, first of all I want to express my congratulations to the chairman of the Committee on Science and Technology, the gentleman from Texas (Mr. TEAGUE), for the leadership he has given in putting this very large and very complex bill together. This is a major piece of legislation. When all is said and done this bill will go down in history as the most important bill that has been before the Congress this year, last year, or next year.

I also want to commend and congratulate the distinguished gentleman from Alabama (Mr. FLOWERS) for his chairmanship of the Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration. It is a pleasure to work with him. Our two subcommittees have worked as a team throughout this year preparing this authorization bill.

Madam Chairman, H.R. 6796 authorizes funds for the Energy Research and Development Administration which is soon to become part of the new Department of Energy. The ERDA will provide to the DOE the foundation for the technology research and demonstration programs so critical to a strengthened internal energy posture for this country. This new Agency, the DOE, has pulled together many diverse functions relating to energy in addition to taking over all ERDA functions. Many are closely related to the ERDA research, development, and demonstration functions, and others are not. This bill reflects the concerted and studied judgment of the members of the Committee on Science and Technology on the importance to the Nation of energy research efforts and their importance to other issues of this great Nation. It is apparent from our many hours of hearings, visits to universities and industry, and consultations with other countries that we have—except for nuclear energy—yet to become leaders in energy research, but for a great nation that should be our goal.

Authorizing committees such as this one, the Committee on Science and Technology, have the responsibility for constructing programs with proper oversight control to assure that all parts of the energy spectrum are executed in a timely manner to support our national energy objectives. It is also an authorization committee's responsibility to develop an understanding of what science and technology can do to contribute to our many national energy goals.

This we have done. The recommended funding levels will provide the Nation with an aggressive, well-balanced research, development and demonstration effort for solar, geothermal, conservation, and basic energy sciences as well as for fossil and nuclear energy.

Title I of H.R. 6796 authorizes funds for ERDA for fiscal year 1978. If we put aside for the moment, operating expenses for nuclear energy and all construction, the authorization is just about 1½ times the estimated fiscal year 1977 expenditure. This increase covers fossil energy—coal, oil, and gas, advanced energy technologies, conservation R. & D., environment and safety, other energy programs and program management and support.

I firmly believe that the authorization approved by the Committee on Science and Technology represents an aggressive and efficient pace for moving forward in solar energy, geothermal energy, energy conservation and basic energy sciences. I deeply feel the impatience of many Members for successful scientific breakthrough and technology advanced because I, too, am impatient. However, there is well-established evidence that there are serious limitations to the speed with which one can increase the size of research programs. Creating false expectations hurts us all and authorizing expenditures beyond those limits of efficient use hurts the credibility of the legislative process.

Madam Chairman, the Committee on Science and Technology has struck a difficult balance between the many demands on scientific and technological agencies and institutions in consideration of this bill. The national need for greater international energy independence, essential for the independent foreign policy of a world power, the threatening time scale of diminishing traditional energy resources, the size of energy research programs as insurance against impending energy shortages and the well-established impact on employment that can be caused by energy shortages. We have balanced diverse theories of energy growth and national lifestyle as well as possible, and must emphasize that these programs are essential insurance programs for whatever future lies before us. If the future turns out not to fit any one particular theory of energy demand or supply we must have well-established options to turn to.

It is difficult for the people of the United States to identify with the energy crisis even though the well informed leadership of this Nation has clearly stated the basic energy problem. The many everyday signals which are part of the life of this Nation do not read either crisis shortage and, therefore, the establishment of policy consensus in many areas is and will be difficult. Nonetheless, I believe we can all agree on the benefit of establishing technology options or insurance for our energy future.

The specific amounts authorized for appropriation and the many new program initiatives undertaken by the committee are firmly grounded in the hearings and oversight process. The Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration held 11 hearings on the authorization bill. Testimony was heard from ERDA witnesses, other Federal agencies as well as representatives from State governments, private industry, many universities, and other institutions. Our staff and Members attended numerous technical meetings in many parts of the country, and visited several of the key private and public centers of energy research as well as attending and contributing to the many energy policy meetings which proliferated on Capital Hill this year.

Madam Chairman, I again want to offer my congratulations and thanks to Chairman "TIGER" TEAGUE for the outstanding leadership he has provided for our committee during the consideration of the ERDA authorization bill. I also commend my colleagues on the Science and Technology Committee for this extra effort and penetrating questioning of witness. All of this has led to an excellent bill.

Madam Chairman, the areas of jurisdiction for which I have primary respon-

sibility are solar energy, energy conservation, geothermal energy, basic energy sciences, high energy physics and a number of miscellaneous programs. I should like to emphasize a few of these. In the first place, I should like to point out that the solar energy program under the direction of the Committee on Science and Technology has continued to accelerate.

In fiscal year 1971, all this country was spending on solar energy research and development was about $1.2 million. In fiscal year 1975, ERDA first year in operation, we spent about $50 million. This fiscal year, Congress has authorized $319.7 million for fiscal year 1977. This means that in 6 years we have increased the funding for solar energy research and development by almost 300-fold. In recent years, industry, private institutions, and other governmental entities have been stimulated to make concomitant expenditures toward the commercialization of solar energy.

For fiscal year 1978, the committee recommends an increase of $74.05 million in authorization for the ERDA Solar Energy Division. This recommended action increased the administration request of $298.25 million to the Science and Technology Committee's recommendation of $372.3 million. This increase will permit a significant expansion of the ERDA research, development, and demonstration activities in solar energy technologies.

Mr. CARTER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

About solar energy, I understand that photovoltaic cells offer a great promise in the future as an energy resource.

Mr. McCORMACK. There is a potential long-range viability for photovoltaics. However, it is not nearly competitive now, and the photovoltaic technologies that may be competitive in the future are still in the research stage.

Mr. CARTER. It has been forecast that if one-tenth of the State of Arizona—the State is approximately 100,000 square miles in area—were devoted to photovoltaic cells, there would be enough energy generated to furnish the entire United States. Has the gentleman heard this statement made?

Mr. McCORMACK. I have heard statements of this sort made, and it is no doubt true that the sunshine impinging on a very large area, if it could be converted into useful energy and distributed where it is needed, would serve the energy needs of the people of the entire world.

Mr. CARTER. If the gentleman would yield just further for one other observation, it is true that the rays of the Sun are converted directly into an electric current; is that not correct?

Mr. McCORMACK. In the case of photovoltaics, yes, that is correct.

Mr. CARTER. I thank the gentleman.

Mr. McCORMACK. I was going to go directly to this point at this time, and would like to insert a table that shows the funding history of our solar program:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, H.R. 6796

[In thousands of dollars]

	Actual fiscal year 1976	Estimated fiscal year 1977	ERDA request for fiscal year 1978	Committee action	Total committee authorization
Solar energy development:					
Direct thermal application:					
Heating and cooling of buildings	39,016	114,500	87,900	+4,000	91,900
Agricultural and process heat	4,694	11,000	10,300		10,300
Total Direct Thermal Application	43,710	125,500	98,200	+4,000	102,200
Technology support and utilization	2,338	13,000	9,000		9,000
Solar electric applications:					
Solar thermal	15,600	49,400	55,600		55,600
Photovoltaics	21,559	51,000	52,200	+5,000	57,200
Wind	14,403	2,3000	24,300	+4,000	28,300
Ocean thermal	6,100	18,000	25,300	+19,800	45,100
Satellite solar power systems	0	0	0	+5,000	5,000
Total solar electric applications	57,662	139,700	157,400	+33,800	191,200
Fuels from biomass	5,140	8,000	19,500	+1,500	21,000
Total operating expenses, solar energy development	108,850	286,200	284,100	+39,300	323,400
Capital equipment, solar energy development	1,000	8,500	7,900		7,900
Plant, solar energy development	5,000	25,000	6,250	+34,750	41,000
Total solar energy development	114,850	319,700	298,250	+74,050	372,300

In reviewing the budget figures for fiscal year 1978 the committee in its actions attempted to follow the guidelines laid out in Public Law 93–409 the Solar Heating and Cooling and Demonstration Act of 1974 and Public Law 93–473, the Solar Energy Research, Development, and Demonstration Act of 1974. These clear expressions of the will of the Congress, signaled a strong desire of the people of this country to develop the solar energy technologies and encourage their widespread utilization as soon as they are economically viable. The committee feels that the budget and programs it recommends this year are implementing these public laws, and will utilize the available talent and resources in an efficient and effective manner. In short, it is a maximum effort to develop the wide range of solar technologies effectively.

The major components of the ERDA solar energy program are: Thermal applications, solar electric applications, fuels from biomass, and technology support and utilization. In addition to funding the operating expenses for these solar energy technologies, the committee recommends the provision of plant and capital equipment to be used in these research, development, and demonstration activities.

It is well known that approximately 25 percent of all the energy consumed in this country is used for heating, cooling, and supplying hot water for buildings. The primary purpose of the solar heating and cooling program is to work with industry in the development of early introduction of economically competitive and environmentally acceptable solar energy systems which can impact greatly on this large sector of energy consumption. A key portion of this program is the joint ERDA/HUD demonstration program.

The objectives of the demonstration program which were set down by Public Law 93–409, the Solar Heating and Cooling Demonstration Act of 1974, are to stimulate solar energy utilization: Create a reliable data base for widespread dissemination to all potential users and identify legal and regulatory barriers which could impede solar energy market penetration.

By the end of fiscal year 1977, the demonstration program will have completed the third cycle of the five cycles set down by Public Law 93–409. Over 5,000 demonstratioh units have now been awarded by ERDA, putting the program well ahead of the schedule set down by law. The committee increased the recommended authorization for the heating and cooling of buildings program by $4 million bringing the total up to $91.9 million for 1978. This additional $4 million would support research in solar cooling, and in the use of high temperature concentrating collectors for industrial process heat applications.

The committee increased the recommended authorization for solar electric applications by $33.8 million above the administration's budget request. Benefiting from this increase will be primarily the ocean thermal, photovoltaics, wind and satellite solar power systems. The

increases will help bring these programs on schedule and provide a budget level more consistent with the high priority that ERDA places on solar electric applications in its energy plan for the Nation's future.

The solar electric category is comprised of the subcategories of solar thermal conversion, photovoltaics or solarcells, wind energy conversion, ocean thermal energy conversion, and satellite solar power systems. The committee authorized increases in each of these categories, except for solar thermal for which the committee left the operating expenses at the requested level, but raised plant and capital equipment related to this program by $34.5 million. The committee increases were intended to accomplish specific objectives.

We are pushing photovoltaic technology as rapidly as possible.

It is my understanding that there will be an amendment offered on the floor to add money for photovoltaics. I will oppose the amendment at that time. I believe that, with the $5 million added by the Committee on Science and Technology to fund the construction of five photovoltaic concentrating systems designs, for testing, and evaluation, there is all the funding authority that ERDA can use in fiscal year 1978. For the wind energy conversion program, the committee added $4 million to support parallel turbine designs in each of three types of small wind machines which have been identified as having potential for early commercialization. They are the 2 kw, and 8 kw, and the 40 kw machine design. These small machines could have many rural, residential, and farm applications.

The committee added a new category to solar electric applications and that is satellite solar power systems. The committee action of funding these new programs will be $5 million, will initiate a joint program in ERDA and NASA for satellite solar power systems technology development. The committee feels that insufficient effort was planned to explore the technologies essential to the future demonstration of satellite solar power system. Based on the recommendations of an ERDA study, $5 million was added to the fiscal year 1978 NASA authorization for technology in satellite solar power. The $5 million the committee added to this ERDA authorization will fund areas of this technology development for which ERDA has specific expertise.

The committee greatly increased funding by $19.8 million for the ocean thermal program to accelerate the base line program by $9.7 million as well as initiate parallel work on a SMWe OTEC tropic ocean grazing pilot plant for the production of energy intensive products, such as ammonia. This $10.1 million the committee recommends for these parallel efforts will put ERDA well on the way to having this pilot plant in the water by the end of 1981. The committee feels that these complementing thrusts will greatly increase the chances for success in the OTEC program.

The committee recommends restoring $34.75 million of the funding for project 76–2–b, the 10 Mwe central receiver solar thermal powerplant, that will be built in Barstow, Calif. This action brings the total fiscal year 1978 authorization for the project up to $41 million. This funding level will allow ERDA to bring the project back to schedule for all components except for the heliostats. The schedule slippage for heliostats will allow for further testing of the heliostats at the solar thermal test facility at the Sandia Laboratory.

The final committee change in the requested budget for the solar energy program is for the fuels from biomass program. The committee increased this request by $1.5 million for fermentation and thermochemical production of liquid transportation fuel, such as gasohol.

In total, Madam Chairman, we increased the administration's request for $298 million for solar energy to $372 million.

Next, I would like to discuss geothermal energy and insert a funding table at this point:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, H.R. 6796

[In thousands of dollars]

	Actual fiscal year 1976	Estimated fiscal year 1977	ERDA request for fiscal year 1978	Committee action	Total committee authorization
Geothermal energy development:					
Engineering research and development	9,750	16,000	15,500	+15,000	30,500
Resource exploration and assessment	4,520	14,000	17,600	----------	17,600
Hydrothermal technology applications	8,550	16,000	19,900	+5,000	24,900
Advanced technology applications	4,730	14,500	12,400	+12,400	24,800
Utilization experiments	0	0	12,000	+6,000	18,000
Environmental control and institutional studies	3,220	5,200	8,100	----------	8,100
Total operating expenses, geothermal energy development	30,770	65,700	85,500	+38,400	123,900
Capital equipment, geothermal energy development	620	2,350	2,500	----------	2,500
Total geothermal energy development	31,390	68,050	88,000	+38,400	126,400

Geothermal energy has been used in many countries of the world for a number of years, but in practice it has been mainly the rare dry steam deposits which have been used to generate electricity. The Geothermal Energy Research, Development and Demonstration Act of 1974, Public Law 93–410, laid out goals for developing presently unused geothermal resources such as hot dry rock, geopressured, and hydrothermal systems.

The committee recommendation increasing the fiscal year 1978 geothermal budget by $38.4 million over the budget requested by the administration. This increase brings the total authorization for geothermal energy development to $126.4 million. This represents a 400-fold increase over the geothermal budget of just 2 years ago, when it was $31.3 million.

The geothermal program consists of six subprograms: engineering research and development, resource exploration and assessment, hydrothermal application, advanced technology applications, utilization experiments, and environmental control and institutional studies.

The committee recommends an increase of $15 million for a total of $30.5 million for engineering research and development. This increase reflects the initation of a low head hydroelectric power program which we have included in the engineering R. & D. category. The committee understands that there remains undeveloped approximately 300 million kilowatts of hydroelectric power in the Central United States. Of that estimate, a potential of 200-million kilowatts may be practical from small low head hydroelectric facilities of less than 5,000 kilowatts each. This program is structured to begin tapping this resource. The program will include potential low head hydroelectric site assessment; technology research, development and demonstration; institutional and environmental considerations and cooperative assistance.

The committee did not increase the ERDA request for resource exploration and assessment, since this joint ERDA, U.S. Geologic Survey, program is proceeding aggressively. The committee increased the hydrothermal technology application program by $5 million. This increase will allow for an acceleration of the nonelectric use of geothermal heat by four potential industrial applications: industrial processing, commercial building heating and cooling, residential space conditioning and agribusiness.

The committee increased advanced technology applications by $12.4 million to a total of $24.8 million. This increase is broken down into $10.3 million additional for geopressured resources and $2.1 million additional for hot dry rock resources. The geopressured resources increase will support two additional wells to be drilled and production-tested in two additional prime areas on the Gulf coast. The increase for hot dry rock reflects the committee's belief that admin-

istration-requested funding did not adequately reflect the long-term potential of this vast resource.

The committee has increased the funding for utilization experiments from the administration request of $12 million to a recommended total of $18 million. This is a new subprogram which contains funds to begin construction, in cooperation with industry, of a 50 MWe commercial-scale geothermal powerplant. The additional $6 million increase is to be used for architectural engineering design and long lead procurement for construction of a second 50 MWe geothermal demonstration plant.

The committee did not increase the request for environmental control and institutional studies. The request for $8.1 million for this program reflected a 50-percent increase over fiscal year 1977, which indicates the ERDA's commitment to accelerating this program—a program which addresses some of the most serious barriers to geothermal development.

With regard to energy conservation, the committee found that over the last few years it has become a widely used term which means different things to different people. Before discussing the specifics of the ERDA conservation research and development program it would be worthwhile to spend a minute clarifying what energy conservation is and how the ERDA program efforts are linked to our future lifestyle and current energy conservation efforts.

The 1973–74 oil embargo called for heroic measures to reduce oil consumption and because of this vivid experience many see energy conservation as the giving up or curtailment of activities and public services. The 55-mile-per-hour speed limit and less air-conditioning and heating in homes and public buildings are constant reminders of this form of conservation. To others conservation is the use of more efficient equipment in industry and in homes. The suppliers of energy also have a definition of conservation. To them it means the extraction of more oil, gas, coal, or uranium from known resources.

Although these three views of conservation are strikingly different, energy conservation encompasses them all and more. Energy conservation requires that this country expand its conservation ethic and find ways to scale down energy needs. In our open society the first essential is that energy consumers understand both the national security importance of reduced foreign energy imports and the personal economic benefits from conservation measures so simple as the installation of storm windows.

Second, energy conservation requires the conversion of facilities, industrial processes, and equipment to provide equivalent service, but with less energy. Buildings, automobiles, and equipment of all kinds can usually be made more energy-efficient through modest investment. Year after year, well-insulated buildings conserve energy at a cost far below the price of energy they might have used. Waste heat recycling—using existing or projected technology—can save energy that would otherwise be exhausted unproductively into the environment. Automobile engines—still in the research stage and years away—will dramatically reduce energy consumption.

Third, energy conservation requires the development of energy efficient methods of doing business and new technologies that conserve energy by making more efficient use of available energy and allow a shift to more abundant or self-renewing sources. Substitution of rail mass transit for the automobile or telecommunications for travel could radically change urban patterns and the conduct of business. New processes for refining steel and aluminum or enhancing oil recovery will all have major impacts on energy use by industry. But such changes depend heavily upon the development of new energy-related technology.

The ERDA research, development, and demonstration program authorized by this bill will allow these advances in new energy technology.

The bill contains conservation research and development authorizations in title I for:

(a) Electric Energy Systems and Energy Storage $85,300,000.

(b) End-Use Conservation and improved Conversion Efficiency $254,000,000.

(c) Energy Extension Service $8,000,000.

(d) Small Grants Program for Appropriate Technology $10,000,000.

Title III, automobile transportation research and development contains fiscal year 1978 authorizations of $25 million and title IV, financial support for municipal waste reprocessing demonstration contains a lifetime program authorization of $200 million; $180 million of this total is for the future and $20 million is for fiscal year 1978.

In view of the national importance of conservation the committee, through extensive hearings and staff work, looked at what needed to be done and what could be productively accomplished by ERDA and added $274 million in total authorization—$180 million of this additional authorization as mentioned is for future years. The total authorization for fiscal year 1978 after subtraction of this $180 million is $412.3 million.

In terms of impact, every conservation research and development is both a short- and a long-term program; New technology is not produced overnight, but once installed the savings produced are more reliable than energy savings from the curtailment of citizen activities—particularly in this country with a market economy. The ERDA conservation research and development program will pay off mainly in the 1980's and 1990's. It is a long-run program with many near-term benefits.

The components of the ERDA energy conservation program are:

[In millions]

Electric Energy Systems	$36.8
Energy Storage Systems	48.5
Industrial Energy Conservation	38.0
Building & Community Systems	69.0
Appropriate Technology	10.0
Municipal Waste-to-energy	200.0
Automotive Transportation R&D	25.0
Energy Extension Service	8.0

These figures cover operating expenses. At this time I would like to insert in the RECORD a complete breakdown showing budget changes over the past 3 years—what the administration proposed for fiscal year 1978 and committee actions:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, H.R. 6796

[In thousands of dollars]

	Actual fiscal year 1976	Estimated fiscal year 1977	ERDA request for fiscal year 1978	Committee action	Tota committee authorization
Conservation research and development:					
Electric energy systems and energy storage:					
Electric energy system	12,130	26,000	36,700	+100	36,800
Energy storage	28,000	38,000	48,400	+100	48,500
Total electric energy systems and energy storage	40,930	64,000	85,100	+200	85,300
End-use and technologies to improve efficiency:					
Buildings	37,000	32,000	52,000	+16,000	68,000
Industry	27,650	22,000	25,000	+13,000	38,000
Transportation	23,500	36,000	86,000	+25,000	111,000
Improved conversion efficiency	15,625	27,000	55,200	+6,800	62,000
Total end-use and technologies to improve efficiency	103,775	117,000	218,200	+60,800	279,000
Energy extension service	0	25,000	8,000		8,000
Small grants program	0	10,000	0	+10,000	10,000
Municipal solid waste	0	5,000	0	+200,000	200,000
Total operating expenses conservation research and development	144,705	221,000	311,300	+271,000	582,300
Capital equipment conservation research and development	11,500	12,000	6,170	+3,000	9,170
Plant conservation research and development	0	8,500	800		800
Total conservation research and development	156,205	241,500	318,270	+274,000	592,270

I will now briefly describe each of these program lines one at a time.

The energy storage program covers four areas: First, batteries for automotive and solar applications; second, chemical and thermal storage; third, mechanical storage; and fourth, utility applications.

The objective of the energy storage program is development of reliable and inexpensive energy storage systems to increase the substitution of coal and nuclear energy for petroleum to enable solar and other intermittent energy sources to provide continuous energy services, and to enable electric utilities to use their facilities more efficiently. Energy storage technologies are being developed for transportation; building, heating, and cooling; industrial processes, and other end uses as well as for utility applications. The resulting fuel substitution will reduce the need to import expensive oil and can help reduce environmental pollution. The increased operating efficiency of the utilities, by reducing the need for new plants and transmission and distribution facilities, can contribute to lowering the rate of the increasing cost of electricity to the consumer.

The additional $100,000 added by the committee will assist the development of a superconducting magnetic energy storage system—SMES.

The R.D. & D. program in electrical energy systems has four main thrusts:

First. Higher capacity and lower loss under ground and overhead transmission systems.

Second. Advanced methods of power grid control and management.

Third. Integration of new generation, delivery and storage technology into the national system.

Fourth. Prototype testing.

Federal funding is based upon support of high risk or mid- and long-term research—the traditional Federal role. Individual or regional utility sponsored research stresses the near-term applications. Midterm efforts are usually cost shared. The fiscal year 1978 program includes increased emphasis on development of analytical methods and concurrent/subsequent analysis essential to the systems integration of new electrical supply, storage, and use technologies—solar, fuel cells, batteries, electric vehicles, and so forth. There will also be an increased effort to develop a capacity for analysis of regional/national bulk power systems, accelerated development of load models and the development of a utility systems forecasting capability. The fiscal year 1978 requested funds will permit an increased emphasis and earlier fruition of developmental work on more energy efficient power delivery equipment. Super-conducting technology research and development will be expanded from transmission activity to include cryogenic generators, transformers, and terminal equipment. Research on the environmental effects of electric fields associated with high voltage overhead transmission lines will be accelerated, as well as activity on development of higher voltage circuit breakers for both 1200 k.V. a.c. and d.c. transmission system applications. The increased costs associated with field tests and evaluation are only partially addressed under this subprogram justification. Since technology development for generation and storage is justified under the improved conversion efficiency and the energy storage subprograms, additional funds for related utility applications are included in budgets of these other subprograms.

The committee added $100,000 in operating expenses which will be used by Los Alamos Scientific Laboratories to enhance their superconducting power transmission program.

The committee authorized $38 million for industrial energy conservation. These R.D. & D. funds are oriented toward those industrial processes and equipment which will provide the greatest energy savings potential and still be an attractive business investment. Industry has already shown the way to impressive savings in response to higher prices utilizing technology and equipment now available. The focus of this program is on the next generation of more efficient industrial processes and equipment.

The subprograms focus on four areas: First, waste energy reduction and recapture of heat losses in industrial processes; second, industrial process improvement within energy intensive industry; third, agricultural and food processing energy use and waste reduction; fourth, technology transfer.

The $13 million in operating and $2 million in capital expenses added to the administration's budget by the committee will provide funds to develop and demonstrate cogeneration in the industrial sector. Cogeneration is the simultaneous production of electric power, process steam and/or a coal-based gas.

The four thrusts of the building and community systems are:

First. Buildings design and structure aimed at increasing the efficiency of energy utilization in commercial and residential buildings; second, community energy utilization directed at integrating all community energy functions; third, technology and consumer products aimed at providing new technology for the other program elements as well as undertaking energy-efficient and cost-effective R. & D. on consumer products; and fourth, economic analysis and technology transfer assisting in promoting the acceptance of new energy-saving technologies and supporting the program through analysis.

The committee added $226 million operating expenses authorizations and title IV of the bill which amended the Federal nonnuclear Energy Research and Development Act of 1974. Title IV authorizes the Energy Research and Development Administration to make grants, contracts, price supports and cooperative agreements to foster municipal waste demonstration facilities. The program is limited to $200 million with a $20 million authorization for fiscal year 1978. The committee also approved a $10 million authorization for appropriate technology. This technology is designed to solve problems through effective use of local resources—natural, capital, and labor. It has been found useful in improving the self-efficiency of smaller communities and individuals.

The authorization was also increased by $4 million to expand the integrated community energy systems—ICES—design projects. Industry and communities designed for integrated efficient use of energy will thus be expanded to a more effective demonstration size. To increase the efficient use of gas supplied to homes and industry for purposes of heating, the gas-fueled heat pump development project was expanded by $2 million. Five additional projects were expanded by a total of $10 million, covering: fluidized bed coal combustion demonstration; district heating and cooling; power plant systems project; and additional expansion of community energy master planning.

The transportation energy conservation subprogram carries out research and development in four primary areas: First, heat engine highway systems concerned with the development of new propulsion systems for vehicles; second, alternative fuels utilization conducting research to solve the practical problems associated with the use of new nonpetroleum fuels; third, electric and hybrid vehicle systems directed toward the development of options to reduce or eliminate petroleum as the energy source for the conventional automobile; and fourth, nonhighway transport systems concerned with reducing energy consumption in the nonhighway transport modes.

The Committee added title III cited as the Automotive Transportation Research and Development Act of 1977 and authorized $25 million in operating expenses to be appropriated for its objective.

The act establishes within ERDA a research and development program to insure the development, within 5 years or sooner, of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles. Sets forth the duties of the Administrator in conducting such programs, including: First, establishing and conducting new projects and accelerating existing projects in furtherance of the goals; second, giving priority attention to the development of advanced propulsion systems, with appropriate attention to those which are flexible in the type of fuel used, third, duplicates private industry programs; fourth, requiring that not less than 75 percent of appropriated funds shall be expended for development of the advanced automotive propulsion system; and fifth, insuring that no more than 30 integrated test vehicles shall be produced.

Requires that the Administrator coordinate his activities with the Secretary of Transportation, and utilize, to the maximum extent practicable, the expertise of the Department of Transportation, with respect to safety and damageability, in conducting programs under such act. Provides for the participation of other Federal agencies which have appropriate capabilities. Directs the administrator to collect, analyze, and dis-

seminate to developers information, data, and materials that may be relevant to the development of advanced automobile technology.

Requires that the Administrator submit to Congress an annual report of activities under such program, and sets forth the contents of such report.

Directs the Administrator to conduct a survey of developers, lending institutions, and others, and to make a study in order to determine whether and under what conditions, research, development and demonstration, and commercializations of advanced automobile technology may be aided by loan guaranteees. Requires the Administrator to report the results of such survey to the Congress.

Amends the National Aeronautics and Space Act to provide authority for the National Aeronautics and Space Administration to undertake development of advanced automotive propulsion systems.

The improved conversion efficiency subprogram develops the technology base necessary to permit implementation of advanced conversion devices applicable to all fuel sources and to the end use sectors. Supporting technology is generated and specific technology applications are pursued in the areas of fuel cell research, heat cycle development and combustion research.

The improved conversion efficiency subprogram was established to develop the technology base necessary to permit implementation of advanced conversion devices applicable to all fuel sources and to the end use sectors of buildings, community systems, industry, transportation, and electric utilities. To achieve this overall objective, generic supporting technology is generated and specific technology applications are pursued, directed at specific conversions; for example, chemical to electrical, chemical to thermal, thermal to mechanical. The concept of a transition from oil and gas to alternate fuels in conversion devices is a major factor in all subprogram areas.

The $6.8 million was added by the committee for operating expenses to be used as follows: first, $1.8 million—the proposed addition will reduce the time required to develop thermionics, way of recovering some of the energy currently wasted in powerplants and industry, by supplementing ongoing converter improvement work. Activities will be directed to testing full-scale mockup of a thermionics power module converter. Second, $3 million—the additional authorization will accelerate research and development leading to the manufacture and test of fuel cell demonstration units and subsequent commercialization of fuel cell technology. Fuel cells, with their environmental acceptability, modularity, reliability, and ease of waste heat capture will provide significant advantages over conventional powerplants in total energy system applications. If fuel cells combined with heat pumps could be retrofitted into buildings presently heated with natural gas, an average of 30 percent of that gas presently used could be saved. Industrial and residential applications project similar savings. Third, $2 million—the additional authorization will permit continuation of the technical, commercial, economic, and institutional factors leading to recovery of waste heat from federally owned facilities.

The purpose of the Energy Extension Service is to encourage small energy consumers to adopt measures to reduce energy consumption and convert to renewable energy sources. The Service will also provide feedback regarding energy consumers' needs and concerns regarding energy-saving measures which will be considered in further energy research and development.

The States will design and operate Energy Extension Services within their jurisdictions, and ERDA will provide overall program management and evaluation. The State services will emphasize the provision of direct, face-to-face assistance to energy consumers and organizations that influence their energy consumption. The State services will not duplicate or substitute for similar existing outreach activities, but rather supplement them and provide for new forms of assistance. Where appropriate, full advantage will be taken of the capabilities of existing organizations in implementing the State services, in order to avoid creating large new bureaucracies.

Ten States have been selected for a pilot program and are now establishing their activities. Based on this pilot experience, expansion to all 50 States and territories will be considered in later years.

In 1974, we created a new program to assist small inventors. Section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974, Public Law 93–577, established an independent inventors program. It was recognized at that time that the creativity and productivity of independent inventors and small businesses have made a significant contribution to the evolution of American technology and that if a sheltered environment was provided for them they would be better able to make similar contributions toward solving our Nation's energy problems.

In the furtherance of these objectives, we have authorized a fund of $1.8 million for this program. It is our expectation that these funds will be used for two purposes:

The first is small grants to support promising energy related inventions which might otherwise have difficulty obtaining funds from an ERDA program. Such difficulties have arisen in the past, because the invention or the support requested do not relate directly to any specifically funded ERDA program, or because such inventors and small businesses lacked the resources to be able to compete for available funds within the ERDA programs. These small grants would provide initial support to permit the innovator to place the invention in a better form to compete in the marketplace or to submit proposals to governmental organizations in accordance with normal competitive requirements. Unless ERDA takes exception to the technical merit of the invention or the proposed utilization of funds, it is assumed that the evaluation process conducted by NBS and the need to provide special and timely assistance to independent inventors and small businesses shall provide an adequate basis for justifying such small grants.

The second purpose of these funds is to provide substantial funding for inventions which do not have direct relevance to any ERDA program and, therefore, would not normally receive funding but for this specific fund. With respect to such inventions, however, ERDA's normal standards for technical review and requirements for procurement or assistance should apply.

At the appropriate time during the amendment process on this bill, I shall submit an amendment revising the electric vehicle research and demonstration program which became law last year. This amendment comes about as a result of extensive oversight hearings, studies by outside groups and requests by the administration. The amendments I shall submit are extensive. They smooth out the program and bring in the involvement of more Federal agencies. We believe this amendment will make the program more professional from an engineering standpoint. It has been requested by the administration and I know of no objection.

To insure that our research and development programs are well founded, the committee recommends an aggressive basic research program, and is pleased to fund programs in basic energy sciences, high energy physics, nuclear physics, and space nuclear applications, a budget breakdown for which follows:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, H.R. 6796

[In thousands of dollars]

	Actual fiscal year 1976	Estimated fiscal year 1977	ERDA request for fiscal year 1978	Committee action	Total committee authorization
Basic energy sciences:					
Nuclear science	25,711	15,782	25,667	+800	26,467
Material sciences	45,519	65,000	62,406	+3,600	66,006
Molecular mathematical and geosciences	42,689	55,452	55,800	+1,900	57,700
Advanced energy programs	0	0	3,187		3,187

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, H.R. 6796—Continued

[In thousand of dollars]

	Actual fiscal year 1976	Estimated fiscal year 1977	ERDA request for fiscal year 1978	Committee action	Total committee authorization
Basic energy sciences: continued:					
Total operating expenses, basic energy sciences	113, 919	136, 234	147, 060	+6, 300	153, 360
Capital equipment, basic energy sciences	8, 500	11, 066	12, 075	----------	12, 075
Plant, basic energy sciences	8, 980	10, 410	33, 400	----------	33, 400
Total basic energy sciences	131, 399	157, 710	192, 535	+6, 300	198, 835
High energy physics:					
Operating expenses	154, 355	172, 833	187, 950	+1, 500	189, 450
Capital equipment	18, 800	20, 800	42, 000	+1, 500	43, 500
Plant	8, 150	69, 700	6, 200	+10, 500	16, 700
Total high energy physics	181, 305	263, 333	236, 150	+13, 500	249, 650
Nuclear research and applications (space applications):					
Operating expenses	21, 541	31, 800	31, 700	----------	31, 700
Capital equipment	1, 733	3, 200	3, 400	----------	3, 400
Total nuclear research and applications (space applications)	23, 274	35, 000	35, 100	0	35, 100

Though I concur in general with the funding levels for these programs as authorized by the committee, I would have preferred a higher funding level for nuclear physics such as that authorized by the Senate.

Finally, Madam Chairman, I want to comment that I agree with the remarks made by my colleague, the gentleman from Alabama, the Honorable WALTER FLOWERS, chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, on how important the breeder program is.

The nuclear breeder offers this Nation and other nations of this world clear hope for energy independence later this century or early in the next century. It is the only technology available which provides this hope of energy self-sufficiency. This fact is much more important than choosing up favorite technologies as if it were a beauty contest or football game. We cannot afford that luxury. We must develop every reasonable source of energy that we can.

Of the various energy technologies available to us, the one that stands out above the others is the breeder. The breeder will convert the otherwise useless uranium–238 that we have in storage in this country to the electrical equivalent of more than all of the oil possessed by all of the OPEC nations combined.

What is more, it is the safest, cleanest, cheapest, most reliable, and most environmentally acceptable energy option that we have. There will be much said, there will be much rhetoric and many misleading statements made about the breeder program, but there is one basic underlying philosophy here—whether this country will turn its back on the one energy technology that can give us and the free world energy self-sufficiency, whether we will adopt a negative philosophy for the first time in American history, seeing how long we can avoid doing something worthwhile, or whether we will adopt a philosophy to take advantage of this precious technology as soon as possible.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

Mr. BINGHAM. Madam Chairman, I wish to to commend the gentleman from Texas, my distinguished colleague "TIGER" TEAGUE for the fine job he and his committee have done in bringing this very important legislation to the floor. I am particularly pleased to note what the committee has done in increasing the funding for research and development of various energy alternatives, especially solar power. These important efforts will help us address the serious problems which face our energy-hungry Nation.

Today, I would like to focus my comments on the issue of the Clinch River breeder reactor and strongly urge my colleagues to support the amendment to be offered by the gentleman from California (Mr. BROWN) which will provide funds for termination of this undesirable project. The Clinch River breeder reactor, CRBR, is a project which is opposed by the President, the Secretary of State, the Secretary of Energy, and the Secretary of Defense. The project is clearly unnecessary uneconomical and dangerous. And yet a highly organized industry lobby hungry for contracts is attempting to get the House to reject the wisdom of the administration's position and continue funding the project's construction.

Let us take a look at some of the key questions.

First, does the Clinch River project make sense from a cost-benefit point of view? I submit that the answer is clearly no.

On the cost side, the first cost estimates for the project—CRBR—were $669 million. The latest estimate is $2.2 billion and experience indicates that that price is certain to rise over the many years needed for constructiton.

In an extremely thoughtful "Dear Colleague" letter, the gentleman from Michigan (Mr. STOCKMAN) has cogently presented the arguments as to why this would be a foolish and wasteful investment. I respectfully refer my colleagues to his letter, as well as to the communication we have all received from the National Taxpayers Union, which makes many of the same points.

It is important in this connection to note that adoption of the Brown amendment does not mean abandonment of further R. & D. on breeder reactors. This is evident from the fact that this same EDA authorization bill provides $450 million in fiscal year 1978 funding for research on alternative breeder reactor designs. For the breeder idea, which may well someday come into its own, technology—developed by R. & D.—is more important than premature attempted commercialization of one particular, and especially undesirable process. The $450 million in the bill for R. & D. is, I am advised, more than all the European countries together are spending on breeders.

As Robert Fri of ERDA has testified, other countries may be ahead of the United States in operating small scale breeders, but "Not in breeder technology." He testified in Senate hearings that the United States is well ahead of other nations in breeder technology and that the main difference, if the United States should in the future decide to proceed with a commercial breeder, may well be that "ours will work."

Is there an urgent need for the potential uranium savings which might be forthcoming from the CRBR? No, not now at least. When the original timetable was set for the CRBR commercial demonstration project in 1973, the estimated demand for uranium in the year 2000 was to fuel 1,200 light water reactors. The current estimate is less than 400 and may shrink to less than 300. So uranium needs in the year 2000 will be only about 25 percent of what we thought they would be when the original CRBR timetable was set. It is also noteworthy that an exploration for new uranium supplies has increased, proven reserves have increased—even as mining activity has increased—every year since 1943.

It was originally thought—by participants in the Manhattan project—that uranium was so scarce that we would have to move immediately to a generation of breeder reactors in 1950—but we now see that that timetable was also quite premature. For with increases in demand, supply too, has increased.

While it is fair to say that there is doubt as to exactly how much uranium we have, even ERDA's own projections show that we have more than enough uranium to meet our light water reactor demand well beyond the turn of the century. This year's ERDA estimate is that

there are 4,300,000 tons of recoverable uranium in the United States. Only 1,800,000 tons of this uranium would have to be expended in fueling the 380 light water reactors which ERDA optimistically predicts we will have on line in the year 2000.

The backers of the CRBR argue that its completion is essential because we are facing an energy crisis. As a member of the House Ad Hoc Energy Committee I am keenly aware of our energy woes. But these problems surely cannot be solved by throwing the taxpayers' money into what our colleague from Michigan (Mr. STOCKMAN) calls "the mythical cornucopia of boundless free energy."

The fact is that the plutonium breeder will produce little or no energy in this century. Nuclear power's contribution to our electrical generation needs will have to be and can be met by light water reactors. Indeed, even if we were to continue top priority funding of the CRBR, commercial breeder reactors would offer us less than half the energy we will be getting from solar power by the year 2000 according to ERDA estimates.

"What about jobs," a number of my colleagues have asked, "don't we need the CRBR project to supply more jobs?" Granted the project's construction will provide temporary work for several thousand individuals. But a $2.2 billion program to build an unsafe, unnecessary and uneconomical reactor is an absurdly wasteful manner in which to provide employment. In the long term, investment in alternative breeder designs, other less capital intensive energy sources and uranium enrichment facilities will create many more jobs.

In the shortrun, it is noteworthy in this respect that President Carter's program includes spending $4.4 billion to build an enrichment plant to fuel 100 additional light water reactors. This expenditure, along with the more than $700 million in this EDA authorization bill for advanced nuclear R. & D., will provide many more useful and productive jobs than will the CRBR.

In view of these facts, there is no need to make the decision now that the CRBR is essential and there are a number of reasons why that decision can and should be deferred for at least a decade.

I should like now to focus on one of the principal reasons, having to do with the international aspects of this problem.

It is my belief that the spread of nuclear weapons capability represents the single greatest threat to the continued existence of human civilization on this planet. Specifically, the danger is that terrorist organizations or irresponsible nations such as Uganda or Libya will gain possession of enough plutonium to readily manufacture nuclear weapons. The present generation of light water nuclear reactors do not present this danger: they use a slightly enriched uranium fuel which does not contain plutonium. After use in light water reactors, the spent fuel rods do contain some plutonium, but it is mixed in with lethally radioactive byproducts of the fission process and is thus relatively inaccessible.

President Carter is presently pursuing a courageous and far-reaching foreign policy initiative designed to curb the use of plutonium as a reactor fuel. At the heart of this difficult effort is the attempt to prevent premature commitment to breeder reactors. If the House were to encourage the commercialization of the plutonium breeder by approving full funding of the Clinch River project—which would use a pure plutonium fuel—we would be operating at cross-purposes with the administration's vital antiproliferation effort.

The key point here is that through the introduction of commercial plutonium-fueled breeders such as Clinch River, the United States would move towards acceptance of plutonium as a legitimate article of daily commerce. It would take only 20 pounds of plutonium to fashion a nuclear weapon as destructive as the bomb dropped on Nagaski. The acceptance of this pure weapons-grade material as a reactor fuel would encourage the development of a "plutonium economy" where pure nuclear bomb material would be in daily circulation throughout the globe; in such a world nuclear antiproliferation efforts would become much more difficult to enforce. Clearly breeder reactors and reprocessing plants are not the only source for weapons grade plutonium. But they would be the most readily accessible. That is why the House International Relations Committee reported last year, after 2 years of study on international safeguards systems that—

> Safeguards which are adequate and effective when applied to nuclear reactors are inadequate and ineffective when applied to nuclear reprocessing facilities.

The same rationale lay behind the International Relations Committee's vote on May 24 of this year to support President Carter's decision to terminate the Clinch River project and vigorously pursue development of more safeguardable alternatives.

Foreign nations share our deep concern over the dangers of the plutonium economy. Several of the Carter administration's antiproliferation initiatives have already met with significant success abroad, despite the fact that representatives of the U.S. nuclear industry have constantly encouraged opposition to these initiatives from within the atomic bureaucracies of foreign nations. Specifically, we can be pleased by the announcement by the French and the West Germans that they will enter into no new contracts to export nuclear fuel reprocessing plants to purify plutonium for use in breeders. Canada and Australia—two of the world's leading uranium producers—have strongly embraced U.S. antiproliferation efforts. The British have initiated a far-reaching national debate on their breeder program. And in West Germany—where there is presently a moratorium even on light water reactor construction—a key committee of the Parliament has frozen funds for their breeder reactor research program.

What the termination of the Clinch River project offers to this Nation—and the world—is more time to examine seriously the effects of using pure plutonium as an article of daily commerce. There are many, many alternatives; the most prominent are alternative breeder reactor designs where various mixtures of uranium, thorium, and plutonium might be used as fuel instead of the pure, weapons-grade material for which Clinch River has been designed. Again, there is nearly $450 million in the ERDA bill for the study of these alternative breeder types which will not be affected by the Brown amendment. We are not "killing the breeder program."

Madam Chairman, this issue is not one of being pronuclear or antinuclear, or even probreeder or antibreeder—these slogans are misleading buzz words which have been mischievously employed by potential beneficiaries of Clinch River funding to distort the facts of the matter. This is a budget priority decision. Do we want to pour a big share of our R. & D. moneys into an unsafe, unnecessary and uneconomical project which is opposed by the President and the key members of his Cabinet? I would hope that the House would follow the lead of the electric utility industry in this question. Their participation in the Clinch River project has shrunk from 50 percent to less than 12 percent in the past 4 years. The time has come to abandon this lemon and examine more sensible, sound alternatives.

Madam Chairman, I yield back the balance of my time.

Mr. FINDLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, one can find numerous reasons for supporting the Brown amendment before ever considering the proliferation perils inherent in the Clinch River fast breeder reactor. For example, there are compelling issues of economic feasibility that have so far received discouragingly little attention by conservative proponents of this new technology. No one wants to give short shrift to an energy option, but the existence of an energy crisis does not exempt us from the obligation of choosing soberly among alternative energy investments and from excluding from further consideration those which are conspicuously unsound.

No one can have read the breeder cost benefit studies of recent days—studies put out by such eminent panels as the Ford Foundation, the Rand Corp., and the American Enterprise Institute—without being highly disturbed by the economic components of the current breeder program. Its management, its configuration, its timing, and its costs arouse considerable concern. One sees that the case for early commercialization of the breeder is at best contrived. It is—

A case that depends on underestimating uranium resources and overstating electrical demand; and

A case that is unrealistic about discount rates and optimistic about the date at which breeders are likely to be commercially competitive with existing light water reactors.

I ask my colleagues, then, not to ignore something that others have had to learn at great cost. There is a penalty to be paid for committing large resources to programs that later prove to be unnecessary within projected time frames, or deficient in design, or both.

Secretary James Schlesinger, not a man to take U.S. energy needs lightly, estimates that breeder commercialization can be deferred for at least 7 years beyond original estimates. This gives us much needed time—time that will enable us to improve designs, rather than seal in mistakes—time to resolve important uncertainties on capital costs, the question of safeguards, and the growth rate of nuclear power. As the president of the Rand Corp. has so cogently argued, time enables us to make decisions more carefully, in sequence, in light of progressively expanding amounts of information, and consequently, at lower levels of risk. This principle is the essence of sound decisionmaking on investments and I am surprised that my fiscally conservative colleagues have paid it so little mind.

Time also works on behalf of our nonproliferation policies, and that is the central issue which I wish to discuss with you today.

The International Relations Committee reviewed the ERDA budget for the first time this year. We conducted our review not to complicate congressional decisionmaking, but to improve it, for we believe that the United States would not have a proliferation crisis today if the design of our nuclear power facilities had been approached at the outset with a view toward their resistance to proliferation, and not just to purely domestic concerns. It is the view of the committee, and of the Government as a whole, that we have to ask ourselves in planning advanced fission alternatives not just how to make them efficient, but also how to make them secure. For there are ways of having nuclear power without increasing the risks of proliferation, ways of making the diversion of weapon usable material difficult, instead of easy, arduous instead of quick. We believe that it is worth a little more time and a little more thought to make the plants we design, use, and export as nonproliferating in character as possible. When a country's nuclear facilities are constructed so as to make diversion costly, time-consuming, and visible—as breeder reactors do not—that country's decision to manufacture nuclear weapons is more difficult. When, on the other hand, their facilities supply them with all of the makings of a bomb, the decision, in time of crisis to go that route becomes far easier to reach. Countries with no preconceived aim of exploding a nuclear device find themselves inevitably drifting in that direction. It is easy to see how this set of events can quickly undermine international stability.

In the last year it has become clear that alternatives exist to high risk, proliferation-potential technologies such as the fast breeder. There are breeders based on thorium fuel with the critical facilities being housed in weapons states. This alternative blends institutional controls with technological ones. There are also higher efficiency standard reactors, improved heavy water reactors, and processing technologies that permit less easy access to weapons material. The Carter administration, like the Ford administration before it, has prudently seen fit to explore these alternatives before looking into one of them. Nothing could be wiser or no use of time more important to preserving security and peace.

It is this quest for alternatives, this need for breathing space, this hope for a serious international reappraisal that has led the International Relations Committee to its position on the commercialization of the breeder.

We have heard descriptions about how the United States is sure to be outflanked by European nuclear energy advances. My own research on the European nuclear situation, however, persuades me that it is as afflicted by turmoil and uncertainty as is our own. In West Germany, for instance, the Parliament has frozen all further breeder funding pending resolution of a wide variety of issues. The German reprocessing facility in Lower Saxony, and their waste storage center, have both been the subject of intense popular and governmental opposition. Plans for ground breaking seem farther off than ever. Even the most enthusiastic supporters of nuclear power in West Germany concede that a moratorium on all nuclear activities—not just the breeder—for a period of 2 to 5 years now seems inevitable.

Situations of this sort make it more likely that our friends abroad will want to participate earnestly in an examination of more safeguardable nuclear energy options. They are beginning to come to grips with the fact that there are enormous uncertainties associated with current breeder programs; our commercial activities would unfortunately mislead them into believing otherwise. A delay is needed in order to evaluate truly the breeder reactor.

Such a review is in the best interests not only of nonproliferation policy, but of nuclear power as well. For it is only when a more effective international consensus has been established on techologies that are safe, that domestic opposition will be stilled and a meaningful public consensus and acceptance finally established. The deferral of a costly and ill-conceived breeder project is a small price to pay for so great a gain.

Mr. FINDLEY. Madam Chairman, I have no other requests for time, and I yield back my portion of the time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the ERDA authorization is our chance to take the tremendous challenge of insuring adequate energy supplies for the midterm and to begin to make a dent in the tremendous energy shortfall we could experience by the turn of the century. The dimensions of the problem are staggering. Consider, for instance, as reference points our two most recent energy crises. When the Arab nations withheld crude oil with an energy value of 1 quadrillion Btu's, 1 quad, we experienced great economic disruption and inconvenience. When an especially cold winter this year led to a smaller natural gas shortfall of less than a quad, much of the industry in the Piedmont region and in the North-East was forced to shut down.

The potential problem in the year 2000 is 20 times greater. We do not yet know even after very strong conservation efforts where as many as 20 of the quads per year we will need will be coming from when we have depleted the oil, gas, and uranium we now rely on heavily. Conservation only goes so far; the ERDA authorization is our opportunity to begin to develop the supplies we will need.

Your committee's bill represents a commitment to continued development of all our major energy options. We have little choice but to make this commitment. My constituents who are fiscally conservative, by and large, in a poll last year chose only one of 21 spending categories for spending increases. That one category was energy research. I would not be surprised if many of my colleagues would experience similar results from a similar survey.

The most crucial vote on this bill will be on the amendment to reduce or terminate funding for the Clinch River breeder reactor demonstration project. A successful amendment here could go down as the most penny-wise and pound-foolish decision of 1977, since we are already 36 percent below the $235,000,000 breeder funding level which President Ford recommended last January.

For the price of $150,000,000 per year we can retain an option on an energy source of immense proportions. It has been estimated that breeder reactors can extract as much energy from U^{238} reserves now stored above ground as inert wastes as is available in all our recoverable coal reserves. These wastes could supply our electrical energy needs for hundreds of years. In light of the big uncertainties we face in other energy technologies of the future, 70 cents per year per American for Clinch River is a very small premium for increased future energy security.

It should be clear that a 5-year interruption in Clinch River development would mean many years of delay. Clinch River is one of the most complicated engineering projects ever attempted. It has taken years to assemble the scientific team and to work for NRC's approval of

the environmental and safety aspects of the project. Memories of breached contracts and lost jobs and 5 years of scattering of key personnel could make resumption of the project more difficult than it was to start Clinch River from scratch. The good will of the 753 utilities who are cosponsors, of the TVA, and of the contractors may be difficult to recapture.

Most of our future energy options face major uncertainties which could take 10 years to clear up. A decade from now we will have a much clearer idea of environmental limits on the use of coal and of coal's potential as a substitute for oil and natural gas. We probably will have learned whether the nuclear fusion principle works in practice. By then the energy potentials of solar electric, photovoltaic cells, and geopressured brine and the extent of our uranium and thorium reserves should be much clearer. We will then and only then be able to make an intelligent commitment for or against the commercialization of breeder technology.

Secretary Schlesinger, during the Science and Technology Committee's breeder hearings, correctly abandoned the proliferaiton justification for abandonment of the breeder and proceeded with an economic argument. He stated that the earliest date the breeder will be needed is the year 2000 rather than in 1993. He relied on a cost benefit analysis which showed much less energy demand in the year 2000 than had previously been forecasted in official projections and much more efficient use of nuclear fuel than is now technically possible. Even assuming that these ambitious goals are achieved, it does not make sense to delay the development of the technology. We instead should be grateful for the breathing room and should make the most of it. We should proceed and budget this time to correct unforeseen complications and to make the technology as safe and environmentally acceptable as possible. It does not make sense to flirt with disaster by developing a complicated technology in a race against the clock.

It has been suggested that the 350 megawatt Clinch River plant can be skipped in favor of a 600 megawatt or larger plant. To do this would be risky and involve a substantial chance of failure. Clinch River is already several times larger than the pilot plant breeders we have been operating since the early fifty's, and probably represents the maximum possible scale up under prudent engineering planning.

I would like to mention two other programs which I consider to be of special importance. The first is the magnetic fusion program. I am disturbed by the slippage from earlier schedules for this important potentially inexhaustible source of energy. In a division document, the magnetic fusion program people gave their predictions of when various milestones would be achieved under five different approaches or logics. We had been proceeding according to logic III, the same approximate approach as the Russians. We also have conducted an extensive information sharing program with them. The budget before you represents a slippage from logic III for fiscal year 1978. We probably can get away with a year of reduced funding but I would be extremely hesitant about a decelerated program for a longer period of time. If the Russians get ahead of us and the discoveries become one-sided we undoubtedly will lose this beneficial interchange in addition to running the risks inherent in Russian energy superiority.

Finally, I am pleased under this bill that ERDA is studying the feasibility of multitechnology coal conversion facility similar to the one I proposed in a bill introduced earlier this year. There is a good chance that economies of scale and more efficient use of personnel are possible when we locate several coal conversion demonstrations at the same location. For instance, just one coal delivery system would be necessary instead of five or six smaller ones scattered throughout the country. The unique reactor vessel is a comparatively small percentage of the cost of the demonstration facility so if possible we should avoid building a major facility every time we decide to demonstrate another coal conversion technology. We owe it to the taxpayers to investigate whether a large savings really can accrue through consolidation of these proposed coal conversion demonstration facilities.

Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Madam Chairman, H.R. 5796 is one of the most far-reaching pieces of legislation that the House will consider this year. The American public seems to be aware, at last, that we are facing an energy crisis. It is now up to this Congress to provide the leadership toward solutions for this crisis. The ERDA authorization which we have before us today is an important step in that solution. It provides for continuing and accelerating research and development of alternate energy sources to replace our fast-disappearing oil and gas.

We are constantly made aware of our diminishing oil and gas reserves as imports of foreign oil increase at astounding cost. Our oil import bill for 1977 will run over $40 billion. Just 5 short years ago that bill was less than $3 billion a year. Several weeks ago Saudi Arabia announced that it was agreeing to a 5-percent increase in the price of oil. This brings the OPEC cartel into agreement once again and signifies a certain increase in the price the United States will soon pay for its oil imports. At the same time, overall domestic oil and gas production has been declining. Not long ago the United States was the No. 1 oil-producing country in the world. Today both the Soviet Union and Saudi Arabia have moved ahead of us.

Of course, the action—or inaction—of the Congress in continuing to artificially hold down the price of domestic oil and gas by Government regulation has been extremely detrimental to increased U.S. production. The 95th Congress recently had its first opportunity to reverse the decline in domestic production by deregulating natural gas. I had hoped the House would be enlightened enough to pass effective deregulation legislation. This would be of great help in the short run. I shall watch Senate action on this matter with great interest. In the meantime, the bill before the House today, H.R. 6796, can provide the solution to the longer range energy problem.

H.R. 6796 provides the authorization for fiscal year 1978 for the Energy Research and Development Administration. Many of the programs contained in this authorization will not make a significant contribution to our energy needs in the next year, or even the next 5 years. What these energy programs will do, however, is provide a step down the road toward new technologies that will begin to show benefits in 1990, 2000 and beyond. These new technologies are sufficiently complex that we cannot expect an overnight breakthrough to a solution. For example, we are all hopeful that solar power can eventually meet a significant portion of our energy requirements, but we also know that research and development efforts must be continued now to refine the technology and lower the cost to practical levels.

The Science and Technology Committee has recommended a total energy R. & D. authorization of $6.7 billion for fiscal year 1978. This is an increase of approximately $900 million over fiscal year 1977 and is $267 million more than the President's request for fiscal year 1978. Included in this authorization package are the research and development programs for solar energy, energy conservation, geothermal energy and fossil energy development, as well as the various nuclear energy programs. While I did not personally propose many of the increases made in the funding for individual subprograms, I feel that the committee has reached generally reasonable levels in most areas. Keeping budgetary constraints in mind as well as the seriousness of the energy problem, the committee has struck a balance providing for maximum effective and productive research without waste of taxpayers' money.

I would like to single out at this time the able leadership provided by our chairman, Congressman OLIN TEAGUE, and by our ranking minority member, Congressman JOHN WYDLER. Both these gentleman provided special counsel and enlightened guidance, without which our committee would not have been able to arrive at the wisely balanced bill we now have before us. I also want to note the many contributions of Chairman MIKE MCCORMACK of our Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration. Through the many hours of formal testimony and hearings our subcommittee held on the ERDA budget requests, Chairman MCCORMACK provided keen insight and expert advice on the setting of various program levels. The results of his guidance

are reflected in the fact that our subcommittee recommendations were accepted by the full Science and Technology Committee with very few changes. During this process the subcommittee gave careful consideration to each of ERDA's specific budget requests, and we reviewed these requests program by program. Where necessary, adjustments were made in the funding level based on testimony and analysis of the program or subprogram.

It is worthwhile to mention once again something that I brought up at the time the House was first considering the ERDA fiscal year 1977 authorization last year. The funds devoted to energy R. & D. are a national investment. Our original energy R. & D. investment will return generous dividends. For example, each R. & D. dollar spent returns more than $7 in the economy over an 18-year period. This statistic is based on the runout effect of aerospace technology. The runout effect of energy R. & D. should be even more dramatic. Of course, there is a point beyond which additional funds cannot be spent effectively. At that point overfunding leads to money being wasted, rather than invested. The approach which our committee has taken on H.R. 6796 reflects fiscal responsibility combined with maximum effective funding for our crucial energy research and development programs.

Included in this legislation is the funding for the Clinch River breeder reactor and for the entire breeder program, which I happen to support. I am new to the area of nuclear power, because of the recent assignment of nuclear energy matters to the Committee on Science and Technology this year.

During this past year I have sat and listened intently, I have done a great deal of research, and I have read a great amount on this particular question of nuclear energy, and, specifically, the breeder reactor. I must conclude, as have many of my colleagues on the committee, that we cannot afford to cancel the Clinch River breeder reactor. It is, I believe, a sham to tell the American people, on the one hand, that we have an energy crisis and then, on the other hand, to stop or eliminate one of the most promising of the several energy options we have for the future. We need the Clinch River breeder reactor and should continue that vital project.

If this Congress is going to provide the research dollars needed in the relatively new areas of solar energy, geothermal energy, and conservation, as I believe we should, then we must not neglect an energy option that the Nation has been developing for over 20 years. We need to continue the breeder demonstration program so that by 1985 or 1990 we will have the information upon which to make an intelligent decision as to whether or not we should proceed to commercial application. The overall effect, Madam Chairman, of this particular piece of legislation will, in my opinion, increase our energy resources from all promising technologies, and that point is well covered in this bill.

Madam Chairman, let me turn now to five separate areas in the bill which I think are worthy of speecial mention. First, title III of the bill, the Automotive Transport Research and Development Act of 1977, which provides for a program of research and development on advanced automotive propulsion systems, and which will hopefully lead to more efficient use of fuels in the transportation sector. Title III specifies that the integrated test vehicles to be developed under this program shall be produced for testing rather than for mass production purposes, thereby placing emphasis on the more needed activity. It also requires that the bulk of the funds, and therefore the R. & D. and testing efforts, shall be expended on advanced propulsion systems, rather than on auxiliary systems not related to propulsion. The bill also limits the number of vehicles that may be produced, to insure that the major effort is on design and testing of propulsion systems, rather than on production of vehicles. Finally, the bill insures that the program supplements industry R. & D. efforts, but does not supplant or duplicate private sector R. & D. This puts the Federal Government into its proper role and insures that the Federal effort does not muscle aside private enterprise—as has been the case in so many other endeavors. For example, if considerable private R. & D. effort has been put into a new system and it has been decided for good reason that the system cannot be satisfactorily refined for mass production vehicles, ERDA should not, in the absence of a new technological advancement or other significant consideration, attempt to conduct Federal R. & D. on the system.

In the area of solar energy development, the committee approved an additional authorization of $34.75 million for the 10 megawatt Central Receiver Solar Thermal Power Plant in Barstow, Calif. This plant will be one of the major, most advanced facilities in the world for demonstrating the conversion of solar energy to electricity via steam cycle technology. The additional funding brings the total fiscal year 1978 authorization for the project up to $41 million. Assuming appropriate funding levels in subsequent years, the original scheduled objectives for the 10 MWe central receiver project can be maintained. The higher funding level for fiscal year 1978 will allow contracting for all architect-engineer and construction management services, site improvements, utilities, field wiring, thermal storage foundations, and the receiver and thermal storage subsystems. It will also permit the timely continuation of heliostat design activities and work on the master control subsystem. These activities represent the next logical step in the ERDA program.

In the area of nuclear waste management, the committee added $11 million to the domestic program. This additional funding will extend studies on wastes related to alternate fuel cycles associated with nuclear nonproliferation for both light water reactors and other advanced reactors; expand work on methods to decontaminate large equipment items to reduce exposure to radioactivity, and permit disassembly and shipping and storage; and provide other areas of research and development on waste management systems and the effectiveness of waste management technology.

The committee also authorized an additional $6 million for design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant. Currently, ERDA is preparing to conduct a demonstration program and build a plant on sedimentary rock using a binary power conversion method. With several recent discoveries, an equally promising resource is metamorphic rock using flash steampower methods. The recent discovery at Roosevelt Hot Springs, Nev., is an excellent example. Construction of a second demonstration plant will permit use of a second basic power conversion method in combination with a different major geologic structure. Without this second approach we will be neglecting the opportunity to test and prove out a major, potential geothermal energy resource.

Finally, the committee adopted several amendments to the geothermal loan guaranty program permitting ERDA to improve its administration of the authority previously enacted. The amendments have the effect of updating the program to take into account developments since it was enacted nearly 3 years ago. Specifically, the amendments provide large scale demonstration on the order of 50 MWe capacity. The guaranty limits are raised from $25 million to $100 million per project and from $50 million to $200 million per borrower. The effect will be to guarantee loans for the construction of geothermal powerplants sized optimally for the economic production of electricity. The amendments also provide for community impact assistance for these larger plants, but only where it is needed because of the plant and where it is not available from any other source. Lastly, the package also includes a few technical amendments to the loan guarantee title—title VI—to pick up the items we have learned over that past 2 years of considering loan guarantees—full faith and credit, and default procedures as examples.

Madam Chairman, the overall effort toward increased development of our varied energy resources is well covered by this bill. The solar, geothermal, and energy conservation programs, which a few years ago barely existed, are now receiving accelerated funding to enable them to meet the energy demands which will be placed on them in the future. At the same time the bill also goes forward with research and development in the vital fossil and nuclear areas. The committee has fashioned a strong, comprehensive and balanced energy program, building on the technological research authorized in past years but changing emphasis where appropriate. The legislation is also fiscally responsible. It provides adequate funding for all energy technologies yet does not overfund any area to the point of inefficiency and waste. While I could not enthusiastically support further increases in the funding levels for most of the energy programs included in this bill, I do support the authorization levels as reported by our committee. I urge my colleagues to approve H.R. 6796.

Mr. TEAGUE. Madam Chairman, I reserve the balance of my time.

Mr. GARY A. MYERS. Madam Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Madam Chairman, the Barnwell Nuclear Fuel Reprocessing Plant is in my district in Barnwell, S.C. Today, further construction of the plant is stalled after the Federal Government encouraged the owners of Barnwell and other private investors to enter the nuclear fuel cycle business and then abruptly changed policy direction on April 7. This reversal of Federal policy is a point of embarrassment to South Carolina State officials and congressional delegation members, who encouraged the owners of the Barnwell plant to locate their facility in our State. We viewed reprocessing as an essential service to this Nation's electric utilities that could be performed without any danger to public health or the natural environment of South Carolina. I still believe that is the case and support completion of the Barnwell facility.

President Carter, by virtue of his April 7 nuclear policy statement, has indefinitely deferred commercial reprocessing and recycling of spent fuel produced in U.S. civilian nuclear powerplants and has stated that the Barnwell facility "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility." While President Carter's April 7 statement seems to eliminate any prospect for the operation of Barnwell for commercial reprocessing of nuclear spent fuel, the administration does support utilizing the existing facilities and staff at Barnwell to further its programs in nonproliferation and waste management.

There has already been a substantial financial investment of private capital, amounting to over $250 million, in the Barnwell facility, predicated in part upon Federal encouragement and inducements. The plant provides significant employment in an area where jobs are greatly needed. For these reasons, I believe strongly that the long-term use of the Barnwell facility is of utmost importance, both to South Carolina and to the Nation, even if no consideration is given to the obvious question of the merits of developing the nuclear fuel reprocessing capability it represents. I am pleased, therefore, that the House Committee on Science and Technology has directed ERDA in fiscal year 1978 to prepare a full report on the possible long-term uses for the Barnwell facility, focusing on the safeguards and nonproliferation benefits of using the plant. No avenues should be overlooked for maximizing the investment already made and retaining the jobs capacity this plant provides.

I appreciate the personal assurance I have received from Representative WALTER FLOWERS, chairman of the Subcommittee on Fossil and Nuclear Energy, of his committee's continuing interest in this program and commend both him and Chairman TEAGUE of the full committee for their efforts on behalf of the Barnwell project. I do not intend to offer an amendment to this bill, but I urge all my colleagues who will be serving as House conferees on the fiscal year 1978 ERDA authorization bill to accept provisions approved in the Senate version of the bill to provide $14 million to study the long-term optional uses of the facility and to conduct research and development programs that are consistent with the administration's nuclear nonproliferation activities. The research and development programs are particularly important as a means of keeping the highly skilled technical team in place until optional uses for the facility can be explored and implemented.

In conclusion, I believe we need to keep the reprocessing option open, and the only practicable place to do this is at Barnwell. I urge the support of my colleagues for programs to keep Barnwell alive and help preserve Federal credibility as regards long-term inducements to the private sector.

Mr. GARY A. MYERS. Madam Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Madam Chairman, I support H.R. 6796, the ERDA fiscal year 1978 authorization bill, because it addresses technology development priorities while considering the ultimate limitaitons of these technologies.

In the Northeast, for instance, we are keenly aware of a major pollution problem from a variety of sources in our densely populated area. This problem must be viewed in the perspective that until the end of this century we must rely on a mix of coal and nuclear power for electricity. In this regard, I am particularly encouraged that our committee has strongly endorsed study of the CO_2 problem from coal burning while addressing the related need to sustain nuclear technology development. A growing committee concern during the authorization hearings was confirmed by a recent study which suggests that a large number of fossil plants will, in fact, threaten our global energy balance through the greenhouse effect.

This bill also includes considerable funding for clean combustion through the fluidized bed approach and provides strong encouragement for developing clean fuels technology through loan guarantees. We must burn coal cleanly and provide gas and oil substitutes from our plentiful coal supply. However, I trust the administration understands that our goals for the use of coal must go beyond simply setting production targets for 1985. We must also insure that transportation bottlenecks are removed for distribution and the estimate of required capital to do that is up to $20 billion. The inadequacy of this existing distribution system for coal is a prime reason why we must consider clean fuel alternatives.

The industrial role in these ERDA programs assures us that "quick fixes" will be precluded in environmental controls so we can avoid adverse impacts on jobs through industrial dislocation.

Madam Chairman, I think the nuclear fusion and fusion initiatives taken by the committee are complementary to its actions in the fossil area. The R. & D. for light water reactors and the breeder insurance policy will provide confidence in the outlook for our intermediate term energy supply. The committee actions in fusion recognize that fission technology can eventually be replaced by this more benign approach. In this question of energy supply it is puzzling to me that the administration has tried to terminate Clinch River and cut back fusion at the same time.

As ranking minority member on the Science Research and Technology Subcommittee, I am particularly interested in the funds designated for basic research in basic energy sciences, high energy physics, and nuclear physics. These moneys assure theoretical efforts and experimental facilities which provide a fine complement to the National Science Foundation's activities in these vital areas.

Madam Chairman, this bill is a strong indication that Congress does not intend to simply focus on the near-term energy issue of conservation incentives. The committee under the leadership of Chairman TEAGUE and Mr. FLOWERS has displayed the foresight to keep the long term in mind and that is why this legislation deserves the support of the whole House.

Mr. GARY A. MYERS. Madam Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Madam Chairman, I wish to rise in support of the authorization for the Clinch River metal fast breeder reactor.

Breeder reactors have been around for over 25 years. Breeders first produced electricity in 1951, and are now in use in several European countries, the Soviet Union, and Japan. Since then a very slow and very safe testing program has been used to develop the breeder reactor. The Clinch River breeder reactor program is a demonstration plant being built to test the efficacy of liquid metal fast breeder reactors for commercial electric production.

Much of the controversy surrounding the CRBR has developed since President Carter announced his opposition to the project citing proliferation concerns. He and many others would have us believe that plutonium from a breeder reactor is the only nuclear fuel which can be used to make nuclear bombs. Of course this is nonsense. Any fissible fuel can be used to manufacture nuclear bombs. In fact, no one has ever used a commercial nuclear power reactor to make a nuclear bomb. Rather they have used research reactors or some other means because it is easier and safer. There are at least six methods of manufacturing a nuclear bomb which are considerably simpler than using plutonium. And there are simple steps such as irridiation—which can be accomplished by leaving some of the waste in the reprocessed fuel—which would make it all but impossible to steal and manufacture a nuclear device from plutonium.

Further, there are those who would tell us that we don't need the breeder. I strongly disagree. By the year 2000 if the United States is able to double its hydroelectric power, triple its coal-fired power, effectively conserve energy, and

bring on line advanced technology, 40 percent of our electric needs will not be met. Nuclear power will be required if we are to supply the energy necessary to power our economy and provide jobs for our people.

The operation of conventional nuclear facilities is only 1–2 percent efficient and produces as a byproduct the uranium-238 necessary to fuel a breeder reactor. While the United States seems to be running low on uranium reserves, 150 years of uranium-238 breeder fuel are available. This fuel has three times the power of all OPEC oil, a $10 to $20 trillion economic equivalent and, in the bargain, more fuel will be made than consumed by a breeder process.

An apparently suppressed ERDA report concludes that the breeder reactor is superior to other futuristic methods of energy supply such as solar, fusion, geothermal, tidal, wind, et cetera. And, as reported recently by the White House, exclusive reliance on coal-fired plants would be more dangerous environmentally than increased reliance on nuclear power.

In conclusion, the President has told us that it will take only a mere $33 million to terminate the CRBR project and that employment losses will be minimal. This is blatantly false. The Government has already spent $380 million on this project. End-user utilities will demand a return of the more than $100 million they were encouraged to contribute to the system. The total losses will be close to $535 million. In addition, 4,400 jobs will be lost in 22 States. Extended job losses due to the cancellation of the plant could be as high as 32,500 at a total cost of $955 million. And if certain studies are correct, a consumer savings from $1 to $3 trillion will be sacrificed. The losses in terms of living standards, development potential, and technical knowledge are incalculable.

I would, therefore, urge my colleagues to join with me in opposing Mr. BROWN'S amendment to delete all funds for further development of the Clinch River breeder reactor project.

Mr. GARY A. MYERS. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Madam Chairman, I thank my colleague for yielding.

I have a question, not about the Clinch River project, but about the Tokamak fusion process in the Princeton Plasma Physics Laboratory, which happens to be in my district.

I have visited this laboratory several times, and the distinguished Director Dr. Melvin Gottlieb has been here. I wondered what the position of the committee is, what provisions have been made, and what the opinion of the committee is, with respect to the progress of the Tokamak fusion process.

Mr. FLOWERS. Madam Chairman, if the gentlewoman will yield, may I respond very briefly to her. That comes under the jurisdiction of my subcommittee, and my friend, the gentleman from Washington (Mr. MCCORMACK) is particularly interested in this matter. Therefore, I will ask him to join in this colloquy.

We cover the Tokamak reactor in the committee report, and I would refer my distinguished colleague, the gentlewoman from New Jersey (Mrs. FENWICK), to the material on page 120 of the report. It covers Tokamak with some degree of detail.

We feel that all of the fusion techniques need to be explored. I think there is support, through our committee's action, for all of the different fusion concepts; and we hope to see them continue on the parallel line until we get to the point where we can make a decision.

Tokamak, of course, is extremely promising; and I know that a great deal of the high level research is being done at Princeton. We have tried to support that in what the subcommittee and the full committee have done here. Our increases for magnetic fusion raise the amount by $25,400,000.

Madam Chairman, I would like to ask the gentlewoman from New Jersey to yield also to the gentleman from Washington (Mr. MCCORMACK) for a comment.

Mrs. FENWICK. Madam Chairman, I yield to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Madam Chairman, I thank the gentlewoman for yielding, and I thank my colleague, the gentleman from Alabama (Mr. FLOWERS), for inviting me to participate.

There is really remarkable progress being made in Tokamak technology. We are now operating the Princeton large torus, a Tokamak machine in which we expect to come close to fusion conditions with respect to pressure, temperature, and residence time of the plasma.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

Mr. GARY A. MYERS. Madam Chairman, I yield 1 additional minute to the gentlewoman from New Jersey.

Mr. MCCORMACK. Madam Chairman, will the gentlewoman yield further?

Mrs. FENWICK. I yield further to the gentleman from Washington.

Mr. MCCORMACK. I thank the lady. We have authorized construction of the Tokamak fusion test reactor, which is the next generation machine beyond the PLT. We hope to have it operative by 1982. In this facility we expect to actually conduct fusion reactions. We intend to obtain fusion conditions and to introduce the deuterium and tritium fuels and have them react. This is a major step forward.

It is my projection that we can expect such a D–T fusion reaction by about 1983. A power producing pilot plant should be on the line before 1990, and, if we conduct the material testing programs we need, we should have a commercial demonstration facility by about the year 2000.

I should advise my colleagues it will cost probably about $15 billion to do this; but in the long run, out in the 21st century, fusion is by far the most important energy source we can imagine.

The CHAIRMAN. The time of the gentlewoman has again expired.

Mr. GARY A. MYERS. I yield 1 additional minute to the gentlewoman from New Jersey.

Mrs. FENWICK. Madam Chairman, I would ask what the funding is that is provided for the fusion program in this bill.

Mr. FLOWERS. Madam Chairman, would the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, in response to the inquiry of the gentlewoman from New Jersey (Mrs. FENWICK), may I state that, as found on page 117 of the report, for the entire magnetic fusion program there is, including plant and capital equipment, the sum of $368,100,000.

Mrs. FENWICK. I thank the gentleman.

Mr. GARY A. MYERS. Madam Chairman, I have two additional requests for time. However, if the chairman, the gentleman from Texas (Mr. TEAGUE) would like to yield time, I will defer to him.

Mr. TEAGUE. Madam Chairman, I have no further requests for time at this moment.

Mr. GARY A. MYERS. Madam Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Madam Chairman, after having spent nearly 14 years working on the legislation that is before the House today, and now having to observe from the sidelines, I want to indicate to the House today my support for the bill and in particular, my support for the most crucial part of the nuclear portion of the bill, the $150 million reported by the committee for continuation of the Clinch River breeder reactor project.

Instead of getting into the very complicated background and justification for the development of the breeder and in particular for the building of the Clinch River demonstration project, let me list three very basic reasons why none of the spate of highly charged dear colleagues of recent weeks have changed my mind regarding the breeder.

First of all, the time to build a demonstration plant is now not some uncertain date in the future. A very capable team of private and government scientists and engineers have been working for many years on the project. They have worked out all of the design details necessary to starting construction. They have progressed nearly to the point where a license can be issued to start construction. The work to date has not uncovered a single technical reason why the plant cannot be built and operated safely. To turn back now is to turn our backs on a sure thing technically. If we had uncertainty about the outcome of the project technically then there might be reason to wait. But the unanimous opinion is that there are no technical obstacles and therefore no technical grounds there is no reason to wait.

The second reason is equally simple. As a great nation we have squandered our national resources irresponsibly. We are now being punished for the sins of

the past. The breeder gives us an energy technology which can make each pound of uranium produce 60 times as much energy as we are currently getting out of it. If we had such a technology for fossil fuels, we would not wait a minute or spare a dollar to commercialize it as fast as possible. Yet if there is an energy resource problem, it exists in uranium much more so than in oil or natural gas. There can be no more responsible energy conservation position than to vote for continued funding for the breeder.

And my third reason is that our special energy resource position should not permit us to foreclose an important energy option for the survival of the entire free world. The only western nation with important, indigenous supplies of energy is the United States. Japan and all of Western Europe are highly dependent on Middle East oil. It is their energy policy to substitute their only realistic energy source for oil and gas, namely uranium. And to maximize the return from each pound of uranium, they are going with the breeder. I think it fair to say that if we were in the same position, we would do the same thing. Since we are not, it is poor statesmanship to use our special gifts to force our only allies into untenable energy policy positions. And make no mistake about it. The driving force behind the drive to cut off the Clinch River plant is a desire to compromise the integrity of the entire nuclear fuel cycle worldwide. With no breeders, there is an untenable position regarding the adequacy of uranium beyond 2000. Without breeders there could be major uncertainty about our ability to recycle plutonium which would demand uranium by 25 percent. And to kill the breeder now would only fan the fire that is currently driving nonproliferation efforts both in this body as well as among some members of the Carter administration.

We have in the past, and we should continue into the future, pursue a rational policy of using for the benefit of all men what technologies we discover, to develop adequate controls on those technologies to prevent world conflicts and work with all nations to make the best possible use of the time we spend here on this planet.

The breeder is not an ultimate destroyer of this planet. Neither is it a cornucopia of energy. What it is is a technology which can make more efficient use of a valuable national resource and we are not being responsible to all generations to turn our backs on it.

Mr. GARY A. MYERS. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Madam Chairman, I wish to comment on the centerpiece of this authorization bill, the most crucial item for this country's energy supply, the Clinch River breeder reactor project. I made some remarks at the close of our special committee hearings on this topic and I feel strongly enough about Clinch River that I think they bear repeating on the floor.

I accompanied our chairman and ranking minority member overseas and spoke to a number of foreign leaders and technologists. As a result of these discussions, I share their deep concerns about Clinch River and support the inclusion of $150 million to maintain a reasonable pace for technology development.

The world, it seems to me, is scoffing at our overabundance of conscience with respect to weapons proliferation. The administration seems to feel we can afford this unctuous posturing because we have an abundance of coal and they paint a rosy picture of our uranium reserves. On the contrary, I feel we must take some risks in the nuclear area because our ability to use coal may be very limited and our estimates of uranium are very "iffy."

As we all know, the widespread use of breeder reactors means traffic in fissionable plutonium. The dilemma that this use of plutonium presents us is that of the classic two-edged sword.

On one hand, plutonium offers us the key to an almost unlimited energy supply, at least centuries of fuel in natural uranium. The other edge of the sword unhappily is this enhanced risk of proliferation since weapons can be made from this fissionable material.

It seems to me after much consideration that the concern about proliferation reflects accurately the ugly fact that mankind has an unending appetite for turning forces for good into forces for evil. To our credit, we are the only nation in the world that still agonizes over the ultimate directions where technology advancement will really take us. It is commendable to some extent, but if done in the extreme, we find ourselves in a Hamletian mode of inaction, or worse, making counterproductive symbolic gestures. The administration decision to terminate Clinch River, albeit well-intentioned, falls into the latter category.

Just reflect on other scientific advances and how they have been abused by mankind in a pathetic penchant for self-destruction.

Aircraft helped turn Hamburg, Dresden and Hiroshima into nightmares for humanity yet aviation has shrunk our globe and vastly improved international understanding.

The German Panzer divisions of necessity moved on synthetic fuel because we cut off or destroyed their oil supplies. Now we are looking toward accelerating synthetic fuels technology to obtain some independence from Arab oil. Interesting enough, we still have citizens who are reluctant to move out on this initiative.

The German V–2 rockets brought terror to London but those missiles were the genesis of this country's manned journeys to the moon.

The Nobel Peace Prize emerged from one man's agony over his having invented nitroglycerine. Yet the Panama Canal could not, of course, have been built without high explosives.

The world will progress with or without the United States. We must take the risk that weapons—proliferation safeguards can be put in place in the two decades we have until breeder technology is commercialized.

Madam Chairman, I support this program recognizing fully its hazards. I pray to God that civilized people can contain those men of evil who will try to pervert anything with a power that should be harnessed for good.

Mr. GORE. Madam Chairman, I would like to clarify one matter which may be the subject of some confusion in the Science and Technology Committee report on this bill. I am referring to the increase of $17.6 million in the authorization for operating expenses for the magnetohydrodynamics—or MHD—program.

As you know, Madam Chairman, according to evaluations by several subcommittees of the House, MHD technology offers an excellent prospect for allowing us to produce electricity from coal more efficiently and at the same time remove all of the sulfur content.

I am proud to say that much of the pioneer work in this field has been performed at the University of Tennessee at Tullahoma. In fact, as you know, Madam Chairman, the Tullahoma plant is unique in that it is the only MHD facility using only coal as a fuel.

My question, Madam Chairman, concerns language on pages 45 and 46 of the Science and Technology Committee report accompanying H.R. 6796.

In explaining the purpose of the additional funds authorized, the report does not specifically mention the work being done at the University of Tennessee and other universities. The report only refers to continuing support of the Component Development and Integration Facility—CDIF—currently under construction in Montana.

Am I correct that it was not the intent of the committee by this report language to indicate that additional funds would only be available for the CDIF facility?

Mr. FLOWERS. Yes, Mr. GORE, you are correct. There was no intention to limit use of the additional funds only to the CDIF facility.

Mr. GORE. Would you say, Madam Chairman, that it was the intent of the committee to direct ERDA to take full advantage of the facilities and expertise already developed at the University of Tennessee and similar institutions across the country?

Mr. FLOWERS. Again, you are correct. Facilities such as the one in Tullahoma, Tenn., have been doing excellent work for ERDA and we intend that the additional funding for the MHD program be available to support additional work at these facilities as ERDA finds appropriate.

Mr. GORE. Thank you, Madam Chairman.

Mr. BROWN of California. Madam Chairman, I rise in support of H.R. 6796. Within the Committee on Science and Technology, the Subcommittee on the Environment and the Atmosphere, which

I chair, has responsibility for legislation and other matters related to environmental research and development activities. In the 94th Congress, the subcommittee shared jurisdiction over the nonnuclear portion of ERDA's environment and safety program with the two Energy Research, Development and Demonstration Subcommittees. Following the reorganization of the committee earlier this year, the Subcommittee on the Environment and the Atmosphere gained exclusive jurisdiction over both the nuclear and nonnuclear portions of the ERDA environment and safety program. However, I would like to stress that the three subcommittees have continued to work harmoniously and successfully together on the entire ERDA authorization, thanks to the leadership of our distinguished chairman, Mr. TEAGUE, and the cooperative efforts of subcommittee Chairmen MCCORMACK and FLOWERS, and ranking minority members, Mr. GOLDWATER, Mr. MYERS, and Mr. WALKER.

Section 8, title I, of the legislation before us authorizes appropriations to support environmental and safety research and development in the amount of $252.9 million for fiscal year 1978. This amount, which represents a modest increase of $11.9 million over the President's original request, will be used to achieve the far from modest goal of ensuring the environmental, health, and safety acceptability of emerging energy technologies and policies.

Although the increases proposed by the committee are explained in detail in the committee report, I would like to recommend several of these to your attention.

The bulk of the proposed increases, a total of $8.9 million, will support overview and assessment research activities. Specifically, these funds will expedite a national assessment of the environmental implications of increased coal use, and accelerate a study of the safety and control of liquefied natural gas—LNG. Our planned emphasis on these fuels necessitates that their potential environmental and safety drawbacks be investigated thoroughly.

The increases in this category will also be used to refine and expand energy and environmental data and information systems, which otherwise would be put into a maintenance mode, and to prepare a plan which insures that all technology development activities are subjected to the same rigorous, independent safety analyses.

In the decommissioning and decontamination category, the committee recommended a $2 million increase to fund two important studies. At present, there is great uncertainty surrounding costs and problems, both technical and institutional, of ultimately dealing with radioactively contaminated nuclear reactors, reprocessing plants, and fuel fabrication and enrichment plants which have reached the end of their planned life span, and mill tailings and radioactive waste products. Thus, ERDA has been directed to study the environmental, health, safety, and economic consequences of decontamination, decommissioning, and disposal of all elements of the nuclear fuel cycle.

A similar but more pressing concern was raised by members of the committee with regard to the future of the nuclear reprocessing plant operated by Nuclear Fuel Service, Inc.—NFS—at West Valley, N.Y. Following 6 years of operation, the site includes four temporary storage tanks containing 612,000 gallons of liquid high-level waste, and high- and low-level waste burial grounds. When NFS revealed that it planned to transfer control of the waste storage and burial sites to the New York State Energy Research and Development Authority according to previous contracts, several controversial issues arose. Foremost among these was: who will be responsible for accomplishing and paying for the decommissioning, disposal, and perpetual care of the site?

In order to resolve these issues, the committee adopted section 105 of this legislation, which directs the Administrator of ERDA to prepare and transmit to the Congress a plan which specifies the options for ownership, management, and ultimate disposition of the NFS waste disposal operations, and makes recommendations on the allocation of responsibilities among the Federal Government, the State of New York, and the industrial participants.

To carry out the plan, the committee authorized a total of $2 million, $1 million of which was added to the decommissioning and decontamination program in the Environment and Safety Division within my subcommittee, and the other $1 million of which was added to the waste management program in the Nuclear Research and Development Division. It is the belief of the committee that the most comprehensive, credible study will result from the cooperative efforts of these two divisions. Let me assure you that we intend to conduct critical oversight over this study to insure that it provides meaningful, substantive guidance for making future decisions.

Another action which I call to your attention is an amendment to the Federal Nonnuclear Energy Research and Development Act of 1974. This amendment to section 207 of the bill calls for the development and transmission to Congress of a comprehensive environment and safety program which evaluates all environmental, health and safety impacts associated with each energy technology program.

An example of overlap in the interests of the Environment and Atmosphere Subcommittee with the Advanced Energy Technologies and Energy Conservation Subcommittee is in the area of solid waste—specifically, the recovery of energy from solid waste. Title IV of the bill amends the Federal Nonnuclear Energy Research and Development Act of 1974 by adding a new section 20 to establish a program of financial support for demonstrations of the reprocessing of municipal waste into fuel and energy-intensive products. The provisions of this amendment dealing with recovery of energy from solid waste were worked out to the satisfaction of both subcommittees. ERDA has broad authority to deal with energy problems and has been given special instruction to address energy conservation, an area of interest to Mr. MCCORMACK's subcommittee.

Obviously, energy in refuse buried in landfills is lost, so ERDA is appropriately working on the recovery of energy from municipal waste. At the same time many solid wastes, including municipal wastes, represent an environmental hazard. EPA is dealing with this environmental problem under the Resource Conservation and Recovery Act of 1976—RCRA—and under provisions of that act which were reported out of this subcommittee last year. Clearly, since one way to deal with such a problem is to change the waste into a resource, EPA has a program to develop methods to recover materials and energy from these wastes. The provisions of this bill make the ERDA program parallel the EPA/RCRA program. For example, they provide that ERDA projects shall meet the same environmental guidelines as the EPA/RCRA projects, and shall be subject to the same limitations or full-scale demonstrations as in section 8004 of RCRA.

I would also recommend to your attention the unprecedented effort within the Division of Biomedical and Environmental Research in the environment and safety program to establish a unique network of environmental research reserves, called National Environmental Research Parks—NERP sites—using land owned by ERDA. As you may know, ERDA has nine national laboratories, most of which, for security reasons, are surrounded by vast land areas which are enclosed and have controlled public access. Four of these sites, each have its own representative ecosystem and natural characteristics, have been designated as NERPs. This action is entirely compatible with current use of these sites, and represents a commitment to maintaining extensive "outdoor environmental laboratories" for a great variety of research topics. Portions of these sites can be preserved as natural, "reference" areas, to which disturbed sites can be compared, and other portions can be manipulated by researchers studying effects during and after permutations on a long-term basis.

The most immediate problem warranting our attention is the threat of transferring 6,000 acres from the Idaho National Engineering Laboratory—INEL—which was designated as a NERP in 1975, to use for grazing and potato farming. This action, proposed by Senator MCCLURE, has been attached to the Senate ERDA authorization with the justification that this land would recompense farmland lost by farmers as a result of the Teton Dam disaster. However, the White House has stated its opposition to the transfer unless it is proven that farmers with irreparably damaged land are unable to find suitable replacement land in the area. Following a Department of the Interior survey requested by the President it was determined that only 3,190 acres where irreparably damaged by the disaster, that this damage was mainly restricted to a few acres per

farm—meaning that few, it any, farms would become economically unviable—and that 26,000 acres of farm-quality land are available in the area. In short, it seems that plenty of land is available for those as yet uncounted farmers needing suitable replacement land.

I should emphasize that this land-transfer issue has been a continual problem at INFL which was raised several years prior to the Teton Dam disaster. Thus, it seems obvious to me from the current facts and past history that what is passing for a land-use issue is actually a land-grab issue. Should a similar amendment be introduced in the House, I would urge that you oppose it based upon these facts, and the lack of evidence to the contrary.

Madam Chairman, the environment and safety program has a critically important responsibility to assure that the development of existing and new energy technologies consider the potential environmental and safety impacts and to minimize any such adverse impacts as they may be detected. Given the President's national energy plan and our commitment to utilize the coal resources available to us provides even greater need for us to evaluate the associated environmental impacts on air quality and the general health of the population. Although significant progress has been made by ERDA in that direction, there remains considerable work to be done. Therefore, I strongly urge my colleagues to act expeditiously on this 1978 ERDA authorization bill.

Mr. HARKIN. Madam Chairman, during our committee's consideration of H.R. 6796, the committee adopted an amendment which I offered increasing the request for ERDA's materials sciences program by $3.6 million. At that time, I was informed by ERDA that the additional funds would be used primarily to support engineering materials science, a new program proposed for initiation in fiscal year 1978, and new non-nuclear related materials research.

In June of this year, it was announced that the Ames Laboratory Research Reactor in Ames, Iowa, would cease operations. A plan for decommissioning the reactor has been drawn up. It will take about 5 years and cost roughly $4 million. This plan involves removal of the reactor and radioactive materials. ERDA is, of course, interested in developing a plan which would permit effective use of the building after the decommissioning. Present decommissioning plans call for an expenditure of $1,026,000 for fiscal year 1978.

The decision to decommission the Ames Laboratory Research Reactor came after the President's budget was submitted and after the committee increased the funding authorization for material sciences by the $3.6 million figure. Since ERDA has the responsibility for decommissioning this reactor, the funds will have to come from present program authorization. I believe that a portion of the additional funds we have provided for material sciences should be made available by ERDA for first year decommissioning costs of the Ames Lab Research Reactor.

In the alternative, a part of the $3.6 million in additional funds for the material sciences program could be used by ERDA to replace funds diverted from other program money to assist with the decommissioning of the reactor. In this way, those programs in materials sciences which the committee felt were vital will not be reduced because of the obligation that ERDA has to provide the decommission funds.

Mr. FUQUA. Madam Chairman, the 1978 ERDA authorization bill as reported by the Science and Technology Committee is a good and thorough bill. It represents months of hard work by three of our subcommittees and several days of markup by our full committee. I am convinced that we have arrived at a quality product which will provide a solid foundation for the Government's energy research and development programs as they are moved to the new Department of Energy. I commend this bill to my colleagues as an appropriate long-range complement to this year's shorter range efforts to solve our energy dilemma. There are several programs of special merit on which I would now like to comment.

MAGNETIC FUSION

I wish to direct your attention to the magnetic fusion program as it exists in ERDA. Magnetic fusion as a source of energy has been held out as a virtually limitless source of energy. Ultimately hydrogen from the seas would fuel a fusion reactor. The realization of these dreams depends upon an intensive program of basic research and fundamental engineering studies. These are begun, but the problem is so complex that much more fundamental understanding of plasmas and their magnetic behavior is required to build a practical reactor.

The present goal of the fusion program is to develop and demonstrate pure fusion central electric power stations for commercial applications. Such a program assumes rightly that it is in the national interest to demonstrate safe, reliable, environmentally acceptable and economically competitive production of power in a fusion reactor that can be scaled up readily to commercial size.

There exist potential applications of fusion systems other than central station electric plants. Among them are: direct production of synthetic fuels, direct energy production for chemical processing, and fission product waste disposal. These applications need to be further evaluated for advantages and disadvantages. The magnetic fusion program as planned will provide timely information on which decisions can be made to pursue these processes.

The goal of scientific break even, more power generated than used in creating the reaction, should be achieved by 1983 or 1984. To prevent slippage and yet recognize that the fusion is, indeed, a long-range program; the program is funded in 1978 at a level of $368.1 million. This does not allow any further slippage of the goals of the fundamental research goals involved in break even. However, it does permit more realistic goals for commercial deployment. I urge my fellow Members to support this program and the bill which authorizes it.

NUCLEAR FISSION

I agree with my colleagues who have concluded that we must retain a healthy breeder option at this time. At a time when the exact sources of our future energy supplies are in doubt, it is a mistake to weaken our longest standing and most advanced energy program for the future. I do not feel, however, that our traditional breeder programs and the study of alternatives proposed by the President need to be mutually exclusive. I agree with the committee's actions of keeping the breeder option intact while directing ERDA to look carefully at the President's suggestions.

OIL SHALE

In the preliminary versions of its MOPPS study, ERDA is predicting that by the year 2000, oil shale will be a significant source of petroleum in this country. Federal research and development is especially appropriate in this area because 80 percent of our oil shale reserves are found on Federal lands. The committee therefore has authorized $28 million instead of ERDA's oil shale request of $21 million.

ERDA is advancing an especially attractive technology known as in situ or underground processing. This technology can produce shale oil and gas without mining or with greatly reduced mining requirements. I am told that the advantages of in situ methods over conventional processing methods include reduced water, manpower, and shale disposal demands. I also wish to point out that application of this technology could increase the extent of the economically recoverable oil shale resources by making lower grade and deeper shales economic to exploit.

The funds provided by H.R. 6796 will advance oil shale technology in this and other ways.

COAL CONVERSION

The coal program in the Energy Research and Development Administration has a broad mandate to explore, extend, and accelerate technologies to recover and use coal. There are several explicit technologies to pursue: direct combustion via fluidized beds, conversion of coal to synthetic oil and gas, combined cycle power generation and coal-fired magnetohydrodynamic generation of electricity. There are subprograms devoted to these technologies whose major concern it is to improve and expedite existing or emerging technologies for commercial use.

However, since all of these technologies use coal, there are problems common to all. Technically some of these problems are of a very fundamental nature. The behavior of coal as a mineral, both physically and chemically, is highly variable. Each of the technologies, whether liquefaction, gasification or combustion, changes slightly depending on the particular properties of the coal

being used. Much better and more complete information and understanding is needed about coal itself. Since, at present, all coal utilization requires high temperatures and, in some cases, high pressures, the problems of erosion and corrosion from coal ash and slag present staggering difficulties. Fundamental basic research in these areas must be done.

Many questions need to be asked and the advanced research subprogram is the place where answers should be coordinated.

Questions that need to be answered are:

How well can the different regions in our country absorb major energy complexes?

What will the impact of these complexes be on other economic sectors, for example, agriculture, competing for the same area?

To what extent are public facilities and services available and can local tax revenues meet these needs?

How will the quality of life be affected?

How can the reliability and maintainability of these systems be ascertained?

How will these coal projects be managed by ERDA as they grow in complexity and number?

How can all these questions be dealt with in a total systems context?

In order that these questions be asked and ultimately answered, the committee recommends $59 million which would bring the funding for this program up to the level recommended by ERDA to OMB.

The committee also has voted to have ERDA study more closely the environmental problems related to the various technologies and to investigate the environmental consequences such as CO_2 buildup from using coal in any form.

In conclusion, I urge your full support for this most important legislation.

Mr. YOUNG of Missouri. Madam Chairman, I strongly recommend that my colleagues support the nuclear waste management program that is authorized by this legislation. As our country works out an effective nonproliferation policy, the problem of waste management will be a central one. This is certain if we have a breeder, but it is also true if the breeder option is delayed. Without a breeder, the technical problems are perhaps more manageable—there are no liquid high level wastes to be turned to glass, but there will be many thousands of spent fuel rods that must be stored. The problems associated with reprocessed fuels will be postponed for a short time, but terminal storage in geological repositories will still be a pressing concern.

The storage of spent unreprocessed fuel in the coming years means that ERDA must reorient its approach. The development required includes systems studies to provide analysis of fuel storage requirements, age and heat output data and logistics information for site selection and environmental and safety analysis. There must also be technology development to provide methods of processing and packaging spent fuel to assure long-term stability. Demonstration tests are needed to assess feasibility of all aspects of handling, process, and storage techniques.

In addition, if the thorium fuel cycle is used to produce uranium 233 as a reactor fuel, a form of reprocessing will be required. It is, however, different from the plutonium-uranium reprocessing technique and not as well known.

Thus, ERDA is beginning the technical development to be explored for the thorium fuel cycle in terms of reprocessing chemistry and, ultimately, the glassification and storage of the resultant high-level wastes. The ERDA waste management program is also involved in the international aspects of the nonproliferation efforts of the President. If other countries agree to join the United States in controlling the spread of sensitive nuclear materials and technologies, then they may have difficult spent-fuel storage problems. ERDA has been directed in this bill to design a program that will assist these countries with the spent-fuel problems and thus aid them in cooperating with the President's nonproliferation policy.

The bill which I recommend to you today authorizes $206.5 million for this program. Of this, $20 million is designated for the development of an international spent-fuel disposal program in support of the Nation's nonproliferation objectives. Other funds will extend studies on wastes related to those alternate fuel cycles associated with more proliferation-resistant systems in both light-water reactors and other advanced reactors. Further, $1 million was included in this program to conduct a study and prepare a plant for the disposal of high-level liquid wastes now in underground storage tanks in West Valley, N.Y.

In summary, as legislative adviser to the Southern Interstate Nuclear Board, I feel that this bill provides for a comprehensive and wise approach to the problems of waste management that attends to the technical issues and the broader policy concerns. I urge support of this bill.

Mr. FORSYTHE. Madam Chairman, I rise to add my support for ERDA's 1978 authorization bill. We must maintain and strengthen our energy research efforts if we are to have hope of ever having the domestic capability of meeting our energy needs in an environmentally sound manner.

As my colleagues have already pointed out, the 1978 ERDA authorization contains a wide variety of programs for increasing our future energy options. At this juncture, I see no alternative for our Nation other than to pursue all promising options, to work out the problems involved in the technologies and to demonstrate their economies, all in partnership with the private sector as much as possible. If we are extremely lucky and come up with a surplus of technologies—at that time we or the marketplace can decide to limit the use of the most undesirable. It seems premature to me at a time of energy shortages, to scuttle ongoing research on long-range solutions to our energy problems. We should first see if their limitations can be overcome. Therefore, I ask my colleagues to oppose weakening amendments to any of the programs contained in the bill.

There are several provisions of this bill which I find to be particularly encouraging. I like the large increase in energy-related environmental and safety research. There is a large increase in the overview and assessment program which permits ERDA to identify and define major conflicts between our energy and environmental goals. The environmental research effort is also scheduled to be increased, including an expansion to all the regions of the coastal United States of studies of the transport and chemical transformations of petroleum products and their effects in the coastal zone. Other areas to be examined include coal extraction, storage, and processing; the effect of increased CO_2 on the atmosphere; and the effects of byproducts of the nuclear fission process. The bill doubles the spending level of the decontamination and decommissioning program for aging nuclear facilities and almost doubles the nuclear waste management research budget as well.

I would like to mention one final program well worth enacting into law: the municipal waste reprocessing demonstration facilities program. Under this program $20,000,000 for fiscal year 1978 and up to $200,000,000 over the life of the program will be spent by ERDA to aid municipalities in developing demonstration facilities for reprocessing municipal waste into fuel and energy intensive products. We have massive amounts of municipal wastes, perhaps 200 million tons, generated every year, and facilities for extracting the energy value from these wastes are very expensive—costing as much as $50 to $100 million. By allowing ERDA to pay up to 75 percent of the cost of first-of-a-kind facilities or entering other financial support arrangements and thereby absorbing some of the risk inherent in testing new technologies, this program would help us provide a new energy source and a partial solution to our urban waste disposal problems simultaneously.

Mr. BROWN of California. Madam Chairman, I ask you to support deferral of the $2 billion Clinch River Breeder Reactor—CRBR—project, as recommended by the administration. The House Science and Technology Committee voted 19 to 11 to continue this commercialization program, which I feel is a grave mistake. When consideration of the ERDA authorization bill resumes, I will introduce an amendment to reduce funding for the CRBR from the $150 million in the committee bill to the $33 million requested by the President for termination costs and completion of preliminary design.

I have served on the Science and Technology Committee and the Joint Committee on Atomic Energy, and I have voted in the past for the Clinch River project funds. The reasons why I now support the President's decision to defer the CRBR are given as follows.

First, the United States cannot credibly negotiate for a limitation on nuclear weapons proliferation if we proceed now with a project aimed at early placement of the breeder reactor in the commercial

economic sphere. This reactor uses separated and purified plutonium as a fuel component. Once plutonium is available in separated form, the potential exists for nations or terrorists to build bombs within days. Others have argued that bombs—of even higher efficiency—can be made of plutonium obtained without commercial nuclear fuel recycle or a breeder economy. This is true, but a plutonium separation facility in a civilian power program gives a country an instant weapons capability as a byproduct. The warning time available for the rest of the world, in which to react to a nation's decision to produce bombs, becomes vanishingly short.

Proceeding now with a breeder commercialization project would signal the U.S. acceptance of the worldwide use of plutonium under the woefully weak existing international safeguards. The resulting uncontrolled proliferation of nuclear weapons could eventually present a grave security threat to our Nation. Local or regional disputes, when charged with nuclear threats, would continuously draw into conflict the major nuclear states, destabilizing our never secure détente arrangements. Arguments about the need for sustaining energy sources in the next century tend to pale in importance in a world where a nuclear weapons capability could spread to many nations and even terrorists. In spite of this foreign policy dimension, the Science and Technology Committee did not even hear from the State Department in its hearings on its breeder project.

With my amendment, the administration will still continue research and development on the liquid metal fast breeder reactor—LMFBR—at roughly half of a billion dollars annually, so that this energy option will be maintained. Commercialization can go ahead when negotiations for an international framework for plutonium use are completed, or when the energy need become overriding. Under the President's recommended budget, the advanced nuclear program alone receives as much money as solar energy and energy conservation research and development put together. The $1.2 billion fast flux test facility development at Hanford, Wash., which uses liquid metal coolant and tests fast breeder fuels, will continue and begin operation in 1979. The results from its experimental program should precede, not coincide with, the design and construction of the CRBR. The total cost of nearly $3.5 billion for simultaneous development of the two LMFBR projects would be an extraordinary amount to spend for this one type of breeder reactor considering the present proliferation concerns.

Proceeding now with the CRBR on the hope of later developing adequate technical and institutional safeguards is not a prudent course. The pause in the commercialization program will allow us to investigate both possible technical safeguards and improved design for the LMFBR and the feasibility of alternate advanced converter reactors and nuclear fuel cycles which may be more proliferation resistant.

For example, slightly modified versions of today's light or heavy water reactors operated on a denatured uranium-thorium fuel cycle would cut uranium consumption by a factor of two to four while using a fresh fuel no more attractive to potential bomb builders than the current low enriched uranium fuel. The investigation of these alternatives will be possible only if we delay a premature commitment to LMFBR technology which Clinch River represents.

The pause will also allow time to reach international agreements to reduce the danger of nuclear weapons proliferation. The United States has launched a major diplomatic effort to persuade other countries to avoid premature commercialization of a plutonium based economy. An international fuel cycle evaluation program is being set up in which supplier and buyer countries jointly explore ways to make nuclear technology more proliferation resistant or find other ways to meet both world energy and security needs. We are not asking France and Germany to forgo their breeder programs, but we do want them to restrict sales of sensitive nuclear technology to nonweapon states. We should not be too hasty in prejudging the success or failure of the President's initiatives; for example, both Germany and Britain have delayed their decision on a commitment to the next stage in the breeder reactor development. Also, France has indicated a reconsideration of their sale of a plutonium reprocessing plant to politically unstable Pakistan. The funding of the CRBR by Congress would undermine our credibility in these international negotiations.

The second major reason for deferring the breeder commercialization program is that the breeder as an energy source is not needed as soon as we once thought, primarily because the current estimate of nuclear capacity in the year 2000 is less than one-third of what the estimate was when the CRBR was originally authorized. Coupled with the ERDA estimate of U.S. uranium resources, a pause in the commercialization program is totally justified, as outlined by Dr. Schlesinger in his testimony before the Science and Technology Committee—which I inserted in the June 13 CONGRESSIONAL RECORD, page 18749. He stated that with reasonable assumptions on uranium supply and energy demand, the breeder demonstration program can now be postponed anywhere from 7 to 30 years. It seems the height of folly to cling blindly to a schedule which was planned when we foresaw the demand 3 times greater than we see now for the year 2000. Schlesinger pointed out that the cost-benefit ratio of the CRBR is not favorable when the commercialization program is no longer required, and that with falling demand projections early commercialization is not in the interest of the very utilities which were the targets of the demonstration. If a careful study in the next decade indicates less uranium, renewed acceleration of electrical growth, and no viable long-term energy alternatives—we do have coal as a temporary backup—then the plutonium commercialization deferral decision can be reexamined, With the accumulation of fast flux test facility data, and new designs for breeder technology, we will probably be in a better position to intelligently commercialize sometime in the future, if we choose to do so.

The LMFBR does not offer the possibility of lower energy prices. The LMFBR would have significantly higher capital costs than the light-water reactors currently being built, which would make breeder electricity more expensive. An economic advantage for the LMFBR due to reduction in fuel cycle costs would be unlikely in this century or in the early decades of the next century. Moreover, the energy contribution from even accelerated breeder commercialization would be minuscule in this century.

Many other reasons exist for supporting the President's position on the CRBR. These include the fact that it has been plagued by tremendous cost escalation, that it has an obsolete and inappropriate design, and that it has complex and controversial contractual and management problems. Further, there are those who believe that the entire question of a plutonium economy is a moral issue of great importance. My letter has indicated that funding CRBR now is irresponsible on both fiscal and national security grounds, and the project cannot be defended on any economic or energy demand basis. While I do not believe that one need agree with all of the arguments against the CRBR, taken together they make up a compelling argument to support the President in his decision to defer this commercialization project.

Madam Chairman, there are many questions involved here. These include:

First. What is meant by the "plutonium economy"?

The "plutonium economy" signifies the use of separated plutonium as a fresh fuel for nuclear reactors. Plutonium is produced by light water reactors—LWR's, but their operation is not dependent on reprocessing the highly radioactive spent fuel to recover and reuse plutonium.

An optional transition stage to the mature "plutonium economy" would use plutonium reprocessed from spent reactor fuel as a supplementary fuel in LWR's. Although this recycling saves roughly 25 percent on uranium requirements, economics are marginal and, at best, result in a savings of only 1 percent or 2 percent of the cost of nuclear power. Primarily for nonproliferation reasons, both Presidents Ford and Carter have deferred commercial reprocessing and recycling. The fledgling plutonium reprocessing industry in the United States for LWR spent fuel is represented by the partially completed, privately financed plant in Barnwell, S.C. With reprocessing deferred, LWR spent fuel can be stored retrievably so that the energy value can be recovered if ever needed.

The mature "plutonium economy" implies the use of the liquid metal fast breeder reactor—LMFBR—on the plutonium-uranium fuel cycle, which is 60 times more uranium-efficient than an LWR but which requires the reuse of the produced plutonium. Each commercial size LMFBR would contain about 3 tons of plutonium—enough to construct several hundred nuclear weapons. At each

annual refueling, about one-half this amount would be removed. A commercial-size—1,500 metric tons per year—fuel reprocessing plant would recover annually sufficient plutonium to construct over 1,000 nuclear weapons if it reprocessed LWR spent fuel; and up to 10,000 nuclear weapons if it reprocessed plutonium breeder spent fuel. As these figures indicate, a nuclear power economy based on the breeder reactor would require tremendous amounts of plutonium being moved about.

Second. How hard is it to make a bomb with reactor-grade plutonium?

The pacing consideration in the acquisition of a first weapon is the availability of nuclear weapons material rather than the capability to design a nuclear device. Roughly 10 kilograms, 22 pounds, of plutonium is required for a bomb—the exact amount depending on chemical form and whether a reflector is used. The Office of Technology Assessment study of "Nuclear Proliferation and Safeguards" concludes that "military useful weapons with reliable nuclear yields in the kiloton range can be constructed with reactor grade plutonium, using low technology" and "given the weapons material and a fraction of $1 million, a small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device—which would produce a significant nuclear yield." A Lawrence Livermore study concludes that reactor grade plutonium, used in relatively simple designs, could produce effective, highly powerful weapons with explosive yields that range in predictable fashion from the equivalent of 1,000 tons of TNT to 20 kilotons, the power of the plutonium bomb that destroyed Nagasaki.

Third. How will the "plutonium economy" affect the proliferation of nuclear weapons?

Pure plutonium is not easily obtained from spent fuel because of the intense radioactivity of the fission products; separation of the plutonium requires a shielded chemical reprocessing plant. For a country using LWR's without reprocessing, acquiring nuclear weapons through the civilian power program is thus fairly difficult, requiring control over the spent fuel and the significant time to build and operate a clandestine reprocessing facility. Once a country enters into the commercial "plutonium economy", however, the situation is quite different. According to Victor Gilinsky, Commissioner of the Nuclear Regulatory Commission, "for a nation that has done its homework, separated plutonium can be suddenly appropriated from its storage place and inserted in warheads within days—it is difficult to see how inspection safeguards over reprocessing and separated plutonium can give any protection." In other words, the "plutonium economy" gives a country an immediate weapons capability as a byproduct of civilian nuclear power. This capability, which may be used in a crisis, exists without a prior commitment to make weapons, and the warning time to the rest of the world is vanishingly short.

Countries can acquire nuclear weapons via other routes, but historical proliferation has been rather slow. The "plutonium economy offers the potential of rapidly increasing the number of countries acquiring nuclear weapons capability. Moreover, a large commerce in plutonium significantly increases the possibility of theft or diversion of this material and subsequent building of a bomb by terrorist groups.

Fourth. What is the possibility of developing adequate technical safeguards for the "plutonium economy"?

Since the advent of renewed concern over proliferation from the "plutonium economy," several technical safeguard measures have been suggested. For example, one suggestion is to have plutonium blended or coprecipitated with uranium at international reprocessing plants and the mixture spiked with radioactive materials—either by irradiating the fresh fuel for a short period of time or by adding radioactive sources such as cobalt-60. The fuel would then be in a form hazardous to handle and not readily available for weapons. However, according to the American Physical Society study of nuclear fuel cycles and waste management, "technical measures for safeguards, by themselves, do not provide adequate protection against theft or diversion of fissile material, but such measures can play an important role in complementing and reinforcing necessary conventional physical security measures." Although technical safeguards are helpful in guarding against theft or diversion, especially by subnational groups, blending and spiking procedures acceptable from an occupational safety standpoint probably could be reversed without too much difficulty by a nation and even by sophisticated terrorists. Another possible safeguard measure for LMFBRs is to use a form of dry processing, called pyro-processing, which leaves a large amount of fission products with the plutonium in contrast to the Purex process which produces very pure plutonium. All of these measures should be thoroughly investigated during the pause and reappraisal period which the President has proposed, but it is not prudent to move full speed ahead now with the "plutonium economy" on the hope that these suggested technical safeguard measures will later prove adequate.

Fifth. What has been the response of other countries to the President's nonproliferation initiatives?

President Ford deferred commercial plutonium recycle in the United States and asked other countries to stop selling internationally reprocessing and enrichment plants. In continuing that policy, President Carter asked other countries to rethink their commitment to the "plutonium economy" and to consider a pause in which to obtain an international framework for dealing with or bypassing plutonium. The only possible domestic decision consistent with a serious international reevaluation was also taken by the President, and that was to defer the project, the CRBRP, which is integral to the U.S. breeder commercialization effort. As the United States will continue with breeder research and development, other countries were not asked to cancel their own domestic breeder programs. Instead, Carter requested an international nuclear fuel cycle evaluation to explore ways to make nuclear technology more proliferation resistant and to investigate alternative means to meet world energy needs in the 21st century.

Since then, France and Germany have stated that they will no longer sell reprocessing plants overseas. Unlike Germany's prior contract with Brazil, France may indefinitely defer its previous contract to sell a reprocessing plant to politically unstable Pakistan. Japan may accede to an American request to delay its reprocessing plant, and the number of countries for tightened export controls has increased. England and Germany have both delayed the commitment to the next stage in their own breeder programs, but France and Germany have agreed to set up a company to market breeders. Although these results are mixed, we should not prejudge the ultimate success or failure of a long-term initiative.

Sixth. What is the relation of the Clinch River breeder reactor project—CRBRP—to breeder commercialization?

The CRBRP is an integral component of a commercialization program as distinguished from a research and development program. Although one-third full size and called a demonstration plant the project has the purpose of demonstrating the commercial feasibility and acceptable of the breeder ractor. This fact is illustrated by the following: First, TVA will purchase the electricity and may even purchase the plant after 5 years of operation, second, the CRBRP was authorized as a cooperative effort, managerially and financially, of the electric utilities and the government, and third, the CRBRP is to demonstrate the licensability of the breeder reactor. In other words, the CRBRP is to break down the institutional barriers to the commercial operation of a breeder reactor.

Dr. Schlesinger stated on June 7:

> The Clinch River plant is intended not as technical R&D but really as commercial R&D. Its chief underlying characteristics are that it will permit the utilities to demonstrate that they can sell electric power produced by a breeder reactor. That is no vast step forward in my judgment. If you can product electric power, you can sell it. It will demonstrate that you can license a breeder. Once again that is not a question of R&D, but it is a question of institutional arrangements which in an emergency we indeed could change.

Seventh. How much money is left in the ERDA budget for breeder research and development without the CRBRP, and what effect will the deferral have on Tennessee?

Even without the CRBRP, there still remains roughly one half of a billion dollars in the fiscal year 1978 ERDA budget for research and development solely on liquid metal fast breeder reactors—LMFBR's. This is more money than the breeder programs of all the European countries put together. Another $200 million exists in the budget for R. & D. on other advanced nuclear reactors and fuel cycles. The total advanced nuclear program alone receives as much money in

the President's budget as solar energy and energy conservation put together.

Even without the CRBRP, the State of Tennessee will receive roughly $900 million dollars—approximately 12 percent of the fiscal year 1978 ERDA budget, more than any other State—more than California and New York put together.

Eighth. How much uranium really exists and what is the relation to the timetable for breeder commercialization?

Only when uranium supplies are sufficiently depleted will the light water reactor—LWR—be replaced by the breeder reactor and even this assumes that there will be no energy alternatives in the next century, such as solar electric or fusion, to complete favorably with the breeder reactor. When the Clinch River project was originally authorized, the Atomic Energy Commission projected 1,200 large nuclear plants—LWR's—on line in the year 2000. Revised forecasts by ERDA now indicate that there will be only approximately 380 plants in that year. Consequently, our resource of uranium can be stretched out for a much longer period of time than originally thought. ERDA, which has the only complete data, estimates that total reserves and potential resources of uranium, at $50 or less per pound, are 4,300,000 tons. This amount of uranium would mean that the breeder program could be delayed roughly 25 years without any detrimental effect. For those who like to use a "prudent planning base", ERDA gives a very high confidence level to at least 2,350,000 tons of uranium being found. Even if there were no more uranium than this, all the reactors built between now and the year 2000 would be guaranteed a 40-year supply of uranium. ERDA will be exploring vigorously for more uranium during the next decade. Many experts feel that much more uranium exists than even the higher ERDA figure, especially when lower grade and more expensive uranium is included.

Ninth. What does the current cost-benefit analysis have to say about CRBRP and a breeder commercialization program?

In 1974, ERDA estimated the gross benefits from the liquid metal fast breeder reactor—LMFBR—excluding R. & D. costs, of $19.4 billion—discounted to 1974. In 1977, ERDA and the Council on Economic Advisers found a strikingly different result, primarily because of the drastic drop in projections of electricity demand. Even taking into account the price rise for uranium and enrichment services since 1974, the total benefit of the LMFBR is now negative when the R. & D. costs are included. In other words, it is not economical to commercialize prematurely an expensive new technology—no one will buy it.

Tenth. What are the benefits of a pause on the design of the breeder?

Profs. David Rose and Michael Driscoll of the MIT Nuclear Engineering Department conclude that the CRBR is an old design and given the opportunity to start again, a better breeder could be designed. In a 1976 study Burns and Roe, architect-engineer for the CRBR—and author of the infamous secret 1973 memo—conclude that the pool design like the French Phenix is cheaper and five times safer than the loop design like CRBR. Thus, a deferral of CRBR would mean that we could design a far better breeder for demonstration when it became necessary and economical to do so.

Eleventh. Are there nuclear alternatives which are more proliferation resistant than the LMFBR and more uranium efficient than the LWR?

A denatured uranium thorium fuel cycle—U^{233} mixed with U^{238} and thorium—used in currently commercialized light and heavy water reactors could reduce their annual uranium requirements by 50 percent to 75 percent relative to light water reactors on the current once through uranium fuel cycle. This means that large uranium savings, if uranium supply is really a limiting factor, could be achieved earlier by shifting today's reactors to this uranium conserving fuel cycle over the next 15 to 25 years than by phasing in the breeder reactor. Moreover, the special advantage of the denatured uranium thorium fuel cycle in these reactors is that it would be significantly more proliferation resistant than either the uranium-plutonium fuel cycle or the denatured uranium-thorium fuel cycle in an LMFBR. Also, the inventor of the light water breeder, Prof. Alvin Radkowsky, believes that it is possible to decrease the annual uranium requirements of an LWR fourfold without reprocessing. A pause in the breeder commercialization program will allow time to investigate these alternatives.

Twelfth. What nonnuclear competitors are there to the LMFBR?

The LMFBR is an energy technology for the 21st century as are solar electric and fusion. However, according to the new study on solar energy by the Office of Technology Assessment, small solar equipment should be able to provide electricity for between 5 and 15 cents per kilowatt-hour—current residential electric rates are between 3 and 4 cents per kilowatt-hour. Consequently, if electricity rates increase by factors of 1.5-2 over the next few decades, small-scale solar electric facilities would be attractive in many areas of the country. Fusion has not yet been demonstrated, but of course it offers a great potential and is being aggressively pursued by ERDA.

Obviously, there are many other questions one could ask about this issue. I hope the debate brings these issues out.

Madam Chairman, to sum up we offer four key arguments in support of the President's decision to defer the Clinch River demonstration project.

First. Projections of nuclear generating demand have fallen by two-thirds since the breeder commercialization program was planned in 1972. The light water reactor will be superior much longer than expected. The original breeder demonstration schedule no longer makes economic or technical sense.

Second. The plutonium economy of a commercial breeder program is almost universally acknowledged as a major nuclear proliferation hazard. The President has asked for time to negotiate an international framework for plutonium use before going ahead with major domestic commercialization steps. To authorize ground breaking for the Clinch River project would fatally weaken a Presidential initiative which could be essential to controlling the spread of nuclear weapons.

Third. The Clinch River breeder demonstration project is not a step toward easing our current energy and oil import crisis. The breeder would not even be competitive with light water nuclear reactors until well into the 21st century, and it does not provide energy in the transportable form which represents our most acute need.

Fourth. We have and will continue a very large breeder research program—in addition to the proposed Clinch River project. Stopping Clinch River will not "kill" the breeder program but may enhance it by allowing more rational design.

We have expanded these arguments below:

First. Most fundamentally, projections of electrical demand for the year 2000, and especially the nuclear energy components of that demand, have fallen dramatically since the original breeder schedule was laid out in the early seventies. When the Clinch River demonstration project was approved as part of the breeder commercialization program in 1972, the AEC estimated 1,200 Gigawatts of nuclear generating capacity in the year 2000. The 1975 estimate was 800 Gigawatts and current ERDA projections have brought this down to 300 to 400 Gigawatts. These are not wishful guesses of conservationists, but hard estimates based on utility planning and, most importantly, changing birth rate and demographic projections for this country. The originally projected stress on domestic uranium supplies will not occur until well into the 21st century. Under these conditions the relatively favorable economics of the well-developed light water reactor will continue past the year 2000.

The current energy and oil import crisis is very real, but the Clinch River breeder demonstration has very little to do with it. Even with optimum development, neither technical factors nor the competitive position with respect to the light water reactor will allow deployment of commercial breeder reactors before the years 2010 to 2020.

Moreover, the form of our energy supply gap in the next decades is chiefly in the area of liquid, transportable fuel—not electricity as would be produced by the breeder. We need urgently to take steps to alleviate the transportable-fuel energy crisis during the next 40 years, but, at best, the breeder will play no role in the solution to the problem. At worst, premature commercialization of the breeder will siphon off needed capital and effort from more effective alternatives.

Early Government-sponsored commercialization of the breeder would be wasteful and unresponsive to market

forces. A commercialization schedule which once made sense with a three-times-higher demand projection than we have today can no longer possibly be good public or business policy. Rushing ahead on the old schedule is of special interest to those who have been historically associated with the project, but it is not in the best interest of balancing the U.S. budget or using our energy resources wisely.

Second. Coupled with the lack of need for early breeder, commercialization is the very real danger of nuclear proliferation it presents. A 1,000-Megawatt breeder contains almost 20 times the plutonium inventory of a comparable light water reactor. Moreover, the breeder cycle will depend on separation and handling of that plutonium in forms which could easily be stolen or diverted for weapons production. It is possible that technical or political arrangements will eventually be developed to minimize the proliferation danger, but we simply do not have these arrangements now.

The lack of any reliable technical or international framework for commercial plutonium use is, in fact, what motivated both former President Ford and President Carter to defer commercial plutonium reprocessing. Both recognized that though it is possible to covertly obtain weapons material even in the absence of a plutonium economy, the vastly increased amount of available bomb material circulating in a breeder cycle would greatly increase the probability of national proliferation or terrorist activity. President Carter, as well as former President Ford, have argued that the United States should take the lead in seeking world order in plutonium use, and avoiding the perils of an undisciplined plutonium economy.

Mr. Carter's deferral of the Clinch River demonstration is a logical part of this broad foreign policy initiative, and is necessary to maintain the credibility of our concern for nuclear proliferation.

The prospect of a nuclear proliferated world is indeed a frightening one. The idea of any kind of "national security" in such a world would be impossible, for nations in every part of the globe would have weapons capability. The smallest regional dispute could easily be escalated into a nuclear conflict, and all of our historic investments in deterrence and detente would become meaningless. National security considerations thus argue for full support of the President's nonproliferation negotiations and the related deferral of the Clinch River demonstration and commercialization program.

Third. The much lowered nuclear and uranium demand projections allow us the time to pause for working out international arrangements for plutnoium use, without risking the energy or economic security of the United States. We should note, too, that this administration and the last committed this Nation to development of a variety of inexhaustible energy technologies for the long-range period beyond the turn of the next century. We do not yet know which of these will emerge as superior, and for that reason we must maintain several research and development options—including the breeder as we note further below. However, to prematurely commercialize one of these, the Breeder, long before the revised timetable of uranium supply economics indicates it to be necessary, is to foreclose possibly preferable alternative options before the available R. & D. data are in.

Fourth. A last point concerns the overall Breeder R. & D. program. A vote supporting the President in deferring the Clinch River demonstration project is not a vote against nuclear energy or even the breeder component of our nuclear R. & D. program. If we delete the $117 million for the Clinch River breeder, we will still be spending almost $500 million in breeder research and development in fiscal year 1978. Through the entire major 4-year budget cycle to 1982, the Clinch River project would be less than 25 percent of our breeder R. & D. program. Many knowledgeable scientists and engineers have argued that our current Clinch River design is antiquated and ought to be updated, and that we need the data from the just-operational fast flux test facility in order to optimumly design our eventual breeder. Deferring the Clinch River project will not kill the nuclear or breeder program; it may enhance it by allowing a more logical coupling of the on-going R. & D. elements.

To defer the Clinch River project is not a gamble with our Nation's economic or energy future. Our ongoing breeder program will preserve that option for the future, if we are able to work out an international plutonium management program, or if acceptable alternatives are not available. It is an entirely reversible course. However, to go ahead with the demonstration and commercialization program, and fatally weaken the President's initiative to solve the deadly nuclear proliferation problem, would be a reckless gamble indeed.

Finally, Madam Chairman, I ask that an index of recent CONGRESSIONAL RECORD statements be inserted in the RECORD at this time.

LIST OF CONG. RECORD INSERTS RELATED TO THE CLINCH RIVER BREEDER REACTOR DECISION

Speech by Rep. Brown for SIPI Conference, April 29, p. 13046.
"LMFBR: A Tough Energy Decision," May 5, p. 13881.
News Article on the "Breeder Reactor & the SST", May 9, p. 14064.
Minority Report of Breeder Review Steering Committee, May 9, p. 14081.
Carter position, May 24, p. 16259.
Nye Testimony, June 10, p. 18560.
Schlesinger testimony, June 13, p. 18749.
Statement Against CRBR, June 13, p. 18596.
Vance letter, June 15, p. 19330.
Review of Ford-Mitre report, June 15, p. 19324.
Rep. Brown "Dear Colleague," June 16, p. 19616.
Rep. Bingham statement, June 16, p. 19360.
N.Y. Times Editorial, June 16, p. 19592.
Alternative fission technologies, June 20, p. 19981.
Comments on the GAO breeder letter, June 21, p. 20228.
Teller position, June 22, p. 20443.
Rep. Findley statement, June 22, p. 20306.
Washington Post editorial, June 22, p. 20459.
L.A. Times editorial, June 23, p. 20676.
Article on Burns and Roe, June 23, p. 20666.
Nuclear Weapons Potential from Breeders, June 27, p. 21084.
Termination vs. Construction Costs, June 28, p. 21346.
Burns & Roe complete memo, June 28, p. 21173.
Europe and the Plutonium age #1, June 28, p. 21351.
Europe and the Plutonium Age #2, June 29, p. 21630.
2nd L.A. Times Editorial, June 30, p. 21699.
Europe and the Plutonium Age #3, July 1, p. 22147.
Boston Globe editorial, July 11, p. 22336.
OTA solar study, July 12, p. 22596.
Questions & Answers on the Breeder, #1, July 12, p. 22634.
Houston Post Editorial, July 13, p. 22889.
Missing highly enriched uranium, July 13, p. 22841.
Solar potential, July 13, p. 22891.
Fri speech, July 14, p. 23126.
Atlanta Journal editorial, July 14, p. 22994.
Questions & Answers on the Breeder, #1, July 15, p. 23402.
ERDA "inexhaustibles" study, July 18, p. 23624.
Dispute over commercialization, July 22, p. 24613.
Council of Economic Advisors letter, July 25, p. 24840.
Washington Post Editorial, July 25, p. 24819.
Proliferation report card for reactors, July 26, p. 25048.
Conclusions from Ford-Mitre report, July 28, p. 25607.
Nye letter, July 28, p. 25631.
Technology behind nuclear proliferation, Aug. 2, p. 26249.
Volatile European situation, Aug. 3, p. 26637.
Rep. Bingham "Dear Colleague", Aug. 5, p. 27825.
France joins International Fuel Cycle Evaluation, Aug. 5.

Mr. MURPHY of Pennsylvania. Madam Chairman, very soon the House will vote on the continuation or suspension of funding for the Clinch River breeder reactor demonstration facility. In an effort to insure that my colleagues are aware of the breadth of public support for this project, I would like to present this petition of 12,747 persons in favor of continued development of the Clinch River breeder reactor project.

These signatures were recently obtained from citizens representing 32 States. I would hope that as my colleagues consider this important question, the future necessity of breeder technology to supply much needed energy will be foremost in their minds. This petition is evidence that a large segment of the public realizes the necessity of the breeder.

Madam Chairman, the petitions are on file for the inspection of the members, if they so desire.

Mrs. LLOYD of Tennessee. Madam Chairman, I rise in support of the fiscal year 1978 ERDA authorization bill as reported by the Science and Technology Committee. I would like to take this opportunity to commend the gentleman from Texas, the distinguished chairman of the full committee, Mr. TEAGUE, for his diligent and conscientious efforts which have led to the formulation of this legislation. Our committee was indeed fortunate that Mr. TEAGUE was able to return to the committee in time for this legislation to be debated. He has done an outstanding job, and I am deeply grateful for his efforts.

Likewise, Madam Chairman, the gentleman from Alabama, the chairman of

the Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, and the gentleman from Washington, chairman of the Subcommittee on Advanced Energy Technology, Conservation, Research, Development and Demonstration, have provided the leadership and expertise that the complex issues contained in this legislation demand. Both Mr. FLOWERS and Mr. MCCORMACK have done this body a great service in bringing this bill to the floor of the House. I commend them for the tremendous job they have done.

It should come as little surprise to the Members that I will direct my remarks toward the liquid metal fast breeder reactor program as recommended by the Committee on Science and Technology. The principal project of this program is the Clinch River fast breeder demonstration project. The fate of this project is quite likely to be the focal point of the most intense debate on the ERDA bill. Under the 5-minute rule, I intend to address in greater detail the issues which I will mention here, but I think it is important to review at least a portion of the history of the LMFBR program, particularly as it relates to Clinch River.

The administration in its budget submission to the Congress in February, requested $483.3 million in operating expenses for the LMFBR program for fiscal year 1978. This included $150 million for the Clinch River facility, and $333.3 for the base LMFBR program. An additional $246.985 was requested in the PC&E category for the base program. Following the submission of this request, the President announced a decision to terminate the Clinch River project and reduce the funding request to a level sufficient to cover the costs of closing out the project.

Essentially, the administration rested its initial arguments for terminating the Clinch River breeder demonstration project on the premise that the United States could unilaterally impose a ban on the development of a technology which was deemed to have a proliferation risk associated with it. The administration flatly ignored the fact that no nation has ever diverted material from the fuel cycle of a power reactor for the purpose of fabricating a weapon. There are very understandable reasons for the absence of weapons developed in this manner. The development of a nuclear weapon from the fuel of a power reactor, that is, a reactor which produces electricity such as the CRBR would, is acknowledged to be the most expensive, most time consuming, most complex and least efficient manner to develop weapons grade material. The 48 nations of the world which are judged to have the capability of producing nuclear weapons today all possess research reactors. These are similar to the reactor which India used to produce its weapon.

Of course, the strongest argument against the administration with respect to the question of proliferation is to look at the rest of the world and how it has responded to the Carter initiative. No nation, neither ally or potential enemy, has made any concession whatsoever to the Carter policy. Even Canada, which had initially given some support to the President, has now resumed the export of uranium to countries which have announced their intention to reprocess spent fuel.

Following the debunking of the proliferation argument, the administration decided to base their case on the costs of the Clinch River facility. We were told that Clinch River could not justify itself in a cost-benefit analysis. I had the opportunity of chairing the Subcommittee on Nuclear and Fossil Energy during part of the debate on this subject. No demonstration stage project has ever been made to justify itself without reference to the overall program of which that particular facility was a part. Our solar demonstration projects cannot justify themselves in a cost-benefit analysis without reference to the overall solar power development program. But leaving this fact for a moment, the administration did not include in their cost-benefit analysis, some of the following factors. First, the Clinch River breeder reactor will provide, over its lifetime of 30 years, some $10 billion worth of electricity to the TVA system. Second, the cost of reactivating the program after a 5-year delay was not included as part of the cost of terminating the project. That cost is estimated to be as high as $1 billion. Finally, the cost associated with the risk of needing the breeder reactor and not developing it was included in the cost benefit analysis. I would like to quote from the testimony of Dr. Floyd Culler of the Oak Ridge National Laboratory regarding the cost-benefit analysis for Clinch River:

> Several comments about cost/benefit. Dr. Schlesinger testified this week that the breeders are not necessarily supported by cost/benefit analyses. The problem with longer-term benefit analyses, as all of you know, is the following: the cost/benefit technique was originally developed to make industrial decisions over about a 15-year timespan. It was then possible to discount benefits to be achieved after the new initiative to the current dollar value without distorting the benefits with respect to the cost.
>
> If, however, the benefits in the long-term evaluation, such as the breeder, over a period of 35 to 40 years or 50 years are discounted at any interest rate, be it 2 percent, 6 percent, or 10 percent, the benefits which occur late are totally discounted; if you discount their value at 10 percent per year there's nothing left.
>
> As a consequence, the cost/benefit technique is suspect and is not necessarily one that should be used to determine long-term benefits for a project like breeders.

Finally, Madam Chairman, the administration has tried to show that we will not need a breeder reactor because we will either not have the demand for electricity in the year 2000 that we expect, or alternatively we have plenty of domestic uranium to meet the demand for nuclear generated electricity. As evidence of this abundance of uranium, Dr. Schlesinger presented a chart to the Committee on Science and Technology as part of this testimony in which he showed that there would be need for only 380 to 400 GWe of nuclear generating capacity by the year 2000. However, the assumptions upon which Dr. Schlesinger relied are open to very serious questions. First of all, the number of reactors assumed that we would confine growth in electrical energy demand between now and the year 2000 to 2 percent per year. It also assumed a tripling of coal production and the ability to continue to produce approximately two-thirds as much oil and gas from domestic sources as we do today and import 50 percent as much oil and gas as we import today. All of these assumptions are open to question, but Dr. Schlesinger asks us to believe that every one of these doubtful factors will be accurate.

Finally, there is an interesting footnote in Dr. Schlesinger's chart. We would have enrichment capacity sufficient to yield 0.1 percent tails assay. This would require a doubling in the enrichment capacity of the United States, or, an expenditure of $10 billion in 1977 dollars to achieve.

If we simply use the traditional figure in tails assay of two-tenths percent, we suddenly find we need a breeder reactor about 1995. The situation is further complicated by the absence of any administration recommendation to increase our enrichment capacity to a level commensurate with Dr. Schlesinger's chart.

I had the opportunity to ask the administration witnesses who appeared to testify on the uranium supply, the following question: "What would you suggest as a prudent planning level— of uranium supply—for this committee to use in deciding our breeder policy?" The witnesses responded in the following:

Robert D. Nininger, Assistant Director for Raw Materials, Uranium Resources and Enrichment, U.S. ERDA:

> So a simple answer from our point of view is that the 1.8 million (tons of uranium) which is now really about 2 million recognizing that well . . . that this is not the ultimate. This is only what we can very reliably count on, we think, at this time.

Leon T. Silver, professor of geology, California Institute of Technology:

> We have not built the role of the breeder reactor into the time interval that we've considered. There is, however, in all of the scenarios that we've built an indication of a very large shortfall approximately from 1997 to 2000.
>
> The question, I think, that the Committee must consider is: where are major sources of electrical energy going to be derived at that time?
>
> Now, it's quite possible that additional resources will be defined which will fill the gap which appears in our calculations, but those are not yet recognized resources. Therefore, it seems to me that it is necessary to consider at least something analogous to the breeder as a major step to fill a gap which we presently see in nuclear energy production.

Milton Searl, Electric Power Research Institute:

> While I arrive at my conclusion by a different method, the point S– on my diagram, for example, using the total resources, I think I tend to agree with the gentleman that around 1.8 to 2 million tons is prudent for planning in connection with a breeder program. That number, in my book, is a 97 or 95 percent confidence level.
>
> Now, it comes back to what confidence level is then appropriate for national planning, but I think a high confidence level. So, I would not disagree with the number, 1.8 or 2 million, some place in there.

Vincent E. McKelvey, U.S. Geologic Survey:

I like Dr. Nininger's statement, Madam Chairman, and concur with it.

All of these witnesses, including ERDA and USGS, agree that for the purpose of policy planning, the amount of uranium supply should be gaged at 1.8 to 2 million tons. If this figure is correct, and if we need 400 GWe nuclear electricity as the administration says in the year 2000, we will have to have a breeder reactor by 1980, a task already impossible.

Madam Chairman, I would hope that the Members of this body will carefully review all the information presented to them during the debate on the Clinch River facility. The issue is far too important to be decided on the basis of hunches.

Mr. RUDD. Madam Chairman, I rise in support of the ERDA authorization, but in particular to support the solar program which I believe is vital to the Nation's future energy needs.

My own State of Arizona has been a leader in the solar energy field, both in solar research and development and commercialization of solar technology, for many years. By and large, the people of the State oppose increased Federal Government spending in most areas. But when surveyed on the subject of solar energy in my annual questionnaire this year, my constituents registered themselves 86 percent in favor of increased Federal support to encourage solar energy development.

Arizona is currently involved in several important ERDA-supported solar energy projects, including the development of a deep-well solar thermal irrigation system in Pinal County, which is in my district.

The State is contributing $200,000 to this project, and ERDA has earmarked about $3.75 million over a 3-year period. Three contracts have been awarded to design different high-temperature systems using solar-powered turbines to produce needed electricity for conventional water pumps. They will generate 50 kilowatts of electricity, about 20 horsepower, and the best irrigation system selected among the three should begin operation in late 1979.

Arizona's largest employer, the Motorola Corp., is also heavily involved in important solar energy work, in the area of photovoltaic power systems, whose long-range potential is unlimited and should be increasingly supported by ERDA.

This is an effort to develop low-cost versions of the silicon cells used on space satellites for converting sunlight directly to electricity. The beauty of this system is its uncomplicated nature and simple maintenance. Motorola and ERDA have a joint investment of around $10 million to date in this important photovoltaic work.

Madam Chairman, some most important insights and precautions came out of this year's ERDA authorization hearings on the Federal Government's photovoltaic program, and I want to emphasize them here in hopes that ERDA officials will take them to heart as they continue to restructure the agency's photovoltaic plan.

They concern the allocation of funds between solar research and development on the one hand, and solar demonstration projects—applied research—on the other.

The large bulk of ERDA solar funds are now going to R. & D., with only a small percentage of the total going to solar demonstration projects. R. & D. is vital, but this undue concentration of solar funds on the R. & D. side is not helping industry to acquire the production experience and automation advancements that are necessary to bring down the cost of solar technology to make it commercially available to the people. After all, this is the reason for the Federal Government's solar energy program in the first place.

We need more attention to solar demonstration projects—not overemphasis that will freeze-in present technology to the detriment of future development, but a more equal balance that will help industry's learning curve process to make solar energy and solar-produced electricity a commercial reality for our people within as short a time as possible.

To this end, I hope that ERDA will start allocating a more appropriate share of its solar energy funds for demonstration projects. For example, in my own State of Arizona ERDA could conceivably support development of a utility-size power substation for running airconditioning in the summer and heat pumps in the winter in order to optimize the use of solar energy year round.

Other useful demonstration projects could include development of solar communciations systems for military use as well as for rural telephone service, and in conjunction with the Department of Transportation for highway lighting and road signs.

The potential here seems to be tremendous for moving along real applications of solar technology to help the people. The fact that solar home and hot water heating is now nearly competitive in some areas of the country, only a few years after the federally supported demonstration projects started, proves the positive worth of such a strong demonstration program.

Madam Chairman, our State of Arizona has itself developed an outstanding solar energy program, which works in tandem with Federal efforts of ERDA to conduct the kind of cooperative efforts that are necessary if the Nation is to meet the goal of producing 3 percent of all our electrical power with solar technology by the year 2000.

This is one of the few Federal-State efforts that I am in the least bit enthusiastic about. I wish that others were as beneficial to the current and future needs of our people.

Mr. MARKS. Madam Chairman, I support H.R. 6796 and oppose any attempts to reduce the funding authorization in the bill for the Clinch River breeder reactor facility at Oak River, Tenn.

After careful consideration of the liquid metal fast breeder reactor program, I am concerned that our country is not keeping all of its options open. In light of our growing energy demands and our general energy needs, it does not seem practical to close out an option which might serve to accommodate our energy problems. More importantly, it should be understood that this facility at Oak Ridge is only a demonstration plant. The United States has gone to great lengths to ensure that all requirements for safety and reliability are met. Other countries are moving ahead with their breeder programs at a more rapid pace, but our Government has chosen to move at a slow and deliberate pace by testing each component of our nuclear reactor systems.

I do not believe that support of the Clinch River project is a vote in support of commercializing this type of energy source. It is a necessary part of investigating whether or not this type of nuclear facility will be feasible as an alternative energy source. We must discover through a pilot program what types of wastes are produced and how these wastes are to be stored.

It has been estimated that by the year 2,000 approximately 50 percent of our total energy output will be electric. Instead of continuing to burn up valuable oil and gas reserves which cannot be replaced, we must develop a nuclear option. At the present time we have not found effective replacements for the gasoline and oil upon which we rely for our transportation and petrochemical needs. We must move towards energy independence and strive to alleviate our reliance on foreign energy sources.

A majority of the American people believe that the nuclear option should be developed. A Harris poll survey at the time of the past Presidential election favored its development by a ratio of 2 to 1. A more recent survey showed 62 percent favoring nuclear energy development, but there was an uneasiness expresed with regard to the waste disposal program, which is one of the precise reasons for developing this test facility. We must find out more about nuclear waste materials and their chemical properties before we can choose any storage sites.

Without public acceptance of nuclear power, jobs, growth, power, and national security could be endangered. The Energy Research and Development Administration must convey to the public that this problem is not only a technical one, but, indeed a social problem as well. The questions of nuclear safety and reliability must be answered.

Finally, as a member of the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee, I have heard extensive testimony on this subject. I do believe that the sooner a test program is developed, the sooner we will have our questions answered concerning most of the questions raised by the breeder's opponents. After careful consideration of this matter, I do not believe that we can afford to close this option.

Mr. WINN. Madam Chairman, I rise to support passage of the 1978 ERDA authorization bill. In total this bill represents an important step in our efforts to insure adequate future supplies of energy at realistic prices with a minimum amount of damage to our environment.

The committee through this bill has recognized that important work must continue in developing better means of conserving energy, in making fossil fuels more usable, and in identifying and over overcoming environmental problems associated with these fuels. It also continues substantial research programs, though perhaps in some cases at less than optimum levels, to provide the inexhaustible fuel supply of the future through breeder reactors, fusion reactors, and solar power.

I would like to make three more specific points. First, I am pleased with the continuing healthy ERDA/NASA partnership. The legislation which set up NASA in the early 1960's was foresighted in realizing that there would be many side-benefits from the basic research and technology developments required in performing major technology feats like putting a man on the Moon or sending a rocket to a distant planet. Through applications programs NASA has affected our daily lives in many ways and energy is no exception. NASA has gained special expertise in conservation, in propulsion systems, in solar and wind energy and in many other areas. NASA continues through ERDA's reimbursable program to do large amounts of valuable research in a variety of energy technology areas.

In fiscal year 1978 it is estimated that the total dollar amount of this work will be $169 million. About half of the research will be done in solar areas such as heating and cooling and photovoltaics. The other half ranges from advanced work to develop the automobile engines of the future, to coal research, and work to improve conservation technology.

Second, it is good to see that ERDA is now developing on schedule practical demonstrations of residential and commercial solar heating and cooling technologies under the program established by the Solar Heating and Cooling Demonstration Act of 1974. I am also proud to have the first solar heated warehouse under this program located within my district in Kansas.

Finally, although I believe tax dollars must be spent carefully, I am happy to see the dramatic expansion of ERDA's environment and safety program. With committee additions, the program has an authorization level 18 percent above last year. The fastest growing portion of the budget is overview and assessment, the line item containing ERDA's work in identifying potential environmental problems and assessing their scope and potential for damage. This work is crucial as we decide which direction to go as our supplies of oil and natural gas run low. The stakes are great. Consider, for instance, the CO_2 buildup which will accompany the increased use of coal. The National Academy of Sciences has warned that the warming trend related to increased CO_2 in the atmosphere could damage our corn belt, reduce our fish supplies, and raise sea level as much as 15 feet. Also important are the efforts to solve the remaining environmental problems related to nuclear energy and nuclear wastes. It is crucial that we carefully evaluate the environmental consequences of all likely energy routes to ensure that in our quest to solve our energy problems we do not cause major ones elsewhere.

Therefore, I urge passage of this important legislation.

Mr. TEAGUE. Madam Chairman, as we approach the time when H.R. 6796, the ERDA authorization bill for fiscal year 1978, is to be decided, I would like to remind all Members that this bill includes provision for continuing the Clinch River Breeder Reactor project.

Regarding the Clinch River project, there are three primary questions that should be answered. First, will we have a problem in the future, maintaining an adequate supply of energy to meet demands, and if so, what effect would a serious energy shortage have on the economy? Second, will the Clinch River project contribute to the development of a future source of energy that can make a significant offering toward filling the shortage? Third, is there any better energy option, which is presently sufficiently mature, to warrant the construction of a demonstration-size electrical powerplant?

In the time remaining before voting on H.R. 6796, I will attempt to provide the correct answers to these questions. Today, I will present the following comments made by my distinguished colleague, Congressman THOMAS L. ASHLEY, chairman of the Ad Hoc Committee on Energy. I do not know what Mr. ASHLEY's position is on the Clinch River project, and I do not mean to imply that he will support the continuation of Clinch River or not support it. The following comments are not direct quotations, but I do believe they represent the statements made by Mr. ASHLEY at the 12th Intersociety Energy Conversion Engineering Conference, held at the Sheraton Park here in Washington on August 30, 1977:

1. In 1965, the oil imports into the United States began to exceed supply surplus.

2. The U.S. imported 23 percent of the total oil consumed in 1972. That percentage increased to between 40 and 50 in 1977.

3. The trend is toward lower production as domestic oil fields are depleted. The Alaskan supply will rebalance the domestic to imported oil ratio to what it was in 1975.

4. The reliance on imported oil will continue. Future imported oil demand is estimated by private organizations at 10 million barrels per day in 1980, 11.5 million in 1985 and 15 million in 1990. The Administration has predicted that only 6 to 7 million barrels of imported oil per day will be needed by 1985.

5. By mid-1980 the world's oil supply will start to fall below demand. This will result in an arbitrary limitation on supply. The quadrupling of OPEC prices within three months during the Arab oil embargo, coupled with inflation resulted in a recession.

6. The underpricing of natural gas led to excessive demand. The transition from natural gas to other forms of energy will require a long lead time and to avoid future shock, the transition should be made now before it is forced on the public.

7. Germany uses one-half as much energy as the U.S. Energy for transportation is in greater demand in the U.S. European homes are built with more insulation. The U.S. has a greater number of large single homes with large rooms.

8. The transition is away from oil and gas, The full transition will take a long time, because energy systems are "capital" intensive. The U.S. will have to depend on coal, uranium and renewable resources.

9. H.R. 8444, the National Energy Act, contains 113 separate conservation initiatives with one objective being to reduce the energy demand by 3 million barrels per day by 1985. The bill represents the "carrot and stick" philosophy and includes tax credits, taxes, an increase in the controlled price of natural gas from $1.45 per thousand cubic feet to $1.75 per thousand cubic feet, to help ease supply problems, and incentives for new equipment to utilize coal. Forty amendments were considered; 21 were adopted on the floor of the House. After five days of floor debate, the bill was passed 244 to 177 on August 5. It is not the final word, and it will be reshaped with time.

10. While the President's plan is rather silent with respect to nuclear power, the goals are not silent. Nuclear energy must be relied on during the next 30 years, but this should be sent to the floor as a separate package. The requirements for energy cannot be met by coal alone.

11. A lot of money could be put into photovoltaic (direct conversion of solar energy into electricity) but the perfection of that technology is in the toddling stage. But, it offers a lot of potential.

12. Thermal (solar thermal) has limited potential. A technological breakthrough is needed by the turn of the century.

13. There is one tremendous energy gap to fill in the next 20 to 30 years. Investors do not get very excited about energy systems that only promise to fill one to two percent of that gap.

It would be unfair to cite any conclusions concerning Mr. Ashley's statements as they were not intended to qualify or disqualify the breeder program. My purpose in listing the above comments is solely to highlight what I believe to be one of the best illustrations of the energy position the U.S. has backed into.

Mr. GARY A. MYERS. Madam Chairman, I yield back the balance of my time.

Mr. TEAGUE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT), having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5383, amending the Age Discrimination in Employment Act of 1967.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1977

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5383, with Mr. BINGHAM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. HAWKINS) will be recognized for 20 minutes, the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes, the gentleman from Florida (Mr. PEPPER) will be recognized for 10 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 10 minutes.

The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

The ADEA of 1967 was designed to promote employment of older persons based on their ability to perform in the job rather than on age and to prohibit arbitrary age discrimination in employment. The current act extends coverage to individuals who are at least 40 years of age but less than 65. The upper age limit of 65 was selected because it was a customary retirement age and the age at which many public and private pension benefits became payable rather than by any scientific objective standard. In 1974, protection to State, local, and Federal employees was added.

Mr. Chairman, I believe the time has come to amend the Age Discrimination in Employment Act to take the essential first step toward eliminating mandatory retirement on the basis of age and to clarify the exemption for bona fide retirement and pension plans in the current law.

During the 95th Congress several of my colleagues authored legislation, which I cosponsored, in an effort to accomplish this goal. The legislation before us today is a culmination of those efforts. I am proud to say that my Subcommittee on Employment Opportunities and the Committee on Education and Labor acted expeditiously on this measure. Congressmen PEPPER, FINDLEY, WEISS, and WAXMAN are to be commended for their tireless efforts to eliminate age as the sole criteria for hiring, firing, promotion or involuntary retirement. These Members and their staffs have been of great assistance to the subcommittee in the development of these amendments and this final piece of legislation.

The major provisions included in H.R. 5383 are:

First. The upper age limit protected under the act for non-Federal employees is extended from the current level of 65 years of age to 70 years of age 180 days after enactment;

Second. The upper age protection for Federal employees is lifted entirely; and

Third. The exemption for bona fide retirement and pension plans under current law is clarified to prohibit involuntary retirement at an age less than the protected age under the act.

During consideration of this legislation, the Subcommittee on Employment Opportunities found that there was considerable support for prohibiting any mandatory retirement age under the act. It was agreed, however, that there was not sufficient information on the impact of such a change on existing pension and retirement programs and other factors influencing the labor force participation of older workers. Therefore the Subcommittee and Education and Labor Committee agreed to raise the protected age only from age 65 to age 70 rather than lift that upper age limit entirely. This change would take effect 180 days after enactment of the amendments to provide an opportunity for employers to adjust existing retirement and pension programs. The act also requires a report from the Secretary of Labor on the feasibility of eliminating the upper age limit entirely.

During committee markup an amendment was accepted to delay the effective date prohibiting mandatory retirement for employees aged 65 through 69 in employee benefit plans and seniority systems arrived at in collectively bargained agreements for 2 years or until the collective bargained agreement expires, whichever comes first.

The purpose of the delay is to give management and labor an opportunity to make clarifications as required by the change in pension plan agreements. The delay only applies to collectively bargained agreements in effect at least 30 days prior to enactment.

The committee recognizes that these contracts were negotiated in good faith. Precedent for such a delay was set forth in the Equal Pay Act of 1963.

With regard to Federal employees, the subcommittee had the benefit of an official statement from Alan K. Campbell, Chairman of the U.S. Civil Service Commission, supporting repeal of the current statutory mandatory retirement age of 70 with 15 years service. Chairman Campbell stated in his testimony that:

Repeal of the mandatory age 70 retirement provision would certainly be more in keeping with principles of true merit and equal employment opportunity.

With respect to the amendment clarifying the exemption for bona fide retirement and pension plans, it was the committee's view that such an exemption, which was intended to encourage the hiring of older workers, should not permit employers to involuntarily retire workers at an age less than the statutory age limit.

The legislative history shows that during the Senate debate, Senator YARBOROUGH, the manager of the bill, stated about this section:

This will not deny an individual employment or prospective employment but will limit his rights to obtain full consideration of the pension, retirement or insurance plan.

This clarifying amendment is particularly crucial as the courts have been divided over the past few years on the interpretation of the legislative history associated with the bona fide retirement exception.

The Supreme Court is scheduled to hear argument on this question in early fall. However, I think the Congress today has the responsibility to make clear what I believe was its intent 10 years ago by prohibiting involuntary retirement at less than the statutory protected age.

Chairmen PERKINS, PEPPER, and I agreed with Chairmen NIX and ZABLOCKI of the Post Office and Civil Service Committee and International Relations Committee, respectively, to support substitute language to be offered by Representative SPELLMAN on the mandatory retirement provisions applicable to certain specific Federal occupations. The proposed amendment would exempt those mandatory retirement provisions that are applicable to specific civil service positions such as air traffic controllers, law enforcement officials, and firefighters. The amendment also exempts Foreign Service personnel and employees of the Isthmus of Panama and Alaskan Railroad.

The agreement was reached in order to provide the respective committees charged with jurisdiction over these mandatory retirement provisions the opportunity to review these statutes during the 95th Congress. At a later date, I would like to submit for the record the correspondence on this proposed amendment between the Education and Labor Committee and the other committees.

Mr. Chairman, I would also submit later for the record a Department of Labor position paper on the impact of H.R. 5383 on pension plans.

Justice Oliver Wendell Holmes, who retired at the age of 91, said, "Justice delayed is justice denied." Mr. Chairman, I believe that justice for the older worker has too long been denied and the Congress must act expeditiously to protect the employment rights of the elderly. Mr. Chairman, I urge my colleagues to support the passage of H.R. 5383.

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D.C., August 3, 1977.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed for your information is a copy of my letter of today to the Honorable James J. Delaney, Chairman of the Rules Committee, concerning

H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

In view of your agreement to accept the amendments to section 5 of H.R. 5383, as proposed in my letter of July 25 (to Chairman Perkins), I have advised Chairman Delaney that our Committee would not be opposed to the granting of a rule for the consideration of H.R. 5383, provided the rule permit such amendments to be offered as committee amendments by a Member of our Committee.

I sincerely appreciate your cooperation in connection with this matter.

With kindest regards,

Sincerely,

ROBERT N. C. NIX,
Chairman.

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D.C., August 3, 1977.

Hon. JAMES J. DELANEY,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of correspondence between myself, Chairman Perkins of the Committee on Education and Labor, Chairman Hawkins of the Subcommittee on Employment Opportunities, and Chairman Pepper of the Select Committee on Aging, concerning the bill H.R. 5383 which was sequentially referred to the Post Office and Civil Service Committee on July 25, 1977.

As the enclosed correspondence indicates, Chairmen Perkins, Hawkins, and Pepper have agreed to accept the amendments proposed in my letter of July 25 to Chairman Perkins (copy of amendments enclosed). In view of that agreement, our Committee would not be opposed to the granting of a rule for the consideration of H.R. 5383 provided that such rule permit the enclosed amendments to be offered as committee amendments to H.R. 5383 by a Member of the Post Office and Civil Service Committee. If this proposal is satisfactory to you and the Members of your Committee, I assume it would not be necessary for any Member of this Committee to appear before the Rules Committee during the hearing on H.R. 5383.

Your cooperation with respect to this matter will be deeply appreciated.

Sincerely,

ROBERT N. C. NIX,
Chairman.

COMMITTEE ON INTERNATIONAL
RELATIONS,
Washington, D.C., August 2, 1977.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor,

Hon. AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Employment Opportunities, U.S. House of Representatives, Washington, D.C.

DEAR MESSRS. CHAIRMEN: With reference to your letter of August 1, 1977, I am pleased to inform you that the Committee on International Relations, without prejudice to its jurisdiction, will not insist on sequential referral of H.R. 5383, Age Discrimination in Employment Act Amendments of 1977, with the understanding that you will accept an amendment to be offered on the House Floor by the House Post Office and Civil Service Committee which would exempt the Foreign Service from the effect of the bill.

You may be assured that the Committee on International Relations will review the statute which makes retirement mandatory for Foreign Service personnel at age 60 at the earliest possible date during the 95th Congress.

Thank you for your cooperation in this matter.

With warm personal regards, I am

Sincerely yours,

———

Chairman.

SELECT COMMITTEE ON AGING,
Washington, D.C., August 2, 1977.

Hon. ROBERT N. C. NIX,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You were kind enough to provide me with a copy of your July 25 letter to Chairman Perkins of the Education and Labor Committee with regard to H.R. 5383, my bill amending the Age Discrimination in Employment Act of 1967 (ADEA).

That letter suggested that certain groups of federal employees be exempted from the bill's provision abolishing age limits for protection against discrimination under ADEA.

I understand that, in order to expedite the bill's consideration, the leadership of the Education and Labor Committee is prepared to support your proposed amendment.

Although I would certainly prefer the bill to remain in form as reported by the Education and Labor Committee, I can understand your reluctance to waive formal consideration of H.R. 5383 without study of the impact of the proposed changes on certain specialized occupational groups. In that connection, I understand further that your committee intends to review each of these proposed exemptions in hearings during the second session of the 95th Congress.

Therefore, as chief sponsor of H.R. 5383 and Chairman of the Select Committee on Aging, I would have no objection to the amendment as set forth in your July 25 letter.

Thank you for your consideration.

With kindest personal regards, and Believe me,

Always sincerely,

CLAUDE PEPPER,
Chairman.

AUGUST 1, 1977.

Hon. ROBERT N. C. NIX,
Chairman, Post Office and Civil Service Committee, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reference to your correspondence of July 25 concerning H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

As you know, the report to accompany H.R. 5383 was ordered to be printed prior to the receipt of your letter and therefore we cannot comply with the request to include your correspondence in the report.

In an effort to expedite this legislation, however, we agree to accept your proposed amendments to Section 5 of H.R. 5383 as detailed in your correspondence of July 25 at such time as the House considers this measure provided this meets with your approval. A copy of the agreed upon amendment is attached.

We are accepting this amendment in order to provide your Committee and the International Relations Committee the opportunity to review the mandatory retirement provisions which are applicable to certain specific Federal occupations.

It is our hope, however, that your Committee will review these provisions at the earliest possible date during the 95th Congress.

Sincerely,

CARL D. PERKINS,
Committee on Education and Labor.
AUGUSTUS F. HAWKINS,
Subcommittee on Employment Opportunities.

AUGUST 1, 1977.

Hon. CLEMENT J. ZABLOCKI,
Chairman, International Relations, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Committee on Education and Labor recently reported H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. One of the provisions of this legislation removes the upper age limit for Federal employees. The Committee's amendment, notwithstanding any other provision of law, eliminates mandatory retirement in Federal employment.

It is our understanding that your Committee, which has jurisdiction over the Foreign Service, has requested sequential referral of this bill. In an effort to expedite this legislation we are requesting that your Committee not insist on sequential referral of H.R. 5383 pursuant to your jurisdiction over the Foreign Service with the understanding that we accept the amendment proposed by Robert Nix, Chairman of the Post Office and Civil Service Committee at such time as the House considers this measure. The Nix amendment includes Foreign Service personnel in its exemption from the effect of H.R. 5383. A copy of the agreed upon amendment is attached.

We are accepting this amendment in order to provide your Committee and the Committee on Post Office and Civil Service the opportunity to review the specific statutes which provide for mandatory retirement in federal employment, including the Foreign Service.

It is our hope, however, that your Committee will review the statute which permits mandatory retirement for Foreign Service personnel at age 60 at the earliest possible date during the 95th Congress.

Sincerely,

CARL D. PERKINS,
Chairman, Committee on Education and Labor.

AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Employment Opportunities.

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D.C., July 25, 1977.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have reviewed the provisions of H.R. 5383 (Subcommittee Print dated July 7, 1977) which was ordered reported by your Committee on July 14, 1977.

I am particularly concerned about the amendments to section 15 of the Age Discrimination in Employment Act of 1967 as contained in section 5 of the bill which, because of their broad general language, would have the effect of repealing all statutory provisions relating to the mandatory retirement of Federal employees on the basis of age. In addition, the amendments would have the effect of repealing the provisions of section 3307 of title 5, United States Code, which authorize (with Civil Service Com-

mission concurrence) the establishment of maximum-age requirements for entrance into certain civil service positions, such as air traffic controller, fire fighter, and law enforcement officer.

As you know, under the Rules of the House the Committee on Post Office and Civil Service has primary jurisdiction over all matters relating to Federal employees. The Members of this Committee firmly believe that no legislation affecting the status, pay, or benefits of Federal employees should be considered on the floor of the House unless such legislation has been considered and approved by this Committee.

In view of the Rules of the House and the position of the Members of this Committee, I believe a sufficient basis exists for requesting the Speaker to sequentially refer H.R. 5383 to this Committee.

However, I am mindful of the strong desire of your Committee and of the bill's sponsor, the Honorable Claude Pepper, to expedite consideration of H.R. 5383 by the House. I believe that such objective can be met provided the bill is amended to eliminate those provisions which are of particular concern to the Members of this Committee.

As you may know, our Subcommittee on Compensation and Employee Benefits, chaired by the Honorable Gladys Noon Spellman, recently held hearings on a bill which would repeal the civil service retirement provision which requires the mandatory separation of Federal employees at age 70, if they have completed at least 15 years of service. At that hearing the Chairman of the Civil Service Commission announced the Administration's support of such repeal. While I am confident that the majority of the Members of this Committee support repeal of the age 70 mandatory retirement provision, I am equally confident that, without further study, such majority does not support reveal of those mandatory retirement provisions which are applicable to certain specific Federal occupations and which are based on factors other than age alone. For example, I invite your attention to the following provisions of title 5, United States Code:

Section 8335(e)—employees of the Alaska Railroad and individuals employed on the Isthmus of Panama—mandatory retirement at age 62 upon completion of 15 years of service.

Section 8335(f)—air traffic controllers—mandatory retirement at age 56—authority to exempt until age 61.

Section 8335(g)—law enforcement officers and firefighters—mandatory retirement at age 55 upon completion of 20 years of service—authority to exempt until age 60.

In addition, since our Committee has not yet had an opportunity to review the mandatory retirement provisions under other Federal employee retirement systems, such as those covering employees of the Foreign Service and the Central Intelligence Agency, we are opposed, at this time, to repeal of those provisions. However, I can assure you that our Committee will review the necessity for such mandatory retirement provisions and recommend appropriate legislative action at the earliest opportunity.

With respect to maximum-age requirements for entrance into the Civil Service, I should like to point out that section 3307(a) of title 5, United States Code, *prohibits* the establishment of such maximum-age requirements except when specifically authorized by statute. To my knowledge, the Congress has authorized the establishment of maximum entry ages only for (1) air traffic controllers, (2) U.S. Park Police, (3) law enforcement officers, and (4) firefighters (see 5 U.S.C. 3307(b)-(d)). These entry age requirements are interrelated with the provisions which authorize early retirement, mandatory retirement, and liberal annuity benefits for such employees. We believe these maximum entry age requirements are necessary and can be justified for the particular occupations involved and, therefore, we are opposed to any attempt to repeal the authority for such age requirements.

The provisions of H.R. 5383 and the possible effects of those provisions also are of deep concern to the Civil Service Commission. In that regard, I am enclosing for your information a copy of the letter I received from the Chairman of the Civil Service Commission explaining the Commission's concern with section 5 of H.R. 5383.

In order to alleviate the concerns of the Members of this Committee and expedite consideration of H.R. 5383, I propose the following amendment and request that such amendment be offered as a Committee amendment by the Floor Manager of H.R. 5383:

AMENDMENTS TO SECTION 5 OF H.R. 5383

Strike out subsections (a) and (b) of section 5 and insert in lieu thereof the following:

(a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "who are at least forty years of age" after "applicants for employment" and by inserting "personnel actions" after "except".

(b)(1) Section 3322 of title 5, United States Code, relating to limitations on appointments after age 70, is hereby repealed.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3322.

(c) Section 8335 of title 5, United States Code, is amended—

(1) by striking out subsections (a), (b), (c), (d), and (e) thereof;

(2) by redesignating subsections (f) and (g) as subsections (a) and (b), respectively; and

(3) by adding after subsection (b), as redesignated, the following:

"(c) An employee of the Alaska Railroad in Alaska and an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes age 62 or completes 15 years of service in Alaska or on the Isthmus of Panama if then over that age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(d) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires.".

(d) Section 8339(d) of title 5, United States Code, is amended by striking out "section 8335(g)" and inserting in lieu thereof "section 8335(b)".

Redesignate subsection (c) of section 5 as subsection (e).

EXPLANATION OF AMENDMENT

This amendment would strike out the provisions of subsections (a) and (b) of section 5 of the reported bill. If enacted, the amendments proposed in those subsections of the reported bill would have the effect of repealing all of the statutory provisions relating to the mandatory retirement of Federal employees on the basis of age. In addition, the broad language of subsections (a) and (b) would have the effect of repealing those provisions of law which authorize the establishment of maximum-age requirements for entrance into certain civil service positions and, quite conceivably, would repeal or supersede any provision of law under which age is a qualifying factor for entitlement to, or loss of, an employee benefit.

In lieu of subsections (a) and (b) of section 5 of the reported bill, the proposed amendment would repeal section 8335(a), and related provisions, of title 5, United States Code, which requires the mandatory separation of Federal employees at age 70 if they have completed at least 15 years of service. In addition, the amendment would repeal section 3322 of title 5, which now prohibits the appointment of an individual who has reached his 70th birthday to a position in the competitive service except on a temporary basis.

The amendment would leave intact those mandatory retirement provisions and maximum entry age requirements that are applicable to specific civil service positions such as air traffic controller, law enforcement officer, and firefighter.

The proposed amendments to title 5, United States Code, would take effect on the date of the enactment of the Act and, therefore, would not apply to any separation or other personnel action which has been effected prior to such date of enactment.

I sincerely hope that my proposed amendment will be acceptable to you and the Members of your Committee. If the amendment is acceptable and you agree to offer it as a Committee amendment, I would appreciate a letter from you advising me of that fact. In that event I strongly urge that both this letter and your letter of acceptance be included in your Committee's report on H.R. 5383 so that all of the Members of the House may be aware of our agreement.

Your cooperation in this matter is deeply appreciated.

Sincerely,

ROBERT N. C. NIX,
Chairman.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, I have served in this Chamber since January 3, 1961, and the intervening time has been a period of great tumult, of considerable social upheaval and, I think, of spectacular progress, especially in the field of human rights. The moments of those intervening years which to me were the most exhilarating were those occasions when I was here to cast a vote in support of what became known as the great civil rights bills of the 1960's—open housing, public accommodations, public education, voting rights—all very controversial, and each one of them a major step toward providing fulfillment for the idealism that was expressed in the Declaration of Independence, which set our republic on its proper course.

We are today taking another step, I think one equalling in many respects the great historic steps forward that were taken in behalf of the other civil rights needs in the past decade; this time to eliminate discrimination, or at least reduce discrimination in a very substantial way, which is based on age, and age alone. The other steps swept away, in large degree, discrimination based on color. In our earlier days as a republic we eliminated discrimination based on na-

tional origin, religion, and to a great extent, discrimination based on sex. But, discrimination based on age is perhaps the most pervasive form of discrimination, and I am proud today to be here as the cosponsor with CLAUDE PEPPER of Florida, my colleague whom I have admired since my high school days when he then served in the U.S. Senate, and to realize that when I first introduced a bill to abolish discrimination in employment based on age—and that was back in 1974—that among the three cosponsors of that original bill was the gentleman from California (Mr. HAWKINS), the chairman of the Subcommittee on Employment Opportunities.

And that, I believe, was the very first bill ever introduced to outlaw totally discrimination based on age.

Since that time, the support for the idea has grown tremendously.

Admittedly, the bill before us today is a compromise. It takes a major step, but only a partial step. I am sure the other steps will follow as society becomes accustomed to the shift to mandatory retirement at age 70 and above becomes accustomed to that transition and realizes that it was a relatively easy step to take. I am sure that the other steps will follow.

So I want to express my appreciation to the gentleman from Florida (Mr. PEPPER), to the gentleman from California (Mr. HAWKINS), and to the others who have joined forces with this noble idea, one that I think is entirely in tune with the finest traditions of our Republic.

I recognize that this bill will cause some inconvenience. There is no doubt about it. It will alter the way of doing things that has been established in the business community, in particular. I have listened to all of the arguments against the basic bill, H.R. 65, which would totally outlaw discrimination in employment based on age, and all of them sift down to the question of inconvenience. No one can deny that this will cause inconvenience. But when one measures inconvenience against the major issue, the basic civil right, the right to be judged upon the basis of one's own merit, without regard to chronological age, the inconvenience is nothing.

Mr. Chairman, it has been 4 years and three separate Congresses since I first introduced legislation to outlaw the pernicious practice of mandatory retirement. My own awareness of the problem dates back at least to 1973, when I asked my constituents on a questionnaire the following question: "Should you be required to retire at a set age (for example, 65) even if you want to continue working part or full time?"

Of the 27,780 responses I received, almost 21,000—75 percent—answered "no."

Later in that Congress, on July 10, 1974, I introduced my first bill—H.R. 15826—to ban mandatory retirement.

With time, support for the bill grew. When I reintroduced the bill in 1975, 34 of my colleagues agreed to cosponsor. By the time the 95th Congress adjourned in 1976, the list had risen to a total of 99 Congressmen.

This year, H.R. 65, as the new bill was appropriately numbered, garnered the support of more than a quarter of the House. Included among the 115 cosponsors was the chairman of the Select Committee on Aging, Mr. PEPPER, who has done so much to advance the well-being of older Americans.

Hearings were held by Chairman HAWKINS' subcommittee, and the Employment Opportunities Subcommittee unanimously reported H.R. 5383, a compromise bill which represents an enormous advance in human rights for older Americans. The full Education and Labor Committee recently reported the bill by a vote of 33 to 0, with one voting present.

As reported by the committee, H.R. 5383 would:

Raise the age of coverage under the Age Discrimination in Employment Act from 65 to 70;

Eliminate the mandatory retirement age for Federal employees;

Close the loophole in existing law which allows mandatory retirement below age 65 when provided for in a "bona fide employee benefit plan";

Require the Secretary of Labor to report on the feasibility of eliminating completely the upper age limitation of the Age Discrimination in Employment Act.

Doing something about ending mandatory retirement is an idea for which the time has definitely come.

For a quarter century we have seen and grown accustomed to banner headlines heralding important steps forward in one or another of the various civil rights movements. Vivid photographs of troops marching into Little Rock, masses assembled at the foot of the Lincoln Memorial, and militant marchers demanding equality have flashed across millions of television sets throughout the country. As a result, public awareness of discrimination against blacks, women, and other minorities led to major changes in public policy—changes which now offer millions improved prospects for the fulfillment of the American dream.

Yet discrimination and prejudice are still regularly and legally practiced against one group—older Americans. Today, senior citizens are waging a desperate but quiet struggle for a basic civil right—the right to continue in a job at which they have proven their competence.

Twenty-two million Americans are over 65—nearly the same proportion of the population as blacks. They have no protection from discrimination in employment, and many are forced out of their jobs with no recourse.

As a nation, we have been wrongly committed to a policy of mandatory retirement. The Federal Government forces retirement at a set age; so do most major State and local governments; and much of private industry follows suit, requiring executives and workers to step aside once they reach the magic—some say doomed—age of 65.

According to a survey of new social security beneficiaries which appeared in the Social Security Bulletin, 54 percent of retirees are forced to quit their jobs because of a mandatory retirement policy. Most of these would voluntarily choose to stop working anyway. But a significant proportion, 7 percent, truly want to continue working, and most are fully capable. Nonetheless they are forced to resign. They are given a desperate choice: Somehow find a new vocation, or be put out to pasture for the rest of their lives.

The widespread practice of mandatory retirement is as arbitrary, capricious, and discriminatory as a policy that dictates blacks cannot be hired. To justify this practice, proponents resort to stereotypes—older workers are slower, older workers are out sick more often, older workers cannot be retrained. These excuses recall the folklore of a bygone era when some said blacks are less intelligent, women cannot do men's work, and other such stereotypes used to justify previous forms of discrimination.

For many retirees lost income is a critical problem. Despite efforts to strengthen pension funds, many retirees live on less than half their working income and watch their standard of living erode with each year of inflation.

In addition to imposing financial hardship, mandatory retirement blocks the fulfillment of a basic need—the self-esteem gained from useful employment. The case files of physicians and psychiatrists bulge with tragedy—the records of patients whose health deteriorates rapidly once they retire. Lacking the challenge that will get them up and going each morning, they literally fall apart and find an early grave. The day of retirement is often as great a shock as the death of one's spouse. A teacher in Rochester, N.Y., wrote me:

> Until it happens to one it is impossible to realize what forced retirement means. It means being cast on the dust heap. To be nonproductive is the worst catastrophe that can befall one, short of ill health.

Like my constituents, the vast majority of Americans clearly want a change. A Harris poll showed that 86 percent of those surveyed oppose policies which require retirement at a set age.

And support is growing. The few letters I get opposing my bill usually grant that mandatory retirement is less than ideal. These writers nevertheless oppose change for so-called practical reasons. They fear, unjustifiably, its effect on job opportunities for youth, business efficiency and other concerns.

In a strange bedfellow alliance the Chamber of Commerce of the United States and the AFL–CIO voiced these false fears at recent Senate hearings. Yet I am convinced that raising the mandatory retirement age will not cause severe problems. Instead, it calls for making adjustments in thinking and practice that some find uncomfortable.

Opponents say we need mandatory retirement below age 70 to open jobs for young persons. But their assertion falls flat under close examination.

For one thing, most workers will continue to choose to retire at age 65 and thus will open jobs for the young. In fact, the trend is in the other direction—workers increasingly opt for early retirement before age 65. H.R. 5383 would not impair pension or social security benefits which make retirement at or before 65 feasible and desirable for most. Yet the bill would preserve an important right

for those few who need or want to keep working, and are able to do so.

Also, not as many young people will be looking for jobs in the future. In the next decade an estimated 30 percent fewer will enter the labor force than in the last 10 years, now that the flood of babies born during and right after World War II has entered adult life. Therefore, our economy will be able to absorb new workers as it has repeated waves of immigrants in the past. According to one estimate, mandatory retirement costs the U.S. economy over $10 billion each year by forcing skilled workers out of factories and offices, creating unnecessary job turnover and retraining expenses. If this money could be saved, it could be put toward the creation of new jobs, thus increasing total employment.

At any rate, those who attempt to solve an employment problem for the young by putting older persons out of work accomplish nothing more than trading one form of unemployment for another. It is against the law to force blacks to give up jobs to whites, or women to men. We should also make it illegal to discriminate against older Americans.

The AFL–CIO wants union leadership to keep mandatory retirement as an issue for negotiation during collective bargaining. Union leaders argue that because they represent a majority of the workers, mandatory retirement would therefore be a majority decision. But a majority should never be permitted to impose injustice on even a small minority. Unions cannot bargain away the rights of blacks or women—why older citizens? As a matter of fact, most rank and file union members oppose mandatory retirement, as the Harris survey indicates.

Indeed, the AFL–CIO shows in practice that it appreciates the value of experience by retaining as its leader 83-year-old George Meany.

Some employers argue that they need a policy of retiring everyone automatically at a set age, usually 65, because they do not know how to be fair in deciding who is able to carry on and who is not. And they claim that a single retirement age spares incompetent workers the trauma of being singled out as no longer able to do their jobs.

Behind their reasoning lies the myth that old age usually causes people to fall apart mentally and physically. Actually senility and disability hit only a minority of older persons. As individuals age, reaction time does slow somewhat, but older workers usually compensate successfully with carefulness, wisdom, experience, and dependability. Most keep their ability to reason, their memory, and their wit until quite old, often until death. A study reported in Psychology Today found that most persons in all age groups, including those over 70, steadily increase in intelligence.

Happily, not all people are forced to retire. Many continue working at advanced age. They help themselves financially and psychologically. At the same time they enrich society. As they retain and use their full earning power they stimulate the economy, helping to create jobs for others.

Many of the names are well-known: Eugene Ormandy, 77; Col. Harland Sanders, 87; S. I. Hayakawa, 71; George Burns, 81; Ted Geisel—better known as Dr. Seuss—73; George Meany, 83; Katharine Hepburn, 68.

Benjamin Franklin helped write the U.S. Constitution at 81. Grandma Moses was still painting at 100. Winston Churchill was British Prime Minister at 77. Oliver Wendell Holmes was still a powerful influence in jurisprudence at 90.

Many Members of Congress serve ably beyond age 65, filling leadership positions with knowledge and experience.

Dr. Arthur S. Flemming, U.S. Commissioner on Aging, calls mandatory retirement a "lazy person's device for dealing with difficult personnel decisions" and adds that "a good manager should always be making those kinds of decisions as he tries to raise the quality of his work force."

Objective ways are available to identify those workers who can no longer perform their job. Counseling techniques are well developed that can reduce resentment or discouragement when disability at any age requires a job adjustment or termination. It is my hope that outlawing mandatory retirement will further stimulate recent personnel trends that attempt to meet the individual needs of each worker. Certainly that would be better than arbitrary treatment based on age alone.

True, those few workers no longer able to perform their jobs satisfactorily may well face a traumatic experience when forced to retire. But, in most cases employees realize when they begin to fail and leave voluntarily. Even those who do not would be helped more by sympathetic counseling than by an attempt to hide the truth.

The point is that mandatory retirement inflicts more personal pain and trauma than it prevents. It pushes out of factories and offices older workers who know they are still competent. The American Medical Association charges that forced retirement often leads to "physical and emotional illness and premature death."

Business spokesmen usually toss out several other claimed advantages to mandatory retirement, but each turns out to be either hollow or just a question of their own convenience. Mandatory retirement, they point out, opens promotions within a company. Turnover at higher levels brings in fresh talent and increases opportunity for members of minority groups. But nothing would prevent companies from limiting tenure in top jobs to a certain number of years with no reference to age. The President of the United States and many State Governors have limited terms of office.

Employers say that mandatory retirement encourages them to keep an employee whose work may have slipped if they know his mandatory retirement date is just a couple of years off. That may seem to benefit the employee but certainly not the other workers who must carry the added workload nor the stockholders and customers who must suffer the resulting inefficiencies. Managers should encourage a worker to overcome a handicap or face up to a disability.

Business leaders expect that raising mandatory retirement will increase the average age of the workforce and thus boost disability costs. Statistics do show that older persons become disabled somewhat more often and that their disabilities tend to last longer. But the cost of this disability must be met whether the man or woman is employed or retired. How much better to meet the problem when a person is still an active part of the economy and contributing to his or her own welfare.

It is claimed that raising the mandatory retirement age would hinder the ability of employees and companies to plan their futures and threaten employee pension plans since retirement dates would not be fixed. However, approximately half of the workers in this country are not covered by mandatory retirement programs, and many have pension programs which function well. It is clear that this objection is merely a ruse to justify other reasons for wishing to stick with the status quo. Also, since many now choose early retirement, employers and pension plans are already coping with flexible retirement dates.

Actually, raising mandatory retirement would help employees plan their future by opening the option to keep full earning power longer if needed.

Finally, companies fear that H.R. 5383 means another hassle with Federal red-tape to get their pension plans changed. But the Internal Revenue Service and the Department of Labor have assured me that changes simply to adjust clauses that force retirement before age 70 will need no approval.

Many business and labor leaders, of course, have looked at the issue carefully and see that an end to mandatory retirement will bring both more efficiency and greater fairness. Nearly half of the labor force today works at occupations with no fixed retirement date. These are the lucky ones. For the other half turning 65 can be the worst day of a lifetime.

As with most advances in human rights, only a change in the law will bring practice into conformity with the ideals upon which this great Nation is founded. Mr. Chairman, I suggest we get on with it.

Mr. HAWKINS. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from California (Mr. HAWKINS) for yielding, and I also congratulate him for his leadership in connection with this very significant, salutary proposal. I am privileged to serve on the Committee on Education and Labor as the ranking member from the State of New York on that committee. I also serve as a subcommittee chairman on the Select Committee on Aging, under our most respected and esteemed chairman, the gentleman from Florida (Mr. PEPPER), who himself has provided extraordinary leadership and activity in the fight for the elimination of mandatory retirement.

We embarked on this undertaking a

number of years ago, to find out just what the reaction was, what the problem was, and what could be done about dealing with this onerous situation which exists in our Nation today. We thought the greatest objection might come from industry. We anticipated strenuous objection from some labor leaders. We thought perhaps in some other quarters there would be a hue and cry in opposition to the implementation of this notion into legislation. But we were surprised, pleasantly surprised, when representatives of major corporations throughout the country, who themselves had pension systems which required early retirement, testified almost in unanimity that the elimination of mandatory retirement would not impact significantly upon their pension systems or their corporations. That, to us, was most revealing.

Then we analyzed the arguments which were offered by those who said this incrustation at the top would stiltify the movement for labor, would deny the opportunity to the young people to obtain that threshold job.

If the main reason for supporting mandatory retirement is to open up new job opportunities for the unemployed and minorities, we are simply discriminating against one group and favoring another. We must destroy all vestiges of discrimination. That is my reason for supporting the abolition of mandatory retirement.

We analyzed the situation statistically, clinically, and in a very detailed fashion, and we found there is a very significant movement in employment just among the young people themselves. One study tells us there is a 33-percent turnover of jobs at the threshold level, which means there was always opportunity in that area.

But, more significantly, let me point out the crux of what we are dealing with. Here in the Congress, within the last 2 decades, we have been dealing with discrimination—discrimination against racial groups, ethnic groups, and religious groups, among others. We have dealt with discrimination rather effectively. It is the thrust of this Congress that the minute a group is singled out as being discriminated against, there is a positive, constructive reaction, and I am proud for that reason to have been associated with this great body during that period.

During this time we have expressed almost a unanimous voice of concern for the elderly, even in this area some of our efforts have resulted in concrete achievements.

Today, I rise to lead an effort, a fight, if you will, against an invidious form of discrimination against the elderly of this Nation—mandatory retirement.

We are considering H.R. 5383, a bill to abolish mandatory retirement in the public sector and raise to 70, the maximum retirement age in private industry.

What we are doing when we force retirement upon an individual who is in the prime of life, who is vigorous and able to work, and who is able to work until his very 65th birthday, we are sentencing that individual to a different form of life, to a life of relative inactivity, and what we are telling him is: "You are no longer useful to society. You are no longer productive."

I serve as the chairman of Federal, State and Community Services Subcommittee of the House Select Committee on Aging. I have conducted hearings on this legislation in New York, and have participated in others in Washington committees. I have learned how mandatory retirement has a decidedly debilitating effect on the health and economic well being of our elderly citizens. Mandatory retirement substitutes age for ability, chronology for competency, tradition for talent. The results of mandatory retirement are oftentimes traumatic. The American Medical Association tells us that forcing people to retire when they are capable of working accelerates the aging process and threatens the health and life expectancy of those persons affected. Financial hardships ensue with mandatory retirement—average income of retired persons is about one-half the median preretirement earnings.

Americans fighting years of inflation are simply not prepared for retirement. To be then placed in a fixed-income type of environment only exacerbates the process and path to poverty.

That is factual. That is not rhetoric, that is not fanciful thinking. The fact is that forced retirement has a negative impact on one's life expectancy and a negative impact on one's health. If we do nothing else but eliminate that aspect of it, we can find justification for the passage of this legislation.

There are many, many other reasons why we should do this, why we should pass the bill. Let me give the Members another one of those reasons.

We have been complaining about or at least we have heard complaints about the fiscal viability of the social security system.

For the first time in its 40-year history, the social security system faces the threat of going broke. The system is currently paying more in benefits than it receives in payroll tax revenues. Projections indicate that if this trend continues, the social security trust fund will run out in the early 1980's.

The relationship between mandatory retirement and the future of the social security system is simple. Forced retirement imposes an unnecessary expense on the social security system, an expense which the system cannot afford.

As older workers are forced to retire, they tax an already strained social security system. Social security benefits are financed by payroll taxes contributed by employees, employers, and the self-employed. Declining birth rates, coupled with increasing retirement rates, have resulted in less workers supporting the system. A few years ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by the year 2030, the ratio will approach 2 to 1.

The abolishment of mandatory retirement would alleviate this lopsided ratio by permitting workers to continue contributing to the system instead of merely taking from it.

A survey conducted by the Social Security Administration found that 52 percent of the males who were forced to retire under mandatory retirement did not want to do so at that time. Ideally, these persons should have been permitted to remain in the work force, paying social security taxes, rather than forced to join the retirement ranks, collecting cash benefits.

Now by permitting individuals who desire to work to continue to work—those who have the good work habit, the good work ethic—we will allow them to continue to contribute to the system rather than draw from the system.

One estimate puts the annual savings of the elimination of mandatory retirement to the social security system at $600 million per year after 5 years. Instead of being a part of the problem, they become part of the solution, and that, in my judgment and undeniable conclusion, is a salutary objective we should seek.

I appreciate the limitations on time, and I appreciate the concerns of some Members who, although supportive of this concept, may have some misgivings about the date of implementation or some of its impact.

Let us not make any mistake—H.R. 5383 is a product of compromise. I and almost 100 other Members are cosponsors of H.R. 65, a bill to abolish mandatory retirement outright. However, the total concept is not considered acceptable at this time.

We are taking a very important first step here today. We are allowing the Federal Government to set the standard in abolishing mandatory retirement. We are also advising private industry that age 65 should no longer be used as the age to force people to retire.

We have also provided for a study. We will be coming back here. We are only partial in our approach today. There will be a continued assessment of its impact, and we will be back again, hopefully, to eliminate mandatory retirement entirely. Many elderly Americans grew up and abided by a work ethic which taught them—hard work is a virtue. These same Americans are now being told—you are too old—the work ethic no longer applies.

Compulsory retirement violates the basic principles of democracy which this Nation cherishes. Many elderly Americans are willing and able to continue working. They should be allowed to. This Nation prides itself as a leader in the fight for self-determination for peoples of foreign nations. We should insure that our own elderly citizens also have the right of self-determination with respect to employment and their economic security.

I think that by enacting H.R. 5383 what we are really telling our senior citizens and those who are about to become senior citizens is this: that we really care. We are not going to allow you to atrophy. We are not going to put you out to pasture. We are not going to put you out there and let you die more quickly than you would if you were going to work. We are going to keep you healthy. We are going to keep you as part of our viable, energetic population.

Curtailment of mandatory retirement is most obviously a human issue; 86 percent of Americans surveyed oppose mandatory retirement. Persons over 65 stated they would work if they had a job.

This Nation prides itself as a leader in equal opportunity for its citizens. Mandatory retirement represents a deprivation of equal opportunity which has no place in this Nation. I wish to particularly commend the distinguished chairman of the House Select Committee on Aging—CLAUDE PEPPER, the author and inspiration of this legislation. Its passage would be a fitting testimonial to one of America's elderly best friends and supporters.

Mr. Chairman, I urge the passage of this legislation.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, the gentleman from New York (Mr. BIAGGI) has been especially eloquent, and I want to congratulate the gentleman from California (Mr. HAWKINS) and our chairman of the Select Committee on Aging, the gentleman from Florida (Mr. PEPPER). If there is a person in America today who exemplifies that sort of activity and that sort of interest in the elderly, that person, it seems to me, is the chairman of the Select Committee on Aging. He is really the incarnation of that interest.

It is clear to us that some people wear out when they are 50 and others do not wear out until they are 85 or 90.

It would seem to me that this House needs to have a rule, a flexible rule, which allows those of us who last so much longer and with so much more vigor the opportunity to participate.

Mr. Chairman, that is why I support this legislation so strongly.

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I thank the gentleman for yielding. I congratulate the gentleman, and I congratulate the chairman of the committee, the distinguished gentleman from Florida (Mr. PEPPER).

Mr. Chairman, the problems of older Americans involve issues which Congress must address.

We took a significant step towards meeting the challenge by creating—in October of 1974—a Select Committee on Aging. Our distinguished colleague—and chairman of that committee—wrote pursuasively in support of the bill we are now considering in the September 4 issue of Parade magazine. I applaud Mr. Pepper on his article and concur that no person who wants to work and is able should be forced to retire because of age.

I would like to note, however, that an employee cannot use his or her age as a shield against being discharged for good cause.

Section 4(f)(3) of the act makes this point explicitly, and in my opinion it remains unchanged by H.R. 5383.

It should be kept in mind that it was not the purpose of Congress in enacting the age discrimination in employment act—and it is not our intent today—to require the employment of anyone, regardless of age, who is disqualified on grounds other than age from performing a particular job.

Rather, our purpose is to insure that age, within the limits prescribed by the act, is not a determinative factor in making any decision regarding hiring, dismissal, promotion, or any other term, condition, or privilege of employment of any individual.

I would like to ask Mr. HAWKINS if the existing case law on the Age Discrimination in Employment Act dealing with discharge from employment for good cause is still good law under this bill?

In asking, I would like to cite three cases which deal with the issue from what I think to be a proper perspective: *Laugesen* v. *Anaconda Co.*, 510 F2d 307 (9th Cir. 1975); *Mastie* v. *Great Lakes Steel Corp.*, 424 F. Supp. 1299 (E.D. Michigan 1976); and *Bishop* v. *Jelleff Associates*, 398 F. Supp. 579 (D.D.C. 1974).

And, while in no way detracting from the overall handling of these three cases by the courts, I would like to specifically point to two issues addressed by District Judge Guy in the Mastie case:

First:

> The act was never intended to be a panacea for all older workers terminated or not offered employment by an employer. * * * The act was designed only to attack those employers' personnel policies and practices which arbitrarily classified employees on the basis of age and did not seek to affect employer decisions based on individual assessments of a person's abilities, capabilities and potential.

And second:

> Where the differential treatment of an individual in the protected class results from an individual assessment as opposed to an arbitrary determination of that person's performance or potential . . . the employee must prove that the determining factor in the employer's individual evaluation of the employee was tainted by the employee's age.

Mr. HAWKINS, would the case law—as I have noted—still be fully operative after passage of this bill?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MCCLORY. I am happy to yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MCCLORY) has expired.

Mr. ERLENBORN. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MCCLORY. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, in reply to the gentleman's question, the committee did have testimony on this issue during its hearings.

I would like to state categorically in reply to the gentleman's question that the bill before us today does not in any way abrogate the dismissal for the good cause provision in the existing law. Therefore, the answer to the gentleman's question is, without any qualification, yes.

Mr. MCCLORY. Mr. Chairman, I thank the gentleman.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. The Chair recognizes the gentleman from California.

Mr. HAWKINS. Mr. Chairman, may I, in closing, merely pay tribute again to the gentleman from Illinois (Mr. FINDLEY) and to the gentleman from Florida (Mr. PEPPER) for the great leadership which they have provided on this subject matter. I think that without their cooperation and full support this bill would not be before us today.

Also, I think it is a tribute to the Select Committee on Aging, which the gentleman from Florida (Mr. PEPPER) chairs. I think it also illustrates that while sometimes we refer rather humorously to these select committees and say that a particular committee is just another committee and dismiss it, that sort of comment has certainly been disapproved in this instance.

My subcommittee leaned very heavily on the Select Committee on Aging and I certainly want to pay tribute to them.

Mr. Chairman, I reserve the balance of my time.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today feeling somewhat like a voice crying in the wilderness. I might also observe it does look somewhat like a wilderness on the floor of the House this afternoon because during general debate a moment ago I counted something in the neighborhood of 15 Members being present on the floor. I might further observe that we are outnumbered by the staff who are attending the Members who are handling the bill. So, as I say, I certainly do feel like a voice crying in the wilderness.

Mr. Chairman, this bill was reported from the Committee on Education and Labor without a dissenting vote. I voted "present" because of my uneasiness about the hearing process, uneasiness in light of the fact that both organized labor and the business community have testified in opposition to this bill and yet there seems to have been little or no opposition to the bill in the committee or now on the floor of the House. I can understand that. I guess, maybe, it is a testimony to "gray" power. There certainly is a lot of attractiveness about a bill that eliminates or changes the date when age discrimination can be practiced. I mention that, by the way, because some Members have talked in glowing terms about this bill as having eliminated age discrimination, and yet what it is doing to the private sector is changing the arbitrary date of 65 to another arbitrary date of age 70, so that the same discrimination that is practiced today to those 65 years of age and older will still be in existence only it could only be practiced for those who happen to be age 70 or older.

I am concerned further, Mr. Chairman, that not enough time was given in the hearings by either the committee or the special committee as to the effect that this bill will have. Let me state that I am in favor of the general proposition that there ought not be arbitrary discrimination practiced against anyone. I think the whole practice of having a normal

retirement age, the whole practice that has been built up not only through the unilateral decision of employers, but also through the collective bargaining system, where age 65, or some other age for a particular occupation or a particular group, some particular age chosen for involuntary retirement, has had some rationale to it or I am sure it would not have been built up.

I do know when we started the social security system it was to encourage people to retire when they reached age 65. Then we made it attractive for them to retire earlier. The rationale behind that in the 1930's was to get those people out of the work force so as to create employment for young people moving into the work force.

Old-age retirement has been built up over the course of years. To change that precipitously, without looking carefully at what the results might be, I think borders on the foolhardy. I am therefore going to offer an amendment during the 5-minute rule period so as to make the effective date of this act 2 years after passage so that there can be some lead time to contemplate what its effects will be, some lead time to prepare for the impact of the act.

The impact will be precipitous for those who have pension plans and other employee benefit plans, that are not the result of collective bargaining, when the President signs the bill. At that moment, it will become illegal for them to have in those plans a provision calling for retirement prior to age 65. It has the immediate effect of no lead time to prepare to get ready for its effect.

Now, as far as collectively bargained agreements are concerned, they have been treated differently by the committee, which I think smacks of discrimination. If you happen to be an employer who deals with a union, you are going to have 180 days to prepare for the impact of one portion of this act and in another portion you will have until the expiration of the collectively bargained agreement, or as much as 2 years, to prepare for the impact of this act, but the delayed effective date is effective only for those employers who happen to have unions representing their employees. I think that is discriminatory, to make portions of this immediately effective as to some employers and delay for 6 months or up to 2 years for other employers.

In light of the fact that we have had insufficient consideration of this legislation in the legislative process, I believe we should have this 2-year delayed effect for the entire act so that we can take a look at what it is we have done and have an opportunity to prepare for that or to make whatever changes might seem to be desirable.

I am concerned as to what this legislation might spawn. I notice one of the witnesses testifying before the Senate committee—I do not know whether it is Mr. or Ms.—Lauren Selden, representing the National Retired Teachers Association and the American Association of Retired Persons stated, and I quote:

"Basic questions—the availabliity of trial to a jury, the right to recover damages for pain and suffering, notice requirement, the scope of the bona fide occupational qualification exception, the role of State enforcement agencies—remain unresolved."

It seems to me the thrust of that testimony is that they are looking forward to the opportunity, for those prior to age 70 who may be discharged for cause because the employer feels that they no longer are able to perform the job, to litigate these cases, looking for compensation through the courts for pain and suffering as well as lost wages. I think that this legislation may be spawning a great many more lawsuits. I repeat, we are not going to eliminate discrimination with this legislation. We change it, however, from 65 to 70, except as the public sector is concerned. As far as the Federal Government is concerned, there will be no age at which an employee may be discharged against his will without the supervisor or the employer—in this case the agency, the department, the Government agency—proving that this employee, whether he be 55 or 95, is being discharged for some cause other than age, because we are removing completely any arbitrary age such as 65 or 70 or 85 or 100, any arbitrary age for the discharge of a Federal employee.

This is far-reaching legislation. I repeat, I am in favor of the basic concept of eliminating discrimination, but I do feel insufficient consideration has been given to this legislation on the far-reaching effect that it may have. Therefore, I hope that I will have support for my amendment to delay the effective date of that, having failed to give consideration sufficiently before passing this legislation. At least, we can have second thoughts about it before it takes effect.

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as chairman of the Committee on Aging of the House, and as a Member of this House—and, if I may add, a person 77 years old—I am gratified that this House today is beginning to hear this important bill. I believe on Thursday or Friday of this week this House will pass this measure by an overwhelming majority and advance another step forward in the recognition of the human rights of the elderly people of this country.

Mr. Chairman, I must disagree with the distinguished gentleman from Illinois who has just spoken. The chairman of the Subcommittee on Education and Labor, the gentleman from California (Mr. HAWKINS), will affirm, as he has to me in the last few minutes, that the distinguished gentleman from Illinois is incorrect when he says that organized labor testified before his committee against this bill. In fact, Mr. HAWKINS' invitation for labor groups to testify before the Education and Labor Committee on the bill were not responded to, nor invitations to appear before the Select Committee on Aging. On the contrary, Mr. Chairman, this measure has had remarkable unanimity of support. It was reported by the Education and Labor Committee by a vote of 33 to 0. It was approved by the Rules Committee unanimously and reported to this House. Amendments to the bill were approved by the Committee on Post Office and Civil Service chaired by the distinguished gentleman from Pennsylvania, Mr. NIX, and that panel's subcommittee headed by the distinguished gentlewoman from Maryland (Mrs. SPELLMAN). Those amendments were also approved by the International Relations Committee, and will in all likelihood be agreed to upon the consideration of the measure under the 5-minute rule next Thursday or Friday.

I want to commend, Mr. Chairman, the distinguished gentleman from California (Mr. HAWKINS) for the outstanding leadership he has given in bringing this bill to the floor from his subcommittee, the long labor that he spent in bringing this bill forth, and his dedication to the purposes and objectives of this measure. All elderly people of America are deeply indebted to the gentleman from California (Mr. HAWKINS).

We are also deeply indebted—and I am proud to acknowledge my gratitude and gratification—to the distinguished colleagues I have had in the sponsorship of this measure: the gentleman from Illinois (Mr. FINDLEY), the gentleman from New York (Mr. WEISS), and the gentleman from California (Mr. WAXMAN). I also want to commend, in addition, the distinguished leader of the minority on the Aging Committee, the gentleman from Virginia (Mr. WAMPLER).

In fact, this is a bipartisan measure. The Republican national platform said:

We favor the abolition of arbitrary age levels for mandatory retirement.

I hope later this week that the vote on this bill will indicate that this is an American measure designed to end the discrimination that has so long adhered against the elderly people of this country. We long ago abolished discrimination on account of sex and discrimination on account of race. We have not permitted discrimination on account of creed or national origin. But until H.R. 5383 is enacted we still countenance discrimination on account of age, and age discrimination is just as bad as discrimination on account of sex or on account of race.

The Chairman knows the gallant instances in history of those who have achieved great distinction although of an advanced age: Sophocles of the distant past and Winston Churchill and Eisenhower of the recent past. We know also in our hearings a little bit ago that we had an illustrious roster of outstanding Americans over 70 years of age: Averell Harriman, Tom Corcoran, Ruth Gordon, Will Geer, Colonel Sanders of Kentucky Fried Chicken fame, John Wayne, and Bob Hope, to mention only a few.

Bob Hope said in his letter to my committee:

I think the older we get the smarter we get.

We have recently had the broadcast media respond before our Aging Committee, to try to dispel the bad image of the elderly that sometimes lies in the minds of children: that they are feeble and toothless and incapable of doing anything but shuffling around or rocking in a chair.

On the contrary, we know that the U.S. Labor Department says—and many authorities who have studied this subject

confirm—that in general older workers do a better job than younger workers. In addition to that, the American Medical Association has attested that Americans who are permitted to continue to work live longer.

All we are asking, Mr. Chairman, is that an elderly person has the option either to retire at an early age when it is permissible or to continue to work, not being arbitrarily shunted off into the sidelines to be forgotten, neglected, and to die.

Now, Mr. Chairman, this bill will not only benefit the elderly, it will be constructive for American enterprise and business. It will help our Social Security System by relieving it of a drain of $600 to $700 million a year, it is estimated.

In addition to that, it would make it possible for the elderly people of this country to have new hope. They shall not be arbitrarily barred from continuing their work when the calendar turns in its rhythm to a certain age. They will know that their own capacity, their ability and dedication, will determine whether they may continue to work or not, and they will have a deep sense of satisfaction that their fellow men and employers regard them as human beings, not as something that all of a sudden rusts out because a certain age has been reached on the calendar.

This humane movement is spreading all over America, Mr. Chairman. Recently there was a referendum in Los Angeles, Calif. Fifty-eight percent of the people favored eliminating mandatory retirement. In Seattle a little bit ago the mayor, as executive, eliminated mandatory retirement. The California Legislature has recently passed a bill eliminating it in the private sector. Thirteen States of the Union have eliminated mandatory retirement in one form or another.

Now we are waiting for the Federal Government to take the lead in eliminating mandatory retirement from the Federal service, except in a limited number of categories that have been accepted here.

I want to thank my friend, the gentleman from Illinois (Mr. FINDLEY) for the splendid support the gentleman gave the committees in the gentleman's own speech today.

This bill marks a great day forward for America in the recognition of human rights. Lately we have made much of human rights around the world. Now we are beginning to practice that principle more completely at home, in this proposed legislation.

I will just add this. H.R. 5383 has been endorsed by the Secretary of Labor, Mr. Marshall; by the Secretary of Commerce, Mrs. Kreps; and in principle by the President of the United States. I hope we can send it on to the other body this week.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman from Florida for yielding.

I hope the gentleman and I have special standing, not any special interest in the passage of this bill, but I would like to make clear and sure that this has nothing to do with delaying social security benefits until the age of 68.

Mr. PEPPER. Of course not, no. Inadvertently the Secretary of Commerce merely proposed that as a subject for thought and consideration. We told her we were shocked at that proposal and she promptly let us know she did not advocate that and the administration does not propose it. She is not in favor of it at this time, and she supports our bill.

Mrs. FENWICK. This bill does not include any delay?

Mr. PEPPER. This bill does not include that. All we do is recognize the option of the elderly to continue to work without being forced out on account of age. We very strenuously oppose in our committee the deferment of the age at which people are eligible for full social security benefits.

Mr. Chairman, I also want to extend our warmest thanks to the able gentleman from Maine (Mr. COHEN) for the great help the gentleman has given to our committee and also the able gentleman from New York (Mr. BIAGGI).

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, in regard to the comments of the gentlewoman from New Jersey, I am sure my colleague, the gentleman from Florida, will agree with me, as a cosponsor of this bill, that those who support the bill and give it their affirmative vote are in no way indicating any interest in altering the date at which social security benefits are made.

Mr. PEPPER. Yes, I agree. I strenuously oppose any alteration of the date of eligibility to receive social security benefits and this bill in no way is related to that.

Mr. Chairman, I thank the gentleman.

Mr. WAMPLER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to join my colleagues on the Committee on Aging in support of H.R. 5383, a measure intended to curb the injustices perpetuated by present mandatory retirement policies and other forms of ageism.

Mr. Chairman, at the outset I would like to extend my congratulations and express my appreciation to the chairman of the Select Committee on Aging, the distinguished gentleman from Florida (Mr. PEPPER); the chairman of the subcommittee, the distinguished gentleman from California (Mr. HAWKINS); the distinguished gentleman from Illinois (Mr. FINDLEY), and others who have worked hard to bring this legislation to this point in time, and for their collective and individual efforts we all are most grateful.

Mr. Chairman, the Age Discrimination in Employment Act, enacted one decade ago, has served as the primary vehicle to eradicate age discrimination in employment. Since these 1967 provisions were mandated, public awareness of the need for equality of opportunity and freedom of choice in employment has escalated tremendously. In fact, 86 percent of the American public agrees with the statement, "Nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job" according to a recent Lou Harris survey.

Amendments to the Age Discrimination in Employment Act, embodied in H.R. 5383, will certainly improve existent provisions by reducing age discrimination and the incidence of mandatory retirement in non-Federal employment. Specifically, section 12 of the Age Discrimination in Employment Act will be amended to raise the ages of protection from 40 to 65 to 40 to 70 and becomes effective 180 days after enactment.

In addition, the bill will clarify the provision in the act which concerns the exception for employee benefit plans. The need for such revision and clarification is evidenced by conflicting court interpretations of the exception which may allow bona fide employee benefit plans to establish a mandatory retirement age before 65 under the present act.

The essence and intent of raising the age of protection to 70 under the act is clarified in H.R. 5383 by amending section 4(f)(2) to prevent bona fide seniority systems and pension plans from containing mandatory retirement ages for employees protected by the act. This provision is effective immediately upon the date of enactment for plans with a retirement age under 65. H.R. 5383 will defer the effective date of prohibition of mandatory retirement at ages 65 through 69 in collectively bargained employee benefit plans and seniority systems in effect 30 days prior to enactment. The effective date of the upper age limit change for collectively bargained agreements entered into by a labor organization will be delayed until termination date of the agreement or 2 years from the date of enactment, whichever occurs first. The delay allowed for compliance with the amendment to section 4(f)(2) is not, however, extended to nonunion employee benefit plans and compliance on the 181st day of enactment is mandatory for such plans.

In the Federal sector, notwithstanding provisions of the law, H.R. 5383 would eliminate mandatory retirement and other incidences of age discrimination by amending section 15(a) of the Age Discrimination in Employment Act.

The comprehensiveness of H.R. 5383 is further manifested in the provision requiring the Secretary of Labor to report to Congress on the feasibility of removing the upper age limit of 70 for non-Federal employees and an evaluation of the causes of involuntary retirement within 2 years of the effective date of the act.

In order that such provisions can be carried out effectively, H.R. 5383 would expand the authorized funding level beyond the present $5 million to such sums as necessary.

Mr. Chairman, passage of H.R. 5383 will insure freedom of choice in employment for our older Americans, the pioneers of modern America who have ceaselessly contributed their wisdom and knowledge to the success of our Nation.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I welcome the opportunity to stand in support of this legislation, H.R. 5383, which amends the Age Discriimnation in Employment Act in order to reduce the incidence of mandatory retirement. I commend the members of the House Post Office and House Education and Labor Committees for their thoughtful consideration of this issue. As a member of the House Aging Committee, I testified before these committees on the limitations of existing law and feel this bill represents a positive step toward total elimination of mandatory retirement in our society.

For my colleagues in the Congress who may not be familiar with this issue, may I say that the ADEA in its present form has merely confirmed the second-class status of the elderly in this country since the law protects only those under the age of 65.

Every day more than 5,000 Americans reach this age. On that day, these individuals—although not discernibly older, physically or mentally, than the day before—are abruptly moved into the new category of the "aged." Suddenly, they lose one of their most important legal protections, the age discrimination law. In passing the ADEA, Congress has made it legal for employers to discriminate against their employees who are over the age of 65. Rights of employment are swept away regardless of the individual's health, intelligence, or capability.

I believe this arbitrary age limit must be reevaluated. The 65-year age ceiling of the ADEA corresponds to the 65-year age limit in the Social Security Act. Since that limit was set in 1935, health and life expectancy have improved significantly. As a result, the number of people who are both able and eager to pursue careers past the age of 65 has increased dramatically.

As with any issue, there are arguments both pro and con, but the reasons for eliminating an upper age limit outweigh any possible benefits that can accrue from its retention. Ability to perform a job cannot be evaluated in terms of age alone, for it does not take into account differing knowledge and capabilities among individual workers. The commitment and experience of older workers is an important element in job performance. It is necessary for us to dispel the notion that a person's age determines his ability to perform. A study by Dr. Richard L. Sprott at the Jackson Laboratories in Bar Harbor, Maine, has shown that learning ability and IQ do not decrease with age, but remain steady and may even increase, depending upon the individual's profession, interests, and of course, health.

A major concern for all of us is the hardship that mandatory retirement imposes upon older Americans. They are robbed of a major source of creative satisfaction, of social relationships and status, and, oftentimes, self-respect. The limitation in the law suggests that people at age 65 are no longer competent, active, healthy individuals. In reality, inability, inactivity, and illness are often the results of, rather than the reasons for, retirement. Enforced idleness will slowly erode and can ultimately destroy an individual's desire to live. It encourages personal disintegration by destroying purpose, and limiting the opportunities for physical and mental activity. The fact that the suicide rate for males peaks at the age of 65 should be an indicator of the ageism we have bred into our society.

Financially, mandatory retirement not only means a sudden loss of income, but it can also result in lower benefits under social security, if the employee would have earned higher wages in later years. The limitation on working years is especially disadvantageous to women—who often enter the work force late, after raising a family or following a divorce or the death of their husbands—since it reduces their ability to accrue significant pension benefits. Should a retiree seek re-employment, he or she will face a much more difficult time because of age discrimination. At the same time, forced retirement unnecessarily increases government expenditures for income maintenance programs, such as social security, and social service programs for people who, in many cases, would remain self-supporting if given the opportunity to do so.

In my opinion, the fundamental argument for eliminating forced retirement based upon an arbitrary age limit is that we live in a society which desires equal opportunity for its citizens. We must resist discrimination in any form, whether it is aimed at minorty groups, women, the handicapped, or older Americans.

I do not believe that anyone can question the validity and the necessity for reform to protect older Americans from discrimination in the workplace. To achieve this goal, however, careful study and thought must be given to the approach taken.

Changes in mandatory retirement would have profound economic and social consequences for pensions, retirement plans and the social security program. As a result, full-scale changes in the patterns of work and retirement would not be realistic until short- and long-term adjustments can be made in these programs to accommodate the effects of eliminating the upper age limit in employment. The accepted custom of retirement at 65 has fostered the growth of public and private pension and retirement programs. In light of our intention to remove age-based "compulsory retirement," it is essential that we reexamine these programs. By eliminating the burden now being placed on younger workers to support the older ones who are forced to retire, we could help restore the fiscal integrity of social security and other pension and retirement systems.

The bill we have before us recognizes the need to phase in and evaluate the impacts this policy change has on the labor market.

I am particularly pleased that this bill seeks to clarify the section of the ADEA which provides an exemption "to observe the terms of a bona-fide employee benefit plan." In making this provision, the Congress attempted to avoid a problem that was foreseen during the hearings and investigations.

If employers were required to enroll other workers in pension plans or group health insurance programs, it was anticipated that costs for such plans would greatly increase, discouraging employers from providing them. In order to avoid placing undue hardship on employers, it was the intent of Congress to permit the hiring of older workers without requiring that they be fully included in company employee benefits plans. This exemption was designed to encourage the hiring of older workers without bankrupting pension plans.

While there was absolutely no intention to allow this exemption to legalize involuntary retirement before age 65, this is what has occurred through interpretations by both the Labor Department and the courts. In 1969, the Secretary of Labor stated that this section permitted an employer to involuntarily retire a worker under 65 years of age if done pursuant to a bona fide retirement or pension plan.

On the Federal district court level, many cases have been brought contesting the Secretary's interpretation, and three have reached circuit courts. The Third and Fifth Circuits have upheld the interpretation, while only one, the fourth, has overturned it. The former courts' opinions appear to be contrary to congressional intent, but the issue will ultimately be heard before the Supreme Court. It is, therefore, essential that the Congress act to clarify the ADEA. In the latest case, *Zinger* versus *Blanchette* (32 Cu. L977), the court requested such action. To quote:

> We leave to Congressional consideration the broad policy questions underlying the desirability of regulating the minimum age for compensated involuntary retirement. (45 LW at 2368.)

Our immediate concern must be to clarify the ADEA, as this exemption will affect all persons covered by the Act, now and in the future.

It is critical for the Congress to act now to reaffirm its intention to protect the employment opportunities of our older Americans. The ADEA's purpose was to promote employment, not retirement, whether with or without a pension. Idleness, when it is mandatory, is no less destructive because it is accompanied by a pension. We have an obligation not only to protect the elderly, but all Americans forcibly deprived of their livelihood and source of personal satisfaction merely because they have reached a certain age or worked a certain number of years.

Eleven States, including my own State of Maine, have eliminated the upper age limit in their age discrimination in employment laws. In a survey of these States, only one felt this change in the law facilitated the employment of people over the age of 65. On the other hand, several called the laws ineffective, citing the pension plan exemption as a loophole that allowed compulsory retirement. In Maine, legislation in this session of the State legislature was passed, repealing the pension plan exemption for Federal employees. The executive director of Maine's human rights commission, the agency responsible for the State's sex, race, and age employment discrimination laws, noted the harmful effect the

pension plan exclusion has had on the enforcement of the law.

In my opinion, this legislation can be strengthened by including not only Federal employees, but employees of all organizations receiving Federal funds. This action will bring us closer to attaining our ultimate goal of eliminating mandatory retirement.

The Congress has a long overdue obligation to see that the employment of older Americans is based upon ability rather than age. To fulfill this obligation, it is crucial that we put an end to mandatory retirement. Because we have institutionalized retirement at age 65 through private pension and retirement plans as well as through many Federal programs, the implications of all-inclusive change must be studied. H.R. 5383 represents an integrated and balanced approach to rectifying this problem.

Older Americans are an invaluable resource of experience and wisdom. We have an obligation and a moral commitment to protect them from discriminatory age limits, and to extend them the right of equal opportunity.

Mr. WAMPLER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I rise in support of this bill. I recognize that it is one of those really good bills that commonsense dictates ought to easily pass this House and yet one that I am pleasantly surprised is, in fact, on its way to passage.

The gentleman from Florida (Mr. PEPPER), the distinguished chairman of the Select Committee on Aging, a committee on which I serve, said about this bill, and correctly so, that this is another great step forward. I would like to say that another way, and yet agree with him, by saying that this could be a step backward. I say that from the standpoint that we are correcting bad public policy, both governmentally and of private institutions, which have developed only over the last 40 years. So it could be considered a step backward to recognizing once again the greatness of America, a Nation blind to individual differences of race, religion, sex, and now age. This bill recognizes once again the worth of every individual American, whether he be 20, 30, 40, 50, or even 90. So whether this be a step forward or a step backward, it is very definitely a step in the right direction.

Mr. Chairman, in a statement I made earlier in the year at a hearing on mandatory retirement, I stated that mandatory retirement policies are as cruel a form of discrimination as any. In essence, to force someone to retire simply because they have reached a certain numerical age is just like saying, "Society has no use for you, our company has no use for you, so it is time to go home and prepare for death." If these words seem strong, let me share with my colleagues a real case of what can happen when someone who enjoys work, and needs to work, is forced to retire. Back in the late 1950's, I worked at a packing plant in Waterloo, Iowa. The superintendent of the hog kill had worked there for decades. One day, the management told him that he would have to retire, his services were no longer needed by the plant. The next day, I went to work and learned that the superintendent had gone home the night before and shot himself.

Of course, this may seem an extreme, an unusual case. But why are suicide rates highest among the elderly? Is it because of an attitude pervasive throughout our society, that age is a burden, a fault, a wrong? There are those who argue that we must displace the older workers to make way for younger workers. To these people, I cite the case of the superintendent of the hog kill and ask them to justify their priorities in light of what happened to him. In addition, I ask them to consider their priorities in light of all the strides this society has made toward eliminating discrimination against racial and ethnic minorities. Are older people no less deserving of the right to get jobs, or keep jobs as long as they want, assuming they are capable of doing their work?

The United States is founded on the principle that individuals should exercise their freedom to the maximum extent possible, so long as they do not infringe upon their neighbor's freedom. Clearly, to force older workers to retire simply on the basis of age is to deny them the right to exercise their freedom fully, to make those choices they would make as rational individuals, unrestrained by any outside influences. This is just the sort of circumstance each of us wishes for himself, and just the sort of circumstance that older workers are entitled to, as well.

Mr. FISH. Mr. Chairman, I would like to take this opportunity to express my wholehearted support for H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

This important legislative effort will raise the mandatory retirement age from 65 to 70 years. We, in Congress, by consideration of this bill are recognizing the accomplishments and, more importantly, the potential for continued contribution by America's older working citizens. I believe that their knowledge and experience has made them a fountainhead of wisdom and the requirements of our increasingly complex society dictate that we make use of this most valuable resource. My experience in public office has taught me that those who want to continue to work after reaching the age of 65 do not want to be in need, but rather to be needed and self-sufficient.

What this legislation also recognizes is the fact that the Nation's economy is still in the grips of rampant inflation. An unfortunate fact of life for older working Americans is that, upon reaching the age of 65, they are faced with the crisis that they cannot afford to retire and must continue to work in order to maintain a decent standard of living for themselves and their families. The cost of living has increased at an alarming rate and the rising cost of heating fuel, housing, food, and transportation has made it critically difficult for many Americans, including our older citizens, to comfortably afford the very essentials of life.

As a full-time member of American society, the older working person should be able to live with purpose and dignity throughout his or her entire life span. To meet the needs of these individuals more adequately and to give them the opportunity to continue to contribute to society, we should recognize that it is their choice to determine their own future. That is, it should be their choice to decide to retire or to continue to work.

The legislation that we are considering today will provide our older working citizens with the choice that has been denied them for so long. Therefore, I urge my colleagues to join me in supporting what I feel is one of the most important pieces of legislation affecting our older and more experienced citizens. That we begin to take steps today to insure them a secure economic future, of their own choice, is of fundamental importance.

Mr. PICKLE. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. I am sponsor of a similar bill that would have removed the age discrimination in government employment and in Federal Government employment. I am happy to support this broader bill that was reported out of the Education and Labor Committee because it will reduce the incidence of mandatory retirement for workers in private and State and local employment, and eliminate entirely mandatory retirement on account of age for most Federal workers.

It has always seemed to me that discrimination because of age is one of the cruelest forms of discrimination. Instead of approaching old age with the zest of Rabbi Ben Ezra "Grow old along with me, the best is yet to be," our citizens are coming to fear old age knowing that they are going to be told, regardless of their physical and mental ability, you must retire. Testimony before the Select Committee on Aging from Dr. Suzanne G. Haynes showed that death rates in the third and fourth years after mandatory retirement were about 30 percent higher than expected. It is clear that in many cases the right to work is basic to the right to survive.

That is not to say that voluntary retirement should be discouraged. Those who have looked forward to retirement and planned accordingly, should have this option. What this bill says, and what I support is the freedom of choice, to choose whether or not you want to retire. This is a matter of individual preference, in part based on your physical strength. With modern medicine and modern nutrition, people do not age as early as they once did. Our longer life span, if it is to be meaningful, should give us the opportunity to work longer. We should not say that at age 65 a person must retire. If we do we ignore the great contributions that have been made to our society by those over 65.

Right now at the National Gallery of Art here in Washington is an exhibit of that great artist Henry Matisse. He did not seriously begin to use this new medium that is on exhibit until after his 65th year. The brilliant colors and designs he produced have received rave reviews, and given us all inspiration. There are examples that readily come to mind in all areas of life of those who continue to produce good work many

years after age 65. Albert Einstein, in science, John Adams, in politics, Oliver Wendell Holmes, the great jurist, to name a few names. In my district I have many examples, Prof. Roger Williams still writing books on nutrition years after his 65th birthday, Leon Green teaching and writing on torts law 20 years past his 65th birthday. Let us lengthen by at least 5 years, to age 70 the age of mandatory retirement as this bill proposes.

Mr. WEISS. Mr. Chairman, I want to take this opportunity to express my support of H.R. 5383, the 1977 amendments to the Age Discrimination in Employment Act. At the same time, I would like to compliment two of the prime sponsors of this legislation, Representative CLAUDE PEPPER, and Representative PAUL FINDLEY.

This legislation makes three changes in the Age Discrimination in Employment Act, ADEA: First, it expands coverage in the private sector from 65 years to 70 years; Second, it eliminates mandatory retirement in the Federal Sector; Third, it invalidates provisions in pension plans and retirement systems which mandate involuntary retirement during the protected age.

I would like to direct my comments to the third aspect of the changes. The committee adopted an amendment originally introduced by Representative HENRY WAXMAN and myself as H.R. 6798 which closes a loophole in section 4(f)(2) of the act; this section has been used to evade the protections which the law offers.

Currently, there are three exceptions to the provisions of the ADEA; two are rather straightforward: First, section 4(f)(1) exempts employers, labor organizations, and employment agencies from the provisions of the act "where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age. "This is meant, generally, to apply to workers in hazardous occupations. Second, section 4(f)(3) states that older workers can be discharged for good cause.

The third exception, section 4(f)(2), is not as clear; it reads:

> It shall not be unlawful for an employer, employment agency, or labor organization— "to observe the terms of a bona fide seniority system, or any bona fide employment benefit plan such as retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual."

This provision was designed to increase the employment opportunities of older workers by making their hiring relatively easy. Under section 4(f)(2) employers could hire older workers and benefit from their employment experience without having to incorporate them fully into company benefit plans or seniority systems. Some employers, however, have interpreted this provision as permitting mandated early retirement—prior to the upper limit in the ADEA—as long as such a provision is incorporated into the terms of a benefit plan or retirement system. A reading of the original Senate hearings and debate on the ADEA in 1967, makes very clear that such an interpretation was not the intent of the original authors.

Senator JACOB JAVITS, one of the principal authors of the ADEA, recently introduced legislation similar to H.R. 5383 in the Senate. In his introductory remarks which accompanied the legislation, Senator JAVITS alluded to his colloquy with Senator Ralph Yarborough during Senate consideration of the original ADEA about the meaning of section 4(f)(2). In the words of Senator JAVITS, the purpose of the exception was "to facilitate the hiring of older workers by permitting their employment without necessarily providing for equal benefits under employee benefit plans." In further explanation of this provision, the Senator stated the following:

> The meaning of this provision is as follows: an employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits which he affords to younger workers.

Senator Yarborough agreed with Senator JAVIT'S interpretation of this provision.

In hearings held on March 15, 1967, Senator JAVITS made a statement similar to the one I have just quoted setting forth his intention "that a fairly broad exception be provided for bona fide retirement and seniority systems that will facilitate hiring rather than deter it and make it possible for older workers to be employed without the necessity of disrupting those systems."

While the consistency of these two statements should eliminate any doubt concerning the intent of the original authors, Mr. WAXMAN and I have sought to insure that the provision, section 4(f)(2), which was designed to encourage the employment of older workers cannot be used to force them into early retirement by adding the following language at the end of the provision:

> . . . And except that the involuntary retirement of any employee shall not be required or permitted by any such seniority system or any such employee benefit plan because of the age of such employee.

I am pleased that the committee saw fit to include this clarification in the legislation which is before us today. I am convinced that without clarification, the potential for future abuse of this section is widespread. Figures from the Bureau of Labor Statistics indicate that some 2 million Americans are covered by pension plans which permit employers to retire workers before age 65. This I am afraid is only the beginning.

If we were to find a provision in the Civil Rights Act of 1964 which was intended to advance the opportunities of those covered by the law but which, in fact, was used against their advancement, we would act without haste to correct the provision. Likewise it is our legislative responsibility to move expeditiously when the rights of older workers are jeopardized by misapplication of the law. We cannot allow the very law which exists to protect the rights of older workers and the very provision which was written to expand their employment opportunities to be cited as the vehicle for mandated early retirement. Once we are aware of such a contradiction our position as Members of Congress leaves us no option but to clarify the law without delay.

H.R. 5383, the 1977 amendments to the Age Discrimination in Employment Act, gives us such an opportunity. For not only will this legislation extend the coverage of the ADEA to older Americans who need and want to work, it will clarify a provision in the current law which was designed to help older workers but which has been used against them. H.R. 5383 is legislation which deserves the support of the entire House. I urge its passage.

Mr. PERKINS. Mr. Chairman, I rise in support of the bill, H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. This bill was reported by the Committee on Education and Labor on July 14 by a vote of 33–0.

The three major provisions of the committee bill are as follows:

First. The upper age limit protected under the act for non-Federal employees is extended from the current level of age 65 to age 70;

Second. The upper age protection for Federal employees is lifted entirely—current mandatory retirement age for Federal workers is age 70 with 15 years service; and

Third. The exemption for bona fide retirement and pension plans under current law is clarified to prohibit involuntary retirement at an age less than the protected age under the act.

The committee also accepted an amendment offered by my distinguished colleague from New York, Mr. WEISS, to delay the effective date prohibiting mandatory retirement for employees aged 65 through 69 in employee benefit plans and seniority systems arrived at in collectively bargained agreements for 2 years, or until the collective bargained agreement expires, whichever comes first.

The purpose of the amendment is to give management and labor an opportunity to adjust to the provisions of H.R. 5383. The amendment applies only to collectively bargained agreements, and it was patterned on a similar amendment in the Equal Pay Act of 1963.

The bill also requires the Secretary of Labor to study institutional and other arrangements causing involuntary retirement and to provide the Congress with an interim report within 1 year of the act's effective date, and a completed report within 2 years of the effective date. The study will also include the feasibility of eliminating the upper age limit entirely.

The Civil Service Commission is also required to study the effects of the amendments and report its findings to the Congress by January 1, 1979.

The committee has agreed to accept an amendment to be offered by the Post Office and Civil Service Committee which would exempt hazardous occupations—Federal firefighters, law enforcement officials and air traffic controllers—Foreign Service personnel, Isthmus of Panama employees, and Alaskan Railroad employees. The amendments were agreed to in order to provide the respective committees charged with jurisdiction over these mandatory re-

tirement provisions the opportunity to review these statutes during the 95th Congress.

I think H.R. 5383 is a good bill, and I want to commend the distinguished chairman of the Subcommittee on Economic Opportunities, the Honorable AUGUSTUS HAWKINS, for the expeditious manner in which he has guided the bill through committee and on to the floor.

The bill was originally introduced by two of my dear friends, the gentleman from Florida (Mr. PEPPER), and the gentleman from Illinois (Mr. FINDLEY), respectively, the chairman and ranking minority member of the Select Committee on Aging. Their committee has done a fine job in drafting this bill, in working with our committee to get it to the floor, and I think H.R. 5383 will get the tremendous support it deserves when it comes to the floor.

I urge my colleagues to support H.R. 5383.

Mr. ANNUNZIO. Mr. Chairman, today this body has under consideration H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. I have been a longtime sponsor of legislation to eliminate mandatory retirement and I am gratified to see that we are able to take action to deal with this problem during this session of Congress.

Mr. Chairman, the harsh effects of mandatory retirement on many older Americans are well-known and have been thoroughly documented in countless hearings and studies. I, myself, have received many letters from older individuals who were forced to retire even though they enjoyed their work, wanted to continue working, and needed the income which their job provided. The American Medical Association, commenting on the undesirable effects of retirement, has concluded that the sudden cessation of productive work and earning power often leads to physical and emotional deterioration.

Mr. Chairman, the forced retirement of older Americans is a great waste of one of America's greatest natural resources—the experience and talent of its people. Many older Americans are able and willing to work, but are denied the opportunity to do so because of widespread mandatory retirement policies. Many Americans who have passed their 65th year are competent and efficient workers. In many instances they are able to do a better job than those who are younger because of their greater experience and more serious commitment to their job. Yet all too often our senior citizens are automatically consigned to a life of hopeless inactivity because of mandatory retirement. Without question, it is an ugly form of discrimination—based on age—to arbitrarily force a man or woman to retire upon reaching age 65.

Mr. Chairman, we already have a law on the books to deal with one form of age discrimination—the refusal of creditors to grant credit on the basis of an applicant's age. The Equal Credit Opportunity Act amendments, which I sponsored, went into effect in March of this year and should go a long way toward making growing old a rewarding experience rather than a time of sorrow.

H.R. 5383 should also have this beneficial effect and will vastly improve the situation for older Americans with respect to mandatory retirement. It will amend section 12 of the Age Discrimination in Employment Act to raise the upper age limit from 65 to 70 for all non-Federal employees covered by the act. It will also do away with the upper limit of age 70 on protection for Federal workers, thus eliminating mandatory retirement on account of age for most Federal employees. The bill also clarifies the exemption for employee benefit plans to prohibit early mandatory retirement. In addition, H.R. 5383 requires the Secretary of Labor to submit a report on mandatory retirement and the feasibility of eliminating the upper age limit in the act.

Mr. Chairman, with the passage of this bill, we in this body will be saying that our senior citizens have rights that deserve protection. We will be recognizing the right of our older citizens not to be discriminated against in the job market because of their age. On the other hand, by passing H.R. 5383 we are not saying that older Americans may never retire. We are providing them with a choice which will give them more control over their own lives.

I enthusiastically support H.R. 5383 and urge all of my colleagues to vote in favor of it.

Mr. WAXMAN. Mr. Chairman, many eloquent arguments in favor of allowing workers to remain active in the labor force as long as they are willing and able, have been expressed. Clearly, we are talking about a basic right, one which needs to be protected and defended so that people are not forced against their will to cease working and contributing to society. The legislation before us affirms and establishes beyond any doubt that age is a protected civil right, along with race and sex, one which cannot be traded away, or curtailed arbitrarily.

There are opponents of this measure who have used protracted and rather disingenuous reasoning to encourage the bill's defeat, and I would like to challenge some of their premises. It has been stated that allowing individuals free choice to remaining active in the work force would deny young people an opportunity to enter gainful employment. That can be disputed on several grounds. First, all the data available to us indicates that trends to early retirement will continue. Over the last 25 years labor force participation rates for people over 65 have been steadily decreasing, and it is most unlikely this trend will be reversed by the passage of this bill. Second, normal turnover coupled with a hoped-for long-term upswing in the economy and special youth employment programs which Congress is currently enacting will provide increasing opportunities to new entrants in the labor force.

A further argument maintains that allowing seniors to remain in the labor force will strike directly at the job prospects of racial minorities and women. That argument is morally reprehensible, as well as untrue. I vigorously contest the assertion that we need discriminate against one group in need, in order to favor another group also in need. Clearly we cannot tolerate discrimination of any sort, and this bill would correct an injustice of longstanding against a particularly vulnerable group of citizens, many of whom are themselves minority group members and women.

A recent CRS study on the impact of mandatory retirement on minorities points out that in 1972, 22 percent of blacks aged 60 to 65 were subject to forced retirement. Since black earnings over a working lifetime are lower than white earnings, their retirement benefits are also lower. Therefore, forced retirement for blacks all too often means their existing on a poverty level, with less than adequate income replacements to insure a decent retirement living standard. I would like to submit for the RECORD the statement of one of the most prominent agencies advocating for the elderly, the National Caucus on the Black Aged, which highlights the special plight of black workers under mandatory retirement.

A third statement often made against this bill is that it would create a cadre of older persons eligible for unemployment insurance, and thus deplete that already-fragile fund. The purpose of this bill, however, is to maintain older, capable workers in the labor force who wish to be employed. If such a worker reports himself unemployed and is capable of working, then we indeed must deal with him as we would any other unemployed citizen. However, older persons have available to them a social security retirement income, for the most part higher than unemployment insurance. Since it is illegal to draw from both income replacement systems, we can assume that the older worker who simply cannot find employment after all his efforts have been exhausted will choose to retire, and those who can work will then do so.

Finally, many business groups maintain that they need a mandatory retirement age to get rid of unproductive workers. That argument is astonishing. One would assume good personnel practices would have dealt with an unproductive worker at some time in his working career, and not have waited until he was 65 to let him go. Indeed, mandatory retirement for all workers over 65 seems a rather draconian measure to compensate for the failure to deal appropriately with some workers' inefficiencies.

I urge the passage of H.R. 5383.

The article follows:

THE NATIONAL CAUCUS ON THE BLACK AGED OPPOSES MANDATORY RETIREMENT

The National Caucus on the Black Aged advocates elimination of the several policies in government, industry and business, which force a physically active and productive individual into retirement merely because he or she reached an arbitrarily set chronological age.

Compulsory retirement denies society the benefit of the skills and abilities of the older worker which have been accumulated through years of experience. It strikes especially hard at the Black elderly in their particularly paradoxical situation. Having worked extremely hard at menial physical labor for low pay, all of their lives, over sixty percent of the Black elderly are most deserving of a rest in their senior years, yet they are least able to afford it. So, unlike most of their white counterparts, to whom retirement means feelings of rejection and

worthlessness but economic well being, for the Black elderly, retirement too often means abject, grinding poverty, with no respite from pain, loneliness and isolation.

After having attained the age for full Social Security benefits, retirement should be a matter of personal choice. At that point, an individual should be allowed to work until he or she is no longer able to produce at full capacity.

The National Caucus on the Black Aged does not accept the contention that this country, with its trillion dollar gross national product and the multi-billion dollar aggregate income of its industries, cannot maintain productive older workers on their jobs, as well as provide them a decent income in retirement. Social decency demands that we do this. Public opinion will accept nothing less.

Mr. ZEFERETTI. Mr. Chairman, today the House of Representatives is considering H.R. 5383, legislation designed to curb mandatory retirement. This bill is of major significance not only for many members of the Brooklyn community I represent, but also for millions of Americans across the Nation.

The Age Discrimination in Employment Act of 1967 was enacted to prohibit discrimination in employment because of age. However, it imposed an age limitation of 65 and, as a result, it did not go far enough in eliminating age discrimination because it permitted mandatory retirement based on age to continue.

Mandatory retirement infringes on a basic right: the right to be judged on ability, not merely on age. Many Americans are willing and able to continue working; however, we have permitted the existence of laws and policies that deny them that opportunity.

When an individual is forced to retire it usually means a 50-percent reduction in his or her income and represents a tragic waste of talent and productivity. It also denies older persons the opportunity to achieve their fullest career potentials. Many of America's best workers are literally "put out to pasture," which I find to be a terrible waste of our human resources.

Age alone is a poor indicator of ability. Various research findings indicate that older workers are as good or better than their younger coworkers with regard to their dependability and work quality. It is clear to me that we must look at each American as an individual and consider the skills that he or she possesses. People must be judged on their ability, not on their age alone.

Opponents of the legislation argue that raising the mandatory retirement age to 70 would have a negative effect on the hiring of younger workers. However, the vast majority of persons really want to retire at the age of 65. The point is that they should have a free choice whether or not they want to continue to work.

We must also take into consideration the economics of mandatory retirement. As a result, skills and experience are lost from the work force resulting in a reduced gross national product. It is estimated that our society loses goods and services estimated at more than $10 billion each year.

In addition, the mandatory retirement age of 65 strains our already overburdened social security system. As a possible solution, some of my colleagues have suggested that we raise to 68 the age at which a person can become eligible for social security benefits. I am strongly opposed to such a proposal.

However, raising the age of mandatory retirement to 70 would give a "shot in the arm" to our dwindling social security funds. Social security benefits are financed by payroll taxes contributed by employees, employers, and the self-employed. Declining birth rates, coupled with increasing retirement rates have resulted in fewer workers supporting the system. With 90 percent of the persons over 65 now on the social security roles, it is only logical to assume that many of these 4 million people are recipients of benefits. Passage of this legislation would enable many of them to continue to contribute to the system rather than draw from it.

This proposal has the overwhelming popular support of the American people, as is evidenced by a Harris poll indicating that 86 percent of the respondents believe that no one should be forced to retire because of age alone if that person wants to continue to work and is able to do a good job.

Many elderly Americans are willing and able to continue to be an active and vital part of our work force. It is time that we recognize our elderly for what they are—a valuable national resource of skill, knowledge, and experience. I strongly urge my fellow colleagues to recognize this fact and vote in favor of H.R. 5383.

Mr. ERLENBORN. Mr. Chairman, I have no additional requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. BINGHAM, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age, had come to no resolution thereon.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 341, SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1978

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

THE BIENNIAL BUDGETING ACT OF 1977

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, today I am introducing the Biennial Budgeting Act of 1977, a bill to put the Congress on a 2-year budget cycle. I believe the change to a 2-year cycle would give us the time we need to conduct tough oversight on existing programs and to get the budget under control.

There is no question that the Budget Committees of both Houses have done an outstanding job in wrestling with the budget. The task of reporting out two concurrent budget resolutions that cover about $500 billion of expenditures is unimaginably difficult.

But despite their efforts, it is clear that we are still forced into hasty and cursory examination of the ever-burgeoning budget just by virtue of the process itself. Under the provisions of the Congressional Budget Act of 1974, Congress develops a new set of spending ceilings each year. This process is intended as an exercise in selfdiscipline to insure that spending stays in line with tax revenues and that appropriate money is used effectively.

But churned into this process are the almost 20,000 new bills introduced during each Congress. Consequently, we have very little time to review existing programs to see whether they are doing the job or to screen new spending proposals to determine whether they are needed. The tendency is to use a rubber stamp on both and the result is chaotic: We vote on appropriations for programs not yet authorized; we have little more than 2 weeks to review the whole of the $500 billion budget; time constraints on considerations of the budget resolution lead not to full debate but to the drawing of sharp and bitter partisan lines; and the result is more and more spending with less and less consideration. The congressional budget process is now little more than a blueprint for recurring fiscal crisis.

The heart of the problem is the 1-year budget time frame. We try to analyze current spending at the same time we are voting on new spending authority. In the confusion that results, many Federal programs that have become outdated and sluggish keep sneaking through the process.

Under my proposal, the first year of each 2-year congressional term would be devoted to formal oversight of programs and agencies and to the reporting by the Budget Committees of the first budget resolution and the reporting by the legislative committees of all authorizing legislation. The second year would be used for the passage of any new authorizing bills and later, only after authorizing legislation is adopted, would the Congress adopt appropriations bills and the second budget resolution.

This new approach would yield three basic benefits: More time for oversight of present programs, more time for thoughtful planning of a new budget, and less pressure and distraction from the constant flow of new program pro-

posals. It would take us away from the stop and go funding we now engage in, where too many decisions result from last-minute panic instead of proper planning.

Specifically, the bill would provide for the following schedule:

First year: The committees of each House would spend the first 6 months of the first session conducting oversight hearings on existing programs and policies. Following these hearings, the legislative authorizing committees have another 6 months to conduct hearings and report out new legislation. The Budget Committees would follow essentially the same schedule, reporting out the first concurrent budget resolution by November 30, allowing legislative committees time to incorporate guidelines within the resolution into their own work.

Second Year: Each House would devote itself to working on new authorizing legislation, with a deadline of March 10 for such action. March 31 would be the deadline for consideration of the first concurrent budget resolution. It is only after this point that appropriations bills come into consideration. By May 15, the Appropriations Committees are to report out their bills and resolutions, with the seventh day after Labor Day the final day for action. After that, the present timetable for the second concurrent budget resolution and the reconciliation process is retained.

For the benefit of my colleagues, I enclose the schedule I am proposing as it appears in the Biennial Budgeting Act:

TIMETABLE

Sec. 300. The timetable with respect to the congressional budget process for any Congress (beginning with the 96th Congress) is as follows:

FIRST SESSION

(On or before date, with action to be complete)

January 3—President submits current services budget.

15th day after Congress meets—President submits his budget for 2-fiscal-year period beginning in succeeding calendar year (the '2-fiscal-year budget period'). All committees begin oversight hearings with respect to 2-fiscal-year budget period.

June 30—Committees complete oversight hearings and submit their reports thereon.

July 1—All committees begin legislative work for 2-fiscal-year budget period.

October 31—Committees and joint committees submit reports to Budget Committees with respect to 2-fiscal-year budget period.

November 10—Congressional Budget Office submits report to Budget Committees with respect to 2-fiscal-year budget period.

November 30—Budget Committees in both Houses report first concurrent resolution on budget for 2-fiscal-year budget period.

December 31—Committees report bills and resolutions authorizing new budget authority and providing new spending authority for 2-fiscal-year budget period.

SECOND SESSION

(On or before date, with action to be completed)

January 3—President submits current services budget.

15th day after Congress meets—President submits revised budget for 2-fiscal-year budget period.

March 10—Congress completes action on bills and resolutions authorizing new budget authority and providing new spending authority for 2-fiscal-year budget period.

March 31—Congress completes action on first concurrent resolution on budget for 2-fiscal-year period.

May 15—Appropriations Committees report bills and resolutions providing new budget authority for 2-fiscal-year budget period.

7th day after Labor Day—Congress completes action on bills and resolutions providing new budget authority for 2-fiscal-year budget period.

September 15—Congress completes action on second required concurrent resolution on budget for 2-fiscal-year budget period.

September 25—Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.

October 1—2-fiscal-year budget period begins.

As I stated, this approach would yield several basic and important benefits. It would allow more time for oversight of present programs so that ineffective or outdated ones can be eliminated. It would permit more careful and thoughtful planning of the budget, with full consideration given to the effect of the budget on inflation and to innovative fiscal initiatives. It would allow all Members of Congress, not just those serving in the previous Congress, full imput into the new budget. It would enable us to take time to determine whether new programs and policies are really warranted or necessary, rather than relying on special interests or party lines. It would completely eliminate the incongruous situation that we see now of appropriating money for unauthorized programs.

This approach is not entirely new. For many years, Senator Warren Magnuson of Washington proposed legislation to split the authorizing and appropriating processes while still retaining the 1-year fiscal period. From time to time, other Members have suggested that the 2-year approach bears examination.

I might note that, following the requirements of the Congressional Budget Act, the Congressional Budget Office recently completed a study on the feasibility of some form of biennial budgeting. The Office's response was largely favorable and it recommended that the Appropriations Committees begin immediately by examining the budget for programs that could be most easily switched to a 2-year cycle.

One of the most interesting possible benefits of biennial budgeting that the Congressional Budget Office noted is the increased financial security that approach would give to State and local governments which are so dependent on Federal support. CBO concluded, based on the results of a study conducted for the Office by Peat, Marwick, and Mitchell and Co., that biennial budgeting would relieve State and local governments of the continual pressure they face to "second-guess" future appropriations levels. The effect of that pressure, according to CBO, is that State and local officials tend to underspend their Federal funds, often then losing the funds at the end of the fiscal year. As a result, programs that are underfunded to begin with suffer still more from underspending. Two-year appropriations would greatly ease that situation.

I would like to quote one other observation CBO made with regard to biennial budgeting. Their study notes:

The arguments against two-year appropriations revolve mainly around possible diminution of Appropriations Committee oversight and the difficulty of forecasting a program's warranted level of resources for 24 compared to only 12 months ahead. But if the Committees did not have to spend so much time each year on routine "budgetry," they would in fact have more time for their oversight work, leading to more rather than less oversight. Unexpected demands can always be accommodated by supplemental appropriations.

I think we have to recognize that in many respects the budget process is out of control: the very size of the budget makes it impossible to really grapple with it in 1 year's time. Taxpayers sense this with rising resentment as they continue to fork over their hard-earned money, with no perceptible improvement in Government services. Indeed, it often seems that the increased spending results in increased harassment, bureaucracy, and redtape. But in objecting to high taxes and runaway spending, Americans are not asking that their Government be dismantled. They are saying that they have every right to expect that the dollars we appropriate will be handled efficiently and effectively.

Certainly, we as Members of Congress, have seen this frustration; it is reflected on the floor of the House. Everyone here has made a real effort to analyze current spending at the same time we are considering new spending. Others have used "knee-jerk" voting against all new spending measures as a way of calling for budget control and oversight. But neither approach really can work in the long run.

We must adopt a new system that allows Congress enough time to give the budget the serious attention it deserves or we will never get it under control. There are worthy proposals before us to create a zero-based budgeting system and to establish "sunset laws" that would give all Federal programs a limited life cycle. I support these measures as one way of coping with the present situation, but I believe they will ultimately be useless unless we provide time for Congress to exercise fully its oversight responsibilities. By moving to a 2-year budget we can gain that time and make significant progress in curbing wasteful spending and bringing the bureaucracy under control.

TEXTILE IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, I rise today to speak on a problem that greatly affects, not only the 10th Congressional District of Massachusetts, but many other areas of the country. That problem is jobs—and specifically, jobs in the textile industry.

I believe in world trade. Nations should seek to find markets for commodities and finished products outside their own boundaries. Free trade is an important part of our economic system. However, when that system is endangered, free

trade should not be our first priority. Our first priority is jobs.

In my district thousands are employed in the textile industry. In the Fall River area, 14,000 people are employed in the textile industry. Of those, 1,000 are provided by knitting companies. Some 300 knitwear companies have gone out of business across the country in the past few years, due to the importation of large amounts of knitwear products.

Massachusetts has lost 100,000 manufacturing jobs in the last 10 years. We cannot afford to lose many more.

But this problem does not just affect Massachusetts. Instead, many areas of the country are affected. Nationally, 2.3 million people are employed in the textile and apparel industry.

In the past 10 years textile imports have grown at an average rate of 5.5 percent a year, or a total of 71 percent. In comparison, the U.S. market grew only 2.5 percent per year and 28 percent overall.

In 1976 alone, textile imports increased 34 percent over the previous year, while the total domestic market grew a frightening 3 percent. As a result, foreign imports have now captured a record 10.4 percent of the entire domestic market. Of even more concern is the fact that apparel fabric and garment imports have now captured 17 percent of the market.

We must not allow this trend to continue. We must take steps to reverse this trend, to protect the jobs of our own citizens—particularly at a time of high unemployment in our country. There are several steps we could take:

We could eliminate the 6-percent annual growth factor granted exporting countries. We could roll back the import quotas to a reasonable percentage. We could direct the negotiators who are now, not only negotiating a worldwide multifibre agreement, but are individually negotiating with 11 countries, to fullfill the commitment made by the President to create jobs.

We must not allow textile and apparel imports to grow at a rate greater than that of the domestic market. A method must be established to monitor the levels of specific import categories. When imports severely impact the industry, no overall quota growth would be allowed in the next year.

These, and no doubt other remedies, are among those that should be considered by a special task force on the operation and extension of the multifibre agreement, headed by my distinguished colleague, the gentleman from South Carolina (KEN HOLLAND).

I understand that that task force is planning field hearings on this problem in several States. I commend their efforts to seek the views of individuals who are involved in this industry, and whose livelihood depends on the health and growth of the textile industry.

I would like to formally invite my colleague, Mr. HOLLAND, and the other members of his task force, to visit my district in Massachusetts, where the textile industry plays so large a role. I feel the task force could gain valuable knowledge there and I would be happy to arrange such a hearing if it can be worked into the schedule of this important task force.

Again, I commend my colleagues for realizing the seriousness of this problem and I urge the Congress to take steps to prevent further erosion of our country's positon with regard to textile and other imports.

CHICAGO'S GENERAL VON STEUBEN PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, September 17 is the anniversary of the birth of one of the heroes of the American Revolutionary War, Gen. Friedrich Wilhelm von Steuben. As a native German, von Steuben was one of those men whose spirit and imagination were aroused by the struggle for independence of a small group of colonies an ocean away, and without the help of this valiant soldier, America's fight for freedom would have been much more difficult.

On Saturday, the 17th, the United German-American Societies of Greater Chicago will sponsor the General von Steuben parade on State Street, and many scores of floats will depict the German contributions to America's strength and greatness along with many marching units and musical contingents. Hon. Michael A. Bilandic, mayor of Chicago, will serve as honorary grand marshal, and I look forward to joining members of Chicago's German-American community on the reviewing stand for this grand event. A banquet will take place in the evening at the Palmer House Hotel.

Von Steuben came to America in 1777 to offer his talents to that great cause then being born on this continent of a people longing for their independence. In so doing, he set an example for all time for millions of other Americans of German origin, who have contributed untold wealth to their adopted Nation.

During the bitter days at Valley Forge, General von Steuben sustained the courage of his men and contributed his private funds for their well-being. He drilled and taught them so that when winter subsided the American troops emerged more prepared than ever to engage the best army of the day on equal terms.

During that winter he also wrote the "Regulations for the Order and Discipline of the Troops of the United States." In 1781 von Steuben served with Lafayette in the battle against Cornwallis, who was attempting to invade Virginia, and at the Battle of Yorktown he commanded one of the three divisions of the Continental Army.

General von Steuben received a great estate from New York State and a large award from Congress for his outstanding contributions to the winning of American independence. Along with General Lafayette he was second only to General Washington as a shaper of the Continental Army.

Americans of German heritage have contributed greatly to the strength and freedom of the United States from its very beginning.

It was the German cartographer Martin Waldseemueller who named America on his map of the world in 1507. He named the new continent after the Italian navigator, Amerigo Vespucci, and the name America thus became a part of history.

In 1626, it was Peter Minuit who bought Manhattan Island from the Indians on behalf of the Dutch. He was born in Wesel, Germany, with the name Minnewitt.

Franz Pastorius founded Germantown, Pa., in 1683 and in 1688 he raised the first protest against slavery in the British-American colonies. From that time on, slave-holding was forbidden in German colonies even in the South.

Heinrich Muehlenberg organized the first Lutheran Synod in 1748 and his younger brother, Frederick August, served as the first Speaker of the U.S. House of Representatives from 1789 to 1791.

John Jacob Astor helped to open the American West and Astoria, Oreg., is named after him.

John Sutter settled in California, and as Civil War Gen. William Sherman once said:

> Of all the men who played a role in reaching California, we owe its permanent possession primarily to General Sutter.

Levi Strauss founded the clothing empire, Charles Steinmetz was instrumental in the preeminence of the General Electric Corp., Thomas Nast was the father of American political cartooning, and Ottmar Mergenthaler revolutionized the art of printing.

Carl Schurz served his adopted country as an Ambassador, as a Senator from Missouri, and as Secretary of the Interior, and was called the "extraordinarily effective incarnation of our national conscience." Abraham Lincoln wrote to Schurz, "within the limits of our brief acquaintance I may tell you that no man is closer to my heart than you are."

The list of German-American contributors to the building of our Nation is too long to list here fully, but let it be said that the preeminence of our own city of Chicago, which they helped to build with their dedication and resourcefulness, is testimony to those noble and vital contributions.

I extend my greetings and best wishes to German-Americans in the 11th District of Illinois, which I am honored to represent, in the city of Chicago and all over the Nation who are commemorating the birth of that Revolutionary War hero, General von Steuben, and the German contribution to American greatness.

The members and officers of the United-American Societies of Greater Chicago have long been vital and creative citizens in their individual communities, and I congratulate them for their community services. I also extend my congratulations to Karl C. Laschet, general chairman and grand marshal of the parade, and to all the members of the 12th annual General von Steuben Parade Committee who are working so hard to make this patriotic pageant a success. Their names follow: Joseph Gies, honorary general chairman; Horst Seyferth and Karl Heumann, co-chairmen; committee members Felix Bachmeier, Melvin Brandt, Anton Erl, Willi

Follmer, Fred Marunde, Joseph Matzer, Willi Scharpenberg, and Nick Schneider.

Paula Zottmann, treasurer; Helen Meiszner, parade treasurer; Joseph Zottmann, Betty Center, and Louise Jochem, trustees; Paula Zottman, Cornflower chairlady; Clara Winkler, recording secretary; Virginia Vazzano, coordinator, Katie Piechota, assistant coordinator.

SELECT COMMITTEE ON ASSASSINATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, today, I and the 11 other members of the Select Committee on Assassinations have introduced a resolution that would, if adopted, clarify the power of the select committee to use one aspect of the authority already part of the select committee's basic resolution. The new resolution would make it clear that the select committee has the authority to make an application to a court to obtain a grant of immunity under the appropriate statutes of the United States. We are taking this action out of an abundance of caution and out of a desire scrupulously to follow the limitations of our current resolution and the essential requirements of due process. I note, too, that this power is ordinarily at the disposal of other investigative committees of the Congress.

Mr. Speaker, an explanation of the need for this action requires some background. In House Resolution 222, the House placed upon the select committee the duty of conducting "a full and complete investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy and the assassination and death of Martin Luther King, Jr." The House also empowered the committee to subpena witnesses and grant immunity. In fulfilling this mandate, the committee indeed expects to call a number of witnesses, some of whom may have to be granted immunity from the use of their testimony in a prosecution against them. But, under 18 U.S.C. 6005(a), to obtain immunity for such witness, a congressional committee, so authorized by its basic resolution, must apply to a Federal district court for an order conferring immunity on the witness. It is probably already the case that the select committee has been authorized to apply to a court for such an immunity order, because the House Resolution 222 explicitly provides that—

[t]he Select Committee shall be considered a committee of the House of Representatives for all purposes of law, including * * * sections 6002 and 6005 of title 18, United State code, * * *"

Since section 6005 requires applications to courts for orders of immunity, it would seem to follow from the inclusion of this language in the select committee's basic resolution that such applications are authorized.

Nevertheless, the special legislative history of House Resolution 433, the resolution that reconstituted the select committee, casts some doubt over the committee's power to apply to a court for such an order. Originally, the committee, in House Resolution 433, sought general authority to "bring, defend and intervene in lawsuits." This portion of House Resolution 433 was deleted on the floor of the House. The effect this particular deletion had on the general immunity provision in House Resolution 222 is what is at issue.

Were a witness to refuse to comply with a court's immunity order compelling testimony before the committee as well as defend a contempt charge on the ground that the rejection of the explicit language in House Resolution 433 authorizing the committee to go to court also affected the general authority granted by House Resolution 222 to seek immunity applications under section 6005, the committee would face a difficult and troublesome legal issue. It is likely, too, that an appellate court would not resolve this issue for several months, a period of time coming during the heart of the committee's investigations. Were the resolution of the issue to go against the select committee's power, it would also seriously hinder the course of the investigation. While the law suit was pending, moreover, all witnesses appearing before the committee would also be in a position to frustrate the committee's efforts to secure their testimony safe in the knowledge that the committee's authority to proceed was in doubt because of the litigation. Obviously, this is a risk that the select committee cannot afford to run if we are to fulfill the mandate the House has given us.

If the committee cannot secure this clarification of its power, our work will not, of course, come to an end. But if it is to go forward it will be necessary for the committee to return to the House floor on a case-by-case basis for each immunity application, something that other committees of the House do not have to do and something that we do not believe that the House intended when House Resolution 222 was amended. We can reasonably foresee that during the most difficult period of our investigation, immunity applications might be a weekly or even biweekly occurrence.

Obviously, what is at stake here is more than the power of the committee. The efficient operation of the House Calendar is also called into question, since it would be extremely time consuming for the committee to seek specific autority on the floor of the House to go to court to implement each of the committee's individual votes to grant immunity to particular witnesses. Obviously, too, if the House were on recess the investigation would remain in limbo pending the return of the Members.

There are additional reasons for requesting the specific authorizing language we seek rather than for a resolution narrowly authorizing the committee to make an application in immunity situations. The committee has already been confronted with a limited number of other situations where it is necessary to make other types of applications to courts. For example, the committee presently needs access to certain grand jury minutes. We do not believe that the prosecutive agencies involved would object, but we know that they would want the committee to seek court permission, too. This is the proper legal way to proceed. It would be unseemly for us to act in any other fashion.

In addition to granting the committee unequivocal authority to make applications for immunity or grand jury transcripts, the new resolution also specifically authorizes the committee to bring and defend lawsuits arising out of subpenas, immunity orders, testimony, or the failure of a witness to testify. This authority is narrowly related to issues touching on testimony or the production of evidence before the committee. This power, moreover, is not something that could be exercised by staff members without careful committee supervision. No power is sought to roam far and wide conducting our investigation by lawsuit rather than by carefully planned hearings—something that those who voted to delete general litigation authority in House Resolution 433 legitimately feared. The authority could only be exercised by a majority of the committee or subcommittee members voting, a majority being present. It is certainly a much more restrictive and controlled authority than that which was deleted from House Resolution 433. It, too, is necessary because committees cannot go to court to defend themselves unless they are specifically authorized to do so by resolution of the full House, *Reed* v. *County Commissioners*, 277 U.S. 376 (1928). Here it is significant to note that in response to the Reed case, the Senate passed a special resolution authorizing all Senate committees to petition courts for relief. See Senate Resolution 262, 70th Congress, 1st session, 1928.

There is no comparable resolution that exists for the House. Consequently, each committee must be individually so authorized, as the Korean Committee has been under its resolution. See House Resolution 252. This last point is particularly significant. It was thought that powers such as these were unprecedented when House Resolution 222 was considered. Now that the Korean Committee has found it necessary and helpful to have powers of this character of a general nature, the narrow authority sought by this committee should not be refused.

Mr. Speaker, this resolution will clarify and grant the committee the narrowly drawn legal authority it needs to accomplish what the House has mandated. It is a necessary power for any investigative committee to have to perform a competent and complete investigation. Having authorized the committee, and funded it, the House clearly has demonstrated its commitment to a serious investigation. To deny the committee sufficient legal authority to perform its task would make a mockery out of the "full and complete" investigation mandated by House Resolution 222. I hope it will receive the favorable attention of the House.

Mr. Speaker, I submit for the RECORD a copy of the resolution which I have introduced today:

H. RES. 760

Resolved, That, for the purpose of carrying out House Resolution 222, 95th Congress, when authorized by a majority of the Committee or Subcommittee Members voting, a majority being present, the Select Committee on Assassinations, or any Subcommittee thereof, is authorized to make applications to courts; and to bring and defend lawsuits arising out of subpoenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence.

JOE SEWELL—HOMETOWN HERO

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. FLOWERS) is recognized for 5 minutes.

Mr. FLOWERS. Mr. Speaker, when you are growing up, heroes do not live in your neighborhood. Real heroes live in faraway places, or on the movie screens, or in books. Someone had told me that the gentleman who lived in the corner house down the street had been a major league baseball player, but it did not sound right. Big league baseball players were certainly heroes to me, but he just did not seem to fit the picture. For one thing he was too short. For another, he owned a hardware store and went to work every day just like everybody else. When he came home in the afternoon, he would work in the yard. Big league baseball players did not do things like that.

I was not quite sure what big league players did, but I knew they did not like to cut grass. No one liked to cut grass.

One afternoon, however, I was walking by his house, and he was out working in the yard as usual. Somehow, we got to talking. Sure enough, he had been a big league baseball player, and he knew a lot of stories. Stories about "real heroes"—Babe Ruth, Lou Gehrig, the Yankees—from faraway places, or the movies, or books.

In addition to baseball stories, there were tales of hunting and fishing and woven in was always a little advice that I did not appreciate at the time. After I got to know him real well, he seemed less like a hero, and more like a friend.

Yet on August 8, 1977, at Cooperstown, N.Y., my old neighbor received a very special honor. Joseph Wheeler Sewell of Tuscaloosa, Ala., was inducted into the National Baseball Hall of Fame.

In the spring of 1920, Joe Sewell graduated from the University of Alabama where he had achieved great things on the athletic fields. He signed a baseball contract with New Orleans of the old Southern Association. By that fall, he was playing with the Cleveland Indians in the World Series. Quite a jump for a rookie.

During the next 13 years with the Cleveland Indians and the New York Yankees, Joe Sewell had an illustrious major league baseball career. He played in 1,902 games, was officially at bat 7,132 times, collected 2,226 hits and compiled a .312 lifetime batting average.

Joe Sewell's name is in the baseball record book and is likely to remain there. In two different seasons he established a record that will probably never be broken. He came to bat over 400 times but struck out only 4 times. Some of today's superstars achieve a Joe Sewell season of strikeouts in a single game.

When his playing days were over, Joe Sewell returned to Tuscaloosa where he became a successful businessman and civic leader. He and his wife, Willi, raised two sons who are now doctors and a daughter who is married to one. They now enjoy visits from a host of active grandchildren.

Joe Sewell is an avid outdoorsman. He was an Alabama pioneer in the field of wildlife preservation and conservation. That "eagle eye" he had as a baseball player has not deserted him. He can still get his limit in a dove field.

Except for serving as a scout, Joe Sewell had been out of baseball for 31 years when he became the baseball coach at the University of Alabama. His team won the Southeastern Conference Championship in 1968 before he had to retire the next year having reached the mandatory age of 70. One day at practice that last year, the Alabama pitchers challenged Mr. Joe. They had heard all those tales about his batting ability and wanted to try and strike him out. Like those American League pitchers four decades earlier, they failed.

Joe Sewell is an amazing man. He is a kind and generous person with a delightful sense of humor, an inexhaustible supply of stories and a twinkle in his eye. His is still about the best kept lawn in the neighborhood.

Joe Sewell richly deserves to be in the National Baseball Hall of Fame, and I must admit it is nice to know a certified hero, even if he lives in your hometown.

THE RUSSIANS IN AFRICA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SIKES. Mr. Speaker, during the month of August, while Congress was in recess, I spent 2½ weeks abroad. Practically all this time was in Africa where I sought to sift out some down-to-earth facts on the confusing picture of that continent which is presented in America. I am convinced that every Member of Congress should make an in-depth study of Africa. I fully believe that the average American has less understanding of what is happening in that continent than of any other part of the world. Russian penetration into African affairs has progressed much further than most of us realize.

While we were looking the other way, tied down in Southeast Asia, engrossed in Watergate, helping to extricate Israel from the wars in the Middle East, the Russians have had a free hand in Africa. There they have established the biggest colonial empire in history. It is not an empire established and maintained by Russian troops. But, nevertheless, they hold sway through Marxist governments which they helped establish in nation after nation on the continent of Africa.

As a prerequisite to learning about Africa, every Congressman should be required to hear a briefing about Russian penetration in Africa. This briefing was made available to me through General Haig, the American Commander of NATO forces. It would be made available to any Congressman who requested it. It shows the stark reality and the frightening extent of Russia's involvement in Africa. This situation is made doubly serious because of the presence of enormous and largely undeveloped mineral resources on the continent. As scarcities develop in other lands, the African resources will become more and more important to the world.

The United States is particularly vulnerable to this situation. A prime illustration is chrome which American industries must have for weapons and domestic steel products. Out of pique at the Government of Rhodesia the United States cut off imports of chrome. South Africa and Russia are the only other major producers of chrome. Since South Africa is out of favor with the U.S. Government, we may soon be dependent upon Russia for chrome on whatever terms and conditions they choose to supply it.

Russia is now supplying weapons to 28 African nations. Most of these nations formerly secured weapons from the United States, France, or Britain. The Cubans who serve as Russia's agents are now in 11 African countries; in Angola by conquest and in other countries as advisers to the government and to the military officials.

The Russians' system is a very simple one. Every country has its share of disgruntled people. Communist agents constantly seek out these groups and where they see the possibility of insurgent action by groups whose leaders embrace Marxism, the Russians are prompt to supply weapons and money. If the insurgents are successful in overthrowing the existing government, and they frequently do so, Russia is in a position to dominate or at least to influence the new government.

Since this system is directed only to control the government and not to assist the people of the country, it is comparatively inexpensive. The United States on the other hand spends huge sums of money on foreign aid and through the United Nations in an effort to help everybody. None of them feel they are getting enough. In many cases the leaders keep a substantial share for themselves. The weapons we provide are in such limited numbers, compared to those supplied by the Russians, they are largely ineffectual, thanks to the restrictions imposed by Congress. The whole plan works to the advantage of an opportunist nation like Russia, and Russia is dedicated to seizing every advantage to advance world communism.

I shall have further comments in subsequent statements about the information I gained in specific countries in Africa.

THE "KEEP THE FAITH RALLY"

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, just about everyone remembers the song, "Stars Fell

on Alabama." It was a little different in west Florida on September 3. The stars came to Crestview in galaxies. The occasion was the "Keep the Faith" rally sponsored by the Okaloosa Democratic Executive Committee and ably assisted by the officials of the State and congressional committees. It was my privilege to serve as master of ceremonies. The function combined oratory from many of Florida's first-line officials, headed by U.S. Senator DICK STONE, and included music, a square dance team, and a public fish fry.

The crowd, which included notables from as far away as Miami listed, in addition to Senator DICK STONE, Lt. Gov. Jim Williams, Florida cabinet members Bill Gunter, Bill Bevis, Billy Mayo, Jerry Lewis, Doyle Conner, Ralph Turlington, Bob Shevin, Bruce Smathers; State Department of Natural Resources, Harmon Shields; and State campaign hopefuls, Allen Becker, George Firestone, Bob Graham, Don Hazelton, Barry Richards, and Fred Turner.

The party leaders included Alfredo Duran, State chairman of the Democratic Executive Committee; Mrs. Nathalie Gray, State vice chairman and chairman of the Congressional District Committee and many others.

The meeting was opened by county chairman, Wayne Ansley, following musical numbers presented bv the Crestview High School band and a thrilling rendition of the Star Spangled Banner by Keitha Jo Kolanowski Bledsoe. Keitha is the great-granddaughter of D. H. McCullum, one of Okaloosa County's original leaders. Mrs. Tomi Crofut of Fort Walton Beach did an outstanding job as chairman for the rally.

Present were George W. Barrow and Mallory B. Barrow, both pioneer developers and longtime public officials in Okaloosa County, and Mrs. Cebelle Meigs, who continues at the age of 89 to be an active and effective party leader.

One of the best things that resulted from the meeting was the realization that cooperation among leaders can still produce outstanding results in west Florida.

Despite a threat of rain all day, the crowd staved dry and the number of those attending was estimated at 1,200 to 1,700. The cooks reported that more than 1,400 were fed. That is a good indication of the number of people present. It was a well-planned, well-carried out, happy occasion.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF AUGUST 31, 1977

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, on behalf of the Committee on Standards of Official Conduct, I submit for inclusion in the RECORD a report from that committee on the status of its investigation pursuant to House Resolution 252 as of August 31, 1977.

The report demonstrates that, despite the August recess, substantial progress was made in the ongoing investigation of alleged efforts of nationals or agents of the Government of the Republic of Korea to influence the course of legislation in Congress.

STATUS REPORT ON KOREAN INFLUENCE INVESTIGATION AS OF AUGUST 31, 1977

This is the fourth report by the Committee on Standards of Official Conduct on the status of the investigation ordered by House Resolution 252, adopted by the House on February 9, 1977.

Pursuant to that Resolution, the Committee is conducting a continuing investigation of allegations and published reports that Members of Congress may have been the objects of efforts by certain foreign governments, particularly the Government of the Republic of Korea, or agents or nationals thereof, to influence the official conduct of Members, either directly or indirectly, through gifts or other things of value.

The purpose of these periodic reports is to keep Members of Congress and the American public informed of progress being made in the investigation.

Previous reports were printed in the Congressional Record of June 7 and June 30 and August 1, 1977, and covered the Committee's investigatory activities during the months of May, June and July. This report covers developments during the month of August.

Despite the fact that the House of Representatives was in recess during most of August, substantial progress has been made. The Committee held two formal meetings during the month, and the Special Staff under the direction of Special Counsel Leon Jaworski continued its activities on a daily basis. The Special Staff now consists of 21 individuals.

Committee Members returned frequently during the recess to preside over the taking of depositions from witnesses or potential witnesses.

Statistically, during August, the Committee authorized the issuance of 10 personal subpoenas and 35 subpoenas for the production of documents and other material for a total of 139 and 152 respectively. The Special Staff interviewed 60 additional individuals who may or may not be called as witnesses at a later date bringing the total to 240.

The Committee has approved a total of 11 requests for immunity from prosecution for prospective witnesses whose testimony may be essential to the investigation. Each such request requires United States District Court approval.

It has received a total of 430 responses to questionnaires sent to Members of the House. Responses have been received from all but 24 of the 279 former Members to whom the questionnaires were sent. The responses have been most helpful in the Committee's effort to ascertain if a pattern of attempts to influence the official conduct of Members existed.

The Committee's relations with the Department of Justice and other Executive Branch agencies have been broadened and continue to be excellent. Mutual pledges of cooperation have been given and received.

Special Counsel Jaworski assumed personal direction of the investigation on August 15 and made his initial appearance before the Committee on August 24.

During his first meeting, Mr. Jaworski concurred in the Committee's previously announced policy not to schedule public hearings prematurely or to set a specific time frame for completion of the investigation.

"It will not serve us to hold hearings or to engage in public revelations of any kind, whether they be inculpatory or exculpatory, until all the facts are known," the Special Counsel said in a public statement. "If we are to proceed thoroughly and professionally, we cannot do so in spurts and starts and thereby sacrifice the care and justness in which this endeavor must be cloaked."

In agreeing with the Committee's position that it would be unwise at this time to set a timetable for completion of the investigation, the Special Counsel said "the imponderables that exist" precluded such a limitation.

"There is a compelling need to expedite this matter in every way possible," he said, "but expedition, however important, must yield always to our highest priority, that of thoroughness."

The Committee fully endorses Mr. Jaworski's statement that "in the final analysis, the American people will not judge us on the basis of how fast we did our work, but on how well we did it."

Mr. Jaworski's statement follows:

Mr. Chairman and members of the Committee:

Please indulge me for a brief statement while the Committee is in open session. These will be supplemented by remarks in the executive portion of your meeting today.

Since accepting the appointment to work with you, I have been asked frequently here and elsewhere why I chose to come back to Washington to lead the investigation of alleged improprieties by Members of the House in connection with the Republic of Korea. Let me summarize the reason.

Ours is a strong and resilient nation, whose depth of character has enabled us to achieve much, to rejoice in times of great triumph, and as well to weather unexpected crises, some of which occurred in modern times, and at least one of which was a tragedy of unanticipated and unprecedented description. Our strength is derived, I believe, from our determined individualism, our abiding faith, and our self-confident belief that our national ideals are right and that our institutions of government are so strongly undergirded as to be capable of upholding them.

I need not tell you that in recent years the faith of a substantial segment of our people in some institutions of our government has been shaken by the misdeeds of some of our officials. Especially is this true among members of the younger generation who Disraeli characterized as the trustees of posterity. We must face squarely the fact that erosion of confidence must end and in lieu a belief of faith and trust must be established across the board.

Today a cloud hangs over the House of Representatives—not because of proven facts, but because of lurking suspicions and intimations based largely on misgiving and rumor. To separate the unfounded in fact from the founded—the wheat from the chaff—is our monumental task.

The trust of the people in this great chamber is in issue. To preserve that trust, we can argue that the House itself must ferret out all of the facts, it must lay them before the American people, and wherever guilt is found, it must take appropriate corrective measures. The investigation that you have undertaken and that I intend to help you complete is an unpleasant task to say the least. But you will concur, I am sure, that only by thorough introspection followed by candid public revelation can the House confirm its integrity and earn the confidence of the people.

I have accepted your request that I undertake this effort because of its compelling national importance and because I am convinced that the task can be performed in a manner acceptable to a concerned people. You have pledged to me your confidence and you have granted me and my staff the independence necessary to carry out our work. You have asked much of me and I shall be asking much of you. My confidence in the Chairman and members of this Committee, the assurances I have had from the leadership of the House, and my belief in the fundamental integrity of the people's elected representatives convince me that together we shall clear the air and overcome this most debilitating adversity.

I shall turn now to the investigation itself.

Last week, my first official week on the job—although I had been in touch with my Deputy from day to day—was taken up with meetings with the Special Staff and other concerned officials of government. I have been briefed and have had exchanges of views with the Staff concerning the status of the investigation and where we ought to proceed from here. Interviews and conferences with others involving various facets of the investigation also have been held by me along with other staff members. I have had the privilege of exchanging views with some Committee members. Although I am not yet intimately familiar with every detail, I can report certain conclusions to you.

Prior to my arrival, I was aware of the complexity of the investigation. Accordingly, I was extremely pleased to learn that the Special Staff, under the direction of its Chief Counsel, John Nields, has progressed to a point that exceeded my original expectations. I am most pleased with the high professional caliber of those who are on the staff, and am glad to report my understanding that they intend to remain with us for the duration of the investigation.

At the present time, our relations with the Department of Justice and other agencies of the Executive Branch leave nothing to be desired. I feel assured that still others in the government understand the urgency of our task and the determination with which we shall pursue our goal. I have pledged our cooperation to them and have received mutual pledges in return. The lines of communication are open and the fulfilling of our mutual pledges is ongoing.

With respect to the work load that lies ahead, a great deal remains to be done. Much is known, much is thought to be true—still much remains to be conclusively ascertained. I would like very much to report today that the investigation will be completed within a specific period of time. The imponderables that exist preclude me from doing so. There is a compelling need to expedite this matter in every way possible; but expedition, however important, must yield always to our highest priority, that of thoroughness.

If we fail to be thorough, serious wrongdoing could be overlooked, reputations could be irreparably damaged without cause, resulting in our efforts being forever marred. I shall not yield to pressures for a quick end to the investigation whenever that interest conflicts with my earnest conviction that a thorough job remains to be done. In the final analysis, the American people will not judge us on the basis of how fast we did our work, but on how well we did it.

I shall recommend to you, with greater specificity as we progress further, that hearings be held when the investigation is complete. The purpose of those hearings will be to present the facts to the Committee and the American people, bearing in mind that it is the people who must ultimately judge the conduct of their representatives. It will not serve us to hold hearings or to engage in public revelations of any kind, whether they be inculpatory or exculpatory, until all the facts are known. If we are to proceed thoroughly and professionally, we cannot do so in spurts and darts and thereby sacrifice the care and justness in which this endeavor must be cloaked.

I cannot, of course, discuss specific matters in public session. But I wish to take advantage of the public nature of this meeting to address the investigation generally for the benefit of those present today and those who follow it through the news media.

It is my firm conviction that the pertinent facts will ultimately come to light. Many in Watergate investigation thought otherwise and they were wrong. In the end, in that tragedy many suffered more from their attempts to withhold facts than from the facts themselves. Those who came forward truthfully and without reservation found that they not only served their own interests but the welfare of the nation as well.

While I do not desire to engage in comparisons, I see the development of similar situations in the Korean investigation. There are instances where candor has been lacking, there are instances where cooperation has not been forthcoming, and there are instances where active evasion has occurred. I advise those who may believe that the investigation will blow over or prove fruitless to take a closer look. It will not go away until the American people are satisfied that all of the significant facts have been laid bare. And the American people, who will be the ultimate judges of conduct by elected officials, private persons, organizations, foreign governments, and others, can forgive wrongful conduct freely admitted far more easily than wrongful conduct covered up.

The least of our desires is to persecute or to defame any person or entity. So long as I am associated with the investigation, undiluted standards of integrity will be embraced in our search for the truth and I am assured that every member of my staff is in accord with this principle. One of my purposes today is to advise those who could help us, but have not yet done so, that their best interests lie in coming forward with a truthful disclosure of the facts within their knowledge.

I should add that I conceive it to be to the best interests of our government and our people, as well as the Korean government, for the officials of the latter government to extend unlimited cooperation to this Committee and its investigators in ascertaining the true facts. Unless this is done, speculation and conjecture will follow and erroneous judgments benefiting no one, and probably causing considerable harm, may result.

Finally, I want you, Mr. Chairman and members of this Committee, to know of my sensitivity to the difficult task that confronts you. In an investigation of this kind, there is great potential for damage to the reputations of honorable men and women who are ultimately found to have done no wrong. I consider it our task to protect and, where necessary, to vindicate their good reputations. On the other hand, where guilt exists it must come to light. With the backing and guidance of this Committee, I pledge to do the job to the best of my ability.

I very much appreciate your calling this meeting during a recess, and I would be glad to respond to any questions you may have, bearing in mind that I have additional comments for the executive session, and the caveat that there are a number of matters I cannot now discuss in public session.

Thank you very much.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 341

Mr. GIAIMO submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978:

CONFERENCE REPORT (H. REPT. NO. 95-601)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the United States Government for the fiscal year 1978 having met, after full and free conference, have been unable to agree on a conference report because the conference decisions have reduced certain budget figures, including the deficit and the public debt, below the provisions enacted by either House. As set forth in the accompanying Joint Explanatory Statement, the conferees do propose a congressional budget, containing the lower figures, incorporated in a further amendment for the consideration of the two Houses.

ROBERT N. GIAIMO,
THOMAS L. ASHLEY,
LOUIS STOKES,
ELIZABETH HOLTZMAN,
BUTLER DERRICK,
WILLIAM LEHMAN,
PAUL SIMON,
JOSEPH L. FISHER,
JIM MATTOX,
Managers on the Part of the House.
EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRITZ HOLLINGS,
ALAN CRANSTON,
LAWTON CHILES,
JAMES ABOUREZK,
HENRY BELLMON,
BOB DOLE,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the United States Government for the fiscal year 1978, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that certain amounts, including the deficit and the public debt, in the substitute language agreed to by the conferees, are lower than either the corresponding House and Senate provisions.

It is the intention of the conferees that the managers on the part of the House will offer a motion in the House to recede and concur in the Senate amendment to the House-passed resolution with an amendment (in the nature of a substitute) consisting of the language agreed to in conference. Upon the adoption of such amendment in the House, the managers on the part of the Senate will offer a motion in the Senate to concur therein.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers.

The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1977—

(1) the recommended level of Federal revenues is $397,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $1,100,000,000;

(2) the appropriate level of total new budget authority is $500,100,000,000;

(3) the appropriate level of total budget outlays is $458,250,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $61,250,000,000; and

(5) the appropriate level of the public debt is $775,450,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $75,450,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1977, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $116,400,000,000.
(B) Outlays, $110,100,000,000.
(2) International Affairs (150):
(A) New budget authority, $8,000,000,000.
(B) Outlays, $6,600,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,700,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $24,600,000,000.
(B) Outlays, $20,000,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,100,000,000.
(B) Outlays, $6,300,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $20,400,000,000.
(B) Outlays, $19,600,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $8,200,000,000.
(B) Outlays, $10,600,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $26,300,000,000.
(B) Outlays, $26,400,000,000.
(9) Health (550):
(A) New budget authority, $47,700,000,000.
(B) Outlays, $44,200,000,000.
(10) Income Security (600):
(A) New budget authority, $178,600,000,000.
(B) Outlays, $146,100,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $19,900,000,000.
(B) Outlays, $20,200,000,000.
(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $4,000,000,000.
(13) General Government (800):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,850,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,700,000,000.
(15) Interest (900):
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,700,000,000.
(16) Allowances (920):
(A) New budget authority, $900,000,000.
(B) Outlays, $1,000,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,800,000,000.
(B) Outlays, —$16,800,000,000.

BUDGET AGGREGATES

Revenues.—The House resolution provided for revenues of $397.933 billion. The Senate amendment provided for revenues of $394.825 billion.

The conference substitute provides revenues of $397.000 billion, which assumes enactment of energy tax legislation and miscellaneous revenue measures and treatment of the earned income credit as a loss of revenues, rather than an increase in spending.

The House in the Third Budget Resolution for fiscal year 1977 and in the First Budget Resolution for fiscal year 1978 supported treatment as an increase in spending of earned income credit payments in excess of the recipient's tax liability. The Senate, in both cases, treated them as a revenue loss. The conference agreement in both cases accepted the Senate position but in each case included language stating that the treatment of the earned income credit should be considered *de novo* during the development of the following resolution.

The Second Budget Resolution for fiscal year 1978 passed by each House reflects their respective earlier positions.

The conferees agree to treat the existing earned income credit as a revenue loss. The conferees, however, agree that this decision should not dictate future decisions on the treatment of payments in excess of tax liability. This decision by the conferees, therefore, does not constitute a precedent.

Budget authority.—The House resolution provided for total new budget authority of $508.043 billion. The Senate amendment provided for new budget authority of $501.400 billion. The conference substitute provides for total new budget authority of $500.100 billion.

The Second Budget Resolution for fiscal year 1978 passed by the House included almost $1.1 billion in new budget authority for four programs included in the fiscal year 1978 Labor-HEW appropriation bill for which fiscal year 1977 unobligated balances were extended into fiscal year 1978. The House Second Budget Resolution report stated:

"It may be that the actions taken do not technically conform to the traditional definition of 'reappropriation' inasmuch as the action took place prior to the time the funds actually lapsed. These funds, however, are being scored by the Committee as new budget authority in fiscal year 1978. Failure to account for such actions as budget authority introduces untold and unnecessary confusion into efforts to scorekeep congressional actions on spending bills against targets in the First Budget Resolution and to compare those actions with the President's request. What should be debates on priorities are reduced to muddled discussions of technical accounting distinctions."

The Senate amendment did not count this amount as new budget authority.

The conferees have agreed not to count this $1.1 billion as new budget authority in this year's budget resolution but to consider similar instances in the future as new budget authority in all appropriation bills.

Outlays.—The House resolution provided for total outlays of $459.576 billion. The Senate amendment provided for outlays of $459.900 billion. The conference substitute provides for total outlays of $458.250 billion.

Deficit.—The House resolution provided for a deficit of $61.643 billion. The Senate amendment provided for a deficit of $65.075 billion. The conference substitute provides for a deficit of $61.250 billion.

Public Debt.—The House resolution provided for a public debt level of $781.940 billion. The Senate amendment provided for a public debt level of $779.275 billion. The conference substitutes provides for a public debt level of $775.450 billion.

ECONOMIC OBJECTIVES AND ASSUMPTIONS

The fiscal policy contained in the conference substitute is designed to maintain a sustained economic recovery. Enactment of the legislation assumed in the totals, in conjunction with a supportive monetary policy, will provide the balanced expansion necessary to move the nation steadily towards full employment and a lower rate of inflation.

The House based its revenue and spending assumptions on a real GNP growth rate of 5.0 percent during 1978. The Senate based its estimates on a 4.6 percent growth rate.

The conferees recognize that it is not possible to predict the precise rate of economic growth; that both the Senate and House assumptions are reasonable; and that estimates of the rate of growth may change substantially over the coming months. Under these circumstances, the conferees agree that 4.8 percent is a reasonable estimate of the rate of growth in real GNP for calendar year 1978.

The economic assumptions underlying the revenue and spending levels contained in the conference substitute are as follows:

[Calendar years; dollars in billions]

Item	1977	1978
Gross national products:		
Current dollars	$1,898	$2,107
Deflators	141.8	150.2
Constant (1972) dollars	1,338	1,403
Incomes:		
Personal income	1,546	1,707
Profits before tax	169	192
Wages and salaries	1,004	1,114
Unemployment rate:		
Calendar year average	7.0	6.5
End of year	6.9	6.3
Consumer Price Index [1]	6.5	5.6
Interest rate [2]	5.2	5.8

[1] Percent change, year over year.
[2] Three month Treasury bills (monthly average).

DISTRIBUTIONS BY FUNCTIONAL CATEGORIES

050: national defense

The House resolution provided budget authority of $116.324 billion and outlays of $110.338 billion. The Senate amendment provided budget authority of $116.6 billion and outlays of $110.1 billion.

The Conference substitute provides budget authority of $116.4 billion and outlays of $110.1 billion.

150: international affairs

The House resolution provided budget authority of $7.933 billion and outlays of $6.579 billion. The Senate amendment provided budget authority of $8.3 billion and outlays of $6.6 billion.

The Conference substitute provides budget authority of $8.0 billion and outlays of $6.6 billion.

250: general science, space, and technology

The House resolution provided budget authority of $4.861 billion and outlays of $4.708 billion. The Senate amendment provided budget authority of $4.9 billion and outlays of $4.7 billion.

The Conference substitute provides budget authority of $4.9 billion and outlays of $4.7 billion.

300: natural resources, environment, and energy

The House resolution provided budget authority of $21.625 billion and outlays of $19.673 billion. The Senate amendment provided budget authority of $24.9 billion and outlays of $20.8 billion.

The Conference substitute provides budget authority of $24.6 billion and outlays of $20.0 billion. The increase over the House resolution reflects a consolidation of energy programs under the National Energy Act into this function, as well as a higher allowance for energy program funding.

350: agriculture

The House resolution provided budget authority of $2.114 billion and outlays of $6.302 billion. The Senate amendment provided budget authority of $2.1 billion and outlays of $6.3 billion.

The Conference substitute provides budget authority of $2.1 billion and outlays of $6.3 billion. With the passage of the 1977 Omnibus Farm Bill, the conferees suggest that the Secretary of Agriculture use his discretionary

authority to administer the program in a way which is helpful to the American farmer and consumer and yet remain within reasonable budgetary limits.

400: Commerce and transportation

The House resolution provided budget authority of $22.445 billion and outlays of $19.660 billion. The Senate amendment provided budget authority of $20.5 billion and outlays of $19.6 billion.

The conference substitute provides budget authority of $20.4 billion and outlays of $19.6 billion. The decrease in budget authority from the House resolution reflects the decision of the conferees to consolidate funding of energy programs under the National Energy Act in function 300, Natural Resources, Environment, and Energy.

450: Community and regional development

The House resolution provided budget authority of $8.067 billion and outlays of $10.448 billion. The Senate amendment provided budget authority of $8.2 billion and outlays of $10.6 billion.

The conference substitute provides budget authority of $8.2 billion and outlays of $10.6 billion.

The conferees recommend that the appropriate congressional committees undertake an immediate review of the disaster loan program of the Small Business Administration to determine whether changes in this program are required to eliminate overlap and duplication with other forms of disaster assistance and to rationalize eligibility standards and requirements. The conferees are concerned that Executive agencies expect that total unfunded loan applications may reach a level far higher than contemplated by the Congress in considering this Budget Resolution. The budget process provides sufficient flexibility to accommodate a larger amount if required.

500: Education, training, employment and social services

The House resolution provided budget authority of $26.679 billion and outlays of $26.916 billion. The Senate amendment provided budget authority of $26.1 billion and outlays of $26.4 billion.

The Conference substitute provides budget authority of $26.3 billion and outlays of $26.4 billion.

Changes from the House resolution include the following: a reduction of $70 million in education budget authority to reflect the conference decision not to score as new budget authority this year funds carried over from fiscal year 1977 that ordinarily would lapse; assumed inaction on welfare employment demonstration projects: a lower estimate of outlays required to sustain CETA enrollment levels given a minimum wage increase; and lower estimates of amounts required to fund new social services legislation.

550: Health

The House resolution provided budget authority of $47.709 billion and outlays of $44.183 billion. The Senate amendment provided budget authority of $47.7 billion and outlays of $44.2 billion.

The conference substitute provides budget authority of $47.7 billion and outlays of $44.2 billion. The conference substitute assumes budget authority of $28.8 billion and outlays of $25.5 billion for the Medicare program and budget authority of $10.8 billion and outlays of $11.0 billion for the Medicaid program. The Medicare and Medicaid figures reflect the net effect of anticipated legislation to contain hospital cost increases and possible legislative improvements in the Medicaid program for low-income children. The conference substitute assumes budget authority of $8.1 billion and outlays of $7.7 billion for the remaining programs in the Health function.

600: Income security

The House resolution provided budget authority of $186.849 billion and outlays of $146.929 billion. The Senate amendment provided budget authority of $178.8 billion and outlays of $146.6 billion.

The conference substitute provides budget authority of $178.6 billion and outlays of $146.1 billion. The reductions in budget authority and outlays from the House resolution reflect the decision by the conferees to consolidate funding of energy programs under the National Energy Act in function 300, Natural Resources, Environment, and Energy, and the decisions referred to above regarding the earned income credit and treatment of carryover balances, as well as the decision on social security legislation discussed below.

The House resolution included $6.4 billion in budget authority to accommodate the congressional consideration of legislation to restore the financial solvency of the social security system. The Senate amendment, while consistent with prompt action on social security financing problems, discouraged additional taxation for that purpose in fiscal year 1978 as retarding the economic recovery, and so contained no increase in budget authority for the social security trust funds.

The conference substitute provides no increase in budget authority for the social security trust funds. It is unclear, at this time, whether any of several possible reforms will be adopted. The conferees recognize that a major problem exists in the financing of social security and urge that the responsible committees report legislation putting social security on a sound financial footing for both the short-term and long-term. It should be emphasized that the conference substitute does not assume an increase in social security taxes during fiscal year 1978, since the conferees believe that any major increase in such taxes could not be justified given the present state of the economy.

700: Veterans benefits and services

The House resolution provided budget authority of $20.355 billion and outlays of $20.367 billion. The Senate amendment provided budget authority of $19.9 billion and outlays of $20.2 billion.

The conference substitute provides budget authority of $19.9 billion and outlays of $20.2 billion. The conference substitute assumes a downward technical adjustment of $272 million in budget authority from the House resolution to reflect a reestimate of the current law cost of GI bill education benefits.

750: Law enforcement and justice

The House resolution provided budget authority of $3.8 billion and outlays of $3.950 billion. The Senate amendment provided budget authority of $3.8 billion and outlays of $4.0 billion.

The conference substitute provides budget authority of $3.8 billion and outlays of $4.0 billion.

800: General Government

The House resolution provided budget authority of $3.800 billion and outlays of $3.850 billion. The Senate amendment provided budget authority of $3.8 billion and outlays of $3.8 billion.

The conference substitute provides budget authority of $3.8 billion and outlays of $3.85 billion.

850: Revenue sharing and general purpose fiscal assistance

The House resolution provided budget authority of $9.569 billion and outlays of $9.680 billion. The Senate amendment provided budget authority of $9.6 billion and outlays of $9.7 billion.

The conference substitute provides budget authority of $9.6 billion and outlays of $9.7 billion.

900: Interest

The House resolution provided budget authority of $41.713 billion and outlays of $41.713 billion. The Senate amendment provided budget authority of $41.7 billion and outlays of $41.7 billion.

The conference substitute provides budget authority of $41.7 billion and outlays of $41.7 billion.

920: Allowances

The House resolution provided budget authority of $1.000 billion and outlays of $1.080 billion. The Senate amendment provided budget authority of $0.9 billion and outlays of $1.0 billion.

The conference substitute provides budget authority of $0.9 billion and outlays of $1.0 billion.

950: Undistributed offsetting receipts

The House resolution provided budget authority of —$16.800 billion and outlays of —$16.800 billion. The Senate amendment provided budget authority of —$16.4 billion and outlays of —$16.4 billion.

The conference substitute provides budget authority of —$16.8 billion and outlays of —$16.8 billion.

BUDGET AGGREGATES AND FUNCTIONAL CATEGORIES
FISCAL YEAR 1978

[In billions of dollars]

	Senate passed	House passed	Conference agreement
Revenues	394.825	397.933	397.0
Budget authority	501.4	508.043	500.1
Outlays	459.9	459.576	458.25
Deficit	65.075	61.643	61.25
Debt subject to limit	779.275	781.94	775.45
050—National defense:			
Budget authority	116.6	116.324	116.4
Outlays	110.1	110.338	110.1
150—International affairs:			
Budget authority	8.3	7.933	8.0
Outlays	6.6	6.579	6.6
250—General science, space and technology:			
Budget authority	4.9	4.861	4.9
Outlays	4.7	4.708	4.7
300—Natural resources, environment and energy:			
Budget authority	24.9	21.625	24.6
Outlays	20.8	19.673	20.0
350—Agriculture:			
Budget authority	2.1	2.114	2.1
Outlays	6.3	6.302	6.3
400—Commerce and transportation:			
Budget authority	20.5	22.445	20.4
Outlays	19.6	19.66	19.6
450—Community and regional development:			
Budget authority	8.2	8.067	8.2
Outlays	10.6	10.448	10.6
500—Education, training, employment, and social services:			
Budget authority	26.1	26.679	26.3
Outlays	26.4	26.916	26.4
550—Health:			
Budget authority	47.7	47.709	47.7
Outlays	44.2	44.183	44.2
600—Income security:			
Budget authority	178.8	186.849	178.6
Outlays	146.6	146.929	146.1
700—Veterans benefits and services:			
Budget authority	19.9	20.355	19.9
Outlays	20.2	20.367	20.2
750—Law enforcement and justice:			
Budget authority	3.8	3.8	3.8
Outlays	4.0	3.95	4.0
800—General government:			
Budget authority	3.8	3.8	3.8
Outlays	3.8	3.85	3.85
850—Revenue sharing and general purpose fiscal assistance:			
Budget authority	9.6	9.569	9.6
Outlays	9.7	9.68	9.7
900—Interest:			
Budget authority	41.7	41.713	41.7
Outlays	41.7	41.713	41.7
920—Allowances:			
Budget authority	.9	1.0	.9
Outlays	1.0	1.08	1.0
950—Undistributed offsetting receipts:			
Budget authority	—16.4	—16.8	—16.8
Outlays	—16.4	—16.8	—16.8

ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEES

Pursuant to Section 302(a) of the Congressional Budget and Impoundment Control Act of 1974, the conferees make the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays for fiscal year 1978 among the committees of the respective Houses:

FISCAL YEAR 1978 SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlements requiring appropriations action [1]	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	327.7	300.3		
Agriculture, Nutrition, and Forestry	.4	5.1	8.4	8.3
Armed Services	(2)	(3)	9.2	9.2
Banking, Housing, and Urban Affairs	1.1	—.1		(4)
Commerce, Science, and Transportation	.9	(5)	.2	.2
Energy and Natural Resources	1.2	1.2	(6)	(7)
Environment and Public Works	7.3	1.3		
Finance	186.8	181.1	34.3	35.4
Foreign Relations	7.2	9.0		
Governmental Affairs	22.6	15.8	(4)	(4)
Human Resources	4.3	4.4	2.5	2.5
Judiciary	.2	.2	.1	.1
Rules and Administration	(8)	(8)		
Veterans' Affairs	1.1	.6	13.2	14.3
Indian Affairs	.3	.2		
Small Business	(4)	(4)		
Not allocated to committees	—60.4	—60.3		
Total	500.1	458.25	67.9	70.0

[1] These amounts are included under "Direct Spending Jursidiction" for the Appropriations Committee.
[2] Less than $10,000,000.
[3] Minus $22,000,000.
[4] Less than $500,000.
[5] Less than $25,000,000.
[6] Less than $50,000,000.
[7] Less than $45,000,000.
[8] Less than $35,000,000.
[9] Less than $5,000,000.

Allocation of Spending Responsibility to House Committees Pursuant to Section 302(a) of the Congressional Budget Act

[In thousands of dollars]

House committee and function	Fiscal year 1978	
	Budget authority	Outlays
House Agriculture Committee:		
300: Natural resources, environment, and energy	181,902	163,253
350: Agriculture	60,685	4,785,325
450: Community and regional development	7,597	33,553
600: Income security	0	0
850: Revenue sharing and general purpose fiscal assistance	190,529	190,529
Committee total	440,713	5,172,660
Appropriations Committee:		
050: National defense	118,824,904	110,649,603
150: International affairs	8,591,228	7,191,951
250: General science, space, and technology	4,897,823	4,697,820
300: Natural resources, environment, and energy	26,623,882	21,082,473
350: Agriculture	2,090,953	1,566,313
400: Commerce and transportation	11,569,993	19,803,243
450: Community and regional development	7,996,465	10,405,328
500: Education, training, employment, and social services	25,644,683	26,382,080
550: Health	26,121,458	25,955,543
600: Income security	56,805,855	32,769,701
700: Veterans benefits and services	19,390,633	20,217,213
750: Law enforcement and justice	3,800,229	4,006,593
800: General government	5,969,015	6,049,899
850: Revenue sharing and general purpose fiscal assistance	8,722,786	8,862,122
900: Interest	0	487
920: Allowances	900,000	1,000,000
Committee total	327,949,907	300,640,369
House Armed Services Committee:		
050: National Defense	7,700	3,700
(New entitlement authority)	(56,000)	—
400: Commerce and transportation	30	30
700: Veterans benefits and services	12	12
800: General government	1	1
Committee total	7,743	3,743
House Banking, Finance and Urban Affairs Committee:		
050: National defense	0	300
150: International affairs	0	0
400: Commerce and transportation	962,562	—95,721
450: Community and regional development	83,534	125,247
500: Education, training, employment, and social services	0	3,754
550: Health	0	—137
600: Income security	33,852	—9,000
700: Veterans benefits and services	0	—7,245
800: General government	3,200	2,797
900: Interest	—164,092	—164,092
Committee total	919,056	—144,097
House District of Columbia Committee:		
450: Community and regional development	832	832
750: Law enforcement and justice	8,006	7,970
850: Revenue sharing and general purpose fiscal assistance	0	0
Committee total	8,838	8,802
House Education and Labor Committee:		
500: Education, training, employment, and social services	27,187	25,471
600: Income security	4,417	3,773
(New entitlement authority)	(120,000)	—
Committee total	31,604	29,243
House Government Operations Committee:		
800: General government	1,195	1,121
850: Revenue sharing and general purpose fiscal assistance	6,854,924	6,813,888
Committee total	6,856,119	6,815,009
House Administration Committee:		
250: General science, space, and technology	55	58
500: Education, training, employment, and social services	4,444	4,293
800: General government	30,000	0
Committee total	34,499	4,351

House committee and function	Fiscal year 1978 Budget authority	Outlays
House Interior and Insular Affairs Committee:		
300: Natural resources, environment, and energy	109,062	33,009
450: Community and regional development	256,016	170,099
800: General government	124,536	124,129
850: Revenue sharing and general purpose fiscal assistance	296,700	296,700
Committee total	786,314	623,937
House International Relations Committee		
050: National defense	6,916,499	8,795,500
150: International affairs	81,837	81,114
400: Commerce and transportation	4,309	5,064
600: Income security	161,187	98,834
Committee total	7,163,832	8,980,512
House Interstate and Foreign Commerce Committee		
300: Natural resources, environment, and energy	0	28
400: Commerce and transportation	17,494	17,063
550: Health	1,600	−8,378
(New entitlement authority)	(75,000)	—
600: Income security	4,077,220	4,165,934
850: Revenue sharing and general purpose fiscal assistance	4,585	5,185
Committee total	4,100,899	4,179,832
House Judiciary Committee:		
300: Natural resources, environment, and energy	310	305
600: Income security	2,333	1,443
750: Law enforcement and justice	0	−6,328
(New entitlement authority)	(40,000)	—
800: General government	42,018	42,018
Committee total	44,661	37,438
House Merchant Marine and Fisheries Committee:		
300: Natural resources, environment, and energy	129,636	108,065
400: Commerce and transportation	350,579	−38,910
850: Revenue sharing and general purpose fiscal assistance	4,400	6,000
Committee total	484,615	75,155
House Post Office and Civil Service Committee:		
050: National defense	—	—
(New entitlement authority)	(−84,000)	—
400: Commerce and transportation	4,448	4,048
550: Health	0	−23,970
600: Income security	17,592,900	10,847,781
(New entitlement authority)	(2,000)	—
800: General government	5,139,000	5,139,000
920: Allowances	—	—
(New entitlement authority)	(−20,000)	—
Committee total	22,736,348	15,966,859
House Public Works and Transportation Committee:		
300: Natural resources, environment, and energy	43,200	1,100,859
400: Commerce and transportation	7,583,400	−2,002
450: Community and regional development	43,758	53,143
Committee total	7,670,358	1,152,000
House Science and Technology Committee:		
250: General science, space, and technology	4,000	4,000
300: Natural resources, environment, and energy	10,186	10,186
800: General government	0	0
Committee total	14,186	14,186
House Small Business Committee:		
450: Community and regional development	403	403
Committee total	403	403
House Veterans Affairs Committee:		
700: Veterans benefits and services	1,067,319	547,984
(New entitlement authority	(543,000)	—
Committee total	1,067,319	547,984
House Ways and Means Committee:		
400: Commerce and transportation	0	0
500: Education, training, employment, and social services	639,686	402
550: Health	28,800,000	25,500,000
600: Income security	103,150,465	101,449,764
800: General government	4,025	4,025
850: Revenue sharing and general purpose fiscal assistance	401,000	400,500
900: Interest	47,187,494	47,187,494
Committee total	180,182,670	174,542,185
Unassigned to committees:		
050: National defense	−9,349,103	−9,349,103
150: International affairs	−673,065	−673,065
250: General science, space, and technology	−1,878	−1,878
300: Natural resources, environment, and energy	−2,498,178	−2,498,178
350: Agriculture	−51,638	−51,638
400: Commerce and transportation	−92,815	−92,815
450: Community and regional development	−188,605	−188,605
500: Education, training, employment, and social services	−16,000	−16,000
550: Health	−7,223,058	−7,223,058
600: Income security	−3,228,229	−3,228,229
700: Veterans benefits and services	−557,964	−557,964
750: Law enforcement and justice	−8,235	−8,235
800: General government	−7,512,990	−7,512,990
850: Revenue sharing and general purpose fiscal assistance	−6,874,924	−6,874,924
900: Interest	−5,323,402	−5,323,889
950: Undistributed offsetting receipts	−16,800,000	−16,800,000
Committee total	−60,400,084	−60,400,571

ROBERT N. GIAIMO,
THOMAS L. ASHLEY,
LOUIS STOKES,
ELIZABETH HOLTZMAN,
BUTLER DERRICK,
WILLIAM LEHMAN,
PAUL SIMON,
JOSEPH L. FISHER,
JIM MATTOX,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
FRITZ HOLLINGS,
ALAN CRANSTON,
LAWTON CHILES,
JAMES ABOUREZK,
HENRY BELLMON,
BOB DOLE,
PETE V. DOMENICI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AUCOIN (at the request of Mr. WRIGHT), for today, on account of an injury.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOLLENBECK), to revise and extend their remarks, and to include extraneous matter to:)

Mr. FORSYTHE, for 5 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. HALL), to revise and extend their remarks, and to include extraneous matter to:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. FLOWERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HOLLENBECK) and to include extraneous matter:)

Mr. FORSYTHE.
Mr. DERWINSKI.
Mr. CRANE in two instances.
Mr. JOHNSON of Colorado.
Mr. BURKE of Florida.
Mr. DUNCAN of Tennessee.
Mr. CONABLE.
Mr. SHUSTER in two instances.
Mrs. HOLT.
Mr. LENT.
Mr. DORNAN.

(The following Members (at the request of Mr. HALL) and to include extraneous material:)

Mr. MURTHA in four instances.
Mr. HAMILTON.
Mr. DE LUGO.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. CLAY in two instances.
Mr. ROSENTHAL.
Mr. MURPHY of Illinois.
Mr. JONES of Oklahoma.
Mr. OBEY.
Mr. STUDDS.
Mr. VOLKMER.
Mr. MILFORD.
Mr. MAZZOLI in two instances.

ADJOURNMENT

Mr. HALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 14, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2334. A letter from the Secretary of Agriculture and the Secretary of the Interior, transmitting the annual report for 1976 on activities under the Youth Conservation Corps Act, pursuant to section 5 of the act (Public Law 93–408); to the Committee on Education and Labor.

2335. A letter from the Acting Deputy Director for Administration, Central Intelligence Agency, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2336. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting notice of an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2337. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses; and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Post Office and Civil Service.

2338. A letter from the Comptroller General of the United States, transmitting a report on the adequacy of controls over the design and construction of municipal waste treatment facilities assisted with Environmental Protection Agency grants (CED–77–113, September 12, 1977); jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GIAIMO: Committee of Conference. Conference report on House Concurrent Resolution 341 (Rept. No. 95–601). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PANETTA:

H.R. 9077. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes; to the Committee on Rules.

By Mr. BINGHAM (for himself and Mr. MITCHELL of New York):

H.R. 9078. A bill to amend title 38 of the United States Code to provide for the payment of supplemental tuition allowances for certain veterans pursuing educational programs; to the Committee on Veterans' Affairs.

By Mr. BRADEMAS:

H.R. 9079. A bill to amend the Older Americans Act of 1965 to provide assistance for legal services projects for the elderly; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. CLEVELAND:

H.R. 9080. A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to permit ministers and their employers to enter into voluntary agreements for the treatment of such ministers as employed persons; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. ROSE, Mr. GILMAN, Mrs. MEYNER, Mr. D'AMOURS, Mr. CORNWELL, Mr. GEPHARDT, Mrs. SPELLMAN, Mr. LUNDINE, Mr. HUGHES, and Mr. YOUNG of Missouri):

H.R. 9081. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Government Operations.

By Mr. FLORIO:

H.R. 9082. A bill to amend section 242 of the National Housing Act to eliminate the present exclusion from the hospital mortgage insurance program of hospitals which primarily serve patients with drug and alcoholic conditions or mental disorders; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GOLDWATER (for himself, Mr. BADHAM, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. GUYER, Mr. HARKIN, Mr. HARRINGTON, Mr. KOCH, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LEHMAN, Mrs. LLOYD of Tennessee, Mr. MINETA, Mr. MURPHY of Pennsylvania, Mr. PANETTA, Mr. QUIE, Mr. ROUSSELOT, Mrs. SPELLMAN, Mr. TREEN, Mr. WHITEHURST, Mr. STEERS, Mr. WEISS, and Mr. KILDEE):

H.R. 9083. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals whose sight, hearing, or speech is impaired; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 9084. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEASE (for himself, Mr. BYRON, and Mr. BURGENER):

H.R. 9085. A bill to amend chapter 2 of title II of the Immigration and Nationality Act to change affidavits of support signed by sponsors on behalf of incoming aliens from a moral obligation to a legal obligation; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 9086. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Financial Institutions Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DORNAN (for himself, Mr. BOB WILSON, Mr. PATTERSON of California, Ms. MIKULSKI, and Mr. BENJAMIN):

H. Con. Res. 354. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. YATRON:

H. Con. Res. 355. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the

frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mr. STOKES (for himself, Mr. PREYER, Mr. FAUNTROY, Mrs. BURKE of California, Mr. DODD, Mr. FORD of Tennessee, Mr. FITHIAN, Mr. EDGAR, Mr. DEVINE, Mr. MCKINNEY, Mr. THONE, and Mr. SAWYER):

H. Res. 760. Resolution to authorize the Select Committee on Assassinations or any subcommittee thereof to make applications to courts; and to bring and defend lawsuits arising out of subpenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, petitions bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 9087. A bill for the relief of Dr. Daryl C. Johnson; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 9088. A bill for the relief of Dr. Theodore A. Geissman; to the Committee on the Judiciary.

By Mr. ICHORD:

H.R. 9089. A bill for the relief of Yau Pik Chau; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

214. By Mr. MURPHY of Pennsylvania: Petition of Brian A. Raybin, Ruffsdale, Pa., and others relative to the continued development of the Clinch River Breeder Reactor project; to the Committee on Science and Technology.

215. Also petition of the board of governors, Commercial Law League of America, Chicago, Ill., relative to changes in bankruptcy laws; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. SATTERFIELD:

Page 104, strike out lines 20 through 23 and insert in lieu thereof the following:

"(1) The entity either (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, or (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, which (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions.

Page 66, strike out line 22 and all that follows through line 9 on page 69 and insert in lieu thereof the following:

(l)(1)(A) Part A of title XI of such Act (is amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"INSPECTION OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"SEC. 1125. (a)(1) Except as provided in paragraphs (2) and (3), no officer, employee, or agent of the United States, or of any Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, may inspect or require the disclosure of, for any reason whatever, any individually identifiable medical record, unless—

"(A) the individual (or his legally authorized representative) has authorized such inspection or disclosure in accordance with subsection (b); or

"(B) such inspection or disclosure is made upon the request (or, in the case of medical research, with the permission)—

"(i) of an official who is authorized under the laws of the State in which the record is located to inspect or require the disclosure of the record, and

"(ii) which states the specific purpose for the inspection or disclosure, the time period during which the inspection or disclosure may occur, and the date on which the authorization for the inspection or disclosure expires; or

"(C) such inspection or disclosure is made by medical personnel to the extent necessary to meet a medical emergency which presents an immediate threat to human life.

"(2) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record relating to medical care which is or was paid for or provided by (in whole or in part) an agency of the United States, to the extent such inspection or disclosure is (A) by medical personnel for the purpose of providing such medical care; (B) by a Professional Standards Review Organization, or any person acting on behalf of such an Organization, or other qualified personnel for the purpose of performing utilization review under part B of this title or otherwise with respect to such medical care, (C) for the purpose of verifying or auditing payment for such medical care, or (D) for the purpose of investigating or prosecuting fraud and abuse in the provision of, or payment for, such medical care.

"(3) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record to the extent to which such inspection or disclosure is authorized under title 10 (relating to the armed forces) or title 38 (relating to veterans' benefits) of the United States Code.

"(b) An individual (or his legally authorized representative) authorizes an inspection, or disclosure of an individually identifiable medical record or records for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, or disclosure for a specified period of time;

"(2) identifies the medical record or records authorized to be inspected or disclosed;

"(3) specifies the purposes for which the record or records may be inspected or disclosed; and

"(4) specifies the agencies which may inspect the record or records or to which the record or records may be disclosed.

"(c) Any person who knowingly violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section. The provisions of subsection (a) shall not be construed to permit any officer, employee, or agent of the United States to contravene any State law which otherwise limits such individual's access to individually identifiable medical records.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that (1) relates to the medical, dental, or mental condition or treatment of an individual, (2) is in a form which either identifies the individual by name or permits identification of the individual through means (whether direct or indirect) available to the public, (3) is not in the public domain, and (4) was provided by an individual with the reasonable expectation that it would remain confidential.".

(B) The amendment made by subparagraph (A) shall apply to inspections and requiring the disclosure of individually identifiable medical records on and after the first day of the fourth calendar month beginning after the date of enactment of this Act.

Page 70, strike out line 6 and all that follows through line 19 on page 71 and insert in lieu thereof the following:

(l)(1)(A) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"Inspection of Individually Identifiable Medical Records

"SEC. 1125. (a)(1) Except as provided in paragraphs (2) and (3), no officer, employee, or agent of the United States, or of any Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, may inspect or require the disclosure of, for any reason whatever, any individually identifiable medical record, unless—

"(A) the individual (or his legally authorized representative) has authorized such inspection or disclosure in accordance with subsection (b); or

"(B) such inspection or disclosure is made upon the request (or, in the case of medical research, with the permission)—

"(i) of an official who is authorized under the laws of the State in which the record is located to inspect or require the disclosure of the record, and

"(ii) which states the specific purpose for the inspection or disclosure, the time period during which the inspection or disclosure may occur, and the date on which the authorization for the inspection or disclosure expires; or

"(C) such inspection or disclosure is made by medical personnel to the extent necessary to meet a medical emergency which presents an immediate threat to human life.

"(2) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record relating to medical care which is or was paid for or provided by (in whole or in part) an agency of the United States, to the extent such inspection or disclosure is (A) by medical personnel for the purpose of providing such medical care; (B) by a Professional Standards Review Organization, or any person acting on behalf of such an Organization, or other qualified personnel for the purpose of performing utilization review under part B of this title or otherwise with respect to such medical care, (C) for the purpose of verifying or auditing payment for such medical care, or (D) for the purpose of investigating or prosecuting fraud and abuse in the provision of, or payment for, such medical care.

"(3) The prohibtion of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record to the extent to which such inspection or disclosure is authorized under title 10 (relating to the armed forces) or title 38 (relating to veterans' benefits) of the United States Code.

"(b) An individual (or his legally authorized representative) authorizes an inspection, or disclosure of an individually identifiable medical record or records for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, or disclosure for a specified period of time;

"(2) identifies the medical record or records authorized to be inspected or disclosed;

"(3) specifies the purposes for which the record or records may be inspected or disclosed; and

"(4) specifies the agencies which may inspect the record or records or to which the record or records may be disclosed.

"(c) Any person who knowingly violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section. The provisions of subsection (a) shall not be construed to permit any officer, employee, or agent of the United States to contravene any State law which otherwise limits such individual's access to individually identifiable medical records.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that (1) relates to the medical, dental, or mental condition or treatment of an individual, (2) is in a form which either identifies the individual by name or permits identification of the individual through means (whether direct or indirect) available to the public, (3) is not in the public domain, and (4) was provided by an individual with the reasonable expectation that it would remain confidential.".

(B) The amendment made by subparagraph (A) shall apply to inspections and requiring the disclosure of individually identifiable medical records on and after the first day of the fourth calendar month beginning after the date of enactment of this Act.

H.R. 3744

By Mr. ALLEN:

Strike out "(1)" in line 7, page 9.

Strike out language following "(B)" on line 11, page 9, and substitute therefor the following: "by changing the period at the end of said sentence to a comma, and by adding after said comma the following: 'but in no event shall such tip credit exceed $1.35 an hour.'"

Strike out subsections "(2)", "(3)", and "(4)", beginning on line 14, page 9, in their entirety.

Strike out "(1)" in line 18, page 4;

Strike out "(1)" in line 20, page 4;

Strike out all language following the word "hour," on line 22, page 4, and substitute therefor the following: "during the year beginning January 1, 1979, not less than $2.80 an hour, during the year beginning January 1, 1980, not less than $2.90 an hour, and from and after January 1, 1981 not less than $3.00 an hour."

Strike out subsection "(2), beginning on line 10, page 5, in its entirety.

By Mr. PICKLE:

Page 14, insert after line 4 the following:

ENTERPRISE COVERAGE

SEC. 10. (a) Section 3(s)(1) (29 U.S.C. 203 (s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated;".

H.R. 6796

By Mr. TSONGAS:

Page 22, lines 5 and 6, strike out "$231,500,000, including $191,200,000 for solar electric applications" and insert in lieu thereof the following: "$242,500,000, including $7,000,000 for a parallel design of a 1,500-kilowatt wind energy conversion system and the production of two test units, $4,000,000 for additional research and development on wind energy systems (including general research and development of advanced concepts and systems technologies), and $191,200,000 for other solar electric applications".

Page 78, after line 25, insert the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration, under the Administration's energy traineeship program, is authorized during the fiscal year 1978 to make awards in amounts not exceeding $7,000 per student to finance the education of a total of 1,000 graduate students in engineering, science, and socio-economic sciences related to energy, particularly in the areas of alternative energy sources (including wind, solar heating and cooling, photovoltaics, ocean thermal energy, biomass, and geothermal energy), energy conversion and utilization, and energy conservation. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $6,850,000.

(b) The Administrator is authorized to establish vocational training courses in solar heating and cooling and in energy conservation at approximately 200 community colleges, vocational schools, and other educational institutions in all parts of the country, and to provide assistance to any such institution in the conduct of such courses during the fiscal year 1978 in an amount not exceeding the sum of $5,000 per teacher for equipment and teaching facilities, $5,000 per teacher for the operation of the courses, and $1,000 per teacher for teacher training and instruction. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $2,300,000.

Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at varying levels of subsidy (for example, at 20, 40, 60, 80, and 100 percent levels).

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense

(ii) the Department of Transportation (including the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration)

(iii) the Department of Commerce

(iv) the Department of Agriculture

(v) the Department of the Interior

(C) provide a preliminary report to Congress within six months following the enactment of this Act

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act.

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry—to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $28,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, under the mechanisms provided in the National Energy Act.

SEC. 211. (b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $10,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

Page 78, after line 25, insert the following new section (and redesignate the succeeding section accordingly):

SEC. 211. In order to ensure that solar energy is developed on a national basis, the Administrator of the Energy Research and Development Administration shall assign a significant portion of the funds appropriated pursuant to this Act for solar research, development, demonstration, and related activities of the Administration in the fiscal year 1978 to the Solar Energy Research Institute and the Regional Solar Energy Centers, as follows:

(1) at least $25,000,000 of such funds shall be so assigned; and

(2) at least 80 per centum of all funds so assigned shall be for activities to be designed, directed, and conducted at the Regional Solar Energy Centers.

Funds for activities to be designed, directed, and conducted at the Regional Solar Energy Centers under the preceding sentence shall be assigned directly to such Centers by the Administrator, and such Centers shall be responsible directly to the Administrator with respect to such funds and such activities; but such Centers shall design, direct, and conduct such activities in close coordination with the Solar Energy Research Institute.

SEC. 211. There is authorized to be appropriated in addition to any other amounts authorized by this act, $8,500,000 for the accelerated development of energy storage technologies, including:

$2,000,000 for thermal energy storage for residential and industrial heating systems;

$3,500,000 for advanced batteries—including the areas of sodium/sulfur materials substitution ($1,200,000), lithium/sulfur reproducibility ($900,000), and cost reductions for battery production ($1,400,000);

$1,500,000 for regenerative braking flywheels for vehicles; and

$1,500,000 for superconducting magnetic energy storage systems for utility applications.

Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906), as amended by section 210 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) Federal loan guarantees under section 20: *Provided*, That all of the other provisions of this Act shall apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is amended by adding at the end thereof (after the new section added by section 210 of this Act) the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and startup costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, and start-up costs.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be

construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default.

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annually for the duration of that program under this section.

"(l) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denomination, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A) and (B) of section (b)(1) and subsections (g) and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a cor-

poration, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environment Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreement, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environment Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

On page 48, line 14, and page 49, line 5, strike out "biomass,".

SENATE—*Tuesday, September 13, 1977*

The Senate met at 1:15 p.m. and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Spirit of God, descend upon my heart;
Wean it from earth; through all its pulses move;
Stoop to my weakness, mighty as Thou art,
And make me love Thee as I ought to love.

"I ask no dream, no prophet ecstasies,
No sudden rending of the veil of clay,
No angel visitant, no opening skies,
But take the dimness of my soul away."
—George Groly, 1854.

Grant us grace, O Lord, to open the windows of our souls that in the light of Thy presence and by Thy higher wisdom we may make our way to the consummation of that kingdom whose Builder and Maker is God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 13, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Monday, September 12, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A MATTER CALLING FOR A MEASURED AND UNHURRIED DECISION

Mr. ROBERT C. BYRD. Mr. President, certain news reports this past weekend implied that pressures might be applied on the Senate to take up the ratification of the recently signed Panama Canal treaties before the adjournment of this session of the 95th Congress. I want to reiterate that, as I have stated several times in recent weeks, the full Senate will not begin consideration of the canal treaties before January.

The Constitution vests in the Senate a peculiar and unique responsibility for the ratification or rejection of treaties with foreign governments. Our duty therefore involves more than just making up our own minds on the future of the canal. Indeed, these new treaties with Panama carry ramifications that extend beyond our relations with one nation alone. The vital interests and the security of the United States, as well as our future relations with all the Latin American nations, will be among the many issues that must be examined in our future consideration of these treaties.

In order to do justice to the matter of the Panama Canal treaties, full and thorough consideration is necessary. As President Woodrow Wilson pointed out, the congressional responsibility for the dissemination of authoritative information on vital matters is as important as the legislative responsibility of Congress. By providing ample time for all Senators to make their decision in a calm and deliberative atmosphere, we are also assisting the public, so that citizens can reach a rational judgment on this important issue.

The Foreign Relations Committee will be conducting hearings on the Panama Canal Treaties. These hearings will provide an opportunity for responsible, concerned, and expert parties on both sides of this discussion to present their facts and opinions. Moreover, this process will allow each Senator access to information by which to weigh and sift the many elements and provisions of the complex treaties, and to give a measured and rational consideration of all sides of this issue.

I hope that the news media will give these hearings wide coverage, in order that the American people will receive a full understanding of this important concern.

The nature and the significance of this debate require an appropriate and reasonable length of time—not only for the benefit of the Senate but also for the benefit of the general public, which should have as clear an understanding as possible of the implications of these treaties for the United States.

Mr. HARRY F. BYRD, JR. Mr. President, will the distinguished majority leader yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, regardless of whether one favors or opposes the Panama Canal Treaties, I think most will fully agree with the able majority leader in expressing hope that these treaties would have full and detailed consideration.

I think the majority leader is on very sound ground in stating that this matter will not be brought up until next year. The Senate has much important legislation dealing with the vital question of energy for the American people to consider during the remainder of this session of Congress.

The able majority leader mentioned the hearings that will be held by the Foreign Relations Committee which are vitally important. As one Senator, I would hope that the Committee on Armed Services likewise would hold hearings on these treaties because the Panama Canal is vitally important to the defense of our Nation and I think the Committee on Armed Services has a responsibility to hold hearings and to give careful attention as a committee to these treaties.

So, I, as one Senator, am very pleased indeed at the action just taken by the distinguished majority leader and I believe it will be met with widespread approval throughout our Nation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Virginia, Mr. HARRY FLOOD BYRD, JR., for his comment and his expression of support for the position I have enunciated.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Mr. President, I thank the distinguished Senator for yielding.

I feel that the issue of the Panama Canal treaties is the most important issue that has come before the Senate during the some 9 years that I have been in the Senate.

Based on my reading of the treaties and my recognition of the importance of the Panama Canal to our economic security and our national security, I plan to vote against the treaties. I do not believe it is in the best interest of our Nation or our people that the treaties be entered into.

Personally, I had hoped that the matter could be disposed of this year and that the Senate and Congress would stay in session this year until the matter could be disposed of.

I might state that I feel that full and complete debate of these issues should be had in the Senate and I feel that under article IV, section 3, paragraph 2 of the Constitution it is requisite that the issue be determined by both Houses of Congress because it is necessary that there be congressional action to dispose of property of the United States.

Of course, I readily acceded to the wishes of the distinguished majority leader, but I would like to comment that I do not believe there is going to be any attempt to filibuster this issue. I think that it should come to a vote, and I feel that the arithmetic involved would indicate that there be no filibuster because it takes only 60 votes to invoke cloture and 67 votes to give advice and consent as to the treaty. Furthermore, a filibuster if successful would merely leave the treaty in a state of limbo and it could be brought up at any time. But I do feel that full, complete, and lengthy debate should take place on this issue. I had hoped that time would be found this year to dispose of the matter. The distinguished majority leader having stated that the matter will not be brought up until next year, naturally, I would abide by his judgment and certainly make no effort to see that the treaties are brought before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama for his comments.

Mr. President, I have no additional time remaining. I thank the distinguished Senator from Alaska, the acting Republican leader, for his patience in waiting.

Mr. STEVENS. Mr. President, on behalf of those Senators from our side of the aisle who have not made up their minds on the treaties, I welcome again the statement of the majority leader. I am pleased to see that he is not prepared to lead a charge down San Juan Hill on this subject. Those of us who have not made up our mind want some answers.

Mr. ROBERT C. BYRD. Or up the hill at this point.

Mr. STEVENS. Or up it either. I would perceive it to be down at the present time.

We would like to know what are the implications in Guantanamo Bay, what are the implications with regard to the defense strategy of the United States, and what are the implications with regard to the bases that we have maintained around the world under various other treaties.

I am pleased to hear the statement of the Senator from Alabama who has indicated there would be no attempt on his part at least to prematurely bring up the consideration of these treaties because I am one who feels that the debate must take place out of this Chamber first. We have many national organizations, such as the League of Women Voters, the world affairs councils in the major cities of this country that should have the opportunity to explore this issue and to see whether the American people are willing to accept the treaties. I intend to make a statement in depth later this week, but it would seem to me that one of the things we must measure in fact is the maturity of the Panamanian Government. If the Panamanian Government does not recognize that it takes much more time for democracy to react to a change of policy such as contemplated by these treaties, then it is not mature enough to trust with the operation of this canal which is still vital at least to our economy if not to our defense.

I think it will take some time. I do not think Congress or the executive branch

should move out so far ahead of public opinion that the concepts of democracy are lost in the area of foreign affairs.

It is time, I think, for a restoration of a bipartisan concept in foreign affairs and that can only come about through the deliberation that is necessary in review of treaties such as this.

If we were to precipitately consider the treaties I think that there would be no alternative but to reject them. If we are to take the time to explore them, explore all their ramifications, and to treat this change of policy with the depth of consideration that they deserve, then I think there may be a chance that the American people would recognize that the leadership of both President Carter and former President Ford, both of their Secretaries of State, and others, has told us that it is necessary.

I have just returned from my State, as other Senators have, and I would say that in my travels through Alaska, which has albeit a very small population, not one person asked me to support the treaties. Every person I discussed the Panama Canal treaties with was vociferously opposed to them. That to me represents an unfortunate consequence of negotiations in secret and of change of position in secret.

This democracy of ours does not react to secrecy; it reacts to openness, and it is time now for us to open the complete negotiations, to know what our original proposal was to Panama, why it is we have changed some of the provisions, and why it is that some of the final provisions of the treaty are, in fact, in the national interest. If they are, I shall support them, but if I am not convinced they are, I shall oppose them.

I hope the action of the majority leader means not only that we are not going to take up these treaties this year, but that next year we will have sufficient time to explore in depth all the ramifications, including those mentioned by the distinguished Senator from Virginia, through the committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished acting minority leader may continue for 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader for his considered and very thoughtful comments in respect of my statement anent postponing any Senate floor action on the treaties until next January.

I might say that I personally have not reached any position on the treaties, and will not reach a position thereon for a while. A check with my office has revealed that more than 4,000 communications have been received on the treaties, and only five or six letters support the treaties. Of course, Senators from larger States, I am sure, can produce more astounding figures than that. But I do not intend to be pressured into reaching any hasty judgment on the matter, pro or con. I am going to try to expose myself as fairly and thoroughly as possible to the facts that are adduced during the Foreign Relations Committee hearings and to other facts that may be adduced in other forums. I want to reach the right judgment when I reach it—one which will be in the best interest of our country, as well as I can fairly judge that interest to be.

I do not say this in criticism of any Senators who may already have made up their minds, but I think the Senate as a whole needs time; and it may very well be that some Senators who have made up their minds to go one way or the other at this point will change their minds later. But it is a matter on which the public should have the opportunity to reach its own judgment, based on the merits of the issue. I have long ago stated that this month and as much of the month of October as is necessary will be utilized in acting on the President's energy message, which I think is a matter of paramount importance, and he, too, has stated as much.

In the meantime, the Committee on Foreign Relations can begin and possibly complete its hearings, thus giving us all a better array of facts and knowledge on which to base our own decisions.

Mr. STEVENS. I thank the Senator. I assure him that I have not made up my mind, either.

I would hope one of the consequences of an early adjournment would be that the committees of the Senate that have jurisdiction over this matter might hold hearings throughout the country, and ask the administration witnesses and those who oppose the treaties to come in to a sort of regional forum, take testimony, and let the people from each area contribute to the dialog on each treaty. There must be a national consensus.

I just cannot believe that, as a body, we ought to react precipitately when there appears to be overwhelming opposition to the proposals before us, notwithstanding the fact that they have bipartisan support by very distinguished and capable leaders of this country.

I am thankful that we have a majority leader who is willing to take the heat for the period of time that is involved. I have seen some of the cartoons throughout the country depicting the Senate as the roadblock. I do not see the Senate as a roadblock; I think the Senate is an integral part of the foreign policy of the United States, and that our constitutional function is meaningless if we are to be somehow or other stampeded into reacting prematurely on a matter of such gravity as that involved in these two treaties.

Mr. ROBERT C. BYRD. I thank the Senator very much.

Mr. STEVENS. I thank the majority leader.

MANAGING THE ALASKA WILDERNESS

Mr. STEVENS. Mr. President, section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971 authorized the Secretary of the Interior to withdraw up to 80 million acres to study for inclusion in the national park, wildlife refuge, forest, and wild and scenic river systems. There have been several bills introduced into the House and Senate to deal with the settlement of section 17(d)(2), all with different ideas on the proper course for Alaska lands. One of these bills is Congressman UDALL's bill, H.R. 39. The Alaska Division of Tourism estimates that it would take 700 years for the current U.S. population to visit Alaska and enjoy the parks, refuges, wild and scenic rivers, and wilderness areas proposed by this bill at the current rate of 280,000 visitors a year. My bill, S. 1787, would take wilderness to the people. I have devised a system by which revenues from reasonable and appropriate development of Alaska's d–2 lands could be used to buy private lands in other States to create parks and wilderness areas for people who cannot afford a trip to Alaska.

My bill would allow time for studying lands and their potential and developing a plan for sensible land management. H.R. 39 and S. 1500 do not. They propose designating huge tracts of land with little if any study as parks, refuges, wild and scenic rivers, and wilderness areas to determine the land's best use. There is room in Alaska for expanding both the timber industry and mineral production and the establishment of parks, refuges, forests, wild and scenic rivers, and wilderness areas, but H.R. 39 and S. 1500 would not allow such development.

H.R. 39 and S. 1500 would not only place one-quarter of the timber-rich region of Southeastern Alaska into "instant wilderness", but they also propose a total ban on mining and mineral exploration in every park, refuge, wild and scenic river, and wilderness area in the State.

Second, the bills completely ban mining or mineral exploration of any kind on all four of the land reservation systems. Another shortcoming of H.R. 39 and S. 1500 is the fact that they void the State's land selections authorized under the Statehood Act.

In essence the people of Alaska feel that H.R. 39 and S. 1500 do not meet the needs of the State or its people. Passage of H.R. 39 or S. 1500 will hurt the people of the State economically by locking up valuable timber and mineral resources, thus precluding any possibility of economic development and eliminating a primary source of jobs for the people of Alaska.

Mr. President, I ask unanimous consent that the second of the three articles printed in the Ketchikan Daily News entitled "What's Wrong With H.R. 39" be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT'S WRONG WITH H.R. 39?

The hearing in Ketchikan Saturday on legislation affecting Alaska land, centers around HR 39 by Rep. Morris Udall D-Ariz. It puts 114 million acres of Alaska land in one of four reservation systems but it allows the secretary of interior to expand those reservations up to 140 million acres.

What's wrong with HR 39?

First, the areas designated for inclusion in special reservation systems are too large. In the local area, for example, the forest service proposed a 500,000 acre wilderness study area at Rudyerd Bay and Walker Cove, east of Ketchikan, in 1970, without causing a controversy. There was even local support but Congress failed to fund it. Naturally there is a reaction when HR 39 expands that area to 2.4 million acres, now called the Misty Fiord area, and declares it instant wilderness without study. So titles I, II, III, IV and VI should be revised and areas reduced, and some study and planning provided. (Title V gives administrative control of petroleum reserve four in northern Alaska to the U.S. Fish and Wildlife Service, a debatable move.)

Title VII, Section 701(a) gives practical control of fish and game resources in all of the reservation land, including national forests (most of Southeastern Alaska), to the secretary of the interior by giving him control of subsistence hunting and fishing, including the establishment of seasons and limits. The section also gives the secretary of the interior, through a special board, the power to determine who is and who isn't a subsistence hunter. That means the state will manage fish and wildlife resources—set seasons and limits—after it finds out what the secretary desires as impact on the resource.

Title VII, Section 703(a) says "All lands designated by this act as National Parks, National Monuments, National Preserves, National Wildlife Refuges, National Wildlife Ranges . . . Wild and Scenic Rivers are hereby withdrawn . . . from all forms of appropriation under the mining law . . ."

Congressman Seiberling has since stated that this section of the law will be rewritten to allow mineral exploration and mining, but to what extent is unknown.

Title VII, Section 704(b) really clobbers the state of Alaska and towns of Southeast Alaska. It voids the state's land selections authorized by the statehood act, and more. It says: "Land selections by the state of Alaska which are within the areas added to existing units or established by Title I, II, III and IV of this act are hereby revoked." Title IV of the act is national forests. Without a doubt that means that the 400,000 acres of national forest the state is allowed to select under terms of the statehood act is revoked.

The state was allowed to select that national forest land for community expansion. The state is allowing cities and boroughs in the national forest to select up to 10 per cent of the state land immediately adjacent to the communities to implement the community expansion intent of the statehood act.

Title VII, Section 706 is the one that allows the secretary of interior to expand the preservation system beyond the 114 million acres set out specifically in the bill. Adjacent to three Title I reserves he can select up to 1,000 acres for administrative and visitor facilities and up to 7,500 acres for archaeological sites. Now we are up to about 140 million acres of Alaska's 365 million.

Title VII, Section 708 (a) extends the secretary of interior's authority over state, native, local government and private land adjacent to the 140 million acres. It says: "The secretary (of the interior) is authorized to identify an area of ecological concern adjacent to any unit established by this act (that includes national forests such as surround Ketchikan) . . . Within each area of ecological concern so designated, the secretary is authorized to cooperate and seek agreements with the heads of other federal agencies and the owners of lands and waters including, without limitation, the state of Alaska or any political subdivision thereof, any native corporation, village or groups . . . Such agreements shall have as their purpose the assurance that resources will be used, managed and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas . . . the agreements may also provide for access by visitors to and across lands which are subject of the agreements." With that section, the secretary of the interior can control lands comprising Ketchikan Gateway Borough that haven't been taken back by the federal government under Section 704(b).

Title VII, Section 708 (b) requires that the forest service check every activity in a national forest with the secretary of the interior, unless there is a better definition of what is a "licensed activity" in a national forest. As it now stands, issuance of permits to mine or log, or establish fish rehabilitation projects, or to park a camper, in a national forest would need the secretary of the interior's approval, as well as the forest service.

Title VII, Section 708 (c) practically allows the secretary of the interior to sit on the Ketchikan Gateway Borough Planning and Zoning Commission. "The secretary is authorized to enter into agreements with the state of Alaska and its political subdivisions for the establishment and maintenance of cooperative planning and management zones on lands adjacent to the lands added to existing units or established by Titles I, II, III and IV (national forests) of this act."

And if the secretary doesn't like the way Ketchikan people handle zoning on their land, adjacent to the national forest that surrounds us, he can go to Congress because the section says further: "The secretary shall submit a report to the Congress indicating whether such agreements have been consumated and whether land use controls needed for the proper protection, management, and interpretation of the units . . . have been instituted effectively . . ."

When Congressman Udall introduced HR 39 for the national conservation lobby, he said, "While this bill is a countermeasure to that proposed by the secretary of the interior, it is not to be considered final . . . The final decision is that of the Congress and ultimately of the American people."

With that invitation, the American people living in Ketchikan should appear in the high school auditorium Saturday to advise Congressman Seiberling to reject HR 39 and its unreasonable companion measures.

Mr. STEVENS. Mr. President, if I have any further time I yield it back.

NATIONAL ENERGY CONSERVATION POLICY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2057, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2057) to establish a comprehensive national energy conservation policy.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have agreed to fill in for the able and distinguished Senator from Louisiana (Mr. JOHNSTON) until he can return. I would like to inquire at this point if there are any Senators present who have amendments, who wish to bring them up at this time. If not, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Arkansas will permit me, at this point I wish to state that it is the desire and intention of the leadership to complete action on this bill today if at all possible. This may mean a late session. Under the ordered entered into on yesterday, no rollcall votes will occur before 5 o'clock p.m. today, but debate will ensue on amendments up to the point of the ordering of the yeas and nays, if Senators wish to ask for the yeas and nays on such, and those votes could be stacked up to begin occurring at 5 o'clock p.m. today.

There are other amendments on which voice votes may be deemed sufficient, and I would simply join the distinguished Senator from Arkansas in urging that Senators who have amendments might very well utilize this time to call them up and get the debate out of the way.

I believe the distinguished Senator from Wyoming, who is the ranking Republican member, and who is very ably assisting in the management of the bill on the floor, will be needed, as will the other Senators on the majority side who are managing the bill, in the Energy Committee tomorrow morning, as I understand it, on the utility rates reform measure. Consequently, if the Senate would not complete action today on the bill, it would mean that the Senate would have to continue action thereon tomorrow, and it would necessitate our remaining in late again tomorrow, because the Senators managing this bill will be needed in the Energy Committee tomorrow to complete committee action on the utility rates reform bill; and it is necessary to complete action on that measure so that it can be coming along in line for floor action after the disposition of the natural gas pricing bill, which was reported, I believe, or is before the Energy Committee today, and which hopefully can be called up on next Monday for action by the Senate.

I would anticipate that if we can call that bill up on Monday, possibly by no later than next Thursday night, a week from this Thursday night, floor action could be completed on that bill. But it is important that that bill be reported for floor action on Monday, and that the utility rate bill be reported for floor action as soon after the disposition of that bill as possible; and all committees should realize the necessity for completing action on the comprehensive energy legislation as soon as possible. As I say, this may necessitate late sessions.

Mr. HANSEN. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. May I say that we have conveyed the majority leader's expressed and well understood desire to begin action on the natural gas bill on Monday. As I understand, that would require a waiving of the rule by 1 day. There has been objection raised. I regret to report that, but I must. It appears now, unless things should change between now and then, that we might not be able to start on that one until Tuesday.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. Of course, if that would be the case, as he has also stated, there might be a chance that that rule would be waived in due time. In any event, I believe he joins me in the expression of intent and desire that action be completed on the pending bill today so that his committee can proceed with the next energy bill, the utility rate reform bill.

Mr. HANSEN. I do, indeed.

Mr. BUMPERS. If the Senator will yield, I might point out also that the bill which will be laid down after the completion of this bill is the timber sales bill. That bill also came out of both the Agriculture, Nutrition, and Forestry Committee and the Energy and Natural Resources Committee. I would hope that we would not take that up until the Energy Committee completes its markup in the morning. I know Senator CHURCH and I are both vitally concerned about it. We also want to attend the markup session.

Mr. ROBERT C. BYRD. I very much appreciate the statement of the distinguished Senator from Arkansas. I was not aware of that fact, that it would necessitate the Senator from Arkansas and the Senator from Idaho being on the floor while action is taken on the timber sales bill tomorrow morning at the same time that they are needed in the Energy Committee. The leadership now having been so informed will endeavor to find some other measure to take up in the morning in the event we can complete action on the pending business today. That would allow the Senator from Arkansas and the Senator from Idaho to be in the Energy Committee tomorrow, which is all-important, and to be in the Chamber at the time the timber sales bill is before the Senate.

I will take this matter up with the distinguished minority leader and other Senators to see if some arrangement can be worked out to accommodate the needs of the Senators.

Mr. BUMPERS. I thank the distinguished majority leader very much.

Mr. BAKER. Mr. President, today we continue our deliberation on the conservation part of the President's energy plan.

A national energy plan should have two cornerstones: conservation and increased production. This bill represents a first step toward laying the conservation cornerstone.

On May 12, of this year, the Republican policy committee released the "Republican Energy Initiative." In comparing the conservation part of the Republican Energy Initiative with bill S. 2057, I am pleased to see considerable areas of overlap. In particular, the idea that utilities be encouraged to actively participate in the upgrading of home insulation, the call for stringent new product and housing insulation efficiency standards, and the requirement that the Federal Government assume a role of leadership to assure increased energy efficiency in its own operations were all contained in the Republican initiative.

I think that it is unfortunate that the promotion of mass transportation and the Government sponsored research and development of new efficient automobile engines, which were key parts of the Republican conservation plan, have received so little attention in the President's plan.

I also object to the mandatory efficiency standards which the bill, as it was reported out of committee, places on automobiles and home appliances. I do not think that mandatory efficiency standards should be forced on the American people before the fleet average automobile efficiency standards and the voluntary appliance efficiency standards that were established by the Energy Policy and Conservation Act of 1975 have had time to take effect.

AMENDMENT NO. 852

Mr. HATHAWAY. Mr. President, I call up my amendment No. 852 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes amendment No. 852.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 92, after line 6, insert a new section 402 to read as follows:

"SEC. 402. (a) Section 2(c) of the Wool Products Labeling Act of 1939 (54 Stat. 1128) is amended to read as follows:

"'(c) The term "recycled wool" means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.'.

"(b) Subsection (d) of section 2 of the Wool Products Labeling Act of 1939 is repealed.

"(c) Subsections (e), (f), (g), (h), and (i) of section 2 of the Wool Products Labeling Act of 1939 and all references thereto are redesignated as subsections (d), (e), (f), (g), and (h), respectively.

"(d) Section 2(d) of such Act, as redesignated by subsection (c) of this Act, is amended by striking out, 'reprocessed wool, or reused wool' and inserting in lieu thereof, 'or recycled wool'.".

SEC. 2. Section 4(a)(2)(A) of the Wool Products Labeling Act of 1939 is amended—

(1) by striking out "(2) reprocessed wool; (3) reused wool;" and inserting in lieu thereof, "(2) recycled wool";

(2) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(3) by striking out "(5)" and by inserting in lieu thereof "(4)".

SEC. 3. The amendments made by this Act shall take effect with respect to wool products manufactured sixty days after the date of enactment of this Act.

Mr. HATHAWAY. Mr. President, this amendment was passed by the Senate on a previous occasion, in 1973, as a bill numbered S. 1816. It was not passed by the House, however. It is supported by both the wool and the textile industries. It changes the Wool Products Labeling Act so that "reprocessed" and "reused" need no longer be the exclusive labels for what we now think of as recycled wool. Under my amendment, the term "recycled" may be used instead. This means something to the consumer. Of course, there will be a substantial energy saving as a result of using recycled material. The industry estimates that the equivalent of one gallon of gasoline is saved for every 13 pounds of recycled wool that is used. Additionally, this dovetails with the amendment passed last Friday, the Johnston-Haskell amendment, requiring the administration to set targets for increased utilization of energy savings using recovered materials for four industries, one of which is the textile industry.

I understand there is no objection on behalf of the floor manager and the ranking minority member.

Mr. BUMPERS. Mr. President, the Senator is correct with regard to this side of the aisle. I have just read the amendment and the statement explaining it for the first time. It is certainly acceptable to us. I think it is a fine amendment. It represents an energy savings. The consumers are not jeopardized. We accept the amendment.

Mr. HANSEN. Mr. President, I believe the amendment offered by the distinguished Senator from Maine is a real plus. It seems to me that the connotation that people apply to the word "recycled" ought to help sell materials made with wool which has been treated in a fashion usually referred to as reprocessing or reusing. I endorse this amendment.

Mr. HATHAWAY. I thank the Senator from Wyoming and the Senator from Arkansas for their consideration of this. I yield back the remainder of my time, Mr. President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with the provision that the period not extend beyond 5 minutes, and with the additional provision that no Senator be allowed to

speak more than 5 minutes in that period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CANAL TREATIES: REASON OR RISK?

Mr. HARRY F. BYRD, JR. Mr. President, for weeks now the question as to whether the United States should surrender control of the Panama Canal has dominated the news.

It reached a crescendo last week when the President of Panama came to Washington and, along with President Carter, signed treaties which would end U.S. sovereignty over the canal and the Canal Zone.

The signing of the treaties and President Carter's many appeals for support of the treaties have received tremendous television coverage. The television commentators and others in the news media have joined the bandwagon in seeking to drum up support among the public.

It is time, I think, that the other side of the story be heard.

I have delayed public comment until the text of the new treaties were available. They became available only last week.

Careful reading has not reassured me that surrendering sovereignty over this important waterway is either wise or in the best military and economic interest of the United States.

I have reached the conclusion, however, that these treaties will be very expensive to the American taxpayer.

Fortunately, the signing of the new treaties by President Carter and by the Panamanian dictator, Gen. Omar Torrijos, does not put such treaties into effect.

Under our Constitution, any treaties negotiated by the President must be approved by the Senate of the United States by a two-thirds vote of that body.

So the final decision as to whether the United States shall surrender perpetual sovereignty over the vital link between the Atlantic and the Pacific will rest with the Senate of the United States.

At this point, I think some history is in order.

This is not the first time a President has proposed surrendering our sovereignty over the Panama Canal and Canal Zone.

In 1967, President Johnson put a head of steam behind Panama's resolve to wrest the canal away from undisputed American control. Draft treaties prepared in 1967 made concessions to Panama which many Members of Congress felt were unwise and which were, indeed, a submission to Panamanian political blackmail.

So great was the congressional opposition to the proposed treaty that President Johnson never submitted the proposal to the Senate for consideration. I am pleased to say that I took an active and firm role in opposition to the Johnson proposal.

I see no fundamental difference between the Johnson proposal and the Carter proposal. Each would surrender U.S. sovereignty. The only real difference is that the Carter proposal would be much more expensive to the American taxpayer.

The Congress was told in 1967 that there would be a series of anti-American riots in Panama if the U.S. Government did not give the Panamanians what they want. We are being told the same thing today.

It is vitally important that the United States maintain a position of strength in Latin America, and the pivotal point in our defense arrangements is the Panama Canal and the Canal Zone.

I am persuaded that new treaties compromising our rights in the Canal Zone would weaken our country's defense posture in the Western Hemisphere—and, in addition, could be costly to the American consumer.

After all the rhetoric is stripped away, the question of whether these treaties should be ratified boils down to three basic questions:

First, is it in the best economic and military interests of the United States?

Second, what will it cost the American taxpayer—this year, next year, and in many years to come?

And, third, should we abandon our sovereignty over this vital waterway.

The Panama Canal is a strategic waterway of considerable economic and military importance to the United States. Its uninterrupted and efficient operation in the years ahead is an important U.S. interest.

Proponents of the treaties insist that the treaties will safeguard our military and economic interests. But, in the same breath, these proponents argue that the canal is no longer important to the United States either economically or militarily.

Misleading figures are used to try to diminish the economic importance of the canal to the United States.

The Carter administration has publicized the figure of 8 percent as the amount of U.S. foreign trade that transits the canal. Yet, a figure which the administration neglects to cite is that 70 percent of all ships transiting the canal have the United States as their destination or their point of origin.

Equally misleading arguments have been made concerning the military value of the canal.

One argument is that U.S. aircraft carriers cannot transit the canal because of their size. This argument falls apart when one realizes that of the 461 Navy ships now in the active fleet, only the 13 aircraft carriers are unable to transit the canal. In other words, more than 97 percent of the U.S. Fleet is and will remain able to transit the canal.

History has clearly recorded how relatively quickly we were able to move elements of the Atlantic naval fleet to the Pacific after the attack on Pearl Harbor in 1941. We were able to make this quick transfer because American ships were given priority passage under the terms of the existing treaty. The canal was also heavily used during the Korean and Vietnam wars.

To make it even more current, present defense plans call for a large number of Navy ships to transit the canal in the event of an emergency. How can we assure ourselves we can do this if we do not control the canal?

Can these important U.S. interests be adequately protected under the terms of the proposed treaties?

The Carter administration maintains that they can, and points to the terms of the treaty which supposedly provide the United States with the permanent right to defend the neutrality of the canal from any threat for an indefinite period.

Further, the administration maintains that U.S. warships will have the permanent right to transit the canal expeditiously and without conditions.

However, upon close scrutiny of the actual texts of the treaties, the U.S. right to defend the neutrality of the canal is an implied right which is not clearly stated in the text.

There is no provision for how the United States might endeavor to defend the neutrality of the canal and, depending on how one interprets article V of the Treaty Concerning Permanent Neutrality, the United States might be precluded from taking actions which might be necessary to defend the neutrality of the canal.

Article V states that—

> After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the canal and maintain military forces, defense sites and military installations within its national territory.

This could be interpreted as prohibiting the United States from ever deploying military forces to Panama to defend the neutrality of the canal.

Another point of concern is this: An unstable Panamanian government could make unwise decisions which might make more likely the need for sending U.S. troops to defend the canal.

There are other disturbing parts of the treaties which raise concerns for the protection of U.S. interests.

According to article II of the treaty concerning permanent neutrality, even in time of war there must be no discrimination against the vessels of any nation.

This sounds fine, except that it would require that warships of an enemy of the United States would not only be permitted to transit the canal but that a U.S. warship would have to wait its turn for passage while the ships of other nations both commercial or combatant took their turn at entering the canal.

This provision alone raises serious doubts in my mind as to whether these treaties can adequately protect the interests of the United States.

Our ability to defend the canal and keep it operating would be severely compromised if enemy ships are to be permitted to enter the canal. An intentionally scuttled ship could close the canal for an extended period.

Another area of concern relates to the ability of a small, unstable, and economically weak country such as Panama to handle the responsibility for oper-

ating and maintaining the canal and operating it on a nondiscriminatory basis.

Panama has had a turbulent political history with a rapid succession of governments and several military coups, the latest of which brought Omar Torrijos to power in 1968.

It was only a few years before that that the President of Panama was assassinated; his First Vice President then assumed office, but was shortly deposed as having been involved in the assassination. The Second Vice President then became President; and he was thrown out the next year.

Panama's economy has been growing steadily worse in recent years despite the substantial boost to the economy resulting from the canal and the U.S. presence in the Canal Zone and despite the fact that the United States has provided $368 million in economic assistance since 1945.

The country's indebtedness has grown from $167 million when General Torrijos took power to approximately $1.5 billion at present, causing a very heavy debt servicing burden on the already weak economy. It is estimated that debt service alone will consume 39 percent of Panama's budget this year.

These facts are cause for real concern over Panama's ability to operate and efficiently maintain the canal, especially in light of the growing deficits of the canal over the past several years.

Now let us look at the potential cost of these treaties.

Despite the fact that the Carter administration has claimed that the financial terms of these treaties will not involve any congressional appropriations, it is clear that these treaties will cost the American taxpayer many, many dollars.

The United States has invested an estimated $7 billion of taxpayers' dollars in the canal and the Canal Zone since the construction of the canal began. Much of this money is in the form of real property and nonremovable improvements which would be turned over completely to Panama, according to the terms of the treaties.

The investment of $7 billion in then-year dollars would, of course, be worth far more than that in 1977 dollars.

In addition, the terms of the treaties call for approximately a 2,000-percent increase in the annual financial compensation to Panama from the current amount of $2.3 million per year to an estimated $50 million. When multiplied by the 23 year period involved, this comes to a staggering $1.15 billion.

According to the terms of the treaties this compensation is to come exclusively from canal revenues as follows: $10 million per year from toll revenues; an additional share of 30 cents per ton from toll revenues. (Note: This share of the tolls is tied to the U.S. wholesale price index so it is likely to rise substantially in the years ahead.) Up to an additional $10 million per year only if canal traffic and revenues permit.

However, the canal has been operating at a deficit in recent years. The canal operated at a $7.6 million loss in fiscal year 1976 and is projected to lose $24 million more during fiscal year 1977.

Thus, when a greatly increased share of the tolls is paid to Panama the deficit will increase even further without a huge increase in toll rates.

Only last Friday, Ambassador Sol Linowitz, who negotiated the treaty for the United States, stated that the United States would have to raise shipping tolls for the canal by 25 to 30 percent, if the treaties are ratified.

These increased charges, of course, would be passed on to the American consumer.

In addition to the $7 billion cost of the plant and equipment, the estimated $1.15 billion Panamanian share of the tolls, and the additional cost to the consumers, there are two other costs that may be incurred as a result of these treaties.

The first potential cost is the Carter administration pledge to Panama to arrange for an economic program of loans, loan guarantees and credits which would be underwritten by U.S. taxpayers.

The second set of potential costs would be incurred if for some reason the canal were closed to U.S. traffic.

According to a Department of Commerce report issued in May of 1975 there would be:

A 71-percent increase in the average annual consumption of fuel by carriers of U.S. foreign trade;

A 31-day increase in average shipping time;

A $932 million increase in the yearly total delivered price of all exports, which would price our farm products out of Pacific markets; and

A $583 million increase in the yearly total delivered price of all imports including $78 million for intercoastal deliveries, thus adding to U.S. inflation.

These costs would be borne by our citizens in the form of increased consumer costs and a higher rate of inflation, and also in the loss of jobs.

Any serious disruption in canal trade would result in serious dislocations in the U.S. economy.

In Virginia, for example, the Port of Hampton Roads would be seriously affected. A great deal of coal and coke is shipped from Hampton Roads through the canal to Japan and other countries.

Other States would suffer as well, as a great deal of American agricultural products are also exported through the canal.

Thus, the cost to the American citizen as a result of the treaties could be twofold: First, the transfer of American property and foreign aid dollars to Panama; and second, increased inflation with a higher cost of living if canal trade is disrupted.

It is estimated that the overall cost of the Panama Canal treaties to the American taxpayer eventually will be roughly $10 billion.

Based on this amount, that means we would be paying Panama more than $24,000 an acre for the privilege of giving U.S. territory to Panama. That would amount to approximately $5,000 for every man, woman, and child in Panama.

Ironically, because of our past assistance, Panama already has the highest per capita income in Central America and one of the highest of all of the 25 Latin American nations.

The issue of sovereignty is the third great concern.

Contrary to the assertions of administration officials and others, the United States has a secure legal position as sovereign over the Canal Zone. This position has been upheld by the U.S. Supreme Court in 1907 and again as recently as 1972.

By article III of the 1903 treaty, full jurisdiction over the Canal Zone was granted to the United States "to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power, or authority."

Since 1904 the United States has effectively controlled the territory and the inhabitants of the Canal Zone. The United States conducts the defense of the Canal Zone and performs all of the activities which are recognized in international law as the acts of a sovereign.

The U.S. rights of sovereignty in the Canal Zone are the foundation of our ability to remain there to operate and defend the canal.

Despite this clear record and unchallenged legal status, officials of the State Department continue to state and or imply that the Canal Zone is really Panamanian property and that the United States does not have full sovereignty over the Canal Zone.

However, on March 7 of 1974 under questioning by me in a Senate Finance Committee hearing, Secretary of State Kissinger admitted that the United States had sovereignty over the canal and the Canal Zone.

He stated that he had committed the United States "to negotiations leading to the transfer of sovereignty." That is a part of the official record.

The United States paid Panama for a territorial grant and is the sovereign power in the Canal Zone.

Now I want to discuss another disturbing provision of one of the proposed new treaties. I refer to article XII of the Panama Canal treaty.

Specifically, paragraph 2, section (b) of article XII states:

> During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

Article XII would, therefore, prevent the United States from negotiating with any other nation for the right to construct an inter-oceanic canal anywhere in the Western Hemisphere until the next century unless Panama agrees to permit such negotiations.

Only then could we even begin the long and tedious task of negotiating, and then constructing, a new canal.

This veto power by Panama would put the United States at the mercy of that nation, insofar as any waterway connecting the Atlantic and Pacific is concerned.

It is bad enough to give away the Pan-

ama Canal—and to pay the Panamanians for the privilege of giving it to them. But, I submit, it is even worse to block ourselves by treaty from having the opportunity to negotiate with other nations for the right to construct an inter-oceanic canal in the Western Hemisphere.

In summary, I am convinced the proposed Panama Canal treaties:

First. Are totally inadequate in protecting the economic and defense interests of the United States;

Second. Would be very costly to the American taxpayer;

Third. Would surrender sovereignty over an extremely important international waterway and;

Fourth. Would deny to the United States the right to negotiate with any countries other than Panama for the construction of an inter-oceanic canal.

While the Foreign Relations Committee will hold hearings on the proposed treaties, it is vitally important that the Senate Armed Services Committee hold full hearings on the defense and security aspects of these treaties. I have strongly urged that such hearings be held.

I yield back the remainder of my time.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL ENERGY CONSERVATION POLICY ACT

The Senate continued with the consideration of S. 2057.

UP AMENDMENT NO. 810

Mr. BUMPERS. Mr. President, I have an amendment which I would like to offer on behalf of Mr. STEVENSON, Mr. FORD, and Mr. MAGNUSON. The amendment would provide an additional enforcement tool to enable the Secretary of Transportation to insure the achievement of minimum fuel economy standards for new automobiles contained in section 412.

The minimum fuel economy standards now included in section 412 are enforceable only through the imposition of a civil penalty.

I might add, they are rather harsh. I think it is $10,000 a day for each automobile manufacturer that does not meet the standards.

While the civil penalty is ample, an adjudicative procedure must first be conducted by the Secretary of Transportation in order to impose the penalties. Since this is a trial-type procedure, a substantial amount of time could run before the penalties are imposed.

By providing injunctive relief, and that is what this amendment does—it is an additional form of relief in the form of an injunction—including the authority for preliminary relief, the point at which penalties will be imposed could occur much earlier in time and through a more expeditious procedure. We need not be concerned about overly zealous administrators if the amendment is adopted, since the injunction would be granted by the district courts. The district courts would thus be able to rationalize any injunction issued with the imposition of civil penalties by the Secretary under the procedure now existing in section 412.

Thus, the addition of the authority to grant injunctions provides an additional enforcement tool to insure compliance, especially in situations where, for example, a manufacturer is confident he will receive only a minor penalty if he continues his violation, or if the manufacturer is convinced that no violation exists. In each of these cases, a manufacturer could well continue violations because he is convinced he will either escape the penalty completely, or it will be minimal. If an injunction is granted in that situation, however, the penalty threat becomes much greater, including jail terms for non-compliance if the court deems it appropriate.

The amendment is an important addition to the excellent amendment of the Senator from Ohio (Mr. METZENBAUM) adding minimum fuel economy standards. I urge its adoption.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) for Mr. STEVENSON, himself, Mr. FORD, and Mr. MAGNUSON, proposes unprinted amendment No. 810. On page 93, between lines 12 and 13 add the following:

SEC. 514. Upon petition by the Secretary or by the Attorney General on behalf of the United States, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain the sale, offer for sale, or the introduction or delivery for introduction in interstate commerce, or the importation into the United States, of any passenger automobile of a model type whose fuel economy is less than that specified under section 513(a) of this title. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

Mr. BUMPERS. It is my understanding, Mr. President, that this amendment had been cleared on both sides of the aisle. I await a response from the distinguished minority floor leader.

Mr. HANSEN. Mr. President, the distinguished manager of the bill is well aware that I oppose the Metzenbaum amendment that was adopted yesterday. I must say that I endorse the amendment offered by my good friend from Arkansas now.

I think that the Senate clearly expressed its will yesterday. The amendment proposed by the distinguished Senator from Arkansas, I think, makes good sense. In good conscience, I support it wholeheartedly.

Mr. BUMPERS. I thank the Senator. I move its adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BUMPERS. I do not see any other Senators who have amendments to offer at this time. I therefore suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

UP AMENDMENT NO. 811

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself, the Senator from Colorado (Mr. HART), my colleague, the junior Senator from Massachusetts (Mr. BROOKE), and the junior Senator from Ohio (Mr. METZENBAUM), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an unprinted amendment numbered 811.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, between lines 3 and 4, insert the following:

"(12) The term 'energy-consuming corporation' means a corporation which consumes at least one trillion British thermal units of energy per year.

"(13) The term 'plant' is an economic unit at a single physical location where industrial processes are performed. A plant may also be referred to as a factory, a mill, or an establishment.

"(14) The term 'steam raising' means an operation conducted in a plant that performs one or both of the following functions: the raising of steam to a given pressure and temperature using direct combustion of fuels; or, the above function in conjunction with the generation of electricity or other energy recovery/conversion function.

"The term 'steam raising' is meant to include one or more units of steam generating equipment of a total capacity greater than 50,000 lbs. per hour per plant.

"(15) The term 'steam raising efficiency' means the ratio of minimum available work necessary for steam raising to the available work in the actual fuel used for steam raising.

"IDENTIFICATION OF MAJOR ENERGY CONSUMERS

"SEC. 373. (a) The Administrator shall identify each major energy consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption.

"(b) Within each industry so identified, the Administrator shall identify each energy-consuming corporation.

"REPORTS

"SEC. 375. (a) The chief executive officer (or individual designated by such officer)

of each energy-consuming corporation which is identified by the Administrator pursuant to section 373(b), shall report to the Administrator not later than one year after the enactment of this Act, and semiannually thereafter on the progress which such corporation has made in improving its energy efficiency.

"(b) Each report to the Administrator shall be based on data aggregated to SIC classifications from plant reporting forms in a manner to be determined by the Administrator.

"(c) Each plant shall file a plant reporting form with its parent corporation. Each plant reporting form will be retained by the plant's parent corporation for at least five years. Such forms will be made available to the Administrator upon request.

"(d) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

"(e) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), a simple plant reporting form which shall be designed in such a way as to avoid imposing an undue burden on any plant.

"(f) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

"(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator;

"(2) recommendations to the Congress as to how additional improvements might be achieved.

"(g) The Administrator shall conduct a demonstration program to determine the feasibility of establishing mandatory reporting, voluntary targets, standards, or other options for steam raising. The chief executive officer of each energy-consuming corporation shall, if requested by the Administrator, provide such information as shall be required concerning its current efficiency in raising steam. The Administrator shall, within 18 months of the enactment of this act, report his recommendations to the Congress.

"GENERAL PROVISIONS

"SEC. 377. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 376(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

"(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency, heating process efficiency, and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

"(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

"(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(c)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

"(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

"(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

"(g) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

Mr. KENNEDY. Mr. President, this amendment perfects and expands the existing industrial energy reporting system authorized by the Congress in 1975 in title III of the Energy Policy and Conservation Act.

EPCA established for the first time a reporting system which was supposed to allow the public to understand how industry uses energy and, at the same time, assemble information on an industry-by-industry basis for use by businessmen. EPA required reports from a very limited number of companies—only those in the top 10 energy-consuming industries which also consumed 1 trillion Btu's per year. The act stipulated, however, that companies could report through trade associations, not directly on a company-by-company basis. EPCA also established a voluntary conservation program in the 10 largest industries, using targets set largely by industry, with Government verification.

Clearly the Congress decided 2 years ago that industrial use of energy was too important to leave hidden. The public had an interest to protect. However the results of the last 2 years work have been mixed, at best. We do not have the information we need. The FEA, which administers the program along with the Department of Commerce, considers the information received by the Government now of very little value and believes improvements are necessary. Here are the problems which exist and the changes my amendment would make to correct the situation:

First, not all large energy consuming companies must report, only those which consume a trillion Btu's and are also in the top 10 energy-consuming industries and in the top 10 energy users in that industry. Thus the 51st largest chemical company does not report although it uses 12 times more energy than the largest textile mill. My amendment will extend coverage to all users of 1 trillion Btu's. This will increase coverage from about 480 to 950 companies.

So it is only the top 10 industries that use the 1 trillion Btu's currently, and there are 1 trillion Btu users who do not fall within the top 10 companies and are, therefore, excluded.

This amendment would make one of the thresholds the use of 1 trillion Btu's. That, in and of itself, increases it, just about doubles the number to be reporting.

Second, no uniform basis of reporting is required because when reporting through trade associations, companies use widely divergent and incomparable methods. The most important information is frequently hidden from view. We cannot tell how much energy is used by individual companies, by individual plants or by particular industrial processes. No one knows if a corporation is fully reporting energy use or whether it is making necessary savings. My amendment would correct this by requiring reporting company by company, on a unified basis. Companies would not directly report plant by plant. However, this information would be available at company headquarters, available if necessary.

This is advantageous, Mr. President, because many of the major users, for example, perform a variety of functions and therefore, report through a variety of different trade associations.

It would be much more useful to the Government to have information from the particular company and this amendment will insure that availability.

Third, the public knows very little about how energy is used in the largest facilities using energy in this country, industrial boilers. Industrial boilers consumed 16 percent of all energy used in the United States. They also waste three-fourths of all the energy that goes into them. If we are to begin to use this energy efficiently, for example through increased use of cogeneration and heat recoupment, we must begin to get accurate information and make this information available to industry without violating proprietary rights. My amendment would require that FEA conduct a demonstration program to determine how the efficiency of raising steam in industrial boilers using more than 50,000 pounds of steam per hour can be improved. This information is, for the most part, available today and would require little additional equipment or measurments. However, gathering this information will be extremely useful because it will illustrate where energy is being wasted and in what quantity.

The point here, Mr. President, is to look at the amount of energy which is used in industry. Much of the energy used in industry is actually wasted and about 80 percent of that waste comes from wasted heat. And about 65 to 70 percent of that comes through the use of steam or through boilers.

As most first-year physics students understand, by measuring the pressure and the heat, we can get an accurate evaluation of exactly how much energy is actually being wasted.

This amendment will move toward measuring waste heat. It is a complementary amendment to the Metzenbaum amendment which gives an efficiency rating for boilers. That is extremely important. But what I am interested in, as well, is not just the efficiency of the boiler, but also in measuring the amount of the wasted heat.

This amendment provides that kind of measurement. The FEA will collect that information in a period of 12 months, and that information will be sent to the Congress by the end of 18 months with recommendations by FEA how to best conserve waste heat.

Mr. President, the need for this amendment was revealed in a hearing on July 28 before the Energy Subcommittee of the Joint Economic Committee for which I serve as chairman. Our witnesses explained the enormous use of energy by industry and the possibilities for saving which exist. Forty percent of all energy in the United States is consumed by industry. If industry were operating at maximum efficiency, using only known technologies such as cogeneration and heat recouperation, the savings could amount to 4.5 million barrels of oil a day. Even comparatively small increases in efficiency for two or three industrial processes could achieve more savings than we are likely to gain from years of costly insulation improvements in millions of homes, for example.

The amendment I propose does not require costly improvements by industry. It does not establish standards of performance. It does not tell industry what to do. But it does say that it is about time the public knew where and how energy is used by the largest users of energy, the 1,000 or so corporations who consume about a fifth of all the energy used in the United States. It is not too much to ask that the public know how these corporations are doing in using our limited natural resources.

In my judgment accurate information is the least that can be expected of the thousand or so corporations who consume a fifth of our energy. With this information in hand, voluntary conservation programs and technical assistance between and among industries are possible. Future policymaking by Congress and the Department of Energy will have a strong basis in reality. Without it, Government will once again be dependent upon industry to provide the facts. Energy is simply too important a resource to be satisfied with that conclusion.

I wish to point out to the Senate that the trillion Btu's threshold means we are talking about companies which consume about $2.5 million in energy a year. If we figure that about 5 percent of an average company's costs go to energy, we are talking about companies or corporations which gross $40 million to $60 million a year. So we are talking about major companies and corporations as users of energy. It seems to me that we should be entitled to get the kind of information requested from companies of that size.

I hope this amendment will be accepted. I have had the opportunity to talk with the Senator from Louisiana about this amendment as well as with the Senator from Wyoming and with the staffs who have gone over this amendment. I hope we can win acceptance of this amendment. It is entirely consistent with the direction of the legislation and seems to me to provide the basis for very important conservation of energy. It is extremely important that we take this step.

Mr. President, I am prepared to go into detail with regard to the amendment. The FEA supports the amendment, and they also feel that it would be useful.

The American Society of Mechanical Engineers, who reviewed the technical aspects, tells us that the amendment can be implemented technically and with comparative case.

So I hope that the amendment will be accepted by the committee.

Mr. HANSEN. Mr. President, I ask the Senator what changes his amendment would make in the manner that companies report to the FEA. Would his amendment require, for example, reporting on the basis of the four-digit categories for industrial companies used by the Census Bureau?

Mr. KENNEDY. No, the amendment would not require four-digit reporting. At one time my amendment did include four-digit reporting, but in consultation with industry and the FEA, this was found to be impractical. Therefore, my amendment does not make reference to reporting by these categories, and the law as it is now written remains in effect. As a practical matter, the FEA will have to go below the two-digit level in some cases. As I understand it, two-digits refers to the largest classification of industries, primary metals and food, for example. Three-digits refers to the next level of specificity, for example. "Food" is just too large a category to be useful. Use of three-digits would break reporting down into categories such as bakery, canners, beet sugar and meat. Industries are now reporting on this basis, and I understand this is acceptable to them.

Mr. HANSEN. Mr. President, on the basis of the response to my inquiry of the Senator from Massachusetts, I have no objection to the amendment.

Mr. JOHNSTON. Mr. President, I congratulate the distinguished Senator from Massachusetts for bringing to light this matter—the second law efficiency as it is called—and to application in the Senate and in this Nation. The second law efficiency is the ratio of the minimum available work to perform a given task—the ratio of that to the actual available work in the fuel used for that task. It is a law of physics that has been talked about by scientists, physicists, and engineers for some time. However, it was not until the distinguished Senator from Massachusetts began to hold hearings on this matter and to give it currency that it began to take hold in this country. I think it is long overdue as part of our energy conservation program.

I wonder whether the Senator will agree that we should have a more comprehensive study on this matter and that we should add to this amendment a further amendment requiring the Federal Energy Administration to conduct a study of the use of second law principles throughout the energy conservation program. Will the Senator agree that that kind of amendment might even give a more comprehensive use and application to this principle and to this second law?

Mr. KENNEDY. I certainly do agree. I would welcome any initiative along this line that the Senator from Louisiana would have. It certainly carries forward the purpose of the amendment and could very well give the results credibility, if it were done with the broad base group that it should have. It perhaps would provide the basis, then, for moving forward in a more aggressive manner.

UP AMENDMENT NO. 812

Mr. JOHNSTON. Mr. President, I have an amendment in the second degree, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 812.

The amendment is as follows:

At the end of Section (g) add the following section:

(h) (1) The Administrator, in consultation with the Director of the National Bureau of Standards, the Administrator of Energy Research and Development and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the concept of energy efficiency, defined as the ratio of the minimum available work necessary for accomplishing a given task to the available work, in the actual fuel used to accomplish that task.

(2) Such study, which shall be submitted to the Congress within 12 months after the date of enactment of this section, shall include, but need not be limited to—

(A) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act and the National Energy Conservation Policy Act;

(B) appropriate Federal programs in energy research development and demonstration.

Mr. JOHNSTON. Mr. President, this amendment in the second degree would require that the Administrator, in consultation with the Director of the National Bureau of Standards, the Administrator of Energy Research and Development, and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the concept of energy efficiency, which is defined as the ratio of the minimum available work necessary for accomplishing a given task to the available work and the actual fuel used to accomplish that task.

Such study, which shall be submitted to Congress within 12 months after the date of enactment of this section, shall include but shall not be limited to energy conservation programs authorized in the Energy Policy Conservation Act, the Energy Conservation and Production Act, and the National Energy Conservation Policy Act, and appropriate Federal programs in energy research, development, and administration.

This amendment would give Congress the necessary background in the application of this law to all these programs before we order its implementation in the particular programs. I think this will give the necessary background to utilize more fully what I think may be a new concept—perhaps even "revolutionary" is the right word—in energy conservation.

I ask the Senator if he will accept that modification.

Mr. KENNEDY. Mr. President, I welcome the amendment of the Senator from Louisiana. I think it adds strength to my amendment.

I move that my amendment be amended as the Senator from Louisiana has suggested.

Mr. JOHNSTON. Mr. President, we gladly, with thanks, accept the Senator's amendment.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Louisiana to the amendment offered by the Senator from Massachusetts is agreed to.

The question now occurs on the amendment of the Senator from Massachusetts, as amended.

The amendment, as amended, was agreed to.

UP AMENDMENT NO. 813

Mr. THURMOND. Mr. President, I rise today to propose an amendment to S. 2057 which would amend the Motor Vehicle Information and Cost Savings Act. As presently written, this act requires that manufacturers affix labels on automobiles indicating the fuel economy and estimated annual fuel cost of each model, and the range of fuel economy of comparable automobiles. Under this law, "automobile" is defined as a four wheel vehicle rated at 6,000 pounds gross vehicle weight—combined vehicle and load. In addition to this mandatory section, discretion is given to the Secretary of Transportation to require labeling on automobiles between 6,000 and 10,000 pounds gross vehicle weight if he determines that average fuel economy standards are feasible and that energy conservation will result.

Mr. President, my amendment would require fuel efficiency disclosure on vehicles of 8,500 pounds gross vehicle weight or less, thus raising the mandatory cap contained in present law. The major reason for this proposal is the noticeable upswing in the purchases of recreational vehicles, parcel delivery vans and light duty trucks—a great majority of which are 8,500 pounds or less vehicle weight—by the American consumer in recent years. In addition, I have studied title III of part A of S. 2057, and notice that under the Federal van pooling program, if passed, authority would exist for the purchase or lease by the Federal Government of up to 6,000 vans for van pooling arrangements. It therefore seems appropriate, Mr. President, to insert this amendment in order to provide members of both the public and private sectors with as much information as possible on fuel economy before they make their purchase choice.

I have been in contact with the Department of Transportation and the Environmental Protection Agency concerning their ability to absorb this requirement. The Department of Transportation acknowledged that the Secretary was considering the possibility of a rule raising the limit to 8,500 pounds some time in the future, and sources at the EPA have confimed that that agency will have test resources available in model year 1979 for this new requirement.

Therefore, Mr. President, I ask for the favorable consideration of this amendment by the distinguished floor managers.

I send my amendment to the desk and ask it be reported.

The PRESIDING CLERK. The clerk will report the amendment offered by the Senator from South Carolina.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes unprinted amendment No. 813:

"FUEL ECONOMY INFORMATION"

"SEC. 413. For the purposes of Section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) the term "automobile" includes automobiles with a gross vehicle weight rating of 8,500 pounds or less notwithstanding any lack of determination required of the Secretary under Section 501 (1) (b) (ii) or (iii).

(2) Nothing contained herein shall in any way affect the authority outlined in Section 506 of the Motor Vehicle Information and Cost Savings Act to require labels or other information for fuel economy for automobiles rated in excess of 8,500 pounds gross vehicle weight.

(3) The amendment made by subsection (1) shall be effective for model year 1979 automobiles and beyond.

Mr. JOHNSTON. Mr. President, as I understand, this amendment does not attempt to bring in light-duty trucks, recreation vehicles, delivery vans, and so forth, having a gross weight of less than 8,500 pounds under the fleet average. It does not attempt to affect that but rather simply requires these vehicles be tested and labeled to the end that the consumer will know what he is getting in terms of miles per gallon efficiency; is my understanding of that correct?

Mr. THURMOND. Mr. President, the able and distinguished Senator from Louisiana is correct.

Mr. JOHNSTON. Mr. President, we think this is a needed and helpful addition to this bill giving consumers a better idea of what they are buying when they buy recreational vehicles and trucks and, therefore, we accept the amendment.

Mr. THURMOND. Mr. President, I thank the able Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

UP AMENDMENT NO. 814

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment No. 814.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, following line 18, insert the following new Part:

"PART D—GASOLINE RATIONING

"GASOLINE RATIONING

"SEC. 423. (a) As used in this section, the term—

"(1) 'conservation sticker' means any sticker, item, or thing issued in accordance with the regulation promulgated pursuant to subsection (b) of this section for the purpose of display on a motor vehicle to indicate the time period during which such vehicle is prohibited from using any highway;

"(2) 'private motor vehicle' means any motor vehicle, including a motorcycle, owned by a private individual or a business and which is used for purposes other than business purposes, such as commuting to work, shopping, family business and social trips, but such term shall not include commercial, agricultural, or public service vehicles as defined by the Administrator in such regulation;

"(3) 'highway' includes any street, alley, parkway, highway, avenue, or other roadway.

"(b) Not later than sixty days following the date of the enactment of this section, the Administrator of the Federal Energy Administration, or his successor shall, notwithstanding any other provision of law, promulgate and put into effect by rule a regulation for the establishment and carrying out of a program for the rationing of gasoline which shall include, but not be limited to, a gasoline rationing program which would prohibit the use of private motor vehicles in the United States for at least one twenty-four hour calendar day period in each and every seven calendar day period following the date of the enactment of this section. Such program shall prohibit the operation of any private motor vehicle subject to such program on any highway unless such vehicle has attached thereto and displayed in accordance with such regulation, a conservation sticker. Such program shall further provide means pursuant to which each owner of a motor vehicle subject to such program shall, in accordance with such regulation, be able to obtain his conservation sticker for use on his motor vehicle or motor vehicles. In no case, however, shall such program so established have the effect of giving an advantage to an individual owning more than one private motor vehicle over an individual owning only one such vehicle, or of giving an advantage to an individual leasing a private motor vehicle over an individual owning his vehicle.

"(c) Such program established by the Administrator of the Federal Energy Administration or his successor may provide, subject to their consent, for the use of officers of a State or political subdivision thereof or of State or local boards to handle hardship waivers and appeals and perform other functions, including enforcement, relative to the implementation of the rationing program provided for by this section.

"(d) Such regulation shall further require all United States Post Offices with appropriate security, as determined by the Administrator of the Federal Energy Administration in consultation with the Postmaster General of the United States, and all banks the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to distribute conservation stickers in accordance with such regulations.".

The table of Contents of such bill is amended by adding immediately after

"SEC. 422. Report."
the following:
"PART D—GASOLINE RATIONING
"SEC. 423. Gasoline Rationing.".

Mr. WEICKER. Mr. President, as a member of the Energy Committee I have had a chance to both work on and evaluate the bill before the Senate and now work with it on the floor. And in the sense of conservation, it does nothing.

I think the question that has to be asked by everyone in this Chamber and those outside is what would happen if tomorrow the Arabs engage in another boycott or if tomorrow the price of oil were raised 15, 20, or 25 percent by the OPEC nations. I think it is very clear that were that to occur it would throw this country into total economic disarray and, in effect, would result in the most drastic of conservation measures in order to meet that kind of threat. Yet that is exactly the threat that hangs over this Nation, and we find ourselves in a more precarious position in the sense of response today than we were 4 years ago.

Four years ago when the Arab oil boycott went into effect the consequences were both alarming and tragic. I think there is no one here who does not remember the long lines at the gas pumps and the inconveniences that were caused. I think there is no one here who fails to remember the various measures which were taken in order to assure some distribution of fuel.

As soon as the embargo was lifted all such efforts of conservation went out the window, both in the sense of any governmental action and in the sense of individual driving habits.

In a few minutes I shall cite the statistics as to what actually has been the response of this country in terms of fuel consumption since the Arab oil boycott, and those statistics clearly point out that volunteerism is not going to work. But probably the greatest tragedy to evolve during this 4-year period has been the economic disruption or, more specifically put, the joblessness that has been caused by the energy crisis. The rates of unemployment created by that initial Arab oil embargo have not diminished to any great extent and indeed the prospect of their diminishing is not at all bright. Every economic indicator that is presented at this time to the American people shows clearly that we are still in the middle of what I would call an "enercession," a recession brought on by energy, our failure to respond to the crisis that was thrust upon us.

The economic consequence that is most visible at this time has been the dire predictions of a $25 to $30 billion balance-of-payments deficit. In order to bring that term out of the academic clouds and put it right on the ground that is $30 billion that is not being used for American jobs. It is offshore. It is gone. That is $30 billion that is not in American pockets to spend. It is offshore. It is gone.

The prediction is that next year that balance-of-payments deficit will probably exceed $30 billion and with no end in sight as to the upward spiral of the deficit.

There is no way this country can get on its feet economically until that figure is brought within manageable bonds. Indeed, it will probably be as severe a weakening of our stature and our strength as anything that has occurred during the past several decades.

So let us understand that when I talk about rationing, which is what I plan to do with this amendment and those that follow, everyone contemplates the inconvenience that is going to be thrust upon him in the sense of what the amendment demands. Yet, I think that what should really be contemplated is the inconvenience that has been caused over the past 4 years to too many of our citizens and by that I mean the inconvenience of not having a job or the inconvenience that would occur with the type of action that I alluded to at the outset of my remarks, specifically either an embargo or a severe rise in the OPEC oil price.

I remember, when I made my initial proposal of gas station closings as a form of rationing, receiving a great number of letters, correspondence from the tourist industry, calling me every name in the book and suggesting that I was taking the bread out of their mouths, that people would be hampered in their travels, in their vacations.

Has it ever occurred to anyone that if we get into the type of a recession which we are headed for right now with the types of balance-of-payments deficits we have been talking about there will not be any choice? There will be no touring at all.

So what I am saying is that a small amount of inconvenience today is well worth it in the sense of correcting the present economic situation and assuring that that situation will not get worse in the future.

Again to those who object to my form of rationing, I have to point out that there has been rationing during the past 4 years, but it is a rationing that is applied only to the weakest elements of our society, to the poor, to the elderly, to those on fixed incomes, and to less than moderate income families. They have been rationed. Is there one person here who has not heard the pleas of our elderly citizens relative to their utility bills? They cannot pay them, and in many instances they have not been paying them. Or, which is the most common since we are law-abiding people, the thermostat which you and I are asked to turn down to 68° or 65° goes down to 55° and 50°. And what about the pleas of our poorest citizens who cannot afford the price of gasoline, and not in the sense that they cannot go to the supermarket five times and six times on Sundy, but they cannot afford it to put in their cars to get to work?

There is no solution to the energy problem or the crisis that has been thrust upon us that is going to be meaningful that will not require sacrifice and self-discipline.

All I propose here this afternoon is that such self-discipline and such sacrifice be placed on the shoulders of all Americans rather than on the weakest of our fellow citizens, that we all share in the solution as indeed up to this point the solution has been borne by a few.

I made the prediction 4 years ago that, yes, the gas lines would go away, but the unemployment lines would start and would grow. And that has been the history of the past 4 years.

Let us take a look at how well we have done under a system of volunteerism—and that is my principal criticism of this bill. Not that it is weak in its rhetoric. It is great rhetoric.

My observations of President Carter are that his rhetoric is right on target. His alerting of the American people to the dangers has been right on target. But the rhetoric has not been followed up by substance.

It is like one of those comical scenes of a yesteryear's movie, where someone pulls out a gun, pulls the trigger, and a flag comes out that says "bang." That is just about what the value of this bill is, in the sense of conservation.

The Carter plan, the bill that is before this body, is no more than an extension of the volunteerism of the Ford-Nixon administration. It is still volunteerism.

It is all right to read in the newspapers that we are drawing up a standby plan to effect mandatory rationing. But the fact is that that plan ought to be in existence today.

The response from the other side is, "Well, let's see how it works."

It is not a question that this is a new crisis. We have been seeing how it works for 4 years, and it does not work. Without meaning to place the blame on the American people, I am just telling you the facts. They have not done their job in a voluntary sense; neither has the Congress of the United States done its job. But why continue a poor show, even on an experimental basis?

In 1970, the U.S. foreign oil bill, the bill presented to this Nation, the payment of which goes beyond our shores, was $2.9 billion. In 1971, it was $3.6 billion. In 1972, it was $4.6 billion. In 1973, it was $8.1 billion, and that is when the embargo hit us; $8.1 billion in 1973. Now let us see how well we do, with all our voluntarism.

In 1974, it was $26.1 billion; in 1975, $26.7 billion; and in 1976, $34.6 billion.

That figure represents an increase over 1972—we will use that as the base—of 750 percent. If there is anyone who can explain to me how it is that we are going to go ahead and the OPEC nations reduce their prices, when we have become that dependent on their oil, I would like to know what it is we are supposed to do. We are no better than a drunk walking into the whisky store and turning to the owner and asking him for a discount on a bottle of booze.

The estimate, incidentally, for 1977—the last figure I gave you was for 1976, $34.6 billion—the estimated amount to be paid for imported oil in 1977 is $45 billion.

I remember when the first oil embargo hit, I made the comment that I would not be too disappointed if the embargo stayed on for a while, because we were just then gearing ourselves up to respond; and I remember getting blasted by several editorials in the local press of my State, saying that that was a terrible thing to wish, and indeed it would

amount to a great deal of additional suffering and deprivation.

The problem, and I think each one of us knows it here, as indeed the American people know it themselves, is that we respond fantastically, but we only do so when we are down to the wire. And unfortunately the tragedy has not hit home hard enough, or at least it has not hit home to a majority of Americans. The deprivation which everyone was enjoying became the deprivation of only a few; therefore, the problem had gone away.

What happened? Those figures prove it.

Let us take a look at the balance-of-payments deficit. In 1976, the merchandise trade deficit was $9.2 billion. To track that in quarters, the first quarter was $1.3 billion, the second quarter $1.5 billion, the third quarter $1.7 billion, and the fourth quarter $3.5 billion.

Already in 1977, the first quarter deficit has been $6.9 billion. That is compared to the $1.3 billion of a year ago. The second quarter deficit was $7.9 billion. That is compared to the $1.5 billion of a year ago. In 1977, there will be a 200-percent increase in our balance-of-payments deficit.

Again in terms of statistics, let us take a look at our daily consumption of oil between 1976 and 1977.

In January of 1976—I will read the month of 1976, and then correspond to it the month of 1977.

January: In 1976, 18.5 million barrels; 20.5 million barrels in 1977.

February: 17.4 million barrels in February of 1976, 20.4 million barrels in 1977.

March: 17.2 million barrels of oil in 1976; 18 million barrels in 1977.

April: 16.6 million barrels in 1976; 17.5 million barrels in 1977.

May: 15.9 million barrels in the month of May 1976; 17.1 million barrels this year.

June: 16.8 million barrels per day in 1976; 17.7 million barrels this year.

This is the road to energy independence? This is the effect of the congressional actions of the past several years in the sense of conservation.

I think we all know what the problem is around here. Most of the Members are tied in to philosophical positions on this subject. The Republicans, the great free enterprisers, are against any sort of mandatory conservation, and the Democrats, who try to postpone today's problems until tomorrow, are against any sort of decontrol. The net result is that we use more and we are finding less, and we wonder why the situation gets worse.

Maybe we here are floating around in this academic world, but I cannot believe that the man on the street does not know what has happened for 4 years, because for 4 years he has been promised that the prices are going to go down and supplies are going to be sufficient. That man knows exactly what has happened: Prices have gone up, and then he is confronted with the type of shortages in natural gas that we had last winter.

Let me make another prediction on this floor: Whatever disruption in jobs occurred in the winter of 1977, the winter of 1978 is going to be worse.

The only thing this Nation has going for it right now is not the Congress, not the administration, and not the judiciary, but God. That is about where it sits.

Everybody better hope that it will be a mild winter because if it is not, the economic tragedy is going to be twofold, threefold, what it was last year.

To again put the oil consumption in the context of figures, in 1977 Americans consumed 1.587 million more barrels of imported oil per day than they consumed in 1976. That is roughly a 21-percent increase in barrels of imported oil per day.

Today we import almost 10 million barrels of oil per day as compared to 1 million barrels of oil per day in the late 1950's and early 1960's. Imported oil now comprises just about 50 percent of the oil that we consume.

Gasoline demand this summer rose to the highest level since the 1973 Arab oil embargo.

I would hope, and I do not expect a very good result out here on the floor, that we start to legislate within the confines of reality, rather than philosophy. I suggest that maybe some of my Republican friends might join with me and insist upon some mandatory conservation in order that all Americans can join the conservation effort, that my Democratic friends not create a fantasy where it does not exist, and that they join the fight to have decontrol so that we will have the capital necessary to go ahead and produce more oil and gas.

We can look around for scapegoats, and we have done a very good job of that in the past 3 or 4 years, but all of a sudden we run out of scapegoats and we are still left with the problems. I am sure there is fault when it comes to the oil companies of this country. I know there is fault when it comes to the Congress. I am sure there is fault when it comes to the lack of initiative on the part of the executive branch of our Government. Certainly, there is fault that has to be shared by the consumers themselves.

It seems to me the time has come to end all this finger pointing and get to the business of a solution which is going to result in lower prices and stable supplies. There is only one road to travel toward that end. It is the road of conservation and it is the road of more production.

No solution that is proposed, either in this bill or the ones to follow, that does not hurt is worth a damn. That is the whole problem: Everybody has been politically afraid to ask for fear that they would go ahead and bear the brunt of such a request at the next election. So we can go on and on into the future with no resolution of the problem. I can guarantee, just as sure as I stand here today, that if we bite that bullet and decontrol, and engage in some mandatory conservation, it will be no more than 2 years before we would be out of the woods. It is already 4 years with the present way of doing things.

Mr. President, let me describe what it is that I have in this amendment. Basically, what I am saying with this amendment is that each American will choose that day of the week when his or her car will not be on the road. It is voluntary to the extent that they can go ahead and choose the day. I do not think it is fair, for example, to insist on Sunday closing of gasoline pumps. That might not fit everybody's business, religious schedule, or whatever. But one day a week that car will stay off the road. Indeed, if there is a second car in the family, there would be the additional day for that vehicle, or any other car, the third, fourth, or fifth car, whatever, to be off the road.

The plan has several merits to it: No. 1, we are all going to be affected. Instead of just a few Americans, all of us are going to have to suffer a little bit. But I should think that would make each one of us feel pretty good. Somehow there is that innate willingness to get down there and to confront the difficulty, to confront the threat, and to do it as one people. I do not think that feeling, in other words, of spreading it around, and indeed the better off you are the more you take on your shoulders, has left this country. I honestly do not think most Americans at this stage of the game understand the suffering which has been caused to so many of their fellow citizens. If they did, they would be perfectly willing to take up part of that burden.

No. 2, this does not create any great bureaucratic nightmare, such as a coupon rationing system would involve. For whatever day of the week one chooses to keep their car off the road, they would put a color identifiable sticker on the windshield. If they are out on the road on that day they would be arrested by the local constabulary, the fine to remain in the local community. It does not require the hiring of additional personnel, great printing costs, or any of the front money usually associated with a World War II type of rationing system.

Then, of course, lastly, would be the fact that—and I do not have the exact figures at this stage of the game—the demand for that form of oil which we use the most would clearly drop.

The reason I do not hold out much hope for this plan is that yesterday Senator PERCY offered his amendment to conserve, that we should all go ahead and charge ourselves and our staffs for parking spaces, thus cutting down the number of automobiles that would be driven to the Capitol. Even that was blown out of the water.

It seems to me I would rather take this kind of a step now, which is mild in what it requires, than tomorrow all of a sudden have thrust upon me the tragedies which result from an embargo, and the drastic actions of the Government in response to such a crisis.

Mr. President, I realize that phrases are being thrown around as to the fact that we are free, that we shall continue to have freedom of choice, the less Government the better. But so much of that already is illusory. We are not free when it comes to the price of oil. We are not free when it comes to the price of gasoline. It is not a free market. It is a cartel. That price is thrust upon the United States of America and its people. We do

not bargain from our knees, but that is exactly where we are. We can sugarcoat it any way we want to. We can dress it up, we can say it will be voluntarism, we can say not to worry, it will not inconvenience us, but basically we have not gotten off our knees.

The discipline and the difficulties entails have sort of flown out the window, and yet we wonder why we sit with this problem on our hands day after day.

I would hope that we would recognize now, not when it hits us in the face but now, the necessity for mandatory conservation, and would enact this mildest of measures.

I do not think there will be great political consequences to follow. "My constituencies will kill me." I think our constituencies expect us to lead, and they understand that in the task of leadership there are those difficult moments. It is great to be on television, to be at the head of the parade, to sit at the head table during a banquet, to receive all the adulation and attention that politicians receive. But it has its difficult moments.

I remember when I served in the Army. I felt very lucky indeed to be an officer in the U.S. Army. Very frankly, the living style I am sure was far better than that of an enlisted man. But I know one thing, that there came a moment of equalization. When the round did not go off in the 105 Howitzer, it was the executive officer who had to go ahead and clear it for whatever that entailed when that breech was opened. That is the part of the job I am talking about right now.

(Mr. MOYNIHAN assumed the chair.)

Mr. WEICKER. The shell is stuck in the breech and somebody had better open it. What worries me about this legislation is, if we pass it the way it stands, the American people will have every right to believe that this great leadership has provided a conservation ethic for the United States of America.

It has provided nothing. It is a name on a bill. The content does not support the name. So I hope that my colleagues will see fit to pass this first step toward conservation where, indeed, a small sacrifice is required of our people, but the savings would be enormous.

The message it would send to the rest of the world is that, indeed, we do have some steel up our back, that we have been pushed around more than enough; you can take your prices of your oil and do you-know-what with them.

I think that is what is important, rather than have to sit here and accept that which is thrown at us in the way of price increases; rather than sit here and, in effect, have our whole foreign policy, to some extent, dictated by those who are involving themselves in blackmail. These are the matters that are far more important to this Nation than are being pointed out by the leadership.

Mr. JOHNSTON. Mr. President, first, I wonder if the Senator wants a record vote. If so, I wonder if we could arrange a time?

Mr. WEICKER. Yes, I thank the distinguished Senator from Louisiana (Mr. JOHNSTON). I ask for a record vote, both on this amendment and the one to follow, which will be gas station closings.

I would say, also, that I have no expectation of holding the floor for any great length of time here. I see no reason why we could not have a vote on this amendment within the next quarter of an hour.

Mr. JOHNSTON. Under the agreement of the leadership, no record votes shall occur until 5 p.m. It will be my intention, at the appropriate time, to ask that a record vote on this amendment be set at 5 p.m. and, on the following amendment, to be set immediately thereafter. Since we do not have sufficient Senators for the yeas and nays, I shall withhold that request.

Mr. President, I congratulate the distinguished Senator from Connecticut for bringing to the attention of our Committee on Energy and Natural Resources, as well as the full Senate, and, indeed, the entire American public, the difficulty—more than the difficulty, the crisis—that we are faced with, with a balance of payments deficit predicted at 25 to 30 billion because of imported oil next year, because of rising consumption, because of declining production, and because of an economic and foreign policy situation brought on by the oil prices. These problems cry out for solution.

In that sense, the Senator's amendment, which seeks one way to probe for a solution, to conserve energy, is a welcome addition, because, indeed, we need all the help we can get in the Senate on how best to conserve energy. However, Mr. President, we must oppose this amendment; not because we are against energy conservation, not because we are unwilling to bite the bullet, but because this simply will not work in practice, in terms of inconvenience and in terms of difficulty for the American public, which so vastly outweigh the amount of energy to be saved.

First, it penalizes people in rural America who depend on automobiles for their transportation. Secondly, the amendment says that those who own more than one vehicle shall not receive an advantage. It refers to the individual owning more than one vehicle. A family with husband and wife that have two vehicles would be exempted, I guess. At least, that is the way the language is drawn. If not, then I submit that the wife who marries the husband would be, then, treated as the husband's chattel and, indeed, in this day of women's liberation, of a women being treated as an individual, she ought to have the same rights as another individual. I am sure that is the reason this amendment is drawn in terms of an individual.

That suggests the difficulties in trying to make this work. What we would end up with is married couples with two cars proceeding as usual. Those with only one automobile are penalized if they live in the rural areas where they depend on their cars.

There is no provision here for emergency use of automobiles. And what about the working person, who works 5 or 6 days, and, finally, his weekend comes, a time when he is planning to do his shopping, or maybe to take a trip out to the lake? That takes a very small amount of gasoline. He is prohibited from doing that, while nothing is said about the truly energy-profligate people who, all the rest of the week, have wasted energy and, maybe, did not have to work during the week.

The amendment is replete with problems. Its intent we applaud, its purpose we applaud. The initiative, the imagination of the Senator from Connecticut, we applaud, because he is headed in the right direction. We want to encourage him to continue to seek ways to save energy. But with this particular amendment, we cannot agree. We, therefore, reluctantly urge the Senate to reject it.

Again, Mr. President, at the appropriate time, we shall move to have a record vote on this matter at 5 p.m.

Mr. WEICKER. Mr. President, let me, if I may, respond to the comments of the distinguished Senator from Louisiana, by stating, No. 1, that commercial, agricultural, and emergency vehicles are excepted from the provisions of this bill. It is not my intention in other words, to slow down the economy of this country any more than it has already been slowed down. I am sure there are going to be problems for the farmer, as, indeed, there are going to be problems for the suburbanite and problems for everybody. I assure you that enough specters of deprivation could be raised in response to this amendment to scare everybody.

Again, I am promising, with this legislation, that we are going to be inconvenienced. I am not even arguing the point. We are going to change our lifestyle. I am not going to argue that point. But is there anybody who has not been inconvenienced already over the past 4 years? We are inconvenienced every time we go up to the pump and pay 70 to 75 cents a gallon for gasoline. We paid 35 or 40 cents a gallon 4 or 5 years ago.

You are inconvenienced when you do not have a job or your relative does not have a job. You are inconvenienced when you have to pay the tab in the form of welfare and all the benefit programs, workmen's compensation, and all the rest, that have been precipitated by our lack of response to that crisis. The only difference is they are slipping it to you sideways from the Congress and I am coming right up to your face and telling you what it is you have to do.

The price has been something fearful that has been exacted from every American, albeit some more than others. But everybody has paid. It is just that it has been a little more intangible, a little more indirect. I do not know about the rest of you, but, when the water is cold, I dive in; I do not go in 1 inch at a time.

In the matter of ironing out the details of this amendment, the amendment so speaks to those difficulties in the sense that the Administrator is given broad discretion within the confines of what I have discussed as the program. So I have no doubt that the program would work itself out equitably insofar as all the people are concerned.

As I conclude my remarks on this amendment, Mr. President, I get back to

the question of whether or not there is a crisis. This is where I think our leadership has failed. I notice that in a very recent CBS-New York Times poll of the attitudes toward the energy crisis, 57 percent of those polled felt things are not as bad as the President says they are. I cannot believe, and I have seen other comments made in news shows, that people believe that the crisis has either been politically structured or it has been structured by the oil companies.

There is no point in kidding ourselves any longer. The fact is that it is very real. The fact is that it has been devastating in its effect on this Nation. But, more importantly, if we want to get back on our economic feet, the two issues are inextricably intertwined.

We saw the energy crisis's effect on a healthy economy. We cannot keep on pumping in subsidies and creating programs in Congress. It does not add any real substance and fiber to this Nation's economic strength.

Those types of programs were never meant as something permanent. Rather, only to take care of temporary illness. But what was once temporary is now becoming a permanent way of life in this country.

Very frankly, I am not turning to my colleagues and asking them to play a little Russian roulette. But what I am saying today I said during my campaign in 1976—political suicide in New England.

So it is not a question that I am elected for 6 years and asking that everyone gets out in front of me while I am safe. This is the platform I ran on, an unusual platform urging people to engage in something.

But that was the case, and far from political penalty, the response on the part of the voters in my State was overwhelming. Really, I suppose, the lesson taught me what it ought to teach all of us, that they are intelligent, smart, and understand the score.

I suppose the leadership should understand the tough parts of this job, as well as the easy parts.

Far from penalizing, they appreciate the truth being told.

So I hope we engage in an act of leadership, telling the American people the truth, not blaming anybody else for our present predicament.

Two quotes come to mind in this instance:

The fault, dear Brutus, is not in our stars, but in ourselves.

So much for the finger pointing.

The other quote, as to our so far failing to respond to the threat to the Nation, is by John Donne:

I am mine own executioner.

Indeed, that is exactly the direction in which the United States is running at this time when it comes to its handling of this, the greatest threat aimed at this Nation since World War II.

Mr. President, I urge passage of this amendment.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 815

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. Is this an amendment to the amendment of the Senator from Connecticut?

Mr. MOYNIHAN. This is an amendment on behalf of myself and the senior Senator from New York. This is an amendment to the bill before us.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that notwithstanding the amendment pending offered by the Senator from Connecticut that the Senator from New York may offer his amendment at this point.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered. The Senator from New York may now offer the amendment.

Mr. MOYNIHAN. Mr. President, this amendment which I offer for my distinguished colleague from New York and for myself has not yet been stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 815.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 20, insert the following:

REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS

SEC. 110(a) The Administrator shall, within six months after the date of enactment of this section, prepare a report on energy conservation in apartment buildings.

(b) The report shall include, at a minimum, a consideration of the following issues:

(1) The potential for energy conservation in apartment buildings;

(2) Structural and energy control measures in existing apartment buildings that will lead to energy conservation;

(3) Mechanisms for promoting energy conservation in apartment buildings which will include:

(A) the participation of architectural and engineering consultants required to realize optimal energy savings, and

(B) the role of public utilities in providing: (i) information on available measures and contractors (including those in (A) above) and (ii) financing;

(4) The costs of energy conservation in apartment buildings, and the requirement for federal financing assistance to achieve optimal energy savings; and,

(5) Recommendations for appropriate legislation.

(c) An "apartment building," as used in this section, is defined as a residential building which contains four or more dwelling units.

Mr. MOYNIHAN. Mr. President, the bill before us, as currently drafted, limits the benefits of the utility program to buildings with no more than four dwelling units. This is understandable in light of the complexities presented by energy conservation in apartment buildings and in view of that complexity, our amendment orders a study on energy conservation in apartment buildings.

In our State, where 50 percent of the population lives in structures with multiple dwelling units, apartment buildings must be included in energy conservation programs if these programs are to have the desired impact.

In recognition of this potential for energy conservation and of the possible complexity of devising suitable strategies for apartment buildings the senior Senator from New York and I propose this amendment.

Mr. President, we do so in the expectation that the study that will follow will, indeed, come forward with positive proposals which could then be enacted by law, if that is required, or by administrative measures, if that is feasible.

I thank the Chair.

Mr. MATSUNAGA. Mr. President, the majority has studied the amendment offered by the Senator from New York. We think it is a good amendment.

As a matter of fact, it is an amendment which the Senator from Hawaii would fully endorse. It is not only in New York that 50 percent of the people dwell in apartment buildings. In many of the other large cities of the country.

Mr. MOYNIHAN. On the beach at Waikiki.

Mr. MATSUNAGA. On the beach at Waikiki. And in the city of Honolulu, we have now such a scarcity of land that we are going upwards, skywards. We have no way to go sideways.

So we are prepared to accept the Senator's amendment, not only to accept, but to endorse the amendment offered by the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank my distinguished colleague from Hawaii.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I thank my distinguished colleague from Hawaii and the minority manager of this legislation for their courtesy in this matter.

UP AMENDMENT NO. 816

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

Mr. President, I ask unanimous consent that my previous amendment No. 814 be temporarily set aside in order that I may introduce the amendment which I now send to the desk and ask to have stated.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 816.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, following line 18, add the following new part:

"PART D—GASOLINE PUMP CLOSING CONSERVATION PROGRAM

"GASOLINE PUMP CLOSING CONSERVATION PROGRAM

"SEC. 423. Notwithstanding any provision of this Act or any other provision of law, the Administrator of the Federal Energy Administration, or his successor in interest, shall, not later than sixty days following the date of the enactment of this Act, promulgate such regulations as may be necessary to require the closing of all retail gasoline pumps, including all other means of dispensing gasoline at retail, in the United States from 6 p.m. on each Saturday to 5 a.m. on the next immediately following Monday in each respective time zone, except to the extent necessary, as determined by the Administrator, to provide fuel for agricultural, commercial, and public service vehicles."

On page 3, immediately following "Sec. 422. Report." add the following:

"PART D—GASOLINE PUMP CLOSING CONSERVATION PROGRAM

"Sec. 423. Gasoline Pump Closing Conservation Program.".

Mr. WEICKER. Mr. President, I will be brief on this amendment. At such time as we have sufficient Senators in the Chamber, I will ask for the yeas and nays on the previous amendment and this one.

What is involved here is a different form of what was discussed in the previous amendment. In this case, this would be a closing of gasoline stations from 6 p.m. on Saturday evening to 5 a.m., on Monday morning.

Again, I realize that there are those who will yell loud and long as to the various ways this will inconvenience them. Again I have to repeat that, No. 1, no plan that is worth its salt is not going to involve inconvenience; No. 2, a great number of Americans, particularly the weakest elements of our society, already have been far more than inconvenienced. They, in effect, have been shut out.

So I repeat that the essence of this amendment, very simply, means the closing of all retail gasoline pumps in the United States from 6 p.m. on Saturday to 5 a.m. on the next immediately following Monday, with an exception being made for all agricultural, commercial, and public service vehicles.

I can only promise this to my colleagues: Should they adopt the amendment which, in effect, would require each of us to pick one day of the week when we will not put our car on the road, then I will be glad to withdraw this amendment, because I do not feel that both steps are necessary. If we are willing to take one, that should be sufficient. But I fully expect to get blown out of the water on amendment No. 1; therefore, I would repeat my request for some form of mandatory conservation—in this sense, gas station closings as set forth in this amendment.

Mr. MATSUNAGA. Mr. President, I oppose the amendment. This amendment was offered in committee and received only two votes—that is, one other than the vote of the offerer.

While I can understand that the closing of the retail gasoline pumps over the weekend would prevent those who wish to purchase gasoline on Sunday or late Saturday from doing so, I can foresee a line of cars at gasoline pumps on Saturday afternoon, right up to 6 o'clock.

I pose this question to the Senator from Connecticut. Suppose he were in a line of cars blocks long and happened to be just one car before the pump and 6 o'clock arrived. Would he be served, or would he have to go without gasoline until 5 a.m. on the following Monday?

Mr. WEICKER. I think the answer to that is as the answer was back in 1973: All those cars that were in line at the cutoff time were allowed to get gasoline. There are many small details such as this I am sure can be worked out.

As I said, if my colleagues object to this form of rationing, let them choose the plan I offered, or I will withdraw both of my amendments if the committee will put into this puff-ball bill just one provision requiring some form of mandatory conservation on the part of American that they are directly going to be involved with and feel.

I have no pride of authorship, and I am not saying that my idea is necessarily the best, but the concept of mandatory conservation is what is important, the concept that Senators are going to go to all their constituents and say, "I have a plan here that is going to cost you something in your lifestyle."

So long as we achieve that, let somebody else stand up, and I will be glad to support his offer.

I assure Senators that a thousand deficiencies can be found in each of these amendments as to its administration.

Let us face it: The Senator from Hawaii knows, as the Senator from Louisiana knows, as my colleagues on this side of the aisle know, what it is we are running away from. We are not running away from some administrative detail. We are running away from the concept of mandatory conservation, because a majority of Americans are not involved in the mandatory conservation, and it is majorities that elect politicians. That is what is involved here today.

Mr. MATSUNAGA. Mr. President, while I must confess that the motives which no doubt led the Senator from Connecticut to offer this amendment are laudable, Americans have not become and never will become accustomed to a compulsory form of conservation.

One of the real problems the amendment will face if agreed to will be enforcement. We will have dangerous practices come into being by those who are able to buy extra gas tanks, going out on Saturday and filling a 5-gallon can or two 5-gallon cans and storing these cans in their garages or households, one of the most dangerous practices insofar as combustibles are concerned. This is inevitable, if we are not going to have gasoline stations open for Sunday travel.

Many Americans work 6 days a week. Sunday is the only time they can get out to buy gasoline, fill up their tanks, and visit their relatives across the city or in the neighboring town. This would be a heavy-handed way of trying to conserve, making it compulsory for even those who work 6 days a week to take a few hours off on Saturday or even on Friday to have their gas tanks filled.

Of course, it is a very simple amendment and it needs a simple yes or no. I am sure the American people, by and large, if they were here to instruct their Senators, would say, "Please, Mr. Senator, vote no on the Weicker amendment."

I urge the defeat of the amendment offered by the Senator from Connecticut.

Mr. WEICKER. Mr. President, I wish to respond to several points raised by the distinguished Senator from Hawaii.

No. 1, I particularly chose the two forms of mandatory conservation, the car sticker and the gasoline station closing, because I thought they were the situations that avoided the potential black market mess that is normally associated with a coupon rationing plan. This was not what the Senator from Hawaii referred to. He referred to the individual who would go out and get various containers and start hoarding gasoline so that he could circumvent the law.

We have chiselers in our society. Nobody is going to deny that. I see them coming down George Washington Parkway every morning, when they are supposed to be in one lane to go over the 14th Street Bridge, and cut in front of me, and I sit there. It is only the dignity that is supposed to attach to a U.S. Senator that prevents me from getting out of the car and venting my feelings.

I think those types of individuals are quickly spotted by their fellow citizens.

Personally, my own concept of Americans is that 98 percent of them are going to do the right thing and are glad to do it.

I think the way people do income taxes proves that point, so I am just not worried about the chiseler eating into the effectiveness of this particular plan.

Point No. 2: It does not eliminate Sunday travel. As I have stated, it will only make you think before you do your thing on Sunday. Instead of five trips to the supermarkets, which are now all open on Sunday, you are going to have to do the whole thing in one.

I might add if there are those who feel this comes down hard on that particular day of the week, do not forget that they have an alternate plan where they can choose the day of the week when they are going to be off the road.

The comment, I suppose, that disturbs me the most is that which inveighs against any sort of compulsory action this time in the area of conservation. All I am trying to do here today is to, No. 1, point out that you are slowly but surely being pushed to the point where you are going to have to take compulsory action. I would rather the compulsory action, however, be mild in its form and that we be able to control what that action is rather than having us all of a sudden wake up one morning to find it thrust upon us by the circumstances.

I do not want to stand here and say, "I told you so," and that is, in effect, what I am saying, but that is exactly what is happening, that we are past the point where we have all the options we had a year ago or 2 years ago or 3 years ago or 4 years ago. Slowly but surely we are being herded into the narrowest area of action.

As I said, there is no point in getting all heated up about it because I am sure that the easy way out is going to prevail, and, believe me, I am not trying to just create a record so that when it hits the fan, you know, I can say, "Well, I was out there in front of this issue."

There is just too much unemployment, too much tragedy, too much economic disruption to allow one to sit and hope for no more. You just do not have to hope for it. It is going to be handed to us in spades in the years ahead.

When can you remember the United States of America with everybody listening to the radio, watching television, and sitting in fear and trembling with respect to some Arab leaders when they meet in Qatar as to whether they are going to go ahead and raise the price of oil 5, 6, or 7 percent? And yet the whole Nation is sitting there glued to find out the results of that meeting.

Whoever cared whether a group of individuals met in a particular location to the extent that it had us in a national fear and trembling? Yet you know as well as I do that every time the OPEC nations meet that is exactly what occurs in the United States of America as we wait to see whether or not they are once again going to ram it down our throats.

Indeed, it requires the strongest type of diplomatic initiative on the part of our State Department to avert the worst or the most extreme position as presented by the members of the OPEC cartel.

It is just so long that we are going to be able to avert that. We are using up our blue chips. Even now in the present economic state of this country we could not even afford a 3- or 4-percent increase in the price of crude. It would just cause so much economic havoc.

So I urge the adoption of this amendment, Mr. President. Again I would hope fairly soon, and with the assistance of our able staff on the floor, we can find sufficient Senators to get the yeas and nays on this and other worthy legislation which I am going to present.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, the reference to chiselers on the highway by the Senator from Connecticut reminds me of the fortune cookie which I happened to pick at a recent dinner. The warning given me by the fortune cookie was, "Beware of the sculptor. He may be a chiseler."

[Laughter.]

Of course, the Senator speaks of chiselers on the highway, and I believe his memory is rather short because during the oil embargo of 1973 we had lines and lines of motor cars at pump stations, and whenever the line would move some smart chiseler, so-called chiseler, would cut in front of another car, and I am sure the Senator from Connecticut witnessed that, too. But I witnessed neighbors whom I thought were so cool-headed, so kindhearted, so generous, turning into furious tigers. They would jump out of their car, challenge the person who cut ahead of them, and even got into fist fights with them.

Now, we do not want to create such a situation. The Senator's amendment would create such a situation again. We would create a condition which would create chiselers out of honest, cool-headed, loving Americans. This is what his amendment would do, and it should definitely be defeated. We do not want the lines at the gas stations that we had during the oil embargo of 1973.

Mr. WEICKER. Well, to my distinguished colleague from Hawaii, more importantly we do not want the lines of unemployed we presently have. I will tell you that I will take a line at a gas station any day of the year to the unemployment lines that exist in this country. The reason why the unemployment lines exist is because of our failure to resolve this particular crisis.

Yes, when you are hooked and you want something badly enough, believe me it brings out the dark side of human nature. How many of you remember during the peak months of that crisis when it was actually discussed in this Nation that we should possibly think about using our armed might to take over those oil fields? I remember that. It was serious discussion and went on for several weeks among responsible elements of our society. It was a real alternative to getting out of the crisis.

Does that sound like a typical loving America which is portrayed by the distinguished Senator from Hawaii, and correctly so? Obviously not. But when you are drunk you do irrational things. When you are hooked on drugs, you do irrational things. We are hooked, and we are trying to find an easy way to get unhooked.

All I am saying to you here today, though, is there is no easy way. It is as simple as that. I do not want to see the dark side of our nature when we contemplate military might to relieve us of the crisis.

Let me tell you of another dark side of our nature: Our interest in lowering air pollution standards as a tradeoff to get more energy. Do you know what we are saying in that little phrase? What we are saying is let some Americans die, let some Americans have their health impaired, so that we can have more energy. That is nifty. That in a nation that is supposed to live for its children, supposed to help its neighbors, we would make a conscious tradeoff of various people's lives and their health so that the rest of us without any inconvenience can go ahead and achieve a little bit more energy.

I have seen us do all sorts of very strange things here as we try to go ahead and wriggle and squirm. I think a clear call from the leadership of this Nation would be responded to magnificently by the American people, but no such call has come forth.

I do not want to be part of a drama that, in effect, turns to the dark side of our natures and says, "Let us find a solution there."

Again I would hope, Mr. President, barring any further comments by the distinguished Senator from Hawaii, to have this and my previous amendment set aside in order that I might present a third amendment.

Mr. MATSUNAGA. Is the Senator prepared to offer his third amendment now?

Mr. WEICKER. I am prepared to offer my amendment.

I ask unanimous consent that both unprinted amendments No. 814 and No. 816 be temporarily laid aside in order that I might send another amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes unprinted amendment No. 817.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, following line 18, add the following new part:

"PART D—Energy Stamp Program"

"SEC. 423. Notwithstanding any provision of this Act or any other provision of law, the Administrator of the Federal Energy Administration, or his successor in interest, shall not later than 180 days following the date of enactment of this Act, promulgate such regulations as may be necessary to establish an energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

DEFINITIONS

SEC. 424. As used in this Part:

(1) The term "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source of heat for a dwelling.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "local agency" means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964.

(4) The term "household" means—

(A) any group of related individuals who are living as one economic unit and for whom heating fuel is customarily purchased in common, directly, or indirectly by undesignated payments in the form of rent; or

(B) any individual living alone who purchases heating fuel, directly, or by undesignated payments in the form of rent.

(5) The terms "coupon" and "stamp" mean any coupon, stamp, or certificate issued pursuant to the provisions of this Part.

(6) The term "retail heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households.

(7) The term "wholesale heating fuel outlet" means any establishment, including a recognized department thereof, which sells

heating fuel to retail heating fuel outlets for resale for consumption by households.

(8) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(9) The term "bank" means any member or nonmember bank of the Federal Reserve System.

(10) The term "landlord" means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant.

ESTABLISHMENT OF PROGRAM

SEC. 425. (a) If the local agency plan described in section 429 is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households deemed eligible pursuant to section 426 will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

(b)(1) Any eligible household may receive heating fuel coupon assistance—

(A) if such household purchases heating fuels; or

(B) if such household makes undesignated payments for heating fuel in the form of rent, and the landlord to whom such rent is due consents to the making of such payments in coupons.

(2)(A) Coupons received by any eligible household described in paragraph (1)(A) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

(B) Coupons received by any eligible household described in paragraph (1)(B) shall be used only for payment of the appropriate portion of such household's rent related to heating fuel costs.

ELIGIBILITY REQUIREMENTS

SEC. 426. (a) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

(b) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

(1) is eligible for benefits under title IV or XVI of the Social Security Act; or

(2) is eligible for benefits under the Food Stamp Act of 1964.

(c) In lieu of, or in addition to, the criteria described in subsection (a) or (b), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households in the area serviced by such local agency.

ENERGY STAMPS

SEC. 427. (a) Energy stamps shall be printed in $5 denominations and shall be issued by a local agency only to households which have been duly certified as eligible to participate in the energy stamp program.

(b) Each coupon shall—

(1) bear the name of the local agency from where it was issued;

(2) stipulate that its monetary value is $5; and

(3) include any words or illustrations that are required to explain its purpose and use.

(c) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

(d) In establishing standards under subsection (c), the Director shall consider—

(1) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

(2) the income of households within the area serviced by such local agency;

(3) the number of individuals in such households;

(4) the temperature and other climate conditions in the area in which such households reside;

(5) the type of heating fuel used by such households; and

(6) the extent to which such households have participated in weatherization programs.

(e) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ percent of the total value of the coupons to be received by such household.

(f) The value of the energy stamp assistance provided to an eligible household under this Act shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

REDEMPTION OF COUPONS

SEC. 428. (a) Coupons accepted by any retail heating fuel outlet or any person described in section 425(b)(1)(B) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Treasury Department.

(b) Coupons issued and used in accordance with the provisions of this Act shall be redeemable at face value by the Director through the facilities of the Treasury of the United States.

ADMINISTRATION AND FINANCING OF PROGRAM

SEC. 429. (a) Each local agency desiring to participate in the energy stamp program shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation during which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

(b) The Director shall approve any local agency plan of operation which satisifies the provisions of subsection (a) and which provides—

(1) that the local agency shall undertake the certification of applicant households in accordance with the eligibility requirements established by the Director under section 426;

(2) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this Act;

(3) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

(4) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

(5) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this Act;

(6) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

(7) that the local agency shall coordinate the energy stamp program with weatherization projects.

(c) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of this part or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

(d) The Director shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

(1) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

(2) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this part.

PENALTIES AND ENFORCEMENT

SEC. 429. (a) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this part—

(1) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than five years, or both; or

(2) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than one year, or both.

(b) If a local agency administering the energy stamp program finds (in accordance with the process described in section 429(b)(6) of this part) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than twelve times the amount of the household's rent increase.

REGULATIONS

SEC. 430. The Director shall issue such regulations as he or she deems necessary or appropriate for carrying out the provisions of this part.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 440. For the purpose of carrying out the provisions of this part, there are authorized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $100,000,000, for the fiscal year ending September 30, 1979, the sum of $100,000,000, for the fiscal year ending September 30, 1980, the sum of $100,000,000, and for each fiscal year thereafter, such sum as may be necessary.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. WEICKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator wish at this time to ask unanimous consent that after the debate is completed on the pending amendment his amendments Nos. 814 and 816 and the pending one be temporarily laid aside until 5 p.m. and that they then be again presented to the Senate in that sequence?

Mr. WEICKER. That is correct.

The Senator does so make such a request and asks unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. And I ask for the yeas and nays on said amendments.

Mr. MATSUNAGA. Not at this point.

Mr. WEICKER. Mr. President, I ask unanimous consent that at any time the yeas and nays may be ordered on these

three amendments with only one show of hands for a sufficient second.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, this amendment is in the nature of trying to make lemonade out of lemons.

I completely disagree with the rationing by price that has been the policy of the Nixon, Ford, and Carter administrations.

As I pointed out in my earlier arguments, I personally feel that any rationing system should be distributed fairly on the shoulders of all Americans. Indeed those better able to afford the burden will take more of it on their shoulders.

Be that as it may, that is not the system we have had. It is not the system that has been proposed by the administration. Rather it is a continuation of rationing by price.

If that is to be in this legislation and in subsequent legislation, then I would at least like to institute a program of energy stamps so that again the poorest elements of our society would not be the ones to be penalized.

Therefore, I am today introducing an amendment to S. 2057, entitled the energy stamp amendment, which is designed to provide assistance to low-income and fixed-income households in helping them meet residential energy costs.

During the last few years, all Americans have been hard-hit by the ever-increasing costs of utility bills. The impact of the 1973 Arab oil embargo and subsequent OPEC price boosts have been felt in the pockets of the U.S. consumer, particularly the poor and the elderly. Mr. President, we must recognize the fact that there are a significant number of poor people in this country who have been severely affected by such runaway energy costs. Based upon figures compiled by the 1970 U.S. census, 11 percent of all families nationwide live in poverty and 23 percent of all inner-city families are poor. Added to this is the startling fact that 57 percent of elderly unrelated individuals live in poverty. What is more, according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.

The Federal Government has been slow to respond to the needs of the elderly and the poor in coping with inflationary fuel costs. On February 25, 1974, Senator JAVITS introduced S. 3051, a bill which would have provided $100 million to the Office of Economic Opportunity for the funding of special energy crisis related programs. The bill died in committee. Since that time, the Senate has not significantly addressed itself to this problem. I therefore introduce my amendment to demonstrate to the American poor and elderly that Congress does indeed have a great deal of concern for their welfare. With the implementation of an energy stamp program, which is designed to complement weatherization plans, these citizens will not be forced to freeze in their homes, as was the case with many during the winter of 1976 and 1977.

Now let me explain in brief the various sections of this bill.

SECTION-BY-SECTION DESCRIPTION OF ENERGY STAMP BILL

Section 423 outlines the justifications and purposes for the energy stamp program. It is noted that energy coupons will help alleviate the substantial economic hardships which are being borne by poor and elderly citizens in meeting their fuel costs.

Section 424 defines terms used in this act. Noteworthy are definitions for "heating fuel," includes oil, gas, or any other type of fuel which is the primary source of heat for a household; "Director," Community Services Administration Director, and "local agency," community action agencies and State economic opportunity offices. This last definition is of particular importance. After talking with officials connected with fuel stamp programs in Lehigh Valley, Pa., and in Lorain, Ohio, and after considering the inefficiency of State welfare agencies, I believe the local community action centers would better serve the needs of low-income and fixed-income households than would the impersonal State welfare offices. More than 830 community action agencies and 53 State economic opportunity offices are located throughout the United States, Puerto Rico, and the Virgin Islands.

Section 425 deals with the establishment of the energy stamp program. Both apartment dwellers and homeowners may qualify for coupon assistance. The former may use energy stamps only for payment of the fuel cost portion of the rent bill.

Section 426 describes eligibility requirements. Any household may receive stamps if it is eligible for benefits either under title IV or XVI of the Social Security Act or under the Food Stamp Act of 1964. In addition, local agencies may suggest further criteria for determining the eligibility of households in the area serviced by such local agency.

Section 427 describes in detail the energy stamp coupons. Stamps would be printed in $5 denominations and would include words and illustrations to explain their purpose and use. In essence, the stamps would resemble traveler's checks. In determining the number of coupons to be issued to eligible households, the Director would consider local agency suggestions, household incomes, family size, climate conditions, and type of heating fuel used. Each participant in the program must pay to the local agency 33⅓ percent of the total value of coupons to be received. The intention here is to combat the welfare payment stigma attached to any public assistance plan. I feel that many fixed-income citizens—particularly senior citizens—would shy away from a 100 percent subsidized program. Lehigh Valley and Lorrain implemented this concept in issuing $75 worth of stamps for a $25 payment.

Section 428 outlines the procedure for heating fuel outlets to redeem the coupons.

Section 429 deals with the administration and financing of the program. Local agencies must submit a plan of operation which includes their agreeing to assiduously certify eligible households, to keep a strict and accurate accounting of all transactions, to make sure that landlords do not increase rents solely because they expect tenants to be using energy stamps, and to coordinate the energy stamp program with weatherization projects. In addition, local agencies are expected to undertake extensive publicity campaigns—outreach action—a very important part of an effective energy stamp program. The Federal Government will pay for all costs pursuant to this act. The theory here is that financially troubled States and cities might balk at contributing to the program, thereby rendering it ineffective.

Section 430 describes penalties for criminal actions.

Section 431 is the general regulations section.

Section 432 authorizes $100 million to be appropriated for each of the next 3 fiscal years. For subsequent years, such sums as may be deemed necessary for the program are to be appropriated. My theory here is to allow feedback as to how energy stamps have worked over the 3-year period.

Mr. President, if indeed we are going to engage in, to me, the most undemocratic type of rationing, that being rationing by price, it seems to me we could at least ameliorate the situation.

They say, "How can you speak for the free enterprise system as strongly as you do, if in effect we take this particular aspect; that is, fuel, and in effect have the Government involved?"

As far as I am concerned, the basic necessities of life, certainly, are food, fuel, and housing. These are the basic necessities, and I think the Government should become involved when, indeed, people are lowering their thermostats past the point of good health practices, and when, indeed, they are forced to make a choice, in other words, between staying warm and having food.

That is what is happening. The free enterprise system admits there has to be some compensating factor, and that is what I am trying to present to my colleagues here, a compensating factor.

I repeat, as a matter of principle, I disagree completely with rationing by price; and yet I recognize both the economic hardships that have been brought about by the OPEC embargo and those that would have to be anticipated either by deregulation or by increasing the price through a tax.

It is very deceptive when the President says, "I am going to protect the consumer by being against deregulation," and then, by a tax increasing the price per barrel, achieving the same effect, the only difference being that the money would go to the Government.

The Government is not involved in drilling or exploring for oil and gas. Private enterprise is. So with a tax, all you have done is give a big slush fund to the Federal Government to do with what it will, with no reduction in the energy crisis.

Be that as it will, whether it be by prices laid on by the OPEC by deregulation or by the Carter tax, rationing by price is the order of the day; and I am trying to give protection to the elements of our society in the weakest position to respond. Therefore, I recommend the passage of this energy stamp amendment.

Mr. JOHNSTON. Mr. President, about 2 weeks ago, during the recess, I was in New Orleans, La. on a particularly hot night, taking a ride by cab, and had occasion to fall into conversation with the cabdriver, who talked to me about his problems with his electricity bill.

If you live in New Orleans, or indeed in many parts of the South, you know that air-conditioning, whether it be central air-conditioning, as some of the wealthy have, or a single room unit for one or more rooms of your home, is more than a luxury, and indeed a necessity. So when this cabdriver commiserated with me about a $74 electricity bill for the previous month, and wondered whether he ought to sit at home and sweat or pay out money he could not afford to pay, I could sympathize with him.

The purpose of this story is simply to indicate that the problem with this amendment is that it addresses only the problems of cold States which have big fuel bills caused principally by heating. The question is whether those States should get all of the relief, or whether some of that relief should not come to those of modest means who happen to live in super-warm climates such as that of New Orleans, La.

Do not misunderstand me, Mr. President: We think New Orleans, La., has a very hospitable climate when considered for the total 12 months of the year, but it is hospitable only because we can escape the hot part of the day by air-conditioning; and, indeed, air-conditioning has become a way of life in the South.

So this amendment, first, discriminates against warm climates in favor of cold climates. Second, it is totally contrary to energy conservation goals.

The energy stamps are not redeemable for insulation and weatherstripping, but only for heating fuel, and this fact tends to increase the amount of fuel people burn, rather than decreasing it through encouraging weatherstripping and other conservation measures.

Finally, and I think most directly, Mr. President, the President has put forth a comprehensive welfare reform program, seeking to impose a brand new structure on welfare for helping out the really abjectly poor, to try to break the welfare cycle, to take those on welfare who are capable of work from the welfare rolls and to give them jobs.

Mr. President, we have not yet seen completely fleshed out the President's program. We do not know precisely how it would work. But I think all Americans can approve of the goals of that program, of providing these jobs, which, after all, are going to have to be provided by the employer of last resort, the Federal Government, in large measure. It is going to involve expensive training programs, so that those who are unskilled or underskilled will get the necessary training to do something useful and productive in this society, to the end that we can both break the welfare cycle, reduce the number on welfare, and make more productive citizens out of those who are caught in this vicious circle of welfare and poverty.

Mr. President, the principal objection, the principal stumbling block with the President's program, is going to be money, is going to be the availability of funds with which to fund so ambitious a program. To provide about a million jobs is going to cost, I think, by the latest estimate, if I recall correctly, something like $3.5 billion over the present cost of welfare. In addition, it will cause some who are now on welfare to get less.

The point is, Mr. President, that the essential commodity which is lacking in any of this welfare reform is dollars. So what the Senator from Connecticut here proposes, laudable though it may be, that is, giving relief for high fuel bills to the poor and underprivileged—that is a laudable goal, but what it does is piecemeal the problems of poverty and welfare; and instead of attacking it in a centralized, coherent fashion, as the welfare program would provide for, it piecemeals it.

We have here a proposal for fuel stamps. We already have almost, as I recall the figures, a $7 billion food stamp program. We can extend stamps to clothing. We can extend stamps, indeed, not only to housing, but to every basic need of Americans; and if we piecemeal it in that way, we soon will have no money for a comprehensive, coherent welfare reform program. We will not have money for providing the jobs, we will not have money for providing the training, and we will end up with the kind of crazy quilt, patchwork program that we all criticize in America today.

Indeed, to me that is the whole objection: that welfare is not fair. We read and see statistics about people who are making $16,000 a year who are on food stamps. Why is that? Well, because in trying to structure a program fitting each one of these little, uncoordinated slices of Americana, we end up with programs that are not fair.

It seems to me that, rather than going in the direction of greater proliferation of welfare, we ought to go in the direction of greater consolidation, greater coherence, and greater coordination of all of our welfare programs.

So, even though I can heartily agree with the Senator that it is a tragedy for poor people, elderly people, and those on fixed incomes and social security to be in a position where they need money for their heating bills and where, indeed, the difficulty reaches the crisis level in some isolated cases where people have actually frozen to death for lack of heat. Even though we can agree with all of that, I still submit, Mr. President, that the way to attack the problem is through conscious, comprehensive reform; because for every isolated case of people freezing to death for lack of heat, we have literally millions of people in this country who are unemployed.

We have an unemployment rate among black teenagers in the ghettos which is at an absolutely alarming percentage, which exceeds, I am told, one-third of the population in these areas.

We need to prioritize what we are going to spend to attack these problems. We should not just say, "Well, we had a cold winter last year, so let us attack the problem of fuel," but, rather, look at the problems of fuel, education, job training, provisions for jobs, nutrition, medical care, and all the other needs which affect the poor people in this country, those on fixed incomes, and those on welfare.

We should look at all those programs, see how many dollars we have to attack the programs, and then put the dollars into a coordinated program.

With the Senator's goal, with the Senator's sympathies, we agree. With the exact terms of this amendment, we disagree and will, therefore, not support the amendment.

The PRESIDING OFFICER (Mr. HART). The Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Louisiana for his comments.

If I may address the Senator from Louisiana for a few minutes, I agree 100 percent with his remarks directed against what admittedly is a deficiency in the amendment. It was merely an oversight on the part of this Senator. There was no attempt to create this legislation in terms of northern climes. The Senator is correct when he said that heat is as acute in his part of the country as cold is in mine.

I would be willing to modify the amendment, and ask unanimous consent to so modify the amendment, to state in the definition section that the term "heating fuel" means electricity, oil, gas, coal, or any other fuel used in a household as the primary source for heating or cooling the dwelling.

I realize this does not meet all objections the Senator has, but I would ask that the amendment be so modified to dispense with that aspect.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 2, line 1, strike the words "of heat", and after the word "for" insert the following: "the heating or cooling".

Mr. WEICKER. I appreciate the comments of the Senator from Louisiana in the sense of what it is that the administration is trying to achieve in the way of a comprehensive program. I would agree that certainly a comprehensive response to the problem of poverty, to the problem of joblessness, to the problems of malnutrition and ignorance, is called for. Clearly, our present welfare program is not working.

On the other hand, I think we have recognized that the basic necessities of life deserve attention and support by this Government.

It was only 4 years ago that energy was placed in that category. Before that, nobody had any problem with their utility bills, nobody had any problem with gasoline or anything relating to energy, because we had cheap energy.

Then, because of our consumption habits and the Federal Government stifling exploration and production, we ended up in the crisis which confronts us today.

What I am saying is that I cannot let another winter or another summer go by while we wait on the U.S. Government to arrive at this comprehensive solution, during which period of time people will die either from heat exposure or from exposure to cold. That is exactly what is going to happen, as has been clearly stated. As a matter of fact, it is a matter of record.

I am not advocating this amendment as a permanent solution, but I do think the problem has to be met head on now, prior to the onset of winter. I can assure Senators there is no chance that any sort of a comprehensive program is going to be passed by this Congress prior to the onset of a cold winter. There is no chance.

The Senator knows how the Congress acts in the area of concern to him, natural gas deregulation. I went on the Commerce Committee in 1971 or 1972, I believe. The first day I arrived on the committee they were discussing deregulation. Then I was bumped off the committee, because the Republicans lost some seats in Congress. I was off for 2 years. I think I came back into it in 1974. Guess what happened? I walked into the room in 1974 and they were discussing the same bill on gas deregulation that they were discussing in 1972. The Senator knows they are discussing that bill right now, and here it is 1977.

I might add, and this is very much a case in point, because of our inability to act for 5 years we have totally stifled and eliminated additional exploration and production. That is one of the reasons we are in this bind. That is one of the reasons I am going to support deregulation. Contrary to what is supposed to be the pattern of politics and selection of issues—a Northeastern State Senator, a consumer State Senator, is not supposed to support deregulation—I am going to support it. As far as I am concerned, I want the people in the Senator's State to be out looking for every cubic foot of gas and every drop of oil they can find. That will eventually get my people off the hook. We should not sit here and artificially control something.

As I said, in the meantime, while Government acts, people are suffering. It is as simple as that. I do support deregulation, though I understand the higher price which would be associated with that. I know the higher price is associated with Mr. Carter's plan, and I know OPEC is opposed to higher prices. All I am saying is, why should the poor of this country have to wait?

This is, again, a very mild program, but it recognizes the problem.

For the last several years I have had a group of senior citizens on an intern program here at the Capitol. I asked them which they would prefer, some assistance with their utility bills or a rise in their social security payments. Invariably, every one of them opted for some assistance with their utility bills.

This has become the most devastating thing in the lives of people who are either poor or on a fixed income. This program, which is not welfare—as I said, they pay one-third of the cost of such a program—will go ahead and give some assistance to that area.

I know what we are going to pass. It is a matter of weeks or days before the other elements of this energy program will come to pass, after having been deliberated upon in this body.

The Senator knows that the main principles of the energy program are going to come forth from the Finance Committee. Why will they come forth from the Finance Committee? Because the energy program relies on conservation by price, or rationing by price.

If we are going to do that, where is the compensatory action to provide for the poor of this Nation? It is not enough to go ahead and say that all this money we are going to get from the equalization tax is going to come to the Federal Government and then in whichever administration it is, whether it is President Carter's administration or a succeeding Republican administration, there will be this great big pot of dough to hand out to people.

As I said, there are two drawbacks. The principal one is it will not go into the production of oil and gas, because we are not in that business. And further, they have enough to hand out in this town and they do a pretty poor job of it. Very frankly, I think it is time people earned their offices and stayed in offices on the quality of their ideas and themselves rather than how much of the taxpayers' money they can dole out around the country.

No, I think this is a legitimate concern. As one, as I say, who understands the necessities of higher price, it still is, in my opinion, a program which should be instituted. If the cost falls on better-off America, so let it fall, because well-off America, and I mean everything from middle income on up, has not participated at all in providing the solutions to this crisis. Poor America, fixed-income America, lower-than-moderate-income America, has been clobbered for 4 years.

That is what I am speaking for. It seems to me this will bring a little equity into the legislation we are going to pass.

I hope this amendment will be approved by my colleagues.

Mr. President, I yield my time. I have no further comments on this matter.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request only?

Mr. CURTIS. I am happy to yield.

COMMITTEE MEETING DURING SENATE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader and others. I ask unanimous consent that the Foreign Assistance Subcommittee of the Committee on Foreign Relations be authorized to meet at 2 p.m. tomorrow to hear witnesses on international terrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

NATIONAL ENERGY CONSERVATION POLICY ACT

The Senate continued with the consideration of S. 2057.

UP AMENDMENT NO. 818

Mr. CURTIS. Mr. President, I shall very shortly send an amendment to the desk, and I will proceed to explain it at this time. The papers are on the way over here from my office.

This amendment was presented to the committee with respect to another energy bill, which I understand may not——

Mr. ROBERT C. BYRD. Mr. President, I beg the Senator's pardon for asking him twice to yield and interrupting him in midsentence, but we now have enough Senators present to get the yeas and nays on Senator WEICKER's three amendments, on which he has indicated a desire for rollcall votes, if the Senator will yield for that purpose.

Mr. CURTIS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on three Weicker amendments, with the same show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on those three amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CURTIS. The amendment which I shall shortly send to the desk is an amendment that would grant the right of eminent domain for participating member utilities in the Mandan project to construct a high voltage transmission system across and through the States of Nebraska, South Dakota, and North Dakota, where it will be connected to a line in Manitoba, Canada.

Mr. President, the Mandan project has been the subject of a comprehensive study for nearly 2 years. Participants in the proposed project include the Manitoba Hydro Electric Board of Winnipeg, Canada; and in the United States, the Minnkota Power Cooperative, Inc., in Grand Forks, N. Dak., the Otter Tail Power Co. in Fergus Falls, Minn., Basin Electric Power Cooperative in Bismarck, N. Dak., and the Nebraska Public Power District headquartered at Columbus, Nebr.

Mr. President, here is a proposal that fits in with the very idea of conserving energy. The Canadians are willing and anxious to sell this electricity for use in the United States, but we have to have a power line to bring it in to the points where it will be used.

Mr. President, we are asking for no

authorization for expenditure of public funds. There will be no future requests for appropriations. The participating utilities, which are largely those which serve rural areas, are going to pay for the line. They have been negotiating with the Manitoba Hydro Electric Board in Winnipeg, Canada. They are ready to sell the electricity. They will carry out their part.

However, the line crosses three States, and what this amendment would do would be to grant the right of eminent domain to participating member utilities in this Mandan project to construct a high voltage transmission system across and through the States of Nebraska, South Dakota, and North Dakota, where it will connect with this line in Manitoba, Canada.

Mr. President, this language is in the usual form which would grant the power of eminent domain to provide for this line, and vest the jurisdiction within the Federal court.

Mr. President, I send the amendment to the desk and offer it at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment numbered 818:

At the appropriate place, add a new Section as follows:

"SEC. —. To encourage and expedite benefits to the public of the bulk exchange of electric power between certain areas having diverse peak demand seasons and thereby to increase fuel efficiency and to reduce use of natural gas and foreign oil, upon issuance of a Presidential Permit for transmission facilities at the international border with Manitoba, Canada to exchange electric power among electric utilities which together provide service in Manitoba, Canada, and in North Dakota, South Dakota, and/or Nebraska the permittee or permittees shall be entitled to exercise the power of eminent domain of the United States to take and secure lands, easements, rights-of-way and other interests for the construction, operation, and maintenance of electric transmission lines and appurtenant facilities to accomplish such exchange. The district courts of the United States in which such property interests are located shall have jurisdiction of proceedings to acquire such property interests under this section, and the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure, provided, however, that the petitioner or petitioners may file with the petition or at any time before judgment a declaration of taking in the manner and with the consequences, but in its or their name, provided by sections 258a, 258b, and 258d of Title 40, United States Code."

Mr. CURTIS. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. If the Senator will suspend, under the previous order, the hour of 5 p.m. having arrived, the question recurs on unprinted amendment No. 814. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator may be allowed to present his unanimous-consent request before we proceed.

Mr. CURTIS. My unanimous-consent request was that I might yield to the distinguished Senator from Maine, without losing my right to the floor, for the purpose of a unanimous-consent request.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Jim Case, Senator MUSKIE's legislative assistant, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska (Mr. CURTIS) be recognized immediately upon the disposition of the three votes which have been ordered to this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the distinguished minority leader. I ask unanimous consent that on all back-to-back votes immediately following the first rollcall vote there be a time limitation of 10 minutes with the first warning bell to be sounded after 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 30 seconds to proceed. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Odgaard may be granted the privileges of the floor during the consideration and vote on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum to permit the distinguished manager of the bill, Mr. JOHNSTON, and the distinguished minority manager of the bill, Mr. WEICKER, to come to the floor as quickly as possible.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered and the clerk will call the roll.

(Mr. MATSUNAGA assumed the chair.)

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 7, nays 83, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—7

Bumpers	Metzenbaum	Weicker
Hathaway	Percy	
Kennedy	Ribicoff	

NAYS—83

Abourezk	Eastland	Melcher
Allen	Ford	Metcalf
Anderson	Glenn	Morgan
Baker	Goldwater	Moynihan
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart	Pearson
Biden	Haskell	Pell
Brooke	Hatfield	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Riegle
	Helms	Roth
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Johnston	Scott
Church	Laxalt	Sparkman
Clark	Leahy	Stafford
Cranston	Long	Stennis
Culver	Lugar	Stevens
Curtis	Magnuson	Stevenson
Danforth	Mathias	Talmadge
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Williams
Eagleton	McIntyre	Zorinsky

NOT VOTING—10

Durkin	Javits	Wallop
Garn	McClellan	Young
Hatch	Muskie	
Humphrey	Stone	

So the amendment was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that the call for the yeas and nays on the next vote be withdrawn.

The PRESIDING OFFICER. That is on unprinted amendment No. 816?

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

The question now occurs on unprinted amendment No. 816 of the Senator from Connecticut.

The amendment was rejected.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Perry Pendley of Senator HANSEN's staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now occurs on unprinted amendment No. 817, as modified, of the Senator from Connecticut (Mr. WEICK-

ER). The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, is this a 10-minute rollcall vote?

The PRESIDING OFFICER. It is a 10-minute vote.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. MUSKIE) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 19, nays 69, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—19

Abourezk	Hatfield	Pell
Allen	Hathaway	Ribicoff
Anderson	Heinz	Riegle
Bartlett	Jackson	Sarbanes
Brooke	Lugar	Weicker
Dole	Mathias	
Goldwater	Nelson	

NAYS—69

Baker	Ford	Morgan
Bayh	Glenn	Moynihan
Bellmon	Gravel	Nunn
Bentsen	Griffin	Packwood
Biden	Hansen	Percy
Bumpers	Hart	Proxmire
Burdick	Haskell	Randolph
Byrd, Harry F., Jr.	Hayakawa	Roth
	Helms	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Schweiker
Case	Inouye	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stafford
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Talmadge
Curtis	Matsunaga	Thurmond
Danforth	McClure	Tower
DeConcini	McGovern	Williams
Domenici	McIntyre	Zorinsky
Eagleton	Melcher	
Eastland	Metzenbaum	

NOT VOTING—12

Durkin	Javits	Pearson
Garn	McClellan	Stone
Hatch	Metcalf	Wallop
Humphrey	Muskie	Young

So Mr. WEICKER's amendment No. 817, as modified, was rejected.

Mr. CURTIS. Mr. President, I wish to withdraw the pending amendment.

The PRESIDING OFFICER. The Senator has that right, and the unprinted amendment No. 818 is withdrawn.

Mr. JOHNSTON and Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, may I say for the information of those who have amendments that we have only about two or maybe three contested amendments that will require votes and if Senators can restrain their desire to speak for a long time I think we might accommodate them by accepting a lot of these amendments and perhaps get this bill out in reasonably short order.

So with that statement I will yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have an amendment which I shall send to the desk.

Mr. FORD. Mr. President, will the Senator yield?

Mr. PERCY. I yield to my distinguished colleague for a unanimous-consent request.

Mr. FORD. Mr. President, I ask unanimous consent that James Fleming, of my staff, be accorded the privilege of the floor during consideration and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Chair, and I thank the Senator for yielding.

Mr. PERCY. Mr. President, I ask unanimous consent that Chris Palmer, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 819

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment No. 819.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, between lines 13 and 14, insert the following new section:

AUTOMOBILE FUEL ECONOMY DISCLOSURE

SEC. 202. (a) Not later than 6 months after the date of enactment of this Act, the Federal Trade Commission shall initiate a proceeding to prescribe rules requiring disclosure—

(1) of the applicable fuel economy rating, for each identifiable new automobile model which is required to be disclosed through labeling or otherwise by the manufacturer or importer pursuant to section 506(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), in any advertisement (whether in print or broadcast media or outdoors or at point of sale) that makes any representation, express or implied, with respect to fuel consumption, or cost of operation of such automobile; and

(2) in the owner's manual or similar notice device, (a) the minimum acceptable octane rating of gasoline used by such vehicle; and (b) information to assist the owner in saving fuel through proper self-maintenance procedures.

(b) If the fuel economy rating required to be disclosed in (a)(1) is revised or subjected to a correction factor to account for variance between test procedures and actual driving conditions by rule by the Administrator of the Environmental Protection Agency, the Federal Trade Commission shall require that such revised or corrected fuel economy rating be disclosed pursuant to (a)(1).

The table of contents is amended by inserting immediately after

"Sec. 201. Amendment to part B of title III of Energy Policy and Conservation Act."

the following new paragraph:

"Sec. 202. Automobile fuel economy disclosure."

Mr. PERCY. Mr. President, the pending amendment is identical to printed amendment 851 with the exception of the addition of a paragraph (b).

Mr. President, some people feel that higher prices for energy are sufficient to solve our energy crisis. But there is another condition that is needed—namely an informed public.

In the simplest terms, consumers must be told about the fuel efficiency of the homes and devices they use. Without this information, higher energy prices cannot work with complete effectiveness. Truth in the advertising of the energy consumption of goods is a prerequisite to encouragement of energy-efficient purchasing.

The automobile is one of the most energy-intensive consumer goods in this country. To disseminate information about auto mileage is one way to encourage purchase of fuel-efficient cars. I therefore am offering an amendment to the Energy Conservation Policy Act, S. 2057, to require truth-in-mileage advertising.

The evidence shows that disclosure of mileage information steers new car buyers toward the purchase of more efficient autos. The Federal Energy Administration publishes a fuel economy guide for all new model cars, and enforces a mileage labeling requirement for new cars. FEA also has a series of public-service announcements on the subject. The agency concluded that those new car buyers who were aware of the guide and the labels purchased new cars one-fifth more fuel-efficient than their old cars. Those not aware of the information program did not increase their gas mileage when purchasing new cars. An Abt Associates report prepared for FEA concluded that the information program can be credited with saving 21 million barrels of petroleum in 1976. This occurred even though only 7 percent of the auto-buying public was aware of the auto mileage guide.

My amendment would require the Federal Trade Commission to initiate a rulemaking proceeding within 6 months concerning auto ads. The rule would not require that all auto advertisements mention mileage. However, any car ad which did mention mileage or cost of operation would need to give the Environmental Protection Agency fuel rating for that particular model. My amendment thus does not place a burden of regulations on advertisers. An advertiser who wished to show a handsome actor driving a car through the countryside could do so. The

ad would not need to mention the EPA ratings unless the actor said, "This car will save you money at the gas pump." My amendment would merely require that ads be honest and specific.

The amendment also would require issuance of rules concerning new car owner's manuals. The manuals would need to contain information on octane rating of the vehicle, and self-maintenance procedures to keep cars performing at their optimum.

I note that the FTC already informally requires use of EPA ratings in some ads via a Commission regulatory guide. My amendment would merely write into law this truth-in-advertising requirement.

My amendment has been written in close cooperation with the FTC.

Mr. President, I ask my colleagues to join me in setting the law straight concerning auto mileage. This amendment will set an important precedent for other kinds of energy-using devices. It is important that the Congress stand up for truth in energy advertising in this era of expensive energy.

I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, this is an excellent amendment. It gives more information to the consumer by giving him information on octane ratings of gasoline for the automobile and proper maintenance and can only save energy by giving this information to consumers. It is a good amendment. We will accept it.

Mr. HANSEN. Mr. President, I think the amendment as proposed by the distinguished Senator from Illinois has merit. I am willing to accept it.

Mr. PERCY. Mr. President, there have been some questions raised as to the reliability of EPA estimates.

RELIABILITY OF EPA ESTIMATES

I am aware that criticism has been levied at the accuracy of the EPA mileage estimates. I believe these attacks are often unfair for the following reasons:

First, the EPA numbers are based on brand-new cars and laboratory conditions. The average motorist adds power-consuming options such as air conditioning, drives the family car in less than perfect running condition, and may drive poorly with jackrabbit starts, excessive speed, and so on. The Federal Energy Administration and the Department of Transportation warn that the EPA numbers should be discounted 12 percent to 14 percent. It is important for ads to disclose the warning: "actual mileage may vary," as well as the EPA number.

Second, the EPA estimates are very valuable for comparison shopping. Estimates of mileage differences between models are accurate. This is the primary purpose of the estimates, and of my amendment.

However, I am concerned about the long-term effect of the overestimation problem on the credibility of the estimates to the public. My staff has been in contact with the EPA on this matter. EPA is at work on correction factors to end the problem. That agency expects to issue new rules for comment early next year. The issue should be solved before the FTC issues rules implementing my amendment.

I support the amendment of Senator METZENBAUM to require EPA to issue new rules regarding fuel efficiency. His amendment will solve this problem prior to the 1979 model year. I have amended my amendment to insure that FTC requires reporting of the revised ratings.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. I thank my distinguished colleagues.

UP AMENDMENT NO. 820

Mr. BAYH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes unprinted amendment No. 820.

On page 94, following line 18, insert the following new part:

PART D—MINORITY ECONOMIC RESEARCH AND DEVELOPMENT

DEFINITIONS

SEC. 431. As used in this part, the term—

(1) "minority" means an individual who is socially or economically disadvantaged by causes arising from cultural, racial, chronic economic circumstances or background or other similar cause including, but not limited to Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, or Aleuts, and

(2) "minority business enterprise" means a business enterprise that is owned or controlled by a minority.

OFFICE OF MINORITY ECONOMIC RESEARCH AND DEVELOPMENT

SEC. 432. (a) Not later than 60 days after the date of enactment of this Act the Administrator shall establish within the Federal Energy Administration an Office of Minority Economic Research and Development (hereinafter referred to in this part as the "Office").

(b) The Office shall ensure that minorities are afforded an opportunity to participate fully in all aspects of the national effort to reduce dependency on foreign energy sources and to achieve and to maintain a humane standard of living for all Americans through energy conservation and increased self-sufficiency in energy production.

DUTIES

SEC. 433. (a) The Office shall conduct an ongoing research and analysis program to determine the impact of national energy programs and policies on the quality of life in minority communities.

(b) The Office shall conduct ongoing research and analysis—

(1) to determine the extent and levels of energy dependence associated with Federal initiatives to promote economic development and business enterprise in the minority sector of the national economy; and

(2) to develop alternative economic strategies that will promote optimum use of energy resources in minority economic development programs.

MINORITY BUSINESS UTILIZATION

SEC. 434. (a) The Administrator shall utilize minority business enterprises to the maximum extent feasible in all areas of research, demonstrations, and contracting undertaken by the Administration.

(b) The Office may contract with private sector enterprises, including minority educational institutions, minority business, trade and professional associations, business firms, and community development organizations for the design, development and implementation of management and technical assistance programs which will enable the minority sector to participate in the research, demonstrations, and contract activities of the Administration.

(c) Management and technical assistance services and programs provided under subsection (b) of this section may include—

(1) a national information clearinghouse which will develop and disseminate information on all aspects of the national energy program to minority business enterprises, and minority groups and organizations;

(2) market research, planning economic and business analysis, and feasibility studies to identify and define economic opportunities for minorities in energy research, production, conservation, and conversion;

(3) programs to encourage, promote, and assist minority entrepreneurs and minority business enterprises in securing contracts in the areas of energy research, production, conversion, and conservation;

(4) programs to encourage, promote, and assist minority entrepreneurs and minority business enterprises in establishing and expanding business enterprises in minority communities that can provide jobs to local workers; and

(5) programs to assist minority entrepreneurs and minority business enterprises in the commercialization of existing technology as a means of reducing energy consumption.

AUTHORIZATION OF APPROPRIATIONS

SEC. 435. There is hereby authorized for appropriations such funds as may be necessary to carry out the intentions of this part.

ELIGIBILITY

SEC. 436. Private sector minority institutions, associations, organizations, and other institutions shall be eligible to receive funds directed from the Office of Minority Economic Research and Development to support activities and programs which conform to the purposes of this part. Venture capital corporations and other privately owned financial organizations are deemed to be eligible applicants.

The Table of Contents of such Bill is amended by adding at the end thereof the following:

PART D—MINORITY ECONOMIC RESEARCH AND DEVELOPMENT

SEC. 431. Definitions.
SEC. 432. Office of Minority Economic Research and Development.
SEC. 433. Duties.
SEC. 434. Minority Business Utilization.
SEC. 435. Authorization of Appropriations.
SEC. 436. Eligibility.

Mr. BAYH. Mr. President, it is a pleasure for me to offer an amendment to S. 2057 which calls for the establishment of an Office of Minority Economic Research and Development within the newly established Federal Energy Administration—FEA. I offer this amendment because of my firm belief that the energy problems facing this country in the near future will have an overwhelming impact on the quality of life for this country's minority citizens. By establishing an Office of Minority Economic Research and Development we will, in effect, acknowledge the importance of minority input into future policies dealing with the problems of energy conservation.

The goals of the office would be to insure that minorities are afforded an opportunity to participate fully in the national effort to deal with the energy problems. In order to fulfill its goals, the Office would:

First, conduct research and analysis in order to determine the impact of national energy programs and policies on the quality of life in minority communities.

Second, develop alternative economic strategies to promote optimum use of energy resources in minority economic development programs.

Third, contract with private sector minority educational institutions, and community development organizations for the design, development and implementation of management and technical assistance programs which will enable the private minority sector to participate in the research and contract activities of the Department of Energy.

I feel that it is only fair and just that we create a mechanism through which the needs of minorities are addressed and through which minority business and research firms can participate in this very worthwhile effort regarding energy. The input that the Office of Minority Economic and Research Development will give to the FEA will be useful in terms of synthesizing the concerns of our minority citizens into an overall energy program. Precedent for such a program has been established in the past with the creation of an Office of Minority Business Resource Center in the Department of Transportation. Therefore, it is proper that we establish such an agency in the new FEA with the responsibility of overseeing the concerns of our minority citizens.

Mr. President, some time back when we were creating not only the Department of Transportation but also the massive rehabilitation program for railroads we established a Minority Research Center in the Department of Transportation which could bring into the Department a relatively small, high-level task force of people who could constantly see that the rights of minority businessmen and the minority community were represented and that they were not discriminated against. That has worked very well.

This amendment would establish in the Department of Energy an Office of Minority Economic Research and Development to provide really the same function, to contract for research and analysis in order to determine the impact that national energy programs have on low-income and minority citizens, to serve as a constant reminder that as we spend money in the energy area we should make every effort possible to see that minority business enterprises and minority researchers are given an opportunity, where they possess the talent, to make that contribution to the effort along with everyone else.

I have discussed this with our distinguished floor manager of the bill, and I understand that since we have changed a couple of "shalls" to "mays" he is prepared to look kindly on this endeavor.

Mr. JOHNSTON. Mr. President, may I ask the distinguished author of the amendment whether section 434(a) as originally written has been stricken from the bill?

Mr. BAYH. Yes, that is accurate.

Mr. JOHNSTON. In the present section 434(a) the "shall" is changed to "may," and also the "shall" is changed to "may" in subsection (b) thereof as well?

Mr. BAYH. That is accurate.

Mr. JOHNSTON. So as rewritten what this amendment does is to require that the Administrator shall set forth in his Department a minority economic research and development office which shall be the voice and sensitivity point for minorities to determine what opportunities can be had by minorities in terms of how energy use and conservation impacts upon them, how they can be brought into the mainstream of Federal contracts in the area and all of those endeavors relating to minorities and yet the Administrator shall have the discretion as to the size and the precise functions of this office.

Mr. BAYH. That is accurate.

Mr. JOHNSTON. So if the Carter administration or this Congress comes up later with a more coordinated, cohesive, and comprehensive effort on minority business enterprise, which I hope they will, this office can interface with it, and duties can be transferred back and forth between the two, so that the main effort can be put in that centralized office, as opposed to too much proliferation in this office and other individual offices throughout the Federal establishment?

Mr. BAYH. The Senator from Indiana is not particular where the job is done. I think it would be wrong to have a two-tier structure. I happen to think this is particularly appropriate here, because we are going to have these decisions in the Department of Energy, and that is where we are going to ask the Administrator to rule on the impact of various matters on minority citizens.

Mr. JOHNSTON. Mr. President, we congratulate the Senator from Indiana on the amendment. It will help to develop those opportunities in minority areas that have been lacking, and will assure that the Administrator, in carrying out the vast programs in energy, will be sensitive and responsive to the needs and opportunities for minorities, and we will therefore accept the amendment.

Mr. BAYH. Mr. President, I appreciate the thoughtfulness of the floor manager. I know he has been very busy in other areas, but I appreciate his understanding of this problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

UP AMENDMENT NO. 821

Mr. METZENBAUM. Mr. President, I call up an unprinted amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment No. 821.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, between lines 12 and 13, insert the following:

"SEC. 515. Within six months of the date of enactment, the Environmental Protection Agency, in consultation with the Department of Energy and the Department of Transportation, shall prepare and present to the Congress a report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under Section 506 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901 et seq., provide a realistic estimate of average fuel economy likely to be achieved by the driving public. This report will include such recommendations as the Environmental Protection Agency deems appropriate.

Mr. METZENBAUM. Mr. President, this amendment, which has been discussed and cleared with the sponsor of the legislation as well as the minority, goes to the question of the consumer receiving adequate information in connection with gas mileage standards.

In many respects, it fits in very well with the amendment heretofore adopted that was offered by the distinguished Senator from Illinois.

Mr. President, I believe that this question of standards and information that is available to the people of this country in connection with the automobiles that they drive, and in particular as it pertains to their gasoline mileage, will have much to do with the matter of energy conservation in the years ahead of us.

Under this amendment, the Environmental Protection Agency would be required, within 6 months of the date of enactment of the legislation, in consultation with the Department of Energy and the Department of Transportation, to prepare and present to the Congress a report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under present law provide a realistic estimate of the average fuel economy likely to be achieved by the driving public.

It then further provides that EPA will include such recommendations as EPA deems appropriate.

Mr. GRIFFIN. Mr. President, will the Senator from Ohio yield?

Mr. METZENBAUM. I yield.

Mr. GRIFFIN. Although I have only had the opportunity to read this amendment briefly at the desk, I am concerned that it adds still further to the uncertainty about what it is that we are really going to require as far as fuel economy standards are concerned.

Do I understand that the EPA would suggest further revisions? Is that the intent of the amendment?

Mr. METZENBAUM. It is not intended by this amendment to require the EPA to make further revisions or not to make further revisions, that being a matter within their province as indicated by the present provisions of the law. This

amendment would not affect that subject, as I understand the thrust of the Senator's inquiry.

Both the Senator from Wyoming and the Senator from Louisiana expressed a similar interest, and it was understood among us that the thrust of this amendment is not to affect that subject, that being within the province of the Environmental Protection Agency itself.

Mr. GRIFFIN. Does the Senator from Ohio have in mind that the EPA would consult not only with the Department of Transportation, but with the manufacturers of automobiles, and have the advantage of their recommendations as well?

Mr. METZENBAUM. I would certainly think it would be quite unusual if they did not consult with the manufacturers, because it certainly directly relates to the activities of the manufacturers.

I should point out that this is only a question of reporting to consumers, and it is not really an amendment that is directed at the question of affecting the mileage standards themselves.

Mr. GRIFFIN. I thank the Senator.

Mr. JOHNSTON. Mr. President, the thrust of this amendment is informational only; that is to say, the Environmental Protection Agency is directed here to study how better the public can be given information. There is no intent, in this requirement for a study, that the Environmental Protection Agency change the standards by which they calculate mileage, but rather it is designed to give the consumers more information.

Yesterday we passed a Metzenbaum amendment which established new standards for automobiles, 18 miles per gallon beginning in 1980, on up to 21 miles per gallon in 1985.

Mr. METZENBAUM. If the Senator will yield, 16 miles.

Mr. JOHNSTON. I mean 16 miles per gallon in 1980 and 21 miles per gallon in 1985.

There was a great deal of talk here on the floor of the Senate about whether or not we were setting a precedent at that time that we would continually come back and amend those standards, or whether we were giving Detroit a standard upon which they could rely, to which they could design their automobiles, and upon which they could make all of the engineering and financial decisions that are required for a major automobile company.

I think we assured Detroit, as best we could, that these standards would be final and would be fixed. Accordingly, we would strongly resist any backdoor attempt to change those standards by changing the method by which we determine miles per gallon or efficiency of automobiles.

Indeed, that could be done, instead of testing automobiles only in a stationary manner, by actually road testing them.

There is no intent by this amendment, as I understand it, to require that. Indeed, the Motor Vehicle Information and Cost Savings Act, section 503(d)(1) thereof, provides that the EPA shall measure average fuel economy, that they shall establish procedures for doing so, and that they shall either use the same standards as were used for the model year 1975 or procedures which yield comparable results.

So, according to the present law, EPA cannot change the standards by making them more difficult. In other words, the EPA, unless an act of Congress intervenes, could not mandate 16 miles per gallon and mean something different than 16 miles per gallon under present law and the present testing procedure.

With that understanding, we accept the amendment, and we believe it will provide an additional information base for the consumer which will be useful to him without, at the same time, changing the standards and making it more onerous to produce a car that gives a given miles-per-gallon capacity.

Mr. CHAFEE. Mr. President, I would like to ask a question, if I might, of the distinguished Senator from Ohio, in reference to his amendment. I am not quite sure what it does.

I understand that now we have EPA mileage figures given out on all models of automobiles that may not be completely accurate, in that where it says 38 miles combined mileage, maybe it does not give you that, but at least all models are judged on the same standards so that we are comparing apples to apples throughout.

I just do not understand what this amendment does. I wonder if the Senator could explain it a little bit more.

Mr. METZENBAUM. I appreciate the question of the Senator from Rhode Island. What this does is to make it possible for the consumer to obtain accurate information. It would require the EPA to explain to the purchaser of an automobile, or a prospective purchaser, the manner in which an auto was tested, and if there are different figures which ought to be used with respect to consumer information as pertains to road driving or in-city driving, or whatever the case may be. It really provides what might almost be called something similar to Senator PERCY's amendment, almost a truth in advertising kind of amendment. It merely says, "Nobody is asking you to change anything. You know what the rules are. We are asking you to make it possible for the consumer to be able to feel that the information which he obtains from his government will be that information which is most applicable to this situation."

As the Senator from Rhode Island is probably aware, there have been a number of articles in recent days, particularly a major one in the Wall Street Journal, which was reprinted in the Washington Post, headed "Auto Buyers Disgruntled By EPA's Gas-Mileage Estimate."

Mr. President, I ask unanimous consent to have this article printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AUTO BUYERS DISGRUNTLED BY EPA'S GAS-MILEAGE ESTIMATES

(By Patrick O'Donnell)

When Roy and Freeda Mills of Crows Landing, Calif., looked for a new car two years ago, they had economy in mind. "I wanted a car that got good mileage so I could afford to drive it for a while," recalls Roy, a 66-year-old retired carpenter.

Using "official" fuel-economy ratings of the U.S. Environmental Protection Agency, the Mills decided on a 1975 Chevrolet compact pickup truck rated at 30 miles a gallon for highway driving. Two years and 24,000 miles later, the Mills are angry. "We get about 19 miles on the highway, where we do most of our driving," says Mills. "That's not any better than the 1970 Maverick I traded in."

What the Mills discovered, at a cost of more than $150 a year in unplanned gasoline expenses and considerable consternation, is a lesson millions of car buyers are learning every year: Those authoritative-sounding gas-mileage figures so widely advertised for new cars are higher—often much higher—than what drivers actually get on the road.

And that's causing problems. Disappointed buyers are complaining by the thousands. Many new-car dealers, who have to soothe irate buyers, are warning customers not to expect anything like the government's estimates, which the dealers are bound by law to display. The auto makers, who have known for years the estimates are too high, continue to trumpet the figures in national advertising, despite internal worries that they risk further damage to the industry's already tarnished credibility.

Meanwhile, Washington officials are in a bind. The idea behind the mileage estimates was to encourage people to buy more fuel-stingy cars, but consumers have found the numbers to be high for so long that officials fear they are beginning to disregard them entirely. Moreover, correcting the figures would create additional problems, these officials add, because federal fuel-economy regulations are based on the present EPA estimates.

Just how high are the EPA figures? In 1975, a General Motors Corp. survey indicated that actual gasoline mileage on new cars was running 12 percent below the government's number, some GM models, in fact, were getting 25 percent less mileage than what the EPA had estimated. Meanwhile, surveys of more than 200,000 new-car drivers taken in the last three years show that "about 80 percent say their mileage is short of the EPA figures," says J. D. Power II, whose Los Angeles-based marketing firm, J. D. Power & Associates, conducted the polls.

When it comes to measuring fuel economy, in fact, even the government doesn't trust the government. The Department of Transportation discounts the EPA figures by 11%. And the Federal Energy Administration cuts the EPA numbers fourteen percent before using them to estimate domestic gasoline consumption. Indeed, the energy agency has started its own fuel-economy surveys to hone the 14% "fudge factor" to a sharper point. "For every percentage point the EPA numbers are off," explains an FEA engineer, "our estimates of gasoline consumption will be off by about a billion gallons a year."

One reason for the confusion is that the test procedure used by the EPA to arrive at city, highway and "combined" gasoline mileage isn't "real." That is, the fewer than 1,000 cars tested every year aren't pulled at random from assembly lines; rather, they are protoypes with engines that are often hand built. Nor are these cars driven on a highway. Instead, they are tested in a climate-controlled laboratory on a dynamometer, a treadmill-like device that simulates certain driving conditions.

Concedes one EPA staffer at the agency's Ann Arbor, Mich., laboratory. "If people drove on flat roads, with no wind, in perfectly tuned cars carrying very little weight, at 78 degrees Fahrenheit and at about 48

miles an hour, they would probably get results like ours."

Officially, however, an EPA spokesman calls the estimates "approximate" and maintains "they are as realistic as you can hope to get without significantly increasing the cost of the testing program." Wide discrepancies between the EPA figures and the fuel economy many motorists report occur because the average driver doesn't properly maintain his car and doesn't keep accurate gasoline-consumption records, the agency contends. Besides, says Eric Stork, who oversees the EPA's emissions and fuel-efficiency tests, "The absolute figures we publish should be seen as index numbers and potential buyers should use them for comparison."

That advice isn't much consolation to Mills, who bought his pickup truck because he believed the EPA estimates on the sticker pasted to the truck's window. "It said right on the side of the damned thing that it would get 30 miles to a gallon," Mills complains.

Unfortunately, Mills—along with thousands of cars buyers—put more faith in the estimate than he did in the small-print disclaimer on the bottom of the window sticker. It warns: "The actual fuel economy of this vehicle will vary depending on the type of driving you do, your driving habits, how well you maintain your car, optional equipment installed and used, and road and weather conditions."

Disclaimer or not, many expect their new car's fuel economy at least to be close to the EPA estimates—and they are often bitterly disappointed. "It would have been more economical for me to repaint my old car and put in a new engine," says Michael Visconte of Brooklyn, N.Y., whose 1977 Plymouth Volare's mileage falls about 40% short of its EPA rating. "You should put a few hundred dollars into fixing up your old car, rather than invest thousands and get ripped off with the EPA ratings."

A much-abbreviated form of the disclaimer also must appear in auto advertising. The Federal Trade Commission decided in 1975 that auto makers were advertising inflated mileage claims to take advantage of buyers' fuel-cost fears following the Arab oil embargo. So the commission ruled that any ad making a fuel-economy claim must contain the EPA estimates along with a brief warning that actual mileage may vary.

The auto makers, who usually fight government regulation, have been happy to use the estimates in their advertising. "We know the EPA numbers are flaky," says a Ford Motor Co. public-relations man, "We laugh at them almost as much as we used to laugh at our own, but they're good for advertising." Frederick Bowditch, in charge of GM's dealings with the EPA, concedes the EPA ratings could "give us a credibility problem."

While the auto makers continue to emphasize the EPA numbers in their ad campaigns, some of their dealers are less enthusiastic. Raphael Cohen, a Yonkers, N.Y., Chrysler dealer, says that three out of four of his customers tell him that their mileage is lower than the EPA figures. "The estimates are a big show, a big game, but they don't do a damned thing."

Jim Moran, president of Southeast Toyota Distributors Inc., Pompano Beach, Fla., took out ads in 150 Southern newspapers to disavow the EPA numbers. "You won't get the gas mileage advertised," the headline reads. "With some cars and in some cases, you can expect as little as half the EPA estimates." A. E. Hendrickson, the distributor's merchandising manager, says the ad, which now hangs in 149 Toyota dealerships, "makes it easier for service managers to deal with customers who might get mad over mileage."

Already, though, there's evidence that many car-buyers have quit paying attention to the EPA figures. A government-funded study last year concluded that 64% of the people who saw the estimates didn't believe them. And Clarence Ditlow III, director of the Center for Auto Safety, a Washington-based consumer group, points out that when energy-conscious consumers buy a car rated at 25 miles a gallon and find "it gets only 19 miles, they say, 'Hell, I'll never believe the government's numbers again.'"

Other critics argue that the fuel-economy tests performed by private organizations are much more useful because they are conducted under actual driving conditions. Consumers Union, a non-profit consumer-research group, tested a 1977 Plymouth Volare and rated its fuel economy at 11.5 miles a gallon in the city and 22 miles on the open road, compared to the EPA ratings of 18 in the city and 24 on the highway. Car and Driver, a magazine for car buffs, found that a 1977 Toyota Corolla got 24.5 miles a gallon in urban driving and 30 on the highway, despite EPA ratings of 28 in the city and 39 on the highway.

Such differences may give the auto makers a credibility problem now. But they will have a much bigger headache if the EPA decides to make its fuel-economy figures more realistic. The 1975 Energy Policy and Conservation Act requires that by 1985, the domestic new-car fleet have an average fuel economy of 27.5 miles a gallon as calculated by the EPA. And the auto companies have already begun a multi-billion dollar program to develop cars that will meet that standard in EPA tests. But "if the government all of a sudden starts making us conform to real mileage standards, the ball game is over," frets a Chrysler Corp. vice president.

Mr. CHAFEE. If I might continue, what seems to be the problem? Is the problem that the EPA estimates of an automobile in the city or over the highway do not seem to be accurate? Is that the problem? Is it that the combined mileage figures are not accurate?

It seems to me that we are receiving all these figures from the EPA now. I have a splendid little booklet which tells me everything about the mileage of every model of car which is manufactured. Is the dispute with the accuracy of the figures?

Mr. METZENBAUM. In answer to the question, his answer is yes. Reading from this article:

Just how high are the EPA figures? In 1975, a General Motors Corp. survey indicated that actual gasoline mileage on new cars was running 12 percent below the government's number; some GM models, in fact, were getting 25 percent less mileage than what the EPA estimated.

The article further states:

The Department of Transportation discounts the EPA figures by 11 percent. And the Federal Energy Administration cuts the EPA numbers 14 percent before using them to estimate domestic gasoline consumption.

I believe that there is a question which concerns all of us who hold positions in our Government. That is the question of integrity in the governmental relationship with consumers, the people of this country. All this amendment would do is to make it possible to require that the EPA would report to Congress within 6 months on the degree to which their fuel economy estimates for new cars are likely to predict the fuel economy that consumers who purchase these vehicles can expect. In other words, it would indicate just what those figurse can, will, and should be.

Mr. CHAFEE. It seems to me it is too bad we have to pass laws concerning this subject, Mr. President. Is it not possible to just ask the EPA to do this? I agree, I have always thought the estimates were very high, 38 miles per gallon as a combined mileage on some car, and so forth. But at least, they are using the same standard for all cars and we just apply a discount factor. If dissatisfied, rather than pass a law would it not be better to just ask them to do it? Is that possible?

Mr. METZENBAUM. The Senator from Rhode Island makes his point and it is a good point. Because I thought it was a good point, I discussed the subject with the EPA Director the other day. They indicated yes, they were thinking, considering, and talking about the subject after the article had been given nationwide publicity. However, I believe the amendment indicates congressional interest, a kind of congressional oversight with respect to the subject, and requires them to report back to the Congress within 6 months as to what, indeed, are the facts.

Mr. CHAFEE. I thank the Senator.

Mr. METZENBAUM. I thank the Senator from Rhode Island.

Mr. DOMENICI. Mr. President, I have a question of the Senator from Ohio.

I read the same article the Senator from Ohio has referred to. I, too, was concerned. Could the Senator tell me again what he expects these agencies to give us? I think it is quite clear that all we require of EPA is that they use this hypothetical car, this car that they test under very, very specific circumstances. I do not think anybody is questioning that under those circumstances the cars will yield what they say. The gist of the article, and the accusations, have to do with how relevant are those tests depending upon where one lives, how one drives, how old the car is, and the like.

What does the Senator want them to do which will help us or someone else make the tests more relevant?

Mr. METZENBAUM. What I want them to do is to tell the consumer what the actual mileage is which the consumer can expect, regardless of what the figures are which are developed on an internal basis. As the Senator from Louisiana has pointed out, the question of making a change in those standards is not affected by this amendment but is governed by other legislation presently on the books.

I want the consumer to be able to know the actual facts, and I want the Congress to get a report as to how well the EPA is doing their job. I want that report within 6 months.

Mr. DOMENICI. Did the Senator gather the same thing that I did from the article, that what they were asked to do they were doing well but that it might be very difficult to create a set of facts for a model car which would be relevant across this country; that it might be considerably different in New York contrasted with Wyoming or California for the same car; that it might be very much different if there were a lot of people in the car or if it was driven with just one person? Who will make

those decisions for the hypothetical car the Senator has that they will tell America about?

Mr. METZENBAUM. I think they can interject averages and do it under road conditions. I believe what I am really trying to accomplish with this amendment is to make it possible for the great body of the American public to know what they are buying at the time they buy it. Regardless of what the limitations are which are placed by Congress upon the action of the auto manufacturers, I do think we ought to give the buyer the opportunity to know what the facts are.

If he is going to get 30 miles to the gallon, 20, 17, or 12, I believe he or she ought to be apprised of that fact.

At the present time, that is not the way it is, because the testing is done on a dynamometer, and it is done under ideal weather conditions, controlled temperature conditions, at a steady level. I believe the buyer ought to be able to know those facts. Once the buyer knows the facts, I think the market forces will have their impact.

Mr. DOMENICI. Let me just present one further observation and see if the Senator will agree. I do not question motives or goals, and I am not going to argue those points with the Senator. I am somewhat concerned because I do know at this point there is no subjectivity built into these studies and these present EPA evaluations. If nothing else, they are fair and objective.

Mr. METZENBAUM. I am not suggesting to the contrary.

Mr. DOMENICI. I would just hope that the Senator would agree with me that if we are going to let them do something other than this very precise test, we would make it very clear that we intend the utmost objectivity. We do not want somebody doing a study who favors Volkswagens versus Chevettes, or vice versa. That is what makes EPA's test reasonably good now. It is done under very well-defined, objective testing circumstances for everybody.

I believe it may be difficult to give more realistic assessments of what these cars will yield in the field for the average driver unless we are prepared to define how they are to effect that set of tests. I do not think the Senator wants them to be anything but objective in this next study he is asking them to do. Is that correct?

Mr. METZENBAUM. The Senator from New Mexico could not have stated it more appropriately. Definitely we want that kind of impartiality, that kind of objectivity. I believe with this amendment there will be that kind of objectivity. That is not to suggest that it does not exist at the moment.

I think it will eliminate that range of uncertainty which the American consumer has at the present time and make him more fully apprised and aware of the facts at the time he or she makes the purchase.

Mr. DOMENICI. I thank the Senator.

Mr. GOLDWATER. Will the Senator yield for just a comment?

Mr. METZENBAUM. I yield.

Mr. GOLDWATER. Mr. President, I think the Senator from Ohio has made a good contribution as far as it goes. But we are dwelling on a field where I do not think we can ever have really precise information. This is a subject that has long been of interest to me. In fact, I carry a computer in my car to determine the gas mileage, et cetera, and a constant gas flow indicator.

My automobile is supposed to get 15.5 miles to the gallon. I have determined that I can get all the way from about 11 to 30. It depends on driving conditions; it depends on temperature of the road, the outside temperature, the temperature of the carburetor intake; it depends on how fast I am driving.

I do not think we can ever be able to say to the American buyer of automobiles, "You have a car that will get so many miles per gallon." I think we can say, "Under certain driving conditions, you have a car that can achieve this, that, or the other thing." The only vehicles that I know of on the roads today that can give accurate mileage per gallon are the diesel trucks, because they are run by head temperature. When you run a diesel engine by head temperature, you can tell down to almost a thimbleful what you are using.

I congratulate the Senator. I hope, though, for all of our interests, that he will follow through on this and see just what comes of it. I am disturbed. I read advertisements in the magazines and listen to them on radio, ad infinitum. I know darned well they cannot get that mileage. I think most of the advertising we hear today is downright untruthful. So, if nothing else comes of it, we can force the automobile manufacturers to tell the truth, not say they can get 28 miles to the gallon when they cannot get 20, or say they can get 38 miles to the gallon when there are very, very few vehicles that can do that, and they had better be going downhill.

Mr. METZENBAUM. I very much appreciate the comments of the very distinguished Senator from Arizona. I know that he is an expert and most knowledgeable in this particular area, as well as in so many others in the country.

Mr. JOHNSTON. Mr. President, this only requires a study. There is no action required. We accept the amendment.

Mr. HANSEN. Mr. President, I think the colloquy has allayed any fears or concerns I had. The amendment is acceptable to this side, as nearly as I know.

The PRESIDING OFFICER (Mr. GLENN). The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 822

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes unprinted amendment No. 822.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, after line 26, insert the following:

"INCENTIVE FOR LOCAL CONSERVATION OF NATURAL GAS

"SEC. 107. The Commission shall not directly or indirectly deny to a natural gas distribution company, and no curtailment plan or other allocation arrangement prescribed or approved by the Commission shall directly or indirectly take from or deny to such company, any volumes of gas which such company demonstrates resulted from residential energy conservation measures taken pursuant to a residential energy conservation plan. For the purposes of this section, natural gas distribution company means a person or State agency involved in the distribution or transportation of natural gas for ultimate public consumption other than in interstate commerce."

Renumber successive sections accordingly.

Mr. GRIFFIN. Mr. President, one of the most important sections of this bill deals with residential energy conservation plans. This portion of the bill will accomplish a great deal, it seems to me. In some respects, it follows legislation which I offered earlier, designed to get utility companies aggressively to save energy, particularly natural gas, by having their customers install insulation, automatic thermostats, and in other energy saving measures.

This particular amendment, which I have discussed with the floor manager and the ranking Republican, would make it clear that a utility company that does aggressively promote these measures and does, in fact, save natural gas, will not be penalized by having the gas it saves taken away from it and diverted elsewhere. This amendment would not, in any way, affect the authority of the Federal Power Commission to allocate gas that is otherwise channeled through interstate commerce, but it would give a "savers, keepers" right to the utility company that does in fact save gas through conservation measures.

I understand that the manager of the bill and the ranking minority member agree with the amendment and may see fit to accept it.

Mr. JOHNSTON. Mr. President, is this the "savers, keepers" amendment?

Mr. GRIFFIN. Yes.

Mr. JOHNSTON. I wish to ask the distinguished Senator a couple of questions.

First of all, as to the company demonstrating a savings under a conservation plan, would not the Federal Power Commission have the power to set up rules and procedures for determining how this demonstration is to be made?

Mr. GRIFFIN. Yes, I anticipate that that would be the case.

Mr. JOHNSTON. And the burden would be on the company, as in other cases, to demonstrate that the saving has been made.

Mr. GRIFFIN. That is correct.

Mr. JOHNSTON. All the Senator is saying is, if the company, through innovative programs, can demonstrate a saving and prove, through whatever mechanism the Federal Power Commission establishes, that it has, through a pro-

gram, saved some energy, it should not lose that?

Mr. GRIFFIN. That is right.

Mr. JOHNSTON. In other words, we do not want to deny them an incentive for helping to make the program work?

Mr. GRIFFIN. That is correct. I think it is a clarification of what the committee intended. But in any event, we want to make clear that if a company does go out and do what we want them to do, it is not going to lose in the process.

Mr. JOHNSTON. Mr. President, I do not think the impact of this is going to be great in terms of the amount of energy it will prevent the Federal Power Commission from allocating. We are not talking about large amounts of energy, but we may be talking about large amounts of incentive. For that reason, we accept the amendment.

Mr. METZENBAUM. Mr. President, before accepting this amendment, which I do not believe I can accept under any circumstances, as I understand this amendment, it seems to me it does not belong in this particular measure. It belongs in the Natural Gas Act, if at all. It comes as somewhat of a surprise to me at the moment, and there are some questions that I have.

As I understand what the Senator from Michigan would do by this amendment, it is to say that, if there is a saving effected by a natural gas distribution company, that natural gas may be sold without regulation and without limit as to price.

Am I correct in that?

Mr. GRIFFIN. No, that would not be the case. It does not, of course, take away any power of State utility commissions. It is designed simply to make it clear that the utility company that does, in fact, do what we are trying to get it to do under this bill—save gas—will be able to use the gas it saves.

Mr. METZENBAUM. Would the Senator be good enough to point out to me where, in this amendment, it says what the Senator, my good friend from Michigan, just said it does? I cannot read it that way.

It seems to me that what the Senator has done by this amendment, as I read it, is deny to the Federal Power Commission to have any jurisdiction over the gas which the natural gas distribution company has saved.

If that be the case, I think this is a very major amendment that is coming in this bill without full discussion. It would mean an entirely new look. It would mean where a natural gas distribution company has effected a saving, which they should do and which we hope they will be doing under the administration's energy conservation program, that we would, in effect, be saying, "Yes, but now you can do with it what you want."

I cannot find any reason nor logic for doing that and I really would very much appreciate it if the Senator from Michigan were to see fit to withdraw the amendment.

The natural gas matter comes up in the near future and there may be merit to this. But as I read it at the present time, I think it is one of the major amendments that has been on the floor of the Senate this year as pertains to the entire subject of natural gas.

Mr. GRIFFIN. Does the Senator from Ohio have a copy of the amendment before him?

Mr. METZENBAUM. I do.

Mr. GRIFFIN. Then he will notice it applies only to those volumes of gas which such company demonstrates result from residential energy conservation measures taken pursuant to a residential energy conservation plan.

We are talking only about the gas that a utility company does, in fact, save by doing what we are trying to get them to do.

If they do save gas, does the Senator want the Federal Power Commission to then take it away from them?

Mr. METZENBAUM. But I must point out the Senator's amendment goes further than that.

Mr. GRIFFIN. No, I do not think so.

Mr. METZENBAUM. If the Senator has an amendment that says what he just stated, I would have no difficulty in accepting it.

I do not want to take away any gas a natural gas distribution company saves by reason of a residential curtailment plan. But conversely, I also do not want to make it possible for the consumers, the residential users, to have gas withdrawn from their use, gas which they could otherwise have been using in their homes, cut back, and in some instances it is not only a question of cut back but a question that the residences were not permitted to get the gas in the first instance.

I do not believe the Senator is intending, at least I cannot believe it, that under those circumstances the natural gas distribution company would be permitted to sell that gas at any price to an industrial user, or a commercial user, or even to a residential user.

If the Senator wants to put an amendment in that says that any amount of gas which a natural gas distribution company saves by reason of a residential conservation plan shall not be withdrawn from usage by that natural gas distribution company by an order of the Federal Power Commission, I would have no difficulty with that. But the Senator's amendment goes further than that.

I am inclined to believe it may be a question of semantics or a matter of craftsmanship, but if that is as far as he wants to go, I could agree with him, because I do not want to take it away from the natural gas distribution.

But this amendment does not say that alone. It goes much beyond that.

Mr. GRIFFIN. The Senator from Ohio, it seems to me, reads many dangers into this amendment that do not exist. The staff of the committee has looked at this amendment, and my staff has certainly done so.

We do not agree with the interpretation that the Senator from Ohio seeks to put on it.

It is limited to that gas which a company demonstrates to the Commission has been saved as a result of putting into effect residential energy conservation measures.

If there are any questions about the language, it seems to me the colloquy here on the floor with the floor manager and with the Senator from Ohio has resolved those questions.

Mr. METZENBAUM. Would the Senator from Louisiana yield for a question?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. Are there a number of other amendments? I believe there is one from the Senator from Arkansas that will be rather lengthy.

Mr. JOHNSTON. That is correct.

Mr. METZENBAUM. Would the Senator from Michigan withdraw his amendment on the basis he not lose his right, of course, to bring it up again, so that I might examine further into this amendment and then to see whether or not any language could be made that might be acceptable?

Mr. GRIFFIN. I would agree to a unanimous consent agreement that it be made the pending business immediately after the disposition of the next amendment.

Mr. METZENBAUM. Well, I have no objection to that. I just want to be able——

Mr. GRIFFIN. If it is agreeable to the floor manager.

Mr. JOHNSTON. That is agreeable with us.

I would only suggest this. I do not read into the amendment the same concerns that the Senator from Ohio has. I point out to the Senator from Michigan that perhaps the drafting can be changed a bit to make it clearer because actually, allocations are not given to gas distribution companies, and curtailment plans do not affect gas distribution companies, but rather, allocations are given to end users—or the classes of end users I think there are some seven classes, industrial, residential, et cetera.

So we might have a conflict where one order of the Federal Power Commission affects certain classes of end users on curtailment, with no curtailment applying to the natural gas distribution companies, but this provision preventing the curtailment of the natural gas distribution companies.

In other words, I am saying we might have a use where the natural gas distribution company demonstrated a savings, but because the curtailment plan did not apply to that natural distribution company, then the effect of the amendment would be null because the curtailment would go ahead and apply to the end users within the distribution company district.

So I simply make that comment in hopes that the two Senators can get together.

I simply do not see it as being a far-reaching amendment. Maybe with those structural changes we can get it considered.

Mr. GRIFFIN. If the Senator from Arkansas is prepared to offer his amendment—is that the amendment the Senator from Ohio had in mind?

Mr. METZENBAUM. Yes.

So that the Senator from Michigan understands, I am not associated with the Senator from Arkansas, but I felt it might give us some time.

Mr. GRIFFIN. Then I ask unanimous consent that my amendment be made

the pending business after disposition of the amendment of the Senator from Arkansas.

Mr. JOHNSTON. Let me ask the Senator from Michigan, does he have a technical amendment he is prepared to offer at this time?

Mr. GRIFFIN. Yes, I do. It has to do with the list of banks, saving and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

Mr. JOHNSTON. If the Senator would go ahead and offer that, we are prepared to accept it.

Mr. METZENBAUM. Would the Senator from Michigan first ask unanimous consent so that we may dispose of this amendment and then I will step off the floor and see if we cannot resolve it?

The PRESIDING OFFICER. The Senator from Michigan has so requested.

Is there objection to the unanimous consent request?

Without objection, it is so ordered.

UP AMENDMENT NO. 823

Mr. GRIFFIN. Mr. President, I do have a technical amendment which I hope we can dispose of and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment No. 823.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 17 & 18 insert the following:

"(7) provides a procedure for identifying banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures."

Renumber successive paragraphs accordingly.

Mr. GRIFFIN. Mr. President, after consultation with the floor manager and the ranking Republican member, this carries out the intent of the committee, making it clear that States, not utility companies are to be responsible for identifying banks and savings and loan institutions that are to be included in the lists to be provided consumers by the utility companies. As I understand it, this really carries out the intent of the committee.

Mr. JOHNSTON. Mr. President, the Senator is precisely correct. The committee intended for the State plan to provide the procedure for identifying these banks and financial institutions, rather than to give the utility the right to pick by whim or caprice whoever they wanted to pick. We did intend for this to be done. I think this clarifies and helps the amendment. Therefore, we accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

UP AMENDMENT NO. 824

Mr. BUMPERS. Mr .President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. HATHAWAY, proposes an unprinted amendment No. 824.

Mr. BUMPERS. Mr. President, it is a very lengthy amendment, and I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 94, after line 18, add the following new title:

TITLE V

SEC. 1. This title may be cited as the Gasoline Consumption Reduction Act of 1977.

SEC. 2. The Congress finds and declares that:

(a) The consumption of gasoline is increasing at an unreasonable rate;

(b) The desired goal of a reduction of 10 percent in gasoline consumption by 1980 cannot be reached without the enactment of this Title;

(c) A decrease in gasoline consumption would decrease air pollution, decrease this country's dangerous dependence on imported petroleum, reduce the likelihood and consequences of future embargoes, and increase the availability of petroleum products for home heating and industrial consumption; and

(d) Mandatory gasoline rationing is the most equitable and effective means of reducing gasoline consumption.

SEC. 3. Within 180 days after the date of the enactment of this Act, the President shall transmit to the Congress a plan for the mandatory rationing of gasoline. This plan shall become effective only as provided in the title. The plan shall have the following characteristics and include the following types of provisions, at a minimum:

(a) A program for the rationing and ordering of priorities among classes of end-users of gasoline used in motor vehicles;

(b) The plan shall include provisions for the assignment of rights, and evidences of such rights, to end-users of gasoline, entitling such end-users to obtain gasoline in precedence to other classes of end-users not similarly entitled;

(c) The evidences of rights provided for in subsection (b) of this section 3 shall be transferable;

(d) The plan shall, to the maximum extent practicable, be consistent with the attainment of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, including consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-users' rights specified herein;

(e) The plan shall, to the extent practicable, provide for the use of local boards with authority to receive petitions from any end-user of gasoline used in motor vehicles with respect to the priority and entitlement of such user under the plan, and to order a reclassification or modification of any determination made under the plan with respect to such end-users' rationing priority or rights under the plan. Such boards shall operate under the procedures prescribed by the President in the plan;

(f) The plan shall include criteria for delegation of the President's functions, in whole or in part, under this title with respect to the plan to officers or local boards (of balanced composition reflecting the community as a whole) of states or political subdivisions thereof, and procedures for petitioning for the receipt of such delegation, after the adoption of which procedures officers or local boards of States or political subdivisions thereof may petition the President to receive delegation;

(g) The plan shall include such adjustments in the allocations made pursuant to regulations under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as the President determines to be necessary to carry out the purposes of this title, and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act;

(h) The plan shall include the imposition of an import quota, which quota the President is hereby authorized and directed to impose, the purpose and effect of which shall be to reduce imports of crude oil, gasoline, or both in an amount equal to the amount of gasoline that will be saved by the rationing plan;

(i) For purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, the plan shall be deemed a part of the regulation under section 4(a) of such Act;

(j) The plan may not impose any tax, provide for a credit or deduction in computing any tax, or impose any user fee, except that user fees may be imposed to the extent necessary to defray the cost of administering the plan or to provide for initial distribution of end-user rights.

SEC. 4. Any rationing plan transmitted by the President to the Congress pursuant to this title shall become effective only in accordance with the procedures prescribed for energy actions in section 551 of the Energy Policy and Conservation Act of 1975, Public Law 94–163, 89 Stat. 965, 42 U.S.C. 6421.

SEC. 5. Section 201 of the Energy Policy and Conservation Act of 1975, Public Law 94–163, 89 Stat. 890–92, 42 U.S.C. 6261, is amended as follows:

(a) By striking therefrom the words "and a rationing contingency plan" in paragraph (1) of subsection (a).

(b) By striking therefrom the semicolon and the word "or" in subparagraph (A) of paragraph (2) of subsection (a), and by inserting in lieu thereof a period.

(c) By striking therefrom subparagraph (B) of paragraph (2) of subsection (a).

(d) By striking therefrom subsection (c).

SEC. 6. Section 203 of the Energy Policy and Conservation Act of 1975, Public Law 94–163, 89 Stat. 892–94, 42 U.S.C. 6263, is repealed.

Mr. BUMPERS. Mr. President, the debate on this amendment should not take too long although it is fairly dramatic in its scope, because we have touched on the periphery of the thrust of my amendment ever since this bill came up. I am most reluctant to start off by reading for dramatic effect, but I cannot resist the temptation to cite from yesterday's Washington Post an article entitled "Summer Gas Demands the Highest in 4 Years." I am not going to read the whole thing. I will ask that it be inserted in the RECORD in a moment. This is the way it starts:

"The public is not paying attention," President Carter said last July in reflecting on the lagging response to his plea for energy conservation.

Gasoline demand this summer rose to the highest level since the 1973–74 Arab oil embargo, up 5.8 per cent in August alone over the same month last year.

Later, John O'Leary is quoted:

O'Leary acknowledges that this attitude, along with the surge in summer driving, poses a threat to the President's energy package

now before the Senate. The problem, he says, is that "what the administration is trying to do is not targeted to what happens this summer and winter."

* * * * *

"The major oil companies were pushing product and pushing it hard," Binsted says, pointing to rental incentives and "outright pressure in other areas" reported this summer by many of the 60,000 station operators he represents. Shell and Sun Oil were two companies, he says, that offered lower rents to stations that exceeded their gasoline sales targets.

Further, Mr. Binsted, who is president of the National Congress of Petroleum Retailers, said:

The American people do not understand shortages.

Binsted offers another reason for the failure of conservation measures at the gasoline pump: "How can people really believe there is a shortage of energy the way we are coming at them trying to sell it?"

In the capital city of my State, you can buy regular gasoline for 52.9 cents today. You can buy unleaded gasoline for 4 cents more, and people have been buying it.

My amendment is not a standby rationing amendment. It is a mandatory rationing amendment. It is about as popular as leprosy in this country. But I believe—and I would not offer this amendment otherwise—that we are not going to conserve any significant amount of oil or gasoline in this country on a voluntary basis.

There are some who will say, "My neighbor may drive a Volkswagen while I drive a big 10-mile-per-gallon Cadillac. He is doing his part and I am not, and it is not fair."

I am reluctant to offer this amendment, not because I have any fear of it being agreed to, but simply because I know how popular it is. I know how it raises the specter of the old World War II Draconian rationing program, with the specter of a black market.

Walter Lippman once said:

The key to political survival is not to be right before it is popular.

I heard it said that Jack Kennedy, when he was President, during the Cuban missile crisis, sat down with his advisers in the Oval Office and talked to them about what they would do to cope with the missile threat in Cuba. He said:

I want each one of you to tell me what you would do, and you had better pray your suggestion is not the one I follow.

It is the same with rationing.

Let us talk fundamentally and in a rational way about why this amendment is a good one.

No. 1, gasoline is the only elastic fuel we can conserve without totally disrupting the economy. You can cut your pleasure driving and not really discommode yourself or your job. You can walk. You can ride a bike. If you live in Washington, in some areas you can take a subway or a bus. You can carpool. There are all kinds of alternatives for millions of people in this country other than driving their automobiles.

So what are our options?

This amendment—I hate to say this—is not going to be agreed to. The floor manager is going to resist it; the Senate is not going to approve it. But this body will come back to this very piece of legislation in the not-too-distant future. I hesitate to say 2 or 3 years from now, but we are coming back to it, because there is no alternative. That is the reason I say, "What are our options?"

The first one is to do exactly what we are doing right now, and that is to pretend there is no tomorrow. But the second one is what I am offering—gas rationing.

A third possibility is one the President tinkered with, and that is a high gasoline tax. There are a lot of things wrong with that, and I will come back to it in just a moment.

Another one, of course, is to ban low-mileage cars, which we are doing in this bill, and that is a very laudable goal.

The next one, of course, is to deregulate the price of oil so the price goes sky high.

Finally, we can subsidize carpooling.

That, essentially, not counting the first one, which is to do nothing, is what I consider the best method of conserving, in descending order of priority. So let us start at the bottom and go up.

Let us talk about the fifth one, which is to subsidize carpooling. I come from a town of 1,750 people, and they do carpool—strike that. They pick-up truck pool. They drive to Fort Smith, Ark., 25 miles away, in the back of pick-up trucks. About eight are in the back and three in the front. They are not carpooling to save energy. They are working for $2.50 to $4 an hour, and they are trying to save every penny to keep body and soul together.

But carpooling is not going to be accomplished on a national basis, and this is not going to have a national effect. Therefore, I do not consider that a viable option, although it certainly is laudable where we can accomplish it.

During the Arab oil embargo there was tremendous carpooling in this country, and we saved considerable energy. I was serving as Governor of my State at that time. We reserved parking areas and did everything in the world for State employees who would carpool, and we were extremely successful with it. But, like the doctor telling you that you were finally over your disease, you lapse back into your old habits.

What is next in the ascending order of importance? You can deregulate the price of oil, and it is certainly going to shoot up the price of gasoline. You can do as the President is proposing, and that is to add a wellhead tax, which the House has approved, to raise the price of gasoline 7 cents a gallon, and I intend to oppose it. Or you can simply say that we are going to impose a 50-cent-a-gallon tax, as the President originally proposed.

What is wrong with those? They are not that bad, but they are bad enough to discard because there are better alternatives.

No. 1, the inflationary impact is absolutely devastating on the working people of this country. The Consumer Price Index—I do not care if you rebate it all—reflects the increase in the price, not the rebate. There even has been a suggestion that we have two consumer price indexes, one for the increase and the other for the rebate.

But truthfully, a gasoline tax is patently unfair. It flies right in the face of the egalitarian spirit that everyone believes we are all trying to achieve at least to some degree. And it is patently unfair to States such as the one where I come from where we have no mass transit. We do not have any way to get to work except in private automobiles and pickup trucks.

So that leaves only two things. And what are they? One is the provision in this bill about low-mileage automobiles.

Let me tell you there are some problems with it. What are the fuel efficiency standards in this bill? What effect is that going to have on 110 million automobiles already on the highways? The answer is none. It certainly is not going to have any effect on those cars that get 10 to 15 miles per gallon.

I might throw this in for the record, Mr. President. Right now we are struggling to reach 15 miles per gallon as a national fleet average on automobiles. In Italy it is 30 miles to a gallon. We could save 4.4 million gallons of gasoline a day in this country if we were getting 30 miles per gallon as they get in Italy and closer to that in West Germany and England.

What else is wrong with it?

If you buy a smaller car, or if you buy a car because of these mandatory fuel standards, you also get more miles per gallon and the cost of driving goes down. If you had a car that gets 15 miles per gallon and suddenly you are in an automobile that gets 25 miles per gallon, or even 30, the cost of driving your automobile has been cut in half.

And what is the effect of that? Well, it encourages you to drive more because it does not cost as much as it used to.

So those are two of the problems with low mileage fuel efficiency standards, and I am hot for it and supported Senator METZENBAUM in getting that amendment put in committee.

So this leads us finally to the one we are talking about right now. And what is that? Mandatory rationing.

What are the burdens of rationing? You have coupons. You have to carry them with you when you go to the gasoline station. What else? You have to change your lifestyle.

We simply will not be able to continue driving and wasting the fuel of this country in such a profligate way, and that is a burden.

I do not want to change my lifestyle, and I do not think anyone in this Chamber does. But we are not down to our wants; we are down to what we must do.

But let me tell you what the benefits are.

You can cut consumption by a definite amount. The President can design a rationing program which will say we are going to cut 10 percent of the gasoline consumption in this country this next year or the year after.

A rationing program is fair.

The cost of the boards, the coupons, and the redtape is more than offset by

the environmental and social and economic benefits.

I assume if you cut gasoline consumption in Washington, D.C. by 10 percent, you could cut pollution by 10 percent.

Here is this afternoon's Washington Star. What is the headline? "Record Pollution Increases Sickness." Most blame automobiles and stagnant air for 47 very unhealthy days this summer.

There is not a person in Washington, D.C., who has contracted cancer in the last 3 to 5 years who does not in his innermost thoughts believe that this is one of the contributing causes.

The story goes on to say that in May, Washington had dirty air, in June, Washington had dirty air, and in July and August and September, dirty air. There were 47 days that the air quality index went over 100.

I do not have to tell anyone in this Chamber about it. They live here. They know it. They know their eyes water; they know their lungs hurt when they jog. There are times when I cannot look out my office window on the sixth floor of the Dirksen Building and see the National Cathedral on a clear day.

Finally, when I say Congress is acting like there is no tomorrow I would like to ask Senators in this body who intend to vote against this amendment what their solution is for the $25 billion trade deficit we are faced with in this country this year because of oil imports. What is their solution to the $35 million trade deficit we are going to have next year? The U.S. dollar is declining in value against every currency in the world.

I do not have to draw a picture, and you do not have to be broke out with brilliance to understand the effect of that.

What is Congress doing about it; We are living as though there is no tomorrow.

For those who worry about the national security of this country, if we have a rationing plan in place, we will have the mechanism to curb consumption overnight. This rationing plan would not have to be austere. I am not talking about a World War II type of rationing plan. I am not talking about a black market. You can sell whatever coupons you have left under this white market rationing plan.

We should get ready for another oil embargo. If there is anything about the attitude and the climate of the Middle East right now that encourages Senators to believe there will never be an embargo again, I want them to call me back in the cloakroom and tell me about it.

The time to act is now. The time to work out the solution for all the problems we are going to face is now.

We like to think we are a leader. There is one other salutary effect you might count on, that is, the other countries of the world just might follow our leadership. If they saw that the United States was serious, if they saw that we were going to quit consuming 30 percent of all the energy consumed in the world, they might like it well enough to follow suit. This might keep the price of gasoline low enough so that you could at least afford what you did buy.

We might even return a little competition to the marketplace.

It certainly would have a salutary effect in holding down the price of fuel oils, of home heating oils, on which New England depends. I know what a problem this is in New England. I know how the homeowners in New England have struggled every winter for the last 3 years to pay their heating bills. As the refineries would shift their mix to accommodate less gasoline consumption, they would have to generate more diesel fuel and more heating oil. That would serve to depress the price, or at least hold it stable, or maintain some competition in the home heating oil industry.

If we cut gasoline consumption in this country by 10 percent do you know what that would mean? That would mean $7 billion more the people of this country would have to spend. The President this year was wanting to give everybody in the country $50, and that was going to cost about $11 billion.

Here is a chance to give them $7 billion and kill two great big birds with one stone. Let them spend it on other goods and services and at the same time save a lot of energy.

Would they do it? I do not believe there is an axiom I believe stronger than that the American people are consistently ahead of us. They are cynical because they know we are not going to ask them to do anything that is unpleasant.

Here is a survey from the National Family Opinion, Inc., conducted just in the last 3 months.

American families could reduce their driving mileage by an average of 11 percent without experiencing significant hardship, according to a survey conducted for the conference board of the National Family Opinion, Inc. The survey was conducted by asking 5,000 households across the country how much of their driving could be cut back if a gasoline shortage arose. Thirty-eight percent of the families said either they could not cut their driving mileage at all or by less than 5 percent. Thirty-eight percent said we cannot conserve at all or we could conserve up to 5 percent.

What did the other 62 percent say? That is what we operate on as politicians, 62 percent against 38 percent; everyone understands that; 62 percent of the families said they could cut back by varying degrees, some by more than 20 percent. But on the whole, an 11 percent average cut. Everybody confessed they could live without that, and not seriously affect their lives.

You know, if we had a shortage of gasoline in this country, and people could not drive as far as they wanted to, they might use an automobile such as one I saw described in the New York Times yesterday morning, that will run on everything from corn shucks to alcohol to gasoline. There is a gentleman down in my State of Arkansas who has an automobile he has driven over 50,000 miles on alcohol. He has an injection system where he can carry gasoline and alcohol. He can run just as effectively on one as the other. He can go down the road at 80 miles an hour, push a button to change from alcohol to gasoline or from gasoline to alcohol, and you can never tell the difference. The Senator from Nebraska knows that his State is working on a program to do that right now.

The adoption of the amendment would have the effect of stimulating the progression to other fuels which we know we have to go to anyway. What does the amendment do? It says to the President of the United States, "Come to Congress within 180 days after the passage of this bill with a mandatory rationing program. and we will tell you in 15 days whether we like it or not." I will let the Senator from Maine describe that a little further.

I have always said that as long as we can afford it, we ought to import all the oil we can. Any other policy means "drain America first."

But, Mr. President, we have now reached the point where we cannot afford it. Every statistic show- we are importing 8.8 million barrels of oil a day. That is a 31-percent increase over last year. That is 3.8 billion barrels a year. And do you know what those 3.8 billion barrels of oil are costing us? $45.5 billion.

I can tell you that there is not any way for this country to survive economically for very much longer with those statistics.

Mr. RANDOLPH. Mr. President, will the Senator yield for a comment, perhaps a question?

Mr. BUMPERS. I am happy to yield.

Mr. RANDOLPH. The argument made by the able Senator from Arkansas is well reasoned. It is an argument that he presents with a commitment on which I have talked personally from time to time.

I have long advocated such a program of standby rationing authority and did so in an interview with the United States News and World Report over 3 years ago. It is a matter of record. I have no desire to indicate that my thinking was something novel, but I think that the American people are in a position now to expect not a tradeoff within Congress, but leadership from Congress.

I am shocked, very frankly, as I continue to think about the investment we make of the taxpayers' dollars of this country: $12.5 billion to stockpile petroleum in the United States of America as a possible backstop against another embargo of the petroleum we are now bringing into this country from the Middle East.

For the same investment, we could be creating a continuing supply of synthetic liquid fuels in this country and we could supply the equivalent of a million barrels of oil a day for 20 years. Think of it: an investment in stockpiling, and then the stockpile is depleted and we have nothing except that for certain periods of time we may have held ourselves together.

But we continue to fail in our Nation to provide the synthetic liquid fuels program, which, very frankly, is not new. With Senator O'Mahoney of Wyoming, in 1944, I cosponsored legislation to create a synthetic liquid fuel program for the United States. It was passed. We

had all the breakthroughs necessary; I will not attempt to document it in detail, because it has been said so often. But our country failed to follow through. Programs for synthetic fuels have been done in Germany and other places.

So we come back over 25 years later, and we realize that what was under way would have been effective and would have saved us the trouble and travail we have had. Then as we are debating here this afternoon—and the debate is carried on ably by the Senator from Arkansas—we come back to the subject of what we can do in reference to the supplies within our own country. We must remember the valid uses of fuel in connection with the mobility of our Nation and the transportation of our products, and the manpower which constantly has to move from home to work and return to home.

All these problems have been discussed over and over and over again. I want to say to the Senator, it is not difficult for me to support his amendment, and I shall support it. This type of effort is far preferable to taxing the people of our Nation who must have use of their vehicles.

Mr. BUMPERS. I thank the Senator.

Mr. RANDOLPH. I would hope that there might be a realization here that we should undertake this program to conserve fuel.

The Senator will recall, perhaps, that I did offer a resolution for a conservation crusade. It was passed here by unanimous vote in the Senate—a sense of the Senate resolution. But nothing really happened as a result of it.

So I think if the American people are not aware of the situation, we as individual Members of Congress have a responsibility, by our actions, to make them aware. Then I think we will not only have a partnership between the administration and Congress, but we will have a partnership with the public. We will be joined together in a common purpose with creativity and resourcefulness. We have a certain amount of heartiness in the American people. They are able to face the facts; but constantly, as we shift from one point to another, we are trying just to pass over from 1 month to another and 1 year to another, the settlement of issues which should have been settled long ago—a fuels and energy policy for the United States.

Mr. BUMPERS. I thank the distinguished Senator from West Virginia, Mr. President, I yield to the Senator from Maine (Mr. HATHAWAY).

Mr. HATHAWAY. Mr. President, I am pleased to join in support of this amendment for submission of a "white market" gasoline rationing system to Congress within 6 months. I have supported gasoline rationing as the most equitable means of mandating conservation and introduced legislation last spring to utilize rationing as a means of achieving the target reduction goals of the administration's gasoline program. I particularly support rationing as an alternative to ever-escalating gasoline prices, either indirectly or through direct tax increases on the product, which imposes rationing for the poor and near poor only, with no regard to need.

There is little doubt that we are confronted with a long-term energy problem. It is a problem which is here to stay and which can be dealt with through a combination of conservation of the petroleum resources we presently rely on, and development of the use of alternatives to those oil and natural gas resources.

The nature of the problem is familiar to us; 1967 was the last year that the country was a net exporter of oil. In 1970, prior to the formation of the Organization of Petroleum Exporting Countries and the 1973 oil embargo, the United States imported 23 percent of its oil. In 1976, with the memory of long gas station lines fading, the United States imported 40 percent of its oil. During last year's severe winter, we imported nearly 50 percent of our oil needs.

Our vulnerability to international supply and price changes is apparent from these figures. We have a $25 billion trade deficit this year with the prospect that this will escalate in 1978. Yet, despite this supply and dollar situation, the FEA has announced that gasoline demand has risen to its highest level since the 1973–74 embargo, and is up 5.8 percent in August of this year over the same month last year.

There can be little doubt that there is ample opportunity for energy conservation in America's ongoing love affair with the automobile. Transportation accounts for approximately 26 percent of our overall energy consumption, and one-half of this is attributable to the automobile. The car consumes about 5 million barrels of oil per day, or at present rates approximately 60 percent of our daily import needs.

More efficient new automobiles are a necessary part of reducing our gasoline consumption, as are other measures such as development of transportation alternatives, incentives for car-pooling and strict enforcement of the 55-mile-per-hour speed limit. With the exception of the speed limit laws, these measures are largely long-term approaches to the problem. If we are to really control our growth in the use of gasoline and to require conservation in the transportation sector, then gasoline rationing is the most equitable and surest approach.

Gasoline rationing is not a thing to be done lightly. There will be problems in any rationing plan which might be put forward. But we need to get serious about the possibility that a rationing system will be needed to meet our energy goals and control our dependency upon foreign oil supply. Rationing needs to be seriously considered and a plan submitted for full debate. Congress has not yet received the emergency rationing contingency plan required to be drawn up under the Energy Policy and Conservation Act of 1975 and to go into effect in the event of a supply shortage. With our ever growing dependency upon oil imports, such a shortage is indeed a real possibility, though hopefully a remote one.

The overall issue, of course, is effective conservation measures which will reduce our increasing reliance on a resource which is necessarily depleting. Rationing is such a measure, and should be viewed in the context of the possibility of ever-increasing prices, which will force rationing on a less-than-equitable basis. Increased prices will particularly hurt the residents of rural States like my own where large distances result in lack of transportation alternatives to the private automobile. Gasoline price increases, from whatever cause, will hit nonurban low- and middle-income people heavily, regardless of their transportation needs or their alternatives. These are the people who will also be least able to buy a new fuel-efficient automobile to help offset some of these price increases, and least able to undertake substantial changes in jobs or housing which would reduce their gasoline dependency.

A rationing system can be devised which would take into account both our national need to reduce gasoline usage and our individual needs dictated by profession and by circumstance. A white market rationing system under which coupons may be legally bought and sold seems most likely to me to meet both these urgent demands.

A study by the Office of Technology Assessment which has just been made available has concluded that the administration has correctly judged the seriousness and urgency of the Nation's energy problem. A major part of our energy conservation effort must be to insure gasoline consumption is kept down. The surest and quickest path to that goal appears to my mind to inevitably involve a direct rationing of gasoline supply.

At this time, I ask unanimous consent that an article from the August 27 magazine, Environmental Action, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

THE CASE FOR RATIONING GASOLINE

(By Carter Henderson)

One of the most perplexing questions facing the United States today is, how are we going to fairly divide up the nation's petroleum supplies when shortages become absolute?

It is impossible for the average American to become alarmed about impending energy shortages when apparently unlimited supplies are available on every side, from gas pump to electric outlet.

An examination of the economic realities underlying our looming energy crunch, however, suggests that the Carter Administration and Congress must sooner or later confront the inevitability of petroleum rationing.

Americans, who comprise some 6 percent of the earth's population yet account for 32 percent of its energy consumption, are continuing to burn up fossil fuels as if there were no tomorrow—although a few have lately felt obliged to try and rationalize such high-energy lifestyles.

One well known TV personality and private pilot, who professes environmental concern, recently allowed as how wealthy owners of private airplanes shouldn't be denied fuel because their consumption was no bigger than "a pee hole in the snow." While the United Auto Workers' new president has said that American workers are certainly entitled to have big cars to take their families camping if rich people are allowed to jet their families off to Bermuda.

General Motors, Exxon, Grumman and other U.S. corporations are spending millions of dollars a year on advertising to reinforce just this kind of energy enthusiasm. The result, of course, is yet another replay of Garrett Hardin's classic "Tragedy of the Commons," where the amount of additional petroleum consumed by private flying or for any other non-essential purpose may be modest—yet together can endanger the precariously balanced energy system on which we all depend.

The threat presented by this "every man for himself" scenario is being made even more real by the gathering strength of three additional forces—seemingly irreversible during the remainder of this century—that could compel Congress to legislate petroleum rationing within as few as five years.

Force One: the end of the Oil Era is now clearly in sight. Present world petroleum reserves, as well as projected additions to these reserves from the discovery of new wells and the enhanced recovery of oil from old wells, will soon level off after more than 75 years of spectacular growth. "The supply of oil," concluded a recent report of the prestigious MIT Workshop on Alternative Energy Strategies, "will fail to meet increasing demand before the year 2000, most probably between 1985 and 1995, even if energy prices rise 50 percent above current levels in real terms."

Force Two: every year the U.S. must import more of the oil it consumes (in 1975 it was 39 percent, this year nearly 50 percent). These soaring oil purchases are 1) helping to flood the world with U.S. dollars, 2) seriously reducing the dollar's value on foreign exchange markets, and 3) making it more and more difficult for the United States to export enough of its own goods to pay for the massive amounts of petroleum and other supplies it must now buy from abroad. During the first six months of this year, America's growing purchases of foreign oil drove its level of imports over exports to a record $12.6 billion—more than double the U.S. trade deficit for all of 1976.

While U.S. petroleum imports will soon be eased by the flow of oil from Alaska, these new supplies will be quickly offset by America's current level of energy-intensive economic activity, the continued failure of voluntary energy conservation efforts (particularly among the motoring public), and the inauguration on July 21 of the first deliveries of imported oil into the government's strategic petroleum reserve, scheduled to reach some one billion barrels by 1985 (at a cost estimated at from $18 billion to $20 billion). This conclusion is supported by a just-released report by the U.S. General Accounting Office, which predicts that American oil imports will rise from a current eight million barrels a day to 10.3 million barrels a day by 1985 (as opposed to the goal of six million barrels a day projected in the Carter Administration's proposed National Energy Plan).

What this means is that the day may be fast approaching when it will be unpatriotic, if not unlawful, for U.S. citizens to waste petroleum on private planes, gas-guzzling cars, recreational vehicles and other non-essentials that increase the nation's dependence on foreign oil while further weakening the value of the American dollar, our position as the world's preeminent trading nation and our national security (as well as that of our allies in Europe and Japan, whose economic strength is even more dependent on the declining petroleum reserves of Saudi Arabia, Nigeria, Iran and a handful or other oil-exporting nations).

Force Three: the so-called "free-market" system, which has been distributing America's energy supplies up to now, cannot even pretend to function equitably when absolute shortages develop. The reason is that this system allocates supplies on the basis of who can afford to pay—rationing by price—rather than on the basis of what's fair for everybody, rich and poor alike.

During the months ahead, as we Americans accustom ourselves to the demise of our energy-extravagant life-styles, President Carter and Congress will continue to sidestep the need for petroleum rationing, although both seem prepared to accept the inevitable once absolute shortages can no longer be ignored.

The Carter Administration recently disclosed that it is developing a contingency energy conservation program including gasoline rationing, import quotas and the forced closing of service stations. Sen. William Hathaway (D-Maine) has introduced a bill (S. 1579) "to authorize the President to establish a standby gasoline rationing plan." And several weeks ago, Rep. Thomas Ashley (D-Ohio), chairman of the House Ad Hoc Committee on Energy, said on CBS-TV's "Face the Nation" that if energy conservation measures such as higher gasoline taxes don't "produce the results that we're looking for, then . . . we're going to consider other strategies, including the possibility of standby rationing."

Until such a petroleum rationing system is put into place the nation's most critical source of power will be allocated by a Rube Goldberg contraption currently being devised in Washington. This consists of part "market system" and part something else, i.e., a maze of bureaucratically administered "incentives," "penalties," "restrictions," "rebates," "taxes," and "tax cuts."

It is amusing to note that the main argument traditionally leveled against rationing is that it will create the kind of bureaucracies the government is now putting into place to administer its rigged rationing-by-price system. This system, by the way, can never match the social equity inherent in rationing—particularly "white rationing" (see, for example, Hazel Henderson's "The Coming Economic Transition," Technological Forecasting and Social Change, March 1976).

Under a "white rationing" energy allocation system, every adult American, car owner or not, would receive ration coupons for a specific share of the total amount of petroleum the federal government felt the U.S. could afford to consume that year. People would be free either to use their coupons to purchase oil products or to sell them to others for whatever they could get.

Under "white rationing" the nation's oil consumption could be precisely targeted, and wealthy people determined to continue their energy-extravagant lifestyles would at least be forced to bargain for extra petroleum coupons with poor people and others who prefer cash to oil.

The rationing of U.S. petroleum supplies last occurred during World War II when we were virtually self-sufficient in oil. Despite its many shortcomings, that wartime oil allocation system worked. Since then, as our dependence on foreign oil has moved from near zero to 50 percent, very little work has been done on the question of creating a modern, democratically designed rationing system utilizing advanced resource allocation theory and computer/communication technology. The looming shortages of petroleum and other resources suggests that such research should now be accelerated so that when it comes time for the United States to implement a national rationing system, it will have one that reflects the nation's best thinking.

Mr. HATHAWAY. Mr. President, as I said, I am happy to cosponsor the amendment, which is similar to a bill I submitted in the spring of this year, giving the President standby rationing authority in lieu of the taxing authority which he had asked for in his message to the joint session of Congress.

The Senator from Arkansas has covered in great detail and very well the reasons for supporting rationing, and I would simply like to go over what the rationing program does provide.

It is called white market rationing, because there is provision in the amendment that the evidence of the ration provided for, that is, the coupons, be transferable. We had that problem in World War II, when they were not transferable, and there was a black market created in rationing because the people would transfer their coupons without authority of law.

Presumably, unless a filling station attendant were able in some way to manipulate the numbers on the pumps or not have the coupons match up with the sale, the creation of a white market would be a reasonably foolproof system.

The bill also provides that the President's plan for rationing, apply only to end users; that the objective of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 be kept in mind, especially to include consideration of the mobility needs of handicapped persons and their convenience as well as the needs of handicapped persons and their convenience as well as the needs of others who are in positions which are out of the ordinary.

The plan the President submits, to the extent practicable, would have to have the rationing governed by local boards. The plan would be flexible to account for changing and differing needs during the term that the rationing was in effect.

The last provision of the plan mandates that no tax on gasoline be imposed at all.

My colleague, the Senator from Arkansas, mentioned that this is mandatory rationing. Well, it is mandatory in that the President is obligated to submit a plan to the Congress within 180 days of the passage of this legislation. This plan will follow the guidelines I have outlined and which are specified in the amendment. The plan would go into effect, unless voted down by either House of Congress, within 15 days after it was submitted.

This does not mean there would necessarily have to be rationing this year or immediately at the termination of the 180-day plus 15-day period. The President could include in his rationing plan that the plan take effect only if certain conditions were met, such as the consumption of gasoline being over a certain level—say, 5 percent more than it was last year—or if it went over what we consumed last year. Then the plan would take effect.

Although it is mandatory in the sense that the President is obligated to send to us a plan, the plan can be flexible enough so that it takes effect only upon the happening of certain contingencies.

I want to reiterate that this is really the only equitable way we can conserve gasoline. Certainly, an added tax or an

increase in price is just going to hurt the lower-income consumer, many of whom find it necessary to use their automobiles to travel to and from work. Although they are carpooling to the greatest extent they can at the present time, they still would be hurt considerably if we imposed a tax or increased the price. Many of these workers are not members of labor unions. They are not in a good bargaining position where they can get an increase in their salaries to compensate for any increase in the cost of the gasoline.

I am happy to see the Senator from West Virginia join in support of this amendment. I hope many others will join also.

Mr. JOHNSTON. Mr. President, this amendment was considered in the Energy Committee. It was voted down by a vote of, if I recall correctly, 16 to 2. The reason it was voted down was not because the committee did not share the concerns of the distinguished Senator from Arkansas for energy conservation. I think to a man we share that concern.

Our problem is that in peacetime, in the present situation, it would be virtually impossible to design a gasoline rationing program which would be equitable. Inequities would be absolutely inevitable. It would be an absolute bureaucratic nightmare. It would be impossible for bureaucrats in Washington to take into consideration the varying needs of people in the country and in the city, those who live far from their work as opposed to those who live across the street from their work, those who are poor, those who are rich, those who drive older gas-guzzlers and cannot afford to buy new cars, those who drive small cars, married couples, college students, and the whole panoply of problems.

The administration was called upon some months ago, indeed, some years ago the previous administration was required to come up with a standby rationing program to be implemented in times of emergency. We have yet to receive that standby program.

I sympathize, frankly, with the previous administration and this administration in trying to perfect a program, even in times of emergency, which would work. The delay they have had reflects the difficulty of coming up with an emergency program. I believe they ought to come up with that emergency program, and do so quickly, in order to have it available just in case we have another embargo or other national emergency.

To come up with a plan at a time when we have no immediate emergency, I think and the committee thinks, is unwise and strongly opposed by the American public. For that reason, Mr. President, if no one else——

Mr. HATHAWAY. Will the Senator yield?

Mr. JOHNSTON. I yield for a question. I am trying to get the Senate out, if I may, fairly soon.

Mr. HATHAWAY. The Senator referred to the nonemergency situation. Does the Senator think that factually there is any difference between the storage of gasoline and fuel oil that we have today from the days of World War II, or is the Senator talking about the psychological difference?

Mr. JOHNSTON. I agree with all of the statements about the difficulties, the shortage, what it does to this country in terms of balance of payments, holding our foreign policy hostage and all of those things. But I believe there is a great difference between war and peace. The rationing program as called for in World War II, by the way, did not work particularly well. Even then, when the situation was much different and we had a national emergency related to the very survival of this country, that was a different situation from the peacetime situation we have now.

Mr. HATHAWAY. Does the Senator agree that that is just what we have to do in this country, to make people realize that the situation is an emergency? By passing this amendment, which mandates the President to come up with a rationing program, we will alert the general public that there is a shortage of gasoline. I would presume the President would come up with some kind of a plan which would take effect upon the happening of certain contingencies. If the general public realizes that a rationing plan is going to be imposed, it would have an extremely salutary effect, and the rationing plan might not have to go into effect. If we do not persuade the public that there is an emergency, we will not get the kind of voluntary restraints we want.

Mr. JOHNSTON. The administration is presently called upon to come up with a standby program. I think they are finally working on that program and are considering three options: The first option is to send up a plan now and approve it. The second option is to call Congress back if an embargo occurs and ask for authority at that time. The third option is to grant the authority for the winter period only.

I think the administration is coming up with that standby plan and I believe that ought to be allowed to continue.

Mr. HATHAWAY. If the Senator will yield further, if the administration is going to do it, what is wrong with saying, well, come up with it in 180 days? I think the bill that we passed in 1975 applies only to contingency in the case of an embargo.

Mr. JOHNSTON. As I understand the Bumpers plan, it would be required to go into effect now.

Mr. HATHAWAY. No, I think I can answer for the Senator from Arkansas that the mandatory part of this plan is that the President submit it within 180 days. But the President could, in his plan, specify that his plan would take effect only if certain conditions happened—such as increase by 2 percent of the consumption of gasoline over 1976 or 1977, whatever he wants to specify.

Mr. JOHNSTON. If I may read from section 4, it says that any rationing plan transmitted by the President to Congress pursuant to this title shall become effective only in accordance with procedures prescribed for energy actions in section 551 of EPCA, which, in turn, sets up the 15-day procedure for expedited periods in Congress.

Mr. HATHAWAY. That is true, but that is just the procedure that we would operate under for the plan. The plan itself could specify that it takes effect only upon the happening of these contingencies. Then we would have 15 days to determine whether or not we would go along with that and we have an option of voting it up or down with no amendments. But the rationing itself might take effect only upon certain contingencies. The President could spell that out in his proposal to us. I very well expect that that is exactly what he will do.

Mr. JOHNSTON. The present law calls for the President to come up with a standby plan.

Mr. HATHAWAY. Is that not just in the case of an embargo?

Mr. JOHNSTON. No, the President is required, under present law, to transmit a standby plan, has been required for some time, not related to an embargo. The standby plan would be related in certain events.

Mr. BUMPERS. If the Senator will yield, I believe the National Energy Conservation Policy Act says that the President will have a standby plan to be available in case of embargo or national emergency.

Mr. JOHNSTON. Or severe supply interruption.

Mr. BUMPERS. That is right.

Mr. JOHNSTON. That is correct, and that plan has not been forthcoming. I agree that plan ought to be submitted. But that is in the law now.

This bill makes no reference to a standby plan, but becomes effective in accordance with the procedures set up in EPCA, which is the 15-day expedited hearing. The implication is—and I submit it is more than an implication; I think it states, in effect, that it shall become effective immediately. At least, that is the implication I get from it. If it is only intended to be a standby plan, then it does, really, very little more, if anything, than the present law requires.

Mr. HATHAWAY. If the Senator will yield, it gets it to us in 180 days, and we do not know when the other plan is going to get to us.

Mr. JOHNSTON. If I may reply, the previous law required that it be supplied within 6 months, so this would be adding a redundancy on top of redundancy. They should have done it. I think the remedy is to renew our request.

Mr. HATHAWAY. It would go further than the two contingencies which are in the present law, such as a severe national emergency or an embargo. This is just a gasoline rationing plan, period.

Mr. JOHNSTON. A "severe supply interruption" is what it says.

As I understand it, after the expiration of the 15-day period, under the Bumpers' amendment, unless it was turned down by Congress, we would have gasoline rationing.

Mr. HATHAWAY. We would have implementation of the plan.

Mr. BUMPERS. The amendment directs the President toward a goal of a 10-percent cut by 1980. He can prescribe

fuel efficiency standards under this bill in order to accomplish savings. This plan will only go into effect under those conditions. But he must meet the 10-percent saving by 1980.

The Senator from Maine has already made the point, but I will repeat it. The President does not, under the present law, have to submit a plan that will be implemented under any conditions except severe supply interruptions, national emergencies, or an embargo. We are not keying this amendment to any of those things.

One thing, of course, is that we cannot afford a $25 billion trade imbalance this year and $35 billion next year, and so on.

Mr. JOHNSTON. Can the Senator tell me where the 10-percent provision is in this amendment?

Mr. BUMPERS. On the first page, section 2, subsection (b). "The desired goal of a reduction of 10 percent in gasoline consumption by 1980"—I am sorry, that is a finding. That is not mandatory.

Mr. JOHNSTON. Mr. President, the committee believes that we need a standby plan for gasoline rationing. We believe it is overdue, as a matter of fact, and we shall support the effort to get the administration to meet the law. I believe this administration has indicated, by recent communications to the chairman of the full committee, Mr. JACKSON, that it will be forthcoming with that plan.

I think I would first like to look at that standby plan and see how it is configured. If it is the pleasure of the Senate at that time to impose immediate mandatory gasoline rationing, then we can consider it once we have that standby plan. We believe this bill is premature and was voted down, as I say, by the committee, as I recall, by 16 to 2.

Mr. President, in view of the lateness of the hour, I hope the proponent of the amendment—I withhold for 3 minutes and yield the floor.

Mr. BUMPERS. Mr. President, while we have this many Senators on the floor, I would like to ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ANDERSON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I have just about 3 more minutes. I am prepared to vote on this issue.

There is one statistic that I think is instructive and interesting that my colleagues might appreciate. This is a breakdown of gasoline consumption in 1975 between passenger vehicles and trucks of all kinds. It is roughly 2 to 1.

Passenger vehicles, in 1975, consumed 76.5 billion gallons; trucks consumed 31.5 billion gallons, for a total of about 108 billion gallons.

In 1976, the total was 115.6 billion gallons, or 7 billion gallons more than the preceding year.

Finally, Mr. President, I wish to say that I would never suggest that my distinguished colleague from Louisiana has adopted any of the bureaucratic mannerisms of this great city. However, one of the oldest bureaucratic answers to any problem which they do not want to deal with is that it would create a bureaucratic nightmare. That is designed to scare all but the bravest away from any kind of rigid solution to a devastating problem.

The alternative is very simple. If we do not want to accept it, it means we are going to do nothing, and that is what the Congress has done now since October of 1973—nothing—and I assume that is what we will continue to do.

Mr. RANDOLPH. Will the Senator yield?

Mr. BUMPERS. Yes, I yield to the Senator from West Virginia.

Mr. RANDOLPH. That, of course, is what we have failed to do under five administrations, not since 1973. We have had five administrations that have not come to grips with the problem that is being discussed, and which others have discussed over a period of time.

But I want to cover one approach the Senator was talking about in reference to mileage.

As the Senator knows, we have a national speed limit of 55 miles per hour. Is it being observed? Is it being enforced? It is not.

The Federal highway funds can be withheld under the action here on the Federal Aid Highway Act by the Federal Government. They are not being withheld where it is not being enforced in the States of this country. At long last, hopefully, we will begin to understand how the pieces must be put together.

If we were to enforce this law, if people were to observe this law, we would be saving approximately 160,000 to 200,000 barrels of gasoline every 24 hours in the United States of America.

It is just a further indication of that long range of possibilities which are not being addressed by the Congress or the people of the country.

I thank the Senator for giving us the opportunity once again to have a vote on a matter of this kind.

Mr. JOHNSTON. Mr. President, all good things must come to an end and I think this has been thoroughly debated.

So having yielded for the further debate, at this time I move to table the amendment.

Mr. BUMPERS. I hope the Senator will withhold the tabling motion and let us vote up or down.

Mr. JOHNSTON. I would be glad to, if we would have a vote.

Mr. BUMPERS. I am ready to vote.

Mr. JOHNSTON. Very well, I withdraw it.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Mr. RANDOLPH be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator withdraw his motion?

Mr. JOHNSTON. Yes.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 15, nays 73, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—15

Abourezk	Hollings	Metzenbaum
Bumpers	Huddleston	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Hart	Magnuson	Stevenson
Hathaway	McGovern	Weicker

NAYS—73

Allen	Eagleton	Moynihan
Anderson	Eastland	Nelson
Baker	Ford	Nunn
Bartlett	Glenn	Packwood
Bayh	Gravel	Pearson
Bellmon	Griffin	Pell
Bentsen	Hansen	Percy
Biden	Haskell	Proxmire
Brooke	Hatch	Riegle
Burdick	Hatfield	Roth
Byrd, Harry F., Jr.	Hayakawa	Sarbanes
	Heinz	Sasser
Cannon	Helms	Schmitt
Case	Inouye	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Stafford
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Lugar	Stone
Culver	Mathias	Talmadge
Curtis	Matsunaga	Thurmond
Danforth	McClure	Tower
DeConcini	McIntyre	Williams
Dole	Melcher	Zorinsky
Domenici	Morgan	

NOT VOTING—12

Durkin	Javits	Muskie
Garn	Long	Sparkman
Goldwater	McClellan	Wallop
Humphrey	Metcalf	Young

So Mr. BUMPERS' amendment was rejected.

Mr. ALLEN. Mr. President, I wish to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the question now recurs on the amendment of the Senator from Michigan. Before that, the Senator from Nebraska is recognized.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear what the Chair is saying. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Nebraska is recognized for a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, we still cannot hear what the Chair is saying. May we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from Nebraska is recognized.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Mr. Romani and Jim Magner, of Mr. DECONCINI'S staff, be accorded the privilege of the floor during debate and consideration of the current bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 822

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes unprinted amendment No. 822.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Michigan will withhold momentarily so we can find out how many more amendments and how many more votes there will be tonight for the guidance of Senators.

Will the Senator withhold for just a moment?

Mr. GRIFFIN. Yes.

Mr. JOHNSTON. Mr. President, I wonder if Senators who have amendments would make that known. Senator ALLEN has one amendment which will require a record vote. Is that correct?

Mr. ALLEN. Unless the manager of the bill will accept the amendment. I have no objection to that.

Mr. JOHNSTON. That is right. But we cannot accept the amendment. So that is one record vote.

How long would the Senator expect the debate to last on it?

Mr. ALLEN. Not long. I expect 15 or 20 minutes.

Mr. JOHNSTON. Very well.

Senator DOLE has an amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator agree to a time limitation?

Mr. ALLEN. No. I just gave an estimate.

Mr. ROBERT C. BYRD. All right.

Mr. JOHNSTON. Senator DOLE has an uncontested amendment; is that right?

Mr. DOLE. Yes. It will take about 1 minute.

Mr. JOHNSTON. Yes.

And Senator GRIFFIN has one.

Mr. GRIFFIN. After discussion with the manager of the bill, I have decided to withdraw the present amendment, but I do have one other amendment. It would provide an exemption procedure from the Metzenbaum fuel economy standards for small U.S. manufacturers who make less than 10,000 automobiles, including the Checker Co. in Kalamazoo. This would simply continue an exemption included in the Energy Policy and Conservation Act of 1975, mandating fleet averages.

If we do not have that kind of exemption procedure we are going to put that company and perhaps others out of business.

Mr. JOHNSTON. Very well.

Senator HANSEN, I believe, has an amendment.

Mr. HANSEN. Mr. President, I regret to report that I will offer an amendment that was adopted before and then ruled nongermane on a point of order. As far as I am concerned I will require not more than 3 minutes. I will ask my good friend from Ohio how much time he might need.

Mr. METZENBAUM. I have no idea how much time I need to discuss the matter. It has been on the floor three separate times. I think it will turn on the question of who is on the floor at the particular moment. If it comes on at a quarter to 8 this evening I guess I will speak for a number of hours in connection with the subject.

Mr. HANSEN. I will bring it up.

Mr. GRIFFIN. I say to the manager of the bill that having described my amendment I will agree to a time limitation.

Mr. JOHNSTON. I thank the Senator from Michigan for allowing us to get that.

Mr. GRIFFIN. I would agree to a time limit of 10 or 15 minutes.

Mr. JOHNSTON. Is the Senator talking about the first amendment that we had?

Mr. GRIFFIN. No; I am going to withdraw the pending amendment. I have another amendment that relates to the Metzenbaum minimum fuel economy standards for automobiles. This amendment will provide for an exemption procedure.

Mr. JOHNSTON. How much time does the Senator wish?

Mr. GRIFFIN. Ten minutes to a side.

Mr. JOHNSTON. Very well.

Mr. President, I ask unanimous consent that debate on the Griffin amendment be limited to 20 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I wish to say to my good friend, the manager of the bill, that I would be happy to enter into any time agreement on my amendment which I will be offering and as far as I am concerned 6 minutes equally divided would be ample time. It has been talked about before. I want to make perfectly clear that if there is extended debate on this amendment, which I do propose to offer and will offer, it cannot be contended that it was I who delayed the final action on the bill as far as the Senator is concerned.

Mr. METZENBAUM. Mr. President, the reason I indicated I think there will be extended debate in connection with this amendment is that I think the whole question revolves around how many Members are present at a particular moment. I must say that I am taken by surprise at this point at a late hour in the evening that my good friend from Wyoming is intending to bring up this amendment. I had been told that there had been some thought given to it but that it was not intended to be brought up.

In all fairness to the Senator from Wyoming it was not he who made that statement to me. But those who were involved in connection with the floor action on this measure had so indicated.

I think that what we are really talking about is how often and how many times does the same amendment keep coming back up before the Senate before we decide to finally put it to rest. It is a matter of law now. It is a question of undoing a law that has already been enacted into law.

Had I been given prior notice I think the situation might be entirely different.

Mr. ROBERT C. BYRD. Mr President, will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I can sympathize with the position that the distinguished Senator from Ohio has taken with respect to prior notice. But I will have to say that the distinguished Senator from Wyoming could have called this amendment up early today, and I urged him to lay it down last night so that it would be up early today, but he felt that in fairness to the Senator from Ohio the Senator from Chio should be here; therefore, he was constrained not to call it up at a time when the Senator from Ohio could not be here to defend his position on the amendment.

So I would hope that while the distinguished Senator from Ohio speaks of the position he has been put in, without prior notice, to use his words, he would also consider the position that the distinguished Senator from Wyoming was put in when he out of fairness to the Senator from Ohio—and I have supported the position of the Senator from Ohio, as the Senator knows—did not call up the amendment to take advantage of the Senator from Ohio.

I would hope we would not be on the amendment long, if the Senator from Wyoming calls it up. There are a goodly number of Senators here now. They have been told that the leadership intends to do everything it can to pass the bill tonight. If he waits until tomorrow there may be other Senators absent.

I do not think that we can pick and choose necessarily the time when we wish to bring up an amendment seeking a time that is advantageous to our own position, and I know Senators will do that. But I think that the time is now, if the Senator is going to call it up, and would hope that we could reach some understanding whereby the Senate could reach a decision on the matter without too lengthy a debate.

And I rest that case on the good nature and fine spirit of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the consideration that was given with respect to bringing the matter up earlier today. I did inquire about this matter yesterday when the same measure was on the floor and when I had heard that it might be brought up. I think that I must confess that the fact it was brought up this evening did not surprise me much, and I would suggest to the Senator from Wyoming that we permit the Senate to proceed forward with the Allen amendment, which I think is the next amendment up, and let me discuss this matter further. But at this point I would not be prepared to agree to a time limit.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Ohio for the indication he is giving further consideration to the matter.

Mr. METZENBAUM. Without indicating my point of view.

Mr. ROBERT C. BYRD. I understand.

The PRESIDING OFFICER (Mr. DECONCINI). The question is on agreeing to the amendment of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, as I indicated earlier, I will withdraw the amendment that is pending. I have talked with the manager of the bill and also with the Senator from Ohio (Mr. METZENBAUM), and this amendment will be offered next week to the natural gas legislation.

UP AMENDMENT NO. 825

Mr. GRIFFIN. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment No. 825:

On page 93, between lines 12 and 13, insert the following:

"Sec. 514. The provisions of section 513 shall not apply to any low volume domestic manufacturer who has been granted an exemption under the provisions of section 502(c) of this Act."

The PRESIDING OFFICER. On this amendment there is a time limitation of 10 minutes, to be equally divided. Who yields time?

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

In accordance with his request, I ask unanimous consent that the Senator from Indiana (Mr. BAYH) be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, current law requires specific fleet averages for automobile fuel economy. That legislation came out of the Commerce Committee, on which I sit, and we recognized that there were a few small companies in this country making less than 10,000 units a year which may not be able to comply with those standards. Their technology is dependent——

Mr. SCOTT. Mr. President, may we have order? There is a group surrounding the distinguished Senator that is distracting from his comments.

The PRESIDING OFFICER. The Senate is not in order. Senators who are not in their seats will please retire to the cloakrooms, or cease their conversations.

Mr. GRIFFIN. Under current law there is a procedure for obtaining an exemption if a small company manufacturing less than 10,000 units a year can satisfy the Secretary that it cannot comply.

This amendment would also make that procedure applicable in the case of the new Metzenbaum requirements. It would, to be sure, benefit the Checker Co., which is located in Kalamazoo, Mich., and makes the Checker cabs. They are looking forward to making major changes in their vehicle, but they cannot make them immediately. They are almost entirely dependent upon the technology of the Big Three, and they do not have the advantage of the benefit of their technology until long after it has been developed.

The amendment would also benefit a small company in the State of Indiana, and I am glad to yield now to the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I appreciate the Senator from Michigan's yielding, and for permitting me to be a cosponsor of the amendment.

The Avanti Corp., in my State, makes less than 300 cars a year. The cars are individually made. They use technology, as the Senator from Michigan says, available from the large companies, but they are a year or 2 or 3 or 4 years late in being able to apply it, particularly in the area of testing; and because there are so few vehicles the cost of testing to prove that they have met the standards would drive them out of business.

I appreciate the Senator's initiative in this area.

Mr. GRIFFIN. I thank the Senator from Indiana.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. GRIFFIN. Yes.

Mr. JOHNSTON. Does this amendment apply only to domestic manufacturers?

Mr. GRIFFIN. Yes, it does apply only to domestic manufacturers.

Mr. JOHNSTON. My only concern is that it might violate the GATT Treaty agreement, but I suppose that is a matter we could adjust in conference.

With the understanding that it does apply only to domestic manufacturers, granted there is a provision under section 502 wherein Checker Cab has already been granted an exemption, since we understand it would put them out of business if it made them subject to those requirements, with that understanding we are prepared to accept the amendment and take the matter to conference.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

UP AMENDMENT NO. 826

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 826: On page 70, line 6, strike out the word "and".

On page 70, line 10, strike out the period—

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, line 6, strike out "and".

On page 70, line 10, strike out the period and insert in lieu thereof a semicolon.

On page 70, between lines 10 and 11, insert the following:

"(6) require that a life cycle cost analysis be done for such buildings as set forth in sections 322 through 328 of this Act; and

"(7) where solar equipment is not the minimum cost alternative, require that the agency explicitly state the excess cost being necessary to install solar technology pursuant to this part.".

Mr. DOLE. Let me say that the amendment has been discussed on both sides of the aisle; it is somewhat of a technical mendment.

Mr. President, I note that this bill requires lifecycle costing to be used in the design of federal buildings. Then the bill goes on to prevent buildings from being designed to minimum cost, by proposing that solar equipment be installed in these buildings.

It is inconsistent to tell a building designer to come up with the least-cost system, and then tell him that the answer is solar. The bill is also inconsistent in providing guidelines for leasing buildings. It states that in leasing buildings, the Government shall give preference to buildings "which use solar heating and cooling or otherwise minimize lifecycle costs."

I would propose to eliminate the inconsistency by requiring the agencies to perform their lifecycle cost analysis, decide on the minimum cost system, and then specifically request the extra funds for solar. In this way we will be able to keep track of exactly how much it costs to bring this technology into the market. I am concerned that if we do not state the costs explicitly, we will never be in a position to evaluate the progress that we are expecting in terms of bringing down the cost of solar equipments.

Mr. President, as I understand, the amendment is acceptable.

Mr. JOHNSTON. Mr. President, the description given by the distinguished Senator from Kansas is correct. This would simply require the Federal Government to look at all the elements of life-cycle costing whether solar or otherwise.

We are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. ALLEN and Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recnized.

AMENDMENT NO. 853

Mr. MORGAN. Mr. President, I call up my amendment No. 853, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 853: on page 3, lines 23 and 24, strike "either directly or through one or more approved contractors,"——

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, on lines 23 and 24, strike "either directly or through one or more approved contractors,".

On page 14, line 11, strike "approved".

On page 14, strike lines 20 through 24.

On page 15, strike lines 1 through 14.

Mr. MORGAN. Mr. President, I realize the hour is late, and that probably the minds of most Members of the Senate have already been made up, but there is a portion of this bill that gives me a great deal of concern; and while our distinguished colleague from Massachusetts carried on a colloquy with the floor manager yesterday, and I have read that colloquy, I still feel constrained to bring up an amendment to discuss it, and perhaps call for a vote upon it.

It is a matter which concerns the portion of the bill which requires utility companies to go into the homes of their users and make a survey with regard to the insulation of the homes; in other words, to make an inspection of them.

That is all right. That part does not bother me, because, after all, they have unique access to almost every home in America.

But then the bill goes further and says, in effect, that the utility company shall make arrangements to provide insulation, or whatever insulation is needed, and to provide financing for such insulation to the home user.

I understand this in itself is an amendment or at least an improvement over the recommendation, as I understand it from the colloquy in yesterday's RECORD between the distinguished Senator from Massachusetts (Mr. BROOKE) and the distinguished Senator from Louisiana (Mr. JOHNSTON), that in the committee Mr. JOHNSTON amended the President's proposal which, in effect, would prevent the utility from going into this business itself.

The argument is, of course, that if we permit a utility which already is in a unique position, having been granted a monopoly to serve that home, whether it is serving it with electricity, natural gas, or what have you, then it has just about been given a monopoly to install the insulation and provide the financing.

This, to my way of thinking, is a dangerous precedent. It would endanger if not put out of business many, many small businessmen in America who are engaged in the home insulation business. It could very well damage the lending institutions which provide financial assistance for people who want to make home improvements.

This fact, I believe, was recognized by the distinguished floor manager when he proposed this amendment.

As the Senator from Massachusetts said in his colloquy yesterday, I am still troubled by the provisions of the bill. I have debated with myself all day as to whether or not I should do or say anything. I decided that, in all good conscience, I think it ought to be brought to the attention of the Senate and perhaps a vote taken on it, although I recognize that most of us are inclined to accept the recommendations of the committee which has spent long hours and much time on this bill.

What this bill does is to say that the utility company shall provide procedures whereby the public utility, at the request of the residential customer, will offer to arrange to have the suggested measures installed and for a lender to make a loan to such residential customer to finance the purchase and installation cost of the suggested measures.

Then it goes on to say the procedures whereby the public utility shall permit the residential customer to repay the principal over a period of not less than 3 years.

It is true that the company is not going to make the installation, but if they are going to make the arrangement, then which small businessman, which insulation company, is the utility going to turn to? In all probability it is going to make the selection itself because most homeowners are dealing with a representative from the utility they deal with month in and month out and are going to say, "All right, whoever you suggest will be fine with me."

It is going to not necessarily enhance their position, but substantially damage the small businessman who happens not to be on that utility company's list of approved installers of insulation. The same thing is true with the financial aspects of it.

In my amendment, I fail to go far enough because in the next section it provides that under no circumstances can the utility make these installations and provide this financing except in those cases where it is already being done.

As was pointed out in the colloquy yesterday, nobody really knows how many utility companies in the country are doing this. We may be grandfathering in hundreds of them.

Be that as it may, the next provision provides that the Administrator may, upon petition by a utility, so long as it has the approval of the Government, permit this utility to do the very things it is prohibited from doing.

Mr. President, I feel this is a rather serious matter. It points up to me the fact that we in the Senate, in an effort to meet an emergency which exists, as it does here, sometimes enact legislation which has far-reaching effects and damaging effects. Once enacted, it is never repealed. It disturbs me that we do that.

What I am asking is that we strike that portion of the bill which would require the utility, if requested by the homeowner, to make the arrangements for the installation of the insulation and the financial arrangements. It would still leave the provision in the bill which would require the utility to make an inspection and to inform the homeowner of the need. If it does that, it seems to me that somewhere in Government we ought to be able to persuade the homeowner to do what is necessary, and somewhere in all of these Federal loan programs we have we ought to be able to provide the financing.

We have the Farmers Home Administration; we have the savings and loans insured by the Federal Government; we have any number of lending institutions which could be used as a conduit to do that without putting a utility, which already has a monopoly, into every home in America and be in what I think would be an advantageous position.

The Energy Conservation Act goes far beyond merely making the utilities a clearinghouse for information and expertise. Under this act a utility will draw up a list of "approved" contractors, and then arrange to have weatherization installed. The utility will place a loan for the consumer, and collect the debt for the lender.

In short, the Energy Conservation Act puts the utilities in the business of regulating the home improvement business. Why should our national weatherization effort be regulated by the utility companies when the highly competitive home improvement industry has shown its ability to serve the public? I submit that the thousands of small contractors who today provide home improvement to the public do not need the utility companies acting as a "substitute government" regulating their activities.

Proponents of this legislation offer us the argument that the consumer lacks the expertise to judge the advice offered by private contractors. Again, our all-too-automatic belief in bigness and the corresponding lack of faith in the public's judgment are evident. The thousands of private contractors whose livelihoods and professional reputations depend upon satisfied customers in their communities have been and, in my judgment, will continue to be, a more than adequate source of weatherization information, installation, and financing. Dedicated as we are to the belief that people are the best judge of their own interest, why should we make utilities the sole judge of the competitive performance of insulators.

By making an already powerful institution the judge of a contractor's competence and source of a contractor's customers we are inviting wholesale abuse. This bill has no check upon blacklisting and noncompetitive restraint. The utilities could use the enormous power dumped in their laps by this bill to set up a host of noncompetitive practices. How can we be sure that the utilities will recommend contractors and financiers solely on the basis of merit when there are so many advantages they could gain by showing favoritism? Even if they try to be fairminded, why should we place the fate of small contractors into the hands of a utility's judgment of that firm's ability to insulate homes?

Today the home improvement industry is made up of many, small independent contractors. Many are small family concerns. In an age of increasing bigness and concentration, the independent home improvement contractors have managed to survive and flourish because they provide quality service at reasonable prices. Has our rush to centralize become such a reflex that when a new, profitable market for these firms opens up, we make the most monopolistic of industries—the utilities—the arbiter of success and failure for these surviving practitioners of small scale free enterprise? It simply

makes no sense that the Federal Government charge the utilities with a task already competently performed by thousands of small, struggling, and competitive firms.

Again our automatic faith in bigness and regulation at the expense of smallness and freedom is revealed.

Because we are afraid that a few small contractors will provide shoddy service, we rush to provide them with a centralized watchdog regulator, forgetting again that concentrated power, when abused, is infinitely more harmful than the scattered and occasional excesses of independent businessmen.

If our experience with Government regulation has taught us that even the most fairminded concentration of regulatory power is easily abused, what folly leads us to believe that the utility companies will fairly and equitably exercise the power we are handing them over small contractors?

(Mr. CANNON assumed the chair.)

Mr. JOHNSTON. Mr. President, I hope in a few minutes I can allay the fears of the distinguished Senator from North Carolina, because there was no emotion, no feeling of the committee, which was any stronger than the desire to keep utilities from being put into a position which would stifle competition, to adversely affect all of the people in the insulation business or in the small loan business, whatever, to stifle their business.

Let me go back to what the House bill provides. The House bill provides that utilities themselves shall make the inspection, shall do the work, and shall provide the loans.

This seemed to us on the Energy Committee to be absolutely certain to run everybody else out of the insulation business, other than the utility companies. We thought it was terribly anticompetitive. We spelled out by an overt provision in this bill a prohibition against utilities doing the work themselves, except to the very limited extent that some have been grandfathered by virtue of already being in the business. We prevented them from making loans except to the limited extent that they are already making those loans.

We did provide for the concept of what we call the utility acting as a project manager. What that means is that the utility is required to furnish the service of making the energy audit. The utility man would come around to the home, make the audit, and tell the person whether they need rock wool insulation in the ceiling, if that is what they still use, storm windows, or whatever. Then they will be able to offer to that homeowner a sort of turnkey advice, tell him where he can get his loan, how he can get his insulation installed.

The key is this, that each State must have a plan which details the kinds of work to be done in that particular geographic section. In the North they might provide for certain kinds of storm windows. In the South they might provide for certain kinds of insulation peculiar to air-conditioning. In any event, it is up to the State to provide a program, guidelines, if you will, as to the kind of work which shall be done; also, for a method for certification of contractors. Contractors will have to measure up to a State plan which will provide, for example, that they make certain minimum warranties; that they make certain provisions for adjustment of complaints.

Now, the State plan shall provide for that and the State plan, in turn, must be approved by the administrator. The State plan cannot be approved unless it contains these provisions for certification of contractors and unless it contains one other very important and critical provision. That is, it cannot be approved unless it contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of the utility and home heating supplier program within such State.

What that means, in very plain language, and as was further explained by rather lengthy debate right here, on this floor, is that the utility must present to the homeowner a list of all the certified contractors.

Mr. MORGAN. Certified by whom?

Mr. JOHNSTON. Certified by the State pursuant to this program, the program in turn approved by the administrator.

Mr. MORGAN. Who submits the program?

Mr. JOHNSTON. The Governor of each State submits a program which must contain all of those factors which are detailed on pages 10, 11, and 12 of the bill. Those are the provisions that provide that it must contain an adequate program for preventing unfair, deceptive, or anticompetitive acts.

Mr. MORGAN. If the Senator will yield, that sounds pretty good. But, you know, practically all of our laws prohibit unfair and deceptive trade practices and acts which tend to restrain trade, but it is difficult to enforce them.

I fail to find in the bill any real safeguards to protect the individual contractor. This provision that I am seeking to strike says that they will arrange for these things to be done. Even if the State has to approve the individual, small contractors in given areas, somebody has to submit those to the administrator, or to the State, for approval. I rather suspect the utility is going to do that.

Mr. JOHNSTON. If the Senator will yield on that point, that is very clearly set forth here, how they get certified. They are certified under the State plan. In order to get certified, they have to agree to the provisions which provide, for example, for warranty, for using the proper materials, for claims adjustment.

If the Senator will further yield for just a minute, we have a very practical problem. The amount of dollars involved in the average home insulation might be in the neighborhood of—we do not know precisely, but it might be in the neighborhood of $300. So the audit man comes around and says, "You need $300 worth of insulation in your ceiling."

If he walks away at that point and does not help the average man, that means that the average man, for $300 worth of work, has to go out and find a contractor and have the contractor come and make the estimate. Then, once he finds the contractor, he has to go out and find the loan company or bank or someone else to make that loan, and, maybe, do all those other details, which, to the average American, are a big problem on the horizon. It is almost like buying a home.

Mr. MORGAN. If the Senator would yield, would he think that is an undue burden to place on a man who already owns the home, especially when we have all these agencies, federally funded or federally insured, to make home loans? I grant that it may be a little more convenient to say to the utility man, "You go ahead and make the arrangements for me." But in the interests of preserving as much competition in the free enterprise system as we can, it seems to me that that is mighty little to ask of him. That is what disturbs me.

If I could go one step further, we talk about these contractors getting certified and approved. Well, let us suppose that all of them in my county get approved—all of them get on the approved list. But the utility is the one that is going to make the arrangement. Under this bill, the utility can pick any of those that are approved.

Mr. JOHNSTON. No, the idea here is that the utility will submit the list to the homeowner. The homeowner will pick the contractor and the utility will then seek to get the contractor in the home and arrange the paperwork and help him arrange the loan, once he has picked the person.

Mr. MORGAN. I do not find that in the bill. I do not find where he submits the list.

Mr. JOHNSTON. That has been explained by colloquy. I think it is clear on page 11, at the top of the page, subsection 3, where it says "contains an adequate program for preventing unfair, deceptive, or anticompetitive acts." It would clearly be an anticompetitive act for a utliity person to be able to get his brother-in-law who is in the insulation business.

On page 57 of the report it says:

> Each utility would be required to provide information about energy conservation measures, audit, and billing services and lists of lending institutions and approved suppliers and installation contractors. The committee intends that these lists be compiled in an open and nondiscriminatory manner pursuant to procedures specified by the State and that it be possible on the basis of the results of an energy audit performed as provided for in the Act, combined with the information contained on or accompanying these lists for a residential customer to make a reasonable estimation of the cost of each energy conservation option indicated in the audit of his or her particular dwelling.

So we have spelled it out, I think, clearly. All I can say is that the committee completely reversed the direction of the House because of the very concerns that the Senator from North Carolina is voicing.

Mr. MORGAN. I say to the Senator, I am sure the committee had these same concerns. But all of these safeguards written in there, saying you shall not have any unfair practices, do not mean

a thing to the man out in the State where it is being done. I say to the Senator that about the most useless and worthless enterprise that the Senate engages in, when we leave the District of Columbia and a few other places, is colloquy on the floor of the Senate to establish legislative history. Did the Senator ever try to argue that to a district judge?

Mr. JOHNSTON. If the Senator will follow the bill, then, and will turn to page 14 of the bill.

Mr. MORGAN. I am on it.

Mr. JOHNSTON. Look at line 10 there. These are the requirements that the State plan must have before it can be approved by FEA:

(3) procedures whereby the public utility sends to each of its residential customers a list of approved suppliers and contractors in its service area who sell or install residential energy conservation measures;

(4) procedures whereby the public utility sends to each of its residential customers a list of banks, savings and loan associations, credit unions, and other public and private lending institutions in its service area which offer loans for the purchase and installation of residential energy conservation measures;

(5) procedures whereby the public utility, at the request of a residential customer will offer to arrange—

Then it goes on to say to have the suggested measures installed.

All we are asking—we have tried to create a structure here that is as fair and nonanticompetitive as we can get. If the Senator can tell me how we can get a conservation program that will work so that we can get the insulation put in the homes and the storm windows put in, have that accomplished and, at the same time, be less anticompetitive than we are, we will accept it. But I submit this is the most workable program that we could have come up with.

I say the fight is going to be with the House, who are going to want to put the utility companies right back in it.

Mr. MORGAN. Let me go back. I am familiar with the section the Senator read. As a matter of fact, my amendment strikes out the word, "approved," which would require them to submit a list of those, which I think would improve it some.

I say to the Senator that if we are going to do it this way, I think the committee has come up with what is probably as good a way as we can do it. But I say, when we require that representative of a utility to go into the home and do this, we are putting him in a position where he can say, "Well, you know, here is a list, but I tell you, we deal with this fellow over here. You know, he does a pretty good job." There is no way under heaven that you can prove that this is going on.

If we do, it is going on a thousand times for every one we catch.

We come here in the Senate——

Mr. JOHNSTON. The Senator's amendment would prevent that?

Mr. MORGAN. Yes, it would prevent it. He would not make the arrangements. Not prevent him from saying a fellow over here will do it, but when he goes out to do it on his own, he will shop around some.

We in this Senate, in this Congress, have gotten to the point where we feel we know best what is good for the people of this country.

I do not believe a man who has had enough initiative to go out and buy a home is not competent to do this sort of thing.

Lord knows, in my opinion, this is much further than we ought to go, and when we go over to the conference committee with the House, what have we got to give? We will end up with the House bill.

I think it would be better if we went over there, take it out, let them make the inspection and, if we have to give some, to give some.

But we go home and talk about small businesses, keeping the Federal Government out of the business of the people, and then we come in, in the name of an emergency, and do this sort of thing which, very honestly, I believe will put these people out of business.

The Senator mentioned Rockwell a while ago. The president of the utility company that serves my home is on the board of directors of several of the largest corporations in America. I do not think he is on the board of any insulation company, Rockwell or any other company.

Mr. JOHNSTON. I was talking about rock wool.

Mr. MORGAN. Well, I think Rockwell makes insulation, if I am not mistaken.

But if we have a director on an interlocking directorship, what will we do?

Mr. JOHNSTON. This does not prevent that.

Mr. MORGAN. Well, I think the Senator knows, the bill does not affect that. I would hope the Senator does.

But I think the Senator knows that if the director of a power company is also a director on a company that is manufacturing insulation, that if there is any way he can sort of help his industry along, he would.

Mr. JOHNSTON. Let me say to the Senator, as long as we are going to have an energy audit we are going to get that utility man inside the house, and if he can tell us who better can do an energy audit, then we will accept it.

Mr. MORGAN. Let him do the energy audit. But then let the homeowner——

Mr. JOHNSTON. But it does not prevent him from recommending somebody. We prevent that as best we can.

Mr. MORGAN. Let him go in the home and if he wants to violate the terms and recommend somebody——

Mr. JOHNSTON. The Senator was asking whether we could have some rollcalls back to back and I told him I thought we were getting ready.

Would the Senator from North Carolina want a rollcall?

Mr. MORGAN. I believe I would. I believe this is something that ought to be on record.

Mr. JOHNSTON. Very well.

Would the Senator be about ready to have the rollcall vote?

Mr. MORGAN. I do not think it will be but a few minutes.

Mr. JOHNSTON. Very well.

Mr. MORGAN. I say to the Senator, I have given a lot of thought to this. I say, as the distinguished Senator from Massachusetts did yesterday, we spent an awful lot of time on this very question in the Banking and Housing Committee and, lo and behold, I see it coming out of another committee.

I have thought all day, and I thought it ought to be on the record. I have no illusions the Senate is going to vote for this, but I think it ought to be discussed.

To go back to the point I was trying to make earlier, I think it is well and good to let these people make the inspection and if they slip and recommend somebody, good. I do not say "good," but let it happen, it will happen anyway.

But when that homeowner goes out in the marketplace to begin to bargain, then he is going to look around. But if it is just made so easy for him to let the utility make all arrangements, he will let the utility company representative do it with whomever the company chooses.

I think it is dangerous and I feel that we ought to at least leave it as to where we started in the committee, let them make the inspection and then leave the question of trying to get it done up to all these dozens and dozens of Federal agencies that already exist.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. BENTSEN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

The result was announced—yeas 35, nays 48, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—35

Allen	Brooke	Chafee
Bartlett	Bumpers	DeConcini
Bellmon	Byrd, Harry F., Jr.	Eastland
Biden		Glenn

Hart	Lugar	Schmitt
Hatch	McClure	Schweiker
Hatfield	Melcher	Scott
Hathaway	Morgan	Stafford
Hayakawa	Nunn	Stennis
Helms	Packwood	Talmadge
Kennedy	Roth	Tower
Leahy	Sasser	Zorinsky

NAYS—48

Abourezk	Eagleton	Metzenbaum
Anderson	Ford	Moynihan
Bayh	Gravel	Nelson
Burdick	Griffin	Pearson
Byrd, Robert C.	Hansen	Pell
Cannon	Haskell	Percy
Case	Heinz	Proxmire
Chiles	Hollings	Randolph
Church	Huddleston	Ribicoff
Clark	Inouye	Riegle
Cranston	Jackson	Sarbanes
Culver	Johnston	Stevens
Curtis	Magnuson	Stevenson
Danforth	Mathias	Stone
Dole	Matsunaga	Thurmond
Domenici	McIntyre	Williams

NOT VOTING—17

Baker	Javits	Muskie
Bentsen	Laxalt	Sparkman
Durkin	Long	Wallop
Garn	McClellan	Weicker
Goldwater	McGovern	Young
Humphrey	Metcalf	

So Mr. MORGAN's amendment was rejected.

The PRESIDING OFFICER (Mr. STEVENSON). The Chair recognizes the Senator from Alabama.

Mr. ALLEN. I thank the Chair.

UP AMENDMENT NO. 827

Mr. ALLEN. Mr. President, I offer an amendment on behalf of myself and Mr. BAKER, Mr. SPARKMAN, Mr. SASSER, and Mr. HUDDLESTON, and I ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. BAKER, Mr. SPARKMAN, Mr. SASSER, and Mr. HUDDLESTON, proposes unprinted amendment No. 827.

Mr. ALLEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23 between lines 13 and 14 add the following new subsection:

(c) The Tennessee Valley Authority shall plan and carry out with respect to public utilities which distribute electric power generated by the Tennessee Valley Authority a utility program substantially similar to the program provided for in this part, except that the prohibitions and provisions of this part and regulations issued pursuant thereto shall not apply to such utilities or program.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. ALLEN. I yield.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order. The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the Senate, it is important that the Senate complete action on this bill tonight. The Members who are involved in managing this bill on the floor tonight have to be in the Energy Committee tomorrow to consider the next energy bill which is pending in that committee.

Mr. JACKSON. It is the last one.

Mr. ROBERT C. BYRD. It is the last one.

Mr. JACKSON. It is the utility rate reform bill.

Mr. ROBERT C. BYRD. It is the utility rate reform bill.

So it is for that reason that the Senate is attempting to complete action on this bill tonight, so that those Members who need to be there to consider that bill and who need to be here in managing this bill will be relieved on tomorrow to act in the committee so that the committee can act on that last measure so as to expedite the action in the Senate on the energy measures which, as all Senators will remember, are the top priority measures for the remainder of this session.

I thought that the Senate was entitled to an explanation as to why we are wanting to go on and complete action tonight.

I believe I have cleared this with the distinguished Republican leader, but the assistant Republican leader is on the floor. I ask unanimous consent that any remaining back-to-back votes tonight be 10 minute rollcalls on back-to-back votes.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. We have no objection to that.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wonder if this will be agreeable to Senators. Several Senators have been invited to attend a dinner, I believe, that is being given for our former colleague and beloved friend, Senator Symington, and other Senators, I believe, have other dinners. I wonder if it would be agreeable if we could proceed with amendments, stack up the votes, so as to allow those Members to attend those dinners for at least a little while, and then have all the votes coming at one time with final passage thereafter. If I hear no objection, I will propose that request.

Mr. SCHWEIKER. Is that tonight?

Mr. ROBERT C. BYRD. Tonight.

Mr. ALLEN. Mr. President, I reserve the right to object. The Senator realizes, of course, that once this agreement is made many Senators will depart the Chamber, and all Senators who have amendments will be talking to empty seats here, and there will be no chance of explaining the amendment.

I wonder if we could put in a proviso providing there are as many as 20 Senators remaining in the Chamber. Otherwise, we will be talking to the walls. I would not want to do that because I believe I have an amendment that if I can get the attention of the Senate I could possibly get it agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take it then there would be objection to my request.

Mr. ALLEN. At this time.

Mr. ROBERT C. BYRD. All right.

Mr. ALLEN. I have no objection after this amendment is acted on. I will say that.

[Laughter].

Mr. STEVENS. Mr. President, may I inquire?

Mr. ROBERT C. BYRD. Mr. President, I do not propound the request then at this time.

Mr. MAGNUSON. Do not take up any more time.

Mr. STEVENS. Does the leader suggest that those votes will occur tomorrow?

Mr. ROBERT C. BYRD. No. Tonight.

Mr. CASE. I object to that.

Mr. ROBERT C. BYRD. Mr. President, I do not make the request.

I yield the floor.

Mr. ALLEN. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this amendment has been introduced by myself and the other coauthors of the bill at the request of the Tennessee Valley Authority. I will not state that it is an administration bill because I have not inquired of the administration itself, though the Tennessee Valley Authority, of course, is an agency of the U.S. Government, and to that extent it could be considered an administration request. Certainly it is a request of the Tennessee Valley Authority.

At the present time, TVA has a very fine energy conservation program.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order. Senators are not seated.

The Senator may proceed.

Mr. ALLEN. It provides that the TVA provides interest-free loans for their customers who have all-electric homes to provide attic insulation. This bill grandfathers in that single specific program.

TVA, which is charged with the duty of providing a yardstick for other utilities and is charged with the duty and responsibility of producing and selling energy at the lowest price possible, believes that it can finance an extension of this program through the energy saved. It believes that it can save in its own electricity production some $20 million a year because right now it is providing electricity from peak loads and has to purchase electricity at higher prices from surrounding utilities. They would like merely the right to expand this program if they see fit.

This is definitely a consumer amendment. It is in the interest of the consumer in that the consumer could get interest-free loans from the TVA for the purpose of other energy conservation measures; for instance, under the present program that they have it is providing for attic insulation only for all electric homes. But they might want to provide insulation in the sides of the houses and they might want to provide insulation for houses that have gas for their heat. But they could not do that under this bill. All this does is allow the TVA to continue to be innovative in this program.

To answer the objection that the TVA would be doing the insulation work, I have been handed a message by the assistant general counsel of the TVA which states that the TVA insulation program enhances the opportunity for small businessmen. Neither the TVA nor the distributors will install insulation

under the present plan. Instead, each consumer will be provided a list of all contractors in the area. The consumer will choose his own contractor. Contractors will be removed from the list only if they do consistently bad work. Therefore, before contractors are paid their work will be checked by a trained inspector of one of the TVA distributors.

Now, just to show an innovative approach that TVA is considering but would not be allowed to make if this bill passes, they are examining the feasibility of a program to reimburse consumers for the difference in cost between an ordinary electric water heater and a large capacity remote-controlled water heater that can be electronically turned off by a TVA power dispatcher during periods of peak electricity demand. The study might show that the cost of such a program would be offset by a savings in fuel costs and capital costs, resulting in a net savings to electric consumers.

Now, Mr. President, I call attention of the Senators to the fact that this is not a private corporation. No company here would be making windfall profits. The TVA belongs to the people, and the customers of TVA are the ones who would benefit by this program. If we fail to pass this amendment, it is going to deprive customers of TVA of the opportunity to get interest-free loans. That is the way they are doing it under their present program, and they want the option of expanding that program.

That is all that the amendment would do. It would merely allow them, not to install the insulation, as might have been suggested—I understand that was one of the objections of the manager of the bill when I sought to get him to take the amendment to conference. The TVA and its power distributors do not install one single insulation job. They do make interest-free loans to the customers. They say they will get back the cost of that interest by the saving they make in selling less of the peak load power, which they have to purchase at the maximum rate from surrounding utilities. That is all the amendment would do.

We charge the TVA with coming up with innovative programs to keep the cost of electricity low, but in this instance we would be putting them in a straitjacket to prevent them from doing that. If we defeat this amendment, we freeze in just what they are doing now. They could not expand their business, they could not give an interest-free loan to someone who had gas heat; they could not pay them for installing this water heater that would use less electricity.

All the amendment would do is let them come up with innovative approaches which would benefit the consumer by providing electric power at the lowest feasible rates and by allowing him interest-free loans.

If we are interested in protecting consumers, and many Senators state that they are, here is an opportunity to do something for the consumer, consumers in some seven States. I think it is not an unreasonable request to be made.

This is not, as I say, a measure to fill the coffers of a private company, or the stockholders of a private company, because if anyone benefits, it is the public that benefits. This is a public interest amendment that will benefit consumers and will benefit the customers of the great Tennessee Valley Authority.

I have no further comments to make on the amendment. I hope the manager of the bill will at least take the amendment to conference.

Mr. JOHNSTON. Mr. President, as much respect as I have for the distinguished Senator from Alabama, we cannot accept this amendment. Indeed, the committee would strongly oppose the amendment. As I mentioned in the discussion with the distinguished Senator from North Carolina (Mr. MORGAN), there is no part of this bill which was debated more, and about which the committee feels more strongly, than the provisions that prevent anticompetitive action; and we carefully took measures to prevent the utilities from making installations themselves or making the loans themselves.

The reasons are that when they are charged with making the inspection, and when they knock on the door and tell the customer, in effect, that Jimmy Carter sent them because the law provides it, then they have a captive audience in the homeowner, and they could freeze everyone else out of the business; no banks and no lending institutions could make a loan in competition with them, because they are there, they are in the door, and they are there with the seal of approval of the U.S. Government.

We felt very strongly, as did the Senator from North Carolina, that we ought to do our utmost to prevent anticompetitive practices.

What this amendment does is say that the TVA shall come up with a program substantially similar to the program provided in this bill, whatever that means, and by whomever that judgment is made. I presume the TVA is to decide what is substantially similar and what is not substantially similar, because there is no procedure here for approval of that. I guess it is left up to the good faith of the TVA to determine what is substantially similar.

But this much is clear:

> The prohibitions and provisions of this part and regulations issued pursuant thereto shall not apply to such utilities or program.

So all these prohibitions relative to not doing the work themselves, relative to the lending institutions, relative to anticompetitive practices, and relative to provisions which require that the program should be adhered to, all of those would not be applicable to TVA.

Why TVA? Why not also Bonneville? Why not also all the municipal utilities?

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. MAGNUSON. I was going to suggest that if this amendment carried, I would have to have an amendment to include Bonneville.

Mr. ALLEN. I would be glad to modify my amendment.

Mr. JOHNSTON. The point is, if we are going to have a national rule and a national standard, it ought to be applicable nationally. The fact of the matter is that anticompetitive standards are at the very foundation of this bill. If we did not have those anticompetitive prohibitions, I doubt that our committee would have been for this bill, because it is not our intent to open the door, or should I say close the door to those who are in the business of making loans and those who are in the business of providing insulation. We want an insulation program that works, but we want the hundreds of small businesses across the country which make the loans and provide the work, through subcontractors, to be able to go out and get the business themselves, and not be frozen out by some huge giant like TVA.

So, Mr. President, we would strenuously oppose the amendment, and I intend to make a motion to table. If the Senator has a question, I will be glad to give him the opportunity to ask it first.

Mr. ALLEN. I have a comment occasioned by the Senator's remarks, if he will permit me.

I would hope the Senator would not move to table, and would allow an up-or-down vote on the amendment, as was done on the next preceding amendment, on which there was an up-or-down vote.

Mr. JOHNSTON. My only concern is one of time. If the Senator is about through, I would allow the vote to go up or down.

Mr. ALLEN. I have not started on my rebuttal of what the Senator said.

The Senator apparently did not hear me when I stated that the TVA and none of its distributors would install any of the insulation. If the Senator wishes to modify the amendment to that effect, I have no objection to that.

Mr. JOHNSTON. If the Senator will yield, the amendment does not so state.

Mr. ALLEN. I state that is the policy of TVA, and if the Senator would feel better about it, I would modify the amendment to make that provision, that they could install the insulation.

Mr. JOHNSTON. All I am pointing out is what the Senator's amendment now provides. That would not remove all my objections, because everything I said about making loans in competition with local financial institutions would still apply.

Mr. ALLEN. If the Senator, then, objects to interest-free loans to the customers of TVA, and prefers turning them over to short-term lenders at 12, 14, or 16 percent, he is not protecting the interests of the consumers in a way that I would feel that the distinguished Senator would want to protect the consumers.

What he is doing by defeating the amendment is preventing thousands of people in the TVA area from obtaining interest-free loans. If the Senator wishes to do that, that is his privilege and the privilege of the Senate. Those are the two points involved: Whether TVA would install the insulation. They say they are not going to. I would be willing to write it into the amendment. Second, is the question of whether we are turning the consumers over to the lending institutions, to many short-term lenders.

No doubt, since they are 3-year loans, that interest rate runs somewhere between 12 and 14 or 15 percent.

I will rest my case with the Senate. I know the Senate will agree to the amendment.

Mr. President, I ask unanimous consent that a position paper containing the position of the Tennessee Valley Authority with respect to this amendment be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF TVA POSITION

TVA already has in full swing a 5-year residential energy conservation program, which will provide free energy audits and interest-free loans for attic insulation to 500,000 homes. The cost of the program will be more than offset by a $20 million per year savings in TVA's fuel cost, which savings will be passed along to all electricity consumers in the form of lower electric rates. Although the attic insulation portion of this TVA program would be "grandfathered" under S. 2057, the bill would prohibit TVA and its distributors from pursuing additional programs which provide loans for residential energy conservation measures. The effect of these provisions would be to retard—not accelerate—the installation of energy conservation measures. Accordingly, S. 2057 should be amended to exempt TVA and its distributors from the provisions of Title I, Part A, so that they may conduct any kinds of conservation programs which are beneficial to their consumers.

TVA PROGRAM

TVA's present program will make available energy audits to the more than 2 million residences in its service area and will make available interest-free financial assistance to approximately 500,000 electrically heated residences in order to install attic insulation. This assistance will be provided to renters and homeowners alike and will be provided regardless of the number of dwelling units in the building.

The cost of this program—interest, administrative costs, and any defaults in payments which may occur—will be borne by the self-financed TVA electric power system. TVA can do this because of the huge savings which will accrue to the power system and, in turn, to all consumers through lower rates than would otherwise be required.

TVA estimates that the reduced need for generation from high-cost power plants during the heating season will produce an annual fuel cost savings of approximately $20 million—or more than four times the cost of the program. In addition, the insulation program should eliminate the need for 400,000 to 500,000 kilowatts of new generating plant.

WHY TVA SHOULD BE EXEMPTED

1. TVA should be free to carry out its statutory mandate to provide electric power at the lowest feasible rate.

TVA's present residential energy conservation program helps TVA keep electric rates as low as feasible because it provides a net savings to the electric power system. The mere existence of a conservation program will, of course, produce no energy conservation or cost savings unless persons take advantage of it. Providing free energy audits and interest-free financial assistance is one of the best incentives to encourage persons to voluntarily install attic insulation. Without these incentives, voluntary attic insulation would proceed at a much slower pace, and energy conservation and cost savings would be substantially delayed.

As presently drafted, S. 2057 would prevent TVA and its distributors from using these incentives to encourage participation in whatever additional energy conservation programs TVA develops in the future, even if such programs would provide a net savings to the power system and lower electric rates.

2. TVA should be free to act as a model and a testing ground for new energy conservation measures.

The provisions of S. 2057 would straightjacket TVA's efforts to develop and test new and innovative methods for conserving energy. For example, TVA is examining the feasibility of a program to reimburse consumers for the difference in cost between an ordinary electric water heater and a large capacity remote-controlled water heater that can be electronically turned off by a TVA power dispatcher during periods of peak electricity demand. The study might show that the cost of such a program would be offset by a savings in fuel costs and capital costs, resulting in a net savings to electric consumers.

Under S. 2057 TVA could not, however, install or finance the installations of such water heaters to encourage their use and thereby obtain their benefits for the TVA power system and its consumers. This result would be contrary to the "yardstick" concept of TVA and to the President's intent to use TVA as a model in the energy field.

3. TVA should continue its central role in planning and supervising residential energy conservation programs in the region where it supplies electric power.

As presently drafted, S. 2057 would, in effect, eliminate TVA from any role in planning and supervising residential energy conservation programs in spite of the fact that it has planned and is now carrying out one of the Nation's most ambitious programs. The bill would require TVA municipal and cooperative distributors individually to submit directly to FEA their own energy conservation programs, thereby bypassing TVA.

The bill's provisions would reduce the potential for electricity conservation in the TVA area. The TVA power system is a unified power system that is the sole source of electric power to 160 distributors located in 7 states. Many kinds of energy conservation programs can be effective only through centralized planning and coordination. The bill's provisions would mean that TVA was no longer able to plan and carry out a uniform conservation program throughout the region it serves.

4. TVA's energy conservation programs should not be subject to the dictates and control of another Federal agency.

TVA has already demonstrated its initiative in energy conservation by beginning one of the largest residential energy conservation programs in the Nation. TVA is concerned, however, with who makes the final decisions as to how these programs are designed and implemented for the TVA power system. Another Federal agency—one that has had no direct contact with the special needs of the Tennessee Valley region and that has no responsibility for keeping electricity rates as low as feasible or for the balanced development of the resources of the region—should not be in a position to second guess decisions of the TVA Board and to substitute its judgment for that of the Board.

The loss of TVA's independence and flexibility would make it difficult for TVA to continue to be a "yardstick" for the Nation. Instead, TVA could become what some of its critics accuse it of being—"just another utility." TVA was not created by Congress to be merely a producer and marketer of electric power. The larger purpose of TVA is to enhance the overall social and economic development of the Tennessee Valley and nearby regions, and electric power and its conservation is one of the tools to carry out this mission.

AMENDMENT TO EXEMPT TVA

Add the following new subsection (c) to section 107 of S. 2057 (p. 23, line 14):

(c) The Tennessee Valley Authority shall plan and carry out with respect to public utilities which distribute electric power generated by the Tennessee Valley Authority a utility program substantially similar to the program provided for in this part, except that the prohibitions and provisions of this part and regulations issued pursuant thereto shall not apply to such utilities or program.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 12, nays 69, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—12

Allen	Huddleston	Sasser
Anderson	Melcher	Stennis
Eastland	Nelson	Talmadge
Hayakawa	Riegle	Thurmond

NAYS—69

Abourezk	Cranston	Hathaway
Bartlett	Culver	Heinz
Bayh	Curtis	Helms
Bellmon	Danforth	Hollings
Biden	DeConcini	Inouye
Brooke	Dole	Jackson
Bumpers	Domenici	Johnston
Burdick	Eagleton	Kennedy
Byrd, Harry F., Jr.	Ford	Leahy
	Glenn	Lugar
Byrd, Robert C.	Gravel	Magnuson
Cannon	Griffin	Mathias
Case	Hansen	Matsunaga
Chafee	Hart	McClure
Chiles	Haskell	McIntyre
Church	Hatch	Metzenbaum
Clark	Hatfield	Morgan

Moynihan	Ribicoff	Stevenson
Nunn	Roth	Stone
Packwood	Sarbanes	Tower
Pearson	Schmitt	Williams
Pell	Schweiker	Zorinsky
Proxmire	Stafford	
Randolph	Stevens	

NOT VOTING—19

Baker	Laxalt	Scott
Bentsen	Long	Sparkman
Durkin	McClellan	Wallop
Garn	McGovern	Weicker
Goldwater	Metcalf	Young
Humphrey	Muskie	
Javits	Percy	

So the amendment was rejected.

TIME-LIMITATION AGREEMENT

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. HANSEN. Mr. President, I shall not take very long. The Senator from Ohio, my good friend, Mr. METZENBAUM, and I have agreed to a 10-minute-per-side limitation. If the majority leader would like to take official note of that, we are agreed that not more than 10 minutes will be used on either side.

Mr. ROBERT C. BYRD. If it is agreeable, we shall make that a formal order.

Mr. HANSEN. Very well.

Mr. ROBERT C. BYRD. Mr. President, I so request.

Mr. METZENBAUM. Is that 10 minutes on a side?

Mr. HANSEN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 828

Mr. HANSEN. Mr. President, the distinguished floor manager of the bill is here. I thought he might not be. I was prepared to say that the committee takes no position on this issue. I should prefer that the Senator from Louisiana would address that himself.

Mr. JOHNSTON. The Senator from Wyoming is correct. As I understand, this was originally added by floor amendment and did not receive committee action. Therefore, the committee has no objection.

The PRESIDING OFFICER. If the Senator will withhold, the Chair reminds the Senator that the amendment has not been stated.

Mr. HANSEN. I send my amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes unprinted amendment No. 828.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, between lines 15 and 16 insert the following.

PART G—CONSERVATION OF NATIONAL COAL RESOURCES

SEC. 371. Part A of Title I of the Energy Policy and Conservation Act is amended by adding at the end thereof a new section as follows:

"SEC. 107. (a) Neither the Governor of any State, nor the President's designee, nor the President may issue any order or rule prohibiting any major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives.

"(b) Neither the Governor of any State, nor the President's designee, nor the President may issue any rule or order requiring any major fuel burning stationary source (or class or category thereof) to enter into any contracts for supplies of locally or regionally available coal or coal derivatives."

Mr. HANSEN. Mr. President, what my amendment proposes to do is to remove the authority that is now contained in the Clean Air Act which grants to the President, or his designee or the Governor of any State, the right to issue an order or rule prohibiting any major fuel-burning stationary source, or class or category thereof, from using fuels other than locally or regionally available coal or coal derivatives.

As well, my amendment would deny those same officials the authority to order any such stationary source to enter into long-term contracts for supplies of locally or regionally available coal or coal derivatives.

The purpose of this amendment is to make certain that the President's energy policy can be more completely and successfully implemented than would otherwise be the case. I say that because the effect of the Metzenbaum amendment to the Clean Air Act is to Balkanize the country.

I pointed out when we were talking last Thursday that in some parts of the country this authority might be invoked only to have a wildcat strike break out. I have since been told that this has actually happened, that a utility has had to go outside of the State or outside of the region where it had been buying its coal because coal was not available as a result of a wildcat strike.

I do not think that we want to Balkanize the United States. I do not think that we want to prevent any utility from buying coal where it can make the best deal, having in mind the air quality or the price or the ready availability of that coal.

It is for these reasons that I ask my colleagues to support the amendment.

Mr. President, I reserve the remainder of my time.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I do not know if I am in control of time, but if I am, I yield such time as the Senator from Indiana needs.

Mr. BAYH. Mr. President, this thing has been beaten to death, and I will only take 2 or 3 minutes here, and then the primary mover of this amendment that has been considered time and time again will, I hope, deal with some of the more basic facts.

But I must say to my friend from Wyoming, I think he knows very well we are not really after wildcat strikes. As far as the Balkanization of the country is concerned, I think we have to wonder which side of this issue will result in Balkanization.

What we are trying to do here is prevent serious economic problems in a given area when a major utility determines that instead of seeking the latest environmental protection equipment or to meet air quality standards they decide to leave the area and go to another part of the country to buy coal.

That may be an oversimplification, but before we shift this employment burden back and forth across the country, it would seem to me we ought to require the major utilities to use the best technology possible, and then if they cannot do it, all right. There is no alternative.

I must say, my friend from Wyoming knows we are really not after wildcat strikes, and if we need to revise our amendment to relieve anybody's concern that a temporary basis like that is what we are concerned about, I cannot speak for my friend from Ohio, but as a cosponsor, count me in. We can afford basic, long-term dislocation only if that is proven.

Only if that is proven can the President, in conjunction with the Governor, take advantage of the provisions of this amendment.

I thank my friend from Ohio.

Mr. METZENBAUM. Mr. President, I would like to correct the Senator from Wyoming who indicated that this act could come into play on the basis of the activities of a Governor or the President.

The fact is that the only one who can make this act work, and the act I am talking about is the legislation that is presently in the Clean Air Act, is the President of the United States. The Governor cannot do it unless the President okays it, and the President is not going to invoke the provisions of the amendment that was adopted to the Clean Air Act unless there is severe economic dislocation or severe unemployment.

Now, what is so terrible about that? We are talking not about Balkanization. That term has been used over and over again. But there is no Balkanization in this legislation. It does not even provide for any kind of State-by-State differential.

What it says is that if the President determines, whether or not requested by a Governor of a State, that severe unemployment or economic dislocation would otherwise occur or will occur, that then he may order the usage of regional coal in that area.

Now, is that so terrible? Is that really that kind of a travesty?

That amendment was adopted to the Clean Air Act. That amendment is now a part of the Clean Air Act which has been put into law.

What the proposal of my good friend from Wyoming is, is to undo that which this body and the House of Representatives enacted into law within the last month.

Really, the issue is, are we going to give a law we just passed a chance to work or are we, on the basis of who happens to be present here this evening, going to undo that which has already been done by the Congress of the United States?

The amendment that was adopted in the Clean Air Act was supported and was proposed by myself, by the distinguished Senator from West Virginia (Mr. RANDOLPH), by the Senator from Indiana (Mr. BAYH), and by the Senator from Pennsylvania (Mr. HEINZ).

It is supported by a unique coalition of environmental and labor groups. Most of the time the environmental and labor groups of this country are in opposition to each other. But, in this instance, they have agreed.

I cannot, for the life of me, understand why there is so much fuss and muss in order to try to undo a law that just became law within the last 30 days. Give it a chance to work.

If we do not have the confidence in the President of the United States not to invoke the law unless there is severe need to do so, then in whom else can we place that kind of confidence?

I say to the Members of the Senate—and I propose a motion to table on behalf of myself and the other three Senators I just mentioned—I hope Senators will see fit, whether or not they favored the amendment originally, to put this matter to rest once and for all and support our motion to table.

I reserve the remainder of my time.

Mr. HEINZ. Mr. President, will the Senator yield 30 seconds?

Mr. METZENBAUM. I yield.

Mr. HEINZ. Mr. President, the Senator from Ohio and the Senator from Indiana have very accurately and succinctly expressed the problem, the rationale, and the very sound reason for this solution. I compliment them on their statements, and I particularly compliment the Senator from Ohio, my good friend, Senator METZENBAUM, for his leadership in this matter.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, has time expired on the amendment?

Mr. HANSEN. No, it has not expired. I yield the remainder of my time to the Senator from New Mexico.

Mr. DOMENICI. Does the Senator from Alaska desire some time on this amendment?

Mr. STEVENS. Following the time on this amendment, I intend to ask unanimous consent to propound one question to the Senator from Louisiana concerning the interpretation of the Metzenbaum amendment.

Mr. DOMENICI. Mr. President, I will try not to use the remaining 5 minutes.

I say to my good friend from Ohio and my good friend from West Virginia, Senator RANDOLPH, that this is not the first time I have stood here in opposition to this amendment. I vividly recall the amendment being agreed to as a floor amendment by one vote in the Clean Air Act. I would not again be arguing the issue, but I really believe the basic issue involved is one which takes quite a while to get the message across.

We have to understand what we are trying to do. I truly believe that the day we lost by one vote, had we had a chance to explain in a little more depth, this would not be part of the law. So I will tell Senators what I think it does and why I oppose it.

I understand why Senators from coal-producing States are here supporting this amendment. In all good conscience, I commend them for it.

For the first time, I used on the floor the word "Balkanization" with reference to this amendment, and that has become everyone's word, pro and con, on this amendment.

When this country was founded, one of the real concerns that our States had was that one State should not permit local economics to govern the free flowing commodities as between States, and we spoke directly on that in our Constitution.

If a State produced shoes and if they found that there was heavy unemployment in the shoe industry in that State, but for that clause in our Constitution, that State legislature could say, "Every store in this State will sell first the shoes produced in this State because there are unemployed shoemakers in this State."

I do not think that analogy is too far from what we have here. If there are unemployed coal miners in a given State or county or little region of a State, obviously there is grave concern about their unemployment. But the response by the Senate is to address a very little problem with a very, very big policy.

What we are saying is that the unemployed local miners can precipitate a Governor making a finding: "Obviously, we are not selling enough local coal, because if we were, our miners would be working. Therefore, since we are not selling enough local coal and our miners are unemployed, who would buy that coal? The utilities in this State."

So they would say to those utility companies, "My friends, whatever contracts you have to buy coal are canceled and we are going to have a hearing, and we are going to order you to enter into 10-year contracts for local coal—all in the wonderful name of hiring our unemployed miners."

Granted, in its final form, you have to go all the way to the President to get this Governor's finding of local unemployment in coal which precipitates this chain of events that forces the major users of coal to buy local coal under dictated 10-year contracts.

On the Clean Air Act, it is no wonder the environmentalists agree, because some Governor can order those utility companies to buy scrubbers to clean that local coal. Why? So that our local miners can be employed.

I have made the point rather dramatically because I think that is the case. I do not think the U.S. Senate ever intended to pass this kind of situation.

We have strikes, of such the Senator has spoken, but I say to Senators that what we decided to do was to make major determinations as to the acquisition of energy for the utility companies based upon purely local problems of the unemployment of coal miners. I think that is the wrong policy. I believe that if the Senate understood it when we lost by one vote, we would not be here today.

I repeat to my good friends, the Senator from Ohio and the Senator from West Virginia, that I am not one to come back over and over and beat a dead horse. The other night, Senator HANSEN won by three votes—so we will get the thing in perspective—and on a technicality of germaneness, it was ruled out of order. I think it is entirely appropriate now, in this bill, to do the positive—not amend the Clean Air Act but say, when we are talking about conservation and coal conversion, as we have in the last few days, we are negating the power given to Governors and Presidents to order utility companies, under the situation created by the Metzenbaum amendment, to carry out the authorities given there.

We are back where we were before, and I honestly believe that with the new dimensions on coal demands that coal conversion is going to bring, there are not going to be very many coal miners unemployed.

So I do not believe we should be putting on the books a policy that is as inconsistent with the economics of this country as this one.

I thank the Senator from Wyoming for yielding time to me.

Mr. METZENBAUM. I yield myself 1 minute.

Mr. President, let me make clear this question of wildcat strikes. I could not care less about that subject. If the Senator wants to draft an amendment saying that the amendment originally agreed to is not applicable in the event of wildcat strikes, I will join him in supporting it.

With reference to the question of comparing shoes and coal, there is a difference.

I reiterate that this act could only be effective if the President saw fit to utilize it.

I point out what is really involved. The American Electric Power Co., as the Senator from New Mexico, and the Senator from Wyoming will recollect, appeared before our committee—that is, the president of the company did—and said they were importing coal into my State at $40 a ton, even though they could buy Ohio coal that conformed to the pollution standards that had been set by the Clean Air Act. But they were importing $40-a-ton coal because they owned the mine. No one can agree that that makes good sense, particularly when you pass that additional cost on to the people in Ohio who buy from the utilities.

The real question is this: Are we or are we not going to make it possible to have full employment in this country, in all sectors of this country, and do we really mean that we will require coal to be transported across the entire country when there is plenty of coal available in the very regions in which it is being produced for the utilities to operate in that State, to purchase it and use it, or are we going to tell them, "Because you own a mine somewhere else, you can import that coal?"

The issue is clear. The question is, how do we get full employment and get the full energy utilization in this country and at the lowest possible cost to the people of this country? I believe that this amendment, which was originally adopted by the Senate and the House and signed into law by the President, can accomplish our objective.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. RANDOLPH. Mr. President, I think it is futile to repeat an argument I have continued to make during this debate on four occasions. I have 1 minute, and the vote will be taken, and of course the Members will vote their convictions.

I disagree with my dear friend from New Mexico when he says that if certain debate had transpired on this matter, the result might have been different in the first instance. I disagree with him on that. There is every reason to believe that members understand what they are voting on. I think they do, win or lose. That is the position I take here.

This is a standby authority. It is very vital. I believe it will help rather than hinder the broad-based energy effort that the Senate wants to subscribe to by a vote at this time.

The amendment, as included in the clean air bill, was a realistic answer to a very severe problem. I hope Senators will vote to table the motion.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent that we be allowed 2 minutes, so that I might propound a question to the Senator from Louisiana, so that the votes might occur back-to-back.

Mr. METZENBAUM. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. METZENBAUM. Will the Senator restate it?

Mr. STEVENS. The Senator from Alaska seeks time to ask the Senator from Louisiana a question so that it might be answered before the vote on this amendment, so that the vote on this amendment and the vote on final passage can occur without interruption.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Alaska is recognized.

Mr. STEVENS. May I ask the Senator from Louisiana? I had a question concerning the interpretation of the Metzenbaum amendment, that is, as section 412 applied to four-wheel drive vehicles and other vehicles that are designed to use both the regular roads and negotiate the off-road areas of the rural areas of the United States.

Does the Metzenbaum amendment change the interpretation of "passenger automobile" as it applies in section 501 of the Motor Vehicle Information Cost Saving Act which means that a passenger vehicle excludes those vehicles? Four-wheel drive vehicles must have one other particular specification such as a high wheel clearance or other special provisions as defined by the Administrator. Does this change that?

Mr. JOHNSTON. No. This bill in no way changes the present exemption presently found in the law which contains an exemption for a passenger vehicle capable of off-highway operation. This in no way changes that exemption.

Mr. STEVENS. Capable of on-the-highway and off-the-highway operation with special features designed for off-the-highway operation; is that correct?

Mr. JOHNSTON. This bill in no way changes that law.

Mr. STEVENS. I thank the Senator and thank the Senate.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, on behalf of myself, Mr. RANDOLPH, and Mr. HEINZ I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Wyoming on the table.

Mr. METZENBAUM. Mr. President, I ask for a rollcall vote.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. I thought the time had expired. Had the motion to lay on the table not earlier been made?

The PRESIDING OFFICER. No, it had not.

Mr. HANSEN. I see.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator of Wyoming on the table.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Maine (Mr. MUSKIE). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Maine would vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 39, nays 43, as follows:

[Rollcall Vote No. 371 Leg.]

YEAS—39

Abourezk	Haskell	Moynihan
Anderson	Heinz	Nelson
Bayh	Hollings	Pell
Biden	Huddleston	Percy
Byrd, Robert C.	Inouye	Proxmire
Clark	Johnston	Randolph
Cranston	Kennedy	Ribicoff
Culver	Leahy	Sarbanes
DeConcini	Lugar	Sasser
Eagleton	Mathias	Schweiker
Ford	Matsunaga	Stone
Glenn	McIntyre	Williams
Hart	Metzenbaum	Zorinsky

NAYS—43

Allen	Danforth	Melcher
Baker	Dole	Morgan
Bartlett	Domenici	Nunn
Bellmon	Eastland	Packwood
Brooke	Gravel	Pearson
Bumpers	Griffin	Roth
Burdick	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Stafford
	Hatfield	Stennis
Cannon	Hathaway	Stevens
Case	Hayakawa	Stevenson
Chafee	Helms	Talmadge
Chiles	Jackson	Thurmond
Church	Magnuson	Tower
Curtis	McClure	

NOT VOTING—18

Bentsen	Laxalt	Riegle
Durkin	Long	Scott
Garn	McClellan	Sparkman
Goldwater	McGovern	Wallop
Humphrey	Metcalf	Weicker
Javits	Muskie	Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I have an amendment at the desk. I ask that it be reported.

Mr. HANSEN. Mr. President, if the Senator will yield momentarily, I move to reconsider the vote by which the motion was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CRANSTON. Mr. President, I am pleased to note that S. 2057 contains major provisions for establishing mandatory energy efficiency standards for consumer products. Under title II, the Administrator of FEA is required to establish standards by January 1, 1980, for refrigerators, refrigerator-freezers, freezers, water heaters, room air-conditioners, kitchen ranges and ovens, central air-conditioners, furnaces, clothes dryers, and home heating equipment other than heaters. Discretionary authority is also provided for standards to be established for dishwashers, television sets, clothes washers, humidifiers and dehumidifiers and any other product that consumes at least 150 kilowatt hours per year per household.

However, I am concerned about one critical aspect of this program: Federal preemption of State appliance efficiency standards. Under the bill before the Senate, today, State standards that are

prescribed before January 1, 1978, will remain in effect until a comparable Federal standard is established. However, any other State standards not prescribed before January 1, 1978, will be preempted even though no comparable Federal standard is in effect. Although even during this period the State may petition the FEA for a new State standard.

In California, the California Energy Resources Conservation and Development Commission is advancing a major effort to develop comprehensive appliance efficiency standards. On November 3, 1976, standards were prescribed by the Commission — which will become effective November 3, 1977—affecting refrigerators, refrigerator-freezers, freezers, room air-conditioners and central air-conditioners. Work is now well underway to develop standards on several major categories of home appliances. Hearings are scheduled for October and November on proposals to establish standards for water heaters, both gas and electric; space heaters, including heat pumps and some electric resistance heating; and plumbing fixtures. It is anticipated that these appliance standards will be prescribed by the Commission before the January 1, 1978, date in S. 2057.

The major question which has arisen with respect to the State of California's appliance efficiency standards vis-a-vis the proposed Federal standards is whether the State can modify its existing standards—those prescribed before January 1, 1978—during the 2-year preemption period between January 1, 1978, and January 1, 1980. It is an important issue, because the technology for saving energy in home appliances is sure to become more sophisticated with time and experience. And it would be important for the State to be able to incorporate technological improvements into its appliance efficiency program.

Mr. President, I would very much appreciate the comments of the distinguished floor manager, Mr. JOHNSTON, on the question of whether the preemption clause in the committee's bill would allow or preclude modifications to a State's existing appliance efficiency standards during the 2-year period between January 1, 1978, and January 1, 1980.

Mr. JOHNSTON. Mr. President, I can say to the Senator from California that it has never been the intention of the Energy and Natural Resources Committee to preclude such modifications to any State appliance efficiency standards prescribed before January 1, 1978. Indeed, our goal here is to achieve the best possible standards that can save significant amounts of energy that is now wasted in home appliances. As long as the modifications are made to standards which the State has prescribed prior to January 1, 1978, they would be allowed regardless of the preemption provision in S. 2057.

Mr. FORD. I would like to make clear to the Senator from California that I am entirely in agreement with the statement just made by the distinguished floor manager of S. 2057. As a member of the Energy and Natural Resources Committee, and one who was deeply involved in working out the appliance efficiency standards portion of S. 2057, I fully agree that a State which has promulgated appliance efficiency standards for any appliance prior to January 1, 1978, will be able to make necessary modifications in such standards during the 2-year preemption period prior to January 1, 1980. Of course, it would have to be understood that a "dummy" skeleton standard, filed before January 1, 1978, and fleshed in later would not qualify. It would have to be an effective standard.

Mr. CRANSTON. I thank the Senators from Louisiana and Kentucky for their clarification of this point. It will be especially helpful to the State of California which has an appliance efficiency standards program in an advanced state of development.

Mr. DOMENICI. Mr. President, after a good deal of reflection on the merits of this legislation, I have decided to vote in favor of S. 2057. I will do so reluctantly, and in spite of serious reservations about the impact of the section dealing with minimum auto fuel efficiency standards on the consumers of this country, because I believe that on balance the Nation as a whole would be better off with this legislation than without it.

President Carter is to be commended for taking the initiative in proposing the series of conservation measures that were included in his national energy plan. I know that my Senate colleagues agree that we as a nation must do all that we can to implant and encourage the conservation ethic in the American people. The reduction of domestic energy consumption by conservation is a vitally important goal.

By generating a significant upswing in the number of homes that are properly insulated, and by accelerating the attainment of high energy efficiencies in many commonly used home appliances, S. 2057 will move us far along the road toward optimizing the use of energy in the homes of this country. In addition, the Federal energy initiatives in vanpooling and in several exciting and challenging concepts relating to solar energy utilization contained in this bill open new possibilities for eventually decreasing our reliance on imported fuels.

Partially offsetting these advantages in my mind is the section on minimum auto efficiency standards adopted as an amendment to S. 1469 by the Energy and Natural Resources Committee, and sustained yesterday by the full Senate in two separate votes. In the welter of conflicting statements made during consideration of this amendment, it became clear that the impact upon the American consumer of this wide-sweeping proposal has not been adequately examined. It is certain that inclusion of this section will mean an early end to the class of vehicles required by the 20 percent of American households that include five or more people. The resulting savings in energy will be very small, and may actually disappear if families are forced either to keep an older, larger car longer, or to use two cars to carry out tasks peviously done by one.

Testimony on this amendment was confined to one brief, early-morning hearing called with a minimum of notice. The amendment was opposed by the administration on the basis that "little incremental energy savings would result and it may create significant and probably unnecessary disruptions of those economic sectors related to the automotive industry." It is certain that the attendant uncertainties and disruptions introduced by this amendment will mean additional, as yet undetermined costs to the consumer.

In the absence of adequate information to judge the impact of these minimum standards on the consumer, and in view of the negative testimony in this regard from both the administration and the auto industry, I strongly opposed this amendment when it was brought to a vote in the committee markup. I have also opposed it in votes here on the Senate floor. It is only because I believe that from an overall perspective S. 2057 will provide a positive impetus toward necessary actions in the field of conservation that I will cast my vote for this legislation.

Mr. DOLE. Mr. President, as we consider the hundred some odd measures that make up the administration's energy package, we have turned much of our attention to the details of each of the measures. We may, at times, find it difficult to maintain our focus on the overall problems we are trying to solve.

Over the last 2 years, I think we have come to realize that our short-term problems are first to decrease our dependence on foreign oil and second, to help the citizens of this country to cope with an abrupt increase in energy prices. I consider both increasing production and decreasing demand to be useful strategies that will allow us to solve energy problems. Our long-term problem is how to switch to inexhaustible supplies. And I am somewhat anxious about our getting on with what I see to be a difficult job.

In considering these bills, I think it is necessary that we maintain our perspective on the larger problems, and that we gage the worth of the bills in terms of the ability of each of the measures to help solve our problems.

For the last week in the Finance Committee, we have been considering various tax measures, obviously not the type of measures that make it easy for us to cope with higher prices. Assuming that these measures are aimed at decreasing our imports, I have continually attempted to get answers to two basic questions.

First, I have tried to find out how each of the measures will decrease our dependence on foreign oil, and by how much. Next I have tried to find out whether these measures are cost-effective in getting us off foreign oil. To date, I have not been overly impressed with the ability of the tax measures to get us off foreign oil, much less to do it efficiently.

The conservation measures contained in S. 2057 should be subjected to the same criteria for judging their worth. Most of these measures are designed to help people cope with higher prices. There is certainly a pressing need to deal with the problems that result from higher prices. There is a lot of confusion these days

about the payoff times for various investments that we might make in conservation equipment such as insulation. In the case of people who can supposedly afford such investments, there is the problem of financing the purchase. Needless to say, those who cannot afford to invest in conservation equipment are those who can least afford to pay the higher fuel prices that is the alternative.

So there is a role for government here. The government can remove the roadblocks that prevent people from making sensible investments that will pay off for them.

Given that imports and higher prices are the problems, I have carefully considered the measures in S. 2057.

In general, I feel that this collection of conservation measures tends to defocus our attention from the problems that I have described. They seem to consider conservation as a goal in itself rather than a strategy towards accomplishing our goal. Again I keep wanting to know how these measures will get us off foreign oil or help us adjust to higher prices.

It takes some probing to find answers to those questions, but at this point I am satisfied that most of the measures in S. 2057 do in fact contribute to solving our energy problems.

I would like to comment on several of the measures contained in S. 2057.

PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

The bill proposes a program whereby utilities will be required to offer a conservation service to its customers. The utilities will inform customers of energy conservation measures, and the savings that the customers can expect.

The utilities will be further required to assist its customers in locating contractors and other resources to do the work. This measure will certainly open the way for people to obtain a most needed service. If he is provided with adequate information, the consumer can decide whether or not to invest in energy saving equipment. With the facts, he can make up his own mind.

With this residential conservation program, and with the other incentives for various conservation equipments, the Government will in effect be creating a new conservation industry. It is extremely important to be sure that consumers will be adequately protected in this new market.

Thus I fully support the establishment of performance standards for new buildings and energy efficiency standards for consumer products.

The weatherization program proposed in the bill will offer needed financial assistance where the consumer can neither afford insulation nor the alternative—continued higher fuel bills. I wholeheartedly support both the residential conservation program and the weatherization program.

I have, however, been unable to determine what the programs will contribute toward getting us off foreign oil. If such a program is to have an impact on our imports, it must work well in the east and northeast, where imported oil is used to heat houses and where oil heat is still being installed in new houses. Hopefully, this program will be closely monitored and one measure of its success will be the amount by which it reduces our dependence on imports.

APPLIANCES

The proposed program for labeling of appliances is an excellent way to help people cope with higher prices. Readily available information on the efficiency of appliances will allow the consumer to enjoy a new dimension in comparison shopping.

VANPOOLS

Van pooling programs have been underway in industry for several years now. The Federal Government is also funding vanpool programs to be run by the States as part of the State energy conservation programs. The van pooling proposal in S. 2057 finally overcomes the impediments that have prevented the Federal Government from assisting its own employees in their adjustment to living with higher energy prices.

FEDERAL ENERGY CONSERVATION PROGRAM

The proposal for energy conservation in Federal buildings is extremely interesting. If the Government adopts the concept of lifecycle costing in the design of buildings, it will have adopted a completely rational approach to answering "how much energy conservation is enough?" The Federal Government will optimize its use of all resources by choosing to operate its facilities on the basis of minimum cost. This is quite different than trying to save as much energy as possible. We also realize a potential problem here. If energy is artificially cheap compared to other costs, we could actually end up saving on labor, for instance, and using more energy than "necessary" in our attempt to minimize costs.

This program thus leaves it up to Congress to make it work as a conservation measure. We will be responsible for the price of energy relative to other costs in buildings, and if we make the right decisions, we can indeed save energy in buildings and also run them at the least cost to the taxpayer.

I find it difficult to see how we can adopt the principle of lifecycle costing for Federal buildings, and then spend $10 million to demonstrate solar technology in those same buildings.

It is inconsistent to tell a building designer to come up with the least-cost system, and then tell him that the answer is solar. The bill is also inconsistent in providing guidelines for leasing buildings. It states that in leasing buildings, the Government shall give preference to buildings "which use solar heating and cooling * * * or otherwise minimize lifecycle costs." There will always be a conflict between minimizing costs and using solar.

The Senate today accepted my amendment that would eliminate the inconsistency by requiring the agencies to perform their lifecycle cost analysis, decide on the minimum cost system, and then specifically request the extra funds for solar. In this way we will be able to keep track of exactly how much it costs to bring this technology into the market. I am concerned that if we do not state the costs explicitly, we will never be in a position to evaluate the progress that we are expecting in terms of bringing down the cost of solar equipment.

Finally, I am disturbed that the bill is drawn off course with a measure to include air bags in Federal vehicles. I fail to see how this measure has any impact on our energy problem.

In closing I would like to reiterate again my criteria for gaging the worth of the proposals being offered in these several bills that we will consider over the next month. If we were to adopt these criteria in our respective committees I have no doubt that we would come to unanimous agreement on those parts of the President's program that will truly have an impact on our energy situation.

The first criterion is to determine how each of these measures can impact our need for imports. The second, for proposals that do not address imports directly, is to determine if these measures make it easier for us to cope with abruptly increased energy prices. Do the measures speed up our transition to a new allocation of resources that is more logical in the presence of new, relatively higher energy prices.

Mr. DOMENICI. Mr. President, among the Federal energy initiatives included in title III of this bill is one dealing with photovoltaic solar cells which I believe is particularly worthy of the attention of my Senate colleagues. Added by the Energy and Natural Resources Committee during markup of S. 2057, this initiative is directed toward bridging the gap between laboratory research and development on new energy technologies and commercial manufacture and deployment of these technologies on a scale sufficient to have an impact on the national energy picture. I believe that my colleagues will agree that successfully bridging this gap is crucial to the optimum utilization of the large sums we willingly commit each year to new energy technologies.

Frequently, the greatest impediment to large-scale commercialization of these new technologies is cost. The energy produced thereby is too expensive to compete with readily available alternative supplies of energy. Clearly, these new technologies will become attractive for widespread use only by a combination of increased prices for conventional sources, additional technological breakthroughs, and, where possible, application of mass production techniques.

This is ample evidence available that in the case of photovoltaic solar cells, the first significant market penetration through widespread use in remote installations is limited only by the absence of large-scale production facilities necessary to achieve this cost reduction. The solar cell initiative in part E of title III is intended to overcome this hurdle by providing a guaranteed market sufficient to assure that commercial manufacturers will gear up to produce the large quantities of cells necessary to bring the cost down to a competitive level. Under this initiative the Federal Government is directed to purchase 30 megawatts of solar cells over a 3-year period beginning in fiscal year 1979. This rather substantial

capacity of cells will be deployed in remote Federal installations, replacing small electric generators which require both fuel and regular maintenance. As a result, the Government will both save money and considerably accelerate a major reduction in solar cell prices.

Details regarding this Government procurement initiative are included in a fact sheet which I will now request be included, with unanimous consent, in the RECORD at this point in my remarks.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET—FEDERAL PHOTOVOLTAIC UTILIZATION PROGRAM

PROPOSED PROGRAM

To authorize the optional installation by any Executive agency of photovoltaic (solar cell) electricity systems in place of more expensive electric systems. FEA will coordinate the program with ERDA assistance until they are replaced by DOE.

Funding of $98 million for a total of 30 megawatts is specifically authorized for FY 79, FY 80 and FY 81 in the legislation. Most installations will be in remote locations to replace expensive gasoline generators or batteries, now frequently maintained by helicopter.

PROGRAM OBJECTIVE

1. *To reduce federal energy outlays.* The installation of 30 megawatts (peak) of solar cells will reduce federal energy costs by $340 million over the system life, at a cost of $100 million. The return is so rapid in reduced federal operating, fuel and maintenance costs, that the initial outlay is recovered within seven years.

2. *To reduce solar cell prices.* Photovoltaic (solar cell) electricity production has experienced the most rapid cost reductions and is the technically most advanced of all solar technologies. Widely used for 20 years by NASA, solar cells provide over 90% of the power for our space systems. Over the past two years, the price of solar cells has fallen to $14 per peak watt from $200. Several companies are approaching $2 per watt—twice as expensive as power plant capacity. As with the early vacuum tube and transitor, further solar cell price reductions depend on the application of mass production techniques and associated economies of scale. While the technology exists, present limited and labor-intensive production methods are inadequate to attain prices of $1 per peak watt or less. Cells are now handled 40 times in production.

Private investment in mass production facilities is necessary but not justified by the present limited solar cell market. The photovoltaic utilization program would temporarily expand that market and insure the rapid introduction of cheap, mass produced solar cells.

A recent OTA analysis, based on RCA/DOD data, evaluated the price and demand impact of federal solar cell procurements. It shows that federal procurements will result in prices less than one-half ($1.45 per watt) the level which would otherwise exist in 1983 ($3.12 per watt). The lower price will result as well in a market four times larger than without such procurements.

ERDA PROGRAM

ERDA's solar cell program is now designed to reduce cell prices to 30c per peak watt by 1986. That price goal could be achieved by up to three years sooner as a result of the proposed program. ERDA solar cell R&D activities will be unaffected.

POTENTIAL SOLAR CELL MARKET

There is an enormous, cost effective, but latent market for solar cells to replace conventional power systems in remote applications for defense and non-defense related uses. FEA estimates that an annual market just within DOD of up to 40 megawatts exists. NASA has projected a much larger non-defense domestic and foreign annual market for solar cells of 2.5 gigawatts—primarily for highway and railroad signs, remote instrumentation, pest control devices, water pumping, refrigeration and remote village power applications.

REFERENCES

Federal Energy Administration: "Costs and Benefits of the Federal Photovoltaic Utilization Program," March 11, 1977.

National Aeronautics and Space Administration (Lewis Research Centers): "Photovoltaic Highway, Remote Instrument, Water Pumping, Village Power and Refrigeration Applications," (separate documents issued between May 19 and June 30, 1977).

Office of Technology Assessment: Correspondence to the Honorable Paul B. Tsongas from Lionel S. Johns (Energy Program Manager), July 12, 1977.

Department of Defense: "DOD Photovoltaic Energy Conversion Systems, Market Inventory and Analysis," June, 1977.

Mr. DOMENICI. Present solar cell prices are pegged at something close to $140 per watt of capacity. The goal of this program is to reach by 1981 or sooner the $1 to $2 per watt price targeted until recently by ERDA for the mid-1980's.

At these prices, solar cells will become competitive in new markets such as highway and railroad signs, remote instrumentation, pest control devices, water pumping, refrigeration and remote village power applications.

In recent reports both ERDA and the Office of Technology Assessment have stated that such price reductions are just around the corner with judicious Federal Government actions in this area. I am convinced that the solar cell procurement initiative contained in S. 2057 is just the foresighted Government action needed to bring this solar energy technology to the stage of commercial competitiveness. For this reason, I would urge the support of my colleagues for this initiative, and for the fiscal year 1979 funding required to get this program under way.

UP AMENDMENT NO. 829

The PRESIDING OFFICER. The amendment of the Senator from Louisiana will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes unprinted amendment No. 829.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of S. 2057:

"Provided that title IV of H.R. 5037 shall not be effective so long as titles II and VI remain law.

Mr. JOHNSTON. Mr. President, this is purely a technical amendment to allow the bill to proceed.

Mr. ROBERT C. BYRD. Mr. President, what is the amendment?

Mr. JOHNSTON. Mr. President, the amendment provides, in its entirety, that title IV of H.R. 5037 shall not be effective so long as titles II and III remain law.

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order. The Senator from Louisiana will suspend. The Senate cannot proceed to a final rollcall vote while the Senate is not in order. Will Senators kindly cease their conversations in the aisles and in the well of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on advancing the Senate bill to third reading. This will allow the rollcall vote on the Senate action and it will not necessitate any vote on the final passage which, under the order, is automatic.

The PRESIDING OFFICER. The Chair asks whether there are objections to the pending amendment.

Are there objections?

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on advancing the bill to third reading.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Is there a 10-minute limitation on the rollcall, Mr. President?

Mr. ROBERT C. BYRD. Mr. President, this being the last rollcall, I do not think we should limit it to 10 minutes. There might be a Senator who is out.

The PRESIDING OFFICER. If there be no further amendments, we will have third reading of the bill.

Mr. ROBERT C. BYRD. Mr. President, I asked for the yeas and nays on advancing the bill to third reading. This will be the last rollcall tonight.

The PRESIDING OFFICER (Mr. MELCHER). The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. SCOTT), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The yeas and nays resulted—yeas 78, nays 4, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—78

Abourezk	Eastland	Metzenbaum
Allen	Ford	Morgan
Anderson	Glenn	Moynihan
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Biden	Hart	Pearson
Brooke	Haskell	Pell
Bumpers	Hatch	Percy
Burdick	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hathaway	Randolph
	Hayakawa	Ribicoff
Byrd, Robert C.	Heinz	Roth
Cannon	Hollings	Sarbanes
Case	Huddleston	Sasser
Chafee	Inouye	Schweiker
Chiles	Jackson	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Leahy	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Williams
Dole	McClure	Zorinsky
Domenici	McIntyre	
Eagleton	Melcher	

NAYS—4

Bellmon	Schmitt	Tower
Helms		

NOT VOTING—18

Bentsen	Laxalt	Riegle
Durkin	Long	Scott
Garn	McClellan	Sparkman
Goldwater	McGovern	Wallop
Humphrey	Metcalf	Weicker
Javits	Muskie	Young

The PRESIDING OFFICER (Mr. STONE). On this vote the yeas are 78, the nays are 4. The motion for the advancement of S. 2057 to third reading is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was advanced to third reading.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered into earlier, the distinguished minority leader and I were authorized to select a House bill to be used as a vehicle to get the Senate bill to conference. The distinguished minority leader and I have decided on the selection of H.R. 5037, thereby authorizing Mr. JOHNSTON to implement the order as previously entered.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5037), for the relief of Jack Misner.

UP AMENDMENT NO. 830

The PRESIDING OFFICER. Under the previous order, the text of S. 2057, as amended, the text of S. 701, as passed by the Senate, and the pertinent text of H.R. 8444, dealing with the subject matter of the aforementioned two bills, are added as amendments, the bill is read the third time and passed, and the motion to reconsider the vote by which the bill was passed is laid on the table.

The text of H.R. 5037, amended as noted above, will be printed as follows:

NATIONAL ENERGY CONSERVATION POLICY ACT

(In the RECORD of September 13, 1977, at page S14778, the text of H.R. 5037 was not printed. In the permanent RECORD, the text of the bill, as amended and passed, will be printed as follows:)

(1) Page 1, after line 2, insert:

TITLE I—FOR THE RELIEF OF JACK R. MISNER

(2) Page 1, line 3, strike out [That in] and insert: "SEC. 101. In"

(3) Page 1, after line 12, insert:

TITLE II—NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 201. This title may be cited as the "National Energy Conservation Policy Act".

TABLE OF CONTENTS

Sec. 202. Findings.
Sec. 203. References to Federal Power Commission, Federal Energy Administration and Energy Research and Development Administration.

Subtitle A—Energy Conservation Programs for Existing Residential Buildings

PART A—UTILITY AND HOME HEATING SUPPLIER PROGRAMS

Sec. 210. Definitions.
Sec. 211. Residential energy conservation plans.
Sec. 212. Utility programs.
Sec. 213. Home heating supplier programs.
Sec. 214. Alternative programs.
Sec. 215. Federal standby authority.
Sec. 216. Relationship to other laws.
Sec. 217. Rules.
Sec. 218. Authorization of appropriations.
Sec. 219. Product standards.
Sec. 220. Report on energy conservation in apartment buildings.

PART B—FINANCING PROGRAM

Sec. 221. Amendments to National Housing Act.
Sec. 222. Amendment to Federal Home Loan Mortgage Corporation Act.
Sec. 223. Amendment to Federal National Mortgage Association Charter Act.
Sec. 224. Amendment to section 422 of Energy Conservation and Production Act.
Sec. 225. Government National Mortgage Association purchase of loans for residential energy conservation measures.
Sec. 226. Loans for solar heating and cooling equipment.
Sec. 227. Insured energy conservation and solar energy system project loans.

PART C—NEW BUILDING PERFORMANCE STANDARDS GRANTS

Sec. 228. Amendment to section 307(b) of Energy Conservation and Production Act.

PART D—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

Sec. 229. Federal Energy Administration weatherization grant program.
Sec. 230. Availability of labor.
Sec. 231. Weatherization study.
Sec. 232. Energy-conserving improvements for public housing.

PART E—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Sec. 233. Findings and purpose.
Sec. 234. Definitions.
Sec. 235. Grant authorization.
Sec. 236. Federal guidelines.
Sec. 237. Allocation of financial assistance.
Sec. 238. Applications.
Sec. 239. Authorization of appropriations.
Sec. 240. Annual report.
Sec. 241. Administration.

SUBTITLE B—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS

Sec. 245. Amendment to part B of title III of Energy Policy and Conservation Act.

Title C—Federal Energy Initiatives

PART A—FEDERAL VAN POOLING PROGRAM

Sec. 250. Amendment to section 381 of Energy Policy and Conservation Act.

PART B—FEDERAL ENERGY CONSERVATION PROGRAM

Sec. 251. Amendment to section 381 of Energy Policy and Conservation Act.

PART C—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

Sec. 252. Findings
Sec. 253. Policy.
Sec. 254. Purpose.
Sec. 255. Definitions.
Sec. 256. Establishment and use of life cycle cost methods.
Sec. 257. Energy conservation goals for existing Federal buildings.
Sec. 258. Energy surveys in existing Federal buildings.
Sec. 259. Life cycle efficiency goals for existing Federal buildings.
Sec. 260. Energy preference for federally leased buildings.
Sec 261. Budget treatment of energy conserving improvements by Federal agencies.
Sec. 262. Reports.
Sec. 263. Authorization of appropriations.

PART D—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Sec. 264. Definitions.
Sec. 265. Federal solar program.
Sec. 266. Duties of Administrator.
Sec. 267. Transfer of appropriations.
Sec. 268. Submission of proposals.
Sec. 269. Authorization of appropriations.

PART E—USE OF ADVANCED PHOTOVOLTAIC ENERGY DEVICES IN FEDERAL FACILITIES

Sec. 270. Short title.
Sec. 271. Photovoltaic energy program.
Sec. 272. Purpose.
Sec. 273. Acquisition of systems.
Sec. 274. Administration.
Sec. 275. System evaluation and purchase program.
Sec. 276. Advisory committee.
Sec. 277. Authorization of appropriations.

PART F—FEDERAL PURCHASE OF VEHICLES EQUIPPED WITH PASSIVE RESTRAINT DEVICES

Sec. 278. Policy with respect to purchase of Federal vehicles.

PART G—FEDERAL HOME MORTGAGE CREDIT ENERGY PROGRAM

Sec. 279. Energy performance standards.
Sec. 280. Residential housing incentives studies.

PART H—CONSERVATION OF NATIONAL COAL RESOURCES

Sec. 281. Major fuel burning stationary source.

TITLE D—ADDITIONAL ENERGY CONSERVATION PROGRAMS

PART A—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

Sec. 285. Amendment to part D of title III of Energy Policy and Conservation Act.
Sec. 286. Wood Products Labeling Act.

PART B—MINIMUM FUEL EFFICIENCY STANDARDS FOR NEW AUTOMOBILES

Sec. 287. Amendment to section 508 of Motor Vehicle Information and Cost Savings Act.
Sec. 288. Amendment to title V of Motor Vehicle Information and Cost Savings Act.
Sec. 289. Fuel economy information.

PART C—EXTENSION OF STATE ENERGY CONSERVATION PROGRAMS

Sec. 290. Amendment to Energy Policy and Conservation Act.
Sec. 291. Report.

PART D—USE OF RECOVERED MATERIALS
Sec. 292. Amendment to part D of title III of the Energy Policy and Conservation Act.
PART E—MINORITY ECONOMIC RESEARCH AND DEVELOPMENT
Sec. 293. Definitions.
Sec. 294. Office of Minority Economic Research and Development.
Sec. 295. Duties.
Sec. 296. Minority Business Utilization.
Sec. 297. Authorization of Appropriations.
Sec. 298. Eligibility.
PART F—BICYCLE STUDY
Sec. 299. Bicycle study.
Sec. 300. Title II, III, and IV effectiveness.

FINDINGS

SEC. 202. The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, and for oil and natural gas in particular, and insufficient domestic supply of oil and natural gas to satisfy that demand;

(2) unless effective measures are taken to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market and increasingly vulnerable to interruptions of foreign oil supply; and

(3) the United States can significantly reduce its demand for oil and its demand for natural gas for nonessential uses by carrying out an effective conservation and fuel efficiency program in all sectors of energy use.

REFERENCES TO FEDERAL POWER COMMISSION, FEDERAL ENERGY ADMINISTRATION AND ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SEC. 203. Any reference in this Act (or any amendment made thereby) to the Federal Power Commission, the Federal Energy Administration or the Energy Research and Development Administration shall be deemed to be a reference to the officer, department, or agency in which the principal functions of such Commission or Administration (as the case may be) are vested pursuant to the Department of Energy Organization Act.

Subtitle A—Energy Conservation Programs for Existing Residential Buildings

PART A—UTILITY AND HOME HEATING SUPPLIER PROGRAMS

DEFINITIONS

SEC. 210. As used in this part the term:

(1) "Administrator" means the Administrator of the Federal Energy Administration.

(2) "Commission" means the Federal Power Commission.

(3) "Governor" means the Governor or chief executive officer of a State, whether elected or appointed, or his designee.

(4) "Home heating supplier program" means a program meeting the requirements on section 213 and which is carried out by a home heating supplier pursuant to a residential energy conservation plan developed by a Governor.

(5) "Home heating supplier" means a firm that sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane and propane) to a residential building.

(6) "Natural gas" means natural gas as that term is defined in the Natural Gas Act.

(7) "Nonregulated utility" means a public utility which is not a regulated utility.

(8) "Public utility" means any person or State agency which is engaged in the business of selling natural gas or electric energy for purposes other than resale; except that such term shall be deemed not to include any such person or agency in any calendar year unless during the second preceding calendar year either (A) sales of natural gas by such person or agency exceeded ten billion cubic feet, or (B) sales of electric energy by such person or agency exceeded seven hundred and fifty million kilowatt-hours.

(9) "Rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(10) "Regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(11) "Residential building" means any building developed for residential occupancy, the construction of which commenced prior to one year after the date of enactment of this part, which has a mechanical or electrical system for heating or cooling, or both, and which contains no more than four dwelling units.

(12) "Residential customer" means any person (A) to whom a public utility sells natural gas or electric energy or (B) to whom a home heating supplier supplies or sells home heating fuel (including No. 2 heating oil, kerosene, butane and propane), for consumption in a residential building.

(13) "Residential energy conservation measure" means—

(A) caulking and weatherstripping of all exterior doors and windows;

(B) furnace efficiency modifications limited to—

(i) replacement burners, boilers, or furnaces, which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(ii) devices for modifying flue openings which will increase the efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) water heater insulation;

(F) storm windows; and

(G) such other measures as the Administrator may by rule identify for the purposes of this part.

(14) "Residential energy conservation plan" means a plan approved by the Administrator pursuant to section 211(c) which is developed by the Governor of such State or by a nonregulated utility.

(15) "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa and the Virgin Islands.

(16) "Suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 211(a), determines to be appropriate for the location and the category of residential buildings which includes such building.

(17) "Utility program" means a program meeting the requirements of section 212 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a Governor;

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued pursuant to section 215.

RESIDENTIAL ENERGY CONSERVATION PLANS

SEC. 211. (a) The Administrator shall, not later than one hundred and twenty days after enactment of this part and after consultation with the Secretary of Housing and Urban Development, the Federal Trade Commission, and the heads of such other agencies as he deems appropriate, promulgate rules for the content and implementation of residential energy conservation plans.

(b) The rules prescribed pursuant to subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards which the Administrator determines necessary for the programs and procedures required under subsection (d)(3) and standards, which the Administrator determines necessary, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d) (5), (6), and (7).

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) Not later than one hundred and eighty days after promulgation of the rules described in subsection (a), each Governor may submit, and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a Governor or nonregulated utility, extend the time period for submission of a plan by such Governor or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than ninety days after submission. If the Administrator disapproves a plan, the Governor or nonregulated utility may submit a new or amended plan not later than sixty days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than ninety days after submission. After approval of a plan, a Governor or nonregulated utility may submit an amended plan with the consent of the Administrator.

(d) No residential energy conservation plan submitted by a Governor of a State shall be approved by the Administrator unless such plan—

(1) requires each regulated utility which is regulated in such State to implement a utility program described in section 212;

(2) provides for the implementation by the Governor of a home heating supplier program described in section 213;

(3) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility and home heating supplier programs within such State;

(4) contains adequate procedures to assure that each regulated utility will carry out a utility program;

(5) contains adequate procedures to assure that each affected regulated utility and home heating supplier will charge fair and reasonable prices and rates of interest to its residential customers in connection with the installation of residential energy conservation measures;

(6) provides a procedure for approving suppliers and contractors who sell or install residential energy conservation measures, including a procedure for the loss of such approval;

(7) provides a procedure for identifying banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

(8) provides a procedure for adjusting complaints against suppliers and contractors

who sell or install residential energy conservation measures;

(9) contains procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration; and

(10) meets such other requirements as may be prescribed in the rules promulgated pursuant to subsection (a).

(c) No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program described in section 212;

(2) contains procedures pursuant to which such utility will submit a written report to the Administrator, not later than one year after approval of such plan and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated pursuant to subsection (a);

(3) contains procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration; and

(4) meets such other requirements as may be prescribed in the rules promulgated pursuant to subsection (a), and which contains the programs and procedures required by subsections (d)(3), (d)(5), (d)(6), and (d)(7).

UTILITY PROGRAMS

SEC. 212. (a) Except as provided in subsection (b), each utility program shall include—

(1) procedures designed to inform, no later than January 1, 1980, each of its residential customers who owns or occupies a residential building of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraphs (2), (3), (4), (5), and (6) of this subsection;

(2) procedures whereby the public utility, no later than January 1, 1980—

(A) will offer each such residential customer the opportunity to request the public utility, for a reasonable fee, either directly or through one or more approved contractors, to inspect the residential building to determine and apprise the residential customer of the estimated cost of purchasing and installing, and the savings in costs of home heating and cooling that are likely to result from installing, each suggested measure; and

(B) provide general information concerning consumer resources, materials, planning, financing, and the installation and monitoring of the effectiveness of residential energy conservation measures;

(3) procedures whereby the public utility sends to each of its residential customers a list of approved suppliers and contractors in its service area who sell or install residential energy conservation measures;

(4) procedures whereby the public utility sends to each of its residential customers a list of banks, savings and loan associations, credit unions, and other public and private lending institutions in its service area which offer loans for the purchase and installation of residential energy conservation measures;

(5) procedures whereby the public utility, at the request of a residential customer will offer to arrange—

(A) to have the suggested measures installed; and

(B) for a lender to make a loan to such residential customer to finance the purchase and installation costs of suggested measures;

(6) procedures whereby the public utility shall permit the residential customer to repay the principal of and interest on any loan made pursuant to paragraph (5), over a period of not less than three years (unless the customer elects a shorter payment period) as a part of his periodic bill except:

(i) failure to make any such periodic payment shall not be grounds for the termination of utility service to the residential customer; and

(ii) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer;

(b)(1) Except as provided in this subsection, no utility may—

(A) install residential energy conservation measures, or

(B) make a loan to any residential customer for the purchase or installation of residential energy conservation measures.

(2) The prohibitions contained in paragraph (1) of this subsection shall not apply to the continuation of activities—

(A) with respect to those specific residential energy conservation measures which were being installed or financed by a utility on the date of enactment of this section; or

(B) with respect to a utility program which the Administrator determines had been broadly advertised or for which substantial preparations had been completed on the date of enactment of this section.

(3) The Administrator may, upon petition of a public utility, supported in the case of a regulated utility by a Governor, waive in whole or in part the prohibitions contained in paragraph (1) of this subsection with respect to the utility program of such utility if such utility demonstrates to the satisfaction of the Administrator that, in carrying out such activities, fair and reasonable prices and rates of interest would be charged and the Administrator finds, after consultation with the Federal Trade Commission, that such activities would not be inconsistent with the prevention of unfair methods of competition and unfair or deceptive acts or practices.

(4) Any public utility providing a utility program pursuant to paragraphs (2) or (3) of this subsection shall be subject to all the requirements of subsection (a) of this section.

HOME HEATING SUPPLIER PROGRAMS

SEC. 213. (a) Each home heating supplier program shall include—

(1) procedures designed to inform, no later than January 1, 1980, residential customers of each participating home heating supplier who own or occupy residential buildings of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection;

(2) procedures whereby a participating home heating supplier, no later than January 1, 1980, will offer each such residential customer the opportunity to enter into arrangements with the home heating supplier under which such supplier, directly or through one or more contractors will—

(A) for a reasonable fee, inspect the residential building to determine and appraise the residential customer of the estimated cost of purchasing and installing, and the savings in costs of home heating and cooling that are likely to result from installing each suggested measure;

(B) provide to each interested customer general information concerning consumer resources, materials, planning, financing, and the installation and monitoring of the effectiveness of residential energy conservation measures;

(C) provide to each interested customer a list of approved suppliers and contractors in its service area who sell or install residential energy conservation measures, which list may include the home heating supplier if such home heating supplier has been approved pursuant to this part;

(D) provide to each interested customer a list of banks, savings and loan associations credit unions, and other public lending institutions in its service area which offer loans for the purchase of residential energy conservation measures;

(E) offer to install or to have the suggested measures installed;

(F) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures;

(G) permit the residential customer to repay the principal of and interest on any loan made pursuant to clause (F), over a period of not less than three years (unless the customer elects a shorter payment period) as a part of his periodic bill except:

(i) failure to make any such periodic payment shall not be grounds for the termination of fuel deliveries to the residential customer; and

(ii) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer.

(b) A home heating supplier who wishes to participate in the program established pursuant to this section shall so notify the Governor. The Governor shall, upon demonstration to his satisfaction that such supplier is able to meet the requirements of this section, permit the supplier to participate in the program.

ALTERNATIVE PROGRAMS

SEC. 214. (a) The Governor or a public utility (supported in the case of a regulated utility by the Governor) may apply for an exemption from the requirements of section 212(a) at any time prior to one year after enactment of this title. The Administrator shall grant such an exemption if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or will implement an alternative program providing for the installation of residential conservation measures in the homes of residential customers which program meets the requirements of this subsection. No exemption shall be granted by the Administrator unless the alternative program of such utility includes the following:

(1) procedures whereby the utility informs each of its residential customers who owns or occupies a residential building in which the suggested measures have not been installed, of—

(A) the suggested measures for the category of residential buildings which includes such building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of arrangements for purchase and installation of such measures;

(2) procedures whereby the utility offers to arrange for the installation of the suggested measures by one or more approved contractors; and

(3) such other requirements as the Administrator determines.

(b) Any application for exemption pursuant to subsection (a) shall contain such information as the Administrator may by rule require.

(c) No application pursuant to subsection (a) shall be approved by the Administrator unless he determines that the alternative program is likely to result in the installation of suggested measures in at least as large a number of residential buildings as would have been installed had such utility submitted a program which meets the requirements of section 212(a).

FEDERAL STANDBY AUTHORITY

SEC. 215. (a) If a Governor has not had a plan approved under section 211 within two hundred and seventy days after promulgation of rules under section 211(a), within four hundred and twenty days after such promulgation in the event that the Governor submits an amended plan under section 211, or within such additional period as the Administrator may allow pursuant to section 211(c), or if the Administrator determines that the Governor has not adequately implemented an approved plan, the Administrator shall, by order, require each public utility in the State to offer to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 212.

(b) If a nonregulated utility has not had a plan approved under section 211 within two hundred and seventy days after promulgation of rules under section 211(a) or within such additional period as the Administrator may allow pursuant to section 211(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to offer its customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 212.

(c) If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may either order that such public utility may not increase any rate at which it sells natural gas or electric energy until such time as he determines that such utility has implemented a utility program meeting the requirements of the order issued pursuant to subsection (a) or (b), or petition the district courts of the United States to enjoin such utility from violating an order issued pursuant to this subsection.

(d) Any public utility which violates an order under subsection (b) shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

RELATIONSHIP TO OTHER LAWS

SEC. 216. (a) The prohibitions of subsection 212(b) shall not apply to any public utility providing a utility program where a State law enacted on or before the date of enactment of this part either requires or explicitly permits such utility to install or finance residential energy conservation measures.

(b) The Administrator may by order upon petition by a public utility and for good cause, supersede any law or regulation of any State or political subdivision thereof, to the extent that such law or regulation prohibits a public utility from taking any action required to be taken under section 212(a) of this title.

(c) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this part shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(d) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

RULES

SEC. 217. The Administrator is authorized to promulgate such rules as may be necessary to carry out this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 218. There are hereby authorized to be appropriated to the Administrator such sums as may be necessary to carry out his responsibilities under this part.

PRODUCT STANDARDS

SEC. 219. The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS

SEC. 220. (a) The Administrator shall, within six months after the date of enactment of this section, prepare a report on energy conservation in apartment buildings.

(b) The report shall include, at a minimum, a consideration of the following issues:

(1) the potential for energy conservation in apartment buildings;

(2) structural and energy control measures in existing apartment buildings that will lead to energy conservation;

(3) mechanisms for promoting energy conservation in apartment buildings which will include:

(A) the participation of architectural and engineering consultants required to realize optimal energy savings, and

(B) the role of public utilities in providing: (i) information on available measures and contractors (including those in (A) above) and (ii) financing;

(4) the costs of energy conservation in apartment buildings, and the requirement for Federal financing assistance to achieve optimal energy savings; and

(5) recommendations for appropriate legislation.

(c) An "apartment building", as used in this section, is defined as a residential building which contains four or more dwelling units.

PART B—FINANCING PROGRAM

AMENDMENTS TO NATIONAL HOUSING ACT

SEC. 221. (a) Subparagraphs (2) and (3) of the fourth paragraph of section 2(a) of the National Housing Act are amended to read as follows:

"(2) the term 'energy conserving improvements' means (i) residential energy conservation measures as defined in section 101 of the National Energy Conservation Policy Act, or (ii) any addition, alteration, or improvement to an existing or new structure which is designed to reduce the total energy requirements of that structure, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration; and

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conducive or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration.".

(b) Section 2(f) of the National Housing Act is amended by adding the following at the end thereof: "The Secretary shall conduct a study within two years after the enactment of the National Energy Conservation Policy Act in order to determine an actuarially sound premium rate for loans for energy conserving improvements authorized under section 2(a) of this subchapter, and shall, based on this study, no earlier than two years after date of enactment of the National Energy Act, set an actuarially sound premium rate for such loans, which rate may exceed the otherwise applicable 1 per centum limitation of this subsection.".

AMENDMENT TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 222. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end thereof a new sentence, to read as follows: "The term 'residential mortgage' is deemed to include a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of replayment primarily on the borrower's general credit standing and forecast of income, with or without other security.".

AMENDMENT TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT

SEC. 223. Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans made for the energy conservation improvements described in section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

AMENDMENT TO SECTION 422 OF ENERGY CONSERVATION AND PRODUCTION ACT

SEC. 224. Section 422 of the Energy Conservation and Production Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978; not to exceed $200,000,000 for the fiscal year ending September 30, 1979; and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION PURCHASE OF LOANS FOR RESIDENTIAL ENERGY CONSERVATION MEASURES

SEC. 225. The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"AUTHORITY TO PURCHASE LOANS FOR RESIDENTIAL ENERGY CONSERVATION MEASURES

"SEC. 314. (a) The Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured (subject to limitations contained in section 2 (a) of the National Housing Act) under title I of the National Housing Act at 90 percentum of any loss incurred by the person holding the note for the loan and which are made for the purpose of purchasing and installing residential energy conservation measures in residential buildings pursuant to part A of title I of the National Energy Conservation Policy Act. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) such loan or advance of credit involves an interest rate which the Secretary establishes (after consulting with the Secretary of Agriculture and the Administrator of the Federal Energy Administration), taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below that which the Association is required to pay under subsection (c); and

"(3) the amount of any such loan or advance of credit does not exceed $2,500; and

"(4) such loan or advance of credit is made in accordance with such regulations as the Secretary may prescribe, after consultation with the Secretary of the Treasury, to insure that standards and criteria shall be identical, to the maximum extent practicable, under this program and any federally-enacted tax benefit for residential energy conservation measures and that no individual or family is eligible for both a loan under this program and a tax credit for the same improvements.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secertary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting: *Provided*, That the receipts from the sale of such loans and advances of credit shall be used only for the retirement of obligations issued by the Association to the Treasury under subsection (c); and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(e) The total amount of purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts provided in appropriations Acts, but in no case may such amount exceed $5,000,000,000.

"(f) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(g) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(h) In no event shall interest rates charged for loans to purchase or install residential energy conservation measures in residential buildings as described in this section exceed the rates set by individual State usury laws or comparable State laws setting rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions.".

LOANS FOR SOLAR HEATING AND COOLING EQUIPMENT

SEC. 226. (a) (1) The Congress finds that—

(A) the heating and cooling of private homes accounts for a significant portion of our national energy consumption, and that the expected substantial increases in the cost of oil, gas, and electricity will significantly and adversely affect millions of American homes;

(B) that technologies for solar heating have developed to the point of commercial application and improved solar heating units are becoming increasingly available;

(C) technologies for solar cooling are expected to reach the point of commercial application within a relatively few years; and

(D) a program of Federal assistance in purchasing and installing solar heating equipment or combined solar heating and cooling equipment can provide a new opportunity for the efficient heating and cooling of homes despite the energy shortage.

(2) It is the purpose of this section to provide a source of finanical assistance for homeowners and builders to enable them to purchase and install solar heating equipment or combined solar heating and cooling equipment while substantially reducing energy use.

(b) (1) In order to carry out the purpose of this section, the Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") is authorized to make loans to individuals and families owning and occupying one- to four-family residential structures, and to persons engaged in the construction of residential structures of any kind, to assist in financing or refinancing the purchase and installation of qualified solar heating or qualified solar heating and cooling equipment in such structures under contracts executed on or after July 26, 1977.

(2) A loan made under this subsection with respect to any residential structure shall—

(A) be in such amount, not exceeding 100 per centum of the cost of purchasing and installing the equipment involved, and not exceeding—

(i) $8,000 per dwelling unit in the case of a one- to four-family structure, or

(ii) $7,500 per dwelling unit in the case of a multifamily structure containing five or more but less than fifty such units,

as may be necessary to enable the owner or builder of such structure to purchase and install qualified solar heating or qualified solar heating and cooling equipment which is suitable and appropriate for such structure, including the cost of any necessary modifications in the structure itself, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(B) bear interest at a rate of 4 per centum per annum;

(C) have a maturity not exceeding fifteen years, except that if the loan is made to the builder of a structure which is sold to another person for occupancy, rental, resale, or any other purpose, the maturity of the loan shall not extend beyond the date of the sale to such other person unless the loan is assumed by such other person; and

(D) be made in accordance with such regulations as the Secretary to achieve the purpose of this section many prescribe, including regulations prescribed after consultation with the Secretary of Treasury to insure that standards and criteria shall be identical, to the maximum extent practicable, under this program and any federally-enacted tax benefit for solar energy systems and energy conserving improvements and that no individual or family is eligible for both a loan under this section and a tax credit for the same improvements.

(3) Each application for a loan under this subsection shall be accompanied by detailed plans for the purchase and installation of the proposed equipment and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed equipment is suitable and appropriate and will be effective, that the costs will not be excessive, and that the purchase and installation of the equipment will not involve elaborate or extravagant design or materials.

(4) In making loans under this section, the Secretary shall impose such standards and take such actions as may be necessary or appropriate to assure that the funds provided for such loans under this section are allocated equitably to both one- to four-family structures and multifamily structures.

(5) In making loans under this section, the Secretary shall issue and make available to prospective borrowers at the time loan applications are accepted, rules and regulations governing the repayment requirements applicable to such loans.

(c) (1) For the purpose of this section—

(A) the term "qualified solar heating equipment" means any active system (based on mechanically forced energy transfer) or passive system (based on conductive, convective, or radiant energy transfer) or a combination of both systems which utilizes solar energy to provide all or part of the heating requirements of a residential structure (including all the necessary fittings and related installations) and which is certified by the Secretary—

(i) as being designed to meet more than 10 per centum of the total heating needs (including domestic hot water) of the type of structure for which it is intended, or more than 40 per centum of the needs of such a structure for domestic hot water

(where its remaining heating needs are met by other methods), and

(ii) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974) with respect to durability of parts, efficiency, ease of repair, availability of spare parts, acceptability of cost, technical feasibility of design or proven workability, and such other maters as the Secretary may consider relevant or appropriate;

(B) the term "qualified solar heating and cooling equipment" means any active system (based on mechanically forced energy transfer) or passive system (based on conductive, convective, or radiant energy transfer) or a combination of both systems which utilizes solar enegy to provide all or part of the heating and cooling requirements of a residential structure (including all the necessary fittings and related installations) and which is certified by the Secretary—

(i) as being designed to meet both the heating needs of the type of structure for which it is intended, to the extent required by paragraph (A)(i) of this subsection, and a portion of the cooling needs of such a structure, and

(ii) as meeting minimum standards (as developed under the Solar Heating and Cooling Demonstration Act of 1974) with respect to the matters specified in or under paragraph (A)(ii) of this subsection; and

(C) the term "passive system" includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Secretary.

(2) In carrying out its functions under the Solar Heating and Cooling Demonstration Act of 1974 and in support of the objectives of this title, the Energy Research and Development Administration shall—

(A) establish a mechanism or procedure (or both) for the inspection and evaluation of the cost effectiveness of each type or model of solar heating and solar heating and cooling equipment, making provision for dealing with applications received from manufacturers and for the consideration of comments received from homeowners already using such equipment,

(B) review each new type or model of solar heating and cooling unit, system, or component entering the market with respect to technical and cost effectiveness,

(C) establish by rule within six months after the date of enactment of this Act criteria for determining what portion or percentage of the cost of any passive system will be eligible for loans under this section where the primary or a major purpose of such system is other than solar heating of a residential structure. Such criteria shall be based on—

(i) the extent to which the system will contribute to the heating of a residential structure;

(ii) the most effective use of the funds available for loans under this section in stimulating the widespread use of solar energy;

(iii) any other factors the Secretary deems relevant.

(D) periodically (no less often than once every three years) review all outstanding certifications granted with respect to solar heating or solar heating and cooling equipment, and recommend the prospective rescission of such certifications (or appropriate modification in the equipment involved) whenever it finds that such equipment no longer meets applicable standards or criteria,

(E) periodically transmit its findings and recommendations under this subsection to the Secretary for use in the performance of his functions under this section, and

(F) take such other actions, and impose such other conditions and requirements, as will promote the objectives of this section.

(d) The Secretary shall provide to any person upon request by that person (without regard to whether or not such person is making or proposes to make application for a loan under this section) full, complete, and current information concerning recommended standards and types of qualified solar heating or solar heating and cooling equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

(e) Any person who makes any false statement or misrepresents any material fact for the purpose of obtaining a loan under this section, or violates any provision of this section, shall be fined not more than $1,000 or imprisoned not more than one year or both.

(f) There are authorized to be appropriated for the fiscal year ending on September 30, 1978 not to exceed $100,000,000 to provide an initial amount for the program under this section, and such additional sums thereafter as may be necessary to defray the administrative costs of carrying out such program. Amounts appropriated pursuant to this subsection to provide such initial amount and any amounts received by the Secretary as repayments of loans made under this section shall be placed in and constitute a revolving fund which shall be available without fiscal year limitation to the Secretary for use in carrying out this section.

(g) The authority of the Secretary to make loans under this section shall become effective six months after the date of enactment of this section, and shall expire ten years after such date. Upon the expiration of such ten-year period, the revolving fund established under subsection (f) shall be transferred into the general fund of the Treasury, and any amounts received thereafter as repayment of loans shall be paid into the Treasury as miscellaneous receipts.

INSURED ENERGY CONSERVATION AND SOLAR ENERGY SYSTEM PROJECT LOANS

SEC. 227. Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(c)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of section 2(a) of this Act, and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or solar energy system therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.".

PART C—NEW BUILDING PERFORMANCE STANDARDS GRANTS

AUTHORIZATION FOR SECTION 307(b) OF ENERGY CONSERVATION AND PRODUCTION ACT

SEC. 228. Section 307(b) of the Energy Conservation and Production Act is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

PART D—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

FEDERAL ENERGY ADMINISTRATION WEATHERIZATION GRANT PROGRAM

SEC. 229. (a)(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting the following after "Budget,": "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b)(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards de-

scribed in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out Farmer's Home Administration weatherization grant programs, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendments and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of all exterior doors and windows:

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats:

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) hot water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) Section 415 of such Act is amended—

(1) by striking out "weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matters described in subsection (c), except that not to exceed 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

AVAILABILITY OF LABOR

SEC. 230. The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973 and the Older American Community Service Employment Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949:

(1) First, the Administrator of the Federal Energy Administration (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

WEATHERIZATION STUDY

SEC. 231. The Administrator of the Federal Energy Administration, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of the Community Services Administration shall conduct a joint study which shall monitor, in a coordinated manner, the weatherization activities authorized by this title and amendments made thereby and those weatherization activities undertaken independently of this title and such amendments. Such officials shall report to the Congress within one year from the date of enactment of this title, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this title, and amendments made thereby, and of extending such activities to a broader range of income groups than are being assisted under this title and such amendments.

ENERGY-CONSERVING IMPROVEMENTS FOR PUBLIC HOUSING

SEC. 232. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to the approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

(b)(1) The Secretary of Housing and Urban Development is authorized to make grants to finance energy conservation improvements to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection on a priority basis to those projects which are in financial difficulty as a result of high energy costs.

(2) The Secretary shall establish minimum standards for energy conservation improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $25,000,000.

PART E—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

FINDINGS AND PURPOSE

SEC. 233. (a) The Congress finds that—

(1) buildings owned by units of local government are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

(2) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

(3) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

(b) It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures and energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

DEFINITIONS

SEC. 234. As used in this part,

"(1) The terms "State", "school", "hospital" and "Governor" have the meanings assigned them in the Education and Health Care Facilities Energy Efficiency Act of 1977.

(2) The term "unit of local government" means the government of a county, municipality, or township, which is a unit of general government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions.

(3) The term "building owned by a unit of local government" means any building, other than a building utilized primarily by a school or hospital which is owned by one or more units of local government, and which, throughout a normal year, is primarily intended for the use of such unit or units.

(4) The term "technical assistance program" means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

(A) in identifying the type, size and energy use level of such building and the major energy using systems of such building;

(B) in determining appropriate energy conservation and maintenance and operating procedures;

(C) in identifying the need, of any, for the acquisition and installation of energy conservation measures;

(D) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or the installation of energy conservation measures;

(E) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, or

(F) in such other planning as the Administrator may deem appropriate.

GRANT AUTHORIZATION

SEC. 235. (a) The Administrator is authorized to make grants pursuant to the provisions of this part for payment of the Federal share of the costs of the approved technical assistance program of

(1) a State;

(2) a unit of local government within a State;

(3) any combination of more than one units of local government within a State; or

(4) a State on behalf of such State and one or more units of local government within such State;

(b) The Federal share of technical assistance costs incurred in connection with any technical assistance program approved pursuant to this part shall not exceed 50 per centum thereof and the remainder of such costs shall be provided from sources other than Federal funds.

FEDERAL GUIDELINES

SEC. 236. The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development and implementation of technical assistance programs for buildings owned by units of local government. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

(1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and the potential for energy conservation;

(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation; and

(3) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other energy conservation programs in existence in such State.

ALLOCATION OF FINANCIAL ASSISTANCE

SEC. 237. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

(b) The total of all funds allocated to programs in any State for a fiscal year under this section shall not exceed an amount which bears the same ratio to the sums available in such fiscal year under this part as the population of such State, as determined by the Administrator, bears to the population of all States.

(c) The Administrator shall prescribe rules limiting the amount of funds allocated under this section which may be expended for administrative expenses.

APPLICATIONS

SEC. 238. (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

(b) Applications for technical assistance programs shall be accompanied by a description of the technical assistance programs proposed to be funded under this part during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

(c) The Administrator shall not provide financial assistance for any technical assistance program under this part unless the applicant has provided reasonable assurances that it has—

(1) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

(2) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

(3) demonstrated, to the satisfaction of the Administrator, that such technical assistance program is coordinated with and does not overlap or conflict with other similar energy conservation programs, if any, available to such applicant; and

(4) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

AUTHORIZATION OF APPROPRIATION

SEC. 239(a) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $40,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

(b) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

ANNUAL REPORT

SEC. 240. The Administrator shall, on April 1 of 1978 and April 1 of 1979 submit to the Congress a detailed report of the actions taken under this part. Such report shall show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

ADMINISTRATION

SEC. 241. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.

Subtitle B—Energy Efficiency Standards for Consumer Products

AMENDMENT TO PART B OF TITLE III OF ENERGY POLICY AND CONSERVATION ACT

SEC. 245. (a) Section 325(a) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) Except as otherwise provided in paragraph (3), the Administrator shall, by rule, prescribe an energy efficiency standard on or before January 1, 1980, for each type or class of covered product specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type or class of covered products of each of the types specified in paragraphs (3), (8), (10), (11), and (14) of section 322(a), except that the Administrator may not prescribe an energy efficiency standard for a type or class of covered product described in paragraph (14) of section 322(a) unless he determines that—

"(i) average per household energy use by products of such type exceeds 150 kilowatt-hours (or its British thermal unit equivalent) per year;

"(ii) aggregate household energy use by products of such type exceeds 4,200,000,000 kilowatt-hours per year; and

"(iii) substantial improvement in the energy efficiency of products of such type is possible.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) unless a test procedure has been prescribed pursuant to section 323 with respect to that type (or class) of product.

"(3) The Administrator shall not prescribe an energy efficiency standard for a type or class of covered product if he determines that the establishment of such standard is not technologically feasible or not economically justified.

"(4) Energy efficiency standards established pursuant to this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified, and may be phased in over a period of years through the establishment of intermediate standards.

"(5) In determining whether a standard is economically justified pursuant to paragraph (3) or (4), the Administrator shall determine that the benefits of the standard exceed its burdens based upon a weighing of the following factors:

"(A) the economic impact of the standard,

"(B) the total projected amount of energy savings likely to result from the imposition of the standard,

"(C) the savings in operating costs throughout the estimated average life of covered products in the type or class, compared to any increase in the price of or in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

"(D) any lessening of the utility or the performance of the covered product likely to result from the imposition of the standard.

"(E) any negative effects on competition likely to result from the imposition of the standard,

"(F) the need of the Nation to conserve energy, and

"(G) any other factors the Administrator considers relevant.

"(6) A rule prescribing an energy efficiency standard for a type or class of covered product may, for not more than two years from the effective date of such standard, exempt, in whole or part, from its requirements manufacturers of covered products whose gross revenues from all operations (including but not limited to the manufacture and sale of covered products) do not exceed $8,000,000 per annum, as determined by the Administrator, and with respect to whom the Administrator determines imposition of the standard may result in a substantial lessening of competition.

"(7) A rule prescribing an energy efficiency standard for a type or class of covered product may specify different minimum levels of energy efficiency for covered products within such type or class based upon the kind of energy consumed by such covered products

or upon performance-related features present in such covered products.

"(8) The Administrator shall, not later than five years after promulgation of an energy efficiency standard, conduct a reevaluation in order to determine whether such standard should be modified. In conducting such reevaluation the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the manufacture of the type or class of covered product involved and the economic impact of the standard.".

(b) Section 325(b) of the Energy Policy and Conservation Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) respectively, and inserting a new paragraph (2) to read as follows:

"(2) With respect to covered products of each of the types specified in section 325(a)(1)(A), an advance notice of proposed rulemaking with respect to such type or class of covered product shall be promulgated by the Administrator not later than thirty days after a test procedure with respect to that type or class of covered product has been prescribed, or thirty days after enactment of the National Energy Act, whichever is later.".

(c) Part B of title III of the Energy Policy and Conservation Act is further amended as follows:

(1) Section 324(c)(5) is amended by inserting ", including instructions for the maintenance, use, or repair of the covered product," after "energy consumption" in the matter following subparagraph (C).

(2) Section 325(d) is deleted.

(3) Section 326 is amended by:

(A) inserting in paragraph (b)(1) "or the Administrator" following the word "Commission" and by deleting the period at the end of that paragraph and inserting "and of all new models upon commencement of production.".

(B) inserting in paragraph (b)(3) following the word "Commission" in both places where that word appears, the words "or the Administrator"; inserting following the words "a rule under section 324" the words "or 325"; and by deleting the period at the end of the first sentence and inserting "or whether a product is in compliance with a standard prescribed under section 325.".

(C) adding a new paragraph (d) to read as follows:

"(d) The Administrator may require each manufacturer of covered products to submit such information or reports with respect to energy efficiency of such covered products as the Administrator determines may be necessary to establish standards under section 325 or to determine if a manufacturer has complied or is in compliance with any such standard. The Administrator may issue such regulations as he deems necessary to fulfill the purpose of this paragraph.".

(4) Section 336(a)(1) is amended by (A) striking out "(1)" and (B) by striking out "325(a)(1), (2), or (3)" in the first sentence thereof and inserting in lieu thereof the following: "325(a)".

(5) Section 336(a)(1)(B) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(6) Section 336(a)(2) is deleted.

(7) Sections 336(b)(1) and (2) are amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(8) Section 336(b)(5) is deleted.

(9) Section 339(a) is amended to read as follows:

"(a) There are authorized to be appropriated to the Administrator to carry out his responsibilities under this part not to exceed $1,700,000 for fiscal year 1976; not to exceed $3,056,000 for fiscal year 1977; not to exceed $4,000,000 for fiscal year 1978; not to exceed $10,000,000 for fiscal year 1979; not to exceed $10,000,000 for fiscal year 1980; not to exceed $7,000,000 for fiscal year 1981; and not to exceed $5,000,000 for fiscal year 1982.

(10) Section 321(a)(6) is amended to read as follows:

"(6) The term 'energy efficiency standard' means a performance standard—

"(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323,

"(B) which includes any other requirements which the Administrator may prescribe under section 325(c), and

"(C) which may include one or more intermediate standards.".

(11) Section 323(c) is amended to read as follows:

"(c) Effective one hundred eighty days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(1) in writing (including a representation on a label), or

"(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing. The Administrator may extend the one hundred eighty-day period in this subsection (but in no event for more than an additional one hundred eighty-day period) if he finds that the requirements will impose an undue hardship on a manufacturer, distributor, retailer or private labeler.".

(12) Section 327(a)(2) is amended by striking the word "similar" wherever it appears and substituting in lieu thereof the word "other".

(13) Section 327(b) is amended to read as follows:

"(b)(1) If a State regulation is prescribed on or before January 1, 1978, or after January 1, 1980, which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of a covered product and which is not superseded by subsection (a)(2), then any person subject to such regulation may file a petition with the Administrator requesting that the Administrator prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Administrator finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after January 1, 1978, which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered product and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Administrator requesting a rule that such State regulation not be superseded pursuant to this paragraph. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding), (A) that there is a significant State or local interest to justify such State regulation; and (B) that such State regulation would not unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or other requirement respecting energy use or energy efficiency for such type (or class) of a covered product may file a petition with the Administrator requesting a rule that such regulation not be superseded. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation;

"(B) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than such Federal standard; and

"(C) that such State regulation would not unduly burden interstate comerce.

"(4) The Administrator shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Administrator, not later than 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Administrator may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Administrator shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of paragraph (2) shall not continue in effect after two years from January 1, 1978, in the case of any type (or class) of covered product specified in paragraphs (1) through (14) of section 322(a).".

(14) Section 333(c) is amended to read as follows:

"(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(c), except to the extent that such violation is prohibited under section 332(a)(1), in which case that provision will apply.".

AUTOMOBILE FUEL ECONOMY DISCLOSURE

SEC. 246. (a) Not later than six months after the date of enactment of this Act, the Federal Trade Commission shall initiate a proceeding to prescribe rules requiring disclosure—

(1) of the applicable fuel economy rating, for each identifiable new automobile model which is required to be disclosed through labeling or otherwise by the manufacturer or importer pursuant to section 506(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 101 et seq.), in any advertisement (whether in print or broadcast media or outdoors or at point of sale) that makes any representation, express or implied, with respect to fuel consumption, or cost of operation of such automobile; and

(2) in the owner's manual or similar notice device, (a) the minimum acceptable octane rating of gasoline used by such vehicle; and (b) information to assist the owner in saving fuel through proper self-maintenance procedures.

(b) If the fuel economy rating required to be disclosed in (a)(1) is revised or subjected to a correction factor to account for variance between test procedures and actual driving conditions by rule by the Administrator of the Environmental Protection Agency, the Federal Trade Commission shall require that such revised or corrected fuel economy rating be disclosed pursuant to (a)(1).

Subtitle C—Federal Energy Initiatives

PART A—FEDERAL VAN POOLING PROGRAM

AMENDMENT TO SECTION 381 OF ENERGY POLICY AND CONSERVATION ACT

SEC. 250. Section 381 of the Energy Policy and Conservation Act is hereby amended by—

(1) inserting "and subsection (c)" before the colon in subsection (b)(2);

(2) deleting subsection (c) and inserting in lieu thereof the following:

"(d) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a), (b), and (c).", and

(3) inserting after subsection (b) the following new subsection:

"(c)(1) The Administrator may, by rule, after consultation with the Administrator of the General Services Administration, provide for the establishment of a program or programs pursuant to which van pooling arrangements are offered and provided to officers and employees of the Federal Government. Any such program may be phased in over a period of years, and may be limited by the Administrator to one or more reasonable categories of officers and employees and other individuals on a space-available basis, as determined by the Administrator, including, without limitation, categories determined by such factors as location of residence, location of place of business or regular hours of work and the availability of alternative mass transit services. The number of vans in use in van pooling arrangements authorized under this subsection shall at no time exceed six thousand.

"(2) In order to establish, maintain, and operate any program authorized to be established by the Administrator under paragraph (1) of this subsection, the Administrator of the General Services Administration, in consultation with the Administrator after due consideration of the availability of alternative mass transit services, shall be authorized to—

"(A) acquire vans by purchase, lease, or other arrangement;

"(B) establish and operate training programs for operators of such vans;

"(C) establish and maintain, or require departments and agencies to establish and maintain, lists of officers and employees participating, or desiring to participate, in van pooling arrangements;

"(D) permit any person authorized to operate a van pursuant to a van pooling arrangement to—

"(i) operate the van for personal use (other than for use on vacation trips and trips over extended distance, as defined by the Administrator of the General Services Administration), with or without a charge for such personal use as determined by the Administrator of the General Services Administration, and subject to the provisions of paragraph (3)(C)(iv) of this subsection; and

"(ii) retain a portion of the rider charges paid by officers and employees or other individuals participating in such van pooling arrangements if the Administrator of the General Services Administration determines that such retention will promote full use of van capacity; and

"(E) exercise such other powers now or hereafter vested in him as he determines to be necessary or appropriate to carry out the purposes of this subsection.

"(3) Any program establish pursuant to paragraph (1) of this subsection shall include—

"(A) a requirement that officers and employees of other individuals participating in van pooling arrangements authorized under such program pay a rider charge, including an actuarially determined sum for Government self-insurance against liability which may be imposed on the Federal Government due to van pooling use, in such amount and at such intervals as the Administrator of the General Services Administration may determine, except that the Administrator of the General Services Administration may provide that a person authorized to operate a van pursuant to a van pooling arrangement may not be required to pay a rider charge;

"(B) a requirement designed to assure that van pooling arrangements authorized under such program will insure that, not later than eight years from commencement of the program, all costs and expenses, including estimated administrative expenses, incurred by the Federal Government in connection with the establishment, maintenance, and operation of such a program, will be repaid from rider charges paid by participating officers and employees and other individuals; and

"(C) requirements to insure that each person operating a van pursuant to a van pooling arrangement authorized thereunder—

"(i) shall be a regular, full-time Government officer or employee;

"(ii) shall maintain the van in good and safe working order;

"(iii) shall be by law entitled to operate the van in his place of residence, except that nothing in this subparagraph shall be deemed to require that such person be licensed to operate the van for hire; and

"(iv) shall, in the event that such person is authorized to operate and operates the van for personal use, secure and maintain at such person's expense insurance against such risks as the Administrator of the General Services Administration deems necessary to assure payment of any claim that may arise other than in van pooling use.

"(4) For the purposes of section 5 of the Act of July 16, 1914 (chapter 141, 38 Stat. 508, as amended; 31 U.S.C. 638a), and section 601 of Public Law 94-91 (89 Stat. 458; 31 U.S.C. 638c), a van obtained for the purpose of, and operated pursuant to, a van pooling arrangement established pursuant to this subsection shall not be deemed to be a passenger motor vehicle.

"(5) Neither the offering of a van pooling arrangement pursuant to this subsection nor the operation of a van pursuant to such an arrangement shall subject any person to regulation as a motor carrier under part II of the Interstate Commerce Act (49 U.S.C. 303 et seq.), or to any similar regulation under the laws of the District of Columbia or any State or political subdivision thereof.

"(6) Section 1346(b) and 2679 of title 28, United States Code, shall apply to suits arising from van pooling use.

"(7) The operation of a van pursuant to a van pooling arrangement established pursuant to this subsection shall not be deemed to be operation of a motor vehicle for hire for purposes of any law of the District of Columbia or any State or political subdivision thereof relating to the licensing of operators of motor vehicles for hire.

"(8) Time spent traveling in van pooling arrangements shall not be considered Federal employment for the purpose of any law administered by the Civil Service Commission or by the Department of Labor pursuant to chapter 81 of title 5, United States Code, and rider charges paid the operator of a van pool arrangements shall be deemed fees paid to and received by individuals in their private capacity.

"(9) The Administrator of the General Services Administration, with the approval of the Administrator, is hereby authorized to delegate to the heads of Federal departments and agencies whose officers and employees are authorized to participate in van pooling arrangements established pursuant to this subsection such of his functions, powers, and duties as he deems necessary or appropriate to establish, maintain, or operate van pooling programs authorized by this subsection.

"(10) For purposes of this subsection, the term 'van pooling use' means operation or maintenance of a van by an officer or employee of the United States in the course of or incidental to a van pooling arrangement authorized under this subsection, excluding any personal use permitted under paragraph (2)(D)(i).

"(11) All rider charges and other receipts from the operation of van pooling arrangements established pursuant to this subsection received by the Administrator of the General Services Administration or by the head of any Department or agency exercising authority delegated pursuant to paragraph (9) of this subsection shall be deposited in the general fund of the Treasury of the United States.

"(12) There are authorized to be appropriated to the Administrator to carry out the provisions of this subsection not to exceed $15,000,000 for fiscal year ending September 30, 1978; not to exceed $15,000,000 for fiscal year ending September 30, 1979; not to exceed $15,000,000 for fiscal year ending September 30, 1980; not to exceed $15,000,000 for fiscal year ending September 30, 1981; and not to exceed $3,000,000 for fiscal year ending September 30, 1982. The Administrator shall be authorized, with the approval of the Director of the Office of Management and Budget, to transfer to the Administrator of the General Services Administration such amounts from the sums so appropriated as may be necessary to carry out the functions, duties, and responsibilities assigned to the Administrator of the General Services Administrator by this subsection.".

PART B—FEDERAL ENERGY CONSERVATION PROGRAM

AMENDMENT TO SECTION 381 OF ENERGY POLICY AND CONSERVATION ACT

SEC. 251. Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(f) In addition to funds authorized in any other law, there are authorized to be appropriated to each executive agency, as defined in section 105 of title 5, United States Code, and to the United States Postal Service, for each fiscal year of the eight fiscal year period ending September 30, 1985, such sums as may be necessary to carry out the purposes of subsection (a)(2).".

PART C—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

FINDINGS

SEC. 252. The Congress finds that—

(1) there is an urgent need to promote the design, construction and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supplying and servicing new and improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, being the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures and in promoting the use of solar heating and cooling and other renewable energy sources.

POLICY

SEC. 253. The Federal Government has the opportunity and responsibility, with the participation of industry, to further de-

velop, demonstrate, and promote energy conservation and the use of solar heating and cooling and other renewable energy sources in Federal buildings.

PURPOSE

SEC. 254. It is therefore the purpose of this part to require the development of methods to establish and compare the life cycle costs of operating Federal buildings, including the life cycle cost of fuel and energy consumed in such buildings, with and without special features for energy conservation and the use of solar heating and cooling or other renewable energy sources in such buildings.

DEFINITIONS

SEC. 255. For the purposes of this part—

(1) the term "Administrator" means the Administrator of the General Service Administration;

(2) the term "life cycle cost" means the total costs of owning, operating, and maintaining a building or unit over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative systems for a given building; except that in the case of leased buildings, the life cycle cost shall be calculated over the remaining term of the lease;

(3) the term "energy survey" is the determination of the energy consumption of a building and characteristics including but not limited to size, type of structure, building materials, the manner in which such building is used, and the climate characterizing the location of such building;

(4) the term "energy audit" is defined as a procedure to be used in determining energy conservation and cost savings likely to result from appropriate energy-consuming maintenance and operating procedures and from the purchase and installation of particular energy-related modifications to a Federal building, structure, or facility;

(5) the term "Federal building" means any building, structure or facility which is constructed, renovated or leased or purchased in whole or in part for use by the United States or by an agency or agencies thereof, and which includes a heating system, a cooling system, or both;

(6) the term "existing Federal building" means any Federal building for which funds have been appropriated by Congress for construction, renovation or leasing prior to the date of enactment of this part;

(7) the term "new Federal building" means any other Federal building; except a building shall be considered to be a "new Federal building" if appropriations for its construction, renovation, or leasing have been made available prior to the date of enactment, and if (A) its construction renovation, or leasing has not been completed prior to said date, and (B) the Administration determines that the plans for or actual construction, renovation, or leasing of a Federal building can be feasibly modified to comply with the provisions of this part relating to new Federal buildings;

(8) the term "energy conservation goal" means a level of energy usage which is the minimum practically achievable by adjusting maintenance and operating procedures for energy equipment in Federal buildings, structures, and facilities; and

(9) the term "life cycle efficiency goals" means an economically practical minimum level of energy usage in any Federal building taking into account life cycle costs.

ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS

SEC. 256. (a) The Administrator, in consultation with the Administrator of the Federal Energy Administration, the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, the Administrator of the Energy Research and Development Administration, and the Secretary of Housing and Urban Development, shall—

(1) establish practical and effective methods for estimating and comparing life cycle capital and operating costs for Federal buildings of all types, including the life cycle fuel and energy requirements for such buildings; and

(2) develop and prescribe the forms to be used and the procedures to be followed in applying and implementing the method so established and in conducting the energy surveys required by section 258.

(b) In the design and construction of new Federal buildings, cost considerations shall, to the maximum extent practicable, be determined on the basis of life cycle costs as prescribed in subsection (a).

(c) The Administrator shall take such actions as may be appropriate to promote to the maximum extent practicable the voluntary use and acceptance of such methods in the construction and renovation of buildings, structures, and facilities in all segments of the economy.

ENERGY CONSERVATION GOALS FOR EXISTING FEDERAL BUILDINGS

SEC. 257. In addition to establishing methods for estimating and comparing life cycle costs under section 256, the Administrator, in consultation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the National Bureau of Standards, the Office of Management and Budget, and the Secretary of the Department of Housing and Urban Development, shall establish energy conservation goals for all Federal buildings, and shall take such actions as may be necessary and appropriate to promote, to the maximum extent practicable, compliance with these goals in existing Federal buildings.

ENERGY SURVEYS IN EXISTING FEDERAL BUILDINGS

SEC. 258. (a) At the earliest possible date after enactment of this part, the General Services Administration and other Federal agencies which have managerial responsibility for any Federal building containing at least thirty thousand square feet of floor space, shall perform an energy survey of all such buildings. The results of such energy surveys shall be submitted to the Administrator at the earliest feasible date. The Administrator shall furnish Congress with a full report on all surveys conducted under this subsection no later than August 15, 1978.

(b) At the earliest possible date after the completion of the energy surveys required under subsection (a) (and, to the maximum extent practicable, concurrently with the performance of the energy surveys in this section), the General Services Administration and other Federal agencies which have managerial responsibility for a Federal building containing more than one thousand and less than thirty thousand square feet of floor space shall perform an energy survey of these Federal buildings and submit the results of these surveys to the Administrator. The Administrator shall furnish Congress with a full report on all energy surveys conducted under this subsection no later than August 15, 1979.

(c) Where special circumstances such as national security considerations or inaccessibility of a Federal building make the conduct or reporting of an energy survey impracticable, the General Services Administration or other Federal agency which has managerial responsibility for a Federal building shall be required to report to the Administrator the reasons for not conducting or reporting the energy survey. These special cases shall be included in the Administrator's report to Congress under (a) and (b).

LIFE CYCLE EFFICIENCY GOALS FOR EXISTING FEDERAL BUILDINGS

SEC. 259. (a) The Administrator, in consultation with the Administrator of the Federal Energy Administration shall select from the energy surveys conducted under section 258 those buildings which would be most suitable for the implementation of energy conserving measures to reduce their life cycle costs. The energy conserving measures considered shall include, but not be limited to, common energy conservation techniques, energy audits and alternatives involving use of solar energy and other renewable energy sources.

(b) Not later than September 30, 1979, the President shall insure that energy conserving measures, including but not limited to the retrofit of buildings, shall be implemented so that life cycle efficiency goals are achieved in buildings identified pursuant to subsection (a) in at least 1 per centum of the total gross square footage contained in all existing Federal buildings.

(c) There are authorized to be appropriated to the Administrator of the Federal Energy Administration $25,000,000 for transfer to the Administrator and such other Federal agencies as may be appropriate in fiscal year 1979 to perform the functions required under this section.

(d) The Administrator and the Administrator of the Federal Energy Administration shall conduct a study of the increased energy conservation and energy efficiency potential for all existing and new Federal buildings. Such study shall include but not be limited to, implementation necessary for achievement of maximum energy conservation to assure minimum possible life cycle costs in all Federal buildings by January 1, 1990. A report with the results of such study shall be submitted to the Congress not later than July 1, 1979. The report shall contain a plan with various schedule and funding options including but not limited to the aforementioned achievement in all Federal buildings by January 1, 1990.

ENERGY PREFERENCE FOR FEDERALLY LEASED BUILDINGS

SEC. 260. In leasing buildings for its own use or that of another Federal agency, each Federal agency shall give appropriate preference to buildings which use solar heating and cooling equipment or other renewable energy sources or which otherwise minimize life cycle costs.

BUDGET TREATMENT OF ENERGY COSERVING IMPROVEMENTS BY FEDERAL AGENCIES

SEC. 261. Each Federal agency, in the preparation and submission of its budget requests for any fiscal year, shall specifically set forth and identify in a separate line item or items the funds being requested for retrofit measures to be undertaken in addition to funds made available under section 259, and the portion of any other funds being requested which represent to the maximum extent practicable the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy and other renewable energy sources.

REPORTS

SEC. 262. Each Federal agency shall periodically furnish the Administrator with full and complete information on its activties under this part, and the Administrator shall annually submit to the Congress a comprehensive report on all activties under this part and on the progress being made toward achievement of the objectives of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 263. There are authorized to be appropriated to the Administrator such sums, not exceeding $2,000,000 in fiscal year ending September 30, 1978, as may be necessary to enable him to perform the analysis and administrative functions vested in him under this subpart.

PART D—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

DEFINITIONS

SEC. 264. As used in this part—

(1) The term "agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "building" means any structure (other than a residential dwelling) owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotitation.

(3) The term "solar heating" means with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methcds) and all or part of the cooling needs of such building.

(5) The term "solar energy equipment" means equipment for solar heating or solar heating and cooling.

(6) The term "Administrator" means the Administrator of the Federal Energy Administration.

FEDERAL SOLAR PROGRAM

SEC. 265. The Administrator in consultation with the Administrator of the General Services Administration shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

DUTIES OF ADMINISTRATOR

SEC. 266. (a) In exercising the authority provided by section 265, the Administrator in consultation with the Administrator of the General Services Administration shall—

(1) solicit and consider proposals by any agency to apply solar heating or solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value as determined by the Administrator of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable of innovative and diverse applications to a variety of types of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate and make available, upon request, such evaluation of, each such proposal pursuant to the criteria promulgated pursuant to paragraph (2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment);

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment;

(6) require that a life cycle cost analysis be done for such buildings as set forth in sections 253 through 259 of this Act; and

(7) where solar equipment is not the minimum cost alternative; require that the agency explicitly state the excess cost being necessary to install solar technology pursuant to this part.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) of subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Service Administration and the Administrator of the Energy Research and Development Administration.

TRANSFER OF APPROPRIATIONS

SEC. 267. In carrying out a proposal for which the Administrator has provided assistance pursuant to section 266(a)(4), any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

SUBMISSION OF PROPOSALS

SEC. 268. (a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within one hundred and eighty days after publication of criteria under section 266(a)(2), submit initial proposals to the Administrator for installation of solar energy equipment in selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy equipment, the funds required for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals, in intervals not longer than two years to the Administrator for additional solar energy equipment for buildings under its control on a schedule established by the Administrator.

AUTHORIZATION OF APPROPRIATIONS

SEC. 269. There are authorized to be appropriated to the Administrator through fiscal year ending September 30, 1980, sums to carry out the purposes of this part, such sums not to exceed $100,000,000.

PART E—USE OF ADVANCED PHOTOVOLTAIC ENERGY DEVICES IN FEDERAL FACILITIES

SHORT TITLE

SEC. 270. This part may be cited as the "Federal Photovoltaic Utilization Act".

PHOTOVOLTAIC ENERGY PROGRAM

SEC. 271. There is hereby established a photovoltaic energy commercialization program (hereafter in this part referred to as the "program") for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities, using technologically and technically approved and proved equipment.

PURPOSE

SEC. 272. The purpose of the program shall be to accomplish the following:

(1) accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public as an option which can reduce national consumption of fossil fuel;

(2) conserve fossil fuel cost of the Federal Government;

(3) stimulate the general use within the Federal establishment of methods for the minimization of life cycle costs (as "life cycle costs" are defined in section 255 of the National Energy Conservation Policy Act); and

(4) develop program performance data to support policy decisions on future incentive programs with respect to energy.

ACQUISITION OF SYSTEMS

SEC. 273. The program shall provide for the acquisition and use of photovoltaic solar electric generation systems and associated storage capability by Federal agencies. The acquisition of photovoltaic electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Administrator is authorized to make the acquisitions authorized by this section through the use of multiyear contracts.

ADMINISTRATION

SEC. 274. The Administrator of the Federal Energy Administration (hereinafter in this part referred to as the "Administrator") shall administer the program and shall—

(1) insure that the installation of photovoltaic electric systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this part; and

(3) report annually to Congress on the status of the program.

SYSTEM EVALUATION AND PURCHASE PROGRAM

SEC. 275. The Administrator and the Administrator of the Energy Research and Development Administration shall jointly establish, within sixty days following the date of the enactment of this part, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring photovoltaic systems under this part, the Administrator in consultation with the Administrator of the Energy Research and Development Administration shall insure that such systems reflect the most advanced technology and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States, and to stimulate the private sector market for photovoltaic power systems. The Administration shall, subject to the availability of appropriated funds, procure up to thirty megawatts of photovoltaic power systems during fiscal year ending September 30, 1979, September 30, 1980, and September 30, 1981.

ADVISORY COMMITTEE

SEC. 276. There is hereby established an advisory committee to assist the Administrator in the establishment and conduct of the program. Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Postmaster General, and such other persons as the Administrator deems necessary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 277. For the purposes of this part, there is authorized to be appropriated to the Administrator not to exceed $98,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

PART F—FEDERAL PURCHASE OF VEHICLES EQUIPPED WITH PASSIVE RESTRAINT DEVICES

POLICY WITH RESPECT TO PURCHASE OF FEDERAL VEHICLES

SEC. 278. (a) It is the policy of the Congress that all passenger vans and automobiles purchased by the Federal Government after year 1978 shall be equipped, to the maximum extent technically feasible, with airbag collision protection devices or other passive restraint systems. The Secretary of Transporta-

tion, in consultation with the Administrator of General Services, shall be rule, prescribe—

(1) the types of passenger vehicles which should be equipped with such passive restraint systems;

(2) a phased schedule of procurement which will implement this policy in consideration of the available supply of such systems and the technological difficulty of installing them;

(3) the appropriate location in each type of vehicle for airbags should they be required;

(4) the type of other passive restraint system required for each kind of vehicle; and

(5) the exemptions from such requirements which are found to be necessary for certain vehicles or uses of vehicles in service.

(b) The Secretary of Transportation shall be responsible for maintaining records of the effectiveness of these passive restraint devices and shall make this information a part of the President's annual report to Congress, as required by section 381(d) of the Energy Policy and Conservation Act.

PART G—FEDERAL HOME MORTGAGE CREDIT ENERGY PROGRAM

ENERGY PERFORMANCE STANDARDS

SEC. 279. Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Building Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Weatherization Act.".

RESIDENTIAL HOUSING INCENTIVES STUDIES

SEC. 280. The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficiency standards. The Secretary shall report, no later than one year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

PART H—CONSERVATION OF NATIONAL COAL RESOURCES

MAJOR FUEL BURNING STATIONARY SOURCE

SEC. 381. Part A of Title I of the Energy Policy and Conservation Act is amended by adding at the end thereof a new section as follows:

"SEC. 107. (a) Neither the Governor of any State, nor the President's designee, nor the President may issue any order or rule prohibiting any major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives.

"(b) Neither the Governor of any State, nor the President's designee, nor the President may issue any rule or order requiring any major fuel burning stationary source (or class or category thereof) to enter into any contracts for supplies of locally or regionally available coal or coal derivatives."

TITLE D—ADDITIONAL ENERGY CONSERVATION PROGRAMS

PART A—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

AMENDMENT TO PART D OF TITLE III OF ENERGY POLICY AND CONSERVATION ACT

SEC. 401. (a) Part D of title III of the Energy Policy and Conservation Act is amended by adding at the beginning thereof "Subpart 1—Voluntary Energy Efficiency Targets" and adding at the end thereof the following new subpart;

"Subpart 2—Energy Efficiency Standards

"ENERGY EFFICIENCY STANDARDS FOR INDUSTRIAL EQUIPMENT

"SEC. 377. (a)(1) The Administrator shall, not earlier than two years after the promulgation of test procedures and labeling rules for those types and classes of electric motors and pumps which he has selected in accordance with the provisions of subsection (c), prescribe, by rule, energy efficiency standards for such types and classes

"(2) The Administrator may, not earlier than two years after the promulgation of test procedures and labeling rules for those types and classes of industrial equipment other than electric motors and pumps which he has selected in accordance with the provisions of subsection (c), prescribe, by rule, energy efficiency standards for such types and classes of industrial equipment.

"(b)(1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall, not later than three years after the date of enactment of this section, prescribe, by rule, mandatory labeling rules for those types and classes of industrial equipment which he has selected in accordance with the provisions of subsection (c).

"(2) If the Administrator determines with respect to a type or class of industrial equipment that the prescription of mandatory labeling rules is not likely to be necessary in order to encourage the availability to purchasers of information concerning the energy efficiency of such types or class of industrial equipment, he may promulgate guidelines for the use of manufacturers in developing and utilizing energy efficiency labels for such type or class of industrial equipment. Such guidelines shall be promulgated, not later than three years after the date of enactment of this section.

"(c)(1) Prior to the promulgation of any test procedure, standard, labeling rule, or labeling guideline pursuant to this section, the Administrator shall evaluate each type of industrial equipment to determine standard classifications with respect to size, function, type of energy consumed, method of manufacture, or other factors, which may be appropriate for the purpose of establishing test procedures, labeling rules or guidelines, or energy efficiency standards.

"(2) With respect to the identification of each standard classification in accordance with paragraph (1), unless the Administrator determines that to do so in whole or in part would not be likely to assist in achieving significant savings of energy or is not practicable, the Administrator shall—

"(A) define the equipment contained therein;

"(B) characterize the equipment and its general use;

"(C) identify significant factors that determine energy efficiency, including, but not limited to, hours of operation per year, and average loading with respect to loading at full capacity;

"(D) estimate current and future equipment population profiles;

"(E) estimate the potential for improvements in energy efficiency that in the Administrator's judgment are both technologically feasible and economically justified;

"(F) estimate likely increases or decreases in energy efficiency and total energy savings likely to result from implementation of—

"(i) labeling guidelines,

"(ii) mandatory labeling rules, and

"(iii) mandatory energy efficiency standards; and

"(G) examine such other factors as the Administrator determines appropriate.

"(3) After consideration of the information developed in accordance with this subsection, the Administrator shall—

"(A) select those classes of electric motors and pumps for which standards will be prescribed pursuant to subsection (a)(1);

"(B) select those classes of industrial equipment for which labeling rules or guidelines will be prescribed in accordance with subsection (b); and

"(C) select those classes of industrial equipment, other than electric motors and pumps, for which standards may be prescribed pursuant to subsection (a)(2).

"(d) The Administrator shall not promulgate labeling guidelines, labeling rules, or standards for any class of industrial equipment unless he has determined that—

"(1) improvements in energy efficiency are technologically feasible and economically justified with respect to such class; and

"(2) significant energy savings will likely result from such labeling or standard.

"(e)(1) Energy efficiency standards for electric motors and pumps prescribed pursuant to this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in over a period of years as determined by the Administrator.

"(2) In determining whether a standard is economically justified under paragraph (1), the Administrator shall determine that the benefits of the standard exceed its burden based upon a weighing of the following factors—

"(A) the economic impact of the standard on the manufacturers and on the purchasers of the equipment subject to such standard;

"(B) the savings in operating costs throughout the estimated average life of equipment in the type (or class) subject to such standard which is likely to result from the imposition of such standard;

"(C) the total projected energy savings likely to result directly from the imposition of the standard;

"(D) the increase in the initial charge for, and the expenses of maintenance, repair, or use of, such equipment which is likely to result from the imposition of the standard;

"(E) any lessening of the utility or the performance of the equipment likely to result from the imposition of the standard;

"(F) the impact on competition determined in writing by the Attorney General to be likely to result from the imposition of the standard;

"(G) the need of the Nation to conserve energy; and

"(H) any other factors the Administrator considers relevant.

For purposes of subparagraph (F), the Attorney General shall, not later than sixty days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, on competition which would be likely to result from such standard and transmit such determination in writing to the Administrator, together with his analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(3) An energy efficiency standard prescribed pursuant to this section may include any requirement which the Administrator determines is necessary to assure that each product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

"(f)(1) A labeling rule prescribed pursuant to this section—

"(A) shall require that each article of industrial equipment which is in the type or class of industrial equipment to which the rule applies bear a label which discloses the energy efficiency of such article, determined in accordance with test procedures under section 377(h); and

"(B) may require that such label also disclose energy use and other measures of energy consumption, determined in accordance with test procedures under section 377(h).

"(2) A labeling rule pursuant to this section may include such requirements as the Administrator determines are likely to assist purchasers in making purchasing decisions, including—

"(A) requirements and directions for display of the label,

"(B) requirements for including on the label, separately attaching, or shipping with the product, such additional information relating to energy efficiency, energy use, and other measures of energy consumption as the Administrator determines necessary to inform purchasers; and

"(C) requirements that printed matter displayed or distributed at the point of sale of such product, disclose such information as may be required under this section to be disclosed on the label of such product.

"(3) A labeling rule pursuant to this section shall not apply to any article of industrial equipment the manufacture of which was completed prior to the effective date of such rule.

"(g) For purpose of carrying out his responsibilities pursuant to this section, the Administrator may require, by rule or order, each manufacturer of industrial equipment to submit such information or reports with respect to (1) energy use or efficiency standards or labeling rules, and (2) such other categories of information as the Administrator determines necessary to assist in establishing test procedures, labeling rules, or energy efficiency standards, and to insure compliance with the requirements of this section.

"(h)(1) Prior to the promulgation of any rule requiring energy efficiency labeling or establishing energy efficiency standards pursuant to this section the Administrator shall publish proposed test procedures with respect thereto and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than forty-five days.

"(2) Test procedures promulgated pursuant to this section shall not be unduly burdensome to conduct.

"(i) An energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall (A) publish in the Federal Register an advance notice of proposed rulemaking which specifies the type or class of industrial equipment to which the rule will apply, and (B) invite interested persons to submit, within ninety days after the date of publication of such advance notice—

"(i) written or oral presentations of data, views, and argument as to the proposed level of energy efficiency, and

"(ii) proposed energy efficiency standards applicable to such class of industrial equipment.

"(2) A proposed rule which prescribes an energy efficiency standard for a type or class of industrial equipment may not be prescribed earlier than one hundred and twenty days after the date of publication of advance notice of proposed rulemaking for such class.

"(3) A rule prescribing an energy efficiency standard for a type or class of industrial equipment may not be published earlier than sixty days after the date of publication of the proposed rule under this section for such class. Such rule shall take effect not earlier than one hundred and eighty days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any industrial equipment the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

"(j) A labeling rule under section 377 shall be prescribed in accordance with section 553 of title 5, United States Code, except that interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, the period for such presentations shall not be less than forty-five days and a transcript shall be kept of any oral presentations.

"(k) The Administrator may direct the National Bureau of Standards to provide such assistance as the Administrator deems necessary to carry out his responsibilities under this section, including the development of test procedures and standards.

"(l) A rule pursuant to subsection (a) may exempt from its requirements small business manufacturers of industrial equipment, and with respect to whom the Administrator determines imposition of the requirement may cause a serious economic hardship, except that this exemption shall not exclude from coverage of the rule more than 10 per centum of the production of industrial equipment to which the rule applies.

"(m) The Administrator shall submit to the Congress within two years of enactment of this section a report on improvements in energy efficiency of industrial equipment. The report shall include information developed pursuant to subsection (c), information on the energy conservation potential and achievement with respect to industrial equipment, and any recommendations for additional legislation, including the advisability of establishing energy efficiency standards with respect to other types of equipment used in industry.

"ADMINISTRATION AND ENFORCEMENT

"SEC. 378. (a) It shall be unlawful for any manufacturer to (1) distribute in commerce any new industrial equipment which is not in conformity with a rule promulgated under section 377(a) or (2) fail to comply with a rule promulgated pursuant to section 377

"(b) Any person who violates subsection (a) shall be subject to a civil penalty of not more than $25,000 for each violation. Such penalties shall be assessed by the Administrator. Civil penalties assessed under this subpart may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent.

"(c) The United States district courts shall have jurisdiction to restrain (1) any violation of subsection (a) and (2) any person from distributing in commerce any industrial equipment which does not comply with an applicable rule under section 377. Any such action may be brought by the Administrator in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

"(d) The requirements of this subpart with respect to standards or labeling shall not apply to an article of industrial equipment if (1) such article is manufactured, sold, or held for sale for export from the United States (or such article was imported for export), unless such article is in fact distributed in commerce for use in the United States, and (2) such article when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such article is intended for export.

"(e) Any article of industrial equipment offered for importation in violation of subsection (a) shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such equipment upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to insure that such equipment will not be distributed in commerce in violation of subsection (a) or will be exported from or abandoned to the United States. The Secretary of the Treasury shall prescribe rules to implement this section.

"(f)(1) Any person who will be adversely affected by a rule prescribed under section 377 when it is effective may, at any time prior to the sixtieth day of the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

"(g) The Administrator may issue such rules as he deems necessary to carry out the provisions of this subpart.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 379. (a) There are hereby authorized to be appropriated to carry out the purposes of this subpart—

"(1) with respect to electric motors and pumps, $3,000,000 for each of fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980; and

"(2) with respect to all other types of industrial equipment, $4,000,000 for each of fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.".

(b) Section 371 of the Energy Policy and Conservation Act (42 U.S.C. 6341) is amended by adding the following paragraphs at the end thereof:

"(5) The term 'industrial equipment' means the following types of equipment which, to any significant extent, are distributed in commerce, except that such term does not include covered products under section 322(a), but may include components of such products:

"(A) electric motors;
"(B) pumps;
"(C) compressors;
"(D) fans;
"(E) blowers;
"(F) refrigeration equipment;
"(G) air conditioning equipment;
"(H) electric lights;
"(I) electrolytic equipment;
"(J) electric arc equipment;
"(K) steam boilers;
"(L) ovens;
"(M) furnaces;

"(N) kilns;
"(O) evaporators; and
"(P) dryers.

"(6) For purposes of subpart 2, the term 'energy efficiency' means the ratio of the useful output of services from an article of industrial equipment to the energy use of such article, determined in accordance with test procedures promulgated pursuant to section 377(h).

"(7) The term 'energy use' means the quantity of energy directly consumed by an article of industrial equipment at point of use, determined in accordance with test procedures promulgated pursuant to section 377(h).

"(8) The term 'energy efficiency standard' means a performance standard—

"(A) which prescribes a minimum level of energy efficiency for a class of industrial equipment, and

"(B) which includes any other requirements which the Administrator may prescribe under section 377(e).

"(9) The term 'new industrial equipment' means industrial equipment the title of which has not passed to a purchaser who buys such equipment for purposes other than (A) reselling such equipment, or (B) leasing such equipment in a period in excess of one year.

"(10) The term 'manufacturer' means any person who manufactures industrial equipment.

"(11) The terms 'energy', 'manufacture', 'import', 'importation', 'distribute in commerce', 'distribution in commerce', and 'commerce' means the same as the definitions of those terms contained in section 321 of this Act.".

"(12) The term 'energy-consuming corporation' means a corporation which consumes at least one trillion British thermal units of energy per year.

"(13) The term 'plant' is an economic unit at a single physical location where industrial processes are performed. A plant may also be referred to as a factory, a mill, or an establishment.

"(14) The term 'steam raising' means an operation conducted in a plant that performs one or both of the following functions: the raising of steam to a given pressure and temperature, using direct combustion of fuels; or, the above function in conjunction with the generation of electricity or other energy recovery/conversion function. The term 'steam raising' is meant to include one or more units of steam generating equipment of a total capacity greater than 50,000 pounds per hour per plant.

"(15) The term 'steam raising efficiency' means the ratio of minimum available work necessary for steam raising to the available work in the actual fuel used for steam raising.".

(c) Paragraph 371(3) of the Energy Policy and Conservation Act is amended by inserting the phrase "For the purposes of subpart 1," and replacing "The" by "the".

WOOL PRODUCTS LABELING ACT

SEC. 286. (a) Section 2(c) of the Wool Products Labeling Act of 1939 (54 Stat. 1128) is amended to read as follows:

"(c) The term 'recycled wool' means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(b) Subsection (d) of section 2 of the Wool Products Labeling Act of 1939 is repealed.

(c) Subsections (e), (f), (g), (h), and (i) of section 2 of the Wool Products Labeling Act of 1939 and all references thereto are redesignated as subsections (d), (e), (f), (g), and (h), respectively.

(d) Section 2(d) of such Act, as redesignated by subsection (c) of this Act, is amended by striking out, "reprocessed wool, or reused wool" and inserting in lieu thereof, "or recycled wool.".

(e) Section 4(a)(2)(A) of the Wool Products Labeling Act of 1939 is amended—

(1) by striking out "(2) reprocessed wool; (3) reused wool;" and inserting in lieu thereof, "(2) recycled wool";

(2) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(3) by striking out "(5)" and by inserting in lieu thereof "(4)".

(f) The amendments made by this section shall take effect with respect to wool products manufactured sixty days after the date of enactment of this title.

"(h)(1) The Administrator, in consultation with the Director of the National Bureau of Standards, the Administrator of Energy Research and Development and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the concept of energy efficiency, defined as the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task.

"(2) Such study, which shall be submitted to the Congress within 12 months after the date of enactment of this scetion, shall include, but need not be limited to—

"(A) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act and the National Energy Conservation Policy Act;

"(B) appropriate Federal programs in energy research development and demonstration.

(d) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.) is further amended by striking section 373, section 375, and section 376 of part D of the title III, and inserting in lieu thereof the following:

"IDENTIFICATION OF MAJOR ENERGY CONSUMERS

"SEC. 373. (a) The Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption.

"(b) Within each industry so identified, the Administrator shall identify each energy-consuming corporation.

"REPORTS

"SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each energy-consuming corporation which is identified by the Administrator pursuant to section 373(b), shall report to the Administrator not later than one year after the enactment of this Act, and semiannually thereafter on the progress which such corporation has made in improving its energy efficiency.

"(b) Each report to the Administrator shall be based on data aggregated to SIC classifications from plant reporting forms in a manner to be determined by the Administrator.

"(c) Each plant shall file a plant reporting form with its parent corporation. Each plant reporting form will be retained by the plant's parent corporation for at least five years. Such forms will be made available to the Administrator upon request.

"(d) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

"(e) The Administrator shall prepare, publish, and make available for use in complying with the reporting requirements under subsection (c), a simple plant reporting form which shall be designed in such a way as to avoid imposing an undue burden on any plant.

"(f) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

"(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator;

"(2) recommendations to the Congress as to how additional improvements might be achieved.

"(g) The Administrator shall conduct a demonstration program to determine the feasibility of establishing mandatory reporting, voluntary targets, standards, or other options for steam raising. The chief executive officer of each energy-consuming corporation shall, if requested by the Administrator, provide such information as shall be required concerning its current efficiency in raising steam. The Administrator shall, within eighteen months of the enactment of this act, report his recommendations to the Congress.

"GENERAL PROVISIONS

"SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 376(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

"(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency, heating process efficiency, and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

"(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

"(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(c)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

"(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

"(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

"(g) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART B—MINIMUM FUEL EFFICIENCY STANDARDS FOR NEW AUTOMOBILES

AMENDMENT OF SECTION 508 OF MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 287. Section 508 of the Motor Vehicle Information and Cost Savings Act is amended by striking out wherever it appears the term "$5 for each tenth of a mile per gallon" and inserting in lieu thereof the term "$10 for each tenth of a mile per gallon".

AMENDMENT TO TITLE 5 OF MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 288. Title 5 of the Motor Vehicle Information and Cost Savings Act is amended by adding new sections 513 and 514 at the end thereof to read as follows:

"MINIMUM MILEAGE STANDARDS

"SEC. 513. (a) No person shall manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any passenger automobile of a model type whose fuel economy in any model year after 1979 is less than the minimum fuel economy standard established for such model year under the following table:

Minimum fuel economy standard
(in miles per gallon)

"Model year:	
1980	16
1981	17
1982	18
1983	19
1984	20
1985 and thereafter	21

"(b) For the purposes of this section, the fuel economy of each model type shall be determined by the Administrator of the Environmental Protection Agency, in accordance with the procedures specified in section 503 of this part, with the exception of the calculations to determine average fleet fuel economy

"(c) For the purposes of this section, each automobile of any model type failing to achieve minimum fuel economy standards shall constitute a separate violation.

"INJUNCTION RELIEF

"SEC. 514. Upon petition by the Secretary or by the Attorney General on behalf of the United States, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain the sale, offer for sale, or the introduction in interstate commerce, or the importation into the United States, of any passenger automobile of a model type whose fuel economy is less than that specified under section 513(a) of this title. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

REPORT

"SEC. 515. Within six months of the date of enactment, the Environmental Protection Agency, in consultation with the Department of Energy and the Department of Transportation, shall prepare and present to the Congress a report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under section 506 of the Motor Vehicle Information and Cost Savings Act, (15 U.S.C. 1901 et seq.), provide a realistic estimate of average fuel economy likely to be achieved by the driving public. This report will include such recommendations as the Environmental Protection Agency seems appropriate.

"LOW VOLUME DOMESTIC MANUFACTURER

"SEC. 516(a). The provisions of section 513 shall not apply to any low volume domestic manufacturer who has been granted an exemption under the provisions of section 502 (c) of this Act.".

FUEL ECONOMY INFORMATION

SEC. 289. (1) For the purposes of section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) the term "automobile" includes automobiles with a gross vehicle weight rating of 8,500 pounds or less notwithstanding any lack of determination required of the Secretary under section 501(1)(b) (ii) or (iii).

(2) Nothing contained herein shall in any way affect the authority outlined in section 506 of the Motor Vehicle Information and Cost Savings Act to require labels or other information for fuel economy for automobiles rated in excess of 8,500 pounds gross vehicle weight.

(3) The amendment made by subsection (1) shall be effective for model year 1979 automobiles and beyond.

PART C—EXTENSION OF STATE ENERGY CONSERVATION PROGRAMS

AMENDMENT OF PART C OF TITLE III OF ENERGY POLICY AND CONSERVATION ACT

SEC. 290. (a) Section 365(f) of the Energy Policy and Conservation Act is amended to read as follows:

"(f) There are authorized to be appropriated for carrying out the provisions of this part (other than section 367) $50,000,000 for fiscal year 1976; $50,000,000 for fiscal year 1977; $50,000,000 for fiscal year 1978; $50,000,000 for fiscal year 1979; and $50,000,000 for fiscal year 1980.".

(b) Section 367(c) of the Energy Policy and Conservation Act is amended to read as follows:

"(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977; $40,000,000 for fiscal year 1978; $50,000,000 for fiscal year 1979; and $50,000,000 for fiscal year 1980.".

REPORT

SEC. 291. Not later than six months after the date of enactment of this section the Administrator shall submit to the Congress a report on the coordination of Federal energy conservation programs involving State and local government, including but not limited to, programs authorized by parts A and D of subtitle I of this title, the Education and Health Care Facilities Energy Efficiency Act of 1977, part C of title III of the Energy Policy and Conservation Act, and the National Energy Extension Act.

PART D—USE OF RECOVERED MATERIALS

AMENDMENT TO PART D OF TITLE III OF THE ENERGY POLICY AND CONSERVATION ACT

SEC. 292. (a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this section are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part D of title III of the Energy Policy and Conservation Act is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of enactment of this section, the Administrator shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: The metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Administrator shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Administrator—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Administrator shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1978, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Administrator under section 375, or if section 376(g) applies, prepare and transmit a report which includes a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what

plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1979, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Administrator for its industry. Such reports shall contain such information as the Administrator determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Administrator shall include in his annual report under section 375(c) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Administrator under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—Section 376 of such Act is amended by—

(1) inserting "or 374A" after "section 372" in subsection (b), and

(2) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

PART E—MINORITY ECONOMIC RESEARCH AND DEVELOPMENT

DEFINITIONS

SEC. 293. As used in this part, the term—

(1) "minority" means an individual who is socially or economically disadvantaged by causes arising from cultural, racial, chronic economic circumstances or background or other similar cause including, but not limited to Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, or Aleuts, and

(2) "minority business enterprise" means a business enterprise that is owned or controlled by a minority.

OFFICE OF MINORITY ECONOMIC RESEARCH AND DEVELOPMENT

SEC. 294. (a) Not later than sixty days after the date of enactment of this Act the Administrator shall establish within the Federal Energy Administration an Office of Minority Economic Research and Development (hereinafter referred to in this part as the "Office").

(b) The Office shall ensure that minorities are afforded an opportunity to participate fully in all aspects of the national effort to reduce dependency on foreign energy sources and to achieve and to maintain a humane standard of living for all Americans through energy conservation and increased self-sufficiency in energy production.

DUTIES

SEC. 295. (a) The Office shall conduct an ongoing research and analysis program to determine the impact of national energy programs and policies on the quality of life in minority communities.

(b) The Office shall conduct ongoing research and analysis—

(1) to determine the extent and levels of energy dependence associated with Federal initiatives to promote economic development and business enterprise in the minority sector of the national economy; and

(2) to develop alternative economic strategies that will promote optimum use of energy resources in minority economic development programs.

MINORITY BUSINESS UTILIZATION

SEC. 296. (a) The Office may contract with private sector enterprises, including minority educational institutions, minority business, trade and professional associations, business firms, and community development organizations for the design, development and implementation of management and technical assistance programs which will enable the minority sector to participate in the research, demonstrations, and contract activities of the Administration.

(b) Management and technical assistance services and programs provided under subsection (a) of this section may include—

(1) a national information clearinghouse which will develop and disseminate information on all aspects of the national energy program to minority business enterprises, and minority groups and organizations;

(2) market research, planning economic and business analysis, and feasibility studies to identify and define economic opportunities for minorities in energy research, production, conservation, and conversion;

(3) programs to encourage, promote, and assist minority entrepreneurs and minority business enterprises in securing contracts in the areas of energy research, production, conversion, and conservation;

(4) programs to encourage, promote, and assist minority entrepreneurs and minority business enterprises in establishing and expanding business enterprises in minority communities that can provide jobs to local workers; and

(5) programs to assist minority entrepreneurs and minority business enterprises in the commercialization of existing technology as a means of reducing energy consumption.

AUTHORIZATION OF APPROPRIATIONS

SEC. 297. There is hereby authorized for appropriations such funds as may be necessary to carry out the intentions of this part.

ELIGIBILITY

SEC. 298. Private sector minority institutions, associations, organizations, and other institutions shall be eligible to receive funds directed from the Office of Minority Economic Research and Development to support activities and programs which conform to the purposes of this part. Venture capital corporations and other privately owned financial organizations are deemed to be eligible applicants.

PART E—BICYCLE STUDY

BICYCLE STUDY

SEC. 299. (a) The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation potential—bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

TITLE II, III, AND IV EFFECTIVENESS

SEC. 300. *Provided*, That title IV of H.R. 5037 shall not be effective so long as titles II and III remain law.

TITLE III—EDUCATIONAL AND HEALTH CARE FACILITIES ENERGY EFFICIENCY ACT OF 1977

TABLE OF CONTENTS

Sec. 301. Short title.
Sec. 302. Findings and purpose.
Sec. 303. Definitions.
Sec. 304. Grant authorization.
Sec. 305. State plans.
Sec. 306. Financial assistance.
Sec. 307. Applications.
Sec. 308. Administration.
Sec. 309. Authorization of appropriations.
Sec. 310. Withholding.
Sec. 311. Severability.
Sec. 312. Technical amendments.

SHORT TITLE

SEC. 301. This title may be cited as the "Educational and Health Care Facilities Energy Efficiency Act of 1977".

FINDINGS AND PURPOSE

SEC. 302. (a) The Congress finds that—

(1) public and nonprofit educational institutions and hospitals throughout the Nation consume significant amounts of energy and have been and will continue to be especially burdened by the rising energy costs;

(2) substantial energy conservation can be achieved in educational health care facilities through implementation of energy-conserving maintenance and operating procedures and the installation of energy conservation measures; and

(3) financial assistance is especially needed by public and nonprofit educational institutions and hospitals to make necessary improvements to achieve greater energy efficiency, to conserve energy and reduce costs to the public.

(b) It is the purpose of this title to authorize grants to public and nonprofit educational institutions and hospitals to assist in evaluating and implementing energy-conserving maintenance and operating procedures and energy conservation measures.

DEFINITIONS

SEC. 303. As used in this title the term—

(a) "Administrator" means the Administrator of the Federal Energy Administration.

(b) "State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(c) "Governor" means the chief executive officer of a State.

(d) "public or nonprofit institution" means an institution owned and operated by—

(1) a State, a political subdivision of a State or an agency or instrumentality of either; or

(2) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(e) "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(f) "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (A), (B), (D), and (E).

(g) "local educational agency" means:

(1) a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform such a service function for, a group of public institutions of higher education within a State, public elementary or secondary schools of a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as recognized in a State as an administrative agency for its public elementary or secondary

schools, and includes any other public institution or agency having administrative control and direction of an institution of higher education, a public elementary or secondary school; or

(2) a private nonprofit institution legally constituted within or otherwise recognized by a State for either administrative control or direction of, or to perform such a service function for, a group of private nonprofit elementary or secondary schools or institutions of higher education within such State.

(h) "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(i) "school facilities" includes classrooms and related facilities of an elementary school, secondary school, or an institution of higher education, and initial equipment, machinery, and utilities necessary or apppropriate for educational purposes; but does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public.

(j) "educational institution" means any local education agency, any institution of higher education and any nonprofit elementary or secondary school.

(k) "hospital" means a public or nonprofit institution which is—

(1) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(2) duly authorized to provide hospital services under the laws of the State in which it is situated.

(l) "hospital facilities" means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

(m) "project costs" means cost incurred in the evaluation, design, acquisition, construction, and installation of energy conservation measures.

GRANT AUTHORIZATION

SEC. 304. (a) The Administrator is authorized to make grants to educational institutions and hospitals for the payment of the Federal share of project costs incurred in connection with projects undertaken pursuant to this title.

(b) The Federal share of the project costs incurred in connection with any project shall not exceed 50 per centum thereof. The remainder of the project costs shall be provided from sources other than Federal funds.

STATE PLANS

SEC. 305. (a) The Administrator shall, by rule, at the earliest practicable date after the date of enactment of this title, prescribe guidelines for the development of State plans with respect to the evaluation and installation of energy conservation measures in school facilities and hospital facilities, including guidelines indicating the types of measures appropriate for each region of the Nation. The Administrator shall invite the Governor of each State to submit, at the earliest practicable date after the effective date of such guidelines, a proposed State plan for such State. Such plan shall include—

(1) a description of the State's recommendations with respect to the evaluation and installation of energy conservation measures in school and hospital facilities in such State over the period for which funds are authorized to be appropriated pursuant to this title including—

(A) the types of energy conservation measures to be considered for installation in school and hospital facilities under projects undertaken pursuant to this titles; and

(B) an estimate of the energy savings and cost effectiveness of energy conservation measures anticipated for each type of project.

(2) The procedures under which the State will provide technical assistance to educational institutions and hospitals within such State with respect to the identification, evaluation, and design of energy conservation measures in the facilities and maintenance and operating procedures of such institutions and hospitals.

(b) Each State plan shall be reviewed and approved or disapproved by the Administrator not later than thirty days after submission. A Governor may submit a new or amended plan at any time after submission of the original plan if the State obtains the consent of the Administrator.

(c) If, after the expiration of the fourth month after the appropriation of funds in the first fiscal year for which funds are appropriated under this title, the State plan of any State has not been approved by the Administrator under this section, the Administrator shall take such action as is necessary to develop and implement a plan (and carry out the functions which would otherwise be carried out by the State under this title) in order that educational institutions and hospitals in such State shall be eligible for grants under this title, such plan to be effective until a plan submitted by the Governor of such State has been approved by the Administrator.

(d) Reasonable steps shall be taken to assure that plans submitted or implemented pursuant to this section are consistent with the applicable provisions of the Public Health Service Act describing State health plans.

FINANCIAL ASSISTANCE

SEC. 306. (a) The Administrator shall provide financial assistance to any applicant from sums appropriated for any fiscal year under this title only upon approval of an annual application submitted to the Administration pursuant to section 307.

(b) The Administrator shall allocate sums appropriated for each fiscal year—

(1) to the educational institutions of each State an amount which bears the same ratio to 75 per centum of such sums as the population of the State bears to the population of all States; and

(2) to the hospitals of each State an amount which bears the same ratio to 25 per centum of such sums as the population of the State bears to the population of all States.

(c) The population of a State and of all States shall be determined by the Administrator on the basis of the most recent satisfactory data available to him from the Department of Commerce.

(d) The Administrator shall not provide financial assistance authorized in this title to any hospital in any State unless the application for a grant by such hospital has been submitted through and has been approved by an established health care facilities agency (as defined by the term "State health planning and development agency" in section 1521 of the Public Health Service Act), or, if no such agency exists, an agency designated by the Governor of such State which is broadly representative of the public and private nonprofit hospitals in such State.

(e) Each educational institution in a State shall be allocated and shall be eligible to make application to the Administrator for financial assistance in an amount which bears the same ratio to the sums allocated to all educational institutions of such State pursuant to paragraph (b)(1) of this section as the enrollment of such institution bears to the total enrollment of all educational institutions of such State.

(f) The enrollment of an educational institution and of all educational institutions within a State shall be determined by the Administrator on the basis of the data most satisfactory to the Administrator made available to him by the Governor of such State.

(g) The allocations available to all hospitals of a State and to each educational institution of a State pursuant to this section from sums appropriated to the Administrator pursuant to this title in any fiscal year shall remain available until used.

APPLICATIONS

SEC. 307. (a) Applications of educational institutions and hospitals for financial assistance under this title shall be made annually to the Administrator during the fiscal years for which appropriations are authorized under this title, shall be consistent with State plans approved pursuant to this title, and shall contain or be accompanied by such information as the Administrator may reasonably require.

(b) The Administrator shall not provide financial assistance under this title unless the applicant has provided reasonable assurances that it has—

(1) established procedures to assure that funds made available under this title will be expended for project costs in compliance with the requirements of this title and rules promulgated under this title;

(2) established procedures for implementation of energy conserving operational and maintenance procedures in those facilities for which projects are proposed;

(3) established policies and procedures designed to assure that financial assistance provided under this title will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this title; and

(4) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(c) Amendments of an application shall, except as the Administrator may otherwise provide, be subject to approval in the same manner as the original application.

ADMINISTRATION

SEC. 308. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this title.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 309. (a) For purposes of making grants pursuant to this title, there is authorized to be appropriated not to exceed $200,000,000 for the fiscal year ending September 30, 1978; $300,000,000 for the fiscal year ending September 30, 1979; and $400,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.

(b) For expenses of the Administrator in administering the provisions of this title, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

WITHHOLDING

SEC. 310. Whenever the Administrator, after reasonable notice and opportunity for hearing to any educational institution or hospital receiving assistance under this title, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under section 307 of this title, the Administrator shall notify the educational institution or hos-

pital that further payments will not be made to such educational institution or hospital under this Act until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further payments shall be made to such educational institution or hospital under this title.

SEVERABILITY

SEC. 311. If the provisions of this title or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

TECHNICAL AMENDMENTS

SEC. 312. (a) Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof ", or in the case of nonsubstantive reviews, provision for a shortened review period."

(c) Section 1532(c)(9)(A) of the Public Health Service Act is amended by deleting the comma after "construction" and inserting in lieu thereof ", including the costs and methods of energy provision, and,".

(d) Section 1532(c) of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

TITLE IV—NATIONAL ENERGY ACT

TABLE OF CONTENTS

SUBTITLE A—FINDINGS, STATEMENT OF PURPOSES AND NATIONAL ENERGY GOALS

Sec. 401. Findings and statement of purposes.
Sec. 402. National energy goals.
Sec. 403. References to Federal Power Commission and Federal Energy Administration.

TITLE B—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

SUBPART A—UTILITY PROGRAM

Sec. 404. Definitions.
Sec. 405. Coverage.
Sec. 406. Residential energy conservation plans.
Sec. 407. Utility programs.
Sec. 408. Temporary programs.
Sec. 409. Federal standby authority.
Sec. 410. Relationship to other laws.
Sec. 411. Contract provisions.
Sec. 412. Rules.
Sec. 413. Product standards.
Sec. 414. Authorization of appropriations.
Sec. 415. Study respecting energy efficiency standards.

SUBPART B—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

Sec. 416. Federal Energy Administration weatherization grant program.
Sec. 417. Farmers Home Administration weatherization grant program.
Sec. 418. Availability of labor.

SUBPART C—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS

Sec. 419. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 420. Loan insurance for energy conserving improvements under title I of the National Housing Act.
Sec. 421. Loan insurance for energy conserving improvements in multifamily projects under section 241 of National Housing Act.
Sec. 422. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.

SUBPART D—MISCELLANEOUS

Sec. 423. Energy conserving improvements for public housing.
Sec. 424. Energy conserving standards for newly constructed residential housing insured by Federal Housing Administration or assisted by Farmers Home Administration
Sec. 425. Solar energy systems.
Sec. 426. Studies.
Sec. 427. Authorization for appropriations for new building performance standards grants.
Sec. 428. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 429. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.
Sec. 430. Weatherization study.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

SUBPART A—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 431 Test procedures.
Sec. 432. Energy efficiency standards.
Sec. 433. Effect of standards on other law.
Sec. 434. Technical and conforming amendments.
Sec. 435. Appropriations authorization.
Sec. 436. Effects of other laws on procedures.

SUBPART B—DISCLOSURE OF AUTOMOBILE FUEL EFFICIENCY TAX

Sec. 437. Disclosure in labeling.
Sec. 438. Disclosure in advertising.

SUBPART C—USE OF RECOVERED MATERIALS

Sec. 439. Use of recovered materials.

SUBPART D—OFF-HIGHWAY MOTOR VEHICLES AND BICYCLES

Sec. 440. Off-highway motor vehicles.
Sec. 441. Bicycle study.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

SUBPART A—SCHOOLS AND HEALTH CARE FACILITIES

Sec. 442. Statement of findings and purposes.
Sec. 443. Amendment to the Energy Policy and Conservation Act
Sec. 444. Technical amendments.

SUBPART B—BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Sec. 445. Statement of findings and purpose.
Sec. 446. Amendment to the Energy Policy and Conservation Act.
Sec. 447. Application of Davis-Bacon Act.

PART IV—FEDERAL ENERGY INITIATIVES

SUBPART A—AMENDMENT TO SECTION 381 OF ENERGY POLICY AND CONSERVATION ACT

Sec. 448. Conservation plan authorization.

SUBPART B—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Sec. 449. Definitions.
Sec. 450. Federal solar program.
Sec. 451. Duties of Administrator.
Sec. 452. Transfer of apropriations.
Sec. 453. Submission of proposals.
Sec. 454. Authorization.

SUBPART C—USE OF ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

Sec. 455. Findings.
Sec. 456. Policy.
Sec. 457. Purpose.
Sec. 458. Definitions.
Sec. 457. Establishment and use of life cycle cost methods.
Sec. 460. Energy performance targets for existing buildings.
Sec. 461. Energy audits and retrofitting of existing Federal buildings.
Sec. 462. Energy preference for leased buildings.
Sec. 463. Budget treatment of energy items by Federal agencies.
Sec. 464. Reports.
Sec. 465. Transfer of functions.
Sec. 466. Authorization of appropriations.

SUBPART D—USE OF ADVANCED PHOTOVOLTAIC ENERGY DEVICES IN FEDERAL FACILITIES

Sec. 467. Short title.
Sec. 468. Photovoltaic energy program.
Sec. 469. Purpose.
Sec. 470. Acquisition of systems.
Sec. 471. Administration.
Sec. 472. Systems evaluation and purchase program.
Sec. 473. Advisory committee.
Sec. 474. Definition.
Sec. 475. Authorization.

Subtitle A—Findings, Statement of Purposes and National Energy Goals

FINDINGS AND STATEMENT OF PURPOSES

SEC. 401. (a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs;

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for exhaustible energy resources of oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources; and

(4) consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

(b) STATEMENT OF PURPOSES.—The purof this Act are—

(1) to reduce the growth in demand for energy in the United States through carefully considered institutional and technological changes to conserve exhaustible energy resources produced in this Nation and elsewhere, while not significantly inhibiting beneficial economic growth;

(2) to reduce significantly this Nation's demand for oil (particularly imported oil) and natural gas, to discourage the use of oil and natural gas while assuring, to the greatest extent possible, that such fuels will be available for essential needs, and to encourage the use of coal and other fuels and renewable energy sources to the greatest extent possible, for the benefit of present and future generations;

(3) to establish, through regulation of interstate commerce, taxation, reform of elec-

tric utility rate structures, and other measures, a comprehensive energy conservation program applicable to all persons, including Federal and State agencies and local governments, and a program to develop this Nation's indigenous energy resources to achieve the national energy goals established by this Act;

(4) to ensure that all actions taken under or pursuant to this Act are carried out in accordance with applicable environmental requirements;

(5) to ensure that all Federal agencies fully utilize their authorities in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and oil as a primary energy source and by maximizing the efficient use of energy and conserve natural gas and petroleum of all forms in programs funded or administered by such agencies;

(6) to educate all users of energy to insist that all goods and services are energy efficient and to consider lifetime costs in purchasing decisions respecting goods and services of every kind and description;

(7) to prevent unemployment due to temporary or long-term shortages in supplies of natural gas and oil;

(8) to protect the security of the United States; and

(9) to provide incentives to increase the amount of domestically produced energy in the United States for the benefit and security of present and future generations.

NATIONAL ENERGY GOALS

SEC. 402. The Congress hereby establishes the following national energy goals for 1985;

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6) Use of solar energy in more than 2½ million homes.

References to Federal Power Commission and Federal Energy Administration

SEC. 403. If the Federal Power Commission or the Federal Energy Administration is terminated, any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of such Commission or Administration (as the case may be) are vested, transferred, or delegated pursuant to law.

Subtitle B—Pricing, Regulatory, and Other Nontax Provisions

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart A—Utility Program

DEFINITIONS

SEC. 404. As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(3) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for purposes other than resale.

(4) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(5) The term "nonregulated utility" means a public utility which is not a regulated utility.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "residential building" means any building used for residential occupancy which is not a new building to which the final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a mechanical or electrical system for heating or cooling, or both.

(9) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(10) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners designed to reduce firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed window and doors;

(G) replacement furnaces which exceed the energy efficiency standards promulgated under section 325 of the Energy Policy and Conservation Act by not less than an amount determined by the Administrator to provide substantial energy conservation benefits;

(H) devices associated with load management techniques as defined in section 521(b) of H.R. 8444 as passed the House of Representatives August 5, 1977;

(I) devices to utilize solar energy or windpower for any residential energy conservation purpose, including (but not limited to) heating of water, space heating or cooling; and

(J) such other measures as the Administrator may by rule identify for purposes of this subpart.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this subpart unless such measure is warranted to meet a specified level of performance over a period of not less than three years.

(11) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 406(c) which is developed by a State regulatory authority or by a nonregulated utility.

(12) The term "State" means a State, the District of Columbia, and, at the discretion of the Administrator, Puerto Rico.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority such term means the Tennessee Valley Authority.

(14) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 406(a), determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Administrator shall consider the resulting cost of the inspection required to be conducted under section 407(a)(1)(B)(i) and its effect on the willingness of residential customers to participate in the utility program.

(16) The term "utility program" means a program meeting the requirements of section 407 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority:

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued under section 409.

COVERAGE

SEC. 405. This subpart shall apply in any calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet or (2) sales of electric energy by such utility for purposes other than resale exceeded 200 million kilowatt-hours.

RESIDENTIAL ENERGY CONSERVATION PLANS

SEC. 406. (a) PROMULGATION OF RULES BY ADMINISTRATOR.—The Administrator shall, not later than 120 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, acting through the National Bureau of Standards, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Administrator shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Administrator shall afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards for the programs and pro-

cedures required under subsections (d)(4) and (e)(3) and standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d)(2) and (e)(2); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1) Not later than 180 days after promulgation of rules under subsection (a), each State regulatory authority may submit and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or nonregulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) If the Governor of any State notifies the Administrator and the State regulatory authority not later than 30 days after promulgation of rules under subsection (a), the department or agency of such State, which is receiving funds under part C of title III of the Energy Policy and Conservation Act for purposes of carrying out a State energy conservation plan under such part, may (in lieu of the State regulatory authority) submit a proposed residential energy conservation plan to the Administrator for the utilities regulated by such State regulatory authority. In any case where such plan has been submitted by such department or agency, the references in this subpart (other than in section 404(13)) to the State regulatory authority shall be treated as references to such department or agency, with respect to each utility over which such State regulatory authority exercises ratemaking authority. Any such plan may, in the discretion of the Governor, apply to non-regulated utilities in the State in the same manner as to regulated utilities. In any such case reference in this subpart to regulated utilities (including reference to regulated utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references to nonregulated utilities shall not apply.

(3) Paragraph (2) shall not apply in the case of the Tennessee Valley Authority or to any public utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(3)(A) The Governor of each State (or his designee) shall, not later than 270 days after the date of the enactment of this Act, prepare with respect to the service area of each utility in such State—

(i) a list of suppliers and contractors who sell and install residential energy conservation me sures, and

(ii) a list of banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

The Governor (or his designee) shall make such lists available to the utilities in such State and to other persons. In the case of any utility's service area for which the Governor or his designee has not prepared and made available any such list within such 270-day period, the Administrator shall prepare and make available such list, as soon as practicable after such period.

(B) The lists required under subparagraph (A) shall be prepared in a fair, open, and nondiscriminatory manner, and in preparing and making available such lists, the Governor or his designee (or the Administrator) shall take such steps as may be necessary to—

(i) prevent unfair, deceptive, or anticompetitive acts or practices by persons selling or installing residential energy conservation measures and institutions offering loans for the purchase and installation of such measures, and

(ii) assure that any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor or his designee (or the Administrator).

(d) REQUIREMENTS FOR PLANS FOR REGULATED UTILITIES.—No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program which meets the requirements of section 407;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State, including—

(A) provisions to assure that the lists made available under section 406(c)(3) are prepared and sent as provided in section 407(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section (a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 407(a)(1)(B), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, cr installed by, the utility and measures which are purchased from or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the State regulatory authority or an appropriate State agency designated by such authority, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 404(10)(G), or make or inspect any furnace modification referred to in section 404(10)(B);

(3) contains adequate procedures to assure that each regulated utility will carry out such utility program;

(4) contains adequate procedures to assure that each regulated utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located; and

(5) is adopted after notice and public hearing; and

(6) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 407;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program including—

(A) provisions to assure that the lists made available under section 406(c)(3) are prepared and sent as provided in section 407(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 407(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 407(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the Administrator or an appropriate agency or authority designated by the Administrator, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 404(10)(G), or make or inspect any furnace modifications referred to in section 404(10)(B);

(3) contains adequate procedures to assure that such utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

UTILITY PROGRAMS

SEC. 407. (a) REQUIREMENTS FOR UTILITY PROGRAMS.—(1) Except as provided in subsection (b) and section 105, each utility program shall include—

(A) procedures designed to inform, no later than January 1, 1980, and each two

years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(i) the suggested measures for the category of buildings which includes such residential building;

(ii) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(iii) the availability of the arrangements described in subparagraph (B) and the lists made available under section 406(c)(3);

(iv) suggestions of energy conservation techniques, developed by the Administrator, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the potential savings in energy costs that are likely to result from the adoption of the Administrator's suggestions);

(B) procedures whereby the public utility, no later than January 1, 1980, will, for each such residential customer, offer to—

(i) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure and keep a copy of the inspection report on file which shall be available to any subsequent owner without charge, except that a utility shall be required to make only one inspection of a residence unless a new owner requests and offers to pay for a subsequent inspection;

(ii) have the suggested measures (other than replacement furnaces described in section 404(10)(G)) installed if this clause applies as provided in subsection (b);

(iii) assist such residential customer in securing a loan to finance the purchase and installation costs of suggested measures;

(C) procedures whereby the public utility prepares and sends to each of its residential customers the lists made available pursuant to section 406(c)(3) to the extent that the sending of such lists is practicable, as determined by the Governor or his designee (or the Administrator in any case in which the Administrator prepared such list) and

(D) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 409) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not charged to customers of the utility as part of any rate charged for electric power or ntaural gas, except that any amounts expended by the utility to provide information under provisions referred to in subparagraph (A) shall be treated for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(2) The costs of carrying out any activity as part of a utility program under this section (other than the costs of providing information under the provisions referred to in paragraph (1)(A)) shall be charged to the person for whom such activity is performed. Such costs shall be stated separately from the cost of providing utility service on any billing submitted by the utility to such person.

(3) In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980, and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subparagraph (A) of paragraph (1) and offer such person the opportunity to enter into arrangements referred to in subparagraph (B) of paragraph (1).

(b) SUPPLY AND INSTALLATION BY UTILITIES.—(1) After the date 2 years after the date of enactment of this Act, any public utility which directly or indirectly supplies or installs any residential energy conservation measure (other than a measure referred to in subsection 404(10)(H)) shall be treated for purposes of this subpart as supplying or installing such measure under a program under this section. After such date 2 years after the date of enactment of this Act, the provisions of subsection (a)(1)(B)(ii) shall apply and public utilities shall be required to offer to have suggested measures installed under programs under such provisions, if the Administrator determines that—

(A) the supplying or installing of such measures by utilities would not have a substantial anticompetitive effect, and

(B) the supplying or installing of such measures would result in a substantial increase in the number of residential customers likely to install suggested measures, and would not result in excessive prices for residential energy conservation measures.

Before making his determination under subparagraph (A), the Adminisrator shall take into account a report by the Federal Trade Commission respecting such determination. Such report shall be undertaken by the Federal Trade Commission and submitted to the Administrator within 18 months after the date of enactment of this Act and shall include a study of the effect on competition of requiring utilities to supply or install such measures under the program under this subpart.

(2) Subsection (a)(1)(B)(ii) shall not apply and a public utility may not directly or indirectly supply or install any residential energy conservation measure (other than a measure referred to in subsection 404(10)(H)) after the date 2 years after the date of the enactment of this Act if—

(A) the State regulatory authority or the Administrator determines that there are available sufficient numbers of suppliers or installers of suggested measures in the area to be served by the utility,

(B) the State regulatory authority, the Administrator, or the Federal Trade Commission determines that the supplying or installing of such measures by such utility would have a substantial anticompetitive effect, or

(C) the State regulatory authority or the Administrator determines that prohibiting utilities from supplying or installing such measures will not result in a substantial reduction of the number of residential customers likely to install suggested measures.

(3) Subparagraphs (A) and (C) of paragraph (2) shall not apply to any public utility which directly or indirectly supplied or installed any such measure prior to April 20, 1977.

(4) For purposes of section 409(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 409(a).

(c) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) LOANS BY UTILITIES.—(1) Except as provided in paragraph (2), nothing in this section shall be construed as prohibiting any public utility from making loans to residential customers for the purpose of financing the purchase and installation of residential energy conservation measures. In the case of any such loan made by a public utility to a residential customer for such purpose, the public utility shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he otherwise elects) except that—

(A) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer (other than a late payment by such customer), and

(B) no penalty shall be imposed for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(2) After the date 2 years after the date of the enactment of this Act, no public utility subject to a plan under this subpart may make any loan to finance the purchase or installation of any residential energy conservation measure if the Administrator has determined, after notice and opportunity for public hearing, that—

(A) such loans are being made by such utility at unreasonable rates or on unreasonable terms and conditions, or

(B) such loans made by such utility have a substantial adverse effect upon competition.

(3) For purposes of section 409(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 409(a).

TEMPORARY PROGRAMS

SEC. 408. Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 406. A temporary exemption may be granted from the requirements of section 407 for a period not to exceed 3 years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings in its service area.

FEDERAL STANDBY AUTHORITY

SEC. 409. (a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State regulatory authority does not have a plan approved under section 406(c) within 270 days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 405(c(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 406 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 407.

(b) NONREGULATED UTILITIES.—If a nonregulated utility does not have a plan approved under section 406(c) within 270 days after promulgation of rules under section 406(a) or within such additional period as the Administrator may allow pursuant to section 406(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which meets the requirements specified in subsection (e) of section 406.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United

States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2) A civil penalty under this subsection shall be assessed by an order of the Administrator made on the record after notice and opportunity for a hearing.

(3) Any person who requested a hearing in accordance with paragraph (2) regarding the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the appropriate United States Court of Appeals. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after the court in an action brought under paragraph (3) has entered a final judgment requiring such payment.

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment as the case may be) in an action brought in such court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

RELATIONSHIP OF OTHER LAWS

SEC. 410. (a) STATE AND LOCAL LAW.—Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility for taking any action required to be taken under this subpart.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

(d) PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—No loan made by a utility under a utility program under this subpart shall be treated as the acquisition of any security, asset, or other interest in any business for purposes of section 9 of the Public Utility Holding Company Act of 1935.

CONTRACT PROVISIONS

SEC. 411. No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

RULES

SEC. 412. The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

PRODUCT STANDARDS

SEC. 413. The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

AUTHORIZATION OF APPROPRIATIONS

SEC. 414. There are hereby authorized to be appropriated to the Administrator for each of the first three fiscal years beginning after the date of the enactment of this Act $5,000,000 to carry out his responsibilities under this subpart.

STUDY RESPECTING ENERGY EFFICIENCY STANDARDS

SEC. 415. (a) STUDY.—(1) The Administrator shall undertake a study and submit recommendations (including recommendations for legislative action) to the President and Congress respecting the application of energy conservation standards to existing residential buildings. Such study shall include an analysis of, and recommendations respecting—

(A) the type and coverage of residential energy conservation standards, if any, which are necessary and desirable to carry out the purposes of this Act, and

(B) any measures necessary to insure compliance with such standards.

(2) The study and recommendations referred to in paragraph (1) shall include an analysis of—

(A) whether or not Federal financial assistance (within the meaning of title III of the Energy Conservation and Production Act) should be withheld or conditioned in the case of existing residential buildings which do not meet energy conservation standards and whether or not some other means of insuring compliance with such standards should be implemented, and

(B) the classes or categories of existing residential buildings and building owners which should be exempted from any mandatory program which may be recommended under paragraph (1).

(b) CONSULTATION.—In carrying out his functions under subsection (a), the Administrator shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Administrator shall, to the extent practicable, make use of the National Institute of Building Sciences.

(c) CONSIDERATION OF FACTORS.—In making any recommendations under subsection (a) of this section, the Administrator shall consider—

(1) the economic impact of the measures recommended on the property owners,

(2) the savings in energy costs resulting from measures recommended throughout the estimated remaining useful life of the existing residential buildings to which such recommendation applies,

(3) the cost of complying with such measures,

(4) the cost of administering any such measures recommended under subsection (a)(1)(B),

(5) the total cost, per Btu, in obtaining the energy savings likely to result from such recommended measures, computed for each class of existing residential building to which such recommendation applies, and

(6) any other factors the Administrator considers relevant.

(d) SUBMISSION.—The recommendations developed by the Administrator under subsection (a) shall be submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act.

Subpart B—Weatherization Grants for the Benefit of Low-Income Families

FEDERAL ENERGY ADMINISTRATION WEATHERIZATION GRANT PROGRAM

SEC. 416. (a)(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after ' is at or below"; and

(B) by inserting the following after "Budget,": "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families."

(b)(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendments and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of all exterior doors and windows:

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency.

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) hot water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) Section 415 of such Act is amended—

(1) by striking out "weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not to exceed 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units of materials in the State, and the Administrator approves such request.".

(d) Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM

SEC. 417. (a) Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Administrator of the Federal Energy Administration for the purpose of coordinating the weatherization programs under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit, the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that not more than $800 of any grant made under this section be expended, with respect to any dwelling unit, on weatherization materials and related matters described in section 415 (c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors.

"(4) For purposes for this subsection, the terms 'elderly', 'handicapped', 'low income' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of such amount is authorized to be appropriated for making grants pursuant to section 504(c)".

AVAILABILITY OF LABOR

SEC. 418. The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504(c) of the Housing Act of 1949:

(1) First, the Administrator of the Federal Energy Administration (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

Subpart C—Secondary Financing and Loan Insurance for Energy Conserving Improvements

PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS

SEC. 419. The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

"SEC. 314. (a) As soon as practicable after the date of enactment of the National Energy Act, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with his section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires:

"(2) such loan or advance of credit involves an interest rate which the Secretary establishes (after consulting with the Secretary of Agriculture and the Administrator of the Federal Energy Administration), taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below that which the Association is required to pay under subsection (d); and

"(3) the amount of any such loan or advance of credit does not exceed $2,200.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an

amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $2,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as as normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 90 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS UNDER TITLE I OF THE NATIONAL HOUSING ACT

SEC. 420. Subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(2) the term 'energy conserving improvements' shall mean the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and".

LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF NATIONAL HOUSING ACT

SEC. 421. Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act) and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage insured under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insuerd;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require:

"(G) be an acceptable risk in that energy conservation benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment."

STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHSE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

SEC. 422. The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act), the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever he or she determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I or section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.".

SUBPART D—MISCELLANEOUS

ENERGY-CONSERVING IMPROVEMENTS FOR PUBLIC HOUSING

SEC. 423. Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to the approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION

SEC. 424. (a) Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Energy Act."

(b) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"SEC. 528. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SOLAR ENERGY SYSTEMS

SEC. 425. (a) Subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar, wind, or other solar-derived energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration.".

(b) Section 203(b)(2) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of the paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(c) Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(d) Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this Act for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

STUDIES

SEC. 426. (a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the difficulties of administering such a requirement and the sanctions required to make such a requirement effective;

(5) the likely problems and disruptions for sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Department of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973;

(6) the extent to which the available supply of residential dwellings could be reduced at the time of application of such mandatory Federal actions, and the resulting effect on the price of those remaining dwelling units eligible for sale; and

(7) the impact on major housing rehabilitation efforts and voluntary efforts for energy conservation, during the period of the development of the standards, as a result of the uncertainty with respect to what standards might be imposed.

(c) The Secretary shall report, no later than 1 year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

(d) In addition to the study described in subsections (a) through (c), the Secretary shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a preliminary report at the end of the first year after the date of enactment of this Act and a final report no later than 3 years after such date to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations made for legislative purposes which the Secretary determines should be enacted with respect to the subject of such study.

AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS

SEC. 427. Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS

SEC. 428. Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof a new sentence, to read as follows: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security.".

SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS

SEC. 429. Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

WEATHERIZATION STUDY

SEC. 430. The Administrator of the Federal Energy Administration, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of the Community Services Administration shall conduct a joint study which shall monitor, in a coordinated manner, the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken independently of this Act and such amendments. Such officials shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby, and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

Subpart A—Energy Efficiency Standards for Consumer Products Other Than Automobiles

TEST PROCEDURES

SEC. 431. (a) PUBLICATION OF TEST PROCEDURES.—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (6), such proposed test procedures shall be published not later than August 31, 1977.".

(b) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of such Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than December 30, 1977."; and

(3) by striking out subparagraph (B).

(c) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6) The Administrator may delay the publication of proposed test procedures under paragraph (3) or the prescription of test procedures under paragraph (3) or the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall publish such proposed test procedures or prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (3) or (4), as the case may be.".

(d) REEVALUATIONS OF TEST PROCEDURES.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) Not later than 3 years after prescribing a test procedure under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such procedure should be amended, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered product involved.

"(B) If the Administrator determines under subparagraph (A) that a test procedure should be amended, he shall promptly publish proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

ENERGY EFFICIENCY STANDARDS

SEC. 432. Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1)(A) The Administrator shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered product specified in paragraphs (1) through (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type (or class) of covered products of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(i) the average per household energy use within the United States by products of such type (or class) exceeds 150 kilowatt-hours per year for any 12-calendar-month period ending before such determination;

"(ii) the aggregate household energy use within the United States by products of such type (or class) exceeds 4,200,000,000 kilowatt-hours per year for any such 12-calendar-month period;

"(iii) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(iv) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible to attain and is economically justified. In the case of any type (or class) of covered product which uses a fuel other than electricity, the standards to be applied in clauses (i) and (ii) shall be the amount of Btu's of such fuel necessary to generate the kilowatt-hours of electricity referred to in clauses (i) and (ii), respectively.

"(C) Not later than 2 years after the date of the enactment of this subparagraph, the Administrator shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under subparagraph (B). The Administrator may revise such list from time to time thereafter.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) if—

"(A) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of product, or

"(B) the Administrator determines, by rule, that the establishment of such standard will not result in significant conservation of energy.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered product shall have the same effect as a standard prescribed for such type (or class) under this section.

"(3) Energy efficiency standards for each type (or class) of covered product prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 3 years, through the establishment of intermediate standards, as determined by the Administrator.

'(4) In determining whether a standard is economically justified under paragraph (3), the Administrator shall consider, after receiving any views and comments furnished with respect to the proposed standard under section 336—

"(A) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(B) the savings in operating costs throughout the estimated average life of covered products in the type (or class) subject to such standard which are likely to result from the imposition of such standard,

"(C) the total energy savings likely to result directly from the imposition of the standard,

"(D) any increase in the initial charge for, and the expenses of maintenance, repair, or use of, such covered products which is likely to result from the imposition of the standard,

"(E) the total cost, per Btu, in obtaining the energy savings likely to result from imposing the standard, computed for such type (or class) of covered product by dividing the average charges and expenses referred to in subparagraph (D) by the energy savings (expressed in Btu's) referred to in subparagraph (C),

"(F) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

"(G) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard, and

"(H) any other factors the Administrator considers relevant.

For purposes of subparagraph (G), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Administrator, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(5)(A) Subject to subparagraph (B), the Administrator may, on application of any manufacturer, exempt such manufacturer from the application of all or part of the requirements of any rule prescribing an energy efficiency standard under this subsection for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Administrator finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Administrator shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(B) The Administrator may not exercise the authority granted under subparagraph (A) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow such exemptions of manufacturers under subparagraph (A) would likely result in a substantial lessening of competition.

"(6)(A) A rule prescribing an energy efficiency standard for a type of covered product (or class) shall specify a level of energy efficiency higher or lower than that which otherwise applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Administrator, in his discretion, determines that products within such group—

"(i) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(ii) have a performance-related feature which is not part of other products within such type (or class), justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this subparagraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Administrator shall consider such factors as the utility to the consumer of such a feature, the capacity of the product resulting from, or which constitutes, such feature, and may consider such other factors as he deems appropriate.

"(B) Any rule prescribing a higher or lower level of energy efficiency under subparagraph (A) shall include an explanation of the basis on which such higher or lower level was established.

"(7) In prescribing energy efficiency standards under this subsection, the Administrator shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322 (a).

"(8)(A) Not later than 5 years after prescribing an energy efficiency standards under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered product involved, and the economic impact of the standard.

"(B) If the Administrator determines under subparagraph (A) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule will apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Administrator—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (5), 6), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered product (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (4), (7), (8), (10), and (11) of section 322(a). not later than 30 days after a test procedure with respect to that type (or class) of covered product has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Administrator shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Administrator shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Administrator shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Administrator must consider under subsection (a)(4)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescribe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

"(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 433. EFFECT OF STANDARDS ON OTHER LAW

Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed on or before the date of the enactment of the National Energy Act which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency or a type (or class) of a covered product and which is not superseded by subsection (a)(2), then any person subject to such regulation may file a petition with the Administrator requesting that the Administrator prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Administrator finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after such date of enactment which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) of covered product and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Administrator requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulation; except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or similar requirement respecting energy use or energy efficiency for such type (or class) of a covered product may file a petition with the Administrator requesting a rule that such regulation not be superseded. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Administrator shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Administrator, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Administrator may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Administrator shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of the first sentence of paragraph (2) shall not continue in effect—

"(A) after 3 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (1), (2), (5), (6), (9), (12), or (13) of section 322(a), and

"(B) after 5 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (3), (4), (7), (8), (10), or (11) of section 322(a).".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 434. (a) AMENDMENTS TO SECTION 324(a).—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b) (5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(b) AMENDMENTS TO SECTION 324(c).—Sec-

tion 324 (c) (5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(c) AMENDMENT TO SECTION 326.—Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out his responsibilities under this section, the Administrator may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Administrator with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Administrator determines may be necessary to establish and revise test procedures and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.".

(d) AMENDMENT TO SECTION 333.—(a) Section 333 of such Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d) Before assessing against any person any civil penalty under this section, the Administrator or the Commission, as the case may be, shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order assessing such penalty shall state the findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator or the Commission, as the case may be, shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be promptly sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such order is filed the Administrator or the Commission, as the case may be, shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such order or the court may remand the proceeding for such further action as the court may direct.".

(2) Section 333(a) of such Act (42 U.S.C. 6303 (a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)".

(e) AMENDMENTS TO SECTION 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(A) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(B) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(f) AMENDMENTS TO SECTION 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336a of such Act (42 U.S.C. 6306(a)) is amended by striking out paragraph (2).

(4) Sections 336(b) (1) and (2) of such Act (42 U.S.C. 6306(b) (1)(and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(g) AMENDMENT TO SECTION 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Administrator in carrying out this part during the period covered by such report, and those actions which the Administrator was required to take under this part during such period but which were not taken, together with the reasons therefor.".

APPROPRIATIONS AUTHORIZATION

SEC. 435. Section 339(a)(3) of such Act is amended to read as follows:

"(3) in addition to amounts authorized for such purposes under section 29(a) of the Federal Energy Administration Act of 1974, $3,300,000 for fiscal year 1978.".

EFFECTS OF OTHER LAWS ON PROCEDURES

SEC. 436. The procedures applicable under part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 and following) shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part (or provisions of law cited therein), or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to such part, and declaring that such provision supersedes the provisions of such part.

Subpart B—Disclosure of Automobile Fuel Inefficiency Tax

DISCLOSURE IN LABELING

SEC. 437. (a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile the sale of which is subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

DISCLOSURE IN ADVERTISING

SEC. 438. (a) DISCLOSURE.—The Federal Trade Commission may prescribe rules requiring disclosure of any tax imposed by section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics.

(b) ENFORCEMENT.—A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice in or affecting commerce, for purposes of the Federal Trade Commission Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

Subpart C—Use of Recovered Materials

USE OF RECOVERED MATERIALS

SEC. 439. (a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this section are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part D of title III of the Energy Policy and Conservation Act is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of enactment of this section, the Administrator shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: The metals and metal products industries, the paper and allied products industries, the textile mill product industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Administrator shall consult with

the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Administrator—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Administrator shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1978, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Administrator under section 375, or if section 376(g) applies, prepare and transmit a report which includes a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1979, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Administrator for its industry. Such reports shall contain such information as the Administrator determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Administrator shall include in his annual report under section 375(c) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Administrator under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—Section 376 of such Act is amended by—

(1) inserting "or 374A" after "section 372" in subsection (b), and

(2) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

Subpart D—Off-Highway Motor Vehicles and Bicycles

OFF-HIGHWAY MOTOR VEHICLES

SEC. 440. (a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than one year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study. Such report shall contain recommendations respecting the desirability and practicability of applying fuel efficiency standards or taxes on fuel use (or both) to such vehicles."

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part E the following:

"Part F—Off-Highway Motor Vehicles

"Sec. 385. Off-highway motor vehicle conservation study."

BICYCLE STUDY

SEC. 441. (a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the Congress containing the results of such a study.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Subpart A—Schools and Health Care Facilities

STATEMENT OF FINDINGS AND PURPOSES

SEC. 442. (a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and health care facilities are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and health care facilities through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and health care facilities in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and health care facilities to assist in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and health care facilities.

AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 443. (a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES

"DEFINITIONS

"SEC. 391. For the purposes of this part—

"(1) The term 'building' means any structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source, including, but not limited to—

"(A) insulation of mechanical systems and the building structure;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other windows and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems modifications, including replacement of standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) lighting fixture retrofits, to the extent that such retrofit reduces the watts per square foot level for illumination and conserves energy;

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use primarily within a building or a complex of buildings owned by a school or health care facility and which meet such fuel efficiency requirements as the Administrator may by rule prescribe; and

"(L) such measures as have been identified by an energy audit, carried out in accordance with rules promulgated by the Administrator under section 365(e)(2), for which it is shown that a substantial amount of energy will be saved, and such other energy conservation measures as the Administrator may determine appropriate under section 365(e)(1):

No lighting fixture retrofit which increases the general illumination level of a facility shall be treated as an energy conservation measure under this paragraph unless the Administrator finds that such increase is necessary to conform to any applicable State or local building code, or, if no such Code applies, such increase is deemed desirable by the Administrator.

"(3) The term 'health care facility' means a public or nonprofit institution which is a medical facility as defined in section 1633 of the Public Health Service Act, as in effect on the date of the enactment of this part.

"(4) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"(5) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary

education, or both, on a day or residential basis;

"(B) (i) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

"(D) is a residential child care institution.

"(6) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(7) The term "State" means a State, the District of Columbia, Puerto Rico and, at the discretion of the Administrator, any territory or possession of the United States.

"(8) The term 'State energy agency' means the State agency responsible for developing State energy plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under section 394 of this part.

"(9) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, private nonprofit institutions of higher education, public elementary and secondary schools, private nonprofit elementary and secondary schools, public residential child care institutions and private nonprofit residential child care institutions, public vocational educational institutions, private non-profit vocational institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(10) The term 'State health care facilities agency' means an existing agency which is broadly representative of the public hospitals, the private nonprofit hospitals, public facilities for long-term care, and private nonprofit facilities for long-term care in a State, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

(11) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures, and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

except that for the purposes of section 393 (a) (1), such term shall mean a survey which identifies the type, size, and energy use level of such building and the major energy-using systems of such building.

"(12) The term 'energy conservation project' means an undertaking to acquire and to install one or more energy conservation measures in a building which is a school or health care facility.

"(13) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures.

"(14) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to schools and health care facilities—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or as a result of the acquisition and installation of one or more specified energy conservation measures in such building, or as a result of both, and

"(B) the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(15) The term 'technical assistance program costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for a technical assistance program.

"(16) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"GRANT AUTHORIZATION

"SEC. 392. (a) The Administrator is authorized to make grants to—

"(1) States to assist in conducting preliminary energy audits pursuant to section 393,

"(2) States, schools, and health care facilities in payment of technical assistance program costs, and

"(3) schools and health care facilities in payment of energy conservation project costs incurred in connection with energy conservation projects.

"(b) (1) Except as provided in paragraph (2), the Federal share of the costs incurred in connection with any preliminary energy audit, any technical assistance program, or any energy conservation project shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"(2) Funds available to the Administrator under section 396(a) (3) may be used to pay up to 90 percent of the program or project costs for technical assistance programs or energy conservation projects if the Administrator determines that such programs or projects meet the criteria of a class of severe hardship as such class is determined, by rule, by the Administrator, taking into account climate, fuel costs, or fuel availability, ability to provide the required matching non-Federal funds, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS

"SEC. 393. (a) The Administrator shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits required for the development of State energy plans, including a description of the type, number, and distribution of preliminary energy audits of schools and health care facilities that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State,

"(2) prescribe guidelines for the conduct of preliminary energy audits that may be required in determining which schools and health care facilities qualify for grants for technical assistance programs and energy conservation projects under a State plan, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits, taking into account the population and climate of such States and other factors as he may deem appropriate.

In the case of States which, without the use of financial assistance under this part, conduct preliminary energy audits which fulfill the terms of the guidelines issued by the Administrator and which are approved by the Administrator as a part of the State energy plan of such State pursuant to section 394(c), the funds allocated for purposes of this subsection shall be added to the funds available for technical assistance programs or energy conservation projects for such State and shall be in addition to amounts otherwise available under the allocation for such purposes pursuant to paragraph (1) of section 396(a).

"(b) In any case in which a State does not conduct the preliminary energy audits required under subsection (a) (1) of this section within two years after the date of the enactment of this part, the Administrator may conduct such audits within such State.

"STATE PLANS

"SEC. 394. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for, and the implementation of energy conservation projects in, schools and health care facilities in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs and energy conservation projects will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals,

"(2) a description of the criteria to be used in establishing a State program to identify persons qualified to conduct preliminary energy audits, and carry out technical assistance programs and implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to section 394(a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a statistical survey of schools and health care facilities identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in such facilities,

"(2) a description of the number and type of school and health care facilities in such State that may qualify for financial assistance for technical assistance programs and energy conservation projects under the Administrator's guidelines,

"(3) a description of the energy conservation needs of the schools and health care facilities of such State.

"(4) a recommendation as to the types of technical assistance programs and energy conservation measures considered appropriate for schools and health care facilities in such State, together with an estimate of the

costs of carrying out such programs and acquiring and installing such measures in each year for which funds are appropriated,

"(5) a program for identifying persons qualified to conduct preliminary energy audits, carry out technical assistance programs, and install energy conservation projects,

"(6) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs and energy conservation projects within such State, including recommendations as to how priorities should be established between schools and health care facilities, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings (except that schools in any State shall not be allocated less than 30 percent of the funds for technical assistance programs and for energy conservation projects within such State and health care facilities in any State shall not be allocated less than 30 percent of such funds within such State),

"(7) a description of procedures for assuring that certifications will be obtained from the appropriate State health facilities agency and State school facilities agency, respectively, that the proposed State plan is consistent with existing programs for health and education facilities, respectively, in such State pursuant to subsection (b) of section 395, and

"(8) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"(d)(1) If a State plan has not been approved under this section within two years and ninety days after the enactment of this part, or within ninety days after completion of the preliminary audits under section 393(a)(1), whichever is later, the Administrator may take such action as necessary to develop and implement without regard to subsection (b)(7), such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, in order that the energy conservation program for schools and health care facilities may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. Such plan shall be reviewed by the Administrator and approved or disapproved not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b) and is not inconsistent with any plan developed and implemented by the Administrator under paragraph (1), the Administrator shall approve the plan and withdraw any such plan developed and implemented by the Administrator.

"CONFORMANCE WITH STATE PROGRAMS

"SEC. 395. (a) Applications of States, schools, and health care facilities and State plans pursuant to this part shall be consistent with—

"(1) related State programs for educational facilities in such State, and

"(2) State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

"(b) No application of a State, school, or health care facility under this part shall be approved by the Administrator unless the appropriate State health facilities agency or the State school facilities agency, respectively, for such State shall have certified that it conforms to the requirement of this section.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 396. (a) The Administrator shall provide grants for carrying out technical assistance programs and energy conservation projects from the sums appropriated for any fiscal year under section 398 (b) and (c) only upon annual application and shall allocate the sums appropriated for that fiscal year in the following manner:

"(1) eighty percent among school and health care facilities in the several States in accordance with a formula to be determined by the Administrator, by rule, taking into account population and climate of each State, and such other factors as the Administrator may deem appropriate;

"(2) ten percent among schools and health care facilities in the several States, as the Administrator shall determine, after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and health facilities in the several States, and such other factors as the Administrator may deem appropriate; and

"(3) ten percent for making grants in excess of fifty percent of program or project costs as authorized by section 392(b).

"(b) Funds allocated to projects and programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under subsection (a) of this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total grants made in any year to schools and health care facilities in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 397. (a) Applications of States, schools, and health care facilities for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs and energy conservation projects shall be accompanied by a listing and description of technical assistance programs and energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance to States, schools, or health care facilities for technical assistance programs or energy conservation projects unless the application for a grant for such program or project has been submitted through, and been approved by the appropriate State health care facilities agency or State school facilities agency, respectively, and has been approved by the State energy agency.

"(d) The Administrator shall not provide financial assistance under paragraph (2) or (3) of section 392(a) unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established procedures for implementation of energy conserving maintenance and operating procedures in those facilities for which projects and programs are proposed;

"(5) implemented a program to identify persons qualified to conduct audits, to carry out technical assistance programs, and implement energy conservation projects;

"(6) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(7) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports; and

"(8) establish procedures to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 398. (a) For the purpose of making grants to States to conduct preliminary energy audits pursuant to sections 392(a)(1) and 393, there is hereby authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants to States, schools, and health care facilities pursuant to section 392(a)(2), there is hereby authorized to be appropriated not to exceed $60,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(c) For the purpose of making energy conservation project grants to schools and health care facilities pursuant to section 392(a)(3), there is hereby authorized to be appropriated not to exceed $220,000,000 for the fiscal year ending September 30, 1978, $250,000,000 for the fiscal year ending September 30, 1979, and $280,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(d) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 399. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures utilized and not utilized, with funds allocated, and an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

"(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part G—Energy Conservation Program for Schools and Health Care Facilities

"Sec. 391. Definitions.
"Sec. 392. Grant authorization.
"Sec. 393. Preliminary energy audits.
"Sec. 394. State plans.
"Sec. 395. Conformance with State programs.
"Sec. 396. Allocation of financial assistance.
"Sec. 397. Applications.
"Sec. 398. Authorization of appropriations.
"Sec. 399. Annual report.
"Sec. 400. Administration.".

TECHNICAL AMENDMENTS

SEC. 444. (a) SECTION 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) SECTION 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) SECTION 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

Subpart B—Buildings Owned by Units of Local Government

STATEMENT OF FINDINGS AND PURPOSES

SEC. 445. (a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local govcrnment are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

(b) PURPOSES.—It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT

SEC. 446. (a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"DEFINITIONS

"SEC. 400A. For the purpose of this part—

"(1) The terms 'building', 'health care facility', 'school', 'State energy agency', 'technical assistance program costs', and 'energy conservation maintenance and operating procedure' have the meanings provided by section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(3) The term 'building owned by a unit of local government' means any building, other than a building utilized primarily by a school or health care facility, which is owned by one or more units of local government, and which is—

"(A) primarily occupied by the offices or agencies of such unit or units, and which is

"(B) not intended for seasonal use by such offices or agencies.

"(4) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

"(5) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

"(A) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building,

"(B) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, and

"(C) in such other planning as the Administrator may deem appropriate.

"GRANT AUTHORIZATION

"SEC. 400B. (a) The Administrator is authorized to make grants to—

"(1) States and units of local government to assist in conducting preliminary energy audits for buildings owned by units of local government, and

"(2) States and units of local government in payment of technical assistance program costs for technical assistance programs for buildings owned by units of local government.

"(b) The Federal share of the costs incurred in connection with any preliminary energy audit or any technical assistance program, shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"PRELIMINARY ENERGY AUDITS

"SEC. 400C. (a) The Administrator shall, by rule, not later than sixty days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government by State energy agencies, including a description of the type, number, and distribution of preliminary energy audits of such buildings that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State.

"(2) prescribe guidelines for the conduct of preliminary energy audits by State energy agencies or by units of local government, or both, that may be required in determining which buildings of units of local government qualify for grants for technical assistance programs, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits for buildings owned by units of local government, taking into account the population and climate of such States and such other factors as he may deem appropriate.

"STATE PLANS

"SEC. 400D. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for buildings owned by units of local government in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals, and

"(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to subsection (a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a description of the energy conservation needs of the buildings owned by units of local government of such State;

"(2) a description of the number and type of buildings owned by units of local government in such State that may qualify for financial assistance for technical assistance programs under the Administrator's guidelines;

"(3) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government in such State, together with an estimate of the costs of carrying out such programs;

"(4) a statistical survey of buildings owned by units of local government identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in such buildings;

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs within such State, including recommendations as to how priorities should be established between buildings owned by units of local government, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings; and

"(6) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original

plan if the agency obtains the consent of the Administrator.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 400E. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

"(b) Funds allocated to programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 400F. (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs shall be accompanied by a listing and description of technical assistance programs proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance for technical assistance programs under this part unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part; and

"(5) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"AUTHORIZATION OF APPROPRIATION

"SEC. 400G. (a) For the purpose of making grants to States or units of local government, or both, to conduct preliminary energy audits under this part there is hereby authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $25,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 400H. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400I. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part H—Energy Conservation Program for Building Owned by Units of Local Government

"Sec. 400A. Definitions.
"Sec. 400B. Grant authorization.
"Sec. 400C. Preliminary energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Allocation of financial assistance.
"Sec. 400F. Applications.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Annual report.
"Sec. 400I. Administration.".

APPLICATION OF DAVIS-BACON ACT

SEC. 447. The Federal employee or officer primarily responsible for administering any program established under any provision of, or amendment made by, part III of title I of H.R. 8444 as passed the House of Representatives August 5, 1977, which provides for Federal funding shall take such steps as are necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

PART IV—FEDERAL ENERGY INITIATIVES

Subpart A—Amendment to Section 381 of Energy Policy and Conservation Act

CONSERVATION PLAN AUTHORIZATION

SEC. 448. Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(f) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

Subpart B—Demonstration of Solar Heating and Cooling in Federal Buildings

DEFINITIONS

SEC. 449. As used in this subpart—

(1) The term "agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in subparagraphs (B) through (H) of paragraph (1) of section 5721 of title 5, United States Code.

(2) The term "building" means any structure owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means, with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods) and all or part of the cooling needs of such building.

(5) The term "solar energy equipment" means equipment for solar heating and solar heating and cooling.

(6) The term "Administrator" means the Administrator of the Federal Energy Administration.

FEDERAL SOLAR PROGRAM

SEC. 450. The Administrator shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

DUTIES OF ADMINISTRATOR

SEC. 451. (a) In exercising the authority provided by section 722, the Administrator shall—

(1) solicit and consider proposals by any agency to apply solar heating and solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of type of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate each such proposal pursuant to the criteria promulgated pursuant to paragraph (2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment); and

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) of subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Services Administration and the Administrator of the Energy Research and Development Administration.

TRANSFER OF APPROPRIATIONS

SEC. 452. In carrying out a proposal for which the Administrator has provided assistance, any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

SUBMISSION OF PROPOSALS

SEC. 453. (a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within one hundred and eighty days after publication of criteria under section 451(a)(2), submit initial proposals to the Administrator for installation of solar energy systems on selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy systems, the funds required for the system, the proposed implementation schedule, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals to the Administrator for additional solar energy systems for buildings under their control on a schedule established by the Administrator but not greater than two-year intervals.

AUTHORIZATION

SEC. 454. There are authorized to be appropriated to the Administrator through fiscal year 1980 to carry out the purposes of this subpart not to exceed $100,000,000.

Subpart C—Use of Energy Conservation and Solar Energy in Federal Buildings

FINDINGS

SEC. 455. The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, being the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures along with the use of renewable energy sources.

POLICY

SEC. 456. It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation and solar heating and cooling in Federal buildings.

PURPOSE

SEC. 457. It is therefore the purpose of this subpart to promote the use of commonly accepted methods to establish and compare the life cycle costs of operating residential, commercial, industrial, and Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation and the use of solar heating and cooling. It is also the purpose of this subpart to aim for a reduction of energy use in existing Federal buildings by 20 per centum by 1985.

DEFINITIONS

SEC. 458. For purposes of this subpart—

(1) the term "Administrator" means the Administrator of the Federal Energy Administration;

(2) the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; in the case of leased buildings the life cycle shall be calculated over the effective remaining term of the lease;

(3) the term "preliminary energy audit" means a determination of the per square foot energy demand, either actual or calculated, of existing buildings and of the physical characteristics of such buildings including but not limited to their age, use, construction, and retrofit potential;

(4) the term "Federal building" means any building, structure, or facility or part thereof which is constructed, renovated, or leased specifically for use by the United States or by an agency or agencies thereof; and

(5) the term "existing Federal building" means any Federal building for the construction, renovation, or leasing of which funds have been appropriated or otherwise actually made available prior to the date of the enactment of this subpart, and the term "new Federal building" means any other Federal building; except that a building shall be considered a "new Federal building" even though funds for its construction, renovation, or leasing have been made available prior to that date if (A) its construction, renovation, or leasing has not been completed prior to that date, and (B) the Administrator determines that the plans for such construction, renovation, or leasing can still feasibly be modified to take into account the provisions of this subpart relating to new Federal buildings.

ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS

SEC. 459. (a) The Administrator, in consultation with the Director of the Office of Management and Budget, the National Bureau of Standards, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, and the Secretary of Housing and Urban Development, shall—

(1) establish practical and effective methods for estimating and comparing life cycle capital and operating costs for residential, commercial, industrial, and Federal buildings, including the life cycle fuel and energy requirements for such buildings; and

(2) develop and prescribe the forms to be used and the procedures to be followed in applying and implementing the method so established and in conducting the preliminary energy audits required by section 461.

(b) All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, preference shall be given to life cycle cost rather than first cost.

(c) In addition, the Administrator shall take such actions as may be necessary or appropriate to promote to the maximum extent possible the use and acceptance of such methods in the construction and renovation of non-Federal public buildings and in the construction and renovation of other buildings, structures, and facilities in all segments of the economy.

ENERGY PERFORMANCE TARGETS FOR EXISTING BUILDINGS

SEC. 460. In addition to establishing methods for estimating and comparing life cycle costs under section 745, the Administrator, in consultation with the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget, shall establish energy performance targets for existing buildings, structures, and facilities, and shall take such actions as may be necessary or appropriate to promote to the maximum extent feasible compliance with such targets by all existing Federal buildings within the United States. The performance targets established under the preceding sentence shall be compatible with standards adopted or developed by the Secretary of Housing and Urban Development.

ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS

SEC. 461. (a)(1). As soon as possible after the date of the enactment of this subpart, each Federal agency shall conduct a preliminary audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain thirty thousand or more square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1977.

(2) As soon as possible after the completion of the preliminary energy audits required under paragraph (1) (and concurrently with such audits to the extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain one thousand or more but less than thirty thousand square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1978.

(b)(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsection (a) appropriate buildings for retrofit measures to improve their energy efficiency in general and their life cycle cost effectiveness in particular. Such measures shall include, without being limited to, energy conservation measures and measures involving solar technology.

(2) At least 1 per centum of the total gross square footage contained in all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency, and which are included in a preliminary energy audit conducted by such agency under subsection (a), shall be retrofitted by such agency under paragraph (1) pursuant to actions taken or arrangements made by such agency during the first year after the date of the enactment of this subpart: and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) By no later than January 1, 1990, all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall have been the subject of such retrofit measures under paragraph (1) as will assure their maximum possible life cycle cost effectiveness.

ENERGY PREFERENCE FOR LEASED BUILDINGS

SEC. 462. Each Federal agency, in leasing buildings or before exercising lease renewal options on buildings heretofore leased for its use or the use of any other Federal agency, shall give an appropriate preference to buildings which use solar heating and cooling or which otherwise have a high de-

gree of energy efficiency in general and life cycle cost effectiveness in particular.

BUDGET TREATMENT OF ENERGY ITEMS BY FEDERAL AGENCIES

SEC. 463. Each Federal agency, in the preparation and submission of its budget requests for any fiscal year, shall specifically set forth (and identify in a separate line item or items) the funds being requested for retrofit measures to be undertaken in accordance with section 461(b), and the portion of any other funds being requested which represents the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy.

REPORTS

SEC. 464. Each Federal agency shall periodically furnish the Administrator with full and complete information on its activities under this subpart, and the Administrator shall annually submit to the Congress a comprehensive report on all activities under this subpart and on the progress being made toward achievement of the objectives of this subpart.

TRANSFER OF FUNCTIONS

SEC. 465. Within sixty days after the effective date of any law creating a Federal Department of Energy or its equivalent (or within sixty days after the enactment of this subpart if the effective date of such law occurs prior to the enactment of this subpart), the functions vested in the Administrator of the Federal Energy Administration under this subpart and any funds which may have been appropriated pursuant to section 466 of this subpart, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such Department.

AUTHORIZATION OF APPROPRIATIONS

SEC. 466. There are authorized to be appropriated to the Administrator such sums, not exceeding $2,000,000 in the aggregate, as may be necessary to enable him to perform the functions vested in him under this subpart.

Subpart D—Use of Advanced Photovoltaic Energy Devices in Federal Facilities

SHORT TITLE

SEC. 467. This subpart may be cited as the "Federal Photovoltaic Utilization Act".

PHOTOVOLTAIC ENERGY PROGRAM

SEC. 468. There is hereby established a photovoltaic energy commercialization program (hereafter in this subpart referred to as the "program") for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities, using technologically and technically approved and proved equipment.

PURPOSE

SEC. 469. The purpose of the program shall be to accomplish the following:

(1) accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public as an option which can reduce national consumption of fossil fuel;

(2) conserve fossil fuel costs of the Federal Government;

(3) stimulate the general use within the Federal establishment of life-cycle costing and innovative procurement methods; and

(4) develop program performance data to support policy decisions on future incentive programs with respect to energy.

ACQUISITION OF SYSTEMS

SEC. 470. The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability, primarily for use by the Department of Defense. The acquisition of photovoltaic electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques. The Administrator is authorized to make the acquisitions authorized by this section through the use of multiyear contracts.

ADMINISTRATION

SEC. 471. The Administrator shall administer the program and shall—

(1) insure that the installation of photovoltaic electric systems pursuant to this subpart shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this subpart; and

(3) report annually to Congress on the status of the program.

SYSTEMS EVALUATION AND PURCHASE PROGRAM

SEC. 472 The Administrator and the Administrator of the Energy Research and Development Administration shall jointly establish, within sixty days following the date of the enactment of this subpart, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Secretary of Defense to carry out this subpart. In acquiring photovoltaic systems under this subpart, the Administrator of the Energy Research and Development Administration shall insure that such systems reflect the most advanced technologyy and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States.

ADVISORY COMMITTEE

SEC. 473. There is hereby established an advisory committee to assist the Administrator in the establishment and conduct of the program. Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Postmaster General, and such other persons as the Administrator deems necessary.

DEFINITION

SEC. 474. As used in this subpart, the term "Administrator" means the Administrator of the Federal Energy Administration, or his successor.

AUTHORIZATION

SEC. 475. For photovoltaic system acquisition, there is authorized to be appropriated to the Administrator not to exceed $39,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

Mr. ROBERT C. BYRD. Mr. President, excuse me, may I ask at this point, are there any other technical amendments?

The PRESIDING OFFICER. The Chair is advised there are not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5037 and that H.R. 5037 be printed as passed.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my personal appreciation and the gratitude of the Senate as a whole, I believe, to Mr. JOHNSTON and to Mr. HANSEN for their skillful handling of the energy conservation bill.

It took longer than we had anticipated; but because of the interest in the bill and the number of amendments that were offered thereto, it was necessary to go late. All Senators should be congratulated and I personally thank all Senators on both sides of the aisle for the understanding and patience they have demonstrated in standing long hours, throughout the afternoon and evening, to see the final passage culminated.

RECOGNITION OF SENATOR SCHMITT ON THURSDAY, SEPTEMBER 15, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Thursday, after the two leaders or their designees have been recognized under the standing order, Mr. SCHMITT be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the previous order, I believe, at this time, the Senate is to proceed to another bill. I ask unanimous consent that there be a period for the transaction of routine morning business at this time.

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

The Senator from Iowa is recognized.

THE DEATH OF MR. STEVE BIKO

Mr. CLARK. Mr. President, today's report that Steve Biko has died while in security detention in South Africa is an outrage that must be condemned in the strongest possible terms. From all reports, Steve Biko was in excellent health at the time of his arrest 3 weeks ago.

I met Steve Biko during a visit to South Africa last year. Like many others who knew this remarkable man, I came away from my discussions with him convinced of his intelligence, his moderation, and his importance as a key spokesman for the African population which admired and respected him. His death represents a loss not only to the blacks of South Africa who looked to him for leadership, but to all the peoples of South Africa who believed that through responsible and talented leaders like Biko, there still remained a chance for peaceful racial accommodation. Perhaps more than any other leader in South Africa today, Steve Biko stood out as the most representative voice of the African population.

Numerous reports of death in detention in South Africa have been received in recent years. Mr. Biko is the latest in a list of at least 20 persons who are known to have died in South African prisons this year. At least 23 persons are known to have died in this manner last year. These deaths have usually occurred under suspicious circumstances. Often the

detainees' deaths are officially attributed to "natural" causes, or to suicide by falling out a window or by hanging. The record of death in detention due to these unlikely causes is despicable. No observer of the South African scene can accept these flimsy explanations of what is more accurately a pattern of outright racial repression conducted by an authoritarian state which permits unconscionable attacks on the black community.

The social and political consequences of Mr. Biko's death should not be underestimated, for Mr. Biko was a man who was held in high esteem not only by the African population but also by those in the international community who were fortunate enough to have met him. He will now become a martyr in the struggle for racial equality in South Africa and a symbol of black resistance to white oppression.

During my visit to the country last year, Mr. Biko submitted to me a paper on his political views and on U.S. policy toward South Africa. I would like to refer to his own words at this time, to convey to the public the loss which we have witnessed:

We are looking forward to a non-racial, just and egalitarian society in which colour, creed and race shall form no point of reference. We have deliberately chosen to operate openly because we have believed for a very long time that through process of organized bargaining we can penetrate even the deafest of white ears and get the message to register that no lie can live forever.

In doing this we rely not only on our strength but also on the belief that the rest of the world views the oppression and blatent exploitation of the black majority by a minority as an unforgiveable sin that cannot be pardoned by civilized societies.

A man in his early thirties, Biko was the founder of the South African Student Organization, SASO, the forerunner of current student movements that form the core of black opposition to apartheid. Subsequently, he became one of the leading members of the Black Peoples' Convention, a black consciousness organization, and the Black Community Program, a self-help association which operated small handicraft projects and a health clinic in King Williamstown, where Biko was confined for the duration of his banning order.

Mr. Biko has been arrested and banned before. His latest detention was part of a general sweep of black leaders by the security forces. Under the terms of the Terrorism Act authorizing preventive detention in South Africa, any person can be held for an indefinite period and no court of law may have jurisdiction on the validity of the arrest. Nor may any court issue an order requiring the release of any detainee. Anyone may be confined without the right of contact with the outside world. A detainee may be held in solitary confinement, incommunicado, without access to relatives or to lawyers. He does not have to be charged.

I call on all those who stand for justice to join me in appealing to the South African Government for the following:

First. Establish an impartial board of inquiry to examine thoroughly the circumstances surrounding Mr. Biko's death and make full public declaration of all findings.

Second. Begin discussions now with nongovernment organizations like the Black Peoples' Convention on racial justice and the constitutional structure of the country.

Third. Immediately release all political detainees or, at the very least, bring charges against them and allow them the right to be tried openly.

Failure of the South African Government to act promptly and effectively will likely result in further racial violence within South Africa and inevitably lead to a deterioration of relations between Pretoria and all members of the international community who stand for human decency.

UGANDAN ATROCITIES

Mr. CLARK. Mr. President, most of us are familiar with the conditions inside Uganda today. President Idi Amin has established a regime which ranks as one of the most brutal and ruthless in the world.

Many of the stories which come out of Uganda are difficult to verify and the details of the atrocities committed in the country are not readily available. I will ask to have printed in the RECORD an article which was written by a Ugandan who had the courage to reveal his personal experiences as a victim of Ugandan terror. It was published in the New York Times which checked out the story through its Nairobi bureau. The author's chilling account of his near escape from death, the loss of his friends, the repeated beatings he endured, and his gruesome job as gravedigger for Amin's murder victims help us understand the barbaric conditions under which the majority of Ugandans are forced to live.

We in the United States cannot do much to relieve the suffering and influence events in Uganda. But there is one more thing we can do—and that is to continue to speak out in unqualified opposition to the Ugandan Government and to expose as much as possible the terror and anarchy that reigns there. President Idi Amin is a mass murderer; there is no other way to describe the deeds he perpetrates and condones. Leaders throughout the world have condemned him. We have a responsibility to continue, as strongly as we possibly can, to oppose this man and all that he represents.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD the article which appeared in the New York Times with regard to a number of brutal and ruthless killings in the nation of Uganda.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 12, 1977]

IN UGANDA, DEAD, DEAD, DEAD, DEAD

(Note.—Following are excerpts taken from notes offered in Nairobi, Kenya, to the New York Times by a man who described himself as a Ugandan who had managed to escape his country. The authenticity of his statements seems borne out by inquiries made by the Times' bureau in Nairobi. Certain identities have been disguised by the Times, others eliminated entirely, and some data deleted to prevent identification and possible retribution.)

(By a Ugandan)

NAIROBI, KENYA.—On 5th Jan. 76 I was just in the transit lounge at Entebbe International Airport with my other two fellow student, A———— Z———— and B———— W————, while waiting for the plane which could have taken us to Canada where we were going for studies.

At around 11 p.m. three State Research officers [State Research Bureau, a key agency for liquidating President Idi Amin's opponents] came to us where we were sitting and asked us where we were going, and we told them that we were going to Canada, after that they told us to produce our passports after looking at our passports they told us to go with them in their office.

They started asking us where had we got the scholarship, we explained them that we had sponsors abroad. Again they asked us whether those sponsors were Europeans. When told them that they were Europeans, they started beating us and accused us of dealing with Europeans without the Government's knowledge.

Next day very early we were taken to their Headquarters in Kampala with our faces covered. When we reached the Headquarters, they took us to the underground cells which were labeled with these words "Killing Machine" and they started beating us. They applied some cigars and burning cigarettes to fingers. We yelled as they did this but instead they continued beating us and they started asking us the names of those people in Canada.

We explained to them that those in Canada were not people but it was just an organization which gives scohlarship to foreign students. When we mentioned the word organization they continued beating us and they locked us in a very cold room for about 10 minutes. As a result of beating the other two friends of mine A———— Z———— and B———— W———— started bleeding from their noses and ears.

THE DETENTION CAMP

At one time when too much blood was coming from A's nose he asked for water, but the State Research officer woman who was around gave him urine. The following morning at around 10 a.m. the condition of my two friends was worse and death was only a few inches from them. At around 11 a.m. of that day the commanding officer Col. Francis Itabuka visited our underground cell on his routine check, when he saw B———— and A———— in a pool of blood he told the officers who were on duty to remove the two and take them somewhere else, and that was the end of me to see my two friends alive.

After taking away my friends he ordered them to take me to Luzira Government Detention Camp pending further investigation. In the detention Camp I found about 800 people in Detention all of them badly beaten with no cloth on their bodies.

The inmates asked me if I had been interrogated by the Naguru police Unit Amin's killing police, when I told them that I was brought in by the State Research, they told me that I was luck because if I had gone through Naguru killing police I could have died like my friends A———— and B————.

On 2nd April 1976 after spending three months in the detention Camp, the State Research officers came to see me with some planned charges against me. Instead of taking me to court, so that I can be able to defend myself as the law says, they took me a certain room which is just beside the office of the officer in charge of the detention camp.

I was very much surprised when they pro-

duced a signed commitment warrant in my name sentencing me to 21 months in prison. I asked one of the State Research officer, if that was the new system sending people to prison, he answered me "You are lucky the order was to finish you, go and serve that maybe you may come back alive." The day they told me that I have been convicted to 21 months, I was removed from the detention Camp and taken to Murchison Bay Prison which is just a few yards from the detention Camp.

At Murchison Bay Prison Camp we passed through four gates and through those gates I was handed over to prison officers. Immediately they started beating me and I was told to remove everything I had and remained naked. After making a list of my belongings and writing down my names, the prison's officers asked me if I could appeal, when I said that I was ready to make an appeal, the State Research officers told prison's officers that I wasn't allowed to make any appeal in any court of law.

RESERVED FOR BURIALS

The prison's officers asked me what I was doing before my arrest, and I told them that I have been a student at Makerere University. They told me that during my stay with them I will be working with the printing workshop.

After staying at Murchison Bay Prison for about two months I heard the inmates talking about the free space which surrounds the prison's fence, that it was reserved for burial of people who have been killed by the security officers. Not even a month past since the inmates talked about that strange place which is reserved for burial of Amin's victims.

A warder who was on duty in charge of Ward * * * in which I was staying came to small hole and told us there had been some shooting at Nsambya Police Grounds. At around 11 a.m. about four Military Policemen came with machine guns to the printing workshop. They came with the Principal Officer of the prison, when they reached inside the workshop they told the warder in charge that they wanted about ten prisoners for an urgent work which is needed to be done.

I was selected among with other prisoners. After making the get pass at the prison's get lodge they told us to board the Military LandRover.

I was very shocked when I saw about 12 people all of them in dying condition, badly beaten some their hands chopped off. They were all in military uniforms of the Uganda Air Force.

SKULLS AND BONES

The driver started the engine and we drove off with the bodies. Just a few yards we stopped and we were told to start digging. Two big graves for the bodies, more shock came as the whole area was full of human head skulls and other human bones and many were still flesh of recent killings.

After digging two big graves, we were told to start putting the bodies in the graves. Nine of the people were brought completely dead but the three were still alive only that their bodies had a lot of wounds, one of the three asked for water and instead he was given a bayonet in the chest to finish him off. The other body was having very expensive watch on his hand, the warder who had come as an escort wanted to remove the watch but the Military Police Officers refused him.

After covering the bodies with the soil I ask the Military Officers what had those done to be killed and the officers told me that those were thieves. But for me I wondered how could an ordinary thief possess such an expensive watch or could be putting on Uganda Airforce Senior Officers Uniforms.

After the burial we were given each of us and our warder one packet of cigarettes.

Not even two days passed, again the Military Police came in this time with a big lorry almost full of bodies. This time I was luck I didn't go for the burial, but the other inmates who went told me that those whom they had just buried have been well dressed people some their faces covered with cloths.

One inmate who have been at Murchison Bay Prison since 1970 serving a sentence of ten years told me that they have been burying prominent people there since Amin came to power in 1971, he told me that even the body of the late Ben Kiwanuka the former Chief Justice was brought there for burial even the body of these people, Jolly Joe Kiwanuka former MP and that of Warrant Officer two A. Aswa and many others.

In June 1976 during the Israelis raid at Entebbe I saw with my eyes over 200 bodies of Senior Officers in army and the Government brought at Murchison Bay for burial.

On 1st August 76 I was just working in the printing workshop when the labor officer came and told me that I have been selected to go with my other fellow inmates at Paradise Beach Island Amin's hideout, that very myself and other twenty inmates we were transported in a motor boat to Paradise Beach Island which is a two hour drive from Luzira Port by a motor boat.

The island is about nine acres. When we reached the island they told us to remove our prison's uniforms and they gave us army overalls. We were told never to speak with any visitor who might come to the island with Amin, and if we happen to talk to him we should tell him that we are army people stationed there for security reason, not to say that we are prisoners.

THE ISRAEL WOMAN

On the 20th of August 1976 two bodies one of an old European lady and that of a police man were brought at the island for burial by three military Officers from the Marine Corps.

It is believed that was the body of the Israel woman who was left at Mulago Hospital. And that of a police man, we were told by one of the warder that, when the Military Officers went to remove the woman at Mulago Hospital the policeman exchanged fire with the officers because the Military officers were in plain clothes.

After the death of the Archbishop of Uganda and the other two Cabinet Ministers officers of the State Research started an operation in both Government and armed forces to clear out the Acholi and Langi officers in those dept.

1st March 1977 was the day when they came to Murchison Bay and the nearby prison's Dept. First very early prisoners and the staff at Murchison Bay were told that they will be working half a day because all the staff were wanted by a big man from the Government at Luzira prisons grounds at 4 p.m. of that day. At 3 p.m. on that day all Prison's Staff started arriving at the grounds by 4 p.m. all were ready there.

GUNS AND A LIST

Instead of big man to address them State Research men arrived with heavy machine guns and a list of those they wanted. They ordered everybody to sit down, and they told that anybody trying to run away will be shot on sight. The first man on the list was Mr. V. L. Okulut SSP officer in charge of Murchison Bay Prison followed by Mr. Katabazi SSP from Prisons Headquarters, Principal Odongo of Prison's Training School. Sgt. Olanya was shot dead when he tried to run away. Olanya a warder at Murchison Bay and Chief warder Ocheng never appeared at the grounds.

On the day of 1st March 77 they took 50 people from three stations, after three days about 20 people of those taken their bodies were brought at Paradise Island.

We were told to make fire and we started putting the bodies on fire one by one, but of those brought at Paradise it was impossible to tell their identity because some of their bodies had no heads. Later Principal Officer Odongo was released because he was mistaken by the name, instead of Odwongo.

On the 17th March 77 we were told to start cleaning the island as that evening there were going to be a big man who will be meeting all Senior Army officers and Police and Prison officers at the beach.

At around 10 a.m. motorboats started arriving with drinks and some meat at 2 p.m. the Prison's Jazz Band arrived later officers started arriving all of them in Military Uniforms, and they started drinking and eating at 4 p.m.

Col. Maliyamungu and Major Farik arrived followed four motorboats full plainclothes officers of the State Research.

When Col. Maliyamungu arrived he went to the VIP stand and he started addressing the Senior Officers that they were among them some bad elements, again he told them that these bad elements are known to the Government and it's a pity that those elements are not going to leave the beach alive.

After that Major Farik stood up and produced a list of names. After reading the names of about two hundred officers from the Army Police and Prison, the State Research Officers started handcuffing the victims, and putting them into the boats, later they left the beach with the victims. The next day half of the people taken were brought for burial.

AMIN'S VISIT

On 3rd of April 77 Amin and his wife Sarah and one European by the name of Bob Astles came to the beach, for swimming after swimming Amin asked us whether we had done his work nicely and then he visited where we had buried his victims after certifying he ordered us to start planting grass on those graves and he promised to visit us after one week's time.

After one week Amin came back this time was with Col. Maliyamangu, he started asking us what we were doing before our arrest, when he reached my self I told him that I was a student at Makerere University and I explained him that I was going to Canada when the State Research officers arrested me with my friends at Entebbe Airport, he asked me where my friends were and I told him that they were killed.

After that he asked who had sent us the air tickets from Canada and I told him the name of a certain person, in fact the name was a false one.

After that he told me he will order to release me, and he told me never to tell people that the other two friends of mine were killed, again he told me to keep quiet of anything I had seen both at Murchison Bay and Paradise Beach.

On the 15th June 77 very early in the morning Bob Astles came to the island with the release officer of Murchison Bay he told me that Amin had pardoned me and I am going to be released today with one man by the name Kapisi. Later we were taken to Murchison Bay where I was given my property and [money] and a prisoners Road Pass.

After my release I went back to the University. I was very much shocked when the University authority told me that there was an order not to readmit me in the University again.

GETTING OUT

I had nothing to do only to try and leave the country, leaving the country these days it is not an easy task, what I did was to go to the police where reported to have lost my identities and I told the police that I was a Kenyan, I gave the police fake names. At the police station I was given-a note, some kind of a document which I used to cross the Ugandan border to Kenya.

When I remember the sight of those killings I came across at Murchison Bay Prison I get nightmares, and some thing comes in my mind that people in Uganda wish they could be animals, because animals do have societies which fight for them like the Prevention of Cruelty to Animals, but in Uganda today man is killed by his fellow man.

ORDER TO HOLD BILL AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 8701 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

REORGANIZATION OF NOAA

Mr. MAGNUSON. Mr. President, Secretary of Commerce, Juanita Kreps, recently announced a reorganization of the National Oceanic and Atmospheric Administration as a first effort toward improving the way this Government formulates and carries out ocean policy. The reorganization, although not major, was accomplished by newly appointed Administrator Richard A. Frank to accommodate recent major changes in NOAA's mission. The work product of Mr. Frank's review of the 14,000 person agency is sound; the reorganization welcome.

I am particularly pleased that the fisheries management function in NOAA has been elevated to the Assistant Secretary level. By passage of the Fishery Conservation and Management Act, NOAA has shifted its mission emphasis from services and research to one of active management. The Agency now has the deep responsibility of trustee for the Nation's coastal fishery resources. By creating the new position of Assistant Administrator for Fisheries, the Department of Commerce has clearly recognized this new responsibility. Mr. Frank, I understand, is presently engaged in an intensive search for the best person for this new job.

The other new changes—assistant administrators for Policy, Research and Development, and Oceanic and Atmospheric Services—are also improvements, in my view, over the previous organization. NOAA should be more streamlined and less top-heavy as a result of these alterations, particularly because of the switch from staff to staff/line organization for top level officers.

I believe NOAA has a great future. President Jimmy Carter has exhibited a greater interest in ocean matters than any President since Lyndon Johnson. He has approved in concept a new "oceans initiative." For those of us who have labored so long in this area, this comes as a welcome change from the inattention and apathy of the past. NOAA is becoming a vibrant agency, one with a clear mission and dedicated officials.

I wish to congratulate both Secretary Kreps and Administrator Frank for their swift work. I realize that more effort will be forthcoming—a new organic Act for NOAA is among the priorities—but this first step is a solid one.

Mr. President, I ask unanimous consent that a copy of Mr. Frank's letter to me and of his explanatory memorandum for the Secretary of Commerce be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
Rockville, Md., August 26, 1977.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR MR. MAGNUSON: Over the last several weeks, I have spoken with you and others about NOAA's organizational structure and the possible desirability of changes to accommodate its new and expanding missions in both oceanic and atmospheric affairs. I benefited greatly from the many insights those conversations produced. They led me to conclude that a NOAA reorganization would have several advantages, and I have pursued that objective.

This week Secretary Kreps approved proposals for reorganization of NOAA. A public announcement of this decision will be made soon. I am enclosing for your information a copy of my memorandum describing the reorganization and the process and rationale that led to it.

I hope that this reorganization will give NOAA the capacity to carry out its mission with increased vigor and effectiveness. No doubt some of the changes will prove more successful than others, and further changes may be necessary in the future. In your dealings with NOAA in the months ahead, I hope you will keep in mind our discussions on this subject and let me know how you think the new structure is working and how it might be improved.

I appreciate your help so far, and I look forward to working with you on the critical issues that face us.

Sincerely,

RICHARD A. FRANK,
Administrator.

Memorandum for the Secretary from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Rockville, Md.

REORGANIZATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

This document describes the new organization of the National Oceanic & Atmospheric Administration (NOAA) I am asking you to approve. It reviews the process through which this organizational structure was developed, the criteria guiding the selection, and a variety of alternatives considered, and includes a point-by-point description of the proposed organizational structure.

I. DEVELOPMENT OF THE REORGANIZATION PLAN

This reorganization plan represents the culmination of many months of effort by a large number of people both inside and outside NOAA. In February 1977, Assistant Secretary Jasinowski initiated the first of a series of meetings with representatives from the National Ocean Policy Study, the Offices of Technology Assessment, and members of the staff of the House Merchant Marine & Fisheries Committee. These discussions were in response to a thoughtful reorganization plan recommended by the National Ocean Policy Study staff and Senator Hollings, which was considered along with reorganization proposals developed by NOAA Administrator Dr. Robert M. White and by others in the Department of Commerce. They provided the basis for a Department of Commerce Options Paper on NOAA reorganization incorporating all of the proposals and presenting a wide range of alternatives for internal, departmental, and governmental reorganization of oceans activities.

Shortly after my arrival at NOAA as Administrator-designate, I circulated the DOC Options Paper to the career management within NOAA. The Options Paper and other proposals by NOAA personnel served as the basis for two extensive group discussions within NOAA on reorganization, as well as consultations individually and in small groups. I also had extensive conversations with Dr. White and with Assistant Secretary for Science & Technology Jordan Baruch, his deputy Frank Wolek, and an expert on organizational structures.

To gather additional views, I consulted with several Senators and Congressmen and their staffs. I also met with the President's Advisor for Science & Technology, Frank Press, officials from the Office of Management & Budget, the Domestic Policy Staff, and representatives of various constituencies with an interest in NOAA, including the science community. I was particularly assisted by a draft report of the Ocean Affairs Board of the National Academy of Sciences, which has just completed a thorough and insightful evaluation of NOAA's ocean research and development programs.

These consultations revealed widespread support for a reorganization of NOAA to improve its operating effectiveness and to permit it to address newly-acquired and anticipated program responsibilities. While different individuals and interest groups found various features particularly appealing and believed reorganization was advisable for differing reasons, I believe the structure proposed below will be favored by, or will at least be acceptable to, a wide range of interested groups and individuals.

II. CRITERIA FOR SELECTING THE ORGANIZATIONAL STRUCTURE

The selection of an organizational structure should be based on general principles of organizational design and on concepts about the functions the organization should fulfill. The structure should—

Place accountability with identifiable individuals for program management and policy decisions.

Have a minimum number of layers between program managers and the Administrator and clear lines of communication, both vertically and horizontally.

Create management positions that can be handled by the people who can be attracted to them, neither demanding superhuman capabilities nor creating figureheads.

Be able to absorb anticipated program growth.

Be understandable to the public, so that consumers of the organization's output will be able to identify readily those with whom they should interact.

Allow the agency head to exercise leadership by providing the necessary planning and management staff support and relieving him/her of unnecessary detailed management responsibilities.

Achieve more efficient utilization of the resources available to produce more and better information and to bring it to bear on national problems in a more timely fashion.

Cause a minimum of disruption of existing organizational patterns consistent with achievement of other objectives.

In addition to these general criteria, certain objectives relating specifically to NOAA led to the conclusion that our structure should—

Address the recent transformation of the fisheries program into a regulatory, resource management program requiring sensitive balancing of interests and often controversial policy decisions.

Establish an appropriate balance between oceanic and atmospheric aspects of the program while recognizing the fundamental interrelation of these activities.

Recognize the prevasive role of research, technology development, and environmental monitoring in NOAA's activities, and the importance of relating those activities to the larger scientific community.

Facilitate the assimilation of potential new programs such as ocean minerals regulation and development, a national climate program, and antarctic living resource management.

III. THE ALTERNATIVES

In developing this reorganization, I considered a number of alternatives that are reviewed briefly here. The starting point was an evaluation of the existing organizational structure. That structure, though it has been continually evolving since the creation of NOAA in 1970, still reflects the disparate elements that were brought together seven years ago. Several aspects were identified in the existing organizational structure which might be improved:

An increasingly large number of line and staff officers report to the Administrator (and the Deputy and Associate), especially with the new responsibilities inherent in the Coastal Zone Management Act of 1972 and its 1976 Amendments, the Marine Mammal Protection Act of 1972, and the Fisheries Conservation and Management Act of 1976.

A growing number of basic program activities can only be carried out through the joint efforts of two or more major line components, creating important coordination problems that can only be resolved by the agency leadership.

The Associate Administrator for Marine Resources and the Associate Administrator for Environmental Monitoring and Prediction each play a combination of operational and staff roles, often overlapping the functions of line managers.

NOAA has little policy development capacity.

Fisheries management decisions are unclearly divided between the Director of the National Marine Fisheries Service and the Associate Administrator for Marine Resources.

No single individual serves as the coordinator for research and technology development activities of the Environmental Research Labs, Sea Grant, the Office of Ocean Engineering, and the research programs of the other major line components.

The Director of the Environmental Research Labs, in Boulder, Colorado, is forced to divide his time between traveling to coordinate programs with the Washington research community and NOAA service programs and developing new directions for the NOAA labs, particularly in oceans research. These tasks cannot all be handled by a single individual if NOAA's ocean and climate research programs are to advance and grow as they should.

No individual has the responsibility of interacting with the outside scientific community.

No effective mechanism exists for transferring technology from the research laboratories to the service elements.

No single office has lead responsibility for developing NOAA's ocean management capabilities and responsibilities, or for its developing climate program.

The alternatives considered divided into three sets of issues—the composition of the line elements, the structure of the executive administration, and certain special program concerns.

A. Line structure

Several alternative line structures were evaluated. Two alternatives involving major reshuffling of present organizational units were carefully considered but ultimately set aside. The first would separate resource management and resource development functions, so that activities like fisheries, ocean minerals, and coastal zone activities would be divided into their management and development components. A more dramatic restructuring would establish an operations support unit responsibilities for all of the "hardware" (ships, satellites, etc.), an information gathering and technology development unit, and a resource management and services output unit. While each of these alternatives was intriguing for several reasons and has certain advantages, and while examples of each can be found elsewhere in the Government, they had certain defects as well. They failed to provide clear program accountability below the Administrator, created difficult staffing problems, and involved the greatest disruption within the organization. These proposals did not receive widespread support from NOAA managers, and I decided not to adopt at this time a reorganization that would so disrupt NOAA's operations.

Separation of oceanic and atmospheric activities within NOAA, a recommendation of several outside commentators, was also debated and carefully considered. The very fact that this proposal was made had beneficial effects. It forced us to analyze the relationship between oceans and atmosphere, and to assess whether combining the two had worked to the detriment of ocean activities. While recognizing this concern, the scientific community and NOAA career managers were almost unanimous in their opposition to the separation, citing the desirability of integrated environmental analysis, the importance of ocean data to climate studies, the needed growth of marine weather and satellite activities, and the organizational disruption involved. The primary argument for separating oceans and atmosphere is to assure that ocean activities are handled aggressively and with innovation. I intend to pursue that objective vigorously, and I believe ocean activities will prosper without an organizational division at this time. This judgment will be reappraised in one to two years, and if ocean activities are disadvantaged because of the nexus, I would want to reconsider a separation.

The remaining line structure options were quite similar. Each called for establishment of an Assistant Administrator for Fisheries (or Living Resources) to elevate the chief of the nation's fisheries program to a policy-making, politically responsive level. This Assistant Administrator would continue to be responsible for protection of marine mammals and endangered species, despite the potential for conflicts among constituent interests in this area. Each option retained an Assistant Administrator for Coastal Zone Management (or Ocean & Coastal Management, depending on where the new ocean management activity was located). They differed in the grouping of the remaining major line components, which are responsible for the research and service programs.

My choice among these options reflects a judgment that grouping services under an Assistant Administrator for Oceanic & Atmospheric Services and grouping research and development of new technology under an Assistant Administrator for Research & Development will create the most sensible and convenient working relationships. Combining the oceanic and atmospheric service components of NOAA under an Assistant Administrator will facilitate allocation of resources and permit resolution of numerous management issues at that level. Establishment of an Assistant Administrator for Research & Development conforms to the recommendation of the National Academy of Sciences that a research and development focus is essential to assure proper direction for NOAA's R&D programs, full coordination with other government research efforts, and an intimate working relationship with the scientific community. The Director of the Environmental Research Labs in Boulder will then be able to give full attention to developing new oceans and climate research programs and to expanding, and upgrading the quality of, NOAA's labs to meet our growing national needs.

Experience may, of course, ultimately dictate modifications in any of the above allocations of functions, such as transfers of part of various major line components to improve operating efficiency and program balance.

B. Executive administration

The alternatives here revolved around three issues: The scope and character of the policy office, the role of the General Counsel, and whether two deputies (or a deputy and associate) should be retained.

Proposals for the policy office ranged from a small policy development group to an office including major program development and evaluation responsibilities to a combination of those responsibilities with budget development. In favor of the broader conception it was argued that policy and program development would be more effectively implemented if that office also controlled the budget process. Many persons familiar with the budget process, however, suggested that the reverse would be the case: namely, that if this office had primary responsibility for the budget, it would never find time for policy planning and program development. Further, some were concerned over the disproportionate power an office of policy and budget would have. The model of the Department of Commerce itself, where an Assistant Secretary for Policy is separate from the Office of Budget & Program Evaluation under the Assistant Secretary for Administration, provided another alternative for consideration.

Finally, the policy, budget, and administration activities could each be separate and report to the Administrator and the Deputy or Deputies. In light of the universal agreement that NOAA needs a stronger policy development capability, I have concluded that a policy and planning unit should be created. I believe that unit should be separate from the budget process for the reasons mentioned above.

The role of the General Counsel has changed dramatically over the last five years as a result of NOAA's new resource management responsibilities under the fisheries management, marine mammal, endangered species, and coastal zone legislation. The Office has grown from 11 attorneys and one field office in 1972 to over 40 attorneys and five field offices today. Resource management and enforcement policy questions have come to dominate the work of the Office, and the General Counsel has become a key advisor to the Administrator on a broad range of critical issues.

In response to these developments, some commentators suggested the establishment of a separate Office of Enforcement to develop and supervise the implementation of enforcement policy. This approach reflects the experience of the Environmental Protection Agency, where the enforcement and general counsel functions, which were initially combined, have now been separated. While such a separation may eventually be necessary in NOAA, I am inclined to allow the General Counsel's Office to remain in its present organizational form, with the instruction to work with the Office of Policy & Planning and

the Assistant Administrators to develop coherent and realistic regulatory and enforcement policies. I do think that the General Counsel should be an Executive Level V like the other top echelon NOAA officials and general counsels who have comparable responsibilities in other agencies, to give recognition to the key role of the Office.

The choice between one or two deputies (or a deputy administrator and associate administrator) was influenced by the variety of functions to be performed at the Administrator level in NOAA. Establishing a single deputy would avoid the problem of coordination between the two deputies and simplify the line of command. But the broad spectrum of NOAA activities, its range of constituencies, and the complexities of integrating scientific, economic, regulatory, political, and legal concerns all suggest that a deputy for day-to-day management of the organization and a second deputy for attention to special problems and to provide the additional high-level authority would make NOAA a more effective voice on oceanic and atmospheric matters. Establishment of two deputies allows for selection of one person with scientific background and one with a non-scientific background, which will bring a broader perspective to bear on critical NOAA decisions.

C. Special program concerns

In the many discussions on reorganization, four areas emerged that deserve greater attention within NOAA. In each case, recommendations were made to create a special office reporting directly to the top management. While that is not a sensible solution to all new concerns, I considered whether such a solution was appropriate in each of these cases. I am proposing some kind of new organizational arrangement for each one. Some will be implemented immediately, while others will await the selection of key personnel who should have a voice in the arrangements.

Ocean Minerals—Recent developments in Congress and the LOS negotiations make it increasingly urgent that NOAA have an effective role in guiding national policy in this area. In addition to the environmental analysis being carried out under the DOMES program and the activities in the Office of Marine Minerals (under the Associate Administrator for Marine Resources), NOAA needs to be able to analyze and develop positions on pending legislation, take an active role in formulating national positions for the LOS negotiations, and investigate the scope and character of the administrative program that will be needed to conduct the Federal program that emerges. Because the nature of the program is still so undefined, I propose to place an ocean minerals office in the policy and planning office to carry out these functions until Congress creates an operational program. If NOAA is designated to head that program, an operating Office designed to implement the legislative mandate would be created at that time

Marine Mammals and Endangered Species—NOAA currently has legal responsibility for the protection of marine mammals (such as porpoise and whales) and endangered marine species (such as sea turtles). Increased fishing activity and modern technology have made these protection programs more essential and their impact on economic activity more severe. These programs are presently administered by a division reporting to an Associate Director of the National Marine Fisheries Service (NMFS). With this arrangement, it is difficult for these issues to get the attention they deserve before they become unmanageable controversies. At the same time, the program cannot be completely separated from the fisheries because it is so heavily dependent upon the research conducted by the regional fisheries centers of NMFS. I have concluded that the best course of action is to raise the level of this program so it reports directly to the Assistant Administrator for Fisheries, and I will take that step as soon as I have reviewed the question with my selection for that position.

Climate Research—The drought and severe winter, combined with increasing scientific concern about the climatological impact of heat, aircraft exhaust, and CO_2, have generated a growing demand for a coordinated government-wide program of climate research. NOAA is generally acknowledged as the logical focal point for such a program, and efforts are already underway in Congress and the Executive Branch to design an effective plan. NOAA has already set up an informal coordinating office. I believe that this arrangement should be formalized into a National Climate Policy Office reporting to the Assistant Administrator for Research & Development, and I propose to take that step as soon as I have reviewed the question with my choice for that position.

Ocean Management—The most forward-looking proposal to emerge from the analyses of NOAA reorganization called for creation of an Office to assess the impact of alternative uses for intensely used ocean areas and recommend patterns of development that will result in optimum benefit for the community as a whole. At the present time no agency carries out this function because ocean use is pursued by a number of mission-oriented agencies and private enterprises. NOAA is the primary repository in the government for the information, the scientific and technical skills, the experience (under the Deepwater Port Act, the Coastal Zone Management Act, and the Fish and Wildlife Coordination Act) for making such evaluations. Although there is no formal legal authority for NOAA (or any other Federal agency) to make binding ocean use decisions, I believe that effectively articulated NOAA assessments of proposed ocean developments can have a salutory effect on the quality and foresightedness of these decisions. I was pleased to find widespread agreement with this view in my consultations on reorganization. Organizationally, this program could be located in one of several places. It should be close to the leadership of the agency because of its interdepartmental and potentially controversial functions. It could be a separate major element headed by an Assistant Administrator, an adjunct to the Coastal Zone Management program (with which it has the most affinity), or a smaller office drawing its information and advice from other parts of the agency. I propose the latter option, at least initially, until I have had an opportunity to see how the ocean management effort actually works and whether Congress or the President is willing to formalize this role for NOAA. The office would be headed by a Director and report directly to the Administrator.

IV. THE NEW NOAA ORGANIZATIONAL STRUCTURE

On the basis of the ideas discussed above, I recommend the following organizational structure for NOAA:

A. The line elements

The line elements of the new NOAA organization are the following:

An Assistant Administrator for Fisheries, who is responsible for all aspects of the fisheries program, including the fisheries-related activities formerly conducted by the Associate Administrator for Marine Resources and the Director of the National Marine Fisheries Service. His/her responsibilities include the marine mammal and endangered species protection programs.

An Assistant Administrator for Coastal Zone Management, who conducts the coastal zone management program and the coastal energy impact program as they are presently constituted. (The responsibilities of the Office of Ocean Management may be placed under this Assistant Administrator once the bulk of the state CZM plans have been approved.)

An Assistant Administrator for Oceanic & Development, who has overall responsibility for internal environmental research (the Environmental Research Laboratories), ocean technology development (the Office of Ocean Engineering), and support for university research and advisory services (the Sea grant program). This Office, which will be located in Washington, coordinates NOAA research programs with research and technology development programs of other Departments, industry, the National Academy of Sciences and similar national professional organizations, and international research programs like GARP. It promotes the transfer of research information and new technology to the other components of the NOAA organization and coordinates the development and implementation of a national climate research plan. With this arrangement, the Director of the Environmental Research Labs in Boulder, Colorado, will be able to concentrate on improving the quality and direction of NOAA's in-house research effort and strengthening its ties to academia at the research level.

An Assistant Administrator for Oceanic & Atmospheric Services, who has responsibility for the National Weather Service, the National Environmental Satellite Service, the National Ocean Survey, and the Environmental Data Service, and serves as NOAA's liaison to the World Meteorological Organization. This Office integrates service programs and establishes priorities to assure the expansion of the most needed services and the elimination of those services with the least general utility. * * *

It evaluates alternative ocean uses, develops overall plans for areas of particularly intense activity, and brings NOAA's views to bear in public and interagency determinations of policy on such proposals. Although it has a program responsibility in the organization, it involves a small staff that makes use of information derived from the research and monitoring activities of other line elements. Because of the high visibility and the interagency character of its activities, this Office reports directly to the Administrator, rather than as an element of one of the other line offices. Because of its mandate, this Office will have a close relationship to the Office of Policy and Planning.

An Office of Budget & Program Evaluation, which remains as a separate entity, with greater emphasis on program evaluation than in the Programs and Budget Office.

A General Counsel, Congressional Liaison, and Director of Public Affairs, who remain as they were in the former organizational structure, except that the General Counsel will be upgraded to an Executive Level V to parallel the Assistant Administrators.

V. BUDGET AND PERSONNEL IMPLICATIONS

The primary purpose of this reorganization is to improve NOAA's capability to carry out its program objectives and play an innovative leadership role. The proposed new structure will add to NOAA's efficiency.

Several new positions will be created, some will be abolished. These changes will be needed, not because of the reorganization itself, but a need to add persons in the fields of economics, political science, resource management, law, and regulatory policy—skills NOAA needs to do its job. For this purpose I will need approximately six new non-science supergrades.

Certain personnel-related matters will require formal action through a reorganization order of the President or through legislation:

The Associate Administator for Coastal Zone Management is given that title by statute. In the new organization that position is parallel to positions with the title of Assistant Administrator, and it should be redesignated.

Two additional Executive Level V positions

are needed to raise all of the Assistant Administrators and the General Counsel to that rank.

The Assistant Administrator positions should not carry with them career status, as they presently do, in light of the increasing policy responsibility involved.

None of the changes described above requires action before the reorganization plan can become operational.

VI. EFFECTIVE DATE AND IMPLEMENTATION

If you approve, I intend to put this reorganization plan into effect by or on October 1, 1977. In the interim, I will seek your concurrence on my selection of candidates for the positions of Deputy Administrator, Associate Administrator, and each of the Assistant Administrators. I will also begin to develop the operating procedures and accounting systems for the new organization.

JOINT REFERRAL

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act, which was received from the House earlier today, be jointly referred to the Committees on Commerce, Science, and Transportation, and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 1:45 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 1:45 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this request so as to accommodate Senator JACKSON'S Energy Committee in its deliberations on the last of the energy measures to be reported from that committee dealing with the President's package, the utility rate reform measure, and also to accommodate the Finance Committee, which is working on energy legislation, and in addition thereto, to accommodate conference committees and other committees which will be meeting on tomorrow.

I should add to that, this will also accommodate the Human Resources Committee which is meeting on the minimum wage bill tomorrow.

These are all pieces of legislation that are considered by the leadership to be measures that should be acted on by the Senate before the current session ends.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Energy and Natural Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1.18 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for one year, and for other purposes.

The House disagrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978; agrees to the conference on the disagreeing votes of the two Houses there requested by the Senate; and that Mr. GIAIMO, Mr. ASHLEY, Mr. STOKES, Ms. HOLTZMAN, Mr. DERRICK, Mr. LEHMAN, Mr. SIMON, Mr. FISHER, Mr. MATTOX, Mr. LATTA, Mr. CONABLE, Mrs. HOLT, and Mr. ROUSSELOT were appointed managers of the conference on the part of the House.

The House has passed the following bills, each with amendments in which it requests the concurrence of the Senate:

S. 1131. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

S. 1307. A bill to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes; and

S. 1522. A bill to increase the appropriations authorization for fiscal years 1977 and 1978 and to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972, and for other purposes.

The House has agreed to the concurrent resolution (H. Con. Res. 282) making apportionment of funds for the National System of Interstate and Defense Highways, in which it requests the concurrence of the Senate.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 8094. An act to promote the accountability of the Federal Reserve System; and

H.R. 8701. An act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

At 3:53 p.m., a message from the House of Representatives announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3454. An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes;

H.R. 4341. An act to amend title 38, United States Code, to eliminate the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs;

H.R. 6803. An act to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes, as amended;

H.R. 8175. An act to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; and

H.R. 8423. An act to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that Act, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Irene Tinker, of Maryland, to be an Assistant Director of the ACTION Agency.

Mary Frances Cahill Leyland, of New York, to be an Assistant Director of the ACTION Agency.

William P. Dixon, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

Charles N. Van Doren, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

Paul H. Boeker, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

William B. Schwartz, Jr., of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas.

Frank H. Perez, of Virginia, for the rank of Minister during the tenure of his assignment as the State Department SALT representative at Geneva, Switzerland.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Lowell Bruce Laingen, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta, to which office he was appointed during the last recess of the Senate.

Mari-Luci Jaramillo, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Raul H. Castro, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

John Richard Burke, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Maurice Darrow Bean, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

Marshall Darrow Shulman, of Connecticut, for the rank of Ambassador during the tenure of his service as Special Adviser to the Secretary of State of Soviet Affairs.

(The foregoing nominations from the Committee on Foreign Relations were re-

ported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul H. Boeker.

Post: U.S. Ambassador to Bolivia.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self. None.

2. Spouse Margaret C. Boeker: none.

3. Children and spouses:

Names: Michelle R. Boeker, none; Kent E. Boeker, none; Katherine M. Boeker, none.

4. Parents: Names: Victor and Esther Boeker, $10 annually, 1973–1976, Republican National Committee.

5. Grandparents: Names: deceased.

6. Brothers and spouses:

Names: Bruce and Barbara Boeker, none. Ralph and Marilyn Boeker, none.

7. Sisters and spouses: Names: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge the information contained in this report is complete and accurate.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

POLITICAL CONTRIBUTIONS

Nominee: William B. Schwartz, Jr.

Post: Ambassador, Bahamas.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1973

August 9, $50.00, Wyche Fowler for Council President.

August 29, $100.00, Democratic Party.

September 7, $400.00, Sam Massell.

October 5, $50.00, Wyche Fowler.

1974

May 8, $25.00, Horton for the House Committee.

May 29, $10.00, Democratic Party of Georgia.

July 19, $25.00, Ed Garrard.

July 23, $50,00, Andrew Young.

August 2, $50.00, Ray Abernathy.

August 6, $100.00, Bert Lance.

August 12, $50.00, Charlie Brown.

November 20, $500.00, Jimmy Carter

1975

May 29, $200.00, Jimmy Carter Presidential Campaign.

September 29, $200.00, Jimmy Carter Presidential Campaign.

December 23, $100.00, Jimmy Carter Presidential Campaign.

1976

July 28, $10.00, Committee to Keep Judge William H. Alexander.

October 15, $20.00, Dollars for Democrats.

October 15, $150.00, Andrew Young.

1977

January 24, $250.00, Wyche Fowler.

March 17, $200.00, Wyche Fowler.

March 21, $250.00, Sam Nunn.

Political contributions by Sonia W. Schwartz

1975

November 7, $20.00, Jimmy Carter Presidential Campaign.

1976

February 14, $25.00, Carter Campaign.

April 16, $200.00, Carter Campaign.

April 23, $55.00, Women's Republican Club of Sarasota.

May 20, $100.00, Carter Campaign.

June 8, $650.00, Jimmy Carter.

3. Children and Spouses

Robert C. Schwartz and Andy C. Schwartz, $100.00, 2/14/76, Jimmy Carter Presidential Campaign; $20.00, 10/24/76, Andy Young Campaign; $165.00, 1977, Georgia Banking Company Federal Political Action Committee Trust (Pledge to be paid monthly $13.75 a month/$41.25 has been contributed to date.)

Arthur Jay Schwartz and Joyce S. Schwartz, $50.00, 10/12/73, Wyche Fowler Campaign; $100.00, 8/20/73, Wyche Fowler; $25.00 10/19/1976, Andrew Young Campaign for Congress; $100.00, 6/3/76, Jimmy Carter Campaign for President; $150.00, 2/3/77, Wyche Fowler Campaign for Congress.

William B. Schwartz, III, $22.50, 1973, Wyche Fowler Campaign; $5.00, 1973, Ray Abernathy; $100.00, 1/28/74, Financial Committee for Sam Nunn; $100.00, 3/17/75, Jimmy Carter Presidential Campaign; $100.00, 9/23/75, Douglas Anderson Campaign; $40.23, 2/14/76, Frances Howell (to pay for party for Jimmy Carter); $39.22, 7/14/76, Andrew Young for Congress; $100.00, 10/25/76, Andrew Young for Congress.

6. Brothers & Spouses

Mr. and Mrs. J. Lambert Schwartz, $100.00, 10/15/75, Jenrette for Congress; $80.00, 3/22/76, Horry County Democratic Party-County Council; $50.00, 7/7/76, James Stevens Campaign Fund; $10.00, 10/18/76, Horry County Democratic Rally and Dinner.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Frank H. Perez.

Post: Minister U.S. S.A.L.T. Rep. Geneva.

Nominated: Aug. 22, 1977.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Names: Raquel, wife. Children: Tony (15), Monique (14), Nicholas (8).

4. Parents: Names—Deceased 1969 and 1971.

5. Grandparents: Names—Deceased.

6. Brothers and Spouses: Brother, Louis V. Perez and Marje Perez.

7. Sisters and Spouses: Sister, Margaret Burnett and John Burnett.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward Marks.

Post: Ambassador.

CONTRIBUTION, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: none

2. Spouse: none.

3. Children and Spouses: none.

4. Parents: none.

5. Grandparents: none.

6. Brothers and Spouses: none.

7. Sisters and Spouses: Mr. and Mrs. David Rosenfeld, $25, 1976, Jim Llyd; $15, 1976, Jerry Brown; $25, 1976, Jimmy Carter.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Lowell Bruce Laingen.

Post: Ambassador to the Republic of Malta.

Nominated: September 24, 1976.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: none.

2. Spouse: none.

3. Children and Spouses: none.

4. Parents: none.

5. Grandparents: none.

6. Brothers and Spouses: none.

7. Sisters and Spouses: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Mari-Luci Jaramillo.

Post: Honduras.

Nominated: 4–10–77.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Ross and Kristin Ulibarri, none; Carla and Stephen Potter, none; Richard Ulibarri, none.

4. Parents: Elvira Antuna, none.

5. Grandparents: Juanita Tafoya, none.

6. Brothers and Spouses: Maurilio (Bud) and Pat Antuna, none.

7. Sisters and Spouses: Elvira and Perfecto Romero, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Raul H. Castro.

Post: U.S. Ambassador.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self

1. Raul H. Castro: Not to exceed $5,000.00 for my own Gubernatorial campaigns of 1970 and 1974, 1970 and 1974, Raul H. Castro, Governor Committee; $100.00, 1971, Ruben Romero (candidate for Tucson City Council); $75.00, 1976, Ernie Hernandez (candidate for Ariz. State Legislature); $100.00 per year, 1974, 1975 and 1976, Arizona State Democratic Party; Fund raising dinners for

Congressman Udall, Sen. De Concini and perhaps some other candidate whose name I do not recollect. Each dinner was for $100.00 per plate, 1974 and 1976, Mo Udall for Congress Committee; DeConcini for U.S. Senate Committee; (Fund raising dinners by committees).

(Above is my personal recollection)

I did not make any financial contributions in the 1976 Presidential campaign, but personally campaigned on behalf of President Carter in Chicago, Illinois, State of Texas and California. Arizona

2. Spouse: None.
3. Children and Spouses: None.
4. Parents: None.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John Richard Burke.

Post: Ambassador to Jamaica.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: None.
2. Spouse: None.
3. Children and Spouses: None.
4. Parents: Katherine Burke, none.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Maurice Darrow Bean.

Post: Ambassador to Burma.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: None, except as provided for under Block 8, IRS Form 1040A.
2. Spouse: None, except as provided for under Block 8, IRS Form 1040A.
3. Children and Spouses: Karen M. Bean, none; Linda D. Bean, none.
4. Parents: Everett T. and Vera M. Bean, none.
5. Grandparents: Deceased.
6. Brothers and Spouses: John M. and Lovetta K. Bean—none, except as provided for under Block 8, IRS; Everett and Arminta Bean, none.
7. Sisters and Spouses: Alice D. and Roy E. Bradshaw—none, except as provided for under Block 8, IRS Form 1040A; Cordelia M. and Willie Patterson—none, except as provided for under Block 8, IRS Form 1040A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Marshall Darrow Shulman.

Post: Special Advisor to the Secretary of State.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

(If none, write none)

1. Self: Marshall D. Shulman: $25, 3/22/76, Morris Udall.
2. Spouse: Colette Shulman.
3. Children and Spouses: Lisa Shulman, none; Michael Shulman, none.
4. Parents: Bessie Waldman Shulman, none.
5. Grandparents: Deceased.
6. Brothers and Spouses: Lee H. Shulman & Wife, Joyce, none.
7. Sisters and Spouses. None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Forrest J. Gerard, of Maryland, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. ABOUREZK. Mr. President, from the Select Committee on Indian Affairs, I report favorably the nomination of Forrest J. Gerard, of Maryland, to be an Assistant Secretary of the Interior, and I ask unanimous consent that a financial statement and biographical sketch of the nominee be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENT

Cash on hand and in banks, $10,461.

U.S. Government securities—add schedule, U.S. Savings Bonds, $2,400.

Real estate interests, including mortgages—add schedule, $53,000.

Personal property, $10,000.

Life insurance—cash value, $6,544.

Other assets—itemize:

Common Stock,[1] Forrest Gerard and Associates, $15,000.

Automobiles (2), $7,558.

Total assets, $104,963.

Notes payable to banks—secured, $2,400.

Notes payable to others, $6,161.

Accounts payable, $1,592.

Real estate mortgages payable—add schedule, $13,000.

Total liabilities, $23,153.

Net worth, $81,810.

This is my wholly-owned consulting business by which I am employed full time and whose affairs will be terminated upon notification to me that my nomination has been confirmed by the United States Senate. The amount shown is the estimated payout to me on dissolution.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers—None, other than that shown in footnote 1 on the financial statement.

2. Are any assets pledged? No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

[1] Forrest Gerard and Associates, Inc., 101 2nd Street, NE., Washington, D.C 20002.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Forrest J. (Joseph) Gerard.

Postion to which nominated: Assistant Secretary of the Interior for Indian Affairs.

Date of nomination: July 12, 1977.

Date of birth: Jan. 15, 1925.

Place of birth: Browning, Montana.

Marital stataus: Married.

Full name of spouse: Klaura Cecelia Pugh Gerard.

Name and ages of children: Patricia Gerald Spangler, 27; Margaret Gerard William, 26; Stanley Joseph Gerard, 22; Rebecca Ann Gerard, 20; Jennifer Rose Gerard, 15.

Education: Browning High School, 1940–1943, High School Diploma.

Montana State Univ., 1946–1949, BA–Bus.

American Management Assoc., 1963–1964 (4 Mos), Certif.

Honors and awards: List below all scholarships, fellowships, honorary degree, military medals, honorary society memberships, and other other special recognitions for outstanding service or achievement—

1976—Heller Award (National Congress of American Indian),

1966—Congressional Fellowship (Government Fellow),

1966—Indian Achievement Award, Indian Council Fire, Chicago, Ill.,

1964—Special Task Force on Title II (Community Action Programs-Indian Emphasis) to the White House Task Force on Poverty,

1963–1964—American Management Association Institute, New York, N.Y.

Advisory Committee, Capital Conference on Indian Poverty, the Washington Cathedral, Washington, D.C.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations—

Arrow, Inc., Board Member, 1967 to date.

American Political Science Assoc., Cong. Fellow, 1966–1967.

National Congress of American Indians, 1957 to date

American Legion, 1950–1953.

Kiwanis, 1953–1955.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and date—

Forrest Gerard & Assoc., Inc., Washington, D.C., Consultant, Nov. 1976 to date.

Committee on Interior & Insular Affairs, U.S. Senate, Washington, D.C., Jerry T. Berkler, Legislative, Feb. 1971 to Nov. 1976.

Office of Indian Affairs, HEW, Washington, D.C., Dec. 1967-Jan. 1971, Program Coordinator, Jos. Coleman, Depy. Asst. Secretary.

Bureau of Indian Affairs, Office of Legislative Liaison, Washington, D.C., Nov. 1966-Nov. 1967—Legis. Coordinator, Robert L. Bennett, Commissioner.

U.S. Congress, Washington, D.C., Cong. Al Ullman & Sen. Geo. McGovern, Admin. and Legislative—Fellowship Program, Jan. 1966-Aug. 1966.

U.S. Public Health Service, Washington, D.C., Dr. Carruth J. Wagner, Sept. 1957-Oct. 1966, Training, Public Health.

Wyoming Tuberculosis & Health Assoc., Cheyenne, Wyo., June 15-Aug. 1957, Rev. Robert L. Bell, Pres. Voluntary Health Agency, Career Development.

Montana Tuberculosis Assoc., Helena, Mont,. July 1953-May 1955, Harold Casebolt, Exec. Director, Voluntary Health Agency, Career Dvlpt.

Montana State Dept. of Public Instruction, Helena, Mont. Dec. 1949-June 1953, K. W. Bergan (deceasd), Administration, Career Development.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or position—

See employment section listed above.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written—

Congressional Responsibility for American Indian Policy: History, Current Issues and Future Goals. October 1976.

Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated—

During 1977, I acted as consultant to the Yakima Law and Order Committee on a budget planning document which was to be submitted to the Bureau of Indian Affairs.

List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy—

(A) On behalf of the Ak-Chin Indian Community I worked for the introduction and passage of S. 1582 "Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States" and its compansion bill, H.R. 8099 (95th Congress).

(B) I worked on behalf of the All Indian Pueblo Council on several matters:

(1) General lobbying, including work on appropriations;

(2) Worked on the concept of a bill involving 11.6 acres of land. The bill is now S. 1509 "To provide for the return to the United States of title to certain lands conveyed to certain Indian pueblos of New Mexico and for such lands to be held in trust by the United States for such tribes".

(C) The Quinault Indian Nation utilized my services as follows:

(1) Work on appropriations;

(2) To devise a legislative concept of a long-range land restoration program;

(3) To monitor Executive Branch activities in the area of Indian Treaty fishing rights.

(D) For the Makah Tribe I worked on appropriation legislation and monitored Executive Branch activities in the area of Indian Treaty fishing rights.

Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items—

Resolution of potential conflicts arising from the above items will be accomplished by disassociation from involvement in the particular items. Thus, for example, I would not testify at hearings on S-1509.

QUALIFICATIONS

State fully your qualifications to serve in the position to which you have been named—

I have spent nearly 20 years working in the field of Indian affairs, at the local, state and national level. I am an enrolled member of the Blackfeet Tribe and was born and reared on that reservation in northwestern Montana. My academic and professional training and my work experiences have given me a keen insight into the unique relationship Indian tribes have with the Federal Government and the trust responsibility the Federal Government has with these tribes.

Because of my work experience, professional training and personal background, I feel I am qualified to serve as the Assistant Secretary of the Interior for Indian Affairs.

After service in the military during World War II, I received a BA from Montana State University, and since that time I have received additional training in management and legislation.

I became acquainted with federal-state relationships while serving as a Federal Field auditor with the State of Montana upon graduation from college. After four years in that position, I worked with voluntary health agencies in Montana and as State Director of an association in Wyoming. During this time I worked closely with board members, federal, state and local health officials and the general public.

In 1957 I was appointed Tribal Relations Officer for the Indian Health Service with the Department of Health, Education and Welfare. During this time I began to work at the national level in the area of Indian affairs. My work put me in contact with national Indian organizations, major religious denominations and other national organizations concerned with Indian problems.

I was selected to participate in the Congressional Fellowship Program and through that experience gained insight into the workings of the U.S. Congress.

At the conclusion of my fellowship, I joined the Bureau of Indian Affairs as Legislative Liaison Officer and continued to work closely with the Congress. In 1967 I accepted a position in the Office of the Secretary of the Department of Health, Education and Welfare, and I initiated a department-wide effort to assure greater Indian involvement and participation in HEW's programs and services.

In 1971 I joined the staff of the Senate Committee on Interior and Insular Affairs as professional staff member for Indians. While serving in that position I was able to participate in the development and passage of major legislation which now serves as the basis for policy in both the Bureau of Indian Affairs and the Indian Health Service.

More recently I established my own consulting firm and represented several Indian tribes before the legislative and executive branches of the Federal Government.

With this background in Federal-State relationships, and both the Executive and legislative branches of the Federal Government, I believe I have gained the knowledge and experience necessary to allow me to deal with the major Indian issues of today and to fulfill my obligations to the Administration and the Indian community.

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate—

If confirmed, I shall terminate all contracts with clients and dissolve the corporation of which I serve as president.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization—

None, as far as I can determine at this time.

3. Has anybody made you a commitment to a job after you leave government?—

No.

4. Do you expect to serve the full term for which you have been appointed?—

Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.—

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated—

I have no such investments, obligations, liabilities or other relationships with the possible exception of an appearance of a conflict of interest being raised by virtue of the fact that I am an enrolled member of the Blackfeet Tribe of Montana.

SECOND CONCURRENT RESOLUTION ON THE BUDGET (H. CON. RES. 341)—CONFERENCE REPORT (NO. 95-428)

Mr. CHILES submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978 which was ordered to be printed.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 282) making apportionment of funds for the National System of Interstate and Defense Highways was referred to the Committee on Environment and Public Works.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 3702. An act to amend title 10, United States Code, to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title, and for other purposes; to the Committee on Armed Services.

H.R. 8094. An act to promote the accountability of the Federal Reserve System; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3454. An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4341. An act to amend title 38, United States Code, to eliminate the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs; to the Committee on Veterans' Affairs.

H.R. 8175. An act to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 8423. An act to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE:

S. 2086. A bill to extend Letters Patent numbered 2,322,210, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE:

S. 2087. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from any payment limitations; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. METCALF:

S. 2088. A bill to provide, in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463 as amended by Public Law 94–409, for the repeal of advisory committees no longer carrying out the purposes for which they were established; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 2087. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from any payment limitations; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOLE. Mr. President, I am introducing a bill today to exempt disaster payments, paid to farmers because of disasters to their crops, from the payment limitation for their 1977 crops.

The Food and Agriculture Act of 1977 makes this correction for the 1978–81 crops. Farmers who may suffer crop losses because of disasters like the present flood in Kansas should not be penalized by denial of crop disaster assistance because of the payment limit. The payment limitations for 1978 are double the present level insuring adequate protection from low prices and at the same time exempting any payments made under the crop disaster provisions.

This bill when enacted will provide equity for the producers who are already in an economic stress situation that may have suffered some crop disaster as well.

By Mr. METCALF:

S. 2088. A bill to provide, in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463 as amended by Public Law 94–409, for the repeal of advisory committees no longer carrying out the purposes for which they were established; to the Committee on Governmental Affairs.

HEARINGS SCHEDULED ON ADVISORY COMMITTEE BILLS

Mr. METCALF. Mr. President, today I am introducing President Carter's proposal to abolish 21 Federal advisory committees which the administration contends are no longer carrying out the purposes for which they were established.

The President announced on August 24, that he is recommending elimination of 480 advisory committees, or 40 percent of the 1,189 advisory committees subjected to a Government-wide, zero-base review he ordered in February. The bill I introduce today would implement his recommendations as to committees which were created by law.

I would like to announce that the Subcommittee on Reports, Accounting, and Management will hold hearings on Tuesday, September 27 and Thursday, September 29, on this legislation and on three bills to amend the Federal Advisory Committee Act. They are:

First. S. 1329, the Federal Advisory Committee Act Amendments of 1977, introduced by Senator LEAHY;

Second. S. 1838, the Fair Representation for Small Business Act, introduced by Senator NELSON; and

Third. S. 1847, the Federal Advisory Committee Act Amendments of 1977, cosponsored by Senator HATFIELD, Senator LEAHY, and me.

The sponsors of these measures will be invited to testify, as will the chairmen of standing committees of the Senate having jurisdiction over advisory committees that the President proposes to abolish. Administration witnesses will of course be invited to explain why these committees have been recommended for termination.

The hearings on September 27 and September 29 will be held in 6202 Dirksen, beginning at 10 a.m. both days. Persons who wish additional information regarding the hearings should call Gerald Sturges of the subcommittee professional staff at 224–1474.

The Subcommittee on Reports, Accounting, and Management has tried to uphold the declaration of the Federal Advisory Committee Act that the number of advisory committees should be kept to the minimum necessary and that committees should be terminated when they are no longer carrying out the purpose for which they were established.

However, if an advisory committee performs a useful function and is not duplicative, its elimination should be weighed against alternative methods of obtaining the advice.

Mr. President, I ask unanimous consent that the text of the administration bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Advisory Committee Termination Act of 1977".

SEC. 2. REPEALS.—The following advisory committees are hereby abolished:

(1) The Advisory Council on Environmental Education, authorized by section 3(c) of the Environmental Education Act (84 Stat. 1312, 20 U.S.C. 1532(c));

(2) the Board of Tea Experts, authorized by the Tea Importation Act (29 Stat. 605, 21 U.S.C. 42);

(3) the Federal Hospital Council, authorized by section 641 of the Public Health Service Act (78 Stat. 458, as amended by 84 Stat. 344, 2 U.S.C. 291k);

(4) the Health Insurance Benefits Advisory Council, authorized by section 1867 of the Social Security Act (79 Stat. 329, 42 U.S.C. 1395dd);

(5) the National Advisory Council on Nurse Training, authorized by section 851 of the Public Health Service Act (78 Stat. 917, as amended by 89 Stat. 366, 42 U.S.C. 298);

(6) the Program Review Teams for the States of Arkansas, California, Florida, Kansas, Massachusetts, Michigan, New York, Pennsylvania, Utah, and Washington, authorized by section 1862(d)(4) of the Social Security Act (86 Stat. 1408, 1409, 42 U.S.C. 1395y(d)(4);

(7) the Rape Prevention and Control Advisory Committee, authorized by section 213 (c) of the Community Mental Health Centers Act (89 Stat. 328, 42 U.S.C. 2689q(c));

(8) the National Insurance Development Program Advisory Board, authorized by section 1202(a) of the National Housing Act (82 Stat. 556, 12 U.S.C. 1749bbb–1);

(9) the Advisory Committee to the Export-Import Bank of the United States, as authorized by section 3(d) of the Export-Import Bank Act of 1945, as amended (59 Stat. 527, 12 U.S.C. 635a(d));

(10) the Advisory Committee on Cemeteries and Memorials, authorized by section 2(a) of the National Cemeteries Act of 1973 (87 Stat. 75, 38 U.S.C. 1001);

(11) the Technical Pipeline Safety Standards Committee, authorized by section 4 of the Natural Gas Pipeline Safety Act of 1968 (82 Stat. 722, 49 U.S.C. 1673(a)); and

(12) the Federal Advisory Council on the Employment Service, authorized by Section 11 of the Act of June 6, 1933 (Wagner-Peyser Act) (48 Stat. 113, 29 U.S.C. 49j).

SEC. 3. The head of each agency concerned shall take such action as may be appropriate to terminate the activities of the committees referenced in section 2. Funds appropriated for the expenses of the advisory committees may be expended for purposes of terminating their activities. Unobligated balances of appropriated funds for such committees remaining after termination are hereby rescinded.

SEC. 4. The advisory committees referenced herein shall terminate upon enactment of this Act.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. WILLIAMS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 50, the Full Employment and Balanced Growth Act.

S. 1820

At the request of Mr. METCALF, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1820, to establish programs for the maintenance of natural diversity.

S. 1921

At the request of Mr. DOLE, the Senator from New Mexico (Mr. DOMENICI) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 1921, to amend the Internal Revenue Code.

AMENDMENTS SUBMITTED FOR PRINTING

COMPREHENSIVE NATIONAL ENERGY POLICY—S. 1469

AMENDMENT NO. 854

(Ordered to be printed and to lie on the table.)

Mr. HART. Mr. President, today I am submitting an amendment to S. 1469, a bill to establish a comprehensive national energy policy. This amendment, called an independent producers' exemption,

will remove the price ceiling on new natural gas produced by independent companies.

The independent producers exemption will achieve two equally important goals. The first goal is to expand natural gas exploration and production through legitimate economic incentives. The second goal is to establish a fair program which will insure that many rigorously competitive firms supply the dominant portion of the country's natural gas. These two goals must be pursued together to insure that consumers have a maximum amount of natural gas consistent with sound production practices, but also that they have the gas at the lowest economic price.

The predominant feature of this amendment is to exempt from price controls new gas produced by firms which qualify as "independent." An independent firm is defined as one which either does not produce more than 1 percent of U.S. production, or else is not horizontally or vertically integrated.

Another major feature of this amendment is standby authority for the President to reestablish a price ceiling in the event of extraordinary supply and demand conditions. This authority will prevent consumers from bearing gas prices which might be unreasonably high in relation to the full costs of finding new gas supplies. To protect producers, the standby ceiling could be no lower than the equivalent Btu price of home heating oil—about $3 under today's conditions.

Another major feature of this amendment will exempt from price controls, in advance, new gas production by all companies from geologically-known high cost areas. This is designed to facilitate the movement of capital to the development of gas wells in deep deposits and tight formations.

In this proposal, new gas is defined as production from a new well which is 2.5 miles vertical distance or 1,000 feet horizontal distance from an existing well, or from a newly discovered reservoir. This is the same definition contained in the House passed energy bill. New gas from the Outer Continental Shelf is also included in the independent producers exemption.

New arrangements by which independents drill on leases owned by the major companies—farm outs—are discouraged. To qualify for an unregulated price, all of the rights of production from a well must accrue to independence.

This proposal is a fair way to encourage the search for new gas without posing unnecessarily high costs on consumers. Compared to the $1.75 mcf price in the administration's proposal, an independent producer may receive a price in the $2 to $3 range—about a 30-percent increase. Governmental analyses show that there is a significant increase in supply resulting from prices up to $3, but not much more supply at higher prices. Thus, this type of new gas pricing will maximize new supply.

This degree of price increase will have a small impact on consumer prices. New gas accounts for about 10 percent of gas sales annually. Independent producers now supply about a third of the new gas coming on the market. Thus, the independent producers exemption will increase the price of one-thirtieth of the new gas coming on the market each year by roughly 30 percent. This suggests about a 1-percent increase in gas prices each year.

In the event that much larger amounts of new gas come on the market, the deregulated price may be kept well below the $3 standby ceiling. No matter what the specific price, consumers are better off with more gas, even at a slightly higher price, than less new gas. Because new supplies will be developed by aggressively competitive independents, there is no concern that producers will hold new supplies off the market to maintain a shortage which will drive up prices.

The independent producers exemption combines the best ideas of those advocating higher prices to expand gas supplies, with the ideas of those desiring to minimize cost impacts for consumers.

Below I have included the text of the amendment and a fact sheet answering basic questions which might be raised.

Mr. President, I ask unanimous consent that the text of the amendment and the fact sheet be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 854

On page 43, line 14, strike "and", in line 18, strike the period and insert in lieu thereof "; and", and after such line insert the following:

"(4) to reduce the proportion of the Nation's natural gas production which is supplied by the few large, integrated oil companies, and to give new economic incentives for expansion by independent producers."

On page 44, line 20, beginning with "pro-" strike out all through the period in line 23 and insert in lieu thereof a semicolon and "or", and after such line 23 insert the following:

"(iii) the completion location of which is in a newly discovered reservoir."

On page 47, between lines 12 and 13, insert the following:

"(21) The term 'independent producer' means a producer (A) whose total sales of production (including those of any affiliate) during the previous calendar year were less than 1 percent of the total sales during such year of all natural gas produced in the United States, or (B) who, along with its affiliates is engaged solely in the business of exploring for and producing oil, natural gas, and natural gas liquids and is not engaged in any other energy business activities, including but not limited to refining, transporting, or marketing petroleum or petroleum products or exploring for, producing, transporting, processing, or marketing other energy raw materials such as coal, uranium, oil shale, or tar sands.

"(22) The term 'affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission pursuant to its rule-making authority.

"(23) The term 'exempt independent producer sale' means a sale of:

"(A) new natural gas produced from previously acquired acreage and sold by an independent producer on or after April 20, 1977;

"(B) new natural gas produced and sold by an independent producer from acreage acquired after April 20, 1977, from another independent producer or from persons who are not natural gas producers;

"(C) new natural gas produced and sold by an independent producer from acreage acquired after April 20, 1977, from a natural gas producer who is not an independent producer provided:

"(i) no natural gas producer (other than an independent producer) has any interest (including a producer interest) other than a royalty interest, in the proceeds of such sale;

"(ii) the aggregate of royalty interests owned by natural gas producers (other than independent producers) does not exceed 20 per centum of the proceeds of such sale, and

"(iii) prior to the independent producer's acquisition of its interest, no discovery well had been drilled by any person (other than another independent producer), from whom such independent producer acquired its interest in the reservoir, or

"(D) new natural gas sold by a natural gas producer under a new contract entered into by it within one year of any year during which such producer qualified as an independent producer.

"(24) The term 'producer interest' means any interest in natural gas production over which a person controls the rate of production and controls to whom first sales are made.

"(25) The term 'sale' with respect to natural gas means the transfer for consideration of the property interests of a person, or a part of them, in such gas.

"(26) The term 'interest in the proceeds' with respect to a sale by an independent producer does not include an option or right held by another person to convert a royalty interest in such sale to a working interest upon the occurrence of any stated contingency.

"(27) The term 'reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"(28) The term 'newly discovered reservoir' means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas.".

On page 49, strike line 22 through line 13 on page 50, and insert in lieu thereof the following:

"SPECIAL PRICING PROVISIONS

"SEC. 408. (a) Notwithstanding any other law, the first sale of high cost natural gas produced in the United States shall not be subject to price controls.

"(b) For purposes of this section, the term 'high cost natural gas' means natural gas produced—

"(1) from submerged acreage located beneath more than 500 feet of water;

"(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

"(3) from geopressurized brine; or

"(4) as determined by the Commission—

"(A) from synthetic natural gas manufactured in the United States, or

"(B) natural gas produced under such conditions, including but not limited to tight formations, as present extraordinary risks and costs, with such determinations to be made on a geographical basis, and either prior to or after actual drilling has begun.".

On page 50, lines 14 and 20 and page 51, line 1, strike "(b)", "(c)", and "(d)", respectively, and insert in lieu thereof "(c)", "(d)", and "(e)".

On page 51, beginning after line 8, insert the following:

"(f) Except as provided in this subsection and notwithstanding any other law, exempt

independent producer sales shall not be subject to price regulation. If the President determines extraordinary conditions exist within the natural gas market which could be remedied by price regulation of exempt independent producer sales, the President may impose price regulations on such sales; provided, such price regulations do not set the price of exempt independent producer sales at less than the current Btu equivalent price of No. 2 home heating oil as determined on a monthly basis by the Federal Energy Administration or its successor agency.".

INDEPENDENT PRODUCERS EXEMPTION

(An amendment to S. 1469 to provide natural gas price deregulation for independent producers)

(1) What is the Purpose of This Amendment?

This amendment will exempt independent producers of natural gas from price controls on the sale of "new gas." It seeks to strengthen the independent segment of the oil and natural gas industry. Further, it will provide strong economic incentives for independents to locate new reserves and incentives for all producers to expand production in high cost areas previously considered economically impractical. Consumers will thus obtain a much greater supply of natural gas with minimal cost impact.

(2) Who qualifies as an independent producer?

The amendment defines "independent producer" as any firm whose total sales amount to less than one percent of all U.S. sales of natural gas produced in the United States in the previous calendar year *OR* any firm engaged solely in the exploration for and production of oil, natural gas and natural gas liquids.

For example, in 1976, 18 companies alone accounted for approximately 55 percent of all natural gas production. These oil and gas companies, ranging from Exxon to El Paso Natural Gas, would be subject to the price regulation provisions contained in S. 1469. On the other hand, thousands of small, independent producers would be exempt.

(3) How is "new gas" defined by this Amendment?

New gas is natural gas produced from a well drilled after April 20, 1977. The new well must be in a newly-discovered reservoir, or it must be two and a half miles horizontal distance or 1,000 feet vertical distance from an old well. This provision is identical to the House-passed definition.

The independent producers exemption is also extended to new outer continental shelf (OCS) sales in order to give independents a further incentive to acquire leases on the outer continental shelf.

(4) What will prevent the price of decontrolled gas from rising far beyond any economically justified level?

Under this amendment, the President has the standby authority during periods of extreme shortage to place a ceiling price on "exempted sales." Any such ceiling price could be no lower than 100 percent of the U.S. average Btu equivalent price of #2 home heating oil (which today is approximately $3 per mcf).

(5) What will be the impact of this proposal on Consumers?

Consumers will not be adversely affected by this proposal. Each year, new gas accounts for about one-tenth of total gas consumption, and the independents produce about one-third of all new gas. So, roughly one-thirtieth of annual gas consumption will be deregulated. Clearly, this small fraction of deregulated new gas can have only a minimal impact on average prices. Over the long run, the deregulated price for independents should increase their share of new gas production, but the effect on consumer prices should still be minimal.

(6) How much will this proposal stimulate new production?

This proposal will stimulate production by the independents and not affect production by the majors. Some independents will receive an inflow of investment funds from the national and international capital markets to purchase leases, to explore and to produce new gas. Similarly, other independents, by borrowing from local markets and using previously discovered reserves as collateral, will expand exploration into lower-risk areas previously considered economically impractical.

By purchasing leases, more independent producers will own production rights, and their large numbers will effectively prevent any slow-down of new production in order to push up the price on remaining new sales. Independents cannot control the market.

Deregulation of OCS gas for independents will also add even more new capital to OCS efforts than would occur under proposals to deregulate off-shore gas over five years. Furthermore, the deregulation of high-cost gas from old reserves on-shore will cause significant expansion in these well-known, but largely undeveloped, areas.

(7) Will high-cost reserves drilled by any producers be exempt from price controls also?

Yes, the President, through his Secretary of Energy, is directed to identify geological formations (*i.e.*, very deep wells or tight formations) where, from objective data, it can be determined that the gas will be of unusually high cost. Sales from reserves in such formations will be declared exempt from price controls in advance of drilling by *any* producers.

(8) How are "farm-outs" treated?

Independents will not be eligible for the unregulated price on natural gas sales from farm out arrangements made after April 20, 1977. To maintain a high volume of drilling in the short run, however, independents will be eligible for the unregulated price on new gas from previously existing farm-outs. The proposal is designed to provide maximum incentives for independents to purchase leases (from majors or from landowners as the majors' leases expire) and thus acquire all rights for production from new wells.

Under current "farm out" practices, an independent producer contracts to drill on land on which a non-independent (major) producer holds the gas lease. Under usual arrangements, the independent has rights to sell only 40 to 50 percent of the gas flow and the major has rights to sell the remainder.

NOTICES OF HEARINGS

AGRICULTURE TRANSPORTATION PROBLEMS

Mr. HUDDLESTON. On July 12 and 15 the Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which I chair, of the Committee on Agriculture, Nutrition, and Forestry, held hearings on transportation problems affecting agriculture, forestry, and rural development. At that time we heard testimony from users of agriculture transportation.

The subcommittee will hold additional hearings on September 27, 28, and 29 at 9 a.m., room 322 Russell Senate Office Building. At that time it is our intention to hear testimony from carriers and Government agencies.

Because of time constraints, oral testimony will be received only from selected witnesses, which, in the opinion of the subcommittee, are likely to best represent the interests affected. However, written testimony will be accepted for the record. For further information, please contact the hearing clerk, Committee on Agriculture, Nutrition, and Forestry, 322 Russell Senate Office Building, (202) 224–2035.

REGULATION OF CHEMICALS IN FOOD AND AGRICULTURE

Mr. LEAHY. Mr. President, the subcommittee on Agricultural Research and General Legislation, which I chair, has begun a series of hearings to examine the Federal Government's regulation of chemicals in food and agriculture. On September 21 and 22 we will hold the third hearing in this series. The focus of this hearing will be the "Regulation of Subtherapeutic Use of Antibiotics in Animal Feed."

This hearing has particular relevance at this time because the Food and Drug Administration recently announced its intention to withdraw most subtherapeutic uses of penicillin in livestock feed. FDA is also considering similar actions for several other specific animal drugs.

These actions are being considered because of potential risks to human health. While the subcommittee is greatly concerned about any human health risk, it is also concerned that the benefits of these inputs not be ignored.

On September 21, we will meet from 8 to 10 a.m. and the witnesses will include Commissioner Kennedy of FDA, representatives from the U.S. Department of Agriculture, and representatives from the Office of Technology Assessment.

On September 22 we will meet from 8 a.m. to 12 noon. Our witnesses will include representatives from the drug industry, livestock groups, and public interest groups. Because of the time constraints only invited witnesses will appear, however, written statements from anyone interested in this topic are welcome. The hearings will be held in room 322 Russell both days.

For further information, please call Dale Stansbury of the committee staff at 224–2035.

GOVERNMENTAL PREPAREDNESS FOR WEATHER EMERGENCIES

Mr. ROTH. Mr. President, I wish to announce that the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee will hold hearings on governmental preparedness for weather emergencies this winter. The hearings are scheduled for September 19 in the caucus room, 318, Russell Senate Office Building; September 20 and 21 in room 3302 of the Dirksen Senate Office Building. All 3 days of hearings will begin at 10 a.m.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Intergovernmental Relations, room 508, Carroll Arms, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, on September 8, 1977, the Senate Committee on the

Judiciary's Subcommittee on Separation of Powers conducted the third in a series of hearings it has scheduled to investigate constitutional and other issues related to the proposed Panama Canal treaties. As chairman, I opened the hearing with a statement which addressed my concern, and the concern of the overwhelming majority of Alabamians, over provisions of the treaties and over the ultimate effect they would have on the security of our country.

Mr. President, I believe these treaties are among the most important issues ever to come before the U.S. Senate. Certainly it is the most important single issue that the Senate has faced since I have been a Member. It is an issue that must be, and will be, debated at length, and all of the arguments must be clearly made and understood, not only by Senators but by all Americans. So that Senators may know of my position, I ask unanimous consent that my opening statement at the September 8 hearing be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JAMES B. ALLEN

The Subcommittee on Separation of Powers is convened this morning to continue the Subcommittee's investigation of Constitutional issues arising out of the new proposed Panama Canal Treaty. I am certain that most of those present this morning are aware of the central Constitutional issue under investigation; however, perhaps I should again reiterate the proposition which is the focal point of this inquiry.

Article IV, Section 3, of the Constitution of the United States provides that Congress "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The power given to Congress in that clause appears to be exclusive and, if it is an exclusive power, then the Executive is prohibited from entering into a treaty disposing of U.S. territory except with express Congressional authorization, that is, authorization by both Houses of Congress in addition to Senate approval through the treaty ratification process.

Additionally, members of the Subcommittee are also deeply concerned that the Executive Department has reached certain financial agreements with the Panamanians for substantial financial assistance outside of the context of the provisions of the treaty itself. These financial agreements, if not embodied in the treaty, will not be subjected to the normal treaty ratification process which would otherwise be the case.

The Subcommittee has further learned that the Congressional appropriations process itself may in large measure be circumvented in the implementation of proposed financial arrangements with Panama but that nevertheless substantial sums of money are proposed to be made available to Panama by unilateral Executive Branch action. The Subcommittee will therefore diligently continue to seek testimony on the full intentions of the Executive Department with respect to separately negotiated financial and banking arrangements with the Republic of Panama.

Finally, in continuing its work the Subcommittee will seek to determine the extent to which the operative provisions of the Executive Department proposal are embodied in the executive agreements rather than in actual treaty language. There are, of course, in fact two treaties—the proposed Panama Canal Treaty itself and an additional treaty which purports to provide for the neutrality of the Panama Canal. Unfortunately, these treaties are in no way to be construed as the whole agreement. Both treaties are accompanied by very lengthy executive agreements which actually contain the substance of the deal struck with Panama. These executive agreements, once implemented, would be subject to renegotiation—and we find this astonishing—every two years.

This Subcommittee, I am sure, shares a concern of many that Congress will relinquish forever any control over this country's relation with the Republic of Panama if the Executive Department is authorized to enter into a plenary relation with Panama based not, in reality, on treaty law but rather based on executive agreements authorized by treaty law but subject to change at the whim of the Executive. In short, the Subcommittee wishes to establish by its inquiry the extent to which the Executive would be given a blank check by the new proposed treaties to amend, interrupt, abrogate, or replace entirely the lengthy accompanying substantive executive agreements.

I have just returned from Alabama where in the course of the August recess I met with citizens in 37 counties. These meetings were held in most instances at the County Court House; they were widely announced and well attended. One topic was invariably raised. Notwithstanding drought, unemployment, inflation, high energy prices, low farm prices, and a host of other subjects which could easily have been foremost in mind, virtually every group I encountered wished to know the answer to one question—would the United States, in fact, give away the Panama Canal Zone? Of the thousands I spoke with, almost no one favored a policy of surrender in Panama.

Many are saying that the people need education and that with education they will come to support the giveaway of the American Canal in Panama. In my judgment, the true state of affairs is the exact opposite. Further knowledge will only strengthen the resolve of the people, and in my judgment, our all-wise federal establishment could itself well stand some education from the American citizen who has the wisdom to see the obvious fact that the Panama Canal is vital to the economic stability and military security of the United States . . . from the American citizen who has the common sense to recognize the lunacy of paying billions to an unstable pro-Marxist dictatorship for taking over billions in property belonging to the United States . . . from the American citizen who has the clarity of thought to see the reality behind the sham, the shell game, and the traveling medicine show that has passed for an open discussion of the actual provisions of this proposed new arrangement with Panama.

Perhaps, however, Americans do need education in the fine points of the Panama Canal Treaty. That education has been hard to come by of late because throughout the treaty negotiations a veil of secrecy prevented any useful information being made available either to the public or, in large measure, to the Congress. Perfunctory briefings containing no real substance and seeking no advice, to be sure, were conducted. However, until yesterday most of the information this Subcommittee has been able to obtain on the new Treaty has come from translations of speeches made by the Panamanian negotiators in Panama.

By that method we have learned that the Panamanians expect to receive during the next 23 years at least $2.262 billion in cash payments from the United States. The Department of the Treasury, when its representative testified, was apparently unable to advise the Committee of the substance of any negotiations whatsoever with Panama, yet we could read from translated Panamanian documents that the Export-Import Bank plans to lend Panama $200 million, that the Agency for International Development is to guarantee—and no doubt pay off—housing loans in the amount of $75 million, and that the U.S. Overseas Private Investment Corporation is to guarantee $20 million in loans for a new Panamanian development bank—everyone else has a bank in Panama, why shouldn't the Panamanians?

Finally, the Committee has learned not from the Department of Defense but from the Panamanians that $50 million in military aid would be provided to prop up and guarantee the continuance of the military dictatorship now oppressing the people of the Republic of Panama.

But now that the proposed Panama Canal Treaty and neutrality treaty have finally been made public, there are disclosed even more items about which the American citizen should be educated. The American citizen should learn that in addition to all the other massive payments to be made to the Republic of Panama, as the ultimate insult, it is proposed that we pay to the Republic of Panama $10 million a year for providing police services within the territory which would be ceded to Panama. We hope that during his education the American ctiizen will share our own disbelief and outrage that our great country proposes to cede United States territory to Panama and then to pay Panama for performing the normal functions of government within that same land.

We hope, too, that the American citizen will soon learn that out of 14 military bases now in the Canal Zone, only 4 would remain after implementation of this Treaty and that the 4 retained bases would be under direct Panamanian civil and political jurisdiction, subjecting thereby our Armed Forces to the dictatorial rule of the present Panamanian government. And although it is true that a status of forces agreement will provide some marginal protection to U.S. soldiers in the Canal Zone, the American citizen should learn that in essence our forces will be made subject to a code of laws based on the autocratic rule of one man and devoid of any Constitutional safeguards even remotely resembling those precious American rights now enjoyed within the Canal Zone.

Yes, there is much to learn about this proposal. Does the average citizen now know that the American flag will not be permitted to be flown in a place of honor, even at our military installations, and, according to the speeches of the Panamanian negotiators, will be permitted at our own bases only when inside and when displayed jointly with a Panamanian flag in the position of honor. Perhaps this latter point is trivial, but it typifies this entire proposed agreement . . . our flag in a broom closet and our vital Canal at the mercy of a banana republic.

So, the Subcommittee on Separation of Powers does intend to continue its investigation of these issues to insure that all the facts are made available both to the Congress and to the people. We will be, I am sure, greatly aided in our efforts by the witnesses scheduled to appear at today's hearings.

TERRORISM: THEME AND VARIATIONS

Mr. CASE. Mr. President, today's editorial in the Washington Post serves to remind us that random terrorism at home and abroad continues to threaten the lives of innocent citizens. In Washington last week we were lucky. Terrorists only blew up a flower pot and broke windows. Nobody was hurt but the editorial is right to point out that the real message was:

. . . Simply further notice that there are a few people around who have abandoned rational politics and have carried their causes

into that bleak and spectral landscape lying beyond the boundaries of sanity.

Tomorrow, the Committee on Foreign Relations will hold hearings on international terrorism. The committee will review the threat which terrorists pose to our society and consider measures which we and others can take to prevent continued violence. Through tightened security measures, we have succeeded in discouraging some acts of terror such as aircraft hijacking, but our Government, alone and with others, must intensify efforts to discourage terrorism in all its forms.

Mr. President, the concluding lines of the Post editorial provide a thoughtful starting point for the committee's consideration of this issue:

Any minority, however tiny, is entitled to a hearing. But nobody has a right to endanger other people's lives in pursuit of his own claims on a government. A crime that claims a political purpose is no less a crime.

I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TERRORISM: THEME AND VARIATIONS

The two bombs that went off in Washington the other morning delivered a message—but not the one intended by the bombers. According to the customary anonymous phone calls, they were the work of anti-Castro Cubans protesting human-rights violations or, in another version, the Panama Canal treaties. The real message was less confused. It was simply further notice that there are a few people around who have abandoned rational politics and have carried their causes into that bleak and spectral landscape lying beyond the boundaries of sanity.

The past week offered a variety of examples of the virus at work. In West Germany, radicals kidnaped an industrialist, killing his driver and three policemen in the process. They are now trying to trade their prisoner for several terrorists held in German jails. In Holland, young Moluccans turned to violence again. Last spring, seven Moluccans with guns seized a train and a school. When their trial began this week, other Moluccans rioted. Two schools were burned, and a policeman was shot and wounded.

Each of these instances took place in a country with democratic government in good working order at both the national and local levels. The people who turned to terror were the outsiders, too few and too wildly far from the majority to have any influence on legitimate politics. Usually they want things that no one can give them.

The Moluccans snipers want the Dutch government to obtain the independence of the islands from which their parents came. But the islands belong to Indonesia, which does not welcome advice from the Dutch on territorial matters. As for the German kidnapers, their political purposes are entangled in a wild rhetoric that strikes most other Germans as incomprehensible. The public response to them has chiefly been a discussion as to whether police protection is adequate. The Cuban bombers here in Washington—if in fact they are Cuban—have succeeded only in giving a crazy and disreputable air to the causes that they presumably wish to promote. At least the bombs did not injure anyone, although that was largely a matter of luck.

What can governments do about this kind of a challenge? No more, and no less, than Washington's law enforcement authorities did during the Hanafi siege and its aftermath. As long as the terrorists hold hostages, the authorities must bargain as best they can. When the hostages are released, the authorities must prosecute. When the terrorists are convicted, the sentences must be severe in proportion to the offenses—as, in the Hanafis' case, they were. Any minority, however tiny, is entitled to a hearing. But nobody has a right to endanger other people's lives in pursuit of his own claims on a government. A crime that claims a political purpose is no less a crime.

HAWAII PEACE CORPS VOLUNTEERS STILL IN THE FOREFRONT OF CHANGE

Mr. MATSUNAGA. Mr. President, when the Peace Corps was established in the early 1960's, the island of Hawaii was selected to be the site of a major training facility for Peace Corps volunteers. It was—so to speak—the jumping off point for Peace Corps volunteers bound for the developing nations of Asia and the Pacific basin. Volunteers from all over the country trained on the big island, but its proximity attracted a particularly large number of volunteers from the State of Hawaii. They were excited by the concept of voluntary service to their country and the developing nations on a people-to-people basis.

Although the Peace Corps has undergone a number of changes since those early days, the same basic concept of volunteer service still motivates the young people of Hawaii. I was very pleased to learn that the new director of ACTION hopes to revitalize the Corps and reemphasize its early focus on people-to-people service. Volunteers from Hawaii have continued to play a major role in the Corps over the years, and they are in the forefront of peaceful change and progress in the nations where they serve. Sandra Kusumoto, a young teacher in Malaysia, is one of them. Sandra, only 23 years of age, is the daughter of Mr. and Mrs. Clarence Kusumoto, of Hawaii. Her experiences were described recently in an article in the Hawaii Hochi, a daily bilingual (Japanese-English) newspaper of general circulation in Hawaii. Because I believe that my colleagues will find it of interest, and Sandra's story may inspire some readers of the CONGRESISONAL RECORD into a life of service to the needy and handicapped, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hawaii Hochi, July 22, 1977]

SANDRA KUSUMOTO TEACHES MALAY CHILDREN—IN MALAYAN

KOTA BHARU, MALAYSIA.—The Malaysian taxi driver became more and more curious, "Who," he finally asked a lab assistant at Sandra Kusumoto's school in the town of Lemal, "is that Malay woman who is always wearing jeans?"

Malay she's not, and neither is she Chinese, the other common guess made by strangers about the young Japanese-American Peace Corps volunteer from Aiea. And Ms. Kusumoto, 23, daughter of Clarence and Ethel Kusmoto, may wear jeans in her leisure hours, but in her biology classes at the Lemal secondary school her attire is more likely to be a long dress or skirt appropriate to the status and regard Malaysians give to *cikgus* (teachers.)

Ms. Kusumoto has been teaching biology to fourth and fifth form students—roughly equivalent to high school juniors and seniors—at the large government secondary school of about 1,800 students since January. She teaches in a language that was totally unknown to her only three months earlier—Bahasa Malaysia, also called Malay, the national language of the Southeast Asian Country.

A 1976 biology graduate of Purdue University in Lafayette, Ind., Miss Kusumoto also had never taken an education course or taught a class before she joined the Peace Corps last fall. But in three months of Peace Corps training, she was taught the language and science teaching methods and given teaching experience in a Malay-medium school.

The town where she teaches is near the large city of Kota Bharu on the west coast of peninsula Malaysia. The country is a federation divided in two parts by the South China Sea—the 11 West Malaysian states on the Malay Peninsula extending southward from Thailand, and two East Malaysian states on the island of Borneo. Malays, Chinese and Indians comprise the three main ethnic groups in Malaysia's multi-racial society.

Most students at Miss Kusumoto's school are Malays. She takes with good grace their teasing about her command of Bahasa Malaysia, acknowledging that "I still don't understand everything the kids are asking me or telling me. They do tease me—they love it. A lot of times the kids say, "You know, cikgu, I'll always come and teach you if you need help."

She says she enjoys Malaysia's relaxed pace of life and especially its people. "They're really nice," she emphasizes. "They've never pushed me into following their religion or customs, and if I've done something wrong they'll always excuse me. They're really easy going."

Miss Kusumoto, whose home in Aiea is at 99-1080 Lalawai Drive, is one of about 200 Peace Corps volunteers now serving in Malaysia in a wide variety of education, agriculture and other development programs at the request of the Malaysian government. Around the world, more than 6,200 Americans are taking part in Peace Corps programs in 62 countries.

The Peace Corps is part of Action, the federal agency for volunteer service. This summer, it is seeking 2,700 new volunteers for two-year assignments in Asia, Africa, Latin America and the Pacific. Persons with backgrounds in math/science education, agriculture and health are particularly needed. Interested persons may call 800-424-8580 for more information. (not toll-free in Hawaii).

Action's domestic programs include Vista (Volunteers in Service to America), Foster Grandparent Program, Retired Senior Volunteer Program (RSVP), Senior Companion Program and University Year for Action.

THE SENATE CLASSIFIED HEARING ROOM

Mr. BAKER. Mr. President, earlier this week I had occasion to receive a classified briefing from a Federal agency. I chose to hold this meeting in the Senate's newly created classified hearing room on the fourth floor of the Capitol. I found the security arrangements excellent and very much in keeping with the need to protect highly classified information being provided to the Senate by the executive department in connection with foreign policy issues, SALT negotiations and intelligence matters.

I think such a facility has been long

overdue and I am delighted that the Senate has acted to establish it.

A TRIBUTE TO COACH PAUL BRYANT OF THE UNIVERSITY OF ALABAMA

Mr. ALLEN. Mr. President, among their many other honors, Alabamians have a national reputation as sports enthusiasts and, in fact, Birmingham, our State's largest city, is frequently identified as "The Football Capital of the South." The University of Alabama and Auburn University consistently rank among the top football teams in the country.

Just the other day, Mr. Wilmer Bentley from Grayson, Ga., sent me an excellent article, entitled "Alabama's Legendary Bear," which appeared in the Sunday, August 21 edition of the Atlanta Journal & Constitution magazine.

This article is about Coach Paul "Bear" Bryant's outstanding coaching ability and success, and about the University of Alabama which, today, as in years past, ranks among the Nation's top 10 college football teams. Whether in professional or collegiate circles, Coach Paul Bryant stands out as one of the most successful football coaches around.

Mr. President, I ask unanimous consent that this article from the Atlanta Journal & Constitution magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALABAMA'S LEGENDARY BEAR

(By Frank Hyland)

The game was the first in that endless string of college football bowl games. It was one of the minor ones, the Liberty Bowl of 1976 in Memphis, Tenn., but it wasn't minor to at least one-half the participants.

"We have a chance," said Jeff Dankworth, the quarterback for UCLA, "to beat Bear Bryant. He's become immortal and Alabama has become that person."

"That embarrasses me," snorted The Bear. "Every time I pick up a paper, I read about beating Bear Bryant. It's not my team. It's the school's team, the team's team.

"Oh, hell! That's just something the papers made up. It's just I've been here a long time and won a lot of football games. People are just used to me."

Tell it to the judge, Bear. The world has watched you prowl the sidelines for 32 years now and has made its decision: Guilty as charged, a living legend.

Paul Bryant, 64, is by profession a college football coach at the University of Alabama. He has been there since 1958 after serving his apprenticeship at Maryland, Kentucky and Texas A&M. In the course of that time, he has won 262 games, lost 75 and tied 16. Only two other coaches have won more games, Amos Alonzo Stagg and Pop Warner. But, it took Stagg 57 years to win 314 games and Warner 44 to win 313. At his current rate, Bryant will surpass both in five more seasons.

And, in winning all those football games, he has transcended mere expertise in the field. He has become a legend in his time with his scraggly, weather-beaten face topped by the familiar houndstooth hat. Give a recognition test in the football-mad South and he beats Jimmy Carter hands down.

He absolutely dominates the state of Alabama. A hat like his is a Bear Bryant hat. You go to a game and eat Bear Bryant hot dogs. You may arrive in a Bear Bryant car. Once there, you can sip Bear Bryant soft drinks and munch Bear Bryant potato chips. There are Bear Bryant shirts and ties and bumper stickers and pennants and drinking mugs and chairs and even watches.

Many of those items, of course, are merely endorsed by Bear Bryant, coach. However, many of the others come directly from the companies of Paul W. Bryant, businessman. That hat, for example, comes from Bryant's hat company. The hot dogs come from his big money-maker, Ziegler's Meats. He has a window company. He is on the board of several banks. He has a box factory and once had a piece of some coal mines. His net worth is estimated at $1 million. The Bear does very well, thank you.

He hasn't always, but he does now. He was born to a poor farming family in Arkansas and even his first venture into business in Alabama was less than a success. That was a cleaner's with Hall of Fame end Don Hutson. They opened it back in the '30s and it, well, took them to the cleaners.

But that was then. This is now.

For years, he was one of the lowest-paid coaches in the league and may be still. His estimated salary is $19,000. It began to get embarrassing. One of his assistants was making more than he. The school forced a raise on him. Bryant turned around and gave it right back to the school, in the form of $100,000 to establish a scholarship fund for needy and handicapped students. Needy and handicapped, mind you, not football players. It was an unprecedented move.

Still, that is Bryant the businessman. Bryant the legend is much more. Like, if a little old lady needs help across a puddle, there has to be a Bear Bryant to carry her across. Bear Bryant walks on water, you know. Just ask anyone in Alabama.

Ask just about anyone, anywhere, for that matter. From Knute Rockne through Stagg to Ohio State's Woody Hayes, there's never been a coach whose exploits match those of Bryant.

His secret?

"His ability to adapt," says Atlanta Falcons coach Leeman Bennett. "He has been able to change through the years when others have not."

Georgia coach Vince Dooley, whose team last year ended 'Bama's five year reign as champion of the Southeastern Conference, echoes Bennett.

"Bryant has," says Dooley, "through the years had an ability to be flexible, to keep up with the times and to understand people. He was rough, tough and demanding after the war. With a new generation of kids, he's more understanding. Always, he's so aware of what is going on."

One incident of a few years back points out the Bryant method vividly.

His team had put together two substandard—for Bryant—seasons, 6–5 and 6–5–1 in 1969 and 1970. At the end of the 1970 season, the Tide had tied Oklahoma, 24–24, in the AstroBluebonnet Bowl.

On the charter flight back to Tuscaloosa, Bryant passed the time by drawing on a legal pad and toying with the idea of the wishbone offense Oklahoma had just run so successfully against his team. The next summer, he met Darrel Royal, the head coach at Texas and inventor of the wishbone, at a coaching clinic and picked his brain about the run-oriented offense.

"We've lost two years in a row now with the passing game," moaned Bryant, who has given the world such passers as Joe Namath and Ken Stabler. "I guess the game has just passed me by."

Three weeks later, Bryant took his team to Los Angeles to play heavily favored Southern Cal. Bryant came back with his 200th career victory, a 17–10 upset.

The offense? The wishbone.

That's the way Bryant has gone, from the single wing to the wishbone, from 60-minute men to the era of the specialist. He's gone from the dark days of segregation to this era when many of his players and three of his assistant coaches are black. And, he's won with them all. In 32 seasons, only one has been a loser, his first at Texas A&M.

Other schools went with a token black player to pave the rugged way for the rest. Not Bryant. He brought in several. His first black player didn't come out a basket case. He, Wilbur Jackson, came out an all-America.

Not that Bryant hasn't had his bouts with mortality. For example, there is his post-season bowl record, which is a loser. Once in a while, even a have-not such as Florida State can almost slip up on Bryant and the mighty Crimson Tide. That happened back in 1968 when an FSU team which had not won in a couple seasons had Alabama to the wall after a half. Bryant bounced back and gambled for two points after a second half touchdown and won, 8–7.

"What did he tell you at half time?" one of his players was asked after that near-embarrassment.

"He told us," said the player, "to get a smile on our faces and come back in wearing a grin."

Bryant laughs at 'em all. He has been criticized, but he always seems to get the last laugh. Like when he was accused of ducking the powerful Big Eight Conference in bowl games. Guilty, he admitted.

"They say I'm a matchmaker," said Bryant at the time. "Well, I'd say I was a pretty good one." Then he got a bit stern. "I popped off when I was young, too," he said. "Give those young fellows 15 or 20 years. Let 'em wear their spurs regular."

He's remarkable and he always has been, from that day when he was 12 or 13 and wrestled that bear back in his little home town of Fordyce, Ark.

"That really is true," says Bryant of the incident which was to give him his famous nickname. "It was a real bear, too. It looked as big as a door to me, even if the other guys say it was a scrawny little old thing. I was supposed to get paid a dollar a minute for wretling him. Never did get paid, though."

So, the other guy has been paying ever since.

They paid him when he was a player at Alabama (as the other end with Don Hutson in 1933–34–35). They paid when he was an assistant. They still are paying now that he is the most successful coach in the land, college or pro.

As is the case with most successful coaches, he is most single-minded of purpose. Business interests aside, there is no other true interest. "I don't have time for anything else," he says.

He cannot conceive of being anything other than a football coach, either. "Never gave it a thought. Not once. I guess if I wasn't here, I'd be back plowin' in Fordyce. But that isn't the point. The point is I'm here."

He sits in his plush office in the Athletic Building hard by the football practice fields and bemoans what is to come. It's a standard procedure. Every year, The Bear cries wolf. This time, it's losing all of his quality defensive players.

No one, of course, believes him. One preseason magazine has the Tide rated second in the country. Every poll has Alabama in, or near, the top five teams in the country for this year. More than likely, the situation will be normal again. Bryant will win again.

"You learn more by winning," he says. "You lose and you're gonna be a loser all your life. So maybe winning isn't everything, but it sure beats hell out of anything that's second."

He isn't very often second. Until Georgia unseated him last year, Bryant had won five straight SEC titles. Four times, his team has been No. 1 in the country, that's the goal this and every year.

"If you're No. 1 in the country," says the Bear, "I sorta figure the SEC will take care of itself."

It isn't easy up there at the top, either. Getting there is one battle. Staying there is a battle every Saturday.

"It's not very crowded up there," says Bryant of life at the pinnacle, "but it's tough to play there. Every team we face, it's their big game. It's tough to convince our players every game is the big one."

Strangely, he almost didn't go when Alabama called upon him to rebuild its fortunes back in '58. He had built a power at Texas A&M and he didn't particularly want to leave.

"I wasn't all that interested at first," he says, "I was flattered, but I wasn't all that interested. Then, I got some letters from little kids and I decided to come. Some of those kids who wrote the letters came to play for me later on."

It is the kids, then, who make it all worthwhile. It's one of the reasons he has stayed at Alabama and spurned offers from the pros.

"I could have gone to Miami in the pros," he insists. "I almost did. I told myself it was for the challenge, but it wasn't. It was just for the money."

That is the thing about Bryant which somehow puts him above the rest. He has made money, plenty of it. But, not much has come from the university, not directly.

Obviously, he does very well, what with his sidelines and television shows and personal appearances and the like. But instead of that making him fat and setting him up for the other guy, he says it helps.

"It takes a lot of pressure off you if you're not broke," he says. "It's more fun if you don't have to coach for a living."

Then he adds the ever-present kicker. "And as long as you don't lose your pride."

Pride is Bryant's extra. He preaches it all the time. "There is nothing mysterious about football," he says. "All it is is blockin' and tacklin' . . . and pride."

He should add, too, as long as you don't lose that never-ending lode of talent and the lust for excellence which permeates Alabama football.

That is another thing about Bear Bryant. It is his show and his show alone, make no doubt about that.

In a game, he calls every play and makes every substitution. On the practice field, he oversees everything from a 25-foot tall tower. He shouts encouragement from that tower with a bullhorn. At his side is a tape recorder with which he makes notes of every practice.

At one time that tower was of ivory. No one dared mount it while the Bear was up there surveying his practice field kingdom. In fact, one day when someone did, it stopped the practice cold. None of the players could believe a young kid was going up in the tower with the Coach. After all the kid who climbed the tower that day, one Joe Namath from Beaver Falls, Pa., wasn't really known at the time.

Little escapes his eye. His players don't even wear numbers on their practice uniforms, but he knows every one by name. He runs everything with the precision of a drill team. He even has an official on hand to correct any mistakes his players might make. Alabama football teams do not lose by mistake.

"Anyone who can divide," goes one favorite Bryant dictum, "can tell you 15 goes into 100 a little more than six times. That's how much hard-earned yardage you give up with a penalty, one-sixth of a football field."

The football field is where it's at, where the youngster learns winning is more fun than losing. Bear Bryant's kids are rarely losers.

"The kids are more knowledgeable now," he says, reflecting on the changes of four decades as a player and coach. "There are a lot of things, other things, for them to do. So the ones who do come out, who do play, have made a sacrifice maybe I didn't have to make.

"As for me, I just get a kick out of seeing them do well."

And they do well, that is for certain. For example, don't tell anyone in Alabama that Miami of Ohio is the cradle of coaches. No fewer than 17 head coaches now active in the pro and college ranks have sprung from the Bear's cradle, either as a player or as an assistant.

That brings up one, final matter: When will the legend retire? Who will replace him? And, will that man be able to follow in his very big footsteps?

"I haven't given retirement a thought," says Bryant, who faces mandatory retirement six years hence, at age 70. "I realize I'll have to go sooner or later, but I really haven't thought about it yet."

Whoever does come in then will have his hands full. It is very difficult to step into shoes which have trod on water. When it comes, will it bring the curse to his successor which doomed Johnny Griffith at Georgia and Terry Brennan at Notre Dame and Bud Carson at Georgia Tech and so many others?

"I think," says Bear Bryant, "that will depend on how many football players I leave him."

And, the way he has set things up, that promises to be quite a few.

SEALED BIDS VERSUS ORAL BIDS ON TIMBER SALES: WHICH METHOD BRINGS MORE MONEY INTO THE FEDERAL TREASURY?

Mr. CHURCH. Mr. President, a recent issue of the Washington Post contained an article written by George Lardner, Jr., dealing with the return to the Government from Forest Service timber sales sold by sealed bids versus timber sales sold at oral auction.

By citing data for one Forest Service region in the Western United States for the first half of 1977, Mr. Lardner concluded definitively that sealed bid methods produce more money for the Government than the traditional oral auctions. Not only is the data upon which he based his conclusion insufficient to make such a statement, but recent data released by the Forest Service for other areas of the West contradicts the "sealed bids bring more money" conclusion.

Mr. President, I ask unanimous consent that a position paper detailing the significance of the westwide data recently released by the Forest Service be printed in the RECORD.

There being no objection, the position paper was ordered to be printed in the RECORD, as follows:

FOREST SERVICE BID DATA INADEQUATE TO SHOW THE GOVERNMENT WOULD RECEIVE HIGHER RETURNS FROM SEALED BIDDING

National Forest bid monitoring data has recently become available for the first half of calendar year 1977. This data has been used by opponents of oral bidding as evidence that sealed bidding on the average will return more to the Treasury than oral auctions. However, the most significant difference occurred in the first quarter of the year when extreme confusion prevailed about Forest Service intentions and the requirements of the National Forest Management Act. The Forest Service, during this period, was mixing and switching oral and sealed bidding practices. It was hardly a proper test period.

When sealed bidding first got started late last year, there had been a long period during which the Forest Service timber sale program had been reduced drastically. Purchasers were under a greater than normal compulsion to buy. That, coupled with unfamiliarity with and fear of the new sealed bid system, apparently led to panic bidding in some situations which would not be representative of a normal situation.

One would expect that the relation between oral and sealed bidding would tend to reverse over time as bidders gain familiarity with the system. Analysis of the Forest Service data (by USFA Region) show what may be the beginning of such a trend.

During the first quarter, overbids for sealed bids were high compared with overbids for oral bids. During the second quarter the overbid differential was significantly reduced, and in Regions 1 through 5 actually reversed, so that oral bids resulted in greater overbids than did sealed bid sales.

The east side of Region 6 did not follow the trend. However, during the six-month period, the east side of Region 6 sold only 18 percent of the volume that was sold by the six western regions, a relatively minor volume.

This is the overall summary for all regions:

	Appraised price per Mbf[1]		Overbid—dollars per Mbf		Overbid as percent of appraisal		Change in overbid	
	Oral	Sealed	Oral	Sealed	Oral	Sealed	Oral	Sealed
1st quarter	$59.84	$70.24	$43.79	$71.76	73	102		
2d quarter	69.23	72.31	41.05	45.20	59	63	−$2.74	−$26.56

[1] Mbf equals thousand board feet.

Note that the overbid for sealed bid sales dropped by $26.56/Mbf during the second quarter, while that for oral bid sales dropped only $2.74/Mbf. This is precisely the relationship one would expect as use of the system becomes more familiar .

Also note that oral and sealed bid sales are not comparable in terms of size. In California oral bid sales had an average size of 10.8 MMbf, whereas sealed bid sales averaged only 4.2 MMbf. Significant differences in sale size also occurred in other regions. This size differential is likely to continue since Forest Service regulations provide that sales greater than 20 percent of the annual volume to be offered be sold by oral bids. In addition, sales of less than $10,000 value are frequently sold by sealed bids.

It is recognized that two quarters do not make a trend, and third-quarter results are yet to be seen. In addition, some forests sold most of their sealed bid quota in the first half and will sell almost totally by oral auction in the second half. Nevertheless, this analysis of the data shows that the differential between oral and sealed bidding is not likely to continue.

	Appraised price per Mbf[1]		Overbid—dollars per Mbf[1]		Overbid as percent of appraisal		Change in overbid	
	Oral	Sealed	Oral	Sealed	Oral	Sealed	Oral	Sealed
Regions 1 through 5:								
1st quarter	$32.66	$36.23	$41.73	$64.42	128	178		
2d quarter	28.15	31.92	29.86	22.76	106	71	−$11.87	−$41.66
Region 6—East Side:								
1st quarter	83.33	65.86	33.98	34.64	41	53		
2d quarter	73.77	76.01	12.61	34.58	17	45	−21.37	−.06
Region 6—West Side:								
1st quarter	113.02	89.14	67.82	81.86	60	92		
2d quarter	94.14	97.37	66.10	66.79	70	69	−1.72	−15.07

[1] Mbf equals thousand board feet.

SENATOR HART URGES IMPROVEMENTS IN NATO

Mr. CULVER. Mr. President, our distinguished colleague from Colorado and a forthright member of the Armed Services Committee, Senator GARY HART, recently addressed the 92d annual conference of the Militia Association of New York on efforts to improve NATO.

Rather than looking solely at quantitative measures of NATO's capabilities—such as expenditures and numbers of weapons, Senator HART wisely recommends greater attention to qualitative issues as well. As he says,

It is about time we stopped asking how much to invest in NATO and ask ourselves instead what kind of investment we should make.

In particular, Senator HART warns us to grapple with "those crucial questions of strategy, or organization and of technological trends which we have tended to ignore up to now."

Clearly, we need careful thought and planning to make NATO effective. Senator HART details several areas in which we need to resolve difficult but fundamental conceptual issues of doctrine and force structure.

Mr. President, in order that all Senators may have the benefit of his timely remarks, I ask unanimous consent that the text of Senator HART's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PRESCRIBING FOR NATO'S ILLS: IS THE DIAGNOSIS RIGHT?

(Address by Senator Gary Hart)

Last year at this time your guest was one of the Senate's most distinguished Members and one of the nation's foremost spokesmen on defense: Senator Sam Nunn of Georgia. I know of no one who has done more to further our knowledge of this nation's defense needs and options than Sam Nunn. He has brought to the Armed Services Committee of the Senate an awareness of our defense problems and, particularly, of the problems faced by NATO, that far transcends a Senator's normal expertise.

In his remarks to you last year, Sam Nunn made a statement of great importance. He said, "To put it bluntly, after twenty-seven years of collective investment on an unparalleled scale, it is still questionable whether the United States and its European allies could muster sufficient military might in time to defeat a determined conventional Warsaw Pact invasion of Western Europe."

On the basis of what I have learned in my three years of service on the Armed Services Committee, I am in general agreement with Senator Nunn. NATO's conventional defense capability against a Blitzkrieg-type attack by the Warsaw Pact is indeed questionable. But I would like to shift focus tonight away from Senator Nunn's statement that NATO's conventional defense is questionable, and concentrate instead on the first part of his statement which points to the apparent failure of twenty-seven years of collective investment on an unparalleled scale.

This unparalleled investment has not been based on quantitative inferiority to our opponents. The Central European NATO nations alone—Germany, France, Britain, Italy, Denmark and the Benelux—have a greater population than the Soviet Union by over 25,000,000 people. Their combined GNP of almost $1.4 trillion is at least double the GNP of the Soviet Union. While the Soviet Army of approprimately 1,825,000 troops outnumbers the central European nation's combined ground forces by about 550,000 men, the Soviet figure includes many Category III divisions, which are essentially reserves; in ready active forces, the European nations are equal or slightly ahead.

Looking at NATO vs. Warsaw Pact totals, NATO has a large lead in both population and GNP. Total NATO active ground force manpower is approximately equal to that of the Warsaw Pact. NATO total defense spending is substantially higher than the Pact.

If this large investment over 27 years has not accomplished its purpose, it is about time we stopped asking *how much* to invest in NATO and ask ourselves instead *what kind* of investment we should make. We should look into our strategies, force structures and equipment and ask ourselves why they have failed to give Europe an adequate defense.

In most examinations of NATO to date, the focus has been on purely quantitative questions. It is all too easy to simply count things—ammunition stocks, tactical aircraft, the number of NATO anti-tank weapons versus the number of Warsaw Pact tanks.

It is, of course, very important to examine these quantitative issues carefully since a miscalculation of things such as warning time or ammunition consumption rates could prove fatal for NATO. But it is even more important to study the qualitative issues, those crucial questions of strategy, of organization and of technological trends which we have tended to ignore up to now, probably because we cannot deal with them simply by numbers.

Admittedly these are difficult issues to deal with. They do not consist of set "questions" to which we can give ready "answers," given the proper formulae. Rather, they are problems we can only explore through a dialectical process of continuing debate among policy makers and interested people from many backgrounds.

But, to return to our theme, we have poured unparalleled resources into NATO, and do not have the secure defense we thought these resources would buy. This suggests that, however difficult the attempt, we should at least try to examine the qualitative issues. We can no longer afford the leap of faith that characterizes many of the Defense Department's presentations to Congress. We must not jump from a description of the threat to a purely quantitative analysis of the numbers of U.S. or NATO forces needed to counter it. First and foremost we must examine *how* we must meet that threat, which, of course, involves looking at alternatives to present strategies, and the best force structures, tactics and technologies for carrying out those strategies.

As we seek to examine the qualitative problems facing NATO, five major issues come into focus:

(1) U.S. and NATO Naval Forces,
(2) Land-based Tactical Aviation,
(3) The Forward Defense Strategy,
(4) The European Reserve Systems, and
(5) The Structure of U.S. Ground Forces.

Looking first at the naval issue, we see that a substantial portion of NATO's defense resources goes into its navies. The U.S. Navy, for example, received 29.2% of the United States FY 78 budget, and our NATO allies also maintain substantial naval forces.

U.S. and NATO naval power is unquestionably vital to our security. Only naval forces can provide conventional capability in the increasingly important Third World resource areas, and only naval forces can defend the sea lanes through which flow the imported raw materials on which Europe and America depend.

Yet despite our large expenditures on naval forces, the *kind* of forces we buy do not suit the requirements of a war in Europe.

The U.S. Navy and our Department of Defense believe that our naval forces would have two major tasks in a European war: defending convoys of reinforcements and supplies, and projecting power ashore—in the form of tactical aviation and Marines.

In fact, neither task appears credible in relation to the type of short, derisive conflict most probable in Europe. Careful reading of Soviet naval literature suggests our many frigates and other escort ships may have little wartime role, for the Soviets may not even attempt to attack our convoys. Admiral Gorshkov seems to realize the disjunction between a quick, decisive land campaign in Europe and a slow war of attrition in the Atlantic.

It makes little sense for the Soviets to devote substantial resources to attacking Atlantic shipping if that shipping cannot arrive in time to influence the land battle. The probable short duration of a Warsaw Pact Blitzkrieg bears little relation to the time required just to organize the material and shipping needed for convoys. A minimum of three weeks seems necessary just to organize shipping and material—that is, three weeks delay before the earliest convoys would be ready to sail. The trans-Atlantic passage would take at least another week. Mining or destruction of European ports would probably cause further delay. Thus, it is highly unlikely that seaborne reinforcement or supplies could reach the central European battlefield in less than one month after mobilization. By that time, the decisive battles will almost certainly have taken place and the outcome of the war will have been determined.

What Admiral Gorshkov apparently *does* plan is to use his powerful Navy to defend the approaches to the Soviet Union. This sug-

gests that U.S. aircraft carriers or amphibious task forces seeking to approach the European continent may encounter massive opposition from Soviet submarine and naval air forces. Yet American naval policy apparently envisions using aircraft carriers in just such high-threat areas, even though most of their aircraft will have to defend the carrier itself, and few will be free to join the air battle over central Europe. If Europe does need naval aircraft, it makes far more sense to base them ashore, in, say, the United Kingdom.

Similarly, we apparently intend to commit Marine Amphibious task forces to Europe, which are certain to take heavy losses at sea. We would do better to pre-position more equipment in Europe and fly additional troops troops over to man it in an emergency.

Clearly, our efforts at sea control and naval projection do not seem credible in a NATO war. Neither do our massive investments in escort ships, large aircraft carriers, and a foot-infantry Marine Corps almost one-third the size of the Army. The Navy's current Five Year Shipbuilding program contains more than 70 escorts, mostly frigates, and two large aircraft carriers, but only eight attack submarines and no small aircraft platforms. If Atlantic convoys cannot effectively assist NATO, how useful are 70 convoy escorts? If the projection mission is not a convincing way to augment NATO's tactical air power, why have two more large aircraft carriers? Finally, if they cannot arrive in time, why continue to pay for a large Marine Corps?

This is not an argument against a strong Navy, but rather against the types of naval forces we are now acquiring. Other types of naval forces could give us better all-around capability, even in the NATO theater. More submarines and large numbers of small antisubmarine aircraft carriers could enable us to attack the Soviet Fleet even in its home waters, which would give us an important counter to a Soviet ground threat in Western Europe.

The same ships could, if necessary, perform defensive missions such as convoy escort more effectively than our present escorts. Finally, new technology systems such as Surface Effect Ships could speed up transatlantic reinforcement, while a mechanized Marine Crops with pre-positioned equipment in the United Kingdom or Norway could make a real contribution to NATO ground defense.

The question is not how much naval capability we need. We are by nature a sea power, and our Navy must be preeminent. The real question is what kind of naval missions make sense, and what kind of ships we need to perform them. Our failure to answer these qualitative questions is the reason why massive investment has done little for NATO so far, and shows little promise for the future.

NATO is also investing very large resources in a second major defense area: tactical air. All the NATO allies have expensive programs under way to improve their tactical aviation: the U.S. A–10, the F–15 and the F–16 (which four European nations will also buy), the German-British-Italian Tornado, the Alphajet, the Jaguar, the Mirage Delta 2000, and AWACS. Will these multiple expensive programs buy an equivalent improvement in NATO's air defense? The technological trends indicate otherwise.

Technology increasingly favors missiles over manned aircraft, since a basic technological trend of the late 20th century is for unmanned systems to increase in capability relative to manned systems. This trend suggests that air defense missiles may gradually supplant manned fighters, just as cruise missiles may supplant interdiction aircraft for at least some missions, and ground-based fire-support systems may become more survivable than close support aircraft. The same technological trend suggests that automated ground-based air defense systems will become increasingly effective against aircraft.

These trends seem to have had little impact on the decision to procure a new generation of NATO tactical aircraft. Yet unmanned systems might have given NATO far more capability for the same investment. For example, cruise missiles purchased in large numbers cost much less per unit than F–15s or Tornados, but the effect on the Warsaw Pact of 100,000 conventional warhead cruise missiles hitting every bridge, road junction, railway junction, telephone exchange and power plant in East Germany, Poland and Czechoslovakia in the first few hours of a war could be devastating, or at the very least, substantially greater than the effect of a few hundred Tornados or A–10s trying to survive against increasingly powerful Soviet air defenses.

Tactical aviation may be yet another area where NATO's massive investment is not bringing a proportional return in defense capability. Because its defense concepts are oriented toward past successes rather than future possibilities, NATO continues to buy the wrong kind of systems.

Forward defense is the third area where NATO has made heavy investments in poorly conceived ways. The Forward Defense doctrine stipulates that NATO try to defend as near the East-West Germany border as possible, thus minimizing Warsaw Pact penetration into West Germany.

There is no question that it is desirable to prevent such penetration. Forward defense may, in fact, be a political requirement for the West Germans, who seek to avoid combat on their own soil.

Unfortunately, Forward Defense has produced a NATO defense structure which probably cannot defeat a Warsaw Pact blitzkrieg. Under this doctrine, almost all NATO troop units in West Germany have battle positions close to the frontier in what is essentially a shallow, linear defense with little depth—a new Maginot Line.

As the French learned in 1940, a linear defense, once breached, greatly favors the attacker, since the defender has committed almost all of his forces to the line and has little or no operational reserve to engage the breakthrough force.

The Germans learned the same lesson when fighting the Soviets in World War II, suffering repeated debacles because Hitler insisted on a terrain-holding defense concentrated in a shallow line. In contrast, when maneuver-oriented German generals ran the battle, they often had great success against heavy numerical odds by putting a relatively small portion of their force forward, then counterattacking with a strong reserve once the attack had unfolded.

Today, NATO has almost no operational reserve, thanks to the present style of Forward Defense. Once the Soviets break through one part of the defensive line, they have virtually a free ride to the English Channel. It is highly unlikely that NATO can quickly pull forces from other parts of the line and shift them laterally to engage the Soviet breakthrough force. Claims for NATO of an "active defense" are little more than slogans, especially given the "layer cake" NATO front, with separate national sectors largely incapable of mutual logistics support.

Additional expenditure for anti-tank weapons and other firepower systems will not give NATO a credible conventional defense capability unless NATO changes the current concept of Forward Defense. Such weapons are needed, but they cannot alone prevent a major breakthrough, which without adequate NATO reserves will quickly become decisive.

Need we abandon the concept of Forward Defense? I think not. NATO should be able to provide adequate forces both to man a Forward Defense line and to maintain strong operational reserves. The key to this problem lies in the fourth qualitative issue: the structure of NATO's reserve system.

As we have seen, NATO is well ahead of the Warsaw Pact in both population and gross national product. This suggests that if NATO cannot today field adequate forces for both a Forward Defense and a strong maneuver force, the explanation is inadequate organization, not lack of resources. A look at the current reserve systems of the European NATO countries suggests this is indeed the case.

In World War I, the Germans surprised the French by having many more maneuver battalions than the French had expected. The Germans had this surprisingly large force because they used reserves as front-line units. As the French quickly discovered, the reservists fought as well as the regulars.

Today, the Europeans seem to have forgotten this discovery of 1914. The greater part of the European NATO countries adds little to the front-line fighting capability of NATO. Germany provides a good example: while the strength of the Bundeswehr expands from 345,000 to over 1,000,000 men upon mobilization, almost all this increase either goes into the territorial army which provides only rear-area services and security, or into regular army support functions. Front-line combat strength does not increase significantly.

If the European reservists instead formed front-line combat units, NATO would have sufficient ground forces for both a Forward Defense and adequate operational reserves. The central European NATO states and France have almost 2,500,000 ground force reservists at the present time. A few of these troops do form combat units, but most do not, and those reserve combat units that do exist often cannot mobilize in time to help meet a Warsaw Pact Blitzkrieg.

The Netherlands, however, is now initiating a reserve system which shows what could be done with these forces. Called the RIM system, it has created mirror-image reserve units for many regular units. Upon release from the regular unit, troops go into the parallel reserve unit for 14 months, having the exact same function they had in the active unit. RIM units can mobilize in a few hours, and in tests have performed as well or better than regular combat units.

The RIM system suggests that with reorganization of its reserves, NATO could greatly increase its front-line ground forces without an increase in expensive manpower or overall defense investment. This might require some additional procurement, but economies in areas such as tactical aviation could provide the necessary funding.

The U.S. could also play a role in enabling NATO to strengthen its operational reserves and it could do so without increased defense investment. At present, two major deficiencies prevent our ground forces from contributing fully to NATO's defense: first, they are largely the wrong type of force for war in Europe, and second, we lack a coherent policy on the key issue of getting these forces to Europe in time to help meet a sudden Warsaw Pact attack.

If we look at active U.S. ground forces, we see that today over half of our total of 19 active divisions—Army and Marine Corps—are foot infantry. Yet, as General Alexander Haig stated before the Senate Armed Services Committee earlier this year, "in the context of a NATO commitment scenario, mechanization would be virtually a requirement of full combat effectiveness." The Army is currently converting two foot infantry divisions to mechanized formations, but this will still leave over one-third of our total ground force foot infantry. Clearly, it makes little sense for the United States to spend enormous sums for manpower, then refuse to

equip that expensive manpower so as to make it effective. This situation may justify additional investment or it may suggest the demobilization of several foot infantry divisions, Army or Marine Corps, to provide adequate funding for mechanizing the remaining forces. The remaining force, while smaller, would be far more useful on the NATO battlefield.

However, mechanization will not improve our capability in Europe unless we can get our forces to Europe in time to be of use. Current planning, based on a 30-day mobilization period, seems to bear little relation to a Warsaw Pact Blitzkrieg. The slow speed of sea transport and the impossibility of moving large armored and mechanized divisions by air would seem to argue for prepositioned equipment. Yet, the Army apparently has no plans to provide pre-positioned equipment for the two divisions now being converted from foot to mechanized infantry. Again, the situation might justify either additional investment or reductions in manpower to provide the needed funds for additional equipment.

These five qualitative, conceptual issues—the type of naval forces needed for the defense of NATO, the wisdom of continuing heavy investment in tactical aviation, the need for adequate operational reserves for a war of maneuver, the potential inherent in the European reserves, and the need to restructure U.S. ground forces to provide mechanized units quickly in the European theater—may not be the only such issues facing NATO. But they do illustrate the need to address problems of doctrine and force structure. Unless we begin a constructive and productive debate on these matters, we will achieve little by increasing our defense expenditures. The collective investment of the last twenty-seven years has not been inadequate in terms of the *amount* invested, and more money spent for the same types of forces, within the same conceptual framework, will not produce better results.

I do not deny the importance of dealing with NATO's quantitative problems. But quantitative remedies will not solve qualitative problems. If we ignore the admittedly difficult problems of doctrine, of concepts, and of force structure, we are likely to find that our current efforts to improve NATO's capabilities, however energetic, will remain quite as ineffective as the earlier French efforts to find security behind the costly, technologically impressive—and disastrously ineffective—Maginot Line.

A TRIBUTE TO SENATOR LISTER HILL OF ALABAMA

Mr. ALLEN. Mr. President, some 9 years ago Senator Lister Hill decided that he would not seek reelection as one of Alabama's U.S. Senators. At the end of the term he was then serving, he had been a Member of Congress for 46 years.

In just a few months, in December, Senator Hill will observe his 83d birthday, still active and still vitally interested in the progress of the country and in the activities of the U.S. Senate, where he served so long with great distinction.

The Sunday, August 21, 1977, edition of the Montgomery Advertiser-Journal, in Montgomery, Ala., printed an article written by Lauren C. Steele and entitled "A Sunday Report: Lister Hill." I believe that Senators will find much of interest in this report on a respected former colleague and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Montgomery Advertiser-Journal, Aug. 21, 1977]

A SUNDAY REPORT: LISTER HILL

(By Lauren C. Steele)

SEN. LISTER HILL STILL FOLLOWS STATE POLITICS

If U.S. Sen. John Sparkman of Alabama intends to seek re-election, thus squaring off with Gov. George C. Wallace, he had better get to it and start campaigning.

That's what his longtime colleague, former Senator Lister Hill, said about the race. And he ought to know. Hill is a bona fide expert on Alabama and the state's peculiar politics.

Hill has a personal feeling for Sparkman's dilemma; he faced a similar situation just nine years ago, when he relinquished his powerful Senate seat to return to his childhood home, Montgomery.

Hill was 74 that year, and a popular former lieutenant governor, James B. Allen, had vowed to seek the post, whether Hill ran or not.

Sparkman will be 78 next year, and George Wallace, not exactly a political unknown, wants his job.

Why did Lister Hill, one of the state's most famous hard-hitting campaigners, step down without a fight?

"I was getting a little old," the senator said recently. "After all, 50 years in politics is long enough, don't you think?" That is no exaggeration; he spent a full half century in elective office, 46 of those years in Congress.

Hill's biography reads like a legend. He entered the University of Alabama at 16 and graduated with both a bachelor's and a law degree in a scant four years. He organized the school's Student Government Association and became its first president. In the meantime he served as editor of the newspaper, The Crimson White. This campus power combination may have launched his career in Alabama politics.

After earning a second law degree from Columbia University, Hill set up practice in Montgomery. A handsome young man with the right connections, he entered politics early, and at 22 was elected president of the Montgomery County Board of Education.

In 1923 Hill ran for Congress, and left home for Washington a single man only 28 years old.

Hill proved a popular congressman, elected to seven consecutive terms without opposition. Hill attributes his seeming invincibility to his background.

Hill's father, Luther Leonidas Hill, was a well-known Montgomery surgeon. One operation Dr. Hill performed on an indigent black teen-ager on the porch of a sharecropper's shack made medical history. It is reported to be the first time any physician ever sutured the human heart.

His father's statewide prominence and popularity created good connections for the young congressman. Hill reinforced his popularity with frequent visits to the villages in his Second Congressional District, speaking from the bed of a pickup truck or from the courthouse steps. Hill's flair for campaigning discouraged opposition, come election time.

Hill distinguished himself in the House of Representatives by authoring the Tennessee Valley Authority bill. His efforts endeared him to voters in north Alabama, ardent supporters he would need later in his career.

Hill moved up to the Senate in 1938, replacing Hugo Black, President Roosevelt's first Supreme Court appointee.

Perhaps his greatest accomplishment, and definitely the one of which he is most proud, was the Hospital and Health Center Construction Act. Commonly called the Hill-Burton Act, it provided federal funds for construction of medical facilities, primarily in rural and poverty areas. The bill's co-author, Ohio Sen. Harold Burton, later became a Supreme Court Justice.

Since 1947, more than 9,200 hospitals, health centers and clinics have been built in the United States with Hill-Burton funds.

In his home state, 65 of 67 Alabama counties have a Hill-Burton facility. Only Winston and Coosa Counties didn't receive the federal assistance. More than $113 million in federal money has been pumped into Alabama for hospital construction, and $3.7 billion has been provided nationwide. The first, Hill-Burton hospital was built in Langdale, Ala., the second in Jefferson County.

The Hill-Burton Act and Hill's tireless work for better health care earned the Alabama Senator a national reputation. He was commonly called the "Statesman of Health," and he has been honored by hundreds for his health legislation.

President Lyndon B. Johnson once said of Hill: "There are millions of our people who are better off today, and millions who will be better off in the future, because of the fine work that . . . (Senator Hill has) . . . done on health and welfare legislation."

During his long tenure in Congress, Hill knew some of the great men of the 20th Century.

In a recent interview Hill relaxed in a chair in the memorabilia-filled sitting room of his Gilmer Avenue home, reminiscing about his long years of making history.

He talked of friends, real-life giants of American history, like Montana's Burton K. Wheeler, who as a senator exposed the 1920s Teapot Dome scandal, and of Wisconsin's Robert LaFollette who carried the Progressive Party banner in an unsuccessful try for the presidency in 1924.

Hill gave high praise to Presidents Franklin Roosevelt and Harry Truman, whom he affectionately calls "Mr. Intestinal Fortitude."

Hill, who claims to be a "Thomas Jefferson-Andrew Jackson Democrat," had very little good to say about Republican Presidents Hoover, Eisenhower and Nixon. But the master politician always found something nice to say of everyone, although he chuckled as he talked of "Tricky Dick."

As he reminisced he spoke with enthusiasm, stopping to smile as he remembered his legislative colleagues. But his voice saddened as he realized most all are dead.

Hill will be 83 in December.

It was hard for Lister Hill to bow out of politics, to leave his beloved Senate. He had some difficulty slowing down to quiet life in Montgomery.

But the elder stateman didn't take some corporate job and stay in Washington like so many retiring politicians do. He wanted to come back and live in the house he and his wife bought in 1931.

The senator still calls his wife Henrietta his "bride," although the couple will celebrate their 50th wedding anniversary next year. He said that through the years, his wife has been his most loyal friend.

The Hills lead a quiet life, but the senator hasn't retreated from the world, as he analyzes state and national politics with a keen, questioning mind.

Lister Hill, who once made history, now spends hours reading it. And he loves to reminisce, but then, not many people can boast of attending the 1924 Democratic Convention, or of nominating Franklin Roosevelt at the 1940 convention.

Sen. Hill doesn't get out on the speaking circuit as much as he used to. He says he is too old. But he hasn't faded into oblivion.

Two young admirers recently accompanied the senator to a downtown Montgomery restaurant, a gathering place for politicians and a center for political talk. People crossed the street to talk with the man who represented Alabama for two generations.

They spoke to him out of respect, not in

the solicitous manner ordinary folks converse with those still in power.

What Lister Hill learned in his half century in public life would fill volumes, but one thing stands out—his deep love for the country he served so long and so well.

HE "MIGHT HAVE BEEN PRESIDENT"

In an editorial published in 1959, the New York Post said U.S. Sen. Lister Hill of Alabama "might have been President" had he been born north of the Mason-Dixon line.

Hill claims he had no desire to be president, and modestly doubts he could have been elected. But Lister Hill did become one of the most respected Southerners in the country.

Yet the man who served in the U.S. Congress for two generations and was known nationwide as the "Statesman of Health" for his extensive health legislation almost lost his bid for re-election in 1962.

Hill, who in a recent interview said he always considered himself a progressive, and who championed liberal causes such as Medicare and Social Security, almost fell victim to the South's violent opposition to the civil rights movement.

Hill's beloved Democratic Party was blamed for national legislation giving equal rights to Negroes. This gave Republican opponent Jim Martin a rare opportunity which almost made him the first Alabama Republican to sit in the Senate since reconstruction.

But Hill bucked the national party and came out squarely against civil rights, much to the dismay of his liberal supporters.

As he crisscrossed the state fighting the first close political battle of his long public career, Hill tried his best to turn the tables—to lay the blame on the GOP.

In a classic example of Alabama politics, Hill told a rally in Andalusia that former Republican Vice President Richard Nixon was "a card-carrying member of the NAACP (National Association for the Advancement of Colored People)." Hill was fighting for his life, and during the bitter campaign he accused northern Republicans of "forcing integration down the throats of Southerners."

Hill squeaked by in that election, polling barely 6,000 more votes than Martin. Hill lost 29 of Alabama's 67 counties, and failed to carry Mobile, Birmingham or his hometown, Montgomery.

Hill's support came from north Alabama, where voters had not forgotten that he had authored the bill establishing the Tennessee Valley Authority.

Hill carried his crusade against expanded civil rights for blacks into that term, helping to organize the Southern fight against the 1964 Civil Rights Act.

He and junior U.S. Sen. John Sparkman of Alabama joined other Southern Democrats in a marathon filibuster designed to kill the bill. Only 19 senators cast nay votes.

Hill also opposed the 1965 Voting Rights Act, which made it easier for blacks to register to vote.

But Lister Hill is no racist. He recently spoke apologetically of his segregationist role.

"I had to do that to get elected," he admitted ruefully. "We all did."

Liberals in Alabama and throughout the nation expressed shock at Hill's stance, and many considered it a blot on a sterling record.

Hill doesn't like to talk about that aspect of his long career. "That is past now," he said. "We ought to do all we can to do away with internal fights."

Hill said he is heartened by the new South, that politicians don't have to yell "nigger" anymore to get elected.

BOLD RENOVATION OF OLD POST OFFICE SET

Mr. STAFFORD. Mr. President, the Senate Committee on Environment and Public Works recently gave approval of a plan by the General Services Administration to reconstruct the old Post Office on Pennsylvania Avenue here in Washington. Together with House approval of the prospectus and the recent appropriation of $18,000,000 to pay for the renovation, GSA will soon begin this interesting project.

This reconstruction will prove a great attraction for visitors to Washington, and it should provide an excellent example for those, such as myself, who believe that rehabilitation of existing structures is often a sound and economical approach.

Mr. President, the Washington Post recently carried an interesting article on the proposed renovation of the Old Post Office. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 3, 1977]

BOLD RENOVATION OF OLD POST OFFICE SET

(By Sarah Booth Conroy)

In a rare departure from precedent, the General Services Administration chose last night a bold plan by Washington architect Arthur Cotton Moore to remodel the Old Post Office Building, cornerstone of the long-promised Pennsylvania Avenue development.

Moore's innovative design would combine shops with a spectacular courtyard rising 196 feet to an immense glass roof. The projected cost is $16 million.

"The whole plan is based on making the building a bridge between the local city and the federal capital," Moore said lost night.

Selection of Moore's plan rather than a safe, textbook restoration scheme marks a new direction for GSA which has been criticized for bland architecture. GSA administrator Jay Solomon announced Moore's selection.

Moore is in a joint venture with McGaughy, Marshall and McMillan of Norfolk, Associated Space Design of Atlanta and Stewart Daniel Hoban of Washington. Construction is expected to begin in September, 1978, after a year of design work.

Surrounding the open, glassed-over courtyard area of the remodeled structure on the basement, first and mezzanine levels would be shops and a restaurant. On the second through ninth floors, federal offices would circle the open center space with arched corridor/balconies serving as "streets in the sky."

The landmark clock tower on the building, situated on Pennsylvania Avenue at 12th Street, would become an observation platform with a glass elevator.

The fortunes of the Old Post Office Building, first federal office in the area, have risen and fallen with those of Pennsylvania Avenue.

The building, erected in the Richardson Romantic style, and finished in 1899, has stood trembling on Pennsylvania Avenue in fear of its fate ever since the neo-classical Federal Triangle area was completed. When the Post Office building was finished, one newspaper suggested dynamiting it. Its advocates, growing in strength over the years, have fought its preservation as a "city sculpture" to lighten the ponderous Triangle.

Moore's plan is full of innovative ideas—from solar collectors in the glass roof to offices through floors two through nine to shops in the basement and first floor.

"The Federal Triangle has served as a Chinese wall to the city," Moore said. "Tourists come down to the Mall from their Bide-we motel in the suburbs and go back without ever coming into the city.

"What we hope to do is make a place so attractive, we will bring together tourists from the Mall, government workers from the Federal Triangle and city shoppers."

Moore would cut a 100 by 150 foot hole in the main floor and install a baroque staircase (and perhaps an escalator) into the basement floor. Congress has just recently authorized the mixed use of federal buildings for both government and commercial, and 50,000 feet of space will be leased to private businesses.

The present south loading dock would be made into an important entrance to the ground floor (now the basement) through a sculpture court. Another entrance to the lower floor would be made on the northeast through what are now windows.

Moore's plan also calls for a Metro entrance and a tourmobile stop in the sculpture court, which would be made in the curving south entryway. Current Pennsylvania Avenue Development Corporation plans call for a triangular tree court in the Pennsylvania Avenue entrance.

Floors two through nine would provide 142,000 square feet of federal office space. The choice fifth floor with its elaborate plaster moldings might go to the National Endowment for the Arts, which championed the recycling of the building. The National Endowment for the Humanities and other arts-related agencies would have offices on the upper floors, to turn the building into a United States culture center.

The upper floors all have balconies onto the courtyard. The Federal space, for security, would be controlled by lobbies around each of the elevators to the upper floors. William R. Lawson, chairman of the competition board, said this separation between shoppers and office workers was one of the prime reasons Moore was chosen.

The Moore plan pays particular attention to energy saving. The windows would all be openable. Solar collectors, shaped like fins, would work like venetian blinds against the glass skylight to control glare while collecting solar energy.

The ninth floor, now a gloomy attic, would be opened up with skylights in the roof gable and used for office space.

Moore was selected through a widely-acclaimed new method, just recently started by GSA. Ninety-three of some of the country's best known architectual firms entered the architectural competition. From these, 10 were chosen to be interviewed and from them three chosen to submit (for a $46,000 fee) a preliminary plan.

The three were: Hugh Newell Jacobsen of Washington with Shepley, Bulfinch, Richardson & Abbott and Desmond and Lord Inc. of Boston; Faulkner, Fryer & Vanderpool of Washington; and Moore and his joint venture. The three had from April 9 until last Wednesday to design their plans.

"We really were looking for a design approach," William Lawson, chairman of the competition board said, "rather than a finished plan. What got us about Moore was the excitement he brought to the conception. He made a dramatic innovative proposal. Faulkner, et al. did a textbook, careful, safe restoration plan. Jacobsen's design, was a compromise between the other two.

"I suppose you are right to say this is one of the clearest instances when GSA had the choice between a safe plan and an innovative one and took the innovation."

GSA has been criticized for years for dull design and the competition was designed to encourage a more spirited approach to government building.

Jay Solomon, the newly-appointed GS administator, was especially interested in the competition. He attended the Wednesday hearing, and in the middle, raced out to see the Old Post Office for himself. He climbed all the way into the dark tower and inspected the arcades and the roof, now asphalted over.

Moore, a Princeton graduate is a sixth-generation Washingtonian. The 42-year-old architect has already won six honor awards this year. Among his best known works are: Canal Square, the Foundry, Madeira School, and the Cairo apartments. Of these, all except the school are old, derelict buildings, remodeled in a clean lined, bare brick contemporary fashion.

Moore first became interested in the Old Post Office in 1971 when the Washington Post architecture critic Wolf Von Eckardt asked his ideas on reusing the old structure after Don't Tear It Down preservation society and architect John Wiebenson had mounted a campaign to save the building, against one of the recurring plans to demolish it.

The GSA review board of architects and engineers included Karel Yasko, Kent Slepicka, Claude Bernier and Dwain E. Warne, assisted by 20 technical consultants.

The Old Post Office was designed as the name suggests for that use beginning in 1892. It was the first government building to have its own electrical power plant. It still has the largest uninterrupted interior space in Washington and the only open-caged elevators.

Sadly, according to the story, a postmaster fell down one of the elevator shafts during the opening day celebration.

Flag Day is said to have begun here when, on June 14, 1908, post office employees raised the largest correctly proportioned American flag from the skylight falling seven stories down.

Originally mail was sorted in a glass roofed section of the first floor in the enclosed court. In recent years the building has been used temporarily by a succession of agencies. The longest tenant has probably been the FBI, which still hangs a picture of the late FBI director J. Edgar Hoover in their lobby.

A TRIBUTE TO MARGARET SANGER

Mr. ABOUREZK. Mr. President, September 14 is the anniversary of the birth of Margaret Sanger, eminent feminist and founder of the birth control movement in the United States.

In paying tribute to Ms. Sanger, I would like to bring to the attention of my colleagues the following column by my constituent, Joan J. Meyer. The column appeared in the Rapid City Journal, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARGARET HIGGENS SANGER

(By Joan Meyer)

On this day it is timely to acquaint those who do not know and remind those who have forgotten of that illustrious feminist and founder of the birth control movement in the United States, Margaret Higgens Sanger, born Sept. 14, 1883.

Believing in the right of every woman to plan the size of her family, she devoted herself to removing the legal barriers to publicizing the facts about contraception. For her devotion to a cause widely thought to be obscene, if not subversive, she was jailed eight times, denounced by the medical profession, exoriated by churches, condemned by the press and shunned by liberal reformers who opposed her tactics.

In contrast to the reformers who sought to change laws, Margaret Sanger's strategy was to secure new interpretations of existing laws.

Her autobiography includes a succession of circumstances propelling her into a crusade that consumed her every conscious hour from 1914 unto the final bedridden years ending Sept. 6, 1966. The circumstances were: being born into a family so large as to be in part responsible for her mother's premature death; her preparation as a nurse which awoke her to the sorrows of women, especially impoverished women; the inspiration of having come in contact with great minds, and having claimed many as friends.

One of the great minds, British novelist, sociologist, journalist and historian, H. G. Wells, predicted that within a hundred years of the birth control movement that she had started would be the most influential of all time in controlling man's destiny on earth. Wells referred to her as the greatest woman in the world!

As a pacifist, she viewed birth control as a means to international peace. In 1925, Margaret Sanger was among the world's concerned who regarded Japan, Germany and Italy as danger spots because of their explosive population. The three military countries offered medals, money and lands as incentives for women to bear more children while their leaders declared their right to expansion because of too many people within their own boundaries.

To Margaret Sanger, an increase in population was not a justifiable reason for national expansion. She believed that each nation should limit its inhabitants to its resources.

With the lag in scientific and medical development in population control plaguing her, she sought to assemble economists, sociologists, biologists and others to meet in Geneva, Switzerland to focus the attention of the scientific world on the population question. She spent a year soliciting funds and preparing for the World Population Conference that convened for three days in late summer of 1927. Although, some of the distinguished scientists vehemently objected to the risk of becoming the laughing stock of all Europe because a woman brought them together, she accomplished her goal. A permanent population union was formed.

OLD DEFENDERS' DAY IN MARYLAND

Mr. MATHIAS. Mr. President, within the last 24 hours a number of people who have been observing the customs of the natives of Maryland have asked me, "What is Old Defenders' Day?" Since the question may have occurred to some who did not have an opportunity to voice it, I wish to explain to the Senate what Old Defenders' Day means to the people of Maryland and why we celebrate this anniversary.

One hundred and sixty-three years ago yesterday a valiant band of Marylanders successfully defended Baltimore against British attack. The battles of North Point and Fort McHenry, which began on September 12, 1814, were a turning point in the War of 1812 and remain a proud chapter in the history of Baltimore, of Maryland, and of our country.

September 12 is now observed throughout the State of Maryland as Defenders' Day in honor of the citizen-soldiers, who confronted the British forces returning from the conquest of Washington and who drove them from Maryland's shores.

So that my colleagues may fully appreciate the pride Marylanders feel on this day, I ask unanimous consent that a brief account of the details of those battles be printed in the RECORD at this point. The account is taken from "Maryland: A History, 1632–1974," edited by Richard Walsh and William Lloyd Fox, and published by the Maryland Historical Society.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

THE DEFENSE OF BALTIMORE

Encouraged by their conquest of Washington, the British found the temptation of attacking Baltimore too strong to resist. They headed up the Bay. By Sunday morning, September 11, the sails of fifty British ships lined the horizon at the entrance of the Patapsco River. The British planned to attack Baltimore with a combined land and sea operation. The land force, comprising four thousand troops, debarked on September 12 at North Point and moved up the narrow peninsula between the Patapsco and Back rivers. A successful march here would bring them to the environs of Baltimore from the east. Simultaneously, frigates and bomb vessels sailed up the Patapsco, expecting to enter the Northwest Branch beneath Fort McHenry and assault Baltimore from its inner harbor.

The British strategy was obvious to General Samuel Smith, and he prepared to meet it. He assigned 3,200 troops to Brigadier General John Stricker to meet the British advance upon the peninsula from North Point. Smith then ordered that the mouth of the Northwest Branch, between Fort McHenry and the Lazaretto, be blocked with barges. He reinforced the troops and cannon at Fort McHenry and the garrison across the river at the Lazaretto.

On September 12 and 13, 1814, the two forces moved to carry out the strategy planned for them. General Stricker's militia met the seasoned British regulars, but unlike the battle of Bladensburg, the American militia held their ground. After two costly engagements and the death of their commander, Major General Robert Ross, the British retired to their vessels at North Point.

While the land forces were in combat, the British ships blasted away at Fort McHenry. Beginning early on the morning of September 13, a terrific hammering of cannon continued throughout the day and into the night. At dawn on the morning of September 14 aboard a flag-of-truce ship down the Patapsco, Francis Scott Key peered through spyglasses and to his joy and amazement saw the American flag still flying over Fort McHenry. Key had made contact with the British to seek the release of a captured Dr. William Beanes and had witnessed the bombardment aboard ship. As he gratefully discerned the flag in the foggy dawn, his emotions stirred his poetic nature, and he quickly jotted down phrases on the back of a letter he carried. Released and ashore, he published the verses written in celebration of the victory. Thus "The Star-Spangled Banner" came into being. The light of day also brought relief and joy to the defenders of Fort McHenry. They had withstood the British assault and for a few days tensely girded for another. But the disheartened British sailed away. Though Washington had been sacked Baltimore stood untouched, and by this defense the nation's honor was partially restored.

NATIONAL HISPANIC HERITAGE WEEK; 1977

Mr. RIEGLE. Mr. President, in honor of more than 16 million Hispanic Americans residing in the United States, President Carter has declared the week beginning September 11, 1977, National Hispanic Heritage Week.

It is important that every American realize the significance of this observance. Throughout this country's history, Hispanic Americans have made substantial contributions in the areas of art, education, and in the sciences. As a

whole, the Hispanic community has educated this country to the values of family life and community spirit.

As we begin our observance of Hispanic Week let us encourage one another to participate. We should each make an extra effort to become better acquainted with the Hispanic community. In this process lies the key to a better understanding of the Hispanic way of life.

I take pride in saluting the Hispanic community in Michigan and throughout the Nation as they share their culture and way of life with the entire country.

SOLD TO THE HIGHEST BIDDER?

Mr. LUGAR. Mr. President, skepticism of cargo preference legislation is growing like Topsy on Capitol Hill. Aside from allegations regarding President Carter's political debts to the maritime lobby, this piece of legislation is replete with serious flaws.

The Indianapolis News recently published an editorial headlined "Sold to the Highest Bidder?" in which it shows that the administration's hoped-for cargo preference juggernaut is full of holes and deserves to be sunk.

In the interest of open debates on this crucial issue and to make this material available to my colleagues in the House and Senate, I ask unanimous consent that the lead editorial from the September 5, 1977, issue of the Indianapolis News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOLD TO THE HIGHEST BIDDER?

It's one of the slickest deals to slip through the pipeline in a long time.

It will cost you more at the gas pump, but it will help pay off a campaign debt owed by President Carter and an influential group of Democratic congressmen.

Known as the oil cargo preference bill, it would not only eventually triple the amount of U.S. oil imports carried on American-built tankers, but would require that the suddenly necessary ships be entirely built in domestic shipyards.

President Carter has supported the legislation (H.R. 1037) despite the contrary advice of several of his top officials. Now it's up to Congress to kill this legislation because it has no redeeming value to anyone but the maritime industry.

The maritime industry is a powerful lobbying force in this country. It was largely responsible for the Jones Act, for example, which requires that cargoes shipped between domestic points be carried only by U.S. ships.

During his election campaign, President Carter alone received maritime industry contributions estimated from $100,000 to $250,000. H.R. 1037 recently came up for consideration by the House Merchant Marine and Fisheries Committee. On that committee 31 members received more than $82,000 from maritime interests in the last election, according to a Common Cause study. It goes without saying that the cargo preference bill passed the House committee last month by a 31–5 vote with presidential support.

What exactly is wrong with cargo preference legislation? Briefly, just about everything.

Proponents of the legisltaion argue it is necessary on the grounds of national security despite a lack of Defense Department support in this contention. Maritime interests argue more tankers are necessary to meet this country's needs in time of war. America's wartime civilian and military needs are estimated at 13.3 million tons by the joint chiefs of staff. U.S.-flag tankers currently provide 9 million tons plus 52.8 million tons from U.S.-owned foreign-flag tankers. Thus, we already have four times our need available in case of war.

Under the proposed bill, 9.5 percent of the nation's oil imports will be carried on U.S. ships by 1982. U.S. tankers now carry 3.5 percent and this is expected to drop to .5 percent next year. To handle that much more oil, new American tankers would be needed—and foreign-built ships bought and manned by the United States would not be allowed under the legislation.

So this bill would cost a bundle. A new, 60,000-ton capacity tanker built in this country costs $45 to $50 million. The same ship, slightly used, can be bought on the world market for about $4.3 million.

True, building new tankers will mean jobs for shipbuilders, but it will also mean higher oil prices for consumers. The General Accounting Office has estimated the proposed legislation will raise the nation's fuel bill by at least $240 million a year. GAO admits it could cost even more if, for example, other nations decide to retaliate for such blatantly protectionist legislation.

Some of the best arguments against the bill, however, come from within the Carter administration, Rep. Paul McCloskey, R-Calif., has circulated some enlightening memos advising the President against supporting any form of cargo preference.

"It would reverse U.S. policy favoring free competition, could trigger emulation by others and would violate U.S. treaties with more than 30 countries," wrote Treasury Secretary W. Michael Blumenthal.

But perhaps the most telling comments came from Stuart Eizenstat, chief adviser on domestic policy, and Robert Strauss, special trade representative. Eizenstat urged support for cargo preference legislation, even though he called it a flawed concept, Strauss laid it on the line: "Politically," he wrote, "something in the way of a cargo preference is going to be hard to resist."

That's no way to run a democracy.

THE GENOCIDE CONVENTION AND THE HELSINKI ACCORD

Mr. PROXMIRE. Mr. President, in 1975, the United States agreed to abide by the conditions for the protection of human rights put forth in the Helsinki Accord. Our Nation is recognized as an outspoken leader in bringing those safeguards into existence. Ironically, of the document's 35 signatories, the United States remains a member of the small minority which have still not ratified the Genocide Convention or supported its attempt to set up just international standards for the protection of these rights.

In May of this year, the Honorable Arthur J. Goldberg, Chairman of the Ad Hoc Committee on the Human Rights and Genocide Treaties and Permanent Representative of the United States to the United Nations for the past 3 years testified that—

The failure on the part of our country to ratify the Geneva (Genocide) Convention has placed the United States in a most difficult position to protest acts of genocide which occur in other parts of the world.

If anything, our representatives at Helsinki will find themselves in a more difficult position to assert that all signatory nations fulfill their obligations to protect human rights and dignities under the Accord.

I do not have to recall to this committee that protection of human rights was the quid pro quo exacted by the Western powers for the concessions made to the Soviet Union and the Eastern European powers in that Accord.

Mr. President, next month our Nation's representatives will travel to the Helsinki Accord Conference in Belgrade to discuss participant's compliance with the document's conditions. Although serious violations have taken place, the Senate's failure to have ratified the Genocide Convention will make it more difficult to bring these offenses to light, and will lower the chances that this great agreement can be adequately enforced. I see no reason why we must continue to give those who wish to ignore or pervert the original intent of the Helsinki Accord a weapon with which to defend themselves. I urge my colleagues to correct this mistake, ratify the Genocide Convention, and once again enable our representatives to bargain at full strength.

TENG IS UNTRUTHFUL: NO PROMISES TO BREAK RELATIONS WITH TAIWAN WERE GIVEN BY UNITED STATES

Mr. GOLDWATER. Mr. President, in the September 7 edition of the Washington Post, there appeared a lengthy article by Louis D. Boccardi of the Associated Press reporting on an interview given by Communist Chinese Vice Premier Teng at a meeting with AP officials who are on a visit to mainland China. If the reported comments are an accurate description of Teng's comments, he made to my certain knowledge some complete misstatements of fact.

The AP story claims Teng said that former President Gerald Ford and former Secretary of State Henry Kissinger had promised to take three actions demanded by Red China: Breaking diplomatic relations with Taiwan, abrogating the United States-Republic of China defense treaty, and withdrawing the remaining American troops on Taiwan.

Mr. President, these purported promises never were given.

In the first place, since that interview, former President Ford has publicly indicated that Teng was not truthful in his statements. The former President denied making any definite promise of yielding to the Communist demands.

Moreover, I have been keeping abreast of the effort to achieve a so-called normalization of relations with Red China for years now, and have been in almost constant touch about this subject with the Secretaries of State involved, particularly Henry Kissinger.

I can say from personal memory of discussions I have had with both former Secretary Kissinger and former Presidents Nixon and Ford that no—I repeat—no promise has ever been made to break diplomatic relations with the government on Taiwan.

Mr. President, I have repeated time after time on this Senate floor that Red China does not even want to discuss, and has not discussed, the status of Taiwan. The Communists have refused to talk about exercising peaceful conduct toward Taiwan and consider this to be

their own business; so it was never on the agenda.

The truth is this: Neither President Nixon, nor President Ford, have ever promised that diplomatic relations with the Republic of China on Taiwan would be broken.

In fact, I have asked the Department of State for any records they mght have discovered to disprove this statement, but, to date, none have been forthcoming. So I must continue to hold to my own recollections of what is true, as I have been told it by the participants involved, and the truth is exactly the opposite of what Mr. Teng said.

As to the matter of possibly abrogating our defense treaty with the government of free China, I have pointed out recently to the Senate why no President could make such a promise.

The answer is simple. No President has that power.

Treaties can be abrogated, or allowed to lapse, only with legislative approval. All the Senators have to do is look at section LII of Jefferson's Manual of Parliamentary Practice, which he compiled during the time he served as Vice President of the United States and President of the Senate.

The rule announced in Jefferson's manual is concise and clear:

> Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded.

This is the position taken by John Jay in the Federalist Papers; it is the position taken by James Madison; it is the position taken by the Senate Foreign Relations Committee in an official report; and it is the lesson drawn from historical practice.

Thus, no President could promise another power to abrogate a treaty with a third power, because the Constitution denies him any authority to do that acting alone and without legislative authorization. Presidents are required by the Constitution to faithfully execute the law, and the President can no more repeal a treaty by his own act than he can repeal a statutory law. They both are made by the Constitution as a part of the supreme law of the land.

In conclusion, Mr. President, Mr. Teng has been untruthful with his American visitors. And with the world.

THE AMERICA'S CUP RACES

Mr. PELL. Mr. President, today marks the start of the 23d series of one of the world's longest-running and most prestigious sporting events—the America's Cup Race—a competition which has produced the longest winning streak in American sports.

Beginning today, and lasting perhaps several weeks, is a one-on-one match between the U.S. defender, *Courageous*, and the "down-under" challenger, *Australia*, in the waters of Rhode Island Sound. The trophy of this yatching contest is a 126-year-old silver cup which has been successfully defended 22 times since an August in 1851 when 5 members of the New York Yacht Club sailing the schooner *America* triumphed in a race at sea against 18 British entries from the Royal Yacht Squadron.

Coveted by sporting yachtsmen around the world, the "cup" is held by the New York Yacht Club under a deed of gift which calls for "friendly competition between countries." Although there have been many attempts over the past century from numerous countries to wrest this prized trophy from its glass show case at the N.Y.Y.C.'s headquarters, none has succeeded to date.

This year's competition for the privilege of challenger saw three nations, Australia, Sweden and France, undergoing grueling elimination races off the shores of Rhode Island most of this summer. Emerging the victor in this preliminary sparring was the *Australia*, skippered by Noel Robins.

Likewise undergoing preliminary trials were three American contenders for the title and task of defender of the "cup." Of these the "Courageous" was selected, captained by a most able man, Ted Turner, who, interestingly, began his distinguished record of helmsmanship at Brown University in Providence, R.I., racing dinghies as an undergraduate.

As a Senator from Rhode Island and resident of Newport, the host city for the races, I am particularly pleased to have this opportunity to pay tribute to both crews on this starting day. The battle for the "cup" will be a long and hard one. Four out of seven races must be won, the average race lasting approximately 4 hours. The boats must follow a six-legged, 24.3 nautical mile course and adhere strictly to nearly 80 racing rules.

Although there is no way of predicting the outcome of these races between such well-matched boats, one thing is certain—our defender and her crew are the best America can produce, a blending of technological and human excellence. I know I join with millions of other proud Americans in wishing Skipper Ted Turner and his "Courageous" crew good winds, smooth seas and every success in winning the 23d America's Cup Race—and thereby insuring the next sailing of the America's Cup Race in the friendly, familiar and beautiful waters off Newport, R.I.

SMALL HYDROPOWER PLANTS

Mr. GRAVEL. Mr. President, for some time now I have been an advocate of the development of alternative sources of energy, on the theory that we should not be completely dependent on a nonrenewable source of energy. Each region of the country should be encouraged to develop the source or sources of energy most readily available to that region, in keeping with sound environmental practices. This may mean that some regions will concentrate their efforts on the development on wind or solar power, while others may develop peat or geothermal. There is a great potential source of energy also available in the form of hydropower.

There are in this country, primarily in New England, Minnesota, Wisconsin, and Alaska, numerous minidam sites which either were or could be used for the generation of relatively small amounts of electric power. Primarily of the size of 5,000 kw or less, these potential generating facilities could be operational with the application of appropriate financial incentives. Many areas are now converting sites to the generation of power. Others will do so. Currently, only 1,400 of the 50,000 small dams in the country have been developed for power generation.

Senator DURKIN and I are sponsoring a bill to encourage the development of minidams. The energy bill passed by the House in August contains a similar provision. The Senate will hopefully pass a measure similar to mine or the House's.

I would encourage every one of my colleagues to explore this area of untapped but readily available energy. Along those lines, may I encourage you to read the following article taken from the most recent issue of the Smithsonian magazine, written by David E. Lilienthal. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOST MEGAWATTS FLOW OVER NATION'S MYRIAD SPILLWAYS

(By David E. Lilienthal)

Energy, we are told, is to be the nation's number one domestic priority for the rest of the century, and we are advised by high authority that the only course immediately open to us is to use less of it.

No one would advocate waste and inefficiency. All the same, using less energy is patently a solution only for the short term if this still youthful country is to go on growing, which is what we may expect from its natural habit and previous behavior. In that case, we will need to consume more energy, not less. Even as a short-term solution, conservation will not work unless the citizen is persuaded that the sacrifices he is called upon to make are necessary.

I doubt whether he will be so persuaded if he finds out that a satisfactory additional source of energy readily available to us is neglected—the moving waters of our rivers and streams. This is a resource very substantial in volume, for more than half of it is still to be developed; it renews itself, unlike oil and coal and uranium; and its cost will not rise as the years roll on. It provides a form of energy which does not pollute the air, and need not make a violent impact on the environment; it is widely, though not uniformly, distributed throughout America, and is often available right where it is required.

I said need not make a violent impact on the environment. Especially where dams have already been built, there should be no impact whatsoever. Why, then, are we not doing more about them? Partly, no doubt, because our society has become preoccupied with bigness, and most of our hydroelectric potential is small in scale. We seem to think automatically in terms of huge regional transmission systems and million-kilowatt, multibillion-dollar projects, and can no longer conceive of 5,000 kw, 10,000 kw, or even 20,000 kw as practical. However, a new study by the Army Corps of Engineers estimates that installation of additional generating capacity at existing dam sites could add 54,000 megawatts to the nation's power pool. A Federal Power Commission study asserted that the United States has 113,000 megawatts of undeveloped hydro potential, almost twice the 66,000 megawatts of existing capacity. In addition, the FPC found that if only ten percent of our 50,000 small dams were even partially developed, we could save the energy equivalent of 180 million barrels of oil every

year. Congress, in fact, has included a section on small-scale hydropower in the new energy act President Carter has requested.

I do not embrace the notion that what is small is necessarily beautiful. As one who has, for a good part of his lifetime, been responsible for the building of very large structures and systems, here and abroad, I am nevertheless skeptical of the equally extreme doctrine that bigger is better, and that biggest is best. I suggest that "bigness" and "smallness" are not exclusives but rather complementary, as they have been in the Tennessee Valley Authority. There was only one TVA, a giant, but there were more than 150 distinct and separate utility enterprises, each owned and operated by the local citizenry.

Something of that sort is surely applicable to the redevelopment of our smaller waterways. The small and medium hydropower installations we contemplate are not going to replace the great generating and transmission systems we already have, but they can certainly satisfy some of the increasing demand for energy which the regional systems strain their resources to meet. Furthermore, centralized systems are the only possible suppliers of back-up seasonal power to the small plants when their streams run low, and the only market for their surplus power when the water is high. This is a sensible, profitable alliance such as TVA worked out years ago with the Aluminum Company of America and large neighboring private power systems.

Perhaps the greatest waste of hydroelectric potential is being perpetrated in New England, that part of the country with the highest average fuel bills. Throughout the 19th century and into the early years of this one, it was an enviably prosperous region, consisting predominantly of small towns and villages, sturdy, independent, self-reliant. Out of New England came original culture, a profusion of literary and artistic talent, outstanding statesmanship, admired institutions of learning and a special resourcefulness and inventiveness known as "Yankee ingenuity," which summed up for the world at large the qualities that made America the most productive and prosperous nation in history.

For something like 150 years New England drew its energy largely from falling water. The story of its towns and villages is not the stuff of romance, it is the plain, matter-of-fact story of a people getting down to work. For example: Matthew Lyon, a fighting genius of an Irishman, who moved to Fair Haven, Vermont, in 1783 and built the first waterpowered sawmill and gristmill, hired the first teacher, erected the first meetinghouse, set up the first printing press, published the first newspaper and, among other things, sponsored an iron works and a paper mill.

The pioneer mills were followed by woodworking, shoe, textile, furniture and machine tool factories. The wooden dams were replaced by more substantial structures in stone, some of them exceedingly well built, for the workmen took pride in their calling. A stone dam at Lawrence, Massachusetts, completed in 1848, appears even now to be as sound and solid as the day it was finished. Later, hydraulic turbines were installed in many old dams, providing convenient electric energy to replace the brute power of the old waterwheels. The early industrial preeminence of New England, while attributable to many things, rested to a large extent on the ingenuity with which its people captured the power of its rivers.

The decline of this region today, the flight of so many industries, the chronic unemployment, the decaying communities, though attributable to various causes, have been coincident with diminishing reliance on the resource that brought its earlier prosperity.

What is especially true of New England is also true of other regions in America. There is hardly a state without potential waterpower or where waterpower is being used as fully as it ought to be. There is hardly a state whose citizens do not tell us, with some asperity, of dozens of old hydropower sites abandoned.

Why has it happened? The answer is not a complex one. We were persuaded to accept the fashionable idea that great new generating stations and huge, regionalized transmission systems would deliver electric energy more efficiently and at lower cost to the public than small, local, decentralized ones. Nobody foresaw what would happen to the cost of oil and gas and coal, or to the cost of transporting these fuels, or to the cost of constructing huge generating plants and mighty transmission lines. No one foresaw the rapid diminution of the world's reserves of oil. We placed major reliance upon nuclear energy, without being fully aware of its costs or its hazards.

However, this is much more than a matter of economics. The disappearance of so many of our small and medium-sized hydro installations has wrought some social and community disadvantages as well. A power plant on their own stream is something that people can see and understand and take pride in, something that represents treasured associations with their past while conferring substantial benefits in the present, something peculiarly their own. It would be foolish to discount such emotions, which lie at the roots of local initiative, identity and well-being.

A new enthusiasm for restoring historic installations has begun to manifest itself. The Hagley Museum, site of the Du Pont Company's first black powder mills on Brandywine Creek in Wilmington, Delaware, for example, has recently refurbished a turn-of-the-century hydroplant that supplies almost all of the 500-kw demand for a 180-acre complex. The citizens of Paterson, New Jersey, are enthusiastic about their Great Falls project on the Passaic River (p. 87) because it is connected with the memory of Alexander Hamilton and his Society for Establishing Useful Manufactures. The city means to renovate this early power plant, which has been allowed to stand idle because of equipment deterioration and flood damage.

The people of Newmarket, New Hampshire, have a dam and used to have a hydro plant, too; it served them well until 1955, when their utility company, in the name of progress, stripped the installations, stuffed the penstocks, and supplied power instead from a central generating station miles away, which they had never set their eyes upon. The Federal Power Commission reports that as of January 1977, no fewer than 228 small hydro plants have been abandoned in New England alone in the last 30 years.

Good hydro sites are everywhere. In Goodhue and Dakota Counties, Minnesota, a little 1,890-kw plant was shut down by the Northern States Power Company in 1966 and the lake turned over to the community for aquatic recreation. The Lake Byllesby dam, I am told, costs local taxpayers $18,000 a year to maintain, but it could have served its recreational purposes perfectly well and still earned them $25,000 a year in power revenues, if only the turbines and generators had been left intact. Twenty-six small hydro plants have been abandoned by the same utility company in Minnesota, Wisconsin and North and South Dakota since 1930. These states are not the best-endowed in waterpower resources, but they have been made to appear worse off than they really are.

I do not accuse the utility companies of malignity or even carelessness in pursuing this course. I can readily believe that at least some of these plants were not profitable to operate in the conditions of the times, and the utility companies were no more prescient than the rest of us before the oil embargo of 1973–74. I do take them to task—with some honorable exceptions—for their reluctance to recognize, even in our present extremity, the value and the extent of our wasted waterpower resources.

In the Federal Power Commission estimates I mentioned earlier, only about 1,400 of the 50,000 small dams have been developed for power generation, the rest for the improvement of river navigation, flood control and irrigation. There are 343 flood-control dams in the northeastern United States (229 in New England alone); many of them can be made to accommodate power installations without compromising their original function. Take Mount Morris Dam on the Genesee River in west central New York. When the Army Corps of Engineers built it, they prudently built in penstocks as well and one day Buffalo and Rochester may be grateful for them, because the 40,000 kw this dam will accommodate is not a trivial increment in a state which needs power as badly as any other, and pays dearly for what it already gets.

As for differences in water levels in the irrigation canals of the Far West, FPC-published reports omit all projects with estimated capacities of less than 5,000 kw. How many of these there are, and what they might someday contribute, is conjectural.

The same might be said about the total potential capacity of the navigation dams on the Ohio, Arkansas and Mississippi Rivers, to mention the three most obvious cases. It may amount to millions of kilowatts. I do know that the enterprising city of Vanceburg, Kentucky, is already taking steps to install 210,000 kw, a very sizeable asset, in three navigation dams, already built, to which it has access. The Corps of Engineers has counted more than 49,000 dams in this country of at least 25 feet in height, which means an ample head of water for the production of power by the new, low-head turbines, yet only a thousand or so are actually equipped to produce power.

The size of an installation does not matter. The 500-kw plant at the Hagley Museum is as worthy a testament for conservation and against waste as the 50,000-kw plant. We know, on the plentiful evidence afforded by plants belonging to villages, municipalities, industries and some utility companies, that the small hydroelectric facility, generating a few hundred kilowatts, a thousand or five thousand, is imporant, since even 5,000 kw can serve the needs of several thousand families.

These small- and medium-sized projects can be developed at lower capital costs per unit, and will produce energy at lower production costs per unit, than we are likely to get from huge new generating stations using less permanent, less reliable, more hazardous resources. Moreover, they can be built quickly, compared to the 10 or 12 years required nowadays to design, license and build a large coal-burning or nuclear plant. What inflation and interest charges add to costs over such long periods is something the consumer would rather be spared.

What will these little projects mean? Lighting for schools, streets, parks and other communal purposes, at prices lower than the norm. They mean power at a price that will permit small industries to stay in business and keep on employing people. But they will mean something much more important than these advantages, in my view: while Congress debates energy policy, while the courts and learned experts discuss environmental tradeoffs, while economists pontificate, people, in their own communities, can do something to help themselves. In fact, as we have seen, they have already begun. In a few years there may be thousands following in their wake, for the challenge of overcoming obstacles and conventional attitudes comes naturally to us.

Private citizens can show officialdom what conservation really means.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BIDDING PRACTICES IN NATIONAL FOREST TIMBER SALES

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of S. 1360, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1360) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review.

The Senate proceeded to consider the bill, which had been reported from the Committe on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert the following:

That subsection (e) of section 14 of the National Forest Management Act of 1976 (90 Stat. 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e) The Secretary of Agriculture shall monitor bidding patterns involved in the sale of trees, portions of trees, or forest products from National Forest System lands. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

"(1) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(2) he may alter the bidding methods used within the affected area; and

"(3) he shall take such other actions as he deems necessary to eliminate such practice within the affected areas.".

Mr. STEVENS. Mr. President, is there a time limit on this bill?

The PRESIDING OFFICER. There is a time limit on the bill. The time limit is 3 hours on the bill, 1 hour on amendments in the first degree, 30 minutes on amendments in the second degree, 20 minutes on debatable motions, appeals, and so forth.

Mr. STEVENS. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, or no later than 2 p.m., whichever is the earlier, the Senate resume consideration of Calendar No. 310. S. 1360, the timber sales bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1:45 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 1:45 p.m. tomorrow.

The motion was agreed to; and at 10:32 p.m. the Senate adjourned until tomorrow, Wednesday, September 14, 1977, at 1:45 p.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1977:

DEPARTMENT OF ENERGY

The following-named persons to the positions indicated (new positions):

John F. O'Leary, of New Mexico, to be Deputy Secretary of Energy.

Dale D. Myers, of California, to be Under Secretary of Energy.

Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary of Energy (International Affairs).

Robert D. Thorne, of California, to be an Assistant Secretary of Energy (Energy Technology).

John M. Deutch, of Massachusetts, to be Director of the Office of Energy Research.

David J. Bardin, of New Jersey, to be Administrator of the Economic Regulatory Administration.

The following-named persons to be members of the Federal Energy Regulatory Commission for the terms indicated (new positions):

Charles B. Curtis, of Maryland, for a term of 2 years.

George R. Hall, of Virginia, for a term of 3 years.

Georgiana H. Sheldon, of Virginia, for a term of 3 years.

EXTENSIONS OF REMARKS

PRESIDENT BOWS TO DEMANDS—INSTITUTES STUDY FOR OSHA REFORM

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HANSEN. Mr. Speaker, I commend the recent actions of President Carter in seeking to bring meaningful reform to the Occupational Safety and Health Administration, a matter in which many of us have a significant interest.

I sincerely hope that the President will act upon the advice of his counselors and initiate their recommendations with all possible speed. In addition, I hope that attention will also soon be paid to alleviating the unconstitutional warrantless inspections presently being utilized by the agency.

Mr. Speaker, for the benefit of my colleagues I include for the RECORD an article by James C. Hyatt of the Wall Street Journal on July 18, 1977 and an article by the Bureau of National Affairs, Occupational Safety and Health Reporter, the July 14, 1977 issue, which explain the President's plans in detail:

PROPOSAL LABOR AGENCY QUIT SAFETY ROLE MAKES POLITICAL HEAT FOR ADMINISTRATION

(By James C. Hyatt)

WASHINGTON.—The Carter administration is in political hot water over a recommendation that the Labor Department be taken out of the job-safety regulatory business.

The dispute has labor unions and key congressional supporters of the department's Occupational Safety and Health Administration lined up against three presidential advisers who made the proposal in late May.

Charles L. Schultze, chairman of the President's Council of Economic Advisers; Budget Director Bert Lance, and domestic affairs adviser Stuart Eizenstat told the President that "serious consideration should be given to totally eliminating most safety regulations." The rules would be replaced "with some form of economic incentives" for businesses to provide a safe workplace. Then, they suggested, OSHA's resources could be used to regulate health problems and to cover "emergencies."

Acting on that recommendation, in June the President ordered creation of a task force headed by Mr. Lance and Labor Secretary Ray Marshall to conduct a study of "OSHA reform," with orders to report by next March.

Carter administration officials expected to announce formation of the task force this week. But the plan ran into controversy when the memo to the President became public. Representatives of a dozen labor unions met on Thursday with Secretary Marshall's staff to express concern. And on Friday, Sen. Harrison Williams Jr. (D., N.J.), chairman of the Senate Human Resources Commimttee, called the proposal "totally unacceptable policy."

The dispute involves Carter administration efforts to use the President's commitment to regulatory reform to revamp OSHA, one of the most heavily criticized federal agencies. For years, businesses have insisted that OSHA's safety regulations are overly burdensome and difficult to understand.

(Most of the agency's safety rules were adopted in 1971. Congress ordered the agency to write into regulations many voluntary standards that had been drafted over the years by professional and business groups. OSHA has issued relatively few new safety regulations of its own.)

For some time, Mr. Schultze has insisted that economic incentives are a more effective way to control business behavior than are detailed federal regulations. The memo to the President suggested, for example, that OSHA's safety regulation could be replaced with "an improved workmen's compensation program or economic penalties tied to the injury rate."

White House officials insist that the proposal shouldn't be read as criticism of the way Secretary Marshall and OSHA head Eula Bingham are running the agency. "There isn't any question but that the administration of OSHA has been one of the best things about the administration," one White House staff member declared.

Labor Secretary Marshall yesterday insisted that President Carter "isn't interested in any way" in diminishing the ability of OSHA to improve safety in the workplace.

Appearing on NBC–TV's "Meet the Press" program, Mr. Marshall said he favors a study of economic incentives to help protect workers, but added he doesn't favor totally abandoning a role for OSHA in safety regulation.

He stressed that the controversial memo to the President was "written before the initiatives that we've taken" to focus OSHA's attention on "the most serious problems" and to end what he called "harassment of smaller employers."

The Labor Secretary stressed that he doesn't believe economic incentives "can substitute entirely for the regulations."

In recent weeks, the Labor Department has taken a number of steps to simplify enforcement of the 1970 Job Safety and Health Act, to concentrate more effort to health hazards and to eliminate needless safety regulations. And Mr. Carter disclosed during the weekend that OSHA is cutting back on the amount of paperwork required of companies reporting employe injuries and illnesses, a development the agency expects to announce this week.

But the critics of the task force proposal aren't persuaded by those reassurances. "I am outraged at the suggestion that we let the compensation of injured workers be the only means of encouraging workplace safety." Sen. Williams declared in a letter to the President. Organized labor and congressional supporters of OSHA believe the Nixon and Ford administrations repeatedly tried to weaken the job-safety law, and they fear the latest proposal represents a similar threat.

The memo to Mr. Carter in May noted that although the proposed task force "could trigger some labor concern," OSHA has become "the leading national symbol of overregulation" and that a lack of decisive action would be perceived outside the labor movement as "a retreat from your commitment to major regulatory reform."

Some officials speculate that Labor Secretary Marshal might urge the President to postpone establishing the task force until its objectives can be more clearly explained to the unions and to congressional critics.

LANCE-MARSHALL TASK FORCE STUDYING OSHA; UNDERCUTTING OF AGENCY DENIED

A task force chaired jointly by Office of Management and Budget Director Bert Lance and Labor Secretary Ray Marshall is studying ways to "supplement" existing regulations on worker safety and health, White House sources told OSHR.

The project is not intended to undercut the work of the Occupational Safety and Health Administration, sources asserted. Rather, they maintained, the task force will look generally at how the Federal Government might provide more effective worker safety and health protection.

In addition to OSHA, other federal agencies involved in worker safety and health will be studied, sources reported. Among these are the Mining Enforcement and Safety Administration and the Federal Railroad Administration, OSHR was told.

According to the sources, the task force grew out of a memorandum submitted to President Carter on May 27 by Lance, Council of Economic Advisers Chairman Charles Schultze, and Carter domestic affairs aide Stuart Eizenstat. The memo was not made available, but reportedly recommended the elimination of most OSHA safety standards, with some type of safety incentive program substituted, the goal being "more effective safety regulations at less cost to Government."

OSHA, the memorandum reportedly stated, is "the leading national symbol of overregulation," and failure to "act decisively" on the matter "would be seen as a retreat" from Carter's campaign commitments on regulatory reform.

The memorandum should not be viewed as a recommendation that OSHA give scant attention to worker health and safety problems, one source maintained. Instead, it was a recommendation that "people look into all the problems and alternatives involved and come up with a solution acceptable to all the constituencies served by OSHA," according to the source.

However, Anthony Mazzocchi, citizenship-legislative director, Oil, Chemical, and Atomic Workers International Union, charged that the memorandum is "another graphic demonstration of the continuity of an effort that seems to survive a change of Administration—putting a price tag on workers' lives."

A government source argued that a study of alternatives to the present enforcement of OSHA safety standards in fact would be "in the best interest of the workers," and might indicate ways in which more resources could be devoted to meeting health problems and emergency situations.

TASK FORCE APPROACHES

The OMB–DOL task force project currently is in a very preliminary stage, sources indicated to OSHR. No staff director has been named, they reported.

Alternatives to the OSHA safety standards that probably will be studied, OSHER was told, include the use of tax incentives, possible changes in workers compensation laws, and a greater emphasis on consultation and training. The project is expected to occupy eight or nine months.

In the meantime, OSHA has assigned "the highest priority" to an internal effort to identify safety standards that could be deemed irrelevant to worker protection.

Deputy Assistant Labor Secretary Basil Whiting, in a July 1 memorandum to John Proctor, OSHA deputy director of safety standards, reported that the in-house project "has the personal attention of the Secretary; it is important to demonstrate to the Congress our ability to carry out our announced intent; and it will demonstrate to others in and out of government our commitment to simplifying and clarifying our standards."

The project, which is chaired by Proctor, was requested by Assistant Labor Secretary Eula Bingham in a May 10 memorandum (Current Report, June 16, p. 76). Whiting told Proctor that the OSHA group should have a "partial list" of standards by July 18 "at the latest," and that a "complete combing" of the standards should be performed by mid-August. The latter effort should result in a document "publishable" in the Federal Register, Whiting directed.

MORE VOICES RAISED AGAINST VOTE FRAUD

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BAUMAN. Mr. Speaker, the Maryland Municipal League is well known and well respected for its lengthy track record of community service work. The announcement of its policy position against the proposed voting day registration provision as included in the Voter Registration Act of 1977, H.R. 5400, is a formidable argument in itself against the passage of this legislation.

The executive director of the league recently wrote to me, expressing his opposition to same-day registration of voters. Included with his letter was the resolution passed by the Maryland Municipal League at its June 21 convention, which was held last spring in Ocean City, Md. I include this articulate letter by Mr. John W. Robinson and the league's resolution in the RECORD so that it may be brought to the attention of each Member of the House:

MARYLAND MUNICIPAL LEAGUE,

Annapolis, Md., July 22, 1977.

Hon. ROBERT E. BAUMAN,

U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN BAUMAN: The Maryland Municipal League is aware that the Administration's election day registration of voters bill will soon be before you for determination.

We realize that there are many persuasive arguments favoring passage of this legislation. We too support the concept of increasing voter participation. It is our feeling, however, that the costs heavily outweigh any benefit that might be derived from this legislation. It is unnecessary to recount the many instances of election fraud which have occurred over the years to justify the concern over this issue.

Historically, the use of residency requirements were used, and in some cases abused, to ensure that fraud was minimized. While the United States Supreme Court overruled residency requirements per se, they recognized that there was a need for a reasonable period of time prior to the election to verify the registration roll in order to guard against fraud (Dunn vs Blumstein, No. 70–13, March 21, 1972). It was their decision that the Constitution would be upheld and verification of the voters' roll satisfied if the registration books were closed thirty days prior to the election.

While we applaud the concept of greater voter participation, we feel that same day voter registration is not the answer. It may very well be that safeguards against fraud could be developed. We, however, feel that they would be far too costly to justify the slight increase of voter turn out that could occur. Knowledgeable and committed citizens make the best voters. It is not too large a price to expect them to register to vote at least 30 days prior to the election. With percentages of registered voters actually voting ranging between 30 and 60 percent, the prospect of opening the polls to those as yet not registered would seem to bear little fruit.

Enclosed is a copy of a Resolution expressing the opposition of the Maryland Municipal League to election day registration of voters. It is our hope that you will take our concerns in consideration when this question comes before you for your vote. We respectfully request and urge that you cast a NO vote on this issue.

Sincerely yours,

JOHN W. ROBINSON,
Executive Director.

RESOLUTION

Expressing the opposition of the Maryland Municipal League to election day registration of voters.

Whereas, Citizen participation in elections in this country has tended to decrease over the years; and

Whereas, Committees of the Congress have responded to the problem by approving legislation to allow election day registration of voters and,

Whereas, Election day registrations would allow little time to validate voter registration lists creating potentiality for voter fraud; and,

Whereas, Election day registration would entail significant monetary costs to the citizens in order to provide fraud protection; and

Whereas, The Maryland Municipal League supports and recognizes the need for in-

creased voter participation but not at the expense of those who vote; now therefore, be it

Resolved, That the membership of the Maryland Municipal League opposes election day registration as the answer to increasing voter participation, and be it further

Resolved, That copies of this Resolution be sent to the Maryland Congressional Delegation, the United States Senators from Maryland and to the President of the United States.

Resolved, That this Resolution is hereby adopted by the membership of the Maryland Municipal League assembled in Convention at Ocean City, Maryland on this the 21st day of June Nineteen Hundred Seventy-seven.

AIRBAG CHEMICAL CAUSES GENE MUTATIONS, POSSIBLY CANCER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. SHUSTER. Mr. Speaker, in testimony today before the House Consumer Protection Subcommittee I released new information indicating that sodium azide, a chemical used to inflate airbags, is a highly dangerous mutagen, capable of inducing gene mutations in a wide variety of organisms. Because of this information I believe there is a powerful environmental reason for blocking the airbag/passive restraint order.

I received a letter last week from two internationally known geneticists, Profs. R. A. Nilan and A. Kleinhofs of Washington State University. They stated:

This letter is written to express our concern about the use of sodium azide for protective airbags in automobiles: This concern relates to the fact that sodium azide is mutagenic (capable of inducing gene mutations) in a wide variety of organisms. The possible relationship between mutagenesis and carcinogenesis makes this concern very serious.

. . . We do not want to be alarmists but wish to provide you with information that must be considered before possible exposure of millions of people to a potent mutagen. Mutagenic exposure of humans can lead to serious health problems in this generation (premature aging, cancer), as well as future generations (birth defects). Mutagenic chemicals are clearly just as, if not more dangerous, as radiation, Certainly our work indicates that sodium azide is one of the very potent mutagens. Thus, unnecessary exposure of the population to this chemical should be avoided.

In addition, Dr. Bruce Ames, chairman of the Genetics Department at the University of California-Berkeley and the developer of the Ames test for mutagenicity, confirmed the findings that sodium azide is a potent mutagen and said it is most probably carcinogenic or cancer causing as well.

I am greatly dismayed that the Government's environmental impact statement on airbags completely omitted any reference to the dangerous mutagenic properties of sodium azide and that material omission is, by itself, ample reason for Members of Congress to disapprove the airbag/passive restraint order at this time.

I insert the letter from Dr. Nilan and Dr. Kleinhof in its entirety into the RECORD.

WASHINGTON STATE UNIVERSITY,
Pullman, Wash., September 8, 1977.

Re program in genetics.

Hon. BUD SHUSTER,
House of Representatives,
Washington, D.C.

DEAR SIR: This letter is written to express our concern about the use of sodium azide for protective air bags in automobiles. This concern relates to the fact that sodium azide is mutagenic (capable of inducing gene-mutations) in a wide variety of organisms. The possible relationship between mutagenesis and carcinogenesis makes this concern very serious.

We believe that azide is sufficiently harmful as a mutagen that precautions should be taken in the uses of this compound and adequate testing should be completed before this compound is used in large quantities where substantial portions of the population might be exposed to it.

We understand that perchlorate or some other oxidizing agent is reacted with sodium azide to produce nitrogen gas. Nitrogen gas is, of course, not harmful, but we are concerned about other potential by-products of the reaction such as hydrazoic azide and nitrene. Also, since most chemical reactions are not 100% complete, there might be residual sodium azide left which may leak into the automobile. The fact that very large quantities (pound and a half) of this compound are used in each air bag canister deepens our concern. Other hazards of sodium azide in the environment relate to the presence of azide in the automobiles over a number of years if no collision occurs and to the disposition of the sodium azide from millions of automobiles when they are junked.

We have worked with azide as a mutagen for over 10 years and have published several papers about our results in national and international scientific journals.

The following is a summary of the results from our laboratory and from other laboratories where the mutagenic properties of this chemical have been analyzed.

Sodium azide is a highly effective mutagen in that it induces high frequencies of mutations in barley, peas, soybeans, rice, Chinese hamster cells and certain strains of bacteria. In plants, it is about three to four times as effective in inducing mutations as X-rays.

In plants, this mutagen is most effective in acid solutions. In bacteria and Chinese hamster, strains that are deficient in DNA damage repair exhibit more mutations than those that have adequate repair mechanisms. However, even normal Chinese hamster cells show high mutation rates with azide.

Azide appears to be specific for changes at the DNA level and does not break significant numbers of chromosomes either in plants or human leukocytes.

Reports from other laboratories indicate that azide may not be carcinogenic and thus is one of the few chemicals that is highly mutagenic but not carcinogenic. The carcinogenicity tests have not been extensive however, and this aspect requires further testing.

In barley, in which this compound has been tested most extensively, it produces mutants that are deficient in chlorophyll, that are dwarf, that are sterile, and that exhibit other plant morphological and biochemical abnormalities. Mutants in bacteria and Chinese hamster cells also exhibit changes in biochemical processes.

No genetic tests have been made on humans or human cell cultures other than detection of chromosome aberrations. Nevertheless, since it induces mutations in a relatively wide variety of organisms its likelihood of being mutagenic in humans is high.

In conclusion, our results to date showing that sodium azide can cause genetic damage in several organisms indicate that great caution must be exercised in the use of this compound in providing accident protection mechanisms in automobiles. It is imperative that extensive tests be conducted to determine the possible exposure of humans to azide during and after accidents that cause air bag activation as well as from azide remaining in discarded automobiles. Such tests should include toxicological as well as mutagenic considerations. Until such tests are made and reasonable safety assured, we would recommend that other mechanisms be used for air bag activation.

We do not want to be alarmists but wish to provide you with information that must be considered before possible exposure of millions of people to a potent mutagen. Mutagenic exposure of humans can lead to serious health problems in this generation (premature ageing, cancer), as well as future generations (birth defects). Mutagenic chemicals are clearly just as, if not more dangerous, as radiation. Certainly our work indicates that sodium azide is one of the very potent mutagens. Thus, unnecessary exposure of the population to this chemical should be avoided.

Sincerely yours,

R. A. NILAN,
Professor.

A. KLEINHOFS,
Professor.

LEGISLATION INTRODUCED TO AID AGING RESERVISTS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ASPIN. Mr. Speaker, I am today introducing legislation to give pensions to a number of aging reservists who have been deprived of their military retired pay under a Catch-22 provision in the law.

The law now says that no reservist can collect a pension if his years of services included the World War II years and he failed to serve on active duty during those wartime years.

The logic for this law was quite simple. If a man was in the Reserves during peace time and avoided active duty service during our biggest war, it was felt he should not be allowed any pension rights.

But there is a hitch. After Pearl Harbor, Hawaii was put under marital law and workers were frozen in the jobs they held December 7, 1941. The freeze applied to employees of the Federal Government and its contractors until late 1944.

In another hitch, members of the Naval Reserve were required to stay on in the Merchant Marine during the war.

Reservists who used devious means to avoid wartime service ought not to be eligible for pension benefits. But that is no reason to punish those who were ordered by the Government to stick with their prewar jobs and not go on active duty.

I have long opposed offering over-generous pensions to military careerists. But I am also opposed to offering under-generous pensions. My bill will correct a wrong done to a small body of men who have been deprived of all their military pension rights through no fault of their own.

My bill is identical to S. 366, which was introduced in the Senate earlier this year by Senator INOUYE. An earlier version of this legislation was introduced in the 93d Congress and was reported favorably with report No. 93–1338 to the Senate which passed it December 12, 1974. These were the waning days of the session and the House lacked sufficient time in which to consider the legislation. In the 94th Congress, no action was taken in either House.

It is not known how many persons have been hurt by this oversight. While it is certainly not a large number, we owe it to even a relative handful of men effected to correct this oversight. The bill I have introduced today is identical to the legislation passed unanimously by the Senate almost 3 years ago. That bill was supported by the Defense Department. The legislation requires no increase in Department of Defense budgetary requirements.

STUDENT LOAN BANKRUPTCIES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ERLENBORN. Mr. Speaker, last year Congress amended the guaranteed student loan program to prohibit a student borrower from including a student loan in a bankruptcy for a period of 5 years following graduation except in cases of undue hardship. This was done because the existing bankruptcy law had invited unscrupulous students to avoid payment of loans and the growing abuse of this bankruptcy loophole could have led to the abandonment of the program.

Currently, the Subcommittee on Civil and Constitutional Rights, chaired by our colleague DON EDWARDS of California, is recommending repeal of this student bankruptcy provision, section 439A, because of the argument that it may apply inequitably to one class of debtors.

Section 439A is not unfair to students. Rather, it remedies a legal deficiency that is not consonant with the objectives of the law. The best explanation of this distinction that I have seen is presented in a recent letter to Chairman EDWARDS from Charles W. V. Meares, the chairman of United Student Aid Funds, the only private guarantor of student loans operating nationwide. I commend this letter to my colleagues.

UNITED STUDENT AID FUNDS,
New York, N.Y., August 8, 1977.

HON. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, Congress of the United States, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: United Student Aid Funds, of which I am chairman, is the only private guarantor of student loans operating nationwide. Our organization has noted, with increasing concern, a growing percentage of defaults on its loans with a growing tendency of such defaulters to seek discharge of these loans through bankruptcy within three years of getting out of school. Because of our concern regarding this growing problem and its possible effect on the willingness of the community to continue to support student loan programs, a copy of your thoughtful letter of June 16, 1977 to The Honorable John N. Erlenborn on the proposed repeal of section 439A has been referred to me. I would like to take this opportunity to set forth some of the arguments against repeal which I hope will convince you to retain the present provision.

First, let me say that I appreciate your insistence that two of the fundamental policies behind the bankruptcy laws are equality of treatment of all creditors and a fresh start for the debtor. However, there are certain categories of debt which are exempted from discharge in bankruptcy because the social policy of the bankruptcy laws was intended to help the honest debtor who is no longer able to meet obligations honestly incurred. This policy is not applicable to the growing numbers of those who incur student loans in order to provide themselves with a brighter future with the intention of seeking the relief of the bankruptcy court soon after graduation in order to relieve themselves of the obligation to repay those loans; nor is a statistical showing of abuse of the bankruptcy laws in this connection necessarily relevant to excluding this type of debt from discharge in bankruptcy.

For example, I doubt that any such statistical test was used in determining the existing categories of excepted debt. The test should be the same qualitative, rather than quantitative, test presumably used for the others, namely whether the *nature* of the debt (rather than how many debtors have tried to get out of it) is such as to justify exception. Indebtedness for fraud, for example, was I presume, exempted from discharge, not because of the way borrowers behave after having incurred it, but because discharge of debt of that nature was thought unseemly.

Educational debt is a qualitative category of its own, quite distinguishable from commercial debt. There is a fundamental qualitative difference from the beginning. From the borrower's point of view, it is a borrowing on a non-commercial basis, in context of an insufficiency of present assets or earning power. The guarantee program, of course, may make up the difference from the lender's point of view. But from the borrower's point of view, it is definitely a loan whose good-faith aspects—an implicit representation that an effort will be made to repay out of dimly foreseen but fervently hoped-for future earnings—are of the essence. For the bankruptcy laws to serve to permit, and even invite, borrowers to avoid payment of loans undertaken in these distinctly non-commercial circumstances would seem inconsistent with the moral climate the laws should foster.

For me, the real purpose of section 439A is not to protect one class of creditors, (if so, your criticism might be justified), but rather to remedy a deficiency in the statute that is inappropriate to its social purposes. Perhaps recent increases in default rates have called attention to the deficiency and made it more glaring, but they are not the reason why the deficiency should be eliminated; sufficient reason has been there all along. The statute should not tempt people to get out of their student loans. It is, of course, desirable for the Congress to provide a mechanism for excusing a man from his commercial debts when circumstances have so conspired as to render it impossible for him to pay them, but it is another thing to say that educational loans should be discharged on the same terms and conditions. Surely the judge should be empowered to apply some different considerations.

I think it is important that we look at this question with a common understanding that section 439A does not prohibit a student borrower from going into personal bankruptcy; it simply prohibits the inclusion of the student loan in the bankruptcy for a period of five years. As you know, the student borrower could go bankrupt carrying all debts and assets into the bankruptcy except the student loan. If the student did not develop financial stability during the next six years following the initial personal bankruptcy, the student borrower could at that time take the student loan into a subsequent personal bankruptcy. Furthermore, there is the immediate exception under section 439A available to the student who can show undue hardship.

It is impressive to me that the Commission on the Bankruptcy Laws of the United States was sympathetic to these suggestions and incorporated such a provision in their proposed revision of the laws submitted as part of their official report which was made in September, 1975. Certainly the Commission shared your views as to the fundamental policies behind the bankruptcy laws. However, they saw in the gross abuse of the educational loan program a practice which they characterized as "reprehensible."

Let me reiterate my interest in writing you. We, and many others, are primarily concerned with the integrity and continuance of a broad student loan program with a broad base of support. Student loans are a low interest public service endeavor and do not carry either a margin for profit or loss. Anyone lending to a student, who has no collateral and no earnings, is obviously doing so on his faith in the student's future earning potential. The student knows this, enters into the arrangement voluntarily on this understanding and, therefore, should not be entitled to relief except in cases of real hardship. And even hardship should usually be a reason for postponement, not for forgiveness. An outstanding exception, of course, is disability, which is reason for forgiveness under the program's current regulations.

In this connection, I should say I find myself in complete disagreement with your assertion that "the most apt analogy (to a student loan) is the medical loan." It seems to me that there is a fundamental and very important difference: the student debt was voluntarily assumed by a borrower who had the clear option of not undertaking the debt; the medical debt was involuntarily assumed by a person who had no such choice. Particularly from the social standpoint, this is an enormous difference.

In our view, the proposed repeal would unwittingly create an intolerable situation. Bankruptcy was never intended to provide an escape hatch for student loan borrowers who quite knowingly mortgage their futures, futures which are usually much brighter financially as a result of the mortgaging. While so far the great majority of defaulters are not filing for bankruptcy, the practice is growing and represents a considerable threat to the integrity of the entire student loan program. With inflation, the larger families of the post-war years and the rapidly rising costs of education, all the signs point to a greater need than ever for student loans. It would be a national digrace if our inability to close the bankruptcy loophole should cause lenders to turn their backs on students and lead to the debilitation and perhaps abandonment of programs that are so essential to the continued well-being of the nation's education process. We must not let the great majority of student borrowers who are faithful in carrying out their legal and moral obligations be deprived of the opportunity to make student loans.

Sincerely,

CHARLES W. V. MEARES,
Chairman.

YOUNG SNOOPS FOR ENERGY WASTE?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. ASHBROOK. Mr. Speaker, I was dismayed to see that the Carter administration has been considering a plan to mobilize the youth of our Nation as energy snoops. Young people would inspect the outside of a house for energy problems and then "volunteer" to go inside the house to complete the survey. Among the items checked would be such things as the pressure in car tires and the quality of the weatherproofing.

This program has the potential for great abuse. As the Washington Post noted:

. . . Actually, our own first impression hovered somewhere between the 13-year-old Chinese cultural revolutionaries of another age and that swell gang from "Lord of the Flies." Yes . . . we understood that the whole thing was to be "voluntary." But, when you get right down to it, what's so voluntary about having somebody's else's kid poking around your premises, inspecting your weatherstripping and busying himself with your car tires—uninvited?

The American people have a right to privacy. We do not need an army of energy snoops sticking their noses—uninvited—into other people's private affairs.

Following is a story from the Washington Star and an editorial from the Washington Post on this subject:

[From the Washington Star, Aug. 31, 1977]

YOUNG SNOOPS FOR ENERGY WASTE?

The Carter administration is considering a plan to enlist youths as energy detectives who would check up on their neighbors' conservation efforts, The Los Angeles Times reported today.

The purpose of the proposed voluntary program is "raising awareness and educating the general public on ways that energy can be saved," White House Projects Director Greg Schneiders told the Times.

Youths first would evaluate a house's exterior then knock on the door to tell the occupant his energy conservation "score" and offer to go through the inside of the house to complete the survey.

According to a proposed "team member's manual," the youths would check everything from the homeowner's car tires to the toilet tanks. The inspection would take 45 minutes to an hour to complete, Schneiders said.

"It's more of a list of tips on how to conserve energy in the home," Schneiders said. "The information is not going to be sent anywhere. The thing that I want to avoid obviously is the implication that an army of little uniformed inspectors are going out and checking on people."

According to the plan, students would be recruited for the program by schools, Boy Scouts, Girl Scouts and other voluntary groups, and by radio disc jockeys.

Schneiders emphasized that the plan might be changed before it becomes final. It is being circulated among educators and volunteer organization leaders and will be presented to President Carter at the end of next month. If the President approved the plan, it would go into effect in October.

"It's a very low-key type of operation," Schneiders said. "All the federal government is going to do is announce it and make the materials available."

A nearly 100-page field manual circulating among educators this week includes not only the checklists and other suggestions, but mottoes for stirring up the enthusiasm of the volunteers, the Times said.

"There will be a reawakening of our cultural heritage," the manual says. "Be aware that mental and physical health probably will improve if individuals become more self-reliant and less dependent on energy-intensive lifestyles."

[From the Washington Post]

LORD OF THE STORM WINDOWS

It wasn't an energy-careless excess of air conditioning that suddenly chilled our blood in Wednesday's awful heat. No, it was a little something our paper printed from the Los Angeles Times—a story about how the Carter administration is considering a plan to mobilize the nation's youth as energy-inspectors. The key paragraph went like this:

"Under the voluntary program, high school students or other youths would start outside a house, checking off energy problems on a government-prepared list. The volunteer would then knock on the door to tell the occupant his or her outside energy conservation score and offer to go through the inside of the house to complete the survey."

Among the things these young folks would be checking would be the pressure in your car's tires, the quality of your weather-proofing, and so forth.

We were not surprised to read that the White House was aware that "people could misconstrue [the program] to be like Hitler's youth." Actually, our own first impression hovered somewhere between the 13-year-old Chinese cultural revolutionaries of another age and that swell gang from "Lord of the Flies." Yes . . . we understood that the whole thing was to be "voluntary." But, when you get right down to it, what's so voluntary about having somebody's else's kid poking around your premises, inspecting your weatherstripping and busying himself with your car tires—uninvited? Maybe it is an advance over the day when you would have had to suppose the kid was about to steal your hubcaps. But when you've said that, it seems to us, you haven't said much—especially since you would also have to reckon with the physical threat to young energy inspectors from gun-toting citizens who will suppose that hub-cap stealing or something more felonious is actually what's afoot.

In defense of the plan, it has been pointed out that here and there around the country Boy Scouts are already at work on a similar survey, that nobody would be turned in for anything, that the information wouldn't be sent anywhere, that generally the program would only be a way of providing energy-saving hints to grateful householders and that it would, in any event, also provide a fine and bracing dose of moral uplift to the young people involved. In addition, Greg Schneiders, the White House man in charge, points out that reporting of the plan has skewed its intent, made a local voluntary thing sound like a national lockstep mobilization and given tentatively considered features of the plan an aspect of settled policy. For instance, he insists it is not fixed that the young energy-doctors would do their preliminary outdoor diagnosis without the consent of the would-be patient.

That is good news, and we can only hope that mild and moderating influences will prevail. For our part, however, we still don't see why communities can't be left alone to figure out their own individual ways of helping householders to calculate the prudence of their energy expenditures. Not to put too fine a point on it, it occurs to us that there might even be jobs there—for youths and adults—who would be retained by a local jurisdiction to answer the questions of people who solicit help in taking the measure of their own energy use and misuse. Our problem is with the concept of kid-inspectors going from door to door and passing judgment on whether the water-levels in Mrs. McGillicuddy's toilet tanks are in the national interest. We are reassured to learn anyway that whatever the White House has in mind at the moment, it isn't quite that.

LANE KIRKLAND'S SPECIAL LABOR DAY RADIO ADDRESS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues the special Labor Day radio address by AFL–CIO Secretary-Treasurer Lane Kirkland. I believe they will find Mr. Kirkland's address to be of great interest:

LABOR DAY ADDRESS

(By Lane Kirkland)

On July 18 President Carter announced his recommendations to reform the nation's basic labor law in order to better protect the rights of workers to freely decide if they want union representation. Since that announcement, some business organizations have consistently complained that these would make labor "more peaceful"—and that labor is already "too powerful."

On this Labor Day, therefore, it is appropriate to talk about union "power"—What is it? Would the President's proposals really affect that power? Or is this just another diversion from the real issue?

The fact is that the President's proposals would not change, even one iota, the general rules laid down in law governing what unions and management can and can not do. Where unions and companies already have established collective bargaining agreements, the President's recommendations would not add to labor's power or take away from management's power.

Of course President Carter's proposal would deny employers the "power" to freely violate the labor laws of this nation. But what's wrong with that? No individuals, no group in this society should have the "power" to break the law.

That is an abuse of power, and that is precisely what the President has proposed to curb by strengthening penalties for lawbreaking and by speeding up the legal processes in order to assure justice.

In reality, those who contend that labor law reform would increase labor's power are simply talking about the power of individuals to decide to join together for the common good. Labor's power is nothing more nor less than the power of citizens in a free country to make a democratic decision. Unions arose out of the same conditions that gave birth to the nation in 1776—the need and the demand for representation.

The early struggles of workers in this country were not solely for better wages, improved working conditions and job security. They were struggles for representation, for a voice of their own and for human dignity. And today millions of workers are still struggling for those rights.

The Supreme Court probably said it best, when it upheld the constitutionality of the National Labor Relations Act nearly 40 years ago: "Long ago we stated the reason for

labor organizations . . . that a single employee was helpless in dealing with an employer . . . that union was essential (for workers) to deal on an equality with their employer."

The law to which the Supreme Court was referring is commonly called the Wagner Act. It established the policy of the United States in labor-management relations that American workers should have a fair chance to organize themselves into unions and to bargain collectively with their employers.

That law ended an often violent period of labor relations in this country where companies frequently used goons and spies to break up their employees efforts to form unions in order to improve living standards and to achieve dignity in the workplace.

We believe—and the law states—that it is wrong for employers to to have absolute and exclusive power over the lives of their workers. To insure against such abuse, the Congress said that workers should have the power—and the right—to form their own organizations which would balance management's right to manage a business and the worker's right to have a say in their own lives.

That is industrial democracy.

It is the concept of shared power that our forefathers had in mind when they established this country. They were convinced that a free way of life could be safeguarded only when power over the economic, social and political life of this country was shared by the many.

But for power to be shared, it must be balanced. Before the Wagner Act, the power of the employer was dominant and the industrial relations scene was a jungle governed largely by the whim and avarice of the company boss. The Wagner Act balanced that power by giving workers the right to bargain collectively through their unions, which contributed immeasurably to industrial stability by providing a mechanism for the discussion and the resolution of labor-management problems.

Twice since the Wagner Act was passed, the business community complained that unions had become too powerful and the Congress immediately amended the law to meet those complaints. But the sum of those amendments has been to once again give employers excessive power, abusive power.

That is why President Carter has proposed labor law reform—to check that abusive power by strengthening individual rights. We in the AFL–CIO support the President's proposals, because we believe that the rights of individuals should be effectively represented and because that's our purpose. In the last analysis, the power of corporations comes from money, while the power of unions comes from people.

And what do unions do with that power?

The first objective is to provide the workers a greater share of the wealth that they produce—in terms of increased living standards, improved working conditions, additional consumer buying power and more stability on the job.

Secondly, we seek to encourage our members to participate to a greater degree in the democratic political processes of this country, by registering to vote, finding out where the candidates stand on the issues and making sure to go to the polls on Election Day.

Thirdly, we seek legislation that will help all people, in the belief that what helps everyone will also help workers. This means today tax justice, so that the corporations and the rich do not escape paying their fair share of taxes. It means improving education, so that the children of workers will have decent public schools to attend. It means better health care, better transportation facilities, better Social Security, better consumer protection.

When it comes to this kind of legislation, what do the corporations do with their power? By-and-large, the business lobby opposes these programs

Consider what unions have done with their "power" in the area of so-called labor legislation.

*We've obtained laws that help to protect the lives and the safety of all workers.

*We've seen to it that nearly all workers are covered by unemployment insurance and worker's compensation, so that when they become unemployed or are injured on the job they do not have to go on welfare.

*We've supported anti-discrimination laws to protect all workers—black and white, male and female, young and old—from being refused work by employers on account of their race, their sex or their age.

And what did the business lobby do with its power when these issues were being decided? It fought against those measures.

And so, unions use their power to help all workers, all citizens—not just union members. And the corporations use their power to protect their own interests, to keep profits high, to shift more of the tax burden on to the individual.

Theoretically, of course, each individual American can do what the labor movement has done. But, as the Supreme Court said, the individual is powerless to deal with an employer alone. An individual cannot affect legislation—the task of seeing that an idea to help all citizens is drafted into legislation, explained to congressmen and senators and passed into law.

Hence, individuals must form groups to represent themselves effectively. Workers who have a union have a much stronger voice than those who don't—because when a union speaks for its members it is speaking for thousands of Americans. When the individual worker speaks, it is a solitary—a lonely voice.

How can unions be sure that they are speaking for their members? Obviously, no group speaks for 100 percent of its members on every issue. But, the labor movement has developed a representative democratic structure—from the lowest to the highest levels—that gives union members the opportunity to pick those leaders who will speak for them and to decide the policies and positions that will guide their spokesmen. It has been estimated the unions annually elect a half-million officers. In a union, each member has a vote.

By contrast, when corporations hold stockholders meetings, votes are counted on the basis of wealth—the more money one has in terms of stock, the more votes.

There is another difference between how unions and companies conduct their elections. Union elections are supervised by the federal government to make certain that no one has an unfair advantage. About 30 percent of all union offices change hands every election—a percentage which is far higher than for the Congress of the United States. Unions hold regularly scheduled meetings, usually monthly, where members have the opportunity to vote on a host of issues—ranging from what they will seek from their employer in the next contract, to legislative issues, to whether their union should hold a picnic.

Corporate stockholders' meetings are held usually only once a year. There is absolute management control through blank proxies, which empower those already in power to vote other people's stock. The decisions that affect the day-to-day operations of the company are not made at the stockholder's meeting.

Unions are power by democracy, by people—corporations are power by wealth, by dollars.

George Meany once said: "I see no harm in power, if it is power dedicated to human values, if it is power for good—and that is what the trade union movement seeks."

Under that yardstick, the American labor movement has sought power to help workers and their families, improve their lives, support human rights at home and abroad, when corporations turned a blind eye toward human rights violations in other countries because it might mean less profits.

While the Congress is debating President Carter's labor law reform proposals, you will hear much talk about power. Yes, labor has gained power in America—it is power for and from individuals. We are proud of the way we have used that power—to help people.

But the real issue in labor law is not power—it is one of human rights. For without the right to organize, workers—indeed, all individual citizens—have no real effective power.

On this Labor Day, the American labor movement seeks not power for itself, but greater protection for the rights of individual workers, from whom unions obtain their power for good.

CONTROLLING THE FEDERAL BUDGET

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for August 24, 1977, into the CONGRESSIONAL RECORD:

CONTROLLING THE FEDERAL BUDGET

The 1970's may well be noted as the period when the federal government came to terms with controlling the federal budget. The steps that have been or are being taken are noteworthy: Congress has adopted a new budgetary process which considers the budget as a whole rather than one bill at a time; the executive branch has begun to focus more and more on the long-run implications of its expenditures and tax proposals; zero-based budgeting is now being implemented by President Carter; and sunset provisions are being enacted which require Congress to review federal programs every few years.

There is good reason to view these developments with favor. In the eight years of the Kennedy and Johnson Administrations the size of the federal budget nearly doubled. In the eight years of the Nixon and Ford Administrations it nearly doubled again. It is common for one political party to blame the other or for Congress to blame the President, or vice versa, for the rapid rise in federal spending. The reality is that a remarkably strong consensus on increased federal spending has been hammered out over the years and the blame and the credit, for there are both, can usually be shared.

Although it has not been borne out, the hope is that the new budgetary initiatives in the legislative and executive branches will moderate the explosive tendency of federal expenditures to increase. These huge expenditures and the deficits they generate have not pushed the United States into some kind of economic disaster (as some persons are fond of predicting), but they are nevertheless worrisome and most everyone agrees that constraints are necessary.

Most of us would applaud the news that, as a first step toward his goal of balancing the budget by fiscal year 1981, President Carter has proposed an increase in federal spending limited to an amount necessary to keep up with inflation. Given recent history, however, we probably remain skeptical about the real chance of a no-growth budget.

The going has been tough for the congressional budgetary process this year and most members of Congress, including myself

are disappointed that overall spending for fiscal year 1978 will be about 12.6% higher than 1977. But perhaps too much should not be expected too soon. The process is now two years old—it is still in its infancy—but despite the problems it has been successfully launched. Widespread fears about a Democratic Congress letting a Democratic President co-opt the process have proven to be unfounded. The process has gained broader Republican support in Congress this year than it had gained previously; the congressional leadership and many committee chairment are now committed to its success; and an expert staff is in place and is ready to do combat with those who would weaken it. The memories of the haphazard, uncoordinated manner in which federal spending decisions were previously made are fresh enough to make members of Congress fearful of what would happen without it.

The integrity and the independence of the congressional budgetary process have been strengthened this year. It is now clear that the President's budget is no longer the only spending and taxing plan in town. Before the new congressional budgetary process, the President alone had the machinery to propose programs, to monitor spending and to determine priorities. Congress simply was not equipped to measure one program against another in relation to overall spending and revenue goals. Today Congress, working through its Budget Committees and the Congressional Budget Office, is gaining an equal footing with the executive branch in fiscal policy matters.

If Congress, however, is to achieve its full potential, additional steps will have to be taken. Congress must now get even more effective control of the federal budget through a step-by-step assertion of congressional concern and responsibility. The first lesson about the federal budget is its incredible complexity and variety. No single measure can establish full control over a $500 billion budget, especially since Congress has let its control slip away in bits and pieces over many years. Practices which deprive Congress of effective control must be further identified, and revised or terminated. Congress must improve its ability to understand the causes of the major increases in expenditures. New instruments of control will have to be forged because the traditional authorization and appropriation process does not meet every need. More sensitive tracking devices must be developed to keep Congress informed of what the executive branch does. Congress must achieve a better grasp of the impact of current budgetary decisions on future budgets. Finally, the President and Congress must develop the political will to terminate weak programs which are supported only by special interest groups.

I have come to appreciate the dimensions of the task confronting Congress and the President in attempting to control federal spending. I am encouraged that important strides have been and are being taken toward realizing that goal. My feeling is that these achievements are more important than an understandably skeptical public may think.

CONTINUED ARMS TRADE INVOLVEMENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on America's role as an arms merchant as example of how the United States has to temper idealism and moralism in international relations with realism.

CONTINUED ARMS TRADE INVOLVEMENT

(By Henry Huglin)

President Carter is finding out that his campaign rhetoric about "this unsatisfactory business . . . our nation's role as the world's leading arms salesman" cannot prudently be applied in dealing with some specific situations in the world.

Despite a policy he issued in May, on cutting back on our selling arms abroad, the President has made a number of exceptions to the policy, for good geopolitical reasons. For this, predictably, he is getting increasing criticism.

The arms trade is an example where morality and foreign policy mix about as well as oil and water, because arms are not necessarily immoral or moral.

Armaments in themselves do not cause wars or even tensions between nations; nations' conflicting ambitions, greeds, hatreds, and envies do.

For example, although we are strongly armed, there are no tensions on our borders with Canada and Mexico, because we do not threaten them or their interests.

Further, tensions and potential for war can even be reduced by a threatened nation getting enough arms to redress an arms imbalance with its aggressive neighbor.

Nations acquire arms for various reasons: defense against perceived threats, as with both Israel and neighboring Arab countries; or for symbols of power and prestige, as with Iran currently and with many Latin American countries for decades; or for aggressive expansionism, as with Nazi Germany and North Vietnam, and now Libya.

Also, old and new enmities, excessive nationalism, internal political instabilities, and leaders' egos fuel the demand for many nations for arms.

And our nation's moralizings over these foibles of human nature and peoples' cultures are not going to change other nations' attitudes toward arms.

Even neutrality seemingly does not lessen needs for arms, because Sweden and Switzerland maintain two of the world's highest per capita levels of armaments.

So, we ought to view arms trade issues on the basis of such realities as these, rather than on ivory-tower "merchant of death" type of cliches.

One of the major driving forces of the arms trade has been and is the military strength and persistent expansionism of Soviet Russia. A good part of our arms trade has been and is with our allies and others who feel threatened by the Soviets or their client states, such as North Korea and North Vietnam, and now Libya and Ethiopia.

The major part of our current arms trade is with Israel, Iran, and Saudi Arabia. And to none of them, for varying reasons, can we prudently deny adequate weapons—though our government can and does scale down their wants.

For example, we can hardly resist entirely the requests for arms from the Saudi leaders. They are moderate, wealthy, and controllers of vast amounts of oil highly important to us and to our allies, the western European NATO nations and Japan. Further, they are a key in our search for a solution to the Mideast imbroglio.

Now, further to our role, Mr. Carter, as a candidate, also said: "We cannot be both the world's leading champion of peace and the world's leading supplier of arms." Yet, for 30 years we have been both. And these roles are not necessarily conflicting. The arms we have sold or given have been intended—even though not always so used—for peaceful purposes: to deter war, or to promote stability, or to defend against attack.

A complicating factor in our arms trade is in the human rights test adopted by the Carter Administration—and amplified by Congress—relative to making arms available to other countries. This has caused far more resentment than it has led to improvement in human rights. And the Administration has made a number of exceptions already, for good, overriding geopolitical interests of our country.

Actually, few countries with which we have to deal, outside western Europe and Japan, can pass a close human rights scrutiny. Hence, this factor is going to continue to cause confusion, resentment and, when exceptions are made, cynicism.

And the Administration's unilateral arms trade restraint policy has a major handicap in that other arms producing nations will simply not follow our lead. Soviet Russia and China use their arms deals as major tools of their foreign policies, with no qualms. And Britain and France use their arms sales as a major help to their balance of payments problems. When we hold back, any of these countries will step in.

In foreign affairs we often have to temper idealism and moralism with realism; the arms trade is a major case in point.

Of course, we don't want to promote indiscriminate peddling of arms just for profit or as an aid to our balance of payments problems. And we need to continue to try to dampen down other nations' drives for more and more sophisticated arms.

But let us sensibly recognize that there is just no way now to stop the arms trade, and that realistic guidelines, good judgment, and quiet persuasion are still our best means of restraining it and conducting our difficult role in this business.

WATERWAY USER FEES

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. BEDELL. Mr. Speaker, very soon the House will consider H.R. 8309 which provides for a new lock and dam at Alton, Ill., and also establishes a tax on the diesel fuel used by commercial vessels on the inland waterways of the United States.

The user tax part of H.R. 8309 does not go far enough, in my opinion, to recover a significant amount of the money that the Federal Government will be pouring into the barge industry. Estimates of the percent of Federal dollars recouped by this tax are about 6 percent.

Mr. Speaker, it is very important for all of us to realize that the barge industry has enjoyed the free use of our inland waterways, locks, and dams for many, many years. Other competing modes of transportation have not had this free ride and have had to pay all sorts of fees, licenses, and fuel taxes for the privilege of using federally funded facilities.

The Senate has passed a bill which would recover 100 percent of the costs of operating and maintaining the facilities and 50 percent of the cost of building them. The Carter administration has

supported this plan. Yet H.R. 8309 would recover only 6 percent.

Mr. Speaker, I believe a compromise is in order here and I have drafted legislation which would recover 25 percent of both operation and construction costs, to be phased in over a 5-year period through the use of both a fuel tax and other user fees. I am hopeful that the House will give very serious consideration to this sort of compromise for I believe only through it, or something like it, can we achieve a just and equitable waterway user fee program in this country. The text of my proposal follows:

AMENDMENT TO H.R. 8309, AS REPORTED—OFFERED BY MR. BEDELL

Page 13, strike out line 1 and all that follows down through line 19 on page 15 and insert:

TITLE II—IMPOSITION OF USER CHARGES FOR USE OF CERTAIN INLAND WATERWAYS

SEC. 201. IMPOSITION OF USER CHARGES.

(a)(1) Not later than the last day of the tenth month which begins after the date of enactment of this Act, the Secretary shall, after consultation with the Secretary of Transportation, and after conducting public hearings and permitting not less than forty-five days for public comment, promulgate, in accordance with the provisions of subsection (b) of this section, preliminary regulations establishing a schedule of user charges to recover 25 per centum of the Federal costs of each navigation project constructed, operated, rehabilitated, or maintained by the Secretary on any inland or intracoastal waterway of the United States, and shall publish such preliminary regulations in the Federal Register.

(2) After reviewing any comments on the schedule of user charges set forth in the preliminary regulations promulgated pursuant to paragraph (1), the Secretary, not later than April 1, 1979, shall, in accordance with the provisions of subsection (b) of this section, promulgate final regulations establishing such schedule of user charges, and shall publish such schedule in the Federal Register. The schedule of user charges set forth in such final regulations shall take effect October 1, 1979.

(b) The schedule of user charges established by the Secretary pursuant to subsection (a)—

(1) shall require the payment of user charges pursuant to such schedule by the owner or operator of any shallow-draft cargo vessel for the use by such vessel of any navigation project on any inland or intracoastal waterway of the United States;

(2) shall be structured to collect—

(A)(i) in the fifth year beginning after the effective date of such user charges, and in each succeeding year, 25 per centum of the estimated Federal costs of the operation and maintenance of all navigation projects to be operated and maintained in such fifth year by the Secretary on any inland or intracoastal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date, 5, 10, 15, and 20 per centum, respectively, of the estimated Federal costs; and

(B)(i) in the fifth year beginning after the effective date of such user charges, and each succeeding year, 25 per centum of the estimated Federal costs of the construction and rehabilitation of all navigation projects to be constructed and rehabilitated in such fifth year by the Secretary on any inland or intracoastal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date, 5, 10, 15, and 20 per centum, respectively, of the estimated Federal costs;

(3) shall be appropriately adjusted for a year to reflect the amounts by which the amounts collected in any previous year were in excess of, or less than, the amounts required to be collected;

(4) shall take into account the volume of traffic and seasonal and other repetitive peak demands for use of the inland and intracoastal waterways of the United States;

(5) shall allow, as an offset or deduction against such user charges, the payment of any Federal tax (including tax imposed by section 4042 of the Internal Revenue Code of 1954) imposed on any vessel using the inland or intracoastal waterways of the United States enacted on or after the date of enactment of this Act; and

(6) may use, but is not limited to, one or more of the following mechanisms to collect the user charges established pursuant to this section:

(A) License fees.

(B) Congestion charges.

(C) Charges based on ton-miles over a given segment of an inland or intracoastal waterway.

(D) Lockage fees.

(E) Charges based on the capacity of cargo vessels, loaded or unloaded, over various segments of the inland or intracoastal waterways of the United States.

(c) Any owner or operator of a shallow-draft cargo vessel who fails to pay any user charge in accordance with the regulations promulgated pursuant to subsection (a)(2) of this section shall be subject to a civil penalty of not more than $5,000 per day for each day during the period for which such violation continues and, during such period, shall be prohibited from the use of any lock on any inland or intracoastal waterway of the United States.

(d) Not later than three years after the effective date of the schedule of user charges established pursuant to subsection (a)(2) of this section, the Secretary, in cooperation with the Secretary of Transportation, shall submit to the Congress a report on the implementation of the provisions of this section. Such report shall describe—

(1) the economic impact of user charges on the commercial users of and consumers of goods shipped on the system of inland and intracoastal waterways of the United States;

(2) the economic impact of user charges on a regional and national basis;

(3) the effectiveness of user charges in establishing a more balanced national transportation system;

(4) the effectiveness of user charges in promoting the more efficient use of public investments in the Nation's system of waterborne transportation and reliance on the private sector; and

(5) the effectiveness of user charges in providing for the balanced use of the Nation's water resources.

(e) For purposes of this section—

(1) the term "inland or intracoastal waterway of the United States" means any inland or intracoastal waterway of the United States which is subject to this Act by reason of section 103 of this Act (as in effect on the date of the enactment of this Act);

(2) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers; and

(3) the term "shallow-draft cargo vessel" means any cargo vessel other than a crago vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

(f) Section 154 of the Federal-Aid Highway Act of 1976 is amended—

(1) in subsection (c), by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1979"; and

(2) in subsection (d), by—

(A) striking out "and" at the end of clause (E);

(B) striking out the period at the end of clause (F) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following new clause:

"(G) waterway user charges.".

SEC. 202. IMPOSITION OF TAX

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"Sec. 4042. Tax on Fuel Used in Commercial Transportation on Inland Waterways.

"(a) IN GENERAL.—There is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1980, 2 cents a gallon,

"(2) in the case of a use after September 30, 1980, and before October 1, 1981, 5 cents a gallon,

"(3) in the case of a use after September 30, 1981, and before October 1, 1982, 8 cents a gallon,

"(4) in the case of a use after September 30, 1982, and before October 1, 1983, 12 cents a gallon, and

"(5) in the case of a use after September 30, 1983, 15 cents a gallon.

"(c) Exemptions—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State or political subdivsion thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to the Navigation Development Act by reason of section 103 of such Act (as in effect on the date of the enactment of such Act).

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter."

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways."

(d) The amendments made by this section shall take effect on October 1, 1979. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

CONGRESS AND FOREIGN POLICY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 12, 1977

Mr. CRANE. Mr. Speaker, in Robert Dahl's "Congress and Foreign Policy," the author states—

In the conduct of foreign relations, unity is one of the most important assets leadership can possess, disagreement one of the greatest liabilities.

Applying this axiom to President Carter's efforts to "normalize" relations with the People's Republic of China, it is most fortunate that public disagreement on the China question has provided a tangible benefit for the free people of the Republic of China: time. Many critics of the Carter administration's efforts on China have warned the administration to "go slow" in its China strategy. Others have counselled the President to approach the rapprochement with China based on an "American formula" rather than a "China formula," as is presently being advanced by the mainland Chinese.

Following is an article by Prof. Parris Chang which appeared in the Washington Post on August 7, 1977:

HOW NOT TO SACRIFICE TAIWAN

(By Parris H. Chang)

Secretary of State Cyrus Vance is going to China later this month to explore ways to normalize relations with the People's Republic. He is not likely to achieve a diplomatic breakthrough unless he is ready to swallow all of Peking's demands. "To realize the normalization of relations . . .," Vice Premier Li Hsien-nien reiterated recently to former Chief of Naval Operations Elmo R. Zumwalt, "the U.S. government must fulfill the following: severance of diplomatic relations with the Chiang clique in Taiwan; withdrawal of all U.S. forces and military installations from Taiwan and the Taiwan strait, and abrogation of its mutual security treaty with the Chiang clique—and none of the three can be dispensed with."

In light of Peking's uncompromising position, should the United States normalize relations with China? Some U.S. officials think so. They have recommended that the United States follow the so-called Japanese formula, under which the United States would sever diplomatic and military links with Taiwan but continue non-official cultural and economic ties. As to Peking's refusal to offer any assurance that it will not use force to take over Taiwan, their solution is to skirt the issue—to have the United States issue a statement expressing concern for the security of the Taiwanese.

What tangible benefits would the United States receive in normalizing relations with Peking and no longer recognizing Taipei? Prior to Chairman Mao's death, specialists inside and outside the government had called for a speedy establishment of full relations. They asserted that, if the United States failed to accept Peking's demands, China's post-Mao rulers would reach a general accommodation with the Soviet Union detrimental to American national interests. They have been proven wrong—relations between Peking and Moscow are as bad as they were before Mao's departure, if not worse.

Now some of these specialists have advanced a new rationale—the "China card" strategy—to promote normalization. They seek to accelerate diplomatic and military links with China in order to use China to offset Soviet power and gain some leverage over Moscow in strategic arms limitation talks. Such calculations are not only wishful thinking, but they may also have dangerous consequences. In the first place, China is simply too weak militarily to be any counterweight to the formidable Soviet military might. Even if the United States should try to boost China's military strength through a "quick fix," it would take a massive transfusion of arms and military technology, at a cost of tens of billions of dollars, to make a difference in the prevailing Sino-Soviet military balance.

Leaving aside the issue of whether China, with its well-publicized commitments to anti-imperialism and self-reliance, would accept largesse from the American imperialists, an overt U.S. attempt to seek military collaboration with China would have serious adverse repercussions. The Soviet Union would likely feel threatened by a Washington-Peking axis and U.S.-Soviet relations would worsen quickly, resulting in intensified global conflict between the two superpowers. Japan may also perceive a grave threat if China's military capability were greatly strengthened by U.S. aid, and the equilibrium in Asia may be destabilized drastically.

It would be also unwise for the United States overtly to manipulate Sino-Soviet relations. The conflict between the two Communist states has a logic of its own and has developed since the 1950s independent of machinations by third parties. Their hostility is so deeply rooted and fundamental that, while a limited rapprochement is not improbable, the Chinese will never realign themselves completely with the Russians, whether or not they have full relations with us, especially after the aura of implacable Sino-American enmity between has been removed and the basic premise for the initial Sino-Soviet alliance has disappeared. On the other hand, if someday the post-Mao leaders of China discover a Sino-Soviet rapprochement to be in China's best interest, no amount of U.S. concessions on Taiwan would be able to forestall that.

Although I favor normalization of relations with China, I believe it should be based on an "American formula." Under this approach, the United States would offer to extend full diplomatic relations to the People's Republic as the government of mainland China. At the same time, the United States would continue to maintain diplomatic and security ties with the Nationalist government in Taipei, but on condition that it proclaims itself merely the government of Taiwan and the Pescadores and pulls out from the offshore islands of Quemoy and Matsu.

This "American formula" has several merits. It would assure Peking of our interest in improving relations. It would also reject a damaging new myth which pretends that a separate, independent political entity in Taiwan does not exist—a myth which Peking seeks to impose on U.S. policy. By guaranteeing Taiwan's security and independent existence, the United States would demonstrate to the world that principles and small nations do count in the calculations of American foreign policy. Our allies have become apprehensive of the credibility of American commitments in the aftermath of Indochina, and the "American formula" could greatly restore their confidence in the United States as an honorable, reliable ally and dispel any misconception that the United States is a paper tiger.

Such U.S. action not only would be welcome by the people and the Nationalist government in Taiwan, but it also would embolden other nations in Asia and elsewhere which currently maintain only trade ties with Taiwan to reopen diplomatic relations in the future. Predictably, Peking would vehemently oppose such a solution, at the outset at least—much as Pakistan once strongly opposed independent statehood for Bangladesh—but eventually it would have to come to terms with international realities. Particularly when Taiwan's Nationalist government ceases to claim to be the government of China, no longer challenges Peking's legitimacy and legality and is prepared in the long run to develop economic, cultural and political ties with the mainland, Peking leaders might eventually be willing to tolerate the independent existence of the "small brother" in Taiwan.

However much the United States desires to improve relations with China, it should not jeopardize the fate of the 16 million people in Taiwan by rushing to normalization on Peking's terms. The overwhelming majority of people there do not wish to live under Communist rule and want to shape their own destiny. Although they are ethnically and culturally Chinese, they have developed a free enterprise system and a different political identity—a situation much like the British in the 13 American colonies two centuries ago. It would be wrong for the United States to forsake the very principles upon which this nation was founded and turn the 16 million people in Taiwan to Peking against their free will.

Does President Carter really believe in moral principles and consider human rights the keystone of his foreign policy? His China policy will be an acid test.

DANIEL A. WAHLER, JR.: GOOD AND ACTIVE LEADER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. PATTEN. Mr. Speaker, in the near future, construction is expected to start on the Route 18 bridge and extension over the Raritan River in New Jersey. This important achievement will be the culmination of many years of hope—and one of the main reasons the Route 18 project is about to begin is the faith, dedication and strong leadership of a remarkable man: Daniel A. Wahler, Jr., of Piscataway.

Construction of the Route 18 bridge and extension is essential to the revitalization of New Brunswick, the county seat, as well as alleviation of traffic congestion in the area. On July 8, 1977, I was present when Lt. Col. John Chisholm, Acting Engineer of the Army Corps of Engineers, signed the navigation permit and presented it to Gov. Brendan T. Byrne. Many other officials attended that signing ceremony—and Dan Wahler was one of them. Some have taken his strong interest and fine leadership for granted, but I have always appreciated his unique talents and devotion to the kind of government all citizens desire: honest, efficient and responsive.

Dan Wahler was not only at that ceremony as chairman of the Citizens Com-

mittee for Route 18, but as a good man and active community leader. With a real and deep feeling for people, he has served them extremely well in many positions of responsibility. A few of them, include:

Chairman, Piscataway Citizens Committee for Route 18.

Vice-Chairman, Piscataway-Franklin Committee Against Route I–95.

Member, Middlesex County Transportation Committee.

Liaison in community relations between Rutgers University and Piscataway Township.

Technical advisor to Middlesex County Vocational High Schools in Graphic Arts.

Member, Executive Board, St. Frances Cabrini PTA.

Member, Fathers Club, St. Joseph's H.S., Metuchen, N.J.

President, Middlesex County 4–H Leaders Association.

Officer, Touchdown Club of New Brunswick, serving the football program of Rutgers University.

Member, Court Club of Rutgers, booster organization of the Rutgers University basketball program.

Member, Scarlet R Club of Rutgers University—a fund-raising organization for the university's athletic program.

Former member, Industrial Commission of Piscataway Township.

Mr. Speaker, I am proud that a man like Dan Wahler is one of my constituents and I am also proud of him as a cherished friend. The word "distinguished" is often exaggerated in describing persons in public life, but in the case of Dan Wahler, distinguished is not really adequate. It is hard to find a word which can really describe him. As a community leader, successful businessman, husband, father of six children, or patriot, he is always doing things to help people—and they are his preeminent interest.

A truly religious man, Dan Wahler practices brotherhood 365 days a year, yet few people hear and know about his good deeds. Because of rare and precious men like Dan Wahler, the eternal dream of brotherhood is getting closer to realization.

"SPENDING WHAT WE AIN'T GOT"

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. LENT. Mr. Speaker, I recently conducted a "mini-canvass" of my constituents to learn their views on the most important issue facing our Nation today. One of the most commonly mentioned issues was that of Federal deficit spending, and one of the most thoughtful letters I received on this subject was from Mr. and Mrs. David Oppenheimer of North Bellmore, N.Y. I include the text of their letter in the RECORD at this point for the benefit of my colleagues:

SEPTEMBER 5, 1977.

Hon. NORMAN F. LENT,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN LENT: This is in response to your letter of August 26th, in which you asked what is the most important issue facing the nation today, and what action should be taken.

The answer, in our family's opinion, is: "Spending What We Ain't Got!" It is ludicrous for the Federal Government to continue to spend money that it does not have. Deficit spending is criminal, as well as being the worst possible example for our local governments. Since Congress and the President generally cannot agree on specific spending cuts, a two-tier across-the-board program should be instituted: all non-U.S. expenditures, e.g., foreign aid, U.N. involvement, etc., should be reduced by a significant percent—perhaps 20 percent; all domestic expenditures should be cut by an amount equivalent to the current percent of deficit spending plus 1/50 of the currently accumulated national debt and its interest. The latter will then allow for the national debt to be eliminated within 50 years.

This will assure that, starting about three generations hence, our Government will be sound, and managed in the manner proven successful by private business and—more importantly—as proven by properly run families.

This is, of course, a simplistic approach, but it is the one to which even Galbraith—in his private musings—would subscribe to, and perhaps Keynes too, in whatever his reincarnation might be.

Charles Dickens summed it up in Mr. Micawber's hard-learned advice (based on Dickens' father's real-life experience),

"Annual income twenty pounds, annual expenditure nineteen nineteen six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds ought and six, result misery."

Finally, Hugh Rutledge writes in the Indianapolis News (quoted in Forbes, September 1, 1977, page 18),

"WHAT'S A BILLION?

"Most people in Washington have lost sight of what a billion dollars is.

"One billion seconds ago, the first atomic bomb had not been exploded.

"One billion minutes ago, Christ was still on earth.

"One billion hours ago, men were still living in caves.

"Yet, one billion dollars ago (in terms of government spending) was yesterday."

Parents must be able to set proper examples for their children. Can our Government do less?

Sincerely yours.

HANNI and DAVID OPPENHEIMER.

WORLD ENERGY SUPPLIES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. TEAGUE. Mr. Speaker, at my request, members of my staff on the Committee on Science and Technology have prepared a paper reviewing world energy supplies. The following paper does present an overview of basic world fuel supplies in the areas of oil, coal, natural gas, and uranium. There are large areas of the world which have yet to be explored for potential fossil fuels and any significant discovery in any of these areas could change the entire picture.

The paper prepared by my staff follows:

WORLD ENERGY SUPPLIES

I. OVERVIEW

It is often difficult to understand the scope of world energy resources and consumption in familiar language.

Scientists therefore have adopted the term "quad" in discussing energy use. Translated, 1 quad = 500,000 barrels of petroleum per day for a year; or 40 million tons of bituminous coal, or 1 trillion cubic feet of natural gas.

In 1973, world energy consumption was 250.4 quads. U.S. energy consumption was about 60 quads in 1974. Estimates for U.S. energy consumption in the year 2000 range from a low of 101 quads to a high of 163 quads. At the high figure of 163 quads, it would take 81 million barrels of oil per day to keep the country running in the year 2000.

In the United States today, oil and gas together furnish 75 per cent of the total primary energy. There is little doubt that the country as well as the world is running out of these precious fossil fuels.

II. OIL

Estimates of total world petroleum resources are in the range of 1,200–2,000 billion barrels of oil. Most of this—59 per cent—is concentrated in the Middle East. Kuwait, the United Arab Emirates, Iran and Qatar can produce 6.6 million barrels of oil per day. Saudi Arabia can produce 11.5 million barrels per day.

Of the remaining 41 per cent of world proved crude oil reserves, the Sino-Soviet bloc controls 12 per cent and the United States, 6 per cent.

The U.S. Geological Survey estimates a total of about 144 billion barrels of oil potentially available in the U.S. This figure could be augmented by greater success in discovery and greater efficiency in recovery stimulated by high prices. A constant theme throughout any discussion of world energy resources is price. Obviously, the higher the price, the more feasible it would become to explore for more oil or develop new recovery techniques.

Using the 144 billion barrel figure for potentially available U.S. oil, with consumption running about 6 billion barrels per year, the nation has about 25 years left of domestic oil. With imports continuing at no higher than 40 per cent, and consumption holding constant, the life of U.S. oil could last about 40 years.

World-wide, this picture is about the same. In 1975, world consumption of oil was 20 billion barrels. Increasing consumption at the rate of 5 per cent per year would result in the cumulative rise of about 1,000 billion barrels by the end of the century. With total world petroleum reserves estimated at 1,200–2,000 billion barrels, it is clear that an alternative must be found.

III. NATURAL GAS

The outlook for natural gas may be worse than for oil. In the United States, the ratio

of reserves to production has declined from over 20–1 to about 10–1 in the past 15 years.

There is an estimated 2,146.3 trillion cubic feet of natural gas reserves world wide.

One third of the world's natural gas reserves are concentrated in the Sino-Soviet bloc. The Middle East has roughly 28 per cent and the United States, 11 per cent.

In 1975, about 28 per cent of the country's energy came from natural gas. Nearly 20 trillion cubic feet were consumed. Keeping the consumption figure constant, the U.S. has about 12 years supply of domestic natural gas.

It is clear that an alternative must be found.

IV. COAL

The world is blessed with rich coal resources, much more so than oil and gas. Estimates of world coal resources range from 6–12 trillion tons. At the 1972 world level of total energy use this amounts to 600–1,200 years supply. At the world level of coal use, it amounts to 1,600–3,200 years supply.

The major known deposits of coal are in the United States—32 percent and the Sino-Soviet bloc—46 per cent. About 10 per cent of world coal deposits are in Western Europe, mainly the United Kingdom and Germany.

The U.S. Geological Survey estimates total domestic coal deposits at 4 trillion tons. The nation's current level of production is about 665 million tons per year and it is estimated that this production rate would increase to 1 billions tons by 1985 and to 16 billion tons in the year 2000.

Coal currently generates 20 per cent of our energy, mostly for electric power production. In the 1940's coal accounted for 50 per cent of the nation's energy supply, but declined as oil and gas became plentiful. The reasons were simple. It was cheaper to produce oil and simpler to transport as an extensive pipeline system was constructed. Furthermore, oil and especially natural gas are comparatively cleaner burning fuels than is coal.

While coal is certainly an abundant fuel, the problems existing in prior decades that caused the nation to shift away from coal still exist today. If these problems can be solved with satisfactory solutions today, it appears that coal could be a viable alternative to oil and natural gas. If not, one must look further for an alternative.

V. URANIUM

The supply of uranium is closely tied to price. At $15 per pound, there is an estimated 2,815,000 tons of uranium resources in the non-communist world. At $30 per pound, the estimate leaps to 5,760,000 tons, more than double.

The United States controls 29 per cent of these uranium deposits; Australia, 25 per cent; South Africa, 18 per cent and Canada, 13 per cent. In addition, it is estimated that there are abundant supplies to recover in this country's shale and granite. The cost of this uranium would exceed $100 per pound.

Currently figures show that the United States is producing 45 per cent of the world's uranium supplies, but recent news reports indicate that Australia is beginning a massive uranium mining effort.

The Energy Research and Development Administration predicts that demand levels for all light water reactors could be accommodated with a reasonable expansion of present reserves at prices not exceeding $40 per pound for the balance of this century and well into the next century. With nuclear power currently providing about 10 per cent of the nation's power, there does not appear to be any pending uranium shortage.

In addition, many believe that uranium mining is in the early stages of industry development. It is thought that with increased financial incentives and more advanced technology, uranium supplies could last well into the coming century.

MEASURED WORLD RECOVERABLE ENERGY RESERVES, 1974

[Quadrillion Btu]

Area	Solid fuels	Crude oil	Natural gas	Oil shale and tar sands [1]	Uranium (nonbreeder) [2]	Total
Africa	361.7	526.6	201.7	81.4	198.1	1,369.5
Asia (less U.S.S.R.)	2,608.7	2,202.4	432.6	870.2	3.1	6,126.0
Europe (less U.S.S.R.)	2,581.5	57.1	153.6	117.0	46.4	2,955.6
U.S.S.R.	3,325.5	333.6	577.9	139.0	[3]	>4,376.0
North America [4]	5,070.9	301.0	380.6	9,111.0	422.7	15,286.2
South America	49.8	311.5	60.6	23.7	11.9	457.5
Oceania	459.8	9.4	24.9	9.2	99.1	602.4
Total	14,457.9	3,741.2	1,831.9	10,351.5	>781.3	>31,173.2

[1] According to the U.S. Department of the Interior, Bureau of Mines, North American tar sands and shale oil reserves may be severely overstated. Development of most of these reserves is not economic at present.

[2] Energy content using breeders 60–100 times as great. Thorium resources neglected.

[3] Unknown.

[4] U.S. reserves shown in more detail elsewhere.

Source: World Energy Conference, "Survey of Energy Resources," New York, 1974.

World estimated crude oil reserves, January 1, 1975

Area:	Billion bbl.
United States	34.2
Other Western Hemisphere countries	32.0
Western Europe	20.1
Africa	57.9
Mid-East	326.0
Far East and Oceania	20.6
Sino-Soviet bloc	65.3
World total	556.1

Source: *World Oil*, Houston, Tex., Aug. 15, 1975.

Coal supplies

Area:	Billion short tons
United States	218
Other Western Hemisphere countries	9
Western Europe	72
Africa	17
Middle East	0
Far East and Oceania	46
Sino-Soviet bloc	307
Total	669

World estimated natural gas reserves, January 1, 1975

Area:	Trillion ft³
United States	[1] 237.1
Other Western Hemisphere countries	136.3
Western Europe	155.0
Africa	196.5
Mid-East	594.6
Far East and Oceania	89.1
Sino-Soviet bloc	737.7
World total	2,146.3

[1] Proved reserves, excluding natural gas liquids.

Note.—There is no international standard defining categories of natural gas liquids.

Source: *World Oil*, Houston, Tex., Aug. 15, 1975.

TABLE 2-3.—WORLD URANIUM RESOURCES AND PRODUCTION (NOT INCLUDING COMMUNIST COUNTRIES)

[Thousand tons of U_3O_8]

	Resources		Production (from all material)	
	Reasonably assured	Estimated additional	1974	1975
	Up to $15/lb U_3O_8			
Australia	430	104		
S and SW Africa	242	8	3.5	3.4
Canada	189	394	4.4	6.1
Niger	52	26	1.6	1.6
France	48	33	2.1	2.2
Algeria	36			
Gabon	26	6	.6	1.0
Spain	13	11	.1	.2
Argentina	12	20	.1	.1
Other	56	26	.2	.2
Foreign total	1,100	630	12.6	14.8
United States	430	655	11.5	11.7
World total	1,530	1,285	24.1	26.5
	Up to $30/lb U_3O_8			
Australia	430	104		
Sweden	390			
S and SW Africa	359	96		
Canada	225	887		
France	71	52		
Niger	65	39		
Algeria	36			
Spain	30	55		
Argentina	27	50		
Other	150	110		
Foreign total	1,780	1,390		
United States	640	1,060		
World total	3,310	2,450		

Sources: Energy Research and Development Administration, mid-1976, communicated by John Patterson; and Organization for Economic Cooperation and Development, "Uranium: Resources, Production and Demand," A Joint Report by the OECD Nuclear Energy Agency and the International Atomic Energy Agency (Paris, December 1975). The OECD/IAEA statistics employ a cost concept that is closer to full costs than that used by ERDA, except for Canadian resources, which are based on prices. The resulting lack of comparability, according to OECD/IAEA, is "not significant" within this general range of uncertainty in these estimates.

PROJECTIONS OF U.S. GROSS ENERGY CONSUMPTION BY SOURCE, 1975–2000

Fuel source	1975 [2]	1980		1985		2000 [1]
		Bureau of Mines	Federal Energy Administration [3]	Bureau of Mines	Federal Energy Administration [3]	Bureau of Mines
Coal:						
Quadrillion Btu	13.4	17.2	15.7	21.3	20.6	34.7
Million tons	567	736	719	923	962	1,560
Petroleum:						
Quadrillion Btu	32.7	41.0	35.6	45.6	40.9	51.2
Billion barrels	6.0	7.4	6.5	8.3	7.5	9.3
Natural gas:						
Quadrillion Btu	20.2	20.6	22.7	20.1	24.2	19.6
Trillion ft³	19.7	20.0	22.0	19.5	23.4	19.0
Oil shale:						
Quadrillion Btu					.9	.6	5.7
Billion barrels					.2	.1	1.0
Nuclear power:						
Quadrillion Btu	1.7	4.5	3.9	11.8	8.67	46.1
Billion kilowatthours	155	427	388	1,139	867	5,120
Hydropower and geothermal:						
Quadrillion Btu	3.1	3.8	3.7	3.8	3.9	6.1
Billion kilowatthours	304	343	NA	391	NA	605
Total (quadrillion Btu)	71.1	87.1	81.6	103.5	98.9	163.4

[1] FEA forecast does not extend to 2000.
[2] Actual.
[3] Reference case, with oil imports at $13 per barrel.

Sources: Dupree, Walter G., and John S. Corsentino, U.S. Energy Through the Year 2000, Revised Washington, D.C., U.S. Department of the Interior, Bureau of Mines, December 1975; Federal Energy Administration, National Energy Outlook, Washington, D.C., 1976.

THE AWACS SALE: ANOTHER PERSPECTIVE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. STUDDS. Mr. Speaker, the following editorial from the New Bedford Standard Times of New Bedford, Mass., contains, I believe, an extremely sophisticated analysis of the underlying issues which often contribute to foreign policy decisions, particularly arms sales. The editorial states, quite rightly I believe, that while domestic economic and political considerations do have a role to play in all government decisionmaking, they should not be allowed to dictate foreign policy decisions in a manner which does harm to our long range international goals. I hope that this essay will be of interest to my colleagues:

TRADE DEFICIT MAY BE RELATED TO U.S. ARMS SALES ABROAD

The Pentagon sent Congress formal notification the other day that it intends to sell an additional $1.1 billion worth of weapons and logistical training support to five countries. This brings to $3.4 billion the amount of arms sales the Carter administration has approved since it assumed office seven months ago, with the avowed intent to cut back on military sales abroad.

The same day, the Commerce Department announced that the United States recorded a foreign trade deficit in July of $2.3 billion. This brings to $14.9 billion the total trade deficit during the Carter administration, a staggering and significant drain compared with the record annual deficit of $6.4 billion in 1972.

Arms sales and trade deficits are intimately related in the scheme of international economics. One would be untutored or artless to assume that the measure of one did not influence the measure of the other or that the measure of both was not a crucial gauge for the performance of the U.S. economy. By that definition, the United States is slipping badly and rapidly.

International relations are exceedingly more complex than headlines can convey or tabloid thinking can grasp. The State Department does not formulate foreign policy in a vacuum any more than the Pentagon formulates troop deployments or arms sales in a vacuum. The sources and matrices of policymaking are multifarious and mystifying. The suggested correlation between trade deficits and arms sales cited above is only a rough example.

A decision on the sale of armaments, to take a hypothetical example, could be made by the President on the basis of oaken recommendations at the highest level that proceeded inevitably from acorns planted by such seemingly unrelated entities as the Bureau of Labor Statistics or the Foreign Agricultural Service of the Department of Agriculture—with the consent or dissent of a score of other agencies interlarded at every echelon.

Why? Because statistics and extrapolations by the Bureau of Labor Statistics indicate the state and the probable immediate future of employment in the domestic economy. The projections of the Foreign Agricultural Service indicate how much surplus wheat, for example, may be exported in the next quarter. From such seemingly narrow statistics may emerge grand international policies, such as sweetheart wheat deals with the Soviet Union in return for some concession on strategic arms limitations or reconsideration of proposals for arms sales (President Carter is going to resubmit the $1.2 billion AWACS deal) to fend off even deeper trade deficits and consequently higher unemployment at home.

The observation (or accusation) that the United States will sell Iran virtually anything the Shah has cash enough to buy, for instance, is not totally isolated from the economic urgency that in July alone the United States imported some $3.6 billion worth of petroleum, much of it from Iran itself.

The operative economic assumptions are that arms sales create or perpetuate specific jobs and also that arms sales, by alleviating the imbalance of trade, assist the domestic economy generally by putting dollars into pay checks at Boeing or Lockheed which may be spent at General Motors or General Foods.

These assumptions, however, unwisely commingle domestic goals with international risks, and give to the reasons for disputed arms sales abroad the cogency of undisputed economic objectives at home.

Such sales for such reasons would seem to be a classic example of the military-industrial complex at work—with the addition of organized labor. The triad's several self-interests can be formidably wrong.

JIMMY CROMWELL

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to take this opportunity to ask my colleagues to join with me in honoring Jimmy Cromwell of Townsend, Tenn., in his winning a gold medal in swimming in the Deaf Olympics which were held recently in Romania.

Jimmy, who is an 18-year-old senior at the Tennessee School for the Deaf in Knoxville, Tenn., has been deaf since childhood. Nonetheless, he has not allowed his handicap to stand in the way of living life to the fullest.

While he has been a student at the Tennessee School for the Deaf, Jimmy has been captain of the swimming team for the past 4 years, quarterback of the school's football team for 2 years, and a member of the track team.

His spirit and determination in overcoming his handicap should be an inspiration to all of us. Jimmy has represented himself, his family, and his country honorably and we wish him well.

FDIC SUPPORTS FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. ROSENTHAL. Mr. Speaker, the House will take up consideration of the Federal Banking Agency Audit Act (H.R. 2176) in the very near future. This legislation authorizes the GAO to audit the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the nonmonetary policy activities of the Federal Reserve System.

In view of the pending vote on this important legislation and the concerns of some of my colleagues about maintaining the privacy of bank records, I want to bring to your attention a letter I recently received from Chairman George LaMaistra of the Federal Deposit Insurance Corporation. In this letter Chairman LaMaistra clearly affirms his support of the Federal Banking Agency Audit Act and makes the following statement about the privacy safeguards contained in the legislation:

In our March 3, 1977 testimony on the previous version of H.R. 2176 as introduced by you on January 19, 1977, we indicated that we had no objection to the basic thrust of the bill but recommended various amendments negotiated with your Subcommittee staff designed to safeguard the confidential-

ity of open bank examination reports and related confidential information in our files. All of our recommended amendments were incorporated in the revised H.R. 2176.

My House colleagues should rest assured that the confidentiality safeguards in H.R. 2176 were designed to protect individual privacy and meet the concerns of the banking agencies to the fullest extent possible.

Mr. Speaker, legislation authorizing the GAO to audit the Federal bank regulatory agencies is long overdue. The responsibilities of these agencies, the needs of Congress, and the exemplary record of the GAO more than justify the authority contained in this legislation. When the opportunity presents itself, I urge my colleagues to vote in favor of the Federal Banking Agency Audit Act.

THORNTON COMMUNITY COLLEGE OBSERVES 50TH ANNIVERSARY

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. RUSSO. Mr. Speaker, on September 19, Thornton Community College in South Holland, Ill., will observe its 50th anniversary. I want to take this opportunity to congratulate this fine institution of learning on a half century of achievements in the field of education.

Someone once noted that—

Education should be a conscious, methodical application of the best means in the wisdom of the ages to the end that youth may know how to live completely.

Thornton Community College has lived up to this challenge and extended it further with educational programs for adults. I am proud to have this community-oriented facility in my district for it has added immeasurably to the betterment of the community through the services and programs it offers. In fact, on their catalog is an appropriate motto: Community Is Our Middle Name.

Thornton Community College was founded in September 1927. In 1965, the Illinois Public Community College Act created community college districts throughout the State.

In 1966, Thornton Junior College became Thornton Community College, as 20 south suburban towns and three high school districts formed Community College District 510.

Today, the college serves some 10,000 students and a district population of more than 300,000.

A comprehensive 2-year institution, Thornton Community College offers the first 2 years of 4-year curriculums, 1- and 2-year career curriculums, and programs designed to serve special educational purposes. Associate degrees and certificates are granted. It is accredited by the North Central Association of Colleges and Secondary Schools.

The college offers educational opportunities during both day and evening hours on the main campus and in 12 community education centers through the community college district.

The college is committed to providing quality learning experience, the opportunity for lifelong continuing education, and courses and programs which facilitate adjustment to, or reemployment or advancement in work.

It emphasizes programs and activities designed "to contribute to personal and cultural enrichment and encourage constructive participation in a free society." It complements its educational programs through counseling and academic advisement and encourages the public use of its facilities and services for educational and cultural purposes.

These are some of the stated goals of the college and I can personally vouch for the schools achievements and success in obtaining them.

I know my colleagues join with me today in congratulating Thornton Community College on their success as they celebrate their 50th anniversary.

SERIOUS ON SOCIAL SECURITY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. CONABLE. Mr. Speaker, last Friday the minority leader, Mr. RHODES, myself, and the four Republican members of the Social Security Subcommittee of the Ways and Means Committee unveiled a major proposal for the revamping of the social security system. I placed in the RECORD on that day a complete explanation of that proposal. I urge all Members who have not read it to do so and consider what we have suggested.

I was delighted to read this morning an editorial in the Wall Street Journal entitled "Serious on Social Security," which is very supportive of the proposal we presented last week. I insert the editorial to be printed immediately following my remarks and urge all Members to read it carefully in light of the seriousness of the social security dilemma facing us:

SERIOUS ON SOCIAL SECURITY

A proposed Social Security overhaul just introduced by congressional Republicans may force us to revise our view of their party as a loyal nonopposition. They have just become the only politicians around to face the Social Security problem seriously.

The problem is that over the long run the system faces a multitrillion-dollar actuarial deficit, and in the short run its reserves are facing depletion. The Carter administration sent down a hoked-up solution, raising taxes and tapping general revenues, that solves nothing. It seems to be dead in the water, but congressional Democrats are looking at a short-term tax increase to paper over the problem a few more years. The Republicans have offered a reasoned solution to both.

To eliminate the multitrillion-dollar deficit, you have to start—as all plans would—by eliminating the present double-indexing in the system, which drives benefits up faster than inflation. But you have to do a lot more, and there are essentially three alternatives: You can index future benefits to inflation rather than wage rates, so that while retirees maintain their purchasing power they do not get a slice of future production gains. You can start to subject Social Security benefits to taxation. Or you can raise the retirement age. A fourth alternative, raising taxes, is probably a mirage, since it would retard the economic growth on which the whole system depends.

The Republicans propose to advance the retirement age, which seems the best choice to us, as it does to Commerce Secretary Juanita Kreps. The Republicans show the proposal is not onerous. The age at which retirees could obtain full benefits need be raised above the current 65 only starting in the year 1990. It could go up by degrees, ultimately reaching 68 in the year 2001. Combined with the end of double indexing and the integration of government pensions into Social Security, this could not only close the deficit but leave a bit of room for ending some inequities.

For example, the Republicans would phase out by 1980 the present $3,000 limitation on outside earnings of Social Security recipients. They would end the cutoff or reduction in benefits for widows and widowers who remarry. They would reduce from 20 years to five years the duration-of-marriage requirement for receiving a benefit based on a spouse's earnings record a—small boon for divorcees. They would brighten the benefit prospects for working wives.

But perhaps the biggest improvement in terms of equity would be the integration of government pensions, putting federal workers more nearly on a par with other employees. At present, federal workers have a very nice thing indeed. They are covered by a federal pension system, not Social Security. It is no great trick for them to moonlight or take a new job after federal retirement in order to earn the minimum Social Security benefit. More importantly, since the minimum benefit is disproportionately high under Social Security, their contributions are low relative to benefits.

The Republicans would bring federal workers under Social Security to have the benefit of their contributions throughout their working lives. They would also freeze that minimum benefit for short-time workers and let cost-of-living increases at other levels move the system back towards an insurance rather than a welfare principle. This won't win hurrahs from the federal bureaucracy, but it deserves a cheer from everyone else.

The Republicans are willing to make the tough decisions. They have faced up to the political risks of raising the retirement age and confronting federal workers. They propose increasing the Social Security tax rate 1.2 percent above the presently scheduled rate increases by the year 2000, but the first increment, 0.5 percent, would not come until 1982.

There may prove to be some technical flaws in the Republican plan that aren't evident at first glance, but they certainly are not as apparent as was readily the case with the Carter proposals. Their plan would not paper over the crisis and let it reemerge for some other group of policymakers a few years hence. It is particularly notable that this time the Republicans, who so often have been in the position of merely reacting to Democratic initiatives, are the party with a solution to one of our largest social and economic problems.

TAX BURDEN OF AMERICANS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mrs. HOLT. Mr. Speaker, there has been considerable discussion, and much confusion, as to which income groups of Americans carry how much of the tax burden. The September 19, 1977, issue of U.S. News & World Report has a most enlightening commentary on this matter under "Tomorrow," (page 12). I would like to share it with my colleagues:

Despite all the talk about how the rich get away with murder on income taxes, America's progressive tax system is alive and reasonably well.

On about 82 million individual returns filed this year, the Federal Government collected 132.2 billion dollars. Adjusted gross income—the amount on which taxes are figured—topped 1 trillion dollars for the first time.

Who paid what? A new Tax Foundation study, on last year's returns, shows:

The top 10 percent of taxpayers—those earning from $23,420 a year and up—paid nearly half the total tax bill.

Top 5 percent—$29,272 and up—picked up the tab for more than one-third.

The lowest 50 percent accounted for only 7 percent of collections.

SHATTERED PEACE: THE ORIGINS OF THE COLD WAR AND THE NATIONAL SECURITY STATE

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. JOHNSON of Colorado. Mr. Speaker, in the accompanying article, printed in the Washington Star September 9, 1977, Prof. Daniel Yergin of Harvard University details differing attitudes toward the Soviet Union which dominate our policymakers. Those who insist on what Professor Yergin calls the Riga axioms seem to be most vocal and most influential presently.

This narrow viewpoint, with its attendant dangerous policy, must finally be overcome if our world is to achieve peaceful solutions to its differences. Blind adherence to theory, whether religious, political or racist, has cost dearly in the past, and will do so in the future.

I urge a close reading of the article and Professor Yergin's new book, "Shattered Peace: The Origins of the Cold War and the National Security State."

[From Washington Star, Sept. 9, 1977]

SOLVING THE RIGA-YALTA PUZZLE

(By Daniel Yergin)

The uncertain steps in the uncertain Strategic Arms Limitations Talks process should remind us that despite the rise of the "global" economic issues, the Soviet Union continues to pose the single most important problem for American foreign policy—just as it has for more than three decades.

And, while the current debate over our relations with the Soviet Union may seem to focus on the number and throw-weight of missiles, it is also about more fundamental questions: What kind of state do we face in the Soviet Union? What are its intentions and capabilities?

And, while the current debate over our debate are two competing sets of axioms about the Soviet Union and how to deal with it. They give rise to two different "answers." One I have called the "Riga axioms," so named for the city where American diplomats studied Soviet affairs in the 1920s. The other I named the "Yalta axioms," for the site of Franklin D. Roosevelt's effort to establish a post-World War II modus vivendi with the Soviet Union.

According to the Riga axioms, the Soviet Union is a monolithic, world revolutionary state, single-mindedly geared to expansion. Moscow's policies are seen as well thought out, and consciously coordinated. There is little confusion in the Kremlin about goals: "preponderance" and "hegemony."

This view tends to emphasize Soviet strengths and capabilities, rather than difficulties and weaknesses. Thus, the Soviet Union becomes a fundamental and permanent adversary of the United States. For those who hold the Riga view, detente is not merely a fraud, but a danger, a relaxation less of tension than of the American guard—so enabling the Soviet Union to take advantage of our good will.

The Yalta axioms position the Soviet Union less as a world revolutionary state than as a more conventional imperial power. While obviously possessing vast military strength and hardly lacking in expanionist drives, it is still a relatively cautious power, concerned with protecting what it has, and with much to gain from stability. Its ideology is more a stale rhetoric than a rule book for action, and leadership is motivated not so much by clearly defined objectives as by the need to reconcile many competing interests and demands, to cope with great internal problems, to balance risks off against opportunities.

The crucial point is that, according to the Yalta axioms, the Soviet Union is not genetically programmed to move in one course. Rather, its leaders can make choices that move in several different directions. While nothing is certain in dealing with such a power, the United States can provide incentives in both the military and economic spheres that encourage the Russians to make choices that, while in their own interests, are also in ours.

Although the lines of debate have been fairly consistent between these two points of view since the end of World War II, the relative balance was not. The Riga axioms were "victorious" in vigorous foreign policy debate in the years 1945–1950 (a debate with many similarities to the current one). The Riga axioms went on to become the fundament of American policies and attitudes through much of the Cold War. For a few years in the early 1970s, the balance shifted to the Yalta axioms, which underlay the movement toward detente.

With the departure of Henry A. Kissinger's dominating personality, and a new administration, a struggle has again developed between these two competing set of axioms, with their very different policy prescriptions both for arms control and trade—between those who say relations can be structured only as between two adversaries and declare that "detente is a one-way street" that does not run in our direction, and those who say that relations can be shaped in more useful and constructive ways.

Proceeding on the basis of the Riga axioms superficially appears to afford more security, but does not in the long run. For that viewpoint is too complacent about the dangers of a spiraling arms race. It ignores problems on the common agenda, exaggerates Soviet capabilities, distorts Soviet intentions and overlooks the problems faced by Soviet leaders. It takes the Soviet monolith too seriously, and assumes that the Soviet Union is unaffected by domestic change.

Of course, the debate in American politics is affected by Soviet behavior, for people will shift from one side to another on the basis of their perception of Soviet actions.

There is no general consensus at this moment in the United States about how to proceed with relations with the Soviet Union. If the Riga axioms triumph, there will be declining American interest in promoting arms control and trade, and indeed many obstacles to both. If, on the other hand, the party of what might be called "realistic detente" carries the day, then progress on arms control, trade—yes, even human rights to some degree—is more likely.

TESTIMONIES OF AMBASSADORS BUNKER AND LINOWITZ ON PANAMA CANAL TREATY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. WHALEN. Mr. Speaker, in the interest of a continuing, informed debate on the proposed Panama Canal Treaty, the Treaty on the Permanent Neutrality and Operation of the Panama Canal, and the proposed economic development program outside of the treaties, I would like to make the testimonies of the two chief U.S. negotiators before the House International Relations Committee a matter of record:

STATEMENT BY AMBASSADOR AT LARGE ELLSWORTH BUNKER

Ambassador Linowitz and I greatly appreciate the Committee's invitation to discuss the new Panama Canal treaties.

This is our first appearance before a Congressional Committee since completion of the new treaties, which were signed yesterday by President Carter and Panama's General Torrijos and which will shortly go to the Senate for advice and consent to ratification.

The new agreements include the following documents:

The Panama Canal Treaty, with two implementing agreements concerning—

Canal Operation (Agreement in Implementation of Article III of the Panama Canal Treaty).

Defense (Agreement in Implementation of Article IV of the Panama Canal Treaty).

Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

Exchanges of notes concerning various U.S. Government activities currently located in the Canal Zone.

A note concerning loans, loan guarantees, and credits to be provided to Panama to assist its economic development.

And to enhance its capability to contribute to canal defense..

In our opening statements Ambassador Linowitz and I will review a few of the most important features of these documents.

I will outline the provisions governing canal operation and defense through December 31, 1999.

Ambassador Linowitz will describe the neutrality treaty and the economic arrangements.

Before taking up canal operation and defense, I want to make a few preliminary remarks.

Among the committees of the House, yours is the one most concerned with this nation's interests abroad.

Nothing could better serve to underscore the significance of the new canal agreement to our foreign policy interests than the presence in Washington for yesterday's signing ceremony of presidents or prime ministers from 19 countries of the Hemisphere.

And of high-level representatives from six other American nations.

For many of these countries, the Canal is an important trade artery.

For all of them, the extended negotiations for a new Canal agreement have been viewed as a test of our willingness to deal equitably with our Latin American neighbors.

Two United States foreign policy interests are involved in the new canal treaties.

The first is our interest—for reasons of both trade and defense—in assured use of an efficiently operated and secure Panama Canal.

The second is our interest in cooperative and productive relations with Latin America.

The nations to the south of us are important not only as neighbors sharing the same Hemisphere but also as partners in trade and investment.

Sources of important raw materials.

And as collaborators in building a secure, peaceful, and prosperous world community.

Four Presidents of both political parties have recognized that the protection of our nation's interest—with regard both to the Panama Canal and to the Hemisphere—required reform of the treaty arrangements governing the Canal.

We believe that the terms that have been negotiated fully meet the needs of the United States:

They assure the efficient operation of the Canal.

They enable the United States to protect the Canal.

They guarantee the Canal's neutrality permanently.

They provide an economic settlement that is fair and reasonable.

And they provide a firm foundation for long-term cooperation between the United States and Panama.

Let me now describe how canal operation and defense will be carried out under the terms of the Panama Canal Treaty, which will remain in force until December 31, 1999.

The basic principle is that for the duration of the treaty—that is, for the rest of this century—the United States will retain control of operation and defense, with Panama taking part in both activities.

This arrangement will assure that the United States can guarantee the uninterrupted, efficient operation and security of the Canal after the new treaty goes into effect.

It will also provide the necessary preparatory period for Panama to develop the capability to assume responsibility for canal operation and defense beginning in the year 2000.

The key provisions are Articles 3 and 4 of the Panama Canal Treaty.

In Article 3 Panama grants to the United States "the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal."

Article 3 further lists a number of specific powers which the United States will have in order to exercise its responsibility for canal operation.

These include the authority to "make and enforce all rules pertaining to the passage of vessels through the Canal" and "to establish, modify, collect and retain tolls."

In similar fashion, Article 4, which deals with defense matters, provides that for the duration of the treaty, the United States "shall have the primary responsibility to protect and defend the Canal."

The Agreement in Implementation of Article 4 sets forth the specific rights which the United States will have in order to carry out its defense responsibilities.

These include rights to "station, train and move military forces within Panama."

Of special importance to canal operation and defense are the arrangements for use of lands and waters in the present Canal Zone.

Under the new treaty the Canal Zone will cease to exist, and the territory included in the Zone will come under the general territorial jurisdiction of Panama.

However, the United States will have access to and the rights to use all lands and waters needed for operation, maintenance, and defense of the Canal through December 31, 1999.

The specific areas reserved for these purposes

And the rights for their use

Are set forth in detail in the two implementing agreements.

The designated areas include the Canal itself and related facilities, together with military bases for the use of our forces.

To administer the Canal, the United States will establish,

Under legislation to be sought from Congress,

A United States Government agency, which will be called the Panama Canal Commission and which will replace the present Panama Canal Company.

Article 3 of the Panama Canal Treaty provides that the Commission will be supervised by a Board composed of five Americans and four Panamanians.

The executive officers will be an Administrator and a Deputy Administrator.

Until 1990 the Administrator will be an American and the Deputy, a Panamanian.

Thereafter, the Administrator will be a Panamanian and the Deputy, an American.

The Administrator, the Deputy Administrator, and all Board members—both American and Panamanian—will be appointed by the United States.

Also affecting canal operation are the treaty provisions dealing with personnel of the canal enterprise.

The basic guidelines on personnel are set forth in Article 10 of the Panama Canal Treaty.

In general, these are designed to allow present employees, both American and Panamanian, whose services will be required by the new Panama Canal Commission, to continue working under conditions generally no less favorable than those which they currently enjoy.

For those who are displaced from their jobs, various procedures are provided to facilitate placement in other U.S. Government positions, to the extent these are available, and to assist in finding other jobs when necessary.

In addition, the United States will provide a special optional early retirement program to all persons employed by the Panama Canal Company and the Canal Zone Government immediately prior to entry into force of the new treaty.

The treaty also establishes guidelines for increasing employment of Panamanians at all levels in the canal enterprise.

In preparation for Panama's assumption of responsibility for canal operation at the treaty's end.

The right of collective bargaining for canal employees is guaranteed.

We believe these provisions will make it possible for the Panama Canal Commission to retain a qualified workforce and will provide fair treatment for existing employees.

In this connection, I think it worth noting that the AFL–CIO, which represents most of the United States and Panamanian canal employees, has endorsed the new canal treaties.

The treaty makes special provision to ensure that environmental considerations are not overlooked.

In Article 6, both governments commit themselves to implement the Treaty in a manner consistent with the protection of the natural environment of Panama.

The Article also calls for the creation of a Joint Commission on the environment which will review the Treaty's implementation,

And will recommend ways to avoid or to mitigate any adverse environmental impacts which might arise from actions taken pursuant to the Treaty.

A separate exchange of notes will provide for continued operation of the Smithsonian Institution's Tropical Research Center.

Which makes such a valuable contribution to our understanding of the natural environment of the Canal area.

The wildlife preserve on Barro-Colorado Island will also be maintained.

Taken as a whole, the Treaty provisions concerning operation and defense provide a comprehensive approach toward meeting United States interests in the near and long term.

They build on the effective administration and experienced personnel developed in sixty years of United States operation,

And provide a means to utilize these important assets under the new Treaty.

The new agreements also establish an organized framework for development of an effective Panamanian management that can carry out Canal operations after the year 2000.

And they open the way for modernization of the Canal should that become necessary in the future.

STATEMENT OF AMBASSADOR SOL M. LINOWITZ

Mr. Chairman, Members of the Committee: As Ambassador Bunker has indicated, for more than 13 years, under four Presidents, the United States has been seeking to find the basis for a new Treaty with Panama to replace the outmoded treaty of 1903. It has been a long and arduous road beset with many obstacles and frustrations. Last evening we came to the end of the road. The President of the United States, on behalf of this country, signed two new treaties with Panama to replace the 1903 Treaty. These new Treaties, we believe, represent a fair and equitable basis for dealing with the issues which have been the cause of so much dissension and hostility over the years. And they do so in a manner which fully protects our interests, properly recognizes Panamanian aspirations, and does us credit as a great democratic country.

As you know, President Ford has joined President Carter in announcing his full support for these two Treaties and they have been joined by a number of other leaders of both parties. They recognize that in these new Treaties the United States has finally realized the result of such great effort by Democratic and Republican Administrations alike to achieve a fair and reasonable new Treaty arrangement which permits us to act the way a great nation should act.

Ambassador Bunker has outlined a number of the major features of these new Treaties to you and I would like to follow by describing several others.

As you know, the new Panama Canal Treaty provides the basis for assuring to the United States continued access to a canal which is open and secure. Under the new Treaty United States forces will have the primary responsibility for maintaining canal defense until the year 2000. But the United States will have very important rights extending beyond that date.

The separate Treaty on the Permanent Neutrality and Operation of the Panama Canal, which will take effect simultaneously with the new Canal Treaty, commits the United States and Panama to maintain a regime of neutrality of the Canal. Under the rules of neutrality set forth in the Treaty, the Canal is to be open to merchant and naval vessels of all nations at all times without discrimination as to conditions or charges of transit. A special provision authorizes United States and Panamanian warships to transit the Canal expeditiously in both peace and war without being subject to any restrictions as regards means of propulsion, armament, or cargo.

The Treaty gives the United States the right to assure that the Canal's permanent neutrality is maintained and places no limitation on our ability to take such action as

may be necessary in the event the Canal's neutrality is threatened or violated.

It also prohibits any foreign country from operating the Canal or stationing troops in Panama after the year 2000

It is most important to stress that unlike the Treaty governing Canal operation, the Neutrality Treaty is of indefinite duration and calls for the maintenance of the Canal's permanent neutrality. The Neutrality Treaty will also apply to any other international waterway that may be built in Panama in the future. In short, the Neutrality Treaty provides a firm foundation for assuring that our long-term interest in the maintenance of an open, accessible, secure, efficient canal is preserved—now and in the future.

In order to emphasize the importance of the regime of neutrality to world shipping, there is a Protocol to the Neutrality Treaty, which will be open to accession by all countries of the world. The signatories to this Protocol will, in effect, endorse the Neutrality Treaty by specifically associating themselves with its objectives and by agreeing to respect the regime of permanent neutrality of the Canal both in time of war and in time of peace. The instruments of the Organization of American States.

Now as to the economic terms of the new Canal agreement: At the start of these negotiations, both countries agreed—in the 1974 Kissinger-Tack Statement of Principles—that Panama should receive a "just and equitable share of the benefits derived from the operation of the Canal in its territory." Consistent with this principle, the United States maintained during the regotiations that payments to Panama should be drawn entirely from the Canal revenues—that is, that the payments should reflect the Canal's economic value as measured by its revenue-generating capacity.

The agreement which has now been worked out has two components. First, payments to Panama, to be financed entirely from Canal revenues, will be provided for in the new Treaty. And a package of loans, loan guarantees, and credits outside of the Treaty and subject to existing statutory procedures is also planned.

Payments to Panama Canal revenues to be provided for in the new Treaty will consist of:

A fixed share of tolls amounting to thirty cents per Panama Canal ton. We estimate that this will yield about $40 million per year.

A fixed payment of $10 million per year, also to be drawn from Canal revenues.

An additional sum of up to $10 million per year if Canal revenues permit.

The economic development program outside of the Treaty consists of loans, loan guarantees and credits extending over a period of five years and will include the following components—all designed to support Panama's economic development.

Up to $200 million in Export-Import Bank credits.

Up to $75 million in AID housing guarantees.

A $20 million Overseas Private Investment Corporation loan guarantee to COFINA, the Panamanian national deevlopment corporation.

In addition the United States is undertaking to provide to Panama up to $50 million in Foreign Military Sales credits over ten years to assist it in developing the capability needed to exercise its responsibilities for Canal defense under the new agreement.

None of these loans, guarantees, and credits will require appropriations from the Congress. I want to stress, however, that the disbursement of funds under these programs will be subject to all the procedures and criteria which normally apply to each of the programs involved.

We believe that the economic settlement is fair, reasonable and appropriate. We are convinced that it is a good investment toward establishing a new relationship with Panama that will protect our long-term interest in the Canal. And it will not involve any additional burden for the American taxpayer, since it can be financed from Canal revenues.

The Canal Treaty also grants to the United States certain rights in connection with adding a third lane of locks to the Canal, or possibly construction of a sea-level canal in Panama. Under the Treaty, we have the right to construct a third lane of locks if we should choose to do so at any time during the Treaty. With respect to a sea-level canal, the United States and Panama commit themselves jointly to study the feasibility of such a canal, and if they agree that such a canal is necessary, to negotiate mutually agreeable terms for its construction. Panama agrees that it will not negotiate with any other country for the construction of such a sea-level canal and the United States undertakes not to negotiate with another nation for a sea-level canal in any other country in the hemisphere.

As was clear last evening during the Treaty signing ceremonies, these new Treaties will have profound significance throughout the hemisphere and they have the full approval of all the countries of Latin America. It has been apparent for years that the countries of Latin America have regarded the Panama Canal issue not as a bilateral matter but as a problem involving the United States on the one hand and all Latin America on the other. At the beginning of this year the heads of state of 8 countries wrote to President Carter urging him to give highest priority to the resolution of this important issue which so strongly affects our relations with our neighbors to the South. So, in going forward with these new Treaties and their ultimate ratification, the United States will be opening up a new era in its relationships in this hemisphere. Beyond that, we believe that these new agreements present us with a rare opportunity to demonstrate to the world how a large nation and a small nation can settle their differences amicably and with mutual respect and enter into a lasting partnership of which future generations will be proud. Such a Treaty will bear witness to our intention to build a balanced, constructive and lasting relationship among the countries of the hemisphere and the world at large.

Theodore Roosevelt put it very well: "We have no choice as to whether or not we shall play a great part in the world. That has been determined for us by fate. The only question is whether we will play that part well or badly."

FIRM OPPOSING AIRBAGS HAS TIES TO SEATBELT ASSOCIATION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. SHUSTER. Mr. Speaker, during the airbag controversy over the past 2 months, I have quoted from studies done by Economics and Science Planning, Inc. At the time I was not aware that they had done work for the Seatbelt Association, although subsequently they so informed me. Today, I was told that they may still be doing work for the Seatbelt Association.

While their ties to the seatbelt industry have been publicly reported in several places, including a full-page ad in the Wall Street Journal on August 17, paid for by Allstate, I also would like to make it a matter of public record because I did not so identify them at the time I quoted them.

I should also like to emphasize that we found them to be both competent and responsible. Our opposition to the airbag/passive restraint order is not dependent upon their analyses, but rather is based on the information we have gathered and released over the past 2½ months from many sources, including the National Highway Traffic Safety Administration—NHTSA, universities, the Library of Congress, consulting firms, automobile companies, airbag companies, the General Accounting Office, private citizens, and the Office of Hazardous Materials.

Groups testifying in favor of the airbag receive funds from the so-called airbag lobby and their objectivity could also be questioned. Hopefully, this issue will be decided on hard evidence, rather than emotional attacks on the credibility of either side.

THE UNITED STATES NEEDS NUCLEAR POWER AND THE BREEDER REACTOR

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MURPHY of Illinois. Mr. Speaker, there has been a growing controversy over nuclear power in recent years. Unfortunately, much misinformation has circulated about a vitally needed energy source.

Much of the criticism has been directed at the next generation of atomic plants, the so-called breeder reactors. Because the breeder produces plutonium, which can be used to construct atomic weapons, President Carter has urged that the United States indefinitely postpone its breeder reactor program.

I am convinced this would be a very serious mistake. As President Carter pointed out in his April 18 energy message, the world is running out of oil and natural gas. For now, our true energy alternatives are coal and nuclear power. While coal is our most abundant resource and must be exploited, it has some serious environmental drawbacks.

On the other hand, nuclear powerplants burn cleanly as they generate electricity from uranium. More importantly, breeder reactors can extract 60 times more energy from each ton of uranium than today's light water reactors. This will allow the United States to extend its uranium supply for centuries to come.

The importance of nuclear power and the breeder reactor is clear. By switching to atomic energy as our energy base, the United States can end its dependence on depletable natural gas and foreign oil and move toward its goal of energy self-sufficiency.

Mr. Speaker, I would like to draw my colleagues attention to an article I have written on the subject of nuclear power. The article appeared in the Southtown Economist on August 7, 1977:

THE UNITED STATES NEEDS NUCLEAR POWER

(By Representative MORGAN F. MURPHY)

A great deal of controversy has swirled around nuclear power and the atomic "breeder" reactor in recent years. Regrettably, much misinformation has circulated in the public debate. This has created misconceptions about a vitally-needed energy source.

Four criticisms are sometimes leveled at nuclear power plants. First, it is charged that a nuclear power plant accident could kill thousands of people by releasing large amounts of radiation.

Actually, the chance of a nuclear accident or the consequence of such an accident, is very small. One scenario frequently postulated is that the water pipe that cools the nuclear fuel might break. Some fear this would result in the radioactive contamination of the atmosphere.

But this scenario is built on improbability after improbability. It is extremely unlikely that the cooler pipe would break, since nuclear piping is earthquake-resistant. If it did, an emergency cooling system would provide backup supplies of water to keep the fuel from melting. Finally, if this backup system should fail, most of the radiation released from the fuel would rise to the main reactor building or be absorbed by the earth. The public would be exposed to little, if any, radiation.

In short, the danger of a reactor accident is small indeed. The fact is, in an industry now over twenty years old, no public citizen has ever suffered a radiation death or injury from the operation of atomic plants in the U.S.

The second charge hurled at nuclear power plants is that their radioactive wastes cannot be disposed of safely.

This is untrue. Again, the excellent safety record of the nuclear power industry should be noted. Currently, nuclear wastes in the U.S. are stored above ground in closely guarded storage centers. However, the time is coming when it will be preferable to put these wastes in non-corrodible cylinders and bury them in salt beds, where no water has existed for millions of years. This will assure our safety from radiation for thousands of years. By that time, the danger of radiation from these wastes would be negligible.

The third criticism of nuclear power is the danger that terrorists or foreign countries could use the plutonium produced by the breeder reactor to construct atomic weapons. (A breeder reactor is a nuclear reactor that produces more plutonium than it consumes). President Carter's concern over nuclear proliferation is what led him to indefinitely postpone the breeder reactor program.

The terrorist threat can best be combatted by "spiking" the plutonium, a process that makes the plutonium so radioactive that terrorists would probably die in their attempts to steal it. In addition, plutonium can be safeguarded from theft by building nuclear reactors and chemical reprocessing plants in nuclear parks. This would allow the processing and shipping of plutonium to be done at the same well-guarded site.

As for nuclear proliferation, there are two important points to consider. First, no country with nuclear weapons today developed its weapons from nuclear power. Rather, each country constructed its atomic bombs directly from fissionable materials. Nor does it follow that nations with nuclear power will inevitably build atomic weapons, as Japan, Canada, West Germany and Sweden all prove.

Second, the U.S. "go slow" policy on the breeder reactor is an example that Western European nations, such as France, Britain, and West Germany, do not appear to be heeding. While a unilateral halt to the breeder program would probably have no impact on stopping nuclear proliferation, it would very definitely retard U.S. progress in nuclear technology.

The fourth major criticism of nuclear power is the claim that there are safer and just as adequate substitutes.

This is fantasy. As President Carter pointed out in this April 18 energy message, the stark reality is that the world is running out of oil and natural gas. Alternatives such as solar, wind and sea energy will not be significant sources of energy for at least another 15 years.

The true energy alternatives to oil and natural gas are coal and nuclear power. While coal is our most abundant resource and must be exploited, it does have some major drawbacks. Coal pollutes the air; it is difficult to mine without damaging the land; and it is primarily transported by rail lines, which desperately need rehabilitation.

On the other hand, nuclear powerplants burn cleanly as they generate electricity from uranium. More importantly, breeder reactors can extract sixty times more energy from each ton of uranium than today's light water reactors. This will allow the U.S. to extend its uranium supply for centuries to come.

The importance of nuclear power and the breeder reactor is clear. By switching to atomic energy as our energy base, the U.S. can end its dependence on depletable natural gas and foreign oil and move toward its goal of energy self-sufficiency. No other energy source can assure us of ample and reasonably-priced energy over the next 25 years. The United States must continue to develop nuclear power and the breeder reactor program if we are to maintain a healthy economy and meet our energy needs for the future.

BETTER PERSPECTIVE AT UNESCO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. DERWINSKI. Mr. Speaker, there has been particular attention directed to the policies and operation of UNESCO. These developments are vigorously being debated in Congress.

A very positive editorial, appearing in the Chicago Sun-Times, of September 5, lends valuable insight into adoption of these policies.

The editorial follows:

BETTER PERSPECTIVE AT UNESCO

After a witless and disastrous decision by its Arab and Communist majority in 1974 to bar Israel from active participation in its activities, UNESCO appears to be regaining its senses.

Last November, Israel was invited to attend a general meeting of the United Nations Educational, Scientific and Cultural Organization. Now, it is ready to accept an Israeli compromise permitting UNESCO to investigate cultural freedom among the Arabs in the occupied West Bank.

The action appears to end a series of grossly political moves that began with that 1974 expulsion. Israel also was censured at the time in connection with its educational policies in the West Bank and with excavations and construction projects in Jerusalem.

The anti-Israeli actions led several artists and other cultural figures to turn away from the agency. In addition, the United States, which provided about a quarter of the agency's budget, cut off funds.

This eroding support put pressure on UNESCO to rehabilitate itself. It also had a disastrous side-effect: It threatened some of the agency's charitable work and sullied the reputation of the UN's other humanitarian agencies like UNICEF (United Nations Children's Fund).

The events of the last three years ought to be a permanent lesson to UNESCO and similar agencies never to allow power politics to infect their valuable work. We hope they lead some of the UN's diplomatic agencies, including the Security Council and the General Assembly, to adopt more rational policies toward Israel, too.

"FIDEL" TORTURES AMERICAN PRISONERS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. DORNAN. Mr. Speaker, the pages of our country's major newspapers have recently been graced with pictures of U.S. Senators visiting the marxist dictator, Castro. These representatives of the American people are pictured with their arms around the man, licking ice cream cones with him and skipping barefoot down Cuban beaches with him.

For all the world, it appears that the United States never had a better potential friend than Castro.

For all the world, that is, except the American pilots who were tortured in North Vietnam by his henchmen.

Cubans in North Vietnam. That is right, my shocked friend.

It is a horrible story which leaked out of prisoner-of-war camps across that Communist country during the war and has only recently been confirmed by the men who were dealt the murderous blows Castro's followers administered. These U.S. pilots have not only been interrogated by and suffered at the hands of Cubans in Hanoi but they have seen their friends reduced to "catatonic" states and then death by the sadistic tortures used.

Before we here in the Congress consider recognizing the dictatorship of the man who is responsible for the torture and lingering death of many of our countrymen, we should read the accounts of the brave officers who lived through Cuban torture. If we do, I do not doubt that we will make the right decision on the Castro "normalization" question.

I recommend that any of my colleagues who are not familiar with the stories these Americans have to tell, begin with a recent article which appeared in the New York Daily News. It gives the bare facts of their testimony and tells of the action that is being taken by one of our colleagues, Congressman BRUCE CAPUTO, to see that the story is brought to light. Ask Mr. CAPUTO of his reaction to the stories in the book "P.O.W.," by John Hubbell recounting the vicious treatment of our men by Castro's torture-masters.

The article follows:

[From the New York Daily News, Aug. 20, 1977]

PW'S BEATEN BY CUBANS IN HANOI

(By Joseph Volz)

WASHINGTON.—Several former American prisoners of war in Vietnam contend that they were tortured by a team of Cubans

while they were at a North Vietnamese prison camp just outside of Hanoi that was known as The Zoo.

Leo R. Thorsness, a retired Air Force colonel and Congressional Medal of Honor winner who was one of the PWs at The Zoo, told The News in an interview yesterday that three Cubans beat another prisoner, whom he identified as Air Force Col. Earl Cobiel, into what he described as a catatonic state. He said that Cobiel had died after refusing to eat and apparently losing all interest in life.

Thorsness said that after he was freed from the zoo in 1973, Defense Department officials told him not to discuss any Cuban involvement in the prison camps, apparently so as not to endanger any Americans who still might be in Vietnam.

The Vietnamese released a total of 587 prisoners in the early months of 1973 after the Paris peace agreement that ended American involvement in the Vietnam war.

When the Pentagon announced last Tuesday that it would make a final review of the status of the 631 servicemen still listed as missing in action and the 31 who were believed to be prisoners of war, because "there is no credible evidence" that any of them are still alive, Thorsness made his charges of Cuban involvement to Rep. Bruce Caputo (R-Westchester.)

Caputo was asked for a full report from Defense Secretary Harold Brown and Secretary of State Vance.

UNSUCCESSFUL BID FOR SENATE

Thorsness, who made an unsuccessful bid as a Republican to unseat Sen. George S. McGovern (D-S.D.) in 1974, said that he was breaking his silence about the Cubans because he believes the American people should know about Cuban atrocities at a time when the United States is moving to resume diplomatic relations with the Fidel Castro regime.

Caputo said that before any steps were taken to normalize relations with Cuba, "we should know what they did and why. I think it is germaine to normalizing relations and should not be ignored."

There were repeated reports, during the war, of Cubans being in Hanoi and with the Vi Cong troops in the jungles of South Vietnam.

The leader of the torture team, according to Thorsness, was a Spanish-speaking Caucasian with an encyclopedic knowledge of American cars and slang whom the prisoners dubbed Fidel. He said that Fidel had a subordinate, who was nicknamed Chico by the prisoners. Neither man ever said he was from Cuba, but there was little doubt in the prisoners' minds that they were Cubans, Thorsness said.

"NO DOUBT FIDEL WAS CUBAN"

Jack Bomar of Mesa, Ariz., a retired Air Force colonel and former prisoner of war who was tortured by Fidel for a year, agreed. "There is no doubt that Fidel was a Cuban," he told The News.

As an example, Bomar said he once asked his Vietnamese prison guard to "bring the Cuban," and the guard returned with Fidel. Bomar is convinced that Fidel, whose knowledge of American automobiles seems to have impressed the American prisoners, had gone to school or had lived in the U.S. in pre-Castro days.

Bomar said he believed that Fidel, who received VIP treatment from the North Vietnamese, had been sent to The Zoo in 1968 to demonstrate how to "break" the American PWs and get them to "confess" publicly to being war criminals. Ten men, including Bomar, were chosen for a "complete submission" program of beatings run by Fidel, the former prisoner said.

"I think he (Fidel) was a failure," said Bomar.

FIFTEEN-MONTH ORDEAL TO RECEIVE AN SSI CHECK

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. OBEY. Mr. Speaker, tales of bureaucratic runarounds, delays, and computer foulups involving social security programs have become so commonplace in the past few years that it is sometimes difficult to believe that these programs were designed to help people. I am sure that every one of my colleagues receives letters detailing social security problems every day. And to some extent the volume of these letters can lull us all into complacency about the problem. But every once in a while one of those letters is such an extreme example of the frustrating experiences that people are subjected to in this "system" that it cried out for special attention.

I have recently received one of those letters. It is an incredible chronology of a 15-month ordeal that one poor soul had to endure before receiving assistance from the supplemental security income—SSI—program. I am inserting it in the RECORD in the hope that it will be read by a wider audience of people who may feel the same sense of outrage and disgust that I felt and who will do whatever they can to eliminate the kind of unnecessary suffering that Mr. "John Doe" had to go through.

In addition, I am sending copies of the letter to Commissioner Cardwell of the Social Security Administration, HEW Secretary Joseph Califano, Representatives AL ULLMAN, JAMES CORMAN, and JAMES BURKE of the House Ways and Means Committee. As the Congress and the administration embark upon the road toward welfare reform legislation, I only hope that the plight of people like "John Doe" are viewed as seriously as I am sure the technical, financial, and organizational aspects of the reform program will be.

The letter follows:

SEPTEMBER 1, 1977.

Congressman DAVID R. OBEY
First Street, Wausau, Wis.

DEAR SIR: I felt that you should be made aware of an actual account regarding the experiences of one man regarding his plea for supplemental security income. On January 22, 1976, Mr. John Doe, a 57-year-old, pulp logger, was presenting problems of back and shoulder pain and alcoholism, applied for supplemental social security disability payments. He was determined ineligible for regular social security benefits due to 1) not enough quarters of employment and 2) employers for woodwork did not put into social security during his length of employment.

On January 26, 1976, he was placed in a group home funded by Marathon County. February 25, 1976, he received a social security form asking for more work history. It was completed and mailed back to social security on 2-26-76. March 16, Mr. John Doe saw a local doctor, a specialist in orthopedics, to verify his claim for disability. This appointment was funded by social security.

During his stay at the group home Mr. John Doe was given a $10 per week allowance which he budgeted wisely. On April 1, 1976, Mr. John Doe received a denial letter for social security, he would not be eligible for SSI. On April 9, 1976, Mr. John Doe made a formal request at the local social security office for reconsideration. He physicially was not able to work—experienced much back pain and felt that he was totally disabled.

On 4-23-76, the reconsideration request was denied. On April 26, 1976, Mr. John Doe asked for a hearing to determine whether or not he should be getting SSI. April 30, 1976, Mr. John Doe made his second appointment with the orthopedic specialist who then recommended aspirin or Anacin for his lower back pain. Mr. John Doe was not able to secure funds from any agency including City Relief, General Relief, Salvation Army or Social Services for a second opinion on his back problems.

Mr. Doe went to the Northern Valley Workshop for an evaluation to see what kind of work he could do—which did not work out well—he is unable to lift, sit or put his arms over his head for substantial lengths of time, enough to allow him employment.

On May 10, 1976, Mr. John Doe received a letter from social security saying that he would be getting presumptive payments up to three months until a determination could be made regarding his social security hearing. This was uplifting news.

On July 1, 1976, Mr. John Doe was having numerous problems with his back plus with his teeth. In fact all of his upper teeth needed to be extracted (a professional opinion). However, General Relief would not pay for dentures and could only authorize payments for emergency extractions. September 30, 1976, no word was received as yet about his SSI hearing and no presumptive payments have been received. Mr. John Doe called Social Security to find out that the letter promising payment was a computer error. On October 1, 1976, Mr. John Doe phoned the Bureau of Hearings and Appeals in Chicago. No information was received regarding his hearing.

On the 5th of October, the Bureau of Hearings and Appeals phoned Mr. John Doe indicating that various important reports concerning his case were missing. On the 15th of October, Mr. John Doe called the bureau again—the worker stated that a hearing may not take place for another six months.

At this time, Mr. John Doe was seeing another doctor for back pain on an emergency basis, funded by the county General Relief department. On December 2, 1976, Mr. John Doe asked again for funds from General Relief to purchase dentures due to many problems with his gums and eating—request was denied.

On the 16th of December, Mr. John Doe was losing weight. Had extreme pain with his teeth. He visited General Relief again. Explaining that his SSI hearing may not be for months to come. The head of the department okayed funds for his dentures and extractions of his infected teeth. On 1-4-77, Mr. John Doe received notice that his hearing would take place on 1-19-77.

The notice also included the statement that if Mr. Doe wanted to get legal aid that he contact the local social security office. Due to his limited reading ability and apprehension about his hearing, he went to social security office and was unable to get legal aid but was sent to the district attorney's office. He was not able to secure any legal aid due to such short notice, in spite of Mr. Daniel LeRocque's energetic attempts. On 1-19-77, Mr. John Doe had his hearing with an administrative judge who indicated that he would get a letter in a few weeks regarding what the hearings decision was.

February 2, 1977, Mr. John Doe received a letter saying that he is eligible and *has been eligible* since his first application for SSI on 1-22-76. On February 28, 1977, Mr. John Doe was waiting for his check and actively planning to leave the county group home. On the 7th of March, Mr. John Doe called Social Security to ask why there had

been a delay in getting his first check. No satisfaction was received from the local social security office. On the 10th of March, social security called Mr. John Doe to have him come in fill out forms in regard to proof of residence over the past year. Mr. Doe asked why one more delay—social security office answered that they had just received his file from Chicago. They needed proof of where he had resided for the last year and John Doe was informed at Social Security that he would have to have a representative payee due to having problems with alcohol. This was the *first time* he had been notified that he would have to have a payee. On 4–15–77, Mrs. A., sister to and representative payee for Mr. John Doe received his first SSI check.

Isn't it unfortunate that this claim had to be handled in this way. Think of the cost of the county for room and board and allowances, medical expense, etc. Then more importantly, the mental and physical anguish for Mr. John Doe—the time involved in agency errors. What is being done if anything to keep this from happening to another person? I would appreciate a response.

Thank you.

——— ———.

THE JOHNSTOWN FLOODING AND SOME OUTSTANDING PERSONAL CONTRIBUTIONS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MURTHA. Mr. Speaker, during the devastating flood that hit Johnstown on July 19–20, some individuals made outstanding individual contributions. I would like to mention a few of them, because I believe their actions are in the highest honor and spirit of the United States and deserve recognition in this journal of American history.

Mr. Walter Lowe, chapter chairman, and Ms. N. Gwynne Dodson, chapter vice chairman of the Red Cross, Cambria County Chapter—the coordination of the flood effort by these individuals helped thousands of area residents and was in the highest tradition of national service.

Mr. Frank H. Blackington III, president, University of Pittsburgh at Johnstown—the Pitt campus is located on a hill and suffered little damage; soon its doors were open as an emergency relief center and housed 1,100 persons including evacuees, National Guard, volunteers, and staff assisting in the cleanup effort.

Mr. Joseph Valko, Cambria County maintenance superintendent for PennDOT, and Tony Maruca, assistant superintendent—road conditions, safety, and repair became a key to rehabilitation, and the efforts of these men were essential in reaching a goal where road transportation was again realistic.

Capt. Robert Pfeiffer, administrative asssistant for coordination of emergency services for the Salvation Army—the Salvation Army did its usual excellent job of providing aid and assistance to individuals in flooded areas. Also, working with Captain Pfeiffer were Capt. Andrew Nelson, Maj. Charles Sinclair, and fund drive leaders Ed Brinker and Ed Hutchinson.

Mr. and Mrs. Paul Shoemaker of Mineral Point—finding their home undamaged by the flood, Mr. and Mrs. Shoemaker proceeded to feed on a regular basis for several days as many as 100 persons they found whose homes in the area had been damaged by the flooding.

Justice Julia Ann Rozum—Justice Rozum was on call for the entire week following the flood. Setting up court in a temporary location, she helped with flood activities and heard numerous cases during the week from various municipalities.

PRIVATE COMPANIES HAVE INVESTED $102 MILLION IN CLINCH RIVER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. TEAGUE. Mr. Speaker, the United States has formally entered into binding contract with the utility companies to obtain their financial and technical support for the Clinch River project. These private utility companies, 753 in all, are represented by the Breeder Reactor Corp. These utility companies have contributed $102 million to support the Clinch River project.

The position of these utility companies is reflected in the following letter forwarded to Mr. Robert Fri, Acting Administrator of ERDA. A companion letter was also sent to President Carter for his consideration. That letter also follows:

BREEDER REACTOR CORP.,
Chicago, Ill., June 4, 1977.

Mr. ROBERT W. FRI,
Acting Administrator, U.S. Energy Research and Development Administration, Washington, D.C.

DEAR MR. FRI: The Administration's energy program announced on April 20th called for the indefinite deferral of the Clinch River Breeder Reactor Project. Since then, in furtherance of this program, a notice of deferral of budget authorization has been submitted to Congress which seeks to defer Project expenditures of $31.8 million during fiscal year 1977, and a budget request for fiscal year 1978, has been submitted which would reduce funding of the overall LMFBR program, including CRBRP, from $855 million to $483 million. In connection with these reduced budgets, ERDA has submitted to Congress amended program justification data which call for " . . . discontinuance of the CRBRP Project, except for completion of systems designs . . . " ERDA also has asked for and has been granted an indefinite suspension of the licensing proceedings pending before the Atomic Safety and Licensing Board of the Nuclear Regulatory Commission.

These unilateral decisions and actions, which were taken without the consent of the Project's other principal participants, are clearly inconsistent with ERDA's obligations under the principal Project agreements. They would constitute, in effect, a termination of the Project for the convenience of the government. Such a termination of course never was intended in the Project arrangements, and would represent a material breach of the principal Project agreements.

At their respective board meetings of May 3rd, which were attended by representatives of ERDA, the directors of both Breeder Reactor Corporation and Project Management Corporation expressed their grave concern over the Project's future and restated their commitment to support the attainment of the Project's current objectives. Both corporations directed their officers, acting with the advice of counsel, to take such steps as might be required to protect their respective interests and those of the electric utility industry.

All present indications are that the ultimate fate of the Project will depend upon the accommodations, if any, which may be worked out between the executive and legislative branches of government. In this respect, Breeder Reactor Corporation has written to President Carter reaffirming the industry's continued support of the Project and urging that he reconsider the Administration's position on this important aspect of its energy program (see Breeder Reactor Corporation's letter of May 11, 1977 attached).

It obviously will be some time before the exact implications of final Congressional or Administrative action are known. At this moment, we believe that the nation's best interest would be served by having ERDA honor its contractual obligations, and by having the other project participants refrain from taking precipitous action which might impede orderly consideration of the issues raised by the Administration's announced intention to terminate the Project. Specifically, until this matter can be resolved by Congress, we believe that the interests of all concerned would be best served by maintaining the current activities of Project contractors and those of the integrated Project management office, as provided for under our existing arrangements. In taking this position, however, we recognize our respective obligations to the nation's electric utility systems, and the constraints which these obligations impose upon the conduct of our affairs.

In this regard, one short-range problem resulting from the government's unilateral decisions and actions, and the consequent uncertainty they have occasioned, is the propriety of having Project Management Corporation continue to make the quarterly payments called for under presently approved Project schedules and budget. While we hope we could reach some understanding with the government on this point, we are sure you can appreciate the problem which PMC would face in continuing to expend utility funds on a program which both the Administration and ERDA have announced they intend to terminate.

In light of the foregoing, please be advised that no action or inaction on the part of Breeder Reactor Corporation, or any of the three other Project participants referred to herein, should be construed by the Administration or by ERDA as constituting acquiescence in any of the decisions or actions taken by the government, or as representing a waiver by any of them of any rights or remedies which may be available to them, either under the principal Project agreements or otherwise.

Despite the public position which it has taken to date before Congress and before the Nuclear Regulatory Commission, we hereby call upon ERDA to recognize its unequivocal contract obligations, and to honor these obligations by using its best efforts to achieve the successful demonstration of the LMFBR concept at the earliest possible time.

This letter is being sent to you by Breeder Reactor Corporation on its own behalf and, at their request, on behalf of the other principal Project participants who are parties to Modification No. 1 to Agreement AT (49–18)–12.

Sincererly,

THOMAS G. AYERS,
Chairman of the Board.

BREEDER REACTOR CORP.,
Chicago, Ill., May 11, 1977.

Hon. JIMMY CARTER,
President, United States of America,
The White House, Washington, D.C.

DEAR PRESIDENT CARTER: The Administration's energy program submitted to Congress on April 20 calls for the indefinite deferral of the Clinch River Breeder Reactor Project. It would also cancel all component, construction, commercialization, and licensing efforts. This proposal, if accepted by Congress, would in effect amount to cancellation of the project, foreclosing the nation's option to have commercial breeder reactors available for deployment in this century.

As Chairman of the Breeder Reactor Corporation, I am writing at the direction of our Board of Directors to express our belief that it would be a serious mistake to defer the Clinch River project.

Forecasts of energy supply and demand based on a reasonable range of assumptions indicate that commercial breeder reactors will be needed in the U.S. as early as 1990 to 1995. Even if Clinch River were to proceed on its present schedule, it is unlikely that commercial breeders could be available before the mid-1990s.

The principal reason advanced by the Administration for the deferral of Clinch River is that such action is part of an effort to solve the international problem of nuclear weapons proliferation. Unquestionably, this is a grave international problem. But a deferral of Clinch River will in no way lessen the risk of nuclear weapons proliferation.

The fact is that weapons-grade plutonium and other fissionable materials are now being produced throughout much of the world. The task of controlling these materials relates more to social, political, and economic institutions and considerations than to hardware. To be sure, effective international controls must be established. But the U.S. stands the best chance of being able to shape such controls by maintaining, rather than diminishing, its position of nuclear leadership. The maintenance of strong nuclear capability, coupled with a willingness to reprocess spent nuclear fuel, would enhance our nation's leadership in nuclear energy and improve our chances of helping to deter the spread of nuclear weapons.

Conversely, U.S. influence in this area would decline if we were to delay indefinitely the development of domestic breeder capability while France, England, Japan, West Germany and Russia go forward—or if we were to refuse to provide others with spent fuel reprocessing services that might eventually be available from these same five nations.

Going ahead with the Clinch River project would not irrevocably commit the U.S. to commercialization of the breeder reactor, or even to the commercial reprocessing and use of plutonium fuel. Clinch River is merely the logical next step in the engineering and technological development necessary to have a breeder option available when it is reasonably expected to be needed.

The importance of the breeder program to the nation and to the electric utility industry is indicated by the fact that 753 electric systems nationwide have already committed over $257 million to the Clinch River project. This is by far the largest contribution ever made by our industry to a single research and development effort. These 753 systems, representing nearly 75 percent of the nation's electric output, include all sectors of our industry—public, electric cooperative, and investor-owned.

The Clinch River project is ready to begin construction. Delaying or canceling it now would not only increase the eventual cost of breeder development, but would mean that the almost six years already invested in the project probably would be lost. Clinch River's design is up-to-date. The team needed to get the job done is in place. The momentum essential for building a project of this magnitude is there. And Clinch River represents a prudent extrapolation of current technology developed over the past 30 years, at a cost to the U.S. of over $3 billion.

In our judgment, the wise course of action for the nation is to continue this project on its current schedule. We believe further that the outcome of an evaluation of alternative breeders, fuels and advanced converter reactors, as proposed by the Administration, will only show that the liquid-metal fast-breeder reactor, fueled with a combination of uranium and plutonium oxide, is by far the best candidate for success and for high-priority development. We, therefore, urge you to reconsider the Administration's position. As you know, the question is of vital importance to our country's future energy supply and to future generations of Americans.

Sincerely,

THOMAS G. AYERS,
Chairman of the Board.

VITAL ISSUES OF BANKING LEGISLATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. HUBBARD. Mr. Speaker, yesterday it was my privilege to introduce a man I greatly admire, Federal Reserve Board Chairman Arthur Burns, to the Kentucky Bankers Association Convention in Louisville. Chairman Burns' remarks addressed the Federal Banking Agency Audit Act and legislation to authorize nationwide NOW accounts. In light of the fact that the House is debating the Federal Agency Audit Act tomorrow and voting on it later this week, and in light of the fact that the Financial Institutions Supervision, Regulation and Insurance Subcommittee has begun considering NOW account legislation, I believe Chairman Burns' remarks deserve the careful attention of my House colleagues. His remarks are as follows:

It is a great pleasure for me to be here today and to have the privilege of addressing this gathering.

I thought I might usefully speak to you about some of the legislation pending in the 95th Congress. This is a busy season for banking legislation. Bills under consideration deal with such diverse subjects as nationwide NOW accounts, the financial burden of Federal Reserve membership, the operation of foreign banks in this country, the restructuring of bank supervisory and regulatory authority, and revision of the Truth in Lending statute. There are, moreover, various proposals in the Congressional hopper than aim in one way or another at circumscribing the Federal Reserve's scope for independent judgment and decision.

I cannot, of course, cover this morning all the banking legislation that is now pending. But I welcome this opportunity to comment on some of the major bills that have been introduced, and also to indicate why we at the Board are so deeply concerned about the character of numerous proposals that keep being advanced under the banner of "reform."

Let me say something first about S. 2055—the legislative package that combines authority for nationwide NOW accounts with measures to lighten the burden of Federal Reserve membership. As you know, this bill was voted out of the Senate Banking Committee in early August and may soon be debated on the Senate floor.

I am well aware that some of you have serious reservations about this bill. Indeed, I have heard from many bankers around the country who object to some of its key provisions—particularly the contemplated extension of NOW-account authority—and who urge the Federal Reserve to withdraw its support of the measure. The impact on earnings of paying interest on transactions balances is obviously of concern—and properly so—to commercial banks, especially those for which the checking accounts of individuals make up a large portion of total deposits.

Let me assure you that we at the Federal Reserve Board recognize the importance of good bank earnings. We well know that unless earnings are reasonably satisfactory, commercial banks will not be able to serve their communities or the national economy in an effective manner. We also believe that bank earnings will be adversely affected for a time during the transition to a NOW-account environment. That has certainly been the experience with NOW accounts in New England.

Why, then, it may fairly be asked, does the Federal Reserve support nationwide NOW-account authority?

The reason essentially is that we think it is important to bring a sense of order to a development that has the look of inevitability about it but which to date has proceeded in haphazard fashion. The simple fact is that by one means or another depositors have been increasingly successful in earning interest or its equivalent on their transactions balances. Such interest is implicit in the banking services that are provided bank customers without charge or below cost. Beyond this, and on a growing scale, many customers of financial institutions are already receiving interest in cash on transactions balances—not only in the New England states where NOW's are authorized, but throughout the country. This is the consequence, as you well know, of recent financial innovations that enable individuals as well as corporations to move funds readily between interest-bearing accounts and checking deposits or between money market instruments and checking deposits. Congressional inaction will not stop the spread of interest payments on what are in effect transactions balances; it would simply mean that the movement will go forward without guidance at the national level, attended by inefficiency and competitive distortion. My colleagues and I thus see S. 2055 as a vehicle for guiding this development in a gradual and orderly fashion while limiting the adverse effects on bank earnings.

I well understand the displeasure that commercial bankers feel over the fact that S. 2055 would in effect confer checking-account authority on thrift institutions while leaving intact their ability to pay savings depositors a higher rate of interest than can commercial banks. To be sure, all depository institutions that decide to offer NOW accounts under the new authority would do so on the same terms, so that the troublesome interest-rate differential would be eliminated for that category of deposits. However, since NOW accounts would expand the powers of thrift institutions to a point where they could offer depositors the attractions of "one stop banking," the extension of parity should not be limited to newly created NOW accounts. Both logic and equity suggest that thrift institutions should enjoy either NOW-account authority or the interest-rate differential—but hardly both.

The difficulty of overcoming opposition to any modification of the differential must not, however, be underestimated. This was evi-

denced by the failure of the Senate Banking Committee to accept an amendment by Senator Lugar, which would have restored the power that bank regulatory agencies had until late 1975 to adjust the differential without ratifying action by the Congress. I have indicated to Senator McIntyre, the distinguished sponsor of the NOW-account legislative package, the desirability of removing the ratification requirement because it constitutes an impediment to timely adjustment of deposit interest-rate ceilings as circumstances change. Even though Senator Lugar's amendment failed in Committee, this moderate step toward less rigidity with regard to the differential deserves sympathetic consideration by the Congress at large. Senator McIntyre's support of the amendment was particularly encouraging. I hope that interested parties will continue to press the issue.

In your continuing assessment of S. 2055, I would urge that you weigh carefully the point I have made about the disadvantages inherent in letting interest payments on what are essentially transactions balances continue to spread in haphazard, piecemeal fashion. Neither individual bankers, nor their non-bank competitors, nor State legislatures, nor bank regulators, nor the Congress itself are likely to stand still. On the contrary, actions that serve to expand the payment of interest on transactions balances by all types of depository institutions will continue to multiply. It is my strong conviction that ultimately both the general interests of the Nation and the particular interests of commercial banks will be poorly served if the changes we have been witnessing are not subjected to orderly direction.

The transitional problems faced by financial institutions in adapting to NOW accounts will not be easy, but they ought to be less troublesome in most parts of the country than they have been in New England. I say this in part because the New England experience is available as a guide. It surely should be possible to avoid repeating some of the mistakes—particularly the mistakes in pricing—that were made by various institutions in that region. Indeed, it seems clear from the statistical evidence that depository institutions in Connecticut, Maine, Rhode Island, and Vermont have generally been able to profit from the earlier NOW-account experience in Massachusetts and New Hampshire. Banks and thrift institutions in the New England states that were relative latecomers to the NOW experiment have tended to pursue more cautious marketing and pricing strategies, and their earnings have consequently stood up better.

There are also other reasons for thinking that New England's experience is not likely to be repeated in other regions. For one thing, competition between commercial banks and thrift institutions appears to be somewhat more vigorous in New England than in most parts of the country. Then, too, S. 2055 is deliberately structured to minimize transition costs and protect bank earnings. It limits eligibility for NOW accounts to individuals. It gives regulatory agencies discretion to set a lower interest rate ceiling for NOW's than currently prevails in New England. It authorizes the payment of interest on reserve balances held at the Federal Reserve, including reserves against the NOW accounts. It anticipates lower reserve requirements on NOW accounts than on demand deposits. It allows more room for reductions in the reserves required of member banks, especially the smaller banks. And it delays the effective date of nationwide NOW-account authority for one year after the enactment of legislation.

These things in combination make it seem likely that depository institutions across the country will be able to maintain their earnings reasonably well as they move to NOW accounts. I would note especially that the one-year waiting period will afford banks time for rational planning of their operational systems and marketing strategies for NOW accounts. Without this array of provisions designed to maintain earnings strength, the Federal Reserve Board, I assure you, would not be willing to support the NOW-account proposal.

That there will nevertheless be some net cost to many commercial banks in making the transition to NOW's also seems clear. That is why we at the Board have been at such pains to keep this cost down and that is also why we have been so insistent on combining the NOW-account proposal with action to lighten the financial burden of Federal Reserve membership.

Member banks are already very sensitive to the cost disadvantage they suffer vis-a-vis nonmembers because of the more onerous reserve requirements they have to meet. This has resulted in recent years in a significant erosion of membership—particularly on the part of smaller banks. There is no question at all in my mind that this membership erosion would accelerate if we were to go forward with nationwide NOW's without taking simultaneous action to lighten the burden of membership. That is the reason, of course, the Board has worked so intensely to obtain authority to pay interest on reserve balances and to be in a position to lower reserve requirements—particularly for the smaller banks.

A healthy, effective central bank is not a matter of parochial concern—of importance only to Federal Reserve officials and member banks. The Federal Reserve serves the entire financial community and indeed the Nation at large. It would be in no one's interest to see its vitality sapped. Unless the erosion of membership is arrested, a steadily diminishing portion of commercial bank deposits will be lodged with members and the execution of monetary policy will therefore become less and less precise. Other things trouble me still more. Provision of lender-of-last-resort facilities was a critical reason for establishing the Federal Reserve System. I do not like to contemplate the ultimate consequences for the soundness of our banking structure if fewer and fewer banks enjoy ready access to the System's discount window.

Declining membership could also threaten the insulation of the Federal Reserve System from day-to-day political pressures. The System's independence from such pressures will remain sustainable. I believe, only as long as the System continues to have balanced representation of membership among all sizes of banks across the country. But membership attrition has been most acute among smaller banks—those with deposits of less than $100 million. If the exodus continues and the remaining members are only the larger banks, the Federal Reserve will then be perceived by the public as a big banker's bank. This would almost certainly generate disenchantment with the System. In time, the Federal Reserve's independence—which enables it to base monetary policy on long-range considerations as well as those related to the short term—would diminish if not entirely end.

I hope that these comments on key provisions of S. 2055 may suffice to show why we at the Board view the bill on balance as a constructive and desirable piece of legislation. I said before that I know many of you have reservations about it, and I understand the reasons for those reservations. I nevertheless believe that it would be the better part of wisdom to retain an open mind toward this legislative effort and seek to improve it rather than scuttle it.

Let me now turn to other items in the legislative mill. I noted earlier that the banking bills under consideration this year include the usual array of measures to "reform" the Federal Reserve System. The Federal Reserve Reform Act of 1977 recently cleared the House Banking Committee in a form greatly different from the measure originally proposed. Fortunately, the most troublesome features of the bill were eliminated during the Committee markup and this is an encouraging fact. One of the defeated provisions—that dealing with so-called lobbying communications—would have placed very broad restrictions on the right of Federal Reserve officials to communicate with bankers about legislative matters. Indeed, were it ever to become law, there would be a serious question whether I or any of my colleagues would be able to address an assemblage such as this in the manner I am doing. Other rejected provisions would have required the Federal Reserve to publicize at quarterly intervals numerical forecasts of interest rates and other sensitive financial variables. Forecasts of interest rates by the Nation's central bank may seem harmless at first blush, but any such pronouncement by the Federal Reserve would in practice carry implications for debt markets that could generate wide and unsettling swings in security prices.

The wish to have us make such pronouncements is somewhat puzzling. My best guess is that preoccupation with interest rates—particularly with trying to influence the Federal Reserve to keep interest rates down—often tends to blur judgment. Populist emphasis on low interest rates appears to be a key reason for the steady stream of proposals that in one way or another would enlarge opportunities for exerting political influence upon monetary policy. A less independent Federal Reserve—particularly one that would be less concerned about inflation and thus more generously accommodative of credit demands—clearly remains an objective of many people.

A perennial favorite for the past quarter century of those who would like to see the Federal Reserve enjoy less independence is the proposal to subject the System to audit by the General Accounting Office. Indeed, a bill giving the GAO sweeping authority to audit the Federal Reserve—as well as the Federal Deposit Insurance Corporation and the Comptroller of the Currency—was introduced in the House last January. In the course of the recent markup by the House Government Operations Committee, a number of provisions were wisely incorporated in the bill with a view to affording some protection against disclosure of confidential information. Even so, the measure retains major deficiencies and ambiguities, and we thus feel compelled to oppose it. Incidentally, the bill is expected to be on the calendar for floor action very soon, possibly this week or next.

The bill raises serious questions of public policy. The Federal Reserve Banks have never been subject to GAO audit. The exempted status of the Board dates back to the Banking Act of 1933. The complete exemption of the Federal Reserve System from GAO audit since 1933 thus complements the original exemption of the Federal Reserve from the appropriations process. These exemptions have conferred on the Federal Reserve a heavy responsibility to conduct its affairs with the highest standards of probity; they have also enabled the System to determine its internal management free from political pressures. Exemption from GAO audit is one of the main pillars of Federal Reserve independence.

In exempting the Federal Reserve from customary appropriations and auditing procedures, the Congress has recognized the special political vulnerability that a central bank tends to develop if it in fact comports itself as it should in carrying out its monetary function. It is simply a fact of life that whenever a central bank imposes monetary

discipline, it almost always generates a good deal of opposition. Those displeased with Federal Reserve performance would surely have greater leverage in their efforts to get monetary policy changed if the System were subject to customary appropriations and auditing procedures. I do not mean to suggest that our stewardship should be beyond examination. Accountability by the Federal Reserve is obviously essential, and we believe that the arrangements Congress has fashioned across the decades achieve thorough accountability within a framework of safeguards that take account of the special vulnerability to which central banks are everywhere subject.

What concerns the Board most about proposals for a GAO audit is that such auditing may become a device through which pressure is brought to bear directly on the formulation of monetary policy. To be sure, the pending GAO audit bill excludes a broad range of monetary policy deliberations and transactions from the proposed audit, but it dose not flatly and unambiguously exclude all monetary policy matters. For example, the Committee Report indicates that the GAO would have authority to audit and evaluate discount-window transactions to the extent that such transactions are related to the supervisory function of the System—as distinct from its monetary policy function. This is an extremely fuzzy distinction, and it could easily become a vehicle for GAO intrusion into monitoring monetary policy—an area in which that venerable institution has neither experience nor expertise, to say nothing of responsibility.

It is to the credit of the pending bill that it recognizes the need to protect sensitive and confidential information concerning private parties. But I am by no means satisfied that the bill's provisions in this regard are adequate. Except for records pertaining to monetary policy, the GAO would be given access to "all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including reports of examination of banks or bank holding companies . . . together with workpapers and correspondence relating to such reports . . ." These materials obviously include a great deal of sensitive information. And while the bill prohibits the GAO from identifying individuals and institutions in its public reports to Congress, all such information could still be made available to Congressional committees sitting in executive session. Experience suggests that this limitation is scant guarantee that sensitive and confidential information about banks and their customers would not find its way into the public domain. Great damage could thus be caused to banks, individuals, and business enterprises. In self-protection bankers might soon become less forthcoming to examiners, while their work in turn might become infected either by timidity or by zealotry because of the potential for disclosure. The integrity of the entire bank examination process could therefore be undermined.

Ultimately, as I have tried to suggest, the exemption of the Federal Reserve from GAO audit can be properly understood only in the context of the importance that Congressional shapers of the Federal Reserve System have attached to insulating this Nation's central bank from day-to-day political pressures. That present audit arrangements for both the Board and the Federal Reserve Banks are thorough and effective has, I believe, been demonstrated by Federal Reserve officials in public testimony time and time again. It is a fact, moreover, that besides the auditing reports that go to the Congress each year, a great deal of detailed information about Federal Reserve activities and operations is supplied to Congressional committees in response to a steady stream of inquiries. When one also takes into account the scope of the public oversight hearings conducted by the House and Senate Banking Committees, the need for a GAO oversight role is doubtful at best. If the Congress should nevertheless want to go to the considerable expense of an additional audit by the GAO, I certainly hope that such legislation would not allow the GAO to involve itself in any way with monetary policy procedures or deliberations, and that it would also fully protect sensitive and confidential information concerning banks and their customers.

I am mindful that my remarks have been lengthy, particularly for the opening session of a working convention. Even so, there is much in the field of banking legislation on which I have not commented. For example, the Senate Banking Committee will soon consider a proposal to establish a Federal Bank Commission that would assume responsibility for the supervisory and regulatory work now carried on by the three banking agencies. In the Board's considered judgment, removal of the Federal Reserve's supervisory and regulatory responsibilities would at times seriously lessen the effectiveness with which monetary policy is carried out, and that is one basic reason—among others—why we are opposed to it. I regret that I cannot discuss this bill fully today, but I hope that you and other bankers in our country will make the effort to familiarize yourselves with the issues surrounding it.

In closing, I would like to touch on one more matter. In recent weeks, banking practices have become prominent in the general news, and as a result are coming under special Congressional scrutiny. Chairman St. Germain's subcommittee, for example, has already embarked on hearings dealing with a range of banking practices—among them, correspondent bank relations, bank policies relating to loan collateral, and bank policies relating to overdraft facilities. Chairman Proxmire has scheduled hearings on similar topics toward the end of this month. Specific legislation directed at some of the banking practices that have recently received public attention will soon be considered.

I deem it premature to make any kind of judgment as to how sustained the legislative interest in such matters will be or to what specific ends it will be directed. My hope is that a sense of calm deliberation and balance will be maintained—difficult though this may be at present. We cannot remind ourselves too often that haste can easily make for bad legislation.

For several years, the Federal Reserve has been in the forefront of efforts to obtain added enforcement authority for Federal banking agencies. Our efforts in that direction in no sense imply an unfavorable view of banking. Like other industries, banking is not free of problems, but it is my judgment that generally high standards of behavior prevail in banking. The Federal Reserve's long-standing interest in greater enforcement authority simply reflects our belief that some gaps in supervisory authority exist and that improved enforcement powers are appropriate.

The 94th Congress did not give much attention to our initiative. This year, howafter full and calm deliberation, the Senate passed S. 71—a regulatory and supervisory bill that embodies more stringent rules on insider loans, strengthens cease-and-desist as well as officer-removal powers, and provides a range of cash penalties for violations of banking law or regulation. At present, the absence of an effective range of penalties at times causes undue restraint on the enforcement procedures of bank regulators.

Perhaps legislative remedies beyond those contained in S. 71 are needed. I certainly have an open mind on this question. But I would urge full deliberation before wider legislative remedies are enacted. The banking legislation that I have reviewed with you or alluded to this morning is quite enough for the Congress to handle in the remainder of this year.

I have talked a long time and I certainly dare not burden you with anything else. May I just express my appreciation once more for the privilege of visiting with you.

SOME REACTIONS TO THE 1977 JOHNSTOWN FLOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MURTHA. Mr. Speaker, out of hundreds of individuals who made outstanding community contributions during the 1977 Johnstown area flooding, I would like to mention a few of them in the CONGRESSIONAL RECORD, along with some comments from area citizens.

These individuals showed outstanding compassion and humaneness toward the disaster victims of the July flooding.

Rev. Father Stephen Slavik and the congregation of St. Rochus Catholic Church responded immediately through community services and help for the displaced. But their contribution did not fade as the days passed. They remained involved. Father Slavik and I communicated many times concerning housing, neighborhood efforts, insulation when rebuilding, supplies for the displaced, and many other items.

Rev. Wendell Bohrer and the congregation of the Walnut Grove Church of the Brethren were equally involved in the flood recovery effort. They worked repeatedly to ease the shock of displacement, lost property, ruined lifelong belongings, and the other tremendous psychological shocks victims of floods face. They also worked to insure cleaning supplies, food, blankets, and other materials that were suddenly in short supply.

The devotion of these churches to their adjacent area was an inspiration to all of us. They handled things in a very impressive manner. The entire community appreciates their fine work.

I would also like to include in the RECORD two letters written to me concerning the disaster. The first one is from Ms. Helen Longazel of Ebensburg and presents an idea I believe Congress should consider:

EBENSBURG, PA.

Hon. JOHN P. MURTHA,
Johnstown, Pa.

DEAR REPRESENTATIVE MURTHA: July 20, 1977 was another tragic day in our lives. Will we ever forget the wind, rain and lightning, the damage and devastation left behind and all the many lives lost throughout this disastrous eight county area in Pennsylvania? What will remain in my mind to repeat to my grand children and perhaps great-grandchildren is the concern from all over the world to the people of our great state. The help, generosity, and assistance from all the states

and from people in all walks of life can never be repaid or even thanked enough. I feel we here in Pennsylvania want to show the appreciation of our fellow man and thus set aside July 20th hereafter and years to come as "Honor Thy Neighbor Day." Perhaps the whole country or even the whole world needs this particular day to honor their neighbor, friend or relative for their greatness at one time or another.

I trust you believe in your fellow man as strongly as I do, I remain,

A sincere neighbor,

HELEN LONGAZEL.

As I outlined in comments in an earlier CONGRESSIONAL RECORD, the Bethlehem Steel Corp. decision to cut back its work force in Johnstown was an additional blow to the area's economy. I would like to enclose a letter I received from Mrs. Lee Carney of Johnstown, because I believe it well summarizes the feelings many citizens have toward the laws and regulations the Government has passed involving environmental controls:

JOHNSTOWN, PA., *August 2, 1977.*

Representative JOHN MURTHA,
Federal Building,
Johnstown, Pa.

DEAR REPRESENTATIVE MURTHA: I am writing to thank you first of all for all you have done and are doing regarding the situation with Bethlehem Steel. I am indeed proud to have you represent our district.

I have today written to Gov. Shapp, the D.E.R., Federal E.P.A., other members of Congress & Mr. Lewis Foy. Bethlehem has been trying to operate for too long under what I consider to be unreasonable conditions—*uncalled for* pollution demands, especially. What good is a clean city with its people on welfare? These state and federal agencies *must* be made to relax uncalled for schemes. We need our jobs and Bethlehem deserves all possible aid to clean up the destruction.

Thanks for all you've done. None of us can afford to give up.

Yours truly,

Mrs. LEE CARNEY.

REFORMING SOCIAL SECURITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for August 31, 1977, into the CONGRESSIONAL RECORD:

REFORMING SOCIAL SECURITY

The social security system is going broke. Payments to beneficiaries have exceeded revenues since 1975, and without changes the funds supporting the old age and survivors program will be exhausted by 1983. Disability insurance funds will be exhausted by 1979. The traditional method of financing, which relies exclusively on payroll taxes, would require $83 billion in additional funds by 1982 to maintain both the flow of benefits and a sound reserve fund.

Guaranteeing confidence in the financial structure of the social security system is one of the most important problems confronting the country. Its resolution affects 33 million Americans presently receiving benefits and 104 million working Americans whose pay roll taxes support the system. The social security system must be changed very soon so that it will be adequately financed, but there is no reason to push the panic button. Although social security experts agree that while the system has serious financial problems, its collapse is not imminent and the problems can be solved. The short-range and long-range problems demand, and will get, congressional action.

The system is in trouble today for several reasons: high unemployment since 1975 has decreased tax collections at the very time when social security benefits were being expanded. The recent decline in the birth rate will cause the ratio of beneficiaries to workers to rise in the 21st century, adding dramatically to long-term unfinanced costs. Moreover, in 1972 Congress, in an effort to adjust social security benefits to reflect the full effect of inflation, inadvertently went too far. A complex formula, which adjusts both the initial benefits for future retirees and the current payments to present retirees, has produced an imbalance which will eventually give some retirees more in social security benefits than they earned in their last working year. Obviously this faulty formula must be corrected.

Congress is now debating how the social security system can be re-established on a safe and sound basis. One way is to reverse the recent trend toward early retirement. The Secretary of Commerce proposed deferring full payment of social security benefits until age 68. I have found no support in Congress for this view. Social security financing is complicated and so are the other proposals for putting the system back into the black. Every scheme draws on some combination of raising pay roll taxes or the taxable wage base, using general tax revenues, and reducing benefits.

The President's proposed reform of the social security system draws on all of these alternatives. He would:

1. Use funds from the general revenues of government to replace the social security taxes that are lost when the unemployment rate exceeds 6%.

2. Remove the ceilling on the amount of an individual wage or salary on which the employer pays social security taxes.

3. Restore the basic social security tax that is paid by self-employed persons to the traditional rate of 1½ times the tax on employees.

4. Increase slightly the amount of wage or salary on which an employee must pay social security taxes.

5. Changes the test under which an individual may claim social security benefits as a dependent to make it conform to a recent Supreme Court decision.

6. Correct the excessive adjustment for inflation which was inadvertently applied in 1972 to future social security benefits.

7. Make some shifts of funds among the different social security trust funds to avoid the exhaustion of the disability insurance fund.

8. Advance two currently scheduled increases in the basic social security tax.

These changes would produce revenues in excess of expenditures starting next year, prevent the exhaustion of trust funds, and, in the longer term, put the social security system in full actuarial balance.

The initial reactions to the President's proposals have been unenthusiastic. Since each proposal has disadvantages, the opposition is understandable. No one likes an increase in taxes. Besides, pay roll taxes are regressive because they take a higher percentage of total income from individuals who are less able to afford it. Increasing the taxable wage base is more progressive, but workers, shareholders, or consumers will still have to foot the bill. Tapping the general revenues of government is also progressive, but every dollar that is shifted to the social security trust funds means a dollar less for other government programs. This approach also damages the prevailing view of social security as insurance rather than welfare.

BILL MAGRUDER—GONE WEST

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MILFORD. Mr. Speaker, this past Sunday morning, as a beautiful woman wept silently in her bedroom in Winston Salem, N.C., hundreds of people across this Nation opened their Sunday newspapers and immediately shared her feelings. The woman, Barbara Magruder, wept for the loss of her husband—William M. Magruder. Pilots, airline officials, aeronautical engineers, high level Government officials and workers in both government and industry felt the loss of one of the most respected leaders in the aviation world.

Bill's last job was executive vice president of Piedmont Airlines. But that was only his "official" position. From California to Washington, D.C., Bill Magruder was always working for aviation in one way or another. No single job was ever big enough to occupy all of Bill's time.

An aviation executive once described Bill Magruder's working habits as, "a man working as if he were killing snakes." He was more accustomed to an 18-hour work day, than an 8. In every phase of aviation, he seemed to have played a part.

Bill played a key role in the flight test of the B–52 bomber and the DC–8 jetliner. He was one of the leaders in the design of the Lockheed L–1011 "TriStar" wide body jet. President Nixon selected him to head this Nation's supersonic transport program. As a matter of fact, Bill Magruder's single greatest disappointment in life came when Congress killed the SST program.

Even though Congress was directly responsible for killing the aviation program nearest and dearest to Bill Magruder's heart, Bill was always willing and ready to help Congress—regardless of his "official" job of the moment.

This past year my subcommittee (the Subcommittee on Aviation, Transportation and Weather) completed a year's work studying the future of American aviation. Our end product was a report entitled "The Future of Aviation." While the House Science and Technology Committee and my subcommittee were given the credit and glory for this work and report, William M. Magruder was one of the key architects.

Bill Magruder was the guy who would sit by the hour and talk with my staff and I and assist us in tackling the job we had to do. He knew how to organize the task and he was willing to share the knowledge with us. He knew who to call as witnesses, who really knew his business and who was in reality a "snow artist."

I was always personally grateful for Bill Magruder. He was one of the most sought-after aviation experts in the

country. With his experience and knowledge, he could practically name his price and go to work for any air carrier or aircraft manufacturer. Yet, he was always ready to answer the call for assistance to Government—whether that call came from Congress or from the Administration.

Finally, and I think most importantly, hundreds of us will share Barbara Magruder's feeling of having suffered a personal loss. In addition to Bill Magruder's vast wealth of aviation knowledge and experience, he had that magnetic power that made you feel like a close personal friend five minutes after you met him.

Mr. Speaker, I will join with hundreds of pilots across the Nation in a silent toast to Bill Magruder, who has now "gone West."

H.R. 6796—ERDA FISCAL YEAR 1978 AUTHORIZATION

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. WALGREN. Mr. Speaker, we have just endured our most severe winter of the century—a winter in which we experienced a serious shortage of natural gas. Industrial users have made strenuous attempts to find substitutes and to some extent have been successful. However, residential users have little recourse to substitutes without expenditures that will be substantial for an individual homeowner. We can, of course, import liquefied natural gas and increase our dependent position on the OPEC nations. Are there any other choices? The answer is surely yes. We can exploit a portion of our abundant but dirty bulky coal resources and convert it to methane, synthetic natural gas. This is a clean burning fuel that is completely interchangeable with natural gas both in the pipeline and at the burner.

To a certain extent, the technology for making this conversion from coal to gas is already available. It is, however, a capital intensive proposition with a very expensive, $4 per thousand cubic foot, gas product. The present regulatory and investment climate in the United States will probably prevent spontaneous development of this technology. This kind of caution may be appropriate on technical grounds, too. The presently available technologies are inefficient in that much of the thermal value in the coal is lost in the conversion process.

The objective of the high Btu gasification subprogram in the Energy Research and Development Administration is the investigation and development of technology required to develop improved coal gasification processes by the early 1980's.

These new processes would improve efficiencies and decrease the cost of the product gas, perhaps by as much as 20 percent. The primary ways in which this is done involve operating at higher temperature and pressures and injecting hydrogen directly into the reactor to increase the initial methane yield. One of the processes being pursued by ERDA at benchscale is the Hydrane process. Almost all the methane is produced in the gasifier by hydrogasification. This practically eliminates the need for a methanation step, which is a process that has not been commercially proven for first generation technologies. The Hydrane process is potentially one of the least expensive ways to convert coal to synthetic natural gas.

As in the liquefaction program, several different processes are being pursued in parallel. This will allow the widest range for the choices that will have to be made when world production of natural gas declines in the late 1980's as projections indicate that it will. Although apparently similar in concept and objective, each of the approaches is characterized by important differences that warrant simultaneous development. Thus, the relative merits of the differences can be established and evaluated.

ERDA's request for the high Btu coal gasification program was set by OMB at approximately $51 million. This is some $6 million above the funding authorized for the 1977 fiscal year. I strongly endorse ERDA's high-Btu coal gasification program and recommend that you vote to authorize the OMB approved request, which has also been endorsed by the report of the Committee on Science and Technology.

Such action can only improve our ability to make the best choice for using our vast coal reserves. The next few years should find ERDA generating as much data as possible for the broadest range of technologies. Support of the fiscal year 1978 authorization as reported out by the committee is one of the ways we can assist ERDA in this task.

INDEXING IS GIVING UP IN FIGHT AGAINST INFLATION

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. JONES of Oklahoma. Mr. Speaker, the Wall Street Journal of September 12 included a provocation column by Lester Thurow, professor of economics and management at Massachusetts Institute of Technology, which I commend to my colleagues in Congress.

I particularly want to call attention to Professor Thurow's criticisms of indexing. It is particularly timely that such criticisms be read now because this week the House of Representatives will be deciding whether indexing shall become a part of our minimum wage laws. I firmly believe that we should not index minimum wages. I believe that indexing will never permit working people's wages to catch up with inflationary prices. For the Federal Government to formally adopt a national policy of indexing is in essence the same as telling the American people that we are throwing in the towel and giving up our fight against inflation.

Inflation is the cruelest tax, an invisible, stealthy tax against the American worker. Except perhaps for retired persons who have no other method of combating the results of inflation, U.S. Government policy should be to defeat or at least reduce inflation. A governmental policy of indexing cannot reduce inflation as Professor Thurow so capably points out.

The complete text of Professor Thurow's column follows:

[From the Wall Street Journal, Sept. 12, 1977]

OPTIONS FOR DEALING WITH INFLATION

(By Lester C. Thurow)

Despite the quick denials, it is quite likely that incomes policies are being discussed in the back rooms of the Carter administration. Incomes policies are being discussed for a very simple reason. Tight monetary and fiscal policies simply are not reducing the U.S. rate of inflation.

After the first impacts of the price shocks administered by the OPEC oil cartel, the dollar devaluation and the weather-induced surge in grain prices had passed through the economy, the U.S. rate of inflation quickly fell from the double digit rates of 1974 to the 6% range in early 1975. Since then, however, there has been little or no change in the rate of inflation.

Over that 2½-year period, conventional macroeconomic tools have been vigorously used to reduce inflation. The money supply (M1) has grown less than one-half as fast as the nominal GNP. Long-term corporate bond rates have subsided only slightly from 1974 credit-crunch levels. The full employment surplus of federal, state and local governments (the difference between revenue expenditures if the unemployment rate had been only 4.9%) has been large, ranging from $15 billion to $31 billion.

It's true, of course that the federal government in fact has continued to run a large deficit and that other measures of the money supply continue to show substantial increases by historical standards. And doubtless this newspaper's editorial writers, among others, would argue that monetary and fiscal policies simply haven't been tight enough.

Yet the fact remains that we already have been given a stiff dose of the old time religion—and that the chief effect has been to create a huge reserve of idle productive resources without making a dent in inflation. Unemployment has ranged between 7% and 9%. Over the same period of time, from 17% to 29% of the manufacturing capacity has been idle, according to the Federal Reserve's index of capacity utilization.

Since one percentage point of unemployment represents about $60 billion in output lost annually, a very expensive war against inflation is being fought with little or no payoff. Nor is there any sign of the "light at the end of the tunnel." If one looks at forecasts, the optimists predict the rate of inflation will remain in the 6% range for the rest of the decade (no one predicts much further into the future), and the pessimists predict an acceleration of inflation. Almost no one is predicting that the current war against inflation will be won. Why?

INDEXING PHENOMENON

If one seriously asks why idle resources are not reducing the rate of inflation, the answer is not hard to find. It lies in the phenomenon of "indexing." Since 1974 and the scare of double-digit inflation, labor, business and government have sought to protect themselves from the uncertainties of future inflation by adding cost of living indexes to all their future commitments. By putting cost of living escalators in all their price and wage contracts, labor and business prevent themselves from being hurt by future increases in the rate of inflation. Adding cost of living escalators to private contracts is a perfectly rational response to inflation

on the part of both business and labor, but it fundamentally alters the nature of the economy and the effectiveness of monetary and fiscal policies.

This is most clearly seen if we imagine an economy that has been legally indexed. In an indexed economy all contracts are signed in current dollars, but every contract also contains a legally mandated cost of living clause. If the cost of living goes up 15% from the time the contract is signed until the product or labor is delivered, then the buyer or the employer must pay the amount agreed upon plus 15%. The basic objection to legal indexation is that it prevents monetary or fiscal policies from reducing the rate of inflation.

The reasons for this are easy to see. Imagine that the inflation rate has been running at 6% per year. If the inflation rate of the past year was 6%, then every price and wage will go up by 6% this year due to the legally mandated price and wage increases. But the legally mandated increases lead to a 6% rate of inflation this year. Hence with escalators the rate of inflation will also be 6% next year. Tight monetary and fiscal policies can reduce demand and increase the quantity of idle resources, but they cannot reduce the rate of inflation. With a legally indexed economy, only external events (such as an appreciation in the exchange rate or a reduction in the price of oil or grain on international markets) can reduce the rate of inflation.

What is even more troublesome is that indexing leads to an upward ratchet effect on the inflation rate. Indexing prevents the rate of inflation from falling, but it does not prevent the rate of inflation from rising. Suppose some policy—let's say President Carter's proposal to raise the price of domestic energy to world levels—raises the rate of inflation to 7%. Once a 7% rate happens indexing will prevent it from falling. As a result, every piece of bad luck or price raising policy leads to higher and higher rates of inflation.

The U.S. economy is not 100 percent legally indexed, but it has rapidly become heavily indexed since 1974 with the introduction of *de jure* and *de facto* escalators by government, industry, and labor. Cost of living escalators are increasingly being built into government programs and wages.

Nonunion workers don't have legal cost of living escalators, but companies that provide cost of living protection to their unionized workers almost always grant the same increases to their nonunionized workers. Similarly, nonunion employers in fact index their wages to prevent their best employes from gradually leaving for employers who do index and to keep labor unions out of their plants.

While indexing is growing because of private actions rather than formal government actions, the effect is exactly the same as if the government had legally installed indexing. Monetary and fiscal policies no longer have any capacity to lower the rate of inflation. Because of indexing the 6 percent rate of inflation has become a structural problem that can be solved only by structural means.

THREE OPTIONS

Basically there are three policy options. Policymakers could attempt to crack the current system of private indexation by creating truly enormous quantities of idle resources. If policymakers were willing to recreate the Great Depression they might be able to destroy the current system of private indexing, but this would require an enormous price in terms of lost output and human suffering. The second option is simply to sit back and admit that there is nothing that can be done about the inflation rate. Since the economy is almost completely indexed informally, the indexing might as well be made formal to cover those small parts of the economy that are not now protected by cost of living clauses. After all, with indexing inflation does not hurt anyone—or so the argument goes.

If neither of these solutions is acceptable, the only remaining solution is "incomes policies." What the incomes policies have to do is clear. How to do it is much less clear. Assume an indexed economy with a 6 percent inflation rate. Inflation will go down only if everyone agrees to a cost of living raise less than the previous year's rate of inflation. If everyone agrees to raise his or her wage or price by only 4 percent, even though inflation has been running at a 6 percent rate, then this year's inflation rate can be reduced to 4 percent instead of 6 percent. But the essence of such a policy is an economy where people are willing to accept something less than the full protection afforded by their escalator clauses.

The trick, however, is not what to do, but how to get the agreement that wages and prices go up only 4 percent rather than 6 percent. This agreement is the essence of any incomes policy, but with our current system of private indexing such an agreement is virtually impossible to get. Converting the current system into a legally indexed system would give the government a handle to reduce the allowable index adjustment below the previous year's rate of inflation, but enforcing such a reduced escalator would be equivalent to wage and price controls.

Unfortunately, in an indexed economy there are no other solutions. None of the three alternatives is particularly attractive, but one of the three, or some combination of the three, must be chosen. Our current choice is to tolerate a level of idle resources which is high enough to cause enormous losses in output and wasted human opportunities but not high enough to crack indexing and lower the inflation rate. To maintain the current level of idle resources in the face of their demonstrated impotence to reduce the rate of inflation is simply an exercise in national masochism.

PUBLIC APPROVES OF AIR BAGS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MAZZOLI. Mr. Speaker, I want to call to the attention of my colleagues recent national polls which indicate that the American people support the installation of air bags and other forms of automatic passive restraints systems in all new cars.

I support the decision by Secretary of Transportation Brock Adams to require phasing in of automatic protection devices in new autos from 1982 through 1984.

These poll results are as follows:

GALLUP POLL: PUBLIC APPROVES OF AIR BAGS

By a vote of 46 percent to 37 percent a public sample interviewed by the Gallup Poll has endorsed the installation of air bags in all new cars.

The polling interviews, conducted in early June, preceded by nearly a month the decision by Secretary of Transportation Brock Adams to require phasing in of automatic-protection devices in new models from 1982 through 1984. The Adams order sets a performance standard for crash-force reduction and permits the auto manufacturer to choose any type of equipment that will meet the requirement.

The poll indicates that young adults from 18 to 29 years of age are strongest in their support of air bag use. This age group which has a high injury and death rate on the highways, voted 65 percent to 27 percent in favor of air bags. This compares to 31 percent of those 50 years and older who favor air bags, and 44 percent who disapprove.

Women of all ages support the air bag plan by the substantial margin of 51 percent to 27 percent, the poll reports, while men voted against it by a 47 percent to 42 percent margin.

On a geographical basis, those in the East support the air bag by the largest margin, reports the Gallup Poll. They favor the equipment by a 53 percent to 29 percent vote. Those in the South and West also approve by large margins. Only in the Midwest does support for air bags trail by a 41 percent to 47 percent tally.

In responding to the poll, those interviewed were asked to answer the question: "Would you favor or oppose requiring car manufacturers to equip all new cars with air safety bags?"

The poll reports this national distribution of public sentiment:

[In percent]

	Favor	Oppose	No opinion
National	46	37	17
Men	42	47	11
Women	51	27	22
College	49	39	12
High school	48	37	15
Grade school	35	32	33
East	53	29	18
Midwest	41	47	12
South	48	33	19
West	44	38	18
18–29 years	65	27	8
30–49 years	48	37	15
50 and older	31	44	25

AUTOMATIC PROTECTION FAVORED BY NEW CAR BUYERS

A great majority of car buying Americans prefer automobiles with increased crash protection that is completely or at least partly automatic—such as air bags, or belts and bags in combination—rather than crash protection that the driver and passengers must activate each time they get into a car, such as standard safety belts.

Moreover, these car owners are willing to pay for such protection. Less than half believe that states should pass laws to require that people wear their safety belts each time they travel.

William Haddon, Jr., M.D., president of the Insurance Institute for Highway Safety, released these results of a nationwide scientific public opinion survey at the Department of Transportation hearing on passive restraints.

The results of the Institute's public opinion survey were based on interviews of 1,017 people who said they intend to buy new cars within the next three years.

Results included the following:

Nearly 80 percent of those interviewed prefer crash protection that requires no activation by drivers and passengers each time they travel, whether alone or in combination with some kind of active protection.

Half of those interviewed oppose passage of laws requiring that drivers and passengers use active safety belts each time they travel, 47 percent favored such laws, and the rest have no opinion.

In order to obtain increased automobile crash protection that would save 6,000 lives a year, the interview respondents say they are willing on average to add $12 per month, or $144 per year, to their car payments.

The amounts that interviewees are willing to pay are far above the government's estimated additional cost of $103 per car—less

than $4 per month based on 36 monthly payments with interest—for air bag systems that automatically provide increased protection for front seat occupants in front and front-angle crashes.

No statistically significant differences were found in preferences for types of crash protection, amounts they were willing to spend for increased protection, or opinions of belt use laws when comparisons were made among men and women, regions of the country, or members and nonmembers of the American Automobile Association or other automobile clubs.

The data were collected by Chilton Research Services in July 1976.

CITIZENS HELPING ONE ANOTHER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MURTHA. Mr. Speaker, in any natural disaster, the help of the Government is vital and appreciated, but I do not believe any aid is appreciated quite as much as the individual contributions of fellow citizens.

In mid-July when severe flooding hit parts of the 12th Congressional District, area residents responded overwhelming ly by helping one another. In Indiana County, which experienced some severe flooding and property damage, a number of individuals and organizations stand out. I am certain that any list anyone tries to compile will miss some activities, but I would like to share with the Members some of the acts that have come to my attention.

I believe such contributions show the basic human spirit that binds our Nation together, and I am proud to recount the activities in this journal of history.

When flood victims found themselves displaced, an initial problem was food. Obtaining, distributing, and cooking food turned to a number of individuals and groups who responded quickly:

Armagh and East Wheatfield Ladies Auxiliaries, headed by Mrs. Dee Hepner, Armagh, cooked for the flood victims.

Saltsburg Fireman's Auxilarly secured canned goods and other supplies, headed by Ms. Elaine McDivitt, 426 Market Street, Saltsburg.

First Baptist Church in Glen Campbell distributed food and materials, Reverend Alan Campbell, R.D. No. 2, Fulton Run, Indiana.

Zion Lutheran Church, Indiana, distributed food to the displaced, headed by Reverend Elwood Stark, South 6th and Church Streets.

Homer City Trinity Lutheran Church distributed food and materials, headed by Reverend Michael Boggs, 35 Ridge Avenue, Homer City.

Hebron Lutheran Church, Blairsville, provided hot meals for senior citizen flood victims, supervised by Reverend Earl Anderson, 200 West Campbell Street.

Blairsville VFW Post No. 5821 contributed to the effort by collecting food and supplies.

Saltsburg Fire Company, headed by Chief Ronald Wagner, 506 Market Street, provided hot meals for the elderly.

Rossiter Fire Company also provided hot meals for the flood victims.

A couple of individuals attacked special problems and made special efforts that deserve mention.

The Salvation Army is always on the scene of disasters doing their excellent job, and Captain and Mrs. Andrew Nelson, 635 Water Street, Indiana, of the Indiana Salvation Army were no exception in this crisis with their excellent effort.

Cleanup supplies and pumping basements is routine but essential work following any flood disaster. Some individuals and groups who helped in this effort in Indiana County included:

Mr. Jim Wolfgang, Williard Home, Saltsburg Road, Indiana, and the Indiana County Community Action Program which helped coordinate clean up supply allocation for the county.

Indiana County Civil Defense Office pumped basements and moved small debris.

Volunteer Fire Companies never fail in a disaster. Among those working to pump out basements were companies from Armagh, Blairsville, Marion Center, Homer City, Indiana, Commodore, and Glen Campbell.

Finally, it cannot be denied that flood problems hit particularly hard at the elderly. A word of recognition should go to:

Ms. Carole Ling and the Indiana County Area Agency on Aging, located in the Indiana County Courthouse, and Ms. Angela Hazley, and the Senior Action Center, 9th and Philadelphia Streets, Indiana, for their efforts in helping older people weather the flood difficulties.

LORD OF THE STORM WINDOWS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MAZZOLI. Mr. Speaker, during my years here in Washington I have heard of some preposterous and "off the wall" schemes.

Few, however, have been as downright outlandish as the recent proposal to establish a Federal corps of young neighborhood energy inspectors.

I consider this program inane, absurd and ridiculous at best.

I commend to the attention of my colleagues the following editorials which recently appeared in the Washington Post and the Washington Star commenting on this foolish proposal.

[From the Washington Post, Sept. 2, 1977]

LORD OF THE STORM WINDOWS

It wasn't an energy-careless excess of air conditioning that suddenly chilled our blood in Wednesday's awful heat. No, it was a little something our paper printed from the Los Angeles Times—a story about how the Carter administration is considering a plan to mobilize the nation's youth as energy-inspectors. The key paragraph went like this:

"Under the voluntary program, high school students or other youths would start outside a house, checking off energy problems on a government-prepared list. The volunteer would then knock on the door to tell the occupant his or her outside energy conservation score and offer to go through the inside of the house to complete the survey."

Among the things these young folks would be checking would be the pressure in your car's tires, the quality of your weather-proofing, and so forth.

We were not surprised to read that the White House was aware that "people could misconstrue [the program] to be like Hitler's youth." Actually, our own first impression hovered somewhere between the 13-year-old Chinese cultural revolutionaries of another age and that swell gang from "Lord of the Flies." Yes . . . we understood that the whole thing was to be "voluntary." But, when you get right down to it, what's so voluntary about having somebody else's kid poking around your premises, inspecting your weatherstripping and busying himself with your car tires—uninvited? Maybe it is an advance over the day when you would have had to suppose the kid was about to steal your hubcaps. But when you've said that, it seems to us, you haven't said much—especially since you would also have to reckon with the physical threat to young energy inspectors from gun-toting citizens who will suppose that hub-cap stealing or something more felonious is actually what's afoot.

In defense of the plan, it has been pointed out that here and there around the country Boy Scouts are already at work on a similar survey, that nobody would be turned in for anything, that the information wouldn't be sent anywhere, that generally the program would only be a way of providing energy-saving hints to grateful householders and that it would, in any event, also provide a fine and bracing dose of moral uplift to the young people involved. In addition, Greg Schneiders, the White House man in charge, points out that reporting of the plan has skewed its intent, made a local voluntary thing sound like a national lockstep mobilization and given tentatively considered features of the plan an aspect of settled policy. For instance, he insists it is not fixed that the young energy-doctors would do their preliminary outdoor diagnosis without the consent of the would-be patient.

That is good news, and we can only hope that mild and moderating influences will prevail. For our part, however, we still don't see why communities can't be left alone to figure out their own individual ways of helping householders to calculate the purchase of their energy expenditures. Not to put too fine a point on it, it occurs to us that there might even be jobs there—for youths and adults—who would be retained by a local jurisdiction to answer the questions of people who solicit help in taking the measure of their own energy use and misuse. Our problem is with the concept of kid-inspectors going from door to door and passing judgment on whether the water-levels in Mrs. McGillicuddy's toilet tanks are in the national interest. We are reassured to learn anyway that whatever the White House has in mind at the moment, it isn't quite that.

[From the Washington Star, Sept. 4, 1977]

GET SERIOUS, YOU FOLKS AT 1600

The establishment of a federal corps of young neighborhood energy inspectors is an apogee of some sort. This notion was reported by the *Los Angeles Times* the other day after a conversation with Greg Schneiders, the White House "Projects Director." It is labeled part of a "reawakening of our cultural heritage."

Mr. Schneiders, who sounds as if his projects tank is on empty, said, "The thing I want to avoid obviously is the implication that an army of little uniformed inspectors is going out and checking on people." Pick another implication, pal.

Under this proposal, Boy Scouts and Girl Scouts and similar energetic tadpoles, armed with a "team member's manual," would be turned loose to check, first, the exterior of your home to insure that you have enlisted in the army of energy conservation. Then the little rascals would knock on the door, inform you of your "score" and offer to check out the rest of the premises, from inflation

of car tires to toilet tanks. This inspection of your energy rectitude would take from 45 minutes to an hour—assuming the householder a) lets the knee-high snoops in and b) resists the temptation to reduce on the spot the school-age population.

Wait a minute—we fell into the trap of taking this seriously. Of course there is no such plan, is there? Several of Mr. Carter's exuberant young assistants took a long lunch the other day and were overcome by whimsy. Their noontime nonsense then was leaked to the press to test national gullibility levels. That the youthful snitch mobilization is a riotous fiction is soon apparent. Mr. Schneiders is quoted as saying the program's cost would "not be in excess of $100,000—extremely cheap by any standards." QED—there never has been a federal program launched for only $100,000.

However, this silly scenario ought to be replaced in the bin of satire before it is playfully adopted by those, in government and out, who consider intruding themselves into the lives of others the highest call of duty.

AGAINST "CRAVENLY YIELDING" TO PEKING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. CRANE. Mr. Speaker, one of the primary objectives of U.S. foreign policy should be to allow each country to determine its own destiny, without outside intervention, by removing the dangers of foreign aggression. In considering the China issue, the United States should seek ways in which to reduce the tensions in Asia while simultaneously supporting the rights of the people of South Asia to shape their own destinies in peace, without the constant fear of military invasions and to maintain their sovereignty and territorial integrity. Normalization of relations between the People's Republic of China and the United States is desirable only if the two sides conclude that a peaceful settlement of the Taiwan question is necessary and desirable. To this end the United States should not accept mainland China's self-asserted prerogative to take back Taiwan.

Mr. George Ball recently wrote in the New York Times:

If we gained little "from pushing Taiwan overboard, what would we lose? Well, self-respect, for one thing."

I would like to insert his article at this point.

AGAINST "CRAVENLY YIELDING" TO PEKING

(By George W. Ball)

Were Secretary of State Cyrus R. Vance to agree in Peking that the United States would break relations with the Nationalist Government in Taiwan in return for de jure relations with the People's Republic, he would make nonsense of the Carter Administration's commitment to morality in foreign policy. Yet some academic China-watchers, amateurs of realpolitik, now advocate that cynical course on the ground that the "normalization" of relations with Peking (which involves the "de-normalization" of relations with Taiwan) is necessary to sustain a Peking-Washington counter to Soviet expansionism.

Throughout history our views about China have often been distorted by fantasy, and this argument is no exception. The Peking Government does not love us for our beautiful eyes, nor would it respect us for cravenly yielding to its wishes; it is interested in conducting limited diplomatic business for one reason only—that we are an enemy of its enemy, the Soviet Union.

So it is fatuous to argue, as some China specialists do, that because we are making the leaders in Peking "impatient" by frustrating their designs on Taiwan, they will run frantically into the embrace of Moscow. In fact, they will maintain whatever relations with us best serve their interests, and it matters little whether those relations are technically defined as de facto or de jure.

What difference does it make if our outpost in Peking is a liaison mission with little official access or an embassy with little official access—as is true of all foreign embassies to the People's Republic?

But if we would gain little from pushing Taiwan overboard, what would we lose? Well, self-respect for one thing. We would be acting out of character in pursuing the sordid diplomacy of the 18th century when the reversal of alliances was standard procedure.

Nor could we reupdiate our security treaty with the Nationalist Government without critically diminishing the confidence of Japan, Korea and other Asian countries in our other commitments.

The time-honored standards for diplomatic recognition require that a government have control of its territory, the support of its people, and meet its international obligations. The Taiwan Government unquestionably controls Formosa and the Pescadores. It has kept its commitments; and, if it is not a model of democracy, the 17 million people of Taiwan would certainly prefer the mildly authoritarian system of the Nationalist Government to the totalitarian anthill of the People's Republic and absorption by a country with a standard of living only one-third their own.

Thus, the honest course is to reaffirm our recognition of the Nationalist Government as having sovereignty over Formosa and the Pescadores, explicitly stating that we do not recognize its claims to the mainland. Moreover, we should make clear that we will continue to support the Taiwan Government only if it stops discriminating against the Formosans who settled there centuries before the advent of Chiang Kai-shek in 1949. If—as seems unlikely—this qualified position would lead Taiwan to sever its relations with us, so be it.

At the same time, while disregarding the "one-China" or "two-China" technology and the studied ambiguities of the Shanghai Communiqué, which President Nixon signed in 1972, we should assert that the Government of the People's Republic meets the test of recognition with regard to the mainland but not Formosa or the Pescadores, and offer recognition on that basis. That Peking would reject this should not deter us. Our policy would accord with the facts and established diplomatic practice and we would be true to our announced principles.

All of this should be undertaken in the context of a total policy—to regain the "face" we have lost by a demeaning posture of kowtowing.

During the last five years, in addition to the current Vance trip, there were nine visits by Henry A. Kissinger to Peking. while two American Presidents also made the arduous pilgrimage to that far-off capital. Meanwhile, not one Chinese official of any standing has deigned to visit us barbarians in Washington. Are we, or are we not, vassals of the Middle Kingdom? We certainly act as though we were.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. McCORMACK. Mr. Speaker, at the appropriate time I will propose an amendment to the Energy Research and Development Administration, Department of Energy, ERDA/DOE, which will change several provisions of the Electric and Hybrid Vehicle Act, Public Law 94-413. I am proposing this amendment as a result of oversight hearings held during July 1977 and a thorough program review by Purdue Universities, Center for Interdisciplinary Engineering Studies.

The intent of the following amendment is to strengthen the electric vehicle demonstration program and improve the survival chances of the new electric vehicle industry once Government Research, Development and Demonstration program support is completed. The administration supports these changes:

AMENDMENT TO H.R. 6796, AS REPORTED, OFFERED BY MIKE MCCORMACK

Page 119, after line 12, add the following new title:

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonsntrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

WORLD RECORD CATCH

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. DE LUGO. Mr. Speaker, early last month a world fishing record was established in the Virgin Islands. On August 6, the world's largest marlin, weighing in at 1,282 pounds, was caught in Virgin Islands' waters. This is more than 100 pounds heavier than the previous record.

While many parts of our Nation boast of fine sport fishing, this catch reaffirms that the Virgin Islands is one of the meccas of world sport fishing.

It has deeper significance, however. Aside from the thrill of the sport, deep sea angling in the Virgin Islands contributes to our local economy. The fishermen who come to the islands eat at local restaurants, shop at local businesses, and utilize local facilities. They contribute significantly to our economy.

As the accompanying article from the August 8 edition of the Virgin Islands Daily News, and an August 9 editorial from the same newspaper, points out, the word of this world record will act as a lure for anglers from all over to come to the Virgin Islands for some of the best sport fishing available. We welcome you.

The article and editorial follow:

[From the Virgin Islands Daily News, Aug. 8, 1977]

WORLD RECORD CATCH

A mate who got the day off to go fishing with three other fellow mates aboard the sports fishing boat "Xiphias" Saturday landed a world all tackle record blue marlin.

The 1,282 pound marlin, which was certified by Eddie Bertrand, V. I. representative for the International Game Fishing Association, was hooked about 10 a.m. off the 100-fathom drop-off of the Virgin Islands waters, by mate Larry Martin of Pompano Beach, Fla.

Fishing out of the Lagoon Fishing Center, which is operated by Jerry Black, Martin said he fought the fish for about 45 minutes and spent another 35 minutes trying to boat it. The giant fish was finally boated with the help of two mates who were transferred to the Xiphias from another boat fishing in the area.

Aboard the boat with Martin were mates Peter Gansz, Jimmy Andrews, and Jimmy Unrath, who was acting as skipper at the time of the hook up.

Hundreds of residents gathered around the

Lagoon Fishing Center to view the Atlantic blue, which weighed in at more than 100 pounds more than the record set July 26, 1974 by an angler off the Nags Head, North Carolina.

Saturday's catch weighed more than 400 pounds more than the 845-pound by Elliot Fishman, whose record was broken on June 5, 1975 off Cape Hatteras. While Fisherman's fish and the one off Hatteras were caught on 80-pound test line both Martin's and that of the Nags Head angler were hooked on 130-pound test.

The statistics on Martin's world's record: weight, 1,282; girth: 76.5 inches; length: 14 feet, eight inches; tail span: one foot, nine inches; and tail spread: five feet.

The "Xinphias" is owned by Ralph Gilster of Texas and is captained by Capt. Barkely Garnsey, who also had taken the day off to go shopping in downtown Charlotte Amalie Saturday. The boat operates out of Black's Lagoon Fishing Center on St. Thomas.

[From the Virgin Islands Daily News, Aug. 9, 1977]

ANOTHER RECORD

Saturday's world record blue marlin catch was a reminder of one of the Virgin Island's more unique assets, the sea around us and the teeming variety of life in its waters. The 1,282 pound blue marlin caught last Saturday represented the nineteenth world record catch to be made in Virgin Islands waters in the past 11 years, and highlights the area's well-deserved reputation as one of the foremost sport fishing centers of the world.

Deep sea fishing is an expensive sport and relatively few people participate in it, compared to such activities as golf or tennis. However, for enthusiastic anglers record catches such as that made Saturday are a powerful lure, and make the Virgin Islands an almost irresistible magnet.

Sport fishing being the kind of sport it is, it is difficult to accurately guage just how much it means to the economy. However, we suspect it means a great deal more than the average person might think. It provides direct jobs for the people who crew and service the boats, and who manage the marinas, but there's more to it than that. The food and drink fishermen consume, the hotels they stay in ashore, the purchases made to bring back home, and all the usual expenditures of the non-fishing visitor are economic influences over and above the fishing itself. Indeed, it could be said that, as a tourist, the fisherman is a better than average asset.

For a man to catch and boat a monster like Saturday's 1,282 pound blue marlin is a truly impressive feat, and it will focus the eyes of the fishing world on the Virgin Islands. Just as knowing that where there's smoke there's fire, so sport fishermen will know that where a giant fish like this is caught there are bound to be others as large or even larger. They will be right, too, and the Virgin Islands game fishing community will be looking forward to their coming down and looking for those big ones out there.

NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION STATEMENT ON MINIMUM WAGE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. FORSYTHE. Mr. Speaker, in the next few days we are going to be considering minimum wage legislation and I felt my colleagues would be interested in reviewing this indepth discussion by the New Jersey Business and Industry Association concerning the legislation before us.

The association's statement highlights some of my own reservations about the automatic increase in the minimum wage. One of my concerns, so carefully detailed by the association, is that small businesses would continually be placed in jeopardy and their very existence threatened. Another concern addressed by this statement is that as the minimum wage increases, those workers at the bottom of the wage ladder, primarily minorities and teenagers, are faced with unemployment because businesses have to reduce the employment of low-wage workers.

The statement by the New Jersey Business and Industry Association carefully documents the impact of the minimum wage proposal on the businesses in the State of New Jersey, as well as the impact on individuals across this Nation. I urge my colleagues to review the following document by the New Jersey Business and Industry Association:

STATEMENT OF THE NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION

The New Jersey Business and Industry Association, representing over 13,000 member companies throughout New Jersey, urges opposition to H.R. 3744 (Dent) currently before the House of Representatives.

The proposal would hike the Federal minimum wage from $2.30 to $2.65 effective January 1, 1978, and then again on January 1, 1979 to 52 percent of the average straight time earnings for manufacturing or an estimated increase to $2.89 per hour. On January 1, 1980, the wage would go to 53 percent of the then existing manufacturing rate and then each January 1 thereafter it would be recalculated at 53 percent of the existing average straight time rate. The provision of this bill automatically boosting the minimum wage whenever there is an increase in the average hourly earnings of production workers engaged in manufacturing would continually place small and marginal businesses in jeopardy and threaten their very existence. This is more than our current job hungry economy can properly digest at this time. At a time when the nation is already plagued with unemployment and the growing threat of another round of severe inflation, it is clear that Congress should not be considering minimum wage legislation that will only make matters worse.

Basically, we believe that a minimum wage should not be tied automatically to some sort of an index or average. A minimum wage needs to be carefully examined each time it is to be increased to assess its detrimental effect upon jobs. Each January 1, there would be businesses that could no longer continue to operate because of the higher minimum wage. Also, there would be employees in other establishments that would have to be laid off because their individual jobs would no longer be justifiable from an economic standpoint.

We firmly believe that the bill should not include an automatic January 1 adjustment. Any time an increase in the minimum wage is to be made, it should be the result of agreement by Congress who could examine the need and facts and then make a determination rather than have the increase take place automatically.

Although it may first appear that raising the minimum wage will lead to a more equitable distribution of income and help to lift the lowest-paid workers out of poverty, in fact, the opposite may be true. The key to understanding the negative effect of rising minimum wages lies in viewing the increases—not as a means to earnings growth for the worker—but as a potential rise in labor costs to the employer. In an effort to avoid the cost increase, the employer may take a variety of steps, including: automating some of the work (if the new minimum wage is high enough to make it profitable to substitute machinery for labor); organizing production methods more efficiently; changing the product mix; substituting skilled or experienced workers for the low-skilled (minimum wage) employees; or otherwise adapting operations to reduce the employment of low-wage workers. This leads to higher unemployment among those workers at the bottom of the wage ladder, primarily teenagers.

These people are gainfully employed now and unemployment or welfare is not the answer to present employment. With the minimum wage possibly going up on a regular basis, there is little hope for these unemployed or welfare recipients in permanently attaching themselves to the labor market.

Two well-known Nobel Prize winning economists, Professor Paul Samuelson (MIT) and Professor Milton Friedman (University of Chicago), who generally hold different views on most issues, are in full agreement over the adverse effect minimum wages have on employment. Professor Samuelson states that minimum wages "often hurt those they are designed to help." Furthermore, he, in effect, asked, what good does it do an unskilled, minority youth to know that an employer must pay him the minimum wage if the fact that he must be paid that amount is what keeps nim from getting a job? Professor Friedman recently said: "Without the minimum wage law, the least skilled could offer to work for low wages, which could provide an incentive for employers to hire and train him. It has always been a mystery to me why a teenager is better off unemployed at $2.30 per hour rather than employed at, say $2.00 per hour."

There are indications that hikes in the minimum wage in New Jersey have had the kind of effect mentioned by Samuelson and Friedman. Between 1971 and 1975, the unemployment rate among New Jersey teenagers increased from 10.3 percent to 21.6 percent and the minimum wage rose from $1.60 per hour to $2.20. In part, the doubling of teenage unemployment reflected a general rise in joblessness, but the teenage rate increased much faster than the adult rate. In 1971, the incidence of unemployment among teenagers was 1.9 times higher than it was among adults, but by 1975, it was 2.4 times higher.

The unemployment burden today falls heavily on minorities and teenagers. A report by the Council on Trends issued in 1976 showed that increasing the minimum wage means fewer and poorer quality jobs are available to teenagers. A 1970 study estimates that "legislated minimum wages reduced employment of 18–19 years olds by 15 percent, of 16–17 year olds by 27 percent, and 14 year olds by 47 percent." Increasing the minimum wage further will have a drastic effect on job opportunities for young people. It is a matter of economic fact.

The overall cost to the economy and the public at large far outweighs the claimed benefits for low-paid workers and their families. Ordinarily, people do not stay in minimum wage jobs; they normally progress to higher paying jobs as they acquire some skill and job openings occur.

The concept of a further increase in the minimum wage pinpoints a basic misunderstanding of economics. Wages are related to productivity and not to what an individual wants or needs to earn. Besides, the typical minimum wage earner is a teenager living at home—not someone attempting to support a family of four.

The New Jersey Business and Industry As-

sociation urges that you reject H.R. 3744 in its present form and that a modified approach be followed by eliminating the provisions for an automatic increase without the benefit of examination.

POLICE CHIEF JAMES MOCK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. MURTHA. Mr. Speaker, during the recent flood devastation in the 12th Congressional District, several individuals gave of themselves completely to help the flood victims and solve disaster problems.

One of those who I believe deserves praise in this journal of American and congressional history is Mr. James Mock. Mr. Mock is police chief of Richland Township outside of Johnstown.

During the flood Chief Mock was involved intensely in the supply and distribution of flood materials, serving food and meals to flood victims and individuals working on flood relief, coordinating emergency services that were available through Richland, coordination of rescue operations, and establishing a communications link during a time when communications into the area were virtually nonexistent. Literally, his life was directly endangered by a couple of his efforts.

Chief Mock worked long hours without sleep or relief. His community work was vital because of the location of Richland Township which made it a key link in coordinating efforts for Johnstown and other area communities.

I had the opportunity to work closely with Chief Mock, and I am very pleased to make these comments in recognition of his outstanding effort.

HOUSE OF REPRESENTATIVES—*Wednesday, September 14, 1977*

The House met at 12 o'clock noon.

Dr. Abraham K. Akaka, pastor, Kawaiahao Church, Honolulu, Hawaii, offered the following prayer:

Ma Ka Inoa O Ka Makua, Keiki, Kauhane Hemolele—Almighty God, under whose mercy and judgment all people rise and fall, let Thy guiding hand be upon our beloved Nation, like a loving carpenter's level, that President Carter, Speaker O'NEILL, Members of this House, and all who bear responsibility for the peaceful future of our world, can be faithful in our common stewardship of power, justice, and aloha. As new storms gather about us and our world, help all Americans exercise our puritanical responsibility for the whole social order, fulfill that responsibility in our private and public arenas, and thus give vital moral and political direction to our Nation and the nations.

Hear O America and planet Earth, the Lord our God is one Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. DR. ABRAHAM KAHIKINA AKAKA

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, it is with great pride and humility that I introduce my oldest brother, the Reverend Dr. Abraham Kahikina Akaka, pastor of Kawaiahao Church in the heart of Honolulu.

Kawaiahao Church, also known as the Westminster Abbey of the Pacific, has been graced with the prayers and supplications of Hawaii's royal families as well as of U.S. Presidents who have passed through the Hawaiian Islands.

Today, Kawaiahao's garden surroundings house some of the royal mausoleums and is the scene of the annual commemorative ceremonies paying tribute to the only monarchy which has ever existed in the United States. Each Sunday, it plays host to the many who come from near and far to worship in this noble house of prayer.

The "Kahu Akaka," as he is lovingly known to his parishioners is the first person of Hawaiian ancestry to receive a doctor of divinity degree as well as the first person of Hawaiian ancestry to serve as chaplain to the Hawaii State Senate. He had the distinct honor and privilege of delivering the statehood address in 1959.

Mr. Speaker, I include the Reverend Dr. Akaka's biography in the RECORD.

The material referred to is as follows:

THE REVEREND DR. ABRAHAM KAHIKINA AKAKA, B.A., D.B., D.D., L.H.D.

BORN

February 21, 1917—Honolulu, Hawaii; Mother—the late Annie Kahoa Akaka; Father—Kahikina Akaka.

EDUCATION

Pauoa School, Honolulu—1922–1928.

Kawananakoa School, Honolulu—1928–1931.

McKinley High School, Honolulu—1931–1934.

University of Hawaii, Honolulu—1934–1937.

Illinois Wesleyan University, Bloomington, Illinois—1938–1939. Graduated with a double major (Sociology and Music) in 1939; B.A.

World Conference of Christian Youth, Amsterdam, Holland; Delegate 1939.

Kawaiahao Church, Youth-Worker apprentice—1939–1940.

University of Chicago—Chicago Theological Seminary—1940–1943. Graduated with Bachelor of Divinity Degree, the first Hawaiian to receive this degree.

Harvard University—Graduate School of Business—Summer Seminary—1959.

MINISTRY AND HONORS

Served churches of West Kauai Larger Parish Council, 1943–1945, including Waimea Hawaiian Church, Waimea Foreign Church, Waimea Christian Church, Kekaha Chapel, Makaweli (Kaumakani) Religious Education program in cooperation with public schools.

Ordained to the Christian Ministry at Waimea Foreign Church, Kauai, on February 27, 1944.

Served churches of Central Maui for nine years—1945–1954, including Kahului Union Church, Kaahumanu Church, Waihee Protestant Church; Keawalai Church in Makena; Waikapu Hawaiian Church.

First President of the Kahului Town Association (Dream City). Named streets of the new town according to Hawaiian mythology and history.

Trustee—Mauna Olu Community College, Maui.

Served Haili Church, Hilo, Hawaii, three years, 1954–1957.

Called as Eighth Pastor of Kawaiahao Church—Mother Church of Hawaii, Westminster Abbey of Hawaii—beginning February 1, 1957.

Chosen Father of the Year in Religion, Honolulu, 1958.

Received Doctor of Divinity Degree from University of Chicago (Chicago Theological Seminary) in 1958.

Chosen as member of Danfath Seminar at Harvard University Graduate School of Business, summer of 1959—consisting of national leaders in the field of Labor, Management, and Religion.

Chosen to give Statehood Address at formal Service of Dedication of the State of Hawaii, held at Kawaiahao Church on March 13, 1959. Since then, more than 30,000 copies of the address have been printed in answer to requests from all over the world.

Received Honorary L.H.D. degree (Doctor of Humane Letters) from Salem College, Salem, West Virginia, in 1959.

Chosen to give the Auburn Theological Seminary Lectures at the Synod of New York, United Presbyterian Church in the U.S.A.—1960; at Hamilton College, New York.

Chosen to serve as Chaplain to the Territorial, then State Senate for two years, 1959–1960.

Chosen to officiate at Special Service of Recognition by the American Board of Commissioners for Foreign Missions, honoring Henry Opukahaia at his graveside in Cornwall, Connecticut, at the ABCFM's Sesquicentennial in October 1960.

1962 (Aug.) Saturday Evening Post feature article:—"Hawaii's Hustling Shepherd."

1962 David Malo Award—for outstanding Hawaiian

1962 Citizen of the Year—by Civitan Clubs of Hawaii

1962 Formed Council of Hawaiian Organizations to combat threats to Hawaiian people and their resources . . . and to plan for the future: Participating were Kamehameha Lodge, Kaahumanu Society, Daughters and Sons of Hawaiian Warriors, several Hawaiian Civic Clubs, Hale O Na Alii, Hawaiian Homesteads, and others.

1962 Led night march around Iolani Palace with Hawaiian torches to help defeat Maryland Land Law in the Senate. Reviewed the Booz-Allen Report on Kamehameha Schools, and met with Trustees of Bishop Estate to express Hawaiian response to this report.

Proposed an "Operation Hawaiian Uplift" by which Hawaiian People would cooperate in setting objectives for themselves, and use the resources they have (Bishop Estate and Kamehameha Schools, Hawaiian Home Lands, Liliuokalani Trust, Lunalilo Estate, etc.) to attain educational, domestic, economic, political, etc. objectives.

1963 Salesman of The Year Award—by Sales and Market Executives of Hawaii.

1963 Received Honorary L.L.D. degree (Doctor of Laws and Letters) from Illinois Wesleyan University, Bloomington, Ill.

1961–1963 Regent, University of Hawaii.

1963 Ke Alii Pauaki Award From Kamehameha Schools

1964 Chairman, Hawaii Advisory Commission on Civil Rights; NAACP award.

1964 Hollywood Bowl—Easter Sunrise Service sermon (3/28)

1965 Vesper Speaker: Oberlin University Series; Ohio

1965 National Society of Arts and Letters award for Outstanding contribution to field of Arts and Letters.

1965 National Historic Landmark Service—officiant (Initiated request for Landmark status for Kawaiahao).

1966 First Community Speaker of the Year Award by the Pacific Speech Association. (Feb. 19th)

1966 Dedication of Renovation of Kawaiahao Church and Grounds through gift from Lani Booth's Will. (7/25)

1967 Brotherhood Award (With Henry Kaiser and Dr. Max Levine) by Men's Club of Temple Emmanuel. (2/18)

1967 Keynote Speaker: Kiwanis International; Houston, Texas.

1968 Organized Friends of Kamehameha Schools to resist attempts to break the Will by Princess Bernice Pauahi Bishop establishing the Kamehameha Schools and prescribing her wishes for her people through the schools and estate. Entered case as Friend of the Court, and won favorable decision by the Hawaii Conference of the United Churches of Christ.

1970 Preached Sermon of Thanksgiving (April 19) for the safe return of our Astronauts (James Lovell, Fred Haise, John Swigert) on Apollo 13 at Kawaiahao—attended by President and Mrs. Richard Nixon.

1970 4–H "Alii of the Year" Award.

1970 (Oct.) Invited by Pres. Nixon to preach at the White House in 1971.

1970 Dedicated Mark A. Robinson Memorial Chapel at Kawaiahao on September 12th.

1970 Good Citizenship Medal, by the National Society of the Sons of the American Revolution.

1970 Photographed by Youssuf Karsh, at Kawaiahao, Dec. 31.

FAMILY

Married to Mary Louise Jeffrey of Denver, Colorado on July 22, 1944.

Have five children: Fenner-Marie, now Mrs. George E. Shupe (Lt.); Pualani Suzanne, now Mrs. Steven Kallstrom; Sarah Kahikina, student at the University of Hawaii; Sandra Komokana, student at Alfred University, Alfred, New York; and Jeffrey Lee, Graduate of Kamehameha Schools, accepted as Presidential Scholar at Case Western Reserve University, Cleveland, Ohio.

HOBBIES

Music and Surfing.

A STATEMENT BY PRESIDENT CARTER ON THE CLINCH RIVER BREEDER REACTOR

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker because Members of the House will be voting shortly on H.R. 6796, ERDA authorizations for civilian research and development, and because one of the issues on which we shall be voting is the Clinch River breeder reactor, I wrote President Carter a letter on September 1, 1977 seeking further information concerning his position on the Clinch River question.

I have received a response from the President and, Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD both my letter and the President's reply. I am sure that Members will read with keen interest what the President has to say on this important question.

The letters follow:

SEPTEMBER 1, 1977.

Hon. JIMMY CARTER,
President,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: As you know, the House of Representatives will shortly consider legislation containing an authorization for the Clinch River Breeder Reactor Project and other aspects of advanced nuclear technology research. Although I believe that most Members are aware that you have asked that no funds be authorized for further construction or licensing of the Clinch River facility, some of us are less clear on your views on how the nuclear research and development program for the breeder should be structured.

Because the Office of the Majority Whip has the responsibility for advising Members of the major provisions of legislation on which the House is scheduled to vote, I should be very grateful if you could let me have a statement clarifying your position on the major issues involved in this legislation.

Any comments which you feel would add to our understanding of your position would be most helpful.

With very best wishes.

Sincerely,

JOHN BRADEMAS,
Majority Whip.

THE WHITE HOUSE,
Washington, September 13, 1977.

Hon. JOHN BRADEMAS,
Majority Whip, House of Representatives, Washington, D.C.

TO CONGRESSMAN BRADEMAS: I am happy to respond to your recent letter requesting clarification of my views on the structure of our advanced nuclear research and development program, including the Clinch River Breeder Reactor.

Some, I think, have misunderstood the debate on the Clinch River Breeder Reactor—thinking that a vote for Clinch River is a vote for the breeder generally, and a vote against it means one is "anti-breeder". Those who make such an argument have overlooked the real issues.

I strongly support a vigorous research and development program for advanced nuclear technologies, including further work on the liquid metal fast breeder, research into alternative breeder cycles, and an accelerated R. & D. program for advanced non-breeder technologies. I am pleased that H.R. 6796, the ERDA authorization bill, contains funding for these projects. I believe this country needs to explore every reasonable energy option, including breeder technology, to ensure that we have the energy supplies needed to make the transition from oil and gas to other sources. My Fiscal Year 1978 budget request for advanced nuclear power research exceeds $700 million. These funds will assure that work continues on two important breeder R. & D. projects, the Experimental Breeder Reactor II in Idaho, and the Fast Flux Test Facility in Washington.

A light water breeder reactor using thorium has already begun operational tests at Shippingport under the direction of Admiral Rickover.

The Clinch River Breeder Reactor Project is an expensive, uneconomical and technically out-of-date facility which will add little to our understanding of how to design a commercial scale breeder reactor. It is not a necessary component of an effective R. & D. program.

In 1970, when the Clinch River facility was authorized, it was estimated to cost $450 million. Its total cost estimates now exceed $2.2 billion. When the CRBR was first designed, projections of the need for nuclear power were three times higher than they are today. It was justified as part of a crash program to bring commercial breeder technology into being in the early 1990's. Even without the savings anticipated by the National Energy Plan, current demand forecasts show that commercial breeder technology will be neither necessary nor economical in this country until after 2000.

If these circumstances change in the future there will be ample time to build a modern breeder reactor using up-to-date research knowledge.

I believe that spending the additional $1.4 billion required to complete the CRBR would be a wasteful and counter-productive use of taxpayer dollars. I look to you, and to your colleagues in the House, for assistance in placing our breeder reactor R. & D. program back on sound economical footing. Termination of the CRBR will help me to accomplish that goal.

Sincerely,

JIMMY CARTER.

JODY POWELL'S DIRTY TRICKS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. I have not made any statement about what has become known as the Bert Lance affair. I believe events speak for themselves and that the President has the responsibility to do what must be done in this case.

But I cannot in all conscience remain silent after reading a report that Presidential Press Secretary Jody Powell has engaged in what can only be termed dirty tricks.

According to a report published on the front page of the Washington Post today, Powell called two Chicago Sun-Times reporters and made unsubstantiated charges against Senator CHARLES PERCY. When the reporters checked these charges they discovered that they were false and, moreover, that Powell had passed on an allegation of wrongdoing on PERCY's part without checking the facts beforehand.

Senator PERCY happens to be the senior Senator from my State. I have known him for many years and admire him as a man of integrity. That Powell should stoop to this kind of sneaky and detestable conduct and then try to explain it away by saying it is business-as-usual and that he has passed on information about other figures to reporters is incredible.

The ivory-pure Carter White House has been caught playing dirty tricks. This kind of childish, prankster behavior is unbecoming of the White House and I think the President ought to impose some discipline on his youngsters and insist that Powell apologize to the senior Senator from Illinois.

JODY POWELL SHOULD APOLOGIZE

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, as one who was in Washington in another era during the early 1970's, I am acutely aware of how unfairness on the part of some within the Nixon administration damaged our country immeasurably. Unfairness saddened me then, and it still saddens me today.

I think the wild accusations that the President's Press Secretary, Jody Powell, made about Senator PERCY were uncalled for. I think it was a desperate attempt to divert attention from another issue and should be called for what it really is—a cheap shot. He should publicly apologize to Senator PERCY, to the Congress of the United States, and to the American people.

JODY POWELL SHOULD APOLOGIZE

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, I want to associate myself with the remarks that have just been made by my friend and colleague, the gentleman from Illinois (Mr. MICHEL) and my friend, the gentleman from Delaware (Mr. EVANS).

I have just noted the fact that the afternoon edition of the Washington Star quotes the President's Press Secretary, Mr. Powell, as saying that this was a "dumb mistake" on his part. It certainly was a stupid thing for him to do, but for him now that the damage has been done, or the attempt has been made to mar the reputation of one of the most honest and reputable Members of the other body. To try to excuse it simply as a "dumb mistake" does not measure up to the kind of full apology that we have a right to expect from the President's Press Secretary.

H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to repeal the credit against the minimum wage which is based on tips received by tipped employees.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. PERKINS. Mr. Speaker, I temporarily withdraw my motion.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 544]

Ambro	Gilman	Quayle
Andrews, N.C.	Hammer-schmidt	Quillen
Andrews, N. Dak.	Harrington	Rangel
Armstrong	Harsha	Risenhoover
Ashbrook	Heckler	Robinson
Ashley	Holland	Rodino
Badillo	Holt	Roe
Barnard	Holtzman	Rose
Beard, Tenn.	Jacobs	Rosenthal
Bolling	Jenrette	Rostenkowski
Brodhead	Johnson, Calif.	Runnels
Brown, Mich.	Ketchum	Russo
Brown, Ohio	Keys	Sarasin
Burgener	Kindness	Satterfield
Burton, John	Koch	Scheuer
Byron	Krueger	Schulze
Chappell	Lederer	Shuster
Cleveland	Levitas	Skelton
Collins, Ill.	Lloyd, Tenn.	Smith, Nebr.
Conyers	Long, Md.	Snyder
Cotter	Luken	Solarz
Coughlin	McDade	St Germain
Crane	McDonald	Stark
Daniel, R. W.	McEwen	Steed
Dent	McKinney	Teague
Derrick	Mahon	Treen
Derwinski	Martin	Trible
Dickinson	Meyner	Vanik
Edwards, Ala.	Milford	Walker
Eilberg	Minish	Walsh
Emery	Moffett	Waxman
Ertel	Moorhead, Pa.	Weiss
Fish	Mottl	Whalen
Ford, Tenn.	Murphy, N.Y.	Whitten
Forsythe	Nedzi	Wolff
Frenzel	Nowak	Wydler
Frey	Poage	Wylie
Giaimo	Pressler	Young, Alaska
Gibbons	Pritchard	Zeferetti

The SPEAKER pro tempore (Mr. WAGGONNER). On this rollcall 317 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON EDUCATION AND TRAINING OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. HANNAFORD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Education and Training of the Committee on Veterans' Affairs may be permitted to sit tomorrow, September 15, 1977, while the House is proceeeding under the 5-minutee rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PRESIDENT CARTER'S CHALLENGE

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, the Bert Lance affair has been disturbing to me, as I am certain it has been to the other Members of this body. The real tragedy of this, however, is just now unfolding; as the "Lance affair" is rapidly becoming the "Carter affair." President Carter promised the American people that he would not fall into the trap of being led down the primrose path by errant members of the White House staff. Instead we sadly now find that the President's top aides have concealed from him an important FBI report concerning a Cabinet member; are working to compile information of a damaging nature on possible opponents to the President in the next election; and now in this morning's paper, we find they have intentionally spread damaging rumors about a respected U.S. Senator in an effort to discredit him as he proceeds in the Lance investigation.

To summarize this, Mr. Speaker, we are hearing the words of "cover-up," "enemies lists," and "dirty tricks."

These words are ominous, Mr. Speaker, and what they hold for the President's future is very dim, unless the President acts and acts now to restore the public's faith that he is running the White House and not his staff. I sincerely hope he meets the challenge.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PHILLIP BURTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to provide for an automatic adjustment in such wage rate, and to repeal the credit against the minimum wage which is based on tips received by tipped employees.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3744, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it is with a note of nostalgia and some personal sadness that I find myself in a position of managing the minimum wage bill this year. During the whole period of time of my service in the House this legislation has been handled by our beloved and distinguished colleague, the gentleman from Pennsylvania, JOHN DENT. Among the many notable legislative efforts of this dear and great person is included his preeminent role in bringing to millions and millions of American working men and women the protection of the Fair Labor Standards Act.

Our efforts in this respect again this week will stand as a monument to our concern for the plight of the poor in our country, setting forth our determination that a greater measure of economic justice be brought to the low wage earners of our Nation. All of these things have

meant that countless millions of Americans and their famiiles have lived a little better and have enjoyed a little more fully the good things of life.

Much of this has resulted because of the efforts of JOHN DENT. He is recovering from his current illness very well, and I am sure he is with us in spirit as we deliberate this most important question.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to my distinguished colleague, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I would also like to add my voice to that of the gentleman in the well concerning our dear colleague, the gentleman from Pennsylvania, JOHN DENT, who is unable to be here and who has suffered so much in this illness. I know he understands how much we miss him and how much we wish him well. No one in this House is more beloved than that man.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to insert in the RECORD the membership list of the Coalition for a Fair Minimum Wage, as well as a letter explaining their very active support of the committee bill, H.R. 3744:

COALITION FOR A FAIR
MINIMUM WAGE,
Washington, D.C., July 25, 1977.

Hon. JOHN H. DENT,
U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE DENT: On behalf of the Coalition for a Fair Minimum Wage, I strongly solicit your vote for the badly needed improvements in the federal minimum wage contained in H.R. 3744.

The Coalition is composed of 119 national church, civil rights, labor, youth and women's organizations, representing 40 million Americans. It was formed earlier this year immediately after President Carter's initial proposals on minimum wage improvements were announced.

It was our united opinion that those proposals would not meet the needs of America's minimum wage workers, who were the chief victims of a recession they neither created nor could cure. We met with the President, presented him with the facts and the logic of our case for a more substantial increase.

The results of our discussion with the President and subsequent meetings with his advisers are the substance of the bill before the House. It is clearly less than we sought, and clearly more than the President initially proposed, so it is, in every sense of the word, a compromise.

But it is a compromise that will substantially improve the lot of America's minimum wage workers—many of them young, black or women. It is a measure that will enable them ultimately to come above the poverty level, decrease their need to seek public welfare supplements to their wages in order just to exist and to maintain some sort of a wage ratio to the rest of the economy.

In weighing your decision, I urge you to keep in mind the characteristics of minimum wage workers demonstrated by a study conducted by the Department of Labor in 1969–1970, during a Republican Administration. This study, conducted to determine age, sex, race and number of dependents of workers found to be paid in violation of the minimum wage provisions of the Act in the course of investigations, showed:

Two in five were primary wage earners.

One in two was a female.

Over one-third were 40 years old and over and a similar proportion were teenagers.

Forty-five percent worked in non-metropolitan areas.

Almost two-thirds were found in the South and almost one-fourth in the North Central region.

One in four had two or more dependents.

Almost three in four were employed in a retail trade or service establishment.

One in five was a black. Over one-half of the blacks were primary wage earners compared with less than two-fifths of the whites. Black workers were generally older than whites—less than one-fifth were teenagers while over two-fifths were age 40 and over. Almost nine out of ten blacks were employed in the South.

From my own knowledge, and that of my colleagues in the Coalition, I can safely attest that the situation today is worse than it was when the study was conducted. Clearly justice calls for prompt and remedial action.

Finally, I want to state our unalterable opposition to the amendment we understand the opponents of minimum wage intend to offer on the floor—an amendment to create a substandard wage for teenagers.

The contention that such an amendment would increase employment among teenagers, now tragically high, is completely without foundation. What would society gain if a black teenager were hired at a lower minimum wage to replace his father or mother?

The youth organizations that are members of the Coalition are particularly outraged at the subminimum proposals. They resent the proposition that the only way they can be employed is at the expense of older workers; they reject the implication that their labor is of such little value that they should be paid less than other workers doing similar work; they fear that, as soon as they passed a certain age level they would, in turn, be fired so that their juniors could have jobs.

So, as a matter of simple justice and on behalf of all my colleagues in the Coalition for a Fair Minimum Wage, I urge you to vote against all crippling amendments and for passage of H.R. 3744.

Sincerely,

CLARENCE MITCHELL,
Chairman, Leadership Conference on Civil Rights.

LIST OF MEMBERSHIP OF THE COALITION FOR A FAIR MINIMUM WAGE

Advisory Committee:

Richard Alatore, California Assembly.

Anthony Biondiliilo, Congress of Italian-American Organizations.

Audrey Colom, National Women's Political Caucus.

Nelson Cruikshank, National Council of Senior Citizens.

Eunice Fiorito, American Coalition of Citizens with Disabilities.

Ellis R. Gomez, Cuban-American U.S. Army Veterans.

Msgr. George G. Higgins, U.S. Catholic Conference.

Vernon Jordan, National Urban League.

Coretta Scott King, Martin Luther King Center for Social Change.

Gene Lynch, Frontlash.

Olga Madar, Coalition of Labor Union Women.

Theodore Mann, National Jewish Community Relations Advisory Council.

James Murakami, Japanese-American Citizens League.

Kathleen O'Reilly, Consumer Federation of America.

Maria Portalatin, Price, Inc.

Saul Rosen, American Veterans Committee.

Bayard Rustin, A. Philip Randolph Institute.

Eleanor Smeal, National Organization for Women.

Gloria Steinem, Ms. Magazine.

Luther E. Tyson, Department of Economic Life, United Methodist Church.

Carmen Delgado Votaw, National Conference of Puerto Rican Women.

Roy Wilkins, NAACP.

Douglas A. Fraser, United Automobile Workers.

Participating Organizations:

AFL–CIO.

A. Philip Randolph Institute.

Amalgamated Clothing and Textile Workers Union.

Amalgamated Meat Cutters and Butcher Workmen.

Amalgamated Transit Union.

American Baptist Churches, USA National Ministries.

American Coalition of Citizens With Disabilities.

American Council of the Blind.

American Federation of Musicians.

American Federation of Teachers.

American Jewish Congress.

American Postal Workers Union.

American Veterans Committee.

American Women's Clergy Association.

Americans for Democratic Action.

Association Nacional Pro Personas Mayores.

Bakery & Confectionery Workers International Union.

Board of Church and Society, United Methodist Church.

Building Trades Department, AFL–CIO.

Center for Community Change.

Center for National Policy Review.

Christian Methodist Episcopal Church.

Church of the Brethren.

Church Women United.

Coalition for Black Trade Unionists.

Coalition of Labor Union Women.

Communications Workers of America.

Concerned Seniors for Better Government.

Congress of Italian-American Organizations.

Consumer Federation of America.

Federation of Organizations of Professional Women.

Friends Committee on National Legislation.

Frontiers International, Inc.

Frontlash.

Food and Beverage Department, AFL–CIO.

Graphic Arts International Union.

Hotel and Restaurant Employees' and Bartenders' International Union.

Insurance Workers International Union.

International Association of Iron Workers.

International Association of Machinists.

International Brotherhood of Electrical Workers.

International Brotherhood of Painters & Allied Trades.

International Brotherhood of Teamsters.

International Chemical Workers Union.

International Ladies' Garment Workers Union.

International Printing & Graphic Communications Union.

International Union of Bricklayers & Allied Craftsmen.

International Union of Electrical, Radio and Machine Workers.

International Union of Operating Engineers.

Iota Phi Lambda Sorority.

Japanese-American Citizens League.

Jewish Labor Committee.

Labor Council for Latin American Advancement.

Laborers' International Union.

National Alliance of Postal & Federal Employees.

National Association for the Advancement of Colored People.

National Association of Community Health Centers.

National Association of Human Rights Workers.

National Association of Negro and Professional Women's Clubs.

National Association of Puerto Rican Civil Rights, Inc.

National Association of Real Estate Brokers.
National Association of Social Workers.
National Bar Association.
National Black Sisters' Conference.
National Catholic Conference for Interracial Justice.
National Center for Urban Ethnic Affairs.
National Coalition for Hispanic Mental Health and Human Services Organizations.
National Conference of Catholic Charities.
National Conference of Puerto Rican Women.
National Congress of Hispanic-American Citizens.
National Consumers League.
National Council of Catholic Men.
National Council of Catholic Women.
National Council of Churches.
National Council of Jewish Women.
National Council of Negro Women.
National Council of Senior Citizens.
National Education Association.
National Farmers Union.
National Federation of Licensed Practical Nurses.
National Federation of Settlements and Neighborhood Centers.
National Jewish Community Relations Advisory Council.
National Office for Black Catholics.
National Organization for Women.
National Post Office Mail Handlers Union.
National Rural Housing Coalition.
National Student Lobby.
National Urban League.
National Women's Political Caucus Network.
Oil, Chemical and Atomic Workers.
Operation PUSH.
Pioneer Women.
Puerto Rican Legal Defense Fund.
Recruitment and Training Program.
Retail Clerks International Association.
Retail, Wholesale and Department Store Union.
Rural Housing Alliance.
Service Employees International Union.
The Newspaper Guild.
Transport Workers Union.
Union of American-Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
United Association of Plumbers and Pipe Fitters.
United Automobile Workers.
United Brotherhood of Carpenters and Joiners.
United Farm Workers.
United Mine Workers.
United Paperworkers.
United States National Student Association.
United Steelworkers.
Upholsterers' International Union.
Washington Research Project.
Women's Equity Action League.
Women's Lobby.
Workmen's Circle.
Young Women's Christian Association.

Mr. Chairman, I would like to insert in the RECORD, letters from the Congressional Black Caucus, from Mr. Clarence Mitchell to Economist Andrew Brimmer, and from the Committee for Equal Treatment for Youth in the Minimum Wage. These letters express clear opposition to any youth subminimum, and endorse the committee bill, H.R. 3743:

CONGRESSIONAL BLACK CAUCUS,
Washington, D.C., July 28, 1977.

AUGUSTUS F. HAWKINS,
Co-Chairman, CBC Economy/Full Employment Subcommittee

DEAR COLLEAGUE: The Congressional Black Caucus has spoken strongly in favor of an increased minimum wage indexed to the average manufacturing wage and supports passage of no less than the $2.65/hour minimum wage contained in the Committee bill. The Caucus is also firmly opposed to any differential minimum wage for youth, which we believe would be harmful to youth and to adult workers.

Fundamentally, the problem of unemployment cannot be solved and should not be addressed through the minimum wage. Attempting to play off one major principle and protection against another will result in harm to both. Full employment must be attained through positive economic policies which increase productivity and economic growth. The minimum wage must ensure a decent living wage for those who work. Before and after the Fair Labor Standards Act was passed in 1938, attempts have been made to blame periods of high unemployment on the minimum wage. The evidence has never sustained the claim.

The question of a differential wage for youth deserves special attention—and opposition. In the first place, a subminimum wage for youth puts young people in competition with adults, harmful competition which undercuts the protection of the minimum wage for adults. Parents and children are to be played off against each other, under the differential youth wage, in a competition for jobs.

Further, there is no firm evidence that even a major lowering of the wage standard for youth results in more than a minimal increase in employment for youth. The Black youth unemployment rates hovers near 40 percent by official statistics, higher by the testimony of many leaders. The problem cries out to be addressed directly. Certainly lowering the minimum wage for youth will not cause a major change in that situation.

We call on our colleagues to pass the Committee minimum wage bill and to recognize, as the recent events in New York City underlined, that it is time to move now to institute a full employment economy.

Sincerely,

PARREN J. MITCHELL,
Chairman.

COALITION FOR A FAIR MINIMUM WAGE,
Washington, D.C. July 22, 1977.

Dr. ANDREW F. BRIMMER,
President, Brimmer and Co., Inc., 2101 Connecticut Avenue, NW., Washington, D.C.

DEAR DR. BRIMMER: A comparison of the conclusions expressed in your letter, transmitting a Study on Minimum Wage Legislation and Employment to members of Congress, with the study itself raises doubts about which came first—the study or your conclusions. As you know, I received your views in a personal letter from you but was too shocked to answer them immediately.

While you personally assume responsibility for the overall study, conducted by Dr. Bernard Anderson of the Wharton School of the University of Pennsylvania, the conclusions in your transmittal letter go considerably beyond the study results. The study itself leans heavily on a California survey of the restaurant industry which economists and statisticians tell me is unscientific and unreliable.

A comparison of a statement in Chapter 6 of the Anderson study—"Concluding Comments: Evidence and Policy Debate"—with a related statement in your covering letter suggests an anti-minimum wage bias on your part. Dr. Anderson is careful to state, "There is evidence to support the position of both sides of the debate" (re: employment effects of minimum wage legislation).

In your covering letter you concluded: "Our review of the accumulated evidence suggests that, as the statutory minimum wage has risen, the adverse impact on the level of employment has become progressively noticeable." I fail to see how this conclusion flows from the study or from the evidence which "supports both sides of the debate."

To continue with the study, Dr. Anderson says:

"With specific reference to youth, the data suggests that, on balance, minimum wage legislation has been *somewhat* detrimental to employment. How much cannot be measured accurately but a reasonable *inference* is *that further increases in the minimum wage will not ease the burden of higher youth unemployment, especially for minority youth.*" (Emphasis added).

After allowance is made for all the hedgewords—the study builds a straw man and then knocks it down. We have always maintained that "jobs" are the answer to the unemployment situation for teenagers as well as for older workers and the minimum wage was never intended to be a vehicle for easing the burden of high youth unemployment. Job creation programs do that.

Minimum wage increases have benefited those at the low-end of the wage scale, who have little or no bargaining power, and these benefits have been achieved with only few isolated adverse effects, according to the findings of Secretaries of Labor in both Republican and Democratic Administrations.

The California survey by the National Restaurant Association laws claim to have been designed to measure scientifically the economic impact of eliminating the tipped credit provision in the Fair Labor Standards Act. Instead, it starts with a biased sample and reaches unbelievable conclusions. I find it hard to believe that either you or Dr. Anderson would rely on a study in which the sample of independent restaurants was drawn from California subscribers to *Hospitality* magazine, and in which the survey questionnaire directed multi-unit independent firms to complete the questionnaire for *one unit of their choice.*

These two examples alone should indicate how far this study is removed from acceptable statistical standards of sample design and objectivity. I find it difficult to understand how either you or Dr. Anderson would take such a study at face value unless you preferred to overlook these facts because you found the results to your liking. We did not find it surprising that the National Restaurant Association concluded that the study confirmed their fears—they got exactly what they paid for. What we do find surprising is the fact that Dr. Anderson and you would uncritically repeat "the findings" from such a study.

Dr. Anderson does provide himself and you with an "out" by qualifying the California study with such phrases as "if the survey results are representative." I note you picked this phrase up in your letter, but you failed to determine whether, in fact, the sample was representative or the results reliable—an omission that in my opinion, destroys the point you try to make in your letter.

I could continue to cite errors in the study made for the National Restaurant Association and undocumented conclusions in your covering letter, but, I think that would be pointless.

It is obvious from your letter that you speak for business, and have little or no concern for low-wage workers and teenagers, both black and white. Your June 26 interview on the American Black Forum confirms this view.

I hope blacks and young people were in the viewing audience. I find it difficult to believe that black people, in general, and black teenagers, in particular, would choose you as their advocate after hearing you oppose putting people to work on public works projects at a "minimum wage that is well beyond what these persons could earn in the marketplace."

Unfortunately, you have lent your name and reputation to those businesses who have

always sought to exploit low-wage workers, particularly blacks and other minorities, women and teenagers. I hope those that read your letter will reject its plea to make black youths sub-standard citizens in the job field.

Sincerely yours,

CLARENCE MITCHELL,
Chairman.

COMMITTEE FOR EQUAL TREATMENT FOR YOUTH IN THE MINIMUM WAGE,
Washington, D.C., September 7, 1977.

Hon. JOHN H. DENT,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE DENT: As representatives of national student organizations, we urge you to reject amendments for youth subminimum wage rates now scheduled for a House vote in September.

Resolutions supporting the full minimum wage for students and for youth were passed at the July meeting of 26 statewide student associations in Columbia, Missouri and in August at the 30th Congress of the National Student Association in Houston, Texas.

We urge you not to "trade off" youth for the rest of the minimum wage bill!

We would like to bring your attention to the following facts about youth and student wages:

First, the most likely effect of an across-the-board youth subminimum wage rate would be displacement of older wage earners who have family responsibilities.

Second, "Six-month youth subminimum" would be an across-the-board subsidy to employers because: (1) most youth jobs currently turn over in less than 6 months, or, even worse, (2) a 6-month provision would encourage employers to replace youth after 6 months.

Third, under current law, employers obtain certificates of exemption, and thus pay subminimum wages to hundreds of thousands of high school and college students. U.S. Department of Labor's Wages and Hour Division issued a total of 42,000 certificates enabling employers to hire 575,000 students at subminimum rates for part-time work during the school year, and full-time during vacations. These certificates covered 145,000 jobs in retail and service establishments, 281,000 in colleges, and 127,000 in sheltered workshops. The rate of utilization remains at about 50 percent of job slots authorized, with the utilization rate higher for institutions for higher education. But please bear in mind that over 50 percent of the 11 million students in colleges, trade and technical schools are over 22, many of them supporting families.

Fourth, under current law employers doing less than $250,000 in business are exempt from minimum wage coverage. Thus, small employers (normally with up to 25 employees) already have leeway to hire high school students, out-of-school youth, college students or adults at subminimum rates, without filing for certificates at all.

Fifth, for a student in college or trade/technical school, over 80 percent of whom work full-time or part-time, based on a survey of freshman students, (Astin, American Council on Education) it is becoming harder to work one's way through school than it was a generation ago. Most students work at—or near—the minimum wage, and their wages and hours pay for a smaller percentage of rapidly rising education costs than they did 20 years ago.

In 1956 the minimum wage was $1.00 and average tuition/fees at a 4-year public college were $142 and at a private college, $495. In 1976 the minimum wage had risen to $2.30 (130 percent increase), while average public tuition increased to $578 (a 307 percent increase) and private tuition increased to $2240 (a 353 percent increase). (See U.S. Office of Education estimates, 1963, and College Scholarship Service, Student Expenses at Postsecondary Institutions, 1975–76.) Thus, a student who worked at the minimum wage for 10 weeks in the summer of 1956, and who was able to save half his or her $400 earnings, was able to meet 40 percent of tuition costs at a private college. In 1976, however, a similar student saving half of $920 earnings was able to meet less than 20 percent of tuition costs. Likewise, for paying for public college tuition.

Seventh, a college student today who is applying for financial aid (and over 55 percent apply for Federal grants, jobs and loans) is expected to "save" $500 each summer from earnings. It is obviously impossible to save $50 per week out of a $90 per week gross wages under subminimum wages. And, few students can save that amount under $107 per week gross wages which would result from a $2.65 minimum.

Eighth, youth employment legislation, welfare reform and public employment legislation can create more jobs for youth than even the most optimistic "econometric" models claim can be created by lowering the wage rate. And, they do it by creating jobs with a decent wage floor, not by pitting youth and students against older workers in low-paying industries. The 200,000 plus jobs to be created—over a four-year period—by the recent youth employment legislation is a step in the right direction. These programs not only provide a decent wage rate, but also job supervision, opportunities for job advancement, and for further education.

Thank you for your concern about the crucial problems faced by youth seeking employment today. If you have further questions, please let us know.

Sincerely,

LARRY BATEMAN,
President, Student
National Education Association.
FRANK VIGGIANO,
President, U.S.
National Student Association.
FRANK JACKALONE,
Executive Director,
National Student Lobby.
ANDRE BURNETT,
Third World Coalition,
U.S. National Student Association.

Mr. Chairman, because of the irresponsible lobbying being conducted by the U.S. Chamber of Commerce, I am inserting in the RECORD the committee's analysis of the chamber material. It repudiates the chamber analysis and points out the inaccuracy of its data base, as well as the selective use of documentation. In spite of this repudiation, the chamber, as late as Monday, was again distributing similar information to the Congress. I would suggest that such activity is contemptuous of the Congress, and urge your complete disregard of the material.

Also included are two critiques of the chamber analysis as submitted to the Senate Labor Subcommittee by Mr. Sar A. Levitan, Center for Social Policy Studies, and Prof. Walter Galenson, the Jacob Gould Schurman Professor of Economics at Cornell University.

The Chamber of Commerce Study: The State By State Impact Analysis:

On March 16, 1977, the Chamber of Commerce presented a statement on H.R. 3744, the Fair Labor Standards Amendments of 1977, before the Subcommittee on Labor Standards of the House Education and Labor Committee. In its statement, the Chamber charged that the Dent bill would "eliminate over 2 million full- or part-time jobs in the private sector—equivalent to 1½ million man-years," and "increase consumer prices by about 3 percent."

In addition to the overall U.S. estimates, the Chamber presented detailed figures by race and age and sex of worker. In its State-by-State impact analysis, they presented not only national estimates but projected figures on job losses, labor cost increases, and consumer price increases for each of the 50 States. This document was later distributed to the Congress.

Because of the committee's concern that any new law not cause unemployment or other economic adversity, the committee investigated the document. The errors are so pervasive that it is necessary to devote a portion of the report to clarifying the wrong information before the Congress. Please note that the studies refer to H.R. 3744 when introduced. H.R. 3744 included an earnings index of 60 percent and a tip credit repeal provision. These studies are *not* on the bill as reported.

DOCUMENTATION

While the chamber document purports to be a "technical analysis," it lists no sources for the basic data. Nor does it include a statement on methodology. It does cite as references an August 1976 paper by Jacob Mincer, "Unemployment Effects of Minimum Wages," Journal of Political Economy, vol. 84, No. 4, part 2, and a 1976 paper by Edward M. Gramlich, "Impact of Minimum Wages on Other Wages, Employment and Family Incomes," Brookings Papers on Economic Activity, 1976 II.

After a considerable amount of investigation, it appears that the Chamber related the two studies cited above to population numbers in regional economic projections series (REPS 76–R–1), prepared by the National Planning Association (June 1976). There is no reference to this series in the Chamber documents and the NPA was not aware that their data were being used by the Chamber of Commerce. There appears to be no other possible source for the base figures.

JOB LOSS ESTIMATES

The Chamber used certain ratios developed in the Mincer article, cited above, to estimate numerical job loss. However, the estimates of job loss cited by the Chamber are more than twice as great as the Mincer ratios would yield. Clearly, the Chamber derived job loss estimates by applying Mincer's ratios to population rather than employment figures. This error results in more than doubling the job loss estimates. A letter from Mincer to the committee documents such an error and is later printed for the record.

Furthermore, the Chamber relied heavily on the Mincer study as being the "best study available." The Chamber apparently defines "best" as that study which produces the largest adverse impact of minimum wages. The Gramlich study, also cited by the Chamber, presents estimates which are significantly smaller than Mincer's. Furthermore, Gramlich hedges on adverse effects of minimum wage legislation. Gramlich states:

"The results . . . give one ambiguous but probably negative verdict on increases in the minimum wage (for teenagers), one fairly clear positive verdict (for adult males), and one very clear positive verdict (for adult females)."

(A letter from Gramlich, to the committee refuting the study is also later printed for the record.)

Therefore, while Mincer's study indicates that a proposed minimum wage increase would mean job losses for women, Gramlich lists women as the "main beneficiaries" of the minimum wage increases. In terms of teenagers, the Mincer study implies job losses which are seven times as large as the Gramlich estimates. Both studies largely ignore the actual record of the 40-year history

of the minimum wage legislation. They are based on theoretical models and the results reflect the built-in assumptions.

LABOR COST INCREASES

The Chamber gives no methodology but obviously based its cost estimates on adding the cost of a "ripple effect" to the direct cost of raising the minimum wage. The cost estimates, therefore, include the estimated cost of raising to the proposed minimum wage the wages of workers paid less than the minimum—plus the cost of an arbitrary ripple effect for wages above the minimum. The Chamber assumes this cost to be equal to 25 percent of the direct cost of increasing the wages of those paid less than the proposed minimum. If the so-called ripple effect is excluded, the Chamber's figure on labor cost increase becomes .7 of 1 percent instead of 2.9 percent. By way of comparison, the Department of Labor estimates the wage bill impact to be .4.

This built-in ripple effect on wages throughout the wage structure is contrary to findings in all Labor Department studies. These studies showed indirect or ripple effects to be minimal and to be confined to those workers being paid at or within a few cents of the proposed minimum.

CONSUMER PRICE INCREASES

Carlson's estimates of consumer price increases—or inflation effects—presumably are based on Gramlich's paper as Mincer has no such data. However, Carlson's projected increase in CPI resulting from the proposed minimum wage increase is more than double the Gramlich estimate.

Because of the unreliability and distortions in the Chamber studies, and because the authors essentially refute what the Chamber has done, the committee does not accept as valid the Chamber findings.

In a letter to the chairman of the subcommittee John H. Dent, Gramlich stated:

"I agree with you that the Chamber made some rather blatant assertions. From their footnote (1), I can't tell what they think is the best study available. If they think it is Mincer's, they are wrong—that is the second best. Mincer does not have any inflation estimates in his article—that they must have gotten from my paper (I know of no other) and their estimate is much too high—the CPI should increase by about 1.3 percent from your bill (I think even that is too much for the economy, as I said in my testimony, but I would not blame a 2.9-percent increase on your bill). The Mincer article does have employment estimates higher than any other respectable article, but the Chamber's numbers are much too high for even his paper. A consensus estimate is that the 44-percent increase in the minimum will lower teenage employment by about 5 percent, about 370,000 workers, and raise the teenage unemployment rate by less than 5 percentage points because some workers will drop out. There should be little effect on adult employment. Where they get a loss of 2 million job opportunities and 700 layoffs is a mystery to me—Mincer wouldn't have predicted anything like that.

As you know, I have some problems with the large increase in the minimum you are proposing, but I clearly agree with you that the Chamber's numbers are way off."

In a separate letter to the subcommittee, Mincer reports that:

"To return to my example, all you need to do is to ask Dr. Carlson whether he applied the 1.8 percent to employment or to population figures. Employment is right, population wrong."

CHAIRMAN DENT'S ADDITIONAL RESPONSE

As late as Monday, the U.S. Chamber of Commerce was once again distributing a purported "analysis" on the State-by-State economic effects of the proposed minimum wage bill. It came as a surprise to me because this material has already been thoroughly discredited, and proven technically unacceptable; it is obviously thus designed as a scare tactic to encourage your vote against H.R. 3744.

But for the audacity of the Chamber, the study should be an embarrassment to them. The Chamber's latest effort is a recapitulation of the earlier discredited distribution—a complete critique of which is contained in the committee report at pages 19–22. The Chamber claims to have made changes in response to our earlier criticisms, but, aside from a few undocumented numerical adjustments, the only significant alteration we can discern is the omission of any acknowledgment of reliance on Prof. Edward Gramlich's academic study as a basis for their own analysis. This is no coincidence. Initially the chamber relied heavily on the Gramlich study, but Gramlich, in a letter to the subcommittee—also contained in the committee report—dissassociated himself from the Chamber analysis, pointing out that the Chamber "made some blatant assertions", and adding, "there should be little effect—by the bill—on adult employment. Where they, the Chamber, get a loss of 2 million job opportunities is a mystery to me—the Chamber's numbers are way off." Yet, that is precisely the forecast the Chamber continues to make despite the fact that they have long been on notice with respect to the dramatic infirmities in their analysis. It is irresponsible lobbying at its best, and truly reflects a contempt of the Congress sufficient to justify complete repudiation.

The letters follow:

CORNELL UNIVERSITY,
Ithaca, N.Y., August 22, 1977.

Senator HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: This is in reply to your letter of August 9, inviting comment on the testimony of Dr. Jack Carlson on the proposed amendments to the Fair Labor Standards Act.

There is nothing in Dr. Carlson's statement, or in the additional information prepared at the University of Chicago, that would cause me to alter the conclusions in my own testimony. Dr. Carlson's estimates, as well as those of Graves et al., are based upon a study by Professor Jacob Mincer. The model developed in that study is a very interesting one, but it is too aggregative and too general to be useful for policy conclusions, in my view.

As I indicated in my statement, this is the problem with almost all recent analytical work on the economic impact of the minimum wage. Results are bound to be conflicting because of differences in the way variables are chosen and specified. Thus, studies by Douglas Adie and Thomas Moore conclude that minimum wage increases lead to substantial disemployment for teenage groups, but Moore's coefficients are double those of Adie's. On the other hand, Hyman Kaitz and Michael Lovell, in equally careful studies, find little if any disemployment impact by the minimum wage.

The Gramlich model cited by Dr. Carlson is not consistent with that of Mincer. Not only does it yield much lower disemployment effects, but its conclusions are by no means unambiguous, since Gramlich states that "disemployment does not seem sufficient to negate the benefits to low-wage workers of higher minimum wages."

In a recent article, Professor John Dunlop writes of the "vast distances—as if they were in millions of light years—that in [his] experience separate academic analysis from effective policy decisions and performance.

Tests of the elegance, coherence, and generality of economic and industrial relations models and theories are intellectually exciting and challenging, but their relevance and application to policy making is scarcely within the reach of most researchers." These strictures apply, in my opinion, to most of the recent academic work on minimum wages, and non-academics like Dr. Carlson who use the results for their purposes do so at their peril.

We have had forty years of experience with the Fair Labor Standards Act. No one has been able to demonstrate with any degree of certainty that maintaining the minimum at 50 percent of the average industrial wage has led to inflation, unemployment, or any other economic catastrophe. On the other hand, there have been considerable benefits to many people at the lowest income levels of our society. There is no reason to believe that the amendment proposed in S. 1871 will produce effects different from those of similar amendments in the past. It is on this pragmatic basis that I support them.

Sincerely yours,

WALTER GALENSON.

GEORGE WASHINGTON UNIVERSITY,
September 12, 1977.

The Honorable HARRISON A. WILLIAMS, Jr.,
Chairman, U.S. Senate, Committee on Human Resources, Washington, D.C.

DEAR SENATOR WILLIAMS: The presentation of the Chamber of Commerce of the United States to the Senate Committee on Human Resources contains serious flaws. The testimony of Dr. Jack W. Carlson, Robert T. Thompson, and Louis P. Neely, as well as the Chamber of Commerce comment as the AFL–CIO critique, and the two brief papers by Philip E. Graves, Ronald J. Krumm, and George S. Tolley (all with the University of Chicago) leave unexplained the bases of the Chamber's dire predictions about the potential unemployment impact of the pending Senate bill to amend the Fair Labor Standards Act. My conclusion is that the Chamber's concerns and fears reflect its ideology rather than reliable and sound analysis of data.

The Chamber's analysis does not appear to follow standard research practices. To permit the reader a critical examination of the methodology and conclusions, it is necessary first to spell out equation-by-equation including the underlying assumptions, which permit scrutiny of the economic model under consideration. The next step, is to outline in detail the specific sources of data to be used. Only then can the derived findings have any credibility. The Chamber's presentation falls short on these essential elements thereby denying the interested reader an opportunity to critically examine its conclusions. Judgments about the Chamber findings must therefore depend in part on speculative exercises.

It appears that the Chamber has relied upon Professor Jacob Mincer's model as a starting point ("Unemployment Effects of Minimum Wages", Journal of Political Economy, August 1976). It then readjusted the Mincer calculations using unspecified U.S. Census series as a data base. The readjusted results are apparently based on the work done by Graves, Krumm and Tolley of the University of Chicago ("New Estimates of the Effects of Minimum Wage Increases," June 15, 1977). The final product presents some serious problems.

1. Mincer's original estimates of the disemployment impact of minimum wages are

much higher than the findings by Finis Welsh ("Minimum Wage Legislation in the United States", Economic Inquiry, September, 1974, pp. 285–318); James F. Regan, Jr. ("Minimum Wage Legislation and the Youth Labor Market", Center for the Study of American Business, Working Paper 8, Washington University, 1976); and Terrence F. Kelley ("Youth Employment Opportunities and the Minimum Wage: An Econometric Model of Occupational Choice," Working Paper 3608–1, Urban Institute, February 1976).

2. Not only does the Mincer study contain one of the highest estimates of potential job loss due to minimum wages, but the actual job loss ratios assumed by the Chamber are in many cases even higher than the updated version by University of Chicago researchers who raised the Mincer estimates. The Chamber started out with an estimate (i.e., Mincer) which is higher than most studies, and then further boosted the estimated use in unemployment due to increased minimum wages. The inflated Chamber job loss estimates appear to be even higher than those derived by the University of Chicago researchers. For example, Dr. Carlson stated that increasing the minimum wage to $2.65 could result in a loss of 830,000 jobs. However, the University of Chicago economists estimate that an increase in the minimum wage to $2.85—or 20 cents above the Chamber figure—would result in job loss of 724,000.

3. It should be noted that the job loss estimates contained in most studies are far less accurate for adult workers than for teenagers. The Chamber appears to have taken certain estimates for teenagers and extrapolated them for the entire labor force. As the American Enterprise Institute noted in a recent legislative analysis:

"There are very few studies providing quantitative estimates of the effects of higher minimums on adult employment. This deficiency is due to the lack of acceptable continuing data on low-wage adults; data on all teenagers contain a large proportion of low-wage teenagers, while data on all adults do not. The few existing studies give a very wide range of estimates of the effects on adults; there is no 'emerging consensus' about the sizes of effects in these studies, as there is in the teenage studies." (American Enterprise Institute, Minimum Wage Legislation, June 1977, p. 15).

4. Similar to its job loss estimates, the Chamber does not list its methodology or data sources behind its increased labor cost estimates and increased consumer price predictions. Until more information is given, I do not know how these estimates were derived. However, they are at the high end of most estimates that I have seen.

5. In the very few places where an assumption employed is listed, I find myself in disagreement. For example, Graves, Krumm and Tolley state: "It is an accepted principle that payment to an input can be expected to approximate its contribution to output." In plain English this means that a worker's wage will be equal to how productive he or she is. This is not an accepted principle as far as many economists are concerned and, indeed, few economists would maintain that marginal productivity controls wage rates in the short run. True, in many cases, workers do receive a fair wage in the sense that they are compensated in relationship to the value society places upon their line of work and productivity. However, in the real world many workers are the victims of discrimination or are trapped in low wage labor markets.

Given the uncertain methodology, questionable assumptions and unspecified data sources, I have little confidence in the conclusions reached by the Chamber of Commerce of the United States about the presumed ominous consequences of the pending minimum wage legislation. My impression is that the Chamber predictions reflect more value judgments than sound economic analysis.

Sincerely,

SAR A. LEVITAN.

Mr. ERLENBORN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I want to join with the gentleman from California (Mr. PHILLIP BURTON), who just spoke in the well, in his comments about our good friend, the gentleman from Pennsylvania, JOHN DENT. I am sure that we are all very sorry that he has not been able to be with us for several months and is not here today to manage this very important piece of legislation relative to amendments to the Fair Labor Standards Act.

I have served in this body for 12 years, and for about 11 of those 12 years I have served on the Committee on Education and Labor with JOHN DENT. JOHN has been the chairman of the Subcommittee on Labor Standards, and I am the ranking minority member on the committee. We have worked very closely on major pieces of legislation in the past, including the minimum wage legislation and the Employee Retirement Income and Security Act of 1974. It has always been a joy to work with our friend, JOHN DENT. I know we all miss him and wish him a speedy return to health and a speedy return to this body, where we hope he will soon be able again to undertake his duties with us.

Mr. Chairman, if the gentleman from Kentucky (Mr. PERKINS) would like, I would be happy to yield to him.

Mr. PERKINS. Mr. Chairman, I want to thank the distinguished gentleman from Illinois (Mr. ERLENBORN) for yielding.

Mr. Chairman, it goes without saying that there is something missing in this body when we bring a minimum wage bill to the floor without the gentleman from Pennsylvania, JOHNNY DENT. JOHNNY DENT has spent many months in untiring efforts in developing this bill. All of us know how hard he has worked over the years to enact fair and equitable minimum wage legislation.

I want to compliment the distinguished gentleman from Pennsylvania (Mr. DENT) for his untiring work over a period of years, for his skill and his fairness. I really regret his absence today. I wish him a speedy recovery, just as every Member in this House wishes him a speedy recovery.

I certainly want to congratulate the distinguished gentleman from Illinois (Mr. ERLENBORN) for the contributions he has made in this area. Even though there may have been differences between us at times, they have always been honest differences.

Mr. Chairman, today we are considering the revision of a law enacted during the New Deal era, a law which through 39 years has touched the rank-and-file American working man and woman more directly than any other piece of labor legislation. I refer, of course, to the Fair Labor Standards Act of 1938, which sets the Federal minimum hourly wage rate applicable to close to 52 million employees in America, mandates premium overtime pay at 1½ times the regular rate for work performed in most cases in excess of the 40-hour standard workweek, proscribes oppressive child labor, and contains the Federal statutes on related laws such as the Equal Pay Act of 1963 and the Portal-to-Portal Act of 1947.

Mr. Chairman, the original Fair Labor Standards Act of 1938 was not just another piece of New Deal legislation, though the conditions of the Great Depression certainly played a role in its development. The thrust behind that law really arose out of the concerns of the men and women of conscience in the 19th century—men and women from industry and trade unions, from the church, from settlement houses, and from the workplaces across America. Men and women who wrote, spoke, organized, and helped direct the attention of the American establishment to the plight of the working class, and to build within the workers themselves a sense of hope.

These advocates of the "fair labor standards" were a diverse group, conjuring up scenes that were not always bright and hopeful. For example, in her autobiography, the fabled Mother Jones, who in her 80's and 90's was still active as an organizer among the miners of Kentucky, West Virginia, and other parts of the Nation, who was often referred to as the "Angel of the Miners," recalled a visit to a textile mill during the early 1900's:

> Little girls and boys, barefooted, walked up and down between endless rows of spindles, reaching thin little hands into the machinery to repair snapped threads. They crawled under machinery to oil it. They replaced spindles all day long, all day long. . . . If they fell asleep, cold water was dashed in their faces, and the voice of the manager yelled above the ceaseless racket and whirl of the machines.

In that era, men, women, and children competed in the industrial marketplace, pitted against each other on the basis of their "cheapness" in a scramble for an opportunity to work.

When the economic and social costs of such exploitation became obvious, individual States began to enact legislation against child labor and for the protection of women workers. However, because of poor enforcement, and because of a ruling by the U.S. Supreme Court in 1923 that such laws were unconstitutional, individual State efforts to provide fair standards of work seemed fruitless. It was not until 1937 when the U.S. Supreme Court sustained a Washington State law in the landmark case of West Coast Hotel against Parrish that the door was opened for further legislation. Finally, the Federal Government saw the need for national legislation. President Franklin D. Roosevelt signed the Federal Fair Labor Standards Act into law on June 25, 1938. He thus fulfilled the commitment implicit in his 1937 second inaugural address when he stated:

> The test of our progress is not whether we add more to the abundance of those who

have much. It is whether we provide enough for those who have too little.

The new Federal law did several things. First, it extended minimum wage coverage to men as well as to women "engaged in commerce"; second, it set a phased-in statutory minimum wage rate commencing at 25 cents an hour on October 24, 1938, and rising in stages to 40 cents an hour on an industry-by-industry basis, within a 7-year period; third, it provided for premium pay for work in excess of a set standard workweek; fourth, it placed restrictions on the employment of children which became the child labor laws under section 12 of the act; and fifth, it set special standards for learners, apprentices, and handicapped workers.

The original act, however, was limited in scope with large numbers of workers either excluded or exempted. Many workers in various occupations and industries did not enjoy the protection of the coverage either as to wages or overtime or both. Since 1938, the statutory minimum wage rate and the coverage of the law has been amended on several separate occasions. In 1949, the wage rate was increased from 40 to 75 cents; in 1955, to $1; in 1961 to $1.35; in 1966 to $1.60; and in 1974 to $2.30 in various steps. In the 1974 changes, the two-tiered wage rate system in which the minimum wage rate applicable to agricultural workers was less than the rate for other covered workers, was eliminated by phasing out the difference over 4 years. In addition, the amendments expanded the general coverage bringing increasing numbers of workers under the law, eliminated or phased-down exemptions as industries gradually adjusted to coverage, and most important, recognized, although often belatedly, that inflation had eroded the purchasing power of those paid at the minimum wage rate.

Mr. Chairman, the House Committee on Education and Labor, after serious and intensive deliberation and study by its Subcommittee on Labor Standards, has reported to the House a finely drafted and well-thought-out measure that will mark a historic milestone in labor legislation.

Before going further, Mr. Chairman, I feel I must comment again upon the very serious and hard work done on this bill by our colleague from Pennsylvania, Mr. JOHN DENT. He spent untold hours listening to witnesses, consulting with representatives of industry, business, labor organizations, scholars and academicians, economists and Government specialists, seeking to put together the fairest and most workable package that it was possible to devise. He worked on this bill as few Members have ever worked on any piece of legislation, and to him should go most of the credit for the bill we are considering here today.

I regret, as, I know, do all of you, the disability that makes it impossible for him to be here today, and I anxiously hope that he will soon recover from his latest surgery. Were he here today, he would be leading this debate. As it is, I know he is watching what we are doing from his hospital bed and applauding our efforts.

In addition, I must comment on the energy and competence which Mr. BURTON has demonstrated in getting this bill ready for House consideration in less than 2 weeks' time. He has, of course, always been a hard-working member of the subcommittee. But in his efforts to get this bill reported to the House, he has demonstrated great ingenuity and leadership. He has worked to solve all problems with imagination and reasonableness. He is to be complimented.

Last, I must comment upon the cooperation which Mr. BURTON and I have received from Mr. QUIE and other members of the minority. Mr. QUIE, particularly, although he has not invariably supported and does not now support all provisions of the bill, has throughout its consideration demonstrated a wholesome and constructive attitude that made it possible for the full Education and Labor Committee to report this measure to the floor as quickly as we have. He was in this matter, as he always is, a useful and effective member of our committee.

Mr. Chairman, few of the concepts we will discuss today are really new. Indeed, it is interesting to look back through the records of hearings conducted in the past and see how often the same witnesses appear, expressing the same hopes and the same fears. It is also interesting to note that while the distinguished gentleman from California (Mr. BURTON) of the Subcommittee on Labor Standards, was an early advocate of indexing the minimum wage, and while our subcommittee chairman, the distinguished gentleman from Pennsylvania (Mr. DENT) was among the first to include minimum wage indexing in a legislative proposal, the concept was strongly recommended by a Republican colleague in 1949 hearings. At that time, the late Senator Robert Taft of Ohio urged that the Federal minimum wage rate be indexed at 55 percent of the average hourly wage in manufacturing. I am happy to say that while it is 28 years later, and while our proposal indexes the minimum wage at a much more conservative percentage, we are finally on the verge of enacting a bipartisan concept of indexing in our bill, H.R. 3744.

Mr. Chairman, H.R. 3744 deals with questions of vast economic importance. It deals with the lives and welfare of those workers least able to speak out in their own behalf. It deals with the working poor—those who, although employed on a full-time basis, even performing arduous tasks, receive wages so low as to provide them with just a bare subsistence which, in many cases, must be supplemented by food stamps, welfare assistance, or other income maintenance programs.

Briefly, Mr. Chairman, H.R. 3744 will establish a minimum wage for covered workers, a floor below which it would be socially and economically unacceptable to allow people to work. The comment of the U.S. Supreme Court in sustaining the Washington State statute on minimum wages in 1937, makes this dramatic point:

> There is an additional and compelling consideration which recent economic experience has brought into strong light. The exploitation of a class of workers who are in an unequal position . . . is not only detrimental to their health and well-being but casts a direct burden for their support upon the community. What these workers lose in wages, the taxpayers are called upon to pay. The bare cost of living must be met.

A low minimum wage, Mr. Chairman, is, in effect, a cost-of-labor subsidy to the employer, for what is not paid for by the employer in the form of a living wage will be paid for by the taxpayer through welfare costs as well as social costs.

It is in this context that I urge my colleagues to support the provisions of H.R. 3744.

This bill will raise the Federal minimum wage rate to $2.65 per hour from the present $2.30 rate, effective January 1, 1978.

Thereafter, the Federal minimum wage rate will advance annually under a system of indexing.

Then, for the first time in the law's 38-year history, this bill will make it possible for the statutory minimum wage rate to automatically progress in tandem with the increases in wages of the larger industrial work force. The minimum wage rate will be geared to the annual straight-time national average hourly earnings figure for production and nonsupervisory manufacturing workers.

After the initial increase to $2.65 an hour, workers at the lower range of earnings will no longer be subject to the 4- and 5-year legislative lags imposed upon them by the current system. Their wages will no longer be eroded by a ravenous cost-of-living index in the years Congress does not act to increase the minimum rate. Providing for an automatic adjustment in the Federal minimum wage will help advance planning and better management by affected employers. They will be able to plan their operations on a year-to-year basis rather than be subjected to legislative inaction for long periods of time followed by the sudden and frequently large statutory changes in the minimum rate which can be disruptive as well as costly.

Mr. Chairman, the initial 15-percent increase in the Federal minimum wage rate proposed in this bill, which, if enacted, will go into effect on January 1, 1978, merely reflects the rise in the rate of inflation over the past 2 years. The new rate-setting system proposed in H.R. 3744 will keep the eroding effects of inflation to a minimum.

Therefore, it is urgent that we act quickly and forthrightly to correct the inequities heaped on our low-wage workers and equally on employers by an outdated system.

On January 1, 1979, the minimum wage rate will automatically be raised to reflect 52 percent of the annual straight time average hourly rate earned by production and nonsupervisory workers in manufacturing, a rate estimated to be set at $2.89 per hour. On January 1, 1980, the statutory rate would be set at an estimated $3.15 per hour to reflect 53 percent of the average hourly earnings

in manufacturing for the expired June-to-June base year. After January 1, 1980, the indexing formula would remain fixed at 53 percent of the average hourly earnings of manufacturing employees.

It should be emphasized, Mr. Chairman, that the indexing formula is very conservatively drawn in H.R. 3744. First, we are referring to a "straight time" hourly earnings figure which excludes overtime or incentive pay. Second, the indexing formula does not take into account pension, health and welfare, or other fringe benefits provided manufacturing workers. Third, the base period upon which the indexing formula is fixed extends from June through June of the year preceding the year of the increase. Thus, the bill provides for a 6-month lag between the end of the base period and the effective date of the new annual minimum wage increase.

H.R. 3744 also proposes other changes in the current law which will be amply described by the gentleman from California (Mr. BURTON) and other members of the committee.

Let me say again, Mr. Chairman, that the bill before us is the product of intensive effort on the part of the Subcommittee on Labor Standards as well as the full Committee on Education and Labor. I am particularly grateful to the members of the minority, and especially Mr. QUIE, who have worked diligently with the majority throughout the past years on this legislation. I believe we have written a proud new chapter in the history of fair labor standards by drafting this highly equitable and responsible legislation. I commend it to the whole House and urge quick passage in order to meet our obligation to the millions of low-wage workers who are looking to this Congress for relief from the oppressive weight of continuing inflation.

Thank you, Mr. Chairman.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, what the preceding speakers have said is true: The gentleman from Pennsylvania, Mr. JOHN DENT, has been a champion in this House for the workingman in America. I certainly will have to say at this time that he is very ably represented in the person of the gentleman from California (Mr. PHILLIP BURTON), who is handling this bill today.

Mr. Chairman, I think that this bill is so important to so many small wage earners of America that certainly we in the Congress must pass this legislation today and give these individuals who are struggling on very, very small incomes a little bit better shake.

I am delighted that I am in the Congress at this time so as to be able, through debate, to support an increase in the minimum wage.

It was not so long ago that I worked for the minimum wage, so I know the struggle and I know the difficulty that men and women have with low incomes.

Mr. Chairman, that is the basis for my presentation here to the Congress today. Let us just remember the little guy on the street, the man or woman who works every day, perhaps in a factory or maintenance or somewhere else, whatever the job may be, including on a farm. These persons have very little income but are required to pay the same price for a loaf of bread that we in the Congress making $56,000 a year or someone else up in the galleries or whatever their postion is in life have to pay.

Mr. Chairman, I think that if we keep these factors in mind, certainly there will be no problem when the votes occur on the various amendments and on the bill itself.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Rhode Island. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, the bill before us today will have a severely negative effect on many of the seasonal recreational and theme parks located throughout this country, including Six Flags Over Texas which is in my district.

Section 13(a)(3) of the Fair Labor Standards Act presently exempts seasonal amusement and recreational parks from the overtime and minimum wage provisions of the act. This exemption—which has been in effect since 1966—was enacted, because it was felt that certain recreational parks present a very special situation, because of their seasonal nature. It was drawn very narrowly to include only those parks which are open for business for less than 7 months every year or three-fourths of whose annual receipts fall within a 6-month period.

As a result of this exemption, these recreational parks have been able to make thousands of jobs available to young people every summer—jobs which would otherwise not be filled, because of their unsuitability or lack of attraction to older workers and which, in many instances, might not even exist. At the same time, this exemption also makes it economically feasible for these parks to offer literally millions of families first-class recreation at a reasonable price.

Section 7 of H.R. 3744 would remove this exemption for seasonal amusement parks if they are owned by—or affiliated with—other unrelated businesses that collectively have annual revenues of over $100 million. It is my understanding that this provision was intended to deal with certain agribusiness conglomerates. However, it would also apply, unfortunately, to seasonal recreational parks.

If these parks were to fall under minimum wage and overtime provisions of the law, their only option would be to try to offset these added expenses in some way. It has been estimated that what we are talking about here is a $14 to $15 million increase in cost per year among these parks based on a $3 minimum wage. The alternatives they would be forced to consider would be to hire fewer young people, to raise ticket prices, or to turn to increased automation and mechanization where possible, such as installing automatic loading devices and vending machines—or a combination of all these.

For those who ask why these parks need an exemption, since they are part of a large company, I would like to say that these seasonal parks all operate independently of their parent company. I am told that none are subsidized, and they are essentially left alone to stand or fall on their own merits.

Of the recreational parks which meet the criteria of this exemption, at least 13 which are affiliated with conglomerates will be affected by section 7 of this bill. I would like to take the liberty of listing these parks, because I know that most of you will be familiar with—and have probably visited—at least one of them, so you will have some idea what type of park I am talking about. They are: Mariott's Great America in California and Illinois, Six Flags Over Georgia, Six Flags Over Mid-America in Missouri, King's Island and Sea World in Ohio, Carowinds in North Carolina, King's Dominion and Busch Gardens in Virginia, Hershey Park in Pennsylvania, Opryland in Tennessee, and in Texas, Astroworld and Six Flags Over Texas.

By way of additional background, I would like to tell you a little about Six Flags Over Texas, which is in my district. Six Flags hires 3,700 seasonal employees every summer. All of these are high school or college age youngsters with 80 percent between the ages of 16 and 18. I might add here that every summer there is a line several blocks long in front of the Six Flags employment office made up of young people who are eager to work in the park. This year alone, there were 9,000 applications for the 3,700 available jobs.

It is easy to understand this interest if you have ever talked with one of these youngsters. Although the beginning wage for an individual who has never worked at Six Flags is $2.05 an hour, the park's management provides many extras. In addition to clean uniforms daily, subsidized meals, free use of the facilities, and free family passes, these young people are also eligible for many other benefits. There are organized activities such as a softball league, Olympic Days, after-hours concerts of big-name entertainers who appear at the park, and summer "flings"—after-hours parties where the park is open solely for the fun and enjoyment of its employees, as well as trips to other theme parks.

The park's management has also provided abundant opportunities for young people to advance by instituting a talent recognition and management development program designed to promote employees to leadership positions. You may be interested to know that some of the youngsters who started at Six Flags running a ride, now hold high administrative positions there or in other similar theme parks.

Although one does not have to be a full- or part-time student to obtain a job at Six Flags, a scholarship program also exists. As a result of this program 20 to 40 scholarships of $500 each are awarded every year to park employees, based on performance.

These various benefits, activities, and programs are typical of the 13 parks which would be impacted by this legislation.

It is my belief that these seasonal parks have made a tremendous contribution to the lives of the young people they hire every summer, and I feel it would be a tragedy if they were forced to change their employment practices as a result of this legislation.

In an effort to correct this situation, I will be offering an amendment to this bill which will eliminate from the coverage of section 7, the seasonal recreational parks which are presently exempt, so that they will be able to continue operating as they have in the past.

I hope the Members of this body will be able to support me in this effort.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MICHAEL O. MYERS).

Mr. MICHAEL O. MYERS. Mr. Chairman, I would like to express my support for the legislation before us as reported by the Education and Labor Committee.

As a member of the subcommittee which has responsibility for the Fair Labor Standards Act, I have attended hearings, read studies, and heard from many knowledgeable persons regarding changes in the law. I have witnessed the thought and hard work which have gone into this legislation, and I feel that it is a good bill, that it treats with great foresight and practicality a very important problem: poverty.

We have read in the report and we have heard many statistics on the status of the low-wage earner. We have heard that a worker earning the present minimum wage of $2.30 an hour cannot support his family of four above the poverty level. We have also heard that it would take a minimum wage of $2.96 an hour in order to equal poverty level income.

But what is even more relevant to me is the status of the low-wage earner in my home State of Pennsylvania. It is more profitable for a family of four in Philadelphia to be on welfare than for the head of the household to work full time at the minimum wage. Even when we raise the wage to $2.65 an hour, that family will make less than if it were on welfare. The head of the household with three dependents, working at a minimum wage of $2.65 per hour for a 40-hour week, would earn $106 per week—or $424 per month—before taxes. That same family of four on welfare would be eligible to receive an allowance of $360 per month plus an additional benefit of $170 in food stamps for $100 in cash. Therefore, with $360 in welfare and $70 in free food stamps, the family would receive $430 per month—tax free. Is this how we want our labor system to work? Do we really want people to be discouraged from working rather than encouraged?

When the Fair Labor Standards Act of 1938 was enacted, its objective was to eliminate working conditions detrimental to maintenance of a healthy and generally adequate minimum standard of living.

It seems clear to me that although we have made great progress in this country toward reaching that goal, we are still far from achieving it.

That is why I support this bill. It does not immediately bring every low-wage earner up to the poverty level, but it does help them catch up. It does not promise any immediate solutions to the problem, but it does introduce indexing, a logical and fair system of increases which should bring minimum wage earners to the poverty level income by the mid–1980's.

It is also with the original objective of the act in mind that I object to proposals for establishing a youth differential. I feel that such a standard would contribute to, rather than ease the critical problem of unemployment, because it would encourage the displacement of older workers, head of households, and minority groups.

Certainly Congress has been aware of the problems confronting young workers looking for jobs. That is why in 1961 the act was expanded to permit the employment of students at 85 percent of the minimum wage in retail and service establishments, and that is why the student differential was further expanded in 1966 and 1974. It remains intact in H.R. 3744.

When the subcommittee considered amendments to the act we read study after study on the youth differential. The theme that ran through most of these studies was that a subminimum wage for youth would not generate additional jobs. It appears that the total number of jobs are fixed and, therefore, teenagers can only be employed at the expense of other workers.

Furthermore, it seems that such a provision would not, as in the purpose of the law, provide protection for workers. It appears, in fact, that it would primarily help the employer by allowing him to maintain a less costly work force. According to a study done by the Congressional Research Service, teenage workers have a relatively high quit rate. This means that under the youth differential amendment which has been introduced, each time a young person quits his job, that establishment can hire a replacement at subminimum rates again. With high quit rates it means that many establishments can make extra profits at the expense of older workers not hired because of higher wage rates.

It seems to me that a better solution would be to stop setting one group of workers against another and to use our vast resources to solve the overall unemployment problem and in the course of so doing, solve the teenage unemployment problem.

I, therefore, urge Members to vote against the youth differential and to pass the Fair Labor Standards Amendments of 1977 as reported by the Education and Labor Committee.

Mr. ERLENBORN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to debate H.R. 3744. At this moment I am not going to say whether I will vote for the bill or against it. I think that the determination as to how I vote on final passage will depend on how the bill is amended during the 5 minute rule period tomorrow.

Mr. Chairman, the bill before us amends the Fair Labor Standards Act, will increase the minimum wage, which is now at $2.30 an hour for most workers, to $2.65 on January 1 of next year and then will introduce a new concept to the Fair Labor Standards Act and the minimum wage law, by indexing the wage to 52 percent in January of 1979, and then at 53 percent in January 1980. Each year thereafter, without any further action of the Congress, from now on, on the first day of January each year the minimum wage will be adjusted by this automatic indexation.

In addition, Mr. Chairman, the bill will reduce the tip credit which is now applicable to the wages required to be paid to employees who receive part of their compensation by way of gratituities, or tips, reduce that from its present 50 percent which is now at $1.15 per hour while the wage is at $2.30 an hour and, in stages, reduce it to $1 an hour and then freeze it.

The gentleman from California who offered that amendment in committee was very honest with us in saying he would rather really repeal the tip credit altogether; and that, of course, is the pitch that was made by Mr. Juliano, the head of the union representing the waiters, waitresses and bartenders.

I think it is very interesting to note, however, that the only testimony we had in favor of reducing or eliminating the tip credit did come from the leader of this industry, or from the leader of this union in that industry. No real rationale has been given for eliminating the tip credit or reducing it, except to say that tips really are not part of income. The Department of the Treasury thinks tips are part of income because they make employees pay income taxes by including their tips with the other wages that they receive.

As a matter of fact, the testimony from the AFL–CIO, which was very sketchy on this point, indicated that they wanted to eliminate the tip credit because they thought that all employees should get the minimum wage and that it ought to be paid by their employer. They hinted that these employees were getting something less than the minimum wage, when actually the evidence before our committee shows the tipped employee regularly received in total compensation three or four times the minimum wage, making $6, $8, some of them $10 per hour, in the combination of tips plus direct wages paid by the employer.

I think there is no real evidence before our committee, no good rationale, either to reduce or eliminate the tip credit. The gentleman from Minnesota (Mr. QUIE), the ranking Republican on the committee, will offer an amendment during the 5-minute rule tomorrow to restore the tip credit as it is in the current law. I will support that amendment, and I hope that it will carry.

In addition, Mr. Chairman, this bill is marked by a lack of something that I think should be in the bill. For many years many Members of this House have fought for the inclusion of a youth dif-

ferential or youth opportunity wage to encourage the hiring of young people. There is considerable evidence from the economists who have studied the effect of the minimum wage to prove that there is a disemployment effect caused by the minimum wage when young people who are marginal in the economy, who have no developed skills, no developed work habits, whose worth economically may be less than the minimum wage, seek employment, particularly in an economy such as we have today where high unemployment exists.

The fact that these young people are prohibited by law from working at a wage they might be willing to work for means that by law we prohibit them from gaining employment, gaining training, gaining work habits that will serve them well in the future. As a result, there is woefully high unemployment among our young people.

Mr. Chairman, the Bureau of Labor Statistics' recent figures relative to youth unemployment should give us all cause for concern. Unemployment generally among young people is reaching or exceeding 15 percent, but the disadvantaged young people, minority groups, have over 40-percent unemployment. This is totally unacceptable, and it is in part caused by the present minimum wage and will be exacerbated if we increase the minimum wage without making an allowance for these young people.

Mr. Chairman, during the 5-minute-rule amending stage tomorrow, the gentleman from Wisconsin (Mr. CORNELL) will offer a youth opportunity wage or youth differential wage amendment. I am joining with the gentleman from Wisconsin (Mr. CORNELL) and the gentlemen from Illinois (Mr. SIMON and Mr. ANDERSON) in cosponsoring the youth opportunity wage. This will encourage the hiring of young people. It will provide that students who now under the current law have a differential will be able to have a differential that works. The current student differential limits the jobs to service and retail. It limits the employers to those numbers of students that he can get certified through application to the Department of Labor, and the application of a rule in the law relating to historic experience reaching back to the year 1964. The Cornell-Simon-Erlenborn-Anderson amendment will eliminate the limitations of service and retail, will eliminate the historical limitation as to the numerical, the numbers of young people who can be hired, and will allow all students, regardless of age, who are full-time students to be employed at the rate of 85 percent of the otherwise applicable minimum wage.

For other young people up to the age of 19 for the first 6 months of their employment by the employer they could be hired at 85 percent. When the wage goes to $2.65, as I suspect that it will, this means with the differential they will be able to be hired at a rate of about $2.25, a 40-percent differential from the otherwise applicable minimum.

I hope that amendment will be adopted.

Mr. Chairman, I also will offer an amendment during the markup tomorrow, and I think this is the most important amendment. The current bill introduces this new concept of indexing the minimum wage. It substitutes a mindless, thoughtless rule for the future in place of what I think our constituents have a right to expect from us, which is the exercise of our good judgment from time to time as to what legislation ought to be. Instead of having the Congress look from time to time at the economic conditions, the rate of unemployment, the rate of inflation and other factors in the economy and then deciding whether and how much the minimum wage should be increased, the concept of this bill is to substitute as I say, an indexing formula that will ever drive the minimum wage up. I say this is surrender to the concept that inflation is a way of life for the future.

There was a most interesting article in the Wall Street Journal just this week, Monday, September 12, by Lester C. Thurow. This gentleman was writing about indexing as it already is in our economy through negotiated contracts and through private action, and he makes some very basic points as to the effect of indexing. He says:

> Imagine that the inflation rate has been running at 6 percent per year. If the inflation rate of the past year was 6 percent, then every price and wage will go up by 6 percent this year due to the legally mandated price and wage increases. But the legally mandated increases lead to a 6 percent rate of inflation this year. Hence with escalators the rate of inflation will also be 6 percent next year. Tight monetary and fiscal policies can reduce demand and increase the quantity of idle resources, but they cannot reduce the rate of inflation.

In other words, if the Congress adopts indexing as a policy for the minimum wage, it signals to both labor and management that they should adopt indexing for all wages. Then if we do adopt this we are locking in inflation to at least the same rate of inflation as last year. If the rate of inflation increases however to 7 percent, then the rate of indexing will go to 7 percent, which will cause 7 percent inflation that year and every year hence. In other words, indexing locks in inflation and allows it to grow but never to diminish. If we adopt indexing as a way of life, that means our rate of inflation today which is 7 percent will never be lower but it can be higher.

How high might it be? Well, it is very interesting to see that the index that is proposed in this bill, which is 53 percent of average hourly wages in manufacturing, if it were in effect today would be affected by an inflation rate in those wages of 8½ percent. The average wages in manufacturing are at a rate 1½ times higher than the increase caused by inflation generally. That means when inflation this year is 7 percent and next year is 7 percent, the minimum wage under this index will go up at 8½ percent, which will lead inexorably to an 8½-percent rate of inflation generally and probably a higher rate of increase than the minimum wage under this index.

Mr. Chairman, if this bill is passed with the index of the minimum wage, as I say, it will signal a surrender by this Congress and by this administration to inflation as a way of life and to inflation that cannot be reduced. It will mean that whatever other policies we may want to initiate, monetary policies, fuel policies, can have little or no effect on cooling the economy.

I hope that this House will have the good sense not to raise the white flag of surrender to inflation. I hope that they will adopt the amendment that I will offer. I will offer an amendment that will raise the wage rates in three steps over 2 years.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ERLENBORN. Mr. Chairman, I yield myself 1 additional minute.

Mr. ERLENBORN. Mr. Chairman, it will be $2.65 next year, $2.85 in January of 1979 and $3.05 in January of 1980.

This compares with the anticipated increase under the index of $2.65, $2.90 and $3.15. In other words, the wage rate will go up slower than it will be fixed and it will also force the Congress to look again at the question of the minimum wage after the year 1980, rather than indexing it for every year thereafter.

I would hope that amendment would be adopted. If those three amendments I have described are adopted, I will vote for the bill. If they are not, I will find it very difficult to cast a vote in favor of this bill.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, with my colleagues, I want to pay tribute really to the gentleman from Pennsylvania, Mr. JOHN DENT, who is not here and to wish the gentleman well as he recovers. The gentleman from Pennsylvania was one of the first influences on my behavior in the House. We became friends and have remained friends. I think the gentleman knows that my prayers and the prayers of everyone in this House are with him as he faces these difficult times.

Mr. Chairman, as we decide this bill and as we consider it under the 5-minute rule tomorrow, there are certain things I would hope my colleagues would bear in mind. I think there are some general facts, some general developments in this country, which have to be considered as we look at this piece of legislation.

The first genuine concern that I have, which will temper my thinking on the minimum wage bill, and certainly affect it, is the growing disparity in America between the haves and the have nots. This is not necessarily on a racial basis, although that does exist; but I am talking generally on an economic basis.

The poor and the working poor move further and further away from those who are becoming more and more affluent. I suggest that that is not the kind of America that our Founding Fathers envisioned. That is not the kind of country which is going to preserve the democratic process—it cannot, if we permit this

growing economic gap between the haves and have nots in America to continue.

I think that this piece of legislation affects, in a positive fashion, that problem. It does not solve it. It does not begin to solve it, but at least it says, "We have got some concern for you who work every day, put in your 40 hours or 50 hours, and end up not really being able to take care of your families, while you see all around you the manifestations of luxury in America."

I think that is wrong. I think it is wrong that a head of a household who works for 40 hours at a minimum wage, as my colleague suggested, ends up really with $92 take-home pay for his family. I think that is inexcusable. There is no one in America who could say that this is right, or proper, or just.

This bill will address that condition. Whenever I speak on the floor, I always like to try to rely on my own past experiences, and I am relying on those past experiences when I consider the subminimum wage. As a youngster aged 16 or 17, like so many Members in this Chamber, I had to work. One of my jobs was in a shipping department. Everyone else in that shipping department was over 21 except me. I was a kid. I did the same work, put in the same hours; the same demands were made on me for performance as were made on the others, but I was paid significantly less simply because I was young. I was paid significantly less for doing the same job, meeting the same demands as those other 8 or 10 guys who worked in that department. I tell the Members, I seethed with resentment over that when I found out. When I found that out, I was so angry that bad relationships between me and my coworkers started to develop simply because I had been discriminated against on the basis of my youthful age.

Subminimum wage is wrong. Given the present state of unemployment in America and the rather bleak picture for the future, I ask the Members, is it fair to put any youth in a position where he might replace his father on a job simply because an employer always can hire the son at a lower wage? Is it fair really to create that kind of antipathy between working people, a situation in which I might have to say, or somebody else might have to say to his father, "Look, Dad, you had the job but I am going to get it. You are going to be removed because they can hire me for less."

We do not want that. I would suggest to the Members, as we debate the bill and as we consider it under the 5-minute rule tomorrow, that they let those concerns guide their thinking. I support the bill. I will resist, and I hope many or all of the Members of the House will resist, any efforts at crippling amendments to this bill, because every one of those amendments that I know about would simply act to perpetuate the disparity between the working class poor and the more affluent in America.

Mr. Chairman, I am pleased to rise in support of the Fair Labor Standards Amendments of 1977. I am totally committed to supporting the increase in the minimum wage. I receive daily calls and letters from my constituents in Baltimore City and others from across the Nation informing me of the hard times that many are having in keeping up with the rapid increase in prices. Having to do without life's essentials has become the plight of numerous others contacting my office.

Too often, people face indecently low pay scales in retail stores, fast food restaurants, and other deadend jobs. Saving money for college and vocational training is nearly impossible. Too many of our constituents who long to provide decent lives for their families cannot afford adequate housing or health care without outside help.

Something must be done. The Congress must act. The Fair Labor Standards Amendments of 1977 must be passed—and passed without any weakening amendments.

One such amendment would be a motion to strike the reduction of the tip credit. This move should be strongly opposed.

The basic arguments of those who oppose the reduction of the tip credit are that it would be inflationary and it will result in a significant loss of jobs. The only documentary support put forward by the opponents of the committee bill are a survey and consultant's report—both of which are based primarily on the experience of the State of California which has only recently increased the minimum wage and repealed the tip credit at the same time. Indeed, the combined real effect of the tip credit repeal and the minimum wage increase in California was a 25 percent increase in employer paid wages, from $1.75 per hour to $2.20 per hour.

The survey and the report, both of which have been widely circulated in the Congress, conclude that as a result of the tip credit repeal and minimum wage increase; First, "the equivalent of over 36,000 40-hour per week jobs could be lost"; second, "California restaurateurs [were forced] to raise prices significantly"; and third, "restaurant earnings in California are likely to decline, having a negative impact on the growth of the industry."

The committee thoroughly investigated these allegations by examining the basic economic data accumulated by the State of California during the period preceding and encompassing the minimum wage increase and tip credit repeal. The allegations were without foundation, to say the least.

First, the committee found that instead of decreasing, as projected by the opponents of the committee bill, employment in California's food service industry increased by nearly 25,000 jobs in 1976. As a matter of fact, employment is increasing at an even greater annual rate in 1977 despite another $0.30 an hour increase in the minimum wage. Second, although California restaurateurs raised their prices in 1976, their price increases were the smallest in 3 years.

In the third place, the committee discovered that the California food service industry is healthier than ever, and growing at a faster pace. The number of food service establishments increased by 1,294 in 1976, a larger increase than the previous year, and is increasing at an annual rate of 1,608 more establishments so far in 1977.

It is clear that the economic health of the industry in California has not been negatively affected by the minimum wage increase and tip credit repeal. Indeed it appears to have been helped.

With this very recent history of successful change in the Nation's largest State, I feel very comfortable urging all of my colleagues to reject the motion to strike when it is offered and support the very modest committee proposal. Certainly I urge, as strongly as I can, that the House support H.R. 3744.

Mr. ERLENBORN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I was sorry to hear the gentleman who preceded me in the well make what sounded to me suspiciously like a repeat of the argument of the AFL–CIO that young people, if they were given an opportunity to work, would displace older workers in the market. That just is not true.

Prof. Paul Samuelson of MIT succinctly stated the problem of the minimum wage when he said:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Mr. Chairman, we had experience with youth differentials in Europe. In almost any European country and many of our States, we have youth differentials. The major critics of a lower minimum wage for youth argue that such policies will result in the substitution of younger workers for older workers. The Bureau of Labor Statistics concludes that,

> Results from abroad do not indicate that adult employment has been adversely affected by lower minimum wage rates for teenagers.

State youth differentials were found to show no apparent difference in that respect.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I yield 11 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, this afternoon I would like to address myself primarily to the whole question of indexing and also regarding two amendments which I support, the youth differential and retaining the tip credit as it is. Because I believe that indexing is a very significant new innovation in this legislation, I want to tell the Members why I strongly support it.

Before I go further, let me add my commendation to the gentleman from Pennsylvania (Mr. DENT), who is now, I understand, undergoing another operation. I respect the gentleman very highly. I have worked with him for many years on minimum wage along with the gentleman from Illinois, the gentleman from California. We worked long hours in the past, and we missed him this time and the input and the long years of experience that he has. We can only wish him well, and our prayers go with him that there will be a successful operation and that he will be back on his feet and here on the floor where he is sincerely missed.

Mr. Chairman, let me also commend my colleague, the gentleman from Illinois (Mr. ERLENBORN). While he and I differ on indexing, I have always had great respect for him and I believe he has been an outstanding leader for our side of the aisle in this matter and in other labor matters, as well.

And, third, with this piece of legislation this year, the gentleman from California (Mr. PHILLIP BURTON), who as I indicated, has worked hard on this in the past, and this time took the lead in very carefully handling the legislation in a way that, if the gentleman from Pennsylvania (Mr. DENT) did come back, the gentleman from California did not in any way stand in the way of the things that the gentleman from Pennsylvania worked on, as the gentleman from California (Mr. PHILLIP BURTON) has a keen feeling for the people who need the benefit of minimum wage and the balance that should be created. The gentleman from California (Mr. PHILLIP BURTON), incidentally, favors indexing, as I do.

Mr. Chairman, I started early looking at indexing. One of the reasons for my early consideration was the proposal that the gentleman from Pennsylvania (Mr. DENT) offered in the last Congress, in which there would have been indexing based on the consumer price index; and, as I looked at this, I did not like it. We had just left a period when prices of food commoditise had made dramatic increases, and I did not see how the minimum wage would have anything to do with the shortage of onions. I thought that there ought to be another factor for us to consider. I reviewed all the possibilities, and I came to the conclusion that, if we use the manufacturing wage, excluding overtime, it would be the fairest index.

There are two things we are balancing, it seems to me. One is, of course, the impact on industry and business as we increase the minimum wage and what kind of employment or disemployment impact it would have. On the other side, we have our concern for the individuals who are dependent upon minimum wage and the employer.

Mr. Chairman, I include at this point a chart of the minimum wage indexing proposal.

Minimum wage indexing proposal

[July 1–June 30]

Year	53 percent of average hourly earnings	Year	Minimum wage
1976–77	$2.75	1978	$2.65
1975–76	2.56	1977	2.30
1974–75	2.36	1976	2.30
1973–74	2.16	1975	2.10
1972–73	2.00	1974	2.00
1971–72	1.88	1973	1.60
1970–71	1.77	1972	1.60
1969–70	1.67	1971	1.60
1968–69	1.57	1970	1.60
1967–68	1.48	1969	1.60
1966–67	1.41	1968	1.60
1965–66	1.35	1967	1.40
1964–65	1.31	1966	1.25
1963–64	1.28	1965	1.25
1962–63	$1.24	1964	$1.25
1961–62	1.21	1963	1.25
1960–61	1.18	1962	1.15
1959–60	1.14	1961	1.15
1958–59	1.11	1960	1.00
1957–58	1.07	1959	1.00
1956–57	1.03	1958	1.00
1955–56	.98	1957	1.00
1954–55	.93	1956	1.00

If we look at the chart, the column farthest to the right is where the minimum wage was each year. The year in which the minimum wage was adjusted is seen in the next column to it. The next column shows where the minimum wage would have been in any of these years if we had indexed it at the 53 percent of the previous year's manufacturing wage, excluding overtime. And the very last column is the fiscal year upon which the indexing base is determined.

We will notice that in a number of years the minimum wage did not change at all. For instance, we see that the last change prior to going to $2 was in 1968 when the wage went to $1.60. It was not until 1974 that it was increased to $2. There was a change in the economy during those years, but because of the political climate in the Congress we did not change the minimum wage. It was a benefit to employers and I would say it was a benefit to young people, as well, to be able to secure jobs, because we held that minimum wage down. However, from the studies that I could see, where the majority of employees are not teenagers or women, the employees were delayed for years before they could get the proper remuneration for their work. That came about, as we can see, in a jump of 40 cents between 1973 and 1974.

So that is why I am speaking now about balance, the balance of the concern for the economy and the employer on one hand and the concern for the employee who is dependent on the minimum wage law on the other hand. We are not arguing whether the minimum wage law is wise or not and whether it is going to be continued.

The reason why I feel the adjustment to 53 percent is not out of line is because of the lag time before it goes into effect. The $2.65 that will go into effect on January 1, 1978, is actually about 51 percent of the manufacturing wage in that base period; in 1979 it will go to 52 percent, and in subsequent years beginnning 1980 it will be 53 percent.

If we were to calucuate the wage based on a percentage of the actual calendar year, meaning January 1, 1977, to January 1, 1978, then, instead of its being 51 percent, the $2.65 would be 47 percent.

Then, in the next year, instead of 52 percent, it would really be 48 percent, and when we go to the top figure of 53 percent, the minimum wage will actually be at 49 percent of the calendar year earnings, all assuming 7-percent inflation. If there is less inflation, the percentage of the calendar year earnings would be higher. Of course, if there were no inflation whatsoever, then the 53 percent would also be 53 percent for the previous calendar year as well as for that base year. That is assuming there was no inflation whatsoever.

The idea of indexing started out, as nearly as I can find from the records of debate on the Fair Labor Standards Act, in 1949 when Senator Robert Taft advocated indexing. He suggested that we set the minimum wage at a 60 percent indexing factor, based on the wages in various industries, so that, for example, in manufacturing we would have the manufacturing wage at 60 percent of the manufacturing wage, and then in retailing, we will say, the minimum wage would be 60 percent of the average in that industry.

That idea never found its way into law, and as we look at it this year, I find that it would be very difficult to develop if we had a varying minimum wage dependent on the type of work that a person did.

The committee did look at the Consumer Price Index in the last Congress, and the result of that was that nobody favored the Consumer Price Index. Neither the employers nor the unions favored it. There were various reasons for that. One reason why we have not favored it in the past is because the CPI went up faster than the increase in gross national product and faster than wage rates went up as a result of collective bargaining. Projecting into the future, it was expected that the CPI would not increase as fast, and therefore, it was conversely not favored.

The problem, of course, is that the cost of food in the CPI has very little to do with the cost of labor, even though the cost of labor does have a great deal to do with the cost of food at the retail level. Intermediate weather conditions and various other factors have a tremendous effect on food costs, for instance.

Another index that I looked at and considered was the comparison of the annual earnings of a worker receiving the minimum wage versus the official Government definition of the poverty level income for a family of four. While at first blush this seems to be a reasonable comparison, while we may feel we ought to provide the minimum wage applicable to every family of four, keeping that family above the poverty level and considering the basic food costs at that level of income, I found there are problems in that approach. First, the Government's definition does not allow for a variable number of wage earners in each family. It assumes that there is only one wage earner.

Second, the definition of "poverty income" varies throughout the United from region to region, whether one is a member of a farm family or a nonfarm family. What is described as poverty in one area does not seem to be poverty in others.

So that did not seem to be a very wise factor to use, because in a family of four there could be three persons earning income at a minimum wage and they could have a substantial combined income.

I would say also, Mr. Chairman, that if one would look on that chart I have

inserted in the RECORD, one could then find what the minimum wage would have been in previous years had we used the 53-percent indexing figure. That would have meant—and I just take the years in which there was a statutory increase—that in the first year, when it went to $1, if we had idexed it at 53 percent, it would have been 93 cents instead. When we had $1.15, it would have been $1.14 instead. When we had $1.25, it would have been $1.21 instead. When we had $1.40, it would have been $1.35 instead. When we had $1.60, it would have been $1.41 instead.

When we went, in 1974, to $2, under the 53-percent average earnings in that pay period, it also would have been $2.

The deviation comes because of the rapid increase in inflation during that period. Then we would have had a higher wage, and that indicates to us now why the $2.65 is not in line at all, and the increase is not the same as the increase we had in the previous years.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume, up to 5 minutes, to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman for the additional time.

Let me also, then, point to one other type of indexing to indicate why it would be unwise.

Many people say, "Why should we tie the index to manufacturing rates since there are very few people who are at the minimum wage in manufacturing?" That is true. There is only about 1½ percent.

They say, "Why should we not tie it to something that is closer to the percentage of the employees who are at the minimum wage or at least close to it?"

Mr. Chairman, the reason is that then every time we increase the minimum wage, we increase the base on which we are determining it, and that would keep propelling it upward all the time.

We need to have a base directly related to the minimum wage; but very few people are at the minimum wage, so it is the forces of the economy that move it up. The raise in the minimum wage would occur 6 months after the close of the base period in the preceding year, but on the average it is 12 months afterward before we put the minimum wage into effect. Thus the manufacturing base is pulling the minimum wage up rather than the minimum wage itself pushing the minimum wage up.

Mr. Chairman, are we acting, as my colleague, the gentleman from Illinois, says, in a mindless way? I do not believe this is being done in a mindless way, because what we are doing is tying the minimum wage to forces in the economy, management, labor, and manufacturing. A substantial percentage of industries have collective bargaining agreements, and they work out increases among themselves.

Mr. Chairman, I believe it is better that there is interaction between people and forces in our economy in making those determinations than if we do it in a political way, because we only have to look at the chart to see that when we are so well balanced in Congress, we do not do anything about increasing the minimum wage. When we do do it, it depends on who has the political clout, whether labor is going to raise it higher or management is going to hold it down to less than has been the case.

The indication from the President is that this proposal is less than was normally done.

I believe that when one looks at the history, the long period of history going back to 1941, that that is the wisest way in which we can set the minimum wage in the future. It protects the economy, the businessman and the worker so as to enable him to get annually the increase as the forces of the economy change.

Mr. Chairman, I believe that that would be a far wiser route for us than to operate in the way we have operated in the past.

Mr. ERLENBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, some time ago I received a letter from one of my constituents who lives in rural America. He does not have the advisers that my colleagues have with respect to the minimum wage, but he does give us some idea of what some of the little businessmen in rural America think about the minimum wage.

I would like to read the letter to the Members:

DEAR CONGRESSMAN JOE: I know it was just the other day that I wrote and I really don't want to be no pest, honest Joe, but last evenin' me and the boys was down to Skeeter's Cafe after work and we got to talkin' real serious about that minimum wage bill you fellas are considerin'.

Skeeter—he started the conversation—he says that he read in the Current-Argus that a bill called the Dent bill would cause him to have to pay all the hired help three bucks an hour come January. Now Skeeter, he's somewhat concerned, Joe, 'cause he don't make $2.65 an hour and he says there ain't no way he can pay his three girls $2.65 an hour. Not only that, Joe—but Skeeter's hoppin' mad cause his wife Muriel up and quit her job frying up burgers in the kitchin. She got wind that them car hops was gonna be making $2.65 an hour and beat a path out the door to join them girls and ole Skeeter is a-sittin' high and dry without no cook.

Now I know Skeeter real well, Joe, and he ain't no whiz when it comes to your higher math—but Skeeter can add—and he knows dern good and well that the eatery don't make enough to pay no $2.65 an hour to them girls. Skeeter told all us boys real confidential like that he may have to let Thelma and Trudy go if you pass that Dent bill.

Don't get me wrong, Joe, I don't want to tell you fellas how to run your business but Trudy and Thelma need their jobs real bad. Thelma, she got let go down at the mop factory when that minimum wage went up to $2 and she's got three kids in grammar school. Ole Skeeter gave her a job cause he felt sorry for them kids and now he may have to turn her back out to pasture.

Joe, it ain't just Skeeter that's worried. Ernie from down to the Skelly station that I wrote you about before—he says he may have to let the Robison boy go too. Now I suspect between you and me, Joe—that Skeeter and Ernie aren't the only ones that are gonna be in a fix cause of that wages bill.

I think what you boys in Congress don't understand is that things is different out here in Kansas than what they is in, like Detroit. What I'm sayin', Joe, is this—Skeeter's Cafe ain't no General Motors and Skeeter ain't no hamburger magnate—he grew up on the farm and he ain't trying to make no million.

Ernie, he's the same way. Both them families is just trying to make a livin'. Why, they got people on their payroll that can't hold no other jobs and they keep 'em on cause they's nice folks and they need the job. Like the Robison kid—he ain't too bright—he does his best, but he sure ain't worth no $3 an hour.

Now let me ask you this, Joe—who is it that's pushin' so hard for that 2.65 buck minimum wage? It sure ain't Trudy or Thelma or young Robison. I'll tell you who's pushin' for that Dent bill, it's the big labor boys like George Meany.

I just heard the other day that George Meany got up on his soap box and said President Carter should be ashamed of his $2.50 minimum wage proposal. Ole Meany, he puffed up his chest, and he said that $2.50 was "shameful, a bitter disappointment to everyone who looked to the Carter Presidency for economic justice for the poor."

Now I ask you Joe—what's George Meany care about the poor? He ain't got no poor folks in his big time unions, and there ain't no labor union in the country that's got members workin' at the minimum wage. You know any plumbers that will come to your house and fix your sink for $2.30 an hour, Joe? Them plumbers won't even answer their phone for $2.30 an hour.

I'll tell you why ole George Meany is a pushin' so hard for a $3 minimum wage—it's because he can hopscotch all them union wages up based on the spread above the $3 basic minimum. Right now ole Meany is weepin' over the plight of the poor like they was long lost cousins. As soon as you boys in Congress push that minimum wage bill through Meany will beat a path, lickity split to the negotiation' table and scream "You big business boys are payin' $3 an hour to *peons* who sweep the floors and wash the windows. You think my skilled workers are goin' to stand for that!" Then everybody's wages goes up and George Meany's "poor friends" is worse off than they was before.

So Joe, that leads me to one of the major points of my letter. I think the President is on the right track with his $2.50 idea. But like usually, he's only half right cause he didn't think his ideas clear through. I'll tell you, Joe, for the life of me, I don't know how that fella can come from the same family as somebody as smart as Billy and be prone to so many felonious errors in logic.

If ole Jimmy really want to help us workin' poor, he should give some serious consideration to the economics of his ideas. He can go ahead and have a $2.50 an hour rate put into law. Then the government should subsidize that rate up to $2.80 an hour. If a fella is a makin' $2.50 then you government boys should give him 30¢. If he's a making' $2.70, give him a dime—and so forth. With a plan like that you could get some real big advantages.

Now Joe—after readin' my idea—you're probably a-sittin' there in your chair sayin', "Ole Spud's mind finally went bad on him—only a moron or a Mondale would suggest the government subsidize the minimum wage."

Now Joe, who's really nuts—me or the government? I say pay a fella for working, the government says pay him for staying home.

Under my plan—if a fella don't work at all I suppose you will pay him welfare—but for darn sakes, Joe, don't pay him no two eighty an hour and encourage him to stay home! What I suggest, Joe, is you do this—if a guy don't work at all you give him his welfare benefits at a flat $2.50 per hr. rate. Now, if he's got a bunch of kids don't pay him more—ain't no company I know of that

will pay you more to have kids. You do away with them food stamps and other non-cash programs and just give him a flat $2.50 cash. If the guy needs more money he can go out and moonlight and supplement his government check. But for gosh sakes Joe—don't subsidize the non-workers with so many benefits they're better off than the working poor—like the system now.

Joe, there are some real big advantages to this plan. All them big employers aren't gonna have to hopscotch everybody's wages up cause the minimum wage goes up. And Joe, Mr. Carter can say to them labor leaders like Woodcock and Meany, and to those big businessmen, "You ain't had to pay for no wage increases so you ain't gonna raise no prices. We paid your wage increases, we're takin' care of the working poor, and you, my friend, ain't got no reason to jack up your prices."

Joe, if you are really concerned about us poor working folks—don't pass that Dent bill. If you do, we won't be poor working folks—we'll just be plain poor. Also, them big steel companies will just raise their prices and away we go again—everybody raises prices and we're poorer than we was before you made waves.

So, if you really want to be a help, don't force us out of work and prices up—go ahead and give us the big wages—but pay for them yourself. That's the only way I can see to really do us some good.

Now just take a little time, Joe, and relate ole Spud's plan to the Welfare System and the Public Works Jobs Program. Keep the wages and payments to the folks in them programs at the minimum wage or below and you'll encourage employment.

That Jobs Program is especially a problem. You government boys is throwing billions of dollars to the wind to put folks to work. But the unions got to get into the act—instead of makin' sure that dough is spread around to the most people—they won't let nobody work unless they gettin' 6-7-8 bucks an hour. Now that's a sorta strange approach to solvin' unemployment. Instead of taking the millions of people who are out of work and givin' them all a job at subsistence wages, you jokers are takin' a handful of the unemployed—and tryin' to make 'em millionnaires. The rest of the unemployed are still gonna be just plain unemployed.

No don't get me wrong—if them unions or the cities want to subsidize the minimum wage of Public Works Jobs employees to $8 an hour—they have old Spud's blessing. But I don't think the government has an obligation to make everybody that's unemployed rich overnight. If the government is going to spend money to help the unemployed, it seems right they should help as many folks as possible.

Well, Joe, these are just some of my thoughts on the approach you boys in Congress are taking to help the poor and the unemployed.

Joe, I sure do appreciate your takin' the time to hear me out. Like I said before, you can take this letter for what it's worth.

Sincerely,

"SPUD."

Mr. PHILLIP BURTON. Mr. Chairman, will be gentleman yield?

Mr. SKUBITZ. Yes, I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would inquire of the gentleman from Kansas (Mr. SKUBITZ) whether the scenario he has just read is copyrighted? I was wondering if the gentleman is going to ask Norman Lear to reduce this to a series and put it on TV in the afternoon.

Mr. SKUBITZ. If you place it in the CONGRESSIONAL RECORD, it is public information from there on, I guess.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, the impact of the bill we are now debating (H.R. 3744) upon unemployment, particularly among young people and teenagers, warrants further discussion. I would like to start out by setting forth a couple of assumptions which are quite elementary and should not be open to dispute.

First, the number of persons who are unemployed because there are not enough jobs is unacceptably high. This is especially true for young people and members of minority groups. According to the Bureau of Labor Statistics, Department of Labor, in 1976 the general unemployment rate averaged 7.8 percent; for persons aged 16 through 19 the figure was nearly 20 percent. Right now approximately 40 percent of the nonwhite teenagers in America are without a job.

Second, just as night follows day, so does an increase in the minimum wage level lead to increased unemployment. An employer will, should the legislation as reported from committee be signed into law, be faced with a number of unattractive options. He could increase prices, assuming he is able, or reduce the quality of service provided to the consuming public. A final alternative would be to cut costs by eliminating those employees who, by virtue of age, experience or competence, fall within the marginally productive category.

The above, taken together with other facts and evidence which we have before us, suggests that increasing the minimum wage from its current level of $2.30 per hour will result in drastically reduced job opportunities for young people and minorities.

Other persons, more knowledgeable than I in this area, have reached a similar, if not identical conclusion with regard to this matter. I would commend to my colleagues a paper, published in 1976, by Edward M. Gramlich of the Brookings Institution entitled "Impact of Minimum Wages on Other Wages, Employment and Family Incomes". Jacob Mincer, writing for Columbia University and the National Bureau of Economic Research, concluded, in part, that a minimum wage causes substantial unemployment especially for individuals less than 24 years of age. Increasing the minimum wage at this time will make an already bad situation even worse. The exact magnitude of the disaster we would create by passing H.R. 3744 in its present form will be revealed during the coming months and years.

When the lights went out in New York City during the month of July certain individuals took to the streets; the rioting and looting which followed has been well publicized and documented. Explanations of why this outbreak of violence and lawlessness came to pass invariably include the lack of jobs as the catalyst. I do not necessarily subscribe to this theory. But it is strange and somewhat contradictory, for those that adhere to this view to support legislation, such as that which is before us now, that can only lead to diminished job opportunities.

The Federal Government has, for many years, spent billions of dollars in numerous efforts to deal with and reduce youth unemployment. Recently we passed legislation (H.R. 6138) which would, among other things, create a Young Adult Conservation Corps to employ young people between the ages of 16 and 24 in conservation projects. Other proposals to make jobs have been either introduced this year or are on the drawing boards. It simply does not make sense for the Congress to appropriate more money to solve the youth unemployment crisis and at the same time pass legislation, such as this, which will only exaccerbate the problem.

We ought to be considering the human side of this whole issue. Think back a few years and remember when you first started looking for a job. It very well could have been part-time, probably did not pay more than a dollar an hour—if that much—and most certainly was not attractive in terms of working conditions. But it was a job and you needed the money and the chance to get started. Unless you knew somebody it probably was difficult to get that chance. But it was a start.

The same is true nowadays. There are more applicants than jobs. There are too many young people who get discouraged and quit after having been repeatedly, albeit politely, turned down. If we want to keep what little of the American work ethic remains alive in the United States today, then we must do whatever is necessary to see that there is work available for those just entering, or about to enter, the labor force.

For the above and other reasons, I will vote in favor of an amendment to be offered which would set up a youth differential in the Federal minimum wage structure. The effect of this amendment wage. Young people in America must have an opportunity to secure employment and thereby gain valuable work experience.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, I rise to express my strong endorsement of the minimum wage bill as reported by the Education and Labor Committee. I urge all my colleagues on both sides of the aisle to support this legislation. This bill is a compromise, worked out over the last 9 months, between the Carter administration and organized labor. Numerous negotiating meetings between AFL–CIO leaders and cabinet officials, many hours of time and effort, and much legislative drafting and redrafting have gone into preparing this product which will benefit more than 50 million American workers. I think it is a reasonable compromise that all of us can support, and I hope that the tip credit provision in the bill will prevail.

On January 1, 1979, the bill initiates a new method to increase the minimum wage annually, by indexing it to the average hourly wage paid to production workers in manufacturing. Indexing is

designed to provide a smaller, more frequent and orderly increase in minimum wages instead of a large, lump-sum increase every 5 or 6 years. More than 3 years of congressional research and study have gone into developing an appropriate indexing formula. Indexing is not a new concept. Rather, it is an idea that has been around for at least two Congresses, and the concept itself originated with Senator Robert Taft in the 1949 hearings on proposed minimum wage legislation. It is an idea whose time has come to fruition.

Chairman DENT began exploring the best approach to implement this index formula in 1975, and he and ranking minority member ALBERT QUIE agreed to the principle of indexing in the 94th Congress. The purpose of the indexing provision is similar to the formula for an automatic cost of living increase in effect for social security, SSI, and railroad retirement beneficiaries, as well as other similarly situated people on fixed incomes.

Can we, in good conscience, do any less for the working man and woman in America than we have done for those on fixed incomes?

Both the people benefited by the indexing, and management, gain from an orderly, smaller, and more frequent wage increase than from a lump sum every 5 years. Even with this bill, the establishment of a minimum wage of $2.65 represents an increase of approximately 13.5 percent since Congress last increased the minimum wage in January 1975. Over this same period, the CPI increased 18.7 percent. At best, the increase in minimum wage lags at least 2 to 3 years behind increases in the cost of living and is never commensurate with increases in cost of living over the same time period. An orderly indexing plan that will increase automatically is far less inflationary than a large, lump-sum wage increase every 5 years.

President Carter's administration is dedicated toward developing incentives to provide jobs for millions of Americans who are unemployed. We are now negotiating a proposal for full employment that will benefit minorities where the youth unemployment is staggering beyond imagination—60 percent and higher in urban areas among black young people.

A subminimum wage is not the solution for high youth unemployment. Young people need a livable wage just as much as those in middle age and should be paid equally for the same job someone else is performing.

The welfare reform package which the President has sent to Congress is designed to provide an availabiliy of jobs for the 1 million on welfare who are able to work if jobs are provided for them. We are doing all of these things to help the unemployed and to help those on welfare. We cannot do anything less for the working man than to give him a decent and honorable hourly wage, and to insure that his wage will increase automatically to keep pace with increases in the cost of living.

In adopting this indexing formula, Congress is not abdicating its responsibility of oversight. The Education and Labor Committee will be evaluating and monitoring the indexing mechanism to determine its effectiveness and its impact on inflation, and can make any necessary changes at any time.

I urge all my colleagues to support this legislation and to vote against the Edwards and Buchanan amendments.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, today we are not only debating the question of a minimum wage, we are also debating whether the majority is willing to cast aside some of its more cherished economic myths. It appears at times that the majority, so long in power, is like the Bourbons, of whom it was said "they had learned nothing and forgotten nothing." Nowhere is the majority's inability to learn and its reluctance to cast aside outdated ideas so evident than in the discussion of the minimum wage and the youth differential.

In discussing the realities of the youth differential, permit me to present some background showing why today, more than ever, it is needed.

Time magazine, in its cover story for August 29, 1977, described what it calls "the underclass", those Americans who are unemployed and remain unemployed despite economic progress made by others. Time describes this group as a "subculture" and offers evidence that much of the social unrest that disturbs would be to create a youth opportunity our Nation's cities can be traced to members of this group.

I am not a sociologist and I do not pretend to know just how accurate the data are which appear to link urban crime with bad social and economic conditions. Yet I think it is fair to say that one does not have to be a sociologist to appreciate the fact that widespread unemployment hurts not only those unemployed but our Nation as well.

To quote further from the Time article, because it is so appropriate for today's discussion:

> More jobs, of course, are the most obvious need of the underclass—not only economically, but also psychologically and culturally. Says Stanford University Historian Clay Carson, a black: "Permanency of jobs, stability in an economic situation is important. Even if someone is only a janitor, his job still means stability."

Time then goes on to say:

> In attacking the basic problem of job creation, the first sound step is to recognize that the Government cannot and should not try to do it all. Given the public's dismay with inflation and high taxes, there is nothing close to the political consensus that would be needed to support liberal cries for massive job programs or a "Marshall Plan for the cities." Despite some successes, Lyndon Johnson's War on Poverty is too well remembered as one in which benefits often trickled up to the so-called poverticians—the programmers, social workers and suppliers to the needy.

Now let me pause here, Mr. Chairman, to say again that I am quoting from Time magazine, one of the more prominent media voices of liberalism and one that has been heard during the past 10 years always calling for more and more Great Society-type programs. When Time suggests those programs do not work, even the members of the majority must admit the argument is not coming from a source hostile to big spending.

But it is in its discussion of the minimum wage that Time gets to the heart of the matter. Time quotes two distinguished academics concerning the proposed rise in the minimum wage:

> The minimum wage, says Sociologist David Riesman, is the product of "an alliance of the better situated labor unions with the liberals against the deprived and the elderly, whom people would otherwise employ for household or for city work that now doesn't get done." Adds Stanford University Labor Economist Thomas Sowell, a black: "Talk about people being unemployable is just so much rubbish. Everybody is unemployable at one wage rate, and everybody is employable at another."

Needless to say, we are not debating this issue in a historical vacuum. Recent headlines have told us that unemployment has hit 7.1 percent. Among black Americans that figure rises to 14.5 percent—and among black teenagers the figure is an astronomical and almost incredible 40.4 percent.

The time has come for the administration and the Democratic majority to have the courage to admit that their unyielding and stubborn refusal to support a youth differential has contributed to suffering on a scale and to a degree that staggers the imagination. President Carter and the majority in the House must not in all conscience sacrifice more young Americans on the altar of that "alliance" between the labor bosses and the leaders of the Democratic Party. We have tried their way and all it has brought about is hopelessness and cynicism and despair and ugly conditions in our cities and an economy that is not utilizing the energy of millions of young Americans. And for what? For this unholy alliance.

The time has come for the truth to be told and that truth is this: it is the economic philosophy of this administration and the majority in the House which is primarily responsible for the unemployment of many American young people. That philosophy has been tried and found wanting. The time has come for a youth differential—indeed, the time has long passed. I only hope it is not too late.

Let us look at the facts of the matter. Since 1953, there has been an increasing rate of unemployment among teenagers. In 1950, teenagers had unemployment rates 2½ times as high as those 20 and over; by the late 1960's the rate was 4½ times greater. A recent study undertaken by a research team from the University of Chicago states:

> Estimates of the loss of employment due to an increase in the minimum wage from its present level to 60% of the average manufacturing wage results in a loss of employment of almost 2.5 million jobs. Teenagers, non-whites and the younger working adults are most harmed by the proposed legislation with some demographic groups suffering a 10 to 20% decline in employment. There are important disemployment effects of the minimum wage on some older worker groups although these effects are difficult to identify.

The distinguished professor and Nobel

prize-winning economist Milton Friedman has stated:

Well-meaning people who have been in favor of the minimum wage law confused wage rate and wage income. It has always been a mystery to me why a young black teenager is better off unemployed at $2.60 an hour than he would be employed at $2. It doesn't do him much good to have a high wage rate if he doesn't have a job.

Let me also quote from a column written by the economist Louis Rukeyser. In this column he sent an open letter to a teenager in search of a summer job. This is what he stated, in part:

Until Congress started kicking the minimum wage geometrically upward two decades ago, there wasn't anywhere near as much difference between the unemployment rate for adults and the unemployment rate for teenagers. And practically every time Congress increases the minimum, the gap grows. . . . What I suggest is that you write your Congressman and say something like this: "Hey, man, I'd rather be working at $2 an hour than unemployed at $2.30. And I know I'm not worth $2.30 yet in many of the jobs I might get. Please (1) cut out this stupid talk about making the situation worse by raising that $2.30 even higher and (2) think about giving us ambitious kids a break. Give us, at least, a lower minimum. Someday I expect to be worth a heck of a lot more than $2.30 an hour, but I can't prove that to anybody if you guys keep me from finding a job now."

There is one other area in which both commonsense and economic reality dictate that the ideas of the majority be rejected. I speak of the demand that we "index" the minimum wage. In the Additional Minority Views of the committee report on the Fair Labor Standards Amendments of 1977, Mr. ASHBROOK, Mr. ERLENBORN, Mr. PRESSLER, Mr. GOODLING, Mrs. PETTIS, and Mr. EDWARDS addressed the problems inherent in the concept of "indexing." They have made a cogent and compelling argument:

The Committee has never taken any testimony as to the impact on the economy or on employment in general of using such an escalator provision. We feel that without such a study having been conducted, it is impossible to know what conceivable ramifications may be faced in years to come. Rather, we would have preferred that Congress statutorily and specifically designate the minimum wage for the next two years during which time a study could be conducted to determine the economic impact of switching to an indexing concept.

Clearly, it is our belief that Congress will be abdicating its responsibility to statutorily determine and set the minimum wage if it allows the indexing concept to be adopted. One of the greatest tools in controlling inflation and unemployment is Congress' ability to adjust the minimum wage. An adoption of the indexing concept will enable Congress to shirk this responsibility and avoid either the beneficial or detrimental political ramifications attendant in setting the minimum wage. If it is the intent of Congress to retain a position of respect in this Country and continue to have a meaningful voice in the determination of economic conditions, it must reserve to itself the power to specifically determine and set the minimum wage and not abdicate this responsibility in favor of a more politically expedient automatic index adjustment.

Mr. Chairman, members of the majority have to choose. Do they want to keep the discredited myths of the past or do they want to help young Americans get jobs? Do they want to remain stuck in the swampland of economic slogans of 40 years ago or do they want to march out to the uplands of commonsense and common decency? To switch the metaphor, are they willing to cut the strings that tie them to those whose financial contributions have meant so much to them or will they continue to dangle by those strings, puppets to be manipulated?

The youth differential issue is not one in which the men and women of labor unions are on one side and those who want a youth differential on the other. Men and women of labor unions are also husbands and fathers and wives and mothers—they want to see their kids get a chance too. They want to see other people's kids get a chance. No, the issue is between people of commonsense and common decency, union and nonunion, Republican and Democrat, against the cynical, stubborn, powerful new Bourbons of the union executive suites, those who are used to picking up a phone or waving a $3 cigar angrily and seeing a hundred Congressmen jump.

As for the indexing proposal, I can only say that we must not tie the hands of the Congress in such an important matter. That is why I support the proposal of Mr. ERLENBORN which would raise the minimum wage to $2.65 in 1978, $2.85 in 1979, and $3.05 in 1980.

I think this can be done and I think it should be done in the name of economic justice and sanity.

That is what the battle for a youth differential and against indexing is all about. For the sake of the young, for the sake of the economy, for the sake of our country, I ask that each of us examines the facts and then examines his conscience—if we do that we can strike a blow for freedom here today.

Mr. RUDD. Mr. Chairman, I rise in opposition to H.R. 3744. It is beyond belief to me that any Member of Congress can in good conscience vote for this escalating series of increases in the Federal minimum wage—knowing full well that such a law will result in additional massive unemployment for marginal workers generally, and for the youth of our country especially.

A study of the impact of the nine minimum wage increases since 1950 has led Dr. Edward Gramlich of the Brookings Institution to conculde that a 25-percent increase in the minimum wage will result in a 10- to 15-percent decrease in employment—in other words, massive layoffs of marginally skilled and unskilled workers.

It is estimated that this bill will have the immediate effect of causing 2 million lost jobs as employers are forced to adjust to higher labor costs by laying off low-skilled workers whose productivity and performance does not warrant the required hourly wage, and by automating where possible.

It is ironic, indeed, that today we are considering a bill that, if passed, will force millions of Americans to lose their jobs, and prevent others form gaining employment.

The Department of Labor has just reported that this summer's unemployment among black youths was the highest ever recorded. There were 100,000 more jobless youths this year than last, and the unemployment rate reached 34.8 percent—up 3.8 percentage points from last year.

The unemployment rate for black youngsters last month was 40 percent.

To meet this crisis of youth unemployment, Labor Secretary Ray Marshall yesterday called for a major expansion of the Federal jobs program, according to today's Wall Street Journal.

He and other proponents of this legislation refuse to admit that it is the Federal statutory minimum wage that is primarily responsible for the problem of youth unemployment to begin with. One would think that a starting point would be to exempt youngsters from the minimum wage so they can get jobs—not increase the minimum wage so that more young people cannot get employment or join the ranks of the unemployed as the result of layoffs.

Dr. Walter Williams, a black economist at Temple University, testified last month before the Senate Human Resources Committee that the Federal minimum wage increases since 1950 have caused youth unemployment to shoot up from a low of 10.2 percent in 1948, to 19.7 percent last year.

He testified that black youth unemployment was 9.4 percent in 1948—below the national percentage for all youth. But after nine increases by Congress in the Federal minimum wage, black youth unemployment was 40.6 percent last year because these young people have been priced out of the job market.

Mr. Chairman, this testimony and these tragic statistics are not just idle academic rhetoric. We are talking about jobs, earning income to buy food, clothing, and shelter for millions of our people. This bill will take those jobs and that income away from people who most need our help.

I met yesterday with officials from a department store with nationwide stores. They told me that this bill will cost them $5 million right off the bat, before the ripple effect, in higher labor costs. They said their only recourse will be to lay off hundreds of workers—unskilled youth, housewives reentering the labor force to support their families, and part-time men and women.

I have just received a letter from a factory owner in my district—Gordon Chambers, president of the Chambers Belt Co. in Phoenix—who tells me that he will have to lay off between 10 and 20 percent of his entire work force if this bill becomes law.

The tragedy of this bill for Mr. Chambers is the tragedy squarely facing thousands of employers throughout this country, and so I would like to quote briefly from his letter:

Currently we are working 15 college and technical school students and three high school seniors. In addition to this part-time help, we are working a number of Mexican-American employees who rarely have more than one or one-and-a-half years of high school training.

Many of these would be dropped as their normal performance and production is not equal to those workers who are high school graduates. . . .

Should the minimum wage go to $3.00 per hour as well as being tied to the automatic

adjustments, we would surely have to have lay-offs and discharges up to 10 to 20 percent of our present workforce. We would have no alternative except to discontinue manufacturing certain marginal profit items and items which provide work for the unskilled and temporary employee.

Mr. Chairman, this is a tragic price for an arbitrary, unnecessary, and foolish act of Congress to force up wages beyond what can be paid by employers to certain employees and for certain types of work.

In my State of Arizona, this bill will force 21,000 people to lose their jobs, according to estimates from the U.S. Chamber of Commerce.

More than 10,700 of those lost jobs would be among teenagers.

At a minimum, Congress should exempt teenagers from the minimum wage so that they can get and keep jobs.

I strongly urge my colleagues to consider these harsh economic and humanitarian considerations before voting on this bill.

Why cause needless additional unemployment and economic suffering for our people through another increase on an escalating scale in the Federal minimum wage.

I urge the defeat of this bill.

Mr. BIAGGI. Mr. Chairman, as a member of the House Labor Standards Subcommittee, I rise to indicate my support for the passage of H.R. 3744 as reported.

As many Members are aware, a great deal of compromise and effort went into the development of this legislation. Many compromises, including some of significant proportion, have been reached. The end result is that we are presenting to the House a responsible bill which has as its main goal economic protection for the American worker. This must be our foremost concern. It should be our primary reason for support.

This is the sixth time we have amended the Fair Labor Standards Act to provide for an increase in the minimum wage. Tragically in 1977, we have the same problems of low wages and unemployment as we did in 1938 when the Fair Labor Standards Act was first passed. The minimum wage has increased from 25 cents in 1938, to its present rate of $2.30. It can be said that increases in the cost of living have far surpassed the levels of increases in the minimum wage. For example, the consumer price index has increased by 36 percent since 1972, while the minimum wage has increased by less than 15 percent since 1974. The result—thousands of working men and women under minimum wage coverage are living at, or below the poverty level. This is a disgrace.

H.R. 3744 proposes relief. It will raise the minimum wage by some 15 percent to $2.65 an hour effective January 1, 1978. Unlike previous amendments to the FLSA, this bill goes farther than just providing for a one shot increase. The legislation proposes a new indexing formula for the computation of minimum wage increases. Beginning in 1979, the minimum wage will be increased annually by indexing it to the average hourly wages of production workers on manufacturing payrolls. Under this system, the minimum wage is expected to rise to $2.89 by January 1, 1979; $3.15 by 1980; and $3.37 by 1981. More importantly, workers can look forward to a sense of order in the advancement of their wage rates. This is a system which will more accurately reflect the economic realities of the day.

The increase we propose today is reasonable. It reflects our deep concern about the eroding purchase power of the minimum wage for the average worker. Yet the increase also reflects our concern for preventing a new wave of inflation which would prove counterproductive to the good intentions of the wage increase. The need to raise the minimum wage is obvious. The American Enterprise Institute, in a recent analysis of H.R. 3744, pointed out that the current minimum wage "reflects at best economic conditions in 1972."

Our working poor are perhaps the most slighted group in the Nation. These individuals prefer the dignity of work to the indignity of welfare. Yet as wage rates fail to keep pace with living costs, many persons turn to public assistance in desperation. If we are truly committed to welfare reform, let us begin by making work an economically feasible alternative. It is all well and good to advocate workfare programs. But if they are not going to be more economically rewarding than welfare, the system is worthless.

We also provide in the legislation a modest revision of the so-called tip credit. Originally, we proposed on outright repeal. However, following extensive deliberations, a compromise was reached whereby the tip credit will be $1.15 per hour in 1978, and reduced by 5 cents each year until 1981, when it will be set at $1. This is a fair compromise which I hope will obtain the support of the Members.

It is time that the American worker receive better economic protection. It is time that the minimum wage reflect more than the bare minimum for economic survival. By providing for a more orderly and regular level of increase, we will avoid having minimum wage increases "repealed by inflation."

Let us not lose sight of the fact that this Nation grew strong and flourished with the work ethic. The American worker has set an example for the rest of the world. Yet, without this legislation today, the 51.9 million persons covered by the minimum wage will face a precarious economic future. A man's toil unrewarded by adequate compensation is truly hard labor.

Mr. CLAY. Mr. Chairman, consideration of H.R. 3744 to amend the Fair Labor Standards Act marks one of the most important pieces of legislation to working Americans in this Congress. Feelings against this meager increase in the minimum wages has run surprisingly high. It is remarkable to me that, in this land of "two cars in every garage" that so many persons feel compelled to oppose legislation which would raise the standard of living for millions of employees up to a poverty level. The backbone of this country is its workers. Not one of us has escaped the terrible ravages of the steady increase in the cost of food, shelter and other essentials. It is time now for every American to be allowed at least minimal participation in the fruits of this great Nation.

To the argument of youth wage differentials, I submit that exploitation wherever it is applied is equally unjust. The purpose of the minimum wage is to assure all workers a livable wage. It was never meant to control unemployment among individual groups. Were this the occasion, we might have different wage rates for the elderly, blacks, women, and handicapped employees. Clearly this is an improper way to address the large issue of minimum wage.

As a job demands more from a worker, his earnings must necessarily reflect the greater sacrifice. Barring this, there must be a level of income below which no American is allowed to fall.

Let us take a hard look at what the bill is designed to do: It brings the wages of workers in the Virgin Islands and Puerto Rico, who presently earn subminimum wages, up to parity with mainland workers. Is this so bad? It raises the minimum wage for industrial, agricultural, and other covered employees up $2.65 an hour as of January 1, 1978. This represents an increase of approximately 13 percent since the last increase was enacted in January 1975. Over this same period the Consumer Price Index increased by an estimated 18.7 percent. The $2.65 increase brings the minimum wage to a level of about 51 percent of the average hourly wage of factory workers.

On January 1, 1979, the bill introduces a new method to increase the minimum wage annually without congressional intervention. The method of indexing is designed to provide smaller, more frequent increases.

To the argument that the indexing provision is inflationary, I say that small, annual increases which keep pace with the rest of the business world is far less damaging than a large increase every 4 or 5 years. Additionally, the indexing provision will obviate the need for Congress to address this same issue again and again. If the indexing mechanism does not work well, Congress can revoke it at any time.

In 1979, the minimum wage will be increased to 52 percent of the average production worker's wage. On January 1, 1980, and each year thereafter, the minimum wage will be increased to 53 percent of the average. This is expected to result in a minimum wage of $2.89 in 1979 and $3.27 in 1981.

It should be pointed out that this average does not include overtime and other company benefits. So then, if one places any monetary value on company benefits at all, the 50-plus percent of the average would at best fall well below the actual 50 percent.

Then there is the section of the act which requires certain employees of hotels and motels to receive overtime compensation for having worked more than 46 hours in any given workweek. Is this so unreasonable a proposition?

The minimum wage law presently covers approximately 51 million employees, an estimated 75 percent of this num-

ber earns the prescribed minimum wage. This number of affected persons is large by any standards.

I submit to you today, that failure to pass this bill without any weakening amendments, is to perpetrate a grievous wrong on millions of working Americans. Our obligation is not merely to put America to work; we must pay Americans to work. Anything less is a serious dereliction of duty and an even more serious reversal of the principles and ideals upon which this country was built.

Mr. RODINO. Mr. Chairman, I rise to urge approval of H.R. 3744, to increase the minimum wage to $2.65 an hour on January 1, 1978, and to provide for regular annual increases in the minimum wage rate on each subsequent January 1, beginning in 1979.

When we first passed the Fair Labor Standards Act of 1938 we expected that individuals who worked full time, yearround, would be guaranteed an income enabling them to maintain a minimum living standard without having to rely upon Government assistance, if available, or go without basic necessities. Although great progress has been made in eliminating poverty in the United States since that time, it is shocking to realize that over 12 percent of our country's citizens were still below the official poverty level in 1975. Many of them are the "working poor" who are employed full time but still cannot earn enough to support a family above the poverty level.

Nearly 3 million people earning the present minimum wage of $2.30 an hour make only $4,784 a year—falling $1,285 short of the poverty level for a family of four. Yet an urban family of four on an "austerity" budget, which is higher than a poverty level budget in the fall of 1976 required approximately $10,041 to meet its basic needs. This is more than twice what can be earned in a year at the minimum wage.

The proposed increases in H.R. 3744 would gradually help low-wage workers recover from the disastrous inflation of the last few years. From May 1974 to May 1977, the Consumer Price Index has risen 24 percent, but the minimum wage only 15 percent—a net loss of 9 percent. Prices for food, gasoline, and heating oil have gone up, so a substantial increase in the minimum wage is essential simply to restore the purchasing power for these workers to earlier levels.

Mr. Chairman, even with the increases authorized under this bill, it will not be until sometime in the early 1980's that covered workers will reach poverty level income. However, H.R. 3744 will substantially improve life for our minimum wage workers, and it is imperative that it be enacted.

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 3744, the Fair Labor Standards Amendments of 1977.

I am glad to say that for the first time, as far as I can remember, the Government of Puerto Rico has sponsored a provision regarding the application of Federal minimum wages for Puerto Rico that has not been controversial.

The Government of Puerto Rico has as a goal for the socioeconomic development of the island the reduction of unemployment to the lowest possible levels and the improvement of the quality of life for all the residents of Puerto Rico. One indispensable condition for the attainment of these objectives is that of increasing wages for our work force.

Low salaries have been for a long time one of the incentives offered to attract industries and, therefore, more jobs. However, the situation today is very different than when the industrial incentive program was originally created in the decade of the forties. The economic development of our island cannot rest today on an incentive based on low wages paid to our workers. We are convinced of the merits of a policy which will lead to the full application in Puerto Rico of Federal minimum wages in the shortest possible time within our economic capabilities. The long-term development needs of Puerto Rico require imaginative and creative alternatives that would substitute the simple and backward policy of low wages.

In order to retain labor intensive industries in Puerto Rico, it is imperative that rather than continuing a policy of less than Federal minimum wages we intensify our efforts to increase workers' productivity. This increased productivity is the result of the laborers' skills and training, available machinery and equipment, technology, management's administrative organization and efficiency, and last but not least, the employees' attitude toward their work. Fair compensation is an indispensable element in developing proper motivation for work.

The large increment of the cost of living in Puerto Rico during recent years makes it imperative that we provide the necessary resources to increase the working man's wages. The application of Federal minimum wages is an essential instrument to attain this objective.

Of course, we must take into consideration that Puerto Rico's unemployment at the present time is around 20 percent and that there are industries which cannot afford to pay the Federal minimum wage at this time. Also fringe benefits in Puerto Rico are averaging 26 percent.

For this reason, parity in some instances must be implemented in phases so that the application of Federal minimum wages does not generate more losses in terms of employment than benefits in terms of higher salaries.

The parity of wages in Puerto Rico to the Federal minimum wage would contribute to achieve the goal of the present administration in Puerto Rico to enable every family in the island to earn a reasonable wage according to their work and needs.

Recent comprehensive economic studies show that increases higher than are recommended in the bill would result in serious economic dislocations in Puerto Rico, which I am sure no one wants.

It is interesting to note that over 70 percent of those covered by FSLA in Puerto Rico are already at the stateside minimum and that we will carry out an aggressive policy to have every employee at parity as soon as the economic realities of the island permit us to do so. I hope that my colleagues will join me in supporting H.R. 3744.

Mr. PHILLIP BURTON. Mr. Chairman, I have no further requests for time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideraion the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to repeal the credit against the minimum wage which is based on tips received by tipped employees, had come to no resolution thereon.

VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill H.R. 7010, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from South Carolina (Mr. MANN) will be recognized for 30 minutes and the gentleman from California (Mr. WIGGINS) wil be recognized for 30 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, this matter which comes before us today is long overdue. It is entitled "Victims of Crime Act of 1977," and I hope that this Congress will in its wisdom enact this bill into law. I feel we have justly recognized the need to do whatever is necessary in order to provide for those of our citizens who are incarcerated, in jail and correctional institutions. We have done this because we believe in being just and we believe it is in keeping with the principles of this great democratic Nation.

However, it seems to me that the person who is the innocent victim of the defendant criminal has been entirely ignored.

Too often that innocent victim has not only been brutalized and physically incapacitated, but also has suffered injury to the extent that he has had to bear huge hospital costs, medical costs, and

finds that there is no way that he is able to take care of himself or of his family. We find that many of these innocent victims have been the elderly and the poor who are within those geographical areas where crime has been rampant and who are not able to bear the huge costs of insurance in order to compensate themselves whenever they suffer this kind of damage or this kind of injury. In some cases these people have died as a result of injury and attack.

There have been many States which have recognized the need to do something in order to properly compensate the innocent victim of crime in order to assure that he will not be alienated from society because he is totally ignored. Programs have been adopted in the various States which are designed to provide some compensation. These programs are in operation now in some 20 States. Some of the funds however have been running out and some States are in danger of terminating their programs.

I think it ill becomes this great Nation to ignore the innocent victim of crime. We know that we are plagued with crime, we know that crime is no longer just localized, we know that crime is a national problem, and we know that there is alienation on the part of individuals who as innocent victims refuse to testify, who do not want to become involved. I could recite cases of individuals who were innocent victims, standing by when someone was under attack and sought to protect the person who was under attack and as a result were assaulted themselves and suffered severe damage and injury. As a result were then unable to work, were unable to provide for their families, and had nowhere to turn for any compensation or assistance in their plight.

I think, Mr. Chairman, that the Subcommittee on Crime of the Committee on the Judiciary, under the able chairmanship of the gentleman from South Carolina (Mr. MANN), has properly undertaken this piece of legislation which has been under consideration now for a number of years. The concept is not new at all, it dates back to the times of Hammurabi when they tried to provide for those who were unfortunate victims of crimes. The chairman of the subcommittee and the committee have taken this concept and have developed a bill which I think is reasonable and which provides that the Federal Government will give to the States up to 50 percent in grants so that they might be able to adequately help these innocent victims and the State innocent victim programs which are now in jeopardy.

I think that the bill is well designed. I think that it has within it all of the features that are going to be able to guarantee that there will not be fraudulent claims. I think society must do what is right and just. Recognizing that while the problem of crime is a local one as such but nonetheless that it has taken on national implications, we ought to adopt this measure and we ought to adopt it in order to show once again that our Government is not only a just Government but also a compassionate Government.

I am sure the amount involved here is not that kind of amount that it is going to strain the Treasury. The amount of money involved here, I think some $29 million or $30 million, has already been contemplated and included within the budgetary process; so I would urge the adoption of this measure, which I say is long-past due.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the ranking Republican member of the Committee on the Judiciary, the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I thank the gentleman for yielding. I want to compliment the gentleman from California (Mr. WIGGINS) on the gentleman's logical and eloquent opposition to this legislation.

Mr. Chairman, I also rise in opposition to the bill. I realize there is a great deal of special appeal in this measure and certainly one that bears the very enticing title of Victims of Crime Act of 1977; but I do not think we should enact legislation because of lofty titles or even because of lofty goals where there is no appropriate Federal responsibility.

We should recognize that in this legislation we are making a very dire and a very unfortunate confession. What we are doing is confessing that we are not able to reduce crime in America and that we are not able to handle the criminal problem. Instead, what we are going to do is to compensate persons who are the victims of our own inadequacy. It seems to me that this is a very unfortunate confession for us to make in a piece of legislation.

It is true, as the gentleman from New Jersey (Mr. RODINO) said, that 20 States have enacted victims of crime legislation.

Mr. Chairman, if there is any justification for this concept, that is exactly where it belongs, in the States where the crime problem exists, and not to ask the National Government to compensate victims of crime, no matter where they are and without regard to whether the State or area where the crime occurs is doing anything substantial to handle its own crime problems.

We realize there are some population centers where crime is very serious, where a great many of these personal injury-type crimes exist. I think that if the States and the local areas want to take care of compensating their crime victims, that would be entirely up to them, but they should not through this measure make this a national responsibility.

The bill authorizes for the next fiscal year an appropriation of $40 million. It purports to handle only the victims of personal injuries which result from crime. Now, $40 million does not sound like very much. We certainly should be able to be compassionate to that extent, it seems, as a great Nation and especially if the other 50 States are going to contribute to these victims of crime; but let us consider that in 1968, I believe it was, we provided for a food stamp program at an estimated annual cost of only about $30 million, even less than this program; but today the food stamp program has skyrocketed to almost $6 billion a year. So programs like this have a way of starting very small in their field, but they tend to take on a different character in a few years. If, for instance, we added the subject of compensating victims of crime for property losses, then we would be talking today about $80 billion or $90 billion, instead of $40 million. It would just require a modest change, just a minor modification of the language of the bill that is presented to us today to convert it from compensating victims of personal injury crimes to compensating victims of property damage crimes; so I am hopeful that these and other subjects will be taken into consideration as we debate this legislation and that we will be wise in the final consideration of this measure and that we will defeat this bill.

Mr. Chairman, the bill proposes a kind of welfare program in which the Federal Government adopts a permanent life support system.

My State of Illinois is among the nearly 20 States that have instituted victim compensation programs without any Federal assistance. Testifying before the Judiciary Committee's Subcommittee on Criminal Justice in 1975, the former director of the Illinois program, Mr. Peter Bensinger, noted that whether our State's program would continue without Federal funding is a question for the "priorities of the Governor and the general assembly." I think that Mr. Bensinger captures the essence of the issue before us today—that is, that both the prevention and the consequences of State crime are essentially matters of State responsibility.

In seeking to promote State law enforcement, we should not impose upon those closest to the problem a view which may prevail only here in Washington. But by earmarking a special Federal fund for victim compensation, H.R. 7010 effectively prevents a State from ordering its own criminal justice priorities. Money authorized here for the single purpose of victim compensation might better be utilized by increasing grants through the Law Enforcement Assistance Administration, so as to permit States to compensate crime victims without mandating that they do so in order to qualify for additional crime related assistance.

This bill provides that the Federal Government accepts one-half the consequences of crimes that have already been committed. By its very definition, the bill is only for those who have been victimized.

There is a point at which Federal law enforcement authority ends and beyond which it makes no sense for responsibility alone to extend. The Federal Government is not and cannot be an insurance company. Its proper role instead is to enforce Federal law and assist States to enforce their own laws.

Mr. Chairman, let me observe further that this bill rests upon the faulty premise that not only is the public-at-large responsible for criminal injuries but that citizens of one State are responsible through their Federal Government for crime inflicted in other States.

Criminals create victims and I feel strongly that they should bear the primary responsibility for alleviating the

consequences of their deliberate wrongdoing. However, H.R. 7010 lacks any recognition of the criminal-victim relationship.

The Law Enforcement Assistance Administration is currently involved in developing and expanding the kind of restitution programs that not only recognize offender responsibility but are having positive rehabilitative value. LEAA is now spending almost $2 million to help fund and evaluate seven projects in California, Georgia, Colorado, Connecticut, Oregon, Massachusetts, and Maine. The programs have been an innovative and useful approach toward victim compensation.

In Georgia, for example, 504 offenders have participated through fiscal year 1976 in a work program that has produced not only $62,500 for their victims, but nearly a million dollars for society in the form of taxes, family support, and contribution to the local economy.

But shifting the emphasis almost exclusively to public compensation, I fear, will preempt a field of promising alternatives, such as the programs I mentioned.

I, for one, think that encouraging restitution by helping offenders find jobs and allocating a portion of their earnings to the victim is a more sensible approach and one which should be promoted. H.R. 7010 is a bill whose time should be postponed. I should add that this is a view shared by my colleague from Illinois (Mr. RAILSBACK).

Mr. Chairman, there are many other reasons why this is undesirable legislation. It is my hope that the measure (H.R. 7010) will be defeated.

Mr. MANN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7010, but before I explain how it would operate, I would like to place it in its proper context. In order to understand the need for this legislation and its significance it is necessary to recognize some facts about crime and the public response to it.

Crime, as I am sure we all recognize, has been increasing. While some experts believe that the rapid increase in crime experienced in the late 1960's and early 1970's has slowed, the fact remains that crime is increasing.

We all know from our mail and contacts with constituents that public fear of crime is high. We read stories in our newspapers about people imprisoned at home behind locked doors and barred windows, afraid to venture out of their homes after dark, because they fear for their personal safety.

At the same time that there is great public concern about crime, there is, ironically, a public alienation from our criminal justice system. This alienation makes it difficult for police to apprehend offenders and prosecutors to prosecute them. Indeed, it even affects us as legislators, for this alienation results in disguising the nature and extent of the crime problem and makes it difficult to draft legislation that copes with the real problem.

This alienation on the part of the public is reported by police and prosecutors. People are unwilling to assist in apprehending and prosecuting criminal wrongdoers. They do not want to become witnesses, they do not want to become involved. We are probably all familiar with the more publicized examples of people not wanting to become involved—such as the Kitty Genovese incident in New York several years ago, where a woman was murdered in full view of numerous witnesses, none of whom went to her aid despite her screams for help.

This desire not to become involved has obvious and serious consequences. It becomes very difficult, often impossible, to apprehend, prosecute, and convict wrongdoers. As a result, people who are dangerous to the community remain free.

As serious as that is there is another facet of the public alienation from the criminal justice system that is just as serious, perhaps even more serious—the failure to report crime. The picture of crime in this country is distorted because a substantial proportion of crimes are not reported to law enforcement authorities. In some instances, a recent LEAA victimization study shows, the actual crime rate is four times the reported crime rate. Even in situations where we might expect people to report crimes in high percentages, crimes of violence, this is not so. The LEAA victimization study indicates that less than roughly half of the crimes of violence are reported to law enforcement authorities.

It is difficult to blame people for their reluctance to become involved. It requires a personal sacrifice to become involved. Time is lost from work. Things, particularly the trial, are rarely scheduled to suit the convenience of the victim or the witness—they are scheduled to suit the convenience of the court, the defendant and the prosecutor. In addition to the lost time, there is the embarassment and harassment connected with testifying at trial, and as we sometimes read in the paper, it can be dangerous to be a Government witness.

In addition to this, there seems to be a popular belief that society is more concerned about offenders than it is about victims. Some people see a disparity between the resources society spends on offenders and the resources society spends on victims. Indigent accused are provided with legal counsel, as well as any necessary expert assistance, at public expense. If the accused is convicted and wants to appeal, the public will pay for the appeal. The accused is also clothed with a full range of constitutional protections. An infringement upon these protections may result in the freeing of an offender, even though there is no reasonable doubt about his guilt. The perception of greater societal concern for wrongdoers was vividly brought out during our hearings by a cartoon submitted by one of our witnesses, an assistant district attorney in California. There are two pictures, and the first one shows a scruffily dressed young man and a neatly attired, prosperous looking older man. The caption over the young man says, "Mr. A, feeling deprived by society, decides to lash out by mugging Mr. B in a dark alley." The caption over the older man says, "Mr. B, as a result of his beating, loses his health, his job, his family, and takes up window washing and begging." In the second picture the roles are reversed, the young man is neatly dressed and prosperous looking; the older man is in rags. The caption over the young man reads, "Mr. A is caught and sentenced to business management courses that enable him to become independently wealthy." The caption over the older man reads, "Mr. B is waiting for Mr. A in a dark alley."

Is anything being done to deal with the public's alienation from the criminal justice system? Yes. Several district attorneys' offices are operating pilot victim-witness assistance projects. These projects provide what might be called "creature comfort" services to victims and witnesses, as well as a referral service to get victims and witnesses to appropriate social service agencies.

Some 20 States have gone further. They have established programs to help innocent crime victims meet some of the financial need brought on by physical injuries caused by crime. The States involved include Alaska, California, Delaware, Hawaii, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Tennessee, Virginia, Washington, and Wisconsin.

The victim compensation programs in those States offer compensation only where the victim is innocent and only where the victim has been physically injured or died. The programs do not act as property insurers—that is, they do not compensate victims for stolen property—and they do not compensate victims where the compensation would result in a double recovery by the victim. Thus, if a part of a victim's hospital expenses are paid for by some sort of insurance plan, the victim would not be compensated for that part of the hospital expenses paid by the plan.

Are these programs working? Does helping crime victims help the criminal justice system? The answer is "yes."

One of the subcommittee witnesses, a leading academic expert who has conducted substantial research and has published several articles on victim compensation, was asked that question. He replied in the affirmative, stating that—

> It is my contention . . . that if one does provide compensation to victims, they might be much more inclined to participate in the investigative processes, and in the prosecution of the suspects in criminal proceedings, and thus, the whole system would be improved. . . . From the interviews that I have been involved with, in New York State—interviews with crime victims—we did find that victims who know they can be compensated tend to have a much more favorable attitude toward the administration of criminal justice. Also, they are much more inclined to cooperate effectively with the authorities, than were those victims who had not received compensation. That was not a scientific study; but it is my own impression.
>
> I do definitely believe that, from the evidence that I have gathered, there is a definite benefit to the system of criminal justice, as a whole, if compensation is available to the victims.

That witness' observations are consistent with the findings of a professor at the University of New Mexico that were reported in an article in Crime and

Delinquency entitled, "How Well Are Criminal Injury Compensation Programs Working?" They are also consistent with the observations of other subcommittee witnesses, such as the prosecuting attorney of Montgomery County, Dayton, Ohio, who testified on behalf of the National District Attorneys Association. He stated:

We know, through the operation of victim witness assistance units in 43 district attorneys offices that crime victims—like all people—respond to considerate, courteous, and fair treatment. We think that any mechanism, including victim compensation, which serves the needs and interests of victims will increase the likelihood that citizens will be willing to assist prosecution agencies in bringing offenders to the bar of justice.

H.R. 7010 is intended to assist States in operating crime victims compensation programs and thereby to help them deal with public alienation. In the words of a former Administrator of the Law Enforcement Assistance Administration, who testified in support of Federal legislation to assist the States:

What I am suggesting to you here, while considering this problem of victimization, is that people who become victims of crime or who are potential victims don't participate in reporting or preventing crime; they stay at home behind their locked doors, do not testify, will not appear, and feel generally helpless and alienated, a problem that this legislation is specifically directed to deal with. . . .

How does H.R. 7010 work? It provides that a qualified State crime victim compensation program is eligible for a grant equal to 50 percent of its cost of paying compensation to victims of State crimes and 100 percent of its cost of paying compensation to victims of "analogous" Federal crimes. As a practical matter, most States will have very few, if any, analogous Federal crimes. As defined in the bill, an analogous Federal crime is a criminal act occurring within the State that would be covered by the victim compensation program but for the fact that the criminal act is subject to exclusive Federal jurisdiction. The analogous Federal crimes provision will probably affect most those States where there is Indian country over which the State has no criminal jurisdiction. The impact of the analogous Federal crimes provision is not expected to be very great.

It should be noted that the legislation refers to "cost of paying compensation" and not to total cost. Several items of expenses are not included in the cost of paying compensation, the most significant of which is administrative expense. The cost of administering the crime victim compensation program will be borne entirely by the State.

Who pays for most of the costs of a victim compensation program under H.R. 7010—the State or the Federal Government? The State. Since administrative costs typically run about 15 percent of the total cost of the program, the grant formula in H.R. 7010 means that a State will be paying close to 60 percent of the total cost of its crime victim compensation program.

Because the State will be paying for more of the program than the Federal Government and also because of the desire to permit and encourage each State to shape its crime victim compenastion program to serve its own needs and goals, H.R. 7010 contains a minimum of Federal qualifications, standards, and guidelines. There are seven qualifications that a State crime victim compensation program must meet in order to be eligible for a Federal grant. These qualifications, whenever possible, adopt the definitions and standards used by the State for the purposes of its victim compensation program.

First, H.R. 7010 provides that the State program must offer compensation to persons for losses resulting from physical injuries or death caused by criminal acts. Each State may decide for itself what criminal acts its program will cover and what constitutes a "personal injury" for the purposes of its program. Second, the bill requires that a State program must offer some form of administrative or judicial review to aggrieved claimants. Each State may determine for itself what particular form of review is appropriate. Third, H.R. 7010 provides that the State must require that claimants cooperate with law enforcement authorities in apprehending and prosecuting the perpetrator of the criminal act. Fourth, the legislation requires that there be procedures in the State to inform victims of the existence of the victim compensation program and of the method of applying for compensation. Fifth, H.R. 7010 requires that the State be subrogated, to the extent of any compensation paid to a claimant, to any claim that the claimant has against the offender. Sixth, the legislation provides that the State program must not require a claimant to seek or accept welfare benefits, unless the claimant was receiving such benefits prior to the crime that gave rise to the claim. Finally, the legislation requires that the State program deny or reduce a claim if it finds that the victim was contributorily at fault.

I am pleased to be able to say that this legislation has received a great deal of support. This support has been bipartisan and has come from groups and organizations not always found on the same side of an issue. It has been endorsed by officials, both Democrats and Republicans, of several States, both States with programs and States without. It has been endorsed by numerous and diverse groups and organizations, such as the National Conference of State Legislatures, the National District Attorneys Association, the National League of Cities and U.S. Conference of Mayors, the American Bar Association, the National Council on Crime and Delinquency, the National Retired Teachers Association and American Association of Retired Persons, the International Conference of Police Associations, the Fraternal Order of Police, the United Automobile Workers, Americans for Democratic Action, the International Association of Chiefs of Police, the National Moratorium on Prison Construction, and Americans for Effective Law Enforcement.

The legislation has been criticized as being "illogical, arbitrary, and unfair" because it is limited to innocent victims of crime. I would point out that we pass a lot of legislation that is of assistance to limited groups of victims. Last year, for example, the Judiciary Committee reported, and the Congress enacted, legislation to indemnify the victims of the Grand Teton Dam disaster. I do not recall any of the opponents of H.R. 7010 arguing that it was "illogical, arbitrary, and unfair" to aid the victims of that disaster. In fact, one of the dissenters to the committee report on H.R. 7010 was a leading spokesman on behalf of the bill.

I do not think it is "illogical, arbitrary, and unfair" to identify innocent crime victims as a class. In fact, it has been argued that society has a special obligation to crime victims. The representative of the California attorney general put it this way:

We see no problem in "singling out" victims for compensation since we do not reduce our reason for compassion to the lowest common denominator of sheer suffering. This particular suffering and loss takes place in a special context, in an area where the government is already heavily committed. It takes place in the context of a duty to protect; of an extensive investment in police, jails, and rehabilitation as well as punitive programs for criminals. There is, therefore, a rational basis for government sympathy for the victims of crime as a particular class of people most directly affected by an act the government seeks to prevent or punish and whose perpetrator it surrounds with rights. It is no more illogical to give them aid than to aid injured women for the sake of the overall economy or to aid victims of natural disasters, whatever the fate of the unfortunate slip-and-fall case.

Mr. Chairman, H.R. 7010 will assist the States in compensating crime victims, and I urge my colleagues to support it.

I look back to the campaign of 1968 when I first ran, and I heard Richard Nixon and HUBERT HUMPHREY saying that they were going so solve the crime problems of this country. We all sat back and waited, but of course the crime problems were not solved. They were not solved because the Federal Government did not need to be involved in local law enforcement. The Federal Government did not have the capacity to become involved to the extent that those candidates implied.

Now, we are all looking for ways to prevent crime. We are all looking for a magic potion, for the preventative. Have we found it? Of course not. Have we found it here? No, but if we have found something that will make one small contribution to the administration of criminal justice, then we have something that is worthy of our support. I believe we have found something worthy of support.

In the last analysis, law enforcement depends upon citizen cooperation—cooperation as witnesses, as complainants, as voluntary obeyers of the law, among other things. We cannot possibly have a policeman on every corner or in every doorway, nor would we want to. The whole criminal justice system holds together because of voluntary compliance of people—voluntary obedience to the law, voluntary reporting of crimes, voluntary willingness to serve as witnesses.

We have to have a criminal justice system that does not alienate people, and that is the problem. We have alienated people from the criminal justice system. One of the ingredients of that alienation is the fact that we lavish too much of our attention and our money on the offender. We have spent billions of dollars to safeguard the rights of accused persons and to house, clothe, feed, and rehabilitate those who are convicted and sent to prison.

"All right, Mr. MANN, what does this have to do with the Federal Government getting involved in assisting crime victims?" As Cicero said in the first century before Christ, "The safety of the people is the highest law." The Federal Government has a duty in our constitutional system to provide for the general welfare, particularly when it is beyond the means of the States acting alone to provide for it.

It is also the Federal Government's responsibility in our constitutional system to provide for the general welfare when it is beyond the capacity of individuals to provide for it.

The problem addressed in this legislation transcends the concerns of States individually because crime—organized crime or any kind of crime—is an interstate problem.

The solution that we seek in order to improve our criminal justice system is still vague, and we see through a glass darkly. This legislation may provide one of the parts of the solution, for it should help reduce the alienation of the public, the noninvolvement of the public, the suffering of the public resulting from the failure of Government to provide for them.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman's statement concerning the Federal responsibility relating to organized crime is unclear to me. While organized crime would certainly involve interstate efforts. I do not believe that the record indicates that many of the organized crime victims who would be entitled to compensation under this measure actually survive. I gather that from the gentleman's suggestion that one of the reasons he believes the Federal Government should be involved in this area is because of organized crime victims. I would say they are the last persons to be concerned here, because most do not survive the incident which would result in their being compensated.

Mr. MANN. Of course, I do not agree with the gentleman's assessment that all such involvement is terminal but even if it were, the dependents of such victims are also involved and entitled to consideration.

I made the point in connection with the idea that here we are dealing with a matter that is interstate in nature. Organized crime is an example of the interstate nature of the problem. The high mobility of the criminal is another example of that. Basically the point I am making is that the interstate nature of crime makes victim compensation more of a Federal question and a Federal problem.

Mr. COHEN. If the gentleman will yield further, I thank the gentleman for his response, and I want to say that the gentleman is a very thoughtful member of the committee. The gentleman mentioned LEAA. LEAA has tried some alternatives to victims of crime compensation. For example, it has a project in my own State, in which it attempts to deal with the criminal who commits the crime, and thereby inflicts injury and loss of property upon his victims. We are really kind of shifting away from the focus of criminal responsibility and the harm that is inflicted. One effort that is being undertaken is to require those who are convicted of crimes to make restitution, to provide compensation for the people to whom they do damage. And I was wondering why would it not be better to allow this approach rather than shift the burden away from the criminal who commits a crime and then transfer it to the taxpayer? Why would that not be at least a better approach to take in this for the time being?

Mr. MANN. Mr. Chairman, I hate to be dogmatic with the gentleman, but I would be interested in seeing any figures he has that indicate that restitution is effective in any way. During the course of our hearings, we asked several witnesses to comment upon the effectiveness of restitution. They uniformly responded that restitution is inadequate and helps only a very few victims. Furthermore, in my opinion, it is too clear to admit of argument that restitution imposed upon that judgment-proof offender, even assuming that we put him on probation, has caused more social problems than it has cured.

The only restitution programs that have really seemed to work are those where the offender is confined and, as a part of his psychological rehabilitation, is required to make repayment. Programs like that work as a part of the penal system, but not as a part of a system designed to compensate people who have lost their means of livelihood or who are disabled for life and the like. Restitution and compensation are different concepts and serve differing purposes.

Let me emphasize that this legislation in no way precludes the continuation or the establishment of programs like the one referred to by the gentleman from Maine. Each State is free to decide for itself whether and to what extent it wants to utilize restitution and programs like the one described by the gentleman from Maine.

Mr. COHEN. Mr. Chairman, if the gentleman will yield further, I would like to make one other point. I do not want to preempt the gentleman from California (Mr. WIGGINS), who, I believe, will address himself to this particular aspect of the problem. However, it is my understanding that there are social programs that are currently available to provide compensation to those victims of crimes in terms of the hospital bills and medical bills which they incur. Those programs are administered at the local level.

This bill does not really get at the problem of loss of property. Our Select Committee on Aging, for example, has held hearings in New York and other metropolitan areas. There they have a serious problem of elderly people being victimized by criminals. One of the greatest problems is that of stolen property—property taken by a handbag snatcher, for instance, and the loss of a television set.

Those losses will never be compensated under this bill, and yet our focus is upon the reimbursement for medical expenses and lost wages for a period of time. I believe the gentleman from California (Mr. WIGGINS) has spoken on this point before the committee.

Are there not programs now to provide temporary emergency relief at the local level for people who are in need of hospitalization and medical compensation?

Mr. MANN. Mr. Chairman, those programs would vary with the local community, of course, or with the State.

One of the beauties of this bill is that it requires an individual claimant to exhaust all other means of compensation—such as from insurance programs—before any charge is made against the victims-of-crime program.

This subrogation-type feature makes this program one of last resort.

Mr. COHEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

I have asked the gentleman to yield for the purpose of clarifying some aspects of the bill which I think are in need of clarification.

If the gentleman has a copy of the bill before him, I wish he would turn to section 4 on page 4 of the bill. That section, as the gentleman recalls, establishes the criteria which must exist with respect to the State programs in order to qualify for Federal contributions. The first qualification is that the program offer compensation for certain personal injuries and compensation to the surviving dependent or dependents of individuals whose deaths were the result of qualifying crimes.

I will ask if it is the intention of the subcommittee chairman or of the committee to mean by the use of the word, "dependent," that the claimant have a certain status with respect to the decedent, or is it incumbent upon the dependent claimant to prove his or her economic loss as a direct and proximate result of the death of the person who was the victim of a crime?

Mr. MANN. Section 7(2) of the bill states that "dependent," for the purpose of administering the legislation, means dependent as defined by a State for purposes of its crime victim compensation program. It would seem to me that ordinarily dependency, as the gentleman says, would be proved in the form of an economic deprivation.

Mr. WIGGINS. Therefore, loss of com-

fort, of society, of companionship, all of those matters which sometimes form elements of damage in wrongful death actions, would not be the basis of a claim for compensation for a dependent unless they could be shown to represent economic loss; is that correct?

Mr. MANN. They would not. It is our intention that dependents of victims recover those items of loss that victims themselves are entitled to recover—appropriate and reasonable medical expenses, appropriate and reasonable physical and occupational rehabilitation expenses, and lost wages.

The question of a claimant's qualification under a State program will be determined by the appropriate State agency in accordance with the laws of that State.

Mr. WIGGINS. Yes. I wish to indicate for the minority that that is our understanding as well, and it is wholly consistent with the exclusion of pain and suffering, for example, from the compensation with respect to which a State can receive reimbursement from the Federal Government.

I will now ask the chairman to turn to section 5 on page 6. In that section there are specified certain items which are to be excluded, and on line 19 and following there is a subdivision (4) which indicates that any amount which the claimant may be entitled to receive as compensation shall be excluded.

Every crime which is covered is a tort, I believe; and there is a tortfeasor who invariably is a person who owes a duty of compensation to his victim.

It can be said that every claimant will have a civil cause of action in tort for damages.

I should like the chairman to state whether or not it is his intention that the use of the words "or who is entitled to receive compensation" would include a cause of action only.

I am not sure whether I phrase that properly. I would like to know whether the existence of the cause of action is going to be sufficient to provide the claimant with a right to recover.

Mr. MANN. I would say that a fair interpretation of our intent is that the mere existence of a cause of action would not constitute a collateral source within the meaning of section 5(4) of the bill. The legislation requires that the State be subrogated to any claim the victim has against the offender, so even if the State makes a payment, it has the opportunity to recover the amount of that payment under the subrogation provision.

Mr. WIGGINS. It would be my hope, Mr. Chairman, that our legislative history would make it perfectly clear that the existence of the cause of action should arise at the moment of the injury and continue during the period of limitation for that wrong and would not operate to deprive a claimant of any right to recover since it, very frankly, would gut the program in its entirety as there is a cause of action in every case.

Mr. MANN. I would agree except that I would not override the discretion of the State agency administering the program because, even though we have here a 50-percent matching program, we have the States paying approximately 60 percent of the total cost of the program.

Mr. WIGGINS. I thank the gentleman.

Mr. Chairman, I have another question, but I will ask it on my own time.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. MANN) has expired.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I support this legislation at the risk of tarnishing my conservative credentials because I believe it can be useful and at a reasonable cost.

This bill does not set up a new governmental agency, nor a cumbersome bureaucracy to administer its provisions. This will all be handled within the Justice Department.

True, it is a new program, but we ought not to reject it for this reason alone. There are plenty of old programs we ought to eliminate in the interest of fiscal sanity, and whose costs far outweigh any benefits created. This program, however, has far more value to people who really need help than many now flourishing in the bureaucratic beehive that is Washington.

All this bill provides is 50 percent of the out-of-pocket unreimbursed medical expenses for a victim of crime. If there exists any collateral source to make these medical payments, insurance or otherwise, the collateral source will be used. Therefore, only the actual medical bills will be paid and only when there is no other source for payment.

The Federal share of this is 50 percent and, therefore, the individual States which have this program must pay the other 50 percent. This equal contribution by the States, whose funds are notoriously limited, guarantees that the awarding of claims will not be carelessly nor profligately made.

The costs of administration are totally borne by the States and the only time the Federal share will exceed 50 percent is when a crime violating a Federal statute is involved. These are a small fraction of the total crimes committed in this country.

The uninsured victims of violent crime will be the sole beneficiaries of this program. These are the poorest of the poor, and for the Federal Government to collaborate with State governments to alleviate, however, slightly, their plight is no bad thing.

When one considers the myriad of appropriations Congress routinely approves, we can get a better perspective on this issue.

For fiscal year 1978 the Committee on Appropriations approved a request for $245 million for arts and the humanities. In foreign aid for calendar year 1976 we approved $6,605,000,000. In January of this year the U.S. Department of Agriculture funded a study that cost $40,000 to determine how long it takes to cook breakfast. In February LEAA awarded $20,000 to study why prisoners want to escape from prison. And, of course, the Kennedy Center has been a special beneficiary for millions of dollars, $4 million recently to repair its roof.

So, Mr. Chairman, I can see no logical nor humane reason to fail to implement this program. Our society spends millions of dollars on a prison system that includes vast expenditures to rehabilitate criminals, such as vocational training, halfway houses, and the like, so is it so wrong to spend a pittance on helping to rehabilitate the victims of these criminals? I think not and I support this legislation.

I know we have welfare programs and we have the Red Cross, but why drive someone into the welfare cycle if otherwise they do not belong there, simply to get reimbursed for medical bills?

I also think I ought to point out that part of this bill requires as a condition for compensation that the claimants cooperate with the appropriate law enforcement authorities with regard to the qualifying crime for which the compensation is sought. This is an added inducement to obtain witnesses for the effective prosecution of these crimes.

So I support this as a practical program. It is not going to be costly. It is not going to be expensive, but it is reasonable that because we do a great deal to rehabilitate the criminals, then let us do a little something to rehabilitate the unreimbursed victims.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I would inquire of the gentleman from Illinois whether it is my friend's intention to offer an amendment to the bill?

Mr. HYDE. At some point along the line there will be an amendment offered and I will support it.

Mr. WIGGINS. Which amendment is that?

Mr. HYDE. The gentleman from Maryland (Mr. BUTLER) is working on that amendment and I would be loath to detail its contents at this point.

Mr. WIGGINS. My curiosity is occasioned by the fact that the gentleman in the well knows that abortions are covered as a medical expense which may be incurred as a result of pregnancy following a criminal rape. Knowing the gentleman's strong feelings on that subject, I thought the gentleman might wish to amend the bill in that regard.

Mr. HYDE. As the gentleman from California well knows, I am vehemently opposed to abortion as the taking of an innocent life and I would oppose public funds to pay for any abortions.

Mr. WIGGINS. The gentleman understands that the public funds for this bill are not covered by the HEW appropriation, and the prohibition against abortion funding would not apply.

Mr. HYDE. I hope the gentleman's prediction is correct and that they will never be covered by the HEW bill.

Mr. WIGGINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to H.R. 7010.

I recognize that a bill to aid crime victims has that certain euphonic appeal which once again gives good sound the

advantage over good sense. Therefore, I appeal to my colleagues not to consider this proposed legislation solely on the basis of rhetoric, but to act as conscientious trustees for the American taxpayer. For in the final analysis, words alone provide neither a convincing rationale for this bill nor a safe refuge after the fact; for what is urged as "Government responsibility" today can just as likely be viewed as "Government giveaway" tomorrow. Those who expect public plaudits by their generosity with other peoples' money should be prepared for a different reaction when that generosity sets a pattern of profligacy.

The underpinning of H.R. 7010, that the Federal Government is responsible to the victims of State crimes, represents a quantum leap in Federal-State relationship—a leap so profound that a logical concomitant would be the detailing of the FBI as urban patrolmen. But, although H.R. 7010 purports to assume for Washington half the responsibility for a street mugging in Chicago, in reality, it merely conduits that responsibility to the taxpayers of the other 49 States, none of whom were able to prevent the crime in the first place.

The concept of Federal interest cannot logically countenance the attenuation necessary to accommodate H.R. 7010. There must be some other reason for this legislation; and truthfully, that reason can only be Federal largesse—an extremely selective largesse at that.

I am certainly a believer in beneficence, but why a special Federal fund for such a restricted group? Why should the Federal Government pay someone knocked on the head by a bandit while saying "no" to someone whose identical injury resulted from an accident? In each case, the victim is just as injured and the Federal Government just as blameless.

It would be a different story if the Federal Government were not already providing billions of dollars of assistance to the injured and disabled of this country—irrespective of how they were afflicted.

Let there be no misapprehension as to the size of the abyss we face. America is awash in a sea of crime, almost all of it State crime. For the Federal Government to undertake an unprecedented task of treating all the casualties ignores the fact that despite vast expenditures through LEAA, we have been unable to even reduce the number of crime victims.

We are asked here to follow the long described notion that every problem can be spent away. Even so, H.R. 7010, pours its millions on the wrong end of the problem, since the crime victim would rather not have been a victim in the first place. No matter with how much money he is bathed, the victim will not appreciate his pains.

Although the bill is brightly wrapped as a crime reduction package, the ribbons and string cover only an empty box.

It is said that paying the victim will persuade him to report the crime and testify at the trial. But the problem has never been the lack of victim involvement in the criminal justice system, but rather witness indifference.

Most often, the victim is not only willing, but diligent in pressing charges, while the witness must be dragged kicking and screaming to court. Kitty Genovese had no choice but to become a victim, but it was the bystander who chose to ignore her plight for fear of becoming a witness.

Now comes H.R. 7010 to add just one more hearing at which a witness must testify, further convincing him that noninvolvement is the only way to avoid the endless grinding of the criminal justice system. Instead of promoting citizen involvement in law enforcement, the bill actually discourages it.

If there were but some assurance that by paying victims we could reduce their number, then this bill would be meritorious. But Federal compensation for State crime victims is merely a headlong plunge into a tunnel so blind that there is not even a light at the end. We are bounding blithefully into another welfare morass.

The bill might even be meritorious if it placed the burden for victim compensation on the criminal. But it merely uses public funds to tidy up after an offender who makes no contribution beyond that everyone makes as a taxpayer.

So in a very real sense, money is taken from one victim to pay another while the one truly responsible can take justifiable pride in once again having mocked the system.

Even if the bill required States to impose upon criminals a minimal fine, it might merit favorable consideration. But it is asserted that this minor accommodation to Federal funding would wreak havoc upon the States. It makes no sense to sanction State tax relief for criminals, for if ever there was a program that cried out for a user's tax, this is it. Before we rush into a State problem, it is not unseemly to ask that the problem causers contribute in a special way.

Finally, it is important to remember that when H.R. 7010 speaks of the Federal Government aiding crime victims, it is speaking of helping only States with compensation programs—meaning that the 30 States which do not compensate crime victims are being taxed to help the 20 that do.

It is a misconception that Federal money springs naturally from the Potomac. The buck only stops here, it starts in the pocket of each American taxpayer.

Mr. Chairman, there are certain matters contained in my formal remarks which I believe need to be emphasized in order to gain a full understanding of the bill. Its principal defect, Mr. Chairman, is that it is conceptually indefensible. It is said by some that this bill is necessary as an effort on our part to control crime. Of course, that is nonsense. The bill has no application to crime prevention; indeed, it only comes into play after the crime has already occurred. But some say it might encourage the reporting of crime. There never has been a problem about the bloody victim reporting his crime. The problem is with witnesses who are not the victims of crime and, therefore, not benefited by this program. Rather than being benefited, the witnesses are further burdened. Not only do they face the burden of appearing in court pursuant to a subpena in connection with the trial of the accused, but now we have created a second administrative proceeding in which they may be called as witnesses in order to support or rebut the claim for compensation. If there is a need in our total criminal justice system, surely it is for greater witness cooperation, and this bill is counterproductive to that end.

It is also said that this bill is a logical extension of the present Federal involvement in local law enforcement. I suggest, too, that such an assertion is sheer nonsense. Existing Federal commitments in the law enforcement field focus upon crime prevention, crime detection, prosecution, and punishment. This bill is at odds with the existing Federal approach to local law enforcement. It establishes a wholly new area of Federal involvement. It is truly not a law enforcement effort at all. This is no more nor less than a highly selective and duplicative social program for the benefit of a very narrow class.

In order to keep the money claims under control, the bill excludes, as we all know, property losses, but that, too, is sheer nonsense. In fact, the bill covers only property losses and is very selective in its coverage of such losses. The nonproperty loss which a person sustains as a result of a physical injury is pain and suffering. All of the rest of his damages are money damages, property damages. Doctor bills are a form of property loss. Loss of earnings are a form of property loss.

We say we do not cover property damage. Foolishness. We cover only property damage and a very narrow category of property damage under this bill. I make the point only to emphasize the lack of rationality in the classifications made under the bill. It should be noted that if an injured person has private insurance and is entitled to recover a claim against his private insurance carrier, that sum will be deducted from any amount that he will otherwise be entitled to receive under this program. What is the consequence of that exclusion? In my opinion, the consequence will be that every private insurance carrier in America will promptly exclude coverage for claims based upon injuries caused by criminal acts. And why should they pay such claims when the Government is going to pay them? The net effect will be a transfer of private responsibility for one's own injuries over to the public treasury, and I suggest that is bad policy.

It is to be noted further that there is no contribution contemplated in this bill by the perpetrator of the wrong.

I am prepared to admit that many criminals who commit violent acts are unable to pay their victims the compensation to which they are due by reason of their injuries. But what common sense or logic is there in excluding any contribution—I mean the first dollar—by a criminal causing the wrong? One would think that there is at least an element of common sense in requiring a $5 contribution, or maybe a $10 contribution. And if we were to do that, I suggest to my friends that we would take a long step in lifting

this burden off the backs of the taxpayers—who may be the true victims of this legislation—and put it on the backs of the tortfeasors or criminals, where it belongs.

What are the costs of this legislation? The bill provides in the first 3 years for an aggregate authorization of $150 million. We are assured that we will not spend all that money, but I am not so sure. The projections of cost are based upon experience with existing State programs. But one feature of this bill is that the State must advertise the program. The experience in the city of New York, when they put up the signs in the subway, was the cost escalated so dramatically they had to take the signs down. This bill requires that those signs stay up.

Basing cost projections on existing practice is a very tenuous and I think uncertain basis for anticipating what the total cost of this measure will be. What do the Members think is going to happen next year and the year after? This is a 50–50 program. It would not be unheard of to have representatives of States come to us and say that they think our share ought to be 75 percent, maybe 90 percent. Has that not been the history of programs of this sort?

Also the bill indicates that certain expenses at the State level are not to be counted, such as administrative expenses. Would it be unheard of to have the States come down here and say they ought to be included in the future?

No, this is a growth program. We are just on the launching pad of a program that one day will include property damages, and then it is: "Katy, bar the door."

Property damages resulting from crime in this country alone run into the billions of dollars. Better that we interdict this ill-considered program right now, rather than attempt a repeal or reduced program later on.

It is to be noted that our present Justice Department does not go along with this 50 percent/$50,000 limitation. Rather it recommended a 25 percent participation and a $25,000 limitation. But the generosity of our Judiciary Committee knew no bounds. It was unwilling to follow the advice of our own Attorney General.

There will be an amendment offered when this bill comes up under the 5-minute rule to follow the wise advice of our Attorney General and return to a 25 percent level for openers—and that is all it is, for openers, because the States will be back for more.

Finally, who is pushing this bill? Who is for it? Who is against it?

There are 20 States that have those programs. Another way of putting it is that there are 30 States which do not. The 20 States that have these programs are finding that they are more expensive than the States originally thought when they undertook the programs and these States are seeking Federal support. Those 20 States provide the impetus for this legislation. They seek to dip into the pockets of the taxpayers in the other 30 States to compensate victims of crimes occurring in their own States.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I take it the gentleman in the well opposes the spending of taxpayers' money on rehabilitation of victims. Does the gentleman support spending taxpayers' money on the rehabilitation of criminals?

Mr. WIGGINS. I start by challenging the gentleman's original premise. The gentleman said that this Member in the well is opposed to spending taxpayers' money to rehabilitate victims.

Mr. HYDE. In this program.

Mr. WIGGINS. "In this program" is an important qualification. I say that because we already have in place programs to compensate victims of injuries occasioned by criminal acts and noncriminal acts. If I were to slip and fall, and if I am indigent and bump my head on the street, there is a Federal program to take care of me.

Mr. HYDE. That is welfare.

Mr. WIGGINS. Including rehabilitation services, including doctor and hospital care; I am covered if I am medically indigent at the present time. If I get hit on the head, rather than bump my head, and the difference is largely immaterial to me, but, if I were to get hit on the head, then the legislation creates a new program that duplicates the old one.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, I have several questions. I do not wish to take too much of the gentleman's time; but the gentleman used the phrase "private responsibility." Does not the gentleman feel that the State has a public responsibility to do its utmost to protect its citizens from crime?

Mr. WIGGINS. Of course.

Mr. HYDE. The gentleman used the term "property damage." Surely the gentleman does not intend that a broken leg as a result of a crime and getting medical bills reimbursed, is that for property damage?

Mr. WIGGINS. I contend that the medical bill is a property loss; yes, and that is what this bill takes care of, the medical payments; it does not mend the leg, nor compensate for pain and suffering.

Mr. HYDE. Surely in personal injury law, the difference between property damage and personal injury, there is only money compensated for personal injury; but I do not think that is worth a lot of time in debate.

Mr. WIGGINS. No, I do not think so. I think, analytically, I am correct.

Mr. Chairman, I want to make another point on my time, because the gentleman from Illinois wrote a persuasive supplemental view to the committee report. In it, he asks the rhetorical question, "If we give all these rights to the criminals, why don't we give them to the victims?"

I want to suggest that is a wholly rhetorical question. The victim, of course, may suffer a physical injury, but the criminal loses his personal security and this well-being is assumed by the State. The State is in charge of his care and keeping in a place of incarceration, and that fact imposes upon us, society, a duty. Not only should he be entitled to and is he entitled to his full constitutional rights, which are of a nonmonetary nature, but so long as he is in our care and custody we owe it to the criminal to see that he is rehabilitated so as not to continue a life of crime.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, my recollection is that earlier my colleague, the gentleman from Illinois (Mr. HYDE), suggested this program was one to take care of the poorest of the poor. It is my understanding there is no means test. There is no question as to whom is compensated as far as victims of crime are concerned. It applies to the rich and poor alike, whether you can pay for your own rehabilitation or whether you cannot; is that not correct, as a universal application?

Mr. WIGGINS. That is right. There is no means test.

Mr. Chairman, I wanted to ask the gentleman from South Carolina a question.

Mr. MANN. Mr. Chairman, before the gentleman asks the question, I will respond in this way. We, of course, in this legislation have sought to impose a few conditions on the States and among the conditions we did not require was that States impose or not impose a means test. It is still up to a State to impose a means test; is that correct?

Mr. WIGGINS. As the gentleman knows, one of the items which is compensable is loss of earnings. Those losses are included in the definitional section of the bill on page 10, line 9, as loss of "past and anticipated future earnings."

I would like the gentleman to comment on whether or not it would be permissible to claim a loss of anticipated future earnings with respect to a job which was not held at the time of injury. For example, would a claimant be able to project his own future and say, perhaps, he would be a brain surgeon but for the injury and to compute his loss of earnings on that basis?

Mr. MANN. No. I would say that anticipated future earnings would be based on historical experience.

Mr. WIGGINS. On the basis of present employment at the time of injury.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, the gentleman made reference to a situation where a person is victimized and medically injured and turns to some program. The gentleman did not specify the program, but I would accept there might be some program where the individual might be able at least to look to compensation. However, does the gentleman recognize we also are talking about individuals who have been productive useful members of society, who become so victimized, and there have been cases where they are no longer able to be productive, useful able members of society?

They are no longer able to earn for themselves, provide for their families, pay for their hospital expenses which have reached such a magnitude in some

instances, and yet would the gentleman suggest that this individual should be subjected to turning to welfare, become again one who has to look for and seek that kind of assistance that ordinarily the proud, dignified individual who is looking to sustain himself, maintain his family, says, "Why do this to me? I was whole once, and now I am not. I am an innocent victim." What do we do with that individual?

Mr. WIGGINS. First of all, Mr. Chairman, nothing that we pass here will change the physical circumstances of the victim. We regret that a person may be permanently or temporarily disabled, but nothing we do here can change that.

Mr. RODINO. Except that we give him some compensation.

Mr. WIGGINS. All we can talk about is money. Now, what is the duty of the Government with respect to providing money for various calamities that might befall our citizens, of which physical injury because of criminal conduct is only one? I do not think that we stand here as an insurer for all in our society to see that they maintain their economic status quo. Rather, I think that we owe a duty to everyone, regardless of the cause of his disability, to see that necessary expenses are taken care of by government if he is unable to pay. Now, that is a logical principle with which I identify.

This bill, however, abandons that principle entirely. It overlooks the ability of the person to provide for his own losses. The first responsibility is an individual one because government cannot assume it for everyone. Government simply cannot assume to take care of every calamity which may befall people in our society. It should focus only on those in need. Some will be harmed because of property crimes, such as arson; others may suffer disasters from noncriminal acts. A governmental duty arises only when a need exists, which may be totally unrelated to the cause of the crises.

Mr. RODINO. Will the gentleman yield further?

Mr. WIGGINS. I yield.

Mr. RODINO. Those individuals who the gentleman referred to are individuals who are, unfortunately, victims of catastrophes that are beyond human action, and therefore I do not see how the gentleman equates that other individual who we are talking about, who is victimized by a someone or some beings who assault him, to damage him. The gentleman is talking about an entirely different situation.

Mr. WIGGINS. I am not talking about fortuitous events, Mr. Chairman; I am not talking about the people in Kansas City who suffered great losses as a result of the flood. No, I am talking about criminal actions. There are many, many criminal actions, as the gentleman knows, that cause enormous damage to individuals, utterly destroy their lives and their businesses, which are not compensated by this bill.

I make that point only to demonstrate the highly selective nature of the largesse we are heaping upon "victims." At the appropriate time, perhaps next week, I will urge a no vote on this bill.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Yes.

Mr. MANN. In order to put in context the gentleman's statement concerning who is promoting this bill, I ask him if he recalls that we received testimony in favor of the bill from the National Conference of State Legislatures, the National District Attorneys Association, the National League of Cities and U.S. Conference of Mayors, the American Bar Association, the National Council on Crime and Delinquency, the National Retired Teachers Association and American Association of Retired Persons, the International Conference of Police Associations, the Fraternal Order of Police, the United Automobile Workers, Americans for Democratic Action, the International Association of Chiefs of Police, the National Moratorium on Prison Construction, and Americans for Effective Law Enforcement.

As a matter of fact, from no identifiable group did we receive testimony in opposition.

Mr. WIGGINS. The gentleman asks me if I remember that. The answer is no, I do not remember that. I do, however, remember the witnesses appearing before us from the various States. Each of them literally had their brown bags with them. They had existing State programs, and they wanted Federal funding to bail them out.

Mr. MANN. I recall the chairman of the State Legislatures of the United States being from Nebraska, which has no such program. A preponderance of the witnesses did not have an interest such as the gentleman states, but the record will show.

Mr. MANN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, almost 4,000 years ago, the ancient nation of Babylonia adopted as part of its code of Hammurabi, a provision obligating the society to compensate those of its citizens victimized by crime. I am proud to rise today, as an original cosponsor to H.R. 7010, legislation which proposes the same concept for crime victims of modern day America.

With the passage of H.R. 7010, we will be correcting a gross oversight. This Nation has a very sorry record in neglecting the many thousands of our citizens victimized by crime each year. Victims are the forgotten people in our war against crime. It has been estimated that less than 1 percent of the $17 billion we spend each year for criminal justice, goes to aid victims of crime. In human terms, this means that the pleas for assistance of a majority of crime victims, are going unanswered.

In 1955, California became our first State to establish a crime victim compensation program. The State of New York followed the very next year with the establishment of its own program. These two States have been pioneers in the effort to respond to the urgent compensation needs of crime victims. All told, some 20 States have programs to compensate victims of crime.

All of these State programs are suffering from the same problem; insufficient funds to meet increasing demands. In New York for example, the number of claims filed by crime victims has more than doubled in the past 5 years. In California, the number of approved claims soared from 471 in fiscal year 1970–71, to 3,792 in fiscal year 1974–75. State program budgets have simply been unable to keep pace with the rising demands.

As State funds continue to be insufficient for meeting the increased costs of administering crime victim compensation programs, the need for Federal assistance becomes even more obvious. H.R. 7010 recognizes this urgent need and provides grants to State which would cover 100 percent of the costs for compensating victims of Federal crime, and 50 percent of the costs for compensating victims of State crime. This legislation will enable those States with crime victim compensation programs to favorably respond to more of their crime victims than ever before. It will assist more eligible victims by defraying the costs of medical care, and will provide reimbursement for earning losses. Attached to the release of these funds are certain conditions, one, requiring crime victims to report the crime to authorities. The bill makes this a prerequisite for a victim to receive compensation.

Who would benefit by this legislation? Allow me to cite the tragic case of a dear friend of mine, Tommy Clarkin. On April 1, Tommy, returning home after work, was viciously ambushed at the door of his apartment building. His assailants shot him three times: First, behind his right ear; then, in the lower part of his neck; and finally, in his cheek. The third bullet lodged behind his right eye. Tommy struggled into his apartment building where he was able to obtain assistance. He was rushed to a hospital where the nature of his injuries were determined. He was then rushed to a second hospital for surgery to save his right eye. This attempt proved futile, and a short while later, Tommy lost his eye. Tommy has incurred thousands of dollars in medical expenses, and has recently filed a claim with the New York State Crime Victim Compensation Board. The application is pending before the board.

It is safe to assume that the Federal funds provided for in this bill, would greatly help Tommy's chances of receiving compensation. For Tommy Clarkin and for all the thousands of America's crime victims, H.R. 7010 must be passed.

As chairman of the Federal, State and Community Services of the House Select Committee on Aging, I have been focusing considerable attention on the special problems of elderly crime victims. I chaired a hearing in New York City on February 16 which dealt exclusively with this subject. I received testimony from a number of elderly victims of crime who related their personal tales of horror—not only with respect to the crime perpetrated against them—but more importantly—to the economic after-effects. As a result of this hearing, I introduced H.R. 5003, legislation greatly resembling the bill now before us, but which in-

cluded special features for the elderly. Included among these, was a provision for emergency, interim payments. I am gratified that the committee has included emergency assistance for all needy crime victims in H.R. 7010.

I came to Congress after serving on the New York City Police Force for 23 years. Throughout my career, I had direct contact with hundreds of crime victims. I saw first-hand, the personal, physical, economic, and psychological damage caused by crime. I saw the devastating effects of crime, especially on its elderly victims. I come to plead on their behalf today. Crime victimization is a human disaster and tragedy which merits compassion and not a cold shoulder. Our society's failure to assist those of its citizens who are victimized by crime, represents a deriliction of moral responsibility and an abandonment of moral principle.

The time is long overdue for the Federal Government to come to the aid of crime victims. Our massive criminal justice expenditures must be used to help victims of crime, instead of to acquire fancy hardware. I commend the distinguished subcommittee chairman, Mr. MANN, as well as the committee chairman and sponsor of this legislation, Mr. RODINO. Theirs is an exemplary initiative in recognizing the rights of crime victims in this Nation. The leadership these two fine gentlemen have provided over the years on behalf of this legislation, should be rewarded today by our prompt passage of H.R. 7010.

We hear much talk today about human rights. We hear it discussed as it pertains to people of other nations. We take a deep interest in the welfare of those oppressed by their governments. I pose the thought today, that it is high time we give consideration to the human rights of Americans—specifically, to the rights of our crime victims to be compensated for their losses.

This legislation is an expression of compassion and justice. It merits your support.

Mr. MANN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I commend the efforts of the committee, but I see this bill as a huge opportunity for fraud and I see the cost escalating tremendously. Some of the defects are it is allowed only to States which have complementary laws, those 20, and to those the application dependent upon the State law itself, and therefore there is a disparity in the application. It does not say whether it is a misdemeanor or a felony. It does not take into consideration the person who willfully places himself in jeopardy. There are psychological victims, those who are born victims. It does not say who is eligible. It could be an illegal alien. The biggest defect is that it is open to fraud.

Let me give the Members an illustration. One was already given. A person falls down the steps or is hurt in a fight. He can claim he was assaulted and he can collect. It is not disprovable because the perpetrator of the crime cannot be found. A girl claims rape, though in fact she was not raped. That is not disprovable. And under this law she would get psychiatric care which would be interminable. It would be a tremendous expense to the taxpayers.

Mr. MANN. Mr. Chairman, I yield the remaining 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, one of the highest priorities of Government is to secure the personal safety of its citizens against the unlawful acts of other persons within its jurisdiction. Traditionally it has accomplished that goal through the enforcement of the criminal laws. By the process of apprehension, prosecution, conviction, and punishment, Government has sought to protect citizens from the predatory acts of others.

In recent times, however, we have come to recognize that the remedies afforded by the operation of the criminal justice system are not adequate to compensate the victim of the illegal behavior. Fines and imprisonment may very well provide a measure of relief for society as a whole by punishing the offender and thus hopefully deter others from committing similar offenses. But such punishment provides little solace to the victim. Indeed any satisfaction derived by the victim from the incarceration of the offender usually arises out of a sense of retribution. I seriously doubt that a criminal justice system which relies on revenge to achieve its aims will, in the long run, secure the greatest amount of personal safety.

Consequently, when crime victim compensation legislation was introduced in the House a few years ago, I joined Chairman RODINO and others as supporters of this concept. By providing Federal funds to State programs, the National Government becomes a partner with the States in securing monetary relief to the victims of crime. In furnishing Federal assistance, the Government also seeks to encourage those States which do not have such programs to enact them.

The Federal contribution, as provided in H.R. 7010, is very modest. If a State has a qualifying program, the Attorney General, who is given administrative responsibility for the program, is authorized to pay 50 percent of the total cost of the compensation plan to the States. As to individual awards, the act limits the Federal contribution to $50,000. At the present time, the highest allowable award among the States with such programs is $25,000. Thus, the highest Federal contribution presently would be $12,800. The $50,000 ceiling was chosen to anticipate rising costs and expansion of State programs in light of this Federal legislation.

In addition to the modest Federal contribution—many other Federal-State programs allow up to a 90-percent Federal share—the program is also modest in its administrative scheme. There are those who want the entire program "federalized." Others would require a separate compensation plan for victims of Federal offenses. Still others would administer the program in conjunction with LEAA grants.

The funding mechanism contained in H.R. 7010 accepts none of these approaches and opts instead for a different scheme, which, in my judgment, is the least intrusive into the area of State responsibilities. Thus, I am somewhat mystified by those who criticize the program on grounds of federalism. This proposal touches the obligations of the States only in the slightest degree and does so only to insure that Federal funds are allocated properly and with some accountability to the Federal taxpayer.

It may be that a strong and doctrinaire advocate of States rights would argue that the Federal Government should make no contribution at all to State victim compensation programs. If that is so, I do not see any clearly defined line between this program and others which the Federal Government has long supported. Why, for example, is it a Federal function to furnish money for highway construction but not for crime victim programs?

Indeed highways built largely with Federal funds have, in some instances, provided a ready avenue of escape from crimes committed in one State to refuge in another. In our time many local crimes have interstate aspects to them—aspects which implicate Federal responsibility. Surely H.R. 7010 is an appropriate response to those problems.

Finally it is said that H.R. 7010 would provide an "interminable life-support system to a continually expanding plexus of State programs." Judiciary Committee report at 16—dissenting views. The short answer to that assertion is: So what? If States need assistance to compensate adequately their victims of crime, it is hardly a point of attack that the program may have a large measure of longevity. We would hardly repeal the social security system merely because it may be needed as long as people do not have adequate personal resources to sustain them in their later years.

The longer answer is that the program of H.R. 7010 is not inevitably "interminable." If we are successful in reducing crime, by whatever appropriate means, we should expect the need for victim compensation to decrease. And with a reduction in crime will come a reduction in the Federal contribution to State crime victim programs. The criticism of H.R. 7010 as interminable is really based on the assumption that crime not only will always be with us, but that it will steadily increase. I cannot accept that assumption. I would hope that our efforts to reduce crime will soon show the fruits of victory, and that victim compensation programs will soon become a thing of the past.

I urge my colleagues to support this worthwhile legislation.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, in proposing a Federal subsidy of 50 percent for State crime victim compensation programs, H.R. 7010 represents a potentially burgeoning Federal commitment based upon questionable logic.

To rationally support such a major program, H.R. 7010 should either further

a Federal purpose, recognize a Federal responsibility or demonstrate sensible Federal compassion. The bill accomplishes none of these.

It is first asserted that compensating victims furthers a Federal purpose in reducing crime by encouraging victims to report crime to police. But this is to say that the availability of bandaids will reduce the number of cuts. The control of violent crime has rarely suffered from the lack of victim involvement but rather from a witness indifference that this bill would only reinforce.

Since it is not seriously argued that the Federal Government is responsible for the enforcement of State criminal laws, it is difficult to understand how H.R. 7010 could discover a Federal responsibility for the consequences of state crime.

Federal compassion seems to be the only alternative rationale for H.R. 7010; but without the existence of a Federal purpose or Federal responsibility even this logic is unconvincing. If the Federal Government is going to be compassionate, why is its largesse restricted to such a narrow group? Why should the cause of an injury the Federal Government was powerless to prevent influence the decision whether or not to be compassionate?

This selective generosity might be acceptable were only minimal expenditures required. But the cost of the endeavor proposed by H.R. 7010 is largely conjectural, with estimates ranging from $22 million to $200 million annually. The only certainty is that this is a growth program and one which, I feel, is careless of resources which should be used to discharge Government's primary responsibility for crime prevention.

Mr. VENTO. Mr. Chairman, I wish to speak in support of this bill to provide Federal assistance to victims of crime. The plight of crime victims in our society is regrettable. It is amazing that a modern, progressive nation like ours should be so lax in providing help to those who need it most—the men, women, and children who are crime victims. In 1975, less than 1 percent of the $17 billion we spent on criminal justice went to aid those who were victimized by criminals. Yet the actual costs to these people, including loss of earnings and medical expenses, is more than $10 billion every year.

The purpose of the Victims of Crime Act of 1977, a bill I am honored to have coauthored, is to mitigate the financial loss that occurs when someone is a crime victim. These losses are uneven and differ from person to person. Some crime victims receive compensation from medicare, medical or health insurance, or income protection insurance. Others do not. And for those who do get help, the deductible clauses in insurance policies for small items like eyeglasses—one of the most common losses when a person is victimized—vary so much the victims often have to bear these costs themselves. In addition to these immediate and most visible costs, there are other dire effects like psychological scars and mental depression which can require expensive professional care.

The major thrust of our anticrime programs has been to rehabilitate offenders, to prepare them to return to society so they can lead useful, productive, noncriminal lives. Most of these programs have been very liberal in terms of the benefits they provide to modify offenders' behavior and meet their needs. This Crime Victims Act is not a criticism of these programs which Congress and other Government units have developed in good faith for the worthwhile goal of criminal rehabilitation. Rather this act proposes that we recognize there is more involved when a crime occurs than the capture and rehabilitation of the criminal.

This act does not establish a crime fighting program nor is it a substitute for effective LEAA or other Federal crime programs. But the point is that the United States is large enough and the problem is serious enough to justify prudent expenditures for both crime fighting and crime victim reparation.

Minnesota and many other States have already recognized this need. When I served in the Minnesota Legislature, I sponsored a program to help crime victims. Although it was modest in scope, the program won public support and has been very successful. In its first 3 years, nearly 1,000 crime victims received assistance. State appropriations for the program have been tripled because of the positive response.

The task we face from the perspective of Congress is to provide a similar crime victim reparation program which will be nationwide in scope. Currently, there are a host of social programs, both public and private, but there are too many crime victims who still fall between the cracks. The scattered and occasionally haphazard approach we now use to deal with crime victims does not always succeed. Basic criteria are not met and the specific emphasis of the different programs is not always the best.

The crime victims reparation program which this act establishes will build upon the sound experiences of Minnesota and other States, and will complement existing public and private programs which victims have utilized in the past. The major advantage that this legislation provides is its focus on crime victims the State programs often miss.

But the program has other advantages. Law enforcement personnel will have an immediate source of assistance to extend to victims when they are most in need of help. Within the criminal justice system itself there will be a built-in response to questions of medical costs for crime victims. And finally, this program will reinforce the belief that members of our society who are crime victims deserve our moral and financial support. The compassion that most men and women feel for crime victims will be backed up by more than just a few words of encouragement. It will be supported by solid, specific monetary aid.

An indirect benefit of this program will be the strengthening of public attitudes about law enforcement agencies and increased public cooperation. How many times have crime victims said that they would rather not get involved in a criminal prosecution? How many times have crime victims become so discouraged that they do not report crimes, viewing such cooperation as more of a liability than a civic and moral responsibility? Passage of this act will not completely remedy this situation by curing public apathy and erasing inbred fears of authority, but it is definitely a big step in the right direction.

I want to give credit to the esteemed Chairman RODINO of the full committee and Chairman MANN the subcommittee, and to my colleagues who worked successfully on this final proposal. I urge that this House act positively on this needed legislation, that we recognize the success of State's efforts in this area and enact a good, solid Federal program to help crime victims.

Mr. EVANS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Georgia.

Mr. EVANS of Georgia. Mr. Chairman, three of the purposes stated by the drafters of our Constitution as reasons for establishing our Government are to "establish justice," "ensure domestic tranquility" and "promote the general welfare."

The bill which we are presently considering seeks to redress a failure on the part of our Government to fulfill these purposes especially in the area of crime and victims of crime.

It has been stated by many people that elected officials attack any problem by spending money to try to solve it. We have certainly seen on the national, State, and local levels that we cannot protect our citizens from the ravages of criminal activity. We have, however, certainly expended large sums of taxpayer's dollars in attempting to deal with the problem.

In 1974, it is estimated that we spent slightly over $17 billion on all phases of our criminal justice system at the National, State and local levels. In 1978 it is estimated that we will spend approximately 26 billion of taxpayer's dollars in our fight against crime at all levels of government; but criminal activity is still on the increase.

On the national level we spent an estimated $2.2 billion in 1975 in all phases of the criminal justice system. In 1978 it is estimated that we will spend $3.3 billion. Of these amounts the Federal Government will spend $216,778,000 to house, feed, clothe, and rehabilitate criminals. We will spend zero to compensate victims of crime.

The National Government will spend, in 1978, $87,017,000 for legal services to protect the rights of those accused of crime. We will spend nothing to compensate victims of crime.

In fiscal year 1977 the Law Enforcement Assistance Administration did provide through its discretionary grants a total of $2.5 million to aid the victims of crime. Even here, however, the emphasis of Federal expenditures greatly favored the convicted criminal.

For example, in Multnomah County, Oreg., $22 million in LEAA funds were devoted to programs dealing with or providing services for criminal offenders, while victim projects received only $287,000 from this source.

The victim of crimes is not ignored however. Our system insures that he or

she will be subpenaed to court several times, interviewed by the DA, harassed by the defense attorney, and in general treated more in the manner that a criminal should be treated under all sense of the stated purposes of establishing justice, providing domestic tranquility and providing for the general welfare.

I intend to support the taxpayer and citizen who has the misfortune to suffer at the hands of a criminal because of our Government's failure to provide domestic tranquility. Let us put some meaning in the term "establish justice." Let us show our concern for the victims of crime by voting for and passing this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I take this time to voice my support for the Victims of Crime Act of 1977, H.R. 7010. This bill is, indeed, a much needed legislative initiative for the preclusion of hardships imposed on persons victimized by the commission of crime in our society. It is praiseworthy that in every Congress since the 92d, legislation has been introduced relating to crime victim compensation.

The bill before us provides to victims of violent crimes Federal compensation to cover medical bills, loss of wages, and other expenses. It does not compensate for pain and suffering, property loss and costs for which the victim will be reimbursed from another source. Although since 1965, 20 States, including Illinois, have enacted such legislation, many State programs lack adequate funding; and many others must await Federal monetary assistance before they can be initiated. Thus, it is necessary that we authorize funding.

We must also be cognizant of the many voices that cry out for relief from the ravages of violent crime. As a member of a double minority group—black women—and a representative of constituency that is 55 percent black and 15 percent Spanish surnamed, I call to your attention a recent LEAA crime study that indicated a 64 percent increase in the number of black women who were victims of minor beatings and a 36 percent increase in the number who were victims of aggravated assault. Further, according to the Urban League's 1977 report, "The State of Black America," black Americans are four times as likely to be robbed than whites, twice as likely to be assaulted, and four times as likely to be raped. The vulnerability of women to violent crimes such as rape and aggravated assault confirms the dire need for this legislation.

During this period of the American experience in which both majority and minority groups are undergoing economic strife and financial uncertainty, it is our responsibility to take legislative action to provide compensatory as well as legal assistance for the well-being of those who suffer from the various modes of criminal victimization. These grants will cover 50 percent of the payments that a State makes to a crime victim, up to $50,000. Under this act compensation will begin—through State programs—after the victim has absorbed an initial loss of $100 or 5 days' wages.

I urge my colleagues to share my concern for the victims of crime who are often mentally and/or physically maimed and forgotten and to join me in supporting H.R. 7010.

Mr. LEHMAN. Mr. Chairman, I wish to express my strong support for H.R. 7010, the Victims of Violent Crime Act of 1977.

As I pointed out in earlier remarks I made on this subject, compensation for victims of crime has a long history in our legal tradition. Society bears a collective responsibility to protect its individual members. It is not enough to punish the criminal. Having failed in our duty to protect a citizen, we must seek some way in which to compensate the victim for the suffering he or she has had to endure.

Recent statistics supplied by the Florida Department of Criminal Law Enforcement help illustrate the need for this legislation. Violent crime for the first quarter of 1977 made up 9.5 percent of all reported offenses in the State. In Florida's metropolitan areas, there was an increase of 4.7 percent in violent crimes in comparison with last year's figures.

We should recall that in a metropolitan area such as Dade County, a large portion of the population is elderly. Out of a total of 1.5 million persons, over a quarter of a million are over the age of 65. These are the persons who are most easily victimized by the criminal and who are least able to bear the expenses which often arise as a result of a violent crime.

The grant money which this bill will provide for States will encourage the enactment of legislation to compensate innocent victims of crime in States like Florida where no such law currently exists. I am pleased to note that this legislation gives States considerable freedom in designing programs to meet their own needs. Each State has unique problems, such as a large population of older Americans, with which it must deal. At a time when there is much tension between the Federal and State legislatures, it is refreshing to see legislation which promotes cooperation between the two.

Mr. Chairman, I respectfully urge all my colleagues to vote in favor of this bill to provide just compensation to victims of violent crime.

Mr. ROYBAL. Mr. Chairman, it is with some reservation that I support H.R. 7010, which if enacted, would provide Federal grants to States to compensate victims of violent crimes. While it would cover medical bills, loss of wages and other expenses, it does not sufficiently protect the elderly victim because it does not compensate for property loss.

The Subcommittee on Housing and Consumer Interests, which I chair, of the House Select Committee on Aging recently concluded a study of criminal victimization of the elderly. The subcommittee has issued a report entitled "In Search of Security: A National Perspective on Elderly Crime Victimization," which clearly shows that the elderly have a significant crime problem. The report reveals that one in ten elderly persons will be the victim of a crime in a 1-year period. Crime against the elderly is ever increasing, with Americans 65 and older experiencing the greatest overall increase in crimes of violence with the exception of males between the ages of 16 to 19.

In addition, the report discloses that persons 65 and over have had an increase in more kinds of household crimes than any other population group except the small group of households headed by persons 12 to 19 years of age. Purse snatching and burglary, the most predominant crimes committed against the elderly, usually result in the loss of property.

Elderly crime victims suffer more since the majority are on low, fixed incomes and do not have the capability to recoup monetary losses or to replace stolen or damaged property. The elderly are also less resilient to the trauma and personal injury of criminal attack. Thus, crime leaves a deeper, more lasting mark, and injuries incurred may be more disabling and require a longer recovery period.

The subcommittee report recognized the well-known fact that the elderly are ideal targets for crimes because of their physical limitations, lifestyles and social habits. H.R. 7010 does not recognize that the elderly encounter unique problems when criminally victimized.

By not providing for compensation for property loss, H.R. 7010 does not provide assistance to the most seriously debilitated victims of crime—the elderly who are most frequently the victims of property crimes. It is my hope that sometime in the near future Congress will recognize this problem and move to rectify it.

Congress should seriously begin considering my subcommittee's recommendation and the provisions of H.R. 6007, a bill that I introduced which would allow low-income persons 62 years of age or older to be compensated for the loss of essential property up to a maximum of $1,000. Only property which is necessary to the well-being and security of the individual would be eligible for reimbursement. Due to the relative and absolute poverty of approximately 50 percent of the elderly population, it is suggested that no minimum loss be established as a requirement for assistance. In addition, emergency funds for the elderly crime victim should be made available. Further, a "victim advocate" should be made available to assist the elderly in completing the required forms and in providing the necessary linkages to community services.

I want to commend Mr. RODINO for his continued efforts in providing assistance to victims of crime. I believe, however, that to achieve true equity we must go a step further and address the particular needs of the elderly. We need to compensate the elderly for the loss of property which is essential for their well-being and security.

Mr. MANN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WHITE) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omis-

sions and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MANN. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 7010, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FEDERAL BANKING AGENCY AUDIT ACT

Mr. ROSENTHAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2176), with Mr. CORNWELL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. ROSENTHAL) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS), the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I thank the distinguished chairman of the subcommittee, who has done an outstanding job in bringing this bill through the Committee on Government Operations and to the floor.

Mr. Chairman, this bill, which had strong bipartisan support in the Committee on Government Operations, will clear up a longstanding dispute between the General Accounting Office and the Federal bank regulatory agencies by permitting the GAO to conduct independent audits of the agencies.

As you know, the GAO has broad authority to conduct audits and investigations of executive agencies on behalf of Congress, but over the years, the Federal Reserve System, the Office of the Comptroller of the Currency, and, until recently, the Federal Deposit Insurance Corporation, have denied it the right to audit their operations.

These are three very important agencies, whose operations have a vital effect on the economy of the United States. They spend over $800 million a year in carrying out their regulatory functions, and the banks they are responsible for regulating have assets approaching a trillion dollars. Yet there is no statutory authority for regular audits of them by the investigative arm of Congress. This legislation is necessary if Congress is to carry out its oversight responsibilities in anything approaching an effective manner.

There was some concern in the agencies and in the banking community when the legislation was first proposed that independent audits by the GAO might interfere with the monetary policy functions of the Federal Reserve, or with the need to keep certain banking information private.

These were legitimate concerns, and they were heeded by the Subcommittee on Commerce, Consumer and Monetary Affairs, headed by the gentleman from New York (Mr. ROSENTHAL) and by the Government Operations Committee. The bill, as reported, excludes the monetary policy functions of the Federal Reserve from audits by the GAO. It also has strong safeguards to protect the financial records of individuals. The committee has gone to great lengths to meet the concerns of the agencies without restricting the oversight powers of Congress or the audit capabilities of the GAO.

Mr. Chairman, if we are to preclude the recurrence of some abuses that have come to light in recent years, Congress must improve its oversight of the Federal bank regulatory agencies; and, if it is to do so, the GAO must be able to audit their operations.

I urge support for this bill.

Mr. ROSENTHAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2176, as amended, authorizes the GAO to conduct independent audits of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporaiton.

These agencies are of vital economic importance to our Nation and their operations cost the public almost a billion dollars a year. While the operations of these agencies are governed by Federal laws, there is inadequate or no authority for regular GAO audits.

The operational inadequacies of the banking agencies have been documented time and again by the Government Operations Committee, the banking committees of the House and Senate and recently in an extensive study by the General Accounting Office. Recent revelations about bank lending practices and New York securities dealings underscore the need to expand congressional oversight of these agencies.

The purpose of H.R. 2176—the Federal Banking Agency Audit Act—is to improve the operating efficiency of these agencies and enhance congressional oversight capabilities by authorizing the GAO to audit independently all functions and operations of the Federal bank regulatory agencies with the exception of the monetary functions of the FRS.

H.R. 2176, as amended, scrupulously safeguards the privacy and integrity of bank examination reports and customers' records. To a considerable degree the safeguard provisions are the result of discussions and agreements between the GAO and the FDIC and OCC. H.R. 2176 meets the concerns of the banking agencies to the fullest extent possible without restricting the oversight powers of Congress or the audit capabilities of the GAO.

The GAO is not authorized by this legislation to investigate or comment in any way on Federal Reserve monetary policy deliberations, decisions, or implementation. It is understood that this prohibition will not include discount window transactions where the purpose of such transactions relate to bank supervision.

In conducting audits under this legislation, the GAO is prohibited from entering a bank or bank holding company for audit purposes without written permission of an appropriate regulatory agency.

In accordance with the GAO-banking agency discussions, the bill provides the GAO with access to all agency documents and materials for authorized audits, requires the GAO to maintain the confidentiality of the documents and materials, and prohibits the GAO from publicly disclosing the identity of individual banks and customers of banks unless the customer was materially involved in a bank's failure.

Until 1933, the GAO audited the expenditure vouchers of the Federal Reserve Board but not of the Federal Reserve banks. This very limited auditing had to be discontinued with the enactment of the Banking Act of 1933 which declared that the Board's funds were not to be construed as Government funds or appropriated moneys. Since that time, with one minor exception, the GAO has not had audit authority with respect to the operations of the Federal Reserve System. The exception is the responsibility assigned by the act of May 20, 1966, to audit the cancellation and destruction of U.S. currency unfit for circulation.

Since 1966 the responsibilities of the Federal Reserve and the other bank regulatory agencies have grown enormously. The Bank Holding Company Act and its amendments, and a host of important consumer protection statutes such as the Truth in Lending Act and the Equal Credit Opportunity Act, have expanded the activities of these agencies well beyond what existed when Congress first considered the need for GAO audit authority.

In testimony on H.R. 2176 the FDIC said it would have no objection to the bill if confidentiality safeguards were added to protect the privacy of bank records. The Comptroller of the Currency's office expressed similar judgments regarding the need for privacy safeguards in its testimony. The safeguard provisions recommended by the FDIC and OCC were incorporated by amendment into H.R. 2176 during subcommittee markup. In a recent letter to me the FDIC expressed its support for this legislation.

The Federal Reserve, on the other hand, testified in strong opposition to H.R. 2176. Their opposition is based, as it has been for the past 25 years, on the belief that GAO audits will lead to a reduction in Federal Reserve independence. In my judgment the Federal Reserve's fears are not justified. The GAO has not reduced the independent effectiveness of any of the agencies it audits, and it will not impair the independence of the Federal Reserve either.

MONETARY POLICY

Mr. Chairman, the Federal Banking Agency Audit Act will have absolutely no effect on Federal Reserve monetary policy. The language of H.R. 2176 strictly prohibits the GAO from investigating or commenting in any way on the conduct of monetary policy. Under this legislation there is no way for the GAO to influence monetary policy, and no basis for the concern that the independence of Federal Reserve will be impaired.

The monetary policy exclusion in H.R. 2176 was drafted with the technical assistance of the Federal Reserve itself. In saying this, I am not saying the Federal Reserve supports this bill—it does not. The Federal Reserve has always opposed outside review of its activities. What I am saying is, the people who know best—the Federal Reserve—played a major role in drafting the provisions which exclude monetary policy from GAO review.

If the monetary policy exclusion were broadened to exclude Federal Reserve check clearing and other payments mechanism operations, as some Members would like, the GAO would be barred from auditing socially important activities which have nothing to do with monetary policy. For example, the GAO would be barred from evaluating the economy and efficiency of Federal Reserve payments mechanism operations. Moreover, it would be prevented from assisting Congress in making the very tough decisions that must be made about private versus public ownership of electronic funds transfer systems.

BANK CUSTOMER PRIVACY

The confidentiality safeguards in H.R. 2176 scrupulously protect individual privacy and meet the concerns of the banking agencies to the fullest extent possible without restricting the oversight powers of Congress or the audit capabilities of the GAO. The safeguard provisions in H.R. 2176 are the result of extensive discussions with the bank regulatory agencies, and strictly prohibit the GAO from publicly disclosing the identity of individual banks and their customers unless the customer was materially involved in a bank failure.

In view of the concerns of some of my colleagues about customer privacy, I want to bring to your attention a letter I recently received from Chairman George LeMaistre of the Federal Deposit Insurance Corporation. In his letter Chairman LeMaistre affirms his support of the Federal Banking Agency Audit Act and acknowledges that all of the FDIC's recommended confidentiality safeguards are incorporated in the Federal Banking Agency Audit Act.

Chairman LeMaistre goes on to say that he has no objection to authorizing the GAO to discuss the details of its investigations in hearings which are closed to the public. FDIC Chairman LeMaistre clearly recognizes that it is absurd to place Congress in a situation requiring it to accept GAO findings without the ability to evaluate the facts underlying them, if necessary.

The record of the GAO in maintaining the confidentiality of its audit files and materials is unsurpassed in Government.

The GAO regularly audits the Federal Home Loan Bank Board and has access to its savings and loan association examination reports. The customer information in these reports is very similar to that contained in bank examination reports and is certainly just as sensitive. In testimony on H.R. 2176 the Federal Home Loan Bank Board stated unequivocably that it is "not aware of any occasion in which GAO's access to the reports resulted in a lessening of their confidentiality." I should also add that congressional staff has had access to savings and loan association examination reports for many years, and I cannot recall a single instance in which this access has resulted in an unauthorized public disclosure.

The GAO is the investigative arm of Congress and a valuable resource in assuring the legality and propriety of governmental expenditures and the effectiveness of governmental programs. Legislation authorizing the GAO to audit the Federal bank regulatory agencies is long overdue. I believe the responsibilities and expenditures of these agencies, the GAO's impressive study of Federal bank regulation completed this past January, and its exemplary record of maintaining the confidentiality of bank examination and other sensitive Government documents, more than justify the grant of authority contained in this legislation. Moreover, regular and independent GAO audits of FRS, OCC, and FDIC, will result in substantially greater efficiencies and economies in the operations of these agencies.

Mr. BROWN of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the very outset let me say and emphasize that I generally support the provisions of this bill relative to the performance audit of the bank supervision and regulatory functions of the Federal Reserve Board, the Office of the Comptroller of the Currency and the FAIC.

However, last Friday, I opposed the rule on this bill because it was—and still is—my firm conviction that this is a very poor time to consider this legislation. The controversy surrounding the banking practices of OMB Director Lance has created a highly charged atmosphere with regard to bank regulation. Under these circumstances it is very difficult for any member to critically analyze specific provisions of this legislation. All the technical details of this important legislation may be lost in the emotional zeal to "do something" about Bert Lance's banking practices. Not just with respect to this matter, but with respect to a trend I see developing in the Congress. Let me admonish my colleague that to the extent we continue to succumb to the emotions of the moment and enjoy the populist binge upon which I think we have embarked, sound traditional institutions which have made possible this Nation comparable success will be destroyed—and I predict generations to come will rue the day.

This legislation would be a step backward to a procedure which was rejected after it was tried over 40 years ago. In 1933, Congress deliberately voted to completely remove the Federal Reserve System from the jurisdiction of the GAO. That action resulted from a judgment that noninterference with the internal management of the FRS would in the long run provide better monetary and credit policies. Accordingly, I think it is very important that Members study this bill carefully, including the exclusions and safeguards in the bill, regardless of the circumstances of the investigation of Bert Lance.

When this bill was considered in the Government Operations Committee, I indicated that I would offer several perfecting amendments to this bill when it reached the floor. I am still considering whether to offer amendments which would clarify the monetary policy exclusion, strengthen the privacy safeguards, and extend the penalties for improper disclosure of bank examination report information to include any person who obtains that information as a result of the GAO audit or report. These amendments seemed to me to be important improvements in the bill without subverting the intent of its sponsor.

During this general debate, and before any possible amendments are considered next week, I would like to point out several other facts about this legislation, although, because of the extraneous matter to which I have referred, I think my effort is an exercise in futility.

COST

The CBO estimate of the cost of the audit authorized by this bill is substantially understated. It merely uses the cost figures for the recently completed GAO study of bank supervision by the banking agencies—a total of $818,000. However, the bill approved by the Government Operations Committee calls for GAO audit of not only the bank supervision activities, but in addition all other agency programs, personnel and operating policies, and the financial accounts of the OCC and the FRB. In the case of the Federal Reserve System, a GAO financial audit would cost a maximum of $750,000 annually, and would duplicate the Fed's own extensive audit required by statute, and its independent audit done by outside accountants. Adding together the costs of all these audits, $818,000, plus $750,000, plus the cost of review of the financial accounts of the OCC and FDIC and other program audits, would put the annual cost of this legislation at over $2 million, if not more.

OTHER FORMS OF CONGRESSIONAL OVERSIGHT

Because of jurisdictional limitations, the Government Operations Committee did not consider the other forms of congressional oversight of the banking agencies: First, the quarterly testimony of the Federal Reserve on monetary

policy under House Concurrent Resolution 133; second, annual testimony by all three agencies on the state of the banking system; third, congressional review of the proposed budgets of the agencies; and fourth, the proposed Federal Bank Examination Council supported by GAO. A better approach to this issue would be to consider these different forms of congressional oversight together rather than enacting one proposal such as H.R. 2176, in isolation.

MONETARY POLICY

This bill touches the topic of whether GAO should audit the monetary policy functions of the Federal Reserve Board. With little exception, since 1913 the Fed has operated independently, without political influence being exercised over its work as the Nation's central bank. This ability to function free of political pressure must be preserved to maintain the integrity of the work of the Board. Thus, monetary policy should be excluded from GAO review. The bill contains a monetary policy exclusion, but dialog between Representatives ROSENTHAL and ST GERMAIN at the subcommittee markup create an exception in that exclusion as it pertains to operations of the Federal Reserve discount window.

The hair splitting exception which Mr. ST GERMAIN is attempting to create and the omission of the payments mechanism and margin rules from the monetary policy exclusion raises serious problems about Mr. ROSENTHAL's monetary policy exclusion.

PRIVACY CONSIDERATIONS

In the course of any GAO review of the policies and procedures of the agencies and the accounts of these agencies its employees would review bank examination reports, problem bank lists, and personal financial information of private citizens who do business at these banks. It is essential that this information is used only for GAO to assess overall policies and procedures of the agencies, not as part of a review of an individual bank or bank customer situation. Under no circumstances should this raw data be disclosed by the GAO in any report or communication outside the agency responsible for supervision of the bank in question.

Unfortunately, the bill has two loopholes concerning the confidentiality provisions. There is no reason why GAO should be discussing individuals who had a controlling influence in closed banks as allowed in subsection (d)(5)(B); and there is no reason why GAO should be discussing individual customers and individual open banks before congressional committees sitting in executive session as allowed in subsection (d)(5)(D). In the latter case the best witnesses to testify before congressional committees in executive sessions are the agencies charged with the responsibility for supervising the banks in question. This is contemplated in subsection (d)(5)(e) of the bill. These two loopholes will also raise the possibility of leaks of problem bank lists, or bank customers' names and private financial affairs from the committee executive sessions.

Members should review these issues as they consider this bill.

I have one final comment on the impact of the Bert Lance affair on Federal legislation in this area. It has been alleged that Mr. Lance's banking practices are typical of the industry, and that the supervisory practices employed to deal with Mr. Lance's banks are typical. If this is true then significant reform of bank regulation and enforcement of Federal banking laws is required. If these circumstances are not typical of the present state of bank regulation then perhaps additional legislation is not needed but rather much more forceful and aggressive prosecution of this and any similar case should be pursued.

But in either case, as we proceed to consider this bill and other bills affecting financial institutions, we should be mindful of the delicate balance between bank safety and risk taking essential to, and inherent in, any banking system which adequately supplies the credit needs of an economy such as ours. Wright Patman, the long-time champion of GAO audit legislation, best described this necessary balance in his speech at the dedication of the Federal Deposit Insurance Corporation Building in June 1963. He said:

I must tell you, however, that I think we should have more bank failures. The record of the last several years of almost no bank failures and finally last year, no bank failure at all, is to me a danger signal that we have gone too far in the direction of bank safety. Federal deposit insurance is intended to assure depositors that they will not lose their money in case of a bank failure. It is not intended to assure that no bank will fail. It should not be a cause to insulate the banks from competition or to prevent them from taking prudent risks.

On the contrary, the American business system is one of the (sic) risk taking, and if the commercial banks are to fulfill their purpose they must supply the commercial credit for these risk-taking enterprises. I do not suggest that we should ever have a failure rate among banks as high as that among other lines of business. But I do point out that where there is risk taking there are inevitably some failures. With no bank failure last year among more than 13,000 insured banks in operation we must wonder whether the banks are actually doing the jobs they are supposed to do.

If the FDIC bank examiners are using their influential offices to prevent the banks from taking risks that are prudent in the judgment of the bank managers, I hope they will keep in mind that they have a bigger public purpose than protecting the insurance fund from losses and the bankers from having a bigger public function than being mere bookkeepers and check collectors for the business system.

When we are tempted to boast of no bank failures, let us remember that several thousand other business firms may have failed because the banks did not take as many reasonable risks a they might have taken. If you agree with me on this problem, I'm sure the solution will not be hard to find.

That is not GARRY BROWN speaking. That is not JOHN RHODES. That is not someone from this side of the aisle. That is the late and great Wright Patman speaking. I suggest to my colleagues his remarks are most compelling.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to make a brief inquiry of the gentleman. The gentleman intimated that the present problems of the Director of the Office of Management and Budget seem to be the impetus behind this legislation.

Mr. BROWN of Michigan. I did not say that. What I said on the floor of the House when we were considering the rule last week was that I thought it was untimely to take the bill up right now, due to the atmosphere that prevails because of the Lance problems.

Mr. VOLKMER. Because of those problems? It is not the impetus behind this legislation.

Mr. BROWN of Michigan. Oh, no. The matters addressed by this legislation have been under consideration by the subcommitte and the full committee for almost 1½ years. I have never suggested the Lance matter was the impetus. I have said that I think even though this would have been its scheduled time, a delay of consideration of this bill would be appropriate so that we do not have to take it up right at the same time that the whole atmosphere is charged with the appearance of the OMB Director before the Senate committee tomorrow.

Mr. VOLKMER. I am glad the gentleman clarified that. I thank the gentleman.

Mr. ROSENTHAL. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I commend the distinguished chairman of the subcommittee, the gentleman from New York (Mr. ROSENTHAL), for his perseverance and his patience and his persistence in this matter. I am happy to see this legislation on the floor today.

The responsibilities of the Federal Reserve, the FDIC, and the Comptroller of the Currency, go to the very core of our economic well-being and their operations cost the public over a billion dollars a year. While the operations of these agencies are governed by Federal laws, there is inadequate or no authority for regular audits of these agencies.

The operational inadequacies and regulatory failures of the banking agencies have been documented time and again by the Government Operations Committee, the banking committees of the House and Senate and recently in an extensive study by the General Accounting Office. Recent revelations about bank lending practices and New York securities dealings underscore the need to expand congressional oversight with respect to these agencies. H.R. 2176—the Federal Banking Agency Audit Act—is legislation that would accomplish this objective.

During legislative hearings on H.R. 2176, testimony was received from numerous witnesses including consumer groups, banking industry representatives, the banking agencies, and the GAO. The testimony indicated the need to exclude the monetary policy responsibilities of the Federal Reserve System and to include strong confidentiality safeguards for examination report records which, if disclosed in an unauthorized manner, would impair borrower privacy.

After extensive discussions among representatives of the GAO, FDIC, Comp-

troller of the Currency, Federal Reserve, and the Government Operations Committee staff, an amendment in the nature of a substitute was drafted to incorporate confidentiality safeguards. The substitute amendment also included other provisions to meet the concerns of the banking agencies to the fullest extent possible without unduly restricting the oversight powers of Congress or the audit capabilities of the GAO. In a recent letter to Congressman BENJAMIN S. ROSENTHAL, the FDIC affirmed that the privacy safeguards now in H.R. 2176 are completely satisfactory.

As amended, paragraphs 1 and 2 of the Federal Banking Agency Audit Act would provide authority for the GAO to audit every operation and function of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. The GAO is, however, prohibited in paragraph 3 from auditing or commenting in any way on Federal Reserve monetary policy deliberations, decisions, and implementation. It is understood that this prohibition does not include discount window transactions where the purpose of such transactions relates to bank supervision.

Some Members would prefer to allow the GAO audit only agency bank supervisory functions. This limitation should be opposed because GAO audit authority is needed to unearth and correct problems in other areas of Federal banking agency operations.

Just last spring, the Government Operations Committee approved a report on the real estate leasing practices of the Comptroller of the Currency and the FDIC. The report found that by using vacant Government space for their local and regional offices these agencies could save at least $300,000 per year. Here is an area where GAO's procurement and technical expertise would have been extremely valuable and an area where internal audits had no corrective effects. This is also the kind of problem that could go largely undocumented and perhaps uncorrected if the GAO were limited to auditing only bank supervisory activities.

The language of paragraphs 5, 6, and 7, the result of GAO-banking agency discussions, provides the GAO with access to all agency documents and materials, requires the GAO to maintain the confidentiality of such documents and materials, and prohibits the GAO from publicly disclosing the identity of individual open banks, bank holding companies, and customers of banks or bank holding companies unless the customer was materially related to the management of a failed bank or bank holding company. The GAO is authorized to disclose such sensitive information to Congress but only in closed executive session. Again, let me emphasize that the agency with the broadest of all bank regulatory responsibilities—the Federal Deposit Insurance Corporation—has said in writing that these privacy safeguards are satisfactory and that it does not object to authorizing full GAO disclosure in executive session.

The final section of H.R. 2176 would amend 18 U.S.C. 1906 to allow bank examiners to discuss the affairs of individual banks with GAO auditors.

The GAO is the investigative arm of Congress and a valuable resource in assuring the legality and propriety of governmental expenditures and the effectiveness of governmental programs. Legislation authorizing the GAO to audit the Federal bank regulatory agencies is long overdue. The responsibilities and expenditures of these agencies, the GAO's impressive study of Federal bank regulation completed this past January, and its exemplary record of maintaining the confidentiality of bank examination and other sensitive Government documents, more than justify the grant of authority contained in this legislation.

Mr. BROWN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 2176, the Federal Banking Agency Audit Act, because I think that the U.S. Congress should exert a great deal more legislative oversight over all of the agencies of Government. I think that includes the banking regulatory agencies as well. As a matter of fact, I think a recent experience that the Congress has had in the contractual relationship with the three Federal banking regulatory agencies and the General Accounting Office demonstrated that there can be workable procedures in order to give us that kind of evaluation and audit authority which I think is desirable for the Congress.

It is for that reason I think it is particularly timely now that we do embark on this long overdue need to extend into the law the authority which would give us the power to send the General Accounting Office into the evaluation and investigation of these sorts of problems to make sure that the kind of supervision and regulation that the public needs and the country wants is maintained. However, I am concerned about one aspect of this proposal; that is the one which deals with the authority of the General Accounting Office to audit and evaluate monetary policy matters. My concern about this bill centers around the maintenance of the independence of the Federal Reserve Board monetary policy functions. Long-standing congressionally-mandated policy has been the protection of the monetary policy function from political influences. This has been accomplished in part by exempting the Federal Reserve System from both the appropriation and the audit processes.

This has been a bipartisan—indeed a nonpartisan—policy. When the U.S. Congress considered a bill in 1973 which would have allowed the GAO to review the Federal Reserve System monetary policy, this bill on that point was opposed in letters and telegrams by all of the seven living former Secretaries of the Treasury, who served under both Democratic and Republican administrations. Furthermore, it was opposed by four former chairmen of the Council of Economic Advisers, including Walter Heller and Arthur Okun.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding to me. It is my understanding that the present Secretary of the Treasury is concerned about this very area, and would have been glad to respond in that way. However, any response from him along the lines the gentleman is speaking of, and as the former Treasury Secretaries indicated, any response from him would have to be in response to a request for such opinion from a Member on the majority side of the aisle. That request did not go forward. Therefore, we do not have a response from the present Secretary of the Treasury on this legislation.

Mr. CORCORAN of Illinois. I thank the gentleman. Not being a member at this time of the majority, I cannot act in a way that would be helpful under the circumstances you mentioned.

But, let me say that I raise this question because, in spite of an apparent exclusion for monetary policy in the bill, Authur Burns, in a speech last Monday, stated that the bill "* * * does not flatly and unambiguously exclude all monetary policy matters."

Therefore, if I could engage the assistance of the gentleman from New York (Mr. ROSENTHAL), I would ask the distinguished chairman of the subcommittee if he can confirm for me that this bill will not give the GAO any authority to review, audit, or influence any aspect of the monetary policy or any of the traditional monetary policy tools of the Federal Reserve System. What I need to know is, does this bill change in any way the current law exempting the Federal Reserve monetary policy functions?

Mr. ROSENTHAL. No; it does not in any way, as the gentleman well knows, as a member of the subcommittee, a diligent and hard-working member of the subcommittee.

We very carefully drafted an exclusion so that this act will have absolutely no effect on Federal Reserve monetary policy.

I think it is a very carefully worded exclusion. Our intention was that the Federal Open Market Committee, transactions of the Federal Reserve System open market account and monetary policy decisions or the economic effect of such decisions were to be clearly excluded from the auditing function.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BROWN of Michigan. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. ROSENTHAL. That is the intention of the subcommittee and the intention of the author of the bill. I do not think there is any question about it. We are in total agreement.

Mr. CORCORAN of Illinois. I think one of the reasons, I would say to the gentleman from New York, for that concern is expressed by the chairman of the Federal Reserve Board, and is on page 4 of the report. I call the gentleman's attention to paragraph 4, which says:

In instances where procedures or operations usually associated with the conduct of monetary policy are used for bank or bank holding company supervisory purposes or for other purposes unrelated to national economic well-being, those procedures or operations will not be construed as being covered by the monetary policy exclusion.

I wonder if the chairman of the subcommittee could explain the purpose of that particular paragraph and how it relates to the monetary policy exclusion.

Mr. ROSENTHAL. If a discount window loan to a bank is not related to monetary policy as described in the exclusion in the bill, then it is one of the areas that could be audited. But, in my judgment, and I think it is quite clear on the face of it, the language of H.R. 2176 strictly prohibits the GAO from investigating and commenting in any way on the conduct of monetary policy.

That is our intention. That was the committee's intention, and that is my understanding of the bill. We did not want to have anyone have any misunderstanding. Monetary policy is not covered by this GAO audit legislation.

Mr. CORCORAN of Illinois. I thank the gentleman from New York for his comments.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN of Illinois. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I would like to address a question to the subcommittee chairman. Who is going to provide an interpretation of what is and what is not monetary policy, the General Accounting Office or the Federal Reserve Board? That is a very simple question and the answer to it will solve the problem very quickly. Which one?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

Mr. BROWN of Michigan. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois (Mr. CORCORAN) so that the gentleman from New York (Mr. ROSENTHAL) can respond.

Mr. ROSENTHAL. If the gentleman will yield, let me say that the monetary policy exclusion was drafted with the technical assistance of the Federal Reserve Board itself. I am not saying the Federal Reserve Board or Dr. Burns supports this bill. I do not think they do. The Federal Reserve has always opposed outside review of its activities. What I am saying is that so far as the gentleman is concerned, the Federal Reserve people played a major role in drafting the monetary policy exclusion. In every statute, in every series of regulations, we assume that mature, prudent people can deal with this issue. The GAO will define the parameters of the investigation. If the Federal Reserve Board refuses to permit them to go forward with the audit as they see it within their authority, then they will come back for further direction and guidelines. I have no reason to think the Federal Reserve Board will be obstructionist or that the other agencies will not cooperate. I think they are going to cooperate.

Mr. BROWN of Michigan. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in view of the most recent statement of the chairman of the subcommittee, the gentleman from New York (Mr. ROSENTHAL), let me just indicate that he has in his possession a letter from the Chairman of the Federal Reserve Board, Dr. Burns, which alludes to the very thing that was just being discussed in the well, and that is to what extent the Federal Reserve participated in the drafting of this language.

In his letter of September 13, 1977, to the chairman, Dr. Burns says, referring to this language in the report, that the bill "was drafted with the technical assistance of the Federal Reserve itself."

Dr. Burns says:

The staff of the Fed was happy to accord your staff the courtesy of technical drafting assistance, designed to put into legal and report language the legislative goals that you are presently seeking to enact—

"That you are presently seeking to enact," I add for emphasis—

However, it should be clearly understood that such technical assistance does not constitute or imply support of the language in the bill.

And he goes on to say that basically he does not support it.

Mr. ROSENTHAL. Mr. Chairman, I have no further requests for time.

Mr. BROWN of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES), the respected minority leader.

Mr. RHODES. Mr. Chairman, I take this time in order to ask a question or two, if I may, of my friend, the gentleman from New York (Mr. ROSENTHAL), the distinguished chairman of the subcommittee.

Mr. Chairman, I am somewhat disturbed about the colloquy which occurs on page 4 of the report between the gentleman from New York (Mr. ROSENTHAL) and the gentleman from Rhode Island (Mr. ST GERMAIN). The indication from that, of course, is that the gentleman from New York and the gentleman from Rhode Island were limiting the scope of the program, section 2(d)(3), which appears on page 4 of the bill. Of course, that section to which I refer is the one which limits the types of examinations which the GAO could conduct concerning the Federal Reserve Board.

I wonder if it is possible for the gentleman from New York (Mr. ROSENTHAL), when he extends his remarks on this bill, to include a more definitive statement as to the areas of operation of the Federal Reserve that the GAO could audit under this legislation. As I have followed the debate and the committee report, we now have more statements of what it cannot do, and I must say some of the wording escapes me a bit, perhaps because I am not expert enough in the field to know the words of art that are being used.

But would that be possible?

Mr. ROSENTHAL. Mr. Chairman, I think that would be possible. I would be happy to do that and cooperate fully with the minority leader.

Mr. RHODES. I would appreciate that very much.

Mr. ROSENTHAL. But so that everyone clearly understands this, I think in essence there can be a full and complete audit of everything the Federal Reserve Board does except in those areas that are clearly delineated on page 4 of the bill, lines 6 through 12. If the gentleman will permit me, I shall read that, because I think that is a very clear exclusion:

An audit made under paragraph (1)(A) shall not include transactions conducted on behalf of foreign central banks and foreign governments, transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account, or monetary policy deliberations and decisions or the economic effects of such decisions.

Mr. Chairman, everything else is auditable.

Mr. RHODES. Of course, what I am really asking the gentleman to do is to enlighten the House as to what is left. I think it is a fair statement to say that many of the Members do not know, and perhaps the general public does not know.

Mr. ROSENTHAL. Mr. Chairman, between now and the time of the amendment process we will try to comply with the gentleman's very forthright request.

Mr. RHODES. I would appreciate the gentleman's cooperation along those lines.

Mr. Chairman, I am also a bit puzzled as to why this bill has come out of the Committee on Government Operations. I assume there is a good reason for that.

This subject of the GAO audit of financial institutions is an old subject, but it has been more closely identified with the Committee on Banking, Finance and Urban Affairs. Would the gentleman care to enlighten me on that?

Mr. ROSENTHAL. Mr. Chairman, if the gentleman will yield further, the Committee on Government Operations has oversight jurisdiction over the Federal bank regulatory agencies and legislative jurisdiction over the Accounting and Auditing Act of 1950, which H.R. 2176 amends.

Mr. RHODES. Mr. Chairman, I thank the gentleman.

Mr. BROWN of Michigan. Mr. Chairman, I yield myself the balance of my time.

I rise, Mr. Chairman, for the purpose of addressing a few questions to the chairman of the subcommittee.

I would first ask the gentleman from New York (Mr. ROSENTHAL) if he contemplates that this legislation will be interpreted to exempt from the GAO audit all of those deliberations, transactions, functions, et cetera, of the Federal Reserve Board which involve monetary policy.

If, as he has indicated, the answer is "Yes," then I would also ask the gentleman: Why do we not adopt the language of my substitute bill which clearly incorporates all those items?

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, to

the best of my belief, the legislation before the committee is quite clear and quite specific. The exclusion is exact and as precise as any competent legal draftsman could provide. I myself have no problem in understanding what this bill does or what it does not do.

Mr. BROWN of Michigan. Then let me mention a few items.

Does the gentleman contemplate that the discount function of the Federal Reserve System will be covered by the GAO audit?

Mr. ROSENTHAL. They will not audit a discount function transaction if it is used to implement monetary policy.

Mr. BROWN of Michigan. Then they will audit if it affects the economy and the monetary policy deliberations?

Mr. ROSENTHAL. They will not audit if the transaction relates to monetary policy implementation.

Mr. BROWN of Michigan. Mr. Chairman, I would trust the gentleman will agree that the Fed should determine whether or not a particular matter does relate to economic and monetary policy deliberations.

Mr. ROSENTHAL. Mr. Chairman, let me point out that I do not think we can write a statute that takes care of every single contingency.

Mr. BROWN of Michigan. I understand that.

There is little time remaining, so let me ask the gentleman this question:

What about the margin requirement functions of the Federal Reserve Board? Will they be subject to audit by the General Accounting Office?

The gentleman knows that is not identified in the bill. That is one of several things that my substitute attempts to identify in this area to make it abundantly clear that these are montary policy functions and that they are not to be audited.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BROWN) has expired.

All time has expired.

Mr. ROSENTHAL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CORNWELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, had come to no resolution thereon.

PUBLICATION OF AMENDMENTS TO H.R. 8655

Mr. WRIGHT. Mr. Speaker, it is the intention of the leadership to schedule for debate H.R. 8655, the debt limitation temporary increase legislation, for next Monday the 19th or Tuesday, the 20th. The rule adopted by the Rules Committee requires that any germane amendments to be offered must be published in the RECORD 2 legislative days prior to consideration of the bill on the floor.

CONGRESSIONAL LETTER TO BE SENT TO U.S. OLYMPIC COMMITTEE PROTESTING SOVIET-THIRD WORLD CAMPAIGN TO EXCLUDE ISRAEL FROM THE 1980 OLYMPIC GAMES IN MOSCOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, a combined Soviet-Third World campaign is now underway to exclude Israel from the 1980 Olympic Summer Games in Moscow.

It is designed to exclude Israel by reducing its membership in the 26 Olympic federations to less than 5, the minimum required for national participation. In this way, the Soviets will not jeopardize the propaganda offensive they are building around these games. Israel is particularly disadvantaged in this, because it does not belong to the winter sports federations.

On April 21, I brought to the attention of the House knowledge that I had that something was afoot with respect to these games. I elaborated on that suspicion on April 29. But on July 1, I was able to disclose exactly how the attempted exclusion was going to work, a point which I was able to expand from additional information garnered by me in remarks of August 2.

Here is what is underway.

There are 26 Olympic federations, representing the recognized Olympic events. To participate in Olympic games, a nation must belong to at least 5 federations. The Israelis do not belong to all 26 federations to start with, because they do not field teams in all events, especially the winter sports.

Under pressure from the Soviets and from Third World nations, the Israelis are being forced out of these federations, one by one, and usually on a technicality never otherwise applied. The goal? To have the Israelis down to less than five federations by 1980.

The process has begun.

Israel was excluded from the European soccer federation on the grounds it is not a European country, even though Turkey, which is surely as near-Asian, non-European as Israel, remains in that European federation.

At their 1976 Congress in Kuala Lumpur, Malaysia, members of the Asian Games Federation voted not to invite Israel on the phony grounds of security. It was claimed that Israel's participation in international sports constituted a security risk for their games, and an Indian delegate supposedly calculated the cost of protecting the Israeli athletes and found them "exorbitant."

In November 1976 the world chess championships were scheduled for Haifa, Israel. The Soviets cranked up a campaign to the effect that the Israelis could not guarantee the security of the participants. When the international chess federation, FIDE, rejected the claim, the Soviet Union, Hungary, and Yugoslavia walked out. These were the 1, 2, and 3 chess nations in the world. They competed instead in the chess "International Olympics" held in Libya.

This happened in basketball too. In November 1976, the international basketball federation's European Cup Commission was informed that the teams of Spartak Brno of Czeckoslavakia and the Red Army Moscow would not travel to Israel to play Maccabi Tel Aviv in the European Basketball Champions Cup. According to the rules, this merited instant disqualification. However, the rules were bent. The games were moved to Brussels, where the Israelis beat the Soviet Team 91–79 and went on to win the cup.

Israel was excluded from the World University Games held this August in Sophia, Bulgaria.

When the final crunch comes, the weapon against the Israeli's will be the outrageous United Nations vote equating Zionism and racism, which many of us protested so vigorously. Third World delegates can be expected to show up at all the federation meetings with the U.N. resolution in hand, demanding the exclusion of Israel on those grounds. South Africa was excluded from the Olympics on the grounds of racism as expressed in a similar resolution.

As my colleagues are aware, I have been deeply distressed over the increasing politicization of the Olympic games. As an amateur and professional athlete for nearly 20 years and as a Commissioner on the President's Commission on Olympic Sports. I could not believe the relative ease with which the IOC caved in when the Trudeau government excluded the Republic of China from Montreal Olympic. Other teams last year refused to participate because of political disputes.

It has become all too clear what is happening, but it should not be a surprise to anyone. The Soviets and their cohorts intend to politicize the sports just like they have tried to politicize everything else. They intend to use these games as a vehicle for propaganda. They intend to use the competition to reflect their dialectical views of class struggle.

The Congress of the United States cannot sit idly by and watch this happen, for the attempt may be successful, if U.S. leadership is not shown and shown early.

I have drafted a letter to the president of the U.S. Olympic Committee. I believe it speaks for itself, and I think that is why we have nearly a hundred cosigners this afternoon, from every political and philosophical persuasion, from every region of the country, from every national, ethnic, or cultural heritage, and from both political parties.

I have seldom seen such unanimity on the taking of any policy position as this.

I have taken this time both to bring Members up to date on this issue and to make them aware that the letter will be held open until Friday of this week for additional cosigners.

I welcome every Member of this body to join with those who have already

penned their names to it, showing the U.S. Olympic Committee that we expect them to stand firm on this issue.

The letter and the cosigners, as of the time I left my office a few moments ago, follows:

Mr. ROBERT KANE,
President, U.S. Olympic Committee,
New York, N.Y.

DEAR MR. KANE: We, the undersigned Members of Congress, are disturbed deeply by reports of the efforts underway to exclude Israel from the 1980 Olympic Games in Moscow.

This concern has been underscored in recent weeks by Lord Killanin's chilling prophecy, that heightened political tension and rising costs may force an end to Olympic competition in the next decade.

In speaking to the prospect of nations being excluded from competition, Baron Pierre de Coubertin, the founder of the modern Games, wrote:

"The entire planet is its domain. All Games, All Nations.

"The important thing in the Olympic Games is not to win, but to take part."

That last sentence is the opening line from the Statement of basic Olympic principles.

Yet, in contrast and in violation of that spirit, a combined Soviet-Third World campaign has been undertaken to exclude Israel from the 1980 Games. It is based on standards of eligibility for national participation.

Under relentless pressure from the Soviets and the Third World nations, the Israelis are being forced out of the 26 Olympic federations, one by one and on technicalities. The goal is to have Israel down to membership in less than 5 federations by 1980, five being the minimum number for participation. In this way, the Soviets will be able to effect that exclusion indirectly, thus deflecting any challenge to the propaganda offensive they have designed around their hosting of the Games.

The campaign is already underway.

Most observers are convinced that, when the final crunch comes, the attempt to exclude Israel from the remaining federations will be on the grounds of racism, Israel's opponents using the absurd United Nations resolution equating Zionism and racism as the instrument to force such exclusions.

The American people and their Representatives in Congress will not sit idly by and watch this happen. Popular and financial support for the Olympics will collapse should this exclusion be perpetrated.

We are as equally convinced this Congress might not then act favorably upon the legislation now pending to provide assistance to the U.S. Olympic Committee participation in future games.

The U.S. Olympic Committee can and should be a powerful influence in halting the exclusion of Israel, if it commits itself to such a course and pursues it vigorously. As one of the principal sources of support for the Olympic Games and as the host of the 1980 Winter Games, that course should be chosen.

We therefore call upon the U.S.O.C. to undertake every measure possible to convey this sentiment to the International Olympic Committee and to those members thereof who are now engaged in this attempted exclusion.

Representatives: Jack F. Kemp, New York; Joseph P. Addabbo, New York; Jerome A. Ambro, New York; William L. Armstrong, Colorado; Robert E. Bauman, Maryland; Robin L. Beard, Tennessee; James J. Blanchard, Michigan; William M. Brodhead, Michigan; Clarence J. Brown, Ohio; Clair Burgener, California; Phillip Burton, California; James M. Collins, Texas; Silvio O. Conte, Massachusetts; John E. Cunningham, Washington; Robert W. Daniel, Jr., Virginia; James J. Delaney, New York; Edward J. Derwinski, Illinois; Christopher J. Dodd, Connecticut; Robert K. Dornan, California; Joshua Eilberg, Pennsylvania; Billy Lee Evans, Georgia; Dante Fascell, Florida; Millicent H. Fenwick, New Jersey; James J. Florio, New Jersey; Bill Frenzel, Minnesota; Barry Goldwater, Jr., California; William F. Goodling, Pennsylvana; Willis Gradison, Ohio; James M. Hanley, New York; Frank Horton, New York; James J. Howard, New Jersey; William J. Hughes, New Jersey; Henry J. Hyde, Illinois; Thomas N. Kindness, Ohio; John H. Krebs, California; Robert Lagomarsino, California; William Lehman, Florida; Norman F. Lent, New York; Elliott Levitas, Georgia; Clarence D. Long, Maryland; Stanley N. Lundine, New York; Joseph M. McDade, Pennsylvania; Larry McDonald, Georgia; Matthew McHugh, New York; Marc L. Marks, Pennsylvania; Dawson Mathis, Georgia; Romano L. Mazzoli, Kentucky; W. Henson Moore, Louisiana; Richard L. Ottinger, New York; Leon E. Panetta, California; Claude Pepper, Florida; J. Danforth Quayle, Indiana; Albert H. Quie, Minnesota; Ralph S. Regula, Ohio; Ted Risenhoover, Oklahoma; Matthew J. Rinaldo, New Jersey; Robert A. Roe, New Jersey; Benjamin S. Rosenthal, New York; Stephen J. Solarz, New York; Gladys N. Spellman, Maryland; Bob Stump, Arizona; David C. Treen, Louisiana; Henry A. Waxman, California; G. William Whitehurst, Virginia; Charles Wilson, Texas; Lester L. Wolff, New York; Sidney R. Yates, Illinois; and Robert A. Young, Missouri.

Mr. Speaker, as I indicated, this letter will be held open for additional cosigners until Friday, day after tomorrow.

FIRE JODY POWELL?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, today I asked President Carter in a letter to quickly determine whether press reports are true that White House Press Assistant Jody Powell attempted to plant in the press unsubstantiated charges that Senator CHARLES PERCY accepted illegal campaign contributions and, if true, to dismiss Mr. Powell immediately.

The text of the letter follows:

This weekend the nation finished viewing a television series entitled "Washington: Behind Closed Doors" which represented staff assistants in the office of the highest political leader in the United States as Machiavellian dealers in misrepresentation and character assassination. Then today, three days after the television programs ended, we read an account of your press assistant, Jody Powell, attempting to plant in the press unsubstantiated allegations of illegal conduct against a United States Senator who happens to be asking hard questions about the ethical qualifications of your Budget Director.

The impression given may be that unethical behavior still exists in the White House despite the change in leadership and the promises of the 1976 campaign.

I know you are working very hard to make your Administration live up to the high moral standards you have espoused. That can be advanced by your determining the truthfulness of the press reports of Mr. Powell's action and, if they are correct, quickly dismissing Mr. Powell from government service.

I am sure you will wish to avoid even the appearance of sanctioning a continuation of the type of paranoid and unethical response to perceived political enemies that in the past has been associated in the public mind with occupants of the Presidency.

Sincerely,

PAUL FINDLEY,
Representative in Congress.

COMPENSATION FOR CRIME VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 5 minutes.

Mr. AUCOIN. Mr. Speaker, the incidence of a crime is a traumatic and all too expensive experience for the victim. The victim can be anyone, but as recent statistics illustrate, crime falls perhaps most cruelly on our senior citizens. As a society we have been slow to move to do much about it.

Efforts in the past have concentrated on the broad issue of making our Nation's streets safe. That is laudable. But even if our most optimistic wish came true, crime would still exist to haunt literally thousands of innocent, unsuspecting victims.

Therefore, we must not only treat the causes, we must also pursue the humanitarian side of the question and compensate victims of crime as best as possible. Many crimes are unerasable. They leave indelible scars. Yet, in many cases compensation for medical and hospital expenses and for lost wages eases the burden on a crime victim.

I feel this kind of compensation will humanize our criminal justice system and therefore I want to associate myself with those supporting H.R. 7010, the Victims of Crime Act of 1977. This measure is aimed at reinforcing and assisting the efforts of States which have undertaken programs to compensate crime victims. It provides for a relatively simple, workable program.

In recent years, we have taken great strides to assure the civil liberties of defendants in criminal proceedings. That is proper and just in our democratic society.

But it is equally proper and just to protect the rights of victims of crimes. For too long they have been forgotten. It is now time to recognize our collective responsibility in this important aspect of the criminal justice system. Crime is something most of us prefer not to think about in the hope it will not happen to us. When it does, I believe society should draw together to extend a helping hand.

I urge support of this bill—with an amendment that will provide assurances that every effort will be made in conjunction with States to provide for orderly and full restitution by the persons who commit crimes. Beyond the "financial justice" it provides, restitution also has been shown to be an important aspect of rehabilitation, beyond literally "paying back a debt to society." It represents

an important symbol of accomplishment, signaling that a person has set course down a new road.

LEGISLATION AMENDING TARIFF SCHEDULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, it appears that once again we are faced with legislative proposals to repeal items 806.30 and 807.00 of the Tariff Schedules of the United States to guard against what some perceive as a threat to U.S. jobs and business opportunities. Item 806.30 provides that articles of metal—except precious metals—which have been manufactured in the United States, exported for processing, and then returned to the United States for additional processing, are subject to duty only on the value of the foreign work. Item 807.00 provides that articles assembled in foreign countries with components that have been manufactured in the United States are subject to duty upon only the difference between the full value of the imported item, less the value of the U.S. manufactured components it contains.

The original intent of both items was to encourage domestic production and benefit American workers. I agree with those who say it has done just that. Last year, the Departments of State and Commerce, and the President's Special Representative for Trade Negotiations, all went on record opposing repeal of either provision on the grounds that, on balance, they helped provide more jobs in the United States and encouraged competition which resulted in lower prices for American consumers. The Department of Labor could not make any judgment on the matter, admitting that it just did not know what effect repeal of 806.30 and 807.00 would have on employment opportunities in the United States.

I have the impression that those who propose repeal of these items are unaware of the economic problems we are experiencing in U.S. communities along the United States–Mexican border, and the added hardships which would be caused by repeal. Southern Arizona, a major copper producer, has already been hit severely by a depression in the industry caused by low prices. Thousands of workers have been laid off; repeal of 806.30 and 807.00 would add many more to the list of the unemployed. Many fail to understand that the national boundary between American and Mexican sister cities is more illusion than fact; that the economies of these towns are closely linked, and what affects one directly affects the other. We had a dramatic example of this last year, when the Mexican Government devalued its peso, making it twice as expensive for Mexican citizens to purchase goods in the United States. This is significant when we consider that border towns such as Nogales, Ariz. rely heavily—approximately 65–70 percent—upon retail sales to Mexican nationals. Merchants tried everything possible to weather the storm caused by the devaluation, but they were forced to lay off employees, cut worker hours, and cancel purchases.

There is no doubt in our minds that the repeal of items 806.30 and 807.00 would cause similar economic dislocations along the border. There are currently 63 plants on both sides of the border involved in twin plant operations—43 on the Mexican side, 20 on the American—providing direct jobs for more than 7,600 people and indirect employment for thousands more, the vast majority of whom spend their hard-earned wages in the immediate area. If these plants were not located in the United States–Mexican border area, which is only possible because of items 806.30 and 807.00, they would be placed in states such as Hong Kong, South Korea, or Singapore, and no benefits would accrue to the United States.

These twin plants are a major part of the border economies. A recent survey indicated that the economic impact on Nogales, Ariz., and the State of Arizona as a whole is considerable. Twin plants generate a cash flow of approximately $70 million through Nogales each year; $15 to $16 million is added annually to Nogales' purchasing power; $5 to $6 million is spent each year for local services and transportation. The plants pay some $2 million in taxes yearly—excluding payroll taxes. In sum, twin plant operations add some $90 to $100 million to the local Nogales, Ariz., economy each year; a very substantial sum.

Last month, President Carter sent the Congress a program to reduce the incentives for large numbers of undocumented aliens to come to the United States for employment, and to deal with those already here. There is much public debate as to whether the President's approach is the best to take, but there does seem to be general consensus on one key issue. That is that the great majority of those who come to the United States illegally do so out of economic necessity, not because of some personal whim, and not for permanent residence. The only long-term and permanent solution to the undocumented alien problem will come from improvement in the economies of Mexico and other nations from which the aliens migrate. Items 806.30 and 807.00 provide one effective mechanism for doing just that—the Twin Plants on both sides of the border provide jobs for American and Mexican citizens, and discourage the latter from migrating north. We should be encouraging ways of expanding our trade relationships with countries like Mexico, not curtailing them. It is in our national interest to do so.

NATIONWIDE OBSERVANCE OF THE 19TH CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, reports on the 19th observance of Captive Nations Week have continued to pour in well into August and further attest to the nationwide significance of this event. Its importance for the future, particularly with reference to our relations with the Soviet Union, cannot be minimized.

In my continued selective reporting on the week, I present the proclamation by Mayor Maurice A. Ferre of Miami, Fla., and editorials, commentaries and reports in the Indianapolis Star, Spotlight, Buffalo News, Shenandoah Herald, Manchester Union-Leader, New Orleans Times-Picayune, and the Mattapan Tribune:

PROCLAMATION

Whereas: The Congress of the United States, by unanimous vote, enacted Public Law 86–90, establishing the third week of July each year as Captive Nations Week, and

Whereas: Traditionally, freedom-loving Americans have been in the forefront of continuing efforts to secure the blessings of liberty for their subjugated neighbors around the world, and

Whereas: In the Soviet Union and Mainland China, where most of the captive nations exist, the denial of human rights on all levels is the most blatant anywhere in the world, and

Whereas: It is highly appropriate to recognize officially this 19th Annual observance of Captive Nations Week;

Now, Therefore, I, Maurice A. Ferre, Mayor of the City of Miami, Florida, do hereby proclaim the week beginning Sunday, July 17, 1977, as Captive Nations Week.

In observance thereof I urge all residents of Miami to join with me in reflecting upon the continuing struggle around the world to put an end to tyranny in all its forms, so that freedom loving people everywhere can enjoy the precious rights which are the heritage of all Americans.

In witness whereof I hereunto set my hand and cause the seal of the City of Miami to be affixed.

Done in the office of the Mayor of the City of Miami, Florida.

[From the Indianapolis Star, July 21, 1977]

MILLIONS WITHOUT FREEDOM

In the first week of July, Americans celebrate the birth of their independence as a nation founded on the principle that governments derive their just powers from the consent of the governed.

In the third week of July, they observe Captive Nations Week, which they have been doing since 1959 as a sobering reminder that not all nations are free.

In fact more than a billion people live under Communism. They do not have freedom of speech, press, assembly, worship and movement, or the right to dissent or petition the government for redress of grievances.

Their rulers do not believe what Thomas Jefferson wrote in the Declaration of Independence, that all men "are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

Rather, these rulers believe in the unlimited power of the state, whose machinery is in their hands, and in this cold-blooded and often brutal process the consent of the governed has no part at all.

Since 1917 a relatively small number of Communists using subversion and armed force have extended their rule over 40 nations. In some other cases—for example, Malaysia, Indonesia, Greece, Spain, the Dominican Republic, Mexico and Portugal—Communist conspiracies have been foiled.

In some nations where the people have tried to loosen the bonds of totalitarian government, including Hungary, Czechoslovakia

and Poland, Communist military might has crushed the popular uprisings and restored the dictatorship full force.

Communist imperialism and expansionism thrive on conquest. Leonid Brezhnev has said that the struggle "will be waged right up to the complete and final victory of Communism on a world scale."

In Asia, having polished off South Vietnam, Laos and Cambodia, the Communists are hungrily eyeing South Korea and Taiwan. In Africa, having seized Angola and established Marxist dictatorships there and in eight other states, they are gazing at the Transkei, Rhodesia and South Africa and licking their chops.

They are busy hatching their schemes and fishing for converts in Europe and in North and South America.

During this week it is appropriate to consider how the captive nations became captive and what to do to turn the tide in favor of freedom here and elsewhere.

[From the Indianapolis Star, July 21, 1977]

CAPTIVE NATIONS WEEK

WASHINGTON.—President Carter yesterday signed the annual proclamation designating Captive Nations Week.

Acting belatedly, Mr. Carter proclaimed the week that began last Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights."

Such proclamations have been issued each year since 1959.

[From the Spotlight, Aug. 8, 1977]

CAPTIVE NATIONS WEEK SURVIVES CARTER

WASHINGTON.—President Jimmy Carter made a mockery of his vaunted "human rights" campaign by trying to ignore the annual observance of Captive Nations Week.

Carter only grudgingly acknowledged the plight of the oppressed peoples of the Captive Nations after strong pressure from nationalist organizations and patriotic individuals.

Captive Nations Week officially began in 1959, when Congress requested the President to issue a Captive Nations Proclamation every year until all captive peoples are free.

President Dwight Eisenhower responded enthusiastically. "Ike" issued strong proclamations in 1959 and 1960 denouncing Soviet imperialism. The communist butchers in the Kremlin were enraged by Eisenhower's proclamations.

But in 1961, President John Kennedy gutted the spirit of Congress' 1959 Captive Nations Resolution by omitting any reference to communism, the USSR or Soviet imperialism. The Spotlight (June 27) examined how later presidents were unable to reverse Kennedy's gutting of the proclamation.

Since then, members of Congress have carried the burden of the Captive Nations Week campaign, with a special time reserved each year for strong speeches denouncing Soviet imperialism. Many mayors and governors continue issuing strong proclamations as well.

But though presidents continued the enfeebled, Kremlin-toadying proclamation tradition established by Kennedy, no president ever failed to issue one.

But when Georgetown University Prof. Lev E. Dobriansky wrote to Carter in May about the proclamation, he was given the bureaucratic runaround. Prof. Dobriansky is chairman of the National Captive Nations Committee and is regarded as the "Father of the Captive Nations Week Movement." It was Dobriansky's efforts in the 1950s that led Congress to adopt the 1959 resolution.

Initially, Dobriansky received a reply from the Office of Management and Budget. He was told the State Department was handling the matter. Later, Dobriansky was directed to a minor staff member of the National Security Council (NSC).

On July 14, three days before the 1977 Captive Nations Week began, Dobriansky was told that Carter's statement was still being worked on.

Then, at about 5 p.m. on Friday, July 15, only two days before Captive Nations Week started, it was announced that Carter wasn't going to issue a proclamation. The NSC staffer claimed that since the 1959 resolution only "authorized and requested" the president to issue a proclamation, it was "not required."

Dobriansky quickly began spreading the word to patriotic groups and congressmen.

One congressman called Pat Derian, the State Department's designated human rights "expert," to ask why there was no Captive Nations Proclamation.

She replied: "I vaguely recollect recommending that the president issue a proclamation in support of Captive Nations, but I'm not overly concerned that he hasn't. It's not as if we were sending money to Chile." (Chile has a strong anticommunist government.)

Denouncing Carter's failure to commemorate Captive Nations Week as a "new low" in American foreign policy, Dobriansky fired off a sharp letter to Carter on July 18.

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad," he wrote.

Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly," he wrote.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your five predecessors, you chose to ignore this traditional annual observance of Captive Nations Week that has consistently given coherent expression to human rights on the scale of more than 27 nations held in Communist captivity."

Dobriansky said that Carter's "indifference to this concrete issue reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy. We are appalled by this indifference."

Dobriansky added that Carter's failure "is a new low in our foreign policy course toward the imperiototalitarian part of the world."

The House of Representatives was scheduled to begin its "special order" on the plight of the Captive Nations on July 20, and many members were ready to denounce Carter for abandoning the Captive Nations.

But Carter once again showed his political savvy, and issued a tame proclamation that same morning before the House went into session.

Some foreign policy observers say that Carter's attempt to ignore Captive Nations Week marks the collapse of his "human rights" charade. In addition, these observers say that Soviet leaders have now stared Carter down, and, having forced him to try to appease them with a craven attempt to sellout the Captive Nations, now view the President as a weak leader.

Carter's Captive Nations caper follows a number of appeasement moves. These include the scrapping of the B–1 bomber, the cancellation of the Minuteman III missile system, the elimination of an upgraded guidance system for the Minuteman II and the abolishing of the Foreign Intelligence Advisory Board.

[From the Buffalo (N.Y.) News, July 20, 1977]

CAPTIVE NATIONS SALUTED

WASHINGTON, July 20.—President Carter today signed the annual proclamation designating Captive Nations Week.

Acting belatedly, Mr. Carter proclaimed the week that began Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights."

Such proclamations have been issued each year since 1959.

[From the Shenandoah (Pa.) Herald, July 20, 1977]

COMMISSIONERS PROCLAIM "CAPTIVE NATIONS WEEK"

(By Tom Sage)

The county commissioners Tuesday adopted a proclamation recognizing "Captive Nations Week" and in so doing "paying tribute to those countries living under Communist suppression and special tribute to those dedicated Americans in Schuylkill County who remember their brothers and sisters locked behind the Iron Curtain against their free will."

The proclamation was presented by Stephen Postupack, president of the League of Ukrainian Catholics, who also introduced a delegation of Ukrainians and Lithuanians on hand for the meeting.

Attending were Father John Bura, pastor of St. Michael's Ukrainian Catholic Church of Shenandoah and St. Nicholas Church, Mahanoy City; Joseph Martunas, of Minersville, vice president of the Anthracite Council, Knights of Lithuania, and his group consisting of Anna Watson, Anne Morgalis, Alma Linder and Ann Lesky, all of Minersville; Gene Pinter of McAdoo, heading the Ukrainian delegation of Stephany, Romaine, Andrea Postupack and Debby Borchek.

In his message, Martunas traced briefly the history of Lithuania, "whose people have lived on the shores of the Baltic Sea since time immemorial" and which "was seized by Czarist Russia in 1795 and regained its freedom February 16, 1918 "and went on to remarkable achievements in cultural and economic life until in 1940 she was annexed by the Union of Soviet Socialist Republics."

Martunas noted that the Lithuanians "have never accepted their status as a captive nation, and the United States government to this day has refused to recognize the annexation of Lithuania by Communist Russia."

In presenting the proclamation, Postupack conveyed gratitude of "The ethnic Americans of Schuylkill County of whom we represent, (who) wish to thank you for taking this valuable time out of your schedule today to acknowledge Captive Nations Week and for issuing a proclamation."

Postupack continued:

"Throughout America and in some 17 nations throughout the free world similar proclamations are being signed by Governors, commissioners, mayors and other public officials. This action today signifies that under your leadership Schuylkill County ranks among those distinguished leaders who have concern for human rights throughout the world."

Postupack noted that Captive Nations Week was signed into law by President Eisenhower in 1959 directing each President of the United States to declare the third week of July as Captive Nations Week in America. "This was done so that we would remember these heros of humanity, and to telegraph a silent message to Moscow that the free world neither condones nor will tolerate the imprisonment of countries and the enslavement of its people."

Postupack said President Jimmy Carter has not as yet signed the declaration of Captive Nations Week and if he doesn't sign it by the end of the week the Republican National Heritage Council plans to write to him urging him to do so.

"We, the ethnic Americans feel deeply about the impact of Captive Nations Week, especially here in Schuylkill County where our forefathers settled," Postupack declared.

"They came here for a better life. They came because they could no longer tolerate the inhuman conditions in their native lands of Ukraine, Lithuania, Hungary, Poland, Czechoslovakia, Austria, Romania, Estonia, Latvia, White Ruthenia, Bulgaria and other countries.

"I am sorry to report that conditions are no better today in these countries than they were a century ago. As a matter of fact, they are worse. These people are held against their own free will by Moscow, subjugated, held in slavery, stripped bare of all freedoms necessary for a decent life. These people, our brothers and sisters, live in constant fear, terror hangs over their heads, and a misspoken word, or if they are caught with a slip of paper in their pockets or a book not sanctioned by the communists, they are given prison sentences of up to five years," he said.

In making the presentation, Postupack also urged the commissioners to consider the establishment of a county ethnic cultural center. He said federal funds are available for such a project and New York and Pittsburgh recently obtained money for purposes

The commissioners said his suggestions will be considered and thanked him and the delegation for attending the meeting on behalf of Captive Nations Week.

[From the Manchester (N.H.) Union-Leader, July 18, 1977]

LEST WE FORGET, CAPTIVE NATIONS WEEK, JULY 17–23

There is probably a feeling among many public officials that there is not much that they can do to provide succor to the distressed people of the Captive Nations during this nineteenth observance of Captive Nations Week, July 17–23. But they can at least do something. Throughout the land, governors and mayors can demonstrate their understanding and insight into the deprivation of human rights on the personal, civil and national levels that exists in the nations that are controlled by the Moscow and Peiping imperialists by issuing their own Captive Nations Week proclamations.

Regrettably, there has been a subtle but ominous shift in emphasis in the Captive Nations Week resolutions issued by presidents of the United States since President Eisenhower. New Hampshire Governor Meldrim Thomson underscored that shift in his own proclamation last year when he pointed out that the resolution issued by President Ford the previous year had "failed to emphasize the true spirit of the congressional resolution which was to give support and encouragement to the enslaved people of captive nations to carry on their struggle for freedom from Communist domination until liberty again reigned triumphant in their oppressed lands."

Regrettably, the present emphasis on not offending the Communist slavemasters throughout the world has made a mockery of the original Captive Nations Week Proclamation.

Lest we forget, lest we as a nation and a people demonstate the hypocrisy of the current talk inspired by President Carter about protecting "basic human rights" around the world, we reprint as a reminder immediately below the original Captive Nations Week Resolution, Public Law 86–90, passed by Congress and signed into law by President Eisenhower in 1959.

Following is the text of the original congressional joint resolution, providing for the designation of the third week of July as Captive Nations Week.

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even through they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Viet-Nam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, The President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved, for all the captive nations of the world.

Approved July 17, 1959, by President Dwight D. Eisenhower.

[From the New Orleans Times—Picayune, July 17, 1977]

C OF C PANEL TO SPONSOR CAPTIVE NATIONS WEEK

Focusing on President Carter's human rights stand and the signing of the Helsinki agreement, the Chamber of Commerce will sponsor Captive Nations Week, beginning Sunday.

Activities include presentation of Dr. Alexander Sas-Jaworsky, Dr. Carlos Bringier Sr., and Dr. Alton Ochsner Jr. on the WTIX radio show, "Let's Talk It Over," Sunday at 10 a.m.

[From the Mattapan Tribune, July 21, 1977]

SUPPORT CARTER'S POLICY ON RIGHTS, READER SAYS

To the Editor:

The week of July 17–23 is observed nationally as "Captive Nations' Week" in accordance with Public Law 86–90, which was passed by the U.S. Congress in 1959. President Jimmy Carter and Governor Michael S. Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric and border on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed.

Recently, two Ukrainian dissidents, Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. Now in Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatoslav Karavanskyi, Stefania Shabatura, Nina Strokata-Karavanska, Ivan Hel, to name just a few out of the hundreds of Ukrainian political prisoners.

This year's Captive Nations' Week is observed at the time of the Belgrade Conference, at which 33 nations are reviewing the implementations of the Helsinki Accords of 1975. However, the captive nations in the Russian communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations' Week serves as the appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive people under the Soviet Russian domina-

tion to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress Committee of America, Boston Chapter.

THE SMALL BUSINESS ECONOMIC POLICY AND ADVOCACY REORGANIZATION ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 10 minutes.

Mr. LE FANTE. Mr. Speaker, today I have introduced legislation to insure the small business community in the United States of the status that it must have to effectively participate in maintaining our competitive free enterprise system.

The survival and prosperity of our very economy is dependent upon prosperous and thriving small businesses throughout our country. In fact, the well-being of the small business community is tantamount to a stable and growing national economy and to a productive and employed labor force. Close to half of our gross national product is produced by small businesses, while over one-half of our Nation's work force is in the employ of small businessmen. In fact, more than 95 percent of all of our Nation's industrial and commercial operations are small businesses. And, needless to say, it has historically been the small business community that has provided our Nation with the technological and commercial advances needed to maintain our position on the international business scene, precisely the caliber of acumen and leadership that we are so desperately in need of today.

For these reasons, to promote, safeguard, and strengthen both our small business community and the Small Business Administration, I am introducing legislation that will raise the office of the Small Business Administrator to executive level I, which would in effect, bestow upon the SBA Administrator cabinet rank.

This action is long overdue. In our Nation today there are over 10 million small businesmen, and yet, up until now, they have been without Cabinet representation. When one considers that there exists a Secretary of Agriculture for the 3 million farms in the United States, one clearly can recognize the inequity of the status quo. This legislation is intended to finally rectify that situation by maximizing the voice of our Nation's entrepreneurs.

The bill, The Small Business Economic Policy and Advocacy Reorganization Act of 1977, would also:

First. Establish within SBA the Division of Advocacy, Economic Research and Analysis to represent and promote the interests of small business before Federal Agencies and Departments, and to maintain a comprehensive small business economic data base.

Second. Establish a National Small Business Economic Policy that would require the President to annually assess the capital investment needs of small business, and to propose incentives that would help assure that these needs are met through investments in the private sector.

Third. Create the Small Business Economic Council, chaired by the SBA Administrator, with the membership consisting of the Secretaries of the Treasury, Commerce, Labor, and Agriculture Departments plus the Chairmen of the Federal Reserve Board, the Securities and Exchange Commission, the Federal Trade Commission, and the Council of Economic Advisors. This Council would advise the President on the impact that Federal policies and programs have on small business, and would also work to achieve maximum cooperation between Federal Agencies and the SBA.

Fourth. Require the Federal Deposit Insurance Corporation and other Federal bank regulatory agencies to disclose in quarterly call reports, the volume of commercial bank credit extended to commercial and industrial borrowers.

Mr. Speaker, an identical bill has been introduced in the Senate by, among others, Senators HUBERT HUMPHREY of Minnesota and GAYLORD NELSON of Wisconsin.

FOR A BETTER FUTURE FOR THE AMERICAN FISHING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 5 minutes.

Mr. SIKES. Mr. Speaker, in a recent statement before the House, I discussed the current status of the U.S. commercial fishing industry and actions the Congress should take to make this Nation the number one fishing power in the world. I called attention to the fact that it would be necessary for the Congress to enact comprehensive legislation in the area of fishing development and that I would introduce such a proposal during this Congress. I am today introducing a bill to establish a program to improve the commercial fisheries of the United States. It includes provisions for exploratory fishing and gear research, product and processing technology, financial assistance and consumer education and market development.

This legislation is based on the need to expand our fishing industry's role and responsibilities in our new 200-mile zone. This act would provide a major development impetus coinciding well with our efforts to enlarge and use the fishery resources of our continental shelves.

At present, in too many areas our domestic fisheries remain weak, often poorly financed and supported. Consequently, the industry as a whole is unprepared to move forward. While hope runs high, we are unable to respond. Through a well-conceived development program, however, we can expedite our Nation's fisheries development. Through low interest loans, marketing efforts, and improved quality control and educational activities, we can significantly assist our domestic fishermen.

Clearly, we need to bring our commercial fisheries into the 20th century. This act will help accomplish such goals by: providing loans to enable the industry to repair, purchase, and build vessels, to replace outmoded equipment, and to enlarge our fishery capacity, especially for underutilized species; establishing management training and educational assistance to establish fisheries cooperatives; creating a Fisheries Development Board to promote and research fisheries products and locate new markets; and assessing the need for a mandatory fish inspection program to assure quality handling of fish and fish products and increase consumer confidence.

The present condition of the U.S. domestic fishing fleet, shoreside fisheries facilities, indeed the entire industry, cannot meet the large increase in fishing efforts that will be required in the coming years. Our fisheries need to be improved as soon as possible. Even though there are now several developmental programs for the commercial fisheries within the Federal Government, they are uncoordinated and not fully effective. This bill would help establish the critically needed programs and provide the impetus to rebuild our commercial fishing industry. Briefly, the Commercial Fisheries Development Act would provide:

First—Low-interest loans for commercial fishermen to rehabilitate, purchase, and construct fishing vessels and fishery facilities;

Second—Loans for adverse impacts caused by certain Federal regulations;

Third—The establishment of a Fisheries Development Board to promote and research new markets for fish and fish products;

Fourth—The creation of a new office within NOAA to properly administer and provide proper focus to the programs;

Fifth—A pilot fisheries cooperative service program. Other provisions would require reports on fish marketing, fish inspection, and other existing Federal programs.

It is well to remind ourselves that a significant new opportunity is presented by the establishment of a 200-mile territorial limit in our coastal waters. This will stop the ravaging of domestic fishing waters by foreign commercial trawlers. Their operations were seriously depleting our fisheries resources. Now the American industry can have a much more certain prospect of a successful future if sound legislation is enacted to help its members.

I welcome the support of my colleagues, particularly those who represent coastal States. I hope many of you will join me in cosponsoring this legislation. Together, we can work toward providing the leadership necessary for America to become the number one fishing power in the world.

SAFE BANKING ACT OF 1977—H.R. 9086

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, yesterday, I introduced legislation to sharply upgrade Federal bank regulation, provide fuller disclosure of bank activities,

and limit self-dealing by bank directors and officers.

This bill—the Safe Banking Act of 1977, H.R. 9086—is the product of months of analysis of the record of banking investigations and studies conducted by the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Banking Committee in recent years.

It represents an effort to pinpoint the problem areas in banking and to draft legislation which will assure that financial institutions live up to the requirements of their charters to meet community needs while operating in a safe and sound manner. This bill is an affirmative step to meet the public's demand for firmer and more vigorous Federal regulation of financial institutions—in place of the present timid, hesitant supervision which serves neither the interests of the public nor the banks.

I hope that the subcommittee will be able to complete work on this bill by the end of the month with full committee markup during the first week of October. Such a schedule will provide sufficient time for the full House to act and for a conference with the Senate on its version of supervisory legislation (S. 71).

The subcommittee is already well into the hearing process regarding banking problems. Last week—on September 6—a hearing exploring the banking and regulatory problems evident in the Comptroller of the Currency's report on OMB Director Bert Lance was conducted. Today, the subcommittee held a hearing on problems associated with correspondent relationships, compensating balances and bank stock loans. Next week the heads of the three Federal bank regulatory agencies are scheduled to testify. More witnesses will appear before the subcommittee in the days following that hearing.

In addition to the provisions outlined in the summary which follows, I am preparing an amendment which will prohibit overdrafts by officers, directors, and employees of commercial banks.

The following is a title-by-title summary of the Safe Banking Act of 1977:

SAFE BANKING ACT OF 1977

TITLE I: SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

Sec. 101. Provides civil money penalties for violations of insider loan and loan to affiliate sections of the Federal Reserve Act.

Sec. 102. Provides civil money penalties for violations of reserve requirement provisions of the Federal Reserve Act.

Sec. 103. Provides civil money penalties for violations of National Bank Act (loan to one borrower limit and indebtedness of national bank).

Sec. 104. Insider loans: an insider (director, officer, stockholder owning 5% or more of the stock and all companies, political or campaign committees, and family members) could borrow no more than 5% of capital accounts; all insiders, their affiliated companies, political or campaign committees, and family members could borrow no more than 50% of capital accounts; this limit would apply to State member banks too.

Sec. 105. Gives the Federal Savings and Loan Insurance Corporation authority to make loans to a savings and loan buying the assets of a failing savings and loan.

Sec. 106. Provides authority for cease and desist actions against officers, directors, stockholders, or any person participating in the affairs of a financial institution (under current law such actions must be taken against the institution); all financial regulatory agencies would have this authority; the actions could be taken against violations of law and regulation, unsafe and unsound practices, or if the criticized acts would weaken an institution.

Provides for removal of officers and directors for breach of fiduciary duty (defined as personal dishonesty, gross negligence, or comtinuing disregard for the safety of an institution).

Sec. 107. Applies the insider loan limit discussed in Sec. 104 to State nonmember banks.

Sec. 108. Provides that the penalties authorized by this title shall affect only those violations occurring after enactment of the bill.

Sec. 109. Provides a hearing process for removal of an officer or director based on an indictment or conviction for a felony.

TITLE II: INTERLOCKING DIRECTORS

Prohibits interlocking directorates between banks, savings and loans, mutual savings banks, credit unions, insurance companies, title companies, companies which appraise real property, and companies which close real estate transactions.

Management officials could not perform legal services for the financial institution or on transactions involving a customer of the financial institution.

Authorizes a five year period for correction of prohibited activities.

TITLE III: FOREIGN BRANCHING

Federal Deposit Insurance Corporation "housekeeping" provisions (authority to approve foreign branches for State nonmember banks, authorizes subpoena power for investigations, authority to write regulations for laws they enforce).

TITLE IV: CONFLICTS OF INTEREST

Members of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Home Loan Bank Board could not for two years after leaving their position serve as an officer, director, employee, attorney, consultant or agent of a financial institution or financial institution holding company or own stock of a financial institution or financial institution holding company.

TITLE V: CREDIT UNION RESTRUCTURING

Creates a three member National Credit Union Administration Board and subjects its members to the same provisions mentioned in Title IV.

TITLE VI: CHANGE IN BANK CONTROL ACT

The Federal Deposit Insurance Corporation (with consultation with Board of Governors and Comptroller of the Currency) would have authority to approve or deny in advance any change in control of an insured bank.

No action in 90 days is approval.

Applications may not be approved if the change would create a monopoly, lessen competition, if the financial condition of the applicant would threaten the safeness of the institution, or if the management capability of the applicant is not sound.

Subjects all bank stock to the margin requirement established by the securities laws.

Requires full disclosure to the Federal Deposit Insurance Corporation of bank stock loans.

TITLE VII: CHANGE IN SAVINGS AND LOAN CONTROL ACT

Provides authority like that in Title VI for the Federal Home Loan Bank Board with respect to savings and loans.

TITLE VIII: EXTENSIONS OF CREDIT AND CORRESPONDENT BALANCES

Prohibits loans to insiders (officers, directors, stockholders) based on a correspondent account.

Prohibits establishment of a correspondent account where a loan to an insider already exists.

The prohibition would apply to transactions involving insiders of both the bank establishing the account and the bank holding the account.

TITLE IX: DISCLOSURE

Requires that banks would be required—on one of the four required reports of condition—to list all stockholders of record owning 5 percent or more of the stock of the institution, to list the aggregate dollar amount of all extensions of credit to each insider (director, officer, stockholder owning 5 percent or more of the stock), and to list the dollar amount of loans classified substandard, doubtful, and loss at the last examination of the bank.

This report of condition would be posted in the bank and published in a newspaper.

TITLE X: FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Establishes a Council composed of the five financial institutions regulatory agencies and a representative of State supervisory agencies to establish uniform examining procedures for the agencies and to recommend uniform treatment of supervisory problems, country risk loans, loan participations, and questionable and illegal payments and practices.

TITLE XI: RIGHT TO FINANCIAL PRIVACY

No person, company, or government official may have access to an individual's financial records maintained at a financial institution unless the individual consents in writing or a subpoena is granted.

Would apply the provisions of this act to the establishment of electronic funds transfer systems.

Exempts the Currency and Foreign Transactions Act, the U.S. securities laws, and national banking laws from the provisions of the title.

Would require that government officials obtaining information with a subpoena must pay a reasonable cost for copying and locating the information sought.

TITLE XII: CHARTERS FOR THRIFT INSTITUTIONS

Provides authority for Federal charters of mutual savings banks.

Subjects converting mutual savings banks to State redlining requirements if the State requirement is more stringent than the federal one.

Grandfathers converting institutions for ten years with respect to powers not available to Federal savings and loans.

Provides a five year shared risk program in the event a converting institution fails. The Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board would develop procedures to work out this provision.

TITLE XIII: HOLDING COMPANIES

Provides cease and desist and removal authority for the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board regarding holding companies.

Provides civil money penalties for violations of the Bank Holding Company Act.

Eliminates the exemption for agricultural, labor, and horticultural organizations under the bank holding company act.

Provides for waiver of the 30-day notice requirement for acquisitions of banks by bank holding companies when the action would facilitate the acquisition of a failing bank.

Provides new standards for acquisitions of

banks, nonbanking subsidiaries, and new nonbanking activities (no approval if the acquisition gives the holding company 20% or more of the banking assets in a State; no approval if the financial impact of the acquisition would be detrimental to the subsidiary banks of the holding company).

Provides due process procedures for cease and desist, removal, and civil money penalty actions.

Provides for improved public involvement in holding company decisions.

THE PRESIDENTIAL PAPERS ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, on July 13, 1977, I commented in the RECORD on the Supreme Court's decision upholding the constitutionality of the 1974 law which provided for the preservation and eventual dissemination of the papers of the Nixon presidency. As I understand it, we will be voting in several weeks whether to approve the GSA regulations governing access to these materials.

I pointed out in my earlier statement the difficulty of our present legal posture. In essence, since Presidents are allowed to restrict access to their papers in any way they choose, Congress must resort to enacting a statute each time it decides that such access restrictions are not in the public interest. This is precisely what occurred in the Nixon case, and the Supreme Court has now held that Congress acted within the scope of its constitutional powers in passing such a law.

A better course, in my opinion, would be for Congress to provide by statute a general policy for public access to the papers of all Presidents. This is, in fact, the course suggested by both the majority and minority reports of the Public Documents Commission, which was created under title II of the 1974 law.

I am today introducing a bill, "The Presidential Papers Act of 1977," for this purpose.

In general, the bill would provide for access to only the "official" papers of a President. Those papers concerning the private lives of a President and his family, or with his participation in party politics, would not be accessible under this bill. But those papers of a President generated in the performance of his constitutional and statutory functions would be encompassed thereby.

Title I of the bill provides that all official papers of a President assuming office after January 20, 1981, shall be considered the property of the United States, and the custody of such papers shall be with the Archivist.

Title II provides that public access to such papers shall be governed by a new provision in the Freedom of Information Act. Requests for such documents would be honored unless such information fell into one of five exempted categories set out in the bill. In all other respects, requests for such documents would be treated as requests made under the Freedom of Information Act.

I might add here, for the benefit of my colleagues, that the Freedom of Information Act has not been interpreted or applied to Presidential papers. To the extent that such papers have been available to the public to date, it is only by virtue of the deeds of gift which our contemporary Presidents have given the Government.

Mr. Speaker, this bill, to my knowledge, breaks new legislative ground. While the 1974 statute applied to the Nixon papers, this bill is the first effort that I am aware of to develop a general policy governing access to Presidential papers. It is my hope that the bill will motivate further discussion on the subject, and that the Subcommittee on Government Information and Individual Rights, which I chair, will be able to consider it in hearings later this session. I commend it to my colleagues.

ABRAHAM L. KAMINSTEIN—AN OUTSTANDING PUBLIC SERVANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, it is with a deep sense of personal loss that, as chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, of the Judiciary Committee, I offer this tribute to Abraham L. Kaminstein, a prominent leader in national and international copyright, who died in Washington, D.C., on September 10, 1977.

Mr. Kaminstein was a gifted man of such tremendous accomplishments that it is not possible to record all of them here. His years of untiring leadership in connection with the general revision of the U.S. copyright law are well known to the Congress. As Register of Copyrights, he directed the Copyright Office, in the Library of Congress, from 1960 until his retirement in 1971. I came to know Abraham Kaminstein in 1962 when the Judiciary Subcommittee on Copyright and Patents, which I now chair, first dealt with copyright legislation in advance of general revision. However, it was in 1965, 1966 and 1967, that he made such an extraordinary contribution—unique, I believe, in the history of the legislative process in working directly with my subcommittee—to perfect the first general revision copyright bill. This legislation was the forerunner of the new U.S. copyright statute finally enacted in 1976 and effective, in its entirety, on January 1, 1978. Throughout his career and following his retirement Mr. Kaminstein kept a close watch on the progress of copyright legislation generously making himself available for consultation when needed and always supporting strongly the work of the subcommittee. His eloquence and perceptive insight made him an invaluable spokesperson for any cause he chose to champion, and copyright was the cause nearest to his heart. His first and lasting professional concern was the provision of adequate protection, through copyright, of the rights of those who create and for the products derived from that creativity.

A man of wide intellectual and cultural interests, Mr. Kaminstein identified with the writer, the painter, the musician; his most productive years were dedicated to seeking, in their behalf, full legal protection for the works resulting from the application of their talents. All Americans are in his debt because of this constant concern and continuous effort in their behalf. His courage and high sense of duty made him a natural leader among men and women. His enthusiasm and genuine liking for people, combined with his strong administrative abilities, earned him the respect and admiration of his total staff as well as his colleagues at every level. He believed in the principles of democracy and integrity, and he applied them in his daily work and life. The subcommittee's tasks were assisted in no small part by the breadth of Abraham Kaminstein's knowledge and his ability and willingness to share that knowledge with others.

As a result of his efforts, and the efforts of those he selected to work with him and to continue his work, the Congress was able to adopt the broad revision of the copyright law that will stand as a lasting monument to his inspiring leadership and distinguished ability.

Mr. Kaminstein's career was a brilliant one. In addition to molding recommendations for the new statute and drafting a proposed revision bill, he participated actively in international copyright circles. He represented the United States in assemblies of the Intergovernmental Copyright Committee, established under the Universal Copyright Convention, which took effect in 1955 as the first worldwide multilateral copyright treaty to which the United States adhered. Among his most notable achievements was his work in resolving the critical controversies between developing and developed countries engendered by the Protocol Regarding Developing Countries adopted at the meeting, in 1967 at Stockholm, for the revision of the Berne Convention; the protocol, which would have permitted developing countries to make certain sweeping reservations and exceptions under the revised convention, brought a major crisis in international copyright.

Although the United States is not a party to the Berne Convention, Mr. Kaminstein as the head of the U.S. observer delegation was able to suggest alternatives that were the basis of a program that culminated in revisions of both the Berne Convention and the Universal Copyright Convention, which have brought the developing and developed countries into harmony. These revisions were adopted at conferences held in Paris in 1971, where Mr. Kaminstein was cochairman of the U.S. delegation and general rapporteur of the revision conference on the Universal Copyright Convention. He participated also in preparing the U.S. proposals for the original version of the Universal Copyright Convention and was adviser to the U.S. delegation in 1951 at the Paris meeting where the preliminary draft of the convention

was prepared. He was chairman of the U.S. delegation to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, held at Rome in 1961, and was general rapporteur of the conference.

Born in 1912 in New York City, Mr. Kaminstein was a graduate of the College of the City of New York. He received the LL.B. and LL.M. degrees from the Harvard Law School, where he was a research fellow in 1936–37. After some 10 years of Government service as an attorney for various Federal agencies, he came to the Library of Congress in 1947 as Chief of the Copyright Office Examining Division and later served as Deputy Register of Copyrights. He was a leading force in adapting the copyright registration system to the public interest.

He was the author of numerous articles on copyright law, including an important study on Divisibility of Copyrights. He was a member of the New York Bar, the Bar of the Supreme Court, the Federal Bar Association, the American Bar Association and the Copyright Society of the U.S.A. Upon his retirement the Librarian of Congress appointed him honorary consultant in domestic and international copyright affairs, a post he held until his death. In 1971, Mr. Kaminstein received the Richard Strauss Medal from the German Society of Performing and Mechanical Rights in Music, in recognition of his contributions to the development of copyright law; he was the first American to receive this medal. He also received, in 1972 the Jefferson Medal of the New Jersey Patent Law Association for exceptional contributions in the field of copyright.

On May 25, 1977, Abraham Kaminstein was honored by the Copyright Society of the United States of America "for his inspiration, time, and unstinting efforts before, during, and after his service as Register."

He will be remembered not only as a respected and distinguished public servant, but as a warm human being and as a gentleman by those of us who had the privilege to know him.

WHY THE BREEDER REACTOR IS INEVITABLE

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, this body is shortly due to complete action on the Energy Research and Development Administration bill, H.R. 6796, which contains the authorization for the Clinch River breeder reactor project. The breeder reactor is essential to the solution of our growing energy problem. The breeder reactor concept and how it fits into the overall energy program is an exceedingly complex matter. An article in the Fortune magazine for September 1977 by the associate editor, Tom Alexander, does an excellent job of explaining the critical role the breeder reactor must and inevitably will play in our energy future. I would like to include pertinent excerpts from this article at the conclusion of my remarks for the benefit of those who have not had the time to study the various factors which make the breeder essential to our efforts in solving our growing energy problem.

It is indeed unfortunate that administration witnesses testifying before responsible committees of Congress such as Chairman TEAGUE's Science and Technology Committee have argued that we can put the breeder reactor off for a few years since we may find additional uranium resources to defer the date by which we must have breeders. In my view the hazard of delaying our development of the breeder is unacceptable. If we err on the side of delayed availability, we will fall short of meeting our basic energy needs. This, of course, could be devastating to our security and welfare. On the other hand, what are the hazards of making the breeder reactor available a few years before its absolute need develops? What this would mean is we would have available for a short time an excess amount of energy; and, therefore, we would have available some choices. For one thing we could decrease our imports of expensive energy fuels which certainly is the preferred situation to be in.

My long association with the energy problem and the part that nuclear energy must play in its solution causes me to persist in my view that the breeder must be pursued at a much faster pace than it has in the past. I am intimately familiar with the administrative problems our program has encountered in the past. The delays that have ensued must be compensated for. The most critical thing we can do right now is support H.R. 6796, as reported by the House Science and Technology Committee, since this bill clearly recognizes the importance of the breeder and provides the authorization which is needed to proceed with this program.

WHY THE BREEDER REACTOR IS INEVITABLE

(By Tom Alexander)

Stripped to essentials, what the energy crisis means is that we must wean ourselves from our petroleum diet before the world's appetite for oil overtakes the world's ability to produce it—an event that some authorities see happening as early as 1985. It follows, then, that one main purpose of energy policy should be to extend a resource that is just as precious as oil. That resource is time—time in which to make a graceful transition to alternative sources of energy.

Unfortunately, President Carter's bugle call to the "moral equivalent of war" comes out in wavering bleats. Not only has the Administration failed to make very clear what it intends to do with any time it gets, it seems bent on squandering some of the time it has. Everybody knows that you don't begin *real* wars by defusing the most effective weapons in your arsenal, yet that is what the new government policy on nuclear energy amounts to.

From all the evidence we have—and that evidence only gets stronger year by year—the energy source that is simultaneously the cheapest, safest, and most environmentally benign of all is the nuclear-fission reaction. The problem with fission is fuel: the reactors now in use could consume the world's total reserves of "fissile" atoms (i.e., atoms that can sustain a chain reaction) within a couple of decades. Thus the nuclear story would be limited to a mere footnote in human history.

But we don't have to stick with the reactors now in use. Other types of nuclear plants, the fast breeder reactors, turn fission energy into a practically unlimited resource; they might be viewed, accordingly, as the most wondrous energy-conserving devices ever invented. By transforming the commonest forms of uranium and thorium—called "fertile" isotopes—into fissile isotopes, breeders make it possible to extract fifty or more times as much energy from every pound of uranium and thorium ore as conventional plants extract.

What especially interests many countries right now is the fact that breeders can unlock the energy contained in the otherwise worthless residue of "depleted" uranium left after enrichment plants have extracted a minuscule fraction of fissile U 235 for use in reactors (or in bombs). The energy content of the depleted uranium stockpiles in both the U.S. and Great Britain, for instance, is roughly equivalent to these countries' coal reserves.

For the long run, the significance of breeders is that they can make the cost of reactor fuel a trifling consideration. Thus it will be possible to begin thinking about exploiting the traces of uranium found in such virtually limitless resources as shale, granite, and seawater.

THE BRAKES WENT ON

Far from hastening the breeder program along, as other countries are doing, the U.S. government has been effectively destroying it—first through a series of management fiascos, then, more recently, through deliberate curtailment. This past April, six years after President Nixon accelerated development of the breeder as "the best hope for meeting the nation's growing demand for economical, clean energy," President Carter jammed on the brakes. Though he allowed some breeder research to continue, he called for canceling construction of a demonstration breeder plant on the Clinch River in Tennessee. And he "deferred indefinitely" all efforts to extract the plutonium that breeders need to operate.

Carter said that present breeder concepts are too dangerous: if the plutonium they consume and produce becomes a world commodity, some countries might elect to convert it into bombs instead of BTU's. While acknowledging that the U.S. will ultimately need the breeder, the President would like to redirect worldwide research into alternative design and fuel concepts that would lend themselves less readily to bomb-building. It is not clear what timetable the Administration envisages, but its posture toward breeders involves a very real danger that we will run out of uranium before enough of them are in place.

NO ESCAPE FROM PLUTONIUM

A former engineering officer in the U.S. nuclear Navy, Carter cited his "own experience" in asserting that "a viable and adequate economic nuclear program can be maintained without . . . reprocessing and recycling of plutonium." If that statement is true, it is news to the professionals in nuclear engineering and electric power. Virtually none of them see any prospect that nuclear energy can long be either viable or economic without plutonium.

The continuation of nuclear energy depends upon breeders, and in one way or another the uranium-plutonium fuel cycle is essential to any breeder concept. Before a breeder can perform its elegant alchemy, it must have an initial charge of some kind of fissile material. In principle, U 235 can be used, but to fuel any substantial number of breeders with U 235 would require a huge

investment in uranium-enrichment plants and might also exhaust uranium resources well before a significant amount of fuel could be bred. And so far as the proliferation of modern weapons is concerned, U 235 is even more of a problem than plutonium. It lends itself to use in bombs with a comparatively simple "gun-barrel" type of triggering mechanism, while plutonium can probably be triggered only by the much more sophisticated "implosion" techniques. Fissile U 233, made from thorium, could also be used in breeders—as well as in bombs—but it must first be bred, and that again means starting with either U 235 or plutonium.

Uranium, plutonium, and thorium can be combined in various ways as fuel in many reactor designs. While investigating numerous concepts, the U.S. and all other nuclear nations have so far generally selected the liquid-metal fast breeder reactor, or LMFBR, as the most efficient and productive design. The word "fast" refers to the high-velocity neutrons that are responsible for the nuclear transformations of the uranium or thorium fuel. "Liquid metal" refers to molten sodium, a highly efficient heat-transfer agent that extracts immense quantities of energy from the relatively small fuel cores of fast reactors.

An inherent advantage of fast reactors is a high "breeding ratio." Depending upon how it's designed, an LMFBR can breed enough fuel for another reactor in from eight to thirty years, while most other breeder concepts will barely replenish their own fuel. In addition, the molten sodium permits high operating temperatures, which increase efficiency. And the high boiling point of sodium permits designers to build LMFBR's without the massively heavy pressure vessels and pipes that today's light-water reactors need to cope with steam pressure. In this respect, at least, the breeder reactor is safer.

On the negative side, the fast breeder presents some engineering problems that conventional reactors don't have. Molten sodium is hard to handle—it is a cantankerous, highly reactive substance that usually bursts into flame upon contact with water. When slightly contaminated with oxygen, it corrodes most metals. Even small leaks, especially in the steam generators that exchange heat from sodium to water, have a dismaying way of enlarging themselves and generating potentially explosive hydrogen gas.

WOULD THE SODIUM GET OUT?

But what gives designers of fast reactors sleepless nights is a nightmare they refer to in their circumlocutory jargon as a "hypothetical core-disruptive accident." Some conceivable event—like a blockage or bubbles in the sodium coolant—could lead to a momentary hot spot and a partial melting of some of the quarter-inch-diameter stainless-steel "pins" or tubes full of fissile fuel. The fear is that, once this melting started, it might spread. Most engineers believe that the released fuel would probably wind up harmlessly dispersed in fine particles throughout thousands of gallons of rapidly circulating sodium.

But it is at least conceivable that chunks of fissile fuel might somehow clump together into a critical mass. While nothing resembling a real atomic-bomb blast could occur—the fuel would vaporize and disperse before that could happen—the burst of heat might nevertheless rupture the reactor vessel. This would allow sodium to flow out and, for example, react with the shielding concrete. The combined pressures of steam, vaporized sodium, and explosive hydrogen would then pose some impressive threats to any other containing structures around the reactor. If all these were breached, radioactive sodium vapor might vent into the atmosphere.

Nevertheless, designers and safety regulators are sure that LMFBR systems can be made at least as safe as today's light-water reactors—which is safe indeed. Even assuming the worst imaginable catastrophe at a nuclear-power plant, most calculations indicate that the risks from nuclear power to health and the environment are small compared with the cumulative deaths and disabilities from mining and transportation accidents, oil and gas fires, pollution and waste disposal, which are inevitable in any fossil-fuel economy. One government-sponsored study estimates that from 2,000 to 20,000 deaths and from 30,000 to 50,000 disabilities each year in the U.S. alone can be associated in some way with fossil-fueled power generation. On a per-plant basis, according to these estimates, conventional power is twelve to fifty-five times more dangerous than nuclear.

And even this calculation ignores the greatest potential catastrophe to the environment from fossil-fuel combustion. That is the "greenhouse effect"—the worldwide warming caused by the carbon dioxide emitted by burning fossil fuels, especially coal. Even a temperature increase of a few degrees might have dramatic consequences; for example, it might reduce the temperature differential between the poles and the equator enough to alter the flow patterns of prevailing winds, and therefore affect the places where rain falls and where it doesn't.

Asked to choose between increasing reliance on fission energy or on fossil fuels, a lot of people will insist that these are not the only choices. They pin their hopes on the still-undeveloped technologies of solar electric power or nuclear fusion. Their hopes will probably be disappointed. Solar power will clearly be feasible in many applications, but the economics of big solar power stations looks discouraging. (See "Solar Energy Is Here, but It's Not Yet Utopia," Fortune, February, 1976.) Fusion may be scientifically feasible, too, but it's even further away than the breeder; moreover, the closer engineers get to building real-life fusion reactors, the more complicated and expensive those things look.

The Administration has chosen to bolster its case for delaying the breeder by arguing that the U.S., at least, has plenty of uranium to meet domestic needs through the remainder of this century and beyond. Even on that score the evidence is not very comforting. The U.S. Energy Research and Development Administration, which tries to keep track of such things, speaks with a lot less confidence about the U.S. uranium supply than the Administration to which it supplies information.

The only thing that ERDA is relatively sure about is that the U.S. has around 700,000 tons of uranium oxide (U_3O_8) obtainable at a "forward" cost of up to $30 a pound. (Forward costs include only mining and milling and usually run around a third of the actual market price, which must cover exploration, land, profits etc.) Beyond that, ERDA prepares estimates of potential "resources" in several categories of dubiousness. "Probable" resources, including known reserves, are estimated at 1.8 million tons, while a "speculative" resources category brings the total to 3.7 million tons. In justifying its policies, the White House airily assumes away all such niggling distictions as probable" and "speculative" and, in effect sweeps all 3.7 million tons into the proven-reserves category.

Painstaking attempts to lend more certitude to the uranium supply-demand equation are now being carried out by many experts. In a major study of all energy sources sponsored by the National Academy of Sciences, half a dozen independent U.S. uranium geologists expressed their opinion about ERDA's much-discussed 3.7 million tons of "speculative" U_3O_8. On average, the geologists guessed the probability was 97 percent that the resources would turn out to be lower than that. One draft of the still-unpublished study recommends that it would be prudent to count on no more than 1.8 million tons. Even that amount, the report suggests, will be hard to find, develop, and produce by the time it is needed.

The report might, of course, be unduly pessimistic. It is possible that higher prices will call forth a lot more uranium than those geologists expect is there. It is also possible that new technologies will significantly expand the amount of U 235 that can be extracted from any given amount of uranium; the article beginning on page 186, on laser chemistry, mentions some dazzling possibilities along these lines.

However, these prospects still have to be viewed as speculative. It is most unclear when the new laser chemistry, for example, will be available on any large scale. On balance, it does seem prudent not to count on any vast increase in our fuel projections.

When used in a "once-through" fuel cycle, 1.8 million tons of U_3O_8 would provide a lifetime supply of fuel for around 300 light-water reactors, each having a generating capacity of 1,000 megawatts. As of now, U.S. utilities have a total of 213 reactors either operating, under construction, or on order, with an additional six under option, or "letters of intent." In other words, three-quarters of the uranium we can count on is already committed.

In addition to forming optimistic estimates of uranium resources, the White House also relies on some rather modest forecasts of how many nuclear-power plants will actually be built in the U.S. by the year 2000. Within the past few years, it is true, ERDA's forecasts about this matter have dropped dramatically. In 1974, ERDA's mid-range nuclear forecast for 2000 was around 1,100 gigawatts, or more than half the nation's generating capacity (a gigawatt is equal to 1,000 megawatts). Now ERDA forecasts about 400 gigawatts, less than a third of the total. Influencing the new ERDA forecast are hopeful assumptions about energy conservation together with a recent drop-off in utility orders for generating plants of all kinds and nuclear plants in particular.

If ERDA's estimates about uranium resources can be characterized as indistinct, guesses about electrical demand in the year 2000 are so draped in imponderables as to leave scant confidence that 400 gigawatts is any more credible than 1,100. Utility ordering patterns are notoriously cyclical. In the most recent case, plant orders were down partly because the recession and higher prices affected demand for electricity and the availability of capital. The decline also owed something to licensing delays and other government-inspired uncertainties, including, in some instances, doubts about the uranium supply. There is thus a lot of circularity to the argument, since it is the falloff in orders that the White House points to in support of its contention that we have plenty of uranium.

NINE YEARS BEHIND SCHEDULE

There are good reasons to think that ERDA's projections of uranium needs will turn out too low. First of all, for the last year and a half, U.S. electrical demand has again been growing at a rate of nearly 7 percent a year, and a number of utilities are already beginning to approach the limits of capacity. If that 7 percent growth rate continues, electrical capacity in the year 2000 will have to be more than four times as great as that available today. By then, few, if any, plants will burn oil or gas. If we really had only 400 gigawatts of nuclear capacity, coal production would have to be at

least eight times higher than it is at present. Given all the constraints imposed by mining, transportation, and environmental regulation, hardly anyone believes that so much coal would be available. And all existing projections of nuclear demand would go out the window if it is finally decided that coal is intolerably dangerous. The wide use of electric cars and heat pumps—two of ERDA's favorite projects—would increase the demand for electricity still further.

The National Academy's "prudent planning" estimate of 1.8 million tons of uranium leads one to the conclusion that the utilities will need substantial numbers of breeders long before they're available. To order, build, and license a conventional nuclear plant now takes around ten years. The Clinch River breeder would have taken twelve years, even before President Carter stopped it And that would not be the last step before construction of a commercial breeder. Before utilities would order breeders, they would need to see at least one commercial prototype far bigger and better than the Clinch River demonstration model. It's hardly possible that any such prototype will exist until well into the 1990's. Thus even if we went ahead full blast with a demonstration model now, there is little hope that we could have more than one full-scale breeder in use by the turn of the century.

FLOUNDERING TOWARD CONFUSION

The past history of the U.S. breeder program provides further grounds for pessimism about the timetable. After having spent around $4 billion over the past thirty years, and having been the nation's top-priority, top-funded R. and D. project for six, the breeder program, has little to show except confusion—a few floundering, partly finished projects of questionable worth, out-of-control costs, and interminable schedules.

The odd thing about all this is that other countries have had comparatively little difficulty building fast breeders. France, for instance, built a 250-megawatt prototype, called "Phénix," in just four years, and has now started a 1,200-megawatt commercial model, "Superphénix," scheduled to be in operation in 1985. Britain has a 250-megawatt breeder, "PFR," supplying electricty to northern Scotland. The Soviet Union is about to turn on its second large plant, of 600 megawatts, and is now proposing to construct a 1,600-megawatt machine.

Britain and France have spent between $100 million and $125 million apiece on their present prototypes, which works out to between $400 and $500 per kilowatt, or around half again as much as conventional nuclear plants of the same vintage. PFR and Phénix were first of a kind, and also smaller than most commercial plants, which would tend to drive up their unit costs.

By contrast, even without any new delays, ERDA's estimate for the cost of finishing the Clinch River reactor is around $1.8 billion (excluding any interest costs and the effect of inflation, but including $484 million in development costs that ERDA officials judge to be specifically related to the Clinch River breeder). This huge expenditure works out to around $4,700 per kilowatt of capacity, or roughly nine times as much as nonbreeders completed in the mid-Eighties are expected to cost, excluding interest and escalation. When the most generous allowances are made for differences between U.S. and foreign conditions, the conclusion seems inescapable that the U.S. must be doing something wrong.

REINVENTING FORGOTTEN SOLUTIONS

Many utility executives are disenchanted with Clinch River. But even though they may get all their money back if the government decides to scrub it entirely, utility-industry spokesmen say they'd like to see Clinch River go ahead to completion. They reason that since fast breeders are inevitable, carrying on with Clinch River would at least prevent any further erosion and dispersion of this country's painfully and expensively accumulated array of talent and techniques. Already, much of the money being spent in the fast breeder program goes into reinventing solutions to problems that were worked out—and then forgotten—years ago. And already Westinghouse reports that it has been losing LMFBR engineers to other lines of work because of disillusionment and doubts about the program's fate.

The fast breeder program obviously calls for a long-range commitment on the part of the U.S. Our present policy, which assumes we will need the breeder eventually, has the effect of making "the long run" longer still. From the global perspective, the sooner breeders become widely deployed, the less the drain on all the sources of energy that, one way or another, we and all other countries must share. So whether or not Clinch River continues, we'll need to begin right away on the design and construction of a real demonstration plant.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KASTEN) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 5 minutes, today.
Mr. FINDLEY, for 5 minutes, today.
Mr. CLEVELAND, for 60 minutes, tomorrow.

(The following Members (at the request of Mr. SHARP) and to revise and extend their remarks and include extraneous matter:)

Mr. AUCOIN, for 5 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. LEGGETT, for 60 minutes today.
Mr. DIGGS, for 10 minutes, today.
Mr. LE FANTE, for 10 minutes, today.
Mr. DODD, for 15 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. SIKES, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KASTEN) and to include extraneous matter:)

Mr. KEMP.
Mr. HYDE.
Mr. PURSELL in two instances.
Mr. WINN.
Mr. MICHEL in two instances.
Mr. MARKS.
Mr. HANSEN in four instances.
Mr. WHITEHURST.
Mr. FINDLEY.
Mr. BAUMAN.
Mr. LEACH.
Mr. HILLIS.

(The following Members (at the request of Mr. SHARP) and to include extraneous material:)

Mr. CORRADA.
Mr. UDALL.
Mr. CLAY in 10 instances.
Mr. MICHAEL O. MYERS.
Mrs. SCHROEDER.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. THORNTON.
Mr. MCDONALD in five instances.
Mr. HARRINGTON.
Mr. LEHMAN.
Mr. AKAKA.
Mr. APPLEGATE in two instances.
Mr. DELANEY.
Mr. CONYERS.
Mr. SIMON in two instances.
Mr. ADDABBO.
Mr. BROWN of California.
Mr. STARK.
Mr. WAXMAN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1752. An act to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that that House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, September 15, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2339. A letter from the Comptroller General of the United States, transmitting a report on the Navy's multimission carrier airwing (LCD–77–409, September 12, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2340. A letter from the Comptroller General of the United States, transmitting a report on the Army's management of the stockpile of lethal chemical munitions and agents (LCD–77–205, September 14, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2341. A letter from the Comptroller General of the United States, transmitting a report on the U.S. military presence and base negotiations in the Philippines (ID–77–5, July 1, 1977); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

2342. A letter from the Comptroller General of the United States, transmitting his review of the deferral and revised deferral of budget authority contained in the message from the President dated August 16, 1977 (H. Doc. No. 95–206), pursuant to section 1014 of Public Law 93–344 (H. Doc. No. 95–220); to the Committee on Appropriations and ordered to be printed.

2343. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the

Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Brazil, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2344. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell a naval vessel to the Republic of China, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2345. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Republic of China, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2346. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell a naval vessel to Venezuela, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2347. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide, in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463 as amended by Public Law 94-409, for the repeal of advisory committees no longer carrying out the purpose for which they were established; to the Committee on Government Operations.

2348. A letter from the Comptroller General of the United States, transmitting a report on the audit of the financial statements of the St. Lawrence Seaway Development Corporation for calendar year 1976 (FOD-77-13, September 13, 1977), pursuant to section 106 of the Government Corporation Control Act, as amended, and title III of the Department of Commerce and Related Agencies Appropriation Act, 1961 (74 Stat. 101) (H. Doc. No. 95-221); to the Committee on Government Operations and ordered to be printed.

2349. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to reform the mining law, and for other purposes; to the Committee on Interior and Insular Affairs.

2350. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the Department of State's intent to consent to a request by the Government of Iran for permission to transfer training for 11 aircraft technicians to the Government of Jordan, pursuant to section 3 of the Arms Export Control Act; to the Committee on International Relations.

2351. A letter from the Acting Deputy General Counsel, Federal Energy Administration, transmitting notice of two meetings related to the International Energy Program; to the Committee on Interstate and Foreign Commerce.

2352. A letter from the Chairman, Federal Trade Commission, transmitting corrections to the Commission's annual report on cigarette labeling and advertising; to the Committee on Interstate and Foreign Commerce.

2353. A letter from the Acting Secretary, Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in docket No. 36491 (Sub-No. 1), *Wheat, Oklahoma and Kansas to Texas Gulf Ports*, within the initially-specified 7 month period and its determination to extend the period within which a final decision must be rendered for 3 months, pursuant to section 15(8)(a) of the Interstate Commerce Act, as amended; to the Committee on Interstate and Foreign Commerce.

2354. A letter from the Attorney General, transmitting a draft of proposed legislation to limit the exercise of diversity jurisdiction in the Federal courts; to the Committee on the Judiciary.

2355. A letter from the Attorney General, transmitting a draft of proposed legislation to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts; to the Committee on the Judiciary.

2356. A letter from the Assistant Secretary of Commerce for Economic Development, transmitting a report on departmental actions concerning the designation of "redevelopment areas" under section 401(a)(8) of the Public Works and Economic Development Act; to the Committee on Public Works and Transportation.

2357. A letter from the Comptroller General of the United States, transmitting a report on financial problems on the island of Guam (GGD-77-80, September 13, 1977); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2358. A letter from the Comptroller General of the United States, transmitting a report on the opportunities for the Department of Defense to simplify its process for recovering the cost of medical care provided to certain beneficiaries who also have insurance coverage (HRO-77-132, September 13, 1977); jointly, to the Committees on Government Operations, Armed Services, and the Judiciary.

2359. A letter from the Acting Director, Office of Telecommunications Policy, Executive Office of the President, transmitting a draft of proposed legislation to provide for the establishment, ownership, operation, and Government oversight and regulation of international maritime mobile satellite telecommunications services, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FOLEY (for himself, Mr. POAGE, Mr. WAMPLER, Mr. ULLMAN, Mr. DE LA GARZA, Mr. MATHIS, Mr. BOWEN, Mr. JONES of Tennessee, Mr. WEAVER, Mr. SEBELIUS, Mr. THONE, Mr. SYMMS, Mr. JOHNSON of Colorado, Mr. SMITH of Iowa, Mr. HIGHTOWER, Mr. BEDELL, Mr. FITHIAN, Mr. JENRETTE, Mr. THORNTON, Mr. MCCORMACK, and Mr. EVANS of Georgia):

H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949; to the Committee on Agriculture.

By Mr. ALLEN:

H.R. 9091. A bill to provide coverage for citizens and residents throughout the United States under a national catastrophic and major medical health care benefits plan, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. APPLEGATE:

H.R. 9092. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. BLANCHARD (for himself, Mr. MINETA, Mr. WINN, Mr. STOCKMAN, Mr. GORE, Mr. GOODLING, Mr. ENGLISH, Mr. KINDNESS, Mr. ERTEL, Mr. TSONGAS, Mr. WALSH, Mr. CORCORAN, of Illinois, Mr. CUNNINGHAM, Mr. MILLER of Ohio, Mrs. HECKLER, and Mr. DAN DANIEL):

H.R. 9093. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-base review of Government programs every 5 years, and for other purposes; jointly, to the Committee on Rules and Government Operations.

By Mr. CLAY (for himself and Mr. FORD of Michigan):

H.R. 9094. A bill to provide improved labor-management relations in the Federal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FRASER (for himself, Mr. EDWARDS of California, Mr. FISH, and Mr. PEASE):

H.R. 9095. A bill to add certain lands to the Boundary Waters Canoe Area, to redesignate such area as the Boundary Waters Wilderness Area, to withdraw certain authorities for timber harvesting and vehicle use within such area, to increase the payments made to counties respecting such area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr HEFTEL:

H.R. 9096. A bill to amend the Communications Act of 1934 to provide that the operation of pay television systems shall be licensed by the Federal Communications Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. KILDEE (for himself, Mr. MURPHY of New York, Mr. ANDREWS of North Carolina, and Mr. KASTEN):

H.R. 9097. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs, films, or electronic visual images depicting such exploitation; to the Committee on Education and Labor.

By Mr. LE FANTE:

H.R. 9098. A bill to amend the Small Business Act to declare a national small business economic policy, to provide for an ongoing program of advocacy and economic research and analysis for small business, and to increase the exchange of pertinent information and the level of cooperation between the Small Business Administration and other departments, agencies, and instrumentalities of the Federal Government; to the Committee on Small Business.

By Mr. MOORHEAD of California (for himself, Mr. BOB WILSON, and Mr. BADHAM):

H.R. 9099. A bill to reaffirm national policy with respect to the regulation of telecommunications services in interstate and foreign commerce; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PIKE:

H.R. 9100. A bill to amend section 6056 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. QUIE (for himself, Mr. BRADEMAS, Mr. FRENZEL, Mr. FRASER, Mr. HAGEDORN, Mr. OBERSTAR, and Mr. ZEFERETTI):

H.R. 9101. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 9102. A bill to amend the Foreign Assistance Act of 1961 to prohibit the assignment of international security assistance management teams, defense attachés, or other

U.S. Armed Forces personnel to the Republic of South Africa; to the Committee on International Relations.

H.R. 9103. A bill to prohibit exports to the Republic of South Africa under the Arms Export Control Act of defense articles or services, to prohibit exports to the Republic of South Africa under the Export Administration Act of 1969 of items which might be used for military, law enforcement, or internal security purposes, and to prohibit exports to the Republic of South Africa under the Atomic Energy Act of 1954 of nuclear materials, facilities, and technology; to the Committee on International Relations.

H.R. 9104. A bill to amend the Tariff Schedules of the United States to prohibit the importation of coal and of certain articles of uranium, if the product of the Union of South Africa; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 9105. A bill to establish within the Department of Justice the position of Associate Attorney General; to the Committee on the Judiciary.

By Mr. ST GERMAIN (by request):

H.R. 9106. A bill to amend the National Bank Act, to refund to the Comptroller of the Currency funds held as successor to closed national bank receiverships, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SIKES:

H.R. 9107. A bill to establish a National Center for the Handicapped; to the Committee on Education and Labor.

H.R. 9108. A bill to establish a program to improve the commercial fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

H.R. 9109. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. AKAKA, Mr. PHILLIP BURTON, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. MCCORMACK, Ms. MIKULSKI, Mr. PATTISON of New York, Mr. STEIGER, Mr. BOB WILSON, Mr. WINN, and Mr. ULLMAN):

H.R. 9110. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 9111. A bill to provide for station license renewal by the Federal Communications Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEHMAN (for himself, Mr. FRENZEL, Mr. GEPHARDT, Mr. HAWKINS, Mrs. HECKLER, Mr. PATTERSON of California, and Mrs. SPELLMAN):

H.J. Res. 593. Joint resolution recognizing the contributions of school volunteers; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H. Con. Res. 356. Concurrent resolution expressing the support of the Congress for free elections in Namibia and Southern Rhodesia; to the Committee on International Relations.

H. Con. Res. 357. Concurrent resolution expressing the support of the Congress for United Nations Security Council Resolution 385 which calls for an end to South Africa's illegal administration of the Territory of Namibia; to the Committee on International Relations.

By Mr. APPLEGATE (for himself, Mr. CARNEY, Mr. MARKS, Mr. MOLLOHAN, and Mr. WALGREN):

H. Res. 761. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

By Mr. PURSELL:

H. Res. 762. Resolution that Congress move expeditiously to resolve pending issues regarding national telecommunications policy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HARRIS:

H.R. 9112. A bill for the relief of Charles J. Mangan; to the Committee on the Judiciary.

By Mr. KAZEN:

H.R. 9113. A bill for the relief of Enrique Garcia-Flores; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 9114. A bill for the relief of Antoinette Slovik; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 9115. A bill for the relief of Leon Boyd; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

216. The SPEAKER presented a petition of the National Federation of Jewish Men's Clubs, Inc., New York, N.Y., relative to the merit system, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3744

By Mr. ALLEN:

Strike out "(1)" in line 18, page 4;

Strike out "(1)" in line 20, page 4;

Strike out all language of section 2(a) following the word "hour," on line 22, page 4, and substitute therefor the following: "during the year beginning January 1, 1979, not less than $2.80 an hour, during the year beginning January 1, 1980, not less than $2.90 an hour, and from and after January 1, 1981, not less than $3.00 an hour.";

Strike out subsection "(2)", beginning on line 10, page 5, in its entirety.

H.R. 6566

By Mr. DODD:

Page 21, after line 19, insert the following new section:

SEC. 210. (a) None of the funds authorized to be appropriated under this Act shall be obligated or expended for production of an enhanced radiation weapon, or for procurement of long-lead item for production of any enhanced radiation weapon, unless and until—

(1) the President certifies to Congress that production of such weapon is in the national interest;

(2) the Administrator submits to the Congress a complete statement analyzing the impact the production and deployment of such weapon would have on arms control and disarmament policy and negotiations;

(3) the President, in accordance with section 91 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)(2)), personally directs that such weapon be produced;

(4) the President studies (A) the overall concept for use of tactical nuclear weapons, including particularly enhanced radiation weapons, in Europe, (B) how the use and deployment of such weapons, and particularly enhanced radiation weapons, relates to deterrence and to a strong conventional defense, (C) how deployment of such weapons, particularly enhanced radiation weapons, relates to the development of a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces; (D) the feasibility and desirability of reductions in the number and type of nuclear warheads which would not be essential for the defense structrue of Western Europe because of the deployment of enhanced radiation weapons, and (E) any steps that can be taken, because of the deployment of enhanced radiation weapons, to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with appropriate emphasis on conventional defense forces;

(5) the President submits a detailed report to the Congress (A) stating the reasons for his decision under paragraph (3) that the enhanced radiation weapon involved be produced, and (B) reporting the results of the study required under paragraph (4); and

(6) a period of 45 calendar days passes after the report referred to in paragraph (5) is submitted to Congress during which Congress does not adopt a concurrent resolution disapproving the obligation or expenditure of such funds.

If before January 1, 1978, the President does not expressly direct that an enhanced radiation weapon be produced, a report stating the complete reasons for not directing production of such a weapon shall be submitted to the Congress not later than January 31, 1978.

(b) In conducting the study referred to in subsection (a)(4), the President shall review and take into consideration the results of the study conducted by the Secretary of Defense pursuant to section 302(d) of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365; 88 Stat. 402), and shall include in the report referred to in subsection (a)(5) any modification of the study conducted by the Secretary of Defense as may be necessary to bring the results of such study up to date.

H.R. 6796

By Mr. STARK:

Page 79, immediately after line 17, add the following:

SEC. 212. The Administrator shall not use any funds appropriated pursuant to this Act under any contract in effect on or after October 1, 1977, for research services or material contract or supplies by the Lawrence Livermore Laboratory unless that contract specifically provides that the employees of the Laboratory will be protected by an impartial grievance procedure which includes binding arbitration as the final step covering all "rights disputes" in accordance with the rules of the American Arbitration Association. The contract shall further guarantee the employees the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing. If a question arises concerning representation of employees, the services of the Federal Mediation and Conciliation Service may be invoked to provide appropriate procedures for the determination of employee representatives. The employer shall bargain in good faith with the representatives of its employees on all matters dealing with wages, hours, and other terms and conditions of employment. If the parties fail to reach an agreement, the services of the Atomic Energy Labor-Management Relations Panel shall be invoked for mediation purposes. All unresolved issues shall then be referred to such panel for final and binding arbitration. Nothing contained herein should be construed to permit any employee representative or person to engage in a work stoppage or to permit the employer to lock out its employees: Provided, however, That no employee rights or activities shall be guaranteed in such contract which would be in violation of the law of the State of California.

SENATE—*Wednesday, September 14, 1977*

The Senate met at 1:45 p.m. and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

The law of the Lord is perfect, converting the soul: the testimony of the Lord is sure, making wise the simple.

The statutes of the Lord are right, rejoicing the heart; the commandment of the Lord is pure, enlightening the eyes.—Psalms 19: 7, 8.

Almighty God, eternal and unchangeable, we thank Thee for Thy law given on Mount Sinai, written in Thy word and lodged in our hearts. As we create new laws help us to remember that all law in this land is based upon and supported by Thy higher law. As we now dedicate ourselves to serve Thee in this place grant us grace to discern Thy will and power to obey it.

We pray in the name of Him who came not to destroy the law but to fulfill it. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 14, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Tuesday, September 13, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have a request for my time and I therefore reserve the remainder of it.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

APOLOGY TO SENATOR PERCY BY JODY POWELL

Mr. BAKER. Mr. President, I will not take much of my time this morning. I said earlier today to the press that I came prepared today to criticize in most severe terms the comment by Presidential Press Secretary Jody Powell on yesterday about one of our Republican colleagues, Senator PERCY.

I note from press accounts this morning and other representations that Mr. Powell has apologized to Senator PERCY, as I understand it, and has indicated that his conduct was not as he might otherwise have wanted it.

I think Mr. Powell has gone a long way toward rectifying what otherwise would have been a very, very bad situation. I am glad that corrective action has been taken, and I commend Mr. Powell for it. I am happy that this matter appears to have been brought to a satisfactory conclusion.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished minority leader in his remarks concerning Mr. Powell's issuing an apology to Mr. PERCY. I think it was necessary, and I think it should be a public one. It was unfortunate that this matter transpired as it did. I only know what I have read and heard through the media, so I base my remarks on my observations of what has been said in the newspapers.

I think it was unfortunate and irresponsible, and I would hope this would be the last of such mistakes.

Mr. BAKER. I thank the majority leader.

Mr. President, I have no further requirement of my time under the standing order, and I yield it back.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I would like to yield my time now to Mr. CRANSTON.

Mr. CRANSTON. I cannot take it now, I am sorry. I wrote some material and it is being typed, and I will have to do it later.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished minority leader will reserve the remainder of his time I will reserve mine so that if Mr. CRANSTON's material gets to the floor before 2 o'clock he can take it.

Mr. CRANSTON. I appreciate that, but I would not want to delay the presenting of the bill if the Senator is ready.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the understanding of the distinguished majority whip.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of morning business for the purpose only of introduction of bills and resolutions, submitting of committee reports, statements in the RECORD by Senators, petitions, and memorials with a limitation on any statement of not to exceed 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE

Mr. BAKER. Mr. President, if I could invite the attention of the distinguished majority leader, while we have just a moment before we return to consideration of the bill which is scheduled for action today, could I inquire of the plans of the majority leader for the duration of the session today?

Mr. ROBERT C. BYRD. Yes.

Mr. President, the Senate will immediately upon the close of routine morning business and not later than 2 p.m. today resume consideration of the bill which was laid down last night, S. 1360, the so-called timber sales bill.

There is a time limit on that, and there will be votes during the afternoon on that bill.

Hopefully, following that bill it will be possible to take up the sex discrimination bill, S. 995, and complete that today.

But in any event, I think I should say to the distinguished minority leader that I think we would be safe in telling our colleagues respectively on our sides of the aisle that there will not be any votes after 6:30 p.m. today.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 1750

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the minority leader has no objection at this time, that at the close of the day we will lay down the saccharin bill, S. 1750, regardless of what action may yet be remaining on the timber sales bill, and I do not anticipate any action remaining on that bill. I anticipate that bill to be finished.

It may be that the Senate will not have completed action on the sex discrimination bill, but I had, I believe, a request from Mr. NELSON that the saccharin bill be laid down today with action taken on it tomorrow. So if we could get unanimous consent that in any event today before we go out the saccharin bill be laid down and made the unfinished business for consideration tomorrow with the understanding that if any action remains to be done on tomorrow on the sex discrimination bill that would be done either before or after action is completed on the saccharin bill.

Mr. BAKER. Mr President, reserving the right to object, and I shall not object, I see no difficulty with that arrangement at all—I might tell my friend, the majority leader. That would then take us into Thursday or Friday.

Mr. ROBERT C. BYRD. No. It would certainly take us into Thursday. It will

probably take us through the better part of tomorrow, depending upon how much time is taken on the saccharin bill. I would anticipate we would complete action, however, on the saccharin bill tomorrow even if we had to stay late, and either tomorrow or Friday we would take up the legal services bill, S. 1303, I should think, possibly the military unionization bill, S. 274.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. Did I say the legal services bill?

Mr. BAKER. As I understood the majority leader we take up after the sex discrimination and saccharin measures either legal services or——

Mr. ROBERT C. BYRD. That was it.

Mr. BAKER. Military nonunionization.

Mr. ROBERT C. BYRD. Right. Either of those, and at the moment there is a little problem between some of my colleagues on this side of the aisle with respect to the military unionization bill on which we already have a time agreement. I hope we can work out that problem.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Would it be the majority leader's hope then that we could finish both military unionization and legal services before we turn to the natural gas deregulation bill on let us say Tuesday?

Mr. ROBERT C. BYRD. Hopefully Monday or Tuesday, yes.

Mr. BAKER. But in any event, does the majority leader intend to turn to the natural gas deregulation bill as soon as it is available?

Mr. ROBERT C. BYRD. I would like to complete action on the measures that I have laid out first.

Mr. BAKER. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I believe that would be possible.

Mr. BAKER. I thank the majority leader very much.

Mr. ROBERT C. BYRD. I thank the minority leader.

(The following proceedings occurred later in the day:)

ORDER TO PROCEED TO THE CONSIDERATION OF S. 1469 ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I have just cleared with the distinguished minority leader and other Senators on both sides of the aisle the following request:

I ask unanimous consent that on next Tuesday, after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the natural gas pricing bill, S. 1469.

Mr. BAKER. Mr. President, reserving the right to object, I fully concur in the request of the distinguished majority leader. I might say it is my understanding that the report on this measure probably will be available tomorrow, and that it may or may not be qualified under the 3-day rule, depending on how we interpret the 3-day rule. To make sure there is a certainty in the time that we proceed to the consideration of this important measure, we are agreeable to proceed to its consideration at this time notwithstanding the provisions of the 3-day rule, as to whether it may or may not be applicable. I have cleared this with parties who have expressed an interest on our side and they do not object.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Is there objection to the request? If not, it is so ordered.

(This concludes proceedings that occurred later in the day.)

Mr. ROBERT C. BYRD. Mr. President, do I have some time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. ROBERT C. BYRD. I yield such time as he may need to the distinguished majority whip.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, I spent some time this morning personally preparing some material in the form of remarks I wanted to make at this point in the Senate's proceedings dealing with the principal charge that has been brought against the Panama Canal Treaty relating to allegations that we are being blackmailed by Panama and that we are faced with a threat of violence if the treaty is by any chance not ratified by the Senate.

"PANAMA: THE SPECTER OF VIOLENCE"

Mr. President, the most clear-cut and devastating response I have yet seen to the "blackmail" and "violence" charges that have been raised against the Panama Canal Treaties was made by Tom Wicker in yesterday's New York Times.

The fact is that the specter of violence, and the predictions that violence will erupt in Panama if the treaties are rejected, have been raised not by responsible Panamanians but by Americans.

President Torrijos has specifically rejected violence. The following exchange took place at a news conference in Panama on August 26:

QUESTION. If the United States Senate does not ratify the treaty, what is the road to follow?

Answer by PRESIDENT TORRIJOS. The possibility does exist. It must be taken into consideration as one thing that could happen. That possibility would have to be interpreted as the greatest provocation in this struggle. And, in view of that possibility, we must have ready another type of answer, not a violent one.

My attendance at events connected with the signing of the treaties last week in Washington gave me an opportunity to question Panamanian officials, and American officials who know Panama intimately, about the blackmail and violence charges.

I asked them where violence would come from—if it did—in the event that the treaties were rejected by the Senate. The common response went this way:

The violence would not be instigated by responsible leaders in Panama, in or out of the Torrijos government.

If it came, it would probably start in one of two ways.

Either Panamanian students—whose demonstrations in the sixties led to the effort by the Johnson Administration to negotiate a new treaty with Panama—would launch new demonstrations leading, in the emotionalism and the excitement, to a march on the Canal Zone; leading to an effort by the U.S. military to prevent their entry; leading to confrontation and quite possibly to the shooting and the death of Panamanian students; leading on to a collision of unforeseeable dimensions.

Or a single Panamanian—with or without any fellow conspirators—would penetrate the Canal Zone and sabotage the Canal—an action that the American military acknowledges it would be hard-put to prevent, an action that could close down the Canal for a very substantial period of time. This act could be executed by one aroused, fanatical Panamanian, motivated by revenge, or by a desire to become a national hero or martyr, or by any other purpose imaginable or beyond imagination.

It is this sort of self-starting, spontaneous violence that, I believe, American proponents and opponents of the treaties alike really envisage and anticipate if the treaties were rejected by the Senate.

It is hardly the stuff of blackmail, lacking the faintest connection, spoken or unspoken, direct or indirect, with the Government of Panama and the representatives of that Government with whom Ambassadors Bunker and Linowitz have been negotiating.

I am about to place the Wicker column in the RECORD, but I wish to point out that I am omitting two brief parts of it as I submit it.

Two sentences refer to two Senate opponents of the treaties, and I am striking those two sentences out.

One sentence refers to the cost to President Carter of Senate rejection of the treaties. I am dropping this to avoid any hint of partisanship in my action of inserting Wicker's column in the RECORD, and because what is important is not the cost of rejection to Carter but the cost of rejection to our country.

Whether the treaties are approved or disapproved is more a test of the Senate than of the President. It seems to me that the President and his negotiating team have already accomplished a very great deal in two respects: By bringing to a swift conclusion negotiations that dragged on inconclusively and fruitlessly through three preceding administrations representative of both of our major political parties, and by persuading Panama to accept a far smaller payment than she had for so very long demanded so strenuously.

Mr. President, I ask unanimous consent that my slightly abbreviated version of Tom Wicker's extraordinarily fine column from the September 13 New York Times appear at this point in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

OUT ON A LIMB

(By Tom Wicker)

If opposition to the new Panama Canal treaties is really going to become an organized effort of the American right, then conservatives are taking themselves far out on a limb all too likely to be sawed off behind them. Hanging on to the Canal may be a splendid whoop-it-up political issue now and in next year's elections, but what if conservatives actually defeat the treaties?

Ronald Reagan, the principal spokesman of the anti-treaty movement, predicted on a recent ABC–TV program, for instance, that if the treaties were ratified the Panamanian government would seize control of the canal just as Egypt took the Suez Canal from the British and the French.

With all due respect to Mr. Reagan, whose opposition to "giving up" the canal was an outspoken part of his Presidential campaign, this position doesn't make much sense. It's true enough that the Panamanian government might seize the canal if the treaty is ratified; but it's all but certain that Panama will seize it if the treaty is not ratified.

Mr. Reagan's point is misleading, anyway, because he and other well-informed conservative leaders know that it is Panama—not the Soviet Union, not Cuba, not China—that is the major threat to the current status of the canal. They must know this because of their repeated contention that the United States should not have negotiated the treaties "under duress" from its negotiating partner.

But if it's true to say that the treaty has been forced on the United States by the demands of Panamanians for greater control of their own territory and of a waterway that bisects that territory, it's an attempt to have it both ways to say that once the treaty has been ratified as demanded, the Panamanians will seize the canal anyway.

Elementary logic makes it obvious, instead, that if the Senate rejects the treaties now, an explosion of anger and frustration in Panama would result in rioting, sabotage, guerrilla warfare, leading inexorably either to Panamanian seizure of the canal or to a long, costly, losing American military effort to hang on to it.

In such a struggle, the Panamanians would have the full support—at least on the surface—of virtually every Latin American nation, certainly including Cuba. What better way to bring Castro into the Canal Zone, an eventuality Mr. Reagan and others profess to fear, than a war in his backyard between Panamanians and gringoes over an outpost of American colonialism?

What's more, if the canal problem ultimately produces that kind of conflict, not just the Third World but most other nations not bought or propped up by the United States would back Panama's national aspirations.

Now it may be that Ronald Reagan and other conservatives who oppose the treaties—not all do—are prepared to accept such consequences, if they succeed in mustering enough Senate votes to prevent ratification. It may be that their emotional identification wih the notion of "an American Canal in Panama" is so strong that a bloody little Vietnam on the isthmus is an acceptable price to pay, even though winning such a war is unlikely.

Even if so, such opponents are not justified in standing the matter on its head by proclaiming that it is ratification rather than rejection that threatens loss of the canal. Cuban influence over it, a setback to American leadership and the like. The U.S. and Panama might have stumbled along peacefully for a few more years without agreement; but now the two sides have actually signed documents worked out over 14 years of negotiations, an American rejection of the treaties could have no other result than violence in Panama and political disaster in the hemisphere.

By comparison, what do treaty opponents have to gain if the Senate refuses to ratify? The emotional satisfaction, no doubt, of hanging on to the canal, of not being "pushed around"; but that will last only until the rioting, sabotage and fighting begin.

For such limited gains, if they are gains, do serious American conservatives really want to risk responsibility for frustrating legitimate Panamanian aspirations and for the guerrilla warfare likely to follow? It's hard to believe that most of them do.

Mr. CRANSTON. I thank the Senator.

(Routine morning business transacted and additional statements submitted will be printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has morning business been closed?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

BIDDING PRACTICES IN NATIONAL FOREST TIMBER SALES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1360, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 1360) to establish an Advisory Committee on Timber Sales Procedure appointed by the Secretary of Agriculture for the purposes of studying, and making recommendations with respect to, procedures by which timber is sold by the Forest Service, and to restore stability to the Forest Service timber sales program and provide an opportunity for congressional review.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 3 hours, to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from Oregon (Mr. HATFIELD), with 1 hour on any amendment in the first degree, with 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the following staff members be given the privilege of the floor during the consideration and voting on S. 1360: Mr. Fred Craft, Tom Imeson, Ted Orf, Steve Crow, Tony Bevinetto, and Steven Quarles.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that Cleve Corlett and Fred Hutchinson may have the privilege of the floor during consideration of the pending measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe and Richard Arnold of my staff, be permitted the privilege of the floor during debate on this issue.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLARIFICATION OF UNANIMOUS-CONSENT ORDER—S. 1360

Mr. BUMPERS. Mr. President, I wish to ask the distinguished Senator from Idaho and the distinguished Senator from Oregon if we could have a unanimous-consent agreement about the control of time.

I will not say the general order on this bill is confusing, but the effect of it is to give the two proponents of the amendment all the time.

Mr. CHURCH. That seems a perfectly fair arrangement to me.

How does the Senator suggest we change it?

Mr. BUMPERS. I thank the Senator for his magnanimity and generosity.

Mr. CHURCH. Mr. President, the order is so obviously in error, and the time in opposition to the bill should be under the control of the distinguished Senator from Arkansas. I am sure we would have no objection to that change.

Mr. CRANTSON. Mr. President, will the Senator yield?

Mr. CHURCH. Mr. President, I ask unanimous consent that the order be changed as has now been agreed upon between us.

The PRESIDING OFFICER (Mr. JOHNSTON). Who would have control of the time?

Mr. CHURCH. Under the altered order I would have control of the time for the proponents of the bill and the time for the opponents would be controlled by the distinguished Senator from Arkansas.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Bill Kingston, from Senator DOMENICI's staff, and John Boyd, from Senator STEVEN's staff, be granted privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Let me get the first unanimous-consent request out of the way. Is there objection to the unanimous-consent request relative to the control of time between the Senator from Idaho and the Senator from Arkansas?

Without objection, it is so ordered.

With respect to the unanimous-consent request of the Senator from Oregon, is there objection? Without objection, it is so ordered.

Mr. CRANSTON. I ask unanimous consent that Ann Wray, of my staff, may have the privileges of the floor throughout all aspects of the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Robert Wolfe and also Mr. Steptoe be granted the privilege of the floor during the consideration of this legislation, and also Joseph Kinney, of Senator HUMPHREY'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the legislation we are about to consider, S. 1360, has stirred up a controversy quite out of proportion to the bill's provisions or its effects. Therefore, I would like to take a few minutes at the beginning of this debate to explain the bill, the reasons why the Energy and Natural Resources Committee and the Agriculture Committee feel it is necessary, what the bill would do, and, perhaps more importantly, what it would not do.

Last year, Congress rewrote the basic laws governing the operation and management of the National Forest System. On October 22, 1976, the President signed into law the National Forest Management Act of 1976. One subsection of this Act, 14(e), was added in an effort to combat potential illegal antitrust activities associated with the sale of Forest Service timber.

Subsection 14(e), added during the Senate House conference on the Forest Management Act, has as its sole purpose the elimination of collusion among purchasers of Government timber. However, the Forest Service has interpreted 14(e) to mean that sealed bidding must be used on its timber sales, regardless of whether collusive practices are suspected or not.

As enacted last year, subsection 14(e) requires the Secretary of Agriculture to take appropriate action to obviate collusive bidding practices, including establishing timber bidding monitoring systems, reporting of suspected collusive bidding practices to the Attorney General of the United States, and requiring sealed bidding except when he determines otherwise by regulation.

Under S. 1360, as amended by the two committees, subsection 14(e) would be rewritten. Monitoring and reporting to the Attorney General would still be required, but the Secretary of Agriculture would not be directed to make sealed bidding for national forest timber the rule and oral bidding the exception. Instead, this legislation would simply authorize the Secretary to alter whatever bidding methods he may be employing if he has reason to suspect that collusive bidding practices may be occurring. The bill would not provide a statutory preference for any particular bidding method.

That is all this bill would do. It would not repeal this section of the law, as opponents of the bill maintain, but would merely limit the requirement to go to sealed bidding regardless of whether collusion was suspected or not.

I introduced this legislation on April 23, along with Senators MCCLURE, PACKWOOD, HATFIELD, HANSEN, MELCHER, and GRAVEL. S. 1360, upon introduction, was referred jointly to the Agriculture Committee and the Committee on Energy and Natural Resources. These two committees jointly considered the National Forest Management Act of 1976, which this bill would amend.

Hearings were held on S. 1360 on May 16, 1977, by the Subcommittee on Environment, Soil Conservation, and Forestry of the Agriculture Committee, and on May 18, by the Subcommittee on Public Lands and Resources of the Energy and Natural Resources Committee. The bill was amended and ordered reported, by a rollcall vote, of 12 to 3, by the Energy Committee on June 23. The identical amendment was adopted, and the bill, as amended, was ordered reported by a rollcall vote of 10 to 7, by the Agriculture Committee on June 28.

There has been some heated disagreement about what Congress originally intended by subsection 14(e) of the National Forest Management Act. Although I suspect that much will be said today about the intent of Congress with regard to subsection 14(e), as a member of the conference committee which wrote this section, I would like to relate my understanding of what the majority of the conferees had in mind when we adopted it. The congressional intent, as we understood it then, was simply to provide the Secretary of Agriculture with enough flexibility to prevent collusive bidding. We did not anticipate this clause would be used by the Forest Service to establish sealed bids throughout the National Forest System without regard to traditional practices in areas of the country where oral auction sales have been long established and where there is no basis to believe that collusion is taking place. We understood that traditional methods of selling timber were to continue, except that the Secretary was given the means, if he deemed them necessary to combat suspected collusion, to use monitoring systems, to use sealed bids, or to report instances of collusive practices to the Attorney General. Subsection 14(e) was not to be invoked unless the Secretary sought to prevent suspected collusion.

Like others from the Northwest, I was concerned when the Forest Service proposed to use this section of the law to virtually eliminate oral auction bidding. Traditionally, national forest materials have been sold primarily by oral auction in the Northwest. Oral auction bidding allows those timber operators who depend upon neighboring national forests to face their competitors across the bidding table. In many towns in Idaho there is only one sawmill, and the town depends on the mill for its employment. When the log decks for the mill are depleted and the operator knows he will soon be short of raw material, he will go out and bid to the limit, if it becomes necessary, to keep that mill operating. So long as he can face his competition directly in an open auction, he knows how high he has to bid. But when sealed bids are used, the mill operator may submit what he regards as a high bid, only to find that someone has bid higher. If that happens, and the operator does not get the timber, then the mill will be forced to shut down. And anyone who does not think that a mill closure can bring havoc to a small town should speak to the local car dealer, or the barber, or a few housewives in McCall, Idaho, as I did earlier this summer, and find out, first-hand, how serious even the announcement of such a closure can be.

The Agriculture and Energy Committees' written joint report carefully describes why oral auction timber sales have become a traditional means of protecting dependent communities in the West, where timber sales and the underlying conditions which support them are totally different than other sections of the country, such as New England and the South:

> When sealed bidding is employed, timber purchasers are permitted to make only one bid on the timber offered for sale. All bids are held secret until the day of the sale, at which time they are opened and the timber is sold to the highest bidder. Under this bidding system, a timber purchaser could participate—actively and competently—in several successive national forest timber sales in the market in which he operates and not make a single purchase. For timber purchasers in dependent communities with no alternative sources of timber from private lands.

That, Mr. President, is the difference between the situation that confronts small mills in Western States and mill operators that typically bid for timber in the South or eastern regions of the country. The figures that we have to offer later in the debate will make this clear.

Going back to the committee report:

> For timber purchasers in dependent communities with no alternative sources of timber from private lands, a succession of losing bids will likely result in timber processing plant closings. In a dependent community which, with its narrow economic base, relies on that mill, the mill closing means not only the loss of jobs for a certain number of workers but also the loss of the economic vitality necessary for community stability.
>
> On the other hand, when timber is sold by oral auction, timber purchasers are able to make several consecutive bids for the resource. A timber purchaser who needs the timber to keep his plant in operation can react to the bids of other purchasers and insure his supply of raw material. In the short run, a mill operator cannot afford to shut down operations. So long as he can cover fixed costs, he will be willing to bid much higher than he would normally to secure the timber he needs to maintain his operations. With oral bidding, he has the opportunity to meet and exceed bids of competitors which he may not have been able to foresee. He will do so even if the ultimate price deprives him of profit in order to avoid closing his mill. Accordingly, the oral auction method of selling national forest timber is well suited to those situations, particularly in the dependent communities of the West, where there is a single timber seller (the Forest Service) and no alternative source of timber.

So, Mr. President, Northwest citizens have become concerned about subsection 14(e) itself, and about the three different sets of regulations adopted by the Forest Service to administer this provision of the law. These regulations require sealed bids in an area of the country where oral bidding has predominated, and the primary reason we introduced S. 1360 was not to correct an over-

sight by Congress, but to provide a legislative solution to the problem created by the Forest Service's misinterpretation of the law as evidenced by these regulations.

Originally, we had hoped to find an administrative solution to this problem. Those of us who represent the West in the Senate, and our counterparts in the House, actively sought such a solution. We wrote numerous letters and met repeatedly with Forest Service officials to seek alternative regulations which promote vigorous enforcement of the antitrust laws, but also do not jeopardize community stability.

For instance, earlier this year, after the Forest Service had promulgated its interim regulations to implement the 1976 act, Senator McCLURE and I met with Chief McGuire, on January 28, to discuss those regulations. This meeting was prompted directly by a bidding policy announcement released after the Forest Service had surveyed all of the towns in northern Idaho, Montana, and South Dakota, and identified only three communities as being "dependent" upon national forest timber for their livelihood. Two towns in northern Idaho, Riggins and Elk City, and one in South Dakota, were classified as dependent communities. In reality, as everyone knows who is familiar with these things, there are scores of small towns in that area of the West whose existence is directly linked to a continuous flow of national forest timber. In fact, as we pointed out to Chief McGuire, it would be safe to say that all of northern Idaho is "dependent" on the National Forest System.

We made a determined effort to reach an understanding with the Forest Service through administrative channels, and admittedly their revised regulations were better than those first proposed.

Someone evidently prepared the revised regulations who had some familiarity with the conditions of life in the affected States. But even the revised regulations fall far short of giving adequate protection to the dependent communities. Thus, we were obliged to seek a legislative solution.

Mr. President, the Pacific Northwest is a unique part of America. It's a land characterized by magnificent coniferous forests, ice-cold mountain lakes, and wild white-water rivers. Much of the economy of the region is based on agriculture or lumbering. It is an area of small towns, 30 or 40 miles apart, often separated by a high mountain pass and a narrow winding road. It is a part of the country very difficult to conceptualize for those who have never spent much time there. It is a unique part of America with its own unique problems.

Recently, it has been hinted by the opponents to this bill that there is something else which is unique to this part of the country: widespread and wanton violations of the antitrust laws.

To hear some people tell it, the community leaders of Idaho's small towns meet every Thursday at the local Grange hall to discuss such routine matters as the upcoming school bond election, the new sewer line, and the best procedure to be followed to effectively restrain free trade, violate the Sherman Anti-Trust Act, and defraud the Government. Mr. President, there is no factual basis whatever for such insinuations.

The opponents of S. 1360 allege that timber operators in the Northwest regularly conspire—the word they use is collude—to buy Government timber at the lowest possible price. These same people also allege that sawmill operators routinely enter into secret agreements for the fraudulent purpose of keeping outsiders from coming in and buying saw logs from the surrounding national forest.

This is not substantiated by the facts. Small sawmill operators are not routinely entering into secret agreements for the fraudulent purpose of keeping outsiders from coming in and buying timber from the surrounding national forests. Activities of that nature are generally referred to as collusive and they are illegal. Under section 1 of the Sherman Anti-Trust Act, a company caught colluding with another in an effort to "restrain free trade" can be subjected to a million dollar fine. Any person involved in such illegal activities can be fined $100,000, imprisoned for 3 years, or both. That makes collusion very risky, indeed.

It is so serious that the Chief of the Forest Service, John R. McGuire, at the Senate Energy Committee hearing on S. 1360 in May, said that he believes collusion among purchasers of national forest materials to be "relatively rare, isolated."

Those were his words. Certainly, they conform to everything that this Senator knows about the practices of the industry in the Northwest.

According to some sources, the rigging of timber auctions in the Northwest has become "notorious." However, that allegation just does not square with the facts. During the past 75 years there have been but two sets of indictments handed down by the Justice Department in which the Government alleged that a group of sawmill operators were conspiring to restrain free trade by eliminating competitive bidding for Forest Service timber. And only one of those cases was ever successfully prosecuted by the Justice Department—that is, one conviction for antitrust violations in 75 years. One conviction in 75 years does not, in my opinion, constitute a crime wave.

Mr. President, the issue before us is not one of being for or against collusion, for goodness sake. Those of us who advocate a change in the law because we are familiar with the conditions in the intermountain West are just as much against any form of collusion as those who oppose this bill.

In fact, the bill has been carefully written and approved by two committees of the Senate in order to give every possible flexibility to the Government in dealing with the collusion problem wherever and whenever it might occur. Indeed, the bill was written so carefully as to give every possible option to the Forest Service itself to deal with this problem wherever it might be suspected.

The Forest Service, speaking through the Assistant Secretary of Agriculture, provided us with a letter in which they accepted the bill, raised no objection to it, and referred to it as a workable vehicle for dealing with any future problem of collusion.

I suggest, Mr. President, that nobody can read this bill and find fault with it on that score.

I do not think that sweeping changes in Government policy should be made, as happened when the Forest Service suddenly changed the prevailing method of bidding throughout the West from oral bidding to sealed bidding, simply for the purpose of attempting to impede a suspected few if the cost is to be borne by many innocent, honest people who will be unduly injured. Forcing sealed bids on the Northwest could have precisely that effect.

In fact, there is a growing body of evidence that shows that serious economic dislocations may already be occurring as a result of the sealed bid requirement.

On Monday of this week, I placed in the RECORD a summary statement which details some examples of economic disruption and community instability brought about by the requirement to go to sealed bids. I ask unanimous consent, Mr. President, that that statement be printed in the RECORD again, at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, let me describe one situation in Oregon which I think is particularly illustative of the dangers inherent in requiring a change from oral auctions to sealed bids in the Northwest.

Fred Sohn is president of Sun Studs, Inc., a lumber and veneer company in Roseburg, Oreg., which uses laser beams and a computer to orient each log in relation to the saw so as to get the most lumber out of each log.

Sun Studs is a very advanced, modern sawmill. In testimony before the Subcommittee on Forestry of the House Agriculture Committee earlier this year, Mr. Sohn described the situation which is now developing on the Umpqua National Forest:

> Obviously our unique plant has required great capital investment in recent years. We could make the investment because we were confident we could compete successfully for the needed timber. But under sealed bids, our timber supply has changed. We can no longer raise our bid to protect ourselves. As a result of blind bidding, we now see the timber sales flowing out of the area. And this occurs just as the Forest Service tells us it must now reduce the annual sales volume on the Umpqua.
>
> To be specific, in calendar 1976, while oral bids were used, the Umpqua sold over 191 million board feet of timber. 80.2% of that remained in the area. Since then, the Forest has sold 67.3 million board feet at sealed bids. 41.3% of those sales went out of the area—some of it to areas that never before even bid for Umpqua timber. If this rate of outflow is sustained, in a couple of years

one or two major operating plants in our area will in all probability be eliminated. And in Roseburg, the mills are the sole industrial employers.

To save our plant, we have been forced to go over a hundred miles out of our area to try a blind bid where we were not expected. Sheer luck was with us. On the other hand, we recognized that the protection of our plant, payroll and community forced us to visit dislocations on still another community. We do not like to do this. And we do not think that the Government, as the owner of a practical monopoly of the timber in all these areas, should create the forces that have these economically and socially unhealthy results.

I agree with Mr. Sohn. I do not think the Federal Government should knowingly structure such an economically unstable situation, unless there is a higher public good to be served.

Mr. President, both the Agriculture Committee and the Committee on Energy and Natural Resources believe that there are several important economic purposes which should guide the sale of national forest timber. Among those purposes are the attainment by the Government of the full value of the timber as appraised by the Forest Service, the assurance of an adequate supply of wood products for the country's housing and building needs, the protection and fostering of competition in the timber industry, the assurance of the continued existence of small business timber purchasers, and the maintenance of stable employment in the industry.

We feel that S. 1360, as amended by the two committees would help to accomplish these purposes.

Mr. President, I also ask unanimous consent that a letter from M. Rupert Cutler, Assistant Secretary of Agriculture, expressing the Department's acceptance of this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 22, 1977.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: This letter is in response to your letter of June 20, 1977, asking for our comments on a proposed amendment to section 14(e) of the National Forest Management Act of 1976. We have no objection to the proposed amendment, and believe it would provide workable authority on this issue. As contained in the proposed amendment, we believe the action the Secretary takes when he has a reason to believe collusion may be occurring, should be discretionary and thus, we support the phrase "then he may take such action as he deems necessary . . .,". If the term "shall" was used instead of "may," anytime we took an action, for instance a change in bidding methods, there might be an assumption by the public that we had information on possible collusion, which might or might not be true.

Another alternative would be to delete item (2) "altering the bidding methods used within the affected area." If that occurred, we would have no objection to making the reporting to the Attorney General a mandatory requirement.

We appreciate the opportunity to comment on your proposal.

Sincerely,

M. RUPERT CUTLER.

Mr. CHURCH. Mr. President, I stress one sentence from that letter, which reads as follows:

We have no objection to the proposed amendment, and believe it would provide workable authority on this issue.

I am very pleased to now defer to my able colleague from my neighboring State of Oregon who has been one of the staunch and consistent supporters of this bill.

EXHIBIT 1

THE SEALED BIDDING REQUIREMENT HAS CAUSED SUBSTANTIAL ECONOMIC DISRUPTION AND WILL REDUCE COMPETITION

A survey of National Forest timber sales in Oregon since passage of Section 14(e) dramatically demonstrates that disruption of community stability is no academic, theoretical consequence of sealed bidding. Consider the following examples, which are by no means exhaustive.

SOME EXAMPLES OF ECONOMIC DISRUPTION AND COMMUNITY INSTABILITY

1. Roseburg, Oreg.

Roseburg is located in Douglas County whose population was 78,000 in 1973. Of the 10,810 persons employed that year in manufacturing, 9,160 or 85 percent were employed in the wood products industry. Roseburg is the headquarters of the Umpqua National Forest. Ease of access from surrounding areas has caused increasing pressure on local timber supplies.

In calendar 1976, when oral bidding was used, 80.2 percent of Umpqua National Forest timber remained in the Roseburg area. By February 8, 1977, 41.3 percent of the timber sold by sealed bid left the area—some of it purchased by mills that had never before bid on Umpqua timber. Fred Sohn, President of Sun Studis, Inc., a Roseburg mill, testified that "if this rate of outflow is sustained, in a couple of years one or two major operating plants in our area will probably be eliminated." During the succeeding months the outflow continued, as the following table indicates:

Sample sales from the Umpqua National Forest to companies outside the Roseburg Community

Date, company, location of nearest mill, million board feet purchased

March 9, 1977, Southwest Forest Industries, Medford, Oreg., 13.0.

March 16, 1977, Nordic Plywood, Eugene, Oreg., 3.2.

March 24, 1977, Cabax Mills, Eugene Oreg., 7.1.

April 27, 1977, Robert Dollar Company, Glendale, Oreg., 7.1.

May 25, 1977, Boise Cascade, Medford, Oreg., 1.8.

June 9, 1977, Rosboro Lumber Company, Springfield, Oreg., .24.

June 9, 1977, Golden State Building Products, Shingle Springs, Calif., .21.

To make matters worse, the U.S. Forest Service has announced that it intends to reduce the annual sales volume on the Umpqua.

2. The Klamath Basin, Oreg.

In 1973, the Klamath County population was 52,750. Of the 5,990 persons employed in manufacturing in the county, 3,650 or 61 percent were employed in the wood products industry. The city of Klamath Falls is the headquarters of the Winema National Forest. The entire Klamath Basin is a dependent community.

Before sealed bidding, about one-third of the volume of National Forest timber sold left the Basin. During the recent period of sealed bid sales, outside operators purchased 67 percent of the volume. These figures prompted the Forest Supervisor to take steps to change back to oral sales. "To do otherwise, in my judgment, would be contrary to the intent of the regulations and would be disadvantageous to the dependent community." He warned that "timber supply problems west of the Klamath Basin will be causing an increase in competition for Klamath Basin timber," and urged "maximum flexibility in making these kinds of decisions at the Forest level."

3. The Bend-Prineville Bidding War

Bend and Prineville are both dependent communities, located about 35 miles apart. Bend is west of Prineville, and is tributary to the Deschutes National Forest located west of Bend. Prineville is tributary to the Ochoco National Forest, located east of Prineville. The Bend mills have always looked to the Deschutes for their supply, and the Prineville mills to the Ochoco. But the introduction of sealed bidding made "raiding" possible, and touched off a destructive bidding war.

Bend, Oreg. The 1973 Deschutes County population was 36,800. There were 2,150 persons employed in the wood products industry out of a total manufacturing payroll of 3,080 (over 70 percent). On May 31, 1977, Louisiana-Pacific of Prineville purchased 18.3 million feet at a sealed bid sale in Bend. The second high bidder was Boise-Cascade from Medford. The third high bidder was a local company, Brooks-Scanlon. The community lost more than 18 million board feet of timber to an outside mill—nearly a year's supply for a small mill which would employ about 75 persons directly and another 75 in logging, transportation and related operations.

The State and local press understood the adverse consequences and dire implications of this raid. On June 1, the day after Louisiana-Pacific's purchase, the Portland Oregonian reported:

BEND.—The controversial sealed-bid system has cost Brooks-Scanlon Corp. a majority timber sale in Deschutes National Forest, company President Michael Hollern said Wednesday.

"It confirms what we've been saying since the Forest Service introduced sealed bidding. It offers a less than adequate means for a local mill to protect its tremendous investment in plant, equipment and people," Hollern said.

* * * * *

The sale would have provided about 10.5 months log supply for the Brooks-Wilamette sawmill at Redmond that employs 60 persons, the company reported.

"We submitted a sealed bid that was $400,000 more than the advertised price of the timber. Because of the inherent unfairness of sealed bidding, we were not allowed to exceed the bids of outside competitors as we have consistently done in the past through open oral auction," Hollern said.

On June 6, 1977, The Prineville Central Oregonian printed an editorial entitled "Black Marble Bingo," a reference to the Forest Service's practice of picking black and white marbles, to determine which sales should be by sealed bids and which by oral. It expressed the vain hope that:

"Now that blood has been drawn on the Deschutes National Forest, let us hope that the Forest Service continues to "gets its money" there without the game getting out of hand here.

"We might do alright if Brooks-Scanlon doesn't find out L–P is a Prineville mill. Because, if the white marble shows up in Prineville, Brooks-Scanlon might, also."

The white marble showed. On June 30, 1977, Brooks-Scanlon took nearly 20 million board feet out of the Ochoco.

Prineville, Oregon. In 1976, the Cook County population was approximately 11,500; about one-third of those employed were engaged with the wood products industry (1,700 of 5,000). Less than a month after the

raid by Louisiana-Pacific of Prineville, Brooks-Scanlon struck back. At a sealed bid sale, Scanlon purchased 19.8 million board feet on the Ochoco, out-bidding all local Prineville firms. The sale equaled 17 percent of the entire annual cut from the Ochoco.

The loss of this timber to Prineville will have severe consequences. Prineville is a community in which mill capacity far exceeds supply. The loss of a sale of this magnitude, particularly to the local mill with the shortest supply, could be catastrophic. Ironically, L–P, the company that started the war, it least likely to suffer from it. A large company with mills throughout the West, L–P has the deep pocket to withstand a bidding war while smaller, independent mills may be driven out of business.

Following this classic example of retaliatory bidding, which sealed bid proponents said would never happen, an editorial in the Bend Bulletin lamented another aspect of the wasteful results of sealed bidding:

"The 18 million board feet of logs from the Pine Flat sale now will be hauled 50 miles to Prineville, on the average, rather than 31 miles to Bend. That's an extra 19 miles for each of 3,272 truckloads of logs, plus an extra 19 miles on the empty return trip, if we figure it correctly. That's about 125,000 miles of extra log-truck driving on the sale purchased by Louisiana-Pacific.

"The Sand Springs sale, bought by Brooks-Scanlon, is 86 miles from Bend, 54 from Prineville. The Toggle sale is 110 miles from Bend, and 78 from Prineville. About 3,600 truckloads of logs are involved. Each truck will have to cover an extra 64 miles on the round trip. That's about 230,000 extra miles of driving.

"Between the three sales Forest Service bidding regulations caused more than 350,000 extra miles of driving. (Log trucks get about 4.5 miles to the gallon of diesel fuel. That's 77,777 extra gallons of fuel.) That's saving energy with a vengence."

The Prineville Central Oregonian was even more concerned about the situation.

"Last week's unprecedented action by Brooks-Scanlon seemed to signal the beginning of an undeclared timber sale war that would see Prineville firms bidding consistently on the Deschutes National Forest and Brooks-Scanlon continuing their interest on the Ochoco National Forest.

"When Brooks-Scanlon came to the Ochoco National Forest last week they won the largest and generally considered the best timber sale by the controversial sealed bidding method of timber sale purchase.

"Others speculated that Prineville operators might move further east in an effort to replace lost timber from last week's action. An effort in that direction would create a confrontation between local operations and Hines Lumber Company, Burns, as well as Hudspeth Sawmill Company, John Day.

* * * * *

"Speculation will continue, but one thing is certain and that is the repercussions will be felt for years to come and some traditional operation areas are likely to become very confused."

The areas mentioned as possible targets for raids by Prineville operators are, of course, themselves dependent communities. Burns, Oregon had a population of 4,900 in 1973. The lumber industry accounts for 100 percent of the manufacturing payroll. John Day, Oregon had a 1975 population of 1,900. The wood products industry in that community is nearly 100 percent of the total manufacturing payroll.

Unfortunately, in March 1977, on the Umatilla National Forest, the Kinzua Corporation made an unexpected bid in an area outside their customary purchasing territory, buying 17.7 million feet in the Heppner District where L–P has never before bid. The message is clear: the bid wars are spreading.

4. The long-range buyers and the timber speculators

Tomco Lumber Company of Sweet Home and Albany, Oregon recently purchased 8.2 million feet on the Suislaw National Forest. Tomco is located in the Williamette National Forest area between Salem and Eugene and has only recently begun purchasing timber in the Suislaw. Since the introduction of sealed bidding, Tomco has also made a sealed bid purchase in the La Grande area (nearly 300 miles from its closest mill) and has been attempting to purchase timber in the panhandle country of Northern Idaho, nearly 450 miles away.

Tomco does in fact process at least some of the timber it has been able to buy through long-range, "surprise" sealed bids. But some of the surprise bidders are speculators. Anyone can bid on federal timber who can post the necessary bond. Speculators purchase timber contracts which they never intend to process themselves. Rather, they treat the 3 to 6 years contract term as an opportunity to play the timber "futures" market. If the price goes up, they can resell later, perhaps at a handsome profit.

Even if the price does not increase, the speculator may be able to sell at a handsome profit to a local mill which must make a purchase to stay in business. For example, on January 26, 1977, a retired logger, who owns no mill, was the successful high bidder on a 13.9 million board foot sealed bid sale within the Federal sustained yield unit in the Fremont National Forest. Three local mills are dependent on the Fremont sustained yield unit for raw material. Their combined capacity exceeds the annual supply. Under regulations governing sustained yield units, the timber must be processed locally. Therefore the successful bidder must either build a new facility in an area which already has excess capacity or, much more likely, sell the timber to one of the three existing mills at a handsome profit.

Speculation poses a serious threat to operating mills, especially in view of the current shortage of supply. Sealed bidding has made it easier for speculators to move into the timber markets by removing the option of bidding further on a sale which a local operator needs to stay in business.

Mr. HATFIELD. I thank the Senator from Idaho.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. CRANSTON. Mr. President, on behalf of Senator MUSKIE, I ask unanimous consent that Charles Jacobs, of his staff, have the privilege of the floor during the debate and vote on S. 1360; and I make the same request for Ron Antipa, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I make the same request for Dave Gray, of my office.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, first, I should like to commend the Senator from Idaho for his very outstanding analysis of the bill and the background and circumstances leading up to it.

Mr. President, I strongly support S. 1360, which deals with bidding procedures for purchase of timber from the Nation's national forest.

The issue of sealed bids versus oral bids for national forest timber is a complex one which is often erroneously compared to bidding for other Government contracts or services. It is clear that corrective legislation is now necessary to amend the National Forest Management Act of 1976, which the Forest Service has used to drastically alter bidding patterns on western forests, all for the worthy purpose of obviating collusive bidding practices. After reading some of the statements and letters of some of the opponents of this bill, one might believe our forests are full of conspirators, who predetermine who will be able to purchase timber where and when, and at what price, simply by working out signals of hand motions, facial expressions, winking of the eye, and so on.

Mr. President, if these arguments were based on the facts, I would be for sealed biddings on all of our forests and on every single timber sale. No one believes more strongly than I do that anticompeitive practices must be squelched wherever they can be discovered and they must be prevented by tough laws and heavy penalties. Certainly these practices exist in certain industries and I have and will continue to support measures to restore competition where several large companies appear to dominate in the industry. But those who argue that the timber industry—at least as it exists in the West—is an example of an anticompetitive industry utilizing collusive practices and those who want to solve the alleged problem by requiring sealed bids are taking a meat axe approach to a problem that does not exist. In fact, their approach could very well result in the lessening of competition.

In the West, the national forests alone include 67 percent of the commercial saw timber in the region, excluding other Federal lands. And in many western communities, the Federal presence in the forestry area is even more pronounced, with virtually all of the timber available coming from national forest lands. Obviously, whatever Federal forest policies are established will have an important impact on these communities.

Mr. President, I think it should be pointed out here—because I always find that it comes as somewhat of a surprise—that many of my colleagues from the Midwest and the Southern States and the Northeastern States are unaware that 51 percent of the State of Oregon is owned by the Federal Government. An even higher percentage exists in other Western States than in the State of Oregon, of Federal ownership. Oregon is the largest single State producer of forest products and provides about one-fifth of the Nation's timber.

I point out that there is a great deal of private ownership of timber in Oregon, and a very interesting event occurred in World War II.

We had the oncoming of the war, in which there was a great demand, an increased demand, on timber supplies for various products to meet the war effort. Because Federal lands were not easily accessible in terms of access roads, in terms of timber sales preparation and the time required for it, there was a great appeal made by the Federal Government, in the name of the war effort, in the name of patriotism, for the pri-

vate landowners to accelerate their timber cutting, because of the easier access to the timber on the private landownerships.

Responding to this appeal by the Federal Government for the needs of the war, there was great acceleration of timber cutting on these private lands. These people, in effect, cut themselves out in many instances—that is, they cut their supply of private ownership of timber far more rapidly than they would under a timber management practice to which they had been committed.

Consequently, that has created even a greater dependency on the part of these timber companies and owners, and this has happened as a result of Government pressure and Government appeal.

That is but one example of the kind of trend in timber management that has occurred in our State over the years.

I would say that in an overall picture, some of the finest timber management practices, including tree farms and reforestation, have been practiced by our private timber operators, and they yielded some of those excellent practices for the war effort.

Over the years, Congress has recognized the importance of the national forest to small communities. The Sustained Yield Forest Management Act of 1944 states clearly that one of the objectives of these lands is "to promote the stability of forest industries, of employment, of communities * * *" The Public Land Law Review Commission report of 1970 stated clearly that—

> The Commission also believes it desirable to allow oral competitive bidding in public land timber sales. Oral auction, started from a base fixed by sealed bids, permits the firm dependent on Federal timber to engage in bidding on sales it believes necessary to its existence, and limits the ability of other firms to squeeze it out of the market.

This is the heart of the issue which is facing us today. Historically, the Congress and the Forest Service have recognized their responsibility to preserve small business and small communities, and S. 1360 would provide for a return to historic bidding patterns. At the same time, it does absolutely nothing to lessen the ability of the Secretary of Agriculture, working in conjunction with the Attorney General, to undertake whatever practices are necessary to insure that collusion among timber purchasers does not occur. I might point out that there is no evidence which suggests that collusion is widespread in the timber industry. Only 10 investigations have been undertaken by the Justice Department in 17 or more years in an industry which annually buys over half a billion dollars in timber sales each year. The Chief of the Forest Service, Mr. John McGuire, testified before the Subcommittee on Public Lands and Resources last May that collusion is "relatively rare—isolated." Moreover, several Federal court decisions have concluded that circumstantial evidence is sufficient to sustain a finding of an unlawful conspiracy to violate the antitrust laws despite the absence of direct evidence.

While the benefits of sealed bids may be uncertain, their disadvantages in the West are clear. When a timber sale is so essential to a company in a small community that its economic livelihood is at stake, it will bid whatever is necessary to purchase the timber to keep it in business and, as a result, keep a dependent community alive. With sealed bids, it is possible, and likely, that larger outside firms will utilize sealed bids to overbid the local firms.

I can give the Senate an example of one of our smaller communities in southeastern Oregon. The community of Lakeview has four sawmills. There was a public bid recently, a sealed bid program, in which the winner of the bid did not have a mill, had no plans to build a mill, and in a short time was around trying to peddle his bid purchase to one of the existing mills. Very obviously a speculator role was being played.

Since passage of the National Forest Management Act in 1976, it is possible to document, case after case, where outside companies have taken the sales.

My colleague from Idaho, Senator CHURCH, placed a summary statement concerning the effect of sealed bidding on industry concentration in the CONGRESSIONAL RECORD on September 12 which provides some examples of economic disruption and community instability in the State of Oregon. These figures indicate that in the city of Roseburg, Oreg., the area which is highly dependent on Federal timber, 41.3 percent of the timber sold by sealed bids left the area during this period, while better than 80 percent remained in the area during the previous year when oral bids were used.

In Klamath County, the share of timber which was sold to local operators shifted from two-thirds to one-third after sealed bidding was instituted. Other examples exist which point to similar patterns throughout the West.

Mr. President, let me emphasize again for the benefit of those not in a timber State that the interests of the Federal Government are always protected, because when you are in an oral bid action it is not starting at the level that the bidder may choose but rather there is an appraised value for that timber sale that is made by Government officials, and that timber sale appraisal must begin, the oral auction must begin, at that point. So the Government's interests are always protected.

Mr. CHURCH. Mr. President, will the Senator yield at that point?

Mr. HATFIELD. Yes, I am happy to yield.

Mr. CHURCH. I think it should be pointed out to the Senate that this bill, as amended by the two committees, provides that every timber sale starts with a sealed bid.

Mr. HATFIELD. That is right.

Mr. CHURCH. And then if an auction method is allowed, the auction begins after the sealed bids are opened for the purpose of raising the bid higher in a competitive situation where the bidding could substantially increase the amount offered for the Federal timber, but it starts with a sealed bid in every case, even where the oral auction is permitted.

Mr. HATFIELD. I thank the Senator.

Mr. President, I think there is another fact that I would like to bring to the attention of my colleagues here today. The Forest Service has moved from practically a 100-percent sealed bid as they interpreted the act of last year, to a 25-percent sealed bid. The action on the part of the Forest Service has resulted more from political pressures and other pressures than from the actual facts and the needs of the small communities.

I met with the Forest Service sometime back in discussing this problem on behalf of a dependent community in my State, and time after time the Forest Service's and the Agriculture Department's response was, "Show where there is economic harm, and we will make an adjustment."

Now, their whole concept was that we had to parade some corpses by them in order to prove the point of dependency rather than going on the basis of the economic analysis, economic profiles or the statistics available in payrolls and other evidence that exists in communities. In other words, damage had to occur. there had to be some kind of devastation. there had to be some kind of action that would prove that by the statistics of unemployment, the statistics of mill closures, that the Forest Service would then move after the fact.

That is why this bill is so important: We must disabuse the Forest Service from feeling they are locked into some kind of a procedure where they have to interpret the law in such a way as to create these inequities and these problems.

In fact, I would like to at some time devote some period of my floor activity to a speech on why the Forest Service has probably misinterpreted more legislation than it has ever interpreted correctly, including the Wilderness Act of 1964. But I will not get into that today. But this is another example of the kind of legislative intent, and contrasting it to the interpretations by the Forest Service.

Legislation that I am supporting today provides direction to the Secretary of Agriculture to insure that open and fair competition continues to exist in the forest products industry, and to utilize bidding methods which will achieve this.

All he needs is reasonable belief, and that is a pretty open-ended invitation, that collusive bidding practices exist, and he may take any action he deems necessary, including an alteration of the bidding methods to deal with this. In addition, he would provide all information available to the Attorney General for further action.

I believe this approach is a fair and reasonable one, and I urge my colleagues to join me in support of it. It is only fair that Congress continually monitor the impacts of its actions and, when appropriate, enact corrective legislation. This is clearly a case where such action is necessary and desirable.

Mr. CHURCH. Mr. President, I want to commend the distinguished Senator

from Oregon for his presentation in support of this legislation. I ask unanimous consent that a list of outdoor groups, industry groups, associations, labor unions, all of which are affected by the bidding methods used in the Forest Service, and all of which support this bill, be included in the RECORD at this point.

I also ask in that connection that the letter from the United Brotherhood of Carpenters and Joiners of America in endorsement of the bill be included in the RECORD; and, finally, two letters, one from the Wilderness Society, and the other from the Sierra Club in which both organizations take no objection to the enactment of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF ORGANIZATIONS

Montana Wood Products Assn., 316 Savings Center Building, Missoula, Montana 59801

Inland Forest Resource Council, 320 Savings Center Building, Missoula, Montana 59801

Montana Eastside Forest Practices Cmte.

Upper Columbia Timbermen's Assn.

Elkhorns Multipe-Use Assn.

Outdoors Unlimited, P.O. Box 2254, Ogden, Utah 84404:

(a) Cabinets Chapter, Libby Montana

(b) Missouri Headwaters Chapter, Dillon, Montana

(c) Last Chance Chapter, Helena, Montana

(d) Big Sky West Chapter, Missoula, Montana

Western States Forestry Task Force (Western States Legislative Forestry Assn.), 1109 9th Street, Suite 614, Forum Building, Sacramento, California 95814

National Lumber and Building Materials Dealers Assn., 1990 M Street, N.W., Washington, D.C.

National Bldg. Material Distributors Assn., 221 N. Lasalle Street, Chicago, Illinois

Timber Operators Council, Inc., 6825 S.W. Sanburg Street, Tigard, Oregon 97223

United Brotherhood of Carpenters and Joiners, 101 Constitution Ave., N.W., Washington, D.C.

S. Eastern Lumber Manufacturing Assn., College Park, Georgia

Northwest Timber Association, Eugene, Oregon

American Plywood Assn., P.O Box 2277, Tacoma, Washington 98401

Appalachian Hardwood Manufacturers, Inc., 164 S. Main Street, Room 408, High Point, North Carolina 27260

Western Forest Industry Association, Portland, Oregon

Western Timber Association, San Francisco, California

Western Wood Products Association, Portland, Oregon

National Assn. of Timber Lumbermen, Washington, D.C.

Federal Timber Purchases Association, Denver, Colorado

Southern Forest Products Association, New Orleans, Louisiana

WASHINGTON, D.C.,
September 12, 1977.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

My DEAR SENATOR CHURCH: We would like to urge your support of S. 1360, including the substitute to be offered by Senator Melcher, which would allow the Forest Service to return to historic methods of bidding on National Forest timber sales in the West. If the use of sealed bidding continues, serious economic hardship and loss of jobs in the West can be anticipated. We support S. 1360 (and the substitute for S. 1360 which will be offered on the floor of the Senate by Senator Melcher) which permits the Forest Service to return to historic bidding methods but would retain flexibility to require sealed bidding where appropriate, including situations in which collusion is suspected. The amendment would also authorize the continuation of the present Forest Service system of monitoring timber sale bidding patterns and require that the Forest Service notify the Justice Department if collusion is suspected. These provisions should adequately protect the public interest with respect to possible collusion on National Forest timber sales.

The use of sealed bidding, which is presently mandated by a law passed by Congress last year (the National Forest Management Act of 1976), seriously jeopardizes the economic stability of western communities dependent on National Forest timber. Under sealed bids, a mill operator can put in what he considers to be a very high bid; but if someone from the outside bids just a little higher, the mill will lose the sale, and the community which depends on the mill for employment can be seriously damaged. Oral bidding provides local mills with the opportunity to actively respond to competition from the outside.

The provision requiring the use of sealed bidding on National Forest timber was added at the last minute last year during conference consideration of the National Forest Management Act. This amendment was adopted due to allegations that some bidders were colluding to reduce competition for National Forest timber. Yet, Forest Service Chief John McGuire has testified that collusion on National Forest timber is "relatively rare—isolated."

Literally thousands of lumber and sawmill workers affiliated with our organization are employed by the small mills in small communities throughout the west that desperately need this Bill. This Bill is for the workers and small mills not the giants. In the West, many local communities are virtually totally dependent upon National Forest timber. S. 1360 would not change National Forest bidding methods in the South and East.

The United Brotherhood of Carpenters and Joiners strongly support passage of S. 1360. We urge you to give favorable consideration to this bill, which is expected to come to the Senate floor during the week of September 12.

Sincererly yours,

CHARLES E. NICHOLS,
General Treasurer and Director of Legislation.

WASHINGTON, D.C.,
July 27, 1977.

Hon. FRANK CHURCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: In response to an inquiry from your office regarding the position of The Wilderness Society on the issue of sealed bidding versus oral bidding for National Forest timber sales, I must advise you that we have no official position per se. Our primary focus is to work for the preservation of our wilderness heritage on public lands and we feel that bidding procedures have a neutral effect on the basic concern of the Society.

However, we do have a very strong stake in the West, with regional representatives in every western state, and we are keenly aware of the importance of sound forest management and proper timber sale procedures to dependent forest communities. At the same time we feel very strongly that collusion in bidding for Forest Service timber sales must be safeguarded against.

We applaud your efforts to seek a legislative solution for the bidding of national forest timber that will accommodate the important values of community economic stability while preventing collusion and fraud.

Sincerely,

BILL CUNNINGHAM,
Washington Representative.

WASHINGTON, D.C.,
July 19, 1977.

Hon. FRANK CHURCH,
U.S., Senate, Washington, D.C.

DEAR FRANK: Your office has called to inquire if the Sierra Club has any official position on the subject of sealed bidding versus oral bidding for National Forest timber sales. This letter is to advise that we have no official policy either for or against sealed or oral bidding requirements as a part of any statute, for the reason that we perceive no direct or indirect environmental impact, in specific terms, from either requirement.

Because so many of our local groups and chapters are deeply rooted in many communities in the west which happen to have economies dependent on Forest Service timber, we naturally feel that we have a strong stake in protecting and preserving the economic stability of those affected communities. In addition, however, as taxpayers, we feel very strongly that collusion in bidding for Forest Service timber sales should never be permitted, sanctioned, or condoned in any way by any statute or regulation. Obviously such collusion is a direct fraud upon the Federal government and the taxpayer, and every possible resource must be made available to the appropriate arms of the Federal government to detect and prosecute such collusion wherever it occurs.

We hope that if legislation does emerge from this Congress to speak again to the question of bidding on Forest Service timber sales, that both of these important values are accommodated.

Very truly yours,

BROCK EVANS,
Director, Washington Office.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, if the Senator will withhold for a moment, in order to conform the bill to action of the two committees, the distinguished Senator from Montana has an amendment he would offer in the form of a substitute.

This substitute responds to concerns some members of both committees had raised about the bill, and makes it responsive to those concerns. This amendment has the general support of both committees and, for that purpose, I would like at this time to permit the Senator from Montana to offer the amendment which will be, of course, accepted by me.

Mr. BUMPERS. Mr. President, will the Senator yield for just an observation before Senator MELCHER takes the floor? A moment ago the statement was made that the committee amendment provides for sealed bidding first and then oral bidding subsequent to the opening of the sealed bids. It is my understanding that is contained in the Melcher amendment to the committee amendment.

Mr. CHURCH. The Senator is correct. I had thought the amendment about to be offered had already been blended into the original text.

Mr. BUMPERS. I assume the Senator

from Montana is now prepared to offer his amendment as a substitute to the committee amendment?

Mr. CHURCH. The Senator is correct.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand it, the Senator's amendment is in order at the time when all the previous time has expired, is it not?

The PRESIDING OFFICER. The Senator is correct. As long as debate proceeds on the bill in general then amendments are in order.

Mr. BUMPERS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. At such time as the time has expired—I understand there is an hour under the bill for amendments; is that correct?

The PRESIDING OFFICER. On amendments in the first degree, the Senator is correct.

Mr. BUMPERS. Therefore, at such time as the Senator from Montana and the opponents have used up that hour then we can continue to use the remainder of the time left on the bill; is that correct?

The PRESIDING OFFICER. Unless that time is yielded back; the Senator is correct.

Mr. BUMPERS. But it will not be mandatory that we vote on the Senator's amendment at the conclusion of that 1 hour?

The PRESIDING OFFICER. That is correct. It would not be mandatory.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. I yield time.

Mr. MELCHER. Mr. President, I ask unanimous consent that the amendment of the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry to S. 1360 be agreed to and the bill, as amended, be considered as original text for the purpose of further amendment.

Mr. President, it is my understanding that unless we do that when we take up the amendment I am about to offer we would be voting on an amendment in the second degree, and no perfecting amendment would be in order. It is in order to protect all Senators' rights on this that I make this unanimous-consent request so that we can be considering my amendment and that perfecting amendments thereto could also be considered.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. I am sorry I was not paying close attention. Will the Senator restate the unanimous-consent request?

Mr. MELCHER. Mr. President, I ask unanimous consent that the amendment of the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition and Forestry to S. 1360 be agreed to and the bill as amended be considered as the original text, for the purpose of amendment.

Mr. President, I ask the Chair to clarify for the Members of the body if this is not the correct procedure to make sure that perfecting amendments to the amendment I am about to offer can be offered and therefore protect the rights of all Senators.

The PRESIDING OFFICER. The perfecting amendments would be in order in any case and the Chair advises the committee amendment is already considered original text.

Mr. MELCHER. All right. Then the purpose of my request is not needed, and I ask the unanimous consent to withdraw my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. CRANSTON. Is the Senator offering an amendment?

Mr. MELCHER. Yes. I am offering an amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. I yield such time as the Senator may require.

AMENDMENT NO. 529

Mr. MELCHER. Mr. President, I call up the amendment to S. 1360 that is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes amendment No. 549 in the nature of a substitute.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That section 14(e) of the National Forest Management Act of 1976 (90 Stat. 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e)(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statues.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

"(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

"(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

"(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(B) he may alter the bidding methods used within the affected area; and

"(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.".

Mr. MELCHER. Mr. President, and Members of the Senate, the amendment is actually a rewrite of the bill. It goes to the very points of concern of some members of both committees and to Members of the Senate who are desirous of using written sealed bids as a method of sales of timber products from our national forests. So we clarified that when the Forest Service does desire to have the option of auction bids that the sealed bids are first submitted at least at the appraised price or better and that the auction that will take place after that will start at that point, that is, the point of the highest sealed bid.

I do not think there is anyone who has a product to sell who would not be anxious to have the opportunity to get the most out of it that is possible.

The requirement for first of all a sealed bid, at the appraised price that is already set or higher, is one requirement and it is a locked requirement in the amendment.

The second opportunity is if the Forest Service thinks it better serves the public interest to go to an auction after that that discretion is provided here.

I think it is odd that when people who are in business and have been in business for a long period of time come to our Government and say, "We have a problem here, we want to have some recognition of that problem," that we have thrown in our path toward solving that problem the concerns that have been voiced about this procedure we have proposed to solve timber operators' problems.

You can believe it is a problem as Senator CHURCH has already stated and the Senator from Oregon has echoed. Some of these small sawmills in the Northwest have a problem. This will not necessarily keep all these sawmills in operation. They are having a desperate struggle right now to keep going. But when they come to us and say, "You can help us by clarifying that section in the Timber Management Act of 1876 so we know where we are," commonsense requires that we listen to them if it is in the public interest.

By all tests this amendment is in the public interest. Both committees have listened to the Justice Department witnesses on the problem of collusion and both committees have taken that into consideration in developing this amendment.

All of the public is turned off by the idea that collusion can happen in national timber sales. We are not even going to let the door open a crack here in this proposed amendment. It continues to be the mandate of Congress and the direction to the Department of Agricul-

ture to review all of these sales and if there is any evidence of collusion stamp it out.

But back to the other part. Why cannot people who are in a business they know, the communities that are involved in those businesses, and the workers who are involved in those businesses approach our Government and have some recognition of those problems?

There are many areas in the United States where timber sales from national forests are never on the basis of oral auction. That is fine. We do not require that. We just say that where it works better and is in the public interest and does protect these small communities, let the Department of Agriculture, through the Forest Service, have that discretion.

Subsection (c) of the amendment is noteworthy for consideration. It requires that in setting up the sales, the Forest Service consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary.

This is discretionary, but it is also a directive to the Secretary to consider those communities. From the standpoint of fairness to the people who are involved where oral auctions might be used, this bill recognizes their problem and does something about it.

I think opponents will cite some figures on what the Forest Service has done so far concerning oral auctions in the first 6 months of this year as compared to the price received for timber on national forest product sales under just sealed bids.

I am going to review region 1, and my State of Montana and northern Idaho make up region 1.

In the 6 months of this year where oral sales were compared to sealed bid sales with no oral auction following, we find that the overbid, percentagewise, for oral auctions was greater than the overbid where it was only sealed bids with no oral auction following.

Let me point out what the significance of an overbid is. The Forest Service, having established the minimum price that is acceptable, receives the sealed bids at or above that minimum price, and then may decide to go to oral auction. The overbid is that figure above the appraised price.

All sorts of factors are involved in what a bid is: How far it is from a sawmill, what kind of timber it is—all sorts of factors go into considering how much the bid will be. But in reporting on the first 6 months of this year, in comparing those cases when oral auction was allowed, the percentage over and above the appraised price for those sales was greater than the percentage over and above the appraised price where only sealed bids were allowed.

If that were the only factor to be considered, then I guess it follows, in region I, that the Forest Service had better put all of the sales of national forest products under oral auction. But that is not the only factor that is to be considered.

There are many other factors, and we are allowing that discretion, in the best judgment of the Forest Service, to arrive at what is best in the public interest for individual timber sales in various areas. The stipulation that we hang on them—and we must be firm in this—is the requirement that they give some consideration to the economic stability of the communities involved.

I would hope that the Members of the Senate could allow us from the Northwest to have the opportunity to pass this corrective legislation, to permit the Forest Service to make these considerations in the timber sales. I certainly urge the adoption of the amendment, Mr. President.

Mr. CHURCH. Mr. President, I have promised the distinguished Senator from California that I would respond to some questions, and I would like to do that at this time. But I want to say first that I am fully in accord with the amendment offered by the distinguished Senator from Montana. It further perfects the language of the original bill as reported by the two committees. It is in line with the purposes sought to be served by both committees, who considered the bill, and I would urge its adoption by the Senate.

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Oregon controls the time in opposition to the amendment. Does he wish to yield to the Senator from Massachusetts?

Mr. KENNEDY. Mr. President, on the previous amendment, I would like to address—who has the time? The time on both sides of this amendment.

The PRESIDING OFFICER. The Senator from Montana controls the time in favor of the amendment. The Senator from Oregon controls the time in opposition.

Mr. HATFIELD. Mr. President, that has been changed.

Mr. CHURCH. That has been changed, so that the Senator from Arkansas controls the time in opposition.

Mr. HATFIELD. That was changed by unanimous consent.

The PRESIDING OFFICER. The Parliamentarian advises me that that was changed with respect to the bill, but not with respect to the amendment.

Mr. CHURCH. I ask unanimous consent that the change be extended to include amendments as well as the bill, the same change.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. CRANSTON. When does the Senator intend to give me a chance to ask my question?

Mr. CHURCH. As soon as possible.

Mr. MELCHER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. I yield for that purpose.

Mr. MELCHER. Mr. President, I ask unanimous consent that during the remaining consideration and all votes in connection with this amendment, other amendments, and the bill itself, Geoff Abdian of my staff may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, if I may address a few questions to both the Senator from Oregon and the Senator from Idaho, I would like to do so at this time.

I would like to say, first, that apparently there are those who have the impression that no Senator is ever in the stance of having his vote determined by debate in the Senate. I am in that stance now; this is an example of a factor that often happens. I have been considering this matter for some time. I have constituents with very strongly held views on both sides communicate with me respecting this issue, and I do not presently know how I will vote; but I am here to listen to the debate. To help clarify a few questions I have, I do wish to ask a few questions of the Senator from Idaho and the Senator from Oregon, and later I think one of the Senator from Massachusetts.

First, in regard to the form of bidding, why does the Department of Justice apparently feel that collusive bidding agreements among buyers are more difficult under sealed bidding? It would seem to me that if people are going to collude, they can collude and agree on how they are going to bid under a sealed system as well as an open system. Can the Senator explain that point to me?

Mr. CHURCH. I am at a loss to explain it; and our requests for an explanation did not yield one.

It is perfectly clear that collusion can take place under sealed bids or oral auctions, and why the one is regarded as protective of the Government and the other is not baffles the Senator from Idaho.

Indeed, the one case where an antitrust action was brought successfully against timber operators on a charge of collusion was a case of oral auction. Circumstantial evidence there was held sufficient to establish the collusion; and that demonstrates that the Department of Justice can obtain a conviction where there is sufficient evidence of collusion in oral auctions. There is nothing in sealed bids that would in any way prevent collusion if the parties sought to covertly conspire to violate the law.

Mr. CRANSTON. If I may address a related question to the Senator from Oregon, the Senator from Idaho stated in his prepared remarks:

> The congressional intent, as we understood it then, was simply to provide the Secretary of Agriculture with enough flexibility to prevent collusive bidding. We did not anticipate this clause would be used by the Forest Service to establish sealed bids throughout the National Forest System without regard to long-established practices in areas of the country where oral auction sales have been traditional and where there is no basis to believe that collusion is taking place.

Skipping a little bit, the Senator also said:

> Subsection 14(e) was not to be invoked unless the Secretary needed the means to prevent collusion.

I would like to ask the Senator from Oregon, since he has been involved in this for so long a time, and presumably involved to the same extent as the Senator from Idaho was when the act was written, is that also his understanding of the intent, and is it his view that the intent has been exceeded by the regulation?

Mr. HATFIELD. Yes, indeed. I would say that both in our own committee and more especially as we got into an extended conference with the House of Representatives in finalization of the bill, we went into the matter in great detail, and we made the record.

I think the record is very clear, both in the committee and on the floor after we came back with the conference report, that we were not trying to mandate and lock in a specific system; we were not trying to change in any way the system in use. When there was discussion of possibilities of collusion, we were trying to set forth flexibility—greater flexibility, perhaps, than the Forest Service really wanted, because the Forest Service, I have found, not only in this instance but in others, are very much like the military: They like to have a rule book where they can have every "i" dotted and every "t" crossed, and not be called upon to recognize certain specific differences that may exist from species to species or from region to region.

This bill came about precisely because they felt Congress had codified the bidding practices, which we in no way did: We felt it necessary to restate a flexibility that the Forest Service did not want to assume when we passed the act last year.

To illustrate that further, as I pointed out earlier in my remarks, when the Forest Service undertook this interpretation, they went to almost 100 percent sealed bidding.

Then as the objections were raised and as instances were shown to demonstrate the fallacy of that as we attempted to portray before the Forest Service the legislative history and the legislative intent, to reconstruct the whole situation, the Forest Service moved down now to 25 percent sealed bidding.

I believe those are illustrations of just the kind of mentality we are dealing with, basically, in the Forest Service, of wanting to have everything so codified and then having to come around again and show that we really had tried to give the Secretary of Agriculture and the Forest Service a greater degree of flexibility to deal with whatever problem they might anticipate arising, or that they might have evidence of, rather than locking the man to only one procedure that they had to follow 100 percent.

Mr. CRANSTON. I thank the Senator. I believe I have just one more question I would like to raise at this point.

I would like to read a brief statement given to me by someone who opposes the bill of the Senator from Idaho. This individual stated:

> Under the regulation, timber purchasers in dependent areas will only need to submit sealed bids for 25 percent of the board foot volume offered during each timber sale program typically lasting 6 months. This volume is calculated after first subtracting any large sales during the program. These large sales will automatically use oral bidding. The remaining volume may be sold under the 25 percent sealed, 75 percent oral rule.

The 25 percent the Senator from Oregon referred to

My question is, Why does not the exemption of the large sales of over 20 percent of the volume offered during the program and the 25 percent–75 percent ratio alleviate the problem the Senators are concerned about?

Mr. CHURCH. In response to the Senator's question, let me say first of all that the 75 percent–25 percent rule in small communities is helpful. It moves away from what was a catastrophic consequence of the original regulation to a posture that partially recognizes the problem facing the small community. So I applaud the distance that the Forest Service went in the direction of giving adequate protection to small communities. But the regulation falls short in two respects:

First of all, there are many small operators in parts of the West, and in my State I know of a number, who specialize in certain types of sales that have particular species or grades of logs. So these small operators must obtain every single sale having the kinds of products in which they specialize. If by chance that sale is one of those offered under sealed bidding, it puts the operator in an untenable position due to the uncertainty over what he must bid in order to obtain the sale.

Clearly, the 75–25 ratio gives no protection to small operators who are specialists, and there are many of them.

Another difficulty is created by the fact that in the past few years, the amount of timber offered fom the national forests has been reduced significantly in some parts of the West. In these areas, the Forest Service is selling hardly enough to maintain existing mills on a break-even point. Putting into jeopardy even 25 percent of the volume in these areas would be enough to severely damage the local economy.

In other words, in those places where the situation is the worst, in the small community where a single mill depends exclusively upon national forest timber, that 25 percent allocated to sealed bidding could have a severe impact upon the local mill.

All of this, I say to the Senator, is utterly unnecessary. These are contrivances by which the Forest Service is trying to move back toward what the Congress had in mind when it enacted this section last year.

In the bill pending before us, we give the Forest Service every latitude to deal with any possible collusion. We say, for example, if there is any reason to suspect that in any given locality collusion may be taking place, just suspected—the Forest Service does not have to prove it; it does not have to have the data to go to the Department of Justice and get a case instituted under the antitrust laws—if the Secretary has any reason to suspect collusion, he may shift from oral auctions to sealed bidding in that area. We give the Government every measure of protection against collusion, and we require traditional bidding practices to be reinstated in the Western States.

Mr. CRANSTON. I thank the Senator.

Mr. HATFIELD. I would only add one further reason that this is not adequate. It is that the Forest Service sets forth a triggering mechanism, not based upon the past records or based necessarily upon even the existing payrolls and economic analysis. But it says if a substantial portion of such timber sales are moving outside of the area, which may occur after irreparable damage has occurred or after some kind of fatality of the whole mill operation, then it would apply some of these changes in the oral or seal bidding procedure.

As I indicated in my formal presentation, this has been repeatedly the position of the Forest Service. Somehow the only time they will analyze an economic hardship or economic damage to demonstrate the dependency of that local community is after the fact—there has been a mill closure, a mill went bankrupt, high unemployment—rather than looking at an economic analysis of that community, which is available, which is easily available, to make a determination which any person having economics 101 could make on the dependency question as it relates to that community. So that is an additional reason why the 75–25 is not totally satisfactory.

Mr. CRANSTON. What about the 20 percent exemption—I asked about that also—exluding those sales that comprise 20 percent of the volume? How helpful is that?

Mr. HATFIELD. I would say to the Senator from California as the Senator from Idaho responded, these are all steps in the right direction, but why they are being taken at this point is because of the economic hardships which have already been imposed upon these communities which have had to occur before we could even move the Forest Service into any degree of flexibility. I think these are grudgingly taken as steps to try to forestall, perhaps, legislation.

I expressed to the Forest Service that due to their interpretations, and so forth, which I felt were contrary to legislative intent, we would have to go the legislative route. I think when that was raised as a question before the Forest Service, they began to grudgingly take these steps of flexibility. I do not think they are taken in any terms of desire on the part of the Forest Service to really recognize the needs or the situations as they exist.

Mr. McCLURE. Will the Senator yield on that point?

Mr. HATFIELD. I yield.

Mr. McCLURE. I think this is essential to an understanding. We have every reason to believe that the current policy is not unchangeable. It took a great deal of work, as the Senators have indicated, to get it to the point it is now. We have every reason to believe that if

we do not have legislation we are not going to have the same ratio we now have. There is not just the ratio of sales between sealed and oral bidding, but also the definition of dependent communities.

It would be very interesting if we had had the original map of dependent communities before this body, rather than the current map of dependent communities. It is a totally different picture. There are only three communities in the entire State of Idaho that were dependent communities under the original definition as given by the Forest Service. They are totally free to change that definition any time they wish to. We have no confidence at all—at least I have no confidence at all—that the current definitions and mix or the ratios would remain in effect in the absence of legislation.

Mr. CRANSTON. One would think that, if the Government is particularly concerned about collusion, it would be the larger sales where they would be most concerned. The exception for large sales leads one to conclude that that is a recognition of the damage that can be done to so-called dependent communities.

Mr. HATFIELD. I agree with the Senator. I say further that we have had 10 investigations in a period of 17 years. I think the majority of those were in the small sales area. I think when you consider that number in relation to the industry that is purchasing over a half-billion dollars in timber sales every year, that is remarkably few in number.

There is one other thing on which I would like to respond to the Senator, who raised the question first. We have asked the question: Why have they felt that the sealed bidding would be easier to prosecute than oral bidding if there were the possibility of collusion? The only answer I could get was that they had lazy lawyers over there; they felt it was easier, perhaps, on one procedure rather than on another. Rather than a question of ability to develop evidence, it is on the question of whether they have lazy or aggressive lawyers. That is one answer that we received, among many possibilities.

Mr. CRANSTON. Do they say it is easier to prosecute when the bidding is sealed, or do they also, separately, say that collusion is easier under oral bidding?

Mr. HATFIELD. The implication I get, as a nonlawyer listening to the lawyers talk, is that they feel that what is implied is that collusion is easier under oral bidding than under sealed bidding.

Mr. CHURCH. I want to reiterate just one point: If, for any reason, the Government believes that sealed bidding offers better protection for the public against collusion, under this bill, the Forest Service may immediately revert back to or immediately order sealed bidding. So the protection is there whenever the circumstances are justified. This bill deprives the Government of no tool to deal with collusion, no tool at all.

Mr. CRANSTON. I do have one other question that relates to the small business set-aside program under which any company with fewer than 500 employees benefits from special sales for small businesses. Why would not that program, combined with the June regulations and the present law, be sufficient to protect the small mills and companies?

Mr. BUMPERS. Will the Senator repeat the question?

Mr. CRANSTON. I am just wondering why the small business set-aside program, under which, as I understand it, any company with fewer than 500 employees benefits from national forest sales to small businesses, in combination with the June regulations, are not sufficient to protect the small mills and companies in these dependent communities.

Mr. CHURCH. Years ago, I was one of the original authors of the small business set-aside. If I remember correctly, the answer to the question is this: The Forest Service is required under the law to set aside certain sales, on a regional basis or on the basis of an area—it may even be a forest, a whole national forest. I would have to check back to make sure of the particulars. In any case, it is an area much larger than one dependent community.

So that, in the region or the forest where set-aside sales may be established for the purpose of accommodating certain small businesses that meet the statutory test, that, alone, does not give any assurance that adequate protection will be provided a dependent community within that region. In other words, there is a broadbrush application, under the law, of the small business provision. What we are seeking here is to give the protection to dependent communities that was customarily given by the traditional practice of oral bidding.

Mr. CRANSTON. I thank both Senators very, very much.

Mr. KENNEDY and Mr. GRAVEL addressed the Chair.

Mr. GRAVEL. Will the Senator yield to answer a question?

Mr. KENNEDY. A parliamentary question, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. How many amendments to amendments are there? We have been going for 1 hour and 25 minutes, if I am correct, for the proponents on this. How much time has the opposition used, either on the bill or the amendment?

The PRESIDING OFFICER. The opposition, controlled by Senator BUMPERS, has not used any time whatsoever on either the bill or the amendment.

Mr. KENNEDY. Has anybody been recognized in opposition in the last hour and a half?

The PRESIDING OFFICER. Since I have been in the Chair, nobody has sought recognition.

Mr. GRAVEL and Mr. KENNEDY addressed the Chair.

Mr. BUMPERS. Mr. President, I yield to the Senator from Massachusetts such time as he may need.

Mr. KENNEDY. Mr. President, I am strongly opposed to S. 1360 and in particular to the proposed amendment by Senator MELCHER. I believe that this legislation is not only unnecessary but that it is actually counterproductive to achieving the goals of sound management of our forest resources, of protecting communities dependent on national forest timber, and of insuring that timber is sold on a fair and reasonable basis.

In my view, no adequate justification has been shown for altering the flexible bidding procedures of section 14(e) of the National Forest Management Act of 1976. The Senate and House Agriculture Committees agreed upon carefully drafted, explicit language which gives the Secretary of Agriculture considerable flexibility in developing regulations to implement the broad conservation and economic objectives of that act. They did not attempt, as some have argued, to tie the Secretary's hands by mandating blind adherence to sealed bidding practices. Instead, as the conference report makes abundantly clear, they directed the Secretary to issue regulations which would "accord the Secretary the discretion to employ oral bidding or a mix of bidding methods when protection of the economic stability of dependent communities or other considerations indicate the advisability to do so."

Frankly, I do not understand how the Forest Service could have interpreted this provision to require sealed bidding in virtually all sales of national forest timber. Regretably, however, it did so in its interim regulations issued last December, which caused considerable problems for those western timber interests which were accustomed to a predominantly oral bidding system. When Secretary Bergland assumed office, however, he reviewed the regulations and changed them to provide for a more rational application of the flexible provisions of the 1976 act. The new regulations, issued only last June, require that no more than 25 percent of timber sales, on a volume basis, need be conducted by sealed bid. They also allow the Secretary to waive even this minimal requirement when the economic stability of local communities may be threatened.

The Senate Agriculture Committee, under the leadership of Senator TALMADGE, succeeded admirably in drafting section 14(e) of the NFMA in a way which provides the Secretary with ample flexibility to utilize a mix of bidding methods to achieve the dual goals of preserving community stability and discouraging anticompetitive bidding arrangements in the timber industry. This second objective of the sealed bidding provision is a critically important one. The Justice Department and others have expressed great concern over patterns of collusive bidding they have encountered in this industry. They have argued that sealed bidding both inhibits collusion and—if it occurs—makes it easier to prove in court. A number of Justice Department investigations have been stymied by an inability to obtain hard evidence of collusion under oral bidding.

As chairman of the Senate Antitrust Subcommittee, I am particularly concerned that the Senate not act in a way which would jeopardize ongoing Justice Department investigations. The extent of

collusion in bidding on timber sales is unknown, but a number of individuals familiar with the industry—including the former regional forester for the Pacific Northwest—have indicated that it is more widespread than the industry would have us believe.

I would temper my enthusiasm for judicious use of sealed bidding if I were at all persuaded that it adversely affects dependent communities. But it simply does not. No method of bidding will insure that a particular community receives a particular lot of timber. This can only be accomplished though the award process, whereby communities which can demonstrate potentially adverse economic consequences of a failure to obtain a particular sale may protest the award to another bidder. The regulations already provide for this.

Proponents of S. 1360 have argued that neither bidding method produces more revenue to the Government than the other. Recent Forest Service data for the first 6 months of this year shows, however, that the new sealed bidding requirements yielded substantially more revenue—as much as 36 percent more—than oral bidding. This data, I believe, only strengthens the case for leaving the 1976 act as written.

The Melcher amendment adds nothing to the flexibility already afforded the Secretary of Agriculture by the 1976 act. If anything, it will further confuse the extent of the Secretary's authority to apply a flexible bidding policy and at the same time to prevent collusion. It is important to remember that we are not writing on a clean slate. The 1976 act and regulations already direct the Secretary to provide protection to dependent communities, and they already require him to take steps to inhibit collusion and to report suspected instances of it to the Department of Justice. Furthermore, the regulations already direct the Secretary to use a flexible mix of bidding methods to achieve the overall purposes of the Forest Management Act. All of these provisions are the ostensible purposes of the Melcher amendment, yet all of them are already contained in section 14(e). The real purpose of this amendment is to reinstate oral bidding by requiring a return to "historic bidding practices."

It is a curious argument. The current regulations only require that 25 percent of national forest timber be sold by sealed bid. Historically, however, many parts of the West have used substantially higher proportions of sealed bidding. In Senator MELCHER's own State of Montana as much as 47 percent of the timber has been sold under sealed bid in the recent past. As the Secretary of Agriculture already has flexible authority to meet the concerns of the proponents of S. 1360, and as these concerns are already reflected in the act itself, I fail to understand why this legislation is needed.

The fact is, Mr. President, that no adequate justification for this legislation has been advanced by its proponents. As Secretary Bergland himself pointed out this morning, the regulations under which sales are currently being conducted have only been on the books for 3 months. More time is needed to assess the impact of moderately increased use of sealed bidding in the West. And, if that impact proves to be adverse, the Secretary himself can take the necessary steps to correct the situation. It is simply unfair and unwise to ask Members of Congress to second-guess the Secretary at this time and on this record.

Sealed bidding is the preferred method for conducting sales of Federal property. It is generally accepted as an effective deterrent to collusion, and it should be employed unless special circumstances dictate otherwise. Those circumstances have not been shown in sales of national forest timber. Again, we must remember that the 1976 act does not even require that sealed bids be used in the majority of such sales. All that it demands is that sealed bidding be utilized somewhat more frequently than it has in the past. Surely this is not an unreasonable burden.

Until such time as it can be demonstrated that this modest increase in sealed bidding causes severe disruption, the 1976 act and regulations should be given a fair chance to work. I therefore oppose S. 1360 as amended, and urge my colleagues to work for its defeat.

Mr. President, I would like, if I could, to briefly address the questions raised by the Senator from California. I think these are thoughtful questions and, to a great extent, they highlight the essential issues that are before us, suggested both by the committee's bill and by the amendment.

The fact of the matter is, as any third-year law student understands, that collusion, is much more difficult to prove under oral bidding than it is under written bidding. That is the sum and substance, or a very principal part, of the letter that was sent by the Department of Justice. I shall just read the relevant part that points out that—

> Unless there is an informer or other direct evidence of an agreement, it is very difficult to show that the absence of competitive bids is due to concerted behavior. Direct evidence is very difficult to obtain in a tightly knit industry such as the timber industry.

The letter expands considerably on that point. They have made this argument to the members of the Committees on Energy and Natural Resources, on Agriculture, and to the Antitrust Subcommittee.

In response to the point of the Senator from Idaho that, under the Melcher amendment, we are not denying any reasonable response if there is suspicion of collusion by the Forest Service—that is an interesting conceptual argument, but in all practical terms, it is quite unrealistic. As I understand it, and I certainly would yield in knowledge to the manager of the bill, the Senator from Montana, the Forest Service personnel live in the communities, have long-standing social relationships within the communities, and in many cases are very tied to these communities, as they should be. As the Senator from Georgia, Mr. TALMADGE, pointed out when this issue was being talked about in the 1976 debate, it is hardly likely that any of the Forest Service personnel are going to assume that burden when they begin to believe that collusion is the case. They are hardly likely to come back to Washington to report that "In this small community, where I am living, I have reason to believe that there is collusion."

It is an extraordinary burden and we think that it is, for all practical purposes, a most unreasonable one to place on Forest Service personnel.

The Senator from Georgia made this point——

Mr. MELCHER. Will the Senator yield?

Mr. McCLURE. Will the Senator yield?

Mr. KENNEDY. If I may just continue, I would like to make a brief comment, then I shall be glad to yield.

With regard to the set-aside program, those that either have supported the Melcher approach or are justifying it have failed to review with the Senator from California how the existing regulations protect smaller communities. Under the set-aside program, as I understand it, anywhere from 20 to 25 percent of the Forest Service lands are set aside for bidding by small businesses. This is a mechanism which we would be envious of in terms of industries in my own State of Massachusetts.

But as to the Senator's inquiries on the impact of the 25-percent requirement, the Senator should understand that those regulations only went into effect in July of this year.

I think many of the arguments being made here today would have had a greater degree of validity if we still had the proposed regulations that were in effect through January of last year. These, as I understand them, resulted in more than 90 percent of the western timber sales being conducted by sealed bid. But these have been redefined, and I think appropriately so, to require only 25 percent now. In fact, up to 100 percent can be sold at oral auction in dependent communities.

I found it somewhat interesting to read the Dear Colleague concerning the Senator from Montana's amendment, which spoke of going back to historic bidding practice. Actually, in the States of Montana and northern Idaho, approximately 47 percent of the sales have been by sealed bid. Sealed bidding is the historical practice. If we were to follow, therefore, the logic of his argument, those areas in Montana and Idaho would have more sealed bidding than is called for under the June 2 regulations.

The 25-percent set-aside provision must be viewed against this background. The regulations clearly state that timber sales are to be awarded to the highest bidder upon satisfactory showing of an ability to meet certain conditions of sale, unless the award would result in removing or materially lessening opportunities for local labor. No bankruptcy is required. It is not like issues before the Tariff Commission such as shoes or textiles or glass. People in those industries all have to be out of jobs before the Tariff Commission will do anything.

Let me emphasize this point. The regulations say "removing or materially lessening opportunities for gainful employment to local labor or would be

against the interests of local users dependent on national forest timber." All that is required is that the threatened loss of a sale would be against the interest of a community in order for the Secretary to act. They are as clear as the English language.

That is in the regulation. I believe we have a Secretary of Agriculture who is committed and who will pursue it. The mechanism clearly exists whereby the local communities can protect themselves. I would hope they will pursue this opportunity under the regulations.

On the Senator's point about the need for communities to secure sales of particular types of timber, there are regulations relevant to that particular point. Section 223.6 points out that: "The regulations were revised to increase the normal portion of oral auction bidding in areas tributary to dependent communities and to authorize increases to 100-percent oral auction when necessary to give local firms an opportunity to meet outside competition."

I would hope that would be enforced because the language is very clear from the conference report. It says that the conferees intended that there be public participation in developing these regulations and that "such regulations shall accord the Secretary the discretion to employ oral bidding or a mix of bidding methods when protection of dependent communities or other considerations indicate the advisability to do so."

I am sure more will be said in the course of the argument, but I do believe that there are existing protections.

As a final point in response to the Senator's inquiry, I would like to make reference to the letters that I have received from small firms, many of them in local communities. The Washington Loggers Corporation, for instance, sent a letter which I ask unanimous consent that it should be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON LOGGERS CORP.,
Bellingham, Wash., August 4, 1977.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: We are writing to express our opinion on S. B. 1360, Repeal of sealed bids on timber sales.

We are against this bill. It is practically impossible for us to buy timber sales on oral bidding. Sawmills in particular have all the advantage in bidding—they don't need to make a profit on the logging. Logging is our business—not sawmilling.

Bidding should be by sealed bids only. This is the way all other bidding is done. There is too much change of mills and/or loggers going together and holding down the price of stumpage.

We are against this bill for many reasons. Without going into further detail, we think common sense will tell you that sealed bids are the only fair way to sell the public's timber.

Yours truly,

HOWARD HAMMER,
President.

The Great Western Lumber Co. in Washington is a small company also opposed to this bill.

I ask unanimous consent that also be made part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GREAT WESTERN LUMBER CO.,
Everson, Wash., July 27, 1977.

Re Senate Bill No. 1360.
Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

HON. SENATOR EDWARD M. KENNEDY: S.B. No. 1360 repeals a section of the National Forest Management Act of 1976 which required sealed bids on Forest Service Timber Sales. I would like to see the Sealed Bid Requirement retained in the Act. Therefore, I am in opposition to S.B. No. 1360.

For a period of three years the State of Washington has required sealed bidding on timber sales in our area. Since passage of the Act last October, the U.S. Forest Service has required it on their sales. The system has worked well, because each company large or small has one chance at the sale.

This is a small company and it is my opinion that sealed bidding gives small companys the best opportunity to get their share of Federal timber.

Very truly yours,

BERT POWELL,
Manager.

Here is a telegram from Cuddeback Lumber Co. in Eugene, Oreg., that has 125 employees, and Mr. Cuddeback, who is the president, also opposes the committee's recommendation and another telegram from TOMCO, Inc., which employs 220 people. This small business firm strongly favors sealed bidding.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

CUDDEBACK LUMBER SAC,
Eugene, Oreg.

Senator ED M. KENNEDY,
Washington, D.C.

We at Cuddeback Lumber are against S.B. No. 1360. We feel that sealed bidding is much fairer for the smaller operators than oral auction. We have been in the lumber business here for over 23 years and employ about 125 people. Logs to run the mill are one of our main concerns. we feel we have a better chance of staying in business with sealed bids.

Thank you.

S. A. CUDDEBACK,
President.

TOMCO INC.,
Sweet Home, Oreg.

Senator EDWARD M KENNEDY,
U.S. Senate,
Washinaton, D.C.

TOMCO Inc. and All American Stud Co. employed 220 people. We are small business firms and favor sealed bidding procedures. We oppose Senate bill S. 1360.

DONALD PODRABSKY.

From Sedro Woolley, Wash., came a telegram from the Janicki Logging Co. They employ 30 to 40 people and they want sealed bidding. I ask unanimous consent that it also be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

BOYD LUMBER D. CHANDLER,
Sedro Woolley, Wash.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: Please vote against Senate Bill 1360—the repeal of sealed bidding procedures for national forest timber.

Our firm is in the logging and road building business in Sedro Woolley, Washington. Besides contracting work for others, we also purchase timber sales and sell the logs. We employ between 30 and 40 people.

At times, oral bidding for timber seems to give some companies a monopoly on the purchase of timber sales. We believe sealed bidding is the best method for the taxpayer and all of the potential bidders.

Very truly yours

STAN and WALT JANICKI.

I have many others coming from small firms, employing 30, 40, 100 employees, as well as other correspondence which I hope to be able to get into. All of them express their belief that oral bidding precludes them from obtaining sales of timber which they could win under a truly competitive system. In 9 months since the sealed bidding provisions were enacted, many of them have been able to make several timber purchases in areas from which they had previously been effectively excluded.

So, Mr. President, it is clear that not all small timber companies support S. 1360. I wanted to make these brief remarks in response to some of the questions the Senator from California raised. I welcome whatever comment he would like to make, and then I would be delighted to yield to the other Senators, and then to return the floor to my colleague from Arkansas.

Mr. CRANSTON. I thank the Senator.

I would like to ask two questions, if I may, first.

I am not now, nor have I ever been a first-, second-, or third-year law student, nor an attorney nor member of the Judiciary Committee, as is the Senator from Massachusetts.

I still am not clear as to how sealed bidding is less collusive than oral bidding and I would appreciate an explanation of that.

Mr. KENNEDY. I hope prior to the vote the Senator might read the letter from the Attorney General's office on this.

There is just one other, it has several paragraphs and I will make those a part of the record, but I will read an additional line:

Oral bidding makes it both easier to coordinate and enforce a conspiratorial agreement and more difficult to prove its existence in court because less need be agreed upon in advance on auction by the participants in such an agreement.

It continues on in considerable detail, talking about the greater burden which exists in this particular area of contrasting the case that could be made in sealed versus oral bidding.

Mr. CRANSTON. Are we talking about the case that can be made in prosecution or about the ease of engaging in this?

Mr. KENNEDY. We debated a number of issues in the law enforcement area about whether wiretapping makes it easier to get convictions, or we need more people involved.

We can get about whatever opinion we want in terms of these particular issues.

I am satisfied that based upon the reason and rationale of the Attorney General's letter, also based upon the recent

prosecutions that have taken place, that that case can be made.

I do not want to overstress or oversell that particular aspect of the argument. I feel that the argument rises and falls—the heavy weight of it—on this other issue. This is an extremely important one. We are talking about the public's lands—the national forests—in this instance.

If you want to use oral bidding or whatever process in the private aspect, that is one thing. Or if a firm acquires some particular lumber sales from Canada, that is fine. But we are talking about the public's land and the public's interest, which I think is as well the community interest, to balance.

The principal agency of Government which is charged to protect that interest has recognized both the existing problem and the complexity in terms of protecting the public's interest in the oral bidding.

Mr. CRANSTON. I thank the Senator. I will read the letter from the Attorney General.

I know that the Senator is deeply devoted to the Senate as an institution. I know he has been outraged when the executive branch has written regulations that have violated the intent of Congress in legislation that has been carefully written.

The two Senators handling the bill, one for the minority and one for the majority, have stated that, familiar as they are with the intent of the law that presently exists, they believe that the present regulations depart from that intent, I should like to have the Senator's comment on that.

Mr. KENNEDY. Those regulations which were drafted in the early part of this year, the interim regulations, which effectively required 90 percent of the sales to be under sealed bidding, probably run contrary to the conference language on the report. That report states:

CONFERENCE SUBSTITUTE (SECTION 14(e))

The Conference substitute adopts the House amendment but modifies the paragraph providing for sealed bidding (1) by striking the provision which limited application of that paragraph to sales of one million board feet or less and (2) by providing that sealed bidding will be required for all advertised sales except in those instances where the Secretary, pursuant to regulations which he shall prescribe, determines that the public interest justifies use of other methods. The Conferees intend that there be public participation in developing these regulations and that such regulations shall accord the Secretary the discretion to employ oral bidding or a mix of bidding methods when protection of the economic stability of dependent communities or other considerations indicate the advisability to do so.

I suppose a lawyer could say that in that particular paragraph it requires sealed bidding, except where the public interest justifies the use of other methods.

The report continues:

Such regulations shall accord the Secretary the discretion to employ oral bidding or mixed bidding methods when protection of the economic stability of the dependent communities, etc.

It seems to me that Secretary Bergland now has considered the bill's language and its legislative history, as well as the very clear comments of the members of the committee—particularly the Senator from Georgia (Mr. TALMADGE)—who believe that the wiser way was to provide the greatest degree of discretion to the Secretary to be able to meet the particular needs of local communities.

It seems to me that the June 2 regulations are consistent with both the language and the legislative history. The fact is that the earlier regulations possibly justify the very substantial concern that has been expressed. I do not think the regulations which are now on the books at the present time thwart the intent of the 1976 act.

Mr. CRANSTON. I thank the Senator.

Mr. CHURCH. Mr. President, will the Senator yield? I should like to correct a factual statement.

Mr. KENNEDY. I am glad to yield.

Mr. CHURCH. I think the Senator said that we had represented that oral bids were the traditional practice in the West, and he questioned whether that was so in Idaho and Montana, since 45 percent of the bids in recent years, he said, had been sealed bids. That is true. But those figures do not take into account the volume that was sold under the two methods.

The volume sold in 1976 by sealed bids averaged 2.2 million board feet per sale, as compared to 5.4 million board feet per sale for oral auction sales. Thus, even in Idaho and Montana, the sales which have the greatest impact from the community dependency standpoint continue to be sold at oral auction.

Therefore, I believe that factually our assertion that the traditional method has been an oral method even in Idaho and Montana is an accurate statement. I do not believe the figures have ever been challenged.

Mr. KENNEDY. I welcome the Senator's comment, because I want the record to be accurate.

I read from the Library of Congress Congressional Research Service:

This covers the years 1964–1972. "In Region 1 (Montana, N. Idaho, NE Washington), 47 percent of the sales by number and 24 percent by volume were sold at sealed bid." This is in a memo dated July 26, 1977.

Twenty-four percent by volume. I believe the rates now are 45 percent for 1976 alone.

Mr. CHURCH. Which underscores the point that in terms of importance and impact, the traditional method has been the oral auction method.

Mr. KENNEDY. I ask the Senator what is the percentage, though, of sales to dependent communities? I wonder whether he has that figure, because that is the point he is making. I think if he looks at the sales in terms of the dependent communities, it will be very substantially above the percentage of volume, and it will be much closer to the percentage of sales. I do not have the figure.

Mr. CHURCH. I do not have the figure, either.

Mr. KENNEDY. I think that is a relevant figure.

Mr. CHURCH. I would like to say to the Senator that it is from the dependent communities that the outcry has come for this legislation, and they should be best able to judge what serves their interests in this case.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. KENNEDY. I should like my colleague to respond, and then I will be glad to get into a general debate. If there is a brief question, I will be glad to yield.

Mr. MELCHER. Will the Senator yield for a brief comment on this closely knit community?

Mr. KENNEDY. Yes. Will the Senator use his time for his comment?

Mr. HATFIELD. Mr. President, will the Senator yield in order to complete the one statistic he just quoted about the oral and sealed bidding, so that I can include my State in the RECORD?

Mr. KENNEDY. I yield.

Mr. HATFIELD. Until last year, the Senator did not include Oregon in the survey; but if he included Oregon, it would have been 99.6 percent oral auction bidding. I want that to be part of the complete record.

Mr. MELCHER. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield.

Mr. MELCHER. I should like to make this comment as to the remarks of the Senator from Massachusetts about a closely knit community.

To clarify what we are talking about; in most instances in the Northwest it is not a group of sawmills from one local area so often as it is a sawmill from an area which may be far removed from the Forest Service headquarters of that particular forest. They likely must truck the logs 50 miles or so in order to get them to the mill. It is that type of community, which may be dependent on one sale per year, which concerns us most; so that that sawmill operator, who employs many people in that community may have the last chance to make his highest bid over and above the sealed bids by the oral means.

It is not a question of the forest ranger, or whoever represents the Forest Service, being intimate with members of that community. In fact, they may not even be residents of that community. It is a question of the community being dependent on a sawmill that makes a bid for timber that it may secure 50 or 60 miles away.

Mr. KENNEDY. I appreciate the Senator's comment. I emphasize that I identify with the concerns of the Senator from Montana.

I read into the RECORD the views of many of the representatives of the smaller communities, representatives of the workers and of the smaller companies, who feel that they will be better protected with the sealed bid. I take no issue with the concern of the Senator from Montana.

Mr. MELCHER. We take no issue with those communities either, Senator. We

merely ask that the truly dependent communities that have to have the one last chance at oral auction for their sawmill to keep it in operation, to keep the people employed, have that opportunity, and for those communities whose sawmill operations are otherwise and feel comfortable with sealed bids, we allow the Forest Service to use their discretion in restricting it to just simply sealed bids.

Mr. KENNEDY. Mr. President, if the Senator from Arkansas will yield 1 more minute to me, I have the most recent figures for calendar year 1976 for Montana and northern Idaho Forest Service region I. It shows for 1976 that 45 percent of the volume sold was by sealed bid sales. It was 60 percent on a bid value basis.

The figures I read earlier were for the years 1964 to 1972. These figures here are the most recent figures covering all of 1976.

Mr. CHURCH. Those figures, may I say to the Senator, are long after the act and, therefore, show the impact of the law itself.

Mr. McCLURE. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. They are not the traditional figures to which I referred. I assure the Senator the representations I made about Idaho are accurate.

Mr. KENNEDY. I am sure of that, too. I just want to make sure the record was complete. This was in the year 1976. It is for a period prior to the time that the law was in effect.

Mr. McCLURE. Mr. President, will my colleague yield just a moment to me so that I might respond to a comment that has been made by the Senator from Massachusetts?

Mr. CHURCH. I am happy to yield.

Mr. McCLURE. I thank the Senator for yielding.

First, I think the charge that in these small communities the Forest Service is in collusion with the bidder needs to be laid to rest. This is the first time I hear the charge made that somehow the Forest Service is involved in the collusion because of their close ties in the community. I do not think that came out in any of the testimony. I think it is not supported by any of the evidence, and certainly I would wish that the Forest Service had the position in the community and the close community ties the Senator from Massachusetts has indicated they have. But the fact of the matter is that under Forest Service policy their rotation is so often and so regular that they do not develop those kinds of ties in the community. I think it is a tragedy, but I think it is true, and I just do not think there is any collusion or lack of competence or lack of diligence on the part of the Forest Service with regard to any collusive activities.

Mr. BUMPERS. Mr. President, will the Senator yield for an inquiry? As I understand, there is a total of 4 hours to be divided 2 hours equally; is that correct?

The PRESIDING OFFICER. There are 3 hours on the bill and 1 hour on any amendment in the first degree, in which the Senator from Montana's amendment is an amendment in the first degree.

Mr. BUMPERS. If that is correct, that is a total of 4 hours. Senator KENNEDY started speaking at 3:10 and spoke for 40 minutes, and there is only an hour and 10 minutes left which means we are going to wind up on this side with an hour and 50 minutes, and it would also mean the other side has already used 2 hours and 10 minutes; is that correct?

The PRESIDING OFFICER. I will give the Senator the computation. On the amendment itself there are remaining to Senator MELCHER 16 minutes, and 7 minutes remaining to Senator BUMPERS on the amendment. I will give the Senator the computation on the bill. On the bill itself there are 18 minutes remaining to the Senator from Idaho (Mr. CHURCH), and 90 minutes remaining to the Senator from Arkansas (Mr. BUMPERS) on the bill.

Mr. McCLURE. Mr. President, I will yield the floor very quickly, but I want to comment only in addition, in response to what the Senator from Massachusetts has said, that one of the reasons why we are concerned is because the Forest Service has indicated their desire to move to sealed bidding and their unwillingness to comply with the legislative intent which the Senator from Massachusetts has read from the conference report. That is why we are here.

The sales figures that revealed earlier sealed bid practices when the Forest Service was telling all of us that the conference report on the bill mandated sealed bids were the source of the entire problem. Had they followed the legislative intent as it was correctly stated by the Senator from Massachusetts, we would not be here today. But they did not do that. They showed an unwillingness to do that. They refused to do it and pointblank and in a number of conferences specifically categorically denied that is what the legislative intent was behind this bill.

I appreciate the fact that the Senator from Massachusetts is joining us in trying to set the record straight for the Forest Service.

Mr. KENNEDY. Mr. President, if the Senator will yield.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. I yield to the Senator from Massachusetts 2 minutes.

Mr. KENNEDY. I want to make it clear that I did not charge collusion with the Forest Service or even remotely hint at such a thing. I was pointing out a very clear process of life: Senators are reluctant to blow the whistle on Senators, lawyers are reluctant to blow the whistle on lawyers and the bar association; doctors are reluctant to blow the whistle on doctors, and the Forest Service people who live in the communities, particularly in local communities, are under a lot of pressure from the local community to take bold action if they see bidding problems.

In many, many instances they do, and this is a very noble tradition within the Forest Service. But under this legislation to put that burden on them to take that action I think is unfair. The Forest Service personnel since the days of Gifford Pinchot in 1905 have enjoyed a reputation that has been untarnished by scandal or by the hint of scandal. I know Forest Service people. They are dedicated to the public interest. We in Congress ought to help them in every way to insure bidding is competitive and to insure that real local interests can be served.

Mr. BUMPERS. Mr. President, let me say at the outset I am going to make a speech and I do not plan to yield until I am finished. I will then be pleased to yield for any questions that my comments will evoke.

I voted against this bill in the Energy committee; I voted against it then because I do not understand the whole thrust behind this amendment.

I served as Governor of my State for 4 years, and every night before I went to bed I expressed my gratitude to the good Lord in Heaven because we did not sell anything in our State except by sealed bid.

So far as I know, there are only three or four States in this country that permit oral auctions for anything they sell. So far as I know the United States Code is absolutely devoid of any other reference to oral bidding on any property that belongs to the public, and I can think of 40 different scenarios.

Some references have been made here to returning to the historic tradition of bidding for timber in the West. What is the history? Until 1942 there were no oral auctions. Finally, because of the dependent communities in the West they began to permit oral auctions. I still do not understand why but they did. In 1960 two or three of the regions out West were only selling 50 percent of their timber by oral auctions.

Now, Mr. President, what is a dependent community? That is a community which originally and historically was isolated because of bad roads. The community was dependent on timber from the National Forest service which surrounded them and did not have an adequate supply available to them from any other source, private or public. It was designed to guarantee mills in small communities a supply timber.

But as we have built better roads, deveveloped better systems of logging, and the ability to transport logs over considerable distances, the trend has gone back toward sealed bidding. Sealed bidding has increased; and even though some of these communities can scarely be considered dependent now, we hear the cry in this Chamber today for 100 percent oral bidding.

Let us assume you have three people who show up to submit a bid on a nominated tract of timber, and let us assume the Forest Service has estimated the value of that timber $100 per 1,000 boardfeet; let us assume the first bid is right on target, $100 per 1,000 boardfeet. The next man bids $110. If he has got two good friends there who are willing to walk off he gets it for $110, and the Department of Justice says that is precisely what happens time and time again. But they say you cannot prove it.

I am pleased the Senator from California is here. He asked a very relevant question a moment ago of Senator Kennedy.

Here is what the Justice Department said:

Oral bidding makes it easier to coordinate and easier to enforce a collusive bidding agreement, because less need be agreed upon in advance of the auction by the participants in such an agreement. The conspirators need do little more than generally allocate a sale to one of their number, and leave the details to the flexible oral procedure. Since there is little need for detailed plans and policing procedures, there is little trail left for us to follow.

And then they go on to say:

We believe that sealed bidding will very effectively lessen collusion on national forest timber sales. Because each bidder has only one bid and the bids of others are secret, each bidder must bid at a level which corresponds to his interest in a given sale. To implement a collusive arrangement under sealed bidding, a bidder would have to arrange the actual amounts bid by every likely active bidder, whereas under oral bidding the few dominant firms can control the bidding by merely knowing the general needs and interests of the other dominant firms. Even where a group of bidders allocated a series of sealed bid sales among themselves by agreement, one winning bid by a nonconspiring firm on an important sale would completely upset the allocation scheme.

It goes on and on, and I hope the Senator will read that letter. It is one of the best letters I have ever read in my life, and it is right on target and everything in it is irrefutable.

What did the Regional Forester in Washington and Oregon say about it?

He wrote a letter to the National Forest Service, and what did he say?

Dear Chief: This is in response to George Leonard's verbal request that we submit our proposed bidding arrangement for you for review and approval.

And he says: "My proposal is attached."

I urge that we take timely action. Nearly 1 year has elapsed since the trial of the North Santian case. The Justice Department is actively investigating other cases in the Region. One case already has involved grand jury action. We cannot afford to be caught without having taken any action in the event there is another conviction.

Last November we made a proposal to the entire industry for judicious use of a mixture of sealed and oral auction using a suggested set of criteria to determine when sealed bids would be used. We received overwhelming objections from industry. Only a few people favored our proposal. Since then we have had many discussions with industry groups trying to find a workable solution. Generally, industry has not made any constructive suggestions. They do not recognize that there is a problem. . . .

We are firmly convinced that we have to make a change in order to improve our image of protecting the public interest.

How can one say it more eloquently?

That is only part of why we are here.

The Senator from Massachusetts and the Senator from Arkansas know what dependent communities are. I can certainly say I know what dependent communities are in the State of Arkansas. I know what it would do to my State if the Defense Department decided to close an airbase down there. I know what it means all over my State where we have poor communities. Look at that map right there. There are seven dependent communities right in Arkansas.

Does the Senator know how many oral auctions have been held in Arkansas? None.

We are not just talking about Oregon, Washington, and Idaho. If it is good for them why is it not good for Arkansas, Alabama, and Mississippi?

Arkansas produced 2.5 billion board feet last year. Over half my State, 18.5 million acres, is in forest.

The PRESIDING OFFICER (Mr. MOYNIHAN). The time of the Senator on the amendment has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I may speak on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. When this bill first passed the National Forest Management Act passed last year——

Mr. CHURCH. Mr. President, will the Senator yield for a quick question?

Mr. BUMPERS. I yield.

Mr. CHURCH. What percentage of Arkansas is owned by the Federal Government?

Mr. BUMPERS. Two and a half million acres.

Mr. CHURCH. What percentage of the State does that represent?

Mr. BUMPERS. That represents about 10 percent.

Mr. CHURCH. I think there is quite a difference. Two-thirds of Idaho is owned by the Federal Government. That is comparable to the situation faced by these other States where the national forest land plays a very different role than it does in a State where the Federal Government only owns 10 percent of the land.

Mr. BUMPERS. I say to the Senator there are dependent communities. That means those communities are in the national forest isolated from any other source of timber. I can tell the Senator that in 1976 the only oral auction held was for a right-of-way, and we produced 2.5 billion feet of timber last year and if I am not mistaken close to 1 billion of that was from the national forests.

I am not really complaining about that. My people are not complaining about it. They recognize this is public property, and what we are talking about here today is protecting the public interest.

I am not against dependent communities. I am not totally opposed to oral auctions. I do not understand why oral auctions help dependent communities.

The Secretary, under existing law, cannot only hold an oral auction but he can hold a sealed bidding auction and reject a sealed bid if it does not conform with helping a dependent community.

But what happens when they take sealed bids? I will tell the Senate what happens.

In the first half of calendar year 1977, the Forest Service sold 2.5 billion board feet of timber that had a bid value of $402 million in Oregon and Washington. Four hundred and two million dollars—that is not peanuts by anyone's standards.

Under the interim policy adopted by the Department of Agriculture, 78 percent of the sales in Oregon and Washington were by sealed bid as compared to 99 percent by oral bid previously.

A survey of national forest timber sales in these two States by the Forest Service indicates that sealed bidding, among other things, may substantially enhance Federal revenues from the sale of timber.

For example, sales at oral auction in the Douglas fir region of these two States were appraised at about the same price as those sold by sealed bid, $107.76 against $106.95 per thousand board feet. The sales were appraised at the same value.

Bid prices received for oral auction sales were $172.42 against $185 for the sealed bid sales. Sales brought in $12.58 more per thousand board feet for the 1.485 billion board feet sold by the sealed bid method.

Since the sales were appraised at the same value, it is possible that if this volume had been hold at oral auction, losses of $18.3 million in revenue would have resulted. Based upon total year sales, a $40 million loss would have occurred in these two States alone.

Mr. President, what is wrong with the present law? That is not just something that originated in the House of Representatives and sailed through. That was debated at length in the conference. Everyone knew exactly what we were talking about.

I was on this conference committee. Does the Senator know who else was on the Conference committee? HUBERT HUMPHREY, and HUBERT HUMPHREY did more toward perfecting the language of section 14(e) of that bill last year than any other Senator in the Senate. Incidentally, I called him this morning to wish him well. He had already sent a statement to my office that he wanted read into the record during the debate on this issue, and I thanked him.

We talked about it for a simple reason. We were concerned about collusion. We were concerned about getting a fair price for the public property, and we were concerned about protecting the rights of dependent communities.

Mr. President, I have stood in this Chamber in the last 2½ years, and I have heard great speeches by Senators on both sides of the aisle and by Senators on both sides of this issue talking about antitrust. We have talked endlessly about vertical divestiture of the oil companies. We have talked about beefing up, doubling and tripling the size of the Antitrust Division. What for? To make sure that the American taxpayer is protected.

I know that the people out West are decent, responsible people. But I am not suggesting that we should put our stamp of approval on a practice which would certainly encourage collusion a short 10 months after the present law went into effect.

Mr. President, what can the Secretary do now?

The Senator from Massachusetts answered the Senator from California a moment ago by saying that the Secretary can reject a bid if the effect of the award would result in removing or materially lessening opportunities for gainful employment for local labor, and so forth. But there is another section before that.

The preceding section says he can reject it if it has a tendency to create a monopoly, injurious to the public welfare, that would result from a control of large amounts of public or public and private timber.

The Secretary of Agriculture has yielded to the clamor of the western timber operators to the point that the regulations now provide, as the Senator knows, that 25 percent will be by sealed bid and 75 percent by oral bid.

And even with this additional safeguard, even in those instances where a bid shall be a sealed bid, he can reject it if he feels that the dependent communities are harmed.

What do some of those small operators out there say? We have been talking about small operators. I daresay if it were just the small operators who were interested in this bill, we probably would not be here today.

Here is a man who says his name is Edwin Seeger. He testified before the Senate Agriculture Committee. He says:

My name is Edwin H. Seeger. I am an attorney for Boyd Lumber Corporation.

I am not going to read his whole testimony that he gave the committee, but he said:

Between 1971 and 1976, the President of Boyd Lumber traveled across the Cascades to attend between 15 and 25 oral auction sales in one area without buying a single sale. Whenever he attended a sale, the price went way up. When he was not there, the price would stay down and the timber frequently was sold at the minimum price. Since it takes five hours each way to travel between Boyd Lumber's headquarters on the Western side of the Cascades and the sales area on the Eastern side, in the absence of any success over a five-year period, Boyd Lumber became discouraged and stopped attending sales.

Then he goes on to say:

Let me explain in somewhat more detail why it is possible through oral auction bidding to squeeze out a relatively small competitor but it is extremely difficult to do so through sealed bidding.

Take the case of a timber purchaser, such as Boyd Lumber, who is located outside a noncompetitive area and notices that timber is being sold at a cheaper price there than in his own area. The outsider calculates that he can buy the timber at the cheaper prices being bid, add on the freight rate to his own mill, and still be able to operate profitably with the logs delivered to his mill. Or he may, as Boyd Lumber has, conclude that there is room for additional sawmill capacity in the area and that he can process the timber locally.

However, when the outsider actually attends an oral auction sale to bid on the timber and put his plan into effect, the bidders within this noncompetitive area come to life and suddenly find themselves able to bid more for the timber and outbid the outsider. In fact, just as has occurred in the case of Boyd Lumber's effort to penetrate a new area, the bidders within the area will bid literally any price to keep the outsider from winning the timber sale.

Here is testimony from another small operator, I believe before the House committee. This man says his name is Amos Horner. He says:

I am president of Northwest Timber Association. Tomco, Inc. of Sweet Home and Cascadia and All American Stud Company of Jasper, Oregon. I do not speak today as the president of Northwest Timber Association, but speak as the general manager of small wood products companies located in west, central Oregon.

What does he say? He says:

I am amazed that the Congress of the United States having passed the National Forest Management Act of 1976, concerned about the future of wood products industry would allow a few loud voices and western Congressmen and Senators destroy that part of the act that is most promotive of our free enterprise system. The opportunity to present that bid in a sealed basis without the intimidation of oral auction is absolutely mandatory to that free enterprise.

He says:

. . . it's hard to play the ball game when you do not have enough money to buy chips. That's a kind of intimidation. When you have your last nickel on the line and you know that people you are bidding against can average their losses in many, many plants and can take much better advantage, taxwise, because of timber ownerships that were virtually given to them, you are not playing the same ball game.

Mr. President, I would like to read a statement of the distinguished Senator from Minnesota which I received this morning before we conclude this debate. It is a very good statement, and I promised him I would do so.

Before introducing the statement from Senator HUMPHREY, I will make one additional point.

The amendment of the distinguished Senator from Montana says they will first offer sealed bids. I know that the Senator from Montana would not deliberately create a smokescreen. However, this amendment provides that the timber companies will bid by sealed bids. If that bid is equal to or exceeds the appraised value of the timber by the National Forest Service, which has a notorious reputation for estimating the values much too low, then they are entitled to participate in an oral auction.

I do not know that this is what would happen if we adopt that amendment, but my guess is that everybody would just bid the estimated value set by the Forest Service, and that automatically, then, entitles them to attend and participate in an oral auction.

If you want to help these communities, why do we not just say to the Forest Service:

Be realistic. Set a realistic value on this timber. Say "We are selling it, and these operators in this dependent community who need this timber can bid on it: if you bid that amount or more, you get it." If there is only one bid, let them have it.

I do not think we are doing ourselves a great service in even doing that. As I say, we do not do it for Glenwood, Hatfield, Hatton, Norman, Ola, Plainview, and Waldron, the dependent communities in Arkansas. We do not do it for any of the States in the southeastern part of the country, and they contribute significantly to the lumber supplies in this country.

At the present rates, what are we trying to do? We are trying to say that unless the Secretary believes there is a possibility of collusion, 100 percent of all sales will be oral.

That, my colleagues, is the effect of the amendment. You can talk all day, but I can tell you that if we adopt this amendment, 100 percent of all future timber sales in the national forests will be by oral bidding, and we will have to hire two more antitrust divisions to enforce the law.

Secretary Bergland, who represents the President of the United States, says:

Revised regulations pertaining to bidding were issued on June 2, 1977. We believe these regulations provide adequate protection for dependent communities. After a careful review of these regulations and questions raised on the effects of the regulations, we conclude it is not necessary or desirable to change the basic statutes under which they were developed. We therefore oppose the enactment of S. 1360.

As reported by the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry, and we would oppose any other amendment to subsection 14(e) at this time. We need to gain experience in implementing the law, and will review the regulations at the end of one year of usage. We are committed to a fair and workable implementation of the law.

That is what the Under Secretary of Agriculture says, who has all the national forests under his jurisdiction.

Mr. President, I reserve the remainder of my time.

Mr. GRAVEL and Mr. PACKWOOD addressed the Chair.

Mr. PACKWOOD. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senator from Idaho and the Senator from Arkansas.

Mr. CHURCH. How much time remains?

The PRESIDING OFFICER. The Senator has 18 minutes remaining on the bill.

Mr. CHURCH. I yield 5 minutes to the Senator from Oregon.

Mr. PACKWOOD. I thank the Senator from Idaho.

Mr. President, I want to put things in perspective, as best I can, in this debate.

First, on the issue of the legislative history and what was intended at the time the bill was passed last year: It was very clear that Congress did not intend 100-percent closed bidding. The Forest Service initially interpreted it as that, but there is no question that we did not intend that. But this is not the first time that we have had problems with the bureaucracy misinterpreting our intent.

However, that is behind us, and we are here today trying to reestablish what it is we intend; and I would hope we will be able to clear the record this time as to what we do intend.

What are the arguments for and against open and sealed bidding?

First, the argument is that it is easier to have collusion under open bidding than under sealed bidding. Mr. President, I have never made, nor do I know of, a study that has ever been made of antitrust violations in this country under Government contracts vis-a-vis antitrust violations in private business.

I will be willing to wager that 95 percent of the violations are under closed agreements, agreements which have been made in a backroom someplace, and an attempt to hide them. This argument

that just because they have closed bidding it is going to make it more difficult to collude escapes me. I do not know how that conclusion can be reached. At least, if they are going to collude in an open oral bidding, they have to stand in the room with other bidders and make some kind of a wink or a sign that they intend to stop bidding or, "You go ahead and bid and I will quit."

They sit in the backroom the day before the sealed bidding and one will say, "I will bid 110, and you bid 120, and if Harry gets here tomorrow, I will tell him to bid 105, on this sale of yours."

Certainly, that would be a lot easier to do than in the open.

Let us scratch this argument about open bidding and sealed bidding and collusion. Which will yield more money? It is hard to tell. There have been figures thrown back and forth as to whether or not more money is received from sealed bidding or open bidding. The figures are inconclusive. The figures for the last quarter of the study done by the Forest Service would indicate that more money is received from oral bidding. But they are inconclusive and it does not have to rest on that argument.

Are there still dependent communities? The Senator from Arkansas indicated that maybe in the days of bad roads and 30 years ago, yes, there were dependent communities.

Mr. President, you have dependent communities today in every State in the West. When I say dependent, they have one mill, two mills, and those mills have to have logs because a closed mill is a desperate town. They will bid 50 percent, 60 percent, 70 percent, 80 percent, 100 percent over the appraised price, if necessary, to make sure they have a supply of logs to keep their mill going. There is no guarantee in any circumstances under a sealed bid they can get that.

Let me close with one interesting statistic, a released fact. There is not a single large lumber company interested in this bill, not one. Not Georgia Pacific or Louisiana Pacific, Weyerhauser, International Paper or St. Regis. They have not been lobbying one way or the other. I think I know why. They will do very well under sealed bidding. Not one of those companies is a dependent company.

I am not here to demean those companies—they are well-run companies—but not a single one is what I would call a dependent company.

If the day comes when they have to have timber they will go out and bid 250 percent or 300 percent of the appraised price. The only companies that are critically concerned, because they can be squeezed out of this market immediately by the large companies, are the small companies in small towns, a company dependent upon logs and the town dependent upon the company.

I think it is very interesting that there has been no testimony or no particular interest shown by the large companies. I am saying that if we go to 100-percent sealed bidding in the West, we are going to see towns with 15, 20, and 25 percent unemployment. We are going to see small mill after small mill run down its log reserves from 4 months to 3 months to 2 months to 1 month and gone. Finally, the owner will not be able to hang on to that mill any longer because he cannot afford the overhead. It will be bought up by St. Regis or the Georgia Pacific and, miraculously, logs will be found someplace and that mill will be reopened, but at the expense of further concentration in an area where I would hope we would not have further concentration. I very much support the Melcher amendment and I hope the Senate will do the same.

Mr. BUMPERS. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. May I ask the Senator from Montana a question?

Mr. CHURCH. On whose time?

Mr. KENNEDY. On the time of Senator BUMPERS.

Will the Senator familiarize the Senate on what the procedure is within the State of Montana on sealed bidding versus open bidding? It is my understanding that in the State of Montana it requires all sealed bidding for State forests. Am I correct?

Mr. MELCHER. For the State forests? I cannot answer.

Mr. KENNEDY. I understand that to be the case. I further understand that even within that particular provision there is no consideration for dependent communities, which provision exists under the current regulations in the Forest Service. As we have been listening to the eloquency of our friends from Oregon and Idaho talking about these smaller communities, I wonder whether the smaller communities are less well served in the State with the sealed bidding than in other States where they do not have that. It seems to me the State legislature would have taken action. I wonder whether the Senator has any comment.

Mr. MELCHER. I am sorry I cannot answer the Senator's question regarding the State-owned land that has timber on it because I have no knowledge of the procedure. State timber sales do not involve a significant amount of forest land in our State and it is widely scattered thus not being a dominant economic force in many if any of our timber-dependent communities.

Mr. KENNEDY. The final point I would like to make, Mr. President, is on the question about which has returned the greatest revenues to the Federal Government. I listened to the Senator from Oregon saying that people bantered around various figures and various statistics. They might appear to be inconclusive. I would like to put into the RECORD what I think are very conclusive figures, supplied Aug. 31, 1977, by the Library of Congress with Forest Service figures. These show that, with the exception of region 5, sealed bid sales produced significantly more revenues despite the fact that oral bids were larger. Sealed bid sales brought in 36 percent more than oral sales per thousand board feet sold. Sealed bid sales brought in $35.52 per thousand board feet more than oral sales. What we are talking about here is hundreds of millions of dollars; we are talking about 3.7 billion board feet sold in 6 months that brought in $468 million.

Mr. President, I ask unanimous consent to print the August 31 letter with attachments in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., August 31, 1977.

To: Honorable EDWARD M. KENNEDY, Honorable DALE BUMPERS.

From: Robert E. Wolf, Assistant Chief, Environment and Natural Resources Policy Division.

Subject: Forest Service Timber Sale Data, 6 Western Regions, First Six Months of 1977.

During the first six months of 1977 the Forest Service sold 819 sales containing 3.7 billion board feet of timber with a bid value of $468 million exclusive of roads. Annual sales run about 10–11 billion board feet. On this basis, the annual sales would exceed $1 billion for calendar year 1977.

Commencing with January 1977 the agency made far greater use of sealed bids than it previous has. The comparable data base for the past is not available since the agency timber sale data is not on a regular basis. However, it is known that in Regions 5 (California) and 6 (Oregon and Washington) over 90 to 98 percent of the timber was sold via oral bids in the earlier period. In other Western Regions from 60–90 percent was sold via oral bids. On a value basis, for the past 6 months 80 percent of the timber was sold by sealed bids.

Commencing with July 1, when the June 2 regulations took effect, the percentage of timber sold via sealed bids may decline to 25 percent or less since these regulations only require that 25 percent be sold by sealed bid.

ANALYSIS OF FIRST SIX MONTHS OF 1977

Three regions accounted for 98 percent of the timber sold by value and 92 percent by volume.

	Value (percent)	Volume [1]	Percent of volume
Region 6 (Oregon-Washington)	$369	79	2.5	67
Region 5 (California)	69	15	.58	16
Region 1 (Montana-Northern Idaho)	19	4	.34	9
Total 3 regions	457	98	3.43	92
Total all regions	468	100	3.73	100

[1] Billion board feet.

The oral bid sales averaged 61 percent larger than the sealed bid sales. It has been the view of the Forest Service that the larger size sale brings a higher bid premium than the smaller size sale. No data has been presented by the agency on this point. However, if it were valid then in this period the oral bid sales, being larger, should have demonstrated this by a stronger price response than the smaller sealed bid sales.

Region	Size			Bid price		
	Sealed sales [1]	Oral sales [1]	Difference (percent)	Sealed	Oral	Difference [2]
6	4.7	6.3	+34	$155.51	$119.03	+31
5	4.2	10.8	+157	118.90	119.17	−00.2
1	2.6	8.3	+219	62.36	43.20	+44
All 6	4.1	6.6	61	134.14	98.82	+36

[1] Million board feet.
[2] Sealed as percent of oral.

Except for Region 5, sealed bid sales produced significantly more revenues despite the fact that oral sales were larger. Overall the oral sales were 61 percent larger than sealed bid sales but sealed bid sales brought in 36 percent more than oral sales per thousand board feet sold.

There are some curious inconsistencies between appraised and bid prices.

Region	Appraised prices per Mbf			Bid prices per Mbf		
	Oral	Sealed	Difference	Oral	Sealed	Difference
6	$88.48	$87.06	+$1.42	$119.03	$155.51	+$36.48
5	44.99	37.39	−7.60	119.17	118.90	−.27
1	18.69	32.57	+13.88	43.20	62.36	19.16
Total	66.30	70.90	+4.60	98.82	134.14	+35.32

It has been noted oral sales were larger than sealed. However, the appraised value of the sealed sales was below that of the oral sales. One would expect that when exposed to bidding that some consistent relation would appear, i.e., sealed bid sales would generally bring a little less than oral sales and the general increase in bidding would be somewhat the same for both classes. However, the opposite appears. Sealed bidding brings in more than oral bidding. In Region 6 where the appraised prices were about the same for the two methods (within $1.42), the sealed bid outstripped the oral sales in bidding by $36.48. On the other hand in Region 5 where the oral bid sales were appraised at $7.60 more than the sealed sales the bidding shows them returning the same amount (within 27 cents). In Region 1 where the sealed bid sales were appraised at the greatest amount above oral sales, +$13.88 per Mbf, sealed bidding showed a return $19.16 Mbf above oral sales.

OBSERVATIONS

It would be a mistake to conclude that these data suggest that sealed bidding will always produce more revenue than oral bidding. However, the data does show for this period that this occurred in every region. The data does show that the bidders have significant differences with the agencies estimate of market value. The data also shows that there are wide differences between regions in the gap between bid and appraised prices.

Region	Overbid in dollars per Mbf			Overbid in percent		
	Oral	Sealed	Average	Oral	Sealed	Average
6	30.55	68.45	59.75	35	79	68
5	74.18	8.51	79.93	165	218	204
1	24.51	29.79	28.09	131	91	100
Total	33.52	63.24	55.55	49	89	80

If, as it is argued, oral bidding is a better measure of value than sealed bid, then even here one sees extremely wide variations between regions. Because of the dominance of Region 6, the average is heavily impacted by events in that region. For example, in the Region 5 of the two methods produced virtually the same bid price, even though the oral bid sales were the largest of any region and the sealed bid sales were substantially lower in appraised value than the oral sales. Here even the oral bid prices were 165% above the appraised value. Thus serious question exists whether the appraisals are reasonable reflections of the market situation.

COMMUNITY STABILITY AND RELATED ISSUES

Nothing presented in the summary of timber sales sheds any light on the issue of where the timber will be manufactured. Thus it cannot be used to argue either that sealed bidding is destructive of community stability goals, however one chooses to define community, or to argue that oral bidding supports community stability goals.

It should be possible for the agency to develop data from past and current sales showing the bidding participants and the likely or actual points of manufacture. Such facts would, perhaps, give some clue as to the basic subject of community stability, as well as amass facts on whether or not one method of bidding is superior for acnievement of this goal.

You asked about the situation in the competitive bidding shelters created under the 1944 Act which are called Federal Sustained Yield Units. For the few sales that were made in these units during the period the competition was considerably lower, or nonexistent, for timber sold in such units compared to timber offered elsewhere in the regions where the timber is located. One of the goals inherent in the creation of these units was to provide a shelter from competition under the theory that protection of the community was a valid and sound public purpose. In essence the effect has been that firms not in the unit are forbidden to bid on timber inside the unit. To reach a judgment on whether these are reasonable and sound ways to protect communities would require an in-depth analysis.

A review of the unit histories to date indicates that such a review has not been made, nor has data been developed which indicates that in balance the public interest is benefitted or harmed by their existence.

SUMMARY

The data presented on the timber sales program only indicates that during this six month period sealed bidding brought in greater revenue than oral bidding. This judgment is reached by considering the fact that generally the oral sales were appraised for less than the sealed bid sales but, at bid, sealed sales brought in the higher return.

The other thing that is apparent is that the bidders offered far more than the Forest Service appraised price and the variations between different regions was wide.

No data has been developed and presented by the Forest Service on how the policy in effect for the first six months of 1977 had on firms that have traditionally drawn their timber from specific timber shed.

Thus in any event, absent an on-going review process on the effectiveness and impacts of any policy, be it sale size, method of bidding, hauling distance, manufacturing and utilization issues, there are no body of carefully developed facts on points other than price with which to recommend for or against either method of bidding. However, it does appear that on one point, which bidding system returns the best revenue, that during this period sealed bidding did do this.

SUMMARY—SEALED BIDS AND ORAL AUCTION BIDS, 1ST HALF CALENDAR YEAR, 1977

	Oral auction bid sales				Sealed bid sales			
		Cost per MBF				Cost per MBF		
	Sold (MBF)	Bid price	Overbid	Number of sales	Sold (MBF)	Bid price	Overbid	Number of sales
Region:								
1	108,045	43.20	24.51	13	232,630	62.36	29.79	88
2	37,712	10.33	2.13	6	43,790	17.71	2.54	24
3	33,943	55.74	6.07	7	38,093	69.29	9.35	15
4	46,158	21.60	1.60	13	100,692	33.84	5.51	32
5	129,920	119.17	74.18	12	451,017	118.90	81.51	107
6 (east)	254,341	96.74	19.77	33	423,401	106.15	34.61	84
6 (west)	324,368	163.38	66.36	59	1,510,244	169.30	77.93	326
DATA BY CALENDAR QUARTERS								
Regions 1 to 5:								
1st quarter	170,384	74.39	41.73	22	600,047	100.65	64.42	150
2d quarter	185,397	58.01	29.86	29	266,175	54.68	22.76	116
Total	355,781	65.85	35.54	51	866,222	86.53	51.62	266
Region 6 (east):								
1st quarter	85,180	117.31	33.98	12	185,341	100.50	34.64	48
2d quarter	169,161	86.38	12.61	21	238,660	110.59	34.58	36
Total	254,341	96.74	19.77	33	423,401	106.15	22.61	84
Region 6 (west):								
1st quarter	49,430	180.84	67.82	7	1,116,512	171.11	81.86	216
2d quarter	274,938	160.24	66.10	52	393,732	164.16	66.79	110
Total	324,368	163.38	66.36	59	1,510,244	169.30	77.93	326

Note: Bid prices in the above are "statistical high bid" figures, which are on a "net" stumpage basis. Overbids were computed by subtracting advertised prices ("gross" stumpage basis) from bid prices ("gross" stumpage basis).

I—VALUE OF TIMBER SOLD (REGIONS 1-6), FOREST SERVICE, 1ST ½ OF 1977

Region	Value of timber sold (millions)			Percent of total sold by—	
	Oral	Sealed	Total	Region	Sealed bid
1	$4.7	$14.5	$19.2	4	76
2	.4	.8	1.2		67
3	1.9	2.6	4.5	1	58
4	1.0	3.4	4.4	1	77
Subtotal	8.0	21.3	29.3	6	73
Regions	15.5	53.6	69.1	15	78
Subtotal	23.5	74.9	98.4	21	76
Region 6 east	24.6	44.9	69.5	15	65
Region 6 west	44.2	255.7	299.9	64	85
Region 6 total	68.8	300.6	369.4	79	81
Grand total	92.3	375.6	467.8	100	80

Source: Forest Service data, R. Wolf, CRS.

II—VOLUME OF TIMBER SOLD (REGIONS 1-6), FOREST SERVICE, 1ST ½ of 1977

Region	Volume of timber sold (billion board feet)			Percent of total by—	
	Oral	Sealed	Total	Region	Sealed bid
1	0.108	0.233	0.341	9	68
2	.038	.044	.082	2	54
3	.034	.038	.072	2	53
4	.046	.101	.147	4	69
Subtotal	.226	.416	.642	17	65
Regions	.130	.451	.581	16	78
Subtotal	.356	.867	1.223	33	71
Region 6 east	.254	.423	.677	18	62
Region 6 west	.324	1.510	1.834	49	82
Region 6 total	.578	1.933	2.511	67	77
Grand total	.934	2.800	3.734	100	75

Source: Forest Service data, R. Wolf CRS.

III—NUMBER OF SALES (REGIONS 1-6) FOREST SERVICE, 1ST ½ OF 1977

Region	Number			Percent of all sales	Percent sealed for region
	Oral	Sealed	Total		
1	13	88	101	12	87
2	6	24	30	4	80
3	7	15	22	3	68
4	13	32	45	5	71
Subtotal	39	159	198	24	80
Region 5	12	107	119	15	90
Subtotal	51	266	317	39	84
Region 6 east	33	84	117	14	72
Region 6 west	59	326	385	47	85
Region 6 total	92	410	502	61	82
Grand total	143	676	819	100	83

Source: Forest Service data, R. Wolf CRS.

IV—APPRAISED AND BID PRICE, ALL SALES (REGIONS 1-6), FOREST SERVICE, 1ST ½ OF 1977

[Dollars per thousand board feet (Mbf)]

Region	All sales		Overbid	
	Appraised	Bid	Cost per thousand	Percent
1	$28.14	$56.23	+$28.09	+100
2	11.94	14.31	+2.37	+20
3	55.13	62.93	+7.80	+14
4	25.70	29.98	+4.28	+17
Subtotal	28.53	45.54	+17.01	+60
Region 5	39.10	119.03	+79.93	+204
Subtotal	33.54	80.45	+46.91	+140
Region 6 east	73.66	102.73	+29.07	+39
Region 6 west	92.45	163.53	+71.08	+77
Region 6 total	87.39	147.14	+59.75	+68
Grand total	69.75	125.30	+55.55	+80

Source: Forest Service data. R. Wolf CRS.

V—APPRAISED AND BID PRICE, ORAL BID SALES (REGIONS 1-6), FOREST SERVICE, 1ST ½ OF 1977

[Dollars per thousand board feet (Mbf)]

Region	Oral sales		Overbid	
	Appraised	Bid	Cost per thousand	Percent
1	$18.69	$43.20	+$24.51	+131
2	8.20	10.33	+2.13	26
3	49.67	55.74	+6.07	12
4	20.00	21.60	+1.60	9
Subtotal	22.12	35.40	+13.28	60
Region 5	44.99	119.17	+74.18	165
Subtotal	30.34	66.01	+35.67	118
Region 6 east	76.97	96.74	+19.77	26
Region 6 west	97.32	163.38	+66.36	68
Region 6 total	88.48	119.03	+30.55	35
Grand total	66.30	98.82	+33.52	49

Source: Forest Service data, R. Wolf CRS.

VI—APPRAISED AND BID PRICE, SEALED BID SALES

(Regions 1-6), Forest Service, 1st ½ of 1977

[Dollars per thousand board feet (Mbf)]

Region	Sealed sales		Overbid	
	Appraised	Bid	Cost per thousand	Percent
1	$32.57	$62.36	+$29.79	91
2	15.17	17.71	+2.54	17
3	59.94	69.29	+9.35	16
4	28.33	33.84	+5.51	19
Subtotal	32.21	51.27	+19.06	59
Region 5	37.39	118.90	+81.51	218
Subtotal	34.88	61.82	+26.94	77
Region 6 east	71.54	106.15	+34.61	48
Region 6 west	91.37	169.30	+77.93	85
Region 6 total	87.06	155.51	+68.45	79
Grand total	70.90	134.14	63.24	89

Source: Forest Service data, R. Wolf CRS.

VII—AVERAGE SALE SIZE, ORAL AND SEALED BID SALES, FOREST SERVICE, 1ST ½ OF 1977 (REGIONS 1-6)

[In millions of board feet]

Region	Average size sale		Percent comparison oral sale size greater than sealed by—
	Oral	Sealed	
1	8.3	2.6	219
2	6.3	1.8	250
3	4.8	2.5	92
4	3.6	3.1	16
5	10.8	4.2	157
Region 6 east	7.7	5.0	54
Region 6 west	5.5	4.6	20
Region 6 total	6.3	4.7	34
Grand total	6.6	4.1	61

Source: Forest Service, R. Wolf CRS.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD. May I refer to that last statistic? Let us take a look at the west side of region 6.

Mr. CHURCH. I yield 30 seconds, Mr. President.

Mr. PACKWOOD. In the west side of region 6, which is the west side of Oregon and Washington, in the first quarter of this year the overbid on oral bids was 60 percent; the overbid on sealed bids was 92 percent.

In the second quarter of this year, the overbid on oral bids was 70 percent; the overbid on sealed bids was 68 percent.

In every single study that we have from around the Nation, and we only have two quarters of study, it did not go any further than that. In every instance in the last quarter the differences closed tremendously and in the west side, which is region 6, Oregon and Washington, it is reversed.

Mr. KENNEDY. Mr. President, I yield myself 30 seconds of the time of the Senator from Arkansas.

Mr. President, we can refer to the figures in any way. The total figures are quite clear and support my view. I reserve the remainder of my time.

Mr. MELCHER. Mr. President, in reply to the concerns, and to the statements made based on those concerns, of the Senator from Arkansas on whether acceptance of the amendment I have offered as a substitute for the bill would return to a preponderance of oral bidding, it is clear in the bill that it is the discretion of the Forest Service, that they select the best method for sale of timber products.

I would take the word of the Senator from Arkansas that they have no oral auctions from national timber sales in the National Forest lands within that State, or they are very limited, and that none are necessary. I will take his word for that. I only wish he would take our word for the situation that we know exists in the northwest part of the country involving sawmills and communities in our area and oral auctions being the better method to follow in many instances.

If it is, and it sometimes is, the last chance for a sawmill in a community to get logs to saw and to remain viable and in business, and if it is, as they tell us, absolutely necessary to have that opportunity, that last chance, through the oral auction process, why is it for us to come to the conclusion that somehow, an April letter of the Department of Justice on the question is the last answer, is the right answer? The Department of Justice letter, which has been mentioned and paragraphs read of it, on the Senate floor this afternoon, is a letter addressed to the Secretary of Agriculture and it pertains to the repeal of this particular section of the act. We have taken note of their objection. We have rewritten the section, and that is the amendment we have in front of us right now.

Senator HUMPHREY'S concern on the Timber Management Act in 1976, on that conference committee, on which I also served, was the protection of the small communities dependent on timber sales from national forests, with no other opportunity to get logs. We have specifically addressed that concern in the amendment.

There is always uncertainty about regulations from the Forest Service or from other Federal agencies.

We have taken note of the concerns of these communities and these small mills, and we have directed the Forest Service to take note of it also. But in leaving open the discretion for them to determine whether they want sealed bids or a combination of sealed bids plus oral auction, we have furthered the public interest, I believe, in protecting those small communities.

I read Secretary Bergland's letter of today and, previous to this, a letter signed by the Deputy Secretary, John White. The proposition we have before us does no violence at all to these letters. It fits. If these regulations that are now in effect meet these criteria in the amendment, well and good; what is the quarrel about? The amendment does not take away the authority. We have taken due note of the Justice Department's concern and we do not hamper them in any way.

As Governor of Arkansas, Senator BUMPERS tells us, he never had anything sold from the State on other than sealed bid. If I am not mistaken, the largest single industry in the United States is livestock. The biggest segment of that industry is cattle. The sellers of cattle, including States, if the State of Arkansas owned any cattle, has the option of selecting the method of sale of those cattle. And what, during the past 20 years, has become dominant in the marketing of cattle under a highly competitive basis? Oral auctions. They do not start, as we do here, with sealed bids. They just start oral bidding on the cattle, and livestock worth billions of dollars are sold by oral auction. To the extent that the U.S. Government has some cattle to sell, which they do from some experimental stations, and to the extent that States have some cattle, for various reasons, they, too, quite often, use oral auction.

I find it hard to believe that this is a method that opens the door to collusion; but if it is, if, by any stretch of the imagination, anybody can find any pattern that collusion is involved in timber sales from national forests, we address that problem, too, in the amendment before us and say, stamp it out, get rid of it. What more can we do?

I cannot believe that we have done an injustice in any way to the public interest, to the goals of the Secretary of Agriculture, to the Forest Service, to the Department of Justice, or to anyone. The appraised price at which these timber sales are started are by the mandates of the 1976 act, required to be offered at fair market value. That is a little bit different and a little bit more emphatic than it was before, under previous law. Starting the sales at fair market value of the appraised price on sealed bids and then allowing oral auction to follow—if that is, in the judgment of the Department, a better way in the public interest to protect the smaller communities, then that can come about under the terms of the amendment.

I hope we can agree to the amendment. It seems eminently fair and eminently trustworthy and in the public interest.

Mr. CHURCH. Mr. President, would the Senator yield to me a few minutes on his amendment?

Mr. MELCHER. I yield to the Senator such time as he may consume.

The PRESIDING OFFICER. There are 5 minutes.

Mr. CHURCH. Mr. President, I hope the Senate will adopt this amendment. I have listened to the arguments of the distinguished Senator from Arkansas. He says he does not understand this bill. Having listened carefully to his arguments, I have to concur.

He speaks of oral auctions and says these oral auctions, in effect, defraud the Government because two or three friends get together and, when one friend bids up the appraised price just a little, then the other two friends walk off and he gets the bid at a very modest figure. Well, Mr. President, that simply does not conform with any of the evidence considered by either of the two committees. We can argue about whether, under given circumstances, sealed bids or oral bids produce the most for the Government. We know that, in the last quarter, for the States of the intermountain west, in regions 1 through 5, oral bids brought on the average $29.86 above the appraised price, while sealed bids only brought on the average $22.76 above the appraised price.

We know that this will vary with circumstances, but when we asked the Chief of the Forest Service to give his opinion of which type of bid brought the Government the most, based upon the Forest Service's experience through the years, this is what he said:

> Our data suggest that in competitive areas, where bid prices are substantially above the appraised value—

Now, we are talking about the intermountain west—

> oral auction tends to give higher average bids than sealed bidding.

That is the Forest Service Chief speaking. He says:

> In areas of moderate competition, it appears that one method or the other does not significantly affect the return to the Government. But in areas of relatively low competition, where a small number of large businesses dominate, oral auction gives lower average bids than sealed bidding.

Now, there is an informed judgment by the Chief of the Forest Service, looking back through the years. So much for the argument that oral auctions somehow do not return the same amount of money to the Government; and so much for this characterization of oral bidding as some kind of conspiracy between friends.

The Senator from Arkansas gave his case away when he quoted from a letter in which somebody by the name of Boyd said that he spent 5 hours traveling on the road getting to these oral auctions and when he got there, he found that he was always being outbid by the local guys. Of course. That is precisely what

we wish to continue. He was not prevented from outbidding the local guys, but the local guys had such an interest in getting that lumber to keep the community going that they outbid him. That is what the argument is all about.

Anyone who represents a State with hundreds of dependent communities, as I do, I will tell you who is behind this bill. It is not the giant timber and paper companies. They have not come to see me.

But the owners of 85 percent of the small mills of Idaho did come in to see me in my office. They came to ask me to support this bill. They are the people who are behind it, not the big guys, not the fat cats. But if we go to sealed bidding, it is my opinion, Mr. President, in the course of time the advantage will go to the big companies, because they always can take a big risk in a sealed bidding situation.

They will have the advantage, and slowly the national forests will become the tree farms of the biggest lumber companies in the country.

One of the reasons we still have small companies active, healthy, and alive in the national forests is because we have had traditional methods that made it possible for small operators to survive.

That is all we are asking, that these methods be restored under conditions that will also give the Government every possible opportunity to defend itself against any possible collusion, wherever it may be suspected.

I think the case is too strong for serious argument against it. Two committees have approved it. I hope the Senate will act to approve this most effective amendment offered by the distinguished Senator from Montana.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. All the time on the amendment has expired.

The Senator from Wyoming.

Mr. HANSEN. Mr. President, would the distinguished floor manager of the bill yield me a couple of minutes on the bill?

Mr. CHURCH. I am happy to yield to the distinguished Senator.

Mr. BUMPERS. Mr. President, what is the time situation?

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. BUMPERS. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from Arkansas has 70 minutes. The Senator from Idaho has 13.

Mr. HANSEN. Mr. President, I rise in support of S. 1360. In Wyoming the timber industry is almost totally dependent on Forest Service timber and although the industry is not as large as in the northwest States, several small communities are dependent on the industry for their economy.

Oral auction would restore the historic, legal sale methods to these communities and, in my estimation, the issue of collusion is the same under any method of sale. That is to say, and repeating Forest Service Chief John McGuire's testimony:

There is no sound evidence that sealed bidding is anymore effective in reducing collusion than is oral auction. Those inclined to collude will do so under any method. There is no substantial difference in risk of collusion whether oral or seal bidding is used.

I further believe that the Government will receive a fair price in an oral auction of timber. In order to qualify for oral auction bidding a prospective purchaser must submit a bonded sealed bid at or in excess of the Forest Service appraisal. That appraisal, by statute, must be for the fair market value of the timber. The oral auction purchaser must bid in excess of the fair market value in order to obtain the sale.

My main interest and support for this measure centers on the importance of national forest timber to the economies of many individual communities in Wyoming and the West. It is a fact that 80 percent of the total timber supply in these communities are from the national forests. In Wyoming with four national forests totally within the State and parts of three other forests, at least eight communities are vitally affected. I urge my colleagues to vote for this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

UP AMENDMENT NO. 831

Mr. GRAVEL. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 831.

The amendment is as follows:

At the end of amendment No. 529, add the following new section:

SEC. —. (a) On National Forest lands in Alaska, public timber will be appraised by the residual value method, provided, however, that for material to be used for pulp manufacture, the end-product used in such method shall be chips and/or pulpwood and provided, further, that such end-product values shall be no higher than actual market prices for similar products in Western Washington; and provided further that the cost, profit allowances and other factors used in such appraisals shall fully reflect Alaska conditions.

SEC. —. (b) The provisions of subsection (a) of this section shall become effective on January 1, 1979, unless the Secretary of Agriculture makes a determination and reports to the Congress prior to such date that the application of the procedures set forth in such subsection would not be in the best interests of the United States. Any such determination by the Secretary shall be based on substantial evidence and shall be accompanied by recommended alternative methods for setting the end-product selling values used by the Forest Service in the residual value timber appraisal system on National Forests in Alaska, such methods to take into account the need to maintain an economically viable forest products industry in the State of Alaska.

SEC. —. (c) There are hereby authorized to be appropriated such funds as may be required to carry out the provisions of this section.

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment now is the amendment of the Senator from Alaska to the amendment of the Senator from Montana.

Mr. CHURCH. I thank the Senator.

The PRESIDING OFFICER. The time is equally divided.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Bill Hoffman be granted privilege of the floor during consideration of this entire bill.

The PRESIDING OFFICER. Without objecton, it is so ordered.

Mr. GRAVEL. Mr. President, what my amendment does, very simply, is try to restore fairness in the bidding practices and pricing practices of southeast Alaska where we have a large national forest and where the Federal Government has a monopoly.

Mr. BUMPERS. Mr. President, if I may interrupt, was the amendment stated?

Mr. GRAVEL. I believe it was.

The PRESIDING OFFICER. It has been stated—correction, will the Senator suspend?

The amendment has not been read in full, as yet.

Mr. BUMPERS. I thank the Senator.

Mr. GRAVEL. The amendment is properly in order?

The PRESIDING OFFICER. The amendment is in order.

Mr. GRAVEL. Mr. President, the measure would insure that timber from Alaska's national forests would be priced in the same way as timber from Washington, Oregon, and Idaho.

I want to underscore that, Mr. President, that all I am asking here, and I am asking it very strongly, is that we in Alaska will be accorded the same privileges as the States of Washington, Oregon, and Idaho, the States which are as close to Alaska's industry as is possible.

The Alaska lumber industry has been at a competitive disadvantage since 1975 when the Forest Service instituted its current pricing system in the State. Under the current system, southeast timber is priced according to the cost of producing pulp in relation to the world price. In other timbering States, however, stumpage rates are based on the value of chips or pulpwood, rather than on the value of the finished pulp product.

Two problems have resulted from setting stumpage rates on the basis of the finished product.

First, no important timber sale has taken place in Alaska since the new regulations took effect. Stumpage rates calculated according to finished pulp value are too high—and in 1 year, those rates were raised 300 percent.

Second, the current pricing method discourages innovation in the pulp manufacturing process. 75 percent of the finished pulp cost is in manufacturing. By pricing lumber according to the chip or pulpwood—that is, pre-manufactured—price, companies are encouraged to compete by lowering the costs of the manufacturing process. There is no such incentive when current manufacturing costs are built into stumpage rates.

Under my amendment the price of Alaskan prepulp logs could not be set higher than comparable prepulp chips from western Washington. In addition, my amendment asks that the special conditions of Alaska lumbering be considered in setting rates.

There is nothing mandated. There is judgment on the part of the Forest Service in this regard.

My measure would take effect January 1, 1979, unless disapproved by the Secretary of Agriculture, and if he makes that disapproval, he has to report to the Congress his disapproval and the reasons therefor.

This amendment certainly does not ask too much.

One, it simply says we are to be treated like any other State in the Northwest.

Two, if they do want to treat us differently, let them report to the Congress and tell us why.

Right now it stands that we are on our way to no timber industry in the State of Alaska if things continue. I think we need succor, just as this bill put forth by the Senators from the Northwest seeks succor.

It is a very serious problem. We ask for no more than what they are asking for.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I would like very much to accommodate the Senator from Alaska for several reasons. First of all, it may well be that a careful study of his amendment would lead members of the committee to conclude that the method of bidding prescribed there is the same as the method of bidding in the States in the Lower 48—the Western States to which he referred.

I am also mindful of the fact that the Senator came before the Energy Committee when hearings were being held on this bill and made his proposal. So he is not one who has come to the floor suddenly, without first having gone to the committee. That is the second reason why I should like to commend him.

I am sorry that I cannot accept the amendment, but the actual language of the amendment was not made available to me until this afternoon. We have hastily examined the language, and we find some very serious arguments against approving the amendment at this time. These problems deserve the close examination of the committee. Among them are these:

Enactment of this amendment would mean that there would be a special rule established by Statute for Alaska. This breaks with precedent and therefore should be weighed carefully.

Second, we have no way of judging, on the basis of the evidence now before us, what the economic consequences of this amendment might be. The statutory fixing of one appraisal method could lead to serious complications concerning which we have had no testimony and can only guess.

Finally, there is the practical political consideration that if this amendment is attached to the present bill, it becomes very difficult to move this legislation through Congress in the remaining weeks available.

In all likelihood, adoption of this amendment would mean in the end that we would have to go to conference; the House has not yet acted on the legislation, and time is running out.

For these reasons, reluctantly, I cannot accept the amendment. I must add to them the reason that has been furnished me by the Forest Service, which at this time I am not able to fully appraise. But I do think the Senate should be informed that the Forest Service believes that this amendment would essentially result in an export subsidy for the largest lumber companies in Alaska.

Finding out whether or not that is true—and I am sure that is not what the Senator intends by proposing the amendment—would take a closer assessment of the amendment than time now permits. Furthermore, we need the benefit of expert testimony.

For all these reasons, Mr. President, I am unable to accept the amendment, and I hope the Senate will defeat it.

However, I assure the Senate that I will do everything I can to provide an opportunity for the Energy and Natural Resources Committee to examine his amendment and to try to help him, if I can, to find an appropriate vehicle for it.

Mr. GRAVEL. I am very grateful for the expressions from the Senator from Idaho. But I think, in point of fact, that is not where the objections to my amendment come from. I think they come from another part of the Northwest, and that is most unfortunate. I do not know of any other vehicle that a person can pursue in this body than to go to a committee, a relevant committee, present the problem, and when that problem is not attended to, come to the floor.

I think it is legitimate when a Member does come to the floor with a problem to cite the fact that it has not been under study. But that is not my fault. I brought it to the committee to look at. If it was not assiduously addressed, when I have people unemployed in Alaska and we are being discriminated against, I do not think it is a fair response to say that we should study it.

I agree that we should study it. That is why I went to the committee and asked them to look at it and to find a germane piece of legislation to put it on.

It strikes me that when the rest of the Northwest is standing here to try to get a problem corrected that involves employment in their home towns, I am entitled to do exactly the same thing and say that in Ketchikan and Sitka we have people, citizens of the United States, who are unemployed.

So I am not persuaded by the argument that we have not looked at it and somebody should look at it. The Senator is right—somebody should look at it. The Congress of the United States should look at it. I am a Member of that Congress, so I am willing to press the matter on the body of which I am a Member, and that is the Senate. Since I am not a member of the committee with jurisdiction in this area, and there are other influences that prevail in those committees, it does not appear that this is going to get any scrutiny in those committees. So we might as well do it on the floor.

That is the first point I make with respect to closer study.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. CHURCH. When the Senator appeared before the committee, the following question and answer sequence took place. Senator HATFIELD said to Senator GRAVEL:

> Senator, do you feel it will be required to amend this particular bill to meet this particular objective, or do you have language?
>
> Senator GRAVEL: We will submit language.

The language actually has been submitted to the committee only this afternoon. I do not blame the Senator for that, because I know the pressures that are on him.

However, in all fairness, the committee has not had a chance to review the language; and in view of the objections which have been raised to it, we need to have that opportunity to assure that we will not be legislating blindly.

Mr. GRAVEL. I can appreciate that, but I say to my colleague—I say this most respectfully—that my staff was discouraged from submitting language, because they were told that this was going to be a clean bill—"We are not interested in your problem." That is essentially what we were told. That still is the desire, to have a clean bill.

However, I submit that my problem in Alaska is just as pressing as the problem of Idaho and Washington and any other State.

I would be happy to hold this matter over until tomorrow, so that the staff can now take the time to look at our language in this regard, and we could vote on this tomorrow.

I do not want to press unreasonably, but I must say that I think we have been given short shrift. So I take it to the floor. My approach is like that of any other Senator. I would rather deal with the committee and work these things out at staff level.

I have devoted hours to this matter. Ever since 1975, the lumber interests in Alaska have been at our doorstep pleading for some succor.

I have not even addressed the other parts of the argument, but I would be happy to hear my colleague's response on that before I go to the Forest Service side of this.

Mr. CHURCH. I say to the Senator that if any member of the committee staff of the Energy and Natural Resources Committee suggested that he was uninterested in assisting the Senator, that is a matter that should be pursued. The Senator is entitled to full and fair consideration of any amendment he wishes to offer. The Senator knows that that is my feeling.

I assure him that now that he has offered this amendment and serious objections have been raised to it, the committee will pursue the matter diligently; and I will do what I can to find the proper vehicle for him to attach his amendment to as quickly as the committee has had a chance to obtain the testi-

mony necessary to make an assessment of the amendment on its merits.

Mr. GRAVEL. As for testimony, that would be from the Forest Service.

As for the language, I think that any reasonable attorney could read this language overnight and report back to the committee and tell the committee whether it is good language or bad. We have a lot of experts around here. I do not see them hiding under bushes. I hope these experts would take a look at the language and tell us specifically what is wrong with the language.

I think that to knock down an issue because we do not know what the language does is not a good response. We have the experts, and I think the committee could dispatch an attorney now to spend 15 minutes to read this and give the committee a response. The deferral on the language is not going to wash very well with me.

The Forest Service is against this, and I know why they are against this. They have a fiefdom that has no parallel anywhere in the United States. They, in essence, run two pulp mills. These pulp mills in Alaska are public utilities. They decide whether or not there is depreciation or appreciation. They decide what the profit is of the pulp mills.

I do not want them in that business. I want the Forest Service to stay in the forest business. So I want them to do just exactly what they are doing in Idaho, what they are doing in the State of Washington, no more, no less.

Why should the Forest Service have a total monopolistic fiefdom in Alaska when they do not have it in Idaho? You would not stand for it in Idaho. Other people would not stand for it in the State of Washington or Idaho, but we have it in Alaska.

The head of the Forest Service in Alaska sits there and runs the pulp mills. He determines whether or not they go broke or not; he determines how many people are employed.

Seventy percent of the appraised value is in the manufacturing process. So the head of the Forest Service sits there and says, "OK, they are paying so much for that chemical. We are going to disavow that sum. We do not like the way they are doing that, and we are going to disavow that." That means the difference between success and failure.

I do not know where they are coming off on subsidizing timber in the State of Idaho because they do not control the entire manufacturing process? Is that what the Forest Service is telling us?

I would ask my colleague from the State of Idaho, Is the Forest Service presently subsidizing the manufacturing processes of timber in the State of Idaho by not controlling all of those processes?

Mr. CHURCH. My answer to the Senator is no, and he may be right on the merits of the argument he makes for this amendment. The difficulty is we cannot know until we have had testimony that would enable us to look into the serious objections that have been raised to it. First, there is the question of statutory treatment for one State. Then, there is the question of the precedent and its ramifications. And finally, there is the charge the Forest Service is making that this would constitute a special subsidy to the large lumber companies of Alaska.

I do not know whether those charges have merit, but I would want to know before I voted to enact this amendment into law.

Mr. GRAVEL. Mr. President, will my colleague yield at that point?

Am I being so unfair? My amendment can be overridden by the Secretary of Agriculture. My amendment is going to force the Forest Service to come out of the shadows and show why they have to do this. If they think it is a subsidy, I have given them the language in paragraph (b) of my amendment to prove me wrong. This thing will not go into effect if what the Forest Service says is true.

But they are not going to get away with a back room statement to staff as to what this does. They are going to have to write a study and show it to the world and show to this Congress why they are doing what they are doing.

So in answer to your question, your objection is that the Forest Service says this is a subsidy. My answer is very simple: In my amendment it says that this provision shall not go into effect if the Secretary of Agriculture does not want it to go ino effect. The only thing is, I have got a triggering mechanism to smoke them out. They are now going to come out into the light of day. We cannot continue to be fragged the way we have been.

So my response to my colleague from Idaho is we are doing exactly what he wants. We are making sure if there is a subsidy they do not have to do it. All we are doing is getting them to come out into the light of day, because if they were doing to his people in Idaho what they are doing to my people in Alaska, he would be standing here doing exactly the same thing I am trying to do.

I cannot get through the barrier. Now, the economic disadvantage, first, of the statutory treatment——

Mr. CHURCH. May I say to the Senator I take no exception to what the Senator is trying to do. He is a representative of the people of the sovereign State of Alaska, and he is trying to represent them, and he does that very well.

But I do want to assure him that there is a better method, certainly the regular method, for smoking out the Forest Service, if that indeed is what is needed here, and that is to hold some hearings on the Senator's proposal and require the Forest Service to come down and testify.

I am willing to assure the Senator that I will help him in every way I can to have hearings on his proposal. I am sorry that I had not seen the language of the proposal until this afternoon. I want to help him in the solution of his problem in ways that accord with regular Senate procedures. But I am just unable at this time to accept his amendment as it is offered to this bill.

Mr. GRAVEL. I can appreciate that from my colleague. But I think he can understand, too, that if people on the committee do not want to have a hearing on this or do not want to have a study, it is not going to happen, so I have no day in court. That is the reason why I have taken and used this device.

Let me speak to the statutory treatment that my colleague raises. When we have a runaway bureaucracy that is doing things wrong, there is nothing wrong with coming here and passing a law and correcting it. That is what we do all the time. So there is nothing wrong about that. This is the only place where the Forest Service does this. So all I am saying is that we have tried to talk them out of doing this.

Our people are starving to death and we are going to lose an entire timber industry. Now, maybe the loss of a timber industry in Alaska might have competitive benefit to the Northwest, so maybe there are some interests in the Northwest that want to see that happen. But I know the Senator from Idaho does not feel that way personally, and I know he is sympathetic. But the devices I have in this amendment permit all of those safety features to operate.

I just do not know of any other way when a person is not on a committee and is there fighting against the stream, to get some amount of justice for his people. We have a situation where we have not had a timber sale of any note since 1975. We are going to have people—we are going to have bread lines in Ketchikan and Sitka in 1979 because of the lead time involved.

Now, there is no economic disadvantage. All we are saying in this amendment is that you take the price of chip in western Washington, and that is the price you start out with, and from there you back up the cost.

Now, with the Jones Act, and with the extra costs in Alaska there is no way we are going to compete with the Northwest. So the fears of people in the Northwest that we are going to have some advantage is groundless. The worst there would be is an equal chance. But we are not going to have an equal chance. So all I am pleading for is for them, with this disadvantage we have because of our distance, because of the Jones Act, to at least give us a chance when we are competing in Japan and when we are competing in Korea. The distances the same and we are using foreign carriers, so give us a break.

Do not let the Forest Service frag us before we get to the marketplace. That is what is happening today. I do not have the time to do another waltz with the Forest Service. We have been waltzing with them for 2 years, and they are insensitive. So what do we do? The only thing we can do is fight here, and I intend to fight very strongly.

Mr. CHURCH. Mr. President, that is characteristic of the distinguished Senator from Alaska. But I must say in defense of the Committee on Energy and Natural Resources that I am not aware of a time when the committee has ever refused to hold a hearing on any reasonable proposition advanced by a Senator upon his request. I assure the Senator from Alaska that I will personally see to it that such a hearing is held on his proposal.

But under the circumstances it is not

possible for me to accept the amendment he offers at this time to this bill.

Mr. GRAVEL. Let me just say it is reported to me that the junior Senator from Washington is against my proposal, so that makes it very difficult for me to operate via the committee system.

I do not think the fears are legitimate, but they are there, and so the only recourse I have is to press at this point in time.

I think my colleague has raised some points very ably, but I do not think he has addressed himself to the meat of my problem, and I will go back over the objections he raises.

One, is that this is a statutory treatment, and I think my colleague knows we use statutory treatment any time we cannot get any other treatment.

Two, that with respect to the economic consequences this amendment clearly says that the price is going to be no different from western Washington, and he knows the distance to Alaska and he knows the economic disadvantage of that distance. So I can categorically say there should be no fear of economic competition. There may be abroad, because the distances do equate themselves when they get farther away.

If that is the case, then all I seek is justice by saying I want my timber evaluated the same way as the timber in Washington, Idaho, and Oregon. That is not too much to ask.

What is left is that we have got to look at the language. That is a legitimate request. I am prepared to wait overnight to look at the language, but I do not think that is going to solve the problem if it is just a question of looking at the language.

The ACTING PRESIDENT pro tempore (Mr. ZORINSKY). The time of the Senator from Alaska has expired.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 6 minutes remaining.

Mr. CHURCH. Can I reserve that time for the bill? I yield back the time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 8, nays 83, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—8

Allen	Gravel	Stevens
Byrd, Robert C.	Laxalt	Talmadge
Domenici	Long	

NAYS—83

Anderson	Glenn	Morgan
Baker	Goldwater	Moynihan
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Cannon	Huddleston	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Javits	Schweiker
Church	Johnston	Scott
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Lugar	Stennis
Curtis	Magnuson	Stevenson
Danforth	Mathias	Stone
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tower
Durkin	McGovern	Wallop
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Metzenbaum	Zorinsky

NOT VOTING—9

Abourezk	Humphrey	Muskie
Garn	McClellan	Randolph
Griffin	Metcalf	Young

So Mr. GRAVEL's amendment was rejected.

The ACTING PRESIDENT pro tempore. The question recurs on agreeing to the amendment of the Senator from Montana.

UP AMENDMENT NO. 832

Mr. GRAVEL. Mr. President, I send to the desk another amendment.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 832.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 529 add the following new section:

SEC. . (a) On National Forest lands in Alaska, public timber will be appraised by the residual value method, provided, however, that for material to be used for pulp manufacture, the end-product used in such method shall be chips and/or pulpwood and provided, further, that such end-product values shall be no higher than actual market prices for similar products in Western Washington; and provided further that the cost, profit allowances and other factors used in such appraisals shall fully reflect Alaska conditions.

SEC. . (b). The provisions of subsection (a) of this section shall become effective on February 1, 1979, unless the Secretary of Agriculture makes a determination and reports to the Congress prior to such date that the application of the procedures set forth in such subsection would not be in the best interests of the United States. And such determination by the Secretary shall be based on substantial evidence and shall be accompanied by recommended alternative methods for setting the end-product selling values used by the Forest Service in the residual value timber appraisal system on National Forests in Alaska, such methods to take in account the need to maintain an economically viable forest products industry in the State of Alaska.

SEC. . (c) There are hereby authorized to be appropriated such funds as may be required to carry out the provisions of this section.

Mr. GRAVEL. Mr. President, I would like to have the attention of the Senate.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Will Senators please clear the well, and cease their conversations or take them to the cloakroom?

Mr. GRAVEL. I would hope the Chair would not clear them out of the Chamber, but clear them out of the well.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. GRAVEL. Mr. President, if I could plead with my colleagues for a slight indulgence, I am offering an amendment that is almost the same as the preceding amendment. I have changed it slightly. Just to circumvent the rule, I changed it by 1 month.

This is a very serious amendment. There are some people in my State who are presently unemployed; and there are some arguments made here that are not very fair.

A lot of people who have voted against this amendment, if they understood it, would be horrified—absolutely horrified.

We are talking about two major pulp mills in my State, the only pulp mills we have, one in Ketchekan and one in Sitka. They are presently run by a Government official, the head of the Forest Service. He determines what profit they make; he determines whether they can take a trip to Seattle; he determines what they sell in foreign markets or domestic markets. I do not think anybody in this room wants that kind of control in one person's hands.

If Senators would just indulge me a moment, I will explain the amendment and then Senators can vote their conscience. But at least make an informed vote, not the vote we just had.

All we are asking in this amendment is that the State of Alaska, in the appraisal process of timber, have the same process as the State of Washington, the State of Oregon, and the State of Idaho.

That is not unreasonable.

I had one colleague tell me here, "Well, you Alaskans are always asking for something special."

This is just the opposite. We do not want anything special. We just want to be treated like everyone else. Let us put aside this laconic stuff. We want to be treated the same as anybody else in the appraisal process.

How is timber appraised in the States of Washington, Oregon, and Idaho? It

is appraised at the chip level. That means that the Forest Service determines the cost of chips, the fair market value, then backs up the cost, and that is the price at which the stumpage is set.

If the chip market price is $1, then back up the cost of producing that quantity of chips, and that is what the minimum stumpage fee is going to be. That is the way it is in all the other States.

But in Alaska, they say that the process is not at the chip level; it is at the price you sell your pulp in Japan and/or in Korea. Seventy percent of that cost is in the manufacturing. The Forest Service sits there and makes a judgment as to what are the costs they will accept in that manufacturing process.

If they like the depreciation, they will accept it. But if they do not like the depreciation, the mill does not get it. If they do like your cost estimates, the mill will get them. If they do not like them, the mill will not get them.

That means they now determine exactly everything done in that manufacturing process. They control it like a total public utility.

Is that what the Members of this Congress want? Do they want this process to go forward? Mind you, Mr. President, they are not doing this under an act of Congress.

Until 1973 in Alaska they used to do it the same as every other State. In 1973 they tried this new method. Do Senators know what has happened since this new method has been instituted? There have been two fluky sales of timber. Our people in Alaska cannot buy timber.

We have a situation in Alaska where the Ketchikan pulp mill lays off people in the woods and goes down to Canada and buys chips. That is the situation we have.

I am told, "Let us wait. Let us give this another study. The Forest Service does not like it."

Of course the Forest Service does not like it. They are setting up a monopolistic situation where they have socialistic control and they are going to make it work in Alaska. The tragedy is they will make it work to the point where we will not have an industry.

What happens this year means that 2 years from now, the lead time we need to operate, our mills will not be there because people are not buying timber.

The proof is very simple: There are no timber sales being made in Alaska. There have not been any meaningful sales for 2 years. What are we going to do with our mills? We can come back to Congress 2 years from now when they close down the mills and say, "We need some succor. We need more welfare. We need special treatment for Alaska, that is what we need, because the Federal Government just wiped us out."

When people say this is a subsidy to a foreign company, there is no question but one of the pulp mills is owned by a Japanese concern. In the last 20 years they have not made a profit except for 2 years ago. Thank God we have suckers like that who will invest in Alaska.

We had the Forest Service raise the stumpage fees in 1975 by 300 percent, in 1 year. If that were done in the private sector we would have the liberal community in the Senate yelling for a Government investigation, and the conservative community on the other side would be decrying the fact that this is horrendous and terrible.

In 1 year the Government raised the stumpage fee in Alaska 300 percent. That is why nobody is buying any timber in Alaska.

Let me explain my amendment. What my amendment says is that the practice has to be the same as the Northwest. If the Secretary of Agriculture thinks that is wrong, then he has to prove it to the Congress. He can stop it. If this amendment is wrong, the Secretary of Agriculture can correct it. But if he does do that, then he has to come forward to the Congress and tell us why.

The argument made against this is that this may have a competitive disadvantage to the Northwest. There are a lot more votes in the Northwest than there are in Alaska, but I think there is a spirit of fair play in the Northwest.

The worst that would be done to the Northwest is that in the foreign market place it would make us equal because our evaluations would be equal.

We would not get the bureaucracy that can frag us and make us uneconomic in Korea and uneconomic in Japan to the advantage of the Northwest. That is what would happen. That is the worst that could happen because there is no way we are going to compete with the Northwest by bringing our chips down to the Northwest. We have to ship those on Jones Act tankers and, obviously, that extra cost would make us uncompetitive.

The argument is that the Forest Service is against it. If the Forest Service is against it, then all they have to do is to get the Secretary of Agriculture to come forward and wipe out this amendment, but tell us why.

This is a statutory treatment, they say, when no other statutory treatment is required. My answer is if any bureaucracy of Government were causing unemployment, all Senators would be on this floor just as I am asking for some statutory succor. All we are asking for is to be treated as any other State.

The statement was made that the language in this is new. Well, I think any person who can read the English language can read it and make a judgment as to what it does. If there is any question about it, I would be happy to wait overnight. Let some attorneys look at it, and come back to it.

That is essentially what this amendment does. I would hope my colleagues might give us some degree of succor in this situation. We are talking about people who are being placed on the unemployment rolls. We are paying for it anyway. We are talking about putting this amendment on a bill where the people of the Northwest want succor because they have unemployment in their communities. If there is ever a bill this should go on, it is this bill because our unemployment, though smaller in number of people, is no less grievous to the individual who suffers that unfortunate circumstance.

Perhaps my colleague who is managing the bill would want to address himself to some of the facets of this amendment. Maybe I have been unfair in some of the statements I have made or have misrepresented what my amendment does. I would be happy to be corrected in that regard.

Mr. CHURCH. I am certain the Senator has been very careful to explain the amendment as he understands it. I want to assure him that I am for giving Alaska all the succor it needs, and I do not want to see the people of Alaska fragged, whatever that may mean.

Mr. GRAVEL. Fragged means you are getting hurt but you cannot put your finger on who is hurting you. That is what frag means.

Mr. CHURCH. Well, the Senator seems to have singled out the Forest Service. He may be right. The problem with this amendment is that it comes to us only this afternoon. We have had no opportunity to analyze it carefully.

If Senators would read it and could decide, on the basis of the text of the amendment, just what it means and are sufficiently satisfied to vote for it, I urge them to do so.

I must say, again, that when the Senator from Alaska first brought up this question, when the pending bill was before the Energy and Natural Resources Committee, we asked the Senator to submit language to us. He said that he would. However, the language was not submitted until this afternoon. We have had no opportunity to scrutinize the language. We have had no chance to call in witnesses. We have heard no testimony; no evidence has been presented to us concerning the language of this amendment.

Frankly, Mr. President, we would adopt this amendment in the dark if we agreed to accept it today and we would do so against some rather serious objections that have been raised that we have not had a chance seriously to weigh.

One of these objections is that the amendment might have the effect of giving a substantial subsidy to two large lumber firms in Alaska, one of which is a Japanese-owned firm. Another objection is that we are establishing a precedent by statute here in fixing a method for appraising timber that heretofore has been left to the discretion of the Forest Service. The implications of that precedent could be very serious. We ought at least to consider what the repercussions might be before we act upon an amendment of this kind.

Finally, there is a practical consideration. We are running out of time. The session is moving inexorably toward its finish, and we have not had this legislation acted upon in the House. We hope that the House could adopt a similar bill to the Senate's, so a conference could be avoided and the bill could be cleanly sent to the White House for the President's consideration before the end of the session. If we adopt this amendment, it is very likely that a conference will become necessary, and time is swiftly running out.

I have told the distinguished Senator from Alaska that I think he should have

his day in court. Now that he has presented his language, I have personally assured him that I shall do everything I can to assure that the committee has a hearing, to get the testimony before us, to be certain whether or not the charges made on this amendment are well founded. If they are not, I shall be happy to support the Senator in an effort to write his amendment into law in an appropriate legislative manner. But this is not the place to adopt an amendment of this kind without proper consideration by the committee.

On that basis, I hope that we do not have to go to rollcall again, because I am certain that the Senate will reaffirm the decision it has previously taken and reject the amendment as offered to this bill at this time.

Mr. GRAVEL. If I may just speak to some of the points. One, the amendment does not come just this afternoon. I brought this problem to the committee in earlier representations. Unfortunately, I am in this embarrassing situation, that the staff person who was dealing with the committee staff is no longer in my employ, so it is very tough for me to retrace what has happened. Particularly, I do not have him at hand to account what took place.

What was quoted to me was that the committee wanted to have a clean bill, so, therefore, they were not very sympathetic in taking up this problem.

Two, I would like to ask my colleague from Idaho if he would explain the statement that this is a subsidy. This is a very serious statement. I stand here on the floor to try to correct a problem that affects my State. A response is made to my effort that this is going to be a subsidy to a foreign corporation that operates in my State and to an American corporation that operates in my State. I think we should find out what that subsidy is and how it works, because I do not see how it works.

Mr. CHURCH. What I said was that the Forest Service had made the assertion that the adoption of this amendment would result in a subsidy to those two companies. Then I said we have had no chance to examine that assertion or to determine whether or not it is well founded. All we ask is an opportunity to do that.

I have checked again with the staff and I am told that the language of this amendment was not previously submitted to the Energy Committee, and I must say that, personally, the first time I saw this language was when the Senator gave me the amendment this afternoon.

I want to cooperate with the Senator from Alaska. If he has a problem, I should like to help him solve it; but I think regular Senate procedures should be followed.

Mr. GRAVEL. If I could ask this: Was there any communication from the Forest Service that this is a subsidy to some foreign corporation, or where did the Senator get that information?

Mr. CHURCH. Let me check.

I am informed that, after the Senator presented the amendment today, it was read by the staff here. The Forest Service was then telephoned and the amendment was discussed with the Forest Service.

As I say, we have had no opportunity, to measure the charge that they made, but it is a serious one, and we should know what we are doing before we act on the proposal.

I shall cooperate with the Senator to give him his forum. We shall ask the Forest Service then to explain its position, and we shall have an opportunity to question the Forest Service on this subject.

Mr. GRAVEL. As my colleague has stated, we are going to be rushing headlong toward adjournment in October. Obviously, before the Congress gets cranked up again next year, we shall be laying off people now in Alaska on this problem. We are looking toward a situation where there is not going to be timber to cut to keep the mills going 2 years from now. So we may, in all deliberateness, through the Senator's efforts, treat this stuff aggressively next March or April. But what do I tell the people who are going to be disengaged from their jobs because of that 3- or 4-month delay?

You see, here is the difficulty I am placed in: The Forest Service makes really outlandish accusations of a foreign subsidy. The only thing that I can figure is that, if the chips are evaluated in Alaska at the same price they are evaluated in the Northwest, when we ship our chips abroad, we may be competitive with the Northwest. So, if there are a number of Senators from the Northwest on this committee, they may not be too aggressive in trying to give us succor in this situation, because it really is not to their economic convenience to do that. That may be so.

I know the Senator from Idaho would not be party to that callous situation, but where does a person in my position seek succor when we may have a competitive interest with the Northwest in this regard?

Mr. CHURCH. I assure the Senator from Alaska that when the matter is brought before the Energy and Natural Resources Committee, he will get a fair hearing. I am certain that the members of that committee will weigh the proposal on its merits. I have never known the committee to permit improper considerations to weigh against a proposal if it has merit. I only want the committee to have the chance to determine what the merits are.

Mr. GRAVEL. I appreciate that. I am prepared to take my colleague at his word in this regard. I know he will help me press that. In that light, I am prepared to withdraw my amendment.

I want to say that time is of the essence in this regard. I do know that we are fleeting toward the end of the session. I do know it would be a great service that the committee would perform for the people I represent, to give us a brief hearing before the session adjourns. I hope that my colleague will press for that. What I would do is, if we had a hearing where this language was examined, maybe even the language corrected, then I could bring it to the floor again and tack it onto almost anything that is going toward the House. I should like to try to do that before the end of the session. I think it is only fair, because the 6 months is going to be a period of time that is going to be extremely dear to the people of Alaska. If my colleague would indulge me in that, I would appreciate it.

Mr. CHURCH. The Senator makes a reasonable request. He has the assurance of this Senator that I shall do everything possible. I shall speak to Senator METCALF about the Senator's concern. He is the chairman of the subcommittee. I am sure we can make an arrangement that will accommodate the needs of the Senator from Alaska.

Mr. GRAVEL. I think it would be fair to say, since I heard the words "this Senator," that, obviously, that is all the Senator can speak for, "this Senator." That may be a restriction. I think my colleague would be prepared to say it would be only fair on my part to bring this matter up again to the body before adjournment. It would not be improper, hoping that the committee would have examined the situation.

Mr. CHURCH. I never questioned the propriety of any action the Senator has taken in connection with his amendment. He is entirely within his rights to offer it.

I have given the Senate my arguments why I think it would be unwise to adopt it at this time. But the Senator is only accountable to the people of Alaska. He represents them very well.

Mr. GRAVEL. I appreciate the courtesy of the Senator from Idaho in that regard.

I withdraw this amendment and hope to have an opportunity to press it before the end of the Congress and hope the committee will give us the courtesy to look at a very serious problem, which is perishable.

Mr. CHURCH. I thank the Senator.

Mr. GRAVEL. Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

UP AMENDMENT NO. 833

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 833.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 3, insert the following:

That section 14(1)(1) of the National Forest Management Act of 1976 (P.L. 94–588; 90 Stat. 2949) is amended by striking out the colon and all remaining material in paragraph (1) and substituting in lieu thereof a period.

Mr. STEVENS. Mr. President, today I am submitting an amendment to S. 1360 now being considered by the Senate which would amend the National Forest

Management Act, Public Law 94–588, to allow lumber companies in Alaska, which qualify as "small business concerns" to request that the U.S. Forest Service construct logging roads. This bill simply classifies Alaska in the same category as the rest of the States in the Union. Section 14(i)(1) of the National Forest Management Act passed in the 94th Congress, allowed timber companies which qualify as small businesses in the other 49 States, to request that the Forest Service construct logging access roads for them. However, Alaska was excluded during the conference committee which was held on this bill. No explanation was given in the bill or its report for this exclusion and there was no stated justification for this exclusion. Therefore, I am introducing this amendment to correct the matter.

Loggers in Alaska need the benefits of this provision as much, if not more, than other States, since our cost of living is much higher. Also, it costs Alaska loggers much more than their competitors to ship to markets.

It is extremely important to Alaska to give our developing timber industry the same advantages as the rest of the United States. In order for Alaskan industry to compete in the national market we must not hinder their access to the resources. Allowing the Forest Service to construct logging roads for small timber companies in Alaska will not only allow them to compete economically, it will also insure that the roads are built in the most ecologically sound manner possible.

As I stated earlier, this amendment will bring the State of Alaska in line with the rest of the United States. I urge my colleagues to adopt this amendment and vote in favor of S. 1360.

Mr. President, I would like to ask the Senator from Idaho about this amendment. It pertains to a provision in Public Law 94–588 which applies only to Alaska and which qualifies small business concerns.

The purpose of this amendment would be simply to classify Alaska with all the rest of the States of the Union with respect to the National Forest Management Act we passed in the 94th Congress.

I have discussed it with the Senator from Idaho. I wonder if he could enlighten us as to what his viewpoint would be concerning the amendment.

Mr. CHURCH. Let me say that the amendment offered goes to a section of the law that I originally suggested in conference and it relates to small mills.

My reading of the Forest Service regulations that were since adopted to give effect to that section is not untypical. The regulations. it seems to me, go about as far as they can to frustrate the provision in the law.

The regulations require that before bidding on any timber sale, the small operator must make a decision as to whether he would build the road or ask the Forest Service to build it.

The regulations further provide that if any small operator who wants the Forest Service to build the road wins the sale, the Forest Service then defers the award of the sale until a satisfactory road contract can be awarded. As determined by the Forest Service, if no satisfactory road contract can be entered into within 120 days after the sale is sold, the Forest Service can ask the small operator to build the road or they can reject all the bids and resell the sale.

I cannot imagine a combination of regulations better calculated to frustrate the intention of this provision of the law than the ones to which I have just referred.

Let me read the law itself. The pertinent section reads:

(i) (1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of $20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as "small business concerns" under the Small Business Act, as amended, and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed road: *Provided,* That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska.

Our purpose in enacting this section was to try and permit small operators to bid on sales where they lacked the resources to construct the necessary roads. We wanted to give those operators the option of having the Forest Service build the roads rather than force that burden upon the small operator who might not have the equipment or capital.

That was the purpose of this provision in the law.

It seems to me the regulations have made it very difficult for the small operators to take advantage of the law.

Mr. STEVENS. I thank the distinguished Senator from Idaho.

The problem we have has already been gone into, to a great extent, by my colleague in regard to the Alaska timber industry with high labor and capital costs, a harsh environment and extremely complex stumpage appraisal system. But by including Alaska in the section the Senator just read of the Forest Management Act, we would eliminate one of the disadvantages that applies to small timber operators in Alaska.

There is a discrimination in effect, even though it is not working as well as we would like to have it work in what we call the South 48. It is an extra burden on our small timber operators and we are trying to bring about the growth of additional——

Mr. CHURCH. Because of the exclusion.

Mr. STEVENS. That is right.

Mr. CHURCH. Yes.

Mr. STEVENS. And it is because of the burdens in the regulations, plus their exclusion, that leads to a double burden.

Mr. CHURCH. Let me make this suggestion to the Senator. I think that in view of the very tight regulations that have been written and the special case that Alaska may have for being included along with the South 48 under this particular provision of the law, that the committee should hold an oversight hearing and determine the extent to which the Forest Service has through its regulations implemented the congressional objective, the ways in which these regulations might be changed, and the repeal of the provision which excludes Alaska from the application of this provision of the law.

If we could hold those oversight hearings we might have an opportunity to clear up all the problems that relate to this matter.

Mr. STEVENS. Let me say, the problem is that Alaska has long sought to be excluded from the roadbuilding requirements of the regulations.

As a consequence of having the small business operator excluded in the manner in which this law was written, plus the regulations, it becomes an extra burden rather than an exception from already burdensome road requirements.

We sought, for instance, not to have to build roads to standards that would imply they could be used for recreational access roads when they are on islands on which no one lives. We sought to be excluded from the standards of having to build and put in culverts that would last 50 years in a situation, again, where we are logging on an island where we do not want the culvert to exist, but the natural drainage to be restored as quickly as possible.

But we got excepted from this requirement and the net result of the law, plus the regulations, has led to an added burden to the small loggers.

Mr. CHURCH. I understand better the problem faced by Alaska. I assure the Senator that his concerns will be taken into full account in an oversight hearing which will look into the situation and the ways the Forest Service either sought to implement or obstruct.

Mr. STEVENS. I appreciate that.

Mr. McCLURE. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. McCLURE. Mr. President, I certainly agree we need to give some close look at the peculiar, special problems attendant to the situation in Alaska.

I think, too, that we need to look further than that. We have a very basic problem with Forest Service roadbuilding policy. They are an environmental disaster often, as well as an economic disaster. They are requiring roads to be built to standards far in excess of any reasonable cost. It is driving the small operator out of business. It is rendering a number of timber marginal sales into deficit sales. It is greatly increasing the environmental degradation in areas where it could be avoided. But we are not going to get the Forest Service to change that policy voluntarily. It is something that will have to be legislated by the Congress of the United States. So I hope that if we get into this question, we will look at the Alaskan problem also in the context of general, overall Forest Service policy.

Mr. CHURCH. The Senator makes a very good point, with which I fully agree.

Mr. STEVENS. I say to both Senators from Idaho that it seems to me we have been clear in our intent. To a certain extent, the Forest Service should not bear

the full brunt of the feelings of the small businesses in the logging field, because some of this misunderstanding has come from a feeling that the congressional intent, somehow or other, was to upgrade these logging roads, to upgrade them to the point without regard to whether they are going to be used in the State highway system or the recreation highway system, and that needs to be clarified.

Mr. McCLURE. In my conversations with them—and this goes back over a number of years on this point—they also say that they need some legislative direction if they are going to do other than build these roads to the highest possible safety standard. They hang their hat on that continually. I think they are entitled to that legislative direction, and we should give it to them.

Mr. STEVENS. I agree. When these roads have a possibility of being subjected to such use, Congress should face up to the question of who is going to pay for them and not put the burden on the small logger. On the other hand, should they have no possibility for such use, there is no reason to require the construction of such roads, in my opinion.

Obviously, there are others who feel that this section is not meeting the intent of Congress nor the needs of the wood product industry. There are many questions on the implementation of this section which need to be answered by the industry and the Forest Service. One in particular that I am concerned about is how the Forest Service compiles its cost estimates for road building. In Alaska, the Forest Service estimates of cost and the logging company's estimates often vary by tens of thousands of dollars. We also need to look at the Forest Service's definition of a small business, under this section, in relationship to the unique situation of the Alaskan timber industry as a whole.

As my colleagues from Idaho have said, we need to examine the regulations that relate to this section. Even if Alaska is to be included in section 14(j) of the act, if the law is not properly implemented it might cause more problems than it solves. We must insure that the intent of the legislation, which was to be of assistance to the small businesses involved in logging, is fulfilled by the Forest Service regulations.

In conclusion, I would again like to remind by colleagues of the problems that the timber industry is having in Alaska. My amendment would alleviate one of the problems that the industry must now overcome. I urge my colleagues to carefully consider the need for their attention to this matter.

I thank the Senators for their comments. In view of the action that already has been taken on the Alaska amendments, I withdraw my amendment. I look forward to the oversight hearings that Senator CHURCH has indicated he is willing to hold, concerning this provision and the Forest Service road construction program.

Mr. CHURCH. I thank the Senator.

The PRESIDING OFFICER (Mr. MATSUNAGA). The amendment is withdrawn.

The question now occurs on the amendment offered by the Senator from Montana.

AMENDMENT NO. 529

Mr. CHURCH. Mr. President, I urge that the Senate approve the amendment offered by the Senator from Montana, since it conforms completely with the purposes sought to be served by both committees, the Energy Committee and the Agriculture Committee, which have endorsed this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

Mr. BUMPERS. I should like to be recognized for such time as I may use, but to the Senators present I say that I can summarize in no more than 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BUMPERS. Mr. President, there are three or four things to which I wish to respond.

When it comes to oral bids, nobody has ever satisfactorily explained how an oral bid guarantees a mill in a small community that it is going to get the timber.

If the National Forest Service nominates a tract of timber for sale and a dependent community is there which would like to have it because they have a big mill that employs many people, they can bid orally; but if anybody else there wants the timber worse than he does, he will get it.

So, No, 1, oral bidding does not guarantee anybody anything.

No. 2, oral bidding is only effective when there are at least two bidders, both of whom want and need the timber. I do not care if you have 10 bidders. If only one there really needs it, he is the one who is going to get it, because the others are not going to shoot their best stick.

Third, under the present law, which has been on the books only 10 months, the Secretary of Agriculture already has indicated that he will allow 75 percent of the bids to go on an oral bid. I happen to disagree strongly with that, but it certainly would beat the proposal we are debating now.

I want every Senator to know one thing: If this legislation is passed, the Secretary of Agriculture will have little discretion. One hunderd percent of the bids which qualify under the language in the bill will be oral. The Secretary will have no discretion left.

The Senator from Montana said to me a moment ago, "Surely, they sell something in Arkansas on an oral bid. Don't you have livestock in Arkansas? Don't they sell livestock through the auction ring?"

Of course they do, but that is private property, Mr. President. That is not public property. Any person in Arkansas who is in the livestock business and who does not want to put his livestock through the auction ring does not have to. He can have bidders come to his lot and buy them, and it is done.

We are not talking about private property; we are talking about the public domain. We are talking about property that belongs to 215 million people.

I am not going to bore anybody by reporting the letter from the Justice Department, which strongly opposes this amendment. A copy of a letter from the Secretary of Agriculture is on the desk of each Senator, and he strongly opposes this amendment. They all oppose it, for very valid reasons.

Finally, Mr. President, I have a statement that I promised the distinguished Senator from Minnesota (Mr. HUMPHREY) I would read into the RECORD.

HUBERT HUMPHREY was instrumental in the drafting of the law last year which this legislation proposes to amend. He and I and the Secretary of Agriculture and many others feel that this law has not had an opportunity to work. The Secretary of Agriculture says it has not had an opportunity to work. I read Senator HUMPHREY's statement as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY

I must oppose this legislation because I believe any changes in current law to be premature.

When it comes to timber bidding on U.S. owned forest lands, I have two primary concerns. The first is that small, local firms should have an opportunity to secure a local supply of timber. After all, many local communities rest their economic vitality on small lumber firms that are largely dependent on local timber supplies. My second concern is that the citizens of this great nation should receive a fair price for the timber that belong to us all.

These were foremost among my concerns as a sponsor of the National Forest Management Act of 1976 which is now Public Law 94–588.

The bill before this chamber would do nothing to preserve or enhance the economic viability of small logging towns that current law would not, in fact, already do. I am concerned that any meddling would have a different impact. I am concerned that changing this law would give a small number of lumber giants the opportunity to engage in bidding practices which would possibly give them timber at a cost lower than would occur with sealed bidding. In fact, statistics support this concern.

I trust that the members of this body realize that in voting for any change in law that they would be altering a law that has been on the statute books just over 10 months.

Let us examine PL 94–588, particularly as it relates to the economic viability of small communities.

This law, which was signed by a Republican President on October 22, 1976, requires that sealed bidding take place except where the Secretary of Agriculture determines otherwise by regulation.

Now, this does not mean that oral bidding cannot take place. In fact, just the opposite is true. Oral bidding can and will take place when and where the Forest Service believes it is necessary to preserve the economic viability of local communities. Thus far, 183 communities meet this test.

I am concerned that regulations may not be fully consistent with the intent of Congress in this regard. Perhaps there should be some changes that would increase opportunities for small towns to secure a local timber supply.

Despite the possibility that regulations may not go far enough, I do believe that the intent of Congress is clear on this matter

and that administrative changes could correct any deficiencies.

While parts of the regulations may need improvement, other parts fully represent the intent of Congress. In fact, one section of the regulations declares the authority to permit full oral bidding under circumstances where the economic viability of a local community is at stake. Let me quote:

"The regulations were revised to increase the normal portion of oral auction bidding in areas tributary to dependent communities and to authorize increases to 100 percent oral auction when necessary to give local firms an opportunity to meet outside competition." (Federal Register, Page 28253, June 2, 1977.) This language is unmistakable and represents the intent of Congress.

I understand the concern of large timber interests in the West, which have enjoyed oral auctions for nearly three decades, that they will have to adjust to a new system of sealed bidding. This will force them to alter their tactics, to bid, perhaps, a little more than they would otherwise bid. However, it will, I believe, make bidding more fair to all parties concerned.

I believe that sealed bidding, under normal circumstances, is a far superior method of bidding than oral bidding. It makes collusion more difficult and gives all parties more of an equal footing.

I respectfully urge my colleagues to defeat any move that would change current law. We have only had this law for 10 months and there is not one shred of evidence to indicate that it cannot work. I realize that the Department of Agriculture and Forest Service may not be implementing the intent of Congress as it relates to PL 94–588 to the degree it should, but that is another matter. I urge my colleagues to vote against any changes in this law.

Mr. President, I certainly join my colleague, Senator HUMPHREY, in also urging my colleagues to defeat this amendment, and I am prepared to yield back my time if the floor manager is, and we can vote.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, has the Senator completed his arguments?

Mr. BUMPERS. I say I am prepared to yield back my time if the Senator from Idaho is.

Mr. CHURCH. I would just like to make a very short summation in support of the bill.

The distinguished Senator from Arkansas has said, in effect, "Do not legislate the traditional bidding practices in the Western States into law. Leave it to the Secretary to handle that matter through regulations."

It has been our experience with the Secretary and the way he has handled the matter through regulations, that they have failed to comply by the intent of Congress, they have come up with a set of gyrating regulations that moved like a pendulum from one extreme to another within a few brief months. That finally forced us to come to the Senate seeking a legislative solution. A solution that is now endorsed both by the Energy Committee and the Agriculture Committee.

In the course of the debate it has been emphasized that the newest set of regulations is adequate to protect the needs of dependent communities in Western States, those that have to rely upon the national forests for their supply of lumber, and where the community rests upon the continued activity of a single mill.

In a very short review of those States, we have identified at least 47 communities that, in our view, are dependent communities but are not included in the latest set of Forest Service regulations.

Mr. President, I ask unanimous consent that a listing of those communities be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

State, and possibly dependent communities:

Colorado	10
New Mexico	1
California	16
Montana	3
Idaho	5
Wyoming	1
Oregon	2
Washington	9
Total	47

COMMUNITIES NOT LISTED AS DEPENDENT BY THE FOREST SERVICE

Community, population, number of mills, number of workers, and average annual volume (MMBF):

COLORADO

Montrose, 6,496, 2, 196, 21.
Monte Vista, 3,909, 1, 130, 14.4.
La Jara, 768, 1, 36, 4.
Granby, 554, 1, 32, 3.6.
Walsenburg, 4,329, 1, 28, 3.1.
Weston, 200, 1, 22, 2.4.
Cortez, 6,032, 3, 86, 9.6.
Laporte, 800, 1, 22, 2.4.
Trinidad, 9,901, 2, 43, 4.8.
Craig, 4,205, 1, 116, 11.8.

NEW MEXICO

Espanola 1,665, 1, 200, 24.

COMMUNITIES NOT LISTED AS DEPENDENT BY THE FOREST SERVICE

Community, population, number of mills, 1976 percent of N. F. timber, forest products share of total basic employment:

CALIFORNIA

McCloud, 1,643, 1, 10, 100.
Central Valley, 2,361, 1, 70, 90.
Truckee, 1,392, 1, 30, 25.
Arcata, 8,985, 12, 20, 90.
Marysville, 9,353, 2, 53, 15.
Dinky Creek, less than 1,000, 1, 100, 100.
Madera, 16,044, 1, 80, 7.
Dinuba, 7,917, 1, 91, 20.
Porterville, 12,602, 1, 82, 10.
Mt. Shasta, 2,163, 2, 20, 60.
Weaverville, 1,489, 1, 40, 100.
Rio Dell, 2,817, 2, 15, 90.
Anderson 5,492, 7, 40, 85.
Wildwood, 200, 1, 60, 100.
Garberville, 900, 1, 54, 50.
Red Bluff, 7,676, 4, 40, 70.

Town, population, number of mills, mill workers, volume (million bd. ft.).

MONTANA

Darby, 538, 1, 140, 20.
Conner ?, 1, 150, 20.
Dillon, 4548, 2, 125, 25.

IDAHO

Crofino, 3883, 1, 300.
Craigmont, 554, 1, 50, 15.
McCall, 1758, 1, 180, 30.
Emmett, 3945, 1, 600, 100.
Mt. Home, 6755, 1, 160, 20.

WYOMING

Evanston, ?, 2, 54, 6.

Town, population, number mills, number workers, vol. (million bd. ft.) percent dependent on National Forests:

WASHINGTON

Tonasket, 985, 1, 95, 18m, 95.
Oroville, 1560, 1, 85, 12m, 95.
Kettle Falls, 975, 3, 410, 110m, 85.
Coville, 4350, 3, 641, 93m, 85.
Peshastin, 1402, 1, 200, 40m, 95.
Entiat, 381, 1, 225, 25m, 95.
Cashmire, 1956, 1, 160, 32m, 95.
de Elum, 1725, 1, 75, 15m, 75.
WallaWalla, 43,000, 2, 230, 56m, 100.

OREGON

Oak Ridge Westfir region, ?, 2, 600, 100m, 85.
Prairie City, 800, 1, 90, 18m, 100.

Mr. CHURCH. It has also been argued that there is something sacrosanct about sealed bids as though this is the only method by which the Government ever disposes of any of its property.

Well, Mr. President, there is nothing sacrosanct either about sealed bids or oral bids, but there are lots of ways the Government disposes of its property other than by sealed bids.

For example, sealed bids are not used when sites on rivers for hydropower dams are designated or when licenses for radio and television stations are granted or when rights-of-way across public lands are made available.

Sealed bids are not used for mining claims, or grazing leases, or 10-year grazing permits. Sealed bids are not used for disposing of public domain lands under the provisions of the Desert Entry Act and other laws. Sealed bids are not always used for the sale of timber in cooperative sustained-yield units. Sealed bids are not used for selling electric power produced by the Bonneville Power Administration or the TVA or for oil and gas leases not located on known petroleum fields.

Sealed bids are not used for geothermal leases not on known geothermal fields. Sealed bids are not used for water from Federal reclamation projects or for fees for passage through Federal locks; for Federal gas or oil leases or for phosphate leases or sulfur leases.

Now, what is the basis for this argument that there is something so sacrosanct about the sealed bids that any return to traditional practices based upon the need of dependent communities in the West is somehow an offense to the public interest?

Well, it is suggested somehow, in some way, that oral auctions will not produce the same revenue for the Government.

All of the facts speak against such an allegation. Even the most recent figures from the Forest Service itself demonstrate that oral auctions brought in larger revenues in the second quarter of 1977 than sealed bids in the very States that are most concerned.

When we asked the Forest Service Chief to give us his appraisal of which bidding method was best in terms of revenues returned to the Government, based upon his long experience, he said in areas where there is lots of competition oral auctions bring the biggest revenues, and in areas of moderate competition it makes no difference; while in

areas where the big companies dominate, sealed bids are best.

Well, gentlemen, it happens that in the Northwest we still have active, lively competition, and the support for this bill comes from the small businesses that make that competition possible. They are the ones who have sought it; they are the ones who know that without it the existence of many a small mill is in jeopardy.

You go to sealed bids on some theory that they are elevated above all other methods of transaction, and you will soon find that the public forests have become a big tree farm for a few gigantic lumber companies. They are the ones that have the best leverage when the only method is the sealed bid method.

So, for these reasons, and in the hope that small communities can be kept alive and small business can stay lively, healthy, and sound, I hope the traditional practices that have so well served these Western States can be restored through Senate approval of this legislation.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. CHURCH. Yes; if I have time I would be glad to.

Mr. DOMENICI. I would just like 2 minutes, if there is time remaining.

The PRESIDING OFFICER. The Senator from Idaho has 4 minutes left.

Mr. CHURCH. I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. That is not going to deny the Senator from Oregon his right?

Mr. HATFIELD. That is all right.

Mr. DOMENICI. Let me commend the Senator from Idaho and the Senator from Oregon for their leadership in this field. Let me give Senators who are here by practical analysis what this sealed bid versus oral bidding has to do with the small bidder located close to his community.

First of all, it is commonsense that, if a local bidder who needs the particular forest that is close to his mill goes to a bid letting and they are talking orally about bids, is he not going to bid the maximum right there and then that day as contrasted with what he is going to put in a sealed bid? It is absolute commonsense that we are going to get better bids and more money if a little bidder with lumber right close to him—and that is the only way he can live—he cannot go 4,000 miles away, he is here in this room, and we are having some open bids, and we are bidding orally.

When the big fellow bids right up close to the margin, he has a last chance to look at his last chance, and he has been doing it, and he will raise the bid because his life is right there.

In fact, I think it is safe to say he would bid at a loss to stay alive, which is the very impact we are trying to build in this bill, the last opportunity for the sole source of supply type of community located close to that resource to bid the maximum. And I have evidence in my State where a local bidder puts a sealed bid in and loses to someone who does not need it so desperately, because that person is 2,000 miles away, but my man made his best chance. They would be there orally.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. DOMENICI. Had the small lumberman located close to that resource been there, he would have bid more because his very life is depending upon it. So there is no other issue other than can they get away with more, and I think the record is rampant that they cannot conspire, they cannot rip anyone off, they cannot deny any prosecution to anyone. All the other rights of the Government are there, and this is good both for the little person and Americans are protected, and I do not see where this sanctimonious approach has any merit in this particular case.

Mr. CHURCH. I thank the Senator very much.

I am prepared to relinquish my time.

Mr. BUMPERS. Mr. President, I might respond to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. He talked about all those instances in which the United States takes oral bids. Virtually every one of those things from TV licenses on are not put up for bid. Those are awarded.

Mr. CHURCH. That was not my statement.

Mr. BUMPERS. There is an application and those licenses are awarded.

Mr. CHURCH. That was not my statement. My statement was as to those cases where sealed bids were not used. The illustration was simply to demonstrate sealed bids are not the only method by which the Government disposes of licenses and property.

Mr. BUMPERS. That is a far cry from an oral auction.

Mr. President, I shall make three or four comments.

The Melcher amendment, which was adopted on a voice vote, is not an amendment that has been through committee. I am not really raising that point. But we are always talking about what has been in committee and what has not. This is not the bill that came out of the two committees.

The State of Montana does not permit oral auctions, and yet they want the United States to permit oral auctions.

Idaho, Washington, and Oregon have not one word in their laws about economic dependent communities, nothing about economic viability, and yet they want the United States to provide for economic dependent communities out there.

Finally—if Senators wish to know the difference between a sealed bid and an oral auction—if I am in the lumber business and I go to an auction prepared to bid $200 for 1,000 board feet and the bidding gets up to $120 and stops, at an oral auction I am going to bid it for $121 because I am going to bid just that amount that is required to get it. But if they had asked me to submit a sealed bid on that I would have given them $200 for 1,000 board feet. That is exactly what the statistics have borne out.

The Senator from Massachusetts read a bunch of them, and I read a bunch of them. That is just the way it is.

For those people who are worried about those dependent communities, I want them to bear in mind that under the present law the regulations of the present law provide that the Secretary of Agriculture can still permit 75 percent of the sales by oral auction.

Do Senators know what this amendment is for? They are not satisfied with 75 percent. They want 100 percent.

Do Senators know what the Justice Department says? There is not any way for them to police collusion in oral bidding, and they are opposed to it. The Secretary of Agriculture is opposed to it. I am opposed to it, and I hope all Senators will be opposed to it.

I urge the defeat of this amendment.

Mr. President, I yield back the remainder of my time

ADDITIONAL STATEMENTS SUBMITTED

Mr. HAYAKAWA. Mr. President, I would like to express my support for S. 1360, a bill to amend the National Forest Management Act. By amending section 14(e) of this act, we would return to the traditional methods of selling timber in our national forests in the Western United States. Over the past 30 years most of the timber sold in the West has been sold at oral auctions. In some areas, the Government timber is the only timber available, and the mills are completely dependent on the national forest timber sales.

Under the provisions of S. 1360 the Secretary of Agriculture would be authorized to allow oral or sealed bidding for timber sales on national forest lands. At this time sealed bidding for national forest timber is the rule, while oral bidding is the exception. The amendment would simply authorize the Secretary to alter whatever bidding methods he may be employing if he has reason to believe that collusive bidding practices may be occurring. The amendment would not provide a statutory preference for any particular bidding method.

In a sealed bidding situation, each person has only one opportunity to bid on the timber sale. A person may put in what would be considered a very high bid on the timber, only to find out that another bid had been higher. He has no opportunity to make a second bid on the sale; he simply loses the sale completely.

A small local mill may be very low on timber, and staying in business may depend entirely on obtaining a certain timber sale. His competitor may bid extremely high to drive him out of business. Or he may bid very very high in order to insure that he gets that particular sale, and the result may be that he overbids to the extent that he must forego any future profits from this particular timber sale, in order to avoid going out of business.

Oral timber auctions do not insure that one particular party gets a sale, but

merely brings the competition into the open. Oral auctions give the local mill operators opportunities to raise their bids if theirs is not the highest. Under the sealed bidding system a timber purchaser could participate actively in several successive national forest timber sales in the market in which he operates, and not make a single purchase. For timber purchasers in dependent communities with no alternative sources of timber from private lands, a succession of losing bids will likely result in timber processing plant closings. In dependent communities with narrow economic bases that rely on particular mills, a mill closing means not only the loss of jobs for a certain number of workers but also the loss of the economic vitality necessary for community stability.

Mr. TOWER. Mr. President, would the distinguished floor manager of the bill yield for a brief colloquy?

Mr. CHURCH. I would be happy to yield to the distinguished senior Senator from Texas.

Mr. TOWER. As the Senator from Idaho is aware, most of the timber sold by the Forest Service in the Southern and Eastern portions of the United States is sold by sealed bids. That sale method has been used traditionally in Southern States like Texas, and it has worked very well. Would this bill allow the continued use of sealed bids in the Eastern national forests?

Mr. CHURCH. Without question, that is the intent of the two committees. Private lands provide an alternative and easily accessible source of timber in the Senator's part of the country, most Federal timber sales there are relatively small, and sealed bids have become traditional. The committees see no reason whatsoever why sealed bids should not continue to be used in the South and East. Section 14(e) of the National Forest Management Act had no appreciable effect on the timber economy in the East and S. 1360, as amended, would also have no impact on eastern timber purchasers.

Mr. TOWER. I appreciate having these assurances from the Senator, and I thank him for yielding.

THE NEED TO RETURN TO ORAL BIDDING IN THE WEST

Mr. HATFIELD. It is the intent of S. 1360 to permit the Forest Service to return to oral bidding in those parts of the West where it has historically been used.

Secretary of Agriculture attorneys have interpreted section 14(e) of the National Forest Management Act to severely limit the flexibility that the Forest Service has to use oral bidding, even when there is no suspicion that collusion is occurring. As has been explained earlier, this result was not intended by many of the conferees who were struggling to resolve the significant differences between the House and Senate versions of the National Forest Management Act. The bidding issue came up at the 11th hour of the conference and could not receive the attention it deserved. Several of those who sat as conferees for the Senate now support S. 1360 which would correct the all too apparent deficiencies in section 14(e) of the National Forest Management Act.

It is my understanding that, although it would not require the use of oral bidding, S. 1360 would modify the bidding provisions contained in section 14(e) of the National Forest Management Act and eliminate the apparent mandate to use sealed bidding in all situations.

Could the distinguished floor manager tell me what changes in bidding methods the committees intend the Forest Service to make when S. 1360 is passed?

Mr. CHURCH. You are entirely correct in your statement that S. 1360 would not mandate the use of any particular bidding method. The committee considered it desirable to give the Forest Service flexibility to use bidding methods as appropriate to serve the public interest and protect the economic stability of local dependent communities.

The committee does feel that, in those Western communities in which oral bidding has historically been used, it, in fact, does best achieve the objective of serving the public interest and protecting the economic stability of these communities. Therefore, the committee intends that, except in those instances in which there is good reason to suspect that collusion is occurring, the Forest Service will return to the use of oral bidding in those areas where it has historically been used.

Mr. DOLE. Mr. President, I take this opportunity to speak in favor of S. 1360, as amended.

The need for this corrective legislation can be traced back to a little noticed provision of the National Forest Management Act of 1976. The provision—section 14(e)—requires the U.S. Forest Service to utilize to a far greater degree the practice of sealed bidding, as opposed to oral bidding, in auction sales of timber from the National Forest System.

The purpose of section 14(e) is to eliminate collusion and price fixing among timber purchasers. There is little evidence, however, that sealed bidding is any less susceptible of collusion than oral bidding, and it is therefore questionable whether section 14(e) has eliminated any price fixing activities. What this provision has done is create hardships in regions of the country where oral bidding has traditionally been practiced.

When sealed bidding is employed, timber purchasers are permitted to make only one bid on the timber offered for sale. For sawmill operators in dependent communities with no alternative source of timber from private lands, a losing bid could lead to the closing of the mill. This, in turn, could threaten the entire community with economic depression.

When timber is sold by oral auction, however, timber purchasers are able to make several consecutive bids until they get the purchase. A sawmill operator who needs the timber to keep his plant in production can assure his supply by increasing his bid on the spot. He may have to pay more than he had planned to pay, but he gets the timber in the end. This is why oral bidding, rather than sealed bidding, is the traditional method of timber sales in the intermountain and northwest regions where there are many dependent sawmill towns.

S. 1360, as amended, would rewrite section 14(e) to remove the sealed bidding requirement which that provision establishes. The new language will permit the Forest Service to return to historic methods of sales of Federal timber, but will preserve the Service's flexibility to require sealed bidding, where appropriate, in situations where the Service suspects that collusive bidding practices may be occurring. Further, the bill authorizes the continued monitoring of bidding patterns and reporting of suspected collusion to the Justice Department.

S. 1360 was subject to thorough hearings in both the Agriculture Committee and the Energy and Natural Resources Committee in June of this year. The hearing record clearly indicates a pressing need for this legislation. Mr. President, the Senator from Kansas urges his colleagues to support this legislation, as amended.

Mr. BUMPERS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

All time having been yielded back, the question is on agreeing to the committee amendment, as amended. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 60 nays 29, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—60

Baker	Haskell	Moynihan
Bartlett	Hatch	Packwood
Bayh	Hatfield	Pearson
Bellmon	Hayakawa	Percy
Burdick	Helms	Ribicoff
Cannon	Huddleston	Riegle
Case	Inouye	Roth
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Johnston	Schweiker
Cranston	Laxalt	Scott
Curtis	Long	Stafford
Danforth	Lugar	Stennis
DeConcini	Magnuson	Stevens
Dole	Mathias	Stone
Domenici	Matsunaga	Thurmond
Durkin	McClure	Tower
Eagleton	McGovern	Wallop
Ford	McIntyre	Weicker
Hansen	Melcher	Zorinsky

NAYS—29

Allen	Culver	Morgan
Anderson	Glenn	Nelson
Bentsen	Gravel	Nunn
Biden	Hart	Pell
Brooke	Hathaway	Proxmire
Bumpers	Heinz	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sparkman
	Kennedy	Stevenson
Byrd, Robert C.	Leahy	Talmadge
Clark	Metzenbaum	Williams

NOT VOTING—11

Abourezk	Griffin	Muskie
Eastland	Humphrey	Randolph
Garn	McClellan	Young
Goldwater	Metcalf	

So the committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1360) was passed, as follows:

S. 1360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(e) of the National Forest Management Act of 1976 (90 Stat. 2959; 16 U.S.C. 472a(e)) is amended to read as follows:

"(e)(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as 'national forest materials'), the Secretary of Agriculture shall select the bidding method or methods which—

"(A) insure open and fair competition;

"(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

"(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

"(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

"(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

"(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

"(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

"(B) he may alter the bidding methods used within the affected area; and

"(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.".

The title was amended so as to read:

A bill to amend section 14(e) of the National Forest Management Act of 1976.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The Senate will be in order. Will Members please take their seats and cease conversations?

Mr. CHURCH. Mr. President, I ask unanimous consent that S. 1360 be printed as passed by the Senate, and that the Secretary of the Senate be authorized in the engrossment of S. 1360 to make any necessary technical and clerical corrections.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair proceed to implement the order entered earlier today under which the Senate now proceeds to the consideration of the saccharin bill.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with amendments, and which was reported from the Committee on Commerce, Science, and Transportation with an amendment.

The amendments of the Committee on Human Resources are as follows:

On page 2, line 6, strike "saccharin, calcium, saccharin sodium, and saccharin sodium tablets" and insert "calcium saccharin, sodium saccharin, and ammonium saccharin";

On page 2, beginning with line 9, insert:

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

On page 2, line 11, strike "3" and insert "4";

On page 2, line 14, strike "of Health, Education, and Welfare (hereinafter in this Act referred to as 'Secretary')";

On page 2, line 19, strike "toxicity or";

On page 2, line 19, following "carcinogenicity" insert "or other toxicity";

On page 2, line 20, following "to," insert "become a part of,";

On page 2, line 24, strike "toxic or";

On page 2, line 25, following "carcinogenic" insert "or other";

On page 3, line 1, strike "toxicity and";

On page 3, line 4, following "existing" insert "statutory";

On page 3, line 4, strike "and need for" and insert "for, and appropriateness of,";

On page 3, line 7, following "which" insert "current legal";

On page 3, line 8, following "use" insert "or occurrence";

On page 3, line 17, strike "Act" and insert "section";

On page 3, line 23, following "recommendations" insert "if any";

On page 3, line 24, strike "as deemed necessary";

On page 3, line 25, strike "the Institute of Medicine of";

On page 3, line 26, following "Sciences" insert "acting through the Institute of Medicine or other appropriate units";

On page 4, line 2, strike " 'Institute' " and insert " 'Academy' ";

On page 4, line 5, strike "Institute" and insert "Academy";

On page 4, line 7, strike "Institute" and insert "Academy";

On page 4, line 10, strike "Institute" and insert "Academy";

On page 4, line 22, following "toxicity" insert "or potential toxicity";

On page 4, line 23, following "carcinogenicity" insert "or potential carcinogenicity";

On page 5, line 12, strike "as deemed necessary" and insert "the Secretary deems appropriate";

On page 5, line 14, strike "(a)";

On page 5, line 18, following "saccharin" insert "published";

On page 5, line 19, strike "April" and insert "March";

On page 6, line 8, following the period, insert "In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of This Act.";

On page 6, beginning with line 12, strike through and including line 19;

On page 6, line 23, following "(o)" insert "(1)";

On page 6, line 23, strike "packaging" and insert "label";

On page 7, line 5, strike "packaging" and insert "label";

On page 7, line 9, strike "the package" and insert "such label and labeling. the Secretary shall periodically review and revise if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.";

On page 7, beginning with line 13, insert:

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection.

On page 8, line 4, following "sale" insert "not for immediate consumption";

On page 8, line 16, following the period, insert: "In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

"(r)(1) If it contains saccharin and is advertised on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement a health warning message concerning saccharin, as prescribed by the Sec-

retary. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to insure insofar as possible that it will have an equal impact on the viewers and/or listeners of such advertisement as any health warning message prescribed under subsection(s). The Secretary shall periodically review and revise, if necessary, the text of the messages required by this paragraph to make sure that they accurately convey the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the form and content of the messages required by paragraph (1) within thirty days after the date of enactment of this Act after affording an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obliged to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form and content of such message shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

"(s)(1) If it contains saccharin and is advertised by any medium of written communication, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement a health warning message concerning saccharin as prescribed by the Secretary. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to ensure insofar as possible that it will have an equal impact on the readers of such advertisement as any health warning message prescribed under subsection (r). The Secretary shall periodically review and revise, if necessary, the text of the messages required by this paragraph to make sure that they accurately convey the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the form and content of the messages required by paragraph (1) within thirty days after the date of enactment of this Act after affording an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form and content of such message shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.".

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling, and Advertising Act".

SEC. 2. For the purposes of this Act, the term "saccharin" includes saccharin, calcium, saccharin, sodium, saccharin, and ammonium saccharin.

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

SEC. 4. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary shall arrange for the conduct of a study or studies to assess and evaluate—

"(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

"(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(4) instances in which current legal requirements to restrict or prohibit the use or occurrence of such substances do not accord with the relationship between such risks and benefits; and

"(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this section. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations if any for legislative and administrative action.

"(c)(1) The Secretary shall first request the National Academy of Sciences acting through the Institute of Medicine or other appropriate units (hereinafter in this section referred to as 'Academy') to conduct the study or studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b).

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

"(1) the chemical identity of any impurities contained in commercially used saccharin,

"(2) the toxicity or potential toxicity of any such impurities including their carcinogenicity or potential carcinogenicity in humans, and

"(3) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include any recommendations for legislative and administrative action the Secretary deems appropriate.".

SEC. 5. During the eighteen-month period beginning on the date of the enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin published on March 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety. In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of this Act.

SEC. 6. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o)(1) If it contains saccharin, unless its label and labeling bear the following statement: "WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER". Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling. The Secretary shall periodically review and revise, if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection.

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.

"(q) If it contains saccharin and is offered for sale not for immediate consumption at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently displayed notice of conspicuous and legible type and at a place of reasonable proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall

include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin. In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

"(r)(1) If it contains saccharin and is advertised on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement a health warning message concerning saccharin, as prescribed by the Secretary. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to insure insofar as possible that it will have an equal impact on the viewers and/or listeners of such advertisement as any health warning message prescribed under subsection (s). The Secretary shall periodically review and revise, if necessary, the text of the messages required by this paragraph to make sure that they accurately convey the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the form and content of the messages required by paragraph (1) within thirty days after the date of enactment of this Act after affording an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form and content of such message shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

"(s)(1) If it contains saccharin and is advertised by any medium of written communication, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement a health warning message concerning saccharin as prescribed by the Secretary. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to insure insofar as possible that it will have an equal impact on the readers of such advertisement as any health warning message prescribed under subsection (r). The Secretary shall periodically review and revise, if necessary, the text of the messages required by this paragraph to make sure that they accurately convey the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the form and content of the messages required by paragraph (1) within thirty days after the date of enactment of this Act after affording an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form and content of such message shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.".

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

The amendment of the Committee on Commerce, Science, and Transportation is as follows:

On page 9, beginning with line 3, strike through and including page 10, line 6;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling, and Advertising Act".

SEC. 2. For the purposes of this Act, the term "saccharin" includes saccharin, calcium saccharin, sodium saccharin, and ammonium saccharin.

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

SEC. 4. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary shall arrange for the conduct of a study or studies to assess and evaluate—

"(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

"(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(4) instances in which current legal requirements to restrict or prohibit the use or occurrence of such substances do not accord with the relationship between such risks and benefits; and

"(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this section. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations if any for legislative and administrative action.

"(c)(1) The Secretary shall first request the National Academy of Sciences acting through the Institute of Medicine or other appropriate units (hereinafter in this section referred to as 'Academy') to conduct the study or studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b).

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

"(1) the chemical identity of any impurities contained in commercially used saccharin,

"(2) the toxicity or potential toxicity of any such impurities including their carcinogenicity or potential carcinogenicity in humans, and

"(3) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include any recommendations for legislative and administrative action the Secretary deems appropriate.".

SEC. 5. During the eighteen-month period beginning on the date of the enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin published on March 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety. In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of this Act.

SEC. 6. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o)(1) If it contains saccharin, unless its label and labeling bear the following statement: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER'. Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible

to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling. The Secretary shall periodically review and revise, if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection.

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.

"(q) If it contains saccharin and is offered for sale not for immediate consumption at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently displayed notice of conspicuous and legible type and at a place of reasonable proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin. In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

"(s)(1) If it contains saccharin and is advertised by any medium of written communication, unless the manufacturer, packer, distributor, or retailer of such food includes in each advertisement a health warning message concerning saccharin as prescribed by the Secretary. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to ensure insofar as possible that it will have an equal impact on the readers of such advertisement as any health warning message prescribed under subsection (r). The Secretary shall periodically review and revise, if necessary, the text of the messages required by this paragraph to make sure that they accurately convey the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the form and content of the messages required by paragraph (1) within thirty days after the date of enactment of this Act after affording an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form and content of such message shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.".

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

Mr. NELSON. Mr. President, in a moment I will send to the desk an amendment in the nature of a substitute to the pending legislation, and will ask that the amendment be printed in the RECORD. Further, I will ask that a brief statement explaining the amendment be printed in the RECORD at the conclusion of the remarks I intend to make at this time on the saccharin proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment is not in order at this time. The committee amendments have not been disposed of. As I understand, the Senator will offer an amendment in the nature of a substitute.

Mr. NELSON. Mr. President, this is just for the purpose of getting it printed.

The PRESIDING OFFICER. It will be received and printed in the RECORD.

Mr. NELSON. Mr. President, I am not calling up the amendment.

The PRESIDING OFFICER. The Senator is just asking that the amendment be printed in the RECORD.

AMENDMENT NO. 858

Strike out all after the enacting clause and substitute the following:

SEC. 1. (a) During the eighteen-months period beginning on the date of the enactment of this Act, saccharin:

(1) Shall be deemed to be "unsafe" within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(2) Shall be deemed to be a "poisonous or deleterious substance" within the meaning of section 402 of the Federal Food, Drug, and Cosmetic Act;

(3) Shall not be deemed to be a "new drug" for any purpose within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act;

(4) Shall not be deemed to be a drug subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act; and

(5) Shall be deemed to be an over-the-counter drug.

(b) Notwithstanding the provisions of subsection (a), it shall be unlawful for any person to distribute or offer for sale any saccharin product unless it meets all of the following:

(1) The product is represented, and promoted, solely as a non-caloric table-top sweetener for use only by persons medically required to restrict dietary consumption of carbohydrates;

(2) Bears a warning label stating: "Warning: This product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer." Such label statement shall be located in a conspicuous place on such packaging and labeling as proximate as possible to its name and shall appear in conspicuous and legible type in contrast to typography, layout, and color with other printed matter on the package; and

(c) The Secretary of Health, Education, and Welfare shall, by order, specify the labeling and disposition of all articles for human consumption or use containing saccharin manufactured on or before the enactment of this Act, *Provided, however,* That no such products shall be recalled or removed from the market nor destroyed, and *Provided further,* That the Secretary may permit the continued manufacture, marketing, or use of any product during the effective period of this enactment if he determines that such action is in the public interest.

SEC. 2. Amend the title to read as follows: "A bill to provide for the approval of saccharin as an over-the-counter drug for 18 months."

Mr. NELSON. Mr. President, since the March 9, 1977, announcement by the Food and Drug Administration that it intended to ban saccharin as a food additive, a debate has gone on over very important basic issues:

Public policy to protect human health and safety—how much protection people want versus the right to choose;

Whether the testing criteria on which public health policy decisions are made are valid;

The extent to which small amounts of cancer causing agents in the food supply is considered a human risk;

Whether benefits-versus-risks should be considered when making safety decisions for food.

The FDA's action was taken pursuant to the 1958 food additives safety law, which requires that foods be free of harm or any significant risk of harm and free of potential cancer-causing agents—the Delaney clause, section 409(c)(3)(A), Food Drug and Cosmetic Act. The law prohibits approval of a food additive—

If a fair evaluation of the data before the Secretary (a) fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation will be safe. . . . (Sec. 409(c)(3)(A)).

Saccharin fails both the Delaney anticancer and general safety provisions of the statute.

Therefore, the FDA proposed the ban, pursuant to the law based on compelling scientific evidence that saccharin is a carcinogen in both man and animals.

Opponents of the proposed saccharin ban claim that:

First, it violates freedom of choice;

Second, it is not warranted by the scientific evidence, which is not conclusive respecting the potential for cancer in humans from saccharin use;

Third, the animal test methodology—using high doses—is an unrealistic predictor of harm for humans;

Fourth, there are many benefits to humans, which outweigh the small risk of cancer; and

Fifth, the Delaney anticancer law is too inflexible in light of modern technology, which allows detection of minute amounts of substances in parts-per-trillion.

Arguments for the ban are:

First, freedom of choice to allow widespread exposure to cancer-causing substances affects more than one individual,

impacting on the entire society in terms of costs and the inability of most people to make adequately informed decisions in scientific and technical matters;

Second, the proposed ban is based on a valid law, which is designed to protect the public health from unsafe food additives;

Third, the scientific evidence for potential harm to humans is valid, based on retrospective epidemiology, statistical studies of humans exposed to saccharin over a long period of time;

Fourth, the animal studies are scientifically valid as predictors for humans, and have proven out the theory that virtually every carcinogen known to cause cancer in animals also does so in humans;

Fifth, there are no scientifically supported benefits to saccharin;

Sixth, the Delaney clause is based on a general consensus among scientists that no safe threshold for a carcinogen has been established;

Seventh, overturning the FDA's proposal sets a dangerous precedent for legislating on a substance-by-substance basis, with respect to the extent to which Congress intervenes in regulatory decisionmaking in response to interest-group pressures.

Here are the facts, relevant to each point:

First. Freedom of choice:

One in four people in the United States is a potential cancer victim; 385,000 people die each year of cancer; more than 600,000 new cases are diagnosed each year. The Government estimates there are some 30,000 cases of bladder cancer each year, approximately 22,000 in males. Between 75 and 90 percent of human cancers are thought to be caused by chemicals introduced into the environment by man. The Government estimates that the cost of cancer in the United States is $17.367 billion a year for medical care, loss of productive years and life.

Source: Barbara S. Cooper and Dorothy Rice, "The Economic Cost of Illness Revisited," Social Security Bulletin, February 1976, page 31.

Much of the cost is now absorbed by the taxpayer, through Medicare, Medicaid, veteran and military programs. So, the public pays for the decision to allow cancer-causing chemicals in the environmental and the food supply. The decision to ingest cancer-causing agents does not end with one person; it affects everyone. It is not a freedom-of-choice question. If a cancer-causing agent is introduced into the food chain. tens of millions of people are unknowingly and involuntarily exposed to it.

It is unlikely that youngsters, one of the main population groups ingesting saccharin in diet soft drinks, would heed warning labels on pop bottles.

Finally, Canadian animal tests show that saccharin is several times more harmful to offspring who were exposed both in utero and during their lifetime. Babies in the womb have no freedom of choice over their mothers' consumption of saccharin.

The Congressional Office of Technology Assessment (OTA) report on saccharin and members of the panel testified before the Senate Health Subcommittee June 7, 1977 that dangers of saccharin consumption to pregnant women and their offspring were real. OTA panel chairman, Frederick C. Robbins, M.D., told the committee and I quote from the hearing record:

Dr. ROBBINS. This has raised considerable concern, and the problem is that although the numbers are different, they are not significant, statistically. This is information we badly need to confirm and extend.

However, as I indicated in my earlier remarks, I think there are two possible explanations of why you see more in the second generation than in the first. One is that in fetal and early life, the organism is peculiarly susceptible to the effects; the other is that it is simply a matter of length of time. That is, ingestion of saccharin started much earlier and therefore you have a longer exposure.

However, I think personally, on the basis of these data, which are not definitive, I would be rather hesitant to see pregnant women use large amounts of saccharin during pregnancy.

Senator CHAFEE. That is of significance.

Dr. ROBBINS. I also hate to see them take anything they do not absolutely need.

HOW SACCHARIN IS USED

It is estimated that at least 20 million Americans are exposed, voluntarily and involuntarily, to saccharin annually. Source: NAS, "Sweeteners: Issues and Uncertainties," 1975, page 130.

According to the FDA, some 6 to 7½ million pounds of saccharin were used in 1976 in foods. Source: Sherwin Williams, only U.S. manufacturer. About 74 percent of this amount was used in diet soft drinks—according to "Food Product Development," February 1977, an industry publication—14 percent in dietetic foods such as canned fruits, gelatin desserts, jams, ice cream, and puddings—according to the industry Calorie Control Council—and 12 percent as tabletop sweeteners. Saccharin also is used in drugs, cosmetics, mouthwashes, toothpaste, tobacco, and animal drugs and feed. About half of the amount used in the United States is imported.

One diet food company, Dutch Delite, says it uses saccharin only in 8 percent of its foods; it sweetens the remainder with juice from Thompson seedless grapes.

Saccharin is used extensively in such drugs as pediatric liquid preparations, chewable tablets, and penicillin. According to the FDA proposed regulations:

The quantity of saccharin used as a flavoring agent in drug products covers a wide range. For example, of 12 penicillin V potassium products for oral suspension that were examined, the concentration of saccharin ranged from a low of 5.2 milligrams per teaspoonful to a high of 42.8 milligrams per teaspoonful. If a pediatric liquid oral preparation contains 40 milligrams of saccharin per teaspoonful (one dose) and the maximum daily dose is 2 teaspoonfuls four times a day, a child could consume 320 milligrams per day of saccharin from this one drug. Obviously, if other products containing saccharin were also being consumed, the daily intake of saccharin would be much higher. It should also be noted that drug products can be used for both the treatment of acute and chronic conditions. Thus, if a drug product containing saccharin is administered daily for the treatment or prophylaxis of a chronic condition, such as rheumatic fever, the patient could be exposed to a daily amount of saccharin equivalent to that contained in one or more diet soft drinks. (Pages 47–8.)

Obviously there would be no informed freedom of choice to such exposure of saccharin, even with warning labels.

Second, the law and the Delaney clause:

The 1958 law requires that food additives be safe. It does not allow for weighing benefits against risks for the food supply.

As to the Delaney anticancer clause in the law, to date, no scientific body has devised an acceptable replacement or modification of this law. No safe threshold has been identified for any cancer-causing chemical and the scientific community recognizes that at the present state of the art no safe threshold can be established. The Delaney clause thus recognizes the limits of science at the present time. There is no food additive with cancer causing properties whose benefit is so great it is worth the risk of corrupting the food chain.

Even if the Delaney clause were not in law, saccharin would have to be removed from the market under the safety requirements of section 409 of the Food, Drug and Cosmetic Act.

Three major conferences on food safety and the Delaney clause have been held in the past 7 years: the 1970 White House Conference on Food, Nutrition and Health; a 1973 symposium on the Delaney clause, conducted by the New York Academy of Sciences; and a 1974 forum, entitled, "How Safe Is Safe? The Design of Policy on Drugs and Food Additives," conducted by the National Academy of Sciences.

None of those conferences concluded that there should be a repeal of the Delaney clause.

The Consumer Task Force of the 1970 White House Conference stated:

The Delaney clause should not be repealed until a better law can be enacted. (Page 141, Final Report.) (The White House Conference report did recommend "a revision, not repeal, of the Delaney clause to provide a more scientific and rational judgment in assuring the safety of foods.")

It also recommended that "an expert committee of the National Academy of Sciences review the Delaney clause and the current state of relevant, scientific knowledge with a view toward recommending such modification as they may deem advisable to permit the full exercise of informed scientific judgment in determining problems of food safety" (page 132, final report).

At the 1973 Delaney conference in New York, no scientist, including those affiliated with industry, advocated weakening the Delaney clause.

At the 1974 National Academy of Sciences forum, scientists reached no consensus on modification of Delaney.

In other words, the most imminent scientists studying the issue do not believe that a safe level of a cancer-causing substance can be established for humans, which would support a change in the Delaney anticancer clause.

Dr. Philip Handler, President of the

National Academy of Sciences, in a summary of the forum proceedings said:

For my part, I begin to view that [Delaney] clause as a great red herring rather than as a problem in our society. Certainly, on its face, all other things being equal, it is a perfectly rational guide to desirable societal behavior. No one in his right mind wants to put carcinogens into anything intended for human consumption. We should be perfectly willing to accept that guideline until the day when we find ourselves in the position of banning as a carcinogen some chemical entity which also offers great benefit. Until that time comes, we will not have to test the validity of the Delaney principle. When it does, we will have no recourse but to test the validity of the principle in a real life situation.

Dr. Handler continues:

• • • It has been said that the great harm of the Delaney clause is its deterrence to those who might otherwise be exploring new and important food additives. No such real case in point is known to me. (Academy proceedings, p. 175–6).

In testimony in May 1974 before the House Appropriations Subcommittee for Agriculture, former FDA Commissioner Alexander Schmidt, M.D., stated:

On the basis of the information, expert opinion and conclusions contained in the compilation, we are not prepared to state that the Delaney clause has had a deleterious effect, to date, upon the food supply, nor could we suggest any particular change in the anti-cancer clauses.

He said that "the growth of knowledge in carcinogenesis may eventually permit safe levels of carcinogenic additives to be determined, but that day is not yet here." The Commissioner also testified:

The evidence at hand does not indicate that the Delaney clause has barred public utilization of food additives of such importance that their prohibition has not been in the public interest. The question remains, however, as to whether the mere existence of the Delaney clause has had such a profound influence upon the FDA that action against carcinogenic substances, that might not have been taken otherwise, has been taken under the more general safety provisions of the FD&C Act. This question has no real answer, but it is clear from the history of the FD&C Act and anti-cancer legislation that the public wishes to have its food supply protected against the addition of "unsafe" food chemicals.

In light of the scientific unknowns and the risk-versus-benefit considerations posed by adding carcinogenic agents to the food supply—which is ingested involuntarily and unknowingly, in large part, by millions of people—the public, in my view, would be well-served to seriously consider whether it wants to modify the Delaney clause.

In addition, the synergistic combination effects of exposure to many chemicals must be considered. Saccharin is not the only chemical substance in the food, air, or water supply, to which humans are exposed.

3. THE VALIDITY OF ANIMAL AND HUMAN EPIDEMIOLOGICAL TESTS AS PREDICTORS OF RISK TO HUMAN HEALTH

Saccharin testing followed accepted methods to ascertain safety to food additives, drugs, toxic substances, pesticides, and other chemicals. With regard animal tests, extrapolated to predict human risk:

Dr. Donald S. Fredrickson, Director of the National Institutes of Health, testified to the Senate Health Subcommittee, June 7, 1977:

One must assume that until proven otherwise, materials shown to cause cancer in animals also cause it in human beings. It will be extremely difficult to prove that saccharin is an exception to this rule. When the animal data are carried over to man in the conventional way, they indicate that two or three percent of the 30,000 new cases of bladder cancer each year could be due to saccharin in the low doses now used by the American population.

Dr. David P. Rall, Director of the National Institute of Environmental Health Sciences of the NIH, said at the American Cancer Society's seminar for science writers, April 5, 1977, that, based on his review of the Canadian animal tests, he concluded:

It's absolutely a superb scientific study—it was very well done. I think the data are pretty convincing that saccharin is carcinogenic.

He added:

Those who question whether animal tests can predict for a positive cancer response in man seem to be quite comfortable accepting evidence in animals that predict a negative response (New York Times, April 6, 1977).

Rall's report to the science writers concluded that—

Laboratory animal carcinogenicity tests predict well for man and that such tests do offer a mechanism by which the prediction of human carcinogenesis is possible before human exposure and with reasonable accuracy.

William Lijinsky, Ph. D., director of the chemical carcinogenesis program, Frederick Cancer Research Center, stated, in a letter to the editor of the Washington Post, March 24, 1977:

The comments about the amount of saccharin-containing drinks, etc., that one would have to consume in order to develop cancer show an ignorance of the principles of toxicity testing:

1. To represent the entire U.S. population that might be exposed we are forced by economics to use small groups of animals, usually 50 or, at most, 100.

2. If the result of the test is cancer in 1 animal, which is 1 per cent, that is equivalent to 2 million Americans; 1 million Americans would be represented by one half of a rat! To compensate for the small number of animals, the dose of chemical must be increased beyond that to which a human would be exposed. We usually regard even a 4 per cent incidence of cancer in a test as insignificant, and only a larger number of animals with cancer as indicating a cancer hazard.

3. Our laboratory rodents live only 2 years, while people can be exposed to an artificial chemical for up to 70 years, starting in infancy, the time of greatest sensitivity to carcinogens.

4. The effects of carcinogens are cumulative so that continuous small doses can add up to a large effect, and one carcinogen can add its effect to that of others to which we are exposed. So our animal tests of a single substance underrate the dangers.

5. That carcinogens in the environment play a role in disease is surely shown by the dreadful statistic that 1 in 6 Americans dies of cancer (including many of bladder cancer), almost all of which is of unknown cause.

For all of these reasons we give our small groups of animals large doses of the test compound, so that we can detect a carcinogenic effect, if present. If more than 5 animals out of 100 develop cancer, we say the test is positive and the substance is a carcinogen.

Most industry spokesmen would not quarrel with the conclusion from the latter result that the substance is "safe," even though in such a small group of animals, safety has not been demonstrated. If this is claimed for the negative side of the test, then a positive result must be accorded equal recognition and, because of the wide range of susceptibility among the human population, exposure to the substance at any level must be prevented.

On the other hand, if the protagonists of the largely unrestricted use of chemicals want to claim that such tests are of no value, since they do not represent human experience, so be it. But, in that case, there will be no satisfactory way of demonstrating that any artificial substance is safe from inducing cancer and so, under such laws as the Toxic Substances Act, none could be sold.

WILLIAM LIJINSKY,
Director, Chemical Carcinogenesis Program, Frederick Cancer Research Center.
FREDERICK.

It should be noted that the Canadian study indicates unequivocally that saccharin causes bladder tumors in the test animals. Used in the study were 100 rats, 50 male, 50 female. Seven male and no female rats in the first generation developed bladder tumors. Twelve male and two female rats in the second generation developed bladder tumors. Thus, of a total of 200 rats fed saccharin, 21 developed bladder tumors. (HEW proposed regulations, Apr. 14, 1977, p. 36.)

Howard M. Temin, 1975 Nobel Prize winner who shared the prize for physiology of medicine, professor of oncology at the University of Wisconsin McCardle Labratory for Cancer Research, and an American Cancer Society research professor, stated in a letter to our office, July 22, 1977:

In cases where there is exposure to many compounds or where widespread cancer is concerned, we might not be able to specify from epidemiological studies which compound is the carcinogen.

Therefore, we must use tests that do not involve humans. The most reliable of these tests is the induction of cancer in laboratory animals.

Biochemical study has shown that there is a basic similarity in the metabolism of humans and laboratory animals. Carcinogenesis testing has shown that all known human carcinogens (with the exception of arsenic) are carcinogenic in laboratory animals. Therefore, it is accepted by essentially all oncologists that if a compound is carcinogenic in animals, it is potentially carcinogenic in humans.

HISTORY OF STUDIES SHOWING LACK OF SAFETY

It is important to note that safety concerns over saccharin are not new.

Saccharin has been the subject of controversy since its discovery in 1879. Its safety was first challenged in 1908. Between 1911 and 1938, saccharin was available as a drug but was barred from the general food supply. Between 1938 and 1959, when the diet soda revolution began, saccharin was regulated both as a drug and special dietary food, to be

available only for those with special medical needs, as a tabletop sweetener and in diet foods, labeled: "Warning: To be used only by those who must restrict intake of ordinary sweets." Clearly, the FDA intended that saccharin not be generally available in the food supply.

Saccharin has been suspected of being a carcinogen since 1948. One of the first long-term chronic toxicity studies of saccharin was reported to the FDA in 1951 (Fitzhugh, Nelson, and Frawley, Journal of the American Pharmaceutical Association, vol. 40. No. 11).

More than 85 studies, a conservative estimate, have been reported to the FDA on saccharin. A GAO report that we requested, "Need To Resolve Safety Questions on Saccharin" (HRD-76-156), issued August 16, 1976, identified 23 studies since 1970, which indicated potential carcinogenic or mutagenic hazards for saccharin. The FDA lists some 59 studies prior to 1970, including about 20 toxicity studies of various kinds.

Furthermore, new scientific evidence has come to our attention showing that saccharin is mutagenic in laboratory tests using a variation of the Ames method—in which tests are done on substances "in vitro," or in laboratory cultures. Scientists from Johns Hopkins Medical School, Departments of Pathobiology and of Pharmacology and Experimental Therapeutics, under Dr. Ernest Bueding, will report their findings Friday, September 16, at a scientific seminar on "Saccharin: Scientific and Public Policy Issues," conducted by the Society for Occupational and Environmental Health, in Washington, D.C. The findings also will be published shortly in Science magazine. They show that four samples of saccharin—including the purest to be obtained—were found to be mutagenic; that is, changing genes. Mutagenic activity is scientifically associated with, and predictor of, carcinogenic activity.

RELIANCE ON TEST DATA

Now, we have new scientific information showing that saccharin clearly causes bladder cancer in animals and apparently in humans, particularly males.

Canadian tests on rats were especially designed to test whether pure saccharin or an impurity commonly found in it, orthotoluenesulfonamide (OTS), were the potential hazard. As pure saccharin as possible was tested and found to cause bladder cancer in not only rats that were fed high doses of the substance but, at a higher rate, in their offspring. More tests are being done on what little impurity was found in the tested saccharin.

The FDA, on learning of new human data on saccharin, noted that:

Since the publication of the Commissioner's (April 15, 1977) proposal, a panel of expert scientists assembled by the (Congressional) Office of Technology Assessment (OTA) has examined all of the pertinent data on the safety of saccharin, including the Canadian study. The panel concluded, unanimously, that the Canadian study has been well conducted and its results properly assessed, that it demonstrates unequivocally that saccharin is a carcinogen, albeit perhaps weaker than some other cancer-causing compounds, and that it confirms the results of earlier animal studies. (Federal Register, July 1, 1977, Vol. 42, No. 127, page 33768).

The FDA's proposed regulations of April 15, 1977, state:

Now as to the science:

Many of the 16,000 consumers who have written FDA since March 9 have worried that the Canadian rat study involved such high doses of saccharin that the results were unrealistic. There is an impression that almost any substance fed in such high doses would cause cancer.

Neither of these views is correct.

The exposure of test animals to high doses is the most valid way we know to predict whether a chemical may cause cancer in people. Such tests are both realistic and reliable.

They are, in fact, essential to predict rare occurrences—for example, to seek out and identify a substance that can cause cancer in only one out of every 20,000 Americans. That may be a rare occurrence statistically but it's still more than 10,000 people in our population.

It is essential that we use test animals to help us identify early enough to do something about them the suspicious chemicals to which we may be exposed in the foods we eat, the drugs we use, the water we drink and the air we breathe.

It's fairly easy for reasonable people to understand why we must use animals to try to predict which chemicals will and which will not be likely to hurt people. It is harder to understand why science must test these animals with doses far larger than humans are ever likely to receive. The first answer is practicality.

No one could breed, raise, sacrifice and examine test animals fast enough to find one case of cancer out of 20,000 animals. There aren't enough breeders, examiners, time or money.

Instead, we use fewer animals. And to compensate for that, we use high doses. And over the years we have established that the system works! Animal tests identical in principle to those used for saccharin have demonstrated cancer in animals for virtually all the chemicals known to cause cancer in people.

So, if a chemical tested in high doses on a limited number of animals causes cancer, we are concerned. We are concerned for two reasons: First, because science warns us that if a high dose of something causes cancer in a significant number of test animals, a low dose may cause cancer in some people; and, second, science reassures us that most chemicals do not cause cancer no matter how high the dose. It's simply not true, as many people believe, that too much of almost anything will cause cancer.

In fact, in 1969, the National Cancer Institute reported that of 120 pesticides and industrial compounds given to mice, only 11 were found definitely to induce tumors. And these chemicals were not randomly selected. Most were picked because there already was reason to suspect that they might cause cancer. Even so, the great majority of more than 100 suspicious chemicals did not cause cancer in animals when tested at high dose levels.

Recent experiments on saccharin conform to the requirements of good animal testing and good science. They tell us beyond reasonable doubt that saccharin is among the comparatively small number of substances that do cause cancer in test animals and, therefore, may be hazardous to humans.

We clearly cannot determine from animals exposed to high doses of a cancer-causing chemical precisely how many humans might get cancer from a lower dose. But there are methods for estimating the maximum number of people who might be so affected.

Using these methods, our scientists now calculate that a moderate use of saccharin, the amount present in one large diet soft drink, if ingested over a lifetime by every American, might lead to 1,200 additional cases of bladder cancer per year. (Pages 3-5.)

The regulations go on to say:

Since these early days of toxicology, the use of tests in laboratory animals to predict the long-term chronic effect of chemicals in man has been accepted by virtually all scientists and is today used by every technologically advanced country in the world. In the United States, many Federal agencies in addition to FDA, such as the Environmental Protection Agency and the National Cancer Institute, rely on these animal tests to assess the safety of a variety of compounds. In 1954, the National Academy of Sciences/National Research Council (the Academy) published a report entitled "Principles and Procedures for Evaluating the Safety of Intentional Chemical Additives in Foods." This report updated pamphlets published in 1951 and 1952 on the safe use of chemicals in foods. The 1954 report and subsequent publications by the Academy describe the widely accepted approach of animal tests for evaluating the safety of chemicals added to foods. The World Health Organization has also espoused the use of animal tests to assess the safety of food ingredients. (Page 18.)

In addition, we know that of 17 known human carcinogens, all except arsenic and benzine—on which further tests are being done—cause cancer in animals. And, there is no carcinogen ever shown to cause cancer at one level that did not cause cancer at a lower dose level.

HUMAN EVIDENCE

New epidemiological studies on humans in Canada now indicate a positive dose- and duration-related correlation between saccharin use and cancer of the bladder in human males, with an estimated 60-percent increase in such risk associated with saccharin use.

While other studies of human consumption are not so positive, they involve a sample size only about a quarter of the Canadian study, with most users exposed to the artificial sweetener products for less than 5 years, which scientists report is inconclusive.

Thus, the Nation's most distinguished scientists all agree that the Canadian animal tests are valid. While scientists say the Canadian epidemiological human data does not prove that saccharin is carcinogenic in humans, they agree that the evidence is overwhelmingly indicative of such a possibility.

The FDA proposal to postpone the effective date of its ban so that the new human evidence could be evaluated states:

The recent study performed under the auspices of the Canadian National Cancer Institute significantly alters and enlarges the basis for decisionmaking, for it appears to confirm—from human experience—the real risk of cancer previously projected solely on the basis of animal studies. While animal studies will continue to supply the primary evidence for regulatory decisionmaking by agencies such as FDA, positive human data deserve even greater attention. (Federal Register, July 1, 1977, page 33770).

With all of this data, accumulated over 80 years, it is clear that we are dealing with a hazardous substance.

ARE THERE BENEFITS; IS SACCHARIN NECESSARY?

FDA Commissioner Kennedy and NIH Director, Dr. Donald Fredrickson, both testified before the Senate Health Sub-

committee June 7, 1977, that there are no known scientific studies demonstrating benefits from saccharin in treating obesity, heart disease, or diabetes.

At that hearing, I asked Dr. Fredrickson the following question:

Are there any conclusive tests that have been done, that demonstrate an important need for saccharin for diabetics, overweight, or heart patients? None have come to my attention.

Dr. FREDRICKSON. The answer is no, Senator Nelson. There is no test that is available that demonstrates a specific need for saccharin by such patients.

Senator NELSON. So, what we are dealing with here is a risk with no known benefits. Is that correct?

Dr. FREDRICKSON. I would not go so far as to say "no known benefits" because that goes off into regions of even aesthetics.

Senator NELSON. All right, with no tests demonstrating benefits, conclusively, to diabetics, overweight, or heart patients.

Dr. FREDRICKSON. That is correct.

The same query was made to Dr. Kennedy of the FDA:

Senator NELSON. Doctor, you were here when Dr. Fredrickson testified, and the record can speak for itself, but I believe he said that there were no careful scientific studies that prove an important medical necessity for saccharin. I think that is a fair statement.

Would you agree with that?

Dr. KENNEDY. I think there is no study known to me that demonstrates the efficacy of saccharin as opposed to some alternative strategy in a dietary or diabetic medical regimen.

Senator NELSON. So, then, if saccharin were not available, there is not any demonstrated, provable, serious medical adverse effect on the people who now use it, is that what you are saying?

Dr. KENNEDY. I would be more cautious, I think. I know of no study that has been done under rigorously controlled conditions that shows the efficacy of saccharin in attaining compliance to those regimes, but we did at our 2-day hearing, Senator, hear some testimony from doctors who are experts at diabetes management who argued the other side.

Senator NELSON. Were these testimonials, or were they based upon carefully controlled scientific studies?

Dr. KENNEDY. They were not controlled trials, no, Senator.

Senator NELSON. So we are dealing here with a known risk; and we are not able to demonstrate through any scientific study thus far that there is any significant benefit from the use of saccharin.

Would that be a fair statement?

Dr. KENNEDY. I think it would be a fair statement.

In fact, some animal studies indicate that, because of its effects on blood sugar, saccharin consumption may actually stimulate appetite; some animals consuming artificial sweetners have actually gained rather than lost weight.

In 1969, the FDA reported, based on scientific data including several National Academy of Sciences (NAS) reviews, that "none of the few controlled studies reported to date have established a useful role for nonnutritive sweeteners as weight-reducing aids except under the most carefully controlled conditions." In one controlled study in the early 1950's, by Harvard School of Public Health and Peer Brent Brigham Hospital, Boston, involving 247 obese individuals and 100 diabetic persons, no significant difference was apparent when the weight loss of users and nonusers of low-calorie diet foods was compared.

The argument for allowing saccharin as beneficial to diabetic and obese persons seems to boil down to a complaint that making it unavailable infringes on the rights of people. No scientific argument supporting health claims have been noted.

In fact, leading diabetologists tell us that saccharin is neither necessary nor recommended for their patients.

Dr. Max Miller, Director of the 10-year university group diabetes program, U.G.D.P., involving 13 clinical centers treating diabetics, told us:

There is no role for saccharin in the regimes (diets) of obese patients we are treating. We have never included saccharin in instructions to diabetics. From the practical point of view, diabetics don't use much sugar anyway. Their diets can be arranged to allow some sugar intake in food, restricting calories and balancing carbohydrates. Sweeteners mask taste. I am amazed at how little sugar my diabetic patients take.

Dr. P. J. Palumbo, Mayo Clinic Medical School, Assistant Professor of Medicine, and diabetologist, whose program sees about 6,000 diabetic patients a year told us:

Saccharin is not essential in diet management of diabetics. We can manage their diet satisfactorily without it. The problem with their diets involves a lot of factors and the management of calories. Most diabetics can have some sugar; we put it in cakes, ice cream, other foods in their programs.

There is no diabetic that has to take saccharin. It is a convenience, with no basis in necessity. Anyone who argues that it is, is on very shaky grounds.

The American Dietetics Association, in testimony before the House of Representatives Subcommittee on Public Health, March 21, 1977, noted that the desire for saccharin is not because of medical necessity but because Americans have a sweet tooth, and that low-calorie food can be appealing without artificial sweeteners, using natural condiments such as ginger, coconut, and honey. The association supports the FDA-proposed ban, and pointed out that it imposed a greater need for people to become more knowledgeable in their preparation of food to cut down on calorie intake while satisfying the sweet tooth—New York Times, March 27, 1977.

It is interesting to note that, when Yankee Stadium was renovated in 1976—between 1920, when Yankee Stadium was built, and 1976, when it was renovated, 9,000 fewer seats were installed to accommodate the increased width of the American rump, which grew about 4 inches. During those years, particularly the last 20, saccharin and diet soda use boomed—Chemical and Engineering News, April 11, 1977, page 17.

Fifth, legislation interfering with regulatory action is a bad precedent.

The saccharin legislation is an unwise, unnecessary, and unhealthy precedent, which has enormous ramifications for the future of public health and public policy. Congress is reacting emotionally to public pressure instead of relying on rational scientific information. By delaying a regulatory restriction on the use of saccharin in the food supply, Congress is risking the public's health for the benefit of large economic interests.

Saccharin is one of 2,100 food additives approved for use directly in food. Approximately 10,000 are approved for indirect uses, such as in packaging. Does Congress expect to react to every request for special consideration of food additives?

Congress should not be in the business of regulating selected entities. It should make policy, as it did with the Food, Drug, and Cosmetic Act, which provides that foods be free of harm or any significant risk of harm and of potential cancer-causing substances—Delaney clause.

To legislate special treatment on a product-by-product basis provides an incentive for special interests to seek special regulatory favors and interventions from Congress in the future. Congress is not capable of making the kinds of scientific judgments on which regulation to protect the public health must be based.

Although I recognize that the saccharin bill is temporary—an 18-month moratorium on regulatory action—and that it allows the agency to act if it finds that "saccharin presents an unreasonable and substantial risk to the public health and safety," in my view, there are no benefits to Congress overruling and usurping the regulatory agency's decision to ban saccharin from the food supply. What possible benefit can there be to allowing such a substance continued wide exposure in the general food supply, particularly to children, who are probably the largest consumers of soft drinks? Children do not read warning labels.

The public will be ill served by such an action, and the stage set for future such decisionmaking, spurred by special economic interests or ill-informed, nonscientific, emotional arguments.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point an article from the Consumer Reports of July 1977, as well as some articles and letters which I send to the desk along with the article.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE GREAT SACCHARIN SNAFU

On Wednesday, March 9, a dozen members of the Hanafi Muslim sect seized three buildings in the heart of Washington, D.C., took more than 130 persons hostage, and, for a day or so, commanded the attention of the nation. The Hanafi incident resulted directly in one death and 13 reported injuries. Indirectly, it played a role in The Great Saccharin Snafu—a regulatory foul-up whose eventual consequences could be a good deal more serious than the Hanafi sect's violent outburst.

On the same day in March, the U.S. Food and Drug Administration called a late-afternoon press conference to announce it intended to ban saccharin because the artificial sweetener may cause cancer in humans. While the Hanafi incident is almost forgotten, the FDA proposal set off a national debate that continues to this day. The result has been public confusion about the potential danger of saccharin—and a threat to the laws that regulate additives in foods. In this report, CU explains what happened, how it happened, and why it shouldn't have been allowed to happen.

WHAT YOU WERE TOLD

Saccharin is the only noncaloric sugar substitute approved for use in the United States. More than six million pounds of it are consumed each year, about three-quarters of that in diet sodas. Its next largest use is a tabletop sweetener in place of sugar. It is the standard sweetener for dietetic foods and a flavoring agent for a wide range of products, including lipsticks, drugs, sugarless gum, toothpastes, mouthwashes, and cigarette paper.

Accordingly, the proposed ban was indeed a major announcement. As with all such announcements, the FDA had prepared a press release to explain its action. Many reporters based their stories on the release. What the FDA said in the release, then, largely determined what the public initially learned about the ban.

According to the FDA's release, the ban was based on two factors:

". . . A study sponsored by the Canadian government showed that saccharin, when fed in high doses to rats, caused malignant bladder tumors."

". . . The so-called 'Delaney Clause' of the Food, Drug, and Cosmetic Act prohibits the use in food of any ingredient shown to cause cancer in animals or man."

The release offered reassurances that consumers need not greatly fear for their health. "Saccharin has been in use for more than 80 years and has never been known to harm people," FDA Acting Commissioner Sherwin Gardner was quoted as saying, "and since the Canadian data do not indicate an immediate hazard to public health, we do not consider the recall of existing products to be necessary."

The release stressed the great quantities of saccharin the rats ate before developing cancer. "The dosages . . . were in excess of the amount that a consumer would receive from drinking eight-hundred (800) 12-oz. diet sodas daily over a lifetime."

In sum, the picture painted by the release, and carried forth by the press, was: Saccharin is essentially harmless. But the FDA is forced to ban it because of an inflexible law.

As that message registered on the public, a storm of protest erupted. Producers of diet foods and drinks predictably attacked the ban. But so did members of Congress who ordinarily support pure-food legislation. So did ordinarily responsible newspapers. Some scientists challenged the validity of the study. Angry consumers flooded the FDA and Congress with letters demanding their right to use saccharin.

As a result of the outcry, Congress may weaken the FDA's authority to keep dangerous substances out of the food supply. The Delaney Clause, a major safeguard against the use of potentially carcinogenic (cancer-causing) food additives, may be emasculated.

If such food-protection laws are undercut, the FDA must share the blame for the damage. For, in announcing the Canadian study's findings, FDA officials deliberately softened them. Saccharin is more of a cancer hazard than the FDA suggested.

Indeed, the real blunder in the great saccharin snafu is not the ban itself but the way the FDA announced it. The agency did not level with the public. In taking one of its most far-reaching actions of recent years, the FDA failed to let the facts speak for themselves.

THE EVIDENCE AGAINST SACCHARIN

Far from being an isolated, oddball experiment, the Canadian study is the culmination of a long series of studies since 1951 that have cast suspicion on the safety of saccharin. Until recent years, however, much of the research was considered inconclusive because of questions about methodology or because of the ambiguity of some of the findings.

As late as 1974, in fact, a review of the available evidence by a committee of the National Academy of Sciences left the issue still in doubt. The data, said the Academy's report, had "not established conclusively whether saccharin is or is not carcinogenic when administered orally to test animals." By that time, however, two separate studies following modern-day test procedures had yielded significant and troubling results.

In both studies—one by the FDA, the other by the Wisconsin Alumni Research Foundation—the researchers fed diets containing saccharin to male and female rats from the time of weaning. The rats were then bred and their offspring fed saccharin. Thus, the offspring were exposed to saccharin in their diets from conception until death.

Among the offspring, those that received the highest levels of saccharin experienced a significant number of bladder tumors. In the FDA study, 7 out of 23 male rats fed a diet of 7.5 percent saccharin developed such tumors. In the Wisconsin experiment, bladder tumors were found in 7 of 15 male rats on a diet of 5 percent saccharin.

Even those results were open to question, however. Was it the saccharin itself that caused cancer, or was it impurities in the saccharin? Were high levels of the sweetener causing bladder stones that in turn elicited tumors? Were impurities in the saccharin making the rats' urine highly alkaline, thus contributing to stone and tumor formation? Or were bladder parasities possibly the culprits? Neither of the two studies had addressed those questions.

In February 1974, Canada's Health Protection Branch, the Canadian equivalent of the FDA, set out to answer them. Every effort was made to resolve the uncertainties noted in the 1974 National Academy of Sciences' report.

Originally, the Canadian saccharin study was designed to test orthotoluenesulfonamide (OTS), an impurity found in the sweetener. Earlier studies in rats had found cancer resulting from saccharin feedings, but those experiments had left uncertain whether saccharin or OTS was the carcinogen. Before the new study was launched, a quantity of purified saccharin became available. The Canadians decided to test that too.

This was a two-generation study. Parent rats were fed the test dosages over their entire lives. Offspring were exposed to saccharin while in their mother's uterus as well as during their own lifetimes. All rats were delivered by caesarean section to prevent infection by parasites.

For each generation, there were six groups of 50 male and 50 female rats. Three groups received different levels of OTS. A fourth group got OTS plus slightly acidic drinking water to reduce the formation of bladder stones, which were thought to be associated with bladder cancer. The fifth group, which got neither saccharin nor OTS, served as a control group. The sixth received a diet containing 5 percent purified saccharin.

The results: "There was no significant increase in bladder tumors in any of the groups receiving OTS," the FDA reports. Nor was there any significant incidence of tumors in the control group. In sharp contrast, 7 of the 100 parent rats fed saccharin developed bladder tumors. So did 14 of the saccharin-fed offspring. Thus, out of 200 rats fed saccharin, 21 developed bladder tumors. No evidence of bladder parasites was found in any of the rats.

In short, OTS, bladder parasites, and bladder stones were ruled out. The carcinogen was saccharin.

The Canadian findings have since been evaluated by scientific authorities in the U.S., Canada, Great Britain, and Europe. The verdict as summarized by the FDA in the April 15 Federal Register: "The findings indicate unequivocally that saccharin causes bladder tumors in the test animals."

ARE ARGUMENTS FOR SACCHARIN SOUND?

Opponents of the saccharin ban often point to three population studies of diabetics. Despite high use of saccharin among diabetics, none of the surveys revealed an increase in bladder cancer.

But such a result is not surprising. Population studies, explains the FDA, "usually can only detect increased risks of 200 to 300 percent or greater." Some may cut it finer. In one of the studies among the diabetics, for example, the investigator concluded that it would have been possible to detect an increase of 80 percent or more. Nevertheless, if high intake of saccharin had caused a rise in bladder cancer among diabetics even so great as 75 percent, the population study would not have revealed it. It certainly would not have revealed the relatively smaller increase in bladder cancer that might result from drinking a single can of diet soda daily for a lifetime.

Another argument against the ban is that saccharin's benefits outweigh its risks. We know about saccharin's risks. But what are its benefits?

Presumably, saccharin may offer advantages to diabetics and to those who must control their weight for medical reasons. Manufacturers will have a chance to substantiate those claimed benefits in clinical tests for the FDA. In 1970 industry couldn't prove that cyclamates were medically effective, and the partial ban on those artificial sweeteners enacted in 1969 was made total. For saccharin, the same proof of efficacy may be equally difficult to meet.

WHY WERE CONSUMERS MISLED?

Why did so much misinformation about the saccharin ban spread so quickly? What caused the great saccharin snafu?

When preparing the announcement of the ban, the reaction U.S. and Canadian officials say they most expected was not widespread outrage over the ban. Rather, their greatest concern was that people who used saccharin would panic over having ingested a carcinogen. The officials believed that such widespread anxiety was uncalled for. The normal risk of bladder cancer in the absence of saccharin is 1.50 percent over a lifetime—that is, 150 cases for every 10,000 people. The Canadian results, translated into human terms, would mean an increase in risk to 1.54 percent for those who drank one can of diet soda a day over a lifetime.

Sherwin Gardner, the FDA's acting commissioner at the time, says, "We wanted to tell them, 'Hey, this isn't really a good thing to consume. On the other hand, don't panic.' " Thus, presumably to avert panic, the FDA understated the case against saccharin.

DROWNING IN DIET SODA

Dr. Alexander M. Morrison, head of Canada's Health Protection Branch, says he wanted to dramatize for the public that saccharin "wasn't of cyanide potency." His staff obliged by calculating that a person would have to drink tubsful of diet soda every day to get the proportionate amount of saccharin fed to the rats in the study. "It must be stressed," the Canadians pointed out, "that the dose used in this study exceeded average human exposure by at least 800 times, based on consumption of one 12-ounce bottle of 'diet' soft drink per day. The mythical 800 diet sodas a day was similarly incorporated into the FDA's release.

Since the analogy was intended to allay the public's fears, the Canadians didn't bother to mention that using high dosages of a suspected substance in animal studies is a standard way of testing for rare events in the human population. A substance that's not a carcinogen won't cause cancer no matter how much of it is administered. But if a chemical is carcinogenic, high-dose animal testing is an efficient, speedy way of so identifying it.

The emphasis on averting a cancer panic made the Canadian findings look like an iso-

lated bit of inconvenient news. But those findings came as no surprise to the FDA. For the three years of the Canadian experiment, FDA scientists had kept close tabs on it. On Monday and Tuesday, March 7 and 8, the study was to brought to an official close with an evaluation of the findings by a panel of outside consultants, including three FDA staff members—Dr. Richard Bates, associate commissioner for science, Dr. Herbert Blumenthal, director of the Bureau of Foods' Division of Toxicology, and R. J. Ronk, director of the Bureau of Foods' Division of Food and Color Additives.

The week before the three left for Ottawa, they met with Gardner and other senior officials. By the end of the meeting, it was clear to everyone that saccharin almost certainly would be found carcinogenic in a definitive study, and that the FDA had better get ready to announce a ban.

Eventually, the FDA decided to announce it simultaneously with the Canadians on Thursday, March 10. But the saccharin study apparently leaked out, driving down stock prices on companies with dietetic lines. Realizing it was impossible to sit on the story, the Canadians decided to break the news at a press conference Wednesday afternoon.

In Washington, the FDA learned at 3:30 P.M. of Canada's upcoming announcement. That set off a flurry of activity. The FDA had less than two hours to complete its materials for the press conference and summon reporters.

COMPETING WITH THE HANAFIS

In phoning the news media, the FDA found that many Washington reporters were across town covering the Hanafi incident. The TV news cameras were tied up at the siege. Streets were closed off, creating a huge traffic jam, and some reporters weren't sure they could get to the FDA press conference.

As a result, the FDA announcement played to anything but a packed house. In the auditorium were perhaps 15 reporters, one-third the number who usually attend FDA press conferences. Much of the press coverage was thus based on the FDA's soothing handout.

As many as seven television crews sometimes cover FDA events. That day, there was none. As a result, the home audience did not glimpse the question-and-answer session, which might have cleared up a fundamental point

"Would saccharin have been banned even without the Delaney Clause?" asked a reporter.

"Yes," replied Richard Merrill, the FDA's general counsel. He went on to explain the Food, Drug, and Cosmetic Act's "general safety" requirement that no food additive be approved unless shown to be safe. In contrast to the Delaney Clause, which bans carcinogens automatically, the general safety provision can entail a long hearing process. But because of the evidence against saccharin, concluded Merrill, the sweetener would have been banned in any case—Delaney or no Delaney.

The panic that developed wasn't over getting cancer. It was over losing saccharin.

The FDA had grossly underestimated the size of America's sweet tooth. When the Delaney Clause had been invoked earlier against two obscure chemicals, there was little public outcry. Few knew about it; fewer cared. But saccharin—the only available noncaloric sweetener? Had the FDA gone completely mad?

Apparently yes, in the public's mind. FDA's use of the fear-allaying 800-diet-sodas-a-day made the ban seem frivolous. The general response was expressed by a 22-year-old Boston student: "Look, you've got to drink something like 800 cans of this stuff to get bladder cancer. You think I'm going to do that?" In New York, a mother-daughter team bought 21,000 saccharin tablets and scooped up more than $20 worth of sugarless gum. The Cumberland Packing Corp., which manufactures *Sweet 'n Low*, doubled production on a seven-day-week schedule in order to meet the demands from would-be hoarders.

ATTACK ON DELANEY

Letters protesting the ban poured into the FDA at the rate of 1500 a day. People called the agency in tears, demanding that saccharin be left alone. A similar outburst erupted in Canada, where saccharin is being permitted as an over-the-counter drug in pharmacies but is being phased out of all foods, cosmetics, and drugs.

The ban brought more protests to Congress than any issue since Nixon's Saturday Night Massacre. Many citizens charged that this act of Government interference trampled on their freedom of choice.

The House Subcommittee on Health and the Environment held two days of hearings. Words such as "outrageous," "incredible," "unbelieveable," "ludicrous," and "ridiculous" peppered the testimony.

More than 100 senators and representatives are backing over a dozen bills to amend the Delaney Clause or exempt saccharin from its terms. Representative Andrew Jacobs, Jr. (D., Ind.), hit a comedic high and a know-nothing low with a bill calling for saccharin containers to be labeled: "Warning: The Canadians have determined that saccharin is dangerous to your rat's health." Representative James G. Martin (R., N.C.) has gathered vocal support for a bill that could permit industry to continue using a carcinogen for such economic reasons as "cost" and "availability."

Legislation about sacccharin and the Delaney Clause remains up in the air. The House subcommittee reports that chairman Paul G. Rogers (D., Fla.) plans no hearings on any of the submitted bills. If hearings are held, they will probably be on a bill that Rogers himself introduces. What that will be depends on the extent to which the public finally accepts or rejects the ban.

ENACTING THE BAN

On April 14, Dr. Donald Kennedy, the newly appointed FDA commissioner, announced the terms of the saccharin ban. Since then, the FDA has held hearings and reviewed comments that will lead to publication of final regulations in the next few months. If all goes according to FDA's announced plan—if, for example, the Delaney Clause is kept intact—the following will take place:

As of publication day of the final regulations, saccharin used as a tabletop sweetener will be treated as a nonprescription drug. It could be sold as now, but packages would have to be labeled: "For use as a noncaloric sweetener when sugar-restricted diets are medically indicated, as in patients with diabetes" and "Warning: Saccharin causes bladder cancer in animals. Use of saccharin may increase your risk of cancer."

In its guise as a drug, saccharin will have to meet legal requirements that it be shown effective in such medical uses as control of diabetes or obesity. Manufacturers will have 180 days to submit the necessary data.

Also as of publication day, manufacturers will no longer be allowed to put saccharin into foods and beverages. Stores can sell off products made before the ban.

Thirty days after publication day, saccharin will be banned from cosmetics likely to be swallowed: lipsticks, toothpastes, mouthwashes, and the like. Here, too, there will be no recall of existing products.

Fifteen months after pubication day saccharin will be banned as a flavoring for drugs. Manufacturers will have an additional three months to dispose of existing stock. Drugs specially formulated for diabetics may continue to include the sweetener, if the manufacturer can prove the medical need for such use.

AN INTERESTING CHANGE OF MIND

The proposed ban leaves an especially bitter taste in the mouth of the Calorie Control Council, an Atlanta-based trade group that represents makers of diet drinks and foods.

After hearing FDA Commissioner Kennedy's announcement, council president Robert H. Kellen described the ban as "an outrage" based on "less than scientifically acceptable data." The council has taken full-page newspaper ads repeating the theme that the Canadian study is scientifically invalid.

The council knows better. Indeed, it has repeatedly recognized the study's scientific validity.

In 1973, before embarking on the saccharin experiment, the Canadians sent the council and other interested parties a copy of the study protocol, the blueprint for research. The council returned it with no adverse comments.

Last October, the council held its annual meeting in Ottawa. It invited Dr. Harold C. Grice of the Health Protection Branch to report on the study as one of the meeting's principal speakers. By that stage of the study, Dr. Grice was able to conclude that OTS was not carcinogenic. This pleased the council. Later, the same experiment revealed that saccharin itself is carcinogenic. Only then did the council decide that the study wasn't so great after all.

Rats, huge dosages, bladder tumors—how does all that relate to humans, the council asks in its ads? "Not well at all," the council insists. What the council doesn't tell you in the ads—and what the FDA should have made clear from the very first—is that the Canadian study conformed to strict, well-accepted, scientific methods in its test of saccharin. Here are some of the points that the council and the FDA neglected to mention.

Carcinogen tests in animals do apply to humans. For obvious reasons, humans can't serve as guinea pigs. But man is a mammal, and thus a physiological cousin to the rat, rabbit, and other mammals. The rat's body systems are close enough to man's to provide a convenient testing ground for possible carcinogens. The fact that rats get cancer from saccharin doesn't prove that humans will. Some species are more vulnerable to certain chemicals than other species are. But nearly every substance known to cause human cancer also causes cancer in one or more animal species. And several substances first identified as carcinogens in rats or other animals are known to cause human cancer as well. Accordingly, if saccharin induces cancer in rats, it has to be considered a potential hazard to humans.

High doses are always used in carcinogen tests. Some carcinogens produce such a low incidence of cancer that it might go undetected in a small group of animals. At normal levels of intake, a substance that causes cancer in only one out of 10,000 people may not produce a single tumor in a group of 50 rats. The rats might all die of old age before any cancer developed. So, to increase the chances of detecting carcinogens, scientists commonly use high doses of the test substance. The specific dose, moreover, is not arbitrary. It's selected on the basis of a separate toxicity test, which determines the highest dose that can be given to the animals without shortening their natural lifespan from causes other than cancer. In short, the Canadian investigators weren't trying to stuff the rats with saccharin. They merely followed well-established test procedures designed to give a clear yes or no answer about carcinogenicity.

Carcinogens, not dosages, cause cancer. A high dosage alone won't produce cancer; the substance must first be carcinogenic. If it isn't, a huge dose may bloat you, sicken you, or even kill you. But it won't give you cancer. A study published in 1969 in the Journal of the National Cancer Institute, for

example, reported on tests of 120 pesticides and industrial chemicals that were evaluated for their carcinogenicity. Many of those were selected specifically because of their suspected carcinogenicity or because of other evidence of potential harm to humans. Each of the substances was fed to two strains of mice at the maximum doses the animals could tolerate and still survive. Only 11 of the compounds turned out to be carcinogens.

Under similar tests, of course, saccharin was found to be carcinogenic. That artificial sweetener is thus more of a cancer hazard than 109 different pesticides and industrial chemicals that you wouldn't dare put in your coffee.

There is no "safe" dose for a carcinogen. No one knows yet how little or how much of a carcinogen it takes to produce cancer. Scientists can ordinarily tell how much of a chemical is toxic, and they can calculate a "dose-effect" relationship that indicates what amount will poison you and what amount won't. The metal selenium, for example, is more deadly than arsenic; but, in tiny amounts, it's known to be essential for good nutrition. No such relationship has yet been established for carcinogens. At present, neither the FDA, the Calorie Control Council, the National Cancer Institute, nor your family physician can tell you with any assurance how much or how little saccharin might harm you. Accordingly, until such knowledge becomes available, the safest course is to avoid any amount of saccharin.

THE DELANEY CLAUSE SHOULD STAY

Far from justifying repeal or undercutting of the Delaney Clause, the saccharin controversy points up the need to resist any weakening of the law. Despite a well-documented cancer hazard, misinformation reaching the public about saccharin led to a cry of outrage. And the diet food and drink industries, ever ready to serve the public interest, were doing their best to undermine the ban.

The FDA didn't need the Delaney Clause to ban saccharin. It has the power to act. But without the Clause, which insists unequivocally that carcinogens may not be added to foods, the FDA may well have lacked the will to buck the floods of protest. And the effort to remove a public hazard might have dragged on for years, entangled in industry lawsuits or Congressional jockeying. It didn't. The FDA was able to move quickly and decisively.

We think that a Federal agency that's supposed to protect the public's health ought to be able to move quickly. And the Delaney Clause helps make that possible.

[From Postgraduate Medicine, Vol. 62, No. 1, July 1977]

SACCHARIN—SWEET AND DANGEROUS

(By George V. Mann, Sc.D., M.D.)

The *Federal Register* of April 15, 1977, contains the proposal of the US Food and Drug Administration to ban the addition of saccharin to prepared foods. This synthetic chemical has become a common additive in both foods and drugs. The proposal is the second chapter in the regulatory agency's investigation of sweeteners, following as it does the ban of the other important artificial sweetener, cyclamate, in 1969. Both actions were taken on the basis of animal tests which showed that the materials cause cancer. The proposed ban on saccharin has created a furor of protest and a huge lobbying effort from the affected industries.

Physicians have an obligation to the public in this matter because the facts are technical and complicated for lay people. There are two questions involved in the decision to ban these artificial sweeteners. (1) Are the compounds safe? (2) Are they efficacious? The Delaney amendment of 1958 to the Pure Food and Drug Law of 1938 plainly states that a substance known to cause cancer must not be added to food. Who can quarrel with that requirement? The Kefauver-Harris amendment of 1962 requires that a drug must be shown efficacious before it can be merchandised. There is some doubt in legal circles as to whether the artificial sweeteners are drugs or foods, but nutritionists have no doubt: The sweeteners are not foods; they are drugs. Both saccharin and cyclamate yield complicated metabolic residues, unlike the sweet carbohydrates which end as carbon dioxide and water. The requirements for proof of safety and efficacy in each instance fall on the fabricator, not on the regulatory agency or the public. The merchant must show evidence for product efficacy and safety.

Saccharin has been a troublemaker for regulatory agencies for over 50 years. It was discovered in 1879 at Johns Hopkins University by a German graduate student. Constantin Fahlberg, who had a falling-out with his chief, Professor Ira Remsen, over the patent rights. Some years later, President Theodore Roosevelt appointed Remsen, the president of Hopkins, to evaluate efforts by Harvey Wiley to clean up the US food supply. Wiley even then suspected that saccharin was not safe for human consumption, but Remsen ruled against the reformers, and the issue cost Wiley his job as chief of the bureau of chemistry, US Department of Agriculture.

Artificial sweeteners were a small matter in the food supply until 1937 when Michael Sveda, a postdoctoral chemist at the University of Illinois, noticed the extraordinary sweetness of a cyclohexylsulfamate compound which he had synthesized as a potential antimicrobial agent. There was little interest in sweeteners, so he had trouble selling the patent. But after World War II the "low-calorie food" industry took off and became a boomer. The mousy dietetic food section of the marketplace grew enormously and took on brighter colors. The growth was based on two promotional claims, both wrong.

The first is the allegation that diabetic patients must avoid sugar in their food and that artificial sweeteners help them do this. This proscription dates back to 1797 when John Rollo, learning that the urine of diabetics contains sugar, advised a low-sugar diet. The last bit of evidence that diabetics should avoid dietary sugar disappeared in 1922 when insulin replaced starvation as a treatment for diabetic acidosis.

The second promotional claim is that artificial sweeteners are effective in the regulation of body weight and treatment of obesity. After 30 years' experience with sweeteners, there is no evidence to support that contention. It is pure Madison-Avenue promotion. Indeed, this use of saccharin is counterproductive because it leads fat persons to suppose that they are attending to their weight problem with artificial sweeteners and to avoid effective measures.

Physicians who see obese and diabetic patients should support FDA Commissioner Donald Kennedy's proposal for a ban on saccharin. He has taken the only legal, intelligent, and responsible step open to him. The $11 billion per year soft-drink industry, the powerful Calorie Control Council, and other lobbyists are clamoring for a change of the law so that this dangerous and ineffectual sweetener can be kept in our food and in 619 different drugs. The saccharin proposal of the FDA has put the very regulatory laws at risk.

But the Delaney and Kefauver-Harris amendments are useful. They provide a means of keeping our food and drug environment a little safer. Without these amendments, we would be back in the commercial jungle of 1906. The real issue ought to be not the balance sheet of a soft-drink company; rather it should be the public health.

The lines of the struggle are drawn. Physicians have a part to play in this decision. They should make themselves heard, because they can testify on the role of saccharin in the management of obesity and diabetes. The issue they should confront is not convenience or comfort or habit but the efficacy of this additive.

There are no other suitable sweeteners in the wings. Aspartame and miraculin (Miralin) are not stable in heat and solution. The protein taste modifiers have shortcomings. Indeed, a nutritionist is bound to ask whether any sweetener is ever useful or necessary in food. The indictment of sucrose as a health threat has not convinced the epidemiologists. Artificial sweeteners may be the nutritional disaster of our time.

The street fighters' challenge "Put up or shut up" has been presented to the sweetener industry and all the scientific sycophants who weep over the ban of artificial sweeteners. Saccharin is a lovely test case.

[From the Cancer Letter, Vol. 3, No. 19, Page 5–6, May 13, 1977]

RALL ARGUES THAT ANIMAL TESTS ARE PREDICTIVE OF HUMAN CARCINOGENSIS

A number of reports on various aspects of carcinogenesis were presented at the American Cancer Society Science Writers Seminar, including one by David Rall, director of the National Institute of Environmental Health Sciences on the value of animal tests. Rall's report and summaries of others follow:

"DO ANIMAL TESTS PREDICT FOR CARCINOGENESIS?—DAVID RALL, DIRECTOR, NATIONAL INSTITUTE FOR ENVIRONMENTAL HEALTH SCIENCES

In order to prevent exposure of human populations to chemical carcinogens, laboratory or experimental animal systems must be used that will predict human carcinogenicity. Until recently, however, control has not followed until human epidemiological evidence of carcinogenicity has been developed.

The question as to whether to institute control measures based on laboratory evidence or based on human evidence is a public policy decision. Although the public will make it—through its surrogates the politicians—the decision must be based on good scientific evidence. The critical question is: Do tests in laboratory animals predict for cancer in man?

Attempts to correlate quantitative aspects of carcinogenicity between laboratory animals and man are difficult for many different reasons. The long latent period between exposure and outcome, the very fuzzy estimates of exposure, the confounding factors of diets, the background and environmental carcinogens, and so forth. A less obvious problem is that a successful carcinogenesis screening program tends to obfuscate the predictive relationship. If screening is successful and does identify a carcinogen and if that carcinogen then is prevented from entering the environment, no human cancer can be associated with that chemical. This hinders attempts at correlation. The proper statement is that there is no evidence for man. Often one hears instead the statement that there is no evidence that this compound is carcinogenic for man. A successful carcinogenesis screening should yield animal + human ? for many chemicals and this can obfuscate possible correlations.

But let's look at the available data. An NAS/NRC committee on pesticides bravely attacked this problem. Six compounds—benzidine, chlornaphazin, aflatoxin B_1, diethylstilbestrol, vinyl chloride and cigarette smoke—were reviewed. The milligram per kilogram total lifetime dose was calculated for the experimental animals and for man. Various assumptions had to be made, particularly about occupational exposures. For benzidine, chlornaphazin and cigarette smoke the milligram per kilo lifetime exposures estimated for man and for the most sensitive animal species were close, within one

order of magnitude. With the other compounds the differences appear greater. Feeding studies in mice project a somewhat higher incidence in man from aflatoxin B_1 exposure than was reported by Linsell. Perhaps tenfold greater; but again I would view this as not a large difference.

The most sensitive animal tests project a cancer incidence rate 500 times higher than has so far been reported in man by epidemiological studies for vinyl chloride. I think it is too early to tell. The only human tumor considered was hepatic hemangiosarcoma, but Wagoner, et al., have suggested that there is an increased incidence of some of the more common tumors. Further, many of these workers are still at risk.

In comparing lesions in the offspring of diethylstilbestrol treated mice and women, I would like to add some data that John McLachlan and coworkers at NIEHS have recently published demonstrating that in the pregnant mouse 2.5 μg/kg per day of diethylstilbestrol for six days during the critical period of that mouse's gestation will cause the development of vaginal carcinoma in 2% of the female offspring. The most sensitive patient reported by Herbst received early in her pregnancy one and a half milligrams per day or 25 micrograms per kilo per day. One patient, 25 micrograms per kilo per day—a daughter with adenocarcinoma; a series of mice, two and one half micrograms per kilo per day—and about 2% incidence. I think again that is very close.

Consider benzo(a)pyrene (BaP). In inhalation studies in the rate at 10 milligrams per cubic meter per day for one hour a day Laskin reports that only a very rare pulmonary tumor occurs. The addition of sulfur dioxide to the inspired air results in a significant tumor incidence.

Hammond, et al., have reported that roofing workers who inhale a mixture of compounds, including a known amount of BaP, have up to twice the normal rate of lung carcinomas. The mice in Laskin's experiments received 60 milligrams per kilo per year for one or so years—the men, 60 micrograms per kilo per year for 10 or 20 years; and they both showed an increased tumor incidence. I suggest this reflects what we all know. There are a lot of other carcinogenic compounds in the effluent from the tar. But these comparisons are interesting.

One more—with aflatoxin B_1. In a series of experiments six rats were given by tracheal instillation 18 milligrams per rate or 54 milligrams per kilo of aflatoxin B_1. Four out of those six rats developed hepatic tumors. Also reported was a human inhalation exposure of plant material contaminated with aflatoxin, including B_1. The men received about 10 milligrams per man per year for possibly 10 years or about one and a half milligrams per kilo. Of these, 11 out of 55 developed liver tumors. This is suggestive—but I would say with those two data points, hardly conclusive.

What can we conclude from this? I do not know what you can conclude, but I conclude that laboratory animal carcinogenicity tests predict well for man and that such tests do offer a mechanism by which the prediction of human carcinogenesis is possible before human exposure and with reasonable accuracy.

McArdle Laboratory
for Cancer Research,
Madison, Wisc., July 22, 1977.

Hon. Gaylord Nelson,
U.S. Senate Office Building,
Washington, D.C.

Dear Senator Nelson: I am pleased to write you about animal testing for possible human carcinogens.

Since most human cancers appear to be environmentally determined, we want to identify as many carcinogens as possible so as to be able to remove them from the environment. We could wait until there was an increase of some specific type of cancer that could be epidemiologically shown to be caused by a specific carcinogen. However, we prefer not to use people as test animals. Furthermore, in cases where there is exposure to many compounds or where a widespread cancer is concerned, we might not be able to specify from epidemiological studies which compound is the carcinogen.

Therefore, we must use tests that do not involve humans. The most reliable of these test is the induction of cancer in laboratory animals.

Biochemical study has shown that there is a basic similarity in the metabolism of humans and laboratory animals. Carcinogenesis testing has shown that all known human carcinogens (with the exception of arsenic) are carcinogenic in laboratory animals. Therefore, it is accepted by essentially all oncologists that if a compound is carcinogenic in animals it is potentially carcinogenic in humans.

We are interested in identifying compounds that might be carcinogenic in any subpopulation of our 220,000,000 citizens with their diverse genetic backgrounds and life styles. But, in practice, we cannot set up tests in 220,000,000 laboratory animals with similarly diverse genetic backgrounds and life styles. Rather, tests are carried out with groups of 50 or 100 genetically similar animals under controlled and constant conditions. Furthermore, laboratory animals are relatively short-lived compared to humans. Therefore, to attempt to insure that these limited animal tests will pick up compounds that might be carcinogenic for some of our population, compounds are tested at high doses for long periods of time.

However, once a compound used by humans is found to be carcinogenic by such tests, we must attempt to limit human exposure to the carcinogenic compound.

The American public is concerned about cancer. But, if when carcinogens like cigarette smoke or saccharin are identified, there is no action to restrict human exposure to them, we may never be able to reduce the incidence of cancer.

Sincerely yours,
Howard M. Temin,
American Cancer Society Research Professor, Professor of Oncology.

June 17, 1977.

Hearing Clerk,
Food and Drug Administration,
Rockville, Md.

Sir: I am a Professor of Oncology and a Nobel Laureate in Physiology or Medicine for my work with cancer viruses. I acted as a consultant to the recent Office of Technology Assessment Panel on saccharin.

In my opinion there is no question that saccharin is a carcinogen and could cause cancer in humans. Therefore, it should be banned from the general food supply.

However, there is no question that saccharin is perceived to be of health benefit to diabetics, obese people, etc. Therefore, it should be available to these people with a demonstrated medical need.

Thus, I support the proposed FDA regulations on saccharin.

Sincerely yours,
Howard M. Temin,
American Cancer Society Research Professor WARF Professor of Cancer Research.

Mr. NELSON. Mr. President, I am today introducing an amendment in the nature of a substitute to S. 1750, the saccharin bill, which would defer the proposed FDA ban for 18 months.

The amendment would allow saccharin on the market as an over-the-counter sweetener, for 18 months.

It would require that the products bear a warning label, identical to that in the Kennedy bill (S. 1750), which would read:

Warning: This product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer.

The amendment accomplishes what the Food and Drug Administration has proposed:

It removes saccharin from the general food supply.

It allows continued use of saccharin—only for 18 months—as a sweetener.

Although the amendment temporarily suspends—for saccharin—the Food, Drug and Cosmetic Act requirement that over-the-counter drugs be shown to be safe and effective, it does provide for saccharin's removal from the food chain while allowing continued use as a sweetener.

No scientific evidence has been presented to date that saccharin is efficacious in reducing weight or benefitting those with heart disease.

The 18-month period provided in the amendment allows for producers of saccharin to develop such evidence, if possible.

After that time, all saccharin would be prohibited, unless it were found to comply with the existing over-the-counter drug law.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. The unanimous-consent agreement provides precisely what?

The PRESIDING OFFICER. The unanimous-consent request?

Mr. NELSON. No, the unanimous-consent agreement respecting the time limitations on the pending bill.

The PRESIDING OFFICER. There are 4 hours on the bill, 2 hours on any amendment in the first degree, 30 minutes on any amendment in the second degree, 20 minutes on any debatable motion or appeal, et cetera. Amendments must, however, all be germane.

Mr. NELSON. All amendments must be germane?

The PRESIDING OFFICER. That is correct.

Mr NELSON. Mr. President, did the unanimous-consent agreement speak of what time debate would begin?

The PRESIDING OFFICER. No, it did not, the Chair informs the Senator.

Mr. NELSON. Mr. President, I yield the floor.

The PRESIDING OFFICER. We are now in the 4 hours of debate. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in accordance with the understanding of the leadership, we have laid this bill down this evening and expect to have the debate on it during the course of tomorrow. I am at the will of the leadership as to what time we will commence. I would like to reserve the time which has been allocated to the bill until we start the debate in the morning.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against either side on the bill for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, in further response to the distinguished Senator from Massachusetts, I ask unanimous consent that the Judiciary Committee may be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes. May I further respond to the distinguished Senator from Massachusetts?

Mr. NELSON. Yes.

Mr. ROBERT C. BYRD. In answer to the question by the distinguished Senator from Massachusetts, which I have not fully responded to, there will be three special orders tomorrow of 15 minutes each. We shall be coming in at 9:45 a.m., which means that we shall be ready to start on the bill at something like 10:45, considering the time that the two leaders may wish to take and possibly, some other matters. So it will be about 10:45 a.m.

Mr. NELSON. Will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. NELSON. Mr. President, I ask unanimous consent that, during the course of debate and the rollcalls on this legislation, Judith Robinson, staff member of the Subcommittee on Manpower, Poverty, and Migratory Labor, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent that Mr. Horowitz and Bob Wenger of the Health Committee staff be granted floor privileges, also.

Mr. CHAFEE. I make a similar request for Miss Fran Parris of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. I ask unanimous consent that Mary Frances Lowe of my staff be granted the privilege of the floor tomorrow, also.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:48 p.m., a message from the house of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the enrolled bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for one year, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1967. A letter from the Secretary of Labor and the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation entitled the "Better Jobs and Income Act" (with accompanying papers); jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of HEW and the Secretary of Labor transmitting a draft bill relative to existing Federal welfare programs be referred jointly to the Committees on Finance and Human Resources.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EC–1968. A letter from the Architect of the Capitol transmitting, pursuant to law, a report of the second phase on the future development of the Capitol grounds (with an accompanying report); to the Committee on Appropriations.

EC–1969. A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, a report on the approval of a loan guarantee for a non-REA loan in the amount of $123,373,000 to Soyland Power Corporative, Inc., of Decatur, Illinois (with an accompanying report); to the Committee on Appropriations.

EC–1970. A letter from the Director, Defense Security Assistance Agency, and Deputy Assistant Secretary, Security Assistance, transmitting a secret report entitled "Notification of the Department of the Army's Proposed Foreign Military Sale to Germany (with an accompanying report); to the Committee on Armed Services.

EC–1971. A letter from the Director, Defense Security Assistance Agency, and Deputy Assistant Secretary, Security Assistance, transmitting a confidential report entitled "Notification of the Department of the Army's proposed foreign military sale to Sweden" (with an accompanying report); to the Committee on Armed Services.

EC–1972. A letter from the Administrator of the Federal Energy Administration transmitting a draft of proposed legislation to amend the Naval Petroleum Reserves Production Act of 1976 (with accompanying papers); to the Committee on Armed Services.

EC–1973. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notification of 12 construction projects to be undertaken by the Naval and Marine Corps Reserve (with an accompanying report); to the Committee on Armed Services.

EC–1974. A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to provide that the Exchange Stabilization Fund shall not be available for the payment of administrative expenses (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

EC–1975. A letter from the Acting Chairman of the Office of Telecommunications Policy transmitting a draft of proposed legislation entitled "International Maritime Mobile Telecommunications Satellite Act of 1977" (with accompanying papers; to the Committee on Commerce, Science, and Transportation.

EC–1976. A letter signed by the Secretary of Agriculture and the Secretary of the Interior transmitting, pursuant to law a report on the activities carried out under the Youth Conservation Corps Act (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–1977. A letter from the Assistant Legal Adviser for Treaty Affairs transmitting, pursuant to law, copies of international agreements other than treaties (with accompanying papers); to the Committee on Foreign Relations.

EC–1978. A letter from the Comptroller General transmitting, pursuant to law, a secret report entitled "The Navy's Multimission Carrier Airwing—Can The Mission Be Accomplished with Fewer Resources?" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1979. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Nuclear Energy's Dilemma: Disposing of Hazardous Radioactive Waste Safely" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1980. A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Multibillion Dollar Construction Grant Program: Are Controls Over Federal Funds Adequate?" (with an accompanying report); to the Committee on Governmental Affairs.

EC–1981. A letter from the Chairman of the Foreign Claims Settlement Commission transmitting, pursuant to law, a report on a new system of records (with an accompanying report); to the Committee on Governmental Affairs.

EC–1982. A letter from the Assistant Secretary of Commerce transmitting, pursuant to law, a report on a new system of records (with an accompanying report); to the Committee on Governmental Affairs.

EC–1983. A letter from the Acting Deputy Director of the Central Intelligence Agency transmitting, pursuant to law, a report on

the proposed establishment of two new record systems (with an accompanying report); to the Committee on Governmental Affairs.

EC–1984. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the 1976 annual report on poverty-related research and demonstration projects delegated to the Department as of July 1973 (with an accompanying report); to the Committee on Human Resources.

EC–1985. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, published regulations for the State Student Incentive Grant Program (with accompanying papers); to the Committee on Human Resources.

EC–1986. A letter from the Commissioner of Immigration and Naturalization Service transmitting, pursuant to law, 489 reports covering the period August 16 through August 31, 1977, concerning visa petitions (with accompanying reports); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

S. 2089. An original bill to establish within the Department of Justice the position of Associate Attorney General (Rept. No. 95–429).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

John H. Shenefield, of Virginia, to be an Assistant Attorney General.

Jose Antonio Canales, of Texas, to be U.S. attorney for the southern district of Texas.

Carl W. Gardner, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma.

Bernal D. Cantwell, of Kansas, to be U.S. marshal for the district of Kansas.

Hubert H. Bryant, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma.

James W. Moorman, of California, to be an Assistant Attorney General.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Frank Jones, of Virginia, to be an Assistant Director of the Community Services Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, September 14, 1977, he presented to the President of the United States the enrolled bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for one year, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EASTLAND, from the Committee on the Judiciary:

S. 2089. An orginal bill to establish within the Department of Justice the position of Associate Attorney General; placed on the Calendar.

By Mr. NELSON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. KENNEDY, Mr. CRANSTON, and Mr. RIEGLE):

S. 2090. A bill to extend for three additional years the authorization of titles I, II, III, V, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Human Resources.

By Mr. PROXMIRE:

S. 2091. A bill to extend the moratorium on conversions of insured savings and loan associations, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENSON (for himself, Mr. HUMPHREY, and Mr. CRANSTON):

S. 2092. A bill to establish a comprehensive and coordinated national climate policy and program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENSON (for himself and Mr. PROXMIRE):

S. 2093. A bill to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses, and for other purposes; to the Committee on Banking, Housing and Urban Development.

By Mr. EASTLAND:

S. 2094. A bill to amend the jurisdiction of the Federal courts in diversity of citizenship cases; to the Committee on the Judiciary.

By Mr. TOWER:

S. 2095. A bill to amend the Internal Revenue Code of 1954 to provide an investment credit for oil and gas drilling expenditures, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. TOWER, Mr. ANDERSON, Mr. BAYH, Mr. CHURCH, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. LEAHY, Mr. JOHNSTON, Mr. MATSUNAGA, Mr. MORGAN, Mr. PERCY, Mr. RIEGLE, Mr. THURMOND, and Mr. SPARKMAN):

S. 2096. A bill to govern the disclosure of certain financial information to governmental agencies by financial institutions, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. STONE:

S. 2097. A bill to amend the Immigration and Natonality Act to exclude from admission into and to deport from the United States all aliens who persecuted others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. KENNEDY, Mr. CRANSTON, and Mr. RIEGLE):

S. 2090. A bill to extend for 3 additional years the authorization of titles I, II, III, V, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Human Resources.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1977

Mr. NELSON. Mr. President, at the request of the administration, Senators WILLIAMS, JAVITS, KENNEDY, CRANSTON, RIEGLE, and I are introducing legislation to extend for 3 years the authorization of appropriations for titles I, II, III, V, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, as amended, and to modify certain other provisions of that act as well.

Congressman IKE ANDREWS, chairman of the House Education and Labor Committee's Subcommittee on Economic Opportunity, and Congressman CARL PERKINS, chairman of the House Education and Labor Committee, introduced similar reauthorizing legislation, H.R. 7577, on June 2, 1977. Congressman ANDREWS' subcommittee held hearings on July 1, 21, and 22, and on August 9 and 10. Markup of that legislation has begun in the House subcommittee.

BACKGROUND

The Economic Opportunity Act was signed into law on August 20, 1964, "to eliminate the paradox of poverty in the midst of plenty in this Nation" and to "strike at the causes, not just the consequences of poverty." This legislation created the Office of Economic Opportunity which administered programs authorized by the act until January 4, 1975. At that time, the "Headstart, Economic Opportunity and Community Partnership Act of 1974," which created the Community Services Administration—CSA—as an independent agency, became the legal successor to the Office of Economic Opportunity (Public Law 93–644).

The CSA is the central agency within the Federal Government for developing, testing and operating programs to reduce poverty in the United States.

There are six basic programs within CSA at this time: Community Action, Economic Development, Energy and Winterization, Senior Opportunities and Services for the Elderly, Community Food and Nutrition—formerly Emergency Food and Medical Services, and State Economic Opportunity Offices. The Department of Health, Education, and Welfare has responsibility for the administration of titles V and VIII of the act—the Head Start and Follow Through programs, and the Native American programs.

COMMUNITY ACTION

Community action is the most basic method through which the CSA seeks solutions to the social and economic problems related to poverty. This concept operates through 879 community action agencies—CAA—located in 50 States and the Trust Territories. CAA's operate in 2,211 U.S. counties, more than two-thirds of the Nation's 3,143 counties. Fourteen million persons participate annually in these locally based and operated programs. Of this number, 46.1 percent are white, 43 percent black, 5.5 percent

American Indian, and 5.4 percent other nonwhite. Twelve percent of the total participants are Spanish-speaking.

At the heart of the Nation's efforts to eliminate poverty is community action. This concept is the basic Federal approach to local assistance programs for the poor. Community action is just what the name implies—a community marshaling its own abilities, tapping State and Federal resources, recruiting professionals and enlisting volunteers to solve the problems of its own low-income citizens.

Community action agencies carry their services into areas of need. With neighborhood centers, mobile units, and outreach workers, CAA's seek to inform and involve every family or individual who might benefit from the program. As a result, more than two-thirds of the Nation's 3,143 counties take part in Community Action programs. In these counties live 90 percent of America's poor.

No two community action agencies are exactly alike because conditions vary from place to place. The programs, tailormade to meet specific problems, may include some or all of the following:

Health services in places where doctors have been scarce and hospitals nonexistent;

Job development and training in areas of high unemployment;

Day-care services that allow needy mothers to work while their children are taken care of under watchful supervision;

Nutritional meals and profitable crafts and other activities for senior citizens;

Head Start tutoring and other education assistance to limit the effects of inherited poverty; and

Housing rehabilitation or help in acquiring a new home.

With administrative and other funds from the Community Service Administration, along with specific program grants from various Federal agencies, CAA's combine imagination, resourcefulness and hard work to combat poverty.

ECONOMIC DEVELOPMENT

The Federal community economic development program was created in 1966 under title I–D of the Economic Opportunity Act. This legislation was designed to promote significant economic and community development in urban and rural areas with a high level of unemployment, dependency and physical deterioration. In 1972, title I–D was replaced by a more comprehensive title VII. The program is administered by the Office of Economic Development (OED) in the Community Services Administration.

OED's programs are a combination of resident-controlled community development and profit-oriented business development efforts. Though OED programs have some similarity to those funded by the Department of Commerce, there are basic differences. First, Commerce Department programs are mandated to serve the general community while OED programs are directed to the poor. Second, Commerce programs assist individual business persons, not communities as do OED programs. Finally, Commerce's emphasis is toward helping members of minorities rather than low-income people as such.

The principal function of the Office of Economic Development is the administration of the Special Impact or Community Development Corporation (CDC) program. Other programs and activities are generally in support of CDC's or related groups. OED currently funds 39 community development corporations: 21 in multicounty rural areas and 18 in urban neighborhoods. OED supported CDC's are located in 28 States, the District of Columbia, Puerto Rico and the Virgin Islands. A CDC receives between $2 million to $10 million for a 2-year funding period—money to be used for administrative and venture purposes. New jobs created by CDC's range anywhere from 40 to over 200 during such a period. Overall funding for economic development has remained relatively stable for the past few years at $48 million.

CDC's currently operate various and diverse businesses. Among them are manufacturing plants for toys, canoes, furniture, blue jeans, and metal fabrication, shopping centers, production and marketing cooperatives, franchises, industrial parks, housing projects, land development, grocery stores and supermarkets.

These corporations hire the poor in their localities, and provide training where needed, while seeking to run profitmaking businesses to augment the economic level of the disadvantaged communities. CDC's invest, in short, in both people and projects for the benefit of both.

ENERGY AND WINTERIZATION

Upon its own initiative and using previously appropriated funds, OEO/CSA originated a comprehensive winterization and energy-saving program for the poor at the time of the fuel crisis in 1973. Working through its network of CAA's, homes were winterized—insulated and made more energy efficient—using cooperatively purchased materials, as well as volunteers and job trainees. The agency later initiated an energy voucher subsidy program to test this method of providing the poor with money to buy fuel. Revolving loan funds, crisis centers and emergency fuel depots were also set up by CAA's. In 1975, Congress authorized the agency to continue its efforts in future years under the legislation which created the Community Services Administration. To date the Agency has weatherized over 200,000 homes and is currently providing crisis relief moneys for last winter's high fuel bills for the poor through a $200 million supplemental appropriation.

In Wisconsin, for example, CSA's program has weatherized 5,419 homes as of March 1977. This has been accomplished at an average cost in materials of $200 per home, with estimated hours of labor, usually provided by CETA labor, of between 25 and 60 hours per home, depending upon the home's condition and how rural its location. This program has reduced the amount of the weatherized home's fuel-related bills by 29 to 32 percent—a significant reduction for those among our population who can least afford to pay the constantly escalating cost of energy in this country. This program has, in the four years it has been operating, made tremendous strides toward alleviating, for the long-term as well as the present, the problems of poverty aggravated by the energy crisis.

The Carter administration is only seeking reauthorization of this winterization program within CSA through fiscal year 1978, however. The reason for this is that President Carter has designated the new Department of Energy as the Federal agency responsible for administering the winterization program. Whether, in fact, the CSA should have concurrent authority to administer the winterization program with the Department of Energy will be the subject of intense scrutiny during the Subcommittee on Employment, Poverty, and Migratory Labor's hearings and deliberations.

SENIOR OPPORTUNITIES AND SERVICES

Thirty million Americans over 60, particularly the 6.5 million poor among them, have problems which are aggravated by age.

These elderly poor increasingly live in dilapidated apartments or rooms in the inner city or in isolated dwellings in the rural countryside. Fearful of walking the city's streets but unable to move elsewhere, many of them bear the added burdens of hunger and despair. Isolated and forgotten, they live in fear of their future and needlessly suffer.

Lack of adequate food, housing, medical care and other essentials of a decent and dignified old age are the problems of the elderly poor that the Senior Opportunities and Services (SOS) program of the Community Services Administration attempts to eradicate, both through its own services and by referral to other agencies.

Created under a 1967 amendment to the Economic Opportunity Act of 1964, SOS basically operates through 879 Community Action Agencies and 1,500 senior service centers in both urban and rural localities. Staffs at these centers maintain information and outreach networks which seek out the elderly poor to render assistance and provide information on where they can obtain it.

At senior centers, older persons—60 and over—share companionship and meals with their age peers. They also can obtain some medical services as well as transportation to doctors' offices for more serious treatment. Special buses or taxi systems are sometimes provided for trips to visit the supermarket, churches or service agency offices. Local volunteers, many of them poor, staff these centers and donate many hours of work to the programs.

Senior citizens participating in center programs have organized themselves into senior congresses and senates, electing representatives from among themselves to present their needs before State and national legislatures. These delegates also visit offices of mayors and governors. They often form prescription drug and food-buying clubs to reduce the costs of these essentials and to seek reductions on bus and taxi fares and home repairs.

COMMUNITY FOOD AND NUTRITION

Chronic malnutrition and hunger are twin spectres which still detrimentally affect many of the Nation's poor. This is true despite the existence of food stamps and other major food programs.

For example: Though approximately 30 million persons are eligible for food stamps, only 16.7 million receive them. Nearly half the poor children in day care programs—one-half million persons in all—do not have access to child feeding programs. Of the 4.5 million women, infants and children eligible under the WIC nutrition program, less than 20 percent receive food or food supplements.

Thus, the hunger among Americans continues to a substantial degree. The goal of the community food and nutrition program—CFNP of the Community Services Administration is to reduce that gap. It seeks to do this in two basic ways: by supplementing the larger food programs of other agencies and by funding projects which will increase the production of food for the poor by giving them the means to grow and preserve foods.

The community food and nutrition program—formerly emergency food and medical services—was established by the Congress in 1968. It was authorized to supplement, not replace, the larger programs CFNP operates as a national emphasis program, with special funding, and seeks to reduce hunger among the poor by direct services as well as by seeking changes in food programs authorized to serve the poor.

The Community Services Administration funds 700 food and nutrition projects through grants to CAA's Indian Tribal Councils, migrant groups and other private nonprofit or public agencies at State and local levels.

No two CFNP projects are identical. Each program is designed for the needs of the particular situation or group subject to overall CSA guidelines.

STATE ECONOMIC OPPORTUNITY OFFICES

The Community Services Administration seeks to work closely with State and local governments in improving the economic status of the poor and the delivery of services to the poor within the various States and localities.

One of the CSA's principal administrative mechanisms for accomplishing this cooperation is the Division of State and Local Government. It functions in two fundamental ways: Through the State Economic Opportunity Offices—SEOO's which are funded in the 50 States, the District of Columbia, the Virgin Islands and Puerto Rico; and through coordinating the collaborative efforts of CSA headquarters, the agency's 10 regional offices and the 50-plus SEOO's.

State Economic Opportunity Offices, usually located in the Office of the Governor of their States, are essential to the overall operation of the Division of State and Local Government.

State Economic Opportunity Offices currently:

Provide technical assistance to community action agencies, particularly those which are rural. Since 1969, rural CAA's have received long-term on-site technical assistance from SEOO's through State special technical assistance programs.

Serve as prime advocates for programs for the poor with other State agencies.

Serve as coordinators and liaison with other Federal agencies in statewide and local programs.

HEADSTART AND FOLLOW-THROUGH

Since its inception in 1965, Project Head Start has delivered developmental services to economically disadvantaged youngsters under the age of 5. The program currently serves about 349,000 children in 1,200 communities each year. Ninety percent of the children are from families with incomes at or below the poverty level.

The Head Start programs are located in centers throughout the 1,200 communities. Centers are staffed by well-trained and experienced personnel who give these disadvantaged children individual attention to promote their educational and developmental needs.

Centers offer a variety of educational programs which attempt to raise children's overall educational skills. Malnourished or ill children are given appropriate nutrition and health services to give them the capabilities to learn and develop normally. Centers provide well-balanced breakfasts and lunches, as well as nutritional information, so the participating children can learn about good diet and good dietary habits. Medical and dental diagnosis and treatment, where necessary, are available at the centers. This is especially important because at least 10 percent of all young participants are mandated under title V of the act to be handicapped individuals.

One aspect of the program has made Head Start very successful. And that is the fact that the parents of participating children have become intimately involved with the programs and thus with the development of their own children. Parents participate in many facets of the day-to-day operation of the centers, and this legislation would continue to encourage this active participation.

NATIVE AMERICAN PROGRAMS

The Office of Native American Programs—ONAP—was established in 1973 in the Department of Health, Education, and Welfare after being transferred from the Community Services Administration's Indian Division. The goal of the new office is to promote the economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives. Three programs have been established to implement this goal.

One program administers tribal grants to some 300 tribes and 15 intertribal associations. In all, 113 tribal grants are now in existence; these grants are distributed among the tribes and associations. Ninety-eight grants go directly to individual tribes and 13 grants are divided among 202 tribes, which have combined into 14 intertribal associations. These grants provide funding for administrative and social service agencies on the reservations, as well as to develop tribal courts, civic centers, and other community facilities. Programs cover a wide array of services such as employment, training and placement, economic development, research and planning, Head Start programs, alcohol and drug abuse counseling, and services for the elderly.

The Office of Native American Programs also has established 14 tribal construction companies and three energy natural resources development projects. Construction companies not only provide employment opportunities, but also help provide better housing for reservation inhabitants. Commercial development of natural resources augments the ability of some tribes to become self-sufficient, and provides additional energy resources for our Nation.

Urban Indians are a third group of Native Americans receiving ONAP funding. Urban Indians often are not a homogeneous group, so funding does not go directly to them. But funding is provided to 65 urban Indian centers, each of which administers the money allocated to them. These centers are run by and are accountable to Indians in the community, through publicly elected boards which are comprised of a minimum of 51 percent Indians. Centers utilize and coordinate existing State and Federal programs by way of Outreach, information, and referral services.

THE ECONOMIC OPPORTUNITY AMENDMENTS OF 1977

The reauthorizing legislation being introduced today reaffirms this Nation's commitment to combating poverty in the United States. The Economic Opportunity Amendments of 1977 contain several important substantive amendments and other technical amendments to improve the poverty programs.

Section 3 of the amendments authorizes the appropriation of funds for continuation of titles I, II, III, V, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, as amended, for the fiscal years 1979, 1980, and 1981.

The Economic Opportunity Amendments of 1977 authorizes "such sums as may be necessary" through that period. This provision will permit the Senate Human Resources Committee to review annually the precise level of funding necessary to enable the Community Services Administration to meet and anticipate the needs of this Nation's poor, and to provide services through the Department of Health, Education, and Welfare to young children and native Americans. It will also provide Congress the flexibility to determine the funding levels which can be used effectively in continuing to combat poverty.

On July 21, 1977, the Carter administration requested that Congress amend the Economic Opportunity Amendments of 1964, as amended. These amendments have been incorporated in the bill we are introducing today.

Under section 4(a) of this legislation, section 211(b) of the act would be amended to establish a minimum board size of 15 for community action agencies. This particular amendment is to correct situations in which board size might be too small to accurately reflect the desired local participation. The second change in section 211 reduces the length of service for community representatives on a CAA board from 5 to 3 consecutive years, and the total length of service from 10 to 7 years.

These changes are intended to increase the participation within local communities in the decisionmaking process and encourage greater and more frequent participation of members of the community served, as well as to permit more individuals to have the experience such service provides.

Section 4(b) of this legislation amends section 222(a)(13) of the act to provide for sponsorship of the summer youth recreation program by community action agencies, rather than CETA prime sponsors as is currently the case, and would establish eligibility standards consistent with other title II CSA programs. The designation of Comprehensive Employment and Training Act prime sponsors as the local administering agency for the summer youth recreation program was a consequence of that program having been placed in the Department of Labor in 1974. Redesignation of CAA's as sponsoring agencies would correct the cumbersome administrative system that has developed in the current program.

The most significant and needed change contained in these amendments, set out in section 4(c) of the bill, would be the return of the Federal/non-Federal matching ratio for community action agencies to 80/20 in section 225(c) of the act. From 1967 until 1976, the non-Federal share requirement remained stable at 20 percent; however, in 1976 and 1977, as a result of the 1974 amendments to the act, that local share was required to double. This has placed an extreme burden on most CAA's and has forced the agency to issue relatively broad criteria for waiver of the non-Federal share requirement. When close to a third of CSA's grantees require administrative relief to finance their ongoing programs, such evidence raises serious questions about the necessity and equity of the underlying requirement.

Section 5(a) of these amendments amends section 601(c) of the act to remove the prohibition against the Director's delegation of grantmaking or policymaking authority to the Regional Directors. The prohibition was added to the act in 1974 to force greater review and control over grants and contracts, but instead it has had the opposite effect with greatly increased paperwork, cross-country mailings and resultant funding delays. Rather than decreasing the Director's reliance on the judgment of Regional Directors, it has increased such reliance and kept the national office from the task of monitoring regional performance. This amendment would reduce the current paperwork overload, reduce chronic funding delays and decentralize authority in a responsible, revocable manner.

Consistent with this change in 601(c), section 5(b) of the amendments removes the requirement that the Director not delegate any authority to those not directly responsible to the Director under the act. The deletion from section 602(d) of the words "with the approval of the President," would allow delegation of specified authority outside the Agency to facilitate interagency cooperative efforts without requiring specific Presidential approval.

Section 5(c) of the amendments eliminates the National Advisory Council established under section 605 of the act, in 1978, to implement President Carter's goal of eliminating advisory councils and commissions. This will be subject to close examination by the Employment, Poverty, and Migratory Labor Subcommittee to ascertain whether this goal is consistent with good public policy.

Section 714(2) would be amended by section 6(a) of these amendments to establish the precedence of Treasury and CSA regulations governing the use of letter-of-credit funding procedures. The proposed change is consistent with Agency efforts to install adequate fund control over title VII grantees.

Section 731(a) of the act would be amended by section 6(b) of these amendments to establish eligibility of community action agencies and other community-based organizations for the rural development loan fund, consistent with their eligibility for financial assistance under other sections of title VII of the Economic Opportunity Act, as amended.

TECHNICAL AMENDMENTS

The remaining amendments contained in section 7 of this legislation would repeal sections of the act that have not been implemented, such as the transfer provisions in sections 601 (e), (f), (g), and (h), and sections 201(f), and 240; or sections that duplicate authority provided elsewhere in the act, such as sections 222(a)(10), 226, 228, and 236.

Finally, the additional reporting requirements contained in sections 620 and 745 would be eliminated by sections 5(d) and 7 of the amendments leaving CSA with one annual, comprehensive report to Congress, under section 608, on all sections of the act it administers.

Mr. President, it is my intent, as chairman of the Employment, Poverty, and Migratory Labor Subcommittee, to hold hearings on this legislation and upon the past and present administration of the national, State, and local poverty programs authorized by the Economic Opportunity Act and subsequent enactments. Recent stories in the press about waste and fraud in the poverty agencies, uncovered by congressional investigations, have raised many unresolved questions about the ongoing operations of the poverty programs. The subcommittee intends to take an active role in seeking answers to these questions. Our goal is to insure the future integrity of the poverty programs, and to seek efficiency and cost effectiveness in the delivery of services to this Nation's poor population.

Mr. JAVITS. Mr. President, I am pleased today to join my distinguished colleague, the Senator from Wisconsin (Mr. NELSON), who is chairman of the Subcommittee on Employment, Poverty and Migratory Labor, on which I am the ranking minority member, in introducing the Economic Opportunity Amendments of 1977. This bill would make important and much-needed modifications, and extend for 3 additional years, the authorization of the Community Services Act of 1974 and of the Head Start program.

Mr. President, today represents yet another milestone in my long personal association and identification with our Nation's war on poverty, which began with our assault on the endemic and debilitating problem of poverty.

On July 23, 1974, I joined with Senators KENNEDY, DOLE, JOHNSTON and 30 other cosponsors in introducing S. 3798, the Economic Opportunity and Community Partnership Act of 1974, which later became the basis of the Community Services Act of 1974, the authorizing legislation we propose to extend today. Our strategy then, as now, was to break the vicious circle of poverty; the insidious syndrome which has imprisoned some 30 million Americans in a seemingly hopeless cycle of inadequate education, discrimination, unemployment, and dependency. As now, our ultimate goal was the elevation of the less fortunate to a fuller life of economic opportunity, personal dignity and self-respect.

Like so many of the other great problems we in Congress must take on, the problem of poverty has not yielded ground easily, even to our most heroic efforts. As I fully anticipated when President Johnson signed the Economic Opportunity Act of 1964, endemic poverty has not only remained intractable, but has even been exacerbated by a seemingly endless series of events. Thus, in 1975, the latest year for which reliable Census Bureau data was available, the official poverty population was estimated to be almost 26 million persons, not significantly beneath the 1966 Census Bureau estimate of 28.2 million people living below the poverty line. In 1975, 12.1 percent of the U.S. population were found to be in poverty, while in 1966, 14.7 percent were so situated.

Many factors account for this only modest decline in the poverty population. First of all, since 1970 our economy has failed to maintain a growth rate that would assure full employment and reasonable improvements in real, per capita income. We seem to have steered a course which has taken us past both the Scylla of runaway unemployment and the Charbydis of runaway inflation, but we have emerged in the stagnant waters of relatively slow growth. We had a minor recession in 1970, near hyperinflation in 1971, unstable and dislocating growth in 1972 and 1973, and a major recession commencing in late 1974 through 1975. In 1975, and as a direct consequence of these and other developments, the officially measured poverty population increased by 10.7 percent over 1974.

When this is considered together with municipal financial crises in many cities, generally stagnant growth in the Northeast and Midwest, where many of the poor reside, and normal population growth in poor families, it is not surprising that our poverty problem remains so severe.

For these reasons, we in Congress must persevere in our efforts to reverse the downward spiral of disadvantaged communities and to eradicate poverty in our country. We must not be discouraged by what to some may seem to be a persistently high poverty population. We need to reconcile ourselves to the fact that eliminating the shocking maldis-

tribution of income that continues to characterize our society will require the same mobilization of resources and energies that would be required to mount a major war. Poverty continues to be the enemy of a society pledged to "life, liberty, and the pursuit of happiness" for all.

I believe the bill we introduce today represents a renewal of our continuing commitment to give the poor the opportunity they deserve to escape from the poverty syndrome. It proposes a number of significant programmatic changes and reauthorizes several creative and enlightened programs that make an extraordinary contribution to ameliorating the problem of poverty.

As Senator NELSON has already described the bill in some detail and I do not wish to be redundant, I will restrict myself to several items of major importance.

Of great significance is the provision which would restore the 80/20 Federal-local matching arrangement in the section 221 local initiative program. In March 1976, Senator WEICKER and I introduced S. 3098, a bill to provide the 80/20 arrangement, and I am so pleased that the administration has now proposed this approach. Many will recall that Public Law 93–644 vitiated the decade-long principle of an 80-percent Federal share in funding our poverty program. The 1974 law stipulated that community action agencies—the local umbrella organizations which administer various projects which provide services to the poor—would have Federal matching of 80–20 in fiscal year 1975, 70–30 in fiscal year 1976 and 60–40 in fiscal year 1977. This represented a doubling of the local share in just 2 years, and has placed an enormous and intolerable burden on local community action agencies and the poor they serve.

I have never agreed with the increased matching requirement and, for several reasons, believe that a 20-percent share should be the maximum amount required from local sources. The increased local share has created financial hardships for some community action programs—CAPs—and placed an onerous responsibility upon the local community to produce the 40-percent requirement. In many cases, the programs have had to reduce their services, cut back on their staff, and cope with a higher rate of staff turnover through retrenchment. Furthermore, for more than 8 years the level of appropriations to fund section 221, the local initiative, has been about $330 million, an amount which neither has provided an equitable adjustment for inflation, nor has compensated for the effects of the recent recession, which hit hardest the cities least able to pay for services.

This 60–40 proportion is contrary to the present trends in Federal social programing. Neither CETA nor the section 8 low-income housing assistance programs require any local share. Moreover, the Community Services Act of 1974 provides programs in comprehensive health and alcoholism and drug rehabilitation that do not require local funding. Some programs such as Head Start, Follow Through, and several Native American programs, created originally by OEO and now administered by other agencies, have maintained the 80–20 ratio.

Because many community action programs have been unable to meet the higher local financial responsibilities, the Agency has had to make provision to waive the non-Federal share requirement when to insist upon it would be contrary to the interests of the program. Currently, two bases for waiver are offered: First, extreme percentage of poverty in an area, which applies to 193 counties, and second, failure of all "reasonable efforts" of the CAP to raise the non-Federal share. In fiscal year 1976, the Director granted waivers to 266 of our 879 CAP's. A continuance of the higher local share requirements coupled with a still recovering economy suggest that this pattern would repeat itself in the future.

When nearly one out of every three community action programs requires special consideration because of financial difficulties, it is necessary to reevaluate the funding requirements and develop a financial arrangement which can encourage the ongoing success of community action programs throughout the Nation. I am pleased the administration has proposed the 80–20 arrangement.

Another significant provision in the bill we introduce today would give greater authority to the regional directors of the Community Service Administration. I believe there is need to consider seriously the reestablishment of a procedure whereby there might occur a decentralization of decisionmaking in respect of program grants. I understand that some 8,000 headquarters grant reviews have been necessitated by the requirement that became effective June 1975, that CSA give final approval to all grant awards.

It seems eminently sensible to me to adopt a grants approval procedure that simultaneously can be consistent with our local initiative approach and brought nearer to the poor themselves. It is true, I believe, that the regional offices can have a greater sensitivity to the needs and concerns of the poor who reside in the areas served by the community action agencies and, for this reason, should have approval authority.

In addition to the above provisions, the Economic Opportunity Amendments of 1977 extends through fiscal year 1981 the life of the community economic development program contained in title VII. I am pleased that the administration appreciates the great contribution that has been made by the Community Development Corporations in strengthening the infrastructure of local economies and demonstrating that the poor can lift themselves by their own bootstraps if they are but given the necessary means to begin the job.

Mr. President, I joined the late Senator Robert F. Kennedy to cause this program to come into being in 1966. We went to the Bedford-Stuyvesant section of Brooklyn, N.Y., and explored with community leaders the idea of establishing a "bootstrap" program in which the Federal Government would provide "seed money" in the form of equity capital to enable local private nonprofit organizations to mobilize local resources in order to stimulate community economic development. We had in mind the creation of a program whose fundamental premise would be a reliance upon what is best about our American system of enterprise, to wit: the mobilization of capital ownership for economic development and self-sufficiency. The unique creativity of the CDC approach is its utilization of financial assistance in the form of equity capital to start, locate and expand business enterprises in the poor communities themselves. In every sense of the word, therefore, a full partnerhip is forged between government and the community, in which there occurs the active participation of business, the people and government. What better way to achieve community revivification than to encourage with some venture capital the local ownership of those fructifying productive resources that can generate permanent economic dividends?

It was not ordained that Bob Kennedy should live to witness the fruition of the idea he helped conceive. I know he would be so gratified to see that our concept of community economic development has proliferated throughout our country. Today some 40 CDCs are in operation, and are engaged in various business development and social service programs which are having a material effect in improving the quality of life in such varied places as Salt Lake City, Phoenix, Alaska, Denver, Boston, Hawaii, New Mexico, and California. The words Senator Kennedy uttered in December 1966, when the first CDC was inaugurated, live on:

> You knew that what is given or granted can be taken away, and what is begged can be refused; but that what is earned is kept, that what is self-made is inalienable, that what you do for yourselves and your children can never be taken away.

In many areas, the CDCs have begun to reverse the flow of disinvestment from disadvantaged areas and have begun again to attract private capital back into the community—the key to restoring the life of these areas. The CDC is an institution that has the credibility with the community to attract and channel private capital into the most profitable ventures and thus can bring about the revivification of the communities they serve.

In New York, the Bedford-Stuyvesant Restoration Corp. has achieved much success through innovative approaches in residential and commercial development. With some $65 million in public and private funds over the past decade, restoration has helped establish 116 businesses, along with a major commercial complex. Late last year, the corporation reached an agreement with Supermarkets General Corp. to establish a Restoration-Pathmark store, two-thirds of which will be owned by "Bed-Stuy." Similarly, the Harlem Commonwealth Council, which recently celebrated its 10th anniversary, acquired on

June 9 the Washburn Wire Co., making this the largest single CDC investment.

The Harlem Commonwealth is now projecting the establishment in coming months of a shopping mall on 125th Street and plans to tie into an existing, unused subway stop to facilitate transportation to the commercial complex. The commonwealth has made an extraordinary contribution, given the quite limited resources which have been made available to it. New York is fortunate to also have the Hunts Point Community Local Development Corp. in the Bronx and the Community Economic Development Corp. of Nassau County in Hempstead, both of which have exemplified the finest qualities of the CDC concept.

Mr. President, the National Advisory Council on Economic Opportunity released its ninth annual report on March 31, 1977. Included in the report is a section on Community Development Corporations which I commend to all who are interested in this vital program. I ask unanimous consent to have this section included in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. JAVITS. I wish to note in reference to the National Advisory Council that it has made a significant contribution to our consideration of the enlightened strategies for dealing with the poverty problem since 1967. I am somewhat at a loss to understand, therefore, the reason why the administration has proposed to abolish the council 60 days after it files its 1978 annual report. I want to remain open-minded on this question but, when one realizes that among what must be at least a thousand advisory councils in this town, only this one is authorized by Congress to make recommendations concerning 26 million poor people, I would tend to favor its continuance.

I might add at this point that just because the administration bill we are introducing does not contain amendments to title VII does not mean there are not some things that should be included. For example, I think our subcommittee ought to consider authorizing the initiation of a study to examine the feasibility of expanding the CDC prototype on a far wider scale. To the best of my knowledge no one has ever studied the national absorptive capacity for CDCs and I, for one, would like to know whether 40 or 60 or 100 CDCs are about the right number.

Another item which causes me some concern is the administration's proposal to end the traditional practice of placing CDC funds in demand deposit accounts that can be drawn down by check. The bill would use the "line of credit" approach that is used for most other Federal Government programs. There are a number of reasons why I do not agree that the demand deposit approach ought to be discontinued.

First, the success of a Community Development Corporation depends upon the way it is perceived by the business community, which includes the banking community. When the CDC has funds in community banks, in its own name, it can be viewed as a credible business venture.

Second, like other business organizations, the CDC obtains important leverage by maintaining deposit accounts. Its credit worthiness is enhanced immeasurably by its ability to maintain a sort of "compensating demand deposit account." This redounds to the ultimate benefit of the taxpayers and the poor themselves, because of preferential loan rates and the access the CDC is given to the usual panoply of banking services. We have often spoken in this body of the need to deal with "redlining" and to put banks back into disadvantaged areas. Well, this is one way the banks can obtain credibility with the poor and vice versa, and I think we should continue the deposit approach for this reason.

Finally, Mr. President, I wish to say a few words about CSA's role in the Federal energy conservation program. On February 25, 1974, I introduced with 16 cosponsors S. 3051, a bill to establish a special emphasis program of emergency energy conservation services for the poor. Our bill was designed specifically to enable low-income individuals and families to participate in energy conservation to lessen the impact of the energy crisis on such persons. The main approaches my bill envisioned were the weatherization of old or substandard dwellings, emergency loans and revolving funds to deal with increased housing expenses relating to the energy crisis. This bill became law in 1974 as subsection (12) of section 222(a).

In recent months much has been said of the Federal Energy Administration's preemptive role in energy conservation programs. Notwithstanding that evolving position of preeminence, I do not believe that CSA ought to be excluded from our weatherization program. As I remarked when I introduced the progenitor of the program that received appropriations of $110 million in fiscal year 1977 and has been slated for $65 million in fiscal year 1978, "while all citizens are affected by the energy crisis, the poor face a number of special hardships, due to their lack of an adequate income, thus further aggravating the poverty syndrome." I believe there is a need for a defined CSA role in energy conservation, because of the association of the CAP agencies with the poor themselves and because of their unique sensitivity to the concerns of the poor. I am sure we can avoid an unseemly battle over "turf" and, at the same time, preserve CSA's role in this program.

In any event, I want to assure my colleagues in the Senate that I am strongly in favor of this bill; I believe it symbolizes my personal commitment and steadfastness to continuing what was begun over a decade ago; and I pledge myself to do all I can to insure its speedy consideration and enactment.

In this connection, Mr. President, our committee should want to look into allegations contained in a recent House report that CSA has not administered very effectively the programs for which it has responsibility. The report raises some serious questions about CSA's administrative capabilities and about the performance of some of the local programs. These will need to be addressed in the context of our reauthorization hearings as part of our committee's oversight responsibilities.

Our national network of local poverty programs represents our best chance for making some headway in the battle against poverty. But the organizational framework through which these programs are administered must be streamlined and made more reliable if our programs are to have maximum impact on the people and communities they serve.

I have written to the Director of the Community Services Administration, Grace Olivarez, to express my deep concern about these allegations. In addition to instituting the requisite accounting and audit procedures, it is obvious that CSA will have to undertake a comprehensive review of its operational and organization structure, in Washington and in the regional offices, to better administer these vital social and economic programs. I have no doubt that Mrs. Olivarez will undertake this important responsibility and report to us on the progress of her efforts in this regard.

At this point, Mr. President, I would like briefly to mention that the authorization of the Head Start program would be extended for an additional 3 years under the bill we introduce today. Head Start currently serves approximately 349,000 children in 1,200 communities and demonstrates most emphatically our national commitment to early childhood development.

Project Head Start was established by Congress in 1965 and currently provides important comprehensive child development services, including quality health, nutrition, education, parental involvement and social services. Of special significance is the fact that 90 percent of the children in Head Start programs are from families with incomes at or below the poverty level. The Head Start services to lower income families, therefore, afford children an opportunity to grow up as healthy and as whole as children from higher income families.

Two key features which have contributed enormously to the success of Head Start are the extensive involvement of parents in local programs and Head Start's diverse and flexible delivery system. The Federal Government, working with the parents and families affected by the program in each community, has made a genuine effort to select the best possible grantee in each community. These have included community action agencies, local government agencies, private nonprofit agencies, public schools, higher education institutions, and others. The intent is that the grantee selected in each locality be best suited to address the specific needs of that community.

The success of the Head Start program has been demonstrated in a study conducted by George Washington University earlier this year. This study concludes that participation in full year Head Start programs produces significant gains in intelligence and achievement; a positive

impact on the health and nutritional practices of children; gains in a participant's self-concept when the program includes a high degree of parent participation; and other benefits for children and their families.

Head Start demonstrates that the adverse effects of a poor environment on children can be overcome, and its continuation is of grave importance for our country.

I would close, Mr. President, by quoting the words of the gifted Franklin A. Thomas, who had been president of the Bedford-Stuyvesant Restoration Corp. from its inception until very recently, and who had this to say about our Nation's poverty program:

We have to have the turn of mind and attitude that says, "We care about the future of cities." A major change in national emphasis—a matter of will and direction—giving is as important as the matter of dollars. The notion 10 years ago was that if you had a commitment of will and some money available, that the mix of those two meant success in the struggle. I think the truth is that the mix provides a basis on which to launch a sustained attack on the problem. But if you don't hang in and look at it as a multidecade struggle, you're kidding yourself and deluding a lot of people along the way.

Mr. President, let us not waver in our determination to improve the lives of the disadvantaged of our country; let us not harden our hearts to the pleas of the less fortunate; let us not rest satisfied until the poor of our Nation enjoy the dignity that is their right as God's people.

(EXHIBIT 1)

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY, NINTH REPORT, MARCH 31, 1977

GENERATING ECONOMIC OPPORTUNITIES

Projects designed to develop entrepreneurial and management skills, create jobs and generate profits for the poor are vital ingredients of successful antipoverty efforts. While such projects are included among the activities of other Community Services Administration grantees, they are the primary focus of Community Development Corporations.

COMMUNITY DEVELOPMENT CORPORATIONS

Community Development Corporations (CDCs) were designed to allow residents, "through self-help and mobilization of the community-at-large, with appropriate Federal assistance, (to) improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits." [39] The premise was that residents of both urban and rural impoverished areas could enter the economic mainstream.

CDCs operate in areas, both urban and rural where income is low, unemployment is high and populations are unskilled and untrained. With capital provided by CSA grants, foundation grants, Federally guaranteed loans, bank loans, profits from on-going community-owned businesses and such private resources as resident investments, CDCs invest in profit-making ventures, cooperatives, construction and other economic development projects. CDCs also sponsor services to upgrade the skills and abilities of area residents and to improve the community environment. CDC ventures and projects are extremely diverse and operate to meet varying combinations of local problems and concerns.

The program commenced in 1967 when the Bedford-Stuyvesant Restoration/D&S Corporations of New York City were funded.[40] As of March 1977, 36 CDCs and three planning grants are funded by the Office of Economic Development of CSA.[41]

At the request of the Ford Foundation, the Urban Institute [42] conducted an evaluation of three of the best-known CDCs,[43] one of which is funded by CSA. The Institute reported that to maintain their current programs and levels of activity each will require subsidies over the next five to ten years.[44] This indicates that even thriving CDCs cannot be expected to become self-sustaining in less than 15 or 20 years. Considering the economic conditions and the deterioration of the communities in which they operate, long-term subsidy of CDCs seems reasonable.

Evaluation and GAO Review

Despite requirements that CSA monitor and conduct on-going evaluation of programs and projects, the Office of Economic Development (OED) has been negligent in these areas. The Council found that information on housing rehabilitation, job creation and venture profitability—three of the primary objectives of CDCs—was either unavailable or considerably out-of-date. Partially because of an inadequate reporting system, the House of Representatives Government Operations Committee requested the General Accounting Office (GAO) to review seven Community Development Corporations.[45]

To correct its evaluation deficiencies, CSA recently contracted for operations assessments of more than a dozen CDSs. They will measure grantee performance against projected goals and objectives. In addition, the budget for Fiscal Year 1978 includes funds for "a major evaluation of the Community Economic Development program," scheduled to begin within twelve months, "the results of which are expected to be available in 1978." [46]

The Council recommends regularly scheduled evaluations of all Community Development Corporations and that the design and analyses of these evaluations (a) include measures to ensure that the results do not reflect the bias (either pro or con) of program administrators, (b) take into account that long-range rather than short-term benefits are the objectives of these programs, (c) recognize the difficulties created by the blighted conditions of the communities in which these programs operate and (d) distinguish between negative findings that indicate an activity should be curtailed and those that indicate deficiencies to be overcome.

Overall record

Despite the lack of current evaluation data, the Council believes that the overall performance record of CDCs has not measured up to projections and that this can be attributed to the lack of leadership and guidance from OED.

Nevertheless, the Council is convinced that the concept of CDCs is viable and that with enlightened and forceful leadership at the national level and financial and operating expertise at the local level, the present inadequacies can be overcome.

The Council recommends that the Community Services Administration place a high priority on providing leadership and guidance to Community Development Corporations.

Funding

There is persuasive testimony and evidence that a funding level of $85 million is required by the Office of Economic Development.[47] This represents $36.8 million above the Fiscal Year 1977 appropriations of $48.2 million. Such an appropriation would enable OED to operate at an optimum level, convert planning grants to operational CDCs, authorize new planning grants, sponsor evaluation and other assessments, and provide support programs and activities for CDCs.

The Council recommends that the Congress consider appropriating $85 million for the operation of the Office of Economic Development.

Although the number of CDCs should be increased, the Council recommends that no additional Community Development Corporations be authorized until there is sufficient appropriation to support existing CDCs and enable them to make a significant impact on their respective areas.

Delivery of funds

The Act states that the Federal funds CDC programs receive are to ". . . be made available for deposit to the order of the grantee . . . within thirty days following approval of the grant agreement . . ." [48] This practice was followed by CSA from July 1974 until April 1976, when the Treasury Department stated that its Circular 1075, requiring that grants of over $250,000 be disbursed by letter of credit rather than by check, applied to CDCs.

CDC grantees claim the Treasury Circular is contrary to the provisions of Section 731 of the Act, but Treasury officials argue that funds represented by a letter of credit saitsfy the legislative requirement.

Payments of the full amount of the grants and the substantial bank balances that would result could generate for CDCs and the businesses and ventures they assist increased influence and leverage in the banking and business communities, preferential treatment, favorable terms for financing proposals and banking services usually reserved for sizeable depositors. In addition, they might attract potential venture partners and additional sources of venture capital. They could also assist minority and community banks by increasing their flow of capital, influence other banks to make loans to residents and businesses in the community and increase the support of the financial community for projects that would improve the special impact area.

The Advisory Council recommends that Congress enact legislation requiring the Treasury to provide Community Development Corporations with the full amount of their grants within 30 days.

Profitability

A primary goal of Community Development Corporations is to attain economic viability—that is, a return on their investment that is sufficient to allow them to operate independently of Federal or other Government assistance. Although social services may be integral to many CDC programs, they are not designed to create revenue; therefore, the Council recommends that Community Development Corporations seek other funding for these activities so that Office of Economic Development funds can be focused exclusively on economic development.

Autonomy and local control of ventures

The Community Economic Development Program was designed to support community-based organizations that will eventually be directed, managed, operated and owned by target-area residents.

Two years ago, CSA entered into Venture Autonomy Agreements with three CDCs, in accordance with agreed upon limitations and provisions, discretion regarding the investment of grant funds. All other CDCs must receive approval from CSA for proposed investments. However, in January 1977, a Federal District court held that Congress did not intend CSA to relinquish its control over venture approval [49]

Certainly CSA should maintain strict

Footnotes at end of article.

standards for every phase of CDC operation, including criteria, feasibility studies, funding, accounting, evaluation, and technical and management assistance. Nevertheless, the Advisory Council cautions that retaining all decision-making authority at the Federal level will hamper programs and undermine the objective of local development responsibility. To promote CDCs as self-sustaining organizations, CSA should be permitted to authorize, as they are merited, incremental autonomy agreements with CDCs. These agreements should begin at the point of viability and be progressive.

The Advisory Council recommends that Congress specifically authorize the Community Services Administration to enter into agreements that give Community Development Corporations incremental venture autonomy as it is merited.

COMMUNITY ACTION AGENCIES AND ECONOMIC DEVELOPMENT

Members of the Council expressed a variety of opinions about whether Community Action Agencies should function in the area of economic development and whether CDCs should provide services related to health, nutrition, education, and senior citizen support. Some Council members feel strongly that economic development is entirely appropriate for Community Action Agencies, and point out that in many communities CAAs are the only vehicles for such programs. Others maintain that economic development should only be a peripheral activity for CAAs.

A majority of the Council supports the involvement of Community Action Agencies in economic development projects. When feasible, the business and financial expertise of the Office of Economic Development should be available to CAAs.

The Council recommends that CSA ensure that those Community Action Agencies electing to conduct economic development projects have access to ample operating and financial expertise.

THE DEVELOPMENT LOAN FUND

A Rural Development Loan Fund was created in 1964 to provide loans to families and to local cooperative associations that furnish essential marketing services, supplies and facilities to low-income rural families.[39]

Administration of the fund was delegated to the Farmers Home Administration (FHA) of the Agriculture Department, which had facilities to disperse loans and receive payments. The program proved to be unworkable and no loans were made after 1971.

Title VII of the 1974 amendments authorized a new Development Loan Fund to provide loans for business, housing and community development projects to Community Development Corporations, families and local cooperatives. Two revolving accounts were established: the Rural Development Fund and the Community Development Fund.[51]

Funding

Congress has made no appropriation to the Community Development Fund account. Under the provisions of the Act, the remainder of the nonutilized 1964 fund is available to the new Rural Development Loan Fund. This amounts to over $60 million: $40 million unencumbered, plus an additional $20 million encumbered by 17,000 loans.

Although the original Rural Development Loan Fund program was phased out, the legislation that created it is still in effect. The Advisory Council recommends that the 1964 legislation establishing the Rural Development Loan Fund be repealed and that its assets and administration be transferred to the Rural account of the Title VII Development Loan Fund.

Eligibility

The Act states that families, as well as Community Development Corporations and local cooperatives, are eligible for Rural Development Loans. Loans to cooperatives, CDCs and other organizations would have greater impact on the community than those to families and would represent better utilization of the limited resources of this fund. The Council recommends that the legislative provision of the Economic Opportunity Act authorizing development loans to families be repealed.

Many Community Action Agencies sponsor cooperatives or work closely with them. The Council notes that there are 440 rural Community Action Agencies that might undertake such projects and qualify as beneficiaries if the legislation were amended to authorize their participation. Urban Community Action Agencies would also be eligible if Congress were to appropriate funds for Community Development Loans. The Advisory Council recommends that the legislative provision governing the eligibility for Title VII Development Loans be expanded to include Community Action Agencies.

Administration

Because the administration of the original Rural Fund was delegated to the Farmers Home Administration of the Department of Agriculture, Congress instructed the Director of CSA to utilize the services of FHA to administer the new Rural Loan Fund. This was undoubtedly intended to facilitate the administration of the fund and to preclude a duplicate delivery system.

CSA and the Department of Agriculture have been negotiating for two years regarding the administration of the fund.[52] While the Council appreciates the importance of a unified and efficient delivery system, administrative delays should not be allowed to preclude the delivery of programs. The Council urges a speedy conclusion of this negotiation.

FOOTNOTES

[39] Economic Opportunity Act of 1964, as amended, Section 701.

[40] In 1967 the Economic Opportunity Act was amended to authorize the Special Impact Program, the forerunner of CSA's Office of Economic Development.

[41] Appendix C shows the funding history of CDCs.

[42] The Urban Institute is a Washington, D.C., based nonprofit research corporation established in 1968 to study problems of the nation's urban communities. Independent and nonpartisan, the Institute provides disinterested analyses and basic information and facilitates the application of this material.

[43] The Bedford-Stuyvesant Restoration Corporation, New York City; Woodlawn Community Development Corporation, Chicago; and the Zion Non-Profit Charitable Trust, Philadelphia. The Woodlawn and Zion Corporations are not funded by CSA.

[44] Harvey A. Garn, Nancy L. Tevis, Carl E. Snead, *Evaluating Community Development Corporations—A Summary Report*, The Urban Institute, Washington, D.C., p. 148.

[45] The report was scheduled for release on March 30, 1977.

[46] U.S. Office of Management and Budget, *The Budget of the United States, Fiscal Year 1978*, Appendix, p. 711.

[47] *Recommended Funding for Title VII of the Community Services Act for Fiscal Year 1977*, testimony of John L. Kearse, Chairman of the National Congress for Community Economic Development before the Subcommittee on Labor, Health, Education and Welfare of the Senate Appropriations Committee, April 1976.

[48] Economic Opportunity Act of 1964, as amended, Section 714.

[49] *Corregated Container Corporation* v. *Community Services Administration and Bert A. Gallegos, Director*, Civil Action No. 75-0151 (1977).

[50] Economic Opportunity Act of 1964, as amended, Section 731 (c)(1).

[51] Economic Opportunity Act of 1964, as amended, Section 731.

[52] Several local, regional and national economic development organizations have recently brought a class-action suit alleging that CSA has refused to administer the Rural Loan Program and seeking activation of the Fund.

APPENDIX C.—FUNDING HISTORY OF COMMUNITY DEVELOPMENT CORPORATIONS

SUMMARY OF CSA FUNDING UNDER TITLE VII OF THE COMMUNITY SERVICES ACT OF 1974, FISCAL YEARS 1968-76

[In thousands of dollars]

	Fiscal year—								
	1968	1969	1970	1971	1972	1973	1974	1975	1976
Community Development Corporations (CDC's)	1,640	10,923	29,994	31,271	24,505	35,193	31,910	40,518	47,762
1. Urban CDC's	(1,640)	(8,399)	(19,955)	(23,801)	(14,702)	(21,300)	(17,960)	(16,487)	(28,958)
2. Rural CDC's		(2,524)	(10,039)	(7,470)	(9,803)	(13,893)	(13,950)	(24,031)	(18,804)
Non-CDC operating grants			3,900				746	3,538	1,920
Total, operating grants	1,640	10,923	33,894	31,271	24,505	35,193	32,656	44,056	49,682
Support grants and contracts	357	324	1,476	2,258	1,569	605	1,969	1,349	1,944
Other fundings			500	1,633	35	45			
Total, all programs	1,997	11,247	35,870	35,162	26,109	35,843	34,625	45,405	51,626
Program direction	NA	900	900	700	700	700	1,000	1,000	1,250
Grand total, title VII	1,997	12,147	36,770	35,862	26,809	36,543	35,625	46,405	52,876

ECONOMIC OPPORTUNITY AMENDMENTS OF 1977

Mr. CRANSTON. Mr. President, I am pleased to join with my distinguished colleagues on the Human Resources Committee in introducing the "Economic Opportunity Amendments of 1977." This measure, which is based primarily on the administration's proposal, would extend the authorization of appropriations for the Community Services Administration and the antipoverty programs conducted under the Economic Opportunity Act of 1964, as amended, through fiscal year 1981.

As a member of the Subcommittee on

Employment, Poverty, and Migratory Labor, I have been deeply involved in antipoverty efforts since coming to the Senate. Over the years, I have been at the forefront of many battles on behalf of the antipoverty program—battles for increased funding, against rescissions, and even for existence of an independent agency to serve as an advocate for the poor—in the face of what appeared to be insurmountable odds.

Mr. President, the history of the Community Services Administration (CSA) and its predecessor agency, the Office of Economic Opportunity (OEO), has been scarred by threats of dismantlement, stagnant levels of funding in the face of double-digit inflation, and internal problems ranging from documented personnel abuses to poor management practices.

However, the need for this agency and for the antipoverty programs to continue is as strong today as it was when they first came into existence in the 1960's. Under the new and dedicated leadership of CSA Director Grace Olivarez, I believe the agency once more has the potential to begin to move forward into exciting and innovative endeavors, to sweep out the cobwebs of neglect and despair that have plagued the program for far too many years. By reauthorizing the program through fiscal year 1981, the agency will have an opportunity to reorganize, revitalize, and implement new policy and program initiatives.

Mr. President, at this time, I would like to make a few brief comments and stress one caveat on parts of the legislation.

First, I am pleased that the measure would restore the original 80/20 matching share for local initiative programs. I supported legislation in the 94th Congress which would have restored this match. Unfortunately, although the measure passed the House, no action was taken on it in the Senate. This declining share requirement—which was enacted in 1975 and which for fiscal year 1977 mandated a 60/40 match as part of Public Law 94-644—has proved to be an unusually burdensome one for many of the more than 860 community action agencies (CAAs). These CAAs are the principal vehicles for the provision of services at the local level and represent the heart of our Nation's anti-poverty program. They serve the needs of poor Americans through health, housing, nutrition, economic development, youth development, consumer affairs, and other programs tailored to the particular multi-faceted concerns of the individual communities.

Since CAAs have been unable to increase local financial support in the amounts called for, CSA has used extensively the waiver authority provided for in the 1975 law. Last year, 266 of the CAAs received waivers of the 60/40 requirement. I believe that when almost one-third of these local initiative programs require administrative relief to finance their on-going efforts, serious questions arise about the necessity and equity of the underlying requirements. I am delighted that the administration has included in its proposal a restoration of the original 80/20 match, and I intend to work hard for its enactment.

Second, as I have stressed, this measure presents the administration's proposal, and as such, it would repeal the authority for CSA to carry out winterization programs of old or substandard dwellings for the poor. In requesting this repeal, the administration is further developing its plans to consolidate all weatherization efforts into a new Department of Energy. Currently, three separate Federal agencies carry out such initiatives—the Farmers' Home Administration, under the Department of Agriculture, the Federal Energy Administration (FEA), and the Community Services Administration.

As one who has consistently supported the weatherization program conducted by CSA and as the author of the FEA's authority to conduct such efforts—section 413 of the Energy Conservation and Production Act (Public Law 94-385)—I want to make my intent clear at this point. My cosponsorship of this bill does not mean I support this proposed repealer. I will be scrutinizing this provision with extreme care. Whatever decisions are made in this regard, it is absolutely imperative that the result be an effective program that will both conserve our energy resources and, most importantly, be sensitive and responsive to the special needs of the poor for weatherization assistance. I will be working paticularly closely with the subcommittee chairman (Mr. NELSON), the principal sponsor of this measure, as we study this provision.

Third, this bill proposes a simple "such sums" extension of the highly successful Head Start program through fiscal year 1981—a provision not included in the administration's draft legislative proposal. I introduced last week S. 2081 proposing authorizations of appropriations of $650 million for fiscal year 1978, $750 million for fiscal year 1979, $850 million for fiscal year 1980, and $1 billion for fiscal year 1981, plus some technical modifications. It is my intention that a Head Start extension be dealt with as part of the measure being introduced today, and I look forward to working closely with Senator NELSON, the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, Senator WILLIAMS, the chairman of the Committee on Human Resources, and Senator JAVITS, ranking minority member of the committee, in this regard.

Mr. President, in closing, I must note that we would not be honest with ourselves if we did not recognize the current problems that pervade the agency—especially those presented in the report of the Subcommittee on Manpower and Housing of the House Government Operations Committee entitled "Major Reforms Needed in the Community Services Administration." Thus, I know that the subcommittee will be examining in depth the problems, successes, weaknesses, strengths, and needs of the program. I am looking forward to having the opportunity to explore with the Director and staff of CSA, representatives of national organizations, the "CAP World," and the representatives of the poor, some of the very serious charges that have been made and the means of resolving them.

Mr. President, I am committed to development of legislation that will provide a revitalized and effective mandate to serve the more than 23 million poor in our Nation that will be carried out with new dedication and vision. We must provide for the continued role of CSA and antipoverty programs as the innovator, the provider of services to the poor, and, most critically, as the advocate for those in need.

Mr. KENNEDY. Mr. President, I am pleased to join with Senators NELSON, WILLIAMS, JAVITS, CRANSTON, and RIEGLE in introducing the Economic Opportunity Amendments of 1977, which reauthorizes the Community Service Administration.

This bill provides for the continuation of CSA for another 3 years. I believe that the Community Services Administration deserves to be continued.

The act we introduce today does not make major changes in the authority of the agency. Rather, it increases Federal financing, removes cumbersome and unproductive administrative requirements and adds a few necessary protections to the client population. The basic message in the reauthorization is that the programs which CSA supports are conceptually sound; the legislation is targeted at the right people and the right vehicles for helping them.

There is no question that CSA has had administrative difficulties which, at the least, have hurt its effectiveness, and, in some instances, have resulted in an outright waste of money. During hearings on this reauthorization, we must press the current administrators of CSA as to what reforms they have instituted and what further reforms they are planning to make. I believe that we must require annual reports during the next 3 years which are directed at both the plans and the effectiveness of reform efforts. There is no question that much of the problem faced by CSA stems from the outright opposition that the Nixon administration had to its continuation. But it is also likely that many of the problems must be attributed to mismanagement and lack of foresight, not merely to malicious motivation.

CSA must deal with the major problems associated with the delivery of services to the community:

(a) It must review the thriftiness of administration of programs at the local CAA level. Many programs do not fully comply with CSA procedures. This makes it difficult to assess whether money has been well spent. In other instances, we know money has been spent in ineffective ways either for the administration of a CAA or in pursuit of one of its programs. CSA has not given enough concern to training programs for local administrators, who are frequently unfamiliar with accounting and cost-effectiveness methodology. CSA has also not devoted enough of its efforts to scrutinizing local expenses. It has not taken sufficient action against those who have a history of unwise spending.

(b) CSA has supported "cross-fertilization" for local CAA officials, including many conventions and the travel to them. It must concern itself with the cost effectiveness of this vehicle for the interchange of ideas and methods.

(c) The internal organization of the central CSA may lead to distorted distributions of work within the agency; some unnecessary positions may be funded while others may be so overworked that they cannot give adequate review to the matters within their jurisdiction.

Mr. President, there has also been some criticism of the performance of the community development corporations, which are funded by CSA for the purpose of developing labor intensive businesses in depressed areas. There is no question but that a great deal more thought has to go into the decision about which CDC projects should be funded. A House report on CSA entitled "Major Reforms Needed in the Community Services Administration" says that CDC's have not hired as many people as they might have, and that they have a very heavy failure rate.

But this criticism must be considered in light of the problems that the CDC's are up against. The issue is not merely the failure rate—otherwise we would have a national program to finance hamburger franchises in the suburbs—but how well the organizations are performing in light of the extreme difficulties that they face. Nobody said that it would be easy to start businesses whose objectives include upgrading areas with depressed economies, and training people to run a business who have no experience. Thus, measuring the success of these businesses in terms of net profits after sales distorts the congressional intent. And, while we should improve the numbers employed by CDC's, we must acknowledge that by so doing we are constraining the potential profitability of the enterprise. So while we must search for better ways to choose the CDC programs to find those which might be both profitable and labor intensive, we must remember that this is an investment program in people and communities, not one intended to put private industry to shame.

So, I propose that CSA should report to Congress each year on the progress it is making toward straightening out internal problems and the misuse of funds by recipients.

Mr. President, it is important that these reforms are implemented because the work of the Community Services Administration is so vital. Many of the programs within CSA make important contributions to the well-being of the poor and to the communities in which the poor reside. It is important that they are continued.

COMMUNITY ACTION AGENCIES

The CAA's are the basic format for development of the community action programs. In 1975, almost $1.6 billion was spent through CAA's of which $1.2 billion was Federal funding, coming mostly from CSA, HEW, and the Department of Labor. There were about 15.8 million participants in CAA projects, and CAA's had 110,000 in paid staff. Over 400,000 volunteers also served in various CAA projects. The programs which work through the Community Action Agencies are legion. There are rehabilitation and nutrition programs for the elderly, there is Head Start for the young; there are health and dental clinics for the whole family, as well as aid to the handicapped. There are housing and consumer programs, education, youth, and CETA programs to name a few. In many, many instances—where there has been widespread community participation and some sound thought on community needs and how best to address them—these programs have been of great benefit to the community.

SUMMER YOUTH RECREATION PROGRAM

Funded at $17,000,000, this program provides recreational activities for disadvantaged youths during the summer. Money is used for equipment, entertainment, and supervision. In 1978, it is estimated that 441 cities will partake of this program, along with 48 Native American grantees.

COMMUNITY FOOD AND NUTRITION

CSA funds over 500 programs to expand participation of the poor in food stamp programs, and to help communities set up their own food banks, community gardens and canning programs, as well as trying to insure the delivery of food to infants. This program is funded at $27,500,000 this year.

A good example of the innovative approaches being taken in this area comes from the Oklahoma statewide gardening project which puts seed and food in the hands of about 18,000 poor families around that State. The program is run through the State's 24 CAA's. At a cost of $20 per family, the family garden yields about $237 worth of food. The CAA's also got the use of canning equipment and, in conjunction with Oklahoma State University, trained people to can and freeze their produce.

SENIOR OPPORTUNITIES AND SERVICES

Funded at $10 million, this program provides a great range of services to the elderly poor. The CAA's and senior service centers help provide companionship and meals to the elderly, help in the provision of medical services and provide transportation for people who might otherwise be homebound.

In this fashion, TRIP, the transportation remuneration incentive program, has been working in West Virginia. It is designed to provide transportation to over 120,000 elderly and between 25,000–50,000 handicapped West Virginians of low income. Tickets are sold at discount prices for existing transportation systems. CSA has given money to better transportation to these groups as well as improve the design of transportation systems. It has provided the funds for the purchase of seventeen 12-passenger vans, which are leased to Community Action Agencies for transportation purposes.

THE ENERGY PROGRAM

CSA has become deeply involved in the effects of the energy crisis on the poor, those who are least able to afford the fantastically rising prices of energy. In fiscal years 1975–1976, CSA spent some $36 million to winterization of the homes of poor families, providing insulation and other services to cut down on the loss of heat. These services have been delivered through the CAA's which have provided the people to do this work. About 150,000 homes have been weatherized through this program. The Community Services Administration has also used funds to provide for the immediate fuel needs of the poor, when they have been caught short, and for energy consumer education. Over $83 million was allotted for energy programs in fiscal year 1977.

EDUCATION

In my own city of Boston, Action for Boston Community Development—ABCD—a Community Action Agency, has performed a wide range of important services. Some of the most innovative work has been in education. The ABCD community college program offers curriculums in human services and early childhood education, as well as in liberal studies and management. It expects to enroll some 300 students this semester. For 2 years now, ABCD has also been running the south end neighborhood action program for Chinese youth. This program teaches English language skills to those in grades four through eight who have recently immigrated. This year 32 students progressed about 6 months worth in skills in about 2 months time.

Mr. President, these are among the very many projects that are funded through the Community Services Administration and are administered through the Community Action Agencies. These projects are very important because they involve so many people from the communities in which they are located, in the task of building and rebuilding those communities. The community services program is one of the very few instruments that the Federal Government provides for people to initiate action in their own communities. It is an experiment in personal participation in decisionmaking about the future of our country. I, for one, believe that with proper training for managers, proper definition of goals both in the communities and within CSA, and proper oversight, this program can be a success.

The Community Services Administration here in Washington also faces a great challenge and a great opportunity. For it is the one agency in Government which can best fulfill two vitally necessary roles.

First, there is an important need for CSA to serve as a center for innovative approaches to community action and solving the problems of the poor. Most other Federal agencies are delegated a task rather than a group of people to which they are responsible. CSA is unique in that its charge is the community and its poorer residents. This means that it has the special obligation to constantly survey the scene to see the best approaches to aiding the community It must be quick to adapt to new challenges and to see room for new advances. The Community Services Administration should serve as the point-

man for social progress in the community.

Second, CSA must serve in all the councils of our Government as the spokesperson for those Americans who are hampered by poverty. It must be the organization that impresses upon other Government agencies how any particular action will affect the poor. It must be the one to suggest to other agencies those actions which might alleviate the plight of the poor. So, CSA must survey the governmental scene as well—only here, its purpose is to see how it can affect its companion agencies and departments to direct their efforts on behalf of poorer communities.

These are two roles in which CSA must be strong. It must be stressed that CSA has a special role in our governmental system. To serve its purpose it must be both a community innovator and a governmental advocate.

The legislation as introduced today embodies changes which will make CSA operations more efficient. First, we are providing for regional review of grants rather than headquarters review; thus, those closer to the scene will be assessing programs. Because the regional offices have more time to review proposals, they will also better insure against misuse of funds. The regional directors will also serve at the pleasure of the director, so that people who are sensitive to administration politices will be in charge.

Second, CSA will be permitted to forward funds projects for a 2-year period rather than funding annually. If recipients can count on funds for a longer period, they will be more likely to hire the staff and set up the operations necessary to efficiently run a project. It is more difficult to do so when the investment may only be good for 1 year, because there is no commitment from CSA to fund a program beyond that time

Relatively few other changes have been made in CSA's authorization.

The agency is reauthorized for 3 years, with funds appropriated at such sums as may be necessary.

Federal assistance for the CAA's has been set once again at 80 percent of the costs of their program. For the first 3 years that these agencies existed, when funded under the old Office of Economic Opportunity, they received a 90-percent Federal share of their costs. In 1967, this was changed to 80 percent, where it remained for 8 years. But in the 1974 amendments, it was decided that starting in fiscal year 1976, this payment would drop to 70 percent and in fiscal year 1977, it would drop to 60 percent. Thus, within 2 years, a program which merely maintained its budget, had to obtain twice as much from the local or State government. Local and State governments, I might say in understatement, were not financially prepared to take on the extra load; this is especially so since other Federal aid could usually be purchased for a smaller price—many other Federal programs are funded at the 80-percent and 90-percent contribution level.

The result was to wreak havoc in the financial planning of CAA's. In 1975, CSA has to grant only two waivers to the contribution level for the States and cities, thereby increasing Federal donations. In fiscal year 1976, 266 of the 879 CAA's needed waivers. Devoting tremendous energies first to raising the funds locally, then waiting for approval of their waivers, CAA's could not be as effective in executing the programs within their charge. Today, we set this situation right by putting the assistance level back up to 80 percent. It is important that we do so, in order that the CAA's can perform their vital work.

The summer youth recreation program will now be administered through CAA's rather than through Comprehensive Employment and Training Act prime sponsors. The summer youth recreation program is more of a community program than it is a work program; it uses summer youth job enrollees as employees but otherwise does not have a work or training component. The CAA's are more familiar with the CSA procedure than are the prime sponsors, who work mostly with the Department of Labor.

A variety of administrative changes have also been made. Previously, CSA was required to submit three annual reports to Congress. Now, the information will be provided in one unified report. Provisions which could disrupt CSA operations have been repealed. They include authority for a State to take over CSA programs, which authority has never been utilized, but could disrupt national planning. Undeveloped authority for environmental, architectural design and consumer action programs, which are already authorized in other sections of the act, has also been repealed. The proviso for an intergovernmental advisory council is removed since that council was never established. The authority to appoint two assistant directors, one to specialize in urban programs and the other in rural programs is also repealed since those directors were never appointed and there is apparently no need to create such specializations; their task of assuring equitable distribution of funds is carried out by the director under section 617.

Finally, a detailed plan for the reorganization of CSA into the Department of Health, Education, and Welfare has been repealed. I am proud of the fact that the provision was never employed. Under the scheme detailed in section 601(e)(f)(g) and (h), there was a great danger that CSA programs would have been forced into a bureaucratic framework which did not suit its need to remain sensitive to the needs of the community. If CSA is to work, it must maintain its flexibility and sensitivity. If CSA is to be reorganized at any time in the future, we again will have to insure that the programs which it administers remain effective in their new bureaucratic framework.

The last change to which I want to refer symbolizes one of the main functions that the Community Services Administration has performed. The CAA's that it funds have been one of the basic vehicles by which the poor and discouraged have found a part in the political process. They have served both as a training ground for community leaders and as the organ through which the community has organized to achieve other goals. The particular services which CAA's have provided to their communities cannot be slighted. But a major virtue of the CSA program has been that it has opened the political process to groups which heretofore had been alienated from it. CSA has put the power of the political process in the hands of those who formerly did not have it. By providing this stake in the process, it has simultaneously integrated into the system those whom the system had not previously served. This function is broadened by this final major change in the reauthorization. It mandates that each Community Action Agency's board must consist of at least 15 people and that they cannot serve on the board for more than 3 years at a time and more than 7 years altogether.

Previously, no minimum number of board members was set and the maximum terms were 5 consecutive years and 10 years altogether. We set a minimum to broaden community representation on the board. CAA's thus remain sensitive to community needs. More frequent changes in board membership are also helpful in letting more community members get a firsthand experience with the agency, to build up the number of people in the community who are familiar with its operation.

Importantly, opening up the process allows more people who have been excluded from the chance to become involved in the political process to take on the responsibility of running an agency which has impact on their community and which must interact with other governmental and private entities.

These, in sum, are the changes which have been made in the reauthorization. This is an organization which has done good things in many of the communities in which it has worked; it can do even better if internal reforms are made. I look forward to its continuing participation in making our communities more decent places to live.

By Mr. PROXMIRE:

S. 2091. A bill to extend the moratorium on conversions of insured savings and loan associations, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

SAVINGS AND LOAN CONVERSION BILL

Mr. PROXMIRE. Mr. President, I am today introducing legislation which will authorize the completion of an experiment authorized by the Congress in 1974 to study the conversion of mutual savings and loan associations to the stock form of ownership. The bill is titled the Savings and Loan Conversion Act of 1977.

Congressional authorization of the conversion of 51 mutual savings and loan associations to the stock form of ownership under the regulatory authority of the Federal Home Loan Bank Board required completion by June 30, 1976. As of that date the conversion experiment was not completed. Nevertheless, the FHLBB continued to approve additional conversions.

The General Accounting Office ruled that after that date the FHLBB had no

legal authority to approve a conversion where an institution retained its Federal charter. The GAO legal opinion thus cast serious doubt on the legality of some 17 conversions approved by the FHLBB after June 30, 1976.

Moreover, it is less than crystal clear that the FHLBB can approve conversions of savings and loan associations in instances where the resulting institution is to have a State charter. What is clear is that unless the FHLBB desists from approving conversions under State charter the possibility exists for a wholesale destruction of the Federal mutual savings and loan industry by conversion to State stock charter.

This bill provides the sole legislative authority to approve conversions of any kind, whether State or federally chartered, thus treating both types of institutions on an equal basis. The bill sanctions the retention of a Federal charter for those institutions converting after the expiration of the statute authorizing the experiment on June 30, 1976. And the bill authorizes the approval of the remaining conversions under the 1974 experiment. There appear to be 21 of these. The bill will require the experiment to be completed by October 1, 1979, and a complete report to be filed thereafter with the Congress.

The General Accounting Office conducted an audit of a number of conversions approved by the FLHBB. It found generally that the FHLBB had poorly administered the program and that insiders had benefited at the expense of other shareholders and the appraisals of the worth of the institution were inadequate. This bill contains specific proscriptions to remedy these defects among others.

Mr. President, this bill will provide a fair framework within which to carry out the completion of the experimental program to allow Congress to determine whether conversions of mutual savings and loan associations to the stock form of ownership are or can be carried out in the public interest.

By Mr. STEVENSON (for himself, Mr. HUMPHREY, and Mr. CRANSTON):

S. 2092. A bill to establish a comprehensive and coordinated national climate policy and program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL CLIMATE POLICY AND PROGRAM ACT

Mr. STEVENSON. Mr. President, I introduce today a bill to establish a national climate policy and program. The purposes of the legislation are to expand the country's knowledge of weather and climate fluctuations and to develop more effective methods of dealing with these fluctuations.

Our lives are increasingly shaped by climate and weather, as last winter's freeze and this summer's drought dramatically illustrated. After several decades of above-average rainfall and several moderate winters, these trends shifted suddenly. The result was an unexpected change in living patterns for millions of Americans. Jobs were lost; energy supplies were exhausted; water was rationed; food production declined. The combination of these events threatened the pace of economic recovery.

This past year's weather revealed the extreme sensitivity of our society to changes in climate and weather. Much of our technological progress in recent decades has been dependent on generally favorable weather and climate patterns. We can no longer adjust to sudden climate fluctuations as easily as we once could. For example, the green revolution has resulted in agricultural production methods that are heavily dependent on water. As a consequence, the impact of drought on agricultural productivity has been heightened. We face the same situation from our increasing reliance on industrial processes that require intensive use of energy.

In addition to disruptions caused by short-range weather fluctuations, there is the possibility of long-term climatic change brought about by human activity. For example, the National Academy of Sciences reported recently that the combustion of coal and other fossil fuels is likely to increase the levels of carbon dioxide in the atmosphere, possibly increasing the global mean temperature by as much as 6 degrees centigrade. A climatic change of this magnitude could increase the ocean's level by 18 feet. This country's major agricultural areas could shift many hundreds of miles to the north. Global heating is only one of many related atmospheric issues. Concerns have also been expressed about the effect on climate of fluorocarbons, supersonic transports, and nitrogen fertilizers.

There are, in short, compelling reasons to accelerate our scientific efforts to understand the many factors and interrelationships which determine climate and weather. In 1974, the Domestic Council issued a report on the need to establish a national climate program. The National Advisory Committee on Oceans and Atmosphere has periodically called for the establishment of a similar program. The National Academy of Sciences has issued several reports on the need for climate research. The Interagency Committee on Atmospheric Sciences has developed a national climate plan which has just been released for distribution by the President's Science Adviser. Although these reports are helpful in understanding the problem, little has been done to establish a concerted Federal effort in the climate area with appropriate leadership, coordination and funding.

The bill I introduce today with my colleagues, Senator HUMPHREY of Minnesota and Senator CRANSTON of California, draws upon these reports and bills introduced by Senator PEARSON, Senator HUMPHREY, and Congressman GEORGE BROWN of California. The Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Transportation held extensive hearings on the climate issue. More than 50 witnesses appeared in the 6 days of hearings in Washington and in the field, with an additional 2 dozen statements included for the record. The bill incorporates some features in other bills with additional ideas developed from the hearings and from sources in the administration.

It provides for:

Research to improve our understanding of climate and the causes of climate fluctuations;

Global monitoring and collection of weather and climate data;

The development of climate forecasts;

Impact assessments of climate variability upon food production, energy use, water resources, transportation, national security, public health, and other concerns;

Cooperative intergovernmental activity to couple climate research with the needs of a variety of users for climate information; and

Effort toward further international collaboration.

The legislation provides that the Department of Commerce will be the lead agency for climate research and advisory services, although other agencies are also involved. The Secretary of Commerce is responsible for maintaining an effective Federal research program, providing for a cooperative intergovernmental research and advisory service program, establishing experimental forecast centers and preparing annual reports on the status of national efforts. To support these programs, $40 million is authorized for fiscal year 1978, $50 million for fiscal year 1979, and $60 million for fiscal year 1980.

Mr. President, this bill is available for comment so that further improvement can be made. But it is my hope that the Committee on Commerce, Science, and Transportation will report legislation to establish a national climate program before this session is concluded. I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Climate Policy and Program Act".

Sec. 2. Findings.

The Congress finds and declares the following:

(1) Weather and climate fluctuations can have major effects on food, water, energy supplies, and other conditions which affect national security and human welfare. An ability to understand and adapt to climate is a national priority.

(2) The Nation's capability to predict the weather on a daily basis is valuable, but the ability to forecast on a monthly, seasonal, and annual basis does not exist. Significant improvements to the ability to predict climate on an intermediate and long-term basis are possible.

(3) Several approaches and institutional capabilities exist to further the science of climate dynamics. A balanced approach to climate research is desirable.

(4) Individuals need to be trained and educated in multidisciplinary fields relating to climate research and analysis.

(5) Human activities have the potential of causing significant climate fluctuations and change.

(6) Current information regarding climate is not being fully disseminated or used, and Federal efforts have given insufficient attention to impact assessment and application.

(7) Climate fluctuation and change occurs

on a global basis and international cooperation to the understanding of climate is essential.

(8) Large spatial gaps exist in the present global monitoring system, particularly in less-developed countries and over the 70 per centum of the Earth's surface covered by the oceans.

(9) The United States lacks a well-defined, sustained, and coordinated policy and program in climate research, monitoring, regional analysis, assessment of impacts, and information utilization. A national program, involving Federal, State, local and private research, planning, information dissemination and contributions, would produce benefits greatly exceeding costs.

Sec. 3. Purpose

It is the purpose of the Congress in this Act to provide this Nation with the capabilities of better understanding and responding to climate fluctuations occurring in the United States and worldwide through the establishment and maintenance of an effective and comprehensive national climate program.

Sec. 4. Definitions.

As used in this Act, unless the context otherwise requires:

(1) The term "program" means the national climate program established under section 5.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "State" means each of the States of the United States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands, and any other territory or possession of the United States.

(4) The term "United States" means, when used in a geographical sense, all of the States.

Sec. 5. National climate program.

(a) ESTABLISHMENT.—The President shall establish and maintain, in accordance with the provisions and policy of this Act, a comprehensive national climate program.

(b) OBJECTIVES.—The objectives of the program shall include the—

(1) assessment of the impact of climate on agriculture, energy, water, transportation, human health, and other areas;

(2) development, publication, and dissemination of information on weather and climate behavior to help the Nation respond more effectively to climate induced problems on the local, State, regional, national, and international level;

(3) furtherance of the physical understanding of weather and climate dynamics, and the social, economic, political, and human aspects of climate change through a broad and balanced program of basic and applied research;

(4) provision of measures for international cooperation;

(5) implementation on a global basis of a weather and climate monitoring system to provide data for basic and applied research and climate services;

(6) maintenance of a comprehensive, well-defined, and coordinated Federal agency effort; and

(7) involvement in the program of representatives of State and local governments, scientists, technicians, and other public and private persons who may use climate and weather information.

(c)(1) ELEMENTS.—The elements of the program shall include:

(A) Research to improve the basic understanding of climate and the causes of climate fluctuations, whether natural or induced by human activities, and research to ascertain the resultant impacts. Such research shall be both basic and applied, shall draw on the physical, biological, natural, and social sciences, shall utilize the expertise available in universities and government laboratories, and shall have as one of its aims, the improvement of our capability to forecast weather and climate on a monthly, seasonal, yearly, and longer basis.

(B) Monitoring and data collection on a global basis to provide information for basic and applied research and services related to climate. Means shall be established to insure the consistency, continuity, accessibility, accuracy and precision of the data, its processing, its storage, and its availability to those persons who can use such data.

(C) Efforts to develop climate and weather forecasts on a monthly, seasonal, yearly, and longer basis based on historical studies, weather-pattern recognition, and other methods. These forecasts are for experimental purposes and shall also support assessments of the impact of such climate variability upon crop yields, livestock production, energy demand, land and water resources, transportation, human health, national security, and other activities. The Secretary shall provide assistance to agencies assessing the impact of such forecasts so that such assessments can serve to initiate actions in those agencies to prepare for seasonal and annual weather and climate change in the United States and globally. Impact assessments shall be made available to the public.

(D) Intergovernmental research and services to include university participation in an applied research and advisory service at the State and local levels as one effort to apply climate information and advice to user needs.

(2) The Secretary shall cooperate with the Secretary of State to provide representation and assistance for international cooperation, research activities, meetings, and conferences in which the United States participates. The Secretary shall coordinate the activities of the program with the climate programs of other nations and international agencies and organizations, including the World Meteorological Organization, the International Council of Scientific Unions, the United Nations envrionmental program, and the Intergovernmental Oceanographic Commission.

(d) PROGRAM PLANNING AND MANAGEMENT.—The President shall direct to be maintained, through appropriate offices, agencies, departments, councils, and interagency groups and task forces, the following functions and activities:

(1) The preparation of a national climate program plan extending 5 years into the future with annual updates. Such a plan shall be submitted to the Office of Management and Budget and the Director of the Office of Science and Technology Policy each year on or before the date departmental requests for appropriations are submitted each year to that Office. The Office of Management and Budget shall review the plan and request for appropriations as a coherent, multiagency request. Such plans and budgetary requests shall represent an appropriate balance between the development and analysis of climate information and the dissemination and use of that information.

(2) The cooperation, participation, and coordination in the national climate program by a broad representation of Federal agencies, State and local governments, private organizations, and individuals.

(3) The establishment of such advisory committees as are appropriate to assist in carrying out the activities provided for under this Act, and the maintenance of reviews by the National Academy of Sciences of the direction and accomplishments of the national climate program.

(e) INTERGOVERNMENTAL ACTIVITY.—The Secretary shall establish a cooperative program for Federal and State activities in climate research and advisory services. The Secretary is authorized to provide Federal matching funds of up to one-half of the cost of research and advisory services with the remaining funds coming from State or local government institutions or private organizations. Such funds shall be made available to State universities qualified to carry out climatological research and advisory services. The cooperative program may include the following functions:

(1) Research, assessments, and services relating to climate impacts on State and local agriculture in collaboration with State agricultural experimental stations.

(2) Research, assessments, and services relating to the climate impacts on State and local water resources in collaboration with State water research centers.

(3) Provision of weather and climate advice to State and local agencies, such as energy and transportation offices.

(4) Provision of climate advice to State and local commerce and industry, and other organizations and individuals.

(5) Provisions of information and Federal agencies on user requirements at the State and local level.

(f) EXPERIMENTAL CLIMATE FORECAST CENTERS.— The Secretary is authorized with the assistance of the Director the National Science Foundation to establish experimental climate forecast centers. Such centers shall—

(1) be located within non-Federal institutions;

(2) be comprised of an interdisciplinary team;

(3) be responsible for making and routinely updating experimental climate forecasts of a monthly, seasonal, annual, and longer nature, based on a variety of expirimental techniques; and

(4) establish appropriate procedures to have forecasts reviewed, including review by individuals not associated with the center.

Sec. 6. Annual report.

The Secretary shall prepare and submit to the President and the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act during the preceding fiscal year. The report shall include—

(a) a summary of the achievements of the program during the previous fiscal year;

(b) a review and analysis of the progress made toward achieving the objectives of the program;

(c) a review and analysis of the activities conducted under the constitutent elements of the program;

(d) a summary and evaluation of difficulties encountered in administering this Act;

(e) a summary of the plan and request for appropriations submitted for the upcoming fiscal year to the Office of Management and Budget pursuant to section 5(d) of this Act; and

(f) any recommendations for additional legislation which may be required to assist in achieving the objectives and carrying out the elements of the program.

Sec. 7. Ahthorization for appropriations.

There are authorized to be appropriated to the Secretary and other Federal departments and agencies, in addition to any funds otherwise authorized, for the purpose of carrying out the provisions of this Act, sums not to exceed $40,000,000 for the fiscal year ending September 30, 1978; not to exceed $50,000,000 for the fiscal year ending September 30 1979; and not to exceed $60,000,000 for the fiscal year ending September 30, 1980.

By Mr. STEVENSON (for himself and Mr. PROXMIRE):

S. 2093. A bill to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses, and for other purposes; to the Committee on Banking, Housing and Urban Development.

Mr. STEVENSON. Mr. President, I am introducing today, on behalf of Senator PROXMIRE and myself, a bill which would preclude after fiscal year 1978 the use of the Exchange Stabilization Fund

to: First, pay certain administrative expenses of the Department of the Treasury, second, authorize appropriations beginning in fiscal year 1979, to meet those administrative expenses, and third, make certain necessary conforming changes in Treasury's administrative practices. Last year when the Banking Committee reported amendments to the Bretton Woods Agreements Act of 1945 the committee included an amendment requiring Treasury to cease using the Exchange Stabilization Fund to pay administrative expenses. In the closing days of the last Congress it became necessary to adopt the House version of the bill, but Treasury nonetheless agreed to accept the intent of the amendment reported by the Senate Banking Committee. I am pleased that the new administration has honored that commitment and supports this bill. Mr. President, I ask unanimous consent that the bill and a sectional analysis thereof be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a(b)) is further amended by:

(1) striking "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking the second and third sentences;

(3) amending the fourth sentence to read as follows:

"The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided,* That the fund shall not be available for the payment of administrative expenses."

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is further amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended."

SEC. 3. The Secretary of the Treasury is authorized, without regard to the standards and procedures of section 3324 and chapter 51, title 5, United States Code, to appoint a total of 61 of the personnel of the Department of the Treasury (in addition to any positions which may be allocated to the Department of the Treasury presently or in the future at the discretion of the Civil Service Commission from those authorized under section 5108(a) of title 5, United States Code) in GS–16, 17, and 18, to carry out the international affairs functions of the Department of the Treasury: *Provided, however,* That when the person who has first filled such position leaves such position, the standards and procedures of section 3324 and subchapter 51, title 5, United States Code, shall be applied in filling the position. For the purpose of this section, the aggregate number of positions authorized to be established by section 5108(a) of title 5, United States Code, shall be increased to reflect the 61 positions created by this section.

SEC. 4. Section 51 of the Act of December 30, 1970, 84 Stat. 1659 (22 U.S.C. 276c–2) is amended by:

(1) amending the first sentence to read:

"Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States.

(2) striking from the second sentence the words "the fund established pursuant to section 822(a) of Title 31" and inserting in lieu thereof "funds appropriated to the Department of the Treasury."

(3) striking the last sentence of the section.

SEC. 5. There are hereby authorized to be appropriated, such sums as may be necessary, including sums for official functions and receptions and representation expenses; to carry out the international affairs functions of the Department of the Treasury.

SEC. 6. The provisions of this Act shall take effect on October 1, 1978, except the amendment made by Sec. 4(1) which shall be effective as of July 1, 1977.

SECTIONAL ANALYSIS

Sec. 1. Limitation on use of the ESF as to payment of administrative expenses.

Beginning FY 79, the Treasury Department will seek appropriations for all administrative expenses associated with the Department's international affairs functions. These include, for example: a) personal services; b) other services (includes Treasury share of State Department overseas administrative support and meeting expenses, professional service contracts, data programming and usage contracts, services performed by other Government agencies, and other similar services); c) travel and transportation of persons; d) receptions and representation; e) rent, communications, and utilities; f) reimbursement to Federal Reserve Banks; g) printing and reproduction; h) transportation of things; i) supplies and materials; j) depreciation expense; and k) equipment.

Such expenses currently are paid from the Exchange Stabilization Fund created by Section 10 of the Gold Reserve Act of 1934. Subsection (b) of Section 10 therefore would be amended by the first section of this bill to reflect the proposed change in the source of funding and to specify that the ESF no longer will be available for payment of administrative expenses. The ESF, beginning FY 79, will be available solely for financial and monetary transactions—that is, ESF "operations" (and for investment to the extent authorized by Sec. 10 of the Gold Reserve Act of 1934). The kinds of administrative expenses currently funded from the ESF and such other administrative expenses as may be associated with Treasury's international affairs functions, in accordance with section 1 of the bill, will be met in the future from appropriated funds.

Section 1 of the bill also makes a technical change in Sec. 10 of the Gold Reserve Act of 1934, by deleting the reference to the "Treasurer of the United States" and substituting therefor the "United States Treasury." This substitution reflects Reorganization Plan No. 26 of 1950 (31 U.S.C. 1001, note) and a reorganization of the Fiscal Service of the Treasury Depatrment, effective February 1, 1974. All accounts of the "Treasurer of the United States" are now accounts of the "United States Treasury." The Department of the Treasury has and will continue to propose amendments to or repeal of other statutes, as and when appropriate, to make similar substitutions in the law.

Sec. 2. Authorization to provide certain allowances and benefits to Treasury employees abroad.

This section of the bill adds a new subsection (d) to the Gold Reserve Act of 1934 to authorize the Secretary of the Treasury to provide benefits and allowances to Treasury representatives serving in foreign countries comparable to those paid to similar officers and employees of the State Department and other USG employees at foreign posts. These benefits and allowances are currently provided to Treasury employees abroad under authority of Section 10 of the Gold Reserve Act of 1934.

Sec. 3. Appointment and compensation.

This section will authorize an increase in the government-wide pool of supergrade positions by 61 positions to be filled by Department of the Treasury personnel performing international affairs functions. The section gives the Secretary of the Treasury authority initially to appoint personnel to these positions without regard to the Civil Service Commission's general authority to classify and determine the qualifications of personnel filling supergrade positions. However, when the person who has first filled such position leaves the position, the Civil Service Commission's classification and qualification review procedures shall be applied in filling the position. The authority provided by this section is necessary to continue the ongoing international affairs functions of the Department.

Sec. 4. Payment of employee benefits for U.S. representatives in the international financial institutions.

This section of the bill amends 22 U.S.C. 276c–2 which had authorized U.S. representatives to the IMF, IBRD, IDB, and ADB to participate in certain civil service employee benefits and authorized the Secretary of the Treasury to use the ESF for agency contributions for this purpose by the Treasury Department. Section 4 of the bill: (1) includes U.S. representatives when appointed to the African Development Fund as eligible for these employee benefits and (2) makes the agency contributions payable, beginning fiscal year 1979, from Treasury appropriations rather than from the ESF.

Sec. 5. Funding of the international affairs functions of the Department of the Treasury.

The new section 5 would provide the continued authority for Treasury to effectively fulfill its international affairs functions by providing authorization of appropriations for this purpose. Thus, for example, sums appropriated will be used for the payment of compensation and benefits to Treasury employees (both full-time personnel and special experts and consultants) performing international affairs functions for the Department in Washington and in overseas posts. Employees performing these functions are in the Office of the Assistant Secretary for International Affairs as well as in several other offices within the Office of the Secretary, *e.g.,* the Office of the Under Secretary for Monetary Affairs, the Office of the Assistant Secretary for Administration, the Office of the General Counsel, and the Office of the Assistant Secretary for Economic Policy. Appropriations also will be necessary for the whole range of support required for these personnel—*e.g.,* office space, equipment, supplies, communications, printing.

Treasury's responsibilities in the international area will also require, for example, appropriations adequate for U.S. representation at meetings abroad of the international financial institutions as well as for travel for periodic and *ad hoc* consultations, meetings, and conferences with foreign officials. In connection with meetings of Treasury officials, serving in Washington and in foreign

countries, with members of foreign governments and international financial and economic organizations, appropriations will be needed for receptions and other representation expenses.

Sec. 6. Effective date.

This section of the bill makes the provisions of the bill effective beginning fiscal year 1979, except for Sec. 4(1) of the bill which is to be effective as of July 1, 1977. The earlier date of effectiveness for Sec. 4(1) is necessary to effectively correct an oversight in the African Development Fund Act as provided in Sec. 4(1) of the bill.

By Mr. TOWER:

S. 2095. A bill to amend the Internal Revenue Code of 1954 to provide an investment credit for oil and gas drilling expenditures, and for other purposes; to the Committee on Finance.

Mr. TOWER. Mr. President, for at least the past 7 years I have repeatedly warned that the Nation faced a pervasive and dangerous energy crisis. On August 12, 1970, the distinguished Senator from Wyoming, Senator HANSEN, and I, together with the then-Congressman from Houston, George Bush, held a major press conference to alert the public to the fact of this crisis and to describe the causes of the energy crisis, as we understood them.

In that 1970 press conference, I noted that a major share of the energy crisis was due to increasing demand and dwindling supply of natural gas. The first obvious effects of the gas shortage occurred in November of that year when three major interstate pipeline companies and two smaller pipeline companies started curtailing firm industrial customers.

Senator HANSEN at that time detailed the situation in coal, electric, and atomic energy fields. He characterized development of nuclear power as "the best present hope for an ultimate solution to the energy problem" and added that "we cannot begin too soon in the development of an overall national energy and fuels policy."

Finally, Congressman Bush outlined the role of oil in the energy crisis, advocating "long overdue increases in the price of oil" and restoration of tax incentives to encourage exploration and development of domestic oil reserves.

Unfortunately, Mr. President, since that time more than 7 years ago, the Congress has been, to say the least, less than helpful in solving the energy crisis. Congress has done little, if anything, since the Arab oil embargo to spur development of domestic sources of energy. Congress has, rather, through punitive taxation and excessive regulation crippled capital formation in the oil industry and substantially retarded the search for new supplies of oil and natural gas within the United States.

I think it is time now, Mr. President, as I have said before, for Congress to cooperate with our free enterprise system in resolving the energy and capital crisis instead of being a stumbling block to their solution.

In an effort to contribute to the search for a solution to our energy problems, I am today introducing legislation which can serve as a major step toward the goal of greater U.S. energy self-sufficiency. The legislation I am introducing would go a long way in restoring some of the economic incentives necessary for increasing domestic production of oil and natural gas by making it easier for the thousands of American oil and gas producers to raise the capital they need to finance expanded drilling operations.

Under my bill, a driller of a new exploratory oil or gas well would be permitted to claim a 10-percent investment credit on his intangible drilling costs with allowances for geological and geophysical expenses, lease acquisition costs, and secondary and enhanced recovery expenses incurred in connection with these exploratory wells. In addition, if an exploratory well proves to be productive, my bill would permit an additional, supplementary credit of 10 percent of these exploration and drilling expenses.

I introduced very similar legislation in the 92d Congress in 1971, in the 93d Congress in 1973, and in the 94th Congress in 1975. Frankly, Mr. President, I believe there is a greater need to enact this kind of a bill now than there was in 1971. In fact, had such legislation been enacted in the 92d Congress, I am confident that we would now be importing substantially less than the current 6 million barrels of crude oil per day. Nor would this Congress be considering, as it is, legislation providing for mandatory allocation of a critically short supply of natural gas.

I do not maintain that enactment of this bill would, in and of itself, be sufficient to resolve our energy and energy capital shortages. There are a number of additional steps that must be taken, and taken quickly, if we are to extricate ourselves from the energy predicament in which we find ourselves. Deregulation of new natural gas is one such step. Reform of the current crude oil price control law and gradual decontrol of all crude oil prices are other critically necessary steps. We must also encourage and permit expanded oil and natural gas exploration and development on the Outer Continental Shelf. We must permit greater use of coal. We must spur development of alternative sources of energy such as liquefaction and gasification of coal, oil shale, and geothermal energy. We must continue to develop nuclear power. Last, and at least as important as all the rest, we must adopt realistic energy conservation measures that will be effective in reducing consumption, but which will be fair to all people in all parts of this Nation.

My bill is only one step, but is a step in the right direction. Its enactment would be a major step forward in the effort to spur greater energy development.

I ask unanimous consent that the bill be printed in the RECORD, together with an explanation of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 46 of the Internal Revenue Code of 1954 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(h) DRILLING EXPENDITURES.—

"(1) IN GENERAL.—In the case of a taxpayer who has made an election under paragraph (3), the amount of his qualified investment for the taxable year (determined under subsections (c) and (d) without regard to this subsection) shall be increased by an amount equal to his aggregate drilling expenditures for the taxable year.

"(2) DRILLING EXPENDITURES DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'drilling expenditure' means amounts—

"(i) which are intangible drilling and development costs (within the meaning of section 263(c) paid or incurred in connection with an exploratory well,

"(ii) geological and geophysical costs attributable to an exploratory well,

"(iii) lease acquisition costs paid or incurred in connection with an exploratory well,

"(iv) costs incurred in connection with secondary oil and natural gas recovery projects, and

"(v) costs incurred in connection with enhanced oil and natural recovery projects.

"(B) EXPLORATORY WELL DEFINED.—For purposes of subparagraph (A), the term 'exploratory well' means a well drilled in the United States (as defined in section 633 (1))—

"(i) which well was drilled in unproven or semiproven territory for the purpose of ascertaining the presence underground of a commercial deposit of oil or natural gas,

"(ii) drilling of which was commenced after December 31, 1977, and

"(iii) which well has been completed to the point of production, or determined to be nonproductive and abandoned.

"(C) GEOLOGICAL AND GEOPHYSICAL COSTS ATTRIBUTABLE TO AN EXPLORATORY WELL.—

"(i) Each exploratory well of a taxpayer which is drilled to a depth of at least 1,250 feet shall be attributed with the lesser of—

"(I) the excess of the taxpayer's direct geological and geophysical costs paid or incurred in the taxable year with respect to properties located in the United States (as defined in section 638(1)) over the amount of such costs which are allocated by the taxpayer to other exploratory wells, or

"(II) $50,000.

"(ii) SPECIAL RULE FOR AFFILIATED GROUPS.—For purposes of determining the geological and geophysical costs attributable to an exploratory well, members of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year shall be treated as a single taxpayer.

"(D) LEASE ACQUISITION COSTS.—Each exploratory well of the taxpayer shall be attributed with the cost of acquiring and maintaining the right to explore for oil or natural gas in the area in which such well is located.

"(E) SECONDARY OIL AND NATURAL GAS RECOVERY COSTS.—Each exploratory well of the taxpayer shall be attributed with the costs incurred by the taxpayer during the taxable year for the purpose of increasing the amount of crude oil or natural gas recovered by such well as the result of—

"(i) water being injected into the ground to augment the natural reservoir drive mechanism to maintain pressure and to recover additional oil from the reservoir, or

"(ii) gas being injected into the ground to augment the natural reservoir drive mechanism to maintain pressure and to recover additional oil from the reservoir.

"(F) ENHANCED OIL AND NATURAL GAS RECOVERY COSTS.—

"(i) Each exploratory well of the taxpayer shall be attributed with the costs incurred by the taxpayer during the taxable year for the purpose of recovering crude oil and natural gas in amounts in excess of the amount of crude oil or natural gas that would have been ultimately recovered by primary crude oil and natural gas recovery methods. For purposes of this subparagraph, costs attributable to secondary recovery projects described under subparagraph (E) shall not be

included. Enhanced oil and natural gas recovery methods include the use of chemical additives, thermal applications, injections of carbon dioxide, miscible or soluble hydrocarbon injection, and variations or combinations of such methods.

"(ii) For purposes of this subparagraph, the term 'primary crude oil and natural gas recovey methods' means production of crude oil and natural gas from reservoirs without the addition of pressure or displacement of driving force.

"(3) ELECTION.—An election under this subsection may be made at such time, and in such manner and form, as the Secretary prescribes by regulations. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(4) COORDINATION.—No amount which is taken into consideration under subsection (c) or (d) may be taken into account as a drilling expenditure under this subsection.

"(5) ELECTION WITH RESPECT TO CERTAIN DEDUCTIONS.—At the election of the taxpayer, made at such time, and in such manner and form, as the Secretary prescribes by regulations, the taxpayer may elect to take the deduction allowed under section 162, 212, or 263(c) for the taxable year in lieu of the credit allowed under section 38 for drilling expenditures. No amount shall be allowed as a deduction under such sections to the extent that a credit is allowed under section 38 with respect to that amount.".

(b)(1) Section 46(a)(2) of such Code is amended by striking out "(as determined under subsection (c) and (d))" and inserting in lieu thereof "(as determined under subsections (c), (d), and (e))", each place that it appears therein.

(2) Section 46(a)(D) of such Code is amended—

(A) by striking out "and" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "and", and

(C) by inserting at the end thereof the following new clause:

"(iv) expenditures to which subsection (h) applies.".

(3) Section 46(d)(1) of such Code is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (h)".

Sec. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting immediately before section 45 the following new section:

"SEC. 44B. SUPPLEMENTARY CREDIT FOR PRODUCTIVE EXPLORATORY WELLS.

(a) GENERAL RULE—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart D of this part. This credit shall not exceed such tax reduced by the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially taxed-exempt interest), section 37 (relating to credit for the elderly), section 38 (relating to investment credit), section 40 (relating to expenses of work incentive programs), section 41 (relating to contributions to candidates for public office) for the taxable year, section 42 (relating to general tax credit), section 43 (relating to earned income), section 44 (relating to purchase of new principal residence), and section 44A (relating to expense for household and dependent care services necessary for gainful employment).

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart D of this part."

(b) Part IV of subchapter A of chapter 1 of such Code (relating to credits against tax) is amended by adding at the end thereof the following new subpart:

"Subpart D—Rules for Computing Supplementary Credit for Productive Exploratory Wells

"Sec. 50C. Supplementary credit for productive exploratory wells.

"SEC. 50C. SUPPLEMENTARY CREDIT FOR PRODUCTIVE EXPLORATORY WELLS.

"(a) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of the credit allowed by section 44B for the taxable year shall be equal to 10 percent of the drilling expenditures (as defined in section 46(h)(2) attributable to an exploratory well (as defined in section 46(h)(2)(B)).

"(2) LIMITATION BASED ON AMOUNT OF TAX ATTRIBUTABLE TO THE PROPERTY.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the credit allowed by section 44B for the taxable year shall not exceed the tax attributable to the property in which the exploratory well is located. For purposes of this paragraph the tax attributable to the property shall be the excess of the tax on taxable income for the year over the tax on an amount equal to taxable income less the taxable income from the property, each computed without regard to credits allowable under this part.

"(B) ALTERNATIVE COMPUTATION FOR CORPORATIONS.—In lieu of the computation prescribed in subparagraph (A), a corporation may compute the tax attributable to the property as 48 percent of the taxable income from the property.

"(C) COMPUTATIONS OF TAXABLE INCOME.—For purposes of this paragraph taxable income from the property shall be computed as provided in section 613(a) except that the applicable deduction for depletion for the taxable year shall be taken into account, and taxable income and taxable income from the property shall be computed without regard to any net operating loss deduction.

"(b) CARRYOVER OF UNUSED CREDITS.—

"(1) ALLOWABLE CREDIT IN EXCESS OF TAX LIABILITY.—The amount by which the sum of any credit determined under section (a)(1) which does not exceed the limitation of subsection (a)(2) plus any credit carried to the taxable year pursuant to this paragraph exceeds the tax imposed by this chapter for the taxable year, reduced by the sum of all other credits allowable under this part, shall be carried over to and allowed as a supplementary credit for productive exploratory wells in the succeeding taxable year.

"(2) CARRYOVER OF CREDIT IN EXCESS OF LIMITATION.—The amount by which the sum of any credit determined under subsection (a)(1) plus any credit carried to the taxable year pursuant to this paragraph exceeds the limitation of subsection (a)(2) shall be carried over to and allowed as a supplementary credit for productive exploratory wells in the succeeding taxable year subject to the limitation of subsection (a)(2).".

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44B. Supplementary credit for productive exploratory wells.".

(2) Section 56(c) of such Code (relating to definition of regular tax deduction) is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof a comma and the word "and", and by inserting after paragraph (8) the following new paragraph:

"(9) section 44B (relating to supplementary credit for productive exploratory wells).".

(3) Section 6096 (b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44A" and inserting in lieu thereof a comma and "44A and 44B".

SEC. 3. The amendments made by this Act apply with respect to taxable years beginning after December 31, 1977.

EXPLANATION: TAX CREDIT FOR EXPLORATORY OIL AND GAS DRILLING EXPENDITURES

1. GENERAL EXPLANATION

The bill is intended to provide needed additional incentives for the discovery of new and additional domestic sources of oil and gas. This will be achieved by permitting the driller to claim a 10% investment credit on his intangible drilling costs and allowances for geological and geophysical expenses, lease acquisition costs, and secondary and enhanced recovery expenses incurred in connection with exploratory wells.

If an exploratory well proves commercially productive, a supplementary credit of 10% of these drilling expenses will be allowed. The added incentive for successful wells is designed to reward success more highly than failure, and is an important element of this legislative program.

The credit will be available for wells drilled anywhere within the 50 states, including offshore wells on the Continental Shelf of the United States. Wells drilled in Puerto Rico, or territories or possessions of the United States or their surrounding waters, will also qualify, but wells drilled elsewhere will not. The credit will be available to corporations, individuals, or other entities.

2. TECHNICAL EXPLANATION OF PROPOSAL

A. Application of investment credit

In general, the present investment tax credit allowed by section 38 permits a taxpayer to credit against his tax 10% of his qualified investment in certain depreciable property. The investment which gives rise to this credit will be expanded to included the taxpayer's drilling investment. The expanded credit will apply to all taxpayers, i.e. corporations, individuals, trust, and other entities.

Drilling Investment Credit. The drilling investment credit includes:

(a) The total of intangible drilling and development costs incurred in connection with domestic exploratory wells, Intangible drilling costs are those costs which a taxpayer may deduct under section 263(c).

(b) The taxpayer's direct geological and geophysical costs incurred in the taxable year in the search for oil and gas, wherever domestically incurred, up to $50,000 times the number of domestic exploratory wells which are drilled to a depth of at least 1,250 feet. Direct geological and geophysical costs do not include any allocated overhead costs. For this purpose, all members of an affiliated group will be treated as a single taxpayer, so that geological and geophysical costs of one member may be included in the credit base of another member of the group.

It is recognized that substantially all geological and geophysical costs are incurred in the process of exploring for new reserves, but that it is difficult or impracticable to allocate such costs to a particular well. Accordingly, such costs, whether or not incurred in the immediate drilling area, are considered as part of the exploratory drilling investment which gives rise to the new tax credit. Once geological and geophysical costs have been attributed for this purpose to one well, those same costs may not be attributed to another well. However, the taxpayer may allocate such cost initially to his own best advantage.

(c) Lease acquisition costs. These costs include the cost of acquiring and maintaining the right to explore for oil or natural gas. Included within such costs are delay rentals.

(d) Secondary recovery costs such as for water and gas injection. This provision is intended to maintain well delivery at maximum efficient rates consistent with wise conservation practices.

(e) Tertiary recovery costs. This provi-

sion is intended to include costs incurred to enhance production beyond that which would be produced without such expenses being incurred.

B. Exploratory well

An exploratory well is a well drilled in unproven or semi-proven territory for the purpose of ascertaining the presence underground of a commercial deposit of oil or natural gas, and completed to the point of production or determined to be non-productive and abandoned.

The investment credit will be effective with respect to domestic exploratory wells drilling of which is commenced after December 31, 1977. If drilling is begun after that date, intangible drilling and development costs incurred in connection with an exploratory well will qualify as an exploratory drilling investment even though such costs were incurred before that date or in earlier tax years. Moreover, geological and geophysical costs may be attributed to an exploratory well drilling of which is begun after December 31, 1977, even though such costs were incurred before that date.

3. SUPPLEMENTAL CREDIT FOR PRODUCTIVE EXPLORATORY WELLS

If an exploratory well becomes productive, a supplementary 10 percent of the drilling investment attributable to that well may be credited against the first tax attributable to the property in which the well is located. A taxpayer would first compute the taxable income from the property by deducting from gross income from the property those deductions, including depletion, attributable to the property.

Next, the taxpayer would compute his tax on his regular taxable income. Finally, he would compute the tax on his regular taxable income less the taxable income from the property. (For this purpose, regular taxable income will be computed without regard to net operating loss carrybacks or carryovers.) The difference between these amounts of tax is the limit for any additional 10 percent credit in any one year.

Any portion of the supplemental 10 percent credit which does not exceed the tax attributable to the property may be fully credited against any tax liability which exists after all other credits have been applied. If some or all of such portion exceeds the tax liability, if any, for the year, it may be carried over to succeeding years without limit as to time and credited against any tax liability in such later years, until fully exhausted. Thus for example, if tax is eliminated by a net operating loss carryover to the year in issue, the unused credit may be used in the first year after the carryover expires, or in which the carryover is exhausted.

Any portion of the supplemental 10 percent credit which exceeds the tax attributable to the property in any one year may be carried to succeeding years without limit as to time as an additional 10 percent credit against such later year's tax attributable to the property with respect to which it was originally earned.

4. EFFECTIVE DATE

The changes in the law made by this legislation would apply with respect to taxable years beginning after December 31, 1977.

By Mr. CRANSTON (for himself, Mr. TOWER, Mr. ANDERSON, Mr. BAYH, Mr. CHURCH, Mr. HASKELL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. LEAHY, Mr. JOHNSTON, Mr. MATSUNAGA, Mr. MORGAN, Mr. PERCY, Mr. RIEGLE, Mr. THURMOND, and Mr. SPARKMAN):

S. 2096. A bill to govern the disclosure of certain financial information to governmental agencies by financial institutions, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

FINANCIAL PRIVACY ACT OF 1977

Mr. CRANSTON. Mr. President, last year the Senate Banking, Housing and Urban Affairs Committee held hearings on my bill, S. 1343, that prohibited the disclosure of bank records to Government officials unless there was written consent provided by the depositor or a subpena with prior notice to the depositor.

I am introducing today a revised financial privacy bill that takes into consideration some of the suggestions and testimony received at the hearings last year. Senators ANDERSON, BAYH, CHURCH, HASKELL, HATFIELD, HUDDLESTON, HUMPHREY, JOHNSTON, LEAHY, MATSUNAGA, MORGAN, PERCY, RIEGLE, THURMOND, TOWER, and SPARKMAN, join me in cosponsoring this bill, the Right to Financial Privacy Act of 1977, Hearings on this bill are scheduled for September 23 before the Senate Banking and Urban Affairs Committee.

The Supreme Court decided in the case of United States against Miller on April 21, 1976 and for the first time made crystal clear that there is no existing legal process which protects a citizen's interest in records containing intimate details of his life that are in the possession of a third party. Under the Miller decision an agent of the Government may serve an administrative subpena on a bank for records of an individual's financial transactions and the individual whose records are sought has no standing to resist the subpena and need not be informed that the subpena has been complied with.

The bank in this situation has no compelling reason to resist such subpena. While the third parties here, the banks, as a historic tradition have fostered the notion of confidentiality of bank records, there is in fact no law which requires them to do so.

The entire privacy issue has been highlighted by the adverse ruling in the Miller case, the Watergate break-in and other related Government surveillance activities, such as the cases of Jane Fonda, Dr. Spock, and Daniel Ellsburg. These persons' bank accounts were monitored because of their controversial opinions rather than for suspected criminal activity. The enemies list, compiled early in the Nixon administration, was used to initiate what was to be a systematic search of every Government data bank for information which would be harmful to the political opponents of the administration.

These activities evidenced an alarming pattern of Government abuse in the area of individual privacy and in many cases only stopped because one or two bureaucrats refused to comply. The personal integrity and sense of duty of one civil servant or a banker who is faced by a Federal Government agent seeking access to records is a slender reed on which to rest the entire defense of an individual's right to privacy.

The purpose of this bill which we introduce today is to grant to customers of financial institutions a right to know when their financial records are being examined, an opportunity to challenge disclosure or dissemination of the information, and to establish a procedure for Government access to financial information.

It is important to note that this is a very limited bill in that the provisions do not deny Government officials access to financial records. The purpose is to provide a statutory guarantee for confidentiality of financial records while at the same time satisfying the needs of the Government for access. There is still a pressing need for States to reform their laws to insure that bank customers have adequate rights as this bill does not apply to State or local governments. In my home State of California the citizenry in November 1974 amended the California constitution to include a declaration that its citizen have the right to privacy and has passed substantial bank privacy legislation. There is still a pressing need to reform the grand jury subpena process and the power of the Government in internal security investigations. The latter issue is being studied in the Intelligence Committee by my colleague Senator BIRCH BAYH who is a cosponsor of this bill. While the Congress over the period of the last 2 years has stepped up its efforts to place some procedural safeguards on Government's information and investigative arms, it is my hope that Democrats and Republicans, conservatives and liberals can join together to support legislation to protect the privacy of all Americans.

I ask that the bill and a sectional analysis explaining its terms be printed in the RECORD, as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This title may be cited as the "Right to Financial Privacy Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) procedures and policies governing the relationship between financial institutions and Government agencies have in some cases developed without due regard to citizens' constitutional rights; and

(2) the confidential relationships between financial institutions and their customers are built on trust and must be preserved and protected.

(b) The purposes of this Act are to protect and preserve the confidential relationship between financial institutions and their customers and the constitutional rights of those customers and to promote commence by prescribing policies and procedures to insure that customers have the right to challenge unwarranted disclosure of their records.

DEFINITIONS

SEC. 3. (a) For the purposes of this Act, the term—

(1) "financial institution" means a bank or trust company, savings and loan association or building and loan association (including cooperative banks), or credit union organized under the laws of a State or territory of the United States.

(2) "financial records" means any copy of any record held by a financial institution with the financial institution.

(3) "person" means an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence, or a partnership, corporation, association, trust, or any other legal entity.

(4) "customer" means any person who utilizes or has utilized services provided by a financial institution.

(5) "supervisory agency" means—

(A) the Federal Deposit Insurance Corporation;

(B) the Federal Savings and Loan Insurance Corporation;

(C) the Federal Home Loan Bank Board;

(D) the National Credit Union Administration;

(E) the Federal Reserve Board;

(F) the Comptroller of the Currency;

(G) any State banking department or similar agency.

(b) Any subpena or summons requiring testimony relating to financial records shall be treated as a subpena or summons requiring the production of such records.

CONFIDENTIALITY OF RECORDS—GOVERNMENT

SEC. 4. (a) Except as provided in section 10, no officer, employee, or agent of the United States, or any agency or department thereof may obtain copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and—

(1) such customer has authorized such disclosure in accordance with section 6; or

(2) such financial records are disclosed in response to an administrative subpena or summons which meet the requirements of section 7; or

(3) such financial records are disclosed in response to a court order which meets the requirements of section 8; or

(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 9.

(b) In any proceeding relating to such subpenas, summons, and court orders, the customer shall have the right to challenge the relevancy and scope, of the summons, and the reasonable relationship of the records sought to the investigation which cause the summons, court order, or subpena to issue.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

SEC. 5. No financial institution, or any officer, employee, or agent of a financial institution, may provide to any officer, employee, or agent of the United States, or any agency or department thereof copies of, or the information contained in, the financial records of any customer except in accordance with the requirements of sections 6, 7, 8, and 9.

CUSTOMER AUTHORIZATION

SEC. 6(a) A customer may authorize disclosure under section 4(a)(1) if he or those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer—

(1) authorizes such disclosure for a period not in excess of one year; and

(2) identifies the financial records which are authorized to be disclosed; and

(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

(b) No such authorization shall be required as a condition of doing business with such financial institution.

(c) The financial institution shall keep a record of all examinations of the customer's financial records, including the identity and purpose of the person examining the financial records, the governmental agency or department which he represents, and a copy of the authorization. The financial institution shall notify the customer that he has the right at any time to revoke any authorization of disclosure and to obtain a copy of the aforementioned record of examinations.

ADMINISTRATIVE SUBPENAS AND SUMMONS

SEC. 7. (a) An officer, employee, or agent of the United States or any department or agency thereof may obtain financial records under section 4(a)(2) pursuant to an administrative subpena or summons otherwise authorized by law only if:

(1) those serving such administrative summons or subpena have first served a copy of the subpena or summons on the customer in person or it is sent by certified or registered mail to the last known address of the customer; and

(2) the subpena or summons includes the name of the intended recipient and, the statutory purpose for which the information is to be obtained and the rights of the recipient under this Act; and

(3) the customer directs the financial institution to comply, or

(b) 14 days have expired from the date of personal delivery or mailing of notice to the customer and within which time period neither the customer nor the financial institution has objected in writing, to the record or information being made available; or

(c) the financial institution is served with a court order directing it to comply, issued after notice to and opportunity for the customer to challenge such subpena or summons.

SEARCH WARRANTS

SEC. 8. An officer, employee, or agent of the United States or any agency or department thereof may obtain financial records under section 4(a)(3) only if he obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

JUDICIAL SUBPENA

SEC. 9. (a). An officer, employee, or agent of the United States or any department or agency thereof may obtain financial records under section 4(a)(4) pursuant to a judicial subpena only if:

(1) The subpena specifies—

(A) that the subpena is authorized by law and there is reason to believe that the subpena will produce information relevant to a legitimate law enforcement purpose; and

(B) that a copy has been served on the customer, in person or it is sent by certified or registered mail to the last known address of the customer; and

(2) 14 days have expired from the date of personal delivery or mailing of notice to the customer within which period either the customer or financial institution or both may move to quash such subpena in the court named in the subpena; and

(3) upon application of an officer, employee, agent or authority of the United States, the court may grant such subpena in accordance with paragraph (1)(A) with a temporary delay of delivery or mailing to the customer of a copy of the subpena and any notification of the existence of the subpena, which delay shall not exceed ninety days following the date of issuance, if the court finds, on the basis of an affidavit or sworn testimony, that it has been affirmatively demonstrated that such notification would seriously jeopardize a continuing investigation of any felony. If the court so finds it shall enter an ex parte order granting the requested delay. Additional delays may be granted by the court upon application, but only in accordance with this subsection.

(b) Upon the expiration of the period of delay of the notification, the customer shall be notified by mail that the government agency named in the enclosed subpena has had access to records concerning the customers transactions without prior notice pursuant to a court determination that such notice would seriously jeopardize an investigation.

EXCEPTIONS

SEC. 10. This Act does not apply to—

(1) a third party summons described in section 7609 of the Internal Revenue Code of 1974;

(2) a subpena issued by or on behalf of a grand jury;

(3) the examination of financial records by or disclosure of financial records to any supervisory agency in the exercise of its supervisory, monetary or regulatory functions;

(4) the dissemination of any financial information under procedures that insure protection of confidentiality of identifiable individual customer information; or

(5) the use of financial records in making reports or returns required under the Internal Revenue Code of 1954 or under appropriate State or local tax laws.

ACCESS

SEC. 11. (a) Copies of, or the information contained in financial records pursuant to section 4 or obtained by a supervisory agency under the exceptions provided in section 10 shall not be used or retained in any form for any other purposes than the specific statutory purposes for which the information was originally obtained, nor shall such records be provided to any other governmental department or agency or other person except where the transfer of such information is specifically authorized by law.

(b) Nothing in this act precludes a government agency or financial institution from notifying appropriate Federal, state, or local governments of suspected violations of the law: *Provided*, That access to any customer records shall be governed by this Act.

JURISDICTION

SEC. 12. An action to enforce any provision of this Act may be brought in any appropriate United States district court without regard to the amount in controversy or in any other court of competent jurisdiction within three years from the date on which the violation occurs or the date of discovery of such violation whichever is later.

CIVIL PENALTIES

SEC. 13. Any person, financial institution, or any officer, employee, or agent of a financial institution, of the United States or any agency or department thereof, who obtains or discloses one or more financial records in violation of this Act is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 for each violation,

(2) any actual damages sustained by the customer as a result of the disclosure,

(3) such punitive damages as the court may allow, where the violation is found to have been knowing or willful, and

(4) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

CRIMINAL PENALTIES

SEC. 14(a) Any person, officer, employee, or agent of a financial institution, of the United States or any agency or department thereof, who willfully and knowingly participates in a violation of this title shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000, or both.

(b) Any person, officer, employee, or agent of a financial institution, of the United States or any agency or department thereof, who induces or attempts to induce a violation of this title shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000, or both.

INJUNCTIVE RELIEF

SEC. 15. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available

to any person aggrieved by a violation or threatened violation of this title. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

WAIVER OF RIGHTS

SEC. 16. No waiver of any rights hereunder shall be valid, whether oral or written and whether with or without consideration.

INCONSISTENT PROVISIONS OF LAW

SEC. 17. Should any other law of the United States or any other jurisdiction grant or appear to grant power or authority to any person to violate the provisions of this act, the provisions hereof shall supersede and pro tanto override and annul such law, except those statutes which grant greater rights than this title.

SEPARABILITY

SEC. 18. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

COST REIMBURSEMENT

SEC. 19. Each department and agency of the United States shall provide reimbursement for costs that are reasonably necessary and which have been directly incurred by a financial institution in searching for, reproducing, or transporting books, papers, records, or other data relating to a customer required to be produced by any customer authorization, summons, subpena, or search warrant issued by or at the request of that department or agency.

EFFECTIVE DATE

SEC. 20. The provisions of this title shall become effective upon the expiration of one hundred and eighty days following the date of enactment.

RIGHT TO FINANCIAL PRIVACY ACT OF 1977: SECTION-BY-SECTION SUMMARY

SHORT TITLE

Sec. 1. Provides that the Act may be cited as the "Right to Financial Privacy Act of 1977."

FINDINGS AND PURPOSE

Sec. 2. Congress finds that procedures governing the relationship between financial institutions and the government in some cases fail to protect the constitutional rights of customers, and that the confidential relationships between financial institutions and their customers must be protected.

The purpose of the bill is to protect these relationships and customers' constitutional rights by giving customers the right to challenge unwarranted disclosure of their records.

DEFINITIONS

Sec. 3. (a) This section defines the terms "financial institution", "financial records", "person", "customer", and "supervisory agency".

(b) Defines production of records.

CONFIDENTIALITY OF RECORDS—GOVERNMENT

Sec. 4. (a) This subsection provides that no Federal agency may have access to, obtain copies of, or the information contained in, a customer's financial records unless one of the following four procedures are followed:

(1) the customer authorizes disclosure as provided in section 6;

(2) disclosure is made in response to an administrative subpena or summons according to procedures outlined in section 7;

(3) a court issues a search warrant after finding that there is probable cause to believe a crime has been or may be committed; and

(4) a judicial subpena is issued which meets the requirements of section 9.

(b) This subsection grants the customer standing in court to challenge access to his records.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

Sec. 5. This subsection prohibits financial institutions from giving Federal agencies access to, copies of, or the information contained in a customer's financial records unless one of the four procedures outlined in section 4 are followed.

CUSTOMER AUTHORIZATION

Sec. 6. (a) A customer may authorize disclosure of his financial records if he signs a statement identifying the records and specifying the recipient and purpose of the disclosure. The authorization may not be effective for longer than one year.

(b) Depository institutions may not require any authorization as a condition of doing business with a customer.

(c) This subsection grants the customer the right to revoke an authorization at any time. The customer may obtain a copy of the records, which must be kept by depository institutions, of all instances of disclosure. The depository institution is required to notify the customer of these rights.

ADMINISTRATIVE SUBPENA AND SUMMONS

Sec. 2. (a). A Federal agency may obtain financial records by using an administrative subpena or summons if:

(1) a copy of the subpena or summons is personally received by or mailed to the customer by certified or registered mail;

(2) the subpena or summons contains the name of the recipient, the purpose for the request and the rights of the recipient under this Act;

(3) the customer directs the financial institution to comply, or

(b) under this subsection, the customer is given 14 days from the receipt or mailing to object in writing or

(c) under this subsection the financial institution is ordered by the Court to comply.

SEARCH WARRANTS

Sec. 8. A Federal agency may obtain financial records by obtaining a search warrant.

JUDICIAL SUBPENA

Sec. 9. (a) A Federal agency may obtain financial records by using a judicial subpena if:

(1) the subpena specifies

(A) the information sought is relevant to a legitimate law enforcement purpose;

(B) a copy of the subpena is personally received by or mailed to the customer by certified or registered mail;

(2) the customer, the financial institution or both are given 14 days to go to Court and move to quash the subpena.

(3) this subsection provides for a delay (not to exceed 90 days) of delivery or mailing to the customer of notification. To obtain such a delay the agency must demonstrate to a judge that notification would seriously jeopardize an investigation of a felony. Additional delays may be obtained in accordance with this subsection. After the delay has expired, a notice must be delivered or mailed to the customer indicating that his records were supplied to an agency.

EXCEPTIONS

Sec. 10. (1) This subsection makes clear that the privacy protection provisions in the Tax Reform Act of 1976 are unaffected by this Act. The Tax Reform Act limited IRS access to records held by third parties, including financial records.

(2) This subsection exempts grand jury subpenas.

(3) This subsection permits examination of records by supervisory agencies to exercise their supervisory functions.

(4) This subsection permits the dissemination of financial information which is not identifiable as the records of a particular customer.

(5) This subsection permits reports or returns required by the Internal Revenue Code.

ACCESS

Sec. 11. (a) Information obtained pursuant to section 4, or obtained by a supervisory agency in connection with its supervisory functions may be used only for the specific statutory purpose for which it was originally obtained. Information or records may not be transferred to any other agency or person unless the transfer is authorized by law.

(b) This subsection permits a government agency or financial institution to notify Federal, state or local governments of suspected violations of law.

JURISDICTION

Sec. 12. U.S. district courts have jurisdiction over actions to enforce the Act without regard to the amount in controversy. Any other court of competent jurisdiction may also hear such actions.

The section also provides a three year statute of limitations for actions brought under the Act.

CIVIL PENALTIES

Sec. 13. (a) Any person, institution or agency which obtains or discloses information in violation of this Act is liable to the customer for the following amounts:

(1) $100 for each violation;

(2) actual damages;

(3) punitive damages for knowing or willful violations; and

(4) attorney's fees.

CRIMINAL PENALTIES

Sec. 14. (a) and (b) These sections provide that any person who violates the Act, induces, or attempts to induce a violation may be imprisoned up to one year or fined up to $5,000.

INJUNCTIVE RELIEF

Sec. 15. This section makes injunctive relief available to stop or prevent violations of the Act.

WAIVER OF RIGHTS

Sec. 16. This section provides that no waiver of rights granted by the Act is valid.

INCONSISTENT PROVISIONS OF LAW

Sec. 17. This section provides for this Act superseding all laws except those that grant greater rights than this Act.

SEPARABILITY

Sec. 18. This section provides for separability.

COST REIMBURSEMENT

Sec. 19. This section provides for cost reimbursement to financial institutions.

EFFECTIVE DATE

Sec. 20. The Act will become effective 180 days after enactment.

By Mr. STONE:

S. 2097. A bill to amend the Immigration and Nationality Act to exclude from admission into and to deport from the Untied States all aliens who persecuted others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany; to the Committee on the Judiciary.

Mr. STONE. Mr. President, today I am pleased to introduce legislation which would amend our immigration laws by providing statutory authority requested by the Immigration and Naturalization Service for denaturalization and deportation of Nazi war criminals from our country.

Although the Immigration and Nationality Act excludes from the United States, persons who have been convicted of numerous criminal acts, there is no

reference in the act to exclusion of persons on account of persecution under the direction of the Nazi government of Germany.

Last month the INS announced the organization of a special task force to monitor alleged Nazi war criminals who have taken refuge in the United States. INS Commissioner Leonel Castillo has testified before the House Judiciary Subcommittee on Immigration that 106 cases related to war crimes are nearing prosecution or are under active investigation. New legal procedures have been established to enable the INS to gather evidence overseas and Commissioner Castillo has reported that his task force will have full Justice Department backing in obtaining confidential information from the CIA, Defense, and State Departments. But there is presently no enabling legislation in the Immigration and Nationality Act which specifically provides a statutory mechanism to allow the INS the authority to swiftly begin denaturalization and deportation proceedings.

In July alone, 16 new investigative cases were initiated by the INS. The fact that, at a minimum, over 100 alleged Nazi war criminals have been living freely in our country for years is an almost unbelievable admission of reality. The Carter administration has shown determination worthy of great praise in seeking to put an end to this disgraceful irony.

Deportation actions now underway against alleged Nazis living in this country are based on the concealment of war crimes activities in response to questions by immigration officials. The only persons asked about war crimes, however, were those who entered the United States before 1952 under the Displaced Persons Act. For the most part, those who came after 1952 were not questioned about their activities, did not specifically have to answer at all, and thus are not subject to deportation. though a specific false answer would have operated to render them subject to deportation.

As a result of this situation, at least four persons against whom INS has received substantial evidence of war crimes allegedly committed under the Nazis cannot be deported without remedial legislation.

It is up to us in the Congress to give the INS the legislative tools to restore justice in the memory of the millions who were tortured and murdered by the hands of those acting in concert with the Nazi government.

The general counsel of the INS, David Crosland, has expressed the full support of his agency for this legislation which has also been introduced in the House of Representatives by Representative ELIZABETH HOLTZMAN. As the House is proceeding to act upon this measure, I urge its speedy consideration and adoption by the Senate.

ADDITIONAL COSPONSOR

S. 1950

At the request of Mr. MOYNIHAN, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1950, the Foreign Surveillance Prevention Act.

SENATE CONCURRENT RESOLUTION 44—SUBMISSION OF A CONCURRENT RESOLUTION IN RECOGNITION OF GEN. THADDEUS KOSCIUSZKO

(Referred to the Committee on Energy and Natural Resources.)

Mr. JACKSON submitted the following concurrent resolution:

S. CON. RES. 44

Whereas the year of 1977 marks the bicentennial of the Battle of Saratoga, a turning point of the American War of Independence; and

Whereas a part of the victory at Saratoga is credited to the military genius of General Thaddeus Kosciuszko of Poland; and

Whereas the engineering skill and advice of General Thaddeus Kosciuszko contributed significantly to the tactics of the Continental Army in both the north and south theaters of the American War of Independence: Now, therefore, be it

Resolved by the Senate of the United States of America (the House of Representatives concurring), That the sites of service of General Thaddeus Kosciuszko as identified by but not limited to the Polish National Alliance and the Copernicus Society should be recognized by the Federal, State, and local governments as the "Kosciuszko Military Engineering Sites" and marked by suitable markers, and be it further resolved,

That the Secretary of the Interior be encouraged to accept the donations of such suitable markers for placement within units of the National Park System, pursuant to the authority granted to the Secretary of the Interior in the Act of August 21, 1935 (49 Stat. 666).

Mr. JACKSON. Mr. President, on June 28, 1977, the Parks and Recreation Subcommittee of the Energy and Natural Resources Committee, held a hearing on S. 1326, a bill to designate the Thaddeus Kosciuszko Historic Route.

Based on the testimony received at the hearing from the Department of Interior and others, I am introducing a new version of the legislation and hope that the committee can move expeditiously on this measure.

The Senate concurrent resolution I am submitting today would authorize the Secretary of the Interior to accept donations of suitable interpretive markers recognizing the role of General Thaddeus Kosciuszko in the American Revolutionary War.

AMENDMENTS SUBMITTED FOR PRINTING

SACCHARIN STUDY ACT—S. 1750

AMENDMENT NO. 855

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. HAYAKAWA) submitted an amendment intended to be proposed to the bill—S. 1750—to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

TRUTH IN LENDING ACT AMENDMENTS—S. 1501

AMENDMENT NO. 856

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. SCHMITT. Mr. President, at Senator GARN's request I am introducing an amendment to S. 1501 which is cosponsored by the Senator from Texas (Mr. TOWER) and myself.

On May 12, 1977, Senator GARN introduced S. 1501 to improve and simplify the Truth in Lending Act. During the week of July 11 the Subcommittee on Consumer Affairs held hearings on S. 1501 and other proposals aimed at truth in lending simplification. The amendment which we are introducing today is in the nature of a substitute and reflects comments received for improvements and modifications of the original S. 1501.

Since the chairman of the Senate markup before the full committee on September 21 on pending measures to amend the Truth in Lending Act and in order to give interested parties an opportunity to comment, I request unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 856

On page 1, line 4, strike out everything after the enacting clause and add the following:

EXEMPT AGRICULTURAL CREDIT

SEC. 2. (a) Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended to read as follows:

"(h) The adjective 'consumer', used with reference to a credit transaction, characterizes the transaction as one in which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.".

(b) Section 103 of such Act (15 U.S.C. 1602) is amended by adding at the end thereof a new subsection as follows:

"(u) The term 'agricultural purposes' includes loans and leases related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture for agricultural products by a natural person who cultivates, plants, propagates or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104(5) of such Act (15 U.S.C. 1603(5)) is amended to read as follows:

"(5) Credit transactions of borrower-owned Federal instrumentalities which regularly extend agricultural credit under the supervision of an agency of the United States.".

(d) Section 104(1) of such Act (15 U.S.C. 1603(1)) is amended to read as follows:

"(1) Credit transactions involving extensions of credit for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.".

OPEN END CREDIT DEFINITION

SEC. 3. Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended by adding at the end thereof the following: "A credit plan which otherwise meets this definition is an open end credit plan even if credit information is verified from time to time.".

ELIMINATION OF ITEMIZED CHARGES

SEC. 4. (a) Section 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended to read as follows:

"(d) The following items shall not be included in the computation of the finance charge with respect to any transaction:

"(1) Fees and charges which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.

"(2) The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph (1) which would otherwise be payable.

"(3) Taxes.

"(4) Licenses, certificates of title and registration fees.

"(5) Any other type of charge which would be incurred if the transaction were not for credit, even though imposed directly or indirectly by the creditor as an incident to the extension of credit and the exclusion of which from the finance charge is approved by the Board by regulation.".

(b) Section 106 of such Act (15 U.S.C. 1605) is amended by adding at the end thereof a new subsection as follows:

"(f) Fees or charges paid by the creditor and absorbed as a part of the creditor's overhead are not part of the finance charge and need not be disclosed."

CREDITS OR PAYMENTS TO BORROWERS

SEC. 5. Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended by adding at the end thereof the following new subsections:

"(e) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c) shall, in cases where an annual percentage rate or finance charge was inaccurately disclosed, notify the creditor of such disclosure error and, if such disclosure error was made in connection with a transaction occurring no earlier than one year prior to the date of such notice, may require the creditor to make an adjustment to the account of the person to whom credit is extended within 90 days after it is determined that an error has occurred, except where the agency finds the result of such a requirement would be unreasonably burdensome to ensure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate, whichever is lower. Except as otherwise specifically provided for above in this subsection (e) and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments on account of errors of the requirements of this title.

"(f) Except as otherwise specifically provided for in subsection (e) and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title. A creditor has no liability under section 112 or section 130 for any such error of which the creditor has been notified in accordance with subsection (e), provided the creditor makes the appropriate adjustment within 60 days after receiving such notice.

"(g) A creditor shall not be subject to the requirements under subsection (e), if within 90 days after discovering an error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account that are necessary to insure that the person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(h)(i) If, in the opinion of the appropriate Federal agency referred to in subsection (a) or (c), any creditor has inaccurately disclosed an annual percentage rate or finance charge, the agency may, subject to subsection (f), issue and serve upon the creditor a notice of error under subsection (e). The notice shall contain a statement of the facts constituting the alleged violation or violations and shall fix a time and place at which a hearing will be held to determine whether an order to make adjustments should issue against the creditor. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the order to make adjustments. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation specified in the notice of error has been established, the agency may issue and serve upon the creditors an order to make adjustments to the account of the person to whom credit was extended through either payments or credits, in the discretion of the creditor.

"(ii) An order to make adjustment shall become effective at the expiration of 30 days after the service of such order upon the creditor (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court."

(iii) Any creditor against whom an order of adjustment has been entered after agency hearing under subsection (h) may obtain review by the United States court of appeals for the circuit in which the home office of the creditor is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.".

TIMING OF ANNUAL REPORT

SEC. 6. (a) Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking out "Not later than January 3 of" and "after 1969,", and by capitalizing "each" the first time it appears in such section.

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15 of each year".

(c) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking out "Not later than February 1 of" and "after 1976," and by capitalizing "each" the first time it appears in such section.

ANNUAL FORMS REVISION AND MODEL FORMS

SEC. 7. Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended to read as follows:

SEC. 105. REGULATIONS

(a) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

"(b) The Board shall prepare model disclosure forms which may be voluntarily used in whole or in part. If a creditor chooses to use such model form, it may change the form:

"(1) by including additional information not prohibited by this Act;

"(2) by deleting any information which is not required by this Act;

"(3) by rearranging the format without modifying the substance of the disclosures.

"If a creditor uses a model disclosure form or to the extent that it modifies such a form in accordance with the provision of clauses (2) or (?) of the preceding sentence, that creditor shall be deemed to be acting in compliance with the provisions of this Act.

"(c) Any statutory amendment to the Truth in Lending Act, any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, shall have an effective date of October 1 of the calendar year following the year of enactment or promulgation, except that the Board may take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodate new requirements at its discretion or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such is necessary to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such new disclosure requirements prior to the effective date of the requirements.".

WHO MUST DISCLOSE

SEC. 8. Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) If a credit transaction involves more than one creditor, except as provided below, each creditor shall be clearly identified, but only one creditor shall be required to make the disclosures required by this chapter or

chapter 4, which disclosing creditor shall be determined as follows:

"(1) In any consumer credit transaction not under an open end credit plan in which a consumer purchases property or services from a seller who is a creditor with respect to the tansaction, and signs an evidence of indebtedness payable on its face to the seller, the seller is the creditor required to make disclosure under section 128, notwithstanding any transfer or assignment of the evidence of indebtedness to another party. No person to whom an evidence of indebtedness is assigned or transferred shall be deemed a creditor on such disclosures.

"(2) In any consumer credit transaction not under an open end credit plan in which a consumer signs an evidence of indebtedness payable on its face to a creditor other than a seller, the non-seller creditor is required to make disclosure under section 129, notwithstanding the participation in the transaction of a seller or other person who has arranged for the extension of credit.

"(3) In any transaction not incuded within paragraphs (1) and (2), disclosure shall be the responsibility of the creditor who primarily determined the credit terms of the transaction and who had the greatest contact with the consumer. If more than one creditor assumed similar roles under such criteria, they shall each be required to make disclosures unless they have agreed in writing as to which creditor among them is responsible for making disclosures. Such an agreement made in good faith shall be effective to identify the creditor required to make disclosures pursuant to this section.".

RIGHT OF RESCISSION

SEC. 9. (a) Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended by adding the following:

"In the case of any open end consumer plan subject to this section 125, the transaction will be deemed to be consummated at the time the account is opened, or when the security interest is taken, whichever is earlier, and the obligor's right to rescind the transaction shall accrue at that time, and not the time of any advance made under the open end credit plan, provided that the statement required by section 127(a) contains a disclosure of the dollar amount of the line of credit extended to the obligor. Any increase in the line of credit so disclosed shall be deemed to be a new transaction for purposes of this section 125. This section shall not apply to:

"(1) Any advance made under an open end or other credit plan that provides for additional credit extensions under the terms of an existing account, if the customer is given the right to rescind under this section at the time the account is opened, or

"(2) Any renewal or refinancing of an existing obligation on terms, except for payment or payment schedule, that are no less favorable than the terms of the renewal or refinanced obligation.".

"(b) Section 125(b) of the such Act (15 U.S.C. 1635(b)) is amended by striking out "ten" in the second and final sentences and inserting in lieu thereof "twenty".

(c) Section 125(e) of such Act (15 U.S.C. 1635(c)) is amended to read as follows:

"(e) This section does not apply to the creation or retention of a first lien against any real property which is used or expected to be used as the residence of the person to whom credit is extended to finance the acquisition of that property or to a consumer credit transaction in which an agency of a State is the obligor.".

(d) Section 125(f) of such Act (15 U.S.C. 1635(f)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, when an obligor exercises a right to rescind after midnight of the third business day following the consummation of the transaction, as a condition of the exercise of that right, the obligor shall, at the time the creditor is notified of the exercise of the right to rescind, tender the property, principal amount of loan, or other consideration received from the creditor. If return of the property in kind would be impractical or inequitable, the obligor shall tender its reasonable value. Tender shall be made at the location of the property or at the residence of the obligor, at the option of the obligor. If the creditor does not take possession of the property within twenty days after tender by the obligor, ownership of the property vests in the obligor without obligation on his part to pay for it.".

(d) Section 103 of such Act (15 U.S.C. 1602), as amended by section 2(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosure' means the creditor has disclosed, as required by this title, the annual percentage rate, the finance charge or method of determining the balance upon which a finance charge will be imposed and the amount of the finance charge, whichever is applicable, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness. Any mathematical computation which is made with reasonable accuracy, as defined by the Board, is in compliance with this title.".

VOLUNTARY PERIODIC STATEMENTS

SEC. 10. Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1615) is amended by striking out section 126 (15 U.S.C. 1636).

OPEN END CREDIT DISCLOSURES

SEC. 11. (a). Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by striking out paragraphs (5) and (6) and by redesignating paragraphs (7) and (8) as paragraphs (5) and (6), respectively.

(b) Redesignated paragraph (5) of section 127(a) of such Act (15 U.S.C. 1637(a)) is amended to read as follows:

"(5) Where a security interest may be retained or acquired in any property to secure the payment of any credit extended under the plan, a statement that a security interest is or may be taken under the open end credit plan.".

(c) Redesignated paragraph (6) of section 127(a) of such Act (15 U.S.C. 1637(a)) is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months."

(d) Section 127(b)(2) of such Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and, unless previously furnished, a brief identification, on or sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information; and (B) the creditor responds to and treats any inquiry for clarification in accordance with section 161 of this title.".

CLOSED END CREDIT DISCLOSURES

SEC. 12. (a) Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended by striking out paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(b) Section 129(a) of such Act (15 U.S.C. 1639(a)) is amended by striking paragraphs (1), (2), and (7) and redesignating paragraphs (3), (4), (5), (6), and (8) as paragraphs (1), (2), (3), (4), and (5), respectively. Redesignated paragraph (1) is amended to read as follows:

"(1) The amount of credit which will be paid to the customer or for his account or to another person on his behalf, including all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge, using the term 'amount financed'.".

(c) Section 107(c) of such Act (15 U.S.C. 1606(c)) is amended to read as follows:

"(c) The annual percentage rate may be rounded to the nearest quarter of 1 per centum or, if not rounded, shall be disclosed with an accuracy which is within a tolerance of one-eighth of 1 per centum more or less than the rate determined in accordance with subsection (a)(1)(A), except that the Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

DISCLOSURE OF TYPE OF SECURITY INTEREST

SEC. 13. (a) Redesignated paragraph (9) of section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)(9)) is amended to read as follows:

"(9) An identification of any property in which a security interest may or is intended to be retained or acquired by the creditor in connection with the extension of credit or reference to such an identification on an accompanying statement delivered to the obligor.".

(b) Redesignated paragraph (5) of section 129(a) of such Act (16 U.S.C. 1639(a)(5)) is amended to read as follows:

"(5) An identification of any property in which a security interest may or is intended to be retained or acquired by the creditor in connection with the extension of credit or reference to such an identification on an accompanying statement delivered to the obligor.".

CIVIL LIABILITY

"SEC. 14. (a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a)(1) Except as otherwise provided in this section, any creditor who is required to make disclosures under section 121(c) (15 U.S.C. 1631(c)) and who fails to comply with any requirement imposed under this chapter or chapter 4 or 5 of this title with respect to any person is liable to such person for actual damages sustained by such person as a result of the failure.

"(2) Except as otherwise provided in this section, any creditor under an open end credit plan who is required to make disclosures under section 121(c) (15 U.S.C. 1631(c)) and who fails to disclose to the extent applicable—

"(A) the right of rescission under section 125 (15 U.S.C. 1635);

"(B) each periodic rate and the range of balances to which each such rate is applicable;

"(C) the annual percentage rate or rates; and

"(D) the finance charge or method of determining the balance upon which a finance charge will be imposed and the amount of the finance charge, whichever is applicable, with an accuracy for the annual percentage rate within ¼ of 1 per centum and for other numerical disclosures within 1 per centum or $25, whichever is less, "with respect to any person is liable to such person for statutory damages.

"(3) Except as otherwise provided in this section, any creditor in a consumer credit transaction not under an open end credit plan who is required to make disclosures under section 121(c) (15 U.S.C. 1631(c)) and who fails to disclose to the extent applicable and within the respective tolerances for accuracy specified in this title—

"(A) the right of rescission under section 125 (15 U.S.C. 1635);

"(B) the annual percentage rate;

"(C) the total finance charge;

"(D) the amount to be financed;

"(E) the number, amounts, and due dates or periods of payments scheduled to repay the indebtedness; and

"(F) the total of payments, with an accuracy for the annual percentage rate within ¼ of 1 per centum and for other numerical disclosures within 1 per centum or $25, whichever is less, "with respect to any person is liable to such person for statutory damages.

"(4) For the purposes of this section, statutory damages shall be—

"(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, or in the case of an individual action relating to a consumer lease under chapter 5, 25 per centum of the total amount of monthly payments under the lease, except that the liability under this paragraph shall not be greater than $1,000; or

"(B) except as otherwise provided in this subparagraph, in the case of a class action, such amount as the court may allow, except that the total recovery in such action shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the creditor. If more than one class action is instituted involving the same course of conduct by the same creditor, the court where the first suit was filed shall determine which plaintiff will most effectively represent the position or positions adverse to the creditor, and shall stay further proceedings in the other suit or suits until that case has been adjudicated; as between two plaintiffs who represent those positions equally well, the plaintiff who filed first shall be preferred. If a court allows recovery under this paragraph with respect to a particular course of conduct by a creditor, no court shall allow further recovery under this paragraph with respect to the same course of conduct by the creditor occurring prior to the time at which the judgment imposing the recovery becomes final.

"In determining the amount of award in any individual or class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor knew that his conduct constituted a failure to comply.

"(5) In the case of any successful action to enforce liability provided for in this subsection, the creditor who is required to make disclosures under section 121(c) (15 U.S.C. 1631(c)) is liable to the plaintiff for the costs of the action, together with a reasonable attorney's fee as determined by the court.".

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended to read as follows:

"(b) Neither a creditor required to disclose nor any assignee shall be liable under this section for any failure to comply with any requirement imposed under this chapter of chapter 5, if within 90 days after determination that an error has occurred, whether pursuant to a final written examination report or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section by a consumer, creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to insure that the person will not be required to pay a charge in excess of the amount or percentage rate actually disclosed or the dollar equivalent of the percentage rate actually disclosed, whichever is lower.".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended to read as follows:

"(c) A creditor may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of the procedures reasonably adapted to avoid any such error. Examples of bona fide errors would include, but are not limited to clerical, calculation, computer malfunction and programming errors, and printing errors.".

(d) Section 130(f) of such Act (15 U.S.C. 1640(f)) is amended by striking out "section 112" and inserting in lieu thereof "sections 108 and 112.".

ADVERTISING OF CREDIT TERMS

SEC. 115(a) Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended to read as follows:

"No advertisement to aid, promote, or assist directly or indirectly, the extension of consumer credit under an open end credit plan may set forth any of the specific items of that plan as required in section 127(a) unless the annual percentage rates charged and a range of balances that apply under that plan are clearly and conspicuously set forth.".

(b) Section 144(d) of such Act (15 U.S.C. 1664(d)) is amended by striking out paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

CORRECTION OF BILLING ERRORS

SEC. 16. (a) Section 161(b) of the Truth in Lending Act (15 U.S.C. 1666(b)) is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(b) Redesignated paragraph (5) of section 161(b) of such Act (15 U.S.C. 1666(b)(5)) is amended to read as follows:

"(5) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(d) Section 161(c) of such Act (15 U.S.C. 1666(c)) is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

RELATION TO STATE LAWS

SEC. 17. (a) Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended by striking out subsection (a) and redesignating subsections (b), (c) and (d) as subsections (d), (e) and (f), respectively, and by adding new subsection (a), (b) and (c) to read as follows:

"(a) Except as provided in subsection (b)—

"(1) if any activity or practice is prohibited by this title or any regulation prescribed by the Board pursuant to authority thereunder, no State or political subdivision of a State may establish or continue in effect any law, regulation, or rule permitting such act or practice; and

"(2) if any activity or practice is regulated by this title or any regulation prescribed by the Board pursuant to authority thereunder, no State or political subdivision of a State may establish or continue in effect any law, regulation, or rule which regulates, restrains, or otherwise limits such activity or practice unless such State law, regulation, or rule imposes requirements identical to the requirements of this title or such regulation.

"(b) Upon application of a State, the Board may by regulation except from subsection (a), under such conditions as may be prescribed in such regulation, a law, regulation, or rule of a State or political subdivision if—

"(1) compliance with the requirement would not otherwise cause the act, practice, form, notice, disclosure, or other action to be in violation of any requirement imposed by this title or any regulation prescribed by the Board pursuant to authority thereunder; and

"(2) the State or political subdivision requirement (A) provides significantly greater protection to the consumer than do the requirements imposed by this title and by regulations prescribed by the Board pursuant to authority thereunder, (B) is required by compelling local conditions, and (C) does not unduly burden interstate commerce.

In determining the effect of a State or political subdivision requirement on interstate commerce, the Board shall consider and make appropriate findings on such matters as the Board deems appropriate, including but not limited to the technological and economic feasibility of complying with such requirement, the cost of complying with such requirement, the probability of other States or political subdivisions applying for an exception under this paragraph for a similar requirement, and the need for a national uniform requirement under this title.

"(c) Where the same act or omission constitutes a violation of this title and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this title or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.".

(b) Section 171 of such Act (15 U.S.C. 1666j) is amended by striking out subsections (a) and (b) and by redesignating subsection (c) as Section 167(c).

(c) Section 186 of such Act (15 U.S.C. 1667e) is repealed.

PENALTIES INAPPLICABLE FOR GOVERNMENT ERROR

SEC. 18 Section 113 of the Truth in Lending Act (15 U.S.C. 1612) is amended to read as follows:

"§ 113. Penalties Inapplicable to Governmental agencies

No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision. Creditors participating in credit programs administered, insured or guaranteed by governmental agencies, may not be held liable for civil or criminal penalties under this title, where disclosure violations result from the use of forms approved, prepared, required or furnished by such governmental agencies.

ELIMINATION OF POSTCARD NOTIFICATION

SEC. 19. Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended by striking out in the first sentence the phrase "the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the credit card," and insert in lieu thereof "the card issuer has provided the cardholder with a description of a means by which the cardholder may notify the card issuer of loss or theft of the card, which description may be provided on a separate notice or on the face or reverse side of the statement required by section 127(b).".

CONSUMER FINANCIAL SERVICES ACT—S. 2055

AMENDMENT NO. 857

(Ordered to be printed and to lie on the table.)

Mr. TOWER. Mr. President, I am introducing an amendment today to S. 2055, the Consumer Financial Services Act of 1977, that would require the Sec-

retary of the Treasury to make a study of the impact of interest rate ceilings on financial intermediaries and to report to Congress no later than October 1, 1978. The amendment would also delay the effective date of this bill—except for title III—until 1 year after the Secretary's report has been filed. (Title III merely extends authority to impose interest rate ceilings on time and savings deposits until December 15, 1979.)

I am offering this amendment because S. 2055 can be considered, at best, only piecemeal financial reform. The bill does not address the problem of interest rate ceilings on time and savings deposits, which result in "disintermediation" during periods of rapid inflation and high interest rates. Moreover, it does not expand the asset and liability powers of depository institutions so they could compete for funds if interest rate ceilings were eliminated.

The bill, of course, authorizes nationwide NOW accounts. But, NOW accounts are of limited usefulness in resolving the "disintermediation" problem. "Disintermediation" occurs when interest rates in the open market rise above rate ceilings on time and savings deposits at depository institutions. Funds are either withdrawn from, or flow around, depository institutions into higher-yielding money market instruments. As a result, depository institutions lose funds, which, in turn, adversely affects their ability to continue serving their customers.

NOW accounts may add a degree of stability to the source of funds at thrift institutions, since transactions balances tend to be more stable than savings account balances. However, NOW account balances will represent, for the most part, funds shifted out of demand deposits. NOW accounts, therefore, represent merely a redistribution in a given amount of transactions balances between commercial banks and thrift institutions. Overall, the flow of funds in and out of our Nation's depository system should be no more stable than before, and savings balances at all institutions will be just as susceptible to "disintermediation" as they have been in the past.

In order to restructure the Nation's financial system so as to avoid "disintermediation," the financial powers of thrift institutions will need to be greatly expanded. Unfortunately, the bill does not allow a complete resolution of the "disintermediation" problem because it does not give sufficient power and flexibility to depository institutions. NOW accounts are an incomplete answer to the "disintermediation" problem.

In view of this, I believe it would be useful to have a report from the Secretary of the Treasury regarding interest rate ceilings in general before allowing the authorization of NOW accounts to go into effect.

I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 857

On page 18, strike lines 17 and 18 and insert the following:

SEC. 206. The Secretary of the Treasury shall make a thorough study of the impact of rate ceilings on financial intermediaries, individual savers, and the mortgage market. He shall report the result of this study, together with his recommendations, to the President of the Senate and the Speaker of the House of Representatives on or before October 1, 1978. The provisions of this Act (other than this section and Title III) shall take effect one year after the date on which the Secretary's report is filed."

NOTICES OF HEARINGS

CRUDE OIL PRICING AMENDMENTS

Mr. JOHNSTON. Mr. President, the Subcommittee on Energy Conservation and Regulation of the Senate Committee on Energy and Natural Resources will hold a hearing on Thursday, September 22, 1977, on S. 2073, the Crude Oil Pricing Amendments of 1977. The hearing will commence at 8 a.m. in room 3110 of the Dirksen Senate Office Building.

The subcommittee will receive testimony from the administration and selected private witnesses. Questions concerning this hearing should be directed to Benjamin Cooper or James Bruce of the subcommittee staff at 224–9894.

ADDITIONAL STATEMENTS

KETCHIKAN LAWMAKERS LEAD LAND TESTIMONY

Mr. STEVENS. Mr. President, section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971 authorized the Secretary of the Interior to withdraw up to 80 million acres to study for inclusion in the National Park, Wildlife Refuge, Forest, and Wild and Scenic River Systems. There have been several bills introduced into the House and Senate to deal with the settlement of section 17(d)(2), all with different ideas of the proper course for Alaska lands.

During the recent congressional recess, approximately 800 people attended hearings in Ketchikan, Alaska, on Congressman UDALL's bill, H.R. 39. When Congressman DON YOUNG asked those in the audience who opposed the bill to stand up and stretch their legs, all but 40 people stood up. The opposition against H.R. 39 in Alaska is overwhelming.

State Representative Oral Freeman summed up the feeling of most Alaskans concerning the bill when he testified:

We (Alaskans) recognize that we are arrayed against a powerful, well-financed coalition of conservation organizations. They want to lock up and make useless large areas of land, which 99 per cent of them will never have an opportunity to see.

If our economic well-being, our right to live and prosper in our own homeland rates less with you than the wishes of a group of nonresident preservationists, then we are lost. But that loss, even though we Alaskans will bear the greatest burden, will also be shared by the rest of our countrymen.

Mr. President, this statement reflects the beliefs of the vast majority of Alaskans. I ask unanimous consent that the Ketchikan Daily News article from which it was taken, entitled, "Ketchikan Lawmakers Lead Land Testimony," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KETCHIKAN LAWMAKERS LEAD LAND TESTIMONY

(By Bob Speed)

Daily News Staff Writer

A panel of three Alaska legislators from Ketchikan opened a congressional subcommittee hearing today in Ketchikan on Alaska lands. The hearing was conducted by Rep. John Seiberling, D-Ohio, who was greeted at the high school auditorium by about 300 protesters carrying signs opposing HR 39, a bill putting 114 million acres of Alaska land in federal reservations, including 4.4 million acres of Southeastern Alaska in wilderness.

The hearing started about 9:30, a half-hour late, with 700–800 people crowding the auditorium. Congressman Don Young, R-Alaska, an opponent to HR 39, asked those in the audience who opposed HR 39 to stand and stretch their legs. All but about 40 people in the three front rows of the auditorium stood.

Sharon Newsome, head of the Tongass Conservation Society, said she expected about 48 people, including members of the Petersburg Conservation Society, to testify for the bill before the hearing concludes at 9:30 tonight.

The committee was to hear panels of witnesses for and against the bill before noon, and then split into two panels for the rest of the day to take testimony from individuals. Seiberling will head one panel and Rep. Teno Roncallo, D-Wyo., will head the other panel.

Rep. Jim Santini, D-Nev., said following testimony by state Rep. Terry Gardiner, D-Ketchikan, that Gardiner's testimony was "the most authoritative and precise of any public official I have heard in Alaska."

Gardiner says there is an "underlying misassumption" in HR 39 that federal management is better than state management "and that the federal government has done a good job in Alaska."

The fisherman-lawmaker then cited instances of the federal government doing a poor job in fisheries and in environmental management. He cited the state moves to protect habitat in contrast to federal methods of leasing of oil lands.

He said another "misassumption" by H.R. 39 is that adequate information exists to make a decision on lands. Then he cited that the Tongass Land Plan is incomplete and native land claims are not settled. He said H.R. 39 lacked provision for protecting key marine habitat, lacked provision for comprehensive planning and made no provision for socio-economic impact.

State Rep. Oral Freeman said, "We Alaskans are obviously few in number on this issue. We recognize that we are arrayed against a powerful, well financed coalition of conservation organizations. They want to lock up and make useless large areas of land, which 99 per cent of them will never have an opportunity to see.

"If our economic well being, our right to live and prosper in our own homeland rates less with you than the wishes of a group of nonresident preservationists, then we are lost. But that loss, even though we Alaskans will bear the greatest burden, will also be shared by the rest of our countrymen."

State Sen. Bob Ziegler said, "The forest service, the native groups, the conservationists, representatives of industry—including labor and fishermen—were all striving to reach accord in good faith and progress being made" to settle land issues last year.

"It was during this period that Alaska conservationists were working secretly hand-in-hand with those in the lower 48 to bring about the Udall (H.R. 39) legislation . .

sabotaging what everyone else was obviously trying to do . . . The manner in which they sought to achieve their goals is candidly despicable."

Ron Hawk, speaking for the Southeast Alaska Conservation Council, outlined the history of the forest service in the Tongass National Forest and its efforts in 1940 to attract industry.

He said he proposes motorboat access to wilderness in the Stikine River area and he proposes the Misty Fiord area be designated a national park. That would be more beneficial to Ketchikan as it would attract more people.

He said that he favors forest service management of wilderness areas.

U.S.S. "EISENHOWER"

Mr. HARRY F. BYRD, JR. Mr. President, on Monday of this week the Newport News Shipbuilding Co. delivered to the U.S. Navy the nuclear-powered aircraft carrier *Dwight D. Eisenhower*, CVN 69.

This action marked the completion of a long and complex construction task by a group of skilled and dedicated workers.

The keel of this ship, one of the world's largest warships, was laid in August 1970 and now, after hundreds of thousands of man-hours of labor, our Navy has a new and highly capable addition to the fleet.

The men and women of Newport News Shipbuilding deserve high praise for their work on the *Eisenhower* and they can be proud of their record on this and other U.S. Navy ships.

In fact, 10 of the last 14 nuclear-powered ships received by the Navy have been built by Newport News and all of the Navy's nuclear-powered aircraft carriers have been constructed at this great Virginia shipyard.

Our Nation can be proud of the U.S.S. *Eisenhower* and it can be proud of the men and women who built her. Their work and their dedication have contributed to the security of our Nation.

WHY DISCRIMINATE AGAINST MILITARY PEOPLE?

Mr. GOLDWATER. Mr. President, appearing in U.S. News & World Report of August 22d was an interview with Mr. Robert F. Cocklin, executive vice president of the Association of the United States Army. The interview entitled, "Why Discriminate Against Military People," is something that all Members of the Congress should read because this man with a fine background on the subject says in a few words what should have been said a long time ago and which should be understood by all of us as we go through the annual process of providing pay, et cetera for our military people. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, Aug. 22, 1977]

WHY DISCRIMINATE AGAINST MILITARY PEOPLE?

Q. Mr. Cocklin, are you concerned about the recent moves by Congress and the President to review and perhaps change the way people in military services are paid?

A. Yes, of course. Our gravest concern is that it might be done on a piecemeal approach. What you have now is one group interested in cutting a military person's commissary privileges; another group is after the health and medical-care services, and some are attacking the retirement-pay system. So the perception of the serviceman is that he's being shot at from all sides.

Our feeling, among military people, is that, if there are going to be changes, we ought to look at the whole picture at one time. I hope the President's Commission on Military Compensation will do that.

This whole problem of military compensation is very difficult because it's very complex. It's so complex that many people in uniform are not truly aware of what they are actually receiving in total compensation.

Q. Is that a bad situation?

A. It's bad to the extent that it makes a serviceman's perceptions of his pay more critical. We are losing people from the military now because their perception is that a military career is not attractive enough. They see all these attacks on the benefits they were promised.

Some of the benefits have actually been reduced. For example, changes that have been made in the health and medical-care program are very serious because they affect a man and his family very directly.

Many servicemen feel that the deal they made in entering military service is not being kept, that they are not getting things they were promised.

These benefits that people talk about are part of their total compensation—part of their career contract, if you will. And I think they are important to be maintained. But they need to be clarified. They need to be better understood—primarily by people outside the service, but by people in the service, too.

Q. Would it help to simplify the pay system so a serviceman could know what he is getting? Should the present complex system of pay and benefits be replaced by some simple salary system?

A. No. The Defense Manpower Commission looked into this last year and it recommended a salary system. However, there has been a more recent study called the Quadrennial Review of Military Compensation, which was undertaken by all the services under the direction of the Defense Department, and that commission reached the conclusion that a salary system is not the answer.

Q. Why not?

A. Because of the very difficult problem of whether military work is comparable to civilian jobs.

Q. Do you think that comparability should be a yardstick in measuri g military pay?

A. No, I do not. Military and civilian jobs are not really comparable. There's no civilian job I can think of that's comparable to that of an infantry soldier who goes where he's told to go, even to some distant land, and is subject to long separations from his family. Then there's always the element of danger—the possibility of being exposed to combat.

When you enter the military, you even waive some of your constitutional rights. You lose your freedom of action. You make a contract from which it's very difficult to back out.

Q. Even though the jobs may not be comparable, how about the pay? How do you think military pay, in general, compares with civilian pay? Is it equitable?

A. I feel that the officer ranks and perhaps the senior noncommissioned-officer ranks are in an equitable status in respect to total compensation. Below those ranks, I believe the pay is not equitable. We still have many in the enlisted ranks who are underpaid. Far too many of our enlisted people are living below the poverty level.

Q. What is the reason for the military-pay system that relies so heavily on benefits rather than basic pay—such benefits, for example, as discount prices at commissaries and post exchanges, housing allowances and the medical care that is provided for dependents as well as people in uniform?

A. These so-called institutional benefits have been part of our military system since its very beginning. They go back to the times when military forces were posted in outlying areas where the ordinary facilities available in civilian life were simply not available. The Government had to provide them.

Q. Is that still true, or have some of these military benefits outlived their purpose?

A. No. Even today you find that most of our Army installations are not located adjacent to big cities or easy access to medical services. And overseas, such facilities are especially needed. For example, the people who are assigned to Europe right now are having a tough time. Housing costs and other living costs are terribly high. The same holds true in many areas of the U.S. where the loss of commissary and PX privileges would work great hardship on junior enlisted personnel.

Q. Then you would keep the military commissaries?

A. Oh, yes.

Q. And the post exchanges?

A. Yes. It's my belief that they have a value beyond the dollars savings. I would put medical care in that category, too.

Q. One of the most controversial benefits given the military is retirement pay. Are you disturbed by the fact that a presidential commission and Congress are preparing to review this retirement-pay system?

A. Yes. But I think there are some adjustments that should be made in retirement pay. For example, let's take the provision that makes retirement pay available after 20 years, which is the genesis of a lot of the current discussions about double dipping. The 20-year retirement was originally instituted to help the military services get rid of the "humps" that exist after a big war—the older people who preferred to continue their service. It also had the virtue of keeping the force young enough to meet the requirements.

There are proposals to adjust the vested interest of service people so that retirement after 20 years will be a far less attractive alternative to longer service. These ought to be looked at.

Q. What kind of adjustment is suggested?

A. One proposal the Department of Defense has made—and one that has merit, in my opinion—is to reduce the amount of retirement pay received after only 20 years' service. At present, that amount is half of the basic pay received at the time of retirement. That might be reduced to, say, 30 or 35 per cent. But the retirement pay would then increase more rapidly than it does now to reach the maximum, which is 78 per cent of active base pay after 30 years' service. Thus, you would be making longer service more attractive.

Q. What is your view on the double dipping by retired military people who get civil-service jobs with the Federal Government and draw salaries while collecting military-retirement pay?

A. In the first place, retirement pay is something that has been earned, and I don't think a person who has earned retirement pay should be penalized for some future activity. A person who retires from a private company—say, from General Motors—can draw his company pension while working for the Government. Why discriminate against military people?

Also, I think that, in the interest of good management, the civil service ought to hire

the best-qualified people it can get. And people with military training and experience are often the principal source of the Government's needs.

It should be pointed out, too, that Regular Army officers do lose a part of their retirement pay if they take a federal job. They lose something like roughly half, I think, under present laws. This reduction in retirement pay while holding Government jobs does not apply to Reserve officers or former enlisted people.

Q. What is the average retirement pay?

A. The average military retiree will collect about $7,200 a year in retirement pay. That's across the board, including enlisted men as well as officers. But only about 10 per cent or less of all people who enter military service remain in service long enough to qualify for retirement pay.

Q. Should people in military service contribute to the cost of their retirement pay?

A. No. If you did require such contributions, then you'd have to increase their pay or you'd reduce the amount of their total compensation. So there would be no cost-saving. You'd just be taking money out of one pocket and putting it in another.

Q. Has the shift to an all-volunteer Army affected the traditional concepts of military pay?

A. Undoubtedly. It's changed the life style of the military. It has tried to define the concept of military service as a job, rather than a career or a profession or a patriotic duty. It has changed psychologically the attitude of people about military service.

Q. Is military pay going to have to be increased to attract volunteers of the type that are needed?

A. I'm not sure that can be done entirely with pay. The perception of a military career is not attractive enough now because of these attacks on traditional institutional benefits that are part of the total pay picture. Many young people who have been in the service for a while see their benefits going down and say, "I might as well move out." In that sense, yes, it is money that's needed to attract and hold volunteers.

You're going to have to do something to attract more people into the National Guard and the Reserve, because they're disaster areas right now. And active military services also are beginning to have a tougher time keeping their numbers up to full strength.

As of June 30, the active Army was 10,500 people short, the U.S. Army Reserve 74,000 short, and the National Guard 49,000 short of their peacetime objective.

I think we're at the point right now where a decision has to be made by the Administration and Congress that either sufficient money and support are going to be provided for an all-volunteer force, or they must think about going back to Selective Service—the draft.

THE PERCY-POWELL MATTER

Mr. RIEGLE. Mr. President, I was deeply disturbed to learn from news accounts today that White House Press Secretary Jody Powell had circulated on a not-for-attribution basis certain charges concerning Senator PERCY of Illinois.

I feel compelled to register my strongest possible objection to the circulation of these assertions about Senator PERCY; charges which later checking have proven to be unfounded.

There is absolutely no excuse for Mr. Powell's circulation of these charges, and I have expressed that thought personally today to Mr. Powell.

He has indicated that his actions concerning Mr. PERCY were a mistake, and he has expressed his apologies to Senator PERCY. I am glad he has taken this step.

Many will infer that these comments about Senator PERCY were in retaliation for his role in the Senate hearings concerning OMB Director Bert Lance. To my view Senator PERCY has asked tough, but fair and necessary questions concerning Mr. Lance's activities, and I want it clearly understood that tough questions on this subject are very much in order and require straight, complete, and prompt answers. I believe this is the President's view, also.

As a Democratic supporter of the Carter administration, I expect all the members of the Senate Governmental Affairs Committee, regardless of party, to be relentless in digging out the truth in the Lance matter. Any efforts to harass any member of that Senate committee would be outrageous—and an insult to this entire body.

After painful months of far less than full disclosure by the administration on the Lance matter, I stand with every Senator whose purpose it is to bring to light all the facts in this case.

The sooner all the facts in the Lance matter are laid upon the table in the full light of day, the better for all concerned. Any attempts to hinder that process are wrong, and only make a bad situation much worse.

THE RENEGOTIATION BOARD

Mr. MATHIAS. Mr. President, tomorrow the Committee on Banking, Housing, and Urban Affairs will meet in a mark-up session to decide on the future of the Renegotiation Board. The Board's authorization expired a year ago and it is now working only on the backlog of cases which developed over the last few years of its existence.

I have introduced a measure which would put the Board out of existence and testified to the Banking Committee in June to explain the basis for this position. I would not oppose a standby Renegotiation Board in case of an emergency, when there must be unlimited procurement and when there is no time to go through normal procurement policies.

I do not believe, however, that we need a Renegotiation Board in peacetime and the evidence supports my view. It adds to the cost of our procurement, by increasing the administrative costs of each contract, and its record over the years has been a sad one. We have recently witnessed a good example of the Board's spotty record.

The newly named Chairman of the Board in those June hearings centered his testimony on disclosure of abuses he said the Board had found in its study of Lockheed Shipbuilding Corp. The details are unimportant, but the allegation was that Lockheed had billed the Government for more steel than it had used in its contracts with the Navy for shipbuilding. Lockheed denied the allegation and asked that the Chairman personally inspect its records. The Chairman accepted the invitation and the Wall Street Journal later reported that he admitted to its reporters that his allegations had been in error. I ask unanimous consent that the text of the August 22 Wall Street Journal report be printed in the RECORD at this point in my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

RENEGOTIATION BOARD HEAD ADMITS ERROR IN ALLEGATIONS OF LOCKHEED OVERCHARGES

(By Jerry Landauer)

WASHINGTON.—After twice flogging Lockheed Aircraft Corp. for allegedly overcharging the government on Navy shipbuilding contracts, the chairman of the Renegotiation Board is grudgingly admitting that he made a mistake.

The board chairman, Goodwin Chase, acknowledged his error, along with probable "overstatements," in copies of a letter to Lockheed that were sent to key lawmakers on Capitol Hill to "set the record straight." His admissions, embarrassing to certain legislators who had accepted the overcharge allegations as facts, could neutralize President Carter's pleas to extend the Renegotiation Board's life.

Government officials involved in the controversy between the board and Lockheed say it appears obvious in retrospect that Mr. Chase was using the company to whip up congressional support for legislation to extend the Renegotiation Board through 1982, and to enhance its authority to recapture excessive profits from defense contractors.

INVITING TARGET

"This is a grubby example of self-serving bureaucracy," said one Treasury official who asked not to be identified. Lockheed's scandal-tarred reputation, resulting from admissions of big payoffs abroad to win foreign business, makes the company an inviting target for ambitious bureaucrats, the official said.

Mr. Chase began his campaign against Lockheed in testimony to the Senate Banking Committee in June. Citing contracts that had been completed as long ago as July 1971, he contended that Lockheed's shipbuilding subsidiary couldn't account for 73 million pounds of steel for which it had billed the Navy as part of the cost for seven amphibious transport docks, known as LDP's. Lockheed's billing practices, Mr. Chase asserted, "proves that the Defense Department cannot, on its own, protect the taxpayers against overcharging by contractors."

Early in July, Mr. Chase sent three aides to the Seattle headquarters of Lockheed Shipbuilding & Construction Co. They concluded—and Mr. Chase immediately notified Banking Committee Chairman William Proxmire (D., Wis.) in a hand-delivered letter—that the missing steel amounted not to 73 million pounds but to 117 million pounds valued at $10.2 million.

And to make sure that Congress wouldn't ignore the Renegotiation Board's alertness in protecting taxpayers, somebody promptly leaked the fresh findings. "Lockheed Overcharge Estimate Raised," a four-column front-page headline in The Washington Post reported, and Mr. Chase confidently asserted, "I stand foursquare on my statement and would be pleased to have it subjected to investigative scrutiny."

But according to Robert W. Haack, Lockheed's chairman, Mr. Chase kept avoiding company officials who hoped to resolve the controversy peaceably. "I felt as though I had the plague," Mr. Haack said. It's also known that Brian Freeman, secretary of the Emergency Loan Guarantee Board, which

administers Lockheed's government-backed loans, sought to act as mediator, apparently because Lockheed's bankers were getting edgy about the harmful publicity.

Finally, the contending sides met Aug. 5, and last week Mr. Chase sent Lockheed what appears to be a partial retraction.

"Following our meeting the board's analysis was again revised, taking into account data assembled by Lockheed," Mr. Chase wrote. "Based on that review, I erred in the translation of the dollar amounts in question to pounds of steel. If the figures calculated by your internal auditors are correct, my figures for the amount of unaccounted steel are overstated."

"LARGE DIFFERENCES"

Mr. Chase contended, however, that "large differences" remain between the amount of steel Lockheed purchased and the amount it used to build the seven ships, but he offered no figures. Mr. Haack said that "if you put all the unaccounted for steel in your eye, it wouldn't hurt."

Repeated efforts to reach Mr. Chase weren't successful; his special assistant John Davison, said the chairman isn't recanting or withdrawing "the initial position he took relative to the Lockheed matter. . . . I won't take the liberty of speaking for him beyond that point."

In any case, Mr. Chase's acknowledgement of error in calculating the dollars that may be involved won't help win votes in Congress to expand the Renegotiation Board's authority. Before the congressional recess, House Speaker Thomas P. O'Neill (D., Mass.) hesitated to bring the legislation to a vote, despite a round of letters from the President urging passage of the bill. In the Senate, Mr. Proxmire's Banking Committee is scheduled to consider the legislation in mid-September.

One particularly controversial feature of the measure is a provision authorizing Mr. Chase's board to scrutinize defense contractors product-by-product rather than on a company-wide basis.

Mr. MATHIAS. Mr. President, I only wish to add that, if the Banking Committee reports legislation to the Senate which calls for a renewal of the Renegotiation Board, it owes us answers to certain questions:

First. What will be the real cost of renegotiation for the taxpayers, including losses in court, direct costs of the Board and the costs to contractors of preparing reports?

Second. Will we lose the contributions of the best companies because of the direct costs of this new law, and because of the additional danger that cost data provided to the Board will become available to competitors?

Third. Is not the procurement stage the most effective place to eliminate abuses in defense contracting?

Fourth. Does the record of the Board and of those members being retained inspire the confidence which warrants an extension and all the costs that will go with it?

Fifth. Is there any evidence that an excess profits problem even exists in defense contracting today?

Sixth. Are there alternatives to this device which can more efficiently meet problems which might arise in the future?

Mr. President, I ask unanimous consent that the transcript of my remarks before the Senate Banking Committee be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF TESTIMONY OF THE HONORABLE CHARLES MCC. MATHIAS, JR.

Senator MATHIAS. I'm grateful for this chance to appear before you. You and I have discussed the question of the Renegotiation Board over a period of years. We both had a great interest in it. Let me start out by offering you an analogy. I think the other members of the Committee may not agree with us but you and I have always felt that the Draft Board ought to be reduced to the minimum possible level during this period of peacetime.

The CHAIRMAN. During the period of the volunteer army it has no function, it doesn't do anything.

Senator MATHIAS. The volunteer army is with us. We have agreed that we can just have appropriations for the Draft Board at a custodial level, holding the records. I think both you and I would agree if there were, God forbid, an emergency of some sort then we would have to reactivate the Draft Board.

I view the Renegotiation Board in somewhat the same way. In a peacetime setting in which we now are where normal contract procedures can go forward, we don't need an institution in the nature of the Renegotiation Board. If in fact we got to the point where we had to say to aircraft manufacturers, you produce planes and we will worry about paying for them later, or we say to shipbuilders, you produce ships and we will worry about paying for them later, then you would need a renegotiation board. I think we have to consider the kind of setting in which our economy is. I think the analogy is an apt one. This is like a wartime emergency measure and I have been very much interested in ending the emergency legislation still in effect after 20 years of peacetime. I think this is the kind of situation for which our society and our economy finds very little use and in fact, as I will discuss very briefly, finds a good deal of abuse by the existence of the Renegotiation Board.

As you know, I introduced a bill which simply says let's abolish or let's get rid of it. I would not oppose a standby renegotiations board. I think we ought to have some mechanism of this sort if again we have to go into that situation where you have to have unlimited procurement without the time to go through normal procurement policies. I am firmly convinced that the changes that have taken place in defense procurement have left the Renegotiation Board simply sitting dead in the water. I think Congress can prove in this case, in this one case—Mr. Chairman, that this is the limousine of agencies and we ought to get rid of this limousine.

Senator BROOKE. The Chairman doesn't understand that language.

Senator MATHIAS. This is a chance to cut dead wood out of the government. Even the strongest supporters of this agency can't justify its record over the years. I'm glad the House members spoke before I did. I was edified by the way they shot the Board out of the water themselves by their own criticisms. Jack Brooks said here again, as he has in the House, that it is a paper, toothless tiger. He is right and the evidence supports it. The backlog is $150 million in renegotiable business which is an amount equal to six times the business that it reviewed last year. Even if no new business came in under the present board, and I understand the Chairman has a new bill pending, at that rate, it would take them six years just to catch up, without any new business.

Some of the filings have been pending for ten years. What does that do to the business climate of this country. You don't know whether you won or lost or what your situation is. I think it is a disgrace. More than half the Board's decisions are eventually reversed in the Federal courts. The appeal rate is shocking. I think that what we see, of course, is that the Board is increasingly concentrating efforts on the small contractors in order to come up with any measurable results at all.

Of the 40 companies found to have excess profits in 1976, 40 percent had less than $10 million in government business and the results were minimal. From 1971 through '76 the Board determined that there were $271 million in excess profits, and that 48 percent of that amount had already been taken in taxes. That isn't a very big recovery. If the Board's awards were in fact realized in cash, there would have been an optimum return of $139 million during the last six years. I think you have to compare that with the costs. The Board's budget for these same six years was $29 million. But there are some not-very-well-hidden additional costs. I know, as Congressman Minish says, that there is some question as to what the contractor's costs may be. But I think a conservative estimate is around $100 million for those six years. And that cost gets passed onto the taxpayer. It is a cost of doing business. The cost of litigation to the Federal Government on top of the Board's budget is around $15 million. So the total cost is, therefore, just about as great as would be the expectation of recovery, if they actually cashed in on the Board's awards, but they don't. They don't cash in on the Board's awards.

Look at last year, for example, 1976, of the $40 million excess profits determined in '76, only $4 million has been collected and the rest is on appeal. So if Jack Brooks can sit here at this table and say he will make an offer to take over this business and thinks he is going to end up a multimillionaire, I say he is going to go broke. There is no profit in this business. There isn't any profit for the government and there isn't any profit for the taxpayers. I think Jack Brooks will go broke on this. We ought to take him up on it.

I say that half of the cases he is going to lose on appeal. I think one of the critical parts of this whole story is for this Committee to look at what happens on appeal. We can't just legislate in the Senate on the basis of what is done in the Board itself. We are talking about a process in which the Board is one of the stops. I understand that the courts have decided only 12 out of 218 cases appealed from 1971 to 1976 and we have a responsibility for that. Only 12 out of 218 cases! That is in a five-year period. The Board was reversed on six of those 12 which is not a very good batting record.

If that litigation record remains consistent then the total return, what we had hoped would be $139 million, will be cut in half. The loss to taxpayers is actually $70 million. I hope Jack Brooks is ready to absorb that loss.

Both Congressmen Brooks and Minish said, if we have more people, we can do better.

I would point out, Mr. Chairman, that there is no provision in any of the pending legislation to add more people. Maybe that is in the minds of people who want to work down there at the Board but there is no provision in any pending legislation to add more personnel. There is no provision for reorganizing the Board. There is no provision for adding staff. The Chairman is to be a holdover, I understand. There is no reform to the Board structure.

What will make the big difference? The courts are the same courts and the structure of the Board will be the same. Let me say I am willing to be kinder to the Board than some of its strongest supporters. I don't believe these poor results, and I think they

are very poor, come from incompetence or lack of effort. I think this system is an anachronism. It is an anachronism in a procurement process that has grown up since 1951, during the Korean War, when this Board was established. It is a different world. The trend is towards conglomerates. The fact whether President Eisenhower would like it or not if he were alive today, is that we have a permanent, sophisticated defense and aerospace industry. And that has altered the climate.

This permanent industry is highly visible and it has to come back year after year. This isn't a case of Kaiser going into a new shipbuilding business in the height of a war effort. These are people who have to come back to government every year and stand on their record as a normal part of doing business. The records don't show the exorbitant or excessive profits. These people can't afford to make excess profits if they want to do business year after year.

Congressman Mitchell said, and he is right and I agree with him thoroughly, that the American people demand a system of accountability. I think no one has been more in the forefront of helping to construct that system of accountability than the Chairman of this Committee, Senator Proxmire. And I think it is in large part because of Senator Proxmire's effort that there has been a concentration on the process of government purchasing and negotiating.

It was Senator Proxmire's bill for truth in negotiations which is now law, which has changed the climate—the cost accounting standards, the performance reporting, Defense Contract Audit Agency, the Defense Contract Administration Branch, have all come into existence and taken force and had a forceful effect on government business at the same time that the Renegotiation Board was day by day losing its effectiveness.

The Chairman asked a few minutes ago who would look after the excess profits problem if this Board weren't in existence. I think it is perfectly clear if it is a criminal case, fraud, the laws are apt to take care of that. If there is a general problem of unreasonable or excess profits, I think both GAO and DOD are armed to take care of it. If it is just a one-shot proposition, I think the contract process itself should be comprehensive enough to take care of that.

But I want to lay one quetsion to rest here, and that is that notwithstanding the fact it is called the Renegotiations Board, it doesn't do any renegotiating. And I think we have to determine exactly what we are about. So the problem remains and I certainly am not contending that the procurement process is perfect, but I think it is light years ahead of what existed in the 50's and even the 60's. The Congress fought and I fought and we were opposed by big business and big government when we tried to put these improvements into place. They are gaining efficiency. Although the problems remain, I think we have agencies now that are more efficient and more sophisticated than the Renegotiations Board will be no matter how we try to pump it up and revive it.

My position in calling for the Board's abolition is that it is the wrong place to proceed and the wrong way to go. I think if there are conflicts in procurement, the Renegotiations Board can't root them out. If there are technological failures, the Board will not overcome them. The record is clear on that. The place to correct these areas is in procurement, which is another way of saying that you shouldn't negotiate and turn your back. I think it means perfecting the cost accounting and quality control inspections. It means holding the personnel involved to strict standards of conduct and prohibiting the revolving door movement of purchasing officers between government and industries. I don't think the Minish bill will correct the problems.

They can't set the Renegotiation Board back on the rails as an effective piece of machinery. They leave in place the same structure which has failed so miserably in the past and add to the paperwork burden that the people in this country already suffer from. What this Committee must do is to make a more sophisticated judgment.

The Commission on Federal Paperwork, which I think supports the Minish approach, has said that nonetheless the Board already had flexibility and the discretionary authority to do what these bills would have done. The Commission adds that the Minish bill would in fact remove this flexibility, limit the discretion of the Board and cause a significant increase in the reporting costs of the system. If that is one of the supporters of the bill, God help us.

To conclude, Mr. Chairman, I want to emphasize that certain questions need answering before the Congress can make a judgment on the issue. I hope this Committee will be able to give the Senate definitive answers before recommending extension of renegotiation. These questions include this: What will the cost of renegotiation be to the taxpayers, including the losses in court, direct costs to the Board, and the cost of contractors preparing the reports?

Secondly, will we lose the contributions of the best companies because of the costs of the new law, not just the financial burden but the additional fear that cost data provided to the Board will not be treated as proprietary information?

Thirdly, isn't the procurement stage the most effective stage to eliminate abuses? Fourth, does the report of the Board and those members being retained provide us with confidence that warrants expansion and all the possible costs going with that?

Fifth, and I am reminded that Congressman Minish says this is the only agency that deals with the excess profits question. I think that implies that this Committee will have to find out whether there is an excess profits problem. Providing a cure not related to a malady is a luxury that even this country can't afford.

And sixth, whether there are alternatives to this device, which can more efficiently meet any problem that does arise in the future.

STATE GOVERNORS SUPPORT NATURAL GAS DEREGULATION

Mr. SCHMITT. Mr. President, the last few weeks have produced several resolutions from regional organizations representing the Nation's Governors calling for the deregulation of new natural gas prices at the wellhead. Only five State Governors voted against the standing resolution of the National Governor's Association supporting deregulation. While the details of the various statements differ, the essential point which they make is that we cannot afford to subject individual States and the Nation to the unemployment forthcoming should proven natural gas supplies diminish as rapidly as expected under continued regulation.

Over the next several days I will be placing these important resolutions in the CONGRESSIONAL RECORD. They are important to us in the Senate, because they provide another valuable link between us and the expressed desires of leaders who are very close to our constituents.

Mr. President, I ask unanimous consent that the Midwestern Governor's Conference policy statement on President Carter's national energy program be printed in the RECORD. I commend it to the attention of my colleagues. Although the resolution calls for deregulation of new natural gas to be "phased-in" in order to protect against rapid price escalation, the limitation of Pearson-Benson type deregulation to "new gas" will insure such a phase-in period occurs as it takes years to bring new gas into production.

There being no objection, the policy statement was ordered to be printed in the RECORD, as follows:

MIDWESTERN GOVERNOR'S CONFERENCE POLICY STATEMENT ON PRESIDENT CARTER'S NATIONAL ENERGY PROGRAM

The Midwestern Governors represent 15 States, encompassing a diverse blend of economies, lifestyles, energy producing regions and energy consuming regions. We believe that the region provides a fair reflection of the needs and perspectives of the nation as a whole.

The energy crisis is real and it is a serious national problem. An aggressive, constructive program to deal with this crisis could not only alleviate potential economic and human suffering and strategic danger, but also bring real benefits to the region and to the nation in terms of a stronger economy and reduced unemployment.

The governors have arrived at several conclusions concerning energy policy. We believe that, if implemented, they will bring needed balance to the energy legislation now being considered by the Senate, strengthen the economy, create jobs and provide equity among the regions.

CONSERVATION

We support strongly President Carter's emphasis on the need for energy economy and conservation. As governors, we accept our responsibility to be full partners in carrying forward national energy conservation policies.

We believe, however, that past, current and future conservation efforts in the field of gasoline consumption will accelerate the present short fall in state gasoline tax revenues. This poses a severe threat to our highway and bridge system, and consequently our economy. We urge the Administration, therefore, to return to the states, in an amount sufficient to hold them harmless, the appropriate share of any new federal energy taxes enacted by Congress.

PRODUCTION

The energy bill as passed by the House will not meet its goals of increased energy production and reduced energy imports unless it is substantially modified by the Senate. The program is dangerously weak from a production standpoint.

NATURAL GAS DEREGULATION

We reaffirm our support for the deregulation of new natural gas, coupled with an excess profits tax and plowback provision. This is needed to expand production, to stimulate conservation and to accelerate the switch from natural gas to coal. Failure to deregulate new natural gas guarantees future shortages. To protect consumers against rapid price escalation, deregulation of new gas should be phased in over a three-year period. This would coincide with the phased impact of the energy bill in reducing demand for natural gas by conversion to other fuels. The President should retain standby authority to fix price limits on natural gas if the price ever exceeds the BTU equivalent of the price of imported oil. Present state conservation regulations including spacing unit requirements for drilling should remain in force. Under any curtailment policy, priority should be given to agriculture.

REGULATION OF INTRASTATE NATURAL GAS

The proposed federal assumption of regulation over intrastate natural gas represents

another unneeded federal intrusion into state authority, will erode the climate for innovative development and conversion projects within states and will add a burden of administrative confusion. We oppose it.

DOMESTIC OIL PRODUCTION

To expand the production of domestic oil, wellhead prices should be phased to the world market price and an excess profits tax—with strong plowback provisions—should be imposed instead of the wellhead tax provision.

COAL PRODUCTION

The legislation's emphasis on coal utilization is based on disincentives for the use of natural gas and oil. We propose that the bill be amended to expedite the resolution of the many problems associated with coal production, among them productivity, transportation, capital requirements for new mines and for conversion projects, environmental acceptability and the availability of trained labor. Sixty per cent of the projected increase in national coal production is expected to come from the Midwest region. As governors, we want to work with the Senate in identifying the obstacles to increased production and in defining solutions that can be addressed through legislation.

ENVIRONMENTAL IMPACT AND DELAY

To reduce the conflict between a national commitment to a healthy environment and the national goals of energy production, we propose that Congress legislate a statute of limitations that would provide a reasonable but fixed timetable for addressing environmental challenges to energy projects.

DEVELOPMENT OF NEW SOURCES AND TECHNOLOGIES

It is urgent that the nation determine the extent of its off-shore and on-shore crude oil and natural gas resources. In addition, accelerated research and development is required to tap the vast energy potental available through coal conversion, secondary and tertiary recovery of oil, oil shale, tar sands, Devonian shale gas, geothermal, solar and other sources. We need these energy resources as soon as they can be rendered economically viable. They will not come on line as soon as we need them without an intensified public and private sector effort.

UTILITY RATE REFORM

Although we support strongly the elimination of utility rates which are non-compensatory, we oppose the mandatory utility rate reform provisions included in the House version of the energy bill. For the most part, the goals are commendable and we pledge to work with our state utility commissions to explore their feasibility and most practical application in each of our respective states. However, we do object to the mandatory, across-the-board application of these concepts and ask that the Senate replace the mandates with recommendations. It is imperative that states—in ratemaking and assigning conservation tasks to regulated utilities—be allowed the flexibility.

STATE INPUT IN FEDERAL POLICYMAKING

We call for a formalized process for state government involvement in policymaking and rulemaking of the Department of Energy and other federal agencies with responsibilities in this field. Existing mechanisms and procedures called for in pending legislation and regulations simply do not provide a guarantee that states will be consulted or their views taken into account in the early stages of policy formation or rulemaking.

PRESIDENTIAL CONFERENCE ON PRODUCTION

We applaud President Carter's willingness to convene a conference of the Administration and the governors to assess energy production needs and issues. However, that conference must be convened immediately if it is to serve any useful purpose. To delay it to late September—as it is now proposed—will guarantee that its results have no impact upon Senate deliberations on the energy legislation. Moreover, we believe that key Congressional leaders should be involved in the conference.

REGIONAL DEVELOPMENT BANKS

In order to deal with regional issues and problems, we propose the formation of regional development banks. Solving energy problems would be a major function in all the regions. However, the development banks could address other matters as well. In the Midwest, such a development bank would encourage investment in energy conservation and production, modernization of the transportation system, water resource development, land rehabilitation, rural development and other tasks. The objective of these regional banks would be to induce the maximum private investment in these projects and to undertake, where necessary and appropriate, certain public investment projects.

THE GENOCIDE CONVENTION AND AMERICAN SOVEREIGNTY

Mr. PROXMIRE. Mr. President, throughout the long history of the United Nations Genocide Convention the argument has been raised that its ratification would subject the United States to a serious limitation of its international sovereignty. This charge is baseless.

First, ratification of the Genocide Convention will not set an unwarranted or dangerous precedent. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court of Justice as is contained in the convention. These include the Antarctic Treaty, the Japanese Peace Treaty, the Statute of the International Atomic Energy Agency, the Convention on the Privileges and Immunities of the United Nations, and the Supplementary Convention on Slavery.

Also, the State Department has given its full support to the convention and recommended that it be ratified. Mr. Warren Christopher, Deputy Secretary of State, stated last May that:

. . . there is no moral, political, or legal argument against the United States' adherence to the Genocide Convention that has merit or validity. There are strong moral, political, and legal reasons why we should be a party. I am hopeful that the Senate can now agree to U.S. adherence to the Convention, agree that it will be in the best interests of our country, of the international community, and of the rule of law everywhere.

Mr. President, I urge my colleagues to support Mr. Vance and Mr. Christopher by ratifying the Genocide Convention and enabling them to advance our international stature.

CHILD ABUSE

Mr. SCHMITT. Mr. President, the magnitude of our child abuse and neglect problem throughout the Nation is extremely far-reaching and has devastating implications on our youth, their future, and that of our society as a whole. The excellent paper prepared by Wayne Holder of the Albuquerque Family Resources Center, explicitly states the need for significant attention to this problem and suggests ways in which we might work together to help curb a growing blight on the lives of our youth. I wish to share Mr. Holder's position paper with my colleaues and ask unanimous consent to have his paper printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

ADDRESSING THE PROBLEM OF CHILD ABUSE AND NEGLECT: NOW AND FUTURE

INCIDENCE

What is the size of the problem of Child Abuse and Neglect? Is this a growing problem? These are questions that ask for preciseness that to date has been impossible if for no other reason that it is a social problem that occurs behind closed doors in the family context. Furthermore, family related issues such as raising children are still defined as not being anyone's business but the people involved. This all means that many or perhaps most cases are not identified; therefore the size of the problem can only be estimated.

Concerning the national scene, authorities have indicated 10 percent of abuse and neglect is being reported. Although lacking in accuracy, the American Humane Association's 1975 National Data gives a beginning understanding of the potential size of the problem. The Association reported that in 1975, 139,267 cases were found to exist. The ratio of neglect to abuse was found to be about 2 neglect to 1 abuse case. If authorities are correct in saying that only 10 percent of actual incidences are reported, then one could assume that as many as 1,400,000 children were abused and/or neglected in 1975.

Richard J. Gelles of the University of Rhode Island recently completed a study regarding incidence which is more astounding. Gelles estimates that in 1975 between 1.4 million and 1.9 million children, ages 3–17 living with both parents were "vulnerable to physical injuries and violence." Further, he said, "if for every parent who admitted a violent act there were 2 cases of severe child neglect (considered to be physical deprivation and sexual molestation), then the figure would be that 15 percent to 20 percent of all families abuse their children." This would increase the above figures to an estimated 10 to 13.4 million children of the 67 million children in our country. This sort of possibility would confirm the notion of abuse and neglect having reached epidemic proportions.

Data collection as well as other problems greatly effect the accuracy of national statistics. It is possible however to be quite accurate when considering a particular locale if one concerns themselves with substantiated cases only. For example, in Bernalillo County which has 315,774 inhabitants (1970 Census), services were provided to 491 families including 1,500 children in 1976 by the Family Resource Center. It can be documented that over 4 children per day were abused or neglected in this single county.

If one can accept the research conclusions that 1 out of every 10 abused or neglected children is identified, then it seems reasonable to suggest that 15,000 children in Bernalillo County were abused or neglected in 1976—90 percent going unserved.

There has been an upward trend in identified cases in 1977. For instance, in May and June, 1977 there was a 40 percent increase in number of referrals received.

But more alarming is the fact that an increased number of referrals indicate serious abuse to children. In the past seven months in Bernalillo County, at least one child per month has died as a result of physical abuse. In previous years two or three deaths a year were considered the norm.

Do these figures, national or local, suggest an epidemic? It would seem that if a

city the size of Albuquerque were to have a death a month due to measles and that 1,500 children were being treated for the life threatening disease and as many as 15,000 were vulnerable, it would indeed be a measles epidemic. The answer to whether abuse and neglect toward children has reached epidemic proportions must be yes. As a society we must recognize the serious nature of this childhood disease which cripples physically and emotionally and can kill. This is a disease that is passed on intergenerationally and destroys families along with the children. It is true that much is being tried to combat the problem, but not enough.

SOLUTIONS: STATE OF THE ART

During the past five years there has been a proliferation of programs designed to address the problem of abuse and neglect. In a sense, pioneering has been going on, for professionals have been involved in the management of a highly complex problem encompassing legal issues, family life issues, social and economic issues and physical mental health issues. This problem has required that many community entities work closely together if solutions are to be reached.

States historically have carried the primary responsibility for protective services to children. State agencies are mandated by statute to investigate and remediate child abuse and neglect. At present these services are funded by state and federal money through Social Security Act Titles 4–B and 20. Services vary significantly from state to state but clearly on a national level there is a lack of quality child welfare programming including sufficient numbers of adequately trained and compensated staff and program resources such as mental health services or substitute care facilities.

Within the past years HEW has taken steps, partly through Congressional legislation to seek out the causes and solutions to abuse and neglect. In May, 1975 the Social Rehabilitative Services and Office and Child Development jointly funded programs across the country. Since 1975 through the Child Abuse and Neglect Prevention and Treatment Act of 1974, the Office of Child Development through the National Center on Child Abuse and Neglect has funded various research and innovative demonstration programs aimed at prevention and remediation of the problem. These new approaches are having success as the field better understands the dynamics of the problem. These efforts may be short lived, however, as the intent is more at discovery than on-going service provision.

The Family Resource Center in Albuquerque is one of the National Center's Child Abuse and Neglect Demonstration Projects. The program is administered by the New Mexico Social Services Agency and is a blending of state and federal funding which has provided the citizens of Bernalillo County with comprehensive child abuse and neglect services. The Family Resource Center offers a sophisticated multidisciplinary team approach to diagnosis and case planning and provides families an array of services directed at reducing stress and enhancing individual and family functioning.

The Family Resource Center's services include psychiatric, psychological and social evaluations; individual, group, marital and family therapy; play therapy and day treatment for children; foster care and day care; medical services; homemaker services; volunteer lay therapy services. The FRC, along with the 10 other federal demonstration programs may go out of business in June, 1978. This would be an obvious loss to the citizens in various locales nationally. Even if the programs are able to somehow survive, there appears to be no comprehensive plan for disseminating the results of the demonstrations to the professionals in all the states who are seeking better, more effective means of combating abuse and neglect.

Something must be said for the state of practice generally, for a program like FRC is an exception. The child welfare program in New Mexico can certainly serve as a typical example of the child welfare scene nationally. New Mexico has sixteen social services county offices serving 32 counties. The state is for the most part rural. Large geographic distances which are sparsely populated is a problem in service provision.

Conditions in New Mexico include the following:

(a) County protective service programs are under staffed. There have been no new staff positions for 5 years although caseloads have increased in some areas by 300 percent. This is tragic because of the need for staff and because there are so many available applicants out of work.

(b) State job classifications do not require adequate qualifications and salaries are not competitive. Persons delivering protective services are required to have only a BA degree in any social science area and no experience. The critical need for seasoned, well trained staff goes unmet. It should be kept in mind that the staff receive and must act on referrals of the worst kind: child battery, sexual abuse, emotional and physical neglect, severe psychopathology.

(c) In an overwhelming percentage of New Mexico communities, there is an absence of the necessary resources to impact on the troubled families. A district attorney may not be available more than one day a week or less. There may be no other source of legal consultation. Mental and physical health services may be lacking or non-existent. Child care or residential care such as foster homes are usually not available. Specialized child resources such as speech therapy or residential treatment are unthinkable.

(d) Training, supervisory support and adequate facilities are other areas that are consistently lacking as important measures to enhance the protective services effort. Communities generally do not provide a unified approach. There may be a sense of horror at the thought of the problem but little in the way of planning for problem resolution.

Before leaving the state of the art of practice—prevention bears mentioning. What is being done to prevent the occurrence of child abuse and neglect? "Prevention" has become the popular theme for national discussion, however not much is occurring in practice. It seems that understanding and articulating detailed ways of preventing abuse and neglect has not been done.

There are three levels of involvement with families: (1) primary prevention—which is dealing with individuals and families before there is a sign of a problem; (2) secondary prevention which is working with families showing signs of potential problems even though no abuse has occurred, and, (3) tertiary prevention which is serving families in which the problem has occurred; the efforts are aimed at preventing reoccurrence. Presently almost all resources are spent in secondary and tertiary prevention with most of that being with families in which abuse or neglect has already occurred.

The nature of abuse and neglect suggests that to prevent it there must be long range endeavors such as enhancing socio-emotional development of children, in and outside the home; early and continuing preparation for parenthood; family life management; economic, health, shelter and transportation considerations. It appears that the family life space in general must be taken into account when considering ways to prevent abuse or neglect planning.

NOW AND THE FUTURE

Since child abuse and neglect is clearly a multifaceted problem that passes generationally, there is need to consider both short and long range planning. The following recommendations and considerations are suggested as a part of that planning:

(a) The federal government should consider it's role in supporting efforts in this area. Traditionally, the federal government has left child welfare services to the states. The result has been large variations in degrees and levels of service. Perhaps through legislation, funding or regulations, either a federal agency or at least strong federal mandates and guidelines could be established to nationalize all child welfare services. This could provide uniformity in practice and raise the level of care provided.

It seems contradictory that the federal government has chosen to support AFDC at a 75–25 percent funding match even though this program has clearly been a disruption to family unity. On the other hand, while the aim of recent child welfare efforts has been to promote family unity and problem resolution, the formula for federal funding is roughly equivalent to the reverse of the AFDC match.

It would seem appropriate for a body such as HEW to establish and enforce standards for protective service practice, for levels of professional staff, for required manpower—caseload ratios, and for mandatory service availability and accessibility.

There is an obvious and critical need for more resources to deal with this escalating social problem. The federal government has refused to take strong leadership to address the problem. Given the scope of the problem, the limitations of the states in dealing with it and the lack of standardization, this position should be re-examined.

(b) Protective services must as an entity be separated from the welfare system. Although all who work in the field know that child abuse and neglect is not a problem peculiar to the poor, the fact that the agency legislated to protect children is usually a part of the welfare system means by implication that maltreatment of children is a problem of the economically and culturally deprived.

This complicates case identification in other social strata and certainly limits the number of those parents who might voluntarily avail themselves of services. This misidentification has come about as a result of the federal bureaucracy, funding mechanisms and regulatory system. Therefore if change is to occur, it must originate at that level.

(c) For the past 5–7 years there has been a flurry of activities at both the federal and state level in the area of child abuse and neglect. Research, service programs, education and training, resource and capacity building and so on have emerged in many forms. Progress has been made; much has been learned. The tragedy however is that no plan seems to exist for, (1) gathering all that has been learned from these many endeavors, and then, (2) figuring a method for sharing and disseminating the information gathered and the knowledge gained. Benefits are lost; programs die, findings are shelved.

Perhaps HEW is in a position to prepare a plan for effectively getting research findings and service delivery results to states and local groups for program evaluation and development purposes. The plan must include ways other than by written reports to assist the field in planning and implementation. Consideration should be given to increasing technical assistance efforts and collegial consultation as a sort of a cross-breeding influence. Something must be done if we are to learn from our successes and mistakes.

(d) Although a lot of people are talking about it, not much is being done in the area of primary prevention on the national scene. It is time to be concerned about the parents of the next decade. This is not to suggest that current treatment efforts are not necessary, in fact, there is need for expansion. However, because child abuse and neglect is in a sense a generational problem, the effort for the future must begin now.

The impact focus for prevention lies in the child's life space. In other words—all those places where children can be found must be

considered as a potential for preventative efforts. A comprehensive list of all possible resources which can influence and stimulate childhood development is a place to begin These resources then must be supported so they can reasonably have effect on the lives of children. If children are able to develop stronger self-esteem, personal controls, and emotional stability, there will be a reduction in child abuse and neglect.

The public school system is an excellent setting for prevention. Significantly reducing teacher-pupil ratios would allow for reasonable adult-time exposure to each individual child. In addition, if teachers are trained to be sensitive and responsive to the child's emotional development, there will be positive payoff.

Developing long range curriculum in the school systems, addressing family life issues, and parenting is an additional prospect. This should begin in the elementary years, rather than being isolated in the midst of a semester in high school sociology class which is probably elective anyway.

Thought should be given to broadening Headstart or other child development programs for the population at large rather than the poor only. This would make a stimulating experience for children available without regard to any sort of means test. Further, it recognizes that all children regardless of culture, class or economics must pass through the same growth process and should have quality opportunities which maximize that growth.

Recreation programs, churches, various private endeavors such as Big Brothers, boy and girl scouts and so on, provide already existing endeavors which could be directly and consciously aimed at identifying high risk children and applying preventative measures which enhance individual growth and development.

Community education, parenting education, and family life education can be provided through hospitals, churches, high schools and universities, public and private agencies. These efforts should be directed at young adults who are new or potential parents.

This paper is not the place for pointing out all the possibilities, but creative professionals could surely identify a multitude of possible prevention alternatives. Surely, if prevention is to work, everyone must get behind it. Federal, state and local government should define their roles.

The private sector likewise will need to get involved. Various professional disciplines represented in many settings must make commitments followed with purposeful action. Comprehensive, cooperative planning will be required. Money, manpower, and resource development will be necessary. We can only have marginal effect on the child within the home; the same home that may be destructive to the child, producing a future failure as a parent. Children are available however in many places outside the home. That is the target, the point of intervention.

The problems of child abuse and neglect require immediate and significant attention. If professionals and politicans are to continue espousing that America's greatest resource is its youth, then action must now follow those words, action that is swift and pervasive. Each day of delay allows misery, pain, even death to continue and delays the time that this crippling disease is under control.

SEVENTY-FIVE MILLION DOLLAR EXPORT-IMPORT LOAN TO TOKYO BANK

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3) of the Export-Import Bank Act notifying the Congress of a proposed Eximbank loan to assist the purchase of U.S. cotton by Japan. Section 2(b)(3) of the act requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case the Bank proposes to extend a loan in the amount of $75,000,000 to assist the Bank of Tokyo, Ltd. in the purchase of raw cotton from the United States. The proposed Eximbank credit will support an estimated 20 percent to 35 percent of U.S. cotton exports to Japan. The loan will bear an 8 percent per annum interest rate and be drawn during the period through July 31, 1978. Each drawdown is to be fully repaid 1 year later.

I ask unanimous consent that the letter from Eximbank pertaining to this transaction together with the accompanying material be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., September 8, 1977.

The Honorable WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank.

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., September 7, 1977.

The PRESIDENT OF THE SENATE,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction:

A. Description of Transaction:

1. Purpose—

Eximbank is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton.

2. Identity of Parties—

The Bank of Tokyo is Japan's ninth largest commercial bank and was established in 1947 as successor to the Yokohama Specie Bank, Ltd.

By a law enacted in 1954, the Bank of Tokyo was specifically authorized to specialize in foreign trade financing. Although other Japanese banks are authorized to engage in foreign transactions, the 1954 law established the Bank of Tokyo as the official foreign exchange bank of Japan.

In Japan, the Japan Spinners Association, under the administrative guidance of the Ministry of International Trade and Industry allocates foreign loan funds available for cotton imports to mills wishing to purchase cotton. Thereafter, loan funds are made available to the mills through Japanese commercial banks acting as agents of the Bank of Tokyo.

The indebtedness of the Bank of Tokyo to Eximbank will be evidenced by twelve month drafts drawn on and accepted by the Bank of Tokyo. The Bank of Tokyo will hold the obligations of the Japanese foreign exchange banks issuing letters of credit at the request of the mills which purchase the cotton, and these banks in turn will hold the obligations of the mills.

3. Nature and Use of Goods—

The Eximbank Credit will finance the purchase of raw cotton of all grades and staples for use in the Japanese spinning industry.

B. Explanation of Eximbank Financing:

1. Reason—

Since the early 1950's, Japan has been a steady purchaser of U.S. cotton, and each year since then Eximbank has provided loans to Japanese banks to enable Japanese cotton spinning mills to finance a significant portion of their U.S. cotton requirements. In the past five years, Japan has imported an average of approximately 3,447,000 bales of cotton each year from all sources. Thirty percent of this total has come from the United States, making the United States the largest supplier of cotton to Japan. It is anticipated that the proposed Eximbank credit for the 1977–78 cotton year will support between 20%–35% of Japan's cotton imports from the U.S. As has been the case in the past, these exports will have a favorable impact on many important sectors of the U.S. economy such as cotton growing, processing and transportation. Eximbank perceives no adverse impact on the United States economy from this transaction.

Eximbank's proposed credit is especially appropriate in view of developments anticipated in the world cotton market over the next few months. During the 1977–78 crop year total world production is expected to increase by 10 percent, from 58 to 64 million bales. As a result, competition among cotton exporting nations for sales to Japan, the world's largest importer, should be intense. The Soviet Union, the world's largest cotton grower and second largest exporter behind the United States, is expected to harvest 12.5 million bales—a 3.3 percent increase over their 1976–77 output. Due to this increase, the Soviets are expected to strengthen their marketing efforts in Japan. Substantial production increases in Mexico, Japan's third largest cotton supplier, could produce the same result. The offer of continued Eximbank support could avoid giving the Japanese any reason to decrease the purchase of United States cotton in the light of mounting international competition.

It should also be noted that the United States has been experiencing a trade balance deficit of unprecedented magnitude throughout 1977. For the first six months of this year, the deficit amounted to some $12.5 billion; a full-year deficit of $20–25 billion has been predicted. Our trade deficit with Japan was some $1.4 billion during the first quarter alone. The proposed Eximbank credit will have a favorable impact on the United States' trade balance with Japan.

2. The Financing Plan—

The Eximbank Credit of $75,000,000 will bear interest at a rate of 8% per annum. The credit will be repaid one year from each respective drawdown. Drawdowns will take place periodically during the 1977–78 cotton year through July 31, 1978.

Sincerely,

JOHN L. MOORE, Jr.

SENATOR HUMPHREY

Mr. MATHIAS. Mr. President, there is no more acute observer of the American political scene than Gerald W. Johnson, and few with so wide an experience, so broad an acquaintance, and so long a memory. In his years as a journalist he has known most of the political leaders of this century and his opinion

is both informed and balanced. When he says something it is worth saying.

This has never been more true than in his letter today to the editor of the Baltimore Sun. His comments on our colleague, HUBERT HUMPHREY, are both well earned and well said. I join with him in admiration for Senator HUMPHREY'S great spirit and his dedication to public service. I ask unanimous consent that Mr. Johnson's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HUMPHREY PRAISED

Sir: Senator Humphrey, told after exploratory surgery that his cancer is inoperable, comments that he is happy to think that he will be given the chance to fight one more battle to defend the honor of the country in the matter of the Panama Canal treaty.

In a time which each successive issue of the daily papers brings more evidence of how American public life has become infested with curs and skunks and creeping things, what a joy it is to learn of even one of whom: "Nature might stand up and say to all the world, 'This was a man'."

GERALD W. JOHNSON.

ANNOUNCEMENT OF POSITION ON CERTAIN VOTES

Mr. STEVENSON. Mr. President, on September 9, 1977, during five rollcall votes on Senate Concurrent Resolution 43, the second concurrent resolution on the budget, I was necessarily absent from the Senate on official business.

Had I been present, I would have voted in favor of final passage of the second budget resolution—rollcall vote No. 361. In addition, I would have voted in opposition to the three amendments to Senate Concurrent Resolution 43 proposed by Senators ROTH, HAYAKAWA, and HATCH—rollcall votes Nos. 357, 358, and 359, and would have supported Senator ROTH'S amendment to amend the resolution to allow for a tuition-tax credit by voting in opposition to Senator MUSKIE'S motion to table Senator ROTH'S amendment—rollcall vote No. 360. I ask that the permanent RECORD reflect my position on these votes.

EXPORT-IMPORT BANK LOAN TO MEXICO'S OIL AGENCY

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues two communications I have received from the Export-Import Bank pursuant to section 2(b)(3) of the Export-Import Bank Act notifying the Congress of proposed Eximbank credits to Petroleos Mexicanos (Pemex), Mexico's Government-owned oil and gas agency, to assist the purchase of U.S. goods and services to be used in Pemex operations and in construction of a natural gas pipeline. Section 2(b)(3) of the act requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in the amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

First, Eximbank proposes to extend a line of credit to Pemex in the amount of $250,000,000 to be used during the next year and one-half for projects within three general categories: exploration and development operations, refinery improvement and expansion, and natural gas processing and production of basic petrochemicals. The Eximbank line of credit will provide 42.5 percent of the financing for possible Pemex purchases of U.S. goods and services totalling $588,200,000. The credit will bear interest at the rate of 8.5 percent per annum, and carries a 0.5 percent per annum commitment fee on the undisbursed portion. The Eximbank credit will be repayable in eight semiannual installments commencing September 1, 1983.

Second, Eximbank proposes to lend $340 million to Pemex in connection with construction of an 840-mile gas pipeline from Cactus, Chiapas State, to Reynosa on the U.S. border. Total cost of the pipeline is currently estimated to be $1.5 billion. The Bank credit will cover 85 percent of an estimated $400 million in purchases of U.S. goods and services by Pemex. The loan will bear interest at the rate of 8.5 percent per annum, and carries a 0.5 percent per annum commitment fee on the undisbursed portion. The Eximbank credit will be repayable over an 8-year period commencing March 31, 1980.

I ask unanimous consent that the letters from Eximbank pertaining to these transactions be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 9, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank.

Sincerely,

JOHN L. MOORE, Jr.

Enclosure.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 9, 1977.

The Honorable WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Mexico.

A. Description of Transaction:

1. Purpose—

Eximbank is prepared to extend a direct credit of $340,000,000 to Petroleos Mexicanos (Pemex) to assist Pemex in financing the acquisition in the United States and exportation to Mexico of goods and services, all of United States manufacture or origin, required by Pemex in connection with the construction of an 840-mile gas pipeline. The pipeline will run aproximately 840 miles from Cactus, Chiapas State, to Reynosa, on the border of the United States. It is expected that U.S. pipeline companies will enter into contracts with Pemex for the purchase of gas to be transmitted through the pipeline.

It is presently estimated that the total cost of the pipeline and associated facilities will be approximately $1.5 billion. It is expected that the total cost of U.S. goods and services to be supplied to the project will be approximately $400,000,000, of which 85% will be covered by the proposed Eximbank credit and 15% will be provided by Pemex in the form of a cash payment.

It is anticipated that U.S. suppliers will furnish Pemex, among other things, large diameter pipe, valves, meters, large compression equipment, chemical process equipment and technical services.

The obligation of Pemex to repay the Eximbank credit will be secured by such guarantees or other security, if any, as Eximbank may require.

2. Identity of the Parties—

Pemex is a decentralized public agency formed in 1938 and wholly owned by the Government of Mexico. It has the power to own property and carry on business in its own name. Its pricing, capital expenditure and financing policies are subject to approval by the Mexican Government. Most members of the Board of Administration of Pemex are appointed by the President of Mexico. Pemex has responsibility for the operation and management of Mexico's oil and gas industry, which includes the exploration, production, refining, transportation and marketing of oil, gas and petrochemical products. Pemex also has responsibility for the development and operation of Mexico's basic petrochemical industry.

3. Nature and Use of Goods and Services—

It is expected that the type of goods which U.S. companies will be exporting will include large diameter pipe, valves, meters, large compression equipment and chemical process equipment. In addition, U.S. companies are expected to provide certain technical services, such as engineering design and equipment procurement for the sweetener and natural gas liquids recovery plants.

B. Explanation of Eximbank Financing:

1. Reasons—

The Eximbank direct credit of $340,000,000 will facilitate the export of approximately $400,000,000 of United States goods and services.

This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. None of the goods to be exported is in short supply in the United States.

It is anticipated that suppliers in most of the industrial countries will be submitting bids for the sale of goods and services for the project. Many if not all of such suppliers will be receiving strong support from the official export credit agencies in their countries. Eximbank has received information that the official export credit agencies of Canada, Japan and the United Kingdom are willing to provide 85% coverage for the same term as Eximbank is proposing, in certain cases with interest rates lower than the Eximbank rate.

The total estimated cost of the project is $1.5 billion. The Eximbank credit of $340,000,000 will finance $400,000,000 of U.S. procurement. Substantial additional financing will be required from private sources to cover the remaining costs of the project. This financing is expected to come principally from U.S. private sources in credits which will not be guaranteed by Eximbank. Because of the amount of private financing required and because of the direct competition from official export credit agencies of other countries, Eximbank is willing to extend credit for 85% of the cost of U.S. goods and services.

The proposed transaction offers substantial benefits to the United States because of the expected flow of gas through the pipeline to U.S. gas transmission companies for distribution to U.S. customers.

In view of the magnitude of the transaction, the repayment term, the existence of foreign competition and the benefit to the U.S. from the increased gas supply, Eximbank's credit is necessary to secure this sale for United States suppliers.

2. The Financing Plan—

The total cost of United States goods and services to be purchased by Pemex is approximately $400,000,000 which will be financed as follows:

	Amount	Percent of U.S. Costs
Cash	$60,000,000	15
Eximbank credit	340,000,000	85
Total	400,000,000	100

(a) Eximbank Charges: The Eximbank credit will bear interest at the rate of 8½% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms: The Eximbank credit will be repaid by Pemex in 16 semiannual installments commencing March 31, 1980.

Sincerely,

JOHN L. MOORE, JR.

SALT: CREATING AN "APPEARANCE OF PROGRESS"

Mr. HATCH. Mr. President, today's Washington Post reveals some disturbing facts about the Carter administration's approach to SALT negotiations. The Evans and Novak column entitled "SALT: Creating an 'Appearance of Progress'" exposes startling concessions now being considered by the Carter administration in an attempt to show some progress in the current SALT II negotiations. The fact that the Carter administration is considering making such major concessions should alarm every Member of this body. The SALT I Treaty expires in a few short weeks and the administration's negotiators apparently are not even close to a new agreement. One tactic that may be utilized to circumvent the Congress, whose approval would be required for a formal extension of time, would be to negotiate an "informal" extension. That would buy the administration new time without having to come to Congress for approval.

What disturbs me are the recommendations that Mr. Gelb allegedly makes in order to stimulate the progress of the SALT II talks. When the Congress went along with the President in stopping production of the B–1 bomber, a move which many of us opposed and warned our colleagues against, we placed all our eggs in one basket. To now start bargaining with these eggs by making concessions concerning limitations on the range and capability of the Cruise Missile is a position that would be detrimental and perhaps disastrous to our national security.

When the Senate confirmed Paul Warnke as Chief Negotiator for SALT talks, it was done with a stern warning that the type of major concessions now being considered would not be tolerated. Gelb's memo to the President indicates that an appearance of progress must be shown at any cost. I say to this, "Bunk." The goal of the United States must be one that will be advantageous to the security of this Nation. In recent years, the success of the Soviet strategy at SALT has not been due as much to the brilliance of their policymakers and negotiators as to the lack of strong negotiation on the part of the United States. Now is the time to take a firm stand. We have eliminated the B–1 bomber and stopped production of the Minuteman missile in an attempt to reach agreement with the Soviets. What have they conceded in return? Nothing. The United States has a significant advantage in cruise missile technology. We have cut all else to the bone. Let us not trade away our one major area of superiority. I am sure that my colleagues in the Senate feel much the way I do and are concerned about the security of our Nation. Let us not have any backdoor agreements which circumvent Congress. The law specifically states that these matters should come before the Congress for its approval.

Mr. President, I ask unanimous consent that the Evans and Novak column from the September 14 Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALT: CREATING AN "APPEARANCE OF PROGRESS"

(By Rowland Evans and Robert Novak)

A top Carter policymaker has devised an arms-control strategy that offers escalating concessions to give the appearance of progress in SALT in order to avert congressional interference.

The secret "SALT strategy paper" drafted by Leslie H. Gelb, director of the State Department's politico-military affairs office, affords a rare peek into unguarded thinking at upper reaches of the Carter administration. Gelb's 15-page memorandum, dated July 26, boils down to these two imperatives: First, agreement with the Soviet Union in the strategic arms limitation talks (SALT) transcends mere military considerations; second, restrictions imposed by Congress must be avoided, whatever the cost.

Specifically, the Gelb strategy would extend the present SALT I Treaty, due to expire Oct. 3, "through informal means" rather than "formal extension, with the prospect of critical (congressional) hearings and restrictive amendments." Such an administration effort has long been known. But Gelb makes specific how to pull it off: Show some progress on current SALT II negotiations. The Gelb strategy implies such progress is possible only by severely limiting U.S. cruise-missile deployment.

This proposal generated astonishment and distress within the Carter administration when Gelb's paper was circulated six weeks ago. Nevertheless, the strategy being hammered out at high-level meetings last week was a first cousin of Gelb's (though the Defense Department is demanding major changes). Moreover, friendly congressmen are being privately consulted this week about "informal" extension of SALT I.

The "interim accord" curbing intercontinental missiles was signed in Moscow in 1972 as SALT I. If a new SALT II treaty placing overall limits on strategic weapons is not agreed to before Oct. 3, SALT I will expire. This has generated a mood of deep alarm, as is reflected by Gelb's strategy paper.

"No progress on SALT by October risks further straining overall East-West relations and, in turn, inhibiting cooperation on other bilateral issues," Gelb wrote. "Notwithstanding efforts to downplay is significance, no progress would magnify the negative international and domestic repercussions of a failure to meet the Oct. 3 deadline."

But Gelb, the former New York Times correspondent who is now a mastermind of President Carter's diplomacy, asserts that even with "some progress by October, it is doubtful that a SALT II agreement could be reached sooner than early 1978." What's more, Gelb makes this unusual admission: "The U.S.S.R. has not accepted the major elements of the U.S. proposal and has not even responded to some."

Therefore, Gelb's solution, reflecting the administration's concern about second-guessing from Capitol Hill: "We should plan to extend the interim agreement [SALT I], preferably through parallel, non-binding declarations, avoiding formal extension that would legally require congressional approval."

But Gelb recognizes that extending SALT I would be dangerous if there were no significant progress in SALT II. "Informal extension would almost certainly be attacked for failure to obtain congressional approval, while formal extension would provide opponents a platform for criticism of the SALT process itself and the conduct of U.S.-Soviet relations. Most worrisome is the prospect that formal approval of an extension might be tied to congressional criteria for an eventual SALT II treaty."

Thus, on top of major retreats made so far, the Gelb paper suggests still more concessions in hopes of giving the impression of progress:

"We would almost certainly have to back down on counting heavy-bomber variants"—the Soviet Bison and Bear bombers—as part of the overall strategic total. "To induce the Soviets to a lower MIRV [multiple independently targeted reentry vehicles] we could agree not to count the 120 disputed silos at Derzhayna and Pervomaysk against the [MIRV] ceiling."

The more startling concessions come on the cruise missiles, the amazingly accurate drone aircraft that has become a replacement for the junked B–1 bomber. The Gelb strategy would stitch into a new SALT II treaty (lasting eight full years) a 2,500-kilometer limit on air-launched cruise missiles. It would also restrict them to as few as 10 missiles per B–52 bomber and 30 per wide-bodied aircraft.

Beyond this, Gelb calls for "an added element of compromise." He suggests a 600-kilometer ceiling on cruise missiles launched from non-heavy bombers as part of the eight-year treaty—not simply as part of the three-year protocol previously offered. Another compromise might be the statistical inclusion of each wide-bodied plane carrying cruise missiles as one MIRV and each B–52 armed with cruise missiles as three MIRV's.

The Pentagon has protected that the cruise missile is vital now that the B–1 is dead, but there is pessimism about overriding the Gelb strategy. The ultimate decision is up to Jimmy Carter who may soon clarify what he really thinks about these complicated questions of life or death.

PROGRESS REPORT ON HUD

Mr. CRANSTON. Mr. President, on July 25, 1977, Secretary of Housing and Urban Development Patricia Harris addressed the Annual Convention of the National Urban League. Her remarks on that occasion provide both a progress report on her then 6-month tenure, and an outline of her priorities and aspirations for HUD. I would like to share this material with my colleagues, and ask that the full text of Mrs. Harris' speech be printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, in the years that I have known Pat Harris and followed her distinguished public career, I have been much impressed by her great abilities and by her unwaivering com-

mitment to the social improvement of minority groups and of the poor. Under her leadership, I look forward to an increasingly dynamic HUD capable of effectively aiding our urban communities and meeting the housing needs of low income, elderly, and handicapped Americans.

EXHIBIT 1

REMARKS BY PATRICIA ROBERTS HARRIS

To speak to the National Urban League is to return home. I have been a supporter of the League since my days as a YWCA Program Director in Chicago. I have been a member of League Committees in both the Chicago and D.C. Urban Leagues. As a result, I know that the cities where there is an Urban League, there are professional resources that can be brought to bear upon the solution of community problems. The League, from its inception, has represented a dual coordinating concern for achieving the rights of a minority by the application of an intelligent professionalism.

Six months ago, I was nominated by the President and confirmed by the Senate to be the Secretary of Housing and Urban Development.

On January 24th, I assumed the responsibility for the daily operations of the Department. What I discovered was a Department with greater problems than I had expected and greater opportunities than anyone had guessed.

I found HUD a demoralized and disorganized agency. It had lost its sense of purpose and it had abandoned its legislative mandate.

While 5 million families were living in substandard housing, our national housing programs were strangled in bureaucratic inefficiencies.

While inner-city neighborhoods declined, HUD continued to be the bad neighbor. Nearly 50,000 units of Public Housing were vacant or uninhabitable, costing the Government millions of dollars each year in lost revenue and increased operating expenses.

While 1,500 communities were receiving more than $3 billion of community development block grant funds, no substantive monitoring was going on to make sure that national objectives were being carried out by local governments.

While black people and minorities sought equal opportunity in housing, their choices were limited by dual housing markets, and local public housing policies that reinforced patterns of racial segregation.

This was not the HUD that so many people in this room today worked so hard to create. This was not the Department set up to be the Nation's urban architect.

The national goal of a decent home in a decent environment for every American—which had been set nearly 30 years ago and reaffirmed numerous times since—had been abandoned by the Department set up to achieve it. The 1973 Nixon housing moratorium told the world HUD was not to provide housing for the poor.

The national commitment to reverse the movement toward two societies, "one black, one white, separate and unequal," was ignored. As a result, social tensions increased. If what occurred in New York last week is an indicator of a potential for urban unrest, a serious threat remains to the health and well-being of our society, a threat the Nixon-Ford Administration ignored.

Professional staff who had come to HUD to help serve the needs of the urban constituency had been cowed and demoralized by an Administration that placed a moratorium on housing and told our great cities to "drop dead."

When Franklin D. Roosevelt assumed office in 1932 he made a visit to Justice Oliver Wendell Holmes and asked the 90-year old Jurist what he should do about the great problems facing the society. He said, "Mr. Justice, your life has covered more than half the history of the republic, what advice can you give me?" Holmes replied, "You are in a serious crisis in this situation; you must marshall your resources and fight."

At HUD, we began to do that on January 24th.

My first task was to make it clear that those career civil servants who still wanted to serve the people of our cities and the unhoused could again begin productive work. Those professionals began immediately to help to get HUD back on track.

Then the President and I put together a HUD team of dedicated professionals. We then undertook a series of major legislative and administrative actions that will permit us again to serve the needs of the unsheltered and of our urban cities.

This Administration sponsored, and the Congress has tentatively approved:

The three-year re-authorization of the Community Development Block Grant program to give more predictability to Federal assistance for local economic development.

The use of dual formula entitlement funding to target block grant funds to older distressed cities. New York City will gain $76 million, Chicago $60 million, and Detroit $35 million in 1980 under this mode of funding.

The authorization of appropriations for the basic block grant programs, not to exceed $3.5 billion in Fiscal '78, $3.65 billion in Fiscal '70 and $3.8 billion in Fiscal 1980.

The initiation of a multi-million dollar Urban Development Action Grant program to meet the unique, non-recurring development needs of urban America, and to give local government leaders a flexible tool for urban revitalization.

The expansion of the block grant's permitted program activities to encourage local economic development.

A 134,000 unit increase in the Section 8 budget authorization for Fiscal 1977 to 130,000 units of existing housing, 25,000 units of rehabilitated housing, and 168,000 units of new construction.

A further increase for Fiscal 1978 to 164,000 units of existing housing, 136,000 units of rehabilitated housing and new construction and a reactivation of the public housing program to 81,000 units, including 6,000 units of Indian housing.

An expansion of the Urban Homesteading program to 15 additional cities, bringing the total number of communities participating to 38. (The cities estimate that the extra $6 million in property and rehabilitation loans will leverage $25 million in public and private investment in designated urban neighborhoods.)

An increase in mortgage limits in FHA-insured programs, and in the Section 235 homeownership program, along with reduced down payment requirements.

An expansion of the Graduated Payment Mortgage Plan to broaden ownership opportunities for younger families.

We at HUD developed a comprehensive housing and community development program of which the legislation is a part, to achieve two major objectives:

1. Revitalization of urban areas by targeting community development funds, new assisted housing and housing rehabilitation programs into deteriorating inner city areas to help them become dynamic, viable places to live, work and raise our families, and

2. Providing freedom of opportunity and expanded housing options to people, regardless of race, ethnic origin, or economic condition.

For the first time, HUD is coordinating urban development and housing programs in order to achieve maximum leverage of Federal funds in securing change in our urban cities.

In addition to the new focus and our initiatives, a number of significant administrative changes have taken place at HUD during the first six months of the Carter Administration:

A major clarification of the intent of the Community Development Block Grant program was issued by the Department on April 15, making it clear that HUD will monitor the operation of block grant programs and enforce the requirement that the program must principally benefit low and moderate-income people by funding projects that aid low- and moderate-income neighborhoods, eliminate slums and blight, or meet other urgent needs. And we have already proved we are serious.

To ensure that there will be equal opportunity for low-income families in the suburbs as well as the city, HUD has informed the participating communities that we will strictly enforce the requirements of the Housing Assistance Plan, and require housing for low- and moderate-income people when shown to be necessary. And now there are cities and counties that know we mean what we say.

Cities that will not accept their fair share of low- and moderate-income housing will no longer receive Community Development Block Grant Funds. Where cities and suburbs work together to provide housing for low- and moderate-income people, bonus allocations of Block Grant Discretionary Funds, 701 planning, and Section 8 subsidized housing assistance will be given. On these commitments we have acted. No longer will funds go to those who thumb their noses at Congressional intent to serve the poor.

To help monitor progress toward these objectives, and to direct the enforcement of the Federal Fair Housing Law, we brought Berkeley's Chester McGuire to HUD.

To promote the national goals of fair housing and equal opportunity, the Department convened the first National Conference on Voluntary Concepts in Support of Fair Housing. More than 700 fair housing advocates, representing government, industry and citizens groups, participated in the conference.

In addition, HUD has negotiated a national fair housing program and law suit settlement with the American Institute of Real Estate Appraisers. Negotiations are also under way for a fair housing program with the National Association of Real Estate License Law Officials.

In addition to these new directions in the Community Development and Fair Housing offices of HUD, we have been heading in the right direction in housing.

New procedures have been established to facilitate the use of the Section 8 subsidized housing rehabilitation program for neighborhood conservation. The Department has earmarked 20,000 units for inner city rehab. This means that the poor will be provided subsidized housing in areas that are being improved, so that they will not be displaced by market forces in areas experiencing housing revitalization.

Processing time has been radically reduced and program efficiency demonstrably improved in the entire Section 8 program. HUD cannot serve the poor if it is slow and unconcerned. We are speeding up our programs because we want people in houses, not because we want to improve our statistics.

As of March 1, only 12,688 Section 8 units were under reservation and less than 13,000 had been started. As of July 1, 127,000 units were reserved and 60,598 were started. This will represent 60,000 additions to the housing stock for the poor—new and substantially rehabilitated units.

In the fourth-month period ending May 31, FHA insured 116,000 single-family units, nearly 50 percent of the total volume for Fiscal '76, and 30,000 multifamily units, 66 percent of the '76 volume.

The first Office of Independent Living for the Disabled was established in June and a goal was set to design five percent of all new public housing and Section 8 construction

for the handicapped, this nation's last minority. Many of these physically handicapped persons are members of racial minorities.

I think it should be clear to even our most severe critics that HUD is changing and becoming, once again, a Department which is vitually concerned with human services, and dedicated to revitalizing urban areas. This new HUD believes it is our responsibility to provide decent, safe and sanitary housing for low and moderate income Americans, and to provide leverage for the revitalization of our cities.

HUD is also becoming a Department that practices what it preaches:

A real effort was made to hire women and minorities in key policy-making positions at HUD. I am pleased to report that in 116 noncareer positions filled since January, 26 percent have been filled by minorities and 43 percent by women.

I should also note that 90 percent of the minorities who have been hired were hired at the level of GS–11 or above and 73 percent are GS–14's and above.

The new HUD cares about the people it serves and the neighborhood it affects. During the cold wave last winter, HUD halted all evictions.

Today, I have top level teams in the field with instructions to report back to me on how HUD can reduce the number of foreclosures and evictions in HUD-assisted properties.

This morning the Department started its formal Management and Budget Review process for the 1979 Fiscal Year.

In this process, we will be evaluating ways to improve our present programs and developing new initiatives to meet our Community Development and Housing responsibilities.

Included in the subject proposals under discussion are:

The Public Housing and Section 8 Subsidized Housing programs and the different ways these programs can provide shelter for low- and moderate-income citizens.

The Community Development Block Grant program and the Urban Development Action Grant and the ways in which these programs can contribute to the preservation and revitalization of cities.

The role of the Neighborhood Organizations and Voluntary Associations in coordinating public and private investments in inner city areas.

Provision of technical assistance to cities and private groups to aid them in solving their problems.

An expansion of housing counselling assistance to help low-income families become homeowners.

A new look at mortgage insurance programs and how they can be used to increase the inner city housing supply and the return of middle-income residents to the cities.

All of HUD's programs will be examined, in terms of their Fair Housing and Equal Opportunity implications. The Urban League will be kept informed on HUD's approach to these issues and we will continue to seek your advice.

It is my goal as Secretary of the Department of Housing and Urban Development to restore the Department to its rightful position as the ally and advocate of urban America.

I want HUD to be what its founder and its first Secretary, Robert Weaver, intended it to be.

I want HUD to become synonymous with racial justice and to be responsible for expanded housing opportunities for all Americans.

I am certain that with your help, it can be done.

But as much as HUD does, and as much as this Administration does, there is a limit to the resources and effectiveness of government. As important to the future of urban America, and much more vital to the housing needs of low-income people, it is the work that citizens like you do each day in your own communities.

Two events of recent weeks convince me that the work you do was never more important and necessary than it is now.

The first was the response to the report that there might not be any more Federal housing programs.

The second was the night of looting that followed the black-out in New York.

On the first matter, I am pleased to report that as of now, Federal housing programs are alive, reasonably well, and getting better.

I was encouraged by the widespread, rapid, effective and spontaneous defense of Federal housing programs by housing advocates across this nation.

We were gratified to have confirmation of the fact that there is developing a national coalition in support of housing and urban concerns.

Putting that coalition into place, and organizing a constituency around it is your job.

Carrying out the HUD program commitments for urban America is my job, and we at HUD assure you we will do that job with dedication and compassion.

New York City's recent travail shows why we must have an urban program commitment.

To all of us, it was a reminder of the hot, violent summers of the recent past. We recall that ten years ago today, urban America was torn apart.

Riots erupted in 100 cities.

More than 12,200 people were arrested.

More than 4,000 people were injured.

More than 100 lives were lost.

The cost of the damage extended into the billions.

Americans, who have always been suspicious of their cities, came to view urban areas not as places of employment, commerce, entertainment, and leisure and cultural activities, but as places of fear, violence, crime and racial tensions.

What happened in New York on July 13 was a painful reminder that we are not so far away from 1967 as we think.

The response of opinion leaders who focused on the behavioral effects, and ignored the social causes, is a grim reminder that a great amount of work must be done to educate people about the reality of distressed urban areas.

To dismiss July 13th as the behavior of "animals," is to ignore the serious warning to us of possible future trends.

The fact is, that in many urban areas, there is no governance. No one is meeting the needs of people who live there. Everyone ignores them until the brick and the torch make them impossible to ignore any longer.

The potential for social disruption is immense. The crisis is not an urban crisis; it is an American crisis.

Any analysis of what occurred two weeks ago in New York that fails to consider what it is like to be there every day is a superficial and dangerous analysis.

Before the event is swept away in the deluge of media happenings, we all should think about the root causes.

To understand what happened during the blackout is not to condone it. Commentators who assume that the world of the unemployed black resident of the ghetto is one where in time of crisis people behave rationally proves how separate are the worlds of the affluent and the dirt poor. The wish to strike out and to strike back was not born with the New York looters on July 13, 1977.

Twenty-seven years ago, Langston Hughes, through his classic ghetto character, Jesse Simple, explained violence and anger in "Simple Speaks His Mind."

Simple and Hughes engaged in the following conversation, slightly abridged here:

"If you want to know about my life," said Simple as he blew the foam from the top of the newly-filled glass the bartender put before him, "don't look at my face, don't look at my hands. Look at my feet . . ."

Hughes replied, "I am . . . looking at your feet, and I swear they do not reveal your life to me . . . Tell me specifically some one thing your feet have done that make them different from any other feet in the world . . ."

"Do you see that window in that white man's store across the street?" asked Simple. "Well this right foot of mine broke out that window in the Harlem riots smack in the middle. Didn't no other foot in the world break that window but mine. And this left foot carried me off running as soon as my right foot came down . . . Don't tell me this feet ain't had a life of their own."

"For shame," said Hughes, "going around kicking out windows. Why?"

". . . It ain't mine! Bam mmmmm. And kick it out—"

Hughes replied, "This bar glass is not yours either. Why don't you smash it?"

"It's got my beer in it," said Simple.

In another dialogue, Simple criticizes the merchants who, according to Simple:

". . . take my money over the counter, then go on downtown to Stuyvesant Town where I can't live, or out to them pretty suburbans and leave me in Harlem holding the bag. I ain't no fool. When the riots broke out, I went looking for justice."

Said Hughes: "With a brick."

"No. Two bricks," said Simple.

The Hughes dialogues were written 27-years ago, but they explain the mentality of people who put feet and bricks through the shopkeepers' windows. The shopkeepers are not seen as neighbors—the looters have no stake in their businesses.

Simple would put his foot through the window in which he had no stake, but he would not break the glass with his beer in it. The looters of two weeks ago were his grandchildren. What happened showed how little things have really changed for some.

It is clear that if we are to avoid repetitions of the bricks of 27-years ago, or 13-days ago, we must give the potential looters a stake in our society. If we keep them as outsiders—unemployed, isolated in neighborhoods of poverty, denied access to areas of hope, none of us will be safe from the possibility of justice in the form of a brick, and affluence as the result of looting.

To grow up poor is itself painful.

To grow up poor in a land of so much wealth is unbearable.

To remain poor without hope of ending poverty is an injustice and a threat to the well-being of the entire society.

In Latin America, there is a phrase that is used to describe the masses of urban poor who provide the fuel for the fires of social unrest.

They are called "descamisados"—the "shirtless ones."

The urban unemployed youth has become our descamisados.

We pledge to you to build a national urban policy that will make neighbors of the ghetto lad and the ghetto merchant and help them to live and work together.

We need in this country a national urban policy that recognizes the realities of our national urban life, and this Administration with our new community development block grant formula and our urban development action grants that will put money and other assistance into distressed cities has begun to put a national urban policy in place.

We need in this country a national urban policy that recognizes that government cannot do it alone. The Carter Administra-

tion's urban development action grant will help distressed cities persuade the private sector to help with urban development.

We need in this country a national urban policy that includes the people's voluntary associations and community organizations in the process of restoring urban America, and we at HUD have begun to put this part of a national urban policy into place with our new Office of Neighborhoods.

The President has established an Urban and Regional Policy Group that will propose to him before the summer is over an urban policy that will use the resources of all the Federal agencies that have urban programs in a coherent and coordinated attack on urban problems.

There is no more important task before this Administration than the task of revitalizing our cities. We are moving carefully, as with our new dual formula community development block grant that is designed to provide new money to the cities that need it. We are moving with dispatch, as demonstrated by our early legislative initiatives, to put the program into place. We are moving firmly, as our denial of funds to cities that do not provide assisted housing demonstrates. We are moving together as a government to achieve coordination and coherence, as demonstrated by the establishment by the President of the Cabinet level Urban and Regional Policy Group.

We are providing funds, concern, intelligence, and perhaps more importantly, a love for the cities. We at HUD, and indeed, we of this Administration, see our cities and the people of the cities, all of them, as a great national resource. It will not be easy to protect and revitalize that resource, but we knew it would not be.

But HUD accepts its responsibility to be the advocate of the cities and the poor, and we expect our advocacy to prevail in this Administration and in this Nation.

ORDER FOR RECOGNITION OF SENATOR SCHMITT, SENATOR SCOTT, AND SENATOR ALLEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. SCHMITT, Mr. SCOTT, and Mr. ALLEN each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON FRIDAY, SEPTEMBER 16, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Friday, after the two leaders have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1750 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the three Senators aforementioned, the Senate resume consideration of the then unfinished business, the saccharin bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, Calendar Order No. 361, Senate Resolution 229, has been cleared for action on both sides of the aisle by unanimous consent. I ask unanimous consent that the Senate proceed to the consideration thereof.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the majority leader is correct. This has been on the calendar for some time and matters have now been resolved so we can proceed to the consideration of the budget waiver resolution without objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 229) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1217, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1217, a bill to regulate activities involving recombinant DNA in order to assure that such activities be conducted in a manner to protect the public health and welfare. Such waiver is necessary because section 1822 of the bill authorizes appropriations beginning in fiscal year 1978. Without this legislation, only facilities which receive Department of Health, Education, and Welfare funds are required to comply with guidelines for safety and performance of activities involving recombinant DNA. There is increasing interest and research in this area in the private sector. These activities are not required to comply with Department of Health, Education, and Welfare safety guidelines. Consequently, the Committee on Human Resources finds that there is a compelling need to protect the health and welfare of the Nation by requiring all recombinant DNA activities to comply with the uniform national standards of safety and performance as provided for in S. 1217. Recombinant DNA activities offer many potential benefits but also raise serious questions regarding potential hazards to the environment and to the public health. Because of these issues, there had developed a wide-range opinion in the scientific community and the general public concerning recombinant DNA activities. The technical complexity of the issue required a careful, deliberative approach to the development of this legislation. The Administration, private industry, and academic scientists all presented testimony. In order to give full and responsible consideration to this legislation, it was essential for the committee to thoroughly review the received comments before reporting the bill. Due to this necessity, the technical complexity of the issue, and to the press of other major legislative business the Committee on Human Resources was unable to report the bill prior to May 15. The budget estimate for the bill is sufficiently small that its consideration will not significantly affect the congressional budget, nor delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 a.m. tomorrow. After the two leaders have been recognized, Messrs. SCHMITT, SCOTT, and ALLEN will be recognized, each for not to exceed 15 minutes, not necessarily in that order, but at the convenience of those Senators.

Following the recognition of the three Senators, the Senate will resume consideration of Calendar Order No. 341, S. 1750, the saccharin bill, under a time agreement. Rollcall votes are expected in relation thereto during the day tomorrow. It is possible that the Senate will require a considerable amount of time during the day to dispose of that bill. I am in no position to say at the moment.

Upon the disposition of that bill, the Senate will then turn either to the sex discrimination bill, or the legal services bill, or the unionization of the military bill, whichever appears at that point to be advisable. Beyond that, I simply add that it is possible, even likely, that the Senate will be in fairly late tomorrow, but we will be in a better position tomorrow, the minority leader and I, to assess the situation and alert our colleagues as we observe developments.

ADJOURNMENT TO 9:45 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and, at 6:55 p.m., the Senate adjourned until tomorrow, Thursday, September 15, 1977, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 14, 1977:

DEPARTMENT OF STATE

George W. Landau of Maryland, a Foreign Service officer class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

DEPARTMENT OF JUSTICE

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years, vice Jonathan L. Goldstein.

IN THE ARMY

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general, Medical Service Corps

Col. James Julius Young [redacted], Medical Service Corps, U.S. Army.

IN THE NAVY

Rear Adm. James B. Stockdale, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10 United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. William J. Crowe, Jr., U.S. Navy,

having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving and for appointment as senior Navy member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711.

IN THE AIR FORCE

The following Air Force officers for promotion in the Regular Air Force, under the provisions of chapter 835, title 10, United States Code, as amended. Officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Captain to major

Osborne, Robert O., xxx-xx-xxxx.

NURSE CORPS

Major to lieutenant colonel

Bianchi, Lucile A., xxx-xx-xxxx.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be captain

Hanumanthu, Vijaya K., xxx-xx-xxxx.

To be first lieutenant

Grassman, Eric D., xxx-xx-xxxx.

DENTAL CORPS

To be first lieutenant

Howard, Clinton W., III, xxx-xx-xxxx.
Malloy, Charles M., xxx-xx-xxxx.
Peterzen, Robert M., xxx-xx-xxxx.
Sorum, Larry N., xxx-xx-xxxx.
Weaver, Timothy M., xxx-xx-xxxx.

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Horton, Granville E., xxx-xx-xxxx.

MEDICAL CORPS

Turner, William, xxx-xx-xxxx.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Dewitt, William E., xxx-xx-xxxx.
Furchak, Edward, xxx-xx-xxxx.
Kumler, David A., xxx-xx-xxxx.
McDermott, Leo B., Jr., xxx-xx-xxxx.
Porco, John V., Jr., xxx-xx-xxxx.
Reess, Robert R., xxx-xx-xxxx.
Wells, Robert M., xxx-xx-xxxx.
Wynkoop, Roger A., xxx-xx-xxxx.

MEDICAL CORPS

Baser, Ali N., xxx-xx-xxxx.
Broome, Larry G., xxx-xx-xxxx.
Carver, Richard F., xxx-xx-xxxx.
Cloyd, Dale E., xxx-xx-xxxx.
Couch, Ellis P., xxx-xx-xxxx.
Gardner, John C., xxx-xx-xxxx.
Gensler, Thomas D., xxx-xx-xxxx.
Hafermann, David R., xxx-xx-xxxx.
Horne, Edwin G., Jr., xxx-xx-xxxx.
Krege, John W., xxx-xx-xxxx.
Lehman, Craig A., xxx-xx-xxxx.
McBride, William P., xxx-xx-xxxx.
Meyer, George W., xxx-xx-xxxx.
Murdock, Kenneth A., xxx-xx-xxxx.
Nobles, Travis, xxx-xx-xxxx.
Pevoto, Carl A., xxx-xx-xxxx.
Reid, Michael J., xxx-xx-xxxx.
Rivera, Antonio M., xxx-xx-xxxx.
Studwell, Alfred W., xxx-xx-xxxx.
White, Nelson P. H., xxx-xx-xxxx.
Zlatnik, Frank J., xxx-xx-xxxx.

The following officer for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593, 8351, and 8392, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Palmer, Raymond V., xxx-xx-xxxx.

The following-named person for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Jones, George W., xxx-xx-xxxx.

The following persons for appointment as Reserves of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10. United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Cudd, John A., xxx-xx-xxxx.
Datlow, Donald W., xxx-xx-xxxx.
Fisher, John A., xxx-xx-xxxx.
Gaines, Larry S., xxx-xx-xxxx.
Graff, John F., xxx-xx-xxxx.
Hard, Benjamin F., xxx-xx-xxxx.
Harstad, Calvin D. L., xxx-xx-xxxx.
Hirsh, Mary A., xxx-xx-xxxx.
Huddle, Luther G., xxx-xx-xxxx.
Jacobs, Eugene G., Jr., xxx-xx-xxxx.
Lee, Chang H., xxx-xx-xxxx.
McKneely, Billy D., xxx-xx-xxxx.
Michelsen, Walter J., Jr., xxx-xx-xxxx.
Mills, Robert D., xxx-xx-xxxx.
Morris, Robert W., Jr., xxx-xx-xxxx.
Patterson, Charles C., xxx-xx-xxxx.
Solana, Louis J., xxx-xx-xxxx.
Sostre, Samuel, xxx-xx-xxxx.
Tallant, Arthur N., xxx-xx-xxxx.
Whittle, Edward, xxx-xx-xxxx.
Winters, Peter H. V., xxx-xx-xxxx.

EXTENSIONS OF REMARKS

THE ECONOMICS OF MINIMUM WAGE INCREASES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 13, 1977

Mr. CRANE. Mr. Speaker, at the time of the debate over the granting of a rule for H.R. 3744—the minimum wage bill—I engaged in a colloquy with several of my distinguished colleagues about the economic impact of this legislation were it to pass. Today, I would like to expand on this aspect in hopes that the House will not only reject the arguments for a substantial increase in the minimum wage, but will reduce the current wage barriers that discourage the employment of young people.

Over the past few months, there has been a lot of rhetoric about who will be hurt if the minimum wage is increased but, after looking at just about everybody's figures, it is apparent that the two groups who are most vulnerable are young people—particularly minority group youngsters—and owners of small businesses. Ironically, the reason they will be hurt is the same; just as young people need to be able to work for less to justify their lack of training and/or experience, so too do small businessmen need to be able to pay less in order to compete with larger and more diversified corporations that can take advantage of efficiencies of scale. That is why there has been, in the law, an exemption—however inadequate—for businesses with gross volume of $250,000 or less and that is why there needs to be an exemption for young people as well. And, while we are at it, we might do well to think about providing an exemption, or an opportunity wage to use a more descriptive phrase—for those lacking job skills who are below the poverty level. It is far better that they be able to get a job with a future than have to depend on a make-work job or, worse yet, no job and a future of welfare.

Going back to the plight of the small businessman for a moment, the National Federation of Independent Business estimated recently that the direct first-year cost to small business if H.R. 3744 is passed will be $3.5 billion and the cost over the first 3 years will come to $10 billion. Even the Department of Labor, which strongly supports the bill, says that increasing the minimum wage to $2.65 next year, along with the other things the bill does, will cost the business community an added $2.2 billion in extra wages alone. Since small business employs 56 percent of the Nation's private nonfarm work force, there is little doubt where the burden will fall heaviest.

How heavy? Well, most everyone agrees that there will be an adverse impact on employment; the question is—how much? The U.S. Chamber of Commerce did a study not long ago and concluded that, were H.R. 3744 to pass, more than a million people would lose their jobs and consumer prices would increase approximately 1.7 percent. In my own State of Illinois, it was estimated the job loss would be roughly 53,000 with a 2.0-percent increase in consumer prices. Organized labor does not think the job loss will be so high but, nonetheless, they tacitly admit there is an adverse employment effect. Even Secretary of Labor Ray Marshall has testified to the effect that this bill will cost 90,000 Americans their jobs.

In this context, it must be remembered that, in large measure, it will not be union members who will be laid off. The ones who will lose their jobs will be the marginal workers, the unskilled and the young—particularly minority group youngsters. The Bureau of Labor Statistics, for example, has done a study which indicates that not only does increasing the minimum wage offset the positive effects of Federal manpower programs but that employers would hire more teenagers if they could pay them less. The

Congressional Budget Office quantifies this assessment by estimating that a 25-percent increase in the minimum wage would reduce teenage employment by 3 to 6 percent. A number of academic type studies are either less optimistic or reach the same general conclusion. For instance, Dr. Edward Gramlich, writing for the Brookings Institution, notes that as the minimum wage is increased above its traditional level of 40 to 50 percent of the median wage "* * * more and more workers confront the grab bag combination of a higher wage with a reduced probability of getting a job." Moreover, he notes, this problem is most prevalent amongst teenagers and he goes on to suggest that not only would a 25-percent increase in the minimum wage reduce teenage unemployment by 1 to 6 percent, but that such an increase would lower the employment of low-wage teenagers by 10 to 15 percent.

For its part, the U.S. Chamber of Commerce estimates that increasing the minimum wage to $2.65 per hour would cost another 391,000 jobs that would otherwise go to teenagers, thus raising the teenage unemployment rate from the 18 to 19 percent range to 24 percent. Moreover, the chamber estimates that black teenage unemployment would be increased from 39.4 to 45 percent.

The fact that minimum wage legislation is not only counterproductive but discriminatory is only now beginning to emerge as a major point of discussion. Dr. Walter E. Williams, a black associate professor at Temple University, writing in the fall edition of Policy Review, notes that the existence of a minimum wage law means that an employer "* * * can discriminate at zero cost." Or, in other words, if a minority group worker is not allowed to voluntarily offer his services at a lower wage there is no economic penalty to the employer for not giving him an employment opportunity. Furthermore, a minimum wage barrier to the use of alternative labor not only enables a higher paid worker to demand even higher wages for himself—as union members have done and would do—but it insulates him from job competition. Thus, the result can only be added frustration for minority group youths that might want to get a job and be productive but find themselves being legislated into a self-perpetuating welfare syndrome.

Significantly, this Policy Review article is just the latest in a series of attempts by Dr. Williams to shed a little light on the realities of minimum wage legislation vis-a-vis minority groups. For the benefit of my colleagues, I ask unanimous consent to insert in the RECORD three columns—one an editorial by the Richmond Times-Dispatch, one a column by John Chamberlain, and one a commentary by Andrew Tully—that discuss one of Dr. Williams' other efforts. After reading them, I hope you will agree that a sharp increase in the minimum wage, to say nothing of indexing it—which Dr. Williams also opposes—should not be approved. Instead, what we need to be doing is developing tax legislation which will encourage capital formation which would, in turn, create even more well-paying, productive jobs in the private sector.

The material follows:

[From the Richmond Times Dispatch, Aug. 7, 1977]

HARMFUL TO BLACKS

Published on the opposite page today is a statement that contains enough evidence to destroy the myth that the federal minimum wage is economically beneficial to poor and unskilled people, and especially to black youths. On the contrary, the evidence suggests the minimum wage is one of the most damaging socioeconomic concepts ever conceived.

The statement was made by Prof. Walter T. Williams to a Senate committee that is considering proposals to increase the federal minimum wage. And who is Professor Williams? He is, for one thing, a distinguished economist who is on the faculty of Temple University. And he is black. So he is exceptionally well-qualified to address the effects of the minimum wage on young blacks, a group that receives his special and careful attention.

Pending in Congress, for final action after it returns from its summer recess, are bills that would increase the federal minimum wage from $2.30 per hour to as much as $2.85. President Carter favors a new rate of $2.65, but AFL–CIO President George Meany would not be totally satisfied with anything less than a minimum wage of $3.

It is Professor Williams' argument that as the minimum wage rises, so does youth unemployment. And he offers statistics to support his point. One authority he cites has estimated that a 25 per cent increase in the minimum wage "would lower the employment of low wage youth by 10 to 15 per cent."

This would happen because increases in the minimum wage make some marginal workers too expensive to hire. When the wage rate exceeds a person's productivity, he is likely to become—or remain—unemployed. Employers will make other arrangements to get their work accomplished.

In the face of such impressive facts as Professor Williams offers, why do politicians and labor leaders persist in demanding a higher minimum wage? Indeed, why do they not agree to scrap the minimum wage entirely? The answer is that the damaging impact of the minimum wage is not widely understood and that *superficially* it appears to be a sound and just concept. Thus, politicians who support it appear to be expressing profound concern for the economic welfare of the poor, a popular thing to do. As for labor leaders, they know that increases in the minimum wage strengthen their inexorable push for higher pay for their members, for appropriate pay differentials must be maintained between all levels of skills.

An informed and aroused public, however, could change prevailing political attitudes on the minimum wage. Professor Williams' views are certainly informative, and most people should find them provoking. People who are genuinely interested in promoting the economic progress of black Americans should be especially alarmed by his warning that such federal regulations and laws as the minimum wage "make it almost impossible for the present disadvantaged minorities to enter the mainstream of American society as have earlier disadvantaged minorities."

Instead of lifting the black poor to higher economic ground, in other words, the minimum wage acts to keep them down. And this is the antithesis of the American dream.

[From the Richmond Times-Dispatch, Aug. 4, 1977]

A CONNECTION BETWEEN MINIMUM WAGE AND LOOTING?

(By John Chamberlain)

A lot of words have been written in the endeavor to explain the recent epidemic of lootings in New York City during the power blackout. U.N. Ambassador Andy Young attributed the cascading thievery to a failure of the government to provide enough welfare. Others took the opposite tack, blaming it on 40 years of welfare handouts that have accustomed people to getting something for nothing. You pays your money and you takes your choice of these mutually exclusive concepts, but it could be that both Andy Young and the "reactionaries" are wrong.

Maybe the fault lies in the failure of our schools to teach the simplest elements of logic. While people were arguing about the decline of moral standards and the failure of the family on the one hand, and the lack of government make-work programs on the other, President Jimmy Carter, who believes in the family, was caving in to AFL–CIO President George Meany's demands for a big increase in the minimum wage.

Originally, Meany had demanded a jump from the current $2.30 to a $3 per hour minimum. Carter held out for a "modest" boost from $2.30 to $2.50. But Jimmy sweetened his "compromise" by agreeing to an indexing plan which would let the wage floor rise automatically every year as the average hourly wage for manufacturing went up.

This provision would enable the unions to hike the minimum wage every time they got a new contract. Congress would no longer have any veto on it.

Well, if a steadily rising minimum wage is to be built into the economy from here on in, logic tells us that the lootings in the inner cities will get progressively worse. For the minimum wage, when it is set without regard to man-hour productivity, is the obvious cause for teenage unemployment that is particularly bad among the black youth of our congested northern metropolises.

Economist Yale Brozen of the University of Chicago, in two masterly studies, has proved beyond the shadow of a doubt that the ratio of teen-age unemployment to the general rate of unemployment rises every time there is an increase in the federal statutory minimum wage.

Furthermore, he has also proved that the ratio of nonwhite to white teen-age unemployment has also gone up. The statistics are inexorable, but George Meany—and now Jimmy Carter—do not care to read them.

Four members of Congress, Senators James McClure and Orrin Hatch and Representatives Clarence Brown and John H. Rousselot, were sufficiently concerned with Brozen's figures to sponsor an independent study of the impact of the minimum wage by Walter E. Williams, a black Temple University economics professor.

The study, "Youth and Minority Unemployment," has just been submitted to the Joint Economic Committee of Congress. Whether it will have any effect on a Meany-dominated majority in the two houses is questionable. But if logic were to guide our congressmen, the whole concept of a minimum wage that takes no account of teen-age productivity would be abandoned.

Two key passages summarize Professor Williams' conclusions. "Teenage unemployment," he says in the first passage, "has averaged five times that of a civilian labor force over 25 years of age, while youths 20-24 have experienced an unemployment rate which

has averaged 2.5 times that of the general civilian labor force. The unemployment rate for youths is cast in even dimmer light when we consider that while youths (16-24) comprise 25 per cent (22 million) of the labor force, they represent 50 per cent of total unemployment."

Professor Williams' second key passage should make particularly pertinent reading in Harlem and Bedford-Stuyvesant and other looted areas of New York City.

"If we analyze the racial composition of youth unemployment," so Williams writes, "another part of the problem stands out in stark relief. Negro youths constitute a little over 11.5 per cent of the 16-24 civilian labor force. While the unemployment rate for the entire 16-24 youth population in 1975 was about 17 per cent, black youth unemployment was over 28 per cent.

That tells it all. But George Meany and Jimmy Carter do not care to listen.

BLACK PROFESSOR OFFERS IDEAS

(By Andrew Tully)

WASHINGTON.—A black Temple economics professor, Dr. Walter Williams, has tossed a firecracker into the austere chamber of Congress' Joint Economic Committee.

Concluding his study, "Youth and Minority Unemployment," Williams writes: "These policy recommendations are no doubt radical and will touch on the sensitivities and nerves of many vested interest groups."

A jury would find Williams guilty of understatement. Among other recommendations, he would: Abolish federal and state minimum wage laws, but failing that, amend federal and state laws to provide for a substantial wage differential for individuals under 21; and revise child labor laws and reduce the school-leaving age so that "many youth, to whom school is nothing more than a day care center," could "begin their careers, gain maturity and perhaps at a later time continue their education."

The chances of Congress endorsing these proposals are slim to none. But Williams makes some cogent points that the wise legislator could study with profit.

After noting unemployment is higher among teenagers, blacks, the uneducated, the handicapped, and women, Williams analyzes minimum wage laws and comes up with some dreary reading. He asks whether legislatures that enact minimum wage laws also enact "a worker productivity increase?" That, he concludes, "is entirely unlikely."

Then he goes on: "To the extent that the minimum wage law raises the pay level to that which may exceed some worker's productivity, employers will make adjustments in their use of labor. If a wage of $2.30 per hour must be paid no matter who is hired, who does it pay the firm to hire? Clearly the answer . . . is to hire the worker whose productivity is the closest to $2.30 per hour. If such workers are available, it clearly does not pay the firm to hire those whose output is, say, $1.50 per hour."

Williams cites the problems faced by employers whose labor costs reduce their ability to compete in a free market. Noting that labor, in fact, is a commodity, he states the obvious: "When the wages for labor services rise relative to productivity . . . people will seek substitutes for that resource whose price has risen."

He contemplates the hard-hit shoe industry. When the cost of producing shoes rises, the shoe manufacturer "can respond by: substituting machines for labor (automation); substitute foreign for domestic labor by moving to countries where labor is cheaper." Meanwhile, consumers "substitute" foreign produced shoes for American-produced shoes. The net effect is a reduction in foreign produced shoes for American-produced shoes.

Williams also cites the increased use by the construction industry of off-site construction of pre-assembled materials. He cites the "consumer response" to increases in wage rates for elevator operators: Substitution of automatically operated elevators for those that are manually operated.

The good doctor offers some other recommendations, including a plea for more so-called "right-to-work," anti-union legislation. But space runs out; this is a newspaper column, not a book. What is important in the Williams study is that he has summed up the big reason for youth and minority unemployment, namely, that business cannot or will not hire the unskilled and immature at the same wage it pays the skilled and mature.

SET-ASIDE PROVISIONS OF THE NEW FARM BILL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. SIMON. Mr. Speaker, I gather from newspaper accounts that there is a struggle going on within the administration whether they want to use the "set-aside provisions" of the new farm bill, just announced for next year, in future years.

There is no question that American farmers face some real economic problems, and this Congress and this administration have to help solve those problems.

But my feeling is that the set-aside is the wrong way to solve the problem permanently. It would solve a domestic economic problem but could very well aggravate an international food problem as well as have an adverse effect on the U.S. balance of trade.

In this connection, my colleagues might be interested in a paragraph from the Worldwatch Paper 8, published in October of last year, titled "World Population Trends: Signs of Hopes, Signs of Stress." In that paper, written by Lester R. Brown, who has provided distinguished leadership in helping the United States face the problems in the developing world, he has this paragraph:

The lack of food reserves has all but wrecked the international system for responding to crop shortfalls in individual countries. The international community, led by the United States, was able to stave off major famine during the fifties and sixties, most notably in India during 1966 and 1967 following two consecutive monsoon failures. Nutritionist Jean Mayer, now President of Tufts University, points out in commenting on the 1967 famine relief in the hard hit state of Bihar that "In the end, the famine was contained. Instead of the millions of deaths predicted, the highest of the fairly reliable estimates was only a few thousand."* The shipment of grain from the United States to India during the crisis period, the largest transfer of food from one country to another in history, was virtually all given as food assistance. For two consecutive years the United States shipped one-fifth of its wheat crop to India. Unfortunately, without adequate reserves, massive unilateral rescue efforts of this sort are no longer possible.

*Jean Mayer, "Coping with Famine," *Foreign Affairs*, October, 1974.

I am pleased that the administration has moved ahead with a strong, solid reserve program.

In making decisions as to what our future course shall be on set-asides, I hope we will keep in mind that the temporary "surplus" that we now have in grain production is simply a poor process of distribution that could be aggravated with famine conditions in India, the Soviet Union, China, and several other nations.

THE FUTURE OF OUR TELECOMMUNICATION POLICY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. PURSELL. Mr. Speaker, in 1934, when the Congress wrote the Communication Act, television had not yet begun its steady march into American homes, cable technology had to be developed, and orbiting satellites were unheard of to help carry messages around the world. However, today 98 percent of American homes have television sets, cable now serves more than 12 million subscribers and satellites and embryonic fiber optics technology must be considered. It is obvious that communications now means far more than radio, telephone, and telegraph. Yet, this Nation's air and wire communications systems are still governed by a 44-year-old law that did not even contemplate television.

Over the years, legislation in this area has been piecemeal, responsive only to the special needs of a particular industry at a given time. Industry growth has far surpassed legislative change and so the Federal Communications Commission—created in 1934 to regulate the industry—has taken on an additional role as communications policymaker. It is the Congress, not the FCC, that should set the policy that will govern the telecommunications systems of the future. Since the Congress has virtually ignored some issues, such as competition in telecommunications and cable TV development, the FCC has been left to set policy on these matters. Only legislative action can now change the course of this path, and it is my belief that we are long overdue for this action.

The House Communications Subcommittee has begun its work in this area and I realize it will take a great deal of time and effort before an effective and thorough telecommunications policy can be established by the Congress. However, it is my firm belief that this policy must be established expeditiously with the purpose of insuring that high quality telecommunications service continues to be widely available to the American people at the lowest rates reasonably possible. Also, I feel that the FCC should defer in making any more policy decisions in this area before the Congress completes its work.

Therefore, today, I am introducing a

resolution which expresses these beliefs and urge my colleagues on the Communications Subcommittee to help implement the intent of this resolution with all possible speed. This country needs a telecommunications policy to deal with the modern-day technologies constantly being developed—a policy established by Congress and the executive branch. It is my hope that the Congress will not recede from this task.

HIGH PAY AT THE U.N.—IT IS DRAWING FIRE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. McDONALD. Mr. Speaker, U.S. News & World Report, in its August 29, 1977, issue discussed the inflated salaries paid to U.N. bureaucrats, thus adding to the reasons why the United States should not support this organization. The article points out that the so-called developing nations do not pay enough of the bill to be concerned so that they are uninterested in holding down costs as long as Uncle Sam keeps picking up the tab. No one minds paying appropriate salaries to persons with expertise who do a job, but what has the United Nations ever really done or will ever do for us except continue to accept U.S. Treasury checks, our hospitality, while denouncing everything the United States does? The situation, realistically speaking, is unlikely to change unless we get out of the U.N. and that is what we should do. The article follows:

HIGH PAY AT THE U.N.—IT'S DRAWING FIRE

American taxpayers, who pay 25 per cent of the salaries at the United Nations, are finding that they support some of the highest-paid bureaucrats in the world.

This situation is drawing critical attention in Washington, as the size of the U.N. Secretariat in New York keeps growing—having doubled in the last 10 years to more than 18,000, of which 6,622 are classed as "professional and higher-level staff." The number and size of U.N. agencies also are growing rapidly.

More than 100 U.N. officials get higher pay than the $66,000 annual salary of a member of the U.S. Cabinet. About 1,000 earn more than $40,000 a year.

While only 15 per cent of the U.N.'s top officials are Americans, the U.S. Government, as the biggest contributor to the U.N. budget, pays a fourth of total salary costs.

The United Nations' pay scale was designed originally to match that of the best-paid civil service in any member nation, which turned out to be the United States. But U.N. pay has climbed steadily over the years until it now averages 18 to 26 per cent above that of the American civil service.

Only one bureaucracy—the European Economic Community—boasts wage scales above those of the U.N. and its affiliated organizations.

QUALITY QUESTIONED

A recent report by the Senate Committee on Government Operations complained about "the excessive salary levels at many international organizations, including the International Monetary Fund, World Bank and U.N. specialized agencies." Fringe benefits also exceed U.S. civil-service benefits, according to the Committee, which added that "the over-all quality of employees is not as good as it might be".

A State Department report cited by the Committee found: "U.N. basic remuneration, plus employer contributions to health insurance and retirement benefits, exceed the United States by 45 percent to 73 percent. U.N. pensions exceed U.S. pensions by 23 percent to 73 percent. U.N. annual leave exceeds U.S. annual leave by 15 percent to 131 percent. U.N. sick pay, on a one-year basis, exceeds U.S. sick leave by 1,400 per cent to 1,900 percent".

The top man in the U.N., Secretary-General Kurt Waldheim, an Austrian, draws an annual salary of $110,650. He also gets a "post adjustment" allowance of $11,520 to compensate for the high cost of living in New York.

After deduction of a "staff assessment" that is levied on all U.N. employes in lieu of income taxes, Waldheim's net pay is $69,240. In addition, he receives $22,500 a year as a "representation allowance" for entertainment.

The Secretary-General lives rent-free in a four-story, midtown Manhattan mansion that was donated to the U.N. He is provided with a limousine, a large staff and various housekeeping and travel allowances. The U.N. pays substantial sums for running the household and providing adequate security.

Two other U.N. officials draw salaries of $99,350 a year, plus $10,000 in post adjustment. One is an American, F. Bradford Morse, administrator of the U.N. development programs. He also gets a $10,000 representation allowance. The other is H. T. Mahler of Denmark, Director General of the World Health Organization, who also draws $15,000 a year as representation allowance.

Another 27 U.N. officials are in the salary range above $72,000, plus the usual post adjustment, representation allowance or both.

All professional employes of the U.N., whether stationed in New York or elsewhere, receive some post adjustment in addition to their salaries, with the amount depending on the size of their salaries and the cost of living in the cities to which they are assigned.

Because most U.N. employees come from countries that do not levy income taxes on their U.N. earnings, a "tax equalization" system has been established. An amount roughly proportional to an average national income tax is withheld from the pay of each employee. American citizens and others who actually pay income taxes are reimbursed from the "equalization" fund built up by the withholdings, and the balance is shared among all member nations.

NO HALT IN SIGHT

The U.S. State Department has made mild attempts to persuade the U.N. to hold down its salaries, but without success.

"We can't get support from many other governments," explains one State Department official. "The developing nations don't pay enough of the budget to be concerned about pay costs. Also, many officials hope there might be a job in the U.N. for them or their relatives."

Commenting on the propensity of the U.N. to expand, the Committee cited the United Nations Children's Fund. Founded to provide temporary, emergency relief for children, the Committee said, UNICEF now operates in areas that cover mothers and families, rural water supply, sanitation and training of youths up to 26 years old to be auto mechanics.

U.S. officials say the high salaries are, in part, a result of the experiences of the European Economic Community and several other international organizations that have had trouble hiring and keeping competent staffs.

"They pay extremely high salaries in the European Community," says a State Department official, "and the Europeans are thinking about those kinds of salaries when they come to the U.N."

Even with the high salaries, the Senate Committee on Government Operations observed that the U.N. has problems in hiring highly qualified people. One problem is that jobs are supposed to be assigned proportionately to each member nation and, the Committee said, "applicants may be hired on the basis of their nationality rather than merit." In some cases, countries fill positions with people their governments prefer to see leave the country.

SOUTH PHILADELPHIA'S PROGRAMS FOR EXCEPTIONAL PEOPLE

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. MICHAEL O. MYERS. Mr. Speaker, I have received a copy of an unsolicited letter sent to the South Philadelphia organization, Programs for Exceptional People (PEP) by the Department of Recreation and Leisure Studies of Temple University. This letter is only one of many that clearly demonstrates the atmosphere of cooperation in which PEP serves the interests of all the citizens of South Philadelphia. For the past several years the highly qualified and dedicated personnel at PEP have worked tirelessly to assist the mentally retarded individual in his struggle to become a participating member of the community in which he lives. And as this letter shows, PEP has also been foremost in promoting a spirit of cooperation between the various organizations and agencies in Philadelphia that are similarly engaged in this humanitarian pursuit.

The achievements of Programs for Exceptional People are far too numerous to mention; suffice it to say that the South Philadelphia community has benefited immeasurably by the services provided by PEP.

It is with great pride that I join with Temple University in complimenting Programs for Exceptional People and am inserting their letter into the RECORD:

PHILADELPHIA, PA.,
June 22, 1977.

MARTIN NOVELLI,
Programs for Exceptional People, Work Activity Center, Philadelphia, Pa.

DEAR MR. NOVELLI: I would like to take this opportunity to thank you and your staff for the excellent cooperation that we received from you on our HEW grant, "A Coordinated Approach to Community Recreation Services for Multiply Handicapped Adults". Your agency was one of the only ones with whom we worked from which we could consistently count on getting complete and accurate reports on time. In addition, there were many instances when your staff went out of their way to provide us with resources and/or assistance.

I have had the opportunity to see your staff in action both at your center and at our Tuesday night lab. I have been very impressed with both your staff's ability to work with clients and their innovative programming. I believe that your agency provides some of the highest quality of services to

mentally retarded persons that I have ever seen. My very best wishes to you in your continued struggle to serve persons with mental retardation. It has been my pleasure to work with you.

Sincerely,

VIKI S. ANNAND,
Project Coordinator.

HALT THE KILLING OF BEARS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. WHITEHURST. Mr. Speaker, on August 4, 1977, I introduced House Joint Resolution 574, calling for an immediate and appropriate moratorium on the killing of polar bears, to be established by international agreement.

Th polar bear is the largest terrestrial carnivore in the world today, and it is presently found inhabiting the lands and floating ice of the Arctic region. At the present time, five nations have separate jurisidiction over the polar bear: the United States, Denmark, Norway, Canada, and the U.S.S.R.

Statistics on the size of the various herds, the total population, and the degree of the danger of total extinction vary drastically according to the sources used in compiling the data. For instance, estimates of the world population of polar bears range from 10,000 to 20,000 animals, which makes it virtually impossible to obtain an accurate determination as to whether the total population is increasing or declining. In addition, data on the migration habits are inadequate, as are the data concerning the feeding and denning habits of these animals. Nevertheless, regardless of which sources are used, it appears that the polar bear is in a precarious situation, and it should be given immediate attention in order to insure its continued existence.

Protection afforded the polar bear varies from country to country. In the United States, the Marine Mammal Protection Act of 1972 transferred management authority for polar bears to the Federal Government, and limited the kill to Alaskan Coastal Eskimos. However, a Department of the Interior Administrative Law Judge recently made a ruling waiving the moratorium on the killing of polar bears and a number of other mammals by returning jurisdiction over the management of these animals to the State of Alaska. Since the polar bear is a pelagic animal. I do not believe that its management should be the province of a single State, and I strongly recommend, as does the International Union for the Conservation of Nature and Natural Resources (IUCN), that there be an international agreement to protect these mammals.

While individual nations have implemented their own procedures for protecting the polar bear to some degree, I believe that the majority would agree that the only way to provide adequate measures for the preservation of a pelagic animal is by way of a joint effort on the part of all countries having polar bear populations. The Soviet Union has not allowed polar bear hunting since 1956, and Norway stopped such hunting in 1973. In addition, Canada regulates the hunting of polar bears by setting quotas. Much progress has thus been made toward this end, but we must persist in our efforts to provide adequate conservation measures to prevent the possible ultimate extinction of these magnificent creamy-white carnivores.

In addition to sanctions by the individual countries having polar bear populations, the five nations in 1973 drafted an Agreement on Conservation of Polar Bears to allow bears to be taken only in areas where they had been taken in the past. The agreement calls for national and cooperative international research and management of polar bears. Certainly this was a major step forward in insuring protection of this great animal, but until definitive statistics concerning the polar bear can be obtained, I nope that my colleagues will be persuaded of the urgency and necessity of an appropriate inernational agreement to establish a moratorium on the killings.

The total worldwide polar bear kill was approximately 1,300 in 1976, and reliable sources indicate that the Alaska polar bear population is declining, because the size and ages of the bears in the annual "harvest" were lower than in previous years. Many organizations have finally become aware of the plight of the polar bear and are taking steps to help remedy this urgent situation. The National Rifle Association and the Boone and Crockett Club have removed the polar bear from their lists of eligible animals for trophy points, and they are to be commended for this. Hopefully, other such organizations will approve similar measures.

Although a partial moratorium has been placed on the killing of the polar bear, the kill number is still devastating. I believe, therefore, that it is imperative that, rather than return jurisdiction to a single State, the United States should instead move forward and work toward an international agreement to guarantee proper protection and preservation of this magnificent marine mammal. Such an agreement is essential if we are to prevent the final extermination of the polar bear, and I hope that my colleagues will see fit to join me in support of House Joint Resolution 574.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. LEHMAN Mr. Speaker, as a member of the National Security Task Force of the House Budget Committee, I was invited to inspect captured Soviet and other Warsaw Pact made military equipment and to learn about the Army's opposing forces program on last Friday morning, September 9. For that reason, I was absent from the House floor and missed several votes on rules.

Had I been present, I would have voted "yea" on rollcall votes 526 through 531.

RELATIONSHIPS WITH ORGANIZATIONS WHICH SEEK TO REPRESENT MEMBERS OF THE ARMED SERVICES IN NEGOTIATION OR COLLECTIVE BARGAINING

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HILLIS. Mr. Speaker, in the August 16 Federal Register, the Department of Defense published the proposed regulations concerning "Relationships With Organizations Which Seek To Represent Members of the Armed Services in Negotiation or Collective Bargaining." On September 14, I sent the Office of the Assistant Secretary of Defense a letter in support of the proposed regulations which I believe might be of interest to many Members. The letter follows:

WASHINGTON, D.C.,
September 14, 1977.

Hon. JOHN P. WHITE,
Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Department of Defense, Washington, D.C.

DEAR SECRETARY WHITE: I noted in the August 16, 1977 Federal Register that your office is accepting comments on the proposed Department of Defense regulations on "Relationships With Organizations Which Seek To Represent Members Of The Armed Forces In Negotiation or Collective Bargaining". I believe the proposed regulations represent a fair maxim under which the members of the Armed Services can feel comfortable, while at the same time maintaining the necessary discipline.

As a member of the House Armed Services Committee, and as a sponsor of legislation designed to prohibit unionization of the Armed Forces, I have studied this matter with great interest over the last few years. It is my belief that unionization of the Armed Forces would have a serious detrimental impact on the over-all effectiveness of our military forces. Should unionization ever become a reality, discipline would deteriorate until the readiness of our military would be weakened.

The efforts of the American Federation of Government Employees represent a Pandora's box. While attempting to soft-sell the ramifications of a unionized military, a successful effort by the AFGE would lead to demands for less distinction between the ranks, an end to the military judicial system, an end to all bad discharges, and the possibility of strikes in efforts to obtain more benefits or higher salaries.

It should be noted that the military is a way of life. It is not just another job. Comparisons between the military and civilian employment are risky and complicated. Unions may serve a vital role in private industry; however, there is no room for unions within the military.

The recent vote by the AFGE local unions not to pursue efforts to organize the military should not be interpreted to believe that this issue is moot. In announcing the results of the vote, Kenneth T. Blaylock, President of the AFGE, stated:

"The poll results should not be misconstrued as a rejection of the idea that military

personnel need representation . . . In fact, the rejection vote seems to be based on the perception by AFGE members that we should first organize a larger percentage of the Federal civilian workforce . . . the results of our poll do not indicate a concession to the clamor of anti-union voices who have dominated the decision of the Senate Armed Forces Committee to propose an absolute ban on organization by military personnel. This union is discussing the ramifications of the bill (S. 274) with the American Civil Liberties Union to make certain that such unwarranted legislation, if enacted, will not go unchallenged in the courts."

This statement can only emphasize the necessity that your office proceed with implementation of the proposed regulations. While I feel statutory limits should still be placed on union activity within the military, the proposed regulations are a major step in the right direction.

With best regards, I am,

Sincerely,

ELWOOD H. HILLIS,
Member of Congress.

GOODBYE, GOOD OL' BOY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. BAUMAN. Mr. Speaker, the actions of Bert Lance now stand before the Nation and the calls for the gentleman's resignation grow with each day's fresh revelations of wrong-doing and abuse of the public trust. One of the daily newspapers in my district is the Banner of Cambridge, Md. In its editorial for August 25, 1977, the Banner called upon Mr. Lance to resign because of the ethical blunders set before the public in the investigation of the gentleman's banking practices.

We live in a new era of ethics and honesty in government. Business as usual will no longer satisfy the American people. Mr. Carter and the avowals of a new righteousness in the Nation's highest councils so prominently promoted by his spokesmen do not look so bright in the face of the Lance scandal. The honeymoon for the Carter administration is, indeed, over.

The editorial follows:

GOODBY, GOOD OL' BOY

Bert Lance, director of the Office of Management and Budget, should resign.

Disclosure of his personal financial dealings is proving to be an embarrassment to an administration that came into office with little more than a professed dedication to integrity. President Carter's men were not learned in the wicked ways of Washington, it was said, but by reliance on good old-fashioned righteousness and respect for the truth, they and the American people would prevail.

What Mr. Lance, banker, appears to have done in April 1975, is quite simple: He used the assets of the National Bank of Georgia—its deposits—to secure a $2.6 million loan made to him by another bank the Manufacturers Hanover Trust Co. of New York. Specifically, as an officer of the Georgia bank, he arranged to have his bank open a non-interest-bearing correspondent account in the New York bank. An internal bank memorandum made public last week seems to tie the correspondent account and the Lance loan together as a package.

Mr. Lance then used the proceeds of his loan to buy a controlling interest in the Georgia bank.

In January of this year, after he was named to his present post in the government, the same tactic appears to have been used to secure a $3.4 million loan from the First National Bank of Chicago. The proceeds of this loan, Mr. Lance says, were used to pay off the earlier loan from Manufacturers Hanover Trust.

Incestuous relationships such as these are not uncommon in banking circles, though we believe Mr. Lance has added an engaging twist in his use of the money his position and influence in the National Bank of Georgia enabled him to borrow. Few honest bankers will defend such tactics, for though there may be doubt concerning their legality, there can hardly be any insofar as simple ethics are concerned.

In his testimony before a sympathetic Senate Governmental Operations Committee a few weeks ago, it now appears that Mr. Lance was considerably less than forthright. The "Good Housekeeping seal of approval" Senators were quick to award him seems a bit tarnished today. The committee may wish to reconsider.

The man who fills the second most important economic post in the government, the confident and advisor of the President, looks more and more like a good ol' boy who has gone wrong. And that's a pity for Mr. Lance, for his President, and for friends and admirers of good ol' boys everywhere.

ARBITRATION RIGHTS FOR POSTAL SUPERVISORS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. CLAY. Mr. Speaker, on Monday, September 19, H.R. 7132 will be brought up for consideration under the suspension of rules. I urge my colleagues to support this legislation, which I have sponsored along with others, to give arbitration rights to postal supervisors.

Virtually identical legislation to H.R. 7132 passed the House by voice vote in the last Congress but was not acted upon by the Senate. In July of this year, the Subcommittee on Postal Personnel and Modernization held a hearing on H.R. 7132 and reported the bill, by unanimous vote, to the Post Office and Civil Service Committee. On August 4 the committee reported the bill to the House.

H.R. 7132 simply affords to postal supervisors the right to arbitration, in the event that they reach an impasse with the management of the U.S. Postal Service, regarding the USPS' responsibility to consult with them over matters regarding pay policies and other important postal matters, in accordance with congressional intent of the Postal Reorganization Act of 1971.

The need for this legislation results from the Postal Service's failure to consult with managerial and supervisory organizations in a meaningful way. Indicative of this failure is the fact that on three occasions these organizations have had to take the Postmaster General to court to seek redress. Three times the courts have ruled in favor of these groups. Regretfully, despite the support of the courts and the Congress, the Postmaster General has described these consultations as an "ongoing problem."

Aside from its negative effect upon employee morale, seeking court redress is costly and time consuming. I see no reason why supervisory employees, who already bear an undue burden for the management's failings, must assume this responsibility.

H.R. 7132 which will establish arbitration rights for postal supervisors in order to protect these supervisors against capricious postal management decision-making is a fair and equitable bill.

I urge my colleagues to join me in voting for this bill's enactment.

CHARLES J. BONAPARTE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. MURPHY of New York. Mr. Speaker, on June 9, I was privileged to participate in a ceremony dedicating the auditorium of the new Federal Bureau of Investigation Building here in Washington to the memory of Charles J. Bonaparte, the founder of the FBI and 45th Attorney General of the United States. The ceremony was sponsored by the Italian Historical Society of America which has spearheaded this project for many years under the leadership of John N. LaCorte, its founder. Members of the Society and friends of Bonaparte came to Washington from near and far to participate in the ceremony.

The program, which I have included with these remarks, indicates that highlights of the dedication ceremony were the presentation of IHSA honorary membership citations to the Attorney General of the United States, the Honorable Griffin B. Bell and to FBI Director Clarence M. Kelley. The presentations on behalf of the society were made by the Honorable Joseph A. Califano, Secretary, Department of Health, Education, and Welfare.

I had the honor to present the first Charles J. Bonaparte Citation, on behalf of the society, to my good friend, the distinguished chairman of the House Judiciary Committee, the Honorable PETER W. RODINO, JR.

Although Congressman RODINO could not be present, his citation was accepted on his behalf of Chief Judge Edward D. Re of the U.S. Customs Court who also read Congressman RODINO's remarks.

During the course of his remarks Judge Re traced the history of the society's efforts in giving recognition to Charles J. Bonaparte, and in bringing about the dedication of the auditorium in his honor. Judge Re referred specifically to the commemorative ceremony of June 22, 1961, which took place in the Great Hall of the Department of Justice. On that occasion the IHSA unveiled a granite

memorial dedicated to Charles J. Bonaparte who foresaw the need for a permanent investigative force in the Department of Justice. That memorial, also presented on behalf of the society by Mr. LaCorte, was accepted by the then Attorney General of the United States, Robert F. Kennedy.

Incidentally, Mr. Speaker, the remarks of Judge Re who also presided on that occasion, were inserted in the RECORD by Congressman Abraham Multer of New York on August 1, 1961. Those remarks contain an excellent biography of Charles J. Bonaparte.

Before delivering the acceptance remarks of Congressman RODINO on this occasion, Judge Re noted that although the Italian Historical Society of America was largely responsible for the steps culminating in this dedication, this ceremony is truly American in nature. He said:

By calling attention to the birthday of Charles J. Bonaparte on June 9, 1851, we are commemorating an important date of American history. Public officials such as Charles J. Bonaparte deserve to be honored for they have furthered the American ideal of equal justice under law.

Judge Re also observed that it was fitting that the society's greatest honor, its honorary certificate of membership, should be presented on this occasion to Attorney General Bell who follows in the footsteps of the great Attorneys General who precede him.

Following are the remarks of Congressman RODINO in accepting the first Charles J. Bonaparte Citation:

Mr. Attorney General, Mr. Secretary, Director Kelley, Judge Re, distinguished members of the Judiciary, John LaCorte and members of the Italian Historical Society of America, colleagues and friends:

I am deeply grateful and honored to receive this award which symbolizes the cause of equal justice to which Charles Bonaparte dedicated his life.

We are here today to dedicate this auditorium on behalf of this same man and the same great cause. And I can think of no better words for this moment than Bonaparte's own: "Americans as a nation think their laws are meant to be obeyed by all alike, by the rich no less than the poor."

These are important words, they sum up the great and endless struggle for justice that brought this nation into existence against all odds, and which has sustained it for 200 years. It was this search, this cause, that Charles Bonaparte perceived so clearly and served so well throughout his life.

He knew that no society based on the law and equality of justice could survive with anything less than the full realization of these principles. And to that end, in his private life and his public one, he labored with inexhaustible determination. As a lawyer, he drew no distinction between his clients, rich or poor. He served them all with fairness and dedication. As a political reformer in Maryland he stood for the integrity of the political process, whatever the cost to him personally. And as Attorney General of the United States he represented the interests of the people, all of the people.

It is true that Bonaparte became known as President Theodore Roosevelt's 'Trust-Buster' in the years following his appointment as Attorney General in 1906. But it was perhaps less known that he appeared before the Supreme Court in 560 cases on behalf of the government and that he personally wrote 138 legal opinions, a task normally left to subordinates.

Charles Bonaparte saw himself as a lawyer, and an active, practicing one at that. It is probably that quality, as much as any, that led him to the conclusion that the Department of Justice needed a small, highly-trained investigative force to assist the Attorney General, thus forming the Bureau of Law Violation Investigators, the forerunner of the Federal Bureau of Investigation.

In this, as in the performance of his other duties, Charles Bonaparte insisted that the laws be faithfully enforced for all the people. It was this commitment to a nation and a government under law with equal justice that has earned Charles J. Bonaparte our lasting respect and admiration. Charles Bonaparte not only worked toward those goals—he understood they comprised a sacred trust which he shared with all the people of America.

Because of him and because of a great many other men and women like him, that trust still exists. No crisis, foreign or domestic, has been able to break it. It is that trust which brings us here today, in a nation comprised of citizens whose roots can be traced across the world—but who proudly declare themselves Americans—as Charles Bonaparte was an American. We dedicate this auditorium to his memory, and to the cause for which he stood and fought—liberty and justice for all.

Mr. Speaker, I know that I speak not only for myself, but also for my colleagues, in congratulating the Italian Historical Society of America, and John LaCorte, in particular, for all they have done in giving due recognition to a dedicated public official and great Attorney General, Charles J. Bonaparte. In order to give a meaningful utilization to the Bonaparte Auditorium, Mr. La Corte, in his remarks, announced that the society will present annual awards to outstanding students who share the philosophy and spirit of Charles J. Bonaparte.

THE TRAGIC DEATH OF STEVE BIKO AND THE FUTURE OF UNITED STATES-SOUTH AFRICAN RELATIONS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, how many atrocities must befall the South African civil rights movement before world opinion recognizes the South African Government for what it is: A brutal police state without the slightest regard for the human rights of the black majority in that country. The South African Government's convoluted explanation for the death of black civil rights leader Steve Biko while in police custody is so transparent as to strain the credulity of even the Vorster regime's most ardent apologists.

How a man, who was described by police doctors as having "no physical problem" when examined by them merely 4 days ago can perish from the effects of a self-imposed "hunger strike" only a few days later simply defies the imagination. This is the 20th time in the last 18 months that a black activist has died under most mysterious circumstances while being held political prisoner in South Africa's jails.

For the sake of human rights, it is hard to see why our Government continues to maintain normal diplomatic and economic relations with the South African regime. While I am gratified to see that both Secretary of State Vance and Ambassador Young have spoken out in protest against this tragedy, it is time that the administration began to take concrete steps against a regime that continues to say "never" to majority rule, while preparing to test an atomic bomb for possible use against its own black citizens. At the very least the administration should reevaluate the agreement for cooperation under which the United States continues to assist South Africa with the development of an independent nuclear capability. In addition, the administration should seriously reconsider the extent to which economic relations with South Africa should continue to be conducted as "business as usual."

The tragic death of Steve Biko should make it clear that the time has come to move from words to action if a peaceful transition to majority rule is ever to take place in South Africa.

IMPORTATION OF SPECIALTY STEEL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. APPLEGATE. Mr. Speaker, today I introduced a resolution that would express the sentiments of the House of Representatives regarding the matter of importation of specialty steel.

Even though many of my colleagues do not have specialty steel plants in their district, I guarantee you that their constituents use specialty steel as much as anyone in our country. This product touches our lives every day in such items as aircraft, automobiles, communications equipment, power generating equipment, and food processing equipment, just to name a few.

The industry, along with the steelworkers, waged a long and ultimately successful battle for justice under the U.S. trade laws. Controls on import limitations were established for a 3-year period, beginning June 14, 1976.

Less than a year later, under pressure from foreign nations to lift the import restraints, the administration announced a reexamination of the entire program by the International Trade Commission. A decision by President Carter on the future of the controls is expected by early October.

What the President decides will be crucial to everyone, not just to those associated with American specialty steels. The import limitations program is beginning to prove effective. The industry participates in growing markets. Workers have been recalled. Companies are beginning to show renewed health. Capital investment programs have begun.

Now, in the shadow of a rejudgment, there is uncertainty and concern. Termination of the import restraints would result in a sharp setback to this essential industry and to the Nation and would jeopardize the jobs of 65,000 American steelworkers.

Mr. Speaker, I would hope that the Members of this House would examine this situation. I know if they will, they will see the necessity of this resolution and will want to express their sentiments regarding it. Certainly, passage of it would demonstrate those feelings of concern to the executive branch in a very clear manner.

H.R. —

Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel

Where as the import relief with respect to specialty steel recommended by the International Trade Commission and placed in effect on June 14, 1976, has had a positive the economy of the United States as a effect on the specialty steel industry and on whole, and

Whereas removal of these import restraints would have a devastating effect on many American workers and their communities: Now, therefore, be it

Resolved, That the House of Representatives hereby urges the International Trade Commission to recommend to the President that the import restraints on specialty steel be continued for the full three-year term contemplated when they began on June 14, 1976.

NO ILLEGAL SUGAR PAYMENTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. FINDLEY. Mr. Speaker, in July the Comptroller General of the United States after making an investigation at my request concluded that an administration proposed plan to pay sugar processors a 2-cent per pound subsidy would be illegal. The Attorney General later verified that opinion, and the administration rescinded authorization of the payments. Now a new sugar scheme threatens illegally to distribute tax dollars to Hawaiian sugar interests. I have sent the following letter to the Attorney General protecting this latest sugar ploy:

Hon. GRIFFIN B. BELL,
Department of Justice,
Washington, D.C.

DEAR ATTORNEY GENERAL: I wish strongly to protest any retroactive sugar payments to Hawaiian sugar interests.

It is my contention that the original proposed sugar payments were illegal, and it was gratifying to note that your Department and the General Accounting Office agreed. The new retroactive payment plan now being developed by the U.S. Department of Agriculture is equally unlawful.

The new farm bill, S. 275, contains language which amends Title II of the Agricultural Act of 1949. It mandates an immediate price support for the 1977 and 1978 crops through loans and purchases only. This new authority supercedes, without any hiatus of time, the authority in Title II of the 1949 act which is being considered as a basis for the 1977 retroactive Hawaiian payments.

In addition, I question whether sugar that no longer is in existence can be legally the object of price support.

A belated gift from the taxpayers to several Hawaiian sugar corporations would be popular in some quarters, but I hope you will agree that such a plan is clearly unlawful.

To permit such payments to be made would be a travesty.

Sincerely yours,

PAUL FINDLEY,
Representative in Congress.

JUDGE EDWARD D. RE IS INVESTED CHIEF JUDGE OF THE U.S. CUSTOMS COURT

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. ADDABBO. Mr. Speaker, recently I had the privilege to attend a most memorable and impressive ceremony in New York. The occasion was the investiture of the newly appointed chief judge of the U.S. Customs Court, the Honorable Edward D. Re, a member of the court since 1968, who is also from New York City. The Honorable Warren E. Burger, the Chief Justice of the United States, presided at the special session of the court which was held in the U.S. Customs Courthouse in Foley Square on Friday, May 27. Speakers at the investiture, which was attended by approximately 700 persons, included the following:

LIST OF SPEAKERS

The Honorable Griffin B. Bell, Attorney General of the United States.

The Honorable Peter W. Rodino, Jr., chairman, Committee on the Judiciary, House of Representatives.

The Honorable Dennis DeConcini, United States Senator from Arizona, Senate Judiciary Committee.

The Honorable Abraham D. Beame, Mayor of the City of New York.

The Honorable Robert Carswell, Deputy Secretary of the Treasury.

William B. Spann, Jr., Esquire, President-elect, American Bar Association.

The Honorable Franco Foschi, Under Secretary of State, Ministry of Foreign Affairs, The Republic of Italy.

His Excellency Alessandro Cortese DeBosis, Consul General, The Republic of Italy.

Whitney North Seymour, Esquire, Past President, American Bar Association, Past President, Association of the Bar of the City of New York.

Ellsworth Qualey, Esquire, President, Association of the Customs Bar.

Chief Judge Howard T. Markey of the U.S. Court of Customs and Patent Appeals sat with the U.S. Customs Court for this special session of the court and introduced the participants at the ceremony. In his opening remarks, Judge Markey referred to the fact that the investiture ceremony was taking place during the observance of World Trade Week. He stated, in part:

One of the essentials of a constitutional government is to provide for independent, impartial judicial tribunals to resolve controversies between individuals and the government. When disputes involving importations arise, the federal judicial system, through the United States Customs Court, provides protection for the individual against wrongful government action, and protects the government revenue when the occasion requires.

This ceremony, Mr. Speaker, was, without doubt, one of the most dignified and impressive that I have ever witnessed. I regret that it was not possible for all of my colleagues also to have shared this event with me. I should like, therefore, to have these remarks inserted in the RECORD, together with portions of the statement made by the distinguished speakers that follow:

Attorney General BELL. I bring greetings on behalf of President Carter. He asked me to say that it was a great pleasure for him to name Judge Re as Chief Judge of the Court, and I would like to add that one can hardly go wrong with two friends like President Carter and Chairman Peter Rodino. It is no wonder that this man has achieved such heights.

Judge Re is a scholar; he is a teacher; a writer; jurist; gentleman, and a great public servant.

I have known Judge Re for many years. We have been on programs together at the Appellate Judges' Seminars over the years at the Federal Judicial Center. I have long admired him as a brilliant, able person. It pleased me very much when the President named him as Chief Judge.

Congressman RODINO. It is for me truly a great and singular privilege to be among so many distinguished Americans this afternoon, paying tribute to and saluting an individual who personifies what we in America must truly be grateful for, and that is a reflection of all that is typically American and best in America. I think it is all reflected in the man who today is being invested as Chief Judge of the United States Customs Court, Judge Edward D. Re; a man whom I am priveleged to call a friend; a man who is known as a scholar and educator; a man who is a jurist; a man who, indeed, before he was any of these was an immigrant, and that makes him typically American in this beautiful land of immigrants.

His career is typical American because it relates the great American dream of an immigrant who now sits on the Federal Bench of these United States of America, dispensing what is again looked upon by the people of the world as a system of justice which gives to all of us a sense of pride.

Chief Judge Re has within him attributes of fairness, of decency, of compassion. He brings these feelings as an immigrant from a land that has these great virtues and merges them with the great concepts that we find here in America in the system of laws that has stood the test of time.

Chief Judge Re will continue to reflect all of this and, today, Judge Re, let me say to you as my friend, that I consider it a great privilege and honor to be here as you are invested because, again, it demonstrates to me and to millions of others how the American dream can be realized.

I salute you and I know that your career, which has already been illustrious, will be one that will reflect even greater credit to this Bench.

Senator DECONCINI. It is my distinct pleasure to bring to you today the greetings of Chairman Eastland of the Judiciary Committee. He asked me to extend to you, Judge Re, his congratulations and sincerest best wishes.

Peter Rodino mentioned the 'American dream' and, indeed, that is what we have before us today. Edward D. Re is an example of that great American dream.

It is indeed an honor to be designated as

one of the nine persons in the United States to have the responsibility borne by the Customs Court, and it is an even greater honor to be the one person among the nine to be selected as its Chief Judge.

The Chief Judge, in addition to the responsibilities of a Judge hearing such cases, must make decisions for the Court in administering its fiscal affairs, the clerical staff, and other administrative functions.

The United States Customs Court, I know, will be well served by you, Judge Re, as it has been in the past. I can only say that this is one of the finest and most deserving appointments that I have seen in my political career on the national level. To see the American dream come true, especially for one as deserving as Edward D. Re is also a pleasure. I am certain that we will look upon this moment with fond memories in the years to come, and I congratulate you, my friend, Judge Re.

Mayor BEAME. Judge Re and I have known each other for many years. I have always enjoyed his friendship and always valued his counsel very highly. What has never ceased to amaze me about Judge Re has been his prodigious productivity in every field.

The large quantity of Judge Re's work is matched only by its high quality, and his achievements make his family and friends very, very proud.

I rejoice with him and his lovely wife, Peggy, in his new assignment.

A New Yorker; a scholar, a gentleman, a sage, a lawyer, a soldier, a patriot, a Judge, teacher, author, father and friend, Judge Re will bring new lustre to the Customs Court as its Chief Judge.

Deputy Secretary CARSWELL. * * * No one knows better than the men and women of the Custom Service and the Treasury Department of the importance of the United States Customs Court. Since we appear in virtually every case before this Court, we can readily attest to the significance of these cases, and also to the Court's extraordinary workload. Today, there are more than 98,000 cases on the Court's docket. Some involve issues that could well affect, significantly, our nation's patterns of foreign trade, its ability to meet various treaty obligations, and the regular flow of vital imports to our markets.

Only a very able jurist will be able to lead the Court through the orderly resolution of these issues, and our nation is very fortunate in having such a jurist in Judge Re.

I am glad we have in Judge Re a man who will also bring those qualities to the leadership of the Court. Judge Re has had a long and prestigious career as an attorney, professor of law, scholar, Air Force officer, hearing officer, Chairman of the Foreign Claims Settlement Commission, Assistant Secretary of State, and jurist.

His opinions, while they do not always match the brevity of his name, demonstrate a mastery of one of the more complex branches of our law. We at the Treasury Department are delighted that his erudition and expertise will be available to the Court in the years ahead.

Mr. SPANN. When President Justin Stanley asked me to represent the American Bar Association on this important occasion, I accepted with great pleasure * * * because the American Bar Association and the organized Bar owe a debt of gratitude to Chief Judge Edward D. Re because his professional life has included a substantial commitment of service to the law and to the association.

Judge Re has been particularly active and effective in the realm of international law. He has been a leader in the American Bar Association Section of International Law for over 20 years.

In 1976, the International Law Section called upon Judge Re to be its spokesman in the House of Delegates. As section delegate, he not only brings effective and influential counsel to the House on matters of trade, customs, and international law, but also on a myriad of other issues which that body deliberates and passes upon.

His work and his person symbolize intelligence, fairness, dedication, integrity and discernment. I know he has brought these same attributes to this Court for the past several years and will continue to do so.

Under Secretary FOSCHI (whose remarks were translated by the Consul General of Italy, Honorable Alessandro Cortese de Bosis). The President of the Republic of Italy, the Honorable Giovanni Leone, wishes to express, through me, to Chief Judge Edward D. Re, his most profound and heartfelt congratulations for this well-deserved appointment as further recognition of the high services which he has so remarkably rendered to his country and to the administration of justice since the early days of his career in 1947.

On his behalf, the President of the Council of Ministers, Prime Minister Giulio Andreotti, wishes to extend to Chief Judge Edward D. Re his heartfelt congratulations for the honor which has been bestowed upon him in recognition of his noteworthy services, and to extend to him also his most sincere best wishes for the important duties to which he has been newly appointed.

I wish to add, in the name of the Italian Government, and also on my own personal behalf, my warmest greetings, and I wish to thank you for the kind welcome which you have extended to me. To be able to attend this ceremony during which Judge Re is formally vested with the duties of Chief Judge of the United States Customs Court deeply moves me.

I may also add, on behalf of the Ambassador of Italy, and in my own behalf, my very sincerest congratulations to my noble and learned friend, Chief Judge Edward Re."

Mr. SEYMOUR. It is very hard to add anything to the honed truths that have been said about the new Chief Judge. He has been a great friend and worker in the organized Bar. We all know and honor him. He has been a fine teacher of young lawyers. He wrote a fine book on oral argument and brief writing—which would have done a lot of people a lot of good if they read it.

I think all that I would add is a slightly lighter note. At the Bar Association of the City of New York, for many years, we have had a marvelous band, which included Judge Leonard Moore of the Second Circuit. Chief Judge Re was the jazz drummer. He has assured me that, with all the heavy duties he is now undertaking, he is not going to give up his interest in music. And I would really tender, subject to the correction of the Chief Justice, that Chief Judge Re is the best jazz-drumming Chief Judge in the United States."

Mr. QUALEY.—It is a great personal privilege and pleasure for me, Judge Re, to bring you greetings on behalf of our Association on this occasion of your Investiture as Chief Judge of this Court.

The Customs Court has had a long and distinguished history in the field of Customs jurisprudence, and its decisions are increasing in importance in the field of world trade.

We members of the Custom Bar Association are familiar with Judge Re's many-faceted career, but we know him best as a writer of scholarly and erudite opinions in the field of Customs jurisprudence. Many of his decisions have already become landmarks in that area. I wish to express the pleasure of the Association at his elevation to the position of Chief Judge of this distinguished Court, and I offer sincere congratulations and best wishes for a long and successful term.

Needless to say, Mr. Speaker, the audience included numerous guests and friends of Chief Judge Re who, though not able to participate in the program, nevertheless added luster to the occasion by their presence. Among them were former Attorney General Herbert Brownell; Ambassador Roberto Gaja of Italy; Assistant Attorney General Barbara Babcock; General Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts; Prof. Leo Levin, Director-Designate of the Federal Judicial Center; Chief Judge David Edelstein of the U.S. District Court for the Southern District of New York; U.S. Court of Appeals Judges Ruggero J. Aldisert, Wilfred Weinberg and William Mulligan; Adrian deWind, president of the Association of the Bar of the City of New York; Lawrence Cusak, president of the New York County Lawyers Association; Surrogates Bernard Bloom, Louis D. Laurino and Millard Midonick; Law School Deans John Murphy, St. John's, E. Donald Shapiro, New York, and Michael Sovern, Columbia; John Thornton, chairman of the board of trustees of the New York Law Schoool; Col. Saul Fromkes, vice chairman of the board of trustees of St. John's University; vice presidents of St. John's University, Rev. Joseph Dirvin and John Newman.

In addition to a host of Federal and State judges, and many distinguished members of the bar, Judge Re's entire family was present, including his wife, Peggy Re; their 12 children; his mother, Mrs. Marina Maetta, Re; his sister, Nancy, Mrs. Clifford J. Scanlon with her family; his uncle, Rev. John Maetta.

All of Judge Re's colleagues on the Customs Court were present, except Judge Morgan Ford who was ill. They were: Judge Paul P. Rao; Judge Frederick Landis; Judge Scovel Richardson; Judge James L. Watson; Judge Herbert N. Maletz; Judge Barnard Newman; Judge Nils A. Boe and Senior Judge Samuel Rosenstein. Judges Ford, Landis, and Newman comprised the court's Investiture Committee, Judge Landis convened the special session in the absence of Judge Ford who was chairman of that committee.

Although many communications were received pertaining to the ceremony, I would like to read only the following:

I just want to extend to you my very best wishes upon your appointment as Chief Judge of [the] United States Customs Court.

The people of the United States have been very fortunate to have you serving on the Customs Court since 1969. Your scholastic record, your many published works, your noteworthy years of service to Presidents Kennedy and Johnson, and your tenure as an exceptionally competent judge, certainly will qualify you for this newest honor.

Joan and I want you and Peggy to know that our thoughts will be with you as Chief Justice Burger swears you in.

With warmest regards,

Sincerely, Walter F. Mondale, Vice-President of the United States.

And from a former Vice President of the United States the following to Chief Judge Re:

I deeply regret that I cannot accept the kind invitation of my friend Judge Edward

D. Re to be in New York for his Investiture ceremony on May 27th. I do want to send my greetings to all in attendance, however, and to join Ed Re's many friends and admirers in extending congratulations to him on this significant occasion.

Best wishes.

Signed, Hubert H. Humphrey, Senator.

Please accept my warm personal congratulations on your investiture as Chief Judge of the United States Customs Court. Over the years, you have served our nation with great distinction in numerous capacities, and it is fitting that yours should be the first judicial appointment on the Carter administration.

I remember well the confidence my brother, President Kennedy, had in you when he appointed you Chairman of the Foreign Claims Settlement Commission in 1961, and I want to assure you that I share that confidence.

You have my very best wishes as you assume your important and challenging new responsibilities.

TED KENNEDY,
U.S. Senate.

Please accept my warm personal congratulations on your Investiture as Chief Judge of the United States Customs Court. Over the years, you have served our nation with great distinction in numerous capacities, and it is fitting that yours should be the first judicial appointment of the Carter administration.

With every good wish,
Sincerely,

THOMAS P. O'NEILL, Jr.,
Speaker of the House.

Before administering the constitutional oath to Judge Re, the Chief Justice of the United States warmly praised Judge Re as a man of "intelligence, industry and integrity."

Judge Re, in his response, expressed a simple but genuine statement of gratitude and appreciation for the esteem, confidence, and friendship that had been demonstrated by all.

Mr. Speaker, I congratulate the President of the United States upon the selection of this renowned jurist to serve as chief judge of one of the four national courts of this country. By this appointment, President Carter joins two previous Presidents of the United States in recognizing the scholarship, administrative ability, and unique qualifications of Judge Re.

BANKING EXAMINATION

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. LEACH. Mr. Speaker, as a member of the Financial Institutions Subcommittee of the Banking Committee, I have participated in hearings on the adequacy of the bank examination process. Clearly greater oversight is needed and perhaps there is a limited role here for the GAO in overseeing the overseers.

But I hope the record is clear that any GAO oversight function protect the privacy of individual bank examinations and that the monetary responsibilities of the Federal Reserve remain outside the scope of the GAO's audit authority.

I would like to stress in this regard the problem of appearances as well as actuality. The GAO is after all an arm of Congress, and nothing would be more dangerous than to give the impression, real or otherwise, that individual Congressmen have a powerful influence on individual bank audits.

This morning it was reported that a high spokesman of the White House criticized a Chicago bank for giving a prominent Senator free airplane trips and partisan use of its offices. The implications of this type of unsubstantiated criticism is extraordinary. Defending one individual by attacking another is an old political tactic. It is also dangerous and unconscionable.

Of relevance here, however, is the serious problem of introducing political considerations in any approach to bank oversight. Whatever the merits of this legislation I would hope that the record is clear that any proposed GAO oversight not carry with it the omens of increased partisan involvement in the bank regulations function.

A FRESH LOOK AT THE PANAMA CANAL TREATY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. MICHEL. Mr. Speaker, most of the commentary on the Panama Canal Treaty has concerned itself with historical references, learned discussions of the Constitution and complicated arguments about international law. I recently read an editorial in the Peoria Journal-Star that looks at the treaty in a different light. Instead of the diplomatic niceties and scholarly allusions we are used to, this editorial deals with the treaty in a commonsense fashion. Omar Torrijos, dictator of Panama is seen for what he is: "a 10-cent gangster." He has learned that if you use the word "socialism" and claim you are doing things for "the People" you can shake down Uncle Sam for every cent he has. Indeed you can con him into paying you for taking something you should be paying him for. I found this view of the affair refreshing and awfully close to the truth. Torrijos is a petty gangster disguised as a "leader"—and we have fallen for the oldest con game in the world. It is the old "protection racket." Torrijos has graciously consented to take $50 million a year from American taxpayers. In return he has hinted strongly he just may be able to keep his thugs away from the canal.

At this point, I want to insert into the RECORD, "Gangster in the White House," from the Peoria Journal-Star, September 8, 1977:

[From the Peoria Journal Star, Sept. 8, 1977]

GANGSTER IN THE WHITE HOUSE

Omar Torrijos in the Oval Office?

Being turned into a Latin Hero on TV by a smiling President of the United States?

It turns my stomach. I'm prejudiced, of course. I was there when the "revolution" took over that has brought Torrijos to power.

I visited the "palace" and met with the goon squad in a setting right out of a Grade B old-time movie.

They called themselves "colonels" but there wasn't a real colonel in the room—with the possible exception of myself if you count reserve and retired commissions.

They were the Chicago police of the Capone era presiding over a port city about the size of Houston that, thanks to the canal, serves both Atlantic and Pacific shipping. Its industry is chiefly supplying entertainment to sailors on liberty—and its police force (called the National Guard) notoriously got rich shaking down the pimps, prostitutes, drug peddlers and assorted petty criminals.

Threatened with reform, they had ousted the newly elected "President" and "Congress" and taken over the country.

Now, they are in a position to be shaking down everything in the country as a dictatorship, and lately have discovered its easier if you do it in the name of "socialism." The muscle is the same, but you can claim to be using it in the name of "The People."

Now, they've graduated.

Torrijos calls himself a "general" and is shaking down the United States of America.

Now, I don't give a damn about the canal itself, but the fact is we paid for the property and built the facility on it and if they want it so badly, why don't they buy it from us like honest men?

If they made a proposal of a contract for deed purchase, to be paid off in terms of twenty or fifty million dollars a year out of the tolls or out of the Latin consortium, that would make some kind of sense.

(It would also test the sincerity of all this immense desire we are told about whereby the canal's change of ownership is of such transcendental importance to Latin America. They could demonstrate that in practical terms . . . not just hot air.)

But what are we doing? We are paying them fifty million a year or so until 2000 for them to take it.

And the people who cooked up this scheme wonder that the "ignorant public" has trouble understanding it?

There is only one reason for a deal where we pay them for it and turn over title both, instead of their paying us for the property if they want it so badly.

And if we don't understand it, be assured that everybody in Latin America will—and elsewhere.

It's because America has not the will to resist any demands that are accompanied by two threats: guerrilla war (even from a ten-cent gangster of a miniscule "nation" against his own only national resource); and the allegation "everybody will hate you if you don't do as I say."

I don't give a damn about the canal. I'd be tempted to bulldoze it under and give them back their original swamp.

But this form of deal proclaims the United States, whatever its wealth and whatever its material "arms" to be a third-class nation where it really counts—in the national will.

In that, we are an underdeveloped country.

Even tiny Panama, under its police-gangster boss, has more elan than we.

You just cannot hide cowardice in the face of petty criminals—at home or abroad—behind a face-saving claim of "moral superiority."

Or by pretending they are respectable world statesmen.

Or by an upside down deal whereby we sell the canal on contract for deed to them with one switch—we pay them!—C. L. Dancey.

WEST GERMAN LEADER EGO BAHR CONDEMNS NEUTRON BOMB

HON. JOHN CONYERS, JR.
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. CONYERS. Mr. Speaker, 3 months ago the Congress and the country first learned about the development of a new generation of enhanced radiation weapons, the neutron bomb. Research and development of this weapon, apparently, has been going on—in secret—for over two decades. The existence of this secret was only accidentally discovered in connection with Senate hearings 2 months ago on the Energy Research and Development Agency's budget. The sudden and unexpected revelation caused a great outcry here and in Europe. The ferment of opposition to the neutron bomb has intensified throughout Europe.

Critics of the bomb in this country who argued on moral grounds quickly were subjected to ridicule: when it comes to national security—as officially defined—it was said, there is no room for tendermindedness or even ethical judgment. In Europe where the experience of war is deep, moral arguments against the bomb are taken seriously. In America it appears that only technical and geopolitical arguments are taken seriously, regardless of their soundness. Opponents of the bomb have had no chance to argue on economic, or cost-effective, grounds since the weapon's price tag is secret. One estimate from an insider, however, places the total cost of research and development at $3 billion. Unfortunately, fiscal conservatives who zealously scrutinize expenditures on human resources have passed over the cost aspect of this weapon system, despite strong cost-effective arguments against it.

The most serious questions involving neutron bombs have received the least consideration: do these weapons increase or decrease the likelihood of nuclear war; do they strengthen or weaken deterrence of Soviet attack; to what extent are civilians living within several miles of neutron radiation harmed? This is particularly surprising since both President Carter and Secretary of Defense Brown publicly stated they know of no way of limiting a nuclear conflict. The former head of NATO's nuclear planning group, Gen. Johannes Steinhoff, recently stated,

> A weapon such as the neutron bomb makes nuclear war more manageable and therefore more likely.

Military specialists concede they do not know the long-term health effects of low-level radiation though it is known that people within a several miles radius would be affected.

Despite the absolute seriousness of the neutron bomb and the considerable ignorance of its implications, the House of Representatives this week is being called upon in the ERDA national security programs authorization bill (H.R. 6566) to approve its further development. The prevailing atmosphere of futility and resignation leaves little doubt that this body will concur in the hasty judgment of the Senate. Few things reveal to me so clearly the powerlessness of the Congress before the inexorableness of the military machine as does the lack of caution with which we have treated the issue of the neutron bomb. With more persistence and critical judgment, the issue of the neutron bomb could well have been a turning point in this country's choice of priorities, away from preoccupation with death-serving and unnecessary instruments of war toward genuine consideration of useful and humane projects of social and economic reconstruction at home.

One fortunate outcome of the disclosure of the neutron bomb has been the public discussion and, I am told, over the long term the European reaction may prove even more decisive in stopping this new round in the arms race than the reaction in this country. On the 17th of July the distinguished West German leader, Egon Bahr, wrote an editorial opposing the bomb in Vorwarts, the newspaper of the ruling Social Democratic Party. Mr. Bahr is the secretary-general of the party, publisher of the Vorwarts, a deputy in the West German legislature, the Bundestag, and former minister for economic cooperation in the Brandt government. Obviously, though the statement is his own, he is a man of considerable standing in Europe. Others of note had already effectively challenged the military and geopolitical claims for the weapon. Mr. Bahr, instead, examines the meaning of the neutron bomb for civilization and humankind.

I recommend to my colleagues that they read Egon Bahr's commentary on the neutron bomb in considering their action on this weapons system. To the best of my knowledge it has not been published before in the United States.

The commentary follows:

THE NEUTRON BOMB IS TURNING ALL VALUES UPSIDE DOWN

(By Egon Bahr)

We in the Social Democratic Party have for some years been discussing the subject of quality of life. After our unparalleled economic recovery and the material reforms in which almost the entire population participated, we are today asking ourselves about the meaning of this development. Man would be impoverished if he simply used material growth as the yardstick for success. Our society's aim of steadily increasing production of goods must only be a means to an end if we do not want to become the slaves of those goods. Self-realization and free development of personality must be man's goal; for this reason he should be concerned more and more with the quality and not the quantity of growth.

Now newspapers have begun explaining to us the effects of the neutron bomb. It is, in short, a weapon that causes no material damage or only very little, but it is a weapon that kills people in a "clean fashion." Is mankind becoming totally insane?

It is a matter on which the fate of mankind hinges; a new weapon has so far never remained in the exclusive possession of one country. Here the whole gamut of values is turned upside down. The preservation of material has now become the goal; man has relegated himself to second place. The main objective has become the renewed use of production facilities, roads and communication systems almost immediately after the new weapon's deployment. Another advantage of this weapon is that it will be easier to remove corpses than the ruins of cities and factories. Man has used his brain to make himself inferior to a slave of machine, in an emergency, the machine and not man has to be preserved. The neutron bomb is a symbol of our perverted thinking.

It does not matter at all whether we look at it from a Christian point of view or with the maxims of a humanistic ethic in mind, whether we question what we should defend or remember in our discussion about the sanctity of life: the neutron bomb moves man from the heart to the periphery and places matter at the heart. Either materialism will triumph or life—which of the two do we want to protect?

The longer we reflect on it the more questions come to mind, including those bordering on established concepts. Yet, they are all secondary to the central problem, the reversal of values, the mutation of human thinking which, in my opinion, manifests itself in the words neutron bomb, against which feelings and conscience simply revolt.

[Translated by Paul Vidal, Library of Congress].

A GERMAN-AMERICAN PATRIOT

HON. JAMES J. DELANEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. DELANEY. Mr. Speaker, this Saturday, September 17, marks the 147th anniversary of the birth of Baron von Steuben in 1730. It is only fitting that we join our fellow Americans of German descent in celebrating the dedication and accomplishments of our countryman.

When von Steuben offered his services to General George Washington, he waived all claim to rank or pay and asked only that his expenses be covered while acting as a volunteer. He proposed that if his services should contribute to the eventual success of the American cause, he would then expect compensation for his sacrifices in leaving Europe and such reward as Congress might be pleased to grant him, but that if the cause should fail, or if his services should not prove beneficial, he would make no claim whatso ever.

Baron von Steuben joined the cause of liberty in February 1778 in the midst of our Continental Army's most desperate winter at Valley Forge. Selecting a company of 100 men, he personally trained them in marching, in the manual of arms, in deploying into columns, and in loading precisely on command.

Then he used this cadre to instruct others and soon created an urgently needed American corps of sergeants. This was certainly one of the most remarkable achievements of rapid military training in the history of the world. Through it all, he maintained the respect and admiration of his men. One anecdote about von Steuben drilling a company of men who failed to execute a proper maneuver relates how he

> . . . began to swear in German, then in French, and then in both languages together. When he had exhausted his artillery of foreign oaths, he called to his aides, "My dear Walker and my dear Duponceau, come and swear for me in English. These fellows won't do what I bid them." A good-natured smile

went through the ranks and the maneuver was properly performed.

Until von Steuben became Inspector General, the Continental Army lost from 5,000 to 8,000 men a year, but 12 months after he took over, that number was reduced to an incredible three. The Americans came out of Valley Forge under von Steuben's leadership with a strength, morale, discipline, and tactical expertise that tney had never before shown.

Mr. Speaker, Steuben became an American citizen by an act of the New York State Legislature in July 1786. After his retirement and until his death in 1794, he made his residence in our city and was one of its most popular figures. In 1787, he actually became a regent of New York University.

I am privileged to have in the Ninth Congressional District many members of the Steuben Society of America and this Saturday they will be holding their 20th Annual Steuben Day Parade. The society, like its namesake, has a long and illustrious history of outstanding contributions to our country. I salute them as I salute the memory of Baron von Steuben—a heartfelt "prosit!" to all our German-American friends.

REGIONAL DISPARITIES IN VETERANS BENEFITS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HARRINGTON. Mr. Speaker, under the Suspension Calendar on Monday the House passed a bill which will increase veterans benefits. While I certainly favor the increase, as my vote for passage indicates, I nevertheless was disappointed that the bill came to the floor just 3 days before the Veterans' Affairs Committee was to take up the question of regional disparities in benefits.

The current GI bill's flat rate benefit structure has resulted in severe regional disparities in this program which in 1976 alone provided over $5 billion in scholarship benefits for Vietnam era veterans. The resulting low utilization rates in the Northeast and Midwest have meant that approximately $3.6 billion more in benefits have gone to individuals and institutions in the South and West than to individuals and institutions in the Northeast and Midwest since 1968, despite approximately equal numbers of eligible veterans in each region.

An analysis of the veterans' education program was undertaken by the Northeast-Midwest Economic Institute at the request of Representative SILVIO CONTE and myself. The Institute's study identifies the primary reason for the disparity to be the current program's use of a flat single payment for both living and education costs.

The Institute's study makes it clear that important changes must be made by Congress if veterans in the Northeast and Midwest are to be treated fairly.

Mr. Speaker, I commend to the attention of the House the following two editorials from the Boston Globe and the Washington Post that deal with the regional problems inherent in the veterans high education aid program:

[From the Boston Sunday Globe, July 31, 1977]

MAKING BENEFITS BENEFICIAL

While some government policies, decisions on military procurement for instance, can be skewed by undue attention to geographic interests, other policies can be as badly warped by a failure to consider legitimate regional interests. This is nowhere better illustrated than in the matter of veterans' benefits.

The heart of the problem is that since the Korean War, veterans across the country have received the same flat monthly sum—currently $292—regardless of the cost of living where they reside or the tuition at the educational institution they attend.

The result, acording to two recent studies, is that veterans in the Northeast and Midwest—where college tuitions are relatively high and where the development of inexpensive junior colleges and technical schools lags behind the Southwest and West—have been unable to take advantage of the veterans' benefit program.

A recent study by Susan Unterberger of the Northeast-Midwest Research Institute in Washington reported: "Although the Southern and Western states have almost the same number of eligible veterans as the Northeastern and Midwestern states, veterans in Sunbelt states received $3.7 billion more in federally financed GI Bill scholarships than did veterans in the Northeast and Midwest between 1968 and 1976."

The Senate Veterans Committee has approved a proposal that would allow veterans, whose annual tuition bills exceed $1000, to accelerate use of their 45 months of benefits, thereby granting them larger (but fewer) benefit payments. The committee has also approved a 6.6 percent increase in overall benefits.

The Senate committee has taken a step in the right direction with approval of the accelerated-benefits plan; a House subcommittee on the other hand, has done nothing to ease the regional inequities, satisfying itself with an across-the-board 6 percent increase. And to date, the Carter Administration has also failed to address the issue, advocating simply a 5 percent increase in benefits.

The most meaningful reform proposal sponsored by Pittsfield Republican Rep. Silvio O. Conte, among others, would authorize a supplemental educational benefit with the government paying 80 percent of tuition bills between $400 and $1400 annually.

The across-the-board increase will do nothing to lessen the regional disparities. What is needed is a strong statement now from President Carter and leadership from Speaker O'Neill to limit at least the general increase and to use the money instead to improve the accelerated benefits plan or to adopt outright an equilization formula. Only such a substantial restructuring of the program will assure that the young and often troubled veterans of Vietnam, no matter where they reside, will be able to secure the benefits they are due.

[From the Washington Post, July 25, 1977]

THE HOUSE AND THE GI BILL

As the Senate and House get further along into legislation on the GI Bill, it ought to be kept in mind exactly whose lives are being discussed. Out of eight million Vietnam-era veterans, less than three million served in Southeast Asia. Of these less than one million saw combat. The average Vietnam-era veteran, according to the Veterans Administration, is 30 years old, married with one or two children, and has a high-school education. Average income is $13,400. Within this relatively stable picture, though, is the considerably bleaker lot endured by perhaps as many as one million veterans who are unemployed, underemployed, shut out of school, denied help for psychological readjustment problems and, in general are the forgotten victims of a lost war. A few weeks ago, we reported on a survey done in Cleveland on the lives of 346 veterans. More than 40 per cent of the combat veterans were unemployed. More than a fourth were divorced. Forty-one per cent had alcohol problems. More than half had drug problems.

With these men in mind, Rep. Lester Wolff (D-N.Y.) has introduced the Comprehensive Veterans Readjustment Assistance Act. Its major purpose is to remove the structural inequities found in many parts of the current GI Bill. At the moment, for example, the majority of GI Bill veterans receive an average of $350 a month for as little as 12 hours a week attendance in a community college. Meanwhile, the nearly one million unemployed or underemployed veterans are shut out because the GI Bill lacks the provisions for effective readjustment assistance. Rep. Wolff's legislation would address this problem by allowing veterans to draw a larger monthly check over a proportionately reduced time. This is the accelerated-entitlement concept. For veterans who demonstrate need and can complete their education in less than 45 months, the effect of the Wolff bill would be to make available sufficient funds to support their families and pay for the kind of schooling that previously they couldn't get. The Wolff bill is co-sponsored by 90 House members, as well as a majority of the Veterans Affairs subcommittee on education and training.

On Friday, the Senate Veterans Affairs Committee unanimously approved a similar approach that was offered by Sens. Alan Cranston (D-Calif.) and John Durkin (D-N.H.). But it doesn't look as hopeful in the House. The leadership of its Veterans Affairs Committee appears eager to rush through a proposal for a six per cent cost-of-living increase for those veterans lucky enough to be in school. The effect of this would be to spend much of the available money on veterans who are comparatively well off. According to the VA, the majority of this group is employed full time and earning an average of $1,000 per month. It is one thing for such House committee members as Texas Democrats Ray Roberts and Olin Teague to favor a cost-of-living increase, but it is something else for them to be acting as though little time exists for considering alternative proposals. Although hearings on the Wolff bill are now promised, the full committee has a responsibility to wait until it can be determined how best to spend the limited funds that are available.

In July 1974, President Nixon revealed his feelings about Vietnam veterans when, in a letter to the House committee, he threatened to veto any bill that would allow those veterans locked out of school to use their benefits. Mr. Nixon stated that if only a small percentage of them came forward it would be excessive and inflationary—that veterans didn't need it anyway. That narrow view prevailed, and has held until today. This time, the veterans have a President who has stressed both his appreciation for their sacrifices and their right to assistance. With legislation in both the Senate and House, this is the time for Mr. Carter to put this year's presidential influence behind last year's campaign rhetoric.

DOUBTS ABOUT PLUTONIUM BREEDER REACTORS GROW IN EUROPE

HON. GEORGE E. BROWN, JR.
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. BROWN of California. Mr. Speaker, as the vote approaches on the Clinch River breeder reactor demonstration project, it is important that we all know of recent developments in Europe. One of the main arguments we have heard for proceeding with the U.S. commercialization program has been that since European countries are proceeding with commercial plutonium breeder development, it is too late to slow, alter, or stop the development of this technology. While this may be true, it is too early to say that it is so, largely because the thesis has not yet been tested. In any case, given time, we can probably develop technologies which would reduce the proliferation threat from the currently planned breeder reactors. The cancellation of the Clinch River breeder reactor project would show that the United States is serious about trying, and increase the chances of getting international cooperation in nuclear safeguards and proliferation controls.

Mr. Speaker, I would like to insert in the RECORD, at the conclusion of these remarks, a recent article from Science magazine on the antinuclear movement in Europe. I do so, not to endorse this movement, just as I do not endorse the antinuclear movement in the United States, but rather to show that the political situation in Western Europe is in a great deal of flux, and the nuclear energy policy of last year may not be the nuclear energy policy of next year in a number of European countries. As the article points out,

Beyond public opposition, the plutonium breeder is running into trouble in Germany for many of the same reasons it has in the United States; program delays, safety concerns, and cost overruns threaten to undermine the claim that it can one day become an economically competitive energy source.

The article follows:

[From Science Magazine, Sept. 16, 1977]

SCIENCE IN EUROPE—THE ANTINUCLEAR MOVEMENT TAKES HOLD

(By Nigel Hawkes)

(NOTE.—Five months after the announcement of President Carter's nonproliferation policy, the common wisdom in this country is that Europe has hardly wavered in its rush toward nuclear power. The cry that "Europe will do what it wants whether the United States builds a breeder or not" is often heard from American nuclear interests, with apparent justification as the State Department has shown little visible progress in negotiating new agreements and some signs of retreating from its original goals.

(But popular protest against nuclear power has reached a pitch in Europe that would be barely imaginable today in this country, and the political strength of the antinuclear forces has become formidable, not only in Sweden where nuclear power was a pivotal issue last year, but across the continent. West Germany's research minister recently predicted that that country's two ruling coalition parties will vote for a complete moratorium on nuclear construction when they meet this fall, and some observers predict that any moratorium contingent on creation of a waste disposal site could last up to 12 years. Beyond public opposition, the plutonium breeder is running into trouble in Germany for many of the same reasons it has in the United States; program delays, safety concerns, and cost overruns threaten to undermine the claim that it can one day become an economically competitive energy source.

(Nuclear opposition is far from being a single-issue movement in Europe, as groups of many political persuasions embrace it for their own reasons. But as the following report by Nigel Hawkes details, the Carter administration policy is not the only thing holding back nuclear power in Europe.)—W.D.M.

After Europe's biggest and bloodiest antinuclear demonstration (one dead, more than 100 injured) at the site of France's first commercial fast breeder reactor, the antinuclear groups face some difficult decisions. The violence of the last weekend in July, when more than 20,000 demonstrators battled with 5000 French riot police at Creys-Malville, near Lyon, has played into the hands of the French and German governments, who like to portray antinuclear campaigners as extremist misfits more interested in attacking the structure of the state than in opposing nuclear power.

This charge is particularly damaging in West Germany, where the terrorist and anarchist fringe is again active. It was the same weekend as the Creys-Malville demonstration that a West German banker, Herr Jurgens Ponto, was shot dead by terrorists at his home near Frankfurt. And although some of the violence at Creys-Malville can be laid at the feet of the French riot police, there is no doubt that the taint of extremism is damaging the antinuclear cause.

The week after Creys-Malville, the German antinuclear groups took stock and named their next two targets—a nuclear site at Phillipsburg, near the French border, and the site at Kalkar, on the Rhine, where Germany's own fast breeder prototype, the SNR-300, is being built. To try to avoid violence, both these demonstrations will be preceded by an attempt at public education; demonstrators will be lectured on the facts behind the antinuclear campaign and urged to avoid violence at all costs.

Good intentions, however, are unlikely to be enough. While the environmental and antinuclear groups may be able to control their own supporters, they will find it more difficult to shrug off the revolutionary and anarchist groups who have attached themselves to the cause. It was one of these groups, a so-called "commando" unit led by Germans, that has been blamed for sparking off the Creys-Malville violence.

Wearing helmets and wielding clubs, this group charged the police lines, throwing stones and gasoline bombs. The police responded with tear gas grenades and smoke bombs, spreading the violence to the main body of the demonstrators.

The Creys-Malville demonstration was notable on two counts in addition to its violence. It was directed at the world's first commercial fast breeder reactor, and it was international with many thousands of Germans, Swiss, and Italians joining the French. Creys-Malville is the site for Super-Phenix, a 1200-megawatt breeder based on France's Phénix prototype and largely paid for by France but with minority German and Italian interests.

Fast breeders are likely to become a priority target for the antinuclear groups both because they are newer—and therefore less familiar to the public—and because they necessarily involve the recycling of spent nuclear fuel and hence the plutonium economy. There have already been the first stirrings of a campaign in Britain against building a commercial breeder (the decision is likely to be taken next summer) and the German decision to demonstration at Kalkar indicates the same trend.

The effect of the Creys-Malville battle has not been particularly helpful to the antinuclear cause in France. Most of the press, including the Communist newspaper *L'Humanite*, condemned the marchers and supported the police, although some were critical of police tactics. *Le Monde* speculated that an antiecology movement might already be under way in reaction to the environmental campaigns. And even before the march, some supporters had pulled out because they feared that it would be violent.

Since the march, there have been a series of sporadic attacks against property of the French electrical utility, Electricité de France. A gasoline bomb was thrown through the window of an EDF office in Paris, a bulldozer on a construction site was damaged, and EDF offices were invaded by protesters for sit-in's. In counter protest, French electricity workers went on strike for 1 hour, issuing a statement deploring the attacks and saying that EDF staff "will not let themselves be insulted and will not accept working in unsafe conditions."

The Creys-Malville demonstration had been planned for more than a year by the French environmental groups, which have become increasingly vocal and effective in French politics. In the local elections in March, environmentalists standing for office as "Green Candidates' did remarkably well, polling up to 15 percent of the vote in the first ballot in some places. Like such campaigners elsewhere, the French environmentalists are predominantly young, many of them students, and some see them as the natural successors of the young people who brought France to a standstill in May 1968. They are outside the conventional political parties and they have a taste for direct action.

While the violence of the Creys-Malville demonstration was not officially encouraged by the organizers, neither was it condemned. Brice Lalande of the French branch of Friends of the Earth concentrated his criticism after the event on the local prefect, Rene Jannin, whom he accused of incompetence and xenophobia. The Malville committees which had helped to organize the demonstration affirmed their support for "all the demonstrators, whatever their political persuasion, nationality, or method of action may be."

So far, the German antinuclear movement has proved the most effective in Europe, both in the numbers of demonstrators it can call out and in the delays it has imposed on the nuclear program. The two demonstrations which established the movement as a real threat to the German Government's plans occurred at Whyl, on the Rhine, where demonstrators occupied for many months a site chosen for a nuclear plant, and at Brokdorf, on the Elbe Estuary, where violent clashes between police and demonstrators caused many injuries.

The German groups have been equally effective in their use of legal and planning procedures to block the building of nuclear plants. At the moment no less than eight nuclear plants are being blocked by legal objections, and difficulties in finding a site for the disposal of nuclear waste have been used by one court as grounds for stopping the building of a nuclear plant. The Government, however, has stood firm, declaring that its plan to provide Germany with 45 nuclear plants in the next 10 years is both correct and necessary.

Its convictions will face a political test at the party congresses of the Social Democrats and the Free Democrats later this year. These two parties, which make up the ruling coalition, include some nuclear doubters,

and the antinuclear lobbyists will be campaigning at the party congresses to bring more over into the fold.

The fast breeder program is likely to be a key element in the arguments. It is the largest government-funded research and development program in West Germany and is in some disarray. The SNR-300 prototype, conceived in the mid-1960's and justified by some highly optimistic cost projections, is years behind schedule and grossly over budget. Allowing for inflation, the cost of the 300-megawatt reactor has increased fourfold since the first estimates were made in 1965, principally because of extensive changes in the design demanded by the German reactor safety authorities and the electrical utilities.

Since the SNR-300 was designed to be as "commercial" a prototype as possible, the electrical utilities were also consulted extensively on its design, and the changes they introduced further increased costs. According to a study of the SNR-300 which has just been completed by Otto Keck, a lecturer in science policy studies at the University of Ulm, the cost of building the SNR-300 will be 4800 DM ($2100) per kilowatt installed (prices quoted at the 1972 value of the DM) some eight times greater than a conventional thermal reactor would cost.

Thus the Germans have by a paradox produced a fast breeder which is "commercial" and at the same time hopelessly uncommercial. Keck concludes that the high priority given to the breeder program by the German government appears not to be justified, the economic prospects are dim, the benefits of government subsidy doubtful, and the likelihood is that it will be a commercial failure.

Critics of the Keck thesis argue that SNR-300 is not typical of the costs of a large commercial fast breeder, and say that Super-Phénix will cost only 50 percent more than a thermal reactor of the same size. If this target were to be met, then Super-Phénix would be economical on the assumption that uranium costs $40 a pound and enrichment costs $90 per kilogram of separative work, figures are not far out of line with present prices.

But Keck doubts that Super-Phénix is in fact fully commercial, in the sense that it could be licensed in the United States, for example. And he suspects that changes needed to make the design licensable would so increase its costs that it would become uneconomic at any foreseeable uranium price.

Arguments of this sort are relatively new on the European nuclear scene but are likely to gain greater prominence as fast breeder programs develop. And although less dramatic than storming the police lines at Creys-Malville, they could in the end prove more influential.

DR. VINCENT McKELVEY: WAS HE REPLACED FOR BEING TOO OPTIMISTIC ABOUT OUR DOMESTIC SOURCES OF ENERGY?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. KEMP. Mr. Speaker, I was recently disappointed to learn that Dr. Vincent McKelvey, Director of the U.S. Geological Survey, has been forced to resign his post because of his optimistic view of our energy situation—a view that runs counter to the "Malthusian" pessimism of President Carter, Secretaries Andrus and Schlesinger, and others.

I do not believe it is a coincidence that McKelvey's forced removal from his post as Director of the U.S. Geological Survey, which is unprecedented in its history, followed closely on the heels of an important speech given by McKelvey to the TSAI forum in Boston on June 13. In that speech McKelvey refuted the notion that the United States is rapidly running out of energy. There are vast amounts of hydrocarbons sealed away in forms not presently recoverable economically, such as gas in tight formations in the Rocky Mountains, gas in black shales in the Eastern United States, and gas occluded in coal beds throughout the country.

In addition McKelvey noted that there are vast reserves of natural gas in the geopressurized zones of the gulf coast region, both on- and off-shore. He said that investigations in the area have led to estimates of as much as 60,000 to 80,000 trillion cubic feet of natural gas available. As McKelvey said:

This is an almost incomprehensible large number. Even the bottom of the range represents about ten times the energy value of all oil, gas and coal reserves of the United States combined.

I am especially concerned that the administration's treatment of McKelvey is part of a larger pattern of suppressing dissent on the energy issue. Earlier there was the ill-fated MOPPS study which concluded that at a price of $2.25 per mcf the Nation would be awash with natural gas. At a price of between $2.50 and $3 we would be engulfed in it. But because this conclusion ran counter to the official line, as laid down by James Schlesinger and his mentor S. David Freeman, ERDA quickly rushed out to do another MOPPS study to contradict the first. The director of the first MOPPS study, Dr. Christian Knudsen, was fired.

I believe that this treatment of any Government official who deviates from the official administration line that the United States is on the very brink of running out of energy is an absolute scandal. Insofar as there is any shortage of energy at all it is simply due to Government price controls. Yet rather than allow a free market to operate the Carter administration insists on imposing huge taxes on the already overtaxed American people to conserve energy and promoting new sources of energy which are vastly more expensive and environmentally harmful than the conventional oil and natural gas which is presently available at a decontrolled price. By way of illustration, the proposed trans-Canada gas pipeline endorsed by President Carter will not possibly be able to deliver natural gas to the United States for less than $3 per mcf. Yet President Carter refuses to support natural gas decontrol on the grounds that it is too expensive, despite that fact that the unregulated intrastate price is only about $2.10 per mcf—compared to the present controlled price of $1.45.

The Wall Street Journal has consistently tried to make these facts known to the American people. Most recently it revealed that the Russians estimate the existence of as much as 350 billion trillion cubic feet of natural gas on Earth. This compares to total U.S. consumption of only 20 trillion cubic feet per year at present.

I hope that my colleagues will read this important article and join me in denouncing the administration's absurd energy policies and its attempt to stifle dissent from men like Dr. McKelvey and Dr. Knudsen.

At this point I would like to insert into the RECORD the Wall Street Journal article I referred to from September 14, and an article about Dr. McKelvey's speech from the Oil Daily, July 14, 1977:

[From the Oil Daily, July 14, 1977]

GAS TRAPPED IN "GEOPRESSURIZED" ZONES

BOSTON, MASS.—As much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the "geopressured" zones underlying the gulf coast region, an Interior Department official said.

"This is an almost incomprehensibly large number," said U.S. Geological Survey Director Dr. V. E. McKelvey, noting that "even the bottom the range represents about 10 times the energy value of all oil, gas and coal reserves of the United States combined."

The estimate is based on limited investigation of the gas dissolved in water and free above the water zone.

Additionally, McKelvey said, "the water itself represents a potential source available at pressures up to 10,000 pounds per square inch and at temperatures exceeding 300 degrees F., provided ways can be found to produce, use and dispose of it."

He said vast amounts of hydrocarbons also are sealed in forms not presently recoverable economically, such as gas in tight sandstone formations in the Rocky Mountains, gas in black shales in the eastern United States and gas occluded in coal beds throughout the country.

McKelvey said oil appeared to be the least abundant of the fossil fuels, although estimates of undiscovered oil resources were high enough to justify further exploration and development.

He said the amount of coal and oil shale is both large and relatively well known. Large amounts of gas are also believed to exist, although less is known about their extent or the technology needed to produce them.

McKelvey's remarks were delivered before a group of institutional investors attending the Tsai Forum in Boston, sponsored by G. Tsai and Co.

[From the Wall Street Journal, Sept. 14, 1977]

20 MILLION YEARS OF ENERGY

Back in April the Carter White House argued that the "energy crisis" meant that the world was going to run out of petroleum and natural gas on a certain Tuesday near the turn of the century. Because the earth would refuse to give up any more bounty, the law of supply and demand was repealed, and instead you needed a new Department of Energy and a lot of new taxes to promote conservation.

The administration no longer talks that way about natural gas, and we modestly claim some of the credit for our April 27 editorial, "1,001 Years of Natural Gas." Energy Czar James Schlesinger now concedes that just here in the U.S. we have some 30 years worth of ordinary gas, plus some 100 years of geopressured methane. The Carter folks no longer talk about the constraints of the gas resource base before any serious audience. To contend that supply and demand don't work they fall back on junk arguments, e.g., that the shortage is not of gas but of drilling rigs. When that is laughed off they argue that if supply and demand works for gas it doesn't work for oil. Some Wednesday near the turn of the century

the world will run out of crude oil and even if there isn't an "energy crisis" there will be a horrendous "liquid hydrocarbons crisis."

The world's real energy experts in and out of the Carter administration know that this too is nonsense. A year ago, the experts seminared in Laxenburg, Austria, under United Nations auspices. Their report, "The Future Supply of Nature-Made Petroleum and Gas" (New York: Pergamon Press), concludes that there is petroleum galore out there. President Carter ought to send Andrew Young around to pick up a copy.

In the UN report, the President will find Dr. Joseph Barnea, an Israeli citizen who was the UN's director of natural resources from 1951–65, suggesting why it is Mr. Carter is being told there is so little petroleum. The shortage is one of definition. The U.S. Geological Survey, he says, defines crude oil as ". . . a natural mixture of hydrocarbons occurring underground in a liquid state in porous-rock reservoirs and remaining in a liquid state as it flows from a well at atmospheric pressure." This definition excludes the perhaps 85% of primary crude that can be brought up under pressure, plus all the non-liquid petroleum—tar sands, oil shales, etc.

"The result is that the estimates of recoverable oil which are published cover perhaps 1% of nature-made oil in place," says Dr. Barnea. The other 99% can be recovered via the law of supply and demand. In fact, he says, the resource base itself is a function of price minus taxes. "As prices expand, the natural resource base expands. As taxes and costs rise, the resource base declines."

This is even more true for the rest of the world. Bernardo Grossling of the U.S. Geological Survey, who was also at the Austria seminar, says the reason there's been so little oil discovered in, say, Africa and Latin America, is that the surface has barely been scratched there relative to exploration in the United States.

By the end of 1975, there had been 2,425,095 wells drilled in the United States. According to Mr. Grossling, the numbers drilled in the rest of the world are as follows: U.S.S.R.—530,000; Canada—100,000; Australia and New Zealand—2,500; Western Europe—25,000; Japan—5,500; Africa and Madagascar—15,000; Latin America—100,000; South and South East Asia—11,000; China, P.R.—9,000. The United States has 75% of the world total. There are only 10,000 wells in the Middle East

President Carter will also learn that in 1942 the best estimate of ultimate reserves of crude oil was 600 billion barrels. In 1970, Mobil's geologists were estimating two trillion. In 1973, Peter Odell, writing in the Geographical Journal, saw the resource base reaching four trillion barrels by the year 2000. This "gives very little cause for concern, not only for the remainder of this century, but also thereafter well into the 21st Century at rates of consumption which will then be five or more times their present level."

What does the Moscow Academy of Sciences think? At the Austria session, Russian scientists Nesterov and Salmanov reckoned the crude oil resource base at a bit over 12 trillion barrels, or several centuries worth of the stuff. The Russians, by the way, make our 1,001 Years of Natural Gas editorial look puny. By counting hydrosphere gases—natural gas dissolved in oceans, underground water, ice, rivers, lakes and swamps—they figure the planet contains something like 350 billion trillion cubic feet of natural gas. That's 20 million years worth, conservatively, give or take a year.

The Club of Rome and the rest to the contrary, we aren't going to drain the last drop of oil from the earth some Wednesday. There are plenty of hydrocarbons to last until solar power comes in, so long as we will pay the cost of retrieving them. The law of supply and demand still works if allowed to. We don't need a new Department of Energy and a lot of economy-busting taxes. We only need to deregulate the price and get the politicians out of the way.

PARTING WITH CLINCH RIVER: "A WISE PLUTONIUM DECISION"

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. DRINAN. Mr. Speaker, I am encouraged by the healthy debate which has surrounded House consideration of the fiscal year 1978 ERDA authorization, yet it is vitally important that we consider both the political and technical context in which our decision on the U.S. breeder program will be made.

In urging adoption of the Brown amendment to H.R. 6796—which would delete funding for commercial demonstration of the liquid metal fast breeder reactor, LMFBR, at Clinch River, Tenn.—I highly commend the following article by Russell Peterson, former Chairman of the President's Council on Environmental Quality, which appears in the Washington Post of September 10, 1977:

[From the Washington Post, Sept. 10, 1977]

A WISE PLUTONIUM DECISION

(By Russell W. Peterson)

In mid-September, the House of Representatives will decide whether it will accept or repudiate President Carter's decision not to build a commercial demonstration plutonium breeder reactor on the Clinch River in Tennessee.

The issue faced by the House is clear. Should a major foreign-policy initiative to control nuclear proliferation be undermined by the construction of a reactor that the Secretary of Energy says is not needed, that the Secretary of Defense warns endangers national security and that the Secretary of State has warned will undermine that non-proliferation policy?

To understand Carter's decision, it is important to understand how drastically the situation has changed since 1972, when Congress approved the Clinch River Breeder Reactor (CRBR) project. The decision to build the CRBR was based on two assumptions: that there would be 1,200 operating nuclear-power reactors in the United States in the year 2000 and that nuclear-weapons proliferation was not a major threat. It is now clear that these assumptions were wrong.

With 1,200 reactors operating, all of our known low-cost uranium supplies would have been rapidly exhausted. Since the breeder produces more plutonium than it consumes, it has the potential to extend the nuclear-fuel supply for centuries. Thus, the decision was made to commercialize the plutonium-breeder technology as quickly as possible.

We now estimate there will be about 350 reactors operating in the United States in the year 2000. This decline in demand for nuclear-power plants has effectively tripled uranium supplies. Thus, there is no longer any urgency to commercialize breeder technology.

With regard to nuclear proliferation, it is important to understand that the House Committee on International Relations has stated, "Safeguards which are adequate and effective when applied to nuclear reactors are inadequate and ineffective when applied to . . . separated plutonium." The international safeguards system is based on the assumption that there will be a "timely warning" of the diversion of materials intended for peaceful use to military use. Each shipment of plutonium-based fuel contains enough plutonium to make 50 atomic weapons. Since the plutonium can be separated out of this fuel in a few days or weeks, even if the International Atomic Energy Agency immediately detects this activity, there will not be time for international sanctions to stop the nation from making atomic weapons.

As long as uranium fuels are used, the "timely warning" is possible, at least in theory, because it will take 9 to 12 months to extract weapons-grade plutonium from spent uranium wastes, an adequate time to bring sanctions to bear.

I strongly support the decision to cancel the Clinch River Breeder Reactor because the use of plutonium as an energy fuel is incompatible with a secure world. The President's non-proliferation policy must not be undercut at just the time its success is becoming evident. For instance, the West German government recently announced a freeze in its funding for large plutonium-production facilities. It would be a tragedy if the great promise of this non-proliferation policy were nullified by a narrow, short-sighted decision to fund a reactor that is neither necessary nor desirable.

TAX CREDIT FOR EDUCATIONAL EXPENSES

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. APPLEGATE. Mr. Speaker, today I am introducing legislation that is very much needed and long overdue. My bill will provide a tax credit against income tax for expenses paid by a taxpayer in connection with his education or with the education of his or her spouse or any of his or her dependents.

In particular, the amount of credit available is limited to the lesser of either one-half of the educational expenses or $1,500. Further, it covers any accredited institution of higher education, including vocational schools.

More than ever, our breadwinners are finding it increasingly difficult to provide advanced education either to their children, spouse, or themselves. This is particularly true with those parents who have more than one child in college.

I need not point out the fact that the majority of our schools have increased their tuition and fees for the school year now beginning. With each of these increases, we are limiting the number of citizens who attempt to further better themselves and, in the end, our country. The best way to remedy this situation is to provide a tax credit, as this bill will do.

This concept of financing one's education has wide bipartisan support. Measures similar to this have been passed by the Senate in four of the last five Congresses. There are approximately 140 Members of this House who have either sponsored or cosponsored legislation along the lines of my bill. Certainly, it deserves to be reviewed and considered.

Mr. Speaker, it would be my hope that my colleagues in the House Ways and Means Committee would debate this issue in the very near future. I am sure that they would see the necessity for this sort of legislation.

The bill follows:

H.R. —

A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44B the following new section:

EXPENSES FOR HIGHER EDUCATION

"SEC. 44C. (a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of the educational expenses which are paid by the taxpayer during such year in connection with the education, at an eligible educational institution, of the taxpayer, his spouse, or any individual with respect to whom the taxpayer is entitled for the taxable year to an exemption under section 151(e).

"(b) LIMITATION.—

"(1) MAXIMUM AMOUNT OF EDUCATIONAL EXPENSES TAKEN INTO ACCOUNT.—The aggregate amount of educational expenses, incurred during the taxable year, of any one individual receiving an education which may be taken into account under subsection (a) shall not exceed the lesser of—

"(A) one-half of the educational expenses of such individual for the taxable year, or

"(B) $1,500.

"(2) MARRIED INDIVIDUALS.—In the case of a married individual (as determined under section 143) who files a separate return, paragraph (1)(B) shall be applied by substituting '$750' for '$1,500'.

"(3) INDIVIDUAL RECEIVING EDUCATION MUST BE FULL-TIME STUDENT.—Amounts paid as educational expenses for the education of any individual shall be taken into account under subsection (a) only if such individual is a student (as defined in section 151(e)(4)) for the calendar year in which the taxable year of the taxpayer begins.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by this section shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to credit for the elderly),

"(C) section 38 (relating to credit for investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to general tax credit),

"(G) section 44A (relating to expenses for household and dependent care services necessary for gainful employment), and

"(H) section 44(B) (relating to credit for employment of certain new employees).

"(c) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL EXPENSES.—The term 'educational expenses', means the expense of the following items to the extent that they are incurred in or incident to, and are reasonable and necessary for, the pursuit of an education at an eligible educational institution:

"(A) tuition;

"(B) laboratory, library, study, enrollment, and other required fees and charges;

"(C) required textbooks, and other books and materials necessary for or directly related to required study or research;

"(D) room and board (in the case of an individual not living at home while attending the institution); and

"(E) any other items which are actually required for and directly related to the effective pursuit of an education of the type and at the institution involved.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education; or

"(B) a vocational school.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1201(a) and 491(b) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational educational school as defined in section 195(2) of the Vocational Education Act of 1963 (as in effect on and after October 1, 1977)."

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44B the following:

"Sec. 44C. Expenses for higher education.".

(2) Subsection (c) of section 56 of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) section 44C (relating to expenses of higher education).".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1976.

INDOCHINESE REFUGEE ASSISTANCE PROGRAM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. STARK. Mr. Speaker, today I am introducing legislation to extend the Indochinese refugee assistance program.

The administration has now proposed a 3-year extension of this program, which is due to expire at the end of this month. Although its proposal will reduce somewhat State and local tax burdens, regrettably it does not include special or social service funding. It also immediately cuts the level of reimbursement to State and local governments to 75 percent, which I believe will not only create havoc for many States, but also effectively cripple the program—thereby perpetuating a costly state of dependency among many refugees.

Like the administration bill, my bill, which Senator HUMPHREY will be introducing in the Senate, also calls for a 3-year extension, but includes a phase-down which provides 100-percent funding during fiscal year 1978; 75 percent in fiscal year 1979; and 50 percent in fiscal year 1980. Most importantly, the bill also provides for continued funding for social services, that function which is most important in preparing the refugee population to enter the mainstream of American life. Both the Humphrey-Stark bill and the administration proposal also call for complete funding for the 15,000 additional refugees whose admission the Attorney General recently authorized.

Legislation I have introduced to extend the Indochinese refugee assistance program, including this new bill, now has over 50 cosponsors. I believe it meets the goals of establishing a program that is humane, cost effective, and responsible. Time is getting short, however, and the termination of IRAP on September 30 of this year will have a devastating impact not only on the refugees, but also on the State and local governments that will have to pick up the well over $100 million cost of providing this much needed assistance during the coming fiscal year. I urge you to consider seriously this legislation.

Following is a list of the Members of Congress that are supporting an extension of the Indochinese refugee assistance program:

LIST OF COSPONSORS

Daniel Akaka, Les AuCoin, Herman Badillo, Max Baucus, Jonathan Bingham, George Brown, Claire Burgener, Phillip Burton, James Cleveland, James Corman, Ronald Dellums, Ed Derwinski.

Robert Drinan, Bob Edgar, Don Edwards, Allen Ertel, Don Fraser, Michael Harrington, Elizabeth Holtzman, Robert Lagomarsino, Robert Leggett, William Lehman, Jim Lloyd, Pete McCloskey.

Mike McCormack, Helen Meyner, Barbara Mikulski, Abner Mikva, Norman Mineta, John Moss, James Oberstar, Leon Paneta, Jerry Patterson, Ed Pattison, Joel Pritchard, Leo Ryan, Paul Simon.

John Slack, Stephen Solarz, William Steiger, Paul Tsongas, Al Ullman, Lionel Van Deerlin, Bruce Vento, Henry Waxman, Ted Weiss, Larry Winn, Jr., Bob Wilson, Charles H. Wilson, Antonio Won Pat.

OBJECTIONS TO RAISING THE MANDATORY RETIREMENT AGE ANSWERED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. MICHEL. Mr. Speaker, the New York Times today published an article by our colleague, PAUL FINDLEY of Illinois, which expertly answers many of the objections raised by some labor and business leaders to H.R. 5383, a bill to raise the mandatory retirement age from 65 to 70. Since the bill is scheduled for a vote on the floor of the House tomorrow, Mr. FINDLEY's arguments should receive close attention. This article in one of the Nation's most prestigious newspapers represents another positive step by my fellow Illinoisian to win for every American the basic human right to be judged according to his or her ability and not merely by age.

The article follows:

THE TIME TO RETIRE

(By Paul Findley)

WASHINGTON.—Chances are strong that before the year is out Congress will lower another barrier to human rights. The House of Representatives will vote any day now on a bill to raise the minimum age for mandatory retirement from 65 to 70 and require the Labor Department to recommend whether mandatory retirement should be ended altogether.

Mandatory retirement infringes on a basic right: the right to be judged on ability, not merely on age. Because of it, our society loses goods and services estimated at more than $10 billion each year. And individuals suffer reduced incomes and lose the self-esteem employment brings.

Yet in a strange-bedfellow alliance the Chamber of Commerce of the United States and the A.F.L.–C.I.O. testified at recent Senate hearings against raising the mandatory retirement age. They said that we need mandatory retirement below age 70 to open jobs for young persons. But a Government survey suggests that only 7 percent of those retiring would keep their jobs if they could; most people want to retire as early as possible.

The House bill would not impair pension or Social Security benefits that make retirement at or before 65 feasible and desirable. Also, in the next decade about 30 percent fewer young people will enter the labor force than in the last 10 years, now that the flood of babies born during and right after World War II has entered adult life.

At any rate, those who attempt to solve an employment problem for the young by putting older persons out of work merely trade one form of unemployment for another. They would break the law if they forced blacks to give up jobs to whites, or women to men; it should also be illegal to discriminate against older Americans.

The AFL–CIO wants to keep mandatory retirement as an issue for negotiation during collective bargaining. Union leaders argue that because they represent a majority of the workers, mandatory retirement would therefore be a majority decision. But a majority should never be permitted to impose injustice on even a small minority. Unions cannot bargain away the rights of blacks or women—why older citizens? In fact, most rank-and-file union members oppose mandatory retirement. Ironically, the AFL–CIO retains as its leader 83-year-old George Meany.

Business representatives argue that they need a policy of retiring everyone automatically at a set age, usually 65, because they do not know how to be fair in deciding who is able to carry on and who is not. And they claim that a single retirement age spares incompetent workers the trauma of being singled out as no longer able to do their jobs.

Behind their reasoning lies the myth that old age usually causes people to fall apart mentally and physically. Actually, senility and disability hit only a minority of older persons. As individuals age, reaction time does slow somewhat, but older workers usually compensate with carefulness, wisdom, experience and dependability.

By using already developed testing techniques, personnel directors can identify those few who have slipped enough to hinder their work. In most cases, employees realize when they begin to fail, and leave voluntarily.

The point is that mandatory retirement inflicts more personal pain and trauma than it prevents. It pushes out of factories and offices older workers who know they are still competent. The American Medical Association charges that forced retirement often leads to "physical and emotional illness and premature death."

Business spokesmen point out that mandatory retirement will increase the number of positions for young executives within a company. Turnover at higher levels brings in fresh talent and increases opportunity for members of minority groups. But nothing would prevent companies from limiting tenure in top jobs to a certain number of years, with no reference to age.

Business representatives maintain that mandatory retirement helps workers more easily plan their futures. However, a worker enjoys more flexibility in his planning when he has greater choice in his retirement date rather than having it dictated to him.

Business leaders expect that raising mandatory retirement will increase the average age of the work force and thus boost disability costs. But the cost of a disability must be met whether an older man or woman is employed or retired. How much better to meet the problem when a person is still an active part of the economy and contributing to his or her own welfare!

Finally, companies fear that raising the mandatory retirement age means another hassle with Federal red tape to get pension-plan changes approved. But the Internal Revenue Service and the Labor Department have offered assurances that such simple changes will need no approval.

Many business and labor leaders, of course, have looked at the issue carefully and see that an end to mandatory retirement will bring both more efficiency and greater fairness. But others resist. As with most advances in human rights, only a change in the law will bring practice into conformity with principle. So let's get on with it.

A BILL FOR THE RELIEF OF CHARLES J. MANGAN

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HARRIS. Mr. Speaker, today, I introduced a private bill for the relief of Charles J. Mangan to alleviate the burden of certain penalties which have been imposed on him under section 6672 of the Internal Revenue Code of 1954.

In 1976, Mr. Mangan brought a refund suit in the U.S. District Court for the Eastern District of Virginia to recover "responsible officer" penalties assessed against him and partially collected in connection with his association with two corporations, Amtco, Inc. and Autogen Machine Products, Inc. The district judge rendered verdicts in the cases, one in Mr. Mangan's favor, one in favor of the United States. As a result, Mr. Mangan has been ordered to pay the U.S. Government an amount in excess of $25,000.

Such liability was incurred because Amtco, Inc. did not pay certain withholding taxes and social security taxes for the period January 1, 1970, through June 30, 1970, while Charles Mangan was president and a shareholder of the corporation.

Both the taxpayer and the United States noted appeals in the cases but both were subsequently withdrawn as both sides believed that a reversal in either case would be unlikely. The time for appealing the district court judgment has since expired, and Mr. Mangan has no further legal remedies available to him.

This case is not a complicated tax matter. When cash flow problems make it impossible for employers to withhold social security and income taxes from the wages of its employees, the Internal Revenue Service is authorized to collect a penalty equal to 100 percent of these taxes from the responsible person. This person must not only be responsible, but his conduct in not paying the taxes must demonstrate both deliberate and willful avoidance. Mr. Mangan did not display deliberate or willful avoidance. On the contrary, he made every effort to fulfill his obligations.

During his first 5 years as Amtco's chief executive officer, Mr. Mangan faithfully fulfilled the company's withholding tax obligations. However, in December, 1969, the corporation suffered a sudden financial reversal. It only had the money to meet the net payroll and did not have the money to set aside the employee income taxes and social security taxes. Therefore, for the first time in Amtco's history, it failed to make a timely deposit to the Federal Reserve Bank of its withheld taxes for the month of December, 1969. However, as a result of the concern and the efforts of Mr. Mangan, the corporation during his remaining association before July 28, 1970, paid these taxes for December.

On July 28, 1970, Mr. Mangan resigned as president of Amtco, Inc. Until the time of his resignation, Mr. Mangan made deliberate, conscientious and intentional efforts to do all that was humanly possible under the circumstances to keep the payroll taxes of the corporation current. He was in constant negotiations with the corporation for a plan which would provide the corporation with the funds to pay these taxes and bring its other obligations current.

In January 1971, Mr. Mangan, after having been unemployed for 6 months, liquidated his only remaining personal asset—$32,000 worth of stock in a restaurant. He contributed the proceeds of this sale to the corporation in return for stock and an agreement signed by the corporation's director and other stockholders that these funds would be paid to the Internal Revenue Service to satisfy the corporation's tax liability.

The financial condition of the company improved in January after Mr. Mangan and others purchased $64,000 of preferred stock from the corporation to give it funds, but the directing head of the corporation used these funds to pay and increase salaries and secure management consultant services, rather than for the payment of the withheld taxes per the agreement with Mr. Mangan. Further, the Internal Revenue Service representative assigned to collect these taxes was aware, on and after September 1970, of the financial condition of the corporation. The representative voluntarily allowed the corporation to use its funds to maintain the organization for another year and a half and to pay other inferior creditors. The Internal Revenue Service could have collected taxes but failed to do so.

Mr. Mangan made a sincere effort to help Amtco satisfy its obligation to the Internal Revenue Service for the em-

ployment taxes withheld from the employees during his effective control of the corporation. I urge the favorable consideration of this bill.

DISCIPLES OF CHRIST SUPPORT PANAMA TREATY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. SIMON. Mr. Speaker, along with other Members of the House, I received a copy of the resolution of the Division of Overseas Ministries of the Christian Church—Disciples of Christ.

This is one of the major church denominations of our Nation, and I believe their statement is significant. I hope my colleagues will not only read it but heed its sound advice:

RESOLUTION CONCERNING A NEW TREATY WITH THE REPUBLIC OF PANAMA

When the Secretary of State, John Hay, submitted the Hay/Bunau-Varilla Treaty to the Senate for ratification in 1903, he stated that the Treaty was "very satisfactory, vastly advantageous to the United States and not so advantageous to Panama." That treaty granted the United States a strip of land ten (10) miles wide and fifty (50) miles long in order to build, operate and defend a canal between the Atlantic and the Pacific, and provided the right for the U.S. "in perpetuity" to act within that strip of land, as "if it were sovereign."

Discussions of a new treaty have been underway in recent years, with Panamanian and other Latin American leaders supporting a very different arrangement. In February 1974 a joint statement of principle was signed by the former United States Secretary of State, Henry Kissinger, and Panama's Zone Minister, Juan Antonio Tack. Briefly summarized, the principles called for the following elements in a new treaty:

1. Elimination of the "in perpetuity" provision.

2. Termination of the United States' exercise of sovereignty in jurisdiction of the Canal Zone, with the United States granted rights, facility and territory as needed to operate and defend the Canal during the life of the Treaty.

3. Increasing Panamanian participation in operation and defense of the Canal, with eventual reversion of operation and control of the Canal to Panama, at the end of the Treaty.

4. A just and equitable share of economic benefits from the Canal to be accorded to Panama.

Since the beginning of the present Administration negotiations have moved forward. In an address to the Organization of American States (OAS) in April, 1977, President Carter affirmed his commitment to a new Panama Canal treaty that would take account of "Panama's definitive needs as a sovereign nation and our interests and yours (OAS) . . . in the efficient operation of a neutral Canal." But the President's commitment alone is not sufficient since a new agreement is subject to ratification by the United States Senate and a Panamanian plebiscite.

The treaty presently being negotiated would abrogate the "in perpetuity" clause and establish a new basis of cooperation between the United States and Panama. The Panamanian exercise of sovereignty in the Canal Zone would be clear in theory and in practice. The treaty would also indicate when Panama would take over the maintenance and operation of the Canal.

Believing that the Panama Canal negotiations are a test of this country's express intent to conduct its relationships with Latin America on a basis of mutual respect;

Convinced that an insistence by the U.S. Government on the concept of "in perpetuity" in today's world is not only unrealistic but dangerous;

Committed to the principle that the Canal remain open on a non-discriminating basis to the U.S. and other countries.

The General Assembly of the Christian Church (Disciples of Christ) meeting in Kansas City, Missouri, October 21–26, 1977 resolves:

1. That the United States government be urged to recognize the sovereignty of the Republic of Panama over all Panamanian territory, including the present Canal Zone, and move as rapidly as possible in negotiating a new treaty for the Panama Canal with the government of the Republic of Panama;

2. That appreciation be expressed to representatives of both governments for the agreement on principles signed in 1974, and for the spirit of cooperation which it represents;

3. That members of the U.S. Congress be sent copies of this resolution and urged to support the effort to negotiate a new Treaty with the Republic of Panama which will assure the recognition of Panamanian sovereignty, mutual security and effective joint operation;

4. That congregations of the Christian Church (Disciples of Christ) undertake educational programs concerning the urgent needs for a new Treaty with Panama, including the history of the relationship, the injustices of the past, the inadequacies of the existing Treaty, the prospects of peaceful and just relations in the future, and the appeals for understanding from Panamanian church leaders;

5. That all citizens be urged to study the issues involved and to inform their elected officials of their support for the negotiation of a new Treaty which is equitable and fair to the people of both nations; and

6. That the General Minister and President write to President Carter to express the Assembly's support for his commitment to a new Treaty for the Panama Canal.

DIVISION OF OVERSEAS MINISTRIES.

GASOLINE PRICES

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. COLLINS of Texas. Mr. Speaker, today Americans experience most favorable gasoline prices in our country. We are still producing some of our own oil and the competitive factors keep the price of gasoline down.

But this year we are now importing half of our oil from the Arab OPEC countries. The United States must reestablish adequate oil and gas reserves so as to make ourselves independent of oil imports.

Gasoline prices will probably go up, but most Americans do not appreciate or realize how fortunate they are compared to the rest of the world. The U.S. oil companies have a strong progressive record of achievement.

Listed below are current worldwide gasoline prices:

	Per gallon
Italy	$2.23
Uruguay	2.11
India	1.70
Japan (Tokyo)	1.68
Denmark	1.65
Norway	1.65
Austria	1.50
Germany	1.48
England (London)	1.44
Argentina	1.27
United States	.66

LABOR MANAGEMENT RELATIONS FOR FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. CLAY. Mr. Speaker, today, with the cosponsorship of my distinguished colleague from Michigan—Mr. WILLIAM FORD, I have introduced a bill which would establish by law a labor-management relations program for Federal employees. Our bill incorporates the basic features of two similar bills which were introduced earlier in this session—H.R. 13, which I introduced on January 4, and H.R. 1589, which Mr. FORD introduced on January 10.

The Subcommittee on Civil Service, which I am privileged to chair, has conducted 6 days of public hearings on labor-management legislation. The subcommittee received testimony from 12 witnesses.

Regretfully, because the Civil Service Commission has not yet determined its position on this issue, the subcommittee has not had the benefit of its views. While I am hopeful that we will have the benefit of the administration's views before this legislation reaches the floor of the House of Representatives, I believe that this issue is too important to wait upon the administration to complete its "study."

The existing Federal labor-management relations program is overly biased in favor of management, the scope of bargaining is so limited as to render it virtually meaningless, the procedure for the resolution of impasses and disputes is unwieldly and overly drawn out.

The bill which I have introduced today with my colleague, Mr. WILLIAM D. FORD, addresses these issues in a manner which is effective, fair, and balanced.

While my colleague and I may differ in our respective approach to some details of this bill, Mr. Speaker, we are united in its basic thrust. We have each made some modifications in our original approach to this issue. We may need to resolve other differences in our approach. We are however united in our determination to provide a balanced impartial approach to labor-management relations for Federal employees.

The major provisions of our bill, as we introduced it are as follows:

Finds that it is in the public interest to establish by law the right of federal employees to bargain collectively over the terms and conditions of their employment and provides federal employees with the right to join

or not to join a labor organization, to participate in its management, and to bargain collectively over the terms and conditions of their employment. (Sections 7101, 7102)

Establishes a Presidentially-appointed three-member Federal Labor Relations Authority with responsibility for administering the provisions of the law. (Sections 7104, 7105)

Provides that labor organization may secure exclusive representation by election; for agency shop; and for dues check-off by (1) exclusive representative, (2) an organization holding a 10% membership base if no other group holds exclusivity, and (3) an alternate labor organization, should the employee choose to do so. (Sections 7111, 7113, 7116)

Provides for the negotiation of grievance procedures (except employment discrimination and political rights), with binding arbitration and judicial review. An employee who pursues grievances and appeals by the statutory appeals mechanism may select his/her own representative. (Sections 7103(A)(16), 7121, 7122, 7123, 7124)

Provides for the resolution of impasses through third-party intervention—Federal Services Impasses Panel—and binding arbitration; authorizes the assistance of the Federal Mediation and Conciliation Service. (Section 7119)

Establishes a seven-member Employee Pay and Benefits Council which negotiates pay and other major money-related fringe benefits with the President's agent (Chairman of the Civil Service Commission, Director of Office of Management and Budget, and Secretary of Labor) and provides for presidential alternatives and Congressional disapproval of recommendations. (Sections 7114, 7115)

Provides official time for contract negotiations, negotiation of ground rules, and processing of grievances. (Section 7132)

Provides an employee against whom an adverse action is proposed with 30 days writ-

Provides for the prevention and resolution ten notice, relevant materials and pretermination hearing. (Section 7503)

of unfair labor practices and standards of conduct for labor and management. (Sections 7117, 718, 7120)

CONGRESSMAN CRANE TELLS WHY HE OPPOSES PLAN TO CAP HOSPITAL COSTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. McDONALD. Mr. Speaker, an excellent article by Congressman CRANE appeared in the August 1977, issue of the Federation of American Hospitals Review opposing President Carter's hospital cost containment proposal.

Mr. CRANE points out in his article that it is not hospital income which should be controlled, but Government spending. However, even if Government spending is not controlled, it is better to allow prices to rise because at least people will be able to plan their future and control their access to health care. The Government has no right to mandate lower quality health care and restrict its availability in order to hold down its cost.

Congressman CRANE has fast become a real expert in the area of health care and Federal involvement of health care since he began serving on the Ways and Means Health Subcommittee in 1975. I commend the following article to the attention of my colleagues.

BY CONGRESSMAN PHILIP M. CRANE (R-ILL)

Although a number of bills have been introduced to enact some kind of hospital cost containment program, it is highly probable that many of the provisions of President Carter's proposal will be incorporated into the final version which reaches the House and Senate floors for a vote.

Therefore, I will direct my criticism of these plans toward the one proposed by the Administration this spring—which would limit hospital revenue increases to 9 percent and total expenditures for capital improvements to $2.5 billion in fiscal 1978.

I am deeply concerned that, in an attempt to put a lid on the rising costs of hospital care, the President and the Congress will end up prescribing a cure that is far worse that the disease. As any hospital administrator knows, the reasons behind the increases in hospital rates and overall expenditures for health care are varied and complex—most of which are beyond the control of the hospitals themselves.

It would be unrealistic to expect that hospitals could continue to provide the same level of services while absorbing these uncontrollable increases. By placing a ceiling on hospital reimbursements and capital expenditures, I fear that the President's proposal will seriously jeopardize our health system's ability to continue to provide innovative, high quality care.

The first part of the Carter plan—limiting the yearly increase in hospital revenues to a percentage based on the rate of inflation in the previous year—has a number of defects. By subjecting all hospitals to the same limit without regard to such factors as size, patient mix or degree of cost efficiency, this plan is inherently unfair. Urban and rural hospitals would be treated the same as those in the suburbs despite wide variations in the number of beds, occupancy rates, admission demographics, available services, or fixed operating expenses.

SOME WOULD BE PENALIZED

Since the reimbursement figures for one year are used to determine the next year's revenues, hospitals with excessive overhead in the base period would be rewarded while the leaner hospitals would be penalized for their cost-saving efforts.

Unless a hospital is in serious financial difficulty, only limited exceptions to the revenue increase limit will be made. If the volume of admission increases more than 2 percent, an amount equal to one-half the average revenue per admission in the base year will be permitted for each admission above that figure. Large hospitals (more than 4,000 admissions) would not be allowed additional revenues above a 15 percent increase in admissions without a special exemption from the HEW and would require a certificate from the HSA that such an increase was justified by community needs.

Though hospitals less than two years old would be exempted, the financial disadvantages of increasing admissions could present serious problems when they are eventually brought into the plan. Because it takes several years to build up its occupancy rate, the disincentives in the plan would handicap this effort. For example, if a hospital's occupancy rate after two years of operation were 60 percent, increases of 2 percent and 15 percent would only bring the figure up to 61.2 percent and 69 percent, respectively. At the rate of 2 percent, it would take this hospital more than 15 years to reach an optimum occupancy rate of 80 percent.

NO PROVISIONS FOR CHANGE

As the permitted amount of revenue is based on the number of admissions rather than intensity of services, the plan makes no provision for changes in the patient mix. The acquisition of new equipment and/or addition of services could substantially raise the cost of treatment for a number of patients with little effect on the volume. Since the ceiling figure is applied to each source of revenue—whether it be public programs, private third party payors, or patient's out-of-picket public expenses—the Carter plan assumes that the proportion of admissions among the various sources of revenue and kinds of treatment provided to beneficiaries will not change.

Should an enormously expensive program be added to Medicare, or Blue Cross/Blue Shield expand their benefits, the average cost of treatment per admission could substantially increase. For example, the end-stage renal disease program under Medicare will cost $0.9 billion in fiscal 1978, or about $25,000 for each of the 36,000 patients. Had the Carter plan been in effect when the ESRD program was begun, hospitals would have been forced to absorb any expenses above the allowable total revenue from Medicare or turn away these patients. Even minor changes in benefits can change the ratio of revenues from the major sources, as expenses formerly paid by one payor or by the patient may then be covered under another payor's plan.

The addition of intensive care units for infants—while saving the lives of many premature babies who otherwise, would have died—would increase the average cost of maternity care without necessarily increasing the number of births in that hospital. None of these institutions in which the intensity of services is increased is taken into account by an admission's exemption based on volume.

ADJUSTMENTS LIMITED

Despite the fact that each hospital has a long list of expenditures beyond its control, adjustments in the revenue ceiling are permitted only for the wages of non-supervisory personnel. If, for instance, 35 percent of a hospital's budget went to pay the salaries of these workers—who were granted an 11 percent wage increase in the current year—the revenue limit would be 9.7 percent (an 11 percent increase on 35 percent and a 9 percent increase on the remaining 65 percent.) With this allowance, there would be no restraint on wage demands—thus providing an incentive for the lower-wage workers to unionize.

It seems inconsistent to me that a plan—purporting to hold down hospital costs—would make an exemption for labor, which is by far the largest item in a hospital's budget. Any increase in these costs will have a significant effect on hospital rates, negating any savings resulting from controls on non-labor items. With the federal minimum wage likely to jump to $2.65 this year, the wages of all employees will escalate. However, the salaries for professional and supervisory personnel could be frozen or cut by the hospitals in order to stay within the revenue ceiling. The situation may develop whereby a hospital faces a crippling strike by some of its employees and defection by others seeking higher pay elsewhere.

COSTS KEEP RISING

A number of items in hospital budgets have risen in price much faster than the 9 percent, which would be allowed under this plan. Yet, none of these would be passed through. Energy costs alone have risen an average of 15.1 percent on the CPI each year since 1970. The cost of pharmaceuticals and medical supplies increased more than 11 percent in 1976. Malpractice insurance premiums have skyrocketed—with some hospitals reporting increases of several hundred percent in a single year. The average hospital liability insurance premium in 1975 was nearly nine times higher than the 1970 figure.

Construction costs have escalated, and sophisticated medical equipment is increasingly more expensive. Local property taxes

have risen sharply—and many hospitals are not exempt from this uncontrollable item.

Since 10 states now have some kind of hospital budget review plan in effect, it should be noted that the Carter proposal makes provision for these states to receive waivers—but only under very strict conditions. A state's hospital cost containment plan must have been in effect at least one year prior to waiver—must include all payors except Medicare—and must cover at least 90 percent of the hospitals that would be included in the federal program.

WAIVERS DIFFICULT

The state program's track record would have to demonstrate the ability to attain the federal goal of capping revenue increase. The waiver requirements are so difficult to meet that the HEW has admitted it expects only three of the current state plans to qualify. The fact that none of the state rate review plans has succeeded in holding increases to the Carter plan's first-year goal of 9 percent should be an indication that this figure is unrealistic.

Administratively, the plan to cap hospital revenues would be a nightmare. The allowable increase for the first year of the program—fiscal 1978—is based on each hospital's total revenues in calendar year 1976, or in the accounting period that ended in 1976, if the hospital has a different fiscal year. An adjustment would be made for cost increases between the end of the 1976 base period and October 1, 1977—the effective date of the proposal—at an annual rate equal to the increase between the 1975 accounting year and the base period—not to exceed 15 percent or fall below 6 percent. A hospital whose cost increases exceeded 15 percent in this period would be penalized and would have to absorb the difference in future allowable increases.

For the period between September 30 and the start of the hospital's fiscal year, the rate for the federal fiscal year will be applied (9 percent in fiscal 1978). For those hospitals with fiscal years beginning on a date other than October 1, it will be necessary to pro-rate the increase permissible for the two segments which fall in different federal fiscal years.

ACCOUNTING TO BE PROBLEM

Because there is a time lag between the close of a hospital's fiscal year and the date at which an accounting report can be completed, hospitals will have to enter the next fiscal year without knowing the exact amount of revenue it will be allowed that year. Planning a budget without such a figure would be nearly impossible. The hospital would either have to overcharge—with any excess placed in reserve to be liquidated by undercharging the next year—or risk a deficit with no way of retroactively collecting additional payments from patients already billed.

Since physicians are largely responsible for determining whether patients are to be admitted, there is little a hospital can do—short of rationing services—to keep annual admissions within a prescribed limit, let alone leave a cushion for unexpected situations, such as a flu epidemic or a disaster.

Under the second part of the Carter plan, capital expenditures for all hospitals would be limited to a total of $2.5 billion during the first year of the program—only above half the current spending level. Any such expenditures (over $100,000) would require a certificate of need from the state health planning agency. The total figure would be apportioned to the states on the basis of population, regardless of the age or condition of its hospitals.

EXPANSIONS TO BE LIMITED

In line with the Administration's contention that there exists a great excess of hospital beds, a moratorium on construction of hospital wings would be imposed in health service areas with more than four beds per 1,000. The only exception would be if a state permanently closed twice as many beds as were being added. But no exemption is granted to replace an obsolete facility with a smaller one. Under this plan, a new Cook County Hospital could not be built until the old facility had been torn down—thus eliminating the source of care for the poor in the interim. Since Illinois would only be allowed one-fifth of its current capital expenditures under the plan's formula, construction of a new county hospital would be impossible. Expansion of facilities in areas with rapidly growing populations would also be severely limited.

A limit on capital expenditures would have an adverse effect on continued advancement in medical research and technology. The acquisition of such lifesaving equipment as coronary care and burn treatment units, CAT scanners, and other new devices would be greatly limited. While there may be some areas of the country with the latest in medical technology, other areas where such equipment is scarce or non-existent would have difficulty in purchasing it under this plan.

There is the possibility that the $2.5 billion cap will not be enough to finance either new construction or purchase equipment. Even now, the hospitals are forced to make large capital expenditures just to maintain standards of medical quality—not to mention improvements required to meet federal, state and local regulations. In fact, this figure may not be enough to meet the requirements of the Life Safety Codes—not to mention Section 504 of the Rehabilitation Act, which will require facilities to remove barriers to the handicapped.

CONTROL PLAN IRONIC

It is ironic that the greatest factor in increasing the costs of health care—the federal government—now proposes to rectify this by imposing further controls. Numerous government regulations have caused these costs to escalate by requiring additional staff for the added paperwork, legal accounting, and administrative tasks which result from them. Hospitals are affected by federal minimum wage laws, the Taft-Hartley Act, ERISA, OSHA, EPA, FDA personnel licensing standards, budget review, rate and reimbursement regulations, and quality assurance standards—just to name a few.

The cost of complying with federal regulations has been estimated at $17 per patient day—a figure which is bound to soar with the enactment of the cost containment proposal. For all the hue and cry over the number of excess hospital beds, the recently-terminated Hill-Burton program was responsible for constructing 40 percent of the beds in non-federal, short-term hospitals as recently as 1974—a year in which more than $15 billion was spent to operate Hill-Burton-supported beds.

Federal action to increase the number of doctors resulted in the doubling of medical school enrollments in the last 10 years—adding to the cost of teaching hospitals. Though we now are close to a surplus of physicians, the government's health manpower programs probably contributed to the maldistribution of specialists and the decreasing number of general practitioners.

EFFECTS OF U.S. PLANS

I would be remiss if I failed to mention the effects of the Medicare and Medicaid programs on our health care system. The rate of hospital admissions and surgical procedures for the elderly rose 25 percent and 40 percent, respectively, with the enactment of these programs. While the annual rates of price increases for medical services, as measured by the CPI, were an average of 3.2 percent per year pre-Medicare (July, 1959 to June, 1966), the average in the first five years post-Medicare (June, 1966 to June, 1971) was 7.9 percent. Medicare and Medicaid will account for $36.5 billion of the $44.3 billion in federal outlays for health in fiscal 1978—even with the cost savings anticipated under this proposal.

If the Administration truly intends to do its part to hold down costs in health care, it must begin by easing the burden of government regulations and reduce federal overhead. It is unfair to single out the hospitals for punitive cost controls while exempting wage increases and without imposing cost controls on the supplies that hospitals must purchase. A cap on hospital revenues—considering the hospital's largely uncontrollable expenditures—can only lead to a rationing of health care and a deterioration in quality.

Many hospitals have had cost-saving programs in effect for a number of years, and—with federal control programs such as HSAs and PSROs already in existence—it is unlikely that any further substantial cuts can be made without bankrupting the system.

There are two ways to address the issue of cost containment with respect to health care—one, material; the other, human. Tragically, as one arbitrarily contains material cost through such programs as those recommended by the Carter Administration, it must come at the expense of human suffering and the denial of the finest health care to American citizens that can be found in the world.

If President Carter chooses to cut off his own nose to spite his face, that is his business. To do it to the American people is unconscionable.

PRELIMINARY ANALYSIS OF THE PROPOSED PANAMA CANAL TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HANSEN. Mr. Speaker, President Carter has offered many explanations to the American people of what the proposed Panama Canal treaties would accomplish. However, the administration has yet to present an indepth analysis of the treaty. Perhaps this is due to the fact that there are several areas in which President Carter feels he cannot offer an adequate explanation.

I have just received a special preliminary analysis of the proposed treaties which was specially prepared for the Council on Inter-American Security by the Foundation of Law and Society, a public interest law firm located in Washington, D.C.

This preliminary analysis which I am herewith submitting for the record will be supplemented with materials examining the various agreements, annexes, minutes, and protocols, and will be followed by detailed review of the Panama Treaty documents. Additionally, my good friend and colleague, Congressman RUDD or Arizona, plans to contact every Member individually with a letter concerning this preliminary analysis.

Mr. Speaker, there is an urgent need to know among all Americans as to just exactly what these proposed treaties would really do for or to America. Therefore, I commend this information highly to my colleagues as well as the American public. The analysis follows:

THE PANAMA CANAL TREATY

(Preliminary Analysis and Problem Areas of the Two Interrelated Treaties on the Panama Canal)

PRELIMINARY OBSERVATIONS

This Treaty would establish the operational scheme for the Canal during the next twenty-three years. It is divided into two distinct phases: (1) through December 31, 1989, and (2) through December 31, 1999.

Four mechanisms related to the operation of the Canal would be established by the Treaty:

(1) The Panama Canal Commission (PCC). This would be the primary operating body and would be composed of five Americans and four Panamanians to be appointed by their respective governments.

(2) The Panama Canal Consultative Committee (CCC). Each country would have equal representation on the CCC which would function in an advisory capacity to their respective governments on policy matters related to user fees, employment policies, and

(3) Joint Commission on the Environment (JCE). Each country would have equal representation on the JCE which would recommend policies to protect the environment.

(4) Military Defense Board (MDB). Each country would have equal representation.

It should be noted that representation on the CCC, JEC and MDB are subconsular and, therefore, do not require advice and consent.

Implementation of the Treaty, where it is not self executing, is through two Agreements, an Annex, and an Agreed Minute. These ancillary documents were not available in time for inclusion in this preliminary analysis.

THE PANAMA CANAL TREATY

Prologue

Abrogates prior treaties.

"Acknowledg(es)" Panama's sovereignty over the Canal and Zone.

Article I

Section 1. Outlines treaties abrogated and refers to Minute aforementioned which includes a more detailed list of treaties concerning the Panama Canal as well as other Treaties with Panama containing provisions related to the Canal. The Minute also lists numerous commercial Treaties with Panama which are not affected.

Section 2. Restates Panama's territorial sovereignty and grants to U.S. operative rights for the duration of the Treaty.

Article II

Provides for ratification.

Establishes the Entry into Force date as that six months after the exchange of ratification documents.

Requires that the ratification documents for BOTH this Treaty and the Neutrality Treaty be exchanged simultaneously thus irrevocably binding the two.

Provides that The Panama Canal Treaty would expire on December 31, 1999.

Article III

Section 1. Restates Panama's territorial sovereignty and repeats the grant of operating rights to U.S.

Section 2. Enumerates the operating rights granted to U.S. and refers to an Agreement implementing Article III. The salient right granted is in paragraph (d): "Establish, modify, collect tolls." NOTE, however, Sections 3 and 7 of this Article as to the composition of the PCC and the CCC. The latter would recommend toll policies. The political realities would seem to indicate that Panama might have an interest in raising the tolls particularly in view of their ins'stence that the U.S. be precluded from building a competing canal without Panama's permission. (See Article XII, Section 2(b))

Panama would receive, moreover, a substantial part of the revenues dependent upon the tolls. (See Article XIII, Section 4(c) in which Panama would receive $10 million per year from the Canal "profits".) Last year, the Canal lost money. The bureaucratic structure of the PCC and the CCC would indicate the likelihood of toll increases almost immediately upon entry into force of this Treaty.

Section 3. Establishes the Panama Canal Commission (PCC) which would assume the functions of the Panama Canal Company which is dissolved by the Treaty. The PCC would be composed of five Americans appointed in accordance with the U.S. law and four Panamanians appointed by and serving at the pleasure of the revolutionary government. The Administrator would be an American and the Deputy Administrator would be a Panamanian through December 31, 1989. The positions would reverse through December 31, 1999.

Section 4. Illustrates PCC activities. Refers to Annex.

Section 5. Requires the PCC to pay Panama for housekeeping in the former Canal Zone (CZ) including police and fire protection at the rate of $10 million per year during the first five years. The figure would be adjusted biennially thereafter for inflation.

Section 6. Specifies Panama's general jurisdiction in the former CZ over the courts, customs and postal service.

Section 7. Establishes the Panama Canal Consultative Committee (CCC).

Section 8. Provides for gradual turnover of technical operations to Panamanians.

Section 9. Establishes legal status of Americans in the CZ by side Agreement.

Section 10. Dissolves the Panama Canal Company and the CZ government.

Article IV

Provides generally for the defense of the Canal.

Establishes the Military Defense Board (MDM) with equal American and Panamanian representation.

Refers to a second side Agreement.

Article V

Precludes Americans in Panama from participating or interferring in Panamanian politics.

Article VI

Establishes the Joint Commission on the Environment (JCE) to mitigate adverse impart on the environment by Canal operations.

Article VIII

Provides diplomatic status to twenty Americans, and their dependents, who are employed by the PCC.

Article IX

Deals with applicability of laws and law enforcement.

Section 1. Panamanian law will apply retroactively only as provided in prior Treaties. Otherwise it appears that Panamanian law applies at all times and places except during the transition period of 30 months as stated in Article XI.

Section 2. Businesses, profit and non-profit, are granted a 30 month grace period after which they are to be treated in the same manner as Panamanians without discrimination.

Section 3. Recognizes the right of ownership of improvements to realty but does not recognize the right to own real estate.

Section 4. Establishes different rules for real property improvements in the former CZ. Rules are set forth in side Agreement to Article III.

Section 5. Some buildings in the CZ may be used upon payment of a fee to Panama. Should Panama decide to sell the land, current users will have first refusal.

Section 6. If Panama requires any of the above persons to vacate, they shall be compensated at the "fair market value". Establishing that value might be difficult after entry into force of the Treaty.

Section 7. The above benefits shall apply only to those in business prior to September 7, 1977.

Section 8. Panama will not interfere with operating rights granted U.S.

Section 9. Transiting ships and persons which stop at port during transit would be subject to Panamanian fees, taxes and charges.

Section 10. Panama and U.S. will cooperate to protect American personnel and PCC property.

Section 11. Panamanians and Americans convected by the other State would have the right to elect to serve their sentences in the State of their nationality.

Article X

Deals with employment by the PCC.

Section 1. U.S. would set employment regulations.

Section 2. Preference would be given Panamanians with requisite skills.

Section 3. U.S. would limit PSS recruitment outside Panama to those jobs which could not be filled by Panamanians with requisite skills.

(a) Training programs would be instituted for Panamanians.

(b) Within five years there would be 20% fewer Americans working for PCC than upon entry into force of this Treaty. This provision is "enforced" by the housing provisions which appear in the Agreements which reduce U.S. possession and control of housing as the treaty matures.

(d) Would provide for active, cooperative recruitment of Panamanians.

Section 4. Panamanian professional licenses would be recognized for qualification standards with respect to PCC jobs.

Section 5. With limited exceptions, Americans would have to be rotated out of PCC employment within five years IF hired AFTER entry into force of this Treaty.

Section 6. There would be no pay discrimination on the basis of nationality, race or sex.

Section 7. Would commit U.S. to job protection for Americans displaced by discontinuance of U.S. activities pursuant to this Treaty.

Section 8. PCC would have the option to detail its employees, at Panamanian expense, to work delegated to Panama by this Treaty.

Section 9. Collective bargaining and right to affiliate with international unions would be recognized.

Section 10. U.S. would commit itself to seek early retirement for employees of the former Panama Canal Company displaced by this Treaty including seeking special legislation on their behalf.

Article XI

Deals with transition period.

Section 1. Panama would resume full sovereignty over CZ upon entry into force of this Treaty. There would be established a 30 month transition period.

Section 2. During transition, U.S. and Panama would have concurrent civil and criminal jurisdiction subject to the following provisions:

(a) U.S. would have primary jurisdiction over U.S. nationals in criminal matters.

1) crimes committed in the former CZ during the transition;

2) crimes committee prior to the effective date of the Treaty.

In all other cases, Panama would have primary jurisdiction. NOTE: this means that U.S. nationals working for PCC, the military and other civilian components, who commit an offense outside the CZ are subject exclusively to Panamanian justice.

(b) Either party may waive jurisdiction.

Section 3. U.S. would retain jurisdiction over offenses committed in the CZ prior to effective date of Treaty.

Section 4. Sets out police cooperation in general terms.

Section 5. U.S. Courts and related personnel functioning in the CZ would continue during the transition for the purpose of carrying out the terms of this Article.

Section 6. U.S. Court would retain jurisdiction over pending cases, but not have jurisdiction over new civil cases.

Section 7. Former U.S. laws would remain in effect during transition. Cases still pending at the end of transition would be handled by diplomatic agreement to be entered later.

Section 8. U.S. could continue to arrest and imprison its own nationals during the transition.

Article XII

Deals with sea level canal.

Section 1. Would provide for a joint feasibility study.

Section 2(a) No new canal in Panama without Panama's consent.

Section 2(b) Absent Panama's consent, U.S. could not negotiate with any other country in the Western Hemisphere for a competing canal while this treaty would be in force.

Section 3. U.S. may build Panama a third lane of locks in the former CZ.

Section 4. Additional territory for third lane would be negotiable.

Section 5. Absent consent of Panama, nuclear excavation would be banned.

Article XIII

Payments to Panama.

Section 1. Upon termination of this Treaty, canal operation goes to Panama.

Section 2. U.S. would transfer all its right, title and interest in all canal related property to Panama as follows:

(a) Upon effective date of Treaty, all property, including the Panama Railroad, not used by U.S. pursuant to this Treaty.

(b) Thereafter, any property the U.S. ceases to use pursuant to this Treaty.

(c) Housing units for Panamanian troops as detailed in side Agreement.

(d) Upon termination of this Treaty, all other U.S. property in Panama.

Section 3. Panama would hold U.S. harmless against claims of third parties with respect to property transferred by U.S. to Panama.

Section 4. Payments to Panama:

(a) 30 cents a canal net ton. This figure would be keyed to U.S. wholesale price index on biennial basis after the first five years. Note: at current tonnage and tolls, this arrangement would produce about $40 million per year for Panama.

(b) $10 million per year to be paid off the top of canal revenues.

(c) $10 million per year to be paid from revenues in excess of canal expenses. In the absence of such "profit", these payments would accumulate from year to year.

Article XIV

Disputes to be settled through normal diplomatic channels including arbitration.

PRELIMINARY OBSERVATIONS ON PROBLEM AREAS WITH RESPECT TO THE PANAMA CANAL TREATY

I

The overriding question with respect to the proposed Treaty is "Does the Treaty protect whatever interests the United States has in operating the Canal?" That question will produce considerable controversy.

It is obvious of course, but the claim to and acknowledgement of Panamanian sovereignty over the Canal Zone is the principal fact of the Treaty. Panama views it as crucial; it is repeated specifically six times in the document and referred to a dozen times more.

By the terms of the Treaty, Panamanian sovereignty is acknowledged on the effective date of the Treaty. On that date, the Canal Zone and the Panama Canal Company cease to exist. From that time forward, the Treaty is almost exclusively a vehicle for payment of money to Panama.

Should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone. Other than abject withdrawal, our sole alternative would be military action.

During the life of the Treaty, moreover, there would be established a pattern of operation and management which creates what appears to be a fiction of U.S. control. The Panama Canal Commission does not give the U.S. clear control because Americans have a majority of only one. While U.S. Commissioners are free to vote their, more-or-less, independent judgment, the four Panamanian Commissioners are not so free.

The additional layers of bureaucracy in the Consultative Committee, et cetera, subject the Commission to further domination by boards on which there is not even a theoretical U.S. majority. The function of the Consultative Committee to advise the U.S. and Panamanian governments rather than the Commission would appear to set in motion a leverage which would further dilute the authority of the Commission and thus substantially reduce the actual control which might be exercised by the United States.

Since the Treaty would provide that the two governments would be required to give the recommendations of the Committee "full consideration", this could be the source of many disputes.

II

The second most pressing problem of the document is the interrelation of required Congressional legislation to a number of the Treaty provisions.

(1) A court system established by existing statute is abolished. Is that dissolution self-executing or is legislation required? It would seem that Congress would be required to act.

(2) The Canal Zone government itself is dissolved with the same resultant problem.

(3) It would seem that three of the four bodies established by the Treaty would require legislation. The Military Defense Board probably would not require an Act of Congress.

(4) The Treaty itself suggests the reissuement of legislation to handle the retirement problems of the employees displaced by the dissolution of the Panama Canal Company and the ultimate dissolution of the Panama Canal Commission itself.

(5) Some legislation would probably be required to create incentives for the five year rotation of PCC employees required in Article X.

(6) Although Panama will be paid $10 million annually for police, fire protection, sanitation, et cetera, it would seem that prudence will dictate the establishment of supplemental U.S. services no longer available from the CZ government.

III

There are independent problems arising out of the Treaty and potentially requiring Congressional action. The Constitution appears to require an Act of Congress to authorize divestiture of United States property. Although the President, through the Department of State and the Department of Justice, has enunciated a doctrine of concurrent powers excluding the requirement of Congressional action, the issue will assuredly arise. Does the House have a Constitutional duty to participate in an act of expropriation?

However the claim of right in the House may be resolved, it will produce one direct, certain consequence on the deliberations of the Senate. There will be Senators who, out of deference to the House, will raise these issues on the Senate Floor and their resolution will have an influence on the deliberations and perhaps on the result itself.

More direct and not subject to attack on the ground of concurrent powers will be the responsibility of the House of Representatives in the provisions of the Treaty which require Acts of Appropriation. Contributing to the problems of the Treaty will be the unique melange of executive and legislative activities required to produce a ratified and effective Treaty.

Should enabling legislation for the Treaty, apart from appropriations, be considered before the Senate advises and consents?

Should the Senate condition its consent upon the passage of implementing legislation where such is required?

How is a Treaty so dependent upon Congressional action to be ratified without prior passage of the enabling legislation and still give more than lip service to the exclusive legislative powers of Congress?

How will the paramount Constitutional problems be resolved? The citizens of the U.S. have, perhaps, a greater interest in the maintenance of the limitations on the power of government and the proper exercise thereof than they do in the ratification of this Treaty.

Is it proper to face Congress with a ratified Treaty, the terms of which would be mainly inoperative absent legislation and then demand of it the appropirate legislation?

The Treaty appears destined to force a confrontation between Congress, or the House of Representatives at least, and the Executive Branch on the limits of Executive power.

PRELIMINARY ANALYSIS OF THE PANAMA CANAL NEUTRALITY TREATY

The second of this pair of Treaties between the United States and Panama would attempt to assure the neutrality of the Canal as an international waterway.

Article I

Panama commits that the Canal shall be permanently neutral international waterway.

Article II

Panama declares its intention that in time of peace or war, the Canal "shall remain secure and open to peaceful transit by vessels of all nations on terms of entire equality." The stated reason for this commitment is to protect Panama from reprisals during any hostilities.

Article III

Section 1. Panama guarantees security, efficiency and maintenance upon the following conditions:

a) Rules to be limited to those necessary to operate the Canal.

b) Ancillary services necessary to the Canal's operation shall be provided.

c) Tolls shall be equitable and consistent with the principals of international law.

d) Financial solvency of Canal users must be established.

e) Vessels of war of all nations shall have the right to transit the Canal. No limit on method of propulsion, internal operation, ammunition, origin or destination. Vessels of war shall not be required to submit to inspection, search or surveillance.

Section 2. Refers to Annex for definition of terms. "Neutrality" is not defined. "Inspection" permits health inspection but no other.

Article IV

U.S. and Panama would agree to cooperate in maintaining the neutrality of the Canal even after the termination of the Panama Canal Treaty.

Article V

Restates the provision of the Panama Canal Treaty that after its expiration, Panama would operate the Canal.

Article VI

Section 1. In recognition of the valuable contribution of the United States in the construction, operation and maintenance of the Canal, the U.S. may also use the Canal on an equal footing with all other nations. (See observation under "Expeditiously".)

Section 2. While the U.S. continues to operate the Canal, it may honor its commitment to Columbia that their warships may transit the Canal toll-free. After expiration of the Panama Canal Treaty, that privilege would be at the discretion of Panama.

Article VII

Section 1. The U.S. and Panama will jointly sponsor a resolution in the Organization of American States opening the treaty to adherence by all nations.

Section 2. OAS to be depository of the Treaty.

Article VIII

Ratification terms identical and contemporaneous with those of the Panama Canal Treaty.

PRELIMINARY OBSERVATIONS ON THE PANAMA CANAL NEUTRALITY TREATY

Only Article V of this Treaty bears upon U.S. responsibility. That Article would commit the U.S. to maintain the neutrality of the Canal. The entire document is so vague as to be virtually meaningless. The content is entirely a unilateral statement of purpose by Panama. Some of those purposes could be interpreted as directly hostile to the United States.

Free access to the Canal by ships of war of all nations during hostilities is not a comforting reassurance. The United States is committed by the Treaty to guarantee just such passage rights. Presumably, if the Soviet Union wished to pass a fleet through the Canal in conflict with the U.S., the United States would be committed to guarantee that passage.

"Expeditiously"

Article VI, which grants the U.S. the same transit rights as any other nation contains a final sentence which requires close attention. "Such vessels of war (those of the U.S.) and auxiliary vessels will be entitled to transit expeditiously." (emphasis added). What does "expeditiously" mean?

Does it grant priority passage to American warships?

If so, why was such a peculiar word used to express that idea? The very use of a word susceptible of interpretation invidious to the interests of the United States requires intense inquiry. Of course, the quality of the right to immediate passage is without relevance if the Canal is without strategic importance to the defense interests of the United States.

This single sentence may be the crux of the question of whether the Canal does, in fact, have a defense importance to the United States. If it does, "expeditious passage" should be unacceptable as a description of the emergency right of passage necessary to United States warships. If it has no strategic importance, the adverb selected to describe the right of passage is without meaning.

"Expeditious" is in the Treaty because someone thinks it important to imply a special right of passage. In the context of this Treaty, that special right of passage refers to the defense interests of the United States. The drafters admit an immediate defense interest by the use of a special word. It is imperative to get a precise meaning for that word.

In the alternative, it would be equally imperative to obtain a commitment from the Joint Chiefs of Staff that the Panama Canal has no defense meaning or strategic importance to the United States.

KGB PUNISH BY MEDICINE, SAYS SOVIET DOCTOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. McDONALD. Mr. Speaker, Soviet dissidents have been telling the West—see page 17378 of the CONGRESSIONAL RECORD, June 2, 1977, "The Serbsky Treatment and Vladimir Bukovsky"—for some time about the Soviet use of drugs and confinement in insane asylums for those who politically disagree with the Kremlin masters. Now, however, we have the first Soviet psychiatrist to defect to the West and confirm in detail what is going on. People who worry about human rights and world peace can well wonder how we can have "détente" with people such as the KGB. The story from the London Daily Telegraph of September 1, 1977, follows:

KGB PUNISH BY MEDICINE, SAYS SOVIET DOCTOR

(By David Loshak)

The first Soviet psychiatrist to defect to the West, Dr. Avtandil Papiashvili, appealed in London yesterday for concerted international condemnation of the punitive medicine used by Russian doctors against dissenters.

He described how he had witnessed the forcible hospitalisation of people whose only illness was to be critical of the authorities.

He had seen deliberately false diagnosis of schizophrenia made by doctors on patients who were patently sane.

"The abuse of psychiatry in Russia is spreading, and taking on various forms," Dr. Papiashvili said. "It has turned into a mechanism for the forcible regulation of social behaviour."

He called on the World Psychiatric Association, holding its sixth annual congress in Honolulu, to voice its outright condemnation of Soviet psychiatric malpractice.

FURTHER PERSECUTION

Only in this way would dissenters be spared further persecution and a chance be created to bring Russian psychiatry back into the sphere of respectable medicine.

Dr. Papiashvili, 30, defected to Austria with his wife, Eva, a clinical psychologist, after obtaining official permission to take a four-day holiday.

The couple are living in a refugee camp and hope to be allowed to live and work in the United States. Their hurriedly arranged visit to London was made on temporary travel documents.,

Dr. Papiashvili said that after graduating in 1972 he worked at a hospital in the North Caucasus town of Grozny, later transferring to the Asatyani psychiatric research institute in Tbilisi, Georgia.

The first case he encountered of a patient diagnosed as mentally ill because he criticised certain aspects of Soviet life concerned a 35-year-old mechanic named Khayev.

When he said he would report the incident to *Izvestia*, the Moscow newspaper, medical staff decided to diagnose him as schizophrenic, to avoid any investigation.

Dr. Papiashvili said that repeated diagnoses of schizophrenia by Russian doctors were made on the basis of the theories of Acadamician Andrei Snezheysky, Russia's foremost psychiatrist, who heads the Soviet delegation in Honolulu.

The theories expand the boundaries of schizophrenia to include almost any deviation from political or social norms and so made it possible to "certify" anyone, however sane.

Because of this widespread malpractice, psychiatry had become widely discredited among the Soviet public, and people genuinely needing treatment were afraid to seek it.

Dr. Papiashvili said that only in the Kuchava case did he speak against maltreatment he had witnessed or knew about. In one other instance, when someone found guilty of a financial crime was forcibly hospitalized, he refused to label him as insane.

DRUG CAUSES PAIN

The "treatments" were deliberately designed to intimidate. One of the methods used was to give dissenters injections of the drug sulfazine, which has no medical purpose, and causes prolonged and agonizing pain.

The influence of the KGB in Soviet psychiatry was pervasive. The secret police had to approve every psychiatric appointment.

Dr. Papiashvili described an elaborate incident which he witnessed, staged by the KGB and psychiatrists at a conference in Tbilisi attended by Western psychiatrists. The aim was to discredit Western critics of Soviet psychiatric abuse.

UNFAIR DISMISSAL

The man complained to the authorities about being unfairly dismissed, and linked this with corrupt bureaucratic practice.

He was interned in Moscow Psychiatric Hospital No. 7, Dr. Papiashvili said, and then transferred to Grozby. He was diagnosed as schizophrenic, although showing no symptoms of this illness.

In a second case, a 49-year-old architect, Zurab Kuchava, was brought to the Tbilisi research institute by KGB officers in December, 1973. He was put with severely mentally ill patients.

This, too, was a case of allegedly unfair dismissal, an injustice which Kuchava attributed to the attitude of the Soviet system towards independent thinking.

During a "scientific session" at which the institute's director, Academician Zurabashvili was present, the architect was ruled to be schizophrenic and socially dangerous. Dr. Papiashvili said that he opposed this "clearly fabricated" diagnosis, for which he was rebuked and threatened.

A third patient, a 30-year-old physicist called Elidashvili, voluntarily entered hospital for examination for neurosis, but was forcibly detained and beaten up when he asked to be discharged..

During one conference session, it was arranged that a person who was genuinely mad leaped on to the stage and shouted that he had been medically persecuted for political reasons.

The Western doctors then demanded to examine the person, only to find that he was, in fact, insane.

DOMESTIC PROPAGANDA

The incident was used in domestic propaganda to ridicule Western criticism, but because the Western doctors suspected a ruse, little could be made of it outside Russia.

Dr. Papiashvili said it woul be misguided to suppose that the Soviet authorities could be better persuaded to change their methods by quiet persuasion behind the scenes, rather than outright public condemnation.

That approach had failed. Psychiatric abuse in Russia had become more intensive, and it was spreading to Eastern Europe. The only way was to shame the Russians and isolate them from the international medical community.

There would be, he said, a direct connection between the outcome of the Honolulu congress and the fate of dissenters in Russia. If the Congress ostracised the Russians, the

news would become known in Russia itself, despite censorship.

MORE BUREAUCRACY?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HYDE. Mr. Speaker, though one of the subjects President Carter expounded on most during his campaign for the Presidency was "Big Government"—and we all know of his promise to streamline the Federal bureaucracy—the White House continues to support the creation of yet another Government agency for consumer protection.

Whether or not legislation to establish this superfluous new Government agency reaches the floor before this session adjourns remains to be seen, but if it does I am confident that the true protectors of consumer interests in Congress will heed the words of the Chicago Tribune—echoed by newspapers throughout the country and consumers alike—which say: "We're protected enough, thanks."

On June 1, President Carter reported that 100 business firms endorsed the bill to create an Agency for Consumer Advocacy. Yet the National Chamber of Commerce reports that it has received thousands upon thousands of letters from businessmen who oppose this legislation. These people are not only consumers themselves, but they deal directly with consumers every day. They do not need another Government agency harassing them or telling them how to deal with consumers. They know full well their products and services are their livelihood.

I would like to insert in the RECORD some of the names of those companies and businesses in my home State of Illinois who oppose the establishment of yet another Government bureaucracy, which by conservative estimates, would cost the taxpayers an estimated $60 million for the first 3 years alone:

ILLINOIS

Dexter Van Hoozen, Dexter Van Hoozen Electric Service, 9210 Alden Road, Alden, Illinois 60001

Henry A. Pickard, Pickard Inc., 782 Corona Ave., Antioch, Illinois 60002

Fred Buhrke, Buhrke Industries Inc., 511 W. Algonquin Road, Arlington Heights, Illinois 60005

Joseph A. Weber Jr., Weber Marking Systems, Inc., 711 W. Algonquin Rd., Arlington Hts., Illinois 60005

Georgia L. Davidsmeyer, Davidsmeyer Bus Service, Inc., 2513 East Higgins Road, Elk Grove Village, Illinois 60007

Timothy J. Frisby, R. J. Frisby Mfg., 1500 Chase Ave., Elk Grove, Illinois 60007

J. R. Franzen, Hanke Co., Inc., 1001 Fargo Ave., Elk Grove Village, Illinois 60007

Les Klenk, K & M Rubber Co., 1601 Pratt Blvd., Elk Grove, Illinois 60007

Stanley Luc, Jr., Panlmatic Co., 7 Bond Street, Elk Grove, Illinois 60007

Heinz Luecders, Heinz Plastic Mold Co., 211 Seegers, Elk Grove Village, Illinois 60007

J. D. Schrader, A. B. Dick Company, 2200 Arthur Ave., Elk Grove Village, Illinois 60007

R. J. Stuckel Co., Inc., 1385 Howard Street, Elk Grove Village, Illinois 60007

Edwin J. Walters, E. Walters & Company, Inc., 333 North King Street, Elk Grove Village, Illinois 60007

James C. Berg, V.P., Residential Development Group, Inc., 451 Coventry Green, Crystal Lake, Illinois 60014

L. H. Burbank, President, Lake Suto Supply, Inc., P.O. Box 86, Teckler Blvd., Crystal Lake, Illinois 60014

Steve Ornkuich, Baird & Warner, Inc., 386 Virginia St., P.O. Box 514, Crystal Lake, Illinois 60014

John Jung, Century 21, John Jung Real Estate Inc., 460 Virginia St., Crystal Lake, Illinois 60014

Phil Lembkey, Flowerwood, Inc., Rt. 14 & 176, Crystal Lake, Illinois 60014

Mr. W. A. Kates, W. A. Kates Company, P.O. Box 627, Deerfield, Illinois 60015

Richard M. Hall, R.M. Hall Sales Agency, 176 W. Dulles Rd., Des Plaines, Illinois 60015

George A. Nichols, President, DeSoto, Inc., 1700 S. Mt. Prospect Road, Des Plaines, Illinois 60018

John E. Sherman, Sherman Plumbing & Heating, P.O. Box 128, 6119 North West Highway, Crystal Lake, Illinois 60014

John D. Simms, Merkle-Korff Gear Company, 1776 Winthrop Drive, Des Plaines, Illinois 60018

A. G. Wienecke, Henry C. Wienecke, Inc., 680 Vernon Ave., Glencoe, Illinois 60022

Amos E. Buettell, President, Crown Industrial Products Company, 12603 State Line Road, Hebron, Illinois 60034.

Warren T. Davis, President, United Educators, Inc., Publishers House, Lake Bluff, Illinois 60044.

Herbert Schmidt, Flower Hut, 2048 E. Grand, Lindenhurst, Illinois 60046

Robert T. Hinman, Eclipse Mfg. Co., 48 S. Old Rand Rd., Lake Zurich, Illinois 60047

Marvin von Aswege, First National Bank of Morton Grove, 6201 Dempster Street, Morton Grove, Illinois 60053

Harold J. Carlson, Randhurst Corp., 999 Elmhurst Rd., Mt. Prospect, Illinois 60056

W. F. Ewert, Managing Director, Illinois Retail Hardware Association, 215 W. Prospect Ave., Mt. Prospect, Illinois 60056

Raymond S. Johnston, President, First National Bank of Mount Prospect, P.O. Box 319, Mt. Prospect, Illinois 60056

E. R. Clarke, Fansteel, Inc., Number One Tantalum Place, North Chicago, Illinois 60064

James Edwin Brown, Pearson, Brown & Associates, Inc., 1550 Highway Suite 309, Park Ridge, Illinois 60068

J. J. Coffey, Jr., Exec. Sec., George S. May International Co., 111 S. Washington Street, Park Ridge, Illinois 60068

T. Gerald Magner, Sr., Meeker-Magner Co., 222 So. Prospect Ave., Park Ridge, Illinois 60068

Ferd Rebechini, Rebechini Studio, 928 Busse Hwy., Park Ridge, Illinois 60068

I. Ferdinand, Chairman, The Hirsh Company, 8051 N. Central Park Ave., Skokie, Illinois 60076

Jack F. Meyerhoff, Brunswick Corporation, One Brunswick Plaza, Skokie, Illinois 60076

Andrew McNally IV, Rand McNally & Company, 8255 Central Park, Skokie, Illinois 60076

G. E. Batzel, Midland Div., The Dexter Corp., East Water Street, Waukegan, Illinois 60085

Charles C. Isley III, CCE, President, Waukegan/Lake County Chamber of Commerce, P.O. Box 888, Waukegan, Illinois 60085

Marlin D. Reed, Reed-Randle Motors, 3100 W. Grand Ave., Waukegan, Illinois 60085

A. F. Sorenson, Radio Station WKRS, P.O. Box 500, Waukegan, Illinois 60085

R. Bruce Wight, Pres., Pfanstiehl Chemical Corp. 3300 Washington St., Waukegan, Illinois 60085

Jerry Larsen, Larsen Marine Service, Inc., 625 Sea Horse Dr., Waukegan Illinois 60085

William R. Lueders, Sunnyside Corporation, 225 Carpenter Ave., Wheeling, Illinois 60090

Charles W. Matthews, Matthews Employment Inc., 321 Grand Ave., Waukegan, Illinois 60095

Groleau Agency, 1814 8th St., Winthrop Harbor, Illinois 60096

Arthur E. Fossland, President, American International Hospital, Shiloh Blvd. and Emmaus Ave., Zion, Illinois 60099

William A. Petreman, Wm. A. Petreman & Assoc., P.O. Box 25, Zion, Illinois 60099

Thomas A. Rostron President, First Federal Savings and Loan, Madison at County Street, Waukegan, Illinois 60099

Maurice Hill, President, Hill Engineering Inc., 313 W. Fay, Addison Illinois 60101

Gerald A. Nells, President, Illinois Heating & Ventilating Co., Inc., 85 S. Fairbank S. Addison, Illinois 60101

George H. Bell, President, Bartlett State Bank, 335 South Main St., Bartlett, Illinois 60103

R. C. Nikolas, G. J. Nikolas & Co., Inc., 2800 Washington Blvd., Bellwood, Illinois 60104

B. C. Young, Bert C. Young & Sons, Corp., 4009 Warren Ave., Bellwood, Illinois 60104

M. C. Benton Jr., Spector Freight Lines, Inc., 1050 Kingery Highway, Bensenville, Illinois 60106

John L. Colmar, Beeline Fashions, Inc., 100 Beeline Drive, Bensenville, Illinois 60106

Lyle D. Winkler, Reliance Glass Works, Inc., P.O. Box 825 (104 Gateway Road), Bensenville, Illinois 60106

David Prober, DeKalb Iron & Metal Co., 900 Oak Street, De Kalb, Illinois 60115

Gerald J. Adams, Exec. V.P., Burren Transfer Company, 2nd & Berkley Streets, Elgin, Illinois 60120

Kenneth Cewke, Lakeview Screw Machine Products, Inc., 466 Renner Drive, Elgin, Illinois 60120

George Gray, Grayline Housewares, 1616 Berkley St., Elgin, Illinois 60120

Joe Horace, Horace Dodge, 970 Villa, Elgin, Illinois 60120

Donald Y. Impey, Business Manager, David C. Cook Publishing Co., 850 North Grove Avenue, Elgin, Illinois 60120

Thomas M. Loveday, Thomas M. Loveday—Real Estate, 100 E. Chicago St., Elgin, Illinois 60120

William E. Manning, Union National Bank & Trust Co. of Elgin, One Fountain Square Plaza, Elgin, Illinois 60120

Ashley E. Arnold, Union National Bank & Trust Co. of Elgin, One Fountain Square Plaza, Elgin, Illinois 60120

Wayne N. Newman, W-D Oil Co., P.O. Box 1062, Elgin, Illinois 60120

May T. Rakow, Illinois Hydraulic Constr. Co., P.O. Box 545, Elgin, Illinois 60120

Robert E. Schroeder, Schroeder Sign Co., 390 Sadler Ave., Elgin, Illinois 60120

Joseph C. Stratman, Imperial Catering, Inc., 5 Walnut Ave., Elgin, Illinois 60120

Raymond Young, Ray Young Food's Dist. Inc., 2075 Larkin Ave., Elgin, Illinois 60120

C. J. Allen, President, Charles J. Allen & Associates, 381 No. York St., Elmhurst, Illinois 60120

George Messner, National Plan Service, Inc., 435 West Fullerton Avenue, Elmhurst, Illinois 60126

Frank Moyle, Patten Ind. Inc., 635 W. Lake St., Elmhurst, Illinois 60126

John J. Jameson, President, Wilbert, Inc., P.O. Box 147, Forest Park, Illinois 60130

Arne R. Flolo, Flolo Electric Co., 11920 W. Franklin Ave., Franklin Park, Illinois 60131

J. A. Klemeyer, Brunner & Lay, Inc., 9300 King St., Franklin Park, Illinois 60131

Alice A. Paulson, Genoa Offset, 330 W. Main St., Genoa, Illinois 60135

Richard W. Church, Communications Management, P.O. Box 484, Glen Ellyn, Illinois 60137

Earl R. Fiene, President, Robert Bosch Corp., 2800 South 25th Ave., Broadview, Illinois 60153

F. L. Fleischrein, Continental Premium Corp., 1030 W. Roosevelt, Westchester, Illinois 60153

Paul C. Sternberg, Elkay Mfg. Co., 2700 So. 17th Ave., Broadview, Illinois 60153

H. C. Kroeplin, Sheet Metal & Conveyor Co., 2025 N. 15th Avenue, Melrose Park, Illinois 60160

John M. Atols, President, Atols Tool & Mold Corp., 3828 N. River Road, Schiller Park, Illinois 60176

R. B. Countryman, President, Chicago Haulage, Inc., 4663 Ruby Street, Schiller Park, Illinois 60176

Robert A. Hoffer, Hoffer Plastics Corporation, 500 N. Collins St., South Elgin, Illinois 60177

H. R. Hilstrom, Driv-Lok, Inc., 1140 Park Ave., Sycamore, Illinois 60178

George B. Suter, The Suter Company Inc., 258 May St., Sycamore, Illinois 60178

Jack Lockert, Lockert's Land Imp. Co., 1150 Powis Rd., Box 222, West Chicago, Illinois 60185

Werner K. Dick, W. Dick Co., 429 E. St. Charles Rd., Carol Stream, Illinois 60187

Peter D. Jans, Silent Partner Assoc, Inc., 1926 Central St., Evanson, Illinois 60201

Thomas F. Sandblom, Central Motors, Inc., 1000 Central St., Evanston, Illinois 60201

Robert Humphrey, President, State National Bank, 1603 Orrington Avenue, Evanston, Illinois 60204

Robert Leoni, Leoni Motor Exp., Inc., 501 Ashland Ave., Chicago Heights, Illinois 60411

John Rosinico, Sauk Steel Co. Inc., 3215 Butler, So. Chicago Hts., Illinois 60411

Clare A. Suecke, First National Bank in Chicago Hts., 100 First Nat'l Plaza, Chicago Heights, Illinois 60411

W. W. Haerther Jr., Ideal Carbide Die Co., 6644 W. 99th Place, Chicago Ridge, Illinois 60415

Ronald Bulkema, Jacobs, Bulkema & Malak LTD., 16231 Wausau, South Holland, Illinois 60423

F. Vogelmann, F. Vogelmann & Co., 440 Center Str., Frankfort, Illinois 60423

Harold S. Gregg, President, South Suburban Federal Savings & Loan Assoc., 154th at Broadway, Harvey, Illinois 60426

T. L. Hammond, Whiting Corp., 157th & Lathrop, Harvey, Illinois 60426

L. R. Hochberg, V. P., First National Bank in Harvey, 174 E. 154th St., Harvey, Illinois 60426

Donald G. King, First National Bank in Harvey, 174 E. 154th Street, Harvey, Illinois 60426

John W. Bowden M.D., Family Medical Group, 330 N. Madison St., Joliet, Illinois 60435

Russel R. Moran, President, Nicon Corp., 2317 W. Jefferson St., Joliet, Illinois 60435

Andrew Vander Zee, Lansing Paint & Supply Co., 3219 Ridge Road, Lansing, Illinois 60438

Dale Del Sasso, President, Joliet Cabinet & Formica Top Co., Inc., Caton Farm Road Rt. No. 3, Lockport, Illinois 60441

Richard E. Campbell, Belman-Melcor, Inc., 7575 West 83rd Street, Tinley Park, Illinois 60477

Beverly A. Watson, Acorn Auto Supply, Inc., 15711 S. Cicero, Oak Forest, Illinois 60452

Arthur Folleneweider, Brown Packing Co., 158th & Greenwood Road, South Holland, Illinois 60453

David Vander Ploeg, Equipment Parts, Inc., P.O. Box 276, South Holland, Illinois 60473

Paul Vander Ploeg, World Generator Company, 530 West 162nd Street, South Holland, Illinois 60473

T. G. Chunis, Clipper Corporation, 16860 Oak Park Ave., Tinley Park, Illinois 60477

Frank M. Chuk, Ben Franklin, 6710 111th Street, Worth, Illinois 60482

James Cocalas, Colcalas, Holly & Co. Ltd, 6944 W. 111th Street, Worth, Illinois 60482

James E. Kennelly, Worth Currency Exchange, Worth Comm. Credit Union, Kennelly Bookkeeping Service, 7101 W. 111th Street, Worth, Illinois 60482

Jack K. Schaefer D.V.M., Aurora Animal Hospital, 215 W. Galena, Aurora, Illinois 60504

Russ Collins, Collins Oil Co., 45 Pierce St., Aurora, Illinois 60505

James W. Johnson, Exec. V. P., Valley Industrial Association, Suite 201 Aetna Bldg., 2111 Plum St., Aurora, Illinois 60506

Bennett Archambault, President, Thor Power Tool Co. (Stewart-Warner Co.), 175 N. State Street, Aurora, Illinois 60507

F. James Garbe, President, Garbe Iron Works, Inc., 500 North Broadway, Aurora, Illinois 60507

James F. Eldridge, La Grange Transporters, Inc., 9124 Ogden Ave., Brookfield, Illinois 60513

James F. Eldridge, Douglas Equipment, Inc., 9124 Ogden Avenue, Brookfield, Illinois 60513.

R. C. Schlaack, President, J. P. Miller Artesian Well Co., 9100 Plainfield Road, Brookfield, Illinois 60513.

Lionel J. Goulet, V.P. of Corporate Relations, Sunbeam Corporation, 2001 S. York Road, Oak Brook, Illinois 60521.

J. K. McCoy, President, The First National Bank of Hinsdale, 50 S. Lincoln, Hinsdale, Illinois 60521.

M. G. Mitchell, Chairman & Pres., Chicago Bridge & Iron Company, 800 Jorie Blvd., Oak Brook, Illinois 60521.

Elmer Theidel, Hinsdale Nurseries, Inc., 7200 S. Madison Rd., Hinsdale, Illinois 60521.

S. T. Hankinson, Hankinson Lumber & Supply Co., 1909 Ogden Ave., P.O. Box G, Lisle, Illinois 60532.

W. C. Miller III, Du-Call Miller Plastics Co., Inc., 4730 So. Yender Ave., Lisle, Illinois 60532.

Elmer Toman, E. Toman & Co., 8700 W. 47th St., Lyons, Illinois 60534.

Robert S. Berg, President, Processed Plastic Co., 1001 Aucutt Rd., Montgomery, Illinois 60538.

Harold E. White, President, The Naperville Sun (newspaper), The Sun Printing Corp., 9 W. Jackson, Naperville, Illinois 60540.

James B. Ruther, Railoc Company, Inc., 708 Lockport St., Plainsfield, Illinois 60544.

James N. McInnes, President, The Sandwich State Bank, 100 West Church Street, Sandwich, Illinois 60548.

Carole Dolder, Mbr. Board of Dir., Dolder Electric Supply, Inc., 360 East Lincoln Highway, Waterman, Illinois 60556.

Lawrence Q. Langland, Langland Realty, 208 S. Bridge St., Yorkville, Illinois 60560.

Wayne C. Larson, Larson Funeral Home, 107 W. Madison St., Yorkville, Illinois 60560.

Carl R. Hansen, President, Chicago Associates, Inc., 75 E. Wacker Drive, Chicago, Illinois 60601.

John W. Nerlinger, Automotive Service Industry Assoc., 230 North Michigan Avenue, Chicago, Illinois 60601.

James H. Peery, American Supply Association 221 N. LaSalle St.—Suite 663, Chicago, Illinois 60601.

Walter Pfeifer, Engineering Equipment Co., 228 N. La Salle Street, Chicago, Illinois 60601.

R. Senior, Morgan Services, 222 N. Michigan, Chicago, Illinois 60601.

Henry P. Baby, Harry J. Baby Co., 29 East Madison St., Chicago, Illinois 60602.

Leonard S. Eisenberg, Arthur Rubloff & Co., 69 West Washington Street, Chicago, Illinois 60602.

Owen Fairweather, Seyfarth, Shaw, Fairweather & Geraldson, 55 East Monroe, 42nd Floor, Chicago, Illinois 60603.

Ward A. Gill, President, National Automatic Laundry & Cleaning Council, 7 S. Dearborn St., Rm. 938, Chicago, Illinois 60603.

Thomas C. Hughes, Chicago Real Estate Board, 18 S. Michigan Ave., Chicago, Illinois 60603.

Elayne S. Kilgore, Building Managers Assoc. of Chicago, 135 South LaSalle Street, Chicago, Illinois 60603.

Curtis G. Linke, Dir. of Public Affairs, Consolidated Foods Corporation, 135 South LaSalle Street, Chicago, Illinois 60603.

Wallace Rasmussen, Pres. & CCO, Beatrice Foods Co., 120 South LaSalle Street, Chicago, Illinois 60603.

O. B. Stine, President, Wesley-Jessen Inc., 37 S. Wabash Ave., Chicago, Illinois 60603.

Paul H. Robinson, Jr., Robinson Incorporated, 209 S. LaSalle St., Chicago, Illinois 60604.

S. S. Sherman, Chairman, Allied Products Corp., 208 So. La Salle St., Chicago, Illinois 60604.

John H. Hudoba, President, Torco Oil Company, 624 S. Michigan Ave., Chicago, Illinois 60605.

Roy E. Alm, Vice Pres., Noon Hour Food Products, 660 W. Randolph St., Chicago, Illinois 60606.

Jack H. Bornhoeft, Gerhardt F. Meyne Co., 300 W. Washington Street, Chicago, Illinois 60606.

Samuel S. Greeley, Masonite Corporation, 29 N. Wacker Drive, Chicago, Illinois 60606.

Mr. Richard J. Grunewald, Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, Illinois 60606.

J. John, V. P., Masonite Corp., 29 N. Wacker Drive, Chicago, Illinois 60606.

M. J. O'Brien, Marblehead Lime Co., 300 W. Washington, Chicago, Illinois 60606.

Orville B. Powell, A-1 Composition Company, Inc., 208 South Jefferson Street, Chicago, Illinois 60606.

John W. Rogers, Pres. & Treas., Bates & Rogers Construction Corp., 600 W. Jackson Blvd., Chicago, Illinois 60606.

Al Simon, Tower Oil & Technology Co., 300 W. Washington, Chicago, Illinois 60606

R. B. English, Murphy & Miller Inc., 600 W. Taylor St., Chicago, Illinois 60607

George T. Krueger, Krueger Sausage Co., 1237 Fulton, Chicago, Illinois 60607

O. Keith Smith, President, Brewer Sewing Supplies Co., 847 W. Jackson, Chicago, Illinois 60607

William Naas, President, Raum Warehouse Inc./L.T.D. Inc., 3250 S. Western Ave., Chicago, Illinois 60608

M. Sluka, Utility Wood Specialties Co., 2541 W. Cermak Rd., Chicago, Illinois 60608

George J. Maly, President, 4 M Co., 1100 W. 37th St., Chicago, Illinois 60609

Henry A. Brown, President, Frederic Ryder Co., 500 North Dearborn Street, Chicago, Illinois 60610

Arthur A. Kafka, Kafka Manufacturing Co., 223 W. Huron St., Chicago, Illinois 60610

Irwin Essenfeld, Jones Frankel Company, 303 E. Ohio Street, Chicago Heights, Illinois 60611

F. H. Winter, Tatham-Laird & Kudner, 625 N. Michigan Ave., Chicago, Illinois 60611

Frank D. Wood, American Service Bureau 211 E. Chicago Ave., Chicago, Illinois 60611

Gabe Bartscht, Accurate Felt & Gasket Mfg. Co., Inc., 1016 So. California Ave., Chicago, Illinois 60612

D. B. Sedgwick, Detex Corporation, 4147 Ravenswood, Chicago, Illinois 60613

Raymond E. Cross, Chairman, Federal Die Casting Co., 2222 Elston, Chicago, Illinois 60614

W. D. Holcomb, Homaco, Inc., 1875 W. Fullerton Ave., Chicago, Illinois 60614

John Knoll, President, H. B. Rouse & Co., 2214 N. Wayne Ave., Chicago, Illinois 60614

A. F. Krumholz Jr., President, Chicago Boiler Co., 1965 N. Clybourn, Chicago, Illinois 60614

R. I. Nash, Mehring & Hanson-Wendt, Inc., 1655 West Fullerton Avenue, Chicago, Illinois 60614

C. J. Cretors, C. Cretors & Co., 2000 N. Racine, Chicago, Illinois 60614

R. James Strickland, Strickland Drug Co., 4700 So. Prairie, Chicago, Illinois 60615

Robert J. Freson, Heat Cool Service Co., 4219 N. Elston Avenue, Chicago, Illinois 60618

Thomas M. Motta, Verson Allsteel Press Co., 1355 E. 93rd Street, Chicago, Illinois 60619

E. R. Nielsen, V.P., S. N. Nielsen Company, 3059 Augusta Blvd., Chicago, Illinois 60622.

John L. Yonkers, President, Electro-Appliance Co., Inc., 1915 N. Elston Ave., Chicago, Illinois 60622.

Berenice L. Friend, Harry Thompson, D.L. & F. Co., Inc., 1612 N. Throop St., Chicago, Illinois 60622.

Thomas J. Clark, President, W. A. Stevens, General Manager, Basic Steel Corporation, 14100 S. Halsted St., Riverdale, Illinois 60627.

M. P. Hunt, Interlake, Inc., 135th & Perry Ave., Chicago, Illinois 60627.

R. H. Costello, Heritage/Pullman Bank, 1000 E. 111th Street, Chicago, Illinois 60628.

A. H. Darr, V.P., Service Associated, Inc., 339 W. 112th Pl., Chicago, Illinois 60628.

Ted Jostes, Jr., Jostes Stationery & Sport Goods, 11325 S. Michigan Ave., Chicago, Illinois 60628 .

Donald A. Van Beek, Monarch Laundry-Dry Cleaners, 140 West 111th Street, Chicago, Illinois 60628.

Bernice O'Malley, "Your Girl Friday," 6247 S. Pulaski, Chicago, Illinois 60629.

John F. Petersen, Petersen Glass Company, 5535 Milwaukee Ave., Chicago, Illinois 60630.

David E. Scho, Cadwallader & Johnson, Inc., 5170 Northwest Hwy., Chicago, Illinois 60630.

John W. Sullivan, President, Skil Corp., 5033 Elston Ave., Chicago, Illinois 60630.

G. H. Bodeen, Lindberg Corp., 8501 W. Higgins Road, Chicago, Illinois 60631.

T. H. Gluck, EPCO Services, Inc., 7760 W. Devon Ave., Chicago, Illinois 60631.

W. R. Rigler, Fort Dearborn Paper, 2901 W. 36th Place, Chicago, Illinois 60632.

Howard Sonderman, Electro-Kinetics, Inc., 4114 N. Nashville Ave., Chicago, Illinois 60634.

Harold A. Frank, Elmwood Supply, 7310 W. Grand Ave., Elmwood Park, Illinois 60635.

William J. Pondelicek, Heick Die Casting Corporation, 6550 West Diversey Avenue, Chicago, Illinois 60635.

Buford R. Everett, President, Dreis & Krump Manufacturing Co., 7400 South Loomis Boulevard, Chicago, Illinois 60636.

John W. Kendrick, Met-L-Wood Corp., 6755 W. 65th St., Chicago, Illinois 60638.

Paul R. Cappello, President, Classic Coil Winding, Inc., 4505 W. Grand Ave., Chicago, Illinois 60639.

Henry J. Santhensen, Arm-Tag Grinding Service Co., 5265 W. Grand Ave., Chicago, Illinois 60639

Archie C. Hallock, President, Eureka X-Ray Tube Company, 3250 N. Kilpatrick Ave., Chicago, Illinois 60641

Edwin W. Hirsch, Ch. of B., Franklin Picture Co., 4300 No. Knox Ave., Chicago, Illinois 60641

G. L. Hunt, Sr., Hunt Screw & Mfg. Co., 4117 N. Kilpatrick Ave., Chicago, Illinois 60641

Robert E. Largay, Ace Sandblast Co., 4601 W. Roscoe, Chicago, Illinois 60641

I. S. Moore, Beverly Bank, 1357 W. 103rd St., Chicago, Illinois 60643

Diane Johnson and Gerald Tenroy, File Ad Service Co., 6443 N. Hoyne, Chicago, Illinois 60645

M. A. Klein, Jr., Klein Tools, Inc., 7200 McCormick Rd., Chicago, Illinois 60645

Mr. Chester K. Barnow, Beltone Electronics Corporation, 4201 West Victoria Street, Chicago, Illinois 60646

J. D. Middleton, Genex Terminal Company, 5901 North Cicero Ave., Chicago, Illinois 60646

Roberta L. (Mrs. Harry) Keeley, Globe Linen Supply Co., 3210 W. Armitage Ave., Chicago, Illinois 60647

W. D. Moss, General Iron Industries, Inc., 2439 North Leavitt Street, Chicago, Illinois 60647

Henry W. Angsten, Corey Steel Co., 2800 Sol 61st Ct., Cicero, Illinois 60650

Otto Hnilo, Overland Electric, 3110–12 So. 61st Ave., Cicero, Illinois 60650

R. F. Lawinger, S. J. Reynolds Co., Inc., 6101 West 28th Street, Cicero, Illinois 60650

Edward S. Lyon, Cargo Tank Services, Inc., 5300 W. 41st St., Chicago, Illinois 60650

Joseph S. Blaski, Dependable Parcel Service Inc., 4459 West Division Street, Chicago, Illinois 60651

George Brown, Controller, Ryser Bros. Inc., 3525 W. Potomac Ave., Chicago, Illinois 60651

James R. Heller, Chairman, B. Heller & Co., 3925 Calumet Ave., Chicago, Illinois 60653

Jay Spaulding, American Research Merchandising Inst., 805 Merchandise Mart, Chicago, Illinois 60654

James R. Heller, Chairman, B. Heller & Co., 3925 Calumet Ave., Chicago, Illinois 60653.

Jay Spaulding, American Research Merchandising Institute, 805 Merchandise Mart, Chicago, Illinois 60654.

M. A. Lombard, The Lombard Co., 4245 W. 123 St., Alsip, Illinois 60658.

Rudolf Merz, Merz Optical Instruments Inc., 2519 W. Peterson Ave., Chicago, Illinois 60659.

William M. Jones, Active Trading Co. P.O. Box 5255, Chicago, Illinois 60680.

David W. Ferris, Whitney Ferris Insurance Agency Inc., 151 North Schuyler Avenue, Kankakee, Illinois 60901.

Richard B. Gibbs, Bert L. Fitzgerald & Son Inc., 183 No. Schuyler Ave., Kankakee, Illinois 60901.

William D. Holmes, Kankakee Water Co., 1000 S. Schuyler Ave., Kankakee, Ill. 60901.

Arthur Martin, O.L. Martin & Sons, Inc., 236 No. Kinzie, Bradley, Illinois 60915.

Harry C. Arthur, Arthur Motor Works Inc., 359 S. Kinzie Ave., Bradley, Illinois 60915.

Alvin J. Wilken, President, Farmers State Bank of Danforth, 200 N. Front St., Danforth, Illinois 60930.

R. W. Cotter, Herscher Grain Co., 105 N. Main, Herscher, Illinois 60941.

Marvin Stauffenberg, Manteno Sail Service, N. Main Box 745, Manteno, Illinois 60950.

Gary Handel, Handel Implement, Inc., 113 Main St., Chadwick, Illinois 61014.

Hal Roberts, President, Hal Roberts Company, Inc. 1200 N. Galena Ave., P.O. Box A, Dixon, Illinois 61021.

W. Allman, Union Loan & Savings Assn., P.O. Box 121, Freeport, Illinois 61032.

W. C. Barber, Northwestern Telephone Co., 302 W. Main Street, Freeport, Illinois 61032.

Business Men's Credit & Collection Bureau, 106 W. Douglas, Freeport, Illinois 61032.

G. B. Emrick, Bankers Mutual Life Ins. Co., 500 W. South St., Freeport, Illinois 61032.

Thomas Ennenga, President, E & W Clothing House, 9 W. Main St., Freeport, Illinois 61032.

D. E. Lilya, Plant Manager, The Kelly-Springfield Tire Co., Route 20 East, Freeport, Illinois 61032.

CARTER VERSUS CONGRESS ON THE CANAL

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HANSEN. Mr. Speaker, the outcome of the growing controversy surrounding the proposed Panama Canal treaties is of great concern to a clear majority of the American people. My mail on the subject so far has been running 99.6 percent opposed to the Panama Canal treaties.

I for one am strongly opposed to relinquishing U.S. control of the canal and Canal Zone. However, there is a more overriding issue present. The prerogatives and responsibilities of the House of Representatives are also at stake.

On August 4, 1977, I introduced House Concurrent Resolution 328. My resolution expresses the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the Panama Canal Zone or any real propery located therein.

As of September 12 the following Members have cosponsored my resolution:

JACK KEMP of New York, THOMAS KINDNESS, of Ohio, WILLIAM KETCHUM, of California, PHILIP CRANE, of Illinois, ROBERT DORNAN, of California, LEO ZEFERETTI, of New York, MICKEY EDWARDS, of Oklahoma, DANIEL FLOOD, of Pennsylvania, BOB STUMP, of Arizona, STEVEN SYMMS, of Indiana, ROBERT LIVINGSTON, of Louisiana, BARRY GOLDWATER, JR., of California.

DAN MARRIOTT, of Utah, THOMAS EVANS, JR., of Delaware, LARRY MCDONALD, of Georgia, JAMES ABDNOR, of South Dakota, JOHN DUNCAN, of Tennessee, DAN QUAYLE, of Indiana, GENE SNYDER, of Kentucky, JAMES COLLINS, of Texas, LARRY WINN, JR., of Kansas, RICHARD SCHULZE, of Pennsylvania, MATTHEW RINALDO, of New Jersey, JOHN ROUSSELOT, of California.

JOHN ASHBROOK, of Ohio, MARJORIE HOLT, of Maryland, ROBERT BAUMAN, of Maryland, TRENT LOTT, of Mississippi, ROBERT LAGOMARSINO, of California, DEL CLAWSON, of California, VIRGINIA SMITH, of Nebraska, MANUEL LUJAN, JR., of New Mexico, JOE WAGGONNER, JR., of Louisiana, RICHARD ICHORD, of Missouri, RICHARD WHITE, of Texas, BUD SHUSTER, of Pennsylvania.

DELBERT LATTA, of Ohio, ELDON RUDD, of Arizona, JOHN MYERS, of Indiana, CHARLES GRASSLEY, of Iowa, ELWOOD HILLIS, of Indiana, JOHN YOUNG, of Texas, TOM HAGEDORN, of Minnesota, SONNY MONTGOMERY, of Mississippi, CHARLES THONE, of Nebraska, TENNYSON GUYER, of Ohio, HAROLD SAWYER, of Michigan, SAMUEL DEVINE, of Ohio.

JOHN PAUL HAMMERSCHMIDT, of Arkansas, CLAIR BURGENER, of California, GENE TAYLOR, of Missouri, JAMES BROYHILL, of North Carolina, BILL NICHOLS, of Alabama, CARLOS MOORHEAD, of California, OMAR BURLESON, of Texas, LARRY PRESSLER, of South Dakota, KEITH SEBELIUS, of Kansas, ROBERT DANIEL, of Virginia, WALTER JONES, of North Carolina.

SAM HALL, JR., of Texas, DAN DANIEL, of Virginia, GUY VANDER JAGT, of Michigan, J. KENNETH ROBINSON, of Virginia, JOSEPH MCDADE, of Pennsylvania, CLARENCE BROWN, of Ohio, JAMES MARTIN, of North Carolina, DAVID EMERY, of Maine, ROBERT BADHAM, of California, JAMES JEFFORDS, of Vermont, ROBERT WALKER, of Pennsylvania, JACK CUNNINGHAM, of Washington.

ROBERT ROE, of New Jersey, RON MARLENEE, of Montana, RONALD MOTTL, of Ohio, DONALD MITCHELL, of New York, BARBER CONABLE, JR., of New York, ALBERT QUIE, of Minnesota, JIM LEACH, of Iowa, CLARENCE MILLER, of Ohio, DAVE STOCKMAN, of Michigan, and HENRY HYDE, of Illinois.

This distinguished group of bipartisan

sponsors represents 36 (72 percent) of the States.

Also, similar independent legislation has been introduced by DON CLAUSEN, of California, and BILL ARCHER, of Texas.

My resolution calls for one thing—a chance to vote yes or no. This is a constitutional issue and not one of partisan politics. It is our duty as the elected representatives of the people to insure that their voice is heard. The Constitution calls for it—now we must assert ourselves and demand it. Our stand must be perfectly clear to the President and all of America—we will not abide by back-door loans and grants to Panama made without our consent and outside the authorization and appropriations process of Congress.

I strongly urge all my colleagues to cosponsor my resolution. Ours is a democracy based on a free expression of the will of the majority. If the proposed treaties are good, they will stand the review; if they are so bad that they cannot withstand our scrutiny then they should not even be considered by this Government at all.

All of us will be held accountable for allowing the President to usurp our constitutional authority over this matter at the polls next year if we fail to act.

The gravity of the situation is no mere illusion. The treaties in question reflect a sellout of the American public, in addition to infringing upon the constitutional prerogatives of the Congress. Not only are we not selling our multi-billion-dollar interests in Panama, but we are, in fact, giving them away, even paying heavily to do so—all this without prior appropriation authorization from the Congress—and with possibilities of large windfall benefits to certain special interest groups.

Treaty talks began in earnest 6 months ago under scandalous conditions with negotiator Sol Linowitz being given a special appointment allowing him to bypass the scrutiny of the U.S. Senate and avoid disclosure of any conflicts of interest. A lawsuit brought later by myself forced Linowitz to resign as a member of the board of the Marine Midland Bank of New York which has $8 million loaned to the Government of Panama. However, the scandal continued right to the time of the treaty agreement which came only 4 hours and 40 minutes before Linowitz' appointment terminated.

One must ask, why the panic, why the rush, and what was the price for quick agreements that Americans will have to pay? With Panama owing commercial international banking interests some $200 million and the nation reeling under a $1.2 billion total debt with loans coming due, was it Mr. Linowitz' job to get quick agreement to quickly shore up the revenue and asset picture of the Torrijos government?

Because of the circumstances leading up to the agreements reached in the proposed treaty, and because of the complex nature of economic aid payments to Panama which seems especially designed to circumvent the constitutional prerogatives of the Congress and confuse the American people, I have requested that the GAO launch an immediate investigation into the circumstances surrounding the proposed Panama Canal treaties. Similar inquiries addressing appropriate questions are also being directed to the Department of State, Department of Defense, and the Panama Canal Company.

I am confident that American citizens will not tolerate the Congress of the United States consenting to the unthinkable extravagance and sellout of American rights and security—actions which will force an increase in both taxes and prices.

In my letter to the GAO I raised the following 14 questions which I feel bear merit and close attention:

1. If so little has changed with regard to security and operation ability, why the necessity for a new agreement which costs the U.S. as much money per year as paid out in total in the previous 73 years?

2. Although U.S. warships are guaranteed total access to the canal:

a. Are non-military support ships of the U.S. also guaranteed access under all circumstances?

b. Are enemies of the U.S. in declared or undeclared wars also guaranteed access at all times?

c. Are ships of the U.S. government subject to toll under any different circumstance than presently exists?

3. With regard to the environment:

a. Why has an impact statement not been requested?

b. Will one be requested?

4. With regard to economic aspects:

a. Why has an impact statement not been requested?

b. Will one be requested?

5. Why has the appropriations process of the U.S. Congress been bypassed?

a. In treaty talks for disposal of titled U.S. property?

b. In foreign aid funds promised to Panama under the proposed treaties?

6. Why was the Senate advice and consent process bypassed in the appointment of Ambassador Linowitz; particularly with regard to commercial conflicts of interest and revelation of campaign contributions?

7. Why did not the State Department, the President, or Ambassador Bunker take timely and proper action to resolve the apparent conflicts of interest of Ambassador Linowitz?

8. Did Ambassador Linowitz, in fact, step aside during sensitive monetary considerations of treaty terms, as was suggested by government officials concerned with his apparent conflicts of interest?

9. In arranging for an increase of payments to Panama several thousand percent higher than currently exists, can Ambassador Linowitz, as a personally involved bank officer, absolutely certify that there was no thought given to placing Panama in a position to satisfy large commercial bank loans soon to mature?

10. In producing massive American spending in the Central American area through the proposed new Panama treaty, can Ambassador Linowitz who has represented interests of Central American nations for years even as a registered foreign agent (including recent efforts in behalf of the Republic of Panama for acquiring the Panama Canal), absolutely certify that his private and vested interests were never a consideration?

11. Can the Administration absolutely certify that political pressure was not a factor in the acquiescence in the current joint Chiefs of Staff to the President's desire for a new Panama Canal treaty; particularly in light of recent public statements by former Chiefs of Staff and what appears to be a majority of high ranking naval commanders?

12. What happens to the $600 million assets (including a $45 million cash fund on deposit in the U.S. Treasury) after treaty ratification? What control does Congress have over this fund?

13. Considering the financial plight of the government of Panama, will it be necessary for the U.S. to continue financial aid and subsidizing of the canal operation after the year 2000 when control of the canal is totally transferred?

14. What would be the replacement cost today:

a. Of the Panama Canal?

b. Military Installations?

c. All other titled land and developments in the Canal Zone?

Additionally, I should like to point out that loss of U.S. control of the canal would severely limit any thought of building an oil pipeline through the Canal Zone for purposes of getting oil from the Alaskan oil fields to the east coast. With Panamanian control of the canal, we would again be placing our domestic fuel needs in the hands of a foreign power.

Finally, I submit for the RECORD a compilation of facts concerning the Panama Canal issue and the proposed treaties:

PANAMA FACT SHEET

The political and philosophical quarrels surrounding the question of ownership of the Panama Canal and Canal Zone have been enduring for years. It is time for the facts:

1. 1903 Hay-Bunau-Varilla Treaty: Article III.

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

2. October Term, 1906; U.S. Supreme Court, 204 U.S. *Wilson* v. *Shaw*, Secretary of the Treasury.

Appeal from the Court of Appeals of the District of Columbia. No. 43. Argued October 19, 1906.—Decided January 7, 1907.

"Another contention, in support of which plaintiff has presented a voluminous argument, is that the United States has no power to engage in the work of digging this canal. His first proposition is that the Canal Zone is no part of the territory of the United States, and that, therefore, the Government is powerless to do anything of the kind therein. Article 2 of the treaty, heretofore referred to, 'grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said canal.' By article 3, Panama 'grants to the United States all the rights, power and authority within the zone mentioned and described in article 2 of this agreement, . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.'

Other provisions of the treaty add to the grants named in these two articles further guaranties of exclusive rights of the United States in the construction and maintenance of this canal. It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate.

Further, it is said that the boundaries of the zone are not described in the treaty: but the description is sufficient for identification, and it has been practically identified by the concurrent action of the two nations alone interested in the matter. The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial. Such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions cast was not settled until within the last two or three years. Yet no one ever doubted the title of this republic to Alaska."

3. Why did the U.S. and not Panama pay an indemnity to Colombia and pay the Panamanian landowners, not to mention the French Canal Co., if Panama intended to retain any title to or ownership of the Canal and Canal Zone? The point is Panama should have paid to clear title if they did not intend the U.S. to retain full and complete ownership and sovereignty of the Canal and Canal Zone.

4. The argument of sovereignty is ridiculous because the U.S. obviously asserted her own sovereignty and even provided a guarantee of Panama's sovereignty in Article I of the 1903 treaty. Thus the treaty which provides to the U.S. all sovereign rights, power, and authority over the Canal Zone to the exclusion of any jurisdiction by the Republic of Panama was really only enforceable because the U.S. guaranteed Panama's sovereignty in the first place. Hence, the phase "as if it were" is not merely a transfer of sovereignty but an assertion of power which is even more forceful.

5. Panama's annuity is not rent. It is merely an indemnity for losses suffered by the U.S. built Panamanian Railroad due to the Canal.

6. Does the $600 million Panama Canal Operations Fund currently on deposit with the U.S. Treasury go to the Republic of Panama as part of the "under-the-table" payments of the proposed treaties?

1. Present Annuity to Panama—$2.3 million.
2. Treaty negotiations since 1964—13 years.
3. U.S. has controlled Canal for 73 years.
4. U.S. has 9500 military men stationed in Canal Zone.
5. U.S. has 14 military bases in Canal Zone.
6. Canal Zone—648 sq. miles—50 miles long and 10 miles wide.
7. 3,500 U.S. civilian employees in Panama.
8. The Panama Canal Co. would cease to exist upon ratification.
9. Treaty signed 7:20 p.m. EST, 10 August, 1977—4 hours and 40 minutes before expiration of Linowitz's special Ambassadorial appointment.
10. Special Ambassadorial appointments circumvented Senate confirmation process.
11. Proposed disposal of American property (Canal and Canal Zone) will bypass Congressional Constitutional authority.
12. Proposed White House economic aid package to Panama would bypass Congressional appropriations powers.
13. Paid for Canal 4 times:
1. Panama, $70 million.
2. Colombia, $25 million.
3. France, $40 million.
4. Canal Zone Land Owners.
14. 33,600 U.S. nationals in Canal Zone.
15. Canal Co. employees resigning at a rate of 18/month since 1974.
16. Will Panama raise rates after 2000 or will U.S. subsidize?
17. 2 treaties:

a. Covering gradual return of Canal and Canal Zone to Panama by 2000.

b. Provide for permanent neutrality of Canal.

19. U.S. Cargo representing 1% of U.S. Gross National Product passes through Canal each year.

20. Savings over Cape Horn route—30 days, 8000 miles, approximately 10 times canal toll fee.

21. New agency will be created upon ratification to operate canal until 1990.

22. 24 million tons of military supplies passed through Canal during WW II.

23. Quote Post article 10 August, 1977 A24.
Amount of U.S. Investment in Panama:
Construction, $387 million.
Capitol Investment, $330 million.
Military Development, $5,300 million.
Panama Annuity, $70 million.
Colombia Annuity, $25 million.
France Annuity, $40 million.
Total, $6.15 billion.
Proposed Visible Payments to Panama to take Canal:
Economic Aid Package, $295 million.
Military Aid, $50 million.
Payments until year 2000, $1,540 million.
Export-Import Bank, $200 million.
Overseas Private Invest. Cap., $20 million.
Housing Investment Guarantees, $75 million.
Total, $1.89 billion.
Subtotal $8.037 billion.
Estimated Deficit Amount until 2000, $550 million.
Subtotal $8.587 billion.
? Aid not specified.
? Panama Subsidy Beyond 2000.
New Sea-Level Canal, $7,500 million.
Operating Fund on Deposit with U.S. Treasury, $600 million.
Total cost of proposed treaty for American taxpayers, $16.087 billion plus.

REAL PROPERTY OF THE U.S. IN THE PANAMA CANAL ZONE

DERIVATION OF TITLE OR INTEREST

	Area (sq. mi.)
1. Fee titles from French Canal Co	*101
2. Fee titles Panama Railroad Co	*104
3. Private titles of miscellaneous owners	*83
4. Rights in public lands of Rep. of Panama	**359
Total area	647

*Senate Document No. 191, 62d Congress, 2d Session, Hearings of Senate Committee on Oceanic Canals, "The Panama Canal."

**1976 Annual Report, Panama Canal Co.

PROPERTY OF THE U.S. IN THE PANAMA CANAL ZONE

	Cost
Real property (647 sq. mi.)	$171,018,575
Improvements:	
Panama Canal (fixed assets, 1976)	1,075,800,000
Military construction (to 1974)	310,200,000
Total improvements	1,386,000,000
Total realty and improvements	*1,557,018,575

(Source: 1976 annual report, Panama Canal Co.)

*Figures not adjusted for inflation—total U.S. investment in Panama Canal Zone currently estimated at $6.15 billion.

COST OF REAL PROPERTY OF THE U.S. IN THE PANAMA CANAL ZONE

1. Republic of Colombia	$25,000,000
2. Republic of Panama:	
Lump sum, 1904	$10,000,000
Annuity, 1904–76	56,600,000
Property transfers	34,689,682
Total cost	101,289,686
3. New Panama Canal Company	40,000,000
4. Panama Railroad Company	(Included 3.)
5. Private titles	4,728,889
6. Public lands	(Included 1, 2.)
Total cost	171,018,575

(Source: CONGRESSIONAL RECORD, Jan. 17, 1975, p. 619.)

NEUTRON BOMBS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mrs. SCHROEDER. Mr. Speaker, later this week I intend to support the amendment to be offered by the gentleman from New York (Mr. WEISS), to strike funds from the ERDA authorization bill for the production of enhanced radiation devices. I have no illusions that this amendment will pass, given certain limitations included by the House in the ERDA appropriations bill, nor can I say in all honesty that the facts unambiguously support my position. In dealing with the possible employment and consequences of tactical nuclear weapons one ventures into a highly theoretical world, and reasonable people can be found on different sides of this issue depending upon what assumptions they are willing to accept as a basis for their reasoning.

My vote for the amendment is specifically to register concern about certain characteristics of enhanced radiation devices—in particular their possible effects in lowering the nuclear threshold—but more broadly about the role and utility of tactical nuclear weapons in general. The debate, in my mind, has been too narrowly construed by focusing solely on enhanced radiation weapons and their attributes. Consideration of these weapons must take place in a broader framework of decisions on what functions tactical nuclear weapons are to perform, possible tradeoffs in fulfilling those functions, and doctrines of employment.

My primary concern with the enhanced radiation weapons is their possible effect in lowering the nuclear threshold and the potential escalatory effects that could follow. The deterrence of a weapon is largely the product of two variables—the ugliness of the consequences of its use, and the willingness to use it. Proponents of ER weapons argue that their limited collateral effects increase deterrence because we would be more likely to use such devices. While it is not necessarily true that one cannot at the same time increase deterrence through the increased threat of use without lowering the nuclear threshold, I feel it is unlikely that both results can be achieved. For the ER weapons to achieve their intended effect their production must create in the Soviet mind the perception that the President would be more likely to employ such a weapon, while in reality he would be no more willing to do so. Such a gap between perception and reality is difficult to maintain in an open society. President Carter has al-

ready publicly stated that he believes there can be no such thing as a limited nuclear war. If he is sincere in his belief then it is unlikely that he would order the use of ER devices. Under these circumstances the nuclear threshold might not be lowered, but neither is it likely that deterrence would be increased.

I respect and agree with the President's belief that there can be no limited nuclear war. And I have few qualms with Mr. Carter sitting in ultimate control of our nuclear stockpile. It is inevitable, however, that ER devices, if produced, will be in our arsenal long after Mr. Carter's years in the Presidency. We have had, and may again have, Presidents and advisers whose views on limited nuclear war are quite different.

Several of my colleagues believe that enhanced radiation devices can be used in limited ways on NATO soil without inviting retaliation. The Army in its briefings has emphasized the tight controls under which tactical nuclear weapons would be used to insure that an enemy understood the purely tactical, defensive, and limited nature of their employment. Much of this type of argument is predicated on an assumption that the employment of tactical nuclear weapons against the Soviet and Warsaw Pact forces on NATO soil would not constitute a direct threat to these nations. Apparently, in this reasoning, a direct threat is viewed as an attack on their homeland. I believe equally defensible arguments could be made that the risk of any military defeat could also be perceived as a direct threat by the Pact. It seems to me unlikely that Warsaw Pact forces would ever engage in military aggression against NATO territory on a whim or to just test the waters. Conflict would be motivated, more reasonably, only if a high value were placed upon the attainment of its objectives. Under such circumstances any military defeat or retreat might be viewed as unacceptable and call for nuclear retaliation. Again I cannot claim superiority for my assumptions. I merely put them forward to suggest the ambiguity and risks that may be involved. In sum the question is whether the perceived gains for deterrence are greater than the risks of lowering the nuclear threshold. I believe they are not.

The second and really prior question relates to tactical nuclear weapons more generally—their purposes and doctrines of employment. The environment in which our tactical nuclear weaponry exists in Europe has markedly changed in the 20 years that the United States has maintained it there. Our early overwhelming nuclear superiority at one time allowed us to maintain a doctrine of "massive retaliation." The United States operated under the assumption that we could fight and win a nuclear war and that this capability could be substituted for more expensive conventional forces. Beginning in the mid-1950's the United States lost its former superiority. As this shift took place so did perceptions of the role of tactical nuclear weapons. In the 1960's the United States turned to a strategy of "flexible response." Under this doctrine tactical nuclear weapons were to play two roles: A deterrent role to Soviet first use of such weapons and as a hedge to NATO conventional weakness.

It is clear in my mind that the first function is clearly the proper one for tactical nuclear weapons in Europe. The second role has been made exceedingly risky by the Soviets attainment of parity in this area. Yet modernization of theater nuclear forces, as evidenced by such devices as enhanced radiation, seems to be oriented toward achieving capabilities for a discriminate first use of nuclear weapons to prevent the defeat of NATO conventional forces. I find this emphasis exceedingly risky given the ambiguities surrounding their use and the possible escalatory consequences. I simply do not see theater nuclear weapons as a substitute for conventional weakness. The dangers as I see them are: First, that the development and production of ER weapons could drain off money that could go to beefing up conventional forces as well as the incentive to strengthen these forces; and second, that the focus on theater nuclear forces as a hedge to conventional weakness will draw attention away from improvements oriented toward providing deterrence to Soviet first use, such as improving the survivability of tactical nuclear weapons to preemptive strikes.

There are even serious questions about the utility and employment of tactical nuclear weapons in the event of a conventional force failure. On July 28 I published in the CONGRESSIONAL RECORD a portion of an article discussing problems of command and control in the use of theater nuclear weapons. The author, a retired Air Force colonel, notes that Army field manuals show that it might take up to 24 hours to convey a request and receive authority to fire a nuclear package. Even if that time is halved it strikes me that the battlefield situation in which the use of nukes was envisioned is likely to have changed drastically, seriously degrading the value of their use.

In my mind the reasonable tradeoff could be the purchase of greater conventional capability. Thousands upon thousands of TOW antitank missiles could be purchased for the price of the development and production of ER weapons. Such weapons have the advantage of avoiding the command and control problems of nuclear devices as well as the risks of nuclear escalation. In a briefing I received the Army acknowledged this tradeoff, but argued that the shock value of nuclear devices is greater. It should be pointed out as well that most utilization plans would not call for the employment of single ER warheads, but rather packages of up to 50 or more across a potentially wide front. These possible scenarios belie the surgical nature that has been associated with ER devices.

In sum I think there are serious questions that need to be asked not only about ER devices but tactical nuclear weapons in general.

NEW BOR DIRECTOR DELAPORTE—PART I

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. UDALL. Mr. Speaker, Interior Secretary Cecil Andrus has put together a remarkably able and energetic team since he assumed his office. One of the members of this team is Chris T. Delaporte who was sworn in as Director of the Bureau of Outdoor Recreation in July of this year. Mr. Delaporte has abundant experience and enthusiasm for this very important and responsible job and I wish him a successful tenure as Director.

In the recent issue of Parks and Recreation magazine, published by the National Recreation and Park Association, Beth Kravetz interviewed Director Delaporte. The interview is candid and informative and I urge my colleagues to read about the Bureau and its future course:

CHRIS T. DELAPORTE TELLS WHAT TO EXPECT FROM BOR

The new Director of the Bureau of Outdoor Recreation (BOR), Chris T. Delaporte, was sworn in on July 5, 1977.

BOR is the administering agency of a major federal park and recreation grant-in-aid program—the Land and Water Conservation Fund (LWCF), a program of 50 percent matching grants to states and local governments for land acquisition and outdoor recreation facilities. The Bureau also provides technical assistance to park and recreation agencies.

In some communities, BOR is the only contact park and recreation professionals have with the "bureaucracy in Washington."

Delaporte, 35, comes to his new position as the first director with actual experience in state administration of the LWCF program.

He was the director of state parks in Oklahoma, a position he held for over five years. During three of those years (1973–76), he was simultaneously the executive director of the National Association of State Outdoor Recreation Liaison Officers (NASORLO), the members of which represent and administer the LWCF program on the state level.

Prior to his Oklahoma stint, Delaporte was the executive director of the North Georgia Mountains Authority under then-Governor Jimmy Carter.

Delaporte was interviewed six weeks after taking charge of BOR in April (more than two months prior to his official swearing in) by Beth Kravetz of NRPA's Division of Public Affairs.

National Recreation and Park Association (NRPA). What did you think of the President's environmental message?

Chris Delaporte (CD). I was delighted with it. I was of course very pleased, but not surprised, to see the emphasis that he placed on rivers and trails and protecting the environment in several sections of the message. I was particularly gratified to see the establishment of the National Heritage Trust. The trust is still very much in the formative stages and we're working against the 120-day deadline, but it is beginning to have a profile and some dimension to it. The idea is to develop a process (for identifying places of special natural, historical, cultural, and scientific value which should be acquired and preserved under the program). The question of specific output or sites has not at all been resolved.

NRPA. Will you be seeking input from the "users"—state and local governments, for instance?

CD. We will be going to the states.

NRPA. To the state liaison officers (SLOs)? Or through other agencies?

CD. Again, I don't know. This will give you some idea as to how far along we are at the time of this interview. The way of doing things is still largely not determined. We are still conceptualizing and trying to build the steps that we will go through to have the process in place at the end of the 120-day period.

NRPA. Will you be able to use any of the material and information you have gathered from the urban study?

CD. Some of it might be applicable. I think what we will be using, of course, are the various existing processes of identification enjoyed—or used—by a number of other federal agencies.

NRPA. Is any one person right now responsible for development of the National Heritage Trust program, or have you established within BOR a heritage trust group?

CD. No, not really. Paul Pritchard (deputy director of BOR), because of his background, interests, and inclinations has been directly involved, and other people will be consulted up the line.

NRPA. Going back to the final environmental message, it was very different from previous drafts. The part dealing with the urban environment was over seven pages in the "final" draft of March 17, and it came down to less than two pages in the final message—a substantial reduction. Also, there was no mention of the urban study in the message.

CD. I wasn't surprised by that. I don't think that is an indication of any lessening interest by the Administration. I'm sure that those who formulated the message had some sort of parameters which they tried to set in order to confine it generically to what most people would recognize as a major environmental policy decision.

NRPA. In the draft there was also the directive that the secretary of interior include in the SCORP planning process coordination with the section 208 wastewater treatment program administered by EPA. That directive was completely eliminated from the message. I understand, however, that BOR is going to sign an agreement with EPA to further the cooperative efforts between the 208 program and linear trails, greenways, and recreational activities, and thus I'm surprised that provision was left out. According to sources at EPA, they too were surprised it was left out. Do you know anything about that?

CD. No, I don't. I haven't seen the agreement but I know that it is in the mill. I am certain of this President's commitment to a solid planning-systems approach to environmental protection, and the realization that recreation, outdoor recreation in particular, has a large role in planning. But if you just want to talk in generic terms of the environment, I think if I were preparing the message, I could see how something as particular as coordination of SCORP and wastewater treatment and EPA could be omitted, given the expanse of the federal government. I'm sure their (the writers') task was one of editing and of presenting major thrusts, and I wouldn't believe that an omission of the type you mention should signify that there is a lessening in interest or commitment.

NRPA. How are you feeling about getting started in this new job?

CD. I'm feeling very good, very excited about it.

NRPA. What, if any, are the initial problems you've encountered?

CD. One surprise I've had is to realize that even in a (small) agency of this size, there's a lot to learn, a lot to get on top of. While I have exceptional familiarity with the state-related programs, there are so many others: the federal coordination aspects, the resource study aspects, the research and technical assistance aspects, even cooperative agreements and our international program.

NRPA. What are your first three priorities for BOR?

CD. Well, I think that my first priority—for myself, as director—would be to see that the Bureau of Outdoor Recreation fulfills its (legislative) mandate in a very literal and practical sense: to be the focal point at the federal level for planning, financing, and coordinating outdoor recreation. I'm saying that I would like to strengthen the thinking or planning function, since we're not a land managing agency. I think that we could be the advocate—the heart, the soul, the consciousness, if you will—of the comprehensive development of a contemporary outdoor recreation system for the people—urban, rural, and suburban—in America. To do that, I think we have to make some alterations. But I'm unsure of what all those alterations really should be. I have ideas and notions, but I don't yet have a very firm or complete set of priorities.

Secondly, in establishing and strengthening that pivotal role I just mentioned, I'm very interested in opening up the bureau to everyone, to every group, every faction. The definition of recreation is so varied in this diverse country, and many people's wants are other people's needs and vice versa. I believe that we need the best brains and talent in this country to come in and assist us in developing a very contemporary philosophical approach . . . in which there is clearly a social meaning that gives our function greater legitimacy within the government at all levels. I think that we're going to have to make a lot of changes in the profession. I'm eager to do that, though only to the extent and in proportion to the involvement of many people.

NRPA. What kind of changes in the profession do you have in mind?

CD. I'm personally not satisfied with the curricula that we have in our universities and colleges and the types of graduates we're developing. I know that they're not getting jobs and I think it is because many of them have educations that do not prepare them for the realities of what type of professional we need. We need natural resource managers, human resource managers, business talent, political talent. We need leadership. We need all of those things in our graduates. I firmly believe that institutions are changed by the force of the values and the conviction and the philosophy of the people who are in them. And if the people who are coming into the field are possibly outdated in their approach, then we're without benefit of the greatest resource we have, which, presumably, would be the raw talent that comes in and helps our profession move along.

NRPA. When they begin to talk about it, the one complaint many people have about this field and their profession is that it's self-defeating.

CD. We are self-defeating. John Davis (NRPA's executive director) and I talked about this as long as seven or eight years ago. In this field, we want definition. We want to be able to say: This is what we are. But we are so on the periphery and at the same time immediately central to the good life in this country. We touch everything—young and old, rural and urban, the environment, education and gerontology, the handicapped—we're everywhere. I don't think we can be apart from any group, whether it's a labor union or a handicapped movement, the conservationist or the urbanologist. We have a place for them and they are not conflicting or incompatible. I would like to see a pluralistic approach within the bureau which neither dilutes (our effort) nor makes the definition of "what we are" more nebulous.

NRPA. How is BOR going to do that? How are you going to do that?

CD. I guess that's what my administration will be all about, to figure out how to do that. I don't know all the ways. I know that one way will be the second point I mentioned—to open up the bureau. I want to make this the place in this country which has the best talent and the best ideas, and the most progressive view and, at times, the most iconoclastic or radical approach—as well as conservative and parochial and provincial approaches. We've got to have it all right here. We cannot have an orthodoxy that deters us, that keeps us from plowing new ground. There's nothing, absolutely no assumption sacred about anything in government or the approach that we take to it, except the laws of the Congress and the direction of the President and the secretary of the interior. Beyond that, we're the advocates. We should be the experts. We should be advising the secretary and the President and telling the Congress about where we need to be going. They'll look to us and we should be the resource.

So, we have to liberate ourselves in some respects. I think we're capable of that liberation. I think it's going to be very exciting. Now we're going to step on ourselves occasionally and make some mistakes, but they're going to be mistakes of the heart and they're not going to be mistakes that are irretrievable. So we try something and if it doesn't work, we abandon it.

NRPA. You've given us your first and second goals. What is the third?

CD. I think the third thing is to realize that I share very much this Administration's overall view that we can't do everything. There is a natural limit to what we can do.

But there is something I want to do, to establish one basic rule: a rule of equality. This rule would dictate that in our relationships with the states and communities, we very frankly never ask them to do anything we're not doing ourselves. I call this establishing a set of minimum standards. And even with those minimum standards set, we would not impose them, because we know that at different levels of government there are certain capabilities. Obviously the federal government has an immense capability, and if it chooses to put it behind park planning, it can do the best in the world—we have done that with the National Park Service. But there are certain standards which, if applied across the board at the federal, state, and local government levels, and if met equally, I think roles will be better defined and services will be better provided. This way, there will not have to be an unremitting reliance on the federal government to meet a need.

NRPA. Could you give us an example of what you mean by "minimum standards"?

CD. I am becoming convinced that I should be concerned, in terms of our national policy, over the question of maintaining an expanding recreation resource base. The acquisition and development program of the Land and Water Conservation Fund is going to increase in October by 100 percent. The program has gone on for about 12 years now.

NRPA. Except the state share is not increasing 100 percent.

CD. No, the state share is not increasing 100 percent. I understand that . . .

NRPA. Let's follow up on that later.

CD. The question now is what we are doing in terms of sound fiscal policy to put in place those mechanisms at the federal level, at the state level, and at the community level that insure that the resource base

we're expanding rapidly is maintained. I think that's kind of an elementary, minimum standard. This Bureau of Outdoor Recreation should be in an advocacy position of being concerned and philosophically motivated to say: Hey, this is really a very simple thing. That is, it makes sense when you add to your inventory and invest public money that you systematically set about, through some reasonable formula, insuring the proper maintenance of that resource as it's brought into the system.

NRPA. Again, you say that the states or local governments should not do anything that the federal government is not doing. But we know that the National Park Service, possibly through no fault of its own, is not doing a very good job of maintaining many of its parks. How can BOR, then, set that standard for the park service?

CD. Only to the extent that we come back to my first point. The law is very clear. The focal point at the federal level for planning, financing, nad coordinating outdoor recreation in America is BOR. Under that aegis, which is very broad, I feel that as director of this bureau it's my obligation to be an advocate and to advise the assistant secretary and the secretary that minimum standards of maintenance be instituted in this department for its outdoor recreation facilities. We should similarly be an advocate to the Congress.

NRPA. Might not the new director of the Park Service, William Whalen, feel that in doing this you are taking away from his responsibilities?

CD. I'm sure he wouldn't. I'm sure that Mr. Whalen would probably cheer me to know that I would be there with him, saying, Give this capable man, who has this incredible inventory of resources, what he needs to maintain his system. If we do that—if we set it up on a formula basis and we set the example—then that minimum standard can run across the entire federal system that we have. Then I can reasonably ask states to meet a similar standard.

NRPA. So you don't think there would be any conflict?

CD. I guess some people are going to get nervous anytime we get out of our easy chair and assume an advocacy posture. All I'm saying is that I accept the risk of being an advocate. I accept the risk of the secretary saying, "Delaporte, you're out of line. You staked out some turf there you didn't have any business on." That's fine, those limits are set by my superiors. That's the way government works. If I get too far afield and people get nervous, they're going to make some calls and write some letters. That's a potential consequence of being in the advocate role. But, you know, I'm going to write all the prominent educators in America who are in the field of outdoor recreation and tell them about our urban recreation study and encourage that it be put into the curricula. I'm going to tell them at the same time that we are concerned about the curricula. They don't have to like that. They can say, he shouldn't have written, he shouldn't have done this. But I can suggest that good maintenance in park systems across this country should be a reasonable ideal and an example that a country entering its third century would want to do. And I don't think that's arguable.

NRPA. No, but are you going to impose any sanctions for not living up to that? Or will that be mandated as part of the SCORP plan?

CD. I personally would not be inclined to impose sanctions on states for their failure to do something, when the standard was not simplified to the point where the federal government could have set the best example for it and shown the right way to do it. Now the laws are a little bit at variance here. For example, the public participation law, the evaluation portion, is imposed on the states, not on the federal government. I have every confidence that under the openness that the Carter Administration has espoused, I should suggest prudent ways that the decision-making process for program priorities, project review, and expenditures on the federal side of the Land and Water Conservation Fund be just as open and subject to evaluation as it is on the state side.

NRPA. What kind of studies and processes will planning for the country's outdoor recreation system involve?

CD. I don't think it's any secret that I'm not a great believer in demand studies. Never have been. Since I was an SLO, I've always been an advocate of not doing demand studies as they previously were known, and moving to satisfaction surveys and that sort of thing. I think there are just too many variables in this ephemeral, quick changing world of ours to ever believe that we could accurately measure outdoor recreation demand on a very large scale—at the state level particularly. One major policy change—the President's energy message itself—would throw out the window a countless number of demand studies.

THE NEED FOR A DEPARTMENT OF EDUCATION

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. PURSELL. Mr. Speaker, during my years of public service in various capacities at the local, State, and now Federal level, I have been consistently reminded that the growth of this Nation has been a direct result of our educational system. Today, we need a solid, constructive, creative and coordinated educational system more than ever, in order to prepare our youth for a quickly changing world. Education is really the only tool we possess to meet the demands of change—and our citizenry expects a great deal from our educational system in order to accomplish this. Ironically though, we continue to reject education as our highest priority.

We say that we seek excellence in education for our children for what the schools do will shape our society for generations. Indeed, it is a major function in this country with upwards of 65 million Americans directly involved in education. Yet, in the HEW fiscal year 1978 budget of $160 billion, only $8.1 billion was earmarked for education. From 1968 to 1978, the HEW budget has almost quadrupled, growing from 23 percent of the total Federal budget to 36 percent. However, educational expenditures have a little more than doubled from $3.6 to $8.1 billion. Why does education continue to get the short end of the deal?

It is my firm belief that if we do not take a strong hold on our educational system, and do not give it the priority status it requires, this country will suffer greatly. I feel that a Cabinet-level Department of Education is the necessary catalyst to take hold of our educational system and provide it with the leadership, organization, and attention it is sorely lacking.

Education needs a much stronger executive voice than it has had in the past. HEW is already burdened with the massive problems of health and welfare and serious educational problems are being smothered. A Secretary of Education could concentrate on education in the way that is necessary to our well-being. Research and evaluation in education could be given the priority they need and deserve. When one takes into consideration the fact that the Education Division of HEW has a budget larger than the existing Departments of Commerce, Interior, or State, it is difficult to understand why we have not yet created a Department of Education.

Quite frankly, this country has no Federal education policy. We have over 40 Federal agencies, departments, and bureaus which are involved to some degree in education. There are 439 Federal programs that channel funds into postsecondary educational institutions alone. Yet, there is no single agency with the authority to give overall supervision to the administering, regulating, and accounting of some $10 billion spent in Federal education and manpower training programs. There is a tremendous need to consolidate these activities to provide some unified direction with greater impact for the separate parts.

We have traditionally felt that education belongs under the jurisdiction of the State and local governments. While I certainly believe in local control, no one can argue that the Federal Government does not have a tremendous impact on education. We also cannot ignore the fact that inflation-ridden citizens are screaming "no" to school budget increases, thereby exhausting local and State funds. Schools, colleges, and universities are increasing their dependence on the Federal Government for stability. Ineffective management at the Federal level will spell disaster for them. We must have a strong, coordinated educational policy—which can be provided by a Department of Education.

In addition to establishing this separate Department of Education, I believe we must take a long, hard look at our committee system in the Congress. When six postsecondary educational loan programs are under the jurisdiction of four separate House committees, we are only adding to the confusion and mismanagement. Therefore, I would strongly advocate a separate Committee on Education to coordinate our jurisdiction over educational programs.

The bipartisan support for a Department of Education exists in Congress. Legislation has been consistently introduced to this effect. The need for such a Department clearly exists. Therefore, it is our responsibility not to let President Carter forget his campaign promise to create this Department and to work for its creation for the betterment of our educational system.

DJILAS MEMOIRS BREAK CODE OF SILENCE OVER TITO'S PRISONER SWAP WITH NAZIS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. McDONALD. Mr. Speaker, in the recriminations that followed World War II as to how and why Eastern Europe was lost to Communist rule, none was more bitter than the case of Yugoslavia. During World War II, British intelligence, aided and abetted by leftists within its ranks, struggled manfully to get the United States to agree that Tito was the man to back not Mikhaylovich. In a short sighted decision, the United States agreed not to aid Mikhaylovich and to help Communist Tito to power. In justifying this decision, we were told that Mikhaylovich collaborated with the Germans and Italians, thus becoming a "bad" guy, while Tito never did anything like that. Such, of course, was not the case, as Milovan Djilas has recently revealed in his memoirs. The article by David Floyd in the London Daily Telegraph of September 5, 1977, follows:

MILOVAN DJILAS MEMOIRS

In his memoirs of the partisan war in Yugoslavia, published today, Milovan Djilas, former Yugoslav Vice-President and comrade-in-arms of President Tito, gives the first full account of how the Yugoslav Communists negotiated an exchange of prisoners with the German occuping forces, Djilas took part in the talks.

Official Yugoslav histories make no reference to this episode, and there have been denials that it ever took place.

When a former American diplomat, Walter Roberts, referred in a book to Tito's prisoner "deal" with the Germans the Yugoslav Government lodged a formal complaint in Washington. It remains a highly sensitive topic in Yugoslavia.

"I would not make public the essence of these negotiations with the Germans if they had not already been made widely known abroad," Djilas says, referring to the Roberts book.

"There is no reason for this silence today, except to preserve the idealized image of the leaders of the Yugoslav-revolution, as if it weren't sufficient for them to have carried out an original revolution."

YEARS IN PRISON

Djilas became increasingly critical of Tito's rule in Yugoslavia after the war and fell from power in 1954, later to spend years in prison. He now lives quietly in Belgrade, denied the right to publish or travel abroad.

The idea of proposing an exchange of prisoners to the Germans occurred to the Yugoslav leaders early in 1943, when the partisan forces were hard pressed and in need of a respite.

"It was Tito who developed the idea—or rather immediately sought ways of putting it into effect," Djilas says

Though Tito did not sign the initial letter to the German command, he chose the delegation to the talks and decided on the tactics to be adopted. The partisans were to suggest withdrawing to an area of little importance to the Germans and to name the Chetniks (Siberian royalist guerrillas) as their main enemies.

"There was not a word about the cessation of fighting between the Germans and ourselves, but this too was understood."

The partisan delegation consisted of Djilas, using the pseudonym of "Milosh Markovich," Vlatko Velebit, who became Ambassador to Britain after the war, under the name of "Petrovich," and Kocha Popovich, one of the leading partisan commanders.

The main talks took place in Zagreb.

Tito had a keen personal interest in the outcome of the talks, because one of the prisoners named on the partisans' list was Herta Has, Tito's second wife, a member of the German minority in Yugoslavia.

"The most important thing now is to get our comrade back! Do all you can to have her released," Tito told the delegates. He was at the time living with his wartime "wife," Zdenka Paunovich, and continued to do so after Velebit brought Herta Has back to him.

The talks resulted in the exchange of a dozen or so prisoners from each side.

The Germans appeared ready to negotiate a truce with the partisans. "But no agreement was ever signed, nor was there talk of our getting any weapons or help from the Germans," Djilas asserts.

The episode would not have assumed the importance it has for the Yugoslav Communists if they had not made so much of the Chetniks' contacts with the Germans.

But the Chetniks went very much further in their collaboration, fighting with the Germans against Tito's forces. Nevertheless the episode has been suppressed because it appears to be a blemish on the "whiter than white" image of Tito and the partisans.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 15, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 16

8:00 a.m.
Energy and Natural Resources
To hold hearings to receive testimony on the national energy and economic policy implications of the proposed crude oil equalization tax.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on consumer protection and education in the energy conservation area.
5110 Dirksen Building

9:30 a.m.
Banking, Housing and Urban Affairs
To hold hearings on the nominations of Roberta S. Karmel, of New York, to be a Member of the Securities and Exchange Commission, and Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.
5302 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 634 and S. 711, relating to the reorganization of bank regulatory agencies.
5302 Dirksen Building
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building
Finance
To resume consideration of H.R. 7200, to improve the supplemental security income benefits program and child welfare services and social services, and proposals affecting social security system financing.
2221 Dirksen Building
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To continue oversight hearings on the Freedom of Information Act.
2228 Dirksen Building
Joint Economic
Economic Growth and Stabilization Subcommittee
To hold hearings to consider the economic and social factors affecting American women in a full employment economy.
6226 Dirksen Building

10:30 a.m.
*Human Resources
Health and Scientific Research Subcommittee
To resume hearings on biomedical research programs.
Until 12:30 p.m. 4232 Dirksen Building

SEPTEMBER 19

8:00 a.m.
Energy and Natural Resources
To continue hearings to receive testimony on the national energy and economic policy implications of the proposed crude oil equalization tax.
3110 Dirksen Building

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1819, proposed Federal Criminal Diversion Act (voluntary use of intensive supervision at the time of arrest or soon thereafter).
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 684 and S. 711, relating to the reorganization of bank regulatory agencies.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building
Finance
To mark up proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
21 Dirksen Building

Foreign Relations
To hold hearings to receive testimony on the proposed sale of AWACS aircraft to Iran.
41 Dirksen Building

Government Affairs
To hold hearings on S. 80, S. 980, and H.R. 10, bills to amend the Hatch Act.
330 Dirksen Building

Government Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
318 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To mark up S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 11:30 a.m. 433 Dirksen Building

7:00 p.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1180, to designate certain endangered public lands for preservation as wilderness.
3110 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Human Resources
Handicapped Subcommittee
To hold hearings to review the reorganization of the Office of Human Development in HEW as it impacts on programs for the handicapped.
Until 1:00 p.m. 1114 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 12:30 p.m. 318 Russell Building

Human Resources
Labor Subcommittee
To hold hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the relationships between welfare reform and public housing programs.
5302 Dirksen Building

Commerce, Science, and Transportation
To continue hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Finance
To continue mark up of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Foreign Relations
To consider S. 897, to strengthen U.S. policies on nuclear nonproliferation and to reorganize certain nuclear export functions, pending nominations, and other committee business.
4221 Dirksen Building

Government Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building

7:00 p.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1180, to designate certain endangered public lands for preservation as wilderness.
3110 Dirksen Building

SEPTEMBER 21

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to receive testimony from FDA Commissioner Kennedy on the Federal Government's role in food safety and quality.
Until 10:00 a.m. 322 Russell Building

8:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on automatic auto crash protection devices.
235 Russell Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 12:30 p.m. 235 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. 6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up Truth in Lending Simplification legislation, including S. 1312, S. 1501, S. 1653, and S. 1846.
5302 Dirksen Building

Energy Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To continue mark up of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Foreign Relations
Foreign Economic Policy Subcommittee
To hold hearings on the IMF and the international debt.
4221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on H.R. 7792, to establish certain limitations on the use of franking privileges, and on simplifying mailing procedures.
154 Russell Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building

Rules and Administration
To hold hearings on the subjects of contributions solicited from or made by members and employees of the Senate, and alleged improper us of staff in political campaigns (in accordance with S. Res. 110).
301 Russell Building

Select Small Business
Government Regulation and Small Business Advocacy Subcommittee
To hold hearings on SBA suggestions for simplification of loan application forms.
424 Russell Building

Conference
On S. 1019, to authorize funds for fiscal year 1978 for certain maritime programs.
S-207, Capitol

10:30 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

SEPTEMBER 22

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings to receive testimony from representatives of the drug industry, livestock groups, and public interest groups on the Federal Government's role in food safety and quality.
Until 10:00 a.m. 322 Russell Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on protecting the privacy of public financial records.
5302 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 473, 533, 624, 688, 824, 917, 920, 1000, 1318, 1403, 1744, 2033, 2041, H.R. 1403, 2501, 2527, and H.R. 4974; various land conveyance bills.
3110 Dirksen Building

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on the proposed increase in the temporary debt limit (as embodied in H.R. 8655).
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 80, S. 980, and H.R. 10, bills to amend the Hatch Act.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
5202 Dirksen Building

SEPTEMBER 23

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1791, to establish the Chattahooche River National Recreation Area; S. 1156, to establish the San Antonio Mission National Historical Park; and S. 1671, to designate the Absaroka-Beartooth as a wilderness area.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Select Nutrition and Human Needs
To hold hearings on the role that nutrition plays in the needs of the elderly.
Until 12:30 p.m. 457 Russell Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:00 a.m.
Banking, Housing and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on protecting the privacy of public financial records.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearing on the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.
1224 Dirksen Building
Finance
To resume markup of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building
Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on the IMF and the international debt.
4221 Dirksen Building

SEPTEMBER 26

8:00 a.m.
Energy and Natural Resources
To hold hearings on the proposed Alaska Natural Gas Pipeline route.
3110 Dirksen Building
9:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building
9:30 a.m.
Foreign Relations
To hear testimony on the proposed Panama Canal treaties from Secretary of State Vance, Ambassador Ellsworth Bunker and Sol Linowitz, and Ambassador to Panama William Jorden.
318 Russell Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4332 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on bank regulatory issues arising from th Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building
Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 2016, to establish fees for services performed by U.S. marshals, and S. 2049, to allow per diem and mileage expenses for witnesses before U.S. courts.
2228 Dirksen Building

SEPTEMBER 27

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russel Building
*Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on S. 533, to foster the management committees in order to expand worker participation in decision-making matters.
Until 1:00 p.m.
1224 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the Civil Rights Improvements Act of 1977.
2228 Dirksen Building
9:30 a.m.
Foreign Relations
To hear Secretary of Defense Harold Brown and Chairman of the Joint Chiefs of Staff General George S Brown on the proposed Panama Canal treaties.
318 Russell Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building
Governmental Affairs
Reports, Accounting, and Management Subcommittee
To hold hearings on S. 1847, 1838, and 1329, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building
Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965
318 Russell Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on S. 1633, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and S. 661, to restore Federal recognition of certain Indian tribes.
Room to be announced
Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

SEPTEMBER 28

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
224 Russell Building
Rules and Administration
To hold hearings on S. 2, to require periodic reauthorization of Government programs.
301 Russell Building
Select Nutrition and Human Needs
To hold oversight hearings on food quality in the Federal food program.
Until noon
6202 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Judiciary
Juvenile Delinquency Subcommittee
To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the currency's report on OMB Director Lance.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building
Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
457 Russell Building

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal treaties.
318 Russell Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession.
Until 12:30 p.m.
457 Russell Building
10:00 a.m.
Governmental Affairs
Reports, Accounting, and Management Subcommittee
To resume hearings on S. 1847, 1838, and 1329, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on S. 1920, relating to the Tlingit and Haida Indian Tribes; S. 2046, to enable Alaska Natives to maintain and consolidate tribal governing bodies; and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building
9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:00 p.m. 6202 Dirksen Building
9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from executive branch officials on the proposed Panama Canal treaties.
318 Russell Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession.
Until 12:30 p.m.
1202 Dirksen Building

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building
10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building
Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
1202 Dirksen Building

OCTOBER 5

9:30 a.m.
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced
Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced
Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building
Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
Room to be announced

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

OCTOBER 11

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building
Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 25

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To hold oversight hearings on drug enforcement policies.
2228 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on drug enforcement policies.
2228 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

SENATE—*Thursday, September 15, 1977*

The Senate met at 9:45 a.m., and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

Mr. MATSUNAGA. Our guest chaplain for today is the undisputed religious leader of Hawaii and, to the people of Hawaii, its social conscience, the Reverend Abraham Akaka, pastor of the oldest church in Hawaii, Kawaiahao Church.

The Reverend Dr. Abraham K. Akaka, pastor, Kawaiahao Church, Honolulu, Hawaii, offered the following prayer:

Let us pray.

One nation, one world under God, with liberty and justice for all.

Almighty God, our Father, under whose mercy and judgment all people rise or fall, let Thy guiding hand be upon our beloved Nation like a gentle carpenter's level, that President Carter, Vice President MONDALE, the Members of this Senate, and all who bear responsibility for the peaceful future of our world may be clear and faithful in our common stewardship of power, justice, and aloha.

Whenever dark clouds may gather about us and our world, help us and all Americans to remember our precious heritage of faith, to exercise our puritan responsibility for the whole social order, to fulfill that responsibility in our private and public arenas and thus give vital moral and political direction to our Nation and the nations.

Help us to walk with integrity in Thy righteousness that we may fear no man or media. Let no evil have claim upon us and our Nation. Destroy, O God, what is evil. Establish what is good. Let the beauty and glory, the prosperity and peace, joy and aloha of the Lord our God be upon us and our Nation. For Thine is the kingdom and the power and the glory forever.

Hear, O America. Hear, O planet Earth, the Lord our God is one Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 15, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the Journal of the proceedings of yesterday, Wednesday, September 14, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, with one exception, that being Calendar Order 455.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

The second assistant legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc, with the exception of Calendar No. 455.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered. The nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL ENDOWMENT FOR THE HUMANITIES

Joseph D. Duffey, of the District of Columbia, to be chairman of the National Endowment for the Humanities.

DEPARTMENT OF STATE

Lowell Bruce Laingen, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

John Richard Burke, of Wisconsin, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Marshall Darrow Shulman, of Connecticut, for the rank of Ambassador during the tenure of his service as Special Adviser to the Secretary of State for Soviet Affairs.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Maurice Darrow Bean, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America

to the Socialist Republic of the Union of Burma.

Mari-Luci Jaramillo, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

William B. Schwartz, Jr., of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas.

Raul H. Castro, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank H. Perez, of Virginia, to have the rank of Minister during the tenure of his assignment as the State Department SALT representative at Geneva, Switzerland.

Paul H. Boeker, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

William P. Dixon, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Charles N. Van Doren, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF THE INTERIOR

Forrest J. Gerard, of Maryland, to be an Assistant Secretary of the Interior.

ACTION AGENCY

Mary Frances Cahill Leyland, of New York, to be an Assistant Director of the ACTION Agency.

Irene Tinker, of Maryland, to be an Assistant Director of the ACTION Agency.

DEPARTMENT OF JUSTICE

John H. Shenefield, of Virginia, to be an Assistant Attorney General.

Jose Antonio Canales, of Texas, to be U.S. attorney for the southern district of Texas.

Hubert H. Bryant, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma.

Bernal D. Cantwell, of Kansas, to be U.S. marshal for the district of Kansas.

Carl W. Gardner, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma.

COMMUNITY SERVICES ADMINISTRATION

Frank Jones, of Virginia, to be an Assistant Director of the Community Services Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider the vote en bloc by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

JOINT REFERRAL OF A COMMUNICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation, transmitting an option paper detailing major choices for refining the Nation's transportation grant programs, be referred jointly to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no other need for my time, and I yield it back.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, the leadership has no need for time. I have a special order.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for not to exceed 15 minutes.

THE LEGACY OF REGULATION—REPORT ON NEW MEXICO NO. 5

Mr. SCHMITT. Mr. President, since entering the U.S. Senate, I have made it a practice, after each recess or nonlegislative period, to report to my colleagues in the Senate the major items of concern or major issues in New Mexico, or mentioned to me by New Mexicans during the period of the recess.

Although in the last extended recess, covering most of the month of August, a number of specific issues were on the minds of New Mexicans—the question of the Panama Canal Treaties, the question of illegal alien policy—there was still one overriding issue that kept coming up again and again, and it is to this issue that I wish to address myself today. This issue is the legacy of regulation.

Mr. President, the people and local governments of New Mexico are more and more dissatisfied and disappointed with the Federal Government. This is the inescapable conclusion coming from this Senator's tour around the State during the recent recess.

The level of frustration and resentment directed at the Federal Government and its regulation of daily life is notably higher than in the recent election campaign.

After the elections of 1976 New Mexicans expected that government would start to be returned to the people as promised by the Carter campaign. They did not realize that in the dictionary of the Carter administration and the Congress, "the people" means "Washington."

In the first 7 months of the Carter administration and the 95th Congress, most of the major legislative and administrative actions have further concentrated power in Washington.

The new Department of Energy and the energy proposals now being considered, if passed, will further increase the regulation and taxation of business, with only additional increases in prices and decreases in supply being the inevitable consequences for the consumer.

The recently enacted strip mining legislation, rather than improving mining and mine reclamation, delays meeting the energy supply crisis and usurps personal and State property rights.

Federal control, and thus one-party control, of who can be elected is seen in the proposed changes to Federal election laws, including same-day voting registration, Federal financing of candidates for Congress, weakening of the Hatch Act protections, elimination of the electoral college protections, and outside income restrictions on those who hold a congressional office.

The new welfare "reform" proposals do not seem to be reforms at all to many New Mexicans when they see the vastly increased cost and the Federal takeover of local and State responsibilities.

The proposals for amnesty and employer sanctions to treat the symptoms of the illegal alien problems will not solve the problem but will clearly increase both the numbers of aliens trying to enter the United States and the discrimination against Americans of Spanish descent.

The schools, cities, and counties of New Mexico, having unfortunately allowed themselves to become dependent on Federal funding, now find the acquisition of Federal money increasingly complex and uncertain.

New Mexico's ever larger retirement community, its poor, and its average income citizens continue to stare inflation in the face, while Congress continues to feed that monster with larger and larger annual deficits.

Perhaps the most onerous and disturbing trends noted by New Mexicans are those showing ever-increasing militancy on the part of the Departments of the Interior and Agriculture in their interpretation of laws affecting the private use of public lands and water. It is New Mexico's strong feeling that, in addition to protecting public land from abuse, these Departments are obligated to allow and assist in the harvesting of the renewable resources of this land and in the reasoned extraction of mineral resources. The Secretary of the Interior has suggested a new Federal police force to oversee public lands. He has said he will break up farms of greater than 160 acres which utilize water from the Bureau of Reclamation projects. He appears to favor Federal usurpation of private and State water rights. He is

marching hand in hand with the Secretary of Agriculture who is allowing the western timber industry to be destroyed by massive and unnecessary withdrawals of forest lands from timber sales.

I might add, Mr. President, that this withdrawal of timber from the availability for sale and harvesting is affecting, and will continue to affect seriously, the housing industry in this great country.

Finally, of greatest immediate concern to many New Mexicans, the Secretary of Interior is permitting the Bureau of Land Management to exercise management control over the operations of individual ranches and farms. The assumptions appear to be that the users of public lands will intentionally destroy the land that provides their livelihood and that someone in Washington can manage a ranch better than the local rancher himself. These hardly seem to be rational assumptions; however, they are being sustained by regulations.

The message, then, from New Mexico is that New Mexicans are increasingly frustrated and resentful under the ever greater weight of regulations, taxation, and inflation. Permit me to cite a few examples:

The teachers who see more and more forms that continually reduce time with the students;

The city official who sees changing regulations and increasing paperwork delay required projects;

The energy producer and distributor who sees expanding regulations increase the prices he must charge the consumer at the same time, but decreases the supply of energy he can deliver;

The small businessperson and the minority businessperson who sees increasing taxes, paperwork interference and costs due to Federal action and inaction;

The retired, disabled, and unavoidably poor who see themselves at the mercy of an unfeeling, disinterested, impersonal bureaucracy and of unrelenting inflation;

The rancher, farmer, lumberman, and miner who see the balanced use of the resources of public lands and water prevented by those who misuse the law, the environmental impact statement, and the Wilderness Act.

Finally, there is the taxpayer who sees more and more taxes solving fewer problems and who sees the tax laws becoming so complex that he must hire an accountant to prepare the forms and a lawyer to negotiate the tax.

In this climate of frustration and resentment, a passive revolt is burning. It is not clear how much more the hard-working Americans will take before he or she stops fighting the present system of regulations, taxation, and inflation.

Before such a passive revolt occurs, before Americans shrug their shoulders and decide there is no point in fighting anymore, Congress must begin to side with the people whose goodwill and hard work are required to make our Republic function. Without them, without their spirit of enterprise, there will be no Republic.

ORDER OF BUSINESS

Mr. SCHMITT. Mr. President, I yield the remainder of my time to the Senator from Virginia (Mr. SCOTT).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I appreciate the Senator from New Mexico yielding the remainder of his time to me.

The PRESIDING OFFICER. The Senator is recognized for an additional 15 minutes on his own behalf.

TITLE TO THE CANAL ZONE AND PROPER METHOD OF TRANSFER

Mr. SCOTT. Mr. President, it appears that the proposed Panama Canal Treaties submitted by the President will be among the most important and controversial matters to be considered by the 95th Congress. Therefore, I believe we should attempt to review the treaties in detail to understand them fully and then vote the way we consider to be in the best interests of the people of the United States regardless of emotionalism, of pressure, or extraneous factors for or against the treaties. To that end, I have attempted to review the history of the Canal Zone, studied its status as a territory, reviewed legal authorities, listened to testimony of witnesses appearing before a subcommittee of the Senate Judiciary Committee, visited the Canal Zone and a number of South American countries to obtain the views of Latin American leaders. I have also read the correspondence coming into the office from constituents and am obtaining as much information as possible on this proposal.

Perhaps one of the basic matters to consider is the title and sovereignty of the United States to the property within the Canal Zone. The primary portions of the 1903 treaty with the Republic of Panama relating to these matters read as follows:

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land underwater for the construction, maintenance, operation, sanitation and protection of said canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

However, the first article of the proposed new treaty with the Republic of Panama now before the Senate for its advice and consent would terminiate and supersede the entire 1903 treaty. Therefore, it would seem that we should first examine what the United States would lose by ratifying the new proposal. Article II indicates that the United States is granted in perpetuity the use, occupation, and control of the Canal Zone. Article III says that this grant is what the United States would possess if it were sovereign of the territory to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority. This language would appear to convey the entire title to the property contained within the Canal Zone and to grant sovereignty over the area. To support this position, we have the opinion of John Hay who was Secretary of State at the time of the ratification of the treaty. I ask unanimous consent, Mr. President, that a copy of Secretary Hay's letter of October 24, 1904, with its enclosure be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCOTT. Mr. President, you will note from the letter of Secretary Hay that in his opinion:

The United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the Canal Zone the exclusive jurisdication to exercise sovereign rights, power and authority.

In argument before the Supreme Court in the case of *Wilson* v. *Shaw*, 204 U.S. 24 (1906), The Attorney General of the United States said:

Title to the canal strip having been acquired, this suit in effect seeks to restrain the Government from improving its property.

In the same case the Supreme Court states:

This new republic has by treaty granted to the United States rights, territorial and otherwise, acts of Congress have been passed providing for the construction of a canal, and in many ways the executive and legislative departments of Government have committed the United States to this work and it is now progressing.

Further on in its decision, the Court stated:

It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in some of the ordinary conveyances of real estate . . .

Alaska was ceded to us 40 years ago but the boundary between it and the English possessions East was not settled until within the last two or three years. Yet, no one ever doubted the title of this Republic to Alaska.

The question of sovereignty was also the subject of an opinion of the Attorney General on September 7, 1907 (26 Att'y Gen. 376). Then U.S. Attorney General Bonaparte stated:

In my opinion the sovereignty over the canal zone is not an open or doubtful question.

Article 3 of the treaty transfers to the United States, not the sovereignty by that term, but "all the rights, power and authority" within the zone that it would have if sovereign, "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign (sic) rights, power or authority."

The omission to use words expressly passing sovereignty was dictated by reasons of public policy, I assume; but whatever the reason the treaty gives the substance of sovereignty, and instead of containing a mere declaration transferring the sovereignty, descends to the particulars "all the rights, power, and authority" that belong to sovereignty, and negatives any such "sovereign rights, power, or authority" in the former sovereign.

The "rights" so transferred are to be enjoyed (Article 2) "in perpetuity," and no exception is made of any persons or things in the zone.

I am unable to perceive that this language is obscure or ambiguous or that we are warranted in resorting to any construction of it except by the first rule of construction—that plain and sensible words should be taken to mean what they say.

In 1971, the Fifth Circuit Court of Appeals in *United States* v. *Husband R. (Roach)* 453 F.2d 1054, stated:

The Canal Zone is an unincorporated territory of the United States. Laws applicable to the Canal Zone are enacted by the Congress—there is no local legislation . . .

And later in the decision states:

Congress has complete and plenary authority to legislate for an unincorporated territory such as the Canal Zone, pursuant to article iv, paragraph 3, clause 2 of the Constitution, empowering it "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Certiorary was denied by the Supreme Court in 406 U.S. 935 (1972). 406 U.S. 935 (1972).

It should be noted, Mr. President, that under the 1903 treaty, the United States guaranteed the independence of the Republic of Panama, paid Panama the sum of $10 million and agreed to the payment of an annuity of $250,000. We also paid the Republic of Colombia the sum of $25 million in consideration for which Colombia agreed that title to the Canal Zone was vested entirely and absolutely in the United States without any incumbrances or indemnities whatever. France was paid $40 million for its interest in the canal and the Panama Railroad and our Government also paid private landowners and squatters for their interests in the land. We paid Panama, Colombia, France, private owners, and squatters for the property. We built the canal, conquered disease in the area, established water and sewage facilities, a system of highways, and constructed numerous improvements within the Canal Zone. Therefore, in my opinion the Canal Zone and all of the improvements within the zone are the property of the United States.

In order to resolve a question, however, of the proper manner of disposing of property in the event such disposition should be made, I requested the Congressional Research Service of the Library of Congress to study this matter and furnish an opinion regarding it.

After extensive research, the Library concluded that an exclusive grant of authority is given to Congress to dispose of property of the United States by article IV of the Constitution. The research paper does suggest, however, that the cooperation of all three branches of Government is necessary for the effective implementation of American foreign policy.

It is a well-reasoned and well-documented legal memorandum.

Mr. President, I ask unanimous consent that the entire research memorandum be printed in the RECORD at the conclusion of my remarks for the information of other Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SCOTT. Mr. President, I realize this statement is somewhat legalistic and yet in a controversy that is so emotional it does appear reasonable to establish a solid foundation for further examination into the action that the Senate should take.

In connection with the proposed treaties, some have said we should be fair and I am in complete agreement that we should. But, fairness means doing what is right and proper not only for the Republic of Panama, but to do what is in the best interest of the American people. There should be mutuality in any agreement.

I shall take some time within the near future to discuss the value of the canal to the United States from an economic, political, and military point of view, including some of the views expressed by leaders of South American countries.

From the manner in which the signing of the proposed treaty was glamorized, one might be led to believe that all of Latin America is wholeheartedly in favor of this proposal, but my discussions with Latin American leaders indicate that they have reservations. Therefore, each week during the remainder of the session I hope to share my thinking on some phase of the canal question with the other Members of the Senate.

EXHIBIT 1

REPLY OF SECRETARY OF STATE TO SENOR DE OBALDIA

DEPARTMENT OF STATE,
Washington, October 24, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your communication dated August 11, 1904, advising this Department that you have received instructions from the Republic of Panama "to take steps looking toward the obtaining of a satisfactory settlement of the difficulties which have unexpectedly arisen between the authorities of the Republic and the governor of the Canal Zone, owing to the interpretation given by the latter to some of the clauses of the agreement concerning the isthmian canal concluded between the two countries on November 18 last."

The action of the Zone authorities, of which complaint is made, was taken pursuant to orders, copies of which are herewith transmitted, issued by direction of the President of the United States, and therefore it is inaccurate to attribute said orders to the governor of the Canal Zone.

I have read with the care and consideration its importance required the argument set forth in your communication in support of the contention that the United States is acting in excess of its authority (1) in opening the territory of the Canal Zone to the commerce of friendly nations; (2) in establishing rates of customs duties for importations of merchandise into the Zone; (3) in establishing post-offices and a postal service in said Zone for the handling of foreign and domestic mailable matter.

The right of the United States to adopt and enforce the provisions of said orders is dependent upon its rights to exercise the powers of sovereignty as to the territory and waters of the Canal Zone, and whether or not the United States is authorized to exercise sovereign powers in that territory is to be determined by the terms of the convention of November 18, 1903, between the Republic of Panama and the United States, referred to in your communication as the Hay-Varilla convention.

The United States can not accede to the proposition advanced by you as follows:

"As an indispensable antecedent of the Hay-Varilla convention must be regarded the Hay-Herran treaty, concluded January 22, 1903."

Whatever could or would have been the effect of the stipulations of the proposed treaty with Colombia, known as the "Hay-Herran treaty," is rendered unimportant by the fact said treaty was not concluded, but was rejected by Colombia.

I note your reference to the provisions of said proposed treaty with Colombia (Art. IV):

"The Government of the United States * * * disclaims any intention * * * to increase its own territory at the expense of Colombia or of any of the sister republics of Central and South America; it desires, on the contrary, to strengthen the power of the republics on this continent, and to promote, develop, and preserve their prosperity and independence."

The policy thus announced did not originate with the proposed treaty with Colombia. It is the long-established policy of the United States, constantly adhered to; but said policy does not include the denial of the right of transfer of territory and sovereignty from one republic to another of the Western Hemisphere upon terms amicably arranged and mutually satisfactory, when such transfer promotes the peace of nations and the welfare of the world. That the United States may acquire territory and sovereignty in this way and for this purpose from its sister republics in this hemisphere is so manifest as to preclude discussion.

The Government of the Republic of Panama having seen fit to object to the exercise by the United States within and over the Canal Zone of the ordinary powers of sovereignty, this Government, while it can not concede the question to be open for discussion or the Republic of Panama to possess the right to challenge such exercise of authority, considers it fitting that the Republic of Panama should be advised as to the views on the subject entertained by the United States and the reasons therefor.

The United States acquired the right to exercise sovereign powers and jurisdiction over the Canal Zone by the convention of November 18, 1903, between the Republic of Panama and the United States.

The character and extent of the grant of

governmental powers to the United States and the resulting right and authority in the territory of the Zone are set forth in a separate article, as follows:

"ARTICLE III. The Republic of Panama grants to the United States all the rights, powers, and authority within the Zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II, which the United States would possess and exercise if it were the sovereign to the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such foreign rights, power, or authority."

Let us test the existing controversy by the provisions of this article. "If the United States * * * were the sovereign of the territory," would it possess the right and authority to regulate commerce therewith, establish customs-houses therein, and provide postal facilities therefor? This question must be answered in the affirmative.

If it were conceived that the abstract, nominal "rights, power, and authority of sovereignty in and over the Zone" are vested in the Republic of Panama, there would still remain the fact that by said Article III the United States is authorized to exercise the rights, power, and authority of sovereignty "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

If it could or should be admitted that the titular sovereign of the Canal Zone is the Republic of Panama, such sovereign is mediatized by its own act, solemnly declared and publicly proclaimed by treaty stipulations, induced by a desire to make possible the completion of a great work which will confer inestimable benefit upon the people of the Isthmus and the nations of the world. It is difficult to believe that a member of the family of nations seriously contemplates abandoning so high and honorable a position in order to engage in an endeavor to secure what at best is a "barren scepter."

Under the stipulations of Article III, if sovereign powers are to be exercised in and over the Canal Zone, they must be exercised by the United States. Such exercises of power must be, therefore, in accordance with the judgment and discretion of the constituted authorities of the United States, the governmental entity charged with responsibility for such exercise, and not in accordance with the judgment and discretion of a governmental entity that is not charged with such responsibility and by treaty stipulations acquiesces in "the entire exclusion of the exercise by it of any sovereign rights, power, or authority" in and over the territory involved.

Article II of the convention provides that "the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal."

The Panamanian authorities now contend that the words "for the construction, maintenance, operation, sanitation, and protection of said canal," constitute a limitation on the grant; that is to say, that the grant is confined to the purposes so stated. The position of the United States is that the words "for the construction, maintenance, operation, sanitation, and protection of the said canal" were not intended as a limitation on the grant, but are a declaration, and appropriate words of conveyance. The compensation for the grant * * *.

A document evidencing a grant or transfer usually sets forth a description of the property granted, the inducement leading up to the grant, the compensation, and appropriate words of conveyance. The compensation for the grant under consideration is set forth in Article XIV of the treaty, as follows:

"As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States * * *."

Article I of the treaty provides that "the United States guarantees and will maintain the independence of the Republic of Panama."

It would undoubtedly be offensive to the Republic of Panama to be placed before the world as having been induced to consent "to the entire exclusion * * * of any sovereign rights" in the territory of the Canal Zone by the payment of money or because of a want of ability to maintain its independence. It would, however, be highly honorable and entirely justifiable to consent to such exclusion of sovereign right when the moving cause or inducement is "the construction, sanitation, maintenance, operation, and protection" of a work of such stupendous magnitude and world-wide importance as the isthmian canal.

The grant to the United States provided for in said treaty included also property other than the territory of the Zone. Article VIII stipulates that—

"The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company, as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama * * *."

If the grant is subject to the condition and limitation contended for by the Panama authorities, and the United States is not entitled to the revenues or benefits of the territory of the Zone, or to regulate its commerce with foreign nations, or to control its international relations, it also follows that the United States, while it may use the Panama Railroad "for the construction, maintenance, operation, sanitation, and protection of said canal," is not at liberty to regulate the use of said railroad by foreign commerce, and such revenue as is received by virtue of the rights conferred by the treaty, excepting for local traffic, belongs to the Republic of Panama. The proposition refutes itself.

The great object sought to be accomplished by the treaty is to enable the United States to construct the canal by the expenditure of public funds of the United States—funds created by the collection of taxes and moneys derived from the revenue measures of the United States. For many years after the adoption of our Constitution the belief prevailed that the funds of the National Government could not be expended in the construction of public improvements, excepting those required for the use of the National Government, such as the Capitol, Executive Department buildings, arsenals, forts, custom-houses, post-offices, etc. The construction of highways, railroads, etc., the improvement of rivers and harbors, etc., the protection and improvement of water powers, construction of canals, and similar undertakings for the use and convenience of the general public and private enterprises was considered to be outside the competency of the National Government, although said works were to be constructed in territory subject to the national sovereignty.

Finally it was established that the National Government had the authority to enter upon the construction of public works of the character referred to, and to devote the public funds of the nation thereto; and the reasons inducing such determination are all predicated on the fact that such public works are to be situated in territory subject to the national sovereignty. It is quite probable that this phase of the situation is not considered by the Panamanian authorities, and that they do not distinguish the difference between the Government of the United States and the French canal company. The French company was a private enterprise and derived its funds from individuals who voluntarily devoted their private means to promoting the endeavor. Such funds could be expended anywhere and for any purpose sanctioned by the contributors.

But the Government of the United States in building the canal does not expend private funds, but public moneys derived by public taxation for public purposes. Moneys so realized may be used for national purposes outside the territory subject to the national sovereignty, such, for instance, as the promotion of a war in foreign territory, for in time of war the war powers of the nations are called into activity, and those powers are coextensive with the nation's necessities, and the conduct of war is especially enjoined upon the National Government by our Constitution; so also these funds may be expended for the purchase of ground for the erection of embassies, coaling stations, etc., for those are instrumentalities of the National Government; but the isthmian canal is an instrumentality of commerce, a measure for the promotion of the purposes of peace. Commerce is the life of a nation, but it is conducted by individual citizens in a private capacity and not as a governmental institution.

That the plain and obvious meaning of Article II was the one originally intended by the parties to the treaty is further shown by the provisions of Articles IX, X, XII, XIII.

For the proper understanding of the provisions of said articles it is necessary to bear in mind that the city of Colon, on the Atlantic, and the city of Panama on the Pacific, each has a harbor in which are constructed wharves and piers suitable for landing cargoes and passengers. Both of these cities are in territory of the Republic of Panama. On the Pacific side the canal pierces the Isthmus at a point nearly 5 miles distant, following the short line, from the ships landing in the harbor at Panama, and about 2½ miles distant straight across the peninsula. On the Atlantic side the canal pierces the Isthmus at a point half a mile across the bay from the piers in the harbor of Colon.

At the Pacific entrance to the canal the French company erected a large pier and dredged out a channel, so that vessels of deep draft might come up to the pier. This point is called La Boca. A branch of the Panama Railroad connects said pier with the main line. Vessels, however, continue to enter the harbor at the city of Panama and discharge their cargoes. The waters of this harbor are shallow, and deep-draft vessels anchor offshore and lighter their cargoes, as they did for more than a century before the pier was built and the city channel dredged at La Boca.

On the Atlantic side of the Isthmus the harbor and piers of the city of Colon are the ones of more convenient access to vessels. The entrance to the canal on the Atlantic side is called Cristobal, at which point there is a small temporary wharf, recently constructed, but a channel has not been dredged out. Consequently, practically all vessels sailing the Atlantic from the United States and elsewhere land at the Colon piers. The Panama Railroad Company has a line of steamers between Colon and New York, and there is also a steamship line between Colon and New Orleans. By far the greater portion of the commerce of Colon is with the United States, and it was obvious at the time the treaty was negotiated that a large quantity of materials and supplies and a large number of employees for the canal construction and the government of the Zone would arrive at Colon from the United States. Two piers in the Colon harbor belonged to the Panama Railroad Company and are now owned by the Government of the United States, but be-

tween said piers and the line of the Canal Zone there is a strip of land subject to the sovereignty of the Republic of Panama.

The provisions of Articles, IX, X, XII, and XIII are intended to provide for the proper exercise of governmental authority under these conditions of fact. Article IX relates to the exercise of authority by both Governments. When separated the provisions read as follows:

"The United States agrees that the ports at either entrance of the canal and the waters thereof shall be free for all time, so that there shall not be imposed or collected custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, or any other charges or taxes of any kind upon any vessel using or passing through the canal, or upon the cargo, officers, crew, or passengers of any such vessels, except such charges as may be imposed by the United States for the use of the canal or other works."

If it were intended that the United States should not secure the right to regulate foreign commerce entering the Zone, why was it required to stipulate that it would not impose or collect custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, or any other charges or taxes of any kind upon the cargo, officers, crew, or passengers of ships entering the canal? If the Republic of Panama is the sovereignty exercising jurisdiction over foreign commerce within the Zone, why was the exception respecting tolls and charges for the use of the canal and other works made in favor of the United States?

The stipulations of said Article IX respecting the exercise of authority by the Republic of Panama are as follows:

"The Republic of Panama agrees that the towns of Panama and Colon shall be free for all time, so that there shall not be imposed or collected custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, or any other charges or taxes of any kind upon any vessel issuing or passing through the canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation, and protection of the main canal or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal."

The expression "the rest of the Republic of Panama" must be held to refer to that portion of the territory of the Republic as existing at the time the treaty was negotiated, lying outside the boundaries of the proposed Canal Zone, unless it is insisted that it refers to that portion of the Republic which is not included in the towns of Colon and Panama—a contention that would hardly find favor with the authorities of the Republic. Why this exception in favor of the Republic of Panama if that Government possesses the right to regulate foreign commerce with the territory of the Zone?

Article IX contains the further provision:

"The Government of the Republic of Panama shall have the right to establish in such ports [the ports at either entrance of the canal] and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama, and to prevent contrabrand trade."

Why this provision if the right existed?

For the proper understanding of Article X it is necessary to bear in mind that the French Canal Company owned and the United States purchased from it a large amount of real estate situated in the towns of Colon and Panama, which towns are subject to the sovereignty of the Republic of Panama. Among other pieces of property, the canal office building, a large structure in the center of the town of Panama, the railroad station and terminals at Colon and Panama, the large piers in the harbor at Colon, the steamships, tugs, and other water craft belonging to the Panama Railroad, and the canal company's warehouses filled with machinery, materials, and supplies.

Practically all the employees working in and around these structures, and many other employees of the government of the Zone, the Panama Railroad and the canal construction department, reside in Colon and Panama. To meet this situation the treaty provides as follows:

"ARTICLE X. The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class upon the canal, the railways, and auxiliary works, tugs, and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property and effects appertaining to the canal or railroad or auxiliary works, or their offices or employees situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works."

Attention is directed to the fact that by the foregoing article the Republic of Panama foregoes the right to impose "any taxes, national, municipal, or departmental," on the property of the United States and its employees situated in the cities of Panama and Colon. If it had been contemplated that the Republic of Panama retained sovereign rights in the Zone or was at liberty to exercise those rights in that territory the United States would certainly have required the same exceptions for the large amount of its property in the Zone as it required for its property in the cities of Panama and Colon.

Perhaps no more complete refutation of the claims advanced by the Republic of Panama is necessary than to propound the inquiry, Is the Republic of Panama authorized to impose national, municipal, and departmental taxes on the property of the United States situated in the Canal Zone?

So well understood was it that the exercise of sovereign powers by the Republic of Panama was to be confined to the territory remaining to the Republic that in at least three articles referring to such exercise of power the territory of the Republic is not mentioned, although manifestly no other territory was under consideration.

The articles referred to are X, XII, and XIII.

Article X provides "that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works."

Article XII provides: "The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality, under contract to work upon or seeking employment upon or in any wise connected with the said canal, and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama."

It is perfectly plain that these stipulations relate to the exercise of governmental authority in the territory outside of the Canal Zone.

Let it be supposed that this treaty did not contain the provision "all such persons shall be free and exempt from the military service of the Republic of Panama." Would anyone contend, after reading Article III of the treaty, that a citizen of the United States employed on the canal and residing in the Zone owed such temporary allegiance to the Republic of Panama as to be liable to military service for that Government?

Article XIII must also be considered as relating to the territory of the Republic of Panama. That article provides that "the United States may import" (pass through the territory of the Republic) "into the Zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges and without any restrictions," certain designated articles respecting which further provision is made, as follows:

"If any such articles are disposed of for use outside of the Zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama."

Manifestly it is not until the goods are "outside the Zone" and "within the territory of the Republic" that they are subject to "import or other duties under the laws of the Republic of Panama."

The Panamanian authorities insist that it is by virtue of Article XIII that the property of the United States acquires the right of free entry into the Zone. Such contention is not warranted. Said article is intended to give the right of free transit across the territory of the Republic of Panama for goods belonging to the United States. The right of the United States to take its property into the Zone results from the provisions of Article XIII. The construction contended for by Panama makes Article XIII contradict, if not nullify, Article III, for by title terms of Article III the Republic of Panama grants to the United States "all the rights, power, and authority of a sovereign to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority" in the Canal Zone.

When due consideration is given to Article III it is apparent that Article XIII relates to the exercise of sovereign powers by the Republic of Panama in territory wherein such exercise is contemplated by the treaty, to wit, the territory of the Republic.

Under the construction of Article XIII contended for by Panama the right of that Republic to tax the goods in question depends upon the ownership of the property without regard to the place of final destination; if the goods are the property of the United States they enter free and remain exempt from tariff imposts so long as they continue to be the property of the United States; if, however, the United States parts with the ownership the sovereignty of Panama may impose on said goods the customs duties prescribed by the laws of that Republic.

If the Republic of Panama is authorized to exercise sovereign powers in the Canal Zone, and the sovereign right to impose customs duties is restrained only by the fact of ownership by the United States, it would follow that if the United States transferred the ownership of property deposited in the Canal Zone such property would be subject to said right, whether it remained in the Zone or not. But said Article XIII expressly declares that the right to impose customs duties on such property is to be exercised in the event only that "such articles are disposed of for use outside the Zone and auxiliary lands granted the United States and within the territory of the Republic."

Clearly the exercise by the Republic of Panama of the sovereign right to impose customs duties on goods of its character under consideration is dependent upon two

facts: First, that the goods are owned by some one other than the Government of the United States; second, that the goods are to be used outside the Zone and within the territory of the Republic of Panama by some one other than the United States.

A careful examination of the provisions of Article XIII discloses that they combine definite description of specific articles and indefinite classification of property in general.

The article under consideration (XIII) reads as follows:

"The United States may import, at any time, into the Zone and auxiliary lands, free of customs duties, imports, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families."

Read by the light of contemporaneous history, it is difficult to see how this article can be considered as relating to the exercise of authority anywhere except in the territory of the Republic of Panama.

That the grant accomplished by the treaty was a grant of land and sovereign right thereover, and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty; for instance, Article XIII employs the expression "outside the Zone and auxiliary lands granted to the United States and within the territory of the Republic."

In support of the contention advanced by the Government of the Republic of Panama, you quote Article IV of the proposed treaty with Colombia. The first stipulation of that article is as follows:

"The rights and privileges granted by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised."

No such provision as the foregoing appears in the convention between the United States and the Republic of Panama; on the contrary, Article III of the convention with Panama provides that—

"The Republic of Panama grants to the United States all the rights, powers, and authority within the Zone * * * which the United States would possess and exercise if it were the sovereign, * * * to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

This stipulation is plain and its purpose manifest. If the powers of sovereignty are to be exercised in that territory the right to exercise them belongs to the United States.

Permit me to call your attention to certain official acts of the Government of the Republic of Panama which evidence that the legislative, executive, and judicial branches of that Government have heretofore accepted and acted upon the theory that the convention of November 18, 1903, conveyed the territory of the Canal Zone and sovereign jurisdiction thereover to the United States.

The constitution of the Republic of Panama was formulated during the time the treaty between the United States and Panama was pending before the Senate of the United States. The constitution was adopted on February 13 and proclaimed February 15, 1904. The Senate recommended the ratification of the treaty on February 23, and the President carried out the recommendation on February 25, 1904.

The constitution of Panama described the boundaries of that Republic as follows:

"ART. 3. The territory of the Republic is composed of all the territory from which the State of Panama was formed by the amendment to the Granada constitution of 1853 * * * together with its islands and of the continental and insular territory. * * * The territory of the Republic remains subject to the jurisdictional limitations stipulated or which may be stipulated in public treaties concluded with the United States of North America for the construction, maintenance, or sanitation of any means of interoceanic transit."

What is meant by "jurisdictional limitations" if it were intended that the pending treaty should convey nothing but rights of property? Why was this limitation placed upon the extent of the national domain, if the United States was to be a mere concessionaire subject to the jurisdiction of the Republic of Panama?

The legislative branch of the Government of the Republic of Panama has recognized the right of the United States to exercise the sovereign authority to regulate foreign commerce with the territory of the Zone and has enacted two statutes with reference to such exercise of authority by the United States.

Law No. 65, enacted by the National Assembly of Panama on June 6, 1904, "conferring certain authority upon the Executive," is as follows:

"ARTICLE 1. Authority is given to the Executive to reduce, as may be convenient, those duties, the collection of which, at the rates established by the present law, ordinances, or decrees, would be prejudicial to commerce and to the public because of great differences there might be between them and those established by the United States Government for the Canal Zone.

"ART. 2. Authority is also given to the Executive to enter into an agreement with the Government of the United States respecting the rates of duties to be collected in the Canal Zone and the cities of Panama and Colon: *Provided, however*, That the said duties shall be uniform throughout the territory named, which agreement shall remain in force until annulled by the National Assembly."

Your attention is directed to the fact that the foregoing act of the National Assembly of Panama was enacted eighteen days prior to the date of the order of the President of the United States opening the territory of the Canal Zone to commerce and establishing customs-houses therein.

Law No. 88, enacted by the National Assembly of Panama on July 16, 1904, provides as follows:

"Art. 23. The Executive is authorized to reduce the slaughterhouse duty on cattle killed in the districts of Panama, Colon, and Bocas del Toro when the fiscal system to be introduced into the Zone ceded to the United States, in his opinion, requires it."

It can not escape observation that the legislative branch of the Government of the Republic of Panama by legislative enactment declared the Zone to be "ceded to the United States," and dealt with accordingly.

The executive branch of the Government of the Republic of Panama, also, has recognized the right of the United States to exercise the powers of sovereignty in the Canal Zone. By July 17, 1904, His Excellency the President of that Republic officially advised the governor of the Canal Zone as follows:

REPUBLIC OF PANAMA PRESIDENCIA,
Panama, July 17, 1904.

Maj. Gen. GEO. W. DAVIS,
Governor of the Canal Zone, Present.

DEAR SIR: I have the pleasure to inform you that I am fully authorized by law recently enacted by the National Assembly, to reduce or increase our duties and taxes accordingly with the rates which your Government shall establish at the Canal Zone.

Yours, truly,

M. AMADOR GUERRERO.

To carry out the suggestion contained in the foregoing letter and to enable the executive branch of the Government of the Republic of Panama to pursue the course obviously intended and provided for by the National Assembly of Panama, it was necessary for the United States to make known what duties and taxes would be levied and collected in the Canal Zone. Whereupon the President of the United States directed the issuance of the order of June 24, 1904, of which complaint is now made.

Conclusive, as to the right of the United States to exercise sovereign jurisdiction in the Zone, is the fact that upon the arrival of Maj. Gen. George W. Davis, whom the President had appointed governor of the Canal Zone and delegated to administer the government of said territory, all the officials of the Republic of Panama ceased to exercise any authority respecting the administration of government in that territory, the soldiers and police of that Republic stationed in the territory were withdrawn, the officers of all branches of government stationed in the territory surrendered their offices and were superseded by appointees of the United States.

The withdrawal from the Zone of the officials of the Republic of Panama was pursuant to an order issued by the secretary of state and foreign affairs of that Republic, upon the signing of the agreement respecting the boundary line between the Zone and the cities of Colon and Panama. The order was dated June 17, 1904, and reads as follows:

"Governor Colon: "Districts of railway line are comprised within Canal Zone and from to-day authorities and public employees in said Zone cease in their functions as members of the Government of the Panama Republic, according to convention signed yesterday. Advise you for your information.

"Attentive servant,

TOMAS ARIAS."

Upon the assumption of governmental authority over the Zone by the United States it became important that the line of separation between the Zone and the Republic of Panama, especially that separating the Zone from the towns of Panama and Colon, should be ascertained and declared. Major-General Davis, governor of the Zone, on behalf of the United States, and his excellency Tomas Arias, secretary of government and foreign affairs, and Ramon Valdez, attorney-general of the Republic of Panama, on behalf of that Government, entered into and signed a provisional agreement as to such demarkation of boundaries on June 15, 1904.

This agreement was duly published in the Gaceta Oficial of the Republic of Panama. The following extracts are quoted from that publication:

"Whereas * * * it is necessary that the extent and boundaries of the territory ceded to the Government of the United States by the Republic of Panama under the terms and provisions of said convention shall be provisionally agreed.

"SECTION 1. The limits of the Canal Zone, including lands under water and islands ceded * * * delivery of which lands, waters, and islands has been made by Panama and possession of which has been taken by the United States are indicated and shown on the attached map * * * and said indicated boundary, or line of division, between the territory ceded by the Republic of Panama to the United States for canal purposes.

* * * * *

"That the entrance channel of the Panama Canal through said harbor of Colon * * * is hereby declared to be a part of the Canal Zone, under the exclusive jurisdiction of the United States."

It is manifest that at the time this agreement was signed both the secretary of state and the attorney general of the Republic of Panama considered that the rights of the United States in the Canal Zone were something more than those of a private concessionaire or lessee.

The judicial branch of the Government of the Republic of Panama has determined the question as to which government possesses sovereignty over the Canal Zone in favor of the United States. The question was presented by numerous cases of criminal offenses committed in the territory of the Zone since the transfer. The courts of Panama held that they are without jurisdiction and transmitted the papers to the foreign office of their government for transmission of the case and the person of the accused to the Zone authorities. From the correspondence in a large number of instances the following are selected:

Etienne Lamour was arrested, charged with the offense of assault and battery, committed at Emperador on July 5, 1904. The papers were transmitted to the second circuit court, one of the courts of the Republic of Panama, and submitted to the fiscal for report. The fiscal recommended that, as Emperador is situated in the Canal Zone, the court lacked jurisdiction, and therefore the papers should be transmitted to the secretary of justice for submission to the proper American authorities. The papers were so transmitted to the secretary of justice, who returned them to the court with a statement that the question be decided by the court "as the transfer of sovereignty in the districts of the railroad line has been officially communicated."

The letter of the secretary of justice is as follows:

[Republic of Panama, national executive power, department of public instruction and justice]

DIVISION OF JUSTICE, No. 423,
Panama, June 30, 1904.

To the Second Circuit Judge in Criminal Matters, City:

I return to you the proceedings and papers you sent to this office with note No. 275 of the 26th instant, tending to show that Etienne Lomour is guilty of the offense of assault and battery.

This office abstains from deciding what should be done with the said proceedings, as it considers that you are the one that should do so, as the transfer of sovereignty in the districts of the railroad line has been officially communicated.

God preserve you.

JULIO I. FEBREGA.

THIRD CIRCUIT COURT,
Panama, July 21, 1904.

As by reason of the delivery of the Canal Zone the jurisdiction which the judges of this circuit exercised over the districts of Emperador and Gorgona has ceased, the undersigned can not continue to take cognizance of this matter. Therefore let these proceedings be sent to the secretary of government, through the secretary of public instruction and justice, in order that he may transmit them to the North American authority competent to take cognizance of the case in question.

Let it be notified and recorded.

ALFONSO FABREGA, *Judge.*
RAFAEL BENITEZ, *Secretary.*

INVESTIGATION OF PANAMA CANAL MATTERS

Another case proceeded as follows:

Victor Guillot, a French citizen, was accused by his employer of stealing at Culebra on May 5, $65 gold, $4 in American bank notes, and about P 10 in silver. Preliminary investigation was conducted by the police inspector of Culebra, and showed that the money was stolen from the pockets of the complainant by cutting through them while he was asleep. The papers were transmitted by the police inspector to the first circuit court for criminal matters of the Republic of Panama, and thence to the second circuit court for criminal matters; they were referred to the fiscal of the latter court, who reported that the hamlet of Culebra was situated within the provisional demarcation of the Canal Zone, and that the circuit judge lacked jurisdiction, and that the papers should be transmitted to the secretary of public instruction and justice for submission to the proper American authorities.

The papers were transmitted by circuit judge to superior judge for decision. The fiscal of the superior court recommended the transmission of the papers to the department of foreign affairs and that the accused be held subject to said secretary's orders, which recommendation was approved by the superior judge.

The secretary of government and foreign affairs for the Republic of Panama transmitted the papers to the governor of the Canal Zone in a communication reading as follows:

DEPARTMENT OF GOVERNMENT
AND FOREIGN AFFAIRS,
Panama, July 9, 1904.

Mr. GOVERNOR: I have the honor to transmit to you herewith the record of the preliminary procedings instituted against Victor Guillot for robbery committed within the jurisdiction of the Canal Zone, with the request that you issue the proper orders to have these preliminary proceedings duly continued.

I have to inform you, for such action as you may deem proper, that the accused Guillot is confined in the jail of this city.

With expressions of the highest consideration, I have the honor to be,

Your obedient servant,

TOMAS ARIAS.

Gen. GEORGE W. DAVIS,
Governor of the Canal Zone, City.

Raimundo Lizano was brought before the superior court at Panama, charged with the crime of theft, perpetrated in the territory of the Canal Zone. The case was sent to the first circuit court for criminal matters. The decision of that court was as follows:

THIRD CIRCUIT COURT,
Panama, July 22, 1904.

Whereas the crime involved in these proceedings was committed on territory of the Canal Zone, where the undersigned has no jurisdiction, with the concurrence of the fiscal. It is decided that these proceedings be sent to the secretary of state for transmission to the proper person.

Let it be communicated and recorded.

ALFONSO FARRAGA, *Judge.*
RAFAEL BENITEZ, *Secretary.*

The United States at all times since the treaty was concluded has acted upon the theory that it had secured in and to the Canal Zone the exclusive jurisdiction to exercise sovereign rights, power, and authority.

On April 28, 1904, Congress enacted an act entitled "An act to provide for the temporary government of the Canal Zone at Panama, the protection of the canal works, and for other purposes."

Said act provided as follows:

"SEC. 2. * * * All the military, civil, and judicial powers, as well as the power to make all rules and regulations necessary for the government of the Canal Zone, and all the rights, powers, and authority granted by the terms of such treaty to the United States, shall be vested in such person or persons and shall be exercised in such manner as the President shall direct for the government of said Zone. * * * "

Pursuant to the provisions of said act, the President directed that all the government power in and over said Canal Zone should be vested in the Isthmian Canal Commission, to be exercised under the supervision and direction of the Secretary of War.

The power of legislation respecting the government of the Zone was conferred upon the Commission.

Maj. Gen. George W. Davis, U.S. Army, was appointed governor of the Canal Zone by the President and ordered to proceed at once to the Isthmus of Panama, and in the name of the President and for and on behalf of the United States, as the chief executive in the Canal Zone, to see that the laws are faithfully executed and maintain possession of said territory; he was also vested with pardoning power.

The President further designated what laws should be continued in force in the territory of the Zone, by what officials said laws should be administered, and provided for the temporary exercise of the judicial power.

The Isthmian Canal Commission, by the exercise of the legislative power vested in them, enacted laws for the organization and establishment of the executive and judicial branches of the government of the Canal Zone, the establishment and government of municipal subdivisions, and for the collection of revenues, a postal service, the sanitation of the Isthmus, quarantine of the ports, policing of the Zone, a penal code, and a code of criminal procedure, besides other enactments required for the proper administration of the government in the Zone.

In full confidence that it had secured the right to exercise all powers of sovereignty in the Zone, the United States paid to the Republic of Panama $10,000,000 in gold and to the French Canal Company $40,000,000. The Congress appropriated $150,000,000 to complete the canal. The President appointed the Isthmian Canal Commission, and the work of construction was immediately entered upon. Agencies of government have been established in the Zone and the necessities of the social organism provided at the expense of the United States.

I note your reference to the exercise of the sovereign powers by the United States over the harbors constituting the Atlantic and Pacific entrances to the canal.

As understood by me, your contention is that whatever may be the authority of the United States in other parts of the Canal Zone, this Government is without authority at these two points (Cristobal and La Boca) for the reason that these points are within the harbors adjacent to the cities of Colon and Panama, and therefore excluded from the grant made by Article II of the convention.

For convenient reference, I quote a part of said article:

"The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles, extending to the distance of five miles on each side of the centre line of the route of the canal to be constructed, the said zone beginning in the Caribbean Sea three marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three miles from mean low-water mark, with the proviso that the cities of Panama and Colon and harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant."

A strip of land 5 miles wide on either side of the entrances to the canal would include all of the city of Colon and substantially all of the city of Panama. The Republic of Panama desires to retain sovereign jurisdiction over the inhabited portions of the territory of these municipalities, hence the

exemption in the grant. In this connection attention is called to the fact that if the Republic of Panama intended to retain the right to exercise sovereign jurisdiction over the entire Zone, this exemption would have been unnecessary.

You will recall that when this convention was being considered by the United States Senate the opposition to its confirmation suggested the possibility that the Republic of Panama might advance, thereafter, the contention now presented. Thereupon the matter was brought to the attention of Mr. Banau-Varilla, the duly accredited representative of the Republic of Panama, by whom said convention was negotiated.

In response the representative of the Republic of Panama, by a letter dated January 19, 1904, advised the United States as follows:

"I do not hesitate, sir, to give you in my name and in the name of my Government the following explanation on the meaning of the clauses which have been deemed not sufficiently outlined by the committee of the Senate:

"First, Harbors adjacent to the cities of Panama and Colon. The harbors adjacent to the cities of Panama and Colon (adjacent of) are, in my understanding, the harbors in comes from adjacens—lying at the side contact of said cities, and putting them in communication with the sea. These harbors are completely separated from and independent of the harbors of the canal or the harbors situated at its two entrances, and which ships going through the canal will have to use.

"The harbor at the Colon end of the canal is an interior harbor, made by dredging in the bay of Fox River, adjacent to the city of Christopher Columbus, and protected by a breakwater.

"The harbor adjacent to the city of Colon is constituted by a series of wharves built in the open sea without any artificial shelter. A ship lying in the Colon Harbor and leaving it to go into the canal harbor will have first to go into the open sea, and then pass the breakwater which protects the entrance of the canal harbor.

"At Panama the canal harbor is also an interior harbor, situated at La Boca, several miles from the wharf which forms the Panama Harbor, a wharf built in open sea like those of Colon. The very same thing may be said of the Panama as of the Colon harbors. Both are local harbors, strictly limited to the service of the respective townships and out of the way of the canal and its approaches to its entrance.

"There is not a shadow of probability that the harbor adjacent either to Panama or Colon will ever be used for anything but the local trade of the town, and therefore the United States will never necessitate to do anything in relation to the canal with any part of them."

The administration of the Government of Panama, being advised by Bunau-Varilla of this letter, wrote him as follows:

"YOUR EXCELLENCY: Most opportune indeed was your excellency's communication of January 19 to the secretary of state, dissipating, as it did, the new obstacles raised to prevent the prompt approval of the treaty by the American Senate.

"All the matters which your excellency mentioned were at the same time discussed with the Hon. Mr. Buchanan.

"F. V. DE LA ESPRIELLA."

The foregoing correspondence being brought to the attention of the secretary of government and foreign affairs for the Government of Panama, he replied as follows:

"OFFICE OF THE SECRETARY OF GOVERNMENT AND FOREIGN RELATIONS, DEPARTMENT OF FOREIGN RELATIONS,

"Panama, August 23, 1904.

"SENOR MINISTER: I have before me your excellency's attentive communication, No. 23, of the 16th instant, wherein you refer to the letter which Mr. Bunau-Varilla addressed to Mr. Hay, Secretary of State, of the United States, on the 19th of January of the present year, with regard to the interpretation of certain clauses in the treaty of November 18, 1903, a copy of which your excellency was good enough to send me, and the existence of which I had forgotten. As was natural, I ordered that a search be made of the archives in this office for the missing document, and it was found, the original of which your excellency informs me will be presented to the minister plenipotentiary and envoy extraordinary of Panama in Washington."

The authorities of the Canal Zone report that for a limited period following the promulgation of the President's order establishing ports of entry at the harbors at the entrance of the canal said orders were acquiesced in by the Republic of Panama without protest. Several vessels were cleared from the port of Panama, in the Republic of Panama, for the port of Ancon (La Boca), in the Canal Zone, in which port the vessels were received by the American authorities.

In this connection attention is called to the following correspondence between the owners of the steamship *Loa* and the chief of the national customs service of Pamama:

PANAMA, *July 2, 1904.*

The CAPTAIN OF THE PORT,
Chief of the National Customs Service, Panama:

Please certify below whether the steamship *Loa*, which entered this port on the 26th of June last, was authorized to proceed to the La Boca wharf.

Yours, etc.

H. EHRMAN CO.

HEADQUARTERS OF THE NATIONAL CUSTOMS SERVICE,
Panama, July 2, 1904.

The writer, chief of the national customs service of Panama, certifies:

That the Chilean steamship *Loa* was duly received at 9 a.m. on the 26th ultimo, and was authorized to discharge and receive cargo where most convenient to do so. With regard to the observance of formalities in order to proceed to La Boca, this is a matter which pertains exclusively to the governor of the Zone, because that is American property.

As the boat was received by the Panaman authorities, it was natural that in order to enter and tie alongside of the wharves of the said port of La Boca, it was subject to comply with the formalities required by the authorities of that place (La Boca).

[SEAL] LEONIDES PRETEL.

The United States learns with regret that the officials of the Republic of Panama are apprehensive that the course adopted by the United States will substantially reduce the revenues of that Republic. Permit me to express the belief that future developments will show such fear to be without foundation. The construction of the canal will cause a large increase in the population of the Zone and of the Republic. Vast expenditures of money will be made by the Commission in canal construction, which will be expended largely in the commercial centers of the country, to wit, Panama and Colon. This will occasion increased importations, with resulting increase of revenue to the Government exercising sovereign jurisdiction over those cities.

The United States has sought at all times to secure and preserve for the Republic of Panama sufficient means for adequate revenues. In this connection, permit me to call your attention to the fact that the proposed treaty with Colombia contained the following provision (Art. VIII):

"The ports leading to the canal, including Panama and Colon, also shall be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise destined to be introduced for the consumption of the rest of the Republic of Columbia, or the Department of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal."

Under such a provision merchandise imported into the ports of Colon and Panama for consumption within those municipalities would have entered free of duty.

The convention between the Republic of Panama and the United States permits the Republic of Panama to impose customs duties on merchandise imported into those cities for consumption therein, as well as elsewhere in the Republic.

Your attention is directed to the fact that under the rule of law established by the United States Supreme Court, goods from the United States were entitled to free entry into the Zone as soon as the sovereignty of the United States permanently attached to the territory. (Vide Dooley *v.* United States, 183 U. S. 151; Cross *v.* Harrison, 16 Howard, 164.)

It was recognized that free entry into the Zone of goods from the United States might work a hardship on the trades people of the near-by cities of Panama and Colon, as the latter were obliged to pay customs duties to the Republic of Panama. To meet this contingency, the order of June 24, 1904, regulating commerce with the Zone, provides as follows:

"The governor of the Canal Zone is authorized to enter into and carry out an agreement with the President of the Republic of Panama for cooperation between the customs service of the Canal Zone and that of the Republic of Panama to protect the customs revenues of both Governments and to prevent frauds and smuggling.

"The governor of the Canal Zone is hereby authorized to enter upon negotiations and make a tentative agreement with the President of the Republic of Panama respecting reciprocal trade relations between the territory and inhabitants of the Canal Zone and appurtenant territory and the Republic of Panama; also a readjustment of the customs duties and tariff regulations, so as to secure uniformity of rates and privileges and avoid the disadvantages resulting from different schedules, duties, and administrative measures in limited territory subject to the same conditions and not separated by natural obstacles. The governor shall report as to such negotiations and proposed agreement to the chairman of the Isthmian Canal Commission for submission and consideration by the Commission and such action by competent authority as may be necessary to render said agreement effective in the Canal Zone."

Admiral J. G. Walker, chairman Isthmian Canal Commission, advises this Department that although several attempts have been made by the authorities of the Canal Zone to initiate negotiations contemplated by the foregoing provisions of said order and by the provisions of laws Nos. 65 and 88 of the National Assembly of Panama, the authorities of the Republic of Panama decline to enter upon such negotiations. Permit me to express the hope that the Government of Panama will recognize the desirability of taking up this matter with the governor of the Canal Zone and ascertaining if a satisfactory solution of the existing discrepancies in customs duties and administration is attainable. The Government of the United States sincerely desires to effect such an arrangement on terms both just and generous to the Republic of Panama.

Accept, sir, the renewed assurances of my highest consideration.

EXHIBIT 2

THE TREATY POWER AND CONGRESSIONAL POWER IN CONFLICT: CESSION OF U.S. PROPERTY IN THE CANAL ZONE TO PANAMA

INTRODUCTION

This report addresses the Constitutional issue of whether United States' territory and

property in the Canal Zone may be ceded to Panama by a treaty alone, or treaty accompanied by implementing legislation.

Article II, section 2, clause 2 of the Constitution authorizes the President to negotiate and enter into treaties:

He shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; . . .

Article VI, Section 2 of the Constitution declares treaties to be the supreme law of the land:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the Land; . . .

However, Article IV, section 3, clause 2 grants Congress the power to dispose of territory and other federal property:

The Congress shall have Power to dispose of and make all Rules and Regulations respecting the Territory or other Property belonging to the United States; . . .

The constitutional issue at hand, then, is not, or should not be, involvement of the House of Representatives in treaty negotiation. "Into the field of negotiation, the Senate cannot intrude; and the Congress itself is powerless to invade it, . . ." [1] Nor is the issue an intrusion by the House of Representatives into the advice and consent powers of the Senate, since that function is explicitly assigned to the Senate by Article II of the Constitution.[2]

The proper issue for resolution is to determine whether, by virtue of Article IV, Congress exercises exclusive or concurrent power over the disposal of territory and property. If it can be clearly resolved that the grant is concurrent, then the Executive would be able to conclude a treaty disposing of the United States interest in the Canal Zone to Panama without the necessity for implementing legislation. The executive branch seems to believe that such a disposal may be effected by treaty alone, by joint resolution, or by a combination of treaty and implementing legislation.[3]

The House of Representatives appears to hold the opposite view. That is, that no treaty may convey U.S. property without the House consent. Attempts to leave the House out of this issue are seen as infringement on the basic duties of that body.[4]

I. General considerations regarding the scope of the treaty power

Treaties and statutes are of equal import. Both are the supreme law of the land.[5] In the event of a conflict between a treaty and a statute, the most recent is controlling.[6]

The scope of the treaty power is very broad. It extends to all matters usually considered as the proper subject of negotiation and relations between nations.[7] Treaties may and have addressed matters of a political, military, economic, cultural, scientific, or diplomatic nature.

The Constitution does impose limitations on the treaty making power. The major limitation, simply stated, is that a treaty may not violate the Constitution. "It need hardly be said that a treaty cannot change the Constitution or be held valid if it be in violation of that instrument."[8] It is interesting to note, however, that the Supreme Court has never ruled any treaty unconstitutional.

In most cases, treaties are binding on the United States, in an international sense, once an exchange of ratifications has occurred.[9]

There are two basic types of treaties, insofar as concerns their effectiveness as domestic legislation. Self-executing treaties are effective upon ratification. Non self-executing treaties require implementing legislation prior to being considered of equal status to statutes and effective as domestic law in the United States.[10]

When is implementing legislation required? One test is to determine whether the treaty itself requires implementation in provisions stipulating the need for legislative action.[11] Another test asks whether the treaty affects powers exclusively delegated to Congress by the Constitution. A treaty cannot alter the Constitution so as to permit another branch of government to exercise a power exclusively reserved to Congress.[12]

It was at first contended that the treaty power did not extend to any of the subjects of legislation in which the House of Representatives had a constitutional right to participate.[13]

The first conflict between the House of Representatives and the Executive on this issue arose during the administration of George Washington. The Jay Treaty of 1796 contained provisions requiring the United States to indemnify loyalists whose property had been expropriated after the Revolutionary War. The House sought information regarding the Treaty negotiations. Chief Justice Ellsworth, Alexander Hamilton, and various heads of the Executive Departments recommended that the President not furnish the information, since, in their view, the House obligation to vote appropriations arose from the existence of a binding treaty. Thomas Jefferson and Albert Gallatin conceded that the general treaty power was vested in the President and the Senate, but argued that when the general power of one branch conflicts with the specific power granted to another branch, the specific power acts as a limitation on the general power.[14] President Washington refused to furnish the requested papers. The House approved an appropriations bill, but also passed a resolution stating that when treaties contain provisions involving powers vested in Congess, those provisions would not be executed until Congress had passed implementing legislation.[15]

This narrow and limited view of the scope of the treaty power has long since been rejected.[16] It is now accepted that those grants of power that are not exclusive in nature, in other words, those that permit concurrent jurisdiction, do not require implementing legislation.[17]

The Supreme Court has never issued a comprehensive opinion specifying those powers of Congress regarded as exclusive. However, it has been the practice for the Executive and Senate to seek House consent through implementing legislation when treaties require appropriations or changes in revenue laws.[18]

II. Is the power to dispose of Federal territory and property exclusive?

A. The Constitution

The exclusive nature of the appropriations and revenue law powers granted to Congress is readily apparent from the language of the Constitutional provision. Thus, "All Bills for Raising Revenue shall originate in the House of Representatives; . . .",[19] and, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . ." .[20] Other provisions of the Constitution state the legislative powers of Congress in a permissive form, without the mandatory language used in the grants concerning appropriations and revenue powers. For instance, "The Congress shall have Power To . . . establish Post Offices and Post Roads;"[21]

The language of Article IV, Section 3, clause 2 is permissive, "The Congress shall have the Power . . .". Despite that language, the Supreme Court has constantly ruled that Congress' power to dispose of federal territory and property is exclusive.[22] Those decisions, however, involved situations concerning the locus of authority within the federal system. The Court did not consider the nature of the Congressional power as a limitation on the extent of the treaty power. In fact, Article IV itself is devoted to the distribution of authority between State and Federal governments. For this reason, it is asserted [23] that this Article does not at all pertain to the disposal of federal property by treaty to a foreign nation.

This assertion is entitled to much respect. However, since the matter has never been resolved by the Courts, the scope of Article IV is still unsettled. Some precedent does exist on which to base an argument that Article IV extends to the treaty making power.

Prior to 1872 the federal government concluded treaties with Indian tribes. Many of those treaties gave Indians some interest in federal lands.[24] The Indian Appropriations Act of 1872 [25] stated that, thereafter, Indian tribes would not be recognized as independent nations ". . . with whom the United States may contract by treaty:"

The debate surrounding passage of that provision was intense. Members of the House vigorously asserted that the power to dispose of territory was vested exclusively in Congress, and that the treaty power did not encompass the authority to cede land.[26] Since that Act received the blessings of a majority of both Houses, and was signed by the President, it would appear that the House, Senate and President all concurred in that belief.

The assertion that territory can be ceded by treaty may also be challenged on the basis of language in *Sioux Tribe of Indians* v. *United States* 316 U.S. 317 (1942). That case involved a claim by the Sioux that their tribe derived a compensable interest in lands conveyed to them by executive order.[27] The court ruled that no compensable interest had been created. It also found that Presidential power to withdraw land from the public domain was based on a delegation of authority—a delegation implied from long and continued Congressional acquiescence in that executive practice.[28]

The following language from the *Sioux* decision is pertinent to our inquiry as to the nature of the Article IV power when it involves a disposal to a foreign nation.

Concededly, where lands have been reserved for the use and occupation of an Indian Tribe by the terms of a treaty or statute, the tribe must be compensated if the lands are subsequently taken from them. . . Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive power to convey any interest in these lands must be traced to Congressional delegation of its authority. The basis of decision in *United States* v. *Midwest Oil Co.* was that, so far as the power to withdraw public lands from sale is concerned, such a delegation could be spelled out from long continued Congressional acquiescence in the executive practice. The answer to whether a similar delegation occurred with respect to the power to convey a compensable interest in these lands to the Indians must be found in the available evidence of what consequences were thought by the executive and Congress to flow from the establishment of executive order reservations.[29]

The court recognized that the nature of title held by Indians on executive order reservations was distinguishable from the interest possessed by them in statute or treaty reservations.[30]

If a Congressional delegation of authority was found necessary to create a compensable interest in lands granted to Indians by executive order, it seems possible that a Congressional delegation of authority would be necessary to convey a *total* interest in lands to a *foreign power*—whether the conveyance is by treaty or executive order.

It does not appear that there is any clear answer to be obtained from the Constitution as to the exclusive or concurrent nature of the Article IV practice as it relates to the disposal of property to a foreign power. Therefore, it is advisable to look to the past treaty prac-

Footnotes at end of article.

tice of the United States in order to determine if that practice reveals precedent that may be considered controlling.

B. Treaty Practice

Territory and property have, in the past, been ceded by treaty without accompanying implementing legislation. Are these instances valid precedent for the proposition that the House of Representatives has no role in the disposition of federal property?

1. Treaties involving boundary claims

On numerous occasions in its history, the United States has concluded treaties with foreign powers in order to adjust or locate its borders. These boundary treaties are often cited to support the proposition that federal lands have, in the past, been ceded by treaty.[31] It is submitted that most, if not all of these "cessions" involved circumstances in which the other party to the treaty had, in its own mind, well founded claims to the land in question. Two examples [32] will indicate the disputed nature of lands "conveyed" in those treaties.

In the Webster-Ashburton Treaty of 1842, both Britain and America made concessions on claims to some twelve thousand square miles of land on the Maine/New Brunswick boundary. At the time the treaty was being negotiated, it appeared that Britain had a valid claim to much of the disputed land. After the treaty was ratified, it was learned that the United States had ceded land to which it did have a valid claim. Nevertheless, (1) when ceded, the territory was considered to be disputed, and (2) the British made concessions on other points on our northern boundary, in areas that later proved to contain valuable mineral resources.[33]

Britain and the United States also had conflicting claims in the Oregon territory. American claims to land to the extent of fifty-four degrees forty minutes were met by British claims for land down to the forty-second parallel. Settlement was reached on a 49 degree boundary. One noted historian has written that, "On the basis of claims and possession, the English made the real sacrifice." [34]

It is submitted that instances of boundary resolution do not provide conclusive support for the proposition that the treaty making power extends so far as to include the power to dispose of federal lands without implementing legislation. "A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [35]

2. Other cessions by treaty and executive agreement without express legislative authorization

One primary example of a cession of property by executive agreement is the Lend-Lease program. President Roosevelt sent ships and other military material to Great Britain in exchange for rights in various British territories. Attorney-General Robert Jackson supplied the President with an opinion finding authorization for the disposal of property without implementing legislation in the President's exclusive powers as Commander-in-Chief. However, Mr. Jackson also found statutory authority supporting the disposal, and therefore found it unnecessary to rely on the President's inherent constitutional authority.[36]

Current legislative authorization for transfer of American property to foreign nations by the executive may be found in Title IV (Foreign Excess Property) of the Federal Property and Administrative Services Act of 1949, P.L. 81–152, 63 Stat. 377, c. 288, June 30, 1949, codified at 40 U.S.C. 511–514. Those sections authorize the disposal of foreign excess property by executive agencies. In addition, Part II (International Peace and Security Act of 1961) of the Foreign Assistance Act of 1961, P.L. 87–195, 75 Stat. 424, September 4, 1961 codified at 22 U.S.C. 2311–2320, authorizes the President to transmit (under certain conditions) defense articles and services to other countries.

A recent example of a cession of territory and property by the United States is the agreement concerning the Ryukyu Islands and the Daito Islands 23 UST 446; TIAS 7314. That Agreement was signed in June 1971, received the advice and consent of the Senate in November 1971, and ratified in January 1972. The ratification was exchanged in March 1972, and the Agreement entered into force in May of that year.

By Article I of the 1972 agreement, the United States relinquished in favor of Japan all rights and interests it received under Article III of the 1951 Treaty of Peace with Japan: 3 UST 3169; TIAS 2490. In Article III of the 1951 Treaty, the United States received the right to exercise ". . . all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters."

The question that arises is whether the 1972 transfer of interests back to Japan involved cession of territory, in a Constitutional (Art. IV) sense.

An Armed Services Committee Report [37] (on a bill concerning economic and social development in the Ryukyu's) recognized that the Ryukyu's were not United States Territory and that American statutory law was generally inapplicable there. However the Committee used very strong language in stressing the nature of the United States interest in the area. It was stated that the United States possessed "de facto" sovereignty and that (after the 1952 Treaty) Japan possessed only a "residual" sovereignty; the only right Japan retained was ". . . the right to expect that the United States will not transfer the Ryukyu's, including Okinawa, to any third party." [38] The report concluded that the Committees approval of the legislation was

. . . given with the clear understanding that U.S. administrative control of the Ryukyus and the continued maintenance and operation of the U.S. Base there are inseparable and that, therefore, the United States will continue to retain its jurisdiction over these islands so long as required by the security interests of the United States.[39]

However, there is also reason to believe that the United States did not have territory to cede. In Article 2 of the 1951 Treaty, Japan renounced ". . . all right, title and claim . . ." to various pieces of territory. There was no similar renunciation as regards the territory discussed in Article 3 (concerning the Ryukyu's and Daito Islands). This implies that the Japanese retained their "right, title and claim" to the Ryukyu's.

Three courts have reached the conclusion that the United States never received sovereignty over this territory. In *United States* v. *Ushi Shiroma*,[40] the opinion contains excerpts from a letter written by the Legal Adviser of the Department of State

"1. A legal opinion is requested on the request of the Japanese Vice Minister for Foreign Affairs dated 10 December 1951, that the United States confirm that the 'Southern islands' (the Ryukyus and the Bonins) remain under the sovereignty of Japan and that their inhabitants remain Japanese nationals.

* * * * *

"6. It is concluded that sovereignty over the Ryukyu and Bonin Islands remains in Japan, and that the inhabitants thereof are Japanese nationals." [41]

In a statement before the Senate Foreign Relations Committee, Secretary of State Rogers discussed the nature of Japan's interest in the Ryukyu's.

JAPAN'S RETENTION OF RESIDUAL AUTHORITY

On September 5, 1951, in presenting the draft of the peace treaty to the Peace Conference, Ambassador John Foster Dulles noted that some of the allied powers had urged that the treaty require Japan to renounce its sovereignty over the Ryukyus in favors of U.S. sovereignty. Others had proposed that the islands be restored completely to Japan. "In the face of this division of allied opinion," Ambassador Dulles said, "the United States felt that the best formula would be to permit Japan to retain residual sovereignty, while making it possible for these islands to be brought into the United Nations trusteeship system, with the United States as administering authority."

It was decided at that time that although the United States had long-term security interests in the Ryukyus, the "peace of reconciliation," which we and most of our allies sought with Japan, would be vitiated by the islands' enforced, permanent detachment from Japan. The "residual sovereignty" formula was clearly designed to convey the thought to Japan and to the world that although the United States was obliged to retain control of the Ryukyus temporarily for security reasons, what had been Japanese territory was not being permanently detached from Japan and the principle of no U.S. territorial acquisitions as a result of war was being observed.[42]

As in the boundary dispute cessions, a question exists as to whether the territory transferred belonged to the U.S. The Ryukyu Island cession, therefore, is not conclusive as to the right of the Executive to cede federal territory without implementing legislation.

The 1972 cession did convey a good deal of federal property to the Japanese. This property seems to have been conveyed without Congressional approval. However, this transfer also seems not to be binding precedent for the following reasons.

(1) The Congress may have assumed that the Executive acted pursuant to powers contained in the Foreign Assistance Act of 1961 or the Federal Surplus Property Act of 1949. (It does not appear that the President ever submitted reports required by those Acts. However, the fact that Congress did not demand the reports does not mean that these Acts were not the source of the President's power to convey the property.)

(2) The Japan-United States Friendship Act P.L. 94–118 (1975) contains language 22 U.S.C. 2901(a)(2) that may be seen as a Congressional validation of the Executive action.

(3) Since Congress supported the transfer, it is possible that she may have not insisted on exercising her Article IV rights in this instance. If this is true, such a voluntary lapse does not preclude Congress from insisting upon exercise of that right at a later date.

3. Treaties with the Indian tribes

It has been contended [43] that the practice of conveying land to Indian Tribes by treaty during the nineteenth century supports the proposition that implementing legislation is not necessary in order to convey territory and property in the Canal Zone to Panama. Conveyances to the Indian Tribes appear to be distinguishable for several reasons.

First, the status of the Indian in American law is both unique and complex. Although it has been recognized that the Indians comprised a distinct people, the equivalent of nations, who could be dealt with by treaty,[44] it is also well established that, since the founding of our government, Indians have been considered as dependent political communities, wards of the nation, or in a state of pupilage to the United States.[45]

It is similarly well established that, through discovery and conquest of the "New World", the European nations, and eventually the United States, obtained title to the land, title that was complete, subject only to the continued use and occupancy of Indian Tribes on certain lands.[46]

The land interests received by the Indians in agreements with the United States govern-

Footnotes at end of article.

ment varied. In some cases the United States only recognized a right to continued occupancy and use of certain lands; in other cases, the United States granted, by treaty, a fee simple interest.[47]

When the Indian tribes were granted land in fee, however, their interest in that land was no more extensive than the interest of any other fee simple owner of land in the United States.

The fact that the Cherokee Nation holds these lands in fee simple under patents from the United States, is of no consequence in the present discussion; for the United States may exercise the right of eminent domain, even within the limits of the several States, for purposes necessary to the execution of the powers granted to the general government by the Constitution.

* * * * *

It would be very strange if the national government, in the execution of its rightful authority could exercise the power of eminent domain in the several States, and could not exercise the same power in a Territory occupied by an Indian nation or tribe, the members of which were wards of the United States, and directly subject to its political control. The lands in the Cherokee territory, like the lands held by private owners everywhere within the geographical limits of the United States, are held subject to the authority of the general government to take them for such objects as are germane to the execution of the powers granted to it; provided only, that they are not taken without just compensation being made to the owner.[48]

At least one authority has commented that in most of the treaty grants to the Indians the United States retained a higher interest than a mere right of eminent domain.[49]

If the proposed treaty recognizes that Panama has a complete sovereignty over the Canal Zone, any conveyance of territory and property will be absolute. The United States would not have any of the eminent domain or other interests she possessed in lands granted to the Indians.

C. Past Practice in Disposal of U.S. Property in the Canal Zone to Panama

The remainder of this report contains material that establishes considerable precedent demonstrating that both the Executive Branch and the Senate have considered it necessary to obtain the consent of the House prior to ceding U.S. property in the Canal Zone to Panama.

In 1932, the United States wanted to build a new legation building on land within the Canal Zone. Since it is improper to build a legation on territory under American jurisdiction, the State Department drafted a bill by which Congress would authorize the Secretary of State to modify the boundary line between Panama and the Canal Zone so as to temporarily cede the land back to Panama, so that the proposed legation could be built on "Panamanian territory."[50]

In 1942 the Senate debated approval by Joint Resolution of an Executive Agreement transferring land and property in the Canal Zone to Panama.[51] One of the most acrimonious points of debate concerned whether the transfer should have been effected by treaty, requiring only the consent of the Senate, rather than by an Executive Agreement which required consent of both Houses. The Chairman of the Senate Foreign Relations Committee, Mr. Connally, stated:

"Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty."

"Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies. The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise.

"Another reason why it is not necessary to embody the provisions of the joint resolution in a treaty or treaties is that so far as Panama is concerned, most of the results sought to be attained by means of the joint resolution have already been accomplished. We already have the sites; we already are occupying them; we already are putting installations upon them for the proper defense of the Canal Zone. The instrumentalities involved comprise not only airfields, but detector stations, searchlight stations, and all the other various instrumentalities for the proper protection of the Canal and its approaches."[52]

Despite calls that the Joint Resolution be rejected because it infringed upon the Senate's right to pass upon treaties (88 Cong. Rec. at 9320), the measure was approved (88 Cong. Rec. at 9328).

The House Committee on Foreign Affairs held hearings on that transfer[53] in early 1943. In its Report the Committee stated that—

Congressional approval of the Executive commitments to Panama is sought in the form of legislation because there is involved (a) a disposition of property of the United States and (b) an appropriation of funds, both requiring an exercise of the legislative power, independently of the treaty-making power. Article IV of the Constitution provides that the Congress shall have power to dispose of * * * the territory or other property belonging to the United States.[54]

A 1955 treaty provided for the transfer of real property to Panama. By terms of the treaty the transfer of some property was to be immediate, and the transfer of the remainder was dependent upon Congressional authorization. A representative of the State Department testifying at Hearings on the Treaty admitted that legislation would be needed to implement the transfer of *all* the territory and property mentioned in the treaty.[55]

In addition, those sections of the Treaty (Articles VI and VII) alleged not to require implementing legislation amended the Boundary Convention of 1914 between the U.S. and Panama. The transfer in these Articles, then, may be distinguished from a transfer of the entire Canal Zone or a major portion thereof to Panama. Certainly there is a difference between a boundary adjustment, and the cession of the entire Canal Zone.

III. Conclusion

We have seen that the treaty making power, vested in the President to be exercised with the advice and consent of the Senate, is extremely broad in scope. That power is limited when the Constitution confers an exclusive grant of authority on Congress. Although there are excellent arguments in favor of the proposition that the authority to dispose of property is concurrent and may therefore be exercised under the treaty making power, those arguments are not altogether free from doubt. Supreme Court decisions have recognized the exclusive nature of congress' Article IV powers as they relate to the federal-state relationship. Those rulings have never been qualified by other decisions characterizing those powers as concurrent when used by the executive under the treaty making power. It does not appear that past treaty practice with either foreign nations or Indian tribes provides authoritative precedent establishing, with any degree of certainty, the exclusive or concurrent nature of Article IV, as that provision relates to disposal of land to a foreign sovereign.

It is clear that Congress has often asserted an exclusive right to dispose of federal territory and property. It is also apparent that both the Executive and the Senate have recognized that claim in past dispositions of property in the Canal Zone to Panama. Therefore, while it is impossible to make a categorical assertion that Article IV Section 3, clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in the Canal Zone to Panama.

Finally, regardless of the exclusive nature of the Article IV power, the co-operation of all three branches of government is necessary for the effective implementation of American foreign policy. Although the President is the sole organ of communications with other nations, conclusion of a treaty without prior regard for Congressional attitudes might adversely affect the continuing Executive/Congressional relationship.

It is a very serious matter for the treaty-making power to enter into an engagement calling for action by Congress unless there is every reason to believe that Congress will act accordingly.[56]

KENNETH MERIN,
Legislative Attorney,
American Law Division.

AUGUST 4, 1977.

FOOTNOTES

[1] *United States* v. *Curtiss Wright Corp.*, 299 U.S. 304, 319 (1936).

[2] S. Crandall, Treaties, Their Making and Enforcement, Washington: 2nd ed., 1916, section 25 at page 48.

[3] Green H. Hackworth, Legal Adviser, Dept. of State, Hearings before the Committee on Foreign Affairs, on H.J. Res. 14, "Authorizing the Execution of Certain Obligations Under the Treaties of 1903 and 1936 with Panama, and other commitments." 78th Cong. 1st Sess. page 9. (1943);

Carl F. Salans, Deputy Legal Advisor, Department of State, at Hearings before the Subcommittee on the Panama Canal, of the Committee on Merchant Marine and Fisheries on "Treaties Affecting the Operations of the Panama Canal" 92nd Cong. 2nd Sess. p. 16.;

A similar conclusion was drawn by Ralph E. Erickson, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, *Id.* at page 97.

See also, statement of Herbert J. Hansell, Legal Adviser, Department of State, at Hearings before the Senate Subcommittee on Separation of Powers, July 29, 1977.

[4] H.R. Rep. No. 1629, 92nd Cong., 2nd Sess., 21. (Report of the Committee on Merchant Marine and Fisheries.)

[5] Article VI, cl. 2.

[6] *United States* v. *The Peggy*, 1 Cr. (5 U.S.) 103 (1801); *Foster* v. *Neilson*, 2 Pet. (27 U.S.) 253 (1829); *The Head Money Cases*, 112 U.S. 580 (1884); *Whitney* v. *Robertson*, 124 U.S. 190 (1888).

[7] *Holden* v. *Joy*, 17 Wall. (84 U.S.) 211 (1872); *Geofroy* v. *Riggs*, 133 U.S. 258 (1890).

[8] *The Cherokee Tobacco*, 11 Wall (78 U.S.) 616, 620 (1871); *Doe* v. *Braden*, 16 How. (57 U.S.) 635, 656 (1853); *Geofroy* v. *Riggs*, supra, note 7, at 267; *Asakura* v. *City of Seattle*, 265 U.S. 332, 341 (1924); *Reid* v. *Covert*, 354 U.S. 1, 17 (1957).

[9] Crandall, supra note 2, at section 155, p. 343.

[10] *Foster* v. *Neilson*, supra note 6, at 314; *The Head Money Cases*, supra note 6, at 598; *Whitney* v. *Robertson*, supra note 6, at 194.

[11] *Foster* v. *Neilson*, supra note 6, at 314–315.

[12] Second Restatement of the Foreign Affairs Law of the United States, (1965) part III, at 432–436; C. Anderson, "The Extent and Limitations of the Treaty Making Power Under the Constitution", in 1 American Journal of International Law 636, 653–655 (1907).

[13] Thomas Jefferson, Manual of Parliamentary Practice, Article 52, cited in Moore, 5 Digest of International Law. 162.

[14] Crandall, supra note 2, at 165–171.

[15] 5 Annals of Congress 771–772, 4th Cong. 1st Sess.

[16] Moore, Id at 166; L. Henkin, Foreign Affairs and the Constitution (1972), at 148–149, 155.

[17] W. Willoughby, The Constitutional Law of the United States, (1910) section 306; Q. Wright, The Control of American Foreign Relations, 1922, section 248, p. 344.

[18] Turner v. American Baptist Missionary Union, 24F. Cas. 344 (No. 14251) (C.C. Mich. 1852).

It appears that the exclusive nature of the grant concerning changes in revenue laws is as much a matter of political expediency as constitutional necessity. Willoughby, supra note 17, at 559. Henkin, supra note 16, at 149; see also H.R. Rep. No. 1569, 68th Cong. 2nd Sess. 8 (1925), for a general discussion of implementing legislation.

[19] Article I, Section 7, cl. 1.

[20] Article I, Section 9, cl. 7.

[21] Article I, Section 8, cl. 7.

[22] *Sere v. Pitot* 6 Cr. (10 U.S.) 332 (1810); *American Insurance* v. *Canter* 1 Pet. (26 U.S.) 511 (1828); *United States* v. *Gratiot* 14 Pet. (39 U.S.) 526 (1840); *Cross* v. *Harrison* 16 Har. (57 U.S.) 164 (1853); cf. *Holden* v. *Joy* 17 Wall (84 U.S.) 211, 247 (1872), dictum.

[23] Statement of Ralph Erickson, supra note 3, at 97.

[24] See infra, section II B, for further analysis of the analogy between transfer of land to Indians by treaty, and transfer of the Canal Zone to Panama.

[25] 16 Stat. 544, 546, c. 120, 41st Cong. 3rd Sess.

[26] 97 Cong. Globe 764, 766–767, January 26, 1871 41st Cong., 3rd Sess., and 99 Cong., Globe at 1811–1812, 1821–1825, March 1, 1871.

[27] Although the transfers at issue occurred after the Indian Appropriations Act of 1872, the court indicated that the practice of withdrawing lands from sale by executive order for the purpose of establishing Indian Reservations extended back to 1855. See infra, at section II, B, 3, for an expanded discussion of the quasi foreign-dependent status of the Indian tribes.

[28] Sioux, at 324–326; see also, *United States* v. *Midwest Oil Co.*, 236 U.S. 459, 464–470 (1915).

[29] *Sioux* at p. 326, citation omitted.

[30] *Sioux* at 329.

[31] See Statements of Erickson and Hansell, supra, note 3.

[32] Other "cessions" referred to are the Treaty of Amity Settlement and Limits, with Spain, 1819 to settle our southern boundary (Florida); and Conventions with Mexico in 1933 and 1963 concerning border problems with that country.

[33] A. DeConde, A History of American Foreign Policy, 1963, pgs. 155–162.

[34] Id at 174.

[35] S. Crandall, supra note 2, at p. 226.

[36] 39 Op. A.G. 484, August 27, 1940.

[37] H.R. Rep. No. 723, 90th Cong. 1st Sess. (1967).

[38] Id. at p. 6.

[39] Id. at 16.

[40] 123 F. Supp. 145, 149 (Hawaii, 1954).

[41] Id., see also *Burns* v. *United States* 142 F. Supp. 623 (E.D.Va., 1956), affirmed, 240 F. 2d 720 (4th Cir., 1957).

[42] Reprinted at 92 Cong. Rec. 40371, November 10, 1971.

[43] See Salans, Erickson and Hansell, supra, note 3.

[44] *Worcester* v. *Georgia*, 6 Pet. (31 U.S.) 515, 558 (1832).

[45] *Cherokee Nation* v. *Southern Kansas*, R. Co. 135 U.S. 641 (1890); *Jones* v. *Meehan*, 175 U.S. 1, 10 (1890).

[46] *Johnson and Graham's Lessee* v. *McIntosh*, 8 Wheaton (21 U.S.) 543 (1823).

[47] *Lone Wolf* v. *Hitchcock*, 187 U.S. 553, 564–565 (1903); *United States* v. *Santa Fe Pacific R. Co.*, 314 U.S. 339, 345, 347 (1941); L. Schmeckebier, The Office of Indian Affairs, 1927, pgs. 5–6.

[48] *Cherokee* v. *Southern Kansas R. Co.*, supra note 45, at 655–659.

[49] Schmeckebier, supra note 47; The Non-Intercourse Act (1 Stat. 137, originally passed in 1790 and currently codified at 25 U.S.C. 177) limits the situations in which Indians can transfer tribal lands to those situations when the grant is effected ". . . by a treaty or conventions entered into pursuant to the Constitution.

[50] H.R. 7119, 72nd Cong., 1st Sess., 72 Cong. Rec. 4652–4657 (1932). The legislation was approved, 72 Cong. Rec. 4657.

[51] S.J. Res. 162, 77th Cong., 2nd Sess.; 88 Cong. Rec. 9266–9287, 9320–9328.

[52] 88 Cong. Rec. at 9267.

[53] H.J. Res. 14.

[54] H. Rpt. No. 78–271, pg. 6.

[55] Hearings before the Senate Foreign Relations Committee on the Panama Treaty, Exec. F., 84th Cong., 1st Sess., pp. 60–61. Authorizing legislation discussed property conveyed in all three Articles. P.L. 85–223, 71 Stat. 509 (1957).

[56] Secretary of State Hughes, in an address concerning the League of Nations Covenant, in March, 1919, cited in Wright, supra, note 17, at 356–357 (n. 48).

Mr. SCOTT. Mr. President, I yield the remainder of my time to the distinguished Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the Chair, and I thank the distinguished Senator from Virginia (Mr. SCOTT).

Do I understand then, Mr. President, that I have such time as the distinguished Senator from Virginia did not use plus 15 minutes in my own right?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I thank the Chair.

I will not use any additional time, however, than was originally allotted to me, in my judgment.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, Senators, I am sure, over the past few days have been studying carefully the details of the Panama Canal Treaty and its associated executive agreements. In my own review of the proposed treaty, one aspect is particularly disturbing to me because it is so obviously unnecessary to the basic provisions of the treaty and because it so totally favors the Panamanian position to the great detriment of our own country. I refer, Mr. President, to the treaty provision forbidding the United States to agree with any other country except Panama for the construction of a new Western Hemispheric Interoceanic Canal, unless expressly permitted by Panama in some further future agreement. The treaty reads in relevant part as follows:

During the duration of this Treaty—

And that would be the year 2000—

the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree—

I find it astonishing that the negotiators for the United States saw fit to preclude any possibility of construction of a new interoceanic canal, perhaps at sea level, without our first obtaining the express consent of a pro-Marxist and highly unstable military dictatorship. Why was this concession necessary? What did we gain from this concession?

I notice with some amusement, Mr. President, that the Republic of Panama purports to grant to the United States of America the right to add a third lane of locks to the existing canal. Inasmuch as the United States already has the right to add a third lane of locks to the existing canal, surely our negotiators did not think that a meaningless concession of that variety was sufficient consideration for giving the Panamanians a veto over any other project we may wish to undertake to connect the two oceans. Certainly, the negotiators for the United States could not have felt that the Panamanian agreement to commit Panama "to study jointly the feasibility of a sea level canal" warranted a countervailing commitment from the United States not to do anything whatsoever without Panamanian permission—but perhaps so. The bizarre behavior of our negotiators has produced other results equally as startling.

In any event, Mr. President, one thing is sure and that is that the Panamanians know they got the best of this bargain. Discussing the sea level canal issue, chief Panamanian negotiator, Romulo Escobar Bethancourt, on August 19, 1977, explained to the Panamanian National Assembly the unilateral benefits of the so called sea-level canal options. Dr. Bethancourt's remarks on the subject are illuminating and are worth studying in full. Instead of obtaining an option to build a sea level canal, our negotiators gave to the Panamanians the option to veto construction of a sea level canal by the United States anywhere in the Western Hemisphere. But here are Dr. Bethancourt's own remarks.

I am quoting them at some length for the benefit of the Senate and the public.

I believe we can find out more from the Panamanian negotiators as to what this treaty really means than we find out from listening to our own negotiators. Here is what Dr. Bethancourt, the Panamanian negotiator had to say:

The other problem we—

Speaking of the negotiators on both sides—

The other problem we discussed was that of the option for the construction of a sea-level canal. In all these years the problem of a sea level canal was hardly discussed at all at the negotiating table. There were about two talks on this. We discussed this,

nothing came out of these discussions and then came the Bogota conference with the presidents.

That is, the Presidents of the various countries.

That is where the option problem really reached a crisis. It reached a crisis because a very direct and continuous communication was established among all the presidents meeting there and President Carter through negotiators Bunker and Linowitz as well as with us through Dr. Giogenes de la Rosa, who was there at the time, and our Ambassador Gabriel Galindo.

This is Dr. Bethancourt, the Panamanian negotiator, talking. Continuing with his remarks:

But they made a proposal to us—

That is, our negotiators made the proposal to Panama—

But they made a proposal to us on that option and that is why the issue reached a crisis. They proposed that Panama grant them an option to build a sea-level canal without setting any date. Second, they wanted Panama to promise that no other country would construct a sea-level canal.

These are very fine proposals that our people made. Let us see if they won out.

We rejected that proposal in Bogota. We read it to the presidents. That was the proposal brought the previous evening by several of our negotiators and we read it to them. The negotiations between the two countries was practically broken in Bogota. So much so that I remember that at one point General Torrijos told the presidents: "Well, we called this conference several days ago for a celebration of a new treaty and it turns out that we have come for the wake." The struggle between the two countries began in Bogota. And I say the two countries because the rest of the presidents got as involved as if they had been Panamanians. We must really be very grateful to the presidents that met with the general in Bogota. Regarding this problem they acted just like any of us; they even wanted to walk out mad. The Mexican president wanted to get on his plane and leave; he was very furious. They all became Panamanians regarding the option problem.

When the United States finally realized that there was no way in which an agreement would be reached regarding this option in the terms they were proposing and that the issue had reached an impasse, they asked for a recess. During that recess, we continued our discussions with the presidents meeting in Bogota.

The Panamanian delegation then prepared a draft which all presidents liked. They said it was correct and fair. We then called the United States, they examined it for a while and finally accepted it. I think that it would be a good idea to read the text of this draft to you so that you will see how the option problem came out. I read:

Article 3. Possibility of building a third set of locks or a sea-level canal.

First, the Republic of Panama and the United States of America acknowledge that a sea-level canal can be important for future international navigation. As a result of this, after supporting the treaty of the existing canal and for the duration of this treaty, both countries promise to study jointly the viability of such a canal. In the event that the need for such a canal is viewed favorably, they will negotiate its construction in the terms agreed on by both the countries. This is how the option issue came out. (Applause.)

This is Dictator Bethancourt, still quoting him.

As you can see, it is not even an option to build a sea-level canal. It is an option to promise to study the viability of it.

He is letting the cat out of the bag, Mr. President, in his comments there to his people.

That is the true option. The true commitment is to sit down with the United States to study whether or not it is viable to build a sea-level canal. If the two countries feel it is viable, then they will sit down to negotiate the terms agreed on by the two countries. . . .

You know, Mr. President, this fellow Bethancourt has been very helpful to me in understanding the true implications of the Panama Canal Treaty. From him, I learned the true meaning of the so-called neutrality pact. From him, I learned that the neutrality pact was a sham and of no true benefit whatsoever to the security of the United States. I cannot help but note, Mr. President, in reviewing Dr. Bethancourt's August 19 speech that he explains that the real purpose of the neutrality pact is to propagandize the U.S. Congress and the people of the United States with the myth that the neutrality of the canal will be insured after December 31, 1999. But I would prefer that Dr. Bethancourt answer in his own words the question, "Why this neutrality pact?" He states this:

. . . Because they think—

That is, the United States—

. . . Because they think that maybe in the year 2000 this country will become socialist and will turn into their enemy and they feel it is better to make sure right now that even if our country becomes socialist—

Panama, that is—

it cannot prevent them from using the canal. To be even more frank, they do not need that neutrality pact to tell them whether or not they may intervene. They need it to show to their Congress in order to be able to tell their Congress: "Look, we are turning the canal over to the Panamanians, but we still have the right to watch over them so they behave." That is the truth. It is a question of their internal policy. They are solving an internal problem regarding a Congress that is largely opposed to these negotiations and which even has members who have not been elected of their own free will—

I do not know whether that is a substantive loss in translation or not, because I do not know of any Members of the House of Representatives who were not elected of their own free will. I know of no Senator or House Member who was forced to run for the position he holds.

turned into members of the U.S. Congress. They are Panamanians who lived here and in Miami.

There is a parenthetical statement that that was "as heard," and there was great applause, as shown by the transcript of his remarks.

Mr. President, it strikes me that there is an awful lot of eyewash in these treaties fcr the benefit of Congress and mighty little in them for the benefit of the United States.

We have obtained a neutrality pact which is meaningless, and we have foregone the right to construct a new canal without the express consent of a gangster dictator. What a spectacle this situation must present to the world—the United States required to seek the consent of a reprehensible and repressive minor autocrat before even undertaking canal discussions with another sovereign nation.

How does that strike the average American? We cannot even negotiate with another country for 23 years about building another canal without the express permission of the Panamanians. It just humiliates the United States.

Before even undertaking canal discussions with another sovereign nation, the United States is surrendering control of a vital international waterway to the Communist advisers of a bandit government.

Mr. President, I have availed myself of this opportunity of discussing two features of the canal treaty. At other times I plan to discuss other sections of the treaty, in order that Members who care to read the RECORD will see the views that I have expressed, and will have a right to consider whether these provisions are in the interest of the United States. I do plan, as does the distinguished Senator from Virginia (Mr. SCOTT), to make other speeches here on the floor of the Senate, in the hope that those who read the Record will be able to see just what is involved, and in hopes that others throughout the country may be advised.

Mr. SCOTT. Mr. President, will the Senator yield to me?

Mr. ALLEN. Yes, I am delighted to yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I commend the distinguished Senator from Alabama for the statement that he has made, for his penetrating analysis of Article 12 with regard to the construction of an additional lane or an additional set of locks in the existing canal, and the prohibition against the United States constructing an additional canal at any other spot in the isthmus outside of Panama.

I agree with the distinguished Senator; there seems to be absolutely no reason why our Government should agree with another nation not to construct something outside of their territory.

Frankly, Mr. President, if someone in the committee does not strike that provision of the treaty under the amending process, I believe it should be done on the floor of the Senate and I will be prepared to do so unless another Senator does.

I would like to go further than the remarks the distinguished Senator has made on the floor today and commend him as chairman of the Subcommittee on Separation of Powers of the Senate Judiciary Committee for holding hearings, as he has done, in attempting to find out the legalities of this proposed treaty which has been signed by the President, which was obtained by the State Department.

I believe we need reason and we need to determine just how we should proceed.

Mr. President, it is basic in the laws of contracts that there be some quid pro quo, that there be some consideration flowing from one party to another. I do not see any quid pro quo in this treaty.

The distinguished Senator from Alabama, and the subcommittee on which I am privileged to serve with him, is attempting to delve into this question.

I would hope, Mr. President, that somehow we can eliminate the emotionalism and do some straight thinking as to what is best for our own Government in determining whether the Senate should advise and consent to this treaty. I appreciate the Senator yielding.

Mr. ALLEN. I thank the distinguished Senator for his comments. I commend him for his hard work on this issue and the leadership he has exerted in seeking to point out the dangerous provisions, the unfair provisions, in the treaty. I commend him for his work on the Separation of Powers Subcommittee of the Judiciary Committee. I also appreciate his enlightening the Senate and the country on these issues.

The Senator mentioned that there needs to be a quid pro quo in a contract. There also needs to be a meeting of the minds between the contracting parties. Obviously, there is no meeting of the minds on many, but certainly two, very important issues. One is the priority of our ships in the canal. Apparently there is no priority as the Panamanians regard the construction of the treaty. Second is the misunderstanding about the neutrality of the canal; whether we have a right to determine whether their neutrality is in danger; whether we have a right to land troops there or not. The Panamanians say not.

So there is no meeting of the minds here.

The distinguished Senator from Virginia raises another most important point and it will be asked of the Chair at the proper time, though not now, when the treaty is before the Senate.

He feels in the committee, and I feel on the floor certain action should be taken; the committee should strike this provision requiring the United States to get the permission of Panama before even negotiating with another nation for another canal, a sea level canal. I feel reasonably sure that the committee will strike this very dangerous provision, and I feel the Senate will back up the committee.

Having seen one of its provisions stricken, and the Senate if it should approve the treaty with major amendments made to the treaty, would that require the execution of another treaty? There are constitutional authorities to the effect that once a treaty is amended it cannot then be approved by the other party without entering into a new treaty. If that be the case, if major amendments are made to the treaty, it may well be that that, in itself, will defeat this treaty, because it will require entering into a new treaty.

It will be an interesting constitutional question about which the Chair will be asked. That question may have to be submitted to the Senate for the Senate's view. That would not necessarily be binding if, in fact, that would vitiate the treaty in the absence of another treaty submitted to both countries.

Mr. SCOTT. Will the Senator yield on that point?

Mr. ALLEN. I yield.

Mr. SCOTT. It would appear to me that in the event the Senate does offer amendments and they are adopted by the Senate, and the treaty, as amended, would later be ratified by the Senate, this would influence the executive branch of Government in its efforts to negotiate a new treaty. I feel, quite frankly, Mr. President, that the Senate is somewhat closer to the people of the United States than the executive branch. Certainly, it is closer than the unelected negotiators of this treaty. In fact, no one within our State Department or within our diplomatic corps has had to face the electorate as has each Member of the Senate. I feel someone must speak for the people, and I hope it will be the Senate.

Mr. ALLEN. I thank the distinguished Senator.

There is one other point I would like to make as we suggest guidelines for the consideration of this treaty. I do not foresee here on the floor of the Senate a filibuster against this treaty. I believe there will be a long discussion, a legitimate debate. Though I have not discussed the matter with the leadership, I feel sure that the leadership would not file any cloture petition as long as the debate is legitimate debate. It may last for weeks without being a filibuster. I do not believe a filibuster will ensue, one reason being the difference in what it takes to cut off a filibuster, 60 votes, and 67 votes to approve the treaty, assuming all Senators are present.

Far more than that, the reason there will not be a filibuster is if the treaty is defeated by extended debate, the treaty would still remain on the Executive Calendar for the next session of this Congress and for succeeding Congresses, to be brought up by the leadership at any time.

What I am going to be working toward is a vote up or down on the treaty. Once it is defeated by the Senate, it becomes a complete nullity. If other negotiations are held and other treaties are submitted to the Senate, we would have to consider them ab initio. But there will be no filibuster, as such, and no need to invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the unfinished business, S. 1750, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1750) to amend the Public Health Services Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Massachusetts and the Senator from Pennsylvania, with 2 hours on any amendment in the first degree, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be equally charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordeed.

Mr. KENNEDY. As a point of inquiry, Mr. President, there is a time agreement. Would the Chair repeat what the agreement is?

The PRESIDING OFFICER. The time on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SCHWEIKER) with 2 hours on any amendment in the first degree, 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing on the first committee amendment.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Will the distinguished Senator from Massachusetts yield to me briefly?

Mr. KENNEDY. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the saccharin bill, the Senate proceed to the consideration of the legal services bill, without prejudice to the conference report on the second budget resolution.

Mr. BAKER. Mr. President, reserving the right to object, I apologize to the majority leader, but I have just been reminded of one complication that arose since we had our conversation. I wonder if the majority leader would defer that request until I have had a chance to confer one more moment.

Mr. ROBERT C. BYRD. I withdraw that request.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The legislative clerk read as follows:

On page 2, line 6, strike "saccharin, calcium, saccharin sodium, and saccharin sodium tablets" and insert "calcium saccharin, sodium saccharin, and ammonium saccharin":

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

The PRESIDING OFFICER. There are 2 hours on this amendment.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

Mr. SCHWEIKER. Will the distinguished Senator yield for a unanimous-consent request?

Mr. KENNEDY. Yes, I yield.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Bill Kingston of Senator DOMENICI's staff, Ginny Eby, and John Backer of Senator HAYAKAWA's staff; and Mary Ann Simpson of Senator STEVENS' staff be granted the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, in March of this year, the Food and Drug Administration announced its intention to remove saccharin from the market, with the possible exception of over-the-counter drugs. The announcement was poorly handled. The basis for the agency's decision was not made clear to the American people. They reacted with shock and disbelief, ridiculing the decision and the regulatory agency which made it. In the months between then and now, the agency, under the leadership of its new Commissioner, Dr. Donald Kennedy, has made a valiant effort to explain its decision. But the controversy has not gone away. It has broadened to the point where the scientific community is divided, the medical profession is divided, and the public remains skeptical.

Mr. President, the saccharin controversy raises profound public health and public policy dilemmas.

How reliably can we predict whether chemicals have the potential to cause cancer in man? If a substance causes cancer in animals, does it cause cancer in man? Can we extrapolate the degree of human risk from animal studies? Should carcinogens be automatically removed from the market or should there be an analysis of benefits and risks? If a substance has both benefits and risks, who should decide whether the risk should be taken—the Federal Government or the individual? What is the appropriate role of a Federal health regulatory agency? Is it to provide individuals with sufficient information to enable them to make their own judgments, or is it to protect individuals on the basis of its best scientific evaluation? Can consumers be provided with sufficient information to make informed judgments on their own in public health matters? When is it appropriate for a regulatory agency to provide information and allow individual assumption of risk? When is it appropriate for the regulatory agency to act on behalf of the individual? What is meant by the term "safe"? Is there absolute safety? If not, how does the risk-benefit decision get made and by whom?

The saccharin controversy raises all these questions. The Senate Health and Scientific Research Subcommittee has carefully examined these questions. On the basis of that review, I have reached the following understanding of the facts:

First. Saccharin causes cancer in rats.

Second. Most substances which cause cancer in rats cause cancer in humans. The degree of risk is impossible to predict.

Third. One Canadian study concludes that saccharin increases the human risk of bladder cancer from a lifetime risk of 1 in 100 to 1.6 in 100. By contrast, cigarette smoking increases the risk of developing lung cancer by 800 to 1,000 percent, and the risk of bladder cancer by 12 to 20 percent.

Fourth. According to that same Canadian study, approximately 7 percent of bladder cancer cases in Canada may be attributed to saccharin use. If those figures were to hold for the United States, saccharin use would account for 1,500 to 2,000 cases of bladder cancer per year.

Fifth. Two additional studies in progress in the United States by Dr. Ernst Wynder of the American Health Foundation and Dr. Irving Kessler of Johns Hopkins Medical School do not show a correlation between saccharin use and bladder cancer.

Sixth. The Canadian study indicates only males are at risk from bladder cancer. There are 30,000 cases of bladder cancer in the United States each year, 22,000 of which are in males.

Seventh. As many as 40 million Americans may benefit from the use of saccharin. This figure includes diabetics, hypertensives, obese people, and those suffering from heart disease, not to mention the less significant benefits from reduced dental cavities.

Eighth. Although no formal studies of health benefits have been made, eminent scientists and physicians believe the benefit to saccharin use outweighs the risks. These include:

Antonio M. Giotto, professor and chairman of the department of internal medicine at Baylor College of Medicine;

Dr. Harriett Dustin, president of the American Heart Association;

Dr. Kurt J. Isselbacher, professor of medicine and chairman of medicine at Harvard Medical School;

Dr. Albert J. Stunkard, professor, department of psychiatry, Philadelphia General Hospital; and

Donnell Etzwiler, M.D., president of the American Diabetes Association.

Ninth. Reservations about the saccharin ban were also expressed by two prestigious medical journals: The New England Journal of Medicine and the Lancet. I am enclosing copies of those editorials to be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Tenth. There is no unanimity of opinion among scientists. This division was also reflected in the opinions of the expert panel assembled by the Office of Technology Assessment to review the saccharin controversy. Approximately half the members of the OTA panel expressed the opinion that saccharin should not be banned because of its potential health benefits, while the other half supported the decision of the Food and Drug Administration.

Eleventh. The decision of the Food and Drug Administration to remove saccharin from the market was dictated by the provisions of the Food, Drug and Cosmetic Act. That act provided no discretion for the Commissioner. It does not allow for the weighing of benefits versus risks.

Mr. President, I have tried to show how complicated the saccharin controversy really is. I yield to no man in the U.S. Senate in my determination to reduce the risk of cancer. I know first hand of the ravaging impact that that disease can have on its victim and on the victim's family. But those who try to portray the saccharin controversy as a litmus test of whether one is for or against cancer do a grave disservice to the American people. Cancer kills—but so does heart disease—so does hypertension—so does obesity—and the victim is just as dead no matter what the cause. The real question is whether there are health benefits to saccharin to outweigh the potential health risks of saccharin.

When the chairman of the department of medicine at Harvard University School of Medicine and the chairman of the department of medicine at the Baylor School of Medicine believe that more harm would be done by removing saccharin from the market than by leaving it on the market, I believe it should be clear to everyone that some of the best medical minds in this country do not subscribe to the theory that saccharin represents an unacceptable health risk. Mr. President, even the former director of the National Cancer Institute has questioned the wisdom of FDA's banning of saccharin.

Given the division of scientific opinion, given the incomplete nature of the scientific evidence, it is wrong to allow the FDA to make a definitive decision on saccharin now. More needs to be known. The risks need to be more precisely defined, the benefits need to be scientifically demonstrated.

Mr. President, when the scientific community is evenly divided about what course of action to follow; when the medical profession is evenly divided about what course to follow; when the American Diabetes Association, the American Medical Association, the American Heart Association, the Juvenile Diabetes Foundation all argue to leave saccharin on the market; when other consumer groups such as the Health Research Group take a contrary opinion, then I believe the individual is in the best position to decide for himself or herself whether they want to expose themselves or their children to saccharin use.

S. 1750, as amended by the Human Resources Committee, would help to solve the controversy by doing the following things:

First. It asks the National Academy of Sciences, acting through the Institute of Medicine, to study all aspects of policy toward food additive regulation in this country. The study will look at: Our

technical capabilities for predicting both the carcinogenicity or other toxicity of food additives; both the risks and benefits of such substances; existing regulatory authorities governing such substances; and regulatory policies in different areas of the Federal Government toward similar substances. This study is to be completed within 1 year.

Second. A study by the Department of Health, Education, and Welfare of the impurities in saccharin and the health benefits of saccharin. The saccharin used in the Canadian study was contaminated by impurities. These impurities are Ames test positive. The Ames test is a test to predict whether a substance is a potential carcinogen. Saccharin itself was Ames test negative. The impurity alone was positive. This may indicate that it is the impurity and not the saccharin which is responsible for the results obtained in the Canadian rat and human epidemiological studies. HEW is charged with identifying the impurity and determining whether or not it is responsible for the carcinogenic effect. In addition, HEW is charged with scientifically demonstrating whether or not there are health benefits from saccharin use.

Third. The legislation provides for an 18-month delay in the ban on saccharin. If saccharin does present a significant public health risk, the nature of that risk is a cumulative one according to the Commissioner of the Food and Drug Administration. The added increment of risk by leaving saccharin on the market for this 18-month period is minimal. During that time, each individual citizen will be provided the information necessary for an informed individual choice as to whether or not to use saccharin. Each food product containing saccharin will be labeled as follows: "Warning: this product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer." In addition, each place where saccharin is sold—with the exception of restaurants—will be required to post a more detailed statement of the potential risks and benefits of saccharin use. The Secretary of Health, Education, and Welfare will prepare this package.

In addition, all advertising of saccharin-containing products will be required to contain a health warning message as prescribed and developed by the Secretary of Health, Education, and Welfare. The committee's intent is to treat all media equally, and so the Secretary is charged with developing health warning messages that have equal impact on the reader, listener or viewer of the advertisement.

These advertising provisions are essential if the interests of the consumer are to be protected in this bill. The success of this legislation will depend on the ability of individual citizens to make informed decisions for themselves and for their families as to whether or not they wish to use saccharin. These decisions require access to information about the risks and benefits of the product. If there are no health warning messages in the advertisements, then one of the major sources of information for consumers might be used to counteract the impact of the warning label.

I believe that saccharin is a product which has benefits for a segment of the American population. I believe there is risk associated with the use of saccharin. I believe the American people can make the appropriate individual decisions as to whether or not to use saccharin. But the advertising process can work to undermine the individual's ability to make an informed choice. A media blitz on the advantages of a product without any reference to potentail health problems can distort an individual's perception of the facts. There can be no informed choice if there is not sufficient access to adequate information.

Mr. President, in conclusion I urge the Senate to enact S. 1750 as reported by the Human Resources Committee. This bill gives the benefit of the doubt to those 40 to 50 million Americans who suffer from the diseases that require the availability of a sugar substitute. It provides the necessary information to those Americans who do not need saccharin, to decide for themselves whether they want to run the small additional risk of contracting bladder cancer that may result from the use of saccharin. Most importantly of all, it guarantees that appropriate information will be available to all consumers to enable them to make that decision.

Mr. President, I yield to the Senator from Pennsylvania.

EXHIBIT 1

[From the New England Journal of Medicine, June 9, 1977]

SACCHARIN—THE BITTER SWEET

(By Kurt J. Isselbacher, M.D., and Philip Cole, M.D.)

A recently completed Canadian study shows that saccharin can act as a bladder carcinogen in rats.[1] As a result, the United States Food and Drug Administration proposes to prohibit the use of saccharin as a food additive. This action is required by a 1958 law, which includes the "Delaney clause" stating that ". . . no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal. . . ." It has been claimed that the value of the Delaney clause lies in the maximum degree of protection that its unqualified language provides. However, as phrased, the clause precludes the use of judgment in drafting regulations for specific substances. Yet judgment is needed to guard against inappropriate generalization to man from other species and to permit a balancing of the benefits of a food additive against its dangers. The case of saccharin well illustrates these two needs. There is good reason to be skeptical about the relevance to man of the existing data on rats, and the medical, social and economic values of saccharin may be considerable. The opposition to the saccharin regulation is based on these considerations and is thus, more fundamentally, a challenge to the Delaney clause itself.

No study, including the Canadian one, has shown convincingly that there is an excess of bladder cancer in rats exposed to saccharin only after birth, the "F_0" generation. The Canadian study is persuasive only for male rats born of mothers fed a diet containing 5 per cent saccharin and weaned to the same diet, the "F_1" generation. The study is only weakly positive for F_1 females.

Footnotes at end of article.

Unfortunately, the study evaluated saccharin only at the one dosage level since its major objective was to assess the carcinogenic activity of orthotoluenesulfonamide (OTS), a manufacturing contaminant in commercial saccharin. OTS was evaluated at several dosage levels and exonerated. Thus, the earlier positive studies of saccharin by the FDA [2] and by Tisdel et al [3] can no longer be dismissed with the suggestion that OTS was the carcinogenic agent. These two studies are similar to the Canadian study in being clearly positive only among F_1 male rats (the F_0 animals were not examined). In fact, in the FDA study, F_1 males given a 5 per cent saccharin diet were similar to controls; only animals given a 7.5 per cent saccharin diet had an excess of bladder cancer.

It is not known why all three studies are essentially negative among female rats. Nor is it clear why only in utero exposure produced an excess of bladder cancer. Saccharin is concentrated in fetal tissues,[4] and, if this is the reason for the in utero requirement, the results of the animal studies pertain primarily, perhaps exclusively, to saccharin use by pregnant women. Finally, since positive results were restricted to rats receiving massive doses of saccharin, it is difficult to make inferences about low-dose effects either in rats or in human beings.

The issue of dose response is crucial. A diet containing 5 per cent saccharin has 500 to 2,000 times more saccharin than is consumed by an adult human being. What would be the bladder-cancer risk of rats fed a diet containing, say, 0.1 per cent saccharin? The necessary extrapolation can be made only if we invoke a hypothetical model of a dose-response relation. Three models seem reasonable. The simplest is a linear relation. If a 5 per cent saccharin diet causes bladder cancer to develop in 18 per cent of F_1 male rats (the Canadian result), a 0.1 per cent diet would cause about 0.4 per cent of animals to be affected. Another model might incorporate a threshold value. If the threshold is above 0.1 per cent, rats fed such a diet would show no excess of bladder cancer. A third model is that the risk of bladder cancer is a more complex function of the saccharin dose—for example, risk may be proportional to the square of the dose. If this were the case, the 0.1 per cent saccharin diet would cause bladder cancer in only 0.007 per cent of rats, or about one in 14,000. Existing data do not permit us to choose from among these models, although they least favor the simple linear relation. However, even if we could extrapolate along the dosage scale to predict low-dose effects among rats, we could not confidently generalize over the species barrier to human beings. Such generalization requires knowledge of the relative sensitivity of the two species to saccharin-induced bladder cancer. We have no such knowledge, but it seems unlikely that adult human beings would be more sensitive than fetal rats. On the other hand, the long life of human beings suggests that saccharin-induced bladder cancer could develop in them. During a normal life-span a person could ingest a moderately high dose of saccharin and survive a latent period of several decades.

In view of these uncertainties, the information on man should be examined closely. Saccharin came into use in the United States about 1900, and per capita consumption has increased more or less steadily since then. Yet, during this century, bladder-cancer mortality rates have declined, especially for women. Incidence rates have been stable for women but have risen for men.[5] However, the rising incidence for men can be explained by their cigarette-smoking habits.[6]

At least seven pertinent epidemiologic studies show that bladder-cancer mortality patterns in England and Wales are not correlated with saccharin consumption [7] and

that diabetic patients have no excess mortality from bladder cancer despite their relatively high consumption of saccharin.[8-10] The studies also show that patients with bladder cancer and controls do not differ in their use of saccharin.[11-13] All these studies may be criticized on several counts, the most serious being that they were too small. That is, each study might readily have failed to detect a small increased risk of bladder cancer—say, 30 per cent—among saccharin users. However, neither this nor other criticisms explain why all the studies are negative. A credible explanation of the negative findings is that, as used by human beings, saccharin does not cause bladder cancer or causes so few cases that its effect could be detected only by an enormous study. A small study is likely to be useful only if it focuses on a group of special interest, such as persons occupationally exposed to saccharin. Studies might also focus on women, who have low bladder-cancer incidence rates because they are less exposed than men to industrial and other causes of the disease.[14] Thus, any effect of saccharin may be more apparent among them.

Regarding possible benefits, it is widely acknowledged that saccharin is not a critical substance, and its benefits are difficult to quantify. Saccharin has economic value as a sugar substitute in some foods, and many physicians believe that it has a place in the management of diabetes and obesity. Moreover, many healthy persons, must value saccharin, for they elect to use it as an aid to weight control.

Despite the apparent benefits of saccharin, the difficulties of generalizing to man from the existing information on rats and the negative epidemiologic studies, it is likely that the EDA will restrict the sale and use of saccharin. Nearly everyone will agree that pregnant women and children should not be exposed knowingly. There also seems little reason for a normal, healthy person to use saccharin, and many choose not to. These goals of avoiding unintended saccharin ingestion can be attained by the requirement that all saccharin-containing products be so labeled. This requirement is already the law for foods and cosmetics. It seems unwise to change this law to one that would limit the availability or increase the costs of saccharin-containing products used for medical indications. Yet these would be the effects of a general ban on the use of saccharin as a food additive. The ban would have the further disadvantage of being difficult to enforce, especially if saccharin remains available as a nonprescription "drug." For exmple, how would the law treat a person who added saccharin to his can of unsweetened soda?

Whatever regulatory action is taken by the FDA on saccharin, attention should be paid to changing the Delaney clause. In addition to excluding judgment, the clause is deficient in its restriction to "man or animal." In vitro tests will probably become a valuable part of the process by which the carcinogenic potential of a drug or chemical is evaluated. The revised or new law should take into account the difficulties of generalizing to human beings from animal and other kinds of studies. It should also permit the benefits of a food additive to influence decisions regarding its use.

FOOTNOTES

[1] Health Protection Branch, National Health and Welfare Department, Canada: Toxicity and carcinogenicity study of orthotoluenesulfonamide and saccharin, 1977.

[2] Division of Toxicology, United States Food and Drug Administration: Sodium saccharin: combined chronic feeding and three-generation reproduction study in rats. May 15, 1973.

[3] Tisdel MO, Nees PO, Harris DL., et al: Long term feeding of saccharin in rats, Symposium: Sweeteners. Edited by G Inglett. Westport, Connecticut, AVI Publishing, 1974, pp 145–158.

[4] Pitkin RM, Reynolds WA, Filer LJ Jr, et al: Placental transmission and fetal distribution of saccharin. Am J Obstet Gynecol 111:280–286, 1971.

[5] Burbank F, Fraumeni JF Jr: Synthetic sweetener consumption and bladder cancer trends in the United States. Nature 227:296–297, 1970.

[6] Hoover R, Cole P: Population trends in cigarette smoking and bladder cancer. Am J Epidemiol 94:409–418, 1971.

[7] Armstrong B, Doll R: Bladder cancer mortality in England and Wales in relation to cigarette smoking and saccharin consumption. Br J Prev Soc Med 28:233–240, 1974.

[8] Kessler H: Cancer mortality among diabetics. J Natl Cancer Inst 44:673–686, 1970.

[9] Armstrong B, Doll R: Bladder cancer mortality in diabetics in relation to saccharin consumption and smoking habits. Br J Prev Soc Med 29:73–81, 1975.

[10] Armstrong B, Lea AJ, Adelstein AM, et al: Cancer mortality and saccharin consumption in diabetics, Br J Prev Soc Med 30:151–157, 1976.

[11] Simon D, Yen S, Cole P: Coffee drinking and cancer of the lower urinary tract. J Natl Cancer Inst 54:587–591, 1975.

[12] Morgan RW, Jain MG: Bladder cancer: smoking, beverages and artificial sweeteners. Can Med Assoc J 111:1067–1070, 1974.

[13] Kessler H: Non-nutritive sweeteners and human bladder cancer: preliminary findings. J Urol 115:143–146, 1976.

[14] Morrison AS, Cole P: Epidemiology of bladder cancer. Urol Clin North Am 3:13–29, 1976.

[From the Lancet, Mar. 19, 1977]

SWEET REASON

The Canadian regulatory authorities have hitherto enjoyed a cachet for sweet reasonableness denied to their counterparts in the United States, where the exercise of human judgment based on a careful consideration of all the facts relevant to the assessment of carcinogenic hazard is, in effect, against the law. By initiating a ban on the use of saccharin, have the Canadians sacrified their good reputation for no good reason, or are they aware of new data which contradict the epidemiological indications that saccharin does not increase the risk of bladder cancer, or of any other form of cancer, in man? The new information which lead to last weeks' precipitate ban on the use of saccharin in food in the U.S.A. and Canada is not yet available in Britain, but we understand that it has to do with the results of a two-generation study in which rats which were continuously exposed to 5% saccharin in the food acquired bladder tumours. But it was already well-known that, at this level of feeding of saccharin, bladder stones and tumours occur. Many toxicologists, in North America as well as in Britain, doubt the relevance of feeding studies involving such unrealistically high levels of incorporation of test substances in the diet, especially when the only type of tumour seen in excess is of the urinary bladder under conditions where stones occur. Clearly, tumours may arise non-specifically as a consequence of the prolonged presence of solid bodies in the bladder. It is noteworthy that in none of the many animal tests so far reported has there been evidence of increased risk of tumours at any site other than the bladder. If saccharin has been banned for a compelling reason yet to be revealed, we will mourn its loss. Otherwise our mourning will be for the reputation of those responsible for its banishment.

Mr. SCHWEIKER. Mr. President, how much time am I assigned under the order?

The PRESIDING OFFICER. The Senator has 1 hour.

Mr. SCHWEIKER. I yield myself 10 minutes.

Mr. NELSON. Mr. President, if the Senator will yield, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. Who controls time on the bill?

The PRESIDING OFFICER. Time on the bill is controlled equally by the Senator from Massachusetts and the Senator from Pennsylvania.

Mr. KENNEDY. Mr. President, if the Senator will yield, if it is agreeable on the substitute, I would ask unanimous consent that the time be divided between the Senator from Wisconsin (Mr. NELSON), the Senator from Pennsylvania (Mr. SCHWEIKER), and myself.

Mr. SCHWEIKER. Does he not automatically get time on the substitute?

The PRESIDING OFFICER. if the Senator offers an amendment, he has control of half the time.

Mr. SCHWEIKER. How much time, Mr. President, is that; how much time does he have under the order?

The PRESIDING OFFICER. Two hours on the amendment.

Mr. KENNEDY. Mr. President, I just want to assure the Senator we will give him additional time beyond that.

Mr. NELSON. I was not here at the time. I agreed to the unanimous consent on limitation, but I did not realize the time would be equally divided between the two proponents of the bill and no time alloted on the bill to the opponents. I did not realize that.

Mr. SCHWEIKER. Mr. President, I will make every effort to make sure he has adequate time, so I think we are all right.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that a member of my staff, David Winston, be granted privilege of the floor during the debate and rollcalls on this bill.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I rise in support of S. 1750—of which I am a principal cosponsor—a bill to delay the imposition of the Food and Drug Administration's proposed ban on saccharin for 18 months while further studies are conducted and evaluated.

I know that all my colleagues are aware of the great public outcry provoked by the FDA's proposal to ban saccharin on the basis of laboratory evidence indicating that it causes cancer. Saccharin is the only nonnutritive artificial sweetener now available in the United States. Many diabetics, people trying to lose weight, and parents concerned that their children will suffer from an increase in dental cavities, oppose the ban. To some people, it seems that Government interference in our daily lives has simply gone too far.

The scientific community itself is deeply divided on the saccharin issue. Questions have been raised about the extent to which scientists can extrapolate from animal data showing that sac-

charin may cause bladder cancer and about the potential health benefits of saccharin use. In June, six members of an expert scientific panel assembled by the Office of Technology Assessment testified before the Senate Subcommittee on Health and Scientific Research, on which I serve as ranking minority member. Despite their general agreement that laboratory evidence showed commercial saccharin causes cancer in animals and was likely to be carcinogenic in man, the six-panel members split evenly on the question of whether or not the FDA's proposed ban on saccharin should be implemented. These were people who had carefully reviewed the existing data—and three of the six favored continued marketing of saccharin as a food additive, with warning labels to alert prospective saccharin users to the questions which have been raised about its possible carcinogenicity.

Many scientists, health professions and others believe it would be wrong to impose a ban on the last available nonnutritive sweetener available in the United States, because they believe that the health benefits of saccharin use may outweigh the risk of developing bladder cancer for a large number of Americans. A prohibition against artificial sweeteners may actually lead to health problems, increasing the risk that more Americans will develop heart disease or some other serious medical condition. Saccharin may be necessary for as many as 40 million Americans, including those who suffer from diabetes, hypertension and obesity. Therefore, as the Human Resources Committee concluded in its report on this legislation, taking saccharin off the market may "do more harm than good to the public health and safety." There is a need for more study of the potential health benefits of saccharin use before it is banned, in order to fully assess the adverse health consequences which may result from implementation of a ban. S. 1750 provides for such study.

More recently, the first epidemiology study indicating that saccharin may cause cancer in humans has come to light. At the same time, however—and I cannot emphasize this too much—other human epidemiology studies do not indicate an association between human use of saccharin and the development of bladder cancer. So the scientific community is not unanimous by any means, and the scientific evidence is not overwhelming nor conclusive. These epidemiological studies are still in the process of being reviewed by the Food and Drug Administration and evaluated by the scientific community.

Perhaps one of the most significant points which has been raised in the scientific controversy surrounding saccharin concerns the small amounts of impurities which are found in commercially available saccharin. When subjected to the Ames test, a short-term test used to determine likely carcinogens which so far has proved to be about 90 percent accurate, these impurities have been shown to be mutagenic—that is, the impurities are likely to cause cancer. At the same time, pure saccharin, isolated from these impurities, has not been shown to be mutagenic in the Ames test. This means that it may be the impurities in saccharin which cause cancer, not saccharin itself. If it is the impurities and not saccharin itself which poses a risk to health, then it may well be possible, to improve the commercial saccharin manufacturing process to produce saccharin which is free of these impurities. This pure saccharin could then be safely marketed. It would be saved for the diabetics, the obese, and the hypertensive people who need the only artificial sweetener left on the market. I think that is one of the most compelling reasons of all to pass this bill, because saccharin could be saved if we can get a better understanding of what the trace materials are in the saccharin which actually might be the culprit.

Research to further study the impurities is vital not only to the issue of whether or not saccharin can be saved, but also—and I think this is important—to our continuing search for knowledge about what causes cancer. If these impurities, which are present only in very tiny amounts in commercial saccharin—there only are a few parts per million of these impurities—can cause cancer, then they are surely very strong carcinogens. If we can learn more about them and how they work, we may get some valuable clues on the causation and development of cancer. S. 1750 wisely provides for more research into this question.

In addition, the saccharin controversy has focused attention on the broader issues of Federal regulation of the carcinogens that Americans are exposed to in their daily lives. The high rate of environmentally induced cancers in the United States alarms all of us. Our food additive laws were designed with the purpose of insuring that Americans will not be unnecessarily exposed to a substantial risk of cancer through the food supply, and we must remain faithful to that goal. Yet, many people have asked why saccharin should be banned when cigarettes, known to endanger human health in many ways, are sold freely. The American people have the right to choose so far as cigarettes are concerned. Yet, cigarette smoking puts people at the greatest risk for cancer, and cigarettes are the most likely causes of cancer for the average American. Anyone may choose to smoke or not to smoke; all that is required is that he be warned of the hazards. Known noxious substances continue to be spewed out into the air of our cities and in workplaces all across America.

Current statutory authorities for regulating the cancer-causing agents we are exposed to are not consistent and seem to have developed in a rather haphazard fashion. In fact, the laws we have now sometimes preclude consistency by refusing to permit a weighing of risks and benefits in some cases, while explicitly requiring a balancing of risks and benefits in other cases.

For example, sodium nitrite is known, when reacting to certain metabolic processes, to form nitrosamines which can cause cancer. Yet, we permit it to be added to bacon, because the Agriculture Department, which has exercised the primary authority in the case of nitrites, has apparently decided that the risk of cancer from this additive is outweighed by the benefit, the benefit being that nitrites afford protection from botulism poisoning.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator's 10 minutes have expired.

Mr. SCHWEIKER. I yield myself an additional 5 minutes.

So we have a completely different standard for regulating other substances which can cause cancer. There is a big controversy now about drinking water and whether a form of chlorine that changes into chloroform in drinking water causes cancer. But EPA has apparently decided that we should continue to put chlorine in our drinking water, even though there might be some risks, because the benefits of purifying drinking water with chlorine outweigh the risks.

Both the Agriculture Department and the EPA are allowed to weigh risks and benefits in these cases, but FDA cannot weigh them at all in the case of saccharin, and that is a part of what the whole saccharin controversy is all about.

There may be good grounds for differences between the regulations which apply say, to pesticides or chemicals in the workplace and carcinogens in foods. These issues deserve thorough examination. S. 1750 provides for such a broad study of Federal regulatory policy toward carcinogens and other toxic substances.

We owe it to the American people to be responsive to the deeply felt public concern which has arisen in connection with the FDA's decision to ban saccharin. We should explain to them why we apply different tests for carcinogens, why some are thrown out without consideration of health benefits versus health risks.

The bill before the Senate today represents a thoughtful, responsible approach to the saccharin question and the related issues I have outlined. It delays any ban on saccharin for 18 months. During that period, the bill provides for label warnings and consumer information regarding the potential health risks posed by saccharin consumption, to help consumers make informed choices as to whether or not they wish to use saccharin-containing food products. S. 1750 mandates further study and assessment of the health benefits which may result from the use of artificial sweeteners, particularly saccharin, and further research into the saccharin's impurities and their potential toxicity or carcinogenicity in humans. It provides for an assessment of our scientific expertise in the area of toxic and carcinogenic substances, our ability to weigh risks and benefits, and the adequacy of current Federal regulatory policy in this important area.

I commend my colleague, Senator KENNEDY, the chairman of the Health and Scientific Research Subcommittee, for his work on this legislation. I appreciate his cooperation, and the coopera-

tion of Senator WILLIAMS, chairman of the full Human Resources Committee; Senator JAVITS, the ranking minority member of the full committee, Senator HAYAKAWA, who has shown a special interest in this issue, and the other members of the Human Resources Committee in bringing this bill before the Senate for its consideration.

I also commend the interest and work of Senator NELSON. I know that his motivation is strong. He has been a leader in the fight to get carcinogens off the market. While I differ with him in this case, I respect his belief and his dedication to this effort.

I urge my colleagues to support S. 1750

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, will the Senator yield?

UP AMENDMENT NO. 834

Mr. KENNEDY. May I propound a unanimous-consent request?

Mr. President, I ask unanimous consent to consider a nongermane amendment and to take it up before the committee amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

Mr. KENNEDY. Mr. President, this is an amendment offered by myself, the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from New York (Mr. JAVITS).

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. SCHWEIKER, and Mr. JAVITS, proposes unprinted amendment No. 834.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, after line 16, add a new section as follows:

SEC. 8. (a) Section 204(d) of Public Law 93–348, as amended by section 18(a) of Public Law 94–573, is further amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of Public Law 93–348, as amended by section 18(b) of Public Law 94–573, is further amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "November 1, 1978".

Mr. KENNEDY. Mr. President, this simply provides a 6-month extension for the Commission for the Protection of Human Subjects. A bill, which was very similar to this, passed unanimously last year. The administration has requested a 6-month extension to review this Commission and its work.

This will simply permit a very useful important and, I think, very successful panel to continue to work while the administration is formulating its position. The extension has the complete and unanimous support of the members of the Health Subcommittee.

Mr. SCHWEIKER. Mr. President, I strongly support the amendment. It has been cleared on our side, and I believe it is a reasonable request.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. I thank the Chair.

Mr. NELSON. Mr. President, I ask unanimous consent that Lisa Walker, a member of the staff of Senator WILLIAMS be permitted the privileges of the floor during the consideration of the pending legislation and the rollcalls thereunder.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I wonder if the Senator from Pennsylvania will yield for a couple of questions?

The PRESIDING OFFICER. Will the Senator yield?

Mr. NELSON. In the Senator's remarks he made reference to the fact that the public has a choice to use cigarettes which, of course, are a much more potent carcinogen than saccharin and that the same freedom of choice, therefore, should be left to the user of saccharin.

Let me ask the Senator this question: My substitute amendment proposes to do exactly that. In other words, a cigarette is not in the food chain. The user has to go to the machine or the store and prescribe it for himself and use it. He is not unknowingly exposed to it by the introduction of it somehow into the food chain as is the case with saccharin.

The substitute amendment I have offered will do the same thing as the Senator argues is the case respecting cigarettes, that is to say, instead of exposing tens of millions of people to saccharin that is put into the food chain, this amendment would provide that saccharin, as a sweetener, would be available over the counter, with the appropriate labels, to anybody who wanted to go and buy it and add it to his soda pop or to ice cream or to coffee.

Why is that not a perfectly rational way to handle this problem? Then we would not keep this cancer-causing agent in the food chain. However, those who believe they need or want it or it is prescribed for them can get it in this fashion. Why should we not treat it that way?

Mr. SCHWEIKER. Well, I think the response I would have to that question is that we are talking about processed foods, such as soft drinks, which play a very important role in the life of people, particularly young people.

I just attended a meeting of the Juvenile Diabetes Foundation. A few years back their chapters had programs to protest with the Coca-Cola Co., the Pepsi-Cola Co., and the other soft drink bottlers, so that they would make an artifically sweetened drink available where they had drink-dispensing arrangements.

They felt it was a fundamental right of their diabetic young people to have that opportunity, so they would not be discriminated against, so that they could participate in youth activities without having to pull themselves to the side and refrain from participating when refreshments were involved.

The JDF made it a cause for each of their chapters to fight for the right to have saccharin-containing refreshments made available. This was important for the diabetic community, so that their young people would not have to run home and grab a packet of saccharin.

Of course, the way the FDA-proposed order was framed, the manufacturer could not make saccharin part of their processed food. It would have to be added by a teenager who wanted to drink Coke or something at a teenage party.

Mr. NELSON. Did I understand the Commissioner to say, Commissioner Kennedy, that he proposed it would not be available at all?

Mr. SCHWEIKER. Commissioner Kennedy's proposals specifically prevented soft drink processors from in any way processing a drink to contain saccharin. Saccharin would have to be added after the product was bought, and it does not now seem technologically feasible that saccharin could be added that way, as I understand it, to soft drinks at least.

So my answer to the Senator's question is that unless we give the artificial sweetener option in processed foods we really are not giving that option at all. Many of these decisions, many of the peer group pressures which can be problems for young diabetics when they are out socially or in school with their friends, revolve around processed foods. If you eliminate saccharin from processed food you have denied them their freedom of choice. Yet there is a cigarette machine they can run to right around the corner during the break and get a cigarette. That is my point.

Mr. NELSON. Well, so that we have the issue in proper proportion, how much of the saccharin that is used in this country, what percentage, is in the processed food?

Mr. SCHWEIKER. My guess is—and I think this figure is correct, I have to check further—about 75 percent in these soft drinks, alone. So the big bulk of it is——

Mr. NELSON. Oh, no. The processed food is 14 percent, and the best figures we had, soda pop is 74 percent.

Mr. SCHWEIKER. Right.

Mr. NELSON. Sweeteners over the counter, so to speak, in the home are 12 percent, and there is a minuscule amount in toothpaste and mouthwashes, and so forth.

So when we talk about diet foods, eliminating the soda which, I guess, could be classified as a food or not as a food, but anyway in the diet food eliminating soda you are talking about 14 percent.

If we allow it over the counter, as Commissioner Kennedy proposed, why cannot those who desire it, who now buy it and use it in their homes, add it to the canned peaches, the canned pears, and other foods. Then you will avoid such widespread use. That provides the free choice and avoids continuing to expose millions of people to a cancer-causing agent. We are already in a disaster situation respecting cancer. We are spending hundreds of millions of dollars a year to find a cure, and $18 billion to $20 billion in cost and treatment.

What is so irrational about simply saying we are not going to have this in foods in the marketplace or the food chain but we will allow all those who want to use it to buy it and put it into

food themselves? Why is that not the logical answer, considering that it is clearly a cancer-causing agent?

No one disputes that. It causes cancer in animals. Every carcinogenic agent known to man, save one which we are not through testing, arsenic, every single one, that is carcinogenic to man causes cancer in animals. The converse is likely true.

What is being argued here on the floor is that to satisfy a sweet tooth we are going to expose 200 million people in this country to a cancer agent, millions of them involuntarily because they will not know it or do not believe the tests showing that it is cancerous.

We have the best food and drug law in the world. And the mandate in that law is to protect the safety of the food chain. What is the public question at stake here? Do you know what the public question is? The public question is, should we continue to corrupt the food chain of this country with a proven carcinogenic agent in order to sell soda pop? That is what it is all about. Soda pop.

Oh, you say that is not what it is all about. No, not quite all, but almost all. Three-quarters of the question is soda pop. What does that say about our value standards in this society? We will medicate every one so that someone can have the convenience of a diet soda while exposing millions of people to this cancer causing agent. We are going to have thousands of people, who are going to die from cancer for the convenience of being able to get a bottle of soda pop. And we are making a fundamental attack on the best food and drug law in any country in the world. It shocks me.

As I said soda pop is three-quarters of the problem we are talking about. People are using it in their homes. That is their choice. Among some of the most distinguished diabetologists in this country there is the opinion that there is no necessity for saccharin at all. It is true scientists are divided. The medical society is divided all the time. When FDA removed fixed combination antibiotics from the market on the grounds that they are irrational and counterproductive, the scientific community was divided because doctors had been using fixed combination antibiotics for years and were satisfied they were good. This will always be the case.

Let me just read to you what was said.

Mr. SCHWEIKER. Mr. President, if the Senator will let me respond to his question I will do this on my time to give him plenty of time.

The Senator poses the question of why do we not segregate saccharin, so that each person can put it into processed foods as a known entity, and I think that is the essence of his amendment. Is that right?

Mr. NELSON. The proposal is that there would be no saccharin introduced in any food, that the sweetener itself would be available over the counter to those who want to buy the sweetener as they now do, for home use, and then they may put it in the food themselves. But we would not allow it to go into the food except by each individual's introduction himself of that agent.

Mr. SCHWEIKER. Is it the Senator's contention that this would significantly alter the usage patterns? If, in fact it is possible for consumers to put saccharin in all these processed foods after they are bought?

Mr. NELSON. No question about it. I have no doubt that you would cut the usage of it 90 percent. But at least you are not giving cancer to a little kid on the street. When you talk about informed consent, are you talking of informed consent to 5- and 10-year-olds on the street who are buying diet sodas and drinking them? What is your answer to them when they get cancer from that agent? "Oh, little fellow, you had a chance to read the label, you had the right to make your choice, you made your bad choice, now you go ahead and suffer with your cancer."

That is what we are saying, and that does not only apply to children either. There are endless numbers of people, and my mail is stacked as high as that of the Senator from Pennsylvania, who wrote thousands of letters saying: "I have to have saccharin"; or they say "the test is no good; the test is phony."

The test is not phony and everyone here knows it and every scientist in this country and every qualified scientist in the world knows that the testing procedure and methodology is sound.

Mr. SCHWEIKER. I wish to respond to the first question, that is the real issue that we are debating. The essence of his proposal is that by segregating saccharin and taking it out of processed foods we are somehow solving this problem. I do not follow that logic. I do not follow that reasoning, especially in light of the situation with cigarettes. Cigarettes exist as a single, entity; they have a separate identity themselves. They are not mixed with anything else. If there is anything we learned after labelling them as carcinogens, after all the studies of the numbers of cancers they cause, we know that selling them this way, as separate entities has had no impact on consumption. Cigarette sales have increased. So I fail to see that the Senator's proposal would really solve the consumption problem. We see from the cigarette example that when you have an isolated substance, label it cancerous and still have it available as he proposes with saccharin, with that kind of free choice, the results are clear. People are using it in greater numbers than ever. So I fail to see that this is any answer to the problem. And it does impose a hardship, an inconvenience, and a great problem on thousands and hundreds of thousands of diabetics.

Mr. NELSON. If I understand, the logic of the Senator's argument about cigarettes is correct. They are a carcinogenic that we do not require people to take. If you are going to treat cigarettes the same as the Senator from Pennsylvania wants to treat saccharin then we are going to grab every little kid and everyone else and puff smoke at them every single day and make them inhale it because that is what you are doing when you put saccharin in the food chain. There is absolutely no argument at all for the proposition that we should breach this law and involuntarily expose people to a carcinogenic agent. What is the sense of it? Soda pop is the sense of it. That is just about all there is to it.

The Senator from Pennsylvania says diabetics need it.

Let us see what some of the most distinguished diabetologists in this country say about that.

First, let me read to the Senator an exchange of questions and answers, and then I will get to the diabetologists.

When the OTA science panel appeared before our Health Subcommittee I asked the question of Dr. Frederickson. Dr. Frederickson is the Director of the National Institutes of Health. He appeared before the Health Subcommittee of which the distinguished Senator from Pennsylvania is a member as am I. I wanted to know whether there was any proven scientific need for saccharin. So, I asked Dr. Frederickson:

Are there any conclusive tests that have been done that demonstrate an important need for saccharin for diebetics, overweight, or heart patients? None have come to my attention.

Dr. Frederickson responds:

The answer is no, Senator Nelson. There is no test that is available that demonstrates a specific need for saccharin by such patients.

Yet the argument is made that it has to be used by some people, therefore let us give it to everybody in America.

My response is, to those who believe it is needed, "All right, give them the free choice to go buy it."

Now let us see what some of the distinguished diabetologists have to say about saccharin. Let us take Dr. Max Miller, who was the director of the 10-year university group diabetes program involving 13 clinical centers treating diabetics. He certainly ranks as a distinguished authority on diabetes. He headed the 10-year diabetes study, which was a vitally important study—which, incidentally, knocked out of the marketplace a couple of drugs that had been given to diabetics for years on the grounds that they helped them, when in fact the studies showed they did more harm than good, and that diets did more good than the drugs.

Dr. Miller told us:

There is no role for saccharin in the regimes (diets) of obese patients we are treating. We have never included saccharin in instructions to diabetics. From the practical point of view, diabetics don't use much sugar anyway. Their diets can be arranged to allow some sugar intake in food, restricting calories and balancing carbohydrates. Sweeteners mask taste. I am amazed at how little sugar my diabetic patients take.

Now let us hear what Dr. P. J. Palumbo of the Mayo Clinic Medical School, assistant professor of medicine and diabetologist in one of the most distinguished medical clinics in the world whose program treats about 6,000 diabetic patients a year, told us. Let us hear what he said:

Saccharin is not—

I repeat:

Saccharin is not essential in diet management of diabetics. We can manage their diet satisfactorily without it.

Well, here we have two of the most distinguished diabetologists in this country, one of them heading up the program for 6,000 diabetics in the Mayo Clinic saying saccharin is not necessary; and, on the other hand, we have politicians all over this country saying, "Oh, we have to have it." Where is the basis of scientific expertise on which Congress is making this decision?

We all know what the decision is about. What it is about is that Congress is in one of its periodic stampedes, and like all stampedes it is caused by ignorance and fright. That is what it is all about.

Mr. President I know my argument is not going to persuade the Senate, but my conscience would bother me if I did not make the argument. I would hope that those who support this proposition would test their conscience a little bit too.

Yes, it is a tough political decision. Everybody's mail is 100 to 1 against the ban.

So, because of the political pressure, we are going to fold up and pass a bad bill. But as an old politician friend used to say, "There comes a time in the life of every politician when he is going to have to vote to save the Republic, no matter how unpopular it might be."

Well, this is one of those times.

The substitute I shall offer will make saccharin available for those who wish to buy it as a sweetener, but it will not be permitted in the food chain. That ought to remain our fundamental principle: Do not permit carcinogenic agents to be put in the food chain.

The argument that saccharin is a low-level carcinogen, and therefore not many people will get cancer, is not a very good argument, particularly when the benefits from its use are small when weighed against the risk. My substitute, which I shall call up later, will permit those who want to buy saccharin can do so but we will not exposre the general public to it.

Mr. President, I ask unanimous consent to resubmit for the RECORD my full statement so that the arguments that I have made will be printed in this day's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SACCHARIN

Mr. NELSON. Mr. President, since the March 9, 1977 announcement by the Food and Drug Administration that it intended to ban saccharin as a food additive, a debate has gone on over very important basic issues:

Public policy to protect human health and safety—how much protection people want versus the right to choose;

Whether the testing criteria on which public health policy decisions are made are valid;

The extent to which small amounts of cancer causing agents in the food supply is considered a human risk;

Whether benefits-versus-risks should be considered when making safety decisions for food.

The FDA's action was taken pursuant to the 1958 Food Additives Safety law, which requires that foods be free of harm or any significant risk of harm and free of potential cancer-causing agents (the Delaney clause, section 409(c)(3)(A), Food, Drug and Cosmetic Act). The law prohibits approval of a food additive "if a fair evaluation of the data before the Secretary (a) fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation will be safe. . . ." (Sec. 409 (c)(3)(A)).

Saccharin fails both the Delany anti-cancer and general safety provisions of the statute.

Therefore, the FDA proposed the ban, pursuant to the law based on compelling scientific evidence that saccharin is a carcinogen in both man and animals.

Opponents of the proposed saccharin ban claim that:

1. it violates freedom of choice;

2. it is not warranted by the scientific evidence, which is not conclusive respecting the potential for cancer in humans from saccharin use;

3. the animal test methodology—using high doses—is an unrealistic predictor of harm for humans;

4. there are many benefits to humans, which outweigh the small risk of cancer;

5. the Delaney anti-cancer law is too inflexible in light of modern technology, which allows detection of minute amounts of substances in parts-per-trillion.

Arguments for the ban are:

1. Freedom of choice to allow widespread exposure to cancer-causing substances affects more than one individual, impacting on the entire society in terms of costs and the inability of most people to make adequately informed decisions in scientific and technical matters.

2. The proposed ban is based on a valid law, which is designed to protect the public health from unsafe food additives;

3. The scientific evidence for potential harm to humans is valid, based on retrospective epidemiology (statistical) studies of humans exposed to saccharin over a long period of time.

4. The animal studies are scientifically valid as predictors for humans, and have proven out the theory that virtually every carcinogen known to cause cancer in animals also does so in humans.

5. There are no scientifically-supported benefits to saccharin.

6. The Delaney clause is based on a general consensus among scientists that no safe threshold for a carcinogen has been established.

7. Overturning the FDA's proposal sets a dangerous precedent for legislating on a substance-by-substance basis, with respect to the extent to which Congress intervenes in regulatory decision-making in response to interest-group pressures.

Here are the facts, relevant to each point:

1. FREEDOM OF CHOICE

One in four people in the U.S. is a potential cancer victim; 385,000 people die each year of cancer; more than 600,000 new cases are diagnosed each year. The government estimates there are some 30,000 cases of bladder cancer each year, approximately 22,000 in males. Between 75 percent and 90 percent of human cancers are thought to be caused by chemicals introduced into the environment by man. The government estimates that the cost of cancer in the U.S. is $17,367 billion a year for medical care, loss of productive years and life. (Source: Barbara S. Cooper and Dorothy Rice, "The Economic Cost of Illness Revisited," Social Security Bulletin, February, 1976, page 31.)

Much of the cost is now absorbed by the taxpayer, through Medicare, Medicaid, veteran and military programs. So, the public pays for the decision to allow cancer-causing chemicals in the environment and the food supply. The decision to ingest cancer causing agents does not end with one person; it affects everyone. It is not a freedom of choice question. If a cancer-causing agent is introduced into the food chain, tens of millions of people are unknowingly and involuntarily exposed to it.

It is unlikely that youngsters, one of the main population groups ingesting saccharin in diet soft drinks, would heed warning labels on pop bottles.

Finally, Canadian animal tests show that saccharin is several times more harmful to offspring who were exposed both *in utero* and during their lifetime. Babies in the womb have no freedom of choice over their mothers' consumption of saccharin.

The Congressional Office of Technology Assessment (OTA) report on saccharin and members of the panel testified before the Senate Health Subcommittee June 7, 1977 that dangers of saccharin consumption to pregnant women and their offspring were real. OTA panel chairman, Frederick C. Robbins, M.D., told the committee (and I quote from the hearing record):

"Dr. ROBBINS. This has raised considerable concern, and the problem is that although the numbers are different, they are not significant, statistically. This is information we badly need to confirm and extend.

"However, as I indicated in my earlier remarks, I think there are two possible explanations of why you see more in the second generation than in the first. One is that in fetal and early life, the organism is peculiarly susceptible to the effects; the other is that it is simply a matter of length of time. That is, ingestion of saccharin started much earlier and therefore you have a longer exposure.

"However, I think personally, on the basis of these data, which are not definitive, I would be rather hesitant to see pregnant women use large amounts of saccharin during pregnancy.

"Senator CHAFEE. That is of significance.

"Dr. ROBBINS. I also hate to see them take anything they do not absolutely need."

How saccharin is used

It is estimated that at least 20 million Americans are exposed, voluntarily and involuntarily, to saccharin annually. (Source: NAS, "Sweeteners: Issues & Uncertainties," 1975, page 130.)

According to the FDA, some 6 to 7½ million pounds of saccharin were used in 1976 in foods. (Source: Sherwin Williams, only U.S. manufacturer.) About 74 percent of this amount was used in diet soft drinks (according to "Food Product Development," Feb., 1977, an industry publication); 14 percent in dietetic foods such as canned fruits, gelatin desserts, jams, ice creams, and puddings (according to the industry Calorie Control Council); and 12 percent as table top sweeteners. Saccharin also is used in drugs, cosmetics, mouthwashes, toothpaste, tobacco, and animal drugs and feed. About half of the amount used in the United States is imported.

One diet food company (Diet Delite) says it uses saccharin only in 8 percent of its foods; it sweetens the remainder with juice from Thompson seedless grapes.

Saccharin is used extensively in such drugs as pediatric liquid preparations, chewable tablets, and penicillin. According to the FDA proposed regulations:

"The quantity of saccharin used as a flavoring agent in drug products covers a wide range. For example, of 12 penicillin V potassium products for oral suspension that were examined, the concentration of saccharin ranged from a low of 5.2 milligrams per teaspoonful to a high of 42.8 milligrams per teaspoonful. If a pediatric liquid oral preparation contains 40 milligrams of saccharin per teaspoonful (one dose) and the maximum daily dose is 2 teaspoonfuls four times a day, a child could consume 320 milligrams per day of saccharin from this one drug. Obviously, if other products containing saccharin were also being consumed, the daily intake of saccharin would be much higher. It should also be noted that drug products can be used for both the treatment of acute and chronic conditions. Thus, if a drug product

containing saccharin is administered daily for the treatment or prophylaxis of a chronic condition, such as rheumatic fever, the patient could be exposed to a daily amount of saccharin equivalent to that contained in one or more diet soft drinks." (Pages 47–8.)

Obviously there would be no informed freedom of choice to such exposure of saccharin, even with warning labels.

2. THE LAW AND THE DELANEY CLAUSE

The 1958 law requires that food additives be safe. It does not allow for weighing benefits against risks for the food supply.

As to the Delaney anti-cancer clause in the law, to date, no scientific body has devised an acceptable replacement or modification of this law. No safe threshold has been identified for any cancer-causing chemical and the scientific community recognizes that at the present state of the art no safe threshold can be established. The Delany Clause thus recognizes the limits of science at the present time. There is no food additive with cancer causing properties whose benefit is so great it is worth the risk of corrupting the food chain.

Even if the Delaney Clause were not in law, saccharin would have to be removed from the market under the safety requirements of Section 409 of the Food, Drug and Cosmetic Act.

Three major conferences on food safety and the Delaney Clause have been held in the past 7 years: the 1970 White House Conference on Food, Nutrition and Health; a 1973 symposium on the Delaney Clause, conducted by the New York Academy of Sciences; and a 1974 forum, entitled "How Safe is Safe? The Design of Policy on Drugs & Food Additives," conducted by the National Academy of Sciences.

None of those conferences concludes that there should be a repeal of the Delaney Clause.

The Consumer Task Force of the 1970 White Conference stated:

"The Delaney Clause should not be repealed until a better law can be enacted." (Page 141, Final Report).

(NOTE.—The White House Conference report DID recommend "a revision, not repeal, of the Delaney Clause to provide a more scientific and rational judgment in assuring the safety of food." It also recommended that "an expert committee of the National Academy of Sciences review the Delaney Clause and the current state of relevant, scientific knowledge with a view toward recommending such modification as they may deem advisable to permit the full exercise of informed scientific judgment in determining problems of food safety" (Page 132, Final Report).

At the 1973 Delaney conference in New York, no scientist, including those affiliated with industry, advocated weakening the Delaney Clause.

At the 1974 National Academy of Sciences forum, scientists reached no consensus on modification of Delaney.

In other words, the most imminent scientists studying the issue do not believe that a safe level of a cancer-causing substance can be established for humans, which would support a change in the Delaney anti-cancer clause.

Dr. Philip Handler, President of the National Academy of Sciences, in a summary of the forum proceedings said: "For my part, I begin to view that [Delaney] clause as a great red herring rather than as a problem in our society. Certainly, on its face, all other things being equal, it is a perfectly rational guide to desirable societal behavior. No one in his right mind wants to put carcinogens into anything intended for human consumption. We should be perfectly willing to accept that guideline until the day when we find ourselves in the position of banning as a carcinogen some chemical entity which also offers great benefit. Until that time comes, we will not have to test the validity of the Delaney principle. When it does, we will have no recourse but to test the validity of the principle in a real life situation.

Dr. Handler continues:

". . . It has been said that the great harm of the Delaney clause is its deterrence to those who might otherwise be exploring new and important food additives. No such real case in point is known to me." (Academy proceedings, p. 175–6).

In testimony in May, 1974 before the House Appropriations Subcommittee for Agriculture, former FDA Commissioner Alexander Schmidt, M.D., stated:

"On the basis of the information, expert opinion and conclusions contained in the compilation, we are not prepared to state that the Delaney clause has had a deleterious effect, to date, upon the food supply, nor could we suggest any particular change in the anti-cancer clauses."

He said that "the growth of knowledge in carcinogenesis may eventually permit safe levels of carcinogenic additives to be determined, but that day is not yet here." The Commissioner also testified:

"The evidence at hand does not indicate that the Delaney clause has barred public utilization of food additives of such importance that their prohibition has not been in the public interest. The question remains, however, as to whether the mere existence of the Delaney clause has had such a profound influence upon the FDA that action against carcinogenic substances, that might not have been taken otherwise, has been taken under the more general safety provisions of the FD&C Act. This question has no real answer, but it is clear from the history of the FD&C Act and anti-cancer legislation that the public wishes to have its food supply protected against the addition of 'unsafe' food chemicals."

In light of the scientific unknowns and the risk-versus-benefit considerations posed by adding carcinogenic agents to the food supply—which is ingested involuntarily and unknowingly, in large part, by millions of people—the public, in my view, would be well-served to seriously consider whether it wants to modify the Delaney Clause.

In addition, the synergistic (combination) effects of exposure to many chemicals must be considered. Saccharin is not the only chemical substance in the food, air, or water supply, to which humans are exposed.

3. THE VALIDITY OF ANIMAL AND HUMAN EPIDEMIOLOGICAL TESTS AS PREDICTORS OF RISK TO HUMAN HEALTH

Saccharin testing followed accepted methods to ascertain safety of food additives, drugs, toxic substances, pesticides, and other chemicals. With regard to animal tests, estrapolated to predict human risk:

Dr. Donald S. Fredrickson, Director of the National Institutes of Health, testified to the Senate Health Subcommitee, June 7, 1977:

"One must assume that until proven otherwise, materials shown to cause cancer in animals also cause it in human beings. It will be extremely difficult to prove that saccharin is an exception to this rule. When the animal data are carried over to man in the conventional way, they indicate that two to three percent of the 30,000 new cases of bladder cancer each year could be due to saccharin in the low doses now used by the American population."

Dr. David P. Rall, Director of the National Institute of Environmental Health Sciences of the NIH, said at the American Cancer Society's seminar for science writers, April 5, 1977, that, based on his review of the Canadian animal tests, he concluded: "It's absolutely a superb scientific study—it was very well done. I think the data are pretty convincing that saccharin is carcinogenic." He added: "Those who question whether animal tests can predict for a positive cancer response in man seem to be quite comfortable accepting evidence in animals that predict a negative response" (New York Times, April 6, 1977). Rall's report to the science writers concluded that "laboratory animal carcinogenicity tests predict well for man and that such tests do offer a mechanism by which the prediction of human carcinogenesis is possible before human exposure and with reasonable accuracy."

William Lijinsky, Ph. D., Director of the Chemical Carcinogenesis Program, Frederick Cancer Research Center, stated, in a letter to the Editor of the Washington Post, March 24, 1977:

The comments about the amount of saccharin-containing drinks, etc., that one would have to consume in order to develop cancer show an ignorance of the principles of toxicity testing:

1. To represent the entire U.S. population that might be exposed we are forced by economics to use small groups of animals, usually 50 or at most, 100.

2. If the result of the test is cancer in 1 animal, which is 1 per cent, that is equivalent to 2 million Americans; 1 million Americans would be represented by one half of a rat. To compensate for the small number of animals, the dose of chemical must be increased beyond that to which a human would be exposed. We usually regard even a 1 per cent incidence of cancer in a test as insignificant, and only a larger number of animals with cancer as indicating a cancer hazard.

3. Our laboratory rodents live only 2 years, while people can be exposed to an artificial chemical for up to 70 years, starting in infancy, the time of greatest sensitivity to carcinogens.

4. The effects of carcinogens are cumulative so that continuous small doses can add up to a large effect, and one carcinogen can add its effect to that of others to which we are exposed. So our animal tests of a single substance underrate the dangers.

5. That carcinogens in the environment play a role in disease is surely shown by the dreadful statistic that 1 in 6 Americans dies of cancer (including many of bladder cancer), almost all of which is of unknown cause.

For all of these reasons we give our small groups of animals large doses of the test compound, so that we can detect a carcinogenic effect, if present. If more than 5 animals out of 100 develop cancer, we say the test is positive and the substance is a carcinogen.

Most industry spokesmen would not quarrel with the conclusion from the latter result that the substance is "safe," even though in such a small group of animals, safety has not been demonstrated. If this is claimed for the negative side of the test, then a positive result must be accorded equal recognition and, because of the wide range of susceptibility among the human population, exposure to the substance at any level must be prevented.

On the other hand, if the protagonists of the largely unrestricted use of chemicals want to claim that such tests are of no value, since they do not represent human experience, so be it. But, in that case, there will be no satisfactory way of demonstrating that any artificial substance is safe from inducing cancer and so, under such laws as the Toxic Substances Act, none could be sold.

WILLIAM LIJINSKY,
Director, Chemical Carcinogenesis Program, Frederick Cancer Research Center.

It should be noted that the Canadian study indicates unequivocally that saccharin causes bladder tumors in the test animals. 100 rats were used in the study (50 male, 50 female). Seven male and no female rats in the first generation developed bladder tumors. Twelve

male and two female rats in the second generation developed bladder tumors. Thus, of a total of 200 rats fed saccharin, 21 developed bladder tumors (HEW proposed regulations, April 14, 1977, p. 36).

Howard M. Temin, 1975 Nobel Prize winner who shared the prize for Physiology of Medicine, Professor of Oncology at the University of Wisconsin McCardle Laboratory for Cancer Research, and an American Cancer Society Research Professor, stated in a letter to our office, July 22, 1977: "In cases where there is exposure to many compounds or where widespread cancer is concerned, we might not be able to specify from epidemiological studies which compound is the carcinogen.

"Therefore, we must use tests that do not involve humans. The most reliable of these tests is the induction of cancer in laboratory animals.

"Biochemical study has shown that there is a basic similarity in the metabolism of humans and laboratory animals. Carcinogenesis testing has shown that all known human carcinogens (with the exception of arsenic) are carcinogenic in laboratory animals. Therefore, it is accepted by essentially all oncologists that if a compound is carcinogenic in animals, it is potentially carcinogenic in humans."

History of Studies Showing Lack of Safety:

It is important to note that safety concerns over saccharin are now new.

Saccharin has been the subject of controversy since its discovery in 1879. Its safety was first challenged in 1908. Between 1911 and 1938, saccharin was available as a drug but was barred from the general food supply. Between 1938 and 1959, when the diet soda revolution began, saccharin was regulated both as a drug and special dietary food, to be available only for those with special medical needs, as a tabletop sweetener and in diet foods, labeled: "Warning: to be used only by those who must restrict intake of ordinary sweets." Clearly, the FDA intended that saccharin not be generally available in the food supply.

Saccharin has been suspected of being a carcinogen since 1948. One of the first long-term chronic toxicity studies of saccharin was reported to the FDA in 1951 (Fitzhugh, Nelson, and Frawley, Journal of the American Pharmaceutical Association, Vol. 40, No. 11).

More than 85 studies, a conservative estimate, have been reported to the FDA on saccharin. A GAO report that we requested, "Need to Resolve Safety Questions on Saccharin" (HRD-76-156), issued August 16, 1976, identified 23 studies since 1970, which indicated potential carcinogenic or mutagenic hazards for saccharin. The FDA lists some 59 studies prior to 1970, including about 20 toxicity studies of various kinds.

Furthermore, new scientific evidence has come to our attention showing that saccharin is mutagenic in laboratory tests using a variation of the Ames method (in which tests are done on substances "in vitro", or in laboratory cultures). Scientists from Johns Hopkins Medical School, Departments of Patho-Biology and of Pharmacology and Experimental Therapeutics, under Dr. Ernest Bueding, will report their findings Friday, September 16, at a scientific seminar on "Saccharin: Scientific and Public Policy Issues," conducted by the Society for Occupational and Environmental Health, in Washington, D.C. The findings also will be published shortly in Science magazine. They show that four samples of saccharin—including the purest to be obtained—were found to be mutagenic (i.e. changing genes). Mutagenic activity is scientifically associated with, and a predictor of, carcinogenic activity.

Reliance on Test Data:

Now, we have new scientific information showing that saccharin clearly causes bladder cancer in animals and apparently in humans, particularly males.

Canadian tests on rats were especially designed to test whether pure saccharin or an impurity commonly found in it, orthotoluenesulfonamide (OTA) were the potential hazard. As pure saccharin as possible was tested and found to cause bladder cancer in not only rats that were fed high doses of the substance, but, at a higher rate, in their offspring.

More tests are being done on what little impurity was found in the tested saccharin.

The FDA, on learning of new human data on saccharin, noted that:

"Since the publication of the Commissioner's (April 15, 1977) proposal, a panel of expert scientists assembled by the (Congressional) Office of Technology Assessment (OTA) has examined all of the pertinent data on the safety of saccharin, including the Canadian study. The panel concluded, unanimously, that the Canadian study has been well conducted and its results properly assessed, that it demonstrates unequivocally that saccharin is a carcinogen, albeit perhaps weaker than some other cancer-causing compounds, and that it confirms the results of earlier animal studies." (Federal Register, July 1, 1977, Vol 42, No. 127, page 33768).

The FDA's proposed regulations of April 15, 1977, state: "Now as to the science:

"Many of the 16,000 consumers who have written FDA since March 9 have worried that the Canadian rat study involved such high doses of saccharin that the results were unrealistic. There is an impression that almost any substance fed in such high doses would cause cancer.

"Neither of these views is correct.

"The exposure of test animals to high doses is the most valid way we know to predict whether a chemical may cause cancer in people. Such tests are both realistic and reliable."

Reliance on Test Data:

Now, we have new scientific information showing that saccharin clearly causes bladder cancer in animals and apparently in humans, particularly males.

Canadian tests on rats were especially designed to test whether pure saccharin or an impurity commonly found in it, orthotoluenesulfonamide (OTS), were the potential hazard. As pure saccharin as possible was tested and found to cause bladder cancer in not only rats that were fed high doses of the substance, but, at a higher rate, in their offspring. More tests are being done on what little impurity was found in the tested saccharin.

The FDA, on learning of new human data on saccharin, noted that:

"Since the publication of the Commissioner's (April 15, 1977) proposal, a panel of expert scientists assembled by the (Congressional) Office of Technology Assessment (OTA) has examined all of the pertinent data on the safety of saccharin, including the Canadian study. The panel concluded, unanimously, that the Canadian study has been well conducted and its results properly assessed, that it demonstrates unequivocally that saccharin is a carcinogen, albeit perhaps weaker than some other cancer-causing compounds, and that it confirms the results of earlier animal studies." (Federal Register, July 1, 1977, Vol. 42, No. 127, page 33768).

The FDA's proposed regulations of April 15, 1977, state: "Now as to the science:

"Many of the 16,000 consumers who have written FDA since March 9 have worried that the Canadian rat study involved such high doses of saccharin that the results were unrealistic. There is an impression that almost any substance fed in such high doses would cause cancer.

"Neither of these views is correct.

"The exposure of test animals to high doses is the most valid way we know to predict whether a chemical may cause cancer in people. Such tests are both realistic and reliable.

"In fact, in 1969, the National Cancer Institute reported that of 120 pesticides and industrial compounds given to mice, only 11 were found definitely to induce tumors. And these chemicals were not randomly selected. Most were picked because there already was reason to suspect that they might cause cancer. Even so, the great majority of more than 100 suspicious chemicals did not cause cancer in animals when tested at high dose levels.

"Recent experiments on saccharin conform to the requirements of good animal testing and good science. They tell us beyond reasonable doubt that saccharin is among the comparatively small number of substances that do cause cancer in test animals and, therefore, may be hazardous to humans.

"We clearly cannot determine from animals exposed to high doses of a cancer-causing chemical precisely how many humans might get cancer from a lower dose. But there are methods for estimating the maximum number of people who might be so affected.

"Using these methods, our scientists now calculate that a moderate use of saccharin, the amount present in one large diet soft drink, if ingested over a lifetime by every American, might lead to 1,200 additional cases of bladder cancer per year." (Pages 3-5).

The regulations go on to say:

"Since these early days of toxicology, the use of tests in laboratory animals to predict the long-term chronic effect of chemicals in man has been accepted by virtually all scientists and is today used by every technologically advanced country in the world. In the United States, many Federal agencies in addition to FDA, such as the Environmental Protection Agency and the National Cancer Institute, rely on these animal tests to assess the safety of a variety of compounds. In 1954, the National Academy of Sciences/National Research Council (the Academy) published a report entitled "Principles and Procedures for Evaluating the Safety of Intentional Chemical Additives in Foods." This report updated pamphlets published in 1951 and 1952 on the safe use of chemicals in foods. The 1954 report and subsequent publications by the Academy describe the widely accepted approach of animal tests for evaluating the safety of chemicals added to foods. The World Health Organization has also espoused the use of animal tests to assess the safety of food ingredients." (Page 18).

In addition, we know that of 17 known human carcinogens, all except arsenic and benzine—on which further tests are being done—cause cancer in animals. And, there is no carcinogen ever shown to cause cancer at one level that did not cause cancer at a lower dose level.

Human evidence

New epidemiological studies on humans in Canada now indicate a positive dose- and duration-related correlation between saccharin use and cancer of the bladder in human males, with an estimated 60 percent increase in such risk associated with saccharin use.

While other studies of human consumption are not so positive, they involve a sample size only about a quarter of the Canadian study, with most users exposed to the artificial sweetener products for less than five years, which scientists report is inconclusive.

Thus, the nation's most distinguished scientists all agree that the Canadian animal tests are valid. While scientists say the Canadian epidemiological human data does not prove that saccharin is carcinogenic in humans, they agree that the evidence is overwhelmingly indicative of such a possibility.

The FDA proposal to postpone the effective date of its ban so that the new human evidence could be evaluated states:

"The recent study performed under the

auspices of the Canadian National Cancer Institute significantly alters and enlarges the basis for decisionmaking, for it appears to confirm—from human experience—the real risk of cancer previously projected solely on the basis of animal studies. While animal studies will continue to supply the primary evidence for regulatory decisionmaking by agencies such as FDA, positive human data deserve even greater attention." (Federal Register, July 1, 1977, page 33770).

With all of this data, accumulated over 80 years, it is clear that we are dealing with a hazardous substance.

Are there benefits; is saccharin necessary?

FDA Commissioner Kennedy and NIH Director, Dr. Donald Frederickson, both testified before the Senate Health Subcommittee June 7, 1977 that there are no known scientific studies demonstrating benefits from saccharin in treating obesity, heart disease or diabetes.

At that hearing, I asked Dr. Fredrickson the following question:

Are there any conclusive tests that have been done, that demonstrate an important need for saccharin for diabetics, overweight, or heart patients? None have come to my attention.

Dr. FREDRICKSON. The answer is no, Senator Nelson. There is no test that is available that demonstrates a specific need for saccharin by such patients.

Senator NELSON. So, what we are dealing with here is a risk with no known benefits. Is that correct?

Dr. FREDRICKSON. I would not go so far as to say "no known benefits" because that goes off into regions of even aesthetics.

Senator NELSON. All right, with no test demonstrating benefits, conclusively, to diabetics, overweight, or heart patients.

Dr. FREDRICKSON. That is correct."

The same query was made to Dr. Kennedy of the FDA:

Senator NELSON. Doctor, you were here when Dr. Fredrickson testified, and the record can speak for itself, but I believe he said that there were no careful scientific studies that prove an important medical necessity for saccharin. I think that is a fair statement.

Would you agree with that?

Dr. KENNEDY. I think there is no study known to me that demonstrates the efficacy of saccharin as opposed to some alternative strategy in a dietary or diabetic medical regimen.

Senator NELSON. So, then, if saccharin were not available, there is not any demonstrated, provable, serious medical adverse effect on the people who now use it, is that what you are saying?

Dr. KENNEDY. I would be more cautious, I think. I know of no study that has been done under rigorously controlled conditions that shows the efficacy of saccharin in attaining compliance to those regimens, but we did at our 2-day hearing, Senator, hear some testimony from doctors who are experts at diabetes management who argued the other side.

Senator NELSON. Were these testimonials, or were they based upon carefully controlled scientific studies?

Dr. KENNEDY. They were not controlled trials, no, Senator.

Senator NELSON. So we are dealing here with a known risk; and we are not able to demonstrate through any scientific study thus far that there is any significant benefit from the use of saccharin.

Would that be a fair statement?

Dr. KENNEDY. I think it would be a fair statement.

In fact, some animals studies indicate that, because of its effects on blood sugar, saccharin consumption may actually stimulate appetite; some animals consuming artificial sweeteners have actually gained rather than lost weight.

In 1969, the FDA reported, based on scientific data including several National Academy of Sciences (NAS) reviews, that "none of the few controlled studies reported to date have established a useful role for non-nutritive sweeteners as weight-reducing aids except under the most carefully controlled conditions." In one controlled study in the early 1950s, by Harvard School of Public Health and Peter Brent Brigham Hospital, Boston, involving 247 obese individuals and 100 diabetic persons, no significant difference was apparent when the weight loss of users and non-users of low-calorie diet foods was compared.

The argument for allowing saccharin as beneficial to diabetic and obese persons seems to boil down to a complaint that making it unavailable infringes on the rights of people. No scientific argument supporting health claims have been noted.

In fact, leading diabetologists tell us that saccharin is neither necessary nor recommended for their patients.

Dr. Max Miller, Director of the 10-year University Group Diabetes Program (U.G.D.P.) involving 13 clinical centers treating diabetics, told us:

"There is no role for saccharin in the regimes (diets) of obese patients we are treating. We have never included saccharin in instructions to diabetics. From the practical point of view, diabetics don't use much sugar anyway. Their diets can be arranged to allow some sugar intake in food, restricting calories and balancing carbohydrates. Sweeteners mask taste. I am amazed at how little sugar my diabetic patients take."

Dr. P. J. Palumbo, Mayo Clinic Medical School, Assistant Professor for Medicine, and diabetologist, whose program sees about 6,000 diabetic patients a year told us:

"Saccharin is not essential in diet management of diabetics. We can manage their diet satisfactorily without it. The problem with their diets involves a lot of factors and the management of calories. Most diabetics can have some sugar; we put it in cakes, ice cream, other foods in their programs.

"There is no diabetic that has to take saccharin. It is a convenience, with no basis in necessity. Anyone who argues that it is, is on very shaky grounds."

George V. Mann, Sc.D., M.D, Associate Professor of Biochemistry, Vanderbilt University, Nashville, Tennessee, writing in Post Graduate Medicine, July, 1977, states:

"After World War II the 'low-calorie food' industry took off and became a boomer . . . the growth was based on two promotional claims both wrong.

"The first is the allegation that diabetic patients must avoid sugar in their food and that artificial sweeteners help them to do this . . . the last bit of evidence that diabetics should avoid dietary sugar disappeared in 1922 when insulin replaced starvation as a treatment for diabetic acidosis.

"The second promotional claim is that artificial sweeteners are effective in the regulation of body weight and treatment of obesity. After 30 years' experience with sweeteners, there is no evidence to support that contention. It is pure Madison Avenue promotion. Indeed, this use of saccharin is counterproductive because it leads fat persons to suppose that they are attending to their weight problem with artificial sweeteners and to avoid effective measures.

". . . The issue (physicians) should confront is not convenience or comfort or habit but the efficacy of this additive.

". . . Indeed, a nutritionist is bound to ask whether any sweetener is ever useful or necessary in food. . . . Artificial sweeteners may be the nutritional disaster of our time."

Dr. Kenneth Melmon, Chief, Division of Pharmacology, University of California Medical Center, San Francisco, reporting for a National Institute of Medicine Committee on the medical uses of saccharin, stated in 1974:

"The data on the efficacy of saccharin or its salts for the treatment of patients with obesity, dental caries, coronary artery disease, or even diabetes has not so far produced a clear picture to us of the usefulness of the drug." (National Academy of Sciences, "Sweeteners: Issues and Uncertainties, 1975, page 165.)

Dr. Jesse Roth, Chief of Diabetes at the National Institutes of Health, has stated: "Artificial sweetener has no special place in the diabetic's regime. The saccharin ban is of no consequence." (Health Research Group, testimony to FDA on saccharin, May 18, 1977.)

Dr. Marvin Siperstein, Professor of Medicine and diabetologist, University of California, San Francisco, stated in a letter to the Health Research Group: ". . . the role of saccharin or for that matter any artificial sweetener in the diabetic diet has been greatly exaggerated. The role of saccharin in the treatment of the diabetic, or for that matter in the obese patient, is a very minor one."

The American Dietetics Association, in testimony before the House of Representatives Subcommittee on Public Health, March 21, 1977, noted that the desire for saccharin is not because of medical necessity but because Americans have a sweet tooth, and that low calorie food can be appealing without artificial sweeteners, using natural condiments such as ginger, coconut, and honey. The Association supports the FDA proposed ban, and pointed out that it imposed a greater need for people to become more knowledgeable in their preparation of food to cut down on calorie intake while satisfying the sweet tooth (New York Times, March 27, 1977).

It is interesting to note that, when Yankee Stadium was renovated in 1976—between 1920, when Yankee Stadium was built, and 1976, when it was renovated, 9,000 fewer seats were installed to accommodate the increased width of the American rump, which grew about 4 inches. During those years, particularly the last 20, saccharin and diet soda use boomed (Chemical and Engineering News, April 11, 1977, page 17).

5. LEGISLATION INTERFERING WITH REGULATORY ACTION IS A BAD PRECEDENT

The saccharin legislation is an unwise, unnecessary and unhealthy precedent, which has enormous ramifications for the future of public health and public policy. Congress is reacting emotionally to public pressure instead of relying on rational scientific information. By delaying a regulatory restriction on the use of saccharin in the food supply, Congress is risking the public's health for the benefit of large economic interests.

Saccharin is one of 2,100 food additives approved for use directly in food. Approximately 10,000 are approved for indirect uses, such as in packaging. Does Congress expect to react to every request for special consideration of food additives?

Congress should not be in the business of regulating selected entities. It should make policy, as it did with the Food, Drug and Cosmetic Act, which provides that foods be free of harm or any significant risk of harm and of potential cancer-causing substances (Delaney Clause).

To legislate special treatment on a product-by-product basis provides an incentive for special interests to seek special regulatory favors and interventions from Congress in the future. Congress is not capable of making the kinds of scientific judgments on which regulation to protect the public health must be based.

Although I recognize that the saccharin bill is temporary—an 18-month moratorium on regulatory action—and that it allows the agency to act if it finds that "saccharin presents an unreasonable and substantial risk to the public health and safety," in my view, there are no benefits to Congress' overruling

and usurping the regulatory agency's decision to ban saccharin from the food supply. What possible benefit can there be to allowing such a substance continued wide exposure in the general food supply, particularly to children, who are probably the largest consumers of soft drinks? Children do not read warning labels.

The public will be ill-served by such an action, and the stage set for future such decision-making, spurred by special economic interests or ill-informed, non-scientific, emotional arguments.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I could not remain silent after listening to my good friend and colleague from Wisconsin moralize on the motivation of some of us who would support this legislation.

Mr. NELSON. Mr. President, no personal reference was intended. I serve on the Health Committee with Senator KENNEDY and can testify that in his work in the committee and otherwise, the record of the Senator from Massachusetts, in his devotion to the health problem, is unequaled by that of anyone else in Congress. My remarks at that point were not directed at the Senator from Massachusetts. There are some I might invite attention to, but due to the comity of the two Houses I am unable to name them, though I would like to.

Mr. KENNEDY. I thank the Senator for that comment, and I appreciate the spirit in which it is given, because I yield to no one in my concern about the disease of cancer, and I yield to no one in the efforts that I have made and will continue to make in attempting to insure that, to the extent that govenmental policy can have an influence, that that scourge is removed from the citizens of our country and the peoples of the world.

Mr. President, I take issue with the central thrust of the approach of the Senator from Wisconsin, though I accede to him, obviously, the same motivation that he grants to me in our commitment to the health of the American people.

The fact is that the medical community is divided on this issue. It is not that all of the experts the Senator from Wisconsin quotes are right and all the experts, deans, distinguished award recipients, and other authorities that we have listened to are wrong.

This is about as closely a divided question for the medical profession as we have seen. We have seen, over a period of time that on many different public policy questions, there are differing views. Nonetheless, whereas I know the Senator from Wisconsin believes the Mayo Clinic and the treatment there is the best in the world, there are those of us who believe that the dean of the medical school at Harvard is not without some training and without some knowledge; or the American Diabetic Foundation without some concern for diabetics, or the Juvenile Diabetic Society without some concern, or the American Heart Association without some concern and knowledge about the dangers and the benefits in terms of the issue we are facing and addressing in this particular legislation.

Sure, there is a great deal of mail. Sure, there is a great deal of political pressure and influence being exerted on this particular issue. But I do believe, Mr. President, there is a strong case being made by the majority of the members of the Health Subcommittee, that there are benefits and that there are risks in this particular public policy question.

The Senator from Wisconsin, and those who support his position, would hope, if we ban saccharin from soft drinks, we could say to young people, "All right, you will not have Tab. You will not have Fresca. As a matter of fact, we are not going to let you drink any kind of soda pop." If the Senator from Wisconsin could give the assurance that young people, the juvenile diabetics, those with hypertension, those with heart disease, were not going to go out and buy those drinks, I think he would have a case.

To suggest that, with some magic wand or some piece of legislation voted on here this afternoon, we are going to change the purchasing habits of every young person and child in these United States fails in logic, in understanding, and sensibility.

We are debating the realities of the time, not some wishful hope about what we would hope juveniles would do in their purchasing of soft drinks. They are going to buy those drinks, Mr. President.

We are hopeful, with this legislation that we are providing some useful information. It is not going to completely resolve the problem.

We recognize that some bladder cancer will occur. The fact that it is a small amount does not breach the argument. There will be some. We hope to find out exactly how much with the additional studies being asked for.

There are 40 million people suffering from hypertension, heart diseases, obesity, and juvenile diabetics. How many of those are going to have additional kinds of health risks if we ban saccharin all together? We do not know and the Senator from Wisconsin does not know. He cannot tell us. He can say that there are no scientific studies. There are none. We accede to that. But we are trying to get them. We say that delaying for 18 months definitive action on a product which has been on the market for 40 years is not an unreasonable request when we have to balance risks and benefits.

There is labeling now on Tab and Fresca. I doubt if there is sanyone in this room who drinks Tab or Fresca who could even find it. They have to read the label 15 times before they find it. We are insisting that the label be made in such a way, that it will communicate the necessary warning statement.

We are placing restrictions on advertisements in radio and television to try and provide information to consumers. We are trying to provide the opportunity for the American people to make some kind of informed judgment.

There are a lot of things we can do in the Senate to try to extend life for the American people. We could start off by insisting that no one drive more than 30 miles an hour, and we could save 20,000 lives. Why are we not doing that? There are those who support 50 miles an hour who will not support an amendment for 30 miles an hour. Will they say we are killing all of these American people? They will not. We could ban airplanes and save several hundred lives a year.

For every professor referred to by the Senator from Wisconsin, with many degrees, I can quote as many who have the same degrees. We have listened to both and we have tried to get the best information. It is not that all his professors have or do not have the truth, or that he or anyone else opposing our position is acting for purity and morality and we are not.

So, Mr. President, the issue which is raised has profound implications. That is, over any period of the future, what is going to be the public policy positions on risk-benefit weighings?

The Food and Drug Administration now, under existing legislation, is committed to removing these products.

The Health Subcommittee is concerned about the limitation which exists in being able to raise these risk-benefit ratios. We permit the Food and Drug Administration in areas of drug policy to do risk and benefit ratios. We encourage them to do it. Obviously, there are drugs that are given to a terminal cancer patient that are never given to a healthy person. It is a risk-benefit ratio.

We have tried to extend that concept into this limited area for a limited period of time. That is really the benefit of the proposition we have before us.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. Mr. President, I yield myself 5 minutes.

Mr. President, how much time have Senator NELSON and I consumed of my time on this amendment?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

Mr. SCHWEIKER. I want to respond very briefly to a statement Senator NELSON made, then I shall yield to the Senator from California (Mr. HAYAKAWA) whatever time he needs on the bill.

Mr. President, Senator NELSON has made a case on the basis that everything is open and shut, that it is clear out, and we should easily be able to see that. As the Senator from Massachusetts has indicated, this is far from the case. If it were the case, we would not be here proposing 18-month moratorium on the imposition of the FDA's saccharin ban.

Mr. NELSON. Will the Senator yield for a question?

Mr. SCHWEIKER. Let me make a point. Then I shall be glad to yield.

My point is that the significance of the human epidemiology study which Senator NELSON seems to hang so much on as clear-cut scientific evidence of saccharin's carinogenicity in man is far from agreed to by the scientific experts. Let me give a couple of examples of the divisions within the scientific community about this study. Here is a comment from a professor of medicine from the University of Oxford, Dr. Richard Doll, in describing the very Canadian study that the Senator from Wisconsin cites as clear proof of what we should be doing here:

A great weakness of the study is the failure to provide detailed data for the many other factors which the authors found were also associated with bladder cancer.

I say as an aside that the biggest cause of bladder cancer today is not saccharin, it is smoking. Even if we accept the concept that saccharin is a risk factor in bladder cancer, smoking represents a risk that is many times greater. Forty-eighty percent of all bladder cancers are caused by smoking.

Here is the point Dr. Doll makes about the methods used by the authors of the Canadian human epidemiology study:

They state simply that controlling separately or jointly for the variables listed above where there were some case-control differences . . . did not appreciably change the risk ratio estimate for the males. This is unacceptable. In response to a request from the editor of the journal to which the authors sent the article for publication, they produced their detailed analyses. All they have done—

And this is the human study that triggered this fight—

is to dichotomise the patients into groups such as "never used" and "ever used" instant coffee. This is grossly inadequate and contributes practically nothing to the argument.

Let me take it one step further. I have here one of the leading experts on bladder cancer, Dr. Ernst Wynder, and his colleague, Mr. Robert Goldsmith. Here is what they say in their study of the epidemiology of bladder cancer:

Relative risk increases fairly consistently with increased consumption.

They are speaking of smoking, not saccharin.

Little difference in risk is evident between smokers of a half pack or less/day and nonsmokers. However, those now smoking between one-half and two packs a day have a doubled risk of bladder cancer. At more than two packs a day, the risk is triple the nonsmokers'.

What they are saying here is that it's not enough to ask whether people have ever smoked or not. If you want to really have an expert look at the problem of whether or not saccharin causes bladder cancer, you have to analyze your cases and controls according to how many cigarettes they consume if you want to eliminate smoking as a risk factor in the study. The authors of this Canadian study on saccharin as a possible risk factor apparently did not do that for other bladder cancer risk factors, such as drinking instant coffee and smoking. That is one reason why it is coming under scientific challenge. That is why there may be an honest difference of scientific opinion here. To contend that we have a clearcut signal, a green light go and ban saccharin, that we know everything we need to know about it, that it is, beyond any shadow of a doubt, a human carcinogen, on the basis of this study, is just not true. There are legitimate doubts, and that is why it is wise and prudent to proceed in the way we have in S. 1750, to order more studies and to delay the ban until we can find out more.

One of the main points I made earlier is that saccharin, according to the Ames test, may not be the culprit at all. The trace impurities present in commercial saccharin at levels of about 20 parts per million may be the culprits. We do not know what the real culprit is. There may be a way, in 18 months, to eliminate the 20 parts per million that appear to be the culprits in the Ames test, and keep pure saccharin on the market as an artificial sweetener.

Why would we not proceed in this prudent way recommended by the Human Resources Committee, try to learn more about the cancer, learn more about what may be causing it, and work in a meaningful way?

Mr. President, at this point, I yield to Senator HAYAKAWA, who has been a very interested student and worker in this area.

How much time on the committee amendment do I have remaining?

The PRESIDING OFFICER. Thirteen minutes.

Mr. SCHWEIKER. I yield that time to the Senator from California. If he needs additional time, I shall yield him additional time from the bill.

Mr. HAYAKAWA. I thank the distinguished Senator from Pennsylvania.

Mr. CANNON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HAYAKAWA. By all means.

Mr. CANNON. I ask unanimous consent that Aubrey Sarvis and Bruce Eggers of my staff, Dr. Floyd Riddick of the Senate Rules Committee, and John Smith and Mary Jo Manning of the Committee on Commerce may have the privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent for the privilege of the floor, also, for Charles Jacobs of the staff of Senator MUSKIE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, in all discussions of saccharin, not much attention has been paid to the nonmedical but psychological aspects of saccharin. In order to explain what this is all about, let me tell about a distinguished psychiatrist at the University of Chicago by the name of Dr. Bruno Bettelheim, whom I have known for 20 or 30 years. He is famous for his Orthogenetic School, in which he treats emotionally disturbed children, who are so disturbed that other psychiatrists have given them up. They cannot do anything with them, but they do turn them over to the Orthogenetic School.

One of the peculiarities of this school, for, as I say, highly disturbed, emotionally upset children, is that as soon as you go into the school, you find that, on coffee tables and scattered around the room everywhere, where they are accessible to children, are dishes of candy, chocolate bars, all sorts of sweets. The reaction of emotionally disturbed children to this candy is extraordinary. Some children grab all they can get, stuff their pockets with them, eat them, and take a bunch of them to bed with them last night and put them under their pillow. Other children look at them in real fright and will not touch them. The reaction to sweets on the part of these emotionally disturbed children is, in a way, an index of the degree of their emotional upset.

Why is this so? The most important fact about this is that, in our culture, candy and sweets are used to reward good behavior, to express approval of our children, and the withholding of sweets is used to express disapproval of our children.

Obviously, these emotionally disturbed children do not know whether they are approved of or disapproved of, so some of them grab these symbols of approval, and stuff themselves with them until they are sick. Others are afraid to touch them for fear of punishment. It is only when children become sufficiently accustomed to the fact that there is candy around, that they can take it when they want it, leave it alone when they do not want it—it is only when they get to that level of relaxation and at-homeness with sweets that you know you are beginning to make progress in their psychotherapy.

This emotional meaning of sweets, or the taste of sweetness, is a part of the whole use of saccharin and of cyclamates in the absence of sugar, which, itself, presents enormous health problems of its own. But what is the child who is diagnosed as a diabetic to do? He is ill. The doctor says he must not have sugar or anything containing sugar. All these symbols of approval, then—candy, cakes, pies, ice cream—are removed from his diet. The psychological meaning that the child gets from that is, "Nobody loves me any more; nobody approves of me." That, in addition to illness, is a hard burden for a child to bear. That is why we have sweetened, artificially sweetened, canned fruit and artifically sweetened chewing gum. That is why we have diet colas and diet drinks. These are ways of saying to a child, despite the fact that he cannot consume sugar, "We still love you." That sense of love and concern and caring cannot be communicated by words alone. Somehow or other, the flavor of sweetness is deeply associated with social approval. That is the most important fact we have to confront.

If, then, for children, because of a medical condition, whether it is overweight or diabetes or high blood pressure and so on, the consumption of sweets is unhealthy; if the consumption of sweets simply aggravates their disorder; if, as in extreme cases, the continued eating of sweets can lead to death; and if, nevertheless, people have to have, for psychological reasons, the taste of sweetness, what alternative is there, at the present state of our technology, cyclamates being forbidden, to the use of saccharin?

Let me quote from a letter from one of my constituents in San Diego, and this holds true of children and of adults. It is especially touching when it comes from children, but here is something from an adult constituent of mine in San Diego:

With the help of many products containing saccharin I have lost 64 pounds. I am still to lose 100 pounds or I will surely die. I am 34 years old and I am doing everything

in my power to avoid early death. One thing I have done is to quit smoking. Smoking can cause cancer. . . . There is no evidence that saccharin has ever caused a single case of cancer in a human being. Please help me by changing the law which forced the FDA to ban saccharin.

Here is a woman who obviously needs to avoid sugar if she is to remain alive. What are we going to do with her? Just take her off sugar and let her continue in her deep psychological craving for this taste of sweetness which is necessary to her? Or are we going to strain her will power to the point where she has got to have the sugar anyway, so she will take that sugar and die?

These are the alternatives we are offering some people.

Another constituent writes:

I have a disease which requires a very strict diet and sugar is totally banned, because my doctor says that use of sugar would cause an early death.

Saccharin is one of the things that helps to make my sparse diet tolerable. I know sugar will kill me. Saccharin is a medical necessity for me.

No one ever claimed saccharin has any medical value. It is nutritionally inert. It does not do any good. It does not do any harm. It is just nothing. But the taste of sweetness is that which is psychologically necessary.

I want to stress the fact of the psychology.

A constituent from Berkeley writes:

My wife has hypoglycemia, a blood sugar disorder. Artificial sweeteners are necessary for her to control her weight due to this imbalance.

Another letter from a Mr. Gosnell, of North Long Beach, I would like to quote from:

I am of a family that traces diabetic origins maternally to the 19th century. I am age 46 and have myself been diabetic over 25 years. As a child I was partially raised by a diabetic uncle and I feel well qualified to express the concern from the diabetic's point of view.

My wife is a naturalized American from Korea and I have assumed responsibility for support for her family and their candidacy for American citizenship, including mother, brother, sister and their families, and we have a son half-Aryan, half-Korean.

So I must earn a living and assume a reasonably normal productive lifestyle to do this.

Although it may seem a small matter, I depend on artificial sweetener to bridge the gap between living as a diabetic and living a normal lifestyle with diabetic adjustments.

As I say, these psychological problems I speak of apply with special force to children. Children need love. They need the symbols of love. They need touching. They need holding. They need our smiles. But they also need the taste of sweetness.

A Mrs. Carter of Eureka, Calif., writes:

I would like to strongly protest the ban of saccharin. My seven-year-old boy is a diabetic and is highly dependent upon the use of saccharin-sweetened foods because of his intolerance to sugar.

A 12-year-old boy by the name of Kenny in Marysville, Calif., writes:

My best friend's little sister has diabetes and if a law is passed to get rid of saccharin she will have no diet drinks for her or anybody else.

And so on, and so on.

Now, here is a family scene I would like to recite from Mr. John Suing of Weed, Calif. He says:

We have two diabetic boys and they have few luxuries with regard to the food they can eat. . . . Meals are the high point in a diabetic's day, and we try to make it as pleasant and enjoyable as we can for our boys. When we top a meal off with a sugar-free drink as a real treat to them, they feel just like those of us who are not diabetic and they forget for a few minutes that they have a disease for which there is no cure.

Mr. President, these are only a few of the hundreds of pleas for help I have received since FDA announced its decision late last spring to ban saccharin.

Millions of Americans are frankly scared for their health. Most pitiably, many are scared for the lives of their children, and their own lives. We cannot in conscience ignore them.

I am very grateful to the distinguished Senator from Massachusetts for calling attention to the risk-benefit ratio. We must take into consideration the risk-benefit ratio. What are the risks of using saccharin? What are the benefits?

As Senator KENNEDY has pointed out, the very young and the very old have little to lose from running the small risks of using saccharin.

In the case of the elderly, the risks attendant upon consumption of sugar are far greater in the remaining years of their lives than the risks attendant upon getting cancer through continued consumption of saccharin over many decades—and one would have to consume for many decades to get cancer at all, which, in itself, is unlikely.

Let me call attention to another important fact. As I watch my own office staff here and as I watch my office staff in San Francisco in my State send to the restaurant or cafeteria for takeout lunches, takeout meals, I am astounded at the number of times they order diet drinks instead of regular sugar-sweetened Coca-Cola or other soft drinks.

This would include both the thin men and women and the fat men and women.

It is as if their choice of drinks reflects the fact which everyone knows, that in the United States we tend to be an extremely overfed population at all levels of society. The poor are overfed as well as the middle class are overfed and the rich are overfed. We eat too darn much. In order to compensate for that fact, people, in general, order diet drinks, sugar-free drinks, almost by habit.

I notice that even very young people do this. I do not know if it is for the same reason, or not, but they do.

But is it not a good thing that they do order the sugar-free drinks? Because if they did otherwise, they would simply aggravate the fact of overconsumption of sugar which physicians and others, and dietitians, have warned us over and over again, the excessive use of sugar in our culture is not only the cause of caries, but many other health problems.

The distinguished Senator from Wisconsin would require with the use of saccharin a warning label stating, as follows: "Warning."

First of all, his amendment would require that the saccharin be only available as a noncaloric table-top sweetener for use only by persons medically required to restrict dietary consumption of carbohydrates and every container from which we could help ourselves to saccharin would contain, according to this amendment, a warning label saying:

Warning. This product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer.

I respect the concern for public health expressed by the distinguished Senator from Wisconsin. I respect the fact that he is deeply concerned. Nevertheless, it seems to me that this warning does not correctly state the facts. The warning should read something like this:

Warning. This product contains saccharin which is said by some to cause cancer in some animals, in 18 cases out of 10,000, over a period of x number of years. Use of this product may infinitesimally increase your risk of developing cancer.

If this warning were stated correctly, in full harmony and accord with scientific facts, I would have no difficulty supporting it. But I think this wildly exaggerates the real dangers. The dangers are very, very tiny, indeed.

I have been warned by my physician to keep away from sugar, and for 2 or 3 years I have avoided desserts, ice cream, sugared soft drinks, and so forth. I even have avoided diet drinks, as a matter of fact, in order to lose the taste for sweetness altogether. I am no longer a child, and I think some people love me nevertheless, in spite of the fact that I go for weeks at a time without sweeteners.

I think I have made an adjustment to life free of the taste for sweeteners, but I think this is too much to demand of everyone. Until much, much greater dangers are shown to lie in the consumption of saccharin, I believe we are ill-advised to attempt to legislate against it in any way. I think we are interfering with the freedom of people to make their own choices.

As the distinguished Senator from Massachusetts has said, why do we not legislate against people driving at any rate over 30 miles an hour, when driving very much faster is a known cause of innumerable deaths? The incidence of deaths from automobiles being driven at high rates of speed is well-known. The incidence of death from cancer because of consuming saccharin is not quite proved in the case of Canadian rats. It has not even been established for American rats. But it has not been established for human beings at all.

Therefore, I should like these facts taken into consideration as we approach the vote, both on the amendment and upon the bill itself.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BENTSEN). Who yields time?

Mr. NELSON. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, first, I say to the distinguished Senator from

California that the example given of the children cared for by Dr. Bettelheim, who certainly is a great and distinguished scientist, is an important argument. Under the provision that I propose, all those kinds of cases he recites can be adequately managed. The sweetener would be available over the counter.

So it is not an argument against my substitute amendment to argue that these emotionally disturbed children need candy, because they could have all the candy they wanted, by having it made from an artificial sweetener.

As to the obesity question, what is interesting about all this is that the only tests that have been done do not indicate that the use of saccharin helps control obesity, except in the most seriously controlled cases. In fact, I will read a comment of the FDA, dated 1970. This is from the book entitled "The Chemical Feast":

> of cyclamates. In fact, the FDA told the National Academy of Sciences and the general public that "none of the few controlled studies reported to date have established a useful role for nonnutritive sweeteners as weight-reducing aids except under the most carefully controlled conditions." In one controlled study carried out by the Harvard School of Public Health and the Peter Bent Brigham Hospital, involving 247 obese individuals and 100 diabetic persons, no significant difference was apparent when the weight loss of users and nonusers of low-calorie diet foods was compared.

In fact, some animal studies indicate that because of its effects on the blood sugar, saccharin consumption actually may stimulate appetite. Some animals consuming artificial sweeteners actually have gained rather than lost weight.

I go back to the testimony of Dr. Frederickson, Director of NIH, and Dr. Kennedy, Commissioner of the Food and Drug Administration, before the Health Subcommittee that there were no scientifically controlled studies that demonstrate a necessary medical use of saccharin for obesity, heart trouble, or the control of diabetes.

Of course, many people will say it is absolutely necessary, because they happen to believe it is necessary.

We are dealing here with one of the most important laws ever passed by any Congress. It is the statute that requires the Food and Drug Commission to protect the safety of the food chain, and that includes the 1959 Delaney amendment, which provides that in the food chain there may be no food additive that causes cancer in man or animals.

The safety of the food chain is vital because there are untold numbers of sources of food from overseas, within the country, from all parts of the Nation, from thousands of producers.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. NELSON. Mr. President, will the Senator yield me 5 additional minutes?

Mr. KENNEDY. I yield.

Mr. NELSON. In order to protect the integrity of that food chain, to protect the health of the people of this country, we passed that statute.

Under that provision alone, the Commissioner is compelled to remove saccharin from the marketplace. He also is compelled to remove it from the marketplace under the provisions of the Delaney clause.

There are all kinds of people who would like to repeal the Delaney clause, and industry would like it repealed. There are distinguished scientists who think it should be modified. I have read what some of the distinguished scientists say, except that not one of them has made a specific proposal that I have read to modify it, except one, and that modification was the proposal that we add in vitro tests to current procedures.

Yes, it is true that we do not know what the threshold level is for a cancer-causing agent. Nobody knows. That is the problem. When and if the time comes—and I doubt it soon will—that we become so scientifically sophisticated in our testing that we can in fact predict that a cancer-causing agent, at a certain threshold level in the food chain, for the 70-year life of the human species, will not cause cancer, fine; that is the time to modify the Delaney amendment. Or, if and when the time comes that there is some food additive in which the benefit is so compelling and so much greater than the risk that we need to use that additive and there is a substantial benefit-to-risk ratio, fine. That time has not arrived, and no scientist I know of says that that time has arrived.

Dr. Frederickson said when that time comes that we have a carcinogenic additive with great health benefits then will be the test of the Delaney amendment.

This is not that time. People can have all the saccharin they want under the substitute amendment that I propose.

This is only one of dozens of agents and additives that will come into dispute over the years. We should leave the settling of these scientific questions under the law as it is.

None of the proponents of this legislation argue that saccharin does not cause cancer. The OTA report clearly states that it does, even though the members were split as to whether it should go off the market or not. They agreed that it is a carcinogenic agent.

Are we really prepared to set the precedent that each time there is some big emotional explosion around the country because some popular additive is found to be carcinogenic we will vote to suspend the law.

There is more to this question than saccharin alone. It is the principle of that statute that needs to be protected.

Under my amendment people can buy all the saccharin they please, but once we permit this carcinogen in the food chain we are going to unnecessarily expose millions of people. We will for the first time have breached the principle of that statute. It is a very, very dangerous thing to do.

Mr. HAYAKAWA. Mr. President, I call attention to the following statement: The dangers found in saccharin to health are speculative. The dangers of sugar to health are not speculative. Those things are proved, they are indisputable.

At the time of the banning of cyclamates, there was an increase in annual domestic consumption of sugar in America of no less than 500 tons. That is an immediately compensatory increase in sugar which is known to be dangerous.

Cancer death rates are also tied to the chlorine in our water, which is said by some to cause bladder cancer, which is about the same ailment that saccharin is supposed to be.

May I read from a story on May 3 in the Washington Post:

> One study showed that women in seven New York State counties served by chlorinated water ran a 44 percent greater risk of dying from cancer or gastrointestinal or urinary tract organisms than comparable water that was not chlorinated.

We have done nothing about that yet, and for a very good reason. All these small studies are speculative. But the most important thing I would like to say is if we adopt the amendment submitted by the distinguished Senator from Wisconsin how are we going to handle the problems of the users of saccharin? When we have, let us say, a dish of canned fruit are we to have a shaker of saccharin to put on each serving? How are we going to know whether we have too little or too much?

Or more importantly when we take soft drinks to a picnic, which we now take without thought and extra preparation, do we have to have along extra saccharin in envelopes or tablets, something to take along to add to each soft drink as we consume it, sweating after a softball game?

What about the use of saccharin in toothpaste? One of the most important things about toothpaste is that most children do not like to brush their teeth. They discovered many years ago that if you make toothpaste more palatable by the addition of saccharin they are willing to brush their teeth. Otherwise you have to stand over them with a club and make them brush their teeth.

What are we going to do, have saccharin in every bathroom to sprinkle on the toothpaste? Who is going to blend it?

From the dental point of view especially I will tell you in all seriousness the dentists are very, very much opposed to this kind of banning of saccharin because one great benefit from the use of saccharin has been the fact that it has made it easier to make children brush their teeth, which they would very rarely do without it.

So with the innumerable inconveniences and the amount of trouble we are going to be put to as a result of this alarmist legislation in the face of speculative dangers, I think it is really putting the American people to an incredible amount of trouble for very, very little reason at all.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that all the amendments by the Committee on Human Resources through page 9, line 2, be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Mal Sterrett, Ward White, and Stephen Halloway of the Commerce Committee minority staff be accorded the privilege of the floor during debate and consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield for a unanimous-consent request.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. John Doyle of the staff of Senator HATHAWAY and Mr. Clair Ingers, a member of the staff of Senator DURKIN, be permitted the privilege of the floor during the course of consideration of the pending legislation and rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the budget resolution is here. It has precedence over this matter.

We will try to accommodate the privilege matter and then bring up the amendment of the Senator from Nevada.

The floor manager of the budget resolution does not think there will be a lengthy discussion. But it is a privilege matter, and at the request of the leadership we will proceed to that matter and then I believe return to the amendments of the Senator from Nevada and, I think under the process, the Senator from California, and then we will have the substitute resolution. We will proceed in that way. I think we have set the stage here during the debate and discussion of the particular issues and I think we can get to the business of voting very quickly when we resume.

Mr. NELSON. Mr. President, will the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. NELSON. This is some advance notice to Members.

Mr. KENNEDY. Yes.

Mr. NELSON. A good deal, perhaps all that needs to be said, almost all that needs to be said on the substitute I have proposed has already been said so that certainly for my part I doubt whether I will use the hour. So we may very well be voting earlier than some anticipated.

Mr. KENNEDY. Will the Senator from Florida give us an idea about how long he expects consideration of the conference report to take?

Mr. CHILES. I would hope that this will take less than 15 minutes. There probably will be a rollcall vote.

Mr. KENNEDY. I thank the Senator.

CONGRESSIONAL BUDGET, 1978—CONFERENCE REPORT

Mr. CHILES. Mr. President, I submit a report of the committee of conference on House Concurrent Resolution 341, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the United States Government for the fiscal year 1978, having met, after full and free conference, have been unable to agree, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. CHILES. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget be accorded the privilege of on the floor during consideration of and votes on House Concurrent Resolution 341:

John McEvoy, Karen Williams, Sid Brown, Van Ooms, Jim Storey, Dan Twomey, Tom Dine, Rick Brandon, George Merrill, Ira Tannenbaum, Ann Kelley, and Barbara Levering.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator from Florida yield to me a moment?

Mr. CHILES. I yield.

Mr. BAKER. Mr. President, I thank the Senator for yielding.

I am informed that a ranking Republican on the committee is on his way to the floor now.

Mr. CHILES. I think if I can begin with my opening we certainly would not take up any matter that the Senator from Oklahoma is interested in.

Mr. BAKER. I am sure there will be no problem with that.

I have one other alternate situation. The majority leader and I have another matter we might take if it will not unduly impose on the Senator's time to arrange the schedule a little beyond this. Will the Senator yield to us a minute or so for that purpose?

Mr. CHILES. I yield.

ORDER TO PROCEED TO CONSIDERATION OF S. 1303

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

I ask unanimous consent that upon the disposition of the saccharin bill the Senate proceed to the consideration of the legal services legislation, S. 1303.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I am glad that this has been arranged. This measure also has been on the calendar for some time, and we have tried for some time to arrange this step. I am happy to be able to agree to it and, as I indicated earlier, I shall not object.

There is one thing I wish to note, however. The distinguished junior Senator from California (Mr. HAYAKAWA) has a deep and great interest in this matter, and I have indicated to him that I felt the managers of the bill on both sides would see that he was recognized early to make a general statement in this respect.

I do not ask the majority leader to include that in the order but I wish the record to show that it was in contemplation of that possibility that we were able to reach this accord at this time.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader, and I certainly will do everything I possibly can to see that the Senator from California is protected in that regard.

The PRESIDING OFFICER. Is there objection to the request?

The Chair hearing none, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Florida.

CONGRESSIONAL BUDGET, 1978—CONFERENCE REPORT

The Senate continued the consideration of the Congressional Budget, 1978—Conference Report, on (H. Con. Res. 341).

Mr. CHILES. Mr. President, the Senate today turns to consideration of the conference report on House Concurrent Resolution 341, the second concurrent resolution on the Federal budget for fiscal year 1978.

The agreement reached in conference strongly supports the position of the Senate conferees and yields a budget deficit lower than either the House or Senate-passed resolution. I urge my colleagues to support the conference agreement.

PARLIAMENTARY SITUATION

Mr. President, let me say a word with respect to the parliamentary situation. This conference report is submitted by the managers on the part of the two Houses in technical disagreement. The disagreement is not over substance. It is a parliamentary technicality. This result has occurred because the parliamentarians of the two Houses have ruled that, even on technical matters, a conference report on a budget resolution must in all its particulars remain within the range established by the action of the two Houses. Thus, where numbers are even slightly below or above the range, the conference must report in disagreement. This is what has occurred here.

The conference substitute contains revised amounts for certain budget aggregates, functional totals, the deficit and the public debt, that are lower than the corresponding figures in either the House or Senate.

So, when the Senate votes today we will first be voting to confirm the conference report in disagreement. A second vote, which will conclude congressional action on this resolution, will then occur on whether to accept the amendment agreed to by the conferees which is spelled out in the statement of managers

accompanying the conference report. Other than this two-step procedure, this consideration of the conference report can proceed as if it had been reported in agreement.

MAJOR FEATURES OF THE CONFERENCE SUBSTITUTE

Mr. President, the conference substitute not only provides binding limits for the overall budget in fiscal year 1978 but sets ceilings for the 17 functions such as National Defense, Agriculture, and the like.

I believe that the conference proposal represents a sound and effective budget for fiscal year 1978. Although it is a tight budget, it will nonetheless provide significant help in reducing our country's continuing unemployment problem while at the same time avoiding a rekindling of double-digit inflation.

Mr. President, let me describe briefly the major features of the conference substitute.

The recommended conference substitute contains aggregate budget totals for fiscal year 1978 as follows:

For revenues, the conferees agreed on a level of $397 billion. This is $900 million below the House resolution and $2.2 billion above the Senate resolution. These adjustments are due to reestimates of tax collections and do not reflect new taxes of any kind.

For budget authority, the conferees agreed on a level of $500.1 billion. This is $7.9 billion below the House and $300 million below the Senate.

For outlays, the conferees agreed on a level of $458.25 billion. This is $1.3 billion below the House and $1.6 billion below the Senate.

For the deficit, the conferees agreed on a level of $61.25 billion. This is $400 million below the House and $3.8 billion below the Senate.

For the Public Debt, the conferees agreed on a level of $775.45 billion. This is $6.5 billion below the House and $3.8 billion below the Senate.

Mr. President, I ask unanimous consent that a table illustrating the differences between the House and Senate resolutions for fiscal 1978 and the conference substitute be printed at this point.

There being no objection, the table was ordered to be printed in the RECORD as follows:

BUDGET AGGREGATES AND FUNCTIONAL CATEGORIES, FISCAL YEAR 1978

[In billions of dollars]

	Senate passed	House passed	Conference agreement
Revenues	394.825	397.933	397.0
Budget authority	501.4	508.043	500.1
Outlays	459.9	459.576	458.25
Deficit	65.075	61.643	61.25
Debt subject to limit	779.275	781.94	775.45
050—National defense:			
Budget authority	116.6	116.324	116.4
Outlays	110.1	110.338	110.1
150—International affairs:			
Budget authority	8.3	7.933	8.0
Outlays	6.6	6.579	6.6
250—General science, space and technology:			
Budget authority	4.9	4.861	4.9
Outlays	4.7	4.708	4.7
300—Natural resources, environment and energy:			
Budget authority	24.9	21.625	24.6
Outlays	20.8	19.673	20.0
350—Agriculture:			
Budget authority	2.1	2.114	2.1
Outlays	6.3	6.302	6.3
400—Commerce and transportation:			
Budget authority	20.5	22.445	20.4
Outlays	19.6	19.66	19.6
450—Community and regional development:			
Budget authority	8.2	8.067	8.2
Outlays	10.6	10.448	10.6
500—Education, training, employment, and social services:			
Budget authority	26.1	26.679	26.3
Outlays	26.4	26.916	26.4
550—Health:			
Budget authority	47.7	47.709	47.7
Outlays	44.2	44.183	44.2
600—Income security:			
Budget authority	178.8	186.849	178.6
Outlays	146.6	146.939	146.1
700—Veterans benefits and services:			
Budget authority	19.9	20.355	19.9
Outlays	20.2	20.367	20.2
750—Law enforcement and			
Budget authority	3.8	3.8	3.8
Outlays	4.0	3.95	4.0
800—General government:			
Budget authority	3.8	3.8	3.8
Outlays	3.8	3.85	3.85
850—Revenue sharing and general purpose fiscal assistance:			
Budget authority	9.6	9.569	9.6
Outlays	9.7	9.68	9.7
900—Interest:			
Budget authority	41.7	41.713	41.7
Outlays	41.7	41.713	41.7
920—Allowances:			
Budget authority	.9	1.0	.9
Outlays	1.0	1.08	1.0
950—Undistributed offsetting receipts:			
Budget authority	−16.4	−16.8	−16.8
Outlays	−16.4	−16.8	−16.8

Mr. CHILES. Mr. President, a major decision by the conferees was to urge prompt action to solve the short- and long-term financial problems of the social security system, but not to increase payroll taxes in fiscal 1978 in view of the importance of sustaining the economic recovery. While the reserves have been declining, it is clear that the system will remain solvent through fiscal year 1979, allowing corrective action to take effect when the economy has recovered more fully. The conference thus supported the Senate position on this major issue.

Mr. President, the Senate should be aware that this conference agreement leaves little room for enactment of new programs. This is a narrowly tailored budget which can accommodate appropriations action to date and supplementals for possible later requirements known at this time. Practically no margin exists, however, for new programs on which Congress has not already made significant progress. This is the final congressional budget and the legislative season for fiscal 1978 is virtually over. In comparison with the first budget resolution, the conference agreement represents a reduction of $3.4 billion in budget authority and $2.7 billion in outlays. These reductions are consistent with appropriations action to date and reflect technical reestimates of Federal expenditures.

If Congress is to exercise a responsible fiscal policy, restraint with respect to any future spending is essential. Restraint exercised by the Budget Committee or the committee of conference loses all effectiveness without the support of at least 51 Senators and 218 Members of the House. Cooperation in this effort is essential if the budget process is to succeed.

Mr. President, I think we can be proud that for the second full year, Congress has shown the discipline to work within all the limits of the budget process. Congress has responded to changing conditions and has voted for changes in spending priorities. But it has not made any spending decisions without keeping to the limits of the budget resolution or voting to change those limits.

ECONOMIC GOALS AND FISCAL POLICY

Mr. President, the spending and revenue levels in the conference agreement reflect a fiscal policy aimed at a continuation of the economic recovery, a further reduction of unemployment and moderation of inflation in 1978. We expect this policy to lead to a reduction in the unemployment rate. By the end of 1978, we hope the present level of 7.1 percent will drop to 6.3 percent. Over 3 million additional jobs will be created during 1978 through the expansion of the economy and the employment programs in this and previous budgets.

Steady long-term growth is essential to achieve a balanced budget, a reduction in unemployment and lower inflation. The fiscal policy contained in this budget prudently provides for a moderate rate of growth which is consistent with lower inflation. The rate of inflation is forecast to decline to 5.6 percent in 1978 from 6.5 percent in 1977.

BUDGET DEFICIT

Mr. President, the conference agreement is consistent with movement toward a balanced budget at the earliest possible date.

The deficit in this conference substitute, $61.25 billion, is about $3.4 billion lower than the first budget resolution. As in the past 3 years, the Federal deficit projected in these recommendations is largely a result of unacceptably low levels of economic activity and high levels of unemployment. A weak economy shrinks Government revenues at the same time that it raises costs of unemployment compensation and other income support programs. Because large budget deficits result from a weak economy, steady economic growth must be maintained. Unacceptable budget deficits can be eliminated only by a strong economy.

REVENUES

The conference agreement establishes a revenue floor of $397 billion, which is $2.2 billion higher than the revenue floor contained in the Senate resolution. This change is attributable entirely to an upward adjustment in estimated revenues under current law, and not to any assumed tax increases affecting fiscal year 1978. The conferees expressly recommend no increase in social security taxes in fiscal year 1978 revenue collections which could hamper the continuing economic recovery.

The conferees assume enactment of energy tax legislation which will reduce fiscal year 1978 revenues by $1 billion.

The revenue floor of $397 billion reflects an agreement by the conferees to accept the Senate position supported by

the administration that the entire cost of the existing earned income credit program should be treated as a reduction of revenues. The House had taken the position that earned income credit payments in excess of a recipient's tax liability should be treated as an increase in spending.

SPENDING

Mr. President, let me now indicate the major provisions of the conference agreement in the functional categories of the budget:

NATIONAL DEFENSE AND INTERNATIONAL AFFAIRS

Mr. President, for the national defense function, the House resolution provided budget authority of $116.3 billion and outlays of $110.3 billion; the Senate resolution provides budget authority of $116.6 billion and outlays of $110.1 billion. The conference substitute provides budget authority of $116.4 billion and outlays of $110.1 billion.

These totals fully provide for the current status of congressional action on major defense bills and assumptions on possible later requirements in the Defense function for items such as the October 1977 pay raise for civilian and military employees of the Department of Defense and favorable action on the President's cruise missile and B–1 requests.

The ceilings established in the conference agreement provide for a growth of $7.6 billion in budget authority over the fiscal year 1977 third concurrent resolution total and a growth of $12.9 billion in outlays over our current outlay estimate for fiscal year 1977.

This very generous increase should provide the Department of Defense the impetus needed to modernize and expand our strategic and general purpose forces, improve the countrys' combat readiness, and contribute to our international alliances.

In the international affairs function, the House resolution provided budget authority of $7.9 billion and outlays of $6.6 billion. The Senate resolution provided budget authority of $8.3 billion and outlays of $6.6 billion.

The conference agreement provides budget authority of $8 billion and outlays of $6.6 billion.

The conference agreement takes into account congressional reductions from the administration's overall request for foreign assistance. It also reflects congressional approval of a significant increase over prior year amounts in U.S. contributions to multilateral economic development programs while holding bilateral economic development assistance to last year's level.

HUMAN RESOURCES

Mr. President, the conference agreement for the Human Resources functional categories retains the basic policies adopted by the Senate last week for substantial funding increases in education programs; the veterans' medical care system and other veterans benefits; programs aimed at improving health care services, planning, and research; and social service grants.

In the income security function, the House resolution provided $186.8 billion in budget authority and $146.9 billion in outlays. The Senate resolution provided budget authority of $178.8 billion and outlays of $146.6 billion.

A major conference issue—action on social security financing—was resolved in the Senate's favor. This, plus other adjustments of a technical nature, result in a conference substitute for income security of $178.6 billion in budget authority and $146.1 billion in outlays.

Resources for the social security trust funds, either from payroll taxes or general revenues, count as budget authority in function 600, income security. The House provided $6.4 billion in budget authority for social security financing which could have accommodated either the Carter proposal for transfer from the general revenues or increased taxes. The Senate urged prompt action on this matter, but recognizing that the systems will remain solvent through fiscal year 1977, made no provision for tax increases in fiscal year 1978.

The conferees believe prompt action is needed to correct both the long-term and short-term deficits now projected for the social security trust funds. It is unclear at this time, however, whether any of the several possible reforms will be adopted. The conferees urge that the responsible committees report legislation putting social security on a sound financial footing.

After considerable debate, however, the conferees agreed that any payroll tax increases Congress may consider in this regard should not take effect during fiscal year 1978 because major increases in such taxes could not be justified at this time given the present state of the economy. Such increases could seriously hamper continued recovery from the recent recession. Thus, the conferees adopted the Senate position not to increase budget authority for this purpose in fiscal year 1978.

The Senate totals for the Health function of $47.7 billion in budget authority and $44.2 billion in outlays were retained. These totals assume that the net effect of savings from pending cost control legislation and other health legislation such as improvements to medicaid for low income children will reduce outlays by $200 million compared to spending under current law.

The conference agreement for education, training, employment, and social services increased the Senate total for budget authority by $200 million to $26.3 billion. This increase will facilitate the provision of supplemental funding for congressional initiatives now pending. The Senate outlay total of $26.4 billion was retained.

Mr. President, the second budget resolution for fiscal year 1978 will continue the strong congressional commitment to public service jobs for unemployed adults and strong initiatives to combat youth unemployment. The economic stimulus supplemental for fiscal 1977 will fund 725,000 CETA jobs by the end of fiscal 1978, to be targeted mainly on the long-term unemployed and persons with low income, and a major expansion of youth jobs and training programs. The conferees agreed to allow for a substantial forward funding of CETA jobs into fiscal 1979—3.8 billion in budget authority—to assure local prime sponsors that this sizable program will not encounter the funding uncertainty that plagued it last year.

The conferees retained the Senate totals for veterans benefits and services for $19.9 billion in budget authority and $20.2 billion in outlays. These levels will accommodate veterans legislation passed or pending in the Senate including improved pension and medical benefits.

The House resolution counted as fiscal 1978 budget authority $1.1 billion of fiscal 1977 budget authority that was extended for one year in the 1978 Labor-HEW appropriation bill. The House receded to the Senate on this issue, but the conferees agreed to recommend a uniform method to account for such extensions next year, and to apply the new method to similar instances in all appropriations bills in fiscal 1979.

PHYSICAL RESOURCES

In most of the physical resource areas, the conferees agreed to functional ceilings identical to those in the budget resolution as passed by the Senate.

In function 450, community and regional development, the conference agreement allows for an interim response to the heavy demand for Small Business Administration disaster loans caused by the recent drought, as agreed to in the Senate. The conferees recommend an immediate review of this program in order to eliminate overlap and duplication with other forms of disaster assistance and to rationalize eligibility standards and requirements. As was agreed in the Senate debate on this function, investigation of the program may determine that additional funds will be needed. If so, the budget process is sufficiently flexible to respond to the emergency needs of the farmers.

In function 300, natural resources, environment, and energy, the conferees agreed upon budget authority of $24.6 billion and outlays of $20.0 billion. While these amounts reflect a compromise between the House-passed and Senate-passed levels, they are adequate to accommodate the national energy plan and environmental programs. The $3.9 billion of extra budget authority in this function is the single major increase above the first budget resolution targets.

The conferees agreed to reflect all energy-related legislation in the national resources, environment, and energy function, consistent with the Senate resolution. This is an example of the "mission-budget" approach, which lets the Congress focus on the purposes for which funds are being allocated, not just on which agency is doing the spending.

ALLOCATION TO SENATE COMMITTEES UNDER SECTION 302 OF THE CONGRESSIONAL BODGET ACT

Mr. President, section 302(a) of the Congressional Budget Act provides that the statement of managers accompanying a conference report on each budget resolution shall include an allocation of the budget totals among the committees of the House and Senate. This is the so-called "crosswalk" provision.

The allocations to the Senate commit-

tees pursuant to section 302(a) are contained on page 12 of the conference report on House Concurrent Resolution 341.

COORDINATION OF FISCAL AND MONETARY POLICIES

In the next 2 years, coordination of fiscal and monetary policies will become increasingly important. As the Congress maintains fiscal discipline and restrains fiscal policy, it will be necessary that monetary policy be expansionary enough to encourage the private investment required for increases in productivity and growth.

The last several years have taught us that fiscal and monetary restraint cannot prevent food and energy price increases even at unacceptably high levels of unemployment. The social costs of fighting unemployment with inflation, or inflation with unemployment, are simply too high.

Mr. President, we can reconcile this dilemma only through careful coordination of fiscal and monetary policies. However, in pursuing these policies, we must not mistake inflation caused by restricted supplies with that caused by excess demand. Price increases caused by increases in energy prices or other vital areas should not cause us to adopt restrictive fiscal and monetary policies.

CONCLUSION

Mr. President, in closing let me say a word about enforcement of the mandatory limits in the second budget resolution.

Once this resolution is adopted the spending and revenue limits are binding on the Congress. Any legislation which is outside the bounds of aggregate totals will be subject to a point of order. The Budget Committee seeks the cooperation of all committees in refraining from reporting legislation which would breach the spending ceilings or pierce the revenue floor. Members should also refrain from proposing costly amendments to pending legislation which might have a similar impact.

The budget process will succeed and its principles will prosper only with the cooperation and diligence of the Senate and the Congress as a whole.

Mr. President, I urge the Senate to support this conference agreement so we can continue to proceed in an orderly and responsible manner to live within the constraints of the congressional budget. In my view, this is the best prescription for strengthening the public's confidence in the ability of the Government to cope with and to resolve the Nation's financial problems.

Mr. President, I yield to the distinguished ranking minority member of the committee, the Senator from Oklahoma (Mr. BELLMON), and extend to him my thanks for the work he has done in the Budget Committee, and certainly his work in connection with this conference.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. I thank my friend from Florida for yielding to me.

Mr. President, I rise to support the conference result on House Concurrent Resolution 341, the second budget resolution for fiscal year 1978.

I would like to begin my comments by speaking first of the work of the distinguished senior Senator from Florida (Mr. CHILES), who acted as chairman of the Senate conferees.

It is not uncommon for one Senator to say nice things about another Senator on the floor of the Senate. In fact, such comments frequently appear merely to be routine and polite. I want my words now to be anything but routine. The facts are that Senator CHILES, with less than a 1-hour notice, was thrown into the breach to act as chairman of the Senate conferees due to the illness of Senator MUSKIE. Through Senator CHILES' skillful management and great negotiating ability, we return now to the Senate floor with a conference result wherein the Senate prevailed on virtually every single conference issue. I believe that Senator CHILES did a remarkable job and deserves the heartfelt thanks of the entire Senate.

In his opening remarks, Senator CHILES has gone into some detail regarding the conference decisions in each function. Without repeating that detail, let me remind the Senate of the major decisions. The conference actually cut spending below the levels in both the Senate and House versions of the budget.

I think that is rather remarkable, Mr. President. The conference cut budget authority by $1.3 billion below the Senate level, to a conference level of $500.1 billion. In outlays, the conference cut $1.65 billion off the Senate level to the conference result of $458.25 billion. Most dramatically, the deficit was cut by over $3.8 billion from the Senate level to the conference result of $61.25 billion.

I might say parenthetically that I believe it is likely the deficit will be considerably less than that, because of underspending. In my estimation, the cuts were responsible and realistic. The outlay cuts occurred primarily in the energy function and in the income security function. Budget authority cuts were more widespread and were based primarily on later information regarding congressional action.

Having expressed praise for the conference result, let me now express some concern about the immediate future. Recent economic statistics are giving mixed signals, but it appears likely that a somewhat static economy lies ahead, at least an economy which grows at a slower rate than has been the case in the last two quarters. The Budget Committee, like every Member of the Senate, is concerned about this, but it should be noted that the budget allows for many programs to correct this sluggishness. These programs include accelerated public works, CETA jobs, and countercyclical revenue sharing, among many other programs. In general, this budget does contain fiscal stimulus and many of these programs in the budget are only now coming into the spending stream. Given this situation, it seems to me that the wisest course of action is to maintain prudence and caution when contemplating any changes to the budget. Too often in the past Congress and the administration have reacted quickly to spurts and declines in economic statistics only to have to rescind their policy initiative when underlying economic trends became more evident. This pattern of ragged policymaking is disruptive to the U.S. economy. The budget which the conferees have agreed to is, I believe, a prudent and responsible one—reacting to long-term economic trends rather than to short-term economic indicators.

I am particularly concerned to note recent newspaper articles indicating that some sort of budget gimmick might be contemplated by the administration, and here I refer to the possibility of anticipating a fiscal year 1977 and 1978 shortfall in spending and thereby prespending that anticipated shortfall even before the numbers are known. This budget does not contemplate that the shortfall be anticipated or that the priority ranking in the budget be disrupted by taking money from one function and spending it in another.

Finally, Mr. President, let me speak for a moment about the social security financing problem. I know some of the members of the Finance Committee—and perhaps other Senators—are concerned that the conference agreement does not assume increased financing for social security, beyond that provided under current law, in fiscal year 1978. I remind my colleagues that this is the position we took when we passed our version of the second budget resolution last Friday. I call attention to the discussion of this question by Senators LONG, MUSKIE and myself on pages 28477–28479 of the September 9 CONGRESSIONAL RECORD.

The House conferees wanted to leave room in the budget authority provided for in this resolution for several billion dollars of added social security financing in fiscal year 1978. I believe the conferees' decision to accept the Senate position—and thus assume no added fiscal year 1978 financing for social security—is a sound one for the following reasons:

First, by shifting money from the retirement trust fund to the disability trust fund, Congress can assure that all benefits can be paid until at least 1982 without any increase in payroll taxes or other new financing.

The point here is that there is no reason for anyone to be concerned that the social security trust fund is about to go broke. There is money in the different trust funds that can be moved around to where it is needed, so that all those who are entitled to social security checks will be receiving those checks, regardless of the fact that we do not provide for any social security tax increase. This is obviously not a solution to the problem, but it does point out that we will not jeopardize anyone's benefits if we delay the effective date of any new financing arrangements until fiscal year 1979 or fiscal year 1980. We have time for careful consideration, rather than quick-fix solutions to this problem.

Second, a social security tax increase in fiscal year 1978 could seriously inhibit the economic recovery by in-

creasing both unemployment and the inflation rate.

Third, it is not yet clear what kind of social security financing plan the Senate Finance and House Ways and Means Committees are going to produce. It seems doubtful that major changes can be reported by the committees, debated and passed in both Houses, and differences reconciled in time for both Houses and the President to give final approval so that a tax increase could take effect January 1, 1978. Looking toward an effective date of 1979 or 1980 seems much more realistic.

Frankly, I cannot in any way anticipate that the Congress is going to pass and put into effect a social security tax increase prior to the election of 1978. This has not happened in the past, and I am of the opinion it is not going to happen next year.

Fourth, we should avoid hasty "fixes" for social security financing problems, so that we can consider adequately both the economic and employment effects of tax increases and the possibility of benefit changes which could reduce future outlays under social security. In this regard, I am very pleased that both the House Ways and Means Committee and the Senate Finance Committee seem ready to act on the critical "decoupling" issue. A legislative change to reduce the unjustifiable escalation in benefits for those who retire in the future would cut in half the long-term actuarial deficit in the social security trust funds.

Also, some other features of social security benefits—such as the extreme "tilt" in favor of retirees with low earnings histories, need to be reexamined in light of improvements that have been made in recent years in public assistance programs.

The Senate Budget Committee has asked the Congressional Budget Office to complete a major study on possible benefit changes in social security. That report will be available by early next year. In the meantime, I am very pleased that the House Ways and Means Committee has begun serious examination of some of these benefit questions.

In short, Mr. President, I believe we must straighten out social security financing problems as soon as possible so as to reassure those receiving social security that their benefits will continue. But we need not rush in with tax increases or other action to dump money into social security without careful studies of all reasonable options for both cutting costs and increasing revenues. This budget resolution in no way inhibits an orderly solution of the social security financing problem.

In my mind, it contributes to the likelihood of such a solution.

In conclusion, Mr. President, I urge support of this conference report which is a respectable and responsible effort. I also urge prudence and caution as we monitor the economy in the months ahead.

Again, I would like to pay special tribute to Senator CHILES for the excellent assistance he gave this conference.

Mr. CHILES. I thank the Senator from Oklahoma, Mr. President, for the excellent work he did, and I would like to thank the staff for the work they did, with regard to the conference. There were many negotiations and much late work which the staff put in so that we could arrive at an agreement in an orderly fashion.

To secure approval of the conference report, two votes are required. One is, Mr. President, that I move that the conference report be agreed to.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHILES. To secure the final passage on the entire matter, Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to House Concurrent Resolution 341. I ask for the yeas and nays on that question, Mr. President.

The PRESIDING OFFICER. The clerk will state the House amendment.

The legislative clerk read as follows:

AMENDMENT TO SENATE AMENDMENT

In lieu of the matter proposed to be inserted by the Senate engrossed amendment, insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1977—

(1) the recommended level of Federal revenues is $397,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $1,100,000,000;

(2) the appropriate level of total new budget authority is $500,100,000,000;

(3) the appropriate level of total budget outlays is $458,250,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $61,250,000,000; and

(5) the appropriate level of the public debt is $775,450,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $75,450,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1977, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $116,400,000,000.
(B) Outlays, $110,100,000,000.
(2) International Affairs (150):
(A) New budget authority, $8,000,000,000.
(B) Outlays, $6,600,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,700,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $24,600,000,000.
(B) Outlays, $20,000,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,100,000,000.
(B) Outlays, $6,300,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $20,400,000,000.
(B) Outlays, $19,600,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $8,200,000,000.
(B) Outlays, $10,600,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $26,300,000,000.
(B) Outlays, $26,400,000,000.
(9) Health (550):
(A) New budget authority, $47,700,000,000.
(B) Outlays, $44,200,000,000.
(10) Income Security (600):
(A) New budget authority, $178,600,000,000.
(B) Outlays, $146,100,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $19,900,000,000.
(B) Outlays, $20,200,000,000.
(12 Law Enforcement and Justice (750):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $4,000,000,000.
(13) General Government (800):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,850,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,700,000,000.
(15) Interest (900):
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,700,000,000.
(16) Allowances (920):
(A) New budget authority, $900,000,000.
(B) Outlays, $1,000,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,800,000,000.
(B) Outlays, —$16,800,000,000.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. CHILES. I believe some Senators are on their way to the floor, Mr. President.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back. The question is on agreeing to the motion of the Senator from Florida. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCLURE (after having voted in the negative). Mr. President, on this vote, I have a live pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "aye." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 68, nays 21, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—68

Abourezk	Glenn	Moynihan
Anderson	Griffin	Nelson
Baker	Hart	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatfield	Pell
Bentsen	Hathaway	Percy
Biden	Heinz	Randolph
Brooke	Hollings	Ribicoff
Burdick	Huddleston	Riegle
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Kennedy	Sparkman
Chiles	Leahy	Stafford
Church	Long	Stennis
Clark	Magnuson	Stevens
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Dole	McGovern	Talmadge
Domenici	McIntyre	Wallop
Eagleton	Melcher	Weicker
Eastland	Metcalf	Williams
Ford	Metzenbaum	

NAYS—21

Allen	Hansen	Schmitt
Bartlett	Hatch	Schweiker
Bumpers	Hayakawa	Scott
Byrd, Harry F., Jr.	Helms	Thurmond
	Laxalt	Tower
Curtis	Lugar	Zorinsky
DeConcini	Morgan	
Durkin	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure, against

NOT VOTING—10

Danforth	Humphrey	Pearson
Garn	Johnston	Young
Goldwater	McClellan	
Gravel	Muskie	

So the motion to concur in the House amendment to the Senate amendment was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with the distinguished minority leader. I ask unanimous consent that the Senate go into executive session to consider a nomination for a circuit judgeship that involves a nominee from the State of Nevada.

I make this request at the urging of Mr. CANNON, and the nomination has been supported in the Judiciary Committee by the other Nevada Senator. So I ask that the Senate waive the 1-day rule and proceed.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. CLARK). The nomination will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Procter R. Hug, Jr., of Nevada, to be U.S. circuit judge for the ninth circuit.

Mr. CANNON. Mr. President, this nominee has been approved and supported by both Senator LAXALT and myself. The nominee is an outstanding citizen of my State. We are proud to have him nominated and supported for the position on the ninth circuit court. Nevada has no representation on the ninth circuit at this time, and I hope my colleagues will support the nomination.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resumed the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

The Senate continued with the consideration of S. 1750.

The PRESIDING OFFICER. The question is on the amendment of the Commerce Committee to the amendment of the Human Resources Committee, beginning on page 9, line 3, striking all through and including line 6, page 10.

Mr. GLENN. Mr. President, I ask unanimous consent that Thomas Dougherty, of my staff, have the privilege of the floor during the consideration of S. 1750.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy, a member of my staff, have the privilege of the floor during the debate and votes on all matters occuring today and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I should like to explain briefly to my colleagues the action taken by the Senate Committee on Commerce, Science, and Transportation, when this legislation was referred to us for consideration.

The Commerce Committee carefully considered that portion of section 6(a) dealing with advertising on electronic media. The language agreed upon by the Human Resources Committee would require broadcasters to carry health warning messages within the advertisements carried by radio and TV stations. Just how those so-called health messages were to be carried was for determination by the HEW Secretary. In some instances, the health message warning might well require more air time than the commercial product message.

The Commerce Committee determined by a vote of 13 to 3 that the inconclusiveness of the scientific and medical data relating to saccharin and its potential health risks, combined with the important ramifications of restricting commercial speech, required deletion of that portion dealing with electronic media advertising, pending receipt by Congress of the more conclusive information as to the health benefits and risks of food products containing saccharin. This medical information is to be provided pursuant to other provisions of the Saccharin Study, Labeling and Advertising Act, which would mandate a study of the health risks and benefits of saccharin, together with an assessment of current testing methodologies and technical capabilities for predicting the carcinogenicity or other toxicity of saccharin in humans.

The majority of members in the Commerce Committee felt that while these studies and evaluation are being conducted, and given the present lack of consensus within the scientific and medical communities, imposition of affirmative health warning obligations on the advertisers of food products containing saccharin, or any additional restrictions of the electronic media, could not be justified. I believe very strongly that the warning labeling requirements on the package, the vending machine and store display requirements of S. 1750, as well as the two studies are quite sufficient to convey to the public the possible risks from saccharin. Accordingly, the Senate Commerce Committee recommends to the full Senate that no restrictions be placed on electronic media advertising of food products containing saccharin at this time.

Mr. President, the Commerce Committee was also concerned that printed advertising be treated equally but we did not act on the print provisions because of the limitation of the committee referral. When the committee amendments are disposed of, I will offer an amendment to delete the provision requiring the print sector to carry health messages within advertisements of food products containing saccharin.

It is important for members to understand that the Commerce Committee's position on the advertising provisions in no way affects the labeling requirements, the vending machine and store display requirements of the bill, or the two studies called for in S. 1750. As a matter of fact, I am a very strong supporter of those provisions, because I believe they provide the kind of education, information, and safeguards for those citizens who use food products containing saccharin.

I do not see why we should go beyond this point when the available data on this subject remain inconclusive.

Advocates of the Human Resources language on advertising requirements will maintain that Commerce Committee members do not fully comprehend or understand the medical information available or appreciate the importance and effectiveness of health warning messages. I assure the distinguished floor manager that Commerce members gave careful attention to the Human Resources Committee Report 95–353. We reviewed the medical data presented as well as the recommendations of the medical experts in this area.

I can agree that serious questions have been raised, but I am not convinced that they have been fully answered. For instance, one of the reasons the Commerce Committee found the medical data and reports to be "inconclusive" was that the Human Resources report on page 6 indicates that two epidemiological studies found:

. . . thus far no association between human use of saccharin and the development of bladder cancer; however, some questions have been raised about the adequacy of sample sizes, particularly in the Wynder study.

I know Dr. Wynder personally, and I have a high regard for his professional qualifications and findings.

As to our not having an appreciation for the importance of the health warning messages, I fail to see how that conclusion was reached. I have already indicated my full support and agreement in mandating the labeling requirements on the food product. To impose an additional requirement that all advertisers of food products containing saccharin carry health message warnings as part of their ads strikes me as imposing unnecessary burdens.

There has been considerable debate and coverage of the saccharin controversy. There are many who are convinced that there are real risks associated with saccharin consumption, and there are others who very strongly feel the benefits of saccharin outweigh the possible risks. The point is that there is an existing controversy and we do not have the final answers. If we did, much of this debate would be unnecessary. I believe most of the provisions of S. 1750 provide for the means for Americans to make an informed and intelligent decision as to whether they want to use saccharin-contained products. The advertising provisions go beyond this objective and mandate instead that there be additional discussions and debate every time you advertise a product containing saccharin. If the medical data were conclusive, I would have no trouble with such a requirement.

The fact is that the medical findings are not conclusive; therefore, I cannot agree to imposing this type of unnecessary burden upon the print or electronic media. It is my hope that the full Senate will support the recommendations of the Commerce Committee.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, will the Senator from Massachusetts yield 16 seconds for a comment?

Mr. KENNEDY. I am glad to yield 60 seconds to the Senator.

Mr. NELSON. Mr. President, for the purpose of the readers of the RECORD, I think nobody contests that saccharin is carcinogenic in animals. I will simply read from the report of the Office of Technology Assessment which did the study. I read from page 9, item 5:

Laboratory evidence demonstrates that saccharin is a carcinogen. Prolonged ingestion of saccharin at high levels caused a significant increase in the incidence of bladder cancer in rates in three independent experiments.

I do not think any scientists challenge the validity of these tests demonstrating that point.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am going to request that we have a live quorum. I do not know how much time remains to the Senator from Nevada, but I think we should have the membership of the Senate here, and then each take 8 or 9 minutes and let the Senate resolve this particular issue.

We are talking here to four members of the Health Committee who have heard me, and I have heard them, on this particular issue. I do not want to delay the Senate. We have a lot of business. But I do think the membership, to the extent we can, should hear it. It is a very important decision that we are going to make.

I do not know how much time remains to the Senator.

The PRESIDING OFFICER. The Senator from Nevada has 10 minutes remaining.

Mr. KENNEDY. I ask for a live quorum, with the time to be charged against the bill. Then, with the clear intention of the Senator from Nevada using his 10 minutes, we will try to use an equal amount of time and permit the vote.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator yielding. I just wish to make very brief comments with regard to the bill generally.

As the Senator will recall, I proposed an amendment to the agriculture appropriations bill some weeks ago that would have had the effect of postponing for fiscal year 1978 any prohibition on the sale of saccharin by the Food and Drug Administration. Of course I preferred consideration of my own bill which would have generally permitted the FDA greater flexibility in the regulation of food additives, such as saccharin. However, it did seem reasonable in light of conflicting scientific and medical evidence at the time that a delay of 1 year would preserve freedom of choice for millions of Americans needing a sugar substitute but still allow continued research and study on this important health-related issue.

At the request of the distinguished Senator from Massachusetts, joined by the Senator from Wisconsin (Mr. NELSON), and the Senator from North Dakota (Mr. YOUNG), I withdrew my amendment, with the assurance that our committees would soon report legislation relating to the saccharin ban.

So I thank the able chairman of the health and scientific research subcommittee and other Senators for having provided us with a measure which we can consider more fully at this time. Certainly I can generally support the bill, particularly with regard to the 18-month moratorium on the proposed ban. It seems reasonable that citizens generally should be informed of the benefits and risks of using saccharin and allowed to make their own personal decisions without undue government interference. We may impose some restrictions upon its use, but to have a ban under the conditions which it was proposed is something that I do not believe most people of the country want. Removal of saccharin from the marketplace would impose, if the ban were allowed to take effect, considerable hardships on many individuals who prefer using an artificial sweetener.

Again I want to thank the Senator and those involved in bringing this matter before the Senate at this time so that we could consider it.

Mr. KENNEDY. I thank the Senator from Virginia.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 23 Leg.]

Allen	Griffin	Nelson
Anderson	Hathaway	Pell
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Schweiker
Cannon	Huddleston	Scott
Clark	Jackson	Wallop
Dole	Javits	Williams
Durkin	Kennedy	
	Mathias	

The PRESIDING OFFICER. A quorum is not present.

Mr. KENNEDY. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk	Cranston	Haskell
Baker	Culver	Hatch
Bartlett	Curtis	Hatfield
Bayh	Danforth	Hayakawa
Bellmon	DeConcini	Hollings
Bentsen	Domenici	Inouye
Biden	Eagleton	Johnston
Brooke	Eastland	Laxalt
Bumpers	Ford	Leahy
Byrd, Robert C.	Glenn	Long
Case	Goldwater	Lugar
Chafee	Gravel	Magnuson
Chiles	Hansen	Matsunaga
Church	Hart	McClure

McGovern	Percy	Stennis
McIntyre	Proxmire	Stevens
Melcher	Ribicoff	Stevenson
Metcalf	Riegle	Stone
Metzenbaum	Roth	Talmadge
Morgan	Sarbanes	Thurmond
Moynihan	Sasser	Tower
Nunn	Schmitt	Weicker
Packwood	Sparkman	Zorinsky
Pearson	Stafford	

The PRESIDING OFFICER. A quorum is present.

Mr. KENNEDY. Mr. President, for the information of Senators, I do not think we will be taking much additional time before a vote, but we wanted to get as much attendance as we could.

I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the course of the session of the Senate beginning at 2 p.m. today on the utility rate reform measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

The Senate continued with the consideration of S. 1750.

Mr. KENNEDY. Mr. President, for the benefit of the Senate, there are 2 minutes remaining on the Cannon amendment, at the conclusion of which I intend, for our side, although we have more time, to take just 10 minutes or less, so that we can get to a vote on this matter within the next 20 minutes.

Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SARBANES). The Senate will be in order. The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

What we have attempted to do with this legislation is to demonstrate that the basis of the studies that have been made is that there are health benefits from the use of saccharin among 40 million Americans: those who are affected by hypertension, heart disease, obesity, or juvenile diabetes. There are health benefits from the use of saccharin, although it is difficult to point to scientific studies that show that. But there are benefits.

We have also reached the conclusion that there are health risks, and the very clear study that was made in Canada about this substance being a carcinogen in terms of animals is very clear and convincing.

Although the evidence is not clear that it has been shown or demonstrated to be a cancer-forming agent in human beings, the epidemiological studies show very clearly that if it is cancer-forming in animals it will be shown a cancer-forming in individuals. Most of the experts agree it is a weak carcinogen. So we have a health risk and a health benefit to those people who have obesity or hypertension and can benefit from it.

What the Senate Health Committee has said is,

> All right, in that situation what we want to do is to permit the public to make a decision and a judgment whether to use it during this limited period of the legislation, which is 18 months.

We say if they want to make that decision, and it will be an intelligent decision and an informed decision, they ought to be able to do it. But included in that, obviously, is the warning element. No one can make an informed decision unless they have some information that it is a potential danger.

What we have decided is that there be a written warning in print advertisement. And in electronic media and advertisement. There will then be a balance in terms of the advertisement.

The Commerce Committee, in the statement made by the distinguished Senator from Nevada, reading from page 6 of the Human Resources Committee's report, indicates there is no convincing evidence that there is a health risk. It was interesting that he was reading from the part of page 6 that referred to two studies which have not been concluded as of this date.

It is the position of the Health Subcommittee that the distinguished Secretary of HEW, more importantly the distinguished head of the National Institues of Health, perhaps even more importantly the head of the war on cancer, all believe that if we follow the recommendations of the Commerce Committee that we are putting in serious risk the health of the American people.

Just before the vote on the amendment of the Commerce Committee, it will be my intention, to offer a strike and substitute which will say, All right, if you are not willing to accept the conclusions and the determinations from the hearings which have been held by the Senate Health Subcommittee and the Office of Technology Assessment, we will authorize the Secretary of HEW to make this kind of a determination if he makes an independent judgment and decision in consultation with the head of NIH, with the head of the war on cancer, and after independent concurrence by the Chairman of the Federal Trade Commission.

So, Mr. President, I believe this reaches the heart of the proposal which has been made by the Committee on Health and Scientific Research.

I reserve the remainder of my time.

Mr. GRIFFIN. Will the Senator yield for an inquiry ?

Mr. KENNEDY. I do.

Mr. GRIFFIN. Is the text of the amendment to be offered by the Senator from Massachusetts available?

Mr. KENNEDY. It is available and has been distributed to each desk.

Mr. GRIFFIN. Once offered, how much time will be available for debate?

Mr. KENNEDY. I believe 30 minutes.

The PRESIDING OFFICER. The Senator is correct. There will be 30 minutes equally divided for debate on the amendment.

Mr. KENNEDY. If we could, I would like to reserve the remainder of my time and permit a response by the distinguished Senator from Nevada. Perhaps the Senator from Pennsylvania would respond.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I do not want to take too much time, but I want to point out that the Commerce Committee goes along with the designation on the package, with the advertisement information which is to be made available, but simply would not require, when there is a product advertised, that they have to have that advertising in the electronic media.

The studies by the committee's own report are certainly not conclusive. First, I want to refer to page 5 and read from it:

> Further questioning made it clear that there was substantial disagreement among the six panelists present at the hearing over the wisdom of the FDA's proposed ban on saccharin. Three of them supported the FDA's decision while three others favored continued marketing of saccharin as a food additive with warning labels to inform prospective saccharin users of the questions which have been related to its possible carcinogenisis. Those who favored the continued availability of saccharin argued that substantial population groups stand to benefit from its continued use, particularly people suffering from diabetes, obesity, heart disease, and hypertension, and those who are particularly susceptible to dental caries, and so on.

Mr. President, in addition, in the committee report, the report says:

> Second, panelists agreed that available laboratory evidence leads to the conclusion that saccharin is a potential cause of cancer in humans, but "There are no reliable quantitative estimates of the risk of saccharin to humans."

So the report of the committee itself, Mr. President, is not conclusive on this matter. We in the Commerce Committee feel, by an overwhelming vote, that this requirement should not be imposed on the electronic media. After this amendment is disposed of, I intend to offer a similar amendment to keep it from being imposed upon the written media, the printed press.

Dr. Falk, Director of NIH's Office of Health Hazard Assessment said:

> Falk told chemical regulation reporter that exposures to low levels of a carcinogen does not automatically mean a person will develop cancer. To say a person can develop a cancer by exposure to minute amounts of a carcinogen is an oversimplification, Falk said.

I want to point out, Mr. President, this is not an area where people are in agreement as to what the results are or what the results might be. I think the only thing they are in agreement on is that it could cause or does cause cancer in rats, according to the study.

Mr. President, I believe the amendment of the Committee on Commerce is a reasonable one. If we are ready—as long as the Senator proposes to offer a substitute—I would be willing to yield back the remainder of my time on this so he could offer his substitute and we

could start debating that. I will be opposed to that amendment as well.

Mr. KENNEDY. Mr. President, perhaps the Senator from Pennsylvania could respond first. I yield such time as the Senator from Pennsylvania might require.

Mr. SCHWEIKER. Mr. President, the evidence in terms of epidemiological studies is inconclusive. I think that is an important point to make. However, there is some evidence which is fairly conclusive. I think that is the reason for warning messages. The Ames test has been proven about 90 percent accurate in detecting likely carinogens. The interesting point here is that on saccharin itself the Ames test shows a negative result, indicating purified saccharin is not likely to cause cancer. But on the impurities in commercial saccharin, the Ames test is positive. Even though there are only about 20 parts per million of these impurities, they may well be the culprit. So I think we do have a clear-cut signal here on these impurities which are present in the commercial saccharin available today.

Forgetting all the inconclusiveness and all the apparent contradictions in the scientific evidence on saccharin, the Ames test is positive on trace impurities in saccharin as we now manufacture it. They are likely carinogens. That is why I feel we have a responsibility to give a warning, while we take the time we need to find out more about these impurities and if we can separate out the impurities from commercial saccharin so that then we may be able to restore saccharin to a list of approved food additives.

So there is a valid reason to not go ahead and ban saccharin at this point, because of the health benefits it may offer to Americans, as Senator KENNEDY pointed out. There is also a reason, in my judgment, to say, "Yes, we know there is a carcinogen in commercial saccharin. We do not know what it is yet, but we would like time to isolate it. We need further study."

I believe we do need this time and I believe, frankly, we do need warning messages.

The report of the experts from the Office of Technology Assessment clearly says that "laboratory evidence demonstrates that saccharin is a carcinogen." The Ames test clearly says that it may be the impurities which are the culprits; but a likely carcinogen has been detected. I think that warning is a responsibility we have. On the other hand, some members of the OTA panel who testified at our hearings also went on to say that as long as people are warned, they felt the people should continue to have the right to choose.

The panel of expert witnesses who had carefully studied the scientific evidence split on that issue and half the scientists recommended people have the right to choose and the other half did not. That is the expert opinion behind what we are voting on here.

If I have time, the Senator from New York would like 3 minutes. I yield to him.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request?

Mr. SCHWEIKER. Yes, I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Gary Aldridge may have the privilege of the floor throughout the consideration of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. I have just been yielded 3 minutes.

The PRESIDING OFFICER. The time is under the control of the Senator from Massachusetts and the Senator from Nevada. Who yields time?

Mr. KENNEDY. I ask the Senator from Nevada to yield to the Senator from New York, the ranking member of the committee. Then afterwards, I wish to yield very briefly to the Senator from Wisconsin, if that is agreeable.

Mr. CANNON. All right.

Mr. JAVITS. Mr. President, our first order of business today is the "Saccharin Study, Labeling and Advertising Act" which was favorably reported from the Senate Human Resources Committee, of which I am the ranking minority member.

The proposed FDA ban on saccharin has been an emotional issue. This action affects the lives and lifestyles of tens of millions of Americans—particularly people suffering from diabetes, heart disease, hypertension, obesity and those susceptible to dental problems.

There are basically two questions at issue. First, is it desirable to permit health benefits to be weighed against health risks in determining whether food additives, which may be animal or human carcinogens, should be removed from the market? This in effect would modify the Delaney clause. And, second, are there health benefits in allowing the use of saccharin to continue, and if so, do these benefits outweigh the potential risks?

Mr. President, these questions have not been resolved, and the scientific and medical communities have not reached a consensus. Notwithstanding our committee's intent to protect the public health, I believe that this bill responds to the need for further study and investigation, not only on the part of the scientific community and the Government, but on the part of the public as well, so that they may have the benefit of "informed choice." This bill provides an 18-month moratorium for that purpose

Specifically, the bill makes provision for two studies. The first 1-year study would assess current technical capabilities for predicting the carcinogenicity or other toxicity in humans of substances found to cause cancer in animals, including an evaluation of potential benefits as well as risks to health from these substances and an evaluation of current Federal food regulatory policy. The second study authorized by the bill is the result of the discovery that the saccharin used in experiments with animals and commercial saccharin contain small amounts of impurities. The study would identify impurities in saccharin, their toxicity or potential toxicity, and the health benefits of nonnutritive sweeteners in general and saccharin in particular.

In regard to informing the public, the bill requires the following: First, warning labels on all food products containing saccharin and all vending machines; second, retail establishments where saccharin is for sale in food products which are not for immediate consumption are required to post more detailed information conveying the current state of knowledge concerning saccharin; and third, the Secretary is required to develop health warning messages for advertisements in any medium of electronic or written communication.

I believe that these warnings, on the products themselves as well as in their advertising, are very important to present to the public the most up-to-date information concerning saccharin. Thus, each consumer can make his or her own assessment of whether to purchase products containing saccharin based on personal needs and informed choice. However, the bill provides that should new evidence arise demonstrating "that saccharin poses unreasonable and substantial risk to the public health and safety" the Secretary may proceed to ban saccharin.

The Commerce Committee, to which this legislation was referred because of jurisdiction over the electronic medium of advertising reported the bill with an amendment to delete the requirement for a warning message in electronic media advertisements. Also, Senator CANNON has announced his intention to offer an amendment to delete the provision concerning print media.

Since informed public participation is a cornerstone of the legislation as reported by the Human Resources Committee, I must oppose these two amendments, as I believe they dilute the intent of the legislation.

At this time we know of no alternative nonnutritive sweetner to saccharin, and its removal from the market would create a great hardship for those who must restrict their sugar intake.

I believe that this measure is an equitable one which preserves the use of saccharin for those who use it for medical and dietary purposes and at the same time makes the public aware of the potential dangers of its use.

Mr. President, I wish to record myself with my colleagues on the Human Resources Committee in favor of the proposed warning.

The point is this: The only reason to continue the use of saccharin, in light of the evidence, is that people need it for various health related reasons certainly, they do not need it to drink Tab or other artificially sweetened soft drinks. But, people have the right to use it for these health reasons until the proof is clear. Consequently, Mr. President, I think ours is the proper position.

These people who need it for health, are going to take it anyway. But the presence of a warning will impress itself upon others who do not have to take it for health reasons—those who take it for taste or to control their weight, or whatever.

That, I think, Mr. President, is the essence. It is borne out by the fact that the Department of HEW is unanimous on the need for a label. The Under Sec-

retary of Health, Education, and Welfare, Hale Champion, urges that any legislation imposing a moratorium on regulatory action by the FDA against saccharin require that a warning statement regarding potential health risks be included in all advertising and labeling of saccharin-containing production. There is a comparable statement by Michael Pertschuk, Chairman of the Federal Trade Commission, Donald Kennedy, Commissioner of Food and Drugs, and Donald Frederickson, Director of the National Institutes of Health.

I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT ON SACCHARIN ADVERTISING

(By Hale Champion, Under Secretary of Health, Education, and Welfare)

The Department of Health, Education, and Welfare has serious reservations about legislation which might impose a moratorium on regulatory action of the Food and Drug Administration with regard to saccharin.

I believe actions by the Congress on a product-by-product basis are usually inappropriate and that this one may provide a precedent for future interventions in other product areas. If the Congress, however, determines that such intervention is appropriate in this case, we believe it is essential that the legislation contain explicit features necessary to protect the public health.

Because the risk of cancer from saccharin use is related to both dosage and cumulative exposure, potential means of altering public saccharin consumption patterns could decrease the bladder cancer burden on Americans.

I, therefore, strongly endorse the joint statement signed by Mr. Michael Pertschuk, Chairman, Federal Trade Commission; Dr. Donald Kennedy, Commissioner of the Food and Drug Administration; and Dr. Donald Fredrickson, Director, National Institutes of Health, urging that any legislation imposing a moratorium on regulatory action by the Food and Drug Administration against saccharin require that a warning statement regarding potential health risks be included in all advertising and labeling of saccharin-containing products.

STATEMENT ON SACCHARIN ADVERTISING

(By Mr. Michael Pertschuk, Chairman, Federal Trade Commission, and, Dr. Donald Kennedy, Commissioner of Food and Drugs, and Dr. Donald Fredrickson, Director, National Institutes of Health)

We are concerned at the recent action of the Senate Commerce Committee in deleting the requirement in S. 1750, "The Saccharin Study, Labeling and Advertising Act of 1977," that electronic advertising for saccharin and saccharin containing products carry a warning.

The Office of Technology Assessment Panel and others have concluded that saccharin causes bladder cancer in laboratory animals, and that it therefore probably also does so in humans. Given these findings, any legislation interposed by Congress that stays regulatory action against saccharin should, we believe, at least contain provisions designed to provide fair warning of the potential hazard of continued consumption of this compound.

We therefore support the provisions in such legislation that would require warnings in radio and television advertising, in print advertising, and on the labels of all products containing saccharin.

Mr. JAVITS. To summarize, the issue is this: Those who need saccharin for health reasons are going to take it. They, evidently, are willing to take the risk. But the warning is imperative for other people who do not have such needs. I hope very much, therefore, that the Senate will be persuaded that the position of the committee which has jurisdiction over health matters—to wit, the Committee on Human Resources—ought to be the position that prevails.

I thank my colleagues for yielding.

Mr. KENNEDY. I yield to the Senator from Wisconsin 5 minutes.

The PRESIDING OFFICER. The Chair must inform the Senator from Massachusetts that he has only 1 minute remaining on the amendment.

Mr. KENNEDY. I am glad to yield on the bill. I indicate to my colleague from Nevada, if he wants more time on the bill, we obviously would be glad to grant it, since we are taking more time on the Senator's amendment. But I hope we shall be able to come to an early decision.

Mr. NELSON. Mr. President, many people believe, from reading newspapers and some of the comments by scientists, that it has not been adequately demonstrated that saccharin is a cancer-causing agent. The scientists who have looked at the literature and the tests and are qualified in the field are, so far as I know, unanimous in the conclusion that saccharin is a cancer-causing agent and that it has been demonstrated to cause cancer in animals. I think it is important to understand that point.

Now, Dr. Howard Temin, who is an American Cancer Society research professor for the Wisconsin Alumni Research Foundation, professor of cancer research, who is a very distinguished scientist, a Nobel laureate in physiology for his work with cancer viruses, on the question of saccharin, states:

In my opinion, there is no question that saccharin is a carcinogen and could cause cancer in humans. Therefore, it should be banned from the general food supply.

On the Canadian tests which have been attacked, mostly by laymen, let me quote from Dr. David Rall, Director of the National Institute of Environmental Health Sciences of the National Institutes of Health, in a speech at an American Cancer Society seminar for science writers on April 5 this year, commenting on the Canadian animal tests. He concluded:

It is absolutely a superb scientific study. It was very well done. I think the data are pretty convincing that saccharin is a carcinogenic.

So I think it ought to be understood that we are talking about a cancer agent in the food supply. I happen to disagree with the pending legislation, which would prohibit the Commissioner of the Food and Drug Administration from acting as he would otherwise be required to act, under the law, to remove saccharin from the general food supply. I think it is bad legislation. However, if we are going to pass a piece of bad legislation, we ought to make it less bad than it is. Therefore, since we know it is a carcinogen, and that is not challenged by any qualified scientist that I know of, at least we have a moral obligation to tell people what the tests show and that, if they use the product, they run the risk of getting cancer.

I think that is inadequate, and I know, and we all know that little kids, at least, are not going to read it before they buy the soda pop, and all kinds of others are not going to pay attention to the warnings because they do not believe it. But, at least, we ought to have a moral obligation to tell them what the facts are.

Now, laymen will argue, as well as some scientists, that the fact that an agent is carcinogenic in animals does not prove that it will cause cancer in man.

Well, that is so. But the statistics are frightening when we consider the converse of that, in that every single agent known to man except arsenic—and the tests are not over on that one—every single agent known to man that causes cancer in human beings, in the tests on animals, causes cancer in animals, too. Every oncologist that I know of believes that there is the likelihood that, if it causes cancer in animals it will cause it in human beings. So, if we are going to expose people to cancer-causing agents, I think we have a moral obligation to give him a good, tough, straightforward warning, for whatever good it will do. So I support the position of the Health Subcommittee, even though, once these provisions are adopted, if they are, I shall vote against the bill, because I think it is setting a disastrous and dangerous precedent.

Several Senators addressed the Chair.

Mr. SCHWEIKER. Mr. President, I yield from my general debate time 1 minute to the Senator from California.

Mr. HAYAKAWA. Mr. President, I believe I am persuaded by the arguments of many of my distinguished colleagues on this subject, a warning ought to be printed in connection with cancer. I would like to suggest a wording for that warning.

This is based strictly on the Canadian scientific study:

Warning: If an individual consumes one can of diet soda and two servings of saccharin-sweetened canned fruit a day for the next 200 years, his or her children will run a 17 out of 200 chance of developing bladder tumors, if human beings have the same vulnerability to saccharin as Canadian rats.

I thank the Senator.

Mr. KENNEDY. Mr. President, I believe we have used all of the time on the amendment, and I send to the desk——

Mr. CANNON. Will the Senator withhold that?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Nevada has 6 minutes remaining.

Mr. CANNON. I would like to use 1 minute further.

Mr. President, I say it is important for Members to understand that the Commerce Committee's position on the advertising provisions in no way affects the labeling requirements, the vending machine and store display requirements of the bill, or the two studies called for in S. 1750.

Mr. President, I can agree that serious questions have been raised, but I am not convinced they have been fully answered.

For instance, one of the reasons the Commerce Committee found the medical study and reports to be inconclusive was that the report on page 6 indicates that two epidemiological studies found thus far no association between human use of saccharin and the development of bladder cancer. However, some questions have been raised about the adequacy of sample sizes, particularly in the winter study.

Mr. KENNEDY. Will the Senator yield?

Mr. CANNON. Mr. President, we are relating to the advertising in the electronic media. We are not depicting the other.

Mr. HATHAWAY. Will the Senator yield?

Mr. KENNEDY. On this point, if the Senator will yield on it, the Senator is referring to two studies which are only one-third completed. We made reference to them because they were concerned with the subject matter, and to give a progress report.

What we did refer to and what is irrefutable, as the Senator from Wisconsin, the Senator from Pennsylvania, and I have pointed out, is that based on the Canadian animal study, not the study on human beings, although I think that is very important, and on the basis of the report of the Office of Technology Assessment, of all the studies that have ever been done on saccharin the unanimous conclusion is that saccharin is a carcinogen.

But what they do not agree on is how to deal with it, because most of the medical experts believe it is a weak carcinogen and that there are health benefits from it.

All we say is that when we have the risk and benefits, the best people to make the decision are the public. For them to make the decision, they have to understand that there is some risk. They will hear the benefits from the advertising.

I think it is important that when the position of the Senate Health Subcommittee is portrayed, that it be complete.

There is agreement among the members of the Senate Health Subcommittee that this is a carcinogen in animals.

I do not think the Senator can find a medical researcher in the field of cancer who believes there is not a direct correlationship between the agents that cause cancer in animals and those that cause them in human beings.

We cannot prove it to a scientific certainty, but, as the Senator from Wisconsin pointed out, we can prove that the matters which definitely cause cancer in human beings to a mathematical certainty cause cancer in animals.

The question here is the risk.

We feel that the action taken by the Commerce Committee is basically saying to the millions of Americans who are going to see these products advertised that we are going to deny to them what is the general recommendation both of our committee, the head of the Food and Drug Administration, the Cancer Institute, HEW, and that is that there is an important potential danger.

We hope that as a result of the study we will be able, in a more informed way and a more responsible way, to report back to the Senate within 18 months as to the exact nature of that danger so that the Senate can work its will.

Mr. CANNON. Mr. President, I shall be very brief.

The Senator says the studies are quite conclusive in this field. I simply ask, why are there two studies provided for in the bill if they are conclusive; why are we having studies provided for in this bill?

On the other point, I would like to read again, as I did earlier, from the committee report that reads as follows:

> Panelists agree that available laboratory evidence "leads to the conclusion that saccharin is a potential cause of cancer in humans" but "there are no reliable quantitative estimates of the risks of saccharin to humans."

That is the committee report, Mr. President.

I am prepared to yield back my time.

Mr. KENNEDY. Mr. President, just in responding to this particular question, there are two studies because there are two areas to be pursued. As the Senator from Pennsylvania pointed out, in the Canadian test that was done on human beings, it suggests that there ought to be a study done by HEW on the impurities added to saccharin. That is one study.

Just about everybody, the Director of the Cancer Institute and all other health officials, believe it should be done.

The second issue recognizes that in the area of drug policy, we make a health risk-benefit ratio in drugs and the prescription of drugs.

We do not give a well person the kind of dangerous drugs we give someone with terminal cancer. It is a health risk-benefit ratio.

We have in terms of saccharin some real conclusive evidence that it is a carcinogen in animals. We do not have conclusive evidence it is necessarily a carcinogen in human beings. But everyone person that was on this panel agreed that it was a carcinogen in terms of animals. What they could not agree on, nor can medical professionals agree on, is what should be the final and ultimate conclusion, whether we are to ban it or whether we are to permit it on the market.

The Senate Health Committee concluded we will let the public make the decision. To make an informed judgment we have to understand that there are some risks as well as benefits.

I just mention what was said by Don Kennedy, that he would urge there be a complete ban on advertising in the electronic media during this period of time.

We did not accept that conclusion. We say that there ought to be at least a health message that communicates the health risks in the electronic media because we felt there was at least some health benefit. But the action of the Commerce Committee is virtually precluding that kind of decision to be made by the American people, with its recommendation.

Mr. HATHAWAY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. I yield 3 minutes on the bill to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Massachusetts yields 3 minutes on the bill to the Senator from Maine.

Mr. HATHAWAY. Mr. President, the Senator from Nevada has stated over and over again that both he and the other members of the Commerce Committee do not object at all to the provision contained in section 6, the warning label, which states:

> Warning: This product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer.

So, presumably, the Senator from Nevada and the Commerce Committee agree that the American public should be warned.

If the American public should be warned, why not warn them in every way we possibly can? That is all the Human Resources Committee was attempting to do by having both the written press and the electronic media carry a similar warning, leaving it up to the Secretary to determine exactly what form that warning should take in each form of media, realizing the shortcomings that might occur with the electronic media, given the time bind they might have on 30-second advertisements, and so forth.

So, if there is going to be a warning that has any meaning whatsoever, it should not be restricted to those who might happen to look at the particular container.

As the Senator from Wisconsin just pointed out, these products are often used by young people who may not be able to read at all, and certainly are more casual than adults with respect to reading labels. And we cannot count on parental guidance in this area, since I am sure most adults are not going to read the labels on products containing saccharin, because they are common products on the market. It is not like having a bottle of medicine, where the contents are on the label. These are products such as toothpaste and soft drinks. Not one person in a thousand would bother to look at the label on these sorts of items.

It seems to me inconsistent for the proponents of this amendment to say that there should be a warning but we do not have that warning given to the general public.

Mr. STEVENSON. Mr. President, I intend to vote for the Cannon amendments because of the unnecessary difficulties and inequities the requirement for warnings in advertisements would cause the media. The public is well aware of the risks posed by the consumption of saccharin and will be warned by labels in products containing saccharin. Before voting for these amendments I want to disclose again a personal financial interest in radio and newspaper properties which could benefit, however indirectly, from approval of the Cannon amendments. These properties all derive from a long standing family interest in the

Bloomington, Ill., Daily Pantagraph. I intend to vote because I believe it the better general rule not to let personal interest deprive constituents of representation. In general, it is best to disclose the interest and vote a conscientious opinion.

Mr. GRIFFIN. Mr. President, will the Senator from Pennsylvania yield to me?

Mr. SCHWEIKER. Yes. I also promised to yield to the Senator from Rhode Island.

UP AMENDMENT NO. 835

Mr. KENNEDY. Mr. President, since all the time has expired on the Cannon amendment, I send to the desk an amendment on behalf of myself, the Senator from New York, and the Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. JAVITS, and Mr. CHAFEE, proposes an unprinted amendment numbered 835, in the nature of a substitute for the amendment on page 9, starting on line 3.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 9, line 3, stroke all through page 10, line 6, and insert the following in lieu thereof:

"(r) (1) If it contains saccharin and is advertised on any medium of electronic communication subject the jurisdiction of the Federal Communications Commission or on any medium of written communication unless the advertiser of such food includes in each advertisement a health warning message concerning saccharin, as prescribed by the Secretary, if the Secretary, after consultation with the Director of the National Institutes of Health, and the Director of the National Cancer Institute and after concurrence by the Chairman of the Federal Trade Commission, determines that such a message is necessary to alert the public to the potential health risks associated with the consumption of food containing saccharin. The Secretary shall prescribe the form and content of each such message in a manner appropriate to the medium of communication and length or size of the advertisement so as to insure insofar as possible that each such message will have an equal impact on the readers, viewers, and/or listeners of such advertisement as any other such message.

"(2) In making the determination pursuant to paragraph (1) and in prescribing the form and content of any message that is determined to be necessary, the Secretary shall afford an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, Chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, any decisions of the Secretary pursuant to this section shall be sustained unless found to be clearly unreasonable or in excess of statutory authority."

Mr. KENNEDY. Mr. President, I will make a 1-minute comment on the amendment.

What we are saying in this amendment is that the Senate does not necessarily have to accept the conclusions of the Senate Health Subcommittee, even though I think the report is very clear and convincing and overwhelming and compelling. We are saying that if the Secretary of HEW believes that it is necessary to protect the public interest by propounding restrictions in advertising on the basis of consultation with the head of the National Institutes of Health and the Director of the War on Cancer, and the Federal Trade Commission reaches a similar action independently, they will be authorized and empowered, in a limited period of time, for the endurance of the bill, which is 18 months, to propound a similar health message for the electronic media as well as the written media.

I reserve the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield to the Senator from Rhode Island 2 minutes from my time on general debate.

Mr. CHAFEE. Mr. President, I add my strong support for requiring warning messages on radio and television advertising. While I believe the scientific evidence indicates some risk from human consumption of saccharin and products containing saccharin, I believe the public should be allowed to weigh the risks and benefits and make their own decision. But it is essential that information regarding the risks be made absolutely clear to all consumers. It is our responsibility to make sure this information is available, so that people can make a truly informed choice.

I emphasize my concern that advertising in all the media be treated equally. It seems obvious to me that given the diversity in types and impact of advertising, the Congress cannot prescribe a single warning message which would be fair when applied to each advertisement. The assignment of this responsibility to the Secretary of Health, Education, and Welfare to examine and prescribe warning messages which would have an equal impact in all advertisements seems to me to be a reasonable solution.

My decision to support the delay of the ban on saccharin has not been an easy one. I have long been concerned about additives and chemicals in our food supply. Even more distressing to me, and I am sure to all of you, is the rising incidence of cancer among our citizens, and the realization that cancer is expected to strike one out of every four Americans alive today.

Scientists now believe that most cancers in man are due to chemicals. Thus, it appears that the majority of cancers are potentially preventable. The U.S. Government has made a massive commitment to finding cures for this disease. We must be no less diligent in finding the causes and prevention.

The Human Resources Committee has heard testimony and received volumes of material concerning the evidence of the relationship between saccharin and cancer in man. I have studied the material carefully, and believe that the evidence strongly suggests that saccharin is a carcinogen for humans, although a weak one.

I am convinced that there is some risk to humans, and that the potential risk is greater for certain groups, such as those who were exposed in utero during their mother's pregnacy. But I am also convinced that saccharin provides considerable benefits to other people, such as diabetics and those who must restrict their sugar intake. I feel strongly that our responsibility to protect our citizens must be balanced by our concern for individual rights and freedom of choice.

When a panel of scientists appeared before the Subcommittee on Health and Scientific Affairs to testify on the scientific studies on the carcinogenicity of saccharin, I asked each of them for their personal recommendation as to whether or not products containing saccharin should be banned. They were split evenly on this question.

I suggest to the Members of this body that when a consensus cannot even be reached by the experts, we should give the public all the available information and let them make their own choice.

Mr. President, I do not think anybody could have sat through those hearings and listened to those very distinguished scientists, doctors, and research personnel without coming to the conclusion that there is a potential danger in saccharin.

The point that the Senator from Maine is a good one—that if we are going to warn people, let us do the best job we can. Frankly, I think we are going the minimum distance. The Senator from Wisconsin desires that we completely abandon it or at least just have it over the counter; but there is so much strong sentiment from those who are diabetics and are on weight diets who ask that this be readily available that I think this is the minimum we can do to protect the health of our people, to give this warning through our media.

I support the measure as it came from the Subcommittee on Health in the Committee on Human Resources.

Mr. SCHWEIKER. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, I support the position taken by the Commerce Committee.

I believe the Kennedy amendment should be defeated. It is essentially—there are some modifications, to be sure, but not in substance—what was in the bill reported by the Committee on Human Resources in the first instance and which the Commerce Committee struck out.

The basic question here is how much regulation is enough, on the state of the record that we have. I think all Senators support the idea and concept included in the bill of an 18-month study. However, as the Senator from Nevada has pointed out, the very fact that we are authorizing the study indicates that we still are not sure what to do. We do not know how much saccharin must be taken into the human body before it is dangerous.

We set a precedent here which, it seems to me, calls for a warning with

respect to table salt, that table salt is poisonous if you take enough of it. Perhaps we should put that on the label of the product itself, and perhaps we should include that in any advertisement on radio and television if table salt is to be sold, because essentially the same principle is involved here.

How much warning is enough in this particular situation? The bill requires that the product, itself, must have a warning on the label. Incidentally, the committee has concluded that the warning must be bigger and more prominent than the label that is now required on packages of cigarettes. There is no question that we know a great deal more about the cancer-causing effects of cigarettes than we do about saccharin. The labeling required to be on a product including saccharin is going to be greater and larger and more prominent than it will be with respect to cigarettes. That is all right. I do not object to that. It will also require a warning in the retail establishment where the product including saccharin will be purchased.

Do we have to go beyond that and impose upon broadcasters and advertisers and all the people who will be involved the additional burden of including a warning in all advertisements on radio and television, in view of the record we have now? I do not think so.

Perhaps 18 months from now we will want to take another look at it. Eighteen months from now, we might want to ban saccharin altogether or remove the restrictions we are putting in here now. I think it is going too far. It is unnecessary and ridiculous to go to that extent on the basis of the information and the record we have.

Furthermore, we are delegating the broadcast responsibilities not to the Federal Communications Commission, which ordinarily controls broadcasting, but to the Secretary of HEW. He would determine what the message would be and how long it would be, how much time it would take up. That is an unprecedented move, one that should not be taken, it seems to me, unless we have the information that this 18-month study is supposed to produce.

I believe it is reasonable and appropriate that we approve the bill with the amendment that the Commerce Committee adopted, and to do that, we should vote down the substitute language offered by the Senator from Massachusetts.

I yield back to the Senator from Pennsylvania any remaining time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it seems that the argument made by the Senator from Michigan is that since there is some disagreement in terms of how to proceed either within the committee or within the scientific community that, therefore, we should not promulgate regulations because of the uncertainty.

I want to give the assurance to the Senator from Michigan that of the 30-odd or more medical personnel from whom we heard during the time of our hearings and before OTA, there was not one—and I challenge the Senator from Michigan to find one—who suggested that we leave saccharin on the market without a label. The only dispute was whether we ban it completely or leave it on the market with a label.

Now the Senator from Michigan comes out and says that because you have a difference of opinion and disagreement in whether you are going to ban it or put it on with a label, let us put it out there without a label. That is the most convoluted reasoning I have heard, Mr. President, on a matter that is going to affect in the most dramatic and important way, can affect, millions of Americans with hypertension, obesity and cancer, as well.

We have come to the conclusion that the American people ought to make a free choice on the best information we have available. We do not have all the answers, and because we do not we say let the people make the choice, and we are going to come back within 18 months and give the people the benefit of the best information we have.

But if you follow the recommendation of the Senator from Michigan and the Commerce Committee, we are denying effectively the American people from making an informed choice, and it makes no sense from a health point of view, and it makes no sense from the point of view of this particular legislative proposal.

Mr. President, I withhold the remainder of my time.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

Mr. President, I am unalterably opposed to the amendment of the Senator which he has offered as a substitute. What he has actually done is just tried to substitute exactly the same principle that was in the bill that we knocked out in the Commerce Committee. All they did was describe it in a little different wording to get by a point of order that could have been made. But, in substance, it is precisely the same as the provision they have in the bill, the amendment they added in the bill which the Commerce Committee struck out.

Furthermore, they say if the Secretary makes a determination, after discussing it with these people—well, those people have already made that determination. That is the basis that the subcommittee used in making this report in its initial decision.

We have a news release statement on saccharin advertising by Mr. Michael Pertschuk, Chairman of the Federal Trade Commission; Dr. Donald Kennedy, Commissioner of Food and Drugs; and Dr. Donald Fredrickson, Director, National Institutes of Health. So why try to dress it up and make it appear it is something it is not? It is exactly the same thing that is in the bill now just dressed in a little different language, simply to get around the provision that the Commerce Committee came out with to strike that out of the bill.

Mr. President, if there is no one else who desires time on it, I would be willing to yield my time back and proceed to a vote on this issue.

Mr. KENNEDY. I yield myself 2 minutes, Mr. President.

The Senator from Nevada and the Commerce Committee say the case has not been made by the Health Subcommittee. Then he goes and reads particular parts of the report to try to indicate that the case has not been made with regard to this health hazard.

We believe the case has been made. In this particular amendment we say the case is going to have to be made again by the Secretary of HEW in concert with the Director of NIH, and the Director of the war on cancer; and independently by the Federal Trade Commission, and there has to be the submission of public views—I mean, we try to say, "OK, if you are not going to be prepared to take ours, why not take the opinions to whom we entrust billions of dollars to try to protect the American public."

The Commerce Committee says, "We won't take your views and now we won't take the views of those who are charged with protecting the American public."

It seems to me, Mr. President, I do not know what it takes to try to convince people about the real danger to the American public.

So, Mr. President, I am prepared to yield back my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, just 15 seconds. I want to read into the RECORD what these distinguished people said, Michael Pertschuk, Dr. Donald Kennedy, and Dr. Donald Frederickson:

> The Office of Technology Assessment Panel and others have concluded that saccharin causes bladder cancer in laboratory animals, and that it therefore probably also does so in humans.

Probably also does so in humans.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back, and the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CANNON. Mr. President, I move to lay the amendment on the table.

Mr. GRIFFIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ABOUREZK (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE), who is not able to be here because of illness. If he were present and voting, he would vote "yea." Having already voted "nay," I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that if present and voting, the Senator from Minnesota would vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—52

Allen	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Burdick	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
	Hatch	Scott
Cannon	Hatfield	Sparkman
Chiles	Hayakawa	Stafford
Clark	Helms	Stennis
Cranston	Inouye	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Domenici	Magnuson	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	Melcher	Zorinsky
Ford	Morgan	

NAYS—42

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Bellmon	Heinz	Nelson
Bentsen	Hollings	Pell
Biden	Huddleston	Percy
Brooke	Jackson	Proxmire
Bumpers	Javits	Randolph
Byrd, Robert C.	Johnston	Ribicoff
Case	Kennedy	Riegle
Chafee	Leahy	Sarbanes
Church	Mathias	Sasser
Culver	McGovern	Schweiker
Dole	McIntyre	Weicker
Hart	Metcalf	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Abourezk, against.

NOT VOTING—5

Garn	McClellan	Young
Humphrey	Muskie	

So the motion to lay Mr. KENNEDY'S amendment on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 836

Mr. KENNEDY. Mr. President, I send to the desk an amendment. There is 30 minutes on this amendment. If I could have the attention——

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. MAGNUSON. Mr. President, will the Senator yield me 3 seconds?

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Massachusetts.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 836: beginning on page 9, beginning on line 3, strike all through page 10, line 6, and insert the following in lieu thereof:

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 9, line 3, strike all through page 10, line 6 and insert the following in lieu thereof:

"(r) If it contains saccharin and is advertised on any medium of electronic communication subject to the jurisdiction of the Federal Communications commission, unless the advertiser of such food includes in each such advertisement in a conspicuous and readily understandable manner the warning statement as set forth in subsection (o) if the Secretary, after consultation with the Director of the National Institutes of Health and the Director of the National Cancer Institute and after concurrence by the Chairman of the Federal Trade Commission, determines that such statement is necessary to alert the public to the potential health risks associated with the consumption of food containing saccharin.

"(s) If it contains saccharin and is advertised by any medium of written communication, unless the advertiser includes in each advertisement the warning statement as set forth in subsection (o) if the Secretary, after consultation with the Director of the National Institutes of Health and the Director of the National Cancer Institute and after concurrence by the Chairman of the Federal Trade Commission, determines that such statement is necessary to alert the public to the potential health risks associated with the consumption of food containing saccharin. Such statement shall be located in a conspicuous place in such advertisement and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter in such advertisement."

"(t) In making the determination pursuant to subsections (r) and (s), the Secretary shall afford an opportunity for the submission of views from all segments of the public, including a public hearing for oral presentation of views, but shall not be obligated to comply with the requirements of the Administrative Procedure Act, Chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, any decisions of the Secretary pursuant to this section shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

Mr. MAGNUSON. Mr. President, will the Senator yield me 10 seconds?

Mr. KENNEDY. Mr. President, I am reluctant to yield, because we now have a few Members of the Senate here.

Mr. MAGNUSON. I want to make a 10-second announcement.

Mr. KENNEDY. I yield.

Mr. MAGNUSON. Mr. President, I hope the members of the Appropriations Committee will come down to room 126 so we can get a quorum, right now, so we can report the last appropriation bill.

Mr. KENNEDY. Mr. President, I hope the members of the Appropriations Committee will remain right here, but I have no question as to whose lead they are going to follow.

Mr. MAGNUSON. If they want the appropriations, they had better come.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, just to repeat very briefly where we are, the Senate Health Subcommittee has made a finding, as well as the National Institutes of Health and the War on Cancer, that there are risks in the use of saccharin, and there are also benefits. We cannot measure to a scientific certainty what the risks are, and we cannot tell to a scientific certainty what the benefits are, but we know there are both.

So our conclusion in the committee was to let the American people make their own determination as to whether they wanted to assume the risks or did not.

To do that, we felt it was essential that we should have a label on all saccharin-containing products which says, "This product contains saccharin, which causes cancer in animals. Use of this product may increase your risk of developing cancer."

That is the sole warning on it. That will be on the label of the products that use saccharin.

The last amendment that we considered said that if the Secretary of HEW, working with the Director of the National Institutes of Health, the War on Cancer, and independently the Federal Trade Commission, after the results of public hearings, made the decision that it was necessary to protect the health of the American people by including a message on the electronic media which would provide that warning, they would be empowered to require it in all the electronic media. That amendment was rejected by agreeing to the motion to table.

All this substitute amendment says is that if we are going to provide this limited labeling on all of the products that are going to be sold with this particular label, we will also include those particular words in any electronic media or printed advertising.

Mr. President, the head of the Food and Drug Administration, independently of that particular decision that he made, which was required by law, has said, "In order to protect the American public, I would urge that there be a complete ban on advertising of diet soft drinks in the electronic media to protect the public," and the committee has said, "Let us let the Secretary, in this limited precedent, develop it." That was the impact.

We are now saying that if we are going to have those lines in the printed media, we ought to also include those lines in the electronic media.

I want to make clear to Senators that if we do not accept the electronic media label, the next proposal will be to ban it on all kinds of written media; and when that vote occurs, we are effectively saying to the American consumer that there is uncontroverted evidence that saccharin causes cancer in animals, and we are going to see, as sure as we are sitting here, with the various medical professionals that we heard——

The PRESIDING OFFICER (Mr. RIEGLE). The Senator's 3 minutes have expired.

Mr. KENNEDY. That it causes cancer in animals, so it will eventually also cause the potential danger of causing cancer in individuals, and we will be denying the American public an opportunity to make an informed choice.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

First, may I say I agree with the Senator from Massachusetts on one point. That is when this issue is disposed of, I will offer an amendment to ban the requirement that is in the bill now that the warning be placed in the written media. We would have done that in the Commerce Committee except we had very limited jurisdiction when the bill was referred to us. I do have an amendment prepared and I propose to offer that just as soon as we dispose of this amendment.

The Senator is just trying to come through the back door again after we defeated him on the last amendment. The matter that is under consideration has not been proved conclusively except that saccharin causes cancer in rats. That is the only conclusive matter which has been proven in this matter. It is very inconclusive in the studies which have been made. In the Commerce Committee we did not think that we ought to spend as much time advertising the warning on the electronic media nor in the printed media as advertising the product itself.

We are going along completely with the warning on the package, with the labeling in the stores, and with the studies. But let us wait until those studies are completed and then find out if there is a basis for this kind of a ban.

Mr. President, if no one else wants time, I am willing to yield back the remainder of my time. I propose to table the Kennedy amendment, which is another attempt to do indirectly what he cannot do directly and which was defeated just a few moments ago on the motion to table.

The PRESIDING OFFICER. The chair advises that that motion is not in order until the Senator from Massachusetts either uses his time or yields it back.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 3 minutes.

Mr. NELSON. Mr. President, I must say that the last vote did shock me. It is shocking enough, in my judgment, that this Congress is going to suspend the operation of the most important health protection law Congress has ever passed. Now for 18 more months we are going to allow a proven carcinogenic agent to be in the food chain.

If we are going to do that, I am going to vote against it. It is a bad principle. It violates a fundamental principle. We have never done it before and we should not start now.

Senator KENNEDY proposes that if we are going to feed people cancer-causing agents, let us at least tell them about it. If we are going to feed it to them, give them a little warning. Fifty-two people came onto the floor of the Senate and said, "Let us not tell them at all. Let us sneak it by."

What kind of irrational nonsense is this? I have been puzzling what it is that goes on in the Congress every so often. People call the Congress an organic body. I think that is right. Congress is now experiencing some kind of periodic menopausal hot flash. [Laughter.] Thus, we cannot address ourselves scientifically, sensibly, to the problem we face.

Now we are going to suspend the law and feed the people a cancer-causing agent. Saccharin has been irrefutably proven by scientific tests to cause cancer in animals. Nobody challenges that, still Members stand on the floor and say, "We have not yet proven it causes cancer in human beings."

I will repeat what Senator KENNEDY and I have said previously today. The frightening statistic is that every single agent known to cause cancer in human beings, except one, causes cancer in animals, and every cancer expert I know of fears that the converse is true. If it causes cancer in animals, it is very likely to cause it in human beings.

Yet a majority in the Senate is satisfied to say, "Well, the proof is not conclusive enough." It takes 10, 20, 30, or 40 years for many agents to cause cancer in humans.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Will the Senator yield additional time?

Mr. KENNEDY. I yield.

Mr. NELSON. We are now all aware of the diethylstilbestrol disaster. Women were fed that as a medicine 25 or 30 years ago. Twenty years went by and finally those children who were fetuses at the time their mothers got diethylstilbestrol ended up with rare vaginal cancer, 20 years later.

This nonsense of saying we have not found anybody dead yet, we have not proved it yet, what kind of irrational nonsense is that? We know it causes cancer in rats. Therefore, we ought to at least warn the people of this country, if they are going to take it, if they are going to use it, that it causes cancer.

We have never in the food and drug law established the principle that we have to come up with conclusive proof that an additive does not cause damage. The burden of proof of safety is on the promoter of the additive. The only studies we have prove that saccharin causes cancer in animals. The minimum we can do is support this amendment and warn people of the danger.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

First, I am advised by staff that the warning the committee would have us put on the electronic media takes 8 seconds to read. The average advertisement on the electronic media for the product itself is 10 seconds. So if one spends 8 seconds reading the warning there are 2 seconds left to advertise the product. I may say someone may develop something a little more complicated than that. Senator HAYAKAWA just sent me a typical warning that might be required. I will read it. This would take longer than 8 seconds.

Warning: If an individual consumes one can of diet soda and two servings of saccharin sweetened fruit a day for the next 200 years, his or her children will run a 17 out of 200 chance of developing bladder tumors if human beings have the same vulnerability to saccharin as Canadian rats.

I think that is a typical type of warning we might talk about, Mr. President.

Even on the cigarettes we have required a precise warning that the Surgeon General has determined that cigarette smoking is hazardous to your health. We do not say it causes it in animals. I will read it:

Warning: The Surgeon General has determined—

And he has not made any such determination in this case—

that cigarette smoking is dangerous to your health.

We are saying we should not burden the electronic media, and later I will say the written media as well, with that kind of a warning when we cannot come out precisely and support the type of a proposition which is advanced.

Mr. Chairman, I yield to the Senator from California.

Mr. HAYAKAWA. I would like to suggest this warning that I wrote be stamped on every stick of sugar-free chewing gum.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, it is stating the obvious that this is not a laughing or an amusing matter. There have been too many people who have been affected in this Chamber, directly and indirectly, on this whole issue for us to make light of it, an extremely important health issue before the Senate. The Senator from Nevada says that on the cigarette labels the Surgeon General has made a finding and he refuses, as this amendment permits, to permit the Surgeon General to make such a finding in this particular case.

We cannot have it both ways. We cannot say we are not going to put this message on the media because the Secretary has not made the determination, and yet included in this amendment is a requirement that the Secretary does make the determination and finds it necessary in order to protect the health of the American public.

The Senator complains because we are adding 21 words, and yet there is not a Member in this Senate who got here without adding onto their electronic media, for example, "This was paid for by the friends of JIM ABOUREZK in South Dakota."

Senators know what we are talking about. A few extra seconds has not

blunted the message that any one of us have used to get into the Senate. Now we are saying in the final hour we are going to deny a similar kind of communication to the American people on a matter which has been shown and proven to be carcinogenic in terms of animals.

Mr. President, I ask for consideration of this amendment. I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time and move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

Mr. CANNON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Maine (Mr. MUSKIE).

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from Maine would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—52

Allen	Glenn	Nunn
Baker	Gravel	Packwood
Bartlett	Griffin	Pearson
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Schmitt
Cannon	Hatfield	Scott
Chiles	Hayakawa	Sparkman
Clark	Helms	Stafford
Cranston	Huddleston	Stennis
Curtis	Jackson	Stevens
Danforth	Laxalt	Stevenson
DeConcini	Long	Stone
Domenici	Lugar	Talmadge
Durkin	Magnuson	Thurmond
Eagleton	McClure	Tower
Eastland	Melcher	Wallop
Ford	Morgan	Zorinsky
	Moynihan	

NAYS—42

Abourezk	Hart	Metcalf
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Nelson
Bellmon	Heinz	Pell
Bentsen	Hollings	Percy
Biden	Inouye	Proxmire
Brooke	Javits	Randolph
Bumpers	Johnston	Ribicoff
Byrd, Robert C.	Kennedy	Riegle
Case	Leahy	Sarbanes
Chafee	Mathias	Sasser
Church	Matsunaga	Schweiker
Culver	McGovern	Weicker
Dole	McIntyre	Williams

NOT VOTING—6

Garn	Humphrey	Muskie
Goldwater	McClellan	Young

So the motion to lay Mr. KENNEDY's amendment on the table was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Committee on Commerce to strike certain language from the amendment of the Committee on Human Resources.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the Cannon amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, for the benefit of the Members, as I understand, Senator CANNON will offer a subsequent amendment, on which there will be an up and down vote, on the written part. He will do this very shortly, so there will be two votes quickly.

I yield to the Senator from Wyoming for a unanimous-consent request.

Mr. WALLOP. Mr. President, I ask unanimous consent that Deral Wiley, of my staff, have the privilege of the floor during the remainder of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the name of the Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor of S. 1750.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the second Cannon amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is in order to order the yeas and nays at this time.

Mr. KENNEDY. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the Commerce Committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. HUDDLESTON (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Maine (Mr. MUSKIE).

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from Maine would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—55

Allen	Ford	Morgan
Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Burdick	Gravel	Pearson
Byrd, Harry F., Jr.	Griffin	Roth
Byrd, Robert C.	Hansen	Schmitt
Cannon	Hatch	Scott
Chiles	Hatfield	Sparkman
Clark	Hayakawa	Stafford
Cranston	Helms	Stennis
Curtis	Jackson	Stevens
Danforth	Johnston	Stevenson
DeConcini	Laxalt	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Durkin	Magnuson	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Zorinsky
	Melcher	

NAYS—39

Abourezk	Haskell	Moynihan
Anderson	Hathaway	Nelson
Bayh	Heinz	Pell
Bellmon	Hollings	Percy
Bentsen	Inouye	Proxmire
Biden	Javits	Randolph
Brooke	Kennedy	Ribicoff
Bumpers	Leahy	Riegle
Case	Mathias	Sarbanes
Chafee	McGovern	Sasser
Church	McIntyre	Schweiker
Culver	Metcalf	Weicker
Hart	Metzenbaum	Williams

ANSWERED "PRESENT"—1

Huddleston

NOT VOTING—5

Garn	McClellan	Young
Humphrey	Muskie	

So the Commerce Committee amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the Commerce Committee amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alabama (Mr. SPARKMAN) who wishes to make an introduction of some distinguished guests.

VISIT TO THE SENATE BY MEMBERS OF THE JAPANESE DIET

Mr. SPARKMAN. Mr. President, we are very happy to have guests with us today, the distinguished members of the Japanese Diet and the Council.

I shall read their names, and I ask unanimous consent to have the complete list of participants in the RECORD.

Mr. Nobusuke Kishi, Mr. Takashi Sato, Mr. Shogo Abe, Mr. Kosaku Wada, Mr. Yoshito Fukuoka, Mr. Eisaku Sumi, Mr. Hiroshi Kodera, Mr. Kazuo Tamaki, and Mr. Tokichi Abiko. [Applause.]

There being no objection, the list of names was ordered to be printed in the RECORD, as follows:

LIST OF PARTICIPANTS: U.S. VISIT OF JAPANESE WORKING GROUP OF PARLIAMENTARIANS ON POPULATION AND DEVELOPMENT

HOUSE OF REPRESENTATIVES

Mr. Nobusuke Kishi, Head of Mission, President of Japanese Parliament Federation on Population (JPFP) (LDP).

Mr. Takashi Sato, Secretary of JPFP (LDP).

Mr. Shogo Abe, Chairman, Committee on Family Planning, Maternal & Child Health and Contraception of JPFP (SP).

Mr. Kosaku Wada, Director, Social and Labor Affairs Committee of the House of Representatives (DSP).

Mr. Yoshito Fukuoka, Director, Construction Committee of the House of Representatives (SP).

Mr. Eisaku Sumi, Director, Social and Labour Affairs Committee of the House of Representatives (LDP).

Mr. Hiroshi Kodera, Member of Social and Labour Affairs Committee of the House of Representatives (KP).

HOUSE OF COUNCILLORS

Mr. Kazuo Tamaki, Member of Social and Labour Affairs Committee of the House of Councillors (LDP).

Mr. Tokichi Abiko, Chairman, Foreign Affairs Committee of the House of Councillors, Ex-Director General, Food Agency (LDP).

Dr. Saburo Ohkita, President, Japan Economic Research Center.

Mr. Nihachiro Hanamura, Vice Chairman, Federation of Economic Organization.

Mr. Hisatsune Tokunaga, Vice-President, Nippon Steel Corporation.

Mr. Kazutoshi Yamaji, Chairman, Japanese Organization for International Cooperation in Family Planning Inc.

Dr. Eiichi Wakamatsu, Chairman, Japan Public Health Association.

Prof. Masaaki Yasukawa, Professor of Keio University.

Prof. Shuzaburo Takeda, Professor of Tokai University.

Mr. Akio Matsumura, Resource Development Officer, International Planned Parenthood Federation.

EMBASSY OF JAPAN

Councillor Matsuura.

Mr. Kiyohiko Nanao, First Secretary.

Mr. Hiroshi Sawamura, First Secretary.

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess for not to exceed 5 minutes in order that Senators may have the opportunity to meet our friends from Japan.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate at 4:01 p.m., recessed until 4:06 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 4:07 p.m., recessed until 4:08 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I shall ask unanimous consent that the Senate proceed to the consideration of the following measures which have been cleared for passage by unanimous consent. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 379, 381, and 382.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these matters have been on the calendar for some time. The reports have been filed in compliance with the 3-day rule, and there is no objection to proceeding to their consideration.

TEMPORARY SUSPENSION OF DUTY ON CERTAIN LATEX SHEETS

The Senate proceeded to consider the bill (H.R. 2850) to suspend until the close of June 30, 1978, the duty on certain latex sheets, which had been reported from the Committee on Finance with amendments as follows:

On page 2, beginning with line 1, strike "Sec. 2(a)" and insert "(b)";

On page 2, line 5, strike "(b)" and insert "(c)";

On page 2, line 12, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 19, insert the following:

SEC. 2. (a) Item 911.25 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/77" and inserting in lieu thereof "6/30/79".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, after June 30, 1977.

SEC. 3. (a) Subpart B of part 12 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "otherwise processed" in headnote 2(iv)(D) and inserting in lieu thereof "otherwise usefully processed".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-419), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

The first section of H.R. 2850 would permit, through June 30, 1978, duty-free entry of imports of certain latex foam rubber sheets, used to make mattresses, which are now dutiable at 6 percent ad valorem.

Section 2 of H.R. 2850 would temporarily permit, through June 30, 1979, duty-free entry of imports of synthetic rutile, used to make white pigments for paint, paper, and plastic, which are now dutiable at 7.5 percent ad valorem.

Section 3 of H.R. 2850 would provide that film, strips, sheets, and plates of certain plastic or rubber must be usefully processed in a commercial sense before they can be classified as "processed" for purposes of the Tariff Schedules of the United States.

II. REASONS FOR THE BILL

There is no domestic production of sheets of molded pin core latex foam rubber used to make foam mattress blanks. Enactment of the first section of H.R. 2850 would eliminate an unnecessary cost, the existing duty, to domestic mattress manufacturers.

Section 2 of H.R. 2850 is a committee amendment containing the substance of H.R. 3387, 95th Congress. It would continue a duty suspension on synthetic rutile which was enacted in October 1974 and terminated on June 30, 1977. Enactment of section 2 would continue the elimination of an unnecessary cost of a raw material, synthetic rutile, which is not domestically produced in sufficient quantities and for which there is a growing demand.

Section 3 of H.R. 2850 is a committee amendment containing the substance of H.R. 5285, 95th Congress. Noncommercially useful processing of imports of acrylic sheets often results in such imports being assessed lower duties than imports of the sheets would be assessed if they were not considered processed. Enactment of section 3 of H.R. 2850 would permit imports of acrylic sheet to be classified as processed only if the sheets were usefully processed in a commercial sense.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read:

An act to suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DUTY ON IMPORTATION OF COPYING LATHES USED FOR MAKING SHOE LASTS

The Senate proceeded to consider the bill (H.R. 3093) to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lasts, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, following "That" insert "(a)";

On page 2, line 8, strike "SEC. 2." and insert "(b)";

On page 2, line 10, strike "SEC. 3. (a)" and insert "(c)";

On page 2, line 10, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 14, strike "(b)" and insert "(d)";

On page 2, line 20, strike "the first section of this Act" and insert "subsection (a)";

On page 3, line 3, strike "(c)" and insert "(e)";

On page 2, line 3, strike "amendment made by section 2 of this Act" and insert "repeal made by subsection (b)";

On page 3, line 6, insert the following:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by adding immediately after headnote 3 the following new headnote:

"4. For so long as items 905.10 and 905.11 are in effect, headnotes 3, 4, and 5 of subpart C of part 1 of schedule 3 shall be suspended (except insofar as they relate to hair of the camel) and in lieu thereof—

"(a) for purposes of item 307.40—

"(i) the classification provisions for wool not finer than 46s shall apply to any package of wool containing not over 10 percent by weight of wool finer than 46s but not containing wool finer than 48s; and

"(ii) the citation for imports classifiable under item 307.40 shall be such item number followed by the item number for the part of the contents of the package which determines the rate of duty; and

"(b) for purposes of item 905.11, a tolerance of not more than 10 percent of wools not finer than 48s may be allowed in each bale or package of wools imported as not finer than 46s"; and

(2) by adding immediately before item 905.30 the following new items:

"	Wool (provided for in part 1C, schedule 3):			
905.10	All wool provided for in items 306.00 through 306.24	Free	Free	On or before 6/30/80
905.11	Wool not finer than 46s provided for in items 306.30 through 306.34	Free	Free	On or before 6/30/80 ".

(b) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. (a) Subpart G of part 15 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out—

"	Istle:		
192.65	Crude	Free	Free
192.70	Processed	20% ad val.	20% ad val. ".

and inserting in lieu thereof the following:

" 192.66	Istle	Free	Free ".

(b) Item 903.90 of the Appendix to such Schedule is repealed.

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–421), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

H.R. 3093, as amended by the committee, is designed to achieve three objectives:

To provide duty-free treatment for imports of copying lathes, and of parts for such lathes, used for making rough or finished shoe lasts (forms);

To provide for duty-free treatment until July 1, 1980, of imports of certain coarse wool; and

To provide for duty-free treatment of imports of istle, a plant fiber used as upholstery padding and in brushes and brooms.

II. REASONS FOR THE BILL

The provisions of the bill relating to copying lathes for making shoe lasts would make permanent the duty-free treatment of such imports which has existed for the last 21 years under repeated temporary duty suspensions. Duty-free treatment would remove an unnecessary cost to the domestic shoe last industry, which is totally dependent on imports, for the expensive lathes as there is no U.S. production of the lathes, permitting the shoe-last producers to hold down costs and maintain competitiveness with foreign shoe-last producers.

The provisions of the bill regarding temporary duty-free treatment of imports of coarse wool would make the products of U.S. firms using coarse wool more competitive with imported man-made fiber and woolen products. There is virtually no domestic production of coarse wools.

The provisions of the bill regarding istle would make the products of U.S. producers employing istle more competitive with imported products using istle. There is no domestic production of crude or processed istle fiber. Imported products made from processed istle, such as brushes, are subject to a lower duty rate than the processed istle fiber itself. Domestic producers of brushes claim that duty-free treatment of processed istle is needed to remain competitive with imported brushes. The duty has been suspended for nearly 20 years. Because istle is duty free under the Generalized System of Preferences, the major effect of this provision of the bill for the near term would be to end the requirement that importers file GSP forms.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read:

An act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DUTY ON IMPORTATION OF CERTAIN HORSES

The Senate proceeded to consider the bill (H.R. 3259) to continue to suspend for a temporary period the import duty on certain horses, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, following "That" insert "(a)";

On page 1, line 6, strike "6/30/78" and insert "6/30/80";

On page 1, line 7, strike "SEC. 2. (a)" and insert "(b)";

On page 1, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 1, line 11, strike "(b)" and insert "(c)";

On page 2, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 14, insert the following:

SEC. 2. (a) The headnotes to part 10 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"4. (a) For purposes of this headnote, the term 'petroleum' means crude petroleum (including reconstituted crude petroleum) or crude shale oil provided for in items 475.05 or 475.10.

"(b) Petroleum shall, if a product of Canada, be admitted free of duty and any entry therefor shall be liquidated or reliquidated accordingly if, on or before the 180th day after the date of entry, documentation is filed with the customs officer concerned establishing that, pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Secretary of Energy—

"(i) an import license for the petroleum covered by such entry has been issued by the Secretary; and

"(ii) an equivalent amount of domestic petroleum or duty-paid foreign petroleum has, pursuant to such commercial exchange agreement and to an export license issued by the Secretary of Commerce, been exported from the United States to Canada and has not previously been used to effect the duty-free entry of like Canadian products under this headnote.

"(c) The Secretary of the Treasury, after consulting with the Secretary of Commerce and the Secretary of Energy, shall issue such rules or regulations as may be necessary governing the admission of Canadian products pursuant to the provisions of this headnote.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered or withdrawn from warehouse, for consumption on or after the date of enactment of this Act pursuant to commercial exchange agreements referred to in headnote 4 of part 10 of schedule 4 of the Tariff Schedules of the United States (as added by such subsection) which are effective for periods beginning on or after such date of enactment.

SEC. 3. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.60 the following new item:

" 907.20	Doxorubicin hydrochloride (provided for in item 407.85, part 1, or item 437.32 or 438.02, part 3, schedule 4, depending on source)	Free	No change	On or before 6/30/80 "

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to continue to suspend for a temporary period the import duty on certain horses, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–422), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

H.R. 3259, as amended by the committee, would accomplish three objectives:

To suspend until the close of June 30, 1980, the duty now applicable to certain horses, thus ending tariff discrimination among breeds and avoiding customs valuation and bonding problems;

To assure a continued Canadian crude petroleum supply at the lowest cost to U.S. refiners located near the Canadian border by permitting the duty-free entry of Canadian crude petroleum and crude shale oil provided that an equivalent amount of domestic or duty-paid foreign crude petroleum or crude shale oil is exported to Canada from the United States; and

To reduce the cost to patients of doxorubicin hydrochloride, an anticancer drug, by suspending until the close of June 30, 1980, the import duty on that drug.

II. REASONS FOR THE BILL

The provisions of the bill regarding horses end the tariff discrimination among breeds, some of which are now entitled to duty-free treatment while others are not, avoid customs valuation problems with respect to foals and horses which have not yet raced, and avoid bonding problems resulting when a horse entered under a temporary bond is purchased in a claiming race.

The provisions of the bill regarding Canadian petroleum are intended to assure a continued crude petroleum supply at the lowest cost to U.S. refiners located near the Canadian border. Because of lack of pipelines and other factors, northern tier U.S. refiners do not have economical access to sufficient sources of crude petroleum except from Canada. The Canadian Government has established export quotas on crude petroleum to the United States, but has agreed to supply crude petroleum to the United States in excess of export quotas in exchange for exports to Canada from the United States of an equivalent quantity of crude petroleum. Duty-free treatment for imports of Canadian crude petroleum as provided by the bill would remove one economic barrier to such exchanges.

The provisions of the bill regarding doxorubicin hydrochloride are intended to reduce costs to cancer patients using the drug. There is no domestic production of doxorubicin hydrochloride. To the extent that savings from the duty-free treatment provided by the bill are passed along to the ultimate consumer, a cancer patient could have his drug bill reduced by as much as $50 to $75 per course of treatment.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures on the calendar that are ready for transfer to the Unanimous Consent Calendar. Therefore, I ask that the clerk transfer Order Nos. 380 and 386 to the Unanimous Consent Calendar.

The PRESIDING OFFICER. They will be so transferred.

FEDERAL ELECTION COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1435.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1435) to authorize appropriations for the Federal Election Commission for fiscal year 1978, as follows:

Strike out all after the enacting clause, and insert: That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1976", and by inserting after "1977" the following: ", and $8,123,000 for the fiscal year ending September 30, 1978".

Amend the title so as to read: "An Act to amend the Federal Election Compaign Act of 1971 to extend the authorization of appropriations contained in such Act."

UP AMENDMENT NO. 837

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives, which is in the nature of a substitute for S. 1435, with an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 837:

Strike the amount, "$8,123,000" where it appears at line 6, and insert in lieu thereof "$7,811,500."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

PRIVILEGE OF THE FLOOR

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Scott Ginsburg of my staff be accorded the privilege of the floor during the consideration of the legal services bill and rollcall votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, the time is not running against either side, I assume.

The PRESIDING OFFICER. At this point it is not.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 4:14 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:32 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

PROHIBITION OF SEX DISCRIMINATION ON THE BASIS OF PREGNANCY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, at this time, proceed to the consideration of Calendar Order No. 308 for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ROBERT C. BYRD. Mr. President, is it clearly understood that at the end of 30 minutes, the Senate will proceed with the consideration of the saccharin bill?

The PRESIDING OFFICER. That is the order.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with amendments as follows:

On page 1, at the beginning of line 1, insert "SECTION 1.";

On page 2, beginning with line 7, insert the following new section:

SEC. 2. (a) Except as provided in subsection (b) the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by section 1 of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act, for a period of one hundred and twenty days after the date of enactment of this Act.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided, further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 701 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise."

SEC. 2. (a) Except as provided in subsection (b) the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by section 1 of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act, for a period of one hundred and twenty days after the date of enactment of this Act.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided, further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I inquire what the time agreement is that we are operating under at this time.

The PRESIDING OFFICER. There are 3 hours on the bill. There are 2 hours on any amendment in the first degree, and 30 minutes on any amendment in the second degree.

Mr. WILLIAMS. I thank the Chair.

I yield myself such time as I may use within the agreement entered into, but we shall not proceed beyond 30 minutes at this time on this bill.

Mr. President, last December, in the case of Gilbert against General Electric, the Supreme Court ruled that title VII does not protect working women who are disabled by pregnancy or related conditions from discrimination under employee benefit plans. The Court held that title VII's prohibitions against sex discrimination do not preclude discrimination based on pregnancy. This decision nullified what I believe, and what the majority of the members of our committee believe, was the intent of Congress in enacting title VII—to protect all individuals from sex discrimination in employment—including pregnant women.

The bill before us will overcome the Court's decision and provide important protection for women affected by pregnancy as the testimony received by the labor subcommittee well illustrates. It is most important that this protection be provided to our Nation's working women.

It is important because a large number of working women need its protection for their financial security, and the security of their families.

Two-thirds of the 36 million women in our labor force work because of pressing economic need. These women are either single, widowed, divorced, or separated, or they have husbands earning less than $10,000 per year. It is a shocking fact that, among full-time workers employed throughout 1975, the median earnings of women were less than three-fifths of the median earnings of men. Our Nation's working women earned only 59 cents for every dollar earned by working men. Women were required to work nearly 9 days to earn the same gross income that men earn in only 5 days.

This legislation is also important because, in the long run, it will permit the 36 million working American women to assume their rightful place, and make a full contribution in our Nation's economy. Too often, sex discrimination has denied working women an opportunity to pursue a career. One reason for the gap between the earnings of men and women is that 90 percent of the entire female work force is concentrated in 10 female occupations.

These shocking statistics cannot be made better unless working women are provided effective protection against discrimination on the basis of their childbearing capacity. Testimony received by the Labor Subcommittee has shown that most policies and practices of discrimination against women in the workforce result from attitudes about pregnancy and the role of women who become pregnant which are inconsistent with the full participation of women in our economic system.

Because of their capacity to become pregnant, women have been viewed as marginal workers not deserving the full benefits of compensation and advancement granted to other workers.

The reported title VII cases reveal a broad array of discriminatory practices based upon erroneous assumptions about pregnancy and the effect it has on the capacity of women to work.

In some of these cases, the employer refused to consider women for particular types of jobs on the grounds that they might become pregnant, even though the evidence revealed that pregnant women are perfectly capable of performing the work in question. Even more common is the refusal to provide training, or advancement to management, because of the concern that women might become pregnant and leave the employer's service.

A common practice has been to place pregnant women on mandatory unpaid leave, regardless of their ability or inability to work. In some cases, women thus discriminated against are permitted to return to their former employment after delivery; but in other cases, mandatory leaves result in loss of previous position, lower pay, and loss of seniority and other benefits. In the extreme case, women who become pregnant have simply been terminated by their employers.

These practices have profound effects upon the ability of women to maintain their employment, and to advance their financial and career interest. Loss of seniority has frequently resulted in lower retirement benefits, loss or reduction of vacation and sick leave benefits, and the loss of opportunity for advancement or training.

Thus, the overall effect of discrimination against women because they might become pregnant, or do become pregnant, is to relegate women in general, and pregnant women in particular, to a second-class status with regard to career advancement and continuity of employment and wages.

These practices reach all working women of childbearing age, but they fall most heavily upon women who become pregnant; and 80 percent of women become pregnant in their working lives. In fact, approximately 40 percent of all pregnant women are employed during their pregnancy, and almost 40 percent of mothers with children under 6 years of age are employed.

Prior to the Supreme Court's decision in the Gilbert case, title VII was an important factor in protecting working women from sex discrimination. In 1964, 40 percent of all employers still did not even provide unpaid maternity leaves—women were simply fired. Among employers who did provide leave, more than one-half forced women onto leave before the 7th month of pregnancy. Only 6 percent of employers permitted women to use their sick leave for pregnancy-related illness or disability.

Title VII, which was interpreted to prohibit all forms of employment discrimination against women, including discrimination because of pregnancy, had a dramatic effect on these practices. By 1973, 73 percent of women workers received maternity leave accompanied by reemployment rights; and 26 percent were permitted to use sick leave for pregnancy-related illness and disability.

Now, however, the Gilbert decision has changed this effect of title VII and has left a gaping hole in the protection which title VII affords to working women.

This legislation will close that hole in a very straightforward way. It amends title VII by adding to section 701 of that statute a new subsection (k) which makes clear that the prohibitions against sex discrimination in the act include discrimination in employment on the basis of pregnancy or pregnancy-related disabilities. This legislation will prohibit not only discrimination in the provision of disability benefits, which was the type of discrimination which occurred in the Gilbert case, but it will also prohibit discrimination on the basis of pregnancy or conditions arising out of pregnancy for all employment-related purposes.

The central purpose of the bill is to require that women workers be treated equally with other employees on the basis of their ability or inability to work. The key to compliance in every case will be equality of treatment. In this way, the law will protect women from the full range of discriminatory practices which have adversely affected their status in the work force.

Section 2 of this bill provides that title VII's basic prohibition against discrimination based on pregnancy will be effective immediately upon enactment. There is no reason not to provide women with immediate protection against discriminatory employment practices.

However, section 2(B) of the bill will delay the effective date of this legislation as it will apply to fringe benefit and insurance plans. This delay will provide a reasonable period within which employers and insurance companies can make necessary adjustments in existing plans, in order to bring them into compliance with the law.

Section 3 of the bill makes clear what employers can and cannot do in adjusting their fringe benefit programs to come into compliance with this legislation. Based upon the experience of the Justice Department and the Equal Employment Opportunity Commission under title VII, we believe that most employers will come into compliance in a short period of time.

It is also the committee's view that this legislation ought not to interfere with the legitimate expectations of employees, as regards their current fringe benefit coverage, or result in instability in labor-management relations. For this reason, section 3 provides that current benefit levels may not be reduced as a means of coming into compliance with this bill, and that prohibition would prevail for prescribed periods of time.

These periods were prescribed on the assumption that, after employers have come into compliance and been in compliance for some time, it is very unlikely that changes in fringe benefit packages would be made because of the need to provide equal benefit for pregnant women.

Mr. President, the committee found that the cost of equal treatment of pregnancy has been greatly exaggerated. It is likely that employers will find, after some experience, that the cost of equality in this regard is not significant; and the impetus to alter benefit packages for this reason will disappear.

Accordingly, section 3 provides that benefits may not be reduced as a means of compliance for a period of 1 year or, where this is a collective bargaining agreement, until the expiration of that agreement. The latter provision recognizes the importance of stability in labor relations during the term of a collective bargaining agreement and, therefore, prevents reductions due to this legislation during the term of a current agreement.

In the committee's view, these time periods will provide all affected parties with an opportunity to gain experience with the actual impact of the legislation. Thereafter, careful and informed consideration can be given to the desirability of readjusting fringe benefit programs in the context of nondiscriminatory coverage of all covered conditions.

Mr. President, the effect of this temporary prohibition against reducing benefits as a means of complying with the legislation is mitigated by a proviso that appears in section 3. This proviso permits employers to apportion the increased cost associated with this legislation between themselves and their employees, in the same proportion that applies to the cost of existing benefits. For example, where employers and employees presently share the cost of these fringe benefit programs on a 50–50 basis, any increased cost as a result of this legislation may also be shared on a 50–50 basis.

A second proviso to section 3 makes it explicit that the prohibition against reducing benefits does not apply where the employer reduces benefits for reasons unrelated to this legislation.

In this way, the bill makes it clear that we are not "freezing" benefits. Employers will remain free to adjust benefits at any time for reasons unrelated to this legislation, and will be free to adjust benefits for any reason after 1 year, or upon the expiration of any applicable collective bargaining agreement.

Mr. President, I would also like to address briefly several issues which arose during the course of the committee's deliberations.

With regard to the cost of this legislation, the committee received helpful testimony from many witnesses. We have carefully examined this testimony, and it is the committee's view that the cost of this legislation to employers, while not negligible, will not be unduly burdensome.

The committee believes that the $191.5 million estimate made by the Department of Labor with regard to the costs which will be incurred under existing temporary disability plans is the most reliable estimate received by the committee with regard to such plans. This amount would be a 3.5-percent increase in the cost of temporary disability plans: It represents five one-hundredths of 1 percent increase as a percent of total payroll cost for workers covered by temporary disability insurance plans. I say that is not negligible, but it is not the heavy burden that was described by some who had escalated the figure, in some mysterious way, into the billions. Not so. These figures are hard figures from the Department of Labor that I am sure we can rely on.

Another significant cost factor will be incurred by employers who maintain discriminatory health insurance and hospitalization insurance plans. Although the committee did receive one estimate of cost which might be incurred under these plans, several other witnesses testified that they could not make an accurate estimate of cost under health insurance and hospitalization insurance plans because of the great variety of those plans and because of a lack of sufficient analytical data as a basis for that estimate.

In this regard, it is important to bear in mind that this legislation does not require that any employer begin to provide health insurance where it is not presently provided. Rather, it requires that employers who do provide health insurance do so on a nondiscriminatory basis. Because some plans do not cover maternity costs at all, while others provide limited coverage, and because the degree of coverage required for nondiscrimination would depend upon the degree to which conditions unrelated to maternity are covered, the costs incurred as a result of this legislation would be extremely variable from plan to plan.

The committee's report on this legislation, No. 95–331, discusses this matter in more detail and provides some analysis of existing health plans. A review of the Department of Labor's digest of health insurance plans revealed that, in 1974, only 41 percent of plans appeared to be discriminatory under this legislation.

With regard to cost, it is also important to note that this legislation will not increase the costs of employers who are already subject to State laws which mandate the equal provision of benefits for pregnancy and related conditions. At least 23 States currently interpret their own laws to require the equal provision of benefits to women affected by pregnancy and childbirth. In those States, most employers are already subject to State law and the effect of this legislation will be to reinforce the State requirement of nondiscrimination with a Federal requirement.

Another question which arose during committee consideration of this bill is whether there should be a special provision concerning abortion. In this regard, I think it is important to observe that this is a pro-life bill. The practical effect of this legislation will be to encourage women to bear their children rather than to undergo voluntary termination of their pregnancies.

The purpose of the bill is to insure that women who are disabled by conditions related to pregnancy are compensated fairly and given a fair amount of assistance with their medical bills, in relation to their fellow employees who are disabled by other medical conditions. Because full-term pregnancies almost always result in greater disability and higher medical expenses, this bill will provide an important financial cushion for women who might otherwise seek to avoid those burdens by electing abortion.

Finally, Mr. President, I want to emphasize testimony received by the Committee from the American Nurses' Association, and from an eminent obstetrician, Dr. Andre Hellegres, which documented the concrete connection between loss of income during the disability phase of pregnancy and a deterioration of the health of the pregnant woman and of her child which results from impaired access to a healthful life situation.

In addition, there is a relationship between infant prematurity and income. It is estimated that prematurity costs the Nation $1 billion per year for care and hospital nursing alone, not to mention the cost of certain lasting effects which can result from prematurity.

These problems can affect an enormous number of our Nation's children. Approximately 40 percent of all pregnant women work and, as we know, a large number of them are heads of households, or have unemployed or low-income husbands. In March 1976, nearly 46 percent of our children under age 18 had mothers in the workforce. There were 14.3 million children in families in which the father was either absent, unemployed, or not in the labor force. In each of these circumstances, the children were better off in terms of family income if their mothers were in the labor force; although families headed by women have lower family income generally than families headed by men.

The cost of this bill, therefore, cannot be measured in terms of what it will cost to pay for benefit plans which cover women during their pregnancy-related disabilities. We must also consider the cost which is imposed on society when working women and their families are denied adequate income for a decent standard of living. This cost is felt in terms of medical complications for both the women and their children, and it is

felt in terms of the loss to our economy of the productive value of their talents and energies.

In summary, Mr. President, this legislation restores to our working women a very basic and fundamental protection against sex discrimination, one which we intended to provide to them when title VII was enacted. The fundamental importance of this protection—to our working women, to their families, and to American industry itself—has been made manifest during our consideration of this legislation. We had a unanimous vote of the committee in reporting this bill. I am confident that these facts are well recognized in this body, and that we will pass this legislation and restore this important protection for working women.

Mr. President, I ask unanimous consent that the following members of the staff of our committee be granted all the privileges of the floor during the debate on S. 995 and during rollcall votes: Stephen Paradise, Darryl Anderson, Michael Forscey, Michael Goldberg, Donald Zimmerman, John Rother, and Gerald Lindrew.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, with this measure coming up as it does, during a recess from the bill that was the pending business, and inasmuch as it will not be reached later this day, we know that our opening statements will be available. There will be an opportunity to review the record before we return to the debate, unless we are fortunate to have an opportunity to read it again this calendar day.

Mr. JAVITS. Mr. President, I am pleased to join with Senator WILLIAMS in urging passage of S. 995, legislation which would prohibit sex discrimination in employment on the basis of pregnancy. This legislation does not represent a new initiative in employment discrimination law, neither does it attempt to expand the reach of title VII of the Civil Rights Act of 1964 into new areas of employment relationships. Rather, this bill is simply corrective legislation, designed to restore the law with respect to pregnant women employees to the point where it was last year, before the Supreme Court's decision in *Gilbert* v. *General Electric Corp.*, 426 U.S. 125 (1976). In that case, the Court held that the exclusion of pregnancy and related conditions from an otherwise comprehensive disability insurance plan did not constitute sex discrimination in violation of title VII.

I hope the Senate will recognize the remedial purpose of the bill and approve it as reported from the Human Resources Committee.

The bill was thoroughly considered by the committee. We held extensive hearings, in which the administration, labor groups, civil rights organizations, women's groups and pro-life organizations all endorsed the bill, and several businesses informed the committee of their emment practices already in conformance with the bill's requirements. In addition to this very broad base of support, it is important to note that approximately 25 States have already, either legislatively or by administrative action, prohibited discrimination in employment against women who become pregnant. Thus, all that this legislation does is make uniform for the entire country not only a principle that we thought was well-established nationally prior to last year, but also a principle that continues to be enforced in half of the States of this country.

This principle, that discrimination against pregnant women is sex discrimination, is the substance of S. 995. As Mr. Justice Stevens stated,

> (b)y definition, such a rule discriminates on account of sex; for it is the capacity to become pregnant which primarily differentiates the female from the male.

Accordingly, the bill would prohibit as sex discrimination any personnel practice, fringe benefit program or other employment related action which treats pregnancy or pregnancy-related conditions differently than other conditions which also cause inability to work for limited periods.

The bill requires equal treatment when disability due to pregnancy is compared to other disabling conditions. Although several State legislatures, including New York, have chosen to address the problem by mandating certain types of benefits for pregnant employees, S. 995 does not go that far. Instead, the bill adopts as its standard equality of treatment, and thereby permits the personnel and fringe benefit programs already in existence for other similar conditions to be the measure of an employer's duty toward pregnant employees. It definitely does not require a particular fringe benefit program; it does not require a certain disability benefit level; it does not require an unlimited duration for the benefit period; it does not require employer to hire pregnant women.

This approach represents only basic fairness for employees who become pregnant. Without this legislation, they may face a series of obstacles to continuing the pregnancy to term while maintaining their jobs and their incomes. Many women temporarily disabled by pregnancy have been forced to take leave without pay or to resign. In so doing, they have forfeited the income which holds their families together, which helps assure their children adequate nutrition and health care, and which helps keep their families from resorting to welfare. Faced with the dual cost of being forced to pay their medical costs plus losing their wages, many low-income women have felt that only one alternative remained—even unwanted abortion. Where other employees who face temporary periods of disability do not have to face the same loss, it is especially important that we not ask a potential mother to undergo severe disadvantages in order to bring another life into the world. I would hope that we all can see the injustice that has occurred and that continues to occur without this bill.

Mr. President, we can no longer in this country legislate with regard to women workers on the basis of outdated stereotypes and myths. The facts are that women, like men, often need employment to support families, that women, like men, find their work and their careers important sources of self-esteem and personal growth, and that women, like men, have the skills and motivation to make important contributions to this country's life, if only we will clear away the arbitrary restraints that sometimes stand in the way. I believe that this body's commitment to equality of treatment by sex is firm, and thus we should now reaffirm the policy of equality on the job, especially when the female employee is uniquely female, when she is pregnant.

Arbitrary job discrimination against women based on pregnancy or childbirth has no place in our society. It is my belief that the Federal Government, as a matter of vital social policy, has the responsibility of enacting those laws necessary to assure women of their opportunity for full participation in the workforce.

As in all legislation designed to correct social injustices, this bill will entail some costs to employers and to the public. In my judgment, however, the costs entailed are quite insignificant in light of the principle that underlies the bill. That discrimination on account of pregnancy or childbirth is sex discrimination, and that pregnancy and childbirth are conditions of unequalled importance to every family, are fundamental truths. We cannot let the estimate of very marginal percentage increases in the cost of these benefits, estimated at less than 5 percent of existing benefit costs, stand in the way of the full guarantee against sex discrimination in employment. As in the landmark Civil Rights Act of 1964, the legislation before the Senate now is designed to estabilsh a principle that clearly outweighs any marginal costs incurred in its implementation.

Mr. President, the Supreme Court has provided us with an opportunity within our constitutional authority to amend title VII to make clear that sex discrimination includes classifications based on pregnancy. I urge my colleagues to support S. 995 and by so doing, to demonstrate once again our commitment to the achievement of genuinely equal opportunity for women.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. It is my understanding that at 5 o'clock we will return to the pending legislation on saccharin. Is my understanding correct?

The PRESIDING OFFICER. That will occur at 5:04.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. STAFFORD. I yield.

Mr. WILLIAMS. Mr. President, the Senator from Indiana (Mr. BAYH) has been one of the leaders in the Senate in advancing this measure. I am glad he is in the Chamber as we begin our debate on the sex discrimination bill dealing with pregnancy and pregnancy related conditions and disability. He was with us at the time of the introduction of the bill and he was very forceful.

Mr. BAYH. I want to compliment him

as chairman of the committee for the leadership role he has played not only in holding hearings but also in being the chief sponsor, and I, along with several others, appreciate very much the opportunity to have joined with him.

I cannot think of an area where our country should make an extra effort to see that equality of treatment is accorded to all of our citizens to a greater degree than in the area of health. Brown against Board of Education, of course, was the landmark decision in the area of equality of education many years ago. But, unfortunately, we still have today rather substantial evidence in certain circumstances where certain classes of citizens who happen to be women are discriminated against relative to their ability to get health services delivered.

As will come out plainly in the debate, and has been mentioned before by our distinguished chairman and chief sponsor of the bill, what this measure is designed to do is not to say to manufacturers and employers "Thou shalt provide disability," but, indeed, "if you do either voluntarily or through the negotiating process between the work force and management determine that the work force should be covered by disability, thou shalt not discriminate against a classification within the work force, women, because women are uniquely capable of becoming pregnant."

I think we can make a good case on this not only on the basis of equity, but I think chapter and verse can be displayed or will be put on the record to show that those corporations that have provided pregnancy disability for women in the work force have really benefited as a result thereof.

Those who say this will present an unnecessary cost burden upon the industry in question should look at the record. The record shows, it seems to me, beyond dispute that in those instances where disability benefits for pregnancy have been made available for women in the work force, the time away from the job has been shorter, and thus the loss to the employer has been less, and the number of women who returned to the job, thus prohibiting the need to go out and get new workers and retrain them and reequip them for the job, the number of workers returning has been greater.

All of this, of course, is beneficial to the person who is running the plant.

So I think you can make a good dollars-and-cents case and, in my judgment, beyond dispute you can make a good case on the basis of the constitutional question of equity.

I again appreciate the distinguished Senator from New Jersey's contribution he has made to bring this to our attention, and I am looking forward to a successful legislative endeavor once again with him.

Mr. WILLIAMS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Under the agreement entered into, is there any more time on this bill or have we reached the time limit?

The PRESIDING OFFICER. The Senator has 1 more minute remaining.

Mr. STAFFORD. Mr. President, if the Senator will yield to me for that minute——

Mr. WILLIAMS. I will be happy to yield to the Senator from Vermont.

Mr. STAFFORD. I would like to reaffirm the statement of the chairman of the committee. The bill came out of our committee with a unanimous vote.

I will also tell the distinguished chairman of the committee that I thought his explanation of this bill was an excellent one. It is too bad there were not more Senators on the floor to hear it, but it covered all of the details in excellent fashion.

I hope our colleagues, Mr. Chairman, will have the opportunity between now and the vote later tonight or tomorrow morning to read your opening statement for their full understanding of this important legislation.

Mr. WILLIAMS. I appreciate that.

It has been a great pleasure to work with the Senator from Vermont, as we developed this legislation in our committee. Our relationship has been productive in this, as in other matters; and it is a pleasure to work for these measures that are designed to bring new opportunities to people who are denied equal opportunities, as women have been denied certain opportunities as a result of the Supreme Court's decision in the Gilbert case.

Mr. BAYH. Mr. President, I ask unanimous consent that a member of my staff, Barbara Dixon, be accorded the privilege of the floor during the debate which will occur and the votes which will occur on S. 995.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we can set right the injustice of unequal health protection for male and female employees by passing S. 995. This amends section 701 of the Civil Rights Act of 1964 by providing that employers who offer disability benefits must offer them to cover pregnancies.

As a cosponsor of this legislation, and as one who spoke strongly in support of it in testimony delivered before the Labor Subcommittee, I welcome it to the Senate floor. It is a vital piece of legislation and must be passed.

It is only a shame that 13 years after passage of the Civil Rights Act we must still be addressing an elementary issue such as the one we face today.

In Gilbert against General Electric, the Supreme Court decided that employers did not have to include coverage for pregnancy and related illnesses in their disability plans. After all, neither men nor women were covered for their pregnancies.

But, as Justices Brennan and Marshall said in their dissent "A realistic understanding of conditions found in today's labor environment warrants taking pregnancy into account in fashioning disability policies."

Forty-seven percent of the labor force in the United States today are women. Seven of every 10 girls born today will at some point in their adult lives become a part of the labor force. In the past 30 years, the number of working mothers has tripled. In the past decade, women accounted for over 50 percent of the increase in the civilian labor force.

It is critical to remember that women work because they have to. Seventy percent of the women who work, over 25 million, are women who need the money to support their families, as they are either the sole wage earner, are married to husbands who earn less than $7,000 a year, or are single, divorced, or widowed.

Approximately 85 percent of working women become pregnant at some point during their working lives. Of the women who are briefly disabled by their pregnancies, 60 percent return to work.

At present, many of these women return to work at jobs that have not provided any disability coverage to them during the period of time they were medically certified as disabled.

Since women work to support their families, depriving them of such coverage at a time they and their families are very much in need of it discriminates not only against these women but against their families as well. This discrimination handicaps children who are born into families where a paycheck—possibly the only paycheck—has arbitrarily vanished.

This devastating effect is unfair and cuts to the heart of the Civil Rights Act. For, medical matters of far less serious concern are covered by these policies when they happen to affect men. Thus, the protections and attractions of the workplace are more comportable for men than they are for women. I would call that discrimination.

Now, an employer can provide disability benefits for cosmetic surgery but not provide such benefits to women with genuine pregnancy-related disabilities. Many, though not all, fringe benefit plans follow a discriminatory pattern of providing for types of cosmetic surgery, or nonessential surgery such as vasectomies, but not pregnancies. And pregnancy is as voluntary or involuntary as skiing accidents, or diseases caused by smoking, yet the latter events are almost always covered by major medical plans.

The proposed amendment conforms to the 1972 guidelines of the Equal Employment Opportunity Commission.

This amendment does not require all employers to provide disability insurance plans; it merely requires that employers who have disability plans for their employees treat pregnancy-related disabilities in the same fashion that all other temporary disabilities are treated with respect to benefits and leave policies.

The time has come for Congress to guarantee to the 39 million working women of this Nation that sex discrimination in employment is ended. The time has come for all of us to understand that the Nation's economy and the economic resources and stability of countless families depend to a significant degree on the earnings of women who make up over 40 percent of our country's workers. The time has come to end for all time the ridiculous notion that with the tremendous challenges facing this

Nation, we can any longer afford to waste, through discrimination, the wealth of talent and energy in our Nation's work force. Congress must take the responsibility of changing this situation by enacting this amendment.

SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1750, which the clerk will report.

The assistant legislative clerk read as follows:

S. 1750, a bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, and so forth.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The clerk will report the pending committee amendment.

The assistant legislative clerk read as follows:

On page 10, beginning with line 7 down through line 16 on page 11, insert new language.

The PRESIDING OFFICER. Who yields time?

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, and I think we can get started in 2 or 3 minutes.

There being no objection, the Senate, at 5:05 p.m. took a recess, subject to the call of the Chair.

The Senate reassembled at 5:10 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will state the pending committee amendment.

The assistant legislative clerk read as follows:

On page 10, beginning with line 7, insert new language down through line 16 on page 11.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. Mr. President, I understand that is a committee amendment; am I correct in that?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. And there is a series of still pending committee amendments that have to be accepted.

The PRESIDING OFFICER. That is the last committee amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I call up amendment No. 834 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself and Mr. CRANSTON, Mr. DOMENICI, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. STEVENS, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. ZORINSKY proposes amendment No. 834.

The amendment is as follows:

Beginning on line 7, page 10, strike out through line 10, page 11.

Mr. CANNON. Mr. President, there really is no debate necessary on this amendment as it is merely an amendment to insure that the print media and the electronic media are treated equally in terms of any advertising requirements Congress may or may not impose in this area.

This would strike the committee amendment requiring the warning to be printed in the advertisements in written communications.

It just does for the printed media precisely what we did in the previous amendment for the electronic media.

I have no desire to take any additional time.

I am willing to yield back my time unless there is further debate on this.

The PRESIDING OFFICER. The yeas and nays have been previously ordered on this amendment and would have to be vitiated.

Mr. KENNEDY. Mr. President, I yield myself what time I may use.

Mr. President, during the course of the debate on the previous two amendments that dealt with the electronic media the case was made, and the case was also made in the committee, first, that we are giving extraordinary discretion to the Secretary of HEW in fashioning a health message which would communicate the potential risk to the American consumer. There was serious resistance and reluctance among the membership to grant that kind of a broad authority to the Secretary of HEW, even though the committee believes that there is an extremely important and vital health issue in which the Secretary of HEW should be involved in protecting the health of the American consumer.

But the Senate went on record on that particular issue, saying we do not want to grant that authority based upon either the record of the committee or in the findings of the principal health officers of this country.

Then we went to the question that we will not grant that particular discretion which would give broad authority to the Secretary of HEW, without getting together with the Federal Communications Commission or other regulatory agencies. So then we indicated what we felt would be a fallback position which was to insist that in the electronic media they would still have the warning aspect added to the radio or to the television communication.

All that it would do in terms of television would require the same kind of warning label that would go on any of the particular food items or other items that had saccharin in it and we would require the similar kind of tag line which we add on the basis of all political advertising, a small simple tag line about the potential risk to your health and the potential risk of cancer. The Senate went on record in opposition to that because they said:

In a short ad of 10 seconds or 20 seconds that is advertising these soft drinks that have saccharin we just cannot add that particular message.

Here we want to strike with regard to advertising even in the printed media.

In the area of cigarettes we do include a warning, and all we are trying to do in terms of the printed media is include a similar kind of warning.

The proponents of this particular amendment cannot say:

That is going to interfere with the broadcast industry or it is going to be a health message which is difficult to define, we cannot really do it, we do not have the knowledge or wherewithal or the understanding about how to do it.

All we are really saying is we are going to do the same thing in the area of the cancer-forming agent of saccharin in animals that we do in terms of smoking.

It will be just lying there. The printed media will just be staring us in the face. It will not be a moving object. It will just be printed there, and people can give it what kind of consideration they want.

The simple kind of label that we mentioned before that indicates that:

Cancer has been found. The product contains saccharin which causes cancer in animals. Use of this product may increase your risk of developing cancer.

The members of the Commerce Committee want to strike that from the printed advertisement.

Mr. President, I think whatever legitimate arguments that the committee had before about unreasonable allocation of authority and power to the Secretary of HEW in an area where they were interested falls on this particular issue.

Mr. President, I know, although the argument has not been made here, some believe if we are going to strike it out in terms of the electronic media we should strike it out with regard to the printed media in order for fairness and equity.

Mr. President, if that is a constitutional issue or question, let the courts decide it, and I do say if we are going to commit discrimination let us discriminate in favor of the health of the American people on this particular issue.

That is what we are asking when we are talking about the danger of cancer in terms of the American society.

Mr. President, I would hope this amendment will be defeated.

I reserve the remainder of my time.

Mr. CANNON. Mr. President, the Senator did properly anticipate, I think, that this would raise the due process issue. If we treat the electronic media in one fashion, we need to treat the printed media in a similar fashion; otherwise we might well have an attack on the ground of due process.

I say to my good friend from Massachusetts that we are not proposing to make any change in the warning that is on the product itself. That warning remains there, and if the Senator is providing for the test here, within the bill, which again I support, if the results of those tests come back with some conclusive results such as we found in the

smoking situation, then at that time I would certainly support the warning in both the printed and the electronic media. But that is not conclusive at this time as to the results. The only conclusive point so far is that saccharin in huge dosages does cause cancer in Canadian rats or mice.

So I submit that in fairness we should treat the print media the same as the electronic media, and, under due process provisions, I think we would have to.

If there is no further debate, I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, just one point. A similar due process issue was raised in connection with cigarettes, where we had a prohibition in terms of the electronic media and the labeling in terms of the print media. That was challenged in court, and it was found that Congress had the authority and it was within the equal protection provision to take such action.

It seems to me now, Mr. President, that if we are going to make a choice and a decision, the Surpeme Court can make a judgment on that.

I daresay the precedents on this issue in terms of smoking—Congress had hardly passed the legislation with regard to smoking when that was being challenged by all the tobacco industries, and in the court decision they found the authority and the power were there. I ask unanimous consent that a portion of a letter from the Department of Justice to Senator MAGNUSON, Chairman of the Commerce Committee, be made part of the RECORD.

There being no objection, the portion of the letter ordered to be printed in the RECORD, as follows:

A somewhat similar issue was presented in *Capital Broadcasting Co.* v. *Mitchell*, 333 F. Supp. (D.D.C., 1971), *aff'd sub nom. Capital Broadcasting Co.* v. *Acting Attorney General*, 405 U.S. 1000 (1972). That case involved an attack upon the constitutionality of the provision of the Public Health Cigarette Smoking Act of 1969, 15 U.S.C. 1335, which prohibited advertising cigarettes on the electronic media. The district court upheld the statute. One argument made by the plaintiffs, and rejected, was that the statute contravened the Fifth Amendment because it created an arbitrary and invidious distinction between the electronic media and other media. 333 F. Supp. at 585–86. The district court found rational bases for the distinction, *e.g.*, the fact that youngsters might be influenced more by broadcast advertisements than by written ones and the fact that the airwaves are owned by the public and regulated by a federal agency.

Mr. KENNEDY. Let us discriminate in favor of protecting the American people's health in this case.

Mr. CANNON. Mr. President, I think it should be pointed out that in the case the Senator referred to, it was the reverse process. The prohibition existed as to the electronic media, and they raised the question that they were treated differently. Here we have permitted the electronic media to go ahead and advertise and have not required the warning; so I think it is just a reverse-type of situation. I do not know what the courts might find, but I just say in fairness, in my own judgment, irrespective of the due process provision, we ought to treat them the same.

Mr. KENNEDY. The point is that with the recommendation of the Commerce Committee, you have them being treated differently. You will have a labeling requirement in the printed media and on the product, and a prohibition of advertising in terms of the electronic media.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time if there is no further discussion.

Mr. KENNEDY. Mr. President, I understand the yeas and nays have been ordered.

The PRESIDING OFFICER (Mr. CULVER). That is correct. Does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE), is absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Maine (Mr. MUSKIE). If present and voting, the Senator from Minnesota would vote "nay" and the Senator from Maine would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) is necessarily absent.

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—59

Allen	Ford	Morgan
Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bumpers	Gravel	Pearson
Burdick	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Sasser
Byrd, Robert C.	Hatch	Schmitt
Cannon	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Clark	Helms	Stafford
Cranston	Huddleston	Stennis
Curtis	Inouye	Stevens
Danforth	Johnston	Stevenson
DeConcini	Laxalt	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Durkin	Magnuson	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Young
	Melcher	Zorinsky

NAYS—37

Abourezk	Hathaway	Nelson
Anderson	Heinz	Pell
Bayh	Hollings	Percy
Bellmon	Jackson	Proxmire
Bentsen	Javits	Randolph
Biden	Kennedy	Ribicoff
Brooke	Leahy	Riegle
Case	Mathias	Sarbanes
Chiles	McGovern	Schweiker
Church	McIntyre	Weicker
Culver	Metcalf	Williams
Hart	Metzenbaum	
Haskell	Moynihan	

NOT VOTING—4

Garn	McClellan	Muskie
Humphrey		

So the amendment (No. 834) was agreed to.

(Later the following occurred:)

Mr. MATSUNAGA. Mr. President, on rollcall No. 379, I am recorded as having voted "nay." Inasmuch as the shift of vote will not in any way affect the final result, I ask unanimous consent that I be recorded as having voted "aye."

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing rollcall votes reflects the above order.)

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the amendments of the Human Resources Committee on page 11, lines 9 through 16, be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

AMENDMENT NO. 855

Mr. CRANSTON. Mr. President, I call up amendment No. 855 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. HAYAKAWA, proposes an amendment.

On page 7, line 18, insert the following: "The requirements of this subsection shall not preclude the Secretary from prescribing appropriate alternative methods for communicating such statement to consumers for food products for which manufacturing is completed on the effective date of this subsection, including sticker labeling or conspicuous notices accompanying the sale of such products at retail.".

Mr. CRANSTON. Mr. President, this will take probably 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CRANSTON. Yes; I will.

Mr. ROBERT C. BYRD. Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, when the Senate completes its work on the saccharin bill today, there will be no more rollcall votes today.

I thank the Senator from California.

Mr. CRANSTON. Mr. President, I am delighted that my colleague (Mr. HAYAKAWA) has joined me in sponsoring this amendment.

This amendment has been discussed with the staff of the distinguished floor leader for the bill (Mr. KENNEDY) and him, and with the staff of the ranking minority member of the Senate Health and Scientific Research Subcommittee (Mr. SCHWEIKER). It is my understanding that my amendment is acceptable to them.

This amendment simply clarifies the authority of the Secretary to prescribe alternative methods for saccharin warning information for food products for which manufacturing is complete on the effective date of the warning requirement. The language is intended to give the Secretary the flexibility needed to resolve the unusual difficulties faced by canners of dietetic-pack produce who do their canning once each year when the produce is harvested and thus will have substantial inventories on hand when the bill becomes law. The 90-day effective date for labeling requirements currently in the bill does not adequately address this particular manufacturing situation.

California canners are especially affected by the requirements of the bill, inasmuch as the average yearly pack in California represents 35 to 40 percent of the entire U.S. production of fruit and vegetables, including dietetic pack. The production timetable and inventory problems on dietetic-pack foods makes sticker labeling, for example, extremely expensive. One California company's cost estimate for sticker-labeling the 166,000-case inventory they expect to have on hand October 1, 1977, is some $197,000, or about 7 cents per can. That 7 cents per can would most likely be expressed as an additional 10 cents per can at the retail level. which I believe raises a question as to whether more efficient means of compliance in these unusual situations might be more swift and just as effective for both manufacturer and consumer.

I believe this is an equitable amendment, and I am very hopeful that the committee will accept it.

Mr. KENNEDY. Mr. President, we accept the amendment of the Senator from California. It basically clarifies language that is already in the legislation. It will conform to the thrust of the rest of the legislation. I have no objection to it. The Senator from Pennsylvania, I think, understands the full purpose of it.

Mr. SCHWEIKER. Mr. President, I have no objection.

Mr. CRANSTON. I thank both Senators very much.

The PRESIDING OFFICER. Do the sponsors of the amendment yield back their time?

Mr. CRANSTON. Yes.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I do not intend to take very much time. I am going to make a motion to recommit this bill to the Human Resources Committee. I shall make a very brief comment and then I hope that we shall vote on it.

At this time, I ask to have the yeas and nays on that motion at the appropriate time.

The PRESIDING OFFICER. Is there objection to that request at this time? There is no objection. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I hope this bill will be returned to our Health Subcommittee. I shall state very briefly why I believe that it should be returned.

We reported a bill out of the Health Subcommittee that tried to be a careful balance between the risk and the benefits of the use of saccharin. In the days of hearings that we had and the reports that we had and the studies that we had, we did find that there were some benefits from the continued use of saccharin to some 40 million Americans and there were also some risks. So we tried to devise a formula by which the American public could make an informed and intelligent judgment about the use of products that contain saccharin and also insure adequate protection for the American public. Now, during the course of this afternoon, we have changed, in a very important and significant way, that ratio. We have changed it in a way that was not suggested or recommended by any of the medical professionals that appeared before our committee or testified before our committee or submitted evidence before our committee.

The principal debate between the medical professionals was, on the one hand, for a complete ban and, on the other hand, for a continuation of it with very carefully controlled warning and advertising recommendations. That is where the debate was. Now we have a proposal that is before the Senate which changes this particular balance in a very significant and dramatic way, a way that was never recommended or suggested by any of the medical personnel. Primarily, it was done as a result of those who are most concerned about the implications of this measure on the electronic and advertising industry.

The Commerce Committee, with all due respect, never held one single day of hearings on that particular issue—not one. I do not know, nor have I heard this afternoon, any comment or testimony or statement by members of the Commerce Committee that gave us informed judgments about what the broadcasters thought about this or whether they had an alternative, or whether they could make some suggestions by which they could live with the various advertising recommendations that were included in this bill and also protect the American public.

We shall call those particular broadcast individuals, representatives from the television and the radio industry, and ask them to come before our committee and help us devise a mechanism which they can live with and that will also protect the American public. We think that the Senate is entitled to that kind of information and that kind of judgment. We do not have it today. All we have is complete prohibition against any kind of advertisement by the electronic media and warnings about the danger or risk.

We ought to hear as well, I believe, so that Members of the Senate will understand, about what will be the increased consumption of the products of the soft drink industry.

There may be those in this body who feel that because we put a precise label on a particular product that has saccharin, we are doing enough in that area. But I daresay we will see an increase in advertising in each and every one of those products over a period of time and we will see a corresponding increase in price to the consumer.

That will be the result if we pass this particular piece of legislation and it is enacted into law. I daresay that will be the result. Sure, it will be more expanded than it is on Tab and Fresca. But we will find more advertising in the electronic media and more in the printed media without any kind of warnings and we may very well see a dramatic increase in the use of those particular products.

So I hope, Mr. President, this measure will be recommitted with the clear understanding that we would have hearings at an early time to listen to the suggestions of the broadcast industry. We would lay out before that industry the evidence that we have today about the potential risk and potential dangers.

We would ask them to help us devise a means and mechanistm by which that could be presented to the American people, and we would be able to report back as a result of this what the risks of such legislation would be.

Mr. President, I am prepared to move to a vote, unless others would like some time.

Mr. SCHWEIKER. Mr. President, reluctantly, I rise in opposition to the Health Subcommittee Chairman's motion to recommit this bill.

I supported the original bill in the form it was before us in the Health Subcommittee, as reported by our Human Resources Committee.

I was one of the two original sponsors of this bill. I, frankly, believed that it was important to have health warning information as widespread as we did in our bill, not only on the product label itself, but also in advertising.

On the other hand, I also happen to believe very strongly that there are many people with various health problems who are dependent on some kind of artificial sweetener, whether it is saccharin or something else. The tragedy is, of course, that there is no other choice. It is not a matter of having some other choice before us. Saccharin is the last non-nutritive artificial sweetener on the market in the United States.

I believe in view of that, the potential health benefits of saccharin still may outweigh the risks to the diabetic child, to the patient who is trying to keep obesity under control so that either his blood pressure or heart problem is manageable. I believe, all things said and done, as much as I prefer to have the health warning information disseminated in the advertising media as well as on the label, that it is important to have a bill.

So I commend Senator KENNEDY for his leadership on this bill on the floor. I have voted with him on all the other votes, but in this particular instance I, in good faith, cannot, because I believe there are a substantial number of people in this country who for differing legitimate reasons, including medical reasons, have a need for this product.

Therefore, I will have to oppose the motion to recommit the bill.

Mr. CANNON. Will the Senator yield me some time?

Mr. SCHWEIKER. I yield the Senator 5 minutes.

Mr. CANNON. Mr. President, I associate myself with the remarks of the Senator from Pennsylvania.

I think it is rather shortsighted to have this bill recommitted now to go into the matter further, to try to undo what the Congress elected to do here today on the floor.

The situation now is that FDA already came out with a proposed ban, a proposed rule to ban the use of saccharin, to ban the use in the present products on the market, and the time for comments would have expired July 15.

But when this legislation was pending, FDA extended the time to October 1.

Now, if this bill goes back to committee and no action is taken, they will simply step in and ban the use of saccharin and ban the sale of those products that have already been manufactured and on the market.

The distinguished Senator from Massachusetts himself earlier in the debate on this matter pointed out a lot of the good points in this bill, a lot of valuable points insofar as the saccharin uses that could be permitted.

The bill itself provides for a study. Let us find out conclusively what the situation is with respect to the use of saccharin on anything other than Canadian rats.

But I believe, Mr. President, that we are going to find ourselves in a very unfortunate position if we support the position to recommit this bill. We will find people that are entitled to be able to use saccharin all over this country that will be prohibited from using it if this bill is returned back to the committee.

I thank the Senator for yielding.

Mr. KENNEDY. Mr. President, just 1 or 2 more minutes.

The fact of the matter is that before we vote on this the membership should understand that they are going against the recommendations of every health expert in this country—every health expert in this country on this particular issue.

We had a divided scientific and research community about the best steps that could be taken. But with all due respect to the Commerce Committee, there is not one health scientist or researcher that has reviewed any of this material that would recommend what the Senate has done this afternoon, and we ought to understand that.

That is the situation. It is an attempt to see if we cannot find at least some way or means of attempting to deal with that that I make the motion for the recommittal.

Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The motion to recommit now occurs. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Maine (Mr. MUSKIE). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Maine would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) is necessarily absent.

The result was announced—yeas 24, nays 70, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—24

Abourezk	Javits	Pell
Bayh	Kennedy	Proxmire
Brooke	Mathias	Randolph
Culver	McGovern	Ribicoff
Durkin	McIntyre	Riegle
Hart	Metcalf	Sarbanes
Haskell	Morgan	Sasser
Hathaway	Nelson	Williams

NAYS—70

Allen	Eagleton	Metzenbaum
Anderson	Ford	Moynihan
Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Percy
Biden	Hansen	Roth
Bumpers	Hatch	Schmitt
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Heinz	Sparkman
Byrd, Robert C.	Helms	Stafford
Cannon	Hollings	Stennis
Case	Huddleston	Stevens
Chafee	Inouye	Stevenson
Chiles	Jackson	Stone
Church	Johnston	Talmadge
Clark	Laxalt	Thurmond
Cranston	Leahy	Tower
Curtis	Long	Wallop
Danforth	Lugar	Weicker
DeConcini	Matsunaga	Young
Dole	McClure	Zorinsky
Domenici	Melcher	

NOT VOTING—6

Eastland	Humphrey	McClellan
Garn	Magnuson	Muskie

So the motion to recommit was rejected.

AMENDMENT NO. 858

Mr. NELSON. Mr. President, I call up my substitute amendment No. 858.

The PRESIDING OFFICER (Mr. METZENBAUM). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes amendment No. 858.

The amendment is as follows:

Strike out all after the enacting clause and substitute the following:

"SECTION 1. (a) During the eighteen-month period beginning on the date of the enactment of this Act, saccharin—

"(1) shall be deemed to be 'unsafe' within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

"(2) shall be deemed to be a 'poisonous or deleterious substance' within the meaning of section 402 of the Federal Food, Drug, and Cosmetic Act;

"(3) shall not be deemed to be a 'new drug' for any purpose within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act; and

"(4) shall not be deemed to be a drug subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act; and

"(5) shall be deemed to be an over-the-counter drug.

"(b) Notwithstanding the provisions of subsection (a), it shall be unlawful for any person to distribute or offer for sale any saccharin product unless it meets all of the following:

"(1) the product is represented, and promoted, solely as a noncaloric tablet-top sweetener for use only by persons medically required to restrict dietary consumption of carbohydrates;

"(2) bears a warning label stating: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER.' Such label statement shall be located in a conspicuous place on such packaging and labeling as proximate as possible to its name and shall appear in conspicuous and legible type in contrast to typography, layout, and color with other printed matter on the package; and

"(c) The Secretary of Health, Education, and Welfare shall, by order, specify the labeling and disposition of all articles for human consumption or use containing saccharin manufactured on or before the enactment of this Act: *Provided, however,* That no such products shall be recalled or removed from the market nor destroyed: *And provided further,* That the Secretary may permit the continued manufacture, marketing, or use of any product during the effective period of this enactment if he determines that such action is in the public interest.".

Mr. NELSON. Mr. President, there are 2 hours allowed on the amendment. I do not intend to take more than 2 or 3 minutes. I wonder if the majority leader would listen to this. I only intend to take 2 or 3 minutes since I have spoken several times today on the exact principle of this amendment, and I will ask for a rollcall.

Will there be two back-to-back rollcalls here before going to final passage as soon as I am defeated in my amendment?

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I am not sure Senators are going to ask for a rollcall vote on final passage.

Mr. NELSON. I am going to ask for a rollcall vote.

Mr. ROBERT C. BYRD. The question is?

Mr. NELSON. I intend to speak for 2 or 3 minutes just to explain the amendment, and ask for a rollcall, and then just to inform the Senators, and if there were no other amendments we would immediately call for the vote on final passage.

Mr. ROBERT C. BYRD. Yes, if there are no other amendments.

Mr. CANNON. There will be one technical amendment.

Mr. ROBERT C. BYRD. One technical amendment.

Mr. NELSON. All right.

Mr. President, as I said a moment ago, I have been involved in this discussion

for the last 8 hours and 15 minutes, so everything I have had to say on this issue I have already said.

This substitute amendment would implement by statute what the Commissioner of the Food and Drug Administration would accomplish if we did not sustain his authority by passing the bill, that is to say, this substitute amendment would permit the sale of saccharin sweeteners over the counter so that anybody who wished to use saccharin as a sweetener could go to the grocery store or to the drugstore, buy the sweetener, prescribe it for themselves, add it to any food they desired, but it would prohibit the use of saccharin in any way in the food chain, whether it is diet soda or diet foods of any kind. That is what the amendment is all about.

I realize what the position of the vast majority in the Senate here is, and I do not think I need to say any more.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. Yes.

Mr. JAVITS. I would like to say this has been consistently Senator NELSON'S position. It is a highly principled position. The only reason why we reported this bill was, so far as I could see, to accommodate precisely the people whom he has mentioned. But in view of the way in which the Senate has acted on publishing the danger in print or in electronic media, this strikes me as the only responsible, properly responsible, way out.

If I do finally vote for the bill—because neither he nor I is too optimistic about this one—I would still like my tribute to the Senator to remain of record. He has been completely consistent and completely catholic to the purpose of this bill, and the constituency for which it was intended.

Mr. NELSON. Let me say that I thank the distinguished Senator from New York for those kind remarks. I did not think I was going to get anything out of this bill, so I am happy for your kind remarks. That is more than I hoped for.

I yield back the remainder of my time.

Mr. KENNEDY. I yield just 2 minutes.

Mr. President, I intend to support the amendment of the Senator from Wisconsin and then subsequently—and I believe as the Senator has stated it will not be accepted—vote against the bill.

Without accepting the amendment of the Senator from Wisconsin, if the Senate accepts this bill we will have effectively set aside one of the most important health laws that exists on the statutes of this country, and that action is going to minimize the protection of the health of the American people and maximize the risk in one of the most important areas of concern to the American people and that is in the area of cancer.

I think the Senate has gone on record during the course of this day. It seemed to me at the early part of the day, in the recommendation that was made by the committee, we had provided the kinds of protections so that free choice could be made. I am satisfied that the decisions that have been made by the Senate will result in the American people not be given the kind of information to make informed judgment, and given the risks that are attendant to this whole issue or question I intend to support the amendment of the Senator from Wisconsin and then subsequently vote against the bill.

Mr. NELSON. Mr. President, I did yield back my time. I wonder if the Senator will yield me a minute.

Mr. KENNEDY. I yield the Senator a minute.

Mr. NELSON. I want to say that I regret very much what the Senate is about to do, and I know how busy everyone is. But I suspect if everyone here had taken a fair amount of time to study carefully the scientific evidence involved here there would at least be many more Senators who would not vote in favor of the suspension of the law for 18 months.

I think we are all going to regret this major mistake and 18 months from now the situation is not going to be any different except there will be more deaths that show exactly the same thing. That it is carcinogenic in animals. There is no way in 18 months you are going to convincingly prove that it causes cancer in human beings unless there is some dramatic epidemological study of the right class of people with an exposure to saccharin. Unless that group of people can be found and that kind of study made, we will have more information but it will be the same information we already have and we will all regret we took a statute, which is probably the finest piece of health legislation passed by any country in the world, and decided, based upon our scientific expertise to suspend the law and continue to expose billions of people to carcinogenic agents.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I am prepared to yield back the remainder of the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. MUSKIE) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) is necessarily absent.

The result was announced—yeas 18, nays 76, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—18

Abourezk	Hollings	Metcalf
Church	Javits	Nelson
Culver	Kennedy	Proxmire
Durkin	Mathias	Randolph
Haskell	McGovern	Ribicoff
Hathaway	McIntyre	Riegle

NAYS—76

Allen	Ford	Moynihan
Anderson	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Roth
Biden	Hatch	Sarbanes
Brooke	Hatfield	Sasser
Bumpers	Hayakawa	Schmitt
Burdick	Heinz	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
	Huddleston	Sparkman
Byrd, Robert C.	Inouye	Stafford
Cannon	Jackson	Stennis
Case	Johnston	Stevens
Chafee	Laxalt	Stone
Chiles	Leahy	Talmadge
Clark	Long	Thurmond
Cranston	Lugar	Tower
Curtis	Magnuson	Wallop
Danforth	Matsunaga	Weicker
DeConcini	McClure	Williams
Dole	Melcher	Young
Domenici	Metzenbaum	Zorinsky
Eagleton	Morgan	

NOT VOTING—6

Eastland	Humphrey	Muskie
Garn	McClellan	Stevenson

So Mr. NELSON'S amendment was rejected.

AMENDMENT OF AMENDMENT NO. 834

Mr. CANNON. Mr. President, on amendment No. 834, I inadvertently struck out lines 9 and 10 on page 11, which was the effective date of the act. Therefore, I ask unanimous consent that amendment No. 834 be amended to read as follows:

Beginning on line 7, page 10, strike out through line 8, page 11.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. The only thing that does is to restore the effective date as it is in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that technical and conforming corrections can be made in the engrossment of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time. I do not know whether or not the Senator from Wisconsin wants to have a rollcall vote on passage. I would not insist upon it. It is up to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BAKER. Mr. President, I am pleased that the Senate is today considering legislation to postpone the effective date of the FDA's proposed ban on saccharin. The saccharin issue is one which affects millions of Americans, and I commend the Committee on Human Resources for its prompt and thorough consideration of this matter over the past few months.

Although saccharin has been widely used as an artificial sweetener for over 80 years, its safety was not called into question until the FDA announced the results of laboratory tests which showed that saccharin caused cancer in animals. Serious questions arose as to whether or to what extent these results could be transposed to humans and as to the reliability of the studies on which FDA based its decision to ban saccharin. Since saccharin is the only artificial sweetener now available, it is heavily relied upon by persons who must reduce their sugar intake because of heart disease, diabetes, hypertension or obesity. It seemed clear last March, when the FDA made its announcement, that the widespread effect of a ban on saccharin warranted careful review by the Congress.

Since that time, the Committee on Human Resources has held thorough hearings on the saccharin issue, receiving testimony on both sides of the FDA ban and a report from the Office of Technology Assessment evaluating the scientific and technical information available. The Committee has concluded that more information is needed before a final determination is made on saccharin, and it has recommended an 18-month moratorium during which saccharin would continue to be available while the Secretary of HEW conducts studies to learn more about the risks and benefits of saccharin and to explore the possibility that the impurities present in commercial saccharin may be responsible for the carcinogenicity which has been shown to exist in laboratory tests.

I concur with the committee's recommendation that the Secretary have authority to remove saccharin from the market during this period if new evidence should be developed showing that saccharin represents an unreasonable and substantial risk to public health and safety. In addition, I agree that saccharin products should be required to bear a warning label so that the public will be aware of the possible risk involved in its use.

I am concerned, however, about the provision of the bill which directs the Secretary of HEW to develop a warning to be included in all advertising of saccharin products. In view of the conflicting opinions of the scientific community and the fact that conclusive evidence of saccharin's impact on humans has yet to be obtained, I believe that duplication of the warning in all media advertising is an unnecessary and overly burdensome requirement. I note that the Committee on Commerce has recommended deletion of this requirement as it affects broadcasters, and I hope that the Senate will favorably consider this suggestion as well as proposals to delete the restrictions on advertising in the print media.

With these modifications, I believe that this measure represents a reasonable solution to the controversy which has arisen over the FDA's proposed ban on saccharin. I hope that it can be enacted as quickly as possible so that work can begin on obtaining the additional information we need to further evaluate the toxicity of saccharin products.

Mr. WILLIAMS. Mr. President, on July 19, the Committee on Human Resources reported S. 1750, a bill to suspend the authority to ban saccharin for 18 months and to review other issues relating to the dangers and benefits of this substance, to the Senate floor. In recognizing the potential risk of allowing saccharin to continue to be marketed, the committee bill also requires that studies be undertaken to study the toxicity of saccharin and requires that all saccharin products carry a prominently displayed warning statement of all potential risks. The bill further requires that all advertisements include a health warning message and directs the Secretary of Health, Education and Welfare to determine the appropriate form and content to be used for warning messages so that the impact will be equivalent on print and electronic media.

This action to suspend the authority of the Food and Drug Administration to ban this substance was not taken lightly. It followed rather careful study by the Subcommittee on Health and Scientific Research after the initial proposal of the FDA of its intention to ban saccharin on March 9, 1977. The subcommittee first requested a study to be done of the technology to determine carcinogenicity and a review of the prior tests on saccharin by the Office of Technology Assessment. That report returned the following findings: First, that current testing methods can predict that a particular substance is likely to cause cancer in humans although they do not permit reliable estimates of the site or frequency of the tumors; second, the available tests led to the conclusion that saccharin is a potential cause of cancer in humans; third, that there is belief that saccharin, or some non-nutritive sweetner, has significant health benefits; and fourth, that an alternative non-nutritive sweetner is not available, nor likely to be, in the near future. Representative scientists who had conducted this study concluded in hearings before the Subcommittee that saccharin is a weak carcinogen which could have substantial adverse health effects because of the long latency period of cancer. Release of a later Canadian study, a retrospective, epidemiological study, strengthens these findings. It shows a correlation between the use of saccharin and the incidence of bladder cancer and concluded that risks to male users of developing bladder cancer was 1.6 times as great as male nonusers. The data did not show a relationship for women users and the incidence of bladder cancer.

Mr. President, there has been substantial controversy surrounding the proposed ban of saccharin. This controversy has raised questions regarding the adequacy of technology in predicting cancer and the ability of our tests to delineate between the effects of impurities and the effects of the substance. It has focused squarely on the fact that currently there is no alternative for a product, which at least for part of the population, has considerable health benefits. In view of the controversy, the lack of an available alternative and the benefits of this substance, I believe we have no choice but to suspend the authority for banning this substance for a reasonable period of time.

However, I continue to be concerned about the risk persons may undertake by ingesting daily amounts of the substance. Particularly, with our knowledge of the long development period of cancer, the continued marketing and use of saccharin may have grave consequences which we do not now suspect. It is for this reason that I believe that the labeling and advertising requirements of the bill as reported by the Committee on Human Resources are absolutely imperative if we are to take this unprecedented step. I believe that it is critical that the American public take the findings of the Canadian studies seriously, and to the extent that they can, eliminate this product from their diet. And I believe that it is important that they have available to them accurate information which shows them what the possible risks are. The only way for the public to make an informed decision, I believe, is through this mechanism.

The last issue, of course, is the finding of an alternative. I sincerely urge all manufacturers to search for an alternative to this product so that it may be eliminated from our diets.

Mr. DOLE. Mr. President, at this time, I would like to indicate my support for delaying the proposed saccharin ban. When the Food and Drug Administration announced the ban, they justified their actions on a Canadian study which linked saccharin intake to cancer in rats. I respect the FDA for their action, since under present laws, they had no other option available to them.

Immediately after this decision to limit drastically the availability of saccharin, congressional offices were flooded with requests to intervene, and to nullify the ban. I think the very fact that we are considering this bill today is evidence that citizens' voices are still heard and heeded in Congress.

The facts and theories available to us today indicate there is reason to be concerned about the intake of saccharin. Additional studies have also suggested the conclusions reached by the Canadian scientists. I would mention, though, that some studies refute the findings which link saccharin to cancer, and show no relationship between the two.

DIABETES

When thinking of those who benefit most from saccharin products, I think first of those with diabetes. I received hundred and hundreds of letters from diabetics protesting the saccharin ban. Most touching were those letters from mothers who wrote that because of saccharin, their diabetic children were able

to lead almost normal lives. They could join their friends at the drugstore for soft drinks, swap bubble gum with their team-mates, and be almost free from dangers posed by sugar consumption.

It is hard to conceive how the possible risk from saccharin could be worse than the predictable effects of sugar.

I realize that the FDA has considered allowances for over-the-counter sale of saccharin, but this would be quite inconvenient, and would eliminate already-prepared foods and beverages from one's diet.

OBESITY

As a member of the Select Committee on Nutrition and Human Needs, I have gained a better appreciation for the value of good nutrition. I have also learned more of the relationship between diet and disease as a result of a year-long series of hearings conducted by the committee.

I understand the seriousness of the topic at hand. In addition, I have heard and read testimony on health problems caused or complicated by obesity. Diets that are high in sugar almost inevitably lead to obesity. For persons threatened by obesity, saccharin is a welcome substitute for sugar.

Many persons have written me claiming that the small risk of cancer from saccharin is a preferable risk to the known effects of sugar consumption. Certainly, one should have the liberty to choose between sugar or a sugar substitute.

PRECEDENT

As I think of the people that depend on saccharin, I am convinced that more time is needed to study thoroughly the effects of saccharin. We simply do not know enough about it. And, I think the saccharin issue is a foretaste of what is ahead. As technology continues to improve, scientists will be able to detect traces of materials which before were not noticed on less accurate instruments.

It may be proven that our food and environment contain many more carcinogens than we now suspect. We could find ourselves in this same position again. For that reason, it is necessary to consider this problem seriously and without haste.

SUMMARY

In closing, I want to reaffirm my support for an 18-month delay in the saccharin ban. This is a serious matter, and merits proper attention during the next 1½ years.

I trust that the medical and scientific communities—as well as the Congress—will take seriously this additional responsibility, so that at the proper time, we can resolve this controversy in a safe and beneficial manner.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) would vote "yea."

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—87

Allen	Glenn	Nunn
Anderson	Goldwater	Packwood
Baker	Gravel	Pearson
Bartlett	Hansen	Pell
Bayh	Hart	Percy
Bellmon	Hatch	Randolph
Bentsen	Hatfield	Ribicoff
Biden	Hayakawa	Riegle
Brooke	Heinz	Roth
Bumpers	Helms	Sarbanes
Burdick	Hollings	Sasser
Byrd, Harry F., Jr.	Huddleston	Schmitt
	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott
Cannon	Javits	Sparkman
Case	Johnston	Stafford
Chafee	Laxalt	Stennis
Chiles	Leahy	Stevens
Church	Long	Stevenson
Clark	Lugar	Stone
Cranston	Magnuson	Talmadge
Culver	Mathias	Thurmond
Curtis	Matsunaga	Tower
Danforth	McClure	Wallop
DeConcini	McIntyre	Weicker
Dole	Melcher	Williams
Domenici	Metcalf	Young
Durkin	Metzenbaum	Zorinsky
Eagleton	Morgan	
Ford	Moynihan	

NAYS—7

Abourezk	Kennedy	Proxmire
Haskell	McGovern	
Hathaway	Nelson	

NOT VOTING—6

Eastland	Griffin	McClellan
Garn	Humphrey	Muskie

So the bill (S. 1750) was passed, as follows:

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling, and Advertising Act".

SEC. 2. For the purposes of this Act, the term "saccharin" includes saccharin, calcium saccharin, sodium saccharin, and ammonium saccharin.

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

SEC. 4. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary shall arrange for the conduct of a study or studies to assess and evaluate—

"(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become part of, or naturally occur in food, and which have been found to cause cancer in animals;

"(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(4) instances in which current legal requirements to restrict or prohibit the use or occurrence of such substances do not accord with the relationship between such risks and benefits; and

"(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this section. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations if any for legislative and administrative action.

"(c)(1) The Secretary shall first request the National Academy of Sciences acting through the Institute of Medicine or other appropriate units (hereinafter in this section referred to as 'Academy') to conduct the study or studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b).

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

"(1) the chemical identity of any impurities contained in commercially used saccharin.

"(2) the toxicity or potential toxicity of any such impurities including their carcinogenicity or potential carcinogenicity in humans, and

"(3) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include any recommendations for legislative and administrative action the Secretary deems appropriate.".

SEC. 5. During the eighteen-month period beginning on the date of the enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin published on March 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety. In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of this Act.

SEC. 6. (a) Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o)(1) If it contains saccharin, unless its label and labeling bear the following statement: "WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER". Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling. The Secretary shall periodically review and revise, if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection. The requirements of this subsection shall not preclude the Secretary from prescribing appropriate alternative methods for communicating such statement to consumers for food products for which manufacturing is completed on the effective date of this subsection, including sticker labeling or conspicuous notices accompanying the sale of such products at retail.

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.

"(q) If it contains saccharin and is offered for sale not for immediate consumption at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently displayed notice of conspicuous and legible type and at a place of reasonable proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin. In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

SEC. 8. (a) Section 204(d) of Public Law 93–348, as amended by section 18(a) of Public Law 94–573, is further amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of Public Law 93–348, as amended by section 18(b) of Public Law 94–573, is further amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "November 1, 1978".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. James M. Moorman to be an Assistant Attorney General.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of James M. Moorman, of California, to be an Assistant Attorney General.

Mr. BAKER. Mr. President, I only rise to advise the majority leader, as I have previously done privately, that this nomination has now been cleared on this side. We have no objection to its confirmation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 995

Mr. CANNON. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Bruce Eggers, of my staff, during the consideration of S. 995 when it is made the pending business tmorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senator by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

Also in executive session, the President Officer laid before the Senate a message from the President of the United States submitting the nomination of Rafael E. Juarez, of Colorado, to be U.S. marshal for the District of Columbia, which was referred to the Committee on the Judiciary.

AMENDMENTS TO REORGANIZATION PLAN NO. 1—PM 113

The Presiding Officer laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 1 of 1977, which I transmitted to you on July 15, 1977. Except as specifically amended hereby, Re-

organization Plan No. 1 remains unmodified.

JIMMY CARTER.

SEPTEMBER 15, 1977.

MESSAGES FROM THE HOUSE

At 12:23 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House recedes from its disagreement to the amendment of the Senate to the resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978, and concurs therein with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1987. A letter from the Assistant Secretary for Congressional and Intergovernmental Affairs of the Department of Transportation transmitting, for the information of the Senate, an option paper detailing the major choices for refining the Nation's transportation grant programs.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that EC–1987, a communication concerning the major choices for refining the Nation's transportation grant programs, be referred jointly to the Committees on Banking, Housing, and Urban Affairs; and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–1988. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on a proposed deferral for the Energy Research and Development Administration contained in the President's 18th special message; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Energy and Natural Resources, and Environment and Public Works, and ordered to be printed.

EC–1989. A letter from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for September 1977 (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations; the Budget; Armed Services; Commerce, Science, and Transportation; Foreign Relations; Environment and Public Works; Energy and Natural Resources; the Select Committee on Small Business; Human Resources; Agriculture, Nutrition, and Forestry; Finance; the Judiciary; Governmental Affairs; Banking, Housing, and Urban Affairs, and ordered to be printed.

EC–1990. A letter from the Acting Deputy General Counsel of the Federal Energy Administration transmitting, pursuant to law, two separate notices of meetings related to the International Energy Program (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1991. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to reform the mining law, and for other purposes (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–1992. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the stockpile of lethal chemical munitions and agents—better management is needed (LCD–77–205) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1993. A letter from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide, in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463 as amended by Public Law 94–409, for the repeal of advisory committees no longer carrying out the purposes for which they established (with accompanying papers); to the Committee on Governmental Affairs.

EC–1994. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, copies of a Navy proposal on a new system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–1995. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Technical Assistance: A Way to Promote Better Management of Guam's Resources and to Increase its Self-reliance" (GGD–77–80) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1996. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Audit of Financial Statements of Saint Lawrence Seaway Development Corporation Calendar Year 1976" (FOD–77–13) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1997. A letter from the Attorney General of the United States transmitting a draft of proposed legislation to establish fees and allow per diem and mileage expenses for witnesses before United States courts (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 1654. A bill for the relief of Thuy Bach Kanter (Rept. No. 95–430).

With an amendment:

S. 1005. A bill for the relief of Young Shin Joo (Rept. No. 95–431).

By Mr. BIDEN, from the Committee on the Judiciary:

Without amendment:

S. Res. 245. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1682. Referred to the Committee on the Budget.

By Mr. LONG, from the Committee on Finance:

With amendments:

H.R. 1904. An act to suspend until July 1, 1980, the duty on intravenous fat emulsion (title amendment) (Rept. No. 95–432).

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty on mattress blanks of latex (title amendment) (Rept. No. 95–433).

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk (title amendment) (Rept. No. 95–434).

By Mr. BIDEN, from the Committee on the Judiciary:

With an amendment:

S. 1682. A bill to provide for the implementation of treaties for the transfer of offenders to or from foreign countries (Rept. No. 95–435).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. 2104. An original bill to establish a comprehensive natural gas policy (together with additional views) (Rept. No. 95–436).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Charles M. Adkins, Jr., of West Virginia, to be U.S. marshal for the southern district of West Virginia.

Richard J. Dunn, of Nevada, to be U.S. marshal for the district of Nevada.

William J. Evins, Jr., of Tennessee, to be U.S. marshal for the middle district of Tennessee.

James I. Hartigan, of Massachusetts, to be U.S. marshal for the district of Massachusetts.

Bennie A. Martinez, of New Mexico, to be U.S. marshal for the district of New Mexico.

Paul J. Puckett, of Virginia, to be U.S. marshal for the western district of Virginia.

Howard J. Turner, Jr., of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Proctor R. Hug, Jr., of Nevada, to be U.S. circuit judge for the ninth circuit.

Alvin B. Rubin, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Harry H. MacLaughlin, of Minnesota, to be U.S. district judge for the District of Minnesota.

Mr. MAGNUSON. As in executive session, I report favorably sundry nominations in the Coast Guard and National Aeronautics and Space Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them in the RECORD, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 15, 1977, at the conclusion of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HEINZ:

S. 2098. A bill to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such Act; to the Committee on Banking, Housing and Urban Affairs.

By Mr. WEICKER:

S. 2099. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of real property tax obligations owed by a railroad in reor-

ganization; to the Committee on Commerce, Science, and Transportation.

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 2100. A bill for the improvement of Roberts Field, Redmond, Oreg.; to the Committee on Commerce, Science, and Transportation.

By Mr. HASKELL:

S. 2101. A bill to modify the boundary of the White River National Forest in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. EASTLAND:

S. 2102. A bill for the relief of Charles F. McKellar, Jr.; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. ALLEN, Mr. CHURCH, Mr. CURTIS, Mr. JACKSON, Mr. MCCLURE, Mr. MCGOVERN, Mr. MAGNUSON, Mr. MELCHER, Mr. SPARKMAN, Mr. TOWER, Mr. YOUNG, and Mr. ZORINSKY):

S. 2103. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from any payment limitation; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. 2104. An original bill to establish a comprehensive natural gas policy. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2099. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of real property tax obligations owed by a railroad in reorganization; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, I am introducing today a bill to amend the Regional Rail Reorganization Act of 1973 to require the Federal Government to guarantee notes issued to States, municipal governments, and other taxing authorities for payment of taxes owed by the Penn Central Transportation Co.

The object of this legislation is simply to assure that financially beleaguered States, cities, and school districts will collect the full amount of the tax dollars owed them by the Penn Central.

When the Penn Central declared bankruptcy in 1970, the Federal district court in Philadelphia ordered the trustees of the Penn Central to make no tax payments until further ordered. The constitutionality of this Federal intervention in local tax abatement authority is a question which ought to be examined carefully. It has alarming implications not only for those directly affected in the Midwest and Northeast corridor but for every State, county, and city in the Nation.

At present, those tax authorities which have claims against the Penn Central are being offered two alternatives. They can take 50 cents on the dollar for what they are owed. Or they can take 20 percent of the obligation up front in cash, and the remainder in interest bearing notes offered by the Penn Central.

The decision on which option to choose must be made by October 22 of this year. There is a difficulty for taxing authorities in making this decision, however. By choosing to accept only 50 cents on the dollar, they clearly suffer substantial loss. By choosing to accept the Penn Central notes, they face a very substantial delay in receiving what they are owed. Since the notes would not mature until 1987, and since cessation of payments was ordered in 1970, a full 17 years will have passed before the States and cities and school districts can collect what is owed.

It is generally accepted that those notes are good. However, because of the bad reputation—and I must say the well-deserved bad reputation—of the Penn Central, the notes are not deemed marketable. It is the inability to market the notes that would make it necessary to hold them to maturity. Backed by the full faith and credit of the Federal Government, the notes will be immediately marketable, and our States, cities, and school districts will be immediately able to realize the money owed them.

I would like to point out that in this period prior to October 22, the Penn Central has been sending out checks at 50 cents on the dollar, falsely claiming that the recipients have only 3 weeks to decide to accept the money and, by a number of accounts, using high pressure tactics to urge acceptance. It is just these kinds of shenanigans that earned Penn Central its reputation to begin with.

I would also like to point out that this amendment does not constitute a bailout of Penn Central. If it could be construed as a bailout, the trustees would not have their people trying to muscle our States and cities to take 50 cents on the dollar instead of taking the notes. The notes will be secured by Penn Central assets, and the effect of this amendment, far from bailing-out the Penn Central Co., will be to assure that some of those assets go to pay their bills.

Finally, I have this concern: Many of our most financially troubled cities are in the Northeast corridor and the Midwestern States affected by the Penn Central bankruptcy. The Federal Government is faced with trying to find ways to help alleviate these difficulties, and a lot of Federal tax dollars go into the effort. I endorse those efforts, but I also think it would be useful and helpful if corporations like the Penn Central were compelled to honor their debts and pay their bills.

As I understand it, with the exception of the State of Kentucky, my own State has the lowest tax claim of the 15 States and the District of Columbia, which are affected. The estimated obligation to the State of Connecticut in taxes and interest is some $868,000. I want to see us get every penny of it. But that sum is almost negligible compared with what others are owed.

What I am concerned about, and the principal reason I am introducing this legislation, is that the State of New York is owed an estimated $143.859.000, with some $63 million of that owed to the city of New York.

The financial problems of New York City concern us all and affect us all. The real bail-out, the real failure of responsibility on our part, would be to permit the Penn Central to pay the city of New York, with whatever part of the sum goes to its schools, $31.5 million instead of the full $63 million owed. Sixty-three million dollars is not going to solve New York City's problems. But it can help. And it can help at no cost to the Federal Government.

The language of my bill matches exactly the language of its companion bill, H.R. 8882. I hope this will help to speed passage of the bill which should be passed or show evidence of eventual passage before October 22, so that those who are owed back taxes need not be stampeded into taking half of what they are owed, in order to get anything before 1987.

Let me add a final note, for those who might question whether we are setting a bad precedent with this legislation. I will not address the issue pending hearings, but I simply want to point out that we are trying here to offset a bad precedent which may have already been set—which was to insert the Federal Government between State and local governments and a private corporation, to relieve the corporation of its financial obligations, and to abrogate the authority of those State and local governments. We are not trying to set a precedent, we are trying to destroy one.

Mr. President, I ask unanimous consent that table I outlining alternative property tax claim settlement options; table II, listing estimated property tax claims by State; and the text of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I

I. COMPROMISE

Cash payment of 50% of principal (no interest or penalties) of postpetition claims (taxes owed after June 21, 1970); or 44% of principal of total tax claims.

Whichever is greater.

Or:

II. PLAN OF REORGANIZATION

(a) Cash payment of 20% of principal of total tax claims; plus:

(Taxes on retained assets)

(b) 10% of principal of total claim in interest-bearing one-year general obligation series "D" notes;

(c) 10% of principal of total claim in interest-bearing two-year general obligation series "D" notes;

(d) 10% of principal of total claim in interest-bearing three-year general obligation series "D" notes;

(e) 50% of principal total claim, and 100% of all interest due to the consummation date in interest-bearing general-obligation notes maturing on Dec. 31, 1987, or later if the Valuation Case is not concluded or has not produced sufficient proceeds for retirement of the notes.

NOTE: General obligation series "D" notes will be issued on the solvency of the reorganized Penn Central alone.

(Taxes on conveyed assets)

(b) 80% of principal total claim and 100% of all interest due to the consummation date in series "C" interest-bearing notes matur-

ing on Dec. 31, 1987, or later if the Valuation Case is not concluded.

NOTE: Series "C" notes will be secured only by the proceeds of the Valuation Case. They will not be general obligations of the reorganized Penn Central Company.

TABLE II.—ESTIMATED PROPERTY TAX CLAIMS

[In thousands of dollars]

State	Total taxes and—		
	Interest	Interest related to conveyed property	Interest related to retained property
Pennsylvania	32,052	22,152	9,900
Connecticut	868	124	744
Delaware	1,438	1,231	207
District of Columbia	1,638	1,540	98
Illinois	28,665	24,255	4,410
Indiana	49,500	44,550	4,950
Kentucky	273	244	29
Maryland	11,385	9,936	1,449
Massachusetts	24,288	21,390	2,898
Michigan	27,888	24,080	3,808
New Jersey	41,019	18,642	22,372
New York	143,859	58,735	85,124
Ohio	79,998	64,290	15,708
Rhode Island	8,576	6,728	1,848
Virginia	1,085	703	387
West Virginia	1,435	1,126	309
Total	453,967	299,726	154,241

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by adding at the end thereof the following new section:

"GUARANTEES BY THE SECRETARY

"SEC. 606. (a)(1) In any proceeding for the reorganization or liquidation of a railroad under section 77 of the Bankruptcy Act in which the Corporation, the Association, or the Federal Government, including any agency, instrumentality, or department thereof, asserts a priority inpayment out of the estate of such a railroad over tax obligation owed to State or local taxing authorities, the Secretary shall guarantee the payment according to their respective terms of principal and interest on securities and obligations, including securities and obligations issued to refinance any such securities and obligations, issued by a railroad in reorganization to such State and local taxing authorities.

"(2) The maturity date of such securities, obligations, and loans, including all extensions and renewals thereof, shall not be later than twenty years from their date of issuance.

"(3) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of American from which the full faith and credit of the United States shall be pledged.

"(b) No guarantee made by the Secretary under this section shall thereafter be terminated, canceled, or otherwise revoked; the issuance of such guarantee shall be conclusive evidence that the guarantee complies fully with the provisions of this chapter and shall constitute proof of the approval and legality of the principal amount, interest rate, and all other terms of the security or obligation guaranteed, which shall be valid and incontestable in the hands of a holder except for fraud or material misrepresentation on the part of such holder.

"(c) If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under guarantees issued by him under subsection (a) of this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations available under subsection (d) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations as acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) There are authorized to be appropriated to the Secretary such amounts, to remain available until expended, as are necessary to discharge all his responsibilities under this section.".

SEC. 2. The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new item:

"Sec. 606. Guarantees by the Secretary.".

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 2100. A bill for the improvement of Roberts Field, Redmond, Oreg.; to the Committee on Commerce, Science, and Transportation.

Mr. PACKWOOD. Mr. President, I am today introducing a bill on behalf of the city of Redmond, Oreg., which will enable them to make needed improvements to their airport, Roberts Field. The land on which the facility sits was originally deeded by the Federal Government in 1950 with the provision that the land would revert to the Federal Government if it were not used for "airport purposes." Due to this reverter clause, lending institutions are unable to help finance certain necessary capital improvements related to the airport's operation. Since there is a theoretical possibility that the Federal Government could reclaim the land, no mortgage is obtainable.

There is a precedent for such action. In fact, four bills of this nature were passed during the last Congress alone.

In addition, there is no cost to the Federal Government involved here. All that is required is a change in the deed; and, since the planned development is in conformity with the original agreement turning the land over to Redmond, there is no violation of the intent of that agreement.

It is also a fact that there are some 88,000 people served by this facility, people who could be better served if the city were given the option of expanding operations at the airport.

I doubt the Federal Government's original purpose in placing the reverter clause in the deed was to obstruct progress, and since the plans of this municipality for the land fit both local needs and the spirit of the deed's provisions, I feel that all parties concerned can only benefit from the prompt enactment of this measure.

By Mr. PACKWOOD (for himself, Mr. ALLEN, Mr. CHURCH, Mr. CURTIS, Mr. JACKSON, Mr. MCCLURE, Mr. MCGOVERN, Mr. MAGNUSON, Mr. MELCHER, Mr. SPARKMAN, Mr. TOWER, Mr. YOUNG, and Mr. ZORINSKY):

S. 2103. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from any payment limitation; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. PACKWOOD. Mr. President, today, I am introducing, along with several cosponsors, legislation which would remove compensation determined necessary to assist producers through this year's disaster from the payment limitations imposed on wheat, feed grains, upland cotton, and rice programs.

Current law states that a wheat farmer, for example, may not receive more than $20,000 in USDA program payments in any crop year. Therefore, if a farmer qualifies for disaster payments up to say $15,000, he could only receive $5,000 in deficiency or other program payments.

In all of the consideration of the payment limitations in the farm bill, the 1977 crop year payment limitations were overlooked and the $20,000 figure remained in effect. In future years, under the farm bill, not only is the payment limitation increased to $40,000 in 1978, $45,000 in 1979 and $50,000 thereafter, but the disaster payments are not included under these payment limitations. The conference report passed by the Senate at section 101(2) says that beginning in 1978—

> The term "payments" as used in this section shall not include . . . any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss. . . .

My amendment would not increase any 1977 payment limitation, it would simply define "payments" so that compensation for disaster, as determined necessary by the Secretary of Agriculture, would not be included in the 1977 crop year, just as is provided in the farm bill for future years.

Several areas of the country are affected by this legislation because several States have had less precipitation this year than any other year on record. Oregon wheat production is roughly half of normal. According to a recent poll, 1,350 producers are eligible to receive disaster payments in Oregon alone. Over 200 of these producers would qualify for additional disaster payments if the new farm bill definition of "payments" were used. These 200 producers represent 15 percent of those who qualify for disaster pay-

ments in Oregon. The problem is even more severe in Washington where a full 1,000 producers, or one-fifth of those qualifying for disaster payments, would be limited to $20,000.

As a very practical matter, since the price of wheat has dropped to just over $2 per bushel, and under current law the Pacific Northwest could lose another $45 million in disaster compensation, we should recognize that areas such as this, which are so dependent on agriculture, will suffer irreparable economic damage. We can do very little about this year's extremely low prices of these commodities, but, we can make the worth of this program reflect current values and needs, and adequately compensate producers for their disaster-related losses. These financial resources would, of course, result in a direct infusion of vitality to the communities surrounding drought and other disaster-stricken croplands.

In this worst year of drought on record, the wheat producers in the Northwest and the feed grain, upland cotton, and rice producers elsewhere in the country are prohibited from taking advantage of the program which was designed specifically for such disasters. My legislation would correct this unfortunate circumstance.

Congressman TOM FOLEY, chairman of the Agriculture Committee, and Oregon's AL ULLMAN, chairman of the Ways and Means Committee, are actively coordinating similar legislation in the House of Representatives.

This is a very simple bill. It is a fair bill. It is necessary. I urge my colleagues to support it.

I ask unanimous consent that the text of the bill, along with an endorsement of the bill by the National Association of Wheat Growers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the term "payments" as used in section 101 of the Agricultural Act of 1970, as amended, and section 101(g)(13) of the Agricultural Act of 1949 shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, D.C., September 14, 1977.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: The National Association of Wheat Growers wishes to express its support for the exemption of 1977 disaster payments from the $20,000 payment limitation established by the 1973 Farm Act.

At our Executive Committee meeting, September 14, the Committee unanimously supported legislation that would exempt disaster payments for the 1977 crop from the $20,000 provision.

In 1977, many wheat producing areas of the United States were affected by adverse weather conditions and low yields making these areas eligible for disaster payments. The Pacific Northwest states were severely affected by drought this year, causing losses of thousands of dollars to wheat growers in these states. We feel that it is imperative to recognize the present situation and try to help alleviate some of the financial problems farmers would face if disaster payments are set within the payment limitation.

Presently, wheat growers are experiencing the worst economic conditions in decades. Nationally, wheat market prices are averaging $2.02 a bushel and in many areas of the country, the market price is below that figure. The cost of producing wheat is estimated at $3.40 to $3.70 a bushel, which is a loss of $1.38 to $1.60 a bushel to wheat growers. On farms affected by drought, they still have the cost of producing a crop, but no return from the market place.

The 1977 Farm Bill provides a $40,000 limitation for the 1978 crop with escalations for future years and an exclusion of disaster payments from payment limitations. We feel that the 1977 crop year should also be excluded from payment limitations, because of the added economic hardship imposed by crop loss and payment limits. These growers need all the financial support that can be obtained to continue their vital role in agriculture.

We urge your support for the pending legislation to exempt the 1977 disaster payments from within the $20,000 payment limitation.

Sincerely,

JERRY REES,
Executive Vice President.

ADDITIONAL COSPONSORS

S. 294

At the request of Mr. MELCHER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 294, to amend the Meat Import Quota Act.

S. 1820

At the request of Mr. METCALF, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1820 to establish programs for the maintenance of natural diversity.

S. 1821

At the request of Mr. ROBERT C. BYRD (for Mr. HUMPHREY), the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1821, the Athletic Opportunities Assistance Act.

S. 1855

At the request of Mr. HATCH, the Senator from South Carolina (Mr. THURMOND) and the Senator from Nebraska (Mr. CURTIS) were added as cosponsors of S. 1855, the Employee Bill of Rights Act.

S. 1974 AND AMENDMENT NO. 849

At the request of Mr. CULVER, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act, and of amendment No. 849, intended to be proposed to S. 1974, supra.

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. GRIFFIN, the Senator from Arizona (Mr. GOLDWATER), the Senator from Virginia (Mr. SCOTT), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of Senate Concurrent Resolution 31, to disapprove the Federal motor vehicle safety standard pertaining to passive restraints.

AMENDMENTS SUBMITTED FOR PRINTING

UNION ORGANIZATION IN THE ARMED FORCES—S. 274

AMENDMENTS NOS. 859 AND 860

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK. Mr. President, together with Senators JAVITS and WILLIAMS, I submit two amendments for printing which I intend to propose to S. 274, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 859

Strike all after the enacting cluase and insert in lieu thereof the following:

SEC. 1. (a) Chapter 49 of title 10, United States Code is amended by adding at the end thereof a new section as follows:

UNION ORGANIZING AND MEMBERSHIP

(a) As used in this section—

(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, or (B) a member of a Reserve component in his military capacity. Such term shall not include any person employed as a civilian technician by a reserve component and who is also a member of that component.

(2) 'Labor organization' means any organization which engages in or has as one of its objectives (A) negotiating or bargaining with the Government of the United States, on behalf of members of the armed forces, concerning the terms and conditions of combat, combat preparedness, and/or tactical training exercises; or (B) striking, picketing, or engaging in any other work slowdown or similar job action directed against the Government of the United States. Such term does not include any professional, fraternal, military, or veterans organization or association if such organization or association does engage in or have as one of its objectives representation of a member of the armed forces or a civilian employee of the Department of Defense (A) in any grievance proceeding not involving the terms and conditions of combat, combat preparedness, and/or tactical training exercises, (B) in legal proceedings before administrative boards or under the Uniform Code of Military Justice, or (C) regarding pay, retirement, disability, equal opportunity, and fringe benefits, or if such organization or association does not engage in or have as one of its objectives any of the activities described in the first sentence of this paragraph.

(3) 'Civilian employee of the Department of Defense' means any civilian officer or employee of the Department of Defense as defined in sections 2104 and 2105 of title 5, any officer of the Department of Defense holding an Executive Schedule position under subchapter II of chapter 53 of such title, and any civilian employee who is employed by an instrumentality described in section 2105(c) of such title and who is compensated from nonappropriated funds.

"(b) It shall be unlawful for any member of the armed forces, knowing of the activities or objectives of a particular labor organization, to join or to maintain membership in such organization, or to solicit any other member of the armed forces to join

or maintain membership in such organization.

"(c) (1) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to negotiate or bargain, or attempt to negotiate or bargain, on behalf of the United States, concerning the terms and conditions of combat, combat preparedness and/or tactical training exercises of members of the armed forces with any individual, organization, or association which represents or purports to represent members of the armed forces.

"(2) It shall be unlawful (A) for any individual, organization, or association to negotiate or bargain, or attempt to negotiate or bargain, with the Government of the United States, on behalf of members of the armed forces concerning the terms and conditions of combat, combat preparedness and/or tactical training exercises, or (B) for any individual, organization, or association to organize or attempt to organize, or to participate in, a strike or any other work slowdown or similar job action involving members of the armed forces directed against the Government of the United States.

"(d) (1) It shall be unlawful for any individual, organization, or association to use and military installation, facility, reservation or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b) or (c) (2) of this section.

"(2) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to permit or authorize the use of any military installation, facility, reservation, or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b) or (c) (2) of this section.

"(e) Nothing in this section shall limit the right of any person (1) to join or maintain membership in any organization or association not constituting membership in any organization or association not constituing a 'labor organization' as defined in (a) (2) of this section; (2) to seek or receive information from any source; (3) to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations; (4) to petition the Congress for redress of grievances; or (5) to take such administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

"(f) (1) Any individual who violates the provisions of subsection (b), (c) (1), (c) (2), (d) (1) or (d) (2) of this section shall be punished by a fine of not more than $10,000 or by imprisonment for a term of not more than five years, of by both such fine and imprisonment.

"(2) Any organization or association which violates subsection (c) (2) or (d) (1) of this section shall be punished by a fine of not less than $25,000 nor more than $250,000 for each violation.

"(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership".

Amend the title so as to read: "A bill to amend chapter 49 of title 10, United States Code, to regulate union organization and membership in the armed forces, and for other purposes.".

AMENDMENT No. 860

1. On page 5, line 15 insert after the word component: "in his military capacity. Such term shall not include any person employed as a civilian technician by a reserve component and is also a member of that component."

2. On pages 8 and 9 strike subsection (f).

3. On page 9, line 15 strike all through page 10, line 4.

LEGAL SERVICES CORPORATION ACT—S. 1303

AMENDMENT NO. 861

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

NOTICES OF HEARINGS

INTERCONNECTION AND WHEELING

Mr. JOHNSTON. Mr. President, the Subcommittee on Energy Conservation and Regulation of the Senate Committee on Energy and Natural Resources will hold a hearing on Tuesday, September 20, 1977, on subpart 3 of part E of S. 1469 dealing with interconnection and wheeling. The hearing will commence at 8 a.m. in room 3110 of the Dirksen Senate Office Building.

The subcommittee will receive testimony from the administration and selected private witnesses. Questions concerning this hearing should be directed to Benjamin Cooper or James Bruce of the subcommittee staff at 224–9894.

ADDITIONAL STATEMENTS

WILDERNESS AREAS ACT

Mr. STEVENS. Mr. President, section 17(d) (2) of the Alaska Native Claims Settlement Act of 1971 authorized the Secretary of the Interior to withdraw up to 80 million acres to study for inclusion in the national park, wildlife refuge, forest, and wild and scenic river systems. There have been several bills introduced into the House and Senate to deal with the settlement of section 17(d) (2), all with different approaches.

I would like to point out what the people of Alaska, including myself, feel are some of the weaknesses of H.R. 39 and S. 1500, bills which embody one approach to resolution of the "d–2" question. First of all, we feel the areas to be set aside as parks, refuges, forests, wild and scenic rivers, and wilderness areas are too large and have received too little study. H.R. 39 and S. 1500 set aside one-quarter of the timber-rich region of southeastern Alaska as wilderness areas without adequate study to determine the resources of those areas that are of economic or strategic importance to the United States. They would also create huge tracts of inaccessible parks, refuges, and wilderness areas throughout the State. They would then extend the already too large areas by giving the Secretary of the Interior control over "areas of ecological concern" surrounding the proposed areas.

Not only do H.R. 39 and S. 1500 give the Secretary of the Interior control over areas of ecological concern, but they also give him unnecessary control over management of fish and wildlife resources including seasons, bag limits, and subsistence hunting and fishing. He is also given the authority to determine who is and who is not a subsistence hunter. All these decisions have traditionally been part of State management under the present system existing on Federal lands and do not bode well for the future of State management on Federal lands throughout the country.

Substantial revision of these proposals are necessary in order to properly serve the national interest. The proposed reservation areas need to be smaller. The Alaska Department of Fish and Game, which has done a good job of managing the fish and wildlife resources in Alaska, should retain jurisdiction of the fish and wildlife management of the State. The bill should establish a system of using revenue from Federal lands to establish parks and other reservations in the lower 48, and they must be modified to allow the State to complete its land selection guaranteed under the Statehood Act.

Mr. President, I ask unanimous consent that the article from the Ketchikan Daily News entitled, "Revise H.R. 39," be printed in the RECORD. I believe it gives an accurate view of how the people of Alaska feel about H.R. 39.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVISE H.R. 39

When Congressman Morris Udall introduced HR 39 in January, he said, "While this bill is a countermeasure to that proposed by the secretary of the interior, it is not to be considered final . . . The final decision is that of the Congress and ultimately the American people."

It is the American people about whom we all are concerned.

The Alaska Division of Tourism reports that 280,000 people visited Alaska as tourist, hunter, fisherman or hiker in 1976. It would take over 700 years for the entire U.S. population of 210 million to visit Alaska and enjoy the parks and wilderness at a rate of 280,000 a year.

Few residents of Ohio, for example, can afford the $500 air fare, plus hotel rooms, meals and other expenses for a vacation near Ketchikan.

Alaska Senator Ted Stevens has introduced legislation that takes wilderness to the people who can't afford the trip to Alaska. His bill puts revenues from development of Alaska lands in a fund to buy private land in other states to create parks. This could be used to expand the Cuyahoga Valley Wilderness Area in Ohio, for example. That would benefit the 11 million people in Ohio more than a 2.4 million acre wilderness area near Ketchikan, Alaska.

Also of benefit to the people of Ohio would be the development of mineral resources near Ketchikan. Molybdenum from this area can harden Ohio steel.

We do not propose ripping up all of Southeastern Alaska for minerals or chopping down all of the trees. But before we do the opposite and lock it up in wilderness, it should be thoroughly explored for its values and a plan developed. HR 39 not only makes no provision for planning, it negates planning authorized or in progress.

There should be no rush to lock up the land or to fully develop without study. There is no immediate threat to the destruction of Southeastern Alaska. The area is 20 million acres in size, compared with 26 million acres comprising Ohio. Yet the population of

Southeastern Alaska is 42,000 compared with Ohio's 11 million. There is only one active mine in Southeastern Alaska, the barite mine on Castle Island, although there is immediate potential for another barite mine, a molybdenum mine and a copper mine.

Washington state has 12 million acres of forested land compared with 16 million acres of national forest in Southeastern Alaska. Washington has wilderness areas and parks and still harvests eight billion board feet of timber per year, keeping 35,000 people employed. By contrast, one sixteenth that volume of timber is harvested each year in Southeastern Alaska by one-tenth the work force.

There is room for expanding both the timber industry and mineral production in Southeastern Alaska and still having large tracts of roadless and wilderness areas for fish, wildlife and people. But not with HR 39 in its current form.

We are encouraged by Congressman Udall's comment that HR 39 is not to be considered final. We believe reference to lands in Southeastern Alaska should be deleted from the bill, or at least modified to include for wilderness study only those areas previously recommended in 1970.

We believe HR 39 should be modified to make proposed reservation areas smaller.

HR 39 should be modified so that the Alaska Department of Fish and Game administers fish and wildlife resources in Alaska, even in federal reservation systems.

HR 39 should be modified to adopt the Stevens proposal of using revenues from federal lands in Alaska to establish parks and other reservations in the U.S. where such public lands are in short supply.

HR 39 should be modified to allow the state of Alaska to complete its land selection so Alaska can contribute to the wealth of the nation rather than be a drain upon it in administering huge reservations.

AID FOR RAIL MASS TRANSIT COMMUTERS

Mr. HEINZ. Mr. President, on June 23 this body passed S. 208, the National Mass Transportation Assistance Act of 1977. I was a cosponsor of that bill and wholeheartedly supported its passage.

S. 208 contained two key provisions which are critical to the continuation of effective mass transit programs in many older urban areas of this country: The emergency commuter rail operating assistance program and the operating subsidy formula grant program. S. 208 extended, for 2 years, the commuter rail operating subsidy program and redressed the disparities in the section 5 operating subsidy program by establishing a two-tier formula system. Both provisions go a long way in providing the necessary assistance to maintain existing rail transit systems in many of our older cities and metropolitan areas.

If the prospects for S. 208 becoming law during 1977 were at all likely, I would not be here today offering an amendment to the Urban Mass Transportation Act of 1964. Unfortunately, the administration and the House Public Works Committee have decided to postpone any action on major mass transit legislation for another year. This decision, of course, implies that there is no urgency in adopting major changes in the mass transit programs. Unfortunately, the facts do not bear out this assumption.

There is a great deal of urgency in continuing and altering the basic subsidy level for the section 17 emergency operating assistance program for commuter rail systems. Without emergency assistance now, rail passenger services in Massachusetts, Rhode Island, New Jersey, New York, Delaware, Indiana, and Pennsylvania will be jeopardized. Thousands of passengers will find themselves without access to a convenient form of mass transportation, with few options other than the automobile available as an alternative.

If there is no immediate action to alter the present section 17 subsidy level many State and local governments will be unable to bear the increased burden of continuing rail commuter services beyond April of 1978. At that time the level of Federal assistance to commuter rail lines will fall from 90 to 50 percent for a 6-month period. At the end of the 6-month period all assistance to commuter rail systems will cease.

In recent years there has been general agreement that discontinuation of subsidies to commuter rail systems was unreasonable and antithetical to our national commitment to mass transportation and energy conservation. S. 208 attempted to resolve the long-term subsidy issue. Had the provisions contained in S. 208 become law this year the 50 percent subsidy period would have been extended for 2 years. Additionally, the section 5 operating subsidy program would have been increased and restructured in such a way as to give additional moneys to metropolitan areas which have invested heavily in mass transit systems in the past and which have commuter rail lines in operation.

My amendment to the Urban Mass Transportation Act of 1964 is a very simple one. It can be accommodated within existing authorizations and as a result has no budgetary impact. The amendment does two things: First, it removes the requirement that local transit authorities provide satisfactory assurances to the Secretary of Transportation that the services will be continued at present levels beyond April of 1978 without Federal assistance. Second, it increases the basic subsidy level from 50 to 80 percent during the last 6 month period of the present section 17 subsidy provision. This amendment will assist State and local governments in continuing passenger rail services until more comprehensive action can be taken by the Congress in 1978.

I believe it would be foolish and ill advised to allow a major mass transportation system which operates in seven States and serves hundreds of thousands of commuters daily to be curtailed or even terminated because of congressional inaction over the short term. Our commitment to mass transit, particularly in light of our pressing energy and environmental needs, must be more consistent and equitable. I believe that this amendment should be passed quickly by both Houses in order to maintain a critically important component of our existing mass transit system. Unless we move at once, rail mass transit commuters themselves may be brought to a sudden halt. We should not permit such gross dislocation and confusion. I urge immediate action on my proposal.

HANDGUNS

Mr. KENNEDY. Mr. President, perhaps no argument, however logical or poignant, can persuade the gun lobby of the tragedy we create by allowing the profusion of handguns in America.

But for those who still may be undecided on this issue, I can think of nothing in recent years that has provided more startling proof of the need to control the gun menace than the article on the front page of last Saturday's Washington Post. Cold statistics often blunt the human element of the message they convey. But not in this case. Murder has become the leading, the No. 1, cause of death among young black males in our inner cities. It outranks cancer, accidents, and every other cause of death. And the chief instrument of these murders is the handgun, so readily available to settle momentary disputes or domestic squabbles.

Perhaps there are those who can be so cynical as to shrug off this news, claiming that it applies to only a small segment of our population. But let them beware. The flood of handguns is rising in every part of our country, and the grim statistics that now apply to only part of our people will, unless we act, one day engulf us all.

I ask unanimous consent that the article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MURDER IS FOUND NO. 1 KILLER OF NONWHITE MALES

(By Warren Brown)

Murder has passed accidents and any single disease as the leading cause of death among young nonwhite men in the nation's metropolitan areas, according to a report published yesterday in the New England Journal of Medicine.

"The national increase [between 1960–1970] in homicide mortality in this population group was 80 per cent," said the report.

It added: "Nationally . . . [homicide] rates have increased dramatically for both sexes and among whites and nonwhites, with the greatest absolute increase occurring in nonwhite men . . ."

The report was based on a study of homicide in Cleveland and 56 of its suburban communities from 1958 to 1974. But the researchers—most of them doctors at Case Western Reserve University—said the Cleveland figures reflect national trends.

"The homicide trends reported in this study shock us," the researchers said. "What has happened in Cleveland reflects, in a magnified way, national trends during the same period."

In Cleveland about 98 per cent of "nonwhites" are black.

Between 1958 and 1962, 82 of every 10,000 black Cleveland men between the ages of 25 and 34 died as the result of "intentional violence," the report said. That figure rose to 344 of every 10,000 between 1969 and 1974, according to the report.

An estimated 13 per cent of all homicides in Cleveland between 1958 and 1974 could be called legally justified, according to the re-

port. Most of the justifiable homicides were by police, and most of the persons killed in those incidents were blacks, the report said.

However, the report noted that white Cleveland men have also begun to get killed with increased regularity. "The greatest relative increase [in Cleveland homicides during the complete study period] occurred in white city men—455 per cent. Their rate now surpasses that of nonwhite women, altering the traditional ranking of race-sex homicide mortality found in Cleveland and other urban communities," the report said.

The report attributed the upsurge in homicides—which it said has abated somewhat in recent years—to the ready availability of handguns.

"Guns are so numerous in the United States that at least half of all American homes harbor at least one firearm," the report said. "A handgun in the home is more likely to be used in a domestic homicide or to cause serious injury, intentional or accidental, than to deter a robber or burglar," it said.

The report offered no sociological explanation for the preponderance of nonwhite homicides in Cleveland and elsewhere. However, such an explanation was forthcoming from Dr. Alvin Poussaint, a nationally known psychiatrist at the Harvard Medical School, who has specialized in studying mental problems in the black community.

"A lot of it," said Poussaint, "stems from the historical problems that have affected blacks—racism, joblessness. . . . People living in frustration tend to turn on one another.

"A lot of it has to do with manhood struggles—the 'Who's going to save face kind of a thing.' Sometimes, it [a murder] can happen over an argument over a quarter."

TREND IN BLACK HOMICIDES IS "SHOCK" TO RESEARCHERS

BOSTON, Sept. 8.—Researchers surveying homicides in Cleveland discovered that the death rate among young black men increased 320 percent in 17 years. During that time, the age of most victims dropped from the early 40's to the late 20's.

"The homicide trends reported in this study shock us," the researchers wrote. "What happened in Cleveland reflects, in a magnified way, national trends during the same period."

In Washington, Alice Haywood, a spokesman for the National Center for Health Statistics, an agency of the Department of Health, Education and Welfare, said that, nationally, homicides were the leading cause of death among nonwhite males 25 to 34 years old.

A TIME TO REMEMBER OUR FAILURE TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, although acts of genocide have taken place throughout the course of history, no doubt the most obvious and heinous example of it was the systematic extermination of over 6 million Jews during World War II.

Immediately following the conclusion of the war, the United States and its Allies expressed their shock and outrage over such acts by drafting the Genocide Convention. Acting Secretary of State James Webb, in presenting the Convention to President Truman in 1948, emphasized that the crimes of World War II had provided the primary impetus for its adoption. Since that time Presidents of both parties reminded us of that commitment. Finally, President Carter last spring recalled the treaty's wartime roots in his strong plea for its ratification.

Mr. President, between the 13th and 22d of September, millions of American Jews will be observing the High Holy Days. This is not only a time for celebration of the New Year, but also a time when particular attention is paid and honor given to the dead. Certainly, during these memorial services, the holocaust of World War II cannot help but be on many minds.

Mr. President, although the Genocide Convention is no more a "Jewish" act than it is "Protestant," "Roman Catholic," or "Hindu," I feel that this is a particularly appropriate time to recall its origins and to call for its quick ratification.

SUPPORT IN MASSACHUSETTS FOR THE AGENCY FOR CONSUMER PROTECTION

Mr. KENNEDY. Mr. President, I was extremely pleased to learn of the support of the House of Representatives, the Attorney General, and the Consumers' Council of the Commonwealth of Massachusetts, for legislation to create a Consumer Protection Agency. For over 8 years I have supported—and fought for—legislation to give consumers' voices greater prominence in agency decisonmaking. Special interests have their advocates and agencies in Washington: consumers should too.

The Consumer Protection Agency would not only provide vigorous advocacy for consumers; it would also serve an ombudsman function in handling consumer complaints and would collect, analyze, and disseminate information to assist consumers in making enlightened choices in the marketplace. Establishment of this agency is long overdue, and it is my hope that S. 1262 will be enacted during this Congress.

Mr. President. I ask unanimous consent that the following resolutions, the first adopted by the Massachusetts House of Representatives and the second adopted by the Commonwealth of Massachusetts Consumers' Council, be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO APPROVE THE CREATION OF THE FEDERAL AGENCY FOR CONSUMER PROTECTION

Whereas, The interest of the citizens and consumers of Massachusetts and the Nation do not receive adequate representation and protection in the deliberations of the Federal Government; and

Whereas, Consumer offices within the Federal Government are currently widely scattered and many are ineffective; and

Whereas, The Federal Agency for Consumer Protection would be empowered to advocate the interests of consumers before federal agencies and courts and seek judicial review of agency actions unfavorable to consumers; and

Whereas, The Federal Agency for Consumer Protection would be minimal representing less than $.25 per taxpaying family; and

Whereas, The creation of the Federal Agency for Consumer Protection has the support of a substantial majority of the American public and numerous consumer, farm, senior citizen, environmental and labor groups; and

Whereas, The Federal Energy Administration last summer, in a decision which cost consumers between 800 million and two billion dollars this winter, removed price and allocation controls from heating oil, a decision the Agency for Consumer Protection would have opposed; and

Whereas, The National Transportation Safety Board recommended to the Federal Aviation Administration (F.A.A.) that a defective cargo door on DC–10's should be modified and the F.A.A. acceeded to the manufacturers desire that the modification be optional, a decision the Agency for Consumer Protection would have fought, and subsequently, because of the defect, a DC–10 crashed killing 348 persons; and

Whereas, The Interstate Commerce Commission (I.C.C.) now requires many trucks to return empty from deliveries, make mandatory, often out of the way stops, and generally limits competition in the trucking industry, all of which artificially inflates the cost to the consumers; and the Agency for Consumer Protection would provide strong consumer advocacy in all proceedings of the I.C.C. to alleviate unnecessary costs; therefore be it

Resolved, That the House of Representatives of the Great and General Court of Massachusetts urges the Congress of the United States to enact legislation creating the Federal Agency for Consumer Protection; and be it further

Resolved, That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from this Commonwealth.

RESOLUTION OF THE MASSACHUSETTS CONSUMERS' COUNCIL

Whereas federal agencies set rates for certain consumer goods and services, establish health and safety standards, and otherwise make decisions which vitally affect consumers, and

Whereas because consumer interests are not adequately represented before federal agencies, decisions are often made after hearing only the viewpoint of the regulated industry, and

Whereas the creation of a federal Agency for Consumer Protection would redress this imbalance by ensuring that federal agencies hear the consumer's voice before making such decisions, and

Whereas the creation of such an agency would cost the average taxpayer about 5¢ per year—or roughly two hours of the Pentagon's annual budget—

Therefore, be it resolved that the Massachusetts Consumers' Council strongly urges Rep. Margaret Heckler (R-Wellesley) and Rep. Silvio Conte (R-Pittsfield) to protect the interests of the consumers in their respective districts, and join the rest of the Massachusetts Congressional delegation, by giving their full support to H.R. 6118, a bill creating an Agency for Consumer Protection, and by opposing the McCloskey Amendment and any other amendments which weaken the proposed agency; and

Furthermore, be it resolved that the Massachusetts Consumers' Council expresses its deep gratitude to the remainder of the Massachusetts Congressional delegation for their support of the Agency for Consumer Pro-

tection and urges them to continue resisting the considerable pressures mounting on them to reverse their stand, or to vote for the McCloskey Amendment or other amendments designed to weaken the proposed agency.

STATEMENT BY SENATOR CLAIBORNE PELL: U.N. SECURITY COUNCIL DEBATE ON CYPRUS

Mr. PELL. Mr. President, the United Nations Security Council is currently considering an appeal by the Government of Cyprus regarding Turkey's failure to comply with United Nations resolutions calling for a withdrawal of the Turkish forces occupying northern Cyprus.

The appeal by Cyprus is particularly relevant and compelling at the present time because of the recent Turkish action in moving Turkish Cypriot settlers into Varosha, a suburb of Famagusta. This is an alarming development because it has been generally assumed that under any peace plan Famagusta and Varosha, which up until now have been uninhabited since the 1974 Turkish invasion, would be returned to the Greek Cypriots.

The Turkish settlement plan clearly calls into question whether Turkey is prepared to withdraw from any of the territory it occupied in 1974. More ominously, it calls into question whether Turkish forces will confine themselves to the territory already occupied or whether there are further expansionist designs on Cyprus.

In my view, the United States should join other members of the Security Council in condemning the Varosha settlement and calling for an end to the Turkish occupation of northern Cyprus. The United States must not abstain, as it did in the case of General Assembly Resolution 3395 of November 20, 1975, when clear calls for the end of a cruel occupation are made.

Mr. President, the distinguished British newspaper, The Guardian, published two very interesting and perceptive articles on the planned Turkish settlement of Varosha on August 30. I commend them to my colleagues and ask unanimous consent that the full texts of these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CYPRUS PRESSURE TO GET TURKS OUT OF VAROSHA

(From John Bierman in Nicosia)

The Foreign Minister of Cyprus, Mr. John Christophedes, flew to New York at the weekend to present his Government's case in a Security Council emergency debate this week on the "deteriorating situation" on the island.

His opposite number, Mr. Vedat Celik, "Foreign Minister" of the self-proclaimed Turkish Federated State of Cyprus, is already in New York, helping the Turkish permanent delegation to the UN to muster support.

A decision to consider the Cyprus Government's complaint was due last night after the Security Council president, Ambassador Jacques Leprette of France, completed his soundings of the 14 other members. These include Pakistan and Libya, which may be expected to take up a pro-Turkish stand.

According to UN sources it is expected that a two-day special session of the Security Council will begin today.

The Cyprus Government decided last week to seek immediate recourse to the Security Council on two counts—in general, the Turkish failure to comply with past UN resolutions on Cyprus, and in particular the announced Turkish intention to start resetting the Famagusta suburb of Varosha on September 1.

Previous resolutions have called in vain for a withdrawal of the Turkish troops occupying Northern Cyprus—now estimated at between 25,000 and 30,000 with about 150 tanks—and the return of 10,000 Greek Cypriot refugees to their homes there. The Greeks are demanding Security Council action to ensure Turkish compliance.

It is a demand they have made before, without success, and there is an element of ritual in this latest attempt. The new element is the Varosha issue, which the Greek Cypriots regard as of vital importance and extreme urgency.

They describe the plan to settle Varosha as "Attilla 3"—the third phase of the Turkish invasion—the first having been the initial landings on July 20, 1974, and the second the August 1974 offensive in which Turkish troops swept east and west across the island after a fitful period of ceasefire to end up in occupation of 36 per cent of Cyprus.

It was in this second offensive that they took the eastern port city of Varosha and its wealthy tourist suburb, also called Varosha, which at the time contained almost half the island's hotel accommodation, as well as being home to some 40,000 Greek Cypriots.

The Turkish Army sealed Varosha off and it remained the one captured area in which displaced Turkish Cypriots were not settled—a brooding ghost town of luxury hotels and high-rise apartment blocks, strung out along a new eerily deserted sweep of sandy beach, deteriorating slowly in the scorching eastern Mediterranean sun.

The understanding was that Varosha was being held as a bargaining counter pending an overall settlement, and indeed unless the Greeks believe there is a chance of getting it back there seems very little for them to negotiate about.

Now, with Turkish Government approval, the Turkish Cypriot administration is about to move 100 families into Varosha and to open a refurbished luxury hotel as a hotel training institute.

So far as the Security Council's proceedings are concerned, the Americans will doubtless continue to prefer private persuasion to public condemnation. The Soviet Union has shown itself consistently unwilling to offend the Turks over Cyprus. The Chinese are known to regard the issue as an imperial leftover, in which they have no interest either way.

The British are likely to follow the American line. The French appear in general to be sympathetic to the Greek Cypriots, but it is not a subject about which they feel particularly strongly.

So much for the five permanent members of the Security Council. The line-up does not seem likely to produce the strong resolution the Cyprus Government would like.

WORDS WON'T SHIFT TURKEY

As the world accretes new problems, so old problems sink lower down the pile. Cyprus, for instance, may stir in crisis; even this week strive for a Security Council emergency debate: but who supposes much will happen about Varosha when the Horn and Cape of Africa—not to mention the Middle East—consume all energy? What can the United Nations say to Turkey that it has not said vainly a hundred times before?

Yet Cyprus remains a moral issue as well as a purely political mess. And it becomes constantly easier to comprehend the full extent of Greek Cypriot distress. For a moment, see it through their eyes. Cyprus is a sovereign state floating a few dozen miles off the Turkish coast. Turkey, for centuries, has been an expansionist power. The Ottoman empire is not so long gone. In the summer of 1974, the Greek Cypriots made a fatal mistake. They fell out amongst themselves. An extreme right-wing coup toppled but failed to kill Archbishop Makarios. Though there was no immediate threat to the Turkish Cypriot minority, the longer-term threat of a pro-Enosis regime run by Nicos Sampson was too much for Ankara. They invaded in two separate waves. They camped along the Attila Line, holding 36 per cent of Cyprus. They have not budged since. Worse, they have relentlessly filled northern Cyprus with mainland emigrants, squeezing all but a handful of Greeks from their territory. Peace plans have always visualised a measure of Turkish withdrawal. But no peace talks have got anywhere; and now Varosha—a resort that every peace plan envisages returned to Greek hands—is to be progressively settled by Turks. Makarios's long, hard struggle goes on without Makarios. Who can wonder, then, that the Greeks fear not merely permanent division along the Attila Line but, at some suitable future moment with some suitable future excuse, a further Turkish push to swallow all of Cyprus? Will world opinion be any more help then than it is now?

British and American observers, examining this thesis, may find it too doom-fraught. Turkey, from their standpoint, is a quavering giant, shot through with political dissent and dominated more by inertia than dreams of conquest. None the less, they must see how the facts support the Greeks. Ankara has settled the north. Ankara has refused meaningful negotiation. Ankara (Begin-style) is moving people into Varosha. Perhaps all the Greek Cypriots can do is seek some UN succour. But the West—and most specifically, America—is in a tighter spot. There is no doubt where Jimmy Carter's sympathies or campaign loyalties lie. From the start he has given Cyprus some priority and, in Clark Clifford, a wily old negotiator. But nothing has come of it. The settlement of Varosha, indeed, will be a calculated snub to Washington. And unhappily, for all the intricacies of Cyprus, the essential issues are (as we have said) moral ones. Can a country invade another under the West's nose and get away with it? Is might right? And if might is not right, what is Mr. Carter going to do about it?

SOUTHERN GOVERNORS ENDORSE DEREGULATION

Mr. SCHMITT. Mr. President, I indicated yesterday that I would be introducing for the consideration of my fellow Senators the natural gas pricing resolutions of various regional Governor's conferences. Today, I am offering the resolution adopted by the 43d Annual Southern Governor's Conference.

Perhaps the most significant outcome of these energy statements made by our Nation's governors is that their beliefs do not conform to geographical regions. Deregulation is not a regional issue. It is supported by the overwhelming majority of the Nation's governors representing gas producing States and gas consuming States.

Why is this the case? I believe is because our State governments, working daily with the problems of unemploy-

ment, realize that our people are equally sensitive to the availability of gas as they are to the cost of gas.

Mr. President, I ask unanimous consent that section 5, Energy Policy Statement, of the Resolutions Adopted by the 43d Annual Southern Governors' Conference be printed in the RECORD. The specific recommendation is under the "supply" section of the general heading of "Specific Action Recommendations."

There being no objection, the statement is ordered to be printed in the RECORD, as follows:

SECTION 5. ENERGY POLICY STATEMENT

We, the Southern Governors, hereby submit this policy statement as an expression of our unified concern over this nation's continuing energy problems. We have determined that the economic well being of our nation and the Southern Region are inextricably tied to these energy problems and the effects on the economic system of each set of solutions to the energy problems we all face must be carefully weighed and considered. We must promote solutions which guarantee adequate energy resources and maintain a balanced economic system for the nation.

FINDINGS

Energy is the underlying base of almost all economic and social activity in our states.

The limited availability of energy adversely affects every segment of our lives.

Continued economic health and opportunities for sustained growth are possible only with secure and dependable energy availability.

Oil and natural gas will continue to be major sources of energy for at least the next decade. Under present regulatory practices and those contemplated by the House passed energy bill (H.R. 8444) the domestic supplies of these premium fuels will continue to diminish and our nation each year will become more dependent upon expensive, foreign energy supplies.

The region represented by the Southern Governors' Conference produced in 1976, some 68 percent of this nation's energy output, including 72 percent of the oil, 84 percent of the natural gas, 53 percent of the coal, and 30 percent of the nuclear generated electricity.

About one-half of this nation's proven and potential fossil fuel resource base is under the control of the Federal government; in 1976, it produced only 10 percent of our national energy output.

Alternative sources of energy will be expensive to commercialize and their effective penetration into the marketplace will be long term, but it is necessary that their complement existing energy sources.

Industrial and commercial conversion from natural gas to coal will cause serious economic problems.

Present federal environmental standards are unnecessarily delaying, and in some cases make impossible, use of fuel sources which will help balance our national fuel mix.

The energy problems cannot be solved or alleviated unless our present domestic energy resource base is expanded and energy usage in terms of both individual life style and economic activity becomes compatible with limited supplies.

The South is heavily dependent on private transport in non-urban areas and on the car-driving tourist for state general revenue. Thus the Federal government must consider that an adequate system of highways and a sufficient supply of gasoline and diesel fuel are essential to the maintenance of a sound economy in our region.

Although conservation can substantially alleviate the short term energy problem, current federal energy pricing policies work against the conservation of energy resources.

Artificially low wellhead prices for domestic oil and natural gas will not increase or encourage exploration. They will, in fact, hasten the decline of domestic production, expand imports, and by creating an unnaturally high demand provide little or no incentive for conservation.

Long-term solution to the energy problems of this nation are dependent upon an aggressive research, development, and demonstration program. Alternative energy systems and non-depletable or renewable energy resources must become our new energy base.

No one system or any single resource can provide a lasting answer to energy sufficiency with adequate economic health; our R, D & D programs must not ignore any potential technology in seeking those long range answers.

A strong state-federal relationship is the keystone to assuring truly national solutions; a coordinated, central federal energy agency can provide the focus necessary to achieve a needed national consensus.

There is increasing concern about energy facility safety; the public lacks confidence in present procedures which determine facility need and is dissatisfied with the site selection and approval process.

Uncertanties concerning federal and state regulatory attitudes are limiting the availability of capital to finance construction of needed energy facilities.

The impacts of energy facility siting, construction, and operation are regional in scope; and the interstate aspects of energy planning will play a more prominent role in the decision-making process in the future.

GENERAL POLICY STATEMENTS

We believe that the following 15 point general policy responds to the findings we have made and provides a framework within which regional and national energy goals can be achieved.

1. We urge the President to appoint an assistant secretary for intergovernmental relations in the new Department of Energy whose sole responsibility would be to work with the states and regional organizations in identifying significant energy issues, in achieving national consensus, in advancing appropriate solutions, and in expediting state relations with all offices and divisions in the department.

2. We call upon the President and Congress not to abandon any technologies which could assist this nation in bridging the gap between supply and demand or become the basis for energy self-sufficiency. Breeder reactor technologies and nuclear fuel reprocessing must receive adequate commitment for federal research, development, and demonstration. With our present resource base so short-lived we must pursue all options that are technologically sound.

3. We strongly urge the Congress and the President to abandon policies which create artificial incentives for increased consumption of dwindling fuel sources. Present federal natural gas pricing policies in the face of mounting prices for rival fuels have substantially undervalued interstate gas with respect to other fuels

4. We urge the Congress to address the social problems that might occur with increased energy prices or other energy policies by direct assistance through established social welfare programs, not through the back door of price controls or utility rate structures.

5. We strongly believe that the effect of any federal energy policy must not cause any state or region to bear a disproportionate share of the burden either through too rapid depletion of its resource base or through economic disruption.

6. We urge that federal curtailment policies be reconsidered so that the maintenance of family income be of major importance in any schedule of priority distribution of energy.

7. We applaud the decision to institute a regional solar energy network which will permit research, development, and demonstration of this resource to address the unique and specific needs of individual states. We commend this approach for the expenditure of federal R, D & D funds of other programs in which regional impacts ought to be emphasized.

8. We urge Congress and the Administration to review federal environmental standards which impede energy development so that a realistic balance between environmental quality on the one hand, and energy availability and economic health on the other can be achieved.

9. We recommend that the Federal government allow the states greater flexibility in the use of highway trust funds and other energy-related tax revenues dedicated to transportation purposes in order to respond to various state transportation needs.

10 We subscribe to the position that the states must have to the greatest extent possible a voice in determining priorities for the expenditure of federal R, D & D funds.

11. We urge that the President and Congress consider the socioeconomic impact on states and communities when large federal energy-related installations are built and operated. Some form of assistance is needed to help communities provide increased services for construction and operating crews and to maintain the local tax base; such assistance programs as "grants in lieu of tax payments" should be studied.

12. We submit the following as significant topics which ought to receive priority consideration by the research arms of the Federal government:

A. in the area of coal utilization, such subjects as improved mining techniques, transportation systems, conversion to other fuels, and sulfur-removal technologies.

B. in the area of oil and natural gas development and production, such subjects as improved exploration techniques and enhanced recovery.

C. in solar technologies development, such subjects as biomass conversion, heating and cooling, small scale electricity generation, ocean thermal energy conversion, and legal questions such as sun rights and solar easements.

D. in nuclear power utilization, such subjects as breeder development, fusion, fuel recycling, and waste management and disposal.

E. in the area of conservation programs and incentives, such subjects as life-cycle cost analysis, energy efficiency building codes, utilization of waste heat, and modular integrated utility systems.

13. We subscribe fully to the policy that state government itself must set the example for conservation in buildings and operations and for the wise use of all energy resources.

14. We urge the responsible conservation and utilization effort of our precious natural resources and toward that end we urge the conservation of our nuclear fuels and the development and evaluation of alternative nuclear fuel reprocessing cycles and safeguard measures that will ultimately make available for power production these otherwise wasted nuclear fuel resources and at the same time, meet the practical international nonproliferation objectives.

15. We urge the President and the Congress

to consider the social disruptions which may occur under a widespread energy shortage, such as those which occurred in the national coal shortage of 1918, and to formulate in advance legislation mechanisms and policies to deal with such an emergency. In many areas of the South, dependence upon the automobile as a form of transportation is greater than in some other areas. To avoid regional unfairness, any standby emergency gasoline rationing plan should consider (1) variations in the historic per capita use of gasoline, (2) the density of population, (3) the availability or lack of availability of forms of transportation as alternatives to the automobile.

SPECIFIC ACTION RECOMMENDATIONS

Within the general framework of the foregoing policy, we recommend the following specific actions be undertaken by the appropriate level of government.

Supply

1. Natural Gas Deregulation.—Federal legislation should be enacted which would remove wellhead price controls on new natural gas. The legislation should also contain provisions designed to limit or eliminate windfall profits by requiring reinvestment in exploration and development. The deregulation should be phased into effect to mitigate its impact on consumers.

2. Outer Continental Shelf Development.—Maximum effort should be devoted to the prompt, environmentally safe development of all OCS areas, including the Atlantic Seaboard.

Federal legislation to encourage such development should:

(a) streamline the administrative procedures to prevent unnecessary delays in the acquisition of permits and in the leasing of OCS lands.

(b) maximize state government input in the leasing, production and planning for lands off their coasts. It is essntial to improve Federal/State cooperation in the development of OCS lands.

(c) expand the impact assistance program adopted by the 94th Congress to help coastal states handle the socioeconomic impacts of OCS development.

(d) encourage private exploration on the OCS rather than exploration by the Federal government. The American taxpayer should not be required to pay the bill for offshore oil exploration.

3. Boiler Fuel Conversion.—A maximum but reasonable time should be allowed to replace natural gas with coal as a boiler fuel. Temporary exemptions should be given to users who demonstrate a good faith effort to convert to other fuels for base load requirements. Permanent exemptions for peak load use of natural gas based on cost effectiveness, environmental considerations, and conservation efforts should be granted. In addition, small commercial and industrial users should be granted permanent exemption from mandatory conversion to coal. Energy conservation efforts should also be considered in granting exemptions.

4. Coal Transportation.—The Federal government should determine the need for and oversee the renovation of rail beds to be used for long-haul, heavy, sustained use by unit trains. The same ought to be done for waterways and highways which can be expected to bear the brunt of heavy coal transport. A method should be devised at the federal level, however, which insures that the coal, not the general taxpayer, bears the cost of using improved transportation systems.

5. Nuclear Power.—The Federal government should support R, D & D of both nuclear fission and fusion so that the nation will have access to this energy in the future under environmentally safe conditions. Licensing procedures should be streamlined and decisions in the nuclear fuel cycle and waste management areas should not needlessly inhibit the growth of nuclear power.

6. Synthetic Fuels.—Free market prices should be allowed to provide the basic incentives for private sector commercialization of all alternative energy sources, including synthetic fuels. Until it is demonstrated that the free market can work, however, the Federal government should provide the funds necessary to bring the synfuels industry to commercial viability.

7. Domestic Oil Production.—To expand the production of domestic oil, wellhead prices should be phased to the world market price and an excess profits tax, with plowback provisions, should be imposed to guard against excessive profits instead of a wellhead tax.

Demand

1. Conservation.—The concept of life-cycle cost analysis should be encouraged for all building construction. States should strictly enforce the 55 miles per hour speed limit. Energy efficiency building codes should be adopted by all levels of government and energy efficiency in building operations should be encouraged.

2. Agriculture.—The curtailing of natural gas for essential agricultural, food processing, and food packaging purposes, including irrigation pumping, crop drying, and as a feedstock in the production of fertilizer, should be prohibited to the maximum extent possible.

3. Environmental Considerations.—Environmental standards should address regional differences. High cost unproven pollution controls for protection against unknown or speculative levels of risk should be required only as a result of a clear expression of public willingness at the local level to pay the price involved. Such decisions should be made on a timely basis to avoid project delays and undue financial hardships. We urge the adoption of a statute of limitations that would provide a reasonable but fixed timetable for addressing environmental challenges to energy projects.

Energy management

1. The Federal Department of Energy.—Efforts must be undertaken to insure that the very size of the new DOE does not make it difficult for states and local governments to approach it.

2. State-level Energy Agencies.—States should tailor their own energy agencies to meet their specific and unique needs, remembering that a single point of focus for issues as important as energy should facilitate action by and to state government. The Federal government should assume a greater share of the cost of implementing state programs mandated by the federal laws or policies.

Utility regulation

1. Federal Preemption.—The recent trend toward more federal preemption of historically state prerogatives must cease. The states can best respond to their own circumstances with regard to utility regulation and should be permitted to do so without unnecessary and burdensome federal legislation.

2. State Structures.—States should examine closely existing rate structures with an eye toward insuring more equitable cost sharing by consumers; no one class of customers ought to subside another.

Energy facility planning and siting

1. Public Confidence.—Government and industry must take steps to restore public confidence in all aspects of energy facility planning and siting. Means must be developed to streamline and integrate the present approval processes so that adequate energy supplies will be available to maintain economic health.

2. Regional Siting Procedures.—States must begin to work together and with the appropriate federal agencies to develop the necessary institutional mechanisms to insure interstate cooperation in energy facility planning and siting. Specifically, the Southern Governors' Conference and its staff must work closely with the National Governors' Conference's subcommittee on energy facility siting so that this region's needs and concerning are adequately considered.

Availability of natural gas supplies

We urge early action by the President in designating the route of the pipeline for bringing Alaskan natural gas to United States markets; and we further recommend that the United States government provide appropriate financial assistance in the building of a gas pipeline to bring natural gas from Mexico to U.S. markets.

National dialog on a national energy program

Since the national energy policy currently being debated by the Congress, as proposed by the Administration, has created great uncertainty in the minds of the American public as to the alternative courses of action available to this nation in the future, particularly in relation to the balance to be struck between the need for the increased production of oil and gas in this country and our capacity to increase that production, the possible reliance upon other sources of energy, including the expanded use of coal, the environmental constraints which have been placed upon expanded development of our various energy resources, and the ability of the nation to achieve its goals largely through conservation measures; and

Since the uncertainties and confusion in the minds of the American people (from the information made available to the Congress and the nation to date by the various federal agencies and offices and by the oil and gas industry, as to the potential of the nation to increase production of oil and gas from known reserves of oil and gas, the reserves believed to exist which have been yet undiscovered, our capacity to mine and transport coal, the technology available for use of alternate sources of energy) have assumed monumental proportions, and grave doubt exists as to whether we are placing the economic and political security of the nation in serious jeopardy, by the proposed legislation; and

Since, the Southern Governors' Conference believes the best interests of the nation would be served by national debates on the entire subject matter which might be accomplished through presentations by knowledgeable persons, carefully selected, to present to American people the various sides of these issues. A series of such debates on national television, organized under the authority of a national non-partisan organization, could achieve the goal of informing the people of this country.

Therefore, we urge President Carter to request of Congress a delay in the enactment of the current energy program for a reasonable time, and that the President be further requested to arrange nationally televised public debates on these critical issues during this delay, in order that the public may have the issues placed before it, and the Congress and the Administration may become better informed, on the alternative solutions to the critical questions now before the nation in respect to its national energy policy of the future.

TOMORROW'S LEADERS

Mr. THURMOND. Mr. President, last March, Gen. Walter T. Kerwin, Vice Chief of Staff, U.S. Army, addressed the Association of Military Colleges and Schools during the annual meeting. In his remarks, General Kerwin recognized the important role of the junior ROTC program. I wish to share his wise counsel to the leaders of the association with my colleagues. Accordingly, I ask unanimous consent that "Tomorrow's Leaders" be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TOMORROW'S LEADERS

(By Gen. Walter T. Kerwin, Jr.)

First of all, I would like to thank Colonel Risher for his generous introduction. This has been an extremely enjoyable evening. It's delightful to see so many old friends and new friends who are engaged in the exciting business of building the foundation for America's Officer Corps for the future.

In so many ways, I truly envy this Association. There's a wealth of talent and military experience gathered in this room tonight. You are each involved in the everyday business of molding the minds, the character and the attitudes of tomorrow's leaders. It is a great challenge.

I fully recognize that the schools and colleges represented by the Association of Military Colleges and Schools cover a wide spectrum of education ranging from secondary schools to major colleges. But we all have one unifying purpose and that is to continue to provide the finest young men and women to promote and defend our ideals and principles.

The schools and colleges represented here tonight are unique. You're unique in that you use the discipline and rigors of military training to augment and reinforce first-rate academic training. We need this type of institution!

Also the country needs the disciplined, mature and professional students your institutions provide. And, speaking for the Army—the other services—and the Nation, we need the kind of young men and women that your schools and colleges provide in such abundance.

In my 38 years in the Army, I have worked for—worked with—and led as you have—so many of your distinguished alumni, some of whom are here tonight. The leadership around this room has kept our military institutions throughout the Nation strong and fruitful during a period when patriotism and duty—discipline and honor—responsibility and obligation—were derided and ridiculed by the disruptive elements of the counter-culture.

There have been some lean years. But each of your schools and colleges maintained their standards. Those that did not . . . are not represented here tonight. Some things have changed, but you have not bent to permissiveness and erosion of standards. You have continued to mold young men and women who had demonstrated character and competence—into young leaders with bearing, confidence and a sense of duty and obligation.

Future generations will seek these leaders who can foster legitimate change without destroying the institutions which require changing.

Now I'd like to comment specifically tonight on the contribution of several elements of your Association which we of the Army have, quite frankly, slighted in both our interest and in our support. The first of these is the Junior ROTC program.

We have, in the past, taken quite a narrow view. We found we could not correlate X amount of support dollars to Y amount of trained officers in the services, so we tended to overlook the real value of the Junior ROTC programs.

All the services must bear in mind that you and I are in the business of protecting and defending the Constitution of the United States—not just fighting wars. And I can think of no better way to protect and defend that Constitution than by helping to prepare our young men and women for citizenship and responsible leadership when they are in their young years. The Junior ROTC program has made remarkable contributions toward that end and deserves the support and recognition of the Army and the other services.

The second point is our Class II military institutes—some 44 first-rate military high schools and junior colleges. Again, we have been short-sighted in the Army's recognition of these cornerstone institutions. Why? Well, again we have not been able to make a firm correlation between program costs and input of military leaders, but I'm convinced there is a correlation and a strong one.

I'm also convinced that these uniformed training grounds foster strong ties between the civilian population and the military. They provide many graduates who go on to become outstanding military leaders. They also produce other graduates who have learned to appreciate the value of self-discipline . . . who have learned the value of organizations that establish demanding standards . . . and who insure that participants live up to those standards. These young civilian graduates will become standard bearers in their professions as well. We tend to forget that!

In sum, the Junior ROTC program throughout the Nation, both directly and indirectly, supports the goals of the Army, our sister services and the Nation. While the Junior ROTC program is not a recruiting program, still one survey indicated that 12 percent of Army officers, 7 percent of our enlisted strength and 33 percent of the Senior ROTC scholarship recipients participated in the Junior ROTC program.

This is most impressive! Consider only the scholarship winners who will serve on Active Duty for a minium of four years. These are proven leaders that you have helped mold in the early years.

I was certainly impressed when I found that all of these "JROTC-prepared" scholarship winners are in the top 50 percent of their class, 35 percent are class officers, 65 percent are National Honor Society members and almost 60 percent are varsity athletes. It's impressive!

One last thought on the Military Junior Colleges. I recognize there has been some vacillation concerning this program. As you have been told, your cadets, upon completion of MS IV, with an associate degree, can be commissioned and enter the active duty for training program.

By no means is this a "down-grading" of the requirements for officers in our Army Reserve and Army National Guard units. We need strong, qualified officers for this important task. But if we permit these young men, as fine as they may be, to enter Active Duty without a baccalaureate degree, we are doing them a disservice as they cannot compete with their contemporaries in today's Army.

A second avenue will be open to your graduates. After commissioning, they may enter into an educational delay status, pursue a baccalaureate degree, and then apply for Active Duty along with the ROTC graduates from 4-year institutions. Details of this approach are being worked on and I expect final approval very soon.

I know that, in the past, you have recruited high school graduates, sent them to the Basic Course at Fort Knox, and then enrolled them in your institutions as advanced ROTC students.

You can continue to do this, and if they win a 2-year scholarship at Fort Knox, they may attend the military junior college of their choice. With this, I hope you can settle into a routine and continue to commission quality officers for the Total Army.

Now at this point, I would like to address a few comments to the representatives from our military colleges and universities. Most of you know that the Chief of Staff, just last month, approved a directive that gives priority status to graduates from the six military colleges who request Active Duty status. I'm delighted to see this change. Your essential military colleges and universities have contributed many of our finest leaders who have led the Army in the hardest times. Men like George C. Marshall, General Ernie Harmon and General Earl Rudder.

While I recognize that you are justly pleased by this priority status, it represents a great responsibility. Not all your graduates have earned priority status. The future of that status depends on your willingness to cull out those who do not deserve priority in competing with civilian colleges and universities for Active Duty. The responsibility is yours. You are in the best position to judge by an across-the-board total appraisal of the willingness and ability of each cadet to lead our soldiers and to represent your institutions in the Active Army. As you know, competition for the limited number of Active Duty officer openings is extremely stiff.

So I ask that you review each candidate carefully and approve only those who have demonstrated that they can pass what, I believe, is the acid test—that they will make the kind of officers you would want to lead your son or daughter in peace or war.

This Association represents and quite well, I believe, a fundamental and an essential element for the building, not only of American military leadership, but for national leadership as well. The kind of enlightened leadership, trained leadership, and leadership which understands and respects responsibility, duty, honor, country and sacrifice, those fundamental elements which make great leaders eager for great causes. The goals and objectives of this Association contribute to the goals and objectives of the services and the Nation, and I congratulate you on the excellence and energy of your effort and the quality of your membership.

Now, I would like to make one final point. As many of you know, I am an alumnus of the United States Military Academy. As all of you know, the United States Military Academy at West Point has just emerged from one of the most trying periods of its long and distinguished history. I was involved in that problem. The impact of the recent honor scandal on the Corps of Cadets has, as you well recognize, been severe. But we can all learn a lesson from this temporary breach of standards.

All military institutions, private or public, share fundamental values. We speak a common language. We strive to set high standards for our cadets—standards and demands which are not asked by any other institution within the Nation. Each military institution should maintain the unique traditions of its heritage.

Each should seek to understand the customs, traditions and operations of the other to discover new ways to improve their own standards.

And each should look carefully at the failures of the other to preclude the same thing occurring at home. There are several reasons why, in my view, the failure of the Honor System at West Point has come about.

1. The rapid expansion of the Corps during the 1960's doubling in size within eight years.

2. The pressures of the Vietnam war and the great national debate over our involvement in it.

3. The estrangement of the West Point ideals from the norm of social behavior throughout the country.

4. The failure of leadership to perceive the development of a subculture within the Corps which took upon itself to modify the Honor Code, aligning it with less satisfactory standards elsewhere in our society.

During this period we thought that the principles of Duty, Honor, Country were as solid as the rocks on which the Academy itself rests. We were wrong. We thought that there was harmony between the standards of the officers charged with running West Point and the students who passed through the institution. We were wrong.

The fundamentals of an ethical system—expressed at West Point—a cadet will not lie, cheat or steal or tolerate those who do—cannot just be announced. Only when individuals have adopted these institutional values as their own—when they have internalized them and made them part of their daily lives—only then can we be certain that the values will endure. Each student generation, each class, must be committed to the task of strengthening and preserving these values for itself, and for those who follow.

There are some lessons that I'm convinced the Military Academy has now learned and that are worth repeating here tonight.

1. First, that you cannot take the overt continuance of standards for granted, or you may find that the students have two standards—a formal one for the administration and a lesser or informal one for themselves.

2. Second, that every tactical officer, every instructor, and every administrator is responsible for standards of performance, standards of integrity, and standards of honor. And, they must continually evaluate those standards, as practiced by the cadets and the Academy's administration, in an open and cooperative interchange.

3. Third, we cannot allow a "we and they" relationship to become established between the Corps and the administration. While both have distinct responsibilities toward the other, fundamentally the goals, objectives, and standards must be common.

4. And, finally, everyone must feel the obligation to discover the flaws and reveal them. No one likes to hear about more problems, but if you don't seek the small flaws, you'll most certainly face the catastrophies.

Military schools function on a very precarious balance

1. Between discipline—and hazing;

2. Between human honor and integrity;

3. Between fruitful tradition and ceremony—and silly timewasting foolishness.

4. And between strong, yet understanding, compassionate leadership—and authoritarianism.

As I see it, the future of all military institutions looks bright. West Point is emerging from its crisis stronger and wiser for the experience. The country is regaining its sense of national pride and patriotism. The applications at most of our military schools, colleges and academies are on the rise. We can all be more selective. It appears that the membership of this Association has survived one of the severest periods of anti-militarism in the history of the Nation.

Each of you and this Association has great reason to be proud of this accomplishment. But there is no room nor time for complacency. When we deal in the minds, the energies and the future of our young men and women, every failure on our part is measured in human waste and tragedy. Conversely, every success is measured in human progress. How can any of us rest an instant? We did at West Point! The lesson is there.

Thanks for inviting me.

THE REFUGEES OF CYPRUS

Mr. KENNEDY. Mr. President, for tens of thousands of Cypriots, being a refugee has become a way of life. Thousands still live in tents, and countless more are crowded into temporary, inadequate housing. Over 3 years have now passed since the Turkish invasion of Cyprus, and not a single refugee has been able to return to his home or lands a few miles away.

The continuing tragedy of Cyprus has tended to slip from our view, as the Cyprus crisis has been overtaken by newer problems in new areas. But, fortunately, articles occasionally appear in our press which serve to remind us that the Cyprus problem continues, unchanged, and that we cannot forget the plight of the Cypriot people.

Such an article appeared in today's New York Times by William Farrell, describing the life of the Cypriot refugees in the small town of Kolossi. It captures what life is like as a refugee in one's own country—with one's home and fields only a short distance away, but blocked by an army of occupation.

Mr. President, we cannot forget the refugees of Cyprus, even as we cannot ignore the problem of Cyprus, because they represent more than just a humanitarian problem or a political issue. More than anything else, Cyprus is a moral issue, which we can ignore only at our peril. As a recent editorial in the Guardian of Manchester stated:

For all the intricacies of Cyprus, the essential issues are moral ones.

Can a country invade another under the West's nose and get away with it? Is might right? And, if might is not right, what are we going to do about it?

Mr. President, I commend to the attention of Senators the Guardian editorial and the article in today's New York Times, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Manchester Guardian, Aug. 30, 1977]

WORDS WON'T SHIFT TURKEY

As the world accretes new problems, so old problems sink lower down the pile. Cyprus, for instance, may stir in crisis; even this week strive for a Security Council emergency debate; but who supposes much will happen about Varosha when the Horn and Cape of Africa—not to mention the Middle East—consume all energy? What can the United Nations say to Turkey that it has not said vainly a hundred times before?

Yet Cyprus remains a moral issue as well as a purely political mess. And it becomes constantly easier to comprehend the full extent of Greek Cypriot distress. For a moment, see it through their eyes. Cyprus is a sovereign state floating a few dozen miles off the Turkish coast. Turkey, for centuries, has been an expansionist power. The Ottoman empire is not so long gone. In the summer of 1974, the Greek Cypriots made a fatal mistake. They fell out amongst themselves. An extreme right-wing coup toppled but failed to kill Archbishop Makarios. Though there was no immediate threat to the Turkish Cypriot minority, the longer-term threat of a pro-Enosis regime run by Nicos Sampson was too much for Ankara. They invaded in two separate waves. They camped along the Attila Line, holding 36 per cent of Cyprus. They have not budged since. Worse, they have relentlessly filled northern Cyprus with mainland emigrants, squeezing all but a handful of Greeks from their territory. Peace plans have always visualized a measure of Turkish withdrawal. But no peace talks have got anywhere; and now Varosha—a resort that every peace plan envisages returned to Greek hands—is to be progressively settled by Turks. Makarios's long, hard struggle goes on without Makarios. Who can wonder, then, that the Greeks fear not merely permanent division along the Attila Line but, at some suitable future moment with some suitable future excuse, a further Turkish push to swallow all of Cyprus? Will world opinion be any more help then than it is now?

British and American observers, examining this thesis, may find it too doom-fraught. Turkey, from their standpoint, is a quavering giant, shot through with political dissent and dominated more by inertia than dreams of conquest. None the less, they must see how the facts support the Greeks. Ankara has settled the north. Ankara has refused meaningful negotiation. Ankara (Begin-style) is moving people into Varosha. Perhaps all the Greek Cypriots can do is seek some UN succour. But the West—and most specifically, America—is in a tighter spot. There is no doubt where Jimmy Carter's sympathies or campaign loyalties lie. From the start he has given Cyprus some priority and, in Clark Clifford, a wily old negotiator. But nothing has come of it. The settlement of Varosha, indeed, will be a calculated snub to Washington. And unhappily, for all the intricacies of Cyprus, the essential issues are (as we have said) moral ones. Can a country invade another under the West's nose and get away with it? Is might right? And if might is not right, what is Mr. Carter going to do about it?

[From the New York Times, Sept. 15, 1977]

GREEK CYPRIOTS WHO FLED TURKS STILL IN TENT CITY

(By William E. Farrell)

KOLOSSI, CYPRUS.—This community of tents and tin-roofed shacks housing 500 Greek Cypriot refugees lies not too many miles from the bustling harbor of Limassol, which is booming with the construction of condominiums designed to lure affluent vacationers and retired people.

Some of the residents of the Kolossi refugee camp have been here for as long as three years ever since they fled the Turkish invasion of northern Cyprus in 1974. Many of them left all their worldly possessions behind, seeking succor "in just my slippers," as a tent-dweller put it.

The Greek Cypriots have made remarkable economic strides since 200,000 of them fled from the north. Construction, as in Limassol, is booming; there is a demand for labor, and there are even suggestions, thus far not approved by the Government, that workers be imported from abroad.

Diplomatic sources attribute the economic gains to the industriousness and high level of skill of the people, the infusion of foreign aid, much of it from the United States, and sound economic policies unmarred by corruption.

HOUSING REMAINS A MAJOR PROBLEM

But refugee housing remains a problem. According to a survey by the Labor Min-

istry in May, only one fourth of the 200,000 refugees are living in housing that was rated acceptable. According to the survey, 12.2 percent live in "extremely unsatisfactory conditions," and a government spokesman in Nicosia, said 12,000 were still living in tents such as are found at Kolossi.

In back of the warren of tents and shacks, the skeletons of cinder block housing units are visible and the residents eagerly await their completion before the onset of winter.

"Oh, the winter," said Paniota Salyas, a three-year resident of the tent city and a handsome woman with a weathered lined face that adds unfairly to her years.

"Sometimes the wind and the rain take away the tent," she said, not complaining but merely responding softly and accurately to a question.

Mrs. Salyas and her husband, Andreas, and their five children fled from their village of Lisi when the Turks attacked. Like others interviewed she spoke of her village and their modest farming plots and their lost way of life with longing but without self-pity.

Despite the harshness of their existence, the tent-dwellers seem a gritty, uncomplaining bunch determined on making do until the longed-for return home or, barring that, until they can move to a decent dwelling.

In the meantime, the tents are models of neatness as are the meager shacks. Many of the tents have greenery planted in the bleak alkali-white ground. It is a form of keeping up with the Joneses and perhaps as good an indicator of the unthwarted spirit of the refugees as there is.

Visitors are greeted warmly and hospitably. The litany of substandard conditions is recited without acrimony. Clusters of men, usually elderly, sit on straw chairs and stools in the shade creating a familiar tableau that is to be found in all Greek Cypriot villages.

Elderly women, their heads covered in dark bandanas, sit in front of their tent homes tatting lace. A traveling grocery store winds through the lanes separating the tents and residents eagerly peer into the back of the truck to make purchases. One enterprising woman with a large family has converted her shack into a taverena by placing a few chairs outside it and by providing a shady canopy of greenery under which she dispenses beer and soda.

Mrs. Salyas looked to the field where the cinder-block housing was being built, then tightened a rope on her tent and said something in Greek more to herself than to her visitors. A friend of hers whispered: "She is asking God for four walls before winter."

LIKE NORMAL PEOPLE

Mr. WILLIAMS. Mr. President, I would like to call my colleagues' attention to a series of articles which appeared in the Washington Post during the month of August concerning a young couple, Roger and Virginia Meyers, who are mentally retarded. These articles revealed the problems faced by mentally retarded persons and their families in the past and what changes still remain to be made.

The author of these articles, who is Roger Meyers' brother, quite excellently portrayed the real needs and problems that two individuals who happen to have a disability encounter in our society. The strongest point of these articles was in their ability to bring across Roger and Virginia's self-identity and strength and their similarities to any other young couple in this society.

I applaud both the author and the Washington Post for printing these articles. I believe they clearly raise public awareness and help break down the stigma and misconceptions surrounding handicapped individuals. Therefore, I hope this is just the beginning of many other public awareness articles addressing the real needs, lives and desires of disabled Americans.

Mr. President, because of the importance of these articles, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RETARDED NEWLYWEDS SEEK NEW LIFE

My brother, who is 29 and has been mentally retarded since birth, took a day off from work this summer to marry the girl of his dreams.

The marriage of Roger Drake Meyers and Virginia Rae Hensler, 26, who has also been retarded since the day she was born, took place in the sun-speckled nave of a suburban California church. The bridegroom, a busboy in a local restaurant, wore a three-piece black suit and a flower in his lapel.

The bride, who is studying to be a housekeeper, wore a white satin wedding gown with a three-foot train and carried a bouquet of daisies and baby's breath flowers.

As the church organist played Mendelssohn's wedding music, flower girls strewed rose petals ahead of the bride, who was presented by her brother, a physician. The guests numbered several hundred, including family, friends, and community acquaintances.

That the marriage could have taken place—with I.Q.'s around 70, both my brother and his wife are in the borderline category of retardation—dramatically illustrates the changes that have occurred in the past few decades in the field of mental retardation and how experts now deal with people of limited intelligence.

As recently as 10 or 15 years ago these two persons probably would not have been able to marry, according to authorities.

Instead, they would have been warehoused in large state facilities, sterilized without their consent, frequently drugged for easy institutional care, allowed little or no contact with the "outside" world, and never encouraged to reach their own potential. There would have been few counselors to help them, and little or no state or federal money for their support and well-being.

Today, they are married, live in their own apartment, hold part-time jobs, receive about $450 each month in government aid in addition to their salaries, go out to local restaurants, and complain about high prices. In part because of their exposure to these "normalizing" experiences, their I.Q.'s have risen sharply, in Roger's case from 50—or only trainable—to 74—considered at the top of the educable scale.

"Getting married is like coming out of retardation," Roger told the minister in the small office where we waited before the ceremony. "I'm worried about being able to take care of Roger for the rest of our lives," Virginia said, as she checked in her dressing room a few doors away to make sure she was wearing something old, something new, something borrowed, something blue (she was).

"Being retarded means it's twice as hard showing people how we are, that we can live like normal people. We're not that dumb, we're just slowminded is all. You can see how far we've come," Virginia said before the wedding.

Her retardation occurred on May 25, 1951, when a physician injured her head with his forceps as he wrestled her from her mother's body. "It was like a tug of war, my momma says," Virginia related.

As a result, Virginia's left side is weaker than her right side. She has a speech impediment, limps, has scoliosis (or curvature of the spine), and is partially blind in one eye.

"It's difficult having handicaps," she said. "I had to practice making myself understood. And I would be scared to do things, like swimming, until Roger came along and told me not to worry, that I wouldn't sink because God was holding me up."

She sat in a chair in Roger's apartment the week before the wedding, her legs crossed at the ankles, handbag by her side, using the social graces she had spent so long in learning. "But I don't like to talk about it (the reasons for her retardation) because it makes me cry," she said.

Roger's retardation was caused by "a lack of oxygen," he said, repeating the information our parents had repeated to him. "It was when I was being born, and there was some problem, and not enough oxygen went to my brain."

His hands, proportionately small for his body, fluttered abstractedly as he talked. "So I don't like to say that I have brain damage, but just that I lost some oxygen when I was born. I used to ask my dad why they couldn't use a tube or something to give me more oxygen, but he said he didn't know."

Each of them learned this definition of themselves late in life. "I was 21 and (a family doctor) told me I was retarded," Roger said. "I didn't know what he meant. All the special education classes I'd been in, I thought that was normal. I got mad and I said, 'No, no!' "

Virginia was told she was retarded when she was 15. "It was shocking. All that time I thought I was normal. I was shaking. I asked my mother and she said yes and then it was true."

Neither likes the term. "I don't like being labeled 'retarded.' People look at you funny. We're slow-minded, which is why I like the simple life, but we're no different than anyone else," she said. Roger nodded in agreement.

In the step-by-step world of the slow-minded, where simple procedures like cooking take months to learn and complicated ones like making change take years, they and the 6.3 million other retarded Americans are now being encouraged to grab on to as much of life as they can.

Because of her traumatic birth, Virginia's special needs were noticed at once. She spent the first 18 months in a hospital, and then she began living in the first of several private facilities for the retarded. Her father, a wealthy physician, paid her fees. When she was 15 she moved to the West Coast facility where she and Roger met six years ago.

Roger came home from the New York hospital a week after he was born, and his retardation was not suspected until he was 6 months old. Roger lived with our parents until he was 22, with the exception of an 18-month stay in an institution where he was miserable: "The kids were rough and the people weren't nice," he said.

Then he was accepted at the nonprofit California residential facility where he lived in a unit with 25 other retarded children and adults. He lived there for six years and met Virginia there, moving last year to an apartment of his own in the community. Virginia also eventually moved into an apartment of her own, and each is still supervised by state social workers.

We met at the bunny rabbit," Roger said, mentioning a crafts exhibit at their residential facility where they literally bumped into each other seven years ago. "Ever since then, I've called her my 'bunny'."

The nonprofit facility, owned by a branch of the Lutheran church, cares for children and adults whose mental handicaps, sometimes compounded by physical handicaps, range from those so severe that individuals can do little more than feed themselves, to the borderline retarded who, like Roger and Virginia, can with minimal supervision lead relatively independent lives.

At the time they met, however—Roger was 22, Virginia was 20—they did not lead independent lives, and their activities often consisted of watching television all day, or playing their records, or doing little more than simply being at the facility.

It was a safe, secure world, with meals, entertainment, social and recreation programs available. But it was also a world that was too restrictive for them.

"We didn't have any privacy, we couldn't visit each other without the door being open. It was as if they (the supervisors) didn't trust us," Roger said.

Roger soon proposed—on his knees—to Virginia. "That's what normal people do when they get old enough," he said later. "They get married and have a home of their own."

But Virginia, overwhelmed by the complexities that marriage would entail, urged that they wait.

Beyond their desire, however, they were little prepared for marriage. They could read words, but they stumbled over concepts. Neither could sort out bus routes, bank accounts, deal with shopping, or other simple but essential tasks. Their personal hygiene was good, but each had a tendency to get violently angry.

There were (and remain) difficulties in physical coordination, and each had an innocence that has on occasion allowed them to be exploited by others. They knew about sex, but had no idea of contraception. They each believed that it is the duty of a married couple to have children, and refused for almost six years to believe that they would not be able to properly raise any child they might conceive. Because neither is congenitally retarded, their offspring would more than likely be of normal intelligence.

"But they also had, especially Roger, a tremendous desire to change," according to Dennis Martin, one of their counselors.

Roger had worked in various sheltered workshop situations, earning as little at 65 cents an hour for work that involved assembling packages of mechanical parts, or stuffing envelopes—jobs that on the whole do not exist outside the sheltered workshop environment.

But Roger, who wrote poetry, thought he could earn his living as a poet. Or as an artist. Or as a toymaker. Or as a teacher, since he had worked as a teacher's aide at the residential facility.

Although our parents did not feel that he could handle the responsibilities of marriage, they told Roger—almost as a stalling tactic—that he could not get married until he could support himself at a real job. He should not just "daydream" about being a poet or toymaker.

So five years ago, Roger slipped away from a group of other retarded people during one of the group's weekly outings to a bowling alley and applied for a busboy's job at a local restaurant. Seven months after applying, he was hired.

"He needs a certain amount of understanding that I don't extend to the other employees, but I don't give him any special attention," said Warren Mays, the restaurant manager. "The entire restaurant runs around the work of the busboys. If they're slow, we don't move the customers in and out, the waitresses don't get enough in tips, and we lose money. If he goofs off I take him in a corner and talk to him."

Roger has always been a part-time employee, working in the restaurant's bar, a physically small area in which he felt comfortable. Last June he asked for a chance to work in the much larger main dining room.

"The cat said he was getting married and that he needed the extra money," Mays shrugged. "There was a lot of opposition at first. The girls thought he couldn't handle it, that he would get too nervous. But I saw it as a clear case of prejudice, not of color, but of kind. He's retarded, but so what? He took care of people in the bar, maybe he can take care of people in the main room."

The experiment worked, Mays said.

"He goes up to customers and says, 'Hi, my name is Roger and I'm your busboy,' something he gets from the waitresses. That helps our image. He hustles from table to table and sometimes that tray weighs 24 pounds. And look at the way he sets things—the napkins are straight, and he wipes the crumbs into his tray, and not into the seat."

If a heart can ever be said to be bursting with pride, mine nearly burst shortly after talking with Mays when I watched Roger work the main room. Wearing his red busboy's coat, and black pants, he filled the water glasses, filled the coffee cups, lugged that busboy's tray into the kitchen, and then in Mays' phrase, "kept on trucking."

"After I bawled him out once for getting too friendly with the bar customers and for getting too slow on his cleanup, I started getting telephone calls from people volunteering to me what a wonderful busboy that guy is," Mays recalled. "Then Roger came up to me and asks me if I've been hearing anything about his work from the customers, and when I said yes, his face broke out into a big grin. I thought, 'Why you little fox, you asked them to call me.'"

He has one other working trait: when he feels pressure, he leaves the serving areas and disappears into the men's room for as long as an hour. It is his way to calm down.

The waitress he works with in the bar, Toni Frazier, says she has developed a simple solution to that: "I just march into the bathroom and say, 'Roger, you come right on out here, we're busy as sin and I can't get along without you.' If he ever quits I'll probably quit, too." I love him.

Once he got his restaurant job, Roger volunteered as a teacher's aide in the facility where he lived.

"Twenty years ago I couldn't do arithmetic. I couldn't carry numbers," he said. "But at home I worked hard at it, and now I can."

In his living room is a portable blackboard on which such exercises as 56 plus 3 equal 59 are written out by him in chalk. "I taught myself to do that," he said proudly, showing off some elementary school math books which our parents bought for him.

"In another 20 years I'll know even more, and I can teach others to do simple division," he said.

"Is that like subtraction?" Virginia asked.

"No, it's the opposite of multiplication," he said.

Roger especially remembers one of his "pupils" from his teacher's aide job. Lionel, a severely retarded man in his 40's, couldn't write his name very well. "I held his hand and showed him how to write it," Roger said.

(Lionel took one entire eight-inch-wide page in Roger's and Virginia's wedding guest book to carefully—and very proudly—print his first name.)

Virginia worked for a while in a sheltered workshop, doing piecemeal work, but that job ended when a grant ran out. Never as outwardly motivated as Roger, she devoted her time to preparing herself emotionally for a wedding that only the two of them believed would ever take place.

"We helped each other," she said. "Roger gets nervous, and juggles his leg a lot, and I would tell him, 'You're making me nervous, honey.' And I'd remind him to dot his i's when writing, and tell him when he wasn't pronouncing words correctly," she recalled.

She also began working on speaking without a nasal whine to her voice that is one of the legacies of the accident at her birth. She began to think about menu planning, and practiced saving the few dollars she earned every month, telling her mother that now she had earned four dollars, and could she please get married?

Roger and Virginia had arguments, and didn't speak for days on end. Roger had a violent temper, and learned through the growing force of his will to control it. Virginia stopped mothering him.

They developed habits spawned of familiarity: he started a sentence, she completed it. She nodded toward something, and he knew what she meant.

They developed a personal dignity others had never known in them before. They held hands. They kissed goodnight (when no one was looking). They took themselves seriously while no one else did. And they exhibited a growing self-confidence.

Once they were taking a walk together, and an angry neighborhood dog raced up to them, barking furiously. Virginia was literally paralyzed with fear. Roger, not knowing what else to do, started barking back. The dog turned tail and ran.

"In many ways Roger and Virginia are victims of the system," said Bill Stein, the former counselor who worked most closely with them, and who traveled all day by bus to attend their wedding. "They have labels on them. They're 'retarded,' so they're not supposed to learn. We tell them, 'You'll do wonderfully, but only at this level.' No one ever talked to them, so no one ever knew what they could do," he said.

In the world they had known for most of their lives, keeping busy was a daily occupation, and some of their friends had epileptic fits, or screaming nightmares. But outside, new ideas of dealing with the retarded were being tested. Most prominent among them was the concept of "normalization"—helping the retarded lead as common a life as possible.

These ideas filtered down to their residential facility, which in the early 1970s put up small apartment complexes on its campus, with mentally handicapped people such as Roger and Virginia by themselves, living in individual apartments, with counselors in residence on each floor.

After several years there, where they learned to wash dishes, budget, vacuum, shop, and perform many of the other chores of daily life which they had never been permitted to try before, they were moved out into the "normal" community with half a dozen other retarded adults.

"They are our best tenants," said Anita Tracy, manager of a typical 215-unit apartment complex where five apartments are rented to borderline retardates, including Roger and Virginia.

"This is their big chance," she said, "and they're very conscientious. They pay the rent at least one day ahead of time. They go out and mingle with the other tenants around the pool or at the laundry room and talk about soap powder. Things like that."

Her husband Charles saw renting to retarded individuals as simply a matter of dealing with yet another minority group. "It was like when we rented to black people," he said. "I watched them (Roger and Virginia) and the other tenants like a hawk. But there was no reaction. No one pays attention to them. We don't do it to be good, we do it because it's good business."

There are problems. "They get upset when the little things go wrong, when the garbage

disposal doesn't work," Anita Tracy said. "Roger forgot his doorkey so many times we suggested he wear a key ring on his belt, which he does."

It is not a carefree existence for Roger and Virginia. With every step of independence requiring a major exercise in logistics, there are problems. When Roger needed a place to store a package of meat once, he put it in his cupboard. Our mother found it there some time later, and the horror of what it smelled like still lingers in her mind.

Roger was cooking pancakes once when he decided to watch a TV show. So he left the pancakes cooking and sat down before the television. A neighbor saw smoke pouring out of Roger's living room window and called the fire department. Roger was fascinated as the red engines raced up, wondering what they were doing. After all, he recalled, there was smoke, but no fire.

As a child Roger showed a vivid sense of color in freehand oil pointings he did at school. As a teen-ager his patience allowed him to make accurate pencil drawings of buildings and street scenes. So, nearly independent, in his 20's, he enrolled in one of those "art schools" advertised on the inside covers of match books.

The cost—$425 for the course—was far beyond Roger's ability to pay, a point he had never considered. Our father got him out of that one, and though Roger did not protest too much, it was clear he would have preferred staying enrolled in the course.

Such incidents are steps in his laborious learning process. But they are mistakes he no longer makes.

The stress of independence created in him a normal response to anxiety—he overeats. Hot dogs, hamburgers, pie with ice cream, extra cream in the coffee—if it is fattening he discovers it. He gained 25 pounds shortly after moving out of his restricted environment and into his semi-independent living quarters at the facility. He gained another 25 pounds shortly after moving into his own apartment outside the facility.

In the three weeks before the wedding he dieted, exercised—and lost 30 pounds.

His $194-a-month apartment (which he now shares with his wife), is decorated with reminders of the known and familiar. There are pictures of music groups, the Beatles and the Bay City Rollers, and he has record albums featuring Elvis' Golden Hits and the original Mickey Mouse Club. There are dozens of school books, wooden toys he makes in the wood-working class he attends at night, the blackboard on which he practices the carrying of numbers in addition—a process that took him 20 years to master.

While their parents were convinced it would be years before the marriage would take place—if ever—Roger and Virginia had had an engagement ring made from an inexpensive pearl he had won in an amusement park, and Roger was paying $240 for two wedding bands at the rate of $20 a week. Virginia's mother had agreed despite her doubts to buy her a wedding dress for her "trousseau" although Virginia didn't know what that was. They had set their wedding for Easter Sunday.

At that point, with the parents clutching their fears, the counselors took over.

Marriage was their legal and moral right, Bill Stein, their chief counselor, told them. But could they handle the responsibility? Both thought they could. What about children? They wanted them, very badly, as if parenthood would be the final sign that they are like everyone else.

Stein and the other counselors, took them to a private home to change diapers on a new-born baby, told them about midnight feedings and childhood diseases. "We didn't make the decision for them, but we showed them some of the problems they might have," Stein said.

Giving up their dream of children was one of the hardest things for them to do. "But what if the kid came home from school and asked us for help and we couldn't help him, what would he think of us then?" she noted.

They reluctantly decided not to have children, and like millions of other people, chose a standard method of avoiding conception.

The wedding date was the next matter. Things were moving too quickly, at least for Virginia's family, who live nearly 1,000 miles away and were not up on all their plans. The date was changed to June 18.

There were wedding invitations mailed out to relatives in Indiana, Arizona, California, Washington, D.C., and invitations handed out to people, in their community who see them every day: the bus driver whose route takes him near their home, the clerk from the bank where they have a savings account, the waitresses from the restaurant, the manager of their apartment building.

Several dozen retarded friends from the residential facility where they had formerly lived, some of them in wheelchairs, others who giggle all the time, were also invited.

And nearly everyone who was invited attended.

The day of the wedding there were consultations with the maid of honor (Virginia's sister-in-law), and the best man (this nervous reporter). Panic over the delay in the arrival of the flowers. The arrival of the flowers. And then, finally, the magnificent strains of Mendelssohn's Wedding March, and the ceremony itself.

Pastor Ed Svendsen, who has known them both for years, told the couple at the altar and the congregants that a spring wedding was appropriate for a couple who had grown so much. Roger cued him, sotto voce to mention that getting married for them was like coming out of regardation. Svendsen mentioned it.

Roger cued him, sotto voce, to mention that Virginia had brown eyes, like the eyes of the bunny rabbit, around whose image they had first met. Svendsen mentioned it. Svendsen then decided to lead the congregation in prayer.

Then vows were exchanged, the wedding rings taken off the white satin pillow and placed on waiting fingers, and Svendsen pronounced them married in the eyes of the Father, and Son, and the Holy Spirit.

After a reception there was a two-day honeymoon at a fancy beach-front hotel, whose management was never told anything other than that a "honeymoon couple" was arriving, but who soon found out in no uncertain terms that the new Mrs. Meyers didn't like their inside room, and changed it for them the next day so they had a view of the sea.

After the honeymoon the couple returned home, where they are receiving friends.

Parents of Retarded Son Bear Sense of Guilt, Pain

At 6:30 a.m. Aug. 8, 1948, my mother felt the first stabbing pains of labor as her second son was about to be born.

"I told the nurse that I had delivered my first child very quickly, and I wanted the doctor nearby," Roslyn Willinger Meyers, 58, recalled. "But the doctor, a family friend, had gone downstairs for a pack of cigarettes. To delay delivery the nurse told me to cross my legs, and I did," she said.

Despite that attempt at delaying birth, her son—and my younger brother—Roger Drake Meyers, who has been retarded since birth, was born at full term, weighing exactly five pounds.

"I've always thought something happened when I crossed my legs, that his retardation was caused by me. There was an oxygen loss, or something happened, although I do recall having a cold for a few days during the pregnancy, and maybe that did it," she said. There were no signs of prenatal problems, she added.

My mother's uncertainty as to the cause of her son's retardation is not unusual, authorities say. The causes for the retardation of three out of four of the 6.3 million retarded people in the United States are never known, despite the fact that more than 350 causes have been identified, according to Dr. Frank J. Menolascino, president of the National Association for Retarded Citizens (NARC).

Whatever the cause, a retarded son had been born. "It became a fact of life, something we lived with. It became normal for us to have one son who is retarded," said Robert Townsend Meyers, 68, our father.

Our parents used to wake up late at night or very early in the morning, wondering if they had overlooked something, anything, that could be of help. But it was 1948—it might as well have been 1848—and there was nothing they could do. It left them despondent and feeling somehow guilty.

"There were no centers then, no place you could go for direct information," our father recalled. "We didn't know what to do, and we didn't know how to do it."

In fact, our parents did not begin to wonder about Roger's physical and mental capabilities until some six months after he was born.

"He was a quiet baby in the daytime, but he cried and cried at night. I nursed him for three months, but after that he wouldn't take it anymore," Mrs. Meyers said. He could sometimes be lethargic or extremely active. He looked to them like "the sweetest baby in the world."

Then, she recalled, "My mother came to visit her grandchildren, and she thought Roger was weak, that he didn't have any strength for finger pulls. I didn't know what to say."

For the next 18 months, our parents "hoped and prayed" that Roger's responses would speed up, that his strength would increase, that his fingernails would grow (they were never long enough to be cut until he was 8 years old). They compared his progress to mine—I was five years older—and it became apparent that Roger was not developing as he should.

When Roger was 2 they took him to a leading New York City neurologist. His conclusion was that "some retardation may be indicated."

"My first thought was 'Oh, my God, where do we go, what do we do?'" our father remembered.

My mother said, "I felt guilty, I had carried this baby, what had I done wrong? I felt lost and helpless. People—even doctors—told me not to worry, that things would be all right, but they weren't," she said.

That first medical report, written in 1950, carried the implication that Roger's difficulties could be located if only our mother viewed the situation differently. One sentence read, "The mother is too demanding and may be comparing Roger unfavorably with his older brother."

"It was so devastating to be told that there was nothing wrong, or not very much wrong, when you KNOW, you just KNOW . . ." she said.

At the same time, the idea that a drug, or a procedure, or even just the passage of time, would solve their problem was the kind of emotional carrot that led our parents on, though they were frustrated repeatedly over the years.

They had no way of knowing that Roger would turn out to be a married man, an apartment dweller, a job holder, a recipient of government aid.

They were "terrified, terrified" (our mother's phrase) that he would end up in a state mental institution—then the primary repositories of both the severely and mildly retarded. They saw the pictures in newspaper exposes of people there with bent and broken bodies lying half-naked in their own filth, abandoned by everyone except the flies, and it chilled them.

"Having a retarded child does not have to be the end of the world, but you've got to be able to handle stress well," said Menolascino. "You've got to have good support systems—brothers, sisters, cousins you can turn to—and you've got to have good professional service, which just didn't exist then," he said.

Neither parent knew anyone with a retarded child, and social stigmas kept them from asking too many questions. My mother's family was 3,000 miles away, eliminating them from a supportive role. Strained relations between my father and his sister broke down completely when he felt she was not helpful enough with Roger. They have not spoken in the 25 years since.

"I was so alone, so isolated," my mother said.

Our father threw himself into business, hoping to make a financial killing that would assure his son's comfort for life, while our mother tried to find help for Roger. Continually unable to find a solution, she now and then took one too many drinks.

The additional medical advice they received sometimes seemed to have been written by Franz Kafka, the master of insane "logic." One physician recommended megavitamin therapy. Another said to be thankful they lived in the 20th century, since Roger, who would never read or write, would be able to get all of his information about the world from television.

Another told them of a brain operation in Switzerland that might determine what the brain damage was, although the operation had a high chance of proving fatal. My mother accepted the advice in tearful silence; my father raged at the inadequacy of the advice.

Roger's behavior as a child varied widely. He could be bright and alert, and at other times lethargic, his gaze wandering and his head drooping. He had a soft bone structure, and before he was 5 he had broken both collarbones in falls from bed.

At a park one day a boy on a bicycle ran into him, and he had to have a hernia operation. He had a speech impediment, and it was often impossible for my parents to understand him. At such times I would be the translator, telling them what he had said. Roger would often wake up screaming during the night, and frequently walked in his sleep.

"He was so high-strung, trying to keep up with others, trying to make himself understand, that the frustration just came out at night," my mother said.

With my father involved more than ever in his marketing and advertising career, the task of taking Roger from doctor to doctor, from specialist to testing center, over and over again, fell to my mother. Abandoned before she was 10 by her father, she found the seemingly insoluble problem of raising a son some doctors said was retarded and others said was slow to develop increased her feelings of rejection, she said.

"We'd be walking along, the two of us, and I felt like we were two rejects, him and me. Society had rejected him, and I was rejecting myself. But we had each other to share our feelings with."

A favorite walking place, after doctors' appointments in New York, was the Museum of Modern Art, and a favorite picture was Picasso's "Woman in a Mirror." She said it shows the face of a woman fractured into a dozen planes and shapes. "Roger was very good at art, and he copied it for me," she said.

It was at this time that two new strains developed in her life, my mother said. One was what she called The Search. It was a 17-year-long attempt to find a residential facility to which the family could afford to send Roger, and it ended only in 1970 when he entered the nonprofit home where he met his eventual wife.

The other was what she described as a reliance on alcohol to ease the pain and frustration and which also ended in 1970 when she joined Alcoholics Anonymous.

Roger's first school was a private school in Queens, N.Y., followed by public schools, often supplemented with private tutoring. They believed he had more ability than showed up on any of the tests he was given (which, in a Catch 22 situation, they were never permitted by school authorities to see), and they attempted to give him as many "real-life" experience as possible.

"I took Roger to the rodeo, to the circus and took him into work with me on Saturdays. I taught him to say, 'L'addition, s'il vous plait,' (French for 'the check, please') just like I did with you," our father told me.

My mother spent hours with him on his school work and socialization—making sure he knew the importance of and method for brushing his teeth, combing his hair, taking care of his appearance.

There were problems. Roger was teased and taunted at school. "He'd always say, 'Well, Mom, I hate to tell you this, but they're making fun of me again'," she said. Other children laughed at him when he couldn't keep up with them, or they mocked his speech impediment.

There was an incident in Manhattan when a man tried to assault him sexually. "I got so hysterical I couldn't even dial the police. Roger called them himself, and I didn't think he knew how," she said. No arrest was made.

In the early 1960s the advertising agency market dried up for my father. He found himself out of work, with little money in the bank and a retarded son in need of care that was of questionable value and seemed available only in private—and expensive—facilities.

In search of a solution, he tried a business venture in Miami. It failed. They moved back to New York, had no luck and moved to the West Coast, where an expanding economy held out hope.

With their furniture in storage they settled in a furnished one-bedroom apartment, but the manager soon ordered them to leave because, as our mother said, "Roger was sitting on the front steps all day, talking to himself and shaking his hands" (a nervous gesture that mental health authorities say often stems from boredom). "Well, a lot of my friends talk to themselves, so I told the manager to stuff it and we left," she said.

She decided she would get a job for the first time in her married life to support her family and, most importantly, to put money aside for Roger. Through a friend, she talked her way into a secretary's position. But there was one problem: she couldn't type.

"I hired someone to type (her work) for me at night," she said. "I paid her out of my salary, which was $2.50 an hour." Then, the next morning at work she would turn in the finished product.

Because a number of people senior to her at work left their jobs shortly after she became a secretary, she was swiftly promoted. And she was given her own secretary to do the typing.

Today she is the manager of the division, handles a budget of $95,000 and earns $18,000 annually.

Our father had found a job as well, and the family moved to a nice apartment with Roger enrolled in a nearby junior high school. There his problem with so-called "normal" kids continued: a gang made him sing and dance in the schoolyard to their jeers. Roger, glad to have the attention, said, "I thought they liked my singing."

A neighborhood tough forced Roger to stand on his shoulders and knock out street lights. A bunch of kids cornered him at a park and made him take some clothes off.

My mother asked the school guidance counselor for help. His answer was to recommend that Roger be warehoused in a state facility.

"That made me so angry, I just can't tell you," he recalled. "All of the work I'd done with him, every book I taught him to read, all of his manners—to throw everything away in some place where he'd be taunted and sexually abused and placed in a corner—never, I never for one minute considered it. I wouldn't have been able to live with myself. I could barely live with myself as it was."

Roger was becoming a young man, really very handsome, with light brown hair which he combed over his forehead, and a willingness to tell everyone he met that he was retarded. He liked to watch movies and sports on television, especially golf, perhaps because it is a game of understandable moves. Horror movies were particular favorities, perhaps because he could watch them without fear, a sign that he had overcome the nightmares of his youth (his all-time favorite is Godzilla). He spent most of his time at home.

He was becoming interested in girls: teeny-bopper princesses with long blond hair. He put their pictures up on the walls and talked to the ones who walked by his house on their way to high school. But beyond that, he had little social life.

"He was lonely, I think that's why he wrote his poetry. He needed to know other kids like himself, but didn't," our mother said.

He knew about sex, and often used a then-popular phrase that something was "very sexy," but pronounced the words as if they were "sax" and "saxy."

But the real world could not forget that Roger was retarded, and our family was swiftly reminded of the fact on one painful occasion.

In 1968, when he was 19, Roger wrote a Valentine's Day poem to a girl he had met at the local YMCA, at the same time as someone else wrote her an obscene letter filled with sexual references. The girl's parents called police, who, because the mails were involved, call the Federal Bureau of Investigation.

Although the most explicit line in Roger's poem is, "A Valentine is sweet, because it's sharing warm, affectionate love," Roger was tagged as the prime suspect in the case.

An armed police officer went to the sheltered workshop where Roger was employed at 65 cents an hour, and took him into another room for interrogation.

"The policeman showed him the letter but Roger had to ask him what the (obscene) words meant," my mother said. Roger was frantic with fear that he would lose his job.

The policeman then showed the letter to my mother, covering up the dirty words. "I screamed that my son couldn't even *write* script (which the letter was written in), that he could only print," she said.

Roger's poem—decorated with large and small hearts—and the obscene letter, were both sent to the FBI for analysis.

The analysis determined that the real culprit was a "normal" 11-year-old boy who sat next to the girl in school. An FBI agent involved in the case later apologized saying, "I couldn't control the local cop. He thought Roger must have done it, because since he's retarded he's supposed to be 'different.'"

Such troubling events were becoming more frequent, as Roger's natural determination to lead a fulfilling life continually banged

up against the prejudices of a society that insisted he was "different."

The agony, however, was not something my parents shared with each other. It went unspoken. "I never told your father about them. I didn't want to disturb him. I felt I had to shoulder the responsibility myself, because it was somehow my fault," she said.

Her guilt drove her on in the seemingly endless search for a residential facility for Roger. In 1965, for instance, Roger was sent to one promising facility where tuition was $250 a month, but it ended after 18 months, a disaster like so many other efforts. "The house mother was like a warden from a Cagney movie," my father said.

My mother was drinking too much, she said, and fantasizing about starting a facility on her own with help from wealthy people she would somehow meet.

Then, in 1969, while she was talking about her frustrations in the local beauty parlor, she was overheard by an elderly woman who was having a permanent. "She told me about this group of people who raised money for a new residential facility. She said the group was having a meeting that night."

The meeting was the group's fund-raising ball, a black-tie affair. Although she didn't have an invitation, my mother talked her way in, met the director of the home, and later went down for a visit.

"There wasn't a good-looking kid there," she noted of the retarded people she saw. "But they all looked clean and happy. And the way they followed the director around, it was like they were following Jesus. I felt Roger could be happy there."

There was a waiting list for the home, however. "I made deals to get him in," my mother related. "They wanted to raise more money, and in my business I know people who know television stars and movie people. I arranged for some of them to come over and help and they could sell tickets that way."

My father put his expertise as an advertising copy writer to work, writing free promotional brochures for the home.

Roger moved there March 31, 1970.

His upkeep cost my parents $128 a month, with federal and state funds—never before available to him—picking up an equal portion. Several years later the government funding was increased so that it covered all of his costs under the Supplemental Security Income program.

The facility was not the perfect solution, because Roger was one of the smartest ones there. Initially he was not challenged enough to live up to his potential. But times were changing, and so were the traditional attitures toward the responsibility of government to provide help. With more and more government money available, there were more and more newly-trained counselors, bringing more and more ideas to challenge the residents to think and act for themselves. They went bowling, hiking, held discussion group meetings. Roger eventually moved into the individual living units on the facility's campus, then into his own apartment, and was married last June.

"When he moved into that facility I could say for the first time in my life that I no longer had to worry about what would happen to Roger when I was gone," my mother said.

Three weeks after he moved to the facility, on April 18, 1970, I was married. With both of her sons now "settled," my mother found that at last she could deal with the stress she had felt for so many years. One of the symptoms of that stress had been alcoholism.

"I didn't start out to have the disease of alcoholism," she said, "but it eased the pain. A retarded son, stress in my marriage, handling a job, finding a place for Roger. I drank to ease the pain, but then I couldn't stay away from it."

At my wedding reception, she had her last drink, a glass of champagne. The next day April 19, she joined the Alcoholics Anonymous (AA) program and has not had a drink since.

My parents' involvement with Roger was not over, but in their handling of it, a subtle and peculiarly 20th century role reversal took place: with my mother the primary breadwinner, my father became the main source of parental support to Roger.

"I had a feeling of remorse that I hadn't spent more time with him when he was an infant," he said. "But there always seemed to be the press of business. And once we knew he was retarded I had this desire to get more than a job, to get some equity, so that when I left this world I would leave something behind for him."

It didn't work out that way, though, and he entered semi-retirement holding a part-time job. With the increase in free time, he decided to spend more and more of it with Roger.

At least once every two weeks, and often more frequently, my father drove the 270 miles round trip from his home to Roger's. "I wanted to be with him, to show him he hadn't been abandoned. Some of those people (in the facility), adults like Roger, hadn't seen parents or friends in years."

In 1970, for the first time in the 22 years that he had been a parent of a retarded son, my father found a group of parents who also had retarded offsprings. He joined the group and became its president.

He read the legislation that was just then being proposed to deal with the developmentally disabled; he lobbied with other parents for their support of the legislation. He started spending more and more time at a hospital center that dealt with the handicapped, and soon started helping other parents of the retarded through the maze of bureaucratic red tape.

He proposed for himself, and was hired as a part-time consultant to the local hospital, earning for a while $6,000 a year, money that supplemented his wife's income and his Social Security payments.

Although the social climate regarding the retarded had changed for the better, my parents could not forget the rejection, disappointment, frustration and disillusionment they had experienced during the years they searched for help.

"I used to ask myself, 'Why me? Why did this have to happen to me?' But the answer is, 'Why not? What's so special about me?' " my father said shortly after Roger's wedding. "It's something we've lived with, and who can say how our lives would have been different if he had not been retarded.

"But I can tell you this, that Roger would have reached his potential a lot earlier if the programs that are available now were available when he was growing up."

The wedding of Roger and Virginia was for my parents filled with this same kind of melancholy reflection. Like their new daughter-in-law's bouquet, the memories were mixed. And sometimes the memories were overwhelming.

The wedding was scheduled for 1:30 in the afternoon. At 12:45 my father decided he had to have a sandwich, and a cup of coffee, and then another cup.

As my mother, dressed and ready to go, begged him to leave, my father, 68 years old and having seen a side of life different from what he'd expected to see 28 years before, sat in the motel restaurant near the church, stirring the coffee, watching the steam slowly rise and disappear. He was lost in thought as the minutes passed. The ceremony was delayed for 10 minutes until they had taken their place in the front pew.

Dark Ages of Neglect Over for the Retarded

In 1950, when my parents sought help for my 2-year-old, mentally slow brother, they were told that there was no one in the American medical community who specialized in the problem of mental retardation.

In 1951 they managed to find a neurologist with a subspecialty in mental retardation—but they found him only after reading an article the doctor had written in the Reader's Digest.

"Those were the Dark Ages," said Dr. Frank J. Menolascino, president of the National Association for Retarded Citizens (NARC), the nation's leading parent support group, which was not founded until 1950, two years after my brother, Roger Drake Meyers, was born.

"If you told a physician that your child was retarded, he'd shrug and tell you it was helpless and hopeless. Since no one figured the retarded could do anything, they also figured, why bother?" he said.

In the intervening quarter of a century since my parents first sought help for their retarded son, the field of mental retardation has undergone a sweeping change that has opened new horizons for mentally slow people like Roger.

Today Roger, 29, is married to a 26-year-old retarded woman, and both hold jobs in the community. They live in a typical suburban apartment building along with ordinary working people, receive about $450 a month in supplemental federal support funds, and benefit from frequent visits from a trained state guidance counselor.

All that is a far cry from the world that faced Roger when he was born retarded. Then the standard solution to dealing with all forms of retardation—no matter how mild—was to warehouse the individual, frequently in institutions that also housed the mentally ill, criminally insane and the physically handicapped.

Those retarded who somehow managed to avoid a life spent within a state institution remained community outcasts, held menial jobs that lacked even a semblance of dignity, received no support in the form of money or training from federal or state governments, and had no hope of living in a "normal" environment, much less of marrying.

Such attitudes on the part of society reach deep into the roots of our Western culture. The ancient Greeks and Romans abandoned the retarded in the wilderness while European cultures in the Middle Ages turned them into court jesters and fools. Some historians believe that the witches burned at the stake in 17th century America were in fact the retarded members of the community.

Three out of every four retarded individuals—and there are an estimated 6.3 million mentally handicapped people in the nation—are today considered educable to the point where they may be able to lead productive and independent lives within society.

That belief represents a dramatic shift from how, at the time Roger was born, the medical world viewed those same individuals, whose I.Q.s range between 50 and 70. Prevailing opinion then was that the mentally handicapped individual with an I.Q. of 50, such as Roger had at the age of 9, was locked into limited development—if he or she was able to develop at all.

Today Roger has an I.Q. of 74, an increase of more than 40 per cent. It is the result of his own hard work to learn simple tasks coupled with the enlightened training and education programs of the last decade.

Roger himself says it best. "People are retarded by what they don't know," he said. "That's why I work so hard to learn the things I don't know and become more normal."

All 50 states now have programs to aid the mentally handicapped, and nationwide, including federal expenditures, about $6 billion is spent in the field. In 1948, the year of Roger's birth, so little was spent and so little was the interest in the plight of the handicapped that no one even bothered to total up how much was being spent in the field.

The ever broadening spectrum of services available today to the retarded individual and his or her family—services that did not even exist 20 years ago—is impressive:

Immediate education evaluation and training is more and more frequently available at birth for those children suspected of suffering from retardation. My parents looked for years after Roger's birth for someone who could offer such a basic help.

Parents and siblings can find competent professional counseling—paid for by the state or federal government—to educate them to the needs of the retarded family member, keep them abreast of new developments, and help them to deal with whatever guilt or social stigma they may feel. My mother, for instance, spent some 20 years after Roger's birth carrying an intangible burden of guilt that drove her to drink heavily before competent counseling became readily available.

Public and private agencies and organizations now run job training programs, and volunteer adults help the mentally handicapped learn such routine tasks as cooking and shopping to help them integrate within the community.

There is even a whole range of prenatal tests available to help determine the likelihood of giving birth to a retarded child before the child is conceived or while it is in the womb, and tests that can be done on the newborn that pinpoint possible physical ailments that could eventually lead to retardation.

As a result of these new approaches and diagnostic techniques, more and more success stories like Roger's are happening every day. And as more money is spent on helping the educably retarded move into society as productive individuals, the benefits to that society increase.

According to Health, Education and Welfare economist Ronald W. Conley, for every dollar that is spent on educating and training the retarded adult male, $14 is returned during that individual's working lifetime.

The picture, while improving, is far from rosy, Conley and others point out.

The retarded, because of deeply ingrained societal prejudices, are still the last hired and the first fired. Those same prejudices are magnified even more for the adult retarded woman, who is exposed to sexual bias as well, and as a result has a considerably lower earning capacity.

Many of the improvements in the lot of the mentally handicapped had to be won in court battles from state and federal agencies still reluctant to spend money in the field. In the past, the courts themselves rarely acted to protect the civil rights of the retarded and frequently allowed the state to become the mentally slow individual's guardian without his or her consent.

In the 1970's, however, a series of successful lawsuits in Pennsylvania, Tennessee, New York and elsewhere established the fact that the retarded have the same civil rights as other citizens, rights that the states and federal government agencies were obligated to honor through the establishment of programs to aid them.

The group most active in arguing for the rights of the retarded was formed in Minneapolis in 1950 at the time my father and mother were taking Roger from specialist to specialist in their frustrating struggle to find help.

Calling themselves the National Association for Retarded Children (NARC), the 22 charter members grandly set as their goal the prevention and amelioration of mental retardation.

In a nation where medical research was taking leaps and bounds, they discovered that there was no scientific work devoted to the study of mental retardation. Partly to correct that lack, they launched a two-year "Pennies for Research" drive that netted them $78,000, a paltry figure compared to the millions the March of Dimes was collecting at the same time. With that money they helped publish in 1955, "Mental Subnormality," the first standard reference in the field.

The election of John F. Kennedy as President in 1960 "got the ball rolling," Menolascino said, because Kennedy publicly acknowledged affection for his retarded sister, Rosemary. It was an act that helped remove some of the stigma often associated with retardation, he said.

The next year, Kennedy established the President's Panel on Retardation and boosted federal spending in the field to about $300 million, a figure that represented an all time high.

Today the federal government spends more than $2.7 billion in the field, and state and local governments this year budgeted more than $3.3 billion, according to Fred J. Krause, executive director of the President's Committee on Mental Retardation (the name was changed in 1966).

Increased money was helpful, but groups such as NARC still felt frustrated by official attitudes towards the retarded, which was either to warehouse them in inadequate public institutions, or ignore them.

Changes were occurring elsewhere, however. In the late 1950s and early 1960s a new concept in the field was being developed by researchers in Scandinavia, and popularized in this country by Wolf Wolfensberger, now a professor of special education at Syracuse (N.Y.) University.

Known as "normalization," the main tenet of the theory is that "if the individual is given supports and services, he can overcome some of his difficulties and live in ways that are typical of society in general," according to Steve Nevin, an associate of Wolfensberger at Syracuse.

Wolfensberger wrote a book on the subject, and coupled with his work on the President's Committee on Retardation, as well as his teaching classes in Nebraska, Toronto, and now Syracuse, knowledge of the concept spread. The counselors who work with Roger and Virginia, who is also retarded, said "normalization" is the basis of their practice.

Since the concept of normalization holds that the retarded should be out in the community as much as possible, advocates of normalization are as a rule opposed to the large institutions which for so many years in his country were the only alternative to living at home for the retarded.

In part because of the acceptance of normalization by state and federal administrators, the number of persons housed in large institutions has declined from 200,000 in 1972 to 175,000 today, and is expected to drop to 130,000 by 1980.

At the same time, "hundreds" of half-way houses in the community are currently being developed in which six or 12 retarded people live under supervision—just as did Roger—and where they are exposed to normalization-inspired educational experiences. Many eventually are able to move into the community on their own.

Other diagnostic and counseling services designed to help integrate the retarded into the community are available through state and local agencies.

The idea of seeing the retarded as persons with special needs rather than objects of pity, guilt, frustration or resentment also applies to the parents and friends of the retarded themselves.

"Your parents had a tendency to 'baby' Roger, to do things like shopping for him, and not let him get out on his own," said Bill Stein, the counselor who worked most closely with Roger.

"He always wanted to get out of that institution, to do things on his own, but after talking with them about it he'd have doubts, and wouldn't be so sure of himself. They would plant the doubts in his mind," he said.

Virginia H. Meyers, Roger's wife, complained that "my momma always buys my clothes for me, and I want to pick them out for myself. But she says 'I'm doing this for you,' but I want to do it myself," she said.

The Rev. Ed Svendsen, the staff chaplain at the residential facility where both Roger and Virginia lived, said, "We tend to put our fears into the retarded. They know what they can do, but we're not sure, and because they trust us and respect our opinions, they get confused," he said.

"We are in a whole new ballgame," said Dr. Menolascino, head of NARC, which now boasts 275,000 members in 1,900 local organizations.

"With the money and technology we now have, we can deal not only with the prevention and amelioration of mental retardation, but with its cure right now, we now have enormous knowledge about brain cells, chemicals, and remedial therapies. We've taken the ——— of rejection long erough. It's time for our rights, too," he said, reflecting the growing militancy of the movement.

Virginia H. Meyers, my sister-in-law whose mental handicap stems from an injury at birth caused by a physician's forceps, put it this way: 'How is it with us? It's no different than it is with anyone else, except that we're slower."

IT STRUCK ME . . . MENTAL SLOWNESS IS NOT THE SUM OF HIS EXCELLENCE

Recently I was asked by someone who did not know my family what my brother Roger did for a living, and I started to reply that he was retarded. Suddenly it struck me, for the first time in the 28 years of our relationship, that mental slowness is not the sum of his existence.

He is also a person who is married, holds down a part-time job, and has learned how to limit the amount of information he receives so that he is not overwhelmed.

What he does for a living, in fact, is not to act retarded, but to work in a fast-food shop.

I replied that my brother was in the restaurant business.

"It's inevitable that a retarded person will have a significant impact on his family," said Michael J. Begab, head of the Mental Retardation Research Centers branch of the National Institute of Health.

"What that impact is depends on the family, and how well it handles stress. . . . It can enrich lives, or confuse them, but it is too significant an event not to have an impact at all," he said.

Roger and I took trips together, went to the movies together, played together, and always I slowed my own responses so that I would not outdistance him in appreciation.

I came home from sandlot baseball games early, often for no other reason than just to be around in case my parents, especially my mother needed "help" with him. I think that "help" was simply my presence, reassuring them that their world was not totally filled with intelligence testing and reading difficulties.

There was a tremendous burden on me not to raise hell, not to disturb their already disturbed lives. I have never felt resentment towards my brother, but often when I wanted to yell at my parents for slights—real or imagined—I kept my anger to myself.

What made matters worse was that my father called me his "good right arm," my mother said I was "like a second father" to Roger, and Roger himself often called me "Dad" before he switched titles in mid-breath and called me "Bobby." All of this was a heavy load for someone entering early manhood.

My parents realized the dual roles I was in, and tried to compensate. They moved from one neighborhood to another so I could attend a better public high school. They paid for my five summers in a Vermont summer camp, and then they paid a fee that allowed me to apprentice at a summer stock theater.

Worried about my ways as a loner in high school, my mother insisted I invite all the "better" sort of kids from high school to our apartment, as a way of getting me into a more active social life. I went ahead with the idea because I was a dutiful son. At the party I was the only one without a date.

I wasn't a bad student in school, but I probably held myself back, so as not to embarrass Roger by my academic success. That awful phrase, "could do better," was always checked by teachers making academic evaluations.

I was particularly embarrassed when Roger started writing poetry, something he told me recently that he did in imitation of me. I was embarrassed because I didn't want him to fail at a craft in which I didn't think he could succeed. But what he has managed to do, with that incredible effort he brought to other aspects of his life, is to carve out for himself a vital form of expression.

In the early days his poetry wasn't very good, but it improved because he worked at it.

I am five years older than Roger, and when we were both teen-agers I always had the sneaking suspicion that our parents did not want to see me grow up. My maturity would have emphasized to them the growing gap between his chronological age and intellectual abilities. It would have raised the question to which they then had no answer: what would happen to Roger when I was grown and they were dead.

There is no objective proof for this belief of mine, and my parents have repeatedly denied that this was their intention. But in the subtle matter of human dynamics, where inflections, sighs, and looks can speak volumes, these were the words I read.

In fact, the changing social attitudes towards the retarded, the availability of state and federal money and support, and most importantly Roger's fierce desire to lead an independent life, have given them the reassurance they sought.

As a result, they have been able to look at each of us with less desperation, with more appreciation of us as individuals. No longer do they see our four-member family as being composed of three equal partners supporting the fourth person.

When my marriage was legally ended two years ago, the support I received from my mother and father was greater than the support I have ever received from them during any other period of my life. Feeling much less burdened by Roger and what once seemed an insurmountable, insoluble problem, they were able to respond to me as an independent person.

Which is to say the past is prologue, and we can learn from the mistakes. My brother is a man of remarkable dignity, and a great sense of self-worth. He is no more an emotional patsy than I am. In fact, I now recall that when we were teen-agers, he sometimes thought I had pushed him too far, and he responded with a decidedly unbrotherly left cross to the shoulder. His handicaps are serious, as he said during our interviews, for this series, but they are not insurmountable.

His new wife, Virginia H. Meyers, herself retarded, also understands her limitations and potential, and uses that knowledge to help others. Her sister, Carol MacIntyre, said that Virginia used to be a particularly sympathetic baby sitter with her young son, Scott, who has cerebral palsy.

"She told me not to worry, that Scottie would learn things, although it would just take him a bit longer, as it did with her," MacIntyre said.

The old response patterns die hard, however. Both our parents worry excessively about Roger. My mother can still become so tense after a visit to his apartment that she is unable to eat for hours. My father can still rant and rave against the quality of counseling Roger and Virginia receive (though Roger and Virginia do not complain).

There are some new experiences for them, however, some rosier clouds on the horizon. My mother absolutely glowed after receiving a telephone call from her daughter-in-law of one week who began by saying, "Hi, mom."

My father was speechless when I told him Roger and Virginia, who needed to get a wedding ring tightened during their honeymoon, took it to a jeweler located near their hotel, learned on their own which buses they had to take to pick it up in a week's time. And then picked it up. He was overwhelmed when I told him they had actually returned and picked it up.

And I have learned that my brother and I share certain problems in maintaining an adequate cash flow level. Shortly before returing to Washington after the wedding, I asked my father if I could borrow some money. It turned out Roger had made the same request of him the week before.

"Now both my sons owe me twenty dollars," the old man sighed proudly, forking it over.

A DWINDLING NAVY

Mr. THURMOND. Mr. President, there appeared in the Charleston Evening Post, September 6, 1977, an editorial entitled "A Dwindling Navy." This editorial pointed out the declining numbers of U.S. warships, a subject of considerable study in the Congress during the past few years.

The editorial took particular note of our Nation's declining capability to produce warships in a rapid and efficient manner.

Through my work on the Senate Armed Services Committee I have supported efforts to address this serious subject and I am pleased that its importance was recognized in this editorial by a leading newspaper in my own State.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A DWINDLING NAVY

Rep. Les Aspin, a Wisconsin Democrat not known as a particular friend of the Navy, has issued a report which shows the number of naval vessels in commission declining even more than earlier predicted.

In March of this year, the Navy believed it would have 470 ships in commission at the end of the fiscal year, Sept. 30. It now appears that it will actually have only 464, and a year from now the figure will fall to 455. Less than a decade ago, the fleet had a strength of more than 1,000 ships.

Rep. Aspin blames the failure to stem the Navy's decline on delays in deliveries of new ships ordered to replace those retired because of age and obsolescence. Deliveries, he said, are "one year late 43 per cent of the time." New ship construction has been hampered by strikes, equipment delivery delays, mismanagement and "frequent design and specification changes ordered by the Navy."

There are now only a very few shipyards left in our country that build Navy ships. Only one—the Newport News Shipbuilding and Drydock Co.—is capable of building an aircraft carrier. Yards doing work for the Navy claim they frequently lose money, and appear less than eager to bid for new contracts.

All of this is puzzling and worrisome. This is a country, isn't it, that was the "arsenal of democracy" a little more than a generation ago? The country that launched tens of thousands of ships in an incredibly short span of time to fight and win a great two-ocean war at sea?

What is happening to us?

S. 2042—A BILL TO AMEND THE REHABILITATION ACT

Mr. WILLIAMS. Mr. President, on August 5, I joined with Senators JAVITS, KENNEDY, HAYAKAWA, REIGLE, and SCHWEIKER in introducing S. 2042, a bill to amend the Rehabilitation Act of 1973 to improve the formula for State allotments under part B of the act.

In reviewing this distribution formula over the years, it is quite clear that this formula is inequitable. As my colleague from New York (Mr. JAVITS) has already pointed out, the 25 States receiving the lowest allotments per capita for vocational rehabilitation services contain 75 percent of the Nation's population. Thus, the larger States are expected to provide services to more persons with less financial support. The question here is not a small versus larger State issue, nor a Northern State versus Southern State issue. The question is how can we best provide rehabilitation services to all disabled Americans.

The formula which we have proposed under S. 2042 would change the current Hill-Burton type formula to formula allocation based solely on population. It would do this over a period of 5 years, thus phasing in the new formula. For the fiscal year 1979, States would receive 20 percent of their funding under a formula allocation based on population and 80 percent of their funding under the current formula. The percentage based on population would gradually increase until fiscal year 1983 at which time States would receive all their funding under a formula allocation based solely on population.

Mr. President, I believe that we must now give serious consideration to S. 2042. The Congress has mandated full civil rights protection for disabled Americans under title V of this act and we have also taken on a substantial Federal partnership in the area of education of handicapped children. It is highly important that we make adequate services available to all of our States—and assure that disabled persons, no matter where they live, have the opportunity for services which will enable them to be independent. And, I must say that we have no data which would suggest that the disabled population is limited to only a few States or concentrated in certain areas. If anything, this population can be found concentrated in our highly urban areas—the ones most often disadvantaged by the current formula.

I am hopeful that we can soon focus more directly on this problem within the subcommittee on the Handicapped and address the problem dealt with by S. 2042.

Mr. President, I ask unanimous consent that two tables showing the per person allocation under the current for-

mula and allocation per State under S. 2042, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—STATE DATA UNDER CURRENT FORMULA

	Population ages 18 to 64 (as of July 1, 1976)	Vocational rehabilitation appropriation (fiscal year 1978)	Fiscal year appropriation per person, 18 to 64
Alabama	2,113,000	$18,103,094	$8.57
Alaska	231,000	2,000,000	8.66
Arizona	1,295,000	8,526,789	6.58
Arkansas	1,181,000	10,472,837	8.87
California	13,106,000	57,035,827	4.35
Colorado	1,568,000	8,295,388	5.29
Connecticut	1,885,000	7,017,813	3.72
Delaware	351,000	2,000,000	5.70
District of Columbia	437,000	5,427,250	12.42
Florida	4,748,000	29,138,423	6.14
Georgia	2,920,000	21,133,655	7.24
Guam			
Hawaii	544,000	2,310,785	4.25
Idaho	472,000	$3,344,923	$7.09
Illinois	6,616,000	27,499,339	4.16
Indiana	3,092,000	19,066,756	6.17
Iowa	1,630,000	9,036,986	5.54
Kansas	1,349,000	7,200,397	5.34
Kentucky	1,987,000	15,919,071	8.01
Louisiana	2,177,000	18,074,413	8.30
Maine	611,000	4,967,235	8.13
Maryland	2,534,000	11,455,890	4.52
Massachusetts	3,453,000	18,212,747	5.27
Michigan	5,359,000	26,886,001	5.02
Minnesota	2,278,000	13,303,546	5.84
Mississippi	1,281,000	13,402,867	10.46
Missouri	2,760,000	18,198,853	6.60
Montana	435,000	2,886,498	6.64
Nebraska	884,000	5,032,964	5.69
Nevada	372,000	2,000,000	5.38
New Hampshire	478,000	3,282,747	6.87
New Jersey	4,388,000	18,376,436	4.19
New Mexico	666,000	5,647,884	8.48
New York	10,814,000	47,714,258	4.41
North Carolina	3,277,000	24,464,797	7.47
North Dakota	364,000	2,472,049	6.79
Ohio	6,309,000	$36,617,086	$5.80
Oklahoma	1,609,000	11,529,952	7.17
Oregon	1,382,000	8,109,804	5.87
Pennsylvania	7,072,000	39,945,506	5.65
Puerto Rico (1973 total population)	2,951,000	22,368,458	7.58
Rhode Island	545,000	3,264,733	5.99
South Carolina	1,677,000	13,905,312	8.29
South Dakota	383,000	2,799,957	7.31
Tennessee	2,489,000	19,262,813	7.74
Texas	7,279,000	46,756,113	6.42
Utah	680,000	5,559,165	8.18
Vermont	274,000	2,123,949	7.75
Virgin Islands			
Virginia	3,075,000	17,499,157	5.69
Washington	2,159,000	11,079,348	5.13
West Virginia	1,063,000	8,538,262	8.03
Wisconsin	2,653,000	16,785,908	6.33
Wyoming	232,000	2,000,000	8.62
Total United States	129,488,000	758,054,041	5.854

TABLE II.—APPROXIMATE ALLOCATIONS (DOLLARS PER PERSON) FISCAL YEAR 1979 THROUGH FISCAL YEAR 1983 FOR GRADUAL PHASE-IN OF POPULATION FORMULA

State	Fiscal year— 1978	1979	1980	1981	1982	1983
Alabama	4.94	4.94	4.94	4.94	4.94	4.94
Alaska	5.24	5.24	5.50	5.76	6.02	6.28
Arizona	3.76	3.92	4.03	4.12	4.19	4.25
Arkansas	4.97	4.97	4.97	4.97	4.97	4.97
California	2.65	2.97	3.28	3.60	3.92	4.25
Colorado	3.21	3.46	3.66	3.86	4.06	4.25
Connecticut	2.25	2.62	3.00	3.40	3.82	4.25
Delaware	3.44	3.44	3.61	3.78	3.95	4.25
District of Columbia	7.73	7.73	7.73	7.73	7.73	7.73
Florida	3.46	3.63	3.80	3.96	4.11	4.25
Georgia	4.25	4.30	4.32	4.32	4.30	4.25
Hawaii	2.61	2.95	3.27	3.59	3.92	4.25
Idaho	4.03	4.13	4.19	4.23	4.25	4.25
Illinois	2.45	2.78	3.13	3.50	3.87	4.25
Indiana	3.60	3.72	3.87	4.00	4.13	4.25
Iowa	3.15	3.35	3.58	3.80	4.03	4.25
Kansas	3.13	3.37	3.60	3.82	4.04	4.25
Kentucky	4.64	4.64	4.64	4.64	4.64	4.64
Louisiana	4.71	4.71	4.71	4.71	4.71	4.71
Maine	4.64	4.64	4.64	4.64	4.64	4.64
Maryland	2.76	3.06	3.35	3.64	3.95	4.25
Massachusetts	3.14	3.33	3.56	3.79	4.02	4.25
Michigan	2.95	3.17	3.44	3.71	3.98	4.25
Minnesota	3.36	3.55	3.73	3.91	4.09	4.25
Mississippi	5.69	5.69	5.69	5.69	5.69	5.69
Missouri	3.81	3.91	4.02	4.11	4.19	4.25
Montana	3.83	3.94	4.04	4.13	4.20	4.22
Nebraska	3.24	3.44	3.65	3.85	4.05	4.25
Nevada	3.28	3.28	3.44	3.61	3.89	4.25
New Hampshire	3.99	4.07	4.14	4.20	4.23	4.25
New Jersey	2.50	2.82	3.16	3.52	3.88	4.25
New Mexico	4.84	4.84	4.84	4.84	4.84	4.84
New York	2.64	2.92	3.24	3.57	3.91	4.25
North Carolina	4.47	4.47	4.74	4.47	4.47	4.47
North Dakota	3.84	3.84	3.84	3.84	4.01	4.25
Ohio	3.43	3.56	3.74	3.92	4.09	4.25
Oklahoma	4.17	4.27	4.30	4.30	4.29	4.25
Oregon	3.48	3.68	3.84	3.98	4.12	4.25
Pennsylvania	3.37	3.54	3.73	3.91	4.08	4.25
Puerto Rico	7.58	7.58	7.58	7.58	7.58	7.58
Rhode Island	3.52	3.66	3.82	3.97	4.12	4.25
South Carolina	4.88	4.88	4.88	4.88	4.88	4.88
South Dakota	4.08	4.14	4.20	4.24	4.25	4.25
Tennessee	4.57	4.57	4.57	4.57	4.57	4.57
Texas	3.74	3.91	4.02	4.11	4.19	4.25
Utah	4.53	4.57	4.53	4.53	4.53	4.53
Vermont	4.46	4.49	4.47	4.62	4.83	5.04
Virginia	3.48	3.66	3.82	3.97	4.12	4.25
Washington	3.07	3.33	3.56	3.79	4.02	4.25
West Virginia	4.69	4.69	4.69	4.69	4.69	4.69
Wisconsin	3.64	3.76	3.90	4.03	4.15	4.25
Wyoming	5.13	5.13	5.38	5.64	5.90	6.15

Fiscal year 1979: Hypothetical $800,000,000 appropriation; 80 percent current formula; 20 percent population formula.
Fiscal year 1980: Hypothetical $840,000,000 appropriation; 60 percent current formula; 40 percent population formula.
Fiscal year 1981: Hypothetical $880,000,000 appropriation; 40 percent current formula; 60 percent population formula.
Fiscal year 1982: Hypothetical $920,000,000 appropriation; 20 percent current formula; 80 percent population formula.
Fiscal year 1983: Hypothetical $960,000,000 appropriation; 100 percent population formula.
Assumptions: All appropriations are reduced by a constant percentage for grants to territories other than Puerto Rico.
Hold Harmless: Fiscal year 1978 allocation.
Minimum: 0.25 percent of total appropriation.
Warning: All estimates based on 1973–75 per capita income and 1976 population data.

REFORM OF THE FEDERAL JUDICIAL SYSTEM

Mr. DECONCINI. Mr. President, the commitment of the Carter administration to work constructively with the Congress to make meaningful reform of the Federal judicial system a reality is tremendously gratifying to me personally and to all those Members of Congress who have been anxious to tackle this critically important problem in American society. The work that Attorney General Griffin Bell has done is nothing short of superb. As chairman of the Senate subcommittee most closely associated with Judge Bell's efforts and those of the Office of Judicial Improvements, I have nothing but the highest praise.

However, the commitment of the administration does not end with Judge Bell. Both the President and the Vice President have repeatedly shown that they understand the problems facing the Federal court system and that they will do everything possible to strengthen the quality of justice in America.

As an example of that feeling, I ask unanimous consent to print in the RECORD a copy of a speech delivered by the Vice President to the Second Judicial Circuit Conference on September 10. In this eloquent statement, Vice President MONDALE examines the difficulties that have arisen over the years and outlines a legislative program which is both sound and realistic. It is my hope, Mr. President, that during the next few years the Congress will demonstrate that it is as determined as the administration to make the third branch of Government as responsive to citizen needs as the executive and legislative.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY VICE PRESIDENT WALTER F. MONDALE

BUCK HILL FALLS, PA., September 10.—Following is the text of an address prepared for delivery by Vice President Walter F. Mondale to the annual meeting of the Second Judicial Circuit Conference, held at the Buck Hill Inn here.

Our meeting tonight, and this conference, mean many things. It is a gathering of distinguished American jurists. It is an important contribution to the national debate on judicial reform. But perhaps, most importantly, this conference represents the triumph of an idea.

When our nation was founded, the belief that government exists to protect the rights of citizens and to establish justice was a revolutionary idea. It remains so today.

Alexander Hamilton put it plainly in the Federalist Papers:

"Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it can be obtained, or until liberty be lost in the pursuit."

We have survived for over 200 years as a free society, because, whatever our failings, the pursuit of justice of which Hamilton spoke has never ended. We have never allowed ourselves to become frozen into any permanent caste or class in America. We have never accepted the notion that there are two standards of Justice for Americans. Despite the injustices suffered by many, the promise of justice has remained alive.

As federal judges, you have been on the cutting edge of the fight for social justice in our nation. In recent decades, your courtrooms have become the arena where black Americans and other minorities, the poor, women, and all those denied the full promise of America have come to claim their rightful place. These citizens and millions more continue to look to your courts for justice today.

That is why this conference on guaranteeing access to justice is so important. As federal judges, you understand perhaps better than anyone that the judicial crisis we face today is much more than an administrative problem.

The problems of overcrowded dockets, rising legal costs, and mounting delays are not just a headache for judges. They threaten to close the courtroom door on the very people who need judicial relief the most—the poor and the weak, middle income citizens, minorities and the powerless. The procedural logjam clogging our courts excludes millions of citizens for whom justice in the courts is the only hope of overcoming generations of prejudice and neglect. The inability to obtain legal services leaves millions more with no access to justice at all.

The challenge we face could not be more urgent. The task we face could not be more clear. That great jurist Learned Hand could well have been addressing this conference when he wrote:

"If we are to keep our democracy there must be one commandment: Thou shalt not ration justice."

The dimensions of the problem we face are familiar to every judge in this room. In the last 15 years, alone, the number of cases filed in federal district courts has nearly doubled. Those taken to courts of appeals has quadrupled. Delays of two, three and four years are not uncommon.

There are no villains in this story. Neither the Congress, the Executive or the Judicial Branch can be blamed for the crisis in our courts today.

Instead, the problems we face remind me of the predicament of the man in one of Griffin Bell's favorite stories who was taken before the court on charges of drunkenness and setting his bed on fire. The judge asked the man how he pleaded. The man replied, "Your honor, I'm guilty of the first charge. I was drunk. But I'm innocent of the second. The bed was on fire when I got into it."

At bottom, the problem is simply that history has caught up with us. We operate under a judicial structure largely unchanged from the one designed 200 years ago for a handful of new Americans in 13 small states on the eastern seaboard. We expect the same system, today, to meet the needs of 210 million very different kinds of people spread over 53 separate jurisdictions in the most modern and complex society ever seen on the face of the globe.

There's nothing to be gained by searching for scapegoats we must search for solutions.

This conference is an important step in the right direction. We must go on to tackle what Judge Kaufman calls the "twin demons" of cost and delay. We must reduce court congestion and overcrowded dockets.

But in all these efforts, it is important to keep in mind that our final goal is not simply to reduce caseloads or merely make our courts run more smoothly. Our goal is, and must be, to provide access to justice for all our people. Judicial reform—if it is to deserve our support—must preserve the courts, particularly the federal judiciary, as the forum where fundamental rights will be protected and the promise of equal justice under law will be redeemed.

The ABA Task Force on the administration of justice, which Griffin Bell chaired, stated that goal well:

"Neither efficiency for the sake of efficiency, nor speed of adjudication for its own sake are the ends which underlie our concern. . . . The ultimate goal is to provide the fullest measure of justice for all."

We are fortunate that today the author of those words is the Attorney General of the United States. As a distinguished federal judge, Griffin Bell was one of the most respected leaders in our nation for progressive judicial reform. Today he has a few more resources at his command to continue the job. He has the full support of the President of the United States—and this entire Administration—to launch a far-reaching national effort to improve and upgrade our entire system of justice.

As one of his first acts, Judge Bell created a new Office for Improvements in the Administration of Justice—the first of its kind in the Justice Department. This office has a broad mandate to work with the federal judiciary, the Congress, the organized bar and the public. We want and need your ideas and support.

Under Judge Bell's leadership, this Administration is already moving forward on a wide variety of fronts.

To cut costs and delays and relieve overcrowded courtrooms.

To create new, imaginative alternatives for settling disputes.

To open up our judicial system to those denied an effective voice.

And to give the poor and the disadvantaged the resources to protect their fundamental rights.

As a first step, we're backing a series of reforms to provide quicker and less expensive ways to settle many of the disputes that have been languishing in our courts for years.

One new piece of legislation backed by our Administration would authorize federal magistrates to decide civil cases and try misdemeanors if the court and the parties agreed. This reform—which has already passed the Senate—could reduce the yearly caseload in District Courts by as many as 16,000 cases.

We are developing new legislation to allow experiments in District Court with compulsory, non-binding arbitration in certain civil cases. In one state where arbitration is currently used, 95 percent of the cases have been settled before they have gone to trial.

Finally, we are making a long overdue effort to tackle the problem of diversity jurisdiction. Giving a citizen the right to sue someone from another state in federal court made sense at a time when rivalry between states and regions was sharp. Today it is the judicial equivalent of a dinosaur—a relic of a bygone age.

In 1976, nearly one in four federal cases was a diversity matter. That just doesn't make sense when so many burning public issues demand the court's attention The Justice Department is backing a proposal to prohibit a plaintiff from filing a diversity suit in the state where he or she lives. If enacted, it could reduce the number of diversity cases before the federal courts today by as much as half.

Secondly, we are looking beyond the courts to find new, alternative forums to deliver simple justice.

Shortly before the American revolution, Edmund Burke noted that more copies of Blackstone's Commentaries on The Law had been sold in the 13 colonies than in all of England. He concluded that Americans were a peculiarly litigious lot.

I'm a resident of Washington, D.C., the lawyer capital of the world. So I can't dispute that claim. If you want to hold a bar association meeting in Washington all you have to do is to stop the first hundred people you see on the street and go find yourself a tent.

But despite our reliance on lawyers and law in this country, the fact remains that courtrooms aren't necessarily the best place to settle disputes.

To many Americans, a court of law is still an awesome, strange, and, often frightening place. Family squabbles, friction between neighbors, minor commercial disagreements usually wind up in court—if they're settled at all—because there is no other place for them to go.

As our society gets larger, and more complex, and more and more bureaucratic, we sometimes forget that people need personal community forums where they can settle differences simply, directly, and even, sometimes part as friends. One of the most exciting experiments in alternatives to the courtroom are Neighborhood Justice Centers supported by the Justice Department. These Centers will be run in, and by, the communities they serve. Neighborhood residents will be trained to mediate disputes, arbitrate differences, and reconcile parties. Only if the dispute can not be settled will the parties be referred to a court or government agency.

We expect to fund three Neighborhood Justice Centers for trial periods in Los Angeles, Atlanta and Kansas City. We are hopeful they will become models for the nation of a new kind of justice in action.

Each of the reforms I have mentioned will cut back on the caseload in federal courts. They will provide quicker, less expensive ways, to settle many disputes. Most important of all, those proposals will free the time and resources of federal judges for the awesome responsibility the founders of our nation placed in your hands as the ultimate guardians of constitutional rights.

But clearing court dockets and freeing judges' time is only half the battle. We must make sure that those in need of justice receive their day in court. For many citizens today, technical barriers increasingly bar the federal courthouse door. Millions of poor and middle income Americans simply can not afford to go inside.

Access to federal court is often the only way the individual consumer, the taxpayer and the ordinary citizen can effectively challenge, the massive power of a modern corporation or the far-reaching power of government itself. Closing the courthouse door leaves them no other place to go.

President Carter and this administration are committed to opening up the judicial system to those in need of its support. In his recent consumer message the President asked the Congress to give citizens broader standing to sue government agencies to give the federal courts more authority to reimburse legal fees and to expand opportunities for filing class action suits.

Nothing is more destructive to a sense of justice than the widespread belief that it is much more risky for an ordinary citizen to take $5 from one person at the point of a gun than it is for a corporation to take $5 each from a million customers at the point of a pen. Consumer class actions are one of the few ways a nation of individual consumers can defend itself against fraud and deceit in the marketplace today.

The Justice Department is working closely with the Office of Consumer Affairs to develop workable procedures to insure that class actions will be used responsibly. But we believe giving citizens access to justice must include this important tool.

Finally, this administration is committed to the principle that no American should suffer injustice because the price of justice is too high.

For all too many impoverished Americans, the promise of justice remains just that a promise. For the 16 million poor citizens who have no access to federal legal services, it is a promise waiting to be fulfilled.

The justice these Americans are seeking is rarely the stuff of which headlines are made it will not often be carved in stone on our courtroom walls.

It is the justice sought by

—a 13-year-old girl in Maine whose teeth were so poor she could not eat who was denied treatment she deserved under Medicaid.

—a 16-year-old mentally retarded child living with her disabled grandmother who was illegally denied entrance to school.

—an elderly New York couple living on Social Security charged four times the going rate by a fraudulant home improvement scheme.

—or a 64-year-old Mexican-American from California given a legal runaround for four years by a lumber company which hoped he would die before they had to pay him his pension.

For these and thousands of other clients of the Legal Services Corporation access to counsel has meant more than a vindication of their legal rights. It has meant a vindication of their humanity, a vindication of their dignity and a vindication of their right to be something more than a victim, the fate too often reserved for the poor.

I was a sponsor of the original legal services program in the Senate. Like many of you, I fought for the establishment of the Legal Services Corporation. President Carter and I are deeply committed to this vital program. We supported a major increase of $50 million for legal services this year. With the additional support of the Congress, and the help of state and local bars, the Legal Services Corporation is well on its way toward reaching its goal of guaranteeing some access to legal help for every impoverished American by 1979.

Much more remains to be done to ensure access to justice, not only for the poor, but for millions of middle income and working families for whom an extended legal battle is an expense they cannot bear.

All of us in the Bar, in the executive, the Judiciary, and the Congress must continue to search for ways to deliver justice to all Americans at a price all Americans will be able to afford.

The reforms I have mentioned tonight are important steps forward. But they alone will not do the job. As Justice Cardozo has written:

"The process of justice is never finished, but reproduces itself, generation after generation, in ever-changing forms. Today, as in the past, it calls for the bravest and the best."

We can reform our judicial system, and we must. But in the end, the success or failure of our efforts will depend not on a system, but on the men and women who uphold it. It will deepnd, more than anything else on you.

For millions of Americans in recent years a courageous federal judiciary has been their last, best hope for justice. You remain their last, best hope today.

In the years to come, we pledge our commitment and our support for your efforts. I am confident that working together, the promise of justice in America will continue to be redeemed.

ADDRESS OF SENATOR DICK STONE OF FLORIDA BEFORE THE NATIONAL CONVENTION OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. THURMOND. Mr. President, our colleague and distinguished member of the Senate Veterans' Affairs Committee, Senator DICK STONE of Florida, addressed the National Convention of the Veterans of Foreign Wars in Minneapolis on August 23.

In his speech, Senator STONE addressed the most pressing concerns of the veterans population. Among these important issues were the proposals to dismantle the Veterans' Administration, the recommendations of the report of the National Academy of Science, the proposal to include veterans pension and compensation programs within welfare, unionization of the military, recognition of Cuba, the energy crises, and the proposed Panama Canal Treaty.

Senator STONE's timely remarks were well received by the VFW National Convention and I commend his address to my colleagues for their reading.

Mr. President, in order to share our colleague's incisive views on these crucial issues with which we are all concerned, I ask unanimous consent that this address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR RICHARD "DICK" STONE BEFORE THE 78TH NATIONAL CONVENTION

National Commander-in-Chief, "Bulldog" Smith, Past National Commanders-in-Chief, National and State officers, distinguished delegates, ladies and gentlemen, it is indeed a great honor for me to address this 78th National Convention of the Veterans of Foreign Wars. This is my first opportunity as Chairman of the Senate Veterans' Affairs Subcommittee on Housing, Insurance and Cemeteries and as an active member of the Senate Veterans' Affairs Committee to appear before the V.F.W., an organization which has devoted itself to improving veterans benefits and services. The V.F.W. forcefully and constructively presents its views on all matters of importance to veterans. It is pledged to the men and women who served our nation in time of war and also to the protection of this country in times of peace.

But, I am not here to tell you what the V.F.W. is—you all know that—I am here today to tell you what Senator Dick Stone believes.

I believe that the V.F.W. was instrumental in the effort to prevent the elimination of the Senate Veterans' Affairs Committee.

When this proposal was announced early this year supposedly to help as part of a plan to simplify the cumbersome Senate committee system, I immediately spoke out against it. Eliminating the Senate Veterans' Affairs Committee would have endangered the $19 billion dollars committed to the Veterans Administration. It would have removed the Senate from having effective oversight and control of the VA programs that are established for veterans and their survivors—the veterans' health care system, the G.I. Bill, veterans' pensions, cemeteries, housing, disability and survivor benefits.

Many members of the V.F.W.—both from the National Headquarters in Washington and from state Posts in Florida—came to my office to oppose this plan. There was a flood of mail from veterans everywhere opposing the elimination of the committee. The V.F.W. didn't need to contact me—because I was with you—but I greatly appreciated your support and advice, and I know first-hand that your protests helped me to convince many of my colleagues.

Already in this session of Congress, the Senate Veterans' Affairs Committee has approved legislation increasing veterans' pensions and compensation, providing additional funding for state veterans' nursing homes, increasing and improving the G.I. Bill education program, continuing the VA physicians and dentists pay comparability, and enhancing the specially-adapted housing and automobile programs for disabled veterans.

Hand-in-hand with the V.F.W., the Senate committee has continued to fight for increased employment opportunities for veterans. As you well know, the unemployment rate among Vietnam-Era veterans is a national tragedy. But with strong efforts from the V.F.W. and its many members, from the newly confirmed Deputy Assistant Secretary of Labor for Veterans' Employment, and from Congress, we can help put these veterans to work.

So, we won that early battle, and the Senate Veterans' Affairs Committee continues to carefully preserve the quality of all our veterans' programs.

But that was not the last attack on veterans' programs. I believe there are struggles ahead against the dismantling of the Veterans Administration and the destruction of the VA health care system.

Apparently, there are some who oppose the fulfillment of the Nation's continuing obligation to care for those who have borne the battle. The V.F.W. must continue to speak out against this on behalf of all veterans.

I believe that those who would fragment the delivery of services to veterans by breaking up the Veterans Administration are not acting in the interest of veterans. I agree that there is a need for greater efficiency in the delivery of all federal programs—from the Postal Service on down. But this efficiency will not be achieved by fragmenting the agency whose sole charge is to serve the Nation's veterans, and combining it with HEW—a huge bureaucracy already too big to be efficient.

I believe that the VA health care system should exist to provide the best possible health care for veterans. I oppose the recommendations by the National Academy of Sciences that the VA health care system should be destroyed and phased into a general national health system.

I believe that veterans' compensation is a payment made by a grateful nation to those injured while in service for America. It is not welfare and I oppose the inclusion of this program and the VA pension program in any plan for welfare reform.

We know that during times of peace there is a tendency to forget the sacrifices and discipline that are required in war.

I believe that unionization of the military would have disastrous consequences if we are called to fight again. When an individual serves in the Armed Forces, he can march to the beat of only one drummer—his commanding officer. When lives are at stake and the defense of the Nation rests on obedience to orders, we cannot afford anything other than strict military discipline. That's why I am a co-sponsor of a bill introduced by my distinguished colleague, Senator Thurmond, to prohibit members of the Armed Forces from joining unions.

The Administration and Congress face other critical issues that have serious implications on American security.

I oppose and will continue to oppose the unilateral relaxation of the United States trade embargo on Communist Cuba which is a threat to peace in the Western Hemisphere. Last year, Havana sent Cuban troops supplied with Russian equipment, to Angola.

Since then, the Cuban presence has increased in Africa—and Castro continues to export terrorism throughout the world. Why should the United States want to do business with the Castro regime? Making unilateral concessions to Cuba, such as lifting the embargo, would only hurt our efforts to stop Cuban military intervention around the world.

I support the Administration's efforts to improve relations with other Latin American countries. Strengthening these ties is likely to diminish Castro's influence around the world.

Another threat to our security is our continuing dependence on imported oil from Arab OPEC nations. Today, the United States is even more dependent on OPEC than at the time of the 1973 boycott. It's time we stood up against OPEC's high prices and developed greater reliance on our own abundant energy resources.

Next month, Congress hopes to finish work on a sweeping new national energy plan. I hope that when legislation is eventually adopted, our national security—and our economic well-being—will be under our control, not subject to decisions made beyond our shores.

In closing, I want to thank the V.F.W. for your excellent work and for inviting me here today. And, to especially commend the very active and informed V.F.W. members from Florida. The V.F.W. organization has always been a great help to me. I thank you for your interest—which I share—and for expressing your concerns about our veterans so well. You know that my door is always open to you. Your patriotism is not old-fashioned—it's well-fashioned.

Additional Remarks by Senator Richard Stone on Panama Canal Treaty

Deviating from the prepared text of his speech Sen. Richard Stone, of Florida, a member of the Senate Veterans' Affairs Committee, added his voice to the opposition to the newly-negotiated Panama Canal treaty.

Stone spoke to the V.F.W. National Convention on Tuesday, August 23, moments after the delegates voted unanimously to pass a resolution opposing the treaty and urging that the Canal Zone send a delegate to Congress as do the Virgin Islands, Puerto Rico and the District of Columbia.

"I have been traveling around Florida and the people of Florida in their great numbers oppose this treaty. I signed the Thurmond recommendation against it. It will take a lot of convincing to convince a senator like me that the national interest is served by this treaty."

Sen. Stone also supported the V.F.W. position against diplomatic relations with Communist China and Cuba, which taken in two resolutions also adopted unanimously today.

"Which serves the United States more—recognition of Communist China and $300 million in trade or keeping our traditional ally and $5 billion in trade with Taiwan?" he said. Respect for America is better served by keeping our treaties with our allies than by buddying up to our adversaries and retreat."

INVESTMENT IN SMALL COMPANIES PERMISSIBLE UNDER ERISA'S PRUDENT MAN RULE

Mr. WILLIAMS. Mr. President, I have been concerned for some time about reports some institutional money managers have been limiting their investments of pension and welfare plan assets to only "blue chip" stocks and bonds issued by large and prominent companies and that they have been hesitant to invest in securities issued by newer or smaller, lesser known companies—all because they are uncertain about what kinds of investments are permitted under the prudent man rule of the Employee Retirement Income Security Act of 1974 (ERISA).

My concern has been more than academic. As one of ERISA's chief sponsors, I remember well how its prudent man rule came to be formulated, and what it was supposed to accomplish. The Congress never intended that the prudent man rule should become a vehicle by which employee benefit plan investments in securities would be restricted to those issued by large, long-established companies, listed on the New York Stock Exchange, and enjoying the very highest ratings.

To some extent, my concern has been allayed by a letter I have received from the Labor Department, which has responsibility for interpretation and enforcement of ERISA's fiduciary responsibility requirements, stating officially and emphatically that ERISA does not require investment of employee benefit plan assets to be limited to only blue chip securities. Of course, employee benefit plan investments in blue chip securities are generally perfectly appropriate under ERISA's prudent man rule—the important point made in the Labor Department's letter is that investment in a small company also may be entirely proper.

The Department also points out in its letter that numerous factors must be considered by a pension plan fidiciary in evaluating proposed investments under ERISA's prudent man rule. Further, the Department states:

Although a small company may be a riskier investment than a "blue chip" company, the investment in such a company may be entirely proper under the prudence standard if the risk, volatility, and liquidity of the resultant pension plan portfolio would be appropriate to the functions and funding requiremeints of the plan. However, an investment in a high risk company, whether large or small, new or old, clearly would not be appropriate if the investing pension plan's portfolio consisted entirely of a few risky securities and if the plan were obligated to pay out substantial retirement benefits during the next few years.

Mr. President, I recognize the strong desire of ERISA fiduciaries for certainty in the rules that govern the investment and other actions they take on behalf of the millions of employees whose retirement security depends heavily on those actions. The money managers who invest employee benefit plan funds bear a heavy burden of responsibility, and they are entitled to as much certainty as can safely be provided by the Labor Department. At the same time, ERISA's prudent man rule states what is perhaps the quintessential "facts and circumstances" test. Indeed, it was placed in the statute precisely because it provides a standard that contains sufficient flexibility to serve well as a guideline for conduct in all the various kinds of transactions to which it may be applied.

So while I concur wholeheartedly in the Labor Department's position that it cannot possibly rule on the prudence of every specific investment, I am also pleased that the Department has been able to provide clarifying guidance on this more general issue of investment standards under ERISA. I hope that this interpretation by the Labor Department, which I believe should be incorporated quickly into the Department's regulations, will provide the certainty that institutional asset managers need to guide them in investment decisions.

Mr. President, I ask unanimous consent that the Labor Department letter and its enclosure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. Department of Labor,
Office of the Assistant Secretary,
Washington, D.C., August 26, 1977.

Hon. Harrison A. Williams, Jr.,
Chairman, Committee on Human Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In recent months there has been increasing concern about the effect which the prudent man standard under the Employee Retirement Income Security Act of 1974 (ERISA) is said to have had on investments in small or new companies by employee benefit plans, most prominently pension plans.

There continues to be considerable discussion of this issue in the pension industry and in the trade press, and this seems an appropriate time to respond further to the inquiry you made in November of last year whether ERISA limits employee benefit plan investments to so called "blue-chip" securities. This matter was also raised in Congressional testimony which Assistant Secretary of the Treasury Laurence Woodworth and I gave before Senator Lloyd Bentsen on his bill S. 285, which is now pending in the Finance Committee.

The Department of Labor generally will not issue an opinion relating to the prudence of a specific investment or type of investment (ERISA Proc. 76–1, section 5.02(a), 41 FR 36281, August 27, 1976). This is because a determination as to the prudence of any particular investment can be made only on the basis of an evaluation of all the relevant facts and circumstances. To even attempt to make such evaluations would impose impossible administrative burdens on the Department.

However, the following information may be helpful. Section 404(a)(1)(B) of ERISA provides that a fiduciary shall discharge his duties with respect to a plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

In our view, the practice followed by some jurisdictions at common law of judging the prudence of a single investment without regard to the role that investment plays within the overall investment portfolio is generally improper for evaluating the prudence of an investment under ERISA. It is the position of the Department of Labor that the prudence of any investment by an employee benefit plan should be judged in the context of the role that investment plays in the plan's total investment portfolio in light of the factors discussed below.

Specifically, to meet the prudence requirement in section 404, a fiduciary of a pension plan should consider the role the proposed investment is to play in the portfolio. Among the factors which should be considered are the following:

(1) The composition of the whole pension portfolio with regard to diversification of risk;

(2) The volatility of the whole pension portfolio with regard to general movements in stock prices;

(3) The liquidity of the whole pension portfolio relative to the projected payment schedule for retirement benefits;

(4) The projected return of the whole pension portfolio relative to the funding objectives of the pension plan; and

(5) The prevailing and projected economic conditions of the entity in which the plan proposes to invest.

While this list may not be exclusive, it should make clear that an investment in a new or small company is not necessarily a violation of the prudent man rule and that pension investments are not necessarily limited to "blue-chip" companies. The prudence of a pension plan investment in a small company usually cannot be ascertained by examining that investment in isolation; rather, the prudence of such an investment normally depends upon its relation to the whole portfolio, which in turn must be appropriate in light of the types of considerations listed above. Thus, although a small company may be a riskier investment than a "blue-chip" company, the investment in such a company may be entirely proper under the prudence standard if the risk, volatility, and liquidity of the resultant pension plan portfolio would be appropriate to the functions and funding requirements of the plan. However, an investment in a high risk company, whether large or small, new or old, clearly would not be appropriate if the investing pension plan's portfolio consisted entirely of a few risky securities and if the plan were obligated to pay out substantial retirement benefits during the next few years.

The Department believes that the evaluation of all pension plan investments in the context of the overall investment posture of the pension plan and the factors discussed above is supported by the legislative history of ERISA and sound policy considerations. The legislative history of ERISA indicates that the common law rules of trusts, including the common law focus on the performance of the individual security, should not be mechanically applied to pension plans. The debate on the "prudent man" rule took place in 1970, when essentially the present form of section 404(a)(1)(B) of ERISA was first introduced in H.R. 16462.

At that time, there was considerable discussion as to whether the prudent man rule in H.R. 16462 was preferable to the common law prudent man rule. Testifying in support of the prudent man rule in H.R. 16462, then Secretary of Labor Schultz characterized this rule as providing a standard "which recognizes the vast diversity and other characteristics of private pension and welfare plans."[1] Those who supported the language in H.R. 16462 maintained that the common law rule of prudence, developed for personal trusts, was in certain regards inappropriate for employee benefit plans because their objectives were quite different from those of typical common law trusts.[2] Later, in the Conference Report on ERISA, Congress directed that the fiduciary standards of section 404 be interpreted "bearing in mind the special nature and purpose of employee benefit plans."[3]

The common law method of evaluating the prudence of an investment arose, in large part, from the need to resolve the basic conflict between the interests of the income beneficiary and the remainderman of a common law trust. The common law resolution consisted of giving greater weight to the interest of the remainderman; the safety of corpus was deemed more important than the generation of income. The conflict between the investment goals of the income beneficiary and the remainderman is not present in employee benefit plans. Thus, the primary rationale for judging the prudence of an investment alone, without regard to its role in the total portfolio, does not exist under ERISA.[4]

In sum, while the Department cannot give its opinion on a particular investment by a particular pension plan, it takes the position that pension investments in small or new companies are not per se violations of the prudent man rule under ERISA.

Enclosed for your information is a copy of a speech delivered by Ian Lanoff, Administrator of the Pension and Welfare Benefit Programs, before the American Bar Association. His speech outlines in further detail the Department's view.

Sincerely,

FRANCIS X. BURKHARDT,
Assistant Secretary of Labor.

CURRENT PROBLEMS UNDER ERISA

As Administrator of the Pension and Welfare Benefit Programs in the Labor Department, I oversee some of the largest financial institutions in America. The assets of private pension plans total about $200 billion, of which about $150 billion are invested in the stock market. The participants in private pension plans total about 30 million—one of the largest groups of individual stockholders.

The source of this regulatory authority over pension investments is the 1974 Pension Reform Act, known as ERISA. This law requires the Labor Department to go beyond its historic mission of providing jobs and protecting workplace standards. It requires the Department to enter an area outside of its regulatory tradition, but one so critical to the American economy.

The basic fiduciary standards in ERISA, it is important to keep in mind, are administered and enforced exclusively by the Labor Department. This is one where we do not share "dual jurisdiction" with the Internal Revenue Service. And state laws are preempted entirely by ERISA.

Within ERISA, the key provision on pension investments is Section 404. Section 404(a)(1)(B) states that a pension manager must act as "a prudent man acting in a like capacity and familiar with such matters." Section 404(a)(1)(B) also requires pension managers to diversify the investments of the plan "so as to minimize the risk of large losses."

My speech today has been drafted to respond to one of these new issues presented to the Department of Labor—the claims made by certain ERISA critics that ERISA has increased pension investments in "blue-chip" stocks and thereby deprived the nation's small companies of needed capital. It is said that because of ERISA pension investments are being concentrated in fewer and fewer stocks, while small companies are facing more and more difficulties in attracting equity investments. In response to these complaints, several Senators have proposed bills that would amend section 404 to encourage pension investments in small companies. Senators Bentsen, Nelson and McIntyre recently concluded hearings on their bills, S. 285 and S. 1745, that would partially exempt pension investments in small companies from the prudence standards in section 404 of ERISA.

I oppose these attempts to amend ERISA. Foremost amongst my reasons is the fact that the Department is strongly opposed to any legislation which weakens ERISA fiduciary standards or creates special exemptions in the law for one group or another. I oppose S. 285 and S. 1745 for two additional reasons. First, the available studies do not support these allegations about the adverse impact of ERISA on pension investments. Second, the current section 404 is sufficiently flexible to allow pension investments in small companies as part of an overall investment strategy.

1. *Factual Allegations*—I initially wish to take a brief look at the allegation that ERISA has led to more pension investments in "blue-chip" stocks and less pension investments in small companies. We have statistics on the number of different stocks held by pension plans before and after 1974—the year Congress enacted ERISA. Fortunately, a magazine called *Pension World* publishes such annual statistics for pension funds managed by banks, which manage the majority of assets held by private pension funds.

These statistics do reveal that pension investments are relatively concentrated in a few stocks. However, these statistics clearly show that the concentration of pension investments began *before* ERISA. In 1973, one year before the passage of ERISA, Senator Bentsen held hearings about the impact of institutional investors in the stock markets. There were the same complaints against concentrated investments by pension funds which are heard today with regard to ERISA.

What happened since ERISA? Between 1974 and 1975, pension investments continued to be relatively concentrated. But then, between 1975 and 1976, there appears to have been a significant move toward diversification of pension investments. In 1975, 45% of stock investments by pension plans were composed of the "Favorite Fifty" stocks. In 1976, by contrast, only 17% of stock investments by pension plans were composed of the "Favorite Fifty" stocks.

The lack of a casual connection between ERISA and pension investments in the Favorite Fifty is further demonstrated by a comparison with the investments of municipal pension funds, which are *not* regulated by ERISA. Like private funds, municipal pension funds have invested heavily in "blue-chip" stocks over the last decade. Like private pension funds, municipal pension funds reduced their stock holdings in the Favorite Fifty between 1975 and 1976.

I think it is fair to conclude that the concentration of pension investments in "blue-chip" stocks has not been caused by ERISA. The concentration of pension investments derives from a complex set of factors. These include the financial constraints on money managers, the funding objectives of pension plans, and the general conditions in the stock and bond markets. Because of changes in some of these factors, all pension funds have recently moved away from investments in the Favorite Fifty stocks.

One of the causes behind the spread of the myth about the impact of ERISA on small company investments is a survey reported by the International Foundation of Employee Benefit Plans. According to that group, 64% of surveyed pension trustees reported that as a result of ERISA, they are "less willing to invest in anything other than blue chip investments." I asked the staff to analyze the

---

[1] Committee on Education and Labor, General Subcommittee on Labor, Hearings on H.R. 1045, H.R. 1046 and H.R. 16462 (1st and 2nd Sess., 1969, 1970) at 477 (hereinafter referred to as Hearings).

[2] Hearings, Richard A. Van Deuren at 159, 163–64; H. R. Lumb at 292–93, 299–300; Robert C. Tyson at 833; American Retail Foundation at 902; N.Y.S. Bar Association Tax Section at 936; American Cyanamid Co. at 302.

[3] H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. 302 (1974).

[4] Note, "Fiduciary Standards and the Prudent Man Rule under the Employee Retirement Income Security Act of 1974," 88 Harv. L. Rev. 960, 967–68 (1975).

Foundation's survey. What they discovered was that the 64% figure was based on survey responses given by only 264 persons, and that not all of those were pension plan trustees. Those who were not trustees were giving their opinion on what they thought were the opinions of trustees. Also, the survey was a rather informal affair taken amongst persons attending the Foundation's regional seminars, and the Foundation has not issued any information about the amount of assets managed or the number of pension funds represented by the 264 persons. In any event, our information reveals that whatever pension managers were *saying* about the impact of ERISA, they were actually investing less in "blue-chip" stocks.

2. *Legal Analysis*—My second point covers the correct interpretation of the legal standards in section 404.

a. *Critique of Focus on Individual Security*—The supporters of the proposed amendments have argued that the prudent man standard in section 404 effectively prohibits pension investments in small companies. This argument is based on one critical assumption—that courts under section 404, like courts under the common law of trusts, will evaluate the performance of *each* security in the pension portfolio. Since small companies are riskier ventures than "blue-chip" companies, so the argument goes, pension managers will not invest in a small company that might perform poorly.

This argument is unpersuasive, however, because its critical assumption is invalid. The common law may have focused on the performance of each security in the portfolio. But section 404 is not the same as the prudent man rule of trust law. The prudent man rule of trust law requires that a trustee act as prudently as he would in his personal affairs. By contrast, section 404 requires that pension managers act as "a prudent man acting *in a like capacity and familiar with such affairs*." Under the common law of some important jurisdictions, trustees did not have the duty to diversify investments. Under section 404 of ERISA, pension managers are obligated to diversify investments so as to minimize the risk of large loss.

Similarly, the legislative history of ERISA indicates that the common law of trusts should not be mechanically applied to pension plans. The debate on the "prudent man rule" took place in 1970, when essentially the present form of section 404 was first introduced. At that time, there was considerable discussion about whether this precursor to section 404 was preferable to the prudent man rule of common law. The supporters of what became section 404 maintained that the prudent man rule of common law, developed for personal trust, was inappropriate for pension plans where objectives were quite different from those of personal trusts. Later in the Conference Report on ERISA, Congress directed that the fiduciary standards of section 404 be interpreted "bearing in mind the special nature and purpose of employee benefit plans."

The common law focus on the performance of the individual security derived largely from the need to resolve the basic conflict between the interest of the income beneficiary and the remainderman in personal trusts. The common law resolved this conflict by giving greater weight to the interest of the remainderman; it deemed the safety of the trust corpus to be more important than the generation of current gain. But this conflict between the investment goals of the income beneficiary and the remainderman is not present in pension plans. In short, the primary rationale for judging the prudence of each investment in a portfolio does not exist under ERISA.

b. *The Case for the Whole Portfolio*—It is my position, and the position of the Labor Department, that under section 404 of ERISA the prudence of any investment for a pension plan should be judged in relation to the role which the proposed investment is to play in the portfolio. Specifically, to meet the prudence requirement, in section 404, I believe that a fiduciary should consider whether a proposed investment of a pension plan is appropriate in light of:

(1) The composition of the whole pension portfolio with regard to diversification of risk;

(2) The volatility of the whole pension portfolio with regard to general movements in stock prices;

(3) The liquidity of the whole pension portfolio relative to the payment schedule for retirement benefits;

(4) The projected return of the whole pension portfolio relative to the funding objectives of the pension plan; and

(5) The prevailing and projected economic conditions of the entity in which the plan proposes to invest.

This focus on the whole pension portfolio is grounded in the language of section 404 and sound policy considerations. Again, section 404 requires every pension manager to follow the investment practices of "a prudent man acting in a like capacity and familiar with such matters." Generally, most professional money managers try to maximize the return and minimize the risk of the whole portfolio. The selection of a particular stock must fit into the investment strategy for the whole portfolio. The measurement of managerial skill must be made with reference to the investment objectives of the plan and the performance of plans having similar objectives.

Section 404 also requires that pension managers diversify their investments so as to minimize the risk of large losses. To fulfill this statutory mandate, pension managers must consider the impact of each investment on the whole pension portfolio. To reduce the overall risk of the pension portfolio, many pension managers invest in a large number of securities from different industries and regions. While some calamity might befall one industry or one region, the losses from these few securities will be offset to some degree by the gains from the remaining securities in the pension portfolio.

c. *Conclusions for Small Companies*—Once the whole portfolio is accepted as the proper focus for legal analysis, it is easy to see that pension investments in small companies are not prohibited by section 404 of ERISA. Of course, an investment in a small company may be somewhat riskier than an investment in a "blue-chip" company. But the existence of this extra risk does not necessarily lead to the conclusion that pension investment in small companies are banned by section 404. The critical question is what is the risk of an investment relative to its return. Polaroid stock was a riskier investment than General Motors stock in 1940, but Polaroid stock had a higher return over the next 30 years than General Motors stock.

The prudence of any investment by a pension fund can be determined in its relation to the overall structure of the pension portfolio and the functions and funding requirements of the pension plan. *These* are the factors to examine in determining the prudence of an investment in a small company.

For example, an investment in a small company may be appropriate for a pension plan that holds a large number of securities from different sectors of the American economy and that projects a total return sufficient to meet payment schedules over the next few years. In such a pension plan, the riskiness of the small company would be counterbalanced to a significant extent by the stability of the rest of the pension portfolio. On the other hand, an investment in a new company with a greater degree of risk may be inappropriate if the entire pension portfolio consists of a few speculative stocks and the pension plan is obligated to pay out substantial retirement benefits in the near future. In that case, the riskiness of the whole portfolio would be too high relative to the funding requirements of the pension plan.

3. *Conclusions*—In summary, the advocates of small companies have not put forward a persuasive case for amending section 404 of ERISA. The empirical data does *not* support the factual allegations that ERISA has caused a concentration of pension investments in "blue-chip" companies. A legal analysis of section 404 does *not* lead to the conclusion that ERISA prohibits pension investments in small companies. In fact, when viewed against the whole portfolio, an investment in a small company may be perfectly appropriate and proper.

ANNOUNCEMENT OF POSITION

Mr. RIEGLE. Mr. President, due to a previous and long standing commitment, I was necessarily absent Tuesday night when the final two votes of the day were taken. I wish now to state for the RECORD that had I been present, I would have voted in support of Senator METZENBAUM's motion to table the Hansen amendment. I supported the Senator from Ohio's position concerning the acquisition and use of nearby coal during the debate of the clean air amendments and continue to agree with the wisdom of the legislation then adopted by the Senate.

Further, I would have voted for passage of the Energy Conservation Act. S. 2057, which is an excellent bill and I compliment the Energy Committee and particularly Senator JOHNSTON upon their efforts.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years vice Raymond J Howard.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, September 22, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years vice Donald E. Walter, resigned.

M. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years vice Sidney E. Smith, resigned.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years vice Rex Walters, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, September 22, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If there is no morning business, morning business is closed.

AUTHORIZATION FOR COMMITTEE ON ENERGY AND NATURAL RESOURCES TO HAVE UNTIL MIDNIGHT TO FILE A REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources may have until midnight tonight to file a report.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 262

Mr. ROBERT C. BYRD. Mr. President, at such time as the bill S. 262, a bill to amend the Omnibus Crime Control and Safe Streets Act to authorize group life insurance programs for public safety officers, is before the Senate, there be a time limitation on that bill as follows: 2 hours on the bill, to be equally divided between Mr. EASTLAND and Mr. THURMOND; provided further that there be a time limitation on any amendment of 1 hour; a time limitation on any amendment to an amendent of 30 minutes; a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its discussion, of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CLARK TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. ALLEN is recognized on tomorrow under the order previously entered, Mr. CLARK be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 995 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the two orders for the recognition of Senators have been completed tomorrow, the Senate resume consideration of the sex discrimination bill, S. 995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS TOMORROW AND MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Finance be authorized to meet during the sessions of the Senate on tomorrow and on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR ROLLCALL VOTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes prior to 12 o'clock noon tomorrow, with the exception of any vote which might be necessary to secure the establishment of a quorum, and I do not anticipate that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered prior to 12 o'clock noon tomorrow, they occur at 12 noon tomorrow and in the sequence in which they are ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order as it now stands, on the disposition of the sex discrimination bill tomorrow, would not the legal services bill come back up automatically?

The PRESIDING OFFICER. There is no order to that effect. The order was to take up the legal services bill at the disposition of the saccharine bill.

Mr. ROBERT C. BYRD. Yes, but we then superseded that order with a request to take up the sex discrimination bill. Once that is disposed of, will not the other order come back into effect, or will it have been vitiated?

The PRESIDING OFFICER. Will the majority leader indulge the Chair just a moment?

Mr. ROBERT C. BYRD. Inasmuch as the situation tomorrow cannot be clearly ascertained at this point because of the hearings conducted by the Governmental Affairs Committee which are going on, and because certain members of that committee are involved in one or the other of the two bills I shall mention, I ask unanimous consent that upon the disposition of the sex discrimination bill tomorrow, the majority leader be authorized to proceed either to the nonunionization of the military bill or the legal services bill, whichever at that time, in the joint opinion of the distinguished minority leader and the majority leader, would appear to be the better approach and the more feasible approach, in accordance with the circumstances then obtaining.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I think that is a good arrangement. I am perfectly willing to subscribe to it and join the majority leader in that request.

I might add, however, that after our day-long discussions on how we might proceed to the consideration of the legal services bill, I think there would be a distinct preference on this side to proceed to the legal services bill after the sex discrimination bill, only because I believe the Senators who will handle it on this side will be prepared to do that tomorrow.

I do not insist on that, by any means, but I advise the majority leader that that would appear to be more in keeping with the predictions I have made on our side for today.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the statement by the distinguished minority leader and his advice, and I think his advice is something which I would need to follow to conform to the wishes of my side of the aisle. But if he will not object to this request, as he has indicated he will not, I believe that will probably be the approach that we will take on tomorrow.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the Senator from West Virginia is agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. There is nothing pending before the Senate at this time.

PROHIBITION OF SEX DISCRIMINATION ON THE BASIS OF PREGNANCY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration now of the sex discrimination bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against that bill during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Tht PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in recess until the hour of 8:45 a.m. tomorrow.

The motion was agreed to; and at 7:13 p.m. the Senate recessed until Friday, September 16, 1977, at 8:45 a.m.

NOMINATION

Executive nomination received by the Senate September 15, 1977:

DEPARTMENT OF JUSTICE

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years, vice Doyle W. James.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1977:

NATIONAL ENDOWMENT FOR THE HUMANITIES

Joseph D. Duffey, of the District of Columbia, to be Chairman of the National Endowment for the Humanities for a term of 4 years.

DEPARTMENT OF STATE

Lowell Bruce Laingen, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

John Richard Burke, of Wisconsin, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Marshall Darrow Shulman, of Connecticut, for the rank of Ambassador during the tenure of his service as Special Adviser to the Secretary of State for Soviet Affairs.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Edward Marks, of California, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Maurice Darrow Bean, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

Mari-Luci Jaramillo, of New Mexico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

William B. Schwartz, Jr., of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to The Commonwealth of The Bahamas.

Raul H. Castro, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Frank H. Perez, of Virginia, for the rank of Minister during the tenure of his assignment as the State Department SALT Representative at Geneva, Switzerland.

Paul H. Boeker, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

William P. Dixon, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruciton and Development for a term of 2 years.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Charles N. Van Doren, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF THE INTERIOR

Forrest J. Gerard, of Maryland, to be an Assistant Secretary of the Interior.

ACTION AGENCY

Mary Frances Cahill Leyland, of New York, to be an Assistant Director of the ACTION Agency.

Irene Tinker, of Maryland, to be an Assistant Director of the ACTION Agency.

DEPARTMENT OF JUSTICE

John H. Shenefield, of Virginia, to be an Assistant Attorney General.

Jose Antonio Canales, of Texas, to be U.S. attorney for the southern district of Texas for the term of 4 years.

Hubert H. Bryant, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years.

Bernal D. Cantwell, of Kansas, to be U.S. marshal for the district of Kansas for the term of 4 years.

Carl W. Gardner, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years.

COMMUNITY SERVICES ADMINISTRATION

Frank Jones, of Virginia, to be an Assistant Director of the Community Services Administration.

DEPARTMENT OF JUSTICE

James W. Moorman, of California, to be an Assistant Attorney General.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Procter R. Hug, Jr., of Nevada, to be U.S. circuit judge for the ninth circuit.

HOUSE OF REPRESENTATIVES—*Thursday, September 15, 1977*

The House met at 10 o'clock a.m.

The Reverend E. Robert Jordan, pastor, Calvary Baptist Church, Lansdale, Pa., offered the following prayer:

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths.—Proverbs 3: 5, 6.

Our Father, we bring before Thee today our President, our Vice President, our Speaker, and Members of Congress. Help them, I pray, to love America above their lives, and to hold truth and honor above self and expediency. We ask, O Lord, in all their duties that You would direct their ways and their choices. That You would guide their lives in such a way that they would truly know Thee as Saviour and Lord, and, depending upon Thee for wisdom and strength, might make decisions and choices that would keep our country in peace until Jesus comes. In whose name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On August 4, 1977:

H.R. 6884. An act to amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that Act, and for other purposes.

On August 5, 1977:

H.R. 6138. An act to provide employment and training opportunities for youth, and to provide for other improvements in employment and training programs; and

H.R. 7932. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1978, and for other purposes.

On August 7, 1977:

H.R. 6161. An act to amend the Clean Air Act, and for other purposes; and

H.R. 7553. An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

On August 12, 1977:

H.R. 7558. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

On August 15, 1977:

H.J. Res. 372. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1977, as "National Family Week";

H.R. 1952. An act to amend the corporate name of AMVETS (American Veterans of World War II), and for other purposes;

H.R. 2563. An act for the relief of Velzora Carr;

H.R. 4991. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes; and

H.R. 7589. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

On August 17, 1977:

H.R. 6179. An act to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes;

H.R. 6370. An act to authorize appropriations to the U.S. International Trade Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes; and

H.R. 6689. An act to authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

REV. E. ROBERT JORDAN

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I take great personal pride and I am deeply honored to share with my colleagues the thoughts of a well-respected individual and friend.

The opening prayer of today's House session was offered by Rev. E. Robert Jordan, a pastor from Lansdale, Pa. Reverend Jordan serves not only as the spiritual leader of the Calvary Baptist Church but also as friend and counselor to many people of all faiths.

Reverend Jordan has served the Calvary Baptist Church for the last 22 years. Under his guidance it has grown in importance in the religious community. But, his service to the congregation is only a portion of his overall community assistance. He recognized the need for a strong educational system and under his direction, the Calvary Baptist School of Theology and the Calvary Baptist Christian Day Schools were founded.

Born in Dayton, Ohio, September 25, 1925, he spent the first 17 years of his life in a county orphanage, and is an 11-year veteran of both the Second World War and the Korean war. He was educated at the Philadelphia College of the Bible and also the reformed Episcopal Seminary in Philadelphia and received a doctor of divinity degree from the Pillsbury Baptist Bible College in June 1973.

Reverend Jordan is a good and caring person who shares a genuine concern for the people of Lansdale, Pa., and his fellow Americans. I strongly believe that his good works of faith and charity will be of lasting benefit to all those whose lives he touches. It is indeed an honor, Mr. Speaker, to have such an accomplished and dedicated spiritual leader with us today.

Mr. Speaker, I would also like to welcome Rev. E. Robert Jordan's wife, his son, and some of the members of his church who are accompanying him to Washington today.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow, September 16, 1977, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

WE CAN LIVE WITH THE NEUTRON BOMB—UNLESS IT IS USED

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, the neutron bomb is proenvironment but antipeople. It will kill people but not destroy property. This could solve our housing shortage. However:

If this "defensive, clean bomb"—which attacks the cellular processes of living things, causing death or injury over a period of time determined by the dosage received—is launched by NATO forces, can we trust the godless, atheistic international Communist conspiracy to only use "clean bombs" against our "clean bombs" or might they respond with "dirty bombs?"

The neutron bomb lends credence to the limited nuclear war theory, which makes the concept of nuclear war more acceptable in our minds. Former Secretary of Defense James Schlesinger has argued that "* * * reduction of collateral damage should make it more credible to the Warsaw Pact that the (NATO) Alliance will use nuclear weapons."

If we are not going to use the neutron bomb, then who needs it?

If we do use it, who will survive?

Unless, of course, we have a treaty with the enemy in which they promise not to up the nuclear ante.

NOT JUST DUMB, JODY—WRONG

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, reports of Jody Powell's apologies over his attempted smear of Senator CHARLES PERCY quote Powell as saying his actions were "a dumb mistake," and "inappropriate, regrettable, and dumb." He said he "regretted the situation very much." I imagine he does. Nowhere is there any evidence that Powell realizes that what he did was wrong, not just dumb or inappropriate. You can hit your thumb with a hammer and say it is dumb and that you regret it. But when you deliberately go about trying to secretly smear the reputation of an innocent man and try to hide behind the cloak of anonymity by using the news media to spread your lie, you have committed not just an intellectual or political error but an ethical one. I have no doubt Powell sincerely finds this all regrettable—but there is not a word on record that I have found that suggests he would not do it again if he thought he could get away with it. It would appear that the chief spokesman for the President who, we are told, invented ethics does not recognize an ethical problem when he himself causes it.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 341, SECOND CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1978

Mr. GIAIMO. Mr. Speaker, pursuant to the order of the House of September 15, 1977, I call up the conference report on the concurrent resolution (H. Con. Res. 341) revising the congressional budget for the U.S. Government for the fiscal year 1978, and ask for its immediate consideration.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of September 13, 1977.)

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment as follows:

Strike out all after the resolving clause and insert:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1977—

(1) the recommended level of Federal revenues is $394,825,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $775,000,000;

(2) the appropriate level of total new budget authority is $501,400,000,000;

(3) the appropriate level of total budget outlays is $459,900,000,000;

(4) the amount of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors is $65,075,000,000; and

(5) the appropriate level of the public debt is $779,275,000,000, and the amount by which the temporary statutory limit on such debt should be accordingly increased is $79,275,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1977, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $116,600,000,000.
(B) Outlays, $110,100,000,000.
(2) International Affairs (150):
(A) New budget authority, $8,300,000,000.
(B) Outlays, $6,600,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,700,000,000.
(4) Natural Resources, Environment, and Energy (300):
(A) New budget authority, $24,900,000,000.
(B) Outlays, $20,800,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,100,000,000.
(B) Outlays, $6,300,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $20,500,000,000.
(B) Outlays, $19,600,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $8,200,000,000.
(B) Outlays, $10,600,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authortiy, $26,100,000,000.
(B) Outlays, $26,400,000,000.
(9) Health (550):
(A) New budget authority, $47,700,000,000.
(B) Outlays, $44,200,000,000.
(10) Income Security (600):
(A) New budget authority, $178,800,000,000.
(B) Outlays, $146,600,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $19,900,000,000.
(B) Outlays, $20,200,000,000.
(12) Law Enforcement and Justice (750):

(A) New budget authority, $3,800,000,000.
(B) Outlays, $4,000,000,000.
(13) General Government (800):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,700,000,000.
(15) Interest (900):
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,700,000,000.
(16) Allowances (920):
(A) New budget authority, $900,000,000.
(B) Outlays, $1,000,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,400,000,000.
(B) Outlays, —$16,400,000,000.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves to recede from disagreement to the Senate amendment and to concur therein with an amendment as follows:

In lieu of the matter proposed by the Senate, insert the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1977—

(1) the recommended level of Federal revenues is $397,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $1,100,000,000;

(2) the appropriate level of total new budget authority is $500,100,000,000;

(3) the appropriate level of total budget outlays is $458,250,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $61,250,000,000; and

(5) the appropriate level of the public debt is $775,450,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $75,450,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1977, the appropriate level of new budget authority and the estimated budget outlays for each major fuctional category are as follows:

(1) National Defense (050):
(A) New budget authority, $116,400,000,000.
(B) Outlays, $110,100,000,000.
(2) International Affairs (150):
(A) New budget authority, $8,000,000,000.
(B) Outlays, $6,600,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,700,000,000.
(4) National Resources, Environment, and Energy (300):
(A) New budget authority, $24,600,000,000.
(B) Outlays, $20,000,000,000.
(5) Agriculture (350):
(A) New budget authority, $2,100,000,000.
(B) Outlays, $6,300,000,000.
(6) Commerce and Transportation (400):
(A) New budget authority, $20,400,000,000.
(B) Outlays, $19,600,000,000.
(7) Community and Regional Development (450):
(A) New budget authority, $8,200,000,000.
(B) Outlays, $10,600,000,000.
(8) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $26,300,000,000.
(B) Outlays, $26,400,000,000.
(9) Health (550):
(A) New budget authority, $47,700,000,000.
(B) Outlays, $44,200,000,000.
(10) Income Security (600):
(A) New budget authority, $178,600,000,000.
(B) Outlays, $146,100,000,000.
(11) Veterans Benefits and Services (700):
(A) New budget authority, $19,900,000,000.
(B) Outlays, $20,200,000,000.
(12) Law Enforcement and Justice (750):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $4,000,000,000.
(13) General Government (800):
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,850,000,000.
(14) Revenue Sharing and General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,700,000,000.
(15) Interest (900):
(A) New budget authority, $41,700,000,000.
(B) Outlays, $41,700,000,000.
(16) Allowances (920):
(A) New budget authority, $900,000,000.
(B) Outlays, $1,000,000,000.
(17) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$16,800,000,000.
(B) Outlays, —$16,800,000,000.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the House amendment to the Senate amendment and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman from Connecticut just explain what we are doing here?

Mr. GIAIMO. We are taking up the conference report.

Mr. ROUSSELOT. I understand that. I mean the changes.

Mr. GIAIMO. As soon as we dispense with the further reading of the House amendment to the Senate amendment, I will explain the differences to the Chamber.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no rejection.

The SPEAKER. The gentleman from Connecticut (Mr. GIAIMO) and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the second budget resolution for fiscal year 1978. Its adoption would establish spending ceilings and a new revenue floor for the new fiscal year which will begin on October 1.

The conference report upholds nearly all of the major House positions contained in the budget resolution we adopted last week. In particular, I want to call attention to the fact that the conference report projects a budget deficit of $61.25 billion, about $400 million below the House-passed resolution and nearly $4 billion below the Senate-passed resolution. This reduced deficit is due in large part to the insistence of the House conferees that the lowest possible levels of spending, consistent with the House's spending priorities, be agreed to.

I am inserting in the RECORD at this point a comparison of the House- and Senate-passed resolutions and the agreements reached in conference:

BUDGET AGGREGATES AND FUNCTIONAL CATEGORIES, FISCAL YEAR 1978

[In billions of dollars]

	Senate passed	House passed	Conference agreement
Revenues	394.825	397.933	397.0
Budget authority	501.4	508.043	500.1
Outlays	459.9	459.576	458.25
Deficit	65.075	61.643	61.25
Debt subject to limit	779.275	781.94	775.45
050—National defense:			
Budget authority	116.6	116.324	116.4
Outlays	110.1	110.338	110.1
150—International affairs:			
Budget authority	8.3	7.933	8.0
Outlays	6.6	6.579	6.6
250—General science, space and technology:			
Budget authority	4.9	4.861	4.9
Outlays	4.7	4.708	4.7
300—Natural resources, environment and energy:			
Budget authority	24.9	21.625	24.6
Outlays	20.8	19.673	20.0
350—Agriculture:			
Budget authority	2.1	2.114	2.1
Outlays	6.3	6.302	6.2
400—Commerce and transportation:			
Budget authority	20.5	22.445	20.4
Outlays	19.6	19.66	19.6
450—Community and regional development:			
Budget authority	8.2	8.067	8.2
Outlays	10.6	10.448	10.6
500—Education, training, employment, and social services:			
Budget authority	26.1	26.679	26.3
Outlays	26.4	26.916	26.4
550—Health:			
Budget authority	47.7	47.709	47.7
Outlays	44.2	44.183	44.2
600—Income security:			
Budget authority	178.8	186.849	178.6
Outlays	146.6	146.929	146.1
700—Veterans benefits and services:			
Budget authority	19.9	20.355	19.9
Outlays	20.2	20.367	20.2
750—Law enforcement and justice:			
Budget authority	3.8	3.8	3.8
Outlays	4.0	3.95	4.0
800—General government:			
Budget authority	3.8	3.8	3.8
Outlays	3.8	3.85	3.85
850—Revenue sharing and general purpose fiscal assistance:			
Budget authority	9.6	9.569	9.6
Outlays	9.7	9.68	9.7
900—Interest:			
Budget authority	41.7	41.713	41.7
Outlays	41.7	41.713	41.7
920—Allowances:			
Budget authority	.9	1.0	.9
Outlays	1.0	1.08	1.0
950—Undistributed offsetting receipts:			
Budget authority	—16.4	—16.8	—16.8
Outlays	—16.4	—16.8	—16.8

The major budget aggregates contained in the conference report are as follows:

The revenue floor would be set at $397 billion.

This amount is identical to the House figure except that the $900 million attributable to the earned income credit is being treated as a loss of revenues rather than as an expenditure. The conferees agreed to this budgetary treatment of the earned income credit, but the statement of managers makes clear that this decision will not serve as a precedent for future decisions regarding the budget treatment of payments in excess of tax liability.

The budget authority ceiling would be set at $500.1 billion, approximately $8 billion below the House resolution.

This sharp reduction in budget authority results from two decisions of the conferees: First, the decision not to count as budget authority about $1.1 billion in reappropriations agreed to in the Labor-HEW appropriations bill for fiscal year 1978; and second, the decision to eliminate approximately $6.4 billion in budget authority for possible legislation to reform the social security system.

The House resolution had included as new budget authority for fiscal year 1978 approximately $1.1 billion for four programs in the Labor-HEW bill for which fiscal year 1977 unobligated balances were extended into fiscal year 1978. The Senate resolution did not count these funds as budget authority. The conference report agrees with the Senate on the treatment of these funds this year, but the conferees have agreed to count such reappropriations as new budget authority in future years.

With respect to social security reform legislation, the conference report provides no increase in budget authority for the social security trust funds. Although several possible reforms of the social security system are being debated in both Houses, the conferees felt it was virtually impossible to predict which of the reforms would be enacted, and in what amount. The budget process, however, is sufficiently flexible to accommodate possible action in this area if legislation affecting fiscal year 1978 is approved by the Congress. I want to emphasize that the revenue number in the conference report assumes no increase in social security taxes during fiscal year 1978.

The outlay ceiling would be set at $428.25 billion, approximately $1.3 billion below the House resolution. $900 million of this amount is attributable to the treatment of the earned income credit as a revenue loss, rather than an expenditure, with the remaining $400 million due primarily to outlay reestimates.

As I stated earlier, the conference report projects a deficit of $61.25 billion, $400 million below the House resolution and nearly $4 billion below the Senate resolution. This reduction below the House resolution is due to the downward reestimates in outlays I just referred to.

I am inserting in the RECORD at this point a list of the major differences between the conference report and the House-passed resolution for various functional categories.

MAJOR DIFFERENCES, 2D BUDGET RESOLUTION CONFERENCE, OVER/UNDER HOUSE PASSED (H. CON. RES. 341)

[In millions of dollars]

	Budget Authority	Outlays
300—Natural resources, environment and energy:		
Transfer of GNMA weatherization loans program from function 400	+2,000	+15
Transfer of public housing weatherization from function 600	+210	---
Increase for energy program funding	+765	+312
400—Commerce and transportation:		
Transfer of GNMA weatherization loans program into function 300	−2,000	−15
450—Community and regional development:		
Additional allowance for Small Business Administration disaster loan supplemental appropriations	+133	+152
500—Education, employment, training, and social services:		
Conference agreement not to score 1977 carryover funds as new budget authority	−70	---
Deletion of welfare employment demonstration projects funding	−250	−150
Reduction in outlay estimate for minimum wage increase	---	−259
Reduction fof title IV–B child welfare services	−55	−80
550—Health:		
Conference agreement not to score 1977 carryover funds as new budget authority	−329	---
Deletion of allowance for social security financing	+346	---
600—Income security:		
Deletion of allowance for social security financing	−6,440	---
Budgetary treatment of earned income credit	−900	−900
Conference agreement not to score 1977 carryover funds as new budget authority	−700	---
Transfer of public housing weatherization to function 300	−210	---
700—Veterans benefits and services:		
Technical adjustment to conform to a recent CBO reestimate of the current-law cost of GI bill education	−272	---
Reduction in new entitlement authority	−183	−167
920—Allowances:		
Pay act absorption increased from 14 to 20 percent of gross pay raise costs of nondefense agencies	−100	−80

SIX HUNDRED: INCOME SECURITY

The conference report reduces budget authority by $8,249 million and outlays by $829 million due to the following:

Social Security Financing: The House included $6,440 million in budget authority to accommodate congressional consideration of Social Security financing, while the Senate did not. The conference substitute provides no budget authority for this purpose. The conference report includes the following language on this issue:

"The conference substitute provides no increase in budget authority for the Social Security trust funds. It is unclear, at this time, whether any of several possible reforms will be adopted. The conferees recognize that a major problem exists in the financing of Social Security and urge that the responsible committees report legislation putting Social Security on a sound financial footing for both the short-term and long-term. It should be emphasized that the conference substitute does not assume an increase in Social Security taxes during fiscal year 1978, since the conferees believe that any major increase in such taxes could not be justified given the present state of the economy."

Earned Income Tax Credit: The House treated the program as an expenditure and included $900 million in budget authority and outlays, while the Senate treated this program as a revenue loss. The conference substitute treats the program as a revenue loss. The conference report notes that this decision does not constitute a precedent regarding the future treatment of payments in excess of tax liabilities.

Treatment of Carryover Balances in Labor-HEW Appropriations: The House included $700 million in budget authority reflecting the estimated fiscal year 1977 carryover balances in this function which were made available for obligation in fiscal year 1978 by the Labor-HEW Appropriations. The Senate did not include this carryover balance as budget authority. The conferees agreed not to count this $700 million as budget authority but to consider similar instances in the future as new budget authority in all appropriations bills.

Energy: The House included $210 million in budget authority for Public Housing energy conservation grants which were authorized by the National Energy Act. The conferees agreed to consolidate funding for this initiative with the other energy allowance in Function 300: Natural Resources, Environment and Energy.

Indochinese Refugee Assistance: The conferees agreed to include $72 million in budget authority and outlays to accommodate the extension of the authorization for Indochi-

nese Refugee Assistance. The current authorization expires on September 30, 1977. On September 7, 1977, the administration requested an extension.

Other: The remaining differences (a reduction of $71 million in budget authority and $1 million in outlays) include the net effect of a reestimate of the cost of the Public Assistance Amendments of 1977 (H.R. 7200), reform provisions in the conference agreement on the Agriculture bill, and minor reestimates.

The following table lists the estimates by program included in the conference agreement for this function.

FISCAL YEAR 1978 FUNCTION 600: INCOME SECURITY

[In millions of dollars]

	1st budget resolution		House-passed 2d budget resolution		Conference agreement 2d budget resolution		Conference agreement over (+), under (−) House-passed 2d budget resolution	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General retirement/disability:								
Social security	88,078	93,133	87,774	93,656	87,774	93,656	0	0
Proposed legislation		−777	6,440	−400		−400	−6,440	0
Railroad retirement	4,008	3,845	3,953	4,040	3,905	4,030	−48	−10
Special benefits to disabled coal miners	995	993	995	993	995	993	0	0
Proposed legislation	[1] 185	[1] 122	120	120	120	120	0	0
Other	4	4	4	4	4	4	0	0
Subtotal: 601	(93,270)	(97,320)	(99,286)	(98,413)	(92,798)	(98,403)	(−6,488	(−10)
Federal employee retirement	71,756	11,135	17,992	11,219	17,992	11,219	0	0
Proposed legislation	[1] 10	[1] 7	[2] 7	[2] 2	7	2	0	
Subtotal: 602	(17,766)	(11,142)	(17,999)	(11,221)	(17,999)	(11,221)		
Unemployment insurance	14,259	13,010	14,562	11,492	11,562	11,492	0	0
Proposed legislation		215		(215)		(215)	0	0
Subtotal: 603	(14,259)	(13,225)	(14,562)	(11,492)	(14,562)	(11,492)		
Public assistance and other:								
SSI	5,776	5,740	5,750	5,689	5,250	5,689	−500	0
Proposed legislation	[1] 135	[1] 135	86	86	86	86	0	0
AFDC	6,274	6,274	6,500	6,274	6,300	6,274	−200	0
Proposed legislation	[1] 13	[1] 13	42	42	15	15	−27	−27
Housing assistance	33,536	3,841	32,281	3,733	32,281	3,733	0	0
Proposed legislation			210		0	0	−210	0
Food stamps	5,354	5,358	5,666	5,330	5,627	5,321	−39	−9
School lunch; child nutrition	3,249	3,370	3,297	3,433	3,335	3,475	+38	+42
Proposed legislation	[1] 15	[1] 15	14	14	14	14	0	0
Earned income credit			900	900	0	0	−900	−900
Refugee assistance	68	87	68	122	145	197	+77	+75
Other	185	180	187	181	187	181	0	0
Subtotal: 604	(54,605)	(25,013)	(55,002)	(25,804)	(53,240)	(24,985)	(−1,761)	(−819)
Grand total	179,900	146,700	186,849	146,929	178,600	146,100	−8,429	−829

[1] 302(b) committee allocation.
[2] Legislation using $3,000,000 in budget authority and $5,000,000 in outlays has already passed the House.

Note: Detail may not add to totals due to rounding.

Finally, a word about the economic assumptions underlying this second budget resolution for fiscal year 1978.

The conferees agreed on a real growth rate in GNP of 4.8 percent during 1978, midway between the two Houses' assumptions. Although this is slightly below the economic forecast of the administration, I want to emphasize that we remain confident on the course of the economic recovery through 1978. Although certain economic indicators have slipped in recent months, the economy remains strong.

Housing starts, for example, continue at a 2 million annual rate starts level, exceeding nearly every forecaster's expectation;

State and local government spending, and Federal spending, are expected to rise sharply during the rest of 1977 and 1978. This is particularly true of the economic stimulus programs we enacted this spring. Both the public service jobs program and the accelerated public works program are expected to give the economy added strength in 1978; and

Many economists now believe that retail sales will pick up substantially after a slowdown during the summer months.

In short, we expect a strong performance from the economy over the next year, despite the slowdown from the 7-percent rate of real growth during the first half of 1977.

I urge adoption of the conference report.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I need not tell this House that I did not sign this conference report and I am glad that none of the Members on our side signed this conference report. As the 2d Budget Resolution left the House, there were 188 dissenting votes cast against it. I might say the conference report is slightly better than the resolution which passed the Senate, due to a small reduction in the deficit. The deficit in the Senate resolution was $65 billion for fiscal year 1978, the House figure was $61.643 billion and this conference report, as the gentleman from Connecticut pointed out, has $61,250 million of planned deficit spending for fiscal year 1978. But I might point out parenthetically that the reduction in deficit in the conference report is due almost entirely to a technical readjustment of the estimated amount of next year's tax revenues and not due to a cut in outlays. I believe a planned deficit of $61.3 billion which pushes our national debt to $775 billion is unconscionable and should not be permitted. A $41.7 billion interest charge on this debt for fiscal year 1978 is a burden the American people should not be forced to carry. I hope that a majority of the Members of this House will agree that it is too high and accordingly vote against the conference report.

Mr. Speaker, I might say that this proposal is opposed almost unanimously by the minority and the 188 Members who voted against the resolution as it passed the House, will surely vote against this report after they examine it. It is a 5-year plan to increase taxes to a record high point. It is a 5-year plan to raise Federal spending by 29 percent, while amassing more and more Federal debt. The same reasons a Member had for opposing the House resolution before it went to conference are contained in the conference report and they need not be repeated here.

The 5-year plan contained in the budget resolution indicates how our personal tax burdens will increase during this period of time. The 5-year projections show $59.6 billion in new energy taxes and $165 billion in new taxes resulting from inflation. In total, there will be cumulative tax increases of $225 billion from 1978 to 1982. They will result in the Nation's total Federal tax burden rising to a record high level of 22 percent of GNP, far above the average historic level of 18.6 percent which existed from 1954 through 1976. Worse yet, these projected tax increases will increase the personal tax burden by almost 50 percent over the next 5 years, which means that the ratio of personal income taxes to tax-

able personal income will rise from 11.3 percent to almost 16 percent. As a result, and listen to this carefully, each American taxpayer will pay an additional $1,000 over each of the next 5 years.

This is very clear and I think it is going to get through to the American people that this method is going to be used by Mr. Carter to balance the budget by 1981. This budget resolution is a blueprint for a high-tax balancing act. The plan is not to cut outlays, instead the plan is to raise outlays by almost 30 percent, but then raise taxes even more over the coming years so that at the end of 5 years you show a budget in balance.

Mr. Speaker, I would urge the Members of this House to reject this conference report and to send a message downtown that we want a reduction in Federal taxes and a reduction in outlays. We want a balanced budget by 1981, but we do not want it by increasing the tax burden of the American people.

Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, once again I urge my colleagues to vote against the second concurrent budget resolution. The targets in this resolution are not realistic. They are not realistic for many reasons—most of which I have mentioned previously in debate.

There is one embarrassing aspect of this resolution which I would like to concentrate on today: The second concurrent budget resolution for fiscal year 1978 sets a level of spending that should not be our target. A contemplated spending level of $458 billion next year is not needed and is misplaced if our purpose is supposed to be "economic stimulus."

Let us look at this year's spending level, fiscal year 1977. At the time of the third concurrent budget resolution for fiscal year 1977, the House Budget Committee recommended a level of spending of nearly $419 billion. The majority had a sympathetic President and a sympathetic administration, they had lots of telephones to call up lots of agencies, and they had a clear message—"spend as much as you can as fast as you can." Ignoring for a moment the waste and inefficiency this generated in an already wasteful and inefficient bureaucracy, the Carter administration has not been able to spend the money.

The most recent estimates of total spending for this fiscal year (1977), from the Congressional Budget Office, list spending to be $402.6 billion. This level may yet be lowered even further, but at the moment the so-called spending "shortfall"—many of us call it savings—is around $16 billion. Let me run down the functional categories and list the difference between current spending estimates and the original House Budget Committee recommendations for the third concurrent resolution:

National defense: A saving of $2.873 billion.

International affairs: A saving of $1.342 billion.

General science, space and technology: $44 million (Note: as amended, spending is $150 million above the original House budget recommendation, but still $44 million below amended level).

Natural resources, environment and energy: A saving of $2.801 billion.

Commerce and transportation: A saving of $846 million.

Community and regional development: A saving of $1.629 billion.

Education, training, employment and social services: A saving of $2.551 billion.

Health: A saving of $336 million.

Income security: A saving of $5.715 billion.

Veterans: $192 million.

Law enforcement and justice: A saving of $63 million.

General government: A saving of $224 million.

Revenue sharing: Overspent by $34 million.

Interest: A saving of $328 million.

Allowances: $20 million.

Mr. Speaker, these savings in expenditures represents many different things. In some cases, the Budget estimates have, quite simply, been off, and we have not tried to spend the money. In other cases, the money is a shortfall in spending for this year. In other cases, the money is hiding, it is in the pipeline, so to speak, and will come rushing out at some future time.

The point I would like to make is this: Passing budget resolutions that indisputably overstate expenditures makes a mockery of the budget process. In allowing virtually every agency and department of the Federal Government to submit budgets that overestimate their expenditures, we neither have control over the total of Government spending, nor the priorities for Government spending. In conference several members of the majority, including the distinguished chairman, stated that the $458.25 billion spending level is not a realistic level.

The substitute resolution which I offered and 169 Members supported calls for a 10-percent across-the-board tax cut, provides for appropriate restraints on spending increases, results in a balanced budget for the year 1978, and requires no new add-on deficit financing. According to many major surveys of citizens opinion, that is the right course for this Congress to be taking.

I, therefore, recommend that we vote down this conference report and go back to work on these budget figures.

Mr. GIAIMO. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, the conference agreements reduces amounts for function 700: veterans benefits and services below the amounts provided in the House resolution as amended. My colleagues will recall that my amendment adding $700 million for World War I pensions was adopted. Could the Budget Committee Chairman, the gentleman from Connecticut (Mr. GIAIMO) explain the nature of the reductions made in conference?

Mr. GIAIMO. Mr. Speaker, if the gentleman will yield, I would be glad to explain the differences between the House resolution and the conference agreement for the veterans function.

Budget authority was reduced by $455 million. The major portion of this reduction—$272 million—was simply a technical adjustment to reflect a reestimate of the cost of the GI bill under current law. We received this reestimate too late to incorporate it in the House resolution.

The remaining reductions—$183 million in budget authority and $167 million in outlays—were in new entitlement initiatives. It was the conferees' judgment that the Senate amounts for new entitlement initiatives were a closer approximation to what will actually be enacted for fiscal year 1978.

The second resolution should reflect our best judgments as to likely congressional action in order for the spending ceilings to have any meaning. Neither body has acted yet on a World War I pension bill, and it seemed unlikely that such action would take place before we adjourn this session.

I would say to the gentleman that, after House action on three veterans' entitlement bills last Monday, September 12, approximately $543 million in new entitlement funds remains in the veterans function.

This amount could accommodate a substantial portion of the gentleman's entitlement legislation for World War I veterans if the Congress should enact such legislation this year.

As I understand it, the House Veterans' Affairs Committee plans to hold hearings on the issue of World War I pensions in January of 1978. Assuming the most expeditious action, a bill probably could not be enacted into law before July of 1978. If a Budget Act waiver were granted, these special payments could begin in August or September, and the resolution certainly includes sufficient funds for 1 or 2 months of benefits.

Mr. ANDERSON of California. Might we assume then, Mr. Speaker, that even with the reductions made in conference, there still exists sufficient budget authority and outlays to take care of the costs of H.R. 9000—formerly H.R. 55—the World War I bill, should this bill get enacted into law by July of 1978?

Mr. GIAIMO. Yes, but, if the bill is reported after the first of the year, the Budget Act requires that it have a waiver of Budget Act provisions prohibiting consideration of entitlement legislation that would take effect before October 1.

Mr. ANDERSON of California. And I understand that these waivers are seldom granted. Is that correct?

Mr. GIAIMO. Yes, that is granted only in emergency situations.

Mr. ANDERSON of California. So in fact, given the lateness of the year when we can realistically expect our bill to be enacted, and given the fact that the necessary waivers are so difficult to get, I wonder, Mr. Chairman, if it would not be more practicable to go ahead and get the Veterans' Affairs Committee to consider authorizing the pension in January, and shoot for a startup date of the pension in October 1, 1978, in the next fiscal year?

Mr. GIAIMO. Yes, that certainly is more in line with our procedural requirements of our Budget Act and with the likely schedule for House and Senate action on your bill.

Mr. ANDERSON of California. I thank the gentleman from Connecticut for explaining the situation as it re-

lates to our World War I pension money.

Since this conference report does not harm in any way our efforts at establishing a pension for the men and women who served our Nation during World War I, I have no problem in urging the 190 cosponsors of this World War I legislation to support the conference report.

I for one will vote for the resolution.

Mr. GIAIMO. I thank the gentleman for his support.

Mr. Speaker, I yield 3 minutes, for the purposes of debate only, to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, let me say just briefly that I believe this is a sensible compromise. I would point out that the chairman of the Committee on the Budget served as the chairman of the conference committee. There were disagreements as there are on all conference committees.

I believe the end product is a rational one. My colleague, the gentleman from California (Mr. ROUSSELOT), said that we will not be spending as much as we have authorized here, and there is no question there is some validity to that criticism.

However, my colleagues ought to understand that if, for example, we appropriate, $1 billion for a public works project, expecting that that money will be spent, in fact when we get down to it, there may be only $900 million spent. But we have to anticipate an outlay of the $1 billion.

I favor some kind of modification ultimately. I think that we will see the deficit will probably be $3 billion to $8 billion lower than the $61 billion we have set here. But that is the process we have right now, and a vote against this resolution is a vote against fiscal restraint. I do not think that is a sensible thing to do.

We have reduced the deficit by roughly $3½ billion over the Senate figures; we have reduced the House deficit figure by about $400 million. I think this is a sensible restraint. This represents a sort of a compromise that came about as a result of the conference committee action, and I hope my colleagues on both sides will concur in it.

I see my colleague, the gentleman from California (Mr. ROUSSELOT), reacting with laughter when I say that this is restraint. I would urge him to use the good sense of his colleague on the other side of the rotunda, Senator BELLMON from Oklahoma, who is supporting the conference committee product.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman from Connecticut (Mr. GIAIMO) for yielding.

Let me say that one day the millennium will come, and we will have a chance to address effectively and in total all of the problems that are so very, very important to me and to others in this House, such as joblessness and other issues.

However, Mr. Speaker, while waiting for that millennium to arrive, I think we must support the conference report on this second concurrent budget resolution.

Certainly I have concerns about where we are going in terms of the economy; and as I read the conference report, it seems to me that it takes into account our inability to really precisely predict where the economy is going. As the Members of the House know, the economic indicators for the last couple of months have not been good. The economy is still sluggish, but we have built into this second budget resolution sufficient moneys to be flexible in the event that the economy does take a downturn and sufficient moneys to be flexible to meet any significant changes in the economy, either in terms of improvement or in terms of downturn.

Mr. Speaker, primarily because of the flexibility that I see built into this second budget resolution, as approved in conference, I would urge support for the conference report on the second concurrent resolution and hope that we will continue to push in future years for some add-ons in the budget which I think are necessary to solve joblessness.

Mr. Speaker, I thank the chairman for yielding.

Mr. LEHMAN. Mr. Speaker, I rise in support of the conference report on House Concurrent Resolution 341, the second concurrent resolution on the fiscal year 1978 budget.

The conference report before us marks the completion of the congressional budget process for the fiscal year to begin on October 1. It is the first budget I have had the opportunity to work on as a member of the Committee on the Budget, and I would like to take a moment to say that, despite the frustrations of trying to set priorities which meet the Nation's needs and balance numerous competing objectives within the framework of limited fiscal resources, the process has been fascinating and it has been a great privilege for me to work on it with our distinguished chairman, BOB GIAIMO, and the other members of the committee.

Various members, both on and off the committee, have noted defects in the law, based on 2 years of actual performance, and it may be that the House should consider changing certain details of the process. Nevertheless, I believe it is working and is permitting the Congress to work toward our most basic objective of budget control and toward balanced budgets and full employment.

The conference agreement is well within the scope established by this House, both in the targets set by the first resolution and in the limits set when we passed the second. In fact, we have, based on our best estimates of economic growth rates, been able to reduce the House-passed deficit by nearly a billion dollars in conference.

All of us recognize that we cannot please all Members with this or any budget. We cannot radically change our priorities, programs, or spending levels overnight or in a single budget year without massive dislocations. We cannot be certain that every estimate on which we base allocations of funds will be correct.

Still, we can use our best judgment on future events, necessary changes, and desired goals, to map out a path for later years as we make smaller changes from year to year. I believe we have, in committee, in the House, and in conference, arrived at a reasonable, workable Federal budget for fiscal year 1978 and at directions for future years. I urge all my colleagues to join me in voting for this conference report, and I look forward to moving ahead to fiscal year 1979 and beyond.

Mr. GIAIMO. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous matter on the conference report on House Concurrent Resolution 341.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GIAIMO. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 187, not voting 32, as follows:

[Roll No. 545]

YEAS—215

Addabbo	Clay	Hamilton
Akaka	Collins, Ill.	Hanley
Alexander	Conte	Hannaford
Ammerman	Cornell	Harkin
Anderson, Calif.	Cornwell	Harris
	Cotter	Hawkins
Annunzio	D'Amours	Heftel
Applegate	Danielson	Hightower
Ashley	Davis	Holland
Aspin	Delaney	Howard
Baldus	Derrick	Hubbard
Barnard	Dicks	Huckaby
Beard, R.I.	Dingell	Jenkins
Bedell	Dodd	Jones, N.C.
Benjamin	Downey	Jones, Okla.
Bevill	Drinan	Jones, Tenn.
Biaggi	Duncan, Oreg.	Jordan
Bingham	Edwards, Calif.	Kastenmeier
Blanchard	Eilberg	Kazen
Blouin	English	Keys
Boggs	Evans, Colo.	Kildee
Boland	Fary	Krebs
Bonior	Fascell	Krueger
Bonker	Fisher	LaFalce
Bowen	Flippo	Le Fante
Brademas	Flood	Lederer
Breaux	Florio	Leggett
Breckinridge	Foley	Lehman
Brinkley	Ford, Tenn.	Lloyd, Calif.
Brodhead	Fowler	Long, La.
Brooks	Fuqua	Long, Md.
Brown, Calif.	Gaydos	McCloskey
Burke, Calif.	Gephardt	McCormack
Burke, Mass.	Giaimo	McFall
Burleson, Tex.	Gibbons	McHugh
Burlison, Mo.	Ginn	McKay
Burton, Phillip	Gonzalez	Maguire
Carney	Gore	Mahon
Chisholm	Gudger	Mann

Markey	Patterson	Staggers
Mathis	Pattison	Steed
Mattox	Pease	Steers
Mazzoli	Pepper	Stokes
Meeds	Perkins	Stratton
Metcalfe	Pike	Studds
Meyner	Poage	Teague
Mikulski	Preyer	Thompson
Mikva	Price	Thornton
Miller, Calif.	Rahall	Traxler
Mineta	Reuss	Tsongas
Minish	Richmond	Tucker
Mitchell, Md.	Roberts	Udall
Moakley	Rodino	Ullman
Moffett	Rogers	Van Deerlin
Mollohan	Roncalio	Vento
Moorhead, Pa.	Rooney	Waggonner
Moss	Rose	Waxman
Murphy, Ill.	Rosenthal	Weaver
Murphy, N.Y.	Rostenkowski	Whalen
Murphy, Pa.	Roybal	White
Murtha	Ryan	Whitten
Myers, Michael	Scheuer	Wilson, C. H.
Natcher	Schroeder	Wilson, Tex.
Nedzi	Seiberling	Wirth
Nichols	Sikes	Wolff
Nix	Simon	Wright
Nolan	Sisk	Yates
Nowak	Skelton	Yatron
Oakar	Slack	Young, Mo.
Oberstar	Smith, Iowa	Young, Tex.
Obey	Solarz	Zablocki
Patten	Spellman	Zeferetti

NAYS—187

Abdnor	Fish	Moorhead, Calif.
Allen	Fithian	
Anderson, Ill.	Flynt	Motti
Andrews, N.C.	Forsythe	Myers, Gary
Andrews, N. Dak.	Fountain	Myers, John
	Frey	Neal
Archer	Gammage	O'Brien
Armstrong	Glickman	Ottinger
Ashbrook	Goldwater	Panetta
AuCoin	Goodling	Pettis
Badham	Gradison	Pritchard
Bafalis	Grassley	Pursell
Baucus	Guyer	Quayle
Bauman	Hagedorn	Quie
Bennett	Hall	Railsback
Broomfield	Hammer-schmidt	Regula
Brown, Mich.		Rhodes
Brown, Ohio	Hansen	Rinaldo
Broyhill	Harrington	Risenhoover
Buchanan	Harsha	Robinson
Burgener	Heckler	Rousselot
Burke, Fla.	Hefner	Rudd
Burton, John	Hillis	Runnels
Butler	Hollenbeck	Ruppe
Byron	Holt	Russo
Caputo	Horton	Santini
Carr	Hughes	Satterfield
Carter	Hyde	Sawyer
Cavanaugh	Ichord	Schulze
Cederberg	Ireland	Sebelius
Clausen, Don H.	Jacobs	Sharp
	Jeffords	Shuster
Clawson, Del	Johnson, Colo.	Skubitz
Cleveland	Kasten	Smith, Nebr.
Cochran	Kelly	Snyder
Coleman	Kemp	Spence
Collins, Tex.	Ketchum	Stangeland
Conable	Kostmayer	Stanton
Conyers	Lagomarsino	Stark
Corcoran	Latta	Steiger
Coughlin	Leach	Stockman
Crane	Lent	Stump
Cunningham	Levitas	Symms
Daniel, Dan	Livingston	Taylor
Daniel, R. W.	Lloyd, Tenn.	Thone
de la Garza	Lott	Treen
Dellums	Lujan	Trible
Derwinski	Luken	Vander Jagt
Devine	Lundine	Volkmer
Dickinson	McClory	Walgren
Dornan	McDade	Walker
Duncan, Tenn.	McDonald	Walsh
Early	McEwen	Wampler
Eckhardt	McKinney	Watkins
Edgar	Madigan	Weiss
Edwards, Okla.	Marks	Whitehurst
Emery	Marlenee	Whitley
Erlenborn	Marriott	Wiggins
Ertel	Martin	Wilson, Bob
Evans, Del.	Michel	Winn
Evans, Ga.	Milford	Wylie
Evans, Ind.	Miller, Ohio	Young, Alaska
Fenwick	Mitchell, N.Y.	Young, Fla.
Findley	Moore	

NOT VOTING—32

Ambro	Chappell	Edwards, Ala.
Badillo	Cohen	Flowers
Beard, Tenn.	Corman	Ford, Mich.
Bellenson	Dent	Fraser
Bolling	Diggs	Frenzel
Gilman	Montgomery	Sarasin
Holtzman	Pickle	Shipley
Jenrette	Pressler	St Germain
Johnson, Calif.	Quillen	Vanik
Kindness	Rangel	Wydler
Koch	Roe	

The Clerk announced the following pairs:

On this vote:

Mr. Corman for, with Mr. Badillo against.

Mr. Rangel for, with Mr. Montgomery against.

Mr. Ambro for, with Mr. Beard of Tennessee against.

Mr. Fraser for, with Mr. Edwards of Alabama against.

Mr. Ford of Michigan for, with Mr. Frenzel against.

Mr Diggs for, with Mr. Gilman against.

Mr. Jenrette for, with Mr. Quillen against.

Ms. Holtzman for, with Mr. Sarasin against.

Mr. Shipley for, with Mr. Wydler against.

Mr. St Germain for, with Mr. Kindness against.

Mr. Roe for, with Mr. Chappell against.

Until further notice:

Mr. Dent with Mr. Cohen.

Mr. Johnson of California with Mr. Pressler.

Mr. Koch with Mr. Vanik.

Mr. Pickle with Mr. Flowers.

Mr. MEEDS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8011, EXTENDING AND REINSTATING CERTAIN PAY PROVISIONS IN UNIFORMED SERVICES

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 95–602), on the resolution (H. Res. 763) providing for the consideration of the bill (H.R. 8011) to extend for 1 year the special pay provisions for physicians and dentists in the uniformed services and to reinstate the special pay provisions for optometrists and veterinarians in the uniformed services, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8655, TO INCREASE THE TEMPORARY DEBT LIMIT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 95–603) on the resolution (H. Res. 764) providing for consideration of H.R. 8655, to increase the temporary debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMENDMENTS TO REORGANIZATION PLAN NO. 1 OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 222)

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I herewith transmit amendments to Reorganization Plan No. 1 of 1977, which I transmitted to you on July 15, 1977. Except as specifically amended hereby, Reorganization Plan No. 1 remains unmodified.

JIMMY CARTER.

SEPTEMBER 15, 1977.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to provide for an automatic adjustment in such wage rate, and to repeal the credit against the minimum wage which is based on tips received by tipped employees.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3744 with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 14, 1977, all time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 3744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

The CHAIRMAN. Are there amendments to section 1?

If not, the Clerk will read section 2.

The Clerk read as follows:

INCREASE AND AUTOMATIC ADJUSTMENT IN MINIMUM WAGE

SEC. 2. (a)(1) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows: "(1) during the period ending December 31, 1977, not less than $2.30 an hour, during the year beginning January 1, 1978, not less than $2.65 an hour, during the year beginning January 1, 1979, not less than 52 per centum of the average hourly earnings excluding overtime, during the twelve-month period ending in June 1978, of production and related workers on manufacturing pay-

rolls, and during the year beginning January 1, 1980, and during each succeeding year, not less than 53 per centum of the average hourly earnings excluding overtime, during the twelve-month period ending in June of the year preceding such year, of production and related workers or manufacturing payrolls; except as otherwise provided in this section;".

(2) Section 6(a) is amended by adding after and below paragraph (5) the following:

"For purposes of computing the minimum wage prescribed by paragraph (1), the Secretary shall, not later than August 1, 1978, and August 1 of each succeeding year, publish in the Federal Register an estimate of the average hourly earnings (excluding overtime), during the twelve-month period ending in June of such year, of production and related workers on manufacturing payrolls, and shall, not later than November 1, 1978, and November 1 of each succeeding year, publish in the Federal Register such earnings of such period.".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture—

"(A) not less than $2.20 an hour during the period ending December 31, 1977, and

"(B) after December 31, 1977, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages at the following rates;" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at a rate not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended (i) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)(1)", (ii) by inserting "(A)" before "heretofore", and (iii) by inserting before the period the following: ", and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended (i) by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a)(1)", and (ii) by striking out "such subsection" and inserting in lieu thereof "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall, from time to time, convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(2) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 4, strike out lines 16 and 17 and insert in lieu thereof "INCREASE IN MINIMUM WAGE".

Page 4, line 18, redesignate "SEC. 2.(a)(1)" as "SEC. 2.(a)", and beginning with line 20 strike out everything through line 21 on page 5 and insert in lieu theref:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.85 an hour during the year beginning January 1, 1979, and not less than $3.05 an hour after December 31, 1979, except as otherwise provided in this section;".

Mr. ERLENBORN. Mr. Chairman, the amendment that I have just offered is an amendment to strike from the committee bill the provision for indexing the minimum wage in the future. Historically, the minimum wage has been reviewed by the Congress from time to time in light of the circumstances that existed at the time—rates of unemployment, amount of increase in the cost-of-living that occurred since the last legislative action in setting the minimum wage—and the judgment of the Congress was a value judgment as to what the minimum wage should be.

Should there be an increase? If so, how much should that increase be? The first time that I know of any proposal to deviate from this course was a bill that was introduced in 1975 by my friend and colleague from Pennsylvania, JOHN DENT. In that bill, he suggested indexing the minimum wage to tie it to the Consumer Price Index. Now, there is a certain amount of rationale there. The CPI is a measure of what we call inflation. It is a measure, though I believe imperfect, as to what it costs for the average family to purchase the necessities of life such as food, and so forth.

I think his formula was quite bad in its application. His formula would have had quarterly adjustments of the minimum wage, and would have had a 1-percent kicker, having the minimum wage go up at a rate determined by the highest monthly increase in the quarter, plus 1 percent. Now, we have had some experience with that 1-percent kicker with Federal retirement.

I think the Congress has exercised good judgment in removing it from Federal retirement.

The provision before us is different. It uses as an index the average hourly wages in manufacturing. The fact is that very few people in manufacturing work at or near the minimum wage. I am not certain that this is a good measure of what the minimum wage should be. We are comparing an area of employment, manufacturing, where changes in technology, modernization of plant and equipment, can increase productivity which can justify an increase in wage rates. And yet the minimum wage applies principally to service industries, service and retail, where there is no opportunity, by and large, to increase productivity through technical changes in the methods of production.

Mr. Chairman, I think adopting this indexing means that we as a Congress will be signaling the policy of the United States is to abandon the fight against inflation. It means the minimum wage will be increased every year on January 1, and it means an increase in the minimum wage will no longer be a value judgment of the Congress, but rather the application of what I call a mindless, thoughtless rule, like the rule of seniority, a mindless, thoughtless rule. It takes into account nothing at all outside of the average hourly wages in manufacturing. It means that if we were at that time trying to control inflation through application of monetary and fiscal policies, we would have, through the indexing, defeated the opportunity of being successful with those monetary and fiscal policies. It is waving the white flag, surrendering to inflation. And it will lead to further inflation.

There was an article I read on the floor briefly yesterday from the Wall Street Journal, which appeared on Monday of this week, by Lester Thurow, talking about indexing generally. There is a good deal of indexing already in the private sector, not through Government action. And he points out that if we have an inflation rate of 6 percent this year, then there will be a guarantee that there will be at least 6 percent next year, because everything is indexed

through the inflation rate of the year prior.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, last month I had the opportunity to talk directly with the Finance Minister of the Government of Brazil, the nation that probably was out front with indexing first and on a more comprehensive basis than any other nation in the world. He said it has proved to be a monster to their society and that they are trying desperately to find ways to unhook from it. He said if he had any message for the people of the United States, or any other country of the world, it would be to avoid the perils of indexing.

Mr. Chairman, I congratulate the gentleman on his effort.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from Illinois (Mr. FINDLEY) for his contribution.

I think, knowing something about the economy of Brazil, that it must be a fine horrible example of what can happen with indexing.

I recall visiting Brazil some years ago, and at that time the exchange rate was for $1 you received 2,200 cruzeiros. I think they have knocked off a couple zeros in the meantime, because they have added on more zeros as a result of indexing.

I thank the gentleman for his contribution.

Mr. Chairman, this article by Lester Thurow then talked about indexing as is now in effect in the private sector and points out that indexing prohibits the reduction of the rate of inflation.

Not only that, but he says:

> What is even more troublesome is that indexing leads to an upward ratchet effect on the inflation rate. Indexing prevents the rate of inflation from falling, but it does not prevent the rate of inflation from rising. Suppose some policy—let's say President Carter's proposal to raise the price of domestic energy to world levels—raises the rate of inflation to 7 percent.

As a matter of fact, it is anticipated it will probably be at 7 percent, and I am adding that remark outside the quotation. To continue with the quotation once again, he says:

> Once a 7% rate happens indexing will prevent it from falling. As a result, every piece of bad luck or price-raising policy leads to higher and higher rates of inflation.

Mr. Chairman, I do not think that this Congress can afford, economically or politically, to say that we are ready to guarantee rates of inflation as high as we now experience and rates of inflation that will probably rise ever higher. That is exactly what this indexing proposal will do.

My amendment now pending will remove from the bill any reference to indexing. My amendment will establish over a 3-year period three step increases in the present applicable minimum wage, which is currently $2.30. If my amendment is adopted, on January 1 of next year the wage rate will go to $2.65, on January 1 of 1979 it will go to $2.85, and on January 1 of 1980 it will be $3.05. That is slightly lower than which is anticipated will be produced by the indexing provision in the bill.

It is anticipated those increases will be, first, $2.65—in that step the figure is the same—and in the next two steps, under indexing, it is anticipated to rise to about $2.90 and then to the rate of $3.15 or $3.20. I would note and point out for the Members that if we do get to that figure of $3.20, over a 6-year period we will have doubled the minimum wage.

Inflation rates have been running from about 7 to 12 percent, but this means we will have come from $1.60 in January of 1974, up to $3.20 in January of 1980 over a 6-year period, and with a guarantee that thereafter the minimum wage will be increased every year at an ever-increasing rate.

As I say, I do not think we can afford, as far as our economy is concerned or as far as we are concerned politically for our own individual survival, to incorporate this sort of a provision in the minimum wage bill, because that is a signal of our surrender to the forces of inflation and a guarantee to our constituents that they will suffer ever-increasing rates of inflation in the future.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I first want to congratulate the gentleman from Illinois (Mr. ERLENBORN) for the action he has taken today, but I would like to pose a question.

I agree with the gentleman with respect to the indexing feature, and the arguments the gentleman makes are very persuasive. Is it the gentleman's feeling, however, that in formulating his amendment he gets more support from the House by combining the incremental increases with eliminating the index, or is it the feeling of the gentleman from Illinois, perhaps wrongly or erroneously, that we should simply meet the issue head on and defeat indexing and then, by way of another amendment, address ourselves to what we would feel might be a reasonable increase? Does the gentleman feel this is the mechanism that gets him the most votes?

Mr. ERLENBORN. Mr. Chairman, to answer the gentleman's question, the way the bill is drafted, there is provided only a one step dollar increase on January 1 up to $2.65. If I were to offer an amendment to remove indexing, this would then be only a 1-year bill with a one-step increase.

I am certain it would be argued by those who oppose my purpose that it is inadequate to have only a one-step increase in a 1-year bill, and they would not want to turn their attention again next year, an election year, to this issue. I agree that I would like to get this settled beyond next year.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(On request of Mr. GOODLING and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, during our debate in full committee, if I remember correctly, there was quite a bit of discussion about how we will do this indexing, that the Labor Department has perhaps six, seven, eight, or even nine different formulas that they might use in order to accomplish this. Could the gentleman clarify that for us?

Mr. ERLENBORN. Mr. Chairman, there are several different formulas, and I think all of them were discussed during our hearings in the subcommittee. I do not recall all of them offhand, and I do not have a list of them before me, but there is a rationale, I think, for using average wages in manufacturing. There could, however, be an equally valid rationale, I think, for using one or the other of some of the various indexes.

Mr. GOODLING. In other words, we are not exactly sure how they would be indexed?

Mr. ERLENBORN. I think there ought to be more thought given to this. This is an idea that has only recently been proposed. There has really been no study, except by our committee, and we have not had a chance to take a good look at the indexes that are available; therefore, we have had to make a rather arbitrary choice.

I understand there will be an amendment offered to create a study commission to study the whole minimum wage proposal, including the concept of indexing. I will either offer that amendment or support that amendment.

I offered such an amendment myself in committee. I think we ought to, as a Congress, give much more attention to what it is that we are doing rather than in an offhand manner adopt an arbitrary index for the minimum wage.

Mr. GOODLING. Mr. Chairman, I congratulate the gentleman from Illinois (Mr. ERLENBORN) for bringing this matter to our attention.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to show the Members that chart again. It will best give them an idea of why I believe so strongly in indexing.

Minimum wage indexing proposal

[July 1–June 30]

Year	53% of average hourly earnings	Year	Minimum wage
1976–77	$2.75	1978	$2.65
1975–76	2.56	1977	2.30
1974–75	2.36	1976	2.30
1973–74	2.16	1975	2.10
1972–73	2.00	1974	2.00
1971–72	1.88	1973	1.60

Year	53% of average hourly earnings	Year	Minimum wage
1970–71	1.77	1972	1.60
1969–70	1.67	1971	1.60
1968–69	1.57	1970	1.60
1967–68	1.48	1969	1.60
1966–67	1.41	1968	1.60
1965–66	1.35	1967	1.40
1964–65	1.31	1966	1.25
1963–64	1.28	1965	1.25
1962–63	1.24	1964	1.25
1961–62	1.21	1963	1.25
1960–61	1.18	1962	1.15
1959–60	1.14	1961	1.15
1958–59	1.11	1960	1.00
1957–58	1.07	1959	1.00
1956–57	1.03	1958	1.00
1955–56	.98	1957	1.00
1954–55	.93	1956	1.00

I recognize that it is not usual for a member of the minority to stand up and support what the administration recommends on indexing; but as I indicated yesterday, I studied the whole question of indexing for a long period of time.

When the Secretary of Labor first came before our committee, it did not sound as though anybody was favorable to what he was recommending. I told him that he had at least one person who would approve of what he was doing in regard to indexing. I agree. In fact, all of the other methods of indexing I disagree with, but here is one which I believe works and works well and brings the normal forces of the economy into play, that is, the collective bargaining determination that goes on in a stable industry such as manufacturing, to which we would tie the minimum wage.

The amendment of the gentleman from Illinois comes very close, in the next 3 years, to the same minimum wage that indexing would bring about. The estimate is that if we have 7 percent inflation, on January 1, 1979, it would go to $2.89. The gentleman from Illinois sets his figure at 2.85, within 4 cents. It is really hard to argue very much about the 4 cents. The next year, in 1980, he sets it at $3.05. At a 7-percent inflation estimate, it might turn out to be $3.15. That means that if we could keep inflation down to about 6 percent instead of 7 percent, it probably would turn out about the same as the gentleman has indicated in 1980.

What happens at the end of that period of time? That means the Congress would have to move statutorily again, and one could say, how does not the Congress do that and make a fair judgment?

Mr. Chairman, what has bothered me—and this is from the employees' viewpoint—is that we do not know what is going to happen after those 3 years in Congress if anything. We may get locked again in the kind of battle where we cannot move a bill at all. Then taking the years of the minimum wage when we increased it statutorily so that it was indexed at $1.60, we went from 1968 all the way to 1974 when we did not increase the minimum wage. If we had had it indexed—and this is interesting—at the highest point of this bill, at 53 percent in 1968, it would have been not $1.60; the minimum wage would have been $1.41. However, by indexing, it would have moved up so that in 1973 the minimum would have been $1.88 instead of $1.60; and then by 1974, interestingly, the minimum by indexing would have been $2 the same as we did by statute. What it means, Mr. Chairman, is that the employees did not see their wages increase as they should have due to inflation by an increase in the minimum wage, and indexing would have enabled us to do it. Your wage employees would have gotten $1.88 minimum wage instead of $1.60 in 1973. I think there is merit to that.

Mr. Chairman, looking at the employer's point of view, I believe that if we did not increase the minimum wage too often, meaning more rapidly than once a year, the employer could adjust. This the bill does. Also, if the employer knows well in advance what the minimum is going to be, the employer can adjust. Under the index the employer does not have to wonder what the Congress is going to do. All they have to do is use the information that comes out monthly from the Department of Labor and chart for themselves just about where the minimum wage is going to be 6 months or more before the change on January 1 occurs.

Employers' own estimates would not be more than a penny or two off. But because, under this bill, the index is based on average hourly earnings over the 12-month period that occurs 6 months before the actual date goes into effect, say on January 1 it goes into effect, then the June 30 to July 1 of the previous year time is the base period that we use. So on January 1, 1979, the base period we will use is the June 30, 1977 to July 1, 1978, period. If we would index now they would know actually what the minimum wage would be and can adjust their employment decisions over sufficient time.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 5 additional minutes.)

Mr. QUIE. So, Mr. Chairman, that is one factor. The second one that I would like to point out is that we do not know what the economy will be in 1980. Where the gentleman from Illinois (Mr. ERLENBORN) put the minimum at $3.05, 3 years from now, 1980, how do we know that will be the right figure then? In 1974, as you can see on the chart, we set the statutory rate at $2 for those covered prior to 1966, and at that time set the minimum at $2.10 for 1975 and $2.30 for 1976 and the years thereafter. In 1977 we did not do anything even though inflation had pushed costs up substantially.

If we had it indexed, then that phenomenon of high inflation that had occurred between 1974 and 1977 would have been cranked in so instead of $2.10, the minimum would have been $2.16. Instead of $2.30 in 1976 it would have been $2.36. And then in 1977 it would have gone to $2.56 instead of remaining at $2.30.

This is what I am talking about, making those adjustments each year.

Let us look at the possibility that if for some reason or other this Congress would take a hold of Federal spending and enter into practices which would cut the inflation down to 3 percent instead of the estimated 7 percent, indexing as we propose, it would provide a minimum less than the $3.05 in 1980 set by the amendment of the gentleman from Illinois. It would be below $3.05 because the costs would not have been increased. On another point, determining the minimum as 53 percent of the average manufacturing rate excluding overtime of the 12-month period beginning 18 months prior to the date of application is far superior to increasing the wage based on some percentage change of any base. Like on the Consumer Price Index, it depends on where you start, then organized labor has to come in here and push as hard as they can for $3, immediately, so as to get the wage above the $3 minimum wage. As one looks at $2.65 next year is lower than what they want. The indexing removes the battle that otherwise would develop.

So I believe that this is really the best compromise we can work out and the best way, economically, that we can determine the minimum wage in the future.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I understand the rationale most often given for increasing the minimum wage in order to conform with the increase in the cost of living so that those who are directly affected will not lose their purchasing power, but is the gentleman aware that the rate of inflation is somewhere between 6 and 7 percent and the rate of increase in the average hourly wages this year, so far, has been 8½ percent so that wages are well ahead of inflation?

Mr. QUIE. I recognize that that is the case and it has happened this year, but that was done with collective bargaining agreements and the employers are big boys, also, and they entered into those agreements. It is not as though somebody had imposed them upon them. If it was a government imposed increase in the manufacturing wage I would be strictly opposed to indexing based on the manufacturing wages, but we do have at play in our society the force of collective bargaining agreements, and not all manufacturers are under collective bargaining agreements, either.

There is competition—those who are not under collective bargaining agreements and those who are.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

I would like to join with our distinguished colleague, the gentleman from Minnesota (Mr. QUIE), in opposition to this amendment. The committee proposal is a very careful one that was really in

most respects following the design of the gentleman in the well, the ranking member of the full committee and in effect produces the equivalent results of that which I gather was even suggested informally with the Republican administration last year, although we have gone another 18 months, as it will turn out, without a minimum wage increase that I think would have been in order.

There is one point that I would like to restate and see if the gentleman from Minnesota (Mr. QUIE) concurs in this evaluation. Some of our colleagues, I think, are not aware of the fact that in the industrial wage measurement, all fringe benefits beyond gross payroll for health and welfare and pensions are disregarded in the area.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PHILLIP BURTON, and by unanimous consent, Mr. QUIE was allowed to proceed for 3 additional minutes.)

Mr. PHILLIP BURTON. If the gentleman will yield further, these health and welfare and pension amounts, or the cents per hour of what these elements consist of, are not included in the basic manufacturing rate. If they were—and that is a very big piece of the manufacturing total per-hour cost of employment—then I could see where some of our friends might think this proposal may be somewhat too far reaching. But they are not only disregarded, as I have indicated, but there is an 18-month time lag from the first hour, if you will, that is built into the formula until the date when the formula, once applied, actually results in any increase in the wage. So this proposal, I think, can be very accurately stated as a fair, reasonable, and modest one. I wonder if the gentleman from Minnesota concurs in that evaluation.

Mr. QUIE. Yes, I concur with that and also add that overtime is not included either. As the gentleman knows, the overtime work depends on some changes in the economy, and none of that gets cranked in either.

I should also indicate that some have the concern that the Department of Labor may change the method of computing the average manufacturing wage, excluding overtime. That is a method that has been used since 1941. In order to make certain that those Member's concern will not occur, I am going to offer an amendment that will say that the method of computation will be an exact method that was utilized in August 1977 and published in "Employment and Earnings" (Vol. 24, N. 8).

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

Since this minimum wage proposal—perhaps indexing is not the problem—is going to affect primarily service and retail people, can the gentleman tell me why, then, are we indexing to the average hourly wage of manufacturing workers which, of course, is far higher?

Mr. QUIE. I will be glad to tell the gentleman because if we had indexed the retailers to the retail trade—and there is a substantial percentage of the employees in the retail trade who are at the minimum—what we would be doing every time we increased the minimum wage would be increase the base on which we determine the minimum wage, so we would have the ratcheting effect. There will be virtually no ratcheting effect using the manufacturing rate because there is only about 1½ percent of the manufacturing employees who are at the minimum wage, so manufacturing is related, but they are not so closely related that we affect the base.

Second, manufacturing has a great stability.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GOODLING, and by unanimous consent, Mr. QUIE was allowed to proceed for 2 additional minutes.)

Mr. QUIE. And the reason why it does not include, say, construction work is because they do not have the stability. We have the stability in manufacturing.

Mr. GOODLING. But we are going to in the retail business have a tremendous effect on that kind of increase over a 2-year period. Those are the people who are going to be primarily affected.

Mr. QUIE. To answer the question, look at what would have happened in the past if this had been in effect. That is the best way, to check the history of it. We know what it would have been. In most of those years or in the years when we increased statutorily the minimum wage, indexing at 53 percent of manufacturing would have been less than what we did statutorily if we had used this index. If we look in the past, indexing as we propose would not work a hardship.

Mr. GOODLING. Would the gentleman agree that the service and retail businesses are going to have a tremendously difficult time in relationship to the manufacturing businesses in making up this difference?

Mr. QUIE. No. That will not occur. There will not be a difficulty, because its relationship to the manufacturing wage is such that in the past years where the statutory increases in the minimum wage first occurred, indexing as we propose would have provided a lower wage, in the years 1968, 1967, 1963, 1961, and 1956. We have set the wages higher by statute than this would bring about, but we did not change the minimum for some years and then minimum would drop down in relationship to the rest of the economy and not be as harmful. But the employers would have some years when the minimum would have little impact and others when it would cause them problems, depending on what the Congress did or did not do. It would be even more complicated for employees. Under this bill they will know exactly what is going to happen.

Under this bill, the minimum would very likely be within 50 percent of the average manufacturing rate excluding overtime at the time it goes into effect. In fact, I mentioned yesterday, using that 7 percent expected inflation, the $2.65 will actually be 47 percent of the actual manufacturing wage when it goes into effect.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 2 additional minutes.)

Mr. QUIE. The 52 percent will actually only be 48 percent of the average manufacturing wage when it goes into effect, January 1, 1979, and the 53 percent will be actually 49 percent when it actually goes into effect, January 1, 1980.

And the last point I would make is that this will not have the ripple effect because the manufacturing wage goes up, and, as the gentleman from California indicated, there is an 18-month lag from the first date they compute their base and a 6-month lag from the date they last compute the base before the minimum wage is changed.

Mr. GOODLING. But the gentleman did say it would not affect many manufacturing wages.

Mr. QUIE. That is right.

Mr. GOODLING. This is what I am trying to point out.

Mr. QUIE. If it had a substantial impact on the manufacturing wage, then I would say it would be an unwise base to use because then we would have the ratchet effect, because it would increase the base and increase the minimum wage and so on. We do not have that.

Mr. GOODLING. Are we not going to have a tremendous increase in the cost of the services and goods produced in the service and retail areas?

Mr. QUIE. No, I do not think so.

Mr. GOODLING. I ask that because they are at the bare minimum in many instances at the present time.

Mr. QUIE. I do not believe so. I believe at this time in this Congress, if the President had not started out with $2.50 for July 1, 1977, and then he moved to the $2.65, beginning January 1, 1978, we would be in here arguing right now a $3 minimum wage. So I think the index as we provide would be less than what we would do statutorily in normal years, because the only time we do move is when those who want a higher minimum wage get political power in the Congress and think they have a chance of raising it to the amount they want.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, what is so sacred about the 53 percent? How do we arrive at that figure?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, I believe we should not put the minimum wage at more than 50 percent of the manufacturing wage at the time the increase occurs. That 53 percent will actually be 49 percent on the date when it goes into effect because of the delay of its effect.

Mr. ROUSSELOT. If we cannot even agree that the 53 percent is that sacred, I do not see why we should substitute an

arbitrary figure for our judgment in the marketplace. I do not think that makes sense.

Mr. QUIE. I think it makes more sense than how we determined our figures in the past.

Mr. ROUSSELOT. It is a "little bit" less worse.

Mr. QUIE. It is far superior.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I heard the gentleman say before that the trouble with the present system is that we get an increase in minimum wages when those people in favor of it happen to be successful in the election process. Is not that the way the system is supposed to work?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(At the request of Mr. ERLENBORN, and by unanimous consent, Mr. QUIE was allowed to proceed for an additional 2 minutes.)

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, as I was asking, is not that the way the system is supposed to work? Why do we want to divorce decisionmaking in this crucial area in our economy from the decision that the voters make at the polling place?

Mr. QUIE. The reason is that the interrelationship between the forces in the economy, meaning employees and employers, fairly arrived, is the principle for making the decision. In going over this and looking at the testimony in 1949 when former Senator Robert Taft recommended indexing, I have came to the conclusion that the method of indexing in this bill is superior to the political power method. I came to the conclusion this is the best way. That is why I advocated it.

Mr. ALLEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am well aware that in their negotiations with the administration as to the terms of a new minimum wage bill, representaives of organized labor insisted that some form of escalation be included in the bill.

I can understand this—everyone in the country, alike subjected to the pressures of an increasing cost of living, can understand.

But I have two problems with the machinery the committee has used to provide escalation.

First of all, is indexing, in any form, the best way to provide escalation? I doubt it. For one thing, indexing throws the whole subject of wage increases into annual uncertainty for every covered employer. How can he plan ahead if he cannot know what his wage cost is going to be—under any indexing system, there is an element of unpredictability. For myself, I think it is unfair of this Congress to provide increases for the minimum wage which employers have no way to identify precisely for each of the years covered by the legislation.

Add to these formidable uncertainties the fact that the indexing the committee has given to us is tied to the average manufacturing wage, then we establish a feedback link which seems undesirable to me. Under this scheme, an increased minimum wage would raise the manufacturing average which, in turn, would raise the minimum wage, and so on and on.

Everybody's concern has been to offset the reduction in real wages which is caused by inflation. Why, then, did the committee, if it were going to use any indexing system at all, not tie the minimum wage to the Consumer Price Index, instead of to a manufacturing wage with a built-in feedback?

I think both these difficulties can readily be avoided by the simple expedient of providing for minimum wage increases at specific times and in specific amounts.

There is ample precedent for this approach in minimum wage bills which have been enacted in the past, and it would remove from the business community the uncertainty about their minimum wage costs during this period.

You will remember that early in the year the leaders of organized labor were demanding a minimum wage of $3. President Carter, on the other hand, was advocating only $2.50 an hour, and labor agreed to drop their demands for an immediate increase to $3 an hour upon the assurance that an automatic escalation clause would be written into the bill. The problem is that the business community—particularly those who must make long-term contracts—abhors uncertainty and wants to know for sure what the minimum labor costs will be in future years. Employers can do their planning with certainty. And we will eliminate the understandable feedback. I urge your support.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. I think the provision in the bill is a very wise one. I want to congratulate the gentleman from California (Mr. BURTON) and the gentleman from Minnesota (Mr. QUIE) for having drafted a provision that will carry out the manifest will of the Congress, to protect those at the very bottom of the economic ladder against the periodic escalations of prices, and this will do it in a much more systematic, scientific, and effective way, than we have been able to do with our catchups from time to time.

We have heard a lot of talk in these halls in recent months about protecting and helping the working poor, and about removing the disincentives to work. That seems to be the keystone of the President's proposal on welfare reform. Well, here is an opportunity today. We can help the working poor and help remove disincentives at work.

This is not a new idea. It was suggested as early as 1949 by Senator Robert A. Taft, who asked then Secretary of Labor Tobin if it would not be a good idea to tie the minimum wage to 60 percent of the manufacturing wage on an automatic escalation.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Not at this point.

The principal argument that has been made against indexing is that somehow it creates a built-in inflationary factor. Studies of the Department of Labor over the years have repeatedly concluded that increases in the minimum wage have not had any significant inflationary impact on prices.

So this is not a built-in inflationary factor; it is a built-in protection against inflation for those who can least protect themselves. To argue otherwise would be to argue that the burden of fighting inflation should be borne by those at the very bottom of the economic ladder.

So, I cannot see any reason why we should not be able to support this provision in the bill. It is reasonable, it is modest, it is sensible, and it does those things Congress has said from time to time that it wanted to do. It removes from us the less precise necessity, from year to year, to pass legislation trying to catch up.

For all those reasons, I hope my colleagues will oppose the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think there are a couple of reasons for supporting the amendment that has been offered by the gentleman from Illinois. Not only does the indexing provision that has been included in this bill provide an element of great uncertainty for the businessman who is attempting to calculate what his overhead is going to be; not only does this bill provide, with the indexing provision, a steady increase in the minimum wage each year which is going to reduce the number of jobs available for people at the lower end of the job scale, but I think there is another issue that has to be addressed also. That is the responsibility of the Members of this body, the responsibility of the Members of Congress, to periodically face up to the responsibility of looking at the minimum wage level, at the effect of an increase of unemployment or employment, at the effect of an increase on the inflation rate of the United States.

And if we adopt the indexing provision in this bill we are passing the buck. We are in effect letting the minimum wage be determined each succeeding year by the contracts which are negotiated by the labor unions. I think it is a mistake for Members of this body to surrender that responsibility. We are the elected Representatives of the people, and it is our job to determine the wage ourselves. For that reason I intend to support the Erlenborn amendment and hope my colleagues will do likewise.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, a moment ago, when the gentleman from Texas (Mr. WRIGHT) was speaking in the well, he refused to yield to me, so I thank the gentleman from Oklahoma for yielding so that I might clear up or correct the record.

The gentleman from Texas suggested that former Senator Taft endorsed the concept of indexing the minimum wage to average hourly wages in manufactur-

ing. That just is not the case. That sort of thing is being repeated time after time from the other side. I guess it is a posthumous recognition of Senator Taft as a very important figure, something they did not do during his lifetime. However, what Senator Taft did was to ask a question of a witness during a hearing as to what he thought about establishing a wage index, and the index was not 40 percent, 50 percent or 60 percent of the average hourly wages in manufacturing. As a matter of fact, what he asked about—and it was a question—was establishing a minimum wage in various categories of employment at a percentage of the average wage in that category of employment. So that if you are discussing service and retail workers, the average hourly wages in his question—but not a proposal—would be tied to the average hourly wages of service and retail employees, manufacturing wages to manufacturing, construction wages to the construction industry.

So I am afraid that the gentleman from Texas has inadvertently stated Senator Taft's position inaccurately, and I am happy to protect the Senator because he is not here to protect himself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. ERLENBORN. Mr. Chairman, I withdraw my point of order of no quorum.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 193, not voting 18, as follows:

[Roll No. 546]

AYES—223

Abdnor	Clawson, Del	Fountain
Alexander	Cleveland	Fowler
Allen	Cochran	Frey
Anderson, Ill.	Coleman	Fuqua
Andrews, N.C.	Collins, Tex.	Gephardt
Archer	Conable	Gibbons
Armstrong	Corcoran	Ginn
Ashbrook	Coughlin	Glickman
AuCoin	Crane	Goldwater
Badham	Cunningham	Goodling
Bafalis	Daniel, Dan	Gore
Barnard	Daniel, R. W.	Gradison
Bauman	Davis	Grassley
Beard, Tenn.	de la Garza	Gudger
Bennett	Derrick	Guyer
Bowen	Derwinski	Hagedorn
Breckinridge	Devine	Hall
Brinkley	Dickinson	Hamilton
Brooks	Dornan	Hammer-schmidt
Broomfield	Duncan, Oreg.	
Brown, Mich.	Duncan, Tenn.	Hanley
Brown, Ohio	Edwards, Ala.	Hansen
Broyhill	Edwards, Okla.	Harsha
Buchanan	Emery	Hefner
Burgener	English	Hightower
Burke, Fla.	Erlenborn	Hillis
Burleson, Tex.	Evans, Del.	Holland
Butler	Evans, Ga.	Holt
Byron	Fenwick	Horton
Carr	Findley	Hubbard
Carter	Fisher	Huckaby
Cederberg	Fithian	Hughes
Chappell	Flynt	Hyde
Clausen, Don H.	Foley	Ichord
	Forsythe	Ireland
Jenkins	Miller, Ohio	Sikes
Johnson, Colo.	Mitchell, N.Y.	Skelton
Jones, N.C.	Mollohan	Skubitz
Jones, Okla.	Montgomery	Slack
Jones, Tenn.	Moore	Smith, Nebr.
Kasten	Moorhead, Calif.	Snyder
Kazen		Spence
Kelly	Myers, Gary	Stangeland
Kemp	Myers, John	Stanton
Ketchum	Natcher	Steed
Keys	Neal	Steers
Kostmayer	Nichols	Steiger
Krueger	Nowak	Stockman
LaFalce	O Brien	Stump
Lagomarsino	Panetta	Symms
Latta	Pettis	Taylor
Leach	Pike	Thone
Lent	Poage	Thornton
Levitas	Preyer	Treen
Livingston	Pursell	Trible
Lloyd, Calif.	Quayle	Vander Jagt
Long, Md.	Railsback	Waggonner
Lott	Regula	Walker
Lujan	Rhodes	Walsh
Lundine	Risenhoover	Wampler
McClory	Roberts	Watkins
McCloskey	Robinson	White
McDonald	Rogers	Whitehurst
McEwen	Rose	Whitley
McKay	Rousselot	Whitten
Madigan	Rudd	Wiggins
Mahon	Runnels	Wilson, Bob
Mann	Ruppe	Wilson, Tex.
Marks	Santini	Winn
Marlenee	Sarasin	Wydler
Marriott	Satterfield	Wylie
Martin	Sawyer	Yatron
Mathis	Schulze	Young, Fla.
Mazzoli	Sebelius	Young, Tex.
Michel	Sharp	
Milford	Shuster	

NOES—193

Addabbo	Evans, Colo.	Murphy, N.Y.
Akaka	Evans, Ind.	Murphy, Pa.
Ambro	Fary	Murtha
Ammerman	Fascell	Myers, Michael
Anderson, Calif.	Fish	Nedzi
	Flippo	Nix
Andrews, N. Dak.	Flood	Nolan
	Florio	Oakar
Annunzio	Ford, Mich.	Oberstar
Applegate	Ford, Tenn.	Obey
Ashley	Fraser	Ottinger
Aspin	Gammage	Patten
Baldus	Gaydos	Patterson
Baucus	Giaimo	Pattison
Beard, R.I.	Gilman	Pease
Bedell	Gonzalez	Pepper
Beilenson	Hannaford	Perkins
Benjamin	Harkin	Price
Bevill	Harrington	Pritchard
Biaggi	Harris	Quie
Bingham	Hawkins	Rahall
Blanchard	Heckler	Rangel
Blouin	Heftel	Reuss
Boggs	Hollenbeck	Richmond
Boland	Holtzman	Rinaldo
Bolling	Howard	Rodino
Bonior	Jacobs	Roncalio
Bonker	Jeffords	Rooney
Brademas	Jordan	Rosenthal
Brodhead	Kastenmeier	Rostenkowski
Brown, Calif.	Kildee	Roybal
Burke, Calif.	Krebs	Russo
Burke, Mass.	Le Fante	Ryan
Burlison, Mo.	Lederer	Scheuer
Burton, John	Leggett	Schroeder
Burton, Phillip	Lehman	Seiberling
Caputo	Lloyd, Tenn.	Shipley
Carney	Long, La.	Simon
Cavanaugh	Luken	Sisk
Chisholm	McCormack	Smith, Iowa
Clay	McDade	Solarz
Collins, Ill.	McFall	Spellman
Conte	McHugh	St Germain
Conyers	McKinney	Staggers
Cornell	Maguire	Stark
Cornwell	Markey	Stokes
Cotter	Mattox	Stratton
D'Amours	Meeds	Studds
Danielson	Metcalfe	Thompson
Delaney	Meyner	Traxler
Dellums	Mikulski	Tsongas
Dicks	Mikva	Tucker
Dingell	Miller, Calif.	Udall
Dodd	Mineta	Ullman
Downey	Minish	Van Deerlin
Drinan	Mitchell, Md.	Vento
Early	Moakley	Volkmer
Eckhardt	Moffett	Walgren
Edgar	Moorhead, Pa.	Waxman
Edwards, Calif.	Moss	Weaver
Eilberg	Mottl	Weiss
Ertel	Murphy, Ill.	Whalen
Wilson, C. H.	Wright	Young, Mo.
Wirth	Yates	Zablocki
Wolff	Young, Alaska	Zeferetti

NOT VOTING—18

Badillo	Flowers	Pickle
Breaux	Frenzel	Pressler
Cohen	Jenrette	Quillen
Corman	Johnson, Calif.	Roe
Dent	Kindness	Teague
Diggs	Koch	Vanik

The Clerk announced the following pairs:

On this vote:

Mr. Pickle for, with Mr. Dent against.
Mr. Quillen for, with Mr. Badillo against.
Mr. Breaux for, with Mr. Corman against.
Mr. Teague for, with Mr. Diggs against.

Mr. SEIBERLING and Mr. McKINNEY changed their vote from "aye" to "no."

Messrs. MILLER of Ohio, McKAY, and ASHBROOK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BREAUX. Mr. Chairman, on rollcall No. 546, the vote on the Erlenborn amendment to H.R. 3744 just concluded, I was unavoidably detained and could not reach the floor in time to cast my vote. Had I been present, I would have voted "aye."

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS: Page 9, insert after line 5 the following:

(e) (1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the "Commission") which shall conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage and overtime requirements of that Act. In conducting such study, the Commission shall analyze specifically—

(A) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(B) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(C) the economic consequences (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in an index of the earnings of a category of employees;

(D) the employment and unemployment effects of (i) an increase in the rate prescribed by that Act, and (ii) providing a different minimum wage rate for youth;

(E) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees employed at such rates are also eligible to receive food stamps and other public assistance; and

(F) the exemptions from the minimum wage and overtime requirements of that Act.

(2) The Commission shall make two reports of the results of the study conducted pursuant to paragraph (1). The first report shall be submitted within eighteen months after the date of the appointment of the first five members of the Commission. The second report shall be submitted within thirty-six months after such date. The second report shall include such recommendations for legislation as the Commission determines are appropriate and shall include the analysis prescribed by subparagraph (C) of paragraph (1). The Commission may make

additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of its second required report.

(3)(A) The Commission shall consist of nine members. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall serve as ex-officio members and the President, by and with the advice and consent of the Senate, shall appoint seven members. The President shall make such appointments in a manner to assure that two persons appointed represent the interests of labor, one person represents the interests of agriculture, two persons represent the interests of business management, one person represents the interests of consumers, and one person represents the interests of the general public. The President shall make all his nominations for Commission membership within one hundred and eighty days after the effective date of this subsection.

(B) The President shall designate one member of the Commission as Chairman. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(4)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

(D) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

(E) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

(F) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(5)(A) The Chairman may appoint an executive director of the Commission who shall perform such duties as the Chairman may prescribe.

(B) With the approval of the Chairman, the executive director may appoint and fix the pay of such professional, technical, and clerical personnel as are necessary for the Commission to carry out its duties.

(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(D) The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(6) This subsection shall take effect October 1, 1977.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

(The Clerk continued to read the amendment.)

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

(The Clerk continued to read the amendment.)

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I wonder if the gentleman from Kentucky can tell me whether this amendment is in keeping with the Budget Act?

Mr. PERKINS. I can assure the gentleman from Maryland that this amendment is in keeping with the Budget Act, because only a study is provided in this amendment.

Mr. BAUMAN. Has money already been authorized in the budget resolution passed by the Congress, because otherwise I do not think the gentleman's amendment is in order.

Mr. PERKINS. There is sufficient money in the budget resolution out of which the Department of Labor could cover the costs of this study.

Mr. BAUMAN. Mr Chairman I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Maryland reserves a point of order against the amendment.

Mr. PERKINS. Mr. Chairman, I have been a Member of this body since 1949, when we increased the minimum wage from 40 to 75 cents. We have increased it at various times up to $2.30 where it presently is.

The indexing amendment that has just been defeated, however, had it been in effect from 1949 up to the present time, would have kept the minimum wage slightly behind the actual minimum wage in most instances. But in my opinion there would have been more stability in an indexing procedure such as has been proposed and defeated here today.

The amendment suggested by the gentleman from Arkansas (Mr. TUCKER) provides for a study of the effect on the economy that such an indexing formula would have. I am sure that no one objects to a study of this kind.

Mr. Chairman, I yield to the distinguished gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I thank my friend, the gentleman from Kentucky, for yielding.

Mr. Chairman, the Fair Labor Standards Act is undoubtedly one of the most important pieces of legislation that this body has ever passed, and I think that is recognized by persons on both sides of the aisle.

However, as we prepared for a vote in my office on this particular issue we found the major Government studies which exist on minimum wage have arisen out of the Department of Labor only. There are many questions that simply have not been addressed in depth by congressional study commissions or by any totally independent study commissions since the inception of the law on minimum wage standards.

Thus, my amendment very simply provides for a study by a nine-member commission which will look at the social, political, and economic impact of the minimum wage. I know every Member in this Chamber has received a letter at one time or another saying the minimum wage is inflationary. Let us have a look at it and get an unbiased report. Is it inflationary? And, if so, in what degree?

I know we have to vote later today as to whether the minimum wage causes higher unemployment among youth. Perhaps it does and perhaps it does not. But let us go ahead with this study and try to answer that question.

Mr. Chairman, does it or does it not cause higher employment among young people when we increase the minimum wage? Let us try to find out for sure, as best we can, with an independent study commission over the next few years.

The question of indexing, regardless of the vote we just took, is not dead. We will have to look at this issue over and over as long as inflation exists. Let us look at indexing and try to make some judgments now about what the impact may or may not be.

How about exemptions from the minimum wage? Should we continue the exemptions we have had or should we not? Let us look at this outside of the context of the immediately pending bill over a period of years in a study.

Finally, because I serve on the Com-

mittee on Welfare, I would like to suggest, as this amendment does, that we look at the question of the relationship between the minimum wage in our country and the welfare programs in our country, because the fact of the matter is that we know today if a man works full time, 5 days a week, 8 hours a day, 52 weeks a year, his income will still be less than the minimum poverty level for a family of four in the country. We know, therefore, that the welfare system in effect, Mr. Chairman, subsidizes not only the employee who is receiving the minimum wage and also getting welfare to support his family, but also the employer who pays the minimum wage, expecting his employees to receive some outside assistance.

The appointments for commission membership we have provided in the amendment are that two persons would represent the interests of labor; two persons would represent the interests of business management; one person would represent the interests of the consumer; one person would represent the interests of agriculture and one person would represent the interests of the general public.

In addition, the Secretary of Labor and the Secretary of Health, Education, and Welfare, would serve as ex-officio members.

Mr. Chairman, frequently, because we have problems with study commissions completing their work in reasonable time, we have provided that the President must make his nominations for membership on the commission within 180 days after the passage and enactment of this bill. Then the commission must make two reports; the first report will be submitted within 18 months after the date of appointment.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

Mr. TUCKER. Mr. Chairman, if the gentleman will yield further, the first report must be submitted within 18 months after the appointment of the commission and the second report must be submitted within 36 months after the report of the commission.

Mr. Chairman, this amendment should not be interpreted as either supportive or in opposition to any provision contained in the committee bill or any of the amendments to be offered to the committee bill. It simply says let us get as many facts as possible on paper over the next few years and by 1981 or 1982 get a report back.

Mr. PERKINS. Mr. Chairman, the gentleman from Arkansas should be complimented for offering his amendment.

Mr. Chairman, I yield to the gentleman from Minnesota (Mr. QUIE), the ranking Republican member on the committee.

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

I want to indicate that I do support this amendment. It brings about a study specifically for the purpose of studying the minimum wage and we will not have to depend on the Department of Labor for an inflationary impact report on how the minimum wage, or indexing would affect the youth of our country as well as its relationship of poverty. I think it is well written. One other point about which we must be careful is in comparing the minimum wage with the poverty level figure, because if we look at one single individual, the minimum wage gives that single individual an income higher than the level of poverty. However, if we take a family of four, which is the usual poverty standard, then we also have to determine whether anyone else in the family is working. We need to take all these factors into consideration.

Mr. PERKINS. Mr. Chairman, I know of no opposition to the amendment and I ask that it be adopted.

The CHAIRMAN. Does the gentleman from Maryland insist upon his reservation?

Mr. BAUMAN. Mr. Chairman, I withdraw my point of order, but I would like to move to strike the last word.

I yield to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Chairman, I rise today with serious reservations about three aspects of the legislation before us. Like many other Members, I have received a goodly number of visits, phone calls, and letters on this minimum wage bill. The people of the Ninth District have spared no energy in letting me know exactly how they feel—nor have the people of Florida.

Florida's second largest industry is tourism—the biggest is agriculture. The bill before us today strikes to the heart of both industries at a time when we are climbing out of the winter of 1976–77.

The question I hear over and over again is whether the State can afford a new Federal wage bill at this time. Can we afford to let the Congress shirk its responsibility by indexing future increases in the wage? Can we afford the freeze on tip credits at a dollar level instead of a percentage? Can we afford higher youth and minority unemployment?

Having spent the August recess traveling the State, I am convinced we cannot. I believe indexing the wage will begin an inflationary spiral particularly cruel to Sunbelt States and to our retired citizens. I believe the freeze on the tip credit may well mean the death of many small restaurants. I believe continued youth unemployment can only surface later on in increased costs elsewhere—welfare and the courts for example.

Proponents of indexing the minimum wage would have us believe we are depoliticizing the wage. They would have us believe we are too slow, too cumbersome an institution, to deal effectively with needed fluctuations in the wage. They would like to paint a coat of respectibility over indexing, when in fact indexing is the biggest case of whitewashing since Tom Sawyer painted a fence.

We will depoliticize the wage if we index—right out of our hands forever. The responsibility of raising the wage is serious. The effects are far reaching, the ripple effect is large. That is why Congress has not moved helter-skelter to raise the wage once a year. We hold hearings, we investigate the pros and cons, we draw up legislation—voting in committee every step of the way—then we come together on this floor to cast our votes by name. That is the way it should be. We are elected to hold responsibility for the manner in which this Nation works. We are accountable. If we index we loose that responsibility, that accountability, and the people lose that representation.

I do not know about the other Members, but when I go home and tell people I cannot do anything about something that concerns them, they do not like it. If we index the wage, that will add one more major area that we will have no answer for.

The "tip credit" is another area of concern in Florida. Currently, the credit is set at 50 percent of the minimum wage—essentially the employer contributes half of the minimum wage to his employee and the employee makes up—usually more than makes up—the rest.

It has been said that tipping is "a gratuity that is gratuitous only in the sense that you probably cannot be sued for not giving one." That is an oversimplification, of course, but it does get to the root of the argument—that tips are wages. Tipping is not the same as gift-giving, just as consumers are not the tooth fairy. If we believed tips were gifts, then why in the world would we tax them as wages?

There are many restaurants in my State—most of them are breaking even, most are small, most are family owned and operated. We all know the perils of the resturant business—it always tops the list of "riskiest small businesses." Do we need to further saddle the industry with increased labor costs? To put it another way, do we need to increase unemployment in the industry—for that is exactly what will happen as more and more resturants cut back on help, go to a buffet style of serving, or finally close.

The third reservation I have about his bill is not with something in the bill, but with something left out—a sin of omission.

Provisions for increased youth employment might have saved this legislation—although I doubt it.

Youth unemployment is a subject Congress has failed to come to grips with—except through special summer job programs. We all know the statistics, we all know kids who are sitting around because there are no jobs. Some are our own, but most are black, most are poor, and most live in cities.

We spend a lot of time every year on "employment legislation." We devote a large part of that debate to the advantages of employment in the private sector as opposed to massive injections of public funds—at least on this side of the aisle.

Will we now pass up the opportunity to make employment in the public sector a reality? It seems a little silly to me—and a little hypocritical—to lock young people out of the labor market in September and come back next May to appropriate public money to employ them. We have a chance to make a difference today, we should not pass it up.

In summary, Mr. Chairman, I would urge my colleagues to resist the indexing and tip credit provisions of this legislation and to fight for a youth differential.

Mr. BAUMAN. Mr. Chairman, I take this time to try to find out from the authors of the amendment exactly how many government employees this will entail and what the cost is. As I read the amendment, it is a totally open-ended authorization which allows the Executive Director of the proposed commission to appoint as many people as he wishes to. It waives all Civil Service merit requirements and most of the pay classification requirements. What will this cost and how many people will it employ?

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield.

Mr. PERKINS. I would think the cost of the amendment will be minimal. There is presently authority for the Secretary of Labor to make similar studies to use employees of the Department and to get data from the States. It is my judgment that it would be a small amount of money.

Mr. BAUMAN. How many employees would be required?

Mr. PERKINS. No one can anticipate the number of employees. I would not think too many. Of course, there maybe be some additional staff employees and that would cost some money, but I would not think it would be much.

Mr. BAUMAN. It is always nice to have study commissions, but we have commissions running out of our ears in this Government. The minimum wage has been around for decades. We have had studies by private organizations, by labor, by Government, by the Chamber of Commerce. I cannot see anything that this commission is going to be able to do that private groups or labor unions cannot do.

I think it is very likely, even despite the requirements that different groups be represented, that with the Secretary of Labor and the Secretary of Health, Education, and Welfare as ex officio members of the commission, it is not likely that is going to be all that unbiased in its final reports. So, I would suggest that we vote down this amendment and save the taxpayers some money, and the Government Printing Office a little work.

AMENDMENT OFFERED BY MR. O'BRIEN TO THE AMENDMENT OFFERED BY MR. PERKINS

Mr. O'BRIEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. O'BRIEN to the amendment offered by Mr. PERKINS: In the proposed section 2(1)(1)(D), add before the semicolon the following: "and the employment and unemployment effects on handicapped individuals of an increase in such rate and of providing a different minimum wage rate for such individuals".

The CHAIRMAN. The gentleman from Illinois (Mr. O'BRIEN) is recognized for 5 minutes.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. O'BRIEN. I will be happy to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I want to thank the distinguished gentleman for offering the amendment to the amendment. There is no objection to the amendment to the amendment, and we would hope that it would be accepted rapidly.

Mr. O'BRIEN. I thank the gentleman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Minnesota.

Mr. QUIE. I say to the gentleman that I have no objection to that amendment, but as long as we are going into the problems of certain groups, it seems to me that the aged ought to be included. We are talking about handicapped individuals, and it has come to our attention that there may be some problem with the aged as well.

Would the gentleman have any objection if I offered a substitute to his amendment, or he could ask unanimous consent to add, after the word "handicapped", the words, "and aged."

Mr. O'BRIEN. I have no objection.

Mr. PERKINS. We have no objections on this side.

Mr. O'BRIEN. Mr. Chairman, I ask unanimous consent that the amendment to the amendment be modified.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Illinois (Mr. O'BRIEN).

The Clerk read as follows: "Insert the words 'and aged' after the word 'handicapped'."

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. O'BRIEN. Mr. Chairman, very briefly, and for the benefit of those who may not be particularly aware of it, this amendment merely includes the handicapped and the aged as specified groups who would be included in the study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. O'BRIEN), as modified, to the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment to the amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS), as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 44; noes 9.

RECORDED VOTE

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 118, not voting 15, as follows:

[Roll No 547]

AYES—301

Addabbo	AuCoin	Blanchard
Akaka	Badillo	Blouin
Allen	Baldus	Boggs
Ammerman	Barnard	Boland
Anderson, Calif.	Baucus	Bolling
	Beard, R.I.	Bonior
Anderson, Ill.	Bedell	Bonker
Andrews, N.C.	Bellenson	Bowen
Annunzio	Bennett	Brademas
Applegate	Bevill	Breaux
Ashley	Biaggi	Breckinridge
Aspin	Bingham	Brinkley
Brodhead	Hollenbeck	Perkins
Brown, Calif.	Holtzman	Pettis
Brown, Mich.	Horton	Preyer
Buchanan	Howard	Price
Burke, Calif.	Huckaby	Pritchard
Burke, Mass.	Hyde	Pursell
Burlison, Mo.	Ireland	Quie
Burton, John	Jeffords	Rahall
Burton, Phillip	Jenkins	Railsback
Byron	Johnson, Colo.	Rangel
Caputo	Jones, Tenn.	Regula
Carney	Jordan	Reuss
Carter	Kasten	Richmond
Cavanaugh	Kastenmeier	Rinaldo
Chisholm	Keys	Risenhoover
Clausen, Don H.	Kildee	Rodino
	Krebs	Rogers
Clay	Krueger	Roncalio
Cleveland	LaFalce	Rooney
Coleman	Le Fante	Rose
Conte	Leach	Rosenthal
Conyers	Lederer	Rostenkowski
Corcoran	Leggett	Roybal
Cornell	Lehman	Runnels
Cornwell	Lent	Ruppe
Cotter	Levitas	Russo
D'Amours	Livingston	Ryan
Danielson	Lloyd, Calif.	Santini
Davis	Lloyd, Tenn.	Sarasin
de la Garza	Long, La.	Sawyer
Delaney	Long, Md.	Scheuer
Dellums	Luken	Schroeder
Derrick	Lundine	Seiberling
Dicks	McCloskey	Shipley
Diggs	McCormack	Sikes
Dingell	McEwen	Simon
Dodd	McFall	Sisk
Downey	McHugh	Skelton
Drinan	McKay	Skubitz
Duncan, Oreg.	McKinney	Slack
Duncan, Tenn.	Madigan	Smith, Iowa
Eckhardt	Maguire	Smith, Nebr.
Edgar	Mann	Solarz
Edwards, Calif.	Markey	Spellman
Eilberg	Marks	St Germain
Erlenborn	Marlenee	Staggers
Evans, Colo.	Marriott	Stark
Evans, Del.	Mathis	Steed
Evans, Ga.	Mazzoli	Steers
Fary	Meeds	Steiger
Fascell	Metcalfe	Stokes
Findley	Meyner	Stratton
Fish	Mikulski	Studds
Fisher	Mikva	Thompson
Flippo	Milford	Thone
Flood	Miller, Calif.	Thornton
Florio	Miller, Ohio	Traxler
Foley	Mineta	Treen
Ford, Mich.	Minish	Tsongas
Fowler	Mitchell, Md.	Tucker
Fraser	Mitchell, N.Y.	Udall
Frey	Moakley	Ullman
Fuqua	Moffett	Van Deerlin
Gaydos	Mollohan	Vento
Gephardt	Moore	Waggonner
Giaimo	Moorhead, Pa.	Walgren
Gibbons	Moss	Walsh
Gilman	Mottl	Wampler
Ginn	Murphy, Ill.	Waxman
Glickman	Murphy, N.Y.	Weaver
Gonzalez	Murphy, Pa.	Weiss
Goodling	Murtha	Whalen
Gore	Myers, Michael	White
Gradison	Natcher	Whitley
Grassley	Neal	Wilson, Bob
Guyer	Nedzi	Wilson, C. H.
Hammer-schmidt	Nix	Wilson, Tex.
	Nolan	Wirth
Hanley	Nowak	Wolff
Hannaford	O'Brien	Wydler
Harkin	Oakar	Wylie
Harrington	Oberstar	Yates
Harris	Obey	Yatron
Harsha	Ottinger	Young, Alaska
Hawkins	Panetta	Young, Mo.
Heckler	Patten	Young, Tex.
Heftel	Patterson	Zablocki
Hightower	Pattison	Zeferetti
Hillis	Pease	
Holland	Pepper	

NOES—118

Abdnor	Brooks	Collins, Ill.
Alexander	Broomfield	Collins, Tex.
Ambro	Brown, Ohio	Conable
Andrews, N. Dak.	Broyhill	Coughlin
	Burgener	Crane
Archer	Burke, Fla.	Cunningham
Armstrong	Burleson, Tex.	Daniel, Dan
Ashbrook	Butler	Daniel, R. W.
Badham	Carr	Derwinski
Bafalis	Cederberg	Devine
Bauman	Chappell	Dickinson
Beard, Tenn.	Clawson, Del	Dornan
Benjamin	Cochran	Early

Edwards, Ala.	Jones, Okla.	Roberts
Edwards, Okla.	Kazen	Robinson
Emery	Kelly	Rousselot
English	Kemp	Rudd
Ertel	Ketchum	Satterfield
Evans, Ind.	Kostmayer	Schulze
Fenwick	Lagomarsino	Sebelius
Fithian	Latta	Sharp
Flowers	Lott	Shuster
Flynt	Lujan	Snyder
Ford, Tenn.	McClory	Spence
Forsythe	McDade	Stangeland
Fountain	McDonald	Stanton
Gammage	Mahon	Stockman
Goldwater	Martin	Stump
Gudger	Mattox	Symms
Hagedorn	Michel	Taylor
Hall	Montgomery	Trible
Hamilton	Moorhead, Calif.	Vander Jagt
Hansen	Myers, Gary	Volkmer
Hefner	Myers, John	Walker
Holt	Nichols	Watkins
Hubbard	Pike	Whitehurst
Hughes	Poage	Whitten
Ichord	Quayle	Wiggins
Jacobs	Rhodes	Winn
Jones, N.C.		Young, Fla.

NOT VOTING—15

Cohen	Johnson, Calif.	Quillen
Corman	Kindness	Roe
Dent	Koch	Teague
Frenzel	Pickle	Vanik
Jenrette	Pressler	Wright

The Clerk announced the following pair:

On this vote:

Mr. Dent for, with Mr. Teague against.

Mr. LEACH changed his vote from "no" to "aye."

Mr. KEMP changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 9, insert after line 5 of the following:

(b) Section 6 (29 U.S.C. 206) is amended by adding at the end the following:

"(9) (1) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates: during the period ending December 31, 1977, not less $2.30 an hour, during the year beginning January 1, 1978, not less than $2.65 an hour, during the year beginning January 1, 1979, not less than 52 per centum of the average hourly earnings excluding overtime, during the twelve-month period ending in June 1978, of production and related workers on manufacturing payrolls, during the year beginning January 1, 1980, and during each of the next three years, not less than 53 per centum of the average hourly earnings excluding overtime, during the twelve-month period ending in June of the year preceding such year, or production and related workers on manufacturing payrolls, and during the year beginning January 1, 1984, and during each succeeding year, not less than the minimum wage rate in effect under this paragraph for the year beginning January 1, 1983. For purposes of computing the minimum wage prescribed by this paragraph, the Secretary shall, not later than August 1, 1979, and August 1 of each of the next five years, publish in the Federal Register an estimate of the average hourly earnings (excluding overtime), during the twelve-month period ending in June of such year, of production and related workers on manufacturing payrolls, and shall, not later than November 1, 1978, and November 1 of each of the next five years, publish in the Federal Register such earnings for such period.".

"(2) The minimum wage rate prescribed by paragraph (1) shall apply in any year, in lieu of the wage rate prescibed by subsection (a) (1), in which the wage rate prescribed by paragraph (1) is higher than that prescribed by subsection (a) (1).".

Mr. ERLENBORN. Mr. Chairman, I reserve a point of order aginst the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON) for 5 minutes in support of his amendment.

Mr. PHILLIP BURTON. Mr. Chairman, this is a effort to see if we can reconstruct a reasonable minimum wage proposal.

The proposal before us embodies the committe-recommended indexing but adopts a concept that had been urged by our colleague, the gentleman from Alabama, (Mr. BUCHANAN) by putting a sunset section on the operation of the indexing. This sunset time will permit, after the third year following the first full year at the 53-percent rate, that the rate at that point in time is frozen and the indexing mechanism is no longer operative. We believe this might provide an opportunity for some who had concern about the unlimited duration of the indexing mechanism to get enough time to justify, as we proponents of indexing would view it, the wisdom of this method of approach, and for those opponents who believe that they are right, and the data so reflects, that this might then indicate the lack of wisdom of this approach.

Mr. ALLEN. Mr. Chairman, a point of order. I can find no copy of this amendment. I would like to be able to read the amendment and I believe under the rules a certain number of copies are supposed to be available.

The CHAIRMAN. The gentleman does not state a point of order.

Mr. PHILLIP BURTON. Mr. Chairman, I yield back the balance of my time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) insist upon his point of order?

Mr. ERLENBORN. Yes, Mr. Chairman. I must first say I have had only a few minutes to look at the amendment which is thrown together rather hastily in an attempt, as the gentleman said, to get a recount on the issue of indexing, but, Mr. Chairman, I make a point of order against the amendment on the ground that the Committee has voted on the issue of indexing, has expressed its will, and this is an amendment which merely would have the House again vote on the same issue already disposed of.

The CHAIRMAN. Does the gentleman from California (Mr. PHILLIP BURTON) desire to be heard on the point of order?

Mr. PHILLIP BURTON. No, other than to say that we have developed this amendment so that a point of order does not lie.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. PHILLIP BURTON) simply adds a new subsection to the end of the section. In the opinion of the Chair the amendment is germane. As to whether or not it is inconsistent with the amendment of the gentleman from Illinois (Mr. ERLENBORN) adopted a few moments ago, the Chair cannot rule upon that. The Chair holds the amendment to be germane and not to directly change the amendment already adopted. The point of order is overruled.

The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 227, not voting 18, as follows:

[Roll No. 548]

AYES—189

Addabbo	Fascell	Nolan
Akaka	Fish	Nowak
Ammerman	Flippo	Oakar
Anderson, Calif.	Flood	Oberstar
	Florio	Obey
Andrews, N. Dak.	Ford, Mich.	Ottinger
	Ford, Tenn.	Patten
Annunzio	Fraser	Patterson
Ashley	Gaydos	Pattison
Aspin	Giaimo	Pease
Badillo	Gilman	Pepper
Baldus	Gonzalez	Perkins
Baucus	Hannaford	Price
Beard, R.I.	Harkin	Pritchard
Bedell	Harrington	Quie
Bellenson	Harris	Rahall
Benjamin	Hawkins	Rangel
Bevill	Heckler	Reuss
Biaggi	Heftel	Richmond
Bingham	Hollenbeck	Rinaldo
Blanchard	Holtzman	Rodino
Blouin	Howard	Roncalio
Boggs	Jacobs	Rooney
Boland	Jeffords	Rosenthal
Bolling	Jordan	Rostenkowski
Bonior	Kastenmeier	Roybal
Bonker	Kildee	Russo
Brademas	Krebs	Ryan
Brodhead	LaFalce	Scheuer
Brown, Calif.	Le Fante	Schroeder
Burke, Calif.	Lederer	Seiberling
Burke, Mass.	Leggett	Shipley
Burlison, Mo.	Lehman	Simon
Burton, John	Lloyd, Tenn.	Sisk
Burton, Phillip	Long, La.	Smith, Iowa
Caputo	McCormack	Solarz
Carney	McDade	Spellman
Cavanaugh	McFall	St Germain
Chisholm	McHugh	Staggers
Clay	Maguire	Stark
Collins, Ill.	Markey	Stokes
Conte	Mattox	Stratton
Conyers	Meeds	Studds
Cornell	Metcalfe	Thompson
Cornwell	Meyner	Traxler
Cotter	Mikulski	Tsongas
D'Amours	Mikva	Udall
Danielson	Miller, Calif.	Van Deerlin
Delaney	Mineta	Vento
Dellums	Minish	Volkmer
Dicks	Mitchell, Md.	Walgren
Diggs	Moakley	Weaver
Dingell	Moffett	Weiss
Dodd	Moorhead, Pa.	Whalen
Downey	Moss	Wilson, C. H.
Drinan	Mottl	Wirth
Early	Murphy, Ill.	Wolff
Eckhardt	Murphy, N.Y.	Yates
Edgar	Murphy, Pa.	Yatron
Edwards, Calif.	Murtha	Young, Alaska
Eilberg	Myers, Michael	Young, Mo.
Evans, Colo.	Natcher	Zablocki
Evans, Ind.	Nedzi	Zeferetti
Fary	Nix	

NOES—227

Abdnor	Fuqua	Mollohan
Alexander	Gammage	Montgomery
Allen	Gephardt	Moore
Ambro	Gibbons	Moorhead, Calif.
Anderson, Ill.	Ginn	Myers, Gary
Andrews, N.C.	Glickman	Myers, John
Applegate	Goldwater	Neal
Archer	Goodling	Nichols
Armstrong	Gore	O'Brien
Ashbrook	Gradison	Panetta
AuCoin	Grassley	Pettis
Badham	Gudger	Pike
Bafalis	Guyer	Poage
Barnard	Hagedorn	Preyer
Bauman	Hall	Pursell
Beard, Tenn.	Hamilton	Quayle
Bennett	Hammer-schmidt	Railsback
Bowen	Hanley	Regula
Breaux	Hansen	Rhodes
Breckinridge	Harsha	Risenhoover
Brinkley	Hefner	Roberts
Brooks	Hightower	Robinson
Broomfield	Hillis	Rogers
Brown, Mich.	Holland	Rose
Brown, Ohio	Holt	Rousselot
Broyhill	Horton	Rudd
Buchanan	Hubbard	Runnels
Burgener	Huckaby	Ruppe
Burke, Fla.	Hughes	Santini
Burleson, Tex.	Hyde	Sarasin
Butler	Ichord	Satterfield
Byron	Ireland	Sawyer
Carr	Jenkins	Schulze
Carter	Johnson, Colo.	Sebelius
Cederberg	Jones, N.C.	Sharp
Clausen, Don H.	Jones, Okla.	Shuster
Clawson, Del	Jones, Tenn.	Sikes
Cleveland	Kasten	Skelton
Cochran	Kazen	Skubitz
Coleman	Kelly	Smith, Nebr.
Collins, Tex.	Kemp	Snyder
Conable	Ketchum	Spence
Corcoran	Keys	Stangeland
Coughlin	Kostmayer	Stanton
Crane	Krueger	Steed
Cunningham	Lagomarsino	Steers
Daniel, Dan	Latta	Steiger
Daniel, R. W.	Leach	Stockman
Davis	Lent	Stump
de la Garza	Levitas	Symms
Derrick	Livingston	Taylor
Derwinski	Lloyd, Calif.	Thone
Devine	Long, Md.	Thornton
Dickinson	Lott	Treen
Dornan	Lujan	Trible
Duncan, Oreg.	Luken	Tucker
Duncan, Tenn.	Lundine	Ullman
Edwards, Ala.	McClory	Vander Jagt
Edwards, Okla.	McCloskey	Waggonner
Emery	McDonald	Walker
English	McEwen	Walsh
Erlenborn	McKay	Wampler
Ertel	McKinney	Watkins
Evans, Del.	Madigan	White
Evans, Ga.	Mahon	Whitehurst
Fenwick	Mann	Whitley
Findley	Marks	Whitten
Fisher	Marlenee	Wiggins
Fithian	Marriott	Wilson, Bob
Flowers	Martin	Wilson, Tex.
Flynt	Mathis	Winn
Foley	Mazzoli	Wydler
Forsythe	Michel	Wylie
Fountain	Milford	Young, Fla.
Fowler	Miller, Ohio	Young, Tex.
Frey	Mitchell, N.Y.	

NOT VOTING—18

Chappell	Johnson, Calif.	Roe
Cohen	Kindness	Slack
Corman	Koch	Teague
Dent	Pickle	Vanik
Frenzel	Pressler	Waxman
Jenrette	Quillen	Wright

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Teague against.

Mr. Corman for, with Mr. Chappell against.

Mr. Waxman for, with Mr. Quillen against.

Mr. MOSS changed his vote from "no" to "aye."

Mr. TUCKER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to section 2 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

TIP CREDIT

SEC. 3. (a)(1) Effective January 1, 1978, the next to last sentence of section 3(m) (29 U.S.C. 203(m)) is amended (A) by striking out "determining the wage" and inserting in lieu thereof "determining the hourly wage"; and (B) by striking out "50 per centum of the applicable minimum wage rate" and inserting in lieu thereof "$1.15 an hour".

(2) Effective January 1, 1979, such sentence is amended by striking out "$1.15 an hour" and inserting in lieu thereof "$1.10 an hour".

(3) Effective January 1, 1980, such sentence is amended by striking out "$1.10 an hour" and inserting in lieu thereof "$1.05 an hour".

(4) Effective January 1, 1981, such sentence is amended by striking out "$1.05 an hour" and inserting in lieu thereof "$1.00 an hour".

(b) Effective January 1, 1978, section 3(t) (29 U.S.C. 203(t)) is amended by striking out "$20" and inserting in lieu thereof "$30".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 9, beginning with line 7 strike out everything through line 22 and redesignate subsection "(b)" on line 23 as "SEC. 3.".

Mr. QUIE. Mr. Chairman, in 1966 Congress included in section 3(m) of the act a provision that an employer may credit tips received by employees toward his obligation to pay at least the minimum wage. The credit was limited to 50 percent of the minimum wage and it was specifically provided in the act that in order for the employer to take the credit, the employees would have to actually receive and keep their tips. Under the act, therefore, every tipped employee was guaranteed of receiving at least the minimum wage, either through a combination of contributions by the employer and by the customer or by a total contribution by the employer of the full minimum wage in the event the employee did not earn enough tips.

The purpose of Congress enacting this tip credit was to keep the costs of labor down in the restaurant industry and at the same time insure that the basic wages to its employees amounted to the minimum wage. It was felt that by keeping the cost of labor down, we would insure that the public would be able to afford the luxury of dining out. The restaurants and portions of the hotel industry are unique in that waiters and waitresses, busboys and bellhops are able to earn on a regular basis two, three or four times the minimum wage through tips they customarily receive.

The committee bill would change this 50 percent allowable tip credit by freezing the credit at $1.15 beginning in January 1978 and reducing it by 5 cents per year until it reaches $1 in 1981, at which point it would be frozen at that $1 figure. Thus, as the minimum wage increased, the tip credit would reduce and the resultant percentage that an employer could credit against the minimum wage would be drastically reduced.

The National Restaurant Association conducted a study earlier this year, surveying some 1,300 California restaurants in an effort to determine the impact on the restaurant industry which the California Legislature's decision to repeal the tip credit has had in that State. As a result of the repeal of the tip credit in the State of California, the cost of labor has risen 24 percent, many restaurants have shortened their payrolls by an average of 50 hours per week, consumer prices were raised, and many marginal or low-skilled employees were removed from the payroll or forced into part-time positions.

Further, the National Restaurant Association has projected the impact which the tip credit amendment in the committee bill would have in the restaurant industry. If the minimum wage is increased to $2.65 an hour and the allowable tip credit is frozen at $1.15, the food service industry's wage costs would increase in 1978 by approximately $2 billion at current levels of employment. If the employers were to keep their total wage bill constant, employment would have to be reduced in the food service industry by about 435,000 jobs. The association further projects that by 1980, when the minimum wage would be at estimated $3.15 an hour—and that is what we had in the bill before the Erlenborn amendment was adopted—the cumulative increase in the minimum wage would have risen 37 percent, and the cumulative increase in the wages of tipped employees would have risen 82.6 percent. The resultant cost to the food service industry would be up $4.9 billion over the 1977 level if employment remained constant.

Mr. Chairman, when this measure was considered by the Subcommittee on Labor Standards earlier this year, it was clear that the members were not going to remove the tip credit entirely. That lacked support. Consequently, we are considering this amendment that is before us today

A panel of waitresses testified most forcefully that if the tip credit were to be reduced or repealed, their earning ability would similarly be seriously impaired. Each waitress considered herself to be an independent entrepreneur working within the employer's restaurant, and each felt her income was dependent upon her ability to interact favorably with the customer and the customer's ability to acquire a quality meal at a reasonable price. The waitresses maintained that a repeal of the tip credit would not be enough to compensate them in wages for what they would lose in tips.

Mr. Chairman, the waitresses were not alone in their opposition to the tip credit reduction.

The President of the United States is also opposed to our tampering with tip credit. As the administration proposal was presented to us, it was clear that he wants to keep the tip credit at 50 percent, which I also want to do.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

(By unanimous consent, Mr. QUIE was allowed to proceed for 1 additional minute.)

Mr. QUIE. To continue, Mr. Chairman, the administration proposal was submitted to the Congress and was adopted by the full committee. No provision was included that would in any way amend the tip credit as it exists in the current law.

Furthermore, Dr. Andrew Brimmer, a former member of the Federal Reserve Board of Governors, stated that—

> The repeal of the tip credit allowance will jeopardize employment prospects in the industry.

However, here we are forced to consider a reduced tip credit. I believe this would be unwise.

I recognize that in some States we do have a reduced tip credit, as is the case in Minnesota; but I believe each State should be permitted to make its own determination between the allowable 50 percent and the level that it wants and that is what my amendment would do. My amendment would put the tip credit back to where it was, at the 50-percent credit. However, we would amend the Act to move up to $30 the amount of tips which an employee must receive monthly before the tip credit would go into effect.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our distinguished colleague, the gentleman from Minnesota (Mr. QUIE), is right on so many issues that I am really quite taken aback that he is so wrong on this one.

I rise in opposition to this amendment and in support of the full committee proposal. That proposal, in itself, is a very modest one. It provides literally the following: We freeze the current $1.15 tip credit for a year, and then we reduce that tip credit by 5 cents a year for each of 3 years until the tip credit remains at $1 per hour.

I am sure that most of us know that the tip credit provision in the minimum wage law was enacted in the same Congress in which it was dealt with for purposes of the Social Security Act.

Permit me to relate what we managed to do at one and the same time in our infinite collective wisdom. The employer community went to the Committee on Ways and Means and said, "Oh, my heavens, those tips can't be wages. We shouldn't have to pay the employer's contribution for social security benefits for tips."

And, at the very same time they came to our Committee on Education and Labor and they said, "Oh, heavens, tips must be considered wages to deduct from what we have to pay under the minimum wage act."

Would you believe it, they won both versions? On the one side, the labor standard side, tips are wages, and the employer does not have to pay a minimum wage by 50 percent if the tips are included in that amount, but, on the social security side—and we talk about the difficulty the social security trust fund is in, here is one reason it is in difficulty, here is one source of added revenue, I might note, the employer pays nothing into the social security fund for tips because they are not wages on that side. Well, I do not think they ought to have it both ways.

The distinguished gentleman from Pennsylvania (Mr. DENT), introduced a bill to eliminate completely the tip credit virtually on enactment. This proposal of the committee does not do that; it stabilizes it at $1 an hour.

So, Mr. Chairman, I would urge that the effort to restore the current status be eliminated, that the amendment offered by the gentleman from Minnesota (Mr. QUIE) be opposed.

There is another matter that I am not sure is all that fully understood by some of our colleagues. If the State law has a lesser permitted tip amount, in that event the State law prevails. So, in the State of California, for example, where we have abolished the tip credit, the passage or failure of this particular item will have no impact in our State because nobody in our State can have a tip deducted from their minimum wage. That is true in Alaska. It is true in Idaho, Oregon, Washington State, and others, and it has marginally different applications in many of the other States, such as New York, where the passage of the committee bill would in no way put any added burden on a hotel, motel, or restaurant employer in the State of New York.

So, Mr. Chairman, I would urge my colleagues to stay with the committee and reject the pending amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MITCHELL of Maryland, and by unanimous consent, Mr. PHILLIP BURTON was allowed to proceed for 1 additional minute.)

Mr. PHILLIP BURTON. I thank the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I would like to put a couple of questions to the gentleman from California, Mr. PHILLIP BURTON. There was some discussion about the impact of tip credit changes of the restaurant association in California. We received one set of presentations which appear to be at odds with what I think the committee found. No. 1, it is my understanding that the committee found that there had not been any loss of jobs but rather an increase of 25 percent in jobs in the restaurant and food business in California; is that correct?

Mr. PHILLIP BURTON. Perhaps some of my other colleagues may have that number precisely, but I know we have more people working in our State now than we did before the tip credit was removed. I think it reflects partly the state of the economy. I do not think it is relevant to say that if you abolish the tip credit you will increase employment but I do not believe it is correct, either, that if you do what we are recommending, that is, reduce it to $1, that it will reduce employment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MITCHELL of Maryland, and by unanimous consent, Mr. PHILLIP BURTON was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. The second question I would like to raise is, has the California situation in any way reduced or thwarted the number of food service restaurants coming into being, new businesses? It is my understanding that the committee found that there were 1294 new restaurants in 1976, and we have got 1608 in 1977. Is that a correct understanding?

Mr. PHILLIP BURTON. Without being bound to specific figures, the answer is yes.

Mr. MITCHELL of Maryland. Finally, my last question, if the gentleman will respond is, there were dire predictions that there would be a vast increase in prices in restaurants and food service because of this tip credit change. As I read the committee report, it was indicated that there had been a 3-percent increase in prices, which was relatively small, but that was related to inflationary factors rather than the tip credit. Is that a correct understanding?

Mr. PHILLIP BURTON. That is correct, but more importantly, I think for those from other sections of the country who are telling us what a bad thing this is for our State, I only want to ask why there has been no meaningful effort of any kind that I am aware of to get back to the old law. It is not a real live viable issue in our State. There is no prospect that we will return to the days when someone who provides one with a service and gets a little extra gratuity, if you will, because the service is so good, is going to have it taken away from him if he is at a minimum wage level, and let the boss credit it to his pocket. There is no prospect that we will return to that day. We are very happy with the situation now in our State.

Mr. MITCHELL of Maryland. I thank the gentleman for responding. I thought it important that he clear up any inferential statements made by the other side on this issue.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

I would like to point out that initially that restaurant study in California came out saying the prices of food went way up; the number of services establishments and jobs went way down; but we did not hear that argument today because the facts show that when we repealed the tip credit, new businesses in food service opened in our State. The prices of food in restaurants went up less than they had prior to the time that the tip credit was repealed, which would

indicate that the repeal of the tip credit does not cause any kind of chaos in the industry.

What the committee bill does is it lets the employer keep $8 a day of the money that the gentleman and I and other people of this country leave for the waiter or the waitress, or other persons, as a gratuity. We are not saying they cannot keep any of the money we leave. They can still put $8 a day that is left by customers, not for the employer but for the service employee, in their pocket, and it takes 3 years to get to that point. They can keep more. They can keep $1.15 an hour, $1.10 an hour, or $1.05 an hour, and then it stops at $1. I do not think that is unfair.

When people go into a restaurant, I do not think they believe they are putting money into the boss' pocket. I do not think they really believe when they leave a tip that Conrad Hilton needs that extra 50 cents, 75 cents, or $1 that they leave. We are asking for equity for people to see that they get the minimum wage. That $1.15 an hour can be taken away and from us as the customer, and then $1.10, but at the end of the period no more than $1 an hour.

The experience in our State has been that business does not suffer, that business is getting expanded, that prices do not skyrocket—they remain relatively stable, and in the 2-year period there was a lower increase than they were at in the past prior to the repeal of the credit, so I do not think that affects the economic situation.

I really urge the Members to defeat this amendment because I really think that at the end of 3 years $8 a day per employee is enough for the Hilton Corp. or some of the other corporations. I do not know anybody in America who leaves a tip for a waiter or waitress that really expects they are leaving it for the owner of the establishment.

I thank the gentleman for yielding.

Mr. MILLER of California. Mr. Speaker, I yield to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Chairman, I just want to relate something that happened to me several years ago when this question came up in California and I was unsure what to do. I stopped in the San Francisco airport on my way to Sacramento on the way to the State legislature. I was served a hamburger by a woman who recognized me although I did not know her. She said: "I want to talk to you a minute about this job and about the tip situation. I have been a waitress for 27 years and worked every day of my life because I have to. It is a lousy, dirty, tiring job. My feet hurt. They are flat. I have arthritis because of this job and the employer takes out of my pocket money nobody else knows he gets when customers leave the tips for me. If there is nothing else you have ever done in your life, please recognize this job is for those people who cannot do anything better. That tip credit ought to be abolished because it is an unfair kind of tax and an unfair and hidden support for men who own the restaurant. That money does not belong to the owners at all. It belongs to me. I earned it, by smiling when I am in pain, by being polite when I am angry.

I saw an ad in the Washington Post this morning that said somehow it would be a terrible thing to happen if this tip credit was not retained. I think that is totally false. This tip credit should be abolished. That money belongs totally to the hard working men and women who earn it with their aching backs and tired feet.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, we have often heard it said: "You cannot have your cake and eat it too." But in this instance that old truism is without validity because if we support this amendment we can have our cake and eat it too because we will have the best of all worlds.

First of all we are going to insure, and the record speaks for itself, that those affected by this amendment, those working in the service industries will make more money. Their income will be higher than it would otherwise be if the provisions of this bill are allowed to become law and effective.

Second, the cost of food is going to be cheaper to the consumer and that is what I mean about having one's cake and eating it too because we would have the better part of both worlds.

But there is another bonus. There will be additional jobs for Americans who want to work. The purpose of a minimum wage bill is supposed to be to provide a better level of income for the working people of this country. We have heard it said that we need a minimum wage bill because there are some who will not pay a similar wage without it. In this instance I do not believe that the Government needs to establish without any option on the part of the employee what his salary ought to be. To do so would be to stifle initiatives and decrease income. If this was the case, I do not believe that what I have found would be what I think exists almost universally.

The people in these jobs in my part of the country and elsewhere have said to me that they want to preserve the tip credit. I do not believe for one moment they would be interested in the preservation of this tip credit if it did not offer the potential for more income to them.

Now, we have heard statistics about how this has affected the restaurant business in California, the employment and the income in California. I would suspect, and perhaps you would agree with me, that maybe the reason there are more jobs in restaurants in the State of California stems from the fact that California has more population and restaurants now than they have had in recent years, or else they would not under the one-man-one-vote rule have more Members here in the House of Representatives from California.

I would suspect as well that the price of food has gone up in California in relation to this and all other factors; but the point is that the working people who are in these industries, this industry, want this tip money preserved. I do believe that we have the best of both worlds by preserving this tip credit. I would urge support for this amendment.

PERFECTING AMENDMENT OFFERED BY MR. ALLEN

Mr. ALLEN. Mr. Chairman, I offer a perfecting amendment to the text of the bill.

The Clerk read as follows:

Perfecting amendment offered by Mr. ALLEN: Strike out "(1)" in line 7, page 9. Strike out language following "(B)" on line 11, page 9, and substitute therefor the following: "by changing the period at the end of said sentence to a comma, and by adding after said comma the following: 'but in no event shall such tip credit exceed $1.35 an hour.' "

Strike out subsections "(2)", "(3)" and "(4)", beginning on line 14, page 9, in their entirety.

Mr. ALLEN. Mr. Chairman, the tip credit provision of the committee minimum wage bill has aroused more concern than any other provision among my constituents. I have received literally volumes of mail, both from employers of those who customarily earn tips and from tipped employees themselves. I have talked to many citizens in my district who fall into both categories. Not a single constituent of mine—I repeat, not a single constituent of mine—who either works for tips or who hires tipped employees has expressed themselves as being in favor of reducing the credit.

I am convinced that employers are not just being rhetorical when they tell me that a reduction of the tip money would cause them to raise prices and then, to keep their customers, establish a no-tipping policy, or print on their menus that the prices charged include tips to their waitresses. The tipped employees themselves tell me that they are presently making much more than the minimum wage by virtue of tips and that they cannot afford to lose tips.

As a result, I am offering an amendment to retain the tip credit as it is, at 50 percent, with only one additional provision; namely, to put a ceiling on tip credits of $1.35 at the end of 3 years.

This seems to me to represent an eminently fair adjustment of the two conflicting sides of this debate on tip credit.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I am happy to yield to the distinguished gentleman.

Mr. PERKINS. Mr. Chairman, let me see if I understand the amendment of the distinguished gentleman from Tennessee. Is the gentleman proposing to let the credit remain at 50 percent in the first year?

Mr. ALLEN. All the way through at 50 percent, but never to exceed $1.35 per hour credit.

Mr. PERKINS. Well, $1.35, and not to exceed a ceiling of $1.35 the first year?

Mr. ALLEN. No, all the way through.

Mr. PERKINS. All the way through?

Mr. ALLEN. Yes.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Minnesota.

Mr. QUIE. Whatever the gentleman's amendment means, there could not be a 50 percent tip credit the second year be-

cause, under the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) allowing a minimum wage of $2.85, the credit does not reach 50 percent. The gentleman is beginning to hold the credit down below 50 percent.

Mr. ALLEN. The gentleman is exactly correct. It is trying to meet a middle ground on this matter between contending forces. It is 50 percent, but not to exceed $1.35 tip credit. This seems to me to be an eminently fair adjustment of the two conflicting sides of this debate on tip credit.

I certainly feel it would be a disservice to tipped employees to lower the tip credit when they themselves stand to be the losers in such treatment.

I may say to some Members who may be inclined to vote with the committee first, that they can vote for this first and then vote for the committee bill; in other words, rejecting the bill on this when it comes up. I hope the Members will vote for this as a substitute amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the substitute amendment.

Mr. Chairman, just quickly in opposition to the amendment, I think the committee bill as reported was based upon the facts, which do not substantiate the continuation of extracting from tipped employees 50 percent of their wages, and seeks to reduce that proportionate amount then into the equitable phase to a $1 level. I think the substitute amendment offered by the gentleman from Tennessee goes in the wrong direction. It simply delays the right solution, which is extracted by the employers. I think the committee bill as it currently stands is the proper position. I ask for a no vote on the Allen substitute.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Tennessee (Mr. ALLEN).

The perfecting amendment was rejected.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Quie amendment.

Mr. Chairman, I think there are just one or two points I would like to make, not to belabor the debate on this issue or drag out the time of debate. We are talking, when we talk about the tip credit, about employees who make $6, $8, maybe $10 an hour. It is not a question as to whether these people are making the minimum wage because they are all making well over the minimum wage. They are guaranteed under the law as it exists that they will get at least the minimum wage, and practically guaranteed that they are going to get more than the minimum wage.

I think when we talk about wages in terms of tip credit, it sounds as though it is something of an advanatge to the employer. It is a limitation on the employer.

Let me give the Members an analogous situation which I think we can relate to. We are all aware that under the tax code businessmen are able to deduct all of their business expenses, all legitimate business expenses, and whatever they amount to they can deduct them from their gross income before paying their taxes. For Members of Congress, we have a special provision that is often related in the newspapers as being a great advantage given to the Congress.

Do the Members know what that advantage is? We are limited to $3,000 in expenses, even though we may spend $10,000 or $12,000, or whatever it might be, in expenses. We are limited. We can only take a credit of $3,000.

The tip credit is just the same. These employees' total income is a combination of what their employer pays them in salary, plus what they earn at the place of business in tips. If we were to treat them like all other employees, we would say that we would credit the employers' obligation whatever amount they got in tips. We have not. We have limited employers, just as we have limited Members of Congress in the tax law, by saying that the employer can only take a credit of up to 50 percent if the employee actually gets 50 percent or more of his wage in tips.

As a matter of fact, bartenders, waiters, and waitresses, as I say, are usually making 2, 3, or 4 times the minimum wage. There is no rationale for repealing or reducing this credit. The proposal is not supported by the administration. As a matter of fact, I do not understand why the leaders of the union representing these people would be in favor of it, because its net effect would be to reduce employment and reduce the incomes of the very people they are supposed to be representing.

Mr. Chairman, I urge the Members to support the Quie amendment and maintain the tip credit.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I want to thank my colleague, the gentleman from Illinois (Mr. ERLENBORN), for giving what I believe is a clear, precise, and accurate account of the problem before us.

I sat back—during hearings in the committee—in wonderment as I listened to statements that the employer is pocketing some certain fund. Does the gentleman from Illinois have any concept—I do not—of what money they are referring to which the employer can pocket and which a waiter or waitress receives?

Mr. ERLENBORN. I would like to answer the gentleman that if the employer takes any portion of the tips, it is contrary to the law as it exists today and he can be prosecuted.

Mr. ASHBROOK. If the gentleman will yield further, the gentleman has correctly stated the case.

There is no advantage to the employer. As has been well pointed out, the advantage is to the employee.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. Chairman, I strongly associate myself with the remarks of the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Minnesota (Mr. QUIE). A vote for the Quie amendment is a vote for the employees here concerned.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Mr. Chairman, I would point out that many employees have contacted the Members, and the Members know that the employees do not want what is in this bill. The employees support the Quie amendment, and some of them so testified in our hearings.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 161, not voting 9, as follows:

[Roll No. 549]

AYES—264

Abdnor	Dodd	Jeffords
Allen	Dornan	Jenkins
Ammerman	Duncan, Tenn.	Jenrette
Anderson, Ill.	Edwards, Ala.	Johnson, Colo.
Andrews, N.C.	Edwards, Okla.	Jones, N.C.
Andrews, N. Dak.	Emery	Jones, Okla.
Archer	English	Jones, Tenn.
Armstrong	Erlenborn	Jordan
Ashbrook	Ertel	Kasten
Ashley	Evans, Del.	Kastenmeier
Badham	Evans, Ga.	Kazen
Bafalis	Fenwick	Kelly
Barnard	Findley	Kemp
Bauman	Fisher	Keys
Beard, R.I.	Flippo	Kostmayer
Beard, Tenn.	Florio	Krueger
Benjamin	Flynt	Lagomarsino
Bennett	Ford, Tenn.	Latta
Boggs	Forsythe	Leach
Bowen	Fountain	Lehman
Breaux	Fowler	Lent
Breckinridge	Frenzel	Levitas
Brinkley	Frey	Livingston
Brooks	Fuqua	Lloyd, Calif.
Broomfield	Gammage	Lloyd, Tenn.
Brown, Mich.	Gaydos	Long, La.
Brown, Ohio	Gephardt	Long, Md.
Broyhill	Giaimo	Lott
Buchanan	Gibbons	Lujan
Burgener	Ginn	Luken
Burke, Fla.	Glickman	McClory
Burleson, Tex.	Goldwater	McCloskey
Burlison, Mo.	Goodling	McDade
Butler	Gore	McDonald
Byron	Gradison	McEwen
Carr	Grassley	McHugh
Carter	Gudger	McKay
Cederberg	Guyer	McKinney
Chappell	Hagedorn	Mahon
Clausen, Don H.	Hall	Mann
Clawson, Del	Hamilton	Marks
Cleveland	Hammer-schmidt	Marlenee
Cochran	Hanley	Marriott
Coleman	Hansen	Martin
Collins, Tex.	Harrington	Mathis
Conable	Harris	Mattox
Corcoran	Harsha	Mazzoli
Cotter	Heckler	Michel
Coughlin	Hefner	Milford
Crane	Hightower	Miller, Ohio
Cunningham	Hillis	Minish
D'Amours	Holland	Mitchell, N.Y.
Daniel, Dan	Hollenbeck	Moffett
Daniel, R. W.	Holt	Montgomery
Davis	Hubbard	Moore
de la Garza	Huckaby	Moorhead, Calif.
Derrick	Hughes	Mottl
Derwinski	Hyde	Myers, Gary
Devine	Ichord	Myers, John
Dickinson	Ireland	Natcher
	Jacobs	Neal

Nichols	Satterfield	Tsongas
O'Brien	Sawyer	Tucker
Obey	Schroeder	Udall
Pattison	Schulze	Ullman
Pease	Sebelius	Volkmer
Pettis	Shuster	Waggonner
Pickle	Sikes	Walker
Poage	Skelton	Walsh
Pressler	Skubitz	Wampler
Preyer	Smith, Nebr.	Watkins
Pursell	Snyder	Whalen
Quayle	Spellman	White
Quie	Spence	Whitehurst
Rahall	St Germain	Whitley
Railsback	Stangeland	Whitten
Regula	Stanton	Wiggins
Rhodes	Steed	Wilson, Bob
Risenhoover	Steers	Wilson, Tex.
Roberts	Steiger	Winn
Robinson	Stockman	Wirth
Rogers	Stratton	Wydler
Roncalio	Studds	Wylie
Rose	Stump	Yatron
Rousselot	Symms	Young, Fla.
Rudd	Taylor	Young, Mo.
Runnels	Thone	Young, Tex.
Ruppe	Treen	
Sarasin	Trible	

NOES—161

Addabbo	Edwards, Calif.	Nolan
Akaka	Eilberg	Nowak
Alexander	Evans, Colo.	Oakar
Ambro	Evans, Ind.	Oberstar
Anderson, Calif.	Fary	Ottinger
	Fascell	Panetta
Annunzio	Fish	Patten
Applegate	Fithian	Patterson
Aspin	Flood	Pepper
AuCoin	Flowers	Perkins
Badillo	Foley	Pike
Baldus	Ford, Mich.	Price
Baucus	Fraser	Pritchard
Bedell	Gilman	Rangel
Bellenson	Gonzalez	Reuss
Bevill	Hannaford	Richmond
Biaggi	Harkin	Rinaldo
Bingham	Hawkins	Rodino
Blanchard	Heftel	Rooney
Blouin	Holtzman	Rosenthal
Boland	Horton	Rostenkowski
Bolling	Howard	Roybal
Bonior	Ketchum	Russo
Bonker	Kildee	Ryan
Brademas	Koch	Santini
Brodhead	Krebs	Scheuer
Brown, Calif.	LaFalce	Seiberling
Burke, Calif.	Le Fante	Sharp
Burke, Mass.	Lederer	Shipley
Burton, John	Leggett	Simon
Burton, Phillip	Lundine	Sisk
Caputo	McCormack	Slack
Carney	McFall	Smith, Iowa
Cavanaugh	Madigan	Solarz
Chisholm	Maguire	Staggers
Clay	Markey	Stark
Collins, Ill.	Meeds	Stokes
Conte	Metcalfe	Thompson
Conyers	Meyner	Thornton
Corman	Mikulski	Traxler
Cornell	Mikva	Van Deerlin
Cornwell	Miller, Calif.	Vander Jagt
Danielson	Mineta	Vento
Delaney	Mitchell, Md.	Walgren
Dellums	Moakley	Waxman
Dicks	Mollohan	Weaver
Diggs	Moorhead, Pa.	Weiss
Dingell	Moss	Wilson, C. H.
Downey	Murphy, Ill.	Wolff
Drinan	Murphy, N.Y.	Wright
Duncan, Oreg.	Murtha	Yates
Early	Myers, Michael	Young, Alaska
Eckhardt	Nedzi	Zablocki
Edgar	Nix	Zeferetti

NOT VOTING—9

Cohen	Kindness	Roe
Dent	Murphy, Pa.	Teague
Johnson, Calif.	Quillen	Vanik

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Dent against.

Messrs. APPLEGATE, KETCHUM, WALGREN, and MOLLOHAN changed their vote from "aye" to "no."

Mr. LEHMAN and Mr. LLOYD of California changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to section 3?

If not, the Clerk will read.

The Clerk read as follows:

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS AND FORESTS AND IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 4. (a)(1) Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting before the semicolon the following: ", except that this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture".

(2) Section 13(b) (29 U.S.C. 213(b)) is amended (A) by striking out the period at the end of paragraph (28) and inserting in lieu thereof "; or", and (B) by adding after such paragraph the following new paragraph:

"(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. There being no amendments to section 4, the Clerk will read.

The Clerk read as follows:

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 5. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

The CHAIRMAN. There being no amendments to section 5, the Clerk will read.

The Clerk read as follows:

SHADE-GROWN TOBACCO EMPLOYEES

SEC. 6. (a) Section 13(b)(22) (29 U.S.C. 213(b)(22)) is repealed.

(b) The amendment made by subsection (a) shall take effect on January 1, 1978.

The CHAIRMAN. There being no amendments to section 6, the Clerk will read.

The Clerk read as follows:

EMPLOYEES OF CONGLOMERATES

SEC. 7. (a) Section 13 (29 U.S.C. 213) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Subsection (a) (other than paragraphs (1) and (7) thereof) and subsection (b) (other than paragraphs (1), (2), and (3) thereof) shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated)."

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 12, strike out the period in line 9 and insert in lieu thereof a comma and the following: "except that the exemption from section 7 provided by paragraph (8) of subsection (b) of this section shall continue to apply until January 1, 1979, with respect to any employee of an establishment which is a restaurant.".

The CHAIRMAN. The gentleman from Minnesota (Mr. QUIE) is recognized for 5 minutes in support of his amendment.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, this amendment is acceptable. As I understand it, this brings the section into conformity with another section already acted upon.

Mr. QUIE. That is correct. The section we have already enacted takes 2 years to bring the restaurants down to 40 hours or overtime would have been required. In 1978, restaurants would have been reduced from 46 hours to 44 hours.

The gentleman's bill would have moved restaurants of conglomerates to 40 hours immediately, leaving them at a competative disadvantage during 1978.

This brings section 7 into conformity with section 5 of this bill.

Mr. PHILLIP BURTON. That makes it acceptable to this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the last word and I rise to speak in favor of the section.

Mr. Chairman, this section has been known as the conglomerate section. It provides that without regard to the form of the business organization, if their gross economic activity exceeds $100 million a year, that then none of the coverage exemptions will apply to any entity of such a business organization. It does not disturb the provisions on student employ-

ment. It does not disturb the provisions on handicapped employment.

Pursuant to a question asked by one of my colleagues, I would like to state the following:

The provision is not intended to deny the overtime exemption contained in existing law to a farmer simply because he may rent land from a conglomerate which itself would be ineligible for the exemption if it operated the farm. If the farmer pays cash rent or a share of the crops produced—usually one-third or one-fourth—as rent, and the farmer's relationship with the conglomerate is that of a bona fide independent contractor, then, under those circumstances, the farming operation is not controlled by the conglomerate and the overtime exemption provided in the law would apply to employees on the farm to the extent it would otherwise apply in the absence of this provision.

I have, among other things, long believed that one of the more pernicious aspects of our economy was permitting the giants of the giants to escape from minimum wage or overtime coverage and an evil that is visited upon our world economy where half a dozen of the major corporations in the world still have an overtime exemption.

So one of the effects of this amendment is going to put the $100 million a year corporate farm operators either out of the farm business or they are going to start paying overtime after 40 hours per week.

AMENDMENT OFFERED BY MR. MILFORD

Mr. MILFORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILFORD: Page 11, line 20, strike out "and" and insert in lieu thereof ", (3), and".

Mr. MILFORD. Mr. Chairman, I do not want to argue with my friend, the gentleman from California. I do not disagree with what the gentleman is trying to do, necessarily, with the agribusiness conglomerates. I do not know anything about their situation.

I do know that the provisions in this bill are going to affect some other interests that I do not think even the gentleman from California intended to be affected.

Now, my amendment is a simple one. Furthermore, it has nothing to do with the agribusiness argument.

It merely retains in section 7 of the bill, the existing exemption for seasonal recreational parks, to the minimum wage and overtime provisions, presently in the law.

This exemption was originally enacted in 1961 when it was recognized—after extensive hearings—that amusement and recreational parks open for business only during certain months of the year presented an unusual and unique situation. That is, these businesses were totally dependent upon receipts from a very limited period for their survival.

This exemption was further narrowed through legislation enacted in 1966 which defined "seasonal" as those businesses which operated for less than 7 months every year or ¾ of whose annual receipts fall within a 6-month period.

Section 7 of this bill removes this exemption for seasonal recreational parks if they are owned by or affiliated with other unrelated businesses that collectively have annual revenues of over $100 million. Of the 20 seasonal amusement and recreational parks located throughout the United States, at least 13 would fall into this category.

Theme parks had their beginning during the late 1950's and early 1960's with the creation of Disneyland in California—which is now a year-round park—and Six Flags Over Georgia. These were almost instant successes. Why? Simply because they offered a wide variety of entertainment and enjoyment at a reasonable price. They were ideal for families with limited incomes who could not afford to spend a great deal of money for a vacation or holiday outing.

As a result of their success, the theme park idea quickly spread throughout the country. Last year 3 million people visited these parks, which I believe attests not only to their popularity as a form of entertainment but also to the fact that "a day at the park" is within the reach of the budget of almost every family.

Because they operated during the summer months and because they were fun places to work, young people naturally gravitated to them for summer employment. As a result, the parks found that they not only had a wide appeal to youngsters but actually benefited by their presence because of their natural exuberance and enthusiasm—which their guests enjoyed and came to expect. Any of you who have visited these parks will know just what I mean.

The exemption enacted in 1961 made it possible for these seasonal recreational parks to hire thousands of young people while keeping their ticket prices at a reasonable level. Jobs were created for them which would have been difficult to fill with an older, more experienced worker or which could easily have been substituted with automated or mechanized equipment.

Due to the fact that their seasonal employees were mainly high school and college age young people, the parks began to institute special programs and activities especially for them. Today these includes organized sports and sports facilities, special concerts, afterhours parties, and free family passes. They created scholarship programs as well as talent recognition and management development programs which give these youngsters an opportunity to grow and which challenges them to take on additional responsibilities if they so desire.

Perhaps more than any other industry in the United States today, recreational amusement and theme parks have invested heavily in the young people of this Nation and I believe that we all have benefited from it.

Out of the 20 theme parks falling under the present minimum wage and overtime exemptions in the law, 13 are owned by conglomerates and would be severely affected by section 7 of the bill we are considering today.

These parks employ 44,500 seasonal employees, 90 percent of which are high school and college age. Under this bill, it has been estimated that, given a $3 minimum wage, additional costs to these parks would reach upward to $14 to $15 million per year. Overtime provisions would raise that amount even higher. This increase would mean that these parks would have to, by necessity, change their operations drastically. It would mean hiring fewer young people, turning to automation or raising ticket prices—or all three. I believe this would be a tragedy.

Last month the President signed into law a $1 billion bill to provide 200,000 to 300,000 jobs for young people. Last year when our national unemployment was standing at 7.7 percent, 19 percent of these were teenagers between the ages of 16 and 19, and 12 percent were young people 20 to 24. It seems inconceivable to me that what we give with one hand, we take away with the other.

Mr. Chairman, my amendment will allow these 13 parks to continue operating as they have in the past.

Incidentally, for those Members who may be planning to vote for the youth exemption, we still need to pass this amendment. Voting for the youth exemption will not solve this problem. I plead with all the Members for their aye votes on this amendment.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Texas, who just spoke in the well, stated the point accurately. This amendment does not affect the youth exemption at all. It does not affect it at all. These organizations are subject to the student minimum in the current law.

I would like to rise to note in part the "mom and pop" nature of some 18 or 19 of these amusement parks—so-called They are highly specialized theme parks. That well-known welfare recipient, Penn Central, has a third of these theme parks. Another third is owned by a couple of other $100-million-a-year "mom and pops," and the balance are not affected at all. They are not affected at all because they do not do business as part of a business organization that does more than $100 million of business a year. I think that should pretty well say all of it.

Mr. McCLORY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from Texas (Mr. MILFORD).

Mr. Chairman, I do not believe we should be acting on legislation today on the basis of the size of corporations, or by expressing our hostility toward employers of some 60,000 young people in this country. I will say that I have a great America theme park owned by the Marriott Corp. in my congressional district in Illinois which employs 3,000 young people. They are high school students, primarily, with some college students as well.

I have had occasion to visit the park and talk with some of the young people

employed there. I would say that the seasonal theme parks are peculiarly well suited to the high school and college students who find seasonal summer employment there. They appear to be the best equipped to handle this kind of operation as contrasted to other types of employees.

I certainly see no basis for condemning or punishing the corporations that established these parks and who invest millions of dollars in order to provide these job opportunities for these young people. As a matter of fact, I want to laud them and say that if we can get more private enterprise involvement, if more people would employ more young people, and particularly more minorities, then, by our actions, we would be performing the greatest service possible. We have blacks and whites working side by side at this particular theme park in Illinois. I have visited with them. They like their work; they come back one summer after another during their high school years. In addition, they work along side of other young people they enjoy being with.

There are many other benefits provided for these young people. They gain valuable work experience and they earn money so that they can help pay their own way when they go to college. I do not know why we should condemn corporations that provide such vital job opportunities and side benefits to some 60,000 students in seasonal work.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. The gentleman could not possibly be discussing before the Members of the House—I hope the gentleman is not—that just organizations that do $100 million worth of business a year are going to have to lay off students.

There is nothing in this provision that alters whatever students minimums are currently available. Nothing at all.

Mr. McCLORY. I would say this: Unless we reserve, unless we continue this exemption, we are going to convert the kind of employee who have jobs today in these theme parks. My own observation is that young people are particularly well suited to this kind of employment.

Let me say further that the current minimum wage or more is paid, as a matter of fact, at Great America—in my Illinois district. Of course, on weekend employment we get into the question of overtime, and other provisions of the law, for which the exemption is applicable. And unless the exemption is continued this type of employment of young people may end. I do not think we can take senior citizens or other types of persons and put them in these same jobs and continue the same kind of environment that is characteristic of our theme parks today.

So what we are talking about is something that is of special interest to young people and young minorities, as well. We are talking about a tremendous opportunity. We do not want to discourage such employment of minorities and young people. If we do discourage such seasonal employment—and establish artificial wage scales and make it more expensive and less accessible for consumers, then we are damaging the consumers or patrons of our theme parks—and our actions will have serious—even though unintended results.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I am very glad the gentleman made that last statement. There has been an effort to talk in terms of $100 million. We are not talking about amusement parks worth $100 million, with $100 million in receipts or $100 million in profits, we are talking about amusement parks that might be owned by a large business. I am glad the gentleman made that point, because the consumer is the person who is going to go to the parks and he will pay more if this amendment does not pass. The family we are talking about and, indeed, the employee, will be hurt by the committee bill.

They are trying to make it look as a business interest, and we are speaking in terms of the employee.

I am glad the gentleman made the point.

Mr. McCLORY. The gentleman is precisely right. It would single out the conglomerates and would not apply at all to a company which did not happen to be a conglomerate.

Mr. Chairman, approximately 60,000 persons are employed annually by seasonal amusement parks in America. The vast majority of these employees are nonheads of households—local high school and beginning college students—because of the seasonal nature of the business. And, of course, as major employers of young people, these parks would be seriously burdened by elimination of the youth differential in the minimum wage law.

Marriott's two Great America theme parks—located in Santa Clara, Calif., and in Gurnee, Ill.—operate on weekends in the spring and fall, and daily in the summer months. They have a combined seasonal employment of about 7,000. Approximately 26,000 individuals applied for these 7,000 jobs this year. Only one out of every four applicants could be hired. Community, public and service groups have actively supported and endorsed the parks' efforts to provide meaningful work and developmental experiences for the thousands of young people who are employed at Marriott's Great America each year.

Jobs in such parks are highly sought after by youngsters who want to gain work experience in a fun-loving environment. Parents enthusiastically support and encourage their children to work at the parks. They realize that wholesome work experiences help young people avoid many problems rampant in today's society. Such wholesome work experiences are increasingly difficult to find.

Educational opportunities are also provided for Great America employees. In fact, many of them are participants in accredited education programs. Students from colleges which offer training in the food and hospitality industry may receive college credit for special work and classroom instruction. One college has provided a full-time instructor-coordinator at the Gurnee, Ill., park to supervise the educational work experiences of students employed at the park.

By working with all community groups and actively searching out employees from all ethnic groups, Marriott's Great America maintains commendable ratios of minority employment. Jobs are provided on a non-discriminatory basis and opportunities for advancement are based on job performance, thus assuring equal opportunity for all employees.

Opportunities for youth provided by seasonal parks in America meet a great need for our young people. It is in the best interest of our Nation to encourage such business enterprises which provide worthwhile work experiences and career development for youngsters. We know that the proposed minimum wage bill would be a disincentive to such business enterprises. The legislation would have the effect of reducing employment among a segment of our population urgently in need of increased employment. That is why I support continued exemption from the requirements of the minimum wage act for those employed by seasonal recreation parks, and a youth opportunity rate for young people seeking constructive work experiences.

Mr. Chairman, I hope the amendment offered by the gentleman from Texas (Mr. MILFORD) will be adopted.

Mr. ERLENBORN. Mr. Chairman, I would like to rise in support of this amendment and associate myself with the remarks of my colleague, the gentleman from Illinois (Mr. McCLORY).

Mr. Chairman, I would point out to the gentleman from California, who authored this section, that he is exhibiting an irritation and pique at big business. He indicated that any business which has large gross receipts ought not to enjoy any privileges under this act. Of course, he seems to be totally insensitive to what this amendment would do to the employment opportunities for young people. He also, I think, is exhibiting gross ignorance regarding mathematics. What he is telling us is that if they have gross receipts of $100 million, they are capable of paying anything. That really is not true if their gross outlay is $110 million. If he had some sort of a test here as to net income, rather than gross receipts, it might make some sense. But the test here is: if you have a lot of receipts, even though you go into a bankrupt condition and money is flowing out faster than it is coming in, then you are going to be penalized and treated differently than others under the law who have these exemptions which were meant to create incentives and create jobs for young people.

Let us not take these young people's jobs away from them merely because some of us do not like big business.

Mr. Chairman, I yield back the balance of my time.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleague, the gentleman from Illinois (Mr. ERLENBORN), I am sure, must know, by requiring that these hundred-million-dollar-a-year operations pay the minimum wage, we would, therefore, be encouraging them to hire young students because then they could pay them 85 percent of the minimum wage rate. The gentleman must know that. Right now they can pay anything or nothing. Students and nonstudents alike have parity of wages or lack of parity, depending upon what the individual structure is with reference to the individual employee and the individual employer.

But the fact is if they are required under the law to pay a minimum wage, then they would be in the situation where the hiring of student youth would be encouraged because they could pay 15 percent less.

Mr. Chairman, I yield back the balance of my time.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. ERTEL. Mr. Chairman, we have a particular situation in Pennsylvania to which I would like to make reference. We have what is called Hershey Park.

Hershey Park is owned and controlled by the Herco, which is a charitable foundation organized for orphaned boys in the State of Pennsylvania, and its money goes for that purpose. The Hershey Estates is also connected with Hershey Foods, although that is only a part of it. As a result of that affiliation, they will come under the conglomerate rule, and, therefore, Hershey Park will have to pay the minimum wage as established in this bill to students and young people who go to work for 120 days a year. They will also get caught up in the overtime provisions during the peak periods of a particular month.

I would be willing to support the idea of not adopting this amendment if there were a way to cut out this particular institution, but there are other theme parks in Pennsylvania that come under the hundred-million-dollar-a-year conglomerate rule, and they will have an economic advantage over Hershey Park by being able to pay less and, therefore, hurting the orphaned boys and girls who depend on the income coming from that operation.

There is also a medical school that is funded from proceeds of Hershey Park. There is a big medical school that just got money from the Hershey Trust; it was fully funded by this particular operation.

If the bill or the conglomerate provisions had been different, we would not need this exception for theme parks, but because of this particular situation, it seems to me that for this specialized industry, which is only in operation for a very small part of the year, an exception should be granted so that they are all on an equal basis and so they can compete equally.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. ERTEL) on his statement. Then I would like to say further that the theme park in my district pays the minimum wage or more than the minimum wage with respect to all its employees.

As the gentleman states, the exemption applies to all sections of the Fair Labor Standards Act, so the question of overtime does come into play, as well as other provisions. The hourly provisions also come into play because on weekends the young people do work more than the maximum of 8 hours, and so it is important that they have that opportunity to work on weekends.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for his statement.

Mr. Chairman, I might point out that the park at Hershey pays $2.25 to $2.30 an hour now, and they are worried about the overtime periods.

The other issue is that they may mechanize and reduce costs, cutting out jobs for these 1,800 students who depend on these jobs for help in getting them through high school and college.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I would like to associate myself with the remarks of my neighbor and colleague, the gentleman from Pennsylvania (Mr. ERTEL).

Mr. GAMMAGE. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Texas.

Mr. GAMMAGE. Mr. Chairman, I find myself in a similar situation with the gentleman from Pennsylvania. I have a facility in my district, in the Houston area. It is called Astroworld.

Regardless of the fact that many of these operations are affiliated with conglomerates by one device or another, they are finding themselves having to make ends meet in their own right.

No. 1, I think it is desirable to keep the admission price to these facilities as low as possible so they are accessible to the general public.

No. 2, they provide employment opportunities for students during the summer months, during the period from Memorial Day until past Labor Day, that might not otherwise exist. They provide job opportunities and job training that these students might not otherwise get. They receive training they might not otherwise have.

These operations do not displace breadwinners for the most part. They do not displace year-round employees that have families to support. It is a pocketbook situation. Some of these students do in fact put themselves through school as a result of these employment opportunities.

But the bottom line of this is that regardless of these financial arrangements, the parks must sustain themselves or they will not stay open. The parks will not stay open if they have to raise prices; they have to be self-supporting. They may price the public out of the market by driving up their costs of admission, and they may drive their present employees out of the market, because if they put regular employees in there and the prices go up, the whole thing will be lost.

The reason I say that is that it has occurred with respect to the Astroworld situation on more than one occasion. That park has changed hands insofar as its affiliation and ownership are concerned. It is finally a going and a beautiful operation. It does a tremendous business and hires students every year. It is a unique operation.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(On request of Mr. GAMMAGE and by unanimous consent, Mr. ERTEL was allowed to proceed for 2 additional minutes.)

Mr. GAMMAGE. Mr. Chairman, will the gentleman yield further?

Mr. ERTEL. I yield to the gentleman from Texas.

Mr. GAMMAGE. Mr. Chairman, as has previously been pointed out, these parks could be mechanized and a different class of employee could be brought in. It would make it more expensive as far as the park's accessibility is concerned and would deprive these young people of opportunities they might not otherwise have. They must sustain themselves in order to survive regardless of their affiliation.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for his excellent comments and excellent analysis.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. GAMMAGE) and the gentleman from Pennsylvania (Mr. ERTEL).

In my own State of Ohio we have two amusement parks, one in the northern part of the State and the other in the southern part of the State, near my district. The one in the northern part of the State is independent, and the other one near my district is owned by a broadcasting station and technically, therefore, would come under this rule.

Therefore, Mr. Chairman, I think because of the employment opportunities and because of the situation suggested by the gentleman from Texas (Mr. GAMMAGE), I would associate myself with his remarks; and I support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to raise one other question with respect to this whole business of conglomerate-owned amusement parks versus independently owned amusement parks.

During the summer when school is out, my family spends a good part of their time visiting those amusement parks which have already been discussed, the two in Ohio, the conglomerate-owned one and the privately owned one. This summer I joined them for a visit at an amusement area that is owned by an

even larger conglomerate than the one to which the gentleman from Ohio (Mr. LUKEN) referred. It is a State park, owned and operated by the State of Ohio, which, in effect, is competitive with those other amusement parks which have more rides and things of a carnival nature.

At one State park near us there is a canal boat ride operated by young students. There are older people, women for the most part, doing demonstrations of weaving and making things that are available to be purchased. As one visits these State-owned parks, he pays admission and for the special rides just as he does in a conglomerate-owned or other privately owned park.

All that I am saying is leading up to a question directed to some member of the committee on the majority or minority side. The question is, Are the people who work in State-owned parks subject to the minimum wage and the overtime hours law?

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. PHILLIP BURTON. To answer the gentleman, Mr. Chairman, they were and may still be covered. We put them under the law. There was a court decision that may have affected that coverage. A particular State may have a State law, but they were under Federal law, and may still be under Federal law depending on the relationship of their activities to traditional governmental functions.

If I might note—and I am happy that the gentleman raised this question—we covered the State parks, but we did not want to hurt the big ones.

I have watched the debate with interest, and all of us have constituencies whose concerns it is important to express here on the floor. However, I must come back to the basic numbers.

There are, roughly speaking, 19 or 20 of these theme parks. One-third of them are owned by Penn Central. The gentleman worked on that matter, as I understand. I do not know how many millions and millions of dollars of taxpayers' money we have in Penn Central.

Mr. BROWN of Ohio. Mr. Chairman, if I may interrupt, I do not mind the gentleman making a speech on my time if I can be assured of securing more time because I got my own 5 minutes for my own remarks. Will the gentleman assure me that I can receive additional time?

Mr. PHILLIP BURTON. I will try to do so.

Mr. Chairman, if the gentleman is stating that he would like to have us cover all of the parks I would be glad to offer the amendment and I would hope the gentleman would support me.

Mr. BROWN of Ohio. No, I did not state that. What the gentleman from Ohio is concerned about is simply the fact that there are State-owned historical parks—operated by the State of Ohio and having some kind of a theme although perhaps I do not quite understand what a theme park is and there are also recreational areas operated by the State where employees are not covered by minimum wage. But for certain parks which are not State-owned amusement parks and some use themes and some do not we are going to try to cover the employees of some of these parks under the minimum wage and not cover employees of other parks under the minimum wage, based on who owns the parks. I must say that I am confused, because there is the State park where some nice housewife wants to go to work to demonstrate weaving. Visitors pay to get into that park and see weaving done, perhaps buy a sample of the weaving, but the people who work in that park are not covered by the minimum wage. The State, of course, is a tax-supported institution. It can pay the minimum wage if it wants to. Why should we require a conglomerate to do something a State does not have to do. Why should we have some small theme parks covered by the minimum wage and some large ones not covered, regardless of who owns them? I do not understand that. It seems to me we ought to cover all of them in the minimum wage or leave all of them out.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. We either ought to take all of these amusement and recreational areas out or we ought to put them all in. If we are interested in the jobs of these housewives and young people, whether they are driving a canal boat in a State park or a canal boat in a recreational park owned by people who own that park and nothing else, or whether they are driving a canal boat in a recreational park owned by some corporate organization which happens to own something else, it seems to me the logic of consistency would be applicable.

I am ready to agree with the Supreme Court and just say that none of these people should be covered by the minimum wage.

Mr. BLOUIN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, frankly I have taken as much of this debate as I can take. The argument the gentleman from Ohio (Mr. BROWN) makes is a good one, and can be made for every section of the minimum wage law wherever there is an exemption given, the fact is that we might be giving an unfair advantage to one type of business over another, but it seems to me if the gentleman from Ohio wants to carry his argument to the logical conclusion then he should vote against the minimum wage bill no matter what it looks like to him unless it had equivalent coverage, and I assume that that is probably what the gentleman from Ohio will do.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I am happy to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from Ohio usually makes his determination on the minimum wage vote, having voted on this questoin on several different occasions in past Congresses, on the basis of what he thinks it will do to job opportunities.

At the moment when there was low unemployment I supported the minimum wage bill, and when there was high unemployment, such as there is currently where the impact of putting people out of work, I usually vote against it.

Mr. BLOUIN. That argument the gentleman from Ohio now makes is slightly different from what he said earlier about the inequities existing between one competitor over another.

Mr. BROWN of Ohio. All I am trying to do is to have some kind of a logical pattern. There are certain industries that are covered by the minimum wage bill and others that are not. All I am trying to do is see whether or not in this area of the recreational and amusement park industry we cannot kind of get it all put together in some logical way. I do not understand the logic that says that a large corporate owner has to pay the minimum wage when we say that a State does not have to pay, and that is a conglomerate which is State tax run.

Mr. BLOUIN. My answer to that is the answer that the floor manager of this bill gave to the gentleman from Ohio a few moments ago—that the Supreme Court has said that the States have to be handled separately and we cannot control their minimum wage standards for their employees. So the logical answer that the gentleman is looking for is found within the Constitution of the United States. We can only go as far as that instrument will allow us to go.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to note that all Federal employees in the Federal parks, wilderness areas, and recreational areas are under the minimum wage. I would like to note further in action today already the concessionaires were clearly brought in under the law, even though it is my own view they have been covered long since by our Service Contract Act for minimum wage and overtime. So it is not that we do not have most of the employments in this area covered. It just so happens that there are 19 of these employment-type operations which I may note by and large are found essentially in the private sector, because the basic theme in the public sector being wilderness or parks and recreation is not to have the merry-go-rounds and the rest. I mean there are other places of the private sector for that.

The National Park System is designed mainly to provide open space and natural experiences as distinguished from this other perfectly valid method of recreation, if you will. So the conflict is not as grave as the gentleman might believe.

Mr. BLOUIN. I thank the gentleman from California. I agree with his comments.

Mr. Chairman. it seems to me that we are in a classic confrontation on this whole subject, especially in recreational areas, between those of us who like to play and those of us who have to earn a living off of their fun and games. I

have been at several amusement parks. We have kids at the right age. I enjoy them, and they enjoy them, and they are fairly cheap.

I think it is unconscionable to assume that it would be wrong to pay a minimum wage to those who make our pleasure more enjoyable, and that is really all this amendment directs itself to. When the minimum wage reaches a point that it becomes a severe economic hardship to a business to stay in business, then I think exemptions are needed. The bill and the present law attempt to speak to it in a more equitable fashion, but these are the smaller concerns that might not be able to stand the economic impact of a substantial increase on those small concerns.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. BLOUIN. This amendment is talking about large concerns in the hundreds-of-millions-of-dollars range, and they are in it only because there is good profit in that kind of amusement park. They are in it as well because they probably realize that the iron is hot, and there are some good profits for a short period of time until the fad changes.

There is nothing wrong with those profits but I do not think those profits should come at the expense of the employees who happen to work in an area where that is the only job they can find at that given time. I just do not think it is equitable to cut them out and not to establish some kind of a fair balance for the rest. I think the amendment is not in the interest of the bill, and I urge its defeat.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems as though we are being obliged either to be against large corporations or to be against orphans, and I suggest that is a very difficult choice for most of us. I think it is a much better thing to be for employment and to support the amendment of the gentleman from Texas.

At this point, H.R. 3744 has been significantly improved by the two amendments adopted today. The first eliminated the indexing proposal and the second retained the tip credit now in existing law.

Unfortunately, I was obliged to miss the vote on the elimination of indexing, but I strongly endorse that amendment and would have voted for it, had I been present. This Congress has indexed so many economic aspects of our life that indexation has ceased to be a protection and has become instead one of the most powerful engines of inflation.

Congress has been far too anxious to rely on indexes to do its work. Without indexation, Congress would be forced to review its work more regularly and intensively. The amendment will obligate Congress to do the job it should be doing on an ongoing basis.

The second major amendment restored the tip credit now in existing law. That credit is widely supported by restaurant employees and their employee organizations in my district and in my State. The employees' position on this matter is shared by their employers, and by consumers of meals outside of the home. Since all these groups support the tip credit, I am baffled by the committee's effort to repeal it, and was happy to be able to vote to preserve it.

The final improvement required in this bill is the creation of an effective youth differential. One of the reasons I have opposed minimum wages in the past is that it has a terrible effect on youth unemployment. It is tough enough for youngsters, especially if they are blacks, or women, or unskilled. But, when employers are obliged to pay higher wages, they naturally look for more experienced, more skilled, or more steady workers. The young employees often lose opportunities, or existing jobs. Employers are more willing to hire young people and thereby absorb training and apprenticeship costs at a differential wage.

There is an existing youth differential, but it seems to have been designed to be too difficult to provide employment for youth. The number of jobs under the existing youth differential is very limited. We need to pass the proposed amendment to create more jobs for young people.

If this amendment is passed, I shall support the bill, H.R. 3744. Even though I am not enthusiastic about the concept of minimum wage, it seems to me that if these three amendments are adopted, what remains of the bill is an acceptable compromise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MILFORD).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. A recorded vote is demanded. All those in favor of taking this vote by a recorded vote stand and remain standing until counted.

Mr. PHILLIP BURTON. Pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

The Chair would like to count at this time all the Members in the Chamber.

A quorum is not present.

Mr. ERLENBORN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ERLENBORN. Mr. Chairman, since the point of order on the lack of a quorum was made after the Chair began counting, will the Chair make his decision based on the number who were standing at that time?

The CHAIRMAN. The Chair did not announce the count at the time the absence of a quorum was disclosed. There were 19 Members standing, but the count will be taken again after the quorum call.

A quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 183, not voting 10, as follows:

[Roll No. 550]

AYES—241

Abdnor	Flowers	Mathis
Alexander	Flynt	Mattox
Allen	Ford, Tenn.	Michel
Anderson, Ill.	Forsythe	Milford
Andrews, N. Dak.	Fountain	Miller, Ohio
Applegate	Fowler	Mineta
Archer	Frenzel	Mollohan
Armstrong	Frey	Montgomery
Ashbrook	Fuqua	Moore
Badham	Gammage	Moorhead, Calif.
Bafalis	Gephardt	Murphy, Pa.
Barnard	Gibbons	Murtha
Bauman	Gilman	Myers, Gary
Beard, Tenn.	Ginn	Myers, John
Boggs	Goldwater	Natcher
Bowen	Goodling	Neal
Breaux	Gradison	Nichols
Breckinridge	Grassley	Nix
Brinkley	Gudger	O'Brien
Brooks	Guyer	Pease
Broomfield	Hagedorn	Pettis
Brown, Mich.	Hall	Pickle
Brown, Ohio	Hammer-schmidt	Poage
Broyhill	Hansen	Pressler
Buchanan	Harsha	Preyer
Burgener	Hefner	Pritchard
Burke, Calif.	Hightower	Pursell
Burke, Fla.	Hillis	Quayle
Burleson, Tex.	Holland	Quie
Butler	Holt	Railsback
Carney	Horton	Regula
Carter	Hubbard	Rhodes
Cederberg	Huckaby	Risenhoover
Chappell	Hughes	Roberts
Clausen, Don H.	Hyde	Robinson
Clawson, Del	Ichord	Rogers
Cleveland	Ireland	Rooney
Cochran	Jenkins	Rose
Coleman	Jones, N.C.	Rousselot
Collins, Tex.	Jones, Okla.	Rudd
Conable	Jones, Tenn.	Runnels
Corcoran	Jordan	Sarasin
Crane	Kasten	Satterfield
Cunningham	Kazen	Sawyer
D Amours	Kelly	Schulze
Daniel, Dan	Kemp	Sebelius
Daniel, R. W.	Ketchum	Shipley
de la Garza	Krueger	Shuster
Derrick	Lagomarsino	Sikes
Derwinski	Latta	Skelton
Devine	Leach	Skubitz
Dickinson	Lent	Slack
Dicks	Levitas	Smith, Iowa
Dornan	Livingston	Smith, Nebr.
Duncan, Oreg.	Lloyd, Calif.	Snyder
Duncan, Tenn.	Lloyd, Tenn.	Spence
Early	Long, La.	Stangeland
Edwards, Ala.	Long, Md.	Stanton
Edwards, Okla.	Lott	Steed
Emery	Lujan	Steiger
English	Luken	Stockman
Erlenborn	McClory	Stump
Ertel	McCloskey	Symms
Evans, Del.	McCormack	Taylor
Evans, Ga.	McDade	Teague
Evans, Ind.	McDonald	Thone
Fary	McEwen	Treen
Fenwick	McKay	Trible
Findley	McKinney	Udall
Fish	Mahon	Ullman
Fithian	Mann	Vander Jagt
Flippo	Marks	Volkmer
Flood	Marriott	Waggonner
	Martin	Walgren

Walker	Whitley	Wright
Walsh	Whitten	Wylie
Wampler	Wiggins	Yatron
Watkins	Wilson, Bob	Young, Fla.
Whalen	Wilson, Tex.	Young, Mo.
White	Winn	Young, Tex.
Whitehurst	Wirth	

NOES—183

Addabbo	Evans, Colo.	Myers, Michael
Akaka	Fascell	Nedzi
Ambro	Fisher	Nolan
Ammerman	Florio	Nowak
Anderson, Calif.	Foley	Oakar
	Ford, Mich.	Oberstar
Andrews, N.C.	Fraser	Obey
Annunzio	Gaydos	Ottinger
Ashley	Giaimo	Panetta
Aspin	Glickman	Patten
AuCoin	Gonzalez	Patterson
Badillo	Gore	Pattison
Baldus	Hamilton	Pepper
Baucus	Hanley	Perkins
Beard, R.I.	Hannaford	Pike
Bedell	Harkin	Price
Beilenson	Harrington	Rahall
Benjamin	Harris	Rangel
Bennett	Hawkins	Reuss
Bevill	Heckler	Richmond
Biaggi	Heftel	Rinaldo
Bingham	Hollenbeck	Rodino
Blanchard	Holtzman	Roncalio
Blouin	Howard	Rosenthal
Boland	Jacobs	Rostenkowski
Bolling	Jeffords	Roybal
Bonior	Jenrette	Ruppe
Bonker	Johnson, Colo.	Russo
Brademas	Kastenmeier	Ryan
Brodhead	Keys	Santini
Brown, Calif.	Kildee	Scheuer
Burke, Mass.	Koch	Schroeder
Burlison, Mo.	Kostmayer	Seiberling
Burton, John	Krebs	Sharp
Burton, Phillip	LaFalce	Simon
Byron	Le Fante	Sisk
Caputo	Lederer	Solarz
Carr	Leggett	Spellman
Cavanaugh	Lehman	St Germain
Chisholm	Lundine	Staggers
Clav	McFall	Stark
Collins, Ill.	McHugh	Stokes
Conte	Madigan	Stratton
Conyers	Maguire	Studds
Corman	Markey	Thompson
Cornell	Marlenee	Thornton
Cornwell	Mazzoli	Traxler
Cotter	Meeds	Tsongas
Coughlin	Metcalfe	Tucker
Danielson	Meyner	Vento
Davis	Mikulski	Waxman
Delaney	Mikva	Weaver
Dellums	Miller, Calif.	Weiss
Diggs	Minish	Wilson, C. H.
Dingell	Mitchell, Md.	Wolff
Dodd	Moakley	Wydler
Downey	Moffett	Yates
Drinan	Moorhead, Pa.	Young, Alaska
Eckhardt	Moss	Zablocki
Edgar	Mottl	Zeferetti
Edwards, Calif.	Murphy, Ill.	
Ellberg	Murphy, N.Y.	

NOT VOTING—10

Cohen	Mitchell, N.Y.	Van Deerlin
Dent	Quillen	Vanik
Johnson, Calif.	Roe	
Kindness	Steers	

Messrs. TRAXLER, FLORIO, ASPIN, STRATTON, and SCHEUER, and Mrs. HECKLER changed their vote from "aye" to "no."

Messrs. BREAUX, DICKS, and FITHIAN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to section 7?

If not, the Clerk will read.

The Clerk read as follows:

COTTON GINNING EMPLOYEES

SEC. 8. (a) (1) Section 13(b) (25) (29 U.S.C. 213(b) (25)) is repealed.

(2) Section 13 is amended by adding after subsection (i) (as so redesignated by section 7(a)) the following new subsection:

"(j) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to any employee who—

"(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 12, line 20 strike out "any calendar year" and insert in lieu thereof "any period of fifty-two consecutive weeks".

Page 13, line 6, strike out the close quotation marks and the period following and insert after line 6 the following:

No week included in any fifty-two week period for purposes of the preceding sentence may be included for such puropses in any other fifty-two week period.".

Mr. DAVIS. Mr. Chairman, this amendment is a minor change in the new overtime exemption provisions for cotton gins. The purpose of the amendment is to recognize the seasonal nature of the cotton ginning industry. The bill, as reported, would provide a 14-week period during the calendar year when a limited exemption from the overtime requirements would be available. Traditionally, the minimum wage law has taken note of the seasonal nature of cotton ginning and I commend the committee for continuing to recognize this even though the exemption has been limited further in this year.

My amendment would simply allow the 14-week exempt period to be selected from a 52-consecutive-week period rather than a calendar year. This would allow those gins in certain areas of the Cotton Belt whose seasons overlap 2 calendar years to have the same advantage as those areas whose seasons only occur in 1 calendar year.

For this reason, I urge my colleagues to adopt this amendment which would make this provision equitable to all concerned.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, this amendment is acceptable. It just clarifies how weeks are counted, and we have no objection to it.

Mr. DAVIS. Mr. Chairman, I thank the gentleman, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DAVIS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 8?

If not, the Clerk will read.

The Clerk read as follows:

SUGAR EMPLOYEES

SEC. 9. (a) (1) Section 13(b) (26) (29 U.S.C. 213(b) (26)) is repealed.

(2) Section 13 is amended by inserting after the subsection added by section 8 the following new subsection:

"(k) The provisions of section 7 shall not apply for a period or periods of not more than fourteen work weeks in the aggregate in any calendar year to any employee who—

"(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 13, line 16, strike out "any calendar year" and insert in lieu thereof the following: "any period of fifty-two consecutive weeks".

Page 14, line 2, strike out the close quotation marks and the period following and after line 2 insert the following:

No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

Mr. DAVIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DAVIS. Mr. Chairman, I would simply say that this amendment does the same thing with respect to the sugar industry as my other amendment did with respect to the cotton gin industry.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, the amendment is acceptable to us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DAVIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOWEN

Mr. BOWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOWEN: Page 14, insert after line 4 the following:

BABYSITTERS

SEC. 10. (a) Section 13(a)(15) (29 U.S.C. 213(a)(15)) is amended by striking out "on a casual basis".

(b) The amendment made by subsection (a) shall take effect January 1, 1978.

Mr. BOWEN. Mr. Chairman, in 1974 we included in the minimum wage bill we passed at that time a matter that I do not believe was brought to the attention of most of the Members of this body. We covered, I think in the opinion of many people almost by accident, babysitters across the board.

Now, what did this do? It did great damage to working mothers throughout the country. We have at this moment approximately 5.2 million working mothers with children under the age of 6. The Bureau of Labor statistics tells us that about 4.7 million of these mothers have children who cannot be placed in day care centers. Why is that? It is because there are simply not enough day care centers in America to accommodate the children that need to be put there. There are only about 18,000 day care centers in America and each accommodates on the average approximately 55 children. So there are only about 990,000 children who can be accommodated.

How many children are there who need to be accommodated? How many children are there in preschool age? There are about 10 million children in this country of working mothers who need to be placed in some kind of day care centers while their mothers work.

Unfortunately, even at generous estimates, only 1 million of them can be accommodated by the day care centers. Therefore, there are 9 million children in this country of working mothers who cannot be accommodated by day care centers.

So, what happened when we passed this legislation 3 years ago? I know what happened in my State, and I think I know what happened in most other States. I know that there were a lot of working mothers, mothers who were making the minimum wage themselves, who simply had to quit their jobs. Instead of providing a minimum wage for one person, the babysitter, we really disemployed two persons because the mother had to fire the babysitter and then she had to quit her job and go home to tend the children. I do not think that was a constructive contribution to employment in this country.

I would like at this time to offer a remedy to that problem which simply returns to the status quo before the 1974 act in this respect and will allow mothers to employ babysitters and will allow them to be employed themselves. This is not the case now because now a mother must pay the babysitter $1.35 for every dollar she makes.

Let us take the minimum wage right now, $2.30 for a working mother. If she is being paid that much then she has got to pay that minimum wage right now, plus time and a half for overtime, plus she has to pay 6 percent social security, plus she has to pay transportation costs to go get the babysitter, bring her to her home, and then her own transportation to work. So it works out that she has got to make at least $3.65 herself in order to break even, just to break even. A working woman has got to make $3.65 in order to pay the minimum wage of $2.30 to the babysitter.

Also, Mr. Chairman, I have had great numbers of babysitters themselves come to me, or write letters to me, and they have written them by the hundreds, saying, "What can you do? I want to work and you won't let me work."

And I have said, "Gee, we thought we were doing you a favor when we passed the minimum wage bill 3 years ago. We thought we were really helping you out."

And they have said, "You didn't help me out, you just threw me out of a job, because the woman I worked for had to quit her job because she couldn't pay me the minimum with what she was making. So I am out of work. This was marginal work for me, anyway, because my husband works and I don't have to work, but I was happy to take the work and would be happy to do it now for less than the minimum wage. How about you doing something for us?"

And I have said that I would try to do anything I could for them, that we thought we were helping them but evidently we were not, that I will try to change the situation the next time the minimum wage bill comes before the Congress.

So, Mr. Chairman, I want to give the Members an opportunity today to do something about this problem.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I will be happy to yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, this is never an easy kind of position for any of us to find ourselves in, but I believe the gentleman from Mississippi (Mr. BOWEN) is absolutely right. I think his amendment would correct the mistake that was made in 1974. I have had exactly that same situation arise within my own district. It was brought to my attention, for instance, by a woman in Ripon, Wis., who earned the minimum wage and had a babysitter, to whom she had to pay the minimum wage.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STEIGER, and by unanimous consent, Mr. BOWEN was allowed to proceed for 2 additional minutes.)

Mr. STEIGER. If the gentleman will yield further, the effect of what she did was to make the one who wanted to work lose her job in order to take care of her family and the one who was babysitting lose her job because there was no way a minimum wage employee could pay a minimum wage and come out. I do not think that is a good public policy. I think it contributes to a raise in the rate of unemployment.

I commend the gentleman and thank him for his leadership and initiative and hope this amendment will be adopted.

Mr. BOWEN. I would like to thank the gentleman for his kind words and his judgment in this matter.

I am sure the gentleman from California, the distinguished manager of this bill, will indicate that we should never attempt to change anything we have done on minimum wage; we never make a mistake in this body; never admit it; just look straight ahead; never look back. But I think we did make a mistake here, and I think we have to accept that fact.

Two out of every three minimum wage workers in America are women, and those people are suffering. Some of them right now, I have to admit, are probably illegally employing babysitters. Others neglect their children. They are not attended to because they cannot pay the babysitters the wages they themselves are getting.

Mr. Chairman, I urge the Members in voting in support of this amendment to look to the well-being of both the babysitter and the low-income working mother. I think we can accomplish that by supporting this amendment.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the manager of the bill has been called off the floor temporarily, but the position which I will state is the position which he holds also, and that is in opposition to the amendment.

Right now part-time and occasional babysitters are already exempt. What the distinguished gentleman from Mississippi wants to do is say that full-time babysitters are already exempt. What there is a problem, if one wants to get around the law right now, one can hire a woman for 2½ days a week and someone else for another 2½ days a week, but simply to say we are not going to cover full-time babysitters who have major responsibilities and who want to earn a decent living is not equitable.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Mississippi.

Mr. BOWEN. I thank the gentleman for yielding.

I would like to say to the gentleman that statute law right now exempts sitters for the elderly. I wonder if the gentleman can tell me what is the difference between exempting companions for the elderly and for the young. I think the young need the same kind of care the elderly do. Statute law spells out clearly that the elderly are exempt.

I talked to the Department of Labor and I asked them, "How do you administer this?" They said, "There is no trouble. We carefully evaluate the time. If they spend more than 20 percent of their time in housework rather than personal care, they are not exempt."

I say we can apply the same provisions to care for the young. I say we can make the law consistent and apply it both to the elderly and to children.

Mr. SIMON. I do not happen to know

the age of the children of the gentleman from Mississippi, but those of us who have young children know there is quite a difference between being a babysitter for young children and being a sitter for elderly citizens who need somewhat more casual care.

I would urge that we not take a step backward, and defeat the amendment of the gentleman from Mississippi.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

I join my colleague, the gentleman from Illinois, in his remarks. It has not perhaps been the most noble day in the annals of this distinguished body, but I would anticipate that we would not start marching backward, as this amendment so clearly does. It is not a good amendment. It ought to be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN).

The question was taken; and on a division (demanded by Mr. BOWEN) there were—ayes 52, noes 38.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. CORNELL

Mr. CORNELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORNELL: At the end of section 9, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 10. (a) Section 14(b) (29 U.S.C. 214(b)) is amended to read as follows:

"(b)(1) To encourage youth opportunity, an employer may employ any youth who has not attained the age of 19 for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under Section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)) in compliance with applicable child labor laws. *Provided, however,* That this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of 20 hours in any work week, except during vacation periods.

(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary shall have general authority under this Act to ensure that the provisions of paragraphs (1) and (2) of this subsection are not being violated. Should the Secretary discover that an employer is employing youth at a wage rate lower than that allowable under this section or for a period of time longer than that specified by this section, or is engaged in a pattern and practice of—

(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

(B) terminating the employment of youth employees after a period of 180 days and employing other youth employees for periods of 180 days in order to gain continual advantage of the youth opportunity wage, the provisions of section 6 of this Act shall be considered to have been violated, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act."

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14; or".

Mr. CORNELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CORNELL. Mr. Chairman, this amendment is offered in an effort to find some means to reduce the excessively high rate of unemployment among our American youth today. By the provisions of this amendment a youth opportunity wage is provided for the first 6 months of employment at 85 percent of the regular minimum wage. Let me stress that this special rate applies only to youths 18 years of age and under and is allowable only for the initial 6 months of their employment. After this "training" period has expired, such employees must be paid at least the full minimum wage.

Current law permits a 15-percent differential for students, learners, and apprentices but it is very restrictive in its applicability. In a sense all youths 18 and under are apprentices or learners as they enter the labor market without the necessary training and experience for most jobs. This amendment would encourage employers to hire such young people at this subminimum rate during a period of job learning.

The amendment would also simplify the current provisions regarding the employment of students at the special wage rate. In 1975, of approximately 500,000 students employed at the student differential, only 197,000 of these worked in the retail, service, and agriculture sectors as permitted by law. Most of them were employed on the campuses at the institutions of higher education they attended. The restrictions and redtape involved in employing teenagers are usually noted by employers for failing to use the student differential. This amendment would eliminate most of those restrictions and simply provide that each academic year a student so employed would be required to present to the employer certification from the school that he or she is enrolled as a full-time student.

In order to deter potential abuses, this amendment provides penalties in the event older workers are fired in order to hire youths, or youths are dismissed without cause and replaced after the six-month training period expires, or wages of current young employees are reduced.

My colleagues and I who sponsor this amendment make no pretense that this piece of legislation will necessarily resolve the problem of youth unemployment. We do, however, contend that it is time to try another approach rather than just rely on public job creation mechanisms such as the youth employment bill. I strongly supported that legislation which is intended to create 200,000 to 300,000 jobs at a cost of $1.5 billion. I am also aware that the Labor Department plans more CETA jobs for our unemployed youths. We must also, however, encourage private employment with the hopes of greater permanence and less public outlays than in public service employment.

Frankly, I do not know what effect this youth differential will have on youth unemployment or adult employment. As Congressman DENT notes in his letter on this bill:

> For every study showing the positive effects of a youth subminimum, there is another showing negative effects, as well as others showing no effect. At best, it's a hard shot to call.

I disagree with this conclusion, however, that we should therefore do nothing about a youth differential beyond the present legislation which has obviously not provided an adequate remedy for youth unemployment.

It is time to try another approach. Let us find out by practical experience just what effect a broader youth differential will have. My collegues Mr. PERKINS and Mr. TUCKER earlier proposed to establish a National Commission on Fair Labor Standards to study the minimum wage, including the effect of the youth differential proposed in this amendment, and to report to the Congress in approximately 18 months. Then we will have the evidence of the effect of a youth subminimum, not just conjectures and conflicting prognostications as we have today. But we must pass this amendment if the Commission is to have the facts upon which to make a determination. I urge you, therefore, to vote for this amendment in the hopes that more of our youth get off the streets and into productive employment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. CORNELL) has expired.

(By unanimous consent, Mr CORNELL was allowed to proceed for 3 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I congratulate the gentleman for offering this amendment and rise to associate myself with the gentleman's remarks just made and in support of this amendment.

Mr. Chairman, for the last 3 years, the unemployment rate for youths between the ages of 16 and 19 has been double our overall unemployment rate. Unemployment for youths has not been below 15 percent in the last 3 years, and there seems to be little hope that any major improvements are forthcoming. In February of this year, 1.6 million teenagers were unemployed. That equals the total constituent population of three Congressman.

What could be more discouraging to a young man or woman than to spend the summer months looking for employment and finding nothing but apologies and rejections. Imagine the frustration which must beset a youngster who is forced into idleness when he would prefer to be working, perhaps in hopes of saving enough money to pay for a college education. I wonder how many potential college students have been forced to forget their dreams of a better life simply because no jobs were available to help them pay for tuition.

I realize that there are several Federal and State programs designed to provide jobs for our Nation's youth. On August 5, President Carter signed Public Law 95–93, the Youth Employment and Demonstration Projects Act of 1977. In addition to the program, the Federal Government sponsors three major jobs programs: the Jobs Corps, summer youth employment, and the Youth Conservation Corps. However, the Federal Government and the State cannot provide nearly enough jobs to make a substantial improvement in a 15-percent unemployment rate. We must turn to the backbone of this Nation, private enterprise, to provide the jobs necessary if we are to get our youth off the streets. That is the intent of this amendment, to allow private enterprise to hire unexperienced teenagers at 85 percent of the minimum wage. If this amendment is adopted, teenagers will be better able to find employment.

In July, I received a letter from one of my constituents which related an incident which is apropos to what we are discussing. I quote from that letter:

Some youngsters were caught—husky, high school kids—throwing rocks at one of our warehouse buildings, breaking out the glass blocks. I came upon them in such a way that they could not run away, so we just had a little discussion. After assuring them that there would be no trouble, but that I just wanted to ask a few questions—I asked, "what pleasure do you get out of doing damage like this to other people's property?"

The discussion went on to cover the fact (after things cooled off) that they would be "tickled to death" to work for $1.50 an hour or something like that, that they would be glad to do cleaning, sweeping—but everybody they went to can't hire them because of the minimum wage law.

To raise the minimum wage in an effort to provide a better standard of living for thousands of hard working Americans, and then not to assist young people in finding employment, is completely self-contradictory to the purpose of H.R. 3477. The consequences of unemployment for a teenager can be disastrous. Many of our youth who find themselves in juvenile court would have never gotten into trouble if they had only had a job to keep them off the street. Idle hands are truly the Devil's tools.

This Congress cannot allow thousands, indeed millions, of teenagers to suffer the consequences of unemployment. We must provide our youth with the opportunity to gain employment. If we fail to comprehend the importance of this issue, if we fail to show compassion for the hardships facing a teenager today, we will ruin the hopes and dreams which help to motivate youngsters to strive for self-improvement.

AMENDMENT OFFERED BY MR. RUDD AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CORNELL

Mr. RUDD. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. RUDD as a substitute for the amendment offered by Mr. CORNELL: At the end of section 9, insert the following new section:

YOUTH EMPLOYMENT OPPORTUNITY

SEC. 11 (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) Notwithstanding the minimum wage rate required under section 6, any employer may, in compliance with applicable child labor laws, employ any employee—

(A) to whom such rates would apply but for this subsection, and

(B) who is (i) under the age of eighteen years or (ii) under the age of twenty-one years and either in his first six months of full-time employment or a full-time student, at a wage rate less than the applicable minimum wage rate prescribed by such section.

Mr. RUDD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. MILLER of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued the reading of the amendment.

Mr. RUDD (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Chairman, my substitute amendment will help open the way for needed job opportunities for millions of teenagers and young adults, whose current unemployment rate is more than twice that of the adult population because they have been priced out of the job market by the Federal statutory minimum wage.

This amendment would exempt teenagers under the age of 18 from the minimum wage law. It would also exempt young adults between the ages of 18 and 21 if they are full-time students, or if they are in their first 6 months of full-time employment.

Mr. Chairman, there is no doubt that the minimum wage is a major reason and cause of youth unemployment. All major economic studies of the impact of the minimum wage laws have demonstrated this.

Teenagers—particularly minority teenagers—are low-skilled because of their age, their immaturity, and their lack of job experience. They are less efficient and less productive than older, more seasoned workers.

This makes it impossible for employers to provide jobs for enough teenagers and young adults, since the law requires them to pay an hourly wage more than the work of unskilled workers is worth under many circumstances that you can think of.

Millions of teenagers have therefore been priced out of jobs that could otherwise be made available to them by the steadily increasing minimum wage which has made it too costly for employers to hire and train them.

The minimum wage has also forced out of existence through automation and other adjustments many jobs that do not warrant the level of hourly compensation required by the minimum wage law.

This has idled untold numbers of youths who could be working as store clerks, restaurant workers, gas station attendants, and in a variety of manufacturing and other service jobs if employers were allowed to pay them a more reasonable wage.

We hear the argument about a so-called fair wage. But what is fair about having no job because of an unrealistically high minimum wage requirement, when a teenager could have a job at a slightly lower more reasonable wage?

The respected black economist, Walter Williams, of Temple University, documented last month before the Senate Human Resources Committee that the minimum wage has been especially devastating to job opportunities for minority youth.

Dr. Williams testified that unemployment rates for nonwhite teenagers are infinitely higher than those for teenagers generally throughout the United States.

In cities like New York, Chicago, Los Angeles, Philadelphia, Detroit, Dallas, Baltimore and so forth, minority teenage unemployment is five and six times greater than unemployment generally. And since 1973, as the result of three successive increases in the minimum wage by Congress, unemployment among all segments of the population—but especially among teenagers and young adults—has increased substantially.

I asked the Library of Congress to document this trend for me in a chart that would show the appropriate comparisons of unemployment.

Mr. Chairman, I include the chart at this point in the RECORD:

CHART 1

U.S. UNEMPLOYMENT RATES

[Annual average in percent]

	1976, total unemployment	1975, white teenagers (16 to 19)	1976, nonwhite teenagers (16 to 19)	1973, total unemployment	1973, white teenagers (16 to 19)	1973, nonwhite teenagers (16 to 19)
New York, N.Y	10.4	23.9	47.0	5.9	18.8	32.4
Chicago, Ill	6.7	18.1	41.9	4.2	11.4	44.7
Los Angeles-Long Beach, Calif	8.8	24.7	44.1	6.5	16.0	26.5
Philadelphia, Pa	8.8	20.9	48.3	5.6	13.2	34.3
Detroit, Mich	9.1	25.7	44.4	6.3	14.7	[1] 41.7
Boston, Mass	9.0	22.4	26.4	6.8	15.6	21.8
Dallas-Fort Worth, Tex	4.6	15.3	27.0	2.5	8.1	[1] 17.6
Pittsburgh, Pa	8.1	23.5	33.1	5.7	17.6	30.2
Baltimore, Md	7.9	24.5	46.9	3.1	9.2	[1] 17.2
Newark, N.J	10.2	22.9	29.9	5.2	16.4	13.5
Cleveland, Ohio	6.9	17.8	27.0	4.2	11.6	51.0
Atlanta, Ga	7.8	28.0	39.2	3.7	NA	33.6
San Diego, Calif	11.8	27.1	43.9	7.7	19.1	28.5
Denver-Boulder, Colo	6.1	22.1	29.4	3.4	11.5	41.6
Cincinnati, Ohio	8.4	24.2	38.1	5.1	12.8	40.4
Indianapolis, Ind	6.7	15.1	34.4	4.3	12.5	35.0
St. Louis, Mo	7.3	NA	39.9	5.6	14.7	47.8

[1] Central cities data. Others are for standard metropolitan statistical areas (SMSA).

Source: Bureau of Labor Statistics, U.S. Department of Labor. Prepared by the Library of Congress.

Look at the evidence. The minimum wage in 1973 was $1.60. Total unemployment in New York City that year was 5.9 percent. In Chicago, it was 4.2 percent, and so on down the list.

But teenage unemployment in New York City in 1973 was 18.8 percent—more than three times the rate for the general population. For minority teenagers it was 32.4 percent—five times the adult rate and nearly twice the rate for white teenagers.

The same kind of comparison holds true for most of the 17 other major urban areas included in the chart.

And look at the picture for last year—since Congress has successively increased the minimum wage from its 1973 level of $1.60 an hour, to $2 in 1974, to $2.10 in 1975, and to $2.30 in 1976.

The general unemployment rate has increased, for a variety of reasons—importantly among them the minimum wage. And teenage joblessness is at least twice as high as the adult rate, and in some cases four and five times higher for blacks, Mexican-Americans, and other minority teenagers across America.

Is it any wonder that Dr. Milton Friedman, the Nobel laureate in economics, has called the minimum wage the most antiblack law on the books?

Mr. Chairman, I would like to ask unanimous consent to insert another chart at this point in the record that further documents the relationship of Federal minimum wage increases since 1965 to the very serious problem of national unemployment. Information from U.S. Department of Labor, Bureau of Labor Statistics.

CHART 2

MINIMUM WAGE AND UNEMPLOYMENT (1965-76)

Year	Minimum wage	Unemployment rate (adult) (percent)	Total employed (adult)	Total unemployed (adult)	Unemployment rate: Teenagers (16 to 19) (percent)	Unemployment rate: Teenagers (white) (percent)	Unemployment rate: Teenagers (nonwhite) (percent)	Total teenage employment	Total teenage unemployment	Change in unemployment rate: Teenagers from previous year (percent)
1965	$1.25	4.5	69,032,000	2,492,000	15.6	14.2	26.1	5,037,000	872,000	
1966	1.25	3.8	67,174,000	2,040,000	13.2	11.1	25.1	5,720,000	836,000	−2.4
1967	1.40	3.8	68,691,000	2,137,000	12.9	11.0	26.3	6,251,000	839,000	−.3
1968	1.60	3.6	70,140,000	1,987,000	12.7	11.0	25.4	5,780,000	839,000	−.2
1969	1.60	3.5	71,785,000	1,977,000	12.2	10.7	24.1	6,117,000	853,000	−.5
1970	1.60	4.9	72,477,000	2,983,000	15.2	13.5	29.1	6,142,000	1,106,000	+3.0
1971	1.60	5.9	72,934,000	3,736,000	16.9	15.1	31.7	6,195,000	1,258,000	+1.7
1972	1.60	5.6	74,980,000	3,538,000	16.2	14.2	33.5	6,722,000	1,301,000	−.7
1973	1.60	4.9	77,173,000	3,079,000	14.5	12.6	30.3	7,236,000	1,325,000	−1.7
1974	2.00	5.6	78,533,000	3,666,000	16.0	14.0	32.9	7,403,000	1,410,000	+1.5
1975	2.10	8.5	77,737,000	6,077,000	19.9	17.9	36.8	7,046,000	1,753,000	+3.9
1976	2.30	7.9	80,216,000	6,586,000	19.0	16.9	32.1	6,969,000	1,701,000	−.9

Source: Bureau of Labor Statistics, U.S. Department of Labor. Prepared by the Heritage Foundation.

Mr. Chairman, Dr. Williams and other labor economists who have studied the adverse impact of minimum wage laws report that the current minimum wage level—but even more tragically the higher minimum wage levels to be forced on the people under this proposed bill—will continue to deny jobs and productive incomes to millions of workers who are disadvantaged in terms of marketable skills.

It has been estimated by the U.S. Chamber of Commerce that this bill will force employers to eliminate at least 2 million marginal jobs—which means more inflation as well as higher unemployment and welfare costs.

It is further estimated that teenagers will lose an additional 952,000 jobs, rather than having their employment opportunities improved, under this bill.

I believe that Congress has a moral responsibility to take action that will guarantee more jobs for our youth—that will give them the opportunity to work by making it possible for employers to provide and offer them productive employment at reasonable wages.

Congress has no right as some propose that we do under this bill to deny jobs to our youth—to deny them the opportunity to earn a living for themselves and their families.

Passage of my amendment will remove the major artificial legislative barrier against job opportunities for youth.

It will permit employers to provide them gainful, productive, satisfying employment with a chance to make a good start in life, and opportunities for advancement.

Without this amendment Congress will be denying this opportunity to millions of American young men and women, in all parts of the country.

It will be most difficult for those responsible for such a travesty to explain this denial of job opportunities to the people.

I urge passage of this amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in opposition to the amendment offered as a substitute for the amendment.

Mr. Chairman, let me say, first of all, that I am exceedingly grateful for the keen interest that is now being demonstrated in minority youth unemployment as we discuss the minimum wage bill. It is most gratifying to learn that Members on both sides of the aisle are now keenly interested in this problem.

Mr. Chairman, I regret that my mind must go back to just a year or so ago, when there was major opposition to a little bill that I offered on the floor to increase summer youth employment. It passed by one vote. So it is gratifying to see that this House is becoming aware of the awesome dimensions of this problem. Members are expressing particular concern about minority youth unemployment, and they should be. The data released by the Department of Labor was appalling. The statistics are frightening.

I think we are dealing with social dynamite, in terms of that minority youth unemployment. But the Members are making a mistake when they start playing around with a subminimum wage or youth differential, and I would like to explain why.

First of all, if we want to have a subminimum for youth 14 through 18, to get them gainful employment, if we do that, then we are ignoring the 19 through 24 age group. Any subminimum we have for youth, or any youth differential minimum we have, is a ghastly mistake. If we tried to apply that to the age group 14 through 18, yes, we might put them to work.

But that is only one problem we confront in the black community. The rate of unemployment in the age group from 19 through 24 is almost as great as the rate for the youth. Therefore, all that we will be doing is using that younger group to play off against the older group, and the older group is still going to be without work. That does not make sense.

Suppose we did it another way. Suppose we extended it so that that group in the age bracket of 19 through 24 got a differential, a subminimum wage. Then all we would be doing is playing that group off against the other older group, the adults who would still be unemployed.

I think we must understand that unemployment is chronic and endemic and deep across the board in the black community, and it does not make any sense at all to play one group of workers off against another. I have men—not children, not youth, but men—in my district who would be willing to work at any one of these amusement parks because they need the job. They would take that job. But if we give the youth this differential, then they are precluded from that job. I think that is unfair.

I think what we are trying to do is play with the lives of people so that the net result will be no substantial reduction of unemployment in the black community anyplace. I think we have to understand why it is wrong to have a subminimum wage for youth or young adults who are black. In order to understand that, we have to realize that the majority of them want work not for pocket money but because their income becomes a supplemental income to a family whose income is significantly less than that of their white counterparts.

The income gap between white and black families in America is increasing. That disparity is increasing. I would suggest to the Members that if we had a subminimum wage for any category of black workers, what we would be doing is increasing that disparity in income.

Let me talk about myself, if I may. When I worked as a kid, it was not to buy clothes—I was one of the most non-in fashion kids in the block—clean but not in style and it was not to buy any of the nice things that kids want; my money went to supplement the family income because my dad was black and he was working at a wage that was not decent enough to sustain his family, although he tried.

That is generally true of black kids, of working black youth; they are working not for themselves, they are working to supplement an inadequate family income.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, let me make just one other comment to enlighten my colleagues.

All of the talk that I have heard about youth and young adults needing the training to do the job efficiently, and that, therefore, really it is a blessing that they are hired anyway because they are inadequate—that is a lot of malarkey. The average job that I got as a kid was a job I could learn in 24 hours and do it efficiently.

What kind of jobs do we get? We get jobs as stock clerks, elevator operators, and amusement park workers. They are jobs that do not require any great efficiency or training. I submit to the Members there are literally millions of jobs in America that do not require any long, in-depth training period. There are, of course, some jobs in that category, but they are addressed through the job training programs.

On the other hand, there are a lot of jobs out there that can be done with a minimum amount of training. The Members know it, and I know it, because every man and woman in this House probably took a job as a young person and learned that job within 24 or 48 hours.

In conclusion, Mr. Chairman, let me just add one thing. We can pass the subminimum wage for youth or go ahead and extend it to young adults if we want to, but whether we want to admit it or not, whether we like it or not, or whether we care or not, we will be contributing to the disparity of income between black families and white families. It is a disparity that is getting greater and not less.

Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the subminimum proposal and to the substitute amendment to that proposal because I think what the proponents of that amendment are trying to do is wrong.

When I was 18 years old, I was going to a junior college, a community college. I had a child and was trying to support a family. When I worked in the orchards around my home for 12 hours a day, I did not want to work for a subminimum wage because I was trying to support my family.

At Christmastime and during the next summer when I worked in the oil refineries and I had to push tons of heavy crude waste out of tanks, I did not want to work at a subminimum wage because I was trying to support my family.

The option was not available to hire me at that subminimum wage. I do not think that option ought to be made available on the basis of age because I think, as the previous speaker, the gentleman from Maryland (Mr. MITCHELL), has said, there are many people who come from various communities within our society who are contributing to the total income, an inadequate income, of an entire family.

Our own Congressional Budget Office has pointed out the fact that these children come from low-income families. That is what we are talking about. Let us not forget that this applies to 14-, 15-, and 16-year-olds, to those young people who have dropped out of school, who come, in a disproportionate number, from low-income families.

To quote the report—

As a group, more out-of-school unemployed youths come from low-income families compared to the group that is in school and seeks part-time jobs. Even among this latter group, however, earnings are important for many youths and their families. Earnings from part-time jobs are critical in making ends meet.

Mr. Chairman, that is what we are talking about because, unfortunately, we have arrived at a place in this society where the incomes of families are inadequate. We are not able to derive the job policy and income policy in this country which will permit families who are trying to maintain themselves as a unit the opportunity to seek proper income, and now their children are out working.

Mr. Chairman, while we may not want to admit it, as we earn $57,000 a year, that child's income is given to the family to support that family. Worse than that, however, some of us really seem to believe that by imposing what is called the youth differential or what I believe is a two-tiered income system that we are going to perhaps have an inadequate education system and an inadequate jobs program, a system that perpetuates discrimination, because between 1965 and 1973 3.1 million youths between the ages of 16 and 21 dropped out of high school.

Mr. Chairman, I suggest that, unfortunately, most of those young people do not have schools which prepare them for jobs. They have an education system which has failed them, and now we are going to make it up by welcoming them to the class of the working poor.

We are only going to do it for 6 months because they are going to receive training.

Mr. Chairman, I suggest that if we look at the studies, most of the new jobs in the industries that would take advantage of this are, in fact, being created in the suburbs. They are not where the minorities live. They are not there to take advantage of because of an inadequate transportation system. They cannot seek these jobs out.

McDonald's is not training anyone. Jack-in-the-Box is not training anyone, nor is Burgerchef, Burger King, or J. C. Penney. They are taking advantage of the subminimum wage to keep wages artificially low. There will be a turnover if this exemption is voted by this House. These people will be run through on 6-month installments.

Mr. Chairman, we say that we are going to have penalties for employers if

they fire somebody after a 6-month training period. They can fire someone in 6½ months, and we have no penalty.

Why install that kind of bureaucracy to penalize these employers? Why not say that people are entitled to a minimum wage for the work they do?

Mr. Chairman, if we are really concerned about unemployed youth, the problems of the minorities who are unemployed, then we really have to come to grips with the job policy itself, with training subsidies, and with the effort to get free enterprise to hire these people.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, I think it is clear, and I want to make it very clear, that this is being used as a catchall for failures elsewhere in our society.

In a paper that was prepared for the Carter administration, it tells of a recent national survey of high school graduates which indicates that almost all young people are unfit for relatively basic occupations without further training. For instance, only 22 percent indicate the knowledge necessary to be a bookkeeper; 31 percent could have been salespersons and only 22 percent indicated the ability to be a nurse's aide.

I think this indicates that we have a vocational education system that is bankrupt. We have an ordinary school system that is bankrupt, and that we do not want to patch it up, we do not want to deal with it, we would rather say, "Go out, my friends, and become members of the working poor," because that is what you are doing to those people who have entered the labor market. In there, in the marginal jobs, there are women who are working out of necessity, minorities who are working where they are because of discriminatory policies that hold them to that place to work. You are now going to displace them.

If you think that this 6-month training period is the hope for the young people, who are being used by that employer, you are wrong because there is going to be great turnover in those industries because there is basically a turnover there in any case.

I think what you will find is that, if these employers from these corporations throughout the country are genuinely concerned about the employment of youth and about helping students that the exemptions are already in the law for students. Last year over 600,000 young people were employed under the student exemption. We have a small business exemption which we are trying to index to exempt small business. The provisions are there if they are legitimate.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, in summary, I just want to say that that exemption has not been used by the largest corporations for training because the largest corporations in this country would rather destroy that exemption, would rather destroy the provision of providing pay for equal work. In fact, they are trying to get provisions in so that they can freewheel these people through the system every 6 months, and I ask for your vote against this provision.

Mr. BAUMAN. Mr. Chairman, may we have order in the galleries?

The CHAIRMAN. The Chair will state that we must have order at all times in the galleries. We are delighted to have all of you ladies and gentlemen with us, but, please, no manifestations of approval or disapproval. We must have order.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment that has been offered by the gentleman from Wisconsin (Mr. CORNELL).

While there would be some advantages were we to eliminate the minimum wage for those under 18, and I have indicated my support for that, I do not think we could do it. I believe we have one amendment to consider that has the best chance of passage and that is the one the gentleman from Wisconsin (Mr. CORNELL) has offered, being joined in his effort by the gentlemen from Illinois, (Mr. SIMON, Mr. ANDERSON, and Mr. ERLENBORN).

Let me say, as I listened to the previous speaker, that no one here wants to reduce wages for a person who has found employment, no one at all. But what my concern is, and I know those who support the amendment are also concerned, is what happens to the young people who are not able to find a job.

What we have found out, especially from the Gramlich studies, is that these are not merely low-income individuals who have the minimum wage jobs. Only 7 percent of the young people with minimum wage jobs are low income, 47 percent are high income and the rest are at the middle income level.

Talk to employers. The increase in the minimum wage is going to be even more significant for them. Their first objection to a youth differential is they do not want to go through a Labor Department certification process, and that is what the gentleman's amendment remedies, it removes the certification process. The Labor Department will still retain the authority to see that an employer pays the minimum wage.

The second objection is that we find that the young individuals who have the higher skills are unfortunately, as a class, from the higher income families. Their enhanced skills make them more likely prospects for employment than lower income children who do not have any skills.

In my discussions with employers, I find that that is the case. They wish they could take the time to train young people but they would have to spend too much money and time to elevate youths to those basic skills that are so necessary.

One only has to talk to Leon Sullivan of the OCI. He has incorporated in his program for disadvantaged individuals, some of those inter-related problems that are necessary for a person to function as an employee—not just the skill of running a lathe but also how to apply for a job, how to relate to the employer, how to relate to the people. Those are just the abilities that people who come from higher-income families are able to secure. Also, when there are a limited number of jobs available, we find that the higher-income father and mother can call up an employer-friend and say, "I would like to have you hire our son or daughter." That is not the case with the lower-income father or mother.

This fact points out that what these young people need is some work experience. We are talking about young people—the ones who are 18 and below, who have looked at the education system and found that it just does not fit their needs. An awful lot of them are sitting it out, hoping to get through, but others cannot stand it, and they drop out. What do they do when they leave—walk the streets and experience all the problems that they find there. Can't we give them a chance to get some work experience?

Employers are asking, "What experience do you have?" The same thing is true for those over 18, as the gentleman has said. For those first 6 months of employment, they need to have a chance to get that work experience. Once they have that work experience, they can secure higher-paying jobs at a rate above the minimum wage.

In the studies I have looked at, the subminimum rate should have been 75 percent, not 85 percent. But it is difficult to come in here and ask for 75 percent instead of 85 percent. I am confident that the 15 percent differential and the removal of the certification requirement are going to open the door for an enormous number of young people, teenagers who need that job experience. For that reason I ask the Members to support this well-thought-out amendment, even though it may not be exactly as much as we want. Support this one. This one has a chance of being enacted. This one is going to have a tremendous impact in providing employment for the young people of this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. RUDD) as a substitute for the amendment offered by the gentleman from Wisconsin (Mr. CORNELL).

The amendment offered as a substitute for the amendment was rejected.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Cornell amendment.

Mr. Chairman, I rise with some reluctance in support of the Cornell amendment, not because of the lack of merit of the amendment but because I am in opposition to my good friends in the AFL–CIO on this amendment. I pay tribute to them for the contributions they have made through the years. This Nation would not have made anywhere near the progress we have made but for the leadership of the unions of this Nation. But PAUL SIMON is wrong once in awhile; the Members are wrong once in awhile; and our friends in the unions can be

wrong once in awhile, and I think on this one they are.

In Great Britain the unions supported the move for the youth differential.

I favor the minimum wage. Laws must serve the needs of people and not the other way around. What are the needs of people in this area? No. 1, to get more revenue, and that is what the minimum wage increase should do. No. 2, more jobs.

And here we have to face this reality: that as the minimum wage goes up, youth unemployment also goes up. And there is no way around this.

I say this as someone who in the State legislature in Illinois was the chief sponsor of the minimum wage and I used to fight the youth differential, but gradually I came to realize that the statistics are just overwhelming on the other side. And we are not just talking about the statistics handed out by the chamber of commerce and the National Association of Manufacturers. These are from the Brookings Institution, the Congressional Budget Office, the Bureau of Labor Statistics, the New York Federal Reserve, UCLA, and the Rand Corp. Brookings, for example, says that when the minimum wage goes up approximately 25 percent there is a 3- to 6-percent increase in youth unemployment.

A New York Federal Reserve economist did a study published in the Harvard Review of Economics and Statistics. From the 1966 minimum wage increase there was a 3.3-percent loss in teenage employment. Among nonwhites the loss was 13.8 percent. Among whites it was 2.4 percent.

There are today 225,000 fewer jobs among teenagers than there would be had the 1966 amendment not been adopted.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SIMON. Let me finish my remarks first. I have great respect for my colleague, the gentleman from Maryland, but let me finish my remarks first and then I will yield.

There is not so far as I know a single study which contradicts all of these things. I think we have to face the reality.

The question is raised about displacement. Here let me quote from the Bureau of Labor Statistics. The Bureau of Labor Statistics reports, and let me quote two sentences:

Results from abroad—

And this is a study in the Netherlands, Japan, and Great Britain—

do not indicate that adult employment has been affected adversely by lower than minimum wage rates for teenagers.

Again:

Youth differentials are common in most State laws with no apparent evidence of adverse effects.

This is from the Bureau of Labor Statistics; not the chamber of commerce.

Those who talk about displacement assume a static level of employment. In fact if we provide jobs for those who have a hard time getting jobs, we do not just provide that one job. It is a ripple effect and we provide more jobs. We have an ability in this economy to give jobs to everyone.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 4 additional minutes.)

Mr. SIMON. Mr. Chairman, I would like to point out also the problems in our urban areas, and I would like to insert in the RECORD a letter I have from the mayor of Los Angeles, Mayor Tom Bradley:

CITY OF LOS ANGELES,
September 2, 1977.

Hon. PAUL SIMON,
Member, House of Representatives, House Office Building, Washington, D.C.

DEAR CONGRESSMAN SIMON: In response to your inquiry concering my position on the youth differential for the minimum wage bill now pending before Congress, I am pleased to advise that I suppport the proposal for a differential wage for youth. I understand that there are conditions attached and certain limitations which protect against abuse.

It is my hope that these protections will be retained as the bill is adopted.

Very truly yours,

TOM BRADLEY,
Mayor.

We cannot ignore these urban problems. In New York City, and other cities, just tick them off. The problems come in no small measure from unemployment.

This is not the ideal solution. I have joined my colleague, the gentleman from Maryland, in the Budget Committee in trying to get more jobs. I am a cosponsor of the Humphrey-Hawkins bill. I think one of these days this Nation is going to be wise enough and is going to be sensible enough and is going to be compassionate enough to guarantee jobs for all Americans, but we are not there right now.

If we raise the minimum wage, and we should, I do not think we can ignore the impositions we are placing upon these young people. I think the Cornell amendment is a balanced, reasonable, reasoned approach to a very serious problem and I am pleased and proud to support it.

I yield now to my colleague, the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman from Illinois for yielding, because I had one or two questions. The first question is, the gentleman read the letter from Mayor Bradley supporting the subminimum wage for youth. Did the gentleman contact any other black mayors around the country?

Mr. SIMON. I contacted two others, as a matter of fact.

Mr. MITCHELL of Maryland. Who were they?

Mr. SIMON. The mayor of Newark, Mayor Gibson, and he told me he agreed also with the stand I have taken.

I contacted another black mayor, who is an old friend. He indicated private agreement with my stand, but does not wish to be publicly identified.

Mr. MITCHELL of Maryland. The reason I raise the question, I talked with Mayor Hatcher yesterday morning, the mayor of a city with intense unemployment problems, and he pointed out he had concerns on both sides. He pointed out he would not support a differential for youth.

Be that as it may, let me raise a question about all these prestigious studies from the Brookings Institution and those others totally isolated from our community. Did they take into account the enormous amount of variables which affect the economy with reference to the youth differential and the increase in the minimum wage?

Let me just say that when you have a contracting economy, if you have an increase in the minimum wage, there will be less jobs for young people, anyway. We have a contracting economic situation.

Did they take into account the fact that the Federal Reserve System has had a policy of really tightening interest rates which affect adversely the whole economy and, therefore, whether you have a minimum wage or not, you will reduce the number of jobs?

What I am suggesting is that in these studies, including the CBO studies, there are serious faults in attempting to look at this problem in isolation from the total disfunctioning aspects of the American economic system.

To the best of the gentleman's knowledge, did these studies deal with such a comprehensive list of variables?

Mr. SIMON. I believe the Gramlich study and the Harvard study do.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, I am not suggesting at all that the major reason for youth unemployment is the minimum wage. The gentleman from Maryland is absolutely correct. The general economic condition is the major reason; but there is no question as we look at these studies, that are not casual studies, that if we increase the minimum wage, as I hope we will, we are also going to substantially increase youth unemployment. I think that is a great disservice. I think we have to recognize that reality.

I hope the day comes when we have programs that the gentleman from Maryland and I want and have voted for and worked for; but until that day comes, I think we have to recognize the realities of our present situation.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for responding. We are still friends.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. For as long as I can remember this has been the traditional position of not only this Member, but a vast majority of the Members on the Republican side of the aisle.

I would commend those very enlightened and discerning Democratic Members of the majority who have now joined with us in making this a bipartisan effort today.

I must say that had we not already turned down the substitute amendment, I would have had to oppose my good genial friend, the gentleman from Arizona (Mr. RUDD), who called for no minimum whatsoever for young people, because I think, frankly, that kind of condition would have led to abuses. I join my colleague, the gentleman from Minnesota (Mr. QUIE) however, in expressing my own preference for the figure

of 75 percent, rather than 85 percent in the original amendment, for I do firmly believe that there needs to be a significant differential here to really make the kind of difference we are looking for.

Having spent a good part of the August recess back home in my district, we went to several high schools. During the past several years we have had a number of conversations with young people. I find them to be very frustrated, because first-time teenage jobseekers express the feeling that they are thwarted in their efforts to get a first-time job because they cannot point to any kind of experience. All they want is an opportunity to begin to break the ice, so to speak. I find that in a free give-and-take question and answer period, without exception, these young people would all be willing to accept something less than the minimum just to break the ice. Then having an opportunity to prove to a prospective employer that they are worth their salt and are truly deserving of the minimum after the 6-month period.

Let me tell you what I feel has been happening in the service industries, particularly in the last few years, adversely affecting this first-time jobseeker: the inexperienced teenager.

Working wives—second breadwinners, who do not really need the job except to supplement the principal breadwinner to make their lives that much more comfortable, are, in fact, moving in to take over job slots that were heretofore available to the teenaged, inexperienced, first-time jobseeker. If you question employers today in many of these areas, you will find that given the choice they are going to choose the experienced, more mature, and stable applicant over the immature, inexperienced, first-time jobseeker if they have to pay the same legislated minimum wage regardless of who they are going to employ.

It seems to me that we have got to have this kind of differential as an incentive for prospective employers to help us improve this miserable unemployment figure among our young people of all colors. History will show that every time we have legislated over the past two decades an increase in the minimum wage, there has been a corresponding increase in the rate of unemployment among our teenagers across the board.

I think it is high time that we take stock of that, and learn from that experience, and now do what is right here today, by adopting this amendment.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I agree with the gentleman, and rise in support of the amendment.

Mr. Chairman, I would just like to add my voice in support of the pending amendment which would create a youth differential for the minimum wage.

It is worth noting that Secretary of Labor Marshall recently conceded that an increase in the minimum wage to $2.65 per hour, together with indexing future increases to the average manufacturing wage, could have an adverse *effect on teenage* unemployment.

As you know, the unemployment rate for teenagers is approximately three times the national average. Providing a youth differential would be an incentive for employers to hire young people at entry level positions. Allegations that doing this would take jobs away from adults are spurious and not supported by the evidence at hand or commonsense for that matter.

I will close by paraphrasing language which appeared in the additional views of my colleague from Illinois (Mr. SIMON). It does not do any good for a youth to know that an employer must pay him or her $2.30 or $2.65 or whatever per hour, if the fact that he or she must be paid that amount means that there are no jobs to be had.

Let me urge my colleagues to support the pending amendment.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Cornell amendment.

Mr. Chairman, it seems to me that the Rudd amendment was as much in line with the rational thinking of the Cornell amendment as the Cornell amendment itself. If we have a rationale that by lowering the wage that is the way we are going to solve our problem, then obviously it would be just as logical to include those up to 21 as it would be to stop at 18, because most of those between 18 and 21 are heads of families and have dependents themselves. So, they perhaps would be much more entitled to the jobs.

However, the issue, it seems to me, is whether or not we can solve the problem by simply lowering wages and breaking the wage standards in America for everyone. We could go so far as to say that we can solve our problem by lowering the wages of everyone and spreading the jobs around, and that is exactly the point that Arthur Burns, Chairman of the Federal Reserve Board, made in a speech at the University of Georgia just 2 years ago. He said in effect that lower wages was the solution to our economic problems.

Now, it seems to me that some people are misled by thinking that in some way they are going to help the youths by giving them this special handicap. Now, I think it has been said on both sides that this authority or this economist and selecting one of their choice is in support of the Cornell amendment; that this economist is against it, and that again is true depending on which one is selected. We might say that there are just as many on one side as on the other, and that it is very difficult to get an objective study of the problem.

Just a few hours ago, we did authorize a study by the Department of Labor, but it is true that we have already had two done by the Department of Labor, one in 1970 and one in 1975, the latter done by Dr. Alan Fisher for the Department of Labor. What were the results of these studies by the Department of Labor?

The Department of Labor twice has concluded that a differential for youth would have the main impact of a displacement of the adult. And so we do not create an additional number of persons employed, but we are just deciding that we are going to favor the youth and disfavor the youth's father, perhaps, or at least an adult. And that is the main impact of this amendment.

There is, in addition to that, a study which we ourselves in the Congress authorized when we passed the Comprehensive Employment and Training Act. We created the National Commission for Manpower Policy. And this was done under the previous administration. The persons appointed to the Commission were appointed by President Ford, and it consisted of six members of his Cabinet plus 11 other persons selected by President Ford on this Commission.

This Commission carefully studied the subject and brought back this recommendation. Remember this is not an outside economist. It is not a black leader. It is not a white leader. It is not someone who is farfetched from this body. It is a result of a Commission we ourselves authorized and which carefully studied the problem. This is what that Commission reported, and I quote it verbatim:

> In developing its recommendations for dealing with the employment problems of youth, the Commission considered, but discarded the idea that a lower minimum wage for youth would make a significant contribution to increasing their prospects for employment. The Commission sees no reason to deviate from the established American practice that pay is set by the job and that all persons, able to meet the performance standards of the job, should be paid the going rate. The Commission noted that the flexibility exists (via the use of stipends, trainees, wages, training allowances, tax subsidies and other devices) to assure employers that the differential costs of hiring disadvantaged young people, for whom government has assumed a special responsibility, can be covered.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(By unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. HAWKINS. Mr. Chairman, the Commission pointed to the fact that we have already granted tax subsidies, we have already made training allowances, we have already provided for stipends, we have already provided for students to be exempted, and we have provided some flexibility in wages. In addition to that, the youth bill which was passed by this House a few weeks ago and signed by the President also included in it a so-called differential. We included the payment of 85 percent of the minimum for youth and also tied it in with the private sector so that we could get the experience. But we also structured that exemption so that those young people could not be exploited. We structured the exemption so that there would be reclassifications, so that we would avoid displacement, and we have done it under many other carefully designed conditions which we should do it if at all. Mr. Chairman, we should redirect our attention away from breaking down wage standards and playing one group against another. We should come in with a program which provides for the proper structuring of the entrance of youth

into the labor market. We should provide for education and keeping a child in school rather than dropping out. And we certainly should not provide for an incentive to drop out and to become exploited, to be exploited in the labor market. We should carefully look in the other direction from wage exploitation, to help the youth for whom we are shedding so many tears here today.

Mr. PHILLIP BURTON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes on each side, the time to be controlled especially by the bill managers.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 10 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I thank my friend, the gentleman from Illinois (Mr. ERLENBORN), for yielding this time to me.

Mr. Chairman, the youth differential amendment offered by the gentleman from Wisconsin has the potential to help ease one of this Nation's most serious problems—teenage joblessness. Young people have the highest rate of unemployment. They compose about half of all workers unable to find jobs; 3.4 million youngsters ages 16 to 24 are unemployed. They become trapped in a vicious circle. Unemployed youth become discourged when their failure to obtain skill training then disadvantages them in future employment searches, they become more discouraged. Many drop out—they may feel it futile to continue looking for a job, so they join the increasing number of discouraged persons not counted by our unemployment figures.

The impact of the minimum wage on young people is adverse and it is well documented. Economic considerations cause employers to hire more productive workers in place of inexperienced teenagers. When the minimum cost of employment, which I might add, not only includes the basic wage but also various taxes, overhead costs, and the cost of training and supervision, becomes too great, employers will seek to reduce wage costs by reducing employment—either by increased mechanization or by substituting a few experienced workers for many trainees.

The preponderance of evidence that I have seen—a good deal of which I shared with my colleagues in the RECORD of July 25, 1977—indicates that what little opportunities teenagers now have for jobs will be reduced by a higher minimum wage. Edward Gramlich of the Brookings Institution finds that past minimum wage increases resulted in employers decreasing employment of teenagers and hiring additional adult females. Finis Welch of UCLA shows that the minimum wage has increased the cost of hiring 16- to 17-year-olds by 19 percent—translating into reduced employment of 27 percent. Even the Department of Labor, in a massive 1970 study of youth unemployment and minimum wages, suggests that a relationship exists between the minimum wage and youth unemployment. In particular, the labor study indicates that minimum wage legislation may have a greater adverse effect upon 16- to 17-year-olds than 18- to 19-year-olds, and that employers frequently cited the minimum wage as a problem for their difficulty in hiring 16- to 17-year-olds for full-time jobs.

Mr. Chairman, this evidence, and much more which I have examined, causes me to press for a youth opportunity wage. Young people need to be able to compete in the job market—a lower entrance wage will make them attractive to employers. It is my belief that a differential will offer enough of an incentive to employers that they will increase their employment—hiring additional teenagers and providing them with the training they need to become efficient workers. A youngster's first job is extremely important—important in the building of job skills and acquiring the necessary work experience to secure desirable employment in the future.

Our present labor market is tight, but it should not be stagnant, freezing out learners because the minimum wage makes them too costly to train. What we need is a constant process of skill training for our young people, each new inexperienced group acquiring skills, moving up the job ladder, and being replaced by more beginners. This amendment would do just that by allowing an 85-percent differential for 16-, 17-, and 18-year-olds for their first 6 months of employment. Employers would thus be encouraged to hire youngsters, mold them into valuable employees, then promote them to positions of higher rank.

If this modest proposal is rejected, the possibility exists that many of our youngsters will not receive job training. Alan Fisher, in a 1975 study of the youth differential prepared for the Labor Department, indicated that—

> Excess supplies and crowding in career labor markets are already increasing the difficulty of young adults breaking into careers.

In the absence of a differential, this tight labor market for young people will continue, not only reducing the job opportunities for teenagers, but young adults as well. This study specifically states that—

> A youth differential of 15 percent should be very adequate to make important inroads into reducing teenage unemployment very substantially.

In addition, the author indicates that because not every teenager will be paid the full differential, the long run differential will be less than 15 percent.

Mr. Chairman, some anxiety has been voiced that a young opportunity wage, an idea designed to increase jobs for young people, will somehow put adults out of work. This is a legitimate concern, but I believe one that is misdirected.

First, a careful reading of our amendment shows that the Labor Department is given the power to penalize violations, one of which specifically mentioned is substituting younger workers employed at the differential for older workers employed at or above the minimum wage. Thus any employer who fires adults to hire young people at the subminimum may be found in violation of the Fair Labor Standards Act.

Second, the Fisher study which I previously mentioned is the only study containing a specific estimate of the adult disemployment effects of a youth differential. While in that study he estimates that a 15-percent youth differential would cause adult disemployment of about 60 percent of the number of new teenage jobs, I have some serious reservations about his predictions. First, he admits the possibility that his basic figures are unreliable. He specifically states that his estimate of adult disemployment may be too large because his adjustment for net biases in the relative number of teenagers compared to adults was not made for all wage levels. The fact is, and Fisher does not make this point, very few full-time adult workers are employed at the minimum wage. According to the Labor Department, less than 7 percent of workers over 25 earn the present minimum wage. Only 12 percent earn $2.50 or less. Clearly teenagers often are not easily substitutable for adult workers.

Furthermore, his study is based on the employment and economic situation in 1973 and 1974. During that period, unemployment was low—less than 5 percent. His study is predicated on the assumption that few workers were seeking employment and that fully employed firms, in an effort to reduce labor costs, would fire adults to employ cheaper teenagers. This is plainly not now the case. As our economy improves, private industry will seek to hire both youngsters and adults.

I seriously doubt whether any firm will fire their most productive, experienced workers, the backbone of their labor force, merely to employ relatively inexpensive teenagers. Indeed, no firm could economically afford to reduce veteran workers as they expand production—these "old pros" are needed both to contribute to the increased output and to train the newly hired workers.

Fisher's adult disemployment study also is weakened by its estimation of total teenage unemployment. In addition to measured unemployment, the author also included arbitrary estimates of hidden teenage unemployment, varying between no hidden unemployment for white males 18–19, to 15 percent for 16 to 17-year-old nonwhites. Other upward biases in his adult disemployment figure mentioned by the author include the fact that a decrease in teenage wages will create proportionally more jobs for young people. Adult disemployment will also be decreased by the fact that not all teenagers will be paid the youth differential. Our amendment is limited—it only applies the youth differential to the first 6 months of a teenager's employment. In addition, some firms may not use the youth differential. The Fisher study, as

are most theoretical studies, is inflexible—it falsely assumes that all newly hired teenagers will be paid the differential and that firms will not increase overall employment—that each new job will result in some adult unemployment.

Furthermore, the Fisher study makes a fundamental assumption which will not hold true if we pass a youth differential as a part of H.R. 3744. His study assumes the minimum wage will not increase for adults and will be lowered for all teenagers. This is not the case. H.R. 3744 will increase adult wages, while the 85-percent youth differential will only lower the applicable minimum for new teenage workers, not those currently earning the minimum wage.

In addition, a 1970 Labor Department study pointed out that foreign youth differentials have been successful, and that adult employment has not been adversely affected. The report shows that youth differentials which exist in most States have produced no evidence of adverse effects. Not once did this entire 189-page study predict adult-disemployment resulting from a youth differential.

As is often the case with emotional issues that becomes quickly polarized, arguments on either side are subject to distortion. A good example is some misleading information being circulated by some groups organized in the Coalition for a Fair Minimum Wage. These groups quote from Alan Fisher's study in such a way as to distort his conclusions. Directly contrary to their claims, Fisher, in fact, concludes that—

> It is unclear at what marginal exchange rate the extra teenage jobs become worth the cost of adult disemployment.

In no place in his study does Mr. Fisher reject the concept of a youth differential.

I also support this youth differential amendment, Mr. Chairman, as a means to end the present discrimination between those able to afford post-high school education and those who cannot or do not wish to. Today an employer can hire a full-time student at an 85-percent differential, but dropouts and those without the means to attend college must seek employment at the full minimum wage. It is only fair to open the differential up to all young people. High school dropouts should be encouraged to return to school, but in the meantime—or if they choose to attend school part time—they need a 15-percent differential to compete for the available jobs. Young people not expecting to go to college should also be able to work for less than the adult minimum wage, thus improving their skills, until they turn 19. Wage rates should not be tied to educational status. To be effective, a youth differential should apply to all youth.

Mr. Chairman, I also believe that the adoption of a youth opportunity wage would improve the job prospects of minority teenagers—a sector of our population with a shocking unemployment rate of nearly 40 percent. I was alarmed to read early this spring that nearly 20,000 youngsters applied in 1 day for summer jobs in New York City. In one instance, over 700 young people, some of whom had waited in line over 36 hours, stood outside in the middle of the night just in order to be interviewed for a job. The youngsters' comments showed their plight. One female said, "I hope to work with children, but I'll take anything, including cleaning streets." An 18-year-old male stated, "I feel if I get a job, I'll stay out of trouble for the summer."

The comments of these youngsters confirm the grim black youth unemployment statistics. Not 2 weeks ago, Labor Department figures showed the highest summertime unemployment rate for young blacks ever recorded—over 35 percent. Minimum wage increases will reduce teenage employment, especially penalizing those who can least afford it—minority youths who already suffer from job discrimination. Thomas Moore, of Michigan State University, finds that the minimum wage most adversely affect nonwhite teenagers, and since the significant increase in the minimum wage in 1961, that the labor force rate for nonwhite teenagers has increased significantly.

But I agree with members of the Black Caucus, neither the Carter administration nor Congress has addressed the problem of black youth unemployment. We must go to bat for those young people and increase their likelihood of being employed. By adopting a minimum wage increase without a youth opportunity offset, we have the potential to further increase the alienation of our minority youngsters. For, as Paul Samuelson of MIT said about the proposed 1971 minimum wage increase to $1.60:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

I urge adoption of the proposed youth differential.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I rise in opposition to this amendment. I think it is ill-conceived, misguided, and misdirected.

I would like to make two points. First of all, I wish to speak to the principle of the issue of the subminimum wage or the differential, and, second, to the issue of youth employment.

Sometimes in order to understand the total ramifications of the issue before us, we must step outside the context of the immediate question. Let us assume for a minute, Mr. Chairman, that someone walked into this well and offered a race differential and said, "Let's pay blacks, browns, reds, and yellows a subminimum wage because there is significant unemployment in the minority communities."

One argument would be racism, another argument would be discrimination, and this is interesting. I am sure many of my colleagues who are proponents of this amendment would say, "Let's not have minorities being paid a subminimum wage because that would then create a situation where they would be exploited and white workers would be driven out of employment."

Let us say that someone walked into the well and offered a sex differential and said, "Let us pay women a subminimum wage." One would argue "sexism." Another would argue "discrimination," and another group would say, "No, let us not set up a situation where women can be exploited and men would be driven out of work."

Mr. Chairman, now someone offers an amendment providing for a youth differential. What is the difference?

It is age chauvinism. It is discrimination; and it does, in fact, endanger adult employment.

If there is no validity in offering a differential with respect to race, if there is no validity in arguing for a differential with respect to sex, then, I dare say, within the framework of the democratic system, to the maker of the motion, Where is the justification within our system for a lack of equity among youth? If we cannot discriminate on the basis of race, if we cannot discriminate on the basis of sex, then why do we set up a situation that says because one happens to be a number of years of age, he has to work for another level of income?

Mr. Chairman, that is in diametric opposition to all the stated purposes with respect to what this country is supposed to be all about.

The CHAIRMAN. The gentleman from California (Mr. DELLUMS) will please suspend.

The Chair will state that there will please be no applause from the gallery.

The Chair again recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman and members of the committee, on the principle of lack of equity, this amendment should be totally and absolutely rejected.

Let us go to the question of youth employment. Many people have argued that studies have shown that this will enhance employment.

The maker of the motion or the amendment took this well and said, "I do not know what implication this has."

Mr. Chairman, I would suggest that this is not a direction that we should take on the floor of this Congress without having carefully thought out the ramifications. American youths are not guinea pigs and they should not be guinea pigs. We should not legislate by the seat of our pants.

Mr. Chairman, Bernard Anderson did an extensive study into this area. He pointed out that a youth differential would result in exacerbating the problems that have characterized youth employment, particularly in the area of young people turning over in jobs.

Some have argued that it would create 800,000 jobs, but it has also been documented that we may lose 500,000 adult jobs. No one has answered that question.

Finally, Mr. Chairman and members of the committee, if we are interested in the issue of youth employment, why not offer an amendment to every single public works bill that comes to the floor which says that for every five adults employed in public works, there shall be

one youth trainee? That would create jobs.

Why can we not take an example from Sweden where every private industry is required to employ one trainee for every 70 full-time workers? That would create employment among young people in this country.

Mr. Chairman, the United States needs to join the rest of the world. Every single industrialized nation on the face of this Earth, with the exception of the United States, has thought through and regularized and systemized the transition of young people from school to the world of work. We are still Neanderthals because we have not dealt with that question.

How do we figure out the mechanism by which we move young people from school to work? We need to spend some money and some time in discovering how we can do that, but certainly not by means of ill-advised, inadequate, misconceived, and misguided amendments which are offered on the floor and then even the one who offers the amendment says, "I do not know what it will do."

Mr. Chairman, I would suggest that we should not discriminate against young people. We should not discriminate against any human beings in our society. It flies in the face of every principle we hold dear. There are mechanisms and there are programs and creative strategies by which we can employ more young people in this country if we have the heart, the courage, the intellectual, and the spiritual fortitude to do it.

Mr. Chairman, I ask the members of the committee to reject this amendment. It does not speak to the best interests of this country.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Chairman, I rise in support of this amendment for a youth exemption of 85 percent. I had wished that we had taken into consideration a stage of employment which would be a period of skill building for young people which might have been of a duration from 4 months to 1 year but it would seem that the 6-month period is a reasonable compromise.

I believe strongly that the 85-percent youth differential will stimulate employment among young people. In my home State of South Dakota many of the smaller towns and rural areas have opportunities for young people to work but in order for employers to hire untrained youths, the 85-percent differential would be helpful. Also the training element is very important. So, Mr. Chairman, I am happy to rise in support of the 85-percent youth amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr Chairman, I support the Cornell amendment. It has not been easy for the gentleman from Wisconsin (Mr. CORNELL), my colleague to the north, to have taken the initiative on this matter but I commend him for it and I think he is right.

In the end, with all due respect that I have for frankly those on this side who are supporting it, like my friend, the gentleman from Minnesota (Mr. QUIE) and for those who are so vociferous in their opposition, like my colleagues from Maryland and from California, nobody knows. That is the very reason that we ought to see what happens. We can argue from now to Christmas as to whether it will increase unempoyment or increase employment, or whether it will increase the employment of youths or increase their unemployment, no one knows for sure, and we will not know unless and until we are willing to take this step with regard to the Cornell amendment and see what happens. I believe that is the step we should take. I believe the amendment is worthy of consideration and adoption.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. BLOUIN).

Mr. BLOUIN. Mr. Chairman, as much as I respect my colleagues, both the gentleman from Wisconsin (Mr. CORNELL), and the gentleman from Illinois (Mr. SIMON), and respect their real desire to respond to the whole problem of youth unemployment, I believe that this amendent is ill-advised. Even if it was not, even if it should somehow reduce drastically the number of unemployed youth in this country, it is wrong.

We did not have any unemployment problems in our country when we had slaves because we did not pay them anything, and it all went away. It is wrong in concept and philosophy. It is wrong to establish class legislation and set aside one segment of society as a group that is deserving of less than the rest, whether they are of all colors or whether it emphasizes, as in this instance, unfortunately, all minorities and women—it is wrong. Worthy or not, it is wrong and I think it ought to be rejected on that premise.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I share the concern about the problem of youth unemployment in the United States, and I had thought I might support this amendment, but I expressed in committee that I had certain reservations about this particular approach to this problem, and those reservations have intensified in the course of this debate. I must say that even though this amendment is sponsored by and has been eloquently defended by some of the persons I admire most in this House and on our committee, I cannot support it.

I think the gentleman from Wisconsin (Mr. STEIGER) expressed my sentiments in the statement he gave on the other side that "nobody knows what this amendment will do," and I have grave reservations about its possible consequences. Hence, Mr. Chairman, I must reluctantly oppose some of the people I admire the most and join with the others in opposing this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield the balance of our 3½ remaining minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, clearly the most troublesome problem with the economy today is the lack of employment, more than 7 percent of the regular work force is unemployed. We are about to undertake an effort to reform welfare. We say that we will make a valiant effort to find jobs for people in the private sector and that if we fail to do that, and if they have family responsibilities, we will give them jobs in the public sector at the taxpayers' expense. And if in the private sector they cannot earn enough money to live on, we will supplement their income. I suspect that the House will go along with that because it is humane and necessary.

But what would we say with the Cornell amendment? We would say to two people seeking the same job, one 19 years old and one 23 years old, it is against the law for the 23-year-old to work for less than the manimium wage. That is the thrust of this amendment. We make it almost impossible for people over whatever age we pick, who normally have greater responsibilities than youth, to compete for the jobs that are available in the private sector. It would be the worst kind of step to take at a time when we are trying to create jobs for the millions of people who want to work, who have financial responsibilities to their families.

Of course, we need jobs for youth. It is totally illogical to say we are going to make it illegal for an adult to work at the level we permit a 18-year-old boy to work. What could be worse to dry up available jobs for people with substantial family responsibilities? Where they will wind up is on unemployment insurance benefits until that expires and then on the public-service jobs because available jobs in the private sector will go to those that the Government says may work at substandard wages.

I urge a no vote on the Cornell amendment.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume within the time limitation.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Connecticut.

Mr. SARASIN. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment.

Mr. Chairman, it seems only yesterday that we gathered in this Chamber to debate the merits of a youth minimum wage. In fact, we do this just about every 2 years, just like clockwork.

Well, time has run out. We have to

eliminate the rhetoric. We have to acknowledge that emotions or suppositions alone do not result in good legislation. Our feelings, our concerns, and our goals have to be blended with facts.

It has been said that a picture is worth a thousand words. On the emotional side of this issue, none of us can forget the picture of pain on the face of the young black woman stampeded by 10,000 other young people desperately hoping to get one of the 2,000 jobs New York had to offer after the looting. William Raspberry, in Monday's Washington Post, felt the woman's tears reflected her disappointment in not getting a job. I remember it as both a loss of the opportunity for the job and the physical pain of being crushed by the desperation of 10,000 young people wanting work.

We as a body have to get our heads out of these hallowed marble halls where ideology and partisanship often ring loud and clear. Instead, we have to throw out our platitudes and look to the streets. We have to look at the cities and towns, the hosts to hundreds of thousands of unemployed teenagers. We have to realize that 40 percent of our black young people do not have a job. This is not a problem. It is a national tragedy and a disgrace.

Two other facts have to be faced. First, these young people are not going to be hired if we continue to insist on mandating wages that are more suitable for older, more mature, better skilled adults. Employers need an incentive, however slight, to hire teenagers. Second, if we are honest with ourselves, we cannot whip out the public service employment wand and say, "abra cadabra, you have a job." We passed a good youth employment bill, but it will not do more than dent the problem. The private sector has to be involved.

In the past, we have been shooting in the dark about the relationship between the minimum wage and youth unemployment. This is simply no longer true. Dozens of organizations—from all philosophical backgrounds—have studied the problem and reported their findings.

A congressional budget officer report states—

Another effect that the minimum wage may have on teenagers is to limit their opportunities.

A report in the American Economic Review says—

Minimum wage has had the effect of reducing job opportunities for teenagers during periods of normal employment growth and making their jobs less secure in short-terms changes in the business cycle.

Kansas State University's James F. Ragan, Jr. reported in the Harvard journal, Review of Economics and Statistics, that "only" about 225,000 teen jobs, equal to about 17 percent of the teenage unemployment total, were lost after the 1966 changes that raised the basic minimum by 28 percent and also expanded its coverage.

And, in a recent issue of Brookings papers on economic activity, University of Michigan economist Edward M. Gramlich gave an estimate that "only" a 13-percent rise in teenage unemployment resulted from 1974's 25-percent boost in the minimum.

The verdict is in. Increases in the minimum wage, unless offset by a youth differential, will cause even higher unemployment among our Nation's youth—particularly our minority population. Can we really afford to aggravate the crisis even more?

Our choice today is admittedly difficult. We have never had a youth differential in this country, although Western European industrialized nations have had such programs for years with great success. Still, fear of the unknown is understandable.

However, concern for the known should overcome any reluctance on our parts. If you were an unemployed teenager—blaek, brown, red, yellow, or white—how would you like to hear "We have done you a big favor. If you are lucky enough to get a job, you will get $2.65 per hour. There is just one little problem. We have reduced even more the chances that you will ever get that job."

We have to give the youth differential a chance to succeed or fail on its own merits. We have to accept the fact that a job to a teenager does not center around the money he might make for the first 6 months. It is the experience, the skills, and the training that he can develop—the ability to take what he has learned to other employers and command higher and higher wages.

The youth differential can make a difference. If we do not try it, we just might be institutionalizing the pain on that young girl's face and all young people just like her. In fact, we might even be writing their epitaphs as adults.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the amendment, and I am pleased to cosponsor this amendment with the gentleman from Wisconsin (Mr. CORNELL) and my two colleagues, the gentlemen from Illinois (Mr. SIMON and Mr. ANDERSON).

There have been many arguments made here against the youth differential. All of them we have heard before in our committee several times over the years. The AFL–CIO really seems to be the only opponent to this concept. Much of their opposition is based on speculation as to what might happen—the child being hired and his father losing his job, and so forth. We do not need speculation.

The gentleman from Illinois (Mr. SIMON) pointed out that there have been two studies at least, the Bureau of Labor Statistics and the Congressional Budget Office Studies, that have shown the use of a youth differential, and we have evidence of it in States that have differentials for youth. Every country in Western Europe has a form of youth differential. The studies show that where the youth differential is in force, it does not cause unemployment or disemployment among older people, but it also shows something else quite interesting. It shows a very low level of unemployment among the youth where the youth differential has been utilized. In West Germany youths enter employment at wages 60 to 90 percent of the adult wage rate, and unemployment for youth has rarely gone above 1½ percent in the past 15 years. In the Netherlands the wage rates for youth begin at 25 to 30 percent of the adult wage rate and then move up to reach the adult wage rate later on. In the United Kingdom teenagers enter employment at 30 percent of the adult wage rate and gradually reach the adult level at age 21. Unemployment among youth in the United Kingdom has averaged less than 3 percent over the past decade.

The ratio of youth unemployment to adult unemployment in Western Europe is about 1 to 1 and 5 to 1 in the United States. So we do not have to speculate. I urge the adoption of the Cornell amendment.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL).

The question was taken; and the Chair announced that he was in doubt.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 211, not voting 14, as follows:

[Roll No. 551]

AYES—210

Abdnor	Evans, Del.	Lundine
Alexander	Evans, Ga.	McClory
Anderson, Ill.	Evans, Ind.	McCloskey
Andrews, N. Dak.	Fenwick	McDonald
Archer	Findley	McEwen
Armstrong	Fisher	McKay
Ashbrook	Fithian	Madigan
Ashley	Flippo	Mahon
Aspin	Flowers	Marks
Badham	Flynt	Marlenee
Bafalis	Forsythe	Marriott
Barnard	Fountain	Martin
Baucus	Frenzel	Mathis
Bauman	Frey	Michel
Beard, Tenn.	Gibbons	Milford
Bonker	Goldwater	Miller, Ohio
Bowen	Goodling	Montgomery
Breaux	Gradison	Moore
Breckinridge	Grassley	Moorhead, Calif.
Brinkley	Guyer	Myers, Gary
Brooks	Hagedorn	Myers, John
Broomfield	Hall	Neal
Brown, Mich.	Hamilton	Nichols
Brown, Ohio	Hammer-schmidt	Nowak
Broyhill	Hanley	O'Brien
Burgener	Hansen	Obey
Burke, Fla.	Harsha	Pease
Burleson, Tex.	Heckler	Pettis
Butler	Hefner	Pike
Carter	Hillis	Poage
Cederberg	Holland	Pressler
Chappell	Hollenbeck	Pritchard
Clausen, Don H.	Holt	Pursell
Clawson, Del	Huckaby	Quayle
Cleveland	Hyde	Quie
Cochran	Ichord	Railsback
Coleman	Ireland	Regula
Collins, Tex.	Jacobs	Rhodes
Conable	Jeffords	Rinaldo
Conte	Jenkins	Roberts
Corcoran	Johnson, Colo.	Robinson
Cornell	Jones, N.C.	Rogers
Coughlin	Jones, Okla.	Rousselot
Crane	Kasten	Rudd
Cunningham	Kastenmeier	Runnels
D'Amours	Kazen	Ruppe
Daniel, Dan	Kelly	Ryan
Daniel, R. W.	Kemp	Santini
de la Garza	Ketchum	Sarasin
Derwinski	Keys	Satterfield
Devine	Krueger	Sawyer
Dickinson	Lagomarsino	Schulze
Dornan	Latta	Sebelius
Duncan, Tenn.	Leach	Sharp
Edwards, Ala.	Lent	Shuster
Edwards, Okla.	Livingston	Sikes
Emery	Long, Md.	Simon
Erlenborn	Lott	Skubitz
Ertel	Lujan	Smith, Nebr.
	Luken	Snyder

Spence	Ullman	Wilson, Bob
Stangeland	Van Deerlin	Wilson, Tex.
Stanton	Vander Jagt	Winn
Steiger	Waggonner	Wirth
Stockman	Walker	Wydler
Stump	Wampler	Wylie
Symms	Watkins	Yatron
Taylor	White	Young, Fla.
Teague	Whitehurst	Young, Tex.
Thone	Whitten	
Trible	Wiggins	

NOES—211

Addabbo	Ford, Mich.	Myers, Michael
Akaka	Ford, Tenn.	Natcher
Allen	Fowler	Nedzi
Ambro	Fraser	Nix
Ammerman	Fuqua	Nolan
Anderson, Calif.	Gammage	O'Neill
	Gaydos	Oakar
Andrews, N.C.	Gephardt	Oberstar
Annunzio	Giaimo	Ottinger
Applegate	Gilman	Panetta
AuCoin	Ginn	Patten
Badillo	Glickman	Patterson
Baldus	Gonzalez	Pattison
Beard, R.I.	Gore	Pepper
Bedell	Gudger	Perkins
Beilenson	Hannaford	Pickle
Benjamin	Harkin	Preyer
Bennett	Harrington	Price
Bevill	Harris	Rahall
Biaggi	Hawkins	Rangel
Bingham	Heftel	Reuss
Blanchard	Hightower	Richmond
Blouin	Holtzman	Risenhoover
Boggs	Horton	Rodino
Boland	Howard	Roncalio
Bonior	Hubbard	Rose
Brademas	Hughes	Rosenthal
Brodhead	Jenrette	Rostenkowski
Brown, Calif.	Jones, Tenn.	Roybal
Buchanan	Jordan	Russo
Burke, Calif.	Kildee	Scheuer
Burke, Mass.	Kostmayer	Schroeder
Burlison, Mo.	Krebs	Seiberling
Burton, John	LaFalce	Shipley
Burton, Phillip	Le Fante	Sisk
Byron	Lederer	Skelton
Caputo	Leggett	Slack
Carney	Lehman	Solarz
Carr	Levitas	Spellman
Cavanaugh	Lloyd, Calif.	St Germain
Chisholm	Lloyd, Tenn.	Staggers
Clay	Long, La.	Stark
Collins, Ill.	McCormack	Steed
Conyers	McDade	Steers
Corman	McFall	Stokes
Cornwell	McHugh	Stratton
Cotter	McKinney	Studds
Danielson	Maguire	Thompson
Davis	Mann	Thornton
Delaney	Markey	Traxler
Dellums	Mattox	Tsongas
Derrick	Mazzoli	Tucker
Dicks	Meeds	Udall
Diggs	Metcalfe	Vento
Dingell	Meyner	Volkmer
Dodd	Mikulski	Walgren
Downey	Mikva	Walsh
Drinan	Miller, Calif.	Waxman
Duncan, Oreg.	Mineta	Weaver
Early	Mitchell, Md.	Weiss
Eckhardt	Mitchell, N.Y.	Whalen
Edgar	Moakley	Whitley
Edwards, Calif.	Moffett	Wilson, C. H.
Eilberg	Mollohan	Wolff
English	Moorhead, Pa.	Wright
Fary	Moss	Yates
Fascell	Motti	Young, Alaska
Fish	Murphy, Ill.	Young, Mo.
Flood	Murphy, N.Y.	Zablocki
Florio	Murphy, Pa.	Zeferetti
Foley	Murtha	

NOT VOTING—14

Bolling	Kindness	Rooney
Cohen	Koch	Smith, Iowa
Dent	Minish	Treen
Evans, Colo.	Quillen	Vanik
Johnson, Calif.	Roe	

The Clerk announced the following pairs:

On this vote:

Mr. Kindness for, with Mr. Dent, against.
Mr. Quillen for, with Mr. Bolling against.
Mr. Treen for, with Mr. Koch against.

Messrs. BYRON, WALGREN, HARKIN, and GIAIMO changed their vote from "aye" to "no."

Mr. MARLENEE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS: Page 14, insert after line 4 the following:

AGRICULTURAL HAND HARVEST LABORERS

SEC. 10. Section 13 (29 U.S.C. 213) is amended by adding after the subsection added by section 9 the following new subsection:

"(l)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and September 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MEEDS. Mr. Chairman, it would be difficult to bring anything before the Members that is as exciting as that photo finish on the vote on the previous amendment, but I would like, with the permission of the Members, to repair to the strawberry fields of western Washington for just a moment.

The amendment I am proposing is known by friends and foes alike as the "strawberry amendment." What this amendment really does is to allow children under the age of 12, under very carefully protected circumstances, to work in the hand harvest of crops.

Despite what the Members may hear, this amendment is not primarily for the growers. In my own State where they grow a lot of strawberries, the acreage devoted to strawberries, since the passage of this provision which is now in law and which has barred the work of these people since 1974, has dropped. We have lost between 25 and 38 percent of our strawberry harvest through the strawberries not being planted. The crop value is down between 34 and 49 percent in the State.

Despite the fact that we are losing strawberry production, the growers located on good agricultural land can take care of themselves. They can go into some other endeavor. So it is not primarily on their behalf that I am speaking, but I am speaking primarily on behalf of the young people who want to be involved in the hand harvest of strawberries and other berries.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I rise in support of the amendment. We had this provision in law for many, many years up until a couple of years ago.

It has involved creative and meaningful work during the summertime for thousands and tens of thousands of young people in a very clean, healthy environment.

I think this is good for the country, and I support the gentleman.

Mr. MEEDS. Mr. Chairman, I thank the gentleman.

I point out that there are many other people supporting this amendment.

Let me also point out that this is for adults as well. The argument has been made that this displaces adult labor and depresses wages. Let us look at what really happened in my State. When this was knocked out between the years of 1974 and 1977, we lost over 300 adult jobs in the canneries and in the freezing plants because the strawberries were not planted and therefore they were not harvested.

Consequently, Mr. Chairman, while national labor may be opposed to this amendment, local labor is very much in favor of it because it provides jobs for local labor.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding. I am in support of his amendment.

As I understand the gentleman's amendment, it includes harvesting of crops; is that correct?

Mr. MEEDS. Hand harvesting of crops, yes.

Mr. ROUSSELOT. That would include lettuce, too?

Mr. MEEDS. If it is harvested by hand, without other implements, that is correct.

Mr. ROUSSELOT. Can nonunion lettuce be picked in this way?

Mr. MEEDS. Mr. Chairman, I am sorry. I cannot hear the gentleman.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, can nonunion lettuce be picked in this way?

Mr. MEEDS. It is not a question of union or nonunion, I will tell the gentleman. It is a question of whether it is hand-harvested labor.

Mr. Chairman, let me also point out to the Members of the House that I am as concerned as they are about problems of child labor that we have in our conception of young people in the breakers and in the sweatshops. Believe me, this is not what we are talking about.

I am also against young migrants having to work in the fields when they really ought to be in school. In this bill there is a provision against migrants under 12 years of age working when they should be in school.

Under this amendment they must commute daily. They must work during nonschool hours, 13 weeks during the summer; and it must not be deleterious to their health.

Finally, Mr. Chairman, I think we all can see newspaper boys under 12 years of age working. We do not really have any problem with that. In fact, there is an exception with respect to that in this bill.

Let me point out, too, that it is much, much safer to be picking berries in the fields than it is for young boys under the age of 12 to be delivering newspapers in Washington, D.C., in my hometown or in Denver or any place else.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I just want to rise in strong support of the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(On request of Mr. DICKS and by unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would just like to point out that in my own part of the State of Washington we have the same problem.

I think the gentleman's amendment is well-targeted and well-drafted, and I think we ought to approve it.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I rise in support of this amendment.

In my own district I have discussed the problem with parents and children and I think that this is a very carefully drawn amendment which will allow a long, traditional practice to continue in a very select area of our country.

Mr. Chairman, I strongly support the amendment.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, there is some language in this proposal with respect to overtime.

Is it the gentleman's intention that these youngsters be permitted to work more than 40 hours a week?

Mr. MEEDS. Certainly it is not, but this comes under the exemption of hand-harvested, under which there is an exception for overtime, so it has to be included in that section.

However, I would certainly hope that they would not perhaps even work 40 hours.

Mr. PHILLIP BURTON. Mr. Chairman, I ask the committee not to approve this amendment. I urge its rejection.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. QUIE, and by unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I just want to say that the gentleman from Washington (Mr. MEEDS) has attempted this amendment before. As I have listened to the gentleman's argument, I think it is well founded. There are situations where young people go with their parents to pick strawberries. We do not have those same picking arrangements in Minnesota as we once did, but they do out in the State of Washington.

As one of the young people who were involved in picking strawberries myself, I think it is a good arrangement for children to be with their parents in picking these vegetable crops and I support the amendment.

Mr. MEEDS. Mr. Chairman, I thank the gentleman from Minnesota (Mr. QUIE) for his support now and in the past.

AMENDMENT OFFERED BY MR. EMERY TO THE AMENDMENT OFFERED BY MR. MEEDS

Mr. EMERY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY to the amendment offered by Mr. MEEDS: Page 2, line 19 of the Meeds Amendment.

Strike the word "September" and insert in lieu thereof the word "October".

Mr. EMERY. Mr. Chairman, I offer this amendment on behalf of my colleague from Maine, Mr. COHEN, and myself, to solve a problem for our potato farmers in Aroostook County. I support the amendment offered by my distinguished colleague from Washington (Mr. MEEDS) to permit the Secretary of Labor to grant a waiver allowing children under age 12 to participate in local harvests.

My amendment would change only one detail of his proposal; it would extend the cutoff date by one month to October 15. This minor change would make the potato harvest in Maine, which occurs between mid-September and mid-October, eligible for a waiver.

Until passage of the child labor provisions of the Fair Labor Standards Act in 1974, children under age 12 routinely participated in the annual potato harvest in northern Maine. Then, in 1974, the Congress, in an attempt to prevent the shameful exploitation of the children of migrant workers, enacted the child labor provisions which prohibited the employment of most children under age 12 in agricultural operations. Congress neglected to include in the law an exemption for the hiring of local children who have traditionally and willingly participated in harvesting the crops of their community.

I do not believe that anyone disputes the wisdom of protecting migrant children from abusive practices in which economic considerations have frequently run roughshod over the personal liberties and needs of these children. But the inflexible application of this law without taking into consideration local traditions is big government at its very worst. This well-intentioned law has disrupted traditional patterns of employment in some areas of the United States, including northern Maine, where conditions are entirely different from those Congress was attempting to prevent.

The common image of child labor in agriculture includes migrant labor camps with poor housing and sanitation, exploitation of the workers, and hazardous working conditions. But Maine's experience with the employment of children in harvesting crops has never been characterized by the abuses and indignities prevalent in other parts of the country. To the contrary, the evidence indicates that employment during the 3-week potato harvest has been a constructive, healthy, and positive influence in the lives of many young people. Records indicate that there have been virtually no work-related injuries suffered by these children and that they are genuinely enthusiastic about the opportunity to work.

Participation in the harvest provides an invaluable social and educational experience for the children that could not possibly be gained from a textbook or in a classroom. The opportunity for children to earn a modest income while assisting the individual potato farmer in harvesting his highly perishable crop has clearly benefited both parties.

The practice of using area children to assist in the harvest has also served as an adhesive, strengthening community spirit and personal ties. During the harvest, the activity of the whole region revolves around the overriding goal of harvesting the potatoes before the early frosts. To accommodate the farmers, school begins in mid-August and recesses for 3 weeks in September and October so that children can participate in the harvest without missing any schoolwork. Since approximately 60 percent of the pickers are students, farmers depend heavily on their assistance and availability. Let me stress that these children are not taking away jobs from local adults. Even with children employed in the harvest, the

domestic labor supply for the harvest has been inadequate. The harvest has always been a family and community effort because only with the assistance of his neighbors can the farmer harvest his potatoes.

Congressman MEEDS' amendment, with the minor date change which I have proposed, would provide continued protection for the children of migrant workers while recognizing the need for a narrow exemption for the temporary employment of local children in hand-harvesting operations. By approving this amendment, we can show that Washington is responsive to local needs and that the law is not a monolith to be applied without sensitivity to local customs.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am opposed to the addition of the month of October since that is traditionally a school period attendance time. I would have wished that the managers of the bill had had an opportunity to judge the consequences of this amendment that is added on to the Meeds amendment that itself has at least been before us for a long period of time.

I regret to say that I must urge an emphatic no vote to adding in the month of October.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman from California, (Mr. PHILLIP BURTON), for yielding to me. The gentleman is exactly correct. This language would include part of the month of October, and does fall within the school period. However I might point out that if the gentleman lived in Caribou, Maine, at the present time, his children would probably be harvesting potatoes. I would further add that school is not in session during this time. School is always out of session for 4 or 5 weeks during this period in September and October in which potatoes are harvested.

Traditionally, the students in that part of my State, and I would imagine in other States where this situation also occurs, go to school in August and in June to make up the 4 weeks that they do not attend in October and September.

I would also like to point out to the gentleman from California that we have absolutely no intention at all—and I want to make the record very clear on this point—to take students out of school to do work that other people might otherwise do. This is a family occupation. It is one that people in Maine have traditionally engaged in. It has the support of the educators in the State, and of the primary business, labor, and political leaders.

Mr. PHILLIP BURTON. Mr. Chairman, if I understand correctly, it is not the gentleman's intention that the extension of this month take place unless the local school district is acceptable to it?

Mr. EMERY. That is exactly correct.

Mr. PHILLIP BURTON. Although the language in the amendment does not so specify, the gentleman from Maine (Mr. EMERY), thus would not have an objection in the event that this amendment is adopted and we go to conference and, so limit its application to such a time frame?

Mr. EMERY. I have no objection, if this amendment is adopted, to having it amended in the conference committee to specify that the school district affected does support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine, (Mr. EMERY), to the amendment offered by the gentleman from Washington, (Mr. MEEDS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington, (Mr. MEEDS), as amended.

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANNUNZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 282, noes 132, not voting 20, as follows:

[Roll No. 552]

AYES—282

Abdnor	Danielson	Hightower
Akaka	de la Garza	Hillis
Alexander	Derwinski	Holt
Allen	Devine	Horton
Ammerman	Dickinson	Hubbard
Andrews, N.C.	Dicks	Huckaby
Andrews, N. Dak.	Dodd	Hughes
Archer	Dornan	Hyde
Armstrong	Downey	Ichord
Ashley	Duncan, Oreg.	Ireland
Aspin	Duncan, Tenn.	Jacobs
AuCoin	Early	Jeffords
Badham	Eckhardt	Jenkins
Bafalis	Edgar	Jones, N.C.
Baldus	Edwards, Ala.	Jones, Okla.
Barnard	Edwards, Okla.	Jones, Tenn.
Baucus	Emery	Kastenmeier
Bauman	English	Kazen
Beard, Tenn.	Erlenborn	Kelly
Bedell	Evans, Del.	Kemp
Blouin	Evans, Ga.	Ketchum
Boggs	Evans, Ind.	Keys
Boland	Fenwick	Kostmayer
Bonker	Fish	Krebs
Bowen	Fisher	Krueger
Breaux	Fithian	LaFalce
Breckinridge	Flippo	Lagomarsino
Brinkley	Flowers	Latta
Broomfield	Flynt	Lehman
Brown, Calif.	Foley	Lent
Brown, Mich.	Ford, Mich.	Levitas
Brown, Ohio	Ford, Tenn.	Lloyd, Calif.
Broyhill	Forsythe	Lloyd, Tenn.
Buchanan	Fountain	Long, La.
Burgener	Fowler	Long, Md.
Burke, Fla.	Fraser	Lujan
Burleson, Tex.	Frenzel	Lundine
Butler	Frey	McClory
Byron	Fuqua	McCloskey
Caputo	Gammage	McCormack
Carr	Giaimo	McDonald
Carter	Ginn	McEwen
Cavanaugh	Glickman	McFall
Chappell	Goldwater	McHugh
Clausen, Don H.	Gonzalez	McKay
Clawson, Del	Goodling	McKinney
Cochran	Gradison	Madigan
Coleman	Grassley	Mahon
Collins, Ill.	Gudger	Mann
Collins, Tex.	Guyer	Markey
Conable	Hagedorn	Marks
Conte	Hall	Marlenee
Corcoran	Hamilton	Marriott
Cornwell	Hammer-schmidt	Martin
Coughlin	Hanley	Mathis
Crane	Hannaford	Mattox
Cunningham	Hansen	Mazzoli
D'Amours	Harkin	Meeds
Daniel, Dan	Harsha	Michel
Daniel, R. W.	Hefner	Milford
	Heftel	Miller, Calif.
		Miller, Ohio
Mineta	Risenhoover	Taylor
Mitchell, N.Y.	Roberts	Teague
Moffett	Robinson	Thone
Montgomery	Rogers	Trible
Moore	Rose	Tsongas
Moorhead, Calif.	Rousselot	Udall
Mottl	Rudd	Ullman
Myers, Gary	Runnels	Van Deerlin
Myers, John	Sarasin	Vander Jagt
Natcher	Satterfield	Volkmer
Neal	Sawyer	Waggonner
Nichols	Schroeder	Walgren
Nix	Sebelius	Walker
Nowak	Sharp	Walsh
O'Brien	Shipley	Wampler
Obey	Shuster	Watkins
Panetta	Simon	Weaver
Patterson	Sisk	White
Pattison	Skubitz	Whitehurst
Pettis	Slack	Whitley
Pickle	Smith, Iowa	Whitten
Pike	Smith, Nebr.	Wiggins
Poage	Snyder	Wilson, Bob
Pressler	Spellman	Wilson, Tex.
Preyer	Spence	Winn
Pritchard	Stangeland	Wirth
Pursell	Stanton	Wylie
Quayle	Steed	Yatron
Quie	Steers	Young, Alaska
Railsback	Stockman	Young, Fla.
Regula	Stratton	Young, Tex.
Reuss	Studds	Zablocki
Rhodes	Stump	
	Symms	

NOES—132

Addabbo	Findley	Oberstar
Ambro	Flood	Ottinger
Anderson, Calif.	Florio	Patten
Annunzio	Gaydos	Pease
Applegate	Gephardt	Pepper
Ashbrook	Gibbons	Perkins
Badillo	Gilman	Price
Beard, R.I.	Gore	Rahall
Bellenson	Harrington	Rangel
Benjamin	Harris	Richmond
Bennett	Hawkins	Rinaldo
Bevill	Heckler	Rodino
Biaggi	Holland	Roncalio
Bingham	Hollenbeck	Rosenthal
Blanchard	Holtzman	Rostenkowski
Bonior	Howard	Roybal
Brademas	Jenrette	Ruppe
Brodhead	Johnson, Colo.	Russo
Brooks	Jordan	Ryan
Burke, Calif.	Kasten	Scheuer
Burke, Mass.	Kildee	Schulze
Burlison, Mo.	Le Fante	Seiberling
Burton, John	Leach	Skelton
Burton, Phillip	Lederer	Solarz
Carney	Leggett	St Germain
Chisholm	Lott	Staggers
Clay	Luken	Stark
Cleveland	McDade	Steiger
Conyers	Metcalfe	Stokes
Corman	Meyner	Thompson
Cornell	Mikulski	Thornton
Cotter	Mikva	Tucker
Davis	Mitchell, Md.	Vento
Delaney	Moakley	Waxman
Dellums	Mollohan	Weiss
Derrick	Moorhead, Pa.	Whalen
Diggs	Moss	Wilson, C. H.
Dingell	Murphy, Ill.	Wolff
Drinan	Murphy, N.Y.	Wright
Edwards, Calif.	Murphy, Pa.	Wydler
Eilberg	Murtha	Yates
Ertel	Myers, Michael	Young, Mo.
Fary	Nedzi	Zeferetti
Fascell	Nolan	
	Oakar	

NOT VOTING—20

Anderson, Ill.	Kindness	Rooney
Bolling	Koch	Santini
Cederberg	Livingston	Sikes
Cohen	Maguire	Traxler
Dent	Minish	Treen
Evans, Colo.	Quillen	Vanik
Johnson, Calif.	Roe	

The Clerk announced the following pairs:

On this vote:

Mr. Sikes for, with Mr. Dent against.

Mr. Quillen for, with Mr. Bolling against.

Mr. Kindness for, with Mr. Koch against.

Mr. Treen for, with Mr. Minish against.

Messrs. MOLLOHAN, APPLEGATE, NOLAN, and GEPHARDT changed their vote from "aye" to "no."

Mr. STRATTON and Mr. MARKS changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. PHILLIP BURTON. Mr. Chairman, we are going to make an effort to finish this evening. We have two sets of amendments, one in the area of small business and the other a more direct approach than perhaps we have taken over the past couple of years, to repeal the Fair Labor Standards Act. That amendment may not be offered. I am not aware of any others pending.

It would be my intention to seek unanimous consent to limit debate on each side on the amendments to some set period of time for the author of the amendment and the bill managers. I am just groping for some kind of time limitation.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I think my friend is groping. Some of us have been sitting here for 5 hours. We have not tried to limit debate. I would hope the gentleman would withhold limiting debate.

Mr. PHILLIP BURTON. If the gentleman does not want to be limited, I will not make the effort at this point in time.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: Page 14, insert after line 4 the following:

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s) (29 U.S.C. 203(s)) is amended by (1) inserting "(1)" after "(s)", (2) redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, (3) amending subparagraph (A) (as so redesignated) to read as follows:

"(A) is an enterprise whose annual gross volume of sales made or business done is not less than the dollar volume standard in effect as prescribed by paragraph (2);", and

(4) adding at the end the following:

"(2) (A) For purposes of paragraph (1) (A), the dollar volume standard in effect for any calendar year is $250,000 or, if higher, the dollar volume standard prescribed by subparagraph (C). In determining if the annual gross volume of sales made or business done by an enterprise exceeds the dollar volume standard, excise taxes at the retail level which are separately stated shall not be considered.

"(B) (i) On or before October 1, 1978, the Secretary shall adjust the dollar volume standard to reflect the percent rise in the Price Index during the six-month period ending on June 30, 1978, and shall publish the adjusted amount in the Federal Register.

"(ii) On or before October 1 of each succeeding year, the Secretary shall adjust the amount determined under clause (i) or this clause, as the case may be, on or before the next preceding October 1 to reflect the percent rise in the Price Index during the twelve-month period ending on June 30 of such year and shall publish the adjusted amount in the Federal Register.

"(C) If an adjustment under subparagraph (B) results in an amount which is equal to or greater than a multiple of $25,000, the dollar volume standard for the calendar year beginning after the date of such adjustment shall be such multiple and shall be published in the Federal Register.

"(D) For purposes of subparagraph (B), the term 'Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers (all items—United States city average) published by the Bureau of Labor Statistics.".

(b) Section 13(a) (2) (29 U.S.C. 213(a) (2)) is amended by striking out "section 3(s) (4)" and inserting in lieu thereof "section 3(s) (1) (D)".

Mr. BLOUIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BLOUIN. Mr. Chairman, in a way, it is unfortunate that at this hour, after 7 hours of debating a very important bill, we have come into a subject that is of a considerable amount of importance to thousands of businesses in every one of our districts—that dealing with the effect of minimum wage on smaller concerns across the country.

Mr. Chairman, the amendment that I offer does not tamper directly with the small business exemption which does exist within present law. In 1966, when the last comprehensive minimum wage bill was passed, the Congress saw fit at that time to pare down the small business exemption to roughly $250,000 by 1969. In other words, those businesses that fell into the category of retail sales of under $250,000 were exempt from the minimum wage coverage of the bill.

Mr. Chairman, over the last 8 or 10 years the effect of that $250,000-exemption, because of inflation, has really minimized, in terms of the numbers of businesses that have been exempt. Frankly, if the Consumer Price Index had been tied to that past exemption in the way that I propose, that exemption today would be approaching the $450,000–$475,000 range.

What I propose to do in my amendment is to deal not with the past mistakes, but to see to it that it does not happen in the future.

Mr. Chairman, my amendment takes the Consumer Price Index and indexes the small business exemption in increments of $25,000. In other words, if the CPI increases a percentile effective enough to factor into a $250,000 base to equal $25,000, the exemption in the following January would be adjusted up by $25,000.

Assuming a 6-percent CPI factor, which is what it has averaged over the last 6 to 8 years, on into the future, by 1980, that exemption will go to $275,000. By 1982 it will be at $300,000. By 1983 it will be at $325,000. By 1985 it will be at $350,000. And assuming again a 6-percent CPI growth into the future, a $25,000 increase every year thereafter, by 1991 that exemption is brought up to the $500,000 category.

Mr. Chairman, referring to those businesses that employ roughly 4 million people who are presently exempt from the Minimum Wage Act, I had initially thought about trying to make up for the past inflationary trend and increasing the exemption effectively. The trouble with that is that we would effectively uncover some 3.8 million people who are today covered by minimum wage. We would not just leave them at a $2.30 level, but we would uncover them completely. I think that is rather unfair.

I think it is much fairer to start out at an even point of $250,000, where it is today, and move it on in the future, in the hopes that we can help those businesses that on the average employ no more than seven and all the way down to one person in the course of a year. No one wants to put those companies out of business and eliminate what small job opportunities exist there.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 3 additional minutes.)

Mr. BLOUIN. If I may continue, Mr. Chairman, at the same time no one wants to force a smaller concern into a negative, competitive situation against a bigger concern that can afford the added impact of higher wages when the smaller company cannot.

Our concern here should be for creating more jobs. I think my amendment does that effectively.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield briefly to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Chairman, we did not, of course, hear the gentleman's amendment read, but the gentleman mentioned in his remarks in support of his concept, which I think has some reasonableness, that is if the cost-of-living index had been applied to this small business exemption, it would now be up to $475,000. I regret the $475,000 exemption is not included in the gentleman from Iowa's amendment. So then I assume the gentleman can support the Pickle amendment which will be offered this afternoon and which will do just that?

Mr. BLOUIN. Mr. Chairman, I appreciate the gentleman's point. As I said in my comments, at one point I intended to do that.

The trouble with that is that if we are to increase that exemption beyond where it is today to $500,000, we effectively eliminate minimum wage coverage which is already there for some 3.8 million workers who have been brought in, if you will, over the past 11 years, who at Point One were uncovered, and who have gradually been brought into it. In that way we would create a real inequity, a real imbalance.

Mr. ROUSSELOT. The gentleman is assuming that all employers would immediately reduce wages?

Mr. BLOUIN. I am assuming they would not increase wages.

Mr. ROUSSELOT. Some of them in this category already pay a wage that is higher than the minimum wage.

Mr. BLOUIN. Certainly. And those businesses have adjusted.

Mr. ROUSSELOT. I would assume, then, if the gentleman supports the concept of attaching it to the Consumer Price Index and he says that now, on the basis of his calculation, that threshold

should be $475,000, he would support the amendment to be offered by the gentleman from Texas (Mr. PICKLE) and/or he would have the language in his own amendment.

Did the gentleman have the language in his own amendment to bring it up to that figure?

Mr. BLOUIN. No. As I say, that was my original intent.

To continue my thought, if we had done that and it had been passed here, we would have effectively uncovered or terminated coverage for some 3.8 million people.

The gentleman is right. I do not believe employers would roll their wages back, but they just would not jump to $2.65. They will stay at the $2.30 level, and under the amendment offered by the gentleman from Illinois (Mr. ERLENBORN), when it goes to $2.65 and $3.05, they will stay at the $2.30 level, because they would not be required to go up.

I think that would be unfair to those employees in that situation. We can deal effectively with the 4 million people who are not covered and with the roughly 1½ million businesses in this country that might well fall within that category in terms of the future, but I do not think there is any fair and equitable way to make up for past mistakes.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has again expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I have been persuaded by the gentleman from Iowa (Mr. BLOUIN) to accept this amendment.

I intend to oppose either of the two pending ones, but this is one way out of this dilemma when we have a fixed dollar amount. We tried to index wages, but we were not too successful in that direction. However, I cannot really quarrel because this is not unlike the concept of what the value of the dollar is when the cost of living goes up, I might say, because inflation has less meaning.

Again, Mr. Chairman, this is one way not to disturb small businesses. Although in a period of years it will be the equivalent of half a million dollars, at least it is a gradual step that can be followed.

Therefore, I do intend to ultimately support this amendment while I am in the process of opposing any others.

Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Chairman, I rise in support of the small business coverage amendment and urge my colleagues to vote in favor of this important assistance to troubled, small businessmen.

Presently, businesses with annual gross sales of $250,000 are exempted from the minimum wage law. In a large degree, these are family operations such as ma and pa grocery stores. This is a wise and worthwhile exemption.

In simple terms, this amendment would increase the exemption level in accordance with inflation. The amendment provides for an increase in the exemption when the Consumer Price Index shows that an increment of $25,000 in inflation has been reached.

I think the record should be clear. I am basically opposed to the idea of indexing the minimum wage. I believe that this and future Congresses should squarely face this issue at timely points. By installing an index, we are delegating this responsibility to a faceless bureaucracy called the Bureau of Labor Statistics.

By voting on any future increases in the minimum wage, future Congresses will have cause to confront inflation and debate the issues not only of minimum wage—but the general causes of inflation.

We considered giving employees the right to "index" increases, we need now to extend this right to small employers. By ignoring this need, we will effectively eliminate the exemption because—at a rate of 5 percent or more inflation—no business will be able to exist much longer with sales under $250,000. As inflation continues, this exemption should increase so that additional jobs can be created, not lost through bankruptcy of small businesses.

One of the great opportunities of this country has been the chance to own and operate a person's own business. Under the most favorable circumstances, that is a difficult way to make a living. Small incentives like the $250,000 exemption can be life or death for small business and likewise, consideration for inflation is absolutely essential to small business.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment offered by Mr. BLOUIN: After the words "SEC. 10. (a) Section" delete the remainder and insert the following language: "3(d) (29 U.S.C. 203(d)) is amended by inserting "(1)" after "but does not include", and inserting before the period at the end a comma and the following "or (2) any employer whose annual gross volume of sales made or business done is less than $500,000 (exclusive of excise taxes at the retail level which are separately stated).

"(b) Section 3(s) (29 U.S.C. 203 (s)) is amended by striking out paragraphs (1), (2) and (3) and inserting in lieu thereof the following:

"(1)(A) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated);

"(B) *Provided*, That an employer who is currently required to pay the minimum wage and who would not be so required subsequent to enactment of this section may not decrease the wage of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage.

And by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(c) Sec. 13(a)(2) is amended to read as follows:

"(2) any employee employed by an establishment (except an establishment described in section 3(s)(2)), if more than 50 per centum of such establishment's annual dollar volume of sales made or business done is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales made or business done which is less than $500,000 (exclusive of excise taxes at the retail level which are separately stated); or"

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, the gentleman from Iowa (Mr. BLOUIN), who offered the so-called indexing amendment, has admitted that if indexing had been in place or if the Congress had moved the exemption along to follow the course of inflation, that business exemption would be approximately $500,000 right now. Yet, he would delay the implementation of this $500,000 figure for at least 10 years, maybe more, and base it on future inflation without any relief right now.

Mr. Chairman, my amendment would do two things, very simply: First, it would make the exemption $500,000 right now for small business. Second, it would expand the small business definition to include all businesses and not just service and retail businesses.

It has a third facet which I think answers the gentleman's criticism. A section of my amendment would cover an employee who is now under the Minimum Wage Act. An employer previously covered under the act could not decrease the wage of the employee below the minimum wage applicable during a period of time in which the employer was previously covered. This would eliminate the possibility of any wage slicing, as was suggested.

Mr. Chairman, it seems to me that if we are interested in helping small business, my amendment is far more reasonable. It meets the inflationary test in that $500,000 is roughly the figure suggested by both sides as the proper figure we should have now. The difference would be that we would put the $500,000 figure into effect right now and not wait for some 5-, 10-, or 15-year period in the future for that level to be achieved as would the Blouin amendment.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I rise in support of the Ashbrook amendment and make the point that 10 years ago this exemption was $1 million. If we put that figure into 1977 inflationary dollars, it would be $1,811,000.

Therefore, Mr. Chairman, I think that this $500,000 minimum is reasonable.

As one who has been a small businessman and knows the burdens put on the small businessman as the fixed costs increase and the costs overall have gone up, I think this is a very good amendment.

Mr. Chairman, I would like to be on record as supporting it.

Mr. ASHBROOK. I thank the gentleman.

AMENDMENT OFFERED BY MR. PICKLE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. PICKLE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE as a substitute for the amendment offered by Mr. BLOUIN: Page 14, insert after line 4 the following:

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s)(1) (29 U.S.C. 203(s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated;".

(By unanimous consent, Mr. PICKLE was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from Texas is recognized for 10 minutes.

Mr. PICKLE. Mr. Chairman, I am offering a substitute today to H.R. 3744, the Fair Labor Standards Amendments of 1977—minimum wage bill. My substitute would exempt an enterprise with an annual gross volume of sales of $500,000 from being covered by the legislation. An increase in the threshold to $500,000 from the $250,000 provided in the bill, in terms of real dollars, merely keeps pace with inflation.

I have been informed by service station operators in my district that when the 1966 minimum wage law went into effect in 1969, gasoline was selling for less than 30 cents a gallon. Today it is selling for more than 60 cents a gallon. Likewise, tire prices have gone from $40 to $55 per tire to $80 per tire; and battery prices have gone from $25 to $50. So the message is clear—due to the increase in oil prices, inflation in general, the receipts have skyrocketed, and thus has brought many stations above the $250,000 threshold.

And while the amount of receipts may have doubled, the service station operators' profit margins have shrunk as a general rule. For example, one service station operation in my district fell off 40 percent in gasoline, tire, and garage business. And his work force was reduced from nine employees in 1973 to four employees in 1977.

Yet under the proposed law he is no longer exempt from the minimum wage law, because his annual gross volume of sales is $300,000. If we were still under pre-Arab embargo prices, he would be way under the $250,000 threshold. And because he made over that threshold, he is further pressed with an additional $9,000 to pay for overtime rates for his employees. He says:

It is impossible for me to stay in business under these conditions.

When the minimum wage law was enacted in 1938, none of these small businesses were covered. It was not until the 1966 amendments that the expansion of the definition of interstate commerce brought these service station owners under the law. At that time, an exemption of $250,000 was specifically made for service station operators. These people as well as the smaller grocery store operators and other small businessmen with small volume concerns need relief. The alternative will mean they can no longer stay in business. I urge you to support my amendment that will raise the threshold for exemption to small businesses from $250,000 to $500,000.

After 8 years, this is a realistic adjustment.

Mr. Chairman, in order for us to discuss my substitute to H.R. 3744, the Fair Labor Standards Amendments of 1977—minimum wage bill—that would increase the threshold from $250,000 gross volume of sales provided in the bill to $500,000, it might be helpful to examine what group will be affected. The National Federation of Independent Business says that such an exemption "recognizes the economic facts of life for over 1,000,000 smaller small businesses." Small businesses are labor-intensive rather than capital-intensive. Therefore, the minimum wage bill will affect them more than the larger businesses that can afford expensive laborsaving equipment.

They say that the existing small business exemption has been eroded by 625 percent over the last decade. Ten years ago the exemption included small retail and service firms grossing $1 million or less—the equivalent of $1,811,000 in 1977 dollars. Continued inflation—assuming a 6-percent rate—will reduce the small business exemption to less than $115,000—in 1967 dollars—over the next 3 years.

It is particularly important to look also at what groups will suffer if this exemption is not raised. According to a survey of employment and wages in the small business committee made by the National Federation of Independent Business in May of this year, small business employs a substantial number of teenagers now working. Five percent of the full-time and 30 percent of the part-time employed by small business are 19 years old or under. These young people are the ones caught in a "Catch-22" situation—they cannot get jobs, because they have no experience, and they cannot gain experience unless they get a job. We need to help this group find jobs every way we can and by exempting small businesses under $500,000 they will be helped.

Another interesting statistic that this survey turned up is this:

Almost 40 percent of the surveyed employers—corporate and noncorporate—earn less from their business than the median family income. Often these are family owned businesses, and the survey showed that they put in an average of 58 hours per week. It also showed that one in four small businesses received unpaid family labor, and that the owners were typically older than the work force as a whole. We need to encourage these small businesses in order to maintain the competitive position of these businesses. There is a tendency for them to be swallowed up in huge companies and this should not be encouraged. If we do not make it possible for these little companies to survive we are in effect driving them out of business.

The Library of Congress has given me some interesting comparisons on the price index. Assuming 100 as the base in 1967, today's prices show that dining out has increased to 199.5; movies, 183.5; auto insurance, 210.3; auto prices on new cars, 141.4; auto prices on used cars, 191.4; groceries, 190.7; meat, poultry, and fish, 178.8; reading and recreation, 156.8; fuel oil for home heating, 293.5. It is easy to see that prices have approximately doubled in this time and we are doubling the exemption, which makes it fair.

Looked at another way, in 1969, 58.7 percent of the total civilian labor force was covered; today 66.8 percent is covered although the number of people working has increased dramatically.

Many Members have asked me, "Are you exempting McDonald's and Kentucky Fried Chicken from the minimum wage?" I had my staff aide check with the Department of Labor on their enforcement policies of the minimum wage provisions. They tell us that it depends on how much control the franchisor retains. They thought that all McDonald's would be covered. As far as Kentucky Fried Chicken was concerned, it would depend on how much control was retained, what the agreement was with the franchisor. Sometimes a small concern, a "Mom and Pop" type of operation may be using a brand name but have independent control; they would be covered only if they grossed more than $500,000. However, in general, I think it would be fair to say that most of these places could be covered.

There has always been a basic exemption for small business under the minimum wage law. This is not anything new we are offering. At one time, it was $1 million exemption but that sum went down to $250,000 in 1969. There seems to be little or no legislative history of why it was reduced. It was apparently put in by the Committee on Education and Labor and no fight ensued on the floor. But the clear intent is to give an exemption. In 1969, it was set at $250,000. The question is: Does the $250,000 level represent the true amount intended—for 1978?

Obviously, the $250,000 level must be raised. It should have been raised during the past 10 years; $250,000 in 1967 dollars represents approximately $468,000 in 1977 dollars. Nearly everything has doubled: wages, prices, costs. Maintaining the $250,000 level is grossly unfair to small businesses. It must be updated or else we will drive out of business thousands of small businesses, adding greatly to the unemployed. The intent of my substitute amendment is simply to bring the original exemption up to date. I think even the Education and Labor Committee admits this fact.

One member of the committee, Mr. BLOUIN, admits this and wants to accomplish it by attaching the minimum wage increases to the CPI. His amendment would—or could—raise the exemption by as much as $25,000 in a given year—if the CPI increased as much as 10 percent in a given year. Thus, conceivably, the exemption could rise from $250,000 to $500,000 in 10 years (1988)—if there was a full 10-percent increase in any year.

Certainly you see the fallacy of this approach. First, it does not give any relief to those businesses hard hit during the past 10 years; second, it would only pertain to possible future rises; third, it could take up to 15 or more years before the $500,000 would be achieved—any relief would come slow as molasses runs in an Iowa winter; fourth, small businesses would go out of business by the hundreds; and, fifth, last of all, the Blouin amendment cranks indexing in the formula—a bad approach. This makes for uncertainty for all concerned.

Mr. Chairman, the only real argument that can be made against my amendment is that it might take a lot of people out from under coverage of the Minimum Wage Act. I admit that. It is a fact that a lot of people would possibly be taken from coverage. But it is also a fact that many of these same people were brought under the act simply because of inflation. We are not removing new people from coverage, but rather putting them back in the same status they would have been prior to the increase of wages and prices since 1969 or 1973.

The committee says 3 million might be removed. The National Federation of Independent Business says 2½ million. These are figures for both retail establishments and the new exemptions which will be added. The Library of Congress estimates a smaller figure, and all admit it is a guess because the Department of Labor says it does not have full data on business from $250,000 to $500,000 in size. I guess about 1 million would be exempt, but mine is a guess, too.

The committee would want you to believe that we are ruthlessly removing millions from the Wage and Hour Act, that it is a march backward. That is not so. Over 80 percent of the present workers covered are drawing over $3 per hour now—and would not be affected. All we are doing is restoring the equivalent level that the Congress adopted 10 years ago. We are merely updating the figure.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Obviously I agree with the entire argument the gentleman has presented, and I would indicate to the Members that I am in basic support of his amendment. Both of us would increase the exemption to $500,000. The only real difference between the amendment offered by the gentleman from Texas and the one I offered is that my amendment in addition to increasing the exemption to $500,000, broadens the category of small businesses included.

What we really have are three choices. We have the Blouin amendment, which would result in an increase at some future time, which would be of some benefit.

Mr. PICKLE. In 10 to 15 years.

Mr. ASHBROOK. We have the amendment offered by the gentleman from Texas, which would be far superior. It would increase the exemption to $500,000. Or we have my amendment which would be the gentleman's from Texas plus broadening the number, of small businesses included. I would suggest that either of the latter two would be far better than the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

Mr. PICKLE. I would like to think that my amendment is the compromise position. I do not broaden the base, and I do not crank in the Consumer Price Index formula for indexing.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I would like to inquire of the gentleman from Texas: Does his amendment apply only to the single enterprise? Suppose a man owns two service stations. Would it be $500,000 for each of those service stations?

Mr. PICKLE. I am glad the gentleman asked that. This would be the test. It would depend on who owns the business. If it was a McDonald franchise, if the person locally owned it in Florida, if the man owned the McDonald franchise, he could be exempt. But if he owned four or five, he would not have an exemption. It does not depend on the kind of hamburgers but on the receipts.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in opposition to the Ashbrook and the Pickle amendments.

It has been reported to me that the Pickle amendment would uncover some 3.8 million employees. As the gentleman from Ohio has indicated, his amendment is broader in scope and sweep, and I would agree with that. He exempts an even greater number of employees.

I would like to think at the end of this day that we would not be supporting that which uncovers that many employees.

The gentleman from Iowa (Mr. BLOUIN) has come to grips with a digestible formula that will provide meaningful relief to those in the small business area without at the same time making it unacceptable by recklessly withdrawing from current coverage millions and millions of workers.

I urge the rejection of the Ashbrook and Pickle amendments.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Ashbrook amendment and also the Pickle amendment should the Ashbrook substitute not carry.

The Congress has previously taken into consideration the vulnerability of small businesses to the minimum wage and they have, therefore, exempted small retail and service firms that annually gross under a certain dollar figure. Ten years ago the Congress set this dollar figure at $1 million. But of course, inflation has been with us since then, and that $1 million in 1967 is the equivalent of $1.8 million today. Unfortunately Congress has lowered the dollar threshold of the exemption. It now stands at $250,000, or the equivalent of $137,500 in 1967 dollars. This decrease, from $1 million to $137,500, represents a decrease of 625 percent over the last decade in the bureaucratic definition of what constitutes a small business. The amendment I rise in support of would set the definition of a small business, for the purpose of the minimum wage, at the level of $50,000 gross income a year, one-half of the 1967 level. I think this is a fair and reasonable adjustment for inflation and will promote the prosperity of the American economy.

I would like to remind my colleagues that there is nothing small about small business' impact on the American economy. The National Federation of Independent Business estimates that small business employs approximately 56 percent of the Nation's private nonfarm work force. Any legislation which affects the relative price of labor for 56 percent of the nonfarm work force is going to have a substantial effect. According to the National Chamber of Commerce econometric model, 46 percent of all small businesses will reduce employment under the new minimum wage, 49 percent of all small businesses will cut their workweek, 77 percent will hold off new hiring, and 48 percent will substitute laborsaving machinery or equipment. The effect of all these measures will be to reduce employment for 56 percent of the nonfarm work force. And who are these members of the nonfarm work force? They are the young, the inexperienced, the unskilled; they are disproportionally nonwhite and unprosperous. The increase in the minimum wage which is being heralded as a boon to the Nation's working poor will in fact harm youth and minority employment. The $10 billion per year job creation program enacted by the Congress earlier this year will create less than one-half as many jobs as this increase in the minimum wage will lose—and those losses are going to come at the expense of youths and minorities. Raising the small business exemption to $500,000 per year, then, will not only help small businessmen, it will help employment, and especially youth and minority employment.

So if the gentleman from Iowa believes that that principle of indexing is correct, why not apply it now? And that is what the gentleman from Texas (Mr. PICKLE) and the gentleman from Ohio (Mr. ASHBROOK) are trying to do.

I urge the support of the Ashbrook substitute or, if that should not carry, the Pickle amendment.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will yield if the gentleman wants to discuss the issue of what the gentleman made in his own statement and the testimony we had that if we had put in place an indexing on this issue of who is exempt in small business, right now it would be $375,000.

Mr. BLOUIN. Neither the gentleman from Ohio (Mr. ASHBROOK) nor the gentleman from Texas (Mr. PICKLE) are indexing. Ten years from now we are going to have the same problem we have today. We are going to have to back up and uncover again.

Mr. ROUSSELOT. The gentleman may be correct and maybe he wants to offer his indexing portion of the amendment as an amendment, to either one of these other two. That would be fine with me. I am merely saying I did not understand why he did not include in his amendment the basic concept, if he says it

ought to be $475,000 or $500,000, and then why not apply it now?

The gentleman knows as well as I do that it is the businesses in that basic bracket that are concerned about the acceleration of these new wage schedules. The increase as contemplated even in this bill as amended, and that it will impact minority groups, youth, and others must be absorbed in these small businesses; so my point is that if we are sincere in our effort in this legislation to help small business, this is the place to do it, either the Ashbrook substitute or the Pickle amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just want to express my strong support of the amendment offered by the gentleman from Texas (Mr. PICKLE), as well as the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

I hope at least one of them will be favorably acted on.

Mr. BLOUIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just will take 1 minute of time. I think these three amendments need to be clarified and put in proper context for everybody to understand.

The gentleman from Texas (Mr. PICKLE) and the gentleman from Ohio (Mr. ASHBROOK) both take the present $250,000 exemption and increase it to $500,000 gross retail sales.

In the instance of the gentleman from Ohio (Mr. ASHBROOK), the gentleman broadens that definition to include just about any business that stays under $500,000 gross annual volume. Neither of them index it for the future, which basically puts us 11 years removed from where we were in 1966.

My amendment says let us forget about the mistakes of the past. Let us not try to uncover the 3.8 million people presently covered. Let us maintain the $250,000 and index it so we will always be in a position to keep up with reality in the economic terms of small business. Those are the three options. I just happen to think mine is the fairer approach, because it stands the best chance of becoming law. The Senate bill has no small business exemption, other than what is in it today.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would say that my colleague has accurately stated the case, with perhaps two exceptions.

First, this Congress will be meeting in 2 years and if it wants to change the law, it can.

Second, the bill has a 3-year time limit, so we are not talking about 10 or 15 years in the future.

Otherwise, I agree with the gentleman 100 percent.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. PICKLE, and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. Mr. Chairman, if the gentleman will yield, let me also clarify what the gentleman stated. It is true that I do not index. I take the same approach we have always used in the House and in the Congress; that is, we just either grant an exemption of a certain amount or we do not. We have never indexed. We have never tried to crank that kind of formula into it and I do not now.

When the gentleman says this will take care of the future if you pass my amendment, we are in the future. The future is already here as of January 1. We do not have to wait the 10 or 15 years that the gentleman from Iowa would impose.

I think the gentleman is correct if the gentleman says that the gentleman from Ohio (Mr. ASHBROOK) gives the same amount; but the gentleman broadens it out to several categories. There is the temptation to do that, because a lot of businesses are affected.

My amendment would not take as many people out of the minimum wage.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, the gentleman in the well only takes out 3.8 million people. Lord only knows what the amendment of the gentleman from Ohio does.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(At the request of Mr. PICKLE, and by unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. PICKLE. Mr. Chairman, if the gentleman will yield further, I must not let the debate end that I would take out 3.8 million people. Perhaps if the Ashbrook amendment passes, that many people might be excluded; but if we just limit it to the present retail establishment, that sum is not correct at all.

Mr. PHILLIP BURTON. Mr. Chairman, if the gentleman will yield further, the Department of Labor has given us that figure.

Mr. PICKLE. Oh, I have gone to the Department of Labor myself on small business.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my distinguished colleague, the gentleman from California, indicated there were certain phases of this bill that the gentleman does not understand. Quite frankly, there are certain phases of this law which I do not understand.

I was informed by a staff member that under the present law, as it will be enacted if there are no further amendments adopted, a maid who gets as much as a $40 a quarter in a household with a single employer, who is not doing any retail business at all, is under the minimum wage law; that one who lives on the premises is also under the minimum wage law, but is not subject to time and a half for overtime.

We know that anyone who is in business where that business is engaged, directly or indirectly, in interstate commerce or affecting commerce is covered. Now, concerning these employees who these amendments would now remove from the umbrella of this law, I ask you, "Does it cost them any less to live than it costs these other employees?" What about the fairness to all American citizens?

Now, we are talking about taking the $250,000 a year minimum sales as a threshold and extending it to $500,000, and thereby removing all such merchants from the provisions of this law. Whether it is 100,000 or 300,000 or 2 million or more—these people who could be denied the benefit of minimum wage law, will be treated unfairly. To me, that is an inequity that we should not countenance in this Congress. We should, as far as possible, make this bill apply to all citizens alike, and there should not be this discrimination against the employees simply because they are not household maids, or employed by some firms that is under the law. They are going to receive the benefit of full minimum wage whether they work in a law firm as a clerk for lawyers engaged in interstate practice. They are covered, but others in a law firm not having clients engaged in interstate commerce are not covered. What kind of justice is this?

So there is a lot, I might say to my distinguished colleague from California, that I do not understand about such discrimination, such invidious discrimination, that is being proposed by both of these amendments. I ask the Members to vote against both of them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 118, noes 289, not voting 27, as follows:

[Roll No. 553]

AYES—118

Abdnor	English	Luken
Applegate	Erlenborn	McClory
Archer	Forsythe	McCloskey
Armstrong	Frenzel	McDonald
Ashbrook	Frey	Mahon
Badham	Gammage	Marlenee
Bafalis	Goldwater	Marriott
Barnard	Goodling	Mattox
Bauman	Grassley	Michel
Bennett	Guyer	Milford
Broomfield	Hagedorn	Miller, Ohio
Brown, Mich.	Hall	Montgomery
Brown, Ohio	Hammer-schmidt	Moore
Burgener	Hansen	Moorhead, Calif.
Burke, Fla.	Harsha	Mottl
Burleson, Tex.	Hightower	Myers, John
Butler	Hillis	Pettis
Byron	Holt	Pickle
Cavanaugh	Hughes	Poage
Chappell	Ireland	Quayle
Clausen, Don H.	Jenrette	Railsback
Clawson, Del	Johnson, Colo.	Robinson
Cleveland	Jones, Okla.	Rousselot
Coleman	Kazen	Rudd
Collins, Tex.	Kelly	Runnels
Corcoran	Kemp	Santini
Crane	Ketchum	Satterfield
Cunningham	LaFalce	Schulze
Daniel, Dan	Lagomarsino	Sebelius
Daniel, R. W.	Latta	Shuster
de la Garza	Leach	Skubitz
Devine	Livingston	Smith, Nebr.
Dickinson	Lloyd, Calif.	Snyder
Dornan	Lott	Spence
Edwards, Okla.	Lujan	Stangeland

Stockman	Walker	Wydler
Stump	Watkins	Young, Alaska
Symms	White	Young, Fla.
Taylor	Wilson, Bob	
Thone	Winn	

NOES—289

Addabbo	Foley	Nix
Akaka	Ford, Mich.	Nolan
Allen	Ford, Tenn.	Nowak
Ambro	Fountain	O'Brien
Ammerman	Fowler	Oakar
Anderson, Calif.	Fraser	Oberstar
	Fuqua	Obey
Andrews, N.C.	Gaydos	Ottinger
Andrews, N. Dak.	Gephardt	Panetta
	Giaimo	Patten
Annunzio	Gibbons	Patterson
Ashley	Gilman	Pattison
Aspin	Ginn	Pease
AuCoin	Glickman	Pepper
Badillo	Gonzalez	Perkins
Baldus	Gore	Pike
Baucus	Gradison	Pressler
Beard, R.I.	Gudger	Preyer
Beard, Tenn.	Hamilton	Price
Bedell	Hanley	Pritchard
Bellenson	Hannaford	Pursell
Benjamin	Harkin	Quie
Bevill	Harrington	Rahall
Bingham	Harris	Rangel
Blanchard	Hawkins	Regula
Blouin	Hefner	Reuss
Boggs	Heftel	Richmond
Boland	Holland	Rinaldo
Bonker	Hollenbeck	Risenhoover
Bowen	Holtzman	Roberts
Brademas	Horton	Rodino
Breaux	Howard	Rogers
Breckinridge	Hubbard	Roncalio
Brinkley	Huckaby	Rose
Brodhead	Hyde	Rosenthal
Brooks	Ichord	Rostenkowski
Brown, Calif.	Jacobs	Roybal
Broyhill	Jeffords	Ruppe
Buchanan	Jenkins	Russo
Burke, Calif.	Jones, N.C.	Ryan
Burke, Mass.	Jones, Tenn.	Sarasin
Burlison, Mo.	Jordan	Sawyer
Burton, John	Kasten	Scheuer
Burton, Phillip	Kastenmeier	Seiberling
Caputo	Keys	Sharp
Carney	Kildee	Shipley
Carr	Kostmayer	Simon
Carter	Krebs	Sisk
Chisholm	Krueger	Skelton
Clay	Le Fante	Slack
Cochran	Lederer	Smith, Iowa
Collins, Ill.	Leggett	Solarz
Conable	Lehman	Spellman
Conte	Lent	St Germain
Conyers	Levitas	Staggers
Corman	Lloyd, Tenn.	Stanton
Cornell	Long, La.	Stark
Cornwell	Long, Md.	Steers
Cotter	Lundine	Steiger
Coughlin	McCormack	Stokes
D'Amours	McDade	Stratton
Danielson	McEwen	Studds
Davis	McFall	Teague
Delaney	McHugh	Thompson
Dellums	McKay	Thornton
Derrick	McKinney	Trible
Derwinski	Madigan	Tsongas
Dicks	Maguire	Tucker
Diggs	Mann	Udall
Dingell	Markey	Ullman
Dodd	Marks	Van Deerlin
Downey	Martin	Vento
Drinan	Mathis	Volkmer
Duncan, Oreg.	Mazzoli	Waggonner
Duncan, Tenn.	Meeds	Walgren
Early	Metcalfe	Walsh
Eckhardt	Meyner	Wampler
Edgar	Mikulski	Waxman
Edwards, Ala.	Mikva	Weaver
Edwards, Calif.	Miller, Calif.	Weiss
Eilberg	Mineta	Whalen
Emery	Mitchell, Md.	Whitehurst
Ertel	Mitchell, N.Y.	Whitley
Evans, Del.	Moakley	Whitten
Evans, Ga.	Moffett	Wiggins
Evans, Ind.	Mollohan	Wilson, C. H.
Fary	Moorhead, Pa.	Wilson, Tex.
Fascell	Murphy, Ill.	Wirth
Fenwick	Murphy, N.Y.	Wolff
Findley	Murphy, Pa.	Wright
Fish	Murtha	Wylie
Fisher	Myers, Gary	Yates
Fithian	Myers, Michael	Yatron
Flippo	Natcher	Young, Mo.
Flood	Neal	Young, Tex.
Florio	Nedzi	Zablocki
Flowers	Nichols	Zeferetti

NOT VOTING—27

Alexander	Flynt	Roe
Anderson, Ill.	Heckler	Rooney
Biaggi	Johnson, Calif.	Schroeder
Bolling	Kindness	Sikes
Bonior	Koch	Steed
Cederberg	Minish	Traxler
Cohen	Moss	Treen
Dent	Quillen	Vander Jagt
Evans, Colo.	Rhodes	Vanik

Mr. PRESSLER and Mr. LUNDINE changed their vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. SCHROEDER. Mr. Chairman, I missed the Ashbrook amendment because I was in the House Annex and the bells did not ring. I was 30 seconds late. Had I been here I would have voted "no" on the Ashbrook amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa (Mr. BLOUIN). My statement will take but just a minute.

Mr. Chairman, to be certain that there is no confusion, or that we might be able to clear up some confusion, I have taken this time simply to say that the amendment offered as a substitute for the Blouin amendment now pending, is the Pickle substitute and I will ask for a recorded vote on the substitute.

To capsulize again simply let me say that my amendment merely raises the exemption from $250,000 to $500,000. It does not broaden the categories, it limits it to retail and service stations.

We have always had an exemption for small businesses. If we are going to keep our small businesses in operation then we must have the exemption updated. That is basically what my amendment calls for, to update the exemption and let it be the equivalent of what it was in 1969. I think this is a fair compromise, that was the intent and the approach I have taken.

Mr. SEBELIUS. Mr. Chairman, I rise in support of the amendment by the gentleman from Texas (Mr. PICKLE) that would raise the minimum wage exemption from the $250,000 proposed in the bill to $500,000 for retail and service outlets.

The $250,000 exemption is the same amount that has been in the law since 1969. Earlier it had been $500,000 and $1,000,000. The fact is that $250,000 is not the same $250,000 exemption that it once was. Inflation has been steady and this has particularly affected the dollar amounts of these small businesses.

For example, let us look at a typical small business in my district, a grocery store. The price of bread has gone up dramatically as all housewives know. Yet because a loaf that cost 25 cents in 1966 costs 50 cents today, does not mean that the grocery store owner has that much more profit. In fact he may be having trouble staying in business at all. His lights, his heat, his rent have all gone up. The cost of his supplies has gone up. He simply cannot afford to stay in business unless some relief is given.

I urge you to support Mr. PICKLE's amendment. It is fair, and helps the small business man.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in 30 seconds we will be voting on the Pickle amendment offered as a substitute for the Blouin amendment. The Pickle substitute, as the extended debate indicated earlier, takes out some 3.8 million people.

It would be our intention to accept the Blouin amendment which provides adequate protection from the current exemption for small businesses, but that the Pickle substitute amendment is unacceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE) as a substitute for the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

RECORDED VOTE

Mr. PHILLIP BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 183, not voting 30, as follows:

[Roll No. 554]

AYES—221

Abdnor	Duncan, Tenn.	Kasten
Andrews, N.C.	Edwards, Ala.	Kazen
Andrews, N. Dak.	Edwards, Okla.	Kelly
	Emery	Kemp
Applegate	English	Ketchum
Archer	Erlenborn	Krueger
Armstrong	Ertel	LaFalce
Ashbrook	Evans, Del.	Lagomarsino
Badham	Evans, Ind.	Latta
Bafalis	Fenwick	Leach
Baldus	Findley	Lent
Barnard	Fish	Levitas
Bauman	Fisher	Livingston
Beard, Tenn.	Fithian	Lloyd, Tenn.
Bedell	Flynt	Long, Md.
Bennett	Forsythe	Lott
Boggs	Fountain	Lujan
Bonker	Fowler	Luken
Bowen	Frenzel	Lundine
Breaux	Frey	McClory
Breckinridge	Fuqua	McCloskey
Brinkley	Gammage	McCormack
Brooks	Giaimo	McDonald
Broomfield	Gilman	McEwen
Brown, Mich.	Ginn	McHugh
Brown, Ohio	Glickman	McKinney
Broyhill	Goldwater	Madigan
Buchanan	Goodling	Mahon
Burgener	Grassley	Mann
Burke, Fla.	Gudger	Marks
Burleson, Tex.	Guyer	Marlenee
Butler	Hagedorn	Marriott
Byron	Hall	Martin
Carter	Hamilton	Mathis
Cavanaugh	Hammer-schmidt	Mattox
Chappell		Mazzoli
Clausen, Don H.	Hansen	Michel
	Harkin	Milford
Clawson, Del	Harsha	Miller, Ohio
Cleveland	Hefner	Mitchell, N.Y.
Cochran	Hightower	Montgomery
Coleman	Holland	Moore
Collins, Tex.	Hollenbeck	Moorhead, Calif.
Conable	Holt	
Corcoran	Horton	Myers, John
Cornwell	Hubbard	Neal
Coughlin	Huckaby	O'Brien
Crane	Hughes	Pettis
Cunningham	Hyde	Pickle
Daniel, Dan	Ichord	Poage
Daniel, R. W.	Ireland	Pressler
de la Garza	Jeffords	Pritchard
Derrick	Jenkins	Pursell
Derwinski	Jenrette	Quayle
Devine	Johnson, Colo.	Quie
Dickinson	Jones, N.C.	Railsback
Dicks	Jones, Okla.	Regula
Dornan	Jones, Tenn.	Risenhoover

Roberts	Skubitz	Walker
Robinson	Smith, Nebr.	Walsh
Rogers	Snyder	Wampler
Roncalio	Spellman	Watkins
Rousselot	Spence	White
Rudd	Stangeland	Whitehurst
Runnels	Stanton	Whitley
Ruppe	Steiger	Whitten
Santini	Stockman	Wilson, Bob
Sarasin	Stump	Wilson, Tex.
Satterfield	Symms	Winn
Sawyer	Taylor	Wright
Schulze	Teague	Wydler
Sebelius	Thone	Wylie
Sharp	Trible	Young, Alaska
Shuster	Volkmer	Young, Fla.
Skelton	Waggonner	Young, Tex.

NOES—183

Addabbo	Foley	Oberstar
Akaka	Ford, Mich.	Obey
Allen	Ford, Tenn.	Ottinger
Ambro	Fraser	Panetta
Ammerman	Gaydos	Patten
Anderson, Calif.	Gephardt	Patterson
	Gibbons	Pattison
Annunzio	Gonzalez	Pease
Ashley	Gore	Pepper
Aspin	Gradison	Perkins
AuCoin	Hanley	Pike
Baucus	Hannaford	Preyer
Beard, R.I.	Harrington	Price
Beilenson	Harris	Rahall
Benjamin	Hawkins	Rangel
Bevill	Heftel	Reuss
Bingham	Hillis	Richmond
Blanchard	Holtzman	Rinaldo
Blouin	Howard	Rodino
Boland	Jacobs	Rose
Bonior	Jordan	Rostenkowski
Brademas	Kastenmeier	Roybal
Brodhead	Keys	Russo
Brown, Calif.	Kildee	Ryan
Burke, Calif.	Kostmayer	Scheuer
Burke, Mass.	Krebs	Schroeder
Burlison, Mo.	Le Fante	Seiberling
Burton, John	Lederer	Shipley
Burton, Phillip	Leggett	Simon
Caputo	Lehman	Sisk
Carney	Lloyd, Calif.	Slack
Carr	McDade	Smith, Iowa
Chisholm	McFall	Solarz
Clay	McKay	St Germain
Collins, Ill.	Maguire	Staggers
Conte	Markey	Stark
Corman	Meeds	Steers
Cornell	Metcalfe	Stokes
Cotter	Meyner	Stratton
D'Amours	Mikulski	Studds
Danielson	Mikva	Thompson
Davis	Miller, Calif.	Tsongas
Delaney	Mineta	Tucker
Dellums	Mitchell, Md.	Udall
Diggs	Moakley	Ullman
Dingell	Moffett	Van Deerlin
Dodd	Mollohan	Vento
Downey	Moorhead, Pa.	Walgren
Drinan	Mottl	Waxman
Duncan, Oreg.	Murphy, Ill.	Weiss
Early	Murphy, N.Y.	Whalen
Eckhardt	Murphy, Pa.	Wiggins
Edgar	Murtha	Wilson, C. H.
Edwards, Calif.	Myers, Gary	Wirth
Eilberg	Myers, Michael	Wolff
Evans, Ga.	Natcher	Yates
Fary	Nedzi	Yatron
Fascell	Nichols	Young, Mo.
Flippo	Nix	Zablocki
Flood	Nolan	Zeferetti
Florio	Nowak	
Flowers	Oakar	

NOT VOTING—30

Alexander	Heckler	Rooney
Anderson, Ill.	Johnson, Calif.	Rosenthal
Badillo	Kindness	Sikes
Biaggi	Koch	Steed
Bolling	Long, La.	Thornton
Cederberg	Minish	Traxler
Cohen	Moss	Treen
Conyers	Quillen	Vander Jagt
Dent	Rhodes	Vanik
Evans, Colo.	Roe	Weaver

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois for, with Mr. Dent against.

Mr. Cederberg for, with Mr. Bolling against.

Mr. Kindness for, with Mr. Biaggi against.

Mr. Quillen for, with Mr. Thornton against.

Mr. Treen for, with Mr. Steed against.

Mr. Vander Jagt for, with Mr. Rosenthal against.

Mr. Sikes for, with Mrs. Heckler against.

Messrs. MARKS, FITHIAN, and HARKIN changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 14, insert after line 4 the following:

SMALL RETAILERS

SEC. 13. (a) Section 13(a) (29 U.S.C. 213(a)) is amended (1) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or", and (2) by adding after paragraph (15) the following:

"(16) any employee employed by a retail or service establishment which is part of an enterprise described in section 3(s) if the number of retail or service establishments within such enterprise is not more than 10 and if the average annual gross volume of business done or sales made by such establishments is not more than $250,000 (exclusive of excise taxes at the retail level which are separately stated).".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I think we can conclude this very shortly.

Mr. PHILLIP BURTON. Does the gentleman want me to respond? We have uncovered 3.8 million already, and this amendment will uncover 1.2 million workers. I am thoroughly opposed to it, and will say so when I have my own time.

Mr. FUQUA. Mr. Chairman, this amendment I offer to H.R. 3744, the Fair Labor Standards Amendments, is designed to extend, modestly, the small business exemption which is a cornerstone of our minimum wage law.

My amendment would extend the exemption to permit a retailer to operate up to 10 merchandising outlets without forcing him to pay $2.65 an hour if, and only if, the average gross sales of the outlets is under the present $250,000 exemption for small businesses.

As I am certain all my colleagues are aware, the small retailer is slowly, but surely, being driven out of business by large retail chains. This amendment will help, in a small way, to balance the enormous competitive edge now held by large corporations and their subsidiaries.

The small family or closely held business is the very foundation of our free enterprise system and these people are certainly deserving of our attention and assistance.

Rural areas will benefit greatly by the adpotion of my amendment. Small stores in these communities cannot afford the higher minimum wage and this will cause employers to cut sales forces and increase the already too high unemployment figures for rural areas.

Additionally, if the locally owned store is forced out of business, the residents of these communities may have to drive many miles to large cities for even small purchases. The inconvenience is tremendous, not to mention the wasted time and wasted fuel.

Some small retail outlets are marginal operations, at best. To force a higher minimum wage would mandate that the successful business person close the marginal stores and, thereby, further increase the unemployment rolls.

Small retailers are, at present, discouraged from success. Success leads to a desire to expand, and such expansion could hurt them dearly. My amendment will help restore that incentive to succeed and I strongly urge my colleagues to vote for the adoption of this amendment.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am led to believe that this is the last of the amendments. I want to thank all of the Members for the patience they have had today. I know it is really quite difficult to absorb all of these words for this period of time. I would make the plea for the countless number of employees who are working for, by definition, establishments of 20 stores, and they should be removed from any coverage. We have poor people in this land. We quarrel about those on welfare. These are our fellow Americans who are working to feed their families.

The amendment ought to be rejected, even though we are tired and even though the hour is late.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and on a division (demanded by Mr. FUQUA) there were—ayes 87, noes 134.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SYMMS: Strike out all after the enacting clause and insert in lieu thereof the following:

That, effective January 1, 1978, sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206, 207) are repealed.

Mr. SYMMS. Mr. Chairman, I know the Members of the House are tired and

they want to leave. I would agree with my colleagues on that, because, as most of them know, the one resolution I try to vote for every year is the one that adjourns this body.

But, first, I think we should talk about what this issue is all about. Historically, the United States of America has been a country of opportunity. It is a false premise that somehow we can artificially legislate wages. If this idea were a good one, we should be talking about $5 an hour as a minimum wage, not a $2.50 or $3 an hour minimum wage. Or perhaps we could raise it to $100 an hour so that we could make sure that everyone gets what is needed.

I would just say to my colleagues in the House that I offer this amendment more or less in honor of those great Nobel Prize winners and humanitarians: Milton Friedman; Frederick Von Hayek, the Nobel Prize laureate; Prof. Leonard Reed, of the Fee Foundation of Economic Education; and Prof. Walter Williams of Temple University.

We are trying to tell the black community what is good for it, but they are the ones that are suffering the most from these pseudo-economics and from some of the legislation that is passed by this House.

I think if we should go to a place and take a look at how this works, we should go to places like West Germany and East Germany. In East Germany they have a minimum wage law, and in West Germany they do not have a minimum wage law. I think that is a good place for people to see which is the best idea.

The only people who benefit from legislation like this are Big Labor, Big Business, and Big Government, but the workingclass people, the senior citizens, the black and the uneducated youth, who are the ones most in need of an opportunity to work themselves out of the ghetto and unemployment are overlooked by artificial wage-setting legislation.

Mr. Chairman, America is supposed to be the land of opportunity, not one of denial.

Recently the Labor Department has made startling revelations about the extent of unemployment among black Americans, especially black teenagers. This unemployment problem among blacks, teenagers, and unskilled workers has been the subject of much concern among our colleagues in Congress—especially among my more liberal friends. Yet, Mr. Chairman, we are today considering legislation in the House that will substantially increase unemployment among these disadvantaged groups.

It ought to be obvious that minimum wage laws hurt most the very people they are purported to "protect." When a law exists that no one is to be paid less than $100 for a 40-hour week, then no one whose services are worth less than $100 a week to an employer will be employed at all. Rather, they will be on welfare and forced to live off the fruits of another man's labor. We cannot make an employee worth a given amount by making it illegal for anyone to offer him or her less. We merely deprive him of the right to earn the amount that his or her abilities and opportunities would permit. At the same time we deprive the community of the moderate services that such a person is capable of rendering. In short, Mr. Chairman, we are talking here about substituting unemployment for lower wages. I really do not understand the thinking of today's liberal politicos who would rather keep the poor and the disadvantaged locked on welfare than allow them to advance themselves through work experience. Why is it, Mr. Chairman, that the Congress is trying to reduce the upward mobility of the blacks and other minority groups?

The result of the minimum wage laws has been to force up the wage rates of unskilled labor much more than those of skilled labor. The result has been a shortage of skilled labor while the unemployment rate among the unskilled, teenagers, and minority groups has been growing. The outstanding victim of all this has been the black community, and particularly the black teenager. In 1952, the unemployment rate among white teenagers and nonwhite teenagers was the same—9 percent. But, year by year, as the minimum wage increased, a disparity has grown to the point where black teenage unemployment has been estimated at times to be as high as 40 percent.

The statistical evidence showing that the minimum wage has caused unemployment among blacks and the unskilled is extensive. It is gratifying to report that some of the country's outstanding academic economists such as Profs. Milton Friedman and Yale Brozen have gathered this evidence and presented a conclusive case against the minimum wage laws. Yet successive administrations and Congresses have persistently refused to accept their logic or to face the glaring facts. Most recently is the study by Prof. Walter E. Williams of Temple University. Dr. Williams, himself a black, concluded in a study for the Joint Economic Committee of this Congress that Government sanctioned restraints such as minimum wage laws reduce economic opportunities for minority groups. His study analyzed how minimum wage laws prevent minority youth from acquiring on-the-job training and reduce their upward mobility.

In conclusion, Mr. Chairman, let us look at some of the groups that will be hurt the most by this bill. They are the youth—ever wonder what happened to the box boys in the supermarkets who used to work part time after school?—the minorities, people who may want to work part-time, the unskilled, and our senior citizens who may want to continue working some after formal retirement. Also, consider the effects on small businessmen. This bill is really a monopoly bill, but it is being pushed by the very people who consistently warn of the evils of "monopolistic" big business. Big corporations can always meet the minimum wages; the burden is on small independent businesses. And, in any case, the consumers—all of us, including the recipients of these minimum wages—ultimately pay for these artificial wage increases through higher consumer prices.

Consequently, Mr. Chairman, I urge the adoption of my amendment to repeal sections 6 and 7 of the Fair Labor Standards Act.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

Mr. Chairman, I would note that, in the absence of an opportunity to visit firsthand East Germany and West Germany to confirm the conclusions of our distinguished colleague, the gentleman from Idaho (Mr. SYMMS), I urge that this amendment in the nature of a substitute calling for repeal of the minimum wage law be rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment in the nature of a substitute was rejected.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise to support Mr. MEEDS' proposed amendments to the Fair Labor Employment Standards Act of 1938 enabling youths under the age of 12 to enjoy a time-honored tradition of "berry picken."

In 1974, I introduced a similar measure with Mr. AUCOIN of Oregon. I hope that this amendment receives a more warm reception than its predecessor. What I said then holds true today. The amendments passed in 1974 blocked children in agricultural communities of the Northwest as well as many other sections of our Nation from making a little money at harvest time in the fields. It likewise terminated a traditional and nonharmful contribution to the harvest of highly perishable crops.

This proposal has built-in safeguards to avoid abuses under the child labor law. None of these kids can work during school hours—they can work in the summertime. They can only go "berry picken" with the parental approval within commuting distance of their homes and on approval by the Secretary of Labor. Under the present law, the only way a kid today can earn money and develop good work habits is by selling newspapers. In rural areas, few can make money delivering papers, but many can earn "picken berries."

How can we criticize our children for not working when we deny them the opportunity to do so? This is not child labor in a sweat shop. No Fagins abusing David Copperfields are involved here. It is simply a limited opportunity to work and earn money in the outdoors harvesting a perishable crop we all want and need.

I hope you will support the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 3744 which amends the Fair Labor Standards Act to increase the hourly minimum wage.

My support for this bill is uncompromising insofar as, in my view, a vote on this measure should center on one prominent question: Can an American worker, man or woman, young or old, survive on the present minimum wage of $2.30 per hour? That is $92 per week for 40 hours work. There is but one answer: "No."

Although exhaustive evidence can be offered—and most likely will be—to support this conclusion, let us look at some practical economic realities that render support to my opinion that the present minimum wage does not present sufficient income for a person to live on.

At the present $2.30 per hour a worker can expect a yearly income of $4,784. This amount is not sufficient to sustain a person or a family in an economy that seems destined to produce ever-increasing annual rates of inflation. In fact, $4,784 per year is less then the current poverty line of $5.850 for a family of four. Even in noninflationary times these wage levels just do not permit a person to provide even a minimum of health and personal maintenance at today's prices.

Indeed, the increase in the minimum wage is a necessary condition to assure that a worker will receive adequate compensation for his or her labor. To allow the wage standard to continue at its present level really takes advantage of the low wage worker. On the contrary, raising the minimum wage eliminates an injustice and takes a substantial step away from a wage structure which now tolerates the payment of slave wages by some employers who exploit their fellow men and women by underpaying them. To seek to maintain this unrealistic wage level for low-income workers is, of course, morally reprehensible in the face of present economic realities and projected inflationary advancements.

Mr. Chairman, I urge my colleagues to join me in unqualified support of H.R. 3744.

Mr. Chairman, I also opposed the Cornell amendment that would permit employers to pay a subminimum wage of 85 percent of the legal minimum wage to youth 18 years of age or younger. Enactment of this amendment would mean that many families who now derive a portion of their total income from their children's work would find themselves with decreased financing. For such families youth employment is not simply an outlet for energy or for earning money for unnecessary expenses. It is often critical to insure them of adequate food, clothing, and shelter.

I concur with the remarks of Mr. Vernon E. Jordan, executive director of the National Urban League, who in his article, "The Unemployed Youth: Proposing an Action Plan," which appeared in the National Observer for June 13, 1977, stated that a youth differential could cause a displacement of adult wage earners, as employers sought youngsters whom they could hire for less. Conceivably, there could also be a growth in the underground market with hardpressed adults agreeing to illegal subminimum wages in order to hold onto their jobs. Mr. Jordan perceptively notes that a subminimum wage is likely to have the unhealthy impact of sending to young people a message that they are second-class workers who are not worth what the job is worth.

Of equal importance is the fact that if the youth differential were adopted, there would be the added danger that the work force would be stratified into a two-tier system made up of those covered by legal minimum standards and those who are not. This is discrimination in every sense of the word.

The answer to the horrendous youth unemployment problem lies not in pay differential, but in stepped-up Federal and local efforts directed toward better youth training and job-creation programs. To assume that the youth differential is the answer to the high rate of unemployment among our youth—and our black youth in particular—is like shortening the distance line and then saying that the race is almost won.

Mr. KETCHUM. Mr. Chairman, all of us are well aware of organized labor's massive lobbying campaign to see this bill passed through Congress. They tell us that a hike in the minimum wage is needed to bar workers from the poverty level and to protect them from inflation. Well, let me tell you what my people are saying back in the 18th District of California.

They are sick and tired of having the Federal Government tell them how to run their lives and their businesses. The letters and calls that have poured into my office have had one message: If the minimum wage bill is passed, jobs will be lost and prices most definitely will go up.

One small businessman from Bakersfield asked me, "How can my Government do this to me? With a higher minimum wage, I will be forced to raise my prices and lose customers in the process. What is the sense of paying someone an extra 35 cents when they ultimately will have to pay 40 cents more at the store?" Another from Lancaster told me he would have no choice but to absorb the cost by laying off his lesser skilled workers, and I do not have to tell you that that means youth and minorities.

It is difficult for me to understand how we can ignore the cries of constituents from my district and from districts all across the country. We are even disregarding the comprehensive findings of the Bureau of Labor Statistics, the Congressional Budget Office, and even the Brookings Institute which have pointed to the negative impacts of such a bill as it now stands. As far as indexing is concerned, we have not even taken the time to fully study all that we have at stake here in unemployment and inflation. What it all comes down to is that we are sailing this measure through for the sake of political expediency and short-sighted gain.

Mr. Chairman, those here today who would have us pass this package have not even had the foresight to include a youth differential. Despite the fact that youth differentials have worked so well in Europe, the old guard seems to have put on the blinders. In fact, I am beginning to believe that the only time the liberals are for copying anything European is when they think they can botch up a program like socialized medicine even better than the Europeans. In this case, we are talking about putting youth and minorities to work. If we thought we had a youth and minority unemployment problem reading almost 3 million before, just wait and see what it will soar to should this bill be passed.

I ask the Members to consider their votes. This is not an issue to be dealt with haphazardly. We must take the time to fully understand the short-term and long-term impacts of undertaking such a course. If we do not, we had better be prepared to face those people back in the district who have either lost their jobs or suffered from inflation due to legislation initiated by this Congress. The choice is ours.

Mrs. HOLT. Mr. Chairman, H.R. 3744 might best be called the Inflation and Job Elimination Act of 1977. The House should be reminded that all acts have consequences; you cannot legislate higher business costs without forcing the public to pay the price.

This legislation would increase the minimum wage from $2.30 to $2.65 an hour and provides a formula for further increases in the years ahead. Here are the certain consequences:

Higher consumer prices.

Lost jobs.

Lower business profits and less business expansion.

The inflation rate is already so high that even modest price increases become a real hardship factor imposed on American families, but what concerns me most is the certain loss of jobs held or sought by marginal workers, mostly young people.

One of my constituents, a regional sales manager for a chain of discount stores, wrote me to say this:

> We today have eliminated several jobs because of this federal minimum wage coming in the near future. If and when the legislation goes to $3.15, we will eliminate 299 jobs. We will have to go with experience, thus cutting out more of the jobs for young people.

Mr. Chairman, this and other letters I have received are not just theorizing. They are from business managers who are confronted with economic reality. The value of any job is the value of its production. If the cost of any job exceeds the value of its production, then that job will not survive.

I am terribly concerned about job opportunities for our young people, who need entry-level positions where they can acquire training and experience to build the personal foundation for productive lives. The U.S. Chamber of Commerce has estimated that this legislation would result in the loss of about 57,000 jobs in my own State of Maryland.

Let me ask you this, Mr. Chairman: How can Government establish a minimum wage that is higher than a job is worth? To ask the question is to answer it. Government obviously cannot do that, because the job will cease to exist.

This is the real world, not the make-believe world in which Congressmen be-

lieve they can mandate higher wages without sad consequences for the very individuals they propose to help. How does a higher minimum wage profit a person who loses his job because of it, or cannot find a job because of it?

If the House is detemined to pass this legislation, I would hope that it would approve an amendment providing a youth differential that would allow people to enter jobs at lower pay levels.

I must close with a few words about the terrible impact this legislation will have on small business. The first year impact could be as much as $3.5 billion, according to the National Federation of Independent Business.

That translates directly into layoffs and/or higher prices and/or going out of business.

Anybody who understands even the most basic elements of economics knows this is bad legislation. It is another political gimmick which promises benefits while ignoring the heavy cost.

Mr. BAUMAN. Mr. Chairman, despite the modest improvements made by amendments, I rise in opposition to this bill and in opposition to the concept of a federally mandated minimum wage. The evidence of the harm resulting from such legislation is too weighty to ignore. It results in a reduction of jobs available, particularly jobs for those with minimum skills. It results in additional strain on the ability of small businesses to survive. Small business remains the backbone of our Nation's economy, comprising 97 percent of all our Nation's firms according to the Small Business Association.

Those who advocate the statutory minimum wage assume that it is the low income workers who will benefit most. In fact, it is these very same workers who pay the price of minimum wage increases, doing so to the benefit of those with more marketable skills. With an increase in the amount of the minimum wage, the jobs of so-called marginal workers, are eliminated. These marginal workers are those who traditionally are among the least skilled, and those who whether young or old suffer the greatest amount of unemployment. Low paying jobs are frequently thought to be opportunities for the unskilled of every age to receive training, acquire skills, and improve the chances for moving into better paying jobs with those skills. What has in fact happened, is that increases in the minimum wage rate have discouraged apprenticeship and other such training programs. The Fair Labor Standards Act—the first "minimum wage" law—has often been called an antiminority law for this reason. Nobel Prize Winner Milton Friedman refers to the Fair Labor Standards Act of 1938 as, "the most anti-Negro law on our statute books—in its effect, not its intent."

Before we pass any bill to increase the minimum wage, we must realize that statutory wage minimums have severe effects on employment. Higher minimum wages have slowed employment growth in low-wage industries in the South compared to employment growth in the same industries in the rest of the country. Within particular low-range industries, the effect on employment is clearly related to the degree of the minimum wage impact, with the lowest wage plants experiencing adverse economic effects. In the Commonwealth of Puerto Rico, for instance, minimum wages have caused a large loss of potential manufacturing employment.

Mr. Chairman, even Labor Secretary Ray Marshall has admitted that the proposed increase in the minimum wage will result in a loss of at least 90,000 jobs. Keep in mind that this is the administration talking. More disinterested estimates have been higher.

The loss of jobs from the passage of this legislation is all too well illustrated within my own State of Maryland. Dr. Jack Carlson, chief economist for the U.S. Chamber of Commerce, estimates that the State of Maryland could lose as many as 57,000 jobs—13,000 jobs for adult women; 17,000 jobs for blacks and other young minorities through the age of 24; and 2,000 jobs for older workers over 65.

Maryland would also suffer increases in labor costs. For larger businesses, these increased costs approach 3.9 percent as against 4.9 percent for small businesses. With these increases, the prices of all goods for consumers would rise on the average of 2.8 percent. Increasing prices feed the fires of inflation, and the first burn victims are households of low-income families and the homes of those on fixed incomes.

Of course, there are other and more specific ways in which this bill to increase the minimum wage would end up victimizing the very workers the bill's promoters intend to help.

Young people, and particularly teenagers, would lose out, especially since the House rejected the youth differential amendment. There are citizens who work seasonally, who generally speaking do not support families, but rather are earning extra income in order to support their way through school or acquire additional "spending money." However, the bill does not include a section exempting young people from the general provisions. Unemployment among teenagers has even more devastating social than economic consequences, but unemployment's rise is assured if this legislation passes without a youth differential inclusion similar to the amendment introduced by the gentleman from Wisconsin, Reverend CORNELL.

The legislation has at least been improved by removing the abolition of the tip credit. Under the present law, the "tip credit" provision affects anyone owning or operating any type of service restaurant or food outlet. The present law, which allows employers to deduct a certain percentage of employees' tips from the wage rate given, makes it possible to hire more "help" than would be the case if every employee were compelled to receive the minimum wage. However, with the abolition of the tip credit, over 75 percent of those surveyed hold that it would compel a food price increase. It would also mean that nearly a third of the service restaurants now operating would have to become fast-food outlets instead, thus laying off many more employees. The Chamber of Commerce survey in which these figures appear notes that small business enterprises like roadside diners and "Mom-n-Pop" restaurants have no option under the bill before us but to close down their operations. I am certain that this is not what the promoters of H.R. 3744 want to do. By repealing the "tip credit" provision, however, that is what will happen.

It is about time that we as a legislative body take a more serious look at the range of minimum wage legislation. In the last 10 years, the minimum wage has gone from $1.40 an hour in 1967 to $2.30 an hour in 1976.

We are asked to vote for this bill on the premise that passage will insure a better economic climate for the working man and woman. Historically, the exact opposite has been the case. Legislating a minimum wage has been a contributing factor to unemployment.

I do not question the sincerity of the minimum wage promoters. Certainly, the avowed purpose of increasing the minimum wage has always been to raise the income of poorer working families by requiring wealthy employers to increase wages. At least, that's been the theory. But all low wage employees are not poor, and all employers paying the minimum wage are not wealthy. In fact, the Brookings Institution established that a large number of persons earning the minimum wage are actually members of so-called "wealthy" families. Over half the teenagers and 25 percent of the adults earning "low wages" are members of above median income families.

It is estimated that the immediate increased wage bill for small employers caused by H.R. 3744 is $3.5 billion. The total cost to small employers over the next 3 years is a conservatively estimated $10 billion. Obviously, small business cannot pay that amount out-of-pocket. It must do so by raising prices. To do this of course causes inflation. To do this, is to increase the level of suffering for the poor and for those on fixed incomes.

To pass H.R. 3744 is also to encourage a reduction in the number of jobs at the lower end of the economic scale.

We must recognize the minimum wage for what it really is. It is a way to keep a certain number of persons from entering the labor market. It is a limitation on any citizen's freedom to go into the enterprise of his choice.

In the face of all this evidence, Mr. Chairman, one wonders how we can in good conscience take an action which is likely to further aggravate the unemployment problem. How can we move to raise the minimum wage when the primary result of this action is to put people out of work—especially people whom we are trying to bring into the job market through other means?

Does it not strike anyone as ironic that on the one hand we are presented with proposals to create a National Youth Corps and a program of Youth Community Conservation and Improvement Projects in order to cure the problem of teenage unemployment. Yet, at the same time, we are taking action which by all

indications will increase the level of unemployment within this same teenage group.

Mr. Chairman, it is this sort of contradictory, counterproductive activity which has lowered the already low esteem of this body and of the Federal Government in the eyes of the public. I must say that for myself, I cannot blame them. If we will not resist the temptation to increase the minimum wage in light of all of the hard evidence indicating its deleterious effects, then perhaps the public is right in their general opinions of their representatives in Washington. Perhaps, we will see a clear demonstration of these opinions in the next election.

Mr. McCLORY. Mr. Chairman, I am pleased that the House has taken action to retain the tip credit. An employer today can credit tips received by employees toward the minimum wage. The credit can never exceed actual tips received and can never exceed 50 percent of the current minimum wage rate. In order for the employer to qualify for the tip credit the act clearly states that the employee must be informed by the employer about the tip credit provision and all tips received by such employee must be retained by the employee. Thus, the employee is guaranteed that he or she will earn at least the full minimum wage.

It is contended that the repeal of the tip credit and increasing the minimum wage in California did not have an adverse effect, citing increased employment and food service establishments in 1976. One reason the number of employees had increased is because restaurants hired more people for fewer hours to overcome the repeal of the overtime exemption. Repeal of the tip credit had increased the number of fast food service restaurants but it is the full-service restaurants which employ the higher compensated waiters and waitresses.

Furthermore, a 1977 Restaurant Association study of 470 independent and 872 chain-operated units shows that two-thirds of them reduced total hours of employment by approximately 50 hours per week, that 80 percent of them increased menu prices, and that patronage declined or remained constant in 60 percent of them.

Using the 1976 data is fallacious because the full impact of the changes in State law had not been felt. For example, the Red Lobster Restaurant chain did open three new restaurants, but only because two were under construction and the third was too far along to cancel the construction contract. Without passage of the law in California, 27 would have been opened. The three which opened had to be staffed, so show up in increased employment, but are operating in the red.

Though not a complete repeal, the bill raises direct costs to employers by 167 percent over the next 5½ years. The restaurant industry employs over 5 million people, providing jobs for large numbers of unskilled new entrants to the labor force, primarily those aged 18 to 25 and also for unskilled women who need a job that pays well. The cost increases are of such magnitude that they could not possibly be absorbed by increases alone, so restaurant operators would have to cut back on the number of people they employ.

Mr. Chairman, the Congress, in enacting the tip credit provision, recognized that industries in which tips are customarily received are unique in that the employees have access to unlimited earnings based on their ability to personally interact with customers.

Employers and employees alike have opposed any reduction in the tip credit. The law requires, and in fact guarantees that each employee, whether or not he receives tips, will receive the full minimum wage. No one has contended that employees are taking home subminimum wages.

Mr. Chairman, one of the panel of witnesses testifying before the committee stressed that it is not essential how much she makes an hour from the employer, but rather how many hours she is able to work, thus enabling her to receive more tips based on her ability to interact favorably with customers.

All of the waitresses feared that a repeal of the tip credit and the resultant rise in the cost of labor would require raising the price of a meal, thus discouraging the public from either dining out or purchasing expensive meals. The overriding fear of all the waitresses was basically that an increase in hourly wages as a result of the tip credit repeal would not be enough to compensate them for what they would lose in tips due to the possible imposition of a service charge or the public's reluctance to pay exhorbitant prices for meals. The restaurant industry is one of high competition and provides a luxury to the public that can easily be traded off for a less expensive meal at home. Eliminating the tip credit would result in an extremely high increase in labor costs in the restaurant industry. Not only would the employees of that industry suffer a decrease in earning power and a possible loss of their jobs, but also for many families the luxury of dining out would become an impossibility. Congress has guaranteed that the minimum wage be paid throughout the restaurant industry; to reduce the tip credit at this point would only result in higher labor costs, higher meal costs, and higher unemployment. As a result it would seem that the workers and consumers of our Nation all would suffer—unless the tip credit is retained.

Mr. Chairman. I also want to express my support for the youth differential or youth opportunity wage amendment.

Wages are paid on the basis of the value of a worker's contribution to a product or service. As the Government directs increases in wages, it becomes less attractive for business to hire inexperienced or less-skilled workers. Rather, they shift to machines or higher-skilled workers or less output in order to satisfy American consumers. As a result, these workers become discouraged and cannot find jobs now or often in the future.

This pattern is especially detrimental to youth. The most severe problem faced by young people not in school is not the ability to find a job but rather the inability to find a meaningful career opportunity. Minimum wage jobs for youths generally tend to be dead-end with little opportunity for advancement, basically because the minimum wage is too costly to employers who do not get a comparable return for the dollars which they invest in youth labor. With a youth opportunity differential, employers would be willing to invest time and money to train unskilled youth.

Mr. Chairman, each time Congress has raised the minimum wage in the last 20 years, youth employment both in aggregate and as a percentage of overall unemployment has risen—and the Nation is already suffering a severe youth unemployment problem. Especially affected are youths who are members of minority groups. Studies show that increases in statutory minimums do not increase job opportunities for marginal and disadvantaged segments of the labor force.

The minimum wage has reduced job opportunities for teenagers during periods of normal employment growth and made their jobs less sure in short-term changes in the business cycle.

The youth opportunity wage, without the cumbersome certification by the Secretary of Labor, will encourage young people to incorporate themselves into the work force instead of discourage them from even trying to get started in the job market.

Mr. Chairman, I am pleased to have offered my support of this amendment, and it seems most unfortunate that the amendment was not adopted.

Mr. Chairman, I am pleased that the Members have eliminated from the measure before us the provisions regarding indexing.

Mr. Chairman, indexing the minimum wage to the average hourly manufacturing wage would remove from Congress its authority to further legislate in this area and would be detrimental to employers and employees alike as well as—particularly—the American consumer.

In Illinois an increase in the minimum wage from $2.30 to over $3.31 an hour in 1978 with a built-in automatic inflationary increase each year to maintain the minimum wage at 60 percent of manufacturing wages could have, applying the best studies available, a reaction to this increase similar to what resulted from minimum wage increases in the past—the loss of at least 2.4 million jobs—over 2.6 percent of the present civilian labor force—4.7 percent higher labor costs for all businesses; 5.9 percent higher labor costs for small businesses which would reduce competition; and 3.1 percent higher consumer prices for all Americans.

Mr. Chairman, the State of Illinois could lose about 122,000 jobs with minorities and teenagers most adversely affected; 10,300 jobs lost for blacks and other young male minorities through age 24; 92,900 young workers through age 24; 28,600 adult workers; and 1,600 adult minority females.

Illinois would also experience a 4.5 percent increase in labor costs for all businesses; 5.6 percent increase for small businesses; and 3 percent increase in consumer prices. Of those workers still

employed and at or near the minimum wage, only about one-half would be from households receiving low incomes. Increases in the minimum wage is an undesirable and cruel way to help a few households increase low incomes.

Even a smaller increase in the Federal minimum wage from $2.30 to $2.73 an hour in 1978 with automatic and inflationary adjustments to maintain 50 percent of average manufacturing wages would cause labor costs to increase by 2.5 percent for all businesses and 2.8 percent for small businesses, and cause an increase in consumer prices by 1.7 percent for all Americans. Also it would reduce employment by about 1 million.

Under this proposal, Illinois would lose about 53,000 jobs; 23,300 white teenagers; 2,200 black and other minority teenagers; 12,300 white male workers ages 20 to 24; 2,300 minority male workers ages 20 to 24; and 11,800 adult male workers ages 25 to 64. Labor costs would increase by 3 percent for all businesses. 3.8 percent for small businesses, and Illinois consumers would have to pay about 2 percent higher consumer prices.

In sum, I wish to stress the fact that an overly generous increase in the minimum wage will have a serious adverse economic impact on employment in the United States. As inflation continues to rise, so, too, does unemployment.

As the required rate of compensation increases, a point is reached at which the employer must determine the value of the workers' contribution in light of his compensation. Here is where the reductions occur—and the most severe effects are felt by such workers as teenagers, minority group individuals, and low-skilled and inexperienced workers. They face the possibility of a higher wage but a lower probability of getting any job at all. We are reaching a point of questionable returns—just where that point is bears intensive research.

Finally, Mr. Chairman, I strongly support a commission to study the effects of the minimum wage before we tamper any more with it. The committee has never taken any testimony as to the impact on the economy or on employment in general of using the indexing provision. Without such a study having been conducted, it is impossible to know what conceivable ramifications may be faced in the future.

Mr. MITCHELL of New York. Mr. Chairman, my support of the modest increase in the minimum wage from $2.30 per hour to $2.65 per hour was based upon a number of conclusions. These conclusions were developed after a careful analysis of the extensive, factual material provided by a variety of sources in the business and labor community, and as a result of extended discussions with employers and employees alike.

Foremost in my thinking was a desire to arrive at a "fair" minimum wage, one that would reflect a nation's commitment to a minimum level of compensation to permit the maintenance of a basic, adequate standard of living for those at the low level of the covered work force. At the same time, as I addressed the search for a "fair" minimum wage, there was a special awareness of the employer's requirements as well as the employee's needs. That is, I recognized from the outset that someone has to pay the bills. If too great a burden is imposed with a resultant too little or no gap between income and outgo, profit margins will disappear and so eventually will the business and the jobs provided.

Consequently, I was not enthusiastic about either of the two extremes in the proposals advanced initially, on the one hand a status quo with no increase, on the other was an excessive increase beyond $3 per hour.

In America today, a worker who is at the minimum wage level, and has responsibility for the typical family of four is substantially below the poverty level. This annual compensation of $4,784 is almost 20 percent below the poverty level of $5,580 for a family of four. I can sympathize with the discouragement of a man working at the Minimum Wage level, doing his best to support his family, and still falling several hundred dollars short of the poverty level.

Clearly, then, based on the standard of living we identify with Americans, it is fair to conclude the increase in the minimum wage to $2.65 per hour is not excessive.

As I mentioned earlier, my support of the bill passed by the House of Representatives was based on a number of conclusions, among those are:

The increase will enhance the competitive position of industrial States of the Northeast and Midwest like New York, because for the most part, our work force is already above the Minimum Wage level, while a much higher percentage of the work force or principal competitors in the Sunbelt States are at the minimum wage level. Consequently, they will have to boost wages for their workers to a far greater extent than we will. By narrowing the cost-to-operate gap we will help stem the exodus of jobs from the Northeast.

There remains a built-in protection for the family farmer who will continue to have an exemption from the mandatory coverage provisions. He would have to employ ten hired hands before becoming eligible. The larger corporate farms, with more than 500-man-days of hired work per quarter, will be covered.

There were other considerations prompting my vote for passage of the bill.

I am concerned about inflation. All of the studies submitted during hearings on the legislation support the contention that the modest increase in the minimum wage level will not have a significant impact on the rate of inflation.

I am concerned about the possible loss of jobs if excessive rates of pay have to be met. Again, testimony from experts document that a significant number of jobs in the work force have never followed an increase in the minimum wage in the nearly 40-year history of the program.

Finally, I find appealing the argument that increasing the minimum wage provides a greater work incentive and also decreases Federal outlay for welfare assistance programs which billions of dollars are spent annually to aid the individuals whose income is not sufficient to provide the essentials for a basic standard of living.

In summary, the bill passed my test of providing a "fair" minimum wage to benefit employees without imposing unrealistic requirements that would have an undue negative impact on employer's or the Nation's economy.

Mr. LUNDINE. Mr. Chairman, while I am deeply concerned as a matter of economic justice about the problems of the working poor, and while on the surface this is a very appealing proposal, I must rise in opposition to the committee bill.

So long as our national economy suffers from rapid inflation combined with persistent high unemployment, we must be extremely cautious about raising the minimum wage to a level which would both fuel inflation and further increase unemployment. I have grave reservations about the provision to index future increases since I believe such mechanisms are inherently inflationary. It makes little sense to raise wages only to have that gain wiped out by increases in living costs.

While I recognize the problems faced by individuals and families who, even though they are fully employed, subsist on income barely at the proverty level, raising the minimum wage is not the answer. There would be little to be gained from raising the minimum wage if that increase means both a dimunition of job opportunities and an even more rapid rise in the cost of living.

Experience has shown that increases in the minimum wage have resulted in decreases in job opportunities for inexperienced workers. As MIT Prof. Paul Samuelson has pointed out, what good does it do for a teenager to know that he must be paid $2.65 an hour "if the fact that he must be paid that amount is what keeps him from getting a job."

The most recent figures on the Nation's unemployed indicate that about half the total unemployed in this country are young people, a large majority of whom are from minority groups. Forty percent of black teenagers cannot find work. That is a horrifying statistic—with devastating social implications.

In the other industrial democracies young people enter the job market at considerably lower wages than older workers. For example, in the Netherlands, they start work at 25 to 30 percent of the adult rate; in West Germany at 60 to 90 percent, and in the United Kingdom, at 30 percent. In those countries the problems of unemployed youth have been mild compared to those in the United States.

It is a simple historical fact that in good times a higher minimum wage means fewer job openings for teenagers and in bad times it means they are more likely to be laid off. If employers must pay a higher wage than they would without the law, they will seek out more experienced workers. A lower wage for youths entering the labor market provides an incentive to employers to furnish the training which young job-seekers need. A youth differential is a true youth opporutnity wage.

The provision for an automatic in-

crease in the minimum wage in the committee bill is particularly dangerous. The full impact of tying this wage to what has been a 7-percent per year increase in average hourly earnings is unknown. What is certain is that indexing of this kind only ties us in more firmly than ever to the disastrous wage-price spiral.

Any legislation which raises the minimum wage without consideration of inflationary impact will have serious consequences on our economy as a whole. I am concerned about jobs. And I am concerned about a decent standard of living for all our workers. But raising the statutory floor on wages will not provide solutions to these grave problems; it will only exacerbate them.

For these reasons, then, Mr. Chairman, I must oppose the committee bill and support efforts to delete the inflationary indexing provision, to provide a realistic exemption for small businesses, and to provide a youth opportunity wage.

Mr. KASTEN. Mr. Chairman, today the House of Representatives is considering one of the more important bills to come before the 95th Congress—H.R. 3744, the Fair Labor Standards Amendments of 1977, the minimum wage bill.

The committee has proposed that Congress increase the minimum wage to $2.65 per hour effective January 1978, and has introduced for the first time, the concept of "indexing" whereby automatic increases in the minimum wage would be guaranteed without congressional consent.

I am opposed to the bill as presented by the committee and would like to take this opportunity to explain my reasons for opposing the legislation. I hope that during the course of the debate we will approve several key amendments in order to modify the wage increases, thus mitigating adverse impacts on our unemployment and economic problems.

HISTORICAL PERSPECTIVE

Ever since the passage of the Fair Labor Standards Act of 1938, a Federal minimum wage has been a continuing feature affecting wage relationships in our country. Despite its longevity, the minimum wage issue continues to arouse controversy among economists and politicians.

The current proposed amendments continue a long tradition of amending the act to make up for erosion in the effective level of the minimum wage due to wage increases and inflation elsewhere in the economy. The 1938 law set the minimum wage at 25 cents per hour. The current wage is $2.30 per hour. The proposed legislation would increase the rate to $2.65 with automatic increases thereafter, tied to the average manufacturing wage.

I think all of us recognize that spiraling inflation has substantially reduced the purchasing power of wage earners across America. Earlier this year I sent a legislative questionnaire to my constituents in the Ninth District of Wisconsin. The problem most on their minds is inflation and the fact that income is barely keeping pace with increases in the cost of living.

So, I can appreciate the desire of those who believe an increase in the current minimum wage is necessary. However, while my desire to be fair to the average working man is as strong as that of my colleagues who favor this bill, I cannot believe that the increases and manner of future increases proposed in H.R. 3744 will be healthy for our economy or millions of workers across America.

With unemployment now over 7 percent and inflation running at an annual rate of about 8 percent, this is not the time to be passing a minimum wage bill which would only exacerbate both of these serious problems.

Studies have indicated that such a large percentage increase could easily result in increased consumer prices as a result of high labor costs and the loss of hundreds of thousands of jobs because employers will determine that it is more economical for their businesses to layoff "marginal" unskilled workers rather than absorb the increased costs necessitated by the minimum wage law.

Recent studies of the effect of the proposed legislation are very disturbing. They indicate a potential loss of 2 million jobs nationally—nearly half of which are among groups where unemployment rates are already high: teenagers, older Americans, women, and nonwhites. It is estimated that labor costs would increase by 4.1 percent for businesses while consumers will experience a 2.7-percent increase in prices because of higher labor costs.

IMPACT ON WISCONSIN

Naturally, my first concern is the impact of H.R. 3744 on my State of Wisconsin. The data is just as disturbing. Projections indicate that we can expect to lose 53,000 jobs if this bill becomes law. Labor costs are estimated to increase by 3.7 percent which would require a consumer price increase of 2.5 percent.

At a time when the residual effects of recession have not been fully overcome—and at a time when Congress continues to approve legislation to increase employment opportunities among the young and unskilled workers of our country—I think it would be counterproductive to pass this particular bill.

In addition to the increases proposed by H.R. 3744, there are several other features of the bill which are particularly objectionable. I am referring to the concept of "indexing" as well as the changes made to the "tip credit" provisions of current law. Since amendments dealing with these issues will be considered today, along with an important amendment to include a "youth differential" as part of the minimum wage law, I would like to briefly address these aspects of the legislation.

INDEXING

Certainly, the most serious provision in the bill is that to index the minimum wage at 52 percent of the average manufacturing wage beginning in 1979.

The concept of indexing is not new. It is based on the premise that inflation is a fixed and permanent feature of our economy. By accepting the concept as part of this legislation, Congress is indicating its unwillingness to deal with the underlying causes of inflation and is instead approving a mechanism which essentially masks those causes by increasing wages to account for inflationary impacts. I reject that premise as being seriously flawed and potentially dangerous for the economic health of our country.

Indexing represents an abdication of congressional responsibility to make key decisions affecting the Nation's economy. Increases will occur automatically regardless of the economic or social consequences. Once an index relationship is defined it is difficult to undo when conditions warrant a change.

Indexing is per se inflationary and will set into motion a constant upward pressure on wages and prices.

TIP CREDIT

Since 1966, when restaurant workers were first covered by the Fair Labor Standards Act, the law has recognized that substantial income is earned by waiters, waitresses, and others in the form of tips. While all employers of covered workers are required to guarantee those workers the minimum wage, they may reduce by up to 50 percent of the minimum wage rate the amount they are required to pay directly in wages if they can document that at least that much was earned by the employee in tip income. This is the so-called tip credit.

H.R. 3744 proposes to alter the "tip credit" feature of the current law—in effect reducing the credit to a $1 constant in 1981. Numerous studies show that any repeal or diminution in the tip credit would significantly raise the cost of labor in the restaurant industry and adversely affect employment in the United States.

A panel of waitresses, union and nonunion, appeared before the committee and testified unanimously against any change in the tip credit. They felt their earnings would be hurt by such a change. Unfortunately, the committee failed to heed their warning. I hope, therefore, that the House will reject the committee's recommendations and vote to continue the present policy with respect to tip income.

YOUTH DIFFERENTIAL

One of the most important amendments which I hope we can approve today would establish a youth differential at 85 percent of the present minimum wage. This provision would apply to youths 18 and under during their first 6 months of employment.

As I stated in my earlier remarks, unemployment among America's youth remains a very serious problem. Currently, there are over 3 million unemployed young people in the United States, representing almost half of the total number of unemployed persons in this country. History shows that each time Congress has raised the minimum wage over the past two decades, youth unemployment has risen.

Minimum wage jobs for youth generally tend to be dead end with little opportunity for advancement, essentially because the minimum wage is generally too costly to employers who do not get a comparable return for the dollars which they invest in youth labor. Thus, employers are not willing to invest time and money to train youths but would rather hire older skilled workers.

That is why a youth differential should be added to the minimum wage law. It should encourage the development of employment opportunities for youth by making it possible for employers to hire young workers under the age of 19 at 85 percent of the current minimum wage for 6 months. Adoption of this amendment will minimize the adverse impact which an excessive minimum wage increase will have on youth employment and grant young prospective employees the right to be hired at a wage rate which encourage employers to train them and incorporate them into their work force.

ENHANCE ECONOMIC RECOVERY

Mr. Chairman, I sincerely hope that we will have an opportunity today to modify the provisions of H.R. 3744 with the amendments I have just described. Such action would enhance our economic recovery and contribute to our goal of reducing unemployment.

Mr. LEGGETT. Mr. Chairman, once again we have the opportunity to modernize a bill our predecessors began in 1938, the Fair Labor Standards Act. It is a moral duty on our part to increase the minimum wage. Think how nearly impossible a person must find it to maintain a household on a mere $2.30 an hour. Food prices are rising, energy prices are rising, housing prices are rising, I could continue until infinity. Must we expect a small segment of our society to live on less and less, while everyone else's wages are adjusted for the rising costs of living? I cannot accept that. I have always supported a minimum wage which I felt would prevent unscrupulous employers from using their economic position to take advantage of workers, and that continues to be my policy. I do not believe the country benefits from underpaid labor. I do believe fair compensation is an indispensable element in developing proper motivation for work. That is exactly what this bill proposes, fair compensation.

Many claim the proposed increase in the minimum wage is not fair compensation. In fact many foresee this increase as an invitation for the inflation in America to skyrocket. How can it be that allowing a person to earn a fair wage is a cause of inflation? The simple answer is that it cannot. Studies done by the Department of Labor have shown it. For example, after the 1966 amendments, inflation occurred at a rate of 1.7 percent in the first half of 1966 as compared with 1.1 percent in the corresponding period in 1967 and 1.9 percent in 1968.

Obviously factors other than raises in the minimum wage were determinants of price rises. This data does not support efforts to deprive the thousands of struggling workers affected by the minimum wage from earning a decent living. The new minimum wage is not outrageous; rather, it is in keeping with the increasing prices which all persons in this country must pay. It is a fair proposal for everyone.

Claims have also been made that a rise in the minimum wage will cause a corresponding wave of unemployment. This argument might appear reasonable on the surface; however, further examination illustrates just how empty the objection is. Statistics show the disemployment effects of past minimum wage increases have been small, and adverse effects were brief as workers found new jobs. Furthermore, the increased purchasing power which will fall to many workers as a result of a higher minimum wage would serve to increase consumer demand which in turn creates new jobs. When a person begins searching for a job and knows all he will be paid is a minimum wage which enables him merely to exist, what incentive is there to work? What incentive is there to work rather than depend on the State? An increase in the minimum wage will give many Americans the opportunity to earn a decent wage with their labor. A minimum wage yielding above-poverty earnings for a minimum wage worker would not only be basic American justice, but would also reinforce the work ethic.

The need for a higher minimum wage affects everyone, not just adults. There is no reasonable cause to make wages subminimum for youths 18 years old and under. Granted, there is a great amount of youth unemployment right now, but we must examine why such a problem exists. Right now teenagers from the baby boom are saturating the labor market. Within a few years the teenage population will decrease for a few years to a level as much as 20 percent below current levels, thereby greatly lessening the seriousness of the problem.

We cannot allow a subminimum wage for youths. A youth differential makes no more sense than a subminimum wage for blacks, women, Hispanics, Vietnam vets or any other group with high unemployment rates. In fact, it would likely discriminate against those groups. The answer to the dilemma is jobs, not a pool of cheap labor for employers to exploit, and no jobs are created by a subminimum wage.

Establishing separate wages for youth contradicts the concept of equal pay for equal work. Ours is a country in which wages must be based on the type of work being done, rather than the age of the person doing the work. Self-sufficiency is critical for many young adults when developing a responsible approach to work and employment. A youth differential would undermine the efforts to meet that requirement.

Subminimum wages are not the answer to the dilemma of youth unemployment. The answer lies in job programs for youths. Taking that type of action is much more constructive than forcing youths to be paid less than they deserve.

Mr. STOCKMAN. Mr. Chairman, the House will soon vote on a bill to provide for an immediate large increase in the minimum wage, and to insure still larger increases in the future by fundamentally altering the way in which the minimum wage is determined. I am strongly opposed to this bill, because it will harm the very people it purports to help.

The intent of the sponsors of this bill is to protect the working poor from the ravages of inflation. This goal is to be accomplished by "indexing" the minimum wage to a specified percentage of the hourly earnings of the average manufacturing worker. Unfortunately, however, this move would immediately and directly harm the economic standing of the working poor in a number of fundamental ways. To demonstrate why this is so, I would like to analyze the minimum wage proposal for my colleagues from a number of different perspectives. Each approach brought to bear on the problem leads to the same inescapable conclusion—that Congress must seriously rethink its approach to establishing minimum wage policy.

I. THE MICROECONOMIC PERSPECTIVE

Arbitrarily fixing the price of labor has historically had a negative effect on employment of the working poor. The major employers of workers at the minimum wage are restaurants, retail stores, and certain labor-intensive low-skill manufacturing activities. The productivity of workers in these industries, measured in dollars, has always been perilously close to the amount of wages paid them.

In such business, effective managers must make careful decisions about employment levels. If an individual worker can be added to the firm's workforce who will return $2.50 for each hour worked at a $2.30 hourly rate, he will be hired whenever possible in order to increase the earnings of the firm. The employer will be just as quick, however, to eliminate the employee that earns $2.50, but only produces $2.30.

Mr. Chairman, many unskilled American workers, particularly those who are new to a job, cannot produce the $2.30 per hour return necessary to justify their employment at today's minimum wage, let alone the much higher levels mandated by this legislation. This is not a measure of their worth as human beings, but rather a function of the low-productivity industries in which they are forced, through lack of skills, to seek employment. By raising the minimum wage, we would widen the gap between their actual productivity and their legally mandated wages. Faced with an increase in costs without a corresponding increase in productivity, business managers will have a choice of four options, all of which will be detrimental to the working poor.

One option would be to reduce employment by cutting back total operations to a level at which all remaining workers produce more than they are being paid. A second option is to substitute more skilled, higher productivity workers through job redesign or restructuring. A third possibility would be to substitute new equipment and machinery for unskilled workers, at a cost made competitive by the big jump in labor prices. And, finally, in certain industries it is impossible to adjust by reducing the level of services offered to the customer. For example, the recent growth trend in self-service restaurants and retail stores represents a judgment by the management of these businesses that possible loss of sales due to customer inconvenience is more than offset by reduction of costs for unskilled labor.

Under any scenario, today's unskilled worker, rather than being helped by the minimum wage increase, is threatened by the loss of his job; and tomorrow's unskilled worker just entering the labor force faces a diminishing supply of opportunities. The only monetary value

either will receive is the likely incremental increase in their unemployment insurance benefit rate.

In discussing possible business responses to minimum wage increases, we have allowed demand for a company's products to remain constant, and concentrated on management strategies for insuring profitability. In actuality, however, increased costs mean increased prices, which in relatively price-elastic businesses, like fast-food restaurants and retail stores, means reduced demand. The result may well be disemployment, not just of the marginal worker, but of workers at all levels of the affected business.

Proponents of minimum wage legislation have traditionally discounted the disemployment effect of the minimum wage. They have argued that the actual disemployment result of minimum wage increases has been small, and at any rate, is a minor cost when compared to the benefits granted to the majority of the working poor. In order to analyze this argument, it is necessary to examine the costs—and the benefits—of the minimum wage in the total economy.

II. THE MACROECONOMIC PERSPECTIVE

Analyzing the effect of minimum wage increases in the total economy is no easy task. The American labor market is an amazingly complex aggregation of interrelated individual transactions. Increasing the minimum wage affects this market in a number of different ways.

It must be understood at the outset that application of the minimum wage law is by no means universal throughout the economy. Recent studies have demonstrated that only 58.7 percent of low wage workers were actually earning the minimum wage. The remaining 41.3 percent, or 3.83 million workers, were earning a wage lower than the minimum. A significant number of these individuals work in industries not covered by the minimum wage laws. A large number, however, earn less than the minimum wage through noncompliance with the law on the part of the employer. Whatever the distribution between these two causes of submminimum wage jobs, however, their existence provides a substantial market competing for workers with the sector of the economy covered by the Fair Labor Standards Act.

It is probable that increases in the minimum wage have a net wage depressing effect on the uncovered low wage sector of the economy. This is due to the fact that disemployment in the covered sector resulting from minimum wage increases tends to increase the supply of low-skill workers in the uncovered sector, and wage rates in the uncovered sector are highly sensitive to supply. In light of this interaction with the uncovered sector, it is likely that increases in the minimum wage rate both reduce the supply of jobs available and do not increase the aggregate earnings of minimum wage level employees.

An empirical assessment of the impact of minimum wage increases on the total wage bill also leads to interesting conclusions. The most recent minimum wage increase for which good data exists is the 1974 jump from $1.60 to $2, or 25 percent. The overall immediate wage bill increase due to the minimum wage that year was about $3.5 billion or 0.8 percent of the total national wage bill. The amount calculated to have gone directly to those working at the minimum wage, however, was only about half of that amount. The conclusion to be drawn from this analysis is that the true cost of a minimum wage increase may actually be double the increased wages paid to those previously below the new minimum.

Who, then received the benefit of the additional $1.75 billion paid in wages in 1974?

Most industries cluster wages within a range determined primarily by the opportunity of needed workers, but conditioned strongly by other factors. Longevity, classification, and a number of different factors introduce differentials into the wage structure. As a result, when the minimum wage is increased, it affects the size of the differential between bottom pay and higher pay steps. These higher pay steps, then, must be increased to preserve the differentials, or some percentage of them. It is the holders of jobs with wages increased to preserve differentials that are the beneficiaries of the other half of the total wage bill increase.

The more closely one looks at the minimum wage question, the more clearly it appears that this costly legislation actually benefits very few of the people it is designed to assist—the working poor.

III. LITTLE HELP FOR THE WORKING POOR THROUGH MINIMUM WAGE LEGISLATION

The discussion above indicated that only half of each dollar paid out due to minmum wage legislation actually goes to individuals working for the minimum wage. But according to Labor Department estimates, only about 20 percent of those working at the minimum wage are persons below the poverty level. Particularly among young people, it is highly likely that minimum wage workers will be members of middle-income families.

In 1973, the median family income of individuals working at or near the minimum wage was $8,560. In the same year, though, the median family income for teenagers working for the same wages was $13,880.

In all, 90 cents out of every dollar of wages paid as a result of minimum wage legislation goes to pay individuals above the poverty level. It is clear that minimum wage legislation is an exceedingly blunt weapon with which to attack the real problems of the working poor. As a policy, it is a costly failure.

There are those who argue, however, that even this expensive, ineffective vehicle is better than nothing at all, and should be maintained. Even in the absence of sound alternatives, this would be a questionable approach to public policymaking. It can be demonstrated, however, that minimum wage legislation in general, and the current administration-labor proposal in particular, is actually the worst possible approach to the alleviation of poverty.

IV. LIMITATIONS ON THE MINIMUM WAGE APPROACH

In order to determine the effectiveness of minimum wage legislation as strategy for the alleviation of poverty, it is necessary to determine the number of families which would be raised from poverty by any given change in the minimum. The number to be raised from poverty, however, is not immediately apparent, for a number of reasons.

First among all the poor who had any work experience in 1975, the current population survey estimated that fully 37 percent were members of families with six or more members. The problem in such cases is more usually the size of the financial need than the relative inadequacy of earnings. The poverty level for a family of six is currently $7,770 per year, while the level for a family of seven is $8,730.

Yet to raise the minimum wage high enough to bring such families out of poverty—even assuming that the head worked full time—we would have to increase to $3.72 and $4.20, respectively, a rate in the latter case representing an increase more than five times that proposed by the Dent bill. In fact, the proposed increase in the minimum wage from $2.30 to $2.65 will leave almost 90 percent of the working poor still in poverty, many by as much as $3,000.

On the other hand, the evidence also shows that only 20 percent of all working poor families, even with more than one individual working, contributed a number of hours of work equivalent to one person working full time for a complete year. At the same time, fully 43.8 percent of all working poor families contributed a total number of worker hours equivalent to less than half of a full-time, full-year job. The clear implication here is that it is lack of full-time, full-year employment, rather than low wage rates, which causes work poor families to languish in poverty.

This implication is confirmed when we look at the employment patterns of the "small families"—those with one, two, or three members. This group comprises nearly 60 percent of all the working poor families in the United States. The poverty levels for families of one and two members are, respectively, $2,970 and $3,930. Yet the annualized equivalent of the minimum wage for full-time employment is $4,784 at the current level of $2.30. Obviously, none of the families in this group can have a member who works full time year-around. The obvious need in these cases is more jobs, more hours, and full-time employment opportunities, not higher hourly rates.

V. COST-BENEFIT ANALYSIS OF H.R. 3744

The process of computing the efficiency of the minimum wage strategy in raising the working poor from poverty consists of several steps. First, the number of persons to be raised from poverty must be estimated. Second, the economic effect of any given increase on the total national wage bill must be computed. Finally, the results must be compared to alternate strategies for helping the working poor.

To estimate the number of persons raised from poverty by the Dent proposal, an analysis was prepared which cross-tabulated families in poverty by their wage and salary income, and by the number of individuals in the family. Next, the number of hours of work offered annually for each range of persons within this analysis was computed.

Finally, the $0.35 per hour increment was applied to the total number of hours worked for each family, and compared to the gap between the official Community Services Administration poverty guidelines, and total income. The results of this estimate, when factored for employment in uncovered or noncompliant industries, showed that approximately 489,000 families would be raised above the poverty level by a minimum wage increase of $0.35, or roughly one-tenth of the total working poor.

The next step—computation of the cost of a $0.35 per hour increase in the minimum wage—was performed by the Division of Evaluation and Research of the Employment Standards Administration, USDOL. For 1978, they project a wage bill increase for 9.9 percent of all workers, or 5.125 million persons, in the amount of $3,351 billion.

When divided by the number of affected families, the resultant average cost per family is $6,853. When one considers that the rough average poverty gap of affected families is only about $700, the cost-inefficiency of the minimum wage approach becomes clear. Any other Federal program which advertised delivery of service to the poor at a 90.7-percent overhead charge would never see the light of day in any subcommittee of this House. Yet this proposal, H.R. 3744, which will almost certainly have a greater net cost than this to the economy when indirect effects are considered, has moved expeditiously through the House, with the backing of a supposedly fiscally conservative administration, to consideration on the floor.

While it is true that the benefits from a large portion of this cost, which will be passed on to the taxpayer, will be received in wages by American workers, those workers who will actually receive increased earnings as a result of this proposal are so often middle-income earners that it is ridiculous to defend minimum wage increases as a program designed to help the working poor. The Treasury could write a check for $1,000 to every family below poverty that worked 1 hour or more last year at a lower aggregate cost than a minimum wage increase of $0.35 per hour. Clearly, any transfer payment strategy which could be reasonably devised could accomplish considerably more at a much lower cost.

VI. ANALYSIS OF PROPOSALS EMBODIED IN H.R. 3744

In light of the foregoing analysis, it is clear that the proposals in H.R. 3744 would significantly increase costs without significant benefit. A 35-cent-per-hour increase can only aggravate the presently troublesome economic outlook, acting as a leading force for renewed price inflation. Close inspection shows the other actions proposed by this legislation—indexing, and elimination of the tip credit—to be similarly costly and valueless.

A. INDEXING THE MINIMUM WAGE

As indicated earlier, increases in the minimum wage provide a number of options to employers in maintaining profitability. While some of these options help the unskilled worker, the opinion of substituting skilled work for unskilled work through job restructuring or redesign has some offsetting employment benefits for such workers. Indexing the minimum wage, however, in addition to institutionalizing inflationary pressure, would also tend to institutionalize wage differentials between differently skilled workers; as a result, it wolud reduce the options of employers in dealing with wage increases. By increasing reliance on capital substitution and demonetization of labor functions, indexing will actually aggravate the disemployment effect of minimum wage legislation.

In a textbook economy, market decisions are made based on a seemingly instantaneous perception of advantage on the part of the actors in the market. In the real world, however, expectations of individuals have increased in recent years as a major market force. It should be no news to Members of this Congress that expectation of continued inflation can be a strong force for further inflation. Such expectations have also had the effect of depressing business confidence to the point where investment over the last 7 years has lagged badly behind what was needed to accommodate the ever-increasing labor supply. From 1969 to 1976, business expenditures for new plants and equipment in 1972 dollars, rose only 3.99 percent. During the same period, the American labor force increased by 17.39 percent, representing the influx of more than 14 million new or potential workers. Can it be any surprise that the number of unemployed Americans rose by 257 percent during this period?

Even now, jobs are not so plentiful that we can afford to adopt policies which have negative employment impacts. The indexing proposal would institute a mechanism which guarantees continued employment shortfalls, both by forcing a higher level of future unit production costs, and also by dampening the rise of business expectations so necessary to meet future job needs. I urge my colleagues to reject this harmful provision.

B. ELIMINATION OF TIP CREDIT

Once again, organized labor proposes elimination of the credit for tips against minimum earnings for food service workers. Through this provision, they seek to establish by fiat wage gains that they could not reasonably expect to achieve at the bargaining table for that small percentage of food service workers who are organized.

The food service industry is unique in certain respects, particularly in regard to wages paid to waiters and waitresses. In order to comply with State and Federal laws, at least 50 percent of the legal minimum must be paid in the form of hourly wages from the employer. Yet the bulk of the service worker's earnings take the form of a direct transaction between the customer and worker, in the form of gratuities. It is not uncommon for waiters in more expensive restaurants to earn $18,000 per year. For these workers the fact that only $3,400 of this gross wage comes from employer wage payments is irrelevant. It is currently a fact that no food server in covered employment earns less than the prevailing minimum. In fact, tips almost always comprise the majority of the server's earnings.

What, then, would be the result of eliminating the tip credit? Under present policies, reliance on tips provides a strong incentive for increased personal productivity from food servers. Simply put, the quantity of their earnings is tied directly to the quality of their work. While individual variations abound, in the aggregate, the volume of tips is roughly proportional to gross sales.

Eliminating the tip credit increases the cost of the wage transaction between the employer and the food server, without accounting for the wage transaction between the server and the customer. The result is a dramatic wage bill increase—in many cases up to 100 percent—for the employer, with only a small relative increase in benefit to the worker. Even this small benefit, though, will be offset by the effect of this measure on employer costs. The employer can only pass through what portion of this increase he can to the consumer. The result, industrywide, will be a shift in the demand for food service, significantly affecting sales. The bottom line will be a significant reduction of tips. Elimination of the tip credit, when tied to an increased and eventually indexed minimum wage, may actually cause a decrease in gross earnings for the food server.

During hearings before the Education and Labor Committee, food servers themselves made this point tellingly. I for one was surprised, Mr. Chairman, that when H.R. 3744 came to the floor, elimination of the tip credit was still proposed in the package. Employers cannot stand this increase. The workers, themselves do not want this increase. How, then, can Congress presume to impose this burden on the food service industry and its workers? I urge my colleagues to reject this proposal.

C. THE YOUTH DIFFERENTIAL

On the basis of the evidence, disemployment effects of minimum wage legislation impact most strongly on young people. While this understanding is widespread, considerable pressure from organized labor has, until now, prevented implementation of a youth differential in the minimum wage. The AFL–CIO argues that failure to safegurad the minimum wage for young people will give them an unfair competitive advantage over older workers in the unskilled job market. I disagree strongly with their conclusions in this regard.

Historical comparisons demonstrate the inhibiting effect the minimum wage has on jobs for young people. In 1958, when the unemployment rate was 7 percent, or the same as we are experiencing today, unemployment among young people aged 16 to 19 stood at 15.49 percent. Today, however, even with the current picture easing somewhat due to economic recovery, the July 1977 seasonally adjusted unemployment rate for this same group was 17 percent. Nor does this comparison indicate the most serious aspect of the problem—the growth retardation of jobs for young people under minimum wage laws.

From 1958 through July of 1977, the

overall civilian labor force, the group for which unemployment rates are computed, grew by 29.7 million workers while the labor force aged 16 to 19 grew by 7.2 million. During this period, employment levels, indicating jobs for adults, grew by 27.5 million, or 92.8 percent of the labor force growth. Jobs for young people, however, did not fare so well, growing only by 82.3 percent of their corresponding growth in labor supply.

During this period, the minimum wage was increased over 300 percent, and coverage greatly expanded into areas that employ large numbers of young people. These actions were in large part responsible for retarding the youth jobs growth rate relative to labor force growth to 82.3 percent. The consequence, Mr. Speaker, is that we have only 5.96 million jobs for young people, as opposed to the 6.71 million we would have had, had jobs for young people grown at the same rate as adults. The minimum wage, then, has been in large part responsible for the loss of more than 756,000 jobs for young people, a sufficient number to reduce our current youth unemployment rate to 7.2 percent.

The reason that existing wage levels generate disproportionate unemployment among young people is exactly because of their aggregate lower productivity, when compared to older workers. Changing the way in which the minimum wage affects young people will have no effect on their relative productivity. It is the productivity of the worker relative to the wage paid which encourages or discourages his employment, not the wage rate itself.

It is true that young people with relatively greater marginal productivity will tend to displace their elders with relatively low marginal productivity. Should the case be otherwise? Yet the extent of such displacement has been greatly exaggerated by opponents of a youth differential. They forget that the heavy concentration of young people in the uncovered or noncompliant labor force will be eased somewhat, while the relative access of young people to covered jobs will tend to bid up wages in the uncovered and noncompliant sectors. The result may be a shift of employment between these sectors. But significant disemployment is unlikely.

It might be argued that placing an arbitrary wage limit on an across-the-board youth differential would have a more significant negative effect on employment of adults, since eventually younger workers with 3 or 4 years of working experience might displace even older workers whose work experience was more intermittent, or less relevant to the task to be performed. To alleviate this possible circumstance, this House should consider the proposal by my distinguished colleague, the gentleman from Illinois (Mr. CRANE), that a youth differential apply only to young people in their first 6 months of continuous employment with a firm. Such a proposal would allow employers an incentive to hire and train young people, without providing a continued favored status upon completion of training. I heartily commend this proposal to the consideration of my colleagues.

VII. SUMMING UP

In summary, Mr. Chairman, there is nothing in this bill, H.R. 3744, that will help the poor workingman. On the contrary, the negative effects of increasing current and future unemployment and inflation are a direct assault on his well-being. Only organized special interests will achieve net benefits from this proposal; not from direct increase in their wages, but from the pressure this move will exert to push high wages even higher. Yet the cost will be shared by every American—in the form of fewer jobs and higher prices.

Mr. Chairman, we ignore the basic laws of economics to the detriment of those who need jobs most. Regardless of the minimum wage level we set here, the market will continue to determine the value of labor. If we set an artificially high level, we will reduce the number of opportunities for the already hard-pressed unskilled worker. I for one, Mr. Chairman, think that unemployment, particularly that of youth, is already high enough. That is why I urge my colleagues to join me in opposing the minimum wage bill reported out by the Committee on Education and Labor.

The CHAIRMAN. If there are no further amendments the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to repeal the credit against the minimum wage which is based on tips received by tipped employees, pursuant to House Resolution 715, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK, I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill H.R. 3744 to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 96, not voting 29, as follows:

[Roll No. 555]

YEAS—309

Addabbo	Davis	Hillis
Akaka	de la Garza	Holland
Allen	Delaney	Hollenbeck
Ambro	Dellums	Holtzman
Ammerman	Derrick	Horton
Anderson, Calif.	Derwinski	Howard
Andrews, N.C.	Dickinson	Hubbard
Annunzio	Dicks	Huckaby
Applegate	Diggs	Hughes
Ashley	Dingell	Hyde
Aspin	Dodd	Jacobs
AuCoin	Downey	Jeffords
Baldus	Drinan	Jenkins
Barnard	Duncan, Oreg.	Jenrette
Baucus	Duncan, Tenn.	Jones, N.C.
Beard, R.I.	Early	Jones, Okla.
Bedell	Eckhardt	Jones, Tenn.
Bellenson	Edgar	Jordan
Benjamin	Edwards, Ala.	Kastenmeier
Bennett	Edwards, Calif.	Kazen
Bevill	Eilberg	Keys
Bingham	Emery	Kildee
Blanchard	Erlenborn	Kostmayer
Blouin	Ertel	Krebs
Boggs	Evans, Ga.	Krueger
Boland	Evans, Ind.	LaFalce
Bonior	Fary	Le Fante
Bonker	Fascell	Lederer
Bowen	Fenwick	Leggett
Brademas	Findley	Lehman
Breaux	Fish	Lent
Breckinridge	Fisher	Levitas
Brinkley	Fithian	Livingston
Brodhead	Flippo	Lloyd, Calif.
Brooks	Flood	Lloyd, Tenn.
Broomfield	Florio	Long, La.
Brown, Calif.	Flowers	Long, Md.
Broyhill	Foley	Lott
Buchanan	Ford, Mich.	Lujan
Burke, Calif.	Ford, Tenn.	Luken
Burke, Mass.	Fountain	McCloskey
Burlison, Mo.	Fowler	McCormack
Burton, John	Fraser	McDade
Burton, Phillip	Frey	McEwen
Byron	Fuqua	McFall
Caputo	Gammage	McHugh
Carney	Gaydos	McKay
Carr	Giaimo	McKinney
Carter	Gibbons	Madigan
Cavanaugh	Gilman	Maguire
Chisholm	Ginn	Mann
Clausen, Don H.	Glickman	Markey
Clay	Gonzalez	Marks
Cleveland	Goodling	Mathis
Coleman	Gore	Mattox
Collins, Ill.	Gudger	Mazzoli
Conte	Hamilton	Meeds
Conyers	Hanley	Metcalfe
Corman	Hannaford	Meyner
Cornell	Harkin	Mikulski
Cornwell	Harrington	Mikva
Cotter	Harris	Milford
Coughlin	Harsha	Miller, Calif.
D'Amours	Hawkins	Mineta
Danielson	Hefner	Mitchell, Md.
	Heftel	Mitchell, N.Y.
		Moakley

Moffett	Rahall	Steers
Mollohan	Railsback	Stokes
Moore	Rangel	Stratton
Moorhead, Pa.	Regula	Studds
Mottl	Reuss	Thompson
Murphy, Ill.	Richmond	Tsongas
Murphy, N.Y.	Rinaldo	Tucker
Murphy, Pa.	Risenhoover	Udall
Murtha	Rodino	Ullman
Myers, Gary	Rogers	Van Deerlin
Myers, Michael	Roncalio	Vento
Natcher	Rose	Volkmer
Neal	Rostenkowski	Waggonner
Nedzi	Roybal	Walgren
Nichols	Ruppe	Walsh
Nix	Russo	Wampler
Nolan	Santini	Watkins
Nowak	Sarasin	Waxman
O'Brien	Sawyer	Weiss
Oakar	Scheuer	Whalen
Oberstar	Schroeder	White
Obey	Seiberling	Whitley
Ottinger	Sharp	Whitten
Panetta	Shipley	Wilson, C. H.
Patten	Simon	Wilson, Tex.
Patterson	Sisk	Wirth
Pattison	Skelton	Wolff
Pease	Skubitz	Wright
Pepper	Slack	Wydler
Perkins	Smith, Iowa	Yates
Pickle	Snyder	Yatron
Pike	Solarz	Young, Alaska
Pressler	Spellman	Young, Fla.
Preyer	St Germain	Young, Mo.
Price	Staggers	Young, Tex.
Pritchard	Stanton	Zablocki
Quie	Stark	Zeferetti

NAYS—96

Abdnor	Frenzel	Moorhead, Calif.
Andrews, N. Dak.	Gephardt	Myers, John
Archer	Goldwater	Pettis
Armstrong	Gradison	Poage
Ashbrook	Grassley	Pursell
Badham	Guyer	Quayle
Bafalis	Hagedorn	Roberts
Bauman	Hall	Robinson
Beard, Tenn.	Hammer-schmidt	Rousselot
Brown, Mich.	Hansen	Rudd
Brown, Ohio	Hightower	Runnels
Burgener	Holt	Satterfield
Burke, Fla.	Ichord	Schulze
Burleson, Tex.	Ireland	Sebelius
Butler	Johnson, Colo.	Shuster
Chappell	Kasten	Smith, Nebr.
Clawson, Del	Kelly	Spence
Cochran	Kemp	Stangeland
Collins, Tex.	Ketchum	Steiger
Conable	Lagomarsino	Stockman
Corcoran	Latta	Stump
Crane	Leach	Symms
Cunningham	Lundine	Taylor
Daniel, Dan	McClory	Teague
Daniel, R. W.	McDonald	Thone
Devine	Mahon	Trible
Dornan	Marlenee	Walker
Edwards, Okla.	Marriott	Whitehurst
English	Martin	Wiggins
Evans, Del.	Michel	Wilson, Bob
Flynt	Miller, Ohio	Winn
Forsythe	Montgomery	Wylie

NOT VOTING—29

Alexander	Johnson, Calif.	Ryan
Anderson, Ill.	Kindness	Sikes
Badillo	Koch	Steed
Biaggi	Minish	Thornton
Bolling	Moss	Traxler
Cederberg	Quillen	Treen
Cohen	Rhodes	Vander Jagt
Dent	Roe	Vanik
Evans, Colo.	Rooney	Weaver
Heckler	Rosenthal	

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Rhodes against.

Mrs. Heckler for, with Mr. Vander Jagt against.

Until further notice:

Mr. Bolling with Mr. Cederberg.
Mr. Steed with Mr. Quillen.
Mr. Thornton with Mr. Kindness.
Mr. Anderson of Illinois with Mr. Moss.
Mr. Treen with Mr. Roe.
Mr. Weaver with Mr. Sikes.
Mr. Badillo with Mr. Vanik.
Mr. Koch with Mr. Johnson of California.
Mr. Biaggi with Mr. Alexander.
Mr. Rooney with Mr. Minish.
Mr. Traxler with Mr. Evans of Colorado.
Mr. Rosenthal with Mr. Ryan.

So the bill was passed.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the amendment to the title.

TITLE AMENDMENT

The Clerk read as follows: "Amend the title so as to read: "A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and for other purposes'."

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer an amendment to the amendment to the title.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment to the title:

Amend the amendment to the title of the bill by striking out the words: "to provide for an automatic adjustment in such wage rate".

The amendment to the title amendment was agreed to.

The title amendment, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ERLENBORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 3744, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, my flight from my home district was unavoidably delayed due to poor weather. As a result, I missed the vote of September 15, 1977, on the conference report on House Concurrent Resolution 341, the second concurrent resolution on the budget, fiscal year 1978. If I had been present, I would have voted "No."

APPOINTMENT OF CONFEREES ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 7797, making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I would like to inquire of the distinguished gentleman from Maryland, the chairman of the subcommittee that handled this bill, as to his intentions relative to several matters that the House spoke very clearly on during debate and passage of this bill. More specifically, Mr. Speaker, I would like to inquire of the chairman whether it would be his intetnion to support the Young of Florida amendment that prohibited the use of American funds to provide indirect foreign assistance to Vietnam, Laos, and Cambodia, or to that distinguished gentleman who leads the Republic of Uganda?

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, as the gentleman well knows the House conferees are charged with the responsibility of protecting the House position on this foreign assistance appropriation bill for fiscal year 1978 and I intend to live up to that responsibility.

Mr. Speaker, regarding specifically the Young amendment I might say to the gentleman that as far as I am concerned the House conferees have a rather strict mandate from this body to retain the House language prohibiting indirect U.S. foreign assistance from going to Uganda, Cambodia, Laos, and Vietnam. If the gentleman will recall, the vote in the House of Representatives to include this prohibition against providing indirect U.S. foreign assistance to these countries was 295 yeas to 115 nays. I consider this to be a rather strong House position and I think it would be rather difficult to get the conference report adopted in the House we do not retain the Young language.

Does that answer the question of the gentleman?

Mr. YOUNG of Florida. That answers my question. I appreciate the response of the gentleman from Maryland.

In view of his comment and the statement of the very strong vote on the part of the Members of the House, which was a vote of 295 for the amendment with only 115 in opposition. I will not offer a motion to instruct the conferees, and it is my hope we will come out of the conference committee with a report that includes this very strong language.

Mr. LONG of Maryland. I thank the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, I would like to inquire of the chairman of the committee, the gentleman from Maryland (Mr. LONG), as to the gentleman's position on the 5-percent reduction that was voted on and approved. It amounted to $352 million.

I earlier heard the gentleman state that the gentleman will be following the House position in general, but the gentleman spoke of the Young amendment.

I would like to hear some remarks on the Miller of Ohio amendment on the 5-percent reduction and what the position of the gentleman from Maryland is on that amendment.

Mr. LONG of Maryland. Mr. Speaker, if the gentleman will yield, as the gentleman from Ohio knows, no chairman can guarantee what we come out of a conference with; but I go into the conference with the same attitude that I do toward supporting the Young amendment.

The Miller amendment passed this House. I now assume the responsibility to maintain the House position in the Senate-House conference.

Mr. MILLER of Ohio. Mr. Speaker, it appears with the votes we have had in the House that if the bill did return without the House amendments, it could jeopardize, very much jeopardize, the bill itself. I think we should have that as part of the record.

Mr. LONG of Maryland. Mr. Speaker, if the gentleman will yield further, I am inclined to agree with the gentleman from Ohio.

As a matter of fact, I will go further than that. I am inclined to feel that if it had not been for the Miller amendment, which in a sense let off steam, let off some of the pressure, we might very well have lost the bill at the time it passed the House, if that is any consolation to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, we hope we do not have to let off steam again when the conference report returns; but if we somehow can hold the 5-percent reduction and save the American taxpayers that $352 million, that is exactly what we should do.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland? The Chair hears none, and without objection, appoints the following conferees: Messrs. LONG of Maryland, OBEY, KOCH, CHARLES WILSON of Texas, YATES, Mrs. BURKE of California, Messrs. ROYBAL, STOKES, MAHON, YOUNG of Florida, CONTE, Mrs. SMITH of Nebraska, and Mr. CEDERBERG.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT ON H.R. 7744

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight to file a report on H.R. 7744, relating to the performance of dredging by contract.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PANAMA CANAL TREATY

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, during the month of August, I spent considerable time visiting with constituents in the 14 Alabama counties I am privileged to represent. The one issue which I found to be the topic of conversation with farmers, businessmen, and the average voter, was the proposed giveaway of the Panama Canal.

Our mail on this subject has been extremely heavy and though my personal opposition to the forfeiture of the Panama Canal has been well documented over the years, there are specific points embodied in the new treaty which disturb me greatly.

Proponents of the proposed treaty frequently cite the morality of America's continued presence in Panama. Their arguments are sprinkled with terms such as "imperialism," "American colonialism," and "big stick politics" in their case for a revised canal treaty.

History records this country's support of the Panamanian revolution and of our immediate recognition of the new Republic of Panama and of the speedy ratification of the original Panama Canal Treaty of 1904. I do not argue with the fact that the United States got the best end of the bargain in the 1904 treaty. The original treaty was not the first and hopefully not the last occasion in which the United States achieved a victory at the diplomatic table.

But if we are to go back to 73 years ago and use 20th-century morality then perhaps we should also consider renegotiation of the Louisiana Purchase when we paid France a bargain rate of 4 cents an acre for that territory. Possibly we should review our agreement with Mexico where we obtained the lands of Arizona and New Mexico, and for that matter I am certain that the Russians would want to strike a better deal for Alaska.

And so, Mr. Speaker, despite what most certainly was a good trade for the United States, I would point out that it was also a good deal for the fledgling country of Panama as well.

We have paid the Panamanians annuities ranging from the original $250,000 to this year's $2.3 million in fees. Where the wisest engineers of Europe had failed, American know-how and determination completed a canal through terrain which had been virtually impossible for others to conquer. As a consequence the cultural and economic benefits have been substantial for Panama. It is important to note also that it was American intervention that secured Panama's feeble effort toward independence and it was America's continued presence in the isthmus which guaranteed the autonomy of this small Panamanian country.

There is much that the American people do not completely understand about the present treaty, including the commitment in financial aid to Panama over the next 23 years amounting to $2.26 billion. Many Americans are unaware that 10 of the 14 existing military bases in the Canal Zone are scheduled to close and that the terms of the new canal treaty lend credence to my suspicion that the treaty actually amounts to an economic "bail out" for the present Panamanian Government.

Since 1968 Panama's debt to financial banking institutions has ballooned from $130 million to a figure in excess of $1.4 billion with some estimates even higher. This means that to service the public debt—to pay the interest alone—the Government of Panama must pay out 32 cents on every dollar received in revenue. Our own Commerce Department tells us that if this situation were to continue that judgment day is not far off for the present Government of Panama.

Unquestionably without some drastic increases in revenues the very solvency of the country would be in question. Already the greatest portion of Panama's gross national product is derived from the canal's operation. There are, of course, some small agricultural exports including sugar, bananas, and beef, but the depressed sugar market and recent droughts have cut export earnings from these sources by 25 percent during the past year.

The Washington Post points out Panama's dependence on the new moneys in the canal treaty by saying "To Panamanians the Canal Transfer Treaty means much more than an end to Yankee imperialism. It offers a ticket, perhaps the only ticket, to economic salvation."

Under the terms of the new treaty the United States will pay Panama $50 to $60 million annually plus an additional $10 million per year for the operation of the canal through the year 2000. Add to that another $50 million in military assistance over the next 5 years, plus another $55 million in guaranteed loans for the Agency for International Development, plus $200 million in export-import bank loans and I can understand why General Torrijos and other representatives of that government were smiling on the night of September 7 during the signing of the new canal treaty.

But no matter how impassioned the arguments may be relating to the morality of our obtaining the canal property or how cold and calculated the figures read regarding the economic advantages of the new treaty, the most basic reason for continuing the American operation administration and maintenance of the Panama Canal lies in the future security of these United States.

The American military presence in NATO to the East as with our commitments to the West requires supplies—food, fuel, new equipment, and the like. If a major conflict develops, supply lines must remain open. I have seen arguments that the canal's wartime use would be limited due to the size of our new naval vessels, yet in today's Navy only 13 ships are incapable of utilizing the canal's locks.

During our most recent military conflict in Southeast Asia the canal was used extensively by supply ships traveling from ports along the east coast through the canal to that part of the world. As our Navy shrinks in size its mission remains in defending the United States from both oceans. Except for our largest aircraft carriers, every U.S. naval ship can readily use the canal to conduct its mission in either the Atlantic or Pacific Oceans.

Mr. Speaker, the United States must continue to own, operate, and maintain the Panama Canal. The canal is an es-

sential link economically and militarily between the United States, the Western Hemisphere, and the world.

The question of the new canal treaty is much more than the issue of "we own it, we need it, let's keep it." There are real issues of economics, integrity, and national security which some proponents of the new canal treaty have greatly distorted.

During the months ahead there will be much debate and countless confrontations about the new treaty. Most assuredly the House of Representatives will be called to vote on the transfer of this strategic piece of property. Under the 1904 treaty it is our legal obligation to do so and at that time it will be my intention to have more to say in opposition to what I believe to be a most unwise and dangerous mistake in sacrificing this Nation's strategic advantages in ownership and operation of this important waterway.

CLEVELAND GIVES QUESTIONNAIRE RESULTS—ANSWERS IT HIMSELF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 60 minutes.

Mr. CLEVELAND. Mr. Speaker, in June of this year my 15th annnal questionnaire was sent to the residents of the Second Congressional District of New Hampshire. Nearly 18,000 constituents responded.

The replies to each question, together with my own answers and comments, are reported here for the information of readers of the CONGRESSIONAL RECORD, and will be mailed to every household in my district. This process has proved to be a valuable means not only of learning how New Hampshire people feel about issues, but also of communicating back my own positions.

As in previous years, the responses were not limited to the "yes," "no" or "undecided" answers indicated on the questionnaire. Many people wrote additional comments, either to elaborate on a particular answer or to express views on other matters. These personal views have been especially interesting and helpful.

CONSTITUENT OPINION

In examining the results of the questionnaire and preparing my own answers, the famous quotation by Edmund Burke about a political representative and public opinion came to mind. In a speech made in 1774, Burke said,

> Your representative owes you, not his industry only, but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion.

Burke's point is well taken. In some cases a representative has to make a quick decision, based on his own knowledge and experience, and it is virtually impossible to determine how a majority of his constituents feel about the issue in question. In other cases, a position may reflect deeply felt personal values, which the voters can approve or repudiate at election time.

This year I find myself in disagreement on at least two issues with a majority of those responding to my questionnaire. Most pronounced is my continued opposition to the creation of a Consumer Protection Agency, despite a 54 percent majority of respondents who favor it. Likewise, my position remains that in certain cases the imposition of tariffs or quotas to protect ailing American industries should be utilized, even though questionnaire respondents oppose such action by a narrow margin. The difficult choice involved in the trade issue is evident from the fact that this question generated the highest percentage of "undecided" answers.

Burke's principle, nevertheless, should not become an absolute. If taken to extremes, it would justify the actions of those Members of Congress who succumb to "Potomac fever" and lose touch with the people who elected them. It would disregard entirely the value of constituent opinion, which on frequent occasions has been noticeably more sensible than that of the Congress. Consequently, on many issues constituent opinion is controlling.

Such is the case with the question about reducing postal deliveries from 6 to 5 days per week as a proposed means of holding down expected rate increases. Having no strong feelings one way or the other on this matter, I asked the question and the 60-percent favorable result will provide important guidance if the issue comes to a vote.

REPEAT QUESTIONS

Mr. Speaker, those who have followed these questionnaires over the years will recognize that once again we have repeated some questions. Such questions serve as particularly interesting barometers of changing public attitudes. This year I repeated a question asked last year about the Seabrook nuclear powerplant, with somewhat different emphasis, but the results were virtually the same. Also repeated, in identical language, were questions about the economy and our defense budget. Changes here were striking.

Last year respondents considered inflation a more serious economic threat than unemployment by a 3-to-1 ratio. This year that ratio increased to 4 to 1, clearly showing that constantly escalating prices are making their dangerous impact felt more widely. This contrasts distinctly with the prevailing notion in the Congress that unemployment is the chief economic enemy, which has resulted in another burst of inflation through spending billions on so-called jobs bills. This is a splendid example of an issue on which people are showing more commonsense than either Congress or the special interests that advocate more spending.

Mr. Speaker, these questionnaires are obviously informal. However, over the years they have revealed with remarkable accuracy opinions and trends in New Hampshire that more professional and scientific polls have found across the Nation.

The questions, responses, and my own answers follow:

1. SEABROOK

Do you favor the construction of the Seabrook nuclear power plant?

[In percent]

1977:	
Yes	63
No	32
Undecided	5
1976:	
Yes	63
No	34
Undecided	3

Last year's question asked whether constituents favored construction of the Seabrook plant "subject to existing Federal safety and environmental standards."

As an outspoken supporter of efforts to get construction under way, my reasons for favoring this plant have been public for some time. Alternatives such as solar energy cannot economically supply a large part of our needs in the near future, though development must be accelerated. In the meantime we will need additional electricity, even with our increased attention and efforts at energy conservation. Nuclear energy, in spite of its problems, represents the most efficient, economical and reliable source now available. It is noteworthy that 35 percent of New England's electricity is already produced by nuclear power.

Approval to continue construction at Seabrook was finally granted in July, after very long delays occasioned by contradictory edicts from regulatory agencies, and by heated protests from environmental groups. Some of the protests raised legitimate questions, but on the whole it is unfortunate that the resumption of construction had to be delayed for so long. The delays have caused exorbitant increases in the cost of the plant, which in the final analysis will have to be absorbed by ratepaying customers.

The prolonged inability of the United States government to make a clear and final decision on an issue of this kind is depressing.

2. CONSUMER PROTECTION

Do you favor the establishment of a federal Consumer Protection Agency?

[In percent]

Yes	54
No	41
Undecided	5

As already noted, I respectfully disagree with a majority of respondents on this issue.

It is ironic that President Carter, who campaigned for office on an anti-bureaucracy platform, is now advocating the establishment of yet another bureaucracy, allegedly in the name of the "consumer." Offices already exist in most federal departments and agencies that are intended to assist consumers with inquiries and complaints, yet most of them suffer from poor administration.

Congress should try to make present laws work effectively, rather than simply create new programs. There is absolutely no need to create yet another agency when existing laws, properly implemented, could have the same effect.

Proponents of the Consumer Protection Agency have been stating that it will cost "only" $15 million the first year and $25 million in subsequent years. This has been the basis for the barrage of nickels into Congressional offices, on the premise that the Agency will cost each American five cents per year.

Anyone who believes that this Agency, once established, would not expand unduly should be reminded of the history of similar "small" agencies. The Occupational Safety and Health Administration (OSHA), for example, began in 1971 with a budget of $15.1 million; its budget for 1977 is $130.3 million, a 758 percent increase in six years. Likewise, the Equal Employment Opportunity Commission (EEOC) was started in 1965 on a budget of $2.5 million; by 1977 its budget had jumped more than 25 times that amount, to $66.8

million. And third, the Consumer Product Safety Commission, with much the same purpose as the proposed new agency, was created in 1973 on a $13.5 million budget; by 1977 the budget had increased to $39.8 million, a 194 percent rise in four years.

These are just direct costs for operations, and do not even begin to measure the total costs in terms of such an agency's impact on production costs and consumer prices.

3. POSTAL SERVICE

Do you approve reducing mail delivery from six to five days per week as a means of holding down the amount of expected rate increases?

[In percent]

Yes	60
No	37
Undecided	3

As indicated in my introductory remarks, this question was included largely for informational purposes. Since there are good arguments to support each side, these responses provide a gauge of constituent opinion for reference if and when the Congress considers postal legislation.

It was somewhat surprising, however, that so large a majority supported the concept of dropping one day's mail delivery, because most of the mail my office has received on the issue runs strongly in favor of keeping six-day delivery. The large number of people who have written or called have been generally skeptical about claims that reducing mail deliveries would prevent postal rates from going up as fast as they otherwise might.

4. CUBA

Do you favor the resumption of trade and diplomatic relations with Cuba at this time?

[In percent]

Yes	45
No	48
Undecided	7

It is disturbing to see our country considering the restoration of full relations with a nation whose own government, and its actions overseas, are in direct conflict with the goals of human rights advocated by the Carter Administration. At the same time that the United States has been making overtures to Fidel Castro, Castro has been sending troops to Angola and other African countries to assist Marxist factions in civil wars and insurgencies. That is unacceptable.

Speaking generally, our government seems too eager to appease communist nations around the world without any reciprocal actions on their parts.

5. GOVERNMENT SPENDING

Should Congress reduce federal spending even if it means cutting back on programs you support?

[In percent]

Yes	78
No	17
Undecided	5

The overwhelming vote on this question is delightfully reassuring. However, it is difficult to reconcile with the response in favor of establishing a Consumer Protection Agency, and with the large volume of my mail that has been generated by special interests.

It seems that there are more and more organizations these days devoted to a single goal or program, and my recent six-month report listed some of those groups from New Hampshire who sent delegations to Washington, usually to urge my support for more money for their programs.

6. VOTER REGISTRATION

Do you favor a federal law requiring local election officials to allow otherwise qualified people not on the checklist to register on election day and vote for federal offices?

[In percent]

Yes	31
No	66
Undecided	3

The results of this question certainly reinforce the strong opposition I had previously expressed to this proposal. My "minority views" against the universal voter registration bill (included in the committee report) are available from my Washington office, and will be sent on request.

The large measure of opposition to this proposal actually is pleasantly surprising, but it makes all the more disheartening the fact that it is one of President Carter's priorities. His campaign promises were "anti-Washington," yet this proposal would serve only to concentrate more power in Washington at the expense of the states. It indicates a lack of confidence in the abilities of State and local officials to establish convenient yet reliable registration procedures. It is only another instance of the federal government trying to dictate from Washington its perception of what is best for a country whose great strength has been a diversity of local initiatives.

7. CAMPAIGN FINANCING

Should general election campaigns for the U.S. Congress be financed in part by federal tax revenues?

[In percent]

Yes	29
No	66
Undecided	5

Extensive hearings held before the House Administration Committee on a congressional campaign financing bill have convinced me that it is the wrong solution to the problems against which it is directed.

The contention that public financing will do away with the alleged influence over public officials by "special interests" who make large contributions is simply unproven. The problem of influence, in whatever form it may exist, is not one that can be legislated away. It can be controlled only by information and accountability.

An equally serious problem arises from the advantages an incumbent candidate for re-election to Congress already possesses, simply by being an incumbent. These advantages have reached outrageous proportions. It is estimated that personal allowances for a typical Member of the House come to more than $500,000 a year, covering among other things staff, free postage, free newsletters and free radio and TV facilities. In the last few years these allowances have been increased steadily—against my strong opposition—but usually without a House vote. It is a sad commentary on the national media that they have been relatively silent about the fact that Congress has been feathering its own nest with taxpayers' dollars, strengthening Members' prospects for re-election while parading under the banner of congressional reform.

8. IMPORTS

To protect American jobs in industries seriously threatened by imports, should the U.S. government impose tariff/quotas on imported goods even though it will mean somewhat higher prices for the consumer and possible retaliation by foreign countries to whom we export our goods?

[In percent]

Yes	45
No	47
Undecided	8

A healthy balance is needed in our trade policies. It would be hypocritical for us on the one hand to encourage poorer nations to develop industry and technology, but on the other hand to discourage them from selling their products to American markets.

Our trade system should be a free but fair one, without undue advantages accruing to either side. Some foreign countries, however, subsidize their export programs, thereby giving an artificial price advantage to the products they sell. In such instances we should consider tariffs or quotas to neutralize that advantage.

In any event, certain domestic capabilities are vital to our national interest, and every effort should be taken to maintain and protect such industries. When imported goods threaten their American counterparts, the imposition of tariffs or quotas is more than worth the risk of any adverse trade effects.

9. DEFENSE

Have world tensions relaxed to the point where the U.S. should substantially reduce our defense establishment and expenditures?

[In percent]

1977:	
Yes	19
No	77
Undecided	4
1975:	
Yes	23
No	69
Undecided	8
1974:	
Yes	29
No	67
Undecided	4

Various trouble spots around the world, particularly the Middle East and Africa, should serve to remind us that the United States has a critical role to play in preventing large-scale wars, and that our role as a respected negotiator is derived in large part from our military strength. While one might wish idealistically for large reductions in our military budget, the nature of the world we live in dictates a strong military to back up our determination to achieve a permanent peace.

10. BIG OIL

Do you believe breaking up the big oil companies will benefit consumers?

[In percent]

Yes	40
No	53
Undecided	7

It is a bit discouraging that as many as 40 percent favor such a simplistic answer to our energy problems. Apparently the view is still widely held that the energy crisis is being exaggerated by the oil companies in order to increase their own profits. That is unfortunate. Besides breeding unwarranted suspicion and distrust, it inhibits the cooperation needed from all of us to conserve the energy sources we have and to promote the exploration and production of new sources.

11. METRIC CONVERSION

Do you approve of current plans to convert road signs on all public roads in the country to the metric system by 1982?

[In Percent]

Yes	46
No	49
Undecided	5

Since the questionnaire was sent, the Department of Transportation has withdrawn this proposal, and made metric conversion voluntary at the discretion of states.

Public opinion, as evidenced by the results of this question, joined forces with Congressional opponents and apparently worked its will on the bureaucrats in the Administration. This proposal would have shifted road signs entirely from one system to another in the relatively short span of five years, and at a cost approaching $100 million.

12. ENERGY CONSERVATION

Using a scale of 1 to 5 with 1 representing top priority, rank the following means of conserving energy according to their desira-

bility (numbers shown indicate composite rankings):

1. Gradual deregulation of prices of petroleum, natural gas and their derivatives	296
2 More rapid deregulation, with a steep tax on profits not used for energy development	309
3. Tax penalties to discourage wasteful consumption	322
4. Tax incentives to encourage the use of energy-saving technologies by homeowners and businesses	384
5. Rationing of energy supplies to restrict use	205

In retrospect, this question should have been asked differently. Not only did the directions prove to be inadequate; the question itself applied only to energy conservation, while constituent views about energy production are equally vital.

Because the directions often were not followed as intended, it is unfortunately clear that they were poorly written. However, all answers received were recorded.

In computing the overall rankings, weighted values were assigned to the answers; the percentage of "1" rankings a given proposal received was multiplied by five, the percentage of "2" rankings for the same proposal was multiplied by four, and so on down. The resulting numbers were then added to achieve the composite score for each proposal.

As long as the question deals only with energy conservation, tax incentives and, to a lesser degree, penalties are a good means of conserving. Such measures are the most immediate and visible ways of curbing our energy consumption and therefore are the most logical choices.

DEREGULATION NEEDED

A good case can also be made for deregulation as a means of conservation. While it is usually spoken of as an incentive to further production, which it certainly is, deregulation also puts the prices of petroleum and natural gas at realistic market levels, thereby promoting conservation by making the scarcer products more expensive.

Because the House very recently considered the Administration's energy policy bill, this question should have been phrased so as to include energy production as well as conservation. In that case deregulation would have received much more attention. The prices of petroleum and natural gas should be deregulated, and the only arguable issue is how fast. This is the same position adopted by President Ford and, at least during his campaign, by President Carter. The Ford deregulation proposals, which I supported, would be accompanied by a steep tax on profits not plowed back into production.

ADMINISTRATION ENERGY BILL

I voted in opposition to the Carter energy bill when it was passed by the House last month, even though it contained some commendable provisions. That legislation, a bureaucratic monstrosity of tax clauses, directed itself exclusively to energy conservation but made no provision at all for energy production. It dealt only with demand but ignored supply, amply demonstrating Congress' inability to address our national energy problems comprehensively.

Ironically enough, the bill is little more than a gigantic tax package of government intervention, coming as it did from a President who campaigned on a strident anti-Washington platform. Figures compiled by the General Accounting Office estimate that it will cost the American public some $53 billion over the next eight years, but will not provide any substantial relief from our energy-scarce situation. In GAO's words, the bill ". . . fails to come to grips with the problem of increasing domestic crude oil production."

What I found most obnoxious about the bill, and what surprisingly has been overlooked in most quarters, is the so-called wellhead tax, intended to bring the price of domestically produced crude oil up to the world price by 1980. That provision simply transfers the taxing power of the United States Congress to the nations of the OPEC cartel, who provide, and dictate the price of, the bulk of the world's oil.

Moreover, it has been estimated that this wellhead tax will raise the price of gasoline and fuel oils by some seven cents per gallon, if not more. The really bitter irony, though, is that the House on two separate occasions resoundingly defeated attempts to impose lesser gasoline taxes of four and five cents per gallon.

13. SOCIAL SECURITY

The Social Security system is now paying out more in benefits than it is taking in. Its revenue comes from a 5.85 percent tax on both employees and employers (a total of 11.7 percent) on the first $16,500 of earnings. Which one of the following proposals to balance the Social Security budget would you prefer?

[In percent]

1. Additional increases in the tax rate for both employers and employees	11
2. A substantial increase in the taxable wage base above the present $16,500	36
3. Taxing the employer on its entire payroll	5
4. Use of federal income tax revenues to supplement the existing tax	18
5. Restrictions on increases in benefits	22
None of the above	8

In addition to increasing the taxable wage base above the present $16,500, an increase in the tax rate as proposed by President Ford last year may well be necessary.

It is interesting to note that eight percent of the respondents either indicated no answer or recommended other choices. This reveals that the field of alternatives obviously was not exhaustive.

The fact that the proposal to tax employers on their entire payrolls was the least popular alternative should be reassuring. Although it appears at first sight to be the easy answer, it would be unfairly discriminatory and, in the long run, counterproductive to consumers.

Using general revenue funds to shore up the Social Security system would remove any semblance of economic discipline. Social Security benefits could then become a political issue, with increases being granted just before election time. Moreover, to use general revenues would destroy the trust fund concept on which Social Security is based, for if general revenues could be added, funds could equally justifiably be removed for purposes other than benefits.

The House Ways and Means Committee is considering several constructive proposals for Social Security reform, and those who are interested can request the details from my office.

14. THE ECONOMY

At this time, which of the two following economic problems do you consider the greater threat to the American economy?

[In percent]

1977:	
Unemployment	20
Inflation	80
No answer	4
1976:	
Unemployment	24
Inflation	76
No answer	5

In view of the healthy economic condition now prevailing in New Hampshire, it is not surprising that the percentage of people veiwing unemployment as the major problem should decline from last year. New Hampshire's unemployment rate is one of the lowest in the nation, which obviously contributes to the increased attention paid to inflation.

As discussed in the introduction and at some length last year, more and more people are realizing that economic stability is seriously jeopardized by spiraling prices. Since a sound economy is a necessary prerequisite to permanent employment opportunities, keeping inflation under control is vital to our goal of increasing jobs in the private sector.

It is baffling, therefore, that Washington still insists on concentrating its efforts on the unemployment problem. It has gone to dangerously inflationary extremes in doing so, by enacting such legislation as the so-called jobs bills, which spend billions of dollars to provide temporary public works jobs. As time goes by, my votes against this program look more and more correct.

One of the greatest ironies in this regard is that Congress appears likely to increase the minimum wage, a move that even the New York Times insists will only result in higher unemployment.

15. PRIORITIES

As expected, the top few priorities are the same issues listed in previous years. It was interesting to note, however, the very wide range of topics considered as priorities for the Congress, and they are all listed below.

After holding top priority for several years, inflation has been replaced by concern for our energy policy as the issue of most urgency. Energy of course is an obvious high priority in the Congress, and this year a cabinet-level Department of Energy was finally created.

Inflation, however, still remains my own chief priority. The simple truth cannot be expressed with enough emphasis that excessive spending by the federal government is the single most important cause of inflation, and until Congress learns to control its spending habits we will continue to be plagued by inflation and unemployment. The lessons of New York City and Great Britain seem yet to be learned.

The fact that national defense is considered a high priority is heartening, especially since it has been rising in the questionnaire priority list over the last several years. This shows a growing realization that our government has a responsibility to secure and defend our national interest at a time of tension in much of the world.

In the table below, the percentage for each issue represents those including it as one of the top three priorities.

PRIORITIES

What are the top three issues Congress should deal with in the coming months? (Figures below 1 percent are not listed)

[In percent]

Energy	57
Inflation	42
Unemployment	25
Defense	13
Government spending	9
Social Security	6
Welfare	5
Taxes	5
Economy	5
Bureaucracy	4
Environment	4
Foreign relations	4
Health care	4
Balanced budget	4
Crime	3
Panama Canal	2
Seabrook	2
Postal Service	1
Voter registration	1
Education	1
Labor unions	1

Big oil companies	1
Pornography	--
Deficit spending	--
Campaign funding	--
HEW	--
Housing	--
Strip mining	--
Mass transit	--
Congressional salaries	--
Aid to the elderly	--
Metric system	--
Strategic Arms Limitation Talks	--
Middle East	--
Cuba	--
Equal Rights Amendment	--
Gun control	--
B-1 bomber	--
Andrew Young	--
Cargo preference	--

THE PANAMA CANAL TREATY CONTROVERSY FLUNKS NATIONAL ENVIRONMENTAL PROTECTION ACT LEGAL REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, it is generally not known that among the most ardent critics of the proposed Panama Canal Treaty are conservationists knowledgeable about the tropical forests in Central America and the environmental dangers of a sea-level canal. These conservationists have raised disturbing questions about the impact of the proposed treaty on the environment of the Isthmus of Panama. These questions should be fully addressed before further action is taken by the President and the Senate on the proposed treaty relationship with Panama.

Continued preservation of the tropical forests and wildlife in the Canal Zone is one of the key goals of these conservationists. Because of the protection afforded the Canal Zone in the past, much of this important area remains forested and undisturbed. This, of course, has helped preserve an abundant variety of birds, mammal, and plant life. Under the proposed treaty to the year 2000, many of these forest areas would become dependent upon the Panamanian Government for protection. The proposed treaty, therefore, brings into question the future of these forests. This future is uncertain.

Perhaps the most spectacular forest in the Canal Zone is found along the Gamboa Pipeline Road in the uninhabited central part of the zone. The vast majority of Panamanian lowland bird species occurs near this road about an hour's drive from Panama City. Unfortunately, the larger mammals and such birds as the scarlet and great green macaws were long ago extirpated from this region by hunting and trapping. Most of the large raptors still survive, though in greatly reduced numbers. Even the caiman, a relative of the American alligator which has almost been wiped out by market hunting, may be seen in a lake just north of Gamboa.

When the Chagres River was dammed to form Gatun Lake and the northern section of the Panama Canal, a forested hilltop became Barro Colorado Island. This island has become a wildlife preserve by act of Congress, and provided the original impetus for the Smithsonian Tropical Research Institute, an international center for tropical studies—headquartered in the Canal Zone—which has contributed greatly to knowledge of tropical ecology. Today, scientists and students associated with the Institute are engaged in important research in various parts of the Canal Zone. Visitors to Barro Colorado Island, where hunting is prohibited, can expect to see a variety of mammals, including, for example, the scarce tapir.

Other zone areas such as the Madden Forest Preserve are also highly valued by conservationists. Overall, the Canal Zone qualifies as one of the world's great nature study spots. On the Atlantic coast alone, participants in the Panama Audubon Society's 1976 Christmas bird count observed 333 species in 1 day—a new world record. Robert Ridgely, in his excellent "Guide to the Birds of Panama," concludes that the Canal Zone has "probably the most extensive, readily accessible lowland forests in Middle America."

It is not surprising, therefore, that conservationists and scientists are concerned about the new treaties, particularly since the tropical forests in other areas of Panama are rapidly being cleared with serious consequences for wildlife and ecology in those areas. Indeed, according to reports, if present trends continue there will be few forests left in the Republic of Panama and many of the characteristic species of birds and mammals in that nation will become extinct.

Even where forests have been set aside for protection in Panama, the result have been depressing. One small forest in the central mountains, for example, has been designated a "national park," but squatters have invaded its unprotected boundaries to cut and burn the forest. On both sides of the 10-mile-wide Canal Zone, the increasingly denuded land is becoming densely populated by large and generally poor families; evidence of a growth rate that will double Panama's population in about 20 years.

Some observers remember that construction of the Darien Gap Highway through the virgin forests of eastern Panama, the last stronghold of the Cuna and Choco Indians, was halted only by a law-suit brought by U.S. conservationists under the National Environmental Policy Act (NEPA). The possible results of that highway included the spread of hoof and mouth disease into Central America and the United States, the cultural extinction of the native peoples and the loss of the largest remaining forest wilderness in Central America.

While the negotiations for the proposed canal treaties have proceeded in the last decade, the forested areas of the Canal Zone have suffered increasing environmental damage. At one point, squatters moved into the Madden Forest Preserve and the Gamboa Pipeline Road Forest, and began to illegally clear cut the giant trees and plant marginal crops. As a result, large tracts of these magnificent forests have already been turned into an "ugly wasteland of huge felled trees and rotting vegetation," according to the Panama Audubon Society's newsletter, the Toucan.

Furthermore, during the treaty negotiations, intensive and uncontrolled hunting of wildlife—including song birds, monkeys and parrots—increased in the Canal Zone. Of course, damage to the forested areas in and around the Canal Zone can have a detrimental impact on the efficient operation of the canal as well as the ecology.

Conservationists, quite understandably, became alarmed that adequate provision be made for the protection of forest areas and wildlife during the treaty negotiations. They also became alarmed when they learned that the treaty to the year 2000 would incorporate a possible sea-level canal into its provisions. A National Academy of Sciences Panel, in 1970, warned of "grave potential dangers" that could result from such a project. They said:

> Joining two oceans with a sea-level canal is a gigantic natural experiment. Its consequences are unforeseeable. To forego the relevent biological research prior to and during the construction of a new canal would be like preparing to put a man on the moon and neglecting to ask him to make scientific observations and collect samples. A new canal will affect the animal and plant life of the two oceans, but what these effects are cannot be determined unless the nature of the differences between the biota and the ecosystems of the two oceans are first carefully established through years of intensive research.

The Atlantic-Pacific Interoceanic Canal Study Commission recommended, in 1970, a multiyear research program to study these dangers. This program was never begun. Instead, this summer, the White House asked the National Science Foundation to pull together available information and update these 1970 reports within 6 weeks. The results of this hurried, last minute effort are not available. When they are, they certainly will not constitute the years of research called for in 1970.

On September 6, 1977, 11 national and international environmental organizations urged the President not to agree to those portions of the treaty relating to a sea-level canal. They warned that such a canal "represents not only an economic loss, but a likely environmental disaster as well." Like the earlier recommendations of the National Academy of Science, these recommendations of the environmental community were also ignored.

The failure of the proposed treaty to address these and other concerns of conservationists stems, in part, from the Department of State's failure to comply with the provisions of NEPA. Central to NEPA's requirements is the provision that an environmental impact statement (EIS) be prepared and considered for all "proposals for legislation and other major Federal action significantly affecting the quality of the human environment." NEPA requires that after an impact statement is prepared, it must be available to Congress and the public and must "accompany the proposal through the existing agency review processes."

The very purpose of NEPA's proce-

dures, and of the impact statement requirement in particular, is to insure the recognition of environmental consequences during and not after the Federal decisionmaking process. These congressional purposes are reflected in the guidelines for preparation of environmental impact statements issued by the Council on Environmental Quality (CEQ), which provide that impact statements be prepared "as early as possible and, in all cases, prior to agency decision."

Had the Department of State complied with NEPA, the concerns of conservationists would have at least been addressed. But, the facts show that the Department of State wholly failed to comply with these requirements. When the present round of negotiations began in 1973, a draft EIS should have been prepared. Indeed, the State Department's published procedures direct that—

[i] in the case of interenational (sic) agreements, draft statements will, where possible, normally be prepared, circulated for comment and forwarded to the CEQ prior to the commencement of negotiations intended to produce a final agreement.

Despite this requirement, as late as July 22, 1977, an official of the Department of State admitted that the Department had not even prepared an assessment of the environmental implications of the treaty to determine whether or not an impact statement should be prepared. Such an assessment is also required by CEQ's guidelines to be "undertaken concurrently with initial technical and economic studies" of the proposed action. This, of course, was not done.

When a draft EIS was finally issued on August 29, 1977, the normal 45-day period for public review and comment was cut short with the explanation that the impact statement was needed "in time to be relevant to Senate consideration of the proposed treaty." This abbreviated time period for public comment had not even had a chance to run before the President signed the treaty on September 7, 1977. Obviously, NEPA had no impact on Federal decisionmaking connected with the treaty.

Normally, the preparation of an impact statement for an action of such major environmental consequence as that of the proposed Treaty is accomplished only after careful study and months of effort. Given the extraordinarily brief time taken by the Department of State to prepare the draft statement for the proposed treaty, and the failure of the Department to comply with proper procedures, it is not surprising that the draft statement which was prepared is woefully inadequate.

Basic, of course, to any proper draft EIS is an adequate description of the proposed action. In this instance, however, the proposed treaty was not attached to the draft statement nor was it made available for public review and inspection at the time the draft was issued. The Congress and the public were asked to comment upon a treaty they had not seen and one which was only generally described. Moreover, the impact statement indicated that, in addition to the proposed treaty—

There will be separate bilateral agreements worked out with the Panamanian Government concerning the activities of a variety of U.S. agencies in the Canal Zone.

The provisions of these other agreements, which were identified as being part of the general Panamanian settlement, were not described even though at least two of them were identified as being "of primary environmental interest."

Just as the proposed action is ill-defined in the draft impact statement, so were the impacts of the proposed Treaty upon the environment. The draft statement, for example, does not describe any of the impacts of the treaty upon the human environment in Panama. The State Department's failure to discuss these impacts apparently results from its continued refusal to comply with the advice of the Council on Environmental Quality and the recent rulings of the U.S. circuit courts that the effects of Federal actions upon the quality of the human environment in foreign countries must be addressed under NEPA.

An adequate and timely analysis and disclosure of the environmental effects of the Treaty upon Panama in the draft impact statement would have provided U.S. decisionmaker with a more complete picture of the environmental consequences of the proposed treaty. Such an analysis would also have contributed to the integrity of Panama's policymaking and lent support to international environmental cooperation, as directed in section 102(a)(F) and NEPA, the Stockholm Declaration and other international agreements including the Convention on Nature Protection and Wildlife Preservation is the Western Hemisphere.

In addition to failing to discuss the impact of the treaty upon the environment of Panama, the draft impact statement also failed to adequately address important questions concerning deforestation, water conservation, soil erosion, and water pollution in the Canal Zone. The draft statement admits that there "will probably be some deforestation in Canal Zone areas turned back to Panama" but fails to indicate where these areas are located or the extent of the deforestation. The draft also fails to discuss the impact of this deforestation upon the wildlife of the area although at various points it states that one of the forest areas "contains some 216 species of birds which do not occur outside the New World Tropics," and that "5 percent of all the endangered mammals in the world and 20 percent of those in the Americas occur in these areas."

In a similar fashion, the concerns which have been raised over a new sea-level canal are dismissed in the draft statement with the comment that it "is premature to tell whether the United States will avail itself of the rights granted under the proposed treaty." No apparent effort was made to incorporate the findings of the recently initiated study of the sea-level canal by the National Academy of Sciences.

In summary, even the most cursory review of the draft impact statement demonstrates that it is little more than an after-the-fact attempt on the part of the Department of State to rationalize its negotiation of the proposed treaty. Recommended environmental studies have not been completed. Important environmental questions remain unanswered, and are likely to remain unanswered despite the hurried efforts of the White House and the Department of State to prepare the environmental information which should have been prepared and considered years ago. All aspects of the Panama Canal Treaty agreements have only recently been made public, and the detailed agreements pursuant to the proposed treaties are difficult to obtain. Consequently, a deadline of late September for the filing of views is insufficient.

Mr. Speaker, since its enactment in 1969, the National Environmental Policy Act has served our Nation well. The act's requirements, which call for careful environmental analysis before important decisions are made, have been supported and endorsed by the Department of State in numerous international negotiations. As a result, provisions calling for environmental assessments have been incorporated into several international agreements. It is ironic that the Department of State, which has advocated the benefits of the act to other nations, has chosen to ignore the act in negotiating a treaty with such important consequences for the environment as the new Panama Canal Treaty.

I urge the President and my colleagues to consider the environmental concerns which have been expressed concerning the proposed treaty and to refuse to take further action on it until the requirements of the National Environmental Policy Act are properly and fully satisfied.

The failure of the Department of State to prepare and consider an environmental impact statement in a timely manner is evidenced by a letter from Mr. Douglas J. Bennet, Jr., to Mr. Gene Snyder dated July 22, 1977. The legal and factual sufficiency of the draft environmental impact statement was analyzed in a memorandum prepared by the staff of the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The views of conservationists concerning the Canal Zone are expressed in a telegram 11 conservation organizations sent to President Carter on September 6, 1977, and in excerpts from "A Guide to the Birds of Panama," by Robert S. Ridgely—Princeton University Press 1976—and the March 1977 issue of the Toucan published by the Panama Audubon Society.

Mr. Speaker, I submit for the RECORD a copy of these documents to which I have just referred:

DEPARTMENT OF STATE,
Washington, D.C., July 22, 1977.

Hon. GENE SNYDER,
House of Representatives,
Washington, D.C.

DEAR MR. SNYDER: This is in response to your letter of June 9 to the Office of Environmental Affairs requesting certain information with respect to any environmental assessment being prepared in connection with the proposed treaty between the United States and the Republic of Panama.

The Department has not as yet made a determination as to whether the action in question will significantly affect the quality

of the human environment within the meaning of the National Environmental Policy Act, and consequently we have not yet prepared an Environmental Impact Statement. We are, however, preparing an assessment of the environmental implications of a treaty and when it becomes available, we would be happy to provide you with a copy.

We appreciate your interest and concern in this matter.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

MEMORANDUM: THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE NEW PANAMA CANAL TREATY

This memorandum discusses the legal and factual sufficiency of the draft environmental impact statement (EIS) for the new Panama Canal Treaty.

My conclusions are:

1. a draft EIS should have been filed in 1973 upon the initiation of negotiations;

2. a final EIS should have been filed before the Department of State recommended that the Treaty be signed;

3. the draft EIS is inadequate because it fails to:

a. adequately describe the proposal;

b. assess the impact of the Treaty upon the environment of Panama;

c. adequately assess the impact of the Treaty upon the Canal Zone.

TIMING OF THE EIS

Section 102(2)(C) of NEPA provides in pertinent part as follows:

". . . all agencies of the Federal Government shall . . . include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement. . . ."

This section does not apply to the action of the President since he is not an agency of the Federal Government. It does, however, apply to the Department of State. EIS's for example have been prepared by the Department of State in connection with the negotiation of several treaties; e.g. Law of the Sea.

The State Department violated its regulations and NEPA when it negotiated the Treaty. The series of negotiations leading to the Treaty began in 1973 when NEPA was in effect (draft EIS, p. 1). Under regulations promulgated by the Department of State for preparation of EIS's a draft EIS should have been prepared at the time negotiations were begun. (37 Fed. Reg. 19168) This was done, for example, with the Law of the Sea negotiations.

Preparation of a draft EIS at the time negotiations are initiated is consistent with the CEQ guidelines for NEPA which require preparation of statements at the earliest possible time. (40 CFR § 1500.1(a)). It is also consistent with the case law. See, e.g. Calvert Cliffs' Coordinating Comm. v. A.E.C., 449 F.2d 1118 (1971).

A final EIS should have been filed with CEQ at least 30 days prior to the signing of the Treaty. Section 102(2)(c) of NEPA requires that a final EIS be prepared and considered before final action is taken. The NEPA guidelines of the Council on Environmental Quality (CEQ) provide that no final action can be taken until 30 days after a final EIS is filed with CEQ. (40 CFR § 1500.11(b)) The State Department regulations provide that "where advice and consent to a proposed treaty will be sought or where substantial delay between negotiation and signature of a proposed executive agreement is envisioned, the final statement should be made available as soon as possible after the conclusion of an agreed text." These regulations also state that "Every attempt will be made to comply with the 30-day CEQ review period between submission of statements and final actions." Presumably the final action of the State Department with respect to the new Panama Canal Treaty was its submission of the Treaty to the President for signature. A final EIS should have been prepared and considered at this time.

CONTENTS OF THE DRAFT EIS

The judicial test for the adequacy of final EIS's was described by the U.S. Supreme Court in *New York* v. *Kleppe*, 9 ERC 1795 (U.S. Sup. Ct. 1976), as follows:

. . . the esssential requirement of NEPA is that before an agency takes major action, it must have taken a 'hard look' at the

". . . the essential requirement of NEPA is required to furnish only such information as appears to be reasonably necessary under the circumstances for evaluation of the project rather than be so all-encompassing in scope that the task of preparing it would become either fruitless or well nigh impossible." (9 ERC at 1797)

It is premature for a court to judge the adequacy of the EIS for the Treaty since it is only a draft. Nevertheless, judged against this standard in the Kleppe case the draft EIS for the new Panama Canal Treaty is inadequate in a number of respects.

1. The description of the proposed action may be inadequate.

First the Treaty is not attached to the draft EIS and is not available for public inspection. While it is described generally in the draft EIS, this description may be inadequate. Without an adequate description of the Treaty, the draft EIS would be inadequate.

Second, the draft EIS is prepared with respect to the Panama Canal Treaty alone. The draft EIS, however, makes reference to a series of other agreements connected with this Treaty (draft EIS, p. 2–4). To the extent these other treaties are not adequately described, the draft EIS may be inadequate.

2. The draft EIS fails to adequately describe the impacts of the proposed treaty upon the environment of Panama.

The draft EIS does not discuss the impact of the Treaty upon the environment of Panama as opposed to the Canal Zone. By memorandum to the heads of all Federal agencies dated September 24, 1976, CEQ stated that ". . . the impact statement requirement . . . applies to all significant effects of proposed Federal actions on the quality of the human environment—in the United States, *in other countries*, and in areas outside the jurisdiction of any country." CEQ's position is supported by legal commentators and *Sierra Club* v. *Coleman*, 9 ERC 1314 (D.C. Cir. Ct. 1976). The draft EIS, therefore, improperly fails to discuss the impact of the Treaty upon the environment of Panama. These impacts (which include changes in the water table) might have a significant effect upon the environment.

3. The draft EIS fails to adequately describe the impacts of the proposed Treaty upon the environment of the Canal Zone.

At several points the draft EIS refers to future treaties or agreements which will have their own EIS's. Much discussion of the environmental impacts is thus avoided in the draft EIS. Such a piecemeal approach to writing an EIS is improper. As stated by the District of Columbia Circuit Court ". . . one of the purposes of NEPA was to break the cycle of such incremental decision making." *National Wildlife Federation* v. *Andrus*, 7 ELR 20526, 20529 (1977). See also *NRDC* v. *Nuclear Regulatory Commission* 547 F. 2d 633, 640 (D.C. Cir. Ct. 1976).

The discussion of the impact upon archeological sites may be inadequate. The draft EIS states that "No comprehensive professional survey of pre-Columbian archeological sites has been made in the territory of the Canal Zone (draft EIS, p. 14). Section 2(b) of Executive Order 11593 requires that all Federal agencies survey their land and nominate sites for listing in the National Register of Historic Places. Until then all sites which qualify for listing are subject to the consultation requirement of section 106 of the National Historic Preservation Act of 1966. Such consultation apparently has not occurred. Lack of adequate information and consultation has also been a basis for court rulings that NEPA has been violated. In *EDF* v. *Hardin*, 325 F. Supp. at 14013 (D.C.D.C. 1971), for example, the court stated:

"Section 102(2)(A) . . . makes the completion of an adequate research program a prerequisite to agency action. The adequacy of the research should be judged in light of the scope of the proposed program and the extent to which existing knowledge raises the possibility of potential adverse environmental effects."

The discussion of the impact upon tropical forests and wildlife may be inadequate. The most important environmental impacts of the Treaty are those on forest areas and wildlife. The draft EIS states:

"Continued preservation of the forests and their wildlife is important because there has been extensive deforestation in the areas adjacent to the Canal Zone and there are population and economic pressures for further exploitation of the forest areas. By contrast, because of restrictions on public access to the Canal Zone watershed and defense areas, much of the Canal Zone is now an island of forest in the midst of a generally cleared countryside—probably the most extensive, readily accessible lowland forest area in Middle America. Hunting restrictions have also helped preserve a wide variety of birds and animals in the Zone. For these reasons, the future of these forests is of primary interest to environmental groups" (draft EIS p. 4).

The draft EIS states that there "will probably be some deforestation in Canal Zone areas turned back to Panama" but fails to indicate where these areas are located or the extent of the deforestation (draft EIS, p. 17). Moreover, the draft EIS fails to discuss the impact of this deforestation upon the wildlife although at various points in the draft EIS it is stated that one of the forest areas "contains some 216 species of birds which do not occur outside the New World Tropics" (draft EIS p. 9) and that "5 percent of all the endangered mammals in the world and 20 percent of those in the Americas occur in these areas" (draft EIS, p. 8).

CONCLUSION

The Department of State has acted in gross violation of NEPA in failing to prepare and consider an adequate EIS in a timely fashion. Steps which might be taken to remedy this include:

1. urge CEQ and the Department of State to recommend to the President that no further action be taken until an adequate EIS is prepared and considered (Immediately Hold Oversight Hearings.);

2 urge the President to take no further action until an adequate EIS is prepared and considered;

3. urge the Senate to refuse consideration of the Treaty until an adequate EIS is prepared; and

4. refuse to consider any implementing legislation until an adequate EIS is prepared

---

[Telegram]

September 6, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

Mr. PRESIDENT: Recent reports on the State Department's negotiations with Panama concerning the interoceanic canal indicate that a serious environmental issue is involved. The negotiators for the United States have included a provision in the Panama

treaty that would grant the United States a long-term option to build a new inter-oceanic Sea-Level Canal and require a report be made on the feasibility of building such a canal.

Conservation and environmental organizations voiced their opposition to a Panama Sea-Level Canal to President Ford in 1975. We regard a treaty provision of this kind as prejudicial to the thorough, rational consideration of the issue. Neither the Congress nor the several relevant agencies in the Executive Branch have approved it or even seriously considered the matter. The State Department has never been authorized to negotiate for a treaty provision on the Sea-Level Canal. Their environmental Impact Statement on the Treaty comes far too late for us to make any meaningful response before the Treaty signing ceremony tomorrow.

There are important reasons for our concern. Marine scientists have repeatedly warned against a Panama Sea-Level Canal (as well as salinization of the current canal system), on grounds that a canal of this design would eliminate the present freshwater barrier to intermixture of the two distinct ecosystems on either side of the Isthmus of Panama. Should this freshwater barrier be eliminated, by pumping sea water into the existing canal, for example, the result could be tremendous damage to the fish and other marine organisms of both the Atlantic and Pacific Oceans, with consequent impact on the large human populations that depend on the seas in this part of the world.

A National Academy of Sciences Panel on the Sea-Level Canal in 1970 warned of "grave potential dangers" that could result from such a project. The panel said:

"Joining two oceans with a sea-level canal is a gigantic natural experiment. Its consequences are unforeseeable. To forgo the relevant biological research prior to and during the construction of a new canal would be like preparing to put a man on the moon and neglecting to ask him to make scientific observations and collect samples. A new canal will affect the animal and plant life of the two oceans, but what these effects are cannot be determined unless the nature of the differences between the biota and ecosystems of the two oceans are first carefully established through years of intensive research."

The results of the National Academy of Sciences current attempt to quickly pull together all new information on the issues concerning a Sea-Level Canal merely document the fact that the biological studies recommended in 1970 have never been carried out.

Advocates of the Sea-Level Canal claim there is a technological solution to the problem of biological exchange, but no solution has yet been proposed in sufficient detail to allow evaluation of its effectiveness. All the proponents have to offer is vague promises.

The undersigned organizations believe the State Department should not inject the Sea-Level Canal issue into the current treaty negotiations with Panama, centering as they do on questions of sovereignty and administration of the present canal. A Sea-Level Canal provision in a treaty would not only prejudice later consideration of the merits of the project, but it would also lead Panama to expect the United States to build a new canal, even though no decision has yet been made on it by this country.

Dr. Stephen R. Gibbs, an economist for the University of Washington's Institute for Marine Studies, said in testimony before a House Panama Canal subcommittee that a new canal "would be a net economic loser for whoever undertook it." The Sea-Level Canal represents not only an economic loss but a likely environmental disaster as well. We strongly urge you to instruct the Secretary of State to cease negotiating for a Sea-Level Canal provision as part of any treaty with Panama.

Signed:

John W. Grandy IV, Executive Vice President, Defenders of Wildlife.

Peter Harnik, Coordinator, Environmental Action, Inc.

Brent Blackwelder, Washington Representative, Environmental Policy Center.

Douglas W. Scott, Northwest Representative, Federation of Western Outdoor Clubs.

David R. Brower, President, Friends of the Earth.

Lewis Regenstein, Executive Vice President, The Fund for Animals, Inc.

Sir John G. Ward, President, International Society for the Protection of Animals.

Jack Lorenz, Ex. Director, Izaak Walton League of America.

T. Destry Jarvis, Administrative Assistant, National Parks and Conservation Assn.

Godfrey A. Rockefeller, Ex. Director, World Wildlife Fund.

Celia Hunter, Ex. Director, The Wilderness Society.

EXCERPTS FROM "A GUIDE TO THE BIRDS OF PANAMA"

(By Robert S. Ridgely)

There is perhaps no better area in Latin America than Panama where one can easily see within a rather short distance a variety of relatively unspoiled and accessible tropical habitats, each with corresponding abundant bird, mammal, and plant life. For the traveler this situation is made even better by the excellent accommodations available at a number of strategically placed localities (see Appendix II). But as in the rest of Latin America—and throughout the tropics—there are serious and increasing conservation problems in Panama that merit discussion here.

Of pre-eminent concern is the unnecessary and often wanton destruction of the forest that at one time covered the greater part, if not all, of Panama. The extent of forest cover has varied over the millennia, influenced in part of climatic fluctuations (dry periods favoring the spread of savannas, rainy periods the spread of forest) and in part by human population. Though it comes as a surprise to most people, some evidence indicates that at the time of the Spaniard's arrival around 1500 A.D., the Indian population was so large that less of Panama was forested than was the case until very recently (see Bennet, 1968). It is likely, thus, that Balboa passed through planted fields and not through solid forest in crossing the isthmus to "discover" the Pacific. Much of the forest, in eastern Panama especially (where the Indian population was apparently very large), appears to be essentially a regrowth from that period, when for a variety of reasons the Indian population was substantially reduced. But given the technology of Indian society at that time, and the shifting slash-burn type of agriculture then employed (far less damaging to the soil or to potential regrowth than present methods), forest clearing was surely not as total as it usually is today.

Unquestionably forest pockets would have remained from which rapid reforestation could take place. The Pacific slope of much of the more humid parts of western Panama was, until the early decades of the present century, covered with extensive forest. Today almost all has been removed from the lowlands except along some watercourses and on some steep hillsides, and the only area where much forest remains is the still roadless western side of the Azuero Peninsula. The usual pattern, often repeated in Panama and elsewhere in Latin America, is for a road to be cut through a formerly "virgin" area. The land near the road is soon cleared, usually by squatters, and within a few years virtually no forest remains except on the far-off slopes or sometimes along water courses. A striking example of this destruction can be seen along the Trans-Isthmian Highway between Panama city and Colon: cut through largely uninhabited, forested country during World War II by the U.S. Army as an alternate means of crossing the isthmus, the road was opened to the public after the war, and now one sees no forest anywhere (not even on the far slopes), except where the road passes through a short stretch of the Canal Zone.

Panama's population continues to grow rapidly, and the people must go somewhere. What better place than into newly opened country? There is still a considerable amount of virtually untouched forested land away from the roads, though this area is obviously being chipped away. But surely controls can be applied to this process of colonization of newly accessible areas. Especially on the steep slopes, where permanent agriculture is almost impossible, rapid erosion certain, and the danger of flooding great, forests should be retained. Failure to preserve such forests has already resulted in a lack of water in some areas during the dry season. Much of the soil in the lowlands is poorly suited for conventional agriculture anyway—a large proportion of the available nutrients are tied up in the naturally occurring vegetation, and are lost when that vegetation is removed. In most areas the soil is so thin that it will produce crops for only a season or two and then must be abandoned. Because of this, the highest economic use for many areas would probably be retention in forest, perhaps with periodic selective cutting of marketable trees, or with growing of certain crops, such as cocoa and coffee, in which most forest canopy trees are retained.

Most of the Canal Zone presents a striking contrast to the picture so far presented. As part of its Canal defense policy, the U.S. government has for years carefully restricted the number of private individuals allowed to farm or settle within Zone limits; there are minor exceptions, but essentially all land is owned and controlled by the government. Because of this exclusionary policy, much of the Zone remained in or reverted to woodland or forest, and now is a vital island of forest in the midst of generally cleared countryside. The contrast is especially impressive on the road that winds through Madden Forest in the Canal Zone and then suddenly emerges into Panama province. As a result, the Canal Zone now has probably the most extensive, readily accessible lowland forests in Middle America. A great variety of birds, and even many of the larger mammals, can be easily seen, the latter especially on Barro Colorado Island, where protection from hunters is provided. Hunting is allowed generally, and, as the Zone is adjacent to heavily populated areas, some of the larger fauna have been locally extirpated. A newly enacted (1973) hunting law, totally protecting all bird species other than the Blue-winged Teal, Gray-headed Chachalaca, Common Snipe, and doves and pigeons, may, if enforced, greatly aid some species. At present, native waterfowl, the larger eagles, curassows, macaws, as well as such mammals as the jaguar, tapir, and manatee are either gone from the Canal Zone or are very scarce and local. Virtually everything else remains, however, and the Zone continues to be a naturalist's paradise.

Political considerations may soon drastically alter this situation, however. The Republic of Panama understandably resents the large American presence and its obvious affluence. A major change in the status of the Zone has been anticipated for years and is bound to come sooner or later. This surely will mean an end to the Canal Zone as it is presently known, and (unless the Panamanian government takes protective measures) will probably also mean an end to

most of its forest. Certain areas, among them Madden Forest and Barro Colorado Island, will, it is hoped, continue to be preserved in their natural state. It is not out of place to make a plea here for preservation of a few additional areas, most notably Fort Sherman and San Lorenzo, the Achiote Road area, and particularly the Pipeline Road area near Gamboa. Even a brief perusal of the main body of this book will reveal how often Pipeline Road is mentioned. For variety of birdlife, it is without question the outstanding, easily accessible forest area in Panama. As such it would make a wonderful wildlife reserve, and if properly protected could become a fine tourist attraction for Panama. For the present, it remains in the hands of the U.S. military, and the forests are intact (though hunting is allowed); its future, like the future of the rest of the Canal Zone, is decidedly uncertain.

Latin America lags considerably behind the rest of the world in setting aside suitable areas as national parks and biological reserves, though some countries are making commendable strides in the right direction, despite severe budgetary restrictions (a fine example is Panama's neighbor, Costa Rica). Panama, unfortunately, trails even most of its sister republics. To date only one national park has been established (in 1968), a small but interesting tract of cloud forest on Cerro Campana, about thirty miles west of Panama city. Regrettably, even this area is inadequately protected and has been invaded by squatters. It is much to be hoped that Panama establish a system of parks, both for its own people and as part of an effort to attract more tourists from abroad. Probably top priority should go to the area in western Chiriquí around Volcán Barú (the Volcán de Chiriquí of much zoological literature), a long extinct volcano that reaches above timberline and is Panama's highest mountain at 11,410 feet. Actual establishment of this long discussed park would protect what remains of a fine highland forest (rapidly being destroyed by squatters), and the faunas that are dependent upon it, including the Resplendent Quetzal (perhaps the most beautiful bird in the New World, and still probably easier to see here than anywhere else) and numerous species endemic to the highlands of western Panama and adjacent Costa Rica. Adequate samples of other forest habitats should also be set aside before they are totally destroyed; the situation in the lowlands of western Chiriquí is the most critical in this respect. Reservation is relatively easy today because much of the land involved is still owned by the government. Areas should be set aside as forest reserves along the Pan-American Highway as it is extended east through the so-called "Darién Gap," and also along the several trans-isthmian highways now under construction or projected. Government plans for the reservation of sizable areas surrounding the body of water that will be impounded behind the dam on the Bayano River above El Llano are commendable. Protection of the as yet remote Darién highlands, which also contain endemic birds and other animals, and of the many seabird colonies in the Gulf of Panama, is also needed.

A number of bird species have decreased drastically in Panama, especially in recent decades; several have already been mentioned. The Resplendent Quetzal depends upon the highland forests of western Panama, which are rapidly being cleared for new agricultural land. Although it is illegal, males are still shot as trophies, both sexes still find their way into the pot, and young still are removed from nests to be caged, where most promptly die. This bird's potential as a tourist attraction is being realized only slowly. Despite hunting laws regulating the season and bag limits for most gamebirds, a number of species have been overshot, and the laws remain virtually unenforced. The relatively unsuspicious Great Curassow is probably the most endangered, and has been extirpated over wide areas, though it apparently remains fairly numerous in remote inaccessible forests.

The somewhat warier and more arboreal Crested Guan seems better able to withstand hunting pressure, and remains in reduced numbers wherever the forest cover it depends on is retained. The Black Guan, endemic to the highland forests of the western highlands and Costa Rica, has become decidedly scarce in western Chiriquí, and probably has declined to at least an equal degree in other parts of its Panama range, though there are no recent data. Tinamous and woodquail are also hunted assiduously, but their overall decline is probably more due to forest destruction than to direct hunting pressure. Woodquail are considerably less furtive, however, and consequently are more vulnerable; the Marbled Wood-Quail has for example declined considerably even in the forested Canal Zone. Populations of the resident species of waterfowl have been decimated in many areas by unrestricted year-round shooting. The once abundant Band-tailed Pigeon of the western highlands has also decreased dramatically due to heavy hunting, though it is still reasonably common at least locally. Many diurnal birds of prey remain fairly numerous in Panama, though again all species dependent on forest have seen their potential ranges shrink drastically. However, the larger species, in particular the huge Harpy Eagle, have become very rare in recent years, and the Harpy appears to have decreased even in remote areas despite its official protection.

The group whose status gives greatest cause for alarm is the macaws. Though at one time widespread in Panama, today they are restricted entirely to remote forested areas. One species, the Scarlet Macaw, once ranged over the Pacific slope east to the Canal Zone, but is now found regularly only on Coiba Island off the coast of Veraguas, and if that island's status as a penal institute should be altered and the area opened to settlement, the macaws would undoubtedly be swiftly eliminated. The other Panamanian members of the genus are not yet in such a precarious situation, but all species have been greatly reduced in overall numbers. Macaws are sometimes shot for food, but the primary cause of their rapid decrease (other than the usual forest destruction) has been the taking of young from nests to be kept as pets or sold into the cagebird traffic. If there are to be any macaws at all in Panama a few decades hence, measures prohibiting their exportation from the country will have to be implemented.

The picture is not entirely bleak, though. In recent years a number of persons residing in Panama have become aware of the conservation problem, and are organizing ever more effectively to do something about it. The Comisión Nacional de Proteccion de la Fauna Silvestre (National Commission for Wildlife Protection) was formed in 1967 under the Ministry of Agriculture and was instrumental in obtaining presidential decrees protecting various animals, including the Quetzal and the Harpy Eagle. In 1967 Panama organized a national section of the International Council for Bird Preservation (ICBP). The Panama Audubon Society has striven to interest more people in the country's birdlife and the need for its protection. An increasing number of persons visit Panama each year for the express purpose of seeing its birds and other wildlife. But any such progress will inevitably be short-lived if the present rapid rate of population increase (over 3 percent annually) continues for any length of time. In the long run, curbing this increase will not only be of great benefit to Panama's marvelously rich avifauna, it will also be much in the interest of the Panamanian people, for only then will real social and economic progress for all the people become possible.

EXCERPTS FROM "THE TOUCAN"

(Panama Audubon Society, March 1977)

ON CONSERVATION

The members of the Panama Audubon Society, with valuable assistance from visiting birders, have just completed a historical Christmas Bird Count, which our president, Dr. Jaime Pujals, has described in vivid detail in recent issues of the Toucan newsletter. It was a feat for which all those who contributed their time, energy and talents can feel justifiably proud. But as we bask in the glow of our recent achievement, perhaps we should ask ourselves this: How many bird counts comparable to that of 1977 will be possible in Panama in years to come? Unfortunately, the answer is probably very few, unless our concern about the steadily increasing threats to our local wildlife communities is transformed into action to meet and diminish those threats.

Two areas in the Canal Zone demand particular and urgent attention:

(1) In the forest habitats along the Gamboa Pipeline Road the mounting pressure on wildlife populations from uncontrolled hunting is shockingly evident to anyone spending as much as an hour in the area any day of the week, and could be painfully evident to the unwary visitor who happens to step into the path of a stray bullet.

On a recent Sunday morning, several Society members birding along the Pipeline Road encountered at least a dozen hunters, came upon the empty parked cars of many more and were frequently distracted from identifying bird calls by the sudden, ominous crack of gunfire, signaling the probable violent end of another member of the local wildlife community. All of this led up to an almost inevitable finale to the morning's outing. As the group walked from the main road along the small trail leading to the Rio Frijoles, three hunters were encountered coming out of the forest, one armed with a shotgun, another with a rifle, a weapon prohibited by law from use in the Canal Zone; in the hand of one of the hunters was the material evidence of their shooting foray: a Rufous Motmot with holes in the chest and back where a rfle bullet had passed through its body. The hunters' car license number was reported since they had broken the law in the use of the rifle. Unfortunately, they had broken no law in killing the Motmot because no such law exists. A law that would protect this and almost all other bird species, as well as many animal species, in the Canal Zone by imposing strict, but reasonable, regulations on hunting has been in the works since 1973 but to date has not been put into effect. If adopted and enforced, it would go a long way toward preventing such needless destruction of our local fauna.

In his book, "A Guide to the Birds of Panama," Robert Ridgely makes a plea for the preservation of several valuable forested areas in the Canal Zone, ". . . particularly the Pipeline Road area . . . (which for variety of wildlife, is without question the outstanding, easily accessible forest area in Panama. As such it would make a wonderful wildlife . . .".

(2) The other area of immediate concern is the Madden Forest Preserve, where the evidence of forest destruction is increasingly apparent. An especially blatant example of this unlawful gutting of large sections of forest was very succinctly described in the February *Toucan* by our scientific chairman, Dr. Nate Gale. Several PAS members have gone to this area, near the Las Cruces trail, for a first-hand look, and an appalling sight it is—an ugly wasteland of huge felled trees and rotting vegetation. An area that only a

short time ago was teeming with life is now essentially dead—unless you count the torn patches that are springing up around the edges. And this is only one example of a phenomenon that is occurring in other places throughout the Forest Preserve, a term that begins to take on a mocking ring. If these damaging inroads are allowed to continue, Ridgely's description of the Canal Zone as having ". . . probably the most extensive, readily accessible lowland forests in Middle America" will eventually be rendered meaningless, and one of the world's most valuable forest habitats for tropical bird and animal species will have been lost to mankind.

Biologist David W. Ehrenfeld, in his moving articulate book, "Conserving Life on Earth," could be speaking of the situation here when he says that ". . . the widespread and often preventable destruction of natural communities and subsequent general loss of species foreshadows and is often accompanied by severe environmental problems for the human inhabitants of the region regardless of their technology. If the other motives and objectives for maintaining the diversity of the environment fall on deaf ears, this ominous correlation at least should provoke concern."

It is hoped that members of the Panama Audubon Society and others in the community interested in preserving this richly endowed tropical forest environment will express their concern whenever and wherever possible, and their support for measures to relieve hunting pressures on local wildlife populations and to stop the cutting of trees in the Forest Preserve. You can do this by writing a letter to the governor, by calling the Executive Planning staff "Hot Line" (52–3412) or the Environmental Coordinating officer (52–7961), or by contacting members of the Pacific and Atlantic Civic Councils. No one should feel that his or her voice is too small to be heard—the more persons who are heard, the greater the chance that those in positions to make decisions will make the right ones from a conservation standpoint.

MUSHROOMING CETA SCANDALS REQUIRE EARLY ENACTMENT OF THE CETA REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, new scandals are popping up in the Comprehensive Employment and Training Act program in city after city. Chicago. Atlanta. New York. Philadelphia. Gary, Ind., and, once again, Buffalo.

The new scandals mirror those of the old. Politics and patronage. Ineligible participants. Hiring the already employed. Misuse of funds. Even theft.

There is no reason why these ripoffs of the taxpayers had to happen. The fault lies both in Washington and in the cities which have misused the funds.

The fault in Washington lies in two places: Congress and the Department of Labor. Exhaustive information on CETA scandals was before Congress and its Committee on Education and Labor when they turned deaf ears to the cries for reform of the CETA program and blindly extended it for another year this past spring.

Down Constitution Avenue, the Department of Labor clearly failed to monitor CETA funds adequately. Not until week before last did the Secretary of Labor announce a nationwide crackdown, order reimbursement of misused funds by Chicago, and threaten reassignment of funds in others. Before this, only one reimbursement had been ordered—Philadelphia. I commend the Department for its action, but I have to say I think it was slow in coming.

It did not have to be. Information about irregularities in the CETA program has been a matter of public record for several years. Newspapers have carried extensive exposés. Pages of the CONGRESSIONAL RECORD have been devoted to them, as has testimony and statements to the Committee on Education and Labor. The investigative arm of Congress, the General Accounting Office, has conducted several investigations and reported its findings back to Congress. These have been made public. And, certainly, the internal audits and investigations of the Department of Labor have shown the existence of activities requiring remedial legislation, particularly with respect to abuse of program funds and goals.

It was this kind of information which brought me to introduce a CETA reform bill as early as November of 1974, nearly 3 years ago. As new scandals broke into the open, I revised the legislation to incorporate provisions to tightening standards, requiring more thorough departmental oversight of operations and finances, and providing for penalties. I introduced the revised package, the Comprehensive Employment and Training Act reforms of 1977, on March 2. Congressman JOHN LAFALCE of New York joined with me in cosponsorship of that measure several days later, and that bill is H.R. 4734.

I urge the enactment of this legislation, Mr. Speaker. The urgency or such action is shown by what is happening in this program. Let me give several examples.

BUFFALO, N.Y.

Problems first surfaced in the Buffalo administration of CETA funds in the fall of 1974. An editorial in the September 21, 1974, edition of the Buffalo Courier-Express summarized the community's concerns:

The law should be repealed and replaced with a program that will help communities build things instead of simply putting people on the payroll.

The City of Buffalo's program is an illustrative example. The city just received $1,097,000 as the first installment on the $3-million payment expected to be received under the act. The first order of business was to hire an $18,500 director. Then, an assistant director and three assistants. This white collar bureaucracy then sat down to create 189 new blue-collar jobs—and they must be new because the law requires that the funds cannot be used for "paper layoffs" (taking someone off the city payroll and putting that person on the federal payroll).

Thinking up new city jobs isn't that easy a chore. The first group hatched included six dog census enumerators, six complaint inspectors, two employment counselors and four program evaluators who will evaluate the effectiveness and impact of federal, state and city programs.

Now, there is nothing wrong with counting dogs. (How else would you know how many there are?) And complaints should be heard and programs evaluated. But something also should be done to accomplish something tangible. Putting names on the payroll is not an end in itself.

The seed of the problem is not in the cities, but in the law itself. * * * In summary, it is bad legislation and should be repealed and replaced with something worthwhile.

The situation worsened through the fall and winter months. Claims were made that CETA-funded jobs were "busting" the municipal employee unions and undercutting the civil service system. The man considered for the post to administer CETA funds in the city was discovered to have been enjoined by order of two U.S. district courts from further stock dealings, because of violations of Federal laws. Participants complained—rightly so—that their jobs were often make-work jobs, that they were not getting the training which would give them the additional skills from which to obtain permanent, fulltime jobs in the private sector. Relatives were being hired. People were moonlighting on CETA jobs. And patronage had become a prime factor in hiring.

It was at this time that I introduced the first bill to reform the program. After the Committee on Education and Labor showed itself unwilling to enact those reforms, I called for a General Accounting Office investigation of the Buffalo crisis. In letters of January 23, March 12, and March 25, 1975, I detailed the allegations raised by the investigative reporters and editorial staffs of the Buffalo Courier-Express and Buffalo Evening News.

The Buffalo Evening News editorialized:

Reports and allegations of patronage, nepotism, moonlighting and similar practices in Buffalo's federally-funded manpower job program amply justify the multiplying investigations by Reps. Nowak and Kemp.

Although reported abuses center largely in Buffalo, Rep. Kemp has rightly asked the General Accounting Office to probe the CETA hiring practices of all governments on the Niagara Frontier.

These funds were voted to provide work for the unemployed and underemployed, not to be misused through sloppy administration or political favoritism. We urge federal probers to dig deeply, both to root out abuses and to reassure doubting citizens that this program is in fact being used for the worthy humanitarian and economic purposes intended.

The GAO report was 2 years in coming. Dated February 18, 1977, and entitled, "Employment Programs in Buffalo and Erie County Under the Comprehensive Employment and Training Act Can Be Improved," it concluded the program's effectiveness had been lessened by:

1. Participants who were ineligible;
2. Lack of formal procedures to make sure specific groups received special considerations;
3. Violations of Labor Department regulations on nepotism and political activities;
4. Problems in Buffalo's reporting of administrative costs, including purchases of supplies and equipment; and
5. Relatively few participants obtaining permanent unsubsidized jobs.

I brought these findings to the attention of the House on March 3. Despite these findings—and those of additional

GAO reports—the House passed an extension of the CETA program, intact, on March 29.

It was at this point, the passage of the CETA program without the kind of substantive amendments which would have precipitated a Labor Department or Justice Department crackdown, that new disclosures began surfacing in Buffalo.

The Courier-Express and Evening News reported the following allegations:

1. CETA employees were being "required" to do "volunteer" work a day or two each week at Democratic headquarters.

2. The existence of a vice ring consisting of women holding no-show CETA jobs and being used to garner kickbacks from equipment dealers in exchange for sexual favors.

3. Other attempts at illicit sexual activities by city employees;

4. The use of city employees to guard private homes and a private promoter;

5. Improper purchases of firearms, rugs, furniture, record players, color TV sets, refrigerators, love seats, custom draperies, police-radio scanners, CB equipment, major appliances, and other consumer products.

6. Price gouging by contractors selling such items as paint to CETA-funded training programs, circumventing federal price limits;

7. Internal controls requirements so lax that nearly $7 million a month in Federal funds was escaping local audit safeguards;

8. The costly renovation of a Democratic party campaign headquarters with Federal antipoverty funds;

9. The use of "consultants' contracts" to pay for "political brochures, bumper stickers and other publicity items" for Democratic candidates: and,

10. The clearing of applicants for CETA jobs by Democratic zone chairmen and the requirements that those hired become sustaining members of the Democratic Party by contributing at least $25 per year.

According to those press reports, these allegations are among those being considered by the U.S. Attorney's office in its work with the Federal grand jury in determining what indictments ought to come forth and on what grounds.

There is something peculiar about these allegations. They all involve conduct which apparently occurred during the very same time the GAO investigation team was in Buffalo and preparing its report to Congress, 1975 to 1977. I made this point to the Comptroller General of the United States in a letter to him on July 26, asking for the investigation called for by my colleague, Congressman HENRY NOWAK, to be broadened.

A meeting was held between GAO officers and Congressmen NOWAK, LAFALCE, and myself on August 4, at which time GAO assured us it would commence an immediate inquiry into the new Buffalo disclosures and would meet with U.S. Attorney Richard J. Arcara to assure no actions would be taken which might jeopardize the U.S. Attorney's criminal investigation.

CHICAGO, ILL.

The New York Times News Service reported on August 22 that the Carter administration, reacting to allegations of irregularities in the assignment of CETA jobs in Chicago, was considering whether the Labor Department should take over operation of the program there from local politicians. A contingency plan for such a takeover had been ordered from the Chicago regional office of DOL. Chicago receives $129.5 million in CETA funds.

The CETA program in Chicago has been the focus of critical investigative articles in local newspapers, especially the Chicago Tribune, and scrutiny by the Labor Department since June. A report in that newspaper on June 26 alleged that $10,000-a-year public service jobs intended on a first-come, first-serve basis for qualified jobless people, with preference for the poor, were being given as political favors to people designated by city hall or Chicago aldermen. Subsequent Labor Department investigations have shown that many personnel files contain letters of recommendation from local officials, putting those people ahead of other applicants.

Investigators, for example, found in a city beautification program that 65 individual files—about 50 percent of the total examined in a random check—contained letters from officials giving instructions to hire the bearer immediately and without question. Some 438 persons were found to be improperly employed in the Chicago program. Chicago Mayor Michael Bilandic has signed an agreement to reimburse Labor for $965,460 in salaries.

It was also announced that the Illinois Bureau of Employment Security will take over from the city the responsibility for referring job applicants, and a full-time Federal monitor will look on to assure compliance.

It was at this same press conference that the Secretary of Labor also announced that he had set up a "special review staff" under Deputy Labor Solicitor Robert Lagather to investigate other possible violations of laws and DOL regulations, including but not restricted to jobs programs. He further indicated that he did not think violations were sufficiently widespread to merit total Federal takeover of the programs. We shall see.

I know of nothing which speaks to the cruelty of misusing CETA funds—using them for political purposes—than the opening paragraphs from an article in the Washington Star of September 1, an article by Lance Gay on the Chicago CETA scandal:

At the Illinois Employment Service office in Chicago earlier this year, piles of unopened mail from people asking for federally paid jobs were put aside in stacks or kicked under tables in mailbags, investigators for the U.S. Labor Department say.

The bulk of the mail came from low-income, long-term unemployed people in the city, where joblessness among the inner-city poor is running at 14 to 15 percent.

However, it wasn't the poor who were getting the jobs but those favored by the Democratic political machine. In order to get one of the jobs, paid for by federal funds under the Comprehensive Employment and Training Act, an applicant had to have a letter of recommendation from the ward committeeman—the local representative of the city's political machine.

"That's been the understood way of doing things here ever since the Democratic machine got in," said the Rev. Frank Watkins of Operation PUSH (People United to Save Humanity), a Chicago-based group that has been a critic of the way the nation's second-largest city is run.

"Here jobs have been given out on the weight of how many votes they can bring in," he said.

ATLANTA, GA.

The next day, September 1, the Atlanta Constitution carried a page 1 story, "Probe Eyes Atlanta CETA," indicating Atlanta would be the target of a probe similar to the one in Chicago.

That story reported that a team of three investigators would be in Atlanta on Tuesday, September 6, to join two investigators from the local Labor office. It also indicated other personnel would be transferred to Atlanta from the New York City investigation.

Atlanta's CETA office pays the salaries of about 3,500 persons and expends roughly $25 million annually. But a labor spokesman has indicated that the abuses alleged to exist in the Atlanta program appear different from those found in Chicago. But, he added:

You never know what you're going to find. We're going to look at the whole thing.

Alleged payroll thievery is responsible for the Atlanta probe. One former city employee pleaded guilty in May to stealing $3,669 in CETA paychecks, and a city investigative report names six other persons as possibly being involved in similar schemes. Although official estimates of losses have raged around $10,000, confidential sources close to the Atlanta investigation have estimated that a figure many times that may be involved. A local labor official has already stated that the city will be required to reimburse the Federal Government for any moneys lost through improprieties in the program.

In addition, a mayoral candidate challenging the incumbent has charged that the incumbent is using CETA employees on a broad basis to boost his reelection campaign. The charges have been denied.

NEW YORK CITY

Among the cities mentioned by Secretary of Labor Marshall as being the subject of investigation is New York City. It is not the first time the CETA program has been investigated there.

While the Secretary did not say what charges are being investigated there, I understand they involve improper management of the program of summer jobs for youths. Labor is supposedly looking into the charge that fewer jobs have been made available to unemployed youths than should have been, because of poor delivery systems in the city government. Fourteen department officials have spent 3 weeks looking into the New York City allegations.

PHILADELPHIA, PA.

In February of last year, Philadelphia was ordered to repay $332,557 for misspent CETA funds. This is the only instance other than Chicago where a city had been ordered to repay funds.

The Philadelphia decision was made after an investigation had shown a number of persons were employed in the CETA program which were ineligible.

GARY, IND.

Secretary Marshall announced last week that Gary, Ind., would be the subject of an investigation. That investigation will focus on political involvement of CETA workers, according to an official with the Gary Manpower Administration.

PROBLEMS WITH CETA GO MUCH DEEPER

Mr. Speaker, I have gone through this recitation of current scandals brewing in the CETA program, because they illustrate one of the problems with that program. But they do not illustrate all of the problems, and others go much deeper.

The administration has placed heavy emphasis on the CETA program as a means of creating employment. The program was vastly expanded by Congress at the request of the administration this year, an expansion brought about by increasing the appropriations. This expansion is seen as a means of counteracting some of the persistently high unemployment across the country, unemployment which has not dropped since it came into office. While the administration is increasingly expressing its preference for jobs creation through the private sector of the economy, it continues to support these contradictory public service jobs programs.

We must be cautious about lengthy extensions and massive expansions of this and other public service job programs. Like all Government programs, funds to sustain it must come from the taxpayers. The well-meaning attempt here to put people back to work and to put some take-home pay in their pockets may be at the expense of the long-term jobs creation which can come only through leaving more of the people's income with them.

The most effective, long-term solution to our economic problems is a substantial infusion of investment capital into the expansion of industrial plants and the puchasing of tools and equipment required to preserve existing jobs and create new ones. This infusion is made nearly impossible when Government taxes at its present rates. It does little good to spend taxpayers' dollars, if the expenditures are counterpoductive or, at best, only marginally beneficial, and the CETA program seems to me to fall into this category.

TRAINING FOR REAL JOBS MUST BE CETA'S FOCUS

My area of principal concern focuses on the kind of benefit provided to the program's enrollees.

The way the program is now being administered, the local prime sponsors' public service employment programs do not provide adequately for training. Yet training is essential to enhancing job skills and to lessening future dependence on tax-supported assistance in general and public service jobs in particular. Stated another way, these programs are contributing very little to lessening future dependency on the programs themselves.

Most of these jobs today has the character of "make work" with little genuine orientation to the long-range benefits needed by the community or to the person employed under the act. This is misleading to the community and the taxpayers, and it is outright cruel to the person employed or his or her family.

Unless these people are given sufficient training in skills related to jobs available within the private sector, there will be greater danger of them falling back into unemployment, underemployment, and other forms of public assistance at the end of the program. This, in turn, simply generates more pressures on the Congress to continue the program beyond its present termination date. Unless something is done by Congress to require program designs consisting with breaking such cycles of dependency, this "temporary" program could become like too many others—permanent.

Creating a higher level of employability for each person who is given a job under this program is essential. Logic demands these jobs ought to be oriented toward creating a more permanent employability of the participant. As a result of the program, the workers ought to be able to find and to keep a permanent job, becoming a tax generator instead of a tax consumer. This can be most effectively accomplished through on-the-job training within the private sector. The results would be manyfold: Enhanced job skills, improved motivation, lessened dependence, less demand upon the public purse. In contrast, those types of public service jobs which have no, or little, private sector comparability are almost incapable of assuring a higher degree of employability. They give to the person little skill improvement. They do not lessen his dependence. And what it does to his motivation and morale borders on being immoral.

Make-work jobs take care of today's needs, but do nothing about tomorrow's. Only when we teach him or her new skills with which to better assure their own chances of gaining private sector employment, do we do him the service we owe to our fellow man. The greatest charity of all is to help a person to be able to help themselves.

After a thorough review of the act and its legislative history, I am convinced there is much latitude for providing training. The act allows it in instance after instance. Unfortunately, not enough emphasis has been put on that fact by the Federal headquarters and regional administrators in working, with the local sponsors. In my opinion, the Federal administrators ought to require—to insist—that training be given top priority before they approve the project plans submitted from the sponsors. I hope the Secretary of Labor and his departmental staff work in this direction.

PROVISIONS OF THE NEW LEGISLATION

The basic program was authorized by the Comprehensive Employment and Training Act of 1973, Public Law 93–203, 29 U.S.C. 801 et seq. That was amended by Public Law 94–444.

The amendments proposed by Congressman LAFALCE and me address themselves to the basic act, as amended. They are as follows:

Section 3 restates the purpose of the act, elevating the importance of job training and other services which will lead to maximum employment opportunities in the private sector and enhanced self-sufficiency.

Section 4 assures the opportunity for private organizations and associations to train persons by contact with the local sponsors.

Section 5 authorizes public boards of education to act as additional prime sponsors.

Section 6 protects the autonomy of local governments as prime sponsors, principally against intrusions by State governments.

Section 7 establishes additional conditions for receipt of financial assistance, including maintaining records of expenditures accurately; maintaining records and reporting accurately on pension benefit costs accruing for program enrollees; and reviewing carefully job applications for completeness and accuracy, assuring the data on application forms are verified prior to any payment of funds.

Section 8 instructs the Secretary of Labor not to approve a comprehensive manpower plan or any amendment thereto until he determines, in addition to qualifications already set forth in the act, the description of the plan or amendment thereto describes and justifies adequately the activities funded under titles II and VI of the act. The Secretary shall also require the regional offices to review thoroughly sponsors' planned expenditures shown in grant applications and actual expenditures shown in quarterly financial reports in order to assure compliance with the act. These were among the principal recommendations of the GAO study in addressing itself to inadequate administrative oversight of local programs.

Section 9 restates the purpose of the public employment programs, elevating the role of training and manpower services designed to enable unemployed, underemployed, and economically disadvantaged persons to move into training or employment not supported by the act.

Section 10 prohibits a requirement from being imposed on local sponsors by the Labor Department or any other entity to maintain a percentage of persons paid through CETA funds after the expiration of the Federal funding on local public payrolls. The dollar drain such a requirement imposes on State and local government is often so overwhelming that property and other local tax increases become inevitable.

Section 11 states a preference for unemployed veterans, urging the local sponsors to assure the percentage of veterans served under the program is no less a percentage than that of veterans among the total qualified population in the area.

Section 12 is designed to maximize the impact of public service expenditures by encouraging sponsors to concentrate most on those most likely to obtain permanent employment in the private sector within a reasonable time as a result of the assistance they receive under the act. This would be a 180° reversal from the present policy by which they are encouraged to concentrate on those least

likely to obtain such permanent employment in the private sector.

Section 13 redefines CETA's $15,000 maximum salary limitation for local participants, requiring any earned income from moonlighting jobs held simultaneously by such participants to count against that $15,000 ceiling. For example, if a person were earning $4,000 in a moonlighting job, the most he could receive from CETA funds would be $11,000.

Section 14 makes it very clear that there can be no requirement imposed on sponsors to make contributions from these funds to public retirement programs. This is a crucial point. The GAO report zeroes in on this practice. Erie County officials told the GAO investigators that the State actively pushed for CETA participants to join the retirement system, because this was a means of putting funds in it borne by CETA rather than local governments and most of the participants would not be employed long enough to with local government agencies to attain any vesting interest in the fund. Thus, the financial position of the retirement fund would be improved. Those officials said application blanks were mailed in bulk to the prime sponsor by the State comptroller. This amendment will stop this abuse.

Section 15 makes it clear that there shall be no assignment of public employment persons to the staffs of publicly elected officials.

Section 16 tightly defines nepotism, prohibits it within these programs, and sets forth penalties and forfeitures, first, for violations of the antinepotism provision and, second, for any failure by agreement to perform the service for which the person was hired—"no shows." These problems were dealt with in the GAO studies.

Section 17 incorporates persons employed through CETA funds at the local level within the coverage of the Hatch Act, prohibiting them from a wide range of political activites.

Section 18 sets forth the criterion for the maximization of employability within the private sector as a condition applicable to all programs under the act, not just the public service job programs.

Section 19 sets forth additional conditions applicable to all programs, including, first, the recovery of funds authorized under the act and paid to program participants found by any instrumentality of the Government or program sponsor under the act to have been ineligible for participation or assistance and, second, a limitation on the percentage of program costs which can be used for supplies and equipment—10 percent. These problems were brought out in the GAO report also.

Section 20 would prohibit the hiring of persons for the performance of functions which had been performed, at any time during the 180-day period immediately prior to the date on which such hiring would occur, by persons employed under applicable civil service laws of the State or unit of general local government involved. This is to prevent the "busting" of Government employee unions.

Section 21 sets forth civil penalties—forfeiture of pay and a fine of not more than $1,000—for discrimination on the basis of political affiliation in the selection of participants.

These amendments follow the sequence of applicable sections of the existing act.

Mr. Speaker, I urge their enactment.

RESPONSE ON HELICOPTER

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Under a previous order of the House, the gentleman from New Jersey (Mr. FORSYTHE) is recognized for 5 minutes.

Mr. FORSYTHE. Mr. Speaker, I have recently received a number of correspondences from commercial helicopter operating companies regarding my recent successful attempt to gain the use of three U.S. Army helicopters for my Region's Environmental Protection Agency. The commercial helicopter companies which contacted me expressed their belief that it is not proper for the military to supply helicopters to a governmental agency, when the private sector is prepared and can readily supply the needed aircraft. I would like to make a number of points in responding to this assertion.

Most importantly, the aircraft being used by EPA are aircraft which the U.S. Army would not be using anyway. If the Army needs these aircraft, they will be recalled. However, often the Army has a number of helicopters which would be idle if they were not loaned out. Thus, it is in the best interests of the Federal Government, and of the U.S. taxpayer, if these helicopters are put to a constructive use—such as monitoring the quality of our ocean water.

The Region II EPA has investigated all possibilities of obtaining aircraft from the private sector similar to those on loan from the U.S. Army. EPA's very unusual and critical needs with respect to the size of the helicopter, its equipment, and its crew capacity, make it very difficult to obtain a satisfactory aircraft. Before the decision was made to bring in the UH1H aircraft from the Army, all helicopter operations in the New York Metropolitan area were surveyed to determine the availability of a suitable aircraft. Because of the need to travel 20 miles out into the ocean, a S–62 (Sikorsky) or Bell 205A1, the latter being equivalent to EPA's UH1H, would have to be used. Island Helicopters, Garden City, Long Island, does own a S–62; however, it is equipped for executive transport, and the company has indicated it could not be permanently modified for the type of work EPA requires. More importantly, the S–62 and the Bell 205 rent in the range of $500 to $800 per hour.

In contrast, EPA's operating costs for the first 4 months of its program have averaged $160 per hour for the UH1H, substantially below the costs of the S–62 or the Bell 205. This savings of taxpayers' money is not to be discounted.

EPA has spent about $50,000 to make permanent modifications in the UH1H. The EPA aircraft is a specially modified "platform" which permits in situ analysis and special studies. The crews are specially trained, and the aircraft modifications designed to accommodate EPA's equipment cannot be considered minor or temporary. These alterations are an important reason why EPA cannot obtain their aircraft from the private sector for their monitoring program.

For the particular task of comprehensively monitoring the quality of our region's ocean waters, EPA and the Federal Government are best off under the present loan arrangement between the Army and EPA. However, a number of other needs of our Region's EPA are met by commercial helicopter operating companies. The services these companies make available are of critical importance to our Federal Government's operation and I would like to make it very clear that these commercial groups offer a vitally important resource and, over the years, have established themselves as an efficient and competent element of the private sector. Before advocating the continued use of the U.S. Army helicopter, I made sure such services could not be provided by the private sector. Moreover, I determined that EPA relies on commercial helicopter groups whenever possible.

During fiscal year 1977, EPA Region II paid Ronson Aviation over $23,000 for the helicopter rental of a Bell 47–J and a Bell Jet Ranger. These costs are associated with aircraft activities involved in emergency response actions and coastal monitoring. These rentals took place at the same time the EPA helicopter was being used.

EPA pays $140 per hour for the Bell 47–J and $250 per hour for the Bell Jet Ranger. Both of these aircraft would have limited applicability to the ocean monitoring program, as space is severely limited, and safety would be of concern for offshore activities. Importantly, EPA lost a small rental helicopter in the surf zone while conducting beach surveys in 1976. Fortunately, EPA personnel were not permanently injured; nevertheless, the accident brought to light the need for use of a more versatile and powerful aircraft.

In conclusion, while I agree that the private sector plays a critical role in assisting the Federal Government, circumstances precluded the use of a commercial aircraft for EPA's comprehensive monitoring of our region's coastal waters. Since the U.S. Army's UH1H Huey meets EPA's needs and such aircraft are available which will not be used by the Army, I am convinced that this arrangement is the most cost-effective way our Government can perform a task which is of critical importance to our region's environment.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 8 and 9, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I

would have voted in the following fashion:

Rollcall No. 523: House Concurrent Resolution 341: Budget resolution. The House rejected the Caputo amendment that sought to reduce budget outlays by $110 million to reduce commodity credits for South Korea, "yea";

Rollcall No. 524: House Concurrent Resolution 341: Budget resolution. The House rejected the Jacobs amendment that sought to reduce budget authorizations for national defense by $33 million and budget outlays for international affairs by $110 million to prohibit any aid for South Korea, "aye";

Rollcall No. 525: House Concurrent Resolution 341: Budget resolution. The House agreed to the concurrent resolution revising the congressional budget for the U.S. Government for fiscal year 1978, "no";

Rollcall No. 526: House Resolution 640: ERDA national security authorization. The House agreed to the resolution providing for the consideration of H.R. 6566 to authorize appropriations for the use of ERDA in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, "yea";

Rollcall No. 527: House Resolution 657: ERDA civilian research and development authorization. The House agreed to the resolution providing for the consideration of H.R. 6796 to authorize appropriations to ERDA in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, "yea";

Rollcall No. 528: House Resolution 728: Federal banking agency audit. The House agreed to the resolution providing for the consideration of H.R. 2176 to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller General of the Currency, "yea";

Rollcall No. 529: House Resolution 738: Age discrimination. The House agreed to the resolution providing for the consideration of H.R. 5383 to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age, "yea";

Rollcall No. 530: H.R. 6683: Earthquake hazards. The House agreed to the resolution, House Resolution 639, providing for consideration of the bill, "yea";

Rollcall No. 531: H.R. 6669: National climate program. The House agreed to the resolution, House Resolution 641, providing for consideration of the bill, "yea";

Rollcall No. 532: H.R. 6683: Earthquake hazards. The House passed the measure to reduce the hazards of earthquakes, "yea"; and

Rollcall No. 533: H.R. 6669: National climate program. The House passed the measure to establish a national climate program, "yea."

Mr. Speaker, on September 12, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 535: H.R. 3455: Nuclear Regulatory Commission. The House passed under suspensions the measure to authorize appropriations to the Nuclear Regulatory Commission, in accordance with section 261 of the Atomic Energy Act of 1954, as amended, "yea";

Rollcall No. 536: H.R. 3454: Wilderness. The House passed under suspensions the Endangered American Wilderness Act of 1977, amended, "yea";

Rollcall No. 537: H.R. 8698: Veterans' benefits. The House passed under suspensions the measure to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges for service during the Vietnam era, "yea";

Rollcall No. 528: H.R. 8701: Veterans' benefits. The House passed under suspensions the GI Bill Improvements Act of 1977, "yea";

Rollcall No. 539: H.R. 8175: VA dentists and physicians. The House passed under suspensions the measure to amend the Veterans' Administrative Physician and Dentist Pay Comparability Act of 1975, in order to extend certain provisions thereof, "yea";

Rollcall No. 540: H.R. 4341: VA mobile home loans. The House passed under suspensions the measure to eliminate the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs, "yea";

Rollcall No. 541: H.R. 6803: Oilspill damage. The House passed under suspensions the Comprehensive Oil Pollution Liability and Compensation Act, amended, "yea"; and

Rollcall No. 542: H.R. 3702: Military survivor benefits. The House passed under suspensions the measure to make certain changes in the retired serviceman's family protection plan and the survivor benefit plan as authorized by chapter 73 of that title; "yea".

MEDICARE COVERAGE FOR PSYCHOLOGISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, in enacting the medicare program, Congress intended to provide a comprehensive health program for the elderly. Although many medical services are covered by medicare, the existing law does not include at least one important aspect of health care—treatment by clinical psychologists. Thus, I am pleased to join as a cosponsor of legislation introduced by Representative CORMAN which would provide for medicare coverage of costs incurred by these practitioners.

This legislation does not create any costly new medical service. Rather, it seeks to use qualified and available health manpower to meet needs which are apparent and acute. Psychologists practice in almost all health care facilities, including hospitals, outpatient clinics, health maintenance organizations, and private practice. Further, psychologists are well distributed throughout the Nation so that there are no regional shortages which might limit the accessibility of those needing care. Thus, it is clear that medicare provision for psychologists' services will not require significant new health expenditures.

Although psychologists have not been recognized as independent providers under medicare, there are a number of other health programs, both Federal and non-Federal, which do cover these services. CHAMPUS recognizes the independent practice of clinical psychology in its health benefits program, and the Veterans' Administration has adopted a similar policy. Various Government agencies, such as the Social Security Bureau of Disability Insurance and the work incentive program (WIN), accept professional evaluations of psychologists as evidence of a mental impairment or disability. These reports are accepted even without prior physician referral. In the private sector, some major health insurance companies have voluntarily included psychologists' services within their coverage. Thus, it appears that the medicare policy is an exception to the general treatment afforded psychological services.

Experience has shown that increased availability of health benefits does not lead to an unwarranted demand for services. The inclusion of psychological services would not be costly to the medicare program. Indeed, it would reduce expenses in three ways. First, including psychologists as independent providers would greatly reduce the costly practice of requiring a prior physician referral. Second, evidence indicates that the provision of psychological services may actually reduce the need for other medical services in many patients. Third, early referral of a person with emotional problems to a psychologist frequently prevents later institutional care which is much more expensive.

Mr. Speaker, legislation amending medicare coverage to include psychologists' services would be a great improvement in the program. Not only would this amendment be a step toward the goal of comprehensive coverage, but also it would aid in the provision of better health care for those covered by medicare. Thus, I would hope that this measure will be acted upon promptly by the House.

A SOLAR ENERGY RESEARCH INSTITUTE SHOULD BE ESTABLISHED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

Mr. WIRTH. Mr. Speaker, recently, the GAO released a hastily-assembled report questioning the wisdom of establishing a national Solar Energy Research

Institute. This report included statements with respect to this issue that are not borne out by an examination of the facts available. I would like to take this opportunity to correct these errors.

GAO's first assertion is that "Changed circumstances call into question the need for SERI." The changed circumstances that they mention are the passage of five bills, all of them enacted following the passage of the act calling for SERI. GAO maintains that the cumulative effect of these bills is to reduce the need for SERI.

Solar Heating and Cooling Act, September 3, 1974; Geothermal Energy Research, Development, and Demonstration Act, September 3, 1974;

Energy Reorganization Act, October 11, 1974;

Solar Energy Research Development and Demonstration Act, October 26, 1974; and

Federal Nonnuclear Energy R. & D. Act December 31, 1974.

Unfortunately for the GAO argument all of the independent studies that called for the creation of SERI took place after these five acts had already been signed into law. ERDA, the creation of which is cited by GAO as one of the reasons that SERI might no longer be necessary contracted with the National Academy of Sciences to study the need for SERI. In the fall of 1975 the Academy reported, and recommended the creation of a National Institute. At the same time, the MITRE corporation was conducting a study focussing in particular on industrial attitudes for the need for such an institute. MITRE reported widespread industry support for such an Institute, which would coordinate all of our solar programs. It was felt that ERDA alone was not a suitable substitute for such a dedicated institution. Recently, Congress Office of Technology Assessment completed a massive, two volume, 2,000 page study of our solar energy program. In it they cite the recent creation of SERI as one of the hopeful signs for the future, and suggest that it will greatly enhance the coordination of our solar programs, which does not now exist under ERDA. Clearly, then, none of the legislation cited in the GAO report has affected the need for SERI at all.

The second inaccurate statement in this report is "ERDA did not give adequate consideration to placing SERI at an existing laboratory." ERDA of course considered this and rejected it for the following reasons.

First, national laboratories mainly perform research and development work. SERI's intended role is one of vertically integrating all of our solar energy research efforts. It will have responsibility for conducting feasibility studies, making policy recommendations, hastening the removal of institutional barriers to solar energy, aiding the commercialization of already viable technologies, as well as R. & D. for developing technology. These are responsibilities that the national laboratories are not now capable of. Furthermore, the national laboratories generally specialize in research into a particular pathway to new energy sources. This puts them in a position that is not conducive to one of the main goals of SERI, that of evaluating competitive pathways and distributing resources accordingly. Also, ERDA felt that an institution dedicated to solar technology was necessary, in order to assure that the ties of the national laboratories to competing nonsolar energy technologies, which provide them with a much higher proportion of their funds, did not adversely affect the Institute's dedication to the development of solar energy. For instance, many of these laboratories are heavily committed to nuclear energy.

The third inaccurate statement was "ERDA's decision to create a regional SERI network appears to have been rather arbitrary, and may dilute the intended role for SERI."

Clearly, there are advantages to having a central coordinating institution dedicated to solar energy. And no one should desire to dilute this coordination and central policy analysis by transfering it to a diffuse network. Similarly, there are clear advantages to the centralization of many forms of research. Centralization results in more efficient use of resources, and in the freer interchange of ideas among the scientists involved in the research. This does not mean, however, that there is not a role for a regional SERI network, or that such a role has not been considered in the past. The identification of, and removal of, institutional barriers to the commercialization of solar energy will be most easily affected on the local level, and the National Academy study identified this as one of the prime areas where a regional network might be especially useful. Similarly, a regional network will be better able to evaluate the commercialization requirement for solar products within their region.

This information can then be coordinated with the National Institute, which can use it as a major basis for evaluating pathways and resource allocations that will be most beneficial. In the case of already viable solar products, the regional network can provide valuable advice on how better to adapt the products to the needs of the local areas. SERI supports the creation of such a network, and these local institutions, coordinated through SERI, can play a valuable part in the development of solar energy.

In sum, I feel that this 3 week study, prepared in a fraction of the time of the NAS, MITRE, and OTA studies, and without consultation with ERDA or SERI, does a great disservice to the goal of rapid development of our solar energy resources.

Everything I have seen in recent days convinces me more surely that this is a resource that we will have to turn to more rapidly than many imagine, and the only way to do this is through a centralized, National Solar Energy Research Institute.

THE 1977 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the success of the 1977 Captive Nations Week is measured in part by the nationwide publicity it received. There are, of course, other measures, but I think it is significant that our media in every corner of our country carried the events of the week. One outstanding reason for this is the unsurpassable blend of captive nations and human rights. Anyone with any political perception must see this.

Augmenting the series of reports of the 1977 week, I take pleasure in submitting the colorful proclamation by Mayor Tom Bradley of Los Angeles and articles, reports, and editorials in the Manchester Union Leader, St. Louis Globe-Democrat, Chicago News, Los Angeles Herald-Examiner, Toledo Blade, St. Louis Post-Dispatch, Cleveland Plain Dealer, Louisville Times, Flint Journal, Portland Oregon Journal, and the Dorchester Argus-Citizen:

CITY OF LOS ANGELES, PROCLAMATION: CAPTIVE NATIONS WEEK

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, therefore, I, Tom Bradley, Mayor of the City of Los Angeles, do hereby proclaim the week of July 17 through 23, 1977 as "Captive Nations Week" in Los Angeles, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From the Manchester Union Leader, July 18, 1977]

PLIGHT OF CAPTIVE NATIONS TOLD

(By Bill Herman)

CONCORD.—The greatness of the United States and the plight of the Soviet-dominated nations highlighted the 15th annual observance of Captive Nations Day in programs held yesterday at the Highway Hotel in Concord.

Gov. Meldrim Thomson, Jr., has officially proclaimed the week of July 17–23 as Captive Nations Week here in the Granite State.

"Ten days ago a Community Chinese air force squadron leader, Mr. Fan, defected to Taiwan with his MIG–19 jet fighter to seek freedom and human rights which are totally lacking on the Chinese mainland." Yih Mim Lin, Council General for the Taiwanese consulate in Boston, Mass., told the gathered crowd in Concord.

What I really want is to give the world a true picture of the mainland, the whole truth and nothing but the truth," the defector declared at a press conference in Taipei. He said life on the mainland is unbearable.

WORLD'S LARGEST PRISON

"I wonder how many people of this country realize the fact Peiping has made the Chinese mainland 'the world's largest prison and labor camp?' " Lin questioned.

"Chinese on the mainland are accorded no right to emigrate, no right to travel freely about the country, no right to read foreign journals and no right to do anything other than a cog in a vast machine of repression," he declared.

Quoting a study on the Human Cost of Communism in China, prepared and released by the Committee of the Judiciary of the

U.S. Senate in 1971, Lin said, "Communism on the Chinese mainland had cost from 1940 to 1970 a miniu of 3-and-a-half million lives, and the figure could reach 62 million pursuant to the higher estimates."

While the 800 million Chinese people are reported to have an even lesser degree of freedom than do the 260 million people of the Soviet Union, Lin questioned why nothing has been said about the systematic violation of the human rights on the Chinese mainland.

If human rights or the respect for human rights is the criterion on which American foreign policy is to be based, it is inconceivable how the Chinese Communist regime can be entitled to U.S. sympathy and friendship.

TAIWAN OFFERS HOPE

The successful endeavor of the Republic of China and Taiwan has not only resulted in the constant improvement of the quality of life of her people, but also provided a beacon of the hope for the repressed and silenced masses on the Chinese mainland," he said.

In conclusion, Lin hoped the United States, "being the leader of the free world," would abandon all illusions about the Chinese Communists "since appeasement of the Reds would aggravate the world crisis and jeopardize the freedom and security of the free world."

Messages from Senators Thomas J. McIntyre (D-NH) and John A. Durkin (D-NH), Representatives Norman E. D'Amours (D-NH) and James C. Cleveland (R-NH) and columnist John Pennington Gardner were read to the audience.

During the day's festivities a resolution was passed by the assemblage praising Gov. Thomson for proclaiming Captive Nations Weeks, noting the "Communists have stated that anti-communism is their greatest obstacle to world domination and control, and resolving:

1. "That we applaud President Carter for his stand on human rights, and ask that he specify that these include the right to self-determination, the right to vote in a two-or-more party system, the right to immigrate and emigrate, the right to a free press and the right to worship without manipulation, domination or control of the churches and synagogues.

2. "We call upon the U.S. Congress, the President and the U.S. State Dept. to formulate policies designed to expand the area of freedom throughout the world, and to restore the right to free government to those now enslaved by the communist minority dictatorship.

3. "We urge big business as well as government to cease and desist all trade with captive and enslaved nations unless it can clearly be shown that such trade is in the interests of the free world and the captive nations people.

4. "We demand that no products produced by slave labor be allowed into the United States to undercut American workers.

5. "We demand that if it is now the secret policy of the U.S. Dept. of State to seek "convergence" with Communism, that such policy be publicly revealed and announced; having complete confidence that should such a policy be revealed, the outrage of the American people would be such that it would be quickly and permanently terminated; and

6. "Be it further resolved that copies of this resolution be sent to Congressmen James C. Cleveland and Norman D'Amours, Senators Thomas J. McIntyre and John A. Durkin, with specific requests that they in turn call this resolution to the attention of the Secretary of the U.S. State Dept., and the House and Senate Foreign Relations Committees, requesting their cooperation in its implementation."

FREEDOM TORCH LIT

A torch of freedom was lit during the afternoon program in memory of 45 countries which are "no longer free". The torch was lit by representatives from the countries of Armenia, Albania, Cuba and Lithuania, which were included in the list of Captive Nations.

Countries and their dates of becoming Captive Nations noted during the New Hampshire program included Russia, 1917; Armenia, Azerbaidzhan, Byelorussia, Georgia, Kazakh Kirghiz and Ukraine, 1920; Uzbek, Turkemn and Outer Mongolia, 1924; Estonia, Latvia, Lithuania and Moldavia, 1940; Albania, Bulgaria and Yugoslavia, 1946; Poland and Romania, 1947; Czecho-Slovakia and North Korea, 1948; Hungary, East Germany and Communist China, 1949; Tibet, 1951; North Vietnam, 1954; Cuba, 1960; Algeria, 1962; Tanzania, 1967; Congo Republic and Syria, 1968; South Yemen and Libya, 1969; Iraq, 1972; Afghanistan, Zambia and Equatorial Guinea, 1973; Guinea-Bissau, Cambodia, Laos and South Vietnam, 1975; and the Island of Timor, 1976.

Participants in the Granite State Captive Nations program included Mrs. Howard T. Ball of Claremont, chairman of the Capitive Nations Committee; George Ober of Ashland, Capt. Marshall of Concord, head of the N.H. Salvation Army; Rep. John P. H. Chandler of Warner, representing Gov. Thomas Herbert Philbrick . . . former FBI agent and counterspy; . . . of Manchester, chairman of the N.H. Conservative Union.

Captive Nations Week was originally designated by the unanimous consent of the 86th Congress in 1959 and designated as third week in July in a proclamation issued by President Dwight D. Eisenhower.

Captive Nations Week, thus approved by Congress and President Eisenhower, shall be proclaimed each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

[From the St. Louis (Mo.) Globe-Democrat, July 18, 1977]

CAPTIVE NATIONS WEEK—AND WHAT IT MEANS

(By Phyllis Schlafly)

This week we are officially celebrating Captive Nations Week, an annual observance designated by Congress and proclaimed by the President in accordance with Public Law 86–90.

The Captive Nations Resolution, which was passed by overwhelming majorities in Congress and signed into law by President Dwight Eisenhower, lists 22 nations that have been enslaved by "Communist Russia," and then states:

"It is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive."

The original passage of the Captive Nations Resolution in 1969 worried the Kremlin dictators more than any action the United States has ever taken, more even than our annual appropriations for military weapons. The Kremlin dictators were shaken by our annual appropriations for military weapons. The Kemlin dictators were shaken by our official declaration that the United States does not consider their rule over the satellite nations either legitimate or permanent.

Nikita Khrushchev was so upset at the Captive Nations Resolution approval on July 17, 1959 that he could talk of little else when Vice President Richard Nixon visited Moscow later that month. Khrushchev's reaction made it clear that the Resolution had inadvertently touched the Achilles heel of the Communist colossus.

Everyone knows that the Soviets enjoy total control over the Captive Nations of Eastern Europe. But de facto control is not enough for the Kremlin dictators. They yearn for the mantle of legality. They have always had a perpetual passion to extract an admission by the West that Soviet control of the satellite nations is both legitimate and permanent.

This is why for 19 years the Soviets kept calling for a European Security Conference whose principal purpose would be to proclaim that the West acknowledges and recognizes Soviet occupation of nine Eastern European countries as lawful.

The United States finally agreed to participate in such a conference, and the first session took place in Helsinki in July 1973. The Soviets made no secret of their objectives, bluntly proclaiming that they specifically reserve the right to carry out future Czechoslovagia-type invasions of any East European satellites.

This so-called right to invade a peaceful neighbor is called the Brezhnev Doctrine.

The United States ignored this flaunting of Soviet aggressive intentions and continued to negotiate until 1976 when the Helsinki Agreement was signed. The Soviets interpreted this agreement as tacit recognition of the legitimacy of their control of Eastern European countries.

The performance of Soviet control, however, is again in jeopardy because of Leonid Brezhnev's illness. According to the Washington Post, French President Valery Giscard d'Estaing told Secretary of State Cyrus Vance what many have suspected but feared to say, namely, that Brezhnev's physical condition at their recent Paris Conference was so poor that he was unable to engage in any meaningful conversation. Official denials were unpersuasive.

Despite his failing health, Brezhnev recently fired the President of the U.S.S.R. and assumed that post himself. The vote to elect him was unanimous. No one dared vote against him.

When Brezhnev dies or collapses, the Soviet Union will start a period of indecision among the leaders and an opportunity for the Captive Nations to proclaim their independence and freedom. The Kremlin could not cope with a rebellion involving most of its citizens. During the Hungarian Revolution in 1956, Russian soldiers refused to fire on the Freedom Fighters and Khrushchev had to bring in Siberian troops.

[From the Chicago (Ill.) News, July 15, 1977]

METRO DIGEST

Captive Nations Week floats will parade through the Loop Saturday, beginning at noon. The parade starts at State and Wacker and proceeds south on State to Congress. Guest of honor at the parade will be the Rev. H. N. Grivans, who recently was freed after 16 years imprisonment in Latvia. July 11 through 16 has been declared Captive Nations Week by federal and local governments.

[From the Los Angeles (Calif.) Herald-Examiner, July 18, 1977]

CAPTIVE NATIONS WEEK OBSERVED IN SOUTHLAND

Captive Nations Week is being observed here with prayers in churches throughout the country for the people of nations living under unwanted communist rule.

The week's activities in Los Angeles began Saturday with a freedom rally at MacArthur Park.

About 100 residents started the rally by singing the U.S. national anthem.

Alongside the U.S. flag were those of captive nations: Cuba, Lithuania, the Ukraine, Poland, Hungary, Byelorussia, Latvia, Czechosovakia, Bulgaria and Romania.

Various speakers, including Los Angeles Councilman Arthur Snyder and Assemblyman Mike Antonovich, warned the audience

of a continuing danger from communism, even in this country.

"Lenin said, 'We won't have to attack America, for it will fall like an overripe fruit into our hands,'" noted Cathryn Crow, President of the Conservative Union.

After the rally, a wreath was laid at the Hungarian Freedomfighters' monument at the same location.

The week's activities will end Saturday with a special mass at St. Basil's Church on Wilshire Boulevard at Kingsley Drive in Los Angeles, beginning at 5:05 p.m.

[From the Toledo (Ohio) Blade, July 18, 1977]

FAILURE TO PROCLAIM SPECIAL WEEK UPSETS CAPTIVE NATIONS GROUP

WASHINGTON.—The chairman of the National Captive Nations Committee said Sunday that President Carter's failure to formally proclaim Captive Nations Week is a "grave disappointment to millions of Americans and our allies abroad."

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet," Dr. Lev Dobriansky said in a letter to Mr. Carter.

Dr. Dobriansky said he was informed by a White House staff member Friday, that the proclamation would not be issued. He said the only reason he was given is that the President already has spoken on human rights.

He said every president since Dwight D. Eisenhower has issued the annual proclamation.

[From the St. Louis (Mo.) Post-Dispatch, July 12, 1977]

RIGHTS FOR ALL

Secretary of State Cyrus R. Vance, addressing the Asia Society, made the shocking statement that there's only "one China," and the "Taiwan question" should be settled by the Chinese themselves. Wrong. Taiwan is the free China, while mainland China is ruled by the Maoist dictatorship—two countries with two absolutely different systems. For decades our country has had full and open relationships, security treaties included, with Taiwan, a nation that has proven time and again its solidarity towards its western allies. Now our Administration, following in the footsteps of the preceding ones, is striving to establish relations with mainland China. Should this become reality, the disappearance of Taiwan from the map would be just a matter of time, and a very short one at that. Millions of innocent freedom and peace-loving Taiwanese would fall victims to the terroristic, cruel regime of Peking.

Millions of people, living in the USSR, mainland China, Cuba and other totalitarian dictatorships, deprived of their identity and the basic rights of human dignity are appealing to us through their courageous dissidents. President Carter has achieved great popularity among all mankind for his firm stand on human rights, and this vital issue has become a tremendous asset to his foreign policy. His firm drive for human rights lifts the spirit of hope among many more dissidents worldwide.

We, the Free Friends of Captive Nations, along with millions of concerned Americans, support President Carter in his effort regarding the human rights issue.

MARIAN ORELT,
Chairperson,
Free Friends of Captive Nations.

[From the Cleveland (Ohio) Plain Dealer, July 18, 1977]

CARTER WON'T DECLARE CAPTIVE NATIONS WEEK

WASHINGTON.—The chairman of the National Captive Nations Committee said yesterday President Carter's failure to formally proclaim Captive Nations Week is a "grave disappointment to millions of Americans and our allies abroad."

"For one who is supposedly committed to human rights globally, we expected from you are strongest proclamation yet," said Dr. Lev E. Dobriansky in a letter to Carter.

Dobriansky said he was informed by a White House staff member on Friday the proclamation would not be issued, because the President already has spoken on human rights. He said every president since Dwight D. Eisenhower has issued the proclamation.

[From the Louisville (Ky.) Times, July 21, 1977]

CAPTIVE NATIONS WEEK PROCLAIMED

WASHINGTON.—President Carter yesterday signed the annual proclamation designating Captive Nations Week. Acting belatedly, Mr. Carter proclaimed the week that began last Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the Flint (Mich.) Journal, July 21, 1977]

PRESIDENT PROCLAIMS CAPTIVE NATIONS WEEK

WASHINGTON.—President Carter has proclaimed the week of July 17 Captive Nations Week.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the St. Louis (Mo.) Globe-Democrat, July 15, 1977]

CAPTIVE NATIONS WEEK—A DETERRENT TO REDS

In 1959, Congress passed public law 86-90. It requires the President of the United States annually to proclaim the third week of July as Captive Nations Week, with "ceremonies and activities" encouraged at the local level until the peoples of the captive nations shall again be free.

President Eisenhower thus became, in July, 1960, the first of five successive Presidents who have annually proclaimed Captive Nations Week.

This year President Carter, who has emphasized "human rights" of the dissident slaves within the USSR more than any other President, will become the sixth President to issue a proclamation in favor of Captive Nations Week, starting Sunday, July 17.

In the greater St. Louis area, the Free Friends of the Captive Nations has been the vehicle for commemorating Captive Nations Week.

The Communists themselves have given the most convincing evidence of the work of Captive Nations Week as a potential tool to disrupt their continuing plans to conquer us. Khrushchev staged for the benefit of the then Vice President Nixon a frenzied fit of angry denunciation of our first CN Week in 1960. By then, there had been sizeable revolts requiring military repression of the captive peoples in East Germany, Poland and in 1956 in Hungary. Also, there have been the reconquest of Czechoslovokia in 1968 and the continuing uproar involving the slaughter of millions in Bolshevik China.

So, Khrushchev's tantrum was a gut reaction. The last thing Communist imperialism wants is similar explosions of desperate slaves across its main lines of communications towards the sleeping West, where with superior conventional and nuclear forces it is now almost ready to lunge.

Thus Captive Nations Week this year and in the future can, if adequately publicized and participated in at the grass roots level here and elsewhere, become an enormous deterrent to major Bolshevik aggression that would involve us.

The power for such deterrence of disaster comes from powerful ideas: By our activities, encourage the peoples of the captive nations; alert Americans to our situation grown so dangerous that all but a few shrink from giving us the facts, and in our silent prayers remember the people of the captive nations for they are our secret allies.

GEORGE HIXON,
Free Friends of Captive Nations.

[From the Portland (Oreg.) Oregon Journal, July 20, 1977]

CARTER CITES "CAPTIVE NATIONS"

WASHINGTON.—President Carter Wednesday proclaimed the week of July 17 as "Captive Nations Week."

"Our own country was established on a profound belief in rational self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights," Carter said.

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the Dorchester (Mass.) Argus-Citizen, July 21, 1977]

SUPPORT CARTER'S POLICY ON RIGHTS, READER SAYS

To the Editor:

The week of July 17–23 is observed nationally as "Captive Nations' Week" in accordance with Public Law 86–90, which was passed by the U.S. Congress in 1959. President Jimmy Carter and Governor Michael S. Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric and border on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed.

Recently, two Ukrainian dissidents, Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. Now in Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatoslav Karavanskyi, Stefania Shabatura, Nina Strokata-Karavanska, Ivan Hel, to name just a few out of the hundreds of Ukrainian political prisoners.

This year's Captive Nations Week is observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementations of the Helsinki Accords of 1975. However, the captive nations in the Russian communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations' Week serves as the appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Soviet Russian domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress Committee of America, Boston Chapter.

THE DEATH OF STEVE BIKO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on Monday, one of the most dedicated freedom fighters in South Africa, Steve Biko, died under mysterious circumstances while in detention for his activities on behalf of racial equality in southern Africa. His death, the latest in a series of questionable deaths of the most prominent black leaders of South Africa, has outraged the international community and the forces of change within his own country.

I would like to share with my colleagues the comments I made on this most tragic loss:

STATEMENT BY CONGRESSMAN CHARLES C. DIGGS, JR. ON THE DEATH OF STEVE BIKO

I strongly deplore the death of Steve Biko, who became one more in what is becoming a long list of South African political prisoners who have perished in detention in South Africa's jails.

According to South African authorities, Steve Biko died as a result of a hunger strike. They further announced that a government pathologist would perform an autopsy on Biko's body in the presence of a pathologist nominated by the parents of Mr. Biko. This is cold comfort to Steve Biko's loved ones and all throughout South Africa and the world at large who are greatly saddened by his tragic and untimely death and sickened by the inhuman system that created the circumstances for his loss of life. In light of past "mysterious" deaths of political prisoners, the South African Government's credibility in the case of Steve Biko must be seriously questioned.

Of course the question to be answered is why Steve Biko, and other Black opponents of apartheid, are in detention in the first place. South Africa routinely insults the intelligence of the international community with its hypocritically stated observance of the rule of law and of so-called "civilized" Western democratic values while turning itself into a virtual prison camp in order to maintain its supreme value—White Supremacy. Meanwhile, in total disregard for the international community's concern for human rights, the Vorster Government has had only one decisive answer to mounting Black unrest—detention and persecution. This is the South African way of life that Pretoria is willing to defend to the last Black person.

In the death of Steve Biko, South Africa has lost a potential leader who would have been instrumental in any credible dialogue across the color line aimed at bringing into being a humane and just political and economic system to South Africa. Instead, the South African government has embarked on a campaign of genocide against the leaders of the Black Consciousness Movement such as Biko and the late Abraham Tiro. Despite what South African authorities may say of Biko's death, there is urgent need for an internationally sanctioned independent investigation into the death of Steve Biko and other detainees, and into the general treatment of South African political prisoners. Biko's death along with so many others that have occurred in South Africa is a serious loss. One only wonders when Vorster and his National Party colleagues will wake up to the routine inhumanity that has become the South African way of life.

EXPLANATION OF KOCH AMENDMENT TO H.R. 3

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, next week the House will consider H.R. 3, "the medicare-medicaid anti-fraud and abuse amendments." H.R. 3 contains a provision called the Crane amendment, which deals with the issue of medical records privacy.

The Crane amendment is totally ill-advised and in addition fails to cover fully the problem of medical record privacy. Representative SATTERFIELD also has an amendment that is inadequate to deal with the complexities of the issue.

The best amendment is the so-called Rogers substitute. This provision provides for good privacy controls on PSRO's and for HEW to provide legislation based on the Privacy Protection Study Commission's recommendation on medical record privacy by October 13, 1977.

I fully support the Rogers substitute.

The Koch and Preyer amendment will be offered only if the Rogers substitute fails, as a more fully reasoned approach to medical record privacy than the Crane or Satterfield amendments.

I have been intimately involved with the issue of medical record privacy, first as the coauthor of the Privacy Act of 1974, then as a Commissioner on the Privacy Protection Study Commission, and finally in the drafting of the legislation Representative GOLDWATER, Jr., and I introduced this July to implement the Commission's recommendations.

This is a very complex area. Although the Commission did hold extensive hearings, we believe that Congress should have adequate time and hearings to evaluate the Commission's recommendations and to receive full review by the public and the affected agencies.

The Koch and Preyer amendment is a revision of H.R. 8283, which was introduced by Representative GOLDWATER and I in July of this year to implement the medical privacy recommendations of the Privacy Protection Study Commission. More time is needed both to provide a perfected bill and to provide adequate consideration by Congress and the public of the major policy issues involved.

DISAPPROVE $250 MILLION ARMS SALE TO EGYPT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEHMAN) is recognized for 5 minutes.

Mr. LEHMAN. Mr. Speaker, I testified today before the House Committee on International Relations in opposition to the proposed $250 million arms sale to Egypt.

I am strongly opposed to this sale and would like to share the reasons for my opposition with my colleagues:

TESTIMONY OF CONGRESSMAN WILLIAM LEHMAN, SUBCOMMITTEE ON EUROPE AND THE MIDDLE EAST, HOUSE INTERNATIONAL RELATIONS COMMITTEE

Mr. Chairman: I have introduced H. Con. Res. 349, disapproving the proposed sales to Egypt of 14 C–130 aircraft and 12 "Firebee" remotely piloted vehicles.

Seventeen months ago, I appeared before this Committee to oppose the sale to Egypt of an initial six C130 transport planes. I did not, and still do not, believe that it is in the interests of the United States to establish a military supply relationship with Egypt.

While I have many reasons for opposing this sale, some of my strongest opposition comes from the memory of the incredible poverty I saw when I visited Egypt less than a year ago. To allocate $250 million of badly needed U.S. assistance for the purchase of military equipment is a sad misordering of priorities. From what I saw with my own eyes, the Egyptian people need food and housing and sanitation far more than they need military aircraft.

There is no state bordering Egypt which poses a serious military threat to the security of that nation. The Egyptians have enough military muscle already to trounce neighboring Libya, as they did recently; and, we should remember, Israel has no offensive intentions toward Egypt. From a military standpoint, therefore, this weapons sale is not justified.

According to newspaper reports, State Department officials cite Egypt's "moderate stance" on Mideast issues in justifying additional sales of American arms. But, in fact, if Egyptian President Sadat were indeed "moderate" enough to agree to live in peace with Israel, he would have no need at all for an additional $250 million worth of modern weapons of war.

I also reject the proposal that the U.S. must be responsible for becoming Egypt's main arms supplier because Egypt kicked out the Russians. We all know that peace is not coming easily to the Middle East and that there may be another war. I hope that day will never come, but if it should, none of us want to be responsible for a situation where American weapons would be used against our ally, Israel.

As a member of the National Security Task Force of the House Budget Committee, I am learning that American weapons technology is very advanced and very deadly. Because of what I know of American weapons technology, I am here today to oppose this second step in what, if allowed to continue, will become a major military supply relationship between the U.S. and Egypt.

If we do not stop this sale today, I fear the day will come when modern American weapons, in the hands of Egyptian soldiers, will be used to kill the soldiers of Israel.

H. CON. RES. 349

Concurrent resolution disapproving the proposed sales to Egypt of 14 C–130 aircraft and 12 "Firebee" remotely piloted vehicles

Resolved by the House of Representatives (the Senate concurring), That the Congress objects to the proposed sale to Egypt of 14

C–130 aircraft and related defense articles and defense services, such proposed sale being described in the certification submitted by the President, pursuant to section 36(b)(1) of the Arms Export Control Act, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 7, 1977 (Transmittal No. 77–80).

SEC. 2. The Congress objects to the proposed sales to Egypt of 12 "Firebee" remotely piloted vehicles and related defense articles and defense services, such proposed sale being described in the certification submitted by the President, pursuant to section 36(b)(1) of the Arms Export Control Act, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on September 7, 1977 (Transmittal No. 77–83).

NATIONAL HISPANIC HERITAGE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico (Mr. CORRADA) is recognized for 20 minutes.

Mr. CORRADA. Mr. Speaker, this week we are celebrating National Hispanic Heritage Week pursuant to a joint resolution approved by Congress on September 17, 1968, and a proclamation signed by President Jimmy Carter on August 29, 1977. In this connection, I insert into the RECORD my remarks:

The great historian Theodore Mommsen, so well known for his famous work on the Roman Empire, summaraized in a few precise words what Rome was all about. He said: "the story of Rome is just one great process of incorporation". He meant, of course, incorporation by conquest.

The Roman legions roamed over the face of the earth, subdued the peoples of Hispania, Greece, Egypt, and so many other countries; spread the tentacles of Roman government—supported by military might; and gave the world a false impression of unity. However, along the years one defection after the other weakened its power, until nothing was left but a small, debilitated nucleus. That is why Mommsen so appropropriately entitled his work: "The Decline and Fall of the Roman Empire."

The story of the United States and the formation of this country is also a process of incorporation, but not by conquest Instead of going out to reach and grab the outside world, it was the outside world that willingly jammed our shores to join the nucleus.

During most of the 19th Century and the early part of the 20th, the European countries virtually poured themselves incessantly within our borders. Of the 50 million people who emigrated during that period, some 35 million came to the United States. The European migration was of course welcome by the newly formed nation; it needed badly the working hands of the farmers, peasants and villagers who comprised the best part of the new population.

In describing the significance of this huge influx, historian Daniel J. Boorstin has the following to say in his trilogy "The Americans":

"In the long run in most countries the immigrants tended to become assimilated to the earlier residents and so it was in America. But what was most remarkable about the immigrant experience (from 1815 on) was not that in a single nation American immigrants became assimilated, but that so many different peoples somehow retained their separate identities. Other nations had dissolved peoples into one. This nation became one by finding ways of allowing peoples to remain several."

The United States thus became a solid, indivisible nation, blended into one by the miracle of togetherness. This was the binding force.

What happened was—again in the words of Boorstin—that "a new civilization found new ways of holding men together; less and less by creed or belief, by tradition or by place; more and more by common effort and common experience, by the apparatus of daily life, by their ways of thinking about themselves."

As a consequence of our peaceful incorporation of peoples, new patterns of culture were added. The Italians, the Irish, the Germans and the Spanish, began contributing something of their own which survived the perils of transplantation and endured, virtually unchanged, the forces of a different social environment. Each and every one of these groups managed to mix without losing its own traits, attitudes and relationships. That has made the melting pot grow in meaning and unity. Togetherness blends and binds what would otherwise be a confusing array of cultural forms, and it results in those seemingly impossible achievements which have added greatness and strength to the nation. What has been the meaning of all this for the Hispanic-Americans? They have come to our shores in huge numbers, bringing with them the language and the traditions of a civilization mellowed by age.

They come from Spain itself, and from all the countries of the New World which developed and grew under Hispanic aegis: Argentina, Bolivia, Mexico, Venezuela, Cuba and Puerto Rico. According to the latest figures reported by the U.S. Bureau of the Census, "about one of every twenty persons in this country is of Spanish extraction", for a total of more than 15 millions.

Cuban refugees exceed, by last count, 600,000 in the United States, comprising more than one third of the population of Miami. Across the Hudson River from Manhattan, in Union City, New Jersey, the Cubans make 65 per cent of the population. In West New York (New Jersey) seven of every 10 people are Cubans. They live in 48 of the 50 states, and in Puerto Rico.

In a 1973 manpower report submitted to the President of the United States, the Department of Labor points out:

"About 678,000 Mexicans immigrated into the United States between 1911 and 1930; and 754,000 between 1951 and 1970. Those have been the two periods of heavier influx".

But the incoming waves, plus the first and second generation Chicanos, now count their numbers by millions.

Beside the Island population which exceeds 3 millions, Puerto Ricans in the mainland total more than 1.5 millions, and they account for one out of every six Spanish-Americans.

In general, Spanish-speaking Americans make up about 40 per cent of all the people in one state (New Mexico); and between 13 and 19 per cent in four other Southwestern states: Arizona, California, Colorado and Texas.

The states with the largest absolute numbers of Spanish-speaking peoples are California, Texas, New York, Florida and New Mexico.

The Hispanic-Americans have naturally established a never-ending process of give and take, an interchange which is mutually enriching. History repeats itself as we go back to Mommsen: Rome defeated the Greeks, but was taken over by Greek art and Greek philosophy and science. The Greeks in turn marvelled at the juridical wisdom of their conquerors, collected in Roman law: the result was the expansion of our Western civilization as we know it today.

Those Spanish roots of the Latin peoples are still latent after four centuries since the discovery and colonization of the South American continent. Many distinct changes have appeared, generation after generation, as each country developed its own particular ways and customs; the Latin man has been in many instances isolated from Europe, and growing more and more attached to his own native land—the only one he knew and toiled to make a living—but he still expresses himself in the language of his ancestors. This language he has brought to his new home in the United States.

Let us see how the Spanish language has fared in the interchange process which I have mentioned. To quote again from the Bureau of the Census' reports:

"One out of every 10 persons in this country can speak a second language, which is either English or Spanish. But Spanish is the most widely used second language in the United States, followed by English. About four million persons—not counting the three million in Puerto Rico—report Spanish as their usual and primary language. Difficulty with English was reported by 54% of the 4 million whose usual language is Spanish.

"The next largest group—after Spanish—reporting a usual language other than English, are those who speak Italian: some 450,000 persons".

And shall we say in passing that two-thirds of these also report some difficulty with English.

In the wide context of American culture, we have thus a contribution from the Latins in the area of communications, with its many ramifications: literature, music and folklore.

In the field of education, the always ebullient Latins have achieved a legislative miracle of sorts: bilingal education in public schools, decreed by an Act of Congress supported by the Supreme Court of the United States. Spanish-speaking children are taught in Spanish while at the same time they learn English, the language of the community as a whole.

In other fields, Spanish names are already being repeated by the media and kept before the public eye: in sports, in the arts, in science, in business, in government.

Hispanic—or Latino—awareness is rising like a huge wave, in the area which is most open to participation of the man in the street: the area of politics. The Puerto Ricans in New York, the Cubans in Miami, and the Chicanos in the major cities of California, are more and more filling the empty spaces and finding room at the top. The Puerto Ricans alone have been able to elect the mayor of Miami, Maurice Ferré; and a congressman from the city of New York—Herman Badillo.

What is more important, both Democrats and Republicans in the mainland now recognize the Spanish potential in local and national politics, encouraging the nomination of Spanish candidates for public office; and participation in the different levels of party organization.

The possibilities for Hispanic-Americans in this field are infinite, depending only on the availability of good candidates, and the willingness to work and propagandize. In this way, they are following the footsteps of Italians, Irishmen and Jews, who for a long time have dominated the scene.

One could name so many other areas in which the Spanish-Americans are right now becoming a surging force; but let us see for a moment the other side of the question: what the Hispanics are learning from their neighbors in the community.

The first great lesson is one in democratic government. The newcomer can feel its impact all around him. The art of providing for legal order and to improve social and political institutions does not depend on the authority of one man deciding by himself what is to be done. On the contrary, from the local levels of the township or county, to the Na-

tional levels of Congress and the White House, the will of the majority, the will of the people, is the decisive factor for all planning, for all government action.

The immigrant trying to make a living in this country—whether Hispanic or not—soon learns the respect that should be accorded to democratic institutions; soon learns of his rights, but also of his obligations as a citizen, and a political behavior to which he was not generally exposed to: the welfare of the community as prime objective for the rulers.

As an individual, he is also taught the postulates of equality among all men.

In the final count, it is a matter of human rights and social justice, two concepts which acquire new meaning under the democratic system of life.

Technology, a creature of modern times which has sprung with tremendous vitality in the United States, has also emerged lately as a field of learning, emphasizing the importance of industrial skills or manual labor vis a vis the humanities and the liberal arts.

Here is a community dedicated to the proposition that work is something to be proud of and worth perfecting for the benefit, not only of the individual, but the whole group. New skills are useful; and every type of work is vital for progress. There are no humble tasks any more. Every activity has its own dignity and its own important place. The concept that labor is demeaning, at one time prevalent among nobility, has given way to the American dream of working your way up the ladder of success. This idea has become significant for the Spanish immigrant.

Let me then say a few words about my own people, the Puerto Ricans, themselves a unique group by their own right within the Spanish community.

In general, the Puerto Rican is hospitable, friendly, very emotional and very proud of his heritage, his language, his customs and traditions. To him, family ties are important and togetherness is essential; and his Spanish language is life itself. Wherever he goes, he carriers with him the notion of special delicacies such as pasteles, rice and beans, roast pork. He still plays the Spanish guitar and drinks his rum straight.

There are certain undertakings in which Puetro Rico has become a pioneer, leading not only the rest of the nation, but also other progressive countries of the world.

Public funding of political parties is one; the concept of condominium, or co-ownership of real property, is another. Puerto Rico had condominiums in operation long before the mainland ever heard the word; or maybe thought it meant some devilish contraption. No-fault insurance is the third. While the nation still debates whether to have it or not, it has already been successful in Puerto Rico for many years.

There are many signs which indicate the up and coming influence of the Hispanic in the United States.

We are proud to be contributing our share to the American society; we have much to receive and much to offer in our respective communities, where—as Boorstin says—we are several, and yet one; bound by the force of togetherness.

Mr. PEASE. Mr. Speaker, Hispanic heritage is rich in artistic, educational, and scientific values. It has permeated our national history for hundreds of years and is alive today in communities across the country.

I am pleased to contribute to the celebration of National Hispanic Week. The special values and traditions of Hispanic culture flow through our family and community lives, giving us a common cultural bond with the Spanish-speaking countries. I represent one of the many Hispanic communities in the United States, and am particularly proud of their contributions to Lorain, Ohio.

It is the culture, the Hispanic approach to life that adds so much to our universal heritage. The contemporary author Jose Ortega y Gasset captured the essence of this special contribution. "Culture is not life in its entirety, but just the moment of security, strength, and clarity."

I am pleased to add my recognition of National Hispanic Heritage Week.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Puerto Rico (Mr. CORRADA).

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Indiana?

There was no objection.

HOUSE CONSIDERATION OF H.R. 3

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, it is my understanding that H.R. 3, the medicare-medicaid antifraud and abuse amendments, might be scheduled for floor consideration during the week of September 19.

The complex nature of the medicare and medicaid programs as well as the impact of changes in one program on the operation of the other program have necessarily required close consultation between the legislative committees throughout the development of this bill.

To allow for the necessary consultation and evaluation of the impact of changes in these multibillion-dollar programs, but at the same time to allow the House to work its will on the bill, on August 5, the Rules Committee recommended a rule allowing all germane amendments to the bill to be considered as long as they are published in the CONGRESSIONAL RECORD that is available 48 hours prior to their consideration.

Since H.R. 3 could be scheduled as early as Wednesday of next week, I take this opportunity to remind Members that amendments should be published in the RECORD no later than Friday, September 16.

NEW FREEDOM OF INFORMATION ACT CASE LIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, as chairman of the Government Information and Individual Rights Subcommittee, I would like to call the attention of the Members to an extremely useful list of court decisions under the Freedom of Information Act, which has just been provided to me by the Department of Justice's Freedom of Information Committee. One of the significant features of the Freedom of Information Act is its granting of the right to citizens to go to court to obtain review of agency denials of information. This review is an important check on the improper withholding of documents from the public. In addition, the resulting court cases provide both the Government and the public with guidance on interpreting the FOIA.

Copies of this updated list of cases pending or decided under the Freedom of Information Act can be obtained by writing Mr. Robert L. Saloschin, Chairman, Freedom of Information Committee, room 5234 Department of Justice, Washington, D.C. 20530.

I want to commend Mr. Saloschin of the Office of Legal Counsel who, as Chairman of the FOI Committee, has put together this compilation, which updates the earlier January 1977 edition of the FOI case list. The list is cross-referenced for easy use. It is a valuable research tool for those interested in effectively using the act.

TRIBUTE TO LAW ENFORCEMENT OFFICIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, at a time when our law enforcement agencies, as well as so many of our other institutions, are suffering loss of public confidence, it serves us well to be reminded that they are staffed with skilled, dedicated professionals devoted to the security and peace of mind of the citizens of our country. The family of Cynthia Spencer Raymond, in the village of Greene, N.Y., recently, and tragically, had occasion to experience the quality of our law enforcement agencies and of the officials who man them. Their letter to me expresses, in the most direct and heartfelt way, their gratitude to, and admiration for, the local, State, and Federal officials who helped the family, and the community, through a period of terrible distress while following the slimmest of leads with imaginative police work and selfless cooperation to bring the case to a final conclusion. At this point I want to include in the RECORD the letter to me from the Raymond family.

JUNE 28, 1977.

Hon. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. RODINO: Our family has just experienced a terrible tragedy. Cynthia Raymond (wife and mother) was abducted on the morning of June 1, 1977. Seven days later her body was found and the murderer was apprehended. This letter is written to you in an attempt to convey our praise for the efficiency of the Federal Bureau of Investigation and our deep appreciation for the manner in which they, along with the State and local police, conducted themselves as individuals.

Our family, we believe, was typically American in our feelings toward the police before this terrible experience. Our perception ranged from quite negative to passive indifference; from "those nasty men in uniform who pass out speeding tickets" to "mechanical people who know only what's in the rule book".

In the twelve days that followed her dis-

appearance we had personal contact with the police covering a very broad range. There were uniformed security officers at the entrance of our driveway a good distance from our home, searchers scouring the woods surrounding the house, interviewers asking the same questions over and over again, live-in security officers around the clock and lastly the officers in charge who gave us daily progress reports and finally communicated the tragic ending. This experience changed our feelings about police officers dramatically.

We learned first hand about the very efficient business side of police activities and even more importantly about the human side.

Our family are all knowledgeable about efficient well-managed business organizations as we are all employed in business. However, none of us have seen or experienced anything to compare with the thorough, well-organized, cooperative and meticulous methods, all of which are the backbone of the effectiveness with which police carry out their charge of preserving law and order and protecting the lives of the populace.

On the human side, we learned that police officers are real people. They have tremendous understanding, compassion and camaraderie. Those with whom we had direct contact, ranging from regular visits for reports or questions to around the clock security for the full twelve days, were extremely sensitive to our needs as a family while still able to carry out their official duties in a very professional manner.

We also learned that many of the teams were composed of men who had never worked together before and in many instances were meeting for the first time. In spite of, or perhaps because of, this condition, the team work was tremendous.

The Village of Greene is small with a population of about 2,000. The Raymond Corporation has over 1,000 people on the payroll. The effect of over 120 plain clothes and uniformed police on a small community like Greene had a very substantial impact on the daily lives of these people. The descriptions of the police activities and the compliments we have heard since would fill a book, but more importantly we have not heard a single criticism or uncomplimentary remark.

There is no adequate way for us to express the full depth of our feeling in this letter. We only hope that in a small way it will convey our thanks through you to all who participated and furthermore to all of their brother officers who are daily performing similar tasks throughout our country.

Sincerely,

The RAYMOND FAMILY.

In conclusion, Mr. Speaker, I would like to commend the agencies and the men, at local, State, and Federal levels, who performed their duties so professionally and sympathetically for the Raymond family in their time of need. And I would especially like to thank the Raymond family for making the effort, at this most tragic period in their lives, to express their appreciation for the work of the officials who were there to serve them. It is in the perspective of the victims of crime that we are truly able to judge the quality and the worth of our law enforcement agencies.

NATION SHOULD BE ALLOWED LARGER SHARE OF OIL TANKER BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN of Oregon. Mr. Speaker, we will soon have the opportunity to vote on vitally important, landmark legislation to strengthen our Nation's merchant marine. This bill, H.R. 1037, would allocate the carriage of up to 9.5 percent of our oil imports to U.S.-flag merchant vessels.

The enactment of this legislation will provide numerous important benefits to the United States. Our security will be strengthened as we reduce our almost 100 percent dependency on foreign-flag and manned vessels for the carriage of our oil imports. Equally important, the increased use of American vessels will improve our balance of payments position by reducing the dollar outflow of foreign shipping services.

The construction, operation and repair of the U.S.-flag vessels to carry the allocated share of oil imports will serve the dual purposes of generating new employment in the maritime and related industries at no cost to the Federal Government, and preserving existing jobs for American workers in these industries. Significantly, 28 percent of America's shipyard workers and 17.5 percent of America's shipboard work force are members of minority groups who are already the hardest hit by unemployment. Further, the employment of American workers and the use of American vessels will generate individual and corporate tax revenues for U.S. taxing authorities.

During the 1976 Presidential campaign, Jimmy Carter expressed his commitment to a strong American merchant marine and pledged his support for a national cargo policy for U.S.-flag vessels. His commitment was made openly and on more than one occasion, and was in fact reflected in the platform of the National Democratic Party.

Since his election, President Carter has worked hard to arrive at solutions to cure this Nation's maritime problems and to increase the share of American cargo carried by American vessels. One solution is H.R. 1037, the bill we will soon be considering and which contains the President's proposals.

I have felt for many years that the unfortunate state to which our American merchant marine has fallen constitutes one of the major defects in our national security posture. While we have a great airborne capability to moving troops quickly to any place in the world, the ability to operate effectively once there, depends upon prepositioned supplies, most of which must move by surface transportation.

The legislation was reported by the House Merchant Marine and Fisheries Committee with the support of a majority of that committee's Republicans. These members, and I am sure most others, are aware that the strength and security of this Nation depends in large measure on having a commercial shipping capability under our own flag and manned by our citizens to carry the commerce so essential to this Nation in time of peace and war.

An editorial appearing in the Sunday Oregonian on August 7 puts this entire issue into proper perspective and I urge all my colleagues to read and consider its content before we vote on this vital bill:

KEEPING PROMISES

Republican leaders have accused President Carter of the ultimate political sin—trying to keep a campaign promise.

The three top GOP leaders, Sen. Howard Baker, Rep. John Rhodes and William Brock, the Republican national chairman, have conjured up a "bidding scandal" because the President has supported a pending "cargo preference" bill that would require that 9.5 per cent of all oil imported into the United States arrive in American tankers.

The Republicans see a "blatant political payoff" in the President's support of the bill after making a campaign promise to back some form of cargo preference legislation of the type that had been vetoed by President Ford on two occasions. The maritime unions, which along with the industry supports the legislation because it would provide deck and ship building and repair jobs, gave the Carter campaign an estimated $100,000. This is a small sum by presidential campaign standards.

President Ford's vetoed bills would have required that 30 per cent of the imported oil be carried in American tankers. The maritime industry, in seeking only 9.5 per cent, has drastically lowered its expectations, along with the costs that would be paid by American oil consumers.

The Republicans charged that these costs would run to $2 billion a year and would be reflected in increases of 2 cents a gallon on the price of heating oils and gasoline. The administration estimates costs of only $110 to $180 million a year, coming after the 9.5 per cent is reached in five years. American ships now carry 3.5 per cent of the foreign crude entering U.S. ports.

There is the question of how much the bill would violate so-called free-trade concepts, along with various treaties and any pledges made by the Carter administration at the London summit last May.

But the fact remains that the nation should have a larger share of the oil tanker business, even though it has been argued within both the State and Defense departments that the trippling of the U.S. share of the tanker business would not "on balance" be beneficial to national security. Defense properly put its interests on secured sources of oil rather than on the means of shipping it. This would seem to ignore the lessons of World War II when both Japan and Germany had "secure" oil sources, but could not deliver the product because of allied interdiction

President Carter believes it is in the country's interest to increase the size of the American tanker fleet. Not all political promises are made in heaven, but this is one that he should be allowed to keep

THE NEED FOR LABOR LAW REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Tennessee. Mr. Speaker, it is this country's national labor policy to grant workers the freedom to organize and join a union. This policy has been undermined by those who are unwilling to abide by the National Labor Relations Act. The promises of that Act have become meaningless for many workers. The case of the workers at Matlock Truck & Body Trailer Corp. in Nashville, Tenn., demonstrates the need for labor law reform—see 94 LRRM 2456, 2463.

An election to determine union representation was held at Matlock on July 9,

1970. However, the union filed objections with the National Labor Relations Board to tactics Matlock used to interfere with the election. Upon investigation the Board found that the company had engaged in several unfair labor practices, including the illegal discharge of three workers. The president of Matlock had informed one worker involved in organizing that he was "going to fire all the troublemakers." Because of these violations the election was set aside by the Board. A second election was held in July of 1972, 2 years after the employees first began their attempt to organize. The union won this election and was officially certified by the Board the following month as the exclusive bargaining representative of the company's employees.

The company refused to bargain, and filed an appeal with the Board. In April of 1973, the Board again ruled against the company and the following year, a U.S. court of appeals affirmed the Board.

Following this court order, the company appealed to the Supreme Court. When their appeal was turned down, the union and company representatives finally sat down at the bargaining table on November 26, 1974, 4 years after their workers' first organizing efforts. Employees at the company had already been on strike over 4 months in protest of the company's actions.

At their fourth meeting, the company presented their list of contract proposals. The list contained "unreasonable, unduly oppressive and patently illegal terms," according to later court proceedings. The parties met seven more times, but it appeared that the company was unwilling to seriously bargain. Its proposals were a sham and by a unanimous vote, the striking workers decided that "if no significant change in the attitude of the company occurred, the union would break off negotiations and depend upon the NLRB and the courts to help resolve the situation."

On March 22, 1976, a Special Master appointed by the court of appeals found the company in contempt of court. According to the decision, the case revealed:

> A manifest intransigence on the part of the Company in refusing throughout seven consecutive bargaining sessions to so much as consider mollifying its position or discussing alternative proposals with any seriousness.

The court's representative found impermissible and illegal the company's proposal to ban employees from filing unfair labor practice charges. During these proceedings, a contract was finally negotiated and signed—fully 6 years after the first election.

Matlock Truck Body & Trailer Co. is one of a number of companies who have discovered how to utilize to their benefit the cumbersome procedures for enforcing the National Labor Relations Act. The sole remedy for refusing to bargain is an order directing good faith bargaining; yet by refusing to bargain for as long as possible a company can subvert its employees' organizing attempts and ultimately destroy the union.

The imbalance in the law must be corrected, and I believe the Labor Law Reform Act of 1977 will go a long way toward doing this. We need a suitable remedy for refusals to bargain on initial contracts, when the employees' organization is weakest and most vulnerable. Such a remedy would provide the workers with compensation calculated to make up for that amount lost due to the company's unwillingness to bargain and reach agreement. Under section 8 of H.R. 8410, the amount would be the difference between what the workers earned during the period of the unfair labor practice and the amounts earned by employees in similar industries under contracts negotiated in the quarter during which the refusal to bargain began. The source of this settlement would be the Bureau of Labor Statistics average wage and settlements quarterly report of major collective bargaining settlements.

The expedited procedures under H.R. 8410 would relieve some of the problems caused by firms such as Matlock. The original Wagner Act set out to encourage the friendly resolution of industrial disputes between employers and employees by restoring equality of bargaining power. I believe this equality is essential, and I join the administration in urging Congress to pass legislation to reform our national labor laws.

BILL TO ESTABLISH AN ARBITRATION BOARD TO SETTLE DISPUTES BETWEEN ORGANIZATIONS OF SUPERVISORS AND OTHER MANAGERIAL PERSONNEL AND THE U.S. POSTAL SERVICE, SEPTEMBER 15, 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, today I am introducing a bill which will establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service. I would like to bring to the attention of my colleagues the following information necessary to a complete understanding of this bill supplied by the National Association of Postal Supervisors:

INFORMATION ON BILL

WHY IS THIS LEGISLATION NECESSARY?

To understand the need for this legislation, it is necessary to go back to the events surrounding and following the enactment of the Postal Reorganization Act of 1970.

Postal Reorganization—Section 1004 of Public Law 91-375, the Postal Reorganization Act of 1970, provides for a "program for consultation with recognized organizations of supervisory . . . personnel . . . such organization . . . shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory . . . employees."

This language resulted after resolving the differences in conference between the House and Senate passed versions of postal reorganization. (Conference Report 91-1363, August 3, 1970, pages 82-83.)

Post Postal Reorganization Act efforts—While the supervisory organization was not totally satisfied with the compromise worked out by Congress, it nevertheless decided to make such "consultation" work through the concept had been opposed throughout by the Postal Service.

Their good faith efforts were short lived. Management instituted the ill-conceived and poorly implemented Job Evaluation Program without prior meaningful consultation with the supervisors' organization. Apparently "consultation" to top management meant "take it or leave."

Faced with top postal management's total disdain for Section 1004, supervisors had no choice. Through their organization, the National Association of Postal Supervisors (NAPS), they went to the Federal District Court for relief. The Court agreed that actual consultation had not occurred as required by law. The decision was appealed, but before an appellate decision could be handed down, a "compromise" was advanced by the then Postmaster General. A Letter of Agreement was entered into between NAPS and the USPS establishing the "mechanics of consultation." The letter turned out, as events were later to prove, to be meaningless.

Court continues to uphold NAPS—Three times since the first court case, NAPS has been compelled to take the USPS to court to challenge its arbitrary and capricious actions in establishing policies affecting supervisory organization members. Each of the three times NAPS has gone to court, at great expense, the position of the postal supervisors has been upheld by the court.

Confrontation not consultation—Since Postal Reorganization in 1970, top postal management, in its dealings with its supervisors, has followed, not a "policy of consultation," as required by law, but rather a "policy of confrontation." The supervisors' organization, NAPS, has attempted to ensure its membership that no policy will be implemented on a national scale which is arbitrary, discriminatory or capricious in its intent or application. NAPS has tried to work toward the goal of what is best for its membership—postal supervisors—and what is best for the United States Postal Service. Each step of the way, they have been met with inequitable proposals from top management complete with time frames established for full implementation without allowance for change through meaningful consultation. NAPS has been compelled to turn to the courts as its only recourse. NAPS has come to realize that in the long term, the only answer to "confrontation management" is the threat to management that its arbitrary actions will be exposed and subject to a rapid form of judicial review, i.e. arbitration. Without arbitration, management will continue to confront, and the timely and costly method of court review will continue.

STRAIGHT FACTS ON SUPERVISORY ARBITRATION

(1) Not collective bargaining—The bill does not give supervisors collective bargaining rights. Collective bargaining involves much more than the simple right to arbitrate. Arbitration and collective bargaining are not mutually inclusive. The right to arbitrate is used in all types of disputes between parties, not just labor disputes. It is an uncomplicated, inexpensive means of adjudicating disagreements between parties. It is, more importantly, notice to the parties of a contract, for example, that each party's actions can be reviewed by an impartial third party.

(2) Does check irresponsible actions by top management—The bill does give supervisors the right to arbitrate the arbitrary or capricious nature of any management decisions affecting them nationally.

(3) Arbitration allows more reasonable means—The bill does not give supervisors a new right to challenge management's decisions. Supervisors, through their organization, NAPS, presently may challenge the USPS policies affecting them through the courts and have successfully done so four times. The bill does provide a less expensive and more efficient means, i.e. arbitration, of being certain that management's policy decisions for supervisors are equitable.

(4) Arbitration is a deterrent and is not costly—The House Committee Report on similar legislation, H.R. 7132, estimates that arbitration for postal supervisors, if enacted into law, would cost $50,000 in 1978, $33,000 in 1979, and $10,000 for each of the three years thereafter. We do not argue about the above estimates as they are based upon substantial unknowns. We do know, from experience, that the cost of pursuing justice through the court system makes the above costs look like a bargain, but it is important to bear in mind that historically the availability of arbitration does cause parties to act more reasonably and more equitably in initially presenting their proposals. Arbitration does act as a deterrent to arbitrary action and thereby avoids the cost of arbitration.

(5) Arbitration concept is not new to United States—Further criticism of this bill has been based on the Postal Service's assertion that arbitration of management's decisions is unheard of in the United States. Some vague state court decision is cited by Postal Service lobbyists, only in part, in support of this contention. This opposition is reminiscent of the cries heard from management against all new concepts advanced to better the lives of those not part of top management. It was espoused against collective bargaining in the early 1900's, against workmen's compensation, against social security, and on and on. The merits of a concept should be judged without regard to the age of the concept. If age were a compelling criteria, no new ideas would ever be born. The worth of a concept is whether it is sound, reasonable and equitable. Does it solve real problems in a reasonable way? The supervisors' arbitration bill, does just that.

SUPERVISORS DESIRE ONLY GOOD POSTAL MANAGEMENT

The Postmaster General and other USPS top management officials have termed NAPS as a "so-called management organization," this phraseology indicating their distaste for middle management/supervisors seeking a higher authority during policy disputes. USPS top management has accused NAPS of "wanting the best of both worlds"—management and union.

Postal supervisors want very much to be a part of the postal management team, to lend their expertise which has been acquired over the years in post offices throughout the nation, and to take part in building and managing a better Postal Service.

USPS has not allowed this, but has subjected the supervisors to token consultation and confrontation management. This bill, which would provide a program of arbitration, is not an attempt to tip the scales of justice in favor of one side; it is an attempt to right the scales and allow an impartial third party to rule on policies which are called into question. Why should reasonable men fear or oppose such a program ?

Critics of this legislation assert that because supervisors are part of management, they cannot challenge management decisions as they apply to them. This charge is best answered by the language contained in the Senate Report on the Postal Reorganization Act:

"For employees who are truly a part of the management of the Government, the argument that consultation is all that is either necessary or desirable may have some validity; but employees in the lower levels of supervision or administration in the postal service are not sufficiently separated from the nature of employment of those whom they supervise to justify withholding from them some degree of active representation in the development of employment programs which affect and, in fact control their livelihood. The supervisor on the workroom floor is an integral part of the postal delivery system. To deprive him of active voice through his chosen representatives in the development of programs affecting him would be unfair to him and not in the best interest of the postal services."

CONCLUSION

Why does top postal management really oppose this legislation? Why does it fear the enactment of this arbitration concept? If, in fact, top postal management were introducing sound, reasonable policies for its supervisory personnel, it would not oppose arbitration. Its desires would be that such policies be examined by every possible means, looked at by every critical eye, so that its policies would, in the last analysis, be fair, equitable and reasonable, resulting in a better managed work force and a better run Postal Service. What does top postal management fear from arbitration? It fears the clear light of day.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to inform my colleagues in the House of my intention to vote last Thursday, September 8, in support of the Addabbo amendment to the conference report on H.R. 7933, the Department of Defense appropriation bill. The Addabbo amendment was designed to delete funds for the production of the B–1 bomber. However, due to a mechanical failure in the recording studio while I was on my lunch break I was unable to record my vote.

Nevertheless, I have long made clear my opposition to the B–1 bomber on grounds that it is an extremely costly weapon which will not truely enhance the defense of our Nation. I believe that the Addabbo amendment supporting the deletion of the B–1 bomber production funds brings to a halt this potentially extravagent program and will serve the long term security interests of the United States. I therefore, wish now to register my support for the amendment.

DIVERSITY OF CITIZENSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, today I am introducing legislation to amend section 1332 of title 28, United States Code, to reduce the jurisdiction of the U.S. District Courts in actions between citizens of different States. Specifically, this bill would reduce the diversity jurisdiction of the Federal district courts by precluding a plaintiff from invoking such jurisdiction in any district court located in a State of which he is a citizen.

The Attorney General has requested this legislation, formulated by his new Office for Improvements in the Administration of Justice, and I am pleased to sponsor it. In his letter to you, Mr. Speaker, the Attorney General aptly observed:

> The major historical justification for diversity jurisdiction was the belief that persons who transacted business in states other than their own might not receive impartial justice in the courts of those States and that the free movement of commerce between the states might thereby be impaired. To obviate these possibilities, Congress gave federal court jurisdiction to decide legal controversies between citizens of different states. It seems clear, however, that even if this historical justification has validity today, it would not apply where suit is brought in the state of which the plaintiff is a citizen.
>
> Moreover, it is plain that diversity actions brought by local plaintiffs contribute significantly to congestion in the district courts. Recent studies indicate that more than half of the diversity cases filed in the district courts are brought in the plaintiff's own state. Redirection of these cases by enacting this proposal could, therefore, result in reducing the caseload of those courts by as much as 10 percent.
>
> In sum, this proposal could have a significant impact on the civil docket of the district courts without conflicting with the historical justification for diversity jurisdiction.

I agree with this excellent analysis.

During hearings held in June and July of this year on the general issues of the State of the Judiciary and Access to Justice, my subcommittee learned that in approaching the problem of access to the Federal courts, we must be concerned about the allocation of a scarce resource: Article III Federal judges. These judges, considering the magnificent job that they have done throughout our country's history, especially in enforcing the rights of those groups of people underrepresented in the legislative and executive branches, are an extremely valuable resource.

All of the witnesses who appeared before us, including the Attorney General himself, emphasized this point. As Vice President MONDALE recently stated in a speech to the Second Judicial Circuit Conference on September 10, 1977:

> Federal judges . . . have been on the cutting edge of the fight for social justice in our nation. In recent decades, [their] courtrooms have become the arena where black Americans and other minorities, the poor, women, and all those denied the full promise of America have come to claim their rightful place.

The role of Federal judges, in this regard, cannot be overemphasized.

As to what to do in terms of allocating this precious commodity two of our witnesses spoke a common language. The Honorable Shirley Hufstedler, Circuit Judge, Ninth Circuit Court of Appeals, and Prof. Burt Neuborne, professor of law, New York University, both spoke in terms of allocation of scarce resources. Their language is not a new one. See, Posner, "An Economic Approach to Legal Procedure and Judicial Administration," 2 J. Legal Studies 399 (1973); Landes, "An Economic Analysis of the Courts," 14 J. Law & Econ 61 (1971); Hufstedler, "New Blocks for Old Pyramids: Reshaping the Judicial System," 44 S. Cal. L. Rev. 901 (1971); and Hazard, "Rationing Justice," 8 J. Law & Econ 1 (1965).

It does bear repetition here, however, because of the relationship to diversity of citizenship jurisdiction. Since judicial time and energy expended by the overloaded Federal courts is clearly a commodity being competed for by various groups in our society, we in Congress are obligated to weigh the demands against the resources. Then we must assign priorities based on needs, and ration access accordingly. It is true that we can also expend judicial resources by creating

additional article III judges and we can substitute dispute settling institutions or devices in lieu of the article III judge. Both of these devices, in the form of the omnibus judgeship bill and the Magistrates Act of 1977, are being addressed by the 95th Congress.

They should receive serious consideration, and so should conservation of judicial resources. Nonetheless, there is growing concern that we cannot continue to indefinitely increase the size of the Federal bench. Likewise, we cannot substitute it out of existence. And conservation is of limited utility.

Rationing, therefore, becomes an important tool. Its cost is low, it creates little hardship to those involved, and it does not require structural change. As expressed by Judge Hufstedler in a statement with which I entirely agree:

Conceptually, the easiest part of the task is to enforce a limit of one trial court to a customer and to insist that the only available court be the one in greater supply. In concrete terms that means the elimination of all overlapping jurisdictions within and between judicial systems. It means that federal diversity jurisdiction must eventually be eliminated absent very strong evidence that in some classes of litigation access to the federal courts is necessary to preserve an overriding federal interest. Aggregate federal judicial time will always be in scarcer supply than aggregate state judicial time because the states have 50 judicial pyramids and the federal system has only one.

It is for these reasons and those expressed above by the Attorney General in his letter to you, Mr. Speaker, that I sponsor this legislation. It is a necessary first step, involving little cost, to reduce the caseloads of the district courts, as much as 11 percent, and to allow them to be more accessible to those citizens who are most in need of their services.

With this analysis in mind, I have scheduled hearings before my subcommittee on diversity of citizenship jurisdiction and magistrates reform. The hearing schedule is as follows:

SCHEDULE FOR HEARINGS ON DIVERSITY OF CITIZENSHIP

JURISDICTION AND MAGISTRATES

September 21, 1977, Wednesday, 10 a.m., 2226 RHOB.

1. Thomas Ehrlich, President, Legal Services Corp.

2. Robert G. Begam, Past President and Chairman, National Affairs Department, American Association of Trial Lawyers.

September 27, 1977, Tuesday, 10 a.m., 2226 RHOB.

1. Senator Joseph Tydings, Member, Committee on Coordination of Judicial Improvements, Magistrate Lawrence S. Margolis, Chairman, National Conference of Special Court Judges, American Bar Association.

2. Pam Horowitz, American Civil Liberties Union.

September 28, 1977, Wednesday, 10 a.m., 2226 RHOB.

1. Daniel Meador, Assistant Attorney General; Paul Nejelski, Deputy Assistant Attorney General, United States Department of Justice.

2. Honorable Edward T. Gignoux (D., Maine) Chairman, Subcommittee on Federal Jurisdiction; Honorable Charles M. Metzner, Chairman, Committee on the Administration of the Federal Magistrates System. Judicial Conference of the United States.

September 29, 1977, Thursday, 10 a.m., 2226 RHOB.

1. Honorable Henry J. Friendly, Circuit Judge, United States Court of Appeals for the 2nd Circuit.

2. Professor Charles Alan Wright, University of Texas Law School.

In summary, ubiquitous court congestion and spiraling legal costs are not just a problem for Federal judges. In the words of Vice President Mondale:

They threaten to close the courtroom door on the very people who need judicial relief the most—the poor and the weak, middle income citizens, minorities and the powerless. The procedural logjam clogging our courts excludes millions of citizens for whom justice in the courts is the only hope of overcoming generations of prejudice and neglect. The inability to obtain legal services leaves millions more with no access to justice at all.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

Mr. FOUNTAIN. Mr. Speaker, I was absent from the House on account of official business for a portion of the session of Thursday, September 8, and for the session of Friday, September 9. As a result, I missed several roll call votes.

If I had been present and voting, I would have voted as follows:

THURSDAY, SEPTEMBER 8

Roll No. 522, the Coughlin amendment to the budget resolution to provide for tax credits for higher education; "yea."

Roll No. 523, the Caputo amendment to reduce budget outlays for South Korea; "no."

Roll No. 524, the Jacobs amendment to strike out all funds for South Korea; "no."

Roll No. 525, final passage of the concurrent budget resolution; "no."

FRIDAY, SEPTEMBER 9

Roll No. 526, the rule providing for the consideration of the ERDA national security authorization bill; "yea."

Roll No. 527, the rule providing for the consideration of the ERDA civilian research and development authorization bill; "yea."

Roll No. 528, the rule providing for the consideration of the Federal Banking Agency Audit Act; "yea."

Roll No. 529, the rule providing for the consideration of the Age Discrimination in Employment Act Amendments of 1977; "yea."

Roll No. 530, the rule providing for the consideration of the Earthquake Hazards Reduction Act of 1977; "yea."

Roll No. 531, the rule providing for the consideration of the National Climate Program Act of 1977; "yea."

Roll No. 532, passage of the Earthquake Hazards Reduction Act of 1977; "no."

Roll No. 533, passage of the National Climate Program Act of 1977; "yea."

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY RELATING TO CRIME AND UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary will begin this month a series of hearings on the relationship between economic factors, particularly unemployment, and crime and crime rates.

It is timely for the Congress and the public to examine in a comprehensive way the relationship between unemployment and crime. Though there is broad agreement that the two phenomena are closely related, the exact nature of the relationship has not been revealed. The human and social costs of both crime and unemployment are painfully evident, particularly in the light of the most recent reports on the unprecedented level of teenage unemployment in major American cities, and the devastating consequences.

Our inquiry will not be exclusively or even primarily an attempt to determine a statistical correlation between unemployment and crime. We will also be looking for recommendations for reducing the impact of unemployment on crime, particularly for reduction that might be brought about through the criminal justice process, such as reform of laws and practices relating to hiring of ex-offenders, diversionary employment programs for appropriate offenders, and early identification and assistance to delinquent youth prior to entry into more serious crime, to name just a few.

Testimony will be received from persons representing a wide range of disciplines, including administration officials whose responsibilities involve matters of crime and/or unemployment; law enforcement officials; economists, sociologists, criminologists, and others who have studied crime and unemployment; elected officials at the national, State, and local levels; business and labor leaders; and ex-offenders and persons involved in employment, counseling, and related programs.

These hearings will begin with 2 days of testimony on September 27 and 28, 1977, commencing each day at 10 a.m. in room 2237 Rayburn House Office Building.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

NATIONAL HISPANIC HERITAGE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ERTEL) is recognized for 5 minutes.

Mr. ERTEL. Mr. Speaker, the Resi-

dent Commissioner of Puerto Rico has stated very eloquently the contributions and the hopes of Spanish-speaking people as we are about to celebrate National Hispanic Heritage Week, Spanish-speaking Americans have contributed greatly to our culture and to the history of Pennsylvania and the Nation. I look forward, as I know all Americans do, to much more from our Hispanic brothers and sisters. By working together we can overcome the unique problems that confront Spanish-speaking Americans for the benefit of us all.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues two communications from the Export-Import Bank which have been referred to me as chairman of the Banking Subcommittee on International Trade, Investment, and Monetary Policy. The communications notify the Congress of two proposed Eximbank transactions to assist, first, in financing the acquisition, in the United States, and exportation to Mexico of goods and services required in construction of an 840-mile gas pipeline in Mexico; and second, in the purchase from United States suppliers of goods and services to be used in the operation of the Mexican public agency that is constructing the pipeline.

Section 2(b)(3) of the Export-Import Bank Act of 1945 requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In the first transaction, the Bank proposes to extend a loan of $340,000,000 to Petroleas Mexicanos (Pemex) to assist Pemex in financing the acquisition in the United States of goods and services, all of U.S. manufacture or origin, required by Pemex in connection with the construction of an 840-mile gas pipeline. Pemex is a decentralized public agency formed in 1938 and wholly owned by the Government of Mexico. Eximbank's participation will cover 85 percent of the total cost of U.S. goods and services to be supplied to the project. The loan will bear interest at 8.5 percent per annum, payable in 16 semiannual installments commencing March 31, 1980.

In the second transaction, the Bank proposes to extend a line of credit of $250,000,000 to Pemex to assist Pemex in the purchase from U.S. suppliers of goods to be used by Pemex in its operations. These operations consist of exploration and development, refinery improvement and expansion, and natural gas processing and production of basic petrochemicals. Eximbank's participation will cover 42.5 percent of the total cost of U.S. goods and services to be supplied. The credit will bear interest at 8.5 percent per annum, payable in eight semiannual installments commencing September 1, 1987.

I am inserting the letters from the Eximbank pertaining to these transactions at this point in the RECORD and I welcome any comments any of my colleagues may wish to offer concerning these proposed loans:

SEPTEMBER 9, 1977.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, House Committee on Banking, Finance and Urban Affairs, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank.

SEPTEMBER 9, 1977.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Mexico.

A. DESCRIPTION OF TRANSACTION

1. *Purpose*

Eximbank is prepared to extend a direct credit of $340,000,000 to Petroleos Mexicanos (Pemex) to assist Pemex in financing the acquisition in the United States and exportation to Mexico of goods and services, all of United States manufacture or origin, required by Pemex in connection with the construction of an 840-mile gas pipeline. The pipeline will run approximately 840 miles from Cactus, Chiapas State, to Reynosa, on the border of the United States. It is expected that U.S. pipeline companies will enter into contracts with Pemex for the purchase of gas to be transmitted through the pipeline.

It is presently estimated that the total cost of the pipeline and associated facilities will be approximately $1.5 billion. It is expected that the total cost of U.S. goods and services to be supplied to the project will be approximately $400,000,000, of which 85% will be covered by the proposed Eximbank credit and 15% will be provided by Pemex in the form of a cash payment.

It is anticipated that U.S. suppliers will furnish Pemex, among other things, large diameter pipe, valves, meters, large compression equipment, chemical process equipment, and technical services.

The obligation of Pemex to repay the Eximbank credit will be secured by such guarantees or other security, if any, as Eximbank may require.

2. *Identity of the parties*

Pemex is a decentralized public agency formed in 1938 and wholly owned by the Government of Mexico. It has the power to own property and carry on business in its own name. Its pricing, capital expediture and financing policies are subject to approval by the Mexican Government. Most members of the Board of Administration of Pemex are appointed by the President of Mexico. Pemex has responsibility for the operation and management of Mexico's oil and gas industry, which includes the exploration, production, refining, transportation and marketing of oil, gas and petrochemical products. Pemex also has responsibility for the development and operation of Mexico's basic petrochemical industry.

3. *Nature and use of goods and services*

It is expected that the type of goods which U.S. companies will be exporting will include large diameter pipe, valves, meters, large compression equipment and chemical process equipment. In addition, U.S. companies are expected to provide certain technical services, such as engineering design and equipment procurement for the sweetener and natural gas liquids recovery plants.

B. EXPLANATION OF EXIMBANK FINANCING

1. *Reasons*

The Eximbank direct credit of $340,000,000 will facilitate the export of approximately $400,000,000 of United States goods and services.

This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. None of the goods to be exported is in short supply in the United States.

It is anticipated that suppliers in most of the industrial countries will be submitting bids for the sale of goods and services for the project. Many if not all of such suppliers will be receiving strong support from the official export credit agencies in their countries. Eximbank has received information that the official export credit agencies of Canada, Japan and the United Kingdom are willing to provide 85% coverage for the same term as Eximbank is proposing, in certain cases with interest rates lower than the Eximbank rate.

The total estimated cost of the project is $1.5 billion. The Eximbank credit of $340,000,000 will finance $400,000,000 of U.S. procurement. Substantial additional financing will be required from private sources to cover the remaining costs of the project. This financing is expected to come principally from U.S. private sources in credits which will not be guaranteed by Eximbank. Because of the amount of private financing required and because of the direct competition from official export credit agencies of other countries, Eximbank is willing to extend credit for 85% of the cost of U.S. goods and services.

The proposed transaction offers substantial benefits to the United States because of the expected flow of gas through the pipeline to U.S. gas transmission companies for distribution to U.S. customers.

In view of the magnitude of the transaction, the repayment term, the existence of foreign competition and the benefit to the U.S. from the increased gas supply, Eximbank's credit is necessary to secure this sale for United States suppliers.

2. *The financing plan*

The total cost of United States goods and services to be purchased by Pemex is approximately $400,000,000 which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$60,000,000	15
Eximbank credit	340,000,000	85
Total	400,000,000	100

(a) *Eximbank Charges*

The Eximbank credit will bear interest at the rate of 8½% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) *Repayment Terms*

The Eximbank credit will be repaid by Pemex in 13 semiannual installments commencing March 31, 1980.

Sincerely,

JOHN L. MOORE, Jr.

SEPTEMBER 9, 1977.

DEAR MR. SPEAKER: Pursuant to Section 2 (b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Mexico.

A. DESCRIPTION OF TRANSPORTATION

1. Purpose

Eximbank is prepared to extend a line of credit of $250,000,000 to Petroleos Mexicanos (Pemex) to assist Pemex in the purchase from United States suppliers of goods and services totalling approximately $588,200,000, all of United States manufacture or origin, to be used by Pemex in its operations. In addition, it is contemplated that commercial banks will extend an additional credit of $250,000,000 to Pemex, which will not be guaranteed by Eximbank.

The obligation of Pemex to repay the Eximbank credit will be secured by such guarantees or other security, if any, as Eximbank may require.

2. Identity of the parties

Pemex is a decentralized public agency formed in 1938 and wholly owned by the Government of Mexico. It has the power to own property and carry on business in its own name. Its pricing, capital expenditure and financing policies are subject to approval by the Government of Mexico. Most members of the Board of Administration of Pemex are appointed by the President of Mexico. Pemex has responsibility for the operation and management of Mexico's oil and gas industry, which includes the exploration, production, refining, transportation and marketing of oil, gas and petrochemical products. Pemex also has responsibility for the development and operation of Mexico's basic petrochemical industry.

3. Nature and use of goods and services

The goods and services to be financed under the line of credit will be used in projects which Pemex will initiate in the next year and one half. The projects fall into three general categories: exploration and development operations, refinery improvement and expansion, and natural gas processing and production of basic petrochemicals.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $250,000,000 will facilitate the export of approximately $588,200,000 of United States goods and services.

This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Eximbank perceives no adverse impact on the United States goods and services to Mexico.

Manufacturers in nearly all the industrial countries are capable of supplying all or nearly all the goods and services to be purchased by Pemex for the projects described above. Eximbank has received information that the official export credit agencies in certain other industrial countries are offering lines of credit which in some instances contain interest rates lower than the Eximbank rate. Accordingly, in view of the amount of financing required for the proposed purchases of goods and services by Pemex, the repayment term and the existence of foreign competition, Eximbank's credit is necessary to secure these sales for United States suppliers.

2. The financing plan

Pemex can purchase U.S. goods and services totalling approximately $588,200,000 under this line of credit to be financed as follows:

	Amount	Percent of U.S. costs
Cash	$88,235,000	15.0
Eximbank credit	250,000,000	42.5
Private loans not guaranteed by Eximbank	250,000,000	42.5
Total	588,235,000	100.0

(a) Eximbank Charges

The Eximbank credit will bear interest at the rate of 8½% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms

The total credits of $500,000,000 will be repaid by Pemex in 16 semiannual installments commencing September 1, 1979. The first eight installments will be applied to repayment of the private loans and the last eight installments will be applied to repayment of the Eximbank credit.

Sincerely,

JOHN L. MOORE, Jr.

MONTHLY LIST OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The July 1977 list includes:

AGRICULTURE

The National School Lunch Program—Is It Working? PAD–77–6, July 26.

The Food Stamp Program—Overissued Benefits Not Recovered and Fraud Not Punished. CED–77–112, July 18.

Food and Agriculture Models for Policy Analysis. CED–77–87, July 13.

Letter report

Better planning could have prevented the need for the Agriculture Department to obtain a new computer system for the Fort Collins Computer Center. LCD–77–104, July 1.

COMMERCE AND TRANSPORTATION

Energy Conservation Competes with Regulatory Objectives for Truckers. CED–77–79, July 8.

Potential Problems that Should be Considered in Evaluating the Experimental Technology Incentives Program. PSAD–77–132, July 25.

Circumstances Surrounding Solicitations and Contract Award to Assist Minority Businesses. CED–76–153, September 7, 1976.

COMMUNITY AND REGIONAL DEVELOPMENT

Need for Fairer Treatment of Homeowners' Claims for Defects in Existing Insured Homes. CED–77–97, July 27.

Domestic Housing and Community Development: Issues for Planning. CED–77–102, July 20.

Letter reports

The Department of Housing and Urban Development needs to improve its procedures for using cost or pricing data in awarding negotiated noncompetitive contracts. PSAD–77–144, July 22.

HUD's procedures for establishing fair market rents for new housing units in Lancaster, Pennsylvania. CED–77–84, June 16.

EMPLOYMENT, TRAINING, EDUCATION, AND SOCIAL SERVICES

The Labor Surplus Policy: Is It Effective in Providing Government Contracts to High Unemployment Areas and Jobs for the Disadvantaged? PSAD–77–133, July 15.

GENERAL GOVERNMENT

IRS' Security Program Requires Improvements to Protect Confidentiality of Income Tax Information. GGD–77–44, July 11.

Administration of the Workers' Compensation Program, GGD–77–45, July 8.

Problems of the New National Bulk Mail System. GGD–76–100, Dec. 10, 1976.

How the Item Reduction Program of the General Services Administration Could be More Effective. LCD–76–459, July 11.

Procedures Used for Holding Architects and Engineers Responsible for the Quality of Their Design Work. LCD–76–333, July 14.

Secretary of the Senate Accountability as of March 31, 1977. GGD–77–66, July 13.

Examination of Financial Statements of the Pennsylvania Avenue Development Corporation for Fiscal Year Ended June 30, 1975, and the 15-Month Period Ended September 30, 1976. FOD–77–4a, July 20.

Mission Budgeting: Discussion and Illustration of the Concept in Research and Development Programs. PSAD–77–124, July 27.

The Customs Reception: Relatively Few Complaints But They Could Be Handled Better. GD–77–59, July 26.

Letter reports

The Congress should amend the Internal Revenue Code to extend the "innocent spouse" rule to community property situations. GGD–77–56, July 12.

Improvements needed in the Postal Service's self-service centers. GGD–77–75, July 18.

GAO comments on impoundments proposed by the President in his 13th special message to the Congress. OGC–77–22, July 22.

Review of constituent's allegations of inadequacies in Government procedures for collecting and paying claims from accidents involving Government vehicles. LCD–77–224, July 26.

How the General Services Administration can improve its procedures for handling repairs of damaged vehicles and accident claims. LCD–77–218, July 25.

The General Services Administration needs to improve its accounting for and reporting of accounts receivable from the public. FGMSD–77–29, July 27.

How the General Services Administration can improve procedures for awarding requirement-type contracts for repair of electrical equipment? PSAD–77–136, July 29.

Costs of Government public affairs activities. LCD–77–424, June 10.

Operations of the Lumni Indian School of Aquaculture, near Bellingham, Washington. HRD–77–108, June 17.

GSA procedures for sealed bid sales of surplus property. LCD–77–209, January 28.

HEALTH

Program to Pay Black Lung Benefits to Coal Miners and Their Survivors—Improvements Are Needed. HRD–77–77, July 11.

Food and Drug Administration's Program for Regulating Imported Products Needs Improving. HRD–77–72, July 5.

Letter reports

Need to protect workers from health hazards created by handling and using residual fuel oils which may contain benzene or other toxic substances. HRD–77–116, HRD–77–117, and HRD–77–118, July 5.

Do nursing homes in Florida, Georgia, Ohio, and Utah require contributions from the families of Medicaid patients as a condition of the patients' admittance or continued residence? HRD–77–90, May 26.

INCOME SECURITY

Efforts to Implement the Employee Retirement Income Security Act of 1974 by the Department of Labor. HRD–77–99, July 6.

Letter report

Actions by the Department of Health, Education, and Welfare to put into effect GAO recommendations to improve rehabilitation services to disabled Social Security recipients. HRD–77–120, July 7.

INTERNATIONAL AFFAIRS

The Investment Insurance Program Managed by the Overseas Private Investment Corporation. ID–77–49, July 26.

Impact of Population Assistance to an Asian Country. ID–77–10, July 12.

Letter report

The State Department should stop paying special allowances to inspectors from the Office of Inspector General of the Foreign Service for absences from the U.S. for periods of more than 30 days. ID–77–46, July 27.

NATIONAL DEFENSE

U.S. Army Facilities in Europe—Management Improvement Needed. LCD–77–313, July 1.

Improved Management of Computer Resources Needed to Enhance Marine Corps' Efficiency and Effectiveness. LCD–7–124, July 11.

Need to Apply Adequate Controls in the Army Standard Payroll System Prior to Implementation Defense-Wide. FGMSD–77–4, July 5.

Examination of Army Plans for Constructing a 105-mm Projectile Metal Parts Facility at the Lone Star Army Ammunition Plant, Texarkana, Texas. LCD–77–433, July 15.

Foreign Military Sales—A Potential Drain on the U.S. Defense Posture. LCD–76–455, July 25.

Issues Concerning the Proposed Sale of the Airborne Warning and Control System E–3 to Iran. PSAD–77–137, July 14.

Why the Army Should Strengthen Its Internal Audit Function. FGMSD–77–49, July 26.

Continuing Need to Establish Uniform Guidelines for Controlling and Accounting for Ground Vehicle Fuels. LCD–77–220, July 20.

Improvements Needed in Defense Programs for Training Transportation Officers and Agents. LCD–77–229, July 20.

Evaluation of the Navy Air Combat Fighter Source Selection. PSAD–76–77, March 4, 1976.

Letter reports

Target price of contract for full-scale development of two F–5F aircraft was overstated by about $3 million because the contractor, the Northrup Corporation, did not disclose current, complete, and accurate cost or pricing data prior to negotiations. PSAD–77–134, July 11.

The Department of Defense should establish a system to account for headquarters personnel on the basis of type of work performed. LCD–77–431, July 11.

Investigation of allegations of poor procurement practices at the Defense Fuel Supply Center. PSAD–77–146, July 25.

Air Force actions on GAO recommendations that cost comparisons be made for airfield pavement-marking programs. LCD–76–354, October 8, 1976.

GAO analysis of the size of the proposed Orlando Naval Hospital. MWD–76–127, May 3, 1976.

Contract for food service operations at Lackland Air Force Base. B–180966, October 4, 1976.

Cost of using Civil Service versus contractor labor for loading and unloading the GTS Admiral William M. Callaghan at the Military Ocean Terminal, Bayonne, New Jersey. B–171695, June 21, 1972.

NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

Department of Defense Air Pollution Control: Progress and Delays. LCD–77–305, July 18.

An evaluation of the National Energy Plan. EMD–77–48, July 25.

Outer Continental Shelf Sale 40—Inadequate Data Used to Select and Evaluate Lands to Lease. EMD–77–51, June 28.

Rocky Mountain Energy Resource Development: Status, Potential, and Socio-economic Issues. EMD–77–23, July 13.

Public Rangelands Continue to Deteriorate. CED–77–88, July 5.

Total Costs Resulting from Two Major Oil Spills. CED–77–71, June 1.

After Years of Effort, Accident Rates Are Still Unacceptably High in Mines Covered by the Federal Metal and Non-Metallic Mine Safety Act. CED–77–103, July 26.

Clarence Cannon Dam and Reservoir: Cost, Schedule, and Safety Problems. PSAD–77–131, July 18.

Environmental Protection Issues Facing the Nation. CED–77–92, July 8.

Water Resources Planning, Management, and Development: What Are the Nation's Water Supply Problems and Issues? CED–77–100, July 28.

Land Use Planning, Management, and Control: Issues and Problems. CED–77–101, July 28.

Evaluation of Forest Service Plans for Carrying out Activities of the Stockton, California, Regional Equipment Depot. CED–77–55, March 23.

Letter reports

The President may not have legal authority to change the Clinch River Breeder Reactor project from a program for the construction and operation of a liquid metal fast breeder reactor demonstration plant to one only for the systems design of such a reactor. OGC–77–21, June 28.

Accounting practices of two companies—Shell Oil and Houston Oil and Minerals—engaged in the domestic production of oil and natural gas. EMD–77–53, July 11.

Federal procedures for reviewing public land withdrawals—land set aside for special purposes—in Nevada and Idaho. CED–77–93, July 7.

Forest Service needs to improve procedures for timely collection of delinquent accounts. FGMSD–77–42, July 11.

REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

Antirecession Assistance is Helping But Distribution Formula Needs Reassessment. GGD–77–76, July 20.

VETERANS BENEFITS AND SERVICES

Veterans Administration Justification of Costs and Benefits of Proposed Computer System (Target). HRD–77–98, July 20.

Letter report

The Veterans Administration has not responded adequately to recommendations in GAO's October 1976 report on the VA's automated clinical laboratory system. HRD–77–122, July 12.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street, N.W., Washington, D.C. 20548. Phone (202) 275–6241.

THE SMALL BUSINESS GOVERNMENT CONTRACTING REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, I would like to draw the attention of my colleagues to a bill which I have recently introduced, the Small Business Government Contracting Reform Act (H.R. 8262). This legislation will provide additional assistance to small business concerns and enable them to fairly compete with large corporations for Government contracts.

Ninety-five percent of the business concerns in America are small businesses. Small businesses employ some 44 percent of the workforce and account for nearly 40 percent of the gross national product. Further, individuals and small firms account for at least half of all innovations and inventions in U.S. commerce, according to a 1975 study by the Department of Commerce and the Massachusetts Institute of Technology.

In addition to economic and technological concerns, the small, independently owned business contributes immeasurably to the social welfare of many smaller cities and towns in the United States. Rooted to its community, the local firm is often the backbone of civic contribution and well-being. While always a cornerstone of the American way of life, the small businesses have increasingly been taken for granted by Congress and the general public. The Federal Government has bailed out the largest corporations through a variety of subsidies yet simple neglect reflected in policies affecting small businesses has contributed to the doubling of small business bankruptcies in the past 8 years.

Considering that the Federal Government is the largest single customer in the world, it behooves us to insure the vitality of our free enterprise system by insuring the health of our small businesses. As such, the Small Business Contracting Reform Act will eliminate many of the unfair procedural advantages currently enjoyed by large businesses in bidding for Federal contracts. The small businesses of America do not need charity, Mr. Speaker, but they do need a fighting chance.

One very frequent obstacle encountered by small firms is the massive amount of paperwork involved in bidding for Government contracts. The Department of Transportation last year released a bid set of 150 pages for a short, musical jingle to instill safety habits in motorcyclists, yet the substantive language required only five lines. Another agency took up hundreds of contract pages for a simple paper-clip order.

Much of this paperwork is so complicated as to require the services of an attorney. Small businesses, unlike their giant counterparts, cannot afford to hire a highly trained legal staff to wade through reams of statutes, clauses, and subclauses. Alone in a sea of legalistic regulations—many of them seemingly irrelevant—the small business manager may often risk his or her entire enterprise merely over a misunderstood phrase. More often, however, small firms simply give up on bidding for Federal contracts.

Perhaps most important, H.R. 8262 requires simplification of the bid specification process, including both plain-

English summaries of relevant statutes and regulations, and the identification of an agency employee available to answer small business questions relating to each Federal contract under $100,000. Clear legal citations are required for all contracts over that amount.

Even the most concise and straightforward of bid sets is useless, however, if the information is never received, or if it is received too late for the formulation of a bid. Unfortunately, this also has been a major problem facing the small businesses of this country. It is not uncommon for small firms to find that time has already run out on them for a bid set request, even though they had just received the agency's information from the official Commerce Business Daily (CBD). Small firms generally must rely on either the CBD or sporadic mail notices for announcements of product or service procurements by the Government. Meanwhile, the large corporation is able to carefully plan its bid, well in advance of specified deadlines, based on precise information it has received from its Washington office. In some situations, hard copies of bid specifications have simply been unavailable to small concerns.

Clearly, real competition is absent and strong action is called for when Federal agencies remain callously indifferent to the basic informational needs of small businesses. H.R. 8262 provides for a minimum 30-day bidding period on all nonemergency Government procurement contracts. Further small business setasides shall be listed clearly in the CBD, and efforts shall be made by each agency to notify a firm of each relevant contract or subcontract available in the company's stated areas of interest.

Oftentimes, agency bid specifications limit bidding to those located in a specific geographical area or to one party in particular. Occasionally, such restrictions are totally irrelevant to the product or service desired. For example, a university in Massachusetts or California might be able to better perform a Government study than schools within 100 miles of Washington, D.C., and yet it can find itself disqualified due to its lack of proximity to the Capital.

My Contracting Reform Act requires that when such limitations exist, they must be openly and clearly justified as a matter of policy.

If the small business has managed to surmount the present obstacles and enters into a contract with the Government, the legal fees involved in any dispute with the agency might easily bankrupt the firm. Thus, a small business is too often in a position where it cannot effectively assert its procedural rights, and can easily be taken advantage of when simple and resolvable contract disputes arise. To address this problem, H.R. 8262 will provide arbitration panels for the readily available at the option of firms and agencies in disagreement.

To further rectify the present disparity by which 80 percent of Government procurement dollars go to big business, the following provisions are also included in H.R. 8262 and deserve thorough consideration by Congress.

First, each low bidder on a Government contract must demonstrate that small businesses are included in the subcontracting plan to the maximum practical degree. Thus, Federal agencies may withhold a contract from a company unless they provide adequate small business participation, by assuring that subcontracting firms will be selected on the basis of merit.

Second, each Federal agency shall establish ambitious, but realistic goals for small business involvement in Government contracting. These goals will be determined by the agency administrator after consultation with the Small Business Administration (SBA), and shall be used in the analysis of each agency's compliance with this legislation.

Third, an employee of the SBA shall be appointed to each agency with "watchdog"-liaison status. This person will oversee the specific agency's compliance with set-aside programs, and assure strict compliance with the procedural guarantees of this legislation to insure that small businesses are granted a fair break. Further, this SBA representative shall provide information and assistance to small business concerns with respect to Government procurement contracts offered by that agency and shall give quarterly reports on these matters to the SBA.

Fourth, a Small Business Procurement Advisory Committee shall be established in order to further the interests of small businesses through periodic recommendations to the Congress and SBA. This committee, appointed by the SBA Administrator, will advise the Small Business Administration and Congress on Government dealings with small businesses, will make annual reports on the subject, and will recommend any additional measures needed to protect small businesses in their contractual relations with the Government.

Mr. Speaker, we can look forward to increased vitality in our Nation's economy and social well-being when ailing small businesses are revitalized. This commonsense bill will open the door to millions of dollars through Government procurement contracts for thousands of small businesses, yet at minimal cost to the taxpayers.

A monopoly of information and access is no less noxious to an economic system based on free and open competition than a monopoly of any essential resource. A longstanding pattern of neglect can be reversed by the enactment of the Small Business Government Contracting Reform Act, H.R. 8262, representing a positive step by the Federal Government on behalf of small businesses and the American people.

For the benefit and convenience of my colleagues, a text of H.R. 8262 follows:

H.R. 8262

A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Government Contracting Reform Act of 1977".

PURPOSES

SEC. 2. The purposes of this Act are—

(1) to simplify the contracting procedures of the United States which relate to small business;

(2) to provide additional statutory protection to insure that a fair proportion of Government procurement contracts is let to small business concerns;

(3) to establish arbitration panels to solve problems arising from the dealings of small business concerns with Federal agencies having procurement authority; and

(4) to establish a Small Business Procurement Advisory Committee to provide better representation for small business concerns to the Congress and to the Small Business Administration.

SIMPLIFICATION OF GOVERNMENT CONTRACTING PROCEDURES

SEC. 3. (a) Except as provided in subsection (b), with respect to any Federal agency having procurement authority, the head of such agency shall—

(1) in the case of any Government procurement contract to be let by such agency which may not exceed $100,000 provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract;

(B) a copy and summary of each major Federal law or agency rule with which such concern must comply in performing such contract, including Federal laws and agency rules relating to environmental impact statements, air and water cleanliness requirements, and occupational and safety requirements; and

(C) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(2) in the case of any Government procurement contract to be let by such agency which may exceed $100,000, provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract; and

(B) adequate citations to each major Federal law or agency rule (as described in paragraph (1)(B)) with which such concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract—

(1) which is for services which are personal in nature; or

(2) which, including all subcontracts under such contract, will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(c) Documents and information required to be provided under subsection (a) shall be supplied, to the extent practicable, at the local level.

SOLICITATION AND AWARD LIMITATIONS

SEC. 4. (a) Except as provided in subsection (b), any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily shall be open for bidding until the later of—

(1) the end of a thirty-day period beginning on the date such notice is so published, or

(2) the date stated in such notice as the closing date for such bidding.

(b)(1) Subsection (a) shall not apply to any Government procurement contract to be let by any Federal agency with respect to which the head of such agency personally determines that emergency circumstances prevent compliance with such subsection.

(2) Subsection (a)(2) shall not apply to any Government procurement contract with respect to which an amended notice for bidding is published in the Commerce Business Daily not later than fifteen days before the

closing date for bidding stated in such amended notice.

(c) In the case of any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily—

(A) if such bidding is limited to only one person, such notice shall specify the law or rule under the authority of which such bidding is so limited; and

(B) if such bidding is limited to persons located in a certain region of the United States, such notice shall state the basis for so limiting such bidding.

(d) The Secretary of Commerce shall take such steps as may be necessary in order that all Government procurement contracts set aside for small business concerns under section 15 of the Small Business Act, and all awards of contracts to small business concerns, are published in a timely manner in the Commerce Business Daily.

(e) The Secretary of Commerce shall study the feasibility of, and to the extent practicable implement, the notification to any small business concern, on request of such concern, of all Government procurement contracts on which, or on any subcontract of which, such concern may bid.

GOVERNMENT CONTRACT ARBITRATION PANELS

SEC. 5. There is hereby established in the Small Business Administration such Government contract arbitration panels as the Administrator deems appropriate. Such panels shall provide an opportunity for resolving disputes between any small business concern and any Federal agency having procurement authority concerning any Government procurement contract which is let to such concern or which may be let to any such concern. Use of such panels shall be voluntary, and decisions of such panels shall be binding only to the extent that such concern and agency agree that such decisions are binding.

INCENTIVES FOR SMALL BUSINESS SUBCONTRACTING

SEC. 6. (a) Before the award of any Government procurement contract described in section 3(a)(2), the apparent low responsive bidder on such contract shall submit to the Federal agency letting such contract a small business concern subcontracting plan. Such plan shall describe the type and percentage of work under such contract which such bidder expects to be performed by small business concerns. Such plan and the bidder's compliance with other such plans under other contracts shall be considered by the head of such agency in determining the responsibility of such bidder for the award of such contract.

(b) No Government procurement contract shall be awarded to any bidder unless the head of the agency letting such contract determines that the small business concern subcontracting plan submitted under subsection (a) provides the maximum practicable opportunity for small business concerns to participate in the performance of such contract.

SMALL BUSINESS PARTICIPATION GOALS

SEC. 7. The head of each Federal agency having procurement authority shall, after consultation with the Administrator, establish goals for the participation of small business concerns in Government procurement contracts let by such agency. Such goals shall reflect realistically the potential of such concerns to perform such contracts and to perform subcontracts of such contracts.

SMALL BUSINESS REPRESENTATIVES IN FEDERAL AGENCIES

SEC. 8. An employee of the Small Business Administration shall be assigned by the Administrator to each Federal agency having procurement authority. Such employee shall—

(1) monitor the compliance of such agency with the small business set-aside program pursuant to section 15 of the Small Business Act;

(2) provide information and assistance to small business concerns with respect to Government procurement contracts let or to be let by such agency; and

(3) report to the Administration at the close of each calendar quarter on—

(A) the aggregate number and dollar amount of all contracts awarded by such agency to such concerns during such quarter, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively; and

(B) the aggregate number and dollar amount of such contracts which such agency set aside for small business concerns pursuant to section 15 of the Small Business Act, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively.

SMALL BUSINESS PROCUREMENT ADVISORY COMMITTEE

SEC. 9. (a) There is hereby established the Small Business Procurement Advisory Committee to be composed of thirteen members appointed by the Administrator. The Committee shall advise the Administrator and the Congress on matters relating to Government procurement contracts awarded to, or set aside for, small business concerns.

(b)(1) Any vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(2) Members of the Committee shall, while away from their homes or regular places of business in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(c) At the close of each calendar year, the Committee shall submit a report to the Administrator and to the Congress on its activities during such year. Such report also shall contain recommendations for new Federal legislation or agency rules which the Committee determines will improve the participation of small business concerns in the performance of Government procurement contracts.

DEFINITIONS

SEC. 10. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Committee" means the Small Business Procurement Advisory Committee established by section 9;

(3) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code; and

(4) the term "Government procurement contract" means any contract for the procurement of any goods or service by any Federal agency.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BLACK LUNG BENEFITS REFORM ACT RECEIVES ADMINISTRATION'S ENDORSEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. PERKINS) is recognized for 10 minutes.

Mr. PERKINS. Mr. Speaker, I expect that the House will next week take up H.R. 4544, the Black Lung Benefits Reform Act of 1977.

As my colleagues know, Representatives FRANK THOMPSON, JR., of New Jersey and IKE ANDREWS of North Carolina, will be offering an amendment in the nature of a substitute to H.R. 4544, which I and most of my colleagues on the committee are giving our wholehearted support to.

I believe the Thompson-Andrews substitute will attract widespread support and I was pleased today to receive the administration's endorsement of the substitute.

I am including the text of a letter from Secretary Ray Marshall in today's RECORD for the information of my colleagues:

WASHINGTON, D.C.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to advise you of the views of the Department of Labor on black lung legislation. As we have testified before your Committee, we favor reform of the black lung program.

It is our understanding that Representative Erlenborn will introduce an amendment in the nature of a substitute bill for H.R. 4544, the "Black Lung Benefits Reform Act of 1977." That substitute would return the black lung program to the States one year after its enactment. It would also absolve the coal industry of its liability for benefits under the Part C program with the Federal Government bearing the cost. We do not feel that such a bill is acceptable.

We are opposed to any legislation that returns black lung compensation exclusively to the States without sufficient safeguards to guarantee adequate compensation for all black lung victims. We also are opposed to any legislation that would increase Federal cost and further delay full coal industry liability for disease caused by that industry.

The Black Lung Act of 1969 was enacted because Congress recognized the failure of existing State workers' compensation laws to provide adequate compensation for coal workers' pneumoconiosis. State laws did not cover pneumoconiosis, made it virtually impossible to prove entitlement, or provided inadequate benefits.

The 1969 Act, as amended in 1972, provided for a return of the black lung program to the States when they met the standards established by Congress. No State to date has met those minimum standards—benefits continue to be inadequate in some States, and coverage restrictions continue to exclude many victims of black lung. Thus, as in 1969, the only way to guarantee continued proper coverage for black lung victims is the Federal program.

We agree with the concept of returning the black lung program to the States. However, such a transition is inappropriate until there is assurance that State workers' compensation systems will fairly compensate all black lung victims. To return black lung coverage to the States without adequate protections, as Congressman Erlenborn's bill would do, is to return to the situation which existed in 1969 and to turn our back on the Congress's and this Administration's commitment to the Nation's coal miners.

The Administration prefers that the House pass the Thompson-Andrews substitute which is closer to our stated objectives. We remain hopeful that most of our objectives can be achieved through accommodations in Conference between the Thompson-Andrews substitue and the Senate bill, S. 1538. We prefer the Thompson-Andrews substitute in the House and look forward to

working with you to achieve the goals we feel necessary to the program.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

ABA URGES GRAND JURY REFORM

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, on August 9, 1977, the American Bar Association officially endorsed a series of proposals to reform the grand jury system. As I have indicated on prior occasions, these recommendations parallel the provisions of H.R. 94, the Federal Grand Jury Reform Act of 1977, which I have introduced.

The Subcommittee on Immigration, Citizenship and International Law, which I chair, has already conducted 5 days of hearings on Federal grand jury reform, and we expect to proceed promptly to marking up this essential legislation. The action of the ABA in strongly urging legislative action should add impetus to our efforts.

For the use of the Members, I would like to insert into the RECORD at this point the full text of the recommendations of the American Bar Association, passed overwhelmingly on August 9, 1977:

CHICAGO, ILL.,
August 29, 1977.

Re Grand Jury Reform.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship and International Law, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the meeting of the House of Delegates of the American Bar Association held August 8–10, 1977 the attached resolution was adopted upon recommendation of the Section of Criminal Justice.

This resolution is being transmitted for your information and whatever action you may deem appropriate. If hearings are scheduled on the subject of this resolution, we would appreciate your advising Herbert E. Hoffman, Director of the American Bar Association Governmental Relations Office, 1800 M Street, N.W., Washington, D.C. 20036, (202) 331–2210.

Please do not hesitate to let us know if you need any further information, have any questions or whether we can be of any assistance.

Sincerely yours,

HERBERT D. SLEDD.

[As approved by the ABA House of Delegates, August 9, 1977]

[Only the Resolution Set Forth Herein Represents Official ABA Policy; the Accompanying Report Is for Background Purposes Only]

AMERICAN BAR ASSOCIATION: REPORT TO THE HOUSE OF DELEGATES, SECTION OF CRIMINAL JUSTICE

RECOMMENDATION

The Section of Criminal Justice recommends adoption of the following resolution:

Be it resolved, That the American Bar Association support in principle grand jury reform legislation which adheres to the following principles:

1. Expanding on the already-established ABA policy, a witness before the grand jury shall have the right to be accompanied by counsel in his or her appearance before the grand jury. Such counsel shall be allowed to be present in the grand jury room only during the questioning of the witness and shall be allowed to advise the witness. Such counsel shall not be permitted to address the grand jurors or otherwise take part in proceedings before the grand jury. The court shall have the power to remove such counsel from the grand jury room for conduct inconsistent with this principle.

2. Every witness before a grand jury shall be informed of his privilege against self-incrimination and right to counsel and shall be advised that false answers may result in his being charged with perjury. Target witnesses shall be told that they are possible indictees.

3. No prosecutor shall knowingly fail to disclose to the grand jury evidence which will tend substantially to negate guilt.

4. A prosecutor should recommend that the grand jury not indict if he or she believes the evidence presented does not warrant an indictment under governing law.

5. A target of a grand jury investigation shall be given the right to testify before the grand jury, provided he/she signs a waiver of immunity. Prosecutors shall notify such targets of their opportunity to testify unless notification may result in flight or endanger other persons or obstruct justice; or the prosecutor is unable with reasonable diligence to notify said persons.

6. The prosecutor shall not present to the grand jury evidence which he or she knows to be constitutionally inadmissible at trial.

7. The grand jury shall not name a person in an indictment as an unindicted co-conspirator to a criminal conspiracy. Nothing herein shall prevent supplying such names in a bill of particulars.

8. A grand jury should not issue any report which singles out persons to impugn their motives, hold them up to scorn or criticism or speaks of their qualifications or moral fitness to hold an office or position. No grand jury report shall be accepted for filing and publication until the presiding judge submits *in camera* a copy thereof to all persons named or identifiable and such persons are given the opportunity to move to expunge any objectionable portion of said report and have a final judicial determination prior to the report's being published or made public. Such motion to expunge shall be made within ten days of receipt of notice of such report. Hearings on such motions shall be held *in camera.*

9. The grand jury should not be used by the prosecutor in order to obtain tangible, documentary or testimonial evidence to assist the prosecutor in preparation for trial of a defendant who has already been charged by indictment or information. However, the grand jury should not be restricted in investigating other potential offenses of the same or other defendants.

10. The grand jury should not be used by the prosecutor for the purpose of aiding or assisting in any administrative inquiry.

11. Witnesses who have been summoned to appear before a grand jury to testify or to produce tangible or documentary evidence should not be subjected to unreasonable delay before appearing or unnecessarily repeated appearances or harassment.

12. It shall not be necessary for the prosecutor to obtain approval of the grand jury for a grand jury subpoena.

13. A grand jury subpoena should indicate the statute or general subject area that is the concern of the grand jury inquiry. The return of an indictment in a subject area not disclosed by the grand jury subpoena shall not be a basis for dismissal.

14. A subpoena should be returnable only when the grand jury is sitting.

15. All matters before a grand jury, including the charge by the impaneling judge, if any; any comments or charges by any jurist to the grand jury at any time; any and all comments to the grand jury by the prosecutor; and the questioning of and testimony by any witness, shall be recorded either stenographically or electronically. However, the deliberations of the grand jury shall not be recorded.

16. The prosecutor should not make statements or arguments in an effort to influence grand jury action in a manner which would be impermissible at trial before a petit jury.

17. Expanding on the already-established ABA position favoring transactional immunity, immunity should be granted only when the testimony sought is in the public interest; there is no other reasonable way to elicit such testimony; and the witness has refused to testify or indicated an intent to invoke the privilege against self-incrimination.

18. Immunity shall be granted on prosecution motion *in camera* by the trial court which convened the grand jury, under standards expressed in Principle No. 17.

19. The granting of immunity in grand jury proceedings should not be a matter of public record prior to the issuance of an indictment or testimony in any cause.

20. A lawyer or lawyers who are associated in practice should not continue multiple representation of clients in a grand jury proceeding if the exercise of the lawyer's independent professional judgment on behalf of one of the clients will be or is likely to be adversely affected by his or her representation of another client. If the court determines that this principle is violated, it may order separate representation of witnesses, giving appropriate weight to an individual's right to counsel of his or her own choosing.

21. The confidential nature of the grand jury proceedings requires that the identity of witnesses appearing before the grand jury be unavailable to public scrutiny.

22. It is the duty of the court which impanels a grand jury fully to charge the jurors by means of a written charge completely explaining their duties and limitations.

23. All stages of the grand jury proceedings should be conducted with proper consideration for the preservation of press freedom, attorney-client relationships, and comparable values.

24. The period of confinement for a witness who refuses to testify before a grand jury is found in contempt should not exceed 12 months.

25. The court shall impose appropriate sanctions whenever any of the foregoing principles have been violated.

REPORT

Background

The Section of Criminal Justice urges House of Delegates approval for 25 legislative Principles to which it believes grand jury reform legislation should adhere. The Section has spent more than three years studying the grand jury. In August 1975—at Section urging—the House of Delegates approved a policy addressing one grand jury bill (H.R. 1277) in the 94th Congress. That policy is a limited one, but includes Association support for such key elements of grand jury reform as allowing counsel in the grand jury room, transactional immunity, and strengthened penalties for unauthorized disclosure of grand jury information. Since 1975, the Section's Grand Jury Committee has analyzed a number of pending bills, including H.R. 2986 and S. 3274 (94th Congress), both with a broader focus than H.R. 1277, on which the current ABA policy was formulated. New legislation, including H.R. 94, H.R. 3736, and S. 1449, has been introduced in the 95th Congress; hearings are already being held on these proposals.

Based on its continued study of this issue since 1975, the Criminal Justice Section now asks House of Delegates adoption of Associa-

tion policy addressing a broader range of grand jury issues. This is timely not only because of the increasing public, press and professional attention being focused on this issue, but also because action is anticipated in the 95th Congress on the pending legislation. Further, a number of states are now considering—and some have already enacted into law—similar bills.

In February 1977, the Section asked the House of Delegates to approve a package of 23 legislative principles. At the personal request of Attorney General Bell, the Section asked the House to defer action until the August Annual Meeting. Since February, the Section has revised several Principles to clarify intent; has added 3 new Principles concerning prosecutorial conduct; and has met with Honorable Benjamin Civiletti, Assistant Attorney General in charge of the Criminal Division, U.S. Department of Justice, and other Department representatives to discuss the Principles. Mr. Civiletti has expressed support for some 15 of the Principles, and noted that the Department would take no position on an additional five. On several additional Principles, Mr. Civiletti said that some rephrasing might moot Department objections. In an attempt to reach compromise in as many areas as possible, the Section's Grand Jury Committee held a special meeting in early June, made additional amendments to a number of the Principles, and gained Council approval for these changes via a special mail ballot.

It should be noted that the proposed Principles were drafted by a Committee composed almost entirely of present and former prosecutors. It is chaired by Richard E. Gerstein, State Attorney for the greater Miami area for more than 20 years, and former President of the National District Attorneys Association. The Committee also included members with state and federal prosecutorial experience (including the last Watergate Special Prosecutor, Charles Ruff), judges, law professors and members of the defense bar. The Principles further represent a consensus of the Criminal Justice Section Council, which includes a similar mix of persons from all parts of the criminal justice system. Most of the Principles were approved by the Council unanimously.

In recent years, the grand jury as an institution has come under increasing criticism for a number of reasons and from a number of sources. It has been accused of an absence of procedural safeguards. Reflecting these and other concerns, England—where the grand jury originated—abolished the institution in 1933; the majority of states in our country allow prosecution either by indictment or by information. However, it remains a part of the federal system and in many state systems because of constitutional provisions. The ABA House of Delegates in 1975 went on record opposing amendment of the Untied States Constitution to eliminate the requirement for indictment by a grand jury. That position of the ABA should not be changed, but a comprehensive effort is needed to correct existing abuses. The Section believes that its proposed legislative Principles will go a long way towards remedying the ills of the grand jury as an institution.

Principles

Following are comments on each of the 25 proposed Principles:

1. The American Bar Association has already gone on record (in August, 1975) supporting the right of a witness to have counsel present in the grand jury room. Principle No. 1 represents a reaffirmation of that position. Since this report was first presented to the House of Delegates in February, the Section has rewritten Principle No. 1 to spell out more specifically what role counsel should play in the grand jury room. That role is now carefully defined in the Principle to make it clear that it is *strictly* limited to advising the witness. This limited role will preclude the grand jury's becoming a "mini-trial"—as some have feared—and will not impair expeditious investigations. Under the proposed Principle, counsel is not allowed to address the grand jurors or in any other way take part in the proceedings. Further, the Section had added a provision to allow removal of counsel who are disruptive or do not otherwise stay within the prescribed boundaries laid down by the Principle. Clarification of the attorney's limited role, coupled with the mechanism for removing disruptive counsel, should meet the objections raised by those who have feared creation of a "mini-trial."

Almost nowhere else in the criminal justice process—except before the grand jury—is a person who desires a lawyer denied that right. Requiring a witness who needs advice of counsel to consult his attorney outside the grand jury room door is awkward and prejudicial. It unnecessarily prolongs the grand jury proceeding and places the witness in an unfavorable light before the grand jurors. The American Law Institute has called it a "degrading and irrational" procedure. It is extremely damaging to the witness to continually get up, go outside, and consult with counsel. A recent Seventh Circuit decision (*U.S.* v. *Kopel*, 552 F. 2d 1265 1977)) points to additional problems with the procedure of consulting counsel outside the grand jury room. In that case, the Seventh Circuit said the U.S. Attorney, who had granted the witness permission to leave the grand jury room, was free at trial to bring up this fact as relevant to the perjury charges against the defendant. Dissenting, Judge Swygert decried the fact that the government was "permitted to 'sandbag' him [the defendant] by using the fact that he consulted his attorney against him." Nor is the right to leave the grand jury room to consult counsel absolute. (*See In re Tierney*, 465 F. 2d 806 (5th Cir. 1972), in which the court said a limit could be placed on how frequently the witness could leave the room to consult his lawyer.)

The prestigious American Law Institute, in its Model Code of Pre-Arraignment Procedure adopted in 1975, supports counsel in the grand jury room. "While this is a break with tradition and prevailing practice," the ALI notes, "it is consistent with the provisions of some recent state procedure codes . . . it seems *unfair and inefficient* to require a witness to leave the grand jury room each time he wishes to consult with counsel." [at 237; emphasis added] The ALI commentary goes on to state that "exclusion of counsel . . . is closely related to the traditional view that proceedings should be secret, and concern lest the presence of counsel hamper the freedom of the grand jury and the prosecutor in their investigation. . . . The difficulty with this view . . . is that complex and important legal issues face a witness before a grand jury. An appearance before that body may subject an individual to the grave danger of self-incrimination or imprisonment for contempt. . . . The witness may also inadvertently lose his right to claim the privilege by operation of the doctrine of waiver. . . . And the inherent pressure and accompanying nervousness of a grand jury appearance upon an individual may make it very difficult for him to remember his attorney's instructions. . . . For effective implementation of this right, an attorney should be present to follow the flow of the interrogation." [at 601]

Some nine states now have statutes allowing counsel to be present in the grand jury room—Arizona (for target witnesses), Illinois (for target witnesses), Kansas, Michigan (one-man grand juries), Oklahoma, South Dakota, Minnesota, Virginia and Washington State. The Section has contacted practicing attorneys and prosecutors in these states; none has reported problems. In fact, some prosecutors who said they initially fought the procedure now support it as a means of insuring fairness in the system. Congressman Joshua Eilberg (D-Pa.), writing in a recent issue of *Judicature* (Vol. 60, No. 8), similarly reported that those states which have implemented the practice have not reported any serious problems. Further, a number of additional states are now considering such legislation—including Colorado (where it has passed both houses of the legislature), New York, Massachusetts, and California (where it has the support of the state's Attorney General).

Several arguments are raised by opponents. First, it is argued that allowing counsel in the grand jury room will be a breach of the secrecy rule. In fact, grand jury secrecy is not served by keeping the lawyer outside the grand jury room, since the witness is free to tell his attorney anything that occurred inside (Federal Rule of Criminal Procedure 6(e). Secondary, it is argued that the presence of the witness' lawyer will restrict free testimony in cases of organized crime, corporate and political corruption investigations. The Section notes that the states which allow counsel in the grand jury room have retained the grand jury in most instances as an investigatory body for precisely these kinds of investigations, and have no record of negative results. Further, there are alternative ways of securing a cooperative witness' statement, and this evidence can be summarized for the grand jury in the form of hearsay, *Costello* v. *United States*, 350 U.S. 359 (1956). When a witness is called to testify before a grand jury, the witness' attorney, sitting outside the grand jury room, can easily conclude from the time spent with the jury whether the witness takes the Fifth Amendment or testifies in full. Experienced prosecutors, further, have noted that very few witnesses indicate a desire to cooperate without the knowledge of their counsel; if the witness' testimony is helpful to the government, that fact will become evident to the attorney fairly quickly.

Recognizing that problems arising from multiple representation of witnesses could be exacerbated by allowing counsel in the grand jury room, the Section has strengthened Principle No. 20, which addresses that subject.

The presence of the attorney will not only reduce unfair speculation about the prosecutor's conduct, but will also serve to inhibit the prosecutor from possible improper conduct. Analogous to having counsel present to witness a line-up, the presence of the attorney in the grand jury room will help to insure the fairness of the proceedings. Watergate Special Prosecutor Charles Ruff—in supporting this proposal in recent Congressional testimony—declared that ". . . the mere possibility of occasional disruption simply cannot overcome the right of the individual witness to consult his attorney without going through the mildly absurd process of leaving the grand jury room every time. Indeed, most prosecutors would admit, I think, that they count on the burden of leaving the room to dissuade the witness from asserting his right to counsel." (Testimony before House Judiciary Subcommittee, April 27, 1977, at 3.)

The American Bar Association has traditionally been a leader in asserting the right to assistance of counsel in the criminal justice process. As the *ABA Standards on Providing Defense Services* (§ 1.1) declare, "The objective of the bar should be to ensure the provision of competent counsel to all persons who need representation in criminal proceedings. . . ." Enactment of Principle No. 1 will more meaningfully effectuate the Sixth Amendment right to assistance of counsel; but the limitations on the role of counsel will forestall the grand jury's being turned into an adversary proceeding.

[2. Principle number two was added by the ABA House of Delegates at the August, 1977 Annual meeting in Chicago as a proposed amendment to the Criminal Justice Section

Principles offered by the Judicial Administration Division.]

3. Principle No. 3 states that the prosecutor shall not knowingly fail to disclose to the grand jury evidence which will tend substantially to negate guilt. The Section believes this to be a key element in bringing fairness to the grand jury process, and essential to prevent indictment of innocent persons. The Association has already gone on record in the *ABA Standards for Criminal Justice Relating to the Prosecution Function* (§ 3.6(b)) supporting this, declaring that, "The prosecutor should disclose to the grand jury any evidence which he knows will tend to negate guilt." The National District Attorneys Association (NDAA) Prosecution Standard 14.2D is also similar to Principle No. 3. As the commentary to the ABA Standard states, "Such a procedure tends to insure public confidence in the ultimate decision as to prosecution. The obligation to present evidence which tends to negate the guilt of the accused flows from the basic duty of the prosecutor to seek a just result." The NDA Standards note that such a standard "provides for a great accuracy in the indictment determination by providing that the grand jury be allowed to consider—as the trial fact finder would—any facts tending to negate the defendant's guilt." Indictments have been overturned on the grounds of due process when a court has ascertained that the prosecutor *knowingly* used perjured evidence or failed to present evidence that squarely negated guilt. *U.S.* v. *Basurto*, 497 F. 2d 781 (9th Cir., 1974); *Johnson* v. *Superior Court of California*, 15 Cal. 3d 248, 124 Cal. Rptr. 32, 539 P. 2d 792 (1975). This is a new Principle, added by the Section since the Principles were presented to the House of Delegates in February. At the suggestion of U.S. Department of Justice representatives, who questioned the mechanics of the Principle as first drafted, the Section has written it so as to clarify its coverage and intent, since this is a legislative Principle, and not simply a more general standard for prosecutorial conduct.

4. The fourth Principle is also a new one, added since the report was presented to the House of Delegates in February. This would require the prosecutor to recommend that the grand jury not indict if he believes the evidence presented does not warrant an indictment under governing law. This language is *identical* to that of both *ABA Standards on the Prosecution Function* 3.6(c) and the National District Attorneys Association Standard (14.2E). The NDAA Standards commentary notes that this standard "recognizes the proecutor's right and duty as legal advisor to the grand jury to recommend action to the grand jury. The prosecutor has a great deal more experience than the grand jurors in the strength and likely credibility of the evidence before a trial court. Since it will be his office's duty to prosecute the case, the prosecutor has a direct interest in assuring that resources are not squandered on unwinnable or otherwise improper cases." The Section agrees with this rationale. Adoption of the Principle will help to insure substantial justice within the grand jury room. The U.S. Department of Justice had indicated support for this Principle, which is, as noted above, already ABA policy.

5. Principle #5 would require that the target of a grand jury investigation be given the right to testify and present his side of the facts before an indictment is returned—provided such person signs a waiver of immunity. Under this proposal, the prosecutor would be required to take all reasonable steps to notify such prospective defendants—but recognizes that in some instances the prosecutor will truly be unable to locate such persons; or that, under some circumstances, notification may result in the person's fleeing, or his endangering witnesses or other persons, or obstructing justice. In such instances, notification would not be required. The Section has made two changes in this Principle since its initial presentation in February: First, at the suggestion of the Justice Department, the term "subject" was replaced by "target." The Department suggested this as more appropriate wording, since "target" is the term generally used in federal law enforcement. Secondly, Justice Department representatives suggested addition of the phrase "or obstruct justice" as an additional condition under which the prosecutor need not notify a target. The Section also made this amendment, believing it to be inherent in the original Principle. Principle #5 is intended to insure that fair and just opportunity is given individuals to testify in their own behalf prior to being indicted. Such groups as the Association of the Bar of the City of New York have supported such a right. This is an essential ingredient, the Section believes, in a fairly functioning grand jury—and criminal justice—system. Without it, the grand jury's essential function of arriving at an accurate indictment is undermined.

6. The sixth Principle has been rewritten since presentation of the report in February. As originally phrased, it stated that the grand jury "shall not consider unconstitutionally obtained evidence." In the light of concerns raised by the Justice Department, the Section has rewritten Principle #6 to put the affirmative burden on the prosecutor not to present evidence which he *knows* to be constitutionally inadmissible at trial. It thus makes the burden more specific. The Section believes that the integrity of the grand jury will best be served by prohibiting presentation of unconstitutionally-obtained evidence by the prosecutor. Already-approved Association policy in the *ABA Standards on the Prosecution Function* (§ 3.6(a)) declares that "a prosecutor should present to the grand jury only evidence which he believes would be admissible at trial." Notwithstanding the U.S. Supreme Court's decision in *U.S.* v. *Calandra*, 414 U.S. 38 (1974), the Section believes that this Principle is needed to insure the integrity of the grand jury process; indeed, the Court in *Calandra* noted that "for the most part, a prosecutor would be unlikely to request an indictment where a conviction could not be obtained" because of use of illegally-seized evidence. The Principle is thus not totally inconsistent with the thrust of *Calandra*.

7. Principle #7 would prohibit naming a person in an indictment as an unindicted co-conspirator to criminal conspiracy. The Section believes that naming of persons as unindicted co-conspirators visits opprobrium upon them—by charging the named persons with the commission of a crime but denying them a forum in which to seek acquittal or vindication. This stains the reputation of the person without providing any means for the person to show his innocence. This is an instance in which reforms are needed to insure the fair functioning of the grand jury. The United States Court of Appeals for the Fifth Circuit has already held in accordance with this principle in *U.S.* v. *Briggs*, 514 F.2d 1974 (1975). The Section has added a second sentence to the Principle since its original presentation. This states that supplying such names in a bill of particulars would not be prohibited. This would permit the prosecutor to respond to a request by the defense to reveal the names of co-conspirators who were not indicted. The Section felt the addition of this sentence is needed to spell this out to avoid potential confusion in interpretation of this Principle.

8. The issuance and publication of grand jury reports which single out persons for scorn of criticism, impugn their motives, or denigrate their moral fitness to hold office have the effect of charging such persons with misconduct or unfitness—without affording them any forum in which to refute the charges or to seek vindication. The proper purpose of grand jury reports is to inform the public of situations requiring administrative, judicial or legislative corrective action—not the castigation of individuals when the fact-finding forum insured by the finding of an indictment is absent. The Section is not proposing that such grand jury reports be proscribed from commenting on the job that an office holder is performing; but such reports should not condemn character alone. Grand jury reports which do single out persons in the manner described tend to undercut the fairness of the grand jury. Such misuse of the grand jury can, in fact, affect the political process. Judicial scrutiny of the report is essential to prevent spurious attacks on individuals when no forum of trial is available. The states that have recently considered this issue have reinforced control over the reporting process. *People* v. *Superior Court of Santa Barbara County*, 51 P. 2d 761 (Cal. 1975); Del. Rules, R. 6 (1975); Fla. Stat. Ann. § 905.28 (1975). The procedures proposed in Principle No. 8 will assist in insuring that such abuses do not occur. See *U.S.* v. *Briggs*, 514 F.2d 794 (1975) and *Report of Grand Jury Proceedings*, U.S. Court of Appeals for the Fifth Circuit, 479 F.2d 458 (1973). The National District Attorneys Association Prosecution Standards commentary (discussing an NDAA proposed standard on this subject, modeled on recent New York legislation) noted that, ". . . an unfavorable report may stand as a severe form of extra-judicial punishment, from which there is no appeal . . . the quasi-judicial nature of the grand jury gives it an apparent reliability which may not be justified . . . grand jurors are accountable to no one . . . grand jurors may impose a personal standard of morality on persons, rather than an abstract and neutral conception of right and wrong."

9. The Section opposes the practice of a prosecutor's using the grand jury to obtain tangible, documentary or testimonial evidence to assist in his preparation for trial of a defendant *already* charged by indictment or information. This is an abuse of the grand jury, and tranforms it into a mere tool and arm of the prosecutor's office—a role which is contrary to the grand jury's historical purpose and function. The Department of Justice supports this Principle; in a Department Office of Policy and Planning statement filed in 1976 with the House Judiciary Subcommittee examining grand jury legislation, the Department states that, "It is well-established under federal case law that a grand jury should act only with a view toward returning an indictment or to satisfy itself that no crime has occurred. . . It would be an abuse of legal process for a government attorney to use a grand jury to discover or build up evidence for trial of an existing indictment. Courts would discipline attorneys who did so and the Department would not countenance such action by its representatives." This principle is in accord with well-settled case law. *United States* v. *Dardi*, 330 F.2d 316 (2d Cir. 1964); *United States* v. *Doss*, 545 F.2d 548 (6th Cir. 1976). In the *Doss* decision, the Court declared that, "We find no constitutional, statutory or case authority for employment of the grand jury as a discovery instrument to help the government prepare evidence to convict an already-indicted defendant. Such a use of the grand jury would pervert its constitutional and historical function . . ." The Court called it "a possible revival of a version of the Star Chamber of 18th Century England . . ."

10. The Section strongly opposes prosecutorial use of the grand jury to assist in administrative investigations—e.g., Internal Revenue income tax investigations. Such improper utilization of the grand jury warps its true function and leads to abuses such as those described in No. 9 *supra*. The ABA House of Delegates in February, 1977—in ad-

dressing a proposed amendment to Federal Rule of Criminal Procedure 6(e)—expressed concern regarding dissemination of grand jury information to government experts for use in unrelated civil proceedings. The Section report accompanying the House-approved resolution declared that disclosure of grand jury information to a broad group of governmental personnel might be used as "subterfuge by some agencies to obtain information through the grand jury process which was not legitimately required for the purposes of the pending grand jury investigation . . . The dissemination of information to serve particularized departmental or agency needs would not be a legitimate one." (House of Delegates Report book, 2/77 Mid-year Meeting, at 138–9). A U.S. Department of Justice paper submitted to the House Congressional hearings echoes this concern: "[o]ne of the primary abuse of the grand jury which must be avoided . . . is the attempted use of its broad investigative powers by governmental agencies in pursuant of investigations that are solely their own rather than the grand jury's." (U.S. Department of Justice Office of Policy and Planning, *Memorandum on the Grand Jury*, p. 106; printed in record of House Judiciary Subcommittee Hearings.) In the case of *United States* v. *Doe*, 72 Crim. Misc. 1 (S.D.N.Y. 1972), the court in denying a government motion to examine special grand jury minutes to determine violations of Titles 18 and 28 *and* "to determine civil tax liability," declared that, "The grand jury's role is properly confined . . . when it is held empowered to conduct investigations that are in their inception exclusively criminal." It should be noted that the Attorney General's Advisory Committee of U.S. Attorneys has expressed its support for this proposed Principle.

11. Principle No. 11 provides that witnesses summoned before grand juries should not be subjected to unreasonable delays or unnecessarily repeated appearances or harassment. The Section supports legislation which would forbid such practices. In some instances, these abuses have occurred and grand jury witnesses have been repeatedly called to appear; or have been subjected to unreasonable delays or other forms of harassment. An indifference to the convenience of a grand jury witness is as objectionable as the use of a grand jury subpoena to harass a witness, and is a subtle means of intimidating the witness before his appearance. The *ABA Standards for the Prosecution Function* (§ 5.7a)) recognize the prosecutor's obligation to handle witnesses "fairly, objectively and . . . without seeking to intimidate or humiliate the witness . . ." The U.S. Department of Justice supports this Principle, as does the Advisory Committee of U.S. Attorneys.

12. Several of the grand jury reform bills before the 95th Congress (e.g., H.R. 3736) would require grand jury approval of any subpoenas issued. The section opposes such a procedure. It believes this requirement would not only be cumbersome, but would cause unnecessary delay. The prosecutor, the Section believes, is much better suited to make determinations regarding issuance of subpoenas than are lay grand jurors. The Section thus does not support these provisions in pending legislation. The Advisory Committee of U.S. Attorneys supports this Principle.

13. Principle No. 13 would require that a grand jury subpoena indicate the statute or general subject that is the focus of the grand jury inquiry. This requirement is intended to enable the recipient and the court to determine more accurately questions of relevancy. It would also enable the witness to prepare himself more adequately for his appearance, and would insure more effective and efficient use of counsel, court and grand jury time. The Principle does *not* intend that a detailed description of the statutory *and* subject areas be required; but that a broad statutory citation or general description of the subject be included. Justice Department representatives have expressed support for this Principle; but indicated concern that, as initially written, the Principle would leave open the question of later challenges to the indictment based on the fact that the defendant was charged under statutes not named in the subpoena. To meet this concern and clarify the Principle's original intent, the Section has added the second sentence; this makes it clear that the indictment cannot be vitiated if the person is indicted under a statute or in a subject area not mentioned in the subpoena. The Advisory Committee of U.S. Attorneys supports this Principle.

14. A grand jury subpoena should not be returnable except when the grand jury is sitting. This proposal is intended to avoid potential abuse of the subpoena power by the prosecutor's office. It will help to insure the integrity of the grand jury function. Both the Justice Department and the Attorney General's Advisory Committee of U.S. Attorneys support this Principle.

15. Principle No. 15 would mandate stenographic or electronic recording of all matters before the grand jury—except the deliberations of the grand jury itself. This would represent a logical step in grand jury reform, and is not inconsistent with the necessity of maintaining grand jury secrecy. The judge's charge to the grand jury would be recorded, as would the prosecutor's introductory remarks and testimony and questioning of all witnesses. Some 31 states already require recording of all grand jury proceedings other than votes and deliberations, and an additional 6 states permit it, according to a Library of Congress study (printed in 1976 Hearings record, House Judiciary Subcommittee on Immigration, Citizenship International Law, p. 714). Several federal district courts already record all grand jury proceedings—including the District of Rhode Island, the Eastern District of Washington, and the Northern District of Illinois. The Ninth Circuit has ruled that a prospective defendant who makes a timely request cannot be arbitrarily denied recordation of grand jury proceedings. *United States* v. *Thorenson*, 428 F.2d 654 (1970); *United States* v. *Price*, 474 F.2d 1223 (1973).

Major groups have supported this requirement. The American Law Institute, in its Model Code of Pre-Arraignment Procedure, urges that a record be made of all proceedings before the grand jury. The *ABA Standards for Criminal Justice on the Prosecution Function* (§ 3.5(b))—already ABA policy—provide that, "The prosecutor's communications and presentations to the grand jury should be on the record." The accompanying commentary points out that "since grand jury proceedings are generally secret and *ex parte*, it is particularly desirable that a record be made of the prosecutor's communications and representations to the jury." The recently-issued Prosecution Standards of the National District Attorneys Association (§ 14.2(F)) also urge that "all testimony before the grand jury should be recorded." Recording will aid the prosecution—by insuring that perjured testimony does not go unpunished. Recording would also act as a restraint on the prosecutor not to exercise undue or improper influence on the grand jury.

The Department supports this Principle to the extent that it would require recordation of the judge's charge and the questioning and testimony of witnesses, but opposes recording the prosecutor's comments to the jury. The U.S. Attorneys' Advisor Committee argues that this would "formalize what should be an informal working relationship between grand jurors and government attorneys." (From position paper submitted to Section Council, May 14, 1977, p. 7.) It is exactly that "informal" relationship which invites subtle abuses of the grand jury, the Section believes; that is itself a cogent argument in favor of recordation. The Advisory Committee further argues that a recordation requirement would "impose severe and undue administrative burdens" (p. 7 position paper, *supra*); and the Justice Department points to "unavailability of court reporters in many areas" (p. 103 of House Judiciary Subcommittee hearings record, *supra*). There are real benefits to be gained by recording matters before the grand jury—for the prosecution, as well as for the defense. Raising administrative hurdles is *not* sufficient argument against this proposal, which truly goes to the integrity of the grand jury process.

16. This Principle—which has been added since February—is identical to National District Attorneys Association Prosecution Standard (§ 14.4B) and the *ABA Standards for Criminal Justice Relating to the Prosecution Function* (§ 3.5(b)). It thus already is Association policy. It would prohibit the prosecutor from making statements or arguments to influence the grand jury action in a manner which would not be permitted before the trial jury. This is essential because of the prosecutor's role as the only legally-trained person before the lay grand jurors. As the commentary to the ABA Standards notes, "A prosecutor should not take advantage of his role as the *ex parte* representative of the state before the grand jury to unduly or unfairly influence it in voting upon charges brought before it. In general, he should be guided by the standards governing and defining the proper presentation of the state's case in an adversary trial before a petit jury." Because of the secret nature of the grand jury proceedings, the lack of direct court supervision, and the fact that the prosecutor's is a unilateral presentation, he must avoid unduly influencing the grand jurors by means which would not be appropriate in the public courtroom before a petit jury. This is essential to prevent the grand jury's becoming a mere echo of the prosecution. As one writer has noted, "[G]rand jurors must place enormous trust in the prosecutor's guidance. It is he, after all, who tells them what the charge is, who selects the facts for them to hear, *who shapes the tone and feel of the entire case . . .*" [emphasis added] (Antell, "The Modern Grand Jury: Benighted Super-government," 51 A.B.A.J. 153, 154 (1965). The Justice Department has expressed its support for this Principle.

17. Principle #17 calls on the ABA to broaden its previously-adopted policy concerning immunity to specify proper instances in which immunity should be issued: when it is in the public interest; when there is no other reasonable way to elicit the testimony; and when the witness has refused to testify, or stated he will invoke the Fifth Amendment. This is intended to insure that grants of immunity are carefully considered prior to issuance and that they are not issued when other means could be used to obtain the needed information. The ABA House of Delegates (at the 1975 Annual Meeting) has already supported amendment of 18 U.S.C. 6002 to provide "transactional" immunity, rather than "use" immunity provided under present federal law. Under transactional immunity, a witness may be statutorily compelled to give testimony which might otherwise violate the privilege concerning self-incrimination, provided the witness is given immunity from prosecution for any crime referred to in the testimony. Under 18 U.S.C 1525(b), Part V of the Organized Crime Control Act of 1970, and under *Kastigar* v. *U.S.*, 406 U.S. 441 (1972), only "use" immunity need be afforded. This merely prevents the prosecution from using the actual testimony (or leads derived therefrom) in any subsequent criminal prosecution. Some 31 states currently provide transactional immunity, according to the House Judiciary Subcommittee Hearings record (*supra*). The National Conference of Commissioners on

Uniform State Laws has supported it, in the Uniform Rules of Criminal Procedure (Rule 732(b)). "Use" immunity, while Constitutional (see *Kastigar, supra*), should be rejected for several practical reasons. It is not only susceptible of prosecutorial abuse, but can be subtle invitation to perjury on the part of the witness. Since the witness knows what he says can be used to impeach him, it can be encouragement to slant his testimony in a manner most favorable to him. Testimony thus obtained is not accurate. Witness cooperation is essential to an effective grand jury investigation, yet the uncertainty generated by "use" immunity, and the difficulties in determining the scope of the protection afforded the witness, can chill and inhibit his cooperation. Transactional immunity better encourages accurate testimony and minimizes witness resistance to questioning. The small number of actual successful prosecutions of immunized witnesses with "use" immunity indicates that a return to transactional immunity will not remove a signicant weapon against organized crime (see, 14 *American Criminal Law Review* 275, 282, wherein U.S. Department of Justice reports that, in practice, few witnesses granted "use" immunity are subsequently prosecuted for crimes described in their immunized testimony). "Use" immunity represents the most grudging interpretation of the Constitutional right against self-incrimination, the Section believes.

18. Several of the grand jury bills pending before the 94th Congress include a provision requiring approval of immunity grants by a majority vote of the grand jury. While many supporters of this provision believe that it would help to insure the independence of that body, the Section does not support such a requirement. Instead, Principle No. 18 would provide that immunity be granted on prosecution motion *in camera* by the trial court which convened the grand jury; the standards outlined in Principle No. 17 would be followed in determining whether such a grant should be made. Lay grand jurors are not adequately oriented to make determinations regarding immunity grants, the Section believes. This is properly an executive function with court overview.

19. Principle No. 19 would forbid making the granting of immunity in grand jury proceedings a matter of public record before the issuance of an indictment or testimony in any cause. To make public such grants undercuts the function of the grand jury by selectively publicizing its investigations—and has the definite potential of harm to those to whom immunity is alleged to have been granted. The U.S. Department of Justice had indicated its agreement with this Principle.

20. The question of multiple representation of witnesses in grand jury proceedings has recently received increasing attention both from members of the private bar and from government attorneys. (See, e.g., Cole, "Time for a Change: Multiple Representation Should be Stopped," 2 *Journal of Criminal Defense* 149 (1976); and Speech May 3, 1977 to Chicago Bar Association on "The Perils of Multiple Representation in Criminal Antitrust Proceedings," by Richard Favretto, Deputy Director of Operations, Antitrust Division, U.S. Department of Justice.) Recent Court opinions have also tried to grapple with this question (see, e.g., *In Re Investigation Before April, 1975 Grand Jury*, 531 F.2d 600 (D.C. Cir. 1976)). Principle No. 20 has been substantially rewritten by the Section since February to strengthen its provisions, to meet concerns raised by cities of the proposal to allow counsel in the grand jury room. Opponents of that Principle have focused much of their objection on problems which could arise when one attorney represents more than one witness in a grand jury proceeding. The Section has redrafted Principle No. 20 to spell out the professional responsibility of an attorney *not* to continue multiple representation of clients in a grand jury proceeding if conflicts can arise. As originally worded, the Principle provided that, "If the court determines that there is multiple representation of witnesses in a grand jury proceeding, it shall advise the witnesses that they have the right to be separately represented by counsel, and explain that conflicts of interest may otherwise arise." Under the newly-redrafted Principle, the burden is initially placed on the defense attorney to assume responsibility for remedying situations when conflicts from multiple representation arise or are likely to arise. If the court finds that this principle is not being followed, however, it would have the authority to order separate representation. The phrase "giving appropriate weight to an individual's right to counsel of his or her own choosing" has been added to avoid a situation in which the court summarily excludes certain counsel from representing *any* witness in the proceeding. In adopting this Principle, the Section considered multiple representation to include the following: two or more witnesses in a grand jury proceeding who may have conflicting interests; a witness and a potential defendant in a grand jury proceeding; or a witness whose counsel fees are paid by a third party who is a witness or potential defendant in a grand jury proceeding. The significant ethical concerns involved in multiple representation when the clients have actual or potential conflicting interests; the potential compromises to the Constitutional guarantee to effective assistance of counsel; and the potential for inhibiting the public's right to an effective grand jury investigation require the private bar to deal seriously with this issue. As Alan Y. Cole noted in a recent article (*supra*), "To avoid the Scylla of conflict, the defense attorney with multiple clients will likely become engulfed in the Charybdis of ineffective assistance of counsel . . ." Benjamin Civiletti, head of the Justice Department's Criminal Division, has expressed his support for this Principle as now formulated.

21. Principle No. 21 provides that the confidential nature of grand jury proceedings requires that the identity of witnesses appearing before the grand jury be unavailable to public scrutiny. Shielding their identity is necessary to prevent unjust harm to witnesses and potential defendants. The practice in some jurisdictions of having witnesses exposed to public and press as they emerge from the grand jury room is an unfair one—it taints the witnesses' reputations by the mere fact of their appearance. The importance of maintaining the secrecy of grand jury proceedings has already been recognized by the Association, when, in its 1975 policy, it urged strengthened penalties for unauthorized disclosure of grand jury information. The Justice Department supports this Principle.

22. The Section supports legislation which would mandate the court's charging grand jurors orally on impanelling as to their duties and responsibilities; written copies of the charge would then be distributed to the grand jurors for their continuing reference. Detailing to grand jurors their powers, responsibilities and rights will help to insure their comprehensive understanding of their proper role, and will thereby help to strengthen the independence and fair functioning of the grand jury. Several of the bills pending in the 95th Congress contain such provisions, as does pending legislation in several states. The Department of Justice has indicated its support for this Principle.

23. In adopting Principle No. 23, the Section urges the Association to go on record as recognizing potential abuses of newspersons who are called as witnesses before the grand jury and then claim a First Amendment privilege not to testify. In some prosecutors' offices around the country, office policy already exists forbidding the calling of journalists before the grand jury. As the U.S. Supreme Court has noted, "Official harassment of the press undertaken not for purposes of law enforcement but to disrupt a reporter's relationship with his news sources would have no justification . . . We do not expect courts will forget that grand juries must operate within the limits of the First Amendment, as well as the Fifth." *Branzburg* v. *Hayes*, 408 U.S. 665, at 707–708 (1972). Supporting the need for legislation in this area, a Newspaper Guild spokesperson declared in testimony before the House Judiciary Subcommittee hearings in June 1977, "The issuance of subpoenas to news gatherers has become a veritable contagion . . ." Principle No. 23 is further intended to express Section concern about the increasing number of instances nationally in which criminal defense lawyers are themselves being subpoenaed to testify before grand juries. Abuse of grand jury subpoenas used against persons having recognized confidential relationships appears to be increasing; this can drive a wedge of distrust between defense attorney and client, and has a chilling effect on 6th Amendment rights and confidential relationships. The Section purposely did not go into further detail in this proposed Principle, believing that an expression of Association concern about present abuses of the grand jury vis-a-vis the press and the criminal defense bar would call attention to what appears to be a growing problem. The Justice Department has expressed its support for this Principle.

24. In August, 1975, the ABA House of Delegates opposed amendment of the Recalcitrant Witness Statute (28 U.S.C. 1826(a)) to reduce from 18 to 6 months the maximum period of confinement on a civil contempt order for refusal to testify before a grand jury. The Section is now seeking revision of the previously-adopted position. This Principle would support—as provided in several pending grand jury reform bills—a maximum of six months confinement. It is believed that this length of confinement should be sufficient to compel a witness to testify. (It should be noted that the ABA has previously gone on record supporting legislation to prohibit multiple confinement upon a subsequent refusal by a witness to testify about the same transaction.) The Section now believes that this is sufficient to compel a witness to testify, while avoiding the longer, more punitive confinement. This has been an area in which many abuses have allegedly occurred (*See* record of 1976 hearings before House Judiciary Subcommittee on Immigration, Citizenship and International Law). The Section thus urges ABA support for a 6-month maximum.

(Note: Amended from 6 to 12 months by the ABA House of Delegates, August, 1977.)

25. Rather than specifying proposed sanctions for violation of each proposed grand jury legislative Principle outlined herein, the Section simply notes that the court should exercise its power to impose approoriate sanctions when the proposed Principles are violated. Such sanctions will obviously be fashioned in any proposed legislation; but it is not the Section's intent, in proposing ABA policy on the grand jury, itself to suggest statutory language.

* * * * *

Conclusion

When the grand jury was created in 12th Century England, it was intended to serve as a shield between the citizen and the Crown. In recent years, the grand jury has come under increasing attack: observers charge that the grand jury system is riddled with abuse, and is no longer a shield for the citizen but a shield for the government. Critics declare that it has departed from its proper Constitutional function of protecting citizens from unwarranted prosecutions.

The Section of Criminal Justice, based on the work of its Grand Jury Committee,

chaired by experienced prosecutor Richard E. Gerstein, believes that reforms are needed to insure fairness—but without undercutting the grand jury's legitimate functions or destroying it as an institution. While legitimate objections to these Principles have been raised, resistance to change from those within the criminal justice system cannot in itself be sufficient reason to reject well-considered—and needed—proposals.

The Section urges the House of Delegates to support the 25 legislative Principles. The Congress and many states legislatures are now acting on grand jury reform proposals; professional, media and public focus on this subject cannot be expected to abate. The Association—as in its landmark Standards for Criminal Justice project—has long been in the forefront of criminal justice improvement.

ABA leadership is now needed to help fashion well-reasoned, workable and effective grand jury reform legislation.

Respectfully submitted.

B. JAMES GEORGE, Jr.,
Acting-Chairperson.

JUNE 1977.

JACKSON HOLE SCENIC AREA

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, at the request of, and after consultation with Teton County officials, I am introducing a bill to help preserve the esthetic values of the world-famous Jackson Hole area of Wyoming.

Grand Teton National Park and surrounding area is known for its unique scenic, ecologic, and wildlife values. Nearly 4 million visitors came to Jackson in 1976—almost 1 out of 50 Americans. Nestled in a magnificent mountain valley are 75,000 acres, a few ranches and scattered settlements in the midst of the national parks, forests, wildlife refuges, and wilderness areas which make up the Greater Teton-Yellowstone Region.

In the north lies Grand Teton National Park, extending nearly to the southern boundary of Yellowstone. Jackson is the home of a National Elk Refuge; and surrounding area includes Bridger-Teton and Targhee National Forests. One can see hay meadows, migrating elk and nesting trumpeter swans—evidence of a Western life reflecting the best uses of the surrounding Federal lands.

Although the Greater Yellowstone Region is the most intact ecosystem in the lower 48 States; it is now entering a new phase. Concerned about its rapidly changing character, in 1975, the National Park Service initiated a study to determine the best possible way to maintain the pastoral elegance of the Jackson Hole area. Their recommendation was to create a Jackson Hole Scenic Area.

A council of Teton County residents also prepared a study, and although they agreed with the basic recommendation of the National Park Service, decided to draft their own recommendations. The bill I introduce today is the result of their work. Although some problems still need to be resolved in the bill, I think we can best begin by its introduction into Congress.

A novel concept, the bill authorizes Federal funds to purchase scenic easements on certain privately owned lands in Teton County.

A scenic easement generally protects scenic and wildlife values by specifying what can and cannot be done on certain lands. Under this bill, a commission of Federal, State, and local representatives would recommend acquisition of easements on certain lands, to prevent inappropriate development.

Payment for the easement or tax advantages from an easement donation, make it more economically feasible for the land owner to maintain and continue current agricultural use of the land. Lands of particular concern to the Park Service or Fish and Wildlife Service would become the Interior Department interest areas; lands of special interest to the Forest Service would make up the Agriculture Department interest areas. Outside these Federal interest areas, State and local agencies could acquire easement, within the framework of the scenic area plan and with approval of the commission. Upon approval of the plan by the Secretary of the Interior, Secretary of Agriculture, and the Commission, funds would be appropriated to carry it out, divided equally among the three interest areas.

Most of the lands eligible for easement are ranch lands whose owners find it increasingly more difficult to balance the cost of operation with low profits. Ranchers have done a fine job of preserving the valley, but increasing visitation has brought with it intense pressure to develop these pastoral lands. Offers of $10,000, $20,000 even $50,000 an acre are difficult to resist, especially at a time when ranching is becoming less and less profitable, and inheritance taxes make it uncertain that their children can continue ranching at all. From 1971 through mid-June of this year, 1,054 subdivision lots were recorded in Teton County, outside of the town of Jackson. Commercial clutter begins to mar the highways approaching the area's national parks and forests. Although the area ranchers would prefer to continue their present way of life, it is becoming more and more difficult to maintain the present nature of the valley.

This bill offers a unique approach to maintaining the integrity and beauty of the Jackson Hole Area, as well as initiating a whole new concept which could be of interest on a nationwide basis. I am anxious to see the resulting discussion of this proposal in Congress.

The bill follows:

H.R. 9135

A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. That Congress finds:

(a) that the area known as Jackson Hole and its environs in the County of Teton, State of Wyoming, possess extraordinary scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values;

(b) that these values are shared by both private and public lands in the area;

(c) that the public interest in these lands has resulted in and will continue to foster increasing visitation with its attendant pressure for development and provision of public service which has resulted, and will continue increasingly to result, in impairment of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values on private lands and adjacent public lands;

(d) that there is national, state, and local interest in, as well as responsibility for, the preservation and enhancement of these values.

SEC. 2. The purposes of this Act are:

(a) to provide for the preservation and enhancement of the scenic, recreational, wildlife, ecologic, hydrologic, historic, natural and agricultural values of Jackson Hole and its environs;

(b) to establish a framework within which such preservation and enhancement may be accomplished with the cooperation of all affected public and private entities; and

(c) to provide sufficient authority to achieve such preservation and enhancement without undue interference with the prerogatives of participating public agencies and private property owners.

SEC. 3. (a) The Jackson Hole Scenic Area (hereinafter referred to as the "Area") is hereby established.

(b) The Area shall be comprised of all privately owned lands in Teton County, except those lying within Grand Teton National Park, as indicated on map #_____ which shall be on file and available for public inspection in the offices of the governmental agencies and entities which are members of the Commission hereinafter established.

(c) Acquisition of lands or lesser interests therein, including, but not limited to, scenic, conservation or open space easements and development rights, may be by donation, purchase with donated and appropriated funds, exchange, bequest, purchase and resale with deed restrictions, or otherwise throughout the area. *Provided, however,* that the Federal agencies shall not utilize funds authorized by this Act to acquire by acquisition of fee title more than five percent (5%) of the total acreage which is privately owned upon the effective date of this Act.

(d) Nothing in this Act shall diminish, enlarge or modify any existing rights or authorities of the State of Wyoming or the United States in regard to hunting, fishing or the management of wildlife.

(e) Nothing in this Act shall diminish, enlarge or modify any right of the State of Wyoming, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests in or on lands or waters within the Area.

SEC. 4. (a) The Jackson Hole Scenic Area Commission (hereinafter referred to as the "Commission"), is hereby established.

(b) The Commission shall be composed of not more than nine (9) members to be appointed by the Secretary of Interior with concurrence of the Secretary of Agriculture, as follows:

(1) the representative of the Secretary of the Interior;

(2) the representative of the Secretary of Agriculture;

(3) the Governor of Wyoming or his designee;

(4) a member of the Teton County Board of County Commissioners to be chosen by the County Commission;

(5) the Mayor of the Town of Jackson;

(6) four (4) civilian members-at-large selected from among residents of Teton County by the County Commission.

(c) The representative of the Teton County Board of County Commissioners shall act as Chairman until a Chairman is elected by vote of the Commission. Chairmen shall serve two (2) year terms, no more than two

(2) of which may be consecutive. Members of the Commission, other than those who serve in their official capacities as representatives of federal or state governmental entities, shall serve two (2) year terms, no more than two (2) of which may be consecutive. No limitations on serving consecutive terms shall be imposed on those members of the Commission who serve in their official capacities as representatives of federal or state governmental entities.

(d) The Commission shall act by affirmative vote of the majority of a quorum thereof; a quorum being a simple majority of the voting membership, unless otherwise required by this Act.

(e) The frequency, time and place of meetings shall be determined by the Commission. All meetings for the conduct of business shall be open to the public and shall be preceded by reasonable notice thereof.

(f) The Commission shall have the power to appoint and fix compensation of such additional personnel and such temporary and intermittent services as may be necessary to accomplish the purposes of this Act, without regard to the provisions of the civil service laws and the Classification Act of 1949;

(g) The Commission shall have the power to hold hearings and administer oaths;

(h) Civilian Commission members shall receive not more than one hundred dollars ($100.00) per day plus reasonable travel and other expenses incurred in the course of Commission business, reimbursed at current federal rates.

Sec. 5. (a) The Commission shall within three hundred (300) days of the effective date of this Act, develop a Scenic Area Plan (hereinafter referred to as the "Plan") which includes:

(1) a description of the lands within the Area,

(2) an evaluation of the values present in such lands,

(3) determination of land uses incompatible with above values,

(4) recommendations for acquisition of lands or lesser interests therein,

(5) identification, mapping and designation of all lands or interests therein, the acquisition of which is principally the concern of: (i) the National Park Service and U.S. Fish and Wildlife Service as Interior Department Interest Areas; and (ii) the U.S. Forest Service as Agriculture Department Interest Areas.

(6) designation of the remainder of the Area as State and Local Interest Areas, within which the acquisition of lands or interest therein shall be the concern of state and local agencies which have authority to acquire or hold lands on behalf of the public

(b) Prior to adoption of the Plan, the Commission shall hold at least one public hearing within the County of Teton for the purpose of receiving public comment on the proposed plan. Notice of the date, time and location of such hearing shall be published in a local newspaper of general circulation at least once a week for four consecutive weeks, and shall contain information as to where a copy of the proposed Plan may be inspected. The final Plan shall not be adopted until thirty days after the last hearing.

(c) The Commission shall, upon adoption of the Plan by a two-thirds vote of the entire Commission, submit the Plan concurrently to the Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretaries") for their review and approval or rejection. If neither Secretary has informed the Commission of his disapproval within one hundred (100) days from the date of submittal, it shall be deemed to have been approved. If either Secretary disapproves the Plan, he shall advise the Commission of the reasons therefor together with his recommendations for revision. The Plan shall be re-submitted by the Commission within sixty (60) days with corrections. This process shall be repeated until the Plan is approved. Upon the two-thirds (⅔) vote of the entire Commission, modifications of the approved Plan may be made. Such changes shall likewise be subject to the approval of both Secretaries. Failure to purchase lands or interest therein as recommended by the Plan shall not constitute a change under this Subsection.

(d) Upon approval of the Plan, the Secretaries may proceed to acquire such lands or interest therein as are indicated by the Plan within their respective Interest Areas without concurrence of the Commission; provided that the Commission is notified of the proposed acquisition.

(e) Upon approval of the Plan and upon recommendation of the Commission, the state and local agencies identified in the Plan may proceed to acquire land or interests therein within the State and Local Interest Areas.

(f) The power of condemnation shall not be used to further the purposes of this Act, except in the event a land use is proposed which is determined to be incompatible with the Plan in accordance with the provisions of Section 5(k).

(g) Such lands or interests in lands as may be acquired in the Area shall be held by the governmental agency or entity effecting the acquisition, and the land itself shall remain nominally within the Scenic Area and be managed accordingly. *Provided, that* lands or interests in lands within the boundaries of the National Elk Refuge or Bridger-Teton and Targhee National Forests acquired by such surrounding reserves shall be excluded from the Area and shall become part of such reserves.

(h) The Commission shall advise the State of Wyoming, County of Teton and the Town of Jackson to assist in coordinating the use of their respective authorities in the implementation of the Plan and may advise the Secretaries concerning their activities within their respective areas or request the assistance of either Secretary outside his respective Interest Area.

(i) No governmental agency or entity shall be bound by any recommendation of the Commission; *Provided, however,* no such agency or entity shall have access to any funds appropriated for accomplishing the purposes of this Act without the recommendation of the Commission except that the Secretaries may act without the consent of the Commission within their respective Interest Areas, except as provided in Subsection 5(1).

(j) The Commission may recommend that governmental agencies or entities enter into agreements with private organizations or interests if such agreements are advantageous to the implementation of the Plan and in no way prejudice further actions of the Commission, or any governmental agency or entity.

(k) The Commission shall review major land use actions proposed by public or private interest within the Area and reach a formal determination as to compatibility with the Plan as described under the provisions of Section 5(a)(3).

(l) Upon a finding of incompatibility,

(1) if the action is proposed for private purpose, the Commission may recommend acquisition of the land, or preferably, acquisition of the incompatible interest by the appropriate Secretary within his respective Interest Area or by State and Local agencies elsewhere in the Area. The power of condemnation shall be used to acquire such lands or interest therein only upon a two-thirds (⅔) vote of the Commission;

(2) if the action is proposed for a public purpose, the Commission may upon two-thirds (⅔) vote, delay the action in question for up to one hundred (100) days in order to hold a public hearing. Subsequent to such hearing, the action in question must be publicly reconsidered by the proposing party. If no hearing is held within one hundred (100) days, the planned action may proceed.

Sec. 6. (a) There is hereby established a special account in the Treasury of the United States of America for the purpose of holding moneys to be used by the Secretary of the Interior and the Secretary of Agriculture in making grants to further the purposes of this Act.

(b) There are hereby authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture such sums as may be necessary to accomplish the objectives of this Act, but not more than $200,000,000.

(c) Withdrawals from the special account may be made by the Secretary of Agriculture and the Secretary of the Interior for the purpose of making grants to their agencies in support of projects indicated by the Plan within their respective interest areas. *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized by either Secretary for this purpose, nor more than one-third of the amounts specified under Subsections (f) and (g) of this Section.

(d) In addition, either Secretary may make grants from the special account to the Governor of Wyoming for the use of his agencies and local units of government or to their own agencies in support of projects indicated by the Plan and specifically recommended by the Commission. *Provided, however,* no more than one-third of the total appropriation authorized hereby may be utilized for this purpose, nor more than one-third of the amounts specified under Subsections (f) and (g) of this Section.

(e) Governmental agencies or entities may continue to acquire privately owned lands or interests therein by exercising existing authorities and funding without concurrence of the Commission.

(f) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for development of the public access or improvements within the Area. However, governmental agencies or entities may contain to exercise existing authorities and sources of funding for this purpose without concurrence of the Commission.

(g) No more than two and one-half percent (2.5%) of the total appropriation authorized hereby may be used for the removal of structures or improvements detrimental to the purpose of this Act.

(h) There are authorized to be appropriated to defray the expenses of the incident to the preparation of the Plan, and enforcement of easements, such sums annually as may be necessary up to One Hundred Thousand Dollars ($100,000). Expenditures from this fund must be approved by the Commission.

HEARINGS SCHEDULE FOR SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION FOR 95TH CONGRESS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, I am taking the floor today in order to insert in the CONGRESSIONAL RECORD the hearing schedule for the Subcommittee on Elementary, Seconday, and Vocational Education for the remainder of the 1st session of the 95th Congress. This hearing schedule will complete most of our hearings on the Federal elementary and secondary education legislation which expires September 30, 1978. The subcommittee prior to the August recess had al-

ready conducted 29 days of hearings on these programs.

Our hearing schedule is ambitious, and I hope that we will be able to complete these hearings as planned since we have set as our objective this year conducting the most extensive and thorough set of hearings ever held on these Federal programs. We may find, however, that we may have to modify this hearing schedule later this fall depending upon the adjournment date of the Congress.

Most of the schedule is self-explanatory to those concerned with these programs, but I would like to make some remarks concerning our scheduled hearings on "equalization efforts." We are all familiar with the famous Serrano against Priest decision in California which held that State's method of school financing unconstitutional under the State constitution since local property wealth was the main determinant of the amount of funds spent for the education of children. I am sure that we are also familiar with the U.S. Supreme Court decision in Rodriguez which held that a similar fact situation in Texas did not violate the Constitution of the United States.

Beginning with the Serrano decision many efforts were made in States throughout the country to achieve a better equalization of State and local funding for education. Although temporarily taken aback by the Rodriguez decision, many of these efforts still went forward, and many new efforts were initiated. The result of all this is that since 1971, 21 States have tried to bring about a more equitable distribution of State and local funding for education.

Unfortunately, to my way of thinking, the Federal Government has been almost totally absent from these efforts. Except for a minor program we enacted in 1974 to provide some planning money to the States, the Federal Government has not made any substantial attempts to assist the States in this very difficult task of furthering equalization.

I myself believe that the variances among the levels of funding available to local school districts, both within States and among States, is at the root of most of the problems we face in education today. In my own State of Kentucky the richest school district spends three times as much to educate its youngsters as does the poorest school district. No amount of Federal categorical aid can wholly overcome that basic inequity. We can add categorical program after program on top of the basic educational program, but the simple fact will always remain that in Kentucky the rich will have three times as much for their children's basic education as will the poor.

For that reason, I believe that the Federal Government must set as one of its major objectives assisting the States to bring about a better distribution of their basic educational resources. During the 2 days of hearings we have scheduled on this topic, I hope that we will be able to discuss the best ways for the Federal Government to do that.

I hope that all of the witnesses at those hearings will address themselves to two issues: First, if the Federal Government were to mount a very substantial program of aid, what would be the best forms in which to provide this aid; and second, if the Federal Government were to become involved in less costly attempts to assist in equalization, what should those attempts entail? I have introduced my own bill, H.R. 1138, the School Finance Act of 1977, which could serve as a basis of discussion of the first point. I would hope though that no witness would feel compelled to limit his testimony to that bill or to any other particular bill.

It is my hope that, when the Congress writes the Education Amendments of 1978 extending and revising the expiring Federal programs, it will see fit to establish a Federal role in assisting the States to further equalization.

Mr. Speaker, the subcommittee's schedule of hearings follows:

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION HEARING SCHEDULE

September 12th, Educational Proficiency, H.R. 6088.
September 15th, Educational Proficiency, H.R. 6088.
September 20th, National Organizations.
September 21st, National Organizations.
September 22d, National Organizations.
September 27th, National Organizations.
September 28th, Equalization Efforts.
September 29th, Equalization Efforts.
October 4th, Title I: State Handicapped Program.
October 5th, Title I: State Neglected and Delinquent Program and Foster Children.
October 6th, Title I: Parental Participation.
October 12th, Title I: State Migrant Program.
October 18th, Title I: Services.
October 19th, Title I: Services.
October 20th, Title I: Services.
October 25th, Title I: Administration.
October 26th, Title I: Administration.
October 27th, Title I: Administration.
November 1st, Title I: Funds Allocation.
November 2d, Title I: Funds Allocation.
November 3d, Title I: Funds Allocation.
November 8th, Title I: Funds Allocation.
November 9th, Title I: Funds Allocation.
November 10th, Title I: Funds Allocation.

A TRIBUTE TO STICKLEY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, I want to call your attention and the attention of my colleagues today to a story with two happy endings, both to the benefit of the American consumer—a story about the revitalization of an American manufacturer and the restoration of a tradition of quality, unmatched in its field.

Just 3 years ago, Mr. Alfred Audi of New York City purchased the ailing Stickley Furniture Co. of Fayetteville, N.Y. He undertook a training program for skilled craftsmen, and applied some firsthand understanding of retail marketing in the furniture field.

Those are the facts of the story. For an appreciation of the significance behind the facts and the two happy endings, we have to go back to the late 1800's.

At that time, the gaudy, Victorian period was drawing to a close. This signaled more than the end of a style of architecture or a style of furnishing—it signaled the end of a period which saw large concentrations of wealth in relatively few families and individuals. More families were beginning to share in the expanding national wealth for a variety of socio-economic reasons. Not the least of these was the impetus given by the influx of immigrants whose intelligence and culture enriched the American lifestyle.

It was to this increasingly independent, liberated, if you will, American consumer that Stickley furniture was first introduced. The brothers Stickley—Gustav, the oldest, Leopold and John George—began producing their own furniture near Syracuse in 1900, having learned the art of cabinetmaking from their uncle in Pennsylvania. They sensed from the beginning that absolute integrity of design and workmanship would result in acceptance by this more sophisticated market.

The Stickleys' first efforts resulted in so-called Mission furniture, a radical departure from the overdecorated, highly ornamented piece of the late Victorian period. The spare, functional, clean lines of Shaker style influenced the Stickleys' early designs, and this, coupled with infinite attention to quality construction, led to quick commercial success.

Until the beginning of World War I, Stickley "Mission" was one of the most sought after home furniture styles in the Nation. Its sturdy, squarish, almost ascetic form is still familiar today. Employment and profits at the plant, which, by this time, had moved to the Syracuse suburb of Fayetteville climbed healthily.

But tastes changed, and a revival of colonial period furniture took place. Gustav Stickley, the champion and foremost promoter of "Mission" or "Craftsman" furniture, as it came to be known, did not adapt to the evolving market. His brothers Leopold and John George formed their own company, having developed a consuming interest in the skill and materials of early American furniture makers. Their research and thorough attention to individually handcrafted pieces of the finest woods brought them to a point where their early American reproductions became the standard of quality for this funiture style.

In an article written some time ago for the Interior Decorator's News, M. E. J. Audi, father of the Stickley Company's present owner, said:

I presume "The Interior Decorator's News" asked me to discuss the Colonial period largely because of my thirty years of association with the late Leopold Stickley of Fayetteville, New York, who for forty years dominated the Colonial field. Leopold Stickley was responsible for the revival of cherry wood in Colonial furniture, and was virtually alone in that field for about twenty years. The wide variety of models he produced stood without peer in the entire field. As the furniture industry increased its dependence on assembly line production, it seemed he resorted more and more to hand craftsmanship and hand finishing. Even during the war, when he was complaining bitterly that the restrictions of the O.P.A. price left him no margin of profit, his pieces continued to arrive with drawers finished on the inside; the reverse side of the table leaves were as beautifully finished as ever, and the reverse side of the beds were almost as beautiful as the fronts. The artist in him could make no compromises with his ideal. Those of us who visited the factory frequently were always amazed to find him projecting new techniques in construction and

finish which none of us saw any need for. The industry was satisfied, the public was full of praise, but the artist in him was never quite satisfied. He truly had a romance with Colonial furniture and he was extremely romantic about cherry wood. That is why, when you see a piece of Stickley, you realize it is not only made well, but it breathes with life, it smiles with a clarity of face and with a depth of color that only loving care can produce in wood.

In Stickley's 50th Anniversary Booklet, the author spoke of the activity in nearby Cherry Valley:

Out in the woods, men were cutting down wild cherry trees, preparing for the winter when the logs would be drawn on sleighs to the workshops of cabinet makers in the region. Workmen from England, from Holland and the German Palatinate, these cabinetmakers fashioned chairs, tables, beds and chests from the fragrant wood, sometimes working for a full year on an order from a single family. Craftsmen more than creators, they drew largely upon their memory for their designs, though some among them added details of their own. And they borrowed liberally from the traditions of the three countries represented. Gradually they evolved details of design and structure that marked their furniture as distinctly from Cherry Valley.

It was furniture that took full advantage of the curability and workability of the wild cherry wood that was found in such abundance in the valley—furniture with broad flat surfaces that revealed the beautiful figure of the wood; surfaces that melted into pools of liquid fire when candlelight gleamed on their carefully rubbed and polished finish.

Thus, in a wilderness valley—remote from the seacoast and the places usually associated with colonial settlement—one of America's most famous furniture woods and most distinguished furniture styles came into use.

Today the fame of that furniture has spread all over the continent. Original cherry pieces command places of honor in museums and princely prices at antique dealers.

And so, through insistence on the highest quality wood, integrity of design, and the painstaking attention to individual hand finishing, Leopold Stickley developed a furniture line that had the pride of authorship reflected in its glow.

By 1957, the year of Leopold's death, L. & J. G. Stickley, Inc. was one of the most respected furniture companies in the country.

After her husband's death, Louise Stickley continued the great tradition of the Stickley line, insisting on upholding the quality and skill of the individual craftsmen, continually fighting against the watered-down quality of mass production. But the gradual attrition of her highly skilled older employees and new marketing techniques took their toll.

To preserve the Stickley reputation for quality, the company was sold to its largest retailer in 1974, Mr. Alfred Audi.

Now, Mr. Speaker, for the two happy endings I mentioned earlier.

One. A proud, quality-conscious industry has been saved. The unique tradition of Stickley Furniture will continue under the scrutiny of Mr. Audi and his wife, Mimi, who has both an artist's appreciation and a wife's business acumen when it comes to producing furniture. The discriminating American consumer is assured that a top quality item will remain available.

Two. Jobs have been saved and jobs have been created—the best economic news there can be. Employment was down to 20 when Mr. Audi purchased the firm in 1974. Today, 65 people are working and more will be hired. The Small Business Administration was instrumental in helping with the financial purchase, and the Onondaga Industrial Development Corporation aided in the initial reorganization.

A unique training program has been instituted by Mr. Audi, who told me:

I prevailed upon some of the really highly skilled older retired employees, to come in and work whenever they feel like it. I put a trainee on either side of the craftsman and he goes about the job he knows so well. They all enjoy it, and the younger fellows are learning a valuable skill.

Incidentally, Mr. Speaker, they are having trouble keeping up with orders.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. CORMAN (at the request of Mr. WRIGHT), until 1:10 p.m. today, on account of official business.

Mr. KINDNESS (at the request of Mr. MICHEL), for today, to attend a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. LEGGETT, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. KASTEN), to revise and extend their remarks, and to include extraneous matter:)

Mr. KEMP, for 15 minutes, today.
Mr. MCCLOSKEY, for 60 minutes, today.
Mr. FORSYTHE, for 5 minutes, today.
Mr. SARASIN, for 5 minutes, today.
Mr. WHALEN, for 5 minutes, today.
Mr. STOCKMAN, for 15 minutes, today.

(The following Members (at the request of Mr. BENJAMIN) and to revise and extend their remarks and include extraneous matter:)

Mr. WIRTH, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. DIGGS, for 5 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. LEHMAN, for 5 minutes, today.
Mr. CORRADA, for 20 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. DUNCAN of Oregon, for 5 minutes, today.
Mr. FORD of Tennessee, for 5 minutes, today.
Mr. DODD, for 10 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. WOLFF, for 5 minutes, today.
Mr. KASTENMEIER, for 10 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. ERTEL, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. BROOKS, for 5 minutes, today.
Mr. PERKINS, for 10 minutes, today.
Mr. GONZALEZ, for 1 hour, tomorrow, September 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EILBERG, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,529.50.

Mr. LEGGETT, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,610.

Mr. SEBELIUS, immediately following the remarks of Mr. PICKLE prior to the vote on the Pickle substitute in the Committee of the Whole today.

(The following Members (at the request of Mr. KASTEN), and to include extraneous matter:)

Mr. QUIE.
Mr BAUMAN.
Mr. YOUNG of Alaska.
Mr. BOB WILSON in two instances.
Mr. CUNNINGHAM.
Mr. MARRIOTT in two instances.
Mr. REGULA.
Mr. SHUSTER.
Mr CRANE.
Mr. COLLINS of Texas in two instances.
Mrs. HOLT in two instances.
Mr. FINDLEY.
Mr. DERWINSKI in two instances.
Mr. BURKE of Florida in two instances.
Mr KASTEN.
Mr. MOOREHEAD.
Mr. FISH.
Mr. EDWARDS of Oklahoma.
Mr. DORNAN.
Mr. LAGOMARSINO in two instances.
Mr. COLEMAN.
Mr. GILMAN.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. BENJAMIN), and to include extraneous matter:)

Mr. DRINAN in 11 instances.
Mr. MURPHY of Illinois.
Mr. WRIGHT.
Mr. HAWKINS.
Mr. EVANS of Indiana.
Mr. WIRTH.
Mr. MURTHA.
Mr. HAMILTON.
Mr. JOHN BURTON.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. RICHMOND.
Mr. HOLLAND in three instances.
Mr. DOWNEY.
Mr. UDALL.
Mr. ST GERMAIN.
Mr. JACOBS.
Mr. TEAGUE.
Mr. LEHMAN.
Mr. KOCH in three instances.
Mr. ZEFERETTI.
Mr. EILBERG.

Mr. FRASER in two instances.
Mr. MOAKLEY.
Mr. BONKER.
Mr. CHAPPELL.
Mr. CONYERS in two instances.
Mrs. MEYNER.
Mrs. COLLINS of Illinois in two instances.
Mr. ECKHARDT.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Friday, September 16, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2360. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact upon U.S. readiness of the Army's proposed sale of certain defense articles and services to Sweden (transmittal No. 77–63), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2361. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to the United Kingdom (transmittal No. 77–68), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2362. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to Iran (transmittal No. 77–69), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2363. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact upon U.S. readiness of the Navy's proposed sale of certain defense articles to Australia (transmittal No. 77–76), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2364. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact upon U.S readiness of the Army's proposed sale of certain defense articles to the Netherlands (transmittal No. 77–79), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2365. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact upon U.S. readiness of the Navy's proposed sale of certain defense articles to Korea (transmittal No. 77–82), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2366. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Navy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2367. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Frank J. Devine, Ambassador-designate to El Salvador, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2368. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Frank H. Perez, Minister-designate to the Strategic Arms Limitation Talks, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2369. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Esteban E. Torres, U.S. Representative-designate to UNESCO, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2370. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles to Korea (transmittal No. 77–82), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2371. A letter from the Secretary of Commerce, transmitting the 21st program report of the U.S. Travel Service, covering calendar year 1976, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Interstate and Foreign Commerce.

2372. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Commerce on the Judiciary.

2373. A letter from the Secretary of Health, Education, and Welfare, and the Secretary of Labor, transmitting a draft of proposed legislation to replace the existing Federal welfare programs with a single, coordinated program to seek to assure jobs, training, and income supplementation for low income citizens able to work and income support for low income citizens in need who are not available for work by reason of disability, age, or family circumstances; jointly, to the Committees on Agriculture, Education and Labor, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 763. Resolution providing for the consideration of H.R. 8011. A bill to extend for 1 year the special pay provisions for physicians and dentists in the uniformed services and to reinstate the special pay provisions for optometrists and veterinarians in the uniformed services (Rept. No. 95–602). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 764. Resolution providing for the consideration of H.R. 8655. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95–603). Referred to the House Calendar.

Mr. SMITH of Iowa: Committee on Small Business. Report on women in business (Rept. No. 95–604). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7744. A bill to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; with amendment (Rept. No. 95–605). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. CUNNINGHAM, Mr. LE FANTE, Mr. MCCORMACK, Mr. PRESSLER, and Mr. FARY):

H.R. 9116. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. CAVANAUGH:

H.R. 9117. A bill to amend the Internal Revenue Code of 1954 to exclude gain from certain sales of farms or businesses from treatment as an item tax preference for purposes of the minimum tax; to the Committee on Ways and Means.

By Mr. CUNNINGHAM:

H.R. 9118. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

H.R. 9119. A bill to assure that the policies of the executive branch of the Government of the United States protect employment opportunities for U.S. citizens, and for other purposes; jointly, to the Committees on Education and Labor, and Government Operations.

By Mr. WINN:

H.R. 9120. A bill to authorize the establishment of the Tallgrass Prairie National Park and the Tallgrass Prairie National Preserve and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DODD (for himself, Mr. BEARD of Rhode Island, Mr. BEDELL, Mr. BLANCHARD, Mr. COTTER, Mr. D'AMOURS, Mr. MCKINNEY, Mr. MIKVA, Mr. PEPPER, Mrs. SPELLMAN, and Mrs. CHISHOLM):

H.R. 9121. A bill to amend title 38 of the United States Code relating to the recognition of representatives of the Polish Legion of American Veterans as claims agents for claims arising under laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. KASTENMEIER:

H.R. 9122. A bill to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts; to the Committee on the Judiciary.

H.R. 9123. A bill to limit the exercise of diversity jurisdiction in the Federal courts; to the Committee on the Judiciary.

By Mr. KILDEE (for himself, Mr. MURPHY of New York, and Mr. QUIE):

H.R. 9124. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs, films, or electronic visual images depicting such exploitation; to the Committee on Education and Labor.

By Mr. KOCH:

H.R. 9125. A bill to provide loans for the construction and initial operation of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. BONKER, Mr. BOWEN, Mr. EDWARDS of California, Mr. EILBERG, Mrs. HOLT, Mr. JENRETTE, Mr. KOSTMAYER, Mr. LEACH, Mr. LE FANTE, Mr. LONG of Maryland, Mr. MITCHELL of New York, Mr. MOORHEAD of California, and Mr. ZEFERETTI):

H.R. 9126. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 9127. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, and to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MOAKLEY (for himself, Mr. MITCHELL of New York, Mr. BROWN of California, Mr. CARR, Mr. MINETA, Mr. PATTERSON of California, Mr. SEIBERLING, Mr. MCHUGH, Mr. PERKINS, Mr. AKAKA, Mr. LEDERER, Mr. PANETTA, Mr. BENJAMIN, and Mr. CORRADA):

H.R. 9128. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. MOAKLEY (for himself, Mr. FASCELL, Mr. GIAIMO, Mr. THOMPSON, Mr. RICHMOND, Mr. OTTINGER, Mr. EDWARDS of California, Mr. HANNAFORD, Mr. ZEFERETTI, Mr. EILBERG, Mr. D'AMOURS, Mr. GINN, Mr. SIMON, Mr. CLAY, Mr. COHEN, Mr. BONIOR, Ms. SPELLMAN, Mr. EDGAR, Mr. RUPPE, and Mr. ROE):

H.R. 9129. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus real property to States and their political subdivisions, agencies, and instrumentalities for economic development purposes; to the Committee on Government Operations.

By Mr. PREYER:

H.R. 9130. A bill to amend the Freedom of Information Act to insure public access to the official papers of the President, and for other purposes; jointly, to the Committees on House Administration, and Government Operations.

By Mr. REGULA:

H.R. 9131. A bill to amend the Internal Revenue Code of 1954 to provide a permanent income tax rate reduction for individuals, to increase the amount of the credit for personal exemption to $70, and for other purposes; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. EDWARDS of California, Mr. EILBERG, Mr. MIKVA, Mr. BALDUS, Mr. BAUCUS, Mr. D'AMOURS, Mr. MOFFETT, Mr. NEAL, Mr. PATTISON of New York, Mrs. SPELLMAN, Mr. BONIOR, and Mr. CORNWELL):

H.R. 9132. A bill to restore effective enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. RODINO (by request):

H.R. 9133. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes; to the Committee on the Judiciary.

By Mr. EILBERG:

H.R. 9134. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes; to the Committee on the Judiciary.

By Mr. RONCALIO (by request):

H.R. 9135. A bill to provide for the establishment of the Jackson Hole Scenic Area in the State of Wyoming and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUNNELS (for himself and Mr. LUJAN):

H.R. 9136. A bill to prohibit the excessing of cabin sites and removal of cabins located at Conchas Lake, N. Mex., prior to 1966 without State approval; to the Committee on Public Works and Transportation.

By Mr. ST GERMAIN:

H.R. 9137. A bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. WALKER (for himself, Mr. MOAKLEY, Mr. LENT, Mrs. LLOYD of Tennessee, Mr. PRICE, Mr. CONTE, Mr. RAHALL, Mr. MURPHY of Pennsylvania, Mr. LEHMAN, Mr. DUNCAN of Tennessee, Mr. HYDE, Mr. LAGOMARSINO, Mr. EILBERG, and Mr. WINN):

H.R. 9138. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. WHALEN:

H.R. 9139. A bill to amend XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 9140. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. CAVANAUGH (for himself, Mr. THOMPSON, Mr. MOAKLEY, Mr. GRADISON, Mr. PANETTA, Mr. UDALL, Mr. REGULA, Mr. BALDUS, Mr. EILBERG, Mr. AKAKA, Mr. JENKINS, Mr. MIKVA, Mr. EVANS of Georgia, Mr. MURPHY of Pennsylvania, Mr. FORD of Tennessee, Mr. BONIOR, Mr. D'AMOURS, Mr. CHARLES WILSON of Texas, Mr. MCCORMACK, Mr. FASCELL, Mr. EDWARDS of Oklahoma, Mr. HUGHES, Mr. ROE, and Mr. QUILLEN):

H.R. 9141. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by depositary institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CAVANAUGH (for himself, Mr. SIMON, Mr. LUNDINE, Mr. KILDEE, Mr. KEMP, Mr. MCHUGH, Mr. WYLIE, Mr. BLANCHARD, Mr. BADILLO, Mr. WAXMAN, and Mr. KOSTMAYER):

H.R. 9142. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by depository institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JENRETTE (for himself and Mr. DAVIS):

H.R. 9143. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1977 in certain disaster areas in South Carolina; to the Committee on Agriculture.

By Mr. KRUEGER (for himself, Mr. SCHEUER, and Mr. BROYHILL):

H.R. 9144. A bill to provide protection of franchisees against the possibility of arbitrary franchise terminations; to establish fair procedures for protecting the rights of franchisees and franchisors upon expiration of a franchise; and to protect the quality of franchise systems for the benefit of consumers, franchisors and franchisees; to the Committee on Interstate and Foreign Commerce.

By Mr. LAGOMARSINO:

H.R. 9145. A bill to provide rental assistance under section 8 of the U.S. Housing Act of 1937 for owners of mobile homes who rent the real property on which their mobile homes are located; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NIX (for himself, Mr. UDALL, Mr. HANLEY, Mr. CHARLES H. WILSON of California, Mr. WHITE, Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Mr. LEHMAN, Mrs. SPELLMAN, Mr. HARRIS, Mr. SOLARZ, Mr. MICHAEL O. MYERS, Mr. HEFTEL, Mr. HOWARD, Mr. METCALFE, Mr. RYAN, Mr. DERWINSKI, Mr. ROUSSELOT, Mr. TAYLOR, Mr. GILMAN, Mr. LOTT, Mr. LEACH, and Mr. CORCORAN of Illinois):

H.R. 9146. A bill to provide for congressional review of proposed changes in postal services; jointly, to the Committees on Post Office and Civil Service, and Rules.

By Mr. RANGEL:

H.R. 9147. A bill to amend the Internal Revenue Code of 1954 to provide for a 1-year extension of the depreciation rules relating to the rehabilitation of low-income housing; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 9148. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, Mr. CORCORAN of Illinois, Mr. MOTTL, Mr. MARLENEE, Mr. MITCHELL of New York, Mr. CONABLE, Mr. QUIE, Mr. LEACH, Mr. MILLER of Ohio, Mr. STOCKMAN, Mr. HYDE, Mr. FREY, Mr. ARMSTRONG, Mr. SKUBITZ, Mrs. HECKLER, Mr. PRITCHARD, Mr. EDWARDS of Alabama, Mr. WAMPLER, Mr. GILMAN, Mr. DICKINSON, Mr. YOUNG of Alaska, Mr. CLEVELAND, Mrs. PETTIS, and Mr. BUTLER):

H. Con. Res. 358. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. MINISH (for himself and Mr. ANNUNZIO):

H. Con. Res. 359. Concurrent resolution to provide recognition of the services of Gen. Thaddeus Kosciuszko; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAGOMARSINO:

H.R. 9149. A bill for the relief of Robert E. Smith, U.S. Navy (retired); to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 9150. A bill for the relief of Strikantia Srinathkumar, Usha Srinath, and Sruti Srinath; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 9151. A bill for the relief of Maria Corazon Samtoy; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 9152. A bill for the relief of T. Sgt. Thomas L. Bilbo (retired) and Joan Bilbo; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. KOCH:

In lieu of the matter (beginning on line 22 of page 66 and ending on line 5 of page 70) proposed to be inserted, substitute the following:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical-care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"Notice of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the au-

thorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital satistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(ii) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personnel medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

H.R. 6566

By Mr. JOHN L. BURTON:

Page 21, after line 19, add the following new section:

SEC. 210. None of the funds authorized to be appropriated under secton 101 of this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation (neutron bomb) warhead, or for research, development, testing, or evaluation with respect to any such warhead, unless such warhead is designed to destroy property without causing harm to human beings and other living things.

H.R. 6796

By Mr. STARK:

Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. Effective January 1, 1978, title V of Public Law 94–187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domestic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501.".

By Mr. WIRTH:

Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

Sec. 211. Effective January 1, 1978, title V of Public Law 94–187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domes-

tic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"Sec. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501."

EXTENSIONS OF REMARKS

IMPERIAL VALLEY DESERVES BETTER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the San Diego Union, Aug. 29, 1977]

IMPERIAL VALLEY DESERVES BETTER

Imperial Valley has one of two destinies. It can be a harsh desert of interest primarily to those bent on recreation, tourists, environmentalists, fishermen and geologists. Or it can be, and is, a food basket for the United States.

Until about the turn of the century, Imperial Valley was primarily a desert. It became a food basket primarily because of the spirit and endurance of several generations of hardy farmers. They have literally made the desert bloom.

All of this happened long before the U.S. Bureau of Reclamation established its programs to develop agriculture on arid and marginal lands in the western states. Indeed, Imperial Valley farmers were providing their own irrigation and farming some 400,000 acres of land before the All American Canal from the Colorado River to the Valley was built under the aegis of the Bureau.

In the early 1900s, the federal government recognized the equities and achievements of Imperial Valley farmers, as well as the unique character of farming in the region. Washington exempted Valley farmers from Bureau of Reclamation rules which limit individual ownership of land to 160 acres if it is receiving irrigation water from federal dams—and a rule that the person tilling the land must live on it, or no farther than 50 miles from it.

The exemption was valid then and is today. Imperial Valley farmers did not need the All American Canal. They were already getting adequate irrigation water from another canal that dipped through Mexico before returning to the United States. But they supported the "All American" project with the understanding that acreage limitations would not apply and agreed to pay the federal government $45 million as their share.

The simple fact is that the 160-acre limitations are unrealistic in Imperial Valley. The kind of crops grown there, such as lettuce, wheat, sugar beets and alfalfa, require large acreages. Other kinds of crops are not feasible because the land is marginal and water is so mineral laden that crops have to be frequently rotated.

Nor is a 160-acre limitation practical when a track-type tractor costs more than $100,000, a combine $50,000 and a cotton picker $55,000. And a 160-acre limitation in Imperial Valley does not permit a farmer the flexibility of planting several different kinds of crops to cover losses if the market is poor for any one of them.

These are facts backed by a half-century of actual farmng experience. Over the years they were accepted by the federal government, both administrators and courts, in exempting Imperial Valley from the rules imposed by the Bureau of Reclamation.

Thus, Imperial Valley farmers received a double shock in recent weeks when an appeals court held that the Bureau's rules do apply to them, and when the secretary of the Interior added, three days later, that residency regulations also would be enforced.

Ostensibly the acreage limitations and residency requirements are supposed to encourage family farming. The fact is that most of the farms in Imperial Valley are family farms, both large and small. If the appeals court and secretary of Interior's rulings stand, family farms would actually be broken up.

Drastic consequences also would follow a breakup of the large Imperial Valley farms. They would become less efficient and productive. The nature of Imperial Valley agriculture would change drastically for the worse and that part of the valley could start changing back into a desert. On a broader scale, the entire economic structure of the region would suffer and prices of food would go up for many Americans.

It need not happen. The Imperial Valley agricultural story is indeed an all-American story of hardy pioneers carving out successful enterprises with their own hands and energies. It threatens to become an all-too-frequent modern-day American story in which an insensitive bureaucratic juggernaut intrudes into an operation that is working well and imposes harm and suffering.

The legal remedies available to the Imperial Valley growers are few. Their hope is that people become angry enough with this latest bureaucratic excess to turn Washington around.

We hope they do.

SENIOR CITIZENS FAVOR FUNDING FOR ADVISORY NEIGHBORHOOD COMMISSIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. FRASER. Mr. Speaker, ANC's in the District of Columbia are a helpful link between the neighborhood residents and the District government.

One example is given in a letter from Mrs. Christine McNair, president of the tenants council at a senior citizens housing project on Capitol Hill, where the ANC helped get locks on the hall doors, secure mailboxes, and plans for window guards on first floor apartments.

Mrs. McNair's letter follows:

KENTUCKY COURTS SENIOR CITIZENS HOUSING PROJECTS,
Washington, D.C., September 2, 1977.

We senior citizens have been greatly aided by this elected body. To cite a specific example: Ever since the construction of our public housing complex, residents tried to get the local housing authorities to put locks on our entryways. We lived in constant anxiety because strangers had easy access to our hallways 24 hours a day.

Our Commissioner, who lives only a few blocks away, took a special interest in our problems and discussed them with the full Commission, ANC 6B.

Within a few days, ANC 6B held a public meeting with a representative of housing and several residents from this housing project. The Commissioners told the representative that they were deeply concerned about the absence of security in our buildings, and urged the housing authorities to take immediate steps to correct this serious problem.

For the first time, since this complex was built about 5 years ago, we have locks on our hall doors; our mailboxes are secure; and window guards are scheduled to be placed on all first floor apartments.

We need this community-based elected body to help us live better lives. Please don't kill them. Vote to refund the ANCs!! We thank you.

Sincerely yours,

Mrs. Christine McNair,
President.

MEMBERS OF NEW MARYLAND COMMISSION ON INDIAN AFFAIRS NAMED

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mrs. HOLT. Mr. Speaker, Maryland is very proud of the Indian cultural contributions to our State's heritage. I am happy to learn that the Maryland General Assembly has recognized this segment of the State's population and I believe that the following release is worthy of mention in the CONGRESSIONAL RECORD:

MEMBERS OF NEW MARYLAND COMMISSION ON INDIAN AFFAIRS NAMED

A separate Commission on Indian Affairs has been established by the Maryland General Assembly, with J. Hugh Proctor, a Piscataway and a retired Program Officer with the U.S. Army Material Command named as its first chairman.

Prior to the creation of the new Commission, the Indian group had been a part of the Commission on Afro-American and Indian History and Culture which, in turn, changed its name after an amicable separation. Both Commissions are agencies of the

Department of Economic and Community Development.

Charged with initiating projects which further the understanding of Indian history and culture, the new Indian Commission will undertake a thorough demographic study of the native American peoples of Maryland, including, among others, the Haliwas and the Lumbees, who came to Maryland in modern times from North Carolina, and the Piscataways, Southern Maryland's indigenous Indian people.

It is not widely known that Maryland has a large Indian population, estimated at about 8,000, some scattered over Maryland but many, like the Piscataways, still found in areas of Southern Maryland where their forebearers lived for centuries. Some Indians live in ethnic areas of East Baltimore and others, representing such tribes as Comanche, Pueblo, Blackfeet, Creek and Cherokee, are found in many areas across the State. When the first Maryland "settlers" in the Ark and Dove landed in 1634, Piscataway Indians were already long in residence.

Billy Redwing Tayac, named to the nine-member Commission, said the Piscataways played an active role in the Maryland Bicentennial commemoration, building a permanent historical and cultural exhibit at the Piscataway-Conoy Indian Center at Waldorf. It was noted that during the Bicentennial in America an exhibit in London illustrated 2,000 years of American art.

Tayac is the son of Turkey Tayac, hereditary Sagamore (Chief of chiefs) of the Piscataways.

Vice Chairman of the Indian Commission is Dr. Bobby D. Brayboy, a Lumbee and widely-known teacher and lecturer in Indian and public health fields. He received a Ph.D in education at the University of New Mexico and is the recipient of numerous awards and honors.

Other members of the Indian Commission are: Dr. Joseph W. Neale, a Shawnee, Director of International Student and Faculty Exchange and American Indian Student Advisor at the American University, Washington, D.C.; Tommie Dial, Executive Director of the American Study Center in Baltimore, a Lumbee; Carl Harding, also a Lumbee of Essex, Chairman of the Board of American Indian Study Center; Thelma Morrisseau Hothem, a Sioux-Ojibway of Bethesda and a member of the Montomery County Indian Parent Committee; Mrs. Sarah J. Bundy, teacher in Baltimore public schools for more than 25 years and is a nurse by training; and Stephen W. Lafferty, a teacher in history and social studies in Baltimore schools. He obtained his M.A. specializing in Indian affairs at Bowling Green State University in Bowling Green, Ohio.

PATRICIA JOAN THOBEN

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BRADEMAS. Mr. Speaker, Patricia Thoben's life was one of dedication to a noble cause—equality of opportunity for handicapped people. She was a courageous person who committed herself to fighting for the civil rights of disabled individuals.

The recent issue of "Disabled USA," the magazine of the President's Committee on Employment of the Handicapped, carries a tribute to Patricia Thoben written by Dick Sheppard, which I insert at this point in the RECORD:

ONE AMONG MANY

"Because of deep love, one is courageous."—Lao Tzu.

No other phrase could better characterize Pat Thoben who gave up her fight with cancer June 7. Patricia Joan Thoben, 44, devoted most of her life to working for equal rights for handicapped persons.

In 1974 she made national news when two airlines refused her passage on their flights to Philadelphia on the grounds that she would be unable to leave the plane by herself if an emergency should occur. Pat was one of the first to legally challenge the airlines. Although she was offered handsome financial settlements, she refused them—asserting that the right of all handicapped people to fly, and not her personal inconvenience, was the basic issue.

When I first met Pat, it was in 1965 in a library in HEW. She was perched at least two tiers above her wheelchair getting a book. I often thought of her fierce independence and determination in relation to her airline suit. I knew I would hate to be in her way if she wanted off an airplane. I was also awed by her courage and assertiveness when dealing with the highest government officials—from the White House to the halls of Congress.

As I grew to know her, I learned that her courage stemmed from a deep concern for others with disabilities and her total commitment to human dignity for all persons.

For the last three years, Pat served as a Senior Program Assistant in the Office of Selective Placement, U.S. Civil Service Commission. She played an important role in the overall administration of federal policies, practices and procedures for the hiring, placement and advancement of handicapped individuals.

She had a long history of government employment. Before coming to the Civil Service Commission she worked at HEW. Always, her efforts were particularly directed toward the severely handicapped. Through her efforts, the successful placement of all disabled employees was better ensured.

Her fight to see that disabled people received equal opportunities took her throughout the United States and the world. These presentations won her many friends and much respect. She presented her arguments with strength, and herself with dignity and warmth.

In addition to speaking her mind, she wrote extensively, reaching those she could not persuade personally. Her "Civil Rights and Employment of the Severely Handicapped", published in the "Rehabilitation Counseling Bulletin" in June 1975, was widely acclaimed and quoted.

In her civil rights article Pat concluded by challenging handicapped persons to . . . "accept the responsibility of their own destiny, of realizing their hopes of participating in a society in which we are all equal to live, work, and move about freely."

Personally, Pat inspired me to take up the gauntlet and moved me many miles forward in working toward equality for all persons. I know I am not a person alone who Pat inspired, but one among many.

Pat, too, was one person among many who have fought for the rights of handicapped people—but such a special one!

—Dick Sheppard.

LANCE IMBROGLIO STYMIES AGE DISCRIMINATION REFORM

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. FINDLEY. Mr. Speaker, the embattled Director of the Office of Management and Budget, Bert Lance, has failed to transmit to Congress the administration position on H.R. 5383, my bill to extend the protection of the Age Discrimination in Employment Act, despite the fact that he has had a draft report from the Department of Labor on his desk for months. The purpose of the bill is to eliminate mandatory retirement in the Federal service and increase the age of mandatory retirement in the private sector from 65 to 70.

Hearings by the House Employment Opportunities Subcommittee were delayed twice at the request of the administration, and finally the committee decided to act without having the administration's view. Now, on the eve of House passage of this landmark legislation, the Senate committee has been asked to delay consideration of similar legislation because OMB has not cleared a department report.

The unfortunate conclusion to be drawn is that OMB and the White House have become so preoccupied with the controversy surrounding Mr. Lance that the business of government has come to a standstill, at least insofar as H.R. 5383 is concerned.

The House will vote on its bill tomorrow. Each day the Senate delays at the administration's request means justice delayed for numerous workers who will be reaching age 65 during the delay. They deserve to have guaranteed their basic human right to be judged on their ability and not merely on their age. Age discrimination is the last civil rights barrier and we need the support of the White House to eliminate it.

When the consideration of legislation of this importance is delayed because the administration is preoccupied with the defense of Mr. Lance it is time for the President to draw the line. Mr. Lance should step down immediately so that the President and the Congress can get on with the business of governing the Nation.

LET US BE SENSIBLE ABOUT CLINCH RIVER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. TEAGUE. Mr. Speaker, as we all know, the economy is directly related to the energy supply for transportation, industry, commerce and residential needs. Employment, disposable income and lifestyle are all dependent on the availability and price of energy.

Many estimates of future energy demands have been made recently, but I believe the one made by the Department of Interior and the utility companies, even though it is based on an annual increase in energy demand that is about half of what the actual increase has been for the last 20 years. Higher prices and conservation in all probability will reduce the demand for energy, but even with these changes in consumption, the United States will consume twice as much energy in the year 2000 than it consumes today.

To meet this increase in energy demand, coal production must be tripled, imported oil doubled, and conventional nuclear electrical power production increased 1,300 percent by the year 2000. Solar and geothermal systems will contribute to the energy supply stream but as the world's oil supply drops below demand and the Nation's gas supplies decline, a new dependable source of energy must start to fill the gap.

Coincident with the depletion of oil and natural gas, and according to the Energy Research and Development Administration, uranium is also in short supply. Because of the limited domestic uranium reserves, the United States cannot continue to construct new conventional nuclear powerplants much beyond the early 1980's. We cannot, therefore, provide the 1,300-percent increase in conventional nuclear power as President Carter has planned.

The utility companies will be unable to arrange for the necessary financing of new nuclear plants unless the Government can guarantee an adequate supply of fuel for them. If the Government moves ahead and builds Clinch River, it will demonstrate to the banking community and to the utility companies that an alternate fuel supply will be available if it is needed. In the meantime, if a miracle occurs and a better energy option than the breeder reactor becomes available, I will personally support it, but I would rather not depend on it now. I just do not understand how or why we should delay building Clinch River for 5 minutes.

It is awfully hard to convince the public that we have to start building something today in order to have it tomorrow when we need it. I am glad our farmers do not procrastinate this way. I have talked to men in the utilities industry and it takes them 10 years to build one conventional nuclear plant. It is going to take us a long, long time before we can even begin to design a commercial breeder.

The committee and I are excited about many of the possible energy systems of the future: solar satellies, geothermal, fusion—to mention just a few systems. They all have the potential for delivering power in the future and we are concentrating heavily on research to develop these systems, but no system, other than the breeder reactor, is sufficiently developed at this time to guarantee a supply of energy for tomorrow.

Clinch River is about 5 to 10 years ahead of the other breeder reactors being developed and it is the most efficient of all. Admiral Rickover's light water breeder, which is the size of EBR II, a forerunner of Clinch River, has been put into operation; the gas-cooled fast reactor is very promising; and the Canadians are "souping up" their CANDU heavy water reactor to do some breeding. We are not going to hesitate in pursuing any reasonable option.

The breeder reactor has been criticized heavily. According to many, it will contribute to the widespread application of nuclear weapons. I personally spent weeks studying proliferation and I want to go on record as saying it is the biggest threat mankind has ever faced. If terminating Clinch River could stop proliferation, I would bury the drawings right now.

There are seven nations who now possess nuclear weapons and not one of those nations used a breeder reactor to obtain the materials. There are over 400 reactors in 49 countries that presently produce plutonium. All conventional nuclear powerplants produce plutonium. It is not even necessary to use plutonium to make a weapon. Of the two bombs dropped on Japan, the one that devastated Hiroshima was made with uranium.

All breeder reactors depend on spent fuel reprocessing and it is at this point that plutonium must be safeguarded. Contradictory to President Carter's position on Clinch River, the administration just approved the operation of a spent fuel reprocessing plant in Japan.

We must build Clinch River so that it can eventually be used to demonstrate the plutonium and the thorium fuel cycles, to gain experience in safe breeder reactor plant operation and particularly to develop effective proliferation safeguards.

It will cost $700 million, excluding earned revenues, to terminate Clinch River—not $33 million. It will cost $700 million to allow the equivalent energy of 1 trillion barrels of oil lie dormant where it is now stored in Kentucky, Ohio and Tennessee, while we ask the public to turn down their thermostats.

REFLECTIONS ON UNITED STATES-CHINA POLICY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mrs. HOLT. Mr. Speaker, I am gratified to note that, according to a recent edition of the Washington Post, Secretary of State Vance has at last consented to meet personally with the Ambassador of the Republic of China to the United States, Mr. James Shen. This was the first formal meeting to be held between an American Secretary of State and the Chinese ambassador in many years, and it was clearly long overdue.

While this suggests that the Carter administration may be taking a more balanced view of the China question than heretofore, prominent and powerful voices in the American Government are continuing and will continue to press for the abandonment of the Republic of China on Taiwan. The "plan" recently proposed by Senator KENNEDY is but one instance, but a particularly insidious one. In it, he has suggested that by switching American diplomatic recognition from Taipei to Peking, the United States could avoid the necessity of formally abrogating its security treaty with the Republic of China, since at that point the Republic of China would for our purposes cease to exist as a legal entity. This appears to me to be the height of cynicism. Can it be thought that by simply snapping our fingers our 16 million friends and allies on Taiwan will cease to exist, or that the longstanding relationships and responsibilities existing between two nations can be shrugged off so lightly? I think not.

Mr. George F. Will, in a recent column, has incisively commented on this question. I highly commend it to my colleagues.

[From The Washington Post, Sept. 4, 1977]

CRAWLING AWAY FROM TAIWAN

(By George F. Will)

A state is, as de Gaulle said, a cold monster. Every nation commits cold-blooded acts that it rationalizes, and occasionally justifies, by "reasons of state." But rarely does a nation commit a cold-blooded act that is as optional, even pointless, as the one the United States is being urged to commit against Taiwan.

Although there is no visible calamity to be forestalled, and no substantial gain to be achieved, the U.S. government is being urged, from within and without, to "normalize" relations with China on China's severe terms. This would involve withdrawing recognition from Taiwan and nullifying the defense treaty with Taiwan. This would be the first time a friendly nation was denied U.S. recognition.

U.S. policy toward China is, and since the 1972 Shanghai agreement has been, a policy of appeasement. To apply that description to a policy is not necessarily to denounce the policy. It has been said that the worst consequence of Neville Chamberlain's policy was that appeasement was discredited as an aim of diplomacy.

But there is no need for the United States to appease China. There is no evidence that China, if unappeased, will turn its policy inside out and seek rapprochement with the Soviet Union. Either China needs close relations with the United States to counter the Soviet threat, or it doesn't. If it does, it needs those relations more than it needs to humiliate the United States over Taiwan. If China doesn't need close relations with the United States, the United States can't purchase close relations with China by abasing itself and sacrificing a small nation.

To "de-recognize" Taiwan would be to accept China's contention that Taiwan is just an unfinished chapter in China's civil war. As China's Premier Hua puts it, "We are determined to liberate Taiwan. When and how is entirely China's internal affair."

It is intolerable for senior U.S. officials to suggest (as they reportedly have) that, in exchange for "de-recognition," China might declare that it has no immediate intention to exercise its "right" to use military force against Taiwan. It is grotesque for U.S. officials to ask if China might tolerate a U.S. statement declaring a U.S. "interest" in a peaceful settlement of the issue.

Surely the U.S. government realizes that any "assurances" it gives to Taiwan in conjunction with "de-recognition" will be incredible because of their context. Similarly, any "interest" the United States expresses to China about a peaceful settlement will seem feckless because it will be expressed as part of a retreat from defense obligations.

The U.S. defense treaty with Taiwan is, like all treaties, part of the supreme law of the land. There is a lawful method (formal abrogation) to abolish it.

But some people favor a method more in keeping with the spirit of their appeasement policy. The United States could crawl away from its commitment by announcing "de-recognition," and then asserting that, because Taiwan has ceased to exist, so have treaties with Taiwan.

Currently the U.S. government is inviting Americans to think well of the new treaty that cedes control of the Panama Canal to Panama. The government says the treaty is

not an act of weakness, but rather expresses the confident magnanimity of a large nation toward small nations.

Simultaneously the government is contemplating sacrificing a small nation to satisfy the appetite of a large nation. That would be a message to small nations, and especially to Israel.

Today the U.S. government is inviting Israel to take grave risks for the possibility of peace. But if the United States turns its back on Taiwan, it will be apparent to Israel that the gravest risk a small nation can take is to rest its security on U.S. commitments.

The U.S. government is being urged to win China's affection by means of a policy that will earn China's contempt. Of course there are always "realists" who argue that no quaint principle of honor should inhibit a nation's pursuit of advantage. But "realists" have yet to demonstrate the advantage to the United States in such a unilateral, dictated sacrifice of honor.

It often is true that, as William James said, people do not run because they are scared, but are scared because they run. Certainly if the United States runs from its commitment to 16 million Taiwanese, Americans should be scared.

IN THE BEGINNING

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. JACOBS. Mr. Speaker, Mr. Raymond W. Hilgedag, attorney at law in Indianapolis, submits this for the RECORD:

IN THE BEGINNING

God created Heaven and Earth. Quickly he was faced with a class action suite for failure to file an environmental impact statement. He was granted a temporary permit for the Heavenly part of the project, but was stymied with a Cease and Desist Order for the earthly part.

Appearing at the hearing, God was asked why He began his earthly project in the first place. He replied that he just liked to be creative.

Then God said, "Let there be light," and immediately the officials demanded to know how the light would be made. Would there be strip mining? What about thermal pollution? God explained that light would come from a huge ball of fire. God was granted provisional permission to make light, assuming that no smoke would result from the ball of fire, that He would obtain a building permit, and to conserve energy, would have the light out half the time. God agreed and said He would call the light DAY and the darkness NIGHT. Officials replied that they were not interested in semantics.

God said, "Let the Earth bring forth green herb and such as may seed." The EPA agreed so long as native seed was used. Then God said, "Let the waters bring forth the creeping creatures having life; and the fowl that may fly over the Earth." Officials pointed out that this would require approval of the Game and Fish Commission coordinated with the Heavenly Wildlife Federation and Audubongelic Society.

Everything was OK until God said He wanted to complete the project in six days. Officials said it would take at least 100 days to review the application and impact statement. After that there would be public hearings. Then there would be 10 or 12 months before . . .

And God said, "The H—— with it!"

THE PROBLEM WITH H.R. 8698

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. DOWNEY. Mr. Speaker, on September 13, the House passed H.R. 8698 which addresses the question of eligibility for veterans benefits for those who participated in the special discharge upgrade programs of Presidents Ford and Carter.

The bill is the result of much hard work by the Veterans' Affairs Committee. On the whole, it is a satisfactory bill, for it is the best the views and circumstances of the House will permit. In fact, in testimony before the committee, I supported the general concept behind this bill as a "workable compromise" between the supporters and opponents of the special discharge upgrade programs.

Yet, I was compelled to argue and vote against final passage of the bill because of a provision which is unnecessary to carry out its purpose and which would cause serious problems of equity.

The bill redefines the term "deserter" for the purpose of veterans' benefits eligibility to include, "any individual who was absent without authority from active duty in the Armed Forces for a continuous period of 180 days." The committee report explains that this provision is meant to preclude the awarding of benefits to any individual who has initially been discharged for an unauthorized absence of 180 days or more.

I do not question the commonsense fact that 180 days is an extremely long period of unauthorized absence. I strongly feel, however, that this 180-day figure sets an arbitrary standard. It flies in the face of the concept of case-by-case review which has been a major theme in this entire issue and was constantly cited by proponents of the Beard amendment in objection to the special discharge upgrade programs for Vietnam-era veterans. After all, this bill grew, in large part, from the belief that revised discharge upgrade standards which applied only to Vietnam-era veterans were inequitable because of an "arbitrary" cutoff point.

The problem with this 180-day provision can be illustrated as follows:

There is a very admirable section in H.R. 8698 which would allow a less than honorably discharged veteran to receive benefits for the treatment of a disability incurred during the performance of duty, as long as the individual is not barred from benefits under other sections of the bill.

What of the veteran with a duty-connected disability who, upon returning from a combat area, absented himself from a stateside post because of adjustment problems, the wrongful denial of a hardship leave or similar reasons? If the individual was discharged for an unauthorized absence of 179 days, he would be eligible for veterans' benefits; if the absence was 181 days, he could not receive benefits, regardless of any action a Discharge Review Board might take in his case.

The "180-day deserter provision" negates the consideration of an important mitigating factor or any of the attendant circumstances in cases involving unauthorized absences of this length. It results in an automatic denial of benefits and is antithetical to the concept of case-by-case review.

It should also be noted that this provision is also inconsistent with a basic principle of military law which views desertion as an "intent specific" offense.

Traditional military law, such as Article of War 58, the present Uniform Code of Military Justice, and a long line of decisions by the Court of Military Appeals clearly reinforce this precept. For instance, the basic definition of desertion in article 85 of the UCMJ is absence without authority with the intent to remain away permanently or with the intent to shirk hazardous or important duty. The Court of Military Appeals, speaking in the 1957 case of U.S. against Cothern, could not be more clear:

> An absence of 17 days or 17 months or 17 years is only an absence—though its probative value may be great—and the (length of absence alone) is not a substitute for intent.

The absence and intent are both parts of the offense, and although a court martial may infer the intent from the circumstances and duration of the absence, each desertion case must rest upon its own set of particulars.

The bill would have the Veterans' Administration define deserter on the basis of one fact alone, an unauthorized absence of 180 days or more. The reasons, circumstances, and intent involved in a case would have no impact on veterans' benefits eligibility. The fact that an unauthorized absence began after a successful period of service and with only weeks left in a soldier's tour of duty would be unimportant; more disturbingly, any wounds, decorations, or unfair treatment of a soldier would simply be ignored.

The explanatory language in the committee report mandates that an upgrade by a Discharge Review Board would not affect any existing bar to veterans' benefits under section 3103(a) of 38 United States Code. Because the only germane 3103(a) bar is the deserter category, this language will impact almost exclusively on those individuals who have or will receive an upgrade of a discharge issued for an unauthorized absence of 180 days or more.

The committee report does state that a reasonable interpretation of the bill would allow the Board for Corrections of Military Records to provide effective relief. It is explained that the BCMR can change or remove the "reasons" for an original discharge, as opposed to the Discharge Review Board's authority to change the "characterization" of the discharge.

Aside from the seeming disregard for the competency of Discharge Review Boards, some serious practical problems portend that BCMR relief may not be so effective. Unlike Discharge Review Boards, the BCMR operates only in Washington. This is an obstacle to the veteran of limited resources. There is also

a time problem. A Military Discharge Review Board takes 6 months to a year to process and decide a case, and while the BCMR decides a case within a year's time, it currently has a 3- to 5-year backlog. A veteran who would and should be eligible for benefits, without this arbitrary 180-day provision, could face a wait of 5 years before having a meaningful review of the merits of his case for benefits. For a young veteran with a duty-connected disability or a desire to continue his education, such a delay would deny him benefits when he needs them the most.

H.R. 8698 intends to deny veterans' benefits solely as a result of an upgraded discharge under one of the special programs and to require that benefits only be awarded under generally applicable standards. The "180-day deserter provision" is unnecessary to achieve this purpose. It will, in an arbitrary manner, automatically deny benefits to many veterans by denying them an early and comprehensive review of their individual situations.

During floor debate on this bill, several distinguished members of the Veterans' Affairs Committee suggested that they would carefully examine this provision and its ramifications. I hope they will give this provision their utmost consideration and see that it is dropped from the bill.

A PLUS FOR THE MARION COUNTY PUBLIC WELFARE PROGRAM

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. EVANS of Indiana. Mr. Speaker, our welfare system has come under considerable criticism in recent years. Substantial increases of ineligible recipients, and impersonality of welfare caseworkers are among the many reasons our welfare system is attacked as being an inefficient bureaucracy. After a recent tour of the Marion County Department of Public Welfare (MCDPW) in Indianapolis, however, I have found the opposite to be true. Not only did I find a very dedicated staff who works diligently and responsibly, but also I discovered that MCDPW has a very low error rate concerning eligible recipients of assistance for dependent children. For the last half of 1976, over 95 percent of families receiving assistance for dependent children benefits from MCDPW were in fact eligible and receiving the correct payment. In a suvey of 282 scientifically selected cases, the Indiana State review team found only one case to be ineligible, for an error rate of 0.35 percent; 9 families were found to be overpaid, 3.19 percent, and 4 were underpaid, 1.42 percent, for a total error rate of 4.96 percent. Consequently, MCDPW has reduced the error rate by nearly one-half over the previous reporting period, when it was 9.57 percent.

The Marion County Department of Public Welfare has also made commendable efforts in serving the people. By setting up neighborhood centers throughout the county, they have made themselves accessible to those needy persons requiring assistance. The MCDPW and its staff are to be commended for a job well done. Other welfare offices throughout the country can look to their example in helping to make our welfare programs more efficient and responsive to the people.

OUR AMERICAN HERITAGE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MOORHEAD of California. Mr. Speaker, Mr. Aarno Davidson, a resident of Sunland, Calif., which I represent, is now serving his fifth term as president of the John Steven McGroarty Chapter of the California Federation of Chaparral Poets. Mr. Davidson is also editor of Poet Pen Points, a biweekly column of the Record-Ledger, a very fine newspaper with circulation over the major portion of north Los Angeles County. Mr. Davidson has written a poem entitled "Our American Heritage" in which he presents the Bill of Rights in rhythm and rhyme. I believe my colleagues will appreciate Mr. Davidson's work.

The poem follows:

OUR AMERICAN HERITAGE

(The Bill of Rights in Rhythm and Rhyme)

(By Aaron Davidson)

1—Neither Federal nor State laws shall hinder
The Freedom to heed whatever faith we choose:
Right to free speech, free press, free assembly;
Petition "public servants" against abuse.

2—Alerted guards protecting welfare and safety
Of sovereign states, shall ever be sustained,
While rights of people to possession of firearms
For guarding life and home shall not be constrained.

3—In tranquil times and times of armed conflict
Combatants shall not be lodged in private abodes
Against the sanction of legitimate dweller
Unless prescribed by martial or civil codes.

4—Unwelcome search or sudden seizure of people's
Effects within their "castle" shall not be allowed,
While warrants assigned for property confiscation
Be tendered to all with owner-rights endowed.

5—No person shall be held to answer criminal action
Unless indicted by Grand Jury decree,
Nor witness against oneself or lose a homestead
For progress use without just and adequate fee.

6—In criminal cases the right to speedy hearing
Shall be the norm for all who serve the state
With honor. Securing unbiased genial witness,
Or help of counsel 20 person shall abate.

7—In suits of common law, the trial by jury
Shall be preserved. No lawsuit by sage or fool
Shall be re-tried in any U.S. Courthouse
That does not adhere to Common Law's just rule.

8—Excessive bail shall not be the court prerogative,
Nor exorbitant fines imposed at any time;
Nor cruel, invidious punishment be inflicted
On accused regardless nature of the crime.

9—Enumeration of rights in the Constitution
Be not construed in any legal form
To negate or disparage rights and privileges
Acquired by people in time of calm or storm.

10—All powers not granted by the Constitution,
Nor ever forbidden by it to any state
Are solely reserved to states or to the people
Whence all the rights and freedoms emanate.

NEIGHBORHOODS WILL SAVE OUR CITIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. FRASER. Mr. Speaker, one reason it is so important to continue funding for Advisory Neighborhood Commissions in the Nation's Capital is that healthier neighborhoods make for healthier cities.

One of our country's greatest authorities on rejuvenating cities is Edmund N. Bacon, architectural designer and planner who has been a driving force in the revitalization of Philadelphia. In testimony before the House Committee on the District of Columbia last May, Mr. Bacon urged a concentration on the livability of neighborhoods in Washington, D.C.

The following are excerpts from Mr. Bacon's testimony:

Unless, as a result of your efforts, every neighborhood in Washington becomes a self-respecting neighborhood in which it is desirable to live, and unless the people in those neighborhoods feel loyalty and pride in them, your efforts will have failed.

If there is one thing we have learned from our recent decades of experience with "urban renewal," it is that massive governmental programs that dislocate people and sever human ties do not achieve their objective.

From this we must reassert what we already knew; that within every neighborhood of every city there is great human potential; there is great energy and caring; a drive toward better things; a latent ability to keep things in shape. The tragedy is that we have not learned how to tap the energy that is there; how to work with the residents of a neighborhood in such a way that they feel they have a valid part in shaping their own environment. It is here, I think, that lies the key to the creative endeavor of the seventy-five years ahead.

So I think the great vision is to make Washington truly a liveable city. A city to which all races, creeds, colors and economic groups can identify; a city without slums; a city where every neighborhood is a self-respecting community in which each person feels a dignified part of it; a city with no burned-out abandoned structures, no abandoned vacant lots, no dull treeless streets, no sections too far removed from community facilities, a city with a system of schools and preschool institutions which inspire pride and

citizenship in the students, a city which is an integrated city, ever mindful of the ideal that each neighborhood be a microcosmic reflection of the macrocosmic composition of the region, rich, poor, black, white, advantaged, disadvantaged, knowing that the reality will always be somewhere between the terrible and the perfect.

Mr. Speaker, this is what Advisory Neighborhood Commissions can help accomplish in Washington, D.C. Congress should support the efforts of these volunteer citizens by retaining in the District of Columbia appropriation bill the funds for ANC's.

GOLD STAR MOTHERS DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. ANDERSON of California. Mr. Speaker, September 25, 1977, will mark a very important commemorative day—one which should rightfully receive more attention from the people of the United States. This date is celebrated as Gold Star Mothers Day, in honor of all the women in our Nation who have lost a child in defense of our country. Originally proclaimed by President Franklin D. Roosevelt on June 23, 1936, the observance has traditionally fallen on the last Sunday in September.

Founded in Washington, D.C. in 1928, the American Gold Star Mothers Inc., is perhaps one of the most exclusive organizations in our land. Its members have made possibly the supreme—and most heartbreaking—sacrifice that can be asked of any parent. Yet despite that fact, the Gold Star Mothers are not concerned with past sadness. Instead, they realize that honor often comes at a very high price indeed—and they dedicate themselves to serving the ideals for which their sons and daughters died.

I am particularly aware of this outstanding organization, since my congressional district contains the American Gold Star Manor in the city of Long Beach, Calif. Originally incorporated as the Gold Star Home on January 24, 1957, and changed to the American Gold Star Manor in 1973, it provides a national home for members of the Gold Star Mothers. To be eligible for residence, a mother must simply be able to tend for herself, and belong to one of the organization's subordinant chapters. Currently, there are 404 residents at the manor. Although rents vary according to means, they are never more than one-fourth of the resident's income.

Church services in various local places of worship will mark Gold Star Mothers day on September 25. These women come from many walks of life, and from different parts of the Nation. But they all share a common love and concern for life, born out of their own intensely personal experiences.

Nationally, the American Gold Star Mothers are comprised of more than 17,000 members, with 525 chapters located in 39 States. Membership is open to all mothers who have lost a son or daughter in defense of our Nation, or who died as a result of a service-connected disability.

Perhaps the most visible evidence of the sacrifice asked of American parents throughout our history is the American Gold Star Manor in Long Beach. Located on a 23 acre, $6 million complex, it contains nine three-story apartment buildings and one two-story housing unit. Each of the 348 apartments is complete with its own kitchen.

The manor includes an arts and crafts building, a recreation hall, a well stocked library, and an active Dad's Club. A therapeutic pool, croquet and shuffleboard courts are available. In addition, a minibus provides transportation through the grounds and to public bus stops for the residents.

Mr. Speaker, Long Beach area residents are justly proud of the Gold Star Manor, and its residents have been a definite asset to the community. Much of their time is devoted to serving the needs of wounded and incapacitated veterans, victims of battles fought in the defense of this Nation.

All too often, our society seems willing to overlook the human cost of war. Twice this century, American military personnel have been asked by their Nation to risk their lives in global combat. There have been two major "police actions" in the past two decades, and numerous other engagements as well. The casualty lists may not always have been as large—but no conflict in which human life is taken can ever be considered minor.

Our Nation gives medals to those who fight in our wars, and Purple Hearts to the wounded and the dead. We celebrate Veterans Day to honor their efforts, and Memorial Day to commemorate the men and women who never returned.

September 25, Gold Star Mothers Day, carries just as much meaning and significance as those holidays. It is to be hoped that observance and recognition of this day will continue to grow, so that the sacrifice made by so many parents throughout our history will be properly understood and appreciated.

HARRY SIEGEL—RAILROAD MAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. LEHMAN. Mr. Speaker, it was my pleasure to meet recently with a most remarkable individual—Harry B. Siegel. Harry is a railroad man. He retired in 1962 after a full 50 years with the Southern Railway System.

Harry went to work as an apprentice trainman in January 1912. He subsequently worked as a freight and passenger conductor, general yardmaster, terminal trainmaster, and in 1943 began 19 years as manager of the busy Atlanta Terminal.

He has shoveled coal into steam locomotives; handled special train operations for Presidents Roosevelt and Truman; supervised the flow of troop trains, hospital trains, and war supply trains; aided trains of Jewish concentration camp survivors on their way to Israel; and was active in numerous labor negotiations.

This February, Harry received a special and unique award from the United Transportation Union for 65 years of railroad union membership.

Harry Siegel and his wife, Evelyn, now enjoy retirement in North Miami Beach.

HUMAN RIGHTS VIOLATIONS IN RHODESIA EXPOSED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BIAGGI. Mr. Speaker, I wish to share with my colleagues a truly tragic and blatant abuse of human rights. So often we take for granted the rights provided to us by the Constitution, I feel we must remember the same rights are not enjoyed internationally.

Sister Janice McLaughlin, a Catholic nun from the order of the Maryknoll Sisters in New York, has been detained by the authorities in Salisbury, Rhodesia, since September 1, 1977. No charges have been brought against her and, although she has been permitted visits with her attorney, all others have been denied entrance to the prison to see her.

Sister McLaughlin was arrested with three others working for the Bishop's Conference of Rhodesia. The others were charged with publication of false statements likely to create fear and despondency, a violation of Rhodesian law. The others have been released with bond. The same activities in the United States would simply be considered the exercising of the first constitutional amendment. Further, when an arrest is made in our Nation for any reason a person can be held only after a charge has been made. Freedom of speech, due process, and the division of church and state, are obviously not recognized in Rhodesia.

It is my hope, attention of the U.S. Congress, as well as the Department of State, will bring justice to Sister McLaughlin and result in her release from Rhodesia. I have written to Secretary of State, the Honorable Cyrus R. Vance, and respectfully submit a copy of my correspondence for the RECORD. I ask for the support of my colleagues by also contacting the State Department to express their own views regarding the plight of Sister McLaughlin.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 13, 1977.

Hon. CYRUS R. VANCE,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I have recently become aware of the problems encountered by Sister Janice McLaughlin of the Maryknoll Sisters while with the Bishop's Conference in Rhodesia. I understand she was arrested on September 1, 1977, in Salisbury, and is being held for questioning although no charge has been made against her.

The Office of the Catholic Secretariat in Salisbury, Rhodesia, was raided and four

people were arrested because documents found were believed to be in violation of Section 49, Article 1, of the Rhodesian Maintenance Act (publication of false statements likely to create fear and despondency). Three of those involved have been charged and released on bond while Sister McLaughlin remains in the Salisbury detention center. To my knowledge there has been no explanation for the difference in treatment.

I have further been informed that the visa which permitted Sister McLaughlin's entry to Rhodesia has now expired. The two possible courses of action are for the Rhodesian officials to bring her to trial and sentence her or deport her. It is my hope, with pressure from the Department of State, the latter will be the chosen route.

Please keep me advised of the status of this matter by contacting me at my Washington office. I am personally concerned about the outcome and sincerely hope the situation can be favorably resolved in the very near future.

With best wishes, I am
Sincerely,

MARIO BIAGGI,
Member of Congress.

FOREIGN DUMPING HURTS STEEL INDUSTRY, TAKES AWAY JOBS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MURPHY of Illinois. Mr. Speaker, supervisors at Chicago's South Works steel mill warned August 26 that United States Steel Corp. might have to close its 97-year-old plant because of decreasing profits. Officials said that unless steps are taken to end foreign steel "dumping," the mill's 8,534 steelworkers would be out of jobs. These employees would join the 1,823 steelworkers already laid off since 1974.

A closure of South Works would have a disastrous effect on south Chicago's economy. Every month, South Works pays $16.5 million in wages to its steelworkers, spends another $11.5 million in purchased goods and services, and kicks in an additional $1.3 million in property taxes. It is clear that South Works is vital to the economic health of Chicago's South Side.

At a time when our national unemployment rate is an unacceptable 7.1 percent, the United States must protect American jobs from unfair foreign competition. The Carter administration has pledged itself to reducing unemployment to 6.7 to 6.9 percent by the end of this year. I can think of no better way to achieve this aim than by cracking down on foreign steel dumping so that steelworkers can keep their jobs.

Mr. Speaker, I would like to draw my colleagues' attention to two articles on the problem of foreign steel dumping and its damaging impact on Chicago's South Works steel mill. The articles were written by Bob Wiedrich and appeared in the Chicago Tribune on August 28 and 29, 1977.

[From the Chicago Tribune, Aug. 28, 1977]

IT'S TIME UNCLE SAM TOOK CARE OF HIS OWN

(By Bob Wiedrich)

Some of America's political leaders must have a death wish for their constituencies.

While thousands of American workers join the ranks of the unemployed because of unfair foreign trade competition, some of the blockheads in Washington are currying favor with people overseas who can't even vote for them.

And outfits like America's giant steel and television industries face going down the drain because our politicians have neither the brains, the guts, nor the conscience to fight for the best interests of the American worker.

Diplomatic niceties be damned.

More than 30 years ago, the United States started spending billions of dollars to help put the economies of Western Europe and Japan back on their feet.

Now the time has come for the American government to stop worrying about foreign economies and start thinking about a domestic Marshall Plan for its own blue-collar workers.

Too many Americans already have lost their jobs. Too many thousands more are threatened by the wolves of unemployment.

And it is time that our Washington leaders start taking dramatic steps to curb unfair foreign competition that results in state-supported industries dumping their excess production in the U.S. at prices often less than that at which they could sell the goods for a profit in their own countries.

That helps the foreign competitors maintain high job and production levels back home with the help of often-hidden government subsidies.

However, the practice is badly goring American industry and the people who depend upon it for their livelihoods.

And it is permitting the foreigners, in effect, to export their unemployment to the United States with international trade techniques that smack of gangsterism.

"American workers and industry don't want protective trade tariffs," says Rep. Morgan Murphy Jr., whose 2d Congressional District includes the steelmaking complexes of Chicago's Southeast Side. "They want free trade.

"As devoted believers in the free enterprise system, they can hold their own against anyone. They have the work ethic and the expertise.

"But there is no way that they can fight alone against the illegal dumping of foreign steel and TV sets in the United States without the help of their own government.

"And right now, their government appears to have taken a walk on them."

What provoked Murphy's remarks were reports by United States Steel Corp. executives that the company's giant South Works in South Chicago might have to shut its doors soon if unfair foreign competition is not curbed.

A closure would have a devastating economic impact on the South Chicago community, throwing another 8,534 steel workers onto the unemployment rolls, where 1,823 of the firm's employees already have landed since 1974. In addition, 2,100 of those still employed are on only a four day week.

"For too many years, American secretaries of state have used economic carrot sticks to get foreign countries to adopt policies that they thought would be beneficial to United States interests," Murphy said.

"Very often, the concessions to win favors by our government have been detrimental to American blue-collar workers."

Murphy charged that Robert Strauss, President Carter's chief trade negotiator, has become an apologist for foreign trade interests.

"I'm upset with Strauss and the administration," Murphy said. "They haven't done a thing to protect Americans from unfair competition and that includes dumping.

"There is ample evidence that there has been dumping in the steel and TV industries.

"Yet Strauss and the administration have discouraged the steel companies from seeking justice in the courts. Strauss has told them their efforts to fight unfair competition would be harmful to world trade.

"He has personally tried to dissuade them from pursuing the only recourse they have left because their own government won't help them.

"Strauss seems to place a higher priority on foreign trade interests than on American unemployment.

"Just go out to Calumet Harbor and watch the Japanese and Swedish ships dumping excess steel production into the warehouses, steel that was made with foreign government supports to maintain employment levels."

What the American steel industry needs from the Carter administration is tax incentives for capital improvements so it can expand the nation's steel making capacity to compete with the more modern facilities overseas built as a result of massive U.S. aid.

It needs Congress to pass laws assuring American industry that no unfair competition will be permitted to flourish in this country at the expense of our workers.

And it needs the Justice Department and Federal Trade Commission to enforce the existing laws so that American breadwinners will not be stripped of their self-respect because their own government lacks the guts to do the right thing.

[From the Chicago Tribune, Aug. 29, 1977]

STEEL COMMUNITY CLOSE TO DISASTER

(By Bob Wiedrich)

The sprawling South Works of the United States Steel Corp. has been dealt a kidney punch by unfair foreign trade competition and is fighting for survival.

The 680 square acre plant is a cameo of the economic woes that beset the American steel industry as a result of foreign competitors dumping goods on the domestic U.S. market at prices well below what it cost to manufacture them.

And the 1,823 employees who already have lost their jobs as a result are perhaps only the first of many more thousands who will be laid off because some foreign governments subsidize their steel mills to maintain high employment and production levels.

Every month, the South Works feeds into the economy of Chicago's Southeast Side a total of $16.5 million in payroll benefits to the plant's remaining 8,534 employes.

The average annual wage of the workers ranges between $20,000 and $22,000, including fringe benefits. And the steel mill injects another $11.5 million into the economy in purchased goods and services each month.

To boot, the South Works pays another $1.3 million in property taxes.

So it is obvious the 97-year-old steel making facility is a potent force in the economic affairs of the Calumet Region.

And that further, a whole host of other businesses and service industries—from railroads and trucking lines to grocery stores, clothing shops, restaurants, and shopping centers—also heavily depend on the South Works as a source of income.

Yet, because of the unfair foreign competition and the refusal of Washington officials to protect American jobs, another 2,100 of the South Works' remaining employes have been placed on a short, four-day work week.

And many of them have become so squeezed by layoffs or reduced income that they are starting to miss automobile and mortgage payments as the pincers of financial disaster move to crush them.

That is the absolute bottom line of the controversy over unfair foreign trade competition being debated by weak-kneed American politicians who won't stand up for the rights of American workmen for fear of upsetting foreign governments.

"It's close to a disaster out here," said Carl P. Alessi, a subdistrict director for South Chicago of the United Steelworkers of America.

"People are having a hard time finding the money to pay bills. They've run out of unemployment compensation payments. Some of them are close to losing their homes.

"Jobs are extremely hard to find. Many just are not available.

"Some of these people are very desperate. Even those still on unemployment compensation know that it won't last forever. These people need jobs.

"It is my personal feeling that Washington had better wake up to the facts or our system will not survive. We have too many unemployed and underemployed.

"Washington has to help the unions and the companies to fight this thing instead of siding with the foreign countries dumping their products into our markets at the expense of American working men and women."

At one point in the last year, a total of 92 home abandonments was recorded in the South Chicago and South Deering neighborhoods, another reflection of what happens when workers are laid off or suffer a 20 per cent wage cut.

And a good example of what happens to a steel producer confronted by unfair overseas competition can be found in an incident related by Robert N. Clifford, assistant general superintendent of the South Works.

South Works is a capital goods oriented facility, one of three of its size in the country. It specializes in making structural beams and plates used for heavy construction projects like bridges, buildings, and plant expansions.

Because of the unique size of its products and its freight rate advantage over two comparably sized East Coast mills, South Works had always regarded the south, southwest, and west as Chicago markets.

However, since Japanese and West European steel makers started flooding the U.S. with steel at prices less than what it cost to produce it, here is what has happened:

"The most radical example," Clifford said, "involved one of our customers bidding on a government-funded highway bridge.

And this fabricator reported that the Japanese bid for the bridge steel completed was less than the material costs from our plant to him.

"We recently were down to see Gov. Jim Thompson to find out why domestic steel suppliers have absolutely no protection against underbidding by foreign steel makers for Illinois highway bridges. There is no 'buy American' clause in any of the State of Illinois specifications.

"We don't mind competing with any steel producer as long as the basis of competition is fair and equal.

"We are a free enterprise industry that must account to the stockholders for making a profit. But we are being forced to compete against steel companies that are being used as arms of their governments' employment policies.

"In the case of the Japanese they have decided as a national policy to export steel to keep people working. Profit is nice if it is there. But that is secondary to maintaining employment."

It is a shame the Carter administration is not equally protective of American jobs.

HON. FRANK ANNUNZIO RECEIVES MARCONI AWARD

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BURKE of Massachusetts. Mr. Speaker, a few weeks ago our highly respected and very distinguished colleague, Congressman FRANK ANNUNZIO of the 11th District of Illinois was honored by the Order Sons of Italy in America at their 35th biennial supreme convention in San Diego, Calif., with the coveted Marconi Award.

Congressman ANNUNZIO joins a very highly respected group of former recipients of this tribute given by the Order Sons of Italy in America. Only nine of these awards have been made since 1955 when the award program was initiated, and Congressman ANNUNZIO was the 10th person in the history of the Order to be honored in this manner. Some of the other distinguished former recipients include Gen. David Sarnoff, Senator John Pastore, Gov. John Volpe, Congressman PETER RODINO, and Ambassador John Scali.

Mr. Speaker, this award is given to the individual who has done the most to further the cause of Americans of Italian descent and who has been the best representative of the lofty ideals and principles of the Order Sons of Italy in America. The award is presented biannually and only if the Order feels there is an individual worthy of this high honor.

There is no one I know more deserving of this recognition than FRANK ANNUNZIO for he has truly earned the distinction bestowed on him by the Order. Throughout his life, FRANK ANNUNZIO has been in the forefront of serving his fellow man and has been an articulate spokesman for the high ideals and impressive achievements of the Italian people.

As a former school teacher, educational and legislative director for the United Steelworkers of America, Illinois State Director of Labor, and now as a Member of Congress, FRANK ANNUNZIO exemplifies the highest traditions of public service.

As chairman of the Subcommittee on Consumer Affairs and as a member of the House Banking Committee, his impact on major legislation affecting our entire economy is imposing and impressive and his record on passage of important consumer protection bills is unexcelled.

As chairman of the Police and Personnel Subcommittee of the House Administration Committee, he was responsible for establishing cost-cutting practices that are saving the taxpayers more than $1 million a year.

Additionally, he has worked on investigations that have ended loan sharking in the military, cleaned up the Small Business Administration, and exposed the operations of corrupt debt collectors who have been bilking Americans out of millions of dollars a year.

As chairman of the Villa Scalabrini Development Fund in Chicago, he has been responsible for the building of Villa Scalabrini, the Italian Old Peoples Home in Melrose Park, Ill., which is one of the outstanding old peoples homes in the Nation.

He was also instrumental in establishing the monthly Italo-American newspaper, FRA NOI, which is read by more than 500,000 people in the Chicagoland area and the Midwest.

He was one of the leaders in the long struggle to establish the second Monday in October as a national Federal holiday honoring Christopher Columbus, the discoverer of America.

He was the chief sponsor of legislation which provided for a marble bust of Constantino Brumidi, the Michelangelo of the Capitol, which has been placed in the Senate wing, of the U.S. Capitol. Although Brumidi had spent 25 years of his life beautifying the Capitol, his contribution was totally unrecognized until my distinguished colleague of Illinois took the lead in this matter.

He was in the forefront of the effort to name the nuclear accelerator at Weston, Ill., the "Enrico Fermi Nuclear Accelerator," in honor of one of the great scientists of our time and the father of nuclear energy, Dr. Enrico Fermi.

During his seven terms in Congress, FRANK ANNUNZIO has justifiably earned a reputation for "getting things done" for the Italo-American community and for all Americans as well.

The Marconi Award could not have been given to a more deserving individual than FRANK ANNUNZIO. I extend my sincerest congratulations to FRANK and my best wishes for continuing productive public service. Today I would like to place in the RECORD the speech he delivered when he accepted this distinguished award. The speech follows:

SPEECH OF HONORABLE FRANK ANNUNZIO

Mr. Chairman, I deeply appreciate your kind introduction and I am profoundly moved by the Marconi award which you have presented in the name of the thousands of members and friends of the Order Sons of Italy in America. To receive awards from various groups in both my political and civic career is to receive honor. But to be presented this prestigious award from all of you, from the family, makes this one of the most treasured of honors. I thank you and promise to continue the great tradition which this award demands of its recipients. I am privileged to join in an impressive list of former recipients. I pledge to all of you that I shall intensify my efforts, even more, for the national Italian American community—both in the Congress of the United States and in my community life. On behalf of Mrs. Annunzio and the other members of my family, a heartfelt . . . thank you!

My congratulations also to Judge Frank J. Montemuro, Jr., the new Supreme Venerable you have just elected (NB—if this dinner takes place after the election!). He hails from the great State of Pennsylvania and takes on the leadership of America's oldest Italian American social-fraternal organization. My best wishes to you as you take office and you can count on my cooperation and that of the Italian American Congressional Delegation in Washington which now numbers 31.

Special thanks go to my dear friend John Spatuzza who now relinquishes the reins and obligations to Judge Montemuro. John has

led OSIA for two years with sensitivity and openness. He has traveled thousands of miles and has been an active and effective advocate for the Order and for Italian American issues. And not only for these past two years, but for all of his youth and adult life, he has been intimately involved with the Order and its work. For all of those years and for all of his work, I personally applaud him and ask you to join with me in acknowledging him. (Applause) I know of his personal dedication, for he is a son not only of a father whose name will go down gloriously in the history of the Order, not only a Son of Italy but also a Son of Chicago and Illinois which I am honored to represent. You have been privileged to have him as Supreme Venerable and I know that his interest and dedication to OSIA will no diminish.

As a long time member of the Donna Francesca Cesario Chesrow Lodge in Chicago, a dues paying member by the way, I am familiar with the long and glorious history of the Sons of Italy. The Order has cut the path first for so many organizations who came after it and for the national Italian American community. It remains stronger and more viable as it fills its ranks with youth, strengthens its activities for the goals of the Order, and continues to lead the way. You have been at the forefront of civic and charitable activities for three-quarters of a century. You have been the bridge between the United States of America and Italy insuring the historical continuity of cultural, social and religious values, and in this day of "ethnic consciousness", you remain a strong bulwark against the "myth of the melting pot". America needs the Sons of Italy now more than it ever did. I am privileged to be a member of the Order.

Marconi harnessed the dispersed energy of radio waves issued into a thousand different directions and sent them by single beam across the ocean. Alone they were lost in the infinity of space. Focused and directed, together, they became a thunderous roar head strongly thousands of miles away. His achievement did not come instantaneously, but after years of work, frustration, disappointment, and the snickers of those who said it couldn't be done. But, at a certain time, when all the pieces were together, the invention came . . . an invention which has enriched humankind and has had a most profound effect on the world.

That voice is being heard today. Today President Carter dips into the vast resource of talent in the Italian American community and heeds the words and actions of the Italian American community. Appointments and the acknowledgement of the community is a fact of life in Washington and in the State Houses, City Halls and Village Halls, and we urge the President and all other government administrations to continue to appoint more and more Italian Americans to important posts in national, state and local government. Thus the role models we place for our youth are the best we have and we encourage Italian American men and women to go into public service and to continue the tradition of public service.

When I came to Washington, there were few Italian Americans in Congress. Today, we have 29 Italian American Congressmen of both political parties and 2 senators. From Joseph Califano in HEW and Msgr. Geno Baroni at HUD to Mario Noto in Immigration, and Ernest Lotito and Lucy Falcone in Commerce, and Ben Civiletti in Justice, and Midge Costanza in the White House, we have come a long way.

Through the Italian American Foundation, Vice President Mondale included Italy on his worldwind tour of foreign leaders the day following the inauguration. Italy was not on his itinerary, but the lapse was quickly overcome when The Foundation made known the tragic consequences at such a delicate period in Italian politics.

Prime Minister Andreotti was included therefore in the economic summit which was held in London and it was at that time, at the urging of the Foundation that President Carter officially invited the Italian Prime Minister for a state visit in Washington. Last month the warm welcome which the President accorded Prime Minister Andreotti, from state visit to a monumental reception at the new Italian Embassy, was unprecedented. The President, in the name of the citizens of the United States, gave strong support to the Prime Minister's efforts to bring economic and political stability for the forces of social justice in Italy. All of this did not accidentally happen. It took the force of conviction of the Foundation and the known support it has throughout the United States to make it happen.

As in the case of Marconi's invention, there was a void in Washington when in December 1975 two persons walked into my office, Msgr. Geno Baroni and Paul Asciolla, and suggested we should have a Bicentennial Tribute for the National Italian American Community.

The Bicentennial afforded us an opportunity to honor Italian Americans who had done much to preserve the Constitution and our form of government. It was the seed from which the Washington office for Italian Americans grew.

In a very brief time, we opened an office and began to prepare the Bicentenial Tribute Dinner which honored Judge John Sirica, Congressman Peter W. Rodino, Jr., both eminent jurists, retiring Senator John O. Pastore of Rhode Island and Congressman Dominick Daniels of New Jersey. More than 2000 Italian Americans from 30 states came to Washington that September 16th and Washington has not been the same since. OSIA cooperated magnificiently to make it a success. President Ford came and so did candidates Jimmy Carter and Walter Mondale. Vice President Rockfeller was out of the country. That was the first call to action in this new era of the presence of Italian Americans in Washington.

Out of that experience and that outpouring of support, The Italian American Foundation was formed . . . not as an organization to take over or to pretend to engulf the agendas of national and local organizations who have done so much good for the community, but rather to fill a void which has existed since the beginning of our history in this country . . . a listening post in Washington, where policy is made, where billions are spent and where the heart of the national system works. The action is in Washington and we have not had a voice there to support the work and voice of millions of Italian Americans who cannot be in Washington and have concerns and programs of their own. We have not had a piece of that action at all levels.

The Foundation comes at the right time. I can tell you that as the chief organizer and as a very active Board member. It was time to test our power and the power is there—in the communities across the country, in the national organizations and local and regional organizations, in the schools and universities and cultural centers, in the ethnic media and in the state houses and state legislatures, in the city halls and in the judiciary, in the Italian American women and youth who now have a chance to come into their own. The directions are diverse and scattered, and sometimes never reach their target, and we are lesser for it. Like Marconi we have begun to harness that energy and direct it with assertiveness.

But now it's time to set the national Italian American Agenda. Much as the Order Sons of Italy was responsible for the success of the Tribute Dinner and the first stages of the Foundation, now more than ever do we need the cooperation of the Order to bring forth the national agenda.

The prime goal for the next year, which the Foundation has taken as its principal goal, is a series of regional meetings to gather from you and other Italian Americans just what is on your mind and in your heart as to what the national Italian American agenda should be. Yours is the strength and the future of our community. We need you and your work and your advice. We cannot do it alone. We need every Italian American.

We are going to be calling on you in your lodges in each of the states to cooperate with forming the national Italian American agenda. We will deal with the issues which affect us the most—the family, discrimination, jobs, housing, the youth, the elderly, neighborhoods and community life, the arts and culture, a deeper understanding of our traditions, participation in political and cultural life and the commercial life of this nation of ours. We are going to touch the closest things to our lives and families. We are not just going to talk about it. We want to do something about it but we need your help.

Everyone will have a chance to speak his or her mind and to have imput into making the agenda. A national conference will be held in Washington in September of 1978 where these issues will be discussed and evaluated and promoted . . . and Washington will hear the united, powerful, assertive voice of Italian Americans speaking for Italian Americans. Yes, at long last, at the seat of our government in the Nation's Capital, Italian Americans will be heard, loudly and clearly.

Our only recourse is in political action. Just as Marconi harnessed the energy of the airwaves, we must seize the opportunity to come together in support of the Foundation—because . . . It's time for Italian Americans from all sectors of American life to come together on issues which bind us but permit us to deal with issues on the local level individually.

It's time . . . to continue nationally to promote, publicize, coordinate, communicate, inform and educate Italian Americans and all Americans to the role of Italian Americans in American society.

It's time to continue to reaffirm our ethnic identity, a dual identity with a dual responsibility to our one nation of many nations.

It's time to heal divisions and bridge the natural gaps of financial status, region, age and class and make the real contribution to American society which our immigrant forebears want us to make.

It's time to support a national office which advocates things Italian American while building alliance and coalitions with other Americans in order to improve the quality of our common national life.

It's time to assume a rightful place at all levels of government, education, culture, the arts, the executive suites of corporations, the halls of state, regional and national legislatures and give a rightful place in the community to academics, women, community leaders, youth and housewives.

It's time to insure that the communications media, and television and motion pictures portray realistically the enormous numbers of Americans of Italian heritage who people the American nation.

It's time for Italian Americans to help Italian Americans and not just be outraged, with cause, without providing any followup.

It's time for a sustained national effort to put it all together—and follow it up!

In conclusion, I want personally to express my deep appreciation to the members of the Order for the magnificent contribution they have made to the establishment of

the Foundation in Washington—those members from Pennsylvania, Maryland, Virginia, Illinois, California, Rhode Island, and from all parts of the nation, who responded to the first call. I am now asking you to respond to the second call for we must put this agenda on the road.

I also want to acknowledge the contributions of Jeno Paulucci, the Duluth industrialist, who is chairman of the board and who has worked long and hard and has traveled all over the nation and abroad to spread the message of the Foundation.

I also want to express my thanks to Joe Alioto, the former Mayor of San Francisco, for his work as Vice Chairman of the Foundation on the west coast of our nation. I also want to thank former Governor of Massachusetts and Ambassador to Italy, John Volpe, who is vice chairman in charge of the eastern seaboard of our nation.

I also want to thank the following Italo-Americans who serve on the board of the Foundation: Dr. Rose Basile Green, Antonio Marinelli, Mario Noto, John Spatuzza, Monsignor Baroni, and Jack Valenti, president of the Motion Picture Association of America, and my special thanks go to the great executive director of our organization, Paul J. Asciolla, for his untiring efforts in behalf of the Foundation.

My sincerest thanks go also to all those too numerous to mention individually who have played a part in establishing the Foundation. Your strength, your dedication, and your hard work have helped insure the success of the Foundation so that our voice may be heard in Washington.

It is a genuine pleasure for me to be with you this evening.

Thank you.

THE QUIE AMENDMENT

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. KOCH. Mr. Speaker, this afternoon, the House voted 264 to 161 in favor of the Quie amendment. That amendment restored the present tip credit to 50 percent of the minimum wage. While I was impressed with arguments on both sides of the issue after carefully listening to the debate, I voted against the Quie amendment.

I did so because I thought that the reduction in the tip credit would mean that service employees would be more likely to receive a decent wage. I do not think that service employees should be at the mercy of the discretion of their customers to earn a livelihood. Furthermore, it was argued that reduction of the tip credit would be inflationary and result in a loss of jobs. This was not the case in California where the State repealed its tip credit entirely, and raised the minimum wage. In California, more jobs were created, more establishments were built, and there was only a slight increase in food prices.

The committee bill which I supported was designed to minimize any inflationary impact by reducing the tip credit to $1 on a gradual basis. Eleven States including my one State of New York have laws which require an equal or higher cash wage than the bill provided. I believe that the committee position on the budget was a reasonable position.

NEW BOR DIRECTOR DELAPORTE—PART II

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. UDALL. Mr. Speaker, earlier I placed the first part of an interview with Chris T. Delaporte, director of the Bureau of Outdoor Recreation, in the RECORD. Now I would like to put the concluding part of this most informative and interesting article in the RECORD:

NRPA. Do you want to free up some of the bureau's money for, say, demonstration projects or research?

CD. I would say that I'm not sold on research. I have, however, been in research. My first work was in Georgia at a research experiment station in outdoor recreation. I just think a lot of research is academic. Some people think that we need social research to prove empirically and without question the value of what we do. I recently went to Staten Island, Brooklyn, and Manhattan. I saw what was there and what wasn't there—the conditions and the lack of outdoor recreation facilities. And I don't need any social research. I don't need money spent on research to know what we need to do there. So, I am skeptical. I must have proved to me the applied value of research. I am not able just to say as a concept I like research. I like to look at research on a project-by-project basis, and give it a real hard analysis. I want to be able to say: We are going to spend this money which could be spent on other projects. What difference will it make if we spend it here? What's going to happen as a result of this research? Is it going to help set those minimum standards? Am I going to use the results? Am I going to be able to convince the directors of the National Park Service and the Bureau of Land Management that they need to do this? Is there a reasonable chance that we could apply it in the federal government? If I can't meet those kind of hard questions, then I tend to shy away from it.

NRPA. What about the possibility of programs from other departments, say the National Park Service, being moved to BOR? Are there any specific proposals to do that?

CD. No, none that I know of. I have no proposals before me and I have not recommended that anything be moved to this agency that exists somewhere else.

NRPA. Would you be amendable to that? Or perhaps the larger question is, what kind of vibrations are you hearing now as far as Interior Department reorganization is concerned?

CD. Well, of course, in a town like this, the walls talk and you hear all kinds of stories and rumors. Assistant Secretary Herbst and I discussed this recently and he stressed that both he and Secretary Andrus believed that we must begin with no assumptions in terms of function and alignment, or need for function. Everything has got to be reexamined. That's the proper approach to government reorganization. This bureau and our sister services have to be examined top to bottom, and there may be some functions that belong here or don't belong here which would shift. I have no preconceptions about that at the moment.

NRPA. Do you have any concrete plans or series of plans or alternate plans for reorganization of this bureau?

CD. Yes.

NRPA. Will you describe them?

CD. No. I don't want to discuss it now because they involve personnel matters, but I do have plans for reorganization of the bureau. Naturally I hope that it will build a better and stronger organization. I have already discussed one dimension somewhat publicly that could have an impact on reorganization—that is the attempt to decentralize the grants-in-aid process. Obviously that decentralization process could conceivably impact up and down in the reorganization of the bureau.

NRPA. But you are at this time considering real plans—with diagrams and ideas for people?

CD. That is correct.

NRPA. You continue to speak about advocacy, and this agency being an advocate. One of the things that the Division of Public Affairs at NRPA does is try to be the advocate for the Association and its members' interests. Do you have any suggestions on how NRPA can convince its members of the importance of becoming more involved in legislation, public participation, and public policy. How do we get them fired up?

CD. I have some thoughts on this. For me, the ideal is an atmosphere in which we assert that leisure and recreation—the way the people in our country's third century spend their free time—will determine what this nation and our civilization will be and if they will survive. It is just as important as work and it represents more time, so how are we going to spend it? What will the outlets be? Will we have the capability to bring our children along in such a way that they value this leisure time?

Now, I haven't in my own life. Recreationally, I suppose, I'm bankrupt. And that's because of the kind of life I've had. But I'm coming to change myself. We should strive, in Max Kaplan's words, to get avocational and vocational pursuits to merge. That's beginning to happen now. There are a lot of people who are doing crafts today and making a living at it. The number is small, but it's a hell of a lot bigger than it was 15 years ago. There are people who are teaching in recreation; it's a growing profession. When people can choose something that makes them happy, that enriches them physically and rewards them mentally, and at the same time can make them a living, that's a wonderful mixture. I think we have to be interested in effecting social programs and policy in this country that do not separate work from recreation or leisure totally without consideration of the ramifications or the interrelationship of the two. Contemporary industry has already recognized that this part of life is very important to their employees, for their happiness, for their job satisfaction, and so on. (Plenty of research has been done on that, all over the place.) When we can encourage recreation close to home, near the company, near the place of work and encourage the provision of open space and outlets, where people feel free to do what they wish and feel safe in doing it, where they feel rewarded and enriched and receive recognition for it—then that's good public policy. It rewards a dimension of their lives that even 20 to 25 years ago was considered "playtime." We need to be the advocate of that, and advance that. . . .

We have to be interested in all sorts of things. We have to revive ideas that have been lost, like physical education—real contemporary physical education, the developing of physical skills and the pattern in people's lives where they want to exercise regularly. We must say there has to be room for physical education in America. There must be. This is a whole new area for us to take ourselves. It touches on planning at the local level, it touches on industrial development, on planning of communities. We see people here in Washington and elsewhere jogging and they have no place to run. Or they jog around in a circle. We know that there's this festering desire to recuperate and recover and balance out. So we have to be in a position to say: Hey, everything—from curricula in schools, to HUD planning projects, to transportation plans—has got to take this aspect into consideration.

NRPA. There are those who are quite concerned about your efforts in the recent Land and Water Conservation Fund appropriation. NRPA worked extremely hard to keep the traditional 60/40 split. But we lost badly—by some $45 million. Some critics have charged that BOR did not do very much.

CD. We had a departmental appeal which is a process we must follow to get reinstatement back to the Administration's position for the split. We weren't able to sustain it. We gave it our best effort . . . in the last two weeks.

NRPA. What kind of level of effort do you intend to pursue on behalf of this program? In this instance, an increase in the state share (and thus BOR's program) is in one sense a "taking" from the National Park Service.

CD. I think there is another challenge here. I think there is a challenge with the states. I've discussed this with the board members of the National Association of State Outdoor Recreation Liaison officers; they are going to have to make a case for the need or the demand being there. As you know, state and local governments tend to gear up in response to a federal program. They are most often catching up. They don't go out and independently pass a bond issue for $100,000, for example, but when the federal fund increases and the likelihood of their participation also increases, then they go to their people. So there's a lag time on the state and local side that needs to be considered by Congress when it looks at the obligation rate. No state has ever failed in the history of this program to obligate all its money in a three-year period of time.

NRPA. We recently conducted a survey which showed just that. We know in many places that applications are restricted, since the demand for funds is so great. The question is, to what extent is this bureau going to lobby for its interest?

CD. I made my position clear to the states—that I would always listen to all sides in the compilation of my budget request within the Department of Interior, and that I would always ask for what I honestly believe is prudent and needed, but not beyond that. After the budget process proceeds and the department's position is achieved, then obviously I would be supportive of efforts to get the Office of Management and Budget (OMB) to accept it. OMB composes the President's budget, that's what I'm going to support. I'm not going to work the Hill against what the President has recommended to the Congress. I'm going to go there and support that position, but during the budget process I'm going to be most resilient and strong within the Interior Department for what I honestly believe is needed.

NRPA. Would you be in a position to advocate a White House Conference on Leisure and Recreation? If for no other reason than to focus publicity on the issues or bring them to the attention of the public generally or policy makers specifically?

CD. I wouldn't do it for purposes of publicity. I wouldn't do it unless I thought institutionally we would take ourselves through reformation. And the only way that I would ever be supportive of that would be to understand that the call for such a conference had the support and recognition of the leadership of this country and that we were going through the process of national redefinition. But when that's timely, I just don't know. I'm very cautious myself about White House conferences and high visibility and so forth. I feel we have to prove ourselves just a little bit. I need to get a feel for the leadership in this country. I'm also going to be involved in that second point I mentioned—that is, opening up the bureau and involving a lot of people. After that we can see where we might take it. As you know, a White House conference can cost a great deal and takes a lot of time to plan it well.

NRPA. A White House conference has been a high priority item for NRPA for a long time.

CD. I would have to look at it a little bit the way I think my superiors would look at it. The point is, where do you stop? You could have a White House conference on nutrition, for example. There are a lot of people in this country who are not properly nourished. Personally, I would much rather see a White House conference on nutrition and health, than I would one on recreation.

NRPA. How do you get the public in general and members of our profession in particular aware of the issues you have been talking about? Most people don't even know about the Bureau of Outdoor Recreation—and not just the general public, but many "professionals."

CD. In our country you have to have visibility. The span of attention in an electronic age, in terms of media, can be very short. If Time magazine and Newsweek in two successive weeks, and the U.S. News and World Report, can focus on this question, then I am not worried about the Bureau of Outdoor Recreation being left sitting on the curb while the parade is going by.

The people are changing in this country. The Outdoor Recreation Resources Review Commission reported that 12 to 15 years ago driving for pleasure was the number one projected leisure pastime—and look how much things have changed today. Who would have imagined all the incredibly diverse interests in sports and activities. People are making a living playing tennis. People are making a living teaching swimming. Golf pros are making a good living. They are often contemporary models, rightly or wrongly, for thousands of Americans who go out and hit that ball on Saturday. They place their bets and have their fun. And that's something they like to do. And believe me, we cannot be so foolish here to think that we can judge the value of this or that activity.

NRPA. Just to follow up on that, how can BOR or any agency tie in with the private commercial sector, with industry. For example, which came first: Did the popularity of skateboards just arise, or was it because there was a big industry campaign for skateboards?

CD. Well, my theory on that is that the skateboard craze arrived because there was a lot of concrete and asphalt and a lot of kids were turning on to this.

NRPA. That may very well be. Consider the rise of a lot of popular sports, or popular pastimes that weren't so popular five years ago. Are they becoming popular on their own or because the industry itself creates this popularity?

CD. I think the industry creates to an extent. The industry does all the market testing and research.

NRPA. Do we tap into that?

CD. Of course we do. . . . I guess I'm kind of irritated by the question, because I don't understand why people are obsessed with our involvement with private industry. That is a legitimate function of the government. The function of the government very frequently tent. The industry does all the market testing and research.

NRPA. As you know, there are some purists in our field who think that commercial recreation and industry and profit are dirty words.

CD. Well, I don't think so. Not at all. Period. We tap into anything—foundations, corporations. We can be all over the place. We get back to this provincial role of games and whistles and tennis shoes, and I don't want to deprecate that. But I'm saying that is all past. In the sixties we had golf. In the seventies we've got tennis. Nothing influences demand—i.e., perceptual demand, of what people want in the way of recreational facilities, accoutrements, and resources—like television. It is the single greatest dominant influence. I am convinced if television came up with jai alai, in the 1980s we would be building jai alai courts all over this country. The reality is that people play (their sports) and they get their exercise and they come home and tell their husband or their wife about their score and their game and they have some competition. People are not in this country today talking—on television on the radio, or in their private lives—extensively about what they do at work.

The fact is, there are an awful lot of Americans in this country who are terribly bored with their work. The work element is diminishing in importance.

NRPA. Why then are so many of our resources committed to employment, to the work ethic as opposed to leisure? The Bureau of Outdoor Recreation itself is a very, very small bureau.

CD. Because that's the way we make our economy move. That's the way we have an income, including the people who teach tennis. I am sure they get tired of teaching tennis, and they probably go do something else. But that's the means by which we generate the income that allows us to have choices and freedom when we have free time off. We must be productive as a capitalistic economic system.

It just happens that the social adjustments to priorities and the funding have not begun to shake and move in this direction (toward a major emphasis on leisure). But, this Administration has already shown very clearly that it intends to move in that direction. It has placed a high emphasis on the urban recreation study. I think the emphasis is going to shift and I think we'll help it. We will be the precipitators of the shift if we are in the advocacy roles. I'm attempting to do it right now.

NRPA. Are we going to shift also from outdoor to all types of recreation?

CD. Oh, I'm sure.

NRPA. Many of us have been saying for a long time that conservation and environmental groups like the Sierra Club ought to have been involved in the public works bill and block grants and other non-outdoor programs because there is a great deal in them which is important.

CD. The conservationists in this country should be the greatest ally of the urban recreation leader. At a time of energy crisis in this country, we force people to take their games and their toys and go to the beautiful pristine area in a modified pursuit of the game and toy need, which may be a very legitimate one. Then what have we done? We have used up a lot of energy and we've taken the urban recreation setting and moved it to the rural area. We have essentially reconfigured or conformed the natural environment to suit our urban recreation needs in one form or another. I think the Sierra Club and the Urban League have a common need to see that recreation in our cities be possible so our people do not have to get in their cars and spend a lot of money, use up a lot of energy, and drive way off to have that recreation experience. These same people would have been just as satisfied at a good tennis court, a nice place to swim, good place to jog—a nice range of activities close to their homes to give them their physical exercise and allow them to meet with their friends and neighbors, to enjoy their neighborhoods. I believe that we've got to get back into neighborhood development, because that's where the recreation is going to be.

NRPA. You have already talked about the urban study a little bit. In the April issue of Parks & Recreation magazine there is a scathing criticism of the study plan by Meg Maguire.

CD. As you know, Meg Maguire is now a deputy director of this bureau, and the study has been modified along the lines that she

originally proposed. I would say this, however—a great part of that effort we felt was progressing very satisfactorily. What we did was just to reshape it and enlarge it.

NRPA. Have you begun work on the nationwide plan? At least in terms of planning for it?

CD. I've asked for a review, and I've asked that the review be based upon my belief that the nationwide plan should encompass the state plans and be a continuous, organic planning process. It has many parts to it, and we are adjusting and accommodating the priorities. I would consider the urban recreation study to be a component of a contemporary outdoor recreation plan for America. The problems of the handicapped or the whole question of energy as it relates to policy planning and outdoor recreation could reasonably be major components, but I think we will pick and choose as our priorities are adjusted and as administrations change. We will add to and attempt to institutionalize the results of the study or the planning that we do, into a model—a national model.

NRPA. Do you see the plan, as it is to appear in 1980, to be a model for state and local plans?

CD. In some respects. I think the way of doing it will be a model, but the priorities at the state level may be different than those at the federal level. I want to stress that last point. It's up to the state to choose its priorities Obviously, Oklahoma is not going to spend a lot of time studying the impact of the snowmobile in that state. For Oklahomans, snowmobiles are nonexistent, but that's not the case in Minnesota. Each state is different and has a different range of opportunities for institutionalizing—through study and planning and putting in place—a way to do certain things. So again, in planning, we are concerned with the way it's done or the process. We are concerned and interested in standards at the state and local levels, but the choice of what is to be done, what they pay attention to, and what their priorities are is up to each state.

ALL-PURPOSE SPEECH AND PRESS RELEASE ON THE BELL BILL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. WIRTH. Mr. Speaker, for the past 18 months A.T. & T. and the U.S. Independent Telephone Association—USITA—have been lobbying Congress to enact the so-called "Consumer Communications Reform Act," a bill, which if enacted, would effectively eliminate competition in the domestic telecommunications industry. During this period the telephone companies have reported spending more than $3 million lobbying for the "CCRA," better known as the "Bell bill." In response to this lobbying effort, the phone companies' competitors in the private line and terminal equipment industries spent about $600,000.

In addition to its lobbying campaign, the telephone industry has launched a massive public relations campaign, telling phone customers that "home phone rates may increase 60 percent in the next decade" unless Congress reverses FCC and court decisions authorizing limited competition in the telecommunications industry. As part of this public relations campaign, USITA recently provided its members with canned speeches and press releases for them to use locally.

In evaluating arguments for and against the "Bell bill," I believe it is important that my colleagues know the source of information provided them, be it handed to them by an industry lobbyist or contained in their local newspaper. For that reason, and that reason alone, I would like to share with my colleagues the telephone industry's all-purpose speech and press release on the "Consumer Communications Reform Act:"

FUTURE PHONE SERVICE—AND THE FEDS

Today we are going to talk about the future—the future of your telephone service. The (name of your company) thinks you should know what we're planning for you, thanks to new technology. And we also think you should know what some of our concerns are, particularly those in Washington, D.C., at the Federal Communications Commission.

The fact is, the quality and price of your future telephone service are directly related to recent decisions of the FCC, decisions which we in the telephone industry don't agree with. In fact, we have taken the issue to Congress, where we think it should and will be more properly decided. More about that federal regulatory situation in a few minutes.

First I want to bring you up to date on your local telephone company's plans. I'll do that by telling you a litte about what it was like when we started serving (name of community), what we're doing now and what we plan to accomplish in the coming years. Then I'll report on our concerns in Washington and explain how our local situation may well be disrupted by actions of the federal bureaucrats.

(Give a several paragraph history of your local company—noting the year telephone service was first brought to the community and describing what the quality was like. Cite some significant growth benchmarks over the years—the 100th phone, the 1,000 phone, new central office equipment, dial service, office expansion, major loans, single-party service, growth in number of employees, annual tax bill, charitable contributions—whatever is appropriate locally and might be interesting to the audience.)

To put our own company into the proper perspective, I should point out that we are one of the nearly 1,600 Independent, non-Bell System, telephone companies, now serving more than 28 million phones throughout the United States. The Independents serve one out of every five phones in more than half of the "telephone territory" of the country. We aren't part of the Bell System and we aren't owned by it—but for the convenience of our customers we do connect with all of the other telephones in the country, more than 155 million at the present time.

With that brief background, I want to tell you about the (name of your company)'s plans for service in our community.

(Discuss appropriate plans for local service—new electronic switching and related improvements it will make possible, extended area service (EAS) offerings, conversion to push button from dial, upgrading to single-party service from two- or four-party or multi-party service, cable burying for increased reliability and environmental quality, "911" emergency service—whatever you can cite that will be of interest to consumers in your area.)

You know, I've been in the telephone business for (insert number) years (note your family's long involvement, if appropriate), but I think the next 10 to 20 years will see more revolutionary changes and advancements in communications technology than we have had in the last 50 years.

A whole new world of communications innovations are being made possible by human ingenuity and low cost electronic components. The miniaturization of electronic parts in recent years is having the same effect on telecommunications as it has had on such popular devices as the pocket calculator and the new games you can connect to television sets. Reliability is being increased, and new and more sophisticated services are becoming possible.

Let me give you an idea of the remarkable services that are available now or will be coming along in the next five to ten years.

(Report on the custom calling features made possible by electronic switching, if you haven't already mentioned them as being offered in your community. These include automatic forwarding of calls, abbreviated dialing, "conferencing" to add a third person to a conversation, and beep tones or signal lights to alert the customer that a call is waiting.)

Facsimile transmission is now possible, permitting correspondence and illustrations to be sent from one phone to another in minutes. Video telephones enable conference participants to "visit" each other, exchange notes and enjoy the advantages of face-to-face contact without wasting time, money or fuel on costly trips.

The next steps will be the application of two-way communications for security purposes, utility meter reading, educational services, and shopping by television and telephone. Just consider the educational field for a moment. Envision your telephone being connected to your television so that you'll be able to "call up" reference books or research material from a central data source—for display on your living room TV. This has tremendous potential for the rural areas of our country, in particular. Doctors will be able to check any medical reference, lawyers will be able to do more thorough legal research, teachers and students in different locations will have two-way communications.

I do want to point out that these new services will not be here overnight. Even those that are technologically feasible must be brought in gradually as the economic situation permits. Local demand and the condition of our existing equipment will play an important role in deciding when such new services are practical for our area.

You know, this year marks the beginning of our country's third century, and the telephone's second hundred years. I think the telephone and the communications revolution that is now taking place will have as big an impact on our way of life as did the Industrial Revolution of the last century.

At the beginning of these remarks I mentioned that the telephone industry is concerned about events in the nation's capital. Let me discuss that situation with you for a few minutes and then I'll be happy to try to answer any questions you may have.

Most of us in the telephone business work with the public every day. The "product" we sell is actually a service and that really is all we have to sell—good service. Our employees are as close to the average consumer as any in American business.

In that regard, I think I'm a lot different from the ivory tower experimenters who inhabit the offices of federal officialdom in Washington. You've heard the joke about the social theorists who love mankind but hate people. I often think of that when I consider some of the things going on with the "feds" today. Mankind is supposed to be uplifted by the new social experiments, but people are paying more taxes than ever before—and more than they can afford.

America's policy on telecommunications was set in the Communications Act of 1934. That policy called for telephone service with adequate facilities to be made available to all the people at reasonable charges.

The telephone industry has met that challenge. Today 95 per cent of American homes have a telephone. That goal has been achieved through a rate structure that gives a price "break" to the residential user, putting phone service within the economic reach of just about everybody. And the difference in the price "break" is made up by business users and by long distance callers.

Today that system of low-cost residential service for consumers is threatened by actions of the Federal Communications Commission. The FCC is fostering what it calls competition—which actually is a federal allocation of the market to non-telephone companies. It's not true competition at all.

The FCC is promoting this "contrived competition" in two ways:

The first is what we call "interconnect" competition. It lets a customer provide his own telephone, switchboard or special equipment to be attached to the telephone industry's network. This equipment can be purchased from a nonregulated company that has no responsibility for overall communications performance.

The second type of contrived competition comes from non-telephone companies which are authorized to provide intercity private line communications services in competition with the telephone companies' long distance network.

At this point you may well be asking yourselves—"What's wrong with a little competition for a big monopoly industry? Doesn't competition drive rates down and lead to innovative equipment and new services?" The answer may be "yes" for most other situations in our free enterprise system. But the answer is "no" when it comes to residential and small business phone service.

The reason the average consumer will not benefit from competition is very simple. The whole rate structure of the telephone industry has been designed over the past 40 years to provide contributions which make possible lower rates for your basic residential service.

Let me explain how this rate structure works, because it is the key to understanding the drawbacks of contrived competition in the industry. The rate structure for telephone users is based on two principles—value of service and average pricing.

With the value of service approach, businesses traditionally have paid more for their service because it is worth more to them. Typically, rates for basic business service are about twice those of basic residential service.

The other principle we have used for many years is average pricing. Long distance rates have been set on an average basis. Comparable services are provided at comparable rates regardless of the costs to serve individual routes. This means that toll calls between people comparable distances apart are charged at the same rate, even though it is less expensive to serve busy routes between major cities than it is to serve little used routes in sparsely settled rural areas.

Not only does long distance service enjoy the benefits of averaged rates on a regional or national basis, but long distance rates also help keep local rates down. This has been particularly marked for customers in rural areas where sparse settlement makes costs of service much higher.

This system has been the key to America's low cost, widespread telephone service because it has brought residential rates low enough for practically everyone to afford. This is all in jeopardy, thanks to the recent decisions by the federal regulators.

The so-called competitors we now face are not interesed in competing for the residential customers who are so expensive to serve. And they're not interested in the long distance routes between small towns. Instead they are going after the most profitable markets. They have no obligation to serve everyone like a regulated utility must do.

With contrived competition in the business equipment market and the long distance market, we are losing our profitable customers—the ones who have been making contributions to your residential rates. This is not in the public interest, although it will probably save money on the phone bills of some big businesses which can use the competitive services.

More than three years ago the Independent telephone companies commissioned an outstanding communications research firm to make an impartial study on the economic impact of the FCC's policies. This study showed that the FCC's actions likely will cause residential phone rates to go up as much as 60 per cent within 10 years—exclusive of inflation.

Our national trade group, the U.S. Independent Telephone Association, submitted this report to the FCC. The federal regulators, however, challenged its basic findings, calling the conclusions invalid. The FCC also challenged several other studies submitted by individual telephone companies and one submitted by the National Association of Regulatory Utility Comissioners. All of these studies also found the new policies would cause a substantial increase in rates for basic telephone service. Most state regulatory commissions, which have the direct responsibility for local service and rates, believe they will be faced with the problem of raising rates because of the FCC's actions. They will have to solve a problem created in Washington by appointed officials who have no knowledge of local conditions and who have no responsibility for local service and rates.

Significantly, the FCC has never conducted an economic impact study of its own and there has been no comprehensive study produced by anyone challenging the conclusion that the residential subscriber will have to pay much more for his service as a result of the FCC's policies.

The FCC is both a proponent of its own policies and the agency which makes the rules. In this situation, it is both the prosecutor and the judge. There is no way it can act impartially on this issue. Because of this, the telephone industry has turned to Congress in an effort to protect the residential telephone customers.

This was and is a perfectly proper move. Congress reports directly to the American voters, and it has final responsibility for the national telecommunications policy. We believe the FCC has ignored the policy guidelines set by Congress in the Communications Act of 1934. We have asked Congress to review the issue and make a determination of the true public interest. Our industry will be quite content to accept the decision of Congress; we are not content to accept the decisions of appointed officials who have shattered a century of telecommunications policy without knowing the consequences of their actions and without carefully defining the economic impact their policies will have on every telephone user.

The legislation supported by our industry is known as the Consumer Communications Reforms Act. Last year it attracted the support of almost 200 U.S. Senators and Representatives who were co-sponsors of the bill and the House communications subcommittee held hearings. This year the legislation and supportive resolutions already have some 150 sponsors, and the Senate communcations subcommittee has held its own hearings on the future of telecommunications.

What should you do about this issue? I believe you owe it to yourselves and your friends and neighbors to investigate this issue for yourself. I've brought along with me a statement of the Independent telephone industry's position for you to study and I invite you to write or telephone your local phone company or USITA for any further information you want.

When you have studied this matter thoroughly I urge you to write your Congressman and your two U.S. Senators and tell them just how you feel about the issue. There is no doubt at all in my mind that the new federal policies will cause higher local phone rates. In addition, they will impede the improved services and technological advances I earlier described as awaiting all of us.

(If appropriate) Our own company feels so strongly about this issue that we are taking advertising space in local news media to explain the issue to our customers. In buying this space, I should point out, we are using revenue from our profits. We are not using our customers' money. That's how important we think this issue is.

Our national association has taken advertising space in the July issue of Reader's Digest, offering a booklet on the subject to anyone who will take the time to return the coupon.

I hope you will study this issue. In addition, I hope you'll find the time to visit your telephone company offices. If you have a civil group or school class that might enjoy a tour, please use that bargain phone we provide and give us a call to set up a visit.

I've enjoyed your hospitality and welcome the opportunity to answer any questions you may have.

Thank you very much.

NEWS RELEASE ON 1977, BASIC COMMUNITY SPEECH

(City, State, Date)—Telephone customers in (name of community) will be hurt by recent decisions of the Federal Communications Commission affecting quality and price of service, a local phone company official said here today.

After outlining service programs and plans in (name of community, name of speaker, title of speaker, name of company), said "our local situation may well be disrupted by actions of the federal bureaucrats."

(If desired, expand on company service plans in your community.)

(Name of speaker) noted that phone service began in (year) in (name of community) and that (current number of phones) phones are now served.

Speaking at a meeting of the (name of organization hosting speech), (he or she) said that a number of new services under development have "tremendous potential for the rural areas of our country, in particular." Describing two-way communications for educational purposes as an example, (name of speaker) said that eventually telephones will be connected to televisions so that reference materials can be "called up" for display on home TVs.

"Doctors will be able to check any medical reference, lawyers will be able to do more thorough legal research, teachers and students in different locations will have two-way communications," (he or she) said.

Turning to recent federal regulatory develcpments whic hthe telephone industry believes will directly affect local rates and service, (name of speaker) said that ". . . low-cost residential service for consumers is threatened by actions of the FCC."

The agency has fostered two types of so-called "competition"—customer ownership of telephone equipment and big business use of private long distance networks.

"America's body on telecommunications was set in the Communications Act of 1934," (he or she) said. "That policy called for telephone service with adequate facilities to be made available to all the people at reasonable rates.

"The telephone industry has met that challenge. Today 95 percent of American homes have a telephone. That goal has been achieved through a rate structure that gives a price 'break' to the residential user, putting phone service within the economic reach of just about everybody. And the difference in the price 'break' is made up by business users and by long distance callers," (he or she) said.

The industry says that the new competitors are taking the most profitable customers which have been making contributions to residential rates.

"This is not in the public interest," (name of speaker) said, citing an impartial study done for the U.S. Independent Telephone Association, the trade group representing the interests of the nation's 1,600 Independent phone companies.

"This study showed that the FCC's actions likely will cause residential phone rates to go up as much as 60 percent within 10 years—exclusive of inflation," (he or she) said.

The industry supports the Consumer Communications Reform Act as a means for Congress to review the FCC decisions and determine the true public interest, (name of speaker) said. The legislation and supportive resolutions have some 150 sponsors, and hearings on the issue of telecommunications policy have been held in the House and Senate.

At the conclusion of (his or her) remarks, (name of speaker) urged the audience to write their Congressmen and U.S. Senators to "tell them just how you feel about the issue."

PHIL CRANE: FIGHTING TO KEEP GOVERNMENT IN ITS PLACE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BAUMAN. Mr. Speaker, the power to tax is indeed the power to destroy. The suffering people of this country, and particularly the people of the middle class, know only too well how true that maxim is. Government at all levels in this once-free Nation now drains our yet productive citizens of approximately 40 percent of their daily bread. No nation in the history of mankind has long survived a tax load so heavy and this Nation can be no exception that sorry spectacle history presents us in every known age of nations taxed to death by greedy rulers.

As the tax load increases the discontent of our citizenry grows apace and so do the demands for a constitutional limitation on the amount Government can take in taxes. Our colleague from Illinois, PHIL CRANE, has been a leader in the effort to pass some kind of limitation of this nature. The Banner, of Cambridge, Md., recently recognized Mr. CRANE for these efforts and called upon the rest of Congress to heed the cries of our citizenry for tax relief now.

I commend the Banner's call for "good political generals to win the battles of a tax revolution . . ." That phrase, "tax revolution," should serve as a warning to those in this body who want to increase spending. The people are approaching their limit on taxes. And I would remind my colleagues that politicians who refuse to face the facts are usually the first to go in a revolution.

The article follows:

KEEP GOVERNMENT IN ITS PLACE

Bringing government under control by limiting its power to tax gets increasing attention from the public as each year goes by. Exactly how much government at all levels takes out of people's pocketbooks may be in dispute, but there is no doubt citizens are beginning to feel that the amount, whatever it is, is too high. Figures cited by Rep. Philip M. Crane of Illinois, a leader in a move to put a constitutional lid on spending and taxing by the federal government, show, incidentally, that government is well on its way to taking more than half of the national income in taxes. In 1900, Mr. Crane says, government at all levels was taking about three percent. By 1950, it was taking about 26 percent. Today it takes more than 40 percent. Mr. Crane is correct when he said the only "tax reform" that will put a halt to this trend is a constitutional tax limitation. Without such a plan, he adds, freedom will be lost as each individual's means is spent according to government dictates.

Mr. Crane's idea is to establish tax limitations by constitutional amendment at national and state levels. The limitation amendments also would be designed to insure that any local or property tax hikes would be enacted only after the proposal is put to a vote by those affected.

"If excess revenue is ever collected," he says, "the government must not spend it; those moneys must be refunded pro rata on the next year's income tax returns. In the case of a financial emergency, the governor or president must give the state legislature or Congress the exact figures on needed funds and two-thirds or three-fourths of that body must approve the increase for that year alone."

Common experience and expert testimony sustain Mr. Crane's view that by controlling income, Americans can control the institutions that tax them. At the expert level, the country has the word of Nobel Laureate Milton Friedman that tax limitation is a workable concept. In their own day-today dealings with such institutions as churches, Americans have found that the best way to get a handle on the leadership is to cut off funds.

Nevertheless, Mr. Crane's proposal for tax limitation will have hard sledding in the public view. Those who think tax and tax and spend and spend will save the country are vociferous and well-organized. They will fight a hard and dirty war to protect their ideologies. How to get taxpayers together to resist the emptying of their pocketbooks is a formidable question. Good political generals to win the battles of a Tax Revolution are as badly needed in 1977 as good military generals were needed in 1777 to win the battles of that other Revolution.

TAIWAN

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MARRIOTT. Mr. Speaker, in any association there are quid pro quo's, whether it is an individual or a group association. This point has been borne out time and again in the foreign policy of the United States and in the reciprocal benefits which our policy has contained for both parties. In supporting Germany, for example, we are supporting ourselves, just as we have done with our other allies such as Britain, France, the Philippines, the Latin American countries, and so forth. There is always a mutual gain, or the alliance would disappear; it would cease to exist for lack of purpose. Nowhere is this point more relevant than in our alliance system in the Far East, specifically with the Republic of China. The advantages have been mutual. If they were not, the ties that have bound the two countries together would have come apart many years ago.

Recently, Mr. Speaker, there have been major efforts made to undercut the association between the United States and the Republic of China. This effort began several years ago in the famous "Shanghai Communique" of the Nixon administration. Nothing more than verbal assurances and rhetoric—besides relatively minor cultural and trade exchanges—however, has emerged since the days of the communique.

As I speak today, we still have relations with Taiwan and we have not as yet established diplomatic normalization with the mainland. The situation, however, is in the process of rapid change under the Carter administration, and if we judge from Secretary Vance's speech of June 30, we will soon recognize Peking in the full and complete sense.

What will this mean, Mr. Speaker, for the advantage of the United States? Is it in our interests to go to the painstaking lengths to establish relations with the Chinese Communists, at the expense of our historic friendship with Taiwan? In short, what will we gain from such a step, and is it worth it? I would like to examine these questions very briefly in an effort to arrive at some conclusion regarding the Carter administration's recent overtures to mainland China.

First of all, while I recognize that there are a number of reasons for normalization of relations with Peking, there are even more compelling reasons why this should not be done under Peking's three conditions; namely, the abrogation of the security treaty with Taiwan, severance of relations with the ROC, and the removal of the remaining American troops from Taiwan.

If we met these conditions, it would practically sound the death knell for the American strategic presence in Asia. What value would our commitment to Japan have? To South Korea? To the Philippines? Enough damage has already been done to these allies without any further erosion. There would be practically no possibility for a continuing and serious American presence in Asia in a withdrawal from Taiwan under the conditions laid down by the Peking government.

In addition, we would have the moral dilemma of abdicating the future of 16 million people to the enslavement of the Communist system, the same 16 million that over the years have grown to depend on the United States as the final arbiter of their safety and prosperity.

If a relationship is to have mutual advantages, what advantages would the United States have in recognizing Peking at the expense of Taiwan? Since that act would mean our acceptance of Taiwan as a province of the mainland, we would be obligated to respect Peking's laws and regulations in all matters of government and business.

Let me ask this question of those who so fervently desire normalization with Peking: What would happen to U.S. business and investment activities once they became subject to the Peking regime? Specifically, Mr. Speaker, there are a number of very real problems which recognition of Peking would introduce for American investments in Taiwan and for the overall economic picture of the ROC. We have built up over a 25-year period a complex set of financial and economic arrangements with the ROC which has redounded to the mutual benefit of both parties. In recognizing Peking, we will jeopardize these, and in the process we may end the last possibility for the Chinese people to exist and prosper under a free economy. Let me be more specific.

We have eight banks in the ROC. Who would legally control them if the Communists came to power? Could they operate in a normal way?

What would happen to the position of the Republic of China in the Export-Import Bank? For a number of years the Republic has remained in the bank thanks largely to the efforts of the United States, while the Communist Chinese have demanded their ouster. Would the PRC automatically take over this seat, or would they refuse to join such a "capitalist" organization? Also, what would happen to all the loans which the ROC currently holds from the Export-Import Bank? As of 1976, the ROC had outstanding loans of $1.7 billion, making it the second largest customer behind Brazil.

In terms of direct American investment in the ROC, there are now nearly one half billion dollars—$476 million. The ROC has one of the most advantageous investment climates for U.S. dollars in the world. With a Communist government, would this be allowed to continue? At the present time, U.S. commercial relations with the ROC are governed by the Treaty of Friendship and Navigation. Would a similar relationship be possible with the PRC?

In terms of trade, we have a $4 billion market with the ROC. We also have a sizable investment in commercial property. What would be the effects of the loss of this trade or of the expropriation of our property? In addition, we have a large number of commercial agreements and contracts with the Republic of China. Would they be honored by a Communist regime?

In noneconomic issues there are still more unanswered questions which trouble me. There are no American philanthropic, cultural or missionary institutions in the People's Republic of China, all of them having been expelled long ago by the Communists. With the Republic of China, on the other hand, we have many such institutions. Would normalization of relations mean the end of all our social and cultural contacts with the free Chinese? What would happen to the flow of people between Taiwan and the United States? Would the PRC impose restrictions upon the issuance of visas and as a result intervene in tourism, cultural and educational exchanges? What about Chinese air space? Would the PRC abrogate the air traffic agreements which we have with the ROC?

In military terms, the United States has assisted the Republic of China with training and equipment for its navy, air force and army. Defense of Taiwan, therefore, depends upon access to replacement of parts and updating of equipment. If we abrogate our defense treaty with the Republic, would the U.S. Government be in a position to provide these services for a Communist-controlled Taiwan? What would happen if Peking forbade it and announced a blockade of the island?

As you can see, Mr. Speaker, there are a host of complex problems involving any "normalization" process. I am deeply concerned about all of these, and at the moment I cannot understand why the mutually beneficial association with Taiwan has to be tampered with.

Why can not the Carter administration avoid the legal and political questions of sovereignty and legitimacy and seek a formula for American relations with a divided China? There is certainly much in common between Peking and Washington that needs to be explored further, and there are undoubtedly many areas of mutual benefit: the possibilities of a commercial treaty, technology transfer, most-favored nation treatment, the settlement of property claims, and so forth. But if these issues cannot be explored without Peking insisting upon an "all or nothing" formula, then the United States has absolutely no obligation to continue the process of normalization. We do not need to meet Peking's preconditions, and we do not have to end the historic and satisfactory association with Taiwan simply to accommodate the Communists.

"CONTAINMENT" STRATEGY STILL VALID

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constitutent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on America's need to retain its policy of containment:

"CONTAINMENT" STRATEGY STILL VALID

(By Henry Huglin)

Thirty years ago this summer "containment" became the capsulated slogan of our grand strategy for dealing with Soviet Russia.

It was our country's response to the Cold War, that Stalin's Russia began waging almost as soon as World War II was over, threatening our basic national interests.

Containment is still a major basis of our strategy and will likely remain so—as long as the Soviets pursue their geopolitical expansionism.

In an article in the July 1947 issue of Foreign Affairs magazine, George Kennan, then the Director of the State Department Policy Planning Staff, writing under the pseudonym, "Mr. X," used the term "containment" to describe the U.S. policy for coping with what was by then clearly perceived as an expansionist strategy of Soviet Russia—basically imperialistic, with Communist ideology, military power, false propaganda, subversion, and other nefarious tactics as tools.

It was, and sometimes still is, realized that, if the Soviets should be successful, our vital interests in western Europe, Japan, and the Mideast would be compromised and our nation's security and well being would be in jeopardy.

In implementing the basic containment strategy—in somewhat of a dynamic, rather than passive sense—the Truman and following Administrations used varying tactics, according to the challenges and circumstances of the time.

Truman provided military and economic aid to threatened Greece and Turkey in 1947.

Then Marshall Plan aid, also launched in 1947, saved the western European nations from despair and from vulnerability to Soviet military-backed political pressure, linked with subversion through internal Communist parties striving to seize power.

In 1948–49, our airlift defeated Stalin's attempt to blockade us out of Berlin.

The stunning, Soviet-instigated coup in Czechoslovakia in 1948 created the need for a formal security guarantee for western Europe. Hence, the North Atlantic Treaty was signed in 1949, linking our and the Canadians' strength to that of the western European nations—to provide confidence, political stability, and economic progress which have now flourished in western Europe for a generation.

In this period we also made a wise power-politics move in granting economic and military aid to Communst Yugoslavia after Tito's break with Stalin. This aid enabled this enormously important break in the Soviet monolithic empire to endure.

Then, in 1950, our response to the aggression on South Korea by Communist North Korea—obviously armed and backed by the Soviets—was a major, costly, and marginally successful act of containment with armed might.

And our involvement in Vietnam, 1965–74, was our longest, costliest, most divisive and only ill-fated major failure in our containment actions.

Further, our government's rapprochement with Communist China in 1972 was another diplomatic step, in the same vein as the help to Yugoslava, for Soviet containment.

Still, the protracted conflict with the Soviets goes on, because of their continuing expansionist intentions and their great and growing capabilities—even though their tactics are more subtle and with less Cold War harshness and bluster.

Further, they are engaged in a long-term, massive arms expansion program—in strategic missiles and aircraft, warships, and tanks and other army equipment.

Also, they provide great quantities of arms, economic support, and political control and subversion training to their clients around the world.

Yet, in recent years, the Soviets have touted detente—on their terms—in order to get the political boundaries that they imposed by force on eastern Europe recognized, and to get technology and credits from us and western Europe, so they could avoid slacking off on their costly armaments programs, which has hurt their economy.

Meanwhile, in our democracy and others it is continually difficult to sustain understanding of the unavoidable protracted conflict between the Soviets and us and our allies, and the need for continuation of our strategy of containment and the military strength and national will to back it up.

In frustration and weariness over the strain of decades of challenges, wars, threats, and burdens of armaments, many of us—especially the idealistic and naive—grasp at rationalizations of the Sovets' intentions and actions.

Some even turn on our country, with tortured logic, to try to lay the blame.

And many believe that there must be a different, better basic way to handle our situation than the course we have pursued for 30 years. But there just isn't—though we have certainly made mistakes and should learn from them.

Of course, we have many other important international problems and challenges beyond those with the Soviets; but none is so vital or fundamental.

So, containment is, in principle, an enduring basic tenet and necessary means of our strategy to insure our security and that of other nations dependent on us.

SPANISH HERITAGE WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. ANDERSON of California. Mr. Speaker, September 16 is traditionally an important date in the lives of our citizens of Mexican descent. For it was on that day in 1810 that Mexico declared itself an independent nation, and began the struggle to free the bonds of colonialism after "El Grito"—the night of September 15 when Father Miguel Hidalgo y Castillo sounded the cry of freedom in the town of Dolores.

Father Hidalgo did not live to see that day, 11 long years later, when Augustin de Iturbide led a triumphant army through Mexico City. Mexico's freedom was bought at a tremendous cost, by a long and bitter struggle against overwhelming odds. The courage and determination of the men and women who heeded Father Hidalgo's "Cry of Dolores" will never be forgotten.

The week of September 16 has taken on added meaning today. It is celebrated as "Hispanic Heritage Week," a time to look with renewed appreciation upon the contributions that Hispanic culture has made in the United States.

Unfortunately, we must recognize that there is a deeper meaning for this week as well. One hundred and sixty-seven years after the cry of Dolores was first heard, our Mexican-American citizens are still engaged in a struggle—the struggle to gain full participation in American social, political, and economic life.

Our Nation's Spanish heritage finds especially rich expression in my own State of California. Under the control of Mexico until 1848, we are blessed with a richness and variety of culture that reflects in a large part our Hispanic tradition. It is reflected in the names of our cities: Nuestra Senora La Reina de Los Angeles de Porciuncula, San Francisco, San Diego; by the names of our land features: the Sierra Nevada Mountains, the San Joaquin Valley, the Sacramento River; and by our coast, first explored by Spanish sailors: Santa Catalina Island, Point Conception, Piedras Blancas.

It is also reflected in our State's large population of Mexican-Americans, which numbers 3,179,000. They are our State's largest minority group, and occupy a unique position since persons of Mexican descent lived and worked in California long before the arrival of U.S. control and citizens.

Despite the fact, the Mexican-American still faces many problems in today's society. Education in Chicano neighborhoods most often falls below the standards found in more affluent neighbortaged as well. According to a recent surhoods. Economically, they are disadvanvey, the average income for a Mexican-American family is $9,546. Approximately 24 percent of them earn less than $4,000 annually. Even the average figure is over $4,000 below the national average.

Sadly enough, the pattern of disadvantage is reflected within the Federal Government. Despite the fact that 82 percent of our Spanish surnamed voters supported the current administration in the last general election, only 17 out of the 427 Presidential appointments at a sub-Cabinet level to date have Spanish surnames. Only 21 Hispanic-Americans have received Schedule C appointments, and an additional 16 have been appointed by the President to various commissions.

Nationally, Hispanics working for the Federal Government number only 3.3 percent of the total job force. As of November 1976, there were 18,718 Federal employees in California with Spanish surnames. In southern California, Hispanics comprised 17 percent of southern California's population, according to 1975 figures; yet only 6 percent of the area's 150,000 Federal jobs were held by this sizeable segment of the population.

Mr. Speaker, the past decade has seen much progress in the area of human rights. No one can deny that our Nation's minorities—including Hispanic Americans—have made great strides forward. But we must not forget that these injustices still exist, and that our society still must face an obligation to correct them.

So as we celebrate Hispanic Heritage Week, we should do more than gain a sense of appreciation for the many contributions made by that heritage to our society. September 16 marks a great celebration, but the event that we remember was the conception of a long and difficult struggle.

Today, that struggle in many ways continues here in the United States, as men and women of Hispanic descent struggle to gain justice and equality for themselves and their people. This is a good time to recognize that this struggle exists, and to pledge our solidarity and support to our citizens of Hispanic origin.

TWO OUTSTANDING BROOKLYNITES

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. ZEFERETTI. Mr. Speaker, I would like to call the attention of my colleagues to the accomplishment of two outstanding Brooklynites.

According to articles in my community newspaper, the Brooklyn Record, I have been informed that Miss Laurie Robin Josephs, daughter of Dr. H. Thomas Josephs of Brooklyn, has recently been awarded the Eleanor DeGoller Prize for Academic Excellence. Miss Josephs is a student at Vassar College in Poughkeepsie, N.Y., and ranked highest among 3-year students. My heartiest congratulations are extended to her.

Another prominent citizen of Brooklyn, Domenick A. Volpe, has recently been elected to the post of commander of the New York State Veterans of Foreign Wars. Commander Volpe, a Brooklyn combat soldier who participated in the Normandy invasion of World War II, commands the 156,000 members of this prestigious organization. Joining the VFW while still in service, he was the first sergeant of the Fighting 14th Infantry of the New York National Guard which was federalized in February 1941.

It is truly a privilege for me to be honoring these two distinguished members of the Brooklyn community today. I ask the House of Representatives to join me in wishing Miss Josephs and Commander Volpe continued success and good health in future endeavors.

WHAT THE TAPE IS TELLING US

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. REGULA. Mr. Speaker, I recently read an editorial that appeared in the September 1977 issue of Fortune magazine that I feel will be of interest to my colleagues. This editorial addresses itself well to our present and past economic situation, inflationary trends, and the impact that our actions here in the Congress have on these aspects of our national stability. For this reason, I insert the following article into the RECORD:

WHAT THE TAPE IS TELLING US

Following the stock market is in some ways like spending an evening at the theater. Like a good play, the market endlessly surprises you and yet leaves you feeling afterward that what happened was really quite inevitable. Like most good plays, furthermore, the market is always trying to tell you something. It's certainly telling us something right now, and the message isn't very pleasant.

Anyone trying to grasp the message might begin by reminding himself how much we've been surprised this time around. At the beginning of 1977, the Dow Jones industrial average was at 1,000 and projections about the market were overwhelmingly bullish: we were in the second year of a powerful expansion, and virtually all economic forecasts called for sustained growth throughout 1977, with only moderate increases in interest rates—an environment that seemed made to order for a healthy stock market.

In fact, those forecasts have proved to be quite accurate. Nevertheless, the market has been drifting downward throughout most of the year. In mid-August, the Dow was around 870, and the other leading indices had dropped about 10 percent.

Why has the market been slipping while the economy expanded? There is no real mystery about the answer. It has been clear for close to a decade that the market lives and dies on the vibrations it gets about inflation.

And this year it's been getting a lot of bad vibes.

It is possible that the market's weakness during most of last month reflected its growing awareness of some new inflationary pressures in the economy (see Business Roundup, page 9). But in general the market seems to take its cues about inflation from the news about the money supply. Its perception of the problem is essetntially "monetarist": it believes that outsized increases in the money supply are a sure harbinger of higher inflation rates. In the long run, these higher rates increase uncertainty and leave investors demanding larger risk discounts—which is another way of saying that they will buy in only at lower prices.

In the short run, the market has some different concerns about the money supply. It likes easy money, but it fears that too much easy money will lead the Federal Reserve to crack down, make credit less available, and in general create an unhealthy environment for stocks. The market often seems to be hypnotized by those Thursday-afternoon press conferences at which the Fed releases the latest figures on money growth. Every Thursday, the market rethinks what it knows about the Fed's basic posture. If recent money growth has been rapid, then a crackdown may be coming; if the Fed is failing to meet its announced targets, then presumably the market can anticipate some extra doses of money growth without having to worry about inflation. The market's sinking spell in April and May, partial recovery in June, and renewed slippage in late July faithfully mirrored the explosive growth of money in April (M–1 rose at a 20 percent rate), its non-growth in June, and a renewed explosion (an 18 percent rate) in July.

In line with its basically monetarist perspective, the market is leery of any developments that might force the Federal Reserve to pump a lot of money into the banking system. For this reason, anything that threatens to bring about bigger federal budget deficits is now taken to be bad news on Wall Street. The theory is that more Treasury bills will have to be issued to finance the deficit and the Fed will feel obliged to pump money into the banking system so the banks can buy more of them.

Thus when President-elect Jimmy Carter announced his economic program on January 7, the market did not respond with elation to the promise of "stimulus"; instead, to the dismay of Carter's economic advisers, it went into a tailspin at the prospect of another $15 billion or so being tacked onto this year's deficit. The Dow lost some fifty points in the weeks after the program was announced.

In general, the market's performance this year suggests doubt that the Carter Administration will succeed in balancing the budget by fiscal 1981. Yet it would be unfair to argue that the woes of the stock market can be traced mainly to this Administration. After all, the market has been sick for more than a decade, and even before Carter took office the erosion of values had been staggering. When he was inaugurated, it could be said that the Dow was worth no more in real terms than it had been in 1956. (Today, one could say late 1954.)

The awful truth that is sinking in on many investors is that inflationary behavior is now deeply rooted in our basic institutions. For many years, our inflation problem could be attributed to "external" shocks: first, the Vietnam war; later, simultaneous food shortages in many countries, and OPEC's decision to quadruple oil prices. Today, however, inflation can be seen as something that Americans regularly inflict on themselves. They do it because they continue to want more from our political and economic system than it can provide under conditions of price stability.

That would seem to be the ultimate message of the tape. It is a message that cannot be ignored for long by the leaders of our society.

SACCHARIN AND LAETRILE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 14, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for September 14, 1977, into the CONGRESSIONAL RECORD:

SACCHARIN AND LAETRILE

"Saccharin should be banned. It causes cancer."

"I have used saccharin for 20 years. I need it for my diet."

"Why shouldn't I be able to use Laetrile? I've tried everything, and its the only thing that makes me feel better."

"Laetrile is a hoax. Take it off the market."

These statements to me from constituents illustrate the difficulty public officials now face in making basically technical judgments about the benefits and the hazards of saccharin and laetrile.

Scientists tell us laetrile is ineffective and possibly even dangerous and that saccharin causes cancer, at least in animals. However, they are told by consumers of these substances that laetrile work and that saacharin is beneficial.

Each substance, of course, presents a different problem. The saccharin problem arises from the Delaney Amendment, which says that no additive shall be considered safe that is found to induce cancer in man or animal. Since saccharin has been found to cause cancer in animals when fed to them in high doses, the law is clear. The question for Congress is either to amend or to do away with the Delaney Amendment, or to make saccharin an exception to its terms. The Food and Drug Administration has pending a proposal to eliminate saccharin added to diet foods, drinks and other products, while allowing it to be sold as an over-the-counter drug. In light of new studies, the FDA is now considering toughening this original proposal either by effecting a ban on all sales of saccharin or perhaps by allowing it to be sold only by prescription. Meanwhile, Congress is considering a delay in the saccharin ban. Although it is clearly a substance that can cause problems, saccharin is really not so bad compared to many other substances on the market today and, moreover, it has been consumed for a long time by satisfied customers.

The effort by the FDA to remove laetrile from the market is based on the principle that the public should be protected against drugs that are ineffective. The law in question provides that if a new drug is sold, it must be both safe and effective in the treatment of the disease or condition for which it is sold. In the view of the FDA and most physicians, laetrile is not effective against cancer. They believe that people need to be protected against the unscrupulous vendor. In their opinion, repeal of the effective requirement would give rise to freedom to defraud the consumer and not freedom of choice. They argue that victims of cancer die because they fail to get proper treatment, and that laetrile, which is being pushed hardest by those profiting most from it, can be a cruel hoax.

Proponents of laetrile are understandably driven by the desparation of dealing with a horrible disease for which there is no orthodox and reliable treatment. The strength of laetrile's appeal is obvious, as is the bitterness of its proponents toward the authorities who oppose its use. Americans, they contend, should have the freedom to choose drugs. Laetrile's proponents would let the government decide what is safe, but once proven safe, they argue that the product should be allowed on the market. They claim the effectiveness requirement is actually retarding the development of new drugs in the United States.

Generally, the principles involved in these laws—that drugs should be effective and that additives to food should not cause cancer—are accepted, but when scientific evidence is less than conclusive and when the substances relate to matters as sensitive as diet and cancer these principles are sorely tested.

There may be no genuinely satisfactory solution to the dilemma presented by saccharin and laetrile. No matter how it is resolved, many people will believe that their rights, either the right to make their own decisions or the right to be protected, have been violated by the long arm of government.

In dealing with these substances, the federal government should avoid strong-arm tactics against people who are confused. Government should try to take into account consumer demand. If it does not, it can be overrun in the political arena and lose the authority it now has to pass on the effectiveness of drugs before they go on the market. The best scientific information about these substances should be made available. Accurately stated warnings ought to be required. Research ought to be accelerated to find the facts about each substance. Alternative drugs should be sought. In the case of laetrile, tests on animals alone may not be sufficient. Comprehensive studies of the substance should proceed. If the studies confirm laetrile is without value in treating cancer, that evidence should make it easier to persuade others. A careful evaluation of the benefits, the risks and all the relevant evidence is necessary. Given the difficulty of these judgments, regulating agencies probably need more flexibility in analyzing the data than they have under current laws.

RIGHT OF LIFE

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. JOHN L. BURTON. Mr. Speaker, the Congress is concerned with the Right to Life as shown by the Hyde amendment.

We are also concerned with the depressed state of the construction industry as evidenced by our public works bills.

With this in mind, if and only if the Weiss amendment fails, I will move that neutron bomb funding be limited to a device "that destroys buildings and not lives."

This "Situs Neutron Bomb" amendment will stimulate the economy more than a tax cut, and will be a stronger guarantee for the right to life than cutting off Federal funds for abortions.

I would appreciate your support:

AMENDMENT TO H.R. 6566, AS REPORTED

OFFERED BY MR. JOHN L. BURTON

Page 21, after line 19, add the following new section:

SEC. 210. None of the funds authorized to be appropriated under section 101 of this Act shall be obligated or expended for pro-

duction, procurement, or deployment of any enhanced radiation (neutron bomb) warhead, or for research, development, testing, or evaluation with respect to any such warhead, unless such warhead is designed to destroy property without causing harm to human beings and other living things.

VIRGINIA ELECTION OFFICIALS OPPOSE SAME-DAY REGISTRATION BILL (H.R. 5400)

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MARRIOTT. Mr. Speaker, the universal voter registration bill (H.R. 5400) is a bill which needs to be buried.

Since the measure was first proposed by President Carter some months ago, we have had the opportunity to carefully study the meaning and full implications of election day registration. This bill would make some major changes in our election system and would open our system to new opportunities for fraud. H.R. 5400 would not improve our election system; it would seriously erode the integrity of the vote of each American.

Preregistration of voters provides an important safeguard and protection against vote stealing and vote fraud. If we eliminate registration prior to election day, we are eliminating the opportunity to prevent vote fraud. Election day registration is a bad bill whether mandatory or optional. We do not need to adopt a system which would encourage, rather than discourage vote fraud.

State and local officials have been carefully examining this election day registration bill. Some interesting information has come out of the State of Virginia.

When earlier this year Deputy Attorney General Peter Flaherty solicited the opinions of U.S. attorneys on H.R. 5400, the U.S. attorney from the eastern district of Virginia, William B. Cummings, commented that—

> A system allowing registration at the polls with or without a voter register would be susceptible to abuse and thereby dilute the voting rights of validly registered voters.

U.S. Attorney Paul R. Thomson, Jr., wired from Roanoke, Va., that—

> The possibilities of voting fraud under the proposed universal voter registration act are incredibly great.

Recently a survey of more than 225 Virginia election officials and registrars revealed overwhelming opposition to election day voter registration. These officials stressed some of the real problems which could result, especially the administrative problems on election day. I would like to enter into the RECORD a story from the Washington Post, July 21, 1977, entitled "Election Day Voter Registration Opposed":

ELECTION DAY VOTER REGISTRATION OPPOSED

(By Sandra G. Boodman)

A survey of more than 225 Virginia election officials and registrars shows they overwhelmingly oppose election day voter registration because they say it could lead to severe administrative problems and possible fraud.

The Carter administration has strongly backed a bill making it mandatory for all states to permit voters to register and vote on the same day. However, when it became apparent last week that sufficient Congressional support might be lacking, the proposed legislation was watered down to make same-day voter registration optional—essentially the situation now. The bill is expected to reach the House floor today.

Results of the Virginia survey were released at a press conference held shortly before the weaker version of bill was announced. They indicated that same-day voter registration probably will not come voluntarily to Virginia.

Fears of chaos at the polls and a belief that "special interest groups are trying to steal the 1980 election" were expressed by Millard C. Rappleyea Sr., a member of the Fairfax County electoral board and one of several election officials from Fairfax, Arlington and Prince William counties attending the press conference.

Nancy Haydon, Prince William County registrar, noted that the original measure meant that the potential for another Chicago (a reference to the circumstances surrounding the close vote for John F. Kennedy in Cook County, Ill., in 1960) is there, especially in close elections."

Haydon and Rappleyea said that under the present system, which provides for statewide cross-checking of voting lists, absue is "virtually nonexistent."

Survey respondents said they believed same-day registration would discourage earlier reigstration, causing voters to face long lines at the polls on election day. This would result in "unnecessary anger and confusion," said Rappleyea.

Fairfax County registrar Eve Newman said the costs of additional staff and machines presented a problem. "It's hard to judge where people will turn out. We might plan for a large turnout in Reston and find that everyone went to Mt. Vernon."

She continued, "Local jurisdictions sometimes just don't come through with the money," despite federal legislation.

The survey also revealed widespread opposition to same-day registration at a central location, which has been successfully adopted by Maine and Oregon. Increasing night and Saturday hours were opposed because officials said not enough people show up.

"Abuse seems to be nearly nonexistent now," Rappleyea concluded. "A lot of things turn people off to the political process but it's not the inability to register."

BANKING INTERESTS IN PANAMA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. DORNAN. Mr. Speaker, during the last few months of the debate on the Panama Canal treaties, I have observed closely those who are in favor of this giveaway of American property and sovereignty. It has been a most interesting study.

Some who support the giveaway treaties, are from the old school of "the U.S. must repent for T.R.'s sins." Now, we are all familiar with this type of person. To their way of thinking the "haves"—those who work for their livelihood—are worthy of little more than scorn and heavy taxation. These protreaty people believe that—as far as the canal goes—the United States is a "have" and Panama is a "have not." Therefore, according to their sophomoric logic, Panama should be given the canal.

Some other protreaty people are merely confused about the validity and justice of our sovereignty. Not having a thorough knowledge of the circumstances preceding and following the 1903 treaty, they fall into the old trap that American interests in Central America are merely colonial. They reason further that, since colonialism is an outmoded as high button shoes, we should join the 20th century and relinquish our sovereighty in the zone. They completely ignore the facts of the 1903 treaty and the benefit that has accrued to Panama as a result of our presence in the zone.

While the vast majority of Americans disagree with these two types of protreaty people, very few question their motives. The former protreaty attitude is a result of an overdeveloped sense of charity and an underdeveloped sense of justice. The latter is a result of prejudice or laziness in regard to the real facts of the situation; these people have succumbed to protreaty rhetoric of other confused and misled people.

But there is a third type of protreaty person whose motives should be impugned. These persons are well aware of the facts of the 1903 treaty and the importance of the canal to the security of the Western World. They do not endorse the treaty out of undue love of the Panamanian people or out of confusion—they do so out of self-interest. They have something to gain from the giveaway of the American people's canal.

The most visible and best known of this third type are the fast-money type of international banker. The Torrijos dictatorship is up to its ears in debt to banks. The debt of the Torrijos regime has now reached such proportions that 39 percent of the Panama GNP—repeat 39 percent—goes to debt servicing alone. This might not cause the extreme consternation in the banking circles that it does if it were a debt owed by a stable government. But the Torrijos regime is far from stable. The dictator was nearly ousted a few years ago by an abortive coup and there are few wagers on his staying in power long if the treaties are rejected by the Senate. And if he is not in power, the banks do not have much chance of getting their money.

Some Members of Congress and Americans are aware of the conflict of interests involved in some of the banks' support of the Panamanian treaties. They are aware of the Marine Midland connection through negotiator Sol Linowitz. But there are many other banks whose endorsement of the giveaway of the canal may be motivated by monetary interests. Unlike Marine Midland, they have been able to keep a lower profile. They are not generally known to be part of the banking group with a lucrative stake in the ratification of the treaties.

So that my colleagues and the American people can be made aware of these other banks, I ask that two announcements of the purchase of Panamanian notes which appeared in the Wall Street Journal be reprinted here. Those banks to which the Torrijos regime is in debt are listed in these announcements:

ANNOUNCEMENTS

Republic of Panama: $115,000,000, ten year Eurodollar loan.

Managed by: Citicorp International Bank Limited, Dillon, Read & Co. Inc., Smith, Barney & Co. Incorporated, and Banco Nacional de Panama.

And provided by:

Asia Pacific Capital Corporation Ltd.
Banco de Santander y Panama
Bank of America NT & SA
San Francisco, California
Bank of Montreal
The Bank of Nova Scotia
The Bank of Tokyo, Ltd.
Bankers Trust Company
Banque Ameribas
Banque Nationale de Paris
The Chase Manhattan Bank, N.A.
Citicorp International Bank Limited
Compagnie Luxembourgeoise de Banques A
Dresdner Bank Group
The First National Bank of Boston
Panama Branch
The First National Bank of Chicago
First National City Bank
The Fuji Bank, Limited
The Industrial Bank of Japan Limited
Interunion Banque
Lloyds & Bolsa International Bank Limited
London & Continental Bankers Limited
The Long-Term Credit Bank of Japan Limited
Marine Midland Bank, New York
The Mitsui Trust and Banking Company Limited
National and Grindlays Bank Limited
Republic National Bank of Dallas
Rothschild Intercontinental Bank Limited
The Royal Bank of Canada
Security Pacific National Bank
The Sumitomo Bank, Ltd.
The Tokai Bank, Limited
Toronto Dominion Bank
Agent: First National City Bank.
October 19, 1973.

Republic of Panama: $20,000,000; Floating Rate Promissory Notes.

The above financing was arranged in January, 1972 by Goldman, Sachs & Co. The Deltec Banking Corporation Limited with the undersigned:

Bankers Trust Company
Bank of Montreal (Bahamas & Caribbean) Limited
Marine Midland Bank-New York
The Bank of California, N.A.
The Bank of Tokyo Trust Company
Roy West Banking Corporation, Limited
Banque Européenne de Tokyo
The Bank of Nova Scotia
Associated Japanese Bank (International) Limited
Bank of London & Montreal, Limited
Cisalpine Overseas Bank, Limited
The Toronto Dominion Bank
The Tokai Bank, Limited
The Toronto Dominion Bank
The Dai-Ichi Kangyo Bank Ltd.

THE NEED FOR AIRLINE DEREGULATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. CRANE. Mr. Speaker, I have long felt that overregulation by government tends to stifle economic growth to the detriment of consumers. Our country's rapid rise to greatness has been due to the free enterprise system which we have adopted. Yet, in recent years, we have allowed the Government to take over many of the initiatives which should have been left in the hands of the individual businessman. It is high time, therefore, that we deregulate and let free market competition reign supreme once more.

An area in which deregulation is long overdue is the airline industry. During the early days when air transportation was struggling to survive, it was necessary for the Government to step in to assure that the fledgling air companies would not fall apart before they had the chance to fly. However, the industry has now grown into one of the biggest in the country and no longer needs the support of rigid government regulation. As a matter of fact, strict regulation by the Civil Aeronautics Board, especially in the areas of pricing and entry, has stifled competition and prevented growth, all at the expense of the consumer. Travelers have had to pay higher prices to fly on those airlines which are regulated and airlines that can offer lower fares have been prevented from entering the market.

Mr. Speaker, at this time, I insert in the RECORD an article written by Carole Shifrin which appeared in the Washington Post on Tuesday, August 23, 1977, describing how an innovative young woman has succeeded in turning the tide of a small commuter airline company in Illinois. Because small commuter air companies are unregulated by the CAB, Pat Pond of Skystream Airlines was able to offer fares well below those of the regulated airlines and thus turn a losing business into a profitable one. It is obvious from this and other reports that airline travelers are paying far too much due to rigid CAB regulation and that there is a real need for deregulation.

The article follows:

SMALL COMMUTER LINE FLYING HIGH

(By Carole Shifrin)

CHICAGO.—The first thing Pat Pond did when she became president of Skystream Airlines was to repaint its pink airplanes white. "It wasn't going to work: being a female airline president and flying pink planes," she jokes.

In the ten months since she took over the management of this small commuter airline, another color has changed—the ink on the company's books. In the red then, they are in the black now.

Pat Pond is no ordinary airline president. Besides being a woman, she is young, just 28. She started out as a ticket agent for Skystream in 1975 when her children were about to start school, and she became president of the company after she spent six months convincing the chairman of the board—her father-in-law—that she could do a better job of running the company than the man who was in charge.

Since she became president in November 1976, she's proved she was right. Passenger traffic has doubled, the little-known airline is even turning passengers away from some flights—but they stick around for the next—and now Pond wants to expand the airline's three-state, five-city route structure.

The reason for her success—Skystream's newly found success—is aggressive marketing and low fares—real low fares. Would you believe $3 between Chicago and South Bend, Ind., or $10 between Chicago and Detroit?

Skystream is one of about 250 scheduled airlines in the burgeoning commuter airline industry. The commuters are subject to Federal Aviation Administration safety standards but not to the fare and route regulation of the Civil Aeronautics Board so long as they operate aircraft seating fewer than 30 passengers.

Skystream currently operates 15-seat Beech 99 non-pressurized aircraft on scheduled flights between five Midwest cities; Chicago, Detroit, Indianapolis, South Bend and Kokomo. For its 52 flight segments flown each day, the airline uses the same major airports as the large regulated airlines except in Chicago, where it flies in and out of the downtown airport, Meigs Field, a small airstrip and terminal nestled between Lake Michigan and a boat marina, with Chicago's skyline as a backdrop.

Although a lot of people travel every day between the cities Skystream serves, they weren't traveling on Skystream at least in part because they had never heard of it, Pond says. Her flights had a lot of empty seats, and she set about to remedy that.

In May, Skystream began offering a standby fare of $3 between Chicago and South Bend compared with its regular fare of $15 and the regulated airlines' coach fare of $25 between the two cities. "We decided our competition between the two cities was the car, so we were trying to price ourselves to be competitive," she says.

The initial response was so great that she decided to institute a Chicago-Detroit standby fare of $10 compared with the normal $39 fare between the two cities.

Not unexpectedly, the fares have attracted attention—and passengers. Traffic on Skystream's flights has jumped from an average of 100 passengers a day to just over 200 passengers a day last month.

The increase wasn't all standby traffic either. "We hoped we would draw enough attention to increase full-fare reservations, and it did," Pond says. About 154 of the average total each day are full-fare passengers, she says.

Although Skystream—and commuter airlines generally—continue to fight some consumer resistance to small planes, small airlines, and small airports, Pond has capitalized on it. "Meigs gives us our uniqueness," she says. "We're bringing people to downtown Chicago." In their ads promoting the standby fares, Skystream emphasized that their flights went to "downtown Chicago on the lakefront," even noting that, if they wanted, passengers could walk from the airport to the King Tut exhibit at the nearby Field Museum.

Students and singles seem to make up the bulk of the new Skystream travelers, Pond says, but families also have taken advantage of the standby fares. Pond says a family of six went standby on one recent flight.

Traveling on Skystream is not at all like traveling on the larger carriers. The absence of bureaucracy is striking; the employees appear almost interchangeable. The person behind the ticket counter at Meigs takes reservations over the phone, writes your ticket, and takes your baggage. Minutes later, he is placing the baggage in the plane. Then, he announces that the flight is ready for boarding; he checks tickets at the gate, helps people up the stairs to the plane, then boards himself. He starts up the plane, makes the proper FAA required announcements, and then, with co-pilot, flies the plane to its destination.

"Almost everyone in the company knows how to do everything," Pond says. Most are also young. Of the 18 employees—12 are pilots—the oldest is 35. The rest are under 30, and all but one have a college degree.

Pond, who does not have a college degree but bears a striking resemblance to a college student—dressed in a light blue culotte suit with sandals for the interview—joined Skystream in the company headquarters in

South Bend as a ticket agent because she wanted to go to work in an industry where there was some growth opportunity . . .

"It took me about three months to get absolutely fascinated with the airline industry," she says. Seeing ways things could be done differently, she says, "I guess I got a little pushy and aggressive." One of the first things she did was set up a central reservations system; travelers now can call toll-free numbers from anywhere in a five-state area for Skystream reservations.

When Pond became president last November, the company was "losing quite a bit of money," she says. It is now profitable. She hopes to have the company's debts paid off by the end of February 1978 and then plans to invest in new aircraft. Skystream has four planes, three used in the daily commuter operations, the fourth used as a backup plane when needed and for charters.

Pond already has expansion plans, too. She is looking for a new city, and Grand Rapids, Mich., is a good candidate, she says. "That's the way I want to see us grow, one city at a time." She thinks one of the reasons for commuter failures in the past was a tendency to bite off more than they could chew.

The planes used by Skystream are outfitted with wide windows, offering passengers a good view of the countryside from the 7,000- to 10,000-foot altitudes at which they cruise. There are no restroom facilities—none of their flights takes more than about an hour—and they serve no beverages.

Although Skystream just raised the standby fares—to $7 between Chicago and South Bend, and $20 between Chicago and Detroit—Pond doesn't think they will lose many passengers. "And it's still comparable to taking the bus," she says.

FLY OR DIE: A REVIEW OF THE CONCORDE

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. CUNNINGHAM. Mr. Speaker, recently the Environment and Energy Subcommittee of the Government Operations Committee, on which I am pleased to serve, held additional hearings regarding the rulemaking procedure on possible Concorde landings in the United States following the 16-month trial period authorized by former Transportation Secretary Coleman.

At that time, our chairman, LEO RYAN, expressed my feelings regarding the practice of marking "secret" an options paper regarding the proposed rulemaking. From information developed at the hearings, it became clear that National Security Advisor Brzezinski had inexplicably prevented the public from seeing the decisionmaking process in this allegedly open administration.

Recently, I saw an excellent article on the Concorde in Signature magazine entitled, "Fly or Die: A Review of the Concorde." It is authored by repected New York Times transportation editor, Richard Witkin.

In view of the proposed rulemaking, schedule to be released on or about September 24, I recommend this overview to my colleagues in an attempt to supply them with more facts prior to the administration's decision.

The article follows:

FLY OR DIE: A REVIEW OF THE CONCORDE

(By Richard Witkin)

ITS CONTROVERSY

If there is one thing that can be said without dispute about the Concorde supersonic airliner, it is that it has churned up more dispute than any other airliner before it.

What to supporters is an aluminum bird of striking grace and considerable utility is to opponents an unbearably raucous monster that symbolizes the excesses of technological drive.

This writer, an admitted airplane buff, has had two flights aboard the plane. Both were indistinguishable, from the standpoint of the body's physical experience during the trip, from a flight on a conventional subsonic jet. Intellectually and emotionally, they bordered on the euphoric.

By contrast, I have also stood under the takeoff path of the Concorde at the carefully chosen point where the Federal Aviation Administration recorded official readings on the planes' noise as it climbed out of Washington's Dulles Airport.

The meter reading of 129 perceived noise decibels was shattering. Technically, it was said to be almost four times as disturbing to an average listener as the 112-decibel output that has been the maximum permissible for jets taking off from New York's Kennedy Airport. No one could be expected to tolerate living in such a thunderous environment, even for a handful of takeoffs a day.

But there were no residences at the point where the 129-decibel reading was recorded. The pilot, knowing that, had deliberately kept his throttles at maximum power over the meters so that, when the plane did arrive over residential areas, its altitude would be as high as possible. With throttles having by then been retarded, the noise intruding on citizens below would be within the range decreed at Kennedy.

Unhappily, the dispute over the Concorde's noise has other ramifications. Admit, as virtually all experts do, that the plane can meet the Kennedy takeoff criterion, with decibels to spare. The main issue now stressed by the plane's opponents—and by the Port Authority of New York and New Jersey, which operates Kennedy—is the degree of disturbance from low-frequency vibrations generated by the Concorde's four huge turbojet engines on both landing and takeoff.

The human ear does not register these vibrations. Yet noise experts have said they can produce considerable annoyance—by causing dishes and paintings to rattle, and even by causing enough floor displacement so that a person standing in a room would feel his whole body move. Recently, the Port Authority hired a new noise consultant to help it develop what is referred to as a "vibration rattle index." Skeptics, including the Concorde operators, think this was just another stalling tactic by the agency to avoid making a permanent ruling on the Concorde's acceptability and thereby to leave the decision to the courts.

ITS ECONOMICS

Not a few Concorde foes have taken comfort in a theory that the program will fade away before long—perhaps the fleet will be mothballed or sold to the military—simply because, they contend, it is economically untenable. They have predicted this would happen more quickly should the plane be permanently denied access to New York. They like to think it will happen in any case.

The two airlines flying the Concorde, British Airways and Air France, admit that its economics are not what was contemplated when the two nations embarked on the joint project in 1962. The plane has been buffeted by a combination of technical difficulties, the fuel squeeze, soaring costs, the maturing of the environmental movement and the overcommitment of the world's major airlines to wide-bodied jets.

Nonetheless, the pro-Concorde forces dismiss as a myth the contention that airline operations must end up in the red. And they provide figures to support their claim.

It is important to keep in mind one vital assumption in all profit-and-loss calculations. This is the price of $60 million per plane quoted as the cost to the British and French airlines of their fleets of five and four Concordes respectively.

It has been argued that the price to the government-owned airlines is artificially low because it does not account for an adequate portion of the almost $3 billion total investment of the two governments in research, development and setting up production lines. The counterargument is that it makes no sense to apportion all those costs in setting a unit sales price on such a minuscule production run (16 planes authorized to date.) The $3 billion outlay has in effect been written off as a long-term investment in high-technology capability.

The comment made repeatedly by the Concorde's developers is: "It's our moon shot."

In any case, $60 million is the price for which any airline (not just the subsidized British and French carriers) could have bought a Concorde at the time that dozens of purchase options still were outstanding.

The Concorde advocates' contention is that, with the $60-million purchase price to be depreciated over 10 years, a Concorde would break even under the following conditions: 2,750 hours of operation a year; an average of 60 percent of the 100 seats per plane filled; and ticket price 20 percent above normal first-class fares. Extend the depreciation period to 15 years, and the required break-even passenger load comes to 55 percent.

Up to now, the load factors (percent of available seats filled) have consistently *exceeded* expectations. The two airlines have incurred large deficits primarily because their annual operating hours have come nowhere near the 2,750-hour-per-plane requirement. And that is largely a result of the protracted legal battle to gain entry to the New York market.

British Airways reports it lost a little under $15 million on Concorde operations for the fiscal year that ended March 31, 1977, including $10 million as a one-year allocation of the outlay for purchase of the planes.

Air France estimates it will lose $60 million this calendar year on Concorde operations, plus another $20 million for normal depreciation of its planes. But both airlines claim that eventually their fleets will surmount the 2,750-hour barrier and at least break even on their flights.

THE U.S. ABDICATION

The Concorde took over top billing in the international SST contest back in 1971 when the United States, in the process of building two test prototype planes, simply pulled out of the race. The American plane would have been 400 mph faster than the Concorde and would have carried three times as many passengers—a key to profitability. The trouble was that, besides encountering the technical setbacks and cost spurts that are inevitable in such programs, the U.S. SST suffered a bad case of timing.

Several years behind the Concorde, the American project arrived at a decisive moment as antitechnology sentiment was peaking across the nation. It had much to do with the Vietnam war, rampant inflation and the impact of the environmental movement. It was environmental arguments that, when the showdown came in Congress in 1971, proved most damaging to the American SST cause—much more damaging than some unsettling if not conclusive economic and technical arguments. It is odd, in a way, that they did.

The concern about the sonic boom, still prominent in anti-SST propaganda, had long since been dealt with. The government had

decided that the plane would be limited to overwater flights. This was bad for the plane's profit potential but good for the peace and quiet of the population below.

Two other environmental arguments figured significantly in the national debate that finally led to the program's cancellation.

One was that the plane would rain intolerable noise on communities near the airports. Actually, by the time the "nay" vote came in Congress, noise experts had calculated that the plane would, in fact, meet the stringent noise criteria that were then, and still are, the law of the land. Using a quite different engine type, the U.S. SST would have been much quieter than the Concorde.

Probably more decisive than the concerns about noise were the alarms voiced by the anti-SST forces that the plane would cause a devastating increase in the incidence of skin cancer. It would do so by depleting the upper atmosphere ozone that absorbs excessive ultra-violet radiation.

Backers of the SST granted that the problem warranted serious study. But they argued in vain that the theory was as likely to prove wrong as right, that it would take an awful lot of planes to cause a marked depletion of ozone, and that the dangers of skin cancer were exaggerated. Just the word "cancer," however, was enough to solidify a great deal of the opposition to the SST program.

Early in July this year, the head of the Federal Aviation Administration's high-altitude-pollution staff revealed that new studies indicated no existing aircraft poses any imminent threat to the protective ozone layer. Sensibly, the government will continue to study the matter closely. But the spectre of a skin-cancer menace from SST aircraft appears, for now, to have gone away.

CURRENT OPERATIONS

The Concorde opened the era of supersonic commercial passenger service on January 21, 1976. Actually, it was two Concordes taking off simultaneously (literally) from London and Paris.

The British Airways plane flew to the Middle East island of Bahrein. The Air France plane flew to Rio de Janeiro, with a refueling stop at Dakar. The 3,515-mile flight to Bahrein, which had to be held to subsonic speed until the craft reached the Mediterranean so as not to bombard populated areas with sonic booms, took 4 hours 10 minutes. This was a saving of 2 hours 20 minutes compared with the scheduled time for a Boeing 747. The saving on the 5,927-mile flight to Rio was even more impressive—7 hours 5 minutes instead of 11 hours 10 minutes.

Three months after the joint inaugural, Air France added a once-a-week service from Paris to Caracas. Then, on May 24, 1976, the two airlines opened the first North Atlantic SST operations, with simultaneous flights from Paris and London to Washington. The Air France service to Dulles now operates daily. British Airways recently increased its Dulles service to six a week.

Contemplated for the future are extension of the Bahrain run to Singapore and Melbourne, Australia, and service from Europe to Tokyo. The latter will depend on obtaining permission from the Russians for supersonic overflights and on overcoming opposition from Japanese environmentalists—as militant as their American counterparts.

The scheduled flight times to Dulles (3 hours 50 minutes from London; five minutes more from Paris) are half or less than those for subsonic planes. The first-class London-Washington fare is $840 one way, compared with $698 on a subsonic jet. The Paris-Washington fare is $868 compared with $723 subsonically.

The economic penalty incurred by both airlines for being compelled initially to use their second-choice American gateway, Washington, has not resulted solely from the capital's inferior status as a generator of Europe-bound travelers. It also has to do with an extra 200 flying miles from London and Paris.

The Concorde's designers tailored the plane specifically for the New York market. That meant average fuel loads of a critical amount, allowing a production craft configured for 100 seats. But to cope with the extra 200 miles to Washington, the fuel load has to be higher. That produces complications in the summer when hot, thinner air produces longer takeoff runs. So as not to run out of runway, aircraft weight must be curtailed. This is done by withholding a number of seats from sale, and there are many days when there is demand for every one of the seats on board. The loss of potential revenue is painful.

In the 15 months since the Washington runs were begun, Air France has filled just under 68 percent of the Paris-Washington seats that were salable. British Airways, which has tended to "rope off" more seats than the French, has had a sales percentage of 81 percent for this year.

In short, the figures on the main routes are still above the 60-seat loads the airlines' economists say are needed to break even over the long pull.

FLIGHT PROFILE

A passenger who lays out 20 percent over the price of a subsonic first-class ticket is mainly buying speed. Chopping the flight time across the Atlantic in half may be meaningless to a leisurely tourist, especially if he can sleep off the trip fatigue and jet lag at the other end. To a time-pressurized businessman, it can mean a boost in productivity and opportunity. Similar advantages appeared at the end of the Fifties when the jets took over from pistons and a one-day business trip from New York to Chicago and back became commonplace.

True, the Concorde's time advantage can be eroded by airport-to-downtown bottlenecks. However, interviews with many Concorde passengers leave little doubt that, while jet lag must still be contended with, ordinary fatigue is minimized. And the advantage increases markedly on longer runs.

Some who have flown the Concorde stress a price to be paid beyond the premium on the ticket. The narrow, tubular cabin can become claustrophobic, though reactions vary greatly from passenger to passenger.

A good percentage of the nonenthusiasts tend to be the more portly travelers who have grown accustomed to the sprawling comforts of a Boeing 747's first-class section and upstairs dining room. The cabin noise, not from the engines but from the outside air rushing supersonically over the fuselage, makes conversation a bit of a strain.

But to the enthusiasts, and I am one of them, such shortcomings seem minor if there is a real desire for speed, and for the productivity and fatigue-lessening that come with it.

Beyond that, if one's psyche is susceptible, there is the sheer exhilaration of supersonic flight. On the front wall of the passenger cabin is an electronic Mach meter—a speed indicator that constantly tells those on board the plane's speed in terms of the speed of sound. On the London-Bahrein inaugural, the numbers jumped quickly past M 1.00 (Mach one, or 660 miles an hour) after the plane left Italy and headed over the Mediterranean. In no time, the indicator jumped past M 1.90 to M 2.00. That meant about 1,320 miles an hour—20 miles a minute.

As the flight neared the eastern end of the Mediterranean, the wife of a British corporation executive said: I've flown over this route numerous times. . . . I usually look at Greece from a plane and say 'I'd like to visit that little cove, and that other one just beyond it.' We were going too fast today for that."

A few minutes later, the captain came on the loudspeaker to announce that we were coming up on the Syrian-Lebanese border and that we would be over Lebanon for a minute and a half.

Next day, I flew back to London on a Boeing 747. It took more than seven hours, instead of the four hours 10 minutes by Concorde. It was like switching from a racy sports car to a luxurious but tediously slow camper.

ITS PROBABLE FUTURE

The prevailing view in the aviation community is that commercial supersonic travel will not become "routine" for at least another 15 to 20 years. This is a sharp reassessment from the forecasts of just a decade ago. Then, it was almost taken for granted that by 1980 or thereabouts, the sky would be crisscrossed by fleets of Concordes and the projected American SSTs and Russian TU-144s (still encountering problems and yet to be put into passenger service).

But unexpected inflation has intervened, and concern about fuel supplies, and environmental considerations, and a reshuffling of society's priorities. The Concorde will have the distinction of having proven that supersonic passenger travel was feasible. In itself it does not herald a commercial boom in such operations.

The British-French partners have authorized production of only 16 planes and purchase of "long lead time" parts that might be needed for six more craft. At the moment, almost no one thinks production will ever go above 22. More likely, it will stop with the 16 already built or under construction.

Two of the 16 were test planes and are not suitable for airline use. Of the other 14, only nine have been sold—five to British Airways and four to Air France. Oscillating interest has been expressed in the last five by Iran, China and Japan. Outright purchase of these five is considered dubious. The latest thinking is that the five extra planes might be taken over by a consortium consisting of the British and French airlines and manufacturers, and leased to other carriers.

In this country, Braniff International has formally applied to the Civil Aeronautics Board for permission to put its crews aboard the British and French planes after they land in Washington and extend the routes, subsonically, to Dallas-Ft. Worth.

However the 14 planes are deployed, the Concorde seems destined, for the indefinite future, to monopolize a very limited though prestigious segment of the world travel market. Its customer pool is reminiscent of those elements of the Thirties' population who, while 99-plus percent of the traveling public stuck to earthbound vehicles, patronized the struggling new airlines.

BEYOND CONCORDE

Concorde's designers did not plan on such a small, uneconomic place for the technologically impressive flying machine that first took shape 20 years ago. Still, the plane could serve, in the end, to assure its builders an appreciable role in production of the next-generation SST—a plane that would have overcome the economic and environmental handicaps that have beset the Concorde.

The best guess is that such a project will be undertaken in partnership with United States manufacturers. For the Concorde engineering teams, such a partnership in a second-generation SST could well justify their enormous first-generation investment—not only in funds and effort, but in deeply felt emotion.

TWO DECADES OF THE SPACE AGE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of

my colleagues the following column by by constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the benefits of America's space program.

The column follows:

TWO DECADES OF THE SPACE AGE
(By Henry Huglin)

Only two decades ago, this coming October 4th, the space age was inaugurated with the Soviets' launch into earth orbit of their Sputnik spacecraft.

Within the past few weeks we have successfully flown the new "Space Shuttle," near the earth, and launched two "Voyager" spacecraft on a decade-long "grand tour" reconnaissance of the outer planets of our solar system.

In between Sputnik and the Space Shuttle and Voyager we have made an enormous leap forward in technology and in knowledge of our planet and our solar system.

Psychologically, as well as technologically and scientifically, the launching of the Space Age was a major milestone in human history.

And the fact that the Soviets first successfully orbited a spacecraft had profound effects on the perceptions of their country and of ours.

Our nation's image of preeminent technological brilliance and dynamism was tarnished; and most people regarded the Soviet system with new respect.

However, we finally regained our technological leadership and dynamic image when our stepped-up space effort culminated in the landing of our astronauts on the moon.

But, since our spectacular Apollo moon missions, our government has scaled down our space effort. Meanwhile, the Soviets' are devoting about five times as much in resources to their space program as we do now to ours. And, over the last five years, they have launched four times as many space vehicles as we have, of which the great majority were for military purposes. This may not be of crucial importance, but also it may; and it is certainly worrisome.

Over these 20 years, more than 2000 spacecraft has been launched. In orbit now are about 900, of which about 400 are ours.

What has been achieved through these great space activities of ours and others?

Well, our orbiting satellites have brought many significant improvements in many fields, such as in communications; the identification and measurement of natural resources, crops, and pollution; the collection of meterological and climatological data; and the provision of educational and medical information to remote areas of several countries.

Our national security has been enhanced through satellites providing vastly better intelligence surveillance, early warning capabilities, and communications networks.

For scientists, our space probes have acquired invaluable information which is helping immensely in understanding our planet earth.

Yet, perhaps the most important of all has been the effect on us humans.

Certainly our spirits have been uplifted by our spectacular achievement of putting men in space, especially on the moon.

Then, most of us have been deeply impressed with what can be done technologically when we muster our resources and talents in such a great enterprise.

Many have also properly drawn the lesson that, if we can perform great space ventures, we can cope with problems here on earth—if we will work together with the determination and skill needed.

Also, the Apollo-mission pictures we got of the earth from outer space impressed on all but the insensitive how precious is our planet and its fragile environment.

There have been many other widespread spinoff benefits of great value in many areas of our lives. These include: improvements in earth-based communications, transportation, and industrial processes; food processing; public safety; environmental protection; fire prevention, retardant materials, and fire fighters' equipment; heat-shielding and flame retardant paints; solar energy collector designs; medical diagnosis, treatment, and surgery; criminal detection and tracing methods; and even recreation equipment.

What of the future in space? Well, it is bright, promising, and unlimited.

For example, our next major earth orbiter project, the Space Shuttle, is a true aerospace vehicle. It will take off like a rocket, maneuver like a spacecraft, and land like an airplane. The first shuttle, the "Enterprise," will be sent into orbit in 1979. The shuttle will be used to place almost all of our satellites in orbit; and it will be able to repair malfunctioning satellites in orbit or bring them back to earth. It will be reusable more than 100 times. One of its early missions will be to carry into orbit in the 1980's a complete scientific, manned laboratory, Spacelab, which is being financed by 10 European countries.

Through the Space Shuttle, Voyager, and many other missions we will explore the heavens, research our planet and our special environment, and further develop knowledge and skills which will provide incalculable benefits to mankind.

Yes, the achievements of the past 20 years of the space age have been remarkable and most worthwhile. But the best is still to come.

LONELINESS: FOR BETTER—OR FOR WORSE?

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. QUIE. Mr. Speaker, earlier this year I placed in the Extensions of Remarks a copy of an article by Prof. Urie Bronfenbrenner, entitled, "The Calamitous Decline of the American Family." Professor Bronfenbrenner in that article analyzed the "rapid and radical change in American family life" and found that the consequences for youth and society as a whole are approaching the "calamitous" as a result of this change. His point was that the breakdown in the family is the breakdown of children's foremost educational influence, their primary resource of character formation, acculturalization and upbringing.

In the Washington Post of August 30, 1977, an excellent article by syndicated columnist Ellen Goodman appeared. She drew on several sources and her own insights to describe the loneliness of individuals, its effects and its reinforcement in our modern American society. Ms. Goodman's article explores a facet of the human condition so discerningly analyzed in the Bronfenbrenner article.

I commend Ms. Goodman's article to my colleagues:

(By Ellen Goodman)

BOSTON.—Well, you can forget about the yogurt. The Russians have released their latest report on the secret of long life and it has nothing to do with that sort of culture at all.

Their study found that the four basic ingredients for ripe old age are: work, marriage, children and a lot of talking. The person they profile remains literally "alive" as part of an intricate web of human contacts.

This isn't exclusively a Russian discovery. Working from the opposite point of view—a diagnosis of death and disease—Dr. James Lynch published a book this summer on the medical effects of loneliness. After labeling it somewhat melodramatically "The Broken Heart," he reports that "If we do not live together, we will die—prematurely—alone."

It all sounds a bit like a Woody Allen joke directed at the lonely. Not only are you going to have a miserable life, but it's all going to be over much too soon.

Now all this recent talk about loneliness and health may be a good antidote to the Live-Alone-and-Love-It rash of self-help books, but no one seems to have a cure for loneliness, let alone an immunization plan.

It seems to me, rather, that in one way or another we live in a society that continues to choose loneliness. In fact, as Philip Slater wrote a few years ago, we may pursue it.

Of course, we don't always call it loneliness. We label it independence, freedom, mobility, privacy. In their names, we move constantly, buy houses with our own half acres, put our children in their own rooms, choose anonymous supermarkets over corner steps, and cherish "private spaces" over community.

We protect the rights of "individuals" and do not interfere with each other.

The only exception to the rule against intrusion (which is also intimacy) is in love and mating. But even that connection is a limited one. When our marriages end—as they all do—in death or divorce, we're alone again.

Only the most callous would suggest that the 12 million widows and one million widowers have chosen loneliness. Still, to one degree or another, most of the widowed who are financially able to live alone chose that life rather than one with children, relatives, roommates or others.

The divorced are more conscious of having chosen to live alone—not as a free choice, nor a first choice, but as an alternative to the disastrous togetherness they've known. They, too, may often hope for a re-mating. But for a time they choose "peace" over "compromise" and "loneliness" over "friction."

Now I am aware that being alone isn't necessarily being lonely, and that one can be "lonely in a crowd" and lonely in a marriage. I can trip over these definitions as quickly as anyone.

There are people who live as mates leaving each other room to breathe and to respect their differences. There are people who live alone with a web of friends and caring associations that provide them with warmth and support.

On the whole, however, loneliness is to living alone as conflict is to living together. It's the bad news, the unhappy side effect that comes to one degree or another out of the basic situation.

This is a society in which people in the name of independence often choose aloneness with its occasional attacks of loneliness over togetherness with its conflicts and its infringement on the "individual." They choose the freedom to whatever they want to do by themselves without interference. And that is fine, unless or course, what they want to do is to be with someone else.

In that sense, they choose loneliness. For better? For worse? I know one thing. Among older people you hear less about independence and more about loneliness.

Now Dr. Lynch says that loneliness is bad for your health. The Russians say that human connections will lengthen your life. But they have no cure for something that we seem to choose. We are addicted to this hazard. We pick it up at the counters of our culture, just like a package of cigarettes.

CARTER'S STAND ON ILLEGAL ALIENS MOCKS THE LAW

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BURKE of Florida. Mr. Speaker, President Carter's proposed revisions in the immigration law are now being studied by the committees in the House and in the Senate.

Mr. Speaker, the United States has long cherished its image as a refuge for the dispossessed of the world. We all feel sympathy for those who want to enjoy the American life we enjoy because our ancestors had the same wish.

However, with the burgeoning of our population and that of the world as well, and the diminishing resources of our planet, the pressure on our institutions by illegal immigration threatens to undermine and destroy our American way of life. The question is not, as some people would like to make it—whether or not the United States will allow immigrants and refugees to enter our borders—but whether this will be done in an orderly fashion or in a disruptive or uncontrolled manner. Ironically, the amnesty program proposed by President Carter has made illegal immigration more attractive and desirable than ever before. The following is the text of a Fort Lauderdale News editorial:

CARTER'S STAND ON ILLEGAL ALIENS MOCKS THE LAW

The problem of illegal aliens in the United States is a big one. It is not, however, going to be solved by the amnesty program proposed by President Carter.

What Mr. Carter has proposed is a matter of misplaced compassion that will likely create an even bigger problem in the future if it is adopted.

It is a slap in the face to every person who has entered this country by legal means. It not only condones illegal acts but it encourages more of the same.

Uncle Sam has always had a big heart, but that's no reason to have an empty head. This country was built by immigrants who made America the melting pot of the world.

But times have changed. No longer does America have the unlimited land and opportunities available that existed in years past. Millions are out of work and need jobs, jobs that many of the estimated 4 to 12 million illegal aliens living in the United States now hold.

It is said that probably only 1 million of the aliens could qualify for non-resident alien status, which means they could apply for citizenship after five years.

But the burden of proving that an alien had not been in this country would fall on immigration officials. That may prove to be a difficult and costly task, one that would end up with considerably more than 1 million claiming and getting the non-resident alien status.

Those aliens who claim to have arrived after Jan. 1 1970 but before Jan. 1, 1977 would be given a new status—temporary resident alien—which would allow them five-year work permits.

The question is, who is going to hold back the flood gates of illegal aliens the amnesty will encourage to come into the country in the future? Not the immigration service certainly. Not even with the beefed up border patrol force proposed.

The amnesty would also open up the welfare rolls to many thousands more—at least those who are not now managing to fraudulently get aid.

While immigration quotas might need revising, illegal aliens have no business being allowed in this country. Allowing them to stay only makes a mockery of the law. The amnesty proposed by Mr. Carter will not right any wrongs, only make them worse.

WORLD WAR I PENSION NOW

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mrs. HECKLER. Mr. Speaker, as a member of the Committee on Veterans' Affairs, I strongly urge my colleagues on the committee to speedily report H.R. 9000, a bill to provide a $150 monthly service-based pension to veterans of World War I or their surviving spouses.

I would like to commend the distinguished chairman of the committee, the Honorable RAY ROBERTS, and the ranking minority member, the Honorable JOHN PAUL HAMMERSCHMIDT, for their decision to hold hearings on this legislation. The hearings will be conducted in January, and although I have been urging action on this bill for some time, I am pleased that the questions involved finally will be examined.

I hope that the committee can soon report this bill because immediate action by the Congress is necessary if we are to provide timely relief for the many veterans of the First World War who no longer can live within their means under the present schedule of pension payment allowances.

As a cosponsor of this legislation, I am pleased to note that literally hundreds of my colleagues in the House also support this proposed pension increase. In addition, it is supported by the Veterans of World War I, the National Veterans of Foreign Wars, AMVETS, and 23 State chapters of the American Legion.

The $700 million budget authorization which would provide for this much-needed increase in pension benefits is necessary because without this additional money these deserving veterans or their widows simply will be unable to meet their current living expenses

Mr. Speaker, these survivors of World War I are paying up to $50 and $60 a month for prescription expenses. With such a sizable chunk of a veteran's pension being spent on prescriptions and drugs, very little remains to meet the cost of food and other necessities.

For years now older veterans have borne the awful burden of inflation. Because this burden is so unfair and great, we in Congress must address this need and vote this increase without delay.

The Committee on Veterans' Affairs long has been concerned about the plight of veterans of World War I. Last year I sponsored legislation to provide a service pension to certain veterans of that war and their widows. I also supported a compromise measure, which passed the House, to provide a 25-percent differential in pension rates for eligible veterans who are 80 years of age and older. But this has not been enough for these persons in their constant and escalating fight against inflation and increases in the cost of living.

Dependent upon their pensions as their sole means of support are most of the 600,000 men and women who are over 80 years of age, and some 400,000 senior citizens who have incomes of less than $5,000 a year. We are talking about the same persons who returned home after the peace was won to face conditions of massive unemployment, a great depression, and who were not included in the nearly $40 billion in benefits which has been provided for veterans of later wars.

Mr. Speaker, it is vitally important that we not forget our World War I veterans and their widows in their hour of greatest need. We must show our appreciation for their honorable service and years of good citizenship. The persons who will be assisted by this bill are our parents, grandparents, fellow citizens and good neighbors. We must vote this pension increase.

AWACS: THE VIEW FROM PHILADELPHIA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. STUDDS. Mr. Speaker, the administration's decision to proceed with the sale of seven early warning aircraft (AWACS) to Iran has generated a great deal of comment in newspapers around the country. Because of the great importance of this issue, I have submitted—and will continue to submit—some of the most significant articles and editorial comment on this subject. The following editorial appeared in the September 12 edition of the Philadelphia Inquirer, and I believe it will be of interest to my colleagues:

CONGRESS SHOULD BLOCK THAT IRANIAN ARMS DEAL

In a policy statement issued last May 19, President Carter announced that from now on U.S. arms sales abroad would be considered the exception not the rule of U.S. foreign policy. Such sales, Mr. Carter declared, would be allowed "only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests."

Well, the administration is trying to demonstrate that the sale of seven super-sophisticated flying radar systems to Iran, at a price of around $1.2 billion, will contribute to our national security interests, but the case it makes is not very clear. Or convincing.

The White House argues that Iran is friendly to the U.S., which is true, and that it is a secure source of oil, which is also true, and that—true again—it has an important geographic location, bordering on the Soviet Union, between Pakistan and Iraq.

The question, however, is whether the specific sale of the Airborne Warning and Control System, called AWACS, can be justified on its own terms. That is, for one thing, can Iran handle AWACS? The answer, conceded even by the Pentagon, is that it cannot.

For years to come, Iran, lacking modern technology or even the educational base to train its own technologists, would require thousands of Americans, military and civilian, to service this advanced and sensitive equipment.

Suppose, then, that Iran, in its important geographical location, happened to mix it up with one or more of its neighbors. As Sen. Thomas Eagleton, the Missouri Democrat who has been one of the AWACS deal's most outspoken critics put it, "President Carter—or his successor—would face a disturbing policy decision: either to allow Americans to fight a foreign war, or to withdraw them, thereby assuring the defeat of an ally."

Moreover, the very possession of AWACS could encourage the Shah to pursue a more adventurous foreign policy. AWACS is advertised as a defense system, but it "can enhance Iran's ability to conduct offensive military operations," as the General Accounting Office, Congress' watchdog agency, pointed out in a report criticizing the administration for not even considering other more cost-effective alternatives.

Nevertheless, after tactically (but reluctantly) withdrawing the proposed sale from congressional consideration six weeks ago, the White House has sent it back to Capitol Hill again and is trying to hustle it through before the beginning of the new fiscal year Oct. 1.

What's the hurry? Cosmetics. If the sale can go on the books in the current fiscal year, the administration will appear next year to be making progress on its professed policy of curbing U.S. arms sales abroad.

A better way to appear to be making progress is to make real progress. The AWACS deal is a good place to start. Under a law passed in 1973, Congress has the authority to block the sale of advanced arms abroad. Unless the administration backs off, Congress should exercise that authority.

COMMUNITY PRIDE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MURTHA. Mr. Speaker, on July 19 and 20, over 100,000 people in the 12th Congressional District were hit by flash flooding that left people homeless, caused many deaths, and required community action.

In Jefferson County, flash flooding caused concentrated home and community damage. Citizens from everywhere pitched in to help residents who were homeless, and to repair damage.

Any list of citizens who contributed to this effort would have to be incomplete. I believe the following record of individual commitment and cooperation deserves praise within the CONGRESSIONAL RECORD. I believe it is in the highest tradition of the American spirit.

For residents who were evacuated from their homes, meals were suddenly uncertain. Two individuals who organized efforts in this behalf were:

Mrs. Shirley Sharp, Director of the Jefferson County Office of Aging.

Mrs. Maxine Young, President of the Jefferson County Fire Company Ladies Auxiliary members who combined to help in this effort.

For individuals who were displaced by the waters, temporary housing had to be found. Two churches offered their facilities to persons evacuated from their homes:

St. Phillips United Methodist Church, headed by Rev. Rav E. Gnagy in Big Run.

First Christian Church, headed by Reverend William Sawyer in Big Run.

Many of the displaced persons needed blankets to keep warm in temporary locations. Obtaining and distributing those blankets fell to two more community organizations that helped alleviate the suffering:

Punxsutawney Area Hospital, headed by Mr. Edgar Sheetz Administrator; Punxsutawney Barracks of the Pennsylvania State Police, headed by Captain Michael Honkus.

After the displaced had been cared for, the problem remained of clean up. Again, several community groups helped out in the effort:

Jefferson-Clarion County Community Action Agency "Speedy Workers" helped clean basements, carry debris, and provide transportation to the Disaster Center, the effort was headed by Mr. Jack Smith, Director, and Mr. John Wilson, Deputy Director.

The Punxsutawney Chapter of the American Red Cross provided buckets, brooms, and other cleaning materials led by Ms. Leah Collins, Executive Secretary.

A special word need also be said about a group of men who regularly do community service without any compensation—volunteer firemen. In this emergency—as in every emergency I have ever known—volunteer fire companies came to the community's aid by pumping basements, evacuating persons, and providing drinking water. Companies who helped out in Jefferson County who have come to my attention are:

Big Run Fire Company, Brockway Fire Company, Brookville; Fire Company, Punxsutawney Fire Company, Reynoldsville; Fire Company, Sykesville Fire Company, and Sandy Township Fire Company No. 1.

AWASH WITH HANDGUNS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. DRINAN. Mr. Speaker, within the next month, it is expected that President Carter will present to the Congress his proposals to control the availability of handguns. The need for forceful action is urgent, as handguns continue to multiply, and our present gun control laws are powerless to stop the carnage wrought by these weapons.

Unlike long guns, handguns do not have a sporting purpose. They are, quite simply, people-killers. Handguns accounted for 51 percent of all murders in the United States in 1975. These relatively cheap and easily concealable weapons are also the favorites of the armed robber and burglar.

The need for urgent action is underscored by the soaring increase in the number of handguns available in our country. In 1968, there were approximately 28 million handguns in the United States; today there are over 40 million; by the year 2000, it is estimated that there will be 100 million handguns in the United States. Surely there can be no doubt that our existing efforts to control the spread of these deadly weapons have failed dismally. If we are to deal effectively with the rising crime rate, we must take major additional steps to reduce the proliferation of the criminal's favorite weapon.

The Christian Science Monitor on September 2 published an article entitled "Awash With Handguns," by the distinguished political columnist Richard L. Strout. Mr. Strout, who is also "TRB" of the New Republic magazine, pointed out that the efforts of the Bureau of Alcohol, Tobacco, and Firearms to monitor the sale of handguns, both legal and illegal, is sadly lacking. The ATF could get the figures on gun manufacture and distribution if it had the money and the manpower. Incredibly, until 1973, the ATF did not even ask gunmakers how many handguns they produced. Now the bureau does solicit this information, but only on a voluntary basis. As Mr. Strout describes, it is very simple for gun manufacturers, distributors, and retailers to frustrate the gun control laws presently on the books.

It is essential that President Carter, in his forthcoming announcement of his proposals to control handguns, provide the Bureau of Alcohol, Tobacco, and Firearms with the authority, money, and manpower to deal effectively with this urgent problem. It is also essential that we in the Congress toughen existing gun control laws—laws which are clearly inadequate to deal with the handgun situation. I hope that President Carter's proposals will include legislation of this kind. Only by acting decisively can we stem the flow of these weapons into the United States and cease to be a nation "awash with handguns."

Mr. Strout's article follows:

[From the Christian Science Monitor, Sept. 2, 1977]

AWASH WITH HANDGUNS

(By Richard L. Strout)

WASHINGTON.—There are a lot of laws the United States doesn't try very hard to enforce. It is generally a question of money. Congress enacts a law and then forgets about it. Immigration restriction is one. Thousands of illegal immigrants cross the Mexican border every week, but enforcement is hopelessly undermanned. Everybody knows about it. Probably two illegals come in for every one that is caught.

Another law that is only perfunctorily enforced monitors distribution of handguns. It is under the Bureau of Alcohol, Tobacco and Firearms (ATF). But a study made by the Police Foundation found that ATF lacked the money to do the job. Steven Brill, a freelance writer in the current Harper's, says the Police Foundation "found an agency so underfunded, undermanned, and undermined by a Nixon-Ford White House reluctant to offend gun owners or gunmakers that it had neither the inclination nor the capacity to do any aggressive work in this area."

Mr. Brill quotes Rex Davis, director of ATF: "We just haven't had the resources to do these things."

America's crime rate is extraordinary. The murder rate in New York City every night is around the same as Tokyo's in a year. The gun lobby—the National Rifle Association—opposes gun licenses. It can whip up a storm of protest overnight. Federal law, weak though it is, does forbid the sale of stolen

guns, or guns in the black market, across state lines. How to monitor this gun traffic, though, if more isn't known about gun production?

The records are very sketchy. The ATF could get the figures on gun manufacture and distribution if it had the money and manpower. American police pick up about 250,000 handguns, rifles, and shotguns every year from people they arrest. That works out to about one handgun every two minutes. Manufacturers, according to tentative estimates, turn out 2.5 million long guns, and 4 million handguns, a year. That's a handgun replacement for the ones the police pick up at around four a minute. The United States is awash with handguns; more than any other nation on earth. Its murder rate is proportionately high, too.

The ATF until 1973 did not ask gunmakers how many they were making. Now it asks it only on a voluntary basis. It doesn't give the figures out. Author Brill penetrated the little factory of the Rohm Tool Company—RG Industries—in Miami last March in the guise of a prospective hardware store owner who considered setting up a sideline of handgun sales. He found a high ceilinged, windowless, gray room, about 25 by 60 feet. Four men and two women, apparently Cubans, were putting together handguns.

After Kennedy's assassination Congress passed a weak gun law which included a ban on importation of cheap, low-quality handguns—the "Saturday Night Specials." So RG just imports the low-grade parts and puts the cheap guns together here. All very simple. The RG Company, according to Mr. Brill, is a subsidiary of the Rohn Tool Company of southern Germany. Sales of its products round the world last year came to $270 million. The RG subsidiary does not sell guns direct; it recommended a distributor a few blocks away. The particular revolver model being manufactured was the RG–14, a stubby lethal little affair. RG's wholesale list price was $21.80, and its retail list $30.50, but the distributor offered it for only $17.50, a nice profit for somebody dealing in that sort of thing.

How do guns get into the black markets police ask? If the ATF got reliable production figures it would be easier to say. Mr. Brill was told RG sold 350,000 in 1976; but the unchecked ATF figure was only "100,000."

President Carter talks about tightening the laws. Will Congress act? Currently somebody is murdered with a gun in the U.S. every 40 minutes; somebody is robbed at gunpoint every two-and-a-half minutes.

FIRST ITALIAN-CATHOLIC PARISH IN UNITED STATES MARKS 125TH ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. EILBERG. Mr. Speaker, this year marks the 125th anniversary of the founding of St. Mary Magdelan de Pazzi Parish in Philadelphia—the first parish founded in the United States to meet the needs of Italian-speaking Catholics.

It is significant that this anniversary should occur in the same year in which Bishop John Neumann, fourth bishop of Philadelphia, was canonized as a saint in solemn ceremonies conducted by Pope Paul VI in the Vatican.

In honor of the 125th anniversary of St. Mary Magdelan de Pazzi Parish, the Catholic Standard and Times, the weekly newspaper of the Catholic Archdiocese of Philadelphia, published an indepth article tracing the history of the parish. It is a privilege for me to have this opportunity to place this fine article in the RECORD:

[From the Catholic Standard and Times, Sept. 8, 1977]

"FIRST" ITALIAN CHURCH TO NOTE ANNIVERSARY

Saint Mary Magdalen de Pazzi Parish celebrates its 125th anniversary this year. A cause for special celebration is the recent canonization of Saint John Neumann. Bishop Neumann had founded the parish in 1852 out of his pastoral concern for the spiritual welfare of the then increasing numbers of Italian immigrants living in Philadelphia at that time. It was the first parish founded in the United States to meet the needs of Italian speaking Catholics.

The parish can be considered the "mother church" for the large Italian population of South Philadelphia. Its baptismal and marriage registers are often used as a research source for those writing on the history of Italian roots and life in Philadelphia. Today many of Italian descent in the area can find there recorded in brief notations the important events in the lives of their parents, grandparents, or even great-grandparents.

In 1851 the saintly Bishop had already provided that religious services he held in Italian at Old Saint Joseph's Church. When an old Methodist church and cemetery located on what is now Montrose St. between 7th and 8th Sts. became available, Bishop Neumann bought the site to establish an Italian parish. As first pastor the Bishop appointed Father Gaetano Mariani. The corner-stone for a church was laid on May 14, 1854, by the saint himself.

The first pastor labored 14 years to consolidate the work begun by Bishop Neumann. From the death of Father Mariani in 1866 to the year 1870 four other Italian priests served as pastors. They were Father Gaetano Sorrentini, Father Cicaterri, S.J., Father James Rolando, C.M., and Father Joseph Rolando.

Father Antonio Isoleri arrived from Italy and became pastor in October 1870. There followed a period of growth during which a parish school was established. In a real sense Msgr. Isoleri can be called the founding pastor of the "new" Saint Mary Magdalen de Pazzi parish. Before and even many years after his death in 1932 at the age of 86 the terms "Father Isoleri's Church" and Saint Mary Magdalen de Pazzis Church were synonymous. He had resigned as pastor in 1926 due to ill health after being pastor for 56 years!

The Franciscan Missionary Sisters of the Sacred Heart (F.M.S.C.) arrived in the parish in February 1874. The ability and devotion of this community, which teaches at the school to this day, has helped build up the faith and practical goals of the parishioners.

The present pastor, Msgr. Vito C. Mazzone, was appointed in 1937. Over the past forty years "Don Vito" has exercised a spiritual and cultural influence on the Italo-American community of Philadelphia that is proverbial and well respected. Renovations of existing buildings and the erection of new ones under his leadership has made the parish the pride of the neighborhood. Father Joseph L. Di Gregorio is the present assistant pastor. Father Martin E. Lavin, J.C.D., is in residence.

In 1967 the lower church was renovated and dedicated to the then Blessed John Neumann. Archbishop John J. Krol celebrated Mass with Msgr. Mazzone at its dedication on May 21 of that year. Every Monday evening devotions are held there in honor of Philadelphia's recently canonized saint.

Since its founder, St. John Neumann, also introduced the Forty Hours Devotions into the Archdiocese, the parish in combining its anniversary celebration with the observance of the Forty Hours. Father Bernard Krimm, C.SS.R., who has been involved in promoting the cause of Bishop Neumann, will give the homilies at the Forty Hours Masses.

The patroness of the parish, Saint Mary Magdalen de Pazzi, was a Carmelite nun and mystic who died in Florence, Italy, in 1607. Among her many spiritual gifts an intense attraction and devotion to the Blessed Sacrament was most notable. Indeed she chose to enter the Carmel of Saint Mary of the Angels precisely because this convent followed the rule of daily Communion, a practice unusual in those days. It should be a source of special blessing that her parish, founded by a saint equally known for his great devotion to the Eucharist.

A MOTHER'S TRIBUTE TO THE GIRL SHE LOST

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. SHUSTER. Mr. Speaker, today would have been Amy Gilbert's 15th birthday. Thirty-four days ago a defective pin in the door of an amusement ride turned fun at the county fair into instant tragedy. Amy's mother wrote a poignant eulogy which serves to remind us of life, so fragile, and values, that need kept straight.

I commend this mother's words, which appeared in today's Bedford Gazette, to my colleagues:

In life as we know it
Beginnings and endings are everything.
Within them lie the pleasures and pain life gives.
I rejoice that I have known the company of Amy even for such a small time.
So glad am I that the night before,
I kissed her goodnight not once but three times.
So glad am I that I said,
"I love you."

At the Great Bedford County Fair, on August 12, 1977, at 9:03 P.M., the door of the cage on the Zipper ride flew open. Fourteen year old Amy Gilbert catapulted out headlong to meet instant death. Her ride companion, Kelly Barron, hung on to part of the cage door, giving her a few split seconds and her life to live on. She dropped to the ground and received minor injuries. Amy was pronounced D.O.A. at 9:34 P.M. at Bedford County Memorial Hospital.

The next day was sad and agonizing for her family. With Paul Kolander's aid, her father picked out the casket. I chose a new tan sundress and a favorite necklace that Amy loved. She had worn the dress for the first time to church the Sunday before at Nag's Head.

Paul warned us that because of her extensive head and facial injuries the casket might be best closed.

So it was. Perhaps that was best. Amy took great pride in her appearance. Before she ever left the house every hair had to be in place and just so. Her face had to be clean and shining and not an eyebrow hair out of line. We could remember Amy as she was. Several pictures were placed in the funeral home. One of Amy with her beloved Lab, Ebony and Ebony's son Sabastian. Also a small snapshot of Amy with Lisa and Sue

Swindell that was taken the Wednesday before.

Her Lab, Ebony, was a source of joy and love for her. After all the puppies of Eb's first litter were sold, she begged to keep Sabastian. They were her constant pals. At least once a week, the dogs and Amy could be seen running full tilt across the fields to the cemetery. The outing had a dual purpose. Along the way she'd pick wild flowers to put on Lori Clark's grave. She and Lori were Brownies and Girl Scouts in grade school. Lori had been killed in an automobile crash earlier that Spring. We finally had to give Sabastian away, for he was a barker. He'd bark at the moon, the stars, or the wind. Because we live in a motel, we could not have people leaving for a barking dog. That was a sad day for Amy.

During the Spring of 1977, Amy was tremendously saddened by the movie story of football player, Brian Piccolo. The theme music haunted her. "Brian's Song" is written in three sharps, therefore a bit difficult. Everytime she'd pass the piano, she'd sit and work at the music. Then one day in July, she had it committed to memory. Quite a feat!

She was reading Mark Twain's "Huckleberry Finn" last winter. She questioned me as to Joe's role in the story with today's racial problems. She thought "Tarzan of the Apes" was a great adventure. During a summer sick spell, she read "The Fury" and frightened herself. She even managed "Helter Skelter" and a Peanuts book last winter. After reading "The Deep", she said the movie wasn't worth the time.

The March day she was picked for the high school chorus was a happy, joyous day, for she doubted her singing voice. It was very important to be part of a group for Amy.

She was so very anxious to learn to drive a car. One summer day, she conned her brother to let her try. There was a drawback: she wanted to use my car—a straight stick! I groaned, but I trusted Glen, so off they went. When they finally returned, she was bubbling, saying that she hadn't stalled even once! Glen said, "She did remarkly well."

Like any normal teenager she had her ups and downs. She was super sensitive. Of course, I had to nag: "Did you finish your homework? Remember your hardware for your braces. When are you going to clean your room? Don't quibble with your sister Gretchen so much." Nevertheless, this past summer she seemed to be maturing and overcoming a lack of self-confidence. Often she'd say, "Growing up is a hard, hard time." She was one of the searchers, the dreamers asking of life the good and beautiful. She was a gentle person.

We provided her opportunities to travel to broaden her world. In 1973, we traveled to the Maine coast, via New York, Vermont, and New Hampshire. My interest in art exposed her to Art Museums everywhere we came upon one. She and I visited her grandparents in Florida and Wisconsin. In Florida, we became beach combers, spending hour upon hour sea shell hunting for two glorious weeks. Twice we went deep-sea fishing where she amazed me by loving it.

Amy was definitely college bound. She hoped to attend Penn State. Her brother, Glen, has his B.S., M.S. in Dairy Science from Penn State this year. Sister Gretchen, is attending Penn State's branch campus at Altoona. I received my B.S. in Art Ed. in 1972.

She had a zest and eagerness for life that led her to try harder than most to succeed. She wrote in her journal the day before her death that she wanted to count for something in her life. She wanted to smile and be happy, strong, high-spirited. To be concerned with everyone but herself. To be able to stand up and fight for every cause there is to fight for. To be a leader, not a follower. To be herself and most of all, happy.

Of the many flowers and many kind expressions of sympathy in cards from people, there have been some particularly beautiful tributes made in her memory. The Trinity Lutheran Youth Choir dedicated a Hymnal to Amy to be used in the church; a tree as a living memorial will be planted in one of our National Parks; her name was entered in "The Golden Book" at the Agudath Achim Synagogue, Altoona, Pa., by good friends of ours; A donation to the Children's Hospital in Pittsburgh, Pa.; A donation to the Bedford Area Ambulance Service; and donations to the Bedford High School Band and Chorus.

Her untimely death touched many hearts. She loved life and there was so much she wanted to do. What she might have accomplished will now never be known. She had everything going for her.

Her funeral was held the Monday after her death. The service was begun with Mrs. Lindahl playing "Brian's Song". Pastor Richard Tome, who had baptized Amy as a baby, called Amy "a doer,—in a world of nondoers". That would have gladdened her heart.

Pastor Tome told a story of a repairman working on a steep roof. The man became frightened as he neared the top. One of his fellow workmen sensed his fear, "Don't keep looking down. Look up." The minister continued: At this point in time we need to look up. The psalmist of old said, "I will look upon the hills from which cometh my help. My help comes from the Lord, God Almighty." The service ended as it had begun with "Brian's Song."

That was all.

Amy Elizabeth Gilbert will live on for me and those who loved her. Even Ebony, who several times a day checks all the rooms out before finally going to Amy's room. The dog stays there for a minute or two, then comes to sit before me. She looks at me with her sad amber eyes and seems to say, "Where is she?"

She's up the hill, beside the Cross and God. Someday, sometime we'll meet her again. What a meeting that will be!

CHIEF JOHN F. RUANE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. MOAKLEY. Mr. Speaker, I rise today to commend John F. Ruane, chief of police of Canton, Mass., on his retirement. A member of the Canton police force since 1939, Chief Ruane has been a lifelong resident of the town of Canton.

During his tenure as chief, he embarked on a complete reorganization program of the Canton Police Department by creating a modernly equipped detective bureau, a full-time prosecution officer, and juvenile and safety officer, a firearms training officer, and the establishment of a police-community relations bureau.

The Canton Police Department is now widely recognized as one of the finest in the Commonwealth of Massachusetts. Its newly constructed physical plant matches the efficiency and loyalty of its officers. Chief Ruane's efforts were rewarded in 1976 when he was named "Municipal Employee of the Year" by the Massachusetts Selectmen's Association and in 1977 when the town of Canton was named the Safest Boston Suburb by a nationwide magazine.

Chief Ruane's dedication to the Canton Police Department is parallel to his involvement in community affairs. Active in Little League, the Knights of Columbus, and the Columbian Association, Chief Ruane has also been associated with the Jimmy Fund in Boston for many years.

CANAL TREATIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BONKER. Mr. Speaker, during a recent tour of my district I found that many constituents are deeply concerned about the proposed Panama Canal Treaty and the Treaty on the Permanent Neutrality and Operation of the Panama Canal. These people, and I am sure those in the districts of many of my colleagues, have been dependent on general accounts in the press for information regarding the contents of the two treaties. In the interest of helping to improve public knowledge concerning the provisions of the proposed Panama Canal treaties, I would like to insert in the RECORD a very useful fact sheet prepared by the Department of State.

FACT SHEET

DEFENSE AND NATIONAL SECURITY

The United States will have primary responsibility for the Canal's defense during the basic Treaty's term (until the year 2000). Panama will participate, and at the treaty's end our military presence will cease.

A Status of Forces Agreement similar to such agreements elsewhere will cover the activities and presence of our military forces.

The United States will continue to have access to and the rights to use all land and water areas and installations necessary for the defense of the Canal during the basic treaty period.

In a separate treaty Panama and the United States will maintain indefinitely a regime providing for the permanent neutrality of the Canal including non-discriminatory access and tolls for merchant and naval vessels of all nations.

United States and Panamanian warships will be entitled to expeditious passage of the Canal at all times without regard to the type of propulsion or cargo carried.

Our continuing freedom of action to maintain the Canal's neutrality will not be limited by the Treaty.

CANAL OPERATIONS

The United States will have responsibility for Canal operations during the period of the basic Treaty.

It will continue to have access to and the rights to use all land and water areas and facilities necessary for the operation and maintenance of the Canal during the basic Treaty period.

It will act through a United States Government agency which will replace the Panama Canal Company. A policy level board of five Americans and four Panamanians will serve as the Board of Directors. Until 1990, the Canal Administrator will be an American and the Deputy Administrator a Pana-

manian. Thereafter, the Administrator will be Panamian and the Deputy, American. Panamanian board members and the Panamanian Deputy Administrator/Administrator will be proposed by Panama and appointed by the United States. Panamanians will participate increasingly in the Canal's operation at all levels.

ECONOMIC FACTORS

The treaty's financial provisions involve no congressional appropriations. Instead, during the treaty's life Panama will receive exclusively from canal revenues:

an annual payment from toll revenues of 30 cents (to be adjusted periodically for inflation) per Panama Canal ton transiting the Canal.

a fixed sum of ten million dollars per annum and an additional 10 million per year if canal traffic and revenues permit.

In addition the United States will cooperate with Panama outside the treaty to promote Panama's development and stability. To this end, the United States has pledged its best efforts to arrange for an economic program of loans, loan guarantees and credits which would be implemented over the next several years under existing statutory programs. This economic cooperation program would use up to $200 million in Export-Import Bank credits, up to $75 million in AID housing guarantees, and $20 million in Overseas Private Investment Corporation (OPIC) loan guarantees.

Panama will also receive up to $50 million in foreign military sales credits over a period of ten years, under existing statutory programs, to improve Panama's ability to assist in the Canal's defense.

No major increase is contemplated in AID loans and grants.

Private businesses and non-profit activities in the present Canal Zone will be able to continue their operations on the same terms applicable elsewhere in Panama.

A joint authority will coordinate port and railroad activities.

EMPLOYEES

All U.S. civilians currently employed in the Canal Zone can continue in United States Government job until retirement. Present employees of the Canal Company and Canal Zone Government may continue to work for the new agency until their retirement or until the termination of their employment for any other reason. The number of present U.S. citizen employees of the Company will be reduced 20 percent during the first five years of the Treaty. All U.S. citizen employees will enjoy rights and protections similar to those of United States Government employees elsewhere abroad. Present U.S. citizen employees will have access to military postal, PX and commissary facilities for the first five years of the Treaty. New United States citizen employees will generally be rotated every five years.

Terms and conditions of employment will generally be no less favorable to persons already employed than those in force immediately prior to the start of the Treaty. Hiring policy will provide preferences for Panamanian applicants. With regard to basic wages there shall be no discrimination on the basis of nationality, sex or race. The United States will provide an appropriate early retirement program. Persons employed in activities transferred to Panama will to the maximum extent possible be retained by Panama. Panama and the United States will cooperate in providing appropriate health and retirement programs.

Panama will assume general territorial jurisdiction over the present Canal Zone at the Treaty's start. United States criminal jurisdiction over its nationals will be phased down during the first three years of the Treaty. Thereafter, Panama will exercise primary criminal jurisdiction with the understanding that it may waive jurisdiction to the United States. United States citizen employees and their dependents charged with crimes will be entitled to procedural guarantees and will be permitted to serve any sentences in the United States in accordance with a reciprocal arrangement.

NEW SEA-LEVEL CANAL

Panama and the United States commit themselves jointly to study the feasibility of a sea-level canal and, if they agree that such canal is necessary, to negotiate mutually agreeable terms for its construction. In addition the United States will have the right throughout the term of the basic treaty to add a third lane of locks to increase the capacity of the existing canal.

TREATIES

There will be two treaties: (1) a treaty guaranteeing the permanent neutrality of the canal, and (2) a basic treaty governing the operation and defense of the canal which will be extended through December 31, 1999. The basic treaty will be supported by separate agreements in implementation of its provisions concerning defense and operation of the canal.

BACKGROUND INFORMATION

Purpose of the Treaties.—The new treaties on the Panama Canal will provide an entirely new basis for cooperation between the United States and Panama in the operation and defense of the Panama Canal. They will replace the U.S.-Panama Treaty of 1903, which has governed Canal operations since the waterway's construction, and subsequent amendments.

The Existing System.—Under the 1903 Treaty, the U.S. has total control of Canal operations. The U.S. also administers the Canal Zone—an area of Panamanian territory five miles wide on either side of the Canal. In this area Panama has sovereignty while we have "as-if-sovereign" rights permanently. This arrangement is deeply resented in Panama and a liability in our relations with Latin America and with many other nations of the world.

Basic U.S. Objectives.—In negotiating a new treaty, the United States has proceeded on the basis that its national interest lies in assuring that the Canal continues to be efficiently operated, secure, neutral, and open to all nations on a nondiscriminatory basis. Fundamental to this objective is the cooperation of Panama.

HISTORY OF THE NEGOTIATIONS

The negotiations, extending over thirteen years, have been pursued by four Administrations of both Parties. They began in 1964, following a serious crisis in U.S.-Panamanian relations created by rioting along the Canal Zone boundary in which 20 Panamanians and 4 Americans were killed. In December 1964, President Johnson, after consulting with Presidents Eisenhower and Truman, announced that the U.S. would begin talks with Panama on an entirely new Canal Treaty. These negotiations resulted in draft treaties that were not acted on by either country. The present series of negotiations began in 1973 with the appointment of Ambassador Bunker as Chief Negotiator by President Nixon and continued during the Ford Administration. President Carter decided to continue the negotiations after taking office in January 1977 and appointed Ambassador Sol Linowitz to serve as Co-Negotiator with Ambassador Bunker. The Department of Defense has been an active participant in the negotiations and has been represented by Lt. General Welborn G. Dolvin.

DATA ON THE PANAMA CANAL

DESCRIPTION.—The Canal is 51 miles long. It is a lock canal, operating by gravity flow of water from specially constructed reservoirs.

COST.—It is extremely difficult to provide a single figure for the cost of the Canal. The construction cost to the United States at the time of completion of the Canal in 1914 was $387 million. The amount of unrecovered U.S. investment in the Canal is $752 million. The current book value of the Canal and related facilities is $561.5 million.

Work Force.—The Canal enterprise employs 13,139 persons, of whom 27 percent are U.S. citizens. Almost all of the others are Panamanians.

Defense.—The United States maintains seven military base areas in the Canal Zone. Total United States military personnel are 9300.

Financial Condition.—Since 1951 the Canal has been required by law to meet its own operating costs. Until 1973 it did so. It has shown a net operating loss each year since 1973, with the result that tolls have been raised—the first toll increases since the Canal was opened.

Importance to U.S. Trade.—Of all the foreign trade going in and out of U.S. seaports, 7.0 percent passed through the Panama Canal in 1976. This compares with 13 percent in 1949.

ANNUAL QUESTIONNAIRE RESULTS

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mrs. MEYNER. Mr. Speaker, as a Member of Congress, I take a keen interest in what my constituents have to say about the key issues confronting our Nation. The people of my district, New Jersey's 13th Congressional District, represent a broad spectrum of public opinion. As a result, their opinions and attitudes are a good indication of what all of America is thinking.

In their responses to my recent, districtwide questionnaire, residents of the district seem to suggest that the Federal Government should take a lower profile insofar as direct participation in economic matters is concerned.

At the same time, there are indications that Congress should take aggressive action in encouraging the development of new energy sources, pollution control projects, and mass transit research.

Since I feel that the results of this questionnaire would be of value to anyone interested in what a broad spectrum of American society is thinking, I am submitting the results of the questionnaire so that others may review them.

HELEN MEYNER QUESTIONNAIRE RESULTS

Total respondents: 8722

ENERGY

Congress is now developing a national program to assure adequate supplies of energy in the future. Should the following be stressed in that policy?

a. Continued research and development of solar power:

Yes (92 percent)	8,024
No (2 percent)	175
Undecided (6 percent)	523

b. More nuclear power plant construction:

Yes (48 percent)	4,186
No (28 percent)	2,442
Undecided (24 percent)	2,094

c. Incentives to increase coal production and use:

Yes (68 percent)	5,931
No (11 percent)	959
Undecided (21 percent)	1,832

1. Should major oil companies be prohibited from expanding into other energy sources such as solar, coal and nuclear power?

Yes (33 percent)	2,878
No (55 percent)	4,797
Undecided (12 percent)	1,047

EMPLOYMENT

2. Do you believe that the federal government should continue to provide jobs until unemploymnt is reduced to a low percentage?

Yes (44 percent)	3,838
No (41 percent)	3,576
Undecided (15 percent)	1,308

3. Should more incentives be given to private industry to reduce unemployment and stimulate the economy?

Yes (84 percent)	7,326
No (9 percent)	785
Undecided (7 percent)	611

FEDERAL SPENDING

Do you think that Congress should increase, decrease, or keep spending the same for the following categories?

National defense

Increase (37 percent)	3,227
Decrease (18 percent)	1,570
Same (45 percent)	3,925

Foreign military assistance

Increase (3 percent)	262
Decrease (69 percent)	6,018
Same (28 percent)	2,442

Foreign economic assistance

Increase (6 percent)	523
Decrease (62 percent)	5,408
Same (32 percent)	2,791

Education

Increase (43 percent)	3,750
Decrease (16 percent)	1,395
Same (41 percent)	3,577

Food stamps

Increase (11 percent)	959
Decrease (53 percent)	4,623
Same (36 percent)	3,140

School lunches

Increase (16 percent)	1,396
Decrease (36 percent)	3,140
Same (48 percent)	4,186

Space research and technology

Increase (33 percent)	2,878
Decrease (23 percent)	2,006
Same (44 percent)	3,838

Energy

Increase (81 percent)	7,065
Decrease (3 percent)	262
Same (16 percent)	1,395

Pollution control

Increase (54 percent)	4,710
Decrease (13 percent)	1,134
Same (33 percent)	2,878

Mass transit and railroads

Increase (63 percent)	5,495
Decrease (12 percent)	1,047
Same (25 percent)	2,180

Health research

Increase (65 percent)	5,669
Decrease (5 percent)	436
Same (30 percent)	2,617

Revenue sharing

Increase (30 percent)	2,617
Decrease (18 percent)	1,570
Same (52 percent)	4,535

Low-income housing

Increase (30 percent)	2,617
Decrease (29 percent)	2,529
Same (41 percent)	3,576

Aid to senior citizens

Increase (64 percent)	5,582
Decrease (6 percent)	523
Same (30 percent)	2,617

U.S. POSTAL SERVICE

As the Postal Service deficit continues at about $1 billion, many suggestions for its improvement have been made. Should the following be implemented to balance the Postal Service budget?

a. Closing of small post offices:

Yes (38 percent)	3,315
No (48 percent)	4,186
Undecided (14 percent)	1,221

b. Increasing postal rates:

Yes (16 percent)	1,396
No (70 percent)	6,105
Undecided (14 percent)	1,221

c. Elimination of Saturday mail deliveries:

Yes (60 percent)	5,233
No (30 percent)	2,617
Undecided (10 percent)	872

d. Increasing government subsidies of Postal Service:

Yes (26 percent)	2,268
No (52 percent)	4,535
Undecided (22 percent)	1,919

Often information and publications are available to my office that are of particular interest to groups within the 13th district. If you wish to receive this type of information please check the appropriate box:

[In percent]

Veterans	26
Lawyers	6
Women's issues	23
Senior citizens	28
Farmers	9
Clergy	4
Small businessmen	22
Educators	14
Federal employees	8

30TH GENERAL ASSEMBLY OF THE UNITED NATIONS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BURKE of Florida. Mr. Speaker, in 1975, I was appointed by President Gerald Ford as a delegate for the United States to the 7th Special Session and the 30th General Assembly of the United Nations. During the time I served, I found a strong hostility toward the United States by a majority of the "so-called" Third World nations, and also by many nations we called our friends, and aided in one way or another during the past 40 or more years.

At the conclusion of the assembly I made a report of my views while a delegate to my constituents. Now, Mr. Speaker, on September 20 the 32d General Assembly of the United Nations will convene, and our two colleagues, Congressmen LESTER WOLFF and CHUCK WHALEN, have been appointed as delegates for the United States. Shortly, they will be going to New York to attend the U.N. General Assembly sessions. I would therefore like to share with my colleagues my views of the United Nations as it was when I served, and I feel still is today. It is my feeling that little has changed and the issues will be similar to those faced in the 30th General Assembly.

Hopefully there will be a change for the better, but unfortunately, I think the United States and other free countries will again be the whipping boys for political opportunities in the United Nations. My views are as follows:

THE 30TH GENERAL ASSEMBLY OF THE UNITED NATIONS

When the United Nations was founded we all had hopes that it could help assure world peace. Regrettably, it seems to do just the opposite today. It has become a debating society and a sounding board for the socialists, communists, and third world nations to vent their propaganda. The world press coverage only serves to encourage extravagant language and behaviour which is often counter to the stated goal of seeking world peace. While responsible established nations may refrain from threatening speeches and intimidating rhetoric, newly established nations gain instant notoriety and interest by their flamboyant posturing.

As one of the U.S. delegation to the United Nations during the 30th General Assembly of the United Nations, I would like to share with you my impressions and conclusions based on my first hand observations. First let me say that I was indeed fortunate to serve with four distinguished Americans—Daniel P. Moynihan, U.S. Ambassador, W. Tapley Bennett, Deputy Ambassador, Congressman Donald Fraser (D.-Minn.) and Clarence P. Mitchell. In addition, toward the end of the session we were joined by Miss Pearl Bailey who added much spirit and wit to the proceedings.

It was apparent to me from previous international meetings, that no matter how auspiciously the session began, that the United States, Israel and South Korea were in for a bad time. When the UN was founded 40 of the 51 member countries were democracies. Today, approximately 40 of the 143 member countries are democracies. The odds are stacked against our form of government very heavily and it is unrealistic to assume that most of the voting will be favorable to us.

The first act was probably the most outrageous although even that is difficult to say. Cuba introduced a resolution that the United Nations recognize the national liberation movement of Puerto Rico as representing the legitimate aspirations of the Puerto Rican people struggling for independence. The resolution would have passed the United Nations General Assembly if the U.S. had not indicated that it would consider any vote in favor of the resolution an unfriendly act. The U.S. has always been a champion of self-determination, and, indeed, elections had been held in Puerto Rico. Only 3 percent of the population favored independence while the vast majority favored remaining a U.S. territory. So clearly the people of Puerto Rico did not want the Cuban Resolution to pass. Nevertheless, when the UN did not act, bombs were exploded in front of the U.S. Mission to the UN and at various government buildings, corporate offices and banks in New York, Chicago, and Washington. The terrorist band calling itself Fuerzas Armadas de Liberacion National Puertorriquena (F.A.L.N.) said the bombs were part of a "coordinated attack against Yanki government and monopoly capitalist institutions." Clearly the Cubans did not have the interests of the Puerto Ricans at heart since the resolution was

counter to the expressed wishes of the majority. What was their purpose? Anti-U.S. propaganda seems the only answer.

Another resolution was introduced by 41 members of the UN noting that the reunification of Korea has not yet been achieved although 30 years have elapsed since Korea was divided into the North and the South and 22 years since the establishment of the armistice in Korea. The resolution urged the dissolution of the United Nations Command and withdrawal of all the foreign troops stationed in South Korea under the flag of the United Nations. In effect this would mean U.S. withdrawal from Korea. The resolution failed by only a few votes. Again what was the purpose? Anti-U.S. propaganda and communist takeover of Korea seems the likely answer.

In addition to our own hemisphere and Asia, the U.S. posture on another volatile front was attacked—the Middle East. A resolution was introduced by 25 UN members calling for the elimination of all forms of racism and racial discrimination and determining that zionism is a form of racism and racial discrimination. The aim of the resolution was so clearly a propaganda effort against Israel that many countries with known racist policies wound up voting for it.

Language is a problem in any international forum but with simultaneous translations into five languages at the UN it is clear that those who favored the above resolutions knew what they were voting for and had a clear purpose in mind. It is also clear from these votes and from many others in the General Assembly that reprisals by the United States are not feared or expected. Our policies in the past have encouraged this irresponsible behaviour. For one thing the U.S. is financially responsible for many of the delegations being at the UN. Without U.S. funds the UN would cease to exist. Still we pay the piper even though the sweet music of world peace seems a dream, in the reality of the harsh, vituperative songs of the Communists and third world nations.

The price of freedom is eternal vigilance. In the world of 1976 this is especially true. There are 4 billion people in the world today, and it is expected that there will be 6.5 billion people in the year 2000. The experts tell us that population growth will cause governments to change focus and become more repressive as the necessity for order becomes greater. The rights of communities will take precedence over the rights of individuals. Already this is true in most countries of the world. We in the United States enjoy more personal freedom than is known any where else on earth. We also have a very high standard of living. Khrushchev's statement that "We will bury you" seems at once far away in view of the life we live in the United States today, and at the same time imminent when the world political situation is viewed objectively. Another grim fact that the experts point out is the likelihood of war is increased when there is rapid population growth simply because the allocation of resources is never agreeable to all.

We need more than ever to work for world peace, but, we also need to work to preserve our way of life. Individual victories with regard to civil liberties are meaningless if there is no United States to back them up. Human rights is an empty phrase unless the government in power is committed to them. Racism is a word when used as a propaganda tool, not a human condition. Language is made meaningless when emotional words are used out of context to inflame the prejudices and hatreds of the masses. We are the victim of our own ideals. We believe in human rights, equality under the law, and freedom, but, our words are distorted by international propagandists so that the meaning is changed and they become instruments of aggravating hatreds and hostilities.

Ambassador Moynihan tried during his tenure as U.S. Ambassador to the UN to confront our detractors, and face down the myths created by their propaganda. Regrettably, the task is too much for one man, particularly when many careerists in the State Department and the diplomatic service have come to accept the tirades and abuse of the United States as routine. In the 30 years the UN has been in existence the United States has gone from a world image of protector of freedom, to an image of fat cat imperialist. We haven't changed, but the propaganda mills have made each and every act seem vile.

Israel has only been in existence since 1948, but it too is a victim of hostile international propaganda. No country in the world is perfect, but both Israel and the U.S. provide good lives for their citizens which is more than a majority of the world's nations can do. Instead of trying to learn from the example, however, most seem to find fault and work to bring us down.

A report of the Special Committee on Decolonization of the United Nations was approved by the General Assembly with only three dissenting votes—the United States, Israel and Nicaragua. The report contained recommendations to strongly condemn the military and naval activities of the United States on Guam as being detrimental to the inherent rights of the peoples of this Territory to self-determination. The report also asserted that the military installations in the Carribbean were part of the machinery for enforcing the policies of the United States throughout the entire Latin American region. "Such bases are a threat to the sovereignty, independence and territorial integrity of the States in the region," stated the report. The U.S. maintains only the following installations on the Virgin Islands: (1) a three-man Coast Guard navigational light station, (2) a Coast Guard administrative office which has a full strength of three men, and (3) an 82 foot search and rescue vessel manned by eight Coast Guardsmen.

Fact and truth have nothing to do with resolutions passed by the United Nations. How can we achieve world peace with an organization with so much hope and so many lies? There is a real question in my mind about the value of remaining in the United Nations. If we are to continue to accept the battering we are presently taking, can we be effective in seeking peace? If we are viewed as a whipping boy, can we also be viewed as a leader? If we stay in the organization, don't we give credence to its resolutions?

CONSUMER PROTECTION AGENCY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. YOUNG of Alaska. Mr. Speaker, I have received to date 120 letters from people in Alaska concerning the proposed Consumer Protection Agency. Five of these letters were in favor of the bill, the rest adamantly opposed the measure. I have heard the same vehement opposition from the business community.

The U.S. Chamber of Commerce has conducted a survey of American business in their membership to obtain a consensus of opinion with regard to this matter. So far they have received 15,000 letters against the bill. I would like to insert in the RECORD at this time, the names of some companies in my State of Alaska who have expressed their objection to the proposed Consumer Protection Agency.

The names are as follows:

ALASKA

Rose J. Golek, Surprise Gift Shop, 600 C St., Anchorage, Alaska 99501.

Loren H. Lounsbury, Hewitt V. Lounsbury & Assoc., 723 W. 6th Avenue, Anchorage, Alaska 99501.

R. M. O'Neill, O'Neill Security Services, 326 H St., Anchorage, Alaska 99501.

Charles E. Parks, Anchorage Camper Center, 2756 Commercial Drive, Anchorage, Alaska 99501.

Robert L. Clay, Preferred Contractors, Inc., 1330 East 71st Avenue, Anchorage, Alaska 99502.

Vern N. Smith, Mgr., Alaska Branch 3M Co., 5331 Minnesota Dr., Anchorage, Alaska 99502.

Donald W. Dwiggins, Design Plus, 4446 Business Park Blvd., Anchorage, Alaska 99503.

Herbert Eckinaur, Hanks Sausage Co., Inc., 2914 Arctic Blvd., Anchorage, Alaska 99503.

E. D. Springer, Sunrise Dist. Co., Inc., 3685 Arctic Blvd., Anchorage, Alaska 99503.

Kingston Peters, Kingston Peters Ltd., 2251 Sorbus Way, Anchorage, Alaska 99504.

Ursula E. Shaw, Sec./Treas., Shaw Tool & Equipment Rental Inc., 405 Boniface Pkwy., Anchorage, Alaska 99504.

C. C. Hawley, C. C. Hawley & Associates, Inc., Box 78-D St. Rt. A, Anchorage Alaska 99507

Ralph B. Jakela, Contracting Engineers & Assoc., SRA Box 1591J, Anchorage, Alaska 99507.

David L. Dittman, Dittman Research Associates ("Alaska Analysts"), 3230 "C" Street (P.O. Box 4-1234), Anchorage, Alaska 99509.

John C. Miller, Frontier Companies of Alaska, Inc., P.O. Box 1654, Anchorage, Alaska 99510.

Frank M. Reed, Alaska Bank of Commerce, Pouch 7012, Anchorage, Alaska 99510.

Henry B. Rust, Rust's Flying Service Inc., Box 6325, Anchorage, Alaska 99502.

Cecil G. Moore, Cy's Tax-Acctg., 1429 W. Northern Lts., Anchorage, Alaska 99503.

Robert W. Fleming, Owner/Gen. Mgr., Big Country Radio, Inc., 2800 E. Dowling Road, Anchorage, Alaska 99507.

Dean R. Weeks, President, Blaine's Paint Store, Inc., P.O. Box 4-3029, Anchorage, Alaska 99509.

R. C. Bacon, Bristol Bay Native Corp., Box 220, Anchorage, Alaska 99510

Al Siemsek, Copper Valley Fuel, P.O. Box 124, Glennallen, Alaska 99588.

Walter O. Kraft, President, O. Kraft & Son, Inc., P.O. Box 1217, Kodiak, Alaska 99615.

Paul B. Haggland, Jr., Alaska Central Airways, Inc., 3806 University Ave., Fairbanks, Alaska 99701.

Edgar S. Philleo, Philleo Engineering & Architectural Ser., 529 6th Ave., Fairbanks, Alaska 99701.

Mary M. Pippin, Overhead Door Co. of Fairbanks, 720 College Road, Fairbanks, Alaska 99701.

M. L. Mikell, Air North, Van Horn & Peger Road (P.O. Box 60054), Fairbanks, Alaska 99706.

Ruth L. Greer, Greer Tank & Welding, Inc., P.O. Box 1193, Fairbanks, Alaska 99707.

Anna Groff, B & A Inc. Realtors, P.O. Box 927 (546 9th), Fairbanks, Alaska 99707.

Ray Kohler, Ray Kohler & Co. CPA's, P.O. Box 607, Fairbanks, Alaska 99707.

Gary R. Wilken, Wilken-Alaska Inc. D/B/A Fairbanks Dist., Box 485, Fairbanks, Alaska 99707.

Michael E. Lupro, Capital Office Supply, 174 So. Frankin St., Juneau, Alaska 99801.

R. D. Stock, Stock & Grove, Inc., Box 474, Juneau, Alaska 99802.

Felix J. Toner, Toner & Nordling, Registered Eng., Box 570, Juneau, Alaska 99802.

Joe Trucano, Trucano Construction Inc., P.O. Box 870, Juneau, Alaska 99802.
Jerry Rasler, Glacier Village Supermarket, Inc., P.O. Box 2158, Juneau, Alaska 99803.
Vernon A. Berg, Mitkof Hotel, Box 689, Petersburg, Alaska 99833.
Lars Eide, Mitkof Lumber Co., Inc., P.O. Box 89, Petersburg, Alaska 99833.
Clarence F. Kramer, Alaska Lumber & Pulp Co., Inc., Box 1050, Sitka, Alaska 99835.
R. M. Hardcastle, Hardcastle-Davies, Inc., 106 Main St., Ketchikan, Alaska 99901.
Reinhart Klein, Credit Bureau of Ketchikan, 320 Bowden, Ketchikan, Alaska 99901.
Carl H. Porter, Porter-Spaulding, Inc., 1831 Tongass Ave., Ketchikan, Alaska 99901.
Paul J. Wingren, Wingren Enterprises, P.O. Box 5197, Ketchikan, Alaska 99901.

KEEPING ALIVE THE MEMORY OF GEN. JOHN J. PERSHING

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. COLEMAN. Mr. Speaker, I would like to take this opportunity to inform my colleagues and the American people of the significant and historic work being done by the people of Missouri to honor one of the State's most famous sons, Gen. John J. Pershing, General of the Armies of the United States in World War I.

Eleven years ago in a speech before the U.S. House of Representatives, former Representative W. R. Hull, Jr., Democrat of Missouri, said:

> There can be little argument as to the appropriateness of a memorial honoring General Pershing and testifying to the achievements and sacrifices of the men who served under him. It is ironic that General Pershing, recognized by our Allies and by history as one of the great luminaries of all military history, is ignored in this citadel of free government.

And more than a decade ago, then Maj. Gen. Harry Vaughan, onetime aide to President Truman, read a letter from Mr. Truman in support of a national monument to the Senate Interior Committee and urged the committee to act, "before we pass on—and the time is later than we think," and still very little has been done.

Little except the continuing effort of a stalwart group of friends and admirers—the Pershing Park Memorial Association—who refused to let the memory of the only man to hold our Nation's highest military rank—General of the Armies—during his lifetime die.

Founder of the association was the late Lafayette F. Moore to whom goes much of the credit for the dream of a park dedicated to General Pershing. Beginning in 1931, he began a one-man campaign to create interest on both the State and national level.

It is a tribute to his early, tireless efforts that the association now has the reputation of getting done what it starts.

Through the efforts of the association, sufficient funds were raised to purchase 1,836 acres of land just west of Laclede, Mo., boyhood home of the six-star general, and the Pershing Memorial State Park was established in 1937. Located in the beautiful green hills of northern Missouri, the park is traversed by Locust Creek, John Pershing's favorite swimming hole, with heavily wooded rolling hills on the east and a flat valley on the west.

The Pershing family home in Laclede, restored by the Missouri State Park Board through the urging of the park association, was dedicated on the centennial of General Pershing's birth, September 13, 1960, as a public shrine to his memory and the soldiers who fought with him in World War I. The home has just been designated a national historic landmark.

Incorporated as a nonprofit organization in 1965, most recently the association has succeeded in erecting a "larger than life" bronze statue of the general adjacent to the home.

Now the association is sponsor of a $3 million project to build the Pershing Memorial Museum—a national memorial which will not only honor the General of the Armies and his World War I companions, but will also preserve for future generations the story of their contributions to the freedoms we enjoy today.

Designed to include a history of General Pershing's life, equally important will be exhibits and dioramas depicting the First World War.

To assist with these plans, the Center for Military History of the U.S. Army has offered to make available appropriate artifacts on a long-term loan and others are making available similar items either as gifts or on loan.

In addition, Dr. Frank E. Vandiver and Rev. Donald Smythe, S.J., biographers of General Pershing, and Milton F. Perry, a former curator of both the Truman Library and Museum and the West Point Museum, are serving as consultants to the project.

Now that the plans are on the drawing board, and this worthwhile project is underway, I urge the support of my colleagues in the Congress to make this dream a reality.

The Pershing Memorial Museum Development Fund seeks the help of all those who would keep alive our heritage and pay tribute to those who did so much to insure our liberties.

The people of Linn County, Mo., and the surrounding area have made contributions to underwrite the cost of the campaign.

Most military groups and associations have endorsed the program and have agreed to help bring the project to the attention of the American people.

Prominent State and National leaders are serving on the National Advisory Committee to raise funds for the program and to oversee completion of the project.

As a member of the honorary committee of the Pershing Memorial Museum Development Fund, I call your attention to this effort for as a nation we cannot afford to let this lesson in our history fade into obscurity. It, as well as the memories of the men who made it, must be preserved.

IT'S MORE THAN A PORPOISE ISSUE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BOB WILSON. Mr. Speaker, I include the following editorial from the San Diego Union:

IT'S MORE THAN A PORPOISE ISSUE

Amid the earth-shaking issues of detente, energy, multi-billion tax reforms, the Middle East, and Panama, the tuna hearings that will conclude in Washington this week are a small blip on the government's screen.

In San Diego, where the tuna industry is directly responsible for 15,000 to 25,000 jobs and contributes some $85 million to the gross city product, the hearings fill a substantial portion of our economic screen.

We wonder why San Diego has not been able to convey this simple fact of life to either the Carter Administration or Congress.

The Administration responds quickly when shoe imports begin to pinch American manufacturers, when steel is threatened by imports, when farmers feel an economic pinch or when television producers are swamped by foreign imports.

But when the entire San Diego tuna industry is unfairly threatened with bankruptcy or expatriation by the government itself, the political Richter reading on Capitol Hill is infinitesimal.

We choose the words "unfairly threatened" carefully. The tuna industry's plight dates back to the Marine Mammal Protection Act which, to greatly simplify matters, imposed quotas on the number of porpoise that could be killed while tuna are being netted, beginning in 1976.

The result was predictable. Nobody is certain exactly how many porpoise there are in the Pacific. Private scientists believe 9.4 million, the lowest government estimate is 5.4 million. But nearly everybody agrees that most species of porpoise, including the supposedly rare Eastern spinner, are not biologically depleted.

Yet the National Marine Fisheries Service imposed a quota of 78,000 porpoise mortalities last year and slightly less this year on the basis of what it believes the optimum population of the mammals should be. The agency is talking about quotas of 50,000, 40,000 and 30,000 for the next three years.

Everybody, including tuna fishermen, wishes that no porpoise at all would be killed. But it is a harsh fact of life that some will be if tuna are to be caught efficiently. On the whole, the record of San Diego tuna fishermen is good. In just a few years they have reduced the porpoise mortality rate due to fishing to a fraction of the mammals' population. And 99.7 per cent of the porpoise encircled by nets last year were released unharmed.

Quotas of 50,000, dwindling to 30,000 simply are not realistic because they do not give fishermen any flexibility at all. Nor does the setting of a three-year term for quotas make sense considering all of the unknown factors.

San Diego fishermen have not had a full year of tuna fishing since 1975 because of the legal and bureaucratic uncertainties that have prevailed. Just in this year alone their losses have ranged upward of $60 million

compared to income of last year. If Puerto Rican-based boats are included the losses are $80 million or more. Another year or two of strangulation by Washington and the San Diego fleet will be either bankrupt or based abroad.

The consequences would be felt not only by the tuna fishermen and San Diego, but also by millions of American households in which canned tuna has been a standard food budget extender.

Since the government has intruded itself in the tuna fishing industry the price of an average can of tuna has gone up 20 cents. If the tuna industry is driven from the United States, consumers might find caviar cheaper.

The hearings on tuna quotas will continue in Washington today. We respectfully suggest to the National Marine Fisheries Service, which will make the final decision that could send the fleet out to sea or on to oblivion, that it by all means must show a great concern for the welfare of porpoise.

But it also should not forget a thriving industry and a vibrant city that depends on the tuna fleet for its economic health—as well as the American who likes his tuna sandwich.

By exercising a little common sense it could have the best of all worlds.

REFUTING PLUTONIUM PROPONENTS: U.S. EXPLODES BOMB FROM PLUTONIUM PRODUCED IN CIVILIAN REACTORS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. BROWN of California. Mr. Speaker, as we consider President Carter's efforts to control nuclear proliferation we must examine how plutonium reprocessing and plutonium breeder reactors are related to the proliferation of nuclear weapons. The U.S. commitment to going ahead with commercialization of the plutonium fuel cycle is symbolized by the Clinch River breeder reactor demonstration project, which is why this proposed demonstration project is so controversial.

One of the main arguments proponents of the plutonium fuel cycle have made is that nuclear weapons have not been constructed from civilian reactor fuel. Some proponents have even gone further than this and claimed that bombs cannot be made from civilian reactor fuel. This claim has now been utterly refuted by the U.S. ERDA, which has exploded a bomb in the Nevada desert which was made from fuel similar to that used in the proposed Clinch River breeder reactor. At the conclusion of these remarks, I will insert an article giving the details of this demonstration.

Mr. Speaker, there are many reasons why nuclear weapons have not generally been made from civilian reactors. The main one, and the reason that the plutonium proponents are being misleading, is that there has never been a plutonium fuel cycle and breeder reactors from which to divert weapons-grade nuclear material. The present generation of nuclear reactors use uranium, not plutonium as fuel, and although they produce plutonium, this plutonium is not presently separated from spent reactor fuel. Without this separation, which reprocessing accomplishes, present generation nuclear reactors are not very good sources for nuclear weapons. On this, I and the proponents of Clinch River agree.

However, the next generation of reactors, the plutonium breeders, are different. They require reprocessing and require the transport of weapons-grade nuclear materials.

Mr. Speaker, at this time I insert the article from the September 14 Los Angeles Times and an editorial from the same paper be printed in the RECORD:

[From the Los Angeles Times, Sept. 14, 1977]

LOW-GRADE NUCLEAR BOMB TEST DISCLOSED

(By Robert Gillette)

The federal government has quietly declassified the results of a secret nuclear test in the Nevada desert showing definitively that atomic weapons can be made from the impure plutonium produced by civilian nuclear powerplants.

A spokesman for the Energy Research and Development Administration Tuesday confirmed information made available to The Times that the United States had exploded a nuclear device using low-grade plutonium and that the device "produced a nuclear yield."

Information about the date and the magnitude of the explosive field remains classified as secret, the spokesman said. Although the information that the test occurred was declassified on July 29, he acknowledged that ERDA had made no public announcement.

Government sources indicated that the test confirmed theoretical studies by U.S. nuclear weapons laboratories which concluded that nations seeking to obtain atomic weapons covertly could build them from low-grade plutonium stockpiled ostensibly for use as civilian reactor fuel.

This possibility is a major concern of arms control analysts. Both the Ford and Carter administrations have sought to persuade nuclear exporting nations such as France and West Germany of a need for stronger international controls on plutonium extraction technology to prevent nonnuclear nations from suddenly diverting "civilian" plutonium to an atomic arsenal in the face of a national emergency.

In the process, the U.S. government has sought to dispel a belief that has persisted in the nuclear industry here and abroad since the 1940s that the plutonium produced as a byproduct of civilian nuclear power generation is unsuitable for weapons. This was believed to be true because plutonium from nuclear power plants usually contains much larger amounts of a contaminating isotope—plutonium-240—than that generated in special military production reactors.

In the United States, so-called "weapons-grade" plutonium contains less than 6% plutonium-240 whereas that extracted from the spent fuel of civilian power plants typically reaches 24%.

Late last year, however, an unclassified study by California's Lawrence Livermore Laboratory, a principal weapons design center, concluded that the distinction between military and civilian plutonium was essentially false—that even relatively simple designs using any grade of plutonium could produce "effective, highly powerful" weapons with an explosive yield equivalent to between 1,000 and 20,000 tons of TNT.

The Carter Administration has used this study in an effort to dissuade nuclear exporting nations such as France and West Germany from selling plutonium extraction technology to nonnuclear nations.

American pressure stopped South Korea's intended purchase of a plutonium reprocessing plant last year. However, French officials have said they have no intention of reneging of a similar sale to Pakistan, and West Germany still plans to supply one to Brazil. Both European nations have agreed, however, not to engage in further sales pending studies of stronger international safeguards on plutonium.

ERDA sources indicated that declassification of the U.S. nuclear test was intended to lend added credibility to the Administration's argument that all forms of plutonium can be used in weapons and thus pose a serious potential threat to international security.

"There are still a lot of nonbelievers in the utilities, the nuclear industry, and among our friends abroad," one ERDA official said.

Although skeletal information about the test was declassified more than a month ago, it began seeping into the public domain only last Saturday at a nuclear meeting in Washington sponsored by the General Atomic Co. According to two persons who were present, the discussion turned to the suitability of civilian plutonium for atomic weapons, with French and Swiss officials, arguing vigorously that it could not be done.

The argument is said to have ended abruptly when Richard A. Bowen of ERDA's division rose to say that in fact the United States had done it.

Officials have refused to disclose further information about the test explosion except to say that it was carried out by the Los Alamos Scientific Laboratory at the weapons test site in Nevada.

[From the Los Angeles Times, Sept. 15, 1977]

BLOWING A HOLE IN AN ARGUMENT

By exploding a nuclear device made from the kind of plutonium produced in civilian nuclear-power reactors, the U.S. government has punctured one of the favorite arguments of the pro-plutonium lobby in this country and abroad.

Plutonium is produced as a byproduct in power generating reactors. If the plutonium is separated from spent-fuel elements, it can be reused as reactor fuel. Unfortunately, it can also be used to make nuclear weapons, and no existing system of international inspection can prevent such use.

So the proliferation of nuclear-power plants around the world will lead to an extremely perilous proliferation of nuclear weapons, unless the separation of plutonium can be prevented.

For this reason, President Carter has proposed that reprocessing plants for the separation of plutonium from spent reactor fuel not be built, in the United States or elsewhere, at least until alternative, safer technologies for fuel recycling can be explored.

Spokesmen for the pro-plutonium lobby, which includes powerful elements of the nuclear industry in the United States and Europe, have sought to spread the fairy tale that low-grade plutonium produced in civilian power reactors could not be used to make nuclear weapons.

The Lawrence Livermore Laboratory, which is in the bomb-making business, has firmly disputed this contention. Now, as Times reporter Robert Gillette reported Wednesday, the Energy Research and Development Administration has settled the argument by building such a device and setting it off in the Nevada desert.

This provides the Administration with valuable ammunition for its campaign to convince other governments to join the United States in holding back from plutonium reprocessing.

There have been other favorable developments as well. Australia has decided to exploit its large uranium reserves for export, thus increasing the available fuel supply for

conventional nuclear reactors. And Japan, while deciding to go ahead with a spent-fuel reprocessing plant that the Carter Administration had opposed, is doing so on a limited, experimental basis, and will cooperate with the U.S. search for a fuel-recycling technology that does not pose the same weapon danger that plutonium does.

The President still faces an uphill battle. Despite rising public protests, the French and German governments are still dedicated to the use of plutonium as a reactor fuel; both insist on carrying out existing agreements for the export of reprocessing technology.

We hope Carter repeats the American government's disapproval of their attitude during the visit of French Prime Minister Raymond Barre to Washington this week.

DOORMEN'S SOCIETY OF U.S. HOUSE OF REPRESENTATIVES

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. CHAPPELL. Mr. Speaker, I know all of us in this Chamber share the respect and admiration I have for the doormen of the U.S. House of Representatives. This important group of House employees formed their own association in 1969, with Warren Jernigan as their first president. Better known as the Doormen's Society, it is the only organization that presents awards in the U.S. Congress.

Warren Jernigan has served as a House doorman for 21 years, and as chief doorman since 1963, the longest term in that position. Because of the hard work, attention to detail, and dedication of Warren and his wife Helen, the Doormen's Society has expanded their roster of annual awards to 13. Some of the more recent award categories include Honorary Member (1970); Police Officer (1971); Man of the Year (1971); Woman of the Year (1972); and Congressional Correspondent (1973).

At the doormen's annual Knight's festivities on June 26, the Honorable BOB SIKES presented awards to this year's recipients—13 men and women who have made special contributions to the overall operation of the Congress.

Our majority leader, JIM WRIGHT, who first came to Congress at the age of 31 and is now in his 23d year, was recognized as "Man of the Year."

The "Woman of the Year" plaque went to the Honorable MARJORIE HOLT, the first woman to represent Maryland in the House, now in her fifth year in the Congress.

Two Congressmen and the Attending Physician of the Congress were made honorary members of the Doormen's Society: the Honorable FRANK ANNUNZIO of Illinois, elected to the Congress in 1965; the Honorable HERBERT E. HARRIS of Virginia, now serving his third year in the House; and Dr. Freeman H. Cary, Rear Admiral in the U.S. Naval Reserve. Admiral Cary was also presented with the bronze medallion.

Mario Campioli, Assistant Architect of the Capitol, presented the Distinguished Service Award to Helen R. Fisher, purchasing agent in the Office of the Architect.

Other distinguished service awards were given to Edward P. Polon, Assistant Chief of Property Supply in the Office of the House Clerk, for his 34 years of service; Frank A. Bechtel, Assistant Chief of the Publication Distribution Service in the Office of the Doorkeeper, who came to the House 24 years ago; and Thomas A. Claire, in the Office of the Postmaster since 1972, where he has risen from the position of mail clerk to become night supervisor.

Congressman SIKES presented the sixth annual journalism award to Jessie Stearns, a veteran of the Capitol and White House beats for some 20 years. In addition to her excellent work as a newspaper and TV/radio reporter, she serves diligently on the executive committee and board of directors of the National Press Building Corp., with professional memberships in all the press club and allied groups in Washington, plus the Overseas Press Club in New York City. She has also received the National Category Award from the last organization.

Chief of Police James Powell and Sergeant at Arms Keane Harding, accompanied by Commandant of the Marine Corp Gen. Louis H. Wilson, presented the Doormen's Police Officer of the Year Award to Capitol Police Officer Gerald R. Wilkens. Wilkens, a marine veteran, lost his leg in an accident while helping a distressed motorist on the 14th Street Bridge on November 10, 1976.

Doormen of the Year were Joseph A. Braun III, who is stationed on the House floor, and Konstantinos V. Pastis, currently posted at one of the House Gallery doors.

As Congressman SIKES was concluding the ceremony, a delegation of doormen came forward to present a special plaque to Warren Jernigan, in recognition of his 21 years in the corps of House guardians. His wife Helen, and sons Robert and Warren joined in the spontaneous applause from fellow doormen and friends.

Mr. Speaker, I want to take this opportunity to offer the commendations of all our members to this year's most deserving recipients of the Doormen's Society awards, as well as our thanks to the society itself—for a job well done.

MANDATORY RETIREMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. HAWKINS. Mr. Speaker, recently I inserted into the RECORD an article from the New York Times dealing with the question of involuntary retirement under a bona fide retirement plan. To date, there has been quite a controversy surrounding this issue.

Later this week the House is scheduled to vote on H.R. 5383, legislation clarifying the exemption for bona fide retirement and pension plans under current law to prohibit involuntary retirement at an age less than the protected age under the act.

The Sunday, September 11, edition of the Washington Post carried an article on *McCann* against *United Airlines* which focuses specifically on forced retirement under a bona fide retirement plan. The text of the article follows:

[From the Washington Post, Sept. 11, 1977]

HIGH COURT TO TACKLE FORCED RETIREMENT

(By Jerry Knight)

When Harris McMann of Fairfax took his last Federal Aviation Agency flight physical, he passed easily and was certified fit to fly commercial aircraft.

A month later, United Airlines told McMann his 29-year career was over. Not only couldn't he handle the cockpit, he couldn't keep the desk job he'd held for the past 12 years.

Between the two evaluations, McMann turned 60. Under United's pension plan, that was the mandatory retirement age.

"Age discrimination," McMann fumed, and he called a lawyer. That was four years, one union grievance and two court decisions ago.

Now McMann's contention that discrimination based on age, like discrimination based on race or sex, is unconstitutional, is going to the United States Supreme Court. This winter or next spring, the high court will try to tackle the legal question of mandatory retirement in private employment.

Simultaneously, Congress will come to grips with other aspects of required retirement, which the Bureau of Labor Statistics estimates affects 31 million Americans.

For the Supreme Court, the question is whether United's retirement policy violated the Age Discrimination in Employment Act. The court also could decide the broader question of whether mandatory retirement laws in general deny older Americans their constitutional rights to due process and equal protection of the law.

For Congress, the issues are more complex. Despite extensive Federal hearings and academic research, some of the most important questions about mandatory retirement remain unanswered.

What impact does forcing workers to retire have on their physical and mental health? How much does mandatory retirement cost the Social Security system? To what extent does the inevitability of mandatory retirement lead workers to choose early retirement? And what should Congress do about it?

These questions were raised—if not totally answered—in hearings before the House Committee on Aging, whose chairman is Rep. Claude Pepper, (D.-Fla.). Pepper, who is 76, frequently notes that he has been re-elected to Congress by voters, many of whom are considered too old to work.

Before the August recess, the House Education and Labor Committee sent to the floor a bill by Pepper (H.R. 5383) which would begin to restrict mandatory retirement.

The bill would eliminate mandatory retirement based solely on age for federal employees. Civil Service workers now generally must retire at age 70 after 15 years of service, most Foreign Service employes must retire at 60, and the maximum age for federal law enforcement agents is 55.

Pepper also proposes extending protection of the Age Discrimination in Employment Act to persons up to 70 years old. Currently the law bans age bias against persons between the ages of 40 and 65. Finally the bill would ban mandatory retirement by private employers before age 70.

The later proposals are regarded as merely redefining ageism by some lawmakers. They contend Congress should totally prohibit any age discrimination, including mandatory retirement. Such sweeping measures are un-

likely to be considered before the Supreme Court hears the McMann case.

One reason mandatory retirement is under such fire is the financial straits of the Social Security system, which paid out $3.2 billion more in benefits than it collected in taxes last year and which is expected to run up a $4.5 billion deficit this year.

Commerce Secretary Juanita Kreps, whose responsibilities include Social Security, suggested the problems of Social Security deficits and mandatory retirement might be tackled jointly by raising the minimum age for collecting full Social Security benefits from 65 to 68. When Pepper and other old-people activists howled in protest, Kreps backed off.

A Social Security system spokesman said no studies have been done of how much private mandatory retirement rules cost the system, and how much might be saved if required retirement were banned or the age raised.

One member of the Aging Committee, Rep. Mario Biaggi (D-N.Y.), estimated that 400,000 workers are retired solely because of mandatory retirement rules and that 60,000 workers are added to that list each year. More than half of them, 34,000 workers a year, would continue working if they could, Biaggi said. If these workers were paying Social Security taxes rather than collecting benefits, the system soon would save $600 million a year, he contends.

Other estimates of the number of involuntarily retired workers vary. Pepper's committee quotes Dr. James Schultz, a Brandeis University economist, who surveyed a group of retired men.

He found 54 per cent of them worked under mandatory retirement rules, and 14 per cent said they had been unwilling to retire. While some were unable to work for health reasons, 10 per cent could have continued to hold a job. But less than a third of them were able to find a new job, leaving 7 per cent unable to keep working.

Schultz estimates that making these workers quit cost the economy three-tenths of 1 per cent of the gross national product, or more than $4.5 billion, last year.

The Aging Committee quotes the American Medical Association and University of North Carolina researcher Dr. Susan Haynes as claiming mandatory retirement is detrimental to the health and even the life expectancy of those who want to keep working. In an interview, Dr. Haynes, now a government researcher in Washington, said that while her study alone is not evidence that forcing workers to retire harms their health, it does support prevailing theories about retirement.

The theory is that retired workers first go through a "honeymoon" phase in which they revel in idleness, take vacations and generally enjoy themselves, but become dissatisfied two to three years later.

Studying retired workers from two Akron, Ohio, tire factories with mandatory retirement programs, Haynes found that three years after the workers were forced to quit, their mortality rates jumped upward. In one of the plants, the change was too small to be statistically significant, but in the other the death rate was 30 per cent higher than it should have been.

Dr. Haynes said her studies of mortality and health provided no evidence to support forcing workers to quit at age 65. That age apparently was picked when Social Security was started because it approximated the life expectancy of an American during the 1930s.

Longer life expectancy is believed to be one cause for a trend that seems to run counter to objections to mandatory retirement, but which may well be related to it—early retirement.

Early retirement is both a cause and an effect of the Social Security system's problems. Early retirement increases the number of persons collecting Social Security and is encouraged by the availability of those benefits.

Since 1956, when women were allowed to collect reduced Social Security benefits at age 62, and 1961 when the same option was given men, the number of people quitting work early has climbed steadily. Today almost 65 per cent of Social Security recipients are persons retired early and 70 per cent of the new Social Security claims last year were for early retirees.

One reason many workers chose to quit before they reach the usual mandatory retirement age is believed to be a desire to avoid the feeling of rejection that comes when a worker is told he or she no longer is fit to hold a job because of age.

It was just such frustration that led Harris McMann to take United Airlines to court over his retirement, the long-time pilot recalled in an interview.

"I felt good. I enjoyed my job. I wanted to keep working," McMann said. "There wasn't any reason why I couldn't keep working except for the retirement policy."

"I was physically and mentally able to fly," said the Fairfax pilot, who soloed in 1934 and flew for a living for three decades before taking a management job with United.

"After 34 years, the aviation business was all I knew, all I was interested in and I wanted to continue."

McMann protested repeatedly about his forced retirement, and was told he'd agreed to quit at 60 when he signed up for the airline's pension plan in 1964. The Age Discrimination in Employment Act's ban on discriminating against persons up to 65 didn't apply. United contended, because a provision of the law specifically says it is not meant to interfere with any private pension plan.

That provision, McMann and Rep. Pepper agree, was written into the law not to allow pensions to be used as an excuse for forced retirement, but to do the opposite—to allow companies to hire older workers who were past 65. Pepper's bill would change the provision.

After a union grievance brought no results, McMann's lawyer, Francis McBride, then a University of Virginia law school graduate student, took the case to federal court in Richmond. In 1975, Judge Albert Bryan Jr. dismissed the case, citing the provision of the law exempting retirement under pension plans.

McMann appealed to the Fourth Circuit, which said any pension plan using that provision of the law to force workers to retire before age 65 must be presumed to be "a subterfuge to evade the purposes of the act," and upheld McMann. United then asked the Supreme Court to review the case.

The issue has been in the courts for so long that McMann soon may be too old to get what he wants—his job back—if the Supreme Court rules in his favor. If he turns 65 before the case is decided, the Age Discrimination in Employment Act no longer will guarantee him a job, though McMann will be eligible for back pay.

Since he lost his job at United, McMann has continued to work part time in aviation—teaching younger pilots how to fly.

THE NEUTRON BOMB: HAVE WE LOST CONTROL?

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. CONYERS. Mr. Speaker, I support the Weiss amendment to delete all funds for the development, production and deployment of the neutron bomb.

I happened to be reading Erich Fromm's "The Revolution of Hope," when the development of neutron weapons was first disclosed 3 months ago. One passage has stuck in my mind as we discuss this new exotic weapons system in the House.

The machine man built became so powerful that it developed its own program, which now determines man's own thinking.

One lesson I have drawn from the perfunctory debate on—and the air of futility and resignation over—neutron weapons is that, indeed, we have become so helpless in relation to the technology we have created. Few things reveal so clearly the powerlessness of the Congress to take control of the military machine—a machine that moves along on its own track, at its own speed, spewing forth weaponry faster than we can comprehend the consequences of—as does the lack of caution with which we have dealt with issue of neutron weapons.

We are acting on this issue as if we are saying to ourselves: let these new weapons decide for us questions too momentous to decide for ourselves—whether or not we are increasing or decreasing the likelihood of nuclear war; whether or not we are strengthening the prospects of peace in the world; whether or not we are reducing the harm and hazards to civilians of the weapons of war? And so the arms race goes on its macabre way. I am particularly bewildered by statements and inserts on the neutron weapons that cast such weapons in a positive light—as "lesser evils," "less awful," to be used on "friendly soil," "flexible" weapons, "a major advantage." It is as if we are embracing these terrible things—and we know in our hearts what they mean in human terms—in an effort to win them to our side. As Erich Fromm has said in another context, by humanizing our machines, we dehumanize ourselves. Let us stop dignifying neutron bombs with polite adjectives. It is bad enough that we have to deal with them at all.

It is my humble view that with more critical judgment, the issue of the neutron bomb could well have been a turning point in this Nation's choice of priorities—not only our priorities over military security, but in turning away from the preoccupation with death-serving and unnecessary instruments of war toward genuine consideration of useful and humane projects at home. In building these weapons we tell ourselves we are lessening the chances of their use. A far better insurance policy toward the future would be to build strength in people, in their worklife, in their families, in the communities where they live, not in machines we really cannot control.

FLORIDA NO-FAULT HEARING

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Mr. ECKHARDT. Mr. Speaker, the Subcommittee on Consumer Protection

and Finance held 2 days of hearings, on April 7 and 8, 1977, in Fort Lauderdale to hear testimony on the no-fault automobile insurance experience in Florida.

This hearing was the second in a series designed to assess the performance of different State no-fault laws. The first hearing was conducted in Massachusetts, the first State to enact no-fault legislation. There, the subcommittee found that a law with modest benefits and a low $500 threshold—the amount of medical expenses a person must incur in order to sue for his general damages, commonly referred to as "pain and suffering"—was working well to provide prompt payment of benefits to all auto accident victims at significantly reduced rates. However, the $2,000 benefit package is clearly inadequate to compensate seriously injured victims, and it is highly unlikely that Massachusetts' dollar threshold could support a higher benefit package. A detailed summary of the Massachusetts no-fault experience appears at pages 20681–20684 of the CONGRESSIONAL RECORD of June 23, 1977.

In Florida, the second State to adopt a no-fault system, the subcommittee examined a law with low benefits, an aggregate maximum of $5,000, coupled with fairly high dollar threshold, $1,000. Although the threshold was revised in 1976, the system was still reflecting the experience of the $1,000 threshold and much of the hearing focused on abuse of it.

During the 2 days of hearings, the subcommittee heard from a number of knowledgeable witnesses, including Bill Gunter, the State Insurance Commissioner; Robert Pike, representing the National Association of Independent Insurers; Marsha Lyons of the U.S. attorney's office; Edward Carhart of the State attorney's office, Dade County, Fla.; Rocci Lombard, president-elect of the Florida Association of Independent Insurance Agents; Melvin L. Levitt, vice chairman of the Florida Joint Legislative Committee of the National Retired Teachers Association/American Association of Retired Persons; Prof. Joseph Little of the University of Florida College of Law; Lawrence Kuvin, cochairman of the Florida Bar Association No-Fault Committee; Hugh E. Ray, associate director of the Florida Association of Life and Casualty Insurers; and William F. Blews, president of the Academy of Florida Trial Lawyers.

Testimony revealed that the Florida no-fault law has succeeded in providing faster payment of benefits to more auto accident victims than the tort system. The hearing also showed that a greater percentage of the no-fault dollar is being paid to victims and that more personal injury claims are being settled in amounts closer in value to verified medical losses than under the tort system. However, Florida's original $1,000 threshold was the subject to widespread fraud by doctors and attorneys that prompted criminal investigations by both the U.S. attorney's office and the State attorney's office for Dade County.

In 1976, the Florida Legislature responded to these abuses and changed to a "verbal" or descriptive threshold which permits suits for pain and suffering only for certain types of injuries. Not enough time has passed to determine whether the new threshold will work to eliminate such fraud.

The high rates in Florida, which are due to the fraudulent breaking of the threshold, rampant inflation, and a number of more subtle, but equally important changes that occurred in the Florida law at the same time as the introduction of no-fault, have created an affordability crisis. Rates have risen almost 100 percent since 1974. Commissioner Gunter's concern about the effect of these rates on the many people living on fixed incomes resulted in his recommending a program to eliminate all suits for general damages in order to significantly reduce rates. While the Florida Legislature rejected the Commissioner's proposals in action subsequent to the subcommittee's hearings, the proposals—whatever their merits—reflect the fact that the ability to afford auto insurance remains a serious question for Floridians.

PROVISIONS OF THE LAW

The Florida Auto Reparations Reform Act, effective January 1, 1972, provides benefits of up to $5,000 for medical expenses, income loss, replacement services, and funeral costs—limited to $1,000. If an accident victim's economic losses exceed the overall benefit limit, the individual is permitted to sue in tort for the portion over $5,000.

All private passenger vehicles and pedestrians are covered by the law. In addition, out-of-State drivers who have their cars in Florida more than 90 days out of the year are subject to the provisions of the law.

In June, 1976, the Florida legislature responded to concerns of possible fraudulent claims activity to pierce the then-existing $1,000 threshold for general damages suits and revised the tort liability restriction provisions of the law. The current version, effective October 1, 1976, permits an accident victim to recover general damages only if his injuries result in one of the following conditions: loss of a body member; permanent loss of a bodily function; permanent injury other than scarring or disfigurement; a serious nonpermanent injury that has a material bearing on the injured person's ability to resume his normal activity and life-style during all or substantially all of the 90-day period after the injury and which injury is medically or scientifically demonstrable at the end of that period; or death.

PERFORMANCE OF THE LAW

Professor Little conducted a study, under the auspices of the Council on Law-Related Studies, to evaluate the Florida no-fault reparations system. His survey covered the period from 1971, the last year of the fault system, through 1973, the second year of no-fault. While the time frame was too early to reflect the threshold problems that developed later, it was a long enough period to draw certain conclusions about the performance of the law.

First, Professor Little found that people were being reimbursed for their losses more rapidly under no-fault. He found that it takes victims far less time to receive their first no-fault benefit payment than it took successful claimants to secure payment through a tort settlement or judgment—this comparison is the relevant one, since the tort system provides very few interim payments. The following table—not printed in the RECORD—displays the amount of time, in days elapsing between the date a claim was filed and the date the first payments were made to the claimant. The first bar depicts the population of third-party or tort claims; the second bar represents the population of first-party or no-fault claims—the bar for the year 1971 represents medical payments insurance, a limited no-fault coverage; and the third bar includes the population of all claims obtained by merging the two subpopulations. The increase in the mean number of days for receipts of third-party payments under no-fault reflects the fact that the threshold is eliminating many small cases, leaving the more controversial, time-consuming ones in the system.

Second, Professor Little found a substantial shift from third-party claims to first-party claims for personal injury with the implementation of the no-fault system. His statistics show that in 1971, 60 percent of the claims were third-party and 40 percent were first-party. In 1973, third-party claims dropped to 20 percent, while first-party claims soared to 80 percent. Professor Little testified that this shift represents a move toward a more cost efficient system, because first-party claims are less inflated by nuisance value than third-party claims and the cost for processing first-party claims is less.

Professor Little's conclusion is borne out by Allstate's experience in Florida. In 1975, Allstate incurred losses of $12,-239,547 on its no-fault, first-party claims. Its incurred losses and loss adjustment expenses amounted to $16,378,000. Together, these staitstics show that 75 percent of the no-fault portion of the dollar is being used to compensate the victims of auto accidents. This return compares highly favorably to a 44 percent return under the tort system—or the portion of the no-fault system that remains under tort for residual third-party liability.

Third, Professor Little found that more personal injury protection claims are being settled in amounts closer in value to verified medical losses than under tort. The parameters measuring the value of the claims were verified medical expense—total amount of medical expense claims; total personal injury payment—total amount of the payment made to the claimant in settlement of a claim; extra value—difference between the total payment made to the claimant and the verified expenses; and R—a ratio obtained by dividing the total personal injury payment by verified medical expenses. The statistics revealed the significant shift from third party to first-party modes of recovery. Also, the figures showed increases in verified medical payments, total personal

injury payments and extra value between 1971 third-party claims and those of later years.

The same general trend was noted by Professor Little in the first-party payment data. However, he stated that the increase in total personal injury payment was partially attributable to general increases in the costs of medical services and supplies and to the fact that first-party no-fault benefits include wage losses and the costs of ancillary services that were not ordinarily compensable under preno-fault medical payments coverage. While the mean for the extra value—the amount by which the settlement exceeded verified medical expenses—did not equal zero in any first-party population, Professor Little noted that the median extra value figure for verified medical expenses was zero or close to zero in all first-party populations. Testifying as to the large proportion of first-party claims being settled in the exact amount of verified medical payments, Professor Little remarked that the same economy is not a characteristic of the third-party population.

Fourth, Professor Little examined the hypothesis that no-fault would reduce the amount of litigation arising out of auto accidents, a prerequisite to the success of a no-fault system. Professor Little's study is of limited help on this point for several reasons, including the fact that it covers a time when many preno-fault cases were still being filed and because many suits for injuries that crossed the no-fault threshold had not been filed yet. The study does show a decline of about 20 percent in the number of suits filed between 1971 and 1974 in Alachua County, a county of about 125,000 people located in north-central Florida. During this same time frame, the percentage of motor vehicle tort suits filed to all civil suits dropped from 10 percent to 5.5 percent. Professor Little's study shows a slight decline in the percentage of motor vehicle tort actions to all civil actions in Dade County between 1971 and 1972, but further examination was rendered impossible with a major court reorganization in Dade County in 1973.

Many of the witnesses at the hearing, however, testified as to abuse of the $1,000 threshold, particularly in Dade County, which would account for a large part of the massive premium increases, mostly for residual tort cases, in Dade and other urban counties.

The Florida insurance department estimated that as many as 30 percent of all claims paid by companies are outrightly fraudulent or contain at least an element of fraud through exaggeration of damage and injury. Commissioner Gunter testified that:

> If anything, the $1,000 threshold was a catalyst, instead of a deterrent, to rate increases, because it provided an incentive for injured parties to exaggerate their injuries and to artificially inflate doctor bills.

Edward Carhart of the State attorney's office submitted the Final Report of the Dade County grand jury, dated August 11, 1975, which resulted from an investigation into certain pairings of doctors and lawyers on referral cases of auto accident victims occurring in Dade County. The report details the practice of a small group of lawyers, physicians, osteopaths, chiropractors, and hospitals who work together to inflate or outright falsify personal injury claims. Mr. Carhart took issue with the report insofar as it attributed the problem of fraudulent claims filing to a small group of lawyers and doctors. He testified that his personal experience showed that a very high percentage of certain types of claims, such as soft tissue injury claims, involve fraud.

Marsha Lyons of the U.S. attorney's office testified as to the successful prosecution of a fraudulent claims filing case in which the participants were convicted on 105 counts. The doctor and attorney each were sentenced to 8 years in prison and fined $57,000. The runner and the office manager each were sentenced to 3 years and fined $7,700.

Mrs. Lyons described the pattern of fraud involved in both this case and in other cases now being investigated as follows:

> . . . The $1,000 threshold in Florida seemed to give attorneys and doctors a focal point for processing insurance claims. Their operations consistently followed the same pattern. Basically, the operation would use a runner. He was responsible for soliciting clients. He is usually paid by the attorney for each suitable client that he brings in to the attorney's office.
>
> The clients are generally from low economic areas. Many of them in South Florida are foreign born and have difficulty in understanding the English language.
>
> Liability in each one of these cases must be clear, and the client himself must be willing to cooperate at least to some extent in order to obtain sufficient medical bills to reach the $1,000 threshold. This normally required hospitalization. A promise would generally be made to the client at the time that he was brought in that he would make some money from his case. The runner would refer the client to an attorney, and generally refer him to a doctor and hospital as well.
>
> The doctors and lawyers would work in concert. The attorney would generally refer all of his accident clients to one or two specific doctors. The doctor provided both the bills and the medical reports necessary to file the insurance claims. Many hospitals in South Florida are owned by doctors in the area. This enables the doctor to easily hospitalize his accident patients in order to drive up the medical bills very quickly. Hospitalization became routine in these practices, and did not take into consideration the seriousness or the nature of the injury of the particular claimant.
>
> The patients were generally asked to return after their hospitalization for some type of follow-up treatment. But most of the patients did not do so. Regardless of that, the doctor would issue a medical bill sufficient to push the total medicals over the $1,000 threshold.
>
> If the bill issued by the doctor for some reason was mistakenly low, the doctor's office on request of the attorney would issue a new and higher bill. The lawyer would then submit these medical bills and the reports to the insurance companies and use them as a basis for demands both against the PIP and the liability carrier.

Professor Little testified that he doubts that a cause-and-effect relationship exists between no-fault and the corruption of the professions. Instead, he suggested that such an argument against no-fault was putting the cart before the horse:

> It is more likely that the corruption of professions helped to create the need for no-fault and that the abuse of no-fault, if it exists, is merely the reassertion of an underlying condition that has not been cured. No system should be evaluated solely on the basis of abuses perpetrated by those who are supposed to tend and nurture it. Sooner or later the professions must effectively police themselves and, if they do not do so, then the populace should through the law.

The elimination of the $1,000 threshold in 1976 and the establishment of a division to investigate fraudulent claims suggests that the Florida Legislature is taking the latter course.

COST EXPERIENCE

The cost of bodily injury insurance has increased markedly in Florida since 1971. Statewide, bodily injury rates are up 84 percent with some companies reporting increases as high as 210 percent.

While more than two-thirds of the premium in Florida's no-fault law is still spent to adjudicate tort claims, abuse of the $1,000 threshold is only one of many reasons for these increases. As Professor Little noted,

> In Florida of the early 1970's . . . nothing remained constant.

The population was—and still is—burgeoning. Motor vehicle registration rose from 5.36 million in 1971 to 6.38 million in 1973. More cars on the roads means more accidents which, in turn, means higher premiums.

Also, Florida was not immune to the rampant inflation of the early 1970's. The cost of medical care has risen over 70 percent nationwide since 1971. In Florida, the inflation was exacerbated by the submission of false medical claims designed to pierce the magic $1,000 figure to trigger a tort suit.

There was also a series of more subtle contemporaneous changes that may have been every bit as important as inflation and fraud in causing increased premiums. First, the legislature in 1972 repealed the "guest" statute, whereby a passenger in a motor vehicle cannot recover against the driver for any negligence on the part of the driver. This change enables more tort claimants to recover which, of course, increases the cost of the system.

Similarly, in *Hoffman* v. *Jones*, 280 S. 2d 431 (1973), the Florida Supreme Court abolished the doctrine of contributory negligence, whereby a person could not recover in tort if that person was the least bit at fault, and replaced it with a system of "pure comparative negligence." This system permits victims to recover for their losses to the extent that they were not negligent. Normally in such a system, any recovery by one victim is set off against any recovery by the other victim. Obviously, such an approach could result in a situation where a person was only 10 percent at fault and yet recovered nothing because the person who was 90 percent at fault suffered far more severe injuries. To prevent such a situation from arising, the Florida Supreme Court ruled that each victim can recover for his injuries, in a comparative negligence case, so long as

the parties were covered by insurance. Thus, Lawrence Kuvin, representing the Florida Bar Association, cited a case in which a person was 90 percent negligent and still recovered $5,000. Once again, there is much to be said for the equity of a pure comparative negligence doctrine, but it can be quite costly.

Fourth, the courts and the legislature addressed the question of uninsured motorist coverage—the coverage that permits one to recover from one's own insurance company if the other driver was at fault and was not insured, a kind of first-party fault system. In the case of *Tucker* v. *GEICO*, 288 So. 2d 238 (1973) the Florida Supreme Court held that a person who won a judgment against an uninsured driver could "stack" his uninsured motorist coverage if he had insurance on more than one car. What this means is that if a person insures three cars, with $10,000/$20,000 coverage on each, he can recover up to $30,000 for his injuries in the case of an accident.

Further, the legislature passed a statute which defined "uninsured motorist" coverage to mean "underinsured motorist" coverage. Thus, if a person carrying $50,000/$100,000 bodily injury liability coverage was involved in an accident with a person carrying only $10,000/$20,000 coverage, the first person could recover any additional losses over $10,000 from his own policy, up to a limit of $50,000. Data submitted to the subcommittee revealed that the cost of the old uninsured motorist coverage was $7 statewide in 1971, while the new uninsured/undersinsured coverage cost $14 statewide and ran as high as $50 in Miami in 1977.

Sixth, the legislature raised the statutory financial responsibility limits—the amount of liability coverage that a driver must carry—from $10,000/$20,000 to $15,000/$30,000. Hugh E. Ray of the Florida Association of Life and Casualty Insurers testified that this action by itself raised the cost of bodily injury and uninsured motorist coverage by between 8 percent and 18 percent.

Seventh, the so-called "equitable distribution" doctrine permitted a victim double recovery where he could successfully maintain a lawsuit. This meant that he could recover $3,000 in no-fault benefits and then win a judgment for the same amount in a lawsuit and he would be permitted to keep 80 percent to 90 percent of the duplicative award.

Eighth, the Florida Supreme Court decreed that insurance companies could be joined as defendants in suits, so that juries would be aware that there were adequate resources available to permit plaintiffs a full measure of recovery. Once again, such a system could do nothing but drive costs up.

Since Florida has retained a tort insurance system for commercial vehicles, it is possible to get a rough idea of the effect of these revisions of the tort system by comparing the rate changes and loss ratios of private passenger vehicles with those of commercial vehicles. Allstate data reveals that their rates for voluntary private passenger automobiles under the no-fault system increased by 99.8 percent between 1972 and August of 1977. During the same time frame, Allstate rates for commercial automobiles under the tort system rose 126.5 percent. Since the loss ratios for commercial automobiles were worse than for private pasenger automobiles during this period, it is clear that these changes in the tort law—which had nothing to do with the no-fault system—played a large role in the dramatic increases in premiums.

CONCLUSION

The Florida no-fault automobile insurance system has provided prompt and certain benefits to more accident victims than the prior tort liability insurance system. However, the original tort threshold proved ineffective in limiting the individual's ability to pursue a tort claim for general damages. In fact, the evidence presented at the hearings clearly indicated that the dollar threshold merely encouraged certain unscrupulous individuals to process fraudulent claims. Abuse of the threshold, combined with inflation and a series of significant changes in the tort system, drove costs up significantly.

The Florida Legislature responded to the situation in 1976 by adopting a verbal or descriptive threshold in place of the $1,000 medical threshold. Mr. Kuvin testified that "the [doctor] mills have indicated to me that their caseloads have been reduced since January by 75 percent," which is some evidence that the new threshold is enjoying at least initial success in combating fraud. On the other hand, the threshold was a product of compromise and may contain the seeds for failure. Specifically, it permits a person to sue for general damages if he suffers a "permanent injury," without regard to whether such injury was also serious. Further, it permits such suits where a person is disabled "during all or substantially all" of 90 days. How the courts define "substantially all" will have a major impact upon the success or failure of the new threshold.

In addition, the Florida Legislature reduced the financial responsibility limits to $10,000/$20,000, prohibited stacking of uninsured motorist coverage, and prohibited the naming of insurance companies as defendants.

All of these combined changes account for the lack of increases in Florida insurance premiums for the last year and a half. Unfortunately, even if the changes keep premiums in line, the $5,000 benefit package is far too low to aid seriously injured victims.

HOUSE OF REPRESENTATIVES—*Friday, September 16, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 16, 1977.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is nigh unto all them that call upon Him, to all who call upon Him in truth.—Psalms 145: 18.

Almighty God, who art from everlasting to everlasting, draw near to us as we now draw near unto Thee. Setting out upon this new day give us courage, faith, and wisdom for the work we have to do. Grant unto us a clear vision of Thy presence which clarifies our minds, cleanses our hearts, and lifts us above the narrow loyalties of the world to the higher loyalties of Thy kingdom. Make us strong enough in spirit to do what we believe to be right, steadfast enough in heart to keep our faith in Thee growing, and to leave the outcome to Thee.

Guide us through this day with sound minds, loving hearts, and inner peace, for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 9, noes 0.

So the Journal was approved.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 341) entitled "An act revising the congressional budget for the United States Government for the fiscal year 1978," and that the Senate agreed to the House amendment to the Senate amendment to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2850. An act to suspend until the close of June 30, 1978, the duty on certain latex sheets;

H.R. 3093. An act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes;

H.R. 3259. An act to continue to suspend for a temporary period the import duty on certain horses.

H.R. 5037. An act for the relief of Jack R. Misner.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1435. An act to authorize appropriations for the Federal Election Commission for fiscal year 1978.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1360. An act to amend section 14(e) of the National Forest Management Act of 1976; and

S. 1750. An act to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of non-nutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

The message also announced that the Vice President, pursuant to the provisions of Public Law 84–689, appointed Mr. BAYH as Chairman to the delegation, on the part of the Senate, to the North Atlantic Assembly to be held in Paris, France, September 18 to 24, 1977, vice Mr. SPARKMAN, excused.

The message also announced that the Vice President, pursuant to the provisions of Public Law 84–689, appointed Mr. CULVER as a delegate, on the part of the Senate, to the North Atlantic Assembly, to be held in Paris, France, September 18 to 24, 1977.

REAGAN'S ROUGHRIDERS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I will shortly introduce a measure that would authorize the creation of Reagan's Roughriders, expeditionary force of volunteers to keep the Panama Canal open in the event of hostilities if the treaty is not ratified.

The measure provides that his excellency, the former great and glorious Governor of California, Ronald W. Reagan, will lead the Roughriders into any combat.

Gov. Ronald W. Reagan will be commissioned as full bird colonel and provided with a white horse, upon which to lead the volunteers into combat.

If Gov. Ronald W. Reagan chooses not to lead the volunteers into combat, but prefers to set up headquarters in the rear, he must supply his own white horse.

Those interested in cosponsoring this measure, please call me.

THE IMPORTANCE OF THE PANAMA CANAL ISSUE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker and Members of the House, I am pleased that my colleague, the gentleman from California (Mr. JOHN L. BURTON), has brought up the important issue of the Panama Canal.

It is rather interesting to observe what is happening with respect to this issue. The Committee on International Relations has been holding a series of hearings on this very important subject, as it should, because the House should be involved even more than it apparently is going to be.

Last week we heard from Ambassadors Linowitz and Bunker. This week we heard from former Secretaries of State Rusk and Kissinger, and I might say that the press was there in great numbers. The room was covered with television cameras.

Yesterday we heard from the commanders of the American Legion, the American Veterans of Foreign Wars, and the AMVETS. There was not one single television camera in evidence. I saw no reporters there. There may have been one or two. Further, I saw no mention of this important testimony in the morning press.

Mr. Speaker, I think that if we are going to discuss this issue intelligently, both sides should be given fair coverage.

I yield back the balance of my time.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, in view of the fact that the Constitution of the United States requires a quorum to conduct business, and in view of the fact that earlier today on a division of the House, the House only had 9 Members present, I make the point of order that a quorum is not present and move a call of the House.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Maryland, Mr. BAUMAN, to move a call of the House.

Mr. BAUMAN. Mr. Speaker, I so move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 556]

Alexander	Byron	Dornan
Ambro	Cederberg	Drinan
Anderson, Ill.	Chappell	Duncan, Oreg.
Andrews, N.C.	Chisholm	Early
Armstrong	Clausen,	Eckhardt
Ashley	Don H.	Edgar
Badillo	Cohen	Edwards, Okla.
Beard, R.I.	Collins, Ill.	Emery
Bellenson	Conyers	Erlenborn
Biaggi	Corman	Evans, Colo.
Boggs	Cornwell	Evans, Del.
Bolling	Crane	Flood
Bowen	Dellums	Florio
Brodhead	Dent	Gammage
Brown, Mich.	Diggs	Harrington
Burke, Mass.	Dingell	Harsha
Heckler	Moakley	Spellman
Johnson, Calif.	Murphy, N.Y.	Steed
Kastenmeier	Neal	Teague
Kindness	Nedzi	Thornton
Koch	Nix	Traxler
Krueger	Patten	Treen
Lederer	Patterson	Tsongas
Lloyd, Calif.	Pattison	Tucker
Lott	Pepper	Udall
McDonald	Quillen	Vander Jagt
McKay	Railsback	Vanik
McKinney	Rangel	Weaver
Marks	Reuss	Wiggins
Meeds	Rooney	Wilson, Tex.
Metcalfe	Sarasin	Yatron
Mikulski	Scheuer	Young, Alaska
Minish	Shuster	
Mitchell, Md.	Sikes	

The SPEAKER pro tempore. On this rollcall 335 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CORRECTION OF AMENDMENT TO H.R. 3744

(Mr. MILFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILFORD. Mr. Speaker, I would like to clarify a situation that proved both embarrassing and confusing to me and many of my colleagues.

Yesterday I offered an amendment to H.R. 3744, Fair Labor Standards Amendments of 1977 to retain the exemption from minimum wage and overtime provisions in the current law for seasonal recreational and theme parks. The description of this amendment was incorrectly printed in the DSG Factsheet No. 95–16, September 9, 1977. They stated the amendment applied to national parks, refuges, and forests.

My staff contacted the DSG office and they immediately issued a correction that was distributed to each office. The DSG daily report and the whip advisory of September 15 contained the correct intent of my amendment.

When my amendment came to a vote on the House floor, the whip call from the cloakroom described it as applying to national parks, refuges, and forests. My office telephoned the majority whip's office and the recording fortunately was changed before the end of the rollcall.

The House Information Systems also incorrectly described my amendment in the summary of proceedings and debates. I was informed that the computer program could not be changed.

What bothers me is that the various official support groups of the House seem to rely on the unofficial DSG factsheet—and one that is nearly 1 week old—for their information. I have the highest praise for the Democratic Study Group and the excellent job they do in summarizing the bills and amendments that come to the House floor. Their batting average is high, but even the best can sometimes err.

I do not see anything wrong with the majority whip's office using information from the DSG. But I do believe that the majority whip, as the official voice of the majority party, should check with each Member and his or her office staff on the accuracy of everything which is re-

ported. The majority whip's office has the responsibility to see that the official support units of the House are kept properly informed on the language and meaning of an amendment. They should not rely on unofficial publications. This is the only way to insure that the intent and description of a Member's amendment will be communicated correctly.

CONFERENCE REPORT ON S. 275, FOOD AND AGRICULTURE ACT OF 1977

Mr. FOLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of September 12, 1977.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The gentleman from Washington (Mr. FOLEY) and the gentleman from Virginia (Mr. WAMPLER) are recognized for 30 minutes each.

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 275, the Food and Agriculture Act of 1977. The report is the most comprehensive food and agricultural measure to reach the floor of the House in my memory. It affects all America, rural and urban America alike, farmers, consumers, the Nation's businessmen, the underprivileged, and many others.

The report consists of 19 titles and covers such important issues as the commodity programs, grain reserves, the food stamp and commodity distribution programs, national agriculture research, extension and teaching, solar energy research, rural development and conservation, amendments to the Agricultural Trade, Development and Assistance Act of 1954, Federal Grain Inspection Act amendments and requirements for advisory committees in the Department of Agriculture.

The report achieves a number of important goals. It provides basic price and income assurance so the farmer will be willing to maintain production for the benefit of consumers both here and abroad. At the same time it gives the producer great flexibility in decisions concerning farm planning. It does much to upgrade rural America in many other respects. There is a major revision of the agriculture research and teaching program, rural development and conservation programs are enhanced in many respects, and a new thrust is provided for solar energy agricultural projects. The report also contains a major revision of the food stamp program to simplify administration and encourage participation and eliminate fraud.

The report is the culmination of efforts of many months in both Houses of Congress. On July 28, 1977, the House approved its version of S. 275 after 38 hours of discussion on the floor. A conference was held immediately thereafter beginning on August 1, through August 5. The conferees worked diligently through day and evening hours and reached agreement on all issues.

The House prevailed on many of the most important aspects of the report; necessarily it did not prevail on all issues. The conference report represents a good sound compromise and deserves the wholehearted support of the Members of the House. The Senate adopted the conference report last Friday, September 9, and I am confident that the President will sign the bill upon the House concluding its actions.

I wish to pay special recognition to the distinguished chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE, and the ranking minority member, Senator DOLE and the other Senate conferees for their cooperative and diligent efforts in making an agreement possible on the many issues involved in the report.

Mr. Speaker, I want to take this opportunity to pay my respects and gratitude, as chairman of the House Committee on Agriculture, to our distinguished ranking minority member, the gentleman from Virginia (Mr. WAMPLER); to the distinguished vice chairman of the committee, the gentleman from Texas, (Mr. POAGE), to all the members of the committee on both sides of the aisle, and especially to all the House conferees who worked day and night from August 1 through August 5, addressed themselves for many, many hours to these complex issues, and worked successfully to resolve them.

The conference committee also included members of the Committee on International Relations, led by their distinguished chairman, the gentleman from Wisconsin (Mr. ZABLOCKI), on those aspects of this bill that touch on areas of mutual concern to the Committee on Agriculture and the Committee on International Relations. I wish to thank them for their assistance in resolving the differences between the Senate bill and House amendment in those areas.

I would like now to summarize for the Members the various provisions of the conference report.

TITLE I—PAYMENT LIMITATIONS

The conference substitute included compromise payment limitation provisions.

The conference substitute limits total deficiency payments to wheat, feed grains, and upland cotton producers to $40,000 in 1978 and $45,000 in 1979. In 1978, rice payments will be limited to $52,250, 5 percent less than in 1977. Rice payments will be limited to $50,000 in 1979. In 1980 and 1981, there will be a payment limitation of $50,000 that will apply to the total payments received on wheat, feed grains, upland cotton, and rice. Payments for extra long staple cotton and wool are not covered by the limitations. The 1977 limitation will remain at $20,000 for the combined wheat, feed grains, and cotton payments, including all disaster payments. Exempt from limitations beginning in 1978 are payments for disaster, certain resource adjustments, and public access for recreation.

TITLE II—DAIRY AND BEEKEEPER

The dairy price support program in the new legislation contains some changes in current law—existing law requires that milk be supported at a level of between 75 and 90 percent parity, adjusted annually. The new legislation provides that from the time of enactment until March 31, 1979, the price support level will be set between 80 and 90 percent of parity. After March 31, 1979, the support level reverts to permanent law—75 to 90 percent of parity. The legislation also mandates that through March 31, 1981, the support price will be adjusted on a semiannual basis to reflect estimated changes occurring in the parity index for the past 6-month period.

The new legislation extends for 4 years the expiring provisions of the Agricultural Act of 1970 relating to milk marketing orders and the existing authority for donation of dairy products to military services or veterans' hospitals. The dairy indemnity program was amended to take into account chemical residues, nuclear radiation, or fallout.

The Secretary is also required by the legislation to issue milk standards for ice cream within 30 days of enactment. Only those products meeting these standards can bear a symbol indicating that they meet USDA standards for ice cream. The ice cream must contain not less than 20 percent milk solids constituted of not less than 10 percent milkfat. In no case can milk solids not fat be less than 6 percent and they cannot, by weight, be more than 25 percent of the milk solids not fat.

The beekeeper indemnity program war continued as contained in present law.

TITLE III—WOOL AND MOHAIR

The existing law is extended for four years, through December 31, 1981. It basically is an extension of the National Wool Act of 1954, which requires the Secretary to provide price supports for wool and mohair. The support rate was raised for the marketing years beginning January 1, 1977, and ending December 31, 1981, to 85 percent of the formula rate currently in the act.

TITLES IV AND V—WHEAT AND FEED GRAINS

Target Prices. The report provides a target price program through the 1981 crop. The target price for the 1977 crop is established at $2.90 per bushel for wheat and $2 per bushel for corn—with comparable levels set for grain sorghums, and if designated, barley and

oats based on their relation to corn. Deficiency payments based on these rates will be paid on a producer's planted acreage up to the level of his farm allotment. Deficiency payments based upon the lower target prices established in current law—$2.47 per bushel for wheat—will be paid on any acreage not planted to the commodity within the applicable acreage allotment. Beginning with the 1978 crop, producers will receive deficiency payments only on acreage planted to the commodity for harvest.

For the 1978 crop, the target price for wheat is established at $3.05 per bushel if production is 1.8 billion bushels or less and $3 per bushel if production is in excess of that amount. The 1978 corn target price will be $2.10 per bushel—with comparable levels for grain sorghums, barley, and oats based on their relation to corn. For 1979 and subsequent years, target prices for wheat and corn will escalate as the variable costs of production increase. Payments will be computed on the difference between, first, the target price and, second, the average price for the first 5 months of the marketing year or the loan level, whichever is higher.

Program acreage. Deficiency payments for 1978 and subsequent years will be based on the producer's share of the national farm program acreage. The farm program acreage in each case represents the number of harvested acres needed to meet domestic and export use and to accomplish any desired increase or decrease in carryover levels. While the Secretary is required to make payments on not less than 80 percent of total harvested acreage, those producers voluntarily reducing production in line with the Secretary's recommendation would be paid on 100 percent of their harvested acreage. The national program acreage for wheat for a given crop year is to be set by August 15 of the preceding year by the Secretary. The Secretary will have until November 15 to set the next year's feed grains farm program acreage.

Loans. The current $2.25 loan rate for wheat is continued unchanged for the 1977 wheat crop. The minimum loan level, however is increased to $2.35—maximum of 100 percent of parity—for 1978. The corn loan rate for the 1977–81 crops is set at $2 per bushel with other feed grain loan levels reflecting their historic feeding relationship to corn. In addition, a provision is included whereby the Secretary may adjust the loans for wheat and feed grains downward a maximum of 10 percent for the next crop year whenever the yearly national average price for the commodity averages below 105 percent of the current year's loan.

However, the loan rate cannot be lowered to less than $2 per bushel for wheat or $1.75 per bushel for corn. The loan rates for wheat and corn would automatically snap back to their respective $2.35 and $2 levels whenever the yearly average market price was over 105 percent of the current year's loan rate. Any increased target price payments triggered by this provision would be exempt from the payment limitation.

Set-aside. Authority is provided for a set-aside program to be implemented based on a percentage of the current year's planted acreage. Additionally, there is a total farm provision under which the Secretary may require as a condition of loans, purchases, and payments that the acreage normally planted to the crops designated by the Secretary must be reduced by the amount of the set-aside or diversion.

Disaster programs. Disaster programs are extended 2 years through the 1979 crop. Payments for prevented planting for the 1977 wheat and feed grains crops will be computed as provided in current law. Payments for prevented planting for 1978 and subsequent years, however, will be made on the basis of the acreage intended to be planted but not to exceed the average acreage planted for wheat or feed grains—including any acreage which the producer was prevented from planting to wheat or other nonconserving crop—in the immediately preceding year, multiplied by 75 percent of the projected yield times a payment rate equal to 33⅓ percent of the target price per bushel for the respective crop.

Low yield disaster payments for the 1977, 1978, and 1979 crops of wheat and feed grains will be made if the total quantity of the crop harvested is less than the figure obtained by multiplying 60 percent of the farm program yield times the acreage planted for harvest. In that event, payment would be made at a rate equal to 50 percent of the established price for the deficiency in production below 60 percent. Any producer could elect to receive low yield disaster payments for the 1977 crop on the basis of the formula provided under existing law. Producers who elect to receive payments under the amendment—and who have already received payments under existing law—could, of course, retain the payments they have received and be paid any additional amount they are entitled to under the amendment. If a set-aside program is in effect producers must meet such set-aside requirements in order to be eligible for disaster payments on such crop.

TITLE VI—COTTON

Under the new 4-year cotton program beginning with the 1978 crop all program benefits will be tied to planted acres in a manner comparable to the program provided for wheat and feed grains.

The loan level for cotton is set at the lower of first, 85 percent of the 4 preceding marketing years' moving average price at average location in the United States for strict low middling 1⅛ inch cotton or second, 90 percent of the average adjusted price for the first 2 weeks of October of the five lowest quotation for strict middling 1⅛ inch cotton, CIF Northern Europe. The loan rate will thus adjust upward or downward with the world market price.

The target price will be set at a minimum of 52 cents per pound for the 1978 crop and will be adjusted in subsequent years according to changes in the variable costs of production for cotton.

The loan level will be announced no later than November 1 of the calendar year preceding the marketing year that the loan is to be effective. The present 10-month loan period is continued and an additional 8-month loan period will be available to producers except when the average price of strict low middling 1⅛ inch cotton is 130 percent of the average price of such cotton for the preceding 36-month period.

A special world import quota for a 21-day domestic mill supply of cotton will be opened up for any month when the average price exceeds 130 percent of the average spot market price for the preceding 3 years. This special quota of cotton will be available for a 90-day period.

A disaster payment program is provided for the 1978 and 1979 crops. Prevented planting disaster payments are required for one-third of the target price on 75 percent of normal yields. Disaster payments for low yield are provided on one-third of the target price on any shortfall in production below 75 percent of normal yield.

The Secretary may require a set-aside of no more than 28 percent of planted acres for cotton. In addition, he can offer payments to farmers to divert cropland to conserving uses in addition to set-aside.

TITLE VII—RICE

The conference substitute extends the Rice Production Act of 1975 for 4 years and revises the act in three major respects for the 1978 through 1981 crops. First, the target price and the loan rate will escalate according to changes in variable costs of production for rice, whereas under the present program, the target price and loan rate escalate according to the index of prices paid for production items, interest, taxes, and wage rates, modified by average yields. Second, the loan rate can be adjusted downward in order to make rice competitive in world markets in times of low prices—but at no time can it fall below $6.31 per hundredweight. Third, disaster payments are authorized only for 1978–79 and will be made on any shortfall in yield on the harvested acreage within the acreage allotment below 75 percent of normal yield at the rate of one-third of the target price. Prevented planting payments will be based on one-third of the target price.

The bill continues provisions of current law which establish a minimum national allotment of 1.8 million acres, apportioned at the farm level on the basis of the 1975 farm allotments. Loans and target prices are available to rice produced under allotment only. Producers may produce all the rice they want, but for the 1978–81 crops they will receive program benefits on allotted acres only, not in excess of their planted acreage. Target price payments are made based on the difference between the target price and the higher of first, national average market price for the first 5 months of the marketing year for the crop, and second, the loan rate.

The Secretary may announce a set-aside if he determines supplies will be excessive. If a set-aside is in effect—not to exceed 30 percent of the farm allotment—the land set aside must be devoted

to conserving uses. Land diversion payments may be made for acreage diverted in addition to required set-aside.

TITLE VIII—PEANUTS

The legislation contains a new peanut program beginning with the 1978 crop. The program provides for a two-price system for holders of peanut allotments based on a national allotment of 1,614,000 acres.

For production of peanuts within poundage quotas, minium support rates are established at $420 per ton for the crop years 1978–81, but the Secretary would have discretion to increase the minimum on the basis of the index of prices paid by farmers and the factors specified in section 401(b) of the Agricultural Act of 1949. Minimum national poundage quotas eligible for the foregoing support rate range from 1,680,000 tons in 1978 to 1,440,000 tons in 1981. Acreage equivalents range from 1,300,000 acres in 1978 to 1,114,000 acres in 1981. Poundage quotas will be raised if the minimum quotas for a crop year is insufficient to meet estimated requirements for domestic edible and related use plus a reasonable carryover and in other prescribed circumstances.

For "additional" peanut production, the Secretary will have discretionary authority to set lower support rates taking into consideration projected crushing and edible export prices and such other specific guidelines. Additional peanut production is defined as peanuts marketed in excess of poundage quotas but not in excess of the actual production from the farm acreage allotment. The Secretary may channel "additional" production—including "additional" inventories under loan—into domestic edible channels in short supply situations. Such peanuts shall be placed under loan at the "additional" loan rate or marketed under contracts between handlers and producers for crushing, export, or both.

TITLE IX—SOYBEANS AND SUGAR

Soybeans. The legislation adds a new provision mandating the Secretary to establish a soybean loan and purchase program for producers, but it provides appropriate discretion for the Secretary to set the level of support in relation to competing commodities and foreign and domestic supply and demand factors. It does not authorize the Secretary to make producer payments.

As a "nonbasic" agricultural commodity, soybeans have not previously been eligible for a mandatory support program, although Congress has from time to time required programs for other "nonbasic" commodities.

The conference substitute specifically provides that the Secretary may not require a set-aside of soybeans as a condition of eligibility for price support for any commodity.

Sugar. The price of the 1977 and 1978 crops of sugar beets and sugarcane is required to be supported through loans and purchases at a level not more than 65 percent of parity nor less than 52.5 percent of parity, but not less than 13.5 cents per pound raw sugar equivalent. The Secretary is authorized to suspend operations of the provision at such time as he determines there is an international sugar agreement in effect which would effectively maintain a U.S. raw sugar price of at least 13.5 cents per pound. The provision would not affect whatever the Secretary's existing authority may be under any other provision of the conference report, or of existing law, to establish a price support program for that portion of the 1977 crop of sugarcane and sugar beets marketed prior to the implementation of such loans or purchases. The bill also authorizes and directs the Secretary to establish minimum wage rates for agricultural employees engaged in the production of sugar.

TITLE X—MISCELLANEOUS

First, set aside of normally planted acreage. The conference substitute provides that effective for the 1978 through 1981 crops, whenever a set-aside is in effect for any one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may require that, as a condition of eligibility for price support through loans, purchases, and payments on any commodity, the acreage normally planted to any crops which are designated by the Secretary must be reduced by the amount of the set-aside or diversion. In addition, under this provision whenever such a set-aside is in effect, the producer may be required to participate in, and comply fully with all of the requirements of each of the programs for wheat, feed grains, upland cotton, and rice in order to receive any benefits under any programs providing for loans, purchases, or payments. Section 901 of the conference substitute provides that, notwithstanding these provisions, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any commodity supported under the provisions of the Agricultural Act of 1949.

Second, American agriculture protection program. The report provides that whenever the President of the United States or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any major agricultural commodity to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended, if a loan program is in effect for the commodity, at 90 percent of the parity price for the commodity, as such parity is determined on the day the suspension is initiated.

Third, special grazing and hay program for wheat acreage. The report provides that the Secretary may elect during any crop year to allow wheat producers to graze or harvest for hay up to 50 acres or 40 percent of their acreage intended to be planted to wheat, feed grains, or upland cotton—whichever is greater—in return for payments at a rate determined by the Secretary. Acreage designated for this program could not be harvested for grain and would be ineligible for price support payments.

Fourth, filberts. Another section would add filberts to the other specified commodities—such as oranges, raisins, and walnuts—presently included in section 8e of the Agricultural Marketing Agreement Act of 1937, as amended. This section states, in essence, that if a domestic marketing order establishes certain grade, size, quality, or maturity standards, then imports of that same commodity must meet equivalent standards.

TITLE XI-GRAIN RESERVES

Extended loan program—farmer-held reserve. The Secretary is authorized to offer wheat and feed grains producers an extended loan program of 3 to 5 years' duration. The quantity of wheat held under such a farmer-held reserve shall not be less than 300 million nor more than 700 million bushels. Inclusion of feed grains in a reserve program is discretionary with the Secretary. The Secretary would have the option of implementing either a reseal or an extended loan program for those grains. As an incentive to producer participation in the wheat or feed grains program, the Secretary is authorized to pay the annual storage costs of the grain as well as to waive or adjust interest rates.

With respect to the producer storage program for wheat, whenever the national average price reaches between 140 and 160 percent of the loan, the Secretary may discontinue the storage payments and charge interest to encourage the producer to redeem the loan and market the grain. The Secretary is given discretion to establish "trigger levels" for feed grains. If the producer redeems his loan before the average price reaches 140 percent, the producer will be subject to a penalty as determined by the Secretary.

Whenever the national average market price reaches 175 percent of the loan, the Secretary may call the loan for wheat; the Secretary is given discretion to establish the level at which loans would be called for feed grains. The Commodity Credit Corporation resale price for Government-owned stocks would be set at 150 percent of the current loan whenever a similar kind of grain was held under a 3- to 5-year extended loan program. Otherwise the CCC resale price would be 115 percent of the current loan plus reasonable carrying charges.

Disaster reserve. The Secretary is authorized under the bill to purchase through CCC facilities such wheat, feed grains, soybeans, hay, and other livestock forages as are needed to alleviate distress due to natural disaster. Distribution would be made under the ongoing emergency livestock feed programs of the Department.

Emergency feed program. The Secretary is authorized by the conference substitute to implement a new program to preserve and maintain livestock in case of a natural catastrophe.

To be eligible the person: First, must have suffered a substantial loss in feed normally produced on his farm for his

livestock, second, must not have sufficent feed for his livestock for the projected period of the emergency, third, is required to make feed purchases of quantities larger than he would normally make.

Eligible persons would be reimbursed for up to 50 percent of the cost of feed purchased. The program would be funded by the CCC. This provision was largely drawn from the Senate bill.

Farm storage facility loans. The conference substitute requires the Secretary to make available direct storage facility loans to growers of dry or high moisture grain, soybeans, and rice and high moisture forage and silage.

Loans for up to 10 years, not to exceed $50,000 in amounts of not less than 75 percent of total cost are authorized including funds for structural and equipment foundations, electrical systems, grain handling systems, drying equipment, site preparation, and remodeling costs. Interest rates are to be based on interest charged the CCC by the U.S. Treasury. Loans are to be secured. Loan payments can be deducted from any payments made to farmers from the Commodity Credit Corporation.

TITLE XII—P.L. 480 (FOOD FOR PEACE)

The conference substitute contains the following principal provisions:

First. It provides that all food commodities financed under title I of Public Law 480 be purchased on the basis of a public tender, publicly opened in the United States consistent with such open, competitive and responsive bid procedures as determined by the Secretary.

Second. It prohibits the payment of any commissions to any selling agent in connection with purchases of food financed under title I, unless the Secretary waives the requirement.

Third. It requires that any compensation paid or to be paid by any supplier of a commodity or ocean transportation financed under title I to any representative of the importer or importing country shall be reported to the Secretary of Agriculture by the supplier.

Fourth. It provides that a part of the supply of agricultural commodities could be used to carry out urgent humanitarian purposes of the act although the supply does not exceed estimated domestic requirements, adequate carryover, and anticipated export for dollars.

Fifth. It provides that bagged commodities for the purpose of financing by CCC may, subject to regulations prescribed by the Secretary, be considered "exported" upon delivery at port and upon presentation of a dock receipt in lieu of an on-board bill of lading.

Sixth. It provides that new spending authority for title I made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts.

TITLE XIII—FOOD STAMPS

The food stamp package that emerged from conference remains an interrelated package of provisions that accomplishes several major objectives:

First. It tightens program administration and reduces fraud and abuse.

Second. It eliminates the nonneedy from the program so that those who do not need food stamps do not get them.

Third. It facilitates the participation of the needy so that those who do need food stamps do get them.

Fourth. It holds program costs close to current program levels.

Fifth. It simplifies administration.

Sixth. It minimizes the loss of benefits to current needy participants.

The principal feature of the bill is a provision eliminating the existing requirement that virtually all households receiving food stamps spend some of their income to purchase the stamps. This provision also removes the potential for vendor fraud in the handling of cash, simplifies program administration, and lowers program administrative costs.

Other major features of the Food Stamp Act of 1977 include sections:

Strengthening work requirements by mandating that recipients who can work must register for work, search for work, accept available work, and continue to work or else lose food stamp eligibility.

Reducing net income eligibility from $6,804 to $5,850 for a household of four.

Providing a standard deduction of $60 per month plus 20 percent of earned income.

Allowing an excess shelter deduction of up to $75, or a dependent care deduction of up to $75, or a combination of both, not to exceed $75 per month. This maximum $75 deduction would be applied both to eligibility and benefits and would be indexed based on shelter, fuel, and utility costs of the Consumer Price Index beginning on July 1, 1978.

Establishing an asset limitation of $1,750 per household except for households of two or more containing a member age 60 or over. The limit for households with an elderly member is $3,000. The fair market value of cars in excess of $4,500 is counted against the asset limitation as are boats, snowmobiles, and airplanes used for recreational purposes.

Removing more than 1 million persons currently on the program from program rolls because of high gross income.

Requiring needy students, even if not tax dependents, to work 20 hours a week or register for such work, unless they already support others.

Providing 14 pilot projects to test the requirement that work registrants who do not find jobs in the private sector within 30 days accept public service jobs at the minimum wage rate, but paid in the form of their food stamp allotments.

Permitting disqualification of the fraudulent for as much as 27 months.

Furnishing States at least 75 percent administrative cost-sharing for costs associated with investigating and prosecuting fraud.

Excluding illegal aliens and other aliens upon whom Congress has not bestowed legal status.

Allowing Indian tribal organizations to administer the food stamp program on reservations if the Secretary determines that the State agency is failing to administer the program properly after the act is in place and that the tribal organization is capable of administering the program effectively and efficiently. The Secretary is authorized to provide administrative costs for program operation on reservations in such amounts as he determines necessary for effective program operation.

Requiring a single interview for determining the eligibility for food stamps of AFDC families, requiring that SSI households be allowed to apply for food stamps at Social Security offices, and requiring that public assistance and general assistance application forms include information necessary to determine food stamp eligibility.

Authorizing a 4-year extension of the program with a limit on spending authority of $5.8 billion in 1978, and $6.2 billion in 1979, 1980, and 1981.

Authorizing a 4-year extension of the commodity supplemental food program for pregnant women and children, including Federal reimbursement of local administrative costs up to 15 percent of the value of the commodities provided.

While those are the major provisions and consequences of title XIII as it emerged from conference, I would like to comment upon some issues that could otherwise conceivably prove troublesome as the Department proceeds to implement the food stamp provisions of the bill.

It is clear that a principal feature of the bill is the elimination of the purchase requirement. While some members of both Senate and House committees are still not convinced that this programmatic change is for the better, it was approved by an overwhelming majority in the House and in the Senate. Those majorities view it as the major step toward enabling poor persons who could not collect or hold on to a sufficient amount of cash as of the precise twice monthly dates of issuance in their political subdivision to obtain the food stamps to which their low income entitles them.

The conferees rejected a revision of the ceiling on expenditures which would have, in part, tightened the operation of that ceiling by refusing to allow any of the appropriated funds in any 1 fiscal year that continue to remain available until expended in subsequent fiscal years pursuant to section 18(a) to be utilized to bypass the ceiling. Nonetheless, it is the clear intent of the conferees that food stamp benefits provided in a given fiscal year not exceed the specified ceiling. Accordingly, the carryover appropriations would remain available, but only for the purpose of paying for the costs of administering the program, both Federal and State—if federally supported pursuant to section 16 (a) or (c).

Because the ceiling is so close to the budget projections for food stamp expenditures, it is important not to approach or exceed it—and thereby reduce benefits for all participants unless and until new legislation is passed, which is a lengthy and highly uncertain process—by unnecessary expenditures. While the bill contemplates a role for the Department of Labor in helping the Secretary of Agriculture to administer the new work requirement, there is no need whatsoever to transfer substantial amounts of funds to the Department of Labor for performing its role. The Secretary of

Agriculture is to determine the manner in which work registration is to occur—including the site—and prescribe reporting and employment inquiry requirements, while all of the other specifications are set by the law itself. The Secretary of Labor is to issue certain regulations jointly with the Secretary of Agriculture, but those regulations apply only to the manner in which the mandates of section 6(d)(1) and (2) are to be administered and not the substance of the mandates themselves. The joint regulations are to be patterned on those for the WIN program, but they would not encompass such issues as the site of registration—the House Committee rejected the State Employment Service as the appropriate location—and, if not practicable or if they did not suit the special needs of the food stamp work registration population, the WIN regulations would not even govern administration of the requirement. That, plus the exemption of persons already registered under the Federal-State unemployment compensation program, render Labor's workload relatively light and reduce the need for any substantial interdepartmental transfer of funds.

The 1977 Food Stamp Act in sections 6(d)(2)(D) and 6(e)(3)(iii) appears to present a potential conflict because it both demands that a student, to be exempt from the nonvacation general work requirement, be enrolled at least halftime and further orders certain students to satisfy a requirement of employment for a "minimum of" 20 hours per week or registration for work amounting to "at least" 20 hours per week. If a student is working 30 hours a week or is offered a 25 hour per week job, is he or she still a student? The answer would appear to be "no," and the only sensible solution is to read the phrases "a minimum of" and "at least" as if they combined the attributes of ceiling and floor to avoid the anomaly of requiring students to cease to be students in order to qualify as students.

The alternative shelter-child care $75 maximum deductions may present some difficulties. The shelter deduction does not have to reflect—as it did in the House version of the bill—actual expenses paid. Thus, States or political subdivisions could develop standard shelter allowances to measure against 50 percent of income that fairly reflect, for households in the food stamp income eligibility range, the local costs of rent, mortgage payments—including interest—heat, water, electricity, sewer, garbage collection, the basic service fee plus tax for one telephone, property taxes and assessments, and insurance on the structure, which comprise the items allowable under shelter cost under current regulations as well as the new law. Such standard allowances could ease the paperwork burden on both recipient and administrator and, yet, not reduce the value of the deduction to the recipients who need it. The shelter deduction would continue to be calculated after all other deductions had been taken into account, as is now the case. The dependent care expense deduction would be based on actual outlays, not standard allowances. The maximum allowable deduction for either shelter or dependent care would be $75 a month. Thus, if, in a given month, a household spent $110 on child care and $300 on shelter with net income before calculating the shelter deduction at $500, the household would be entitled to a $75 dependent care deduction—the shelter deduction would only yield $50.

The conferees agreed to accept the House provision eliminating a fraudulent member of a household from that household for food stamp purposes in two different ways—first, for an automatic 3-month period after a State agency finding of fraud following a fair hearing and, second, for an additional or alternative—if no State hearing were ever conducted—period of from 6 to 24 months as judicially determined following a judicial finding of civil or criminal fraud. The difference in the disqualification periods—3 months after an agency finding as opposed to up to 24 months after a judicial finding—is based upon the belief that the State would only take to court the more serious cases of fraudulent behavior, leaving the lesser instances for the administrative process.

Finally, I would like to underscore one pervasive purpose of this entirely rewritten food stamp law, that is to permit the program to be administered by the Department of Agriculture under oversight by the respective agriculture committees—always subject to legislative revision—rather than to be run by the Federal courts. Since the passage of the last major program changes in January 1971, well over 100 lawsuits have been brought in every State in the country by attorneys of organizations receiving Federal funds. The intent of Congress was not as explicitly expressed as it might have been in 1969, 1970, and 1971, but whatever intent there was has often been distorted in my judgment by the process of litigation.

This legislation was designed to eliminate as much as possible controversy concerning the intent of Congress. The Constitution bestows upon the Congress the power to create policy and program in the form of laws and upon the executive branch the responsibility to execute them. The courts have the right to interpret the laws, not write them. Accordingly, and in recognition of the fact that whatever legislative language is employed may prove ambiguous in circumstances unforeseen at the time the law was drafted and acted upon, we have sought to be as specific as our foresight permitted in the bill and in our report on the bill in addressing every issue we thought might arise. We have further endeavored to eliminate the words and phrases that were conducive to litigation in the past. There is no longer any mandate to serve or provide an opportunity to obtain a "nutritionally adequate diet." "Reasonably accessible" points and hours of certification are no longer required to be established by the Secretary—there are no mathematical limitations on round-trips or other specific certification provisions. Fair hearing requests no longer will cause disparate certification periods to merge into one boundless continuum of eligibility. Outreach no longer need "insure the participation of eligible households." Indians need not receive commodities that provide them with "a nutritionally adequate diet." The thrifty food plan is up to the Secretary to calculate not the courts, and the Secretary is free from any restraints as to the formula used, cost of living, sales taxes on food, and the like, albeit subject to specific adjustments for household size, certain geographical areas, and the semiannual update.

Lawyers may probe and test every section of this bill to seek soft spots or loopholes. We hope there are none. But, if the courts should confront such cases, we trust that they will read and construe this new food stamp law in light of our intent to trust its management to the Department of Agriculture operating in good faith and under the guidance of our legislative dictates.

TITLE XIV—RESEARCH AND EXTENSION

The conference substitute provides for a major expansion of research and extension in the food and agricultural sciences and for coordination of these activities both within the Federal Government and in the national scientific and extension community. The Department of Agriculture is firmly established as the lead agency in the Federal Government in the food and agricultural sciences.

The bill establishes new specific increased annual ceilings on authorizations for all new and existing research and extension programs in the food and agricultural sciences for the next 5 years. These programs all expire on September 30, 1982 unless reauthorized by Congress. However, the conferees intend that early oversight hearings be held and that funding levels for these programs for future years will be considered and enacted well before fiscal year 1982. These provisions, along with complementary House provisions, also preserved in the conference substitute, which require the Secretary to develop and submit to the Congress 5-year projections of national agricultural research, extension, and teaching priorities are designed to facilitate congressional oversight and direction.

The conference substitute also preserves, substantially intact, provisions of the House bill which authorize grants:

For which anyone can compete, to fund basic and applied research in agriculture forestry, human nutrition, and development of new crops;

To expand agricultural research facilities;

For construction or expansion of veterinary medical schools;

To improve educational programs in the food and agricultural sciences and to provide fellowships in these sciences;

To any college or university for research on production of industrial hydrocarbons and alcohols from agricultural commodities;

For animal health and disease research to any college or university with an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or any State agricultural experiment station having a similar

unit conducting animal health and disease research and;

To establish model farms and projects to demonstrate the uses of solar energy in agriculture.

I am happy to report that the conferees adopted the provisions of the House bill which put the 1890, predominantly black, land-grant institutions on a par with the 1862 land-grant colleges by providing specific continuing authorizations for funding of agricultural research and extension at the 1890 schools. The special situation created by the fact that the Tuskegee Institute and Alabama A. & M. are located in the same State is accommodated under both the research and extension provisions in the bill. For example, under section 1445, each of these institutions will receive $100,000 annually for research and will share in the distribution of any remaining research funds under this section as though each were located in a separate State. The conference substitute also provides, as did the House bill, first, for annual authorizations of $20,000,000 to carry out augmented programs of research and extension designed specifically to benefit small farmers; second, for an annual National Agricultural Research Award; third, for a National Food and Nutrition Information and Education Resources Center in the National Agricultural Library; fourth, for international agricultural research and extension programs in the Department of Agriculture; and fifth, for separate studies of the extension service, agricultural research facility needs nationwide, weather and water allocation, and use of the huge volume of organic wastes generated in this country to improve soil tilth and fertility.

The conference substitute contains a new subtitle, drawn from the Senate bill, which makes provision for human nutrition research and education by the Department of Agriculture. It also contains Senate provisions for research facilities grants and competitive grants for solar energy research which, in my judgment, nicely complement the provisions adopted by the conferees from the House bill.

Mr. Speaker, I believe that title XIV of the conference substitute is the most comprehensive and important legislation in the area of agricultural research and extension ever undertaken by the Congress. I should like to publicly commend the ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER) for his leadership in this area, and also the gentleman from Arkansas (Mr. THORNTON) for his significant role in the development of this landmark legislation.

TITLE XV—RURAL DE ELOPMENT AND CONSERVATION

Agricultural conservation program.—The bill amends the Soil Conservation and Domestic Allotment Act to specify that financial assistance will be provided to agricultural producers for carrying out enduring conservation and environmental enhancement measures. Eligibility for financial assistance would be determined by the existence of conservation or environmental problems that reduce the productive capacity of the land and water or that cause environmental degradation. Financial assistance would be a portion of the cost of the installation of conservation measures. It is the intent of the conferees that the local ASC committees continue to be used in accordance with provisions of the act and criteria established by the Secretary to determine the types of conservation problems that exist on farms and ranches, the priority of such problems, and the practices needed to solve them. This provision was taken in large part from the Senate bill and is comparable to a measure reported by the Subcommittee on Conservation and Credit of the House Committee on Agriculture.

Aquaculture. Aquaculture and human nutrition are added to the basic functions of the Department of Agriculture by the conference substitute. The Secretary is given authority to cooperate with other governmental agencies for the conservation, development, and utilization of water for aquaculture purposes. In addition, the FmHA is authorized to make loans for aquaculture under the business and industrial loan program.

Congressional approval of watershed projects. This section raises from $250,000 to $1 million the amount of any watershed project which requires approval by appropriate congressional committees.

Watershed loan authority. The amount a local watershed district may borrow from FmHA to finance the local share of a watershed project is raised from $5 million to $10 million.

Congressional approval of R.C. & D. project loans. The amount a local sponsor of a resource conservation and development project can borrow from FmHA without approval of the appropriate congressional committee is raised from $250,000 to $500,000.

Rural community fire protection program. The Secretary is required to work with the General Services Administration to encourage the use of Federal excess personal property by rural firefighting forces. Authorization is extended to fund the program at not to exceed $7 million annually.

Authority to defer FmHA loan payments. The Secretary is authorized by the conference substitute to use the funds of the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund to make installment payments of principal and interest to holders of notes of FmHA borrowers whose payments have been deferred by the Secretary.

Critical lands resource conservation program. The report authorizes the Secretary of Agriculture to provide, for the purpose of promoting conservation of soil and water, incentive payments of up to $30 per acre for farmers in the Great Plains conservation program area under 2-year agreements to convert certain cropland from soil depleting crops to soil conserving cover crops. Up to 50 percent of a farmer's acreage which had been planted to any soil depleting crop or crops in any of the two preceding years would be eligible. The agreement will be annually renewable after the first 2 years.

The Secretary is authorized to provide for preservation of cropland, crop acreage, and allotment history for acreages diverted to vegetative cover for the purpose of a Federal program under which history is used as a basis for an allotment or for participation in a program.

TITLE XVI—GRAIN INSPECTION

The conference substitute contains provisions for 100 percent funding of grain inspection supervision costs by the government, reduced reporting requirements for small elevators and establishment of an advisory grain inspection committee. The conferees deleted a provision contained in the House amendment which would have prohibited grain inspectors from testing hard red winter wheat for dark, hard and vitreous kernels.

In the statement of managers the conferees specified factors that the Secretary could take into consideration in making determinations regarding waivers of conflict of interest provisions for boards of trade, grain exchanges and other inspection agencies.

TITLE XVII—WHEAT AND WHEAT FOODS RESEARCH

The conferees agreed to include the Wheat Food Research and Nutrition Education Act provisions of the Senate bill in the act with an amendment exempting all retail bakeries. This title provides for an orderly procedure whereby a Wheat Industry Council, financed through an assessment on end product manufacturers, will develop a coordinated program of research and nutrition education. This program is designed to improve and enhance the quality and make the most efficient use of American wheat, processed wheat and wheat end products, to help ensure a better and more adequate diet for all Americans as well as foreign consumers.

TITLE XVIII—ADVISORY COMMITTEES

The conferees adopted provisions of the Senate bill relating to advisory committees in the Department of Agriculture. The major provisions of the advisory committee section of the bill would provide guidance to the Secretary on establishment, direction, and reporting requirements for advisory committees.

In recent years there has been a proliferation of advisory boards and committees in the Federal Government. Today there are more than 1,200 Federal advisory bodies with 22,000 members and a combined declared budget of $50 million. The language in this legislation is an attempt to deal with this proliferation of advisory committees as it applies to USDA.

The provisions of the section are limited in application to the nonstatutory advisory committees of the Department of Agriculture. Excepted would be any advisory committee established by statute, reorganization plan, or the President.

Mr. Speaker, I urge that the Members join me in supporting the conference report to accompany S. 275.

Mr. Speaker, I yield 5 minutes to the distinguished vice chairman of the Committee on Agriculture, and chairman of

the Subcommittee on Livestock and Grains, the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, for some years it was my responsibility to present agriculture bills and reports to the House. Three years ago I was relieved of that responsibility. Frankly, at that time, being an egotistical sort of person, I wondered who was going to be able to present the problems of agriculture to the House.

Fortunately the next man in seniority on the committee was the gentleman from Washington (Mr. FOLEY). The House named him chairman of the Committee on Agriculture, and we have never made a better choice. TOM FOLEY has been able to bring the problems of agriculture to the attention of many Members who think that milk is produced in cartons.

He has more successfully told the story of universal dependence on agriculture than it has been told in this House for the last 40 years. In so doing, he has not only served farmers, he has served our country and all its people.

TOM has done an outstanding job in the committee. Our committee has always been noted for its "prima donnas." Everyone of us thinks we know more than our colleagues, and very few of us are reluctant to express our views. TOM has exhibited the patience of Job. He has allowed each Member the opportunity to express himself, and finally he has gotten a majority to agree on a program. I want to publicly pay tribute to his work.

Many times it seemed impossible to get agreement on a farm bill to bring to the floor, but our chairman's patience has won out in the committee, on the floor, and finally in the conference.

Today we have a finished product, which gives farmers a very substantial degree of needed help—now; and it is within the limits of Presidential budgeting. We have a bill, which sets a course for the future. I hope it will be known as the Foley bill.

Now, Mr. Speaker, rather than taking the time of the Members for a detailed discussion of the provisions, I would refer you to the RECORD and urge that we approve this report with all possible dispatch.

Mr. WAMPLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to join my distinguished colleague, the vice chairman of the Committee on Agriculture, in the very appropriate tribute that he has made to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. Speaker, although I have mixed emotions about the conference report we are considering, I feel we have achieved much of which we can be proud and some of which we should be concerned. I think my colleague and fellow committee member, the gentleman from Kansas, Mr. SEBELIUS, summed up the legislation very well when he said:

> We ended up with less than we need, more than we expected and about all we could get—given the opposition from the White House and the makeup of the Congress.

I concur in my colleague's summation.

At the same time, I believe we have a better bill by far than we could have ended up with—largely because of the tireless efforts of the chairman of the Agriculture Committee, Mr. FOLEY, and the initiatives of Members on both sides of the aisle. In particular, I would like to single out for praise the work of Republican members of the committee who were responsible for approximately 40 amendments—which I consider an accomplishment well above average for legislation of this kind.

In fact, I believe these amendments contributed so substantially to this legislation that I would like to take a few minutes to discuss some of the major ones sponsored by Republican members.

Although I do not want to sound too partisan a note, I do want to commend my Republican colleagues on the Agriculture Committee for amendments they sponsored which helped to make this legislation as acceptable as possible. I can tell you that this is a far better bill because of their efforts.

Let me cite quickly a few of these contributions:

To help President Carter keep his campaign promises of grain supports pegged to cost of production, Mr. SEBELIUS of Kansas cosponsored an amendment which raises wheat target prices to $2.90 a bushel. Although this amendment was first proposed by Mr. JOHNSON of Colorado in the Subcommittee on Livestock and Grains, it was rejected at that time and revived later by Mr. SEBELIUS and Mr. ENGLISH of Oklahoma on the House floor where it was adopted.

The gentleman from Kansas (Mr. SEBELIUS) deserves high marks for a number of other amendments he sponsored which were approved either in committee or on the House floor. For instance, he cosponsored with the Committee Vice Chairman POAGE of Texas the critical lands resource conservation program which is incorporated in the final version of this bill. This amendment gives the Secretary of Agriculture authority to establish multiyear set-aside contracts to put marginal cropland in the Great Plains into soil conserving crops. Livestock grazing and haying would be prohibited except in natural disaster areas.

To insure a more effective grain inspection system, my Kansas colleague sponsored an amendment which shifts inspection fees from users to the Federal Government. Although it failed in committee, this amendment was adopted on the House floor. Another amendment by Mr. SEBELIUS allows the Federal Grain Inspection Service to continue to conduct analysis of the percentage of dark, hard, and vitreous kernels in hard red winter wheat. This proposal also failed in committee but was adopted on the floor.

The Sebelius amendment providing research into wheat and wheat foods uses was originally adopted in committee and retained in the bill as it was approved. This measure will be of long-range benefit to wheat producers as well as wheat users.

Another amendment by Mr. SEBELIUS provides the Secretary with authority to pay farmers under a special wheat grazing and hay program up to 40 percent or 50 acres of their wheat acreage planted for harvest when conditions merit such action. His amendment was adopted in subcommittee and retained by the full committee and the House and the conferees.

An amendment by Mr. FINDLEY, of Illinois, which was adopted on the House floor, contains a competitive access provision for both wheat and corn loans that gives the Secretary of Agriculture the authority to reduce the loan rate by as much as 10 percent in 1 year if the average market price declines to within 105 percent of the loan rate.

Under this amendment, the Secretary is required to increase the target price as necessary to insure that producers would not suffer a loss of income as a result of the lower loan rate. The purpose of this provision is to keep the loan rate from interfering with grain exports.

An amendment by Mr. THONE, of Nebraska, which was adopted in full committee and retained in the bill, provides for target price deficiency payments for wheat and feed grains in 1978 and subsequent years based on the producer's share of the national farm program.

In this regard, an amendment by Mr. HAGEDORN of Minnesota, which was adopted by the House Agriculture Committee and retained in the final version of the bill, requires the Secreary to announce the wheat set-aside and national wheat acreage program by August 15 each year. Needless to say, this provision is invaluable to wheat farmers in planning ahead.

Mr. THONE's efforts to improve the bill ranged into other areas as well. Along with Mr. HARKIN of Iowa, he cosponsored an amendment to raise the corn loan and target price.

With the Nation facing an energy crisis, Mr. THONE came up with the so-called "gasohol" amendment which provides for research into the extraction of hydrocarbons and alcohols from agricultural commodities. This amendment, which was carried through from committee to final passage, could be of long-term value to the country as well as the agricultural community.

Mr. JOHNSON of Colorado can be credited with major amendments to plug loopholes in Public Law 480 which have generated scandals in that program. His amendments call for purchases of food commodities financed under Public Law 480 to be made on the basis of invitations for bids received and publicly opened in the United States. One provides that commissions, fees or other payments to any supplier of a commodity or ocean transportation financed by CCC to agents, brokers and so forth, be reported to the Secretary of Agriculture.

In what was perhaps the most controversial section of the bill—title XIII dealing with food stamps—a number of amendments by House Republicans were designed to improve the program and achieve real reform. Unfortunately, most of these amendments were defeated either in committee or on the House floor. As now written, this section fails to come to grips with real reform by per-

mitting high-income families above the poverty level to remain eligible for benefits.

One amendment by Mr. FINDLEY of Illinois, aimed at improving the food stamp program, would have permitted States and localities to establish "workfare" projects at their option under which food stamp recipients would be allowed to perform public service work in exchange for their allotment of stamps. Although this amendment was not incorporated in this form in the bill, as a result of his efforts 14 pilot projects will be established in various regions of the country to study the feasibility of the concept. This is at least a start in the right direction.

An amendment by Mr. HAGEDORN provides that food stamp issuance be limited to U.S. citizens and lawfully admitted aliens. The amendment was adopted in full committee and remains in the bill.

Two pilot studies were set up under amendments sponsored by Mr. JEFFORDS of Vermont. One study is designed to test the feasibility of recovering excess benefits paid to food stamp recipients whose annual adjusted gross income exceeds twice the poverty level. Another study is aimed at determining whether States should be allowed the option of issuing cash in lieu of stamps to the elderly, blind, and disabled.

To make sure Congress is kept abreast of problems in the food stamp program, an amendment by my colleague, Mr. SYMMS of Idaho, requires the Department of Agriculture to report to the Congress quarterly on how the program is working, the number of persons using it and expenditures to date as well as the effects of the elimination of the food stamp purchase requirement.

An amendment by my colleague, Mrs. HECKLER of Massachusetts, provides that persons who obtain food stamps fradulently be disqualified from the program for specified time periods, depending upon the severity of the fraud.

Other amendments dealing with commodities in this legislation help to make it a better bill, in my opinion.

An amendment by Mr. FINDLEY is responsible for exempting soybeans from the general set-aside program for wheat and other feed grains because soybean growers' only program benefit is a relatively low loan rate. Another Findley amendment permits a downward adjustment of loans to enable rice to maintain competitive access to world markets in times of low prices, and still another makes rice target price and loan rates escalation criteria more consistent with procedures used for wheat and feed grains.

This Findley principle of the downward adjustment of the level of loans and purchases—compensated to the producer by increasing the target price by an amount necessary to provide the same total return to the producer as if such downward adjustments had not been made—is innovative and free-market-oriented. It was subsequently adopted for other commodities in the bill and is singular in that it is one of few such provisions in the bill which lead farmers and producers away from the 1960's farm polices of huge Government-held reserves disrupting the producer's market.

My colleague, Mr. MOORE, of Louisiana, came up with several amendments which are included in the legislation under discussion. In fact, his bill extending the Rice Act of 1975 was used as a vehicle for markup in subcommittee and its major provisions were retained in the final version of the legislation. The language of one provision, limiting rice deficiency payments to actual planted acres, was later adopted for wheat and feed grains.

Mr. MOORE was also cosponsor of an amendment which revises the way in which cotton allotments are computed. This was added to the bill during floor debate.

My able friend from Louisiana, Mr. MOORE, also introduced an amendment to make provisions of the farm storage facility loan program mandatory under the law instead of at the discretion of the Secretary. This amendment was included in the bill with only minor changes.

Mr. Speaker, as I said at the outset, there were at least 40 amendments sponsored by Republican members of the Agriculture Committee as well as amendments by minority members who do not serve on the committee—all of which were incorporated in the 1977 farm bill.

For instance, an amendment by Mr. PRESSLER of South Dakota places a 7-percent ceiling on interest rates on loans for construction of grain storage facilities. Another by Mr. FISH of New York broadens the definition of solar energy to include energy derived for farm use from sources other than fossil fuels.

To head off future problems with high rollers who deal in American commodities, an amendment by Mr. LEACH of Iowa allows the Department of Agriculture to act as purchasing agent for a foreign country in Public Law 480 sales. An amendment by Mr. ABDNOR of South Dakota extends target price payments to oats and one by Mr. QUIE of Minnesota adopted on the floor exempts small bakers from the elaborate record-keeping requirements of the wheat and foods research and nutrition program.

If time permitted, Mr. Speaker, I could go on—and in greater detail about the efforts of members of the minority as well as the majority to develop a better bill. All in all, however, I believe we have a bill here which makes a major start toward meeting many of the problems of agriculture confronting us by the expiration of the farm programs contained in the 1973 and 1970 laws.

Mr. Speaker, I commend the Members on both sides of the aisle for their contribution to this legislation and salute the distinguished and able chairman of the Agriculture Committee, Mr. FOLEY of Washington, for his dedicated efforts which helped to produce it.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I am happy to yield to the distinguished gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Speaker, the most able gentleman from Virginia (Mr. WAMPLER) in his usual modesty skipped over one of the most important titles of this bill that he primarily authored, and that is title XIV. He was given great support from the gentleman from Arkansas (Mr. THORNTON).

I might quickly add that Congressman WAMPLER is known on our Ag Committee, and here in Washington, as "Mr. Agriculture Research."

Title XIV of this legislation once again designates the Department of Agriculture as the top Federal agency for research, extension, and teaching in the food and agricultural sciences, and as I previously indicated this is mostly the work product of the gentleman from Virginia. We salute you, "Mr. Ag Research," and I wish to take this opportunity to set forth in some greater detail the major contributions which Mr. WAMPLER has made to this farm bill.

Inasmuch as I was a conferee on this bill, let me start with one title to the bill with which I was pleased and proud to note that Mr. WAMPLER played a major part in writing. I am referring to title XIV, which once again designates the Department of Agriculture as the lead agency in the Federal Government for research, extension and teaching in the food and agricultural sciences.

Why is this title so important?

Chiefly, because it restores agricultural research, too long neglected for too many years, to its rightful role in American Government and to its proper place on the list of our national priorities. Let me elaborate on what he has achieved.

For the most part, the conferees adopted the main thrusts of the House bill which specifically direct the Secretary of Agriculture to:

Establish adequate national goals, policies and strategies for research, extension and teaching;

Coordinate these goals, policies and strategies as the lead agency in the Federal Government in the food and agricultural sciences;

Provide a mechanism for identifying the Nation's priorities for food and agricultural research, extension and teaching to assure that high priority research is funded, and that these activities are effectively planned, implemented, coordinated and evaluated;

Assure the continuation and orderly growth of existing research activities and the cooperative arrangements that exist between the Federal Government and the States and their institutions.

Additionally, the conferees agreed with the provisions in the House bill—mainly the Wampler bill—to give the Secretary new authority and direction to:

Establish new competitive research grant programs;

Expand existing research activities;

Expand support for research facilities;

Expand the Cooperative Extension Services in support of food and agricultural science research;

Reestablish educational training programs for the training of young scientists and researchers to support expanded research and extension activities required by this act.

It is interesting to note that the conferees also agreed to include additional

language in the Senate bill which further expands research facilities authorizations, particularly in support of animal health and disease research.

The Senate version providing for programs for animal disease and health care research was adopted, as was the House provision to authorize funds for construction or expansion of new and existing schools of veterinary medicine.

Moreover, a compromise was devised which retains the general thrust of the House bill with respect to the establishment of a Joint Council on Food and Agricultural Science and a National Agricultural Research and Extension Users Advisory Board. The House agreed to the Senate provision setting the duration of these boards at 5 years instead of 2 as provided in the House bill.

The conferees also adopted the House version of the composition of the Joint Council, but adopted a compromise of the Senate's version of the users advisory board.

Perhaps one of the most important provisions adopted from the House bill was the 5-year progressive authorization for agricultural research, extension and teaching programs. The effect of this is to nearly double current funding authorizations for the food and agricultural sciences by fiscal year 1982. The statement of managers expressed their intention that this program be continued after 1982 and that early oversight hearings be held and that funding levels for these programs for future years be considered and enacted well before fiscal year 1982.

In addition, the conferees adopted the House bill containing provisions to:

Establish a national agricultural research award;

Provide grants for hydrocarbon and alcohol research development;

Support added research and extension at the 1890 land-grant colleges and at Tuskegee;

Study and evaluate the Extension Service and the State Cooperative Extension Service, organic farming, weather and water allocation, and agricultural research facilities across the country.

The conferees compromised by adopting parts of each of the two versions involving small farm research and extension and solar energy research and development.

It is my hope, and I know it is Mr. WAMPLER'S hope, that this initiative by the Congress to get these basic agricultural programs back on the track will not require continual congressional oversight. However, if that action becomes necessary, this legislation in which he played such a major role in writing, provides the Congress with the necessary tools for such oversight. I would hope instead that the executive branch would never again allow such an important function of Government to fall into such a sad state of affairs and I am sure Mr. WAMPLER will be giving these programs his personal oversight to insure that agricultural research is given appropriate attention in the future.

For the next 5 years, the mechanisms and the authorization for funds are here in this legislation to assure our people that our farmers will have the capabilities and the tools to produce the food, fiber, and wood products for the future needs of our people. It will also provide us with an expanded food export capability to be used to pay for needed foreign products, such as oil, or to be used in times of world food crises. In my opinion we have Mr. WAMPLER to thank for this outstanding legislative achievement.

Mr. WAMPLER. I thank the distinguished gentleman from Nebraska.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise to give some budget perspective to the conference report we are considering today. I have tried to caution the House about the potential costs of the farm bill, and in the past that caution has been discarded. In my opinion, we now have a costly farm bill that allows the Secretary of Agriculture considerable leeway to increase outlays even further.

This farm bill provides for entitlement legislation to support farm commodities and food stamps as well as a number of expanded authorizations for agriculture research and others. I am most concerned over the farm commodity programs.

In this bill, the Secretary of Agriculture continues to hold broad discretion over entitlement benefits in some programs. The situation now is that the agriculture function is already more than $4 billion over the President's recommended budget and $2 billion over the first budget resolution for fiscal year 1978. The Secretary can and does authorize changes in commodity support formulas that result in mandatory payments. Indeed, his decisions could cause the second budget resolution amounts for agriculture to be exceeded without any further action by Congress.

The gentleman from Washington (Mr. FOLEY), the distinguished chairman of the Committee on Agriculture, offered an amendment when the second budget resolution for fiscal year 1978 was being considered by the House to add $200 million to the agriculture function. That amendment in large part took into account such decisions made by the Secretary after our budget resolution was reported. Furthermore, recently released Department of Agriculture estimates on September 12 for the agriculture function indicate the administation is already prepared to make a number of decisions after this bill is adopted that will overspend this already expanded function by perhaps another $1.3 billion. Additional anticipated action initiating new target price supports on certain commodities and expanding export supports can easily cause this function to be exceeded by more than $2 billion. We are talking about possibly $8.3 billion in supports and expenditures for agriculture, separate and apart from food stamps, I might add. As chairman of the Committee on the Budget, I feel a responsibility to highlight this spending problem.

Some of you complained yesterday when we took up the second budget resolution as to why our deficit was so high. This is one of the classic reasons why our deficit is in the neighborhood of $60 billion—additional huge expenditures for items like agricultural price supports.

I hope this administration will take note of the problem. The Secretary of Agriculture has been given considerable discretionary authority in this farm bill. No congressional budget can be meaningful without cooperation from the administration.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FOLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Connecticut.

Mr. GIAIMO. I, for one, urge the Secretary to use his discretionary authority responsibly in administering these programs over the next few years to keep the costs of agriculture within reasonable budgetary limits. To date we have failed to do so in this legislation, and we are once again, in my opinion, on our way to horrendous governmental outlays for agriculture.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

I congratulate the chairman of the Committee on the Budget for sounding this warning, this alarm, of which we should all take heed. In my opinion, his forecast is absolutely sound.

The outlays for this bill will exceed by $1 billion at least the estimates from the CBO, and probably $2 billion. We can help moderate that by giving some legislative history here today.

Mr. GIAIMO. I thank the gentleman.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I was not going to say anything about this bill until the gentleman from Connecticut (Mr. GIAIMO) the chairman of the Committee of the Budget, and the gentleman from Illinois, (Mr. FINDLEY) took the floor and reminded us of the cost of this farm bill. Their discussion leads me to remind these gentlemen, who, I am sure, are going to support the next bill that is up on the agenda today—the conference report on the costly International Financial Institutions bill—that the Congress is going to have a problem explaining a certain inconsistency to the people in Illinois, the people in Connecticut, and the people in Iowa: that is, in passing this farm bill we hear complaints about the cost of supporting American agriculture, and yet we are willing on the next bill to give away $12 billion around to world with hardly a word of objection.

The people of this country just do not understand the willingness of this Congress to give away $12 billion in foreign aid and loans without batting an eye and the same day to refuse to recognize and solve problems in this country or if we do recognize the problems, lend

help only grudgingly. Frankly I do not understand it either.

The point is that we do have a great many problems here at home. We are lucky that our farms produce so much that we never have to complain about shortages. But we can not sit back and think that without some kind of support this bill will go on forever. If we do not help our farmers stay in business, then all America loses. And because the American farmers through their ingenuity and efficiency are subsidizing the production of food around the world to the point where food is cheap, if American farmers go broke the whole world loses.

Nonetheless, here we are complaining about the cost of this farm bill. It surely does not seem to make sense. It seems that we are really subsidizing foreign inefficiency with billions of dollars in loans and aid, and not giving a hoot about helping our farmers here at home who are almost being accused of being too efficient.

Billions to help other countries without a murmur, but complaints when we try to help the farmers in America. Now where are our priorities?

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas (Mr. SEBELIUS), the ranking minority member of the Livestock and Grains Subcommittee.

Mr. SEBELIUS. Mr. Speaker, I thank our ranking minority member for yielding.

I would like to pay tribute to the gentleman from Texas (Mr. POAGE), who made a remarkabe and wonderful speech today. I have great admiration for him. His remarks about our chairman, Mr. FOLEY, were excellent and I want to associate myself with them. I would also pay tribute to the ranking minority member, Mr. WAMPLER, who exhibited the same type of patience with us and leadership as did the chairman of the committee.

I had some disappointments in this conference report. We lost some things the House had in the bill. By and large, I think it is a good conference report.

Mr. Speaker, I believe the benefits of the Food and Agriculture Act of 1977 outweigh what I consider to be some real problems within this legislation, and I ask my colleagues to join me in support of this conference report so that it may be signed into law as quickly as possible.

As my friend and respected colleague, Mr. POAGE, of Texas, has stated so many times in regard to farm legislation, the bill before us is not the best possible farm bill but rather the best farm bill possible. Politically speaking, if President Carter's campaign promises represent a full loaf, this bill represents about a half to three-fourths of a loaf.

Nevertheless, I believe the conference committee, of which I was a member, was able to make some constructive improvements in the provisions of the farm bill dealing with payment limitations, Public Law 480, Federal grain inspection, the wheat and wheat foods research and nutrition education, and the sugar program.

In addition, there are many beneficial aspects within the wheat and feed grain titles that should be of real help to our grain producers who are in the midst of what we hope will be a short-term economic crunch. In this regard, however, I am sorry we were unable to adopt the $3.10 target price for wheat for 1978 and note that the escalator formula for 1979 to 1981 provides little, if any, cost or inflation cushion.

I am also very disappointed that the administration lobbied strongly to defeat the provision that would have enabled summer fallow farmers to idle not more than 55 percent of their wheat, feed grain, and cotton acreage in order to qualify for farm program benefits when a set-aside program is in effect.

The loss of this exemption was a defeat that will have serious economic repercussions throughout High Plains wheat country. Department of Agriculture statistics show that in Kansas the summer fallow acreage and production over the past 5 years has remained fairly constant and that the increased wheat production can be attributed to such continuous cropping states as Ohio, Indiana, Illinois, and Minnesota where production increased by as much as 300 to 400 percent. There is adequate rainfall in these States to permit farmers to switch to alternative crops during times of depressed wheat prices.

However, the High Plains summer fallow farmer must live or die with the wheat market. For the USDA to require them to set aside the same percentage of land I believe is both punitive and discriminatory.

I am also concerned over the loss within conference of the short-term loan extension and reseal program whereby grain producers could have extended their Commodity Credit Corporation loans for a second and possibly a third year, without interest and with modest storage payments. Instead, we have a 3- to 5-year grain reserve for both wheat and feed grain that will act as a sophisticated and selective form of price controls on the grain farmer. The trigger mechanisms in the reserve will dribble grain onto the market, keep markets depressed and act as a disincentive to production and finally result in the farmer becoming more and more reliant on Government price supports for his income.

Finally, while the implementation of the set-aside program cannot be legislated, I am concerned in regard to how the administration is implementing the farm program through the various agencies of the USDA. The preliminary decisions regarding the administration of the set-aside program and the continued delay is causing concern and confusion among wheat producers in the midst of planting throughout the High Plains. I am hopeful the USDA can resolve the set-aside program policy decisions as soon as possible.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, at this time I would like to enter into a colloquy with the distinguished chairman of the subcommittee of which I am a member, the Subcommittee on Dairy and Poultry. It has come to my attention that there is some confusion over the wording accepted in the conference relative to the dairy provisions relative to price supports. As author of the House version I want to make sure that my understanding was correct and whether or not that is the chairman's understanding also.

My understanding is that the Senate version was accepted primarily because the conferees believed the dairy farmer provisions with respect to the price support level of 80 percent ought to be for 2 years instead of 4 years, which was the House version, and that was the primary area of controversy. They decided to treat the dairy farmers differently from other farmers in the bill. The matter of concern which some have raised is over the word "such" used in referring to the provisions regarding the semiannual adjustments, that was not the reason for accepting the Senate version.

Our intention was that we would be looking back, as is the normal case in readjusting that semiannual provision depending on what happened to parity in the last 6 months and not looking forward. I wonder if that is the understanding of the gentleman from North Carolina?

Mr. ROSE. Mr. Speaker, if the gentleman will yield, I would say to my distinguished friend on the Subcommittee on Dairy and Poultry, that is my understanding and it was the understanding of all of us on the conference, that when the Secretary is authorized to adjust price supports on a semiannual basis, that it shall be for what has occurred during the preceding rather than what might be occurring during the prospective period of time.

I would also say to my friend that in the bill as it is before us in the conference report there is a typographical error on page 9 that indicates that the minimum price support shall be 30 percent of parity. It is 80 percent, as the gentleman so correctly stated. It is a printing error and will be corrected in the enrolled bill.

Mr. JEFFORDS. I thank the chairman for his words. I also commend him for the excellent job he has done as chairman.

I will now offer some general comments on the conference report.

This legislation is an opportunity to be of real service to both the consuming public and the dairy producers of America. There are two significant improvements in the dairy price support program authorized by the Agricultural Act of 1977. The first is raising the price support floor from 75 to 80 percent of parity for a 2-year period. The second change will require a semiannual adjustment by the Secretary of Agriculture of the parity level which he establishes at the beginning of each marketing year. This adjustment will allow our producers to keep pace with inflation while also stabilizing consumer prices at the marketplace. Although I am pleased with these moves it is disappointing that

the Senate did not see fit to treat dairymen on a 4-year basis like all other farmers.

During the past 3 years Congress has taken positive action on similar legislation several times. Those successful attempts carried a quarterly adjustment. I feel strongly that we should be accepting quarterly adjustments here today, however, I can understand some of the arguments against such a move. The semiannual adjustment is a definite step in the right direction. From June 1973 to June 1974 you will remember the tragic situation our farmers and consumers faced when the price support floor plummeted as a percent of parity, farmers left the business in great numbers and as supplies tightened the consumers' over the counter cost rocketed. It has been estimated that erratic market situations not only cost America the loss of many top dairy farms but also cost our consumers an additional $3.2 billion over that which would have been experienced in a stable market. Today we are faced with that same potential hazard as we see the price support floor slipping once again. During the Presidential campaign of 1976 in Wisconsin, candidate Carter indicated that 85 percent of parity was absolutely necessary. On April 1, our new Secretary of Agriculture, Bob Berglund, and President Carter, both active farmers, well recognized the plight of the American dairy farmer and took positive action by establishing the price support floor for the 1977 marketing year at 9 hundredweight or approximately 83 percent of parity. The 9 figure has never really been achieved and as farmers costs continue to rise the facts show that the price support floor farmers are receiving today has dropped from the approximate 83 percent of April 1 to 78 percent as of last evening. With the proposed semiannual adjustment in H.R. 7171 the Secretary would adjust the support floor back to 83 percent on October 1. Without this adjustment the percent of parity could well fall to the 70 percent area by next April 1 and this would be disastrous. When we look at the prices farmers are receiving for all commodities as a percent of parity we find that figure to be 67 percent of parity, the second lowest figure since the depression of the 1930's. Things are not good.

I urge my colleagues to once again show their support for the dairy legislation we have before us today.

Also, the bill before us today strengthens the dairy indemnity program. The purpose of the indemnity program has been to provide the American dairy farmer with some protection against catastrophic events beyond his control. This has not been a costly program in that the annual expenditure is somewhere between $150,000 and $200,000.

The strengthening provisions of this bill deal with protecting those farmers whose products are barred from the market due to radioactive fallout contamination. In the recent past several Pennsylvania dairymen experienced such fallout as a result of experimentation and testing done in China. These farmers had to shoulder this loss in total.

The beekeepers indemnity program is also continued in this legislation.

In the legislation also is the extension of the following authority: First. The authority for Commodity Credit Corporation to transfer stocks of dairy products to military and veterans hospitals. Second. The authority for base plans under Federal milk market orders including the Louisville plans, seasonal base plans, and class I base plans.

Furthermore, title XI dealing with Public Law 480 carried a provision giving the Secretary more flexibility then previously experienced. Many times in the past CCC has had stocks of dairy products which, due to bookkeeping procedures and fact that dairy stocks must be valued at their purchase price, have not moved in the foreign aid program. This legislation allows such stocks to be valued at the export market price at the time the commodity is made available to the program.

Also, I was proud to offer along with my colleague, GEORGE BROWN of California, title XIV of H.R. 7171.

The keystone of this legislation is the establishment of demonstration solar farms, located in every State, to demonstrate practical solar alternative for farm use. This title will provide new funding for alternatives in the agricultural research service, and brings the results of the research to the grass roots level through the agricultural extension service.

This type of activity by the Government, I believe, is essential. Farmers are practical people, and they are not likely to invest in a solar milking parlor, for example, unless they can see one in actual operation, get good advice on how to run it and how to repair it when it breaks down and obtain solid data on how it will fit fiscally in their operation. The agricultural extension service is well equipped to carry out those important functions.

Also I desire to make some comments on the food stamp provisions. I wish to express my grave disappointment that the elderly cash-out provision, passed by the House, was deleted in conference. As I said upon introducing that amendment, I feel that the cash-out provision was the most important reform that could be enacted to enable the elderly, blind, and disabled to fully partake of program benefits. To that end, I expect the Department to fully and fairly test the pilot cash-out projects as they stated that they would do in conference.

Although the cash-out provision was deleted, there remain several provisions of major importance to the elderly. Again, I expect the full and expeditious implementation of these provisions by the administration. First, the Secretary is authorized to use a 1-year certification period for the elderly and others on fixed incomes. The 1-year certification period should become the rule rather than the exception when dealing with the authorized classifications of individuals.

More importantly, the bill contains a provision which permits SSI recipients to apply for food stamp benefits at the Social Security Office. It is possible that some problems may develop in the implementation of this provision, or that there may be some reluctance on the part of the Department of Health, Education, and Welfare to become involved in the food stamp certification process. Therefore, it is of the utmost importance that interagency agreements to develop a workable certification procedure are given careful consideration and are not confined to more traditional methods of certification. If the New York experience is valid, there is no reason why SSI recipients could not be introduced into the program through a mail application process. Similarly, where interview processes are used, it is not intended that the Social Security Administration become the prime certifier for food stamps. They should merely collect raw data, which can then be used by food stamp offices to complete the eligibility determination process. In short, this provision is designed to allow low-income people receiving fixed incomes to more fully participate in the food stamp program, and thus efforts should be made to bring those people into the program with the sole caveat being to avoid excessive error rates.

The bill before us is also deficient in that it does not contain the recoupment provisions that I offered on the floor. This is unfortunate because recoupment provided the only mechanism for the recovery of funds received by households with high annual incomes or from households that obtained benefits through fraud or misrepresentation. The only penalty now provided for fraud is to disqualify the individual for 3 months after a State hearing, or for 6 to 24 months after a court determination of fraud and recommendation of disqualification. The act is totally silent on any punishment in nonfraud instances of overissuance, nor does it permit involuntary recovery of overpayments to participating households. It is, therefore, important that the study of the recoupment provision be completed as soon as possible so that this deficiency can be corrected if necessary.

Unfortunately, the bill does not include a provision offered by Representative MCHUGH, and approved by the subcommittee, which would prevent the imposition of State sales taxes on food stamp purchases. The act does, however, envision a uniform coupon allotment for the 48 States and the District of Columbia, based on an average of regional differences in food costs, State sales taxes, and other elements that make up the cost of food to recipients.

Finally, I want to comment on the compromise reached on the excess shelter and dependent care deductions. Even though the best of both the Senate and House bills would have provided better protection for current recipients, the compromise does represent a fair treatment of shelter and dependent care costs which severely restrict the food purchasing power of low-income households. I am particularly pleased to see that the committee retained the concept of indexing the deduction ceiling, which was introduced by Representative

McHUGH and myself in this body. Indexing the excess shelter deduction will mean that the deduction, for the costs of those items allowed under the current program regulations and instructions, will better keep pace with inflation.

Finally, I want to commend the ranking minority member, Mr. WAMPLER, and the chairman of the Agriculture Committee, Mr. FOLEY, for the capable resolution of the many complicated issues presented in conference on the agriculture bill. Although I fully intend to support the provisions of the bill, I did want to comment on several of the food stamp provisions contained in title XIII and the other matters I discussed above.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Virginia for yielding.

I just want to make an appeal to the gentleman from Washington or someone on this committee to address themselves to the food stamp provisions of this bill. As I read it this legislation over the next 4 years authorizes almost $24 billion for the food stamp program.

You have gutted the workfare provision from 51 target projects in each State and the District of Columbia down to 14 workfare targets that must have congressional approval. I doubt that the liberal majorities in Congress will ever approve a meaningful workfare programs?

What about the food stamp programs? Cannot somebody explain the billions of dollars that may be thrown away in this bill?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield what little time I have, if the gentleman can explain it in 10 seconds.

Mr. FOLEY. Mr. Speaker, I would not presume to attempt to explain the whole food stamp section in 10 seconds, or whatever remains of the gentleman's time.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. FOLEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just want to clear up the matter of the so-called workfare requirements. We have not, as the gentleman indicated in his remarks, gutted that provision of the bill. It was the judgment of the conferees that there be two pilot projects in each one of the seven regions into which the United States is divided by the Department of Agriculture for purposes of administration of the food stamp program. It was suggested that one rural and one urban project be established in each of those regions and that those projects be submitted to the committees for prior approval of project sites and the agencies, organizations, or contractors that will be involved. However, I want to assure the gentleman that the statute as passed, if the conference report is adopted, will require those projects to go forward and they will go forward.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I rise in support of the conference report on the Agriculture Act of 1977. I want to congratulate the distinguished chairman of the Agriculture Committee, Mr. FOLEY, and our colleagues who served on the conference committee for the excellent job they did in representing this body.

No piece of legislation as complicated as this will fully satisfy every Member. In my own case, I was especially concerned that the provision establishing an International Emergency Food Reserve was dropped in conference. That is why I have introduced legislation to establish such a reserve, and it is my hope that the responsible committees will act promptly to enact this legislation. The Secretary of Agriculture has idicated his support for such a reserve, and I believe that we should move now to provide him with such authority.

Having said this, I should also say that the bill before us is a good piece of legislation which deserves the support of every Member. I would like to direct my comments primarily to the food stamp provisions of this bill.

During the last two sessions of Congress, our Committee on Agriculture has spent a great deal of time and energy in the formulation of food stamp policy. The adoption of the conference report today will mark the end of over 2 years of review of this program by the Congress.

Although the food stamp provisions contained in this bill do not represent everything I would like to see in it, especially in view of the reduction in benefits that will be imposed upon some recipients in the Northeast, they represent on balance a carefully thought-out program.

I am especially pleased with the treatment of deductions in the conference report. As I am sure you will recall, one of the major goals of our reform efforts has been to simplify program administration. The new system of deductions should help achieve that goal.

It is not as simple as many had hoped because we learned very early that a single standard deduction would result in a serious erosion of benefits to people who currently reside in high cost-of-living areas of the Nation. For that reason, I proposed and the committee adopted an amendment to retain the excess shelter deduction. In addition, because of the expenses involved in caring for the children of working mothers, a dependent care deduction was also adopted.

The House and Senate versions of the shelter and dependent care deductions differed in a variety of ways. However, on the basis of a compromise developed by Senator LEAHY of Vermont, the best parts of both bills were merged in order to insure equitable treatment under these two deductions.

As reported by the conference committee, the food stamp bill would allow a household to claim the following deductions:

First. A $60 per month standard deduction—indexed semiannually to reflect changes in the cost-of-living.

Second. A work expense deduction of up to 20 percent of gross earned income.

Third. A dependent care/excess shelter deduction of the actual cost of dependent care up to $75 per month—indexed annually to reflect changes in the cost-of-living; or the actual anticipated cost of shelter—rent, mortgage, land contract, gas, electricity, basic telephone costs, water and sewerage, property insurance, and fuel—which is in excess of 50 percent of net income after all other deductions have been substracted, up to a maximum of $75 per month—indexed annually to reflect changes in the cost-of-living; and or a combination of the dependent care and excess shelter deductions up to $75 per month—indexed annually to reflect changes in the cost-of-living.

By far the most important reform contained in this bill is the elimination of the purchase requirement. Without this provision, the bill would have resulted in a major reduction of benefits to low-income households. However, elimination of the purchase requirement will allow several hundred thousand needy people, who could not otherwise afford the purchase price, to receive some level of food supplementation.

Because of the extremely important nature of this provision and its potential beneficial impact on persons who are now eligible but not participating, I hope that the Secretary will do everything possible to insure its prompt implementation, even if this should involve eliminating the purchase requirement prior to the implementation of final regulations.

The bill we are considering couples simplified administrative procedures and mandatory performance standards with elimination of the purchase requirements in order to insure that eligible participants receive their entitlement.

One item that should have a major impact, at least judging from SSI participation rates in New York, is the single application/interview process for SSI recipients.

SSI recipients will now be allowed to apply for food stamps at the social security office rather than having to undergo a dual certification process. In order to insure participation by the needy elderly, it is incumbent upon the Secretaries of Agriculture, and Health, Education, and Welfare to develop simplified systems of information sharing and retrieval. They should also look for alternatives to the standard certification process, such as mail certification, so that the certification of SSI recipients does not become unnecessarily burdensome.

This bill also mandates the States to follow standards developed by the Secretary with regard to points and hours of certification and issuance, and with regard to program staffing.

While the bill does not specify standards for the Secretary to follow, it is clear that he must take into account local practices, and the problems of potential recipients that act as real barriers to participation. This would include making sure that people can be certified for, and obtain, food stamps throughout the month; that working people do not have to take time off their jobs in order to be certified; that individuals with no access to public transportation or who

live in remote areas have access to certification and issuance points; and that people with handicaps, or who are confined to their homes, have an opportunity to participate. In short, the Secretary is expected to develop standards that will make the food stamp program truly accessible to low-income families.

Another major and important reform is the development of standards regarding the length of certification periods. The bill retains much of the current regulatory language on certification periods. However, it is clear that the basic minimum certification period is to be 3 months.

We have heard all too frequently about the problems imposed on both administrators and recipients by the overuse of 1 month certification periods. This practice should be stopped to the extent possible. Nevertheless, we have given the Secretary authority to set shorter certification periods where it helps promote accurate determination of income, and because of the need to tailor the program to the unique needs of certain groups, such as migrants, strikers, persons awaiting benefits under ADC, SSI, and UI, and emergency cases that require action with a very short period of time.

It should also be recalled that the 3-month certification period is only a base, and the Secretary should therefore require the use of longer periods wherever practical, particularly in cases involving the elderly or others who live on fixed incomes.

In conclusion, Mr. Speaker, I want to reemphasize that this bill is not perfect. However, it does represent a major investment of the time of Congress and it is deserving of our support. Consequently, I would urge my colleagues to vote for it so that we can move on to new challenges.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Subcommittee on Department Investigations, Oversight, and Research, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I thank my chairman.

I concur in the statement made by the chairman, the gentleman from Washington (Mr. FOLEY) concerning the hard work and excellent cooperation afforded us by members of the Senate conference, Senator TALMADGE, Senator DOLE, and certainly I think special mention should be made of the tremendous work and moderating influence of the distinguished Senator HUBERT HUMPHREY in the hard work of that long conference.

Mr. Speaker, I would like to associate myself and concur wholeheartedly with the statements made a moment ago by the chairman, the gentleman from Texas (Mr. POAGE) concerning the activities and the attitude and excellent leadership afforded by the chairman, the gentleman from Washington (Mr. FOLEY) to this committee.

With respect to the rest of the conference, I think the House fared well in the aggreements made throughout the conference. Certainly the research section which my subcommittee had the opportunity to work with was excellent and fair as far as the conference was concerned.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. FOLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, also in the amendment concerning sugar, we have it in the conference as it passed the House except for two minor provisions, but doing everything that was the intent and the aim of the House. The administration, hopefully, will implement it as soon as possible carrying out the full thrust and intent of the law as it appears in the conference provisions, and the accompanying report.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. Mr. Speaker, I am happy to yield to the distinguished gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I think it would be most appropriate on the record to note that the distinguished gentleman from Texas serves as chairman of the subcommittee that had jurisdiction over legislation pertaining to the research title of this bill. Without the gentleman's understanding and without the gentleman's patience and without the gentleman's legislative skill, this title of the bill would not have been possible.

I want to thank the gentleman from Texas for his efforts in making this possible.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Georgia (Mr. MATHIS), the chairman of the Subcommittee on Oilseeds and Rice.

Mr. MATHIS. Mr. Speaker, the Food and Agriculture Act of 1977 is one of the most essential and complex pieces of legislation to ever come before the House, and I want to extend my personal congratulations to the distinguished chairman of the Agriculture Committee, Mr. FOLEY, for his outstanding leadership in making this legislation possible. While providing a measure of price support to the agricultural producers of this country, the conference report helps insure, for the benefit of the consumer and the taxpayer, plentiful supplies of food and fiber at reasonable prices.

Of special interest to the area I represent, the legislation continues a workable, though reduced, price support program for peanuts, while opening up new opportunities for expanding sales abroad.

Furthermore, much of Georgia has been devastated by drought, and the revised disaster payment provision in the conference report, made retroactive to 1977, will forestall bankruptcy for countless producers who have suffered unprecedented crop losses this year, especially on corn.

Chairman FOLEY, and the gentleman from New York (Mr. RICHMOND), also deserve credit for tightening up provisions in the food stamp program to prevent fraud and to strengthen the work requirement. By adopting an amendment I offered placing a spending ceiling on the food stamp program, the House and the conference committee have given Congress better control over total program spending.

Mr. Speaker, for the reasons I have outlined, I urge the adoption of the conference report on the Food and Agriculture Act of 1977.

Mr. FOLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RICHMOND), the chairman of the Subcommittee on Marketing, Consumer Relations, and Nutrition.

Mr. RICHMOND. Mr. Speaker, I rise in support of the conference report, because of the stability and financial protection it provides to our Nation's farmers, and especially because of the tremendous strides we have made in reforming the food stamp program.

We have successfully overhauled this vital nutrition program to insure that the most needy persons receive their stamps promptly, while the program remains fully accountable and administratively simple.

We have not reformed this program to respond only to critics concerned about fraud and ripoffs; we have responded to a need to make the program more accessible to millions of hungry Americans who cannot afford an adequate diet.

Elimination of the purchase requirement, long an impediment to participation among the elderly on fixed incomes and those with zero incomes, is a major step forward in insuring that the program meets its intent of providing Americans with a more nutritious diet. Streamlined application procedures mean the program will operate more efficiently, with less errors.

As chairman of the subcommittee initially charged with developing these reform proposals, I am pleased that the House and Senate conferees have been able to remain consistent with our original intentions. I would like to commend our chairman, Mr. FOLEY, for guiding us through the conference so ably.

Mr. NOLAN. If the gentleman will yield, Mr. Speaker, I seek clarification of one aspect of income treatment for farmworker households. Members of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition heard testimony about how past food stamp eligibility criteria had caused a denial of food stamps to migratory farmworker families when they most needed help. Typically, a farmworker family leaves Texas and arrives in a Northern harvest State around June 1, with no income or resources; it begins harvest work the following week and receives its first paycheck around the 14th or 15th of the month. Such a family often is denied eligibility on the basis of income which it anticipates it may receive late in the certification period, although the family may go hungry for 2 weeks until the first payday. First, is a half-month certification period appropriate for this household under the conference bill?

Mr. RICHMOND. The bill would place into law the current regulations and instructions involving the length of certification, which provide for half-month certification when necessary to phase a household into the system or to provide

for its immediate food needs. A half-month or 1 month certification period is appropriate in the example given, with 3-month periods becoming the norm after employment has begun.

Mr. NOLAN. Second, a Federal district court in the case of Gutierrez against Butz has ruled that an indigent migrant household, like that in my example, may not be deemed to have income actually available for the certification period solely on the basis of income anticipated to be received at the end of the certification period. Is it the intention of the conference committee to codify the ruling in Gutierrez against Butz?

Mr. RICHMOND. Yes, that is the committee's intention. The rules on earned income applicable to migrant farmworker families will remain in place under the bill and the holding of Gutierrez would become law.

Mr. NOLAN. Does the bill's definition of income as that "actually available to the household for the certification period" mean income which is available throughout the certification period, and not merely that which is expected at the end of the certification period?

Mr. RICHMOND. That is correct.

There are only a few issues that were changed in the conference that I would like to highlight.

First, the conference adopted the House version of the location and hours of operation of certification and issuance offices. The Senate bill said that such points and hours should be "reasonably accessible" for recipients. We felt, however, that this language was too vague, and instead chose to allow the Secretary to establish specific standards. But in so doing, there was no intent to withdraw from our commitment to make the food stamp program truly accessible for applicants and participants. We expect the Secretary to establish firm and strict standards for States to follow in deciding where to have offices. We do not want applicants discouraged by having to make lengthy round-trips, such as are prohibited under the work registration requirements, simply to apply or obtain assistance. We do not want working households to find it difficult to apply, because there are no evening or weekend hours for them. We do not want the Secretary to simply require one office in a project area where one office is not sufficient to meet the need. We expect him to search for creative ways of accomplishing the certification and issuance tasks we have specified in the bill, and we expect the Secretary to try to push the States to discover and utilize those methods which will best serve the local population.

We also compromised with the Senate on the provisions relating to Native Americans on reservations. First, an Indian tribe's right to run its own food stamp program is not only contingent upon the State's improper administration of the program on the reservation, but also upon a finding that the tribe can capably conduct the program. The restriction with respect to the State's improper administration does not apply, however, to the commodity food program, which the tribe can administer either alone or concurrently with the food stamp program.

We further compromised on the makeup of the Indian commodity food package. The Senate bill required that the commodities provide a nutritionally adequate diet; our bill was silent on this issue. The conference opted for an upgraded food package, but did not specify the nature of the foods. However, since Indian households have a choice between their participation in the food stamp or commodity programs, we expect that the Secretary would endeavor to make the benefits to Indian households fairly comparable regardless of which program they elect to use, in order to allow a real choice. In both bills, food stamp benefits are still based on the recipient's cost of the foods in the USDA thrifty food plan, but we stopped short of applying this standard to the commodity package.

We were successful in convincing the other body of the merits of our treatment of food stamp fraud. The Senate agreed that the penalties section in our bill—3 months disqualification for a finding of fraud in a State hearing, and an additional 6 to 24 month's disqualification if imposed by a court—was preferable to the Senate's looser standard. There is no change, however, in the expectation that the Secretary will set up clear standards for fraud, and prevent the States from imposing unacceptably vague definitions. Thus, fraud is the sole reason for disqualifying households under the conference bill, other than failure to meet the eligibility requirements. States have not been given the authority to terminate participation for reasons of error, overissuances that were not the result of willful recipient deception, or a household's inability to repay an error-caused overissuance, nor are they empowered to institute nonvoluntary recovery of any overissuance.

The work registration provisions in the House bill were left virtually unchanged, although the Senate did adopt our stricter standards for student participation. The work registration provisions of the conference bill represents a major tightening up of this important provision. Under the changes in the bill, nonexempt recipients will be required to register for work at the food stamp office, at the time of initial application and every 6 months thereafter, as they do under the current program. Additionally, there is one major new requirement, recipients must undertake reasonable job search requirements prescribed by the Secretary of Agriculture. The final major change in the work registration provisions is the granting of dual authority to the Secretaries of Agriculture and Labor for the development of other requirements under this section.

I would expect that their task should be much easier than at present, because we have removed unemployment benefit recipients from the registration requirement, thereby making the pool of registrants smaller. Therefore, with the same amount of funding that has been provided in the past, the Labor and Agriculture Departments should be able to provide much better assistance to the recipients who remain subject to the provision.

A compromise was also adopted on the number of workfare pilot projects under which household members subject to the work registration requirement who, after 30 days, have not found jobs will have to work off their food stamps for no pay. The number of pilot projects has been lowered from 50 in the House bill, to 14—2 for each USDA region. The authority for this pilot project extends for 18 months from the enactment of this legislation, at which time we will look at this idea to gage its applicability to the food stamp program. We expect that these tests will be run with the highest regard for recipients' welfare and that adequate data will be recorded to make the final report a useful tool in evaluating its effectiveness or lack thereof.

A major compromise was also effected on the shelter and child care deductions. Under the new system, suggested by Senator LEAHY, households will be able to take either a deduction for dependent care, excess shelter, or a combination of the two up to a maximum of $75, which is indexed annually. Thus, people with high shelter costs, particularly people in the Northeast, will be able to continue claiming a deduction for the same expenses that are currently allowed. Although this shelter deduction does not benefit people as much as the present unlimited deduction, it does represent a significant gain over a straight standard deduction for impoverished households with high expenses.

The conference report contains the House language which provides for the opportunity to obtain a more nutritious diet through the use of the thrifty food plan, rather than the Senate language which guarantees a nutritionally adequate diet. Although there are serious questions about the adequacy of the thrifty food plan, the bill is specific as to how the diet plan is to be formulated. The Secretary is to establish uniform coupon allotments, varied only by household size for the 48 States and the District of Columbia. In addition, he is to set other allotments using the same methodology as is currently used for Hawaii, Alaska, Puerto Rico, and the territories.

The act requires national income eligibility standards allowing higher guidelines only in Hawaii and Alaska. In one case, the bill authorizes the Secretary to establish separate eligibility standards for Puerto Rico and the territories. If the Secretary makes a determination that such standards are necessary, we expect him to employ the same methodology for determining the poverty line in the outlying areas as was used to create the poverty line in the United States. Thus, food costs would remain the key variable in measuring poverty, which is certainly consistent with the use of such a measure as the guideline for food stamp eligibility.

An attempt by Senator DOLE to amend the provisions relating to the expenditure ceiling was defeated. His provision would have authorized expenditures for the program based on actual fluctuations in

food prices and unemployment, rather than on the amounts fixed in the House bill. In addition, the Dole compromise would have prohibited any use of carryover funds if such an expenditure would have resulted in the payment of any program costs in excess of that year's appropriation level. Thus, as the conference bill stands, the authorization ceilings for allotments are at the levels set in the House bill and the Secretary is authorized to expend carryover funds, even if such expenditure exceeds that year's cap, so long as the funds are spent only for administrative expenses and not for benefits.

Finally, I would like to comment on what I feel is the most important reform enacted by the Congress—the elimination of the purchase requirement. EPR represents a significant step forward in the effort to enroll all eligible households in the food stamp program. With this reform alone, we have removed the largest single barrier to program participation, which is the inability of impoverished households to afford to buy their coupons. Because EPR is a separate concept and is not directly linked to either changes in the bill which may take significantly longer to implement, it is expected that the department would move to implement EPR as soon as possible, without waiting for the final promulgation of the other eligibility requirements.

Mr. Speaker, this bill deserves the support of everyone in this House who is concerned about solving our nutrition problems. We must insure that our low-income families receive an adequate diet so they can be fully productive members of society, enjoy good health, and have the self-respect which comes from participating in a program operated with compassion, dignity, and understanding.

The urban-rural coalition is alive and well. We have written a balanced, equitable bill that is responsible to the needs of both farmers and consumers and I urge my colleagues to support the entire conference report.

Mr. FOLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, it is with pleasure that I come here to cast an affirmative vote on this bill, which reflects major revisions in agricultural policy. The provisions particularly relating to wheat and feed grains provide a powerful boost to the economy of rural and smalltown America, and also add powerfully to all of America, recognizing that the economic strength of this country is based upon its agricultural strength.

I extend my gratitude to my colleague from Kansas (Mr. SEBELIUS), who has a great deal to do with this provision of this bill; and also the gentleman from Virginia (Mr. WAMPLER) and the gentleman from Washington (Mr. FOLEY), my distinguished chairman and friend.

I would call for one note of caution. I strongly support the bill. It reflects major changes in agricultural policy, particularly for producers of wheat and feed grains. However, some of the changes in the bill amount to major changes in existing law and are somewhat confusing to our farmers, and some of the administrative regulations which are going to come forth are also very confusing. For example, how does the target price apply? How does the loan price apply? How does the reserve apply? How do the set-asides apply? Can one graze on set-aside land? There are all sorts of things, not just relating to wheat and feed grains, but also to other crops, that will confuse farmers.

Therefore, I urge the Secretary and the entire Department of Agriculture, who are the implementers of this new agricultural bill, to take note of the fact that they need to make an immediate effort to clarify in layman's language these material changes, and do so quickly so that farmers throughout this country can have the understanding of this bill and can have the understanding of the regulations so that they can comply with our productive farm policy. I also hope that during the duration of the bill, the people in the Department of Agriculture will continue to recognize that they must help the farmers, and not hinder them, in helping them to comply with the act.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I would like to respond to the challenge of the remarks made by the gentleman from Connecticut (Mr. GIAIMO). He has been taking the floor periodically during the course of this debate, and I think there is something that must be pointed out again and again in response to his challenge.

The target price system which was originated in 1973 was a bipartisan effort. I realize there are some people who are knowledgeable about farm programs, who disagree with the target price system, but nevertheless it has the support of the majority of the Members of the Agriculture Committee and a majority of the agricultural community.

Under the target price system there will be some years when no payments will be made. That has been true in the case of wheat, corn, and cotton since 1973. No deficiency payments have been made on those commodities. Prior to that, billions of dollars a year were spent in supporting those commodities. Since 1973 there have been no payments made. Conversely, one must accept the fact that under the target program, which attempts to support agricultural commodities at the cost of production, payments will be made only when the market price falls below the cost of production. Then they will have to go to the Treasury. It is patently unfair, it seems to me, for Members who are either unfamiliar with the system or who are totally urban oriented, to take a year when you do have these large deficiency payments which will be made out of the Treasury and say that we must not do this, because it affects the budget; and we must not, because of the increase in the size of the deficit, when in the last 4 years there have been no payments whatsoever. With the target price concept we must look at the budgetary system over a long period of time, not just on a year-to-year deficiency basis, not as a year-to-year budgetary problem. We must look at it over a 5- to 10-year period to determine whether or not the target price concept will be in fact one that we can afford.

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. WAMPLER. Mr. Speaker, I yield 1 additional minute to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, for a Member to take the floor and to condemn the agricultural policy, because in this particular year it might be more expensive than it has been in the past is unfair, unknowledgeable, and it is not being consistent or responsible with respect to probably the most basic economic sector, the most important economic sector that we have, and that is the farm economy. A farm led depression is a most significant and most serious economic event, probably more so than any other kind that we can imagine.

So I would urge the rest of my colleagues to go a little bit slow on this rhetoric, and recognize that we spend a miniscule amount, comparatively speaking, on agriculture programs.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, when we start talking about the fact that this has been a massive reform of our food stamp program, I think we probably should bring it up for 1,000 points on the Palmolive joke meter, but I hope I am wrong when I say it is deform and I hope the distinguished gentleman from New York is right, when he says it is reform.

One of the things that has happened to the food stamp program is that it is no longer guaranteeing a nutritionally adequate diet for needy Americans. The food stamp program has no State cost sharing, which would correct the massive fraud and error rate in the administration of the program. Also, the biggest change in the program, of course, is that from now on people will be able to get the stamps free, and they are no longer food stamps; they will be income stamps. I hope that the program is administered correctly and that it does not get out of hand, but my prediction will be that it will not cost $5 billion, but it will be $6, $7, $8, $9 and $10 billion progressively as the years go on, and we will be in here asking for more money for this program unless something drastic is done in welfare reform to get a control on it.

On the other side of the coin, on the farm part of the bill I think we must recognize we are running headlong into the retreat of the 1960's when we suffered from the burden of surplus grain dumping, multi-billion-dollar subsidies and low farm income. I think there is one thing in this bill I wholeheartedly support, and that is that the Secretary can

lower the loan price. It is disappointing to me that in his recent press releasees he says he will not lower the loan price on wheat next year. I think many of the fears many of us have with this major transformation or change in farm policy is to go in and tell farmers what they can plant and when they can plant, with massive reserves to be dumped, every time the price starts up. I think many of those things can be overcome by a policy to go out and sell American agriculture in foreign markets, and this must be done by lowering the loan price, and promoting American products abroad—then when sales are made—not allow any idiotic boycotts and embargoes against American exports.

In summary, the American farmer can look forward to 4 years of decreased farm markets and income and increase of Government control.

Mr. FOLEY. Mr. Speaker, I yield 2 minutes to the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I just want to make a few things clear to two of my colleagues on the minority side who seem to take exception to the fact that I cautioned the Members about the huge expenditures that we are going to be making in agriculture. Our present estimates are in the area of about $6.3 billion, and probably will be higher if agricultural prices do not go up or if we have too much in the world market come next year.

But my concern is a very real one. It is all well and good to argue, "Well, we are going to spend $12 billion for the international financial institutions," or, "We are going to spend moneys for other things, foreign aid and the like."

Yes, we are. There are all kinds of expenditures which we have to make as a country. There is included $110 billion for defense, moneys for foreign aid, moneys for the international financial institutions to help other people in other countries, and many other kinds of aid. There are many other kinds of programs, and they are all necessary to insure us peace and tranquillity in the world, and, hopefully, we will have a good economic recovery at home and also around the world.

That does not mean, however, that we can be profligate in any area. We have to watch our expenditures as much as possible in all areas.

This is my concern in agriculture. I am concerned that we are overreacting, mainly because of our concern for the small farmer who makes his living out of agriculture. But that is one of the great fallacies in this business of agriculture, that we think of all farmers as poor, struggling farmers trying to eke out a living from the soil.

I recall that one inclusion in this legislation was a great amount of money for sugar growers. I happen to know some sugar growers, and I can assure the Members that they are not small farmers. Yet we are guaranteeing that whatever they do, they are not going to take a loss. That is something that we do not do for any other American.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, this is, of course, a major bill, and I want to commend the committee for the generally good job it has done on this bill. It has been a major undertaking and since it cannot be amended, I will vote for it.

I do, however, want to disown a couple of provisions that the conferees agreed to. Those provisions are, I think, very, very bad, and I am surprised the conferees agreed to them.

One of the things I have been interested in for a good many years, perhaps about 12 years, is the transforming of surpluses into reserves. Basic in the concept of making a surplus a reserve is some kind of a restriction upon resale of Government-owned stocks and recall of farmer held commodities under loan. Now, in the case of those grains that are held by farmers in storage, the way to prevent them from dumping is to provide a minimum below which they cannot be forced to pay their loans.

In this case, we had it set at 140 percent, and the Secretary could not force them to redeem the stored grain unless it reached 140 percent of the loan rate.

That provision has been left in the bill for wheat, but for feedgrains the language says the secretary can set a trigger "at such appropriate level as the Secretary determines," which means he could trigger redemption at 1 penny above the loan rate. That means the grain will be considered a surplus again at that lower level. That is the difference between a reserve and a surplus.

Also, we have had a provision in this reserve proposal for years which I thought was good, and that provided that whatever the Commodity Credit Corporation owns cannot be sold at less than 150 percent of the loan rate. That provision has been negotiated in a provision added in conference which was lifted from an old law which says the Commodity Credit Corporation can sell at any price if they label the grain as being in danger of loss.

We know that about 10 or 12 years ago they sold whole elevators full of corn and wheat just by saying it was in danger of loss, and they sold it at prices that were even below the loan rate. When it was delivered, it was found to be in storable condition and they were not required to replace it.

It was not necessary to put that old provision in here in order to permit rotation or disposal because under the provisions of the regular bill we had provided that if they do sell, they can sell any time they want to but they must replace it within 24 hours.

Under this new provision, they can sell without offsetting sales with purchases. The fear that they might do so puts a downward pressure on the market at the wrong time.

Mr. Speaker, those are 2 terribly bad provisions. I cannot imagine why the conferees on the House side, let alone those on the Senate side, accepted those two basic and bad changes in the reserve provisions of this bill. As one Member who has authored this language for many, many years, I specifically want to disown those two particular new provisions in the reserve section of the bill.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. WAMPLER) has 4 minutes remaning.

Mr. WAMPLER. Mr. Speaker, I yield the remainder of my time to the distinguished gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, despite all of the good will and praise that has been showered upon this bill and upon those who brought it to this point—and I certainly join in the praise for the gentleman from Virginia (Mr. WAMPLER), and for the gentleman from Washington (Mr. FOLEY); they have provided skillful and considerate leadership—despite all of this good will and praise, I cannot but believe that the chairman of the House Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), like myself, is deeply troubled about this bill.

Mr. Speaker, considering the enormous outlays of public funds, the high level of target-price payments, of loan rates, and the effect that these outlays will have on farm management decisions, resulting in the accumulation of stockpiles, surely, he, like myself, must view this bill with considerable concern.

In fact, for my part, I feel that this bill is going to put agriculture in deep distress within a year's time. In fact, wheat is already in trouble, corn is in trouble; and despite that trouble, the Secretary of Agriculture has not seen fit to utilize the escalator loan-rate provision for feed grains to lower the loan rate for corn to make it easier to merchandise in the coming year. He has elected to keep it at $2.

We have wheat running out our ears. We will soon have corn running out our ears. In fact, I predict the administration would resume export subsidies within a year in order to deal with mounting surpluses. That will add new cost to the programs.

Mr. Speaker, there is one aspect of this bill which needs clarification. I hope my friend, the chairman of the House Committee on Agriculture, will be willing to engage in a little colloquy to, hopefully, express the sense of the Congress on this point.

As the chairman knows, in the past the price-support provisions for the noncorn feed grains have been related to the feeding value of grain sorghum, of barley, and of oats; and when programs have been established, the target-price payments for these grains have been based on their feeding value in relationship to the corn.

The language in the conference report itself suggests as a possible definition of the new language, which reads "fair and reasonable" instead of "feeding value," that this could be based upon component costs of production as with corn.

If that definition is accepted by the Secretary, Mr. Speaker, it means a deficiency payment of 49 cents a bushel for grain sorghum, of 70 cents a bushel for barley, and of 80 cents a bushel for oats. We do not know that programs will be established for all of these commodi-

ties, but based upon the impulses and the record of the administration so far, I think we have to assume the worst and that these programs will be implemented.

Mr. Speaker, my question for the gentleman from Washington (Mr. FOLEY), is this: Is it not correct that the conference report leaves considerable flexibility in the hands of the Secretary of Agriculture to determine the level of deficiency payments for the noncorn feed grains?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, the gentleman is exactly correct. The conference report indicates that the relationship between the designated feed grains and corn shall be one that is fair and reasonable.

Mr. FINDLEY. Yes.

Mr. FOLEY. The definition of the term "fair and reasonable" expressed by the conferees was not intended to be findings, but rather to give the Department of Agricluture the broadest possible authority in fixing the levels of payment.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

Mr. FOLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding.

Am I correct, then, that the Secretary could establish a deficiency payment level for noncorn feed grains anywhere between the former practice and the level mentioned in the conference report which refers to "component cost of production"?

Mr. FOLEY. In my judgment that is correct.

Mr. FINDLEY. I thank the gentleman.

Mr. Speaker, at stake in this definition is an enormous sum of money. The Secretary can reduce program costs by $1 billion a year—$4 billion for the life of the bill—by taking the lower option.

I am greatly disturbed by what I have been told by USDA sources about a plan to pay deficiency payments to grain sorghum and barley producers based on the same components of "costs of production" as corn rather than based on the historical "feeding relationship to corn of 95 percent" which is currently in effect.

I have learned that in 1978 USDA contemplates the loan value for sorghum will be $1.90, and using the cost of production components for corn the target price for sorghum would be $2.39. This would mean a 49 cent deficiency payment. While programs for barley and oats are discretionary, the loan and target prices as well as probable deficiency payments for these feed grain crops would be as follows:

	Loan	Target	Deficiency payment (cents)
Barley	$1.63	$2.33	70
Oats	1.03	1.83	[1] 80
Sorghum	1.90	2.39	49

[1] Sorghum.

The estimated costs of these programs for fiscal year 1978 based on the above figures would be as follows:

	Millions
Sorghum	$375
Barley	280
Oats	560
Total	1,215

On the other hand, the deficiency payments for sorghum and barley—since oats is newly added in this bill as a feed grain I do not know what percentage feeding relationship there would be between corn and oats—using the historic feeding relationship, assuming the same loan rate, would be as follows:

	Loan	Target	Deficiency payment (cents)
Barley	$1.63	$1.71	8
Sorghum	1.90	2.00	None

The difference in the cost to the taxpayers in using the historic feed relationship base is substantial and I would urge the Secretary of Agriculture to continue using it.

Mr. Speaker, the following language which appears in the statement of managers was an improvidently used example of what might be fair and reasonable:

The Conferees consider that if target prices for the other feed grains are established using the same components of the cost of production, such target prices would be fair and reasonable in relation to the rate at which payments are made available for corn.

However, even if improvidently inserted it is merely one example. It does not direct, exhort, or even urge that USDA use the cost of production components for corn in computing target prices for other feed grains.

Inasmuch as the cost of using such costly components in future years will be $800 million to $1 billion each year, I strongly urge the Secretary to continue to use existing "feeding relationship to corn of 95 percent."

The Secretary clearly has the broadest discretion to use the standard most favorable to consumers and taxpayers. During the 4-year life of the bill he can reduce expenditures by $4 billion under this provision alone.

SUGAR PROVISIONS

I would also like to direct some of my comments to the sugar provisions of the conference report.

In particular I would like to manifest my clear intent, and I am sure it is the clear intent of the other members of the conference committee, that section 902 does not add one iota to any authority for the Secretary of Agriculture to make cash payments to sugar producers or processors.

On the contrary, and despite repeated efforts to expand this clear legislative intent, the conference report language does not authorize a single new legal authority for the Secretary to use to make cash payments to growers or processors.

The language of the conference substitute should be clear enough by itself if it were not for a bevy of would-be legislative history writers. Section 902 of the new statute will state as follows:

(3) Nothing in this subsection shall affect the authority of the Secretary to establish under any other provision of law a price support program for that portion of the 1977 crop of sugar cane and sugar beets marketed prior to the implementation of the program authorized by this subsection.

BACKGROUND OF ADMINISTRATION'S FIRST PAYMENT PROPOSAL

As the House will recall and as the conferees are all aware, the administration's first sugar payment plan was found to be illegal. I say "first," because as I will explain later a "second" payment plan is about to be unveiled, according to a USDA press release dated September 15.

I contended last spring that USDA's first payment plan was illegal and joined with my colleague from Illinois (Mr. MADIGAN) in a letter of protest and legal challenge to the General Accounting Office.

GAO ruled on July 27, 1977, that the Department of Agriculture's proposal was not lawful, when it concluded:

. . . the proposed program is not, in our view, authorized under 7 USC 1447, as the Department may not do indirectly what it cannot do directly.

The White House then referred the question to the Justice Department and on August 19, 1977—after the conferees had met, but before the conference report was filed—Deputy Attorney General Peter F. Flaherty ruled that—

For the reasons given above I have concluded that the program which you have proposed would be prohibited under the Agricultural Act of 1949, as amended.

ACTION—AND INACTION—ON CONFERENCE REPORT

When the statement of managers language was first being developed by the joint committee staffs it contained the following paragraph:

It is expected that the program already announced by the Department would not be put into effect until a favorable ruling has been received from the Attorney General as to its legality. In such event, the Conferees anticipate that it would apply to sugar not yet marketed as of May 4, 1977, when the Department made the original announcement of its proposed program but which was marketed prior to the time the loan and purchase program was put into effect.

That paragraph was appropriately dropped in the final version, because of the Justice Department's ruling.

Also, during the consideration of the statement of managers the following two specific language recommendations were submitted by USDA, but neither—and I repeat, neither—was included.

The first recommendation proposed to change Hawaii's marketing year.

The second recommendation proposed to manifest the conferees' intent to modify the original illegal program to make payments to Hawaiian sugar interests.

USDA recommended language No. 1:

If the Attorney General concludes that the program proposed by the Department is not within its authority, the Conferees expect the Secretary, pursuant to existing authority in section 408 of the Agricultural Act of 1949, as amended, to appropriately adjust the marketing years for the 1977 and 1978 crops of

sugar cane and sugar beets produced in those areas where marketing occurred prior to implementation of the new program. Such adjustments shall be made in such a manner as to afford producers in such areas an opportunity to participate in the new program substantially equal to the opportunity given producers in other areas.

USDA recommended language No. 2:

The Department currently has authority under existing provisions of law to conduct price support operations for sugar. It is the recommendation of the Conferees that the Secretary of Agriculture implement a price support program for sugar as soon as possible even before the Act is signed into law.

The language in the provision relating to the Secretary's existing authority to establish a price support program for sugar was added by the Conferees for purposes of clarifying the state of 1977 crop sugar beets and sugar cane marketed before the program authorized by the House amendment is implemented. This provision does not add to or detract from whatever authority the Secretary already has under existing law. The language was included because sugar from beets and cane marketed prior to the institution of the program authorized by the House amendment would not be available for loans or purchases under such program and producers in some states would be discriminated against solely because they happen to be farming in areas with crop years somewhat different from producers in other areas. It was not intended by the amendment to create a hardship in any producing area. The added language thus makes clear the Conferees' intent that existing law be utilized to afford fair and equal treatment to all domestic producers by extending support to producers with respect to sugar beets and sugar cane of the 1977 crop marketed before the new program is made effective, it being a purpose of this section that a substantially equal level of support be afforded to all producers of sugar cane and sugar beets of the 1977 crop.

The Conferees would expect that the Department would modify the program already announced to meet legal objections raised with respect thereto by the Attorney General and would use existing authority to extend support to producers of all sugar not yet marketed as of May 4, 1977, when the original announcement of the proposed program was made, but which was marketed prior to the time the program authorized by the House amendment is put into effect. Such support for these producers would help them maintain their competitive position and would encourage them to continue the production of sugar cane and sugar beets.

In order to prevent imports from interfering with price support operations, the Conferees would expect the Executive branch to utilize existing authority to impose an import fee or duty, which—when added to the current import duty—would enable raw sugar to sell in the domestic market at not less than the effective support price.

SPECIFIC PROVISIONS

On the contrary, the conference language contains specific references which should make it crystal clear that this legislation confers no new sugar payment authority.

The first is in the description of what has become known as the "De la Garza amendment." The Statement of Managers carefully alludes to a mandated sugar price support program through loans and purchases only. The absence of any other means is intentional. The defeat by a recorded vote of 238 to 173 in the House on July 28, 1977, of the amendment by the gentleman from Minnesota (Mr. NOLAN) further establishes the clear legislative history that no payment authority exists in this legislation.

The rejected Nolan amendment stated as follows:

Amendment: Insert the following new section at the end of Title IX:

SEC. 914. The Agricultural Act of 1949, as amended, is further amended by inserting a new section 304, as follows:

"SEC. 304. Notwithstanding any other provision of this Act, the Secretary is authorized and directed to establish a price support program for 1977 crop sugar beets and sugar cane providing for payments to or for the benefit of all domestic producers of such crops based on a price of 13.5 cents per pound, raw sugar equivalent: *Provided, however,* That this provision shall not apply to sugar beets and sugar cane of the 1977 crop which receive price support under section 201 of this Act.

During the debate on the De la Garza and Nolan amendments, the gentleman from Pennsylvania (Mr. LEDERER), in opposing the De la Garza amendment, circulated a "Dear Colleague" letter which contained this appropriate paragraph:

Secretary Bergland assured me further that he is convinced that his existing authority will allow him to meet his commitment; moreover, enactment of the Nolan amendment now in HR 7171, which the Administration strongly supports, would erase any doubt about his authority to do so.

In addition, the gentleman from Pennsylvania attached to his "Dear Colleague" letter a memorandum from the Department of Agriculture, which contained the following paragraph:

On July 19, several Members of Congress received a letter from the Comptroller General that questioned the legality of the USDA proposed sugar program. The Secretary of Agriculture has requested the Attorney General's legal opinion on the draft regulations. These regulations can be changed to overcome the major objection raised by the Comptroller General, if further review indicates it is necessary to do so. The House-passed amendment by Representative Nolan would, however, establish clearly the Secretary's authority to operate a supplemental payment program.

Second, the sentence "This provision does not add to or detract from whatever authority the Secretary already has under existing law" is also intended to clearly make the legal point that this bill does not in any way enhance the statutory price support authority existing at the time of the conference on S. 275.

Third, the phrase "Consistent with existing law" was intentionally placed at the beginning of the sentence expressing the conferees' sentiment that all domestic producers be treated "fair and equal." This whole sentence, I might add, was composed when there still was some doubt by the conferees over the legality of the Department's announced payment program.

NO NEW AUTHORITY FOR A PAYMENT PROGRAM IN THIS BILL

It should be abundantly clear, from the language of the Statement of Managers and from the legislative history of this bill that no new authority is given to the Secretary to carry out price support on sugar through any payment program.

On the contrary, and I have contended so since this fitful episode was started, with the enactment of S. 275 the exclusive method of supporting the price of sugar for the 1977 and 1978 crops will be under title II of the Agricultural Act of 1949, as amended.

Sugar will become a "designated nonbasic" crop just like dairy products and honey, and like those commodities no payment programs under title III of the Agriculture Act of 1949, as amended, will be authorized for the 1977 and 1978 crops.

This interpretation of section 201 has been the legal policy of the Department for 23 years, since the Solicitor held on May 7, 1954 that—

Under Section 201(c) of the Agricultural Act of 1949, the methods of price support to producers for milk and butterfat are limited to loans on or purchases of the products of milk and butterfat, such as cheese, butter, non-fat milk solids, etc.

In this longstanding Solicitor's opinion the following appropriate point in regard to sugar is made about support price activity for dairy products.

The question has arisen whether the Secretary, in supporting the price of milk and butterfat pursuant to Section 201(c) of the Agricultural Act of 1949, may, in addition to (or in lieu of) purchases of or loans upon dairy products, institute a program under which payments would be made to the processors of dairy products, such as cheese, butter, and dried nonfat milk solids, equal to the difference between the prevailing market price for such products and a price which would reflect the intended level of support to farmers for the milk and butterfat utilized in such products. Section 201(c) provides as follows:

"The price of whole milk, butterfat, and the products of such commodities, respectively, shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through loans on, or purchases of, the products of milk and butterfat."

It is the opinion of this office that the Secretary of Agriculture is limited by the foregoing quoted provision to the making of loans on or purchases of the products of milk as the sole methods of price support for milk and its products.

ADMINISTRATION'S SECOND PAYMENT PROPOSAL

Yesterday the Department of Agriculture issued a press release announcing the institution of a "payments program to support the price of 1977 crops of sugarbeets and sugarcane." It was claimed that the new program "had been modified to meet the legal objections to the payment system we originally proposed."

Under the second payment proposal, promised to be published in the Federal Register in a few days, it is stated that—

Compensatory payments will be made to processors who pay the support price to producers at a time when processors could not otherwise do so in view of low sugar prices.

The first question that comes to mind is why the Department is proposing to institute such a program on the very eve of the Congress sending this bill to the President for his signature.

I would remind the Department that the statement of managers contains the following language about the prompt implementation of the loan and purchase program provided for in the bill:

> The *Conferees* intend that the implementation of the loan and purchase program not be delayed even if there should be a delay in the establishment of minimum wage rates for agricultural employees engaged in the production of sugar because of any public hearings that may be held thereon. It is the *Conferees'* intent, however, that the loan and purchase and wage rate provisions of section 902 be implemented without any delay upon the bill becoming effective.
>
> * * * * *
>
> The *Conferees* expect that the Executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price.

Whenever the President signs this farm bill—and I anticipate it will be on or before October 1—it will become law.

Based on the foregoing well-reasoned opinion of the Solicitor, once this bill becomes law, the "price of the 1977 and 1978 crops of sugarbeets and sugarcane, respectively, shall be supported through loans or purchases * * *" and that will become the "sole method" of price support for sugarbeets and sugarcane as of that date.

I do not know upon what law the Department intends to base its proposed payments program; however, I am disturbed and confounded to find in the USDA's announcement of its second payment proposal that payments are intended to be made "from today forward until all 1977 crop sugar has been marketed or to the date of actual implementation of the price-support loan or purchase program which would be mandated by the pending 1977 farm bill."

This amazes me. Does this mean that President Carter is going to selectively implement portions of this farm bill as he sees fit? I considered that when we adopted the language in section 1901 which states that "Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1977," we meant what we said.

Apparently, USDA considers that the President may selectively implement this act at his leisure—that is, in 1977 or 1978. I do not, and I doubt that legal scholars will, view it that way.

On October 1, 1977, "sugar beets" and "sugarcane" become designated nonbasic agricultural commodities under section 201 of the Agricultural Act of 1949, as amended (see 7 U.S.C. 1446). On that same date, they will no longer be eligible for price support under section 301 of the Agricultural Act of 1949, as amended (see 7 U.S.C. 1447) inasmuch as section 301 authorizes price support only for a "commodity not designated" in section 201. Obviously, upon enactment of this bill, sugar beets and sugarcane will be specifically and expressly designated in section 201.

RETROACTIVE PAYMENTS

Finally, I think it should be abundantly clear that nothing, either in this bill or in existing law, authorizes the Secretary to make retroactive payments to either sugar producers or processors. How in the name of commonsense can a retroactive payment possibly be construed as a "price support" when the commodity allegedly supported no longer exists?

In my opinion, if the Department of Agriculture leadership persists in its efforts to make illegal payments to corporate sugar entities, it will be wading into the same illegal thicket it foolishly chose to enter last May 4. I, for one, will continue to do all I can to see that the American taxpayer is not swindled on an alleged price support for a commodity that no longer even exists.

Let me conclude with this warning, if the Department of Agriculture proceeds with its second support payments program beyond October 1, 1977, there is little doubt, and rightfully so in my opinion, that the legality of saccharin will be challenged in the courts.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I wish to commend the fine work of Mr. FOLEY, our distinguished chairman of the House Agriculture Committee. Through his skillful handling of the farm bill in conference committee, he has helped to bring about a compromise acceptable to both the House and Senate conferees. Not only is Chairman FOLEY knowledgeable about farm issues, but he chaired the conference committee in a patient, fair and decent manner. I am pleased to have served with him.

Mr. Speaker, when the Agriculture Act of 1977 emerged from the House Agriculture Committee last May, I described it as the worst farm bill in two decades and I voted against it. Since that time, thanks to the efforts of countless individuals and organizations, we have substantially improved the meager farm program initially proposed by the Carter administration.

The farm bill reported by the conference committee contains several excellent provisions. The conferees placed renewed emphasis upon enduring conservation practices. Congressman TOM HARKIN introduced this measure in the House and its inclusion in the farm bill restores a much needed balance between conservation and production. In addition, hard work by Congressman JIM WEAVER and members of Bread for the World helped build support in the House for a better grain reserve program than we otherwise would have obtained.

Although the farm bill does not include my proposal to prohibit nonfarm corporations from receiving farm program payments, the conferees requested that the Secretary of Agriculture determine the extent to which nonfarm corporations are receiving these payments and then report the findings to Congress. This study will enable us to redirect our farm price policy so that farmers, not nonfarm corporations will receive the full benefits of farm program payments.

The fight to improve the farm bill, particularly the price support provisions, was long and hard and we faced administration opposition almost every step along the way. Congressmen ENGLISH, BAUCUS, HARKIN, and GLICKMAN deserve special thanks for their intelligent and determined effort in making increased price supports possible. Although the farm bill is far from being a perfect piece of legislation, I am convinced that we obtained the best price supports possible, given the threat of a Presidential veto.

For too many farmers, however, the farm bill remains inadequate. The parity index for numerous commodities is falling to the levels of the early depression years. The price supports established by the new farm bill obviously do not reflect the farmer's cost of production. The price support levels for wheat and corn, for example, are set at such a low level that many farmers will barely be able to keep hanging on. Describing these poverty-level price supports as being equal to cost of production, as the farm bill does, is a bitter pill for our farmers to swallow, particularly when they were promised so much more by Jimmy Carter during the 1976 Presidential campaign.

Some farmers regard the farm bill as worthless and they have asked me to vote against it. Despite my own disappointment with several provisions of the new farm bill, I support it and I urge my colleagues to vote for it. In my judgment, I believe the situation could deteriorate much further in the absence of the farm bill.

As long as President Carter is unwilling to provide decent price supports, he should feel morally obligated to authorize the Department of Agriculture to use its marketing tools in order to help raise farm prices in the marketplace as soon as possible. The farm bill provides the necessary marketing tools—such as storage facility loans, set aside and grain reserves—for the administration to reduce production and to draw price-depressing surpluses off the market. The new farm bill gives President Carter the authority, if he will only use it properly, to stop the precipitous slide in market prices and to raise them to levels where family farmers have an opportunity to receive a fair return on their investment.

I am apprehensive, however, regarding the ability of this administration to implement the new farm program in an equitable manner for farmers and agriculture. From the beginning of the House Agriculture Committee's hearings on the new farm bill until the present time, the administration's performance has been slipshod and even somewhat deceitful.

During the hearings and markup sessions on the farm bill, the administration's Budget crowd flimflammed the House Agriculture Committee by supplying its members with contradictory Budget "exposure" estimates. When the Department of Agriculture conducted a survey revealing the critical farm finan-

cial situation in the Midwest, the administration did not volunteer the information to members of the Agriculture Committee, nor did the President offer any substantial price support assistance. Between the administration's promise and its performance, the gap has continually widened.

This is indeed an "on again, off again" administration when it comes to farm policy. Statements made by officials in the Department of Agriculture on one day are countermanded the next. Almost every Cabinet officer appears to be trying to run the Department of Agriculture and, as a consequence, the development of a coherent farm policy has been sorely lacking. Since February, the administration's credibility among farmers has dropped steadily, and the situation is not getting any better.

The administration's recent announcement of a wheat set aside was accompanied by a great amount of confusion and the failure to clearly explain how the program would operate. The Department of Agriculture is still trying to make its position clear, but it is difficult to do so when the position keeps changing. Particularly galling to farmers already financially strapped by low farm prices, is the fact that the President has made no commitment to adjust the 1978 price supports upward to help compensate for income that will be lost from the acreage set aside.

For many farmers, it all adds up to a "go broke" farm policy. Farmers in the Midwest and Plains States have grown to distrust President Carter and his Washington bureaucracy. Although Jimmy Carter devoted much of his campaign rhetoric to statements about the fumbling, insensitive and inaccessible Washington bureaucracy, in a few short months conflicts within his administration have caused confusion among various agencies, including the Department of Agriculture where cross-currents have often led to administrative immobility. As far as many farmers are concerned, the Carter administration either seesaws on farm policy issues or becomes immobile—but never moves forward.

Equally as disturbing has been the Carter administration's failure to prepare for the implementation of the sugar price support program authorized by the Agriculture Act of 1977. Administration officials have expressed hostility toward the sugar price support program and they have brought USDA to the point of defying the conference agreement on the sugar program.

Representatives from USDA attended the Conference Committee on the farm bill and they knew that the conferees expected the Secretary of Agriculture to implement the congressional sugar program, as the conference report states, "as soon as possible—even before the Act is signed into law." While the Department of Agriculture announced a sugar payment program on September 15, 1977, USDA has not yet, to my knowledge, taken any steps under existing authority, as the conferees expected, to assure the prompt and smooth implementation of the sugar price support program.

Since the administration has not given a clear indication that it will abide by the letter and spirit of the sugar price support program authorized in the farm bill, I believe a few points should be emphasized regarding what the conferees agreed upon in section 902 of title IX.

According to the language of the conference report:

One. The conferees intend "that the loan and purchase and wage rate provisions of section 902 be implemented without any delay upon the bill becoming effective."

For over a month, however, the Department of Agriculture has delayed taking the necessary steps to prepare for implementing the sugar price support program which the conferees expect will become effective immediately upon becoming law. Any administrative problems which USDA may encounter in immediately implementing the sugar price support program thus will be of its own making.

Two. The conferees intend "that processed products of sugarcane and sugar beets shall not be sold by the Commodity Credit Corporation at less than 105 percent of the current support price, plus reasonable carrying charges."

The language makes clear the fact the conferees authorized a loan program because the processed products of sugarcane and sugar beets are storable.

Third. The conferees do not expect, however, "that any outlay of CCC funds will be required, or that there will be any acquisition of products of sugarcane or sugar beets. The conferees expect that the executive branch will utilize existing authority of law to implement immediately upon the bill becoming law an import fee, or duty, which—when added to the current import duty—will enable raw sugar to sell in the domestic market at not less than the effective support price."

The Department of Agriculture is required to support the price of sugar beets and sugarcane at between 52.5 and 65 percent of parity, but not less than 13.5 cents per pound raw sugar equivalent. The conferees intend that the Department of Agriculture support the price of sugar through an import management program which utilizes import fees and duties, or, if necessary to maintain the market price at no less than 52.5 percent of parity, the additional authority provided under section 22 of the Agriculture Act of 1933.

The conference committee also adopted language which authorizes the Secretary of Agriculture to suspend the sugar price support program "at such time as he determines there is an international sugar agreement in effect which would effectively maintain a raw sugar price of at least 13.5 cents per pound." The transition from the congressionally mandated sugar program to an ISA is therefore intended to be a smooth one in which the price of sugar is maintained at no less than 13.5 cents per pound.

Mr. Speaker, the administration's failure to prepare the way for the sugar price support program is the most recent instance of President Carter's lack of assistance to our domestic sugar producers. One year ago, the International Trade Commission began an investigation to determine whether sugar imports were harming domestic sugar producers. Recognizing that domestic sugar producers were being injured by sugar imports, President Ford raised the duty on September 21, 1976. In March 1977, the ITC reported that the domestic sugar industry was being seriously injured by increased sugar imports. President Carter did not dispute the ITC findings, but he nevertheless rejected the ITC's recommendation that an annual import quota be established. Since March, the administration has failed to provide any assistance to our beleaguered sugar producers.

Emergency conditions have prevailed among our sugar producers for over a year. During this time, continued imports of sugar have depressed market prices and have driven domestic producers out of business. According to Department of Commerce statistics which Minnesota Agriculture Commissioner Bill Walker quoted in a recent letter to President Carter, sugar imports for the first 7 months of 1977 are "19 percent higher" than for the same period of 1976.

For Minnesota, the administration's failure to curb sugar imports has threatened the livelihood of sugar beet producers and has imperiled the continued operation of a new and efficient cooperative sugar beet refinery in Renville. Minnesota's Senator WENDELL ANDERSON, in his remarks during the Senate's consideration of the conference report on the Agricultural Act of 1977, clearly described the economic plight of the State's sugar beet producers and how the administration has aggravated the problem. I am also distressed because the Carter administration has not acted more quickly, particularly in view of the obvious emergency conditions which our sugar producers have been facing for months.

Again, I would like to emphasize that USDA's recent announcement of a new payment program to cover the 1977 sugar crop is no substitute for implementing without delay the sugar price support program authorized in the farm bill. The sugar program agreed upon by the conferees will prevent the United States from being used as a dumping ground for imported sugar but the USDA payment program will not. Under the congressionally mandated sugar price support program, the Department of Agriculture must support the price of sugar by immediately implementing an import management program to reduce sugar imports.

Mr. Speaker, the Carter administration's reluctance to assist our sugar producers in the manner expected by the conferees is part of an all too familiar pattern of neglect. Throughout the discussion of the farm bill, the President repeatedly threatened to veto any increases in price supports. USDA officials constantly warned Members of Congress that the price supports for wheat and corn

had to be kept low in order to market our surplus production overseas. Many of the farm bill conferees rejected this line of reasoning, reminding the administration that credit policies, international political considerations, and the world supply situation have a great deal to do with the availability of export markets.

Given the existing large stocks of grain worldwide, it appears that additional export markets for our wheat and feed grains will not open up for at least a year, if not longer. In the meantime, the Carter administration expects farmers to keep hanging on with minimal price supports until sizeable export markets develop, thus causing market prices to rise. But farmers who are already in desperate straits cannot afford to wait a year for market prices to rise. Once again, we find that our farmers are being sold down the river in return for a free trade policy that may swamp them before any export markets ever develop.

As I pointed out in a letter which I sent to President Carter on February 24, 1977, the "so-called free trade policies which the Nixon and Ford administrations promoted so enthusiastically, failed utterly to organize and to sustain the export market. Instead, vital sectors of our agricultural economy were placed in a vulnerable position which left them increasingly dependent upon the uncertain availability of export markets. Currently the lack of an export market for grains has led to surpluses and low prices for farmers. In addition, shortsighted import policies threaten the welfare of domestic producers, particularly the beef, dairy and sugar beet operators."

I also suggested to the President that the "unilateral pursuit of free trade has placed the United States in a competitively disadvantageous position in the export market and has unfairly forced domestic producers to compete with subsidized imports." The key to a free trade policy is that it must be fair. Unfortunately, the administration appears to have little regard for treating our producers fairly when world trade considerations are involved.

Opposition to "free trade" policies, as I wrote to the President, should not be construed as support for a narrow, nationalistic or protectionist trade policy. Rather than trying to dominate world markets by seeking short-term price advantages which gouge American farmers and which lead to economic instability, the United States should pursue a "free and fair" trade policy which has more regard for the welfare of our producers and consumers.

Mr. Speaker, I sincerely hope the Carter administration will get its house in order. I urge the President to rein in his Cabinet officers and allow the Secretary of Agriculture to run the Department of Agriculture. I also urge the Secretary of Agriculture to insist that the Carter administration fulfill its campaign promises and implement a farm program and an agricultural trade policy that will strengthen our family farm system rather than wipe it out.

Mr. Speaker, I would again like to emphasize that the Agricultural Act of 1977 is a great improvement over the administration's original proposals. The Carter administration found it politically necessary to concede several times to demands by the Senate and House that the price support levels be raised. I believe one man was particularly successful in urging President Carter to gracefully accept the modest price support increases advanced by Congress. Had it not been for the persistent efforts of Senator HUBERT HUMPHREY, I do not believe we would have been able to improve the farm bill as much as we did.

I wish to take this opportunity to commend Senator HUMPHREY. Words cannot express my appreciation to him for the assistance he offered in our efforts to enact a better farm bill.

I believe the farm bill provides the administration with the tools to develop a good farm program. But, as Senator HUMPHREY has stated,

> Congress is going to have to watch the effectiveness of this legislation. If we find it inadequate, we should realize our shortcomings and try to improve it.

For the moment, however, the initiative has again passed to the Carter administration and I hope it takes advantage of this opportunity to restore its credibility among farmers.

Mr. Speaker, I also wish to address myself to the food stamp provisions in the conference report on the farm bill.

After more than 2 years of debate and a series of painstaking and sometimes painful markups, I feel I can support the overall thrust of the reform measures. Although, I must add that there are a number of provisions which I do not, and cannot endorse. I particularly want to praise the leadership of subcommittee chairman FRED RICHMOND. It was his hard work and intelligence that made fundamental food stamp reform possible.

The fundamental alteration in the program, and its most significant progressive reform, is the elimination of the purchase requirement. We have been repeatedly told that the purchase price is the greatest single barrier to the participation of the poorest of the poor, and I wish to applaud my colleagues for taking the one step—eliminating the purchase requirement—that will remove this roadblock. EPR is such an important change that it must be given top priority in implementation. The Department should move as rapidly as possible to end the cash payment system for obtaining food stamps, even if such a step requires the subsequent implementation of other regulations.

Over a longer period of time, EPR would be rendered ineffective unless the benefit delivery system itself is made more accessible and capable of timely response. Thus, the legislation mandates more convenient points and hours of certification and issuance and the development of effective emergency issuance capabilities. Because the major thrust of the legislation is to make the program more accessible for those who remain eligible, the Secretary is expected to develop specific standards for local program operation.

For example, in developing standards of office locations, he should be guided by the work registration policy which limits round-trip travel to 2 hours. Similarly, he must take into account the special problems of employed workers who currently must miss work and therefore lose pay in order to be certified. Further, the program must be better able to respond to the short-term emergency needs of many households. Ideally, this would mean on-the-spot issuance to such households, or, at the very least, certification and issuance within 48 hours of application for zero income households and in such other situations as are determined by the Secretary.

The conference report contains provisions regarding the operation of the food stamp and commodity distribution programs on Indian lands that should also have a major effect on accessibility. The conference compromise should represent a major step forward in the attempt to make domestic hunger programs respond to the needs of Native Americans.

First, the legislation mandates that the Secretary make available either the food stamp program or the commodity program or both on Indian reservations depending upon tribal preference. While Indian families could not participate simultaneously in both programs, they would have to have the option as to which program they received food assistance from. Since the legislation makes the food stamp and commodity programs interchangeable on reservations, the Secretary is also required to substantially upgrade the commodity package. In so doing he must make available a wider variety of foods such as, fresh fruits, vegetables, meats and particularly high nutrient density fruits and vegetables, which will provide Indian people with a more nutritious diet. As a guide to the adequacy of the commodity package, the Secertary should use the thrifty food plan—approximating its nutrient requirements as closely as possible.

Equally important is the provision that mandates greater involvement of Indian people in program operation, including the direct administration of the food stamp program if the State is incapable or unwilling to fully serve reservation residents. Since the conference bill conditions tribal administration on State performance, rather than on capability alone, I would expect the Secretary to move toward tribal administration where States do not take immediate steps to significantly improve program operation on Indian lands. Such actions, which allow capable tribes to administer their own programs, should greatly improve program operation and thereby increase the food and nutritional assistance to Native Americans.

Program operation is greatly simplified through the adoption of a new deduction system that replaces numerous itemized deductions. Although this flat deduction system is not as equitable as the present, the simplification, if implemented properly, should lead to improved program operation.

The only itemized deductions allowed under the new formula are for those

shelter and dependent care costs expected during the certification period—up to specific ceilings. Thus, we provide households with deductions for costs for child care, high rents, mortgage payments, utilities and then currently-claimed shelter costs.

Program administration should also be improved by the requirement for 3-month certification periods. Unduly short certification periods have been employed in the past far too frequently to the detriment of current potential recipients, as well as overburdened certification staff. Hence, it is expected that all households will be assigned the longest certification period possible that is consistent with efficient operation—up to a year for those with stable incomes. Shorter certification periods are still permitted when necessary to better reflect a household's receipt of income. Such cases would include migrant farmworkers who have not yet begun work, strikers, and for persons awaiting action on other benefit claims.

There were many members concerned about fraud in the food stamp program. All of us share the view that the public can only support programs that are run efficiently and serve only their intended beneficiaries. However, we must control our zeal in catching cheaters so as to not throw out the baby with the bath water.

Since a finding of fraud mandates disqualification, the Secretary must set very clear standards for fraud. Simple errors, misunderstandings, and other overissuances should not simply be labeled fraud, unless some willful and knowing deception on the part of a recipient or eligibility worker can be verified. We must not make this disqualification issue into a handle for local authorities to harrass recipients and to cover for their own errors or inefficient operation. For example, if an agency overissues stamps to a household, the local office should not condition program participation on the ability of the household to repay the error. It is for this reason that we have limited disqualifications to fraud and failure to meet the eligibility guidelines.

In another effort to meet past criticisms, the act mandates a job search requirement. It is intended that the Secretary will take this directive and write rules implementing a reasonable system of job inquiry, flexible enough to allow for different situations. It was not intended that this requirement be used to force recipients into a ridiculous and unproductive search and reporting scheme when there would be little chance of finding a job.

We have tied the work registration provisions to the authority for fourteen pilot projects to test workfare—work-for-no-pay. While I do not support this provision, I am anxious to see the results at the expiration of the pilots in March 1979. At that time, we can decide anew whether to extend the authority for the pilots or to drop the idea as inappropriate to the food stamp program.

Mr. Speaker, I thank you for the time to address these issues. I urge my colleagues to support the food stamp provisions as a sensible way of reforming the food stamp program.

Mr. BROWN of California. Mr. Speaker, I take this time to speak briefly on the food stamp title of the conference report now before us. It represents a considerable investment of the Agriculture Committee's time and energies, under the able leadership of my friends, Mr. FOLEY, chairman of the committee, and Mr. RICHMOND, chairman of the subcommittee.

The food stamp title of the bill is a major improvement for the poor people who need its assistance. Basically, the program is improved in two significant ways.

First, there is no longer a purchase price. Thus, a major problem in the program, one that prevented a large number of poor people from receiving assistance, is removed. Eliminating the purchase requirement will simplify the entire operation of the program, making the burdens on both recipients and administrators much more endurable, as well as more rational. I applaud this reform, and hope that it is implemented with all deliberate speed. Since this is the backbone of this reform package, and since this will only affect the manner in which benefits are delivered and not the amount of benefits, this should be the first reform in place. Indeed, I would think that the other, more complicated administrative changes in the act would be far easier to implement with the purchase requirement eliminated.

The second major area that needed reform, and which we hope will be greatly improved pursuant to this legislation, is the accessibility of food stamp offices for clients. One of the great problems has been that people have simply had a tough time applying for, and using, their food stamps. Therefore, we spent a considerable amount of time in markup debating the ways in which we could best improve the delivery system. We found it difficult, however, to prescribe any specific formula for achieving what we wanted: a truly accessible program that worked. So, we decided simply to leave the setting of standards for office hours and office locations to the Secretary, while clearly conveying to him our concern that such hours and locations operate so as to make the program as accessible as can reasonably be expected. Certainly, we expect improvements to be made.

The conference did compromise on a provision we adopted in the Agriculture Committee to test the concept of welfare. Under this scheme, which is incorporated into an 18-month pilot project, food stamp work registrants who are unable to find a job can be put to work at no pay to work off their food stamps. Frankly, I do not think this will work, but we can look at the final report in a year and one-half and make a true assessment of the applicability of this idea to the food stamp program.

Mr. Speaker, I urge the adoption of the conference report.

Mr. AKAKA. Mr. Speaker, I would like to take this opportunity to commend the distinguished chairman of the committee, Congressman FOLEY, for the extraordinary manner in which he brought about an acceptable compromise on the farm bill. As we all are aware by now, the farm bill is an extremely complex and technical piece of legislation. I would particularly like to commend the chairman for his work in the area of sugar.

Under the agreement reached by the conference committee, all of the 1977 crop will be provided price supports either by existing laws or by the de la Garza parity program. I am pleased that the conference committee recognized the unique harvesting season in Hawaii and included a provision in the conference report to include the entire 1977 crop.

This provision is crucial to Hawaii and to the 30,000 workers who depend on the sugar industry. The conferees have been fair to Hawaii and have been sensitive and understanding to a very serious problem. The solution which they have devised will treat all segments of the sugar industry equally, and will insure consumers of a relatively low price for sugar.

Mr. Speaker, I want to thank my colleagues on the Agriculture Committee, particularly Mr. RICHMOND and Mr. FOLEY, for the excellent job that they have done on the farm and food stamp bills. It has been my privilege to serve with them and to work on the development of the policy for farm and food programs.

I am particularly pleased that my colleagues were willing to make the food stamp program flexible enough to meet the unique situations of low-income households in Hawaii. The legislation formalizes the use of separate standards in Alaska and Hawaii and authorizes the development of separate standards in Puerto Rico and the territories. It is my understanding that this will result in the continued use of the OMB poverty line, which is based on food costs, and that where new standards are to be developed the same methodology as was used in the development of the current poverty line will be used by the Food and Nutrition Service, or whomever is charged with the responsibility. Thus, the major change will be the method and timing of updates of the poverty line, which will be more current as in other USDA food programs.

In addition to the separate poverty line or net income eligibility limits, the act authorizes separate standard deductions and shelter deduction maximums in Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands. I am grateful that my colleagues on the Agriculture Committee adopted the amendment I offered, because of the extreme differences in the cost of living. As a result of this provision, recipients in Hawaii will be able to claim all of the currently allowed costs of shelter up to a maximum which is higher than the $75 maximum on the mainland, based on the actual differences in shelter costs.

Benefit levels as well as eligibility standards are flexible in the act. One level is established for the 48 States and the District of Columbia, and separate

levels are authorized for Alaska, Hawaii, Puerto Rico, and the territories. Thus, except for those latter jurisdictions, where coupon allotments are based on actual costs, all recipients will receive a uniform coupon allotment based on an average of all of the various elements of food costs at the time of purchase.

The legislation also takes into account major oversights in previous income exclusion provisions. All in-kind payments, including employer-supplied housing are excluded, as are vendor payments, such as HUD housing subsidies. Additionally, reimbursements for out-of-pocket expenses are not to be counted as income. Therefore, a person who is reimbursed for travel expenses, uniform purchases, or other similar expenses will no longer have such reimbursements counted as income.

I feel that the bill is a well thought-out piece of legislation and, as I said earlier, it was a privilege to work on its development. Moreover, I am looking forward to my work on the special welfare subcommittee in order to finally bring about welfare reform. I, therefore, urge the passage of the conference report.

Mr. FISH. Mr. Speaker, this legislation is not all that many of us wanted it to be, and like all bills that are approved in these Chambers, it is far from perfect. Nevertheless, I want to commend the Members of the House Committee on Agriculture for the long hours and head scratching and really heavy work that was required to develop this major legislation. The gentleman from Washington, the distinguished chairman of the committee, Mr. FOLEY, is especially to be commended for his diligent efforts, as is the gentleman from Virginia, the equally distinguished ranking minority member of the committee, Mr. WAMPLER.

Among the others who contributed significantly to the improvement of this bill as it went through the legislative process is my good friend and colleague, the gentleman from California (Mr. BROWN). His comprehensive amendment on solar energy will provide an expanded role for the U.S. Department of Agriculture in this effort. I was pleased to have the opportunity to contribute to this provision of the bill through my amendment which expanded the solar provisions of the bill to include all nonfossil forms of energy.

I hope this program will provide a degree of energy independence to rural America in the not too distant future. The technologies of anerobic digestion, fuel cells, windpower, low-head hydroelectric power, solar heating and cooling, photovoltaic, electric vehicles, geothermal, and others are just some of the means by which virtually limitless sources of energy can be made available to our rural communities.

I am hopeful, as a result of conversations with the office of Assistant Secretary of Agriculture Mercure that appropriate departmental regulations can be drafted in the near future, applying provisions of this program in its broadest possible terms.

Again, I want to commend all who had a part in the development of this legislation, and I hope its provisions can be implemented without undue delay.

Mrs. HECKLER. Mr. Speaker, the Food and Agriculture Act of 1977 conference report before us today makes substantial changes in the USDA food stamp program. Several provisions of this report depart from the House-passed legislation of 7 weeks ago. The combination excess shelter deduction and dependent care deduction is one change of particular concern to me.

As passed by the House, the original legislation contained separate deductions—an excess shelter cost deduction of up to $75 a month for households with shelter expenses over 50 percent of net income (benefits only, not for determining eligibility) and a dependent care deduction of up to $75 a month.

The conference committee has combined the two so that a recipient may claim an excess shelter deduction of up to $75 a month or a dependent care deduction of up to $75 a month or a combination of both not to exceed $75 a month. This $75 a month maximum deduction applies to both eligibility and benefits and will be indexed annually based on shelter, fuel, and utility cost changes in the Consumer Price Index beginning on July 1, 1978.

As the sponsor of the dependent care deduction during committee consideration, my reaction to this move is mixed at best. I am pleased the individual or combination deduction applies to both eligibility and benefits—a more equitable treatment of the needs facing those with high shelter costs and in need of dependent care. A second positive point is that the deduction(s) is indexed and will be adjusted beginning July 1, 1978, based on CPI shelter costs. This provision prevents a possible loss in the value of the deduction over the 4-year life of the bill.

However, the combination deduction has distinct drawbacks. Though only 2.9 percent of the food stamp households now use the child care deduction, the importance of its availability cannot be underestimated. The dependent care deduction is a work incentive for women household heads. For those households requiring both a dependent care and excess shelter cost deduction, this choice of one or the other or a combination not to exceed $75 a month could serve as a work disincentive. The elimination of the present child-care deduction—full cost as an itemized deduction—without replacement by a deduction specifically designed to serve the same purpose will cause many of those now itemizing to reconsider whether it continues to be to their advantage to work, as opposed to going on welfare. Women-household-head recipients in industrialized areas of the Northeast and upper Midwest will be particularly hard hit.

For too long the Congress has considered child care costs as an afterthought. The failure of Congress to take this issue seriously is appalling. For the Fall River, Mass., women I represent, who work because they must, and who are food stamp recipients, omission of the conference report is devastating.

Mr. HARKIN. Mr. Speaker, I would like to compliment the distinguished chairman, Mr. FOLEY, and the conscientious subcommittee chairman, Mr. RICHMOND, for their long and hard work on this ambitious piece of legislation. They, and their colleagues on the conference committee, spent a great deal of time and energy ironing out this conference farm bill, and they are to be commended for their labors.

As a member of the Agriculture Committee, I would especially like to comment on the inclusion of a food stamp title in S. 275 which is a surprisingly good result of our committee's 2½-year effort to reform this rather visible and vital program. It was not an easy task to forge legislation from the multitude of concerns and perspectives that were represented on the committee. But the chairman, eager to give both sides of the debate a fair hearing, has managed to complete a process that makes for well-drawn legislation.

I have long been a supporter of one provision of the food stamp legislation that I am sure will aid program administration and impact favorably on recipients. The elimination of the purchase requirement, or EPR as it has come to be called, represents a rational step forward in the delivery of assistance to the people we feel need and deserve food aid. It is a reform that stands alone as a sound idea, and which should certainly be implemented as soon as possible in light of the benefits it holds for both recipients and program managers. Because of the capability of implementing EPR separate from other programmatic changes, I would hope that EPR is not subject to the inevitable delays to which the other, more complicated eligibility and benefit provisions are susceptible.

When EPR is joined with the other legislative provisions of the bill, we can offer the public a new program that meets their concerns for an effective, efficient, and well-targeted program. The eligibility factors have been redrawn so as to better aim benefits to a poverty population. Fairly large numbers of current recipients will no longer be entitled to benefits, and others whose incomes are 25 to 50 percent above the poverty line will suffer reductions in benefits. But for those below the poverty level, there will generally be no loss of assistance and, in many cases, those households will receive increases which will help them better feed their families.

We have done more than improve the targeting of benefits; we have also required improved methods of delivering the assistance. No longer will people have to wait long periods of time to apply for, and receive, assistance. No longer will the application process be so cumbersome as to require numerous return trips to the office. In general, the process for making sure people get assistance is vastly improved. It is for this reason, more than any other, that I can endorse this title of the farm bill.

I would like to highlight several ways in which we have answered the concerns of many of our colleagues in this cham-

ber and our constituents who demanded responsible reform.

First, we have taken steps to insure that those able to work actively engage in a work registration and search process, while retaining our concern that such efforts remain cost-effective and purposeful. We have taken two steps beyond the current requirements. First, we have added a provision that disqualifies a household if its head voluntarily quits a job without a good reason. This answers a criticism that attacked the integrity of the work registration process.

Second, we have taken steps to improve the process of finding jobs by requiring the Secretary to set standards by which work registrants must look for jobs. Although we have given him enough discretion and flexibility so that job search requirements are not imposed where they would be unproductive or cost ineffective, we would expect that this provision will insure that those food stamp recipients subject to the work registration provision are counted as part of our Nation's unemployed when unemployment rates are calculated.

In addition, because we have taken out of the work registration pool those who have registered under the unemployment compensation program, we expect the entire process to operate more efficiently. The food stamp offices will not have to service these people, and will thus have to accept the registration forms of fewer people. As a result, we expect the work registration process to work more effectively, which can and should be done without having to increase the administrative costs for the process over the level now being spent to comply with the 1964 act's work registration requirement.

The last element of the work registration procedures is the testing of an idea that goes one step beyond this work registration concept. Called workfare, work registrants in 14 pilot areas would have to accept Government-supplied work at no pay if they could not find private employment within 30 days of registering. These people would have to work off their food stamps, by dividing their households' allotments by the minimum wage, with the quotient representing the number of hours the person would have to work that month. If the person refused the workfare job, he or she would be disqualified from participating in the food stamp program.

This pilot project is to run 18 months from the enactment of this legislation, at which time we will be given a final report evaluating its relevance to the food stamp program and its recipient population. While I have some questions about the purposefulness of applying this concept to food stamps, I am anxious to see the results of USDA's studies.

We have made the program less litigation prone. We kept hearing in the committee markup about all the lawsuits brought against the Department under the previous administration. Of course, many of these suits were justified by their decisions, which revealed administrative insensitivity to many recipients' rights. Others of these suits, however, were caused by vague statutes that were open to differing interpretations.

One of these vague areas was outreach, the requirement that States conduct informational campaigns to insure that eligible households knew about the program's benefits, the means of applying for the benefits, and that the certification process was, in fact, open to them. While the Department and the States were certainly remiss, the legislation upon which the suit was brought should have been clearer. Therefore, this new legislation makes the requirements of the States and USDA very specific, and we expect the outreach provision will serve to make sure that the intended beneficiaries know about, and can apply for, the food stamp program.

Another vague area of the law was the requirement that households be provided with a nutritionally adequate diet. The standard for such a diet used to be USDA's economy food plan, which was challenged in court as inadequate and as unavailable to many households with the amount of coupons they received. Again, while making no judgment as to the adequacy of the economy food plan or the thrifty food plan which succeeded it, the vagueness of the law left the courts in the position of deciding what this Congress meant.

This food plan issue has been clarified. The nutritionally adequate diet language has been deleted wherever it appeared, and the standard is now to be food stamp recipients' cost of USDA's thrifty food plan, which includes retail food costs plus sales taxes on food purchases at the retail stores or food co-ops that participate in the program.

The final area I want to address is the new fraud provision in the legislation. Many of my constitutents, the press, and even the General Accounting Office have made many charges about fraud in the food stamp program. While I have yet to see concrete evidence of widespread fraud, it is an area that had to be addressed in order to preserve the public's trust. Therefore, we have significantly tightened up the fraud provisions.

For the first time, we are prescribing disqualification as the penalty, and the only penalty, for fraud. Recipients found guilty of fraud by a court are to be disqualified for the length of time prescribed by the court, which may range from 6 months to not more than 2 years. But to make sure that a court finding of fraud is not needed in every case, a route that would make it very difficult to successfully rid the program of the fraudulent, we are permitting the State agencies to disqualify individuals found guilty of fraud in State administrative hearings.

We expect the Secretary to take care in defining fraud, so as to differentiate it from errors. Fraud should be defined as willful deception on the part of recipients or food stamp personnel. We hope this area will be dealt with very carefully insofar as a recipient found guilty might well be subject to hunger as the price for his or her crime. We do not want the innocent, or those who have benefited through agency error or their own errors, to be disqualified from the program. We have also made sure that the family of a person found to have committed fraud should not suffer reductions in benefits because of a member's activities.

In summary, Mr. Speaker, I think the Agriculture Committee and the conferees from both Houses have presented us with a rational and sensitive plan for reforming the food stamp program. This reform effort has been undertaken with the care and responsibility which we expect for a program so important to so many Americans. I am happy to have been a part of that process, and I hope the conference report will be overwhelmingly supported by this House.

Mr. THORNTON. Mr. Speaker, I am very pleased that the Conference Report S. 275 on the Food and Agriculture Act of 1977 contains a strong and positive title on agricultural research, extension and education. The development of this legislation not only represents fine cooperative efforts between majority and minority parties, but also demonstrates the useful cooperation between legislative committees of the House.

During the 94th Congress, Representative Jim Symington of Missouri's Subcommittee on Science, Research, and Technology and my Subcommittee on Domestic and International Scientific Planning and Analysis conducted joint hearings to explore the need for improving and strengthening basic agricultural research. As a result of these hearings, our subcommittees published a report dated August 1976—Special Oversight Review of Agricultural Research and Development—which contained a number of substantive recommendations for improving this Nation's capacity for agricultural research, extension, and teaching. A framework was provided for formulating and coordinating policy and decisions in these areas.

Simultaneously, the House Agriculture Committee was developing proposed legislation on agricultural research. Representative WILLIAM WAMPLER of Virginia provided able leadership in developing a bill, H.R. 11743, which passed the House of Representatives July 26, 1976, but died in the Senate.

Early this year, based upon the efforts of the above-mentioned subcommittees of the Committee on Science and Technology, and with the assistance of staff members of those subcommittees and the staff of the Committee on Agriculture and of its Subcommittee on Department Investigations, Oversight and Research, I introduced a bill, H.R. 4863, which provided for an expanded and accelerated agricultural research effort. This bill contained, among other things, provisions for a program of competitive grants for basic and applied research that would be open to individual scientists, institutions, or groups of land-grant and nonland-grant public universities and colleges, as well as private universities and colleges, private research institutes and other research organizations. In addition, competitive research grant proposals would be subject to greatly broadened peer review.

The bill provided for the widest possible participation of qualified scientists within Government, in State and private universities, in State agricultural experiment stations, and in the private sector. A National Agricultural Research Award was established to provide recognition for the agricultural scientist to the broader scientific community and public. Educational grants were provided to strengthen programs of agricultural research at both the undergraduate and postgraduate levels.

In my research bill there were also provisions relating to animal health care and research. Grants were provided to construct colleges of veterinary medicine. The bill also provided additional emphasis on basic agricultural research in such areas as photosynthesis, biological nitrogen fixation, and the development of new crops such as jojoba and guayule.

Following the introduction of H.R. 4863, members of the Agriculture Committee staff, particularly Tony Imhof and Sharon Armann, and Lucille DeGostin of my staff, spent many hours working with staff of my Subcommittee on Science, Research and Technology, John Holmfeld and Gail Pesyna. Their efforts, combined with those of Representative WAMPLER's minority staff, particularly Tom Adams, suggested suitable changes and adjustments in the language of the agriculture research bill that resulted in an improved final product.

Mr. Speaker, the research title of the bill, S. 275, incorporates the provisions of my bill which I have described. The research title of S. 275 represents a fine example of cooperation between majority and minority parties in developing a research and educational proposal with input from both the Agriculture Committee and the Committee on Science and Technology. The content of the balance of this title has been explained at length in the report of the Agriculture Committee on the bill, H.R. 7171, H. Rept. 95–348, the conference report on the bill, S. 275, H. Rept. 95–599, and in other discussions on the floor of the House during consideration of the House bill and the conference report. I only want to add that I believe this legislation will be recognized as a significant contribution to American agriculture, particularly insofar as it results in coordination of all agricultural research and offers a new program of competitive grants which will bring to bear upon the problems of agricultural research the widest array of scientific talent.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY), has 2 minutes remaining.

Mr. FOLEY. Mr. Speaker, I yield myself the remainder of our time and I will not take the full 2 minutes.

Mr. Speaker, I take this time merely to repeat that I think this is a good conference report and one that all Members can conscientiously support.

I also wish to reiterate, in a record already replete with encomiums, my very sincere appreciation to all members of the Committee on Agriculture, on both sides of the aisle, for all of their hard work; and to our colleagues on the other side of the Capitol who also gave so much of their time and made a conference agreement possible.

I again wish to record my appreciation to the distinguished ranking minority member of the committee, the gentleman from Virginia, (Mr. WAMPLER). I do not believe any chairman in the House has, or could have, a more pleasant relationship with his ranking minority member than I have had the opportunity to enjoy with the gentleman from Virginia.

Finally, the gentleman from Texas, the "vice chairman" of this committee, Mr. POAGE, remains in my judgment what he has been for as long as I have had the privilege of serving with him, the most knowledgeable single individual in the Congress on either side of the aisle with respect to the whole range of agricultural problems. I again wish to express to him my deep personal gratitude and the appreciation of all the members of the Committee on Agriculture for his sage advice and strong support throughout this entire effort.

It would be unfair, Mr. Speaker, not to say a word—and really more than a word should be said—for the hard work of the staff of the Committee on Agriculture and of its subcommittees. Again, both the majority and minority staff members have had the long and arduous task and duty of carrying out the decisions of the committee, working many, many hours of overtime, late into the evenings and in the early mornings and on weekends, in order to prepare for and assist in the work of the committee and to implement its decisions.

Mr. Speaker, it has come to my attention that litigation has been instituted against the Department of Agriculture with respect to implementation of title XIII, the food stamp and commodity distribution sections of Public Law 95–113—the Food and Agriculture Act of 1977.

Because the intention of the conferees with respect to this title may be relevant to the litigation, I would like to state here views that may be pertinent to the issue.

The views are as follows:

Mr. Speaker: As Chairman of the Conference Committee and of the Committee on Agriculture, I would like to make legislative history with respect to several items relating to Title XIII, the Food Stamp and Commodity Distribution section of the Farm Bill.

It was the intent of the Committee and of the Conferees that elimination of the purchase requirement revised eligibility standards, redefined income and asset provisions, deductions and the benefit reduction rate were part of an integrated total package and that they were inseparable. Further, all the cost estimates were based on the assumption that implementation of the major eligibility factors would begin at the same time the purchase requirement was dropped. In this way the new and more restrictive eligibility factors would eliminate high gross income families during the same time that EPR would encourage the increased participation of eligible low-income families in the program. Therefore, it is my opinion that EPR should not be separated in the implementation process from these major factors that determine eligibility and benefit levels. I believe it would be a mistake to move more rapidly on the implementation of EPR than on the major eligibility and benefit components of the bill.

Further, it would not be consistent with efficient and effective administration of the Food Stamp Program to implement these provisions piecemeal, in particular to implement the elimination of the purchase requirement prior to the remainder of the Title.

Secondly, the bill as it passed the Senate required the Department to expand the variety and quantities of food in the Commodity package distributed on Indian Reservations so that it approximated the value of the Thrifty Food Plan and would provide a nutritionally adequate diet. However, the bill passed by the House had no similar provisions. To insure accurate understanding of Conference action, I would like to restate the language contained in the Explanatory Statement of the Conference Committee.

"The Conference substitute requires the Secretary to improve the variety and quantity of commodities he supplies to Indians in order to provide them an opportunity to obtain a more nutritious diet. The Conferees do not intend that the commodity package will necessarily in and of itself constitute a "nutritionally adequate diet." I believe this language makes clear that the determination of the steps necessary to improve the variety and quantity of commodities is left to the administrative discretion of the Secretary."

Thirdly, with respect to points and hours of certification and issuance the Conferees adopted the House amendment which requires the States to comply with standards established by the Secretary for points and hours of certification. The Committee on Agriculture omitted any reference to specific distances food stamp program participants must travel to reach certification and issuance offices because the Committee felt that no law can enforcibly mandate convenience in office location.

Mr. Speaker, I hope the conference report will be adopted overwhelmingly. I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 107, not voting 44, as follows:

[Roll No. 557]

YEAS—283

Abdnor	Bevill	Burton, John
Addabbo	Bingham	Burton, Phillip
Akaka	Blanchard	Carney
Allen	Blouin	Carr
Ambro	Boggs	Carter
Andrews, N. Dak.	Boland	Cavanaugh
	Bonior	Chisholm
Annunzio	Bonker	Clay
Applegate	Brademas	Cochran
Ashley	Breaux	Coleman
Aspin	Breckinridge	Collins, Ill.
AuCoin	Brinkley	Corman
Baldus	Brodhead	Cornell
Barnard	Brooks	Cornwell
Baucus	Brown, Calif.	Cotter
Beard, R.I.	Buchanan	Daniel, Dan
Beard, Tenn.	Burke, Calif.	Daniel, R. W.
Bedell	Burke, Mass.	Danielson
Bellenson	Burleson, Tex.	Davis
Benjamin	Burlison, Mo.	de la Garza

Delaney	Kildee	Pritchard
Derrick	Kostmayer	Pursell
Dicks	Krebs	Quie
Downey	LaFalce	Rahall
Drinan	Latta	Railsback
Duncan, Tenn.	Le Fante	Rangel
Eckhardt	Leach	Richmond
Edgar	Leggett	Risenhoover
Edwards, Ala.	Levitas	Roberts
Edwards, Okla.	Livingston	Rodino
Eilberg	Lloyd, Calif.	Roe
Emery	Lloyd, Tenn.	Rogers
English	Long, La.	Roncalio
Ertel	Lott	Rose
Evans, Ga.	Lujan	Rosenthal
Evans, Ind.	Luken	Rostenkowski
Fary	Lundine	Roybal
Fascell	McCloskey	Runnels
Fithian	McCormack	Ruppe
Flippo	McDade	Ryan
Flowers	McEwen	Santini
Flynt	McFall	Sawyer
Foley	McHugh	Scheuer
Ford, Mich.	McKay	Sebelius
Ford, Tenn.	McKinney	Seiberling
Fountain	Madigan	Sharp
Fowler	Mahon	Shipley
Fraser	Mann	Simon
Frenzel	Markey	Sisk
Fuqua	Marlenee	Skelton
Gammage	Mathis	Skubitz
Gaydos	Mattox	Slack
Gephardt	Mazzoli	Smith, Iowa
Gilman	Meeds	Smith, Nebr.
Ginn	Meyner	Solarz
Glickman	Mikulski	Staggers
Gonzalez	Mineta	Stangeland
Gore	Mitchell, N.Y.	Stanton
Grassley	Moakley	Stark
Gudger	Moffett	Steers
Guyer	Mollohan	Steiger
Hagedorn	Montgomery	Stokes
Hall	Moore	Studds
Hamilton	Moorhead, Pa.	Taylor
Hammer-schmidt	Moss	Teague
	Murphy, Ill.	Thompson
Hanley	Murphy, N.Y.	Thone
Hannaford	Murphy, Pa.	Trible
Harkin	Murtha	Tucker
Harris	Myers, John	Udall
Harsha	Myers, Michael	Ullman
Hawkins	Natcher	Vento
Hefner	Neal	Volkmer
Heftel	Nedzi	Waggonner
Hightower	Nichols	Walgren
Hillis	Nix	Walsh
Holland	Nolan	Wampler
Horton	Nowak	Watkins
Howard	O'Brien	Waxman
Hubbard	Oakar	Weiss
Huckaby	Oberstar	Whalen
Hyde	Obey	White
Ichord	Ottinger	Whitehurst
Jeffords	Panetta	Whitley
Jenkins	Patten	Whitten
Jenrette	Patterson	Wilson, C. H.
Johnson, Colo.	Pease	Wilson, Tex.
Jones, N.C.	Pepper	Winn
Jones, Okla.	Perkins	Wirth
Jones, Tenn.	Pettis	Wright
Jordan	Pickle	Wylie
Kasten	Poage	Young, Mo.
Kastenmeier	Pressler	Young, Tex.
Kazen	Preyer	Zablocki
Keys	Price	Zeferetti

NAYS—107

Ammerman	Dellums	Jacobs
Anderson, Calif.	Derwinski	Kelly
	Devine	Kemp
Archer	Dickinson	Ketchum
Armstrong	Dornan	Kindness
Ashbrook	Early	Lagomarsino
Badham	Edwards, Calif.	Lehman
Bafalis	Erlenborn	Lent
Bauman	Fenwick	Long, Md.
Bennett	Findley	McClory
Broomfield	Fish	McDonald
Broyhill	Fisher	Maguire
Burgener	Florio	Marriott
Burke, Fla.	Forsythe	Martin
Butler	Frey	Michel
Byron	Giaimo	Mikva
Caputo	Gibbons	Milford
Clawson, Del	Goldwater	Miller, Calif.
Cleveland	Goodling	Miller, Ohio
Collins, Tex.	Gradison	Mitchell, Md.
Conable	Hansen	Moorhead, Calif.
Conte	Heckler	
Corcoran	Hollenbeck	Mottl
Coughlin	Holt	Myers, Gary
Crane	Holtzman	Pike
Cunningham	Hughes	Quayle
D'Amours	Ireland	Regula
Reuss	Shuster	Walker
Rhodes	Snyder	Wiggins
Rinaldo	Spence	Wilson, Bob
Robinson	St Germain	Wolff
Rousselot	Stockman	Wydler
Rudd	Stratton	Yates
Russo	Stump	Young, Alaska
Satterfield	Symms	Young, Fla.
Schroeder	Van Deerlin	
Schulze	Vander Jagt	

NOT VOTING—44

Alexander	Dent	Minish
Anderson, Ill.	Diggs	Pattison
Andrews, N.C.	Dingell	Quillen
Badillo	Dodd	Rooney
Biaggi	Duncan, Oreg.	Sarasin
Bolling	Evans, Colo.	Sikes
Bowen	Evans, Del.	Spellman
Brown, Mich.	Flood	Steed
Brown, Ohio	Harrington	Thornton
Cederberg	Johnson, Calif.	Traxler
Chappell	Koch	Treen
Clausen, Don H.	Krueger	Tsongas
	Lederer	Vanik
Cohen	Marks	Weaver
Conyers	Metcalfe	Yatron

The Clerk announced the following pairs:

Mr. Bowen with Mr. Anderson of Illinois.
Mr. Steed with Mr. Sarasin.
Mr. Sikes with Mr. Quillen.
Mr. Weaver with Mr. Brown of Michigan.
Mr. Thornton with Mr. Cederberg.
Mr. Traxler with Mr. Pattison of New York.
Mr. Tsongas with Mr. Lederer.
Mr. Biaggi with Mr. Brown of Ohio.
Mr. Badillo with Mr. Don H. Clausen.
Mr. Koch with Mr. Andrews of North Carolina.
Mr. Duncan of Oregon with Mr. Conyers.
Mr. Chappell with Mr. Evans of Delaware.
Mrs. Spellman with Mr. Diggs.
Mr. Dent with Mr. Metcalfe.
Mr. Johnson of California with Mr. Marks.
Mr. Dingell with Mr. Krueger.
Mr. Yatron with Mr. Harrington.
Mr. Evans of Colorado with Mr. Dodd.
Mr. Rooney with Mr. Treen.
Mr. Vanik with Mr. Minish.
Mr. Alexander with Mr. Flood.

Mr. HORTON and Mr. EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. ERTEL). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. BONKER. Madam Speaker, as an election official in the State of Washington, I spent years convincing people that computers are nearly infallible instruments for tallying votes. Thus, I am in no position to challenge our own electronic marvel. But I must mildly protest one recorded vote, that on the Cornell amendment to the minimum wage bill providing for a subminimum wage for certain youths.

I intended to vote "no," announced to colleagues I would vote "no," and did vote "no," at least in my own mind. The machine says I voted "yes."

To my friends in business and labor, I hope this makes clear my intent was to oppose a youth subminimum wage. To my colleagues, I will let this stand as a demonstration of the gap between intent and the right button. And to the Speaker TIP O'NEILL, I say thanks for saving me from an even more painful explanation.

Madam Speaker, I ask unanimous consent that my statement appear in the permanent RECORD immediately after the vote on the Cornell amendment.

The SPEAKER pro tempore (Miss JORDAN). Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 5262, INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. REUSS. Madam Speaker, I call up the conference report on the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, and the Asian Development Fund, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 28, 1977.)

Mr. REUSS (during the reading). Madam Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. REUSS) and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the conference reported bill before us, H.R. 5262, if enacted would authorize $5.2 billion in the aggregate for the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corp., the Asian Development Bank, and the Asian Development Fund, the so-called international development institutions, over a period of years, and instructs our representatives to these institutions how to vote on given loans to countries under several conditions.

Specifically the reported bill provides for U.S. contributions as follows: $1.5 billion for the World Bank out of total subscriptions of $8.4 billion; $112 mil-

lion for the International Finance Corp. out of total subscriptions of $540 million; $2.4 billion for the International Development Association out of total subscriptions of $7.6 billion; $814 million for the Asian Development Bank out of total subscriptions of $5 billion; and $180 million for the Asian Development Fund out of total subscriptions of $809 million.

The reported bill also provides for a U.S. contribution of $50 million for the African Development Fund as contrasted to the House provision which authorized an open-end appropriation. The conference bill further directs the Secretary of the Treasury to begin discussions with other nations for the purpose of setting amounts for further replenishments and for reviewing and possibly changing the current voting structure of the African Development Fund.

In each instance for each of these development-lending institutions, the conference-reported bill specifically provides that no commitment to make payment for any contribution shall be made until the amount required has been appropriated. Therefore, in no instance could any commitment by the U.S. Government be made to any of these institutions for callable capital, paid-in capital, or other contributions to the various development funds unless and until the necessary appropriations have been approved by the Congress.

There were a number of areas of difference between the House and Senate versions of H.R. 5262 which resulted in a number of lengthy and difficult conference sessions. Basically, these areas of disagreement did not center on the dollar amounts authorized for these institutions, but rather on other sections of the bill. There were two major areas of difference: First, human rights; and second, assistance for the production of certain commodities. In each of these instances the House conferees were able to convince their Senate counterparts to include in the conference bill directives to our U.S. representatives to work continually to accomplish the objectives of the original House legislation.

In the human rights area, the House bill required the U.S. representatives to these institutions to vote against any assistance to nations which engaged in a consistent pattern of gross violations of internationally recognized human rights, or which provided refuge to individuals committing acts of international terrorism by hijacking aircraft, unless the assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

The Senate version contained no comparable provision. The conferees agreed to retain every part of the House version except for the mandatory "no" vote. The conference bill requires the U.S. representatives to these institutions, where other means have proven ineffective in advancing the cause of human rights, to oppose all assistance to those countries which engage in consistent patterns of gross violations of human rights unless the assistance is directed specifically to programs which serve the basic human needs of the citizens of the country, or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

In addition to the provision requiring continual opposition by our representatives to these institutions—with reports to the Congress on what form this opposition is taking—the Senate accepted many other House provisions on human rights. The Senate accepted the House requirement that the U.S. must use its voice and vote in the international financial institutions to channel assistance to projects which address the basic human needs of people in the recipient country. The Senate also agreed to the expanded House version of internationally recognized human rights which includes "prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person." The Senate further agreed to accept the House version of the provision requiring that consideration shall be given to the extent of cooperation of a country in permitting investigation of alleged human rights violations. The Senate version only listed the International Committee of the Red Cross as an appropriate international organization for such investigations, whereas the conference bill follows the House version and adds Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States to this title.

The conference bill also requires the U.S. Government to initiate consultation with other nations to develop standards for meeting basic human needs and protecting human rights. It also requires the United States Executive Directors to consider three additional factors in carrying out their duties—U.S. actions on bilateral assistance due to human rights considerations, the extent to which economic assistance directly benefits needy people, and whether a country has detonated a nuclear device or is not a State party to the Treaty on Nonproliferation of Nuclear Weapons, or both. Finally, the conference bill repeals the existing human rights language which applied only to the Inter-American Development Bank and the African Development Fund since the many human rights provisions of the conference bill are mandated on a uniform basis for all the international development institutions.

With respect to human nutrition and the production of citrus crops, sugar, or palm oil, the Senate conferees accepted a provision which requires the U.S. representatives to oppose all loans and all other assistance for expanding production for export of these crops if it would cause injury to U.S. producers. In return for this major concession on the part of the Senate, the House agreed to drop the mandatory "no" vote which was required in its version. The conferees agreed that a process of active opposition by the U.S. representatives—with annual reporting to the Congress—would be more effective than merely a mandatory "no" vote.

The Senate further agreed to accept the House requirement in this area which declares it to be the policy of the United States in connection with its voice and vote in the institutions to combat hunger and malnutrition in the developing countries with emphasis on assistance to those countries that are determined to improve their own agricultural production for their own domestic consumption. The conference bill also requires U.S. representatives to seek to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country.

There are two other provisions in the conference bill which deserve mention. The conference bill adopted a House provision which requires the U.S. representatives to promote the development and utilization of light capital technologies in the international financial institutions. Finally, the conference bill incorporates a Senate provision which directs our representatives to take appropriate actions to keep salaries and benefits of employees of the international financial institutions at levels comparable with the salaries and benefits of private business and U.S. Government employees in comparable positions.

Madam Speaker, I have indicated the major differences between the House and Senate versions of this legislation. As stated earlier, the differences were not in the dollar amounts. I think the House conferees did an excellent job in representing the House position on each and every issue. The conference report was signed by 11 of the 13 House conferees. One of those, my distinguished colleague from New York, Mr. BADILLO, wanted 100 percent of the House provisions on human rights. He knows we tried, but this was not possible. I think a review of the conference bill and the statement of managers will convince my colleagues that your conferees upheld the House in all major instances. We have a good conference bill, and I urge all Members to support its adoption.

Mr. RONCALIO. Madam Speaker, will the gentleman yield for an observation?

Mr. REUSS. I will be glad to yield to the gentleman from Wyoming.

Mr. RONCALIO. Madam Speaker, I want to commend the gentleman from Wisconsin (Mr. REUSS) very highly for his report and, particularly, for remembering the late great E. F. Schumacher and his contributions in solving the problems of the nations of the world.

I think the matter of human rights is vital. More and more, as I have been able to observe, this will be the most important single factor in world relationships in years to come.

I have, in fact, recently been reviewing Franklin Delano Roosevelt's "Four Freedoms" and Eleanor Roosevelt's first United Nations talk about human rights on a worldwide basis.

Madam Speaker, I hope the House will support the conference report. I commend the gentleman from Wisconsin (Mr. REUSS) again for his great work.

Mr. REUSS. Madam Speaker, I thank the gentleman.

Madam Speaker, I think our emphasis here on being good neighbors, on hewing to the line on human rights, and on continuing the good work of E. F. Schumacher in "Small is Beautiful" is, as Daniel Webster said, something worthy to be remembered, I am not ashamed of it.

Madam Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Texas (Mr. GONZALEZ), who so ably pioneered the work on this bill.

Mr. GONZALEZ. Madam Speaker, Chairman REUSS has explained the specific provisions of this conference report, and I do not want to dwell on that. I do want to stress what I believe is the most important thing about this bill, which is this: The bill represents a successful effort to provide strong congressional guidance for U.S. participation in the multilateral development lending agencies.

Up until the time I became subcommittee chairman for what was then the subcommittee on International Finance, Congress had made no effort at all to establish policy to govern the actions of our representatives in these development institutions. When I suggested that we would provide a clear policy on expropriation, if the administration did not, I was told that it was inappropriate for Congress to legislate policy, that it was a mistake, and that it was impossible.

Today things are very different. This bill carries in it firm policy guidance on agricultural lending policy, on human rights, on appropriate technology, and even on what our future negotiating positions should be. Congress, with the enactment of this bill, will become a full partner in the whole process of participation in these multilateral lending agencies. The administration will know where we stand and what we expect. We, for our side, will have a way to make the administration accountable—for we will have policies against which we can measure and gage the sections of those who represent the United States in these agencies.

For example, this bill specifically provides that our future contributions to these banks should not exceed 25 percent of the aggregate contributions made. Here, for the first time is a statement of what Congress expects our negotiating position to be. When the administration comes here 2 years from now and reports on what they want by way of additional contributions, we will know how well they have carried out our intention. In this way, for the first time, we will be in a position to avoid being faced with agreements that are excessive. We will, for the first time, have a real influence over what the agreements will be.

As another example, this bill provides very firm guidance on human rights—a uniform policy for each lending agency. There is a firm policy on the kinds of lending that we expect these banks to stress—lending that meets basic human needs, lending that is appropriate to the needs of the countries concerned. We will, through this bill, provide a firm policy on agricultural lending—a policy that causes our representatives to oppose lending to projects that lead to competition with certain specific commodities—suger, citrus, and palm oil.

This conference report has already been accepted by the Senate. If it is accepted by the House, we will complete a process that I am proud to have begun—the process of having this House, and this Congress, establish clear policy guidelines for our participation in these development lending institutions. This bill, for the first time, makes us full partners. We can expect in the future to have genuine accountability from the administration, and we can expect in the future that we will have an even fuller opportunity to participate in the whole process of policy development, the process of negotiation, and the process of bank lending.

That is a genuine achievement. It is the most important reason to support this conference report—not that we have achieved everything we might want, but that we have done far, far more than anyone ever believed possible, to give ourselves a genuine and, in fact, indispensable voice in how these agencies do their work.

Mr. STANTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I, too, would like to urge my colleagues to support the conference report to accompany H.R. 5262.

The differences between the bill as voted by the House and the bill as it emerged from the conference are really very minor differences, even though the opponents of this measure would have you believe otherwise. And, in my opinion, the changes which were made represent improvements to the original language in most cases—changes which will increase the chances of achieving the goals that the House expressed when it passed its legislation.

Opponents of this conference report will raise objections on two separate sections of the report. The first concerns loans by development lending institutions for palm oil, citrus, or sugar production in developing countries. I feel that criticism on this score is misplaced. Almost all of the conferees agreed that the House won the lion's share in this compromise. My colleagues may recall that the palm oil/citrus/sugar language adopted by the other body was very weak. It merely instructed U.S. representatives to the development banks to "consider" whether or not assistance was going for production of palm oil, citrus, or sugar. It was essentially meaningless.

The House language, on the other hand, instructed our representatives to vote against such loans. The eventual compromise embodied in this conference report is very close to that House position. The new language did, however, recognize and attempt to correct two minor flaws in our language.

First, a strict construction of the House language would have put U.S. representatives to the development banks in the position of having to vote against a loan to Kenya, for instance, for establishment of a sugar plantation to meet its domestic demand for sugar. Preventing production for domestic consumption was clearly not the intent of those who offered this amendment, as the record of the debate shows. Second, the original language would have required a "no" vote on loans which might have gone, for example, to develop citrus production in Mali for eventual export to Niger. Obviously, this sort of production could have had little or no effect on the U.S. export position and was not the real target of this amendment.

Aside from these two minor changes, the conferees left the House language intact. As the bill now reads, U.S. representatives to the development banks are required to oppose loans for export of palm oil, sugar or citrus crops if injury would result to U.S. producers of the same or similar products.

The second controversial provision of our conference report is the human rights section. Again, all the conferees, save one, feel that we preserved the essential elements of the House position.

The bill that passed the House required the U.S. representatives to the development banks to vote against assistance to nations engaged in patterns of human rights violations—unless that assistance is directed to programs which serve the basic needs of the citizens. During the debate in the other body, an amendment similar to this was offered and rejected in a close vote.

With both Houses on record as taking opposite positions, the human rights issue became the principal one of the conference.

After two meetings, the other body's conferees agreed to accept what is essentially House language—with one major change. Under the agreed-upon language, U.S. representatives to the development banks would have the option to vote in favor of a loan to a country which violated human rights only if the President certifies that human rights would be better served by that action.

The drafters of the House language establishing our tough human rights position are dissatisfied with this compromise—they believe it to be weaker than their original wording. All the other conferees, however, felt that the human rights provisions were strengthened by this modification. Most conferees supported this new language that recognized potential instances where U.S. representatives could win human rights concessions, in trade for a "yes" vote on a loan request. In addition, this added flexibility permits U.S. representatives to use the powers of persuasion to convince other countries to join the United States in bringing pressure to bear on human rights violators.

It is difficult for me to see why this change is so unacceptable to those in the House that fought for a very tough human rights position. It is not a "loophole" as they have argued—it is a rec-

ognition of the fact that there are occasionally instances where a more refined instrument than the mandatory "no" vote could do more to aid the cause of international human rights.

I would urge my colleagues to examine the language of this report with care, and to accept this report which enjoys broad bipartisan support of the conferees, and which preserves the essence of the House's position.

Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. SYMMS. Madam Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Miss JORDAN). The Chair will state to the gentleman from Idaho (Mr. SYMMS) that no point of order is in order at this point since a question is not now being put to a vote.

The Chair recognizes the gentleman from California (Mr. ROUSSELOT) for 5 minutes.

Mr. ROUSSELOT. Madam Speaker, I rise in opposition to the conference report on H.R. 5262—International Financial Institutions. This bill authorizes contributions totalling $5.2 billion to the various institutions. Despite all of the talk about using this money to gain leverage against countries which violate human rights, I find that the human rights provision in this conference report is completely inadequate to lend any significant degree of credibility to President Carter's avowed support for human rights.

The conference provision on human rights is full of loopholes:

First. The United States does not have to oppose assistance to nations which engage in a consistent pattern of human rights until "other means have proven ineffective in advancing the cause of human rights."

Second. Even where "other means have proven ineffective," the United States is not required to vote against assistance to human rights violators if "the assistance is directed specifically to programs which serve the basic human needs of the citizens of the country or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance."

Third. Finally, the conference report states that the word "oppose" does not mean that a "no" vote would be required. Besides a "no" vote, opposition could take the form of a "present" vote, and abstention, or any other action other than voting "yes."

This language is completely inadequate, in my judgment, to convey a message to the nations of the world that the United States means business when it comes to human rights.

A message in support of human rights is badly needed at this particular time. Recently "Sixty Minutes" included an interview by Mike Wallace of Henry Kyemba, a former high official in the regime of Gen. Idi Amin in Uganda. Kyemba said that Amin has an appetite for human flesh and that he has murdered 150,000 Ugandans. Mr. Kyemba went on to say that despite its professed stand for human rights, the United States continues to trade with Uganda. Uganda has also been the recipient of substantial assistance from the African Development Bank, whose Development Fund would receive $50 million under this bill.

In the absence of an effective human rights position, the only way Congress can insure that taxpayers' money will not be used to support vicious dictators like Amin is to defeat this conference report.

Mr. SYMMS. Madam Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

What the gentleman is telling us is that the U.S. Carter administration says it is OK to buy coffee from Uganda, but we cannot buy chrome from Rhodesia.

Mr. ROUSSELOT. That certainly could be part of the interpretation. I am sure that the international banks concerned in this bill have never thought of loaning any money to Rhodesia, as the gentleman knows.

Mr. SYMMS. I would like to ask one other question, if the gentleman would yield further. Is there any of this money in this bill that will be going to Dictator Torrijos' regime in Panama?

Mr. ROUSSELOT. Conceivably it could. I do not know if there are any such plans, but conceivably it is available from any of these financial institutions. As the gentleman knows, Panama's rating, according to Freedom House, is substantially at rock bottom of a list of Central American countries as it relates to the priorities of human rights. But it could go to Chile, or any others, so I do not think it is just a matter of one or two countries' dictators that may or could receive loans, whether it is Communist or Socialist, or whatever kind. I just do not think human rights are adequately protected in this legislation, and I would urge the Members to vote down this conference report.

Mr. STANTON. Madam Speaker, I yield 3 minutes to the very distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Madam Speaker, I support the conference report to accompany H.R. 5262. As the ranking minority member of the subcommittee which worked with this legislation from its conception, I would like to give my colleagues my assurance that this report represents a balanced compromise between the House version and the other body's version, and I urge their support for passage.

We should not kid ourselves, however. Anyone familiar with this legislation knows that choosing the appropriate human rights language is the real issue before us. For that reason, I would like to direct my remarks to that issue.

From the beginning, I too, have been very concerned about the problem of human rights and how the Congress could best handle it. During committee debate, I understood the logic of the administration's plea for flexibility in applying its human rights policy, but I was very sympathetic to those Members—especially my colleague from New York—who called for a tougher human rights policy. I too, felt reluctant to provide too much flexibility to an administration which had selectively raised the human rights issue for all the political mileage it could get.

Yet, in this compromise version, we have injected an element of that much sought commodity—flexibility. In those instances where the President believes that a "no" vote would hinder human rights, he need only make a certification to that effect, and then the U.S. representatives to the development banks may vote "yes" on a loan. Obviously, the Congress does not expect this to be a frequent occurrence, and the President will have to present a convincing case when he allows our representative to vote "yes" on a loan to a human rights violating country. Some of us will be watching very closely.

Finally a few words of general support for the bill itself. It was under a Republican President almost 8 years ago that the Congress and the Executive agreed to place increased emphasis on multilateral rather than bilateral forms of aid. An analysis of the changes since then shows that there are now more countries giving more money with fewer political strings attached. I believe we went in the right direction then, and that we should continue in that direction now. It is necessary to keep faith with poorer peoples of the world and our obligation as the leader of the free world.

When we discuss human rights a curious double standard arises: Many of those most outspoken on this issue direct their indignation toward Chile, South Korea, and the Philippines, but when it comes to Ethiopia, Somalia, Mozambique, or the Central African Empire a great sense of tolerance and understanding sweeps over us.

We forced Rhodesia to shut down its information office in repudiation of what the media is pleased to call the people's sacred "right to know"—but we are moving toward reestablishing relations with Cuba and this morning's news relates a rush on the administration's part to normalize relations with Vietnam.

In the Soviet Union we will enthusiastically participate in the great propaganda event known as the Olympics, but Taiwan, a nation of 16 million people, pro-American, will be ostracized as it was in Canada.

The captive nations are an embarrassment to our human rights crusaders, whose proper concern for racial apartheid leaves little room for concern about religious apartheid.

The list is dreary and long, but it is enough to say that where human rights are concerned, this building transforms itself into the Rose Bowl of hypocrisy and selective indignation and the double standard reigns supreme.

I hasten to add, however, that I have little in common with those proponents of human rights who would use the issue as a lever to close the door on foreign aid flows.

Like many of my colleagues, I found limited comfort either in the administration language which our committee brought to the floor, or in the Harkin language which we took to conference. In truth, I am happier with our conference language on human rights which represents an improvement over both the weak prescription favored by the administration, or the remedy offered by the House. It is an improvement, because it takes the best parts of both approaches.

On the one hand, the conference language retains the essence of the Harkin language. It is an exceedingly strong statement to the world's oppressed and their oppressors from the U.S. Congress. It says clearly that we feel—as strongly as any President—that basic human rights must be preserved where they exist, and established where they do not exist. On the most fundamental level, it puts our money where our mouth has been.

Mr. STANTON. Madam Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. STANTON. Madam Speaker, may I compliment the gentleman in the well at this particular time. I think the gentleman from Illinois (Mr. HYDE) has put a proper perspective on human rights in comparison to the millions of dollars we give in foreign assistance and understands the sense of the people in this room and in this Congress. The American people are giving untold millions of dollars to persons in this world of ours to help them to live with an element of dignity and decency. For the feeling of support that the gentleman in the well has always shown for those individuals, I congratulate him.

Mr. HYDE. Madam Speaker, I thank the gentleman from Ohio.

Madam Speaker, I simply close by saying that basic human rights have got to be preserved where they exist. They have got to be established where they do not exist.

I support this conference report.

Mr. REUSS. Madam Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Madam Speaker, I guess when we have lived with this human rights thing as I have been living with it intimately in the last 2½ years since I came to this Congress, perhaps we begin to concentrate on it so much that we tend to think of it as being the most important thing we can do in this House. That is in fact my feeling.

I know there are not many Members sitting in this House today and there ought to be because I think what we are about here could in the next few years be more significant in our relationship to other countries, and what we do in the world community with regard to human rights, than anything else we will do in this Congress.

Let me say at the outset I in no way have any doubt or any kind of feeling that the distinguished chairman of this committee, the gentleman from Wisconsin, HENRY REUSS, is in any way not supportive of the basic human rights. I know him very well. He is a good friend of mine. He is one of the most decent individuals in this body.

So my actions today in trying to defeat this conference report have nothing to do with him personally. We both agree on the human rights principles and we both agree that they are the most basic principles of our foreign policy. We simply disagree as to how to achieve those ends.

Let me refer to a little bit of history. In the past 2½ years this House has adopted four different human rights amendments. In the whole history of this country it is the first time Congress has ever elevated human rights considerations to a legalistic point in our foreign relations policy. It is the first time since the first Congress ever met, and we have done it four times in the last 2½ years. We did it once on the economic aid bill and once on the military aid bill, and both are bilateral aid bills. We did it twice on the human rights amendment on the Inter-American Development Bank and we did it on the African Development Fund.

I would point out this conference report repeals the human rights provisions we added to the African and the Inter-American bills.

We have now strong human rights language in our military aid bill and strong human rights language in the economic aid bill.

Then we have this conference report dealing with multilateral lending institutions. The amounts are not insignificant. More and more of our aid money is being funneled through these multilateral lending institutions. Fifteen of the world's most repressive governments will get $2.9 billion in World Bank loans in fiscal year 1979, according to information contained in confidential World Bank working papers.

Total loans will reach $9 billion.

Of the 15 governments, 4—Argentina, Chile, Ethiopia, and Uruguay—have had their bilateral aid cut by President Carter or by Congress because of human rights violations. These four will get $454 million from the World Bank in fiscal year 1979, according to this World Bank report. Some of the other countries are Haiti, the Philippines, Ethiopia, Zaire, Thailand, and Nicaragua. These are all countries that are part of a list of 13 countries named as rights violaters by the gentleman from Maryland (Mr. LONG), chairman of the House Appropriations Subcommittee on Foreign Aid.

If we adopt this conference report, then in effect we find it all right to funnel these funds to these countries through the World Bank.

An amendment we adopted earlier this year on this bill went to the Senate as the Badillo amendment. On a very close 47-to-40 vote, the Senate defeated that and adopted the much weaker watered-down version of that.

I disagree with my esteemed colleague, the gentleman from Wisconsin (Mr. REUSS) that the conferees agreed with the House version of the bill. I think there are two phrases in this conference report which completely take out what the House did earlier, the phrase saying, "In addition; where other means have proven ineffective in achieving the purpose of subsection (a)." That subsection deals with human rights.

Then the directors are authorized and instructed to oppose any loan.

Then the question arises, who is to say when these other means have failed and who is to say when they prove ineffective or effective?

How long a period of time do we have to wait?

I am reminded of the recent meeting we had here on the Panama Canal and General Pinochet went back to Chile and said he and President Carter both agreed on human rights. If that is true, then I am worried.

So this is another loophole, other than the one mentioned by the gentleman from California (Mr. ROUSSELOT).

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. REUSS. Madam Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. HARKIN. Madam Speaker, I just want to finish this up.

The other phrase said they are to oppose these loans, if these other means are proven ineffective, or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

Again, what we are doing, we are abdicating our authority and responsibility once again to the President. We have taken a giant step backwards from what this House and the Senate has done on four occasions in the last 2 years.

Certainly we do not have to give the President the final say-so in what they are going to do, because I believe just as Congress has waited almost 200 years to put into law a law for human rights in our policy dealings, I believe we have to adhere to that and build up that body of law, so that further down the road 10 years from now, 20 years from now, that body of law will be secure in our foreign policy dealings. We have to make it secure, not only in our bilateral aid, but in our multilateral aid.

So vote down the conference report, send it back to the Senate so that we get those two phrases taken care of and we have the same kind of human rights consideration in our bilateral as in our multilateral aid. It will not take that long. So I ask the House to vote down the conference report and send it back to the Senate.

Mr. SYMMS. Madam Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Idaho.

Mr. SYMMS. Madam Speaker, I would like to ask the gentleman in the well the same question that I asked the gentleman from California (Mr. ROUSSELOT). Does the gentleman find it ironic that we not buy chrome from Rhodesia, but we buy coffee from Uganda?

Mr. HARKIN. I do not drink coffee.

Mr. SYMMS. I am glad the gentleman has such a forthright answer.

Mr. HARKIN. I agree, we ought not to buy coffee from Uganda.

Mr. REUSS. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Madam Speaker, I will not take the entire 2 minutes. Considering the scarcity of the Members in the Chamber, it probably will not make any difference anyway.

I would like to address myself to what is essentially part of an effort to defeat the conference committee and what it really would do. I think we all know it would seriously undermine the banks, that this is a serious effort to torpedo the banks.

Almost every enlightened foreign policy thinker in the world today feels that the proper way to go about aiding poorer countries is through multinational lending institutions. With multinational lending institutions, we reduce the amount of money that is required to be put up by the American taxpayer, and we increase the amounts others put up. We share the burden. When we share a burden, we lose a little of the direct control we might have. I think it is a very, very small price to pay.

Finally, I will address myself to the last thing the gentleman from Iowa (Mr. HARKIN) said. I have grown up with the idea all of my life, and I still believe, that disagreements among American policymakers, in so far as possible should stop at the water's edge. I personally, and many of my colleagues on the Democratic side, supported President Nixon's foreign policy with the exception of the Vietnam war. We totally supported President Ford, and now we totally support President Carter. The Executive has the responsibility for the conducting of foreign policy in this country, and I say that he should indeed have the final say-so if he has got the responsibility. He needs the authority.

We do not want to torpedo the banks. Great strides have been made; greater strides are being made in the area of human rights than have even been made before. We do not want to overdo it.

Mr. STANTON. Madam Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Madam Speaker, Members of the House, I rise in opposition to the conference report on this bill.

Mr. BADILLO and I did not sign the report. I feel the report dilutes the strong House positions on human rights and on assistance to countries whose production for export of palm oil, citrus, and sugar would injure U.S. producers. It diluted these strong positions to such an extent that the compromise is unacceptable.

There can be little doubt but that the desires and intentions of a majority of this House are not reflected in the conference report before us on two major amendments to this bill: the human rights amendment of HARKIN and BADILLO, and the citrus-palm oil amendment of MATHIS and MOORE. Both passed by substantial margins. Mathis-Moore by 218 to 145, and Harkin-Badillo by a strong voice vote.

We also had the opportunity in conference to approve the Senate position prohibiting loans to Vietnam, Laos, and Cambodia, the so-called Dole amendment which reflects the intent of this body when it approved Mr. YOUNG'S amendment to a different bill, the foreign aid appropriations bill by a vote of 295 to 115.

The most important aspect of those amendments was that they instructed the U.S. representatives of the various developmental institutions to vote against granting loans in the certain instances stated above. Such mandatory "no" votes are the only way that the United States can stand behind what it believes. Such strong positions were once considered by this body the best positions. And now we are asked to accept far weaker positions which under the guise of "flexibility" do nothing to prove to the world or to the American people where we do indeed stand. We are left with empty words and phrases that direct the U.S. representative to "consider the impact of," or "work against," or "discourage" such loans to countries which violate human rights, or to Vietnam or Uganda, or to countries whose farm product exports will hurt farmers in the United States. In short, the conference report has emasculated the House version of this bill on these points.

There comes a time when decisions have to be made, when one must take sides, when one must stand and be counted, to further the goals of the United States, whether to promote human rights abroad or to protect our citizens at home. In H. 5262, as passed by this House, we took a stand—the United States could not and would not approve certain loans through its participation in international financial institutions. I would like to believe that our representatives would not make the loans we in the House, and our colleagues in the Senate, would not want made, but we cannot be certain if this conference report is passed.

With an eye cocked to the uncertainties of the future, this House intended to commit itself to a particular posture, but with the mandatory "no vote" clauses removed, we have abandoned that posture because we have removed its backbone, its strength.

I urge my colleagues to consider how much flexibility is too much. I am not asking this body to change its position—rather I ask it to reaffirm its previous strong position by voting against this so-called compromise agreed to in conference, for in fact it is no compromise at all, but rather a retreat.

I, for one, will vote against this conference report and I urge Members on both sides of the aisle to do the same by voting their convictions that originally led to passage of this bill—a strong bill—in July. Undoubtedly, the version which returns to us now is in a far, far weaker state than many of us would have thought possible in a form which many of us once considered unacceptable. Without mandatory "no votes" this bill is little more than a whisper to the world on where we really stand, when, in fact, there should be a shout.

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. GRASSLEY) has expired.

Mr. STANTON. Madam Speaker, I yield 1 additional minute to the gentleman from Iowa.

Mr. ROUSSELOT. Madam Speaker, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Madam Speaker, I appreciate the remarks of my colleague Mr. GRASSLEY. They are certainly well addressed to the House on this important issue.

Is it not true, also, that another duplicity in the type of funding for this replenishment money is the fact that people in this country and financial institutions in this country are forced to operate under very different rules and regulations than these foreign institutional lenders given money for these international banks? The money is dished up rather liberally in this bill. Financial institutions in this country must operate under entirely different rules of stability than these banks, and that is another major issue which has not been properly addressed.

Mr. GRASSLEY. Madam Speaker, the point of the gentleman from California is well taken.

Mr. STANTON. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE), a very distinguished and important member of our committee.

Mr. ASHBROOK. Madam Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will inform the gentleman from Ohio (Mr. ASHBROOK) that the point of order is not in order at this time under rule XV, clause 6(e).

Mr. ASHBROOK. Madam Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The Chair will inform the gentleman that is not an appealable ruling. The rule contains an absolute prohibition against a Member making or the Chair entertaining such a point of order at this time, leaving no interpretive authority in the Chair and no authority to recognize for such a point of order. The rule itself, and not the ruling of the Chair, governs in this situation. To permit an appeal would be tantamount to permitting a direct change in the rule itself.

Mr. WYLIE. Madam Speaker, I rise in support of the conference report to H.R. 5262. This is a very important piece of legislation for a very important group of international organizations—the multilateral development organizations. The debate in this Chamber and in committee, as well, has all centered around subsidiary issues like human rights, and palm oil, citrus and sugar production. Hardly anyone has risen to question the need for continued support of the institutions funded under this bill. To me this signifies a general recognition of the fact that the development banks have

made and will continue to make a vital contribution to development in the Third World. The numbers this time around are not small, either. In all they total $5.2 billion.

There are some trends beginning to become apparent which we should note and welcome. First, the total share of U.S. contributions is declining. Our combined share in all these institutions has, for the first time, fallen below 25 percent. This means that our foreign friends in Europe and Japan and in the OPEC nations as well, are finally funding a greater share of these expenses. Second, even in the recent time of heavy foreign borrowing and oil deficits, none of these institutions has even had a default on their loans. This speaks both for the solidity of the development banks as financial institutions and for the respect that their loan obligations command among developing countries.

Finally, I would like to voice support for the compromise on the human rights issue. I frankly found the administration's language to be too weak in this area, and I was reluctant to provide any Executive with too much flexibility. On the other hand, the Badillo/Harkin language seemed to me to be unduly strict. I do not believe that hardline, doctrinaire position would be that constructive. The compromise reached by the conference, to my mind, blends the best aspects of both approaches. It permits flexibility and yet forces the Executive to explain to Congress why that flexibility was used in a particular case.

I am pleased to note that the conference retained the essence of my amendment which instructs our representatives to work toward making the voting structure within the African Development Fund more reflective of actual contributions.

I urge my colleagues to support this conference report.

Mr. STANTON. Madam Speaker, I yield 4 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I am surprised that we have not heard the usual argument today about how these institutions take care of the poorest of the poor. That is about the only argument we have not heard today.

It has been suggested that if we do not agree to this conference report, we are going to seriously undermine the banks. Maybe we ought to stop and analyze that for just a second. Maybe we should put forth the threat of undermining the banks to get a real evaluation of what the banks are, what they are doing today, and what they are going to be doing in the future. For example, what part are they going to play in this new international economic system that Secretary Cyrus Vance talks about?

Let us pay attention to the fact that our share of contributions to the multilateral international institutions has dramatically increased. The $2.1 billion included in the House appropriation bill this year is 86 percent larger than the contribution we made to the international organizations last year. That seems to me to be establishing a trend away from bilateral aid and strongly toward multilateral aid.

I think we ought to closely examine this matter. Maybe it is the way we are eventually going to go. Maybe there is going to be some great new international economic system. Maybe, as one Under Secretary of State has said, these international banks will become the umbrella catalysts for all international finance. Maybe that is the way we are going to go. I do not know today, but I do know that this is not the way I want to go, and I doubt that is the way very many of my colleagues in this House of Representatives want to go.

We talk about using multilateral institutions to encourage other nations in the world to make larger contributions, and to some extent I am sure that that is working. But I wonder if the Members know that some of the richest in the world, like Saudi Arabia, like Kuwait, like Iran, are giving either token contributions to the multilaterals or they are giving nothing at all.

Despite all the rhetoric and all the talk about what a good plan this is, I am concerned about what it is ultimately going to be. I am concerned about whether or not there really is a determination to create one international economic and financial order. I am not sure of that, but an awfully lot of things that have been said, not only here on the floor but in meetings with the administration and Members of the Congress during the last 7 or 8 months, that seem to indicate that something is stirring and that somebody wants to create something different than what we have today. We ought to be paying strict attention to that.

Mr. HARKIN. Madam Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Iowa.

Mr. HARKIN. Madam Speaker, my own studies of the outline of the 1979 funding, as to what the world banks are going to loan out, indicate, as I have figured it out, that about 55 percent of their planned fiscal year 1979 loans would go to repressive governments, and the money will not really benefit needy people.

Mr. YOUNG of Florida. Madam Speaker, the gentleman is absolutely correct. Look at the loans that are being planned by the World Bank, and we notice that one example includes plans for loans to Vietnam.

The World Bank tells us that it presently has representatives in Vietnam talking about loans that are probably going to be made to that country. We know that Vietnam and Uganda are also secheduled, under the United Nations development program, to receive funds. We know that our dollars are going to be going indirectly to a lot of countries to which we refuse to send money directly.

We ought to face up to that. I think we ought to be honest with the American people. If we do not want our money going to some of these nations directly, we certainly ought not to permit it to go to them indirectly, but that is exactly what is happening through these multilateral organizations.

Let us look at Uganda; let us look at what Idi Amin has been promised from these multilateral institutions. Uganda is scheduled to receive some $30 million in the next few years from the UNDP.

Mr. HARKIN. Madam Speaker, the World Bank is planning to make a loan of $30 million to Vietnam, but it is not planning any loans to Uganda. That is according to the figures I have for fiscal year 1979.

Mr. YOUNG of Florida. Madam Speaker, the gentleman is right. The reference to money for Uganda is in reference to the UNDP.

Mr. REUSS. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Madam Speaker, I think most of the Members of the House of Representatives have probably made up their minds about this conference report, but I would suggest that with all the hullabaloo about human rights that all of us have read, we should refer to a couple of pages in the conference report.

After sitting in on this debate, one would get the impression that human rights is not even addressed in this bill. However, if we look all through the report and the action on the bill, we find that human rights is dealt with at length. I do not fault any Member who thinks we ought not participate in international lending institutions for voting no on the conference report.

I think that would be a consistent vote; but, frankly, I say to the Members of the House, do not be fooled by a lot of human rights language in the debate. I do not fault anyone. I do not fault the gentleman from Iowa (Mr. HARKIN) for saying that we could be a little stronger on human rights.

Of course, we can, Madam Speaker. We can always be stronger on human rights in any piece of legislation we consider. However, I ask the Members to look at page 4 of the conference report and read it. Read the language throughout the report. Once the Members have read that, they will see that we have dealt with the subject extensively.

Let us bear in mind a couple of other very important points. I think there is a difference between our role when we deal with a country bilaterally or unilaterally and when we deal with a whole group of other nations. I wish we could assume the same rigidity that I feel in my heart and which I know the gentleman from Iowa (Mr. HARKIN) does on human rights in every little transaction in which we engage. However, I think there is a difference. I do not believe that we can carry the human rights issue too far in dealing with multilateral organizations. I really do not see any end to it. I frankly do not think that we would like to see the United States dropping out of these development institutions or other important international organizations like the IMF.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

Mr. REUSS. Madam Speaker, I yield 1 additional minute to the gentleman from Michigan.

Mr. BLANCHARD. Madam Speaker, I thank the chairman for the additional time.

To continue, Madam Speaker, I just think that if we get carried away too far, we will find ourselves not involved in any international organization.

Let me conclude by making one point. We also hear a lot about human rights and we hear a lot about protecting this product or that commodity—the economic impact of human rights. Frankly, and I say this sincerely to my friends in the farm States, if we are really worried about human rights and not about profits, we ought to consider ending the sale of grain to the Soviet Union tomorrow morning.

Madam Speaker, I dare anyone from those States which are so concerned to say that.

Mr. FRASER. Madam Speaker, I would like to make a few comments on the use of the term "internationally recognized human rights" contained in paragraph (1) of section 701(a) of H.R. 5262. This provision calls upon the U.S. Government, in connection with its voice and vote in the various international financial institutions, to advance the cause of human rights by seeking to channel assistance toward countries other than those whose governments engage in—

. . . a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane or degrading treatment, or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person. . . .

I would not like the Congress to give the impression to the executive branch that "gross violations of internationally recognized human rights" consist solely of the several violations mentioned in this paragraph. Obviously there is a broad range of other fundamental human rights included in the Universal Declaration of Human Rights and not cited in this paragraph which are of concern to the Congress.

It is true that with respect to statutory provisions whose purpose is stopping assistance, Congress has narrowed its reach to gross violations and specified that such violations include:

Torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty, or the security of person.

Thus, the Congress intended to cover for this purpose mainly the right to be free from government violation of the integrity of the person.

However, as I have indicated above, Congress did not intend to limit its concern to those violations concerning the integrity of the person. Particularly, with respect to measures which might be taken by the administration other than sanctions, measures to positively promote human rights, the Congress intended the administration to focus on the broad range of fundamental human rights. I have in mind, for instance, the congressional mandate to the executive branch in paragraph (a) (1) and (3) of section 502B of the Foreign Assistance Act.

Mr. REUSS. Madam Speaker, I yield myself such time as I may consume in concluding debate.

The issue this afternoon has centered on human rights. Therefore, let us look at the discussion.

It is said that our human rights proposition in the conference report is totally ineffective, a farce, and a travesty.

Let us look at it. If the Members will pick up the document and turn to pages 4 and 5, they will see just what has been done about human rights. It is a worthy and competent action.

In the first place, in section 701(a) we ask our executive directors to work night and day for human rights and to try their level best from here on out to channel every penny in the international institutions to countries which respect human rights. Consequently, there should never be a nickel left for those that do not respect human rights.

Then we go on to insist that our directors address themselves in these loans to the basic human needs of the people who live in these countries.

Then—and this is important—we say in section 701(f), that if we have not succeeded in channeling every penny to the good guys, and there is some left for the bad, where other measures have proven ineffective in achieving that purpose, the executive directors are instructed to oppose any loan or any other kind of assistance, with two exceptions. One is the exception stated in part by the worthy, thoughtful, and admirable gentleman from Iowa (Mr. HARKIN), namely, if it serves basic human needs, forget about human rights.

Madam Speaker, I am a little tougher on that point than the gentleman is, but I have to go along with him. However, all that means is that if the executive directors do their job and pursue the course of basic human needs, they can forget about human rights. I hope they will not; I hope they will not take advantage of that language.

The second exception is that we can get by with other than a no vote, we can vote present or we can abstain or even, under certain circumstances, vote aye, when the President certifies that the cause of international human rights would be more effectively served by actions other than to vote against such assistance.

Well, as we heard, Madam Speaker, the gentleman from Iowa explained that, of course, there might be times when, inevitably, our executive directors would have to vote other than to vote no. How can we object to vesting that high power to disregard human rights in the top official of the land, the President? I do not consider it a burden on the President's time to have to make that determination.

Mr. SYMMS. Madam Speaker, will the gentleman yield?

Mr. REUSS. I cannot yield.

I know that the most vociferous exponents of the view that the House passed a marvelous bill on human rights in July and then, somehow, we threw it away, we loused it up in conference, are the eloquent gentleman from Iowa (Mr. GRASSLEY), the gentleman from California (Mr. ROUSSELOT)—who carried on at such length—and the gentleman from Idaho (Mr. SYMMS). To a man they say, "Oh, it was great in July, but we ask you to vote down the conference report today because it is not tough enough on human rights, and because it should have been kept like it was in July."

Mr. SYMMS. Madam Speaker, will the gentleman yield?

Mr. REUSS. I cannot yield.

I would like to let Members know that the three gentlemen in question voted against the bill in July. Never, Madam Speaker, have I seen the well of this House fuller of crocodile tears than it is this afternoon. I hope the conference report will be abundantly supported.

Mr. SYMMS. Madam Speaker, will the gentleman yield?

Mr. REUSS. I do not yield.

Madam Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 153, nays 230, not voting 51, as follows:

[Roll No. 558]

YEAS—153

Addabbo	Eckhardt	McClory
Ammerman	Edgar	McCloskey
Annunzio	Edwards, Calif.	McCormack
Ashley	Eilberg	McFall
Aspin	Erlenborn	McHugh
AuCoin	Evans, Del.	McKinney
Baldus	Fary	Mazzoli
Beard, R.I.	Fascell	Meeds
Beilenson	Fenwick	Mikulski
Bingham	Fisher	Mikva
Blanchard	Flood	Mineta
Boggs	Foley	Mitchell, Md.
Boland	Ford, Mich.	Moakley
Bonker	Forsythe	Moorhead, Pa
Brademas	Fraser	Moss
Breckinridge	Frenzel	Murphy, Ill
Brodhead	Gibbons	Murphy, N.Y.
Brown, Calif.	Gonzalez	Myers, Gary
Buchanan	Gradison	Natcher
Burke, Calif.	Hamilton	Nedzi
Burke, Mass.	Hanley	Nix
Burlison, Mo.	Hannaford	Nowak
Burton, Phillip	Harris	Oakar
Carney	Hawkins	Oberstar
Carr	Holtzman	Obey
Cavanaugh	Horton	Ottinger
Chisholm	Howard	Patten
Conable	Hyde	Patterson
Conte	Jeffords	Pease
Corman	Johnson, Colo.	Pepper
Cornell	Jordan	Perkins
Coughlin	Kastenmeier	Pickle
D'Amours	Kildee	Preyer
Danielson	LaFalce	Price
Delaney	Leggett	Pritchard
Derrick	Lehman	Pursell
Downey	Lloyd, Calif.	Quie
Drinan	Long, La.	Rangel
Early	Lundine	Reuss

Rhodes	Smith, Iowa	Van Deerlin
Rodino	Solarz	Vento
Roncalio	St Germain	Waigren
Rostenkowski	Stanton	Waxman
Roybal	Steers	Weiss
Ruppe	Steiger	Whalen
Ryan	Stokes	Wilson, Tex.
Scheuer	Studds	Wirth
Seiberling	Thompson	Wolff
Sharp	Tucker	Wright
Shipley	Udall	Wylie
Simon	Ullman	Zablocki

NAYS—230

Abdnor	Gammage	Moore
Allen	Gaydos	Moorhead, Calif.
Ambro	Gephardt	Mottl
Anderson, Calif.	Gilman	Murphy, Pa.
Andrews, N.C.	Ginn	Murtha
Andrews, N. Dak.	Glickman	Myers, John
Applegate	Goldwater	Myers, Michael
Archer	Goodling	Neal
Armstrong	Gore	Nichols
Ashbrook	Grassley	Nolan
Badham	Gudger	O'Brien
Bafalis	Guyer	Panetta
Barnard	Hagedorn	Pettis
Bauman	Hall	Pike
Beard, Tenn.	Hammer-schmidt	Pressler
Bedell	Hansen	Quayle
Benjamin	Harkin	Rahall
Bennett	Harsha	Railsback
Bevill	Heckler	Regula
Blouin	Hefner	Richmond
Bonior	Hightower	Rinaldo
Breaux	Hillis	Risenhoover
Brinkley	Holland	Roberts
Brooks	Hollenbeck	Robinson
Broomfield	Holt	Roe
Broyhill	Hubbard	Rogers
Burgener	Huckaby	Rose
Burke, Fla.	Hughes	Rousselot
Burleson, Tex.	Ichord	Rudd
Burton, John	Ireland	Runnels
Butler	Jacobs	Russo
Byron	Jenkins	Santini
Caputo	Jenrette	Satterfield
Carter	Jones, N.C.	Sawyer
Clawson, Del	Jones, Okla.	Schroeder
Clay	Jones, Tenn.	Schulze
Cleveland	Kasten	Sebelius
Cochran	Kazen	Shuster
Coleman	Kelly	Sisk
Collins, Ill.	Kemp	Skelton
Collins, Tex.	Ketchum	Skubitz
Corcoran	Keys	Slack
Cornwell	Kindness	Smith, Nebr.
Cotter	Kostmayer	Snyder
Crane	Krebs	Spence
Cunningham	Lagomarsino	Staggers
Daniel, Dan	Latta	Stangeland
Daniel, R. W.	Le Fante	Stark
Davis	Leach	Stratton
de la Garza	Lent	Stump
Dellums	Levitas	Symms
Derwinski	Livingston	Taylor
Devine	Lloyd, Tenn.	Teague
Dickinson	Long, Md.	Thone
Dicks	Lott	Trible
Dornan	Lujan	Vander Jagt
Duncan, Tenn.	Luken	Volkmer
Edwards, Ala.	McDonald	Waggonner
Edwards, Okla.	McEwen	Walker
Emery	Madigan	Walsh
English	Maguire	Wampler
Ertel	Mahon	Watkins
Evans, Ga.	Mann	White
Evans, Ind.	Markey	Whitehurst
Findley	Marlenee	Whitley
Fish	Marriott	Whitten
Fithian	Martin	Wiggins
Flippo	Mathis	Wilson, Bob
Florio	Mattox	Wilson, C. H.
Flowers	Michel	Winn
Flynt	Milford	Wydler
Ford, Tenn.	Miller, Calif.	Yates
Fountain	Miller, Ohio	Young, Alaska
Fowler	Mitchell, N.Y.	Young, Fla.
Frey	Moffett	Young, Mo.
Fuqua	Mollohan	Young, Tex.
	Montgomery	Zeferetti

NOT VOTING—51

Akaka	Cederberg	Duncan, Oreg.
Alexander	Chappell	Evans, Colo.
Anderson, Ill.	Clausen, Don H.	Giaimo
Badillo	Cohen	Harrington
Baucus	Conyers	Heftel
Biaggi	Dent	Johnson, Calif.
Bolling	Diggs	Koch
Bowen	Dingell	Krueger
Brown, Mich.	Dodd	Lederer
Brown, Ohio	McKay	McDade
	Marks	Rooney
	Metcalfe	Rosenthal
	Meyner	Sarasin
	Minish	Sikes
	Pattison	Spellman
	Poage	Steed
	Quillen	Stockman
		Thornton
		Traxler
		Treen
		Tsongas
		Vanik
		Weaver
		Yatron

The Clerk announced the following pairs:

On this vote:

Mr. Biaggi for, with Mr. Bowen against.

Mr. Duncan of Oregon for, with Mr. Chappell against.

Mr. Thornton for, with Mr. Conyers against.

Mr. Traxler for, with Mr. Sikes against.

Mr. Tsongas for, with Mr. Brown of Michigan against.

Mr. Marks for, with Mr. Brown of Ohio against.

Mr. Diggs for, with Mr. Don H. Clausen against.

Mr. Harrington for, with Mr. Quillen against.

Mr. Baucus for, with Mr. Treen against.

Until further notice:

Mr. Akaka with Mr. Anderson of Illinois.
Mr. Badillo with Mr. Sarasin.
Mr. Alexander with Mr. Steed.
Mr. Rooney with Mr. Stockman.
Mr. Rosenthal with Mr. Yatron.
Mrs. Spellman with Mr. McDade.
Mrs. Meyner with Mr. Metcalfe.
Mr. Krueger with Mr. Minish.
Mr. Koch with Mr. Dodd.
Mr. Dingell with Mr. Cederberg.
Mr. Evans of Colorado with Mr. Dent.
Mr. Giaimo with Mr. Heftel.
Mr. Lederer with Mr. Johnson of California.
Mr. McKay with Mr. Pattison of New York.
Mr. Weaver with Mr. Vanik.

Mr. DICKINSON, Mrs. KEYS, Mrs. COLLINS of Illinois, and Mr. RISENHOOVER changed their vote from "yea" to "nay."

So the conference report was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. HARKIN

Mr. HARKIN. Madam Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. HARKIN moves that the House recede from its disagreement to the amendment of the Senate to the text of the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Funds, and for other purposes, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—PURPOSE AND POLICY; DECLARATION OF CONGRESSIONAL INTENT IN RESPECT TO CONTINUED PARTICIPATION OF THE UNITED STATES GOVERNMENT IN INTERNATIONAL FINANCIAL INSTITUTIONS FOSTERING ECONOMIC DEVELOPMENT IN LESS DEVELOPED COUNTRIES

SEC. 101. (a) It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering economic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significent role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contributions to international financial institutions is subject to the appropriations process.

TITLE II—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

SEC. 201. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 27. (a) The United States Governor of the Bank is authorized—

"(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

"(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, $1,568,856,318 for payment by the Secretary of the Treasury.".

TITLE III—INTERNATIONAL FINANCE CORPORATION

SEC. 301. The International Finance Corporation Act (22 U.S.C. 282 et seq.) is further amended by adding at the end thereof the following new section—

"SEC. 11. (a) The United States Governor of the Corporation is authorized—

"(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

"(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: Provided, however, That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $111,493,000 for payment by the Secretary of the Treasury.".

TITLE IV—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 401. The International Development Association Act, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

"SEC. 16. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $2,400,000,000 as the United States contribution to the fifth replenishment of the Resources of the Association: *Provided, however,* That such amounts for contributions are provided in appropriation Acts.

"(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $2,400,000,000 for payment by the Secretary of the Treasury.".

TITLE V—ASIAN DEVELOPMENT BANK AND ASIAN DEVELOPMENT FUND

SEC. 501. The Asian Development Bank Act, as amended (22 U.S.C. 285–285r), is further amended by adding at the end thereof the following new sections:

"SEC. 22. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $814,286,250 for payment by the Secretary of the Treasury.

"SEC. 23. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury.".

TITLE VI—AFRICAN DEVELOPMENT FUND

SEC. 601. The African Development Fund Act (22 U.S.C. 290g–4(a)) is amended by adding the following new section:

"SEC. 212. (a) The United States Governor is hereby authorized to contribute on behalf of the United States $50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contributions to the African Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury."

TITLE VII—HUMAN RIGHTS

SEC. 701. (a) The United States Government, in connection with its voice and role in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane or degrading treatment, or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic Republic of Laos and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress toward achieving the goals of this title, including the listing required in subsection (d).

(d) The United States Government, in connection with its voice and vote in the institutions listed in subsection (a), shall seek to channel assistance to projects which address basic human needs of the people of the recipient country. The annual report required under subsection (b) shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs.

(c) In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a), the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(f) The United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a) (1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

SEC. 702. Section 28 of the Inter-American Development Bank Act, as amended (22 U.S.C. 283y), section 211 of the Act of May 31, 1976 (22 U.S.C. 290g–9), and section 15 of the International Department Association Act, as amended (22 U.S.C. 284m), are repealed.

SEC. 703. (a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

(b) Not later than one year after the date of enactment of this Act, the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section.

SEC. 704. The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

TITLE VIII—LIGHT CAPITAL TECHNOLOGY

SEC. 801. (a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the production and conservation of energy through light capital technologies.

(b) The Secretary of the Treasury shall report to the Congress not later than six months after the date of enactment of this section and annually thereafter on the progress toward achieving the goals of this title. Each report shall include a separate and comprehensive discussion, with examples of specific projects and policies, of each institution's activity in light capital technologies and of United States efforts to carry out subsection (a) with respect to each institution.

TITLE IX—HUMAN NUTRITION IN DEVELOPING COUNTRIES

SEC. 901. (a) The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(b) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress toward achieving the goals of this title.

TITLE X—EFFECTIVE DATE

SEC. 1001. This Act shall take effect on the date of its enactment, except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI may be available for use or obligation prior to October 1, 1977.

Mr. HARKIN (during the reading). Madam Speaker, I ask unanimous con-

sent that further reading of the motion be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Madam Speaker, I object. We have not had a chance to see the motion

The Clerk continued the reading of the preferential motion.

Mr. HARKIN (during the reading). Madam Speaker, I ask unanimous consent that further reading of the amendment be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Madam Speaker, reserving the right to object, can the gentleman explain how his preferential motion on this conference report is different from what we just voted on?

Mr. HARKIN. I will be glad to. This motion takes the basic bill that we have passed in the House and in the Senate. and all it does is change two short sentences in the human rights section, which is title VII of the bill, under paragraph (f) on page 5.

It strikes the first sentence which says:

. . . where other means have proven ineffective in achieving the purpose of subsection (a) . . .

. . . the United States "Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a) (1) or (2), unless assistance is directed specifically to programs which serve the basic human needs of the citizens of such country."

And it strikes out the rest of the sentence, which was the Presidential waiver.

Mr. ROUSSELOT. Madam Speaker, further reserving the right to object, can the gentleman assure us then that the House language, which required a no vote by any executive director of all six of these institutions, is mandated if these conditions are not met, as it relates to those countries?

Mr. HARKIN. The language says "oppose any loan." And there is only one way I can interpret "oppose." They have to oppose it.

Mr. ROUSSELOT. Madam Speaker, further reserving the right to object, the gentleman realizes one of the points of discussion we had with the distinguished chairman of the committee was that under the provisions that came back from the Senate——

Mr. HARKIN. I do not know how one can oppose a loan and keep opposing a loan and then vote for it. One cannot do that. It is impossible.

Mr. ROUSSELOT. Madam Speaker, further reserving the right to object, unless there was an abstention. It seems to me that if the gentleman is assured that the language from the House has been adequately reestablished, the Senate must now either accept that or we have to reopen the conference.

Mr. HARKIN. Yes.

Mr. YOUNG of Florida. Madam Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Madam Speaker, I yield to my colleague, the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Madam Speaker, on that subject, is it not true that even if the U.S. representative to one of these banks, with one exception, opposes a loan and does vote against the loan, we still cannot prevent the loan from taking place? For example, the loans to Vietnam that are presently in the works today—our representative can vote against them, can argue against them, but he cannot prevent those loans from being made to Vietnam; or for that matter—Cambodia, Laos, Uganda, or any other country.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman is correct. If our representative votes no and he is outvoted, obviously the loan can be made. So the gentleman's point is not covered in this preferential motion, and I think his point is well taken. The gentleman from Florida (Mr. YOUNG) was making the point that even though our representatives to these funds voted no on a given loan, say, to North Vietnam, and his position did not prevail, the loan could still go ahead and whatever contribution is made by our U.S. Treasury would still go.

Mr. HARKIN. That is true. But again we are taking this thing like stepping stones; we are taking a step at a time. If in fact we come back to this body 1 year or 2 years from now again, on this type of funding resolution for the World Bank, or anytime in between, exercising our oversight function in the Congress, in the House, if we see what is happening, that we continue to fund the World Bank, our executive director on these different institutions are voting no on loans to those countries and they keep going through, I think this body is going to have something to say about that.

Mr. ROUSSELOT. Further reserving the right to object, Madam Speaker, let me say that I appreciate what the gentleman is doing to reestablish the language of the House bill, which we both want and support, and which many others support. The gentleman from New York (Mr. BADILLO) supported this same language.

Mr. HARKIN. Madam Speaker, will the gentleman yield further?

Mr. ROUSSELOT. Further reserving the right to object, Madam Speaker, I yield to the gentleman from Iowa.

Mr. HARKIN. Madam Speaker, I will answer the gentleman from Florida (Mr. YOUNG) that there is nothing we can do about that right now. But I think with this kind of language, looking down the road, the next time we come here we are going to see what kind of pattern they have, and then we will do something. We cannot do anything about it.

Mr. YOUNG of Florida. Madam Speaker, will the gentleman yield?

Mr. ROUSSELOT. Madam Speaker, further reserving the right to object, I yield to the gentleman from Florida (Mr. YOUNG).

Mr. LEVITAS. Madam Speaker, I object to the unanimous-consent request.

The SPEAKER pro tempore. The regular order is: Is there objection to dispensing with the reading of the motion offered by the gentleman from Iowa.

Mr. ROUSSELOT. Madam Speaker, I reserve the right to object.

The SPEAKER pro tempore. Debate certainly would continue to be in order after the motion is considered as read.

Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Madam Speaker, I reserve the right to object.

Madam Speaker, I yield to my colleague, the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Madam Speaker, in response to the comment of the gentleman from Iowa (Mr. HARKIN), I believe there is something we can do, and the House has already spoken very strongly in regard to four countries.

And that is that none of our money shall go directly or indirectly to Vietnam, Cambodia, Laos, or Uganda. I believe that legislative prohibition is stronger and will carry much more weight than would a vote against it at a meeting of the Board of Governors, and we will have an opportunity to stand by that in a matter of a few days when the conference report on that appropriation bill comes on the floor.

Mr. ROUSSELOT. Madam Speaker, further reserving the right to object, the point made by the gentleman from Florida (Mr. YOUNG) is well taken. The issue that the gentleman has drawn was not within the scope of this conference and it would not be unless we had put it in the authorizing legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Madam Speaker, reserving the right to object, I yield to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Madam Speaker, I thank the gentleman for yielding.

I think the gentleman from Florida (Mr. YOUNG) and the gentleman from California (Mr. ROUSSELOT) know that my position has consistently been one that, rather than singling out countries, we ought to cover the whole bunch of them with the same thing and let the chips fall where they may. That is all I have to say on that matter.

Mr. ROUSSELOT. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. HARKIN) will be recognized for 30 minutes in support of his motion, and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Madam Speaker, obviously I will not take 30 minutes for my presentation.

I will just say once again, with more Members present in this body than there were before, that I have the utmost respect for the chairman of this committee (Mr. REUSS) and what he has done. I wish to point out that the work I did

in trying to defeat this conference report in no way reflects on the sincerity of the chairman of the committee and in no way reflects on what he tried to do with regard to the human rights amendment. I have the greatest respect for the gentleman.

I do believe that with the vote the House has given us now and since the Members have spoken overwhelmingly, we can now send this conference report back to the Senate with this language in it, and I am of the belief that the Senate will accept it, because of the very close vote that took place before in the Senate. Considering the 47-to-40 vote on the previous occasion, I think the Senate will accept this amendment and we can send the bill to the President.

Madam Speaker, let me just outline for the Members of the House what my amendment does. It leaves the bill entirely intact, everything intact, except for two sentences in the conference report that was just defeated. I refer first to the first sentence in paragraph (f) of title VII, the Human Rights section, which said:

In addition, where other means have proven ineffective in achieving the purpose of subsection (a) . . .

My amendment strikes that language.

Before I go to the end of that paragraph, let me read the rest of the paragraph. It says as follows:

. . . the United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a) (1) or (2). . . .

And that would refer to the section concerning human rights, or providing refuge to individuals committing acts of international terrorism by the hijacking of aircraft.

The paragraph continues:

unless such assistance is directed specifically to programs which serve the basic human needs of citizens of such country.

My amendment puts a period there and strikes out the rest of the sentence, which reads as follows:

or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

Mr. REUSS. Madam Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the chairman of the committee.

Mr. REUSS. Madam Speaker, I thank the gentleman for yielding.

The gentleman's amendment in effect adds the original Harkin language to the conference report. In effect it strikes out that which the conferees brought back, namely, the Presidential power to certify in a particular case that human rights would be better served by a vote other than in opposition.

I do not share the gentleman's position, but I certainly can count votes. I was just beaten by a vote of 230 by 153 as a result of the persuasive arguments of the gentleman from Iowa (Mr. HARKIN).

Therefore, I think the gentleman's amendment is not only in order but is a sensible amendment to accept. I would hazard the guess that the Senate would perhaps grudgingly adopt the Harkin amendment, and that a conference would not be necessary. If a conference were necessary, we conferees would come in, in irons and would have no option but to insist on the Harkin amendment.

So why should we have love's labors lost at this session of the proceedings?

I think, therefore, it is not only expeditious but expressive of the will of this House, and accordingly I shall not act with a full heart but I will quite willingly vote for the Harkin motion, and I hope other Members will do likewise.

Mr. WOLFF. Madam Speaker, will the gentleman yield?

Mr. HARKIN. I yield briefly to the gentleman from New York.

Mr. WOLFF. Madam Speaker, I thank the gentleman for yielding.

I did support the original Harkin amendment, as I did the Young amendment on the appropriation matter which restricts to various countries some form of these international institutions.

However, speaking realistically, the vote against a particular authorization by the bank in question, either for a human rights violation or for the other question of denying specific funds to a nation, really has no effect upon the ultimate disposition of those funds by the bank because we only do have one vote in those organizations; am I correct in that?

Mr. HARKIN. The gentleman is correct, but I think the gentleman understood what I said a few minutes ago in a colloquy with the gentleman from California.

There obviously really is nothing we can do right now, but I am confident that this language will be adopted by the Senate and we will adopt it here, obviously. I am certain also that we will look down the road and we will be monitoring what the World Bank is doing in the coming years. If we see a pattern there of not adhering to what we have done here, I think this House and the Senate are going to have something to say about our participation in those institutions.

Mr. WOLFF. Madam Speaker, if the gentleman will yield further, on that basis, why, then, does the gentleman not agree with giving a Presidential waiver in this situation since we cannot do anything about it anyway?

Mr. HARKIN. Because if we give a Presidential waiver, then there is really nothing we can do later on because the President can always say, "I thought the cause of human rights would be better served by doing something else."

In that event, there is no handle that we have later on which we can use when these funding resolutions come up in the future.

I think by striking that, we give to the House this kind of authority and responsibility.

I agree with those who have said earlier that the House and Senate ought not to be involved in the carrying out of foreign policy. That is up to the President or up to the executive branch, but I do believe that the House and Senate ought to be involved in the formulation of that policy and in setting the guidelines. These are the kind of guidelines on human rights that this House and the Senate, I am sure, will concur in, thereby setting the guidelines for the executive directors sitting on the World Bank and those six institutions listed thereunder.

Mr. WOLFF. Madam Speaker, if the gentleman will yield further, I agree with the gentleman's premise; but I also must say that I do not think that there has been a greater advocate of human rights than the President in the actions that he has taken thus far and those which I believe are projected. Therefore, I do not see the reason for the Congress to be tying his hands in this direction.

Mr. HARKIN. Madam Speaker, I would just respond to that statement by saying that we are not tying his hands. We are setting very positive and definite guidelines. There is some flexibility there. It is not an absolute type of thing where they just cannot maneuver at all, but I think it narrows that flexibility quite a bit from what it was in the conference report before.

Madam Speaker, let me just say, in summing this up, that I feel very strongly that this Congress has to begin to develop a body of law around which revolves a human rights policy with respect to our foreign affairs. We have not done it in the past. No Congress has done it until just 2 years ago. Yet, we are a nation founded on human rights. We have our Declaration of Independence, our Constitution, our Bill of Rights; these represent the whole philosophical basis on which this Nation is founded. Nevertheless, for all these years we have never begun to develop a body of law on which we can rest our foreign policy on a cornerstone of human rights.

Madam Speaker, that is what I have been attempting to do, to build that body of law, looking down the road in the next 10, 20, or 30 years. I think this amendment does that.

Mr. GILMAN. Madam Speaker, will the gentleman yield?

Mr. HARKIN. I yield briefly to the gentleman from New York.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding.

I certainly want to commend him for his effort.

I know that the gentleman has been as concerned as I have about the MIA issue. I would like the gentleman to clarify how his motion will assist us in making certain that we get more response from Vietnam, Cambodia, and Laos with regard to that issue.

Mr. HARKIN. Madam Speaker, I would just answer the gentleman, with whom I served on the Select Committee on MIA's, by saying that I know we had disagreements, and I supported the chairman of the committee at that time in our final report. I know the gentleman from New York (Mr. GILMAN) did not support him.

I think the issue of MIA's is certainly an issue on human rights. There is one thing we can do, we can take a look at those countries involved and if they do

not move ahead on those kind of issues and the World Bank does, in fact, go ahead with loans to those countries, then we can take a look at what our Executive does on those votes for funds to those countries and we can later take that into account.

But, certainly, I would agree that the issue of MIA's is a human rights issue.

Mr. GILMAN. I thank the gentleman for clarifying that.

Mr. CUNNINGHAM. Madam Speaker, will the gentleman yield?

Mr. HARKIN. I yield briefly to the gentleman from Washington.

Mr. CUNNINGHAM. Madam Speaker, I voted against this just a minute ago. It is my understanding, above and beyond the issue of human rights in countries we do or do not help, that in many of these instances funds are used to take jobs away from people here in the United States by making more favorable loans to businesses there than our businesses can receive here, and in allowing those banks to distribute those loans under more favorable conditions than our banks are allowed to do here. Does the gentleman from Iowa have any comments on that?

Mr. HARKIN. I really do not want to comment on that because I am no authority on that, and I have concentrated all of my thoughts in the area of human rights. I really do not want to get involved in that kind of an issue because, frankly, I do not feel I am competent to do so.

Mr. ROUSSELOT. Madam Speaker, if the gentleman will yield, it is true that in some cases the institutions provide assistance to countries for the production of goods for export which our country also produces and that this financing is done on more favorable terms than are available to our domestic industries from commercial banks. Examples of affected industries are palm oil, citrus and sugar. The conference report attempted to deal with this issue by forcing the U.S. Executive Director to oppose any loans for such projects if the U.S. producers would be injured. But I would point out to the gentleman that the use of the word "oppose" does not necessarily mean that the U.S. Director must actually vote against such loans. He may take any action other than voting in favor of the loan and still meet the requirements of the conference report provision. Therefore, in my judgment, the conference report does not provide adequate protection against the indirect use of taxpayers' funds to subsidize foreign competition.

The banking practices of these six institutions are substantially different from American institutions, but, in any regard, they are not the same.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. HARKIN. Madam Speaker, let me sum up by saying that, basically, I would agree with what I know to be the purposes, or believe to be the purposes of these banks and these institutions, and that is to foster economic development in the underprivileged and the less developed countries. I am in full support of that, but I believe that in fostering this economic development in those countries that they must do it within the framework of human rights because I believe that, basically, human rights is really the whole purpose of economic development.

Madam Speaker, I yield back the balance of my time.

Mr. HARKIN. Madam Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Iowa (Mr. HARKIN).

The preferential motion was agreed to.

The SPEAKER pro tempore. Without objection, the House insists upon its disagreement to the amendment of the Senate to the title of the bill H.R. 5202.

There was no objection.

A motion to reconsider was laid on the table.

NO INTENTION TO SCRAP FEDERAL CIVIL SERVICE RETIREMENT SYSTEM

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, if we are to have any sort of rational discussion about universal coverage, I think the press and other responsible people should put a stop to the false claim that the House Ways and Means Subcommittee voted to phase out the Federal retirement system or that we voted to reduce the pension a Federal employee would receive.

I do not single out a particular local columnist for special treatment because he only echos what others are saying, but the widely read column by Mike Causey which appears in Thursday's Washington Post is a case in point. In this column Mr. Causey compares the "typical" Federal pension of $670 a month with the "average" social security benefit of $234 a month—with the clear implication that what the subcommittee intends is to scrap the one in favor of the other.

Even if this subcommittee did want to do that, it lacks the power or jurisdiction to do so. And this subcommittee neither intends nor wants to scrap the Federal civil service retirement system. Nor is our intention to reduce the pension any Federal employee would receive. We have no desire or power to do that.

What we do intend is to provide, through universal social security coverage, a more sound national pension system to benefit all retirees in the future. We would phase in the new approach on a gradual and responsible manner. No individual, or city or county is going to lose anything.

I have had numerous phone calls from concerned Federal employee constituents. Invariably, when I explain we did not vote to abolish Federal civil retirement but simply to integrate the two, they respond, "Oh, I didn't realize that"—and the urgency goes out of their voices.

When you consider all of the special disability, survivor and health benefits which come with social security, we have voted a gift, not a liability, to Federal civil servants.

When they get through the inflammatory rhetoric, half-truths and simple misunderstandings, the Federal civil servant seems to realize that.

It is possible to integrate Federal pensions and social security. Federal military personnel have received social security for 20 years. I say that not to endorse the present setup there, which is a severe burden to the defense budget. I say that simply to point out that putting Federal servants under social security is not a novel idea and, indeed, is part of the retirement plan of several million Federal employees already.

Social security is nothing new to State and local employees. Seventy percent are already covered.

Social security is nothing new to nonprofit employees. Almost all have been in the system for years.

In short, we are not voting to abolish the Federal civil retirement system. We are not voting to reduce Federal pensions. We have no more power to do that than we do to change the retirement system of General Motors.

We are voting only to begin to include Federal civil employees in a retirement system already enjoyed by millions of other Federal personnel and by millions of Americans.

I see nothing but good that can come from that.

Admittedly the transition will not be easy. It will be gradual. It can be fair. I hope we can move ahead with as little as possible of the uninformed paranoia which has plagued this issue in the past.

DISTRICT OF COLUMBIA APPROPRIATION ACT, 1978

Mr. NATCHER. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, and pending that motion, Madam Speaker, I ask unanimous consent that general debate on the bill be limited to 1 hour, the time to be equally divided and controlled by the gentleman from California (Mr. BURGENER) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Reserving the right to object, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair is about to put the question, and the Chair has not yet put the question on the motion. Therefore, the point of order is out of order at this time.

Mr. BAUMAN. Madam Speaker, Cannon's Precedents, volume VI, section 665, indicates that following a motion to resolve into the Committee of the Whole,

and pending a request for unanimous consent to fix control of the time for debate, a point of no quorum may be raised, and no business is in order until the presence of a quorum is ascertained.

The SPEAKER pro tempore. The Chair would cite to the gentleman from Maryland the new rule, clause 6(e) of rule XV of the 95th Congress, that it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote. It is the ruling of the Chair, then, that the point of order is not in order at this time, inasmuch as the Chair has not put the question on the motion to resolve into Committee of the Whole.

Is there objection to the unanimous-consent request to the gentleman from Kentucky (Mr. NATCHER)?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. NATCHER).

The question was taken, and on a division (demanded by Mr. BAUMAN) there were—ayes 49, noes 0.

So the motion was agreed to.

The SPEAKER pro tempore. For what purpose does the gentleman from Maryland rise?

Mr. BAUMAN. I rise only to observe for the record that a quorum is not present and was not present when I made a point of no quorum a moment ago. We are conducting business in the full House without a constitutional quorum.

The SPEAKER pro tempore. Does the gentleman make a point of order and object to the vote on the ground that a quorum is not present?

Mr. BAUMAN. No; Madam Speaker, I do not.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9005, with Mr. FUQUA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Kentucky (Mr. NATCHER) will be recognized for 30 minutes and the gentleman from California (Mr. BURGENER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, at this time we submit for your approval the annual District of Columbia appropriations bill for fiscal year 1978.

As chairman of the Subcommittee on the District of Columbia Budget, it is a distinct honor for me to serve with all of the members of this subcommittee. On our subcommittee we have Mr. GIAIMO of Connecticut, Mr. BURGENER of California, Mr. WILSON of Texas, Mr. KEMP of New York, Mr. MCKAY of Utah, Mrs. BURKE of California, and Mr. BENJAMIN of Indiana. Mr. Chairman, all of these members are outstanding Members of the House of Representatives and have made every effort to see that this bill which we present today is a good one.

We submit to the House of Representatives a balanced budget for the District of Columbia and have a cash carryover of $298,000. After the hearings had been held and the bill marked up, we were advised by the District officials that $16,565,000 more in revenues would be obtained by a variety of increased enforcement efforts and improved economic conditions. For fiscal year 1977, according to this report, some $14,105,000 would be obtained from additional revenue and for fiscal year 1978, $2,460,000 would be obtained from additional revenue. This makes the total of $16,565,000. The information concerning this amount as I have previously stated was not received in time for consideration in the present budget proposal that we submitted. Request for expenditure for the $16,565,000 will have to be resolved following passage of this bill in the House.

The District of Columbia will have the total sum of $1,789,493,300 for expenditure during fiscal year 1978; 47 percent of the total of $1,789,493,300 will be Federal money. The Federal payment that we recommend is $295,350,000.

For payment for water and sewer services to the Federal facilities we recommend $28,116,000. In addition to the Federal payment, the District of Columbia will receive in Federal grants $299,074,100. We authorize in this bill borrowing from the Federal Treasury of $110,000,000. The District of Columbia will receive $28,543,000 in revenue-sharing funds. In countercyclical the District will receive $8 million. In addition, the District will receive Federal reimbursements totaling $78,397,600. This makes a total of $845,480,700 in Federal money.

The District of Columbia at this time has some 702,000 people. When you compare the amount of the District's budget for fiscal year 1978 with the budgets of the 50 States, you will find that here in our Nation's Capital, we have a per capita expenditure that is considerably higher than in most other States.

Mr. Chairman, we have been unable to comply with the Congressional Budget Act of 1974. The first part of the budget was sent up in January, and 6 months later we received the balance of the amendments and supplemental request. During the hearings, we advised the District officials that the budget for fiscal year 1979 should be submitted in time for compliance with the Congressional Budget Act of 1974. Failure to comply does not speak well for the District of Columbia, and especially since the District is now operating under home rule.

In this bill, Mr. Chairman, we recommend $3 billion as requested for the Federal Government's share of the expenses of the temporary Commission on Finance Oversight of the District of Columbia during fiscal year 1978, which will be available until expended. Our committee recommends appropriations in Federal funds totaling $433,466,000 for fiscal year 1978, which is $54,650,000 less than requested and $52,817,000 above the current year level enacted to date. Supplemental appropriations in District funds totaling $6,840,900 are also included in the bill for 1977. The request for an additional Federal payment of $4 million in 1977 is denied.

The District of Columbia Government currently owes the Federal Treasury some $1.1 billion primarily for loans obtained to finance long-term improvements to the city's fiscal year plan. The request for these loans was made by the officials in charge of District government and approved by the Congress. Down through the years as chairman of this subcommittee, I have each year warned the officials as to the indebtedness that continues to increase and which, at the present time, compares favorably with the indebtedness per capita of New York City. The District government will receive in local taxes, fees and collections the sum of $895,313,000 during the fiscal year 1978. The city will receive in reimbursements and grants some $12,358,900, which will make a total then of $897,754,000.

The Federal payments recommended in this bill is a reduction of only $4,650,000 in the amount requested and, at the stame time, Mr. Chairman, this Federal payment is $19,350,000 more than the 1977 allowance.

We authorize and recommend to the committee that 37,913 positions be authorized for the District government for fiscal year 1978. This, Mr. Chairman, is a reduction of 1,399 in the number authorized for fiscal year 1977. We recommend in this budget an employment ceiling of 36,116 positions for fiscal year 1978. The District government will end up with about 45,199 positions since, in addition to the employment ceiling set herein, several thousand additional employees will be employed by the city and paid from funds obtained in Federal grants which is not a part of this budget.

Mr. Chairman, we have in the police department 4,141 men and women under the provisions in this bill. We have restored the sum of $1,243,000 which will prevent the reduction in force as recommended by the city of 186 officers.

Mr. Chairman, we have too many employees in the District of Columbia government. Recently proposals have been made to still increase the amount of the Federal payment over and above the amount provided for in the home rule legislation. In my opinion, these proposals will be denied and one of the major reasons why is the number of employees that are now on the payroll in the District government. With 702,000. certainly 45,199 positions cannot be justified.

Our committee recommends Federal loan appropriations totaling $110,000,000, which is a reduction of $50 million in the amount requested to finance the construction program of the city during fiscal year 1978. We include language in the bill providing for the continuation of borrowing authority from the U.S. Treasury to finance projects authorized in the bill.

Our committee recommends a total of $90,783,000 for general operating ex-

penses for the various departments, agencies, and activities of the District government.

Mr. Chairman, we have called attention in our report to certain matters concerning leases for the rental of space and we expect the District government to comply with the suggestions made in this report.

The committee has eliminated funding for the Advisory Neighborhood Commissions. This program, which was authorized in the Home Rule Act, has been in effect for approximately a year and a half. The City Council has some 87 employees and the salary of each councilman is $26,571. The Chairman of the City Council's salary is $36,571. The Mayor's salary is $52,500. Our committee is not against the Advisory Neighborhood Commissions. In fact, Mr. Chairman, when the home rule legislation was drafted and presented to the House, I not only supported this legislation, but assisted in the drafting of a great many provisions of the bill. I definitely am of the opinion that Advisory Neighborhood Commissions serve a good purpose, but it was not the intention of the District officials at the time of the home rule legislation or of the Congress to have a Commission which would make requests for amounts totaling $1,000,100 or more for the operation of such commissions each year. This amount is exorbitant and not necessary and certainly it is not necessary to have an Advisory Neighborhood Commission office funded and staffed for operation in the District building.

Our committee recommends a total of $264,069,000 for fiscal year 1978 for public safety.

We recommend an appropriation of $134,864,300 for the Metropolitan Police Department. This is an increase of $1,119,400 over 1977 appropriations and an increase of $1,243,000 over the amount requested in the 1978 budget.

We recommend the sum of $49,941,500 for the operation of the Fire Department during the fiscal year 1978. We recommend a total of $30,150,200 for the courts in the District of Columbia for fiscal year 1978.

Mr. Chairman, we recommend a total of $48,817,300 for the Department of Corrections for fiscal year 1978.

A total of $264,876,600 is recommended for the operation of the public school system and the University of the District of Columbia in 1978. This allowance is $12,406,900 more than has been appropriated to date for fiscal year 1977 and $506,000 less than the amount requested.

We recommend a total of $223,556,000 for the operation of the public school system during the next fiscal year. This is an increase of $10,612,200 over the 1977 appropriation and $506,000 less than the amount requested in the 1978 budget. In addition, we recommend a supplemental appropriation of $2,800,000 for 1977.

The enrollment in our public schools continues to decrease. The total number of pupils in 1967 was 146,664. In 1976 the total was 122,586. The amount appropriated for public schools represents a per pupil expenditure of $1,931. This is one of the highest per pupil expenditure amounts in our country.

The committee recommends a total of $17,639,100 for recreation. For human resources, we recommend a total of $285,865,000 for fiscal year 1978.

We recommend a total of $59,834,500 for transportation. For the Department of Transportation, we recommend the sum of $24,516,300.

Mr. Chairman, we recommend the sum of $30,945,000 for the District's share of the Metrorail and Metrobus operating subsidies for fiscal year 1978. This allowance is $5,563,000 above current year appropriations.

We further recommend to the committee that the sum of $68,519,100 be appropriated for fiscal year 1978 for environmental services. We further recommend the sum of $8,854,200 for the operation of the aqueduct for fiscal year 1978.

A total of $115,768,500 is recommended for the repayment of principal and interest on money borrowed from the Federal Treasury to finance the District's capital outlay program.

We recommend a total of $168,757,900 for the fiscal year 1978 for capital improvements consisting of 30 projects. This allowance is $132,171,200 above the 1977 appropriation level and $8,719,000 less than the amount requested.

A total of $140,471,900 is requested for public building construction in 1978. For public schools, we recommend a total of $10,761,500. For the University of the District of Columbia we recommend the sum of $56,696,400. For the public libraries, we recommend the sum of $1,659,000 which will be used to complete the network of permanent branch facilities that have been constructed throughout the District over the years. For the Recreation Department we recommend $301,500. For the Fire Department we recommend a total of $2,548,500. For the Department of General Services, we recommend a total of $41,505,000 for three projects. The first of the three is for permanent improvements at various District buildings totaling $5,625,000. Next, we have a request of $880,000 for the conversion of the Juvenile Court Building to general office space when it is vacated upon completion of the new court facility. The next project under the services' request is the sum of $35 million, which we approve and recommend to the committee with the money to be used to construct a new municipal office building to be located at Third and D Streets, NW.

Our committee recommends the appropriation of $27 million to begin work on the Washington Civic Center to be located in the vicinity of Mount Vernon Square between 9th and 11th Streets NW., and between H Street and New York Avenue. This allowance includes $600,000 for repayment to the bankers who several years ago advanced money for the operation of preliminary plans for the proposed Eisenhower Civic Center.

For the Department of Transportation, we recommend a total of $8,099,000 for five continuing projects. For the Washington Metropolitan Area Transit Authority, we recommend the sum of $8,353,500. For the Department of Environmental Services, we recommend a total of $6,150,000 for nine continuing projects. For the Washington aqueduct we recommend $1,790,000 for three continuing Capital outlay projects.

Mr. Chairman, this completes the amounts requested for Capital outlay.

Mr. Chairman, we recommend this bill to the committee, and respectfully request that the bill be accepted as reported.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to inquire whether this appropriation contains the $27 million, approximately, for a convention center that has been the subject of some controversy, and if it does, what type of feasibility studies, payouts and other arrangements, have been discussed with respect to this matter?

Mr. NATCHER. The gentleman is correct as to the $27 million. This bill authorizes the mayor to use $27 million in District of Columbia funds. A study has been made and was presented to the Mayor and to the City Council.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. NATCHER. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, the study was presented to the Mayor and to the City Council. The Mayor approved it. The City Council approved it, as I recall, 9 out of the 13 members on the City Council approved it. This civic center, I would say to my friend, the gentleman from Georgia, has been approved by the Board of Trade and the chamber of commerce in our Nation's Capital. It is a project that is necessary. Four or 5 years ago when we had this matter before the House, at that time they were talking in terms of $40 million. They knew it could not be constructed for $40 million. They said a consortium would build it, turn it over to the city and the city would pay for it over a number of years.

Let me say to my friend that we have carefully examined this matter. We recommend it to the committee. Something has to be done in the downtown section of our Nation's Capital.

I say to the gentleman that this project should be approved at this time.

Mr. LEVITAS. I thank the Chairman.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to my distinguished friend from New Jersey, a member of the committee and one of the distinguished Members of the House.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. NATCHER. Mr. Chairman, I yield myself 1 additional minute.

Mr. PATTEN. Mr. Chairman, I want to thank the gentleman for being chairman of the District of Columbia Com-

mittee. This is our city. This is the Nation's Capital, and every year the gentleman spends his time solving these problems.

As far as I can see, he has been a complete credit to the Congress. He has brought us honor and glory and as one Member, I want to thank him for his efforts.

Mr. NATCHER. I want to thank my friend from New Jersey.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in support of the bill. At the outset, I want to express my deep appreciation to Chairman NATCHER for the scholarly and gentlemanly and very competent manner in which he conducts the business of this subcommittee. It is difficult to get the attention of the Members for affairs of the District of Columbia generally. I think we all are understandably preoccupied with the affairs of our own districts and the Nation as a whole, but I think a great tribute is due to Mr. NATCHER, as Mr. PATTEN has just said, for the many long years he has served in a rather thankless task, and one which he does exceedingly well.

Mr. Chairman, I support this bill in its entirety. There are two items which the Members will want to know about, which have had some press coverage and some controversy connected with them. One is the Civic Center, and I will comment on that briefly in a moment. The other is the advisory neighborhood councils. I believe that these two will be subjects of some controversy and discussion in the conference that will ensue between the Members of the Senate and the Members of the House.

We have left out the funding in this House bill for the neighborhood advisory commissions. I believe the request was for $1 million, which I personally feel is excessive. We do not have any money for that in this bill.

Now, on the Civic Center, the proposed Civic Center which will be located between 9th and 11th Streets, between New York Avenue and H Street, in what is known as the Mount Vernon Square area, is certainly an area of the District of Columbia that needs some kind—some kind of regeneration, some kind of a shot in the arm, some kind of rebuilding in order to build a tax base and to improve the city. The cost of this facility is estimated to be $110 million. We believe that to be a realistic figure.

It would be financed, like all buildings in the District of Columbia built by local government, such as the schools, financed from the Federal Treasury borrowings which the District will have to pay back, with interest, in a 30-year period. As a matter of fact, in terms of moneys owed to the Federal Government by the District of Columbia, there is in this budget about $115 million, most of it interest, in repayment to the Fedreal Government for previous moneys used by the District and owed to the Federal Government. That is a small part of what they owe. They owe about a billion dollars, but they are paying in this budget $115 million.

So, in this budget, to get this project started—and I might say that the Senate has left it out so that it is a subject for discussion between the two Houses—there is $27 million total in this budget to start the project. I might say that the reason I support it is that I think it is in the national interest, first, and most certainly in the interests of the District of Columbia. We by Federal Constitution and Federal statute have placed a lot of limitations and a lot of restrictions on the District of Columbia, I think with good reason.

No. 1, we have not permitted them to enact a commuters' tax, even though 60 percent of all of the incomes earned in the District of Columbia are earned by people who live in other States.

We have not permitted any high-rise buildings.

Therefore, we have precluded the District of Columbia from becoming a major financial center, such as Chicago, New York, and so on.

We have not permitted industry to come into this community, feeling that it was not large enough to accommodate that—and it probably is not.

We have said, therefore, that this is the seat of Government. It is the great visitor and historical center of the Nation, if not of the world. So if we have relegated it to the role of a visitors' center, a seat of Government, what then is more appropriate than accommodating visitors properly? That is why I support the construction of a civic center, even though admittedly it probably would never even break even, but the spinoffs in enhancing the tax base, in creating 4,000 permanent—not temporary, but permanent—jobs, in enhancing restaurant, hotel and bar, visitor business, and retail shops will, in my opinion at least, more than pay for any deficit that will annually be incurred by operating it.

So for those reasons I personally support the visitors center, while I do not support the neighborhood advisory councils. So in general, this is why I support the bill in its entirety as it is presented today.

Mr. NATCHER. Mr. Chairman, I yield 5 minutes to the Delegate from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 9005, the District of Columbia appropriations bill and to take a moment to express my appreciation of the work that our distinguished colleague and chairman of the subcommittee, WILLIAM NATCHER, has done in bringing this bill to the floor. He has done a very fine job and has sought to be as accommodating to my concerns as far as it has been possible to do on the basis of the record which was presented to the committee in its several days of hearings.

I want to especially commend the chairman for his diligent efforts in working with the city in assuring inclusion into this year's budget of a Convention Center. This facility is probably the single most important facility which we will construct in this city for many years to come. I urge our chairman to hold fast on this item—to include the whole amount—in any conference proceeding that we have with the other body.

I do, however, have a few concerns which I would like to express for the record. I think our failure to include the requests of the Board of Elections for an automated ballot counting system is unfortunate. We have an election scheduled in November; it will be a complicated election, and it was the hope, as I understand it, that these machines would be available for use at that time. I know that our chairman is committed to including these election machines, and I support him; I only wish that it were possible to include them at this time.

The other concern which I have relates to the leasing provisions of the bill and the report. While I am in support of the concerns which the committee has expressed in this matter, I would hope that the committee will encourage the city, with additional commentary, to use its leasing ability to support economic development whether it is on 14th Street, H Street, 7th Street, or in the 12th and G urban renewal area. I think it is possible to do this in a manner consistent with the committee's concerns, and I would be pleased to work with our chairman to assure that the right things are done in this matter.

Finally, I would like to express my disappointment at the failure to include funds for the Advisory Neighborhood Commissions. While the record behind the requests was scanty and failed to contain answers to some questions that have been raised, I would like to assure both the chairman and the Members of this House that the ANC's have the full support of the citizens of this city and that they do perform a valuable function.

Questions have been raised as to why so many of the ANC's had not spent funds already allocated to them; why unused funds were placed in interest-producing savings accounts and certificates of deposit. Questions were raised about the hiring practices of some ANC's as they relate to the size of the salaries paid. Moreover, there was some question raised as to whether the ANC's constitute an unnecessary layer of government that is actually displacing the role of the traditional citizen's groups.

In search of answers to these very important questions, I have met with both ANC Commissioners, city officials, and neighborhood residents. I am satisfied with the explanations I have received, and with permission of the chairman, I should like to insert into the RECORD at this point materials which more than adequately respond to those questions not addressed in the scanty record made before the committee in support of the request.

It is my hope and belief that once the chairman and Members have had the opportunity to consider the full record, they will be disposed to accede to the other body in conference on this matter and fund the ANC's.

OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR,
Washington, D.C., August 4, 1977.

Hon. WALTER E. FAUNTROY, M.C.,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: This is in response to a request from your General Counsel Howard Lee for information concerning several questions that you have raised with respect to the purpose, and functions of the City's Advisory Neighborhood Commissions.

BACKGROUND

The Commissions were set in motion by action of the Congress in P.L. 93–198, the City's Home Rule Act which provided that, subject to a referendum of the voters of the City the Council must establish neighborhood commission areas.

The ANC portion of the act was written by the House District Committee and accepted on the floor of the House and in Conference with the Senate which had no similar provision in its bill. The proposal for the ANC's grew out of several sources of which a prime one was a general recommendation by the respected Advisory Commission on Intergovernmental Relations which was established by the Congress to improve relationships among all levels of government. The ACIR believed that neighborhood units of government could be a strong and thoughtful addition to improving urban government.

At the time of the referendum on Home Rule the City's voters also voted on whether or not to have the ANC system. Of 103,025 votes cast in the referendum, 74,626 favored the ANC system, and 27,635 opposed it. The proposal carried all eight of the City's wards and was approved in 128 of the City's 137 precincts. In only one of those precincts did the proposal gain less than a 40 percent approval. Therefore, it may be reasonably concluded that an overwhelming number of the City's voters in all sections of the City were favorably impressed with the proposal, and wanted the City government to move forward with implementation.

FUNDING

Under the provisions of the Home Rule Act the City was directed by Congress to allot an amount for the operation of the ANC's equal to that of .01 percent of the City's tax base. The council could increase this amount if it so chose, but was forbidden to reduce it below that which was mandated by Congress. The Council and Mayor in the City's budget presentation have set the allotment at the minimum amount mandated by law.

FUNCTIONS

In order to implement the requirements of the Home Rule Act and the referendum, the Council enacted, and the Congress approved, D.C. Law 1–85, the Duties and Responsibilities of the Advisory Neighborhood Commissions Act of 1975. Among other items that act required, as did the Home Rule Act, that members of the ANC were to serve without compensation. It also provided that ANC's were to perform a number of duties, including advising the City government: "with respect to all proposed matters of District government policy including decisions regarding planning, streets, recreation, social services programs, education, health, safety and sanitation which affect that Commission area".

The act required that the City government give notice to ANC's of actions that might affect their area, and that the ANC's "shall consider each such action in a meeting with notice given" to the residents of their areas.

In practice, much of the administrative mechanism to carry out this function has been established, and the ANC review of City actions has become a portion of the City's decision making function.

EXPENSES

The Council act mandated that our Office audit the ANC's at least every two years. We have published rules for the ANC's to follow in expending funds (See attachment). We require quarterly reports and we have a standardized system for informing ANC's when they are not in compliance. We also have the power to suspend expenditures of ANC's if they violate statutes or our regulations. We have not had to invoke this sanction to date. We have also assisted in the establishment of a surety fund for each ANC Treasurer to protect the City, and ANC's from wrongful expenses. That fund is established and in operation. There have been no instances in which the fund needed to be drawn upon.

Since the ANC's are still in the process of establishing themselves fiscally, we have devoted most of our attention to assisting them with a uniform system of accounts as required by our regulations. We have received reports of expenditures from ANC's of $127,487.44 for the period from inception through the second quarter of the fiscal year. Other reports have been filed and are being reviewed.

Of the filings for the inception period, we found the following total City-wide expenses:

Gross staff salaries	$27,607.22
Benefits	541.61
Unemployment insurance	99.10
Out-of-city travel	73.00
Local transportation	151.68
Office rent	24,132.83
Telephone service	4,567.84
Postage, et cetera	3,724.20
Utilities	259.59
Printing	13,402.02
Contractual services	8,769.03
Office supplies, et cetera	11,590.44
Office equipment	23,490.02
Other	9,078.86
Total	127,487.44

Since there are 35 ANC's in the City the average expenditure for each is $3,642.50. I point out that these figures are not full year, and that they represent actual outlays rather than obligations. The rates of expenditure for the ANC's may appear low in comparison to their funding, however, I believe that it is indicative of a cautious approach to spending. For example, the staff salary figure for all ANC's is 21.6 percent of total funding. This is much lower than the usual experience of government, and is, I believe, a reflection of the ANC's utilization of part-time personnel in many instances.

While we have not made a case-by-case examination of ANC's programs, we are impressed with the fact that some ANC's have used their funds for after school programs, or for such community programs as tot-lots.

I note that since the Commissions are mandated to perform many review activities a total elimination of funding would make it impossible for them to carry out those duties imposed upon them by law.

Finally, I believe that one major contribution made by ANC Commissioners is frequently overlooked. These persons service without any compensation, and they are restricted to serving a maximum of four years as Commissioners. We estimate that given eight hours per week for ANC business at the modest rate of a S–9, ANC Commissioners donate approximately $500,000 in free labor to the District. Thus, each four years the City will receive $2 million in free time from 200 of its citizens.

If I may be of any other assistance, please call upon me.

Sincerely yours,

CARL H. BERGMAN,
Deputy Auditor.

OFFICE OF THE
DISTRICT OF COLUMBIA AUDITOR,
Washington, D.C., August 31, 1977.

Hon. WALTER E. FAUNTROY, M.C.,
Cannon House Office Building,
Washington, D.C.

DEAR MR. FAUNTROY: Members of Congress have raised questions as to the expenditure rates of Advisory Neighborhood Commissions. Based on reports filed with this Office for the quarter ending June 30, 1977, the Commissions are spending at a rate of approximately 60 percent of their budget authority.

This figure is, I believe, reasonable and to be expected from organizations in their first year of operation. A higher spending would raise questions as to whether sufficient planning and community input were involved in the spending decisions. Further, the figure compares favorably with our findings concerning expenditure rates of other new City programs in our report entitled "Actual Funding of New Programs in Fiscal Year 1975."

Sincerely,

MATTHEW S. WATSON,
District of Columbia Auditor.

ANC no.	Population 1974 census	Percent of 729,100	Share of $819,000	Fiscal year 1977 quarterly allocation
Ward 1:				
1A	$22,900	3.14	$25,717	$6,429.25
1B	31,800	4.36	35,708	8,927.00
1C	20,500	2.81	23,041	5,753.50
1D	2,800	.38	3,112	778.00
1E	9,900	3.88	11,138	2,784.50
Ward 2:				
2A	13,300	1.82	14,906	3,726.50
2B	15,800	2.17	17,772	4,443.00
2C	39,000	5.35	43,817	10,954.25
2D	19,100	2.62	21,458	5,364.50
Ward 3:				
3A	10,500	1.44	11,794	2,948.50
3B	9,000	1.23	10,074	2,518.50
3C	19,000	2.61	21,376	5,344.00
3D	15,200	2.08	17,035	4,258.75
3E	10,600	1.45	11,876	2,969.00
3F	13,300	1.82	14,906	3,726.50
3G	14,900	2.04	16,708	4,177.00
Ward 4:				
4A	16,400	2.25	18,428	4,607.00
4B	23,200	3.18	26,044	6,511.00
4C	21,700	2.98	24,406	6,101.50
4D	32,100	4.40	36,036	9,009.00
Ward 5:				
5A	28,700	3.94	32,269	8,067.75
5B	31,900	4.38	35,872	8,968.00
5C	33,300	4.57	37,428	9,357.00
Ward 6				
6A	36,200	4.97	40,704	10,176.00
6B	30,800	4.22	34,562	8,640.50
6C	23,600	3.24	26,536	6,634.00
Ward 7:				
7A	10,500	1.44	11,794	2,948.50
7B	16,100	2.21	18,100	4,525.00
7C	18,400	2.52	20,639	5,159.75
7D	14,200	1.95	15,970	3,992.50
7E	21,300	2.92	23,915	5,978.75
7F	12,300	1.69	13,841	3,460.25
Ward 8:				
8A [1]	21,700	2.98	24,406	6,101.50
8B	19,600	2.69	22,031	5,507.75
8C	17,700	2.43	19,901	4,975.25
8D	26,500	3.63	29,729	7,432.25
8X	5,300	.73	5,978	1,494.50

[1] Did not qualify in time for Nov. 2, 1976 election.

Note: Census tract 73.1 and parts of 73.8 and 74.1 are not presently in any ANC.

DISTRICT OF COLUMBIA'S ANC'S: QUESTIONS AND ANSWERS

WHAT ARE ADVISORY NEIGHBORHOOD COMMISSIONS (ANC'S)?

Basically this is a unique system of citizen participation in government decision making. Each of the 35 ANCs in the District of Columbia is comprised of a body of citizens who are elected by their neighbors in elections run by the D.C. Board of Elections and Ethics. ANCs differ in size from neighborhood to neighborhood but each ANC Commissioner is elected from a small election district of about 2,000 residents. Thus, an ANC with a population of 10,000 would have

5 Commissioners and an ANC serving 30,000 people would have 15 elected Commissioners. Funds are apportioned to each ANC based on its population. Commissioners are elected for two-year terms in conjunction with the D.C. School Board elections.

WHY AND HOW WERE ANC'S CREATED

The Congressional law creating the D.C. Home Rule Charter included a provision for the establishment of ANCs and for their funding by formula. They were sponsored by Congressman Don Fraser, who was then the ranking Majority Member of the House District Committee. ANCs were incorporated into the House bill and accepted by the Senate in conference.

Congressman Fraser's proposal was based on a recommendation made by the Advisory Commission on Intergovernmental Relations (ACIR), an independent agency of the Federal Government comprised of Members of Congress, Governors, County Officials, Mayors and Presidential appointees. The ACIR studied the problem of alienation and isolation from public institutions felt by the residents of large urban areas. They recommended community councils as a way to bridge the gap between citizens and government. ANCs involve and inform citizens of proposals which affect their neighborhood and take their recommendations back to the government. A few years ago residents of D.C. thought a hospital extension was being built near them. When towers began to be constructed, they first discovered that the new D.C. Jail was being built facing their homes. With an ANC in that neighborhood, the residents recently considered a proposal for extension of the Jail and approved plans which minimize impact on their residences. They are now working through the ANC with D.C. Detention Center officials to reduce problems and create an atmosphere of understanding and communication so that they can live better side by side.

DID D.C. CITIZENS APPROVE THE CREATION OF ANC'S?

Yes, the establishment of ANCs was a separate question on the ballot at the time of the May 1974 Home Rule Referendum. Citizens overwhelmingly voted for ANCs in each of our 8 wards.

WERE ANC'S ESTABLISHED SOON AFTER THE HOME RULE LAW PASSED?

No, they have been in existence for one and one-half years and have been funded only for the past 11 or 12 months. Thus, they are still new and in the process of growth and development. The City Council was responsible for drafting legislation for ANC elections, boundaries and duties and responsibilities. This law was approved in October of 1975, following which 30 D.C. neighborhoods petitioned for the creation of ANCs in their areas. Those elections were held in February, 1976 with the elected ANC Commissioners taking office that March. Those ANCs did not receive funds, however, until late August or September of 1976. Another five ANCs were elected, following petitioning, last November.

HOW DID ANC'S BEGIN TO FUNCTION?

As a totally new concept in government, there were few guidelines for ANCs to follow. Each had to draft by-laws, elect officers and take other organizational steps without any real knowledge or previous experience on how ANC's should best function. ANCs are required by law to respond to D.C. government proposals which impact on their neighborhoods. Only time and experience has taught each ANC how often such proposals would be received and how best they could carry out their responsibilities.

Some neighborhoods have a history of organized citizenry; however, other areas of D.C. have been very isolated from involvement in civic matters or have been involved on a hasty basis upon learning of some action already taken which involved their area. Since their creation, ANCs have shown excellent potential for involving their neighborhoods in decisions which affect them directly. Most ANCs print neighborhood newsletters distributed door to door. Most ANCs have neighborhood offices which are fast becoming a focal point for residents who need help, have a complaint or suggestion, want information or wish to become involved in a community effort.

ANCs receive reports of planned government action in their area and sometimes initiate proposals. These are studied by committees and publicly debated at ANC meetings or Community Forums sponsored by the ANC. ANC recommendations are then sent to the District Agency involved which must give them "great weight." Involvement of ANCs has become a part of the D.C. Government's decision making process with some agencies asking the ANCs to take full responsibility for some planning in their neighborhoods.

HOW ARE ANC FUNDS SPENT?

Elected ANC Commisioners serve without salary as volunteers. The Office of the D.C. Auditor conservatively estimated that if ANC Commissioners on the average spend 8 hours per week on ANC business and were compensated at the modest GS 9 rate, the District Government gets about half a million in free labor each year from these volunteers.

Because ANC Commissioners are generally employed persons—lawyers, government workers (elections are nonpartisan), business-people, etc.—the day-to-day operations of each ANC are handled by staff, which has generally been hired on a part time basis. The staff salary for all ANCs, according to the D.C. Auditor's office, is 21.6 percent of total funding, much lower than the usual experience of government. Other ANC expenditures are for office space, equipment and supplies and for communication. As ANCs become better known in their community and develop community volunteer resources, they have expanded their operations. In their first months of operation, ANCs were extremely cautious about spending money, wanting first to learn their neighborhood's priorities and taking time to find reasonable office space and affordable staff. Many ANCs set aside funds until they could more responsibly spend them. However, ANC spending in the most recent quarter jumped, reflecting an increase in activity and the fact that almost all ANCs now have office and staff.

WHAT HAPPENS IF ANC FUNDS ARE ENTIRELY CUT OFF?

ANCs will continue in existence by law, but it will be *impossible* for them to carry out the duties imposed upon them by law without adequate funds. If ANCs have no funds, they will not be able to impact upon government decision making in ways such as:

Leafletting and surveying riders on the Metro Night Owl Service regarding reduction in service proposals and winning a continuation of necessary Night Owl routes

Leafletting neighborhood residents on proposed zoning cases and variances in their block and conducting public meetings on the proposal between the neighborhood and the person(s) making the zoning request so that the community can make its recommendation with full knowledge

Holding hearings which persuaded the D.C. Public Service Commission to investigate Washington Gas Light Co.'s meter reading and billing practices

Informing citizens of a liquor license application for an establishment frequented by many school children, which drew so much neighborhood opposition that the applicant withdrew the request

Having streets and alleys cleaned on a regular basis for the first time; obtaining necessary stop signs and street repairs

Conducting a walking tour of an ANC area by the Director of the D.C. Dept. of Environmental Services and key staff members to identify problems, which have since abated.

Advising the community that a new $8 million school complex with an annex for recreation and other community facilities was not to be made available to the community but was instead to be used for administration offices, leading to an organized community effort to regain some of the space for community use as was originally planned when the facility was funded.

Deciding to help senior citizens at a public housing project who had for five years requested needed security for their buildings and who lived with intoxicated visitors using their halls as toilets and children racing through their corridors sometimes knocking them down, sometimes snatching the purses of elderly residents; when the ANC decided to set an example and embarrass the District Government because no action was taken after one year of ANC letters, the ANC set aside funds to secure one project building and hold a press conference—the agency then moved quickly to adequately secure the buildings.

HOW ARE ANC FUNDS HANDLED IN THE CONGRESSIONAL LAW?

The Home Rule Act directs the City to allot an amount for ANC operation equal to that of .01% of the city's property tax base. This budget request for $884,000 includes funds for the Mayor's ANC Information Office, recently established as a liaison between the Executive Branch and the ANCs. Funds are apportioned based on the population of the ANC—ANC 2A with 13,300 residents would receive $14,906 and ANC 5B with 31,900 residents would receive $35,872 this budget year.

HOW DOES THE CITY MONITOR ANC SPENDING?

The Council act mandated that the D.C. Auditor's Office audit ANCs at least every two years and establish rules to following with regard to expenditure of funds. Quarterly reports are required and the Auditor can suspend expenditures to ANCs if they are not in compliance, although this sanction has not yet had to be invoked. A surety fund for each ANC treasurer was established to protect the city and ANCs from wrongful expenses but there have been no instances in which the fund needed to be drawn upon, according to the Auditor's office.

ANC'S—ARE THEY A LUXURY OR ANOTHER LEVEL OF BUREAUCRACY?

ANC 3E Chair Carol Currie Gidley recently wrote Congressman Natcher regarding this charge: "If there's another level of bureaucracy in our City's government which is adequately dealing now with such problems as needed stopsigns, more garbage pick-ups and anti-rat programs, with fighting liquor license applications in our neighborhoods—well, I just don't know where or who they are. Because that's what this "level of bureaucracy" is doing down here at the ANC level. . . ."

In the ANC 6B 1976 year-end newsletter, Chair Ray Gooch reported: "We have met (in 8 months in office) as a full Commission 23 times without ever failing to meet our quorum requirement of at least eight Commissioners being present. We have held seven "Community Forums"—single issue "town hall" meetings—on topics running the gamut from the future of Eastern Market to limiting further expansion of the D.C. Jail. We have served as spokesperson for the community to stop city hall from imposing its will against the will of the community . . . We have taken the initiative to start action

by the city government—as in the opening of the by-pass road to RFK Stadium for Redskin's games and the removal of one-way street and no parking restrictions on our residential streets on game days. We have identified community issues, focusing the common will of the community and forcing the consideration of the city to identify mutual goals and interests. . . . And we have only just begun."

The question facing Congress is whether that beginning is to be aborted.

FOGGY BOTTOM AND WEST END
ADVISORY NEIGHBORHOOD COMMISSION,
Washington, D.C., August 15, 1977.

To Congressman Walter Fauntroy.
From ANC 2A.
Re Response to reasons for terminating the funding of ANC's.

In response to your request of last Monday, August 8, to find out whether the reasons Congressman Natcher gave for deleting ANCs from the District of Columbia Budget are justified, ANC 2A is submitting the following:

1. UNDERSPENDING OF CURRENT ALLOTMENTS

The Foggy Bottom & West End Advisory Neighborhood Commission agrees with the other ANCs in the opinions expressed last Monday evening that past evidence of underspending is not an acceptable issue. Due to delays by the District of Columbia Government in distributing the funds, delays in setting up an office, and thus delays in undertaking projects, a portion of past funds has been put in a savings account.

Now that ANC 2A has overcome these delays, there will be a smaller, if any, surplus (as illustrated in our proposed budget, attached). Any balance beyond the total expenses in our budget, as well as funds in our savings account, are needed for unpredictable "fires" that spring up on controversial issues, for security in the event that new office space may have to be acquired—and paid for, and for security in obtaining professional expertise needed, should we not be able to rely on contributed services.

It is unfortunate that ANCs must prove they are 'big spenders' in order to be funded.

2. OVERPAID STAFF

In response to overpaid staff, ANC 2A has one staff member who is paid $100 for 20 hours a week to fill all positions from clerk-typist to executive director. It is not uncommon for this staff member to work an extra 5 to 15 hours per week to fulfill the needs of the Commission, unpaid, while also trying to fulfill the responsibilities involved in a second job to earn sufficient income. Without such staff, available during weekday hours when Commissioners are not, the operation of ANC 2A would be greatly impaired. The Commissioners of ANC 2A do not consider their staff overpaid. ANC 2A also respects the rights of other ANCs to budget their staffing requirements as best fulfills their needs.

3. ANC'S ARE "AN ADDITIONAL LAYER OF BUREAUCRACY"

ANCs are not another layer of bureaucracy. No actions taken by the District of Columbia Government require ANC approval, or even input. A portion of the decisions and actions only require that ANCs be notified as to what is happening so that the ANC can take appropriate citizen action if it so chooses. Appropriate notification is required so that the ANC can voice its opinion, and so that that opinion can be considered in the decision-making process. ANCs do not obstruct decision-making any more than an organized citizen's lobby would.

However, this ANC role of collecting information is an important one. It has been difficult for the District of Columbia Government to keep every citizen sufficiently informed of all actions to a degree desirable in a democratic system. The creation of ANCs has provided a vehicle through which the D.C. Government can much more efficiently distribute information on major and minor issues to those citizens concerned with each issue.

At the same time, ANC 2A has been asked on different occasions to survey area residents to advise various D.C. Government offices, including D.C. Councilmembers, D.C. Department of Transportation, D.C. Zoning Commission, and others. These requests, including whether or not to close one block of a local street adjacent to the Foggy Bottom Metro Stop, and whether the new Civic Center proposal should be supported, are cases where the person requesting the information needed strong citizen input in order to determine his/her position on the issue, and had not otherwise received it.

ANC 2A has also given unsolicited support and advice to the D.C. Government which has been greatly appreciated by the recipient. ANC 2A has completed a parking study (copy enclosed) of a portion of the neighborhood that has been used as a reference by the Department of Transportation on issues involving parking in that section of the city. The Department of Transportation has also been appreciative of ANC input on traffic operations. The Office of Licenses and Permits, and the Alcoholic Beverages Board have been appreciative of information on violations of permits. The Municipal Planning Office continues to encourage ANS 2A to provide input on neighborhood planning and development, as does the National Capital Planning Commission. Whereas the average citizen may feel too far removed from the government to act on his opinions and concerns, he feels that the ANC is a concerned and much more approachable agency.

Perhaps the most obvious issue where ANC 2A could be considered to have a negative impact on the bureaucracy of city government is in the current Zoning Commission Case No. 76–14P (the proposed new World Bank Building). Without ANC opposition and funding, the procedure to obtain a zoning change and allowance for an additional 40 feet in height for a proposed building may have been quickly approved, as in past cases. Instead, the Case hearing was drawn out to last several months past the hoped-for groundbreaking date. This opposition, organized by ANC 2A, has forced the agencies involved to closely examine all implications involved. Depending on the Zoning Commission decision forthcoming, it may have checked George Washington University in their collaboration with the World Bank in attempting to unnecessarily encroach further on an historical neighborhood, thus decreasing residential territory, increasing massive high-rise office development (and weekend canyons), and depriving the District of needed tax money. ANC 2A has thus been a negative impact for certain developers who have previously habitually ignored the residential impact of their plans.

But the Foggy Bottom & West End ANC has also encouraged and supported development that appears to be healthy for the city.

In conclusion, ANC 2A has not acted as another layer of bureaucracy, rather, it has acted as a liaison between concerned citizens and the city government.

4. INADEQUACY IN RECORD-KEEPING

ANC 2A feels it has had no problem with record-keeping. We have excellent communication with the D.C. Auditor's office and have complied with all of their requirements to the best of our knowledge. ANC 2A has put forth additional efforts to inform ourselves on necessary reports and bureaucratic procedures in advance, such as the reporting of campaign financing, to assure future compliance with required record-keeping.

5. ANC 2A has observed no animosity from the existing citizen organizations in the Foggy Bottom & West End area; rather, there is mutual cooperation between all groups. Congressman Natcher should soon be receiving letters illustrating this cooperation and support.

MT. PLEASANT,
ADVISORY NEIGHBORHOOD COMMISSION,
Washington, D.C., August 14, 1977.

Congressman WALTER FAUNTROY,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: I am writing this letter in response to your inquiry about the fiscal practices of the Advisory Neighborhood Commissions. We are addressing three of the issues in your inquiry: savings certificates, funds apportionment, and record keeping.

We feel that purchasing savings certificates are a misuse of ANC funds. However, we do believe that it is the fiduciary duty of the ANC Treasurers to properly manage the funds entrusted to them. Therefore, our ANC has established a savings account for the safe keeping of the, as yet, unused portion of our allotment. This account is a demand account available to the Mt. Pleasant ANC at any time without penalty. All withdrawals must be authorized in writing by the signature of the Chairperson and the Treasurer (and/or the Vice-Chairperson) just as is our checking account. Both checking and savings accounts are maintained in a local institution, the National Bank of Washington.

The Mt. Pleasant ANC has been apportioning its funds in accordance with our FY 77 Budget which is attached. (Note that the budget was prepared at our 13 December 1976 meeting, read at our 10 January 1977 meeting and approved at our 14 February 1977 monthly meeting.) This budget was prepared without any assistance or guidance from the D.C. government. In fact, the first information we have received relative to the budget process is a letter from Mr. Comer S. Coppie dated 25 July 1977. (Mayor's memorandum 77–117). The instructions in this latest memorandum are extremely ambiguous. Nevertheless, we have prepared a budget for FY 78 using the provided form which is attached, and our first reading of the budget was at our 8 August 1977 monthly meeting. The actual expenditure of funds is made by the ANC against the established budget accounts. We would like to point out that all expenditures have been approved and documented in accordance with sound accounting practices and the requirements of the Auditor of the District of Columbia.

The Mt. Pleasant ANC maintains detailed books on all expenditures. These books are maintained at 1846 Kenyon Street, N.W., in the Treasurer's possession. We record all receipts and expenditures in journal form by budget account. The books are summarized on a monthly basis by account. In addition, *every* expenditure is accompanied by a physical receipt. In the case of request for reimbursement, it must be approved by the Treasurer prior to payment (and receipts are attached thereto). Every monthly bank statement is attested to by both the Chairperson and the Treasurer and all checks require two signatures. The Auditor of the District of Columbia reviews our books each quarter, and to our knowledge we have always been in compliance with the auditor's guidelines and requirements.

As Treasurer of the Mt. Pleasant ANC, I personally guarantee that our financial affairs are conducted in accordance with all rules required of any functioning corporation. We invite anyone from your office or the general public to review our books, and I would welcome the opportunity to testify on the sufficiency of the Mt. Pleasant ANC's accounting practices.

Sincerely,

DAVID L. DANNER,
Treasurer.

Mount Pleasant ANC fiscal year 1977 budget

Operating expenses:	
Advertising (1)	$120.00
Insurance (Treasury bond) (2)	30.00
Mailing list maintenance (3)	300.00
Meeting fees and dues (4)	240.00
Newsletter preparation (5)	2,160.00
Notice copying (6)	600.00
Office supplies	300.00
Postage and community distribution (7)	2,720.00
Rent	1,200.00
Refreshments (meetings)	60.00
Telephone	240.00
Temporary services (8)	2,000.00
Traveling expenses (9)	180.00
Unallocated reserve	36.50
Subtotal	10,186.50
Fixed asset procurement:	
File cabinets	200.00
Telephone answerer	260.00
Typewriter	260.00
Subtotal	720.00
Total expenses for fiscal year 1977	10,906.50
District of Columbia allotment:	
October 1976	2,489.00
January 1977	2,784.50
April 1977	2,784.50
July 1977	2,784.50
Subtotal	10,842.50
Other income:	
Donations and contributions (10)	00.00
Interest on savings (11)	64.00
Subtotal	64.00
Total expenses for fiscal year 1977	10,906.50

NOTES

1. One $10.00 classified advertisement per month.
2. D.C. Treasurer's Bond of $30.00.
3. $25.00 initialization, 5 mailings at 5,500 labels at 1¢/label.
4. Four subscriptions at $30.00, one meeting per month at $10.00.
5. One newsletter per month at $180.00 (5,500 circulation).
6. $50.00/month (100 copies at 6¢, 3,500 copies at 1¼¢).
7. 8 mailings of 5,500 at 7.5¢; $30.00 for permit; 3,000 letters at 13¢ or payment to persons distributing newsletter or notices.
8. Fee for typing and office services.
9. Local parking expenses of $5.00/month; one conference at $120.00.
10. None at present, line item for future use.
11. 5½ percent on $1,200.00.

MT. PLEASANT ADVISORY NEIGHBORHOOD COMMISSION,
Washington, D.C., August 15, 1977.

Hon. WALTER FAUNTROY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: In order to help you understand the activities of our Advisory Neighborhood Commission I am enclosing some information that you may find helpful.

1. Main topics of meetings.
2. Testimony by ANC 1E.
3. Resolutions passed by ANC 1E.
4. Budget information.
5. Current ANC projects.
6. On-going ANC projects.
7. ANC office information.
8. Newsletters.
9. By-Laws.

In regard to your specific questions about the fiscal practices of our ANC please see the enclosed letter by our treasurer David Danner.

As regards your specific concern about ANC's establishing themselves as another level of city government we feel the law describes the ANC's role vis-a-vis other city government branches. The advisory Neighborhood Commissions were established with duties and responsibilities by D.C. Law 1–58 on March 26, 1976. Section 13(a) etabiishes the ANC's role as advisor to city administration and the city council. Likewise it establishes the ANC's role in decision making regarding various municipal functions and rule making: such as planning, streets, recreation, social services, education, health and other factors which affect each commission area.

Regarding the concern that the ANC's were in fact forcing their political views on the adjacent neighborhood resulting in conflict with specific civic associations we sponsored political candidates forums in conjunction with our local neighborhood assoc. (The Mt. Pleasant Neighbors Assoc.) and we sponsor an on-going voter registration drive. This is the extent of our po.itical activity as an ANC commission. We feel very strongly that the ANC's should not act in a partisan manner because acting in a partisan manner would only serve to negate our effectiveness as an organization that represents the neighborhood in it's totality.

If you need further information regarding the activities of our ANC please contact me at one of the following numbers 234–7415 (home) 275–1314 (work) or at the ANC office 232–0092 I would also like to take this opportunity to express our appreciation for your efforts at helping to get our fund restored.

I know you realize what an extremely important function the ANC's have played in educating the community about how local government functions as well as serving as a mechanism by which citizen complaints can be taken to the proper agencies and providing a forum for community opinion to be expressed.

The ANC's are a concept whose time has arrived. I am sure this form of community representation will become an integral part of local government across the nation. To remove ANC's is to remove citizen participation in local government.

Sincerely,

STANLEY K. WILLIAMS,
Chairman.

AUGUST 10, 1977.

Hon. WILLIAM H. NATCHER,
Chairman, House Subcommittee on Appropriations, for the District of Columbia, Washington, D.C.

DEAR CONGRESSMAN NATCHER: Listed below, utilizing a brief format, are some of the accomplishments of Advisory Neighborhood Commission–4B. The success we indicated was a direct result of cooperating with civic associations, parents and teachers associations and church groups of our Commission area.

a. While members of the Upper Northwest Civic Association, Inc. were collecting signatures petitioning for an Advisory Neighborhood Commission, we discovered Fannie Mae's Carryout located at Third and Sheridan Streets, N.W., had applied for a Class "C" Liquor License. This establishment is frequented by our children attending Whittier Elementary School, Calvin Coolidge Senior High School, Takoma Park Recreation Center and Albright Memorial Methodist Church. Indeed, less than 500 feet separate the schools, recreation center, church and Fannie Mae's Carryout. Citizen opposition to the granting of this Liquor License was so overwhelming that the applicant withdrew the request. The citizens who spearheaded the move in opposition are now engaged in directing the Advisory Neighborhood Commission.

b. The Commissioners of Advisory Neighborhood Commission–4B are officers or members in the community organizations listed below:

1. Interested Citizens Association, Inc.
2. Takoma Manor Civic Association, Inc.
3. Lamond-Riggs Citizens Association.
4. South Manor Civic Association.
5. Neighbors, Inc.
6. Upper Northwest Civic Association, Inc.
7. Calvin Coolidge Senior High School PTA.
8. Paul Jr. High School PTA.
9. Whittier Elementary School PTA.
10. Rabault Jr. High School PTA.
11. Takoma Park Elementary School PTA.
12. Somerset Citizens Association.
13. McFarland Jr. High School PTA.

The Founder of the Upper Northwest Civic Association, Inc. was the first Chairman of the ANC. The present Chairman of the ANC is also President of a Civic Association and accredited to the D. C. Federation of Civic Associations, Inc.

c. Since the advent of our Commission, we have been successful in the following:

1. Having our streets and alleys cleaned on a regular basis.
2. Assisted in "busting" three large drug rings operating in our area.
3. Obtaining stop signs and having our streets repaired.
4. Having the "Old Colony Laundry" demolished.
5. Assisted in retaining twice-weekly garbage collection.
6. Conducted a walking tour of our entire Commission area with the Director of the Department of Environmental Services and his key staff members. We identified clogged drains due to Metro construction, abandoned automobiles and unsafe masonry garages. These discrepancies have been abated.
7. Received a commitment from the Department of Housing and Community Development to take prompt action on all reported housing code violations. This action will save the Department much time and money. The Commission members perform the initial "inspection" and notify the Department of suspected violations.

d. The Commission donated $800.00 to Calvin Coolidge Senior High School and $50.00 to Paul Jr. High School to aid in the summer school program.

e. Approved request for zoning changes submitted by the National Children's Center located at North Dakota Avenue and Rittenhouse Street, N.W. and the New Yorker Bakery located at 7048 Spring Place, N.W.

f. Disapproved zoning request ending the constraints of high-density high-rise apartments in the Blair Road-Cedar Street, N.W. complex. We are currently engaged in this struggle. Citizen opposition is unanimous.

g. ANC:
Membership Dues, No.
Hold Public Meetings, Yes.
Receive notice of all pending activities by D.C. Govt., Yes.
Must hold regular meetings, Yes.
Must give public notice of all meetings, Yes.
Must account for all expenditures, Yes.
Must respond to all citizens complaints, Yes.
Have access to all D.C. Government officials, Yes.
Minutes of all meetings open to public, Yes.
D.C. Federation of Civic Associations:
Membership Dues, Yes.
Hold Public Meetings, Yes.
Receive notice of all pending activities by D.C. Govt., No.
Must hold regular meetings, No.
Must give public notice of all meetings, No.
Must account for all expenditures, No.
Must respond to all citizens complaints, No.
Have access to all D.C. Government officials, No.
Minutes of all meetings open to public, No.

Sincerely,

FREDERICK GRANT,
Chairman.

UPPER CARDOZA ADVISORY
NEIGHBORHOOD COMMISSION 1A,
Washington, D.C., September 2, 1977.

Hon. PATRICK J. LEAHY,
Chairman, Senate Subcommittee on Appropriations for the District of Columbia, U.S. Senate, Washington, D.C.

DEAR SENATOR LEAHY: As the Chairperson of Upper Cardozo Advisory Neighborhood Commission 1A, and on behalf of the eleven other Commissioners of 1A, I am writing you to solicit your support in turning back Congressman William Natcher's proposal to cut completely the funding of Advisory Neighborhood Commissions in Washington, D.C.

According to Congressman Natcher a number of reasons have surfaced which justify the fund cut. These reasons are, in the order which they have been given to us:

1. Advisory Neighborhood Commissions constitute an "additional layer of government/bureaucracy."

2. Advisory Neighborhood Commissions have not spent the monies which they have allocated.

3. Poor bookkeeping characterizes the operation of A.N.C.'s within the city.

4. Exorbitant salaries are being paid to members hired by A.N.C.'s.

Prior to providing a "defense" of each of these items, I feel that it is necessary to speak to the manner in which this whole affair has been handled. Firstly, no Advisory Neighborhood Commission within the city of Washington, D.C., nor any of our elected representatives (or so they claim) was given prior notification of Congressional intention to cut A.N.C. funding.

This kind of action is particularly disturbing and unsettling in a city where full voting representation has been consistently denied by both the House of Representatives and the Senate. It would seem that the people of Washington, D.C. would at least be extended the courtesy of being told of pending actions that affect their future, in spite of their voting status. Perhaps this kind of behavior on the part of Congressman Natcher is the fruit that grows out of a situation of powerlessness.

1. As far as A.N.C.'s constituting an additional layer of government/bureaucracy, I think it is important to mention the geographical distribution of Commission areas and their associated single-member districts. A.N.C.'s and their districts encompass each and every square foot of District property, and each Commission has, by statute, the right to make comment on issues "affecting their area." The direction of the legislation which outlined the duties and responsibilities of A.N.C.'s (D.C. Law 1–58) is directed more towards increasing citizen and community involvement, in issue formulation and resolution than that of having A.N.C.'s "perform" specific Functions or "accomplish" certain tasks. The wide geographical spread of A.N.C.'s has led to a situation in which every area approximately 2,000 individuals has a representative to which comments on city or community problems may be directed. Over the long-run, we anticipate that every A.N.C. (36 in number), will have its own office through which citizens complaints and recommendations may be channeled, placed in the context of city-wide issues and problems, and forwarded to the appropriate city agency and/or legislative unit. We consider this to be a unique and positive improvement on the previous situation, in which residents had to ferret their way through the numerous legislative and administrative agencies of government, and had virtually no input into policy formulation.

2. Advisory Neighborhood Commissions have not spent the monies which they have been allocated. This is a point which has proven to be especially puzzling to all of the Commissioners. We are, in fact, being told that because we have not yet spent our assigned allocations, that we should not receive additional funding. This in the face of Congressional failure to elicit comments from A.N.C. Commissioners as to why this situation exists. I am sure that Senator Proxmire could use this situation—as opposed to the House response—on the positive side of his frequent comments on the abuse of government funds.

In the case of A.N.C. 1A I think that it is necessary to detail the sequence of events that comprised the first full year of our existence. Our particular A.N.C. did not receive any funding whatsoever until October of 1976. That is, our A.N.C. had been in existence a full seven months before one cent was provided by the District Government. It is to the credit of Commissioners, that in spite of this drawback they immediately began to deal with the issues of their areas using out-of-pocket funds. During October of 1976 we received an allocation of approximately $5,400 for the fiscal quarter July 1, 1976 through September 30, 1976, a transition quarter during which the District Government changed the beginning of the fiscal year from July 1 to October 1 of each year.

But a significant change in our financial status was about to occur! Within the next three months our A.N.C. had received two additional allocations of approximately $6,200 each. Before the middle of January had arrived, we had approximately $17,000 accrued, and the next quarterly allocation was rapidly approaching. Up to this point the District Government was still undecided as to where we were to be housed, given the scarcity of space within their facilities. The final result was that relatively little government-owned space was made available, which resulted in most of the A.N.C.'s throughout the city going to privately owned facilities looking for space. The equivocation of the District Government on available space, and our own private search encompassed a period of about seven months. During this period we obviously did not have to bear the primary financial obligations that are associated with maintaining our operation, i.e., rent, staff, utilities and equipment. In short, after a period of intensely questioning the District Government as to the whereabouts of our funds and the availability of space, we were inundated with monies beyond those needed to carry our A.N.C. through a single quarter.

It should be evident from this sequence of events that our A.N.C. and for that matter all A.N.C.'s throughout the city, would have an excess of funds beyond those needed to run the Commission. Our response to this excess was one that is common to individuals and government, if they have the slightest sense of responsibility towards themselves and their constituents, we took the action considered most prudent and placed the money in an interest-bearing account. In taking this action we felt that we would accrue additional funds for the conduct of future A.N.C.-related projects.

It needs to be emphasized that all of the elected Commissioners in Washington, D.C. are volunteers, and up to this point have given a substantial amount of their own time towards the advancement of their communities. Numerous hours of personal time of Commissioners is spent in clarifying issues, attending meetings and talking to residents about the problems that concern them most. None of this time is credited to the taxpayers of Washington, D.C. since A.N.C. Commissioners are not, by law, allowed to receive compensation for the services they perform. Personally, I have estimated that I spend eight to ten hours each week working with Commission issues and problems. At my present salary rate, I estimate that the taxpayers of this city are receiving from $75.60 to $141.75 each week of my freely given time. Some A.N.C. Commissioners give substantially more time than I, depending upon the limitations imposed by both home and work. Should the number of hours Commissioners devote to duties be multiplied times their individual salary rates, and multiplied again by the number of weeks in a calendar year, I am sure that you would find that the District of Columbia's $1.1 million investment in A.N.C.'s is well worth the cost.

3. Poor bookkeeping characterizes the operation of A.N.C.'s throughout the city. Members of your staff need only make inquiries at the D.C. Budget Office to determine the validity of this charge. The character of bookkeeping of A.N.C.'s throughout the city is, without a doubt, cautious and conservative. Witness the tendency of A.N.C.'s not to spend additional monies until they were absolutely certain that their intended uses would be proper. As far as the actual recording of expenditures are concerned, and the proper explanation of same to the D.C. Budget Office, every A.N.C. 1A expenditure has been voted upon by the Commission, previously approved by the Budget Office, and declared on our Quarterly Reports. The most obvious problem that we've experienced is that of volunteers attempting to maintain a schedule of full-time paid personnel, i.e. trying to meet Budget Office deadlines and additioinal requests for information on a timely basis. (Enclosure)

4. Exorbitant salaries are being paid to staff members hired by A.N.C.'s A.N.C. 1A presently has a staff of two persons. One is an Administrative Assistant at the $9,000 salary level, the other a Secretary (temporary) at the rate of $3.00 per hour. I would suggest that you yourself be the judge of whether or not these salaries are exorbitant.

I am sure I need not remind the Senator that Advisory Neighborhood Commissions were initially created by Congress, obstensibly as a further extension of the limited Home Rule we were given. Luckily, this Congressional idea took hold in the imagination of District residents, and citizens overwhelmingly voted for their creation in May of 1974. Now that this segment of P.L. 93–198 has begun to bear the full fruit of citizen involvement, District residents are being told, by way of a funding cut, that A.N.C.'s are no longer needed. I sincerely hope that you and members of your committee will assist us in maintaining and in the future increasing, A.N.C. funding.

On behalf of myself, the residents of A.N.C. 1A, and the eleven other Commissioners, I wish to thank you for taking the time to listen to our side of this situation. Should you require further clarification or information on this matter, please feel free to call me at home (291–8075), or at work (347–2045).

Sincerely,

SAMUEL R. CARSON,
Chairperson.

Enclosure.

ADVISORY NEIGHBORHOOD
COMMISSION 6A,
Washington, D.C.,
August 25, 1977.

Hon. WALTER E. FAUNTROY,
Committee on the District of Columbia, Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: September 8th has become, suddenly, the most important date in the one and one/half year existence of Washington's Advisory Neighborhood Commissions. On that day, the House Appropriations Committee's vote to approve or disapprove its subcommittee's decision to delete the funding for ANCs in the proposed District budget for fiscal year "78" will be not only the first step in determining if the commissions are to continue to exist, but in a larger sense will determine the relevancy of the District's Home Rule Charter.

As you know, section 738 of Public Law 93-198 provided D.C. citizens with an important opportunity to establish effective mechanisms for access and input into the D.C. governmental process at the neighborhood level. In May 1974, D.C. voters clearly expressed their desire for a structure that would allow that kind of access when they ratified the Advisory Neighborhood Council (Commission) portion of the D.C. Self Government and Reorganization Act by an overwhelming majority.

Since assuming office in March 1976, ANC 6A and the thirty four (34) other commissions have been actively engaged in the governmental process. During this commission's brief operational period, we have offered substantive proposals in the following areas:

UTILITY REGULATION

Held hearings which persuaded D.C. Public Service Commission to investigate Washington Gas Light Co.'s meter reading and billing practices.

Submitted evidence which convinced PSC to adopt rules establishing community hearings on major rate applications made by D.C. utility companies.

Supported legislation providing public disclosure of funds used for utility company advertising.

Urged PSC to adopt procedures establishing a consumer's bill of rights.

HOUSING

Provided input into the city's application for Housing and Community Development funds.

Supported legislation granting relief from skyrocketing real estate taxes.

Submitted testimony in zoning cases impacting the commission's area.

TRANSPORTATION

Supported residential permit parking.

Sought continuation of Metro Night Owl bus service.

Urged Metro to adopt a fare structure allowing for transfer from the bus to the subway.

In their Single Member Districts, ANC 6A commissioners have involved themselves in any number of projects, all of which reinforce the viability and importance of elected officials at neighborhood levels. The dissemination of information to constituents, neighborhood meetings, area projects, response to localized civic problems that otherwise would prove time-consuming to ward council members. Those form the top of the list of SMD accomplishments. Many of these accomplishments were achieved in spite of a six month absence of funding, and without full cooperation and coordination of resources from other D.C. agencies.

Recently, the House District Subcommittee on Appropriations voted to delete the $1.4 million line item funding allotment for the 35 Advisory Neighborhood Commissions without any substantial documentation to justify such an action. We contend that this action, taken at the behest of Rep. William Natcher, is by legal definition a usurpation of the authority granted elected D.C. officials in the wording of Public Law 93-198.

Section 738(e) of P.L. 93-198 states:

"In order to pay the expenses of the advisory neighborhood councils, enable them to employ such staff as may be necessary, and to conduct programs for the welfare of the people in a neighborhood council area, the District government shall apportion to each advisory neighborhood council, out of the revenue of the District received from the tax on real property in the District including improvements thereon, a sum not less than that part of such revenue raised by levying 1 cent per $100 of assessed valuation which bears the same ratio to the full sum raised thereby as the population of the neighborhood bears to the population of the District. The Council may authorize additional methods of financing advisory neighborhood councils."

The wording says that the District "shall apportion" a sum to meet the expenses of ANCs. The logical implication is that Congress shall not interfere in the funding process, except to give oversight approval for the allotment, which is raised by the District through taxing District property owners.

Further, if the subcommittee's position were to be adopted by the House, and upheld by the Senate, the District government might be placed in the untenable position of violating its charter. Such a violation would undoubtedly plunge the District into an ocean of litigation between the government and ANC members, who would be unlawfully estopped in the performance of their duties as elected officials. There would also be litigation involving companies, contractors, and commission employees due already contracted financial considerations from various advisory neighborhood commissions.

If Rep. Natcher can vote for, and urge acceptance of a $110 million convention center which may never return a nickel of its cost to D.C. citizens, we think it is fair for us to stridently urge that you do what you can to see the ANC funding continued. We believe our citizens would rather have 110 years of grassroot participation in government than a white elephant where Chinatown used to be.

Sincerely,

ANTON WOOD,
Chairperson.

WOODLEY PARK
COMMUNITY ASSOCIATION,
Washington, D.C., August 25, 1977.

Hon. WILLIAM H. NATCHER,
Chairman, House District Appropriations Subcommittee, Washington, D.C.

DEAR MR. NATCHER: The Woodley Park Community Association is deeply disturbed over the deletion by your committee of the million dollar appropriation from next year's District of Columbia budget for the Advisory Neighborhood Commissions. We strongly urge reconsideration and restoration of this item.

From the inception of this participatory concept, our Association through a committee consisting of a city planner, a lawyer, an architect and others studied the various forms this concept has taken over the country, supported the ANC proposals accompanying the D.C. Home Rule Act, polled Woodley Park residents on neighborhoods with which they preferred to be joined, coordinated the collection of over 1,200 signatures to petitions to set up ANC-3C. We have regularly monitored its activities ever since.

Among the many accomplishments by ANC-3C are the following of vital importance to our neighborhood:

1. Sheraton Park Hotel Reconstruction. ANC-3C has vigorously cooperated with use and other area groups in intensive and prolonged negotiations with Sheraton Corporation officials on revising their reconstruction plans now under way to meet substantial community concerns. Revisions include retention of its park-like setting and use of appropriate brick rather than concrete construction, rerouting of buses, taxis, and trucks off residential streets and their loading, unloading and garaging on controllable on-site locations. The hotel has also agreed to fund an independent study on the impact of hotel traffic on our residential streets. ANC-3C also helped sponsor an overflow Town Meeting of residents and hotel officials on this issue.

2. Foreign Mission Development on Connecticut Avenue. ANC-3C joined us in opposing such development, especially of chanceries, as proposed by the National Capital Planning Commission. Chanceries are essentially offices bringing increased traffic and parking problems and are staffed mostly by non-resident personnel without interest in neighborhood concerns, thereby forcing out residents. Such foreign mission development also conflicts with Woodley Park's Neighborhood Plan devised during the past two years with widespread resident participation.

3. Woodley Park Neighborhood Plan. ANC-3C jointly sponsored another well-attended Town Meeting with us to present a plan for future development in Woodley Park, prepared by Woodley Park residents. Other areas were interested to seek similar plans and ANC-3C along with eight neighborhood groups including us have requested the establishment of a Sectional Development Plan and are working with the Director of the Municipal Planning Office to this end.

Space does not permit detailing effective ANC-3 action on Ward 3's restoration of Federal Food Stamp certification at an uptown public housing project, on persuading the Washington Cathedral not to sell historic Rosedale to a foreign embassy but rather to an American buyer who will preserve its unique values to the Nation's Capital, on disseminating area information through newsletters and meetings, on traffic changes and other matters of concern to us.

Although operating funds were mandated by legislation, they were actually received some six months after ANC Commissioners were sworn in in March, 1976. They should not be cut off after less than a two-year organizational period for this unique experiment in improved citizen participation in city decision-making. Citizen groups long in the field like ours can testify to the far greater impact upon possibly reluctant officials of duly elected neighborhood commissioners.

For the first time citizens alienated by years of arrogant, slipshod inefficient and unresponsive administrative bureaucracy, have a channel to make their concerns known. Our experience attests to the diligence of ANC-3C in listening and attempting to meet legitimate neighborhood problems. Of course they have not been 100 percent successful but, together with City Hall officials who are sensitive, they have made a dent on administrative interia and have made some progress.

This promising baby must not be strangled at birth. We strongly urge the restoration of the million dollar appropriation.

Sincerely,

WILLIAM H. CARROLL,
President.

Mr. NATCHER. Mr. Chairman, we have no further requests for time on this side.

Mr. BURGENER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, my colleagues will recall that a year ago last June one of the "big eight" accounting firms published its nine-volume analysis of their months-long study of District of Columbia financial practices.

The accountants concluded that the D.C. Government has "numerous characteristics of a city with severe financial and accounting problems," and that "the financial information published by the District as well as its internal reporting * * * is not reliable, timely, or consistent among agencies."

In an attempt to improve the financial practices Congress is to provide $6 million, $3 million this year, on a matching funds basis to fund the Commission on Financial Oversight; $3 million should prove to be a good investment in the future, but the problems still are with us and the Commission's work will not bear fruit for some time to come.

Everyone here is familiar with the District's mismanagement, but let me cite a few examples of waste and inefficiency.

For months the daily papers reviewed problems of the city's Department of Human Resources under its director Joseph Yeldell. They had huge backlogs in processing legitimate welfare and food stamp applicants, but allowed ineligibles to draw benefits. In another area, D.C. General and St. Elizabeth's hospitals declined so far in quality of services that both lost accreditation. Stories of mismanagement of funds and health resources are common.

Currently in the news is the mess involving a student loan program with extensive loan defaulting at three times the national average or a rate of 40 percent. So far $2.4 million remains unrepaid. Only when there was no more money to loan did the District move to try to collect from the deadbeats. The District is now suing the Federal Government to collect 80 percent of the defaulted loans. Uncle Sam does not have to pay until the District puts up its 20 percent, but the District of Columbia cannot do that. Nevertheless it looks like the taxpayers of the Nation will have to fork over more money to subsidize D.C. students. So far the District has collected only $20,000 in bad loans from the students. Many borrowers view the loans as education grants and the District's mood of tolerance and permissiveness provide for little followup of the defaults.

The D.C. Department of Environmental Services cannot account for 400,000 gallons of gasoline for city vehicles. Officials do not know where it goes, or who gets it, since they have no centralized system for management of petroleum products. On the other hand, another report says that they may have disbursed 20,000 gallons more than they had. At best the reports are confusing and not untypical of the problems in accounting for city supplies and materials.

You may remember that investigators discovered that some parking meter collectors had skimmed off many thousands of dollars in parking receipts due to the city.

All these situations, and many more not cited here contribute to an inefficiency which greatly magnifies the cost of government. A recent study by the Congressional Research Services points out that the District of Columbia spends substantially more than any other of 18 cities its size. In the other 18 cities costs per capita ranged from $947 to $1,755 with an average of $1,320. The District of Columbia's costs per capita are $2,063, over $300 higher than the highest and $750 higher than average.

In addition, D.C. Government debt per capita exceeds that of New York City by $128, as September 30, 1977. At the end of the month D.C. debt per capita will be $1,860, while New York City debt per capita will be $1,732.

Can we learn anything from these experiences? Apparently the District simply asks for more Federal money to subsidize its own waste. We see with the student loan problems that the District began to take action when the bankers closed the vaults to D.C. students. Perhaps we should apply the principles learned there to the Federal payment.

The District must learn to live within its resources but it may not make that effort until we take the initiative here in Congress. In the next year we intend to watch closely to see if the District of Columbia is willing to end its waste and improve its efficiency.

Mr. FRASER. Mr. Chairman, funding should be continued for neighborhood offices and part-time staff for the 36 Advisory Neighborhood Commissions in the District of Columbia.

Elections for these 365 nonpaid neighborhood volunteers will be held at the polls on November 8 in connection with the election of the District of Columbia Board of Education.

Over 7,000 signatures of District of Columbia voters have been collected to put the names on the ballots for the ANC elections. Two hundred and ninety-three residents of the District of Columbia have volunteered in this way to serve their neighborhoods for 2 years. Many more will no doubt permit write-in campaigns on their behalf.

The effectiveness of the work these volunteers have been able to do in their neighborhoods is impressive. A better understanding of community needs and more responsiveness from city officials has resulted under the ANC system.

The budget item to provide neighborhood offices, part-time staff, newsletters and notices to assist the ANC member is reasonable. Although funding for ANC's was only started a year ago, during the quarter April to June 1977, the average ANC used 67 percent of its budget allotment. One-third of the ANC's were spending at a 90-percent rate. Only 25 percent spent less than 50 percent of their quarterly allotment.

It is clear, Mr. Chairman, that the ANC's should have been funded at the rate requested in the city budget. It is the sum set in the Home Rule Act when Congress approved the ANC system. Anything less than the $500,000 contained in the Senate Appropriation Committee version of this bill, would be a serious blow to a very important part of the self-determination efforts of the District of Columbia citizens.

Mr. BURGENER. Mr. Chairman, we have no further requests for time.

The CHAIRMAN pro tempore (Mr. ANNUNZIO). The Clerk will read.

The Clerk read as follows:

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198; the District of Columbia Appropriation Act, 1976, Public Law 94–333; and the District of Columbia Appropriation Act, 1977, Public Law 94–446; $110,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor: *Provided*, That notwithstanding any other provision of law, the Mayor is authorized to accept loans for the District from the United States Treasury, and the Secretary of the Treasury is authorized to lend the Mayor such sums as the Mayor may determine are required for financing capital projects for which appropriations are authorized in this title.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment and points of order at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, I make a point of order against the language on page 3 of the bill, beginning on line 15 and proceeding further through line 6 on page 4.

This particular language, entitled "Loans to the District of Columbia for Capital Outlay," cites as the legislative authority for the $110 million figure that the District would be permitted to borrow, three separate public laws. It is my contention that this $110 million loan authority is not authorized by any of these three existing laws, nor is there any other previous legislative authorization; and further, that the language constitutes legislation on an appropriation bill, particularly as it provides "notwithstanding any other provision of law."

I direct the Chair's attention to the first public law cited, Public Law 93–198, which, in fact, is the Home Rule Act of the District of Columbia. In this particular action, section 743, all then existing permanent borrowing authority of the District of Columbia was repealed. The same public law does, however, provide a temporary extension of certain borrowing authority which expired on January 2, 1975, and no longer exists.

The second public law cited, Public Law 94–333, is the District of Columbia appropriation bill for the fiscal year ending June 30, 1976. Its authority expired on that date, and it is no longer in effect.

The third public law cited, Public Law 94–446, is the District of Columbia appropriation bill ending on September 30, 1977.

It contains no authority on which this section could be based.

Therefore, Mr. Chairman, for the reasons cited, I press my point of order against the section.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. NATCHER) wish to be heard on the point of order?

Mr. NATCHER. Mr. Chairman, at this time I would like to make a statement on the point of order.

Mr. Chairman, as we all well know, under the home rule legislation adopted several years ago, the city of Washington was granted authority to issue bonds on the commercial market for capital outlay projects. Up to the time of the passage of the home rule legislation, we had a system of loan authorization in use at that time, which permitted the city of Washington to go to the Federal Treasury and to borrow money to finance major construction, which was amortized over a period of 30 years with interest and principal paid each year. The home rule bill rescinded this authority.

The city has not been able to issue bonds on the commercial market and we have continued the Federal borrowing authority for new projects in our appropriation bills. The present bill before the committee carries a Federal loan appropriation of $110 million for that purpose.

The legislative subcommittee on the District of Columbia of the other body introduced a bill, which has passed in the Senate, that continues this Federal loan authorization.

The House committee, under the chairmanship of the gentleman from Michigan (Mr. DIGGS), has also reported out a bill which I understand is on the calendar for consideration in the House on September 26, which continues the Federal loan authorization for the District of Columbia.

The point of order made by the gentleman from Maryland (Mr. BAUMAN) is correct, Mr. Chairman. The loan authorization has expired. The point of order places the District of Columbia in a position where the capital outlay items in the bill cannot be financed until the House acts upon the bill extending the Federal loan authority. I understand it is now on the calendar for September 26, the next scheduled District day in the House.

Mr. Chairman, as the Members will recall—and I will bring this to a close after making this observation—under the home rule legislation, the city of Washington was given the authority to issue bonds. An attempt was made to issue and sell bonds. The Members will recall that at that time, Mr. Chairman, the city was advised that no bonds would be acceptable when issued by the city of Washington, and therefore we have continued the authority of the city to borrow out of the Federal Treasury through language in the appropriation bills until the legislative committees on the District of Columbia could bring out the proper legislation to continue the Federal loan authorization for the city of Washington. That has been done but the full House has not yet acted so that it can be enacted into law. Similar legislation was considered by both bodies last year but was never completed and enacted into law.

Mr. Chairman, the elimination of this loan appropriation today means that all of the sewer and water projects, all of the projects for libraries, all of the projects in the Department of Human Resources, the capital outlay projects for the police, firemen, the civic center, all of them in the capital outlay section of the bill will be without financing. Mr Chairman, with the elimination of this Federal loan appropriation and language from the bill before us today, all of these projects will be held up pending the extension of the Federal loan authorization.

Mr. Chairman, the point of order that the gentleman from Maryland (Mr. BAUMAN) makes, of course, has to be sustained. We concede the point of order.

The CHAIRMAN pro tempore. The point of order is conceded and is therefore sustained.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I only rise to ask the gentleman from Kentucky (Mr. NATCHER) a question.

It is my understanding that the bulk of the $110 million in loan authority which has just been stricken from the bill was planned to be used for the Washington civic center.

I believe that was the gentleman's description to me earlier today.

Mr. NATCHER. Mr. Chairman, the gentleman is not entirely correct.

In this bill we appropriate the total amount of $110 million in Federal loan appropriations. In the bill we also authorize the mayor to proceed to use $27 million out of District of Columbia funds, which, as the gentleman knows, ultimately would have to be borrowed out of the Federal Treasury.

Mr. Chairman, let me say this to the gentleman: A civic center is necessary in the city of Washington and it is an urgent need. Unless something is done in the downtown section of Washington, I do not know what is going to happen to this city.

As the gentleman will recall, we had this matter up 4 or 5 years ago. That proposal came out of the Committee on Public Works. The proponents of the Eisenhower Center came in at that time, as the gentleman knows, and they said to the committee and to the Congress that this civic center could be built for between $40 million and $65 million. It would have been built by a consortium of businessmen downtown.

That, of course, could not take place and did not take place and we knew at the time that it would not take place. As the gentleman from Maryland knows, we have said for the last 20 years to the people in the city of Washington—and let me add that I do appreciate the gentleman from Maryland bearing with me.

Mr. BAUMAN. I hope that the gentleman will allow me to reclaim some portion of my time. The gentleman from Kentucky will have plenty of time to present his case.

Mr. NATCHER. Let me say that I will help the gentleman secure additional time.

Mr. BAUMAN. I thank the gentleman.

Mr. NATCHER. Mr. Chairman, down through the years we have said to the people in the city of Washington that, as far as industry is concerned, there will be no smokestacks. There will be no industry. We do not want it in the city. And so we kept it out. We also have said to the citizens and businessmen as well as officials here in the city of Washington, Mr. Chairman, that they need this civic center because it will help to bring in more tourists. That is the only industry they have in the city to produce revenue in addition to collections received from income and property taxes.

Further, as far as the $110 million loan appropriation is concerned, it is necessary. Only $27 million is required for the civic center in fiscal year 1978. I am firmly sold on the idea that a civic center is necessary. All of the other capital projects in the bill, some 30 in total, require financing. And, in all fairness, when the District of Columbia legislative committee brings the authorizing legislation up on the floor and it is signed into law, Mr. Chairman, we are going to bring the appropriation to you again.

Mr. BAUMAN. Mr. Chairman, I can appreciate the views of my distinguished colleague, the gentleman from Kentucky (Mr. NATCHER). He is one of the Members of this House whom I most admire for his diligence, his parliamentary ability, and for certainly always being a gentleman. But the fact of the matter is that I believe that I am doing the taxpayers of the United States and those of Washington, D.C. a distinct favor in removing the money in this bill for the civic center. It will not be just $110 million for the civic center for I can assure you that before you get through it may cost $250 million, or more, over a period of time, regardless of the Gladstone report. The Gladstone report is not a report of an objective group at all, it is, in fact, an advocacy statement on behalf of certain private interests who have financial relationships with that study group.

The District of Columbia has one of the highest tax burdens of any of the cities of comparable size in the United States. It has the highest per capita debt for major cities and is right now nearing the ceiling on its debt that has been imposed on it by the Congress.

Further, other similar projects in other cities have not done nearly as well as the projections have indicated as far as the total numbers of people using them. They are going into debt. They are failing. Congress has certainly done more for the District of Columbia than we have done for any other city. For instance, there is the Kennedy Center, the JFK Stadium, the Metro system, and other white elephants that all U.S. taxpayers are already paying for.

I believe that if the business community downtown wants real estate profits, and other profits, for themselves, and they want this civic center, then they can come up with the private financing necessary and build it themselves, and not saddle the taxpayers with it.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, during the discussion on the point of order earlier, it was stated that the city of Washington, D.C., was unable to sell its bonds for the civic center. Can the gentleman elaborate as to why they were unable to sell those revenue bonds?

Mr. BAUMAN. Because they have the second worst credit rating of any major city in the United States save only New York City.

The CHAIRMAN. The time of the gentlman has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Is it because of the federally instituted restrictions that have been imposed upon the construction here of not only industries, but also of tall buildings, et cetera, that they cannot get the necessary tax base, or what is the reason?

Mr. BAUMAN. No, I do not think that there is any question in the minds of most investors that eventually Uncle Sam would bail the District of Columbia out instead of letting it fall into bankruptcy, just as it did with New York City. But it is the matter of the District of Columbia's financial system, the manner in which its financial affairs are handled, the lack of control over expenditures. The local government officials have destroyed their credit rating, even to the point, as I understand it, that Congress has had to appropriate millions of dollars to enable them to audit their books. They have not themselves been able to do so, they are incapable of doing so. All of this is an indication that we should not burden the taxpayers of the United States with more hundreds of millions of dollars of further indebtedness.

Mr. VOLKMER. Of course, would not Congress be able to give them the money to pay it back?

Mr. BAUMAN. The gentleman in asking his question makes the point very well.

Mr. VOLKMER. I understand.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

First of all, Mr. Chairman, I would like to congratulate the gentleman from Kentucky for all of his work on this subject. I have known the gentleman for quite some time.

I am the ranking member of the Committee on the District of Columbia which unfortunately has been thwarted twice from bringing the legislation to the floor which would extend the District's borrowing authority.

I think it is only fair, however, to answer some of the remarks that have been made here. The city of Washington was rated to sell bonds at quite a high rate. It is absolutely and totally inaccurate to say that they could not sell them. The other body in its wisdom decided that the District of Columbia should not sell bonds when the New York City crisis hit.

This convention center would give the District of Columbia an opportunity to maximize its return in the only industry that we have left here. We have run this city in the halls of these two Houses since the 1800's, and, thus, we are responsible for whatever condition the city is in today. However, we very recently, with home rule, turned around and said, "Here it is back. Pay for it."

I happen to pay real estate taxes in this city, so I know they are among the highest in the entire Nation. If you were paying income taxes on your particular income right now at $57,500, you would be paying the highest income tax rate of almost any area. Still, the city cannot survive with whatever we left it.

We have left it with over 700,000 Federal employees who pick up their pay checks every Friday afternoon and go to Virginia and Maryland, to the point where a significant percentage of the Virginia State budget comes out of the city of Washington's pay checks. We have left it with a downtown full of concrete mausoleums built during the thirties that are totally deserted after 5 p.m. daily, thus, there is no one to go to the stores, no one to do anything else. Anything that you see in Washington, we did.

There has been some mention of the Kennedy Stadium. I would suggest to the Members that if they are history buffs, they could call up the Library of Congress and get the debate in both Houses over the Kennedy Stadium, which we in our kindness have now decided, "Here it is, Washington. This is one of your terrible sins."

Why, it sounded as though that stadium were going to solve every problem this city ever had. We talked about finances. We talked about bonds. We talked about baseball and what a thrill it was going to be. We do not even have the baseball team left.

It is now stylish to criticize the Metro. Who designed it? Who paid for it? Who built it? Who said where it should go? The Department of Transportation and the Houses of the Congress of the United States.

I would suggest, Mr. Chairman, that this city deserves a break. I have never known my friend, the gentleman from Kentucky, to be a big spender. We have had some real arguments about this city. My friend, the gentleman from Maryland, can call me a big spender if he wants to. That is fine. The gentleman from Kentucky is not.

This civic center—which I hope we will authorize and which I hope we will get appropriations for—means jobs for the city. It is income for the city, and it is income for a city that sorely needs it. It is income for a city in which we, over the hundred years that we have had it, have allowed the housing to deteriorate and the slums to become worse.

Mr. Chairman, the chairman represents a district very much like I do. It is a tragedy for me serving in this body to know that it is not that landlord out there that is the worst slum landlord in the world, it is the U.S. Government, and this city is the most extreme case of it in the entire country.

Mr. NATCHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in all fairness to the members of the Committee, since we have had to concede the point of order that was raised by the gentleman from Maryland, I would like to point out to the Members just where we are now as far as the District of Columbia appropriation bill is concerned from the standpoint of the capital outlay items.

Until the House acts on September 26 of this year, all of the projects in this bill, many of which are ongoing or continuing projects, such as sewer and water projects, and for which we are recommending funds for another phase of work, and all other projects, are not funded. There is no funding, of course, in the bill since the appropriation and authorization for Federal loans has been stricken due to the fact the House has not acted on the legislation recommended by the Legislative Committee to extend the authority.

Mr. Chairman, we have funds for street repairs that are necessary and that are needed in the city of Washington. We have the funds for the downtown campus for the new University of the District of Columbia that is provided for in this bill. We have no provision for water and sewer repairs in the coming fiscal year.

We have the new municipal center in the bill. We have the new civic center in the bill. As I pointed out a few moments ago, the Senate has acted on the extension of the Federal loan authority. The House has not acted.

It was reported by the House District Committee, as I recall, long before the August recess. For some reason or other it has not been brought up, though it was originally scheduled on one or two District days. Until it is enacted or some other action is taken, nothing can move as far as these capital outlay projects are concerned during the next fiscal year.

I want to thank my distinguished friend, the gentleman from Connecticut (Mr. McKINNEY), for the fine statement he has just made on behalf of the city of Washington. As one of the leading members on the District of Columbia Legislative Committee he has worked for the best interests of our Nation's Capital.

I know, Mr. Chairman, it is a really easy matter, when we have issues up concerning the District of Columbia, to say: "Here is where we can save some money. Here is where we do the cutting," and it is all against the District of Columbia.

As I pointed out a few moments ago, Mr. Chairman, here in the District of Columbia for a period of 20 years, at least, we have said to the citizens and city officials: "You cannot bring any new industry into this city. You cannot bring in any smokestacks. You are not going to bring them into the Nation's Capital." We have said that on the Appropriations Committee and it has also been said time and time again as far as the Legislative Committee is concerned.

So then District officials come in and say: "We want a civic center. We want it to go into the downtown section where it is needed to revitalize that area and to help our Nation's Capital."

I say $110 million is not too much for this civic center. This is the total estimated cost. Only $27,000,000 is in this bill. This $110 million I just referred to should not be confused with the $110 million loan appropriation just stricken by the point of order made by the gentleman from Maryland. That appropriation was to finance all capital projects in the bill. Mr. Chairman, let me say this. For years and years we have said to the citizens and officials here in our Nation's Capital: "You cannot build any buildings higher than so many feet. You cannot bring in new industry."

The city has debts that should be paid, Mr. Chairman. The only real industry we have are the tourists who come into our Nation's Capital. We want to extend that industry. We want more people to come.

I say, Mr. Chairman, as far as our Nation's Capital is concerned, we need this civic center. I pointed out on a number of occasions we have only 702,000 people in our Nation's Capital. The population continues to decrease. In 1967 it totaled 762,000. We are losing approximately 4,000 pupils a year from our school system. People are moving out of the Nation's Capital.

When we say we do not want a civic center in the city of Washington, I think I should point out that we do find them in all the other cities and States. We have a new one in the State of Kentucky that is being subsidized, Mr. Chairman, by the State of Kentucky. It is a wonderful center. It has helped our State.

I say frankly, Mr. Chairman, I am sorry the House has not acted on the bill extending the Federal loan authority reported by the Legislative Committee.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. NATCHER was allowed to proceed for 1 additional minute.)

Mr. NATCHER. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

I know the gentleman from Kentucky does not wish to leave the impression by the gentleman's remarks that the streets of Washington as of today will not be paved, that the water works will stop operating or that the police will not be able to conduct their business.

The fact of the matter is that there is an existing appropriation that runs through September 30, 1977. It does contain both direct loan authority and appropriations and before that date I am sure it is the gentleman's intent to have both Houses pass the necessary action for business.

Mr. NATCHER. Mr. Chairman, I agree with the gentleman's statement, but the gentleman knows, as I do, that when the funds run out as far as the streets are concerned, the sewer and water projects and all the rest of the projects that are in this bill, until this loan appropriation is approved, they have to stop.

Mr. BAUMAN. Yes, but they are not stopping today.

Mr. NATCHER. Not necessarily today, but as soon as the money appropriated in the last regular bill is used up, they must stop.

Mr. BAUMAN. As I understand, they are supposed to have that money available until September 30 this year.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to urge the House to vote to both respect and support our chairman of the Subcommittee on the District of Columbia in this regard.

I know, as Members of this House all know, that this committee has, for a long time, been concerned about the long-term fiscal integrity of the District of Columbia and the need that we have here in our Nation's Capital to tap the resources that are inherent in this city as the Nation's Capital and the inherent resources couched in the tourist industry. Tourism is, next to Federal Government employment, our primary resource. As the chairman has very clearly pointed out, we have been limited by this very Congress in exploiting other opportunities we would have were we not the Nation's Capital. We have fixed boundaries in the city so we cannot expand. We find a situation where half the property in the District of Columbia is taken off the tax rolls by various exemptions. We have a situation where half of our work force pays no tax on the income earned in this city, because it leaves, as the distinguished gentleman from Connecticut has pointed out, at 5 o'clock every Friday without leaving one cent to assist us in meeting the obligations and responsibilities of paying for the services that the District of Columbia delivers every day.

I hope that the Members of this body will ignore the denigrating comments with respect to the quality of the District Government and recognize the integrity of this committee and its distinguished chairman who are fully supportive of a convention center that is so vital to the development of the downtown of our Nation's Capital.

I support, without any reservation, on behalf of the mayor, the City Council, business, labor, and the residential community, the civic center proposal that we certainly will bring to the floor for appropriations at the proper time.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the Chair, Mr. ANNUNZIO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, he reported the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 64, answered "present" 1, not voting 71, as follows:

[Roll No. 559]

YEAS—298

Addabbo	Flippo	Mitchell, N.Y.
Akaka	Flood	Moakley
Allen	Florio	Moffett
Ambro	Flowers	Mollohan
Ammerman	Flynt	Montgomery
Anderson, Calif.	Foley	Moore
	Ford, Mich.	Moorhead, Pa.
Andrews, N.C.	Ford, Tenn.	Moss
Andrews, N. Dak.	Forsythe	Murphy, Ill.
	Fountain	Murphy, N.Y.
Annunzio	Fowler	Myers, Gary
Applegate	Fraser	Natcher
Armstrong	Frenzel	Neal
Ashley	Gammage	Nedzi
Aspin	Gephardt	Nichols
AuCoin	Gibbons	Nix
Bafalis	Gilman	Nolan
Baldus	Ginn	Nowak
Barnard	Glickman	O'Brien
Beard, R.I.	Goldwater	Oakar
Beard, Tenn.	Gonzalez	Oberstar
Bedell	Goodling	Obey
Beilenson	Gore	Ottinger
Benjamin	Gradison	Panetta
Bevill	Gudger	Patten
Bingham	Guyer	Patterson
Blanchard	Hagedorn	Pease
Blouin	Hamilton	Pepper
Boggs	Hanley	Perkins
Boland	Hannaford	Pettis
Bonior	Harkin	Pike
Bonker	Harris	Poage
Brademas	Hawkins	Preyer
Breaux	Heckler	Price
Breckinridge	Hefner	Pritchard
Brinkley	Heftel	Quayle
Brodhead	Hightower	Quie
Brooks	Hillis	Rahall
Brown, Calif.	Holland	Railsback
Broyhill	Holtzman	Rangel
Buchanan	Howard	Regula
Burgener	Hubbard	Reuss
Burke, Calif.	Huckaby	Rhodes
Burke, Fla.	Hyde	Richmond
Burke, Mass.	Ireland	Rinaldo
Burleson, Tex.	Jacobs	Risenhoover
Burlison, Mo.	Jenkins	Roberts
Burton, John	Jenrette	Rodino
Burton, Phillip	Jones, N.C.	Roe
Caputo	Jones, Tenn.	Rogers
Carney	Jordan	Roncalio
Carr	Kastenmeier	Rose
Carter	Kazen	Rostenkowski
Cavanaugh	Ketchum	Roybal
Chisholm	Keys	Russo
Cleveland	Kildee	Ryan
Coleman	Kindness	Santini
Collins, Ill.	Kostmayer	Scheuer
Conable	Krebs	Schroeder
Conte	LaFalce	Seiberling
Conyers	Lagomarsino	Sharp
Corcoran	Le Fante	Shipley
Corman	Leggett	Simon
Cornell	Lehman	Smith, Iowa
Cornwell	Lent	Smith, Nebr.
Cotter	Levitas	Snyder
Coughlin	Livingston	Solarz
Cunningham	Lloyd, Calif.	Staggers
D'Amours	Lloyd, Tenn.	Stangeland
Danielson	Long, La.	Stanton
Davis	Long, Md.	Stark
de la Garza	Lujan	Steers
Delaney	Lundine	Steiger
Dellums	McClory	Stokes
Derrick	McCloskey	Stratton
Derwinski	McCormack	Studds
Dicks	McEwen	Teague
Dodd	McFall	Thompson
Downey	McHugh	Thone
Drinan	McKay	Trible
Duncan, Tenn.	McKinney	Tucker
Eckhardt	Madigan	Udall
Edgar	Maguire	Ullman
Edwards, Ala.	Mahon	Van Deerlin
Edwards, Calif.	Mann	Vander Jagt
Eilberg	Markey	Vento
Emery	Marlenee	Walgren
Erlenborn	Marriott	Walsh
Ertel	Mathis	Waxman
Evans, Del.	Mattox	Weiss
Evans, Ga.	Mazzoli	Whalen
Fary	Meeds	White
Fascell	Michel	Whitehurst
Fenwick	Mikulski	Whitley
Findley	Miller, Calif.	Whitten
Fish	Mineta	Wiggins
Fisher	Mitchell, Md.	Wilson, Bob

Wilson, Tex.	Wylie	Young, Mo.
Wirth	Yates	Young, Tex.
Wolff	Young, Fla.	Zablocki

NAYS—64

Abdnor	Hall	Murtha
Archer	Hammer-schmidt	Myers, John
Ashbrook	Hansen	Pressler
Badham	Harsha	Robinson
Bauman	Hollenbeck	Rousselot
Bennett	Holt	Rudd
Broomfield	Hughes	Runnels
Byron	Jeffords	Satterfield
Clawson, Del	Johnson, Colo.	Sawyer
Cochran	Jones, Okla.	Schulze
Collins, Tex.	Kasten	Sebelius
Crane	Kelly	Shuster
Daniel, Dan	Latta	Spence
Daniel, R. W.	Luken	Stockman
Devine	McDonald	Stump
Dickinson	Martin	Symms
Dornan	Milford	Taylor
English	Miller, Ohio	Volkmer
Evans, Ind.	Moorhead, Calif.	Waggonner
Fithian	Mottl	Walker
Gaydos	Myers, Michael	Winn
Grassley		Wydler

ANSWERED "PRESENT"—1

Clay

NOT VOTING—71

Alexander	Giaimo	Rosenthal
Anderson, Ill.	Harrington	Ruppe
Badillo	Horton	Sarasin
Baucus	Ichord	Sikes
Biaggi	Johnson, Calif.	Sisk
Bolling	Kemp	Skelton
Bowen	Koch	Skubitz
Brown, Mich.	Krueger	Slack
Brown, Ohio	Leach	Spellman
Butler	Lederer	St Germain
Cederberg	Lott	Steed
Chappell	McDade	Thornton
Clausen, Don H.	Marks	Traxler
Cohen	Metcalfe	Treen
Dent	Meyner	Tsongas
Diggs	Mikva	Vanik
Dingell	Minish	Wampler
Duncan, Oreg.	Murphy, Pa.	Watkins
Early	Myers, Michael	Weaver
Edwards, Okla.	Pattison	Wilson, C. H.
Evans, Colo.	Pickle	Wright
Frey	Pursell	Yatron
Fuqua	Quillen	Young, Alaska
	Rooney	Zeferetti

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Anderson of Illinois.
Mr. Harrington with Mr. Sarasin.
Mr. Duncan of Oregon with Mr. Steed.
Mr. Badillo with Mr. Skubitz.
Mr. Koch with Mr. Yatron.
Mr. Thornton with Mr. McDade.
Mr. Traxler with Mr. Metcalfe.
Mr. Tsongas with Mr. Minish.
Mr. Diggs with Mr. Cederberg.
Mr. Chappell with Mr. Dent.
Mr. Sikes with Mr. Johnson of California.
Mr. Bowen with Mr. Pattison of New York.
Mr. Giaimo with Mr. Vanik.
Mr. Alexander with Mr. Brown of Michigan.
Mr. Rooney with Mr. Don H. Clausen.
Mr. Rosenthal with Mr. Quillen.
Mrs. Spellman with Mr. Brown of Ohio.
Mrs. Meyner with Mr. Treen.
Mr. Dingell with Mr. Wampler.
Mr. Evans of Colorado with Mr. Young of Alaska.
Mr. Fuqua with Mr. Watkins.
Mr. Weaver with Mr. Butler.
Mr. Lederer with Mr. Frey.
Mr. Ichord with Mr. Horton.
Mr. Sisk with Mr. Kemp.
Mr. Mikva with Mr. Leach.
Mr. Pickle with Mr. Krueger.
Mr. Baucus with Mr. Skelton.
Mr. Early with Mr. Ruppe.
Mr. Zeferetti with Mr. Marks.
Mr. Wright with Mr. Lott.
Mr. Charles H. Wilson of California with Mr. Murphy of Pennsylvania.
Mr. St Germain with Mr. Pursell.
Mr. Slack with Mr. Edwards of Oklahoma.
Mr. Cohen with Mr. Michael O. Myers.

Mr. GARY A. MYERS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include pertinent extraneous matter on the bill just passed.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to the program for the balance of today and for next week.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, this concludes the business for this week and for today.

The program for next week will be as follows:

On Monday the House will meet at noon. The Consent Calendar will be called. There are no bills under suspension.

We will consider H.R. 4544, the Black Lung Benefits Reform Act of 1977. There will be votes on the amendments and on the bill.

Next, we will consider H.R. 8655, the debt limit temporary increase, under a modified rule, with 1 hour of general debate.

On Tuesday, the House will meet at 12 o'clock noon. The Private Calendar will be called, but there will be no suspensions. The House will take up House Resolution 687, district office space; H.R. 6796, ERDA authorizations for civilian research and development, votes on amendments and the bill; and House Resolution 760, authorizing Assassinations Committee to apply to courts.

On Wednesday, the House will meet at 12 o'clock noon and consider House Resolution 743, medicare-medicaid antifraud and abuse amendments on which we will consider only the rule.

House Resolution 620, Federal Insecticide, Fungicide, and Rodenticide Act. We will consider the rule only.

We will consider only the rule on the Nuclear Antiproliferation Act of 1977.

House Resolution 70, establish Select Committee on Population.

H.R. 6566, ERDA authorizations for national security programs, fiscal year 1978, votes on amendments and the bill.

H.R. 5959, Renegotiation Reform Act of 1977, with an open rule and 1 hour of debate.

H.R. 5383, Age Discrimination in Employment Act Amendments of 1977, votes on amendments and the bill.

On Thursday the House will meet at 10 o'clock a.m., and consider H.R. 3, the medicare-medicaid anti-fraud and abuse amendments, general debate only.

H.R. 7073, Federal Insecticide, Fungicide and Rodenticide Act, general debate only.

H.R. 8638, Nuclear Antiproliferation Act of 1977, general debate only.

On Friday, the House will meet at 10 o'clock a.m. and consider H.R. 3 and conclude H.R. 3, the medicare-medicaid antifraud and abuse amendments, votes and amendments on the bill.

Also H.R. 8638, Nuclear Antiproliferation Act of 1977, votes on amendments and the bill.

The House will adjourn at 3 o'clock p.m. on Fridays and by 5:30 p.m. on all other days except Wednesdays. Conference reports may be brought up at any time and any further program will be announced later.

Mr. RHODES. Mr. Speaker, I will say to my friend the gentleman from Illinois, (Mr. ROSTENKOWSKI), that I would appreciate it if the gentleman could give us some absolute assurances that on Friday next that these bills will be brought up? I ask this question because the experience today in bringing up a controversial bill on Friday was so bad that I wonder if the leadership really wants to bring up a bill that will be as controversial as I understand at least one of these bills will be that are scheduled for Friday?

Mr. ROSTENKOWSKI. It is the intention of the leadership to try to follow the schedule as we have outlined it. We do not know of any real controversy with respect to the two pieces of legislation that we have scheduled for Friday. However, I am sure that the rule to adjourn at 3 p.m. will stand regardless of whether the legislation is controversial or not.

Mr. RHODES. I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 19, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 760, TO AUTHORIZE ASSASSINATIONS COMMITTEE TO APPLY TO COURTS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. 95–606), on the resolution (H. Res. 760) providing for consideration of House Resolution 760, to authorize the Select Committee on Assassinations or any subcommittee thereof to make applications to courts; and to bring and defend lawsuits arising out of subpenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence which was referred to the House calendar and ordered to be printed.

PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, with the signing of the proposed Panama Canal Treaty by President Carter, it is inevitable that Congress will soon be faced with probably the thorniest issue it will encounter during the life of the 95th Congress.

The treaty has been called a "giveaway," an acquiescence to international blackmail and an international relations disaster for the United States. All of these appellations have some basis in fact.

First, it is a giveaway. The argument that we bought it, we built it, and we operate it, no matter what propaganda issued by the administration and the Department of State might claim, is valid. It is ours just as surely as Florida and Alaska belong to the United States. We paid for them, too.

Now, we are being told that not only is the canal not ours, but that in giving it back to the Panamanians—who never had it in the first place—we have to pay them what amounts to damages—$2.3 billion in damages, to be exact. The proposed Carter treaty places the United States in the position of paying Panama to take the canal off our hands, as if the canal were some sort of a white elephant to be disposed of in any way possible.

Just on the face of it, if we were, hypothetically, to cede the canal to Panama, the country would be getting an installation worth billions of American taxpayer dollars. Why in the world we would have to pay out an additional astronomical sum to Panama completely escapes me.

The argument that the canal rightfully belongs to Panama is ridiculous on its face. If it were not for the United States, there would not be any canal to give up.

But be that as it may, the 1904 Constitution of the Republic of Panama, the 1904 and 1914 United States-Panama Boundary Agreements and the 1936 and 1955 Treaties of Friendship and Cooperation between the United States and Panama all clearly define a role of total sovereignty over the canal by the United States. My colleagues, the canal is ours, rightfully and legally.

Second, we would be kowtowing to a form of international blackmail. I do not know what ever happened to Teddy Roosevelt's "Big Stick" philosophy in international relations, but it seems that recently, all we are doing is speaking softly. The Big Stick has disappeared.

General Torrijos, the Panamanian ruler, has "warned" our country that if the canal is not "returned" to Panama, we could expect riots, upheavals, sabotage, and guerrilla warfare in the small country.

Admittedly, the canal is vulnerable to sabotage, especially by paramilitary groups. It is impossible to assure the security of every meter of the canal's length. But Torrijos wants the canal, as everyone knows. Therefore, if the sabotage of the canal were to take place, one must assume that such tactics would be sanctioned by Torrijos. And in so doing, Torrijos would be cutting off his nose to spite his face.

Panama's main, if not only, source of revenue is the Panama Canal. If the canal were to shut down, it would be the country of Panama, and ultimately Torrijos himself that would suffer. Given Panama's perilous economy, brought on for the most part by Torrijos-instituted programs, closure of the canal for any length of time would bring the country close to bankruptcy, if not final foreclosure. Believe me, the last thing in the world that Torrijos would have is the sabotage of the canal and resulting economic chaos in his own country. The canal is everything to Panama's economy. The canal is Panama's economy. Therefore, such threats, seen logically, are nothing more than blackmail, as empty as a small child's warning to his parents, "If you don't do this, you'd better just watch out.* * *"

Finally, ceding the canal to Panama has the potentiality of being an international relations blunder of first magnitude proportions. General Torrijos has ties with the Soviet Union and with Communist Third World countries, such as Libya and Cuba. What is the rationale behind giving away this important foothold to those who oppose us internationally? And paying a ransom to take it in the bargain? To give up the canal to a Communist-line government in Panama— a government that has established close ties with Russia and Cuba—and then pay the astronomical fees asked for would be submitting ourselves to absolute robbery. But this is nothing new. We have submitted to such robbery before and will probably do so in the future. We ought to be getting used to it by now.

More important, the canal is a waterway vital to our national defense. The argument that our Navy cannot use it anymore because our modern warships are too large to transit it, and that we do have a two-ocean Navy, is invalid. All but our largest aircraft carriers can make the transit, that is, about 98 percent of the fleet. And we do not have a two-ocean Navy.

We all know about the drawdown in numbers of ships since 1968 and that to build back up again to anything approaching those numbers is going to take a long, long time. Therefore, our Navy must be prepared to make every ship count, to move anywhere in the world with all possible speed and, if necessary, to fight once they get there. If the canal were to be closed by Panama once they gained control of it, it would be to force our ships to take the over 7,000 mile and weeks-long journey through the stormy seas of Cape Horn.

In the world of modern-day warfare, days count. It has been said that a ship can only be in one place at a time. If that time should occur, we have to be absolutely sure that our ships are at that place—not in transit. As long as our Government maintains sovereignty and title to the canal, it maintains practical control over it. Under the proposed treaty, we will lose practical control. Control of territory and access routes is one of the most important elements of military strategy. If we do not maintain control of the canal, we will be at the mercy of the government that does.

The main argument concerning the canal that will affect us is contained in article IV, section III, clause 2 of the Constitution, which gives unequivocally to Congress—and that means the Senate and the House—"the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

Therefore, to be legal, any agreement signed by U.S. representatives must be ratified by the Senate, and, if it contains provisions for the disposal of U.S. territory and property, we in the House also have a say in the processing of the agreement.

Mr. Speaker, the mail in my office, as I am sure it is in a great many other Members' offices, is running overwhelmingly against this proposed treaty and I daresay when it comes to us for approval, it will not be in the least difficult to vote both my conscience and my constituency. I have opposed this deal in the past, oppose it now and will oppose it in the future. I would hope that when the issue comes before us, and I am confident that it will, a thundering majority of my colleagues will do likewise and defeat it soundly.

THE USE OF CONSUMER BOYCOTTS IN LABOR DISPUTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 15 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, the Education and Labor Subcommittee on Labor-Management Relations is currently holding hearings on H.R. 8410. One section of that bill seems clearly to be directed against the J. P. Stevens Co. and I feel was included to bolster the present boycott activities against J. P. Stevens. Before this Congress rushes headlong to embrace this bill I believe it should reflect for a moment on the implications of "consumer" boycotts and ask, "Just who is

this supposed to help?" The answer, as the following article by Harold P. Coxson, Jr. suggests, is clearly, "No one":

THE USE OF CONSUMER BOYCOTTS IN LABOR DISPUTES

(By Harold P. Coxson, Jr.)

In the past decade, we have seen the labor movement turn to the consumer boycott as a means of forcing individual companies, or even entire industries, to recognize a given union. On June 3, 1976, for example, the Amalgamated Clothing and Textile Workers Union (AFL–CIO) formally launched the largest consumer boycott ever attempted by organized labor. On June 4, 1976, AFL–CIO President George Meany pledged, "the complete, total, all-out support of the AFL–CIO" for the boycott—only the third time the giant labor federation has supported a national boycott. The purpose of the boycott is to force a single company to recognize and bargain with the ACTWU.

In the typical consumer boycott situation, union members, church groups and others picket, hold "rallies" and distribute leaflets nationwide to encourage consumers not to buy products produced by target company or industry. There have even been efforts to stop management from the target companies from serving on other company boards or making speaking appearances.

With all this sort of activity, much is usually broadcast and written about the launching of the boycott, incidents connected with the boycott, the company or industry's response, and the reasons organized labor is so adamant. Much is also usually said about the emotions and the activities that accompany this type of nationwide attack.

What has never been fully addressed in a consumer boycott situation is the question of the ultimate impact of a consumer boycott on society. Unanswered questions include: How does a successful consumer boycott affect the target company? The industry? Competition? The union sponsoring the boycott? And, most important of all, how does it affect the employees of the target company or industry—the very people on whose behalf such boycotts are allegedly launched?

To answer the questions it is instructive to examine the aftermath of the Farah boycott, the successful consumer boycott against the Farah Manufacturing Company that was concluded in 1974. The "success" of the boycott can mean different things to different people. And, depending on your point of view, the result of the Farah boycott can readily be viewed as a loss for everyone.

THE UNION

Estimates vary, but the union spent approximately $4.5 million on the boycott. It obtained 5,500 new members. At the mid-1974 dues level of $3 per member per month, the ACWU (now the ACTWU after the 1976 merger of ACWU and TWU) would need twenty-five years to recoup the cost of acquiring those members.

The union expected to be able to organize other employees in El Paso after achieving recognition at Farah, thus justifying the cost. The potential could have reached 50–60 thousand new members. So far, over three years after the settlement, only one-tenth of El Paso is unionized.

In order to get Willie Farah to advise his employees to join the union, which Willie did in return for the union calling off the boycott, the union agreed to a "modest" settlement. It was, in fact, so modest that it only netted twenty cents more over a three year period than would have been required by the 1974 amendments to the Minimum Wage Law. Many workers found this not to be an "accomplishment" for the union in the face of a twenty-two month strike during which no wages were received by the strikers.

COMPETITION, THE INDUSTRY AND THE CONSUMER

By June 1973, every major store in Pittsburgh (and probably other cities as well) had removed Farah pants from their shelves because of the boycott. The obvious place for the retailers to go for substitute products was to other ready-made pants manufacturers. It takes no great intellect to conclude that Farah's competition benefited from this. Such as artificially created reduction in competition is contrary to the purpose of the federal anti-trust/antimonopoly laws, and is, therefore, contrary to public safety.

The success of the Farah boycott affected the ready-made pants industry by creating greater demand (as substitutions) for the products of Farah's competitors. The industry was thus altered by an artificial reduction in the demand market so as to place primary supply responsibility in the laps of two rather than three major companies. Contrary to our market system, this was not the result of any change in method of operation by Farah competitors.

Consumers, faced with a lack of Farah pants on the shelves, were forced to choose from other brands thus narrowing their selection alternatives. Consequently, without regard to any normal factors affecting consumer demand for a different product, the consumer was forced into settling for different products.

THE FARAH EMPLOYEES

In May 1972, the union (ACWU) launched the boycott to "help" Farah's employees by organizing them. The boycott was so successful, i.e., the demand for Farah slacks so diminished, that Farah reduced its work force from 9500 to 7500 between early 1972 and February 1974 (the period of the boycott).

The union "helped" the employees by obtaining a settlement of $.80 over three years, $.60 of which had been statutorily mandated by the 1974 amendments to the Fair Labor Standards Act (Minimum Wage). To those who struck for twenty-two months, the $.20 gained by the union must have seemed like small compensation. To the 200 who lost their jobs in 1972–74, the boycott can't seem to have been any help at all. To the additional 1000 employees out of work since 1974, due to continued lagging sales, the boycott probably also seems like a bad idea.

THE FARAH COMPANY

Farah Manufacturing Company at its peak produced 12,000 dozen men's and boys' garments per day, or 60,000 dozen per five day week. Currently they are producing 3,500 dozen per day or 17,500 dozen per five day week, which is a decline of 71%. From a supplier standpoint the estimated annual cloth usage was 39 million linear yards (45" basis) at their peak, and it has declined to an estimated 11 million linear yards (45" basis).

Before the boycott, Farah ranked 38th in the Fortune 1000 companies based on earnings per share on invested capital. Farah stock sold in the $90 to $70 range as highs and $40 lows in the three years before the boycott. After the boycott, the highest Farah ever sold for was 13¾ (in 1976) with lows running between 3¼ and 5 dollars per share. Before the boycott, Farah operated nine plants in El Paso and San Antonio. Today, they operate three, after merging three of the original nine operations into one plant. A payroll of 9,500 on May 2, 1972 has shrunk today to around 6,500.

Whereas the preboycott Farah had steady sales and profits, the sale and profit picture since the launching of the boycott (August 1972) has been extremely spotty and unreliable. It is clear that Farah has not recovered even though it is three years since the boycott ended. In view of the gains made by Farah's competitors during the boycott, Farah may never fully recover its pre-1972 market position.

CONCLUSION

What does all this show? That when a union implements a consumer boycott that, as intended, reduces or eliminates the demand for a particular product, nobody really wins. Employees lose jobs; the company and its stockholders lose money; competition is reduced in the industry, and consumers have one less brand to choose from. Even the union can lose (notwithstanding new members) because of the immense drain on resources necessary to publicize a boycott, to pay pickets and demonstrators, and to continually inform its members regarding the boycott. About the only recourse a union has is to make a "special assessment" against its members to cover the cost—of an activity that could cost potential union members their jobs.

With respect to the Farah boycott, many people are saying "It's over. And nobody won." Hopefully, the American public will learn from that experience.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, yesterday the House passed by vote of 309 to 96, a bill setting the minimum wage at $2.65 next year and increasing it to $3.05 by 1980. After much deliberation and with some reluctance, I voted in favor of that bill and would like to set forth my reasons for doing so.

Generally speaking, I am ambivalent about increasing the minimum wage. I recognize of course the terrible impact that soaring inflation has on the purchasing power of wage earners living on the minimum wage, and therefore support a reasonable minimum wage to keep such workers from poverty.

On the other hand, I am extremely concerned about the adverse economic effect that an increase in the minimum wage will have on employment opportunities for young, aged, and handicapped workers.

For that reason, therefore, I have long supported the establishment of a youth differential, so that teenagers could be hired at a percentage less than the minimum wage. In 1973, in fact, I voted to sustain the President's veto of a minimum wage bill, as a protest against the absence in that bill of a youth differential. It is little consolation to a young, unskilled worker to know that the minimum wage has been increased, if that increase is what is preventing him from entering the work force.

When H.R. 3744 was reported from the Education and Labor Committee in July, I was extremely disappointed by its treatment of three important issues. It contained an indexing provision to guarantee automatic future rises in the minimum wage; it drastically reduced the present tip credit system; and it did not allow for a youth differential. I told constituents that unless these flaws were corrected by floor action, I probably could not support the bill.

INDEXING

I was gratified, therefore, that an amendment was adopted to remove the automatic indexing provision of the bill, and substitute a flat three-step increase in the minimum wage to $3.05 by 1980. I voted in favor of this specific increase as a substitute for indexing, and agree with the proponents of the amendment that indexing would amount to a surrender to inflation. Congress has an obligation to exercise its judgment in dealing with our economic problems, and the indexing provision would have removed that element of judgment. It would not only have admitted defeat in the battle against inflation, but would also have locked in inflation as a fact of life through the automatic spiral effect on wages.

TIP CREDIT

I was also pleased that provisions to reduce the tip credit were removed, thereby retaining the present system. I have received numerous letters from waitresses and others who collect tips, and from restaurant owners as well, all in favor of keeping the tip credit as is. Waitresses maintain that any increase in wages they might receive as a result of this bill would not make up for their loss in tips if the tip credit were reduced. Contrary to those who would have us believe that workers receiving tips are making less than the minimum wage because of the tip credit, it is not at all uncommon for those in tipped occupations to make 2 to 4 times the minimum wage. The purpose of the tip credit is to enable the restaurant industry, which in many respects is unique, to hold down its labor costs in order to insure reasonable menu prices to a public that considers dining out a luxury. Restaurant owners in my district convinced me that reduction of the tip credit would force them to increase prices or lay off employees, a dilemma of serious proportions.

YOUTH DIFFERENTIAL

I was disappointed, Mr. Speaker, that the amendment to establish a youth differential, or "youth opportunity" wage, we defeated by the bare margin of one vote, 211 to 210. Considering the fact that unemployment among teenagers is hovering around 20 percent nationwide, and is a staggering 40 percent among minority youths, an increase in the minimum wage without a youth differential will only cause those figures to rise. Studies by several eminent professors have presented convincing evidence that youth unemployment goes up whenever the minimum wage is increased, because the economic contribution they are able to make as beginning workers does not equal the minimum wage.

The amendment offered by Mr. CORNELL and others would have allowed teenagers between 16 and 19 to enter the job market at 85 percent of the minimum wage for the first 6 months of their employment, and thus would have provided a greater opportunity to acquire the skills and training needed to move permanently into the labor force. A survey done by the Bureau of Labor Statistics showed that unemployment among youths in European countries, where subminimum wages are permissible, is remarkably lower than in America. There was likewise no evidence that a youth differential had an adverse effect on the employment of older workers, a claim frequently made by opponents of the differential.

I considered a differential an imporant part of a good minimum wage bill, and because of the failure of the Cornell amendment I pondered voting against final passage of this bill. However, New Hampshire residents have not voiced serious concern over the differential issue; their focus instead has been on the tip credit and indexing provisions. I therefore cast my vote in favor of the minimum wage bill because the tip credit has been retained, and indexing has been removed in favor of a flat increase, both of which amendments I supported.

RECENT CUBAN BEHAVIOR TOWARD AMERICAN CITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Florida. Mr. Speaker, I rise today to address what I consider a grievous and reprehensible effort to mislead the American people about our relations with Cuba. I have evidence, Mr. Speaker, that the Cuban Government, far from being more amenable as a result of the agreement which the United States concluded on May 30, 1977, has continued in a policy of harassment and interference toward American citizens. Further, it appears that a deliberate effort has been made to keep the U.S. public from learning the true situation.

Since May 30, 1977, the Cubans have picked up 11 fishing boats, ten of which are American and all of which have American crews. Each of these boats was on the high seas, and each was detained for periods ranging from a few hours to several days. All were stopped by a show of force, and as far as I know, no significant explanation has ever been offered, nor have these events been covered in the press. Why haven't we been told what cargo these ships had aboard?

It seems to me that if our opening even limited relations with Cuba is to be answered by this sort of behavior, we have seriously erred. Considering how much the Cubans have perpetrated on the United States and freedom loving nations in this hemisphere and lately in Africa, it would appear reasonable to expect that some demonstration of amicable intent would have been required before the Cuban flag was hoisted in Washington, or the U.S. flag went up in Castro's Havana. Owners of some $2 billion worth of American property expropriated by the Communist government of Cuba still await some minimal recompense. On a more personal plane we have evidence that Cubans participated in the murderous interrogation of American prisoners of war in Vietnam. Cuban money and expertise supports radical, subversive elements throughout Latin America. And Castro's grand safari to Africa has recently been bolstered by another 4,000 troops, according to press reports, rather than wound down, as some American officials anticipated.

And now we learn that 11 boats have been harassed over scarcely 6 weeks by the same government with which we have opened preliminary diplomatic relations. I am providing the list of 11 vessels provided by the State Department.

Mr. Speaker, as I said, the worst aspect of this is that the information about these fishing vessels has been kept quiet. Of the 11 incidents, only one, that of the *Bounty* was reported on national television and in the Washington Post; none of the others received any mention, either by the "national" press or even the major Florida newspaper, the Miami Herald.

I find it difficult to believe that such a series of incidents could occur and receive no press attention. One vessel, the *Nita Sue*, was reportedly held from July 4 to August 8—if indeed it was released on that date—without explanation, unless there was a conscious effort to keep it quiet.

Why might inattention to these events have been so thorough? One reason could be that the press just missed the episodes. Another could be that the press just didn't consider harassment by Cuba of American citizens to be such great news. It could also be that the Communist Cubans, by doing what comes naturally to them, would have embarrassed the administration. By demonstrating just how little we can really expect from Cuba, these fishing boat incidents would have revealed how poorly we came off by exchanging interest sections without obtaining any improvement in Cuban attitudes.

Why did the Cubans pick up these vessels? The United States and Cuba have differing views as to what constitutes international waters. However, to my knowledge, these boats were in waters which we claim or regard as being international. The *Bounty* at least was more than 12 miles offshore and was not fishing, but simply passing by enroute home from fishing off Grand Cayman. There was a theory that Cuban exiles might have been suspected of planning an operation against Cuba on July 26. However, we know of no boats which were picked up engaged in any such activity, nor did the Cubans avail themselves of existing channels of communication to enlist official American support to interdict any such effort. The Communist Cubans are, in my estimation, simply determined to bully American boats until they stay out of waters they have every right to sail.

Now, Mr. Speaker, all this sort of thing is cited as a reason why we need to be able to talk "directly" with the Cubans. Somehow it is believed that we will be able to know more about why our fishing boats have been harassed with an expensive and restricted American presence in Havana. The State Department made representations in the case of the *Bounty* at least by means of our friends, the Swiss in Havana, and to the Cuban representatives to the United

Nations in New York. These representations seem to have been firm, appropriate, and laudable. But we did not have to wait around for an interest section to open to make those contacts, and I submit that at the rate Cuban attitudes and behavior have "improved," the Swiss intermediaries and the U.N. contact are plenty adequate.

Mr. Speaker, I conclude by saying that our policy toward Cuba has been authored by an administration that wants a diplomatic success at the expense of the interests of the American public. It is just possible that, to keep the American people from learning how flimsy our arrangements with Cuba actually are, events which would make that reality abundantly clear have been suppressed. I intend to press this matter, Mr. Speaker, until we know the circumstances surrounding this situation.

The following is a letter I received dated August 23, 1977 from the State Department:

DEPARTMENT OF STATE,
Washington, D.C., August 23, 1977.

The Honorable J. HERBERT BURKE,
House of Representatives.

DEAR MR. BURKE: I am replying to your letter of August 2 to Secretary Vance concerning the seizure by the Cuban Government of the American fishing boat "Bounty" and other American ships.

For many years Cuba enforced a twelve mile customs and immigration jurisdiction. In February of this year it declared a twelve mile territorial sea and a two hundred mile economic zone. Cuba computes its territorial sea from straight baselines connecting points on its coast, which means that it extends in places upward of twenty miles from the coast. The US does not recognize Cuba's twelve mile territorial sea.

We do, however, have an obligation to warn marine interests of possible consequences of operating in the vicinity of Cuba. Small boats have been used for years to engage in terrorist activities and smuggling directed at Cuba. The Cuban Government usually claims that the boats are stopped in its territorial waters.

Per your request I have attached a list of ships which have been stopped or seized by the Cubans since May 30. One of the ships, the "Nita Sue," is of Panamanian registry, but with an American crew. We understand that Premier Castro has agreed to release the two American crew members, in response to a representation made by Senator Church's wife on their recent trip. By a diplomatic note delivered through the Swiss Embassy on July 6 we expressed concern with regard to interference with US vessels on the high seas, expressly referring to the "Musica," the "Sea Ration," and the "El Gilberto." On July 21 we sent another note through the Swiss seeking the release of the "Bounty" and reiterating our concern.

In addition to the fact that the Cuban Government is releasing the American crew of the "Nita Sue," we regard as a hopeful sign the decision of the Cuban Government last week to allow the Cuban family members of eighty American citizens to depart Cuba. The opening of U.S. Interests Section in Cuba will improve communications between our countries and allow us to articulate U.S. concerns in a more direct manner.

If you have any further questions, please do not hesitate to have one of your staff call Mr. Culver Gleysteen of our Office of Cuban Affairs at 632-9272.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

LIST OF VESSELS SEIZED

Vessel, date seized, and date released:
Black Coral, May 31, 1977, June 13, 1977.
Deliverance, July 1, 1977, July 2, 1977.
Musica, July 3, 1977, July 5, 1977.
Sea Ration, July 3, 1977, July 6, 1977.
El Gilberto, July 3, 1977, July 8, 1977.
Alain, July 3, 1977 (stopped but not seized).
Nita Sue (phonetic), July 4, 1977 (approx. date). (Castro said released on August 8).
Passat, July 8, 1977, July 10, 1977.
Citadel, July 18, 1977, July 20, 1977.
Bounty, July 21, 1977, July 24, 1977.
Windborn, July 23, 1977, July 24, 1977.

UNITED STATES–HUNGARIAN COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, it was my pleasure this week to travel to Budapest to address the annual meeting of the United States-Hungarian Economic Council, and to discuss the matter of trade with various Hungarian officials.

As expected, the two issues of concern to all of the businessmen of both countries, and to the Hungarian officials, were most favored nation trade status and the Crown of St. Stephen.

We were on the brink of an MFN arrangement with Hungary in 1973, but the debate over the Trade Act, finally passed in 1974, postponed MFN. For a variety of reasons, the United States has not resumed discussions on a formal basis even though the Hungarians have indicated they are eager to do so.

As a result, trade between the two countries is conducted on a column 2 basis, with each country's goods paying tariff rates usually well in excess of MFN column 1 rates. As a result, even though combined import-export trade exceeds $100 million annually, many opportunities for increased commerce are lost.

American businessmen are quick to point out that since the United States has a strong, positive balance of trade with Hungary, our country stands to gain more on an immediate basi than does Hungary. Obviously, both nations would profit from such an arrangement. Hungary is anxious for MFN, and sees extra advantages beyond trade in the form of more normalized relationships. Hungarian-American groups, traditionally less than friendly to the Hungarian Government, have been supportive of MFN, too.

I believe it is a relatively simple matter to enter into a MFN trade agreement with Hungary under our existing law. Therefore, I repeated the statement made this summer by Chairman VANIK of the Ways and Means Trade Subcommittee urging both countries to begin formal negotiations for MFN.

Section 402 of the Trade Act links MFN to free emigration. That is a problem for some Eastern European nations, but not for Hungary. Its record on family unification and emigration cases is almost perfect. People seem to come and go at will. For instance, visas are available at ports of entry.

While the Hungarian emigration may look harsh to us on paper, in practice it appears to work in conformance with our Trade Act. For the record, the Hungarian experience on emigration is infinitely better than that of the Romanians, who already enjoy an MFN agreement with us.

The Hungarians also have a good record in religious freedom. There is a Jewish seminary. Freedom to worship seems to be unrestricted in this country which is two-thirds Catholic. Rev. Billy Graham's recent crusade drew large crowds of Protestants across Hungary. Since the termination of Cardinal Mindszenty's sanctuary in our Budapest Embassy, there have been few problems. Janos Kadar, the political leader of Hungary, recently visited the Pope, and the accommodation between the Catholic Church and the Government seems nearly complete.

I, and many Members of Congress, have urged the President to initiate MFN discussions with Hungary so that he can present a trade agreement to Congress with MFN, accompanied by the assurances required by section 402 of the Trade Act. The onus for beginning the formal negotiations is clearly on the United States. I repeat those urgings to the President.

When the United States-Hungarian trade agreement is presented to Congress, I hope it will be swiftly ratified. I expect Congress to take into account not only the Hungarian record on emigration, family unification and religious freedom, but also the Hungarian experience as a GATT member, as one of the few countries which has paid its ancient debts to the United States, and perhaps most importantly, as a nation which is not anxious to disrupt our markets.

A Hungarian trade agreement with MFN is a splendid opportunity to expand international trade and to recognize a good record in human rights.

THE 19TH OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 30 minutes.

Mr. FLOOD. Mr. Speaker, the 19th observance of Captive Nations Week was not without its outstanding highlights this past July. The publication and release of the congressional volume. "The Bicentennial Salute to the Captive Nations," the near-miss by the President of the week's proclamation, the tie-up of captive nations and human rights in publicity across the Nation are just a few disclosed in the successive reports made on the week's observance.

Continuing with these revealing reports, I commend to the reading of my colleagues the proclamation by Gov. Ella Grasso of Connecticut and articles, reports, letters and editorials in the San Gabriel Valley Tribune, the Birmingham Post-Herald, Cleveland Plain Dealer, Manchester Union-Leader, Toledo Blade, Buffalo Courier Express, the Atlanta

Constitution, Dallas Times Herald, Buffalo News, Welch, W. Va. News, Vancouver, Wash. Columbian and the Massachusetts Hyde Park Tribune:

BY HER EXCELLENCY ELLA GRASSO, GOVERNOR: AN OFFICIAL STATEMENT

Woodrow Wilson once stated that "America is a body of free people. Our greatness is built upon our freedom. We have a great ardor for gain, but we have a deep passion for the rights of humanity."

Throughout the history of our state and nation, our people have maintained a strong commitment to the preservation of human rights.

The happiness of our citizens and the prosperity of our nation depend on our dedication to this fundamental principle.

Unfortunately, the people of Captive Nations in many corners of the world do not enjoy the same liberty and individual independence as Americans. Their basic human rights are denied. Their freedom is suppressed.

Each year, the United States Congress and many of our states proclaim Captive Nations Week in recognition of the longing for independence by those men and women who live under oppressive rule.

I therefore designate the week of July 17 through 23, 1977 as Captive Nations Week in Connecticut. I urge the citizens of our state to support those devoted people who continue to fight for freedom and cherish their dream of liberty.

[From the Covina (Calif.) San Gabriel Valley Tribune, July 16, 1977]

CAPTIVE NATIONS A WORRY FOR KREMLIN

(By Phyllis Schlafly)

Captive Nations Week is an annual observance designated by Congress and proclaimed by the President in accordance with Public Law 86-90.

The Captive Nations Resolution, which was passed by overwhelming majorities in Congress and signed into law by President Dwight Eisenhower, lists 22 nations that have been enslaved by "Communist Russia," and then states: "It is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive."

The original passage of the Captive Nations Resolution in 1969 worried the Kremlin dictators more than any action the United States has ever taken, more even than our annual appropriations for military weapons. The Kremlin dictators were shaken by our official declaration that the United States does not consider their rule over the satellite nations either legitimate or permanent.

Nikita Khrushchev was so upset at the Captive Nations Resolution approval on July 17, 1959, that he could talk of little else when Vice President Richard Nixon visited Moscow later that month. Khrushchev's reaction made it clear that the resolution had inadvertently touched the Achilles' heel of the Communist collossus.

Everyone knows that the Soviets enjoy total control over the captive nations of Eastern Europe. But de facto control is not enough for the Kremlin dictators. They yearn for the mantle of legality. They have always had a perpetual passion to extract an admission by the West that Soviet control of the satellite nations is both legitimate and permanent.

That is why for 19 years the Soviets kept calling for a European Security Conference whose principal purpose would be to proclaim that the West acknowledges and recognizes Soviet occupation of nine Eastern European countries as lawful.

The United States finally agreed to participate in such a conference, and the first session took place in Helsinki in July, 1973.

The Soviets made no secret of their objectives, bluntly proclaiming that they specifically reserve the right to carry out future Czechoslovakia-type invasions of any East European satellites.

This so-called right to invade a peaceful neighbor is called the Brezhnev Doctrine.

The United States ignored this flaunting of Soviet aggressive intentions and continued to negotiate until 1976 when the Helsinki Agreement was signed. The Soviets interpreted this agreement as tacit recognition of the legitimacy of their control of Eastern European countries.

The permanence of Soviet control, however, is again in jeopardy because of Leonid Brezhnev's illness.

According to the Washington Post, French President Valery Giscard d'Estaing told Secretary of State Cyrus Vance what many have suspected but feared to say. Namely, that Brezhnev's physical condition at their recent Paris conference was so poor that he was unable to engage in any meaningful conversation. Official denials were unpersuasive.

Despite his failing health, Brezhnev recently fired the president of the USSR and assumed that post himself. The vote to elect him was unanimous. No one dared vote against him.

When Brezhnev dies or collapses, the Soviet Union will start a period of indecision among the leaders and an opportunity for the captive nations to proclaim their independence and freedom.

The Kremlin could not cope with a rebellion involving most of its citizens. During the Hungarian Revolution in 1956, Russian soldiers refused to fire on the freedom fighters and Khrushchev had to bring in Siberian troops.

[From the Birmingham (Ala.) Post-Herald, May 21, 1977]

CARTER SIGNS PROCLAMATION

WASHINGTON.—President Carter signed the annual proclamation designating Captive Nations Week.

Acting belatedly, Carter proclaimed the week that began last Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights."

Such proclamations have been issued each year since 1959.

[From the Cleveland (Ohio) Plain-Dealer July 21, 1977]

CARTER FINALLY SIGNS CAPTIVE NATIONS DECREE

WASHINGTON.—President Carter has belatedly signed the annual proclamation designating Captive Nations Week.

The administration had said last weekend he would not sign the proclamation, raising the ire of Eastern European groups around the country.

[From the Manchester (N.H.) Union-Leader, July 21, 1977]

HITS CARTER'S FAILURE TO NOTE CAPTIVE NATIONS WEEK

(By Edith K. Roosevelt)

WASHINGTON.—President Carter's failure to observe Captive Nations Week was sharply criticized yesterday by Sen. Robert Dole (R-Kans.) as "an oversight on the part of the White House which has grieved thousands of Americans of Eastern European ancestry who annually observe Captive Nations Week during the third week of July."

Dole, who ran on the Republican vice presidential ticket in the last presidential race, declared. "They are distressed because President Carter has not as yet issued a captive nations proclamation recognizing the desires of the enslaved peoples of the world for freedom and independence.

"Given Mr. Carter's well known commitment to human rights and the fact that since 1959 every American president has issued an annual captive nations proclamation, this oversight, if not corrected will take on overtones which could seriously undermine the President's credibility in the human rights arena," Dole said.

The Kansas Republican said he had sent a telegram to President Carter "respectfully reminding him of the captive nations tradition and urging him to follow the lead of his distinguished predecessors."

The Captive Nations resolution was signed into law by President Dwight D. Eisenhower on July 17, 1959. Public Law 86-90 authorizes and requests the president of the United States to issue an annual proclamation during the third week of July "until such time as freedom and independence shall have been achieved for all the captive nations in the world."

Dole said in a floor speech that given the current state of affairs in the Soviet Union and the fact that the Belgrade preparatory meeting is still in progress, he could think of no more propitious time "to pause and reflect on the fate of people who presently live under Communist domination."

The first to fall under Communist rule were the Russians, Dole noted. Believing that their revolution in 1917 would lead to a more just society, the Russian people soon learned that under the Bolsheviks, they had replaced one form of automatic rule with another.

The next nation to fall to the Communists, Dole noted, was Ukraine, followed by Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasus, Turkestan, and Mongolia.

The 1920s witnessed the formation of the Union of Soviet Socialist Republics and the beginning, Dole noted "of a new brand of Russian imperialism based on ruthless repression of individual, religious, and national rights. By the end of the 1930s, he went on to say, "a new instrument of totalitarian domination, the Gulag Archipelago, had been perfected at the cost of millions of innocent lives."

In 1940, Estonia, Latvia and Lithuania were invaded by the Soviet Union soon after Stalin and Hitler reached an understanding concerning spheres of influence in Eastern Europe. The United States has never recognized the forced incorporation of the Baltic republics which followed the invasion.

During World War II, Soviet armies "liberated" Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia and then proceeded to force a Communist regime on the helpless citizenry.

Since World War II, 10 more nations—North Korea, mainland China, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Cambodia, and Angola—have come under Communist domination.

Dole said that new hope for these captive people was provided by the Helsinki Final Act in 1975, a document which President Gerald R. Ford called a great moral victory for the West. Heartened by the fact that the free world had not forsaken them, dissidents and reformers in the Soviet Union formed Helsinki Watch Committees in Moscow, Kiev, Vilnius and Tbilsi. In Czechoslovakia, meanwhile, new Human rights document, Charter 77, was promulgated. Supported by all elements of the national population, Charter 77 called for sweeping reforms and the libcralization of the Communist state.

[From the Toledo (Ohio) Blade, July 21, 1977]

CAPTIVE NATIONS WEEK PROCLAIMED BY CARTER

WASHINGTON.—President Carter Wednesday signed the annual proclamation designating Captive Nations Week.

Acting belatedly, Carter proclaimed the week that began last Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty, and human rights."

Such proclamations have been issued each year since 1959.

[From the Buffalo (N.Y.) Courier Express, July 21, 1977]

CARTER BELATEDLY SIGNS CAPTIVE NATIONS PAPER

WASHINGTON.—With the week almost half over, President Carter responded to pressure from ethnic groups and congressmen on Wednesday by officially declaring this "Captive Nations Week."

Some of the pressure came from Rep. Jack F. Kemp, R-Hamburg, * * * wrote and called the White House to find out why the proclamation had not been signed. The answer they first received indicated that Carter felt his strong stand on human rights was enough and there was no need to sign the proclamation.

In his letter to the president, Dulski wrote, "Your courageous stand on human rights was heard around the world."

MESSAGE OF HOPE

"People behind the Iron Curtain are aware that this resolution will not solve their problem but it gives them hope.

"I know what it does," Dulski added, "because I was there."

"As a state governor you gave credence to this document," Dulski continued. "Today you are the President of The United States and the people behind the Iron Curtain are looking up to you for a moral life. Please do not disappoint them."

Kemp said ethnic groups from across the country protested Carter's failure to sign the proclamation and pointed out that several Buffalo area residents of East European extraction called his Buffalo office to protest the President's inaction.

TENSION EXISTS

Kemp said he is quite sure Carter didn't want to sign the proclamation because he didn't want to press the issue at a time when the human rights issue is driving a wedge between the United States and Russia.

Officially, the White House denies this, but administration officials confirm it in private.

The President's attempt to avoid the issue backfired. By delaying, he brought on pressure and publicity, just what he wanted to avoid.

The commemoration of the week as Captive Nations Week was provided for in a public law signed by President Eisenhower in July, 1959.

PROCLAIMED HERE

On Monday, Erie County Executive Edward Regan and Buffalo Mayor Stanley M. Makowski met in the mayor's office and signed a joint proclamation calling the week Captive Nations Week in Buffalo and Erie County.

The two officials will receive plaques during a Captive Nations commemorative dinner at the Hotel Statler Hilton on Saturday. The plaques, given by the Captive Nations Committee of Western New York, will honor Regan and Makowski for their "dedication to the cause of captive nations."

[From the Atlanta (Georgia) Constitution, July 21, 1977]

WEEK TO NOTE—"CAPTIVE NATIONS"

WASHINGTON.—President Carter Wednesday proclaimed the week of July 17 as "Captive Nations Week."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the Buffalo (N.Y.) News, July 21, 1977]

CAPTIVE NATIONS SALUTED

WASHINGTON.—President Carter Wednesday signed the annual proclamation designating Captive Nations Week.

Acting belatedly, Mr. Carter proclaimed the week that began Sunday as one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights."

Such proclamations have been issued each year since 1959.

[From the Dallas (Tex.) Times Herald, July 21, 1977]

"CAPTIVE NATIONS WEEK" OBSERVED

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

[From the Manchester (N.H.) Union Leader, July 21, 1977]

CARTER FAILED TO NOTE CAPTIVE NATIONS WEEK

(By Edith Roosevelt)

WASHINGTON.—President Carter's failure to observe Captive Nations Week was sharply criticized yesterday by Sen. Robert Dole (R-Kans.) as "an oversight on the part of the White House which has grieved thousands of Americans of Eastern European ancestry who annually observe Captive Nations Week during the third week of July.

Dole, who ran on the Republican Vice Presidental ticket in the last presidential race, declared "They are distressed because President Carter has not, as yet issued a captive nations proclamation recognizing the desires of the enslaved peoples of the world for freedom and independence.

"Given Mr. Carter's well known commitment to human rights and the fact that since 1959 every American President has issued an annual captive nations proclamation, this oversight, if not corrected will take on overtones which could seriously undermine the President's credibility in the human rights arena," Dole said.

The Kansas Republican said he had sent a telegram to President Carter "respectfully reminding him of the captive nations tradition and urging him to follow the lead of his distinguished predecessors."

The Captive Nations resolution was signed into law by President Dwight D. Eisenhower on July 17, 1959. Public Law 86-90 authorizes and requests the President of the United States to issue an annual proclamation during the third week of July "until such time as freedom and independence shall have been achieved for all the captive nations in the world."

Dole said in a Floor speech that given the current state of affairs in the Soviet Union and the fact that the Belgrade preparatory meeting is still in progress, he could think of no more propitious time "to pause and reflect on the fate of people who presently live under Communist domination.

The first to fall under Communist rule were the Russians, Dole noted. Believing that their revolution in 1917 would lead to a more just society, the Russian people soon learned that under the Bolsheviks, they had replaced one form of automatic rule with another.

The next nation to fall to the Communists, Dole noted, was Ukraine, followed by Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasus, Turkestan, and Mongolia.

The 1920s witnessed the formation of the Union of Soviet Socialist Republics and the beginning, Dole noted "of a new brand of Russian imperialism based on ruthless repression of individual, religious, and national rights. By the end of the 1930s, he went on to say, "a new instrument of totalitarian domination, the Gulag Archipelago, had been perfected at the cost of millions of innocent lives."

In 1940, Estonia, Latvia and Lithuania were invaded by the Soviet Union soon after Stalin and Hitler reached an understanding concerning spheres of influence in Eastern Europe. The United States has never recognized the forced incorporation of the Baltic republics which followed the invasion.

During World War II, Soviet armies "liberated" Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia and then proceeded to force a Communist regime on the helpless citizenry.

Since World War II, 10 more nations—North Korea, Mainland China, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Cambodia, and Angola—have come under Communist domination.

Dole said that new hope for these captive people was provided by the Helsinki Final Act in 1975, a document which President Gerald R. Ford called a great moral victory for the West. Heartened by the fact that the free world had not forsaken them, dissidents and reformers in the Soviet Union formed Helsinki Watch Committees in Moscow, Kiev, Vilnius and Tbilsi. In Czechoslovakia, meanwhile, a new Human rights document, Charter 77, was promulgated. Supported by all elements of the national population, Charter 77 called for sweeping reforms and the liberalization of the Communist state.

[From the Welch News, (W. Va.) July 21, 1977]

CARTER PROCLAIMS SPECIAL WEEK FOR "CAPTIVE NATIONS"

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week".

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating Americas support for those who seek national independence, liberty and human rights."

[From the Vancouver (Wash.) Columbian, July 21, 1977]

WEEK OF JULY 17 FOR 'CAPTIVE' LANDS

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week".

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

[From the Hyde Park Tribune, July 12, 1977]

SUPPORT CARTER'S POLICY ON RIGHTS, READER SAYS

To the Editor:

The week of July 17–23 is observed nationally as "Captive Nation' Week" in accordance with Public Law 86–90, which was passed by the U.S. Congress in 1959. President Jimmy Carter and Governor Michael S. Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric and border on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed.

Recently, two Ukrainian dissidents, Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. Now in Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatoslav Karavanskyi, Stefania Shabatura, Nine Stokata-Karavanska, Ivan Hel, to name just a few out of the hundreds of Ukrainian political prisoners.

This year's Captive Nations' Week is observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementations of the Helsinki Accords of 1975. However, the captive nations in the Russian communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations' Week serves as the appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Soviet Russian domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress Committee of America, Boston Chapter.

NEIGHBORHOOD REINVESTMENT CORPORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHLEY) is recognized for 5 minutes.

Mr. ASHLEY. Mr. Speaker, I am introducing today a bill which would establish a Neighborhood Reinvestment Corporation to be set up as a public corporation that will continue on a larger scale the ongoing joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in the older, urban neighborhoods of our Nation by local financial institutions working together with community citizens and local governments. The creation of this corporation will continue and enhance on a nationwide level the successful efforts of the Urban Reinvestment Task Force.

The Urban Reinvestment Task Force is an interagency body made up of the Secretary of Housing and Urban Development, the Chairman of the Federal Home Loan Bank Board, the Chairman of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and a member of the Federal Reserve Board. It is currently active in 33 cities and primarily operates with some contributions from the participating financial regulatory agencies, a small amount of private foundation support, the local contributions by participating community governments and participating lenders, and a 5-year research and demonstration grant from the Department of Housing and Urban Development that will be running at approximately $4½ million in fiscal year 1978. The Urban Reinvestment Task Force provides the assistance for communities who are interested in reversing Neighborhood Reinvestment Corporation neighborhood decline, restoration of neighborhood self-confidence, and the reinvestment by local lending institutions in areas that are beginning to show the visible signs of incipient decay. The Urban Reinvestment Task Force encourages neighborhood residents, city officials, and cooperating lending institutions to pull together their organizing efforts and financial contributions from lending institutions and foundations, to begin assisting and developing rehabilitation loan programs and neighborhood-based nonprofit organizations, and to provide counseling and technical assistance to citizens interested in stabilizing their urban neighborhoods. The experience that has been obtained from these efforts with the reliance on local initiatives and minimal public funding can prove to be a successful and larger ongoing program. The Federal funding involved in this bill will serve only as a catalyst to encourage the use of operating funds that are raised by local governments and by the participating financial institutions.

The Senate has already acted upon a companion bill, S. 1724, which passed on September 9. It is not my intention to act on this bill during the current year. I believe this proposal should be included in our general consideration of major housing proposals which will be up for consideration in 1978, but this proposed Neighborhood Reinvestment Corporation will be a part of my Subcommittee on Housing and Community Development's efforts at reviewing and reconsidering our Federal efforts to provide housing assistance to our low- and moderate-income citizens.

ISRAEL TRIES AGAIN FOR MEMBERSHIP IN THE INTERNATIONAL RED CROSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I would like to bring to the attention of my colleagues the injustice being perpetrated against the Magen David Adom Society of Israel by the members of the International Red Cross.

The Magen David Adom Society is the Emergency Medical Health and Blood Service of the State of Israel and as such is Israel's only national ambulance and blood bank service. The MDA maintains scores of emergency medical clinics and underground shelters and has taught first-aid lifesaving techniques to hundreds of thousands of Israelis. In all of its noble activities during war and during peace, the Magen David Adom Society has lived up to the highest standards maintained by the International Red Cross.

Subsequent to its inception in 1864, the International Red Cross officially recognized two exceptions to its Red Cross symbol. Turkey in 1876 began use of the Red Crescent and Iran (Persia) in 1906 instituted use of the Red Lion and Sun. Since then, many Moslem nations have joined Turkey in adopting the Red Crescent, the Moslem equivalent of the Red Cross, as their protective emblem. All are members of the International Red Cross.

In 1949, shortly after it attained statehood, Israel asked that its Red Shield of David symbol be recognized by the International Red Cross as a protective emblem, and requested membership. These requests, exactly analogous to the successful efforts of the Moslem nations and Iran, were rejected.

Mr. Speaker, no one questions the competence of Magen David Adom in dealing with emergency medical care. No one can claim that Magen David Adom does not serve the sick and injured irrespective of religion or nationality. Indeed, all knowledgeable international observers agree that the Magen David Adom Society exemplifies the highest traditions of the Red Cross.

The only barrier to Israel's admission is its justifiable refusal to use the emblem of another religion. This barrier did not exclude Moslem nations from membership. Once again, Israel is singled out for totally unjustified discrimination. This action is inexcusable. Have not the Jewish people and the State of Israel already suffered more than their share of persecution and discrimination? We must seek to do all we can to remove every vestige of this type of anti-Semitic behavior—behavior which is typified by

the refusal to accept Israel into the International Red Cross.

Recognition of Magen David Adom would not only remove an injustice; it would also insure the protection of Israel's doctors, medical corpsmen, and chaplains in case of war. Moreover, membership will facilitate international blood banks, family reunifications, and other multilateral humanitarian efforts in the troubled Middle East.

On October 15, the Conference of the International Committee for the Red Cross will begin in Belgrade. Once again, Israel will ask for admission under the Red Shield of David. The next opportunity for a membership bid will not occur until 1981. Immediate action is, therefore, essential. Accordingly, men and women throughout the world who wish to see this injustice redressed have joined together to form "Operation Recognition." The American cochairpersons of Operation Recognition are Senator JACOB K. JAVITS, Senator ABRAHAM RIBICOFF, and Rabbi Rubin R. Dolbin. I am proud to serve on the sponsoring committee of this organization. In the coming weeks, Operation Recognition will endeavor to marshal international opinion on behalf of the Magen David Adom Society's application for membership in the International Red Cross.

The U.S. delegation to the Conference of the International Red Cross, headed by Assistant Secretary of State for Human Rights Patricia Derian, has announced its support of an end to the discrimination against Israel. Hopefully, other delegations will recognize the simple justice of the Magen David Adom Society's application for membership and accept this outstanding service organization into the Red Cross, thereby terminating 28 years of unjust discrimination.

PERSPECTIVE ON THE BAKKE CASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on Wednesday, September 14, the following editorial comment was aired by Jim Vance of WRC–TV, Channel 4 in Washington, D.C., regarding the controversial Bakke case now being considered by the U.S. Supreme Court.

I believe that the points made by Mr. Vance are most illuminating, and deserve the attention of my colleagues. For their benefit, I would like to enclose it at this point in the RECORD:

EDITORIAL COMMENT BY JIM VANCE

The real issue in the Bakke case is whether whites are discriminated against by programs that set aside a certain number of slots for non-whites. It seems to me that the Bakke case is a shaky vehicle on which to argue the question. The Bakke case presumes that whites are arbitrarily excluded by special admissions programs that favor non-whites. Not so. The Davis Medical School program is designed for economically and educationally disadvantaged students. In the words of a law professor at the University of Pennsylvania, such programs are "race related" but are not "race specific." The sixteen-seat set-aside in the Davis Medical School program represented neither a ceiling nor a floor; therefore, the program doesn't qualify as a quota. Three years ago, 56 non-white students were admitted to the school, 25 of them under the regular admissions policy. In one year, one of the special admissions slots was given back to the regular admissions program because it couldn't be filled. In addition, not all of the students admitted under the special admission program were racial minorities. Chicanos represented a cultural and ethnic minority, not a racial minority. Neither do native Americans, who are a political minority. It has also been argued that the regular students had far better credentials than those in the special programs. Again, not so. And the two years in which the Bakke application was rejected helped make the point. In 1973, the regular admissions students had an overall grade point average as low as 2.8. The special admissions students had averages as high as 3.7. In 1974, the pattern was similar, with regular students as low as 2.7, special students as high as 3.4.

Allen Bakke claims he would have been admitted if not for the special admissions program. The fact is, he would not. Allen Bakke was not an exceptionally qualified student. He had already been turned down by 11 medical schools, including his alma mater, the University of Minnesota, which should have known him better. On the admissions test, Bakke scored 468 out of a possible 500. Fifteen others who scored 469 were also not admitted, and not because of the special admissions program. Furthermore, there were 32 applicants who would have been considered ahead of Bakke, even without the program. There is also the age factor. In 1971, when he was 31, Bakke asked the school if age was a factor. The school replied that it was, and that only unusually highly qualified applicants over 30 got serious consideration. As demonstrated, Bakke was not unusually highly qualified. There is more, but I am out of time. Suffice it to say that such programs as the one at the University of California are absolutely essential if non-white Americans are going to come close to equal opportunity; that such programs are not unconstitutional; that the spirit of the law, including and especially the 14th Amendment, deserves at least as much attention as the letter; and that if I were going to challenge such programs, I would want to find a much better test case than Allen Bakke.

HEARINGS ON EXTENSION OF INDOCHINA REFUGEE ASSISTANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Friday, September 23, to consider various bills which have been introduced to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided.

The hearing will be held in room 2141, Rayburn House Office Building and will commence at 9:30 a.m.

Testimony on these proposals will be received from representatives of the Departments of State and Health, Education, and Welfare.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

Mr. FOUNTAIN. Mr. Speaker, yesterday, September 15, I explained to the House how I would have voted on several rollcalls which I missed last week as the result of being absent on official business. This statement appears on page 29508 of the RECORD.

One of those votes is printed erroneously. On roll No. 523, the Caputo amendment to the budget resolution, I would have voted "yea." In fact, I was paired for the amendment. I am incorrectly shown in yesterday's RECORD as though I would have cast a "no" vote.

Mr. Speaker, I ask unanimous consent that the permanent edition of the RECORD be changed to reflect this correction.

LOBBYING REFORM, BUT NOT AT THE EXPENSE OF CONSTITUTIONAL FREEDOMS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, last year, in the small hours of the morning and the waning days of the session, the House passed a bill known as the Lobbying Disclosure Act. I voted against it because, as I said in the debate, I felt that it imposed an unconstitutional burden on the exercise of first amendment rights of citizens' groups and other organizations. At the same time, I did not feel that the complicated and costly disclosure procedures that would have been imposed by the bill would eliminate, in any significant way, the lobbying abuses that the legislation was purportedly aimed at.

Fortunately, the bill died in the Senate. However, a similar bill was introduced again this year and is now pending in a subcommittee of the Judiciary Committee. While it may, of course, be recast by the subcommittee and committee so as to avoid the faults of last year's bill, in its present form the bill raises issues as to the impairment of first amendment rights similar to those raised by last year's bill.

Last Saturday, the Washington Post contained an excellent editorial on this subject. The Post points out that disclosure of the basic facts as to lobbying groups—the bills or issues that each group is interested in, the names of employees or agents who lobby, how much they are paid, and other expenditures, including gifts to legislators and their staff—is desirable. It also points out that going beyond that, to require such things as publication of names of members and contributors, filing copies of bulletins, letters, and other communications, involves the risk of impairing basic democratic rights of citizens and inhibiting full disclosure of public issues. Such risks far outweigh any gains in disclosing how some groups influence actions.

Mr. Speaker, the reforms of the campaign financing laws and rules of ethics that we have already adopted have gone a long way toward eliminating the kinds of improper influence that some lobbying groups have attempted in the past. Other reforms are being developed by the Obey Commission. Still others, such as public financing of congressional elections, are pending in other committees. But impairing the basic rights of Americans to communicate with their representatives is surely not the answer.

The text of the Post editorial follows these remarks:

HOW MUCH LIGHT ON LOBBIES?

One bit of unfinished congressional business is rewriting the law governing public disclosure by lobbyists. The public now knows far too little about the efforts and finances of thousands of organizations that jockey for influence on Capitol Hill. But how much should a lobbying group have to disclose? Reports should certainly include some basic facts—the bills or issues that each group is interested in, the names of employees or agents who lobby, how much they are paid, and other expenditures, including gifts to legislators and their staffs. Beyond that, though, the principle of disclosure starts running into other principles vital to a healthy democracy.

We are not primarily concerned about the possibility that detailed reporting would be too burdensome for smaller lobbying groups. What troubles us more is the potential for official intrusion on areas of citizens' activity traditionally regarded as largely, if not wholly, beyond the reach of government. One example would be requiring membership organizations to disclose the names of individual contributors.

Then there is the matter of indirect or grass-roots lobbying, the popular and often effective means of putting pressure on lawmakers by generating letters or calls from constituents and other citizens. Of course it would be interesting to know who is behind such organized, skillful campaigns. But should a veterans' lobby have to file a report on every newsletter that urges its members to write to Congress about a bill? Should a corporation with a paid lobbyist have to report an interoffice memo that asks its employees to sign petitions for tax changes or import controls? A bill sponsored by Sen. Edward M. Kennedy (D-Mass.) and others would require such disclosures.

A measure before the House Judiciary Committee would exempt regular publications, such as union newspapers or corporate quarterly reports, that incidentally advocate contacts with Congress about bills. But the House bill would still require lobbying groups to file a full description or a copy of every ad or special bulletin encouraging citizens' appeals to the Senate or House.

This is disclosure run amok. The government would be collecting mountains of material from thousands of private groups across the whole spectrum of civic, economic, social and political activity. These groups would have to report more about their efforts to petition Congress than political candidates have to disclose about the substance of their campaigns. Candidates do not have to file copies of their ads or mailings with the government. For that matter, senators and representatives do not have to report on their own efforts to drum up support for various programs and policies. Any proposals along those lines would rightly raise a mighty fuss about interference with First Amendment rights. Yet mandatory disclosure of private groups' communications involves precisely the same dangers. Free discussion of public issues could be inhibited.

Thus the risks involved in this kind of disclosure seem to us to outweigh any gains in terms of public understanding of the workings of government. Organizations' appeals to supporters, after all, are just one aspect of the complex process of shaping public opinion and policies. What prompts a citizen to write a senator may matter less than how fervent that citizen's opinion is and how much it will influence his vote in the next election. No lobby-reporting law can throw much light on that. All in all, we think Rep. Don Edwards (D-Calif.), Sens. Charles McC. Mathias Jr. (R-Md.) and Edmund S Muskie (D-Maine) and the American Civil Liberties Union are on a better track. They advocate disclosure of the basic facts about lobbyists' Capitol Hill activities—but would leave grassroots communications alone.

PRIMO CARNERA RECEIVES DESERVED RECOGNITION

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, I wish to commend our colleague, Congressman PETER RODINO, who tonight will help install into the Italian American Boxing Hall of Fame an Italian American boxer and fighter who most certainly has earned that recognition.

Mr. RODINO, chairman of the House Judiciary Committee, will present a plaque in Chicago to the son of the late Primo Carnera who in 1934 became heavyweight boxing champion of the world.

I was privileged to have seen Primo Carnera perform as a wrestler—a career he pursued later—in Waukegan, Ill., in my 13th Congressional District. He was a mountain of a man, 6 feet 8 inches tall.

But more important, he was a gentle giant of a man, out of the boxing and wrestling rings. He faced enormous handicaps of language and unscrupulous advisors which only his inner sense of decency translated into victory and success.

Mr. Speaker, I know that Mr. RODINO will convey all this and much more tonight when he presents that plaque honoring Primo Carnera to his widow and his physician son, Dr. Umberto Carnera.

Mr. Speaker, I join in extending good wishes to Dr. Carnera—and I congratulate the Italian American Boxing Hall of Fame for selecting Primo Carnera for membership in that body.

THE STRANGE CASE OF MARITIME ADMINISTRATOR ROBERT BLACKWELL

(Mr. McCLOSKEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLOSKEY. Mr. Speaker, I rise to speak today on the strange case of Maritime Administrator Robert Blackwell, his relationship to the beneficiaries of the maritime subsidy program which he administers, to the shipping companies who want to hire him, and to the cargo preference bill which those companies are presently promoting in the national media and with our colleagues.

With respect to the forthcoming debate on the cargo preference bill, H.R. 1037, Mr. Blackwell—who serves also as Assistant Secretary of Commerce for Maritime Affairs—was the sole administration witness willing to testify on behalf of the bill. He has asked that certain correspondence be brought to the attention of each Member of the House.

I am glad to oblige. The facts are these:

First. Mr. Blackwell testified before the Merchant Marine Subcommittee on March 13, 1977, advocating $372 in maritime operating subsidies, largely for 10 liner shipping companies, one of which was Moore-McCormack Lines.

Second. The President of Moore-McComack Lines is Mr. James Barker, recently named in a Federal criminal indictment as the individual who allegedly paid a $10,000 bribe to former House Merchant Marine and Fisheries Committee Chairman Edward Garmatz.

Third. On April 25, 1977, with reference to illegal rebating practices alleged against a number of subsidized U.S. liner companies, Mr. Blackwell testified it would be "outrageous" to require those companies receiving operating subsidies—including Mr. Barker's company—to certify, as a condition of receiving subsidy, that they were in compliance with the law and would cooperate with the FMC's ongoing investigation of illegal rebating.

Fourth. On June 22, 1977, Assistant Secretary Blackwell was approached by representatives of eight subsidized liner companies, including Moore-McCormack Lines, and offered a job at a salary in excess of $100,000 per year as head of their proposed new trade association.

Fifth. This new trade association had, as one goal, the promotion of the cargo preference legislation which was then occupying a great part of Mr. Blackwell's time.

Sixth. Assistant Secretary Blackwell, on June 24, 1977, submitted a memorandum to Secretary of Commerce Kreps advising her of the job offer from the subsidized liner operators, and asking that she direct him to refrain from any further business contact with these operators. Blackwell stated to Secretary Kreps that he would avoid such contacts, and said:

This should not impair the effective functioning of the Maritime Administration inasmuch as lately the bulk of my time and energies have been devoted to such issues as *cargo preference*. . . .—(Emphasis added.)

Seventh. On July 13, the House debated the maritime authorization bill. On a 41-to-27 standing vote in committee, the House adopted the amendment Mr. Blackwell had opposed, requiring that recipients of operating subsidies agree to comply with the law against illegal rebating and to cooperate with the FMC's investigation of rebating. Prior to this vote, Mr. Blackwell made no effort to advise the House of the job offer which he had received from the liner companies which the amendment sought to regulate.

Eighth. On July 25, 1977, Blackwell was sent by the administration, as the administration's sole witness, to testify in favor of the cargo preference bill.

Ninth. Mr. Blackwell knew at the time of his testimony that the companies who had offered him the $100,000 job, which he was still then considering, had a great deal to gain from passage of the cargo preference bill. As Special Trade Representative Strauss had said in his memorandum of June 24 to President Carter—

What we have determined is that establishing the concept of Cargo Preference is more important than the percentage. When Eizenstat and I met with Russell Long, we finally convinced him of this and left him in the political posture of anything you fellows can satisfy Jesse Calhoon with, I will take and support.

Thus, if the concept of cargo preference could be once established, the liner companies could hope to eventually participate along with the tanker operators.

In fairness to Senator LONG, it should be said that Mr. Strauss wrongly put his own words in Senator LONG'S mouth in this memorandum, for which he subsequently apologized to Senator LONG.

Tenth. In testifying on behalf of the cargo preference bill on July 25, Mr. Blackwell at no time disclosed his $100,000 job offer from the liner companies until, on cross-examination, he was asked about rumors of the offer which had reached the committee staff.

Eleventh. On August 1, 1977, a Federal criminal indictment was filed in Baltimore charging Edward A. Garmatz, former chairman of the House Merchant Marine and Fisheries Committee with soliciting and accepting bribes. The indictment named, but did not charge the following individuals: James A. Barker, president of the National Maritime Council and Moore-McCormack Lines; Edward J. Heine, president of U.S. Lines; Robert McElroy, former chief clerk to the House Merchant Marine and Fisheries Committee. The indictment read in part:

It was further a part of said conspiracy that on or about November 1971, James R. Barker caused $5000 in United States currency to be transported from New York, NY to Washington, DC and delivered to Robert McElroy for the use and benefit of the defendant Edward A. Garmatz.

* * * * *

It was further a part of said conspiracy that on or about January 20, 1972, Edward J. Heine on behalf of U.S. Lines caused at least $5000 in U.S. currency to be transported from New York, NY to Washington, DC to be paid to the defendant Edward A. Garmatz.

* * * * *

It was further a part of said conspiracy that between December 1972 and April 1973 the defendant Edward A. Garmatz requested from Edward J. Heine the payment by U.S. Lines of an additional $10,000 in cash or as a ficticious consulting fee.

* * * * *

It was further a part of said conspiracy that on or about February 1972 Robert McElroy received $5000 in U.S. currency for the use and benefit of the defendant Edward A. Garmatz from James R. Barker in New York, NY.

Twelfth. The National Maritime Council of which Mr. Barker is president is an organization made up of representatives of maritime management, labor, and the Department of Commerce. It is administered out of Mr. Blackwell's office.

Thirteenth. A few days after Mr. Barker was named in the indictment against Mr. Garmatz, Mr. Blackwell announced that he had decided to reject the subsidized liner companies' offer and to remain as Assistant Secretary of Commerce for Maritime Affairs. To my knowledge, Mr. Blackwell has taken no steps whatsoever to publicly dissociate either himself or the Department of Commerce from the National Maritime Council or Mr. Barker.

Fourteenth. The Administration ordered all other Administration witnesses to decline to testify on the cargo preference bill, stating that Mr. Blackwell was the sole witness who would appear on the Administration's behalf.

In my additional views to the committee report on H.R. 1037, I said:

It is especially significant that the single witness who testified on behalf of the Administration and who was also the leading proponent within the Administration for cargo preference had a clear conflict of interest. Assistant Secretary Blackwell had been negotiating with a group of liner companies for employment at a salary in excess of $100,000 per year. All of these companies receive or have applied for operating subsidies administered by Mr. Blackwell and all strongly support the proposed cargo preference legislation.

* * * * *

That Maritime Administrator Blackwell should be the sole Administration witness is a particularly offensive action by the Administration since Mr. Blackwell disclosed at his testimony on July 25 that on June 22, 1977 he had been offered, (but had not disclosed to the House) a job at a salary in excess of $100,000 per year by eight shipping companies who desired to associate in support of the Cargo Preference bill and who also receive, or have applied for, operating subsidies administered by Mr. Blackwell.

On April 25, 1977, Mr. Blackwell had testified before the Committee that in his opinion it would be "outrageous" for these shipping companies to have to certify that they were in compliance with the law against illegal rebating and that they would cooperate with the current Federal Maritime Commission's investigation of illegal rebating.

Mr. Blackwell opposed an amendment to the Maritime Authorization bill to require such certification, but between his job offer from the shipping companies on June 22 and the date the amendment was adopted on the floor of the House on July 13. Mr. Blackwell did not see fit to advise the Committee or the House of his obvious conflict of interests.

The President of one of the companies seeking to retain Mr. Blackwell, is also named in the indictment against former Chairman Garmatz as having offered a $5,000 bribe in order to obtain favorable legislative action by the House.

Mr. Blackwell takes exception to the above views, and while they remain my views, in fairness to Mr. Blackwell, and at his request, I insert here in the RECORD the following correspondence that he asked be published to our colleagues:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 15, 1977.

Mr. ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs,
U.S. Department of Commerce,
Washington, D.C.

DEAR BOB: In response to your letter of September 13, and to set the record completely straight as you request, I will take a special order on the House floor today and put our full correspondence on your conflict of interest situation in the Congressional Record.

Since I made the comments you refer to on July 29, several matters have come to light which create the strong possibility that I was wrong in the judgment I felt at that time.

In re-reading my Additional Views in the Committee Report on H.R. 1037, the Cargo Preference Bill, I gather that you are concerned with the following two comments, found at pages 65 and 70–71 of the Committee Report:

"It is especially significant that the single witness who testified on behalf of the Administration and who was also the leading proponent within the Administration for cargo preference had a clear conflict of interest. Assistant Secretary Blackwell had been negotiating with a group of liner companies for employment at a salary in excess of $100,000 per year. All of these companies receive or have applied for operating subsidies administered by Mr. Blackwell and all strongly support the proposed cargo preference legislation."

* * * * *

"That Maritime Administrator Blackwell should be the sole Administration witness is a particularly offensive action by the Administration since Mr. Blackwell disclosed at his testimony on July 25 that on June 22, 1977, he had been offered (but had not disclosed to the House), a job at a salary in excess of $100,000 per year by nine shipping companies who desired to associate in support of the Cargo Preference bill and who also receive, or have applied for, operating subsidies administered by Mr. Blackwell.

"On April 25, 1977, Mr. Blackwell had testified before the Committee that in his opinion it would be "outrageous" for these shipping companies to have to certify that they were in compliance with the law against illegal rebating and that they would cooperate with the current Federal Maritime Commission's investigation of illegal rebating.

"Mr. Blackwell opposed an amendment to the Maritime Authorization bill to require such certification, but between his job offer from the shipping companies on June 22 and the date the amendment was adopted on the floor of the House on July 12, (when Mr. Blackwell's testimony was argued in the debate) Mr. Blackwell did not see fit to advise the Committee or the House of his obvious conflict of interests.

"The President of one of the companies seeking to retain Mr. Blackwell, is also named in the indictment against former Chairman Garmatz as having offered a $5,000 bribe in order to obtain favorable legislative action by the House."

When I stated at the Committee hearing on July 29th that I felt you to be honest and with an impeccable record of public service, I had not had the privilege of reading your answers to my written questions of July 26th, your response to which was not delivered until August 1st.

Quite frankly, I think you *did* have a conflict of interest, both on July 13th when you allowed your testimony on the Maritime Authorization bill to be debated on the House without telling us that you had been offered a job by the shipping companies for whom the bill provided subsidies, and later on July 26th when you testified in favor of the Cargo Preference bill without telling us that you were still considering a job offer from those same liner companies who were leaving AIMS and forming a new trade association *specifically so that they could promote cargo preference.*

I think now, and did then, that there was a conflict of interest on your part. You were arguing for Cargo Preference ostensibly as a public official; at the same time you were

considering a job at twice your present salary from a group of companies whom you knew to be strong supporters of Cargo Preference. Didn't you owe us an obligation to reveal this relationship when you testified? One of those companies was Moore-McCormack Lines, whose President, James Barker, was named in a federal indictment a few days later as having allegedly given a $10,000 bribe to former Chairman Edward Garmatz. James Barker also serves as President of the National Maritime Council, a group which I have heard you speak of with pride as a "*Maritime Administration*-sponsored organization."

Mr. Barker, you will recall, once testified before our Subcommittee that:

"The National Maritime Council is a unified segment of all segments of this industry, the ocean carriers, the land-based maritime and sea-going unions, the shipbuilders, *and the Department of Commerce of the Federal Government.*" (Emphasis added.)

Since the Council's President was named in the indictment as having allegedly bribed the former Chairman of our Committee, I have not seen one word from you or the Department of Commerce disassociating you or the Department from Mr. Barker's actions on behalf of your joint activities.

I hope you will understand a certain degree of anger on my part when Mr. Barker declined our invitation to him to appear and testify before the Subcommittee on July 29th. Your relationship with Mr. Barker and his organization is one which I want to inquire into in some depth before I ever again attest to my belief in your integrity and otherwise fine record of public service.

I can only say now that I *hope* you are the honest and dedicated public servant for whom until a few weeks ago, I felt unequivocal respect.

Should you wish to add anything to this continuing dialogue, I will be glad to see that it is placed in the Congressional Record prior to the vote on the Cargo Preference bill.

Sincerely,

PAUL N. MCCLOSKEY, Jr.

DEPARTMENT OF COMMERCE,
Washington, D.C., September 13, 1977.

Hon. PAUL N. MCCLOSKEY, Jr.
House of Representatives,
Washington, D.C.

DEAR MR. MCCLOSKEY: After a careful reading of your Additional Views, published along with the Report of the Committee on Merchant Marine and Fisheries on H.R. 1037, the "Energy Transportation Security Act of 1977," I was surprised with the documentation which you excluded from your comments. I am well aware of your concern that all pertinent information affecting this and other matters before the Congress be subjected to full and open disclosure and debate on the public record.

To my knowledge the only documents which you withheld from publication and which are pertinent to this ongoing debate is our exchange of letters which took place during the week of July 25, 1977, concerning among other matters my personal plans and your queries regarding their propriety. My surprise is compounded by the fact that at the hearings before the Committee on the morning of July 29, 1977 you made the following statement:

I do, Mr. Chairman, but I want to take the opportunity to put carefully on the record at this point my respect and absolute belief in Mr. Blackwell's integrity and honorable service to this country for 23 years. If there were any inference to the contrary as a result of our heated exchange the other day, I would like to remove them because I don't know of a person in government service who has had more opportunity to reap personal benefit by the stroke of a pen in any number of maritime programs and who has religiously avoided any kind of personal benefit from the job he has done. I want to make that clear because I have immense respect for Mr. Blackwell.

We do have a disagreement on the matter of subsidized liner operators and the potential responsibility they might have to comply with the law and cooperate in the effort on the sea. I have had some concern about a job offer tendered to Mr. Blackwell by those same subsidized liner operators, not because it was improper for them to receive it or for them to make it, but because the issue of the subsidized liner operators came up for a vote on the House floor on July 13th and I felt the fact of that job offer should have been known to the House of Representatives at the time we voted on that issue. That was the basis for my concern the other day.

and now you have decided to reraise as part of House Report No. 95–589 the issue of my negotiations with certain liner companies. The statement in your Additional Views to the effect that I "had a clear conflict of interest" is belied not only by the enclosed letters but by your own remarks.

I look forward to your endeavors to set the record straight in respect of these matters so that your colleagues in the House of Representatives might have placed before them all that is known by you in the event debate for some reason includes discussion of these issues notwithstanding the fact that they are unrelated to the merits of H.R. 1037.

Sincerely,

ROBERT J. BLACKWELL,
Assistant Secretary
for Maritime Affairs.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., July 29, 1977.

Hon. PAUL N. MCCLOSKEY, Jr.,
Ranking Minority Member, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. MCCLOSKEY: This refers to your letters of July 26, 1977, in which you requested answers to certain questions. The questions that you sent me and answers thereto are enclosed.

Sincerely,

ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs.

---

12. Please list, in chronological order, places and persons present for any and all meetings or telephone conversations you have had with any persons relative to employment by any recipient of a maritime subsidy or applicant for such subsidy or association including such recipients or applicants, between March 1, 1977 and the present date.

For each such meeting or conversation, state the full substance of what the persons present said and what you said.

Answer: Mr. Jim Amoss, President of Lykes Bros. Steamship Company came to my office at about 5:00 P.M., Wednesday, June 22, 1977. He sought to determine my interest in heading a new maritime trade association. I advised Mr. Amoss that I would like to learn more about the proposed association as well as conditions of employment. He said that he would get back to me. The meeting lasted perhaps 10 minutes.

Mr. Jim Horn, who with Mr. Amoss, was on the Search Committee for the proposed association met me in my office about 3:40 P.M. on Wednesday, July 13, 1977. Mr. Bill Williams of American President Lines and Mr. Hans Blocklin of Lykes Bros. Steamship Company were also present. Inasmuch as Mr. Horn arrived about 35 to 40 minutes late and because I had to leave the office to catch a plane for Florida, I was only able to spend about 15 or 20 minutes with Mr. Horn. Mr. Horn indicated that the trade association position for which I was being considered would have a salary of $100,000 per year and a term of three years would be acceptable. We discussed the organization of the proposed association, the relationship between its President and principals of the association, the authority that the association President would possess and a number of other administrative matters. No decisions on any of these matters were made. Mr. Horn indicated that either he or Mr. Amoss would contact me again, but no other meetings have taken place.

In addition to the above meetings, I engaged in two or three telephone conversations with Messrs. Amoss and Horn regarding the scheduling of appointments. No substance was discussed and no negotiations took place during these conversations.

I offer the following in response to your supplementary request of July 26, 1977, for information concerning the actions I have taken since March 1, 1977 to comply with the Department of Commerce regulations concerning Employee Responsibilities and Conduct.

On the day following my initial meeting with Mr. Amoss I met with the General Counsel at the Maritime Administration and discussed what had taken place and what course to follow to avoid any potential conflicts. He reviewed with me the Department regulations and advised that I take action to comply with their requirements.

Since I was to be in New York that evening on official business I was not able to prepare a memorandum to the Secretary until the morning of the 24th. On that day, in the absence of the Secretary, I personally delivered the first document appended hereto to the Assistant Secretary for Administration for transmittal to the Secretary.

During the week of June 27, 1977, while I was on vacation the General Counsel of the Department of Commerce recommended to the General Counsel of the Maritime Administration that the format of my June 24 memorandum be changed to reflect that I was personally taking certain actions rather than requesting that I be so directed by the Secretary. Accordingly, the second memorandum attached hereto was prepared on July 5, my first day in the office following June 24, 1977. This memorandum was, in accordance with the request made by the Department, substituted for the earlier memorandum.

The first date upon which the Secretary's calendar and mine permitted me to discuss this matter with her was July 11, 1977. On that date I met with her and reviewed my personal and public responsibilities in detail.

As I indicated in my testimony on Monday, July 25, 1977, a condition to the discussions which have taken place was that I would have to comply fully with various laws concerning conflicts of interest. As the record states: "I consulted with 3 attorneys who indicated that I would have a potential conflict and if I left the Government, I had to make a commitment that I would not involve myself in terms of representing those people before the Maritime Administration for a given number of years, at least it was one year.

There is a Senate bill up which even has broader conflict controls over public officials that is currently necessary and I even agreed to apply that to my activities on the outside even though at this time it is not legally necessary."

JUNE 24, 1977.

Memorandum for: Juanita M. Kreps, Secretary of Commerce.
Via: Elsa A. Porter, Assistant Secretary for Administration.
From: Robert J. Blackwell, Assistant Secretary for Maritime Affairs.

I have been approached to head a trade association of United States flag liner companies. Although I am thoroughly satisfied

with my present position and my relationship with you, Madam Secretary, as well as with the Administration, compelling personal reasons dictate that I evaluate this offer.

In order to avoid a conflict situation or even the appearance of a conflict, I request that the Assistant Secretary for Administration direct me, in writing, to refrain from doing business with the following companies that might participate in the trade association: American Export Lines, Inc., Moore-McCormack Lines, Inc., Prudential Lines, Inc., Farrell Lines Inc., Delta Steamship Lines, Inc., Lykes Bros. Steamship Company, Inc., American President Lines, Ltd., and States Steamship Company. In addition to the admonition in that directive, I will avoid all personal and business contacts with representatives of those companies. This should not impair the effective functioning of the Maritime Administration inasmuch as lately the bulk of my time and energies have been devoted with such issues as cargo preference, Alaska Oil, a new dry bulk shipping program, and other matters that do not relate to activities of the above companies.

In addition, in order to avoid any other possible complications, I have asked the White House to place a "hold" on processing my papers for reappointment.

I will be on vacation next week but would like to meet with you, Madam Secretary, as soon as I return on July 5. I can be reached at the Sea Colony in Ocean City, Maryland, 302/539-5181.

JUNE 24, 1977.

Memorandum for; Juanita M. Kreps, Secretary of Commerce.

Via: Elsa A. Porter, Assistant Secretary for Administration.

From: Robert J. Blackwell, Assistant Secretary for Martime Affairs.

I have been approached to head a trade association of United States flag liner companies. Although I am thoroughly satisfied with my present position and my relationship with you, Madam Secretary, as well as with the Administration, compelling personal reasons dictate that I evaluate this offer.

In order to avoid a conflict situation or even the appearance of a conflict, I am taking this opportunity to inform you and the Assistant Secretary for Administration that I shall, starting immediately, refrain from doing business with the following companies that might participate in the trade association: Amercan Export Lines, Inc., Moore-McCormack Lines, Inc., Prudential Lines, Inc., Farrell Lines, Inc., Delta Steamship Lines, Inc., Bykes Bros. Steamship Company, Inc., American President Lines, Ltd., and States Steamship Company. In addition, I will avoid all personal and business contacts with representatives of those companies. This should not impair the effective functioning of the Maritime Administration inasmuch as lately the bulk of my time and energies have been devoted with such issues as cargo preference, Alaska Oil, a new dry bulk shipping program, and other matters that do not relate to activities of the above companies. Furthermore, since all decisions related to the making, amending, or terminating subsidy contracts are made by the three member Maritime Subsidy Board, the fact that I will not participate in certain of its deliberations will not inhibit the Board's ability to properly discharge its responsibilities.

In order to avoid any other possible complications, I have asked the White House to place a "hold" on processing my papers for reappointment.

I will be on vacation next week but would like to meet with you, Madam Secretary, as soon as I return on July 5. I can be reached at the Sea Colony in Ocean City, Maryland, 302/539-5181.

13. With respect to the undated memorandum for the President from Secretary Kreps, would you please advise the date of such memorandum.

Answer: June 17, 1977.

14. Please list in chronological order, the dates, times, places, persons present and substance of the conversations at all meetings between the White House and Commerce Department spokesman with congressional representatives, representatives of maritime labor and the shipbuilding and ship-operating industries, as described in the second paragraph of Secretary Kreps' memorandum. Please attach all memoranda made of these meetings for the files of yourself or other Commerce Department personnel.

Answer: The subjects of the meetings referred to, and their dates, times, and places plus available listings of persons present are listed below. To my knowledge there are no memoranda of these meetings.

MEETINGS ATTENDED BY ROBERT J. BLACKWELL RE CARGO PREFERENCE MARCH 1977—JULY 1977

Subject: Modifications to H.R. 1037 involving extension of the implementation schedule and reductions in the preference percentages to minimize costs

March 11, 1977, 3:30 p.m.

Meeting with Mr. Jasinowski's office, Room 5858, Commerce Building;

Tom Boggs, Herb Brand, Lee Rice and Ran Hettena.

April 6, 1977, 2:00 p.m.

Congressman John Murphy's office.

Ed Miller (Mr. Jasinowski's office).

April 14, 1977, 10:00 a.m.

April 14, 1977, 10:00 a.m.

Room 3708, Commerce Building, Shannon J. Wall, Jesse M. Calhoon, Paul Hall, Frank Scavo (Unions), Bill Johnston (White House), Jerry Jasinowski, Ed Miller.

April 18, 1977, 3:00 p.m.

Room 3708, Commerce Building, Ed M. Hood, Sam D. Timmons, Lee Rice, John P. Diesel, Joe Kahn (Shipyard group), Bill Johnston (White House), Ed Miller (Jasinowski office).

April 19, 1977, 10:00 a.m.

Room 3708, Commerce Building, Ran Hettena, James R. Barker, Charles Hiltzheimer, Herb Brand, Capt. Leo Berger and Michael Naess.

Subject: Proposal to apply operating differential subsidy to foreign-built ships without certain restrictions that apply to subsidized operators under current statutes

June 6, 1977, 11:00 a.m.

Congressman John Murphy, Room 2187, Rayburn Building.

12:00 noon

Richard Daschbach, Room 217, Old Senate Office Building.

3:00 p.m.

Room 3898-B, Commerce Building, Paul Hall, Jesse Calhoon (Unions), Jim Murphy, Ed Miller.

June 7, 1977, 2:30 p.m.

Lee Rice, Ed Hood, G. Diesel, S. Timmons, J. Kahn, J. Barker and M. Naeso (maritime industry), Jim Murphy, R. Stryker, M. Chavez, Room 3708, Commerce Building.

15. With respect to option number 2, in that memo, please list the names of each U.S. shipbuilder, ship operator, maritime union leader and congressional sponsor of cargo preference legislation who indicated to you or your representatives or superiors that this option was "not merely unacceptable but highly offensive," or who was present at a meeting when such opinion was expressed.

Answer: Persons present at meetings when such opinion was expressed are listed in the answer to question 14, above. The meetings concerned with option 2 are those which took place on June 6, 1977 and June 7, 1977. The expression quoted is an interpretation of what appeared to be the consensus.

16. With respect to option number 3 in Secretary Kreps' memo, please list the dates, time, places, persons present and substance of the conversation at each meeting or conversation with "congressional and industry representatives we have talked to" and attach any memoranda prepared of such meetings or conversations.

Answer: To my knowledge there are no memoranda of the meetings in question, which are those listed in the answer to number 14, above for the dates April 6, 1977, April 14, 1977, April 18, 1977, and April 21, 1977.

17. With respect to option number 4 in Secretary Kreps memorandum, please provide the same information requested in question 16 above.

Answer: See answer to number 16, above.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 26, 1977.

Hon. ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs, Department of Commerce, Washington, D.C.

DEAR BOB: Following up your testimony yesterday, I am enclosing a series of memoranda to the President on the Cargo Preference bill (H.R. 1037) which formed the basis for several questions I asked you.

I would respectfully request your comprehensive answers to the questions attached hereto.

I am asking, by copy of this letter, that this letter, its enclosures and your responses be made part of the hearing record on H.R. 1037 within 48 hours as directed by Chairman Murphy at yesterday's hearing.

Respectfully,

PAUL N. MCCLOSKEY, Jr.,
Ranking Minority Member, Merchant Marine Subcommittee.

---

1. Please provide for the record a complete listing and explanation of all the campaign commitments made by President Carter to the maritime industry which are referred to on page one of Secretary Blumenthal's June 17 memorandum to the President.

2. On pages 1 and 2 of that memorandum, the Secretary indicates that the Senate and Defense Departments do not see a national security benefit in cargo preference. However, your testimony before our Committee suggested that national security was the prime rationale for Administration support of this bill. Would you provide an explanation of why the State and Defense Departments see no national security benefit in the bill and explain how the Administration can support this bill on national security grounds when both the State and Defense Departments do not see that as a benefit?

3. On page 2, the statement is made that "CEA estimates the net impact on the economy as a whole would be a decrease in total employment and GNP." Would you provide a copy of the Council of Economic Advisors' analysis on this point and an explanation of why it arrived at this conclusion?

4. It appears that nearly every agency of the government with the exception of Commerce and Labor supported an expanded use of operating subsidies as an option to cargo preference. Indications are that the same level of employment would be created, that it would not have the inflationary or foreign policy repercussions of cargo preference, and that the annual cost per job would be $20,000 as compared to $23,000 to $111,000 under cargo preference. The primary disadvantages to this proposal are that it is opposed by the martime industry and the major oil companies which do not have union crews and would be the primary beneficiaries. Is this a legitimate reason for rejecting an option

which is supported by nearly every agency of the government?

5. On page 3, an additional issue suggesting an in-depth study of the maritime industry is discussed. Does the Administration plan to conduct such a study?

6. On page 3 of the Annex to Secretary Blumenthal's letter, a disadvantage of the bill is cited in that it "would be contrary to the London Summit pledge to reject protectionism. Is it the position of the Administration that this bill is contrary to that pledge?

7. Page 4 of the Annex indicates that the bill would violate U.S. treaties with more than 30 countries. Doesn't this indicate that the Administration supported the bill with the knowledge that it would be a violation of U.S. treaties? How does this statement square with your "opinion" during your testimony that the bill would not violate Treaties of Friendship, Commerce, and Navigation?

8. One page 7 of the Annex, a statement is made "none of the three options is likely to solve the long-run problems of the maritime industry. It will only be a matter of time before the maritime industry seeks additional federal assistance." Does the Administration attempt to address these expected future requests on a piecemeal basis or does it intend to undertake a comprehensive study of the problems and recommend a single comprehensive solution? Have any commitments been made by the President or any other member of his Administration regarding these additional forms of federal assistance?

9. On page 2 of the Eisenstat and Johnson memo to the President of June 23, the option of using an expanded subsidy in lieu of cargo preference is rejected largely because "the maritime community would view it as an insult rather than as a substitute." In your view, does this indicate that this option was rejected and not seriously presented to the President primarily because of political considerations?

10. On page 3 of that memo, the indications are that Ambassador Strauss had an active part in developing the cargo preference position. What was the nature of Ambassador Strauss' involvement?

11. On page 1 of Ambassador Strauss memo to the President of June 24, the state ment is made that the concept of cargo preference is more important than the percentage. Are there any expectations or understandings within the Administration that the percentages would be increased in the future or that the concept would be expanded to commodities other than oil?

12. A review of your appearances before this Committee and action taken by this Committee or by the House reflects the following:

BLACKWELL TESTIMONY AND CONGRESSIONAL ACTION ON MARITIME LEGISLATION 1977

March 14, 1977—Testimony favoring maritime subsidies in Maritime Authorization legislation, 1977, H.R. 4963.

March 21, 1977—Merchant Marine Subcommittee markup, H.R. 4963.

April 25, 1977—Testimony on illegal rebating practices, and allegations that it would be "outrageous" to require subsidized liner operators to comply with the law and cooperate with the Federal Maritime Commission investigation.

May 3, 1977—Full Committee mark-up H.R. 4963.

May 24, 1977—Closed briefing of Full Committee by DOD on strategic mobility. Blackwell attends as advisor to the Chairman.

June 22, 1977—H.R. 4963 before Rules Committee.

July 13, 1977—H.R. 4963 approved by the full House of Representatives; amendment adopted to require such subsidized liner operators to comply with the law and cooperate with the Federal Maritime Commission investigation.

July 25, 1977—Testimony on H.R. 1037, with no reference to job offers from subsidized liner operators favoring H.R. 1037 until Committee cross-examination.

Please list, in chronological order, places and persons present for any and all meetings or telephone conversations you have had with any persons relative to employment by any recipient of a maritime subsidy or applicant for such subsidy or association including such recipients or applicants, between March 1, 1977 and the present date.

For each such meeting or conversation, state the full substance of what the persons present said and what you said.

13. With respect to the undated memorandum for the President from Secretary Kreps, would you please advise the date of such memorandum.

14. Please list in chronological order, the dates, times, places, persons present and substance of the conversations at all meetings between the White House and Commerce Department spokesman with congressional representatives, representatives of maritime labor and the shipbuilding and ship-operating industries, as described in the second paragraph of Secretary Kreps' memorandum. Please attach all memoranda made of these meetings for the files of yourself or other Commerce Department personnel.

15. With respect to option number 2 in that memo, please list the names of each U.S. shipbuilder, ship operator, maritime union leader and congressional sponsor of cargo preference legislation who indicated to you or your representatives or superiors that this option was "not merely unacceptable but highly offensive," or who was present at a meeting when such opinion was expressed.

16. With respect to option number 3 in Secretary Kreps' memo, please list the dates, times, places, persons present and substance of the conversation at each meeting or conversation with "congressional and industry representatives we have talked to" and attach any memoranda prepared of such meetings or conversations.

17. With respect to option number 4 in Secretary Kreps' memorandum, please provide the same information requested in question 16 above.

Respectfully submitted,

PAUL N. MCCLOSKEY, Jr.,
Ranking Minority Member
Merchant Marine Subcommittee.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members be permitted 1 additional legislative day in which to extend their remarks on the subject of the special order yesterday of the gentleman from Puerto Rico (Mr. CORRADA).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MARKS (at the request of Mr. RHODES), for today, on account of official business.

Mr. QUILLEN (at the request of Mr. RHODES), for today, on account of a death in the family.

Mr. BROOKS, for September 19, 20, 21, 22, and 23, 1977, on account of attending the North Atlantic Assembly's Plenary Session in Paris, France, as an official delegate of the House of Representatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOLLENBECK) and to revise and extend their remarks and include extraneous matter:)

Mr. BOB WILSON, for 5 minutes, today.

Mr. EDWARDS of Oklahoma, for 15 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. BURKE of Florida, for 10 minutes, today.

Mr. FRENZEL, for 60 minutes, today.

Mr. WHALEN, for 10 minutes, today.

(The following Members (at the request of Mr. WALGREN) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ASHLEY, for 5 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Mr. DODD, for 10 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. EILBERG, for 5 minutes, today.

Ms. OAKAR, for 15 minutes, today.

Mr. GONZALEZ, for 60 minutes, September 23, 1977.

Mr. FOUNTAIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCCLOSKEY, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,288.

(The following Members (at the request of Mr. HOLLENBECK) and to include extraneous matter:)

Mr. ARCHER.

Mr. WINN.

Mr. MCKINNEY in two instances.

Mr. COUGHLIN in two instances.

Mr. BROYHILL.

Mr. CRANE.

Mr. CARTER.

Mr. WALSH.

Mr. ABDNOR in three instances.

Mr. WYDLER.

Mr. SYMMS.

Mr. KEMP in two instances.

Mr. BURKE of Florida in two instances.

Mr. CUNNINGHAM.

Mr. FRENZEL in three instances.

Mr. EVANS of Delaware.

Mr. DORNAN.

Mr. WHALEN.

(The following Members (at the request of Mr. WALGREN) and to include extraneous matter:)

Mr. BEDELL.

Mr. DRINAN.

Mr. WAXMAN.

Mr. MCKAY.

Mr. FARY.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. FLOOD.
Mr. MILFORD.
Mr. GINN.
Mr. LLOYD of California.
Mr. MCDONALD.
Mr. RODINO.
Mr. AKAKA.
Mr. KOCH.
Mr. WEISS.
Mr. HUBBARD.
Mr. LE FANTE.
Mr. PICKLE in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1360. An act to amend section 14(e) of the National Forest Management Act of 1976; to the Committee on Agriculture; and

S. 1750. An act to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. WALGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, September 19, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2374. A communication from the President of the United States, transmitting, proposed supplemental appropriations for fiscal years 1977 and 1978 for various agencies (H. Doc. No. 92–223); to the Committee on Appropriations and ordered to be printed.

2375. A letter from the Chairman, Council in the District of Columbia," pursuant to copy of Council Act No. 2–38, "To regulate the construction and operation of elevators in the District of Columbia, " pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2376. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–71, "To provide for increased public safety at the Robert F. Kennedy Memorial Stadium and the District of Columbia National Guard Armory," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2377. A letter from the Director of ACTION, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2378. A letter from the Administrator Federal Energy Administration, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552(o); to the Committee on Government Operations.

2379. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1977, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2380. A letter from the Comptroller General of the United States, transmitting a report on problems Federal agencies have in converting computer programs from one computer to another (FGMSD–77–34, September 15, 1977); to the Committee on Government Operations.

2381. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Bolivia, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2382. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Kenya, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2383. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Lesotho, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2384. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Nepal, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2385. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Peru, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2386. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's fiscal year 1977 program in Sri Lanka, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2387. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, and for other purposes; to the Committee on the Judiciary.

2388. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the high seas in cases of marine pollution by substances other than oil, 1973; to the Committee on Merchant Marine and Fisheries.

2389. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Clearwater Pass, Fla., in response to a resolution of the House Committee on Public Works adopted April 11, 1974; to the Committee on Public Works and Transportation.

2390. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space presently occupied at the Thomas Circle South Building, 1121 Vermont Avenue NW., Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2391. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space presently occupied at 1919 M Street NW., Washington, D.C. pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2392. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the ninth report on abnormal occurrences at licensed nuclear facilities, pursuant to section 208 of Public Law 93–438; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

2393. A letter from the Comptroller General of the United States, transmitting a report on problems in the military services' hearing conservation programs (LCD–77–308, September 15, 1977; jointly, to the Committees on Government Operations, Armed Services, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 760. Resolution to authorize the Select Committee on Assassinations or any subcommittee thereof to make applications to courts; and to bring and defend lawsuits arising out of subpenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence (Rept. No. 95–606). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY (for himself and Mr. LAFALCE):

H.R. 9153. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BAUMAN (for himself, Mr. EVANS of Delaware, Ms. MIKULSKI, and Mr. TRIBLE):

H.R. 9154. A bill to amend section 304 of the Regional Rail Reorganization Act of 1973 to provide for the negotiation of division of revenues agreements between ConRail and certain designated operators of rail freight service; to the Committee on Interstate and Foreign Commerce.

By Mr. BLOUIN:

H.R. 9155. A bill to amend the Small Business Act by authorizing the Small Business Administration to furnish reinsurance for property liability insurers for small business concerns which would not otherwise be able to obtain product liability insurance on rea-

sonable terms, and for other purposes; to the Committee on Small Business

H.R. 9156. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for additions to a reserve for product liability losses; to the Committee on Ways and Means.

By Mr. BLOUIN (for himself and Mr. QUIE):

H.R. 9157. A bill to amend Public Law 874, 81st Congress, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes; to the Committee on Education and Labor.

H.R. 9158. A bill to provide for grants to tribally controlled community colleges, and for other purposes; to the Committee on Education and Labor.

By Mr. BURKE of Florida:

H.R. 9159. A bill to provide for the establishment of a Veterans' Administration outpatient clinic in Broward County, Fla.; to the Committee on Veterans' Affairs.

By Mr. CARNEY:

H.R. 9160. A bill to provide a bonus to each World War II veteran; to the Committee on Veterans' Affairs.

By Mr. CLAY (for himself, Mr. BEARD of Rhode Island, Mr. BENJAMIN, Mr. ECKHARDT, Mr. EDGAR, Mr. MOFFETT, Ms. OAKAR, Mr. RANGEL, Mr. RICHMOND, Mr. ROSENTHAL, and Mr. ST GERMAIN):

H.R. 9161. A bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. COUGHLIN:

H.R. 9162. A bill to require annual quotas of steel which may be brought or imported into the United States; to the Committee on Ways and Means.

By Mr. D'AMOURS:

H.R. 9163. A bill to amend Public Law 874, 81st Congress, to provide that children of parents employed on Federal property who attend school in a State contiguous to the State in which such property is situated may be counted for purposes of determining the aid entitlement of the local educational agency having jurisdiction over such school, and for other purposes; to the Committee on Education and Labor.

By Mr. FASCELL:

H.R. 9164. A bill to amend section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes; to the Committee on Agriculture.

By Mr. FASCELL (for himself, Mr. CHARLES WILSON of Texas, Mr. DIGGS, Mr. BUCHANAN, Mr. WOLFF, Mrs. MEYNER, and Mr. BURKE of Florida):

H.R. 9165. A bill to authorize the Secretary of State to acquire a statue or bust of George C. Marshall for placement in the Department of State; to the Committee on International Relations.

By Mr. FLYNT (for himself, Mr. BARNARD, Mr. STEERS, and Mr. MADIGAN):

H.R. 9166. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. LEHMAN (for himself, Mr. BUTLER, Mr. EARLY, Mr. GOODLING, Mr HANLEY, Mr. NOWAK, Mr. OBERSTAR, Mr. PATTISON of New York, Mr. ROE, Mr. ROSTENKOWSKI, Mr. SEIBERLING, Mr. TSONGAS, Mr. VOLKMER, Mr. ZABLOCKI, and Mr. ZEFERETTI):

H.R. 9167. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LLOYD of California:

H.R. 9168. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. LOTT (for himself, Mr. EDWARDS of Alabama, Mr. EMERY, Mr. COCHRAN of Mississippi, Mr. CHARLES WILSON of Texas, Mr. WHITEHURST, Mrs. BOGGS, Mr. DOWNEY, Mr. AUCOIN, Mr. CLEVELAND, Mr. CORRADA, Mr. TRIBLE, Mr. LEGGETT, Mr. HUGHES, and Mr. YOUNG of Alaska):

H.R. 9169. A bill to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ percent of the actual or depreciated actual cost of each vessel; to the Committee on Merchant Marine and Fisheries.

By Mr. MONTGOMERY (for himself, Mr. BRINKLEY, Mr. BYRON, Mr. MOLLOHAN, Mr. DAVIS, Mr. ICHORD, Mr. MCDONALD, and Mr. RUNNELS):

H.R. 9170. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Mr. YOUNG of Florida, Mr. ANDREWS of North Dakota, and Mr. BUCHANAN):

H.R. 9171. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. PEPPER:

H.R. 9172. A bill to delay for 6 months the effective date of the increase in the hospital deductible for 1978 under part A of the medicare program; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 9173. A bill to authorize the enrollment of qualified Klamath Indians in Bureau of Indian Affairs residential schools, and for other purposes; to the Committee on Education and Labor.

By Mr. BOB WILSON (for himself, Mr. DICKINSON, Mr. EDWARDS of Alabama, Mr. CARTER, Mr. MITCHELL of New York, Mr. WHITEHURST, Mr. BEARD of Tennessee, Mrs. HOLT, and Mr. BADHAM).

H.R. 9174. A bill to provide recognition to the Women's Air Force Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. CUNNINGHAM:

H.R. 9175. A bill making laws and regulations of the State of Washington pertaining to fishing and hunting applicable to Indians and Indian tribes fishing and hunting at places (other than on Indian reservations) within such State for purposes other than ceremonial purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. ANNUNZIO:

H.J. Res. 594. Joint resolution to authorize and request the President to proclaim June 1 of each year as National Day of Prayer; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.J. Res. 595. Joint resolution proposing an amendment to the Constitution of the United States to provide that, except in cases of war or grave national emergency as determined by the Congress, expenditures of the United States in each fiscal year shall not exceed 22 percent of the gross national product for the preceding calendar year, and expenditures of the United States in each fiscal year shall not exceed revenues of the United States for that fiscal year; to the Committee on the Judiciary.

By Mr. McCORMACK:

H. Res. 765. Resolution relative to a review of the national telecommunications regulatory policy; to the Committee on Interstate and Foreign Commerce.

By Mr. OBEY (for himself, Mr. PRICE, Mr. MEEDS, Mr. HAMILTON, Mr. D'AMOURS, Mr. WRIGHT, Mr. BRADEMAS, Mr. ROSTENKOWSKI, Mr. DANIELSON, Mr. ROSENTHAL, Mr. FOLEY, Mr. DELANEY, Mr. LONG of Louisiana, Mr. BOLLING, Mr. MIKVA, Mr. PREYER, Mr. UDALL, Mr. KASTENMEIER, Mr. RODINO, and Mr. MINETA):

H. Res. 766. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; Divided and referred as follows: Titles I, II, III, IV, V, and VII to the Committee on Rules for a period ending not later than October 5, 1977; and title VI to the Committee on House Administration for a period ending not later than September 29, 1977.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FRENZEL:

H.R. 9176. A bill to restore the Postal Service seniority of Elmer Erickson; to the Committee on the Judiciary.

By Mr. McDONALD:

H.R. 9177. A bill for the relief of Francisco Ronquillo and Ruben Leonardo Ronquillo; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

217. By the SPEAKER. Petition of the California Association of Employers, San Francisco, Calif., relative to an Employee Bill of Rights; to the Committee on Education and Labor.

218. Also petition of the West End Democratic Club, Ontario, Calif., relative to the Panama Canal treaties; to the Committee on International Relations.

219. Also, petition of Helen M. Welch, Buffalo, Minn., relative to redress of grievances resulting from the sale of petitioner's property to the Committee on Ways and Means.

220. Also, petition of the board of trustees, District 11 Area Agency on Aging, Inc., Youngstown, Ohio, relative to foreign steel imports; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. PREYER:

(Substitute to the second amendment

recommended by the Committee on Ways and Means.)

In lieu of the matter (beginning on line 22 of page 66 and ending on line 5 of page 70) proposed to be inserted, substitute the following:

(1) (1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e) (1) No officer, employee, or agent of a Professional Standards Review Oragnization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

Notice of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the au-

thorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is not a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(ii) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

By Mr. SATTERFIELD:

Page 66, strike out line 22 and all that follows through line 9 on page 69 and insert in lieu thereof the following:

(1)(1)(A) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"Inspection of Individually Identifiable Medical Records

"SEC. 1125. (a)(1) Except as provided in paragraphs (2) and (3), no officer, employee, or agent of the United States, or of any Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, may inpsect or require the disclosure of, for any reason whatever, any individually identifiable medical record, unless—

"(A) the individual (or his legally authorized representative) has authorized such inspection or disclosure in accordance with subsection (b); or

"(B) such inspection or disclosure is made upon the request (or, in the case of medical research, with the permission)—

"(i)(I) of an official who is authorized under the laws of the State in which the record is located to inspect or require the disclosure of the record, or

"(II) of the chief public health official of the State in which the record is located if such official is not specifically prohibited under the laws of the State from inspecting or requiring the disclosure of the record; and

"(ii) which states the specific purpose for the inspection or disclosure, the time period during which the inspection or disclosure may occur, and the date on which the authorization for the inspection or disclosure expires; or

"(C) such inspection or disclosure is made by medical personnnel to the extent necessary to meet a medical emergency which presents an immediate threat to human life.

"(2) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record relating to medical care which is or was paid for or provided by (in whole or in part) an agency of the United States, to the extent such inspection or disclosure is (A) by medical personnel for the purpose of providing such medical care, (B) by a Professional Standards Review Organization, or any person acting on behalf of such an Organization, or other qualified personnel for the purpose of performing utilization review under part B of this title or otherwise with respect to such medical care, (C) for the purpose of verifying or auditing payment for such medical care, or (D) for the purpose of investigating or prosecuting fraud and abuse in the provision of, or payment for, such medical care

"(3) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record to the extent to which such inspection or disclosure (A) is authorized under title 10 (relating to the armed forces) or title 38 (relating to veterans' benefits) of the United States Code, or (B) is required pursuant to a lawful order or subpena issued by a court of competent jurisdiction.

"(b) An individual (or his legally authorized representative) authorizes an inspection or disclosure of an individually identifiable medical record or records for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, or disclosure for a specified period of time;

"(2) identifies the medical record or records authorized to be inspected or disclosed;

"(3) specifies the purposes for which the record or records may be inspected or disclosed; and

"(4) specifies the agencies which may inspect the record or records or to which the record or records may be disclosed.

"(c) Any person who knowingly violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section. The provisions of subsection (a) shall not be construed to permit any officer, employee, or agent of the United States to contravene any State law which otherwise limits such individual's access to individually identifiable medical records.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that (1) relates to the medical, dental, or mental condition or treatment of an individual, (2) is in a form which either identifies the individual by name or permits identification of the individual through means (whether direct or indirect) available to the public, (3) is not in the public domain, and (4) was provided by an individual with the reasonable expectation that it would remain confidential.".

(B) The amendment made by subparagraph (A) shall apply to inspections and requiring the disclosure of individually identifiable medical records on and after the first day of the fourth calendar month beginning after the date of enactment of this Act.

Page 70, strike out line 6 and all that follows through line 19 on page 71 and insert in lieu thereof the following:

(1)(1)(A) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"Inspection of Individually Identifiable Medical Records

"Sec. 1125. (a)(1) Except as provided in paragraphs (2) and (3), no officer, employee, or agent of the United States, or of any Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, may inspect or require the disclosure of, for any reason whatever, any individually identifiable medical record, unless—

"(A) the individual (or his legally authorized representative) has authorized such inspection or disclosure in accordance with subsection (b); or

"(B) such inspection or disclosure is made upon the request (or, in the case of medical research, with the permission)—

"(i)(I) of an official who is authorized under the laws of the State in which the record is located to inspect or require the disclosure of the record, or

"(II) of the chief public health official of the State in which the record is located if such official is not specifically prohibited under the laws of the State from inspecting or requiring the disclosure of the record; and

"(ii) which states the specific purpose for the inspection or disclosure, the time period during which the inspection or disclosure may occur, and the date on which the authorization for the inspection or disclosure expires; or

"(C) such inspection or disclosure is made by medical personnel to the extent necessary to meet a medical emergency which presents an immediate threat to human life.

"(2) The prohibition of paragraph (1) shall not apply to the inspection or disclosures of an individually identifiable medical record relating to medical care which is or was paid for or provided by (in whole or in part) an agency of the United States, to the extent such inspection or disclosure is (A) by medical personnel for the purpose of providing such medical care, (B) by a Professional Standards Review Organization, or any person acting on behalf of such an Organization, or other qualified personnel for the purpose of performing utilization review under part B of this title or otherwise with respect to such medical care, (C) for the purpose of verifying or auditing payment for such medical care, or (D) for the purpose of investigating or prosecuting fraud and abuse in the provision of, or payment for, such medical care.

"(3) The prohibition of paragraph (1) shall not apply to the inspection or disclosure of an individually identifiable medical record to the extent to which such inspection or disclosure (A) is authorized under title 10 (relating to the armed forces) or title 38 (relating to veterans' benefits) of the United States Code, or (B) is required pursuant to a lawful order or subpena issued by a court of competent jurisdiction.

"(b) An individual (or his legally authorized representative) authorizes an inspection or disclosure of an individually identifiable medical record or records for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, or disclosure for a specified period of time;

"(2) identifies the medical record or records authorized to be inspected or disclosed;

"(3) specifies the purposes for which the record or records may be inspected or disclosed; and

"(4) specifies the agencies which may inspect the record or records or to which the record or records may be disclosed.

"(c) Any person who knowingly violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section. The provisions of subsection (a) shall not be construed to permit any officer, employee, or agent of the United States to contravene any State law which otherwise limits such individual's access to individually identifiable medical records.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that (1) relates to the medical, dental, or mental condition or treatment of an individual, (2) is in a form which either identifies the individual by name or permits identification of the individual through means (whether direct or indirect) available to the public, (3) is not in the public domain, and (4) was provided by an individual with the reasonable expectation that it would remain confidential.".

(B) The amendment made by subparagraph (A) shall apply to inspections and requiring the disclosure of individually identifiable medical records on and after the first day of the fourth calendar month beginning after the date of enactment of this Act.

H.R. 6796

By Mr. BROWN of California:

Strike out title III (beginning on page 79, line 18, and ending on page 97, line 2) and insert in lieu thereof the following:

TITLE III—AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Transport Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobiles, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, safety, and energy conservation;

(2) advanced alternatives to existing automobiles could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonabl cost; and advanced automobiles could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;,

(3) insufficient resources are being devoted to both research on and development of advanced automobile technology;

(4) an expanded research and development effort with respect to advance automobile technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy, safety, and environmental problems are urgent, and therefore advanced automobile technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy Research and Development Administration, in cooperation with the Department of Transportation, to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobiles, automobile propulsion systems, and automobile components; and

(3) supplement, but neither supplant nor duplicate, the automotive research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "Secretary" means the Secretary of Transportation;

(3) "advanced automobile" means a personal-use transportation vehicle which is fuel-propelled and is energy-efficient, safe, reliable, damage-resistant, and environmentally sound, and which—

(A) requires, consistent with environmental requirements, the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing automobiles with respect to such factors;

(B) to the extent practicable, is capable of utilizing different types of fuel;

(C) can be mass produced at the lowest possible cost consistent with the requirements of this title;

(D) has a projected ownership cost to the first owner which is competitive with automobiles of the same size and class which are produced using standard technology, taking into account the other features of such advanced automobile which may justify costs different than those associated with standard technology;

(E) operates safely and with efficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

(F) to the extent practicable, is capable of intermodal adaptability; and

(G) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including requirements for fuel economy, exhaust emissions, noise control, safety, and damage resistance;

(4) "advanced automobile propulsion system" means an energy conversion system and/or storage system, including engine accessories, heat recovery devices, fuel delivery systems, and drive train, which utilizes advanced technology and is suitable for use in available production vehicles and for integration in an advanced automobile, except that advanced automobile propulsion systems shall not include electric and hybrid systems as defined in Public Law 94-413;

(5) "damage resistance" refers to the ability of an automobile to withstand physical damage when involved in an accident;

(6) "fuels" means an energy source capable of propelling an automobile;

(7) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5); and

(8) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, subject to the provisions of section 306(a), a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated purusant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, are likely to contribute to the development of advanced automobiles.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administrator shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. (a) Subject to the provisions of section 306(a), the Secretary shall be responsible for the integration of advanced automobile propulsion systems developed by the Administrator under section 304 with other motor vehicle components into test vehicles which incorporate advanced technology and which are developed to assist in the promulgation of motor vehicle standards for fuel economy, safety, and damage resistance. The Secretary shall ensure that such integrated vehicles are fully tested to determine the characteristics of such advanced propulsion systems and other components when integrated.

(b) The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have management responsibility for carrying out the advanced automobile propulsion program under section 304. The Secretary shall have management responsibility for carrying out the test vehicle program under section 305(a). In carrying out the programs under sections 304 and 305, neither the Administrator nor the Secretary shall act to constrain the programs of the other.

(b) The Administrator and the Secretary shall consult and cooperate with respect to their respective duties and responsibilities, and they shall coordinate their respective activities, in areas of shared concern, to the extent practicable, in order that the duties and responsibilities of both officers under this title may be performed in a way that will lead to the most meaningful and effective results in an efficient manner.

(c) The Administrator or the Secretary may obtain the assistance of any department, agency, or instrumentality in the executive branch of the Federal Government on a reimbursable or nonreimbursable basis and, with the consent of such department, agency, or instrumentality, such personnel, facilities, and other assistance as the Administrator or Secretary determines are necessary to carry out the purposes of this title.

(d) The Administrator and the Secretary shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile research, development, and technology.

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator and the Secretary, in performing their respective responsibilities under this title, shall each consider any reasonable new or improved technology, a description of which is submitted to him in writing, that could lead or contribute to the development of advanced automobile technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the result of such tests to the Administrator and the Secretary.

(c) The Secretary shall test, or shall cause to be tested in a facility subject to supervision by the Secretary, each type of test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Secretary for such purpose by the Administrator to determine whether such vehicle complies with any standards promulgated as of the date of such testing, or reasonably expected to be promulgated in the future, under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and whose provisions are applicable to automobiles where testing would

be appropriate. All test data and the result of all tests conducted by the Secretary shall be made available to the Administrator.

(d) The Administrator and the Secretary shall collect, analyze, and disseminate information, data, and materials that may be relevant to the development of advanced automobile technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator or the Secretary under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile technology; and

(5) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Transport Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

Page 23, beginning on line 9, strike out "$483,300,000" and insert in lieu thereof "$363,300,000".

Page 33, immediately following line 11, insert the following new section:

SEC. 106. Section 106 of Public Law 91–273, as amended, is further amended by deleting the present text thereof and substituting therefor the following:

"SEC. 106. LIQUID METAL FAST BREEDER REACTOR DEMONSTRATION PROGRAM—FOURTH ROUND.—(a) The Energy Research and Development Administration (ERDA) is hereby authorized to enter into appropriate arrangements for essential elements of the system design for the Clinch River Breeder Reactor Project (CRBRP).

"(b) The ERDA is further authorized to agree, by modification to the Principal Project Agreements and all contracts and agreements subsidiary thereto reflecting such changes therein as it deems appropriate for the purpose, or otherwise, to the cancellation of all other activities related to the CRBRP. There are authorized to be appropriated such sums as may be necessary to carry out such cancellation and to carry out the purposes of subsection (a)."

SENATE—*Friday, September 16, 1977*

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God whose flawless Son and the perfect Workman found times and places to pray, help us to follow Him both in prayer and work. Grant us an awareness of Thy presence every hour to restore tired bodies, to give poise and peace of mind, to assuage jaded spirits, and heal frayed nerves. Deliver us from impatience, from hurried judgments, from squandering time, from wasting our energies, from failure to act when we ought to act. Endow us with spiritual certitude and moral courage. Grant us grace to grow more like Him who went about doing good, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 16, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, September 15, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I yield it back.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize me?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have back just a portion of my time under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the two measures on the Unanimous Consent Calendar which were placed on that calendar as of yesterday.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these matters were transferred on yesterday from the General Orders Calendar to the Unanimous Consent Calendar, and they are fully qualified under the rules, including the 3-day rule, and we have no objection to their consideration and passage.

DUTY ON SYNTHETIC TANTALUM/ COLUMBIUM CONCENTRATE

The Senate proceeded to consider the bill (H.R. 2982) to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, following "That" insert "(a)";

On page 1, line 6, strike "SEC. 2. (a)" and insert "(b)";

On page 1, line 6, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 3, insert the following:

"SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.80 the following new item:

" 907.70	Concentrate of poppy straw (however provided for in part 3 of schedule 4) when imported for use in producing codeine or morphine	Free	Free	On or before 6/30/80 ".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. (a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting ", and parts thereof" immediately after "Generator lighting sets for bicycles"; and

(2) by striking out "12/31/76" and inserting in lieu thereof "6/30/80".

(b) Item 912.10 of the Appendix to such Schedules is amended to read as follows:

" 912.10	Caliper brakes, drum brakes, coaster brakes, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, click stick levers, multiple free wheel sprockets, cotterless type crank sets, rims, parts of all the foregoing, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle (provided for in item 732.36, part 5C, schedule 7)	Free	No change	On or before 6/30/80 ".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article (other than any derailleur) to which item 912.05 or 912.10 of the Tariff Schedules of the United States (as in effect on December 31, 1976) applied and—

(1) which was made after December 31, 1976, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if any of the amendments made by subsections (a) and (b) applied to such entry or withdrawal,

shall notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–420), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

H.R. 2982, as amended by the committee, would accomplish three objectives:

To suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, employed in the production of tantalum and columbium steels used in the manufacture of such products as heavy equipment, machinery, and oil and gas pipelines;

To suspend until the close of June 30, 1980, the duty on concentrate of poppy straw used in producing codeine or morphine; and

To suspend until the close of June 30, 1980, the duty on certain bicycle parts.

II. REASONS FOR THE BILL

The provisions of the bill regarding synthetic tantalum/columbium concentrate would eliminate an unnecessary charge on a resource material which is not produced commercially in the United States and for which there is a growing demand as a result of increased prices and a shortfall in supply of the natural product.

The provisions regarding concentrate of poppy straw used in producing codeine or morphine are intended to permit a reduction in the price to consumers of prescription drugs containing morphine or codeine derivatives by temporarily eliminating the duty on a raw material used to make those drugs which is produced in the United States solely for research purposes.

The provisions of the bill relating to bicycle parts would increase the competitiveness of U.S. bicycle manufacturers. U.S. bicycle manufacturers generally now pay a 15-percent ad valorem duty on the parts covered by these provisions. The parts are generally not available from U.S. producers. In contrast, imports of 95 percent of all completed bicycles are dutiable at a rate of 5.5 percent ad valorem. This situation hinders U.S. bicycle manufacturers in competing with imported bicycles. The provisions of the bill relating to bicycle parts would increase the competitive position of U.S. manufacturers by making certain needed parts duty free.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The amendments were considered and agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read:

An act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTRICTIONS ON PROCESSED FRUIT AND VEGETABLE IMPORTS

The Senate proceeded to consider the resolution (S. Res. 76) expressing the sense of the Senate with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the U.S. exports of dried prunes, and efforts made to restrict exports of walnuts to the European Economic Community, and action taken by the United States if such import regulations are not immediately removed and if additional unilateral regulations are instituted, which had been reported from the Committee on Finance with an amendment to strike all after the resolving clause and insert the following:

That it is the sense of the Senate that—

(1) the President should express in firm and forthright terms to the European Communities the United States concern about these regulations and seek negotiations to terminate them as soon as possible;

(2) failing negotiations, the President should seek to accelerate consideration of the United States complaint instituted under article XXIII of the General Agreement on Tariffs and Trade;

(3) the President should put the European Communities on notice that the United States intends to exercise its rights under the General Agreement on Tariffs and Trade to take retaliatory measures against these restrictive regulations if they are not removed; and

(4) the President should seek to obtain agreement from the European Communities that similar restrictive regulations on United States exports of other agricultural products will not be imposed in the future.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to President Carter.

The preamble was amended, to strike all and insert the following:

Whereas new restrictions affecting historical and established trading patterns are contrary of the interests of all trading nations;

Whereas the Congress of the United States enacted the Trade Act of 1974 with the intent of liberalizing international trade and reducing nontariff barriers to trade;

Whereas the Council of the European Communities, in its regulation 516/77, has adopted highly restrictive measures seriously damaging United States exports of dried prunes and certain other processed fruits and vegetables; and

Whereas the United States has instituted a formal complaint under article XXIII of the General Agreement on Tariffs and Trade

against these regulations; Now, therefore, be it

Mr. HAYAKAWA. Mr. President, today I would like to call to the attention of my colleagues, Senate Resolution 76, which was reported by the Committee on Finance September 9, 1977. This resolution was introduced in February 1977 and was unanimously passed by the Finance Committee on August 5.

I want all of my Senate colleagues to understand the importance of this resolution to the future of our ability to continue the expansion of U.S. agriculture exports. This resolution calls for the Senate to express its strong opposition to the minimum import price licensing system of the European Economic Community which damages U.S. exports of processed fruits and vegetables. It seems to me that a resolution expressing the sense of the Senate on this matter would strengthen the negotiating position of the Special Representative for Trade Negotiations, Mr. Strauss.

This resolution relates to another in a long series of restrictive and protectionist trade regulations imposed by the European Economic Community against U.S. exports, named in EC regulations 516–524/77, as codified from earlier regulations announced as long ago as July 1975, and are described in the appendix to this statement, for the record.

Briefly, the regulations provide for surety deposit schemes, and import license schemes, which form the basis for establishment of minimum import price levies, or provide for their continuance, beginning January 1, 1978. The products included are dried prunes, canned peaches, tomato concentrates, canned tomatoes, tomato juice, canned pears, canned green beans and waxed beans, canned peas, canned mushrooms, canned frozen raspberries, canned apricots, canned cherries, canned fruit cocktail, canned pineapple, canned orange juices and concentrates, canned grapefruit juices and concentrates, blended citrus juices, canned asparagus, and all the other commodities included in those categories enumerated in the appendix. In addition, threats have been made by the French to obtain "a decree" against walnuts if American producers do not conform to the wishes of French growers in relation to prices and delivery.

It is regrettable to witness the erection by the European Economic Community of new trade barriers primarily directed against American exports since in the forties and fifties this country was a prime mover in the promotion of free trade among the principal countries of Europe, thereby providing the economic and spiritual basis for the subsequent emergence of the community itself.

The purpose of this resolution is to make it clear to the European Community that these practices directed against our specialty crop exports will not be tolerated, and that they are not consistent with the Tokyo Round, which is committed to reduction of nontariff barriers.

I hope this resolution, and the letter to the President referring to walnuts, which have been threatened, will have a salutary effect on the European Economic Community leadership and assist our special trade representative to attain immediate revocation of these unilaterally imposed regulations.

I ask unanimous consent that codification be printed in the RECORD.

There being no objection, the codification was ordered to be printed in the RECORD, as follows:

CCT heading No., and description:

Ex. 07.02, vegetables (whether or not cooked), preserved by freezing, excluding olives.

Ex. 07.03, vegetables provisionally preserved in brine, in sulphur water or in other preservative solutions, but not specially prepared for immediate consumption, excluding olives.

Ex. 07.04, dried, dehydrated or evaporated vegetables, whole, cut, sliced, broken or in powder, but not further prepared, excluding potatoes dehydrated by artificial heat-drying and unfit for human consumption, and also excluding olives.

08.10, fruit (whether or not cooked), preserved by freezing, not containing added sugar.

08.11, fruit provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption.

08 12, dried, other than that falling within heading No. 08.01, 08.02, 08.03, 08.04, or 08.05.

08.13, peel of melons and citrus fruit, fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions.

Ex. 13.03 B, pectic substances and pectinates.

20.01, vegetables and fruit, prepared or preserved by vinegar or acetic acid, with or without sugar, whether or not containing salt, spices or mustard.

20.02, vegetables prepared or preserved otherwise than by vinegar or acetic acid.

20.03, fruit preserved by freezing, containing added sugar.

20.04, fruit, fruit-peel and parts of plants, preserved by sugar (drained, glace or crystallized.

20.05, jams, fruit jellies, marmalades, fruit puree and fruit pastes, being cooked preparations, whether or not containing added sugar.

20.06, fruit otherwise prepared or preserved, whether or not containing added sugar or spirit.

Ex. 20.07, fruit juices (excluding grape juice and must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit.

Ex. 20.07, grape juice (including grape must) not containing spirit, with an added sugar content exceeding 30% by weight.(1)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–426), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

Senate Resolution 76 expresses the sense of the Senate that the President should seek both through bilateral negotiations and negotiations under the General Agreement on Tariffs and Trade to terminate new restrictions imposed by the European Communities on imports of processed fruits and vegetables.

II. GENERAL EXPLANATION

The Council of the European Communities adopted regulations establishing a Community-wide system to regulate imports of processed fruits and vegetables in July 1975. The import system became effective on September 1, 1975, for tomato products. All other imports of processed fruits and vegetables, except for dried prunes and citrus juices, became subject to the regulations on October 1, 1975. Dried prunes will become subject to the regulations on January 1, 1978.

The European Communities' system consists of three elements. First, a minimum import price for tomato concentrates is set and enforced by import licensing and surety deposits which may be extended by the Council to other products. The minimum import price system prohibits the sale in the Community of tomato concentrates at a price below the minimum import price level. The importer is required to post a bond which he forfeits if he does not supply the appropriate officials with evidence that the tomato concentrates were sold at a price equal to or above the minimum import price.

Second, an import licensing and surety deposit requirement has been established for certain products including canned peaches and dried prunes. Under this system, importers must have an import license before they can enter their products and they must post a bond which is forfeited if the importer does not show proof of actual importation of the product during the 75-day effective period of the import license.

Third, safeguard measures are available permitting the Council to restrict or prohibit all imports of processed fruits and vegetables if processed fruits and vegetables produced within the Community are, or are likely to be, exposed to serious disturbances by the imports.

In the opinion of the Committee on Finance, these regulations impair the benefits accruing to the United States under the General Agreement on Tariffs and Trade (GATT), violate numerous provisions of the GATT, and are a totally unwarranted distortion of international trade in processed fruits and vegetables. The committee believes that the regulations are inconsistent with the spirit of the Downing Street Summit Communique which was agreed to by leaders of the Member States of the European Communities.

The value of U.S. exports of processed fruits and vegetables to the European Communities that will be affected by the regulations averaged $23.7 million per year over the 5-year period 1971–75. The most important U.S. exports, in terms of value, affected by the regulations are dried prunes ($19.6 million in 1976) and canned peaches ($5.3 million in 1976) (see table below). The European Communities' tariffs on both products are bound under the GATT. The Committee on Finance believes that any impairment of the concessions on the tariffs on these products entitles the United States to compensation under the GATT.

The amendment was agreed to.

The amendment to the preamble was agreed to.

The resolution, with its preamble, as amended, was agreed to.

The title was amended so as to read:

A resolution expressing the sense of the Senate that the President should take steps to terminate highly restrictive regulations of the European communities that seriously damage United States exports of dried prunes and certain other agricultural products.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

(1) From January 1978 this heading is subject to the system laid down in Council Regulation (FFC) No. 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine (O) No. L 99, 5.5 1975, p. 1).

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, on Monday, September 12, 1977, I brought to the attention of the Senate remarks made by chief Panamanian negotiator, Dr. Romulo Escobar Bethancourt, who gave interpretations of the treaty at a news conference in Panama City on October 24. Dr. Bethancourt's comments showed that, at least in the minds of the Panamanians, the United States would not have the right to intervene militarily to guarantee the neutrality of the canal nor would the United States have the right to priority of passage of its vessels of war.

Today, Mr. President, I have received a translation of a speech given by the Panamanian Planning and Economic Policy Minister, Nicolas Ardito Barletta, given on August 19, 1977, before the National Assembly of Panama in Panama City. Minister Barletta's remarks should be of great value to the Senate in assessing the actual economic impact of the proposed canal treaty. Like Dr. Bethancourt, Minister Barletta interprets the treaty to his country in a manner which stands in stark contrast to the cost analysis presented by our own Government. While the treaty provides only for the payment of $20 million per year for police services and for fixed annuity, Minister Barletta states that the cash economic benefits actually amount to the astonishing sum of $2.262 billion in 1977 dollars, for an annual average payment of approximately $100 million. That is for each of the 23 years of the life of the treaty.

Mr. President, some rather ingenious devices have been discovered by the executive department for providing this $2¼ billion to Panama without the necessity of seeking congressional approval through the appropriations process. But, Mr. President, unlike our own Department of the Treasury, Minister Barletta gives a very careful explanation of the devices used and, in my judgment, Senators should therefore find of great interest the entire substance of his speech which I intend to enter into the RECORD if given unanimous consent to do so. For example, Minister Barletta reckons the average income to Panama from the proposed new Panama Canal Commission to be $80 million per year, not a maximum of $20 million as expressly stated in the proposed treaty. But his explanation is better than any that I could give. Here is what Minister Barletta had to say:

. . . The agreements reached in this aspect are as follows: An average income of $80 million per year, I repeat, average, for the next 23 years; that is, a total of $1.8 billion in the 23 years. The majority of this income is subject to a clause of inflationary correction so that the annuity consistently maintains its purchasing value, based on the year 1977.

It is quite easy to see that this amount would escalate tremendously in 23 years, if we continue the inflationary spiral of some 6 or 7 percent, on the average, per annum—

The income for the first year is estimated to be $65 million. By the end of the treaty, the amount will reach approximately $100 million in real values of 1977, that is, corrected against any inflation that may occur during that period. The mean of this gradually increasing sum gives us the average amount of $80 million. This income is itemized as follows: $0.30 for each ton of cargo that transits the canal. According to traffic projections through the canal, this means an average income of $55 million per year which in the first year will amount to about $42 million, to reach $70 million by the end of the century.

Of course, that would be added to the oil that we receive from Alaska, and it is anticipated that there will be a tremendous volume of oil going through the Panama Canal in years to come—

The second item of this round sum is $20 million per year, of which $10 million is guaranteed each year, the rest depending upon the level of income of the Panama Canal Company in that year. If in one year the second half of the $20 million cannot be covered, the deficit caused would be covered in the subsequent years to maintain the $20 million per year payment.

This is in addition to the average of $80 million, which would make it up to $100 million in 1977 dollars—

And a third item of approximately $5 million per year of income will come from several businesses and operations being transferred to the national government, such as ports, railroads, sale of fuel, repair of ships, and so forth. Therefore, the total sum of $80 million is composed of these three items that I just discussed. . . .

But, Mr. President, in glowing terms and with obvious pride in accomplishment, Minister Barletta points out other plums he succeeded in shaking loose in the negotiations. And the Panamanian negotiators surely did skin our negotiators. They just outtraded us. We are supposed to be the Yankee traders, but they surely outtraded our negotiators; and every step of the way, of course, the negotiations were carried on in secrecy as far as the general public here in the United States is concerned; and then we are confronted, here in the Senate, with a fait accompli, with the treaty already signed, with great fanfare, by the President.

But here is what Minister Barletta says they shook from the plum tree of the American taxpayers:

Another aspect gleaned from the canal operation is the transference to Panama—as Edwin Fabrega will explain shortly—of buildings and infrastructure for a current value of $82 million. Aside from this aspect, which is what Panama would derive from the operation of the canal and from the transfer of physical assets which currently exist in the Canal Zone, there is a parallel and corollary package of economic cooperation. This package reaches an amount of $345 million, above all, within the next 5 years, and is itemized as follows: loans from the Export-Import Bank up to the amount of $200 million in the next 5 years; loans for the construction of housing guaranteed by AID up to $75 million in the next 5 years; loans guaranteed by a U.S. agency called OPIT for $20 million for Cofina, our development bank, and other loans and equipment, principally military equipment, for the amount of $50 million in the next 10 years.

Furthermore, Minister Barletta places a 1977 value on facilities which will be donated to Panama in 1999. His figure is $3 billion, and I have little doubt that it is correct, as to the value of the facilities which will come to Panama in 1999. Or, possibly, it will be a much higher figure. Minister Barletta continues:

Aside from the foregoing, it must be emphasized that all the rest of the existing structures in the Canal Zone, that is, the canal itself and the rest of the civilian and military installations, will be returned to Panama, free of charge, on 31 December 1999.

"Returned to Panama"; this is Barletta's language, it is not the language of the Senator from Alabama, because I do not feel it is a return to Panama. It is a gift to Panama, because obviously they had nothing to do with constructing these facilities, or with constructing the Panama Canal:

And these structures have an approximate value of $3 billion currently. Aside from that, we must also point out that Panama will receive from the company that operates the canal the amount of $10 million per year, also with inflationary correction, to cover the costs of the public services which Panama will administer in the exercise of its jurisdiction in the zone area, for these services which are generated by reason of the existence and operation of the Panama Canal. Therefore, lending these services will cost nothing to the national treasury.

We are going to pay for the police operations there in the Canal Zone.

Minister Barletta does not place a dollar figure on the immensely valuable real property which would be transferred to Panama immediately upon implementation, but surely those real property values must be well into the billions. He does, however, discuss the significance of the cash contributions in terms of the annual budget of the Government of Panama. His remarks in that respect are particularly illuminating in showing the tremendous benefits being transferred to this small country of only 1.7 million citizens. Perhaps the Governors of some of our smaller States would particularly appreciate Minister Barletta's thoughts on this subject:

In brief, what is the significance of these figures? We can say that in the next few years, the next 3 or 4 years, the amount of the annuity alone, without taking into consideration the economic cooperation, is 19 percent of the national government's budget; that is, it is a considerable increase, one-fifth.

That is just the amount of the annuity alone.

It is 25 percent of the operational expenses of the current budget and is 15 percent of the program of investments of the public sector. As the national government's intention for the time being is to devote the majority of these resources to solving the problems of our nation, the problems of our people through its investment program, we have to take into consideration that this amount—the annuity only, which in the first few years will be approximately $65 million per year—means at least 15 percent

more for the program of investments being carried out by the country. This amount can become a figure of more impact through financing which can be negotiated on the basis of this income.

They are going to use this income as a vehicle to get still more money by putting this in as equity.

We can also say—as another manner of illustrating what these figures mean, because they are so large that one often does not see them in real terms—that this means considerably speeding up the program of investments which we are developing.

There he refers to public works and investments in Panama.

All of us here are aware that during the past year we have had to reduce investment in order to face the serious economic crisis which the country and the world have been experiencing. . . .

So, Mr. President, the Panamanians plan not only to take the loans and cash we are offering; they also apparently intend to use our money as leverage for additional loans. Panama is already bankrupt, but the spendthrift Panamanian Government no doubt has already pledged our country's largesse as collateral in a mad search for even more borrowed funds.

Later on, Mr. President, I am going to talk about the loans by the big banks in this country to Panama and the fact that this treaty income that Panama will receive from the U.S. taxpayers and the users of the canal will be used to pay on these existing debts.

Mr. President, sooner or later the Congress must draw the line and stop robbing American taxpayers to extend funds to bankrupt, Third World countries so that international banks can collect principal and interest on shaky loans. In my judgment, the international banks should be required to write off their bad debts, at least some portion of the loans they made in error, and the international banks should be put on notice that the American taxpayer will not always guarantee a profit in any loan transaction with unstable governments. Perhaps the Panama Canal treaty will be a good starting place.

Mr. President, I ask unanimous consent that Minister Barletta's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

EXCERPT FROM SPEECH BY MINISTER NICOLAS ARDITO BARLETTA

Gentlemen representatives, colleagues, ladies and gentlemen: It is my duty to inform you about the economic aspects of these negotiations, aspects which are fully as important as the others because at this stage we are all convinced of the necessity that a strong national economy must be the basis for obtaining and fully implementing our freedom of action. They are important also because the real valorization of our geographical position as a natural resource was at stake as well as Panama's obtaining of revenue equal to the value of that geographical position. This means, as a result, the real possibility of accelerating Panama's general development and providing an answer to the important needs of our people in this process. In other words, it would be one thing to have dignity and sovereignty with hunger and quite another to have and to consolidate the dignity and the sovereignty with the integral development of our people. And this has been our aim through the economic aspect of these negotiations in attempting to consolidate the value of our geographical position and the resources and revenue with respect to it so as to use it in our development.

The agreements reached in this aspect are as follows: An average income of $80 million per year, I repeat, average, for the next 23 years; that is, a total of $1.8 billion in the 23 years. The majority of this income is subject to a clause of inflationary correction so that the annuity consistently maintains its purchasing value, based on the year 1977. The income for the first year is estimated to be $65 million. By the end of the treaty, the amount will reach approximately $100 million in real values of 1977, that is, corrected against any inflation that may occur during that period. The mean of this gradually increasing sum gives us the average amount of $80 million. This income is itemized as follows: $0.30 for each ton of cargo that transits the canal. According to traffic projections through the canal, this means an average income of $55 million per year which in the first year will amount to about $42 million, to reach $70 million by the end of the century.

The second item of this round sum is $20 million per year, of which $10 million is guaranteed each year, the rest depending upon the level of income of the Panama Canal Company in that year. If in one year the second half of the $20 million cannot be covered, the deficit caused would be covered in the subsequent years to maintain the $20 million per year payment. And a third item of approximately $5 million per year of income will come from several businesses and operations being transferred to the national government, such as ports, railroads, sale of fuel, repair of ships, and so forth. Therefore, the total sum of $80 million is composed of these three items that I just discussed.

Another aspect gleaned from the canal operation is the transference to Panama—as Edwin Fabrega will explain shortly—of buildings and infrastructure for a current value of $82 million. Aside from this aspect, which is what Panama would derive from the operation of the canal and from the transfer of physical assets which currently exist in the Canal Zone, there is a parallel and corollary package of economic cooperation. This package reaches an amount of $345 million, above all, within the next 5 years, and is itemized as follows: loans from the Export-Import Bank up to the amount of $200 million in the next 5 years; loans for the construction of housing guaranteed by AID up to $75 million in the next 5 years; loans guaranteed by a U.S. agency called OPIT for $20 million for Cofina, our development bank, and other loans and equipment, principally military equipment, for the amount of $50 million in the next 10 years.

In short, all these elements of economic benefits which I have mentioned in structures, payments and loans for development will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama would receive under the current treaty during that same period, which would be the ridiculous amount of $52 million. This, then, is the difference between what this treaty means as far as economic benefits and what Panama would receive under the current treaty.

Aside from the foregoing, it must be emphasized that all the rest of the existing structures in the Canal Zone, that is, the canal itself and the rest of the civilian and military installations, will be returned to Panama, free of charge, on 31 December 1999. And these structures have an approximate value of $3 billion currently. Aside from that, we must also point out that Panama will receive from the company that operates the canal the amount of $10 million per year, also with inflationary correction, to cover the costs of the public services which Panama will administer in the exercise of its jurisdiction in the zone area, for these services which are generated by reason of the existence and operation of the Panama Canal. Therefore, lending these services will cost nothing to the national treasury.

In brief, what is the significance of these figures? We can say that in the next few years, the next 3 or 4 years, the amount of the annuity alone, without taking into consideration the economic cooperation, is 19 percent of the national government's budget; that is, it is a considerable increase, one-fifth. It is 25 percent of the operational expenses of the current budget and is 15 percent of the program of investments of the public sector. As the national government's intention for the time being is to devote the majority of these resources to solving the problems of our nation, the problems of our people through its investment program, we have to take into consideration that this amount—the annuity only, which in the first few years will be approximately $65 million per year—means at least 15 percent more for the program of investments being carried out by the country. This amount can become a figure of more impact through financing which can be negotiated on the basis of this income. We can also say—as another manner of illustrating what these figures mean, because they are so large that one often does not see them in real terms—that this means considerably speeding up the program of investments which we are developing. All of us here are aware that during the past year we have had to reduce investment in order to face the serious economic crisis which the country and the world have been experiencing.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 15 minutes.

THE PRESIDENT'S HOSPITAL COST CONTAINMENT PLAN

Mr. CLARK. Mr. President, one of the most difficult issues before Congress this year is the problem of containing medical care costs. Most of us agree that we must tackle and conquer the spiraling costs of medical care before we can seriously consider any plan for a national health insurance program.

My own concern has to do with the view that cost control requires a simple solution that would apply equally to all health providers. The most glaring example of this fallacy is President Carter's hospital cost containment proposal, which would place a 9-percent "cap" on revenue increases for all of this Nation's hospitals.

The principal intent of this proposal has much merit. The major contributor to increased health costs has been the escalation of hospital care. If we could slow the pace of hospital cost increases,

we would surely be very far along in our battle against inflation of health costs generally. Frankly, I do not expect to support an across-the-board 9 percent limitation, but I do see a need for consolation and reorganizations which will help bring costs down.

I am deeply concerned about the special situation that exists in many small communities across the country, my study of the access to health services in small towns and rural areas leads me to believe that the administration's hospital cost containment proposal would do irreparable harm to rural Americans.

Two provisions of this proposal pose a special threat to small, community hospitals.

First, its 9 percent limit on hospital revenue increases could jeopardize their existence because they tend to operate on slim financial margins.

Second, its directives to increase hospital efficiency by reducing the number of beds in areas where occupancy rates are low would have the same effect because small, community hospitals traditionally have the lowest occupancy rates of any hospitals in the Nation.

The problem is that it is not fair or accurate to judge small community hospitals on the basis of their financial status and occupancy rates alone. They can never compete with metropolitan area hospitals in these categories. Their situations are different. But the service they provide to their communities is just as important.

For this reason, I want to voice my support for the actions congressional committees are taking to address the special problems of small hospitals. As approved by the Senate Human Resources Committee, S. 1391 would exempt from the hospital cost containment program all hospitals that have fewer than 2,000 admissions annually—about equivalent to an exemption for hospitals with less than 50 beds.

In addition, hospitals that are the sole community providers would be exempt if they have fewer than 4,000 admissions per year, under the Senate bill. The House Ways and Means Health Subcommittee agreed to exempt from the program all hospitals with less than 4,000 admissions a year.

The situation in my home State of Iowa illustrates the need for such action. A study by the Iowa Health Systems Agency concluded that empty hospital beds account for $100 million a year in hospital spending. If the proposed national goal of 4 beds per 1,000 population were imposed upon Iowa, more than half of Iowa's 134 community hospitals would have to be shut down entirely. The focus of these shut-downs would likely be in the small communities, where the occupancy rates are the lowest. However, such a move would entirely ignore the socioeconomic and health effects that would result from closing hospitals in rural areas.

A recent report by interstudy for HEW, entitled "Reducing Excess Hospital Capacity," concluded that:

> No very precise estimate of the net savings achievable by excess hospital capacity can be made. Rather each individual community, with all its idiosyncratic factors, must be examined to see what is possible. For example, in an isolated rural community the need to have available beds because there is no other hospital to go to may override closing hospital capacity that is usually idle.

While the report did make a strong argument for retiring hospital beds and entire hospitals, it noted that these steps would have harmful side-effects for the local medical care system and for the economy of several communities. I believe that this would most accurately relate to communities that contain just one hospital:

Their ability to draw and hold physicians may be hampered;

Alternate sources of in-patient care may not be within a reasonable distance;

Local employment may significantly drop in areas in which the hospital is a major employer; and

The community may be less attractive to new residents and employers.

I am especially troubled by the potential impact of hospital closings upon the availability of primary health services in rural areas. The numerous hearings conducted by the Rural Development Subcommittee have made clear to me that physicians are very reluctant to locate in communities that do not have, or are not in close proximity to, a hospital.

I fear that a trend toward the centralization of hospitals would be accompanied by the further centralization of physicians and of basic health care services. Our Nation is currently attempting to reverse this very trend toward the geographic maldistribution of physicians, and a policy of reducing the number of small hospitals would clearly be antagonistic to that objective.

I recently received a letter, for example, from a small town doctor, C. D. Gibson of Sac City, Iowa, who poignantly described the probable impact of closing small hospitals in his area that have relatively low occupancy rates. Dr. Gibson predicted that:

> If all the hospitals 90 beds or under were closed in NW Iowa north of highway 20 and west of I–35 there would only be hospitals in Sioux City, Ft. Dodge, and perhaps Spencer and Clear Lake. Inside of one or two years, there would be very few doctors in this area and so the people would be the ones really suffering.

Exemption of these small hospitals will have a minimal impact upon hospital costs. A 1975 survey of American hospitals by the American Hospital Association found that the 2,935 community hospitals that have fewer than 100 beds constitute only about 10 percent of the total community hospital expenses in the United States.

In my home State of Iowa, 87 of the State's 134 community hospitals have less than 100 beds, but they account for just 18 percent of the total hospital expenses in Iowa. In fact, the five Iowa hospitals that have 500 or more beds account for substantially more expenses than the 87 small hospitals combined.

Clearly, this small hospital exemption from the cost containment program would be of great benefit to rural hospitals and the communities they serve, without a significant impact on the total hospital cost picture.

I ask unanimous consent that a table that illustrates this point be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HOSPITAL DATA BY SIZE OF HOSPITAL

Community hospitals (beds)	United States			Iowa		
	Number	Occupancy (percent)	Expenses	Number	Occupancy (percent)	Expenses
6 to 24	299	48.0	$118,995	5	56.2	$1,470
25 to 49	1,155	56.7	963,080	42	52.5	28,685
50 to 99	1,481	64.7	2,884,775	40	62.7	53,885
100 to 199	1,363	71.2	6,702,614	24	69.6	90,386
200 to 299	678	77.1	6,767,720	8	71.1	56,276
300 to 399	378	79.7	5,804,028	9	68.7	86,080
400 to 499	230	81.1	4,759,138	1	80.2	17,281
550 or more	291	80.9	10,961,213	5	74.4	125,191

Source: American Hospital Association 1975 annual survey.

Mr. CLARK. As a further step to deal with the small hospital problem, I recommend that Congress also remove the obstacles to merging hospital and nursing home patients within the same facility. This modification would accomplish a number of useful objectives. Small rural hospitals would have an opportunity to reduce the number of under-utilized beds and thereby reduce their costs. Also, long-term care services would become more available in regions that previously had little or no such resources.

A study of long-term care services in Iowa found that 18 of the 20 Iowa counties with the highest proportions of elderly persons had no skilled or extended care beds at all. This is despite the fact that Iowa's small hospital occupancy rates average around 60 percent.

The Iowa Hospital Association has endorsed this change by stating in a letter to me:

> We think that this is a needed reform to make the most appropriate and cost effective use of underused hospital facilities. The present medicare reimbursement regulations prohibit the use of unused hospital beds for long term care patients.

In fact, an experimental program of this sort is now operating in Iowa. Blue Cross/Blue Shield of Iowa reported to me recently that this "Iowa Swing Bed" program has attracted the participation of 15 Iowa hospitals, and another 16 hospitals have requested consideration for inclusion in the program.

I urge my colleagues to consider this proposal as an integral part of the hospital cost containment program now being drafted.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, have all the orders been completed?

The PRESIDENT OFFICER (Mr. ZORINSKY). They have.

PROHIBITION OF SEX DISCRIMINATION ON THE BASIS OF PREGNANCY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 995, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

The Senate resumed consideration of the bill.

(Remarks made by Mr. EAGLETON at this point are printed later in today's RECORD.)

Mr. BAYH. Mr. President, as one of the original sponsors of S. 995, it gives me great pleasure to say a few words here today in support of this legislation which seeks to end discrimination against pregnant workers. This legislation was made necessary by an unfortunate decision rendered by the Supreme Court in the case of *Gilbert* v. *General Electric* 45 U.S.L.N. 4031 (1976). In handing down its decision last December, the Court declared that employment discrimination against a woman on account of pregnancy or childbirth did not constitute sex discrimination under title VII of the Civil Rights Act of 1964.

In making this finding, the Court specifically held that the General Electric Co., in denying temporary disability benefits to women unable to work due to pregnancy, childbirth, or complications thereof, was not in violation of title VII's statutory prohibition of discrimination on the basis of sex in employment or fringe benefit plans.

The Supreme Court decision in Gilbert runs directly counter to six unanimous Federal Appellate Court decisions, the sex discrimination guidelines implementing title VII issued by the Equal Employment Opportunity Commission and the the intent of Congress in prohibiting sex discrimination in employment under the 1964 Civil Rights Act. In addition, while the Gilbert case itself only pertained to disability insurance, the Court's broad exclusion of pregnancy discrimination under title VII holds many unfortunate implications for other related issues such as hiring or firing of pregnant workers.

I. BACKGROUND: GILBERT AGAINST GENERAL ELECTRIC

The particular issue contested in the Gilbert decision concerned the payment of temporary nonoccupational disability benefits to women workers who were medically determined to be physically unable to work due to pregnancy, childbirth, or related medical conditions such as miscarriage or hypertension. Temporary disability benefits are defined as payments made on a voluntary basis by companies to compensate workers for wages lost while they are physically unable to work; 63 percent of the civilian work force has some form of temporary disability coverage.

In the case of General Electric, the company voluntarily provided these benefits to all of its employees in an amount equal to 60 percent of an employee's straight time weekly wages up to a maximum benefit of $150 per week for up to 26 weeks for any one disability. The General Electric plan offered disability payments for all types of male disabilities including vasectomies, circumcisions, prostatectomies, as well as covering hair transplants, injuries incurred as a result of a fight, sports injuries, and incapacity due to alcoholism or drug abuse. Specifically excluded from coverage by the GE plan are disabilities which arise from pregnancy, childbirth, or complications therefrom.

Interestingly, plans such as General Electric's represent only 40 percent of all disability plans offered in the United States. Sixty percent of the disability plans in this Nation voluntarily cover pregnancy and childbirth. Among the companies offering the more comprehensive, nondiscriminatory coverage are IBM, Firestone, Xerox, Cummins Engine, Martin-Marietta, and Polaroid.

The plaintiffs in the Gilbert case brought action against General Electric on the grounds that GE's disability pay excluding pregnancy and childbirth was a violation of title VII of the Civil Rights Act which prohibits employment discrimination on the basis of sex. In support of their case, the plaintiffs pointed to the sex discrimination guidelines implementing title VII issued by the Equal Employment Opportunity Commission. According to these guidelines:

Disabilities caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job related purposes, temporary disabilities, and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they apply to other temporary disabilities.

Unfortunately, the Court, basing much of its argument on the Court's prior decision in *Geduldig* v. *Aiello*, 417 U.S. 484 (1974) rejected the argument that discrimination against a woman on the basis of pregnancy is discrimination against a woman on the basis of her sex. The Court in Aiello had rejected an equal protection challenge to a similar disability insurance program financed by the State of California. Holding that the same principle applied in the statutory challenge under title VII, Justice Rehnquist stated:

As there is no proof that the package is in fact worth more to men than to women, it is impossible to find any gender-based discriminatory effect in this scheme because women disabled as a result of pregnancies do not receive benefits; that is to say, gender-based discrimination does not result simply because an employer's disability benefit plan is less than all-inclusive. For all that appears, pregnancy-related disabilities constitute an additional risk, unique to women, and the failure to compensate them for this risk does not destroy the presumed parity of the benefits . . .

The Court's strained logic in the majority opinion was well articulated by both Justices Brennan and Stevens in their separate dissents. Commenting on the GE plan, Justice Stevens stated:

By definition such a rule discriminates on account of sex; for it is the capacity to become pregnant which primarily differentiates the female from the male.

In addition to setting a disturbing precedent for other pregnancy-related sex discrimination cases, the majority decision in Gilbert has several other far-reaching consequences for working women. First, the decision permits companies to deny temporary disability payments to women who are disabled as a result of medical complications arising from pregnancy or childbirth. This means that women who suffer from miscarriage, massive hemorrhaging, or toxemia in connection with pregnancy or childbirth cannot receive disability benefits on the same basis as a man who is disabled from a hair transplant.

Second, the Gilbert decision would allow companies to deny coverage for any nonpregnancy related medical condition or accident occuring while an employee is on pregnancy leave. A spokesperson for General Electric gave a synopsis of how this policy works in testimony before the district court. He stated that if a male employee has taken an unpaid leave of absence, and within the first several days of this leave is struck by a car, he is provided full coverage under the GE plan. If a pregnant woman is on an unpaid leave of absence and within the first few days of her leave is struck by a car, she receives no coverage whatsoever under the disability plan.

Third, the denial of temporary disability benefits for that period when a woman is physically unable to work due to pregnancy, childbirth or related medical conditions has potentially devastating economic consequences for millions of working women. A brief look at the statistics on working mothers helps to document the importance of disability payments for these women. The number of working mothers has more than tripled since 1950. About 85 percent of all working women will be pregnant at some time during their working lives. Many of these working mothers are the heads of families. Seventy percent, or over 25 million of the women who work, are either their families' sole wage earner, are married to husbands who earn less than $7,000 per year or are single, divorced, or widowed.

A more vivid illustration of the economic consequences of denying disability benefits to pregnant workers is revealed in the case history of Mrs. Sherrie O'Steen, one of the plaintiffs in the Gilbert case. Mrs. O'Steen went to work for General Electric at its Portsmouth, Va., plant on June 1, 1971, at which time she was given an employee handbook stating that pregnant workers would be required to go on unpaid leave at the end of their sixth month. At no time during her employment at GE was she told that the company's practice in the regard was held unconstitutional. She accidentally became pregnant in 1972.

Shortly thereafter, she was separated from her husband, and became the sole supporter of her 2-year-old daughter. After going on unpaid leave, Mrs. O'Steen was forced to apply for welfare in order to continue to be able to support herself, her daughter, and her unborn baby. Before she could receive her first welfare check, her electricity and gas were turned off because she could not afford to pay

the bills. For the months of November and December, Mrs. O'Steen and her daughter lived without any light, heat, refrigeration, or cooking facilities. Mrs. O'Steen's nervous state over her lack of income threatened the loss of her unborn child.

II. POTENTIAL IMPACT OF S. 995

In handing down its decision in Gilbert, the Court made it clear that if the Congress wanted to make sure that discrimination on the basis of pregnancy was to be considered sex discrimination, it would have to make that clear by passing legislation so stating. This is precisely what the legislation before us today does—it adds a new section to section 701 of the Civil Rights Act of 1964 specifying that for the purposes of that act, discrimination on the basis of sex shall include discrimination on the basis of pregnancy, childbirth, or related medical conditions. The legislation will go into effect immediately upon enactment except for the requirements of the legislation pertaining to fringe benefit plans which would go into effect 120 days after enactment.

What would the impact of this legislation be on our Nation's businesses? First, nothing under this legislation would require a company to offer either a health insurance or a disability insurance plan if it is not presently doing so. The legislation only affects those companies who voluntarily provide such coverage to their employees.

Second, the legislation would not require employers to provide hospital medical coverage for maternity. What it does require is that where hospitalization is offered for other disabilities, it must be offered on the same basis for pregnancy related disabilities. Companies may not single out pregnancy-related disabilities for reduced coverage.

Third, the legislation will not require that companies provide the same pregnancy coverage for the dependents of male employees that it provides to its female employees. There remains the question, however, of whether dependents of male employees must receive full maternity coverage if the spouses of female employees are provided complete medical coverage. While it is difficult to second-guess the courts, I feel that the history of sex discrimination cases under the 14th amendment in addition to previous interpretations of the Title VII regulations relating to the treatment of dependents will require that if companies choose to provide full coverage to the dependents of their female employees, then they must provide such complete coverage to the dependents of their male employees.

Fourth, in terms of disability pay, the legislation would require that disability based on pregnancy, childbirth or related medical conditions be treated as any other disability under a company plan. This does not mean that a woman who has a normal pregnancy can collect benefits for the duration of her pregnancy; rather it means that a woman could collect disability benefits for that period of time when she has been medically certified as physically unable to work due to pregnancy or a related medical condition. According to the Department of Labor, that period of time for women employees in most companies is 7.5 weeks.

Fifth, the enactment of this legislation will not be excessively costly to the American businessman. This is not to say that no expenditures would be required. The Department of Labor has estimated that the cost of this legislation as it pertains to disability insurance will be $119.5 million. This figure represents only a 3.5-percent increase in temporary disability costs nationwide and only a 0.05-percent increase in total payroll costs for workers covered by temporary disability plans.

The Department of Labor was unable to estimate the cost of this legislation as it pertains to health insurance; however, 25 States already require that companies must not discriminate on the basis of pregnancy or childbirth in their health insurance plans.

III. CUMMINS ENGINE

I think one of the best ways to assess the impact of this legislation is to take a closer look at companies which already voluntarily provide such coverage to their female employees. One such corporation is located in my own State of Indiana, Cummins Engine, Inc.

Cummins Engine has had a policy which provided temporary disability benefits to women workers disabled by pregnancy for approximately 5 years now. When the company first extended disability benefits to its women workers disabled by pregnancy, it limited the coverage to a maximum of 4 weeks. In 1973, the company changed this policy so that pregnancy would be treated as any other disability under the Cummins plan.

Cummins Engine has a short term disability payments program for each of its three groups of Columbus-based employees. These programs differ in that the hourly employees are enrolled in an insured program while salaried employees receive disability pay in the form of a salary continuation plan. In practice this means that hourly employees receive a flat disability benefit of approximately $100 per week for a maximum of 52 weeks. Salaried employees receive their full salary for the first 3 months of disability, 75 percent of their salary for the next 3 months, and then 60 percent thereafter.

The administration of these disability plans are similar in that an employee must be under the care of a licensed physician and must furnish a statement from the physician certifying the disability. Disabilities arising from pregnancy or childbirth are treated as any other medical disability under both of these plans.

One concern that is raised by those who are fearful of requiring coverage for pregnancy-related disabilities is that women workers will abuse the system. These critics contend that women will take advantage of the liberal benefits and collect for as long as 30 weeks. The experience of Cummins shows that this is not the case for a majority of women workers who take disability coverage for pregnancy-related disabilities. Information gathered from the medical staff and doctors in the Columbus area indicated that the average length of disability for normal childbirth was 6 to 8 weeks. Cummins found that this normally spanned the time from approximately 2 weeks before to 4 to 6 weeks after delivery. There are instances of women workers with complications arising from their pregnancy or childbirth which physically incapacitated these workers for longer than 8 weeks, but Cummins' record shows this to be the exception, not the rule.

Another concern that has been raised regarding S. 995 is its potential cost to employers. In order to put the cost of this legislation in perspective, Cummins has provided me with data on their disability program for a sample year, 1976. These figures are derived from the three employee categories at Cummins, hourly employees in the shop, hourly employees in the office, and salaried employees.

The shop hourly employees are paid $100 weekly when they are unable to work because of an accident or illness. During 1976 this group consisted of 5,428 employees, of which 235 were women, and a total of $4,780 was paid in weekly disability payments to five female employees for maternity related disabilities. Two of these disabilities involved complications and extended for 10 and 20 weeks respectively while the remaining three disabilities were for a period of 6 weeks.

The office hourly employees are paid $102 weekly when they are unable to work because of an accident or illness. During 1976 this group consisted of 1,571 employees, of which 733 were women, and a total of $31,259 was paid in weekly disability payments to 41 female employees for maternity related disabilities. Eight of these disabilities involved complications and extended for periods ranging from 9 to 30 weeks while the remaining 33 disabilities fell within the normal 6 to 8 weeks referred to earlier.

The salaried employees are paid their full salary for the first 3 months of a disability and 75 percent of salary for the next 3 months. During 1976 this group consisted of 2,124 employees, of which 100 were women, and a total of $22,400 was paid in disability payments to 7 female employees for maternity related disabilities. Two of these disabilities involved complications and extended for 8 months and 3½ months while the remaining five disabilities fell within the normal 6- to 8-week period.

The total benefits paid to hourly employees at Cummins during 1976 for maternity related disabilities was $36,039 as compared to a total of $1,300,000 in disability payments for all hourly employees. This means that the cost of providing pregnancy-related disability coverage was only 2.7 percent of the total cost of the benefit program for all hourly employees.

It seems clear that Cummins Engine has found the provision of pregnancy-related disability benefits to its women employees a satisfactory experience. The cost of providing such coverage has not been overbearing, and the statistics as provided by the company show that a

majority of women do not need to take more than 8 weeks of coverage.

Swift congressional action on this legislation is extremely important to the women workers of our Nation. Forty-five percent of all married women are now in the work force, and this Nation owes these women equal protection under our laws. Discrimination against pregnant workers remains one of the areas of employment discrimination facing women in the work force. I urge my colleagues to support this measure before us today and help eliminate one of the last barriers of sex discrimination in employment.

Mr. WILLIAMS. Mr. President, because of the time situation that we are in, I ask unanimous consent, after calling for a quorum, that any time taken be taken equally from either side on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a member of my staff, Steve Roling, be granted privilege of the floor during deliberations and voting on S. 995.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally charged on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I move that the committee amendments be considered and agreed to en bloc and considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

Mr. WILLIAMS. Mr. President, the Senator from Missouri (Mr. EAGLETON) wishes to speak now on an amendment. It deals with the question of the definition of pregnancy and related medical conditions, and the amendment says:

> This shall not be construed to include abortions except where the life of the mother would be endangered if the fetus were carried to term.

That amendment will be offered later, but we will be debating that now; and I know that the Senator from Indiana wants to speak to the issue, and I yield to the Senator.

The PRESIDING OFFICER. The Senator from Indiana.

(Remarks by Mr. BAYH, Mr. WILLIAMS, and Mr. JAVITS at this point are printed later in today's RECORD during consideration of Mr. EAGLETON's amendment.)

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have no further statement at this time. We are working under an agreement by which amendments will be offered this morning and the voting will begin at noon.

Therefore, I yield the floor and await any amendments which might be offered.

The PRESIDING OFFICER. If neither side yields time, the time runs equally.

Mr. HATCH. Mr. President, I have a clarification——

The PRESIDING OFFICER. Who yields time to the Senator from Utah?

Mr. JAVITS. How much time do we have, Mr. President?

The PRESIDING OFFICER. The Senator from Jersey has 30 minutes, and the Senator from New York has 70 minutes.

Mr. JAVITS. Mr. President, I yield 20 minutes to the Senator.

Mr. HATCH. Mr. President, I ask unanimous consent that Caroline Randel, of Senator HANSEN's staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Do the managers and sponsors of this bill intend S. 995 to be preemptive of State laws so that no employer shall be required to take any action with regard to any pregnancy related disability benefit, or to pay any such benefit, which shall exceed the requirements of this act, by reason of any State or local law or ordinance or by any regulation or order of any Federal, State or local department or agency?

To put it in a somewhat different way, if a State law defines sex discrimination to include discrimination against pregnant women but the law contains a cap on the length of disability benefits, would that State law supersede this law so that it would be enforceable?

Will the distinguished manager of the bill help me in regard to that particular question?

Mr. WILLIAMS. I suggest to the Senator from Utah that title VII does not preempt State laws which would not require violating title VII. This is made clear by existing law. Section 708 of title VII, as well as section 706(c), expressly provides that State laws which protect employees from discrimination shall remain in effect unless they operate to permit or require discrimination. The question of a State law which provides or permits a cap on periods of disability—is that the question being raised by the Senator from Utah?

Mr. HATCH. Yes. I use that as a specific example.

Mr. WILLIAMS. I would think that here, again, the title VII test would apply and it would be a question of whether there was discrimination. Within the State law, if all disabilities were classified in terms of time, I would say that that would meet the test of nondiscrimination. I would think if a State law did select, and it were found through all the tests on discrimination that the classification and selection were discriminatory, then the State law that discriminated would not be permitted to stand on a test.

Mr. HATCH. If it is nondiscriminatory, it should take preemption over the Federal law in this matter?

Mr. WILLIAMS. That would be my interpretation of the law as it is. Whether the Supreme Court would agree, we never know. That situation has been tested in law and that is the conclusion we draw.

Mr. HATCH. So far as our legislative history here is concerned, that is the correct senatorial interpretation. What about conflicts between the State and Federal law? Would the State law preempt the Federal laws except in the matter where the Supreme Court or the Federal law states there is discrimination?

Mr. WILLIAMS. If there were clear conflicts on this issue and the States attempted to permit what this legislation in an amendment of the Civil Rights Act would prohibit, obviously the Federal law would prevail, if there were a clear conflict.

I would like to offer an example of a clear conflict. We define discrimination in our terms in this amendment, pregnancy and related conditions being sex discrimination. If the negative were included in a State law, that would be in absolute conflict with the Federal law and the Federal law would prevail.

Mr. HATCH. Again where we have known discrimination?

Mr. WILLIAMS. What I am stating is the most stark conflict where it was positively set at the State level that this particular situation, pregnancy, is not discrimination. In the same context, we say it is discrimination and we would prevail at the Federal level.

Mr. HATCH. But where there is, in effect, no discrimination, then the State law would prevail?

Mr. WILLIAMS. That is correct.

Mr. HATCH. And it would preempt the Federal law?

Mr. WILLIAMS. In all of the tests of discrimination, there clearly is an opportunity for the State to act.

Mr. HATCH. I cite the footnote which I think bears out what the distinguished floor manager has said. That is on page 3 of the committee report, which says:

> Since title VII does not preempt State laws which would not require violating title VII, these States would be able to continue to endorse their State laws if this bill were enacted.

Let me go a little bit further. The phrase "women affected by pregnancy, childbirth or related medical conditions," appearing on page 2, lines 1 and 2, appears to be overly broad, and is not limited in terms of employment. It does not even require that the person so affected be pregnant.

Indeed, under the present language of the bill, it is arguable that spouses of male employees are covered by this civil rights amendment. One might even argue that other female dependents are covered. And what about the status of a woman coworker who is not pregnant but rides with a pregnant woman and cannot get to work once the pregnant female commences her maternity leave or the employed mother who stays home to nurse her pregnant daughter? Are they women "affected by" pregnancy?

Could the sponsors clarify exactly whom that phrase intends to cover?

Mr. WILLIAMS. With regard to more maintenance plans for pregnancy-related disabilities, I do not see how this language could be misunderstood.

Mr. HATCH. Because it is very broadly drafted and if we say "affected by" it, that includes all of those illustrations that I have just enumerated. If it does not, I want to be sure that everybody knows from the record that it only refers to the woman employee who is pregnant or who becomes pregnant after her employment.

Mr. WILLIAMS. If there is any ambiguity, with regard to income maintenance plans, I cannot see it. ". . . shall be treated the same for all employment-related purposes." I do not see how one can read into this any pregnancy other than that pregnancy that relates to the employee, and if there is any ambiguity, let it be clear here now that this is very precise. It deals with a woman, a woman who is an employee, an employee in a work situation where all disabilities are covered under a company plan that provides income maintenance in the event of medical disability; that her particular period of disability, when she cannot work because of childbirth or anything related to childbirth is excluded. It is narrowly drawn and would not give any employee the right to obtain income maintenance as a result of the pregnancy of someone who is not an employee.

Mr. HATCH. OK; or the effects on other people as a result of the pregnancy of any female employee.

Mr. WILLIAMS. Exactly. It does not.

Mr. HATCH. So the Senator is satisfied that, though the committee language I brought up, "woman affected by pregnancy" seems to be ambiguous, what it means is that this act only applies to the particular woman who is actually pregnant, who is an employee and has become pregnant after her employment?

Mr. WILLIAMS. Exactly.

Mr. HATCH. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Tim Smith of my staff may be accorded the privilege of the floor during consideration of the amendments to and the pending legislation before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STAFFORD. Mr. President, I ask unanimous consent that the time be charged equally to both managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, if I may, I want to address a question to the chairman.

The PRESIDING OFFICER. Who yields time to the Senator from Michigan?

Mr. RIEGLE. Will the Senator from New Jersey yield to me briefly?

Mr. WILLIAMS. Yes, I am happy to. May I ask, though, because of the way the debate has proceeded, yesterday and today, I have a feeling that those who are advancing this bill have used up a lot of time and those who are opposed have not. I do not want to run out of all time on the bill. What is the time situation, may I ask?

The PRESIDING OFFICER. The Senator from New Jersey has 30 minutes remaining on the bill. The Senator from New York has 45 minutes remaining.

Mr. WILLIAMS. We are in relative equity. I am happy to yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

At the outset, I appreciate very much the leadership of the Senator from New Jersey in bringing this matter forward, both within our subcommittee and in the full committee. I wish to emphasize in this brief colloquy that this bill is a simple restatement of the U.S. Congress opposition to sex discrimination in employment, for unequal treatment based on pregnancy is clearly sex-based discrimination. S. 995 is certainly not designed to alter our firm national commitment to individual freedom for our workers, and I am extremely distressed that some amendments being discussed here today seek to restrict freedom of choice for some of these workers. I refer particularly to amendments designed to exclude some medical alternatives, such as abortion, from the scope of disability and benefit programs affected by this bill. This approach is clearly an attempt to legislate a policy decision against abortion into our civil rights laws. I strongly oppose such action and intend to vote against it.

I am equally concerned, however, that we do not inadvertently undercut freedom of religion at the same time we protect freedom from discrimination and the freedom to choose. I ask the sponsor of this bill, the distinguished Senator from New Jersey, if he believes there is any danger that this bill will be misinterpreted to restrict religious organizations' first amendment rights of freedom of religion and freedom of association. Title VII's prohibition on religious discrimination was carefully designed to protect such organizations' first amendment freedoms, and I wish to make sure that I am correct in believing that S. 995 does not erode these protections.

Mr. WILLIAMS. I am happy to reply to the able Senator from Michigan. I appreciate his concerns.

I wish to add that I share his view of the effects of S. 995. section 702 of title VII of the Civil Rights Act of 1964, as amended, exempts from its prohibition on religious discrimination any:

> Religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

Section 701(j) defines religion to include all aspects of religious observation and practice. So the exemption for religious organizations extends beyond formal tenets of belief.

The dual protections of the first amendment and section 702 apply with full force to this bill, S. 995.

So, religious organizations opposed to abortions would not be required to finance them for their own workers.

Mr. RIEGLE. I thank the Senator very much for those remarks in what I think is a necessary clarification.

As a cosponsor of the bill, I am pleased that he concurs with my understanding of its effects in this area.

S. 995 is clearly designed to combat sex discrimination in employment and I hope the Senate will defeat any attempt to use it as a vehicle for other purposes.

I thank the Senator for yielding.

Mr. WILLIAMS. I believe the Senator has rendered a real service by initiating this colloquy. It clarifies an area where there could have been perhaps some misunderstanding.

I trust that this will clarify and insure we do not disturb the first amendment as it has been shown and as it relates to the Civil Rights Act.

Mr. RIEGLE. I thank the Senator.

AMENDMENT NO. 831

Mr. HATCH. Mr. President, I call up my amendment No. 831 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Utah (Mr. HATCH), for himself and Mr. HELMS, proposes an amendment No. 831.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, line 14, strike the period and substitute a semicolon, and insert the follow-

ing: "*Provided*, That where benefit plans exclude benefits for preexisting conditions, nothing contained herein shall be construed to require an employer to provide benefits to an employee whose pregnancy commences prior to the effective date of coverage under the employer's benefit plans.".

Mr. HATCH. Mr. President, this is a simple and straightforward amendment the thrust of which I hope the sponsors can accept. The amendment is intended to clarify what is implicitly contained in title VII as amended by this bill—that where an existing employee benefit plan contains a provision excluding from coverage preexisting conditions, the plan may also exclude without violating this bill coverage for pregnancy and related conditions if they existed prior to the effective date of coverage under the employer's benefit plans.

I believe that the amendment is desirable and necessary because once the bill becomes law, it may well induce pregnant women to hire on with an employer solely to take advantage of the maternity and/or disability benefits which are required to be nondiscriminatorily afforded. This amendment helps to eliminate this unfair situation for an employer and his other employees, who must pay the increased costs called for by this bill, by allowing an exclusion of pregnancy fringe benefits when the employer's plan excludes coverage for other types of preexisting conditions that is, a broken arm.

Thus, exclusion of pregnancy benefits would apply only when other types of preemployment health conditions affecting workers are ruled out for compensation by the employer's plan. It would not allow a benefit plan to single out pregnancy as the only condition subject to a preexisting condition exclusion.

As such, I believe the amendment insures that pregnancy is treated under fringe benefit programs the same as other conditions and it assures that pregnant women are placed on an equal footing with other employees.

I think the amendment is in harmony with the spirit and intent of S. 995 and clarifies what I believe is an ambiguity in the bill and committee report. I would welcome some comments by the floor managers at this point.

Mr. STAFFORD. If the Senator will yield, I will be glad to comment on that.

Mr. HATCH. I am happy to yield.

Mr. STAFFORD. Mr. President, I say to the distinguished Senator that I have concurred with Senator JAVITS, the ranking minority member, and we have agreed that on his first comment he is correct in interpreting the bill to permit an exclusion for preexisting conditions, so long as the exclusion applies to pregnancy on the same basis as to other conditions. The touchstone of compliance with S. 995 is equality of treatment, and any policy which affects pregnancy, childbirth, or related conditions must apply equally to other types of disabling conditions as well.

Mr. HATCH. So, under this bill, an employer may exclude coverage for pregnancies that began prior to the effective date of coverage, just so long as he does not single out pregnancy as the only disability excluded on that basis.

Mr. STAFFORD. If the Senator will yield again, this bill demands equal treatment and nothing more. When an employer treats pregnancy, childbirth, and related conditions the same as he treats any other disabling condition, then he has complied with this bill.

Mr. HATCH. Mr. President, with that understanding, I withdraw the amendment.

I thank the distinguished Senator, the minority floor leader, for satisfying my concerns on this particular point.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 832

Mr. HATCH. Mr. President, I call up amendment No. 832 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself and Mr. HELMS, proposes an amendment numbered 832.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, lines 13 and 14, strike the phrase, "one hundred and twenty days" and substitute in lieu thereof, "one year".

Mr. HATCH. Mr. President, this amendment simply extends the bill's compliance period from 4 months to 1 year regarding fringe benefit programs. It delays the effectiveness of the legislation only as to fringe benefit programs; other discriminatory conduct against pregnant workers in hiring, promotion, salary and other areas would be effective immediately. It is my feeling that a 1-year compliance period is totally justified for the reasons I will now discuss.

Clearly, enactment of the amendments will benefit pregnant females and will substantially increase the cost of disability programs. Males and nonpregnant females will bear a substantial share of the cost burden. The bill requires that employers expand their employee benefit plans to treat pregnancy-related conditions as any other disability regardless of the cost involved. Despite whether the employer's plan relies entirely on employer contributions or is supported partially by deductions from employee paychecks, the added cost will affect all employees, as employers will be forced either to increase their contribution in order to provide the additional benefit or to uniformly reduce benefits at some point. If the additional cost is not to be borne directly by employees, the employer has no alternative but to pass the cost on to customers or, in the case of governmental bodies, to the taxpayers.

Under these circumstances, the cost of maternity benefits is most significant, for this factor defines the extent of the preferred treatment.

The cost of pregnancy-related benefits will eliminate or impair existing benefit plans, while there is some variation in the figures as to exact cost of the proposed legislation, it is nevertheless obvious that enactment will result in a substantial cost increase in existing disability plans. The problem was clearly pointed out by Justice Stewart in Geduldig against Aiello, where the U.S. Supreme Court held that the State of California did not unconstitutionally discriminate against its female employees in violation of the equal protection clause when it excluded pregnancy disability coverage from its employee insurance program. Writing for the Court, Justice Stewart stated:

It is evident that a totally comprehensive program would be substantially more costly than the present program and would inevitably require state subsidy, a higher rate of employees contribution, a lower scale of benefits for those suffering insured disabilities, or some combination of these measures.

In disability programs such as that of the State of California, where employees contribute to the disability program, the added cost of mandatory maternity-related coverage will be passed on to all employees, regardless of whether they are the recipients of the added protection. A special class consisting of pregnant persons or persons desiring to become pregnant, will plainly receive a greater benefit than will other employees who will nevertheless be forced to share the increased cost. Where private employers, unaided by employee contributions, provide disability insurance to their employees, cost would be offset by passing the increase along to customers and/or by reducing the size of disability benefits. If such an employer were a governmental entity, the additional coverage would result in some combination of increased financial burdens on taxpayers and reductions in plan benefits.

Section 3 of S. 995 aggravates the problems faced by employees who do not desire or benefit from the expanded pregnancy-related coverage. Section 3 protects all employees from any reduction in compensation or benefits once pregnancy-disability benefits are provided.

Under this provision, it is unclear whether an employer would have to choose between providing the additional coverage or simply eliminate disability coverage altogether. If the employer elected not to discontinue benefits, then it may be forced to hold back wage increases or increases in other types of benefits which the majority of a work force desire, merely to offset the additional costs which section 3 of the bill attempts to place on employers.

An economic fact of life that cannot be changed by legislation is that there are a limited number of dollars available for wages and benefits in any given industry. If pregnancy-related benefits become mandatory, their very substantial cost must come from profits. If they cannot be passed on, the only solution for employers is to discontinue or cut back other programs.

Therefore, without an adequate compliance period the likely result of the proposed legislation in general, and S. 995 in particular, is that the majority of all employers who do currently provide any sickness or accident disability coverage will be strongly deterred from maintaining such a program because of the high costs involved, and because they will lack the flexibility to alter their total employee benefit package if the costs become too great in any particular area.

My amendment thus interjects a reasonable delay in legislation to accommodate the arduous task of reviewing the terms of all existing benefit plans to enable employers to make appropriate adjustments called for by this bill. Moreover, since the disability plans are costed out on actuarial assumptions, new, and often complex calculations will have to be made for each plan by the insurer to determine the plan content and its costs. Once these projections have been completed, the plans can be amended and steps taken to achieve compliance.

Again, I believe the amendment will aid in achieving the purpose of the bill, and I recommend adoption of the amendment.

In addition, I should like to mention a few of the letters I have received pertaining to this precise point.

I have a letter from the American Retail Federation, Mr. Donald F. White, vice president:

DEAR SENATOR: The American Retail Federation urges you to support three amendments which we understand will be offered by Senator Hatch to S. 995, as well as a technical amendment to this bill.

S. 995 amends Title VII of the Civil Rights Act of 1964 to provide that discrimination on the basis of pregnancy is sex discrimination within the meaning of the Act. ARF supports the principle of non-discrimination in all areas of employment—including benefits—and efforts designed to ensure that women employees are treated the same as other workers. We support the Hatch amendments, which are explained in the attached fact sheet, because we feel that they will clarify an employer's obligations under the Act and reduce potential misunderstandings and litigation concerning these obligations.

Since retailing is a heavily labor-intensive industry, 65–75 percent of whose employees are women, the impact of legislation which affects benefits payable to women employees is substantial. We believe that the Hatch amendments are necessary to help retailers reduce what we anticipate to be the high costs of compliance with this change in existing law.

They attach an American Retail Federation factsheet, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

AMERICAN RETAIL FEDERATION FACTSHEET

S. 995 AMENDMENTS

1. Six Week Benefit Period. This amendment provides that benefit plans (e.g., medical, sick leave) which provide benefits for pregnancy will not be required to provide more than six weeks' coverage for normal pregnancies. Employers could, of course, provide additional benefits on a voluntary basis.

Time limitations in pregnancy disability legislation are contained in a number of state statutes or regulations (e.g., Massachusetts, New Jersey, New York). The six-week figure represents an average disability period for pregnancy. The Human Resource Committee's report on S. 995 states that "the period of disability for a normal pregnancy is 4–8 weeks" (S. Rep. No. 95–331, p. 4). Other sources indicate that the pregnancy disability period "for 95 percent of women . . . is 6 weeks or less.". (Remarks of Hon. Augustus F. Hawkins, April 5, 1977, Cong. Rec., p. E2094.)

As a number of witnesses who testified on this issue pointed out, the length of the disability period in pregnancy cases is particularly difficult to document. It is affected by physical, psychological, and emotional factors (such as the mother's concern for the well-being of her new child) not present in the case of other disabilities and may be colored by the worker's awareness that benefits (including salary in many cases) will continue to be paid during the period. Physicians cognizant of potential malpractice liability are reluctant to disagree with a worker's subjective judgment as to when she is ready to return to work. Absent a presumptive disability period such as the one contained in the proposed amendment, disputes will inevitably arise in this area. These could be resolved only through disability documentation by the opinions of the worker's and/or the employer's physician. The expense and adversial nature of this process, as well as appeals to the Equal Employment Opportunity Commission and other litigation, would be avoided by the use of the six-week disability period.

It should be noted that the proposed amendment refers to "normal" pregnancies. This is intended to insure that complications of pregnancies would be treated like other illnesses or conditions under the employer's benefit plan, without regard to the six-week limitation.

2. Effective Date. This amendment would delay the effectiveness of this legislation, to the extent that the bill requires changes in employee benefit plans, for a period of one year from the date of enactment. It would not, however, delay the effectiveness of the provisions of the bill which prohibit discrimination against pregnant workers in hiring, promotion, salary, and other areas. This aspect of the legislation would be immediately effective.

A delay in legislation which alters the terms of benefit plans is essential in order to enable employers to make appropriate adjustments in these plans. Benefit plans which have excluded coverage for pregnancy and related disabilities must be revised to remove any discriminatory provisions, an effort which requires a review of the terms of all existing benefit plans. Moreover, since both the scope and the cost of operating disability plans are based on actuarial assumptions, new actuarial projections will have to be made for each plan by the insurer in order to determine plan content and the plan's cost to employers (and to employees, in the case of contributory plans). Once these projections are made, the plan must be amended and its terms communicated to operational personnel.

Since our work force is comprised of a large percentage of women, accuracy in these computations and revisions is essential. ARF believes that retailers will have difficulty completing this process unless one-year effective date amendment is approved.

3. Pre-existing Conditions. This amendment is intended to clarify what is implicitly contained in Title VII as amended by S. 995, *i.e.*, that where an employee benefit plan contains a provision excluding from coverage pre-existing conditions the plan may also exclude coverage for pregnancy and related conditions if they existed prior to the date of employment. This amendment would not allow a benefit plan to single out pregnancy as the only condition subject to a pre-existing condition exclusion. It would insure that pregnancy is treated the same as other conditions.

4. Scope of Coverage. This is a technical amendment, intended to remove an ambiguity from the statutory language. It replaces the phrase "women affected by pregnancy, childbirth, or related medicine conditions" with the phrase "female employees and employment applicants." The effect of this change is simply to require that for all employment-related purposes, "female employees and employment applicants" must be treated the same as male employees or employment applicants. The amendment eliminates the ambiguous term "women affected by pregnancy . . ." which could be construed to create rights in persons other than pregnant women themselves by persons who might claim that they were somehow "affected" by the pregnancy of another worker or family member. The amendment also clarifies the scope of the legislation's coverage of those persons who are entitled to equal treatment "for all employment-related purposes" by specifying that it is "female employees and employment applicants", and not non-employees, who are entitled to this equality of treatment.

TEXT OF S. 995 SHOWING PROPOSED AMENDMENTS

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and *female employees and employment applicants* [women affected by pregnancy, childbirth, or related medical conditions] shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise; *provided that; (1) nothing in this subsection shall be construed to require an employer to provide benefits to any employee because of a normal pregnancy-related condition for a period in excess of six weeks; and (2) where a benefit plan excludes benefits for pre-existing conditions, nothing in this subsection shall be construed to require an employer to provide benefits to an employee whose pregnancy commences prior to the effective date of coverage under the employer's benefit plan. The amendments made by this act shall be effective upon the date of enactment, provided that with respect to the provisions of fringe benefit plans in effect as of the date of enactment, the amendments shall be effective one year from the date of enactment.*

Mr. HATCH. Mr. President, I also have a mailgram from Hilton Davis, Chamber of Commerce of the United States:

On behalf National Chamber's 65,000 business members, respectfully urge you support several essential amendments when S. 995 pregnancy disability benefits bill, reached Senate floor.

They go on to say that they support these amendments.

I ask unanimous consent that the mailgram be printed in the RECORD.

There being no objection, the mailgram was odered to be printed in the RECORD, as follows:

[Mailgram]

McLEAN, VA.,
September 13, 1977.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

On behalf National Chamber's 65,000 business members, respectfully urge you support

several essential amendments when S. 995 pregnancy disability benefits bill, reaches Senate floor.

Bill intervenes in area of employee benefits where cost in substantial and potential for abuse great. Since 50 percent of female employees who take pregnancy leave do not return to job, as shown in General Electric case upheld by Supreme Court, pregnancy disability benefit amounts to form of severance pay not provided other workers.

While Chamber believes bill should be rejected, because added cost of pregnancy payments will likely deter establishment of new company plans, three amendments would improve bill significantly: (1) limit benefit period to no more than six weeks; (2) exclude from coverage any pre-existing pregnancy when employer's disability plan excludes other pre-existing conditions (3) defer effective date one year from enactment, enabling employers to bring existing plans into conformity.

HILTON DAVIS,
Chambers of Commerce of the United States.

Mr. HATCH. Mr. President, I have a mailgram from Dale D. Stone, senior vice president of the Sun Co., Inc., formerly the Sun Oil Co.; a mailgram from William L. Kreutz, director of public affairs, Owens-Corning Fiberglass Corp.; and a telegram from A. J. Dragonette, president of the Fabri Form Co., Cambridge, Ohio, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Mailgram]

PHILADELPHIA, PA.
September 13, 1977.

HON. ORRIN G. HATCH,
United States Senate,
Washington, D.C.

DEAR SENATOR HATCH: I understand you will be offering three amendments to Senate bill S. 995 either this afternoon or tomorrow morning. I want you to know that we at Sun Company support you in this effort.

We believe that disability benefits should be extended to our pregnant female employees, excluding employees who are pregnant when hired, allowing one full year for implementation of these benefits and limiting the term of disability coverage under normal circumstances to six weeks will enable us to provide reasonable coverage for our employees and will minimize the possibility for abuse of benefits provided.

Sincerely,

DALE D. STONE,
Senior Vice President, Sun Company, Inc. (formerly Sun Oil Company).

[Mailgram]

TOLEDO, OHIO,
September 14, 1977.

Senator ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: We have been following the Senate Human Resources Committee's consideration of S. 995 to prohibit employment distinctions based on pregnancy. While Owens Corning Fiberglass has a concern for some of the provisions contained in the bill, we are equally concerned with the effective date of those provisions should the legislation be passed by Congress. We believe that a period of 12 months is necessary to revise personnel policies, provide for anticipated employment changes and to implement the proposed requirements, we ask that your deliberations give consideration to the company's need for an orderly transition of employment practices.

WILLIAM L. KREUTZ,
Director of Public Affairs, Owens Corning Fiberglass Corp.

[Telegram]

FABRI FORM CO.
Cambridge, Ohio.

Senator HATCH,
Dirksen Senate Office Building,
Washington, D.C.

More legislation is mandating benefits normally negotiated at the bargaining table. Such legislation detracts from the traditional process. S995 is such legislation. We support the Hatch amendment because we cannot afford the cost of pregnancy disability without the year you are providing.

A. J. DRAGONETTE,
President.

Mr. HATCH. Mr. President, these basically support the amendment I am bringing forth at this time, as well as the other amendments I intend to offer with regard to this bill, one of which has been basically accepted in principle.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield myself such time as I may require on this amendment.

I understand that this amendment is No. 832, which would extend the effective date with regard to fringe benefit plans from 120 days after enactment to 1 year.

I say to my colleague and good friend from Utah that during the course of the committee's deliberations regarding this legislation, we received suggestions regarding an effective date with regard to fringe benefit plans, ranging from immediately to 1 year after enactment. That is the outer limit that was suggested to us. That is the time that is included in the amendment before us—1 year after enactment.

The bill as reported by the committee makes the legislation effective with regard to such plans 120 days after enactment. The effective date which is provided by the bill will provide a reasonable period within which employers and insurance companies can make necessary adjustments in existing plans in order to bring them into compliance with the law. I state that on the basis of abundant evidence.

In deciding that 120 days will be a sufficient period of time for this purpose, we considered not only the needs of employers and insurance companies but also the needs of the women who will be protected by this legislation.

I believe that the time period provided in the bill gives full recognition to the practical necessity of a period for coming into compliance and also recognizes the pressing need to make this legislation effective as soon as possible.

Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, there are numerous examples for employers to follow as they come into compliance with this law. This bill is merely reestablishing the law as it was understood prior to the Supreme Court's recent decision. Employers who were following the common interpretation of title VII before the Supreme Court's decision, and employers in the numerous States which require equal benefit under State law, have already adjusted to the principle of equality.

As I have already stated, no fewer than 23 States already require that benefits be paid without discrimination on the basis of pregnancy or related conditions. Of course, many employers have voluntarily adopted policies of nondiscrimination. Taken together, employers covered by State laws prohibiting discrimination, and employers who have adopted nondiscrimination policies of their own, make up a very large body of experience which provides numerous patterns for examples to be followed by employers who will be required to change their employment practices as a result of this legislation.

During the hearings on this bill, the International Union of Electrical Workers provided the committee with a list of collective bargaining agreements which they have entered with various employers providing temporary disability benefits on a nondiscriminatory basis. These companies are of various sizes, and operate in various States; but they have all been able to adjust their plans to accommodate the agreement to provide benefits on a nondiscriminatory basis.

I would also like to call the Senators' attention to a digest of selected health and insurance plans compiled by the U.S. Department of Labor in 1974. This study of 148 health and insurance plans shows that 87 plans have maternity benefits which treat pregnancy as any other temporary disability, as compared with 61 plans which do not treat pregnancy equally. The companies which did then provide equal benefits represent a wide variety of industries, and are located in many different States.

Moreover, there is good reason to believe that substantial progress has been made since 1974. A Prentice-Hall survey of maternity leave policies done in 1972, revealed that considerable progress in eliminating discrimination had occurred in the 7-year period from 1965 to 1972. Furthermore, the survey revealed that many policies were then presently being reviewed. The survey reported, and I quote "Over half the survey respondents are contemplating making changes in their maternity-leave policies, or at least are reviewing their policies. In two out of three cases, this is being done to conform company policies to EEOC guidelines."

Employers who are still discriminating against their women workers on the basis of conditions related to pregnancy will, therefore, have numerous examples to follow in coming into compliance. They should have no difficulty selecting an appropriate pattern and making any necessary changes in their employment

practices within the 4-month period provided by this legislation.

For these reasons, I oppose the proposed amendment.

Mr. President, I ask unanimous consent that statistical material indicating the States that require coverage for pregnancy and pregnancy-related disabilities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF STATES WHICH REQUIRE COVERAGE FOR PREGNANCY AND PREGNANCY-RELATED DISABILITIES

Alaska, California, Colorado, Connecticut, District of Columbia, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland.

Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Dakota, Washington, Wisconsin.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that a table submitted to the subcommittee by a Justice Department witness, which lists leading firms in a variety of industries which pay temporary disability benefits for disabilities arising out of pregnancy, be printed in the RECORD.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX A

PLANS OF "LEADING FIRMS IN A VARIETY OF INDUSTRIES" [1] WHICH PAY TEMPORARY DISABILITY BENEFITS FOR DISABILITIES ARISING OUT OF PREGNANCY

Name of company	Digest of 100 Selected Health and Insurance Plans, 1954 [2]		Digest of Health and Insurance Plans: 1971 edition, vol. II		1974 edition, vol. II	
	Weeks	Page	Weeks	Page	Weeks	Page
Aluminum Co. of America	6	91	6	1	6	1
American Can	6	103	6	7	6	7
American Seating	6	43	26	9	26	9
American Standard	Not listed		6	11	6	11
American Sugar	6	7	Not listed		Not listed	
American Viscose	6	67	Not listed		Not listed	
Amstar Corp	6	19	6	15	6	15
Armour & Co	6	19	8	17	8	17
Armstrong Cork	6	25	6	19	6	19
Association of Master Painters	13	163	Not listed		Not listed	
Bethlehem Steel	6	97	6	21	6	21
Borden, Inc	Not listed		6	23	6	23
Brewers' Board of Trade	Not listed		None		26	25
Campbell Soup	4	7	8	31	8	33
Caterpillar	6	115	6	35	6	37
Chase Brass & Copper	None	91	6	41	6	43
Chicago Lithographers	6	61	Not listed		Not listed	
Cluett Peabody	Not listed		6	49	6	51
Colt's Manufacturing Co	6	7	Not listed		Not listed	
Cone Mills	6	25	6	53	6	55
Construction Industry	Not listed		13	61	13	63
Continental Can	6	109	6	63	6	65
Crown Fellerbach	Not listed		6	67	6	67
Deere & Co	6	109	6	69	6	71
Distillery Ind	Not listed		6	73	6	75
Dow Chemical	6	61	6	79	6	79
E. I. duPont	Not listed		6	97	6	85
Firestone	6	79	6	87	52	93
F.N.I.C. Corp	Not listed		Not listed		6	95
Ford	6	127	6	97	6	99
Furniture Industry	6	[3] 43	6	101	6	103
GM	6	127	6	111	6	113
B. F. Goodrich	6	73	6	117	6	119
Greyhound	Not listed		6	122	6	124
Hotel Association of New York City	(?)		6	125	6	125
Florsheim Shoe	6	79	6	[4] 135	6	[5] 139
IBM	Not listed		52	143	52	143
International Harvester		[11] 115	6	141	6	146
International Paper	6	49	6	147	6	151
Jewerly Manufacturers	6	[6] 145	6	151	6	155
Johnson & Johnson	6	145	8	153	8	157
Kennecott Copper	6	151	6	155	6	159
Kroehler Manufacturing	Not listed		6	159	6	[7] 163
LTV Aerospace	Not listed		6	167	52	171
Luggage & Leather Ind. [3]	6	85	6	171	6	173
Maritime Ind. [3]	None	[4] 175	6	177	6	179
Massachusetts Leather Manufacturers Association	6	85	6	181	6	183
Metalworking & Repair Services	Not listed		6	187	6	189
Nabisco	6	[8] 7	6	201	6	203
National Auto Transporters Association	6	169	6	203	Not listed	
National Steel	Not listed		6	205	6	205
New York Shipping Association	Not listed		6	207	6	207
North American Rockwell	Not listed		6	211	6	211
Northwest Forest Products Association	Not listed		6	215	6	211
Owens-Illinois	6	91	6	217	6	213
Pacific Maritime Association	Not listed		6	221	6	221
PPG Industries	Not listed		6	233	6	229
Printing Industry Lithographers	Not listed		6	239	26	239
Publishers Association of New York City	None	61	None	243	26	239
Pullman	6	[9] 133	6	245	6	241
RCA	None	12	8	[7] 251	8	[7] 251
Retail Trade Ind	Not listed		20	257	20	257
Retail Drug Ind	Not listed		Not listed		6	83
Retail, Wholesale & Warehouse, Inc	Not listed		6	247	6	253
Rockwell International Corp	Not listed		Not listed		6	255
Sperry Rand	6	[10] 138	6	265	6	263
Swift & Co		[12] 18	8	277	8	273
Trucking Industry Central States	6	169	6	283	6	279
Trucking, Warehousing & Ind. Western States	Not listed		None		6	281
TRW, Inc	Not listed		6	275	6	283
Uniroyal	Not listed		6	291	6	287
United Air Lines	Not listed		6	293	6	289
United States Steel	6	103	6	297	6	291
Upholstering & Allied Trades [3]	6	49	6	303	6	289
Westvaco	Not listed		6	307	6	303
Wyandotte Worsted Co	Not listed		6	311	6	307

[1] The preface to U.S. Department of Labor, Bureau of Labor Statistics, Digest of Health and Insurance Plans, 1974 edition, vol. I (GPO 1975), p. iii states: "This two-volume digest, a continuation of a series begun in 1955, summarizes the principal features of selected health and insurance plans for office and nonoffice employees in the private sector of the economy. * * * The 2 volumes in combination present a picture of the health and insurance programs available to employees of leading firms in a variety of industries."

[2] Listing in this publication taken from column in each plan description headed "Maternity Provisions", "Accident & Sickness" subcolumn. In all cases the number of weeks refers to the maximum number of weeks for which regular benefits were provided for maternity. All plans listed in cols. 2 and 3 were in effect in 1954. Preface to 1954 bulletins at iii.

[3] Various employers.

[4] There were 3 listings—1 for each of 3 Florsheim units.

[5] Called "Interco Inc., Florsheim Shoe Co."

[6] "Jewelry Industry, Assoc. Jewelers. Inc., Jewelry Crafts Assoc., and other employers."

[7] For nonunion salaried employees.

[8] Called National Biscuit Co.

[9] Called Pullman-Standard Car Manufacturing Co.

[10] Called Sperry Gyroscope Co.

[11] No number of weeks, paid in lump sum of $50.

[12] Covered by paid sick leave plan.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Digest of One-hundred Selected Health and Insurance Plans Under Collective Bargaining, 1954," Bulletin No. 1180 (June 1955); U.S. Department of Labor, Bureau of Labor Statistics, "Digest of Health and Insurance Plans" 1971 edition (GPO 1972), vol. II, and 1974 edition (GPO 1975) vol. II.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that an attachment to testimony received by the committee, which shows the list of employers with whom International Union of Electrical, Radio and Machine Workers, AFL–CIO–CLC, has collective bargaining agreements providing income maintenance during absences due to pregnancy-related disabilities for equal amounts and same maximum duration as coverage for other disabilities, be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ATTACHMENT

(List of employers with whom International Union of Electrical, Radio and Machine Workers, AFL–CIO–CLC, has collective bargaining agreements providing income maintenance during absences due to pregnancy-related disabilities for equal amounts and same maximum duration as coverage for other disabilities)

The International Union of Electrical, Radio and Machine Workers, AFL–CIO–CLC or one of its locals has collective bargaining agreements with the following employers which provide that the employer will pay temporary disability benefits for absences due to pregnancy-related disabilities in the same amounts and for the same duration as for other disabilities:

NAME OF EMPLOYER, LOCATION, MAXIMUM DURATION, AND RANGE OF WEEKLY BENEFITS

A & B Beacon Business Machines Corp., New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

A. E. Electronics, New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Acme Electric Co., Cuba, N.Y., 25 weeks, 60 percent of weekly wages but not more than $95.

Acrylic Optics (and Detroit Optometric Centers), Detroit, Mich., 26 weeks, $70–$130.

Admiral Optical Co., Detroit, Mich., 26 weeks, $70–$130.

Aetnacraft Industries, Inc., Brooklyn, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Airco Speer Carbon Graphite, St. Marys, Pa., 13 weeks, $55.

B & J Optical Services, Inc., Lincoln Park, Okla., 26 weeks, $70–$130.

Birchbach Company, Inc., Freeport, N.Y., 26 weeks, 60 percent of weekly wages but not more than $104.

Bogen Communications Division, Lear Siegler, Inc., Paramus, N.J., 26 weeks, ⅔ of weekly wage but not more than $104.

Brevel Motors Div. of McGraw-Edison Co., Carlstadt, N.J., 26 weeks, ⅔ of weekly wages but not more than $104.

Cavitron Ultrasonics, Long Island City, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Chromalloy Corp., Midwest City, Okla., 13 weeks, $60.

Cooperative Services (also known as Detroit Coop.), Detroit, Mich., 26 weeks, $70–$130.

Dearborn Optical Centers, Detroit, Mich., 26 weeks, $70–$130.

Duncan Electric Co., Lafayette, Ind., 13 weeks, $35 to $50.

EICO Electronic Instrument Co., Brooklyn, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

EON Corporation, Brooklyn, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Ever Ready Thermometer Co., New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Executone, Inc., Long Island City, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Fine Arts Optical Co., Detroit, Mich., 26 weeks, $70–$130.

Foon & Cole, Optometrists, Detroit, Mich., 26 weeks, $70–$130.

Gap Instrument Corp., Hauppauge, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Gem Electronic Dist. Inc., Farmingdale, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

General Industries, Forrest City, Ark., 26 weeks, $70.

General Optical, Detroit, Mich., 26 weeks, $70–$130.

Grand Machining Co., Detroit, Mich., 26 weeks, $90.

Harrison Warehousing Inc., Harrison, N.J., 26 weeks, two-thirds of weekly wages but not more than $104.

Heekin Can Div. of Diamond International, Ancor, Ohio, 26 weeks, $110.

Hi-Torc Department, Brevel Motors, Carlstadt, N.J., 26 weeks, two-thirds of weekly wages but not more than $104.

Industrial Mica Corp., Englewood, N.J., 26 weeks, two-thirds of weekly wages but not more than $104.

IRC Burlington Division of TRW Electronics Branch, Burlington, Iowa, 13 weeks, 50 percent of straight time wages but not less than $90 per week.

ITT Electro-Products Div., Roanoke, Va., 20 weeks, $70.

James Crystal Mfg. Co., Wyandotte, Mich., 26 weeks, $80.

Lafayette Electronics Corp., Paramus, N.J., 26 weeks, two-thirds of weekly wages but not more than $104.

Lafayette Radio Electronics Corp., Syosset, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Laminall Plastics, Long Island City, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Larkin Optical, Detroit, Mich., 26 weeks, $70–$130.

Lektra Laboratories, College Point, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Loral Electronic Systems, Bronx, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Lundy Electronics & Systems, Inc., Glen Head, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

McNab, Inc., Mt. Vernon, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Mastercraft Record Plating Co., New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Milgray Electronics Inc., Freeport, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Photovolt Corp., New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Pontiac Coop., Pontiac, Mich., 26 weeks, $70–$130.

Premier Metal Products Co., Bronx, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Raycon Industries, Levonia, Mich., 26 weeks, $90.

Robbins & Myers, Memphis, Tenn., 13 weeks, $50.

Rowe International, Grand Rapids, Mich.

Signal Transformer Co., Inc., Inwood, N.Y., 26 weeks, $95.

Thorne Optical, Detroit, Mich., 26 weeks, $70–$130.

Torch Tip, Pittsburgh, Pa., 13 weeks, $65.

TRW Inc., Philadelphia, Pa., 26 weeks, $100.

Twin Valley Coop., Battle Creek, Mich., 13 weeks, $70–$130.

United Transformer Co., a division of TRW, Inc., New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Wagner Electric Co., St. Louis, Mo., 26 weeks, $120.

Waldes Kohinoor, Inc., Long Island City, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Wayne Optical Co., Detroit, Mich., 26 weeks, $70–$130.

Wilco Corp., Indianapolis, Ind., 26 weeks, $60.

Wolverine Wire Products Inc., Hazel Park, Mich., 26 weeks, 66⅔ of wages.

W. D. Zobel Co., Royal Oak, Mich., 26 weeks, 66⅔ of wages.

Yardney Electric Corp., Pawcatuck, Conn., 26 weeks, 60 percent of weekly wages but not more than $90.

Local No. 431, IUE, AFL–CIO–CLC, New York, N.Y., 26 weeks, 60 percent of weekly wages but not more than $95.

Mr. WILLIAMS. Mr. President, I yield the floor, and I know the Senator from Utah will seek recognition to continue the discussion of the amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank my colleague for his yielding at this time.

I also thank him for agreeeing that we amend my amendment here reducing the time from 1 year and setting a time certain which would involve increasing the bill's time 4 months and set the time certain until July 1, 1978.

The PRESIDING OFFICER. Does the Senator so modify his amendment?

Mr. HATCH. Yes; I do modify my amendment. and move its adoption at this time.

The PRESIDING OFFICER. The amendment is so modified.

Mr. HATCH. Mr. President, may I just say this: Although this is less than I felt was essential to make the orderly transition and, I think, to effectuate an orderly transition, I express my deep appreciation for the distinguished floor manager of this bill, my colleague and the chairman of the Human Resources Committee, for his efforts in trying to compromise this problem so that at least both sides would have a little better approach here.

I think it is typical of the way the distinguished Senator from New Jersey runs his committee and typical of his relationship with me, and I am very grateful for his good grace in working out this problem.

Mr. WILLIAMS. I greatly appreciate the very generous comments of the Senator from Utah. Certainly it is a common purpose and method of proceeding with our committee that all of our members have respect for each other, work with the greatest degree of care to understand the opposing positions, work for the broadest possible agreement, and come to a consensus within the committee.

Now we have this amendment offered by the Senator from Utah. I, of course, strongly supported the 4-month, 120-day provision in the bill that is before us. The amendment offered was a year. I can understand that there is some anxiety that there may not be sufficient time to make the changes that will be necessary in company plans for disability payments.

I felt there would be, in relative terms, but it is our effort here to deal with this issue as clearly and amicably as possible, recognizing the sincerity of those who feel there will be difficulties.

To extend the time to some extent is all right with me, but also to fix a date certain, which we have not done in terms of a particular date, makes some sense. We have 120 days from enactment, which is less precise in terms of when the plan managers know they will have to be covered in terms of the law. To set that date out in the future as July 1, 1978, will bring greater certainty into the whole picture, and I would agree with that approach, and be willing to accept the amendment, now that it has been modified.

Mr. HATCH. Mr. President, will the Senator yield? May we have a short quorum call?

Mr. STAFFORD. Mr. President, if the Senator will yield to me very briefly, I would like to tell the chairman of the committee that, for the minority, we concur with the amendment as now offered by the Senator from Utah, with the date certain of July 1, 1978, and support the adoption of the amendment.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call be charged equally to the minority, the majority, and the proponent of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. We have agreed, I believe, with both the majority and the minority, that my amendment should be modified, and I do so modify the amendment to read:

On page 2, lines 13 and 14, strike the phrase "for a period of one hundred and twenty days after the date of enactment of this Act" and substitute in lieu thereof, "until July 1, 1978, or 180 days after enactment of this Act, whichever is the greater time period".

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as further modified, is as follows:

On page 2, lines 13 and 14, strike the phrase "for a period of one hundred and twenty days after the date of enactment of this Act" and substitute in lieu thereof, "until July 1, 1978, or 180 days after enactment of this Act, whichever is the greater time period".

Mr. HATCH. I move the adoption of the amendment.

Mr. WILLIAMS. Mr. President, as I have indicated, I am in agreement with the July 1, 1978, date because of uncertainty as to when this matter might have attained the full congressional process and be passed, after a conference report, if that is needed.

I accept the modification.

Mr. STAFFORD. Mr. President, for the minority, we also accept the amendment as now modified by the Senator from Utah.

Mr. HATCH. I thank the Senators for their comments and expressions of willingness to accept the amendment.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. HATCH. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Utah (Mr. HATCH).

The amendment, as modified, was agreed to.

AMENDMENT NO. 830

Mr. HATCH. Mr. President, I call up my amendment No. 830, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself and Mr. HELMS, offers an amendment numbered 830.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 4. Nothing contained herein shall be construed to require an employer to provide disability income benefits to any employee because of the normal pregnancy-related condition for a period in excess of six weeks.

Mr. HATCH. Mr. President, the purpose of the bill (S. 995) is to reverse the Court in *General Electric Co.* v. *Gilbert*, 45 U.S. Law Week 4031 (1976), 13 FEP Cases 1657. In Gilbert, the Court held that General Electric's sickness and accident disability income plan, which excluded pregnancy disability from its coverage, did not violate § 703(a)(1) of title VII. The majority of the Court reasoned that gender-based discrimination does not result merely because an employer's disability benefits plan is less than all-inclusive. The Court required a showing, absent in the Gilbert facts, that the exclusion of pregnancy benefits from GE's plan was a "pretext designed to effect an invidious discrimination against the members of one sex or the other."

Despite the laudable purpose, of the bill, the basic objection to the legislation is that it attempts to characterize a medical benefit extended to one particular class of society—pregnant women—as sex discrimination when, in fact, it would discriminate against nonpregnant females to the same extent that it would against males. If Congress is to legislate a bonus or benefit for pregnancy—and I might add have a very difficult time calling pregnancy a disease which generally is covered by normal disability benefits—I would prefer that not be limited to employees of those employers who currently have disability plans. Rather, it would cover all pregnant women in our society, many of whom need such assistance far more than employees now under disability plans. Moreover, such legislation should be considered as an amendment to the social security laws and its desirability and cost-benefit analyzed from that standpoint.

There is no question that the benefits mandated by this bill will be expensive especially when one considers that only 50 percent of those employees who take maternity leave return to their jobs. This figure is consistent with a 1973 nationwide survey submitted in the case of General Electric against Gilbert, which indicated that approximately 50 percent of female employees who have children return to work, and is lower than the 60-percent return rate experienced by General Electric at the time of the Gilbert trial.

This figure is significant, because it shows that under the proposed legislation, employers, and in some cases employees, would bear the high cost of providing maternity disability benefits with the knowledge that such benefits would constitute a severance pay to one-half of the employees taking maternity leave. The percentage of returning employees may improve as a result of this legislation but I believe it is likely that a substantial number of women will continue to decline to return to their prior employment for personal reasons.

In May 1977, several industry groups belonging to the Business Roundtable distributed to their memberships a questionnaire for the purpose of determining the estimated additional cost, if any, of providing maternity-related disability and medical benefits as would be required by H.R. 5055, H.R. 6075, and S. 995. One hundred and eighteen companies, representing a variety of industries from throughout the United States, responded to the survey and provided the basis for the conclusions which I will address. The survey was prepared and analyzed with the assistance of professional actuaries and company representatives.

It is estimated, based upon the survey responses, that the proposed legislation would result in an additional annual nationwide cost of $1.4 billion for pregnancy-related disability coverage alone. This figure is in part based upon an additional cost of $49.92 per female employee in companies where there is currently 6 weeks maternity disability coverage, and an additional cost of $78.12 per female employee in companies where there is currently no maternity disability income coverage. The method of calculating the $1.4 billion figure and the female employee cost figures is included in tables B and C which have been placed upon all Senators' desks.

The $1.4 billion total for disability income is consistent with most of the cost studies that have been prepared on the proposed legislation, as shown in table D. It is, however, significantly higher than the projected nationwide cost of $130 million—$1.50 per employee cost increase—estimated by the AFL–CIO.

I think it is also fair to say that during the committee hearings on this matter there was testimony from some who believed that the addition of these benefits will cost industry somewhere around $2.25 billion on an annual basis, which amount, of course, is going to have to be passed on to consumers, and added to the cost of almost every product in the United States, or at least those which are produced by companies which already have employee disability plans.

It was not possible to estimate the additional cost of pregnancy-related medical benefits, inasmuch as few companies were able to supply the needed information in the short period of time they were given to respond to the survey. Some companies simply did not have the information upon which to base an estimate. A recent study of the medical cost of the proposed bills was made by the American Council of Life Insurance for the benefit of the Senate Human Resources Subcommittee on Labor. That study, which was limited to medical plans administered by insurance companies, estimated the additional cost of supplying medically related benefits to be $1.1 billion. When this cost is added to the $1.4 billion cost of providing disability income benefits, the total annual cost of the legislation is $2.5 billion.

That is a heck of a cost in order to show preference in a very real sense to one segment of the work force. I might add that if this amendment is passed, I, myself, would favor this legislation, and would want to be listed as one of the sponsors thereof. Let me go on a little bit further.

A total of 118 companies, employing 5,777,149 employees and with an annual payroll of $87,544,000,000 responded to the survey. The total annual cost to the 118 companies to provide full disability coverage would be $108,829,970. This is not a projected figure, but simply reflects the additional cost that each company estimated it would incur if the proposed bills were enacted. The additional cost per employee to provide full disability coverage would be $18.84.

It is significant to note that the cost to the 118 companies nearly equals the $130 million nationwide projection made by the AFL–CIO.

Of course, we have thousands of additional companies to the 118 which responded.

The $18.84 cost increase per employee is 12 times greater than the $1.50 per

employee cost increase projection made by the AFL–CIO.

I believe it is much more realistic and accurate. It is not propaganda. It is not made for the purposes of persuasion. It is an actual economic fact of life.

The proposed legislation clearly would impact most heavily upon those companies with a high percentage of female employees such as retail employment. For example, in table A, which shows that employers with the highest percentage of female employees—banks had 65 percent; insurance companies had 50 percent; and retailers had 63 percent—would bear a substantially greater added cost per employee than most other companies. Table B also shows that the companies that presently do not have maternity-related disability income plans are those with the highest percentage—34 percent—of female employees. The absence of such coverage is explained by the high cost of providing such benefits.

By comparison, the companies with 6 weeks or full maternity disability coverage are those with a low percentage of female employees—18 percent and 19 percent female respectively—and a resultant lower cost of providing the benefits required by the proposed legislation. The enactment of the proposed legislation without my amendment to limit disability income benefits to 6 weeks in normal pregnancies could act as a deterrent to the employment of females, because of the substantial cost of providing maternity benefits. Further, it could discourage the adoption of new disability of medical insurance plans in companies employing a larger than average number of females.

Certainly, that would be true in those companies that do not have the plans now. So what is being argued here is something that could act to the great disability and detriment of really most females in our society.

The average duration of maternity leave taken by employees of the surveyed companies is 15.1 weeks. This figure falls between the figure used by the American Council of Life Insurance—11.3 weeks—and that used by actuary Paul Jackson—17 weeks—as shown in table D. It is also consistent with a 1975 study that showed that the average length of maternity leave taken by employees covered by the Railroad Retirement Act was 15 weeks. The 15-week figure is substantially higher than the 6-week figure used by the AFL–CIO in calculating the cost of the proposed legislation.

On the basis of the analysis prepared by the Business Roundtable, it is my belief that the Senate is considering one of the most costly types of coverage which might be provided. Thus, for many employers, the requirement of providing medical expense and disability income coverage for pregnancy will be extremely burdensome. This burden is further compounded by the freeze of 1 year to existing benefits which section 3 now proposes. The effect of section 3 casts in concrete the levels of all existing benefits for 1 year after the bill's enactment leaving an employer and his employees the option of providing the additional coverage or simply eliminating disability and/or medical coverage altogether in order to be in compliance with this act.

An economic fact of life that cannot be changed by legislation is that there are a limited number of dollars available for wages and benefits in any given industry. If the pregnancy-related benefits become mandatory, then their very substantial costs must come from these available dollars. Such costs will not come from profits. If they cannot be passed on, the only solution for employers and employees is discontinue or cut back other programs. I want to avoid this very real possibility.

I believe pregnancy disability coverage can be reasonable provided if we mandate that it be required for no more than 6 weeks in the normal pregnancy situations.

Time limitations in pregnancy disability legislation are not novel—they are contained in four out of five State statutes or regulations; such as, Massachusetts, New Jersey—8 weeks, New York—8 weeks. The 6-week figure I have used represents an average disability period for pregnancy. The Human Resources Committee's report on S. 995 states that—

> The period of disability for a normal pregnancy is 4 to 8 weeks.

In fact the committee report states that benefits will normally be paid only for that period. If that is what the committee intends, it should be written into the law.

(Mr. RIEGLE assumed the chair.)

Mr. HATCH. That is in the Senate report No. 95–331, page 4—and many other expert witnesses agree. A number of them testified before our subcommittee.

A number of witnesses testified on this issue that the length of the disability period in pregnancy cases is particularly difficult to document. It is affected by physical, psychological, and emotional factors—such as the mother's concern for the well-being of her new child—not present in the case of other disabilities and may be colored by the worker's awareness that the benefits—including salary in many cases—will continue to be paid during the period. Physicians cognizant of potential malpractice liability are reluctant to disagree with a worker's subjective judgment as to when she is ready to return to work. Absent a presumptive disability period such as the one contained in my amendment, civil rights disputes will inevitably arise in this area. These could be resolved only through disability documentation by the opinions of the worker's and/or the employer's physician. The expense and adversarial nature of this process, as well as appeals to the Equal Employment Opportunity Commission and other litigation, would be avoided by the use of the 6-week disability period.

My proposed amendment refers to "normal" pregnancies. This is intended to insure that complications of pregnancies would be treated like other illnesses or conditions under the employer's benefit plan, without regard to the 6-week limitation.

So, from that standpoint, the amendment is abundantly fair. It is fair to business, it is fair to the pregnant employees who will be involved, and it is certainly fair from the standpoint of taking care of those problems that could arise from complicated pregnancies or extraordinary conditions that are uncontemplated.

Because my amendment will facilitate the bill substantially, I recommend its adoption.

I ask unanimous consent at this time that the tables that I have cited in my statement be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE A.—SUMMARY OF COMPANY RESPONSES TO QUESTIONNAIRE REGARDING H.R. 5055, H.R. 6075, AND S. 995

Industry	Number of employees	Annual payroll (millions)	Percent female	Disability plan cost (millions)	Annual cost to provide full disability	Cost per employee	Average weeks of maternity leave	Percent who return to work
Aircraft Manufacturing	120,652	$2,263	18.0	$6.0	$277,000	$2.30	12.0	50.0
Airlines	176,000	3,274	34.0	40.7	7,108,786	40.39	27.0	68.0
Banks	65,000	764	65.0	11.4	1,272,440	19.58	16.0	60.0
Chemical	335,627	5,499	20.0	21.3	3,148,100	9.38	13.0	60.0
Construction	52,026	770	13.0	4.0	133,000	2.56	20.0	28.0
Food	48,300	669	20.0	9.4	239,000	4.95	12.0	42.0
Insurance	113,200	1,545	50.0	26.4	3,725,000	32.91	18.0	20.0
Manufacturing	2,139,282	33,066	24.0	345.0	23,062,944	10.78	13.0	55.0
Oil	318,569	5,925	15.0	108.3	3,127,600	9.82	13.0	64.0
Paper	93,949	1,416	21.0	9.3	845,000	9.00	10.0	40.0
Pharmaceutical	6,700	85	40.0	1.8	20,000	2.99	7.0	50.0
Retail	780,585	7,465	63.0	94.7	12,458,000	15.96	15.0	38.0
Steel	305,551	4,426	8.0	50.0	1,875,100	6.14	16.0	45.0
Textile	22,755	215	37.0	.2	220,000	9.67		
Transportation	17,000	90	18.0	.1	105,000	6.18	12.0	65.0
Utility	980,798	15,471	24.0	292.4	7,522,900	48.45	18.0	59.0
Miscellaneous	201,155	3,058	21.0	42.2	36,901,000	150.2	19.0	54.0
Grand total (118 companies)	5,777,149	87,544	28.9	1,063.2	108,829,970	188.4	15.1	49.8

TABLE B.—SUMMARY OF ADDED COST PER EMPLOYEE

Type of coverage	Total number of employees	Percent female	Total number of females	Added cost	Added cost per employee	Added cost per female employee
6 weeks	1,812,807	18	331,048	$16,527,050	$9.12	$49.92
Not inclusive	3,519,302	34	1,181,603	92,302,920	26.23	78.12
Full	445,040	19	84,538			
Total	5,777,149	28	1,597,189	108,829,970	18.84	68.14

TABLE C.—*Nationwide cost of providing maternity-related coverage based upon survey results*

1. Female workers in U.S.	32,000,000
2. Percent of employees with some disability income coverage	68
3. Female workers with coverage	21,760,000
a. Number with no maternity coverage	10,880,000
b. Number with 6 weeks maternity coverage	10,880,000
4. Added cost of providing disability:	
a. Added cost for females presently with no pregnancy-disability income: ($78.12x10,880,000)	$849,945,600
b. Added cost for females presently with 6 weeks maternity coverage: $49.92 x 10,880,000)	$543,129,600
5. Total added cost of maternity-related disability income coverage	1,393,075,200
6. Total added costs of maternity-related coverage:	
a. Disability Income	1,400,000,000
b. Medical Benefits	1,100,000,000
Total	2,500,000,000

1. Source: U.S. Department of Labor, March, 1977.

2. Source: Testimony of American Council of Life Insurance, Table 2, submitted to Senate Human Resources Subcommittee on Labor, April, 1977.

3. Testimony in G.E. v. Gilbert estimated 40% of disability plans had pregnancy coverage; A.C.L.I. testimony above estimated 60%. This figure is based on an average—50%.

4. The $78.12 and $49.92 figures are from Table B.

6. This figure represents the sum of column 5 (rounded off to 1.4 billion), and $1,100,000,000, which is the cost of including maternity coverage on the same basis as coverage for sickness in group medical expense plans administered by insurance companies. The $1,100,000,000 figure was submitted to the Senate Human Resources Subcommittee on Labor in April, 1977 by the A.C.L.I.

TABLE D.—SUMMARY OF PREGNANCY DISABILITY BENEFIT COST ESTIMATES

Study	Year	Type of benefit	Number of weeks of disability benefits	Estimated additional disability cost to employers	Estimated additional medical cost
Testimony of A. Bailie in General Electric v. Gilbert	1973	Disability income plan	20.0	$1,005,000,000	
			25.0	[1] 1,313,000,000	
Testimony of Paul Jackson in General Electric v. Gilbert	1973	do	17.0	1,353,000,000	
	Updated July 1975			1,650,000,000	
	Updated April 1977			[2] 1,700,000,000	
Statement submitted to Senate Human Resources Subcommittee on Labor by American Council of Life Insurance and Health Insurance Association of America.	April 1977	Disability income plan	11.3	[3] 600,000,000	[4] $1,100,000,000
Industry survey	June 1977	do	[5]	1,400,000,000	
AFL-CIO	April 1977	do	6.0	[6] 130,000,000	

[1] Insured short-term disabilities only.
[2] Insured short-term and long-term disabilities and salary continuation plans.
[3] Insured group policies and formal paid sick leave plans.
[4] Limited to medical expense benefits for pregnancy under insured medical expense benefit plans. Excludes Blue Cross and other independent plans.
[5] Cost determined on basis of estimated company cost of maternity-related benefits for the same number of weeks provided for regular disability.
[6] Based on $1.50 cost increase per worker.

Mr. HATCH. With that, I commend to my colleagues, certainly to the distinguished leaders on this bill, my sincere desire to see the bill passed, but passed with at least some limitations in it that I think will improve the bill, will help industry, will save the ultimate payers for it, the consumers of America, billions and billions of dollars. Keep in mind, the cost of this bill is going to be about $2.25 billion annually. If you add 10 years of that, that means $25 billion that the consumers of this country are going to have to pay as a result of the failure to put into the bill this particular provision.

I think if this provision were put into the bill, I could enthusiastically support the bill, because then I think it would be fair to the employers, fair to the women, and fair to the consumers of this country. They are ultimately the ones who are going to have to pay for this.

I might add that I think the consumers are being saddled with an awful lot of things in our society that they should not have to pay for. This is one I believe society can justly take care of if there is reason in the process. That is the reason for this amendment, the reason I fought so hard for it in the committee, and why I fight so hard for it on the floor. I do commend it to my respective colleagues and good friends on the committee, as well as my colleagues in the Senate.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield myself such time as I need to reply to the Senator from Utah.

The proposed amendment is directly contrary to the purpose and spirit of this legislation. An arbitrary 6-week "cap" or cutoff on the receipt of benefits by women disabled by pregnancy or related conditions would be just as discriminatory as the complete denial of benefits.

No hard and fast figure can be given as to how long a woman will be absent from work due to pregnancy-related disability under normal circumstances. It is true that most women recover from normal childbirth within 6 weeks after delivery. However, "normal" disability periods can exceed 6 weeks in some cases. What might be normal for one person under one set of circumstances would not be experienced by another person under another set of circumstances. Thus, any attempt to apply a "normal" period of time to all cases would arbitrarily discriminate against some people.

The hallmark of title VII, and of this legislation, is that it would require that all American workers be treated fairly by their employers, without regard to their sex, except insofar as it would affect their ability or inability to work. Any kind of arbitrary classification, such as that which would be established by this amendment, has no place in this legislation.

Furthermore, such a limitation is entirely unnecessary. Adequate proof of disability may, and should, be required by employers who provide disability or health benefits to their employees. As the committee report on this bill (No. 95-331) indicates, this legislation would not prevent the control of abuse or malingering under disability benefits programs.

For example, it would be entirely lawful under this legislation for a company to institute controls conditioning disability benefits upon an intent to return to the job upon recovery.

Similarly, given that there are some medical conditions, such as those resulting from uncomplicated childbirth, which cause disability for predictable periods, employers could require that employees submit medical evidence of complication in order to qualify for a more extended disability benefit period. Of

course, pregnancy could not be singled out for this type of requirement, but could be handled in this way by an employer who chooses to handle all disabling conditions of a predictable duration in this manner.

An employer could also require examination by a company physician to confirm the existence of a medical disability, either at the beginning of the disability, or after a certain period has elapsed.

In each of these examples, controls or restrictive procedures must be applied evenhandedly to both sexes to comply with title VII. No special restrictions applicable to pregnancy or childbirth alone will be permitted under this legislation.

The amendment under consideration is, therefore, not only discriminatory in its purpose and thrust, but is also unnecessary. There are nondiscriminatory means of accomplishing what the amendment is intended to accomplish.

This is an amendment that is opposed strongly and for all the reasons I mentioned. With all of our efforts to work out differences in these matters, I can see no way to put into this legislation a period of coverage for pregnancy or any special limitation. To do it, I repeat, would do violence to everything we are attempting here in eliminating discrimination.

Mr. HATCH. Will the Senator yield while he is on that point?

Mr. WILLIAMS. Yes.

Mr. HATCH. The only thing I point out to my distinguished colleague from New Jersey is that I think it is not only a reasonable amendment, but it is almost essential if we do not want to have—well, we have gone through this earlier in the committee, there is no use going through it here. But let me bring one thing up here.

The majority, in writing the report on the matter, with supplemental views, states, on page 4:

> And, if an employer has a disability program which pays up to 13 weeks' salary, that does not mean that pregnant women can necessarily collect for 13 weeks. Since the period of disability for a normal pregnancy is 4–8 weeks, benefits will normally be paid only for that period.

The thing that bothers me is that we pretty well admit that that is reality. My amendment limits it to 6 weeks. I would be happy to go to 8 weeks, to give the complete outside edge to every woman who suffers from pregnancy.

In addition, providing in the amendment, as is provided right now, that if there are extraordinary conditions or complications in pregnancy, that those are excluded from the 6- or 8-week provision.

I am trying to be as reasonable as I can and still get some reason into the bill on this particular point.

I wanted to bring that up because I think it is an important point. I think there will be much more litigation if we do not have some limitation than if we leave it wide open for women to take whatever time they want.

Mr. WILLIAMS. May I comment, on my time, on this?

Mr. HATCH. Yes.

Mr. WILLIAMS. I just sense the Senator from Utah is not talking specifically to the underlying reach of this amendment.

Many things that the Senator says, I am sure are true. In normal childbirth periods, there are periods of inability to work that are rather predictable—6, 7, 8 weeks, whatever it is.

Every opportunity is out there for those who are covering disability to define what could be described as a normal period for childbirth for disability benefits.

They can do that if there is a consistency that shows no discrimination.

There are a lot of other medical conditions that have a normal period for disability that makes it impossible to go to work. We could think up a thousand, perhaps.

The plan coverage could take a broken arm and define it as a simple fracture and say that for the simple fracture there will be a coverage of 5 weeks. This can be done, and this would not stop this classification.

But we cannot, if we are passing a bill that deals with discrimination, create new discrimination. That is what we would do by singling out one period in a working person's life where they could not work, and that is a period around pregnancy and childbirth.

This would require that the issue go right through the courts again. If the Senator's amendment were part of the law, we would probably see just as many circuit courts having the same question; and it would finally end up across the street in the Supreme Court, because we would be writing in discrimination in a law that is designed to end discrimination.

Mr. HATCH. Will the Senator yield?

Mr. WILLIAMS. And all the other circuits that had the case said, "No." The Supreme Court said, "Yes, you can discriminate here."

We are here to deal with that specific pregnancy disability, and we cannot, in dealing with that discrimination, create our own here on the floor.

Mr. HATCH. Will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. HATCH. I do not consider it creating discrimination, nor do I consider it something that would lead to further litigation, for us to delineate exactly what the pregnancy disability time limit is, because this issue has already been decided by the Supreme Court.

We have a right, and I suggest and submit we have an obligation as legislators, to try and do what is best for the country. I think we should have a limitation because it is reasonable to do so.

I doubt seriously it will lead to any litigation, but I think if we leave it wide open, as it is, we will have all kinds of litigation and complaints that they sought extra money because of the variety of interpretations as to what constitutes a disability.

This puts some certitude and I think integrity into these determinationns. I think it is reasonable, especially in light of the committee report that says that the normal pregnancy disability time is 48 weeks, and especially when we provide in my amendment for extraordinary conditions or conditions of complicated pregnancy.

I just wanted to make that point. I do appreciate the viewpoint of the distinguished floor manager.

Mr. WILLIAMS. Mr. President, I regret that I have not been able to make my understanding, my certainty about this issue clear to the Senator from Utah.

Whenever I find it impossible to make understandable one of these questions—I think this is a question in law, basically—I turn to the Senator from New York, the ranking minority member of this committee, who is always able to bring a new enlightenment. I am going to look now to the Senator from New York and my ranking minority member, the forceful, most effective advocate of many of our bills, and this one, too.

I have suggested to the Senator from Utah that this 6-week limitation for pregnancy coverage is a new discrimination, that a period of coverage for pregnancy disability is permitted if it is the approach used under other disabilities; but, when we specify one disability and say that this is the limitation of coverage, we are creating a new discrimination. I do not believe we can be part of that or should be part of it, because we would be furthering discrimination in the name of dealing with discrimination.

Mr. HATCH. If the Senator will yield for one comment before yielding to my distinguished colleague from New York, if that is true, we would have to admit the State of New Jersey discriminates because they have an 8-week limitation in their particular situation.

Mr. WILLIAMS. Again, we have to look to see whether other disabilities are scheduled and, if they are not, I say that that would be a discriminatory provision. I do not believe it is because I think scheduling is done for disability.

Mr. HATCH. The Senator would admit, would he not, New Jersey has an 8-week limitation, they have singled it out?

Mr. WILLIAMS. Classification is permitted as long as there is no discrimination. If there is discrimination in classification, we would say——

Mr. HATCH. If I did not misunderstand the Senator's argument, it was to have a classification for discrimination with regard to pregnancy.

Mr. WILLIAMS. If that is the only classification, I say it is discrimination and want to be no part of it; and the way we can be no part of it is to say "No" to the suggested 6 weeks.

Mr. HATCH. I understand the Senator's position.

Mr. WILLIAMS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think we are faced with a situation where we are asked to install discrimination in a bill which seeks to eliminate discrimination. That is exactly the situation, as I see it.

Often, the important thing in law—and this we hope will become a law—is to find out what it does not do. What this bill does not do is to prevent any employer from establishing nondiscriminatory conditions respecting any disability conducive to honest administration

of a disability provision—to wit, that there shall be no malingering; that the time shall not be extended beyond what is required; that medical examinations may be required of the employee as a qualification; and that the employee may be required to return to work. These conditions may lawfully relate to the employee who may be pregnant and to other employees as well, so long as these are even-handed classifications and qualifications. But to single out pregnancy as the one area in which there will be an arbitrary limitation to protect against what Senator HATCH argues may be imposition is simply installing a discrimination where we are seeking to exclude discrimination.

The basis for our bill and the reason why it is in the civil rights statute is that it is a negative thing. We do not want pregnancy discriminated against, as contrasted with a broken leg or a strep throat or appendicitis or some other basis for disability.

That was the basis of the decision of the U.S. Supreme Court in the Gilbert case—to wit, that we in the Congress had not covered that point with respect to pregnancy. So now we are covering it. We are making it crystal clear to the Court that this is what the Civil Rights Act includes.

The committee report commits the whole committee, insofar as the majority which reported this bill is concerned, as to the congressional intent. The relevant discussion is contained under the heading "Disability Benefits," from page 4 to the end of that section, on page 5. Inasmuch as it is directly relevant to this debate, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

a. Disability Benefits

The *Gilbert* case itself dealt with the exclusion of disability arising from pregnancy and its incidents from an otherwise comprehensive income support program for employees unable to work for medical reasons. Since this bill would prevent employers from treating pregnancy and childbirth differently from other causes of disability, it would require employers who provide a general income support program for disabled workers to provide the same benefits to women disabled by pregnancy, childbirth, or related medical occurrences. This would include short- and long-term disability insurance programs, sick leave, and other forms of direct employer payments.

An employer who does not provide disability benefits or paid sick leave to other employees will not, because of S. 995, have to provide these benefits. And, an employer will not have to allow pregnant women to use paid sick leave or receive disability benefits simply because they are pregnant; benefits need to be paid only on the same terms applicable to other employees—that is, generally, only when the employee is medically unable to work. For example, if a pregnant woman wishes, for reasons of her own, to stay home to prepare for childbirth, or after the child is born to care for the child, no disability or sick leave benefits need be paid. Employers who provide voluntary unpaid leave of this type may continue to do so, as long as it is done on a nondiscriminatory basis. And, if an employer has a disability program which pays up to 13 weeks' salary, that does not mean that pregnant women can necessarily collect for 13 weeks. Since the period of disability for a normal pregnancy is 4–8 weeks, benefits will normally be paid only for that period. Of course, if there are medical complications of pregnancy or childbirth which prevent a woman from working for more than the normal period, the entire disability period, up to any time or dollar limit otherwise applicable, would have to be covered.

It has been asserted that providing benefits for pregnancy-related disabilities somehow creates a special potential for abuse or malingering. However, as one district court observed, there is "no basis for assigning the tendency to malinger as a sex-related characteristic." *Liberty Mutual* v. *Wetzel* 372 F. Supp. 1146, 1164 (W.D. Pa. 1974).

Title VII as amended by S. 995 would not prevent the control of abuse or malingering in disability benefits programs, so long as it is accomplished by nondiscriminatory means. For example, it would be entirely lawful under S. 995 for a company to institute controls conditioning disability benefits upon an intent to return to the job upon recovery. Similarly, given that there are some medical conditions, such as those resulting from uncomplicated childbirth, which cause disability for predictable periods, employers could require that employees submit medical evidence of complication in order to qualify for a more extended disability benefit. Of course, pregnancy could not be singled out for this type of requirement, but could be handled in this way by an employer who chooses to handle all disabling conditions of a predictable duration in this manner. An employer could also require examination by a company physician to confirm the existence of a medical disability, either at the beginning of the disability or after a certain period has elapsed. In each of these examples, controls or restrictive procedures must be applied evenhandedly to both sexes to comply with title VII. No special restrictions applicable to pregnancy or childbirth alone will be permitted under S. 995.

Mr. JAVITS. Mr. President, every employer may now clearly understand that the committee says that he may require, so long as it is nondiscriminatory, in any disability—pregnancy or any other disability—inspection by a doctor, good faith, which is required on the part of the beneficiary, and a real illness or disability rather than one that is feigned or pretended or extended without proper medical cause.

So it seems to me that this is very adequate protection for the employer. What is just as important, it is very adequate protection for other employees. I am not unmindful of the fact that a plan is costly, that it becomes more costly if it is cheated on or imposed upon, and that, therefore, not only the employer but also other employees have a reason why they, too, have an interest in controlling possible abuse.

I heard what the Senator said about New Jersey. I have no idea why the public policy of New Jersey or the practicalities of its own legislative enactments may have induced it to take this step, but I consider it quite inconsistent with the legislative purpose we are seeking to serve here and with the Federal law which we should have on the subject.

Mr. WILLIAMS. I should like to interject one thing that was missing in the New Jersey discussion.

The New Jersey law does say that after the period of normal childbirth and inability to work, if there are complications that can be shown medically, the coverage goes on. But that is not to say that the New Jersey law does not, in my judgment, in a degree, discriminate by this one classification. Frankly, I am not sure whether there are other classifications for disabilities, for other disabling conditions. If there are, we are home free, and we are not discriminatory. If that is the only classification, I do not like it. When we finish our work here, if this is accepted, that will not be the situation in New Jersey.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HATCH. I add that New York also has the provision of 8 weeks, so it is not just New Jersey. It is the distinguished State of New York which has set a precedent in many of our laws throughout society because of the ultimate degree of sophistication that generally comes from the State of New York.

I ask this question of the distinguished floor manager and the minority leader in this matter: Under the Federal law that is proposed, can an employer schedule a maximum disability time repayment based upon each type of medical condition and be in compliance with this bill?

Mr. JAVITS. I believe that what the employer has to do is to make nondiscriminatory whatever conditions he sets with respect to disability.

Mr. HATCH. Then, would he not have a right to set time limitations on every disability and would that not, in fact, be nondiscriminatory?

Mr. JAVITS. Does the Senator mean different classifications for different types of illness?

Mr. HATCH. He would have a right to classify every illness.

Mr. JAVITS. Provided that there was not inherent in the action a purpose to discriminate, I believe that if you set brief, arbitrary period for pregnancy—what the Senator is trying to do here—there would be an inherent purpose to discriminate.

Mr. HATCH. This is not an arbitrary setting, because the report says that the average term for disability in pregnancy is 4 to 8 weeks. My amendment provides 6 weeks, because I felt that was on the upper side of that. I would be willing to go to 8 weeks, to go to the outside edge, so that we have some reasonableness in this. The Supreme Court decision, it seems to me, with all due respect, indicates that we can do exactly that.

My distinguished colleague from New Jersey is afraid that we might have an abundance of litigation as a result of setting a definite figure. I submit that there will be an abundance of litigation for not setting the figure. I think an abundance of uncertainty presently pervades all of the business community, throughout our society, as a result of other economic difficulties, because we are not taking the pains to set this time.

I am sincerely concerned about this problem. I would like to support this bill. I think the managers have been very conciliatory in some of the other points I have raised, and I am pleased that we

have been able to reach accord on these matters.

However, I am very concerned that we are saddling business with a $2.5 billion unnecessary cost that has to be passed on to the consumer, which could become a reasonable cost. In other words, we can tell him what it should be, if we would set the time, if we put some reasonableness in this, so that he can figure out actually what it is going to cost.

Mr. JAVITS. If we are going to do that, why should we not set a schedule for tonsils, appendectomy, strep throat, influenza, a broken leg, a broken arm, and a dislocated shoulder?

What the Senator wants us to do is to set an insurance schedule, but with only one item, instead of the whole multiplicity of disability items which are involved.

Mr. HATCH. No. I submit that in almost every disability plan, those are already set.

Mr. JAVITS. That is fine. We are not going to contest that, but we are not going to set them here; that is our point. Our point is that the employer has the problem of demonstrated comparability and good faith. What the Senator wishes us to do is to substitute us for individual employers who are subject to that test, on one particular item—to wit, pregnancy. I cannot see that. I think Senator WILLIAMS is right. That would encourage much more litigation. What we are doing is leaving the situation the way it was before the Supreme Court decided the Gilbert case last year. That is all we are doing.

Mr. HATCH. No, we are doing a lot more than that. We are imposing on and mandating to all companies that presently have disability coverage that they now have to provide for pregnancy disability. That is a far greater step than what existed prior to the Gilbert case.

But just let me add this: I do not think anybody would seriously argue that pregnancy is a disease or that it is anything but a normal physical condition that is voluntarily, in most cases, sought out and achieved, where broken legs and broken arms and other types of disabilities do not fit in that category.

I also understand, and the thing that persuades me and pushes me toward voting for this bill, except for this one defect in the bill, as I see it, is if disability programs can have hair transplants and vasectomies and things of that order that I do not consider to be diseases, then maybe we should do something for the lady who has to work who happens to become pregnant.

I have no problem with that. What I have a problem with is really centering around the uncertainty that is caused because of our failure to recognize this is not a disease, because I think of our failure to not put into effect with definiteness, so we can be actuarially positive about this thing or at least reasonable about this, the time that the committee admits is the average time for pregnancy. I think it is a mistake to do it, and I do think we are going to have much more litigation with cited incorrect statistics before the subcommittee hearing this matter with respect to the average time women have taken off, in spite of the committee's assertion that it is 4 to 8 weeks disability, and which has been instead somewhere between 11 and 12 weeks.

All I am trying to say is let us do this for the women of America. Let us do it and let us do it even though we acknowledge it is not a disease, and let us do it even though we do not have to do it because the Supreme Court has said we do not have to do it, but let us do it because maybe it is right to do it, but let us do it with reason. That is all I am asking.

Of course, we have argued most of these things in committee, and I do not mean to be unduly oppressing the Senate or my two distinguished colleagues with it at this time, but I do think to argue this is going to lead to more litigation by being definite than by being indefinite I think is wrong.

Mr. JAVITS. If I may sum up my position—gluttony, which causes a lot more illness than pregnancy, is also voluntary; so is not taking exercise or not getting sufficient air; so is not going for an affirmative checkup to the doctor every year or every 6 months; so is neglecting your eyes by not getting the proper glasses. I mean, if we are going to get into that, that is ad infinitum.

I must oppose the selection of this one item on the ground that we are doing the pregnant woman some kind of a favor. The fact is what we are doing, what we are dealing with here, is an actual disability which is prejudicial to millions of women, and it is, therefore, a discriminaton which we should not accept.

What the Senator wishes us to do is to single this out, to make an actuarial insurance schedule for this one but not for 50 others which are just as voluntary. Therefore, it seems to me that we would only complicate our lives infinitely more by taking that kind of an approach to this problem.

May I point out, too, if I may just complete my argument, that when I said that what we are trying to do was to restore the situation to what it was, the fact is that before the Supreme Court decision there did not seem to be any question in the minds of many of us that where there was to be disability coverage for women under comprehensive disability plans.

Now, some employers held out against that, and the Supreme Court decided with them. It does not make it right and does not change the fundamental reach of the Civil Rights Act which definitely stated that you could not or you should not discriminate on the ground of sex. And so we are, in pursuance of an intent which we legislated in 1964, simply saying to the Court, "This is what we meant and we mean it and, therefore, because you left us no choice, we are going to make clear in a separate statute that is what we meant and what we mean today."

But I do not see why we should import into that intent an arbitrary limitation for this particular disability, particularly where we ourselves state, the whole committee states, and the Senate would state in acting upon our representation, that classifications and protections are absolutely in order so long as they are not inherently discriminatory. Therefore, I believe that to select out this particular disability for this particular kind of restriction is bad policy.

The Senator says my State does it and Senator WILLIAMS' State does it. Well, we often run into those situations here with many States. I do not agree with everything my State does. I do not think it is a paragon of virtue, and I will tell the Senator, for example, that in workmen's compensation I am ashamed of my State as to the inadequacy of its workmen's compensation laws, the compensation which it gives to the disabled worker.

So while I am impressed with such a fact—and it is incumbent upon me to express my agreement or disagreement with it, which I do, I flatly disagree with it—I am not going to lend myself as a Senator of the United States to making what I consider to be a serious injustice here, because my State happens to do it.

So, Mr. President, I believe for the reasons which I have stated, and in view of the protections which we agree are inherent in the law now, and will continue to be inherent in the law, that the amendment should be rejected.

Mr. HATCH. Mr. President, I appreciate the remarks of my distinguished colleague from New York. I would cite to him, though, that some of the illustrations given do not fall within the same category as pregnancy, which is generally desired and totally predictable in terms. In other words, we know it is going to be 9 months.

The committee submitted 4 to 8 weeks of disability as the average. I provided in my amendment that if there is an extraordinary condition or a complication that sets in that obviates the 6-week limitation, I would be willing to go to 8 weeks, to go to the outer limits of what the report says. I want definiteness, I want certitude.

I want this to work for business. I do not want extraordinary costs to be passed on to the consumers in our society.

I think my position is reasonable. I might mention that four-fifths of the States that have disability, pregnancy disability, coverage or provide for it in their statutes also provide caps, such as the States of New Jersey and New York, which I wholeheartedly endorse and with which I agree.

I think it is a far more reasonable approach than just leaving this as an undetermined amount to be determined by the certifying physician.

Then, to do it for one select segment of society may be all right, but let us permit society to have some limitations to that one select approach, and let us have some definiteness in it so that the business world, so that the rest of the people in our society, do not have to be hung up or generally disadvantaged because we want to be generous here in the U.S. Senate.

I have deep respect for both of my colleagues, as they both know, tremendous respect for them. We happen to disagree,

I think somewhat violently, on this one issue. I just hope my colleagues will consider this as they vote.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. MORGAN). Is there a sufficient second? There is not a sufficient second at this time.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

Mr. WILLIAMS. Will the Senator withhold that? I wonder if I could suggest to the Senator from Utah the following procedure we might embark upon now: We have been asked by the leadership to do our best to have amendments ready for back-to-back votes after the noon hour. It is now 10 minutes after 12, and we have another discussion that has been started on an amendment that is yet to be offered by the Senator from Missouri (Mr. EAGLETON). We are trying to reach him now. If we could have that amendment offered, and a little discussion, we would then be ready for a vote.

Mr. HATCH. Will the Senator call for the yeas and nays if I do not happen to be on the floor?

Mr. WILLIAMS. Yes. We can get the yeas and nays on the amendment of the Senator from Utah.

Mr. HATCH. If we can get the yeas and nays on my amendment, I would be happy to follow the procedure outlined by the Senator from New Jersey.

Mr. WILLIAMS. I would be happy to yield back my time. How much time do I have on this amendment?

The PRESIDING OFFICER. The Senator has 35 minutes remaining.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that at the appropriate time it be in order to have the yeas and nays ordered on the Hatch amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I yield back all except 5 minutes on this amendment at this time.

Mr. HATCH. Mr. President, I do the same.

The PRESIDING OFFICER. The Chair understands that both sides have yielded back all time except 5 minutes on each side.

Mr. WILLIAMS. Awaiting the introduction of another amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the Eagleton amendment.

The PRESIDING OFFICER. The amendment has not been offered. Is there objection to ordering the yeas and nays at this time? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. I also ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that all of the debate on the Eagleton amendment be printed as a continuum prior to the vote thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the Hatch amendment is temporarily set aside.

UP AMENDMENT NO. 838

Mr. EAGLETON. Mr. President, I offer the Eagleton amendment to S. 995.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) offers an unprinted amendment numbered 838: On page 2, line 6, insert after the period the following new sentence—

Mr. EAGLETON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 6, insert after the period the following new sentence: "As used in this subsection, neither 'pregnancy' nor 'related medical conditions' may be construed to include abortions except where the life of the mother would be endangered if the fetus were carried to term."

(The following remarks occurred earlier in today's proceedings.)

Mr. EAGLETON. Mr. President, I shall shortly call up an amendment that I have at the desk. There are two committee amendments that will have to be agreed to, but we are awaiting the arrival of another Senator from the minority. I ask unanimous consent, therefore, that I be permitted to speak on my amendment and that, in the RECORD, this be printed at such time as I do officially call up my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, this is an amendment to S. 995—a bill to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

Mr. President, it is my belief that the provisions of this bill provide women with a strong economic incentive to carry pregnancy to term. However, my support of this legislation is somewhat tempered because I fear that the bill language referring to "pregnancy and other related medical conditions" could be construed to mean that all employers would be forced to pay out medical benefits for abortions. This should not be. Therefore, my amendment states that employers who are opposed to abortion should not be forced to, in effect, violate their personal moral conscience by financing payments of an abortion. If my amendment is adopted, an employer is neither prevented from or coerced into including elective abortion in his group medical benefits plan.

I want to point out that this amendment is consistent with other abortion related matters in which I have been involved as a member of the U.S. Senate.

In 1970, I helped secure passage of the Family Planning Services Act, the first categorical Federal program for providing family planning services to those in need of them. During debate on this matter, I urged the Senate to ban the use of Federal funds for abortion as a method of family planning. Likewise, in 1973, I strongly supported an amendment offered by Senator CHURCH to the Public Health Services Act which prohibited the imposition of any requirement, as a condition or consequence of Federal aid to health care institutions, for its individuals or institutions to participate in abortion or sterilization procedures contrary to their religious or moral beliefs. And finally, Mr. President, during the last 2 years, I have supported the "Hyde language" to the Labor-HEW appropriations bill which prohibits the use of Federal funds to perform abortions "except where the life of the mother would be endangered if the fetus were carried to term."

Mr. President, all of these votes and amendments have one central theme—that we should not allow Federal funds to be used to pay for abortions. Even though we are not talking about Federal money in the case of S. 995—I believe that Federal laws should not be utilized to force an individual to violate his or moral conscience. Those employers morally opposed to abortion should not be required by the Federal Government to finance the abortions of their employees.

The 1973 Supreme Court decision (Roe against Wade) declared abortions to be legal; however, it did not require the Federal, State, or local government to pay for these abortions. In fact, recent Supreme Court cases (Poelker against Doe; Beal against Doe; Maher against Roe) clearly provide evidence that the Federal, State, and local government may legally decide not to pay for abortions.

Certanly, what the Court has said of the States should apply equally to the individual employers: Those employers who want to pay for abortions out of their medical benefits plan should be able to do so; but those who are morally opposed to abortion should not be required to violate their personal moral conscience.

Mr. President, some confusion seems to have arisen concerning the intent of my amendment. Some say that if my amendment is adopted there would be a total prohibition of abortion benefits and that no employer would be able to provide disability benefits or medical coverage for abortion. This simply is not correct. If my amendment is adopted, any employer may provide abortion disability and medical benefits, and there is nothing to prevent abortion benefits from being included in any health benefits package as a result of collective bargaining. The exclusion of abortion medical benefits simply avoids the possibility that an employer may be forced as a matter of law to provide such benefits under Government compulsion. Furthermore, my

amendment is worded in such a way so that complications which may arise from a nontherapeutic abortion would be covered under this legislation, as amended. It is completely contrary to the intent and the language of the amendment to deny such medical and/or disability benefits to a person who has complications resulting from a nontherapeutic abortion.

Finally, Mr. President, my amendment does not diminish the legal rights of any party by imposing the moral, ethical, or religious convictions of one group of people upon those who have contrary beliefs. It simply provides that Government will not force anyone to provide abortion benefits, nor will Government prohibit anyone from so providing.

In summary, Mr. President, the Eagleton amendment avoids putting the Congress of the United States in the position of coercing employers with an ethical, moral, or religious objection into financing, in whole or in part, nontherapeutic abortions for their employees. This is completely consistent with the law and public policy established by the Supreme Court and repeatedly established by the Congress in refusing to mandate the expenditure of State and Federal funds to finance elective abortions. It would be inconsistent for the Congress to now mandate a violation of the individual employer's first amendment right in coercing him to underwrite nontherapeutic abortions for his employees.

Mr. BAYH. Mr. President, the question of abortion is not foreign to this body. It is one of the most emotional, deeply felt, discussed-at-length issues that has ever confronted us from time to time.

I know the Senator from Missouri feels very strongly about this, but I think it is very important that the Senate understand in what direction we are headed before we embark on this little journey.

The question of abortion, it seems to me—and I say this as a Member of this body who has been chosen to chair the Subcommittee on the Constitution, and in that capacity I think that subcommittee is the only subcommittee that has held any hearings on abortion, any hearings of any duration and we held extensive hearings on that—to me the question of abortion is, perhaps, the most personal question that a human being has to face.

I reached my own personal conclusion as to how I would opt if, the Lord forbid, I was ever faced with that kind of difficult situation, but I was unwilling to suggest that I had infinite wisdom and could put myself in the same position of making a decision for someone else who might look at it differently and come to a different conclusion.

We are talking here, Mr. President, not only about those instances where the life of the mother may be in question, whether the choice would be in saving the life of a mother or the life of the fetus. We are talking about a wide variety of other complicating factors that sometimes confront women and their families.

We are talking about pregnancy as a result of incest and pregnancy as a result of rape. We are talking about some of the tragic genetic diseases which now can be detected very early in the instances of pregnancy like Tay-Sachs disease which leads to the ultimate painful death of the child before the age of 4. We are talking about all these things which it seems to me the Senate is hardly in a position to pass judgment upon.

Mr. President, I think that a body composed of 100 males albeit conscientious, hard-working, intelligent, and well-intentioned males, is hardly in a position to make this very personal decision for even one woman, let alone to put an unfortunate amendment like this in a bill that is designed to root out discrimination. The whole purpose of this bill is to say that if a corporation, a business is to provide disability that they cannot discriminate against women because of the unique character of disability that might confront them and thus we are talking about those disabilities that are attendent to the child-bearing potential of women.

And, it seems to me, that if we are going to require that women be treated equally, and that is the purpose of this bill, we are being a bit hypothetical, to say the least, to say except in those instances where for reasons that seem important to the woman in question she wants to avail herself of an abortion.

For the Senator from Missouri to say that this is not mandatory I think escapes the whole purpose of this bill. We are not saying in this bill that all employers in America had to give disability services to women relative to pregnancy. We are saying if you give disability then you cannot deny that particular kind of disability for women.

So the thrust of the bill is not to mandate by its very nature but indeed to mandate against discrimination. I hope that the Senate will not cloud a bill that is designed to try to wipe away discrimination in the instances of abortion.

I might just make one added observation. This whole question of abortion is one that is deeply felt by many people, and there are a number of reasons why a woman would want to have an abortion. One of the reasons is that she cannot afford the expenses attendant to a prolonged pregnancy and childbirth. Thus, if one is to look carefully at what the thrust of this legislation is, indeed by requiring that if disability insurance is provided it shall cover the expenses attendant to pregnacy and childbirth, we are saying to those women who otherwise for economic reasons pursue the path of abortion, "you will not have to do so." In that regard I think the legislation to a very great degree is what some people could rightly call profile because it provides the finances in which women confronted with that situation are making a decision on a dollar-and-cents basis, which is unfortunate in and of itself, but some women are forced into that position. We are removing that where the price tag of a baby determines whether it is born or not.

I think that is one of the most important features of this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I will yield myself such time as I need. I appreciate the statement made by the Senator from Indiana who, as indicated, has been so close to this profound issue. His statement is necessary to consideration of this issue whenever it comes up and wherever it comes up. This legislation deals with discrimination that the Supreme Court would permit under the Civil Rights Act, discrimination against women in those situations where all disabilities are covered except disabilities arising out of pregnancy or conditions related to it.

So on this proposed amendment to be offered by the Senator from Missouri, dealing with an exclusion for the coverage of nontherapeutic abortions, it seems to me that we would create another clear discrimination and on an issue which has not previously arisen under the Civil Rights Act.

There have been many claims that a pregnancy disability, where it was excluded from the plan, presented cases of discrimination; and throughout the land there have been cases brought on a charge of discrimination where pregnancy and related conditions have not been included under a comprehensive plan. All circuit courts that have reached this case have concluded that, where all disabilities other than pregnancy are covered, it is discrimination. The Supreme Court, when the case reached it and was decided last December, found otherwise. But with all of the law, with all of the protections that are there under the civil rights laws, both Federal and State, that deal with discrimination and on the question of disabilities, with all of the cases that have dealt positively with the question of discrimination arising out of pregnancy disability, there have been no cases brought on this abortion issue.

So it is raised by our good friend and able Senator from Missouri, but it is raised in a context where there has been no situation presented as a charge of discrimination where an abortion had been denied.

So it is not, from the standpoint of the Senator from Missouri, a real problem at all.

I would like to say that the primary focus of our concern as the sponsor of S. 995 is the devastating impact which the loss of a working mother's salary will have on the family unit. One of our basic purposes in introducing this bill is to prevent the tragedy of needless and unwanted abortions forced upon a woman because she cannot afford to leave her job without pay to carry out the full term of her pregnancy.

Because full-term pregnancies almost always result in greater disability and higher medical expenses, this bill in its present form will provide an important financial cushion for women who might otherwise seek to avoid those burdens by electing abortion. For this reason, many leading prolife advocates support this bill without any amendment concerning abortions.

This bill simply calls for nondiscrimination in the provision of employee benefits. We expect this protection to be used primarily for the benefit of women

who bear children. Employer fears on this issue are not justified by experience.

The entire thrust behind the litigation which led to the Gilbert decision and behind this legislation is to guarantee women the basic right to participate fully and equally in the work force, without denying them the fundamental right to full participation in family life.

I recognize the sincerity of the concern of those who wish to make this bill provide an even greater disincentive for elective abortions than it already provides. However, because this bill is already prolife in its effect, I submit that this amendment is unnecessary even for prolife advocates.

Furthermore, although it may not be the intent of the amendment's sponsors, I observe that the amendment sweeps far more broadly than its proponents have suggested. The amendment would permit employers to deny benefits for any reason to women who undergo abortion. Thus, employers would be free to engage in sex discrimination against their women employees if this amendment were passed. For example, an employer whose plan would provide benefits for hair transplant operations could choose to deny benefits to women who have abortions merely to save money, and for discriminatory reasons.

Another problem with this amendment is that it would permit discrimination against women who have had abortions in the past. The entire issue of abortion is, of course, a highly charged one. The Supreme Court has recognized that women who choose to have abortions have a fundamental right to do so, under some circumstances, free of the restraint of State law. Opponents of nontherapeutic abortions also hold their views very strongly. The result is that the question of abortions, which is an emotional one in any event, has become even more emotional.

Under these circumstances, I think that it is a realistic concern that some employers might discriminate against women who they learn have had abortions. Employers might decline to employ a woman whom they know have had an abortion, of if they learn that a present employee has had an abortion they might terminate her or otherwise take adverse action against her in her employment.

These practices go far beyond a refusal to participate in obtaining an abortion; and, as I have emphasized, the proposed amendments would make all women vulnerable to this kind of practice.

Even more alarming is the possibility that women who suffer complications following abortions might be denied benefits as a result of this amendment. If they are required to take leave which is not covered under their employer's benefit plan, their status in the event of complications arising from an abortion would, at best, be ambiguous. There have been situations where employees disabled by pregnancy have been denied because the pregnancy and childbirth benefits for complication of childbirth, were excluded from the terms of a benefit plan.

Thus, even though this may not be the purpose of the sponsors of this amendment, it might be interpreted to have that effect.

This would be particularly unfortunate because, while elective abortions are ordinarily simple and inexpensive, they occasionally have very serious complications.

It seems to me that the proposed amendment, therefore, is not only unnecessary—and the record shows, in my judgment, and shows clearly, that it is unnecessary for a multitude of reasons—but it is unwise, and in certain situations could be grossly unfair.

I yield the floor at this time. Let me say that I am very grateful indeed to have the partnership, in presenting this bill, of the Senator from New York (Mr. JAVITS), who I know would like to speak.

Mr. JAVITS. Mr. President, I yield myself whatever time I may need.

First, I adopt the argument which has just been made by our colleague from New Jersey, and will not repeat it.

Second, the amendment Senator EAGLETON proposes to offer, which we have read, making exemptions for the fact of an abortion, leaves the employer in a position where, if an employee determines to have an abortion, that employer can take any adverse discriminatory action. He can refuse to hire, he can fire, he can demote, he can deny promotion, he can cut pay. In effect, therefore, the conscience of the employer would be foisted upon the employee, and I cannot conceive of our acquiescing in any such result. Yet that would be the effect of the adoption of so sweeping an amendment as this one.

As to the right of an institution like a church which has a religious tenet respecting abortion, that is preserved under the first amendment, and the record should show that it is not our design in any way to invade the first amendment right of such an institution of religion. Indeed, title VII of the Civil Rights Act itself carries that exemption in section 702. So there can be no claim that, as far as we are concerned, we go too far; but the amendment would certainly go far beyond the bounds of reasonableness, let alone of policy.

The other point that I have to make at this connection is the size of the problem with which we are dealing, and the thrust of this particular legislation. In that respect, we have very interesting testimony in the record of the hearings at page 68 by Dr. Andre E. Hellegers, professor of obstetrics and gynecology and director of the Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics at Georgetown University, which is itself a Catholic university.

Dr. Hellegers testified to the following points: First, that it is estimated that the ratio of abortions to deliveries of children is 1 to 3, so that we are dealing with about 1 million abortions per year in the country, so large is the problem that this amendment addresses.

Then Dr. Hellegers goes on to make the following points. He is being questioned by Senator HATCH, who cross-examined Dr. Hellegers very closely and effectively:

Senator HATCH. So you are saying that being against abortion, this would be a good bill from the standpoint of helping to encourage women to have their children and to raise them?

Dr. HELLEGERS. Absolutely. Not only am I saying that, that was one of the first reasons why I got involved in this case at all.

Senator HATCH. You are saying there is no question about that?

Dr. HELLEGERS. That's right. I wouldn't be here if I didn't think so.

Senator HATCH. So, in essence, this is an antiabortion bill in your eyes.

Dr. HELLEGERS. People don't like the antiabortion term. Let's call it a prochoice bill in which I think the choice, if it goes in any direction, is going to go in the childbirth way. And there is a reason of logic in that. People will surely much sooner spend $100 at the third month knowing that they are going to get a bill for $1,000 in the 9th month.

So, Mr. President, the thrust of the bill, the fairness of the bill, it seems to me is shown by this testimony from a witness, and certainly an expert witness, which would have been highly adverse were he to construe the bill as a "proabortion bill." The amendment in its breadth, would simply deprive women, and an enormous number of women, given some concept of the scope, of a right which the Supreme Court has held sacred to them, and would superimpose the right of the employer over the constitutionally protected individual conscience of the employee. This amendment is not even arguable, it is simply not reasonable.

Mr. President, I ask unanimous consent for the following staffs of the minority to be granted the privilege of the floor during the debate on this bill:

For the minority on the committee: Don Zimmerman, John Rother and Alan Fox; for Senator DOMENICI: Bill Kingston; for Senator HAYAKAWA: Jeannie Eby; for Senator STEVENS: Mary Ann Simpson; for Senator WALLOP: Deral Wiley; for Senator DANFORTH: Chris Brewster.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair, and I thank my colleague.

Mr. WILLIAMS. Mr. President, there is time remaining on the Eagleton amendment. We have had debate on either side of this amendment from the time on the bill, and there is time on the amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Missouri.

Mr. WILLIAMS. Mr. President, I move that the amendment be laid on the table.

Mr. EAGLETON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey to lay on the

table the amendment of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "yea."

The result was announced—yeas 44, nays 41, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—44

Abourezk	Hart	Nunn
Baker	Hathaway	Pearson
Bayh	Jackson	Pell
Bentsen	Javits	Ribicoff
Brooke	Kennedy	Riegle
Bumpers	Leahy	Sarbanes
Burdick	Long	Sasser
Byrd, Robert C.	Magnuson	Schmitt
Cannon	Mathias	Stafford
Case	Matsunaga	Stevens
Clark	McGovern	Talmadge
Cranston	McIntyre	Wallop
Culver	Metcalf	Weicker
Glenn	Metzenbaum	Williams
Gravel	Moynihan	

NAYS—41

Allen	Eagleton	Morgan
Anderson	Ford	Nelson
Bartlett	Goldwater	Proxmire
Biden	Hansen	Randolph
Byrd, Harry F., Jr.	Hatch	Roth
	Hatfield	Schweiker
Chiles	Hayakawa	Scott
Church	Heinz	Sparkman
Curtis	Helms	Stennis
Danforth	Huddleston	Stone
DeConcini	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Young
Durkin	McClure	Zorinsky

NOT VOTING—15

Bellmon	Haskell	Melcher
Chafee	Hollings	Muskie
Eastland	Humphrey	Packwood
Garn	Inouye	Percy
Griffin	McClellan	Stevenson

So the motion to lay Mr. EAGLETON's amendment on the table was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, during the last 15 years, discrimination on the basis of sex has been prohibited by several Federal laws and executive orders. In 1963, Congress passed the Equal Pay Act which prohibits discrimination on the basis of sex in wages. During 1964, Congress passed title VII of the Civil Rights Act of 1964 to eliminate discrimination in employment on the basis of race, sex, color, national origin, and religion.

The question of whether pregnancy should be included as a form of discrimination based on sex has been decided by the Supreme Court. In its decision last year in the case of Gilbert against General Electric Corp. 429 U.S. 125 (1976), the Court held that GE's decision not to include pregnancy and related conditions in its employee temporary disability plan did not constitute sex discrimination prohibited by title VII of the Civil Rights Act of 1964.

Although I join with many of my colleagues today in opposing discrimination on the basis of pregnancy, I believe there are substantial reasons why Federal law should not mandate pregnancy as a disability and impose an obligation upon employers to include pregnancy in their employee disability program.

There certainly is not a general consensus among the States that private employers should be required to pay benefits to women disabled by pregnancy. Less than half of the States presently require employers by law to include pregnancy in their disability plans.

The cost of a federally mandated, nationwide plan could be prohibitive for many small businesses. Presently, approximately 60 percent of all American employers do not have temporary disability plans for their employees. Of the remaining 40 percent of the work force, some 32 million employees who are covered by sickness and accident disability insurance, only 40 percent of these plans cover pregnancy, and then the coverage is limited to 6 weeks.

Estimates which have been reported by the Library of Congress show that the nationwide coverage for an average 6-week paid maternity leave would cost employees over a 13 percent increase in their premiums. Many small and medium-size businesses have rejected any employee health plans because of the increasing cost of such coverage. We cannot expect to encourage these employers to provide such benefits in the future, by mandating such expensive coverage provisions, as we are being asked to do today.

Mr. President, I find the Supreme Court's determination, that the inclusion of pregnancy in an employee fringe benefit package should be left to collective bargaining, a most persuasive argument. The National Labor Relations Act specifically forbids the Government to determine contract terms in collective bargaining, yet this is precisely what this legislation is intended to do and what it will do if enacted. This legislation will mandate, regardless of the parties' interests in the collective bargaining process, that pregnancy be included within the employer's disability program.

While I hope that all employers will seek to improve their employees' health care opportunities, I believe the issue of disability benefits for pregnancy should be left to collective bargaining.

In addition, the Senate has just tabled the amendment offered by my colleague from Missouri (Mr. EAGLETON) by a vote of 44 to 41. This amendment would have clarified the terms "pregnancy" and "related medical conditions" in order that they not be constructed to include abortions except where the life of the mother would be endangered if the fetus were carried to term. Because of this action, the present legislation may be interpreted as a congressional mandate forcing employers who are normally opposed to abortion to violate their own consciences by financing abortion on demand for their employees.

Mr. President, although I agree with the supporters of this legislation that pregnancy disability payments may well be desirable, I do not believe that the Federal Government should require private employers to provide such benefits.

The PRESIDING OFFICER. The question is on agreeing to the printed amendment No. 830, submitted by Mr. HATCH. There are 5 minutes remaining on each side.

Who yields time?

Mr. WILLIAMS. Mr. President, I shall take a moment to say that the amendment of the Senator from Utah would limit the period of disability payments for childbirth and related conditions to 6 weeks. What this would do is create the possibility of a new discrimination. This bill deals with discrimination against women in connection with childbirth. What it says is that if there is a plan within a company for disability benefits, and all other disabilities are covered under the plan, it is discrimination to exclude the disabilities arising out of childbirth. If the plan of a company schedules all possible disabilities for specific periods, then that is not discrimination. But to single out one kind of disability for a specific period is a new type of discrimination.

I think it would be subject to the same problems that we have had by singling out childbirth and saying, as the law now permits, a company can cover all disabilities—vasectomies, hair transplants, everything but that period of disability for childbirth.

We oppose this amendment because it would create another discrimination and we are trying to eliminate discrimination with this bill.

Mr. JAVITS. Will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. JAVITS. I wish to emphasize, without repeating, what Senator WILLIAMS has said, that classifications are in order provided that, in their relationship to each other, they do not discriminate against pregnancy. We are not saying that there cannot be a disability policy which says X weeks for this, Y weeks for that, Y weeks for something else, or monetary amounts, provided that, inherently, it does not simply pick out pregnancy and put a fixed and arbitrary limit on that. Under that interpretation, it seems to me that employers are fully protected and, at the same time, we do not make an arbitrary, discriminatory distinction against women who are pregnant.

Finally, I point out that this kind of bill has the support of the pro-life people, too, because they testified that it

encourages having the child instead of having an abortion. I think the Senate should reject this amendment.

The PRESIDING OFFICER. The 5 minutes have expired.

Mr. WILLIAMS. Mr. President, the Senator from Utah has reserved 5 minutes.

Mr. JAVITS. Mr. President, I ask the indulgence of the Senate to ask unanimous consent that we may have a call for a quorum without its being charged to Senator HATCH. We must find where he is and why he is not here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll, without its being charged to either side.

The second assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for 1 second.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that Claire Engers and June Yanulis of my staff be accorded the privilege of the floor during consideration and debate and vote on S. 995 and S. 1303.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

Mr. HARRY F. BYRD, JR. If the Senator will withhold that, I ask unanimous consent that Michael Hammond of my staff be granted the privilege of the floor during consideration of and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that John Mulkey of my staff be granted the privilege of the floor during debate and vote on this measure and on the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Mr. Robert Hunter and Mr. Brent Hatch, of my staff, be permitted the privileges of the floor during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier, of the staff of the Senate Judiciary Committee, be granted the privilege of the floor during votes and consideration on all matters today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The quorum call is suggested without the time being charged to either side.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Let us have order in the Senate, please.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am prepared to yield back my time. I ask for the yeas and nays on the amendment.

Mr. WILLIAMS. The Senator has the yeas and nays. All our time is yielded back or expired.

The PRESIDING OFFICER. The question is on agreeing to the amendment. All time has been yielded back. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senators from Colorado (Mr. HART, Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE), is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Maine (Mr. MUSKIE) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 13, nays 72, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—13

Curtis	Johnston	Thurmond
Goldwater	Laxalt	Tower
Hatch	McClure	Wallop
Hayakawa	Morgan	
Helms	Scott	

NAYS—72

Abourezk	Durkin	Nunn
Allen	Eagleton	Pearson
Anderson	Ford	Pell
Baker	Glenn	Percy
Bartlett	Gravel	Proxmire
Bayh	Hansen	Randolph
Bentsen	Hatfield	Ribicoff
Biden	Hathaway	Riegle
Brooke	Heinz	Roth
Bumpers	Huddleston	Sarbanes
Burdick	Inouye	Sasser
Byrd, Harry F., Jr.	Jackson	Schmitt
	Javits	Schweiker
Byrd, Robert C.	Leahy	Sparkman
Cannon	Long	Stafford
Case	Lugar	Stennis
Chiles	Magnuson	Stevens
Church	Mathias	Stone
Clark	Matsunaga	Talmadge
Cranston	McGovern	Welcker
Culver	McIntyre	Williams
Danforth	Metcalf	Young
DeConcini	Metzenbaum	Zorinsky
Dole	Moynihan	
Domenici	Nelson	

NOT VOTING—15

Bellmon	Hart	McClellan
Chafee	Haskell	Melcher
Eastland	Hollings	Muskie
Garn	Humphrey	Packwood
Griffin	Kennedy	Stevenson

So Mr. HATCH's amendment (No. 830) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Judy Hefner, of my staff, have the privilege of the floor throughout the remainder of the afternoon.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, in December of 1976 the Supreme Court issued its decision in General Electric against Gilbert.

In that decision, the Court held that it was permissible under title VII to exclude pregnancy coverage from otherwise comprehensive health insurance plans offered by employers.

By this action, the Court overruled the pregnancy guidelines of the Equal Employment Opportunity Commission, as well as the decisions of Federal appellate courts and 18 Federal trial courts.

Moreover, the Court made it clear the only way that pregnancy discrimination will not continue is for Congress to clearly indicate that such discrimination is illegal.

It is in response to the Supreme Court's call on the Congress of the United States that I am happy to cosponsor, and wholeheartedly support S. 995, which alleviates sex discrimination on the basis of pregnancy and related disabilities.

Before discussing my rationale for support of the bill, there are a few myths surrounding the bill that I would like to dispel.

First, the bill does not require employers to provide medical insurance or benefits for its employees.

It simply requires that if coverage or benefits are given that disability due to pregnancy must be treated the same as any other non-work-related disability.

For example, if a male employee would be given health insurance coverage and disability leave for an appendectomy or a vasectomy, then a female employee would be given the same benefits for pregnancy.

But if the employer did not extend health benefits to male employees, he would not have to do so for female employees either.

Second, if and only if medical leave is provided to employees then it would be extended for pregnancy, but only for that period of time in which the mother is medically certified as unable to work.

For more than 95 percent of women the period of physical disability is 6 weeks or less.

Third, cost estimates for providing equal health coverage have been flagrantly and grossly exaggerated.

The $1.5 billion cost estimate is absurd.

That figure is based on a set of presumptions that are preposterous.

For example, it assumes that every mother will take a minimum of 30 weeks leave—the bill simply does not allow that.

It also assumes that all leaves will be with pay—such an assumption is true

only if the employer grants leaves with pay for other non-work-related disabilities.

And it assumes that no employers already offer pregnancy coverage. In fact, more than 60 percent of the Nation's employers already grant such coverage.

Thus, the total actual cost to American industry would be no more than one-tenth of the $1.5 billion figure; or, to put it another way, the cost to American industry would be about one penny out of every $100 of income.

Fourth, opponents of the bill have argued that pregnancy is voluntary and therefore, should not be given equal coverage.

They further argue that since only women get pregnant—a brilliant observation on their part—to grant disability coverage for pregnancy would be to give women a coverage benefit which is denied to men.

Hence, they conclude, pregnancy coverage is a denial of equal protection.

That argument is not only illogical, it ignores the facts.

In the first place, men are currently covered for disabilities that are voluntary and entirely male disabilities.

For example, vasectomies are voluntary and relate only to the male reproductive system, yet, most employee plans which exclude pregnancy include vasectomies.

Furthermore, the fact that only one group of employees are capable of encountering a given disability, such as a vasectomy or pregnancy, in no way renders the coverage unequal.

Quite the contrary, if we provide a system of care that covers everything but a disability which relates to only one sex, we are sexually discriminating.

Moreover, many pregnancies are not voluntary.

No contraceptive is perfect, consequently, each year tens of thousands of pregnancies after marriage are unplanned.

The Princeton study discovered that 44 percent of births to married women are unplanned.

To suggest that these pregnancies are voluntary is to blatantly ignore the reality of the situation.

Having reviewed what I perceive to be the most blatant misconceptions concerning the bill, I would like to offer three independent, compelling rationale for the adoption of this important piece of legislation.

First, I support S. 995 as a matter of fundamental fairness.

Purposefully created discrimination aimed at the condition of pregnancy is inherently wrong.

Currently we are allowing industry to intentionally single out the condition of pregnancy, then on the basis of that condition industry decides whether or not to grant its customary benefits.

Since only the female sex can bear children, any attempt to single out and discriminate against the condition of pregnancy is an inherent attempt to single out and discriminate against women.

However, discrimination based on pregnancy not only singles out and discriminates against the woman as a woman, it also discriminates against the child-bearing process.

It does not take a mental wizard to figure out that when a company provides health benefits and sick leave for everything but pregnancy, that it is implicitly trying to keep its female employees from becoming pregnant.

However, this leads me to my second rationale for the support of the bill.

In a very real-world sense what this denial of freedom means is that many women, especially low income women, may be discouraged from carrying their pregnancy to term.

To put it bluntly they will be encouraged to choose abortion as a means of surviving economically.

Some would say this is an exaggeration. I wish it were.

Today out of the 39 million women in the labor force, 25 million are there because of the dire economic need to support their families because their husbands earn less than $7,000 a year, or because they are single or widowed.

Thus, either job discrimination on the basis of pregnancy or the denial of health benefits on the basis of pregnancy creates substantial pressure to choose the alternative of abortion.

Moreover, from a moral perspective, I personally believe that abortion is wrong, that life is the highest good, the summum bonum.

As a result, I clearly do not find a program which implicitly encourages abortion to be personally palatable at all.

Lastly, as a human being who can recognize and appreciate the plight of other human beings, I feel moved to respond to both the injustice of the existing situation and to the basic economic needs of the people involved.

In many low-income families the financial support provided by the mother has become essential for the families' economic survival.

But we kid ourselves if we make believe that this is only a low-income problem.

In more than half of the homes in America today where the husbands are at home and are providing their economic input, the wives are also working.

Several reputable studies have concluded that in the majority of these cases, the women are working because of what they perceive to be economic necessity.

In an increasing number of middle-income families the support and the well being of the family has become inextricably tied to the income generated by females.

To discriminate on the basis of sex and pregnancy, can and does pose economic hardships on middle-income Americans, while creating a ruinous economic result for low-income Americans.

The ramifications of these economic hardships, in terms of the deterioration of the family, in terms of personal derogation, and in terms of societal impact, are substantial indeed.

In conclusion, this is one of those rare occasions when I can face a particular political issue from any relevant perspective and the ultimate conclusion is the same.

Therefore, from a practical perspective, from a civil libertian perspective, from a philosophical perspective, from a humanitarian perspective, and from personal moral perspective, I support S. 995, because it will help alleviate discrimination on the basis of pregnancy and related disabilities.

Mr. CRANSTON. Mr. President, I am pleased to add my voice to those supporting S. 995, legislation clarifying the intent of Congress with respect to prohibitions against sex discrimination in Title VII of the Civil Rights Act of 1964. S. 995 makes clear that sex discrimination includes discrimination against workers on the basis of pregnancy or pregnancy-related disabilities. I am proud to be among the cosponsors of this legislation, introduced on March 15 by the Senator form New Jersey (Mr. WILLIAMS), a recognized leader and spokesperson for the advancement of civil rights and employment opportunity.

GILBERT AGAINST G.E.

Senator WILLIAMS introduced the bill in response to the dissappointing December 7, 1976, decision of the Supreme Court in the case of General Electric against Gilbert, et al.

The petitioners in that case, the General Electric Co., provided for all its employees a disability plan which pays weekly nonoccupational sickness and accident benefits, but excludes disabilities arising from pregnancy. While my comments today will be limited to this case involving the General Electric Co., I think it is important to make clear at the outset that this employer's disability plan is not atypical—it represents the standard operating practices of many large corporations in our Nation today.

The respondents in the case were 43 female employees at General Electric's Salem, Va., plant who were suing in a class action on behalf of the company's 100,000 female workers. They sought a declaration that this exclusion constituted sex discrimination in violation of title VII. In ruling against the respondents by a 6-to-3 vote, the Court held that the exclusion of pregnancy from an otherwise exhaustive list of disabling conditions for which the employer will restore loss of pay does not violate the 1964 Civil Rights Act's ban on sex bias in employment.

TITLE VII BAN

The title VII ban makes it an unlawful employment practice for an employer "to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

In April of 1972, the Equal Employment Opportunity Commission, which administers title VII, issued revised guidelines on sex discrimination. These guidelines state that—

Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick

leave plan available in connection with employment.

The Supreme Court decision vitiated this guideline.

The court concluded that Congress, in legislative history, nowhere set forth the intention that the term "sex discrimination" should be interpreted so broadly as to cover the factor of pregnancy, even though pregnancy is a condition biologically affecting one sex and not the other.

It is interesting to note that while the title VII legislative history may be silent on this point, the Congress has expressed its intent on this issue in closely related contexts on several occasions in the past.

CONGRESSIONAL HISTORY ON SEX DISCRIMINATION

Mr. Justice Brennan and Mr. Justice Marshall, in their dissenting opinions, pointed out instances where the Congress had expressed its intent with respect to the issue of pregnancy as a factor in determining sex discrimination:

Certainly, I can find no basis for concluding that the regulation is out of step with Congressional intent. . . . On the contrary, prior to 1972, Congress enacted just such a pregnancy-inclusive rule to govern the distribution of benefits for "sickness" under the Railroad Unemployment Insurance Act, 45 U.S.C., section 351(K)(2). Furthermore, shortly following the announcement of the EEOC's rule, Congress approved and the President signed an essentially identical promulgation by the Department of Health, Education, and Welfare under Title IX of the Education Amendments of 1972, 20 U.S.C. (Supp. II) section 1681(a). See 45 CFR section 86.57 (c). Moreover, Federal workers subject to the jurisdiction of the Civil Service Commission now are eligible for maternity and pregnancy coverage under their sick leave program. See Federal Personnel Manual, c. 630, subch. 13, section 13–2 (April 30, 1975).

These policy formulations are reasonable responses to the uniform testimony of governmental investigations which show that pregnancy exclusions built into disability programs both financially burden women workers and act to break down the continuity of the employment relationship, thereby exacerbating women's comparatively transient role in the labor force. . . . In dictating pregnancy coverage under Title VII, EEOC's guideline merely settled upon a solution now accepted by every other Western industrial country. Department of Health, Education and Welfare, Social Security Programs Throughout the World, 1971, at ix, xviii, xix. I find it difficult to comprehend that such a construction can be anything but a "sufficiently reasonable" one to be "accepted by the reviewing courts. . . ."

Mr. President, today we in the Senate have the opportunity to approve legislation which clarifies without a doubt congressional intent with respect to pregnancy as a factor to be considered in sex discrimination practices. S. 995 would amend title VII of the Civil Rights Act of 1964 by adding to section 701 a new subsection (k) which makes it clear that the prohibitions against sex discrimination in the act include discrimination against workers on the basis of pregnancy or pregnancy-related disabilities.

STATE LAW AFFECTING PREGNANCY

This view of nondiscrimination law is not new. It is supported by the 25 States, including my home State of California, which presently apply their own fair employment practices laws to prohibit sex discrimination based on pregnancy and child birth. Some of these States have laws which specifically refer to pregnancy, but in other States, laws very similar to title VII have been interpreted to protect women from discrimination based on conditions related to pregnancy. Our California law, effective January 1, 1977, provides for the payment of 6 weeks of disability pay for working women who become pregnant. All employees of companies who have paid into the State disability insurance fund are covered.

UNFOUNDED ASSUMPTIONS

The assumption that women will become pregnant and leave the labor market is at the core of the sex stereotyping resulting in unfavorable disparate treatment of women in the work place. Yet statistics show that 70 percent of women who work do so out of hard economic necessity. They are either their family's sole wage earner, are married to spouses who earn less than $7,000 per year, or are single. Discrimination based on pregnancy makes it difficult for these women to remain in the labor force and to maintain the continuity of their family incomes.

The history of General Electric's disability program, as set forth in the Brennan dissenting opinion, demonstrates an example of the kind of sex stereotyping which has continually resulted in women being treated as second-class members of the work force. Mr. Justice Brennan stated:

General Electric's disability program was developed in an earlier era when women openly were presumed to play only a minor and temporary role in the work force. As originally conceived in 1926, General Electric offered no benefit to its female employees because "women did not recognize the responsibilities of life, for they probably were hoping to get married soon and leave the company." . . . It was not until the 1930's and 1940's that the company made female employees eligible to participate in the disability program. In common with general business practice, however, General Electric continued to pursue a policy of taking pregnancy and other factors into account in order to scale womens wages at ⅔ the level of mens. . . . More recent company policies reflect common stereotypes concerning the potentialities of pregnant women, . . . and have coupled forced maternity leave with the non-payment of disability payments. Thus, the District Court found, "In certain instances it appears that the pregnant employee was required to take leave of her position three months prior to birth and not permitted to return until six weeks after birth. In other instances the periods varied. . . . In short, of all the employees it is only pregnant women who have been required to cease work regardless of their desire and physical ability to work and only they have been required to remain off their job for an arbitrary period after the birth of their child." . . . In February 1973, approximately coinciding with commencement of this suit, the company abandoned its forced maternity leave policy by formal directive.

ARGUMENTS AGAINST S. 995

Opponents of S. 995 have argued that it will be too costly.

I reject this argument. It has been demonstrated that costs, although not negligible, can be sustained without any undue burden on employers. The experience of those States which have already mandated a policy of nondiscrimination which includes pregnancy as a factor of sex discrimination demonstrates that the cost under their laws has been reasonable. In addition, it can be assumed that some costs will be offset, since experienced workers in companies with disability coverage tend to return to work in much higher numbers, thus saving the expense of training new employees.

Others have opposed this legislation on the basis that pregnancy is a voluntarily entered into condition. First this assumption is overbroad. Second, I agree with Mr. Justice Brennan that it is not a persuasive factor. General Electric, for instance, has never construed its disability plan as eliminating all voluntary disabilities, including sports injuries, electric cosmetic surgery, and even vasectomies. It is also interesting to note that General Electric's pregnancy disqualification also excludes the 10 percent of pregnancies that end in debilitating miscarriages, the 10 percent of cases where pregnancies are complicated by diseases, and cases where women recovering from child birth are stricken by severe diseases unrelated to pregnacy. Again, Mr. Justice Brennan presents an example of this inconsistency:

The experience of one of the class plaintiffs is instructive of the reach of the pregnancy exclusion. On April 5, 1972, she took a pregnancy leave, delivering a stillborn baby some 9 days later. Upon her return home, she suffered a blood clot in the lung, a condition unrelated to her pregnancy, and was rehospitalized. The Company declined her claim for disability payments on the grounds that pregnancy severed her eligibility under the plan.

Mr. President, in my view, these arguments in opposition to S. 995 are just not persuasive.

THE NEED FOR S. 995

Mr. President, S. 995, if enacted would make clear that under title VII of the Civil Rights Act, discrimination based on pregnancy, child birth, and related medical conditions is discrimination based upon sex. Under S. 995, the treatment of pregnant women in covered employment must focus not on their condition alone, but on the actual effects of that condition on their ability to work. Pregnant women who are able to work must be permitted to work on the same conditions as other employees—and when they are not able to work for medical reasons they must be accorded the same rights, leave privileges, and other benefits as other employees who are medically unable to work.

DISABILITY BENEFITS

An employer who does not provide disability benefits or paid sick leave to other employees will not, because of S. 995, have to provide these benefits.

In the case of an employer which does provide a disability plan, benefits are required to be paid only on the same terms applicable to other employees—that is, only when the employee is medically —and I stress "medically"—unable to work. For instance, S. 995 does not require an employer to provide benefits for a woman who wishes to stay home to

prepare for child birth or to take extensive leave to care for her child after birth. The employer is required to cover the women only in a manner comparable to coverage provided to other employees. If the employer's disability program pays, for instance, up to 13 weeks salary, that does not mean that pregnant women can necessarily collect for 13 weeks, since the period of disability for a normal pregnancy is generally less than that period of time. Of course, if there are medical complications of pregnancy or child birth which prevent a women from working for more than the normal period, the entire disability period, up to any time or dollar limit otherwise applicable, would have to be covered.

MEDICAL BENEFITS

S. 995 would also require employers who provide medical benefits for their employees to cover the medical and hospital costs of pregnancy, child birth, and related conditions on the same terms applicable to other conditions for which employees are covered for medical and hospital care. On the other hand, since the basic standard is comparability among employees, an employer who does not provide medical benefits at all, would not have to pay the medical costs of pregnancy or child birth.

Mr. President, I would like to comment on one other aspect of the effect of the enactment of S. 995 on medical benefits. When the Human Resources Committee considered how S. 995 would affect medical coverage for dependents of employees, the question was raised about the obligation of an employer to pay for the pregnancy-related medical expenses of spouses of employees. The committee presume that most comprehensive medical plans do cover dependents, and that it was unlikely that any comprehensive plan covering spouses would cover husbands of women employees but not wives of male employees. Thus, the committee did not directly answer the question of whether such plans would be discriminatory under title VII.

Mr. President, I would like to express for the record my own view that such a plan would indeed be discriminatory, and would be prohibited by the title VII sex discrimination ban. A plan having such antifamily ramifications would be totally inimical to the values we hold so dear and which we, in these times, are attempting to strengthen.

LEAVES AND OTHER POLICIES

Mr. President, S. 995 would also impact on fringe benefit programs and will forbid other employment policies which adversely affect pregnant women. For example, if S. 995 is enacted, employers will no longer be permitted to force women who bcome pregnant to stop working regardless of their ability to continue; they will not be able to set arbitrary time limits within which disabled women must return to work, or before which they may not return to work, if no such limits exist for other disabled employees; they will be required to credit women with accumulated seniority after a pregnancy disability leave on the same terms applicable to other persons absent from work for other disabilities; and, they will be prohibited from refusing to hire or promote women simply because they are pregnant. The human resources committee believes that the ban on such policies is extremely important, since as the history of sex discrimination shows, such policies have long term effects upon the careers of women, and account in large part for the fact that women remain today primarily in low-paying, dead-end jobs.

CONCLUSION

Mr. President, the enactment of this legislation will represent a significant step forward for working women and their families. It is fully compatible with the underlying objective of title VII to assure equality of employment opportunity and to eliminate those discriminatory practices which pose barriers to working women in their struggle to secure equality in the workplace. I am proud to speak out in favor of its enactment. It is, in the truest sense, a humanitarian advance for all Americans.

Mr. CULVER. Mr. President, I am pleased to join in this effort to better ensure equal treatment for women in the workplace. Last December, the Supreme Court, in the case of General Electric Company against Gilbert, ruled that working women disabled by pregnancy or related conditions are not entitled by law to the same benefits that their employers provide for workers who have other disabilities. The court's decision rejected the unanimous opinion of six Federal appellate courts that previously considered the issue. This case caused a serious setback in the development of anti-discrimination laws under title VII of the Civil Rights Act and repudiated guidelines issued by the Equal Employment Opportunity Commission.

Thirty-nine million working women in this country are potentially subject to the discriminatory effects of the court's decision. Without adequate insurance coverage and sick leave, many pregnant women will be forced to be absent without pay. Their loss of income could seriously affect their families.

Mr. President, I think we can agree that the family has undergone vast changes in recent years. Forty percent of women who work do so because of simple, compelling economic need—either because they have husbands who earn less than $7,000 a year or because they are single, divorced or widowed.

The Court's decision in the Gilbert case disregards the reality of what a loss of income will mean to these women who support themselves or help support their families. It is imperative that the law be changed to help countless women and their families who will be forced to suffer severe economic and social consequences.

The legislation before us today does not mandate compulsory disability coverage. Rather, it requires those employers who do provide disability coverage to treat pregnancy-related disabilities the same as any other nonwork related disability with regard to benefits and leave policies.

S. 995 will bring our law up to the same standards accepted by other western industrial nations. Fourteen of our States, by statute, administrative ruling or court decision, currently require private employers to pay income maintenance benefits to women disabled by pregnancy, comparable in amount and length of time to those paid for other types of disabilities.

I am proud that my State of Iowa guarantees disability payments to all women whose employers are covered by the State's temporary disability insurance laws. However, thousands of women in Iowa—government employees, teachers, domestics, and agriculture workers—like millions of women in other States, do not qualify for payments under State law. The legislation proposed would benefit all these women.

Mr. President, there is no reason for this kind of employment discrimination to persist for women who constitute 40 percent of the U.S. labor force. The proposed legislative solution is a reasonable one and is necessary if equal treatment without regard to sex for all workers is to be achieved.

Mr. Justice Brennan and Mr. Justice Marshall stated in their dissent, "A realistic understanding of conditions found in today's labor environment warrants taking pregnancy into account in fashioning disability policies." I am hopeful that my colleagues will agree with this view and act favorably upon S. 995.

Mr. MATHIAS. Mr. President, I join my distinguished colleague from New Jersey in urging support of S. 995, a bill to amend title VII of the 1964 Civil Rights Act to make it clear that sex discrimination as defined in that act includes discrimination based on pregnancy, child birth, and other related medical disabilities.

The major purpose of this legislation is to overrule the Supreme Court's decision in General Electric against Gilbert, thereby removing a major obstacle to women's efforts for equality in the job market. Gilbert held that an employer's exclusion of pregnancy-related disabilities from coverage of an otherwise comprehensive employee disability income protection plan was not sex discrimination in violation of title VII. S. 995 will specifically define discrimination "on the basis of sex" to include discrimination on the basis of pregnancy, child birth, or other related medical disability.

Mr. President, this bill presents the opportunity for my colleagues once again to register their strong disapproval of discrimination in any form. This bill makes it clear that an employer must provide health and medical benefits on an equal basis, if he does so at all. It does not, however, require that an employer do anything more for his pregnant employees than he does for any other employees. It is simply designed to end a blatant form of discrimination.

Mr. President, this measure is vital to the equal employment opportunity of all the women of this country. As suggested by Justice Brennan in his Gilbert dissent, it is only "commonsense" that the disparate treatment of pregnant workers is in reality discrimination on the basis

of sex. This type of discrimination, in turn, sets up major barriers to equality in the job market for female workers.

I urge my colleagues to reaffirm the important concept of equality for all in employment by approving this vital legislation.

Mr. BROOKE. Mr. President, as one of the original cosponsors of S. 995, I wish to reiterate my strong support of this bill. My remarks shall be very brief, for this is a matter of the most basic justice for the working women of our Nation.

In Gilbert against General Electric, the U.S. Supreme Court held that working women disabled by pregnancy or related conditions are not entitled by the laws forbidding sex discrimination to the same benefits that their employers provide for workers who have contracted other disabilities.

In recent years we in the Congress have tried to eliminate the invidious discrimination suffered by the women of our nation and to provide true equality of opportunity for both women and men. In 1963, Congress enacted the Equal Pay Act, assuring women equal pay for equal work. In 1964, the landmark title VII of the Civil Rights Act was enacted to prohibit discrimination based on race, sex, religion, and national origin from all aspects of employment. In 1972 the Equal Employment Opportunity Act was passed to strengthen the employment of women.

However, the Supreme Court ruling now in effect abolishes one most important employment benefit right for women—disability benefits for pregnancy, child-birth, and related medical conditions. To allow businesses to provide disability benefits for all medical conditions but these and claim that this is not sex discrimination is nonsense. To claim that companies need not provide pregnancy benefits because pregnancy is voluntary at the same time the company provides benefits for such medical procedures as vasectomies and hair transplants is absurd on its face.

The hardships which this ruling imposes are widespread, serious, and place great strains on American families.

There are 39 million women, or 46 percent of all women over the age of 16, now working outside the home and who at some time during their work years could be threatened by a loss of pregnancy disability benefits. And for the great majority of these working women a job is essential. For 25 million of these women are working because they must support or help support their families—because they are single, divorced, or widowed, or because they have husbands who earn less than $7,000 a year.

To deprive working women of pregnancy disability benefits could force great economic hardship upon them and their families. Losing a substantial portion of their income will mean that many families will have to forgo the most basic necessities, or even in many cases to go on welfare. Faced with these prospects, many women have reluctantly felt compelled to obtain an abortion—a choice which should be forced on no woman.

Congress clearly must act and act now to correct the inequity and disastrous consequences of Gilbert against General Electric. In S. 995 we do this. And I would emphasize most strongly that S. 995 in no way provides special disability benefits for working women. They have not demanded, nor asked, for such benefits. They have asked only to be treated with fairness, to be accorded the same employment rights as men. The provisions of S. 995 do not, as some claim, allow women to "take advantage" of disability benefits. Indeed claims that women would "take advantage" of disability benefits, whereas men presumably would not, are insulting.

The bill before us is necessary and equitable. I urge my colleageus to enthusiastically support this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BURDICK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall it pass?" On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) would vote "yea."

The result was announced—yeas 75, nays 11, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—75

Abourezk	Anderson	Bartlett
Allen	Baker	Bayh
Bentsen	Hansen	Pearson
Biden	Hart	Pell
Brooke	Hatch	Percy
Bumpers	Hatfield	Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Huddleston	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chiles	Johnston	Sasser
Church	Kennedy	Schmitt
Clark	Leahy	Schweiker
Cranston	Long	Sparkman
Culver	Lugar	Stafford
Danforth	Magnuson	Stevens
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Stone
Domenici	McGovern	Talmadge
Durkin	McIntyre	Thurmond
Eagleton	Metcalf	Weicker
Ford	Metzenbaum	Williams
Glenn	Moynihan	Young
Gravel	Nelson	
	Nunn	

NAYS—11

Curtis	McClure	Tower
Hayakawa	Morgan	Wallop
Helms	Scott	Zorinsky
Laxalt	Stennis	

NOT VOTING—14

Bellmon	Griffin	McClellan
Chafee	Haskell	Melcher
Eastland	Hollings	Muskie
Garn	Humphrey	Packwood
Goldwater	Inouye	

So the bill (S. 995) was passed as follows:

S. 995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 701 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703 (h) of this title shall be interpreted to permit otherwise."

SEC. 2. (a) Except as provided in subsection (b) the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by section 1 of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act, until July 1, 1978, or one hundred and eighty days after enactment of this Act whichever is the greater time period.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided,* That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further,* That nothing in this section shall prevent the readjust-

ment of benefits or compensation for reasons unrelated to compliance with this Act.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to S. 995.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, first, I yield to Senator PROXMIRE.

Mr. BAKER. Mr. President, before the Senator does that, will the Senator withhold a minute?

Mr. PROXMIRE. Of course.

Mr. ROBERT C. BYRD. Mr. President, I yield first to the Senator from Tennessee.

The PRESIDING OFFICER. Will the Senator suspend?

Let the Senate come to order.

Senators who wish to converse will retire to the cloakroom.

Mr. PROXMIRE. I yield to the Senator from Tennessee.

Mr. ROBERT C. BYRD. I yield to him first.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BAKER. Mr. President, I thank the majority leader.

I wish to interrupt and not to delay the distinguished Senator, but only to ask if we could have any further insight into the schedule for the next little while this afternoon?

Mr. ROBERT C. BYRD. Yes.

I thank the distinguished minority leader.

LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, the Senate will proceed shortly to Calendar Order No. 371, the nonunionization of the military bill. Upon the disposition of that bill, it is the intention of the leadership to proceed to take up the legal services bill.

Mr. BAKER. Mr. President, I ask the majority leader in view of that if we might understand that there will not be any votes until some hour certain this afternoon.

I have one Member on this side who is particularly interested in this bill who will not be here until 3 o'clock p.m.

ORDER THAT NO ROLLCALL VOTES OCCUR PRIOR TO 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur during the afternoon prior to the hour of 5 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask the majority leader if he will yield for one more moment?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, could we make special provision for time to speak on this bill, that is, the military nonunionization bill, on behalf of Senator CHAFEE?

TIME LIMITATION AGREEMENT—S. 274

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order that has been previously entered with respect to debate on the nonunionization of the military bill be amended to allow not to exceed 30 minutes under the control of Mr. CHAFEE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I yield to the distinguished Senator from Wisconsin without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. I thank the majority leader.

WISCONSIN: A WINNER

Mr. PROXMIRE. Mr. President, this morning's Wall Street Journal reports what a remarkable quality of life Wisconsin offers. It is a major article on the front page I am happy to see. Paul Ingrassia, the Journal's writer, calls Wisconsin the star of the snow belt, because it is providing more jobs and attracting more people than neighboring Midwestern States. In fact, it is almost alone in the Midwest as a job and population gainer.

This is a fine article. As the senior Senator from Wisconsin I am grateful for it. It mentions that in quality of life Wisconsin has the No. 1 city with a population under 200,000 in the country in the judgment of a private concern based in Kansas City. That city is La-Crosse, Wis. The No. 2 quality-of-life city in the Nation in the population range between 200,000 and 500,000 is Madison, Wis. Wisconsin has other very highly rated cities—in quality of life such as Oshkosh, Appleton, and Milwaukee.

The article failed to mention our great University of Wisconsin, our remarkably vigorous independent newspapers that raise hell about any sign of corruption and keep our State scandal free and us politicians constantly looking over our shoulders.

There is not much in the article about the really magnificent physical beauty of our State with the infinite variety of lakes, forests, the unglaciated rolling hills of our southwest an wilderness of our north.

But it is an excellent article, because it catches a strong whiff of the pride our people in Wisconsin take in hard, competent work. There is no secret why Wisconsin workers earn wages as the article points out that are higher than the national average and yet manufacturing jobs increase. The answer is because Wisconsin has a vocational education system that costs our taxpayers a great deal, but it trains skilled, competent workers who are worth the extra money they cost. Our State puts far, far more for each of our taxpayers into vocational education than the rest of the country. That is one reason why, although the article says we have all the attributes of a loser, we are a winner.

Mr. President, I ask unanimous consent that the article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DESPITE COLD WEATHER, HIGH TAXES, WISCONSIN KEEPS LURING PEOPLE

(By Paul Ingrassila)

MADISON, WIS.—In the battle among states for people and jobs, Wisconsin has all the attributes of a loser.

First, there is the weather. Milwaukee, the states' largest city, is colder than any other major U.S. city except Minneapolis-St. Paul. Farther north, Superior has almost 80 inches of snow each year and a January daily temperature average of just nine degrees—among the coldest readings in the U.S. outside Alaska.

Then there are the high taxes that go with the state's left-liberal political tradition. Wisconsin residents pay $138 in state and local taxes for each $1,000 they earn; that compares with the national average of $123 and is seventh highest among the 50 states.

Wisconsin labor is expensive; the state's average manufacturing wage is more than $6 an hour, compared with the national average of about $5.50. And Wisconsin workers are more heavily unionized than those in all but 10 other states.

THE BRANDY DRINKERS

Such statistics might well be included in a Sun Belt promotional brochure. With their mild climates, low taxes and relatively cheap labor, those states have been luring people and industry from the older industrial areas of the North. But not from Wisconsin, a small Midwestern state best known for producing beer, sausage and dairy products, and for consuming amazing amounts of brandy (for reasons unknown to bartenders and sociologists alike, Wisconsin, with about 2 percent of the nation's population accounts for more than 20 percent of the nation's brandy consumption).

Despite its handicaps, Wisconsin is surviving the 1970s better than its neighbors. Its 4.3 percent population gain since 1970, bringing its population to 4 6 million leads the Midwest. Only Minnesota, with a 4.2 percent gain, comes close. Illinois, Ohio, Indiana, Iowa, Michigan and Missouri all had gains ranging from 2.5 percent to 0.3 percent.

What is more, Wisconsin and Minnesota are the only Midwestern states to gain people through migration from other states in this decade. In manufacturing jobs, the picture is much the same. Only one Midwestern states besides Wisconsin—this time Iowa—has gained manufacturing jobs since 1970. Wisconsin's gain is 1 percent, while the rest of the Midwest combined has lost 7.3 percent of its manufacturing jobs in the last seven years.

Although the recent discovery of large mineral deposits—copper and zinc—in the far north could provide the impetus for more rapid future jobs growth, Wisconsin's gains are slight by Sun Belt standards. Arizona's population has grown by 28 percent since 1970, while Oklahoma and Mississippi each have attracted 14 percent more jobs. But even though it isn't a boom state, Wisconsin is holding its own amid regional decline because its drawbacks are offset by advantages that make it a nice place to live, observers say.

OUT IN THE COLD

To an increasing number of Americans, cold and snow aren't all bad. Skiing and snowmobiling, prime recreations in this area, have been the second and third fastest-grow-

ing participant sports in the country since 1973, says A. C. Nielson Co., the research concern.

If taxes are high, Wisconsinites are reasonably sure that their tax dollars aren't being squandered. The state has had a few political scandals over the years, but most have been on the order of a 1973 incident when a state senator alleged that a restaurant owner offered him a $10 bribe. It turned out that the "bribe" was a calling card made to resemble a $10 bill.

The worst scandal in years is the recent report that state officeholders of personal long-distance telephone calls to friends and family members at taxpayers' expense. This has caused a considerable stir, even though investigators say they are examining the records of only a handful of individuals whose reportedly improper calls might total $3,000 in cost.

Employers may not like paying Wisconsin wages, but they say they like what they get for their money. "While the cost of labor is high, the quality of workmanship is excellent," says Walter L. Robb. He is a vice president and general manager of General Electric Co.'s medical-systems division, which four years ago built a plant for assembling X-ray machines in Waukesha, near Milwaukee. "That's hard to measure, but it's true," he adds. "I think it's the German-Polish work ethic."

(In a 1970 University of Wisconsin survey, two of every five Wisconsinites reported German ancestry. The other major ethnic groups are Poles, concentrated in and near Milwaukee, and Scandinavians.)

LABOR GOES ALONG

Also, Wisconsin union leaders don't mind cooperating with businessmen for their mutual advantage. Labor support for the state's 1973 business-tax cuts, which halted Wisconsin's job exodus, was crucial in getting the support of the Democratic-controlled state assembly and the backing of Gov. Patrick Lucey, a Democrat who recently resigned to become U.S. ambassador to Mexico.

The tax-cut package saves Wisconsin companies about $200 million yearly, mainly by eliminating the property tax on manufacturing machinery and equipment. "It's a major reason why this plant is here," says GE's Mr. Robb.

Other employers say the same thing. A recent study by a University of Wisconsin professor found that about one-third of the state's businesses have expanded in Wisconsin because of the tax cuts, and another 15% have canceled plans to move some operations outside the state.

Much of what makes Wisconsin a nice place to live can be found in Appleton, a town of some 61,000 people at the northern end of Lake Winnebago. The downtown area hasn't died at the hands of outlying shopping plazas; thanks to a concerted effort begun more than a decade ago, it is lined with trees, dotted with benches and thriving as the major shopping district for the surrounding Fox Cities area (total population about 150,000).

The major "social problem" is occasional teen-age rowdiness in the parks. With virtually no blacks, there are no racial tensions. Lawrence University, with its conservatory of music, adds a cultural element. The Appleton Foxes, a minor-league baseball team, have a spic-and-span ballpark and a loyal following.

Those advantages were recognized in a 1970 study by the Midwest Research Institute, a private concern. It examined "quality-of-life" indicators—municipal services, educational opportunity, and availability of recreation and entertainment—and rated Appleton, together with Oshkosh some 20 miles south, as the third best medium-sized metropolitan area in the nation.

(Other Wisconsin cities also placed well in the study. Madison was second and Superior, together with nearby Duluth, Minn., was 12th in the medium-sized category. La Crosse was first and Green Bay fifth among small metropolitan areas, and Milwaukee rated 12th among large cities. Heavily industrial Racine and Kenosha did less well, ranking 40th and 54th, respectively, out of about 100 small cities.)

Every week the Fox Cities Chamber of Commerce and Industry gets a handful of letters from people who visited the area, liked it and want information about job opportunities there. "Our location was a recruiting drawback 10 or 15 years ago," says Harry Sheerin, president of Kimberly-Clark Corp., the largest of many paper companies in the area. "Now the situation has completely flip-flopped. People want to bring their families here."

A LAWYER-SAILOR

Nick Hansen is a case in point. In the summer of 1974 Mr. Hansen, his wife and their two children visited friends in Appleton. He found it uncongested, pleasant and full of easily accessible outdoor recreation. "I fell in love with the area," he says.

Six months later, Mr. Hansen, who is 39, left his Chicago law firm to become an executive with Kimberly-Clark. Now he has three boats—a large sailboat, a smaller sailboat for shallow water, and a rowboat. "I never did any sailing before I came here," he says. "You might say I went nuts when I got the chance. My yacht-club membership is only $75 a year, including a boat plug (anchorage)." Cross-country skiing is nearby too, much to the Hansens' delight.

For Mrs. Hansen, the move has meant the chance to own and operate a gift shop, something she had wanted to do for a long time. "It was just too expensive in Chicago," Mr. Hansen says.

Mr. Hansen's one fear in moving has been that he wouldn't have the intellectual challenge that his La Salle Street law practice provided. "But the tax problems I deal with here are the same ones that large companies used to bring me in Chicago, so I have a big-city practice in a small town," he notes.

Attracted by the same things as Mr. Hansen, other professionals have moved their practices to even smaller Wisconsin towns. Four years ago, stockbroker Harry F. Villec decided he preferred Minocqua, a town of some 3,100 in north-central Wisconsin, to Chicago. He got permission from his firm, Dean Witter & Co., to open a branch office there, and now it is thriving.

One of Mr. Villec's neighbors is John Sheridan, who operates a labor-relations firm from his home in Long Interlaken Lake and an office in Chicago. "I travel a lot on the job, so I can live where I choose," Mr. Sheridan says. The Sheridans and their seven children are avid downhill skiers and have Michigan's Upper Peninsula ski resorts within an hour's drive. "Winter is our favorite season," he says.

CHOICE OF RETIREES

The Lakeland Medical Center in Woodruff, near Minocqua, now has 16 doctors on its staff, up from two in 1970, and constantly gets inquiries from other physicians who want to live and practice there. The doctors are kept busy by the area's influx of retirees. There is no count of how many there are, but Vilas and Oneida counties have 35 percent more Social Security recipients than they had in 1970, the U.S. Social Security Administration says. (Nationwide, the increase is 23 percent.)

With all those newcomers, northern Wisconsin has reversed a 50-year out-migration trend. Vilas and Oneida counties have added 28% and 21% respectively to their populations since 1970. As a result, the local airport, which used to close in the winter, is now open year-round.

Not everyone finds peace and happiness in the north woods. Few of those who move to the area to open a small resort make a go of it; most have been forced to return to the cities for work. "Most of the people who stay here have outside income, such as a pension check, or are professionals who can bring their work with them," says James G. Petersen, a vice president of Lakeland State Bank.

Predictably, the area's growth has sparked some local concern about over-development, particularly among recent arrivals. "Lots of people feel that now that they've come here, no one else should be allowed to," one local official says.

At the opposite end of the state, Milwaukee has the opposite concern—losing people. Beset by most of the usual urban problems, the city, which now has 660,000 residents, lost 7% of its population between 1970 and 1975. Most Midwestern cities, however, fared worse in that period; Chicago lost 8%, Minneapolis-St. Paul 11.6%, and Detroit 12%.

One reason for Milwaukee's relative success is its relative safety; various studies show it to have one of the nation's lowest big-city crime rates. Combined public and private efforts have provided the downtown area with a new performing arts center, a convention center and a renovated Pabst Theater. Plans for new projects are afoot.

Ethnic pride runs strong in Milwaukee—the city has more than 45 different German-American groups, plus other nationality societies—and many neighborhoods retain their ethnic flavor.

Looking to the future, civic and business leaders are optimistic, but not starry-eyed. "We're always receptive to new industry, but we're realistic enough to know most of our growth will come from our existing industries," says John Duncan, president of the Metropolitan Milwaukee Association of Commerce. "This is Milwaukee, not Houston."

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, under the order of yesterday the majority leader was authorized to call up either of the two bills at this time.

ARMED FORCES UNION ORGANIZATION PROHIBITION

Mr. ROBERT C. BYRD. Mr. President, I call up Calendar Order No. 371, S. 274, the Armed Forces union organization prohibition bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 274) to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment to strike all after the enacting clause and insert the following:

That the Congress hereby finds that—

(1) members of the armed forces must be prepared to fight, and, if necessary, to die, to insure the welfare, security, and liberty of the United States and its people;

(2) discipline, and prompt and unquestioning obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition, and, from the earliest articles of war, military laws and regulations have prohibited conduct which would undermine the military chain of command;

(3) the processes of conventional collective bargaining and labor negotiations cannot and should not be applied to the armed forces, and strikes, work slowdowns, and similar job actions have no place in the armed forces;

(4) unionization of the armed forces is incompatible with the military chain of command, undermines the role, authority, and position of the commander, and constitutes a clear threat to the morale and readiness of the armed forces; and

(5) there is clear and present danger that the armed forces will become unionized.

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ Union organizing and membership prohibited

"(a) As used in this section—

"(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, or (B) a member of a Reserve component.

"(2) 'Labor organization' means any organization which engages in or has as one of its objectives (A) negotiating or bargaining with the Government of the United States, on behalf of members of the armed forces, concerning the terms and conditions of military service; (B) representing individual members of the armed forces in connection with any grievance or complaint of any such member arising out of the terms and conditions of military service; or (C) striking, picketing, or engaging in any other concerted action directed against the Government of the United States. Such term does not induce any professional, fraternal, military, or veterans organization or association if such organization or association does not engage in or have as one of its objectives any of the activities described in the first sentence of this paragraph.

"(3) 'Civilian employee of the Department of Defense' means any civilian officer or employee of the Department of Defense as defined in sections 2104 and 2105 of title 5, any officer of the Department of Defense holding an Executive Schedule position under subchapter II of chapter 53 of such title, and any civilian employee who is employed by an instrumentality described in section 2105(c) of such title and who is compensated from nonappropriated funds.

"(b)(1) It shall be unlawful for any member of the armed forces, knowing of the activities or objectives of a particular labor organization, to join or to maintain membership in such organization, or to solicit any other member of the armed forces to join or maintain membership in such organization.

"(2) It shall be unlawful for any labor organization to enroll in such organization any member of the armed forces, or to solicit or accept dues or fees from any member of the armed forces.

"(c)(1) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to negotiate or bargain, or attempt to negotiate or bargain, on behalf of the United States, concerning the terms and conditions of military service of members of the armed forces with any individual, organization, or association which represents or purports to represent members of the armed forces.

"(2) It shall be unlawful (A) for any individual, organization, or association to negotiate or bargain, or attempt to negotiate or bargain, with the Government of the United States, on behalf of members of the armed forces concerning the terms and conditions of military service, (B) for any labor organization to represent, or attempt to represent, individual members of the armed forces in connection with any grievance or complaint arising out of the terms and conditions of military service, or (C) for any individual, organization, or association to organize or attempt to organize, or to participate in, a strike or any other concerted action involving members of the armed forces directed against the Government of the United States.

"(d)(1) It shall be unlawful for any individual, organization, or association to use any military installation, facility, reservation or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b)(1), (b)(2), or (c)(2) of this section.

"(2) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to permit or authorize the use of any military installation, facility, reservation, or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b)(1), (b)(2), or (c)(2) of this section.

"(e) Nothing in this section shall limit the right of any person (1) to join or maintain membership in any organization or association not constituting a 'labor organization' as defined in subsection (a)(2) of this section; (2) to seek or receive information from any source; (3) to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations; (4) to petition the Congress for redress of grievances; or (5) to take such administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

"(f) For purposes of this section, any person employed as a civilian technician by a Reserve component and who is also a member of a Reserve component, shall be considered in both his military and civilian capacities to be a member of the armed forces.

"(g)(1) Any individual who violates the provisions of subsection (b)(1), (c)(1), (c)(2), (d)(1), or (d)(2) of this section shall be punished by a fine of not more than $10,000 or by imprisonment for a term of not more than five years, or by both such fine and imprisonment.

"(2) Any organization or association which violates subsection (b)(2), (c)(2), or (d)(1) of this section shall be punished by a fine of not less than $25,000 nor more than $250,000 for each violation.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited.".

SEC. 3. In order to give persons who, on the date of enactment of this Act (1) are employed as civilian technicians by Reserve components of the armed forces (2) are also members of a Reserve component, and (3) hold membership in any organization or association which represents or attempts to represent such persons concerning terms and conditions of employment with the Government of the United States a reasonable period of time to terminate their membership in such organizations or association, the provisions of section 975(b) of title 10, United States Code, as added by section 2 of this Act, shall not become effective with respect to such persons (in their capacity as civilian technicians) until the expiration of 90 days after the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Claudia Louis of the staff of Senator STEVENS and Mark Edelman of the staff of Senator DANFORTH be accorded the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the same conditions as previously requested?

Mr. LUGAR. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask unanimous consent that the following staff members of the Committee on Human Resources be accorded the privilege of the floor during the consideration of S. 274: Don Zimmerman, Steve Paradise, Peter Turza, and Mike Forcey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Emery Sneeden, of the staff of the Committee on the Judiciary, be allowed on the floor during the consideration of this bill and other matters today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCGOVERN). Under the same conditions as previously, as to time?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, what is the pending business now before the Senate?

The PRESIDING OFFICER. The pending business is S. 274.

Mr. STENNIS. That is the bill that relates to unions and their operation within the services and to members of the military services.

The PRESIDING OFFICER. Yes, the Senator from Mississippi is correct.

Mr. STENNIS. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

(Mr. SPARKMAN assumed the chair.)

Mr. STENNIS. Mr. President, this bill, as has already been stated, refers to the matter of operation of unions within the military services. That includes, also, the

members of our Reserve forces, including the National Guard.

I shall make a preliminary statement, Mr. President. This bill, as we have completed it in the committee, where it received 18 votes out of 18 members on the committee, is in no way an antiunion bill or against the unions as such. Its very terms recognize a place for the unions in our society and our economy, but it says that within the military services is no place for the operation of unions.

It goes on in very careful constitutional language—and I emphasize the word "constitutional," because points were raised about the constitutionality of such a bill. We got two nationally recognized, eminent authorities in constitutional law to make a special study of this question as consultants for the committee. It is drawn now well within the confines of what each of those specialists, constitutional lawyers, acting independently of the other, thinks is within constitutional bounds or within the Constitution of the United States so far as individual rights, and so forth, are concerned.

We have carefully rounded off and eliminated the so-called rough edges and anything except what was reasonably necessary to have a meaningful, effective bill.

The committee held extensive hearings on the question of the need for such a measure and how it should be drawn if there was going to be a law, and the measure of the penalties that might be applied by a court, if necessary. We especially went into the idea of whether it is necessary or not to include the Reserve membership within the terms of the bill. Again, we decided that to have an effective bill and a meaningful one, that the Reserve membership would have to be included. Otherwise, we would have a situation where some men and women in the military were permitted to have union membership, and to others, it was denied. To the great majority, it would be denied.

So again, by unanimous vote, we put the provision in the bill. It includes that members of the Reserve and the National Guard be applicable, in effect, only in their capacity as members of a military organization.

In other words, if there is a mechanic in Birmingham, Ala., who is a member of the Army Reserve and he belongs to a union of mechanics, he will be in no way disturbed by this bill. It just will not apply to him. Or say it is a musician's union, he will be in no way disturbed by continuing his membership, because those unions would not be dealing with the military. They would not be bargaining with the military for that member. They would not have any connection of that kind. So there is no effort here to outlaw membership under those circumstances.

Here is the narrow field, though, where members of the Reserve would be forced to make a choice between giving up membership in a union or giving up a job he might have. Take, for example, a technician who is working 5 days of the week as a mechanic for a National Guard or Reserve unit and 2 days of the month he is on military duty. If he is a member of a union that proposes to represent him or to negotiate for him with the military authorities, then the bill would not permit it. He would have to resign from that military unit or have to resign from his job.

So it is just within that narrow confine, that is, about one-third of the civilian technicians in the United States. As best as we can estimate, this is a total of about 14,000 individuals who fill this role.

There is interest in that point, there will be amendments offered, I am sure. But if we do not require that, we would be prohibiting the hundreds of thousands of regulars in the Marine Corps, the Navy, the Army, and the Air Force, and all the other reserve units from having any membership in a union that dealt with military. But we would be letting this small number have all the so-called benefits that might come from that source.

Another thing, if we are going to leave within the military groups in the United States the privilege of belonging to a union that deals with the military, I think we leave within the very terms of the bill itself the germ that could cause this thing to spread and cause discontent and dissatisfaction.

The strongest thing I know with reference to backing up the bill—and I am going to conclude briefly—is that the labor unions that were contacted, given a chance to express themselves and to testify—and many of the labor unions in the United States declined to testify—did not express any opposition to the bill as far as the committee could learn. One large union did testify and said that question of unionizing the military was pending then before their membership. A questionnaire was circulated by the union itself as to whether or not they should undertake to unionize the military. Since we reported the bill, that result has been announced. The membership of that group voted 4 to 1 against trying to unionize those in the military services. That was the American Federation of Government Employees, a fine, respectable organization.

They did say through their executive secretary that they were not going to proceed, but they were still opposed to the bill. I say that in deference to their position.

So this was very carefully gone over, weighed and analyzed.

It is considered by the committee the minimum that is necessary to keep control where control belongs. Control that is within the military authorities themselves—the sergeants, the captains, the majors, the colonels and on up. Let that authority be supreme, no innovation, no handicaps, especially at a time when no one has to belong to the military services.

Mr. President, the bill now before us, S. 274, is designed to prevent a threatened unionization of our military services, and was voted unanimously by the Armed Services Committee. I am sure those who have analyzed the report and our extensive hearings on this legislation will agree with me that it should be enacted without delay. It has benefited from the most careful consideration by the Armed Services Committee over a period of several months.

The threat of unionization of the Armed Forces is not an imaginary one; it is a distinct possibility unless the Congress acts to express a strong national policy against it. The time is ripe for this bill—we still have a clear opportunity to prevent union organization on any substantial scale and thus to avoid the serious effect on discipline, readiness, and morale that military unions would bring. Though the Department of Defense can and should take steps within its limited authority to deal with this problem, the only sure solution is a legislative one, clearly stated and forcefully applied.

The composite bill reported by the committee, which combines ideas from Senator THURMOND's original bill, a later bill introduced by me, and research by our staff and committee consultants, represents a comprehensive approach to the danger of military unionism. It deals with each of the major aspects of the problem with a careful regard for legal and constitutional concerns. S. 274 would make it unlawful for a member of the Armed Forces to join a military union, or to solicit or maintain membership, knowing the activities or objectives of the organization. It would make it unlawful for a labor organization to enroll military members, to solicit or accept dues or fees, to negotiate or bargain with the Government for military members, or to represent military members in grievance proceedings. It would prohibit any military or civilian official of the Department of Defense from negotiating or bargaining with a purported military union or from authorizing union activities on Government property. Finally, it would prohibit any individual from bargaining on behalf of military members, from using military property for purposes outlawed elsewhere in the bill, or organizing or carrying out a strike or other concerted action involving military members against the Government.

I should point out that this bill has a narrow purpose, to prohibit union activity among military personnel, and is not an antiunion measure. The committee recognizes the important contributions to our national well-being made by the labor movement, and it respects the right of civilians to be members of labor unions. But commonsense, backed up by the extensive committee work on this bill, tells us that unions simply do not have any place in a military organization. The kind of shared decisionmaking and collective bargaining that works in a store or a factory cannot work in an infantry company or on board a Navy ship. The military is built on discipline and immediate response to orders, and any development which would damage the chain of command weakens that discipline and response. Unions would inevitably create a second loyalty which would affect the chain of command and as a result cannot be tolerated.

In the bill a "labor organization" is defined for purposes of the legislation as any organization that seeks to: First, negotiate or bargain with the Government concerning terms and conditions of military service; second, represent serv-

ice members in grievance proceedings; or third, strike, picket or engage in other concerted action against the Government. It is those activities, and the disruptive effort they would have, that the bill seeks to prevent.

The definition, however, is carefully drawn to preserve the traditional lobbying activities of such outstanding organizations as the Fleet Reserve Association and the American Legion, as they have not sought to interfere with the chain of command and the authority of the commander. The bill also does not affect a military member in his off-duty employment if that employment is not related to his military duties.

I should add that the scope of the bill is broad enough to include the Reserve and National Guard forces, since the committee was concerned about any developments that would interfere with discipline and readiness there as well. In this connection the bill deals with a problem that is particularly troublesome and long-overdue for action. I refer to the fact that a number of the civilian technicians who work for the Reserve and Guard units, but are also military members of those units, have in the past been permitted to join unions. Since these members of reserve components perform essentially full-time military duties in administering the Reserve or Guard unit, it would obviously be inconsistent with the purposes of this legislation to allow them to remain union members while banning such membership for others. Consequently, the committee included a provision in the bill which would require that union representation of these dual-status civilian technicians be terminated. We think that is the only prudent way to handle the situation.

I know that my colleagues will find this a sound and sensible bill. To some it may seem a little silly to seriously worry about unions in the military, but let me assure you that the concern is a very real one. Difficult as it may be to believe, if we do not act there is a good possibility that military unions will gain a foothold in the coming months. Our national security will, in my opinion, be seriously weakened if that is allowed to take place, and I am determined to prevent it. The Armed Services Committee has unanimously reported a bill, S. 274, which would do just that, and I urge its immediate passage.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER addressed the Chair.

Mr. ABOUREZK. Will the Senator yield for a unanimous-consent request?

Mr. STENNIS. Mr. President, I yield the floor.

Mr. TOWER. I will yield to the Senator for that purpose.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Alan Chvotkin and Megan Wahl, of my staff, be granted privilege of the floor during voting and consideration of this measure.

The PRESIDING OFFICER. Without objection, it so ordered.

Who yields time?

Mr. TOWER. Mr. President, is the time under my control?

Mr. ABOUREZK. Mr. President, a parliamentary inquiry on the time question.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Who controls the opposition time?

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, if the Senator from Texas will yield to me——

The PRESIDING OFFICER. Will the Senator withhold for just a minute, I am trying to get the time straightened out.

Mr. THURMOND. Mr. President, what is the question?

The PRESIDING OFFICER. There are 30 minutes allotted to the Senator from Mississippi, 30 minutes to the Senator from South Carolina.

Mr. STENNIS. And on amendments to the bill?

The PRESIDING OFFICER. The same thing on amendments to the bill, 30 minutes.

Mr. STENNIS. To each side, or divided?

The PRESIDING OFFICER. Evenly divided.

Mr. ABOUREZK. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Did the Chair say the Senator from South Carolina controls the time in opposition to the bill?

The PRESIDING OFFICER. That is correct. Thirty minutes.

Mr. ABOUREZK. Mr. President, may I ask if the Senator from South Carolina opposes the bill or does he support it?

Mr. THURMOND. Mr. President, I favor the bill and I think, in fairness to the Senator from South Dakota, that he ought to have time, and I will be pleased to divide our time. Would he like half of my time?

Mr. ABOUREZK. Just a minute, Mr. President.

Does the Senator mean he is offering half the opposition time——

Mr. THURMOND. Would the Senator like all the time from over here?

Mr. ABOUREZK. I think it would be only fair.

Mr. THURMOND. We will give it to the Senator.

Mr. ABOUREZK. All right.

Mr. President, I ask unanimous consent that I control, myself and my designees, the time in opposition to the bill.

Mr. THURMOND. Mr. President, I think that would be fair. Senator ABOUREZK opposes the bill and Senator STENNIS and I both favor the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time of the Senator from South Carolina is yielded to the Senator from South Dakota.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. STENNIS. Mr. President, how much time do I have remaining on the bill?

The PRESIDING OFFICER. Nineteen minutes remaining on the bill.

Mr. STENNIS. I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, today the Senate has before it, in S. 274, landmark legislation which prohibits union organization and membership in the Armed Forces.

This legislation was initiated by myself in March of 1976, and was reintroduced in January of this year. Hearings were conducted beginning on March 18, 1977, and were concluded last July.

When reported unanimously by the Senate Armed Services Committee in early August, S. 274 and 49 cosponsors, plus myself as author, for a total of 50 Senators in support of this important legislation.

Mr. President, S. 274 comes to the Senate floor in a revised form. As presently written it combines the best features of my original bill and S. 997, the latter bill introduced by the distinguished committee chairman, Mr. STENNIS.

In addition, changes were made by the committee as a whole in order to delete provisions of questionable constitutionality as well as include new provisions recommended by legal experts. It is my opinion these changes strengthen the bill, while at the same time the bill still contains the safeguards we need to clearly prohibit military unions.

In 4 days of hearings the committee heard testimony from Gen. Bernard Rogers, Army Chief of Staff, representing the Joint Chiefs, and military witnesses of all services including enlisted personnel. They unanimously favored the bill and General Rogers used the term "disastrous" in describing the results, should the military be unionized.

In addition, the committee heard Secretary of Defense Harold Brown who, while opposed to military unions, expressed the view the problem could possibly be contained by Department regulations.

Other witnesses, with the exception of the president of the American Federation of Government Employees, opposed military unions.

Two witnesses, representing the Teamsters Union, expressed support for the bill in the belief that while they hold closely to the principle of civilian unions, they felt unions had no place in the military.

Mr. President, the series of hearings on this issue showed the following:

First. There is a definite threat that the military may become unionized.

Second. The results of military unionization would be disastrous.

Third. Current Department of Defense policy does not prohibit military unionization.

Fourth. Department of Defense efforts to handle this problem by regulation would be ineffective.

RESULT OF FINDINGS

As a result of these findings, the committee concluded this legislation is strongly needed on the grounds that conventional collective bargaining and labor negotiations cannot and should not be applied to the Armed Forces.

The fact that a recent poll of members of the American Federation of Government Employees resulted in a 4-to-1 vote against that union attempting to organize the military does not remove the union threat. That same union, or other

unions, could reach new decisions at any time and efforts to unionize the military could be launched without warning.

The committee's action, in summary, was based on the finding that unionization of the Armed Forces is incompatible with the military chain of command, undermines the role and authority of commanders, and constitutes a clear threat to morale and readiness.

FEATURES OF THE BILL

Mr. President, S. 274, as reported to the Senate, would make it unlawful for a member of the Armed Forces to join a union, or to solicit or maintain membership, knowing the activities or objectives of a military union.

Further, it would make it unlawful for a labor organization to enroll military members, to solicit or accept dues or fees, to negotiate or bargain with the Government for military members, or to represent military members in grievance proceedings. It would prohibit any military or civilian official of the Department of Defense from negotiating or bargaining with a purported military union or from authorizing union activities on Government property.

Finally, it would prohibit any individual from bargaining on behalf of military members, from using military property for purposes outlawed elsewhere in the bill, or organizing or carrying out a strike or other concerted action involving military members against the Government.

NOT ANTIUNION BILL

Mr. President, in writing this bill the committee fully recognizes the important contributions to the welfare of American workers made by organized labor. In offering this legislation the committee does not see it as an "antiunion bill" but rather a "promilitary bill." Union leaders themselves testified during the hearings, specifically the Teamsters Union, that unions had no place in the military due to the unique character of our Armed Forces.

This recognition also caused the committee to add a provision not included in the original S. 274, or S. 997, offered by the distinguished committee chairman, which would remove union representation from the National Guard and Reserve technician program.

TECHNICIAN PROGRAM

The Senate must remember that the technician program was created by an act of Congress, in 1968, in an effort to meet legitimate requests from the technicians for Federal status. However, in establishing the technician program, Congress was careful to insure that its military character be preserved.

As the technician program has progressed since its inception, about 30 percent of the technicians have joined unions. Gradually, union activity has increased to the point that Guard and Reserve commanders feel inordinate amounts of time are being consumed in union matters.

EFFORT TO DEMILITARIZE TECHNICIANS

Union efforts in the National Guard particularly appear to be aimed at demilitarizing the technician program. The technician unions have mounted a nationwide movement to end the uniform requirement, and to generally move their status toward the competitive civil service system rather than the accepted system envisioned when the Technician Act was created.

TOTAL FORCE CONCEPT

When the technician program was created the total force concept was just a policy. In recent years, Reserve and Guard units have taken on active duty missions such as 24-hour aid defense and refueling responsibilities. This makes these units almost like active duty units, in that their work is not restricted to weekend drills, but involves flying missions throughout the week.

The close connection of the new Reserve and Guard missions to our daily national security requirements argues against union representation for the technicians.

This view was also reached by the Defense Manpower Commission, which found "there is an inherent potential for undue union influence in the strictly military functions of the technicians, resulting in a dilution of military command authority and adversely affecting the responsiveness and discipline of the Guard and Reserve units."

BENEFIT EROSION

Mr. President, turning attention now back to the main thrust of the bill, no unions for the military, I believe more must be done to address the needs of our military members. The erosion of military benefits is, to a significant degree, the cause of the union interest in organizing our Armed Forces.

Military commanders in the Active Forces, as well as the Reserve and Guard, must give more attention to the legitimate needs of their personnel. Avenues for just complaints must be visible and workable. Further, the Congress must be more vigilant in guarding against the erosion of benefits which have adversely affected military morale.

In conclusion, Mr. President, I wish to commend the able committee chairman, Mr. STENNIS, for his leadership and counsel during the hearings and development of this important legislation. His legislative skill and leadership qualities were most instrumental in bringing this important bill to such a successful conclusion within the committee.

The hearings definitely established there is a serious threat to unionize the military forces. This threat can be dealt with most effectively by action of Congress, which has the clear responsibility for "raising and maintaining" our armed forces.

In the unanimous approval of S. 274 by the Senate Armed Services Committee, this threat is recognized and met by the committee of the Senate upon which the responsibility clearly rests.

Mr. President, I am convinced that S. 274 is the best way to prohibit military unions. We need a firm national policy to preclude unions from entering the military in any form whatsoever. It is up to Congress to set this national policy and enact S. 274 into law.

In closing, I call my colleagues' attention to an article which appeared in the August 25, 1977, edition of the Atlanta Journal, entitled "Union Demands."

This article discloses that a Dutch union has called for the halt of assigning Dutch troops to NATO bases. This issue arose because while on NATO bases, Dutch troops must salute, trim their hair, and work weekends without overtime pay. All of these are rights their union has won for them while serving at home. This would, as the article points out, amount to union interference in national policy.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION DEMANDS

Those who advocate the unionization of this nation's armed forces contend that unions would not have a detrimental effect upon discipline nor upon any assigned military missions.

Obviously such assurances are designed to allay the fears of reasonable people.

But over in Europe, where some military unions flourish, we have a glaring example of such a union endeavoring to sabotage the role of the Dutch armed forced in NATO. And it doesn't require much imagination to see that sort of thing happening here if we cave in to demands for unionization.

The Netherlands joined the North Atlantic Treaty Organization (NATO) to insure a common defense against aggression. Such a defense requires centralized command—which exists in NATO. In order for a centralized command to be effective it must be able to utilize the various national military forces as a cohesive organization. For the armed forces of each NATO member to do its own respective thing would negate the purpose and concept of NATO.

But the union representing the Dutch soldiers has called for a halt in the integration of the Dutch armed forces with the armed forces of other NATO members.

The justification?

When Dutch troops are used on NATO bases they are required to salute, to trim their hair, to work on weekends without overtime pay. And Dutch troops—through their union—are accustomed to not saluting, to wearing their hair without tonsorial benefit, and to getting overtime pay for weekend duty.

Ergo, according to the Dutch union the Dutch troops should not have to work with other NATO members. This, in effect, would mean divorcing the Netherlands from NATO. And the result would be union interference in national policy.

Those who listen to the soothing assurances from advocates of a military union should consider the effect of these demands of the Dutch military union.

Mr. THURMOND. Mr. President, I yield back whatever time remains.

Mr. STENNIS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from Texas.

Mr. BENTSEN. I thank the Senator.

Mr. President, I fail to understand how anyone concerned with the national defense and national security interests of the United States could look with favor on the concept of a unionized military force.

There has been one misunderstanding here that I have heard. There has been

some talk that anyone who belonged to a union and would be in a national guard unit would have to withdraw from the union. That is not the case.

As I understand, it is a situation in which you would have someone who was a member of that National Guard unit but also might work as a mechanic in a civilian capacity in the National Guard unit, and in that kind of situation could not be a part of the union.

Is that correct?

Mr. STENNIS. Yes, that is correct. The Senator from Texas has stated it correctly.

Mr. BENTSEN. S. 274 will eliminate the possibility of unionization of the American military, and I am proud to cosponsor this legislation. It is interesting to note that the membership of the American Federation of Government Employees are also opposed to their union attempting to organize the military.

In 1666 John Dryden, the British author, expressed a warning that is as true today as it was 300 years ago—"All delays are dangerous in war." I would submit that the concept of a unionized army is inimical to the national security interests of this country. It could, indeed, lead to delays in time of war.

Like many of my colleagues in the Senate, I have participated in combat operations. I have a keen appreciation of the importance of discipline; prompt, unquestioning compliance with orders; and a willingness to endure less than ideal living conditions that are prerequisites to successful military operations. I cannot imagine a situation in which a combat commander would have to deal with his troops through shop stewards.

Mr. President, the right of a worker to bargain collectively with management has been clearly established in this country. It should be zealously protected. But this does not imply that collective bargaining should be extended to the Armed Forces of the United States.

We have some experience with the unionization of paramilitary organizations in our society. We were recently treated to the spectacle of firemen in Dayton, Ohio, permitting homes to burn because they had unresolved contract disputes with the city government. There have been several occasions in recent years when police forces have gone on strike in various municipalities.

The consequences of strikes or slowdowns by unionized police and firemen are frequently unfortunate and can menace the peace and security of millions of our citizens.

But they are insignificant compared to what might occur if our Armed Forces were unionized, if we were compelled to take military action in the midst of a work-action. We have seen in Europe how strikes and slow-downs by unionized military can cripple preparedness. The United States cannot afford, and should not accept, the concept of collective bargaining in the Armed Forces.

Mr. President, American workers could and should be able to bargain collectively with their employers. American soldiers cannot and should not be permitted to bargain collectively with their commanders. The essence of a successful military undertaking is prompt obedience and a willingness to sacrifice. To the extent that we permit this military ethic to be eroded by unionization, we inevitably jeopardize our national security and our ability to respond to threats from abroad.

Mr. President, I hope my colleagues will join me in support of S. 274. I yield back the remainder of my time.

Mr. ABOUREZK. Mr. President, I yield myself 3 minutes at this time, and I hope the Senator from Texas will remain here for just a couple of minutes.

After hearing his statement I want to make certain he understands, as well as everybody else in the Senate, that the amendments I have had printed and will offer have absolutely nothing to do with trying to unionize the military.

To present my proposals, and the proposals of others who join with me, as an effort to unionize the military so that a battalion commander would have to deal with a shop steward is a total distortion of the proposals that have been drawn up in my behalf.

I would hope the Senator from Texas would take the time to read them. In fact, the substitute measure which I will offer at a little later time today once again recommits Congress to the idea that there shall not be a union that would be allowed to be organized in the military; it would not allow unionization; it would not allow or require anybody to deal with a shop steward. It would merely protect the first amendment right of people in the military who want to talk, who want to have somebody represent them in a noncombat, nontraining grievance procedure. It is a protection of their constitutional rights.

Mr. BENTSEN. Mr. President, will the Senator yield? I was not referring to the Senator's amendments. I have not read his amendments, and I look forward to reading his amendments.

Mr. ABOUREZK. I just want to clarify that before the number of artists we have here in the Senate begin painting a picture that is not the case. It has nothing to do with the proposals I will be offering.

I reserve the remainder of my time.

Mr. TOWER addressed the Chair.

Mr. STENNIS. Mr. President, I will be glad to yield to the Senator from Texas 5 minutes on the bill.

Mr. TOWER. Mr. President, I rise in support of S. 274, a bill reported by the Committee on Armed Services for the purpose of prohibiting any member of the Armed Forces of the United States from joining a military union or soliciting or maintaining membership in an organized military union. This bill would make it unlawful for a labor union to enroll military members or to solicit dues, negotiate, or represent military personnel in bargaining or grievance procedures with the Government of the United States. It would prohibit any military or civilian official of the Department of Defense from negotiating or bargaining with a military union or from authorizing any activities of such unions on U.S. Government property. Finally, it would also prohibit any individual from bargaining on behalf of military members, from using military property for purposes stated in the bill, and from conducting strikes or other concerted actions involving military personnel against the Government.

Because of what we consider to be the urgent need for this legislation, our committee's deliberations on this significant measure were conducted with all dispatch. My colleagues are aware of the bill introduced last year by the senior Senator from South Carolina. A separate proposal offered by the distinguished chairman of our committee, the Senator from Mississippi, was also studied by our committee during these proceedings.

The committee has held numerous public hearings on these proposals and has also had the benefit of separate opinions rendered by two noted legal scholars, former dean of the Harvard Law School and former Solicitor General Erwin N. Griswold, and Prof. Charles Alan Wright of the University of Texas Law School.

As we explained in our committee report, the Congress has an explicit constitutional duty to oversee and regulate our Armed Forces in order to prevent actions which would threaten the ability of our military services to provide for the national security. The committee is fully aware and appreciative of the opinions of some in the executive branch, including the Secretary of Defense, that the prospect of military unionization can be adequately dealt with by means of regulations and policies issued under the auspices of the Department of Defense. Nonetheless, it is the considered judgment of our committee that Congress must not neglect its inherent responsibilities to the American people on this very fundamental matter and take such action as we deem necessary to insure that our forces will be kept militarily effective and ready.

I think a majority of the American people will agree with the conviction of our committee that a union organization is totally incompatible with the essential command structure and discipline in each of our military services. Since revolutionary times, our Nation has continued to rely on the tradition that our military personnel will place duty above any and all personal considerations, including, when necessary, their individual safety and well-being. The suggestion that organized unions can coexist within the military profession is entirely incompatible with this tradition and compromises, in my view, the effectiveness of our most vital military resource, those people who serve in the ranks.

As one member of the Committee on Armed Services, I have always afforded close attention to the needs and welfare of our uniformed enlisted personnel. It is my firm belief that military unions would not benefit enlisted personnel because of the manner in which they would abrogate the inherent responsibility which rests on the military commander for his people.

Let me emphasize to my colleagues that this legislation is a preventive measure. We need only look at the

enormous impact which labor unions have had in the private sector to gain an insight into the methods and procedures utilized in pursuit of union goals. I think anyone who has the slightest understanding of military command relationships can readily see that activities characteristic of union organizations cannot possibly be conducted in a military organization without catastrophic effects. Obedience in a military command must be nonnegotiable. Orders to those in uniform cannot be issued in the shadow of a bargaining table. Authority that is questioned or contested by a subordinate is authority that has long since ceased to exist. If these basic precepts of military service are weakened or qualified in any way, then our fighting forces will be less ready, less effective, and less capable as a result. Should we fail to act in response to the emerging prospects for unions within our military ranks, we of this body will have overlooked the potential for a serious degradation in our Armed Forces that would portend the gravest of circumstances with respect to the future security of this country.

Repeated evidence of a substantial level of interest in union organizations on the part of some military members was a major cause for our expeditious consideration of this legislation. Despite the fact that a recent poll of the membership of the American Federation of Government Employees rejected the recommendation of that union's leadership to organize the military services, our committee remains convinced that the responsibility which rests with this body to deal immediately with a very significant and disturbing matter must not be shirked or disregarded. Accordingly, I join the chairman of our committee, and our other committee colleagues, in urging prompt enactment of the bill that is today before the Senate.

Mr. President, I would like to pay particular tribute to the tireless and dedicated efforts undertaken on this issue by the senior Senator from South Carolina. His initiative and foresight in bringing the requirement for a measure of this sort to the attention of the Members of this body have been a major force behind the work which has made possible our deliberations here today. Neither would it have been possible for the Senate to give the necessary priority and attention to this serious issue without the leadership, concern, and active involvement of our able and distinguished chairman.

Mr. President, I commend this legislation to the Senate and, of course, urge its adoption.

Mr. STENNIS. Mr. President, may I observe that, even though the time has not quite all expired, there will be time for anyone who wishes to offer an amendment and each side would have a little time remaining on the bill.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. There is a 30-minute total time limit on each amendment. Is that my understanding?

The PRESIDING OFFICER. The Senator from South Dakota has 30 minutes on his amendment.

Mr. ABOUREZK. Is that 30 minutes total or 30 minutes to each side?

The PRESIDING OFFICER. Thirty minutes total.

Mr. ABOUREZK. I thank the Chair.

AMENDMENT NO. 860

Mr. ABOUREZK. Mr. President, I call up amendment No. 860 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK), for himself, Mr. WILLIAMS, and Mr. JAVITS, proposes amendment No. 860:

On page 5, line 15, insert after the word "component": "in his military capacity. Such term shall not include any person employed as a civilian technician by a reserve component and is also a member of that component.".

On pages 8 and 9, strike subsection (f).

On page 9, line 15, strike all through page 10, line 4.

Mr. ABOUREZK. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from South Dakota is recognized for 5 minutes.

Mr. ABOUREZK. Mr. President, this legislation in its entirety is pretty much unacceptable to me on the grounds that it does violate the first amendment rights of anyone in the military who might choose to seek representation, but especially reprehensible is the provision that I am seeking to amend at this time which does not even allow a civilian technician to have some sort of representation of his demands or his grievances if he also belongs to a reserve component in which he works as a technician.

I clearly believe that this legislation as proposed and as written is unconstitutional, but it is going to take years, if it passes, for the courts to make that determination. It is going to take years, with a lot of deprivation on the part of people who were going to try to establish that unconstitutionality, a lot of money, and a lot of time.

There is not much use, in my view, of Congress trying to impose this sort of constitutional stricture on people who are going to have difficulty in defending themselves.

So the amendment that I am offering will simply say that the term "member of a reserve component in his military capacity" does not include any person employed as a civilian technician by a reserve component and is also a member of that component.

In effect, what it does is it lets out of this legislation those people who are true civilians but who also might belong to the Reserves.

For the most part, reserve people operate only on weekends. The other 5 days of the week they are technical civilians and they work perhaps as technicians for that component.

There is nothing wrong, in my view or in the view of a lot of people, with those particular civilians having any kind of representation they want if they are not in their military capacity.

The amendment makes that clear. As long as they are not acting in a military capacity they are entitled to whatever kind of representation they want.

I urge the adoption of the amendment, and I am happy to yield whatever time Senator JAVITS wishes.

Mr. JAVITS. Mr. President, if the Senator will yield me 5 minutes, I remained notwithstanding my responsibilities in the Lance hearings because I feel rather strongly about this particular matter and for this reason:

Mr. President, the bill before us today, S. 274, is basically aimed at the prohibition of union organization and membership in the Armed Forces. Regrettably, the bill reaches much farther to make it a felony, punishable by up to 5 years in jail, and a fine of up to $10,000 for a civilian employee of the Armed Forces to engage in union activity. The amendment I have cosponsored would simply excise this overreaching aspect of the bill.

My colleagues should be aware, however, that this bill, if enacted, will likely be the subject of substantial litigation over serious constitutional issues. On many occasions I have stated my belief that the full rights to organize, to bargain collectively, and to engage in concerted activity which Federal labor law accords to the civilian work force should not be fully applicable to members of the Armed Forces. There is no question that the Congress has the power to preclude the right to engage in concerted activity, including strikes, to compel military organizations to recognize a particular union organization, to bargain with a union to reach any particular agreement, or even to establish a grievance procedure.

The key rationale stated by the Committee on the Armed Services—that unionization is incompatible with the discipline and obedience necessary to maintain an effective military establishment—can easily be over generalized. Our citizens do not surrender all of their rights just by putting on a military uniform.

For example, military personnel are not only permitted, but obligated, to disobey unlawful orders. We should all continue to be instructed by the lessons of Nuremberg.

Nevertheless, I seek today only to modify S. 274 to confine its application to employees who are actually members of the Armed Forces when they are acting in a military capacity. As long as these technicians remain in civilian status—and I express no judgment as to whether the Armed Forces should reclassify these positions as military—they should have the same rights as other Federal civilian employees of the Department of Defense and all other Federal agencies provided under Presidential Executive Order No. 11491. I can find no sufficient rationale to deprive civilian employees of the quite limited representation rights under Exexcutive Order 11491 simply because they happen to be employed on military installations or happen also to be members of the Reserves or the National Guard at other times.

It should be understood that the organizational and bargaining rights granted under the Executive order to civilians

in the Federal service do not begin to approach those afforded private employees under the National Labor Relations Act. The right to strike, the touchstone of union bargaining power, is completely prohibited. Moreover, decisions over unresolved issues and acceptable subjects of bargaining are decided by the Federal Government itself through the Federal Labor Relations Council which is composed of the Director of Management and Budget, the Secretary of Labor, and the Chairman of the Civil Service Commission.

If we have learned anything about labor relations in the more than 40-year history of the National Labor Relations Act, it is that it is essential to provide an established means of communication and dispute settlement in order to protect the rights of individual employees and to prevent economic disruption.

I can understand the committee's action and probably I shall vote with the committee, though I do have some grave doubts on the constitutional questions.

I have read Griswold's opinion and rather feel because I do know something about military discipline, as my colleague from Mississippi knows, and respect it highly, it may be a necessary precaution.

But I really think, I say to Senator Stennis, that we really are stretching matters in this situation.

I could not say that the technicians who are here involved are strictly and purely employees like steamfitters or people who clean the armories, or anything like that. But I do think the fact is the military services have chosen not to do this with military personnel. These technicians, of whom there are some 61,000—but I gather something in the area of 20 odd thousand would be affected—our records show 36,000 are in some kind of union or some kind of association which is tantamount to a union, are the technicians affected by section 3(f), and Senator Stennis' own estimate was that about 14,000 would have to make the choice between their jobs and their union representation.

The things that worries me about it is: The Armed Forces have seen fit to keep these as technicians, civilian technicians during the week, and have them do their military turn on weekends, even if they perform the same duties. That is often true. A man may enlist who may be a steamfitter and he may be a steamfitter in the Armed Forces. But the question is what hat is he wearing at a given time? I am really deeply concerned that we are overreaching, not just outreaching, but overreaching, and I cannot find a good reason for it. Therefore, I believe the military authorities have to make their choice. If they feel, I say to Senator STENNIS, that these people should have this single purpose and single loyalty to the Armed Forces, then do everything with uniformed personnel. Maybe all these fellows will enlist for the duration, or whatever else it takes to qualify. But so long as the Armed Forces themselves choose to treat them as civilian employees—they cannot strike anyhow under civil service laws, and collective bargaining rights are very restrictive anyhow—why should we change it with the outreach in this bill? We also have the dangerous precedent of dictatorships that when you really want to put the stranglehold on people you induct them into the military. We have had that here in this country when Harry Truman tried to put the railroad workers into the military, and it was declared unconstitutional.

That is the reason for my concern.

I will yield to no one in my admiration for the objectivity and fairness of the chairman of this committee, and I have no sense of confrontation with him whatever. But I do feel that this does appeal to reason and to our basic sense of American principles.

So I simply wish to summarize that if they really feel these people should not engage in union activity, put them into the military and eliminate this civilian technician business. But so long as they remain as they are, I am deeply concerned about that degree of outreach which would deprive them of the rights of any other civil service employee, and I hope very much, therefore, that the Senate may look favorably on Senator ABOUREZK'S amendment to which I am a cosponsor, as is Senator WILLIAMS, the chairman of our committee, and we handle labor as far as the Senate is concerned.

I thank the Senator.

Mr. ALLEN. Who yields time?

Mr. ABOUREZK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Dakota has 7 minutes remaining.

Mr. ABOUREZK. I yield whatever time Senator WILLIAMS desires.

Mr. WILLIAMS. Mr. President, I appreciate that.

Mr. President, I have joined with my distinguished colleague from South Dakota in offering an amendment to S. 274, which would protect long established collective-bargaining rights of certain civilian employees of the Departments of Army and Air Force.

As reported by the Armed Services Committee, S. 274 would make it unlawful for a member of the Armed Forces to join a military union or to solicit or maintain membership in such an organization. I support the intent of this legislation. Members of the military should not be members of unions. They must owe their first and only allegiance to their country and to the Constitution.

But the bill as reported goes too far. It includes within its coverage civilian technicians employed by Reserve and National Guard units. These civilian technicians have a dual function, one civilian, the other military. During the week for 50 weeks a year they work as civilians, performing duties and responsibilities similar to those performed by the other civilian employees of the Department of Defense. For only 40 days a year do they perform military duties for their National Guard or Reserve units.

I agree that this bill should apply to technicians in their military capacity. But S. 274 fails to make a distinction between civilian and military status—a distinction which has been recognized for almost a decade.

Civilian technicians were made Federal employees by an act of Congress in 1968. Since then, they have enjoyed collective-bargaining rights under the Federal employees labor relations program. Approximately 30,000 technicians are presently represented by labor organizations and covered by collective-bargaining agreements.

S. 274 would nullify long established rights and extinguish existing collective agreements. Moreover, it makes it a crime for civilian technicians to remain members of labor organizations even while they perform duties in civilian status.

The Executive order program has been in effect for over 15 years. It has been reviewed and amended on a number of occasions. Indeed, it is presently being reviewed by the President's reorganization task force. From its inception it has excluded certain civilian employees of the Federal Government on grounds of national security or law enforcement responsibilities. Yet the last three Presidents have seen fit to continue the status of civilian technicians under the program.

If there is some question about the advisability of permitting these employees to continue to enjoy rights of self-organization, there has been ample opportunity to raise those issues in that forum.

It may be, as the supporters of S. 274 assert, that we cannot afford to await the arrival of military unions before enacting this legislation, but certainly these civilian technicans, whose only offense in their civilian role seems to be the rather effective assertion of their rights under the executive order, have not demonstrated the disloyalty that requires the elimination of those basic rights without a more careful examination of the record.

I wish to address a question or two to our distinguished colleague from South Dakota who has done a real service in my judgment by offering this amendment, and I am privileged to be a sponsor with him of it.

The civilian employees who are addressed by this amendment have had the opportunity to join unions for a considerable period of time, is that not correct?

Mr. ABOUREZK. That is correct.

Mr. WILLIAMS. This opportunity has been clearly established in an executive order, has it not?

Mr. ABOUREZK. That is correct.

Mr. WILLIAMS. As a result, the civilian technicians in considerable numbers are now members of the unions?

Mr. ABOUREZK. My figures that have been furnished me say some 28,000 of the civilian technicians that are employed by the military belong to a union.

Mr. WILLIAMS. It seems to me that we all know there has been an anxiety about the military forces' desire to consider a union, and this is anathema to our feelings about what our armed services and Armed Forces should be, solely in the command of their commander, and not to have any divided loyalty.

This proposal does not touch that at all, as I understand it.

Mr. ABOUREZK. Not at all. Neither this proposal nor the other amendment

that I have ready to offer touches the concept of unionization of the military. Both of these amendments recommit themselves to the principle enunciated by the Armed Services Committee that the military shall not be unionized.

Mr. WILLIAMS. And would permit to continue what we have had for a long, long time, which has not been the problem seen; but the problem addressed by the basic bill is in response to any possible thought of unions in the Armed Forces?

Mr. ABOUREZK. Well, the basic bill seems to address problems that do not really exist. For one thing, if there have been attempts to unionize the military in their combat capacity, I am not for it, personally. I do not think, as Senator BENTSEN said, that a combat force member should be made to deal with the shop stewards. What this legislation has done is to go far beyond that, and prevent, prohibit, outright ban the representation of military servicemen by anybody, with a couple of exceptions such as retired officers' associations, what we might call the so-called military and veterans' establishment, which have worked themselves an exemption in the legislation. But people who want to represent the single serviceman in this legislation could not do so.

Mr. WILLIAMS. This bill as it is would deprive civilian employees in their regular occupation, from 9 to 5, 5 days a week, of the opportunity to organize a union?

Mr. ABOUREZK. That is correct, or to even belong to it.

Mr. WILLIAMS. Yes.

Mr. STENNIS. Mr. President, will the Senator from South Dakota or the Senator from New Jersey yield to me quite briefly on that very question?

Mr. WILLIAMS. Yes.

Mr. ABOUREZK. I am happy to yield to the Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. As we understand, Mr. President, and are advised, of all the people that are in the National Guard and other Reserves, only about 14,000 would be affected by the clause that we are talking about. That is the estimate, now, of the National Guard Bureau, who gave us the best estimate they could.

Second, these people would not be required to give up their jobs or their memberships in unions, as I am advised by the counsel for the committee unless this man who works 5 days a week belongs to a union that negotiates with the military departments. If it is a union that negotiates on something else, bricklayers, musicians, or something of that kind, as I am advised, he would not have to give up his membership there.

But here is the key point: We decided unanimously that if the rest of the group were not covered through membership of the union, and that union was negotiating with the military, that would be giving a badge or privilege, or whatever you wish to call it, to those 14,000 or whatever, and denying it to all the rest of the people in the military service. We just decided it would be unfair to do otherwise.

Mr. ABOUREZK. Mr. President, may I ask a question of the manager of the bill? On page 5 of the legislation, it defines "labor organization" as any organization which engages in or has as one of its objectives negotiating or bargaining with the Government of the United States. I do not understand how the committee counsel could read that as being restricted to military only. It is clear language. That means Congress, it means the executive branch, it means anybody in the Government of the United States.

Mr. STENNIS. If I may call the Senator's attention to page 5 of this bill, S. 274, line 18, where he read from, apparently, it reads this way:

> Negotiating or bargaining with the Government of the United States on behalf of members of the armed forces concerning the terms and conditions of military service.

That is what we are trying to cover, and we limit this bill to that narrow gage definition, and a relatively small number of people as defined beginning there with line 19.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

Mr. ALLEN. I yield the Senator 2 minutes.

Mr. ABOUREZK. If the Senator will turn to page 8, on line 22, and read that along with what he is reading, I would like to repeat it:

> For purposes of this section, any person employed as a civilian technician by a reserve component, and who is also a member of a reserve component, shall be considered in both his military and civilian capacities to be a member of the armed forces.

So you would wipe that man out from negotiation on any point, nonmilitary or military, by the language in this legislation. There is no way out of it.

Mr. STENNIS. I am advised by counsel that that part there merely puts that group within the group we referred to on page 5.

Mr. ABOUREZK. That is correct.

Mr. STENNIS. That is right. Puts it within the group on page 5, and that certainly was our intent, I will say to the genial Senator from South Dakota. That was our intent, to make this limited application and not go any further than we had to in that way. I believe I have correctly stated it.

Mr. ABOUREZK. The intent, if I may follow up——

Mr. STENNIS. On your time, if you do not mind.

Mr. ABOUREZK. Well, I will take my time on the bill for this.

Mr. STENNIS. All right.

Mr. ABOUREZK. I have to say the Senator from Mississippi used all my time.

Mr. STENNIS. I know; I yielded you 2 minutes.

Mr. THURMOND. Mr. President——

Mr. ABOUREZK. What the Senator has done, as I see it——

Mr. THURMOND. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from South Dakota yielded himself time on the bill.

Mr. ABOUREZK. What you have said you agreed to, that is in the legislation, is precisely what I have said is in there, and what I am trying to amend. I mean you have a civilian employee who is a member of a Reserve component. He is taken in under this bill and denied any sort of representation whatsoever. Not only can he not join a union which has limited bargaining rights, as Senator JAVITS pointed out, under the Government bargaining setup, he cannot hire a union lawyer to represent him in a grievance, just as anyone else cannot do under this legislation. You have severely, sorely restricted that person's collective bargaining rights by this legislation.

I reserve the remainder of my time.

Mr. STENNIS. I thank the Senator. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wanted to mention that if a technician wanted to belong to a musician's union, there is nothing to prohibit it. There is nothing to prevent him from joining a union, except joining a union which will bargain with the military. That is what we are trying to protect here.

I would also like to make the statement that all Federal employees are not eligible to join unions. I believe there is a statement made to that effect in the Executive order. It did not apply to the FBI, to the CIA, or to Foreign Service officers. I wanted to bring out that point because I believe it is very important.

In the Guard if the technicians have military duties to perform, working every day with the Guard, then we do not think the union should be bargaining for those people. In his spare time, if he belongs to a musician's union, or a different union, that is a different matter and this does not apply.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum and I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

Mr. President, it occurs to me that there is time——

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. I understand the Senator from South Dakota has used his time on the amendment. I will yield some time to him and some time to the Senator from South Carolina on the amend-

ment to finish up the debate at this time, if the Senator desires. Maybe we could conclude all the debate, if there are no other amendments. The Senator will recall there cannot be a vote until 5 p.m.

Mr. ABOUREZK. Mr. President, I have another amendment.

Mr. STENNIS. Let us finish this one and then go to the next one.

Mr. ABOUREZK. I was not aware there was an agreement that we could not vote until 5.

Mr. STENNIS. That is a general agreement as to all matters. That is because of the hearings in the other building. We are yielding to them.

The PRESIDING OFFICER. That pertains only to rollcall votes. We can have voice votes.

Mr. STENNIS. This will be a rollcall vote, Mr. President.

Mr. President, I will yield additional time to the Senator from South Dakota and also the Senator from South Carolina.

Mr. ABOUREZK. I have completed on this matter.

Mr. STENNIS. I yield 5 minutes to the Senator from South Carolina on the amendment, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. I would like to call the attention of the Senator to page 8, to subsection (e), which says:

(e) Nothing in this section shall limit the right of any person (1) to join or maintain membership in any organization or association not constituting a "labor organization" as defined in subsection (a)(2) of this section; (2) to seek or receive information from any source; (3) to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations;.

I understood the distinguished Senator to say he could not be represented by counsel. That is incorrect.

(4) to petition the Congress for redress of grievances; or (5) to take such administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

So, Mr. President, the rights of the technicians here are thoroughly protected. The main thing is they cannot join a union which is going to do collective bargaining with the military. They can join any other union they want to. This matter was considered very carefully because we feel this is extremely important.

I would like to say that on Wednesday, September 14, 1977, the 99th annual conference of the National Guard Association of the United States approved overwhelmingly a resolution supporting this bill, S. 274, as amended, on the recommendation of the Guard's resolution committee. The Guard Association takes the position that the technician work force must retain its military characteristics. The association is opposed to a work force of pure civilian character.

Mr. President, I want to say further that the Technician Act of 1968 established certain conditions of employment for technicians. Technicians are in a special category, and they are not in the regular civil service as are other DOD civilian employees. The Technician Act was designed to maintain the military character of the technicians force, and under that, technicians must be members of the Guard unit and are subject to regulations of Service Secretaries. The technicians are at the heart of the Guard units. They are a vital link to the pure guardsmen who drill only on weekends.

The technicians wear the uniform. They generally follow the rules which apply to active units. The Guard is now the first line force in the defense picture. Many deploy with active unit forces in first deployments. Many Guard units with technicians carry out formal active duty missions, such as air defense and refueling for active forces.

Mr. President, many hours have been spent on the union complaints. Valuable time needed for the missions is lost. This can be avoided if we do not have a union for the technicians. The technician unions are trying to demilitarize the technician force. That is what we want to prohibit.

In New Jersey, for instance, the unions supported a work stoppage when important inspections had to be carried over until Monday after the weekend drill.

In Alabama, the union threatened to strike if Congress did not OK a wage increase.

Other union actions include an effort to do away with the Guard technician wearing the military uniform during the workweek; the right of technicians to refuse unscheduled overtime assignments; a requirement that working conditions cannot be changed without a 60-day notice; a move to have military union stewards present when employment status is discussed; the desire of technicians not to use military grades during the workweek; a requirement that emergencies can be declared only for "good cause"; a requirement that leaves of union members can be canceled only in the event of a State or national emergency; and the right to sign worksheets as civilians and not with military rank.

GUARD AND RESERVE TECHNICIANS

The National Guard Technician Act, established in 1968 after hearings by the Armed Services Committees of the Congress, brought the Guard technicians under Federal programs. This act was carefully drawn in an effort to maintain the military character of the technicians.

Of about 60,000 technicians in the National Guard and Reserve programs approximately 40,000 are eligible for union membership.

Defense Department estimates indicate that of the 40,000 eligible, about 30 percent or around 12,000 are dues-paying members.

Since inception of the Guard technician program it has been policy that the Guard technicians must be members of the Guard unit in which they are employed—dual status—and that they must wear the military uniform during the workday. The Guard technicians have remained in the accepted service, as opposed to the competitive service which characterizes the smaller Reserve technician programs established by Executive order in the late 1950's and early 1960's.

DEMILITARIZE GUARD

Once the Guard technicians became federalized they became eligible for union membership, and the unions have directed their activities toward "demilitarizing" the Guard program.

This has taken the form of union efforts to remove the requirement that the Guard technicians wear the military uniform and be subject to various military regulations the unit commanders deem essential to a high state of readiness. These activities of the unions have increased to the point that the military character of the units is being jeopardized.

STAFF STUDY

A staff investigation of the problems created by the unions shows that most of the issues being raised are designed to blunt the intent of Congress as expressed in the National Guard Technician Act of 1968.

That act is replete with provisions designed to maintain the military character of the Guard units when Congress federalized the technicians, which up to that time were strictly State employees.

Provisions of that act were designed to maintain the military character of the Guard units by making a condition of employment such requirements as first, compatibility between technician and military positions; second, military grade requirements for the technicians; third, membership in the unit for active duty purposes; fourth, wearing of the uniform and grooming standards, and fifth, military courtesy—saluting.

Many of these provisions in the act which established the technician program and set it apart from straight civil service employment are now under attack by the unions. The union complaints appear designed to demilitarize the technician program, a move which runs counter to the Technician Act approved by Congress.

Mr. President, while such issues may have a place in various jobs, they create real problems in military units which by nature must operate on a unique system. An examination of the record shows that in recent years union activities in the military technician program have caused serious disruptions in the carrying out of the military unit missions.

WORK STOPPAGE

As an example, last year officials of an American Federation of Government Employees local in a New Jersey Air National Guard Fighter Interceptor Group encouraged and condoned a work stoppage. This came during a weekend training drill when the unit was undergoing an Operation Readiness Inspection.

The problem resulted when poor weather conditions prevented flying on a Sunday during the normal drill period. The commander had to require that the technicians work on Monday to complete the inspection requirements. There is strong evidence the union informed the technicians if they refused to work on Monday they would have 100 percent support. In fact, some technicians did fail to report for duty on Monday.

In another instance, in July of this year, the Alabama State Council of the

American Federation of Government Employees voted to strike if Congress failed to enact Wage Board salary reforms. If this strike had materialized, it could have involved technicians working at military bases in Alabama.

Mr. President, many of the Reserve and Guard units of today are performing important military missions throughout the week, not just on weekends. Air defense interceptor units are on 24-hour alert while other Guard units perform a major share of the active Air Force air refueling mission. A strike, walkout, sickout, or other labor action in such important units would impact adversely on our national security.

The Defense Manpower Commission, in its report last year, also recognized the problems created by the technician unions. The report stated as follows:

Another aspect of the technician system is that over half of the Guard and Reserve technicians are represented, like many other Civil Service employees, by national labor unions. In this situation there is an inherent potential for undue union influence in the strictly military functions of the technicians, resulting in a dilution of military command authority and adversely affecting the responsiveness and discipline of Guard and Reserve units.

Relative to the foregoing is the basic fact that most of the technician positions in the Reserve Components are hardly bona fide civilian type positions. They simply have reflected an effort to find a formula for full-time manning of certain essentially military positions.

In recent years in the National Guard alone labor agreements numbering over 100 annually are being negotiated between commanders and technicians. Over 40 unfair labor practice charges have been filed so far this year, practically all of which are designed to "demilitarize" the technician program.

These activities result in hundreds of thousand of man-hours being expended by Guard and Reserve personnel in union matters, thus consuming much valuable time which should be dedicated to mission accomplishment.

A number of these complaints have reached the Federal Service Impasses Panel, which is not even a military group, but falls under the Department of Labor where civilian mediators who lack an understanding of military requirements make final rulings.

As an example, since early 1976 a Pittsburgh Guard unit has been in litigation over a commander's directive to require technicians to wear their military uniform shirts inside their trousers. This unfair labor practice was brought on the grounds this dress requirement changes working conditions.

The problems created by the unions representing these uniformed technicians to some degree led to an unsuccessful attempt by the House Appropriations Committee to require a phaseout of technicians and their replacement by active duty military personnel.

The committee concluded that increased dependence on Reserve component units, in addition to the assumption by many of these units of former active duty missions such as 24-hour air defense alert and tanker support of Active Forces, argued for a stronger military character and the increased readiness such an atmosphere induces.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STENNIS. Mr. President, I yield an additional 2 minutes to the Senator.

Mr. THURMOND. Mr. President, in view of what has transpired, in view of the technicians effort to demilitarize, as I said, their assignments, we feel that this is necessary, and we do not want to wait until some emergency occurs and something serious could happen. This is a very important matter. We are not trying to deny technicians the right to join a union, except where it interphases with their Guard duties, where it is tied in, interlaced with, so connected with, that we cannot separate their Guard duties from their civilian duties.

They can join any other union they want to, but they should not be allowed to join a union to do collective bargaining with the Guard. That is what this provision prohibits.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, the parliamentary situation is that there has been an agreement that, under the circumstances, there will be no more rollcall votes until 5 p.m. The yeas and nays have been ordered on this amendment, so it will have to go over until 5 p.m. The Senator from South Dakota has another amendment that we could, perhaps, debate now. I state this in the way of a question to him.

Could we debate it now, with the understanding that, when we vote on the second amendment, which presumably would follow the first amendment vote, there be 5 additional minutes for each side to sum up this second amendment? I believe the floor leader here would agree with that and we could get along with the debate. Could we have an agreement to vote on the two amendments and then the bill?

Mr. ROBERT C. BYRD. Mr. President, I have discussed this with the distinguished author of the amendments. He seems to be agreeable if we could have 10 minutes on each side before the second vote.

Is that agreeable?

Mr. ABOUREZK. Yes.

Mr. STENNIS. That would be followed, then, by the vote on this amendment at that time, and if there are no other amendments, then there will be passage.

Mr. ABOUREZK. My understanding is that we would vote on amendment 860, the one we just talked about, first, then have 10 minutes on each side, then bring the other amendment to a vote.

Mr. STENNIS. Correct. Then there would be two votes, disposing of two amendments, then passage, unless something else intervenes.

Mr. ABOUREZK. Within 20 minutes of each other, the two amendment votes.

Mr. STENNIS. That is right.

Mr. ABOUREZK. That is correct.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank both Senators.

Mr. STENNIS. If the Senator will proceed, then, we can go on with the next amendment.

Mr. ABOUREZK. Call up amendment No. 859, Mr. President.

The PRESIDING OFFICER. Will amendment 860 be laid aside at the Senator's request?

Mr. ABOUREZK. I think we have to.

The PRESIDING OFFICER. Amendment 860 will be laid aside until after 5 p.m.

AMENDMENT NO. 859

The PRESIDING OFFICER. The clerk will state the amendment called up by the Senator from South Dakota.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment in the nature of a substitute.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"SECTION 1. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"'§ . Union organizing and membership

"'(a) As used in this section—

"'(1) "Member of the armed forces" means a member of the armed forces who is (A) serving on active duty, or (B) a member of a Reserve component in his military capacity. Such term shall not include any person employed as a civilian technician by a Reserve component and who is also a member of that component.

"'(2) "Labor organization" means any organization which engages in or has as one of its objectives (A) negotiating or bargaining with the Government of the United States, on behalf of members of the armed forces, concerning the terms and conditions of combat, combat preparedness, and/or tactical training exercises; or (B) striking, picketing, or engaging in any other work slowdown or similar job action directed against the Government of the United States. Such term does not include any professional, fraternal, military, or veterans organization or association if such organization or association does engage in or have as one of its objectives representation of a member of the armed forces or a civilian employee of the Department of Defense (A) in any grievance proceeding not involving the terms and conditions of combat, combat preparedness, and/or tactical training exercises, (B) in legal proceedings before administrative boards or under the Uniform Code of Military Justice, or (C) regarding pay, retirement, disability, equal opportunity, and fringe benefits, or if such organization or association does not engage in or have as one of its objectives any of the activities described in the first sentence of this paragraph.

"'(3) "Civilian employee of the Department of Defense" means any civilian officer or employee of the Department of Defense as defined in sections 2104 and 2105 of title 5, any officer of the Department of Defense holding an Executive Schedule position under subchapter II of chapter 53 of such title, and any civilian employee who is employed by an instrumentality described in section 2105(c) of such title and who is compensated from nonappropriated funds.

"'(b) It shall be unlawful for any member of the armed forces, knowing of the activities or objectives of a particular labor organization, to join or to maintain membership in such organization, or to solicit any other member of the armed forces to join or maintain membership in such organization.

"'(c)(1) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to negotiate or bargain, or attempt to negotiate or bargain, on behalf of the United States, concerning the terms and conditions of combat, combat preparedness, and/or tactical training exercises of members of the armed forces with any individual, organization, or association which represents or purports to represent members of the armed forces.

"'(2) It shall be unlawful (A) for any individual, organization, or association to negotiate or bargain, or attempt to negotiate or bargain, with the Government of the United States, on behalf of members of the armed forces concerning the terms and conditions of combat, combat preparedness, and/or tactical training exercises, or (B) for any individual, organization, or association to organize or attempt to organize, or to participate in, a strike or any other work slowdown or similar job action involving members of the armed forces directed against the Government of the United States.

"'(d)(1) It shall be unlawful for any individual, organization, or association to use any military installation, facility, reservation, or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b) or (c)(2) of this section.

"'(2) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to permit or authorize the use of any military installation, facility, reservation, or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b) or (c)(2) of this section.

"'(e) Nothing in this section shall limit the right of any person (1) to join or maintain membership in any organization or association not constituting a "labor organization" as defined in (a)(2) of this section; (2) to seek or receive information from any source; (3) to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations; (4) to petition the Congress for redress of grievances; or (5) to take such administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

"'(f)(1) Any individual who violates the provisions of subsection (b), (c)(1), (c)(2), (d)(1), or (d)(2) of this section shall be punished by a fine of not more than five years, or by both such fine and imprisonment.

"'(2) Any organization or association which violates subsection (c)(2) or (d)(1) of this section shall be punished by a fine of not less than $25,000 nor more than $250,000 for each violation.'.

"(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"'975. Union organizing and membership'.".

Amend the title so as to read: "A bill to amend chapter 49 of title 10, United States Code, to regulate union organization and membership in the armed forces, and for other purposes.".

Mr. ABOUREZK. Mr. President, the legislation brought up by Senator STENNIS and his committee would essentially—in fact, would specifically—prohibit membership in any civil improvement organization or grievance committee. It would bar even the discussion of any representational organization on a post. It would prohibit any civilian organizational assistance to service members, such as that of the former Lawyers Military Defense Committee. It would forbid already organized civilian technicians from being union members. It would require them to withdraw from their existing union organizations.

I think it is unwise and extremely dangerous to impose these kinds of measures, which go far beyond any concern for the possible effects of collective bargaining and would cut deeply into the rights protected by the first amendment to the Constitution.

May I make it clear, Mr. President, to everyone who is here—and there are not very many—that my substitute, the substitute that I just called up, does not change the concept of unionization of military personnel, as stated by the committee and by the original legislation. What it does do is, in addition to prohibiting unionization of the military, go to protection of the first amendment rights of members of the military and, of course, of civilian technicians, as the amendment that we just discussed says.

The legislation, S. 274, that we are dealing with today outlaws the organization of a union, as I said. It also prohibits the individual representation of a member of the military service by anybody who is not, as we call it, a military lawyer. But it does, while it outlaws the kind of organizations that I talked about, specifically exempt what are termed professional organizations, professional associations.

Those are groups that are composed primarily of career personnel who already engage in many of the representational activities which would be denied to so-called labor organizations, which are broadly defined in this legislation, while permitting such activities for those who presently belong to the so-called professional associations.

I think this differentiation is extremely discriminatory and it is without valid justification. It violates equal protection of the rights of individuals in this country.

Mr. President, while this substitute would prohibit military personnel from engaging in collective bargaining or in strikes, it otherwise protects their first amendment rights to allow some sort of individual representation in noncombat situations. If a member of the military service has a grievance, I think he ought to be entitled to have somebody represent him, or if a group of them have a grievance that has to do with living conditions or the way that they are treated by the commanding officers in a noncombat situation, they ought to have a right to have somebody represent them.

This legislation, S. 274, would also prohibit anybody who is in the military, including the civilian technicians that we talked about, from having representation before the Congress of the United States.

Senator THURMOND, the man who espouses the right of people to speak their mind, with this legislation he is supporting, is denying those people the right to send somebody to Congress to represent them, to come before a committee which he might chair, and ask for some kind of redress of their grievances. I am surprised that that is the kind of thing the Senator would support.

Mr. THURMOND. Will the Senator yield?

Mr. ABOUREZK. I am glad to yield.

Mr. THURMOND. The Senator from South Dakota is just as wrong as he can be. If he will get the bill, on page 8, and start on line 16 and read it——

Mr. ABOUREZK. We are doing this on the Senator's time, I hope.

Mr. THURMOND. "Nothing in this section shall limit the right of any person—to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations." The next one is "to petition the Congress for redress of grievances."

That is it.

Mr. ABOUREZK. May I ask the Senator, he is citing that as evidence of what?

Mr. THURMOND. The Senator said they did not have a right to be represented by counsel or did not have a right to petition Congress. I told him that he is incorrect and that the bill sets that out plainly on page 8, lines 16 through 19.

Mr. ABOUREZK. He might do so as an individual. What if two or more might want to do it?

Mr. THURMOND. How is that?

Mr. ABOUREZK. What if two or more members of the service should want to be represented?

Mr. THURMOND. They have associations that represent the military and a number of associations of various kinds.

Mr. ABOUREZK. That if the two members want somebody else?

Mr. THURMOND. This makes it clear that nothing in this section is to limit the right of any person to do those things.

Mr. ABOUREZK. What if two or three members or a group might want somebody other than the existing organizations to represent them? How would they handle that?

Mr. THURMOND. They can come before the Congress and testify. They can petition Congress. They can come and testify before the Armed Services Committees of the House and Senate.

Mr. ABOUREZK. The representation can, or they, themselves?

Mr. THURMOND. Two or three can do it or one can do it.

Mr. ABOUREZK. What if they were afraid to come up before Congress for fear of retribution from their superiors? They are prohibited from having somebody else come, are they not?

Mr. THURMOND. This is a country in which people have rights. Those rights are specifically set out here so there would be no question of those rights.

Mr. ABOUREZK. I ask the Senator, what individual serviceman—what if two or three privates first class, low ranking enlisted men, want to voice a grievance? They could not get anybody to hear them, except they thought they

might come to Congress and ask for some kind of redress. What does the Senator think their superior officer might do to them?

Mr. THURMOND. I get letters all the time from servicemen about different matters. I take them up and do what I can on anything they bring up. They can come, themselves, and testify. If we hear they are being prohibited from coming, we like to know who it is.

If the Senator runs across a case where members of the armed services are being prohibited from petitioning Congress, I hope he will let us know so we can take it up.

Mr. ABOUREZK. In fact, I have done that, I advise the Senator from South Carolina.

I know of more than one occasion, which I have dealt with personally, of servicemen out in South Dakota who have had a fight. The minute they contact a Member of Congress they have their file flagged, and I think they use the letters "P.I." on the file, which means political influence.

The ones I have dealt with have been marked by their superior officers for harassment and eventually getting them booted out of the service simply because they came to their Congressman.

That is the kind of thing that S. 274 would continue and reinforce. It would allow that sort of thing to happen and deny the right of any person to have somebody representing him who might be halfway effective in his representation.

Mr. THURMOND. If the Senator knows of any cases where files have been marked and calls it to our attention, we would take it up and help him with it.

Mr. ABOUREZK. I will be happy to turn them over to the Senator, in fact.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I will be quite brief on this amendment. I yield myself 5 minutes only and I hope the Chair will have that 5 minutes called.

Mr. President, the Senator from South Dakota has worked on this matter, I am sure. His motives, as always, are the very best. But with the greatest possible deference, his amendment here would refute and contradict and take out of the bill, so to speak, a very large part of what has been prepared—months of preparation and constitutional advice of the highest kind considered.

We had the eminent former dean, Erwin Griswold, come here and serve as a consultant. I asked him to come to lunch. I wanted to be sure he understood the purposes in passing this bill—not punishment, but purely a preventive measure.

We got Prof. Charles Alan Wright from the University of Texas Law School, a man of eminent capacity as a constitutional lawyer.

They studied it separately. We wrote this bill within the confines of their advice. Then, after counseling with many knowledgeable people, including members of our own armed services who had many years in the services, we rounded out a bill here, very carefully drawn, that got the unanimous vote of 18 members of the Senate Armed Services Committee and a record that was published.

There is a very fine report here backing up the terms of this bill. It became a rather scholarly bill in legal parlance, I submit. It is designed to cover the purposes we have already stated.

We spell it out here on page 8, as the Senator from South Carolina pointed out. He has done fine work on this bill and shown leadership in connection with it.

We spelled out that nothing in this act shall limit the right of any person. It goes on and names several things and then covers particularly the point on representation by counsel in any legal or quasi-legal proceeding as authorized by applicable laws and regulations, or to the Congress for redress and grievances.

That is already the law. We could not write that any other way. But this was to be explicit, clear and plain. In fact, it is conclusive on those points.

We have a bill here that is supported by some of the largest, most eminent labor unions. I refer to the Teamsters. They were represented here by the man that many of us know, a very competent man speaking for Mr. Fitzsimmons—Mr. Sweeney, speaking for the president, Mr. Fitzsimmons.

One very respectable union came in and opposed it. We wanted them to come if they were opposed to it, and they did. They were well represented, but they were having a referendum, or a poll taken among their membership. They announced the result, and their membership voted 4 to 1 against trying to unionize the military services.

I do not know the reason, but they were opposed to it for some good reason when 80 percent of them took that position.

So there is nothing here at issue except a solid recognition of the need for a law on this subject.

They have raised a very fine point, and I do not blame them. They raised the point of should it include a limited number of these so-called technicians.

Well, no part of the bill was given any more attention than that.

In the beginning, some members of our committee were opposed to including that group, but after final analysis, everyone agreed that if that group were not included, it left within the sphere of military activities, the military men and women, the germ of trouble of the old kind.

Mr. President, I will wait until the Senator from South Dakota can hear me. I believe he wants to listen to what I say.

Mr. President, we thought that to make one rule apply to any group and another rule to another group was unfair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. One more minute.

It would be unfair, unkind, and just could not be justified. But we let the thing apply just as lightly as we possibly could.

I know in my mind, because I have dealt with this matter for 2 years. Great good will come from this bill, but if we do not pass it, grave harm will develop within our services that are already having a hard time in connection with the total voluntary forces concept.

So I hope the Senate can rise to the occasion here and vote a meaningful bill and let it be on its way to the other House.

I yield 4 minutes, Mr. President, to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to amendment No. 859 to S. 274 offered by the distinguished Senator from South Dakota (Mr. ABOUREZK).

Mr. President, this amendment, purely and simply, will bring into being a law that permits—I repeat, permits—unions to represent our active duty and Reserve component military forces.

This representation would be conditional in that such union representation would not extend to matters concerning combat, combat readiness, and tactical training exercises.

The effect of this amendment, in my judgment, would be disastrous to a military force and would create a huge litigation mill for military members which would fatally injure our national security.

It specifically permits union representation on such matters as grievances, legal proceedings, pay, retirement, disability, equal opportunity, and fringe benefits, whatever the term "fringe benefits" might mean.

Any Member of the Senate who supports this amendment might as well recognize and understand that he is voting in favor of unionization for the military. Fifty Senators have already indicated they are opposed to military unions, as 50 Senators have affixed their name to this bill, S. 274.

What would adoption of this amendment mean? It would mean:

First. Military members could join unions to represent them except in combat related matters.

Second. Military members could solicit others to join unions.

Third. Unions could utilize military facilities to solicit membership and hold meetings.

Fourth. Unions could represent military and reserve members in grievances or disputes involving: First, weekend passes and leave policies; second, barracks and housing conditions; third, overtime or weekend duty assignments; fourth, uniform and military courtesy regulations and pay and retirement.

Mr. President, even under the Executive order permitting unions for Federal employees, direct union representation is not permitted on issues such as pay and retirement.

This amendment would entirely negate S. 274's purpose of prohibiting military unions. Not only would it allow union interference in the areas cited above, but also, there would be constant cases brought to test where the prohibition on combat preparedness begins and ends.

As I stated previously, amendment No. 859 would turn the military into a litigation mill. This amendment is entirely unacceptable and should be soundly rejected by the Senate.

The PRESIDING OFFICER. Who yields time? Is there further time to be yielded on the amendment?

Mr. THURMOND. Mr. President, it is possible that we can yield back the time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. THURMOND. Is the Senator from South Dakota willing to yield back the time on his side?

Mr. ABOUREZK. On the amendment, yes.

The PRESIDING OFFICER. Is all time yielded back?

Mr. THURMOND. Mr. President, the Senator from South Dakota is willing to yield back his time on the amendment.

The PRESIDING OFFICER. He stated that he was.

Mr. THURMOND. We will yield back time on the amendment on our side.

The PRESIDING OFFICER. All time on the amendment has been yielded back. There is time on the bill. Is time to be yielded on the bill?

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged to neither side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. MATSUNAGA) be added as a cosponsor of amendment No. 860.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President I suggest the absence of a quorum, on the same conditions as before.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. KENNEDY and others may debate S. 262, with the understanding that no time be charged against either side on the nonunionization of the military bill, and until no later than 5 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Will the Senator repeat his request? I could not hear it.

Mr. ROBERT C. BYRD. The request will not impinge in any way on the nonunionization of the military bill. We have about 50 minutes, I believe, before we start voting on amendments to that bill. In the meantime, we hope to be able to take up S. 262. Until I get it cleared all the way around, Mr. KENNEDY and others who are interested in that bill could proceed to speak to it without the time being charged against the nonunionization of the military.

Mr. STENNIS. I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

PUBLIC SAFETY OFFICER'S GROUP LIFE INSURANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 360, with the understanding that if action is not completed thereon by 5 p.m., the Senate will then resume consideration of the nonunionization of the military, with the further understanding that if rollcall votes are ordered in relation to S. 262, they will occur following the votes on amendments to and disposition of the nonunionization of the military bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 262) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 11, line 22, strike "15" and insert "815";

On page 11, line 25, strike "17" and insert "817";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of 1977".

SECTION 1. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end the following new part:

"PART K—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 800. For the purposes of this part—

"(1) 'child' means any natural, adopted, illegitimate or posthumous child, or stepchild;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding months, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional probation or parole program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting, including officially recognized or designated and legally organized volunteer firefighting, but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code;

"(4) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States or any unit of local government, combination of such States, or units, or any department, agency or instrumentality of any of the foregoing.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 801. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 802. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31, for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 803. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer of a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 804. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 805. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 804 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (with such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions, established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 806. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 807. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 808. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 806 of this subpart, any sums contributed by the Administration under section 807 of this subpart, and any

sums contributed for insurance under this subpart by States and units of general local government under section 815 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 817 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 809. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer of former officer and to the descendants of deceased children by representation in equal shares

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 817 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENTS OF RATES

"SEC. 810. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. The schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy as its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 811. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officer's Group Life Insurance Programs

"SEC. 812. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) State and unit of general local government programs eligible for assistance under this subpart shall receive assistance on the same basis as if the officer were enrolled

under subpart 1 of this part, subject to proportionate reduction if—

"(1) the program offers a lesser amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only to the extent of coverage actually afforded;

"(2) the program offers a greater amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only for the amount of coverage afforded under subpart 1 of this part;

"(3) the cost per unit of insurance is greater than for the program under subpart 1 of this part, in which case assistance shall be available only at the rate per unit of insurance provided under subpart 1 of this part; or

"(4) the amount of assistance would otherwise be a larger fraction of the total cost of the State or unit of general local government program than is granted under subpart 1 of this part, in which case assistance shall not exceed the fraction of total cost available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 813. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 814. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 815. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 816. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 817. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part.".

MISCELLANEOUS

SEC. 3. Subsection (c) of section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by striking the words "part J" at the end thereof and substituting in lieu thereof the words "parts J and K.".

SEC. 4. The authority to make payments under part K of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 6. This Act shall become effective on date of enactment.

Mr. KENNEDY. Mr. President, in a few moments, hopefully, we will have an opportunity to take action on the floor of the Senate on legislation which has successfully passed the Senate on three different occasions. This bill is basically noncontroversial. It has strong bipartisan support. It was introduced by myself and the distinguished Senator from Alabama (Mr. ALLEN). Joined as cosponsors were the distinguished Senator from South Carolina (Mr. THURMOND) and a number of other members of the Judiciary Committee and of the Senate.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the committee amendments be considered and approved en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

UP AMENDMENT NO. 839

Mr. KENNEDY. Mr. President, I send to the desk an amendment delaying the effective date to comply with the budget resolution.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 839.

The amendment is as follows:

On page 23, beginning on line 11, strike out "date of enactment" and insert in lieu thereof "October 1, 1978 or the date of enactment, whichever is later".

Mr. KENNEDY. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back with respect to the amendment?

Mr. KENNEDY. I yield back my time, Mr. President.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back all his time on the amendment?

Mr. THURMOND. Mr. President, I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. KENNEDY. Mr. President, in 1967, President Johnson established a crime commission. That crime commission made a number of recommendations. Perhaps the most notable one was the development of the Law Enforcement Assistance Administration. Included in those recommendations of 1967 was an important recommendation trying to address the very special needs that law enforcement officials, police officials, firefighters, and correctional officers were facing in terms of receiving insurance, particularly life insurance and disability insurance. I introduced legislation in 1971 to deal with this particular issue. It is substantially the bill that we are considering at the present time.

This bill has passed the Senate on three different occasions, all added to different pieces of Judiciary Committee business. Each time, the House of Representatives failed to accept it in the course of the conference. That does not minimize the importance or the significance of this piece of legislation.

Mr. President, the fact of the matter is that our law enforcement officials, our police officials and firefighters, the first order of defense, really, for this country and our local communities and towns all over this Nation, face a virtually Herculean task in acquiring insurance. This was a finding of the President's Crime Commission, and it has been testified to by the Vulcan Insurance Co., which is one of the largest insurers of public safety officers in the Nation.

During the course of the hearings and in the RECORD itself, we have stated the number of different communities, major cities as well as smaller communities, that virtually provide no life insurance for the police officers and firefighters in this country. Four years ago, the previous administration sent to Congress a death benefits bill that would provide death benefits of some $50,000 for any correctional officer, policeman, or firefighter that was killed in the line of duty. Still, Mr. President, if firefighters or law enforcement officials are dismembered in the pursuit of their duties, it is virtually impossible for them to be covered under the present situation.

For example, just naming some of the major communities, the top insurance benefit in my own State of Massachusetts is $20,000. We, as a society, insure our Government employees. We insure those that serve in the Armed Forces of this country. But those that serve as police officials and firefighters and correctional officers have extremely great diffi-

culty in getting any kind of insurance at all. The reason for that is the hazardous nature of the jobs that they face. In many instances, they are extremely modestly paid and the insurance rates are basically prohibitive. No one is denying that if a particular law enforcement official wanted to go to Lloyds of London and have them draft an insurance policy to protect him or her, he or she would be able to get the job done. But it would be virtually prohibitive in terms of the premium. What this legislation does, Mr. President, is similar to the insurance programs that have been developed for the armed services and for governmental employees. It is similar legislation. We fundamentally track that legislation to cover policemen, firemen, and correctional and criminal court officers.

It has been endorsed by the International Association of Firefighters, the Fraternal Order of Police, the International Association of Police Chiefs, the National Association of Government Employees. It is purely a voluntary program, Mr. President. There is no Federal mandate, either to the State police departments or any other department. It requires that a majority vote would be necessary, in order to participate, by the law enforcement officials that will be covered.

Even when the group decides that they want to be covered, any individual has the opportunity to opt out.

The extent of the Federal Government's involvement is to pay up to one-third of the premium. That is where it is limited; it is only a one-third program. The local communities or the State will have to make up the difference.

The Law Enforcement Assistance Agency administers and picks the private carriers to run the program. However, if a State has already in place a program and opts to become involved in this program, they will be able to do so and the wishes of the State agencies will be observed in terms of the insuring agent.

The coverage of this program, Mr. President, is $2,000 above the person's salary, up to $32,000. It is a very modest program. All payments will come through a special fund set up by the Treasury and administered through the Law Enforcement Assistance Act.

The cost of the program, Mr. President, with full implementation, is estimated to be anywhere from $25 million to $27 million. This is an extremely modest program.

To sum up, Mr. President, it basically relies upon local option. It builds on the private sector because it uses the private insurance companies in this country. There is no attempt to establish a governmental insurance agency. There is no Federal mandate. It is completely up to the States or the local groups if they want to participate in the program. If they desire not to, there is no requirement that they do so.

It does seem, Mr. President, that we have a responsibility to those that serve in the first line of defense of this country, our police officials and our firefighters. They now receive the death benefits programs, but they have to die in order to participate in that program.

There are many illustrations, that I am sure everyone in this body is familiar with, of firefighters and law enforcement officials who have been dismembered or suffered grievous injury for which they otherwise would not be able to obtain recovery. It is to meet that need that this bill was developed. I am extremely hopeful that the Senate will pass it again, as it has on three different occasions in the past.

Mr. WALLOP. Mr. President, I want to preface any remarks I make by saying that I do not quarrel with the statements by the Senator from Massachusetts that the front line of defense of America is our firemen and policemen. Certainly, they do deserve the recognition of this body.

The PRESIDING OFFICER. Will the Senator from Wyoming be good enough to advise the Chair whether he is handling the time for the minority?

Mr. KENNEDY. Mr. President, I ask unanimous consent that the time for the minority be allocated to the Senator from Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I thank the Senator.

There is no question in my mind that every Member of this body appreciates the indispensable role that the police and firemen of this country play. I have an objection to the bill, not because it is trying to do something for the police and the firemen of the country, an end and a goal. I think all of us share them. I think that in many instances the end and the goal have already been reached in the country. Certainly, our cities and communities are presently capable of achieving the goal by providing group life insurance for our public safety officers.

The bill has an internal contradiction. First, it suggests that group life insurance is unavailable to public safety officers. Then, it turns right around and, recognizing the availability of insurance, provides Federal money to subsidize existing or newly created programs.

We are talking about $28 million. I recognize that the group life insurance program is not mandatory, but I wonder if it is necessary, if we are really doing something other than spending $28 million in a salute to the people that we already acknowledge in our salutes nearly daily in this body and in the conduct of our lives.

There is plenty of evidence that group service organizations have been able to provide life insurance and health benefits to public safety officers. In my own State, the coverage is and has been adequate. It has been provided for all the peace officers, including members of the Game and Fish Commission, which in our State are considered to be peace officers.

The bill, as I say, makes existing State programs eligible for Federal moneys under a newly created Federal program. If the States are already capable of providing insurance to public safety officers, I think we are merely establishing a $28 million bill, which may seem paltry to some people, but to others it seems to be a significant contribution to a national debt, to provide something that is already within the capabilities of the State and individual firemen and policemen of this country.

It seems to me that $28 million is a rather expensive salute to people who have the recognition of this body and for whom group life insurance benefits are already available. S. 262 is an exercise against the Federal budget, and relieves States and communities of an obligation which I think they already have. I think that part of the obligation of local communities is to provide the kind of group insurance programs for their highway patrol officers and other of the law enforcement officials envisioned by this bill.

So my opposition is not in any way to suggest that these people do not deserve the recognition of this body, but to suggest that it is $28 million for group life insurance programs which are already available.

I realize it is not mandatory, but it is a substantial sum of money to obtain in duplication of efforts that already exist.

Mr. KENNEDY. Mr. President, I yield such time as I may need.

Mr. President, the Senator speaks about the inward contradiction in the legislation, that those that support it are maintaining that life insurance is difficult, if not impossible, to obtain, yet we are supporting a program to make it available.

No one who supports this bill doubts that it is available. But the real issue is, at what price?

From the experience we have had, whether we like it or not, the major communities in this country, are not providing it. We can look at the major cities of this country where there is absolutely no program at all—Los Angeles, for example, and New Orleans. Many of the major cities, as well as smaller communities, have absolutely no program whatsoever.

We can ask if this is a matter for local communities or for State governments.

Mr. President, the fact of the matter is that we have provided about $9 billion of the Law Enforcement Assistance Act to State and local communities.

We will find the Law Enforcement Assistance Act is providing help and assistance to just about every State court in the country. We could find under the Highway Trust Fund that we provide 90 cents out of every few dollars to lay down highways across the State of Wyoming; just as we provide, under the education programs, hundreds of millions of dollars to help local communities in Wyoming to educate the young people.

There are a number of examples, and they are the clearest in the revenue sharing and the Law Enforcement Assistance Act, where we provide help and assistance to local communities.

We understand that only about 8 percent to 9 percent of the LEAA money is spent on local programs.

But we are trying to emphasize or dramatize or increase those programs, to have the best opportunity to provide some sense of security for our American public in these areas.

This program that we suggest is only a one-third premium, it is not a 50/50 program, it is not a 90/10 program, as the Highway Trust Fund is. It is a one-third program.

It is not even required that if individuals are going to use it they have to accept it, they can opt for their way.

But I think the practical experience, when we review it nationwide, that providing insurance for law enforcement people and for firefighters is something which is woefully inadequate across this Nation.

That is a national phenomenon. It does not just occur in the East, Northeast, South or West. It is a national phenomenon. Even the communities that are providing it are providing woefully inadequate coverage.

So, Mr. President, it is my belief, based on the conversations with the insurance companies and with the law enforcement people who are involved in the terms of negotiation, that this will be the kind of additional small incentive which, if taken advantage of in the local or State communities, will be a sufficient incentive and it will be useful and profitable to the insurance companies to provide this coverage.

Very importantly, and perhaps most importantly, it will insure that when the law enforcement official goes out to the public that he or she will understand that if some tragedy were to be a part of their life or existence, their families will be provided for.

The final point, Mr. President, is that we are not talking about school teachers here. We are not talking about custodians in public buildings. We are talking about those who have some of the most perilous jobs and because of the nature of their particular responsibility have found it extremely difficult, if not impossible, to get insurance at a reasonable rate.

It is in that spirit that I appreciate the arguments that have been stated by the Senator from Wyoming. I know from my conversations with him that he is fully committed to concern for law enforcement personnel and for firefighters. We have a difference in the best way to meet that responsibility. But I want to give him every assurance that I both understand his argument completely and respect him for it. I know that it in no way diminishes his strong commitment to those who serve in this area.

Mr. WALLOP. Mr. President, I yield myself such time as I may need.

I thank the Senator from Massachusetts for his kind words. I think we share the feelings for the law enforcement people and firemen of this country. I will not belabor the argument, and I shall not ask for the yeas and nays on this, but I think there are some important points to be made.

The Senator makes the case difficult to state by the language he chooses, which indicates that in opposing this proposal, you are heartless about the possible maiming of police officers and the tragedies that happen to the families of policemen and firemen all over the country. This is surely not the case.

There are a couple of things I should like to mention. One is this: The fact that the program is optional leads me to believe that, in fact, the program is not absolutely essential and that coverage is available elsewhere.

If we are really confronted with the type of national crisis the Senator suggests, it seems that this bill should be mandatory. That is what worries me, because we have a habit in Congress and the Government in general of making the permissive mandatory after a period of time. In the course of tracking legislation, it would not be an unusual event to see something that started out as permissive to be made mandatory by subsequent legislation.

The Senator from Massachusetts brings up the fact of all the money we now spend on the Law Enforcement Assistance Agency programs in every community across the country. That is all the more reason why we should hold each community responsible for something on their own behalf.

I cannot picture the day when the local governments and State governments of this country are going to be responsible until we allow them to be responsible and hold them responsible. That is the problem with S. 262.

The question that I think needs to be asked, not only about this bill but also any other one we consider in this light, is this: Should the Federal Government do the organizing for local communities and groups who can and should organize for themselves? I think the answer is "No."

To provide highway money, as an example that was brought up by the Senator, is to provide something that goes across the country and is available to all citizens, whether they are from Wyoming or just traveling through it, or from Massachusetts or just traveling through it, or any other State.

Of course, we spent money for schoolchildren. That is a different set of circumstances. At least, I can distinguish between schoolchildren and their needs nationwide and what I consider to be a strictly local obligation.

I share the Senator's concern about a city such as Los Angeles. But are we the custodians of Los Angeles? Are we the conscience of that community or any other community which fails in good faith to provide for the care and protection of the firemen and the policemen and other public safety officers at a State and local level? I think not.

I am only expressing the idea that I think it is a dangerous precedent for us in every instance to reach down and pat the States and the communities on the back and say, "We realize that you failed to do this, and your Uncle Sam is going to come in one last time and do another thing for you," and never hold them responsible.

Philosophically, I resent this kind of legislation, not for what it does for the policemen and firemen but what it implies this body feels about the State and local governments and their obligations in the American scheme of politics and political life.

I think it is important to note that, when asked to comment on S. 262, the Department of Justice recommended against enactment of the bill. Assistant Attorney General Patricia M. Wald offered many valid reasons for opposing S. 262. She indicated that life insurance is available to public safety officers and that private insurance companies are willing to supply insurance to law enforcement personnel. I share her concern that a Federal insurance program, as envisioned by S. 262, could be viewed as a step toward direct Federal subsidy of local law enforcement with the resulting erosion of local control.

Mr. President, unless anyone else wishes to speak, I am prepared to yield back the remainder of my time and call for a vote.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield to the Senator from Alabama whatever time he desires.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his leadership in this important area of providing life insurance for public safety officers, correctional officers, and firefighters. I believe it is something we owe these people who put their lives on the line for our protection, as they seek to serve the public good and to promote the public safety.

Yes; $28 million a year is a large sum of money; but we must recognize that we are assisting by this program to fight crime, which costs tens of billions of dollars each year, and it enables us to help preserve the public safety, protect our homes, protect our buildings from fire and other damages that might ensue. I feel that this is something we can well do to help our public safety officers, our firefighters, our correctional officers, and others.

This is a matter that the Senate has approved on at least two occasions. The distinguished Senator from Massachusetts, as far back as 1971, was introducing bills on this subject. The bill he introduced in 1971 passed the Senate in 1972 but was not approved by the House. In 1975, he offered a similar bill which was approved by the Judiciary Committee. Then, on the floor, when the Public Safety Officers Benefit Act was before the Senate, his bill was offered as an amendment to that bill and was approved by the Senate and was dropped in conference.

I believe that this is an idea whose time has come. I believe the Senate is ready to vote this again, and I hope the House will accept the bill on this occasion.

Yes; this is a program that can be accepted by the States or not, as they see fit. It does provide for the Federal Government to pay one-third of the cost. The other two-thirds can be paid locally, either by the local government or by the insured, himself.

It is not mandatory that the local governments come under this system. If they have an existing system, they can vote to retain that system. In that case, the bill would provide that the Federal Government would pay one-third of the cost of the existing program. I believe that if the local government and the prospective insurers wanted to have both programs, they could do so, paying one

locally and then availing themselves of the benefit of this program.

I think of something that has not been suggested. The availability of this insurance might be the difference between many qualified men and women going into the public safety field or not doing so, because it is difficult to obtain insurance in these hazardous occupations. All of them are rated up. This may well be the difference between a qualified person being willing to go into public safety work or not. I think this inducement should be held out to them.

Some suggest we ought to have a program of a $50,000 benefit to an officer who is killed in line of duty. Well, that is fine. That was a wonderful bill, and is a good program, but it required that the insured be in line of duty, and if he were killed while at home in bed or while off duty no benefit is paid.

This would allow public safety officers, firefighters, correctional institution officers, and a number of others to have a life insurance program.

Then there is a built-in provision for a conversion of this group life insurance over to ordinary life if the insured so desired.

So I feel this is a meritorious program, a good investment by the people, encouraging our law enforcement officers, and making this a more attractive profession or vocation.

I believe it would be money well-spent. I appreciate the distinguished Senator from Massachusetts allowing me to be a cosponsor of the bill as I was a cosponsor of his amendment in 1975.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield myself so much time as I desire.

The PRESIDING OFFICER. The Senator from Wyoming has control of the time.

The Senator from Utah.

Mr. HATCH. Mr. President, I want to state my opposition to the enactment of S. 262. My opposition is not based upon any lack of appreciation or understanding of the contributions made by public safety officers to our country. I believe that our country is second to none in its strong and continuing support of law enforcement and I am sure we are all aware of the great sacrifices made by these public servants who are on the front lines in the country's effort to prevent crime.

I believe it should be noted, however, that last year the Committee on the Judiciary, recognizing this fine service provided to this Nation, processed legislation, Public Law 94–430, to provide a $50,000 gratuity to survivors of public safety officers killed in the line of duty. S. 262 would go far beyond the provisions of Public Law 94–430.

Specifically, my opposition to S. 262 is based on the belief that the provision of life insurance for public safety officers is not the responsibility of the Federal Government. Let me cite several factors which back up this statement.

First, life insurance is readily available to public safety officers from the same sources that provide insurance to the remainder of our citizens. The evidence received in the subcommittee's hearings on this bill document in instance after instance that private insurance companies in this country are ready, willing, and able to supply insurance to law enforcement personnel. Most are already covered. Anyone interested in coverage has but to look around him to find numerous insurers looking for an opportunity to serve him.

Second, many of these insurers are prepared to offer coverage to public safety personnel under the same terms and at the same prices as it is offered to citizens in other types of endeavors. This, too, is documented in the hearings. Other companies which feel that there is a certain added hazard in insuring this type of occupation charge an additional fee amounting in most instances to a few pennies.

Third, with last year's enactment of Public Law 94–430 to provide protection against the extraordinary risks taken by these officers, all that the adoption of S. 262 would mean is that Congress is approving the purchase out of Federal funds of ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of the occupations. Having provided for protection against the risks that are a function of the public safety professions, why should these citizens be singled out for Federal insurance against an automobile accident which occurs on the way to the grocery store or the movie, a fall sustained on a family picnic, or even simply death in bed? There are numerous other citizens, particularly other public service employees, who legitimately may feel that they are entitled to the same consideration.

I suppose in the future we will hear demands by other public sector employees, if this is done for this special group, it ought to be done for them.

Fourth, studies indicate that more than 310,000 police officers are already benefitting from life insurance programs in which at least a portion of the premiums are paid by the employer. This amounts to approximately 68 percent of the State and local police officers in the Nation. Similar figures pertain in the other professions covered by S. 262. I do not maintain that in all cases these benefits are adequate or that we should be satisfied with a 68-percent figure. However, these statistics do bear out my contention that insurance is available and is already widely in effect. In addition, it is apparent that units of State and local government are recognizing their responsibilities to protect their personnel and are undertaking programs to meet this duty.

Fifth, as with so many other aspects of life in this country, Federal assumption of responsibility is not the answer. Law enforcement has always been primarily a non-Federal responsibility of function in the United States. It was so conceived at the time of the founding of the Nation and it has remained so. This local responsibility for law enforcement has been an instrumental factor throughout our history in preserving justice and equality during periods of war and peace. Any effort to establish a national police force has always been strongly resisted by Congress and the great bulk of the citizenry. As recently as the establishment of the Law Enforcement Assistance Administration in 1968 and the numerous crime bills approved in 1970, Congress went on record as approving and adhering to the traditional allocation of law enforcement responsibility to State and local governments. I do not contend that Federal life insurance policies will ipso facto result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should be mindful of the maxim that "he who pays the piper calls the tune." A Federal insurance program as envisioned by S. 262 is an additional step away from traditional policy of having local officials supported primarily by local funds and under local control.

Sixth, appropriate benefits for public safety officers will differ from one jurisdiction to another. Costs and expenses vary from region to region across the country and are appreciably different in rural and urban areas. Rather than a single national program of life insurance, separate ones modeled to meet the specific and individual needs of the State or community would be far more equitable, workable and realistic. Other aspects of public safety employment—pay, working conditions, pension plans, types of hospitalization coverage—are allowed differing regulation from jurisdiction to jurisdiction. Why should life insurance be singled out for special national treatment?

Seventh, in addition to the obvious and substantial cost of providing the insurance specified in the bill, there are indications that large administrative and additional expenses would be involved. As public safety officers are now defined, the one-third Federal share of the premium for all public safety officers would be more than $20 million annually. However, this figure does not include the extra expense of collecting the premiums from State and local units of government or administrative costs. One estimate of this cost of collection and administration is $1 per month for every public safety officer insured. This expense would have to be borne by the employing agency of the Federal Government and could amount to approximately $8 million annually for the more than 700,000 public safety officers who would be eligible for insurance under this bill. The appropriation necessary to carry out the purpose of S. 262 should be borne in mind as the Senate considers this bill. This is especially true in view of the fact that a revenue sharing proposal to assist State and local governments in areas including law enforcement support is under review by the administration at the present moment.

I believe that these seven factors are compelling arguments which require opposition to S. 262.

Additionally, it should be noted that the Department of Justice has indicated its opposition to this measure.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 840

Mr. KENNEDY. Mr. President, I send to the desk an amendment, a technical amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes a technical amendment, unprinted amendment No. 840.

The amendment is as follows:

On page 3, strike subparagraph (D) and insert in lieu thereof the following:

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code;

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield back all my time.

The PRESIDING OFFICER. Is all time yielded back on the amendment? The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 262.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. WALLOP. I am prepared to yield back all of my time.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 262) was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, point of order. I do not think the Chair announced the result, and we have laid the motion to reconsider on the table.

The PRESIDING OFFICER. The Chair did announce the result.

Mr. WALLOP. The Chair did announce it? If the Chair did it was in the most subdued tones. I did not hear the announcement.

The PRESIDING OFFICER. The Chair does not normally speak in subdued tones, and I do not think he made the announcement in subdued tones. But in order that there be no question about the matter, and to avoid any misconception, the Chair puts the question. All those in favor say "aye."

(There was a chorus of "aye.")

The PRESIDING OFFICER. All those opposed, "nay."

(There was a chorus of "no.")

The PRESIDING OFFICER. The "ayes" have it, and the bill is passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill (S. 262) was passed as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of 1977".

SEC. 2. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 3. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end the following new part:

"PART K—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 800. For the purposes of this part—

"(1) 'child' means any natural, adopted, illegitimate or posthumous child, or stepchild;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding months, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional probation or parole program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting, including officially recognized or designated and legally organized volunteer firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code;

"(4) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States or any unit of local government, combination of such States, or units, or any department, agency or instrumentality of any of the foregoing.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 801. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 802. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess. However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 803. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer of a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers un-

less any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members.	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 804. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 805. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 804 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions, established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 806. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 807. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 808. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 806 of this subpart, any sums contributed by the Administration under section 807 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 815 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 817 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 809. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer of former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 817 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart

either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENTS OF RATES

"SEC. 810. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers taking into account expense and risk charges and other rates based on the special characteristics of the group. The schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 811. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officer's Group Life Insurance Programs

"SEC. 812. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) State and unit of general local government programs eligible for assistance under this subpart shall receive assistance on the same basis as if the officer were enrolled under subpart 1 of this part, subject to proportionate reduction if—

"(1) the program offers a lesser amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only to the extent of coverage actually afforded;

"(2) the program offers a greater amount of coverage than is available under subpart 1 of this part, in which case assistance shall be available only for the amount of coverage afforded under subpart 1 of this part;

"(3) the cost per unit of insurance is greater than for the program under subpart 1 of this part, in which case assistance shall be available only at the rate per unit of insurance provided under subpart 1 of this part; or

"(4) the amount of assistance would otherwise be a larger fraction of the total cost of the State or unit of general local government program than is granted under subpart 1 of this part, in which case assistance shall not exceed the fraction of total cost available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 813. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICER'S GROUP LIFE INSURANCE

"SEC. 814. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurange programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 815. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 816. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 817. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part.".

MISCELLANEOUS

SEC. 4. Subsection (c) of section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by striking the words "part J" at the end thereof and substituting in lieu thereof the words "parts J and K.".

SEC. 5. The authority to make payments under part K of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 3 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 6. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 7. This Act shall become effective on October 1, 1978, or the date of enactment, whichever is later.

ORDER TO PROCEED TO CONSIDERATION OF S. 2104 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader.

I ask unanimous consent that on Monday, after the two leaders are recognized under the standing order, the Senate proceed to the consideration of the natural gas pricing bill, S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMED FORCES UNION ORGANIZATION PROHIBITION

The Senate continued with the consideration of S. 274.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the distinguished Senator from Mississippi yield?

Mr. STENNIS. Mr. President, I yield time from now until 5 p.m. to the distinguished Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished chairman.

Mr. President, this is very important legislation because it pertains to our military effectiveness. It is clear that if we had unionization of the military our capability would not be as good nor the military commander's direct chain of command as efficient or as effective.

A union does not lend itself to improving the situation or condition of military people or civilians who are in a military role.

It is important that we make certain for the future that this does not become a continual and recurring issue.

My own opinion is that we have difficulties enough in the military with having a sufficient capability and the kind of esprit de corps that is necessary for a military group to do the job and for the commanders and officers to know that the people will follow orders without question, which is the military way.

It must also be recognized that there are civilians in the military who have positions that are sometimes held by military men, and these strictly military jobs should not be unionized whether occupied by military or civilian.

Mr. President, I am a cosponsor of S. 274, this bill which would prohibit unionization of the military. After extensive testimony and careful examination of the constitutionality of this bill by a team of legal experts, which included the distinguished deans of the Law Schools of Texas and Harvard, the Senate Armed Services Committee voted 18 to 0 to report this bill. It is our feeling that there is no place for unions in the military. This is not a bill which opposes unions in general, it is a bill which says that the dangers associated with military unions are too great to risk for benefits which can be achieved by other means.

Military unions would threaten the establishment of an effective military command. The creation of divided loyalty within American combat forces—loyalty to the union versus loyalty to the commander—would inevitably introduce hesitation into what must be decisive military acts. The military commander obtains the loyalty of his troops by law and by establishing a reputation for intelligent leadership and concern for his troops. The formation of military unions can only undermine the role of the military commander in both leading and caring for his troops. I doubt that the American fighting soldier would ever wish to strike or picket or slowdown in combat or in peacetime. I have more respect for American soldiers than that. However, the existence of military unions would inevitably lead some members of the armed services to attempt such actions, possibly endangering military success and lives.

Military unions not only threaten to undermine the military effectiveness of American combat forces, but they also would be a source of the politization of the uniformed services. We must remember that a major role of labor unions is the political organization of its members. The greatest danger to American democracy possible would be the creation of an American armed force permeated by partisan political organizers.

Many members of the military feel that, especially since the end of the Vietnam war, the individual in uniform has been treated as a second-class citizen. Many soldiers feel that they must take a more active role in obtaining support for themselves and their families. Consideration of unionization of the military grew out of these concerns. However, members of our uniformed services have many ways to improve their treatment and conditions other than by forming military unions.

In addition to the right to both military and civilian legal counsel and the various service Inspectors General, soldiers and sailors are represented by professional associations and lobbying groups. Most important, however, is the representation that every member of the military has in the Congress of the United States. His Representative and his two Senators are able to act extremely effectively on his behalf as any Member of this body can confirm. If the movement for unionization of the military should gain steam, it will advance only because the two bodies of Congress have been negligent. S. 274 does not interfere with the rights of any member of the military to execute his rights in the courts, through his military channels, or through the Congress.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment (No. 860) of the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STAFFORD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON of California. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senators from Colorado (Mr. HART and Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Minnesota (Mr. ANDERSON) is paired with the Senator from Missouri (Mr. EAGLETON). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Missouri would vote "nay."

On this vote, the Senator from Michigan (Mr. RIEGLE) is paired with the Senator from Kentucky (Mr. HUDDLESTON). If present and voting, the Senator from Michigan would vote "yea" and the Senator from Kentucky would vote "nay."

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from New Hampshire (Mr. MCINTYRE). If present and voting, the Senator from Minnesota would vote "yea"

and the Senator from New Hampshire would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), and the Senator from Wyoming (Mr. HANSEN) would each vote "nay."

The result was announced—yeas 34, nays 43, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—34

Abourezk	Gravel	Percy
Bayh	Hatfield	Proxmire
Biden	Heinz	Ribicoff
Brooke	Javits	Sarbanes
Bumpers	Kennedy	Sasser
Burdick	Mathias	Schmitt
Case	Matsunaga	Stevens
Chafee	McGovern	Stevenson
Chiles	Metcalf	Stone
Clark	Metzenbaum	Williams
Cranston	Nelson	
Domenici	Pell	

NAYS—43

Allen	Glenn	Nunn
Baker	Hatch	Pearson
Bartlett	Hayakawa	Randolph
Bentsen	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Schweiker
	Jackson	Scott
Byrd, Robert C.	Johnston	Sparkman
Cannon	Laxalt	Stennis
Church	Leahy	Thurmond
Culver	Long	Tower
Danforth	Lugar	Wallop
DeConcini	Magnuson	Weicker
Dole	McClure	Young
Durkin	Morgan	Zorinsky
Ford	Moynihan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, for.

NOT VOTING—22

Anderson	Hansen	McIntyre
Bellmon	Hart	Melcher
Curtis	Haskell	Muskie
Eagleton	Hathaway	Packwood
Eastland	Huddleston	Riegle
Garn	Humphrey	Talmadge
Goldwater	Inouye	
Griffin	McClellan	

So Mr. ABOUREZK's amendment was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 859

The PRESIDING OFFICER. The question now recurs on amendment No. 859, on which there are 10 minutes to a side.

Mr. STENNIS. Mr. President, may we have order?

Mr. ABOUREZK. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I want to advise the Senators on the floor that there will be a vote in a very few minutes. I hope they will stay around. We are not going to debate very long. The order is that the vote will be 20 minutes after this, but I shall not take all that time.

I want to say, while there are a number of Senators on the floor, that what they have just voted to do is prohibit civilians from belonging to a government union, as the law now stands. In other words, if this act becomes law, under the existing language, there are 28,000-some odd civilian technicians who are members of a Reserve component who will not be allowd to belong to any kind of government union. Even admitting that those government unions have limited bargaining rights, they are prevented from joining.

That is not all. The bill, in its entirety, prohibits any kind of representation by any group of military people, and civilian people who work as technicians for the military, from having representation for any grievance, noncombat grievance that might deal with living conditions, working conditions, whatever.

The specter has been raised, Mr. President, that the military commanders, under the substitute that I propose, would have to deal with the shop steward. That is hogwash. The substitute that I propose would merely guarantee servicemen and cilivian technicians their first amendment rights. It has nothing to do with unionization of the military. I am opposed to that. The substitution is opposed to unionization of the military, as the committee wants. So it does not do that. What it does is allow those people to have somebody represent them before the Congress of the United States, to come to the administration and plead for some kind of redress of their grievances. What the committee bill would do is even prevent that.

I submit that it is unconstitutional. It will be many years—we all know how court decisions go—before it is proved unconstitutional, but there will be a great deal of deprivation on the part of those civilians and servicemen before they can prove that it is unconstitutional.

I think the Senate and the Congress will be making a tragic mistake to go far beyond what they wanted to do, as stated by the manager, to prevent unionization. We are going to prevent that, anyhow. It goes far beyond that and deprives these people of any kind of representation whatsoever.

I reserve the remainder of my time.

Mr. STENNIS. Mr. President, I yield myself 3 minutes. I hope the Senator from South Dakota and I may have the Senate's attention.

Mr. President, we just passed on a matter that was presented very ably by the Senator from South Dakota. Now he would rewrite the bill. This amendment is more in the nature of a substitute.

The bill, as it stands, came here with 18 out of 18 members of the Committee on Armed Services voting for it, following a year-and-a-half of intensive preparation and ironing out of difficulties. Erwin Griswold was one of the constitutional lawyers; Prof. Charles Wright of Texas was another one. We wrote the bill inside their opinions about its constitutionality. It was favorable. We spelled things out here to be certain, and we say here, on page 8, for instance: "Nothing in this section shall limit the right of any person to join or maintain membership in any organization or association not constituting a 'labor organization' as defined," et cetera, "to seek or receive any information from any source; to be represented by counsel in any legal or quasi-legal proceeding," and so forth; "to petition the Congress for redress of grievances," and so forth.

Of course, we could not prohibit them from doing those things. This is a matter that is not opposed by labor generally. It is opposed by some that are within these groups of technicians, the only ones that I know that are opposing it. The bill is supported in the testimony of Mr. Sweeney, representing Mr. Fitzsimmons, by name, of the Teamsters Union. One union testified about it but said they were subject to a plebiscite of their own membership, which has been held by them. The result was 4 to 1 against attempting to unionize the military.

By and large, it is thoroughly understood that it is not a good idea to have unions—and I say this with all respect to unions—operating within military units on who is going to be punished or disciplined, the hours of work, or who is going to be promoted, and a whole host of things that have already been going according to our undisputed testimony.

We are faced with a serious situation now with reference to manpower in our services, the procurement of it. We know some of the problems that go on and the services work hard.

Here is a bill that, almost unanimously, met the requirements of those who have worked on it and a great many more. We ought to pass this bill, with all deference to everyone, and send it on to the House with a good, resounding vote. When they take it up, of course, all matters will be open and subject to conference.

I have spoken longer than I intended. I compliment the Senator from South Carolina for his long, effective work on this bill. I yield him my time.

Mr. THURMOND. Mr. President, I say again that this is not an antiunion bill. I want to emphasize that. It is a pro-military bill.

If this amendment passes, they will have unions in the military, except for combat activities. We do not feel unions have a place in the military, even for activities other than combat related.

Military members could join unions under this bill. Military members could solicit others to join, and the unions could utilize military facilities to solicit membership and hold meetings. The unions could represent the military members in grievances or disputes in these matters, for instance: weekend passes and leave policies; barracks and housing conditions; overtime and weekend assignments; uniform or military courtesy regulations; pay and retirement. These are matters that Congress ought to handle and the military, itself, ought to handle.

I see no place for unions in the military. This amendment will permit unions in the military.

Mr. President, even under the Executive order permitting unions for Federal employees, direct union representation is not permitted on issues such as pay and retirement. This amendment would permit that for the military. The FBI cannot have unions, the CIA cannot have unions, the Foreign Service officers cannot have unions, because of the unique status they occupy. We think the military also occupies a unique status and, therefore, should not have unions. This amendment would negate the purpose of prohibiting military unions.

Not only would it allow union interference in the areas I have cited, but there would be constant cases brought to test where the prohibition on combat preparedness begins and ends.

In other words, I can foresee tremendous litigation and time lost by contesting these various things if this amendment passes.

Mr. President, I hope the Senate will defeat this amendment.

Mr. ABOUREZK. Mr. President, I yield myself 1 minute, then I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I say once again, Mr. President, that the substitute which I have offered does not allow unions in the military. It allows military people to have representation in noncombat, nontraining situations. It has nothing to do with unionization of the military. In fact, it prohibits unionization of the military.

I think that ought to be extremely clear before the Members decide how they are going to vote on this.

I am prepared to yield back the remainder of my time, Mr. President.

Mr. STENNIS. One more minute.

Mr. President, I cannot agree with the Senator from South Dakota. This amendment of the Senator would almost totally destroy the purpose of the bill, the meaning of the bill, and I say that with great respect.

Mr. President, I yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senators from Colorado (Mr. HART and Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Georgia (Mr. TALMADGE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mr. ANDERSON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

On this vote, the Senator from Michigan (Mr. RIEGLE) is paired with the Senator from Kentucky (Mr. HUDDLESTON). If present and voting, the Senator from Michigan would vote "yea" and the Senator from Kentucky would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Wyoming (Mr. HANSEN) would each vote "nay."

The result was announced—yeas 3, nays 73, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—3

Abourezk	McGovern	Metcalf

NAYS—73

Allen	Gravel	Pell
Baker	Hatch	Percy
Bartlett	Hatfield	Provmire
Bayh	Hayakawa	Randolph
Biden	Heinz	Ribicoff
Brooke	Helms	Roth
Bumpers	Hollings	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
	Javits	Schmitt
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Scott
Case	Laxalt	Sparkman
Chafee	Leahy	Stafford
Chiles	Long	Stennis
Church	Lugar	Stevens
Clark	Magnuson	Stevenson
Cranston	Mathias	Stone
Culver	Matsunaga	Thurmond
Danforth	McClure	Tower
DeConcini	Metzenbaum	Wallop
Dole	Morgan	Weicker
Domenici	Moynihan	Williams
Durkin	Nelson	Young
Ford	Nunn	Zorinsky
Glenn	Pearson	

NOT VOTING—24

Anderson	Goldwater	Inouye
Bellmon	Griffin	McClellan
Bentsen	Hansen	McIntyre
Burdick	Hart	Melcher
Curtis	Haskell	Muskie
Eagleton	Hathaway	Packwood
Eastland	Huddleston	Riegle
Garn	Humphrey	Talmadge

So Mr. ABOUREZK's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, this is a highly important bill in a new field, and I think we should have a yea and nay vote on it. I hope the leadership will see fit to ask for a 10-minute rollcall vote. I am advised that there are no other amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this be a 10-minute rollcall vote, with the warning bells to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. I ask for third reading, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. STEVENS. Mr. President, as an original cosponsor of Senate bill 274, to prohibit unionization of our military; I rise in support of the Armed Services Committee's amended version of this measure even though section 2(f) regarding civilian technicians was not deleted.

I share the concerns of my colleagues about this threat to our national security. Our priorities must include a strong defense establishment. As the Soviet Union gains confidence and strength in their military stance, we must not let them find us unprepared.

The men and women in our Armed Forces are the backbone of our preparedness. It is essential to have the most well trained, best equipped, and most technically competent men and women in the history of the U.S. military—free from any outside influence.

Our people in uniform must be ready to defend this great Nation of ours at a moment's notice. They have served this Nation well. So well, in fact, that through the dedication of literally millions of servicemen and women over the years; our security has been guaranteed to the point that we take it for granted.

Enactment of this legislation will squash the threat of unionization of the military, but the fact remains that we must deal with the underlying causes of this potential menace. Let this serve as a warning to Congress. It is essential that we honor our obligations to those who serve this Nation.

The erosion of military benefits must stop. Since 1973, we have witnessed erosion in medical and CHAMPUS benefits; the regular reenlistment bonus; travel pay upon reenlistment; superior performance pay; terminal leave payments; sick pay exclusions; airman education and commissioning programs.

We cannot renege on commitments made in the past. To do so would jeopardize future enlistments as well as amount to a breach of faith for those who relied

upon these benefits as they made career decisions.

It is essential to the survival of our defense system that our military people be compensated at a rate that is comparable to what they would receive if they were in a similar civilian position. I believe that it is our congressional duty to act equitably in the area of salaries and benefits to compensate for the restrictions that military life places on personal freedom.

Mr. DOLE. Mr. President, the Senator from Kansas rises in support of S. 274, a bill that prohibits the unionization of the Armed Services.

LONG-TIME CONCERN

The Senator from Kansas has long been concerned that an influence, such as a union in the military, could be allowed to interrupt the military chain of command in an age where the unquestioned and instant response of the American serviceman and woman is critical if we are to maintain a strong national defense.

DOLE AMENDMENT

On July 19, during Senate consideration the Defense Appropriations bill, I offered an amendment that would have prevented any funds appropriated by this act for purpose of unionizing the Armed Forces. The Senate demonstrated, by what I think was almost unanimous support, that the U.S. Senate, as a body would support this type of legislation. However, I withdrew my amendment based on the assurances that I received from the distinguished Senator from South Carolina (Mr. THURMOND) and the distinguished Senator from Mississippi (Mr. STENNIS) that work on S. 274 would move quickly.

S. 274

Today we have before us S. 274, a well thought out bill addressing the sensitive issue of unions in the military. This unchallengeable legislation was introduced by the most distinguished and able Senator from South Carolina and I commend him for his continued dedication and hard work on this very sensitive issue.

CIVILIAN TECHNICIANS PROVISION

Regarding the matter involving National Guard and Reserve technicians, it is my understanding that the committee has carefully and thoroughly analyzed this issue and has found no way to make an exception for dual status technicians. That is, personnel who perform military functions as both military reservists and technicians in Guard and Reserve units. It is important to point out that this provision aimed at the military status of these individuals. A civilian technician who is not a Reserve member is not affected by this provision. Likewise, a Reserve member who is not a civilian technician in the Reserve can continue membership in a union relating to his civilian job.

Mr. President, in view of the fact that the Reserve Forces are increasingly becoming a critical element in maintaining the national defense of this country, the risk of possible unionization of key Reserve personnel must be eliminated.

UNIONIZATION OF THE MILITARY: A TIRED CONCEPT

Mr. President, the idea of unionizing the Armed Forces is not a new concept. During the Vietnam war, a number of groups in what was called GI movement actively pushed the idea as an organizing device. In the last few years, the military unionization concept has been advanced principally by the American Federation of Government Employees (AFGE).

Last week, however, members of the American Federation of Government Employees voted overwhelmingly against trying to unionize the military forces. In a poll taken by the AFGE, 60 percent of its members responded: 151,582 voted against organizing the military, 38,764 voted in favor or organizing the military.

LEGISLATION STILL NEEDED

While the Senator from Kansas is pleased with the AFGE's recent decision not to try to organize the military, I believe that permanent legislation prohibiting unions in the military should go forward. First of all, it could be a grave mistake to assume that the recent AFGE position on unions in the military is an indication that this concept is dead. According to the AFGE national president, Mr. Blaylock, the rejection of the "Unions in the military concept" was based on the perception by AFGE members that they should better organize the Federal civilian work force before attempting to organize other groups. Mr. Blaylock further stated—

> The result of our poll does not indicate a concession to the clamor of anti-union voices who have dominated the decision of the Senate Armed Forces Committee to propose an absolute ban on organization by military personnel.

Not to degrade the role of civilian and Federal employee unions, it is very clear to the Senator from Kansas that efforts to unionize the military, although temporarily obscured, are very much alive.

PRESIDENTIAL AND CONGRESSIONAL RESPONSIBILITY

Mr. President, the Congress of the United States and the President have a duty to cancel out any prospect of military unionism—a duty that overrides both political and philosophical support of the union movement in the civilian sector. It is a duty and responsibility to our national security. To put the matter to rest once and for all, I urge my distinguished colleagues to vote the will of the American people by voting in favor of this bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Does the Senator from South Dakota yield back his time?

Mr. ABOUREZK. I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes today, after this vote.

The PRESIDING OFFICER. All time having been used or yielded back and the bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART and Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from Tennessee (Mr. BAKER) would each vote "yea."

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—72

Allen	Danforth	Laxalt
Bartlett	DeConcini	Leahy
Bayh	Dole	Long
Biden	Domenici	Lugar
Brooke	Durkin	Magnuson
Bumpers	Ford	Mathias
Byrd, Harry F., Jr.	Glenn	Matsunaga
	Gravel	McClure
Byrd, Robert C.	Hatch	McGovern
Cannon	Hatfield	Metzenbaum
Case	Hayakawa	Morgan
Chafee	Heinz	Moynihan
Chiles	Helms	Nelson
Church	Hollings	Nunn
Clark	Jackson	Pearson
Cranston	Johnston	Pell
Culver	Kennedy	Percy

Proxmire	Scott	Tower
Randolph	Sparkman	Wallop
Ribicoff	Stafford	Weicker
Roth	Stennis	Williams
Sarbanes	Stevens	Young
Sasser	Stevenson	Zorinsky
Schmitt	Stone	
Schweiker	Thurmond	

NAYS—3

Abourezk	Javits	Metcalf

NOT VOTING—25

Anderson	Goldwater	McClellan
Baker	Griffin	McIntyre
Belmon	Hansen	Melcher
Bentsen	Hart	Muskie
Burdick	Haskell	Packwood
Curtis	Hathaway	Riegle
Eagleton	Huddleston	Talmadge
Eastland	Humphrey	
Garn	Inouye	

So the bill (S. 274), as amended, was passed as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that—

(1) members of the armed forces must be prepared to fight, and, if necessary, to die, to insure the welfare, security, and liberty of the United States and its people;

(2) discipline, and prompt and unquestioning obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition, and, from the earliest articles of war, military laws and regulations have prohibited conduct which would undermine the military chain of command;

(3) the processes of conventional collective bargaining and labor negotiations cannot and should not be applied to the armed forces, and strikes, work slowdowns, and similar job actions have no place in the armed forces;

(4) unionization of the armed forces is incompatible with the military chain of command, undermines the role, authority, and position of the commander, and constitutes a clear threat to the moral and readiness of the armed forces; and

(5) there is clear and present danger that the armed forces will become unionized.

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 975. Union organizing and membership prohibited

"(a) As used in this section—

"(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, or (B) a member of a Reserve component.

"(2) 'Labor organization' means any organization which engages in or has as one of its objectives (A) negotiating or bargaining with the Government of the United States, on behalf of members of the armed forces, concerning the terms and conditions of military service; (B) representing individual members of the armed forces in connection with any grievance or complaint of any such member arising out of the terms and conditions of military service; or (C) striking, picketing, or engaging in any other concerted action directed against the Government of the United States. Such term does not include any professional, fraternal, military, or veterans organization or association if such organization or association does not engage in or have as one of its objectives any of the activities described in the first sentence of this paragraph.

"(3) 'Civilian employee of the Department of Defense' means any civilian officer or employee of the Department of Defense as defined in sections 2104 and 2105 of title 5, any officer of the Department of Defense holding an Executive Schedule position under subchapter II of chapter 53 of such title, and any civilian employee who is employed by an instrumentality described in section 2105(c) of such title and who is compensated from nonappropriated funds.

"(b)(1) It shall be unlawful for any member of the armed forces, knowing of the activities or objectives of a particular labor organization, to join or to maintain membership in such organization, or to solicit any other member of the armed forces to join or maintain membership in such organization.

"(2) It shall be unlawful for any labor organization to enroll in such organization any member of the armed forces, or to solicit or accept dues or fees from any member of the armed forces.

"(c)(1) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to negotiate or bargain, or attempt to negotiate or bargain, on behalf of the United States, concerning the terms and conditions of military service of members of the armed forces with any individual, organization, or association which represents or purports to represent members of the armed forces.

"(2) It shall be unlawful (A) for any individual, organization, or association to negotiate or bargain, or attempt to negotiate or bargain, with the Government of the United States, on behalf of members of the armed forces concerning the terms and conditions of military service, (B) for any labor organization to represent, or attempt to represent, individual members of the armed forces in connection with any grievance or complaint arising out of the terms and conditions of military service, or (C) for any individual, organization, or association to organize or attempt to organize, or to participate in, a strike or any other concerted action involving members of the armed forces directed against the Government of the United States.

"(d)(1) It shall be unlawful for any individual organization, or association to use any military installation, facility, reservation or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b)(1), (b)(2), or (c)(2) of this section.

"(2) It shall be unlawful for any member of the armed forces, or any civilian employee of the Department of Defense, to permit or authorize the use of any military installation, facility, reservation, or other property of the Department of Defense for any meeting, demonstration, or other similar activity if such meeting, demonstration, or other activity concerns any of the activities prohibited by subsection (b)(1), (b)(2), or (c)(2) of this section.

"(e) Nothing in this section shall limit the right of any person (1) to join or maintain membership in any organization or association not constituting a 'labor organization' as defined in subsection (a)(2) of this section; (2) to seek or receive information from any source; (3) to be represented by counsel in any legal or quasi-legal proceeding, as authorized by applicable laws and regulations; (4) to petition the Congress for redress of grievances; or (5) to take such administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

"(f) For purposes of this section, any person employed as a civilian technician by a Reserve component and who is also a member of a Reserve component, shall be considered in both his military and civilian capacities to be a member of the armed forces.

"(g)(1) Any individual who violates the provisions of subsection (b)(1), (c)(1), (c)(2), (d)(1), or (d)(2) of this section shall be punished by a fine of not more than $10,000 or by imprisonment for a term of not more than five years, or by both such fine and imprisonment.

"(2) Any organization or association which violates subsection (b)(2), (c)(2), or (d)(1) of this section shall be punished by a fine of not less than $25,000 nor more than $250,000 for each violation.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited."

SEC. 3. In order to give persons who, on the date of enactment of this Act (1) are employed as civilian technicians by Reserve components of the armed forces, (2) are also members of a Reserve component, and (3) hold membership in any organization or association which represents or attempts to represent such persons concerning terms and conditions of employment with the Government of the United States a reasonable period of time to terminate their membership in such organizations or association, the provisions of section 975(b) of title 10, United States Code, as added by section 2 of this Act, shall not become effective with respect to such persons (in their capacity as civilian technicians) until the expiration of 90 days after the date of enactment of this Act.

The title was amended so as to read:

A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, and for other related purposes.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, as the author of this bill, I take this opportunity to again express my deep appreciation to the chairman of the Armed Services Committee, Senator JOHN STENNIS, for the excellent leadership he gave in the committee in getting this bill approved and also for the outstanding leadership he provided here on the floor.

I also wish to thank Mr. John Roberts, the majority counsel, who worked so diligently on this bill, and did such a fine job, and two other members of the committee who worked with me on it, Mr. Ed Kenney and Mr. Ken Fish.

I wish also to express my appreciation to Mr. Emory Sneedon, a retired brigadier general in the Judge Advocate's Corps of the Army, who assisted me greatly in this bill and rendered fine service.

I express my appreciation to the majority leader and the minority leader for the splendid cooperation they gave here in the passage of this bill, also.

I wish to thank the Members of the Senate for the support they gave this bill. In my opinion this is one of the most important pieces of legislation that has passed this body during my 23 years in the Senate.

Mr. ROBERT C. BYRD. Mr. President, let me rise to express my appreciation to the distinguished Senator from South Carolina for his kind comments as they were directed to myself and to the distinguished minority leader.

While I am on my feet, I commend both Mr. STENNIS and Mr. THURMOND for

the skillful manner in which they have brought this important piece of legislation to fruition.

I also express appreciation to them as well as to the members, not only on my personal behalf but on behalf of the Senate.

Mr. STENNIS. Mr. President, if the Senator will yield to me just briefly, I again thank the Senator from South Carolina for his fine work in this field, and he labored at it a long time.

I say to the Members of the Senate that this is a clean-cut bill with meaning in it, and I think it is a very strong point to have gone all the way with reference to the reserves and the technician category. No one is really going to be hurt. But with that left open it would be a germ of trouble.

I commend, also, the labor union for their attitude about this matter. There is room for difference of opinion, but I think they deserve credit. I think it is a salute, in a way, to the military man in uniform. The country wants to back them. But there is a no room in a true military organization for union activities.

I believe that is the way I felt and most of us felt. This does not cast any aspersions in any way on the thinking of anyone who did not agree.

I think this fine vote will be a good start for the bill. I know the House of Representatives will take it up, and frankly I hope the Pentagon will take notice of this vote and what has happened here.

There has been long contact by me with the Pentagon not just in this administration but in previous administrations, for some help along this line and without result.

So, I think this is a milestone, and I appreciate those who were not in favor of it also.

I yield, and I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am all against unionization in the Armed Forces. I am sure everyone understands that.

But, Mr. President, this can be accomplished by Executive order, under military discipline, and indeed we accomplished a great deal of it in the civil service, let alone in the armed services.

But I do feel rather strongly, Mr. President, that the outreach to these civilian technicians insofar as they are civilians and the failure of the armed services to take them in, if that is the way they want to deal with them, made a fatal defect in the bill. I hope very much the House of Representatives will correct it.

I just could not, as the ranking member of the Labor Committee here, in my judgment, take any other position.

I realize the votes were very few and in that sense not meaningful to the final enactment of the bill.

But the only reason for speaking—and one should never explain votes—is in this case I hope very much that the House of Representatives may consider it as an element of protest as far as I am concerned because I am all against unionization of the military and had fully intended to vote for this bill, but I hope it may be considered a gesture of protest which hopefully may induce them to take a very hard look at this technician question and perhaps make whatever revision in the bill that would be dictated by elementary justice in that regard.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the distinguished majority leader.

TRIBUTE TO BROOKS ROBINSON

Mr. MATHIAS. Mr. President, I send a resolution to the desk and request its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 262) of tribute to Brooks Robinson.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATHIAS. The title of the resolution, which has been read, fully explains its purpose. It has been cleared by both sides, and I urge the Senate to adopt it forthwith.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, as the distinguished Senator from Maryland (Mr. MATHIAS) has correctly stated, the resolution has been cleared on both sides of the aisle, and there is no objection.

I compliment the Senator on his thoughtfulness in preparing the resolution and in presenting it this afternoon.

Mr. MATHIAS. Mr. President, I note that I offer the resolution, not only on my behalf, but on behalf of the distinguished junior Senator from Maryland (Mr. SARBANES), and the distinguished Senators from Arkansas, Mr. MCCLELLAN and Mr. BUMPERS, with whom we have to share the credit for Brooks Robinson.

Mr. ROBERT C. BYRD. Mr. President, will the Senator add my name as a cosponsor?

Mr. MATHIAS. It is with the greatest pleasure to add the name of the distinguished majority leader as a cosponsor, and I ask unanimous consent that Mr. ROBERT C. BYRD be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 262) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

SENATE RESOLUTION 262

Whereas, Brooks Robinson has played more major league games than anyone in history except Ty Cobb, committed only 16 errors for every 1,000 balls hit his way, and has won sixteen straight Golden Glove awards from 1960 through 1975, and

Whereas, statistics do not always reflect a ballplayer's value to a team, especially a baseball player of the caliber and class of Brooks Robinson, who not only has been a team leader, but has inspired a full generation of third basemen on the sandlots of America, and

Whereas, Baltimore Oriole fans everywhere will never forget the special grace and concentration with which he played the game . . . diving to his left or right, scooping up a baseline squeaker and with a single, fluid motion throwing out even the fastest baserunner, or leading the Orioles to a clutch victory with a timely hit, and

Whereas, on and off the playing field Brooks Robinson represents true sportsmanship and the very best America has to offer.

Now, therefore, be it resolved that the United States Senate wishes to honor and pay tribute to Brooks Robinson on the occasion of Brooks Robinson Appreciation Day, Sunday, September 18, 1977 at Memorial Stadium, Baltimore, Maryland.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to Brooks Robinson.

IMPORTATION OF AIRCRAFT ENGINES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 385, H.R. 422.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 422) to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 2, beginning with line 5, insert the following:

TITLE II—RURAL HEALTH CLINIC SERVICES

MEDICARE AMENDMENTS

SEC. 201. (a) Section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2); and

(2) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2)" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861 (v)(1)(A)."

(c) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to waive the provisions of subsection (b) of this section with respect to rural health clinic services and require in lieu thereof copayments by an individual receiving such services in cases in which he determines that such an alternative system is less costly. Such copayments shall not exceed $3 per visit to a rural health clinic, shall not exceed $60 per calendar year.".

(d) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"RURAL HEALTH CLINIC SERVICES

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under subsection (s)(2)(A) if furnished as an incident to a physician's professional service,

"(B) such services furnished by a physician assistant or nurse practitioner as he is legally authorized to provide in the jurisdiction in which he performs such services, and such services and supplies furnished as an covered if furnished by a physician or as an incident to his service, as would otherwise be incident to a physician's service, and

"(C) in the case of a rural health clinic located in an area in which there exists a shortage of home health services (as defined in subsection (m)) due to a shortage of home health agencies (as defined in (o)), as determined by the Secretary, such services as would constitute home health services if furnished by a home health agency (without regard to the number of such services furnished by such rural health clinic), if such clinic meets such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished such services by such clinic,

when furnished by a rural health clinic to an individual as a primary care patient.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of rural health clinic services for which payment may be made under this title furnished by physician assistants and nurse practitioners, and for the supervision and guidance by such physicians of physician assistants and nurse practitioners;

"(C) provides for the preparation by the supervising physicians, physician assistants, and nurse practitioners of medical orders for care and treatment of clinic patients, and the availability of such physicians for such referral and consultation for patients as is necessary and for advice and assistance in the management of medical emergencies;

"(D) maintains clinical records on all patients;

"(E) has arrangements with one or more hospitals (as defined in subsection (e)) for the referral or admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(F) has written policies to govern the management of the clinic and all the services it provides;

"(G) has appropriate procedures or arrangements, in compliance with applicable State and Federal law, for storing, administering, and dispensing drugs and biologicals;

"(H) has appropriate procedures for utilization review;

"(I) directly provides routine diagnostic services (as prescribed by the Secretary) consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services, and has prompt access to additional diagnostic services from facilities meeting requirements under this title; and

"(J) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For purposes of this title, such term includes only a facility which (i) is located in (I) a rural area which is designated by the Secretary under section 1302(7) of the Public Health Service Act as having a medically underserved population, (II) an area (other than an urbanized area, as defined by the Bureau of the Census) in which the supply of medical services is not sufficient to meet the needs of individuals residing therein, or (III) an urbanized area (as so defined) if the majority of the patients served by such facility reside in an area described in clause (I) or (II), (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a), (b), and (i) of section 1833, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases.

"(3) The term 'physician assistant' or the term 'nurse practitioner' means, for the purposes of this subsection, a physician assistant or nurse practitioner who performs, under the supervision of a physician (as defined in subsection (r)(1)), such services, as he is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(c) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(d) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(e) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(f) Section 1122(b)(1) of the Social Security Act is amended by inserting after the term "health care facility" the following: "(including a rural health clinic as defined in section 1861(aa)(2) of this Act)".

MEDICAID AMENDMENTS

SEC. 202. (a) Paragraph (2) of section 1905(a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(l) The term 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa) of this Act.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof ", and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services, on such other tests of reasonableness as the Secretary may prescribe in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

DEMONSTRATION PROJECTS

SEC. 203. (a) The Secretary of Health, Education, and Welfare shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by physician assistants and nurse practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-di-

rected clinics employing physician assistants and nurse practitioners;

(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON MENTAL HEALTH CENTERS

SEC. 204. (a) The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than April 1, 1978, a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act to urban or rural mental health centers.

(b) The report submitted under subsection (a) shall include evaluations of—

(1) the need for title XVIII coverage of services provided by mental health centers;

(2) the extent of present utilization of such centers by individuals eligible for benefits under title XVIII;

(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under title XVIII;

(4) the appropriate definition for such centers;

(5) the types of treatment provided by such centers;

(6) present Federal and State funding for such centers;

(7) the extent of coverage by private insurance plans for services provided by such centers;

(8) present and projected costs of services provided by such centers;

(9) available methods for assuring proper utilization of such centers;

(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

(11) the need for any demonstration projects for further evaluation of the need for coverage for services provided by such centers.

EFFECTIVE DATES

SEC. 205. (a) The amendments made by section 201 of this Act shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

(b)(1) The amendments made by section 202 of this Act shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided under a State plan approved under title XIX of the Social Security Act on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(2) Notwithstanding the provisions of paragraph (1), in any case in which legislation is required in order to conform a State plan for medical assistance with the requirements imposed by reason of the amendments made by section 202 of this Act (as determined by the Secretary), such State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of such failure to meet the requirements imposed by such amendments at any time prior to the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendments to be proposed?

UP AMENDMENT NO. 841

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 841.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 6, strike the language immediately after the semicolon and insert the following new language:

801.20. "Any aircraft engine or propeller, or any part or accessory of either, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, after having been exported under loan, lease, or rent to an aircraft owner or operator as a temporary replacement for an aircraft engine being overhauled, repaired, rebuilt, or reconditioned in the United States, or by the engine manufacturer, and (2) reimported by or for the account of the person who exported it from the United States."

Mr. DOLE. Mr. President, let me say very quickly that this amendment has been cleared on all sides. It simply corrects what could have been an inequity in the bill. It would permit Beech and Cessna, located in Kansas and across the country, to import aircraft engines, and they would have been disadvantaged by the amendment.

I hope that the language that would have excluded many aircraft manufacturers who buy foreign made engines will now be covered in the bill, and that is the intent of the legislation to require duty on each engine only once, and that is the purpose of the amendment.

Mr. President, this amendment is a technical change to the original language of H.R. 422. As passed by the House, this bill relieved certain importations of aircraft engines from payment of import duties. The intent of this legislation is to require duty on each engine only once.

The present bill applies to all engines which are repaired in the United States. This language excludes many aircraft manufacturers who buy foreign made engines. Piper aircraft, with plants in Florida, Pennsylvania, and New Jersey, would not be benefited because the engines used in their planes come from outside the United States. Beech and Cessna located in Kansas and across the country are disadvantaged by the present language of the bill.

Unfortunately, this amendment was not brought before the finance committee where I feel that it would have received favorable consideration. Nevertheless, I feel that the adoption of this amendment will achieve the intended results of this bill.

These aircraft manufacturers have paid the full duty on each engine when it comes into the United States for the first time. It is unfair to charge the duty again and again when the engine is sent out on loan and later returned.

Mr. President, this amendment makes only a technical change which is totally consistent with the intent of the legislation. I urge its adoption by the Senate.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 842

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BENTSEN I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of Mr. BENTSEN proposes unprinted amendment No. 842.

At the end of the bill, add the following:

The Secretary of Health, Education, and Welfare is hereby directed to acquire the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transferring the activities and functions from the Public Health Service Hospital in Galveston, Texas, to such facility and upon completion of such transfer the Secretary is authorized to close the Public Health Service Hospital in Galveston, Texas.

Mr. ROBERT C. BYRD. Mr. President, the amendment is self-explanatory. It has been cleared on all sides.

I ask unanimous consent to have printed in the RECORD at this point a statement by Mr. BENTSEN in support of the amendment, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I am pleased to see the full Senate get the opportunity to support S. 1877, the rural health clinics bill. This bill extends medicare coverage to pay for the services of physicians' assistants practicing in rural, medically underserved areas.

I have supported this bill since its inception. I held hearings on the health care delivery problems of rural America in my Economic Growth Subcommittee of the Joint Economic Committee and I have testified in support of it time and again.

Mr. President, I cannot overemphasize the importance of revising the Federal insurance programs to cover the problems of health care delivery in rural areas. These Federal insurance programs actively discriminate against the rural areas: Nationally, rural physicians receive fees that average 60 percent of the amount paid to their urban counterparts while data shows that the cost of practice in rural areas is often higher than the cost of urban practice due to the inaccessibility of needed support services and supplies.

The 29 percent of part A medicare funds and 28 percent of part B medicare funds are spent in rural areas while 38 percent of the medicare population resides in rural areas.

In 1972, the average medicare payment for an elderly person living in a metropolitan area was $425 compared to $296 for the rural counterpart.

These national figures show the disparity in Federal spending but they do not reveal the desperate need that rural areas have for these health care dollars. In my State of Texas, the aged and disabled can expect very little in terms of available care as the following statistics illustrate:

The 23 counties in Texas were wholly without a physician as of the last count on December 31, 1973. No other State in the country has as many counties without physicians.

Of the 957 counties in nonmetropolitan areas of this country with the highest incidence of infant mortality, 172 are in Texas. Again, Texas has more counties with this kind of high infant mortality rate than any other State.

Of the 971 counties in the Nation that have been designated by the Department of Health, Education, and Welfare as "critical health manpower shortage areas," 49 are in Texas. Only Kentucky has more counties so designated.

Of the 2,300 or more "medically underserved" areas in the United States, over 200 are in Texas. These areas are designated based on four criteria: The number of poor families in the area; the percentage of the population that is 65 years of age or older; the infant mortality rate; and the ratio of primary care physicians to the population.

Clearly, then, a medically underserved area has a population that requires more care because the people are both old and poor, yet receives less medical care than the average community in this country.

Mr. President, although rural problems are more evident in my State of Texas, a recent article in the New York Times pointed out that 10 percent of New York's rural population—at the last Census count—were living in poverty and were suffering from the same kinds of deprivations that I just described for South Texas.

Obviously, one solution to the kind of situation that exists in Texas and many other States in this country is to train enough physicians to provide several for every county. We would all like to be able to offer the best quality medical care available to all our citizens. That desire was the basis of the current medicare reimbursement policy which limits payments it will make only to physicians or to clinics in which a physician is on duty at all times.

However, this reimbursement policy eliminates rural areas of Texas and therefore, many of the old and disabled, from the ability to receive medicare benefits. In rural areas, the question is not on the quality of medical care but rather on the existence of medical care.

Mr. President, as you well know, the problems of getting adequate health care delivery in the rural areas has not been entirely ignored. In fiscal year 1977, $68.8 million was spent by various agencies within the Department of Health, Education, and Welfare to promote and pay for innovative approaches to rural health delivery. President Carter, in his budget submission to Congress included $5 million in this fiscal year and $25 million in the next fiscal year above current levels for funding for rural health clinics along the lines envisioned by the rural health clinics bill.

However, money will offer no solution unless actual reimbursement policies are expanded to recognize the realities of rural medical practice. We are spending a lot of money, but because of current criteria, large areas of our country are still being left out. That is the problem we will solve with the rural health clinics bill.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. The Senator from Kansas can add that the amendment was approved by the Finance Committee this morning, by unanimous vote of everyone on both sides.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation, to provide reimbursement under titles XVIII and XIX of the Social Security Act for rural health clinic services, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, which I understand have been cleared on both sides.

Mr. STEVENS. We are happy to take them up at this time, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. ROBERT C. BYRD. Mr. President, as I understand, all the nominations have been cleared. I ask unanimous consent that they be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Bennie A. Martinez, of New Mexico, to be U.S. marshal for the District of New Mexico for the term of 4 years.

William J. Evins, Jr., of Tennessee, to be U.S. marshal for the Middle District of Tennessee for the term of 4 years.

James I. Hartigan, of Massachusetts, to be U.S. marshal for the District of Massachusetts for the term of 4 years.

Charles M. Adkins, Jr., of West Virginia, to be U.S. marshal for the Southern District of West Virginia for the term of 4 years.

Richard J. Dunn, of Nevada, to be U.S. marshal for the District of Nevada for the term of 4 years.

Paul J. Puckett, of Virginia, to be U.S. marshal for the Western District of Virginia for the term of 4 years.

Howard J. Turner, Jr., of Pennsylvania, to be U.S. marshal for the Western District of Pennsylvania for the term of 4 years.

THE JUDICIARY

Alvin B. Rubin of Louisiana, to be U.S. circuit judge for the Fifth Circuit.

Harry H. MacLaughlin, of Minnesota, to be U.S. district judge for the District of Minnesota.

Mr. ROBERT C. BYRD subsequently said: Mr. President, at the appropriate place in the RECORD, as in executive session, let the RECORD show that I have called up the nomination of Alvin B. Rubin of Lousiana—I forget to say this earlier so I will do it now—to be U.S. circuit judge for the fifth circuit, at the request and urging of the distinguished Senator from Louisiana (Mr. LONG), whose name is well known in the annals of that State. It is a pleasure to call it up at his request.

I ask unanimous consent that it be considered in order to reconsider en bloc the votes by which the nominations were confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make such a motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so orderd.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:49 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. LONG of Maryland, Mr. OBEY, Mr. KOCH, Mr. CHARLES WILSON of Texas, Mr. YATES, Mrs. BURKE of California, Mr. ROYBAL, Mr. STOKES, Mr. MAHON, Mr. YOUNG of Florida, Mr. CONTE, Mrs. SMITH of Nebraska, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, in which it requests the concurrence of the Senate.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1998. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil (with accompanying papers); jointly, by unanimous consent, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation transmitting draft legislation amending the Intervention on the High Seas Act, relative to marine pollution be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–1999. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter of Offer to Korea for Defense Articles estimated to cost in excess of $25 million (with accompanying papers); to the Committee on Armed Services.

EC–2000. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance transmitting, pursuant to law, information concerning the Department the Navy's proposed Letter of Offer to Australia for Defense Articles estimated to cost in excess of $25 million (with accompanying papers); to the Committee on Armed Services.

EC–2001. A letter from the Secretary of Commerce transmitting, pursuant to law, the 21st program report on the activities of the U.S. travel service for calendar year 1976 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2002. A letter from the Chairman of the Federal Trade Commission transmitting, for the information on the Senate, corrections to the Commission's report to Congress, pursuant to the Public Health Cigarette Smoking Act, that was previously transmitted on July 17, 1977; to the Committee on Commerce, Science, and Transportation.

EC–2003. A letter from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, the ninth report on abnormal occurrences at licensed nuclear facilities (with an accompanying report); to the Committee on Environment and Public Works.

EC–2004. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of council Act 2–71, an act to provide for increased public safety at the Robert F. Kennedy Memorial Stadium and the District of Columbia National Guard Armory (with accompanying papers); to the Committee on Governmental Affairs.

EC–2005. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "New Strategy Can Improve Process for Recovering Certain Medical Care Costs" (HRD–77–132) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2006. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Hearing Protection: Problems in the Department of Defense" (LCD–77–308) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2007. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Millions in Savings Possible in Converting Programs from One Computer to Another" (FGMSD–77–34) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2008. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of council Act 2–38, an act to regulate the construction and operation of elevators in the District of Columbia (with accompanying papers); to the Committee on Governmental Affairs.

EC–2009. A letter from the Chairman of the President's Commission on Mental Health transmitting the Preliminary report of the President's Commission on Mental Health (with an accompanying report); to the Committee on Human Resources.

EC–2010. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the plan of implementation for the Indian Health Care Improvement Act (with an accompanying report); to the Select Committee on Indian Affairs.

EC–2011. A letter from the Attorney General of the United States transmitting a draft of proposed legislation to limit the exercise and diversity jurisdiction in the Federal courts (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 261. An original resolution to pay a gratuity to William H. Sessums III, Robert L. Sessums, and Gloria J. Sessums.

S. Res. 243. A resolution authorizing supplemental expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations (Rept. No. 95–437).

By Mr. CULVER, from the Committee on the Judiciary:

With an amendment:

S. 1585. A bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine (together with additional views) (title amendment) (Rept. No. 95–438).

HOUSE BILL REFERRED

The bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, was read twice by its title and referred to the Committee on Human Resources.

STUDY MISSION TO LATIN AMERICA

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. HOLLINGS), I submit a report to the Senate on his recent study mission to Latin America.

This study mission was authorized by Senate resolution 221, approved July 15, 1977. Incidentally, I recommend to all Senators that they read this interesting,

and very illuminating, thoughtful, and useful report.

I ask unanimous consent that the report be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself and Mr. MATHIAS):

S. 2105. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

By Mr. SPARKMAN:

S. 2106. A bill for the relief of Ashok Raghunath Kakade; to the Committee on the Judiciary.

By Mr. JOHNSTON (for himself, Mr. CRANSTON, Mr. DOMENICI, Mr. STENNIS, Mr. GRAVEL, Mr. STEVENS, Mr. EASTLAND, Mr. BENTSEN, Mr. TOWER, Mr. HANSEN, Mr. WALLOP, Mr. BARTLETT, Mr. BELLMON, and Mr. HAYAKAWA):

S. 2107. A bill to amend the Emergency Petroleum Allocation Act of 1973 to provide special first sale prices for crude oil owned by any State or political subdivision thereof, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr CRANSTON (by request):

S. 2108. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself and Mr. MATHIAS):

S. 2105. A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

Mr. JAVITS. Mr. President, today with Senator MATHIAS of Maryland, I introduce a bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide. This bill is identical to the one former Senator Scott and I introduced in 1976.

In the past, the Committee on Foreign Relations has added an understanding to the Genocide Convention requiring the President to delay depositing the instrument of ratification until the enactment of implementing legislation. I expect such an understanding to be included again in the committee's report this year. It is for this reason that we are introducing the proposed legislation.

Mr. President, I have high hopes that the Genocide Convention finally will be ratified by the United States this year. We have hesitated too long. We had been intimidated by those who have raised fears to keep us from taking a vital humanitarian step that will enhance our own self-respect and maintain our place in the world community as a nation truly concerned about human rights for all peoples. The endorsement of the Genocide Convention by the American Bar Association has finally put to rest these fears. One would think that a country like ours that has entered into a treaty governing the killing of seals would not hesitate any longer to accede to a treaty on the killing of people.

Soon an American delegation will be going to Belgrade to participate in a review of the Helsinki Accords. Human rights considerations will be a primary topic of conversation of this conference. We will fortify our delegation if, by our ratification of the Genocide Convention, we provide it with a concrete example of this country's renewed commitment to human rights.

By Mr. JOHNSTON (for himself, Mr. CRANSTON, Mr. DOMENICI, Mr. STENNIS, Mr. GRAVEL, Mr. STEVENS, Mr. EASTLAND, Mr. BENTSEN, Mr. TOWER, Mr. HANSEN, Mr. WALLOP, Mr. BARTLETT, Mr. BELLMON, and Mr. HAYAKAWA):

S. 2107. A bill to amend the Emergency Petroleum Allocation Act of 1973 to provide special first sale prices for crude oil owned by any State or political subdivision thereof, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JOHNSTON. Mr. President, today, I am introducing S. 2107 for Senators CRANSTON, DOMENICI, STENNIS, GRAVEL, STEVENS, EASTLAND, BENTSEN, TOWER, HANSEN, WALLOP, BARTLETT, BELLMON, HAYAKAWA, and myself. This proposal amends the Emergency Petroleum Allocation Act of 1973 to establish special pricing treatment for crude oil owned by a State or political subdivision thereof.

As you will remember, Mr. President, State royalty oil was initially exempt from price controls when the Cost-of-Living Council instituted phase IV price controls on crude oil in August 1973. However, in February 1974, the Federal Energy Office removed this exemption retroactively to October 1973 and subjected State royalty oil to the same price controls which applied to other domestic crude oil production. Thus, State royalty oil is presently subject to the upper tier, lower tier, stripper well exemption, and other pricing classifications which apply to all domestic crude oil production.

Today, approximately 3 percent of our domestic production or about 240,000 barrels per day of production is owned by States or political subdivisions thereof. About half of that total is owned by the State of California or its political subdivisions. The remainder of the total is divided between Louisiana, Texas, Alaska, Montana, New Mexico, Oklahoma, Colorado, Wyoming, Mississippi and, perhaps, several other States.

The President proposes in his energy plan to impose a crude oil equalization tax on domestic crude oil. The stated purpose of the tax is to raise the cost of domestic crude oil to the cost of world crude oil in order that Americans may understand the replacement cost of energy and order their activities accordingly. A tax was chosen in lieu of crude oil price increases, according to the President's proposals, in order that producers would not enjoy "windfall" profits at the expense of other Americans. However, it is obvious that State royalty oil does not fit nicely within this theory.

Assuming the crude oil equalization tax may constitutionally apply to State royalty oil, the tax is, at the very least, inappropriate and unequitable. State royalty oil is a depletable, nonrenewable asset owned by all the people of a State or its political subdivision. Revenues from such oil is returned to the State's citizen's through governmental services. There is, obviously, no public policy reason to protect against "windfall" profits to all the citizens of a State or political subdivision. Moreover, there appears to be no public policy justification for taxing the assets of a State or political subdivision into the Federal Treasury to be redistributed to citizens of other jurisdictions. If Americans are to pay the replacement cost of crude oil, fairness would dictate that the citizens of a State or political subdivision be allowed the benefit of the full revenues realized from their depletable asset.

The legislation we are introducing today, therefore, provides that State royalty oil is to be increased in price to the same levels which would be reached through the President's crude oil equalization tax. In order to neutralize any impact on the composite price and, thus, on the price of old and new crude oil, the legislation provides that, for purposes of determining the composite price, State royalty oil will be considered to be sold at the prices it would have received but for the adoption of this legislation. Finally, the legislation provides an exemption for such oil from the the crude oil equalization tax proposed by the President.

Mr. President, I urge my colleagues to act favorably on this legislation. I am sure that the administration does not intend to tax away the assets of a State's citizens. Fairness would dictate as much. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding a new subsection (j) thereto as follows:

"(j) (A) The first sale price of crude oil owned by any State or political subdivision thereof shall be exempt from the regulation promulgated under section 4(a) of this Act as amended pursuant to the requirements of this section. Such crude oil shall be priced as follows:

(1) After December 31, 1977 and until January 1, 1979, old crude oil shall be subject to a ceiling price $3.50 per barrel higher than the ceiling price which would exist for such oil without the enactment of this subsection.

(2) After December 31, 1978 and until January 1, 1980, old crude oil shall be subject to a ceiling price which shall consist of:

(A) the ceiling price for such oil which would exist for such oil without the enactment of this subsection; plus

(B) an amount per barrel equal to the difference (if any) for each such month between the national weighted average cost of all such crude oil and the national weighted average cost of all crude oil classified as new crude oil.

(3) After December 31, 1979, all domestic crude oil subject to a ceiling price which shall consist of:

(A) the ceiling price for such oil as determined pursuant to subsection (i)(2)(A) or subsection (j)(2)(B); plus

(B) an amount per barrel equal to the difference for each such month between the national weighted average cost of all crude oil of the same classification and the national weighted average cost to domestic refiners of crude oil exclusive of any tariffs or import fees.

(B) For purposes of this subsection, the term "old crude oil" and "new crude oil" means those terms as defined in sections 212.73 and 212.74 of title 10, Code of Federal Regulations, as in effect on June 1, 1977, and include such oil which owned by any State or political subdivision thereof.

(C) For purposes of this subsection, the term "refiner" means a refiner of crude oil or any other first user of crude oil.

(D) For purposes of calculating the actual weighted average first sale price for crude oil produced in the United States in any month after the date of enactment of this subsection, the President shall include in such computation the actual volumes of crude oil owned by any State or political subdivision thereof at the first sale price such crude oil would have received but for the enactment of this subsection.

(E) The crude oil defined in this subsection shall not be subject to any tax the purpose of which is to equalize the cost of crude oil produced in the United States, whether or not that tax is imposed on the delivery of such crude oil to a refiner.

(F) The President may define terms used in this subsection consistent with the purposes thereof."

ADDITIONAL COSPONSORS

S. 201

At the request of Mr. BURDICK, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 201, to establish an arbitration board for the U.S. Postal Service.

S. 708

At the request of Mr. CLARK, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 708, to amend tile XVIII of the Social Security Act to provide payment for rural health clinic services.

S. 1585

At the request of Mr. CULVER, the Senator from North Dakota (Mr. BURDICK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from Nevada (Mr. LAXALT), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming, (Mr. WALLOP), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977.

S. 1728

At the request of Mr. ANDERSON, the Senator from Oregon (Mr. HATFIELD) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1728, the Domestic Violence Prevention and Treatment Act.

S. 1851

At the request of Mr. CHILES, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1851, to amend the Internal Revenue Code.

S. 1855

At the request of Mr. HATCH, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1855, the Employee Bill of Rights Act.

S. 1950

At the request of Mr. MOYNIHAN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1950, the Foreign Surveillance Prevention Act.

S. 2011

At the request of Mr. SCHMITT, the Sentor from Arizona (Mr. GOLDWATER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2011, the Regulatory Reduction and Congressional Control Act.

S. 2096

At the request of Mr. CRANSTON, the Senator from Mississippi (Mr. EASTLAND) the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2096, the Financial Privacy Act.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE RESOLUTION 261—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 261

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William H. Sessums, III and Robert L. Sessums, sons of William H. Sessums and to Gloria J. Sessums, daughter of William H. Sessums, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum to each equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE CONCURRENT RESOLUTION 45—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE 1984 SUMMER OLYMPIC GAMES

(Referred to the Committee on Commerce, Science, and Transportation.)

Mr. CRANSTON (for himself, Mr. HAYAKAWA, Mr. MOYNIHAN, Mr. JAVITS, Mr. LONG, Mr. JOHNSTON, Mr. ALLEN, Mr. ANDERSON, Mr. DECONCINI, Mr. KENNEDY, Mr. PERCY, Mr. NUNN, Mr. FORD, Mr. HATCH, Mr. INOUYE, Mr. MELCHER, Mr. METCALF, Mr. MORGAN, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, and Mr. TOWER) submitted the following concurrent resolution:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring),

Whereas the Olympic Games further the cause of world peace and understanding; and

Whereas the nation that hosts the Games performs an act of international goodwill; and

Whereas the Summer Olympic Games have not been held in the United States since 1932: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that all efforts be made to locate the 1984 Summer Olympic Games in the United States, and that the federal government provide appropriate financial assistance to the American city selected to host the Games.

Mr. CRANSTON. Mr. President, plans are now being made to select the 1984 site for the Olympic games and hopes are high that a city in the United States will be the international choice.

The United States has not hosted the summer Olympic games since 1932, and there is a good deal of feeling worldwide that it is our turn.

To miss this opportunity might, in fact, foreclose our future options to host the summer Olympics. Given the rising costs of planning and construction, future sites may soon be designated on a rotating basis from country to country where there are existing facilities.

Consequently, to strengthen the chances of the United States winning the bid to host the 1984 games—and the opportunity to be a host in future Olympic years—21 of my colleagues and I are proposing a resolution of Federal support for the U.S. bid. We believe that this support is not only a sign of goodwill and assurance but also a guarantee of the success of an American Olympiad. Accordingly, we are introducing a sense-of-the-Congress resolution stating that the United States should host the 1984 summer Olympic games, and that the Federal Government will provide appropriate financial backing of the host city.

I wish to thank my colleague from California (Mr. HAYAKAWA) for his strong efforts on behalf of our resolution and Senators NUNN, JOHNSTON, LONG, KENNEDY, JAVITS, MOYNIHAN, and PERCY for their support in joining with me in asking our colleagues for their support of the resolution.

AMENDMENTS SUBMITTED FOR PRINTING

NATURAL GAS ACT AMENDMENTS—S. 2104

AMENDMENT NO. 862

(Ordered to be printed and to lie on the table.)

Mr. PEARSON. Mr. President, together with Senator BENTSEN, I submit an amendment for printing which we intend to propose as a substitute to S. 2104, and I ask unanimous consent that it together with a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 862

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That such natural gas was not sold or delivered in intrastate commerce for the first time prior to January 1, 1977: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market, or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas: *Provided*, That old natural gas sold or delivered in intrastate commerce for the first time prior to January 1, 1977, shall, if sold or delivered in interstate commerce for the first time after January 1, 1977, be deemed by the Commission as having been sold or delivered from wells commenced on or after January 1, 1975.

"'(9) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practi-

cable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following four new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"'(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"'(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than anually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"'(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Act Amendments of 1977 as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(e) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(f) No price established by or pursuant to the Natural Gas Act Amendments of 1977 or new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTURAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978; and January 1, 1979,' ".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

SECTION-BY-SECTION ANALYSIS OF THE NATURAL GAS ACT AMENDMENTS OF 1977

Section 1—Names the amendment the "Natural Gas Act Amendments of 1977".

Section 2—Redesignates existing subsections of section 1 of the Natural Gas Act and designates existing section 24 as section 1(a).

Section 3—This section, in conjunction with section 9, is the keystone of the Natural Gas Act Amendments of 1977. Section 3

amends section 1 of the Natural Gas Act which latter section establishes the jurisdictional parameters of natural gas regulatory authority. In order to terminate Federal wellhead price regulation over new onshore natural gas, and phase out Federal wellhead price regulation of new offshore gas while preserving the present structure of regulation of "old natural gas" and pipeline operations, section 3 directs that, from and after the effective date of this legislation, Federal authority to regulate sales of "new natural gas" for resale in interstate commerce "shall cease to exist * * * and shall not apply."

Federal wellhead price regulation, for a 5-year period, of new natural gas sales from the offshore Federal domain is then reestablished in section 9, but section 3 expressly provides that it shall in no way modify, or affect, existing Federal authority (a) to regulate the transportation or sale of old natural gas, or (b) to regulate pipeline rates and service. The second provision further guarantees that there will be no impairment of Federal authority to regulate curtailments of service by interstate pipelines, since this authority is derived from Federal authority over transportation by pipelines of natural gas in interstate commerce.

The present Federal authority to regulate wellhead sales of natural gas derives, by judicial construction, from existing sections, 1, 4, 5, and 7 of the Natural Gas Act. Thus, section 3 first terminates all existing FPC authority over new wellhead sales, then reestablishes regulatory authority only as to new offshore sales for the five years 1977 through 1981, inclusive. As section 3 makes clear, however, existing authority over wellhead sales of old natural gas and pipeline operations is unchanged.

There is no intent to expand the scope of remaining Federal jurisdiction through this amendment to section 1 of the Natural Gas Act. Thus, for example, retention of transportation authority does not expand Federal jurisdiction to include producer gathering facilities in which natural gas is transported.

Section 4—Definitions. This section provides the new definitions essential to application of the Natural Gas Act Amendments of 1977. The new definitions, which will appear in section 2 of the Natural Gas Act, are:

(a) "New natural gas" is defined as:

(1) Natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977. Natural gas that was sold in the intrastate market prior to January 1, 1977 will not qualify for exempt new gas sales. If the sale is from the Federal offshore area the term of the sale must be for a minimum of 15 years or life of the reservoir from which the gas is produced if less than 15 years. Further, the sale is considered new gas even if previously sold or delivered in interstate commerce if such sale was under an FPC limited term certificate of 5 years or less if under a temporary emergency contract such as an "Order 533 sale."

The intent of this portion of the new gas definition is to insure that new supplies which have not been previously sold will be available for sale to the interstate and intrastate market on an equal basis without granting a preference to purchasers in either market and without the historical impediments of Federal regulation. To this end, with respect to sales which have been previously made in the intrastate or interstate market, the status quo will continue. The interstate purchasers will not be able to enter into a bidding war for gas already relied upon by consumers in the intrastate market when contracts for such flowing intrastate gas expire. Substantive disruptions and inflationary pressures in those areas will thus be averted. Conversely, the intrastate purchasers will not be able to bid gas away from the interstate pipelines when interstate contracts expire (thereby avoiding disruptions and inflationary pressures in their marketing areas).

(2) Natural gas produced from a reservoir discovered or extended on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well) even if the acreage on which the well is drilled was previously committed to the interstate market. The Federal Power Commission or its successor will by general rulemaking set out the procedure which will have to be followed in order for deliveries from a new reservoir or an extension of a reservoir to qualify as new natural gas.

The intent of this portion of the definition is to provide incentives to producers to accelerate their drilling programs to search for all new supplies of gas. This includes encouraging the deeper drilling of wells into new reservoirs which in many respects is like drilling a new well.

The interstate consumer must be provided the opportunity to get supplies which would not otherwise be available in the near term to their suppliers. If the gas is not produced the consumer does not pay for these supplies.

With respect to "extension of a reservoir," the purpose here is to insure that the potential gas in a known reservoir is developed and made available to the consumer. The ultimate size of a reservoir is often determined by drilling in years subsequent to discovery of the reservoir. Certain wells specifically add to the proved area of the reservoir. The enlargement of the proved area of the reservoir is classified as an extension".

(b) "Old natural gas" is defined as natural gas sold or delivered in interstate commerce other than new natural gas. While flowing intrastate natural gas, if sold in interstate commerce, will be treated as "old natural gas," such sales are to be priced as if they had been sold or delivered from wells commenced on or after January 1, 1975. The intent of this provision is to allow flowing intrastate natural gas to receive the ceiling price authorized by the FPC in Opinion 770–A for sales of jurisdictional natural gas from wells commenced on or after January 1, 1975. That price was $1.42 per Mcf plus a 1 cent quarterly escalator.

(c) "Boiler fuel use of natural gas" is defined as the use of natural gas as the source of generating steam or electricity.

(d) "Affiliate" is defined in terms of control or ownership with the Commission or its successor to make detailed determinations of affiliate relationships after rulemaking. Natural gas purchased by a pipeline from its own affiliates should not be totally unregulated because of the absence of arm's-length bargaining in such transactions. As set forth in section 5 and 6, a pipeline's affiliate production may be sold for no higher rate to the parent pipeline than a rate paid for comparable sales by non-affiliated producers.

(e) "Offshore Federal lands" are defined by reference to the meaning of such term in the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(f) "Intrastate commerce" is defined as commerce other than interstate commerce.

Section 5—*Cost Pass-Through.* Amends existing section 4(e) of the Natural Gas Act to prohibit the Commission or its successor from denying to pipelines their cost of purchased new natural gas except in the following two specific instances:

1. When the pipeline purchases new offshore gas and pays more than the ceiling price applicable to such gas; or

2. When the pipeline purchases gas from an affiliate and pays more to its affiliate than it pays to a nonaffiliated producer.

In these instances, and only in these instances, is the Commission or its successor empowered to deny the pipeline recovery of the excessive portion of the wellhead price paid to producers.

It is the intent of this proposed section to make only those changes in existing section 4 of the Natural Gas as are necessary to effectuate the basic restructuring of producer regulation set forth in sections 3 and 9 of this amendment—that is, that Federal authority over old natural gas and over pipeline sales for resale, transportation, and curtailment should remain intact; that Federal jurisdiction over sales for new natural gas from offshore Federal lands should continue in modified form only through 1981; and that all Federal jurisdiction over sales for resale in interstate commerce of new onshore gas should cease to exist upon enactment of the amendment. Nothing contained in section 5 is to be construed as authorizing any Federal wellhead rate jurisdiction over a sale of new onshore natural gas to an interstate pipeline, except where this sales is by an affiliate to its parent pipeline.

Section 6—*Cost Pass-Through and Sanctity of Contract.* Section 6 amends existing section 5(a) of the Natural Gas Act to accommodate the new regulatory structure. The amendment of existing section 5 is comparable to the amendment of existing section 4(e) which is set forth in section 5 with respect to cost pass-through, and which is described above.

It is necessary to amend both existing section 4(e) and 5(a) of the Natural Gas Act because of the interaction of the two sections on producer regulation. Existing section 4(e) establishes Federal authority to act on producer rate filings, while existing section 5(a) empowers the Commission or its successor to act on its own initiative to decrease rates which may be excessive. Thus, the amendment of existing section 5(a) of the Natural Gas Act, as set forth in section 6 of the bill, is a conforming amendment necessary to maintain internal consistency.

It is the intent of section 6 to make only such changes in existing section 5(a) as are necessary to effectuate the basic restructuring of producer regulation established in section 3—that is, that Federal authority over "old natural gas" and pipeline sales for resale, transportation and curtailment should remain intact; that Federal jurisdiction over sales for new gas from offshore Federal lands should continue in modified form only through the end of 1981; and that all Federal jurisdiction over sales for resale in interstate commerce of new onshore gas should cease to exist upon enactment. Nothing contained in section 6 is to be construed as authorizing the FPC or its successor to exercise wellhead rate jurisdiction over a sale of new onshore gas to an interstate pipeline, except where such sale is by an affiliate. . . .

Finally, section 6 brings to producer rate regulation (with respect to old gas sales and offshore gas sales) the requisite degree of certainty that has heretofore been lacking in the regulatory structure. Section 6 prohibits the Commission or its successor from engaging rate redeterminations, after having determined the just and reasonable rate for a sale. Without this amendatory language establishing sanctity of contract, the Commission or its successor would retain authority to readjudicate producer rates at any time without regard to prior final FPC decisions establishing such rates.

Section 7—*Amendment to Natural Gas Act Certificate Authority.* Section 7 adds a new subsection to existing section 7 of the Natural Gas Act. This provision clarifies that the Commission or its successor may not use its certification authority to indirectly regulate producer sales of new natural gas which have been exempted from Federal jurisdiction pursuant to the Natural Gas Act Amendments of 1977.

Section 8—*Natural Gas Reserve Studies.* This section creates new authority in the

FPC or its successor to gather information, conduct studies and report to Congress on matters relating to natural gas supplies, production, transportation, and consumption.

The Natural Gas Act currently does not provide statutory authority to engage in comprehensive data collection. Its authority is limited to the power to compel reports on sales and services from companies subject to its jurisdiction. The FPC has consistently sought broadened powers to enable it to secure comprehensive data on natural gas. Section 8 would grant such authority.

Section 9—*Offshore Ceiling Rates; Agricultural Priority;* Limitation on Curtailment. This section proposes four new sections to the Natural Gas Act:

1. New section 24 provides regulatory criteria for sales of new offshore gas;

2. New section 25 establishes priorities for essential uses of natural gas;

3. New section 26 provides for a limitation on FPC curtailment authority.

4. New section 27 deals with indefinite pricing clauses.

New section 24 grants to the Commission or its successor, for a period of 5 years beginning January 1, 1977, wellhead price jurisdiction over sales of "new natural gas" produced from offshore Federal lands. It is the intent that Federal wellhead rate jurisdiction over new gas sales to interstate pipelines be expressly limited to only one category of new gas; namely, gas produced from offshore Federal lands.

During the 5-year period of phased-out regulation of new offshore gas, the Commission or its successor is directed to discard utility-type, cost-of-service rate regulation, and to establish rates, instead, on the basis of the following four enumerated criteria—and only those criteria:

1. Prosective costs;

2. The rate necessary to achieve optimum deliveries of natural gas;

3. The rate necessary to promote conservation of natural gas;

4. The rate necessary to protect consumers from price increases attributable to shortage conditions.

The FPC or its successor is directed to set a national ceiling rate for new offshore gas as soon as practicable by rulemaking, through consideration of the four criteria set forth above, and to modify such ceiling rate as necessary, from time to time, prior to December 31, 1981. The Commission also is empowered to authorize rates in excess of the national ceiling for high-cost or deep drilling activities.

Pending the establishment of a national ceiling by a final order which is no longer subject to judicial review, the FPC or its successor is directed to establish an interim ceiling rate for sales of new natural gas from offshore Federal lands. This interim ceiling is to be the equivalent of the "upper tier" price allowed for domestic crude oil production which is in effect on the date of enactment of the Natural Gas Act Amendments of 1977; that is, the interim ceiling is to be the regulated price allowed under section 8 of the Emergency Petroleum Allocation Act as amended by Title IV of the Energy Production and Conservation Act for new crude oil production.

Sales of new offshore natural gas at or below the national ceiling will be "just and reasonable" for the purpose of the Natural Gas Act. Producers may be denied their contract rate for new offshore gas only if such contracts exceed the applicable ceiling rate for such gas. If the contract rate is excessive, the Commission or its successor may reject producer rate filings to the extent that the rate sought exceeds the applicable ceiling.

Finally, new section 24 states that there shall be no ceiling price applicable retroactively to the sale of old natural gas produced from offshore Federal lands.

New section 25 directs the Commission or its successor to assure the availability of natural gas supplies, during times of shortage, to residential users, small users, and to hospitals and similar services vital to public health and safety. After these priority uses are protected, the Commission is directed to give next priority for essential agricultural, food processing and packaging purposes. The Secretary of Agriculture shall determine by rule the essential agricultural, food processing, or packaging purposes for which natural gas is essential.

The intent of this section is to specify by statutory language those categories of service to receive natural gas in order of priority pursuant to Federal curtailment plans. New section 25 does not expand the statutory scope, as judicially construed, of current curtailment authority nor does it allow the Commission or its successor to order physical interconnections or mandatory allocations of natural gas between interstate pipelines.

New section 26 provides for the orderly application of Federal authority under section 7 of the Natural Gas Act. The Senate has recently passed comprehensive coal conversion legislation which, if signed into public law, will facilitate extensive switching over to alternative fuels by low priority natural-gas end users. This new section to the Natural Gas Act should be exercised in coordination with coal conversion legislation.

New section 27 provides for a limitation on the operation of "most favored nation" clauses and other price redetermination contractual provisions. Any contract entered into after September 1, 1977, may not trigger any indefinite price escalation clauses whether such clauses are applicable to sales or purchases of natural gas in interstate or intrastate commerce. This section will prospectively eliminate the inflationary impact that such escalation clauses would otherwise exert in the event of deregulation of sales of new natural gas.

Section 9 of the Pearson-Bentsen amendment will extend sections 4 and 6 of the Emergency Natural Gas Act of 1977 in order to allow emergency sales and interstate pipeline allocations up to April 20, 1979. Over the short term, due to a restrictive definition for new natural gas, the supply response of new production to deregulation will be slow as it requires 3 to 5 years to develop a new reserve once it is discovered. This provision in section 9 will provide the emergency relief which interstate pipelines and their customers may require over the short-term.

AMENDMENTS NOS. 856 AND 866

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to the bill (S. 2104), to establish a comprehensive natural gas policy.

AMENDMENT NO. 868

(Ordered to be printed and to lie on the table.)

Mr. JACKSON. Mr. President, earlier this week the Committee on Energy and Natural Resources voted to report the Natural Gas Policy Act without recommendation in order to get that important piece of legislation to the floor as expeditiously as possible. The committee was deadlocked on the legislation and it was obvious to me that the deadlock could not be resolved in committee. The bill reported from committee was the original version of the natural gas price policy sections from the President's National Energy Act, S. 1469.

At the appropriate time during the full Senate's consideration of the legislation I intend to move to adopt an amendment in the nature of a substitute to the committee-reported bill. That amendment, which I am introducing today, is basically a technically improved version of the President's proposal. The only substantive changes in the President's proposal included in my substitute amendment are the following:

First. The bill is amended to make it compatible with the new Department of Energy structure. The authority to implement the new Natural Gas Policy Act is given to the Federal Energy Regulatory Commission. The Secretary of Energy is given authority to propose and implement higher incentive pricing levels for specific categories of high cost gas, such as gas from deep wells, geopressurized brine, and so forth.

Second. The incremental pricing provision is substantially improved. The bill will protect residential and small commercial users from feeling the initial effects of the higher prices contemplated under the act for new gas. Low priority users will have their rates increased before high priority users until they reach the cost of substitute fuels. The determination of what constitutes a substitute fuel will be made on a regional basis, taking the varying condition in different sections of the country into account. Once the low priority users reach the cost of substitute fuels, all customers' rates will increase at the same rate. Congress is given 60 days to review the Commission's incremental pricing proposal before it can be put into effect.

Third. The bill is amended to allow the Federal Energy Commission to authorize use of intrastate pipelines for interstate transportation of gas if they believe it is in the public interest to do so. Several companies have filed an application with the Federal Power Commission to import substantial amounts of gas from Mexico. They hope to be able to make use of excess intrastate pipeline capacity in Texas to get the gas to the interstate market. Existing intrastate pipelines will also be available for interstate gas transportation once the existing boiler fuel uses of natural gas by large industrial customers is phased out under our coal conversion legislation. The determination of whether to allow the use of the pipeline would be made on a case-by-case basis.

Fourth. The President's proposal to put synthetic natural gas plants under the jurisdiction of the Federal Power Commission has been dropped. The committee's hearing record is very sketchy on this issue; most witnesses concentrated instead on the price issue. The FEA is currently considering whether to revise its synthetic natural gas plant feed stock program. I hope that the Committee on Energy and Natural Resources will have sufficient time to look into this issue closely in the next few months to determine what new policies, if any, are called for to encourage development of synthetic natural gas facilities.

Mr. President, I ask unanimous consent that a summary of the provisions of the substitute amendment, and the text of the amendment itself, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 1, line , delete all after the enacting clause and insert in lieu thereof the following:

"TABLE OF CONTENTS

"Sec. 2. Findings and purposes.
"Sec. 3. Definitions.
"Sec. 4. Calculation of the current Btu related price.
"Sec. 5. Sales of new natural gas.
"Sec. 6. Sales of old natural gas under existing contracts.
"Sec. 7. Sales of old natural gas from new wells under new contracts.
"Sec. 8 Sales of old natural gas under rollover contracts.
"Sec. 9. Effective dates of rules with respect to maximum lawful prices.
"Sec. 10. Special pricing provisions.
"Sec. 11. Incremental pricing of natural gas.
"Sec. 12. Administrative procedure, enforcement and judicial review.
"Sec. 13. Intrastate contracts and transactions.
'Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.
"Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
"Sec. 16. Conforming amendments to the Natural Gas Act.
"Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

"FINDINGS AND PURPOSES

"SEC. 2. (a) The Congress finds that—

'(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

"(2) during the last 40 years the market for natural gas has changed considerably principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

"(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

"(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

"(5) the gap between the price of natural gas and the price of crude oil on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

"(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

"(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

"(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

"(b) The purposes of this Act are—

"(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

"(2) to provide both fair and equitable revenues to producers and to protect consumers;

"(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

"(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

"DEFINITIONS

"SEC. 3. As used in this Act:

"(a) The term "Btu" means British thermal unit.

"(b) The term "Commission" means the Federal Energy Regulatory Commission.

"(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

"(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

"(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

"(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

"(1) the surface location of the old well, and

"(2)(A) the surface location of the new well, or

"(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

"(g) The term 'inflation adjustment' means the amount that results from dividing—

"(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

"(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as compared and published by the Department of Commerce.

"(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

"(i) The term 'natural gas' has the same meaning as it has under section 2(5) of the Natural Gas Act.

"(j) The term 'new contract' means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

"(k) The term 'new lease' means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

"(1) which was not leased before April 20, 1977; or

"(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

"(l) The term 'new natural gas' means natural gas—

"(1) which is produced from a new lease; or

"(2) which is produced (other than from a new lease)—

"(A) from a new well—

"(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

"(ii) the completion location of which is in a newly discovered reservoir; or

"(B) from a new well the completion location of which—

"(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

"(ii) is in a newly discovered reservoir.

"(m) The term 'new well' means a well the surface drilling of which was begun after April 20, 1977.

"(n) The term 'newly discovered reservoir' means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

"(o) The term 'old natural gas' means natural gas other than new natural gas.

"(p) The term 'old well' means any well other than a new well.

"(q) The term 'Outer Continental Shelf' has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"(r) The term 'person' includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

"(s) The term 'reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"(t) The term 'rollover contract' means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a term specified by such existing contract.

"(u) The term 'Secretary' means the Secretary of the Department of Energy."

"(v) The term 'United States' includes the Outer Continental Shelf.

"CALCULATION OF THE CURRENT BTU RELATED PRICE

"SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commissioner shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

"(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

"(2) a Btu conversion factor of 5.8 million Btu's per barrel.

"SALES OF NEW NATURAL GAS

"SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

"SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

"SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

"(a) the inflation adjustment, by

"(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or

"(2) the greater of—

"(A) $0.18 per million Btu's, or

"(B) the price applicable on April 20, 1977 under such existing contract.

"SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

"SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

"SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

"SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

"(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

"(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

"(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

"(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

"(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

"EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

"SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

"SPECIAL PRICING PROVISIONS

"SEC. 10. (a) The Secretary may, by rule, prescribe one or more maximum lawful special prices, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special prices may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special prices are necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

"(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

"(1) from submerged acreage located beneath more than 500 feet of water;

"(2) from a completion location more than 15,000 feet (true vertical depth below the surface location of the well;

"(3) from geopressurized brine; or

"(4) under such other conditions as present extraordinary risks or costs.

"(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing, liquefaction, or transportation of such natural gas, the Secretary may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

"INCREMENTAL PRICING OF NATURAL GAS

"SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

"(A) low priority users served by such pipeline company,

"(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

"(C) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

"(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

"(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

"(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

"(A) notwithstanding any contractual provision and

"(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

"(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

"(c) For purposes of this section:

"(1) The term "low priority user" means any user other than a high priority user.

"(2) The term "high priority user" means any person who—

"(A) uses natural gas in a residence, or

"(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

"(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

"(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

"(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress."

"ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

"SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

"(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

"(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

"(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and

may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

"(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

"(c)(1) It shall be unlawful for any person—

"(A) to violate any provision of this Act; or

"(B) to violate any rule prescribed, or any order issued, under this Act.

"(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

"(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

"(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

"(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

"(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

"(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willingly authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

"(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

"(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

"(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

"(C) secure, upon request, any information from any Federal department or executive agency.

"(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

"(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

"(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

"(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

"(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

"(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

"(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

"INTRASTATE CONTRACTS AND TRANSACTIONS

"SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of, the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

"(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

"(2) For purposes of this subsection—

"(A) The term 'intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

"(B) The term 'interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

"(c) Any contractual provision—

"(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

"(2) terminating, or granting any party the opinion to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

"RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

"SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price *allowed* for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

"JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

"SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) the provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any

sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act".

"(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.

"CONFORMING AMENDMDENTS TO THE NATURAL GAS ACT

"SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

"(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such

price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

"EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

"SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

"(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

"(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

"(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

"(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

"(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

"(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

"(7) in section 4(a)(3), by striking out "interstate";

"(8) in section 4(d), by striking out "interstate pipeline, intrastate";

"(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

"(10) in section 7, by striking out "interstate" wherever it appears;

"(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

"(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1 1979.".

JACKSON SUBSTITUTE AMENDMENT FOR S. 2104, NATURAL GAS POLICY ACT

SECTION-BY-SECTION SUMMARY

(This section-by-section summary summarizes the provisions of the Jackson Amendment in the nature of a substitute for the Natural Gas Policy Act.)

Sec. 1. The Act is titled the Natural Gas Policy Act.

Sec. 2. Findings and Purposes.

The Congress finds that the history of natural gas development and regulation have led to the need for a new system of natural gas pricing to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

The purposes of the Act are to balance natural gas supply and demand, to provide fair and equitable revenues to producers, to protect consumers, to deal with short-term natural gas shortage through extension of the allocation provisions of the Emergency Natural Gas Act of 1977, and to provide for natural gas conservation through the price policy mechanism.

Sec. 3. Definitions.

(b) Commission—Federal Energy Regulatory Commission.

(d) Current Btu related price—the most recently published Btu related price calculated pursuant to sec. 4.

(e) Existing contract—any natural gas sale contract entered into on or before April 20, 1977.

(j) New contract—any natural gas sale contract entered into after April 20, 1977 for the sale of natural gas that was not previously subject to contract.

(l) New natural gas—natural gas (1) produced from a new lease on the Outer Continental Shelf; or (2) produced (A) from a new well in a new reservoir which is 2.5 miles or more from any old well or (B) from a new well in a new reservoir which is 1,000 or more feet deeper than any old well which is within 2.5 miles.

(t) Rollover contract—any natural gas sale contract entered into after April 20, 1977, for the sale for natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by that contract.

Sec. 4. Calculation of the Current Btu Related Price.

This section requires the Commission to calculate and publish monthly the current Btu related price. It is to be computed by dividing the average per barrel domestic refiner cost of acquiring crude oil for the most recent calendar quarter (exclusive of entitlement obligation or crude oil equalization tax) by a conversion factor of 5.8.

Sec. 5. Sales of New Natural Gas.

This section liimts the maximum lawful price for new natural gas sales to the current Btu related price at the time of delivery.

Sec. 6. Sales of Old Natural Gas Under Existing Contracts.

This section limits the maximum lawful price for old natural gas sold under an existing contract. The limit is the product of multiplying (a) the inflation adjustment by (b) the lesser of (1) the FPC's currently applicable price ceiling; or (2) the greater of (A) $0.18 per million Btu's or (B) the contract price.

Sec. 7. Sales of Old Natural Gas From New Wells Under New Contracts.

This section limits the maximum lawful price for old natural gas sold under a new contract to $1.45 per million Btu's times the inflation adjustment.

Sec. 8. Sales of Old Natural Gas Under Rollover Contracts.

This section requires the Commission to prescribe the maximum lawful price for old natural gas sold under a rollover contract. The limit is to be set as follows:

(a) For old natural gas previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed $1.45 per million Btu's times the inflation adjustment.

(b) For old natural gas not previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed

(1) The inflation adjustment times $1.45 per million Btu's if the contract price was less than or equal to $1.45 per million Btu's; or

(2) The current Btu related price if the contract price was greater than $1.45 per million Btu's.

The date of reference for determining the contract price in each instance is April 20, 1977.

Sec. 9. Effective Dates of Rules With Respect to Maximum Lawful Prices.

The Commission is directed to proscribe rules for Sec. 8 within 60 days after the date of enactment.

Sec. 10. Special Pricing Provisions.

The Commission is authorized to prescribe a maximum lawful special price for the sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. High cost natural gas is defined as that produced from submerged acreage located beneath more than 500 feet of water; from a completion location more than 15,000 feet below the surface location of the well; from geopressurized brine; or under such other conditions as present extraordinary risks or costs.

Sec. 11. Incremental Pricing of Natural Gas.

The Commission is directed to implement a rule within 180 days after the date of enactment to provide for incremental pricing of natural gas. The rule shall provide for allocation to the low priority users of any pipeline company (who thus must pay the increased cost of that gas) that gas whose average cost exceeds the average cost for the year prior to enactment. The allocation will continue until the rates or charges applicable to those low priority users equal their reasonable cost of substitute fuels. Local distribution companies who receive gas for resale to low priority users are to follow the same allocation scheme.

Low priority users are defined as any users other than high priority users. High priority users are defined as any person who uses natural gas in a residence, or who uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day. The section provides a 60 day period for Congressional review of the incremental pricing rule before it can be put into effect.

Sec. 12. Administrative Procedure, Enforcement, and Judicial Review.

This section requires publication of rules of general applicability in the Federal Register; provides for standard periods for comment and public hearings; provides for aggrieved persons to seek redress first from the Commission, then from the United States Court of Appeals for the District of Columbia; makes violations of the Act or rules prescribed pursuant to the Act unlawful; establishes civil penalties and criminal penalties for willful violation; gives the Commission subpoena power and authority to secure information from other Federal agencies unless the disclosure of the information is expressly prohibited by law; gives United States district courts authority to issue orders requiring compliance with subpoenas and Commission orders; gives the Commission authority to issue rules and to further define terms used in the Act.

Sec. 13. Intrastate Contracts and Transactions.

This section prohibits the use of prices determined under the Act for purposes of contract redetermination, renegotiations, or termination clauses. It also voids contract provisions prohibiting commingling of contract gas with gas subject to Natural Gas Act jurisdiction (therefore allowing gas previously sold in intrastate commerce to be moved to the interstate market).

Comment: This subsection will also facilitate use of existing intrastate pipelines for transportation of gas in the interstate market as existing boiler fuel and other industrial uses of natural gas are phased out. It will also enable use of existing intrastate pipelines for delivery of natural gas from Mexico to the interstate market. The decision to allow use of an interstate pipeline for such purposes will be made by the Commission on a case-by-case basis.

Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.

This section makes it clear that nothing in sections 5, 6, 7, 8, or 10 shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

Sec. 15. Jurisdiction of the Commission Under the Natural Gas Act.

This section amends the Natural Gas Act. It makes it clear that the Natural Gas Act will not apply to sales of natural gas to which the provisions of section 5, 7, 8, or 10 of this Act apply.

Sec. 16. Conforming Amendments to the Natural Gas Act.

This section includes technical amendments to the Natural Gas Act. It specifies that any price for any first sale of natural

gas, to which the provisions of this Act apply, shall be deemed just and reasonable for purposes of the Natural Gas Act.

Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

This section extends the inter-pipeline allocation authority (Sec. 4.) of the Emergency Natural Gas Act of 1977 to April 30, 1979 (a two year extension). It also expands that authority to include allocations from and to intrastate pipelines.

LEGAL SERVICES CORPORATION AUTHORIZATIONS—S. 1303

AMENDMENT NO. 863

(Ordered to be printed and to lie on the table.)

Mr. HATCH (for himself, Mr. ROTH, and Mr. HAYAKAWA) submitted an amendment intended to be proposed to the bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

FAIR LABOR STANDARDS ACT AMENDMENTS—S. 1871

AMENDMENT NO. 864

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER. Mr. President, I submit an amendment for printing, together with Senators CHAFEE, HATCH, and HAYAKAWA, which we intend to propose to S. 1871, the Fair Labor Standards Amendments of 1977, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 864

At the appropriate place in the bill insert the following new section:

SEC. . (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment, an employer may employ any youth who has not attained the age of 20 for a period of 180 days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(a), at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6(c)) in compliance with applicable child labor laws. Provided, however, that this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

(2)(A) To encourage youth employment, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 75 per centum of the wage rate in effect under section 6(c)).

(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of 20 hours in any work week, except during vacation periods.

(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary shall have general authority under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not being violated. Should the Secretary discover that an employer is employing youths at a wage rate lower than that allowable under this subsection or at the wage rate allowable under this subsection for a period of time longer than that specified by this subsection, or is engaged in a pattern and practice of—

(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the lower minimum wage, the provisions of section 6 of this Act shall be considered to have been violated, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act."

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14; or".

NATIONAL ENERGY POLICY—S. 1472

AMENDMENT NO. 867

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BIDEN. Mr. President, in the last few months, we have debated numerous energy issues of overwhelming importance to "all" Americans. Yet, I am concerned that debate of these issues—like few others—can provoke unproductive regional divisiveness. Energy producer States seek assurance that energy resources will be developed for a fair economic return, nonproducing States seek continued secure and adequate sources of supply at reasonable prices. In his April 20 energy message, President Carter stated that a key principle governing the design of his energy plan was "that the United States must solve its energy problems in a manner that is equitable to all regions, sectors, and income groups."

Mr. President, I applaud this goal and I appeal to this body as we begin debate of some of the most contentious parts of this legislative package to avoid "energy Balkanization." Therefore, I have today introduced a simple amendment which I believe will insure that the oil pricing policies we adopt are equitable and uniform, thus preventing the possibility of future regional "economic dislocations or unjustified variations in consumer costs."

CRUDE OIL EQUALIZATION TAX

A central element of the administration's energy plan is the crude oil equalization tax—COET—a mechanism intended to equalize the price of controlled domestic crude oil with the cost of replacing it with imported crude at OPEC prices. As COET is phased in, effective domestic crude oil prices would converge on import prices. This equilibration would render the entitlements program—which seeks to equalize crude costs among refiners—unnecessary. The administration plan, therefore, would phase out entitlements as COET is phased in. With the equalization tax fully effective by 1980, the cumbersome entitlements program would no longer be required since world and domestic prices would be at parity, and maintained in such state by the Secretary of the Treasury through quarterly adjustments of COET as necessary.

Mr. President, I have today released a study prepared for me by the Library of Congress which examines the COET, its potential impact on domestic petroleum products, pricing, and refiner margins, revenue generation, and the operation of its decoupling mechanism should world prices increase excessively. I will seek to have the full text of this study inserted into the RECORD at the close of my remarks.

COET REVENUE EFFECT

The administration has projected that the equalization tax would yield a revenue gain of $4.5 billion in fiscal year 1978, $6.4 billion in fiscal year 1979, $10.6 billion in fiscal year 1980, and $12.2 billion in fiscal 1981 by which time the tax would have been fully phased in. However, Mr. President, the basis on which these revenue projections are made is rather unclear. While I understand the administration's reluctance to speculate on the possible pricing actions of the world oil cartel, I do not believe the Congress can reasonably discharge its legislative responsibility on this most important proposal without more reasonable estimates of the revenue to be generated by COET. The Library of Congress study prepared for me which I have released today illustrates the sensitivity of the COET to OPEC price increases, as well as the possibility that the tax may be decoupled from world oil prices should they escalate too rapidly. By strengthening this decoupling mechanism, I believe my amendment offers OPEC further evidence of this country's strong determination to maintain control over the pricing of its energy supply.

As the following table illustrates, should world prices rise at 7 percent per year, the COET revenue in 1985 would total $19 billion. Should that rate of increase reach 10 percent per year, the tax collections would be 60 percent higher at $40 billion. The COET revenues therefore, will be a function of world crude oil prices. Rapid OPEC price increases would yield increased equalization tax revenue as the COET is fully phased in.

I ask unanimous consent that the table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COET revenues 1978–85

Year	Revenues [1]	Cents/gallon
1978	$4.3	1.8
1979	8.4	3.5
1980	18.3–22.0	7.3– 8.8
1981	18.5–25.3	7.1– 9.7
1982	18.6–25.2	7.2– 8.7
1983	18.6–26.8	7.2–10.3
1984	18.5–27.2	7.1–10.5
1985	19.1–30.1	7.3–11.6

[1] In billions of dollars.

COET DE-COUPLING

Mr. BIDEN. Under the provision of the administration plan, the President is granted the authority to suspend any increase, or part of any increase in the crude oil equalization tax if there is a significant increase in the world price of oil—which would result in an increase in the equalization tax—and the President determines that the increase will have a substantial adverse economic effect. In testimony before various Senate committees, the administration has indicated that, in the event of such a decoupling of COET from world oil prices, an entitlements program would need to be reinstituted. However, H.R. 8444 does not provide for the reinstitution of such a program to equilibrate domestic and imported crude prices. Decoupling without entitlements would put refiners and consumers dependent on imported crude oil at a distinct relative disadvantage vis-a-vis those groups more reliant on domestic oil. The amendment I am introducing today provides the legislative mechanism needed to insure implementation of the administration's expressed intention that the Secretary of Energy reinstitute an entitlements program in the unexpected event of a COET-world price decoupling, or in the event that COET falls behind world prices.

H.R. 8444 stipulates that the Secretary of the Department of the Treasury would, "on the basis of best available information," determine the equalization tax for crude oil not less often than once each calendar quarter. With the phase-out of the entitlements program, the protection import-dependent refiners and consumers would have from being disadvantaged relative to those with access to domestic crude oil is an equalization tax which very closely tracks world prices. Therefore, my amendment would provide for the automatic reimposition of an entitlements program should the average price per barrel of landed imported crude oil over a 3-month period exceed the average price per barrel of domestic crude oil by more than 50 cents. By this measure the Secretary of the Treasury would be required to exercise due diligence in maintaining a COET-world oil price equilibrium.

Mr. President, I am no friend of cumbersome bureaucratic, regulatory programs. In fact, one of the most compelling arguments in support of COET is the streamlining effect it would have on the regulatory process by ending the entitlements program and product price controls. However, if entitlements were reinstituted to cover a COET-import imbalance, it would not be the same multitiered and awkward program. Rather, there would be only one entitlement tier and the program would not apply to some products as it now does.

It is my hope that should the equalization tax be enacted, no reimposition of entitlements under either of my two trigger mechanisms would be necessary. However, entitlements were implemented to redress an energy cost imbalance between import dependent and oil-producing areas of the country. New England, which is 80 percent dependent on imported petroleum and the Middle Atlantic States which rely on foreign oil for 60 percent of their energy needs cannot afford the abolition of one system of national oil cost equalization without the protection of another system's availability were the need to arise. Should the COET not bring the domestic oil composite price into close parity with the refiner acquisition cost of imported crude oil, my amendment would trigger a much simplified entitlements program based now on the difference between only one domestic composite price—COET-adjusted—and the imported price.

Mr. President, I seek no special "favors" for one region of this country over another. We must all bear our share of this Nation's energy problems and make our contribution to their long-term solutions. I know that the people of my State of Delaware are anxious, as are all Americans, to get our country back on a secure energy supply base—adequate to meet the needs of a healthy and growing economy. I only ask that in crafting the path to that future, we do nothing to unduly burden one segment of our population over another.

The amendment I have today introduced to the national energy plan provides a mechanism to insure a fair and equitable solution to our energy problems. Mr. President, I ask unanimous consent that the text of my amendment and the Library of Congress study referred to in my remarks be printed in the RECORD.

There being no objection, the amendment and the study were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 867

On page 488, between lines 17 and 18, insert the following new subsection:

(c) REINSTITUTION OF FEA ENTITLEMENTS PROGRAM IN CERTAIN CIRCUMSTANCES.—Whenever—

(1) the average price per barrel of landed imported crude oil over a 3-month period exceeds the average price per barrel of domestic crude oil by more than 50 cents, or

(2) the President suspends an increase in the tax imposed by section 4986 of the Internal Revenue Code of 1954 (relating to crude oil equalization taxes) under the authority of section 4987 (d) of such Code,

the Secretary of Energy shall reinstitute the program of crude oil and refinery yield control provided for in subpart C of part 211 of subchapter A of chapter II of title 10, Code of Federal Regulations (as such subpart was in effect on September 7, 1977).

CRUDE OIL PRICING AND THE EQUALIZATION TAX

FOREWORD

This paper discusses a number of questions which have been raised about how the crude oil equalization tax (COET) will effect oil pricing. The COET was originally proposed by President Carter in his April 20, 1977 energy message as a way to equalize the price of controlled domestic crude with the cost of replacing it with imported crude at OPEC prices. It is a device that, the Administration has claimed, would encourage oil conservation by making consumers aware of true replacement costs and at the same time would avoid windfall profits for oil producers.

In this discussion, the following questions about the effect of COET are raised:

(1) There is no consensus that COET would raise crude oil prices by the full amount of the tax. It is very likely that COET would impinge heavily on refiners' margins, and that they will absorb most of the tax. Prices of refined products, therefore, would no rise by the full amount of the tax.

(2) The COET would streamline the oil-price control program by eliminating the need for product price controls and for entitlements (or at least reducing the complexity of the program currently in effect).

(3) If world oil prices rise at a relatively high rate, there may be a tendency for the COET either not to be raised as quickly or to become decoupled from world prices. If this were to happen, the entitlements program would have to be reinstituted to equalize domestic and imported crude prices. Otherwise, refiners and consumers dependent on imported crude would be relatively disadvantaged.

(4) The COET revenues would effectively be a function of world crude oil prices. Rapid OPEC price increases would result in higher COET revenues in later years of the tax. The House version of H.R. 8444 terminates the COET in 1981, but we have extended our calculations to 1985 in order to simulate downstream effects in response to a number of requests.

If world oil prices rise at 7%/yr., estimated COET collections in 1985 would be $19 billion. If the average annual rate of increase is 10% per year, revenues would be 60% higher at $30 billion. This illustrates the sensitivity of the COET to OPEC price increases, as well as the reason why COET may be uncoupled if world oil prices rise too fast. This would probably necessitate reinstitution of entitlements.

BACKGROUND

Most domestic crude oil is now under price controls with old oil selling at about $5.20/bbl and upper tier oil at $11.50/bbl. Under the Administration's plan and H.R. 8444, these prices would be allowed to rise at a rate equal to the increase in the GNP deflator, which is estimated to rise at 6% yearly for the foreseeable future.

The National Energy Plan and H.R. 8444 would impose a tax on controlled crude oil to raise its perceived price to uncontrolled levels which closely parallel world prices. The tax would be imposed in the three stages described in Table 1. Natural gas liquids (NGL) would also be taxed.

COET Revenues and Effect on Prices.—For crude oil, taxes in 1978 will close half the gap between old oil at an estimated $5.50/bbl and upper tier at an estimated $12.30/bbl. The tax will average $3.40/bbl and apply to an average of 3.5 million barrels per day. A total of $4.3 billion will be raised. In 1979, taxes will close the gap fully. Old oil will be at $5.85/bbl and upper tier a $13.00. With production estimated at 3.2 mbd, the tax of $7.15/bbl will generate $8.4 billion.[1]

[1] Calculation: $13.00—$5.85/b×3.2 mb/d×365 d/y=$8.4 billion in 1979.

TABLE I.—*Crude oil equalization tax phase-in*

Year	Crude oil	NGL
1978	Close half the gap between old oil and upper tier oil.	Close 1/3 gap between controlled liquids and middle distillate Btu equivalent price.
1979	Tax old oil up to the upper-tier level.	Close 2/3 of the gap described above.
1980 and thereafter	Continue tax on old oil, raising its level of uncontrolled U.S. crude. Tax upper-tier oil to uncontrolled level.	Fully tax liquids up to the middle distillate Btu equivalent level.

In 1980 and whatever later years to which the bill might ultimately apply, taxes would completely capture the differential between controlled and uncontrolled U.S. oil prices. Uncontrolled domestic output from stripper wells has been decontrolled since September 1976 and is the only domestic oil now under controls. Previously, "new" oil had been decontrolled during 1973–1975. At times during 1974–1977 uncontrolled oil has sold for up to $3.00/bbl less than the price refiners pay for imported oil. Stripper oil presently sells as an estimated $14.00[2] average price, about $1.00/bbl less than the landed cost of imports, although in the recent past it has closely tracked imports. There is no apparent explanation for these seemingly transient differentials. The gap in price between domestic and imported oil is likely to disappear as leads and lags in the market mechanism are worked out and uncontrolled domestic crude can be expected to track the price of imported crude oil.

Unless the tax is decoupled from uncontrolled crude, a sudden escalation in world prices would translate into parallel rises in uncontrolled domestic crude as well as the taxes needed to close the uncontrolled-controlled gap. If there are sharp increases in world prices, COET revenues should be expected to rise quickly too. And higher world oil prices would ultimately translate into higher gross COET revenues in 1980, 1981 and any subsequent years to which the tax might ultimately apply. Higher taxes would naturally find their way, to some extent, into higher prices for refined products paid by consumers.

Table 2 shows 1980–1985 COET lower and upper-tier taxes and revenues, which have been computed under the assumption that world oil prices and uncontrolled U.S. crude prices will rise by 7 to 10 percent per year between now and 1985. Table 3 shows COET gross revenues for the 1978–85 period assuming the tax is effective throughout the period. Note that by 1985 a fairly wide divergence between revenues generated under the 7 and 10 percent world price rates of increase has been reached, with the 10 percent scenario resulting in revenues almost 60 percent higher than the 7 percent scenario.

EFFECT OF COET ON FUEL PRICES

Table 3 also shows the estimated amount of tax per average gallon of refined product sold. It is likely that there would be some variation in the amount of tax allocated to the various products, with some rising more than the average and others less.

Opinion is divided on the question of how much COET would ultimately be passed on to consumers of refined products. Refiners assert that their margins are so thin that very little tax, if any, would be absorbed. The experience of the past several years would seem to indicate that refiners have had enough market power to pass on cost increases quickly. Judging from past experience, there is some likelihood that refiners might be able to pass virtually all COET along to product consumers.

The Administration asserts that between 1/4 and 1/3 of the COET will be absorbed by refiners, and that resulting refined product prices will be lower than if all of COET were passed on as refiners assert it would be. Under this thinking, the domestic refiners' market power is limited by world market conditions. If refined products are freely available abroad in ample supply, imported product prices will tend to put a cap on domestic prices. Wholesale fuel purchasers, large jobbers and terminal operators will be unwilling to pay domestic product prices above the landed costs of competing imports. At domestic prices slightly in excess of imports, demand for U.S. refinery output would decline and prices would fall to world levels. "The competition between domestic and foreign refiners tends to keep prices at or near the landed cost of imported product in an environment without product price controls."

A third point of view holds that a larger portion of the COET—at least half—will be absorbed by refiners. Based on the belief that domestically refined product prices are already at or very close to the landed cost of imports, there is little latitude for prices to rise above import's effective cap price. Since prices cannot rise to fully reflect the tax, refiners will absorb some or perhaps all of COET.

The view that domestic product prices are at or near world levels is documented in two studies, "Federal Energy Administration Regulation, Report of the Presidential Task Force," edited by Paul W. MacAvoy, and "Petroleum Regulation: The False Dilemma of Decontrol," by Charles E. Phelps and Rodney T. Smith of the Rand Corporation. Both studies suggest that U.S. oil price controls have worked in such a way that domestic refined products are at or near world levels. CRS studies of residual fuel, middle distillate and gasoline prices all agree with these findings as well. If these studies are correct, and products are close enough to cap world price, the COET will not be fully passed through to fuel consumers, and might even be almost fully absorbed by refiners.

To the extent that refiners absorb the COET, and their taxable income is thereby reduced, corporate income tax payments to the Treasury will be lowered. These reduced income taxes should be offset against Treasury revenues from the COET.

If the COET results in only very small product price increases at the consumer level, there will be correspondingly small price-induced conservation effects. In the event that prices are not significantly raised by COET, its real goal would not be conservation, but streamlining the regulatory process by ending the entitlements program (which FEA regards as burdensome) and by reducing refiner margins (which have risen under product price controls that have proven unworkable in the eyes of many).

DISCUSSION OF NATURAL GAS LIQUIDS: (NGL) TAXATION

Natural gas liquids are price-controlled on the basis of the value of natural gas from they are extracted. When NGL's are extracted from a stream of natural gas, the volume shrinks. FEA's present procedures allow for the pass-on of the natural gas cost—measured in terms of the diminished volume of gas—on a one-for-one basis, along with other allowable cost increases. The increase in both regulated and intrastate natural gas prices has been a chief contributor to the rise in price for propane, LP gas and other NGL product prices.

About 1.6 mbd of NGL production is expected during the assumed period of COET applicability. With NGL, the COET will be designed to tax the gap between distillate wholesale prices, on a regional basis and adjusted for Btu content.

On average, NGL now sells for about 25 cents/gallon ($10.50/bbl), while distillate wholesales for about 35 cents/gallon ($14.70/bbl). NGL has only about 70 percent (4 million Btu per bbl.) of the Btu content of distillate, so 35 cents/gallon distillate translates into $10.30 NGL on a Btu equivalent basis. If COET were levied today, little tax would be imposed on NGL, except in those few regions which deviate from the nationwide averages.

In 1978, as the COET is phased in, distillate prices may start to rise by up to 2 cents/gallon, on average. If this occurs, tax revenues of about $115 million will be raised. Table 4 contains estimates based on a similar calculation[3] for the 1978 to 1981 period.

TABLE 4.—*Maximum COET revenues from NGL*

Year	*Dollars in millions*
1978	115
1979	400
1980	1,250–1,500
1981	1,200–1,665
1982	1,235–1,665
1983	1,235–1,770
1984	1,220–1,800
1985	1,250–1,990

The above figures are based on these assumptions: (1) NGL production remains at 1.6 mbd throughout the period, and (2) all applicable COET costs are passed through to wholesale distillate prices on a basis proportionate to its share of the crude oil barrel. These may not be realistic assumptions for reasons discussed above. To the extent that refiners absorb COET costs, taxes on NGL will be diminished.

END OF ENTITLEMENTS PROGRAM

As COET is phased in, effective domestic crude oil prices would converge on import prices. This equilibration will mean that the entitlements program, which attempts to equalize crude cost among refiners, could be phased out as COET is phased in. By 1980, when COET is fully effective, the entitlements program would no longer be needed if the COET has equilibrated prices, as it is intended to do.

Two potential pitfalls are concealed beneath what is regarded by many as the desirable goal of ending the entitlements program, which has become rather unpopular. The administrators of COET either have to track world crude price increases on a one-for-one basis, or failing to do so, they must reinstitute the entitlements program in order to equilibrate crude costs among refiners. If, with the House-passed version of the COET, OPEC acts to raise world crude prices, and uncontrolled domestic prices follow as they probably will, COET must also rise. If it does not, a gap between controlled domestic and import prices would again arise. This would put refiners dependent on imported crude at a disadvantage relative to those with access to controlled U.S. crude oil. To prevent this from happening and to diminish the possible adverse impact on import-dependent refiners and their customers, the

[2] Stripper postings, according to trade press reports, are converging rapidly on import prices.

[3] Calculation: 2 cents/g x 0.7 x 1.6 mbd x 42 g/b x 365 d/y x 1/3=$115 million.

reinstitution of the entitlements program could be programmed to be triggered by a significant gap between the domestic composite controlled price plus COET and the refiner acquisition cost of imported crude oil.

But the second possible pitfall is that in the event OPEC prices rise sharply those administering the COET might raise the tax sharply to keep up with world prices, in order to avoid instituting the entitlements program. If this were to be done, the precedent established in the Energy Policy and Conservation Act, of protecting U.S. consumers from OPEC price increases, would end. U.S. consumers would then see the same perceived price increases for domestic as well as foreign oil. To the extent that they had been protected (if indeed consumer receive any benefit from having controlled crude) by having significant amounts of controlled domestic crude, fuel prices would be above their likely level under COET by the amounts described in Table 1.

END OF THE SMALL REFINERS BIAS

Since 1959, there has been a national policy of subsidizing small refiners. In that year, the import quota system was initiated and it gave small refiners an allocation of low cost foreign crude. Small refiners could either use this crude to produce relatively less expensive products or sell the allocation for a profit.

When the import quota program was later replaced by an import license system, small refiners were then subsidized through "fee-free trickets" exempting them from the license fee. This system is now being phased out.

Under the entitlements program as presently administered, small refiners are eligible for additional entitlements above the amount they would ordinarily receive. These benefits amount to about $50 million per month at current levels, and accrue to about 100 refiners with capacity of 175,000 b/d or less. Smaller refiners receive disproportionately, greater benefits than larger small refiners.

As the entitlements program is phased out, this subsidy to small refiners will ultimately disappear. There is some debate over whether or not, as a matter of national policy, the country should encourage small refiners with some form of subsidy after entitlements are ended. Small refiners continue to claim that this need exists, and are lobbying for some form of partial exemption from COET. Others feel that subsidies are not justifiable economically, and it is socially undesirable to maintain the existence of firms that are submarginal without subsidies. The small refiners assert, however, that they perform a desirable role in a market place dominated by majors, and that this role should be subsidized as it has been for almost 20 years.

A NOTE ON ALASKA CRUDE TAXATION

The COET is designed to tax away the difference between the controlled price of a given crude and its uncontrolled price. For Alaskan North Slope crude, with transport costs to lower-48 State refiners on the order of $6.00/bbl., estimated [4] wellhead selling prices of about $8.00/bbl. can be expected. These will be substantially under the applicable upper-tier controlled price for some time to come, and it is unlikely that any tax will be imposed during the period of applicability of the House passed version because wellhead prices of Alaskan oil are expected to be so far below ceiling levels. However, if world prices rise at a high rate (10% per year) it is likely that Alaskan oil's wellhead price will reach its controlled level and that the equivalent uncontrolled price would be above the controlled price. In 1982, with upper tier crude at $15.50/bbl. and world prices at $23.20, a $17.20 bbl. Alaskan wellhead price can be expected (by subtracting $6.00 from $23.20). A $1.70/bbl. COET would be needed to tax away this differential, or entitlements for Alaskan oil would be required. Under the 10% scenario, the Alaskan COET would increase to $6.40/bbl. by 1985, assuming COET is extended that far. Gross COET revenues would rise proportionately and would add to Table 3's total.

[4] Wellhead prices are estimated by subtracting transport charges from estimated selling prices of $14.00/bbl. i.e., $14.00—$6.00=$8.00.

TABLE 2.—TAXES AND REVENUES

Year	Price (per barrel)	Volume (mbd)	Assuming 7 percent yearly increase: Landed prices (per barrel)	U.S. crude tax (per barrel)	Tax revenues (billions)	Assuming 10 percent yearly increase: Landed prices (per barrel)	U.S. crude tax (per barrel)	Tax revenues (billions)
Lower-tier:								
1980	$6.20	3.0	$17.70	$11.50	$12.6	$19.15	$12.95	$14.2
1981	6.55	2.7	18.95	12.40	12.2	21.10	14.55	15.9
1982	6.95	2.5	20.25	13.30	12.1	23.20	16.25	14.8
1983	7.35	2.3	21.70	14.35	12.0	25.50	18.15	15.3
1984	7.80	2.1	23.20	15.40	11.8	28.10	20.30	14.8
1985	8.25	2.0	24.85	16.60	12.1	30.90	22.65	16.5
Upper-tier:								
1980	13.80	4.0	17.70	3.90	5.7	19.15	5.35	7.8
1981	14.80	4.0	18.95	4.30	6.3	21.10	6.45	9.4
1982	15.50	3.7	20.30	4.80	6.5	23.20	7.70	10.4
1983	16.50	3.5	21.70	5.20	6.6	25.50	9.00	11.5
1984	17.45	3.2	23.20	5.75	6.7	28.10	10.65	12.4
1985	19.50	3.0	24.85	6.35	7.0	30.90	12.40	13.6

TABLE 3.—*COET revenues 1978–81*

Year	Revenues [1]	Cents/gallon
1978	$4.3	1.8
1979	8.4	3.5
1980	18.3–22.0	7.3– 8.8
1981	18.5–25.3	7.1– 9.7
1982	18.6–25.2	7.2– 9.7
1983	18.6–26.8	7.2–10.3
1984	18.5–27.2	7.1–10.5
1985	19.1–30.1	7.3–11.6

[1] In billions of dollars.

NOTICES OF HEARINGS

HEALTH CARE FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, the Special Committee on Aging will continue its hearings on "Health Care for Older Americans: the 'Alternatives' Issue" on September 21, at 9:30 a.m., in room 1224 Dirksen Building, Senator CHILES presiding.

Another hearing on the same subject will be conducted in conjunction with the U.S. Conference of Mayors at 9 a.m. at the Holyoke Community College, Holyoke, Mass., on October 12, Senator BROOKE presiding.

SMALL BUSINESS AND LABOR SURPLUS AREAS PROCUREMENT

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on small business and labor surplus areas procurement. The hearing will be chaired by the Senator from Maine (Mr. HATHAWAY) and will be held on October 6, 1977, in room 424 Russell Senate Office Building at 10 a.m. Witnesses will be from the General Accounting Office, General Services Administration, Office of Federal Procurement Policy (OMB), the Departments of Defense and Labor, and the Small Business Administration.

Further information can be obtained from the committee offices, room 424 Russell Office Building, telephone 224–3840.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, I would like to announce that the Committee on Rules and Administration plans to commence hearings on S. 2, the Program Evaluation Act of 1977, and on S. 1244, the Federal Spending Control Act of 1977, on September 28, 1977.

I extend through this announcement an invitation to all interested individuals and organizations that might wish to testify or to submit views on S. 2 or S. 1244 to contact the Rules Committee office on 4–6352. In this connection Mr. President, I ask unanimous consent to insert in the RECORD at this point the text of a letter sent to all Senators and to the chairmen of the committees of the House of Representatives.

This proposed legislation has far-reaching effects on thousands of programs that are of interest to millions of people. It is our hope that interested parties will come forward and help us in our deliberations.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C.

DEAR COLLEAGUE,

On July 20, 1977, S. 2, the "Program Evaluation Act of 1977," was referred to the Committee on Rules and Administration after having been reported by the Committee on Governmental Affairs. Previously, on April 6, 1977, S. 1244, the "Federal Spending Control Act of 1977," was referred to the Committee on Rules and Administration after introduction by Senator Biden. It is the intention of the Committee on Rules and Administration to commence hearings on these measures on September 28, 1977.

The Committee on Governmental Affairs

and its Subcommittee on Intergovernmental Relations deserve commendation for contributing measurably to the dialogue on improving the operation of the Congress with respect to a more structured approach to Congressional oversight and evaluation of programs, and for bringing forward proposals for consideration. As reported by the Committee on Governmental Affairs, S. 2 contains new provisions that go a long way toward dealing with many of the foreseeable difficulties with "sunset" and related concepts that have been pointed out by witnesses and other commentators.

Some issues require further consideration, however, and new provisions in the reported bill need to be subjected to the same scrutiny as the original measure. I, therefore, invite you to make your views known to the Rules Committee, either through appearing at the hearings or through the submission of testimony for the record. If you would like to testify during the hearings, please contact the committee office on extension 46352 so that it can be arranged. Additional hearings may be held early in the next session in the hope of reporting a measure early enough for floor action this Congress. The Committee hopes to also profit from hearings that have been scheduled by the Committee on Human Resources in October on the subject of the state of the art in program evaluation with respect to social services programs.

In addition to the many points already raised for consideration by previous witnesses that you might wish to expand upon, there are a few fundamental concerns that ought to be thoughtfully considered. I am attaching a list of issues and questions that the Committee and witnesses might wish to focus on.

The Rules Committee has available copies of a penetrating analysis of the technique of automatic program termination, prepared by the New York State Senate Research Service, which may be obtained by calling the committee office on extension 49078. The title is *Sunset, It's Not All Rosy.*

With all best wishes, I am.

Sincerely,

HOWARD W. CANNON,
Chairman.

QUESTIONS AND ISSUES REGARDING S.2, THE PROGRAM EVALUATION ACT OF 1977

(A Staff Working Paper, Committee on Rules and Administration, United States Senate)

This paper is a discussion of some of the underlying concepts of the "sunset" proposal and a presentation of an alternative. The paper does not retrace or summarize the many operational problems that have already been raised. These problems remain, and are of as great a concern as before. Readers are referred to the Rules Committee's report on S. 2925, (94–1263) dated July 20, 1976, for a discussion of these issues.

1. Is the feature of automatic termination of all programs necessary.

Title I of S. 2 would terminate virtually the entirety of the Federal Government, including the operation of the Legislative Branch, within six years, on a staggered schedule, unless each program to be retained is specifically reconsidered and affirmatively continued. The only exceptions are the moneys available from the Social Security and similar trust fund programs, and interest on the national debt. While the feasibility of undertaking a task of this magnitude is certainly one that must be addressed, it should first of all consider whether the undertaking is necessary at all, or if some other technique will achieve the same objective while avoiding the many problems that have been pointed out.

The asserted justification for the automatic termination feature is that it is necessary to bring about a more systematic review of programs. However, though most people agree that the review of programs is desirable, there is no general agreement that automatic program termination will bring about this review. Proponents of automatic termination argue that other techniques have been tried and have failed, and that, therefore, the threat of automatic termination is now the only alternative. Assuming for the moment that the present reauthorization process is as faulty as is claimed, the technique that is cited as having been tried and as having failed is the provision of the Intergovernmental Cooperation Act which states that committees should review all programs under their jurisdiction. No procedures and no mechanisms of any sort were established to achieve the stated end. That such a statement, alone, has not brought about the systematic, comprehensive evaluation of all Federal programs demonstrates nothing more than that a simple statement of desirability is not enough. It only means that some procedure, some mechanism may be needed.

This failure of the absence of procedure does not prove that any particular procedure is needed, and does not prove that the specific procedure of automatic program termination would be effective. Many programs have been legislated with termination dates in the past; the temporary nature of the legislation has not guaranteed careful review. Title I of S. 2 assumes that for virtually *all* government programs, there is no valid reason for their authorizing legislation to be permanent. We simply do not know all the problems the bill will create. Procedures less sweeping, less frought with predicted dangers, might well be tried instead.

As reported by the Committee on Governmental Affairs, S.2 contains a new provision not in the bill as considered last year (S. 2925) or as introduced this year and reported by the Subcommittee on Intergovernmental Relations. This new provision is a Program Evaluation Resolution, which is provided for in Title III. Briefly, the Program Evaluation Resolution would, when agreed to, identify specific programs to be reviewed by specific committees during a specified time period. The Governmental Affairs Committee's report on S.2 states that the Committee hopes that every committee would evaluate at least one program each Congress. While there are changes that might be made in the way that such a resolution is formulated (see issue 2, below), the central idea seems quite sound and realistic. Committees can, do now, and would respond in an exemplary manner to the specific mandates that such a resolution would carry. In short, the Committee on Governmental Affairs may have found not just a means of mitigating some of the problems inherent in automatic program termination, but a substitute for and an improvement over automatic termination as the "action forcing" mechanism.

The technique of the Program Evaluation Resolution has a singular advantage over the technique of automatic program termination. in that only those matters on which a consensus of the Senate feels need attention will be targeted to receive it, thus avoiding a massive dispersion of energy in mere paper processing of thousands of other programs. Coupled with the Program Inventory (Title II), which can be used to select candidate programs on the basis of their age or the length of time since their last review, the Program Evaluation Resolution seems to be a thoughtful and measured addition to the existing body of legislative tools.

The schedule now in Title I for terminations could be incorporated in Title III as a schedule for reviews to provide a basis for grouping programs for comprehensive evaluation, and to prevent programs from being unduly subjected to comprehensive review too frequently.

2. On the development and maintenance of the Program Inventory and on the process for development of the Program Evaluation Resolution.

Your views are sought on the above two issues, specifically as to questions of timing and the placement of responsibilities. S. 2, as reported, places unusual responsibilities in the Budget Committees, given the precise and limited function delegated to the Budget Committees to formulate a Congressional Resolution setting overall spending and revenue totals. Also, given the role of close support to the Budget Committees that is currently defined for CBO, it seems that the General Accounting Office could be considered for providing the support to legislative committees that S. 2 would delegate to CBO.

Because the Program Evaluation Resolution is more of an internal work schedule for the legislative committees, closely akin to their current oversight and reauthorization work, and is related to the work of the Budget Committee only in the same way that all things whatever could be considered budget related, it may be that a procedure different from that proposed in S. 2 would be more appropriate. As an alternative, legislative committees could be required to file a report to their respective houses on the beginning of each Congress, stating the programs or agencies the committees planned to comprehensively evaluate during that Congress. The reports could be incorporated in the funding resolutions of the committees, along with the requests for the funds for the evaluations. When reported to the floor by the appropriate committees in each house, the resolutions would be subject to amendment, so that a majority of members would be able to specify programs for evaluation that were not included in the resolutions as reported.

3. On whether there should be any exemptions from automatic termination, if that feature is retained.

Title I of S. 2 exempts selected benefit programs from automatic termination (though not from the prohibition against authorization for more than six years) on the theory that they are programs in which people have invested. Both the practical and the theoretical bases for the exemption seem subject to question. On the one hand, Social Security, one of the exempted programs, has changed substantially in its essential character since its inception. From a limited supplement to privately provided retirement income, Social Security has become the sole support not only of retirees but of the disabled, of children and others. It is the largest single account in the Federal budget, representing almost 16% of outlays in fiscal year 1977; its financial soundness is regularly called into question; the freedom of State and local governments to participate or not is a matter of concern; and its relationship to the Civil Service Retirement System should be explored, especially if Federal employees are to support both systems, as a result of supporting Social Security from general revenues. It could be argued that instead of being exempt, Social Security is in greater need of review than any other program of the Federal Government. That is, since the only justification for automatic termination is to bring about improvement through review, it seems unwarranted to forgo the opportunity for improvement in any area, much less one so central to the functioning of the economy, so crucial to the very existence of millions, and about which there are alleged to be many fundamental problems. Given the fact that the political climate would not tolerate a simple cessation of Social Security but would require its replacement by something as good or better, it seems unrealistic to fear that the beneficiary population would be left destitute. To recognize this, however, is

close to recognizing the unrealistic nature of the automatic termination proposal itself.

Why sunset should apply to any programs of any magnitude or importance if a case can be made to exempt some or any one of them is not clear. Americans have their most crucial dependence on defense programs, on foreign relations programs, and on international economic programs to maintain our military strength and our industrial and agricultural capacity and thus protect us from military and economic warfare by foreign powers, but such programs are not proposed for exemption.

Similarly, with respect to the exemption of the Federal judiciary from the provisions of Title I because it is an independent branch of the government, it is no more independent than the executive branch, which is not exempt on that basis. And, again, since the stated purpose of automatic termination is not really to terminate, but only to improve, there seems little justification for exempting any programs whatever from improvement.

Interest on the Federal debt seems the only justifiable exception, on the grounds that it is not truly a program at all, but the result of previous deficit budgets. Issues regarding the operational aspects of the borrowing programs (interest rates, mix of debt instruments, public versus institutional holders, for example) can be reached through review of the programs funded by the account "Administering the Public Debt."

4. On the experience of the States with respect to automatic termination.

The fact that there is no experience whatsoever to draw upon in foreseeing how automatic termination will work is of such great and overriding significance that it should incline all to great caution. While several states have enacted so-called "sunset" laws, some on a limited basis and some on a comprehensive basis, there is no experience in any of them yet to indicate whether or how automatic termination of important programs actually works in practice.

It would seem that the working of the process in the experimental laboratories of the states should be observed over a substantial period of time before applying such a technique to the totality of the national government. It is one thing to pose such a threat to state occupational licensing boards and take a chance on how it works out, and it is quite a different matter to apply it to national defense, to the conduct of foreign affairs, to the collection of social and economic statistics, to maintaining the production of sufficient food, to ensuring safe air travel, etc.

It seems an unusual deviation from the successful pattern of development over the last decades for a novel idea being experimented with at the state level to be considered for implementation at the national level so soon. There should be a basis in demonstrated experience, over several years, that automatic termination is truly necessary, is a positive good, will work, and is not merely the latest management fad.

5. On whether S. 2 and S. 600 should be harmonized into a single approach.

Although the Governmental Affairs Committee reported S. 2, S. 600, the "Regulatory Reform Act of 1977," introduced by Senators Ribicoff, Robert C. Byrd, and Percy, remains in the Subcommittee on Intergovernmental Relations. S. 600 has different procedures to accomplish essentially the same ends as S. 2. While attempts have been made to eliminate overlap by having one bill apply to some agencies and the other apply to different agencies, some departments would have to cope with both. It seems that a single set of procedures would be preferable.

6. On whether laws should be presumed to be of short-lived validity.

One underlying idea of "sunset" is to change the way laws have been regarded by virtually all peoples throughout recorded history. It should be considered if the proposed new approach is truly a newly discovered truth or if it is somehow fundamentally at variance with the functioning of a stable social order.

The reversal of the assumption of validity of laws, to a presumption of invalidity is hailed by the chief supporters of sunset as one of its most innovative features. While appealing on the surface, as is the appeal of "sunset" itself as a way to "turn off" big government and return to simpler times, the validity of this innovation should be directly considered. It may be that the presumption of validity and permanence that attaches to law is a key element in achieving a sound and stable social order. That is, this key underlying idea of "sunset" may be its essentially false premise. The logical extension of the idea would be to have a referendum on the Constitution every ten years, after subjecting each of its provisions to evaluation.

7. On the need to specifically identify individual programs as a pre-condition of an automatic termination provision, based on program, if that feature is retained.

To pass legislation that will terminate "programs" and not to specify each discrete entity that would be affected is not merely to obscure the workload and the complexity involved; it is to leave unanswered and, essentially unanswerable, the following question. On the passage of a review date, what, specifically, continues and what terminates? This is a very large chasm that S. 2 seems not to recognize, much less cross.

This difficulty cannot be escaped by declaring it to be a mere semantic problem, because definition of the term "program" is not really the issue. What is needed for the technique of automatic program termination to function is an agreed upon operational list of the entities that the logic of the evaluation process itself will cause to be considered individually, and which must be reaffirmed or perish.

To support the operation of a "sunset" provision based on "programs" (as opposed to "sunsetting" agencies), it would seem that the Program Inventory would have to be enacted into law so that it would be a legally operable instrument which defined, specifically and individually, those things that would be required to cease functioning on the passage of a review date and those things that could continue. The proposal in S. 2 regarding the Inventory would not seem, therefore, to go far enough to support the operation of Title I (automatic program termination), although if Title I were dropped, it seems sufficient to support Title III (the Program Evaluation Resolution).

ADDITIONAL STATEMENTS

NEED FOR A NATIONAL ENERGY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, yesterday I submitted a statement to the Senate Finance Committee hearings on the tax aspects of the proposed energy legislation.

I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT TO THE SENATE FINANCE COMMITTEE BY SENATOR ROBERT C. BYRD

I wish to congratulate the Chairman and members of the Finance Committee for the yeoman work you have been doing on the tax provisions of the Comprehensive National Energy Policy proposed by the Administration. I know that the Committee initiated hearings on the energy tax provisions during the August statutory recess, and that you have labored long and hard in seeking ways to strengthen the President's proposal.

The purpose of my statement is to follow up on my letter of August 19, 1977, to the Chairman of the Committee. I suggested therein that if the Committee should recommend the enactment of a crude oil equalization tax or gas guzzler tax, the Committee might consider utilizing any revenues obtained from such taxes for three purposes: First, to increase the domestic supply of energy through the development of an alternative fuels program; second, to conserve energy through the development of fuel efcient mass transit; and third, to assure adequate facilities to transport the Nation's coal through the construction and modernization of rail systems.

I feel that the Administration's proposal to rebate across the board the monies generated by the proposed taxes fails to adequately reflect the nature of the energy crisis facing the Nation. These monies should not be dispersed through rebates except possibly in the case of low income individuals who are most severely impacted by steadily rising fuel prices.

The energy crisis portends a worldwide shortage of crude oil and natural gas—fuels upon which modern mass industrial societies, such as the United States, have grown dependent. I recognize that there is disagreement on the actual time when demand for crude oil and natural gas will outrun available supply. There is, however, a consensus that the likelihood of a shortage in the not-too-distant future is real. Action is required now if we hope to have viable alternative energy sources in place by the 1980's when they may be needed to supplement our dwindling supplies of oil and natural gas.

In light of our serious energy situation, we must seize the opportunity and use the revenues from the taxes at issue for specific energy-related purposes. First, we must proceed with the development of alternative energy resources. Such development would provide for an increased supply of energy, protect our country from any interruption in our oil supply in the event of another embargo, and conserve crude oil and natural gas.

Rather than the disparate approach which we have taken towards alternative fuels in the past, we should view this as an opportunity to establish the basis for a well-funded, integrated, alternative fuels program. The options here are numerous. They include an accelerated program of research development, and demonstration of gasification and liquefaction processes for the production of synthetic fuels from coal, as well as for processes to assure that coal can be burned in an environmentally acceptable manner. The production of synthetic alternatives from coal would help to assure the availability of liquids and gases that will be in demand for the foreseeable future.

Other major options are the application of the revenues to the development of geothermal energy, oil shale, wind energy, and biomass energy. There is considerable potential for these energy sources which, if tapped more vigorously, will significantly add, in the coming decades, to the level of energy production in various sections of the country.

Solar energy is another clearly underutilized alternative energy source. Water heated by solar energy is now economically competitive in many areas of the country. Similarly, space heating and cooling is now economically feasible in some regions. Yet, we have failed to develop a wide range of incentives for business to apply solar technology to today's energy needs. We should be able to do more to encourage commercial

and agricultural enterprises to adopt solar technology. In addition, we need to do more to encourage the development of solar generated electricity.

In short, any monies generated by the proposed gas guzzler tax and the crude oil equalization tax might best be used to subsidize the development of these various alternative energy sources. And, let me point out that the American people appear to be strong supporters of an alternative fuels program such as the one I suggest. A New York Times-Columbia Broadcasting System poll this summer on the national energy situation found that close to three quarters of the respondents would support an increase in taxes to spur the development of alternative energy sources. When asked by interviewers, "Would you favor or oppose a major government program to develop new sources of energy, even if it means higher taxes to pay for it?" some 71 percent answered in the affirmative. This appears to be a clear indication of public sentiment on this issue.

Second, the Committee should consider applying any tax revenues produced by the proposed gas guzzler and crude oil equalization taxes to further advance conservation in the transportation sector of the economy. This sector accounts for over half of the total domestic demand for petroleum.

There is a need to spur the development of mass transit options, to make mass transit more generally available to the public. It is well known that the energy efficiency of buses and subway cars is dramatically higher than that of automobiles. According to a recent Office of Technology Assessment study, for example, a transit bus carrying 30 passengers is six times as efficient as an automobile carrying an average of 1.4 people.

We are moving ahead with the development of more efficient automobile vehicles, and this is absolutely necessary. However, we have yet to realize the full potential of mass transit for urban and rural areas. The Committee should consider earmarking some of the monies generated by the proposed taxes to provide capital assistance for purchases of buses, for construction of rail systems, and for modernization of existing systems. I do not believe that this nation should have a go-slow policy in the area of mass transit.

We must also assure that our existing railroad system will be able to handle the increased coal production envisaged in the national energy program, and to meet the military security needs of the nation.

These are some of the measures that can be taken now and in the immediate years ahead. If the Finance Committee does approve the gas guzzler and crude oil equalization taxes, I would urge the Committee to give careful consideration to using the monies generated by these taxes for such purposes as would help safeguard our national energy future. This would require investing the revenues in the development of more fuel-efficient transportation systems and in the subsidization of alternative energy resources.

The energy program proposed by the Administration can be strengthened if the Committee recommends using the considerable revenues raised in such ways as I have suggested. Gross crude oil equalization tax collections are estimated by the Joint Committee on Taxation at $38.9 billion between 1978 and 1982. These monies would be available to improve and expand our passenger and freight rail systems and our bus systems and to foster alternative energy sources.

Investing the monies in the ways I have suggested will not do all that needs to be done. They are steps, however, that face up to the energy challenge confronting us. They are steps in what I believe to be the right direction.

I thank the Chairman and the members of the Finance Committee.

U.S. AIR FORCE ANNIVERSARY

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Utah (Mr. GARN), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GARN

On the thirtieth anniversary of the United States Air Force, I would like to bring to the attention of my colleagues the distinguished development of our country's military air power. In observing this occasion, General David C. Jones, USAF, the Air Force Chief of Staff, said in a recent statement:

"The United States and its allies today face the strongest array of sophisticated weapons systems in the history of mankind. It is imperative that we maintain a deterrent force better than that of any potential aggressor. Each of you—active and reserve, uniformed and civilian—can best observe this 30th anniversary by maintaining the high professional standards which have been the key to all our past successes and will remain the foundation of Aerospace Power for Peace."

In an article in the September, 1977, Air Force magazine, Mr. Herman S. Wolk, a prominent Air Force historian, closely examines this development from the earliest days of the U.S. Army Signal Corps to September 18, 1947, the date the National Security Act became law and created the U.S. Air Force. The article is attached.

The attachment ordered to be printed in the RECORD is as follows:

[From the Air Force magazine, September 1977]

THE BIRTH OF THE U.S. AIR FORCE

(By Herman S. Wolk)

In 1910, Italian air strategist Giulio Douhet wrote that besides grappling with technical questions, aerial warfare demanded solution to problems of "organization and utilization of aerial forces." Before organizing an independent air force, "we must first know what we intend to do with it and how to use it."

Long before establishment of the United States Air Force in September 1947, US Army airmen knew what they intended to do with a separate service. Why did it take so long to achieve independence? The answer lies in geography, technology, the climate in the United States between World Wars I and II, roles and missions of the services, military bureaucracy, politics, and the American temperament.

From August 1907, when the US Army Signal Corps formed an Aeronautical Division under Capt. Charles deF. Chandler to take "charge of all matters pertaining to military ballooning, air machines, and all kindred subjects," it took forty years to establish the United States Air Force. During those four decades, there were recurring proposals to give the Army's air arm status equal to that of the other Army branches, the first a bill for that purpose introduced in the House of Representatives in 1913. And, as technology advanced, the concept of independent, strategic air action began to take form. In November 1917, Maj. Edgar S. Gorrell, a member of the Technical Section, Air Service, American Expeditionary Force, gave Brig. Gen. Benjamin D. Foulois, Chief of Air Services, AEF, a proposal to bomb German industry. "The object of strategical bombing," he noted, "is to drop aerial bombs upon the commercial centers and lines of communication in such quantities as will wreck the points aimed at and cut off the necessary supplies without which the armies in the field cannot exist."

In October 1918, the Allies had, in fact, agreed to form an Inter-Allied Independent Air Force to circumvent the front lines and attack the enemy's homeland. This idea, which did not come to fruition before the Armistice the following month, was a vision of the independent mission, the rationale for a separate air force that would obviate the need for ground wars of attrition.

The Army Reorganization Act of 1920 did establish the US Army Air Service as a combatant branch, and the Air Corps Act of 1926 resulted in a change of name for the air arm, the appointment of an Assistant Secretary of War for Air, and the assignment of Air Corps officers to the War Department General Staff. However, this was considered insufficient by some airmen, including Brig. Gen. William (Billy) Mitchell, who held that the airplane was more economical and more effective than the battleship.

In October 1933, the Drum Board—one of several committees and boards appointed during the 1920s and early 1930s to study military aviation issues—proposed formation of a General Headquarters (GHQ) Air Force. A similar recommendation was made by the Baker Board the following year, and the GHQ Air Force was created on March 1, 1935, with Brig. Gen. Frank M. Andrews as its commander. Though a step far short of independence and in some ways an unsatisfactory compromise, formation of GHQ was unprecedented. Earlier, Air Corps units in the US had come under control of Army Corps Area commanders in whose territory they were stationed.

GHQ, headed by an Air Corps commander for the first time, unified combat air units and provided the structure for coordinated training in peacetime and combat in war. Air units were formed into three wings; however, lines of authority were convoluted. For tactical training and employment, GHQ would be under control of the General Staff in peace and the Commander of Army Field Forces in war. For procurement and supply, it came under the Chief of Air Corps. Administratively, air bases were responsible to Army Corps Area commanders. Thus, when they were involved with air matters, the Army Chief of Staff and War Department General Staff dealt with the Commander of GHQ Air Force, the Chief of Air Corps, and the Corps Area commanders.

Nevertheless, formation of GHQ gave airmen the opportunity to coordinate air operations with other forces. This meant using military air under unified direction. Mobility of this "striking force of the air" called for rapid concentration of force in any of the Army's major areas. Strenuous training was designed to prepare forces to attack an enemy approaching US coasts if the Navy could not cope with the situation (the Army and Navy had fought a constant battle over the coastal air defense mission). Also, GHQ would be able to strike enemy ground forces should they be near US borders. GHQ conducted maneuvers with pursuit and bombardment craft, judging results and devising tactics.

Andrews was replaced in February 1939 by Maj. Gen. Delos C. Emmons. During his command, Andrews had increasingly made clear his conviction that airpower should be "separately organized"—bringing him into conflict with Chief of Air Corps Maj. Gen. Oscar Westover, who opposed separation—and that bombardment aviation should be the "basic element" of the air forces. He thought the next war would find great cities destroyed by air attacks. An adequate air defense could not be built "under the existing military organization." The United States was a sec-

ondary Air Power," this being inherent in any Air Corps that is an integral part of an Army and Navy." Andrews stressed the need for a separate air organization with its own budget.

PREPARING FOR WAR

The turning point in the drive for independence was World War II. In 1938, the Air Corps had only 1,600 officers. By March 1944, 2,411,000 personnel would be serving in the AAF. In early 1939, long before the Japanese attack on Pearl Harbor, President Roosevelt had ordered a huge expansion of aircraft production. The Air Corps was ready with plans to produce four-engine bombers and with the plans and doctrine to employ them. Although GHQ had emphasized mobile air defense, the Air Corps Tactical School had formulated doctrine (high-level daylight precision bombardment of selected industrial targets) to use long-range bombers offensively. Subsequently, this doctrine was formalized in AWPD–1, devised by Col. Harold L. George, Lt. Col. Kenneth N. Walker, and Majs. Haywood S. Hansell, Jr., and Laurence S. Kuter.

The increase in aircraft production affected all Air Corps activity. By early 1941, with Britain and Germany at war, air operations were already looming large in American war planning. Roosevelt was interested in air production and war planning. He was kept current by confidante Harry Hopkins, who enjoyed a mutually beneficial relationship with Maj. Gen. Henry H. Arnold, Chief of Air Corps. Arnold, an aviation pioneer who had learned to fly at the Wright brothers' school, had replaced General Westover, who had been killed in an air crash in September 1938.

One of the major problems facing Gen. George C. Marshall, Army Chief of Staff, was the difficulty of getting prompt action on air matters from the General Staff. Marshall and Secretary of War Henry L. Stimson decided to make changes. Staff work must be decentralized, Stimson ordered, "to permit Air Force autonomy in the degree needed." Acting expeditiously, in March 1941, Marshall told Arnold to coordinate all air matters. Marshall wanted direct lines of authority. The reaction to events in Europe began to change Army organization.

Was it time to give the Air Corps independence? Marshall and Robert A. Lovett, ex-Navy World War I flyer who in April 1941 had been appointed Assistant Secretary of War for Air, thought not. They preferred a kind of quasi-autonomy to another potentially divisive debate while the Air Corps faced the formidable task of building its forces. And Arnold, with the opportunity finally to build a modern air arm and confident of his relationship with George Marshall, primarily wanted to succeed in creating a combat air force. The rest would follow. Thus was established one of the most effective top echelon combinations in wartime Washington—Marshall, Arnold, Lovett. It would be a relationship based on shared goals and trust—dedicated to the idea that mutuality of interest in a time when survival was at stake took precedence over the question of independence for the air arm.

On June 20, 1941, Army Air Forces was established by revision of Army Regulation 95–5. With provision for an Air Staff, the Chief of Army Air Forces—also to be Army Deputy Chief of Staff for Air—would coordinate the Office, Chief of Air Corps and an Air Force Combat Command, a redesignated GHQ controlling four continental air forces and their subordinate bomber and interceptor units.

Other developments reflected increasing recognition of the importance of airpower. In July 1941, the Joint Army-Navy Board added to its membership the Army Deputy Chief of Staff for Air and the Chief of the Navy Bureau of Aeronautics. In August, Arnold accompanied President Roosevelt to the Atlantic Conference meeting with British Prime Minister Churchill. Though Arnold's presence was due to the fact that the British were represented by their air, ground, and naval chiefs (the RAF had been an independent service, combining Britain's army and naval air arms, since 1918, and it was thus necessary for Roosevelt to have his chief airman present), the President had also ordered a buildup of military aviation and the AAF was drawing offensive air plans. The British Chiefs were naturally interested in Arnold's views.

Thus, Arnold took his place as a member of the US Joint Chiefs of Staff and the Anglo-American Combined Chiefs of Staff. This was tacit recognition that the air forces had become the equal of land and sea forces. Marshall trusted and frequently asked for Arnold's opinion. And when Arnold recommended, Marshall usually approved. "I tried to give Arnold all the power I could," noted Marshall, "and tried to make him as nearly as I could Chief of Staff of the Air."

Meanwhile, General Marshall had made the connection between the AAF's desire for more freedom and his own conviction that the General Staff's responsibilities should be decentralized. The Staff, he noted, had "lost track of the purpose of its existence. It had become a huge, bureaucratic, red tape-ridden, operating agency. It slowed down everything." Just before the attack on Pearl Harbor, Marshall assigned Air Corps Brig. Gen. Joseph T. McNarney of the War Plans Division as head of a group to reorganize the General Staff. Under McNarney were Col. William K. Harrison, Jr., and Lt. Col. Laurence S. Kuter.

The result of this committee's deliberations was publication in March 1942 of War Department Circular 59, by which the AAF achieved the kind of autonomy that Stimson had envisioned. This document would be effective for the duration of the war plus six months, under authority of the First War Powers Act of December 18, 1941.

Moreover, Circular 59 made the AAF one of three autonomous Army commands, along with Army Ground Forces headed by Lt. Gen. Lesley J. McNair and Services of Supply, subsequently Army Service Forces, under Lt. Gen. Brehon B. Somervell. GHQ was inactivated, and functions of the Commanding General, GHQ Air Force (now Air Force Combat Command) and Chief of Air Corps were transferred to the Commanding General, AAF. After March 1942, the Air Corps continued to be the principal component of the AAF, but the Office, Chief of Air Corps and AFCC were abolished. Officers continued to be commissioned in the Air Corps. This reorganization was a landmark for the Army airmen, the AAF having been recognized as coequal with the Army's Ground Forces and Service Forces.

The AAF received another boost in July 1943 by publication—in which Kuter was instrumental—of War Department Field Service Regulations ("Command and Employment of Air Power"). "Land power and air power," it stated, "are coequal and interdependent forces; neither is an auxiliary of the other."

THE AAF'S COMBAT RECORD

The record made by the AAF in World War II through demonstration of the importance of all forms of airpower made the drive for autonomy unstoppable. Tactical air forces made tremendous contributions to the Army's offensive in Europe, and the performance of Gen. George C. Kenney's AAF units convinced Gen. Douglas MacArthur of the crucial role to be played by airpower in the Pacific.

Strategic airpower, which Generals Arnold and Andrews had emphasized as the independent mission, demonstrated its destructive power. Despite a slow buildup in Europe and diversion of forces to North Africa, in early 1944 the bombers and their long-range fighter escorts defeated the Luftwaffe and crippled Germany's oil production. A successful invasion of the continent was thus assured.

In the Pacific, Arnold all along had planned to have B–29s show the ultimate power of the long-range bomber. During March–May 1945, these aircraft of Maj. Gen. Curtis E. LeMay's XXI Bomber Command dealt Japan's urban areas a series of devastating blows. The combination of the naval blockade and B–29 offensive was defeating Japan. Nevertheless, an invasion of Japan was being planned.

The leading invasion proponent was General Marshall, backed by MacArthur. Accepting Marshall's view, in June 1945 President Harry S. Truman directed that planning proceed for invasions of Kyushu on November 1, 1945, and Honshu in March 1946. Arnold did not contest Marshall's view. The AAF Chief was convinced the war would end by November. The AAF owed its quasi-autonomy to Marshall and, moreover, the Army Chief of Staff had promised Arnold support for independence once the war ended.

Because of his conviction that Japan would soon surrender, Arnold—alone of the Joint Chiefs—told Truman at Potsdam that it wasn't necessary to drop the atomic bomb to end the war. Arnold thus took a position different from Marshall, who advocated that the bomb be dropped in order to save lives that would be lost in an invasion.

Arnold thought that Japan's capitulation—without dramatically unleashing a new weapon—would demonstrate the decisive power of conventional strategic bombing. He also figured this would silence critics of air autonomy. The B–29 offensive, he emphasized, was aimed at "the defeat of Japan without invasion." Use of the atomic bomb "provided a way out for the Japanese government." The atomic bomb did not win the war. After Japan's surrender, Arnold expressed concern to General Spaatz that in the future "there will be certain people who will forget the part we have played."

Conversely, the A-bomb could solidify the case for independence. The bomb had been carried to Japan by B–29s. Future wars would be of short duration. Great armies would not be needed. Strategic airpower was now preeminent. A separate air force was in the national interest. It would have its own budget and promotion system.

Despite AAF's contribution to victory, air leaders proceeded on the basis that autonomy was not assured. The legislative process would be long and complex. The Navy had opposed independence, fearing naval air would be lost to the new service. The Royal Navy, after all, had lost its air component to the RAF. However, by the end of the war, the Navy ceased to oppose a separate Air Force, provided the Navy and Marine Corps retained their air arms. Rather than a unified department, the Navy proposed three separate but equal departments coordinated through JCS.

Meanwhile, before the war ended, coordination deficiencies between the services and increasing discussion of unification forced military leaders to think about reorganization, which Congress had already considered and which had been studied by the services. During the war, major changes in the War and Navy Departments had been made under war powers granted President Roosevelt by Congress, the JCS had been organized, and the principle of unity of command in the field was adopted. However, integration was not complete. Consequently, military leaders were concerned lest the President's war powers lapse (six months after the war) without internal statutory changes having been made in the War and Navy Departments. Otherwise, the Departments would

revert to their prewar organization. Understandably, AAF was much concerned, since during the war it had gained a substantial measure of autonomy.

PRELUDE TO UNIFICATION

In the spring of 1944, the Joint Chiefs had appointed a Special Committee for Reorganization of National Defense. Its report of April 1945 noted that "mutual lack of understanding between the several components has not been eliminated." It also stressed that anticipated postwar austerity would demand the most effective use of resources, a point General Marshall (remembering post-World War I) was fond of reiterating.

The Committee's major recommendation that a Department of the Armed Forces be established, headed by a civilian Secretary, was based on these premises: (1) the Navy would keep an aeronautical organization "commensurate with its needs"; (2) the Marine Corps would remain part of the Navy; (3) the Army would retain "such specialized aviation as forms an integral and essential part of its ground forces"; and (4) there shall be a United States Air Force, "coordinated with the Army and the Navy." According to the Committee, creation of USAF would accord with an already existing situation: "The present position of the Army Air Forces is not accidental, but has evolved through practical experience." The Committee believed the Secretary of the Armed Forces would have more influence as a member of the Cabinet (under the President as Commander in Chief) than three independent secretaries representing "separate and perhaps conflicting interests of their individual organizations."

Anticipating postwar demobilization, the Committee observed: "History . . . indicates that as funds grow tighter . . . each service withdraws into its own shell, as it has done in the past, and each concentrates on those things essential to its own profession without giving consideration to common problems." This report was not unanimous. The two Army members (one of them AAF Maj. Gen. Harold L. George) and one from the Navy concurred in the majority report. Adm. J. O. Richardson, Committee Chairman, filed a minority report opposed to establishment of a Department of the Armed Forces and a separate Air Force. Despite Richardson's opposition, the Committee's proposals remained a basis for future plans and recommendations.

Meanwhile, President Truman was convinced the services should be "unified" and that the Army Air Forces should be made independent and coequal with the Army and Navy. During the war, Truman had served as Chairman of the Special Committee to Investigate the National Defense Program, and he was determined to make the services more efficient. Also, he had concluded that Pearl Harbor had been "as much the result of the inadequate military system which provided for no unified command, either in the field or in Washington, as it was any personal failure of Army or Navy commanders."

In October 1945, Lt. Gen. Ira Eaker, Deputy Commander, AAF, acting on a memo from Col. Jacob E. Smart, Secretary of the Air Staff, had asked the Air Judge Advocate to draft proposed legislation for a single Department of National Defense and a separate Air Force. Previously, Eaker had directed the Air Staff to create a reorganization plan for the postwar Air Force. The Air Staff's Post-War Division, under Maj. Gen. Laurence S. Kuter, Assistant Chief of Air Staff/Plans, had been working on organization plans—based on an autonomous postwar Air Force—since the summer of 1943 (as had the War Department's Special Planning Division) and had successively devised several plans. In August 1945, these had culminated in the plan for a seventy-group Air Force.

Then, in December 1945, Eaker established an Ad Hoc Committee on Air Force Reorganization. Its report of May 1946 concluded that organization of the postwar Air Force would be based on "parity" with the Army and Navy. This meant, among other things, addition of certain command, staff, service, and supply responsibilities equivalent to the Army's and Navy's. Moreover, as earlier specified by General Arnold, individuals would be distinguished by military occupational speciality instead of branch or corps, and promotion would be ensured by a single list, regardless of speciality.

Meanwhile, between August and December 1945, the services failed to agree on postwar requirements and roles and missions. The Bessell Board, formed to determine the Army's (and AAF's) postwar requirements, concluded it was "impossible . . . to envisage precisely the nature of the military establishment with which we will enter the next war." Frustrated by this lack of action, on December 19, 1945, Truman proposed to Congress creation of a Department of National Defense (three coordinate branches) headed by a civilian secretary. He recommended that the Navy keep its carrier aviation; that the Marines be kept as part of the Navy Department; and that there should be a Chief of Staff of the Department of National Defense, a post to be rotated among the services.

In addition to Truman and Marshall, support for a separate Air Force was voiced by Secretary of War Robert P. Patterson (the contribution of the air forces "was essential to victory") and Army Chief of Staff Gen. Dwight D. Eisenhower, who replaced Marshall in November 1945. Returning to the United States from Europe, Eisenhower was surprised and discouraged to find such intense controversy evoked by unification: "It appeared that all men wearing one color of uniform had one conviction while those wearing another color developed opinions to the exact contrary." Convening top Army and AAF officers, Eisenhower emphasized, especially to the Army leadership, that an Air Force should be created, equal to the Army and Navy. This would put the Air Force in its "legitimate place." He made clear he would actively support the necessary legislation. And Arnold observed that airpower's mission was preeminent: "Henceforth, those who develop the methods and equipment for its fundamental employment must have this as their major responsibility."

However, naval leaders were convinced that unification would place the Navy at the mercy of what they considered their two rivals, whose interests would frequently coincide. The Navy remained fearful that a merger would find the Army absorbing the Marines and the Air Force taking over naval aviation. The Navy held that each service should be self-sufficient in all areas in order to carry out its mission. The Army and AAF countered that such self-sufficiency was neither desirable nor attainable. In the spring of 1946, Chief of Naval Operations Adm. Chester W. Nimitz, Eisenhower, and Spaatz (now Commanding General, AAF) made another attempt to resolve roles and missions, but Eisenhower and Spaatz found Nimitz' views unacceptable. Thus, the JCS shelved this subject.

Meantime, prior to expiration of the President's war powers, the War Department reorganized in the spring of 1946 as directed by W. D. Circular No. 138. Based on Eisenhower's desire to strengthen the General Staff, this reorganization also established the structure under which AAF would remain until independence. This new organization was based on recommendations of a board headed by Army Lt. Gen. William H. Simpson, but it was also influenced by agreement between Eisenhower and Spaatz. Though Arnold and Spaatz had proposed that the Air Staff should be coequal with the General Staff until unification, the Air Staff was made coordinate with Army Ground Forces' Staff (Army Service Forces was abolished). However, the AAF would nominate about fifty percent of members of the War Department General and Special Staff divisions. Circular No. 138 stated that AAF must be provided with the maximum degree of autonomy permitted by law without permitting the creation of unwarranted duplication in service, supply, and administration." Most administrative and technical officers would be furnished to the AAF; after separation, a quota of these officers would become members of the Air Force.

THE NATIONAL SECURITY ACT OF 1947

By the autumn of 1946, Truman—frustrated and impatient—had made clear that the services had no choice but to agree on draft merger legislation. As a result, AAF Maj. Gen. Lauris Norstad, Director of Plans and Operations, War Department General Staff, and Deputy CNO Adm. Forrest Sherman—after conferring with Secretary of the Navy James V. Forrestal and Patterson—began a series of meetings to resolve roles and missions and establish a framework for unification. In December, Norstad and Sherman completed a directive, approved by the JCS, assigning theater commander control of seas, air, and ground forces within his specific area. Such "unified" commands would be established in Europe and the Far East. This directive required unified commanders to establish joint staffs with members from the "various components of the services." Norstad and Sherman also drafted a roles and missions paper and proposed that these service functions be approved by the President after enactment of legislation.

Based on Norstad and Sherman's work, on January 16, 1947, Patterson and Forrestal sent a joint letter to Truman indicating they had agreed on draft legislation including a proposed Executive Order delineating service functions. The Forrestal-Patterson agreement recognized that a compromise was required if the unification bill was to receive support from the services and Congress. Patterson and Forrestal wrote Truman that they had agreed to support legislation which provided for: (1) a Secretary of National Defense; (2) an Army, Navy (including Marines and naval aviation), and Air Force, each with a military chief, under executive Departments of the Army, Navy, and Air Force, (3) a Council of National Defense, a National Security Resources Board, and a Central Intelligence Agency; (4) a War Council; and (5) a Joint Chiefs of Staff. Each service Department would be headed by a civilian secretary.

Patterson and Forrestal agreed that the proper way to delineate roles and missions was by Executive Order, concurrent with Truman's approval of legislation. They enclosed a draft Executive Order, which eventually became EO 9877, signed by the President on July 26, 1947. Truman replied to Patterson and Forrestal that "each of the services had made concessions. . . . The agreement provides a thoroughly practical and workable plan of unification." In January and February 1947, Norstad and Sherman completed a draft of a proposed National Security Act. On February 27, it was submitted to Congress.

The AAF wanted a strong bill—an independent Air Force and substantial authority vested in the Office of the Secretary of the National Military Establishment. Both Spaatz and Assistant Secretary of War for Air Stuart Symington expressed confidence in a "super-secretary." Also, Spaatz testified that control of the air could best be gained by having air units operate under command of an independent air arm. All other major nations of the world, he emphasized, had organized air forces coequal with armies and navies. Unification would foster integrated strategic planning and unified action.

It would create a more efficient and economical establishment. Spaatz accepted a role for aircraft carriers, but opposed duplication of the Air Force's "large land-based airplanes."

However, the Navy, desiring land-based reconnaissance and antisubmarine missions, wanted service functions written into the Act. Eisenhower and Spaatz, working closely, opposed a detailed Act, Eisenhower holding that "in vast human effort, good will is far more conducive to efficient operations than is any mere organizational detail." It was unrealistic "to establish the rules by which every service would operate in all its actions, functions, and responsibilities." Legislation should establish only fundamental principles.

Spaatz (to become the first USAF Chief of Staff) and Eisenhower thought the services could accept decisions by a Secretary of National Defense solely concerned with national interest. In March 1947, they signed a Memorandum of Understanding expressing their desire to grant substantial power to the Secretary. Conversely, Forrestal espoused the concept of the secretary as coordinator. Eisenhower replied that the country needed a secretary with authority "to get things done."

Anticipating passage of the evolving unification bill, the War Department at Eisenhower's request convened a Board of Officers during January–March 1947 under Army Maj. Gen. William E. Hall to resolve administrative and organizational problems attending separation of AAF from the Army. AAF Maj. Gen. Hugh J. Knerr, Director-General of the Air Board, was a member of the Hall Board. The Board's report concluded that an organization featuring unified control over a coordinate structure of three departments promised to foster "sound and efficient balance in development of each arm of service." Reflecting the Army and AAF view, it noted that the bill would be a first but necessary step. The Patterson-Forrestal compromise was "the best possible solution attainable at this time." Legislation should contain broad powers to enable the Secretary of National Defense to increase economy and efficiency: "It is impracticable and unsound administratively to attempt to fix by statute the details as to how an administrator is to accomplish this task."

Reorganization was tremendously complex. It would have to be evolutionary. Consequently, legislation would prescribe two years to transfer personnel, property, installations, and agencies between the Army and Air Force. Eisenhower and Spaatz had agreed that the Air Force would not immediately form separate special services. Eisenhower and Patterson were especially concerned about the Air Force possibly creating its own medical corps. Congress, convinced that separate service and supply agencies were wasteful, and attracted by potential elimination of duplication through unification, was watching the issue of specal services closely.

On the other hand, some in the AAF doubted the Air Force would receive adequate support from the Army. The Hall Board report stated that the War Department would continue logistically to support the Air Force. Further, "determination as to what constitutes common items and services would be made by the Secretary of National Defense or through interdepartmental agreement in which cases, one of the departments will be designated as the common supply or service agency for those particular items or services."

In September 1947, Eisenhower and Spaatz would sign an agreement that stated "each Department shall make use of the means and facilities of the other departments in all cases where economy consistent with operational efficiency will result." Subsequently, critics charged that this agreement allowed the Air Force to create its own supply system. However, the Air Force did not consider the agreement to be binding indefinitely. After two years, air leaders knew the USAF would require its own professional services if it was truly to be coequal with the Army and Navy.

The National Security Act (Public Law 253), passed by Congress and signed by Truman on July 26, 1947, created the United States Air Force within the National Military Establishment (NME). The Act also established the National Security Council and the National Security Resources Board. It gave statutory basis to and redefined functions of the JCS, Research and Development Board, Munitions Board, and Central Intelligence Agency. Under the Act, the Secretary of Defense had great responsibility but lacked authority. Truman named Forrestal as Secretary after Patterson declined the post, saying it was necessary for him to leave government for financial reasons.

The NME comprised the Departments of the Army, Navy, and Air Force, to be administered as executive departments. Service secretaries held membership on the National Security Council. This lessened the authority of the Secretary of Defense (the services were downgraded to military departments by the Amendments of 1949, service secretaries no longer sitting on the NSC). Forrestal's control was also negated by a proviso that allowed service secretaries access to the President after first informing the Secretary of Defense. Powers and duties not specifically conferred on the Secretary of Defense would be retained by service secretaries. Consequently, the authority of the Office of Secretary of Defense was limited. Forrestal's charter only to exercise "general direction" put him in a weak position. Ironically, the Army and AAF had fought for a strong OSD; the Navy opposed.

The National Security Act of 1947 specified that USAF "shall include aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations." Thus, the Act established USAF in broad terms. This gave the Air Force flexibility to organize its headquarters and field structures.

The Air Force was established as an executive department—the Department of the Air Force—headed by a civilian Secretary of the Air Force with an under secretary and two assistant secretaries, all appointed by the President, with consent of the Senate. The United States Air Force was established under the Department of the Air Force. The Army Air Forces, the Air Corps, and the General Headquarters Air Force (Air Force Combat Command) would be transferred to USAF. The Act provided that a Chief of Staff, USAF, would be appointed by the President for a four-year term.

THE REALM OF THE POSSIBLE

The National Security Act created the Air Force, but this bill was not exactly what any of the services wanted. General Eaker noted that the Act "legitimized four military air forces." However, the architects had to maneuver within the realm of the possible, which meant compromise. Prior to becoming Secretary of the Air Force on September 18, 1947, Stuart Symington observed that a "better bill" could have been drawn, but "a bill which we considered better could not have gotten everybody's approval; and therefore would not have given the President the opportunity to show agreement to the Congress and the people. I don't say this is a good book, but I do say it is a good chapter."

The Act was a compromise (which some argued reflected more the Navy's than the Army's views) designed to achieve a common goal—for the first time in American history placing the military within a national defense framework. At the time, it was probably the best attainable law. The result failed to resolve points of contention—roles and missions and lack of requisite authority in OSD. Thus, the Act contained the roots of future disagreement. A decade later, President Eisenhower would observe: "In the battle over reorganization in 1947, the lessons of World War II were lost. Tradition won. The resulting National Military Establishment was little more than a weak confederacy of sovereign military units . . . a loose aggregation that was unmanageable."

However, for a nation that fought wars with citizen-soldiers (then always demobilized), with a history of latent antimilitarism, passage of the Act was an extraordinary accomplishment. The war had demonstrated its need. The country required an Air Force. The substantial autonomy given the AAF in wartime reflected the growing opinion of civilian and military leaders that the growth of air technology and the increasing scope and complexity of air warfare demanded a separate service.

And so creation of USAF on September 18, 1947, culminated a long struggle. It was an uphill battle fought by men—for years, a small band of airmen—of vision and faith. Men who were the revolutionaries of their time. Symington called them "a tight-knit group of activists." It seemed as if they believed that perseverance and faith would ultimately create reality. The AAF leaders remembered the struggles of the prewar years. They led the Army Air Forces in World War II, an AAF swelled by citizen-soldiers who demonstrated rare courage and skill.

On the eve of war, the United States was fortunate to have an unusually competent core of military leaders in all services. These men directed a massive, unprecedented buildup of forces. It was a tremendously difficult task. A mission so great in magnitude and complexity that its enormity easily becomes elusive with the passing years. To Gen. Hap Arnold fell the awesome responsibility of leading the wartime air forces. He welcomed it. Arnold was an authentic air pioneer, going back to the Wright brothers' era. Over several decades, he demonstrated vision, will, and leadership. He was not alone. The Army had many unusually able airmen.

On September 15, 1947, speaking to the first annual convention of the Air Force Association in Columbus, Ohio, Stuart Symington (Secretary-designate of the Air Force) said:

"No Air Force can be created by legislative action alone. All the National Security Act of 1947 has done is give us the green light. It must be considered an opportunity and not an accomplishment.

"We cannot pass the buck—to the War Department, or to the Navy, or to the Congress, or the people. We certainly cannot afford to rest on any laurels.

". . . . by being satisfied with nothing short of the very best we are capable of, the Air Force can fulfill with actual accomplishment the great opportunity it has now been given."

In the thirty years since September 1947, the Air Force has fulfilled this potential. That is a lasting tribute to the many founders of the United States Air Force.

SUGAR PROGRAM

Mr. JOHNSTON. Mr. President, many comments have been made in the last several months about the crisis facing sugar producers which clearly show the need for help if our domestic industry is to survive. I want to indicate today my strong support for the farm bill conference report's sugar proposals and emphasize again the absolute necessity of implementing the sugar program immediately.

I recently joined the distinguished senior Senator from Louisiana, Mr. LONG, and 27 of my colleagues in urging the President to implement the sugar program now and I ask unanimous consent that the text of our telegram be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, because many producers normally sell part of their crop forward, prior to harvest, inaction will interrupt normal marketing of the sugar crop. Lack of action indicates a misunderstanding of sugar production and, in effect, may fail to honor the congressional commitment seen in the program approved by the conference and passed by the Senate Friday.

I urge the administration to act quickly and effectively to honor the congressional commitment and to prevent the loss of our domestic sugar industry.

The telegram follows:

EXHIBIT 1

SEPTEMBER 9, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

The economic plight of domestic sugar farmers and processors is of gravest concern. Each day of inaction contributes to further deterioration of the already depressed financial situation of the industry. Foreign sugar is being dumped into the market in record proportions. Administrative authority exists for the Department of Agriculture to take action. Mr. President, that authority is further backed by the substantial House vote favoring the de la Garza Amendment. House and Senate Conferees recommended that the sugar program called for by the Conferees be instituted without further delay. It is distressing to note that the Administration has already announced the Conferees' recommended programs for wheat and feed grain farmers but has taken no action whatever to implement the sugar program that is critically needed by sugar farmers. We strongly endorse the Conferees' recommendation on sugar and plead for immediate implementation of the program.

Russell B. Long, J. Bennett Johnston, Floyd K. Haskell, Lloyd Bentsen, John Tower, Quentin Burdick, Lee Metcalf, Carl T. Curtis, Edward Zorinsky, Spark M. Matsunaga, John Melcher, Gary Hart, James A. McClure, Lawton Chiles.

Hubert H. Humphrey, Wendell R. Anderson, Robert Dole, Frank Church, Richard Stone, Clifford P. Hansen, Daniel K. Inouye, S. I. Hayakawa, George McGovern, Milton R. Young, James Abourezk, Orrin G. Hatch, Donald W. Riegle, Malcolm Wallop, Alan Cranston.

NANCY HANKS—SUCCESS IN PURSUIT OF EXCELLENCE

Mr. JAVITS. Mr. President, Nancy Hanks has announced her intention to resign at the completion of two terms as the chairman of the National Endowment for the Arts. All Americans who love the Arts owe Nancy Hanks a profound debt of gratitude for her devotion and her accomplishments. The National Endowment for the Arts will greatly miss this leader of colossal talents, and the Federal Government will shortly lose a successful and gifted administrator.

Miss Hanks came to these responsibilities at NEA following a distinguished career in New York. Her effectiveness as a spokesperson to the Congress, to private donors and to the Nation at large has been almost legendary during her 8 years of Federal service.

I am sure that the Arts Endowment will continue to build on this great foundation, the legacy of success which it achieved under Nancy Hanks' leadership. Continued success will be built in large measure on her achievements over these past 8 years. This leadership has brought the benefits of artistic endeavors to millions of Americans previously untouched by the arts. On behalf of the people of my State of New York and the Nation, I express to Nancy Hanks our deep gratitude and congratulations on her accomplishments. The arts have always relentlessly pursued excellence. As our national leader for the arts, Nancy Hanks has fully met this standard.

The Washington Post has recently published an editorial which comments on her service at the endowment. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 5, 1977]

NANCY HANKS: A HARD ACT TO FOLLOW

It will not be easy to find another Nancy Hanks to run the National Endowment for the Arts—and that's probably as it should be, for the challenge now confronting the endowment is quite different from the one that Miss Hanks has handled with such admirable skill and energy. During her eight years on the job, Miss Hanks brought the NEA from relative obscurity to a position of great influence over a wide range of cultural activity in this country. Music, dance, drama, handcrafts, graphic art, the cinema, museums—all these have been nourished by a rising flow of federal grants awarded and administered by NEA under Miss Hank's guiding hand. The endowment's budget has soared from little more than $12 million in 1969 to almost $114 million in 1977. The increase in the number of grants has been equally dramatic from 711 in 1969 to more than 5,000 this year. An impressive network of state arts agencies has been developed, providing funds to thousands of local performing-arts and fine-arts groups and individuals.

As the quantity of NEA beneficiaries has increased, so has the quality—and the variety. NEA has reached beyond the better established, familiar and conventional cultural institutions to bring federal assistance to new, experimental activities and organizations, and to community-oriented projects. All this has largely been Nancy Hanks' doing, and she made it look easy, as she threaded her way through the cultural minefields in Congress and the bureaucracies with precision and sophistication. By her skill and hard work she has made the NEA a big and flourishing fixture on the American cultural landscape, and all those who are involved in or merely care for the development of the arts in this country are heavily in her debt.

But just because NEA's growth has been so considerable, and its accomplishments under Miss Hanks so impressive, her departure probably will serve, more or less, to mark the end of an era of expansion—an era that saw an explosion of federally assisted artistic activity across the country. What now lies ahead, we would suspect, is likely to be something of a breathing spell, devoted largely to the consolidation of the gains that have been made and the refinement of the endowment's programs and purposes. The obvious reason is that the amount of federal money available for subsidizing the arts is not going to expand at anything like the dizzying rate of the past eight years. And it shouldn't be expected to. Without being too arbitrary about it, it seems to us that there ought to be some cut-off point beyond which it is imprudent for the federal government to move in this field—some point at which the incentive to private patronage and support is diminished by too-easy access to the Treasury. There may well be a point, too, when excessive NEA expansion could stir damaging congressional resentment.

The demand for NEA funds, however, is not likely to slow down, with the result that Miss Hanks' successor may find the choices even harder to make and the priorities more difficult to fix than has been the case during the big expansion years. This probably puts a premium on finding new ways to encourage private support of state and local arts programs. The new chairman may also want to explore the possibility of making more readily available to local sponsors and managers of activities some of the technical and managerial expertise acquired by the endowment over the years.

The names of several candidates for the NEA chair have been floated about, and one senses that the campaigning, while restrained on the surface, is intense. Politics is no stranger to the talented, temperamental, strong-minded and passionate people that make up what is innocently referred to variously as the art world or the cultural community. So, for that reason alone, we would suspect that the administration's choice will not be an easy one. We trust that it will be taken with some considerable care—for the good of the new chairman, as well as the cause of federal support for the arts. The performance of Nancy Hanks at NEA is not going to be an easy act for anyone to follow.

SOME QUESTIONABLE IDEAS ABOUT NAVAL AVIATION

Mr. HART. Mr. President, the Washington Post of August 29 contained an article entitled, "Memo Raps Navy on Spending for F–14," which suggests some tentative decisions about naval aviation have been made within the Department of Defense. Specifically, the article suggests that some within DOD may favor buying larger numbers of aircraft less capable than the F–14, and also that some individuals are opposed to the rapid development of V/STOL aircraft.

Unfortunately, these two alleged tentative decisions—to the degree they are accurate—reflect an inappropriate response to the requirements of naval aviation. The desire to purchase larger numbers of aircraft less capable than the F–14 would be laudable, if it would result in having more naval aircraft at sea. However, increasing the number of at-sea aircraft requires more than purchasing more aircraft. It also requires purchasing more carrier deck space.

This carrier deck space must be considered in the total cost of each at-sea aircraft. A modern aircraft carrier task force, for a *Nimitz*-class carrier and its escorts, costs about $4 billion for the ships alone. A *Nimitz* has space on board for about 90 aircraft. This gives a cost per aircraft space of approximately $44 million.

If we are already spending $44 million per at-sea aircraft just for the deck space, does it make financial sense to buy a less-capable aircraft to put in that space? An aircraft less capable than the F–14, such as the planned F–18, will save us several million dollars per aircraft. But as a percentage of the total cost per aircraft at sea this saving is small. We will have spent a great sum of money to have the aircraft at sea, yet we will have a significantly less capable aircraft, hence less total military capability. This would appear to be a case of making decisions simply on the basis of cost, rather than on the more correct basis of cost effectiveness.

The Post article also suggests that some within DOD hope to slow down our move toward V/STOL, and possibly to terminate the only program which can give us an effective naval V/STOL aircraft in the 1980's, the AV–8B advanced Harrier program. In my view, such a decision would be unwise for several reasons.

First, a decision to delay or discourage the development of VSTOL would lock us in to precisely the type of expensive, large aircraft carriers which, as illustrated above, require F–14 aircraft. If less costly aircraft are to be cost effective investments, they must cost less per carrier aircraft space. With VSTOL, we could move to smaller, less sophisticated aircraft carriers with a lower rate of cost per aircraft space. Not only can such carriers be more austere than *Nimitz* class carriers, they could also be designed to be self-escorting, which would even further greatly reduce the overall cost per aircraft space.

More important is the question of cost effectiveness in the overall military environment. While cost effectiveness dictates the procurement of highly capable aircraft for the large aircraft carriers already in the fleet or in construction, a Navy based on a small number of large aircraft carriers is a poor investment for the future. The most fundamental fact of the naval environment is that the vulnerability of every surface ship has risen dramatically over the last 15 years, and it continues to rise. Cruise missiles and other new technology weapons systems have greatly raised the chance that an individual ship will be put out of action in a naval engagement.

Therefore, if a given naval capability such as naval aviation is to be survivable, it must be dispersed onto a large number of platforms. Only VSTOL can permit us to so disperse naval aviation. With VSTOL aircraft such as the AV–8B Advanced Harrier, we can so complicate an opponents targeting, command and control problem that his chances of a successful preemptive strike are greatly reduced.

Thus, VSTOL is a cost effective investment in the present and future naval environment. In fact, it is difficult to see how naval aviation will remain viable unless it has VSTOL aircraft on a comparatively large number of platforms in the 1980's. I sincerely hope that those who are examining this issue, and the issue of the F–14 for the Department of Defense will appreciate that cost effectiveness, and not just cost, must be the guideline by which we plan the future of naval aviation.

Mr. President, I ask unanimous consent that the article, "Memo Raps Navy on Spending for F–14," from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEMO RAPS NAVY ON SPENDING FOR F–14

(By George C. Wilson)

The Navy has been devoting such a large chunk of its budget to buying the highly sophisticated and expensive F–14 Tomcat fighter that it has not procured enough aircraft "to prevent excessive and eventual decline in force levels," according to a secret memorandum prepared by the staff of Defense Secretary Harold Brown.

The memo also indicates that Brown's staff believes the Marine Corps is trying to move ahead too rapidly with purchases of airplanes, known as VSTOLs, that can take off and land vertically.

The memo is one of a number coming in to Brown as part of a program he has undertaken to force the services to get more weapons for their money and to operate with fewer people. The program, reminiscent of one undertaken by Defense Secretary Robert S. McNamara in the early 1960s, is being imposed on the services by Brown as he prepares their budgets for the next five years.

According to one memo obtained by The Washington Post, so much Navy money has been going to buy the F–14—at $19 million a plane—that all during the 1970s the fleet has been getting only about one-third the number of fighter and attack planes it has needed.

"Since 1970," the secret memo states, "the Department of the Navy has not procured enough fighter/attack aircraft to prevent excessive and eventual decline in force levels . . ."

Instead of the "minimum necessary" purchase of 180 planes a year to fill fleet needs, the memo complains, the Navy has been buying only about one-third of that, including 56 in the current fiscal year and a "not much improved" request for 57 in the fiscal 1979 budget now in preparation.

The Navy has been buying "roughly 50" F–14s a year instead of more copies of cheaper planes, the memo says. The resulting shortages are worse than they look, the memo states, because the number of carrier air wings was reduced from 15 to 12 between fiscal 1973 and 1978.

Besides putting a disproportionate amount of money into the F–14 purchases, the memo complains, Navy leaders have been scattering their remaining aircraft dollars over too many different makes of planes.

The Navy flies "12 models of six different aircraft types," the memo states. "The consequences of this policy are inefficient production rates and high unit costs. Increased commonality and a reduction in the different types of aircraft" in the Navy's "fighter attack force must be accomplished" if squadrons are to be kept up to strength, says the memo.

Defense Secretary McNamara, for whom Brown worked as Pentagon research director and then Air Force secretary in the 1960s, used to order the same kinds of studies that are now going into Brown's in basket. The lack of "commonality" decried in the memo recently done for Brown was part of the impetus behind McNamara's insisting that the Navy and Air Force build a common fighter called the TFX and later the F–111.

However, the predicted savings from building one fighter for both services were not realized as the Navy broke off from the program and started to build the F–14 on its own. The rising costs of the F–14 drew fire from Deputy Defense Secretary William Clements during the Ford administration. Clements told Navy leaders they either had to build a plane cheaper than the F–14 or do without any new carrier planes at all, according to Pentagon sources.

The Clements warning was part of the pressure to build the F–18 fighter for the fleet. Now the F–18, being built by McDonnell-Douglas and Northrop, is experiencing such severe technical and money problems that Pentagon analysts are recommending everything from delay to cancellation.

To address the problems of buying the planes the fleet needs, Brown's advisers wrote that he had three basic choices: buy more planes in a hurry to fill current gaps; let the fleet go short for a while longer and build up gradually; or "immediately and permanently reduce" the number of planes assigned to the fleet so as not to break through budget guidelines.

To the distress of many Navy leaders and the affected airplane companies, sources said that Brown has tentatively decided to cut a lot of F–14s from the Navy's shopping list; cancel the Navy's planned purchases of the A–7 attack plane, and delay development of the F–18 for about a year.

Some of the gaps in the Navy's fighter and attack aircraft force would be filled by buying more A–6 attack planes than the Navy had intended in its budget plan covering fiscal 1979 through 1983.

In other actions that some Navy leaders portrayed as the biggest blow yet to their plans to switch from the giant Nimitz-class to smaller "midi" aircraft carriers, Brown is recommending a lower entry into the age of vertical and short take off and landing aircraft. His misgivings about VSTOL, a technology that proved disappointing in Brown's earlier Pentagon tour, have prompted him to slash the Navy's proposed five-year VSTOL budget from $1.2 billion to $550 million, Pentagon sources said.

At the same time, Brown is recommending a slowdown in the Marine Corps' march into the VSTOL era by denying money for the British-designed Harrier, both the version now flying and an improved version scheduled to be delivered soon.

If Brown's slash of VSTOL development money sticks through the budget process underway, one congressional action can be predicted with certainty. House Armed Services Committee critics of abandoning the $2 billion Nimitz carrier for the "midi" before a new generation VSTOL plane is ready would argue that any Pentagon-ordered delay in VSTOL development should also delay the replacement of the Nimitz.

Navy Secretary W. Graham Claytor, sources said, is among those distressed by Brown's proposed slow-down in VSTOL planes for the "midi."

Also, Claytor is said to favor scrapping the F–18 to enable the Navy to buy more F–14's and other sophisticated planes.

In reviewing the Marines' plans for buying more Harriers for troop support, Brown is proposing that the corps buy more of the proven McDonnell-Douglas A–4M attack planes and cut back on purchases of the Harrier. There is a chance under this revised plan that the Marines would not get the advanced Harrier, the AV–8B, at all, but this has not been decided, sources said.

Navy leaders who want to keep buying large quantities of the F–14 argue that the Soviet threat to the fleet dictates that this fighter be purchased even though it means going without as many new aircraft as the fleet needs. But Brown's recommended cancellation of the Air Force B–1 bomber and other budget actions indicate that he be-

lieves a weapon can price itself right out of the U.S. arsenal.

BROWN SAYS SOVIET BUILDUP POSES A 'POTENTIAL DANGER'

Secretary of Defense Harold Brown says the Soviet Union's military and civil defense preparations could mislead Soviet leaders into thinking their country could survive a nuclear war.

Brown, in a copyrighted interview in U.S. News & World Report, said the Soviets' military buildup so far has not shifted the strategic balance against the United States, but he warned that if the present trends continue "then I think the situation five years down the road could be a serious one."

Brown said there is a "potential danger" the Soviets are preparing to fight a nuclear war rather than simply deter one.

"I can't say whether that's the Soviet doctrine and plan. I'm not sure that their own political leaders know themselves. But I believe that they are building up military forces that might mislead them into thinking that such a strategy was feasible for them," Brown said.

"The level of the Soviet civil defense effort is of some concern because it suggests that they may—mistakenly, in my belief—arrive at the conclusion that they could survive as a functioning and powerful country after an all-out themonuclear exchange," Brown said.

On Western Europe, Brown said the NATO countries have to maintain economic and political strength, as well as military, to ward off any threat from the Soviet Union.

Brown said the American forces in NATO are in the best shape they have been in over the past 16 years.

MEXICO'S INDEPENDENCE DAY

Mr. TOWER. Mr. President, today marks the 167th anniversary of Mexico's independence from Spanish rule, a period that lasted more than 350 years. September 16 or Diez y Seis is observed with pride by Mexico and all persons of Hispanic heritage as that date in history when a courageous people declared an end to Spanish rule. On this date in 1810, Father Miguel Hidalgo Y Costilla led the call for his country's independence with his famous "Grito de Dolores."

In recognition of the many contributions the Hispanic American community has made to our own Nation, the President proclaimed this week National Hispanic Heritage Week, 1977. In issuing this proclamation, he called upon the American people to observe this week with appropriate ceremonies and activities, reflect upon the influence of Hispanic culture in our land, and most importantly to encourage the full participation of Hispanic Americans in every phase of American life.

I am pleased to note that the Hispanic community in my own State, particularly as represented by the Mexican-American community, will be honoring and observing this historic date. Yet, in Texas as in so many other States these observances will also be joined by citizens who have no cultural or heritage ties to Mexico but who nonetheless recognize and value the spirit of freedom symbolized by Mexico's Independence Day. Clearly it is this spirit of freedom that forms the common bond between our two nations, and which compels each to guard jealously the independence gained so many years ago.

Mr. President, in my own State, the full participation of the Hispanic American in every phase of American life continues to be a cherished goal. While considerable progress has been made, much still remains to be done. The progress already made toward that goal, however, has depended in great part upon the willingness and partnership of the total Texas community. At the same time, various organizations in my State have diligently represented the interests and concerns of Texans who are also citizens of Mexican or Hispanic ancestry. These organizations have worked to accomplish this goal of full participation, and it is clear that they have contributed immeasurably. Although by no means inclusive, this list of organizations includes the following: League of United Latin American Citizens—LULAC—American GI Forum of the United States; National IMAGE; SER; and the Mexican American Legal Defense and Educational Fund—MALDEF.

Mr. President, National Hispanic Heritage Week, 1977, reminds all Americans of the highest value we place upon our freedom as a Nation. I am pleased to urge my colleagues therefore to take special note of the historical significance of Diez y Seis.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY, SECURITY ASSISTANCE, OASD/ISA

Washington, D.C., September 15, 1977.

In reply refer to: I–6309/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Commitee on Foreign Relations, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 77–82, concerning the Department of the Navy's proposed Letter of Offer to Korea for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR) estimated to cost $33.9 million and support costs of $23.0 million for a total estimated cost of $56.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Attachments.

TRANSMITTAL NO. 77–82: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Korea.

(ii) Total estimated value: Major defense equipment,* $33.9 million; other, $23.0 million; total, $56.9 million.

(iii) Description of Articles or Services Offered: Three-hundred forty-one (341) AIM–7E–2/3 SPARROW missiles.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered to be Paid: None.

(vi) Date Report Delivered to Congress: September 15, 1977.

SUMMER YOUTH EMPLOYMENT PROGRAM

Mr. JAVITS. Mr. President, there is an old saying about Government programs that the success stories are not newsworthy; that only the allegations of fraud or the reports of ineffectiveness can generate attention. The summer youth employment program, which has always been of particular interest to me, has been the subject of several critical articles in recent months. Now, however, in a recent editorial, the Buffalo Courier Express reports on the long-run benefits of this fine program. Clearly, the Buffalo experience demonstrates that where prime sponsors operate programs with a view toward affording long-run benefits to localities and to the youths themselves, the summer youth employment program can be an effective instrument for social and economic improvement.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial which appeared on September 7.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUMMER JOBS PRODUCE LASTING RESULTS

Teen-agers employed this summer in the Town of Tonawanda's federally-funded job program have left the community a few lasting reminders of their endeavors. One such is the newly painted clubhouse of the Town of Tonawanda Police Club Inc. Seven youths devoted eight weeks to sprucing up that facility, which is used by community groups as well as the nonprofit police organization. Others were assigned to the repair of fire-damaged buildings in Ellicott Creek Park, one of Erie County's most popular recreation spots.

While we realize the importance of the jobs as a source of revenue to poverty-level youths and their families, it is gratifying to learn that some of the youngsters involved are being taught things more enduring than grass-cutting and leaf-raking and are gaining the satisfaction of performing tasks that will remain visible for years to come.

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

THE GENOCIDE CONVENTION AND THE FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, during the many years the Genocide Convention has been before the Senate, the argument has frequently been raised that its ratification would be in conflict with the rights guaranteed all Americans by the first amendment. Those who rely on this defense have testified that the definition of genocidal acts to include "direct and public incitement to commit genocide" infringes upon every citizen's right to free speech. This argument has no merit.

Initially, the Supreme Court ruled in the case Brandenburg against Ohio, that there exists a clear dividing line between speaking in public and public incitement, and that the latter had always been a criminal act. So the Genocide Convention instead of being in conflict with our Constitutional rights actually upholds the principles behind those rights as envisaged by our Nation's founders.

In addition, the American Bar Association, which has done exhaustive research and analysis of the convention, has concluded that such a conflict does not exist, and has strongly urged its ratification.

Finally, former Chief Justice Earl Warren, Justice Thomas Clark, and Justice Arthur Goldberg of the Supreme Court have rejected these legalistic excuses. Mr. Goldberg testified during May of this year that:

". . . there remains no constitutional lawyer of any eminence, no constitutional scholar of any distinction, who has regarded the constitutional objections to be worthy of even serious notice. Justice Clark said that the objections are anachronistic, and indeed they are.

Mr. President, the complete compatibility of the Genocide Convention and the U.S. Constitution and its amendments has been consistently upheld. I urge my colleagues to help maintain our country's role as a leader in the advocacy and protection of human rights by sweeping aside pointless delaying tactics and ratifying the Genocide Convention.

ENHANCING THE VERMONT TRADITION

Mr. ROBERT C. BYRD. Mr. President, Vermont was the first State to be admitted to the Union after the adoption of the Constitution. But even before that time, the people of that area of New England had established a unique reputation for diligence, pragmatism, patriotism, dedication, and conscientiousness. The present citizens of Vermont have continued to nurture that tradition.

I am not surprised, therefore, that, in 1974, the people of Vermont chose PATRICK J. LEAHY to represent them in the Senate. Senator LEAHY had, prior to his election, already demonstrated in his public career and private life those distinctive qualities for which Vermonters have won renown and admiration.

As the State's attorney for Chittenden County, Senator LEAHY fulfilled his responsibilities with such meticulous care and efficiency that he achieved statewide prominence. In that office, he set standards of performance and established procedures that become models for many other Vermont counties.

Since becoming a Member of the Senate, the distinguished Senator from Vermont has maintained and enhanced the reputation he earned with the citizens of his State. Further, he has won the respect of his colleagues in the Senate by rendering the same degree of conscientious service in Washington that he did in Vermont. Simultaneously, while accepting widening responsibilities on a national level, Senator LEAHY has kept close contact with his constituents in his home State.

Mr. President, I was pleased to notice an article in the Washington Post on September 5 recognizing Senator LEAHY's exemplary service and performance. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR BREAKS HILL TRADITION

(By Jack Eisen)

BURLINGTON, VT.—Sen. Patrick J. Leahy (D-Vt.), who has moved into a position of local power in Washington as chairman of the Senate District Appropriations Subcommittee, is developing a reputation for political unorthodoxy.

As a member of a party often criticized for free-spending policies, Leahy has been ranked by the American Taxpayers Union as one of the Senate's 12 most fiscally conservative members.

As a member of a body that usually begins committee hearings at 10 a.m. and goes into session at noon, he sometimes convenes committee hearings at 8 a.m., when witnesses seem barely awake.

Among colleagues who often complain that they need more staff assistance or who thirst for more patronage, Leahy has deliberately budgeted only $442,000 of the $588,000 legally available to him for office operations. He returned the other $146,000 to the Treasury.

During the summer congressional recess that ends Wednesday, Leahy broke with another tradition of Congress.

Instead of maintaining office operations in Washington on a business-almost-as-usual basis, as do most lawmakers Leahy virtually closed shop and sent 12 staffers to Vermont for face-to-face contacts with constituents usually dealt with by telephone or mail.

Only a few people were left behind, chiefly to answer the telephone and administer a summer intern program.

For Leahy, what has come to be known as "the project" was born of a growing belief that lawmakers, their families and their office staffs tend after a while to think of themselves increasingly as Washingtonians and less as residents of their home states.

Both the government and the back-home constituents suffer as this happens, Leahy said in an interview here. Government tends to become something for "insiders" rather than truly representative, he contended.

Leahy, who was prosecuting attorney of Chittenden County (Burlington) when he was elected at age 34 in 1974 to succeed retiring Sen. George D. Aiken, spends about 40 weekends a year in Vermont tending chiefly to political chores.

Staff members who returned for the summer were instructed to shun politics, said Paul A. Bruhn, Leahy's administrative assistant.

"I know this sounds trite," Bruhn added, "but I never felt that there has been much difference between good government and good politics."

All but two of Leahy's staff members were recruited in Vermont, but most never had met constituents they began dealing with by mail or telephone from the capital.

So last month, Liam Murphy, who ordinarily handles agriculture problems in the Washington office, worked on a farm in Addision County.

Margaret Gross, who monitors federal fund-grant programs, visited recipients and potential recipients. Other staffers similarly traveled to meet people involved in their fields of specialization.

One overcast morning last week, Gross slogged up a mountainside lumber-hauling road near Waterbury to inspect a woodlot where otherwise useless trees were being felled and ground into chips for use as heating fuel at a nearby state hospital.

If the experimental state-funded project proves successful, Leahy may be called to help obtain funding for more widespread adoption of the woodburning solution to national energy problems.

This is important to Vermont, where 75 percent of the land is covered by forests, many of them comprising otherwise economically useless second growth.

Leahy's position on the Appropriations Committee could then be of strategic importance to Vermont. His District Appropriations chairmanship definitely is not.

Leahy said he was confronted recently by one constituent who, with interest and not rancor, noted that the authorized $300 million federal payment to the District of Columbia is much larger than Vermont's total budget.

Vermont's population is about 450,000, slightly more than half that of the District. Its largest city, Burlington, has 40,000 residents, with another 62,000 residing in the surrounding county.

Interviewed while driving from Burlington to his modest mountainside home, an old farm house 38 miles away in Middlesex, Leahy said the Vermont constituent's comments on the District budget reflects the intense issue orientation of people from rural states.

"Members of Congress spend too much time in Washington and in session," Leahy said. "Certainly it is not a boondoggle to go home or to have staff members go home. You can just be there (in Washington) too much.

"I can't help but feel the country would be better served if we closed down entirely in July and August."

Leahy said he also has personal reasons for wanting Congress to rearrange its sessions.

"In Congress, we are getting more and more young people, like myself. I'm 37, and I was 34 when I was elected. It would give us a chance to be a little more like a real family," Leahy said.

Leahy and his wife, Marcelle, have three young children. In the Washington area, they live in McLean where the children attend public schools.

A tall, rangy man who is prematurely balding, Leahy has lost more than 50 pounds in the past year. His offices, in Burlington and in Washington, are conducted with informality. The senator is "Patrick" to the entire staff, from receptionist to administrative assistant.

"We never refer to him as 'the senator' as they do in all the other Senate offices on Capitol Hill," one staffer said.

In Washington, Leahy ordinarily arrives at work about 6:30 a.m. to read mail and docu-

ments and dictate letters by tape machine. He said he reads every letter from Vermont and every letter that deals with a District matter.

Leahy, a Vermont native and son of a retired printer, has strong personal ties to Washington. He attended Georgetown University Law School and often refers fondly to his years there.

That background has helped in his District appropriations chairmanship, Leahy said. That job could consume all of his work time, but other assignments prevent that. He spends part of each day on the chore and regularly confers with Mike Hall, his staff aide on District matters.

"If it's my responsibility to be chairman, I'm not going to do a sloppy job," Leahy said.

Leahy has yet to pass upon a District budget but will do so soon. The House version will be enacted soon.

Leahy said he has no intention of keeping the chairmanship for an extended period, as has his House counterpart, Rep. William H. Natcher (d-Ky.), for 16 years.

"There is no way I could justify to myself or to the people of Vermont spending year after year as chairman of that subcommittee," he said.

Leahy was reluctant to comment in detail on his observations about the District government, since the city's home rule system restricts Congress' role in its operations.

But he said there is no excuse for inferior education or other public services, given the city's $1 billion annual budget.

Leahy created a considerable stir among District officials by releasing a Library of Congress report last May that showed Washington had the highest per capita cost of government of any American city and by expressing strong reservations about the city's plan to build a convention center downtown at a cost of $110 million.

The city's request for funds to start acquiring land now is pending before Leahy's subcommittee. He said he has instructed his staff to prepare detailed briefing books giving the best arguments for and against the project.

Leahy's decision to bring the staff members home for the summer recess has won widespread praise from Vermont newspapers and officials involved in the project.

One press critic, Proctor H. Page Jr., wrote in the Suburban List, a weekly in the Burlington suburb of Essex Junction, that Leahy's project had a "high fertilizer content."

The Burlington Free Press, the state's largest newspaper, saw it differently.

"While Leahy's idea is astute politically, Vermonters will benefit in many ways from the relationships his aides make while they are here," the paper commented editorially. "And it certainly beats spending the hot, muggy month of August in Washington."

DAYTON'S ENERGY CONSERVATION

Mr. ANDERSON. Mr. President, America's struggle to conserve energy cannot be limited to the actions we take in Congress. Whatever our collective view may be on coal conversion or natural gas regulation, it is of little impact without the conscientious daily efforts by the American public to reduce their energy demand for all forms of energy.

Therefore, I am particularly pleased with the public service advertising campaign being conducted by the Dayton-Hudson Corp., headquartered in Minneapolis, Minn. Dayton is using full-page ads in the newspaper to list 115 ways the public can conserve energy in their homes, particularly electrical energy.

Some sample "power-pinching" measures include:

First. Dial down when heating. During the day preferably to 65 degrees. At least to 68 degrees. Wearing an extra sweater costs you nothing. Every degree above 68 degrees adds 3 percent to your heat bill. At night, dial down to 60 degrees and during vacations, turn your thermostat to 55 degrees.

Second. Dial up when cooling; 75 degrees or even 78 degrees will feel cool inside when the temperature outside is 90 degrees and you'll save up to 20 percent more energy than at 70 degrees.

Third. Install a fireplace chimney cap which minimizes loss of warm or cool air through your chimney.

Fourth. Wrap ductwork with 1½ inches of insulation, especially where it passes through unheated areas or outside.

Fifth. Lower water heater temperatures; 140 degrees is sufficient for homes with automatic dishwashers; 110 degrees in homes without them. Add a 3-percent increase in your water heating costs for every 10 degrees over 140 degrees.

Sixth. Turn off running water as often as possible when shaving or brushing teeth.

Seventh. Wash clothes with warm water and rinse in cold.

Eighth. Minimize length and number of refrigerator and freezer door openings by removing or replacing several items at once, by knowing what you want and by teaching children to do the same.

Ninth. Use only enough water in cooking to make steam and prevent sticking. You will save energy and retain more flavor and nutrients in your food.

Tenth. Use fluorescent lighting wherever possible. Fluorescent wattage gives 5 times more light and lasts 10 times longer.

Eleventh. Turn off television sets when no one is watching. Tube types use more power than solid state models and color sets more than black and white. Instant-on sets draw energy unless unplugged.

Twelfth. Do a week's ironing at one time.

I believe that public awareness of simple steps like these which all Americans can take to cut down on our energy demands, will help our country maintain a strong economy and assure adequate energy supplies in the years ahead.

Mr. President, I ask unanimous consent that "Dayton's Consumer Service Memo No. 17: Energy Conservation," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DAYTON'S CONSUMER SERVICE MEMO NUMBER 17 RE: ENERGY CONSERVATION—115 THINGS YOU CAN DO IN YOUR HOME TO BE A POWER-PINCHER

It is estimated that Americans lose approximately two-thirds of the energy they consume and that half of the energy we use could be saved through conservation practices. The days of low-cost, unlimited energy are over while the need of it is ever increasing. Until the time when solar energy is both practical and economical, conservation of fossil fuels is important to all of us. Here's an idea list of some of the things you can do to save energy . . . and money!

IN HEATING

Power pointers: Heating and cooling consume 11% of our total energy used in the United States and offer one of the most important areas in which savings can be made. Inefficiencies in your heating system alone can increase fuel consumption as much as 10%.

1. Dial down. During the day preferably to 65°. At least to 68°. Wearing an extra sweater costs you nothing. Every degree above 68° adds 3% to your heat bill. At night, dial down to 60°. And during vacations, turn your thermostat to 55°.

2. Clean and change furnace filters frequently.

3. Clean thermostats yearly to assure proper readings.

4. Clean dust from registers, grills, air returns and baseboard heaters.

5. Have your entire heating plant cleaned and adjusted by a service person each year to make sure it is operating efficiently.

6. Understand your heating system. Hot water and steam radiators must be bled of air periodically. Some oil and gas plants have fans and motor bearings which require oiling.

7. Make sure heat registers and cold air returns are open and unobstructed by furniture or draperies.

8. Repair any leaks in ductwork with adhesive duct tape, especially at connection points.

9. Reflect heat from freestanding radiators on exterior walls by placing a large sheet of heavy-duty aluminum foil on the wall.

IN COOLING

10. Dial up. 75° or even 78° will feel cool inside when the temperature outside is 90° and you'll save up to 20% more energy than at 70°.

11. Use room fans or window fans instead of air conditioning units.

12. Use a kitchen exhaust fan to draw off cooking heat.

13. Use a bathroom exhaust fan to remove heat and moisture.

14. Shade whole-house and window units from direct sun with trees or awnings.

15. Close draperies to prevent direct sunlight from entering.

16. Clean grills and filters regularly.

Points of purchase: Buy right. An air conditioning unit that's too big wastes money. One too small will not cool adequately. Rule of thumb is 18 BTU's for every square foot to be cooled. Look for high "Energy Efficiency Ratios" which are listed on every unit and range from 4.7 to 12.2. 8.0 and above is considered to be a good rating.

IN FIREPLACES

Power pointers: While efficiently heating the room they are in, those dancing, marshmallow toasting flames are pulling furnace-heated air from the rest of your house and causing your furnace to work harder.

17. Shut doors to other rooms while using your fireplace.

18. Lower your thermostat when you have a fire going.

19. Close damper when fireplace is not in use.

20. Install a fireplace chimney cap which minmizes loss of warm or cool air through your chimney.

21. Use glass fireplace doors which lessen heat loss and help to radiate warmth into the room.

Points of purchase: When building a new fireplace, have it designed so it uses outside air for combustion and has vents which return heated air into the room.

IN ATTICS, WALLS, BASEMENTS

Power pointers: Insulation is the most important energy-saving step you can take. Adequate insulation can reduce the cooling and heating leads on your equipment by 15%.

22. Insulate attics with sufficient material to produce a heat loss value of R–38 or better.

Point of purchase: Insulation is rated by its ability to resist the flow of heat. An R-value of 38 is recommended for ceiling insulation.

23. Wrap ductwork with 1½" of insulation, especially where it passes through unheated areas or outside.

24. Weatherstrip windows and doors.

25. Make your house ship-shape by caulking joints between window frames and siding, between window and door drip caps and siding, at joints between door frames and siding, at sill plate where wood siding meets the foundation, where masonry meets the siding, where porches join the house, around outside water faucets and basement windows, where pipes and wires penetrate exterior siding.

26. Install storm windows and doors. Generally they pay for themselves in approximately five years, then continue to help save money and energy.

27. Use batts of insulation inside of house between joints and studs at foundations.

28. Install ventilation louvers in eaves and roof gables to prevent moisture collecting on insulation in the winter and to let out warm air in the summer.

29. Humidify with a furnace unit, a portable unit, pans of water near heating outlets or by having lots of moisture-creating plants. Your house will be as comfortable at 68° as a dry one at 75°.

Power pointers

If outside temperature is:	*Inside humidity should be: (In percent)*
20° or above	35
20° to 10°	20
10° to 0°	25
0° to −10°	20
10° or below	15

IN WATER HEATERS

Power pointers: Hot water heaters are the second greatest users of energy in your home and an area in which energy-saving will cut costs.

30. Lower water heater temperatures. 140° is sufficient for homes with automatic dishwashers; 110° in homes without them. Add a 3% increase in your water heating costs for every 10° over 140°.

31. Wrap older water heaters with a blanket of fiberglass insulation. But only after calling your utility company to learn necessary precautions.

32. Insulate hot water pipes from source to point of use.

33. Turn hot water heaters down when on vacation.

Points of purchase: Select a unit with high efficiency rating and heavy insulation that is in proportion to family size. Rule of thumb is a 40-gallon oil or gas tank or 80-gallon electric tank for a family of four.

IN BATHROOMS

34. Turn off running water as often as possible when shaving or brushing teeth.

35. Replace worn out washers. It's drippy to let leaks waste water, energy and money.

36. Reduce the amount of water required by each flushing by setting a water-filled plastic bottle or a few bricks inside the tank of the toilet.

37. Take showers instead of baths.

Test a theory: Stop the drain the next time you shower and see how much water you use in comparison to the water level for a bath. Short showers generally use considerably less.

38. Install a shower head which restricts the flow of water to three gallons per minute. A normal shower head delivers about seven gallons per minute.

IN LAUNDRIES

39. Wash with warm water and rinse in cold.

40. Wash only full loads of various sized items. Water level and temperature selectors help reduce cost of small loads but full loads save more.

41. Don't overload or use too much detergent.

42. Hand set gentle or slow wash cycles to high speed spin to remove greater amounts of water and save drying time.

43. Pre-soak heavily soiled items to save second washings.

44. Use special features such as soak and short cycles, suds savers.

45. Remove clothes promptly from dryer. You'll prevent wrinkles and save ironing time.

46. Dry items of similar weight and texture together.

47. Dry consecutive loads to avoid dryer warmups.

48. Damp dry clothes which will need ironing. It saves sprinkling.

49. Vent electric dryers inside your home in winter to increase humidity.

50. Hang clothes to dry in the sun or on inside lines in winter to increase moisture in your home.

51. Operate and maintain washer and dryer according to manufacturer's recommendations.

52. Clean lint filter after each washing or drying load.

IN YOUR KITCHEN

53. Keep freezers and refrigerators filled to capacity for maximum efficiency.

54. Maintain and operate food storage units according to the manufacturer's directions.

55. Minimize length and number of refrigerator and freezer door openings by removing or replacing several items at once, by knowing what you want and by teaching children to do the same.

56. Cover all liquids to reduce moisture evaporation.

57. Set refrigerators at 37° to 40°; freezers at 0°.

58. Unplug a second refrigerator when not in use. Unplug all refrigerators when leaving for a long time. Clean, turn off and put in an open box of baking powder. Be sure to leave the door open.

Test a theory: To check your refrigerator and freezer for cold retention, close doors on a piece of paper. If it pulls out easily, you'll need to adjust the latch or replace a gasket.

Points of purchase: Choose a refrigerator based on family needs, generally 14 cubic feet for a family of four with two additional cubic feet of space for each additional member. For freezers, you'll need two cubic feet per family member. Two-door refrigerator/freezers use less energy than one-door models. Frost-free models and side by side models use more energy than two-door uprights. Automatic ice makers and liquid dispensers also increase energy usage. Look for refrigerators without heater strips around doors or models with power switches that turn them off in less humid weather. Chest freezers use considerably less energy than uprights.

Power pointers: Never use range surface units or ovens for anything but cooking.

59. Turn off surface and oven units before removing pans to utilize "hangover heat."

60. Use tight fitting covers on cookware to help foods cook faster.

61. Cook with flat-surfaced, straight-sided pots and pans that extend more than one inch over cooking unit.

62. Use hot tap water for boiling and use a tea kettle instead of an open pan.

63. Use only enough water in cooking to make steam and prevent sticking. You'll have energy and retain more flavor and nutrients in your food.

64. Keep reflector pans clean to reflect heat better.

65. Lower cooking heat with Teflon-coated utensils.

66. Cook full meals in oven when possible. It's more economical than using both oven and surface units.

67. Pre-heat oven only when necessary and then only for a short time . . . try it on your favorite recipe.

68. Don't peek. 25° of oven heat is lost when you open the door.

69. Use glass or ceramic bakeware and reduce heat 25°.

70. Schedule baking all at once and put as many things as possible in at one time.

71. Bake enough for two or three meals at once. Reheating takes less energy.

72. Defrost frozen foods to save time in the oven.

73. Rearrange shelves in oven before heating.

74. Warm foods in ovens at 200° or less.

75. Use "hangover heat" on burners for warming, plates, rolls, etc.

76. Use a timer and a thermometer to prevent over cooking.

77. Brown foods at high heats then reduce to medium or low. You'll save energy, reduce shrinkage and spattering.

78. Check gas range pilot light for clear blue color. If yellow, call a service person to adjust the combustion. If burner flame is yellow, clean with pipe cleaner.

Points of purchase: Carefully compare the advantages of both self-cleaning and continuous cleaning ovens and select the type that offers greater efficiency for your particular baking/broiling habits.

79. Run dishwasher only when full.

80. Remove large particles from dishes with a cold water rinse.

81. Load dishwasher properly and use recommended amount of detergent.

82. Turn off dishwasher after final rinse in cool months and allow dishes to air dry.

83. Run dishwasher in cooler hours during summer months to avoid extra heat and moisture. This also helps to keep operation away from peak power times.

Points of purchase: Dishwashers with partial load cycles, rinse only and mid-cycle turn-offs help to save energy as will models with power switches to turn off drying cycles automatically. Look for models with heavier insulation to reduce noise and retain heat.

IN LIGHTING

Power pointers: About 5% of your electric costs are from lighting so don't risk eye strain or safety.

84. Use a single high-watt bulb instead of several smaller ones. It takes six 25-watt bulbs to give the light of one 100-watt size.

85. Turn off lights when leaving a room . . . even for a short time. Only fluorescent tubes can be left on for up to a half-hour without using more energy.

86. Use fluorescent lighting wherever possible. Fluorescent wattage gives five times more light and lasts ten times longer.

87. Light small areas rather than entire rooms.

88. Leave lights off whenever daylight is sufficient.

89. Use long-life bulbs only in hard-to-reach areas. They may last three times longer but they give off 20% less light.

90. Keep bulbs and lighting fixtures clean for maximum lighting. Dusty bulbs give one-third less light.

Points of purchase: Consider replacing incandescent lighting with fluorescent; light switches with solid-state dimmers that allow choice of light level. Choose 3-way lamps for the same reason. Select outdoor lighting that uses photo-electric cells for automatic operation.

IN GENERAL

Power pointers: Appliances that heat use more energy. Use them sparingly and be sure to turn them off when through. Save money and energy by purchasing appliances according to life cycle operating costs rather than initial price tag. A more expensive model may cost a lot less in the long run.

91. Turn off television sets when no one is watching. Tube types use more power than solid state models and color sets more than black and white. Instant-on sets draw energy unless unplugged.

92. Sleep under an extra blanket when you turn the heat down.

93. Use a towel to dry hair instead of a blower.

94. Set hair in curlers or pins instead of electric rollers.

95. Use only cold water in garbage disposers.

96. Use trash compacters only when full.

97. Entertain by candlelight. It's more romantic.

98. Empty dust bags in vacuum cleaners frequently.

99. Cook small meals in counter-top appliances rather than ranges.

100. Use a timer to turn radios and lights on and off when you're on vacation.

101. Heat a ceramic tile for your bread basket when baking dinner instead of using an electric warmer.

102. Close draperies to keep out cold on winter evenings. Open them on sunny days for warmth and light. In summer, keep them closed to block heat and sun.

103. Cover large windows with clear vinyl or plastic sheets during winter months. It's one way for apartment dwellers to save energy.

104. Hang thermal draperies.

105. Carpet bare floors with carpeting having an R rating of 4 or more.

106. Close off heat and doors in bedrooms and congregate in one room. Family relations are sure to warm up while you save energy.

IN FASHION AND CLOTHES CARE

Power pointers: It's fashionable to save energy. This year's layered look is just what's needed for cooler homes, offices and factories. Even famous designers are contributing with such things as fancy, warm underwear by Fernando Sanchez and long, over-the-elbow arm stockings from Halston. Sweater up and be in style.

107. Dress with several light layers of clothing such as shirt, sweater and jacket or vested suit.

108. Wear ribbed or opaque pantyhose for greater warmth.

109. Choose natural fibers for extra warmth. They usually are produced with less energy, too.

110. Choose man-made fibers to save ironing.

111. Wear flannel pajamas to keep warmer at night.

112. Use a shawl, afghan, blanket, or throw while watching TV or reading.

113. Iron at lowest possible temperature settings.

114. Do a week's ironing at one time to cut down on numerous heatings.

115. Turn iron off minutes before you're finished and if interrupted.

IN OUR STORES

We've taken steps to be power pinchers . . .

1. Lowered temperatures in stores to 64° to 62° in our Distribution center for heating months. Set temperatures up to 78° for air conditioning.

2. Reduced hours of operation for escalators, elevators, air flow equipment, steam presses and steamers.

3. Upgraded maintenance schedules to improve efficiency of mechanical equipment.

4. Installed capacitors to correct power factors where ratings were under 95%.

5. Lowered temperatures of hot water used by customers and employees.

6. Added insulation to store roofs, entrances and loading doors on docks.

7. Turned off air doors in Minneapolis and St. Paul.

8. Installed timers on electrical circuits in many areas.

9. Reduced use of spotlights and show window lighting.

10. Recircuited lighting for better control of specific areas.

11. Reduced wattage, where possible, by using fewer fluorescent tubes in fixtures.

12. Installed demand lighting equipment in Minneapolis, Ridgedale, St. Cloud and the Distribution Center.

13. Turned off snow melting equipment for sidewalks.

14. Eliminated outdoor display lights on holidays.

15. Starting to use trash to heat hot water for the Minneapolis store.

16. Working with newly hired Dayton Hudson Corporation energy consultant to reduce power consumption in new and existing stores.

17. Encouraging employees to help with energy conservation methods.

FOR MORE INFORMATION . . .

Visit Dayton's Major Appliance Booth and Home Furnishings Booth at the Energy Savers Show in the Minneapolis Auditorium, September 8 through 11.

Visit the NSP Consumer Information Booth when it comes to the Dayton's store nearest you September 15 through 23 and talk to the representatives who will have pamphlets on many energy saving methods and narrate a Residential Energy Conservation Slide Show, an informative 15 minute presentation followed by a question-and-answer session.

Ridgedale: 3 p.m., September 15; Major Appliances

Southdale: 7 p.m., September 15; Housewares

Minneapolis: Noon, September 16; Major Appliances

St. Paul: Noon, September 17; Major Appliances

Burnsville: 3 p.m., September 17; Housewares

Rosedale: 3 p.m., September 19; Housewares

Brookdale: 7 p.m., September 19; Housewares

Fargo: Noon, September 21; Housewares

Rochester: Noon, September 22; Major Appliances

St. Cloud: Noon, September 23; Housewares

AIR POLLUTION IN THE NATION'S CAPITAL

Mr. ANDERSON. Mr. President, my colleagues will recall the extensive debate on the Senate floor and in the conference committee with the House on the Clean Air Act of 1977, concerning the effects on public health of air pollution. Several of my colleagues on the Environment and Public Works Committee and I raised the example of Washington, D.C., as evidence that the automobile causes air pollution and that air pollution is harmful to public health.

Mr. President, the lead story in several editions of the September 13 Washington Star concerned the record air pollution here during the summer months. The article, "Record Pollution Increases Sickness," details the situation we know all too well, that this city endured its worst onslaught of air pollution this summer. The article reports that 47 days this year, the air pollution index exceeded 100, or a condition described as "very unhealthy." The article does not mention that so far this year for an additional 29 days, the index was recorded between 50 and 100 or "unhealthy." For a total of 76 days this summer we in this city had to breathe unclean air.

Mr. President, the Washington Star article is clear and distressing evidence that until the automobile emission standards provided in the Clean Air Act of 1977 are fully implemented on 1981 model cars, that this urban area, along with many others around this country, will continue to be subjected to air pollution, the extent to which will only be controlled by the vagaries of summer weather patterns.

Mr. President, I ask unanimous consent that the September 13 Washington Star article, "Record Pollution Increases Sickness," by Mary Ann Kuhn, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RECORD POLLUTION INCREASES SICKNESS—MOST BLAME AUTOMOBILES AND STAGNANT AIR FOR 47 "VERY UNHEALTHY" DAYS THIS SUMMER

(By Mary Ann Kuhn)

May in Washington. Dirty Air. June in Washington. Dirty Air. July and August and September. Dirty Air.

"This was another episode in the history of Washington's rotten summer," said John Embick, director of the Metropolitan Coalition for Clean Air.

It was more than that.

Washington's air throughout this summer was the dirtiest ever recorded in terms of number of days air pollution alerts were in effect and the number of days that air quality index reached the "very unhealthy" mark of 100 or more.

And the air pollution alert season is not over. It is concelvable another alert could be called before this month is over. Last year, for intsance, the last alert was in effect until Sept. 15.

According to data compiled each year since 1973 by the Metropolitan Washington Council of Governments, there were 30 days in which alerts were in effect between May 20 and Sept. 3 this year and there were 47 days in which the air quality index reached 100 or more.

The air was so dirty this summer that an increasing number of area residents suffered from its ill effects and many more of them wheezed, sneezed and coughed their way into hosptials for treatment, compared to last summer.

"We probably had twice as many patients as we did last summer," said Dr. Alfred Munzer, associate director of the department of pulmonary medicine at Washington Adventist Hospital in Takoma Park. "These are people who have emphysema, chronic bronchitis, who developed noisy breathing, increased coughing."

At Washington Adventist, Munzer said "we have been a lot busier treating people with respiratory complaints during this particular summer. Most people who develop respiratory problems from air pollution stay at home. So what we are really seeing is the tip of the iceberg."

Munzer, who is also vice president of the D.C. Thoracic Society, a part of the D.C. Lung Association, said the increase in patients with respiratory illnesses caused by dirty air was seen in other area hospitals as well, although hospitals don't keep an actual count of these cases.

At Georgetown University Hospital, "the physicians and nurses on duty in the emergency room seemed to think there was a probable increase in the number of respiratory illnesses we saw this summer compared to last summer," said Dr. Michael Rolnick, chief resident of the emergency room.

"There definitely was an increase during the days of high pollution counts," he said.

At Suburban Hospital's emergency room the number of persons seeking treatment for respiratory problems "was noticeably lower" than in previous years, according to a spokesman. But then, during the last air pollution alert, "we had a sudden upsurge for a period of five days which was more than in previous years. We were seeing an average of three or four persons a day for those five days. Until then we were seeing one or two persons a week."

Dr. Harold Silver, who is in private practice specializing in respiratory illnesses and who also is a professor of clinical medicine at George Washington Medical Center, said he noticed in his own practice that many of the people he saw for treatment of asthma, emphysema or bronchitis "reported greater difficulty breathing" this summer. While there was no noticeable increase in the number of patients he saw, there was "an increase in the severity of the illness and the amount and type of medication was stronger" for those he did treat, he said.

In contrast with the other hospitals, the Washington Hospital Center saw no increase this summer over last summer, said a spokesman. One of the doctors there suggested that this may be because "people are becoming more sophisticated and they are staying home and taking better care of themselves" on those days of high air pollution.

While so far this year there have been six air pollution alerts compared to a total of eight last year, the alerts this year lasted for a longer period of time—30 days—compared to 26 days last year.

The 47 days this year in which the air quality index reached the "very unhealthy" mark of 100 or more is three more than the total of 44 days last year. No alert was called on these days because certain other weather conditions weren't met.

There were five pollution alerts declared in 1973, one in 1974, four in 1975, eight in 1976 and six so far this year, according to the Metropolitan Washington Council of Governments.

The highest reading ever recorded was 180 on Aug. 1, 1975. Last year the peak reading was 175 on July 28. This summer the highest was 147 on July 16.

Why was the air so dirty this summer?

"Too much automobile driving," said clean air advocate Embick, naming that as the single most important factor that makes the air so dirty.

"Meteorology has a lot to do with it," said a District transportation official. "Stagnant air prevents our atmosphere from being cleansed."

"It's mainly a transportation-caused problem, principally the automobile," said James E. Clark, assistant director of the D.C. Department of Transportation. "The number of people driving their own automobiles continues to go up each year."

"We had very few inflows of fresh air . . . very few cool air outbreaks," said Jim Hand, an air pollution meteorologist with the National Weather Service. "We didn't have widespread rain systems to wash out the air."

The two don't mix—this interaction between automobile exhausts and sunlight—as this summer and recent summers show.

There are programs to clean up the air by cutting back on auto use and auto emissions, but for various reasons the programs haven't been fully implemented or they are still in the planning stage or they are wrapped up in red tape or many residents aren't worried enough about dirty air to take steps themselves to cut back on auto use.

"The policy in this area has been one of delay," said Embick. "I don't think this area has really done anything to restrict auto traffic. It's, 'We will build express bus lanes. Or we will do this. Or we will do that.' "

"We are just not moving fast enough in trying to cut down on the amount of emission pumped into the atmosphere," said city transportation official Clark. "It's not because of a lack of will. We just can't get it done fast enough.

"In essence, the problem is that the total amount of travel in this region hasn't gone down. We are not getting a sufficient amount of car pooling to make a difference in air pollution.

"The amount of bus use in this region has not gone up either. But we would have a much worse air pollution problem if we didn't have the amount of people we have riding the buses now."

Clark added, "Metro will have a tremendous impact" when the subway is finished. He and other officials said it is too soon to tell whether the opening of the subway this summer has had any noticeable effect on curbing air pollution by cutting down on auto use.

There are several programs in the works now that should have an effect on curbing air pollution next year, Clark said. One is to install more priority bus lanes to make it easier to get through city streets. Some are being designed "right this minute," he said, adding that $500,000 worth of bus lanes should be in use by the end of this year.

"We are also working with the federal government in trying to persuade them to have commercial rates at their federal parking facilities," said Clark, who cited the Pentagon, where federal employes have free parking, as an example. "Free parking is an incentive to travel by auto and to travel alone."

Clark said an intergovernmental task force representing the District, Maryland, Virginia and the federal government has been established to discuss instituting these commercial rates. Its first meeting is Sept. 20.

"It takes time to implement programs," said Clark, adding that tailpipe emission standards have been relaxed and auto manufacturers have been given more time to meet standards.

A program that had "a small effect" in cutting down pollution was the installation this summer of a device on gas station pump nozzles in the District which captures gases as a car's tank is being filled, according to Vernon Krause, air program manager within the Council of Governments.

Krause also said the District government has expanded its car pooling program for city employes. He said city employes have to pay commercial parking rates. He noted that residential parking permits have gone into effect in various parts of the city.

"Taken altogether," he said, "those little things add up somewhat."

What's in store for the summer of '78?

"Assuming the weather is exactly the same, my feeling is we are likely to see some progress," said transportation official Clark.

By then, he said, the subway will be running to Silver Spring. The priority bus lanes will be in operation. There will be commercial rates at federal parking facilities, he said.

"I think there will be an improvement next summer," Clark said. "But I'm not saying we are not going to have any pollution alerts.

"If the maximum number of people were car pooling, if the maximum number of people were taking the Metro, we'd have this licked."

MISCONCEPTIONS ABOUT PANAMA

Mr. CRANSTON. Mr. President, negotiations on the Panama Canal treaties went through several discussions stages during the past 13 years. As a result, some misconceptions may have arisen.

I am convinced these will be dispelled when the facts of the treaty become more widely known.

For example, some people were justifiably concerned that we might have to give up our continuing right to protect the canal against threats from within and without. At President Carter's insistence, our negotiations made clear to the Panamanian negotiators that we reserve the unlimited right to intervene—both under the basic treaty until the year 2000, and under the neutrality treaty thereafter.

Similarly, some people feared that with Panama in control, some other power might come in and construct a sea-level canal and cut us out. But the United States has gotten a firm treaty commitment that we will be directly involved in any sea-level canal or any modification to accomodate large modern warships and cargo ships that can not fit through the present waterway.

Still others felt that an abrupt transfer might disrupt efficient operation of the canal. The basic treaty, however, continues overall U.S. management until the end of this century, thereby explicitly assuring continuous U.S. control prior to that date.

The Panama Canal treaties will strengthen our national security interests in Panama and throughout Latin America.

Under terms of the treaties—as we understand them and the basis on which I will vote for ratification—the United States retains indefinitely the right to take whatever action we deem necessary to defend the canal against any threat. Similarly, the treaties guarantee the permanent and unconditional right of U.S. warships to pass through the canal—with priority in the event of an emergency.

The Panamanian Government is on notice that this is our understanding of the agreement. Obviously we will not consider ourselves bound by any other interpretation.

We not only keep all the authority we now have to assure an open, safe, and efficient canal, we pick up some new and valuable assets besides.

Under the treaties Panama—now only an unwilling host—will have a greater stake in protecting the canal and keeping it open and neutral. So will other countries in Latin America that for seven decades have resented the claim that the United States "owns" a part of an independent nation in Central America.

United States national interests depend upon the proper use and assured security of the canal, not upon its ownership. And U.S. national interests will be far more secure when Panama and other Latin American nations are our genuine friends and allies and are committed to similar, mutually beneficial goals.

Our highest military leaders—the Joint Chiefs of Staff—unanimously agree.

BERT LANCE

Mr. EAGLETON. Mr. President, yesterday Mr. Bert Lance testified before the Senate Governmental Affairs Com-

mittee. So much has been written, alleged, and charged about Mr. Lance over the past 2 months.

Yesterday's testimony was, to my knowledge, the first opportunity for Mr. Lance to set forth fully his answers to the various charges and allegations.

So that all my colleagues can read Mr. Lance's statement, I ask unanimous consent that the text of his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BERT LANCE BEFORE THE SENATE GOVERNMENTAL AFFAIRS COMMITTEE, SEPTEMBER 15, 1977

Mr. Chairman and Members of the Committee: I am here today not only to make this statement and to answer any questions you may have, but also to speak directly to the American people. Many charges and accusations involving me have been brought to their attention until I am sure they wonder what kind of man I really am.

They will know me much better when I have finished testifying before this Committee. Because I intend to answer every charge that has been made, and I shall answer every question that is asked, to the best of my ability.

I have infinite faith in the fairness of the American people. I welcome them as the jury in this proceeding, for I am secure and comfortable knowing that my conscience is clear and that the people's verdict will be a fair and just one.

I believe it would be of value if I spoke briefly of my background and training.

I was born in Gainesville, Georgia on June 3, 1931. My father was the president of Young Harris College in the mountains of northeast Georgia.

When I was a boy, we moved to Calhoun, Georgia, where my father became superintendent of the city school system. In Calhoun I started working at an early age. I delivered special delivery letters for the Post Office, worked at a local grocery store and, after school each day, had a job at the local theater. I came to know the people of Calhoun.

I went to Emory University and later the University of Georgia, but left college to take a job at the Calboun First National Bank in 1952 to support my wife and new son.

I started as a teller at the bank at $90.00 a month. By 1958, my wife and I pooled our resources, and bought our first stock in the Calboun Bank. In 1963, at age 32, I was elected President of the bank.

In 1966, I met President Carter and became a friend of his. I supported him both times he ran for Governor and, after he was elected, I accepted the position of Director of the State Highway Department. I am proud of the progress that was made in that Department. I believe it ranks today with the best in the country. When I assumed the directorship of the Department, it was the largest and most controversial department in Georgia state government. Working closely with the people in the Department, we made important changes. For the first time in Georgia history, roads were allocated on the basis of real need rather than political considerations. We were able to improve the quality of service to the people of Georgia while at the same time we substantially reduced the number of employees.

In 1974, I ran for Governor of Georgia. I gave it everything I had and missed the crucial runoff by about one percent.

In December 1974, I was offered the position of President of the National Bank of Georgia. I accepted because I felt that I had reached the point in my career where, through my intimate knowledge of the state and the numerous contacts I had made, I could make a unique contribution to the growth and standing of the bank as well as the economic development of the state.

Much has been said in the press recently about my management of the Calhoun Bank and the National Bank of Georgia. Let me recite some facts which have not been brought to the attention of the public. During the period I served as President and Chairman of the Calhoun Bank, its deposits increased from $11 million to $49 million. Its assets increased from $11.9 million to $54.1 million.

At the National Bank of Georgia, the results were even more dramatic. In the two years of 1975 and 1976, its deposits increased 50 percent and its assets increased from $254 million to $404 million.

Because of the volume of unfavorable publicity these past weeks, it may come as a surprise when I say that no depositor in either the Calhoun Bank or the National Bank of Georgia ever lost a cent while I was with those banks.

In addition, I have read many critical stories devoted to family loans and overdrafts. I want you to know and understand that every overdraft has been paid in full.

From January 1975 to the end of 1976, I served as President of the National Bank of Georgia. Following the election, President-elect Carter asked me to serve in his new administration as Director of Office of Management and Budget. In January of 1977 I was confirmed by this Committee and the Senate.

Then in late May the questions began and gradually grew into a full-fledged investigation. Now, today, after weeks of accusations I have my opportunity to tell you how I feel about these events.

We have been hearing a great deal lately about the subject of human rights. We have been outspoken in our criticism of certain totalitarian governments for the manner in which the rights of their citizens have been violated. Implicit in our criticism has been the suggestion that it is different in our country. We proudly point to the Constitution and our Bill of Rights and smugly compare our shining record in this field with the harsh and oppressive actions of other nations.

I wonder.

I wonder, because my experience these last weeks has been one of profound shock and disappointment.

The rights that I thought I had as an American have been treated in the most irresponsible and destructive manner. The basic American principle of justice and fair play has been pointedly ignored by certain members of this Committee. Certain persons have publicly, in effect, brought in a verdict of "guilty" before I have been given the opportunity to present my side of the case. It has been a saddening and disillusioning experience.

Let me be more specific.

The Fifth Amendment to the Constitution provides that no person shall be deprived of life, liberty or property without due process of law. All my adult life I have been a banker. My reputation, in effect, has been my life and my property. I have had the confidence and respect of the people of my state and the two banks with which I have been associated.

But now my reputation has been questioned. Charge has followed charge. Accusations have poured forth, accompanied by prompt and destructive interpretations, by certain members of this body. Ready-made opinions have been offered affecting my character, my ability, and my integrity.

And yet, not until today have I been given the opportunity to answer the charges that have been made. Some of the claims are erroneous, some are misrepresented, some are exaggerated, and some are completely misunderstood because those making the charge do not have all the facts.

And in the process, the rights that I thought that I possessed have, one by one, gone down the drain.

Let me give you a dramatic example of what I am referring to.

On Monday, September 5 (Labor Day) the Atlanta Journal and Constitution carried a major front page story with the lurid headline, "Swindler Implicates Lance."

In the body of the story, it appeared that investigators of this Committee had gone to the federal prison in which one Billy Lee Campbell is incarcerated. The Atlanta paper's story stated that there were three investigators from this Committee and that they had obtained an affidavit from Campbell asserting that Lance was implicated in the bank embezzlement which had sent Campbell to prison for eight years. The story further stated that the three investigators had returned promptly to Washington and had consulted immediately with this Committee.

On the same day, September 5, that the story appeared in the Atlanta paper, Senators Ribicoff and Percy made a much publicized call upon President Carter. They asked President Carter to force Lance to resign, and gave as the reason that they had received "allegations of illegality" involving Lance.

Much attention was given in the press to the Billy Lee Campbell accusation. The New York Times sub-head was, "Illinois Senator Says Some Charges Were Made by Banker, Now in Jail," (New York Times, Tuesday, September 6, 1977).

The net result of the developments of Labor Day, 1977, was to inform the American people that Lance who was already under attack was now involved in some serious "illegality" that had something to do with "embezzlement" that was of such sinister proportions that the two Senators felt compelled to ask that Lance be fired.

This was the last straw for many people. Even some of my friends felt there must be something to the charge, or it would not have been uttered by a United States Senator.

Now the question is: Were my human rights protected? Were the rights of a citizen to fair and decent treatment properly accorded?

We will let the American people answer that question.

Here are the facts.

The accusations by members of this Committee which were passed on to the President, and which were so damaging to me, were based upon the unsupported and unverified statement of a man in the federal penitentiary.

Did the three Committee investigators attempt to verify the extremely serious charge made by this convicted felon before the story was leaked to the press?

Not so far as we can ascertain.

If someone were searching for the facts instead of a "smear", the obvious first step would be to go to the Assistant U.S. Attorney who prosecuted Billy Lee Campbell. His name is Jeffrey B. Bogart. He would have been easy to find for he was still the Assistant U.S. Attorney at that time. If they had talked with Mr. Bogart, they would have learned from him that Campbell at no time attempted to implicate Lance or anyone else. Mr. Bogart has been quoted as saying: "It's my recollection that he said he took it all. At no time in open court did he indicate, in mitigation, that there were any other people involved."

If, by chance, any possible skepticism remained, the investigator could have called upon the lawyer who defended Campbell in the embezzlement case. He would have learned from him that in the many months he represented Campbell, and in innumerable conferences, Campbell never in any way implicated Lance in the embezzlement.

The transcripts in Federal Court show that the Judge questioned Campbell in great detail, but Campbell again did not involve Lance in any embezzlement.

Apparently, no steps of this kind were taken by the investigators. They talked to Campbell—received an unsupported accusation—brought it to the Committee—two of whose members promptly took it to the White House and then, at a press conference, informed the American people that they had reported the Campbell charge to the President.

A curious epilogue should be mentioned. Although the Atlanta paper reported that the Committee investigators obtained an "affidavit" from Campbell, this proved to be untrue. Not only would Campbell not give an affidavit, he would not even permit his conversation to be taped.

This is the background of the accusation that has brought such pain to me, to my wife, and to members of my family.

And the entire tragic and irresponsible incident could have been prevented by one simple telephone call. If I had been called, I could have, in five minutes, told them who should be seen to get the true story.

One lesson I have learned from this experience is to be mighty careful in the future when I am discussing basic human rights.

Over these past weeks, as charge after charge has been leveled against me, I have attempted to keep a record of them. I have carefully checked my own knowledge and recollection, I have consulted with others who have been involved, and I have read many records casting light upon the circumstances of the various incidents.

I now wish, in as orderly a manner as possible, to designate the accusation and to supply the answer as I know it.

DISCLOSURE TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS AT TIME OF CONFIRMATION

Perhaps the most fundamental charge to be discussed at this hearing is the allegation that I failed to disclose all pertinent facts to this Committee at the time of my confirmation hearing. This oft-repeated accusation by certain members of this Committee was readily seized upon by the press who sought to denigrate me—and indeed the Carter Administration—with suggestions of a "cover-up".

Members of this Committee have been quoted in the national press as having said the Committee had been "misled" prior to my confirmation.

Senator Ribicoff is reported in The New York Times as saying "My feeling is that if the Committee had all the information we now have, it would have been very difficult for him to have been confirmed." (Wednesday, September 7.) His theme has been echoed by other members of the Committee during these hearings.

The newspapers have made this allegation their favorite theme. James Reston, for example, states in his column of September 7, 1977, "Either Lance deceived Carter by withholding information from him . . . or Carter, if he had the information, deceived the Congress."

On Monday of this week, The Washington Post quotes Senator Jackson, who asserted that "the major item of inquiry" at the hearing is whether damaging information about me was withheld from the Committee during my confirmation hearings. I quite agree with the Senator.

At the time this Committee commenced its investigation of my qualifications to be Director of the Office of Management and Budget I submitted detailed written information outlining my personal and financial background. In addition, I specifically authorized this Committee to obtain any further "written opinions as you may deem appropriate in investigating my nomination."

Prior to a confirmation hearing, it is customary for the nominee to meet with Senate investigators to explore his qualifications for the office, provide explanation and information as to his personal and financial background, and in general, answer any questions that are raised. I attended such a meeting with Senate investigators on January 13, 1977. Also present at the meeting were my attorney, Harvey Hill, and Mr. Thomas Mitchell, the man who was to be the trustee of the blind trust which would be established under the Administration's new guidelines. The Senate investigators of this Committee who attended that meeting included Mr. Richard Wegman, Chief Counsel and Staff Director, John B. Childers, Chief Counsel to the Minority, and David R. Schaeffer, former counsel to the Committee and Special Assistant to Senator Ribicoff. During the course of that meeting, I disclosed to the representatives of this Committee the various financial matters which now are the focus of this hearing.

At our meeting on January 13, I discussed with the Committee investigators my previous relationship with the National Bank of Georgia and the Calhoun First National Bank. We discussed my financial assets and liabilities, including loans I had obtained from various banks. We discussed in detail the entire matter concerning the Calhoun First National Bank's involvement in my 1974 gubernatorial race, including overdrafts incurred by my Campaign Committee, the investigation by the Comptroller's Office and the subsequent referral of this case to the Department of Justice. I advised them of my personal overdrafts. We discussed previous financial problems of the Calhoun First National Bank and their current status. Specifically, I disclosed and we discussed the Agreement between the Office of the Comptroller of the Currency and the Calhoun First National Bank. We further discussed the fact that the Agreement had been removed in November, 1976 by the Regional Administrator of the Comptroller's Office.

Statements taken in the recent Internal Revenue Service investigation of the Comptroller's Office confirms my present testimony. Mr. Childers, who was present at the January 13 meeting, was interviewed during the IRS investigation. His statement, which was released last Friday, reveals that Mr. Childers and Mr. Schaeffer of the Committee had telephone conversations on January 17 and 18 with Mr. Robert Bloom, then Acting Comptroller of the Currency, during which the Committee investigators asked Mr. Bloom "about the campaign and personal overdrafts of Mr. Lance and his family." Mr. Bloom indicated to them that overdrafts of $100,000 to $200,000 would be "in the ballpark." In those conversations Mr. Bloom also advised the Senate investigators that "the campaign overdrafts were referred to the Department of Justice and Justice declined prosecution." Finally, Mr. Bloom told the Senate investigators "that personal overdrafts of the Lance, David, and Chance families had been handled internally and administratively, and had been paid with interest."

Mr. Schaeffer's testimony in connection with the Internal Revenue Service investigation again confirms that Senate investigators of this Committee were fully cognizant at the time of my confirmation hearing of "possible problems involving overdrafts by Mr. Lance and his family at the Calhoun National Bank and possible campaign violations." Mr. Schaeffer testified that on January 17, 1977 he made a report about these matters to Senators Percy and Ribicoff. That Senators Percy and Ribicoff later professed lack of knowledge as to this information is thus, to say the least, somewhat puzzling.

The New York Times on Sunday, January 16, 1977, the day before my hearing, published a story entitled "Lance Ran Bank Criticized in 1974 in Federal Study." The article discussed the entire question of overdrafts as well as the Federal investigation into campaign law violations. With respect to the latter issue, the article comments on the timing of the decision to close the case one day before my nomination.

Further, it should be noted that the record of this Committee reflects that the very first question posed to me at my confirmation hearing by the Chairman of this Committee, Senator Ribicoff, concerned the Department of Justice investigation of my 1974 campaign committee and the overdrafts honored by the Calhoun National Bank. The issue of overdrafts by members of my family and others was also discussed at the hearings. Those who claim that I was withholding information from this Committee at my confirmation hearings have, under the most charitable interpretation, ignored the information that was made readily available.

Admittedly, discussions I had in mid-January with the Senate investigators regarding the matters which have now taken on such importance did not include a microscopic review of my affairs. The failure to review additional financial data was not due to any hesitation on my part to disclose anything of interest to the Committee. I apprised this Committee in some detail of my past financial and personal background and answered fully and accurately all questions that any Senator or staff member asked.

PERSONAL LOANS AND CORRESPONDENT ACCOUNTS

At the time of my confirmation hearing, I submitted a financial statement which set forth various personal loans I had obtained. A great controversy has since arisen regarding my "pattern of borrowing" from certain banks in which the National Bank of Georgia and Calhoun First National Bank had correspondent accounts.

It has been alleged that I maintained certain correspondent accounts as compensating balances to help me secure personal loans. It is said that I used depositor's money in the banks of which I was an officer for my own personal benefit in order to obtain more favorable loans from the correspondent banks. There is no truth to this charge.

Bank Circular No. 31 issued by the Comptroller of the Currency states that the use of compensating balances would be a violation of law "where the facts demonstrate a clear detriment to the bank and a concomitant benefit to its officers. . . ."

The Comptroller has investigated three instances involving me where such violations were alleged to have existed. They involved loans from the First National Bank of Chicago, Manufacturers Hanover Trust Company, and the Fulton National Bank. In no instance was there a finding that the terms of my loans were more favorable because the lending institution was a correspondent bank. In all cases it was determined that the interest rate that had been charged on the loan was at least the market rate. Further, the Comptroller's Report reveals that in all instances the banks with which I was associated received services for the deposit which fully justified the correspondent relationship. In other words, neither side of the equation outlined by the Comptroller in Banking Circular No. 31 was found to exist.

BACKDATED CHECKS AND EVASION OF INCOME TAX

Given the politically charged atmosphere in hearings of this kind, I suppose it is natural to expect that the progress of the hearing would be accompanied by an occasional savage charge. Yet that expectation does not fully prepare one to confront the reality of the accusation when it is carried by the national press. So I learned last Friday.

Last Friday this Committee heard testimony about Exhibit 4 of Section B of the Comptroller's Report of September 7, 1977 which contains an analysis of a series of my checking transactions for the period December 31, 1976 to January 15, 1977. The exhibit

was included by the Comptroller in his description of the banking arrangement between the Calhoun First National Bank and the National Bank of Georgia through which deposits in my account in the latter bank would be used to cover checks drawn on the Calhoun Bank that might otherwise cause an overdraft.

In the course of his examination of Mr. Heimann about this material, Senator Percy made the charge that the documents suggested that Bert Lance might have committed tax fraud. Not surprisingly, the wire services and newspapers immediately circulated the accusation.

The Associated Press carried the story that evening that "Percy suggested that Lance may have backdated the checks to allow him to take income tax deductions for 1976." The New York Times on Saturday repeated the charge: "Percy Suggests That Lance Sought an Improper '76 Tax Deduction—Senator Hints 3 Checks Were Backdated." I deeply regret that Senator Percy saw fit to act in this regrettable manner in making a charge that has no merit whatsoever.

The exhibit at issue contained copies of five checks numbered 917 through 921 and payable in varying amounts. Senator Percy notes that the checks numbered 919 through 921 were dated prior to the checks numbered 917 and 918. With this so-called "evidence", Senator Percy suggested to the American people that I had backdated checks to take illegal tax deductions. The facts disprove such a charge.

The checks numbered 919 through 921 were written on December 31, 1976, as indicated on the checks themselves. No backdating of the checks occurred. The explanation why checks numbered 919 through 921 were dated prior to checks containing the serial numbers 917 and 918 is a simple one. The checks numbered 917 and 918 had been removed from the checkbook while blank and kept by me for possible use in my briefcase. I frequently tear out checks from the checkbook in this manner so that I will have checks with me when I need them.

On December 31, 1976, I used the checks in the checkbook, numbered 919 through 921, and wrote the checks referred to in the Comptroller's Report. A week later I used the two checks numbered 917 and 918 which I had removed from the checkbook to draw checks payable to Citizens and Southern Bank.

Senator Percy noted in support of his accusation that on December 31, 1976, my personal checking account at the National Bank of Georgia had a closing balance of $26,731.99. The question is then asked: if the dates on the checks did in fact reflect the day they were written, how could I be certain I would have funds sufficient to cover checks totaling some $195,000? He intended that the clear implication of the question would be that the checks were backdated so that I could take illegal income tax deductions for 1976.

Again, the answer to Senator Percy's question is a simple one. Had he investigated before publicizing the charge, he would have learned the following: On December 30, 1976, I sold three blocks of stock for a total of $250,000. I was paid by check but the funds were not actually deposited in my account until after New Year's Day. Accordingly, I held the checks I had written on December 31, 1976 until I had deposited adequate funds to cover them. Even at the time the three checks were written, however, I had funds in my possession in excess of their face amount. As a footnote, let me add that I reported the gain on the sale of the stock as income on my 1976 return.

I find some irony in the fact that such importance was placed on the dates contained on my checks. These dates had no bearing on income tax deductions that were taken by me for 1976.

As is true of many persons today, I do not personally prepare my own tax returns. In determining interest deductions to which I am entitled, however, my accountant makes no reference to dates contained on checks I have written. Instead, interest deductions claimed by me are based on information provided by the bank which sends a written statement as the amount of principal and interest paid during the year in question.

Interest deductions taken by me in 1976 for interest paid to National City Bank mentioned in Exhibit 4 as the payee of checks 920 and 921 totaled $8,985.57. That figure was obtained from the bank and was based on seven interest payments I made to the National City Bank during 1976, the last of which was made on the 10th of November.

Interest paid to the Chemical Bank (the payee mentioned on check 919) which was deducted on my 1976 tax return, totaled $7,160.96. Again, the figure was provided by the bank and was based on two interest payments I made, one in July 1976 and the other in November 1976.

None of the checks in question, i.e., Nos. 919–921, was included in calculating any interest expense for my 1976 tax return.

This is another charge by Senator Percy which is unfounded. The knowledge of my innocence, however, does little to lessen the shock and anguish caused me and my family when the charge is published all over the country. Here again is an instance in which the Senator failed to ascertain the facts before making accusations that challenged my honesty and impunged my integrity.

OVERDRAFTS

Much criticism has been directed at me by certain members of this Committee regarding the large overdrafts in checking accounts maintained at the Calhoun First National Bank by me and my family. It has been said that this practice was an unsound banking practice, that its adoption constituted an abuse of my position at the bank, and that it was engaged in to the detriment of other depositors and stockholders. Reports of my over drafts at the Bank have led to the further charge that I considered the Calhoun Bank to be a "playpen"—to be used as I pleased.

The overdraft policy of a bank simply involves the decision to extend credit to depositors, and the policy varies from bank to bank. Some banks have special overdraft services which they advertise in an effort to attract customers. Though the record has become confused with respect to this issue, there is nothing illegal about overdrafts. Nothing in the banking laws prohibits their use. The issue as to overdrafts thus becomes a question of degree—a subjective determination.

The overdrafts which occurred at the Calhoun Bank are a matter of record. However, I do find it curious that the news stories have grouped all overdrafts incurred by me, by my family, and by relatives and in-laws and imply that I personally had overdrafts of $450,000. This is a gross distortion of the truth.

The Calhoun First National Bank for years followed a liberal policy with respect to overdrafts. I make no apology for this practice. It was believed by the bank's management that a liberal overdraft policy was a valuable tool for the bank to use in attracting and retaining customers. Despite the characterization of the bank as my "personal toy", members of the Lance family were not accorded special favors regarding overdrafts. The liberal overdraft policy of the bank was available to all depositors.

It was not uncommon for many depositors in the bank, including those who held no position as an officer or member of the Board, to sustain large overdrafts in their checking accounts. In a small rural bank such as Calhoun, this was an acceptable practice because the bank personnel knew all the customers at the bank and could readily determine whether a given check ultimately would be covered. Considerations such as earnings lost were simply not as important as rendering this service to our customers.

The financial history of the bank reflects the fact that our overdraft policy was not in fact unsafe or unsound. The following information confirms this view:

In 1972, losses charged off on overdrafts totaled only $3,999—for all accounts combined. This compared to service charge income on deposit accounts totaling $102,562.

In 1973 losses charged off on overdrafts totaled only $5,570—for all accounts combined. This compared to service charge income on deposit accounts totaling $18,399.

In 1974 losses charged off on overdrafts totaled only $6,409—for all accounts combined. This compared to service charge income on deposit accounts totaling $249,113.

In 1975 losses charged off on overdrafts totaled only $7,307—for all acounts combined. This compared to service charge income on deposit accounts totaling $185,000.

In 1976 losses charged off on overdrafts totaled only $5,757—for all accounts combined. This compared to service charge income on deposit accounts totaling $180,000.

I would add that during that period total deposits averaged more than $47 million dollars.

It is also to be emphasized that all overdrafts attributable to me, my family, or any of my relatives which have been widely reported in the press were paid in full. Not one penny was never charged off as a loss.

I believe our loss experience proved that our overdrafts were not excessive or unusual. Federal bank examiners, nevertheless, criticized the Bank's overdraft policy in their Reports of Examination for the years 1972, 1973 and 1975. It is noted that criticism of this type is not unusual in reports of federal bank examiners.

However, the 1972 Report of Examination for Calhoun criticized not only overdrafts of directors and officers but also noted that the bank overdraft policies for all customers were extremely lenient. The report further indicates that no charge for overdrafts was generally imposed on any bank customer.

The Report of Examination for 1973 again noted that the ovedraft policy of the bank was lenient for all customers.

The 1974 Report of Examination did not criticize the bank for its overdrafts. In June of that year the bank adopted a policy to charge interest at 1½% over prime on all accounts which became overdrawn. Despite the 1974 modification of the bank's overdraft policy, the examiners decided in April, 1975 that the bank's liberal policy toward overdrafts had become excessive. I was not cited in that Report of Examination for any overdraft abuses. Again, all overdrafts which were cited by the Comptroller's Office were paid.

The period when the liberal overdraft policy of the bank became, in the view of the examiners, excessive, was a time when I was not working on a daily basis at the bank. I have explained that I headed the State Highway Department from 1971–73 and then from October, 1973 to December, 1974, I was campaigning for the gubernatorial race. At the time of the 1975 Examination Report, I had joined the National Bank of Georgia. I thus did not supervise the daily status of accounts which were overdrawn. By this discussion, I do not mean to avoid responsibility for what occurred at the bank, but merely to make all circumstances known to the Committee.

Following the 1975 Report for Examination in which bank management was criticized for overdrafts and other policies, the Board of Directors voluntarily signed an agreement with the Office of the Comptroller of the Currency to undertake various

changes in bank operations. This was not a "cease and desist" order as it has erroneously been called in these hearings. Rather, it was a voluntary agreement by the bank to change certain practices which the Comptroller's Office had criticized.

What was the result? Did the overdrafts continue unabated or did the bank management make a serious effort to stop excessive overdrafts? Here is what the April 5, 1976 Annual Report of Examination states:

"Overdraft abuses which were so prevalent during the previous examination and for years before, involving certain officers and directors and members of their families, have ceased completely." Let us now turn to the subject of my personal overdrafts. It has been charged that the overdrafts I had in my personal accounts constituted a loan to an officer of the bank in excess of $5,000 and was therefore prohibited under Section 375(a). Section 375(a) is, of course, a civil statute. Mr. Heimann last week is reported to have said that my personal overdrafts constituted a "serious violation."

The Reports of Examination which are written by the Comptroller's Office list violations of Section 375(a). What does a review of the Reports of Examination for the Calhoun Bank for the years 1972–76 indicate in this regard? The Reports by the Comptroller's Office at no time cite me as having violated Section 375(a).

The Comptroller's report notes various overdrafts in my personal checking account in 1972. Despite press stories that my personal overdrafts amounted to $450,000, the highest overdraft reported during that period was $8,799. Further, what the Report fails to mention is that during that same period of time, I always had funds on deposit in the bank in other accounts—available as an offset—which would exceed the overdrafts. The monthly *average* of all funds I had on deposit for the year was more than $44,000, not counting any funds of my wife or any of her relatives.

The Comptroller's report also details personal overdrafts I incurred in 1973, with a high of $16,845. What the report does not point out is that at all times during 1973 I had funds on deposit in all accounts with the bank which would exceed any overdraft. My monthly *average* of all funds on deposit for the year was more than $69,000.

The Comptroller's report sets forth my personal overdrafts for 1974. Again, during the first half of 1974, I had at all times funds on deposit in other accounts sufficient to cover any overdrafts.

As I have noted, in June, 1974 the bank adopted the policy of charging interest on overdrafts at the rate of 1½ % over prime. Overdrafts incurred by me from that time forward were repaid with interest.

In the last half of 1974 and in 1975, I had overdrafts on occasion. The highest amount I was overdrawn in those years was $26,272 in 1974 and $24,147 in 1975. All such overdrafts were repaid in full, with interest.

The Comptroller has suggested to the Committee that a liberal overdraft policy may constitute an unsafe and unsound banking practice. There is concern that a liberal overdraft policy can result in significant losses to the Bank.

I have recounted the overdraft loss experience at the Calhoun First National Bank. It was *negligible*—both in absolute terms and in comparison to income earned on deposit accounts. And, as you are well aware, the bank, while I was Chairman of the Board, was brought into full compliance with the ovedraft policy guidelines proposed by the Comptroller.

IMPROPER INFLUENCE

Circumstances surrounding the removal of the Agreement between the Calhoun First National Bank and the Comptroller of the Currency as well as the decision by the U.S. Attorney's Office in Atlanta to terminate an investigation into possible violations of law arising out of the financing of my 1974 gubernatorial campaign have given rise to charges in the press that I used my relationship with President Carter to exert improper influences on these decisions. No evidence is offered to support the charge. Apparently there are those who feel that the mere making of an accusation is sufficient to shift the burden to the accused to disprove it.

The effort to convict me on the charge of undue influence is based on mere circumstances and ignores *uncontroverted* sworn testimony by those involved who state that I had nothing to do with either decision.

A review of the facts seems to be in order.

I will first address the issue with respect to the removal of the Agreement by the Comptroller's Office. The Calhoun First National Bank on December 2, 1975 entered into an Agreement with the Comptroller of the Currency in which the bank agreed to take certain steps to remedy practices of the bank which had been criticized in examinatioin reports of the Comptroller's Office. The Agreement was not a "cease end desist order" as has been reported in the press. Rather it was a voluntary agreement between the directors of the bank and the Comptroller of the Currency which was undertaken in an effort to improve the bank operations and protect the interests of depositors, customers and shareholders of the bank. The terms of the Agreement provided that the bank was to raise additional capital, hire a new senior lending officer to * * * the existing staff, prohibit overdrafts in excess of 30 days if any overdrafts by me and certain other persons, prohibit participation in any manner in any campaign for political office that might be conducted, and various other requirements. It is to be noted that agreements of this type between the Comptroller's Office and national banks were not unusual during that period in which we were going through a recession.

Following the signing of the Agreement, the bank immediately undertook to comply with all its provisions. The April 1976 Report of Examination of the Office of the Comptroller notes the improvement in the bank's operation, including the fact that all overdrafts had ceased. Management continued to comply meticulously with the provisions of the agreement throughout the year and filed progress reports with the Comptroller's Office in accordance with its terms. This affirmative action by the bank soon resulted in substantial compliance with the terms of the Agreement. The only remaining provision of any consequence, in my view, was the obligation of filing monthly reports with the Comptroller's Office. Accordingly, the Agreement became of little concern to me.

In September 1975 Donald Tarleton was assigned to Atlanta as the Regional Administrator of the Office of the Comptroller. I had occasion to meet Mr. Tarleton in the fall of 1975 as a result of his duties as Regional Administrator We thereafter maintained a business relationship.

On November 22, 1976 I made a courtesy call to Mr. Tarleton's office to advise him that I had been asked by President-elect Carter to serve in the Administration and would be leaving the National Bank of Georgia. During the course of that meeting we briefly mentioned the greatly improved condition of the Calhoun First National Bank and in that context made passing reference to the Agreement which had been entered into between the Comptroller's Office and the Calhoun First National Bank. Mention of the Agreement was made simply as a reference in discussing in a general way the improvement that had taken place at the bank.

I am aware that Mr. Tarleton has testified during the recent Internal Revenue Service investigation that he did not recall ever discussing anything relating to Calhoun Bank. It is understandable that he might not remember this since our discussion was both general and brief and only concerned in a general way the significant progress the bank had made during the past year. I did not ask or tell Mr. Tarleton to remove the Agreement between the Calhoun First National Bank and the Office of the Comptroller nor did I suggest or imply in any way that the Agreement should be rescinded. Mr. Tarleton's sworn testimony confirms this fact. He stated that "Lance did not on that or any other date request release of the Calhoun Agreement."

The testimony that has been taken regarding this matter establishes that in September 1976 prior to the election, Mr. Tarleton in a telephone conversation with First Deputy Comptroller of the Currency H. Joe Selby, said that they discussed progress of the Calhoun Bank and that "both felt the agreement had served its purpose." Mr. Tarleton states that a visitation at the bank had been scheduled to take place in October 1976, and he and Mr. Selby decided to await the results of that examination in making a determination whether to remove the Agreement. Following review of the visitation report which was received by Mr. Tarleton on November 2, 1976 and which indicated marked improvement by the bank in areas which had been criticized by examiners, Mr. Tarleton decided the Agreement should be removed. Mr. Selby's affidavit confirms Mr. Tarleton's recollection as to these events.

Since the bank had already complied with its terms, the Agreement was essentially of no consequence to me. As I noted, the only matter of concern was the paperwork involved in filing monthly progress reports by the bank to the Comptroller's Office. I find it curious that in all the discussion that has ensued regarding the removal of this Agreement, there has been no mention of the fact that the reporting requirement was not lifted. Mr. Tarleton's letter of November 22, 1976 continued the requirement that the bank forward monthly progress reports to the Comptroller's Office to enable it to monitor future progress. In other words, in my opinion, the only condition of any consequence in the Agreement as of November 22, 1976 remained after the Agreement was rescinded. The sworn testimony of the persons involved is uncontroverted that at no time did I request or suggest to Mr. Tarleton that the Agreement between the Comptroller's Office and the National Bank of Georgia be rescinded.

Similar charges of improper influence have been made in connection with the U.S. Attorney's termination of an investigation of the questions of finances in my 1974 gubernatorial race. Once again the false impression has been created that something sinister was involved in the closing of that case.

I discussed the subject of the termination of that investigation with this Committee at the time of my confirmation. I am prepared to repeat for the record the facts of this matter.

Following my unsuccessful campaign for governor in 1974, I was the subject of a private investigation conducted by the Office of the Comptroller of the Currency which was checking to ascertain whether there had been any violation of law in the financing of my campaign. The investigation focused on two accounts maintained by my Campaign Committee at the Calhoun First National Bank. The Comptroller's Office was seeking to determine whether there had been illegal contributions to the campaign made by the bank.

I gave a deposition on this matter in August 1975. I heard nothing further from the Comptroller for over a year and assumed the case had been closed.

In early December 1976 my attorney, Judge Sidney Smith of Atlanta, had several telephone conversations with then Acting Comptroller Robert Bloom concerning the release of confidential information contained in the Agreement between the Calhoun First National Bank and the Comptroller's Office. It is my understanding that during the course of those conversations, Judge Smith learned that the investigation of the accounts maintained by my campaign committee at the Calhoun Bank had been referred to the Department of Justice for a determination whether any legal violations had occurred. The referral had been made because the Comptroller's Office did not have jurisdiction to make a determination regarding this type of matter.

Mr. Bloom advised Judge Smith that the Justice Department in Washington had closed the case because they had determined that no violation had occurred. The file had then been sent in March 1976 to the U.S. Attorney in Atlanta, Georgia for further determination by that office whether there was any violation of law that warranted prosecution.

Judge Smith advised me of this matter in December. To the best of my knowledge, that was the first time that I learned about this particular investigation.

Judge Smith offered to call the U.S. Attorney in Atlanta and inquire as to the status of the case. It is my understanding that Judge Smith talked with John Stokes who was in charge of the Office and who said that he would check on the matter and report back. Mr. Stokes concluded that no prosecution was appropriate and thereafter he advised Judge Smith that the investigation had been terminated.

I am aware of no testimony that in any way links me with Mr. Stokes' decision to close this case. I did not talk to Mr. Stokes. I did not ask that the investigation be terminated, nor was such a request made on my behalf by Judge Smith. Mr. Stokes has stated that he had concluded there was no merit to the case and that his decision was supported by Justice Department officials in Washington.

DOUBLE PLEDGE OF COLLATERAL

Another issue which has been raised involves an accusation that I "pledged the same collateral twice for separate loans" at two different lending institutions. The impression created in the press is that I pledged stock as security for a loan from Manufacturers Hanover Trust, then somehow obtained the stock back from that bank, and pledged it again for a loan from the Chemical Bank. The charge is not true.

When I obtained a loan in 1975 from Manufacturers Hanover Trust Company in the amount of $2,625,000, it was based upon the understanding that the bank would lend me 90 percent of the purchase price for 148,118 shares of stock of the National Bank of Georgia. The bank noted that it was customary for them to lend 90 percent of book value in these circumstances. The book value amounted to $17.74 per share.

The following computation reflects the transaction: 148,118 shares of NBG stock at $17.74 per share totals $2,627,613.30. 90 percent of that amount or $2,364,851 was the collateral valuation at the time the loan was made.

A collateral shortfall of $260,148.10 thus remained. To cover that shortfall, I pledged 8,375 shares of Calhoun First National Bank stock. I also pledged as collateral certain life insurance policies. Since the book value of Calhoun would not have reflected the stock's true worth as collateral, the bank and I agreed to value the stock at its market rate measured as of the date of its last sale. The stock's market value at the time was approximately $30.00 per share for a collateral valuation of $259,625.

I signed a secured note for the loan which was held by the bank. No written loan agreement was executed. The bank held total collateral equal at least to the value of the loan.

In December, 1975 I received a stock dividend of 14,657 shares of stock from the National Bank of Georgia. I obtained a loan from Chemical Bank in February, 1976 and pledged as collateral the 14,657 National Bank of Georgia shares I had received. At the time this loan was obtained, the loan from Manufacturers Hanover Trust remained fully collateralized.

In June, 1976 I began to receive requests from Manufacturers Hanover Trust for additional collateral. In accordance with the terms of the note it held, the bank requested a pledge of the NBG stock I had received as a stock dividend.

The financial reports of the National Bank of Georgia indicated that on June 30, 1976 the book value of its stock totaled $17.72. This, of course, constituted only a 2 cent difference per share from the value attributed to the stock when the loan was first obtained from Manufacturers Hanover Trust. It is noted that this value was derived after the 10 percent stock dividend. The dividend did not cause a material per share dilution of collateral value of the National Bank of Georgia stock. In other words, the loan from the Manufacturers Hanover Trust Company remained fully collateralized, in my opinion.

There is an explanation for the Bank's request for additional collateral. The loan officers at Manufacturers Hanover Trust unilaterally wished to modify our oral agreement with respect to the valuation of the Calhoun Bank stock. They had decided that the value of this collateral should also be computed at book value.

The written memoranda and letters included as Exhibits in the Comptroller's Report reflect only a part of the discussions and understandings reached between the bank and me with respect to this loan. I had numerous telephone conversations with officers of the bank during which I challenged their request for additional collateral. In my opinon, the loan was as fully collateralized as it was when it was obtained a year earlier.

The matter was resolved when I refinanced the loan in January, 1977 with the First National Bank of Chicago. The loan from Manufacturers Hanover Trust was then paid in full. In short, the so-called issue as to "a double pledge of stock" involved a dispute as to collateral adequacy with Manufacturers Hanover. Unfortunately, only the bank's side of that dispute was included in the Comptroller's Report.

BILLY LEE CAMPBELL

I have already mentioned the totally irresponsible charge by certain members of this Committee that I was involved in an embezzlement scheme at the Calhoun First National Bank during the years 1971 through 1975. To complete the record, I feel it appropriate to add my personal statement regarding this matter.

I met Billy Lee Campbell when I was President of the Calhoun First National Bank. He joined the bank at my request in April 1968. He had been engaged in the tractor business in Calhoun for a few years and possessed a good reputation among the farmers of the area. We were interested in developing new approaches in the area of agricultural development and business development at the bank. We felt it was important to have someone who would specialize in that particular area.

In January 1969 Billy Campbell became a loan officer of the bank. He remained with the bank in that capacity until he was discharged in 1975.

In addition to his work at the bank, Campbell established his own cattle operation. He devoted great time and effort to this venture in an effort to make it profitable. As a result of poor market conditions in 1974, however, Campbell suffered severe cash flow problems. In February 1975, after I had joined the National Bank of Georgia, Campbell sought a loan from me of $100,000. He needed the cash to invest in his cattle operation, nad he said he intended to pay the loan out of the proceeds of a government-guaranteed disaster loan for which he had made application.

In July 1975 Campbell again advised me that he was having cash flow problems and asked if the National Bank of Georgia would be willing to increase his loan. In mid-July, the bank lent him an additional $150,000 on a secured basis. This was to be a temporary loan which would be refinanced by the loan from the government. I might add, then as now, that these government-guaranteed loans were extremely hard to finalize.

It is to be noted that during the time in which Mr. Campbell engaged in his unlawful conduct, I was not present at the bank on a daily basis. From December 1970–March 1973 I worked in the State Highway Department of Georgia. Then in October 1973, I began my campaign for Governor of Georgia to which I devoted the majority of my time until December, 1974.

Following the campaign in 1974, I joined the National Bank of Georgia in January 1975 as President. Although I remained Chairman of the Calhoun First National Bank, my daily activities required me to be present at the National Bank of Georgia.

In the last week of July, 1975 while I was working at the National Bank of Georgia, I received a telephone call from Atkins Henderson, the President of the Calhoun First National Bank. Mr. Henderson said he was concerned about the performance of Mr. Campbell. Apparently Mr. Campbell had not consulted with Mr. Henderson about making certain loans as required by bank procedures. I said to Mr. Henderson that I would come down and review Mr. Campbell's performance. I studied the loan files carefully and detected what appeared to be certain impudent loans that he had made. At this time, I still did not suspect that Mr. Campbell had engaged in any illegal activity, but merely thought he had exercised poor judgment. Both Mr. Henderson and I talked to Mr. Campbell about the loans he had made and told him that certain borrowers should be asked to meet with Mr. Henderson in the bank the next morning to discuss their lines of credit.

The next day Mr. Campbell did not arrange for Mr. Henderson to see the people I had mentioned. Mr. Henderson called me again at the National Bank of Georgia and advised me of these developments.

I started calling some of the people to whom Mr. Campbell had made loans in order to get a better feel for the situation. I continued my investigation and worked late into the night reviewing files and telephoning persons to whom Mr. Campbell indicated he had made loans. It became increasingly apparent after talking with various borrowers and studying the files that something improper had occurred. I concluded that Mr. Campbell had been embezzling funds from the bank.

I decided to confront Mr. Campbell with my accusation. He did not come to work the next day, and in the afternoon I went to his house together with Mr. Henderson and J. Beverley Langford, a director of the bank. I spoke with Mr. Campbell and told him of my findings. I informed him that I was going to call the proper authorities and did so, including the Regional Administrator, the Federal Bureau of Investigation, and the agent for the bonding company.

Following an investigation of this matter by the authorities, Mr. Campbell was arrested and charged with embezzlement to

which he entered a plea of guilty. Mr. Campbell's conviction was delayed due to the fact that he suffered from various mental disorders and had to be hospitalized for psychiatric examination for several months.

With the single exception of the man convicted of the crime, all persons connected with this case, including the U.S. Attorney who prosecuted it, Mr. Campbell's attorney, and the attorney for the bonding firm, Hartford Accident & Indemnity Company, have unanimously concluded that Mr. Campbell alone had embezzled the funds of the bank.

1974 CAMPAIGN VIOLATIONS

A charge which received attention at the time of my confirmation hearing in January has again been revived during these hearings. This matter involves allegations of illegality surrounding the finances for my 1974 gubernatorial campaign. While the members of this Committee are hardly ignorant of this matter—the very first question posed to me by Senator Ribicoff at my confirmation hearing involved the subject—I will briefly provide some factual background that I trust will be helpful.

In May, 1973 I made a decision to enter the primary race for the Democratic nomination for Governor of Georgia. From that time until August of 1974 I was actively engaged in campaigning in my efforts to seek that office. A campaign committee was established an accounts were opened at the Calhoun First National Bank for the payment of expenses which would be incurred.

On October 13, 1973, I wrote a letter to the bank enclosing a check in the amount of $5,000 as a credit to the campaign committee account. I further asked the bank to calculate any amounts due if there were insufficient funds to cover expenses and to notify me regarding payment.

During the campaign, expense vouchers were sent directly to the bank. The bank would pay them and then bill the campaign committee account for reimbursements at the beginning of the following month. On several occasions the campaign committee issued checks to reimburse the bank when the account did not have sufficient funds to cover the checks. I was not personally involved in these transactions as I was actively engaged in campaigning. In addition, on one occasion in August, 1974 the bank sent me an expense voucher to the committee for $4,779.93 but was not reimbursed.

The bank entered the amount on its ledger as an account receivable from the campaign committee.

Following the termination of the campaign, I paid all expenses that were outstanding plus interest.

During an examination of the bank in April, 1975 the Comptroller's Office reviewed the activities of the campaign committee and commenced an investigation to determine whether the bank's activity had constituted illegal contributions to a political campaign. I gave a deposition to the Comptroller's Office in late August, 1975 and heard nothing further about the matter. I assumed the case had been closed.

In December, 1976 I was advised by Judge Sidney Smith following a telephone conversation he had had with Robert Bloom, then Acting Comptroller of the Currency, that the Comptroller's Office of Justice on December 24, 1975 to check on possible violations.

The Department of Justice determined that no prosecution was warranted. In March, 1976 the Department forwarded the entire file to the U.S. Attorney in Atlanta, Georgia to determine whether other violations of law were present. On December 2, 1976, the case was closed.

The following factors were present which made prosecution of the case inappropriate:

(1) Separate accurate records of campaign expenses were maintained by the bank at all times. No attempt was made to hide, disguise, or destroy relevant records.

(2) Full disclosure was made as to the extent Bank employees would or could participate in the political campaign, both in minutes of the Board meeting and in a memorandum to employees.

(3) No loss was suffered by the bank. All amounts were repaid.

(4) The Bank had been given my signed, unlimited guarantee to cover any possible loss sustained by the Bank in connection with the campaign.

(5) I had a Savings Certificate pledged at the Bank in the amount of $110,000.

As I testified previously, I had absolutely no participation in the decision by the U.S. Attorney's Office to close this case.

AIRPLANE USAGE

Questions with respect to my use of bank-owned airplanes have received much attention in the press. Allegations have been made that airplanes owned by the National Bank of Georgia were improperly used by me for personal rather than business purposes.

The Office of the Comptroller conducted an investigation into this matter and I am advised that it is under review by the Department of Justice.

While I was President of the Calhoun First National Bank, it leased a Piper Seneca airplane from a fixed based operator in Calhoun, Georgia. Thereafter, when I began campaigning in the Democratic primary in 1973, I leased the airplane from the bank and paid rent on a monthly basis.

In early 1974, Lancelot & Co., a partnership consisting of my wife and me, bought a Beechcraft Queen Air airplane. We used the plane in 1974 during the remainder of my campaign. I paid all expenses incurred in connection with the use of the plane. Moreover, I continued to pay the bank a rental fee for the Piper airplane although, in fact, I did not use it.

In 1975, I was approached by the National Bank of Georgia and asked to join it as President and Chief Operating Officer. I had various other employment possibilities at the time but was intrigued by the bank's offer because I felt that a real opportunity existed to expand greatly the bank's market area and establish it as a major financial institution in Atlanta.

My plans for the bank included a program to develop a network of correspondent banking relationships; establish a national account department; conduct an aggressive agribusiness program and become involved in international banking.

I discussed my expansion program with the executive committee of the bank, which made me an offer of employment. It was clear that to accomplish these objectives, extensive travel on a flexible basis would be necessary. Accordingly, we agreed at the time I joined the bank that it would purchase a plane for my extensive use.

I continued to own the Beechcraft Queen Air at that time. The National Bank of Georgia offered to purchase it from me and use it as a company plane. Although the propriety of this sale has been questioned in the press, the transaction was perfectly legitimate. The purchase price was determined after having the plane appraised by two independent appraisers. The bank initially leased the plane from me, and in July 1975, purchased it. Subsequently, in November 1975 the bank sold the Queen Air and purchased a Beechcraft King Air airplane.

No specific guidelines were established by the bank for the use of the plane. It was generally understood that I was to be creating a new image for the bank and would be seeking new business whenever and wherever I traveled. While one might not be able to connect a particular plane trip to a specific piece of new business that was obtained as a result, it was understood that the achievement of the bank's growth objective would depend largely on the new image we could create for the bank. This required extensive plane travel. I did advise the comptroller of the bank that he was to charge me for any purely personal use of the plane and on occasion I made payments to the bank in accordance with this understanding.

There was nothing covert about my arrangement with the bank. It was understood that I would use the plane in the manner I concluded was most appropriate. The bank believed that use of the plane would generate substantial new business. The record clearly reflects that it did.

To assume that one can readily distinguish personal use of the plane from business use simply ignores the realities involved in developing new business. Such ready pigeonholing of the plane's use is impossible.

SLOPPY BANKING PRACTICES

In apparent recognition of the lack of evidence to suport any of the more serious charges against me, certain critics take refuge in the more ambiguous allegation that I have engaged in "sloppy" banking practices. The question is asked, "How can Lance possibly run the Office of Management and Budget when he could not even manage a small bank in Georgia?" The objective facts which answer this charge are found in the financial records of the two banks with which I have been associated.

I have already testified that I became President of the Calhoun First National Bank in 1963 and I remained in that position for ten years. In May 1974 I assumed the position of Chairman of the bank which I held until my resignation in January, 1977 when I joined the Administration. It is interesting to note what happened at the bank during the period of my stewardship.

Financial data of the bank reveals that total assets grew from $11.9 million in 1964 to $54.1 million by the end of 1976. Deposits which amounted to only $11 million when I became President increased dramatically to $49 million by the time I was ready to leave the bank. Our loan portfolio expanded from only $5.9 million in 1964 to over $32 million last year. I submit that this is a record of successful and sustained growth.

Various banking practices and particularly the policy regarding overdrafts at the Calhoun First National Bank have been widely criticized in these hearings during testimony by representatives of the Office of the Comptroller. It has been said that bank management permitted unsafe and unsound banking practices to exist. That is a subject for debate. But in all the years I was at the Calhoun First National Bank, no depositor has ever lost a cent.

In January 1975 I became President of the National Bank of Georgia. It is perhaps more difficult to assess my performance there since I was with the bank for only two years. But what do the records disclose? In the two years I was at the bank as President, the total assets increased 60 percent from $254 million to $404 million. During the same period, the bank's loan portfolio grew significantly, and this growth was supported by a 50 percent increase in deposits and a 38 percent increase in capital. That the growth was controlled is indicated by the bank's maintenance of reasonable loan to deposit ratios and capital to asset ratios. And these successes came at a time of serious financial difficulty for many banks throughout the country.

It is ironic in one sense that I am defending my record as a bank manager against charges that I was inept. On three separate occasions while I was at the National Bank of Georgia, the bank was asked by the Comptroller's Office to take over failing banks in

the area and thus protect depositors. We did so.

I do not contend that I made no mistakes when running these banks. But to accept the assertion that I could not even manage a small country bank, one must ignore the objective facts.

We have witnessed a flood of accusations about me which has dominated the front pages of our newspapers in recent weeks. My financial affairs have been examined in minute detail. Investigators have taken sworn testimony regarding my relationships with various people. Information in government agencies which was once thought confidential has been widely publicized.

So many allegations have been made that it has been difficult to maintain a complete list of them. Thus, if I have failed to address any allegation, it is due only to the fact that it was overlooked and not for any lack of explanation on my part.

I did not ask for this fight, but now that I am in it, I am fighting not only for myself but also for our system. I was a successful businessman in my home state, and I thought I had an important contribution to make by coming into government service.

I have worked hard these past eight months in Washington, and I am proud of the job I have done in OMB. But is it part of our American system that a man can be drummed out of government by a series of false charges, half-truths, misrepresentations, innuendos and the like?

I have long felt that businessmen should be willing to take positions in our government. They can bring new ideas, new attitudes, new philosophies and, as a result, our government can be more responsive to the views of all our people.

I speak, more in sorrow than in anger, when I suggest that it won't be any easier to get these men and women to volunteer for public service after my experience of these past weeks.

Abraham Lincoln had a rare facility for putting into words what many men have felt through the ages. Let me close with this famous quotation from President Lincoln:

"If I were to try to read, much less answer, all the attacks made on me, this shop might as well be closed for any other business. I do the very best I know how—the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference."

(Conversation at the White House, reported by Frank B. Carpenter)

DEFENSE DISCLOSURE SOVIETS ARE BUILDING FOUR NEW ICBM MISSILES

Mr. THURMOND. Mr. President, articles appearing in the Washington Post and New York Times newspapers today report Defense Secretary Harold Brown's disclosure of Soviet development of four new ICBM missiles.

These new missiles are in addition to the fourth generation Soviet ICBM's—SS–18 and SS–19—which are only now being deployed and by themselves are bigger than any U.S. missiles and pose a threat to our Minuteman missiles in the early or mid-1980's.

This development comes as no surprise to us in the Congress who have warned repeatedly in the past 15 years that the Soviets were not seeking parity with the United States but rather a clear position of nuclear strategic superiority.

Many of us recall the U.S. "strategists" of the 1960's and early 1970's who promoted slowdowns in U.S. arms programs so the Soviets could achieve parity with the United States. They argued that there could never be a real peace if we were superior to the Soviets as that position would never be accepted by the Soviets.

Now that those ill-conceived policies have brought a degree of parity, we see the Soviets have no intention of stopping the arms race at that point but intend to push into a position of superiority.

These recent developments should alarm the American people. There is no such thing as parity, in my view, at least not with a world power operating under a Communist government. They are pledged to expansion of their system and they know superior military power will facilitate that expansion.

Mr. President, it is past time for this Government and this Congress to redress the dangers we have brought upon ourselves with the false hopes of strategic parity.

The administration and the Congress have just recently made the serious mistake of canceling the B–1 bomber which knocks out the third leg of our long held Triad policy. This is a foolish and dangerous approach to national security.

We have already placed ourselves in an unfavorable situation in the early or mid-1980's by policies adopted in recent years. Hopefully this latest development will bring enough Members to reconsider previous actions limiting U.S. ICBM research and development and canceling the bomber leg of our Triad.

Mr. President, I ask unanimous consent that articles appearing in the September 16, 1977 issue of the New York Times and the Washington Post entitled "Brown Sees Buildup by Soviets in Missiles," and "Brown Cites Discovery of New Soviet ICBM's," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 16, 1977]

BROWN SEES BUILDUP BY SOVIET IN MISSILES—DEFENSE CHIEF SAYS IT COULD POSE THREAT TO U.S. LAND-BASED DETERRENTS IN 1980'S

WASHINGTON, Sept. 15—Defense Secretary Harold Brown, declaring that "we will not be outgunned," said tonight the Soviet Union was stepping up its development of heavy missiles in a way that could pose a threat to the American land-based deterrent in the 1980's.

In an unusually tough speech before the National Security Industrial Association, Mr. Brown said that the military balance between the United States and the Soviet Union would be maintained even as the Russians build up their strategic and convenient forces.

"We cannot ignore their efforts or assume that the Soviets are motivated by considerations of defense or even altruism," said Mr. Brown. "We now have and will retain, our options. We will build and improve our forces as necessary.

"We will not be outgunned. We will not be bullied. We will not be coerced."

Mr. Brown, in his speech at the Sheraton-Park Hotel before the group of defense contractors and retired military officers, stressed that the Administration sought to negotiate with the Russians "for adequately verifiable agreements that enhance international stability and curb the arms competition."

He added, however, that talks with the Soviet Union and economic cooperation "should not keep us from offsetting Soviet military power and counterbalancing adverse Soviet influence in such vital areas as Western Europe, East Asia and the Middle East."

"Our main defense objective, in conjunction with our allies, will be the maintenance of an overall military balance with the Soviet Union at least as favorable as that which now exists," he said. "Deterrence, not overbearing power, is what we seek. To have it, we must have a credible fighting capability.

"In order to insure deterrence we plan to raise the level of U.S. defense spending by approximately 3 percent a year in real terms. Our NATO allies have also pledged themselves to try to meet that goal."

Although President Carter had promised to cut the defense budget in real terms, Mr. Brown said at a NATO meeting in the spring that the United States would agree to a 3 percent budget increase in real terms with other alliance members over the next few years. Mr. Brown's comment today on the budget received Presidential approval, a Pentagon official remarked.

"LARGE, IMPRESSIVE AND COSTLY"

Mr. Brown spoke bluntly about the Soviet Union. "All of us must recognize that the Soviets have under way a number of large, impressive and costly strategic programs to strengthen their offensive capabilities, their active defenses, and their passive defense system," he said. "They are not just studying the problem. They keep working on it."

He added: "To give you just one indication of the effort—and of the momentum behind it—the Soviets are now deploying a fourth generation of ICBM's at a rate of between 100 and 150 a year. These weapons are, almost uniformly, first-class in terms of their accuracy and payload.

"At the same time that the Soviets have four new ICBM's under development, they are continuing work on the SS–16, their mobile ICBM, and they are modifying four other missiles. Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain."

Mr. Brown was not specific about the new Soviet missiles under deployment, but knowledgeable defense sources said that the "four new ICBMs under development" made it plain that the Pentagon had learned of a fifth generation of Soviet ballistic missiles.

The so-called fourth generation of ballistic missile deployed by the Soviet Union was, in itself, viewed as posing a threat to the American land-based deterrent in the 1980's. The SS–18 and SS–19 missiles, for example, are far bigger than anything deployed so far by the United States.

[From the Washington Post, Sept. 16, 1977]

BROWN CITES DISCOVERY OF NEW SOVIET ICBMS

(By George C. Wilson)

Defense Secretary Harold Brown disclosed last night that U.S. intelligence has discovered four new intercontinental ballistic missile systems under development in the Soviet Union.

Pentagon officials confirmed that he was referring to a completely new generation of ICBMs, not the present-day strategic nuclear missiles going into Soviet underground silos.

The same officials said last night that they could reveal no further details about the new Russian missiles, such as the size of

their warheads or how many were under development.

Brown's reference to the new missiles was the first official mention of them by the Carter administration, which is trying with little apparent success, to negotiate a new arms control agreement with the Soviet Union.

The administration's disclosure about the existence of a fifth generation of Soviet ICBMs—beyond the present-day SS-16, SS-17, SS-18 and SS-19 missiles—is expected to harden domestic opposition to President Carter's pending proposals to the Soviet Union for slowing the arms race.

"All of us must recognize," Brown told the 34th annual dinner of the National Security Industrial Association, comprised of representatives of defense firms, "that the Soviets have under way a number of large, impressive and costly strategic programs to strengthen their offensive capabilities, their active defenses and their passive defense system.

"To give you just one indication of the effort and of the momentum behind it, the Soviets are now deploying a fourth generation of ICBMs at a rate of between 100 and 150 a year. These missiles are almost uniformly first class in terms of their accuracy and payload."

Then he made the disclosure in this offhand manner: "At the same time that the Soviets have four new ICBMs under development, they are continuing work on the SS-16, their mobile ICBM, and they are modifying four other missiles.

"Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain."

Thomas B. Ross, assistant secretary of defense for public affairs, confirmed when queried last night that Brown was referring to the development of four hitherto undisclosed models of Soviet ICBMs.

"What is certain," Brown said in what was billed as a major policy speech, "is that we cannot ignore their efforts or assume that the Soviets are motivated by considerations of defense or even altruism."

To deter the Soviet Union from using its nuclear might, Brown pledged that the American strategic arsenal would continue to be powerful enough "to inflict unacceptable damage on the U.S.S.R. after an all-out Soviet first strike."

In discussing what the United States needs for less than all-out strategic nuclear war, Brown embraced the 1½-war policy of the Nixon administration, declaring:

"We must continue to maintain a defense posture that permits us to respond effectively and simultaneously to a relatively minor, as well as to a major, military contingency."

Beyond Europe, Brown cited the Middle East, Persian Gulf and Korea as areas "where the United States and its allies have vital interests."

For those areas outside Europe, Brown said the United States needs "a limited number of relatively light land combat forces" not committed to NATO, "such as the three Marine divisions and some light Army divisions."

His speech may foreshadow a change in the Marines' role as a NATO reserve force. He said the Army's 2d Division will remain targeted on the Western Pacific after it leaves South Korea for a base in the United States.

While stressing the Soviet threat and other potential hot spots do not dictate crash programs to buttress American defenses, Brown said that "in order to ensure deterrence, we plan to raise the level of U.S. defense spending by approximately 3 per cent a year in real terms."

BIRTH OF THE CONSTITUTION—OUR NEXT BICENTENNIAL CELEBRATION

Mr. BAYH. Mr. President, on September 17, America will celebrate one of the most important anniversaries in our history: On that day in the year 1787, 190 years ago, the final draft of the Constitution of the United States was signed in Philadelphia. By any objective reckoning, this date should stand with Independence Day as a great national holiday, yet it passes, year after year, with only the most perfunctory recognition.

The crucial importance of the Constitution sometimes escapes us for the simple reason that it seems almost anticlimactic by comparison with the mighty, ringing phrases of the Declaration of Independence, and the heroic struggles of the Revolution. It is, after all, not so much a great statement of principle as a blueprint for the formation and conduct of our form of government, a blueprint that continues to serve as surpassingly well nearly 2 centuries later.

As the document itself is less dramatic than the impassioned cadences of the Declaration, so too, the events that gave birth to the Constitution are less the stuff of drama.

The atmosphere in Philadelphia in 1776 was highly charged. British fleets menaced the American coastline, and, even as the Declaration was being debated, Lord Howe was preparing to land on Long Island, beginning his successful campaign to capture New York.

The crisis of 1787, is less apparent to the 20th century observer than that of 1776, but it was no less real. The 6 years following the surrender of Yorktown and the end of military operations had been uncertain ones for the American Nation. The Articles of Confederation, under which Congress attempted to give unified direction to the United States, left the most vital powers in the hands of the several States. Congress, when it could work up a quorum to conduct business, was reduced to begging from the parsimonious State legislatures, as it had no power to levy direct taxes of any sort.

There was no navy. The Army had been reduced to incredibly small total of 80 privates and a handful of sergeants and officers. British troops occupied Forts Detroit, Niagara, and Oswego, and continued to wield enormous influence over the Northwest Territories they were supposed to have surrendered by the terms of the Treaty of Paris.

The States quarreled constantly with one another, imposing tariffs, restricting interstate commerce and grinding out immense sums of worthless paper money.

The crisis was real, but lacking the external stimulus of a war with Great Britain, it seemed unlikely that order could be brought from the chaos that reigned.

America was, however, gifted in the 18th century with the greatest explosion of political genius we were ever to enjoy. Since then, we have seen the equals of Washington, Adams, Jefferson, Madison, Hamilton, and Jay, but never have we had so dazzling a constellation of genius alive and vigorous at the same time. These men saw dangers inherent in continuing the loose confederation of States, and though many, like the great George Mason of Virgina, feared the potential for oppression implicit in a strong Federal Government, they knew that tyranny was even more likely to spring from anarchy and bankruptcy, and so they persuaded the legislatures of the several States to send delegations to meet in Philadelphia on May 14, 1787, for the purpose of devising "such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union."

For the next 4 months, the delegates haggled over the provisions that would comprise the new fundamental document of the United States. Free States argued with slave States over the continuation of the abominable trade in human bodies from Africa to the United States, and reached a compromise, agreeing to prohibit it after 1808. Large States and small States disagreed as to the makeup of the national legislature: should each State have equal representation, or should seats be apportioned according to population? They reached an agreement by establishing the bicameral Congress that has survived unchanged to this day. Liberals and conservatives, though they would not have known what these modern political labels imply, clashed over the Presidential election process: should the Chief Executive be chosen by the people at large, or should they be selected by the members of the State legislatures? By comparison, this still rings loud and clear today. Then, though, they compromised by establishing the indirect system of election embodied in the electoral college, which, in fact, never operated as it was intended.

Charged with revising the Articles of Confederation, the Convention had instead created an entirely new document. It was not perfect in its mechancs: the cumbersome voting method of electing the President was scrapped by adoption of the 12th amendment after little more than a decade. Nor did the new document address all the important issues of the day: the abolition of slavery was to be the work of another generation. But, when supplemented by the Bill of Rights, the Constitution did provide a remarkable solid, yet flexible skeleton on which a stable government could be built, while at the same time the personal freedoms gained at such price in the Revolution remained unimpaired.

As a practical blueprint of government, the Constiution of the United States has no peer anywhere in the world today. As a statement of principle, when considered as part of a great amalgam, which includes the Bill of Rights and the Declaration of Independence. it comprises the definitive statement of principles and aspirations of modern representative democracy.

A century ago, William Ewart Gladstone, the grand old man of English

politics who served four times as Prime Minister of Great Britain, gave his thoughts on the Constitution of the United States. His words of tribute have not been surpassed since then, and they merit repetition today:

The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man.

So it remains in 1977, so too, it will remain for many, many years to come.

In its every particular, the Constitution of the United States richly merits our praise and recognition: in the distinction of its authorship, in its excellence, clarity and brevity of form, in its remarkable adaptability to changing conditions, in its perserverance, and in its salutary effect on the affairs of men and women the world over.

Mr. President, we in the Congress of the United States have a great and eminently suitable way to acclaim the founding charter of our republic. Two joint resolutions of the Congress authorized the President to issue annually proclamations calling for the observance of "Citizenship Day" and "Constitution Week," respectively. The first resolution approved February 29, 1952, authorized the designation of September 17 of each year as "Citizenship Day" in commemoration of the signing of the Constitution on September 17, 1787, and in recognition of all citizens who have come of age—new voters—and all who have been naturalized during the year—new citizens. The second resolution, approved August 2, 1956, authorized the designation of the week beginning September 17 of each year as "Constitution Week," a time for study and observance of the acts which resulted in the formation of the Constitution. The President now issues a single proclamation.

Mr. President, we are in a Bicentennial era which runs from 1976 to 1989. We ought to remember that during that period 200 years ago a nation was built and a system of government was constructed which is still operating under the original written Constitution.

The Bicentennial in 1987 of the adoption of the Federal Constitution is only 10 years away, and that does not give much time to begin a thoughtful, objective investigation of how our Government functions. We should study not only the history of our Constitution and the Federal Convention of 1787, but also of the living Constitution that evolved from the application of the document to the needs of government.

Mr. President, Justice Learned Hand called the Constitution "the best political document ever made." Each American, not only on September 17 of each year, but also throughout the year should understand and reflect on the wisdom of that statement. Citizenship Day and Constitution Week are worthy and fitting complements to Independence Day. I hope that my congressional colleagues in the coming week and year will call on their own constituents also to reflect on the Constitution's purpose "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty."

THE SECOND ANNIVERSARY OF PAPUA NEW GUINEA'S INDEPENDENCE

Mr. PERCY. Mr. President, Papua New Guinea, a democratic nation of 3 million people, celebrates the second anniversary of its independence today. Located just north of Australia, it has the largest land area, the largest population and the most important natural resources of any of the Pacific island countries. I believe it may well emerge as a significant regional leader among the island states.

I have recently returned from a trip to Papua New Guinea. The trip was unofficial and made as a personal expense, so I will not be writing a formal report. But I would like to share with my Senate colleagues some of the impressions I gained and some of the interesting facts I learned about this new nation.

While in Papua New Guinea, I visited with the new Foreign Minister Ebia Olewale, the Foreign Secretary, Tony Siaguru, and U.S. Ambassador Mary Olmsted. Later, in Sydney, Australia, I had the opportunity to have a breakfast meeting with the American Chamber of Commerce in Australia and the Australian/American Association and I addressed the members of these two organizations.

My first stop was in Port Moresby, which Americans helped to defend in the early years of World War II in the Pacific. Gen. George Churchill Kenney, a distinguished U.S. Air Force general who died in the United States while I was in Papua New Guinea, developed the tactical conceptions that were held largely responsible for the defeat of the Japanese in their attempt to capture Port Moresby in 1942. Before I left on my trip, I had been reminded by an Illinois resident, Col. Frank Wittosch, that the 33d Infantry Division of the Illinois Army National Guard served in New Guinea as part of U.S. operations in the Pacific theater. The 132d Illinois Infantry Regiment also fought in Bougainville, the northernmost island in the Solomon chain. In the spring of 1944, the United States and Australia joined forces to liberate all of New Guinea from the Japanese.

I also visited Mount Hagen in the eastern highlands, traveled on the Sepik River, and saw the north coast towns of Madang and Lae. I saw the modern urban part of the country with large buildings, fine houses and supermarkets, as well as villages where it is said that the way of life has changed only marginally during the past thousands of years. It is a fascinating country with the traditional and the modern existing side by side under the enlightened leadership of Prime Minister Michael T. Somare, a remarkable man who has been tremendously effective in building the new nation.

Papua New Guineans are among the most diverse people in the world. Traditionally scattered in small tribal groups and isolated by rugged terrain and cultural differences, Papua New Guineans speak 750 languages. Sustained contact with Western civilization came only in the 19th century and not until the 1930's in the highlands area. These people, who only a few generations ago had no written language and used stone for tolls and bark for cloth, have taken enormous strides into the modern era.

The government of the new nation is moderate, pragmatic, and nonideological. In the 2 years since it achieved independence, Papua New Guinea has successfully coped with secession problems, preserved law and order, expanded economic ties with many nations, and established diplomatic relations with 35 countries around the world.

Upon independence, Papua New Guinea became a freely elected democratic government. Its legislative, executive, and judicial branches are loosely based on the Australian model.

During the independence process, the former administrator, Australia, consistently supported the Papua New Guinea Government in absorbing its new responsibilities. The harmony of that period is today reflected in the two Governments' warm relations, their close cooperation in many areas, and by the large united aid grants afforded Papua New Guinea by Australia.

The first elections since independence were held only a few months ago. These elections were free and open. The major coalition partners were returned with slight increases in representation, and Michael Somare was again able to form the government. I was in Papua New Guinea when the Parliament elected the Prime Minister in an open election, completely free from coercion or intimidation.

Papua New Guinea has a comparatively healthy market economy based on extraction of mineral resources and on tropical crop production. The economy is now diversified to the extent that a serious drop in a single commodity price—with the possible exception of copper—would not disrupt the entire economy. Fueled by the expansion of exports, its gross domestic product—GDP—has sustained an average growth rate of 8.3 percent over the last 8 years.

Subsistence agriculture produces 16 percent of the GDP, but larger farms are rapidly becoming more important. Agricultural potential is high. Papua New Guinea has benefited greatly by the high price of coffee and cocoa and production of these crops have been encouraged by the new Government. Experimental work is being undertaken to promote the production of winged beans and other highly nutritious tropical plants. Tropical spices are being introduced. Cattle production is increasing and fish are now being produced in mountain streams and ponds.

Papua New Guinea's financial position is sound. The Government budget is balanced and financial reserves are large. The currency, the kina, was introduced in 1975 and pegged to the Australian dollar. Although Papua New Guinea's largest trading partner is Australia, its hard currency policy has caused the kina to appreciate 14 percent against

the Australian dollar. By thus sacrificing revenues from the reduced value of Australian aid, the Government has shown its firm commitment to combat inflation and keep the cost of living for its citizens in check.

Australia is by far the largest aid donor. In 1976 Australia committed itself to provide about $1.2 billion in direct grant aid over the next 5 years. This aid now comprises 42 percent of Papua New Guinea's budget and is expected to continue in some form after the expiration of the 5-year agreement. Other aid contributions are from New Zealand and various volunteer services which currently support a total of 400 volunteers within the country. Of growing importance is multilateral aid. The World Bank and the Asian Development Bank have both made loans to Papua New Guinea. The United Nations Development Program and the Commonwealth Fund both have large projects. Though there is no bilateral U.S. aid, small amounts of AID money are channeled to Papua New Guinea projects through voluntary agencies, such as the Foundation for the Peoples of the South Pacific.

Direct U.S. investment is small, most notably a $3 million Star Kist facility and $10 million expended in petroleum exploration by an ESSO consortium. Considerable potential exists in several other areas including copper, timber, and fisheries.

The United States currently exports goods valued at about $30 million annually to Papua New Guinea, mainly machinery and transportation equipment. These sales are certain to grow as major extraction projects are developed. Right now there is considerable potential for the export of U.S. forestry equipment and higher quality consumer goods to Papua New Guinea.

In conclusion, Mr. President, I would like to report that my trip to Papua New Guinea was personally very instructive and the progress I saw there was an inspirational example of democracy and economic development working hand in hand to benefit people. I wish every success to this young and vigorous addition to the family of democratic nations.

THE PANAMA CANAL TREATY

Mr. HARRY F. BYRD, JR. Mr. President, for months now, the question as to whether the United States should accept a treaty which would surrender U.S. control of the Panama Canal has been prominent in the news.

This coverage reached a peak last week when President Carter formally signed two treaties which, if ratified, would completely relinquish U.S. control over the Panama Canal and the Canal Zone.

As a result of this extended media coverage a great deal of information and misinformation has been put forth and repeated many, many times.

Several distortions of fact have been used over and over again to foster support for a canal treaty and unfortunately, with repetition, these half truths and distortions are gaining a wider acceptance.

However, a recently published article by Hanson W. Baldwin, former military editor for the New York Times, dispels much of the ignorance and distortion which has surrounded the Panama Canal controversy and provides factual, documentable evidence in opposition to the proposed canal treaties.

This article, published in the AEI Defense Review is entitled "The Panama Canal: Sovereignty and Security" and should be read by every Member of the U.S. Senate.

It addresses the military and economic importance of the Panama Canal to the United States and documents the clear fact that the United States has full sovereignty over the canal and the Canal Zone.

Further, this article explodes the myth of American exploitation of Panama and provides an impressive summary of the benefits Panama has derived from the canal and the U.S. presence.

Finally, and most importantly, Mr. Baldwin explodes the myth that the United States can effectively maintain control over the operation of the canal and insure its defense without retaining sovereignty.

Once that sovereignty is relinquished the ability of the United States to assert control—should that become necessary—will be almost nonexistent short of an invasion of Panama to reassert control.

I commend this thought-provoking article to my colleagues and I ask unanimous consent that its full text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL: SOVEREIGNTY AND SECURITY

(By Hanson W. Baldwin)

The future security and well-being of the United States are threatened by the administration's proposed abandonment of sovereignty over the Panama Canal and the Canal Zone.

Any such action would have global consequences, nowhere more adverse than in the Caribbean Sea-Gulf of Mexico area. The vital interests of a nation can be defined in territorial and regional terms or as political, psychological, economic, or military interests. By any and all of these yardsticks, the security of the Caribbean, the ability of the United States to control the Caribbean in war and to be a dominant influence there in peace, is vital to our country.

THE STRATEGIC IMPORTANCE OF THE CANAL

These southern seas have been considered essential to U.S. security since the time of Thomas Jefferson and the enunciation of the Monroe Doctrine. The great importance of the Caribbean has been restated in modern terms by Alfred Thayer Mahan and all succeeding generations of strategists. In fact, in a strategic sense the Caribbean-Gulf of Mexico area must be considered the *mare nostrum* of the United States. Unless we are capable of controlling it, we are, indeed, undone.

Yet that capability has already been gravely weakened; the turning point was the Communists' seizure of power in Cuba, the Caribbean's most important island, only ninety miles from our shores. Soviet Migs flying in Cuban skies, Soviet submarines calling at Cuban ports, and the hammer and sickle flaunting its red blazon of revolution across the area are both cause and symbol of the deterioration in the past fifteen years of U.S. security on our southern flank. Our own mistakes and weaknesses have cost us dearly; the infiltrators are within the outer walls, and what should be our island-speckled ramparts are becoming today the soft underbelly of North America.

It is in this broad perspective—the future of the Caribbean-Gulf of Mexico area—that any basic change in the status of the Panama Canal must be judged, for any such change will profoundly affect our interests in the area and hence, ultimately, our political, psychological, economic, and military security. And, in an even larger, global sense, any retreat or major concession in Panama in the face of the threats of General Omar Torrijos, the Panamanian dictator, can only be interpreted around the world as scuttle-and-run, further proof of the weakening of the will and resolution of the United States. Faith in promises made, belief in the power of a nation and its will to use it in defence of its own interests, is the coin of international respect; since Castro, Vietnam, Angola, the credibility of the United States has been severely impaired and our international solvency in doubt.

Panama and the canal are therefore both cause and symbol; the canal is highly important in its own right, but far more so as a symbol of U.S. resolution and as one of the vital links in our vital interests in the Caribbean. Looked at in this light, the canal itself, contrary to the claims of its detractors, is in no way obsolete.

It is ironic, indeed, that in an era when the United States Navy needs the canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The navy today is in the same strategic bind it was in prior to World War II: it is a one-ocean navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises. To send the fleet or individual ships around the Horn, as in the days of Fighting Bob Evans and Teddy Roosevelt, might be, in the modern age of speed, to lose a war.

General V. H. Krulak, United States Marine Corps (ret.), writing in the summer 1975 issue of *Strategic Review*, summarized the canal's naval importance: "In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a barebones, one-ocean Navy."

It is ironic, too, that a major change in naval ship size, construction, and design is starting just at the time when proponents of a transfer of canal sovereignty justify their position by arguing that the locks cannot accommodate the navy's largest ships. The argument—true, though only for the moment—is irrelevant. Only the thirteen giant aircraft carriers of the U.S. Navy have too large a beam to pass through the 110-foot width of the present locks. Yet the days of these behemoths of the seas are numbered; well before 2000 (one of the dates proposed for the transfer of sovereignty over the canal to Panama) a new generation of ships will begin to replace them—smaller, but more effective, with VSTOL aircraft, drones, missiles, or other new state-of-the-art developments like hovercraft and hydrofoils.

Even more important is the fact that every other ship in the U.S. Navy (except the thirteen carriers) can transit the canal, a fact of major importance in limited war, the

type of crisis we are most likely to face. Our missile-firing and attack submarines (now deservedly called capital ships of the navy), all our antisubmarine and escort forces, our amphibious vessels, and our support and supply craft can transit the canal—a fact which has already proved of major importance in two recent instances.

During the Cuban missile crisis marines and supplies from the West Coast were ferried through the canal to the Caribbean. If they had had to pass around Cape Horn, they would never have arrived in time to influence the outcome. As it was, the threat of invasion helped materially to force Khrushchev to change his mind. During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total, approximately 33 percent were loaded in East and Gulf Coast ports and transited the canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. government vessels (chiefly naval) transiting the canal increased from 284 in 1965 to more than 1,500 in 1968.

The limitations of the current locks (though, indeed, the canal can handle much more traffic than the 12,000 to 14,000 vessels a year that now use it) have, in any case, little relevance. A third set of locks, larger than the existing ones, was long ago authorized and started, but work was suspended because of World War II; the excavations (within the present ten-mile-wide Canal Zone) still exist, and whenever the need is demonstrated the new locks could be completed.

There is another military factor which bears on the present and future utility of the canal and deserves mention in passing. Nuclear weapons, it is said, have made the canal indefensible and vulnerable to sudden destruction. Actually other means of blocking or closing the canal existed long before the development of nuclear weapons. The point is, however, that this change is completely irrelevant. No sane enemy would waste a nuclear warhead on the Panama Canal with such decisive targets naked to his missiles as New York City and Washington, the industrial complexes of Pittsburgh and Celeveland, the huge urban, industrial, and naval-port complexes of Norfolk and San Diego. In a nuclear war, the Panama Canal would simply play no role whatsoever, either as target or as launching pad.

Finally, the U.S. Panama Canal Zone offers facilities unavailable elsewhere under the U.S. flag for training troops in jungle warfare. More important, the zone is oriented towards the problems of Central and South America and the zone's army schools and training facilities have fostered and helped to develop a close and productive military liaison between the armed forces of many nations in the Southern Hemisphere and the United States. Most important, the zone is the southern and western anchor of our entire position in the Caribbean. Together with the southern Florida—Florida Keys area, Guantanamo Bay, which dominates the Windward Passage (one of the principal passages into the Caribbean from the Atlantic) and the Roosevelt Roads base in Puerto Rico (supplemented by Virgin Island ports), it offers naval, air, and land facilities which can strengthen the security of our southern flank. (Incidentally, it also has importance to the strategy of the Central Pacific, outward to the Galapagos.)

It is within this framework that the Panama position is of the greatest significance to the strategic control of the Caribbean and to the security of the United States. Without it, the other island positions of the United States in the area—already threatened by Castroism and communism—would probably be engulfed by a hostile sea. Thus, the Panama Canal, strategically significant in its own right, is far more important to the United States as a part of the vital whole of Caribbean—Gulf of Mexico security.

ECONOMIC CONSIDERATIONS

The economic factor is also of major importance in the canal-Caribbean equation. In the past four years, the canal, for the first time in its history, has lost money, despite its first toll increases in seventy years. Part of this loss appears to be due to a change in bookkeeping practice: for the first time amortization costs for the original excavations of the Panama Canal were charged off, apparently in anticipation of a treaty transferring sovereignty. But there were more important economic causes. The world recession and the reopening of the Suez Canal in 1975, currency devaluations, and rapid inflation which increased the canal's operating expenses from about $182 million to $260 million in four years, as well as the increase in "land-bridge" traffic (that is, the shipment of containers from Atlantic to Pacific ports by rail) all contributed materially to a recent period in which ship transits, contrary to the long-term trend, did not increase on an annual basis but stabilized or declined.

Nevertheless, in recent years, there have been some 12,000 to 14,000 ship transits annually; vessels of all the nations of the world have been lifted from sea to sea economically and efficiently. Ships flying the Liberian and Panamanian flags—so-called flags of convenience—many of them actually owned by U.S. citizens, ships of Latin American nations, and vessels flying the flags of Great Britain and the United States are among the greatest users of the canal. The fees they pay (still only half as high as the Suez Canal fees) are a small price for the savings and convenience of the short transit. To the American economy, and particularly to U.S. overseas shippers and importers, the canal has major importance; it has been estimated that, of all cargoes transiting the canal in ships of all flags, about 60 to 70 percent are bound to or from U.S. ports. More than 1,000 transits annually are by U.S. flag ships, and an increasing number of them are "Panamax" vessels specially designed to fit snugly the locks of the canal. Many of these are engaged in the growing container-ship traffic from the East Coast and Europe to the Orient.

Some thirteen major trade routes funnel through the Caribbean Sea-Gulf of Mexico-Panama Canal region. The skies and waters of the Caribbean and the Gulf are vital arteries for U.S. industry and trade, through which pass coffee and fibers, manganese and iron ore, beryl and colombium from Brazil; oil and iron ore from Venezuela; bananas and other tropical fruits from Central America; copper from Peru and Chile; bauxite from Jamaica, Surinam, the Dominican Republic, and Haiti; antimony and tin and tungsten from Bolivia; zinc from Mexico and Peru; sugar from the sugar islands of the Caribbean. These products and others are essential to U.S. industry, and Latin American markets help to maintain U.S. prosperity.

The so-called Sun Belt of the United States, that growing and prosperous region extending across the country from southern California to Florida and Georgia, is greatly dependent upon its gateways to the world. The most important of these are the Gulf Coast ports and the entrance to the mighty Mississippi River. All the approaches to this area lie through the Caribbean-Gulf of Mexico region. The seas that wash these shores also border Mexico, where newly discovered major reserves of petroleum add immeasurably to the importance of this vast southern region for our future security.

There is, too, in the Gulf of Mexico, extending seaward farther and farther from our shores, a resource that is increasingly more precious than gold—the offshore and undersea deposits of gas and oil, resources which require security for their development. And one of the plans for transporting the oil of Alaska's North Slope to the hungry markets of the "lower forty-eight" contemplates shipment by tanker through the Panama Canal to Gulf and East Coast ports.

POLITICAL AND PSYCHOLOGICAL FACTORS

Even more compelling than the military and economic importance of the canal are the political and psychological considerations. Since the failure at the Bay of Pigs, U.S. foreign policy has suffered a series of severe defeats; we have been in retreat in many places around the world; human errors, gloomy Spenglerian indecisiveness and confusion, poor leadership, and a lack of mobilized national will have led to the loss of Vietnam and our retreat from Southeast Asia, the debacle of Angola, the substitution of Communist for U.S. influence in Ethiopia—and, in the Caribbean, the transformation of a friendly Cuba into a springboard for Soviet imperialism in the Western Hemisphere. As the *Pueblo, Mayaguez,* and other incidents have shown, even second- and third-rate powers now dare to tweak Uncle Sam's nose.

This process of losing not only face and prestige but also control has gone far in the Caribbean; it will accelerate greatly if we abandon the canal. The much-maligned domino theory was valid for Southeast Asia; along with Vietnam, Cambodia and Laos fell to Communist governments; Thailand expelled our forces; the Philippines immediately announced a shift away from the United States and demanded a revision of our base agreements; and all over the world, U.S. resolution and will were questioned. The domino theory is equally valid for the Caribbean: if Panama goes, all our positions there may eventually follow.

This is particularly true of Guantanamo Bay at the western tip of Cuba, a base important for training and, because of its geographical location, commanding the Windward Passage. The treaty that governs our use of the base is remarkably similar in some ways to the Panamanian treaty. We enjoy at Guantanamo Bay "complete jurisdiction and control," or de facto exercise of sovereign rights, over some 29,000 acres of land and water. (There is a major difference; we concede in the Cuban case that "ultimate sovereignty"—not defined in the treaty—resides in Cuba, but our "complete jurisdiction and control" continue indefinitely until the United States voluntarily "abandons" the base or agrees mutually with Cuba to revise the treaty). In other words, we lease the Cuban base and under the terms of the lease, which can be terminated only by mutual agreement, we hold sovereignty over it. But we do not—as we do in Panama—own the land or water.

If we give up our sovereign rights in Panama and abandon the canal, it seems certain that Castro—who long ago cut off the Guantanamo Bay reservation from the rest of Cuba—will reassert his past demands that the United States get out.

Nor is "Gitmo," as the navy calls it, the only threatened point d'appui. Castro has never made any secret of his ambition to be, in his own right, a dominant figure in the Caribbean and, with help from the Communist bloc, to make the neighboring island and mainland countries safe for Marxism. Indeed, his Communist and Third World alignment has led him with Moscow's encouragement and support far afield from the Caribbean, to the African continent, where Cuban troops armed by the Soviet Union have been operating in various countries for

years. By far the largest and most ambitious manifestation of Castro's determination to make the world safe for communism was, of course, Angola, where a left-wing faction in a three-way civil war took over the country only because some 12,000 to 20,000 Cuban troops, transported chiefly by Moscow and armed and supplied by the Soviet Union, easily overran the primitive guerrillas that opposed them. Castro must be judged by his actions as well as by his words, and his actions—endorsed and supported by the Soviet Union—are clear. Indeed, Castro and Brezhnev jointly reiterated during Castro's visit to Moscow in the spring of 1977 their determination to continue to support revolutions around the world—a public statement that seemed to cause few ripples in Washington, intent on "normalizing" relations with Cuba.

At Russian urging, Castro abandoned some years ago his overt attempts to subvert other Latin American countries; his strategy is now more insidious because largely, though not entirely, covert. His Russian-trained agents operate secretly in numerous countries, through propaganda, subversion, and infiltration of key government positions. He has encouraged and supported all left-wing governments in the Caribbean, with training missions, agents provocateurs guerrillas. His spore, which is to say the spore of Soviet communism, is everywhere in the area; his agents have appeared in Jamaica, Guayana, Puerto Rico, and Panama. Nor would "better relations" between Cuba and the United States halt these subversive manipulations; any Communist program includes, alongside the formal and overt implements of policy, their unofficial and covert counterparts.

Even more important, a U.S. retreat from Panama would probably put the last nail in the coffin of the Monroe Doctrine. Until Castro took power and Cuba became a Soviet protectorate, this 150-year-old policy—that the Western Hemisphere was for the Americas—was a no-trespassing sign to Moscow's imperialism. Under the Monroe Doctrine the Caribbean had been—particularly throughout the twentieth century—within the U.S. "sphere of influence," a term that today is too often misunderstood and denigrated. This southern sea has been as important to us as Eastern Europe has been to the Kremlin. It has lost none of that importance, but communism in Cuba, fortified by the largest Soviet-trained and equipped army in Latin America, a Soviet submarine base at Cienfuegos, Soviet antiaircraft missiles in large numbers, and modern Soviet aircraft flying from Cuban bases, some of them piloted by Russians, has gravely threatened our predominance.

A retreat from Panama would be certain, therefore, to further impair our political and psychological position in the Caribbean and throughout the world; its specific effects cannot be forecast. It is clear, however, that a cession of sovereignty by the United States, in the face of the open demands and threats of violence made by Panama's Torrijos government with the overt backing of Castro and Moscow would weaken our power position, our prestige, and our pride. Guantanamo Bay would be next to go, and the ripples would spread far. The world would again ask as it did after the *Pueblo*, Vietnam, Angola: Is the United States a paper tiger? Are its will and resolution to be depended on? Where would Washington draw the line if not at its own back door?

ARGUMENTS FOR ENDING U.S. SOVEREIGNTY

All of these considerations appear to support so clearly the retention of the Panama Canal under U.S. sovereignty that one may well ask why the question of transferring the canal to Panama is even an issue. What possible arguments can be made for it?

There are, I think, three principal reasons for Washington's persistence in adhering to what the great majority of Americans (according to the polls) believe to be an aberration, a mistaken policy, namely, the relinquishment of sovereignty. These reasons are related and mutually reenforcing.

First, there is—particularly among our intellectuals, our literate and literary opinion molders, our academics, and our liberal political thinkers—what Robert M. Utley has well described as "a national guilt complex that would expiate sin by bending history to modern social purposes."[1] This stems, I believe, from the great emphasis in the past two decades on civil rights (particularly for the Negro, the Indian, and minorities), the excesses of Watergate, the trauma of Vietnam, and blind frustration at the changing world about us. The American pride of the past has given way to the breast-beating shame of the present. This guilt complex has been particularly pronounced in that small but highly important group of managers and public servants and opinion formers who tend to make policy.

The second reason is simply obfuscation—what has been described as "our lack of purpose, our strategic self-effacement, and our confusion".[2] These are particularly evident in the State Department's canal policy. There has been little evidence of firm, coherent, positive policy; rather we have been diffident, divided, and defensive. Our great efforts have been largely patch-and-mend. Compromise and concession are essential parts of diplomacy, but when they are used merely to paper over cracks, they inevitably lead to defeat and retreat, especially when the adversary is aggressive, strong, and expansionist.

A third reason is the change, since World War II, in the world around us—the end of empire (except the Soviet empire), the excoriation of colonialism, the gradual exhaustion of some U.S. raw materials such as oil, and the consequent increasing political and in some cases economic importance of a plethora of newly independent Third World countries. In particular, the ultimately successful seizure of control of the Suez Canal by Egypt has had an important influence, not only upon the government of Panama but also upon some of our own intellectuals.

And now the chickens have come home to roost. As a result of all our past mistakes and fruitless concessions, we are facing a put-up-or-shut-up situation.

The waffling of past administrations and, since the Suez takeover in 1956, a long series of concessions reached a point of no return in 1974 when Secretary of State Henry Kissinger, in a personal visit to Panama, initialed a document which set guidelines for the treaty negotiations that are now reaching their culmination. This Joint Statement of Principles proposed that at some future undetermined date the operation and defense of the canal would become a joint U.S.-Panamanian responsibility, but that the canal and the U.S. territory of the Canal Zone would ultimately be transferred to Panama.

This unprecedented action, which, in effect, would give to Panama territory over which the U.S. flag has flown for more than seventy years and the canal installations that have cost the U.S. taxpayer a total of perhaps $7 to $8 billion, was a unilateral action of the executive branch, unauthorized by Congress, indeed, unknown to most congressmen until after the fact. In brief, this is what the current debate and the battle still to come in the Senate are all about: will the Senate rubber-stamp Henry Kissinger's *fait accompli*, or will it reassert, as it has done on other issues in the past decade, its ancient prerogatives?

Footnotes at end of article.

THE HISTORY OF U.S. SOVEREIGNTY

Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original treaty of 1903. S. I. Hayakawa, now a senator from California, spoke last fall in his eccentric campaign about our "stealing" the canal. Even President Carter has contributed to the perpetuation of myths spawned by revisionist historians and liberals. In his telephone call-in last March, he told a caller that "the treaty signed when Theodore Roosevelt was President gave Panama sovereignty over the Panama Canal Zone itself."

But, contrary to these assertions from public officials who should know better, we did not steal the canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the canal territory—a strip across the Isthmus of Panama some fifty miles long and ten miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana purchase, the Mexican cession, the Florida purchase, the purchase of Alaska, or any other territorial acquisition.

An isthmian canal had been talked about for centuries and became an overriding issue when the California gold rush drew thousands westward. But it was not until the turn of the century that Panama became the preferred locale; in fact, up until the digging began, many American experts preferred a route through Nicaragua. A French company lost $260 million in an abortive attempt, ending in 1889, to construct an isthmian canal. In 1901, when the canal issue was still hot politically as a result of the Spanish-American war and the battleship *Oregon's* mad dash through the Straits of Magellan to bolster the Atlantic Fleet, the United States ratified the first of a series of enabling treaties which led to the construction of the Panama Canal. The Hay-Pauncefote Treaty of 1901 between Britain and the United States established guidelines for the operation of an isthmian canal, when completed; it provided (as did the arrangements governing the Suez Canal, then controlled by the French and the British) for unhindered passage by the ships of all nations. In that treaty—which is still operative—Britain agreed that the United States should have "the exclusive right of providing for the regulation and management of the canal" and that "no change of territorial sovereignty or of the international relations of the country or countries traversed by the . . . canal, shall affect the general principle of neutralisation or the obligation of the High Contracting Parties (Britain and the United States) under the present Treaty."[3]

The Hay-Pauncefote Treaty, which would seem to preclude any transfer of sovereignty to Panama without British agreement, was followed in 1902 by the Spooner Act, in which Congress provided President Theodore Roosevelt with $40 million with which to purchase the rights to an isthmian canal obtained by the French from Colombia. The act provided specifically for "perpetual" control by the United States of any canal that might be built. A Colombian representative agreed to the transfer in perpetuity of a strip of isthmian land to the United States, but the government of Colombia repected the treaty.

In 1903, the Colombian province of Panama—which had once been independent and had occasionally seethed with revolt since its autonomy had been revoked by Bogotá—saw its golden opportunity slipping through its fingers and falling to its rival, Nicaragua. With some French and American encouragement and help, a bloodless revolution oc-

curred; Colombian ships and troops were held at arm's length by a U.S. show of force, and the Republic of Panama, now one of the most economically favored of Latin American nations, was born out of a pestilential swampland.

The establishment of Panama led almost immediately to the conclusion of the Hay-Bunau-Varilla Treaty between the United States and Panama in 1903. This treaty has governed the administration, operation, and control of the canal and the Canal Zone ever since. The fundamental terms of this treaty, which Secretary Kissinger and before him President Johnson abandoned, are now at issue.

The articles which have aroused so much discussion and debate are Articles 2 and 3. Article 2 states that "the Republic of Panama grants to the United States *in perpetunity* [a reiteration of the language of the Spooner Act; italics added] the use, occupation and control of" the Canal Zone, of which the dimensions are then described. Article 3 states, "the Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article 2 . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." For this outright transfer of territory the United States paid the new republic an initial $10 million.

In the same treaty, the U.S. government assumed the annual obligations of the Panama Railroad Company, a private company that had built a rail link across the isthmus many years before. Washington bought the entire stock of the company as an aid to construction of the canal and undertook to pay to Panama the $250,000 annuity or "compensation" the private company had previously paid to Colombia annually. From this clause—the annuity or grant for the railroad right of way—has arisen the myth that we are paying Panama rent for the Canal Zone, although the term lease is nowhere mentioned in the treaties and the transfer of sovereignty is specific.

Ratifications of this treaty were exchanged, and in May 1904 the foreign minister of the Republic of Panama formally notified Washington that the Republic of Panama considered that its jurisdiction over the zone had ceased.

The United States then purchased, in accordance with the treaty, title in fee simple to all privately owned lands within the Canal Zone, at a cost of something more than $4 million. Thus, the *initial* acquisition of the Canal Zone—entirely aside from the accumulation over the years of the annual annuity paid to Panama, the later transfer of millions of dollars worth of U.S. property to Panama, and the cost of construction and modernization of the canal itself—cost the United States some $54 million.

The 1903 and 1904 agreements were implemented by provisional boundary agreements delineating the Canal Zone, in which Panama specifically ceded (the word is used four times) the land defined to the United States. The National Assembly of Panama ratified the agreements and used the word ceded in so doing. This provisional agreement was finalized and formalized in 1914 (when the canal was completed) and established the boundary lines "permanently."

Following the initial treaties a three-year struggle to conquer yellow fever and reduce malaria, then endemic in the area, permitted the construction of what was and still is an engineering marvel. Many of the laborers who helped to build the canal were not, contrary to present belief, Panamanians, but blacks from West Indian islands. The canal was completed in 1914 at an initial cost (including the $54 million acquisition payments to Panama, the French company, and private landowners) of $366,650,000. Together, this initial outlay and all the improvements, modernization, and maintenance of some seven decades now total almost $2 billion, exclusive of cumulative defense costs.

In the year the canal was completed, disgruntled Colombia, which had always wanted more American dollars, settled its differences with the United States in the Thomson-Urrutia Treaty, which was finally ratified in 1922. As a result of this treaty the United States gave Colombia valuable canal and railroad transit rights across the isthmus and paid Colombia $25 million in compensation for the loss of the province that had become the Republic of Panama. Colombia recognized Panama's independence, formalized the boundaries between them, and acknowledged that title to both the canal and the railroad was vested "entirely and absolutely" in the United States.[4]

Partly as a belated result of the settlement with Colombia and the formal recognition by Bogota of Panama's independence, the original treaty of 1903 was renegotiated in 1936 to eliminate what had become an obsolescent clause. The U.S. guarantee of Panama's independence was cancelled, at Panama's request, and Panama, encouraged by Franklin D. Roosevelt's Good Neighbor policy, won many other concessions. Most important was the elimination of the right granted the United States in the original treaty to what amounted to "eminent domain" throughout the Republic of Panama, that is the right to use any defense sites it required outside the zone. Also abrogated was the right of the United States to keep order in the Panamanian cities of Colon and Panama, located near the Atlantic and Pacific entrances to the canal respectively. In addition Panama was granted customhouse sites in U.S Cristobal and Balboa and a corridor or legal easement over the zone.

Despite current contentions by the State Department that the 1936 treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the treaty actually reemphasized the sovereignty, in perpetuity, of the United States.

At the time, Undersecretary of State Sumner Welles, anticipating what was to come, attached a memorandum to the treaty noting that both the Panamanian foreign minister and the Panamanian ambassador had stated that the treaty met fully every request Panama might ever make. The Welles memorandum quoted the two Panamanian officials as stating that their country had received "everything that Panama could possibly want from the United States and henceforth would request no more concessions." [5]

During World War II, air bases and defense sites deemed necessary to defend the canal were acquired and utilized during hostilities in the Republic of Panama, but only at a price, paid to Panama, of about $1 billion. A 1955 treaty revision increased the annual compensation or annuity, made some property adjustments, which turned over about $40 million worth of U.S. property to Panama, and clarified the status and improved the employment opportunities of Panamanians working in the zone.

The Implicit Shift in U.S. Policy

But the formal treaty revisions have perhaps been less important than some of the executive actions taken by various administrations.

One of the most symbolic of these actions, which was widely publicized in Latin America, occurred in 1946 when Alger Hiss, then head of the Office of Political Affairs at the State Department, sent to the new United Nations a list of so-called U.S.-occupied territories, which included the Panama Canal Zone. This action signalled a split in the State Department, with Spruille Braden, then assistant secretary of state for Latin America, in furious opposition to Hiss. Even more important, the action of Dean Acheson, then acting secretary of state, in backing Hiss forecast the beginning of an implicit shift in State Department policy about the sovereignty of the Canal Zone.[6]

Panama's increasingly clamorous claims to sovereignty over the zone received striking symbolic support when President Eisenhower ordered the Panamanian flag to be flown at one location in the zone. His action followed some minor student riots in Panama City in 1959 and an invasion of the zone by Panamanian students who planted their flag at several locations.

Eisenhower's action was interpreted by the Panamanian government and, at least symbolically and implicitly, by many in the State Department as recognizing Panama's residual, or ultimate, sovereignty over the zone. Later, President Kennedy authorized the flying of the Panamanian flag at some seventeen different locations in the zone.

Still unsatisfied, Panamanian mobs rioted in 1964 and attacked the zone. They were tacitly encouraged by the Panamanian leadership, but directly led and egged on by "persons trained in communist countries for political action." [7] These mobs consisted of "known and identifiable communists, members of the communist party of Panama and people who belonged to the vanguard of National Action, which is . . . the Castro Communist Party in Panama." [8]

Partly as a result of the bloodshed in these riots (twenty-three Panamanians and four U.S. soldiers were killed) and the insistence of the State Department that the canal was really the sovereign territory of Panama, President Lyndon Johnson negotiated a series of treaties with Panama (never ratified) basically similar to the Kissinger-Tack agreement, which have provided the parameters for the present treaty negotiations. Congressman Gerald Ford commented: "With Cuba under the control of the Soviets through its puppet Castro, and with increased communist subversion in Latin America, a communist threat to the Panama Canal is clearly a grave danger. The American people will be shocked by the terms of this treaty." [9]

As President, however, Ford supported the reversion of sovereignty to Panama. Now President Carter is supporting the same view, though both have paid lip service to the necessity of joint U.S.-Panamanian control and defense.

The Debate over Sovereignty

It has been necessary to summarize the history of the canal and the mutations in the original treaty and in our relationship with Panama in order to understand—and to refute—two of the basic arguments made by proponents of turning over the Panama Canal to Panama.

These arguments are that Panama retains, and always has retained, sovereignty and that, in any case, the great big United States has exploited poor little Panama in the past and should make amends (part of tht warp and woof of the guilt trauma, which particularly seems to infect intellectuals).

The sovereignty argument derives from two sources: the "if" clause in Article 3 of the 1903 treaty, which appears to qualify U.S. sovereignty over the zone, and the use of the phrase titular sovereignty by Secretary of State John Hay and Secretary of War William Howard Taft soon after the treaty was signed. Panama itself has not directly raised the issue of titular sovereignty; instead, some of its administrations have claimed at various times and under various

Footnotes at end of article.

circumstances that Article 3 preserved the republic's sovereignty over the zone.

The issue of residual or titular sovereignty has been discussed on many occasions in the United States since 1903. Secretary of State Hay never conceded the validity of the theory, and termed the concept at best a "barren scepter." [10]

Taft, then secretary of war, discussed the theory in a long statement presented to the Senate Committee on Interoceanic Canals on April 18, 1906. He noted that Article 3 "gives rise to the obvious implication that a mere titular sovereignty is reserved to the Panamanian government," and continued: "Now, I agree that to the Anglo-Saxon mind a titular sovereignty is like what Governor Allen, of Ohio, once characterized as a 'barren ideality,' but to the Spanish or Latin mind, poetic and sentimental, enjoying the intellectual refinements, and dwelling much on names and forms, it is by no means unimportant." [11]

Taft later explained that titular sovereignty really meant, in pragmatic terms, that if, at some future time, the United States decided to abandon the canal, it would turn it over only to Panama, which had ceded it to the United States originally, and to no other nation.

Later, as President, Taft visited Panama, and told the Panamanians that they had given the United States sovereignty and jurisdiction over part of their country. Still later, in 1930, when he was chief justice of the United States, in the case of *Luckenbach Steamship Co.* v. *United States* he noted that the theory of titular sovereignty was "the subject of diverging opinions." But in the same opinion, he cited as one of the precedents the case of *Wilson* v. *Shaw*, a unanimous Supreme Court opinion of 1907 which interpreted the 1903 treaty as having "ceded" title over the zone to the United States. Taft quoted the 1907 opinion, which stated: "It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate. . . ." [12]

Throughout the decades various secretaries of state and attorneys general of the United States have declared in unequivocal terms that the United States holds full sovereignty and title over the Canal Zone. In 1923, Secretary of State Hughes vehemently insisted the United States had full and sovereign rights to govern and regulate and control the Canal Zone. He added—ironically in view of recent developments: "It was an absolute futility for the Panamanian Government to expect any American administration, no matter what it was, any President or Secretary of State, ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903." [13] And as recently as the early 1970s, the Supreme Court let stand a U.S. Fifth Circuit Court of Appeals ruling, referring to both the 1903 and 1936 treaties, which declared that the "Canal Zone is an unincorporated territory of the United States over which Congress exercises 'complete and plenary authority.' " [14]

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording, to repeat, is clear and unequivocal: "The Republic of Panama grants to the United States *in perpetuity* the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . *to the entire exclusion* of the exercise by the Republic of Panama of any such sovereign rights, power or authority." (Italics added.)

The State Department's current contention that the treaty does not mean what it says (a complete reversal of its interpretation of the treaty during our first forty to fifty years in Panama) is in flat contradiction with its attempts to negotiate a new treaty. What is being negotiated is a transfer of sovereignty. One cannot transfer sovereignty unless one exercises it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

The Myth of U.S. Exploitation

The other argument, that the United States has exploited Panama, is obvious nonsense. Panama had been no more than a pestilential swamp in 1903; it is a potentially prosperous little nation today almost entirely because of Uncle Sam's munificence and the golden flood of dollars that poured into the region because of the Canal.

In addition to the approximately $2 billion spent by the United States in acquiring, building, maintaining, and improving the canal and its supporting infrastructure in the Canal Zone, the United States has spent, over the years, some $6 to $7 billion on the military defense and security of the canal, much of which has found its way into Panamanian pockets. To offset these expenditures, about $1.125 billion has been paid back into the U.S. Treasury in tolls and other revenues, leaving the U.S. taxpayer in the hole over the seventy years of our hegemony in the zone to the tune of almost $8 billion.

These figures are in themselves an index of U.S. policy. The United States has regarded the Panama Canal as a major strategic asset but also as an international utility of great benefit to the world. Tolls have been kept low purposely, and the canal has been open impartially to the ships of all nations, in accordance with the Hay-Pauncefote Treaty with Britain.

There is no question that it is the canal and its efficient operation and the tremendous economic stimulus provided by direct and indirect U.S. grants that have made little Panama, with its 1.7 million people, a viable, if restless, entity. The canal, to Panama, is the goose that laid the golden egg. The country could not exist without it.

Consider some figures: In 1975 Panama received—including an annuity which now totals $2.32 million per year—some $236.9 million from the United States, of which about $103 million was paid in wages and retirement and disability benefits to Panamanians employed in the zone. About 10,000 people, 72 percent of the total work force of the Panama Canal Company and the Canal Zone government, are Panamanian nationals; other thousands work for the U.S. military. The canal is larger than any other single source of employment in Panama. Between 1946 and 1973, according to House Appropriations Committee hearings, Panama was the recipient of $342 million in total U.S. aid, more per capita than any other country in the world. Net income to the Panamanian *government* originating in the zone totalled about 12.5 percent of the gross domestic product of Panama in 1975.

In addition to these direct economic infusions Panama has received all sorts of benefits from literally hundreds of projects. A bridge and highway across the canal were built at U.S. expense to link the two parts of Panama; the country's deep-water ports are U.S. built and operated; its principal international airfield was U.S. built and its transisthmian road and railroad were U.S. constructed or operated. Its water supply comes largely from reservoirs and purification systems constructed by the United States. Its sanitation system was largely a product of U.S. organization and equipment; until some years ago, when by mutual agreement the responsibility was transferred to Panama, the United States collected the garbage in the terminal cities of Panama and Colón and directed the mosquito elimination program which safeguarded the health of residents in Panama and the Canal Zone alike.

U.S.-owned merchant ships, flying Panama's flag of convenience, add to the revenues in Panama's coffers, and tourism attracted primarily by the canal provides a stream of dollars, particularly for the merchants in Panama City, a free port. U.S. private capital has invested fairly heavily in hotels and other projects or in direct loans to the Panamanian government, and a number of the largest U.S. banks have esablished branches in Panama City.

All of this golden stream has made Panama—despite its unstable governments, mismanagement, and a greedy elite—one of the most favored nations in Latin America. If "poor little Panama" has been exploited, none of the economic, health, or social statistics show it. It has one of the highest GNPs per capita among all the ninteen Latin American nations; it had, from 1960 to 1974, a per capita growth rate surpassed only, and barely, by that of Brazil; until 1975 it had one of the lowest inflation rates in Latin America; thanks to American medicine, infant mortality has been the lowest in all Latin America and the mortality rate, second lowest. Panama's literacy rate is considerably higher than most in the region, and its life expectancy has been fourth among all the Latin American nations.

Far from being exploited, it is quite clear that Panama has derived benefits from the American presence in the Canal Zone that have made it fortunate among nations. The canal is Panama's single greatest revenue source. The exploitation myth is just that—a propaganda ploy fostered by Panama's politicians, by Castro's Cuba, and by the Soviet bloc to help force the United States out of the zone. It has no basis in fact.

THE VIEW FROM LATIN AMERICA

These two completely groundless arguments for giving away the canal are often supported by two others—usually advanced by Panama—that have made some impression, at least in the public media, in the United States. First, the Latin American nations are unanimously in favor of the transfer of the canal, it is said: and second, if the United States does not bow to Panamanian demands, it will face gunfire and disruption in the zone (as in 1964), sabotage of the canal or zone installations, or even guerilla warfare. Both arguments should be closely examined.

To anyone who knows the countries of South and Central America, the notion of solid unity on nearly any issue is far from convincing. On the other hand, *pro forma* denunciations of the Big Brother to the north are virtually obligatory for Latin American politicians, and public expressions of solidarity with Panama should not come as a surprise. To damn the gringo and Yankee imperialism is the normal rhetoric of some Latin American politicians, but at the same time they respect firmness and strength. Such statements in no sense imply a unified, or even a majority, approval by the Latin American nations of a transfer of sovereignty. The same men who express such opinions publicly often renounce them privately.

The late Mario Lazo, himself a Latin American, wrote before his death that "the almost universal reaction among the educated people of Latin America to . . . a giveaway treaty would be . . . incredulity . . . sadness . . . eventually ridicule and even contempt for the once greatly respected nation that had shown itself no longer to have the

Footnotes at end of article.

will to maintain its prestige and discharge its responsibilities." [15] General V. H. Krulak, writing in the summer 1975 issue of *Strategic Review*, declares that most Latin Americans "realize that the critical strip [the Canal Zone] must never be allowed to fall into irresponsible hands." In the same article General Krulak, who is an executive with the Copley newspapers, cites the remarks of both Chilean and Venezuelan delegates to a recent Inter-American Press Association meeting, warning the United States not to give in to Panamanian demands.

Congressman Daniel A. Flood of Pennsylvania, who has made the canal one of his primary interests during his twenty years in Congress, points to the views and opinions expressed during an Inter-American Conference on Freedom and Security in 1975, attended by representatives from thirteen hemispheric nations. "The overwhelming views," he states ". . . were in opposition to surrender of the Canal Zone to Panama, and a general desire for the United States to continue its undiluted sovereign control." [16]

The claim that all Latin America backs Panama's position is propaganda, pure and simple, propaganda which has used the Goebbels technique that if a lie is repeated often enough it will be believed. In a 1976 General Assembly meeting of the Organization of American States the only resolution referring to Panama expressed the simple hope that the two countries might settle their differences peacefully by the end of 1976. Earlier, a much advertised invitation from General Torrijos, the Panamanian dictator, to all Latin American presidents to attend a conference in Panama had to be cancelled when a number of presidents declined the invitation after learning that Fidel Castro would attend. Despite his drum beating and his invocation of solidarity, Torrijos has never been able to enlist all the nations of Central America behind his demands, much less all the nations of the Southern Hemisphere.

The reasons for this are clear: those nations—and they probably represent a majority—that hold aloof from the Torrijos campaign have a definite self-interest in preserving the status quo of the Canal Zone, which to them is compelling. Latin American trade routes use the canal to such an extent that it has assumed major significance for the hemisphere. Nicaragua and El Salvador are particularly dependent upon the waterway; more than two-thirds of their trade passes through its locks. More than half of Ecuador's trade uses the waterway; for Peru, the figure is more than 40 percent, for Chile, Colombia, and Guatemala approximately one-third. Most of these users do not want to buy a pig-in-a-poke; under the American flag the low rates and the stability and efficiency of canal operation have been impressive Under Panamanian jurisdiction the users could have no such assurance; considerably higher rates (some unofficial Panamanian sources have suggested a 400 percent increase) would almost certainly be imposed and sizable outlays for maintenance and modernization indefinitely postponed.

Even more important, the example of the Suez Canal since its nationalization by Egypt gives no assurance that a Panama Canal under Panamanian operation would indeed be open to all shipping. Political preferences would almost certainly infringe upon the canal's maritime neutrality—all the more so because of the close ties of Torrijos and his one-party regime with the Communist bloc. Castro's Cuba and behind it the looming figure of Soviet imperialism are still a frightening specter to Latin America. Many of the nations that Torrijos has wooed are well aware of his ties, overt and covert, to Cuba and of the growing Communist influence in various forms in Panama. To many countries of Latin America, better the devil you know than the devil you don't.

The Torrijos Regime

And there is, finally, the image that General Omar Torrijos projects, the record on which he stands, and the political history of the little country he represents. None is reassuring for the future of the canal if it is transferred to Panamanian hands. Torrijos has been in power for eight years—a strong contrast to the average tenure of 2.25 years of the thirty-two presidents who have ruled Panama since its creation. But duration does not necessarily mean stability.

Torrijos is a military man, the former and present head of the Panamanian National Guard, a paramilitary police force, trained, organized, and equipped by the United States. The guard is the only organized military or police force in Panama; as such it has always strongly influenced and sometimes dominated politics. But until Torrijos seized power from an elected president in 1968 in a coup backed by the guard, the so-called fifty wealthy families dominated both the Panamanian economy and to a great extent (often in an alliance with one or another guard officer) Panamanian politics. These families oscillated in and out of politics, accumulating wealth which many of them kept in Spanish or U.S. banks. They usually sent their children abroad to school and they varied greatly in their services to their country; a few were generally progressive and public spirited, the majority selfishly reactionary. But no matter who was in power, the tactics of Panamanian politics for the past thirty years have always been to use Uncle Sam as a whipping boy. The leaders who controlled these politics never hesitated to incite street mobs to demonstrate against the American ogre and to try to extort from Washington more concessions to put more money in their pockets.

The golden flood, either in the form of increased payments, direct or indirect, from the canal or from Washington, or in the form of loans or grants by American banks for private development or to the Panamanian government, increased. But little of it filtered down to the poverty-stricken peasants of the interior, many of whom, as in other countries, migrated to urban areas, to live in the torpid, dirty slums of Panama City and Colón just across the street from the American zone. As the United States from the 1930s to the present turned over more and more of the responsibilities of nationhood to Panama and made concession after concession, the rich got richer and the poor got poorer.

The tragedy of Panama, similar to the tragedy of so many Latin American countries, is that until relatively recently there was a very small middle class; a few had great wealth; many were poor. (Parenthetically, however, Panama's extremes—though more obvious to the tourist strolling from the oasis of the Canal Zone to the slums of Panama City—are not nearly as lopsided as those of Brazil or most other Latin American countries.)

General Omar Torrijos, like many other Latin American dictators before him, played on these economic discrepancies to consolidate power. He started a miniature version of a modified welfare state and wooed the masses. He spent heavily on health, education, training, public services, and transport and gave the unions the highest wages in Central America, while at the same time approving legislation that virtually prohibited any worker dismissals. These tactics made him, for a time, a popular figure with "the street," which has always played a volatile role in Panama. But above all, he has until recently been able to insure the loyalty of the 8,000-man National Guard, which alone was enough to perpetuate his power.[17]

The Torrijos economic reforms and the wastefulness of his rule cost the Panamanian treasury heavily, and the dictator went deeply into debt, chiefly to American banks. Partially to distract his followers from his broken promises at home, Torrijos concentrated his fire against the United States. He endorsed the same basic goal enunciated by the Communist party of Panama when it was founded in 1930—the seizure of the canal, by treaty negotiations if possible, by force if necessary. Since then, with the very great help of a vocal and highly placed minority in the United States, he has beaten the drums of Panamanian sovereignty, with, until last year, what seemed to be considerable success.

In the fall of 1976, for the first time in Torrijos's reign, students and youth groups rioted against the government. Their discontent, quickly controlled by the loyal National Guard, had nothing to do with the Canal Zone treaty. It was a manifestation, as the *New York Times* put it, of "deep economic discontent and growing political dissatisfaction" with Torrijos and his dictatorship.[18]

The situation in Panama today is smouldering. The country is greatly overextended economically, with about thirty-five cents of every dollar of revenue going to pay the interest on foreign debts worth $1.1 billion. The rising growth rate of about 8 percent per year which helped Torrijos greatly when he seized power has declined to less than 1 percent in 1976 (in part because of the worldwide recession). Unemployment in Panama City is high; to meet inflation and to placate the fearful business community, a two-year wage freeze was initiated and taxation was increased, while salary cuts for bureaucrats were promised. But the result has antagonized the left and has not satisfied the right. At the same time Panama has been through some of the same speculative land and real estate booms so familiar to Florida. In the late 1960s and early 1970s scores of foreign banks established branches in Panama, enticed by "the most liberal money-exchange laws in Latin America," and helped to promote a real estate boom. This has now virtually collapsed, and unfinished office buildings and partially occupied luxury apartments dot the skyline of Panama City. The rural migration to city slums has added to Panama's problems.

Torrijos today is reaping the fruits of his own self-perpetuating rule. He is an absolute dictator, who has established a one-party system, rules without legislative check, and brooks no opposition. The press is completely censored and the economy sackled. He has exiled dissenting businessmen, and active oppositionists get short shrift; there are repeated reports of extensive government corruption and of National Guard involvement in smuggling or contraband. High Panamanian officials are alleged to be involved in a heroin ring, and the republic has been officially described by the director of the U.S. Bureau of Narcotics and Dangerous Drugs as "one of the most significant countries for the transshipment of narcotic drugs into the U.S." [19] There are also reports of political prisoners and even of murders, atrocities, and torture, though President Carter—still intent on a canal treaty—has not chosen to include Panama among the nations he has publicly denounced as violators of human rights.

Far more important from the point of view of U.S. security is the character of the Torrijos regime and its relationships to Communist powers. A kind of neo-Marxist establishment rules the country, even though there is no proof that Torrijos himself is a Communist (of either Soviet, Cuban, or Chinese coloration). Known and open Communists occupy high positions in the Torrijos regime.

The ties between Torrijos, Castro's Cuba, and the Soviet Union have been cordial and

Footnotes at end of article.

close, though some of their most important manifestations have been hidden. The original visits of members of Torrijos's government and his top advisers to Cuba were not reported and were apparently made as covertly as possible. Reports of these visits first surfaced about 1971. Later, the veil was thrown off and in one well-publicized visit Torrijos hailed the Cuban dictator as "an example and a light" to be followed elsewhere.[20] In recent years the traffic between Panama and Cuba has been extensive; the Cuban embassy maintains a very large staff of sixty people in Panama, and, far more ominous, numerous writers have recorded unconfirmed reports, seemingly with considerable substance, that sizable cadres of guerrilla-trained Cubans and of Panamanians trained in rioting and sabotage are now in Panama and are training or subverting some units of the National Guard. These reports deserve credence, if only because it has happened before; the bloody 1964 riots were led by identified and trained Communists. And, in the early years when Castro and Che Guevara were openly promoting armed revolution in Latin American countries, a small Cuban guerrilla force was surreptitiously landed in Panama.[21]

The character of the regime to which we are being asked to turn over the Panama Canal is clear. It does not matter whether Torrijos is a Communist or not; Castro was not a self-proclaimed Communist until he seized power, and now Cuba is shackled to Communist doctrines. Torrijos may well have started as a populist who broke the monopoly of the oligarchy that had long ruled Panama, but today he is a beleaguered tyrant, surrounded at the top by men who profess or are extremely friendly to an ideology and to nations which have sworn our undoing.

The Torrijos regime is all the more unstable because of the growing discontent of the masses, upon whom Torrijos has attempted to build his power base. His original populist image is wearing thin, particularly because of the concessions to the right he has had to make in a time of recession and inflation. Some National Guard officers are said to be restive, worried by the increased power of Torrijos's Communist-oriented advisors. Meanwhile, opposition from students, businessmen, and the middle class, wary of communism, has increased materially in the past few years. Guillermo Ford, former president of the Panama Chamber of Commerce and one of a number of businessmen exiled by Torrijos for trying to foster a general strike against the dictator, expressed the sentiments of many Panamanians when he said simply, ". . . we do not want the United States to make the proposed treaty with the oppressive, unconstitutional regime of Omar Torrijos or any of his like." [22]

As long as the National Guard remains loyal, Torrijos may remain in power, but if the political and economic dissatisfaction spreads and cracks widen in the National Guard, Torrijos, who has been trying to straddle the political fence, will have either to veer even more sharply to the left or to be swept aside. He is trying, of course, to avoid this—as all threatened rulers do—by focusing public attention upon an external issue and an external enemy, the canal and the United States. If Washington gives him the canal, Torrijos will be a hero for a day and his tenure will be lengthened, but the triumph will be brief. Panama's volatility and instability are there to stay; the political hero of today is the villain of tomorrow. The vacuum left when the United States retreats will be quickly filled by Cuban and Soviet power and influence.

So much for the argument that transferring sovereignty over the canal to Panama is desired by Latin America and will contribute to the stable and peaceful operation of the canal. It just is not so. Self-interest, the specter of Cuban or Soviet influence in the isthmus, the moody, power-hungry, unreliable character of Torrijos, and the unstable situation in Panama itself are forceful warning signs, even to some Panamanians.

THE DANGER OF ARMED CONFRONTATION

What, then, of the argument that we must face confrontation and the danger of bloodshed in Panama if we do not give up sovereignty there? This is a far more realistic threat than the possibility that all of Latin America would unite against us. There will almost certainly be more rioting in Panama; it is endemic there. And physical attacks upon the Canal Zone, Americans, American property, or even the canal itself may, indeed, occur, particularly if the U.S. Congress refuses to cede sovereignty to Panama. The hopes of "the street" in Panama have been built high by demagoguery and by very skillful Communist propaganda. Fanatical ideologues, trained groups, and excited mobs might well seek to wreak vengeance for their disappointment.

If such trouble does occur, the blame must be shared with the Panamanian government by the State Department and by the several administrations past and present that have made concession after concession and have encouraged in Panama expectations that are not supported by the U.S. public. In any case the threat of physical or even armed confrontation is no justification for surrender when a nation's vital interest is involved. One may concede, bow gracefully, and withdraw about minor issues, but unless a nation stands fast when major interests are involved, it will invite war ultimately or an endless spiral of retreat and defeat.

A confrontation in Panama could take one or more forms; terrorism, harassment, sabotage, rioting and attacks upon the zone, with or without the active participation of the National Guard, or even a kind of guerrilla warfare. Any violent action in the area, other than the acts of individual fanatics, would have to have either the overt or covert support or the tacit acquiescence of the Panamanian government. It would certainly be accompanied by Panamanian demands in the United Nations and elsewhere for condemnation of the United States, demands which would be carefully concerted with and supported by Cuba and the Soviet Union and quite probably a sizable number of Third World powers, particularly African nations.

Terrorism, on a small scale, may already have started. United States businesses in Panama have been attacked. A number of U.S.-owned automobiles parked in the zone, including one owned by a Canal Zone employee who has led organized opposition to the transfer of sovereignty, have already been destroyed by surreptitiously placed bombs. Terrorism has also been used to stifle internal opposition in Panama; the homes and offices of some businessmen who dared to oppose Torrijos openly have been the targets of bombings.

The U.S. embassy in Panama City was stoned, most recently in 1976. Harassment, too, has been employed by the Panamanian government. In at least one instance, contrary to existing provisions which guarantee free access by Canal Zone residents to Panama's commercial airfield (built by the United States), the same opponent of a transfer of sovereignty whose car was destroyed was detained by Panama National Guard officers on his way to the airfield. Threats have been freely employed by Torrijos and his subordinates, and Panamanian police have tried to exercise their authority in the zone.

On at least twenty occasions Torrijos has invoked the threat of open attack, led by the National Guard, on the Canal Zone unless a treaty transferring sovereignty is signed. The personnel officer of the Panamanian National Guard who doubles as minister of agricultural development, was one of the latest members of the Torrijos administration to promise bloodshed unless Torrijos gets control of the canal. He told a student audience a few months ago that members of the guard would be the first to fall.

Much of this rodomontade can be dismissed as breast-beating machismo, but not all of it. When addressed to volatile people and particularly to fanatics, it is deliberately inflammatory, and it is intended as psychological blackmail. Unfortunately few U.S. newspapers have reported the excessive rhetoric of Torrijos and his associates or the instances of internal repression and terrorist activities; thus, the impression, seemingly fostered by the State Department, that there is a stable government in Panama has been reenforced. The silence encourages more harassment and repression and an extension of terrorism.

A more serious form of terrorism would be sabotage against facilities in the zone, including pumping stations, power plants, dams, the Gatun spillway, and the lock gates. Modern explosives and the ease of procuring them (with help from Cuba and the Soviet Union), the large numbers of Panamanian citizens who work on the canal or in the zone, and the very openness of the zone to such attack would facilitate the task. There are, in most places, no fences or obstacles to access; the zone is just across the street from Panamanian territory and no documents are required for entry.

Sabotage could be a serious threat. And yet there are ameliorating considerations. A successful blockage of the canal, particularly if Gatun Lake were drained or both sets of locks put out of commission, would kill the goose that laid the golden egg. Panama's relative prosperity is entirely dependent upon the canal. If the canal were closed, thousands of Panamanian employees would be thrown out of work, and they could well represent a dissident force within Panama. Economic conditions would deteriorate in Panama to a point of no return; Torrijos and his regime would almost certainly be finished regardless of what else happened. And sabotage on a sufficient scale to paralyze the canal is not easy to accomplish; it was prevented during World War II, Korea, and Vietnam.

But the incitement of street mobs led by what Ambassador Ellsworth Bunker described in 1964 as "persons trained in communist countries" [23] is a tactic which is entirely possible, easy to arrange, and hard to prevent. A mob rampaging from the National University or the slums of Panama City could threaten and perhaps overrun parts of the Canal Zone, particularly if U.S. troops were held in barracks or were ordered to hold their fire. It could conceivably burn, loot, and destroy U.S. property in the zone and perhaps injure or kill U.S. citizens. The seriousness of any such action would depend almost entirely upon the support given "the street" by the Panamanian National Guard and/or by infiltrated Cuban or Soviet forces, operating covertly. The National Guard is seemingly rather formidable in size—some 8,000 men, though less than 2,000 of them combat-trained and equipped—and armed chiefly with fairly modern U.S. infantry weapons (including some armored cars, which the State Department, in its inscrutable wisdom, allowed to be sold to Panama recently). But it has no staying power; the guard—a paramilitary police force—is well trained in riot control but has virtually no heavy weapons and its supplies and communications and stocks of food and fuel could sustain it in any actual paramilitary or combat situation only for a few days. Nevertheless, if the guard participated in any numbers in an attack on the zone or stood aloof, as it did in 1964, there is no doubt that blood, and perhaps considerable amounts of

Footnotes at end of article.

it, would be shed on both sides. Such action, if obviously supported by the Panamanian government, would represent a self-defeating threat to that government even more than a threat to U.S. sovereignty over the canal.

Still another possibility is the gradual institution of a kind of guerrilla warfare—nit-picking, perhaps, but persistent and drawn-out. This seems unlikely if only because the Panamanians are in no way similar to the Vietcong in temperament, discipline, or resolution, and in any case, the fragile structure of the government and the establishment in Panama would be incapable of standing the protracted strain of such an effort.

PEACE AT ANY PRICE?

Nevertheless the distinct possibility of a physical confrontation—perhaps an armed one—must be faced. This does not mean that we must cut and run. The avoidance of bloodshed is devoutly to be desired, but for some things we must be prepared to fight. If we establish as our goal peace at any price—if, faced with the threat of force, we continuously concede and compromise—we shall lose the world. Since the Bay of Pigs the United States has been in retreat. The communization of Cuba, the defeat in Vietnam and the loss of southeast Asia, the administration's promise to withdraw U.S. troops from South Korea, the triumph of African, Cuban, and Soviet Marxism in Angola, the fumbling American policies in Africa, and the siren slogan of "no more Vietnams" have all lent substance to the gloomy Spenglerian-Solzhenitsyn vision of decline and fall.

Somewhere the line must be drawn—this far and no farther. Sometime the resolution and will of the American people must be made manifest. Panama is the place and now the time. Throughout the world, Soviet communism has tried to secure control of, or influence over, the global maritime choke points. For a considerable period the Soviet Union was dominant in Egypt and the Suez Canal, and a pro-Soviet Communist underground, smashed just in time, came close to making that dominance permanent. Now, rebuffed in Egypt, Soviet communism is highly influential on the Horn of Africa, which gives access to the Red Sea and the southern approaches of the Suez Canal, and it is jockeying for position to threaten the Strait of Bab-el-Mandeb, through which most of the world's oil traffic from the Persian Gulf flows.

In Indonesia, on the flank of the Malacca Strait, it came within a hair's breadth, in Sukarno's day, of assuming power. In West Africa, Nigeria and Angola, notably, provide facilities for Soviet naval vessels close to the important South Atlantic shipping routes. In Southern Africa, a vital geographic area which dominates the important shipping routes around the Cape of Good Hope, Moscow has been making slow gains.

It is, therefore, no accident that the Panama Canal has been the object of so much Soviet and Cuban attention. A Communist Panama, in control of the canal and dominated or greatly influenced and supported by Havana and Moscow, would indeed represent another major defeat for the United States and a strategic victory for communism, this time in an area vital to the United States.

If we will not stand fast in our own backyard, if we compromise and equivocate and retreat about an issue as vital as the Panama Canal and an area as strategic as the Caribbean, where will we stand? Alexander Solzhenitsyn, in his book *Warning to the West*, sums up the dilemma, the crisis, of which Panama is a part: We are at "a turning point in history," he says, facing implacable Communist enemies, who are united in one aim—the destruction of capitalism and of the social order of the West.

The Myth of Control without Sovereignty

The answer from those who advocate retreat evades the issue. American supporters of a transfer of sovereignty to Panama try to make the shift seem a minor adjustment which will ensure happy relations with a friendly and stable Panama and stress that "control" of the canal would remain in our hands. In the 1976 campaign, Jimmy Carter ducked the sovereignty issue, but said unequivocally, "I would never give up complete control or practical control of the Panama Canal Zone. . . ." [24] Yet control without sovereignty is doublespeak. Torrijos has stated that withdrawal of U.S. troops and the complete elimination of the American presence—including management and operational personnel—from the area is his goal.

Control without sovereignty has inevitably led, in all instances where it has been attempted, to loss of control. To cite but two examples out of many: A government changed in Libya and the great air base there, built entirely with U.S. dollars, was closed to us. Greece and Turkey quarreled over Cyprus, and U.S. bases in those countries, some of them highly important to U.S. security, were closed or limited in their operations simply because we were not sovereign—that is, in paramount control.

United States sovereignty simply means that within the parameters of U.S. law, the United States holds supreme power over the region in question, unchallengeable by any other power. Our sovereignty over the Canal Zone has been untainted and absolute, but how we operate the Panama Canal has always been subject to the provisions of the Hay-Pauncefote Treaty with Britain—which requires equality of treatment for the shipping of all nations. Colombian treaty rights would also be involved in any treaty revision; as Congressman Daniel J. Flood has said, the projected transfer of sovereignty would open a "Pandora's box of difficulties." [25]

Without sovereignty it is clear that we shall not be able to carry out the terms of the Anglo-American treaty, nor shall we be able, regardless of the wording of any attempted compromise solution, to "control" the canal. If we transfer sovereignty over the canal to Panama—an act that seems to be, under the Hay-Pauncefote Treaty, legally questionable unless Britain agrees—we should leave the isthmus, lock, stock, and barrel; our "control" would become completely ineffective, probably after protracted wrangling, unending disputation, and perhaps repeated clashes.

Again, to quote Congressman Flood:

The operation of the Canal by the United States on an extra-territorial basis in a land of endless intrigue and turmoil could only result in endless conflicts and recriminations. Besides, it would result in the removal of an island of stability on the isthmus that has often served as a haven of refuge for Panamanian leaders seeking to escape assassination. One of the most recent Panamanians to seek refuge there was Señora Torrijos, the wife of Panama's chief of government, during an attempt to depose her husband while he was out of the country.[26]

If we are to retain the canal, there cannot be any compromise on the issue of sovereignty; if we are going to scuttle and run, let us do it completely, with no doubletalk. We must not retain responsibility without authority.

FACING THE PROBLEM

Thus, we have followed a long straight road to a point of no return since the days when Christian Herter, alarmed by student rioting, persuaded President Eisenhower to allow the Panamanian flag to fly, along with the stars and stripes, in the Canal Zone. Ever since that day, American Presidents, supported by State Department policies of concession, have greatly encouraged Torrijos and his predecessors to press for the transfer of sovereignty. We face, therefore, a dilemma of our own making, from which there is no escape. If Panama's hopes of sovereignty are dashed—as they must be—frustration, coupled with emotional volatility, may well lead to a brief explosion of violence.

What should we do?

We must face the problem head-on. Rejection of any treaty transferring sovereignty is not enough. Washington must officially announce that the United States is—and will remain, in perpetuity—sovereign in the Canal Zone.

Within that parameter, there is, however, room for maneuver on less important problems. A third set of locks and a deeper waterway—the construction of which was started but suspended in World War II—may well be required by world trade in the next century; as early a resumption of this project as economic conditions permit should be a high priority and would have a beneficial effect on Panama's now stagnant economy. The annuity paid to Panama—now $2.32 million annually—might be increased somewhat to provide for inflation. Some profits from the canal operation, when the canal operates in the black again, might be passed on, in recognition of improved productivity, to Panama Canal employees regardless of citizenship. Many of the personnel problems that are irritants to good relations must be solved. Most important should be a well-organized public relations campaign by Washington to correct, in this country, in Panama, and elsewhere, the distorted image of the ugly American which has grown up around the Canal Zone.

Morale in the Canal Zone

Partly because of our own mistakes, partly because of the growth among some American canal employees of a "colonial ghetto" mentality, partly because of the sheer contrast between the neat middle-class order of the Canal Zone and the slum misery that lies cheek-to-jowl with it just across the street, but largely because of skillful and heavily financed Panamanian and Communist propaganda, the Canal Zone's American population have come to be unfairly identified in too many minds—particularly in the minds of the liberals—as colonialist exploiters.

The image is flawed; most of the Americans who work in the zone are simple, average people living in a simple, low-middle-class style, willing to be friendly, wanting to be liked. It is true, however, that over the years the close contacts and friendly relations of the first generation of "ditch-diggers" with the indigenous population have been weakened. Some of the sons and daughters of the first generation live in claustrophobic insularity; too few of them speak Spanish or take an interest in the culture of Panama. Similarly, there is far too little effort within Panama or elsewhere in Latin America to advertise the better aspects of U.S. culture.

Nor have the Panamanian workers in the Canal Zone been unfairly treated, as is so often claimed. They are subject, along with U.S. citizens, to U.S. minimum wage laws. Until 1955, when at the request of the Panamanian government the privilege was in large part revoked, they were able to shop at U.S. commissaries and stores in the zone, at prices considerably lower than those that prevailed in Panama. A good many of them lived in the zone in U.S.-furnished quarters. Their rates of pay are considerably higher than those in Panama—in some cases two to four times as high. Their children attend U.S.-supported schools in the zone, some of which teach in Spanish a curriculum emphasizing Spanish and Latin American culture. Many objective observers believe the

Footnotes at end of article.

Panamanian employees of the canal live in the best of both possible worlds.

Yet there are flies in paradise. Most U.S. citizens employed in the Canal Zone have received a 15 percent "tropical differential" not paid to Panamanians. (This is now to be largely but gradually phased out.) Higher-paying, so-called security positions are reserved for U.S. citizens. Two school systems, one for Panamanians and one for U.S. citizens, and two systems of housing allocation, have prevailed; they are now being merged. The Panamanian employees of the canal, despite the benefits they receive, expect and are demanding through their unions exactly the same benefits the U.S. employees receive.

Little things loom large in today's Canal Zone and they affect U.S. employees even more than many of the disgruntled Panamanians. The U.S. employees have resisted what they believe to be a gradual but persistent erosion of the benefits they have enjoyed; they feel strongly that with inadequate and insufficient housing in the zone, U.S. citizens should have preference; many of them object strongly to what they believe will prove to be the destruction by merger of the U.S.-supported school system. They have other gripes. Wage freezes, cuts, and reductions all along the line, some of them forced by the recession and the necessity of reducing costs, the elimination of some medical and hospital services, reclassification of jobs, and the prospect of future cuts and reductions have angered them. They see their jobs threatened by Panamanian replacements, and above all they face the uncertainty of the future—perhaps the complete elimination of all jobs held by U.S. citizens in the zone.

The reaction on both sides is natural and understable. The concessions made to Panamanian employees have merely made them want more. The several thousands of U.S. citizens employed by the canal have seen those concessions as a threat to their own standard of living, and this, along with the uncertainty of the future, has depressed their morale to what Governor of the Canal Zone Harold Parfitt described recently as the lowest point in history. So low, indeed, that the canal has been closed twice—in 1973 and 1976—by "sick-outs" or strikes of its American employees, actions which hurt their own cause but dramatized their grievances. In 1973 the canal's 80 pilots (only a handful of them Panamanian) walked off the job; in 1976, about 700 essential employees, all American, closed down the canal. Both events—indicative of the tremendous deterioration in the "legacy of pride" the canal workers once held—symbolize the insecurity and instability in the zone itself.

These problems are a direct product of the long drawn-out, off-again-on-again treaty negotiations; the entire area has been living in a limbo of uncertainty and frustration for a decade. Until the United States finally and unequivocally rejects the transfer of sovereignty there will be little stability in the zone or in Panama. When that is done, some of the ancillary problems can be settled.

Reactions at Home

In the United States, there has been little organized effort devoted to presenting the case for U.S. sovereignty. Polls indicate that some 80 percent of the people want the United States to retain the canal, but the results are far from specific. Ignorance about the canal, its past and its present and above all its strategic importance, is profound, and indifference is apparent. Into this partial vacuum Torrijos and his Communist supporters have moved.

In January 1977, Panama's United Nations mission signed a contract with a New York firm—Public Affairs Analysts—to conduct a nationwide public relations drive to influence the U.S. public to back a new treaty transferring sovereignty. Former politicos including former Democratic National Chairman Lawrence F. O'Brien and campaign aides of Senator Barry Goldwater and Senator Hubert Humphrey are connected with Public Affairs Analysts. The firm plans to send protreaty information to a list of thousands of influential people. It will also monitor, it is said, the activities of the score or more of organizations that have publicly opposed a new treaty, though it will not—a fine line, indeed—lobby or engage in propaganda.

Perhaps even more influential than this campaign will be the activities of an organization called the Council of the Americas, comprising more than 200 major U.S. corporations with investments in Latin America, and the quiet private influence of some U.S. banks with outstanding loans in Panama. These organizations, which have considerable clout, operate undoubtedly from a sense of self-interest; the Council of the Americas states that a new treaty would have a "very positive impact" in Latin America, and some of the banks are said to believe the only way Panama can pay interest on its loans is by achieving control of the canal and raising the transit rates. These organizations will undoubtedly be supported by a sales campaign promoted by both the State Department and the White House if a treaty can be arranged that saves face for President Carter and ostensibly permits U.S. control without sovereignty. Thus, the lines are drawn for a possible battle in the Senate which may shape, and will certainly influence, the future of the United States.

It is conceivable that the senatorial battle might be preempted by events in Panama; Torrijos's throne is propped up by bayonets and his position and the economy and social structure of Panama are unstable. But whatever the specific course of events in Panama, the argument that the transfer of sovereignty would promote stability, insure a friendly Panamanian government, and secure vital U.S. strategic interests seems groundless in the light of existing conditions.

CONCLUSION

In considering the vital issue of the future of the Panama Canal, two fundamental questions should be asked.

(1) Can the Republic of Panama operate, maintain, improve, and defend the canal without external aid and with equitable treatment for all shipping?

The answer, to anyone who has studied canal problems, is clear. Panama could undoubtedly physically operate the canal, with the help of sizable numbers of the present American employees. This initial period of operation might cover several years, during which U.S. employees would be gradually replaced and outside aid phased out. But Panama clearly does *not* have the economic or technical capability to *maintain*—much less to *improve and modernize*—the canal without massive external financial and engineering aid. Unless it has complete authority (which means sovereignty) over such expenditures, the United States should not provide such aid. "Internationalization" of the canal, a term which has a beguiling ring, would be, in reality, a cover for some form of collectivized control or consortium, with Communist and/or Third World influence probably predominant. The canal, U.S.-owned and operated, is an asset to our strategic interests. But the canal, controlled and operated by a nation or nations actively or potentially hostile to our way of life, is a menace to our security. And, given the ideological instability of past Panamanian governments and the example of the Suez Canal, it seems highly unlikely that, with Panama nominally sovereign over the canal, the "big ditch" would be truly and perpetually neutral or its long-term operation efficient.

(2) Would transfer of sovereignty to Panama impair the U.S. strategic position in the Caribbean?

Again, the answer is clear. U.S. control and U.S. influence in this vital backdoor area—already impaired by the extension of Communist power and influence outward from Cuba and by our past defeats and retreats around the world—would be fatally weakened. We cannot insure control without sovereignty; the mere phrase is doublespeak. We cannot provide military security for the canal without sovereignty; to attempt it would be to accept responsibility without authority.

FOOTNOTES

[1] Robert M. Utley, *The Contribution of the Frontier to the American Military Tradition*, Harmon Memorial Lecture, U.S. Air Force Academy, September 30, 1976.

[2] Roger Fontaine, Introduction to Mario Lazo, *Panama Canal Giveaway*, Special Study no. 1 (Washington, D.C.: Council for Inter-American Security, 1977).

[3] Treaty between the United States and Great Britain to Facilitate the Construction of a Ship Canal, signed in Washington, D.C., November 18, 1901; manuscript, U.S. Department of State, Archives, Treaty Series, no. 401; quoted in U.S. Congress, House, Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, *Panama Canal Finances*, 94th Congress, 2nd session, 1977.

[4] House, Subcommittee on the Panama Canal of the Committee on Merchant Marine and Columbia, Settlement of Differences, Article 1, n. 123.

[5] Statement of Alfred T. Schweppe, "Panama Canal Treaties," in U.S. Congress, House, *Congressional Record*, 95th Congress, 1st session, March 3, 1977, p. H1713.

[6] The State Department's shift in policy has been perceptible in the last thirty years, particularly since the Suez Canal crisis, but opinion on the sovereignty issue is not unanimous—within either the State Department or the executive branch of government—even today. The Defense Department's attitude has ranged from aggressive opposition to foot dragging.

[7] Ambassador Ellsworth Bunker in a public statement, 1964, cited in Lazo, *Panama Canal Giveaway*, p. 12.

[8] Joseph A. Califano, Jr., then assistant secretary of defense in the administration of President Johnson, in a public statement, 1964, cited in Lazo, *Panama Canal Giveaway*, p. 12.

[9] Lazo, *Panama Canal Giveway*, p. 12.

[10] House Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, *Panama Canal Finances*, p. 398.

[11] Ibid, p. 402. This source includes some of the most thorough discussions of the sovereignty issue in the public record. Particularly important are the pages cited, which include a memorandum written in 1959 from Governor W. E. Potter of the Canal Zone to the Honorable Herbert C. Bonner, chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives on the subject "Sovereignty over the Canal Zone."

[12] Luckenbach Steamship Co. v. United States, 280 U.S. 173; 50 Sup. Ct. 148. Wilson v. Shaw, 204 U.S.; 27 Sup. Ct., 233, 235.

[13] House, Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, *Panama Canal Finances*, p. 400.

[14] Statement by Alfred T. Schweppe, *The Panal Canal Treaties*, p. H1713. See also Donald Dozer, Panama Canal Series, no. 1, p. 4, a National Education Project, Emergency Committee to Save the U.S. Canal Zone, PO Box 30054, Santa Barbara, California. The case cited is U.S. v. Husband R. Roach, 406 U.S. 935 (1972).

[15] Lazo, *Panama Canal Giveaway*, p. 10.

[16] Statement by Congressman Flood in U.S. Congress, House, *Congressional Record*, 94th Congress, 2nd session, September 9, 1976, p. 29561.

[17] Some estimates of the National Guard's strength are as low as 5,000. Either way the guard includes all police and militarized police forces in the Republic of Panama.

[18] Jonathan Kandell, *New York Times*, February 17, 1977, p. 2.

[19] U.S. Congress, House, *Congressional Record*, 94th Congress, 2nd session, September 23, 1976, p. 32285.

[20] Ibid.

[21] At that time—before Torrijos had seized power—its presence had negative effects; existing Latin American governments were frightened by Castro's aggressive attempts to overthrow constituted governments.

[22] Public statement in Miami, 1976, quoted in *Sea Power Magagine*, August 1976; Virginia Prewett, "The Panama Canal," printed in the *Congressional Record* of July 22, 1976.

[23] Lazo, *Panama Canal Giveaway*, p. 12.

[24] *New York Times*, October 8, 1976, p. A18.

[25] Speech by Congressman Flood before the National Aviation Club, Washington, D.C., April 22, 1974.

[26] Ibid.

THE 200TH ANNIVERSARY OF SIGNING U.S. CONSTITUTION—N.C. VETERANS COUNCIL REMINDS US OF THE MEANING

Mr. HELMS. Mr. President, on Monday, September 17, 1787, the U.S. Constitution was signed at the Constitutional Convention in Philadelphia. It reflected the inspiring message of the Declaration of Independence that our universal natural rights, and the right of the people to govern themselves, are of divine origin.

The preamble set high-level, yet reasonable, goals for all future generations. While a strong Union was needed, the Constitution wisely provided that all authority would be restrained from an abuse of power by the techniques of limitation, separation, and balancing.

It is regretable that our forefathers could not have foreseen the emergence of the "fourth branch of government"—a rampaging Federal bureaucracy—seemingly subject to no limitations, checks, or balances. Necessarily, our Founding Fathers addressed themselves to the avoidance of the political follies visible to them at that time; unfortunately they underestimated mankind's frailty in permitting the establishment of new forms of oppressive government unless checked by the only durable restraint—the restraint of wisdom.

Ten years from tomorrow, our Nation will observe the 200th anniversary of the signing of the U.S. Constitution. On July 4, 1976 there was an unparalleled spontaneous grassroots demonstration of pageantry and joy such as has been rarely witnessed before. The eyes of the world were on America.

Little did we dream in 1966, when the American Revolution Bicentennial Commission was created, that we would be treated to such an outpouring of patriotism. Encouraged by this, now is the time to begin preparing for the bicentennial of our Constitution.

I am immensely proud that the North Carolina Veterans Council is already on the move in this regard. For the past several years the council has promoted a heritage program. Through its efforts, the U.S. Civil Service Commission has included a heritage phase in annual seminars conducted for administrative law judges. This is an important beginning. The heritage phase will dwell on the root values that were involved in the Declaration of Independence and the U.S. Constitution. The seminar will provide a sound base to launch a further understanding of our Constitution and the enormous benefits of the market economy which it nourished.

Fireworks and hoopla have their place, but a deeper understanding of our heritage is far more important. Far too few Americans really comprehend the basics of our political and economic freedom. Too many have taken them for granted. That is precisely how freedom was lost to other nations that grew careless. It is essential that Americans correct our past failures. Let us now reexamine our heritage in a spirit of renewal to its precepts.

I commend the veterans of North Carolina for their heritage program, and it is my intention to do all I can to encourage and assist this program as we look ahead to September 17, 1987.

REPRESENTATIVE JOHN BRADEMAS

Mr. PELL. Mr. President, I am happy to bring to the attention of the Senate an article published by the New York Times on Sunday, September 4.

This article gives particular and well-merited attention to the achievements of our colleague in the House of Representatives, JOHN BRADEMAS, the majority whip, in the development of the cultural well-being of our country. As chairman of the Subcommittee on Select Education in the House, he has long and with great effectiveness championed the cause of the arts, as this article describes.

Joint efforts in support of the arts and humanities are traditional to our congressional approach to these important matters. As chairman of the Senate Subcommittee on Education, Arts and Humanities, I extend my commendations to JOHN BRADEMAS and my appreciation of his many contributions to this legislative area. His achievements have been marked by hard work, profound knowledge, and a dedicated spirit.

Mr. President, I ask unanimous consent that this article by the excellent writer, Grace Glueck, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOHN BRADEMAS, THE CONGRESSMAN THEY CALL "MR. ARTS"

(By Grace Glueck)

"When Joe Papp talks with John Brademas, no one says 'Brademas who?' anymore," a theater man said recently. Everyone in the arts knows now that Brademas is the Congressman to see.

Since 1969, when he took over the management of arts and humanities legislation in the U.S. House of Representatives, the reputation of Representative John Brademas (D., Ind.) has steadily gained as Mr. Arts, the Congress' most articulate and effective spokesman for aid to culture. A Rhodes scholar with a magna-cum-laude degree from Harvard, Brademas is a driving wheel who seems to feel that the arts are a genuine constituency and who, besides his many other legislative chores, manages to hold endless rounds of hearings, lobby his fellow-Congressmen, make appearances in the field, study, speak, write, breakfast, lunch and dine in their behalf.

"He's one of the brightest men around," says Papp, who recently discussed with Brademas his concerns for national cultural policy, "someone who manages to keep himself supportive of the arts and at the same time constructively critical—a watchdog."

Today, a progressive liberal occupying the powerful post of House majority whip, the 50-year-old Hoosier is the fair-haired boy of the Arts Establishment, and for good reason. With Senator Claiborne Pell (D., R.I.) he has successfully fought for continuing escalation of grants to the National Endowment on the Arts and Humanities, a battle that has paid off in the recent appropriation by Congress of the biggest budgets ever (nearly $115 million each) for the National Arts and Humanities Endowments.

What's more, in recent years he and Pell have been the chief sponsors of legislation that (a) in extending the life of the Arts and Humanities Endowments has created a new source of income known as "challenge grants" that generate matching funds for cultural institutions (nearly $8 million in such funds has just come to New York City); (b) set up a new Institute of Museum Services to help meet the operating expenses of the country's museums, and (c) enabled museums to forgo the prohibitive insurance costs of international exchange exhibitions by providing for indemnification of art shows by the Federal government.

"He never stops," says Brademas's senior in the House, Representative Frank Thompson Jr. (D., N.J.) who, when he moved on to other Congressional duties, handed over to Brademas chairmanship of the House body that creates art/humanities legislation, the Subcommittee on Select Education. "He's incandescently bright, works terribly hard, and is able to translate that brightness into very pragmatic legislative ability."

Even Brademas's opponents in his home district admit that he is an "effective" Congressman, although they complain that he takes credit for Federal aid to the district that would have come without his efforts. They also grumble about his successful attempts to turn his half-Greek heritage to national account ("As the House Greek, he gets campaign money from all over the country to support his anti-Turkish legislative maneuvering," said a Republican Congressional aspirant.)

And in Washington, some observers deride what they say is Brademas's excessive interest in social glitter (for years one of Washington's most eligible bachelors, he recently married Mary Ellen Briggs, a wealthy divorcee who is a third-year medical student at Georgetown University; the event was celebrated with a reception for more than 1,000 guests at Dumbarton Oaks).

"Nevertheless, unlike some Congressmen, he's always there for roll call in the House," admits one carper. "And you can bet he's on top of what's being voted."

With an old pol's savvy, Brademas is careful to credit the handful of "distinguished colleagues" with whom he had worked on arts legislation; in the Senate, Pell and Jacob Javits (R., N.Y.); in the House, Thompson, Albert Quie (R., Minn.), the minority whip, and Sidney Yates (D., Ill.). Besides, notes the short, stocky gentleman from Indiana, the "once titanic struggles" on the House floor over arts funding are a thing of the past. "Today, the arts are politically saleable. Now a Congressman could get into more difficulty voting against the arts than for. All the evidence points to the fact that Federal support has become not only acceptable but popular."

Brademas even peddles the arts on his home turf, the Third Congressional District of Indiana, a three-county mix of agriculture and industry, blue collar and million-

aire, native Hoosier and Eastern European ethnic, with a large educational component that includes Notre Dame University in South Bend. The heavily Republican district has returned him to Congress since 1958, though Brademas concedes that his interest in the arts is not what gets out the vote.

But even so, he takes pains to identify with the interests of his constituents: He plans, for example, to propose to Polish authorities a show of 19th-century Polish art and artifacts to tour the country, possibly beginning in South Bend. "I think a lot of Polish people would come and they'd be aware I'd sponsored it," he says. "It's like Polish 'Roots.' It's another instrument for building museum audiences and reaching more people with art in ways that are meaningful to them."

Brademas's ability to grease the passage of arts legislation has certainly not been hindered by his jump last Fall from chief deputy whip of the House to majority whip, the third-ranking position of power in the chamber. He was appointed by Speaker Thomas P. (Tip) O'Neill Jr., to replace John J. McFall (D., Cal.), who left the post to run for the next job up, House majority leader. (McFall was defeated, partially because of his acceptance of a campaign contribution from the South Korean operative, Tong Sun Park, from whom Brademas and many other Congressmen also took campaign handouts. In contrast to some others, Brademas reported the contributions, not at the time required by law.)

The job of whip, as Brademas likes to point out, involves "a constant flow of communication." It entails such administrative duties as keeping track of vote counts, exerting gentle pressure on House Democrats to vote the leadership position on important bills, and advising the Speaker on how the vote will go. But it also gives Brademas a significant role as a member of the Democratic Steering and Policy Committee in the House, and puts him in direct contact with the President at bi-weekly White House breakfast meetings.

The hammering out of House bills affecting the arts is done by Brademas with aides and fellow-Congressmen in his post as chairman of the Subcommittee on Select Education, offspring of the House Committee on Education and Labor. It was in the Subcommittee, for example, that the House part of the 1976 legislation was worked out, extending the Arts and Humanities Endowments for four more years and increasing their authorizations for fiscal 1977 and 1978 to $125-million each and $150-million each, respectively (as is its wont, the Congress later chose to appropriate somewhat less than the fully authorized sums).

One of Brademas's most taxing triumphs in arts legislation (shared by Pell, who in the Senate presides over the Subcommittee on Education, Arts and Humanities) was the Museum Services Act, recently passed by Congress after a five-year obstacle course. Intensively lobbied for by the American Association of Museums, it creates a special agency, an Institute of Museum Services, through which, for the first time, the Government will channel basic operating money to the country's 5,000 museums—not just art institutions, but history, science, natural history and technology centers, plus zoos and botanical gardens.

The most trying phase of the battle was with the Arts Endowment, which gives money to museums (though primarily to arts institutions and—basically—program rather than operating funds) and so wanted jurisdiction over the new funding. Brademas's argument, bolstered by attendance figures, ran that the overwhelming majority of museums visits are to technology and science centers.

But Nancy Hanks, the Arts Endowment's chairman, viewed museums as a single constituency in terms of public funds. If they were financed under a separate agency, she feared, then other constituents of the Endowments—in the areas of dance, theater, music—could undermine the Endowments' authority by going directly to Congress themselves for funding.

The Endowments lost, the clincher being that their overall funding pattern could not support the large chunk of money that the Congressional supporters of the Act were asking: $15-million for the first fiscal year; $25-million for the second. A high-intensity debate between the Senate and the House over what agency should get the new institute was resolved, according to one of Brademas's House colleagues, "by John's ability as an arguer and a logician. It took several conference meetings between the two houses for John to convince them that, because museums have a common educational denominator, it should go to the Department of Health, Education and Welfare."

And so the Institute for Museum Services was approved by Congress last year, and administrative planning has just begun. Disappointingly funded at $4-million for the 1978 fiscal year, the new agency nevertheless pleases Brademas mightily. "It will grow," he says. I've been here long enough to know you have to be tenacious to make things happen. You can't quit because of setbacks."

Brademas's argument that the institute should go to H.E.W. underscores the fact that his devotion to the Endowments is by no means uncritical. Always wary of "concentration of power," he has carefully monitored the funding agencies to see that the money is "democratically dispensed." At the 1975 authorization hearing, one of the periodic Congressional reviews to extend the life of the two agencies, several directors of state arts agencies came to give their testimony.

"It was at a time," recalls Michael Straight, deputy chairman of the Arts Endowment, "when Nancy felt that some of the states could not handle too rapid an increase in funding because their legislatures were not matching Endowment appropriations."

But Brademas, pressing to increase the percentage of Endowment funding for the states, asked the agency directors if they were satisfied with the 18 percent of the Endowment's budget that they were getting. To his surprise, there was a unanimous "yes." When he returned to his office in the Sam Rayburn building, however, several of the directors had preceded him.

"We're not happy with the funding, but what could we do with Nancy sitting in the hearing room?" one said. Brademas immediately moved to have the funding for the states raised to the level of 20 percent, where it is now.

"John was right—it shouldn't be up to the chairman to decide what the basic state agency grants should be," says Straight. "And now the states are confirming his wisdom in that they're asserting their right to a larger role in determining Federal policy in the arts."

In bucking his good friend, Miss Hanks, Brademas has not always been a winner, however. There was, for example, his support in 1974 of an unsuccessful bid for the controversial American Film Institute, a creature of the Endowment, to become a separate agency with its own funding. Headed by George Stevens, Jr., a close Brademas friend, the A.F.I. was created by the Endowment and gets, besides Endowment financing of more than $1-million a year, funds from the movie industry and private foundations to carry on its work of running a Hollywood film school, making grants to filmmakers, preserving old films, cataloguing, education and research.

But during the Recession, support from other than government sources began to dwindle. Arguing that the agency could not survive, Brademas and the then chairman of the House Subcommittee on Interior and Related Agencies Appropriations Julia B. Hansen (D., Wash.) pushed the Endowment to increase its support for the A.F.I. But the Endowment, also concerned with funding a separate media program, objected.

Then the A.F.I. made its pitch to become a separate agency, deriving the bulk of its funding directly from Congress. The move was proposed by Miss Hanks, again with a certain ambivalence since, even though the A.F.I. was a thorn in the Endowment's side, she was afraid that its independence would encourage the split-off of other Endowment constituents.

Brademas introduced a bill to create a separate A.F.I., bringing in such Hollywood bigwigs as Charlton Heston, A.F.I. board chairman, to testify at hearings. But the Institute's critics, who charged it with mismanagement and an industry orientation, prevailed. The bill was voted down by a handy margin in the House. An agreement, brought about by Senator Pell between Mr. Stevens and Miss Hanks provided, among other things, for a more effective review process for A.F.I. grants and for better joint planning efforts. The A.F.I. was also knocked out of the Endowment budget as a "line item," i.e., a decree at what level the Endowment must finance it.

The episode is now referred to lightly by Brademas, who says, "I think things have worked out very well." And he cites it as an example of how the Endowments "have now come of age, where we who champion Federal support for the arts can raise questions without feeling we're undermining that support." Nevertheless, the defeat rankled. "We still speak very softly about it here," says a subcommittee staff member, softly.

Brademas was somewhat disturbed, too, when James H. Billington, his choice for the post of chairman of the Humanities Endowment, was passed over by the President. "It's not clear to me why he didn't make it," says Brademas. "I'm told someone at the White House was unhappy with him." Nevertheless, the President's choice of Joseph D. Duffey, criticized in scholarly circles because of Duffey's lack of "humanities" credentials, is viewed by Brademas pragmatically. He credits Duffey's "range of experience" and expresses the hope that he "will seek to achieve two objectives for the Endowment broadening access to activities in the Humanities to many more Americans while at the same time supporting projects of high intellectual quality."

Brademas traces his interest in both art and politics back to his own roots. Born in Mishawaka, an industrial town on the outskirts of South Bend, to a Greek immigrant father and a Hoosier mother who taught music and art in county schools, he spent summers in the home of his grandfather, a high school superintendent in central Indiana. "He had a library of 5,000 books and I lived in that library," says Brademas, who vividly remembers poring over Gustave Dore's illustrations for Dante's "Inferno" as a child. "My grandfather was also very interested in politics and we spent long hours discussing it on the front porch. I got the impression that politics was important."

At South Bend Central High, Brademas made it both as athlete and scholar: He was a star quarterback and the class valedictorian. On a scholarship to Harvard, he earned a Phi Beta Kappa key and took his B.A. degree magna cum laude. Appointed a Rhodes Scholar, he continued his education at Oxford, where in 1954 he earned a Ph. D. degree in Social Studies with a dissertation

on the anarcho-syndacalist movement in Spain in the 1930's.

Plunging into politics on his return to the States, Brademas worked as a legislative assistant to Congressmen, on the staff of Adlai Stevenson, the Democratic Presidential nominee in 1956, and taught political science at St. Mary's College in South Bend before winning election to Congress in 1958 from his home district.

A cosmopolitan who likes to read the poetry of Cafary and Yeats for relaxation, Bramedas does not embrace the distinctly populist line of thinking that seems to be emerging from the White House about arts and humanities funding. But he's politician enough to avoid championing the "elitist" view of the arts as flourishing only in the great cities. "I'm aware that some of the best efforts come from New York," he says. "And I've been more on the New York side for things—I don't think the best way to approach funding is to split up the pot. But when we're voting tax dollars we have to make sure that everyone benefits. Quality vs. accessibility—we have to be concerned with both, not only for political but for substantive reasons. There's nothing wrong with bearing in mind those twin points of tension with regard to both Endowments."

He is concerned that the President "take a hard look" at the two agencies, "not in terms of their restructuring but to get a clear understanding of their statutory purposes. Where are they today and are there any significant directions to take that would give a distinct imprint of the Carter administration?"

Among the issues he'd like the President to consider are: What role the states and local communities should play in decision-making about Endowment spending ("Should we be giving more say to the state and local government?"); Federal support for the operating expenses of institutions ("a really radical shift in commitment that has had its start with the Museum Services Act"); the role of the individual artist vs. institutions ("We're increasing the money input to dance companies and symphony-orchestras, but we can't forget the individual artists; they make it possible.")

He would also like to see Mr. Carter consider "ways of making an impact on the arts that don't cost a lot of money. Take, for example, the bill sponsored by Representative Thompson to turn unused railroad depots into arts centers, or the Art Bank in Canada whereby the government buys works from artists for use in Federal buildings." He smiles and quotes a fellow-Hoosier, the writer Kurt Vonnegut: "I just kinda like to spitball ideas around here."

EXIT, DIRECTOR McKELVEY

Mr. SCHMITT. Mr. President, there has been considerable controversy lately in the geologic community over the "release" of Dr. McKelvey, Director of the U.S. Geological Survey. Naturally, this has attracted more than my casual attention. Nevertheless, I have made no public comment in the hopes that the Carter administration would offer some evidence explaining the rationale used in determining the need to replace Dr. McKelvey. There has been no evidence—not even an explanation for the removal of this respected scientist.

When there is a change of administration, a new President must have a relatively free hand in selecting his key advisers. Certainly this includes his Cabinet officers. This also includes a number of other important agency and commission positions. On the other hand, there are a number of other senior governmental positions which over the years have been recognized as nonpolitical. These positions are not advisory; rather they serve as sources of information. Traditionally, the President and his advisers receive facts from these nonpolitical governmental units and, based on these facts, select the appropriate administration policies. While I might frequently disagree with these policies, I would not presume to deny our Chief Executive of the advisers he chooses, beyond the recognized advice and consent responsibility of the Senate.

The firing of Dr. McKelvey, however, deviates from this very practical and appropriate tradition. The Director of the U.S. Geological Survey should provide scientific fact, judgment and, in some cases, opinion. The Secretary of the Interior provides political judgment, opinion, and advice. I believe that this deviation from accepted practice is both significant and ominous.

Apparently, Dr. McKelvey's chief sin is his insistence that the United States is blessed with abundant resources. The concept of abundance does not fit with the President's version of conservation. The administration has taken the position that we must conserve at all costs, and the prospect of abundance forces an unwelcome review of this policy. Rather than face the task of establishing minerals policy based on a complicated scenario of extraction costs, market demand, environmental impact, import quotas, and many more factors, the administration has chosen to eliminate one source of unpleasant facts. Exit, Director McKelvey.

Perhaps the most alarming result of this action is the growing pattern of information suppression by the Carter administration, when that information is in conflict with his policies. For example, a group within the Energy Research and Development Administration estimated enormous reserves of natural gas at a wellhead price of $2.50: the Carter administration solution to this potential embarrasment was to eliminate that source of information. A series of ERDA booklets which expressed the positive attributes of the breeder program: The Carter's administration's solution was to eliminate that source of information by destroying the booklets.

The Bureau of Mines might provide different interpretations to mineral data than desired by the administration: The Carter administration's solution was to eliminate that source of information by centralizing all data collection within the new Department of Energy. Each individual instance is not, in itself, completely unreasonable. Collectively, however, these actions represent a serious retreat from the "open government' promised by Mr. Carter during our past election. The Senate must soon decide whether it is wise to permit a continuation of this unfortunate course set by the administration.

Mr. President, the Wall Street Journal today published an editorial discussing the significance of the release of Dr. McKelvey. I commend it to the attention of my colleagues, and ask unanimous consent that it be placed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOOD-BYE, DR. MCKELVEY

Dr. Vincent E. McKelvey for the last six years has been the director of the United States Geological Survey. The 61-year-old career scientist has been with USGS since 1941. In the tradition of the 98-year-old agency—which has had but nine directors in that time—Dr. McKelvey was nominated by the National Academy of Sciences and appointed, pro forma, by President Nixon.

Now, in an unprecedented move, Dr. McKelvey has been bounced by the White House. Technically, Interior Secretary Cecil Andrus pulled the trigger, USGS being an Interior line agency. The administration, he was told, "wanted its own team." But it is inconceivable that Mr. Andrus would take this step without orders from above, any more than we can imagine the Attorney General deciding on his own hook to replace the FBI Director.

In a way, it makes even less sense to fire Dr. McKelvey, because the administration will not replace him with one of its own team anyway, unless it violates tradition and does not accept the nominee of the National Academy of Sciences. Nor is he being fired for incompetence, being too distinguished for that charge to stick. In fact, he's getting back his old desk down the hall.

What's it all about? Plainly, this is Washington: Behind Closed Doors. Dr. McKelvey does not now and never has suited the Malthusian regulators who designed Jimmy Carter's energy plan. While you are trying to bulldoze a $100 billion tax/energy conservation program through Congress, it does not help to have the government's top expert on such matters running around talking about the vast resource base in the United States.

In his early years as USGS director, Dr. McKelvey incurred the displeasure of Rep. Morris Udall, who last year ran for the Democratic presidential nomination on the Club of Rome platform, i.e., the planet is doomed. Mr. Udall and his friends carried on a running debate with USGS over its estimates of natural-gas reserves, insisting that USGS was too optimistic.

In July, just as the Carter energy people were bulldozing the energy bill through the House, Dr. McKelvey was giving a speech in Boston, observing that as much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the geopressured zones underlying the Gulf Coast region. That's 3,000 to 4,000 times that amount of natural gas the United States will consume this year.

"This is an almost incomprehensibly large number," said Dr. McKelvey, noting that "even the bottom range represents about 10 times the energy value of all oil, gas and coal reserves of the United States." In the same speech, he also observed that "a large amount of oil is still to be found in the United States."

Tsk, tsk. Dr. McKelvey does not understand politics. Had he not seen what happened when the scientists of the Energy Research and Development Administration came to similar conclusions in April? The MOPPS I team estimated that if natural gas was deregulated, the nation would be drenched with the stuff at $2.50 per thousand cubic feet. The MOPPS I team was promptly dismantled and its findings adjusted posthumously.

At the same time, the White House thumped up a report of the Central Intelligence Agency that forecast the Russians would run short of energy in 1985 and have to import it from the Middle East. This, we

were told, is further reason why Americans must conserve in a hurry by paying a lot more taxes.

Once again, Dr. McKelvey did not know enough to keep his mouth shut. The Russians, he said, are floating on a sea of oil. The Washington Post now reports that Energy Secretary James Schlesinger, who used to run the CIA, privately pooh-poohs the CIA report, saying the Russians wouldn't let themselves get boxed into a position where they'd have to buy oil from anyone.

The Carter people insist that the USGS will not be politicized. They will take just about anyone the National Academy of Sciences nominates, but withhold the right not to do so. Which means the NAS had better come up with a geologist who understands politics. If only Galileo had not been so impolitic as to insist that the earth revolves around the sun, think of the trouble he would have spared the Inquisition.

ADMINISTRATION'S LATEST SUGAR SCHEME CIRCUMVENTS CONGRESSIONAL MANDATE

Mr. DOLE. Mr. President, the administration's proposed sugar subsidy program announced yesterday is in direct conflict with the expressed intent of Congress as embodied in the farm bill just passed by both Houses of Congress. "Title IX section 902(2)(f)(1). The price of the 1977 and 1978 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor: Provided, That the support level may in no event be less than 13.5 cents per pound raw sugar equivalent." The statement of managers accompanying this conference report goes on further to express, "The Department currently has authority under existing law to carry out the price support program required by this amendment to the Agriculture Act of 1949. It is the recommendation of the conferees that the Secretary of Agriculture implement the program called for by the House amendment as soon as possible—even before the act is signed into law."

Just 1 week ago today, I joined with 28 other Senators in sending a telegram to President Carter endorsing the conferees' recommendations and calling for immediate implementation of the sugar program. Evidently this announced sugar subsidy program is the answer to our telegram rejecting the recommendation of Congress and substituting a costly, ill-conceived, patched-up version of the previous proposal that was declared illegal. There is no reason for this action in defiance of the expressed intent of Congress. The price support loan and purchase program called for in the farm bill should be implemented immediately. The announced program of yesterday should be withdrawn even before the proposal is printed in the Federal Register.

The continued delay of implementing the sugar program called for in the farm bill is costing the U.S. Treasury about $1 million per day in lost revenues from import duties or fees called for in the farm bill. According to Mr. Fred Gray, the USDA sugar statistician, imports of sugar are flooding into the United States at a rate of about 500,000 tons per month. A duty and/or import fee of around 3 cents per pound is necessary to support prices at 13.5 cents. This amounts to a loss of $1 million per day. In addition to this $1 million per day loss of revenue, the cost of the subsidies paid to processors will be very large unless actions are taken to limit the inflow of foreign sugar at distressed prices. Increased imports during this period of continued delay are apt to provide windfall profits to some in the industry. This delay started, in March 1977, with President Carter's rejection of the U.S. International Trade Commission's recommended quotas to prevent the flooding of our market with low-priced sugar.

I have not seen the details of the announced program because they evidently are not complete enough to be printed in the Federal Register. The USDA has announced that the unfinished details of the program are legal even though clearly in violation of the expressed intent of Congress.

EXECUTIVE N, 95TH CONGRESS, 1ST SESSION—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed on September 7, 1977 (Executive N, 95th Congress, first session), transmitted to the Senate today by the President of the United States, and that the treaties with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the purpose of receiving the advice and consent of the Senate to ratification, the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, which I signed on behalf of the United States at the headquarters of the Organization of American States on September 7, 1977. I also transmit, for the information of the Senate, the report of the Department of State with respect to those Treaties.

When ratified, the Treaties will establish new arrangements for operating and defending the Panama Canal, and for ensuring its continuing neutrality and accessibilty to all shipping. These objectives will be achieved through a new, cooperative relationship between the United States and Panama under which the United States will continue to operate the Canal until December 31, 1999. After this period of preparation, Panama will assume control of canal operations, with the United States sharing permanent responsibility for maintaining the Canal's neutrality.

The Treaties serve the essential interest of the United States in an efficient and safe Canal. They permit a new relationship with Panama based on friendship and mutual respect. Moreover, they remove a major obstacle to the betterment of our relations with the countries of Latin America and the Caribbean area, and will substantially improve our standing with other nations, particularly those of the developing world.

I believe that these Treaties are fair to both countries, consistent with our heritage, and right for our times. They protect United States interests in the Panama Canal for the future better than the 1903 Convention which they will replace. Undue delay in ratification could cause serious problems for our foreign relations and jeopardize our long-term interests in the Canal and in the Hemisphere. Accordingly, I urge the Senate to give these Treaties early and favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *September 16, 1977.*

COMPREHENSIVE NATURAL GAS POLICY

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished minority leader and with the assistant minority leader. I ask unanimous consent that, without any action being taken thereon today, the Senate proceed now to the consideration of Calendar Order No. 395, S. 2104.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, on Monday after the two leaders have been recognized, under the order previously entered the Senate will proceed to the consideration of this measure.

ORDER FOR ADJOURNMENT UNTIL 12 O'CLOCK NOON ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR UNDER RULE VIII

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the calendar under rule VIII on Monday be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO RESOLUTIONS COME OVER UNDER THE RULE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if there is any morning business on Monday, no resolutions come over under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NO ROLLCALL VOTES ON MONDAY OR TUESDAY ON S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur on Monday or Tuesday in relation to S. 2104, a bill to establish a comprehensive natural gas policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I wish to thank the majority leader and the minority leader, and the Senate as a whole, on behalf of the Governmental Affairs Committee, for the courtesy extended to us in suspending votes during the period of yesterday afternoon and today from 2 p.m. to 5 p.m. Because of the nature of those hearings, and the fact that they are being nationally televised, some of us felt that comments that were made during the period that it was necessary for Senators who were members of that committee to come to vote on the floor were misleading as to the reason for the recesses that were taken by the committee, and for the necessity for the absence of the members of the committee; and I think it was for the benefit of the Senate as a whole that the rollcall votes were suspended both yesterday afternoon and this afternoon.

As I say, on behalf of the members of the committee, I do thank the leadership for their cooperation in this regard.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Republican leader is very kind, thoughtful, considerate, and courteous, as always, in saying what he has just stated. He is always entitled to every consideration, because he has never failed to give that in return.

ORDER RESTRICTING ROLLCALL VOTES ON WEDNESDAY AND THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Wednesday, no rollcall votes occur after the hour of 6 o'clock p.m.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that on next Thursday, no rollcall votes occur prior to the hour of 6 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 12 o'clock, following an adjournment. The unfinished business will then be S. 2104, to establish a comprehensive natural gas policy.

After the two leaders or their designees have been recognized under the standing order, the Senate will return to the consideration of that bill. However, there will be no rollcall votes on that bill on Monday.

This is not to say, however—and I stress the fact—that no rollcall votes will occur on Monday. They may very well occur on conference reports or on other matters that have been cleared for action. They could occur in connection with the establishment of a quorum. But no rollcall votes will occur on Monday on the natural gas bill.

On Monday, the Senate will not remain in session late. I should think the Senate will be out on Monday by 6 or 6:30 p.m.

On Tuesday, no rollcall votes will occur on the natural gas bill. This is not to say, however, and I stress this is not to say, that no rollcall votes will occur on Tuesday. They may very well occur on conference reports or other matters cleared for action, or in relation to the establishment of a quorum.

Let me say further that rollcall votes may occur on Wednesday in connection with the natural gas bill or any other matters, such as conference reports or other matters, cleared for action. No rollcall votes will occur on Wednesday after the hour of 6 p.m. This is not to say that the Senate may not find it advisable to stay in later and carry on debate on amendments, but no rollcall votes will occur after 6 p.m. on Wednesday.

On Thursday, the Senate will continue its debate on the natural gas bill and amendments and motions in relation thereto, but no rollcall votes will occur on Thursday prior to the hour of 6 p.m.

Mr. President, I think this is an appropriate time to state, 1 week in advance, that the Senate will be in session next Saturday if the Senate has not completed action on S. 2104, the natural gas bill.

The time has come for the Senate to be prepared to come in early, stay in late, in some instances it may be very late, in some instances it may be later than that, and for the Senate to be prepared to come in on Saturdays with rollcall votes, and on Fridays. Today is Friday and we have had rollcall votes up until 6 p.m., or beyond, today. In our effort to fulfill our promise that we would complete action on the energy legislation before the Senate adjourns this year, in our further promise that we would complete action on all "must legislation" before going out, and in our intention to adjourn in October if final action is taken on energy legislation, which includes the conference reports, then it is obviously necessary to prepare ourselves for long daily sessions, with rollcall votes, and sessions on Saturdays, when necessary. I would urge all Senators to schedule their personal plans accordingly.

Mr. RANDOLPH. Will the majority leader yield, Mr. President?

Mr. ROBERT C. BYRD. I yield to my senior colleague from West Virginia.

Mr. RANDOLPH. Mr. President, I commend the able majority leader for his announcement at this time, not so much for its content, although that is important for the RECORD, but it provides me the appropriate opportunity to express for all Senators, regardless of side of the aisle on which they sit, their appreciation for the very unusual, in a sense, very deserving leadership of Senator BYRD in the programing and the passage, after adequate debate, of important measures which have been pending in this body and which will continue to deserve our attention.

In this commendation, I also include the minority leader (Mr. BAKER) because I feel, and I have heard the majority leader express it on more than one occasion, that there has been a very splendid cooperation from the Senator from Tennessee (Mr. BAKER).

I say these words not in a sense of pleasantry, but with the opportunity at this time to share with my colleagues, who are not in the Chamber, our appreciation for the leadership of the majority leader, and also for the understanding the minority leadership has given in the dispatch of business, with courtesy and, I believe, with a degree of constructivism which we have seldom seen in this body.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished colleague for his statement. I appreciate it deeply. I know on behalf of Mr. BAKER and Mr. STEVENS, who is here, I say the same thing for them.

The senior Senator from West Virginia will have served in the Congress at the close of this session 33 years. At the close of the 95th Congress he will have served 34 years. May I say to him, as he has said to the Senate, that the cooperation the leadership on this side has had from the Republican leadership has been outstanding, both with respect to Mr. BAKER and Mr. STEVENS, who at all times have been very understanding, courteous, and helpful, without which the Senate could not have made the excellent marks in its report card which it has made.

Mr. RANDOLPH. I again commend the leader.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT TO MONDAY, SEPTEMBER 19, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and, at 6:29 p.m. the Senate adjourned until Monday, September 19, 1977, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 16, 1977:

ARMS CONTROL AND DISARMAMENT NEGOTIATIONS REPRESENTATIVE

Ralph Earle II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations (new position).

THE JUDICIARY

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia, vice William B. Jones, retired.

DEPARTMENT OF JUSTICE

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years, vice Allen L. Donielson, resigned.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years, vice Robert W. Rust, resigned.

Julian K. Fite, of Oklahoma, to be U.S. attorney for the eastern district of Oklahoma for the term of 4 years, vice Richard A. Pyle.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California for the term of 4 years, vice William D. Keller, resigned.

David T. Ready, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years, vice John R. Wilks, resigned.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years, vice Evan L. Hultman.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years, vice Ira De Ment, resigned.

Robert P. LaRoche, of California, to be U.S. marshal for the eastern district of California for the term of 4 years, vice Arthur F. Van Court.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 16, 1977:

DEPARTMENT OF JUSTICE

Bennie A. Martinez, of New Mexico, to be U.S. marshal for the district of New Mexico for the term of 4 years.

William J. Evins, Jr., of Tennessee, to be U.S. marshal for the middle district of Tennessee for the term of 4 years.

James I. Hartigan, of Massachusetts, to be U.S. marshal for the district of Massachusetts for the term of 4 years.

Charles M. Adkins, Jr., of West Virginia, to be U.S. marshal for the southern district of West Virginia for the term of 4 years.

Richard J. Dunn, of Nevada, to be U.S. marshal for the district of Nevada for the term of 4 years.

Paul J. Puckett, of Virginia, to be U.S. marshal for the western district of Virginia for the term of 4 years.

Howard J. Turner, Jr., of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Alvin B. Rubin, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Harry H. MacLaughlin, of Minnesota, to be U.S. district judge for the district of Minnesota.

EXTENSIONS OF REMARKS

TAX DEDUCTION FOR SENIOR DEPENDENTS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. LLOYD of California. Mr. Speaker, today I have introduced legislation to increase tax deductions for families who have a senior citizen living in their home. Deductions for a dependent, 65 and older, will be raised to $1,500 with my proposal.

This bill recognizes the special expenses of having an elderly person at home, and by increasing the tax deduction for a senior dependent, encourages multigeneration families to stay together as a unit.

The text of the bill follows:

H.R. —

To amend the Internal Revenue Code of 1954 to allow a deduction of not more than $1,500 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEDUCTION FOR MAINTAINING A HOUSEHOLD FOR DEPENDENTS WHO HAVE ATTAINED THE AGE OF 65

SECTION 1. (a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

MAINTAINING A HOUSEHOLD FOR DEPENDENTS WHO HAVE ATTAINED THE AGE OF 65

"SEC. 221. (a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains as his home a household any member of which is a qualified dependent of such individual for the taxable year, there shall be allowed as a deduction the aggregate amounts paid or incurred during such year by such individual for maintaining such household.

"(b) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to the taxpayer for the taxable year shall not exceed $1,500.

"(c) QUALIFIED DEPENDENT DEFINED.—For purposes of this section, the term 'qualified dependent' means, with respect to any household maintained by a taxpayer, any individual—

"(1) for whom such household is the principal place of abode for more than one-half of the taxable year,

"(2) who is a dependent of such taxpayer (as defined in section 152) for such year, and

"(3) who has attained the age of 65 before the close of the taxable year.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) MAINTAINING A HOUSEHOLD.—

"(A) IN GENERAL.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

"(B) MULTIPLE SUPPORT AGREEMENTS.—For purposes of determining under subparagraph (A) whether the taxpayer furnishes over half the cost of maintaining a household, any support of any qualified individual with respect to such household, treated as received from the taxpayer under section 152 (c) for any period, shall be treated as a cost of maintaining such household furnished by the taxpayer for such period.

"(2) MARRIED COUPLES MUST FILE A JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction provided by this section shall be allowed only if the taxpayer and his spouse file a joint return under section 6013 for the taxable year.

"(3) LEGALLY SEPARATED INDIVIDUALS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

"(A) an individual who is married and who files a separate return for the taxable year, and

"(B) during the last 6 months of such year such individual's spouse is not a member of such household,

such individual shall not be considered as married for the taxable year."

(b) DEDUCTION FROM GROSS INCOME.—Section 62 of the Internal Revenue Code of 1954 (relating to adjusted gross income defined) is amended by inserting after paragraph (13) the following new paragraph:

"(14) MAINTAINING HOUSEHOLD FOR ELDERLY DEPENDENTS.—

The deduction allowed by section 221."

(c) CONFORMING AMENDMENT.—The table of sections of part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Maintaining a household for dependents who have attained the age of 65.

"Sec. 222. Cross references."

EFFECTIVE DATE

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.

NATIONAL HISPANIC HERITAGE WEEK

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 15, 1977

Ms. OAKAR. Mr. Speaker, I am extremely pleased to join in the observance of National Hispanic Heritage Week, which was proclaimed by President Carter in his message of August 29. My congressional district, which includes part of Cleveland and several of its suburbs, has a large, proud and energetic Spanish-speaking community, with whom I have had the pleasure of working closely during my service both in Cleveland City Council, and now in the House of Representatives.

I can certainly attest to the truth of the President's statement that—

Today, Americans have come to recognize the important role of the Hispanic community both in the life and work of the United States and in our efforts to achieve understanding, mutual respect and common purpose with the Spanish-speaking nations of this hemisphere.

In speaking of the pride of the Hispanic people in their heritage, and their desire to maintain their customs and traditions, I recall well how several years ago, the Spanish community fought vigorously against a proposal to halt the teaching of the Spanish language in the Cleveland schools. These parents, of course, very much wanted their children to be well versed in English, but they also wanted very much for their children to know the language of their ancestors. I think this kind of spirit is highly commendable and should be encouraged.

Thus I am pleased that Congress and the President have joined in designating National Hispanic Heritage week, and I am pleased to join in its observance. My colleague from Cleveland, the Honorable LOUIS STOKES joins me in wishing the Spanish-speaking people continued success.

"WINGS" LIFTS HOPE TO NEEDY ABROAD

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. MILFORD. Mr. Speaker, Wings of Hope is an aviation-oriented charity and is a fine example of utilizing aviation and the airplane to benefit mankind. May I call particular attention to one of its founders, Mr. George E. Haddaway. His personal involvement and professional skills in aviation were instrumental to its founding.

Wings of Hope is only one example of George Haddaway's lifetime devotion to the cause of aviation. He is also well known for his contribution to the development of air transportation in business, agriculture, and industry.

George Haddaway can also look back on an aviation-reporting career of outstanding achievement. Through Flight magazine, which has been published without interruption since February 1934, Haddaway has successfully promoted business-aviation policies at the local, State, and national levels.

Just this year, he received the "Lauren D. Lyman Award" by the Aviation/Space Writers Association for his distinguished career in aviation writing.

In 1963, he founded the History of Aviation Collection at the University of Texas at Austin. Today, it is one of the Nation's finest and most complete libraries on aviation.

In 1973, he received the Federal Aviation Administration's highest honor, the "Gold Medal." He was instrumental in organizing the antisubmarine coastal patrol and repeatedly encouraged the development of civil aviation.

He has served as the chairman of the Aviation Development Advisory Committee from 1947 through 1954 under six FFA Administrators.

Long active in national organizations, he has participated in the founding of the Aviation/Space Writers Association; the National Aviation Trades Association; the National Pilots Association; and the General Aviation Facilities Planning Group.

He is also a lifetime member of both the Flying Physicians Association and the American Association of Airport Executives.

As a founder of Wings of Hope, George Haddaway can take a personal satisfaction for its 15 years of successful operation. Both George and Wings of Hope are highly deserving of public recognition for their efforts to find effective ways of utilizing aviation to help their fellow man.

Mr. Speaker, I would like to include this article written for Flight Line Times by Keith Thompson in the RECORD:

"WINGS" LIFTS HOPES TO NEEDY ABROAD

(By Keith Thompson)

Do you have an old aircraft engine you don't need? Better still, is it attached to an airplane you don't want? How about a serviceable tire for a Cessna 185, or some workable avionics? Some mags? A good user car?

An organization in St. Louis can make good use of aircraft and equipment donated by the aviation community. It's called Wings of Hope, a nonsectarian, nonprofit and nonpolitical organization of pilots and aviation enthusiasts dedicated to the efficient use of wings in the service of mankind.

Operating in remote areas of the world, Wings of Hope has acquired 30 aircraft for humanitarian groups since it was chartered in 1964.

At present, the organization works mostly with missionaries, the front line of humanitarian efforts, in Alaska, Central and South America, Africa and New Guinea.

Wings of Hope originated in 1962 through the charitable efforts of two airline pilots who secured a Piper Super Cub for a missionary in Kenya. The missionary desperately needed the aircraft to ferry medicine and food to the back country of the famine-stricken Turkhana Desert.

However, the Super Cub constantly was plagued by hyenas eating its fabric, so in 1964, a group of American businessmen raised money to purchase a Cessna 206 Skywagon. (It's metal skin rendered it "hyena-proof.") The Cessna was delivered to Kenya a year later by Max Conrad.

The publicity generated by these efforts resulted in a flood of requests to help other organizations obtain aircraft. In response to the call for aid, Wings of Hope Inc. was instituted.

Since 1964, Wings has engineered the acquisition of 15 aircraft and has provided the business and aviation expertise to enable another 15 planes to be delivered to worthy groups and individuals. The worldwide network now operated by Wings is supported entirely by donations of cash and equipment by volunteer services.

Wings of Hope is not a central fleet operator, according to executive vice president Bill Edwards. Once Wings acquires an aircraft, "we try to get it off our hands in a year or two, hopefully in the first year," he said. "We're more of a joint venture specialist."

Wings is, in fact, a clearing house for qualified groups needing aircraft but lacking the technical knowledge or business background necessary to operate the aircraft successfully.

After the board of directors approves a call for aid, Wings sets about to contact donors, raise funds or to try to obtain the aircraft through a dealer at what Edwards terms an "honest-to-goodness wholesale price."

Often, manufacturers or vendors have donated aircraft or avionics at no cost. Because of such cooperation and the fact that Wings has no full-time paid staff, Edwards estimates over 90 per cent of the funds go directly into the services Wings was set up to provide.

Last year, Wings was involved in transactions of funds and equipment valued at about $250,000. "And that's just the cash side." Edwards said. "Then there are tremendous amounts of donated services, the value of which I won't even attempt to guess.

"You see, we don't overhaul in the field," he said, "We want those engines to come back to a fine overhaul center in the States. We find that is definitely the better way to do it. We do top jobs in the field, but no major overhauls. If an aircraft is in Alaska or Central America, we like to bring it home for a thorough physical.

"In one case," Edwards recalled, "one of our pilot-mechanics in Dutch Guiana, Surinam, on the north coast of South America, needed a little help hanging an engine on a Cessna 337 Skymaster, since he'd never hung this particular model before.

"We put the word out and a couple of American Airlines flight engineers, one of whom spent his spare time overhauling engines, hopped flights from Texas and California and met down in Surinam.

"They gave that aircraft a finetoothed comb going-over and got that engine hung fine and then came on back," Edwards said. "That's their contribution and they didn't charge us anything. Of course, they flew on a pass and then picked up the difference out of their own pockets."

Similarly, Edwards cites an A&I who went to Guatemala last November to bring their airplane up to snuff. And, "when we get ready to change the engine in that same bird, we'll bring it up to Texas and that same A&I and some of his buddies will do the engine change and go over that bird from tip to tail," he said.

"We try to work with as many qualified people as possible, especially if they have a free pass," Edwards said. "This is why we work with so many airline people. We can't very well pay airline fare for a guy to go to New Guinea for three days."

Another important aspect of the Wings of Hope operation is communications.

"Medical rescues require communications, so we get into the single side band (SSB) and specialized radio game on the ground," Edwards said. "Which means a little mission station or remote village that has some responsible person—a missionary, a World Aid person or a Peace Corps volunteer. We'll put a ground set in to provide a link-up to a central base station and the aircraft."

What does Wings of Hope look for in a pilot?

"The hardest part of my job," laments Edwards, "is not being able to harness most of the well-meaning and really committed, dedicated persons that would like to help their brothers.

"Our primary need is for mechanic-rated pilots, through the commercial and instrument tickets, with bush experience," Edwards said. "We like to see a minimum of one or two thousand good hours, hopefully some conventional gear experience, and not too young. We need a man with his head screwed on tight.

"The A&P is the missing link," he said. "The other problem is we can't do too much for the short assignment person.

"For our deliveries in the Americas, we use our own people, but for international deliveries, we only use professional ferry pilots at wholesale prices."

Such deliveries are often easier discussed than done. Ferry pilots often must circumvent political barriers, cultural differences or government apathy and inefficiency to get the aircraft to where it's needed.

Once there, the aircraft must be kept airworthy—no mean feat in a place like New Guinea, especially considering how difficult it can be here at home.

In addition to the plane, fuel and oil must be provided. Usually, it is in 100-gallon drums, and all fuel must be strained through a chamois cloth. Pilots must be ever vigilant to prevent overzealous helpers from putting oil in the gas tanks or fuel in the oil reservoir.

If a pilot does land a spot with Wings of Hope, he can expect long hours, hard work, danger and a fair share of excitement.

For example, a Wings pilot, Guy Gervais, managed to survive the recent devastating earthquake in Guatemala by picking his way through rubble to the airport at Santa Cruz del Quiche.

Gervais took off in a Wings of Hope Cessna 185 and picked up a volunteer American Airlines pilot at Aer Ixcan, Wings' partner in Guatemala. Throughout that tragic day, they flew relief into the shattered community of Joyaboj, where 3,500 of the 14,000 inhabitants had been killed by the earthquake. They hauled water, medicine, engineers and doctors in, and flew the injured out.

From pregnancies to snake bites to burns, stories of mercy flights by Wings of Hope pilots are numerous.

Wings of Hope enjoys a tax-exempt status as a nonprofit organization recognized by the Internal Revenue Service. As such, Wings seeks tax-deductible donations of cash, aircraft, engine, radios, parts and anything that can be used, sold or swapped for needed items.

"We're looking primarily for the six-place utility aircraft in the Cessna 206 and 180 series, or the Piper Cherokee Six category," Edwards said. "We can use 210s and some of the light twins such as 310s and Skymasters."

THE WOODLANDS CONFERENCE SERIES

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. ARCHER. Mr. Speaker, The Woodlands Conferences on Growth are held biennially at The Woodlands, Tex. As the date for the second of five of these international meetings draws near, I would like to share with my colleagues a brief description of the plans for this year's gathering:

THE WOODLANDS CONFERENCE SERIES

A series of five biennial, international meetings, The Woodlands conferences are concerned with major worldwide issues associated with growth in numerous areas, such as energy, population, food production, ecology and resource depletion. Registration is open to all persons interested in growth-related topics. The ten-year program is sponsored by the Club of Rome, University of Houston, and Mitchell Energy & Development Corp.

The first assembly, "Limits to Growth '75," was convened in the Fall of 1975 at The Woodlands, a new town north of Houston, Texas. It hosted more than 400 scholars, business leaders and government officials. The second meeting, "Alternatives to Growth '77," will be held October 2–4, 1977, at The Woodlands. Workshop and general sessions will be conducted by more than 60 noted panelists and speakers from around the world. The theme of this year's conference is: "The Nature of Growth in Equitable and Sustainable Societies."

Major themes and goals for the "Alternatives to Growth '77" conference are provided by a steering committee, a group of approximately 35 outstanding world leaders in their respective fields. The committee chairman is Paul-Marc Henry, former president of Development Centre, Organization of Economic Cooperation and Development, and presently secretary-general, Society for International Development. The Society is the coordinator of the 1977 world conference.

As part of the biennial conferences, George and Cynthia Mitchell have established the Mitchell Prize, which offers a total of $50,000 for original research into the manifold questions connected with establishing sustainable societies. Five awards of $10,000 each will be made at the 1977 assembly. Finalists and the semi-finalists in the competition will participate in the workshop sessions.

The 1977 announcement of the competition stated: "Humanity is at a turning point. The Mitchell Prize has been established . . . to encourage international analysis and solution of problems resulting from . . . social and economic change (from the present continuous growth-oriented systems)." The award program was started in 1975, and at that time the total prize amounted to $20,000. For the 1979 competition, the Mitchell Prize monies will total $100,000.

Some of the topics to be investigated at the 1977 Alternatives to Growth meeting are: Social Structures in Sustainable States, Energy Alternatives, Population Questions, Labor Supply and Demand, Social and Political Aspects of Sustainable Societies, Ecological Thresholds, meeting Basic Human Needs.

IN SUPPORT OF H.R. 5383—MANDATORY RETIREMENT REFORM IS NEEDED TO REDUCE AGE DISCRIMINATION

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. KOCH. Mr. Speaker, mandatory retirement practices in Federal and private sector employment represent one of the last vestiges of legally condoned employment discrimination. The forced retirement of older Americans at the arbitrary age of 65 is an unconscionable waste of the talent, expertise, and perspective that these workers can bring to the Nation's labor force.

Therefore, I am glad to have the opportunity to support legislation designed to reduce the incidence of mandatory retirement. H.R. 5383, a bill developed as a result of the efforts of my able colleagues Congressmen CLAUDE PEPPER, PAUL FINDLEY, TED WEISS, and HENRY WAXMAN would amend the 1967 Age Discrimination in Employment Act which currently governs much of the mandatory retirement policies in the Federal and private sectors. In passing the 1967 legislation, the Congress was acknowledging the need to respond to the employment problems faced by older American workers. The 1967 law protected older workers between the ages of 40 and 65 from arbitrary forced retirement. It is ironic that by establishing age 65 as the limit for protection under the Age Discrimination in Employment Act of 1967, the law served to institutionalize the age of 65 as a signal to the end of an employee's usefulness.

To combat the continuance of these irrationally arbitrary policies, H.R. 5383 makes several changes in the Age Discrimination in Employment Act, all of which have my support. First, it increases the law's protections in the private sector to include those workers between ages 65 and 70. Additionally, it would clarify section 4(f)(2) of the ADEA to help eliminate the use of pension plans or seniority systems as a mechanism to force early retirement. Third, the legislation calls for a study to evaluate the impact of forced retirement systems, with a particular emphasis on the feasibility of ending mandatory retirement in the private sector all together.

But the most important feature of the legislation is the provision placing the Federal Government in the forefront of the battle against age discrimination by eliminating forced retirement in most Federal employment systems.

I believe that elimination of mandatory retirement systems is necessary if we are to be able to have a work force that is free of arbitrary discrimination based senselessly on an individual's race, sex, creed, handicap, or age, and instead permits those with ability and talent to remain productive and have a chance to contribute to the economy.

HUMAN RIGHTS: NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. McDONALD. Mr. Speaker, the country of Nicaragua has been under attack over the last 2 years by avowed Marxist revolutionaries of the Castroite persuasion and by "human rights activists" as a police state utterly repressive and unworthy of continued support from the United States. I have previously pointed out that Nicaragua has had a continuing threat from guerrilla terrorists trained by the Cubans for over 15 years. In 1976, as the so-called "human rights" campaign moved into high gear, the guerrilla movement escalated its efforts to gain a land base in the northern mountains.

Mr. Eduardo Abbott of the Hispanic Law Division of the Library of Congress has prepared the following excellent review of rights protected under the Nicaraguan Constitution together with a discussion of the various possible provisions which can be invoked under states of emergency. A review of the facts of the legal situation is a considerable aid in evaluating the sometimes bizarre and extreme claims of Nicaragua's critics.

The Library of Congress study follows:

HUMAN RIGHTS: NICARAGUA

I. INTRODUCTION

The term "human rights" entails a number of privileges to which individuals living in a civilized society are entitled. These privileges range from individual freedom—a complex of rights which entail life, liberty and security—to civil, political, economic, social, and cultural rights.

The best known and most widely accepted instrument establishing and defining human rights is the Universal Declaration of Human Rights approved by the United Nations General Assembly on December 10, 1948, and ratified by all members states of this organization.[1]

The Universal Declaration of Human Rights consists of 30 articles aimed at establishing a common standard of achievement for all peoples and all nations with regard to the most important areas of human need. In short, the declaration proclaims the "right" of individuals to have all their basic needs fulfilled.

Although every human need is important, there are some basic requisites without whose fulfillment the satisfaction of other needs loses most of its significance. These basic needs concern the freedom of the individual and such elemental civil and political rights as recognition as a person before the law; not being held in slavery or servitude; not being subject to arbitrary arrest, detention, exile, torture, or cruel, inhuman or degrading treatment or punishment; when charged with a criminal offense, the right to be pre-

Footnotes at end of article.

sumed innocent until proven guilty according to law in a public trial where all guarantees for a proper defense have been given; not being held guilty and/or punishable by laws not in force at the time the alleged offense was committed; the right to be free of arbitrary interference in privacy, family, home, or correspondence; the right to a nationality; freedom of thought, conscience and religion; the right to peaceful assembly and association; and the individual's right to take part in the government of his or her country, directly or through freely chosen representatives. These basic requisites are most commonly identified with human rights issues and will be the focus of this report.

II. PROTECTION OF HUMAN RIGHTS IN NICARAGUAN LAW

Basic or fundamental human rights for all inhabitants of Nicaragua are established in the political constitution of the country.[2] Such rights as the inviolability of human life,[3] due process of law,[4] prohibition of torture against persons detained, under trial or convicted,[5] inviolability of home,[6] correspondence and private documents,[7] freedom of thought, opinion and expression,[8] freedom of association [9] and assembly,[10] and freedom of movement and residence within the national territory [11] are expressly sanctioned by the constitution. Furthermore, responsibility for violation of constitutional precepts in detriment of any person has been established.[12]

The Law on Amparo of October 25, 1974,[13] regulates the exercise of the rights of property and due process of law by providing special procedures for obtaining judicial protection against illegal actions of public officials or private individuals that threaten or actually deprive a person of his or her property or individual freedom.

In short, basic human rights seem to be adequately protected by constitutional and legal provisions currently in force in Nicaragua. The protection granted by the letter of the statutes of a given country however is only one indicator of the human rights situation there. Usually a far more faithful indicator is the actual enforcement of these individual guarantees.

As a rule, nonenforcement of statutes protecting human rights may be originated either by the government's lack of respect for the rule of law or by the ability of the government to "legally" suspend, curtail, or suppress the provisions of these statutes. Usually statutes granting protection of individual rights allow the government to suspend or diminish such rights in the presence of extraordinary circumstances that place the interests of the entire society over individual privileges. These situations are known as emergency situations, i.e., state of siege. The definition of such extraordinary circumstances, the extent to which they may curtail individual rights, the powers granted to the government to declare the existence of such circumstances with or without the concurrence of other powers of the state, i.e., the legislative branch or the judiciary, and in general, the existence or absence of time and/or factual limits to the duration of these emergency situations and/or of the measures taken because of them constitute good indicators of whether laws protecting human rights are likely to be honored.

We cannot ascertain the actual enforcement of the statutes concerning the protection of individual rights in Nicaragua, although alleged widespread violations of human rights have been reported recently by the press.[14]

We can, however, summarize and briefly analyze the legislation concerning emergency situations where, as in other countries, such basic human rights as individual freedom, due process of law, liberty of thought, opinion and assembly are severely curtailed.

Footnotes at end of article.

In Nicaragua emergency situations are basically under the purview of the Constitution and of the Martial Law of October 25, 1974.[15]

The Constitution establishes three different situations where individual rights are suspended. The most striking of all is the one provided by article 195 which reads as follows:

"Art. 195. The President of the Republic, whenever in his own judgment public tranquility is threatened, may order the detention of persons presumed responsible, interrogate them, and hold them in custody for up to ten days; within these ten days they must be freed or turned over to a competent court; however, if in the judgment of the President of the Republic it is necessary to confine such persons, he may decree their confinement, in Council of Ministers."

The detainees may not be held in military barracks or mingled with common criminals.

The above article neither defines what must be understood by "public tranquility," nor makes clear what constitutes a "threat" to such tranquility, leaving to the sole judgment of the president the determination of when this situation occurs. Apparently no specific defense rights are granted to the persons presumed responsible by the president or his agents, and no time limits are given for the duration of this type of situation.

In situations regulated by article 195 of the Constitution, the Martial Law becomes applicable. This law entitles the president, by himself or through civil or military authorities, to decree a number of measures that restrict or simply suppress the most basic human rights. Most of these measures are defined in very ample terms, leaving the actual determination of what they consist to presidential discretion. They include the following: [16] a) to decree "the necessary preventive measures" as to assure the public order; b) to issue warrant of arrest against any person, in order to investigate the possible commission of acts that disturb the public order, and to maintain the detainees incommunicado for a "prudent term" if this is necessary for the investigations; c) to pursue investigations regarding any attempt to breach the public order, proceed administratively against the disturbers and prosecute before the Courts those found to be responsible [of such attempts]; d) to compel residence changes of persons considered dangerous or under suspicion; e) to suspend or establish previous censorship of radio and television broadcasts and to all sort of publications; f) to issue written search and entry warrants concerning the domicile of any person under suspicion in order to search for and seize weapons, any relevant documents, and objects; g) to occupy for military purposes all types of individual properties; and h) to dissolve "at any cost" seditious groups, employing force to reduce them to obedience, and arresting the guilty for their prosecution and punishment.

If the above measures are not sufficient for dominating the situation and reestablishing public order, the military authority may decree, according to the situation, new measures which must be publicly announced.[17] The law does not indicate the nature of these "new measures" but mentions the application of fines as one example of them.

During these emergency situations the military courts shall have the competence to try cases concerning criminal offenses against the external and internal security of the state and the public order.[18] The military courts must try the cases according to their own procedural rules, but they must sentence according to the Penal Code, unless military personnel or cases of treason are involved. In such cases the Military Code shall be applied.[19] Unless there are extraordinary circumstances, the sentences of the military courts shall be carried out only after the approval of the president of the republic.[20]

The second situation where individual rights are suspended is regulated by articles 196 and 197 of the Constitution which authorize the president to declare, in Council of Ministers, a state of national emergency in all or parts of the national territory. The state of national emergency authorizes the government to suspend or restrict the exercise of constitutional individual guarantees, and can be declared in the following cases:

(a) when the country becomes involved in a civil or international war;

(b) when there is danger that either of these wars may take place;

(c) in case of epidemic, earthquake, or other public disaster;

(d) whenever, due to any circumstances, it is required for the protection, peace, or security of the nation or of its institutions or form of government.

The decree declaring the suspension or restriction of individual rights must contain the following:

(a) the grounds on which the decree is based,

(b) the specific guarantees that are restricted or suspended, and

(c) the territory affected by the suspension or restriction.

This second type of emergency situation seems to be better regulated by the Constitution than the first already mentioned. Article 197 provides that the president and ministers shall be held responsible whenever the suspension or restriction of constitutional rights is declared, and none of the above mentioned grounds for it has occurred. Also, they are held responsible for any abuses committed during the emergency situation.

The same article states that in no case may the decree of suspension or restriction of individual guarantees affect the following:

(a) the inviolability of human life,

(b) the prohibition against trials by judges other than those designated by law,

(c) the prohibition against acts of cruelty or torture and infamous punishments,

(d) the prohibition against retroactive or confiscatory laws,

(e) the prohibition against imposing extraordinary taxes. However, in cases of war the president may impose taxes with a general character.

Finally, the same article provides that the decree of suspension of guarantees shall be repealed upon the termination of the causes for which it was issued, and the executive power shall render to Congress, in joint session of chambers, an account of the measures taken during the emergency.

The third emergency situation is established by article 66 of the Constitution and called "state of economic emergency." It is declared by Congress when "required by the condition of the monetary economy, the protection of the external financial position, or the social stability and well being of the nation," and entails the suspension of the unrestricted freedom of trade, contract and industry established in article 65 of the Constitution. Laws enacted by Congress or by the executive power during its recess diminishing constitutional guarantees may not remain in force longer than the time period fixed by Congress for the economic emergency state.

As previously stated, with regard to the actions of the executive power during the second type of emergency situation, the Constitution requires a report by the president to Congress after the emergency has ceased. Article 160 no. 10 of the Construction empowers Congress in joint session of chambers to "take cognizance of the report submitted by the executive power concerning measures taken during the suspension of the constitutional guarantees." No further regulation is provided, however, and it is interesting to note that the former Constitution of 1950, as amended by a Decree of May 25, 1962,[21] em-

powered Congress to "act" on such report and not to merely "take cognizance" of it as the current Constitution does.

(Prepared by Eduardo Abbott, Legal Specialist, Hispanic Law Division, Law Library, Library of Congress, September 1977.)

FOOTNOTES

[1] *For the peace and dignity of man*, 12 (Dobbs Ferry, N.Y., Oceana Publications Inc., 1964).
[2] *Constitucion Política* (La Gaceta [L.G.] April 24, 1974).
[3] *Id.* art. 38.
[4] *Id.* arts. 39–50.
[5] *Id.* art. 52.
[6] *Id.* art. 58.
[7] *Id.* art. 80.
[8] *Id.* arts. 71–72.
[9] *Id.* art. 70.
[10] *Id.* art. 73.
[11] *Id.* art. 59.
[12] *Id.* art. 57.
[13] L.G., Nov. 11, 1974.
[14] *N.Y. Times*, Aug. 16, 1977, at 6C; *Washington Post*, Aug. 31, 1977, at A20.
[15] L.G., Nov. 11, 1974.
[16] These powers are established in the Martial Law art. 2, nos. 1–10.
[17] *Id.* art. 3.
[18] *Id.* art. 7.
[19] *Id.* art. 10.
[20] *Id.* art. 12.
[21] L.G, May 26, 1962.

DROUGHT ASSISTANCE LOANS

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. GINN. Mr. Speaker, I urge my colleagues to take note of the crisis which has developed regarding the processing of emergency drought assistance loans for our Nation's farmers.

As many of my colleagues know, the lack of adequate rainfall this year has devastated crop production in the Southeast and part of the Midwest. In my own State of Georgia, the total loss will be measured in the billions of dollars when all factors are considered.

But this crisis has been compounded by yet another crisis—one involving delays in the processing of drought aid loans by the Small Business Administration and the Farmers Home Administration. SBA has been swamped with applications, and only $725 million has been requested by the administration in a supplemental budget request to meet the needs nationwide for both drought and other emergency situations.

We give away millions to foreign nations to help when they suffer a natural disaster, but we have yet to find enough money to loan to Georgia farmers who grow our own food and fiber.

At the same time, there have been serious delays in Washington in resolving policy issues and procedures, and there have been disagreements between SBA and Farmers Home as to which agency should take the lead role in drought aid.

Mr. Speaker, good Georgia farmers are sliding to the edge of bankruptcy while Federal agencies in Washington debate who is going to handle which aid program. If we delay much longer, we are going to lose a great many farmers, and the impact of that development on our Georgia economy would be monumental.

I can understand why there have been bureaucratic holdups. I place part of the blame on the Congress because we have enacted aid programs which overlap and cause confusion among conscientious administrators. Officials of SBA have had little experience in dealing with farm problems, and yet they are now in the position of administering a massive loan program to farmers in addition to their regular duties.

And so there is blame enough for everyone. I would say simply that the time for bureaucratic redtape is over. Our agencies must resolve these problems without delay. The Congress must act immediately on funding requests, and I believe the amount of the request should be increased to meet the need.

If we do not resolve this problem, then our farming industry will be crippled, our farm production will be curtailed, and our food prices will skyrocket. It would be a multiple tragedy, and it must be prevented.

NO DOCTOR SHORTAGE IN RURAL AMERICA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. ABDNOR. Mr. Speaker, those of us serving rural areas find worries of continued delivery of adequate health care prevalent among our mail and our visits with constituents. Urban America may well have enough doctors, but rural areas like South Dakota do not. Not only do we have many counties with no resident physicians, but our overall doctor-patient ratio is one of the highest in the Nation—and these doctors are not getting any younger. I commend to the attention of my colleagues this thoughtful editorial on the subject from the Bennett County Booster II, published by Wendell Long at Martin, S. Dak.

People who live in rural areas will find this hard to believe, but federal health policy makers are now becoming concerned that they may soon have too many doctors.

Although estimates vary, the United States faces an increase of 28 percent to 40 percent or more in the supply of physicians.

Since economists calculate that each physician generates $250,000 or more in salary, fees and other charges, such a growth in the number of doctors is alarming to policy-makers trying to find ways of bringing the rising cost of medical care under control.

Between 1963 and 1973 the federal government, trying to relieve a perceived shortage of doctors and nurses, spent about $3.5 billion to develop medical personnel.

In 1971, acting to meet estimated shortage of 50,000 physicians, Congress increased medical school openings from 9,000 to an estimated 16,000 by 1979.

By 1976, the pendulum had begun swinging the other way. The Carnegie Council on Higher Education warned that "we are in serious danger of developing too many medical schools."

In that same year, Congress enacted legislation aimed at easing geographic and specialty shortages by providing incentives to medical students to enter these specialties and to practice in areas where shortages exist.

The law also moved to restrict the entry of foreign medical graduates, who, since the early 1950s, have been filling an increasingly large number of positions in the United States.

No consensus exists on the ideal ratio of population per physician. The United States now has about 175 physicians per 100,000 population, placing it behind Israel, the Soviet Union, Italy and West Germany.

By 1990, according to the current estimates, the United States will have anywhere from 225 to 240 or more physicians per 100,000.

BATTLE OF CLINCH RIVER

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. HARKIN. Mr. Speaker, recently some of my colleagues who support the President's plan to cancel construction of the Clinch River breeder reactor sent around a "Dear Colleague" indicating that about a dozen major national newspapers—who seldom agree on anything—agree that the President is right on this issue.

There are, however, other newspapers throughout the country who have editorialized about the Clinch River breeder reactor debate. One of them is the Des Moines Register. The Register correctly—in my view—supports the President on this issue. I also happen to think the Register's editorial fairly accurately reflects the thinking among most Iowans on this issue. I commend the editorial to my colleagues' attention.

The editorial follows:

BATTLE OF CLINCH RIVER

So strongly is President Carter against the Clinch River (Tenn.) fast breeder reactor project that he apparently is willing to accept some of the 18 state water projects he previously opposed in trade for termination of the breeder project. House-Senate conferees believe the President will not veto a public works appropriations bill they approved last week that includes funds for nine of the water projects but not for Clinch River.

The zero-funding for the proposed breeder demonstration plant generally has been perceived as a victory for the President, who wants commercialization of breeders deferred until they can be made more resistant to use for nuclear weapons-making purposes. The battle of Clinch River, however, is not over.

Carter has asked for $33 million to terminate the project. The original Ford administration budget request for fiscal 1978 was for $150 million, but was halved recently by the Senate in the Energy Research and Development Administration (ERDA) authorization bill ($75 million is just enough to keep the project alive). That authorization bill probably will not reach the House floor until after the August recess.

Because the public works appropriations bill gives him no money for Clinch River, Carter still has to go to Congress for the $33 million to terminate it. The public works bill conferees expect money for the project to be included in a supplemental appropriations

request to be submitted after the ERDA authorization bill is voted on. Therefore, the House action on the authorization bill containing the $150 million for Clinch River will be critical.

It's important that Congress approve no more than the $33 million the President has requested. Any more might signal other nations that the United States is being hypocritical when it asks them to defer their breeder programs.

GOVERNMENTAL RELATION

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. McKAY. Mr. Speaker, anyone who has been a small businessman, as I have been, will sympathize with the sentiment expressed by a constituent of mine from Spanish Fork, Utah. Howard Turrel eloquently described the frustrations and anxieties of an apparent excess of governmental relation. I felt that it would be beneficial to my colleagues to share Mr. Turrel's concerns:

AUGUST 23, 1977.

GUNN MCKAY,
Longworth Building, Washington, D.C.

DEAR MR. MCKAY: I am a businessman who employs a number of hard working people, who all seem to fall under the same category as I except for less paper work. I am desperately trying to make ends meet plus feed my children, maintain a home and supply an education. I wish to say that the present condition of my bank account makes the forementioned items most impossible.

My financial condition is due to Federal Laws, State Laws, County Laws, Borough Laws, Corporation Laws, Special Laws, and a few Outlaws. Through these laws, I am compelled to pay a business tax, amusement tax, school tax, occupation privilege tax, gas tax, old-age benefit tax, unemployment tax, sales tax, hidden tax, surtax and inventory tax.

I am required to get a business license—not to mention a marriage license, dog license, auto license, etc. I am expected to contibute to every organization of relief, including women's relief, children's relief, world relief, unemployment relief, etc., the Red Cross, Blue Cross and the Double Cross. When I refuse to donate to something or other, I am boycotted, lied about, held up and held down and robbed until I am almost ruined.

For my safety I have to carry life insurance, liability insurance, burglary insurance, business insurance, unemployment insurance, old-age insurance, product liability insurance and fire insurance. My business is so regulated that it is not an easy matter for me to find out who owns it. I am inspected, expected, suspected, disrespected, rejected, examined, re-examined, investigated, probed, questioned, scrutinized, reviewed, informed, required, summoned, fined, commanded, and compelled until I provide an inexhaustive supply of money for every known need, desire, or hope of the whole human race.

In my desire to exist in business, I must spend a great deal of time, which of course, is spent away from my family. I desperately try to spend what remaining hours I have with the ones I love but find these hours spent in filling out ridiculous forms of paper work required by the numerous bureaucracies of the everloving Government that claims to be by the people and for the people.

I should get smart and join the unemployed which of course opens up the many doors of free food, the State unemployment program, Government unemployment program, food stamp program, welfare program, church program, civic giveaway program and social security programs which all could contribute to a comfortable living while I go fishing and leave the payout programs to the other guy.

What more can I say except that all the free giveaways plus the items above have taken away all the incentive that was born in me as a free American.

Yours,

HOWARD E. TURREL.

CARTER PROCLAMATION ON CAPTIVE NATIONS CALLED "A RETREAT ON HUMAN RIGHTS"

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. WYDLER. Mr. Speaker, all Americans remember that just a few months ago, President Carter, then newly installed in office announced a major shift in American foreign policy to one which would stress "human rights." I do not know what this meant to others, but to me, it meant that he was going to stand up strongly for those groups in the world who were under foreign domination. It was, therefore, a shock to receive the following news release from the National Captive Nations Committee. I want to share it with my colleagues:

NEWS RELEASE

President Carter's four-day late and weakly-worded proclamation on Captive Nations Week was called today "the beginning of a retreat on human rights" by Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee.

Dr. Dobriansky, who earlier this week sharply criticized President Carter for his failure to proclaim Captive Nations Week, which began last Sunday, July 17, charged there was "no excuse" for the delay—the first in the 19-year history of Captive Nations Week.

"Captive nations and human rights are a natural combination," stated Dr. Dobriansky, "and we therefore expected a prompt and strongly worded proclamation from President Carter.

"Instead, we were first informed there would be no proclamation. Then we are presented with a pro forma statement which makes no mention of any of the 27 nations now under communist captivity or the primary cause of their captivity—Soviet Russia.

"We note that this deplorable misreading of the cause of captive nations follows closely the formation of the inter-agency committee on U.S.–USSR relations—the first such governmental agency of its kind.

"We feel compelled to ask: Which is more important to this administration—human rights or relations with the Soviet Union.

"We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he himself has called his 'crusade for human rights.'

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold.

"If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

DR. EDWARD TELLER URGES CANCELLATION OF CLINCH RIVER BREEDER REACTOR

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. COUGHLIN. Mr. Speaker, while addressing the annual convention of the Edison Electric Institute in June of this year, Dr. Edward Teller, who is widely regarded as the dean of American nuclear physics, described the Clinch River breeder reactor as "obsolete before it has been started" and urged that it be canceled. In his speech, the eminent nuclear authority, whose name is immediately associated with the Manhattan Project and the hydrogen bomb, emphasized the runaway cost of the fast breeder reactor and the serious technological problems that remain despite 30 years of work by the most brilliant minds. I commend the following portion of Dr. Teller's remarks to my colleagues:

CLINCH RIVER BREEDER REACTOR

Talking about nuclear energy, I think that President Carter has made his most significant contribution to the whole energy picture. He said we must not take ten years to build a nuclear reactor; we can do it in three. And that does not mean less safety. It means standardization. It means a thorough discussion to establish valid safety standards. Once they are established, then we should not have repetitive hearings; we should simply determine whether the standards are satisfied.

To have nuclear reactors sooner does not merely mean that we get energy when we need it. It also means that we get energy in a much less expensive manner. To commit at least a part—and not so small a part—of the needed capital, which accounts for 75 percent of the expense of nuclear electricity, ten years in advance, increases the interest and makes reactors more expensive in an unnecessary manner. Reactors can remain safe and can become less expensive.

So far I could not be happier about the President's program. But here come a number of details, and these details, these puzzles, are of real importance.

What about the fast breeder? Jimmy Carter said, "No." And I must tell you I am enthusiastic to hear this "no." We have worked on the fast breeder for 30 years. Little progress. Yet the best people worked on it. Billions of dollars have gone into it. Six countries are working on it—the Russians, the Germans, the French, the British, the Japanese, and ourselves.

The sextuplication is thoroughly unnecessary. International cooperation is called for. We have a good plant which is nearing completion—the fast flux test facility, in which you can try out in a flexible manner various fuels for fast breeders. We can offer that as a contribution to some partners, for instance, the French. We can try to unite forces. We can try to see how best to construct a fast breeder.

The Clinch River breeder, which is obsolete before it has been started, should certainly be canceled. I am talking about the fast breeder for the same reason everybody

else is—the present reactors use only one percent of the energy inherent in uranium, and at that rate, nuclear fuel may not last long enough. The fast breeder effectively gives us a factor of a hundred—but for a price. It works only with fast neutrons, and the fast neutrons are stubborn. They behave at almost the same way no matter what material you make them interact with and that raises engineering problems. Everyone who has looked into it did run into these problems. That the fast breeder is more difficult, there can be no question.

I strongly suspect that when fast breeders will exist, the capital investment will be much greater than the capital investment on the present reactor—and that capital investment is 75 percent of the cost. Mined uranium accounts only for five percent of the cost. And in order to save that five percent, we seem to be willing to spoil our chances on the 75 percent and increase it to 100 percent or 150 percent.

CARGO THEFT IS BIG BUSINESS FOR ORGANIZED CRIME

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. PICKLE. Mr. Speaker, there are two things that are quickly becoming almost as certain as death and taxes. They are: First, that each year the news media will uncover shocking reports on the extent of cargo theft in the United States and, second, that each session of Congress my legislation to combat this serious problem will once again be reintroduced.

Last week, NBC Nightly News aired a two-part series on the control that organized crime has on the docks of nearly every major port in our Nation. The series was reported by Brian Ross of NBC.

This is just another of a long series of reports over the years that confirms what we already know too well. I hope that my colleagues will take a moment to read through this transcript of Mr. Ross' report and I hope that they will be as outraged by this situation as I am.

My colleague, TED RISENHOOVER, and I have again introduced legislation to deal with this situation. Our bill, H.R. 1157, would establish a coordinated Federal effort to stop cargo theft, at least as a beginning step. I hope that my colleagues will join us in supporting this legislation.

I include the following material:

NBC NIGHTLY NEWS, SEPTEMBER 6, 1977

HIJACKING TAPE

This is a truck hijacking in progress. Police in Dade County, Florida made these pictures as part of an undercover investigation of organized crime activity at the Port of Miami. This doesn't look like a crime and that's because the hijacking is well arranged, by insiders. Someone has picked out the right truck, provided the keys and made it very easy.

OPERATIVE SILHOUETTE

BRIAN ROSS. "You've hijacked trucks on the piers of New York?"

MAN. "Yes, I do."

This man says officers of the Longshoreman's Union helped him hijack trucks for the Mafia family that controls the Brooklyn docks in New York City.

MAN. "Well, they have access to all the bill of ladens, so what's on the truck, what shipment, what company, what carriers taken, what load to where, what destination they're going. And they're the ones who have this information and they'll tell you which ones to take."

On a typical working day, there are hundreds of millions of dollars worth of cargo on the docks of this country.

The men who load and unload this cargo are members of the International Longshoreman's Association . . . the ILA. Investigators say it is members of this union who spot the most valuable cargo for the mob . . . and leave it in places where it can be stolen easily.

ROSS. "This is an operation controlled by the most part by organized crime. One family, isn't it?

MAN. "Yes."

ROSS. "The Gambino family."

MAN. "Yes."

ROSS. "And union officials are the people who are spotting for the important loads?"

MAN. "Yes."

ROSS. "They work for the organized crime family."

MAN. "Of course."

And NBC News, in port after port, found there was little to stand in the mob's way. In New Orleans . . . one policeman is assigned to patrol three miles of the waterfront. In Savannah, Georgia . . . cargo is stacked outdoors, unguarded. In Miami . . . police found that shippers won't report losses and often discourage police from investigating thefts.

Maj. STEVEN BERTUCELLI, Dade County Police. "We found intimidation or extortion. People had their legs broken. Other people had been killed."

Detectives say shippers won't crack down because they fear the ILA . . . and the mob.

BERTUCELLI. "At the stage it is now organized crime can engender more fear and threats than law enforcement can. And effectively they keep them quiet than we keep them talking."

A two-year FBI undercover investigation of the International Longshoreman's Association . . . code named Operation UNIRAC, shows the union is controlled by three Mafia families the Genovese and Gambino families of New York, and the Marcello family of New Orleans.

The boss of that family . . . Carlos Marcello—the man on the left—has appeared twice before a Miami federal grand jury investigating the Longshoreman's Union.

Both times, Marcello refused to answer questions about dock racketeering. He says he is a tomato salesman.

In New York, the FBI got a court order to wiretap the phones at this lumber company near the docks in Brooklyn.

The company, which sells lumber to shippers is run by relatives of the president of the Longshoreman's Union in Brooklyn.

He is Anthony Scotto, one of the most powerful men in the International Longshoreman's Association. In some circles in New York, Scotto is a respected labor leader who has been appointed to a number of positions in city and state government.

But NBC News has learned that Scotto is a major target of the federal investigation of ILA ties to organized crime.

In a 1976 confidential report to the Governor of Florida . . . a joint federal and state task force on organized crime listed Anthony Scotto as a captain in the Carlo Gambino Mafia family. Scotto has denied any ties to organized crime. He refused to be interviewed by NBC News.

CARTER MOTORCADE, BROOKLYN, N.Y., OCTOBER 28, 1976

Despite its long history of corruption, the ILA has been able to play a major role in Democratic party politics.

When Jimmy Carter came to Brooklyn last fall to campaign, it was Anthony Scotto who organized the rally for Carter.

Hundreds of longshoremen were ordered by the union to leave their jobs and report to the Carter rally. And Scotto presented Carter with a present—a gold colored cargo hook.

All of this took place at the same time Scotto was under investigation and agents were following him. Carter may not have known that. But if federal investigators are right, the mob's domination of the docks and the International Longshoreman's Association gives it influence in many important places.

This is a scene from On the Waterfront, a movie made in 1954 about corruption on the docks.

BRANDO. "Wait a minute, you! You take the good goods away, and the kickbacks, and the shake-down cabbage, and the pistolaros and you're nothing'. Your guts is all in your wallet and your trigger-finger, you know that."

COBB. "You ratted on us, Terry."

Marlon Brando played the role of a longshoreman fighting union corruption. A real life problem then and a real life problem now.

The port of Miami. Nothing moves here. No one works here without the approval of racketeers and hoodlums . . . many of them officers of the International Longshoreman's Association. For years, the only way to do business here has been the mob way. And the shipping companies have gone along with it. Become part of it.

But two years ago, one member of this closed society . . . a Miami shipping executive . . . went too far.

INFORMANT

He hired this man to kill someone in a business dispute.

MAN. "He wanted me to kill uh to kill the president of the Bank of Honduras."

ROSS. "What was the arrangement that you worked out?"

MAN. "Well, he told me he'd pay my expenses and all, plus $10,000 when I get back. "I told him if I could put a gun on one of his ships to get there. He said, he told me 'I think it's better if you get an ice pick and stick him in the throat' ".

But the murder never happened. This man was working for the police. The man who hired him was caught and began talking about how the mob runs the docks in this country. For the first time, the FBI had a high-level informant on the waterfront. And FBI agents, introduced as the informant's business associates, were in the same room when mob figures came to collect tens of thousands of dollars in extortion payments . . . payments from some of the biggest shipping companies in the country.

And the FBI organized what came to be known as Operation UNIRAC.

The government says Operation UNIRAC is the biggest move ever against union racketeering. The undercover FBI agents, operating out of Miami, went to every major port from New Orleans to New York . . . gathering evidence against organized crime figures, officers of the Longshoreman's Union and shipping company executives.

Grand juries here in Miami and New York began hearing this evidence seven months ago. Major shipping companies were ordered to produce their records and government auditors have been going through them . . . looking for hidden payments to organized crime.

Many shipping company executives refused to cooperate with the government.

This one ran away from photographers. Now, NBC News has learned, that a number of shipping executives will be indicted soon along with union officers and mob figures.

Under all this government pressure, some shipping companies have begun to disclose illegal payments documents filed with the Securities and Exchange Commission. One shipper, United States Lines—a big steamship company—said it had been paid $34,500 to "resolve labor problems," but declined to say what the problems were or to whom the payments were made.

Another company, Sealand Service, a subsidiary of R. J. Reynolds, admitted it, too, had made payments in violation of federal law, but did not say what the payments were for or who received them. Companies disguise payoffs to waterfront gangsters in other ways.

FBI agents found that many essential dock services such as the repair of shipping containers, are controlled by mob fronts. The scheme is, companies are forced to pay for work never done and men never hired.

Investigators say some of the country's leading corporations have regularly made just such payments knowing full well they are to the Mafia.

AARON KOHN, Director, New Orleans, Crime Commission. "Well, someone once said, and I'm afraid there's a great deal of truth in it, that there's no morality in the board room."

Aaron Kohn is the director of the New Orleans crime commission.

Ross. "Why would the officers and directors of major legitimate shipping companies even sit down with corrupt union officials or organized crime figures?

KOHN. "It costs thousands of dollars every day to have a ship at dock. Any delay in getting that ship back off again means a terrific bite out of profit."

Ross. "So it's cheaper for them to go ahead with work, make the payoffs, pay the bribes, than to fight it?"

KOHN. "Exactly."

The cost of all this is enormous. Millions and millions of dollars.

In effect, the Mafia and the Longshoreman's Union have been able to put their own tax on every item moving in or out of the many ports they control.

And the FBI's investigation has shown that in case after case, major corporations have gone along with bribes, kickbacks and payoffs . . . and simply let the consumer pay the price.

Brian Ross, NBC News.

NATIONAL HOSIERY WEEK

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BROYHILL. Mr. Speaker, this week marks the seventh annual commemoration of National Hosiery Week in which a great majority of our Nation's hosiery manufacturers will participate. This year's commemoration, from September 11 through September 17, 1977, is expected to be the largest to date.

National Hosiery Week is designed to acquaint the consumer with the many varieties of hosiery products currently available in the United States. Retailers from across the country will participate in the celebration with special displays in order to educate the public on the many facets of hosiery production.

The U.S. hosiery industry plays an integral role in the overall economy of the Nation. In 1976, for example, the hosiery industry employed more than 73,000 persons in 345 companies which operated 463 plants across the United States. Many of these plants are small businesses and make valuable contributions to the communities in which they are located. During this year, these mills produced more than 3.1 billion pairs of hosiery. Of this total, 93.7 percent was produced in the South. North Carolina alone accounted for 54.4 percent of total production. Other major hosiery producing States include Tennessee, South Carolina, Georgia, Pennsylvania, Alabama, and Virginia.

Because of the important and ongoing contribution made by U.S. hosiery manufacturers, it seems especially appropriate to recognize and applaud its efforts during this, the seventh annual hosiery week celebration.

URBAN ENERGY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. McKINNEY. Mr. Speaker, this morning, the Cities Subcommittee of the Committee on Banking, Finance and Urban Affairs, on which I serve, concluded 3 days of hearings on energy and the city. These hearings focused on the aspects of urban form as an energy conservation strategy as well as the problems and prospects of implementing that strategy under the National Energy Plan (H.R. 8444).

Clearly, that bill is simply not enough. We cannot afford the luxury of waiting to see if national energy goals are met, for the price of failure is economic devastation. Therefore, the energy debate must continue toward development of a National Energy Plan, II. My remarks on the subject of the Federal role in bringing energy progress to our cities appear below in the hope that they will stimulate that discussion.

The statement follows:

Mr. Chairman, first, I commend the Chairman for calling these timely and important hearings. I think the testimony of urban and energy experts over the past two days has unmistakably demonstrated that the National Energy Plan is not a very city-wise bill. Worthwhile, ever vital, proposals for urban energy development, such as those we have heard here, remain beyond the reach of a national energy bill which depends for its success on a level of economic activity, physical modernity and political coordination not found in the modern American industrial city.

If our metropolitan centers are to participate in and benefit from a national energy strategy, rather than endure hastened decay at its hands, hearings such as these are necessary to build a bridge between a National Energy Plan which largely ignores the problems of cities and a NEP–II which must confront the hard economic, environmental and transportation questions left unanswered by H.R. 8444. It is the proper resolution of these questions which will determine the success of any NEP in our cities.

In a recent speech before the U.S. Conference of Mayors, Secretary of Commerce Juanita Kreps declared that, "We have become a nation of cities . . . (and) . . . when a nation . . . gives up on its cities, it gives up on itself." Noble words. Yet, in studying the NEP and its urban implications, I must ask: Have we not given up on residential energy savings in cities by failing to provide insulation incentives for multiple-unit dwellings—the apartment houses which comprise the bulk of the inner-city housing stock. Haven't we given up on urban industrial expansion and job creation by providing investment and conservation tax credits so low and so brief as to be of only marginal impact in the urban context? Have we not tacitly given up the fight for urban air quality by shifting to massively increased coal utilization without clear environmental guidelines? And finally, in the face of grossly higher urban energy and land acquisition costs as well as a cannibalistic tax structure (imposing an ever-increasing burden which consumes an ever-diminishing tax base), don't we give up significant energy savings by failing to provide specifically targeted economic development assistance for metropolitan and regional energy projects?

Unfortunately, the answer to these questions must be affirmative unless the ideas expressed here regarding urban design, land management, government coordination and economic development are included in our national energy agenda in some form. For no federal energy plan will also serve as an urban energy program unless the unique and complex characteristics of the modern city are addressed with an awareness of their problems and potential. Without that awareness, I fear out cities will be without the resources to meet possible conservation goals and, more tragically, without the ability to embrace the opportunities which are presented by new national energy priorities.

This scenario of unrecognized problems and unrealized potential is borne out by the experiences of individuals and businesses in Connecticut's 4th District cities and throughout the industrial Northeast. Energy-intensive industries are simply closing their doors and going out of business—or moving to warmer, less energy demanding climates—rather than bear continually escalating energy costs.

I am beginning to think that we buried the myth of Sunbelt prosperity and Frostbelt decline on the basis of hopes, not facts. According to the Department of Labor's Bureau of Labor Statistics, manufacturing employment between 1970 and 1975 declined 5.2 percent nationwide but fell 12.7 percent in the Northern industrial states. In sharp contrast, manufacturing employment showed a 1.6 percent increase in the Sunbelt-South over the same period, with construction and transportation and employment also rising in almost direct relation to job losses in the North. This trend leaves idle the very core of our skilled, urban workforce which must be available to bring energy progress to the urban environment.

In addition, apparently unrelated trends in the regional housing market have focused unreasonably high demand for low and middle income housing on our center cities where, as I mentioned earlier, NEP residential efficiency measures will have little impact. Thus the poor will still bear a larger porportionate share of increased energy costs—or winter supply curtailments—solely on the basis of city residence. Perhaps today's witnesses from the Department of Housing and Urban Development can shed some light on this disturbing aspect of the NEP.

From this it seems clear that national energy problems are magnified in combination with those structural deficiencies of cities—higher than average unemployment, the resultant welfare load, an aging and inefficient housing stock. The Coalition of Northeast Governors (CONEG) Policy Research Center

has characterized the energy problems of the urban Northeast as follows:

Lack of indigenous energy sources

Heavy dependence on imported petroleum products

Inefficient patterns of energy consumption reflecting the economic structure (financial and service oriented), physical structure (density and auto use), age of capital stock (prohibitive retrofit expenses) as well as adverse and unpredictable climate.

These factors, therefore, serve as both cause and effect in the obviously destructive relationship between the structural problems of cities and the urban energy crisis.

According to CONEG, the "missing link" between the NEP and its implementation in the city is a new, federally sanctioned funding mechanism—a regional energy development corporation (entitled Energy Corporation of the Northeast or ENCONO)—which would give cities an economic "leg-up" in meeting the mid- to long-term energy conservation and development plan.

The purpose of the energy development corporation is to assure adequate planning, coordination and funding of projects which will enable cities to match economic progress with energy initiatives toward an overall urban revitalization. While I have certain reservations about the mechanics of such a proposal, I must agree that the only alternative to such specifically targeted fiscal assistance is to allow national energy development to undermine further the financial viability and quality of life in our cities. As Chairman of the New England Congressional Caucus Energy Task Force, I plan to examine this proposal in detail and idenify other areas of concern regarding the urban role in energy development, specifically coal use.

Hopefully, with the aid of such development funding cities will be able to transform economic problems into energy opportunities. For example, the national goal of increased coal use will require that an additional 75 million tons are burned in the Northeast annually, almost double present consumption. While this might be easily accomplished in an area with easy access to clean coal supplies and sufficient air quality increments to absorb increased pollutants, that one hundred percent increase will be vastly more difficult and expensive in or near a city. Without adequate site planning, environmental research and actual financial assistance for already hard-pressed businesses, increased coal burning becomes too costly if not physically impossible. The regional transportation network, most notably freight lines, needs improvement with special attention paid to bridge repair and maintenance of spur lines to serve scattered firms. Perhaps today's representative from the Department of Energy can explain why the initial coal conversion orders issued recently fail to take these logistic and environmental factors into account. Even the application of best available pollution control technology will prove problematic if higher-sulphur Appalachian coal is the only supply readily, and affordably, available. Nor have the disposal problems of scrubber wastes been adequately addressed.

Further, regional, inter-governmental coordination is vital to attract private and public research dollars so that alternative energy technologies can be "urbanized". In this regard, skyrocketing housing costs in cities can serve as a catalyst to solar heating and cooling commercialization as those expensive technologies assume more affordable dimensions in relation to total costs. Also, the urbanization of renewable energy applications will provide the opportunity to develop indigenous energy industries to employ skilled workers. Thus, urban economic development is indeed the "missing link" in the NEP. Perhaps todays witnesses from the DOE can explain ERDA's reluctance to push forward with rapid commercialization of solar, hydroelectric and other renewable energy sources suitable for city use.

In conclusion, Mr. Chairman, I want to assert in the strongest possible terms my belief that these proposals and pleas for help are not meant to reinforce the unfortunate image of the American city as the nation's poor stepchild. Rather, these hearings have proven to me that the urban call is that of a handicapped brother seeking the rehabilitative tools he needs to do his share in the national energy effort.

SENTENCES TOO LENIENT

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BURKE of Florida. Mr. Speaker, we all know that the premise of our existence as a government is that our Government derives its power from the consent of the governed; namely, the people. Hence it is axiomatic that our elected officials and appointed officials have the responsibility of protecting the interests of the majority. We, in the Government, have a responsibility, therefore, to be reasonable in our actions if we are going to ask for the support of the electorate. A constituent recently wrote:

> . . . it's beginning to appear—and perhaps I'm a bit slow in realizing it—that organized crime and communism both have more power than the establishment backed by the people.

He should have added the power the ultra liberal and so-called intellectuals also wield in our country. In any event, one of the areas that is troubling the ordinary citizen more today than all the others is crime and punishment.

Our law enforcement officials can catch, and do catch, those who violate the laws. Regrettably, the courts frequently turn these people right back out on the streets with little or no punishment. It is no wonder that repeat offenders are so numerous. An example of this is the sentencing of two outstanding Miami Dolphin football players, Randy Crowder and Don Reese. Both of whom had reached a point in their athletic careers which many young men would like to have achieved. It is regrettable that they let greed absorb them. Even worse is the fact that they should have set a good example for our young people and chose not to do so. Crowder and Reese are not kids. They were not charged with possession of cocaine, but were, instead, charged with the attempted sale. To sum it up, they were dope pushers, interested not in the welfare of our young but in their own greedy selves. To make the point of part of what is wrong with our society, I ask you to read the statement of Norman Davis as he presented it on the channel 10 of Miami, Fla., broadcast recently. His statement follows:

CROWDER-REESE SENTENCES TOO LENIENT

The jail sentences meted out to former Miami Dolphins Randy Crowder and Don Reese are disproportionate, we believe, to the crime that occurred.

Both men pleaded no-contest to charges of selling a pound of 50% pure cocaine to Miami undercover agents for $20,000.

Circuit Court Judge Joseph Durant sentenced them to 1 year in jail and 4 years probation. He withheld adjudication of guilt so that neither man will have a criminal record and both will technically be able to return to football.

The object of justice, is of course, justice and not vengeance.

But in view of the fact that more severe penalties have been routinely imposed on others for even lesser offenses, we suggest that justice has not been served.

In fact, it is this kind of double standard that causes the entire criminal justice system to be viewed with suspicion and held in disrepute by many people.

Crowder and Reese had a special celebrity status in the community and were role models for many young adults. But neither deserved any special consideration at the bar of justice.

Justice and a man's debt to society is a relative thing, that varies with the man, the crime, the circumstances and the judge.

But realizing that, Channel 10 believes that justice was short-changed in this case.

LEGISLATION NEEDED NOW TO PREVENT NEW MEDICARE OUT-OF-POCKET COST RISE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. PEPPER. Mr. Speaker, I have been most distressed by the recent announcement by Secretary Joseph Califano of another substantial increase in the medicare inpatient hospital deductible which will become effective January 1, 1978.

What may have escaped notice, and what is most distressing to me, is the fact that this represents more than a 35-percent increase in the out-of-pocket hospital expenses of medicare beneficiaries since January of 1976. Last September 30, less than 1 year ago, the administration announced a 19-percent increase which became effective in January of this year.

What this means, in simple terms, is that an elderly or disabled person will be forced to come up with $144 to apply to hospital stays under 60 days. Those who are unfortunate enough to require lengthier hospitalization will be forced to pay an additional $5 per day, $36 daily, for the third month, and an extra $10 per day, or $72 daily, if they must draw upon their 60-day lifetime reserve.

Moreover, the daily charge for extended care in a skilled nursing facility will be raised by $2.50 per day, to $18 daily, for those who need nursing home care for more than 20 days.

Mr. Speaker, this kind of increase, which follows so closely an even larger one, draws health care farther and farther from those who need it most.

The medicare program was enacted to assure the elderly and disabled of good health care at a cost they can afford. But we find that they are paying more for health care now than before medicare was enacted in 1965.

As chairman of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, I am

acutely aware of the burden this kind of increase represents for this most vulnerable group of Americans.

Those on fixed incomes simply cannot absorb increased expenses of this magnitude. The average social security beneficiary over 65 lives on $215 per month. In most cases, every dollar is strictly budgeted. We cannot continue to ask them to choose between health care and the other essentials of daily living.

As Secretary Califano pointed out, this increase is required by section 1813(b) of the medicare law—title XVIII of the Social Security Act—which requires that patient charges be increased as the cost of hospital services rises. He acted, he said, "because the law gives me no choice."

The time has come to distribute the burden of these increased costs more equitably. We can no longer expect the elderly and disabled to carry the burden of inflation and inefficiency.

The Congress will soon deliberate the administration's measure to contain hospital costs. The proposal, as my colleagues are aware, seeks to put a lid on annual increases in the cost of inpatient hospital services. These costs, which have been rising at the annual rate of 15 percent—or more than twice as fast as the overall cost of living—are directly responsible for the increase in the medicare deductible.

It is time to put a stop to this never-ending cycle. It is my hope and my firm belief that the Congress will move quickly to contain hospital costs.

In light of this pending action, I believe we must act expeditiously to prevent this medicare deductible increase, until the Congress enacts a cost-control measure that will work. I have today, therefore, Mr. Speaker, introduced legislation which would delay for 6 months, or until July 1, 1978, the effective date of the increase which was announced earlier this week, to become effective January 1, 1978.

When the previous increase was announced last fall, Congress was not able to act before adjournment, and older Americans paid the price. Once again, time is short. I urge the legislative committees to report this legislation to the House with all possible speed.

AIR BAGS ARE A GOOD IDEA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. WAXMAN. Mr. Speaker, on June 30, 1977, Secretary of Transportation Brock Adams announced approval of an automobile safety regulation which will dramatically reduce death and injuries on our Nation's highways. As a representative from Los Angeles, a city whose residents know something about automobiles and their safety, as well as a member of the Health and Environment Subcommittee, I am deeply interested in the current debate over requiring mandatory passive restraint devices in personal transportation.

The Health and Environment Subcommittee is currently engaged in a markup on President Carter's proposed hospital cost containment bill. Yet, the mandating of passive restraint mechanisms may do more to reduce hospital costs than the bill now before the Health Subcommittee.

Each year 25,000 Americans are killed on the Nation's highways and countless thousands are permanently injured and maimed. Secretary of Transportation Adams' passive restraint regulation will reduce highway fatalities by 9,000 and prevent over 100,000 serious injuries.

The regulation would require that by 1984 all automobile manufacturers must provide crash protection for front seat occupants in 30 mile-per-hour frontal collisions. As my colleagues are aware, frontal collisions are currently responsible for more than 70 percent of all automobile fatalities.

The DOT regulation provides automobile manufacturers with maximum engineering flexibility by encouraging use of any passive restraint system. The automakers are given up to 7 years to incorporate the devices into automobile design.

In fact, my only criticism of the DOT ruling is its proposed delay in requiring passive restraints for small cars.

The House recently passed the National Energy Act which deliberately encourages the switch from larger cars to compacts and subcompacts. The available insurance company data indicates that the reduced weight and size of these cars make their occupants particularly vulnerable in crash situations.

Though I am well aware of Secretary Adams' justified concern about the unique engineering problems associated with smaller cars, I hope the DOT will consider, at the earliest opportunity, what additional safety features can be incorporated into small car design that will enhance their safety.

I find it incredible that Secretary Adams' decision has been met with determined opposition.

The regulation's opponents have attempted to discredit the use of the air bag by circulating a great deal of erroneous information. First of all, we are warned that premature inflation of the bag, resulting from system failure, will cause the driver to lose control of the car.

The air bag is the most thoroughly tested automobile safety device ever devised. DOT studies estimate that the chance of inadvertent inflation is about one in 3.3 billion vehicle miles traveled. The typical motorist who drives an average of 10,000 miles annually from the age of 16 to 70 would log no more than 540,000 lifetime miles. Thus, chance that an air bag would accidently misfire is extremely remote.

If it did misfire, what would happen? General Motors Corp. conducted tests using live volunteers to determine driver responses to sudden air cushion deployment under a variety of road conditions and driving speeds.

Because the air bag is designed to deflate swiftly after deployment, the results of the G.M. tests concluded that while the drivers, of course, were startled by the sudden inflations they did not lose control over their vehicles.

Does anyone believe that the insurance industry would support a safety device that might raise insurance claims? I do not believe for a minute that the insurance industry can be considered do-gooders. They are in business to make a profit. If they see that air bags can help them make a profit by reducing the number of accident fatalities and injuries, they are going to be for it. I have heard an estimate that cars with air bags will reduce insurance premiums by $2.3 billion annually.

What is important is that the air bag saves lives. Since 1972, thousands of air bag equipped cars have been manufactured and driven more than 350,000,000 test miles. After 157 accidents, involving 225 front seat passengers, the survival rate was an impressive 98 percent.

We hear complaints that the passive restraints are costly. I think we must be wary of air bag cost estimates when the estimates emanate from the automobile industry that would just as soon not produce the restraint system. By DOT estimates, the cost of the air bag will add $112 to the sticker price of the car; $112 is roughly equivalent to the cost of an AM radio, a set of wheel covers, or a vinyl roof. Yet, unlike these popular options, the air bag is a significantly more valuable investment.

For the survivors of serious automobile accidents, medical treatment can often require months, years, and in many cases a lifetime of hospitalization. Annually, tens of thousands of Americans are permanently disabled due to automobile collisions.

While the pure economic costs in terms of disability, hospital costs, lost income, and Federal support payments to dependents can be quantified to frightening proportions, one cannot begin to estimate the toll such accidents exact on the emotions of the families and friends of accident victims.

Today we have the capability of preventing a substantial number of these human tragedies. Certainly the modest price of $112 for an air bag is a small expense for insuring the protection of a loved one.

Now some might ask, what right does the Government have to interfere in the private affairs of individual citizens. What choice are we talking about? Would a consumer even have the opportunity of purchasing a car with passive restraints or other safety devices if the Congress did not mandate their production. Previously Government has mandated padded dashes, lap and shoulder belts, shatterproof glass, and collapsible steering wheels. Along with the 55-mile-per-hour speed limit these safety initiatives have saved lives. The automobile industry, however, would rather produce expensive extras than basic safety protection devices.

The job is not over. We can do more. Would anyone seriously argue the repeal of our speed laws and allow freedom of choice for each driver to decide how fast to go? Would society be given the freedom of choice not to care for those injured or disabled by accidents or to support the family that is left behind when the accident proves to be either fatal or incapacitating?

For years the Federal Government has accepted the responsibility for protecting the consumer from hazardous products and exploitation in the marketplace. Whether the issue is building codes that prevent fires due to inadequate wiring or product safety laws that prevent sales of improperly treated children's sleepwear—Government has a vital obligation to protect consumers from unreasonable risk of injury.

The human toll on this Nation's highway is a public health emergency; a disgrace which should be dealt with with no less certitude than our response to other health diseases such as polio or cancer.

Some critics of passive restraints have raised some very important and legitimate questions about product liability insurance. But, these concerns should not be an obstacle to going ahead with a passive restraint system that can save lives. These are problems that can and will be worked out.

We have insurance problems in dealing with vaccinations. Would anybody suggest that we stop vaccinating people because we are going to have problems handling the issue of liability insurance?

Some passive restraint opponents have gone so far as to urge the enactment and vigorous enforcement of mandatory seat belt laws. Can you imagine what the cost of enforcing that requires each person to wear their safety belt? Not only would such a program divert manpower from areas where there is a greater need for our law enforcement resources, but the "big brother" implications are enormous. I do not believe that one can suggest that public acceptance of such a proposal would be greater than for passive restraints. A recent Gallup Poll reported that by a vote of 46 to 37 percent Americans supported mandating air bags in new cars.

The automobile companies have been given realistic deadlines which insure adequate lead time for design and production of passive restraints. While the auto industry might have other priorities than passenger safety on its mind, that is certainly no reason that it should not be on our mind. Safety should be one of our greatest concerns.

An industry that last year made record profits can afford to be a public service to keep some of its purchasing population alive.

I am convinced that passive restraints are necessary because they are in the public interest, they will enhance the public health, and they are for the public good.

I urge my colleagues to support Secretary Adams' decision.

TRIBUTE TO THE "QUIET PERSUADER"

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. WHALEN. Mr. Speaker, earlier this week, an article appeared in the Wall Street Journal which I feel should be brought to the attention of all Members of the House of Representatives. This article, written by Karen Elliott House, is entitled "Quiet Persuader" and refers to our distinguished colleague, TOM FOLEY of Washington.

The article points out what many of us here in the House have recognized for a long time—that in many instances it is best to work behind the scenes, with a thorough understanding of the issue rather than to rely on overused, empty rhetoric. As Ms. House points out, TOM FOLEY is the master of compromise and as such, one of the most effective Members of the House of Representatives. So that my colleagues will have the benefit of Ms. House's story in the entirety, I insert it at this point in the RECORD:

[From the Wall Street Journal, Sept. 14, 1977]

QUIET PERSUADER: HOW REP. FOLEY PLAYED A KEY ROLE IN SHAPING DISPUTED FARM BILL—WASHINGTON DEMOCRAT SHUNS ARM-TWISTING, CREATES COALITIONS TO PUSH BILLS; BUILDING TWO-WAY BRIDGES

(By Karen Elliott House)

WASHINGTON.—In a House full of flamboyant noisemakers, Rep. Thomas Foley stands out as a quiet lawmaker.

The Washington State Democrat is hardly known to the public, and he doesn't try to be. He is rarely partisan or pushy. And he spends much of his time working on unglamorous agricultural issues.

Yet he is one of the most influential members of the House. He is a leading contender to be the next Speaker. And his deft handling of a controversial farm bill recently won him a rare standing ovation on the House floor from both Democrats and Republicans.

"The only thing wrong with Tom Foley," one GOP strategist says, "is that a man that intelligent, that effective is neither conservative nor Republican." Indeed, about the only criticism of Mr. Foley is that he is too nice and too eager to seek legislative compromises.

At age 48, the seven-term Congressman is chairman of the caucus of House Democrats on policy and political issues, and he is a close ally of Speaker Thomas P. O'Neill. As chairman of the Agriculture Committee, Mr. Foley (who is the youngest committee chairman in the House) played the key role in shaping the farm bill that Congress is expected to send to the President Friday. Mr. Carter appears certain to sign the measure, which only three months ago seemed headed for a veto.

Mr. Foley's influence, however, stretches beyond farm matters. At Speaker O'Neill's request, he served on the special ad hoc energy committee and will be a member of a similar welfare committee. The Speaker also tapped Mr. Foley to keep him informed on the ethics committee's investigation of Korean influence peddling in Congress (Mr. Foley himself received a $500 campaign contribution from South Koreans.)

"It's hard to say 'but for Tom Foley, something wouldn't have happened,'" asserts an aide to Speaker O'Neill, "but his influence is everywhere. It's the nature of his personality—the thoughtful, reasoned analysis—that makes him so respected, so influential."

A BROAD APPEAL

Indeed, a major reason for Mr. Foley's influence is his broad appeal. At once he is an urbane lover of African art and Mozart and an expert on agriculture.

Similarly, as an active reformer who has joined the ranks of committee chairmen, he bridges the gap between Young Turks and old-timers. Younger members admire him for his leadership two years ago in making House procedures more democratic and for his patience in listening to their ideas. Yet senior members recall that during the height of the reform movement, Mr. Foley opposed efforts by House reformers to dump Agriculture Committee Chairman Bob Poage of Texas. (After the 77-year-old Mr. Poage was voted out of the post, he made an emotional speech urging the election of Mr. Foley to replace him.)

If Mr. Foley has a major flaw, congressional observers say, it is that he is too eager to build bridges between extremes in order to accomplish legislative results. "Tom Foley is a beautiful bridge builder," one Democratic colleague says, "but he doesn't much care which way the traffic runs over his bridges." And some question whether he has the meanness to fight for the top House leadership job when Speaker O'Neill steps down one day. Some colleagues note that Mr Foley shied away from a three-way race for House majority leader last year.

REACTING, NOT INITIATING

Some liberal Democrats also wonder what Mr. Foley stands for. They are unhappy that he abandoned efforts last year to revamp the food-stamp program after it became clear such a bill wouldn't pass the House; they wanted him to press for the bill anyway as a matter of principle. And they complain that he hasn't used his position as caucus chairman this year to push liberal causes. He reacts rather than initiates, they say. "There is a group of us who certainly don't want to see Tom as Speaker," a Democratic colleague says. "He isn't sensitive to the issues." (It should be noted that the 64-year-old Mr. O'Neill hasn t any plans to step down as Speaker anytime soon.)

Clearly, Tom Foley isn't an idealogue. He rarely takes the House floor to speak on any issue other than agriculture—and then only to analyze, not harangue. This approach is necessary in part because Mr. Foley, who two years ago headed the liberal House Democratic Study Group, represents the most conservative district in Washington. (Three of his past opponents were John Birch Society members.) But it also reflects Mr. Foley's own doubts that big government programs are always the answer to social problems.

Still, he votes for food stamps, abortion (though he is Catholic) and enough other liberal causes to win a 55% favorable rating from the Americans for Democratic Action, a liberal lobbying group. "If you look closely," a GOP admirer says, "he dishes out the same old liberal medicine, but he does it so adroitly that it tastes good to conservatives, too."

Unquestionably, Tom Foley's forte is adroit legislating. Because his nature is to avoid confrontations, he rarely twists arms. Instead, he builds coalitions, but he does so by finding common interests rather than wheeling and dealing to balance opposing interests. And he eagerly includes Republicans in his coalitions.

The farm bill is a good example of the success of that formula. In May, Mr. Foley found himself and the House caught between sharply different farm proposals: The President demanded a relatively inexpensive bill, but the Senate already had passed a costly version that Mr. Carter had promised to veto. So, to keep alive the possibility of a compromise farm measure acceptable to the President, the House had to adopt a less expensive bill than the Senate version.

"Many people didn't believe the President's veto threats," Rep. Foley says "but I did." So he set out to hold down the spending impulses of Congressmen and to persuade the White House to accept a more generous farm bill.

One of Mr. Foley's most important early decisions was to forbid any member of the Agriculture Committee to introduce the Pres-

ident's farm bill. Because the bill would have been a target for partisan attack, he insisted that the committee work from a staff outline of tentative decisions made earlier in Agriculture subcommittees. This strategy kept partisanship at a minimum and helped create a collegial atmosphere. As the commtitee concluded sections of a bil lthat satisfied representatives of various commodities—peanuts, rice, tobacco, cotton and dairy products—the coalition for the bill grew stronger.

The biggest disagreement revolved around government price guarantees for wheat and corn—two crops whose market prices are severely depressed by huge surpluses. "Sure, I want higher price supports, too." Mr. Foley repeatedly told his colleagues. "But it won't help farmers for us to pass a bill the President won't sign." Mr. Foley didn't need to remind colleagues that, as a Representative from one of the nation's largest wheat-producing areas, he was putting aside his parochial interests and they should do the same.

To cement support of urban Congressmen, Mr. Foley dropped his opposition to a food-stamp proposal in the administration bill. The administration proposal, which wasn't part of last year's food-stamp revision bill, was to eliminate the present requirement that food-stamp recipients pay a small amount for stamps that bring them a greater dollar amount in food; instead, they would be given the stamps free.

And Speaker O'Neill helped nudge the President. During one dinner at the White House, Mr. O'Neill told President Carter that Rep. Foley was "working miracles" in persuading his committee to approve a lower-cost farm bill and that Mr. Carter ought to be grateful enough to accept some increases from his own proposals. In the end, the committee agreed by a wide 40-to-6 margin on a farm proposal the administration said was acceptable.

THE WHEAT-SUPPORT ISSUE

But big trouble lay ahead. Democratic Rep. Glenn English of Oklahoma, who had narrowly failed in committee to raise price supports for the 1977 wheat crop, now broadened his coalition to include corn-state Congressmen and prepared to fight again on the House floor. Mr. Foley beleived that Mr. English would win on the floor. The reason: Farm-state Congressmen, eager to support their constituent interests, had teamed with Republicans, eager to test the President's veto threat.

Mr. Foley telephoned the President to tell him that the English amendment appeared likely to pass and that he wasn't going to try to stop it. A bitter fight, he said, could sour tempers that the House almost certainly would defiantly pass a bill far more costly than the President wanted. Even though the amendment would add $500 million to the bill's cost, Mr. Foley urged the President to go along.

During that conversation, the two men struck the most important deal in the farm bill's evolution. Mr. Carter indicated that he would accept the English amendment if the chairman could deliver several other things. The President wanted flexibility to lower the amount of government loans to farmers instead of having them set in the bill. And Mr. Carter wanted authority to withhold government subsidies on all crops from any farmer who didn't comply with a government order to "set aside" acreage planted to any one crop.

QUICK PASSAGE OF AMENDMENT

The next day, without ever mentioning his talk with President Carter, Mr. Foley surprised his colleagues by introducing the English amendment himself. The switch headed off a nasty floor fight between the English forces, on the one hand, and Mr. Foley and administration backers, on the other. Because the action was a clue that the President had agreed to accept some increase in price supports, the amendment quickly passed, and the mood of the House turned euphoric.

"This is a born-again administration, and I'd like to say praise the Lord and welcome back among those of us who saw the light long ago," Republican Rep. Charles Thone of Nebraska said good-naturedly.

Mr. Foley, who has a quick sense of humor, responded with his own Biblical reference: "I believe the Bible says there's more rejoicing over the one that returns than for the 99 who never strayed."

When the farm bill passed the House by a lopsided 294-to-114 vote, members stood to give Mr. Foley a burst of applause similar to that which follows a virtuoso artistic performance. In the conference between the House and the Senate to resolve differences in the farm bills, Mr. Foley helped reach a compromise that more closely resembled the cheaper House bill than the Senate version.

Of course, not everyone is pleased with the bill, which sets government subsidies to farmers for the next four years and determines food-stamp benefits for some 17 million recipients. The bill, which will cost the Treasury an average of $10.5 billion to $11.5 billion a year, is at least $2 billion a year more than the President wanted. But it is $1 billion less than the Senate measure. Conservatives believe that it is too costly, and some farm-state Congressmen believe that it is too niggardly.

But President Carter seems to approve of the final measure, which includes the two provisions he had sought for increased authority over government loans to farmers and over acreage "set-asides," as well as a provision for free food stamps. "If it weren't for Tom Foley," says Agriculture Secretary Bob Bergland, who worked closely with Mr. Foley to influence Congressmen and the President, "we wouldn't have a farm bill the President could sign."

TRIBUTE TO CONGRESSMAN FRANK ANNUNZIO

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. RODINO. Mr. Speaker, it is with great pride and personal pleasure that I call to the attention of my colleagues the following tribute to my very dear friend, Congressman FRANK ANNUNZIO, on his receiving the Guglielmo Marconi Award. This award represents the highest honor accorded by the Order Sons of Italy in America. I congratulate FRANK on this well-deserved honor and I call to your attention the following resolution presented by Ohio State Senator Anthony O. Calabrese in the Ohio State Senate:

CONGRATULATING HON. FRANK ANNUNZIO ON HIS RECEIVING THE GUGLIELMO MARCONI AWARD

Whereas, the members of the Senate of the 112th General Assembly of Ohio take great satisfaction in congratulating the Honorable Frank Annunzio, United States Representative from Illinois' Eleventh Congressional District, on his selection to receive the Guglielmo Marconi Award, the highest honor accorded by the Order Sons of Italy in America; and

Whereas, Presented in recognition of Congressman Annunzio's contributions to furthering the cause of Americans of Italian descent, this prestigious and coveted award distinguishes this eminent politician as an exemplary representative of the ideals of the Order Sons of Italy. Long involved in ethnic and cultural affairs, Congressman Annunzio has previously been honored by such notable organizations as the Italian Catholic Federation, the Italian-American Police Association, the United Polish American Council, the Gregorian Society, and the Justinian Society of Lawyers; and

Whereas, Currently serving in his seventh consecutive term in the United States Congress, Frank Annunzio has justly earned the reputation as an expert and outspoken advocate in immigration matters, having led the fight against the national origins quota system, having been instrumental in obtaining funding for the Ethnic Heritage Studies Program, and having supported the American Museum of Immigration in the Statue of Liberty; and

Whereas, A truly concerned and dedicated legislator, Congressman Annunzio has, by his strong and decisive leadership abilities, selflessly worked to ensure a better quality of life for all Americans. As chairman of the House Consumer Affairs Subcommittee, he has continually striven to protect the interests of working men and women through passage of consumer protection bills, and he has been particularly active in the promotion of senior-citizen-oriented legislation. Indeed, for his boundless efforts, Frank Annunzio is well deserving of our highest praise, as well as the Guglielmo Marconi Award; therefore be it

Resolved, That we, the members of the Senate of the 112th General Assembly, in adopting this Resolution, pay tribute to The Honorable Frank Annunzio for his many invaluable contributions and, in so doing, salute one of America's finest statesmen; and be it further

Resolved, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to The Honorable Frank Annunzio; to the OSIA News, Philadelphia; to the Unione, Pittsburgh, Pennsylvania; to Il Leone, Livermore, California; to Il Popolo Italiano, Atlantic City, New Jersey; and to The Lion's Roar.

MEXICO CELEBRATES 167 YEARS OF FREEDOM

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. FARY. Mr. Speaker, this is a day of special significance for our southern neighbors in the great country of Mexico marking 167 years of freedom. It is the day to celebrate the independence of Mexico and is the equivalent of our Fourth of July.

Mexico was still the center of the Spanish holdings at the time of America's war of independence. The proud Mexican people were not happy with the Spanish domination. A brave priest, Father Miguel Hidalgo y Costilla, rose to lead his people on to independence. Father Hidalgo chose September 16, 1810, as the day to proclaim Mexico's absolute independence from Spain.

America's independence was announced in Philadelphia with the ringing of the Liberty Bell. So it was in Mexico when Father Hidalgo rang the church bells in the small town of Dolores and urged its citizens to take up

arms against the oppressive Spanish rulers.

Father Hidalgo gathered a poorly equipped army of 600 and rode out to challenge the Spanish forces. He rallied supporters along the way with cries of freedom. Their numbers quickly swelled to 50,000 and the citizen's army won many strategic battles. Each gain raised the hopes of more Mexicans that freedom was attainable.

The well armed Spanish forces eventually defeated the group and killed Father Hidalgo. They had only temporarily stalled the rebellion. The gallant actions of Father Hidalgo had ignited the bright torch of indepedence.

It took 11 years of intense fighting and the death of many more courageous freedom fighters before the Spanish were defeated in 1821. Mexico then had to fight a second war of independence against the French puppet emperor Maximillian before the country was finally free of European domination. Another holiday, May 5, "Cinco de Mayo," commemorates this victory of 1867.

It is today, September 16, that these Mexican patriots who devoted their lives, their valor, and their determination to the ideal of self-government and human liberty, are honored by the citizens of Mexico and by the many citizens of Mexican descent in the United States and elsewhere throughout the world.

Of course, it is not necessary to be of Mexican descent to appreciate the contribution to the revolutionary ideal of freedom that is signified by this historic date. For America's heritage is intertwined with Mexico. Mexico's struggle for independence is not dissimilar in spirit from our own American Revolution. In both nations there is a devotion to democracy and universal freedom.

The people of Chicago take pride in the contributions of the Mexican culture to our own Nation, and we are pleased to join in observing September 16 as Mexican Independence Day.

Americans of Mexican descent have contributed greatly to the building of our country, especially in the Southwest, and I would like to salute them, and to join them in commemorating this date which is so very important to their rich heritage.

STEEL IMPORT EQUITY ACT OF 1977

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. COUGHLIN. Mr. Speaker, I am today introducing legislation to place import quotas on steel mill and other steel products. This proposal is entitled the "Steel Import Equity Act of 1977."

The need for this legislation is relatively simple: Imports have taken sales away from American steel companies, and in the process have eliminated jobs from American steelworkers. Last year alone, steel imports took away the equivalent of 90,000 American steelworker jobs. In my district alone, the Alan Wood Steel Co., a longtime employer and major industry, has filed for bankruptcy resulting in the dislocation of more than 3,000 workers.

Imports from Japan and the European Economic Community are arriving in the United States at prices 10 to 15 percent below those charged by American mills. While this would appear to be an example of free enterprise and fair trade, it cannot explain the reason for the increased imports as there is widespread suspicion that foreign steelmakers are being indirectly subsidized by their governments. Our domestic industry should not be allowed to become the victim of such actions nor should the United States become the dumping ground for excess foreign steel.

During the first 6 months of this year, imports rose almost 30 percent from last year's levels and now account for more than 15 percent of U.S. consumption. The effects are obvious. Steel profits in the same period have dropped 48 percent, while earnings for all manufacturing industries, on the contrary, rose 8 percent. United States Steel Corp. has suffered a 52-percent reduction in profits which prompted the company to ask 10,000 nonunion and management employees to give up their August cost-of-living raise. Sharp earning declines have also occurred at many plants including Lykes Corp., Wheeling-Pittsburgh Steel and Bethlehem Steel.

While I oppose "protectionism" and strongly support fair international trade agreements, I nevertheless find it unacceptable that the United States is being taken advantage of to the detriment of its economy and its citizens by foreign governments and their steel producers. If equity cannot be reached by voluntary agreements, then it must be achieved through quotas. Furthermore, I do not consider it equitable for the American steel industry and its thousands of employees to be dangerously undercut as we wait for the Department of Treasury to complete its investigation of "dumping."

Until our domestic industry receives its needed attention, I feel temporary relief must be provided.

I need not remind my colleagues of the havoc imported oil is placing upon our Nation's balance of trade. However, steel imports are also playing an increasingly significant role in this trade deficit.

A study conducted by the New England firm of Putnam, Hayes, and Bartless concluded some likely consequences should steel imports continue to climb. I quote:

First, foreign producers in times of excess supply will sell steel in the United States at prices which domestic producers cannot meet and still fulfill the profit and capital formation requirements of operating in the U.S. political and economic system. Therefore, in the absence of a coordinated policy to the contrary, the U.S. economy will become increasingly dependent upon imported steel during the period of 1977–80."

Second, the impact of a future steel shortage under conditions of heavy reliance on imported steel would be intolerable, given any alternative. Even if the Nation is willing to accept the major losses of steelworker employment and adverse pressure on our trade balances which greater dependence on imported steel would entail, the ultimate risk to the U.S. economy inherent in this dependence is unacceptable.

I strongly believe my legislation can act as a deterrent to such dependence and hope it is given every consideration as a means to protect our Nation's steel making capacity from possible collapse.

ATOM BOMBS FROM THE PLUTONIUM FUEL CYCLE: CONTRADICTING THE CLAIMS OF THE CLINCH RIVER PROPONENTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BROWN of California. Mr. Speaker, in yesterday's CONGRESSIONAL RECORD, I inserted on page 29557 a recent article from the Los Angeles Times documenting the fact that civilian grade plutonium fuel, such as that used in the fuel cycle for the proposed Clinch River breeder reactor, can be used for making nuclear weapons. Incredibly enough, proponents of Clinch River are still claiming the opposite.

For example, in the latest "bunny" breeder briefs, dated September 16, Mr. MCCORMACK and Mr. GOLDWATER state:

In the nuclear fuel cycle, plutonium would never be produced by itself and would never exist in any form where it could be used in a nuclear weapon.

While this statement is true for the current generation of light water reactors, it is not true with plutonium breeder reactors as they are presently planned. U.S. weapons experts have long maintained that plutonium from civilian reactors, if separated, could be used for nuclear weapons. The plutonium fuel cycle, which the Clinch River type of reactor uses, includes this important reprocessing, or separation step. Thus, by moving into this advanced fuel cycle without first developing appropriate international safeguards, we are increasing the threat of proliferation of weapons to new nations not presently armed, or even terrorist groups.

Mr. Speaker, I insert the article from the September 16 issue of Los Angeles Times at this point in the RECORD at this time:

[From the Los Angeles Times, Sept. 16, 1977]

A-BOMB USING LOW-GRADE FUEL WAS TESTED IN 1962—U.S. HAS KNOWN FOR 15 YEARS THAT PLUTONIUM FROM NUCLEAR PLANTS COULD BE UTILIZED, OFFICIAL DISCLOSES

(By Robert Gillette)

The U.S. government has known for 15 years that impure plutonium from nuclear power plants could be used to make atomic weapons, a senior weapons official of the Energy Research and Development Administration said Thursday.

Maj. Gen. Edward B. Giller, ERDA's deputy assistant administrator for national security, said the government detonated a nuclear device in 1962 using low-grade plutonium typical of that produced by civilian nuclear power plants. The Times reported Wednesday that ERDA recently had declassified the information that the test had occurred but refused to divulge the date or other essential details.

Government sources said the test provided experimental confirmation of recent studies by U.S. nuclear weapons laboratories con-

cluding that it was technically feasible for nations seeking atomic weapons to build them covertly from plutonium stockpiled as civilian reactor fuel.

Both the Ford and Carter administrations have sought to persuade nuclear exporting nations such as France and West Germany that stronger international safeguards are needed to prevent nonnuclear nations from diverting "civilian" plutonium to weapons without warning.

The nuclear industry here and abroad has argued that this is both unlikely and technically impractical because plutonium extracted from the spent fuel of nuclear power reactors contains large amounts of a contaminating isotope—plutonium-240—that hampers the efficient detonation of a weapon.

To a large extent, an international argument over whether stronger nuclear safeguards are needed has come to term in whether a realistic distinction can be made between relatively pure "weapons grade" plutonium and what weapons specialists call "reactor grade" plutonium.

The Carter Administration, backed by the weapons laboratories, now says that no such distinction can be made and that all forms of the radioactive metal lend themselves to weapons use and thus pose a potential threat to international security.

Referring to the 1962 explosion at the Nevada weapons test site, Gen. Giller said in an interview that, "I guess a lot of people thought we'd done it recently."

Actually, he said, "it was so long ago that we'd almost forgotten about it. The information was just lying there.

"When we decided a couple of years ago to convince the world community that it could be done, we didn't bother to explain how we knew. But we knew from calculation from this (test).

"When it became clear that we had to convince the international community that we knew what the hell we were talking about—that plutonium is plutonium—we just decided to declassify it."

Giller said his decision, taken last July, was not publicly announced "because we declassify lots of things in bits and pieces without putting out a press release."

The 1962 test, he said, did not involve an actual weapon and was not primarily meant to determine the suitability of civilian plutonium for weapons, though it served that purpose. The device was basically part of a physics experiment meant to measure the flow of neutrons from a nuclear explosion, he said.

"A lot of our work is not on finished products but is for proving out computer calculations and so on," Giller explained. "Over the years the guys have fired all kinds of physics experiments with no intention of using them as weapons."

Nevertheless, he said, one such test "was enough for the purpose of understanding how reactor-grade plutonium worked."

Giller denied that the informaiton had been kept secret to avoid political repercussions on domestic nuclear power programs. He noted that proliferation and the usefulness of civilian plutonium for weapons was simply not an issue at the time of the 1962 test.

Disclosure of the test comes just as congressional proponents of a $2.1 billion plutonium breeder reactor project prepared for what may be a climactic fight for its survival in the House next week. The Carter Administration is seeking $33 million to culminate the project as a gesture of concern over proliferation of nuclear weapons; the House Committee on Science and Technology has approved $150 million to start construction of the controversial reactor in Tennessee.

Among arguments the breeder's defenders have marshalled is the contention that foreign governments seeking nuclear weapons are most likely to steal someone else's weapons and are least likely to turn to plutonium from civilian power plants—in part because they are alleged to make unreliable explosives.

Indeed, a "Dear Colleague" letter dated Sept. 15 and written by two of the breeder's staunchest defenders, Reps. Barry Goldwater Jr. (R-Calif.) and Mike McCormack (D-Wash.) contends that "no nuclear weapon has ever been made from the nuclear energy fuel cycle anywhere in the world."

In an interview Thursday, Rep. Goldwater said ERDA's disclosure of the 1962 test "tends to contradict this" but he said he remains convinced that no nation would go to the trouble of building a civilian nuclear power system and special plutonium reprocessing plants just for an atomic arsenal.

As for whether a nation that already had power reactors and a plutonium stockile for peaceful purposes might suddenly divert its stockpile to weapons in the face of a national emergency, Goldwater said that "in that case, you might have to think about everyone closing down all reactors."

"Some things are quite far fetched," he insisted. "We're dealing with the real world, and we have both an energy problem and a proliferation problem. We shouldn't destroy an energy resource over our concern with proliferation."

HOLDING DOWN HEALTH COSTS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. ABDNOR. Mr. Speaker, the administration as well as the Congress has done a lot of talking this year about holding down the rising costs of health care. Proposals have been advanced, legislation introduced, and hearings held in pursuit of this goal. Most emphasis has been placed on putting a "cap" on what institutions may spend for their operations.

This is all well and good, but in my view it will not solve the problem. The cost of health care is not going to come down until the forces that push them up level off or diminish. One of those forces is the demands of patients—the consumers of health care.

A weekend article in midwestern media discusses some of these forces at work in South Dakota:

PATIENT DEMANDS CONTRIBUTE TO RISING HOSPITAL COSTS

(By Charlotte Porter)

PIERRE, S.D.—Hospital costs, which have nearly doubled in South Dakota in recent years, are continuing to climb.

And hospital administrators say the incline won't level off unless customers stop demanding the latest technology or unless the costs of everything else goes down.

Figures from the South Dakota Hospital Association show the average hospital stay last year cost the patient or his insurer $752, compared with $465 in 1970.

Costs were considerably higher both regionally and nationally, according to Frank Drew, executive director of the association, because "the South Dakota wage scales generally tend to be lower."

Most of the costs that affect hospital prices are the same that affect any business—supplies, labor, energy and utilities.

"But one that's unique to hospitals is the changing nature of the product," said Drew. "Where people either died or remained permanently disabled 5, 10 or 15 years ago there are now procedures to save the people. And it's expensive, it's just that simple."

A telephone survey of several of the state's major hospitals showed the cost of a semi-private room on the increase. Such a charge is often considered an indication of the costs hospitals must pass on to their patients.

A semi-private room can cost $69 per day at Sioux Falls' Sioux Valley Hospital to $86 at St. Luke's in Aberdeen. Most of the hospitals surveyed in Huron, Rapid City, Pierre and Yankton charged in the $70 range.

Most of the hospitals had recent rate increases due to the beginning of a new fiscal year.

And a spokesman for St. Mary's in Pierre said that while rates there stayed the same when the fiscal year began in August, a hike may be needed in mid-year to compensate for a 7 percent salary increase for employes.

The cost of a room is only one of the charges a patient faces when he or she enters a hospital, said Owen Dahl, associate administrator of Rapid City Regional Hospital.

"It's going to be considerably more than that $78," said Dahl, referring to the cost of a room there. "The costs include X-rays, lab tests and operating room charges. Then you have to look at how long the patient stays in the hospital.

It's a fact the first few days are going to stick you for more than the last two days because of the major diagnostic tests and the operating room."

President Carter's proposed increase in the national minimum wage will also reflect in hospital costs, says administrators, since the bulk of a hospital's budget is for personnel.

"If you increase your lower paid people, to keep the differential you have to increase wages across the board," said Sister Amanda, comptroller at St. Mary's.

"We have to be above minimum wage because our people wear uniforms," said John Soderholm, senior vice president at Sioux Valley Hospital. "It's a fallacy to say you're only going to bump the minimum wage people. It ripples through the system."

Sister Amanada said the Pierre hospital also faced several thousand dollars in costs to meet federal and accreditation regulations.

"I know we spend a tremendous amount of money just complying with federal regulations," agreed David Patton, executive director of St. Luke's. "I'm sure we're paying out thousands of dollars per year to comply."

All the administrators agreed hospital costs were expensive to the patient, though Patton said about 94 percent of the patients at St. Luke's were covered by some sort of medical insurance.

He said several of the hospitals in South Dakota also participated in a purchasing group in an attempt to get supplies at lower cost.

"Everything we buy has been going up," said Soderholm.

Soderholm said most hospital supplies were made with petro-chemicals, using increasingly expensive oil.

"Food is about the only thing that makes sense and if you're a farmer that doesn't make sense," he said.

Michael Healy, associate director of Sacred Heart Hospital in Yankton, cited rising costs of utilities and malpractice insurance as contributors to high hospital prices.

"We have the ability to control some of our costs but not a great deal of them," said Patton. "Hospital costs are a national problem and a very complex problem."

"I get upset when people compare hospital costs to a quart of milk," said Drew. "What's measured from 1970 to 1976 is one quart of vitamin D enriched milk and the product

compared over time is exactly the same. For a hospital, the figures over a period of time represent a totally different product."

Soderholm agreed, saying technology was behind many major additional costs a hospital must bear.

"As technology increases, the demands people have for their health care also increase," he said. "We as a nation have to decide how much health care we want.

"When you come in with one of your children in the middle of the night, you're very demanding," said Soderholm: "And you can't have more for less."

PUGWASH AND THE BREEDER: PEACE AND SECURITY IN A CHANGING WORLD

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. DRINAN. Mr. Speaker, I noted with interest a recent policy statement on the plutonium breeder reactor, which was adopted by the 17th Pugwash Conference on Science and World Affairs.

This international and highly respected group of scientists—which bears the name of its original meetingplace in Nova Scotia—first met more than two decades ago at the urgent call of Albert Schweitzer and Bertrand Russell. The stated purpose of this organization for the past 22 years has been to discuss and advance means by which international conflict may be resolved without the irreversible proliferation of nuclear weapons.

In view of this history of common purpose and scientific integrity, I take most seriously the Pugwash conference's recommendation that "the push toward large-scale deployment of breeders can and should be postponed." I highly commend to my colleagues the full text of the 1977 Pugwash recommendations on energy, world resources, and population trends:

ENERGY, WORLD RESOURCES, AND POPULATION TRENDS

The energy problem cannot be entirely separated from the other dimensions of the human predicament, including: food, the most urgent resource problem, which will require the application of increasing amounts of energy for its solution; water, needed to produce both energy and food, yet in many regions the scarcest resource; population growth, which must be slowed to provide even a chance of solving the energy problem or any of the others; and finally armaments and armed conflict, which divert huge amounts of energy, money, and talent from real human needs. Still, these interconnections, notwithstanding, the role of energy is pervasive and fundamental, and we elected to concentrate on energy, and how to manage it for the betterment of the human condition.

The essence of the energy problem is not exhaustion of energy resources as a whole, but rather the conflict between the apparent economic imperative for energy growth and the rising costs of such growth—costs that are environmental and political as well as economic—which increasingly dictate that the growth of energy use must be slowed down. The resolution of this dilemma must be two-fold. First, future growth of energy must be distributed in such a way that most of it takes place in the developing countries, where the needs are most desperate, while further increases in prosperity in industrial nations should depend more on increases in the efficiency with which energy is used than on increases in how much is used. Second, the mix of energy sources relied upon must evolve in the direction of minimizing not merely the economic cost per unit of energy supplied, but rather the sum of economic, social and environmental costs.

Most of us believe that the last criterion means we should try to minimize the extent and duration of civilization's dependence on nuclear fission as an energy source, particularly avoiding if possible any large-scale application of breeder reactors. We take this position, despite the potential of the breeder to provide a nuclear source of energy for centuries, not decades, because of the essentially unique and currently unresolved problems of safeguarding this technology. It would provide nations with authorized direct access to plutonium, a nuclear explosive material, and thus gravely endanger the capabilities of the non-proliferation regimes to prevent the spread of nuclear weapons. Present circumstances dictate, however, that some continued use of fission in some regions of the world is inevitable, which means that high priority must be given to managing this technology in a way that minimizes the likelihood of its misuse for the production of nuclear weapons. We are all agreed that, at the same time, research and development on solar and other non-fission alternatives should be greatly stepped up, to resolve present uncertainties about how much energy they could supply and how quickly they could be deployed.

From these general considerations the following specific proposals emerged:

(a) A new high priority on sustainable energy sources—particularly direct and indirect harnessing of solar energy—should be implemented by the establishment of new research centres and funding agencies at the national and international levels, with participation by scientists from developing countries.

(b) Research should be greatly expanded on increasing the efficiency of energy use in industrialized and developing nations alike—i.e. learning to extract more human welfare from each unit of energy. Emphasis is needed not only on the technologies of energy conservation, but also on overcoming social and institutional barriers to its implementation.

(c) We are united in our commitment to the use of forms of energy which are unlikely to be abused for destructive purposes. In the judgment of a few, the plutonium breeder in this respect poses no novel dangers. Most of us, however, are uneasy about the proliferation and diversion risks attendant on large-scale application of breeder reactors. Of these, a few believe that because the large-scale application of breeder reactors is in any case many decades away, efforts to strengthen political and technical safeguards should proceed in parallel with the development effort and should not delay it. The majority believes, however, that the push toward large-scale deployment of breeders can and should be postponed. In connection with the strategy of delay, we recommend establishment of an international fuel authority, which by means of a fuel stockpile could assure a continuing supply of fuel to consumer states foregoing reprocessing. Other ingredients of the strategy include international participation in enrichment facilities, and provision of storage facilities for spent fuel under the auspices of the international fuel authority. The time gained by delay would be used to investigate uranium-saving fuel cycles more proliferation-resistant than that of the liquid metal fast breeder reactor, and to move towards the internationalization of the fuel cycle which most of us believe will be necessary if fission is to be used on a truly large scale.

WHAT THEY ARE SAYING ABOUT CLINCH RIVER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. TEAGUE. Mr. Speaker, we are now approaching the time when we will register a vote that will have a profound impact on the economic independence of our country. I believe in the Clinch River project and so do most other leaders who have been exposed to the facts. I offer the following quotations for your benefit and the benefit of my colleagues:

The Administration's nuclear energy policy of foregoing development of the breeder reactor will reduce, not enhance, U.S. influence in shaping worldwide nuclear policy... Instead of advancing the control of nuclear weapons proliferation, our self-imposed restraint runs the grave risk of leaving an international vacuum, which is an invitation to nuclear anarchy.—Senator FRANK CHURCH.

The recent decision to suspend Federal support for the breeder reactor would cost jobs and eliminate a major future energy source.—GEORGE MEANY, President, AFL–CIO.

President Carter's ban on breeder reactors was an attempt to placate (the public's irrational fear of nuclear power) that fear. That paralytic fear of nuclear power is a serious national matter. We send abroad $40 billion a year needed for jobs in this country to buy foreign oil. Our trade deficit suggests we could go broke if we keep it up, and meanwhile we're sitting ducks for an Arab embargo that could bring our industries to a halt. This, incidentally, while Russian industries will roll on because they're piling up nuclear plants without any fear.—HOWARD K. SMITH, ABC–TV News Commentator.

Cannot afford to foreclose any promising energy technology (including breeders) before it is given the opportunity to demonstrate its potential to perform, if we are to achieve energy independence.—JOSEPH KEENAN, President, Americans for Energy Independence.

In our view, the most important disadvantage in slowing the present program is that we run the risk of not knowing enough about the LMFBR to make intelligent decisions on it in the near future.—ELMER B. STAATS, Comptroller General of the United States.

I am absolutely convinced that we must pursue research, development and demonstration of the LMFBR concept as a matter of high priority. In my judgment, there is no prudent alternative to this course of action.—Dr. ROBERT SEAMANS, Jr., Former Administrator, Energy Research & Development Administration.

At the same time that the LMFBR provides more jobs, it also extends the period of time, over which we can generate low cost electricity from our domestic uranium sources.—ROBERT GEORGINE., President, AFL–CIO Building & Construction Trades Dept.

The Clinch River Breeder Reactor is essential to future economic welfare and employment.—CHARLES POLLARD, International President, International Brotherhood of Electric Workers.

Given the long lead times involved in developing advanced technologies, further

delay in building a demonstration breeder is indeed unwise.—U.S. CHAMBER OF COMMERCE.

If you pay attention to the heads of European energy agencies, you discover uniform opposition to Carter's plan, all revolving around the critical role they believe that atomic power will play in giving them a measure of energy independence . . . Resistance to the policy has come not only from such key industrial powers as Japan, West Germany, France and Britain, but also from a large number of developing nations.—U.S. NEWS & WORLD REPORT.

To foreclose this (the breeder) option, assuming other options are just around the corner, could mean placing the destiny of civilization into the simple picture given by the old proverb: A bird in the hand is worth two in the bush. We are not even sure that there are any birds in the exotic energy bush. Dr. ADEN MEINEL, Professor, University of Arizona.

The Breeder is our principal hope—if not our only hope for energy abundance through the year 2025. There is no way for the U.S. to support its high energy economy and comfortable living standard during the next 25 years without commercializing the breeder reactor.—ROBERT PARTRIDGE, Executive Vice President & General Manager, National Rural Electric Cooperative Association.

The Liquid Metal Fast Breeder Reactor is the only option visible today which has the high assurance of commercial development in time to meet (future) demands.—RICHARD DUNHAM, Chairman, Federal Power Commission.

Energy Independence can be just as important to the welfare of the people of the United States as political independence. The breeder reactor is a vital and indispensable part of achieving energy independence for our nation.—LYNN SEEBER, General Manager, Tennessee Valley Authority (TVA).

If we do away with the breeder we may bring about a war in the world over energy . . . If we make the wrong decision now, we throw away time we cannot get back.—Senator JAMES MCCLURE.

HUMAN RIGHTS IN THE PHILIPPINES

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BEDELL. Mr. Speaker, I would like to take a moment or two to provide this body with update on the human rights situation in the Philippines.

I have been disturbed about reports of human rights violations in the Philippines for some time, and it has been my firm view that the U.S. Congress should take substantive action to demonstrate to President Marcos that it is concerned about this situation. I was thus pleased that the House Appropriations Committee reduced the security assistance request for the Philippines by about 17 percent—from $40 million to $33.8 million.

During full House consideration of the fiscal year 1978 International Security Assistance bill last May, no amendments were offered to further reduce security assistance for the Philippines. At that time, I felt this was appropriate in order to provide the new administration an opportunity to make substantive progress on the human rights problem in the Philippines through diplomatic channels.

On August 22, 1977, at the opening of the World Law Conference in Manila, President Marcos surprised the world with the announcement that he would free political prisoners, lift the overnight curfew, hold local elections and end martial law in the Philippines. I was pleased with this announcement, and I looked forward to its implementation with guarded optimism. I hoped that it held real promise for the civil rights of the Filipino people.

Recent developments have dampened any initial optimism. Within hours of President Marcos' proclamation at the World Law Conference, the retrenchment began. On August 23, the very next day after he announced that he would end martial law, President Marcos restricted his amnesty program to those prisoners who had merely participated in "subversive" activities or who had executed the commands of others and he instructed his Defense Secretary to draw up a list of areas where the curfew would remain in effect. Such actions seem contrary to the spirit of President Marcos' August 22d statement, and it is evident that fact must be separated from illusion in order to accurately assess the current situation in the Philippines.

Last week, I met with two individuals who have just returned from the Philippines. Mr. Ramsay Clark, the former Attorney General, and Mr. Don Luce, a well-known human rights advocate. Their report on the current situation in the Philippines is disturbing. Mr. Clark and Mr. Luce spoke of interviewing people who had been tortured by the Marcos regime, and they relayed stories which indicate that President Marcos' program to relax martial law is not what it is cracked up to be. For example, they report that instead of releasing political prisoners, President Marcos has freed common criminals, and that in some cases he released political prisoners only to rearrest them a few days later. In short, Mr. Clark and Mr. Luce clearly feel that no meaningful progress is being made on the human rights problem in the Philippines.

Mr. Speaker, a House-Senate Conference Committee will shortly consider H.R. 7797, the fiscal year 1978 Foreign Aid Appropriations bill. The House-passed measure contains a 17 percent reduction in security assistance for the Philippines below that contained in the Senate version.

This is a critical time for the Filipino people. If we are to encourage President Marcos to insure that his announcement to terminate martial law is not a hollow gesture, we should enact the House figure. It would constitute a clear signal to President Marcos—and, indeed, to all recipients of U.S. military aid—that the Congress will not condone violations of internationally recognized human rights.

It is my belief that in carrying out our foreign policy we must set an example of concern for human rights, and our security assistance program is an appropriate vehicle for the expression of this concern. Expediency alone cannot justify our support of repressive regimes. Concern for human rights should be an integral component of U.S. foreign policy, and our policy toward the Philippines is a good case in point.

TOXIC? TO WHOM?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. CRANE. Mr. Speaker, the Environmental Protection Agency has a new toy to play with: the Toxic Substances Control Act of 1976. This act, passed by Congress last year, applies to chemicals not currently regulated and when enforcement begins, will require companies to submit not only the identity of every chemical they manufacture, but also the volume and where the plants are located.

Unfortunately, EPA has only begun to spread its wings in this area. The new Administrator, Douglas Costle, has drawn up regulations much rougher than the industry expected and it is doubtful that he will "give an inch" when enforcing the regulations.

It is with these thoughts in mind, that I insert the attached article from Forbes magazine entitled, "Toxic? To Whom?":

TOXIC? TO WHOM?

(By Jean A. Briggs)

(The EPA's enforcement of the new toxic substances act will be a revealing test of the Carter Administration's attitude toward business.)

Last autumn, after five years of debate, the Toxic Substances Control Act finally made it through Congress. Now the chemical industry, which originally supported the legislation, is bracing itself to see whether the Act will be enforced reasonably or administered with a heavy bureaucratic hand.

The law applies to chemicals not currently regulated—pesticides, food additives and drugs already are.

The Environmental Protection Agency got off to a quick start last winter by issuing a "strategy document" and proposed regulations on that part of the law that requires an inventory of all chemicals now being produced. But since then President Carter's new administrator, Douglas Costle, has thrown out all the original work and started over again. Glenn Schweitzer, who headed the Office of Toxic Substances and who advocated selectivity in administering the law, has been removed. Steven Jellinek, former staff director of the Council on Environmental Quality, is expected to be nominated soon for the job.

The proposed regulations as Costle has drawn them are rougher than the industry expected. They require companies to submit not only the identity of every chemical they manufacture, but also the volume and where the plants are located.

Many chemical people are incredulous. That is the kind of information any company's competitors would love to get their hands on. George Dominguez of Ciba-Geigy, who is heading the Manufacturing Chemists Association's regulatory advisory committee, explains it this way: "Suppose our competitor makes salt. We know our competitor makes salt, but we're not particularly inter-

ested. Then we find out he makes 500 million pounds of salt per day in Texas. We say to ourselves: 'Wow, what a market!' and we begin to figure out whom he's selling to and at what price." Once the information is in the hands of the government, executives feel it is virtually public because of the Freedom of Information Act. True, that Act is supposed to protect proprietary information; but what will the EPA consider proprietary? It has yet to decide.

So far EPA has only tackled the information-gathering aspects of the law; the complex protective aspects are still in the future. But in deciding to revise these regulations, the EPA opted to miss the legal deadlines for premarket notification and testing of new chemicals. Clearly, the EPA bureaucracy is settling in for a long stay and a growing control over the chemical industry.

Is all this regulation necessary?

To say that chemicals are dangerous demands the immediate question: In what quantity, and how used? If you injected a needle full of the chemical element Au into someone's bladder, it might kill him. But most people don't use gold that way. It's as though the radical environmentalists have forgotten their high school chemistry: The whole world is made up of chemical substances.

There have been, of course, serious and widely publicized problems with some commercial chemicals. Vinyl chloride caused liver cancer in a number of workers. The pesticide Kepone caused brain damage. Polychlorinated biphenyls (PCBs) are considered a serious health hazard. But lawsuits and bad publicity—to say nothing of conscience (or don't businessmen have consciences?)—are potent regulators.

However, recognizing their vulnerability to environmentalist pressures, most of the chemical industry supported the Toxic bill. It did so on the simple premise that you can't fight city hall. Listen to John W. Hanley, chief executive of Monsanto Co.: "There was going to be legislation and we thought we'd damn well better get involved to help get legislation and subsequent regulations that are responsible . . . (otherwise) Congress would have passed a bill more troublesome for both industry and for society, calling for complex testing and duplication of regulation already on the books."

Cynics say that the companies had yet another motive in supporting the bill: By mandating testing requirements for new chemicals, it might give the companies a defense in case they were sued (we followed the rules, didn't we?).

Dow Chemical, however, fought the bill to the end. Says President Paul Oreffice, it did so because "there were already ample, ample laws on the books to handle any problems that might arise." What's needed, he says, is better administration of the laws, not more laws. Kepone, he points out, was being regulated under the pesticides control and worker safety acts; vinyl chloride under the worker safety and clean air acts.

As one EPA staffer, unhappy with the current regulatory drift, points out: "You cannot reduce risk to zero."

What the law definitely will do is increase the flow of paper to Washington, increase the size of the bureaucracy to handle it—EPA's budget for toxic substances has tripled—and increase the price of chemicals. It will also create an opportunity for companies in the testing business.

The cost to the industry of complying with TSCA has been estimated all the way from $100 million to $2 billion per year. Dow alone estimated its own cost at $81 million: $29.5 million for testing, $5.5 million for reporting, $6 million for delayed production and marketing and $40 million for abandoned plant and equipment capital. The latter figure, explains Dr. Etcyl Blair, Dow's director of health and environmental research, is based on experience with EPA's handling of pesticides.

For the chemical industry at least, the way the new regulations are framed and enforced will be a major test of the Carter Administration's declared intentions to reduce red tape and to check the spread of bureaucratic power. The preliminary signs are not good; whatever the President may want, bureaucracy is still acting like bureaucracy.

NEW YORK NO-FAULT HEARING

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. ECKHARDT. Mr. Speaker, on April 23, 1977, the Subcommittee on Consumer Protection and Finance of the Interstate and Foreign Commerce Committee held the third of four hearings designed to assess State experience with no-fault automobile insurance.

The initial hearing was conducted in Massachusetts, the first State to enact no-fault legislation. There, the subcommittee found that a law with modest benefits and a low $500 threshold—the amount of medical expenses a person must incur in order to sue for general damages, commonly referred to as "pain and suffering"—was working well to provide prompt payment of benefits to all auto accident victims at significantly reduced rates. However, the $2,000 benefit package is clearly inadequate to compensate seriously injured victims, and it is highly unlikely that Massachsuetts' dollar threshold could support a higher benefit package. A detailed summary of the Massachusetts no-fault experience appears at pages 20681–20684 of the CONGRESSIONAL RECORD of June 23, 1977.

The second hearing was conducted in Florida, the second State to enact a no-fault plan. There, the subcommittee found that a $1,000 threshold had become a target for the unscrupulous and the State responded by adopting a "verbal" or descriptive threshold, one which permits suits for general damages for certain types of injuries. The verdict is still out on that particular threshold. A detailed summary of the Florida no-fault experience appears at pages 29559–29562 of the CONGRESSIONAL RECORD of September 15, 1977.

In New York, the subcommittee examined a law which offered a high level of benefits but did not restrict the right to sue for general damages to any great extent. Subsequent to our hearings, the New York Legislature revised the threshold in an attempt to eliminate abuse and to check skyrocketing premiums.

During the 1-day Saturday hearing conducted in New York City, the subcommittee heard from a number of knowledgeable witnesses on no-fault automobile insurance, including our colleague, New York Congressman JOHN M. MURPHY, the former chairman of this subcommittee and the author of two major Federal standards no-fault bills. In addition, the subcommittee received testimony from Senator John Dunne of the New York Legislature, a principal sponsor of the New York no-fault law; Leonard Silverman, chairman of the New York Assembly Insurance Committee; Thomas A. Harnett, superintendent of insurance of New York; Prof. Guido Calabresi of the Yale Law School, an eminent authority in the field of insurance; Morton Bayne and Joseph Farrell of the New York State Bar Association; George M. Mulligan of the American Insurance Association; Joseph Petrelli and Robert Turboss, representing the National Association of Independent Insurers; and Sheridan Albert of the New York State Trial Lawyers.

The impetus for the New York bodily injury no-fault law was a 3-year study by Governor Rockefeller's Committee on Compensating Victims of Automobile Accidents. Its report, "Automobile Insurance * * * For Whose Benefit?" issued on February 12, 1970, blasted the fault system. It found that the fault system left many victims completely uncompensated; that "even where the fault insurance system pays something, it pays slowly—an average of 15.8 months;" that "when it pays—it—distributes the available money with no discernible regard for priorities, let alone for intelligent or humane priorities"; that it "overcompensates the slightly injured and undercompensates the seriously injured"; and that "under the fault insurance system, determinations are made either by an overburdened judiciary on stale facts or else by insurance adjusters in a bargaining process. Part lottery and part bazaar, the fault insurance system is unreliable and unpredictable."

Evidence received at the hearing disclosed that the New York law is working as intended in some vital respects. Superintendent Harnett testified that—

> Fast, certain and just payment (is made) to virtually all auto accident victims of their out-of-pocket economic losses without regard to fault.

Moreover, Harnett noted that some redistribution of loss costs is occurring, as the nonseriously injured victim is reimbursed only for economic loss costs, while the more seriously injured accident victim is covered for virtually all economic losses and also retains the right to sue a possible tortfeasor. Finally, data submitted by Superintendent Harnett revealed that almost 75 percent of the no-fault premium dollar is being used to compensate accident victims, compared to only 44 percent of the premium dollar under the preexisting fault system.

On the other hand, evidence presented at the hearing revealed that New York's $500 threshold has opened the door to abuse and, as Superintendent Harnett observed:

> Contributes to increasing the cost of both no-fault benefits and liability insurance.

In addition, the testimony suggested that some doctors are overbilling victims with no-fault coverage.

PROVISIONS OF THE NEW YORK LAW

The New York no-fault law requires the owners of all motor vehicles—except motorcycles—in the State to buy a no-fault package, known as personal injury

protection (PIP). This package provides economic loss coverage up to $50,000 for medical loss, work loss, and substitute services loss. Within the maximum $50,000, wage loss benefits are limited to 80 percent of the actual loss, up to $1,000 per month, for 3 years, and substitute service benefits are limited to $25 per day for a 1-year period. Optional benefits are available for purchase to raise the overall limit to $150,000 and to protect wages up to $3,000 per month.

The New York law does not restrict a person's ability to sue for any economic losses not compensated by the PIP coverage. However, the law prohibited suits for general damages—commonly known as "pain and suffering"—unless the auto accident victim incurred medical expenses of at least $500, or suffered an injury resulting in a compound or comminuted fracture; significant disfigurement; dismemberment; permanent loss of a body organ, member, function or system; or death. It was the monetary portion of the threshold that was causing the principal problem in New York. As will be seen below, a $500 monetary threshold can be and is easily circumvented, thereby resulting in too small a reduction in the number of general damages lawsuits to support a high level of benefits. In the summer of 1977, New York eliminated its dollar threshold and replaced it with a verbal or descriptive threshold. This report, of course, focuses only on the $500 threshold that was in effect at the time of the hearing.

PERFORMANCE OF THE LAW

Superintendent Harnett testified that the no-fault system has reduced the time of payment of benefits in New York to an average of about 3 months, as compared to approximately 16 months under the tort system. The reduction was attributed, in part, to a provision in the law which assesses a 2-percent per month interest penalty whenever an insurer delays payment for 30 days or more after proof of the claim has been provided. Moreover, when a claimant retains an attorney for the purpose of collection, a reasonable attorney's fee must be paid. New York officials expect that the time period under no-fault will be even further reduced as hospitals, doctors, employers, attorneys, and clients become more familiar with the system. Superintendent Harnett also suggested that faster payment would occur if the provider of the services, rather than the victim, filed the medical claim.

Second, according to Superintendent Harnett, over 99 percent of New York accident victims, an increase of some 40 percent over the old fault system, are reimbursed for all of their medical expenses and their lost earnings up to $1,000 per month. In addition, incidental expenses, such as household help and necessary transportation costs—substitute services—are being reimbursed for 1 year from the accident date.

Third, with respect to the amount of the premium dollar used to compensate accident victims, Superintendent Harnett supplied data showing that prior to the enactment of no-fault in New York, only 44 cents out of each dollar of bodily injury liability premiums went to victims of automobile accidents to compensate them for their losses, with the remainder going to lawyers and insurance companies. Data submitted after the hearing by Superintendent Harnett revealed that 74.6 percent of an adequate no-fault premium dollar was being returned to victims, while about 53.5 percent of an adequate premium dollar for residual bodily injury—almost entirely for general damages—was available to victims for their own use. However, Harnett suggested that the rise in efficiency of the tort system may be an aberration. He stated that the difference in paid allocated loss adjustment expense as a percentage of incurred losses between 13.7 percent under the 1972 fault system and 3.9 percent for residual bodily injury under the 1976 no-fault system "may be due in part to the fact that in 1976, there were probably fewer large BI—bodily injury—cases in the system that we might expect. That is, claims occurring prior to no-fault—February 1, 1974—have been settled, but cases arising under residual BI have not yet come to trial due to the delay in initiating such claims in the first year of no-fault, and the relative immaturity of 1975 claims in 1976."

Fourth, Superintendent Harnett noted that New York's no-fault law is redistributing loss costs so that reimbursement of the injured more closely approximates the amount of economic loss incurred.

INADEQUACY AND ABUSE OF THE $500 THRESHOLD

It is clear from the testimony that the $500 threshold did not preclude individuals with less than serious injuries from suing in tort. As Superintendent Harnett testified:

New York's $500 threshold, as many persons including myself predicted would be the case, has fallen far short of its objective. The $500 medical threshold was intended to eliminate approximately 80 to 85 percent of automobile personal injury tort claims. It has become evident that relatively minor personal injury claims are meeting and exceeding the $500 threshold, so that nearly half of the tort claims continue to qualify as "serious" injuries. It is significant, that in 1975, the *average* medical claim exceeded $500. The anticipated reduction in personal injury actions, which was a necessary trade-off for an economically viable no-fault law, has not been achieved. The $500 threshold has encouraged high medical and hospital utilization. The $500 medical threshold has become the target—the key to opening the courthouse door. This easily met threshold contributes to increasing the cost of both no-fault benefits and liability insurance.

In commenting on reaching the $500 threshold, Mr. Petrelli, representing the National Association of Independent Insurers, called it "more than coincidental that experience thus far indicates that the average for these—medical—services has been in the neighborhood of $508."

Superintendent Harnett testified further about the apparent unwarranted medical costs. He stated that the average no-fault claim in April 1977 cost about $800, with more than three-quarters attributable to medical and hospital expenses. The Insurance Department originally estimated that medical costs would amount to only slightly more than half of the total no-fault losses. Superintendent Harnett conceded that higher medical costs might be understandable if victims were sustaining more serious injuries; however, figures reflecting the cost of wage payments indicate the total length of disability has not increased since the onset of no-fault. Superintendent Harnett stated that—

The fact that wage loss costs have not increased beyond what would be expected from inflation, taken together with the dramatic increase in medical payments since 1974, permits the logical, and I think, inescapable conclusion that inordinately large amounts of no-fault dollars are being paid to the health providers.

Mr. Silverman, chairman of the New York Assembly Insurance Committee, testified as follows with respect to abuse of the $500 threshold:

We have seen actual hospital bills $80 to $100 a day more for no-fault. . . . We have seen doctor bills where the normal cost might be $40 for the first visit and if it is an automobile accident it is as much as $100. A series of x-rays which might be $50 might actually come back at a price of $100. . . .

Mr. Albert of the Trial Lawyers cited a well-known New York case in which an auto accident victim was confined in a New York City hospital from October 31, 1974, to February 2, 1975, for which the Blue Cross charge would have been $17,000. Under no-fault, the hospital charged the automobile insurance company $31,450.

The general nature of these overcharges was documented in an article captioned, "Auto Injury Ripoffs by Docs," which appeared in the New York Post on April 27, 1977, 4 days after the subcommittee's hearing. The article compares no-fault charges with the workmen's compensation rate for similar services for 10 insurance companies. For hospitals located in Queens, Long Island, Manhattan, Rochester, and Nassau, the survey found that no-fault charges ranged from 70 to 383 percent higher. For physicians located in Suffolk, Manhattan, and the Bronx, no-fault rates were 81 to 538 percent higher. The investigation found that outright fraud in the form of double-billing and nonexistent medical visits was frequent, but that most of the exorbitant bills were legal, because New York's no-fault program put no limit on medical fees.

The New York Post found two other reasons for inflated medical bills. First, victims who are covered by medicare could collect double payments with no-fault. The New York Insurance Department cited a case in which one elderly Park Avenue woman who broke a hip and was hospitalized had her $20,000 hospital bill paid by medicare and then collected $20,000 from her no-fault insurer.

Second, the Post found doctors and lawyers colluding to break the $500 threshold, citing the following form letter from Pops & Estrin, a Manhattan law firm, to doctors:

Since the patient(s) would not be able to recover for pain and suffering beyond the actual out-of-pocket expenses of his medical care, unless the medical care exceeds $500, may we strongly ask you to constantly con-

sider and remain aware of the fact that the medical care given will be promptly paid by the insurance carrier upon presentation of your bills. Would you also send the patient(s) for x-rays, hospital care, diagnostic tests for treatment, orthopedic, neurological or other specialist consultations to aid in treating the patient(s) . . .

Again, please don't hesitate to refer the patient for further work-up or care on consultations, if necessary. We will collect the insurance monies . . . all without charge if the combined medical care exceeds $500 and we pursue the legal action further . . .

Of course, we, as attorneys, can only benefit the patient when and if his individual case exceeds $500 when we will accept the case. You can now readily see why we will collect your medical bills for you if we accept the case.

The letter was quoted at our hearings by Congressman MURPHY.

While overcharges by doctors increase the costs of the no-fault portion of the system, they increase the costs of the remaining part of the fault system dramatically as more cases cross the $500 threshold into fault. This is borne out by data produced by the fast track monitoring system devised by the National Association of Insurance Commissioners. These data reveal that the pure premium for New York PIU—no-fault—for the year ending in the fourth quarter of 1976 was $23.43. The pure premium for the same period for the residual bodily injury coverage was $48.05—about the same as in 1973 when the system was only a fault one. Thus, the New York no-fault system spends two-thirds of its bodily injury premium for litigating fault. In considering these figures, it is not surprising that difficulty is being experienced in the financing of a no-fault system that provides $50,000 maximum first party benefits to all injured victims—including many victims who would not receive one penny under the tort system.

It is enlightening to contrast similar data for Michigan, a State with unlimited medical coverage and $46,000 coverage for work loss—benefits greater than New York offers. The pure premium for PIP—no-fault—is shown as $23.67 while residual bodily injury liability coverage costs $18.53. The reason for Michigan lower cost is that it does not have a dollar threshold. Instead, it has a "verbal" threshold, which permits suits for general damages only in cases of death, serious impairment of bodily function or permanent serious disfigurement.

In advocating a verbal threshold, Congressman MURPHY testified most effectively on the deficiencies of the $500 threshold:

The basic problem is obvious to anyone who understands the concept of no-fault—the $50,000 benefit package cannot be sustained at pre-existing premium levels with a $500 medical threshold. The money to pay the no-fault benefits comes, and must come, from two places—the elimination of a significant portion of the attorneys fees through a limitation on the number of lawsuits and the elimination of so-called pain and suffering awards for the least seriously injured. A $500 threshold—even if it were not abused—simply would not provide enough of these two savings to pay $50,000 worth of no-fault benefits. No one in their right mind expected the threshold to hold up, certainly not the trial lawyers who lobbied so hard for it. It was not the recommendation of the Governor's report, . . . which called for the elimination of all suits for general damages except in cases of death.

COST EXPERIENCE

The legislature mandated a 15-percent rate reduction for basic personal injury coverages when the law went into effect on February 1, 1977. Insurance companies actually averaged more than 19 percent in reduced premiums, saving New Yorkers about $100 million during the first year of no-fault. The January 1976, report of the New York Insurance Department indicates that experience under the fault system in 1973 would have justified an increase in premiums of 20 percent in 1974 had the no-fault law not gone into effect.

However, by mid-1975, auto insurance loss costs, aggravated by inflation, were on the increase. Between July 1, 1975, and August 31, 1976, automobile personal injury rates—for no-fault and bodily injury liability coverages combined—increased about 65 percent and rates have continued upwards.

In material submitted to the subcommittee, Superintendent Harnett observed that from January 1970, to August 1976, the total increase in personal injury coverage was 49 percent or a 7-percent average rate change per year. Thus, he explained, the sudden upsurge in premium costs was actually the "release of an accumulated backlog of indicated rate increases."

Superintendent Harnett pointed out that the increases in the cost of insurance reflected increases in the underlying expenditures of the services provided claimants. For example, from 1970 through 1976, the cost of a semiprivate hospital room in the New York area rose 78 percent. Physicians' charges and miscellaneous expenses have nearly doubled since the late 1960's.

Further, in considering premium increases, motorists do not generally separate the no-fault portion of their premium from the other elements. The premium charge for the PIP or no-fault portion represents approximately 23 percent of the total charge for the three required auto insurance coverages in New York—PIP, bodily injury liability—fault—coverage and property damage liability coverage.

In addition, most New Yorkers maintain comprehensive and collision coverages, which are not part of the no-fault system, the cost of which has skyrocketed during this period.

CONCLUSION

The New York hearing revealed that the State's no-fault bodily injury law is producing the anticipated benefits of no-fault. It is providing fast, certain, and equitable payment to almost all victims. Further, a far greater percentage of the no-fault portion of the premium is being used to compensate victims than was the case under the fault system.

The hearing also demonstrated, however, that the dollar threshold was vulnerable to abuse and circumvention and that the law lacked an adequate mechanism to prevent doctors and hospitals from overcharging the victims of automobile accidents.

The New York Legislature addressed both of these problems in 1977. The new law states that providers of health services will be reimbursed according to the schedule of charges used in workmen's compensation claims. This approach will eliminate the overcharges of the previous system.

The new law also provides for a verbal or descriptive threshold. The threshold was the product of much compromise, with some believers in a strong threshold voting against the change; only time will tell whether it will reduce the number of lawsuits sufficiently to support the high level of no-fault benefits.

SHADOW OF THE MAFIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. DORMAN. Mr. Speaker, there is currently a resolution in the House of Representatives which would reestablish the House Internal Security Committee. This resolution which was introduced by Congressman LARRY MCDONALD has been cosponsored by more than 150 of our colleagues.

Much of the support for the reestablishment of this vital committee is based on the need for Congress to monitor the activities of those organizations and people who seek to undermine our Government and our way of life. In the debate on the reestablishment of the committee, references are most frequently made to threats to our Government from without: Anarchists, international terrorists, and pseudoreligious and ideological fanatics.

But there is another threat to the well-being of our Nation. It is unfortunate that little is said about these people who operate through our Government to bring about its ruin. I am speaking about organized crime. The pervasive influence of the crime czars is being felt even in the Halls of Congress. This is the frightening story related by Jack Anderson in his article in the August 7 issue of Parade magazine.

I commend Mr. Anderson and his courage to write this article and present it as yet another argument in favor of the reestablishment of the House Committee on Internal Security:

THE SHADOW OF THE MAFIA OVER OUR GOVERNMENT

(By Jack Anderson)

WASHINGTON, D.C.—Federal lawmen tell us that a disturbing number of Congressmen maintain backdoor contacts with underworld figures. The racket bosses can provide the campaign cash and political muscle so important to a Congressional career. This has created an unholy alliance between those who make and those who break the laws.

Even more alarming, the crime czars are drooling over the vast U.S. treasury and scheming how to get their hands on some of the federal greenery. There is evidence, for

example, that they have corrupted federal officials to obtain fraudulent government loans.

Gangsters also need political protection simply to survive. "Organized crime can't exist," one top lawman told us tersely, "without corruption at all levels of government." Another explained that the mob "thrives on its ability to neutralize effective government." Our underworld sources don't disagree. "Big crime couldn't flourish without politicians," one said.

The Mafia has come a long way since Ignazio Saietta, alias Lupo the Wolf, preyed on defenseless food peddlers and cobblers 70 years ago in New York City's "Little Italy."

$48 BILLION EMPIRE

Today, the Mafia controls an underworld empire that rakes in at least $48 billion a year, of which more than half is untaxed profits. The organization has also invested in a host of legitimate enterprises, ranging from hotels to construction companies. By one authoritative estimate, the crime syndicate may own as many as 10,000 bona fide firms, with an annual take of $12 billion.

The federal heat on organized crime, meanwhile, has subsided. A General Accounting Office investigation recently found the "war on organized crime faltering." The federal strike forces, which were formed to coordinate the efforts of law enforcement agencies, are under fire. Some task forces have been manned by inexperienced attorneys; some have abused the constitutional rights of their victims. This has given the politicians the excuse they needed to bear down on the strike forces. Most politically appointed U.S. attorneys, for example, have been unyielding in their opposition to strike forces. Result: the "federal work against organized crime," according to the GAO, "is not planned, organized or directed efficiently."

The strike forces relied upon hidden microphones and wiretaps for 80 percent of their information on mob activities. But this eavesdropping has now been drastically curbed in the name of civil liberties. The outcry against federal snooping was led in the 1960's by Rep. Cornelius Gallagher (D., N.J.). His stirring defense of the right of privacy, in fact, made him one of the leading contenders to be Lyndon Johnson's running mate in 1964.

Not long afterward, Gallagher's name came up unexpectedly in wiretaps of New Jersey gangster Joe Zicarelli's telephone conversations. It developed that Gallagher was close to the mob and once figured in a scheme to prevent the deportation of a Mafia mobster. Viewed in this light, Gallagher's crusade may have been intended to protect the privacy of New Jersey's racket bosses. Thus exposed, he ended up in prison in 1972.

CONVICTED AS TAX EVADER

To get convictions, the task forces require easy access to gangsters' tax returns. The big-time criminals, of course, must hide their illicit income. Thus they become tax evaders; often it has taken tax investigations to put racketeers behind bars.

But suddenly in 1973, the IRS began dismantling the machinery it had been using against mobsters. Then Commissioner Donald Alexander quietly transferred resources from the special enforcement programs to civil audit work. In June 1975 the IRS stopped asking taxpayers whether they maintained secret foreign bank accounts, with criminal penalties that made a dishonest answer highly risky. (It restored the question late in 1976, following Congressional pressure.) Then the IRS discontinued its quarterly reports on criminal tax enforcement activities. Finally, the IRS killed an effective program designed to trip up narcotics traffickers. President Carter promised to renew the program but cut its funding instead.

In a lengthy interview, Assistant Commissioner S. B. Wolfe told us the IRS is not soft on criminals. He said the agency has fewer than 2500 special agents to cover the entire country. "If there is so much interest in fighting organized crime," he demanded, "then why aren't more funds provided?" He also stated the IRS is hampered by court decisions that make it unlawful to treat organized criminals differently from other taxpayers.

Whatever the rationalization, the federal authorities seem to have lost their enthusiasm for investigating organized crime. The GAO found that, almost invariably, racketeers received "no sentence or sentences of less than two years."

At the same time, the cutthroats who run the mob are becoming more cozy with the politicians who run the nation. The individual politician may not really feel compromised by his association with the friendly local racketeer. For the modern mobster, after all, usually invests his ill-gotten gains in legitimate enterprises. He poses as a businessman or union leader. He dresses in suits of conservative cut and color. He dismisses the whispers about his underworld connections as unfounded rumors or the unfortunate follies of his misspent youth. "I don't claim to be saint," he will tell his political friends roguishly. But he will assure them that he has gone legitimate. Often, he is as respected in his community as the local high school principal.

Sen. Barry Goldwater (R., Ariz) does not deny his friendship with the late underworld chieftain Gus Greenbaum, who was dispatched by mob executioners. The Senator attended the funeral. Goldwater's name has also been associated with other mob figures. In the tradition of the West, he judged them by their conduct toward him, not by their whispered reputations. No one who knows Goldwater believes he is in league with the mob. Yet there he was, a former candidate for President, chumming around with underworld hoods.

BOYHOOD CHUM WENT BAD

Even a Watergate house, House Judiciary Chairman Peter Rodino (D., N.J.), is on friendly terms with mobster Richard Boiardo. The Congressman explains that he grew up with Boiardo on the streets of Newark. Yet perhaps Rodino, with jurisdiction over the Justice Department, should cut off an old friend who went bad.

Then there is a curious case of Rep. Henry Helstoski (D., N.J.), who was narrowly voted out of Congress last year. In 1974, a federal grand jury began investigating charges that he had collected fees from illegal aliens in return for introducing private bills to delay their deportation. His former aide, Albert DeFalco, was convicted of shaking down the aliens for $36,000, but Helstoski has continued to proclaim his innocence.

We learned, however, of a mysterious meeting between the crewcut Congressman and a racketeer named Frank Peroff. Helstoski was accompanied by his blonde secretary, Kathy Dunn, who later confirmed his account of the meeting.

The rendezvous was arranged at Washington's Dulles Airport, where three people can get lost in the crowd. Helstoski asked Peroff to fly to Chile to check the backgrounds of several government witnesses who might testify against him. Peroff said it would cost $50,000. The price, replied Helstoski, was too high. But he asked for a second meeting.

We wondered why a Congressman would ask a gangster to handle an investigation for him. Helstoski said he wanted only to learn the truth. But Peroff told a different story. He said the Congressman wanted him to bribe Chilean officials to fabricate shady pasts for the government witnesses. The gangster said they also discussed murdering the key witness, a Chilean named Oswaldo Aguire.

The crime kingpins have friends not only on Capitol Hill but in the government compounds below. A Justice Department memo in our possession outlines the classic case of Thomas Regan, who until recently was an obscure, $32,000-a-year district director of the Small Business Administration, with offices in Richmond, Va.

SOLD HIMSELF OUT

According to the memo, Regan got into financial deals over his head and wound up $500,000 in debt. He got a little relief after he helped steer government loans to two companies in which a friend had a large stake. The grateful friend lent Regan $8500, which was never repaid.

The friend also brought Regan to Las Vegas on Feb. 4, 1973, to meet his cousin, Sam Calabrese, who was linked to the Mafia's notorious Gambino family. Accompanying Calabrese was Sanford Rafsky, identified in the memo as the "new Meyer Lansky." The aging Lansky had been the Miami mob's financial whiz.

Over charcoaled steaks at the Aladdin Hotel, the men spoke jovially of Calabrese's voracious appetite. He stands 5-feet-6 and weighs 350 pounds. The discussion eventually got around to financial problems. Before they finished their brandy and cigars, they had agreed to use Regan to secure government loans for undeserving clients.

LOANS FROM UNCLE SAM

The first applicant, an associate of Rafsky's, was carefully coached by Regan. Regan even typed the application, omitting a conviction for negotiating stolen checks. This loan was rejected, but it was a dry run for four successful loans, each for $350,000, each fraudulent. Regan also issued a series of fraudulent lease guarantees to the Dunn International Corporation to induce them to construct buildings for the four sham companies which had received the loans. All four loans, of course, defaulted; the Small Business Administration also had to pay the guarantees.

Regan, meanwhile, took up residence on a $335,000 Virginia horse farm financed by his mobster friends. A government colleague, Milton Maddox, became suspicious and on Sept. 12, 1973, he walked into the U.S. Attorney's office in Richmond with a batch of loan files. These raised enough questions to cause Assistant U.S. Attorney David Lowe to order an FBI investigation. Strike Force 18, an elite unit specializing in complex financial crimes, was assigned to the case.

It was only a matter of time before the group was nailed on charges of racketeering, conspiracy, bribery and fraud. All are now serving lengthy prison sentences, except Rafsky who received a reduced sentence for his testimony. He is now serving time in a secret location under provisions of the Witness Protection Act.

CAPITOL CONTROLLED?

Does organized crime, meanwhile, have enough political clout to affect legislation? "One wonders about things on Capitol Hill," a top Justice Department official commented. He wondered, for example, whether the mob is behind bills that would restrict investigators' access to banking and tax records. "It would be a legitimate rhetorical question to ask," he said.

Can organized crime be put out of business? Not likely, as long as Americans patronize the mob by placing bets, buying drugs, reading pornography, paying prostitutes and the like. Warns the General Accounting Office: "Consumer demand for organized crime's goods and services provides billions of dollars of income each year."

MINIMUM WAGE LEGISLATION

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. EVANS of Delaware. Mr. Speaker, last night the House, by 309 yeas to 96 nays, passed H.R. 3744, amendments to the Fair Labor Standards Act dealing with minimum wage laws.

I have very deep mixed emotions regarding this legislation as passed by the House. But I feel that the bill, even as amended yesterday, was not in the interest of our Nation, its economy, and particularly its workers affected by minimum wage, and for that reason, I voted against final passage of the bill.

I have mixed emotions for a number of reasons. First, I was extremely glad that the House passed a number of amendments yesterday which substantially improved the bill as reported from the Education and Labor Committee.

I was pleased that the House, with my support, passed an amendment offered by the distinguished gentleman from Minnesota (Mr. QUIE), which removed the counterproductive "tip credit" language from the bill as reported from committee, in effect, continuing the current law which pegs the tip credit at 50 percent of the current minimum wage rate. Under the committee bill, the 50-percent credit would be replaced with a declining fixed dollar credit. The impact of this reduction, when coupled with the committee's projected increases in minimum wage, would have meant a 30.4-percent increase in wage rates for tip personnel in 1978 and a cumulative 82.6-percent increase by January 1980. All of us in this body would like to see the income of all Americans increased.

But the fact of the matter is that "tip credits" as proposed by the committee would have meant that thousands of employees in the food service industry would have lost jobs and/or experienced reduced hours. In effect, by raising wages we would be either reducing income or forcing these people on the unemployment rolls. I might also point out that many economists predicted that young people and members of minority groups precisely those with the highest unemployment rates—would be most severely impacted by a change in the tip credit.

The restaurant industry, where the tip credit is widely used, is an industry of extremely high competition and provides a luxury to the public that can be easily traded off for a less expensive meal at home. The elimination of the tip credit would have undoubtedly resulted in extremely high increases in labor costs in the restaurant industry, and no doubt a resulting decline in the number of people who dine out. Congress has already guaranteed that the minimum wage be paid throughout the restaurant industry. By reducing the tip credit as proposed by the committee, we would have only caused higher labor costs, higher meal costs and higher unemployment and thus I was pleased that the House by an overwhelming margin defeated the committee's proposal in this regard.

I was also pleased that the House removed the indexing portion of the bill. By indexing minimum wage to average hourly earnings we would have in effect been institutionalizing inflation. We need to know far more about the effects of increases in the minimum wage on employment opportunities for such persons as blacks, unskilled persons and minorities and placing the minimum wage on a permanent escalator would not have been the right approach at this time.

However, even with these worthwhile changes, I still could not support H.R. 3744. The primary reasons for my opposition to this legislation was because of the failure of the House, by one vote, to pass a much needed youth differential wage rate. With such a youth differential included in the bill, the legislation would have been tolerable. Without it, it will lead to even more problems for those people, such as blacks and other minorities, unskilled workers, and young Americans, who are now experiencing disastrously high unemployment rates.

I think it is important to note that each time Congress has raised the minimum wage over the past two decades, youth unemployment both in the aggregate and as a percentage of overall unemployment, has risen. In 1950, 1956, 1961, 1963 and 1967, each year in which the minimum wage was increased, teenage unemployment increased as a percentage of overall unemployment. Especially affected were youth who were members of minority groups.

The youth opportunity wage rate offered by Mr. CORNELL and which was defeated by the House by a 210-to-211 margin would have served as a major step in increasing employment opportunities for the very persons who are frozen out of our economic system today.

I can only assume that my colleagues who voted against this amendment would have rather seen an unemployed youth not working than working at a job which pays 85 percent of the minimum wage. The logic of that argument totally escapes me but I can now fully understand why those who are suffering such high unemployment rates are convinced that the Federal Government has forgotten about them.

For those reasons, I was forced to oppose H.R. 3744. It is my hope that the Senate will correct what I consider to be the major inequity in this legislation.

ANOTHER VICTIM OF THE APARTHEID SYSTEM

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. WHALEN. Mr. Speaker, the founder of South Africa's black consciousness movement, Steve Biko, died in jail on the evening of September 12 from what South African authorities describe as a "hunger strike." The soft-spoken, 30-year-old leader was one of 20 black activists in South Africa who have died while in police custody during the past year and a half.

Biko was described by U.S. Assistant Secretary of State for African Affairs, Richard M. Moose, as—

> One of those figures who was trying to bridge the great divide between the races in South Africa. He was not an angry man, but a man of peace who wanted to work for understanding and change . . . The South Africans, both black and white, need leaders like Steve Biko."

By coincidence, on the day Biko died, the Christain Science Monitor carried an article on "The Young Black Nationalists" devoted largely to him. This piece helps to put into perspective the recent events in South Africa and is an appropriate memoriam to a very important leader of that country.

Mr. Speaker, I am inserting at this point in the RECORD the Monitor piece and the thoughtful editorial which appeared on September 15 in the Washington Post.

[From the Christian Science Monitor, Sept. 12, 1977]

THE YOUNG BLACK NATIONALISTS

(By Geoffrey Godsell)

JOHANNESBURG.—The rising tide of black nationalism in South Africa differs from earlier black protest movements in one all-important respect: Its immediate aim is the psychological or mental emancipation of the black man and woman—not their political emancipation.

The current tide generally is referred to as the "black consciousness movement," and the most important organization within it is the Black People's Convention (BPC). Other organizations under the movement's umbrella are the South African Students Organization (SASO) and the South African Students' Movement (SASM)—the former operating at college level, the latter at high-school level. All are exclusively back.

One of the banned leaders of the BPC explained to this writer that the latest generation of politically articulate South African blacks sees mental emancipation as a necessary prelude to political emancipation from the subservient status in which their country's 18 million blacks have hitherto been held by the white minority of 4¼ million whites. (A banned person has to live in a designated area—often a kind of banishment—cannot legally be in the presence of more than one other person, and may not have his or her words quoted by the media within South Africa.)

POLITICAL ACTION WILL FOLLOW

Once mental emancipation had been achieved, this banned leader said, political action would naturally evolve, leading to political emancipation. There is little doubt that the political unrest and protest from South Africa's black townships over the past 16 months—most notably that associated with Soweto, the sprawling black urban area outside Johannesburg—is a direct outcome of the black consciousness movement, although not directly organized by the BPC.

Afrikaans-speaking white South Africans, whose National Party has controlled the government since 1948, have reacted to these protests (usually described as "riots") with increasing toughness. Leaders and suspected leaders of the protests are arrested and often held for long periods of interrogation—allegedly accompanied by torture. The police (whose white members are preponderantly Afrikaners) use guns, dogs, and batons. But amazingly this writer found no sign of fear

or of being cowed among young blacks who said they had been on the receiving end of this treatment.

On the contrary, young black men and women alike are consistently buoyant and optimistic. They are, they say, psychologically liberated.

They give the clenched-fist black-power salute and cry (in Zulu): "Amanda!" (Power!), to which the response is: "Ngawethu" (Is ours!) In public, both the salute and the cries are considered provocative by the police and can often lead to trouble.

A Soweto man in his late 20s, Paul Langa, was given a 30-year jail sentence last month on charges under the Terrorism Act arising from bomb explosions outside a police station. The World, Johannesburg's only black newspaper, reported: "Not a tear was shed by either Langa's wife or his relatives and friends. Instead they shook hands with him and gave clenched fist salutes as he was led back to the cells." All this, said the newspaper, "despite the presence of both uniformed and plainclothes police in the public gallery." (There was no evidence Paul Langa was a member of the BPC. His affiliation was said to be with a Soweto students' "suicide squad.")

In conversation with Soweto teen-agers, this writer asked if they were not deterred by signs that the more they defied the government—with school boycotts, for example—the tougher the government was likely to become. The students' retort was: Had I not been in a war? When I said I had been in World War II, they asked if I had then dwelt every morning on the possibility of being killed. I told them I had not. Well, they said, neither do we.

One Soweto student—not a member of the group—was quoted as saying: "If 20,000 of us have to be killed so that 20 million of us can be free, it will still be a price worth paying."

BPC leaders say their movement, founded in 1972, is growing all the time in numbers and maturity. Four years ago, they add, it would have been easy to destroy the movement, but it would be very difficult to destroy it now. If the government "creams off" the leadership, they claim, others are immediately available to fill vacancies.

One BPC leader said anybody wanting to measure the headway made by the black consciousness movement over the past five years should ride a bus back to Soweto with black workers going home from Johannesburg and compare conversations with what they were five years ago. Five years ago, the BPC leader said, black bus passengers at the end of the day were inclined to vie with each other in relating what favors their white employers had shown them. Today the most frequent topic is the latest indignity at white hands which is no longer going to be put up with.

MOST HOLD HEADS HIGH

Two BPC leaders told this writer separately that only 20 percent of urban blacks held their heads high five years ago. Today, 80 percent do—thanks to the black consciousness movement.

There are South Africans, black and white alike, who think that one of the most important and potentially influential blacks of the younger generation is Steve Biko, the first president of SASO and now honorary president of BPC. He probably would be president if he had not been banned before the BPC was formally organized. Prior to his detention last month under the Terrorism Act, he had been banished to a black township near King William's Town, inland from the Indian Ocean in the Eastern Cape Province. Before his detention he told this writer that the BPC was determined not to allow "mental rape and mental oppression" to continue. Without getting at this stage into the methods of struggle, he said, the BPC wanted to encourage blacks to get a proper view of themselves and of the need to struggle. He expected the exact pattern of the struggle to be defined within the next five years.

Mr. Biko is a tall, sturdily built man not yet 30. He is soft-spoken and smiles readily. Interestingly, he is taking a law degree in Afrikaans, by correspondence course. Apparently he expects the Afrikaners to be still part of South Africa after the radical change for which the BPC is fighting. He said, "In this country, we have a situation peculiar to all Africa, black and white must live together. At the end there can only be nonracial government."

LEADERS DON'T LISTEN

Right now, he said, is the last opportunity for peaceful change. For this, the Afrikaners must see that the majority will not accept separate development. They must (he said) accept the honesty of the black search for change and consent to deal with black organizations. But this must be on the basis of white recognition of blacks "as competent to be change agents themselves."

So far, Mr. Biko said, the country's Afrikaner leadership had not got round to listening to what blacks wanted. Even the best of the Afrikaners feared that any concession to blacks would bring "corruption, anarchy, and chaos. For them, the chaos they fear is justification enough to maintain the present situation. But for blacks, the present situation is worse than chaos."

Mr. Biko said he did not doubt the eventuality of outright racial conflict in South Africa. It could either be controllable or it could get out of control. "All we can do is minimize the conflict. All of us are involved. I want to keep the conflict at a minimum level."

An associate of Mr. Biko said the eventual South Africa they wanted was "an egalitarian state regardless of race."

Both BPC leaders and Soweto students told this writer that the South African Government and the police were still convinced that behind BPC and the student protest movement were third-party organizers—perhaps the African National Congress (ANC), perhaps the Pan Africanist Congress (PAC), perhaps communists or the Soviet Union. This, they said, was apparent from the questions put to them by police interrogators when they were detained. Justice and Police Minister Jimmy Kruger indicated parallel suspicions in an interview.

But, the BPC leaders and the students said, they were not being organized or instigated by any third parties. What they were doing was spontaneous and came from the grass roots. A BPC leader said: "We have no links with the ANC or the PAC. They are irrelevant to the BPC, although we do see them as elements in the struggle."

(The ANC is the dean of African protest movements in South Africa, having been founded in 1912. It was outlawed in 1960, and its leader, Nelson Mandela, is serving a life sentence on Robben Island off Cape Town. The ANC operates underground and outside South Africa, and it does have links with communists. Among its current operations is the recruitment of young South African blacks for training outside the country as guerrillas. The PAC, also outlawed in 1960, is a group that broke away from the ANC in 1959. Its leader, Robert Sobukwe, lives under virtual house arrest in Kimberley after serving a jail sentence on Robben Island. This movement, too, operates underground in South Africa.)

STUDENTS ADEPT AT ORGANIZING

The Soweto students are in fact becoming increasingly adept in organizing their protests on their own—and keeping their plans to themselves. Their first open move was on June 16, 1976, aimed at ending the government plan to make Afrikaans a language of instruction in Soweto schools. They were successful. This summer's drive—not successful so far—is to bring to an end the whole government-imposed system of African education. This, the students say, is grossly under-financed (compared with white education) and is intended to keep blacks in a subservient position.

To start with, the students' initiatives, kept secret even from their parents, put a strain on relations between the generations. Many young people brusquely told their parents that the efforts and methods of earlier generations had failed to put an end to humiliation of blacks, so the students should be allowed to do things their own way. One said: "The tree of liberty has not grown from the conference table. It will grow only if watered by the blood of martyrs."

But now, the gap between parents and children is narrowing, largely as a result of the heavy-handed tactics that parents have seen the police use against their offspring. One father said: "We worry, but we no longer try to stop them. What they are saying and doing represents our own gut feeling, which we have never had the courage or been able to express before."

It is indeed remarkable how the Soweto students secretly plan and then secure compliance from their peers—even those peers away from home in distant boarding schools who are ordered back to join the struggle. In these cases, too, anguished parents are powerless to block compliance and resign themselves to the relentless course being charted by this new generation so committed to black power.

[From the Washington Post, Sept. 15, 1977]

A DEATH IN SOUTH AFRICA

How is it that in the past year and a half, no fewer than 20 black activists in South Africa have died while in police custody? Is there an explanation other than a calculated official policy to physically destroy substantial segments of the country's black leadership, and in so doing to try to intimidate others who would offer South Africa's black majority alternatives to tranquil acceptance of apartheid? Why else would South Africa make record certain to alienate the civilized world beyond its borders?

The latest victim in South Africa is Steve Biko, 30. He was arrested last month under legislation providing for indefinite detention without trial, and he died this week after (authorities say) a seven-day hunger strike. He was a founder of the South African Student Organization, which represents perhaps the country's most important and volatile political interest group, and a leader of the "black consciousness" movement, which undertakes to build pride and a sense of community among its constituency. A man with an international reputation, he had personal qualities that had established him as one of the likeliest leaders for the government to deal with if it wished to channel rising black rage away from despair and violence.

Few would be surprised if there were to be some sort of public protest in South Africa as a result of Mr. Biko's death. That would no doubt lead the Pretoria govrenment's law-and-order types to identify the dead leader with disruption. But they are the guilty ones. Whether they actually had a hand in Mr. Biko's death is one thing—the suspicion is so strong that only a genuinely independent inquiry, one approved by Mr. Biko's survivors, could conceivably dispel it. In a broader context, those in South Africa who prevent blacks from developing their own leadership corps and who back off from meaningful dialogue with the black community, are sowing the wind. Without the Steve Bikos, they will surely reap the whirlwind.

AMERICAN CHIROPRACTIC ASSOCIATION ELECTS NEW PRESIDENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. HUBBARD. Mr. Speaker, the American Chiropractic Association recently elected Dr. Paul E. Parrott as its new president. Dr. Parrott has long been a respected friend and practitioner in my hometown of Mayfield, Ky. He brings to his new post extraordinary leadership abilities and insights into the overall health needs of Americans. I would like to share with my House colleagues Dr. Parrott's recent statement to the American Chiropractic Association regarding the need to place greater emphasis on medical research in the disposition of Federal funds. His statement is as follows:

STATEMENT OF DR. PAUL E. PARROTT

I think that it is time for the United States Government, funding organizations and the various health professions to take a good look at research. Not only in terms of accomplishments, but also in terms of cost.

It seems to me that there is entirely too much fraternalism, too much duplication of effort, and as a result, much too much waste as each profession goes its singular way to investigate and come up with quantitative and qualitative answers to health problems which affect mankind.

In objectively viewing the various healing arts professions, I am sorry to note that bureaucratic and denominational jealousies have tended to cause health disciplines to "go it alone," where teamwork would have produced more complete information and more definitive results, faster and at a lower cost to American taxpayers and philanthropic funding organizations.

For example, it seems incomprehensible that so much is being put into various specialties and sub-specialties of medical research without the input of disciplines like optometry, podiatry, osteopathy and chiropractic. It's tragic that so much talent is being wasted. It's such an injustice to the patient who gains life benefits from breakthroughs in research when they occur.

As the newly elected president of the American Chiropractic Association, I propose, and will do everything in my power to bring about the following:

(1) I propose that the various disciplines conduct a study, under the auspices of the federal government, to determine where and on what research projects they can cooperate with each other to offer constructive assistance.

(2) I propose that a cooperative program be instituted, in which the allied healing professions will work together on research projects, in particular the colleges within the professions. I recommend that phases of each project be properly delegated to those professions which can best provide the specialized knowledge and research capabilities necessary to carry them out effectively—and that each profession be compensated according to the services provided.

(3) I propose that the government and private funding organizations make interprofessional cooperation mandatory, withholding funds if a cooperative approach is not taken by the primary contractor, when the scope of the project, its goals and its relationship to a particular treatment or health specialty dictates it.

In viewing research in its purest form, it is necessary for all branches of the health professions to be willing to recognize their shortcomings, to admit their interdependency, and to search out mutual assistance. This appreciation for the abilities of other disciplines and a cooperative attitude can only serve to upgrade all research programs and conserve dollars. The benefactors will be not only the taxpayers and the donors who underwrite research programs, but also the patient-consumer who gains from technological and scientific advancements.

I congratulate the various professions for the strides that have been made singularly (and in the case of chiropractic, without federal assistance) over the past century. But I must remind you that when dealing with quality and quantity of life, with illness, disability and death, there are no advances that are big enough or fast enough. I seek more efficiency and more attention to patient needs. And it is in the mood of an enlightened latter 20th century that I make my call for action. With Medicare on us and National Health Insurance just around the corner, certainly, there is no room for provincialism among the various health care providers and researchers.

In tune with my plea for cooperation, I pledge the chiropractic profession to greater emphasis on education and research. We will continue the upgrading of our profession. We recognize our responsibility to society; we visualize the importance of our position as a primary health provider and researcher; and, we accept a responsible role in the future of this country's health care system.

H.R. 7132

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. CLAY. Mr. Speaker, on May 12, 1977, I reintroduced a bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel of the U.S. Postal Service.

The Postal Reorganization Act of 1970 which established the U.S. Postal Service as a semiindependent government organization provided for a system of "consultation" on personnel matters with organized and recognized supervisory and managerial personnel who would not otherwise be subject to collective bargaining under the law.

Under a system of consultation employee representatives do not bargain with employers, but are only permitted to discuss pertinent issues affecting them as a group. The final determination is unilaterally made by the employer; a condition that is clearly in conflict with the most conservative interpretation of the fairness doctrine. Postal management has viewed consultation as little more than meeting with these organizations and advising them of what action management intends to take.

The lawsuits which have resulted from the existing system to force the Postal Service to comply with the law demonstrates most abundantly the crying need for a more radical method of settling disputes. It should be noted here, that in each instance the court has held for the supervisors.

A prolonged, expensive, arduous court route will be avoided with enactment of this legislation.

Our opponents, the Postal Service, contend that supervisors want collective bargaining rights similar to those of a union. They hold that any change in the existing procedure would remove supervisors from the supervisory-managerial status and place them in the same position as employees. Neither of these contentions is true. I submit that it was the intent of Congress to have supervisors in the Postal Service participate in the planning and development of personnel policies affecting them; that the act was meant to extend rights far beyond those of mere consultation.

Arbitration has proved time and time again to be the most superior method of settling labor disputes. Our opponents contend that this bill would extend to supervisors collective bargaining-type rights. To equate the right to settle disputes through the lawful intervention of a third party with that of collective bargaining is unfair and unreasonable. The right of arbitration in this country far outdates collective bargaining and is, in fact, not remotely connected with that process.

The legislation before you today is purposely limited in scope. It carries no threat of individual grievances being carried to arbitration. It provides only for arbitration of those disputes concerning policies which affect all or a substantial portion of supervisory personnel on a long-term or permanent basis. This bill is aimed toward the material reduction of serious conflicts with respect to personnel decisions; a state which is palatable to all concerned. This legislation will serve notice to the Postal Service that its decisions will be subject to defense before an impartial board. This will doubtless diminish considerably, if not eliminate entirely, many of the absurd inequities that are regular fare for the association.

If the present course of action is allowed to continue, the Postal Service will ultimately destroy the possibility of the supervisors achieving their full potential as a service organization.

The 38,000 postal employees who constitute the supervisory force of the Postal Service is asking you today to lend aid and comfort to the Postal Service in carrying out the mandate of the Postal Reorganization Act of 1970.

Arbitration is clearly not the diabolic process our opponents would have you believe. It enjoys a most enviable record in usage by those who have a need for it.

Where continuity of operations is essential, as in the Postal Service, there can be no other remedy.

ILLEGAL ALIENS NEXT ON CARTER AMNESTY LIST

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BURKE of Florida. Mr. Speaker, Mr. Budd Boyer is recognized as one of the most outstanding journalists, and writes for the Sun Sentinel, one of the

morning newspapers in my district. His editorials have a way of hitting on target the feelings a great many people have regarding national issues. During World War II he served in the Air Force and is a truly dedicated American. I enjoy reading his columns and have for many years. I would like to share with you the comments he made and which appeared in the Sun-Sentinel on Monday, August 8 entitled, "Illegal Aliens Next on Carter Amnesty List."

Mr. Speaker, Mr. Boyer's skeptical posture toward what is happening to our Government is right on the mark and I sincerely hope my colleagues will take the time to read this editorial, because I feel the point of view expressed in it is shared by millions in our country. Certainly our people deserve better answers than they have been getting on some of the matters which are of deep concern to them.

[From the Sun-Sentinel, Aug. 8, 1977]

ILLEGAL ALIENS NEXT ON CARTER AMNESTY LIST

President Carter looked over the marijuana crop early last week and then proposed that picking up a few stray leaves should not be a jail-type offense. He said a fine would serve the purpose of government just as well, and wouldn't leave a black mark on the record of any one caught with the goods.

Not that those who indulge are likely to suffer either penalty if they stick to minor amounts. A top enforcement official said, hard on the heels of the President's proposal, that federal policy is not to even bother with cases involving one ounce or less of pot.

That little break for regular and occasional users, if the plan is adopted, is hardly of moment in comparison with the controversial amnesty granted Vietnam era draft evaders. That one drew a lot of protests, while the pot proposal scarcely caused a ripple of opposition. Maybe, as the President said, there are more than 50 million who have tried the stuff.

Having weathered the Vietnam matter without any apparent, unhealed scars, and having encountered virtually no opposition to the marijuana penalty modification, the President has now moved down the checklist to a new amnesty suggestion.

Last Thursday, Mr. Carter took on the problem of illegal aliens in the United States, and proposes to solve it in much the same way he has disposed of those other sticky issues. Make the aliens legal, to one degree or another.

On this one, however, there will be some complications in the field of economics that were not factors in the others. The figure bandied about on the number of illegal aliens is usually placed at about 8 million.

Attorney General Griffin Bell has admitted that he has no idea how many illegal aliens are in the country. He said he has heard a range of 6 million to 12 million.

Rumbles are being heard from the hinterlands on the idea of bringing these aliens, whatever the number, into the legal work force. It is claimed that some employers are up in arms over the prospect of losing cheap labor, and others are angered over the probability that they will have to become an unpaid agent of the government by having to verify the status of workers.

That rumble is likely to become a roar when organized labor feels the shock of millions of quasi-citizens, all provided with work papers by the federal government, flooding areas where union members have controlled the labor market.

At the same time, some federal legislators are sounding off about the impropriety of establishing a class of non-citizens who must carry documentation to work, but who may eventually be disenfranchized.

There is, also, the matter of inviting creation of another mammoth bureaucracy to supervise and police the program dealing with the various classes of aliens who would be involved.

As part of his plan, President Carter wants to hire 2,000 additional border patrol officers to halt the flow of illegal entrants from Mexico. Fidel Castro, with an army at his disposal, cannot stop the flight of determined Cubans to this country, so the added force isn't likely to have much effect on the Mexican border.

The President's plan is predicated, at least in part, on the inability of present enforcement personnel to apprehend the illegals. It is interesting that within hours of his announcement, the media were able to locate several, complete with families in their homes, and interview them.

—BUDD W. BOYER.

IN 2021 WILL THERE BE A TRUST FUND?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. ABDNOR. Mr. Speaker, in 2021 will there still be a social security trust fund? This is a question which should be bothering every 21-year-old now entering the job market. When it comes time for him to retire at age 65, will he or she be able to expect a regular monthly check from the Social Security Administration as his or her parents and grandparents receive today.

It is a question that Congress cannot delay much longer in answering. The warning signs have been out for several years: The social security trust fund is in trouble. Taxes being paid into the fund today are needed for the obligations of the funds in the immediate years ahead. They are being paid out too fast to accumulate interest in order to fund benefits for those paying in today.

We all know that is not the way the system is supposed to work. Concern of South Dakotans about the future of social security are reflected in this thoughtful editorial from the typewriter of John J. Gerken, publisher of the Hill City (S. Dak.) Prevailer:

Many years ago someone said of Social Security "It's social but it ain't security."

Over the years the program has had its critics. Sometimes critics who resisted the idea of the government being involved. But often critics who had given it a great deal of thought and who expressed the idea that it wasn't being handled properly and that it was or would be in trouble.

Within recent history that is the last five or 10 years there have been continual and increasingly more specific charges that the system was in trouble.

Now this year we are brought face to face with the problem in no uncertain terms. President Carter is now advising us that if something isn't done the system will be defunct within five years.

The proposals to bail the system out are extremely distasteful. However we have bred a nation of dependency and what is the answer? There are so many people in America who for the past 40 years have been led down the primrose path of letting the federal government do for them and run their lives they are now almost totally dependent upon that government.

So the reasoning goes, we must take care of them for they no longer have the will or desire to take care of themselves.

Following that reasoning, then there is nothing too distasteful—nothing too bad or wrong because it must be done.

There is an increasing awareness that the price we are and have been asked to pay is too high. The price is going higher. There are fewer and fewer left to pay. Like the mythical black star, which is burned out, it finally collapses upon itself and leaves nothing but a black hole.

Who would kid themselves into believing, for example, that business can pick up another five percent of workers' wages? Carter administration officials have suggested this could be done. When you add five percent to the cost of a product, that five percent will be passed on. Who pays it? The very people who are to receive the benefits. Then the benefits must be raised to take care of the increase. Then another amount is added to pick up the increase. And so it goes, on and on, until the entire system collapses.

Statistical analysts have taken the amount an individual has paid into the Social Security system and compared it to what a private retirement plan would have produced. There is no comparison. Private won out hands down.

The government, for example, instead of keeping the fund separate, let the fund be loaned to other government agencies at as little as two percent. Would you ever have done that with your money? Absolutely not.

There probably has never been a more clear line drawn nor a more clear picture painted of what the difference between liberalism and conservatism is.

Play loose, give it away, increase the benefits without regard to the future and many more. That is what the liberals have done over the past years to our system.

A GENERAL TELLS WHY THE ARMY IS ITS OWN WORST ENEMY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. SYMMS. Mr. Speaker, the July, 1977, issue of Armed Forces Journal contains an interview with Gen. Vernon B. Lewis, Jr., retired, the youngest two-star general in the Army prior to his retirement on June 1 of this year. The article needs no further comment, Mr. Speaker, so I commend it to my colleagues in Congress at this time:

A GENERAL TELLS WHY THE ARMY IS ITS OWN WORST ENEMY

(By F. Clifton Berry, Jr.)

"My career love affair with the Army is over," Major General Vernon B. Lewis, Jr., told the Journal a few days before his 1 June retirement. The Army's youngest two-star general (46), Lewis took with him into retirement and law school studies (at Southern Methodist U.) the sign from his office door which was his guide for many years:

My oath is to the Constitution;
My obligation is to the American taxpayer;
My dedication is to my fellow soldier.

The Journal sought out Lewis because he seemed symptomatic of a growing trend we have observed, and which others have expressed concern about; an increasing tendency for the best and brightest leaders to leave the Army (and Navy, Air Force, and Marine Corps) early, rather than stay the

course. Lewis seems an archetype of the trend: a man from East Texas who enlisted in the Army on his 18th birthday, fought in two wars, earned a commission through Officer Candidate School, survived an Article 15 while a lieutenant to become a Regular Army officer, was promoted rapidly to flag rank (spending only 29 months as a Colonel and 22 months as Brigadier General), was serving in a key job on the Army staff (Director of Requirements in Operations and Plans), and who decided to retire to pursue the study of law.

Why? Was he being booted out? No; the Journal's sources were led to believe that Lewis had bright prospects: command of a field division beginning this summer, with reasonable chances of achieving a third star later.

Lewis told the Journal: "I've enjoyed growing up in the Army. But having achieved management-level rank, I have been very disappointed in what I've seen. We are an institution of committee compromise—not efficiency. The Army is manipulated by everyone but its own military leadership. The senior uniformed leaders don't seem to carry any weight. What's being created is an Army of conservatives; officers who dare not challenge the system or pursue a radical approach to problem-solving. Consequently, we move slowly at great cost."

He was asked for specifics. Why, for example, does he say that everyone but top leadership manipulates the Army?

MICROMANAGEMENT AT EVERY LEVEL

Lewis replied: "I feel as if I'm on a rudderless ship, afloat without a destination, whose names will fade into fog when it comes time to blame someone." Or to put it another way, "It's like a thousand actors on a stage, each with a speaking part, but with no script and no director. We just aren't organized to run our own show. Outsiders of all sorts are into the Army's business, micromanaging us at every level." He cited several cases, but three seem most pertinent.

"First was the XM–1 drill last July, when at the eleventh hour the Army was stopped from declaring a winner and awarding a contract, following visits from a couple of our high-level allied friends, the senior of which was facing an election. We were forced to delay the decision, and consequently the fielding of a new main battle tank—something we've been trying unsuccessfully to do for the past ten years.

"It was a political decision that broke faith with both industry and the Congress and, of course, the Army. As the initial press release indicated, Secretary of Army Hoffmann was left holding the bag. And, by the way, the Army has since had to renege on part of the political agreement—the 120 mm gun issue—because it has not yet proved better than the 105 mm gun in tests."

The second case involved the staff member from Office, Management and Budget, who challenged the Army's budget requests. "Why," he asked Lewis, "do you want to buy more tanks to use in Europe? Why don't you buy more helicopters as tank killers?" Lewis spent half a day explaining the obvious, in basic terms, to a non-decision-maker with a responsibility only to challenge—not to produce. The system, he says, is "inundated with challengers without responsibilities."

The third example involves the repeated effort by a staff member of the House Armed Services Committee (with a background at Dahlgren Labs, the Navy guided projectile developers) to force common development of laser-guided projectiles for the Army and Navy. Trouble is, as the Journal has reported (May, p. 18) the Army's 155 mm "Copperhead" program is moving smoothly and successfully, while the Navy's 5-inch program has been plagued by difficulties from the beginning, and is well behind the Army. To be common with the Navy, the Army would have to scale its 155 mm round down to 127 mm (5-inch), losing kill power. Besides, the Army will buy about 25 times as many guided rounds as the Navy—it will be the major tank killer. This staffer, in Lewis's view, has personally and unjustifiably caused delays and traumas in the Army's otherwise highly successful program for many years. Lewis says: "In my opinion, he has more power over our new programs than does the Secretary of Defense. I've watched him yo-yo the top civilian leadership in this building for two years now. In fact, when I was told to feed his ego and butter up to him last year, I said they had better get another boy. They did—I was not invited to this year's hearings. If the only way to get money for Army programs is to kiss a staffer's rear end, then I'm misreading the Constitutional charge to the Congress."

LEADERSHIP ISN'T HEARD

General Lewis was asked why the Army did not protest such micromanagement and interference. He isn't totally sure of all the reasons. But he believes in part that Army top leadership is reluctant to challenge the system—as a result, they are not being heard.

For example, Lewis was designated last November to present a briefing on Army air defense requirement to then-Deputy SecDef William P. Clements. The text for Lewis's briefing, which he and his people had prepared, was first riddled in draft by analysts in the Army secretariat, and then "coordinated" with analysts in Defense Research and Engineering. After those gentry were satisfied, Lewis was twice required to present a full-dress version of the briefing to Army Secretary Martin Hoffmann. Hoffmann made further multiple changes, some on the grounds that "Mr Clements won't like to hear that," or that some statement "is contrary to the position OSD has taken." Lewis was told not to object, to comply with the changes.

In essence, every word of the briefing was personally approved by the Secretary of the Army before it went to Clements. What Clements heard, then, was exactly what the civilians in the Army secretariat thought he should hear, and not what the Army staff had prepared. In effect, the briefing was constructed to as not to anger or offend Mr. Clements. (Lewis is prohibited by security classification from citing specifics in this case. But he told the Journal: "It was not a case of misinforming Clements; it was a case of being very sensitive not to offend him. Those Army civilians were all scared to death of him, and he was attacking our poor air defense posture.")

Why do such manipulations succeed? In part, it is because for the past decade the Army itself has been building a leadership cadre of officers who are "careerists," not professional military leaders. They are the ticket-punchers, not the fighters. Those officers worry more about their next assignment, their efficiency report, and the school and command selection lists, than in professional competence.

And then there is loss of satisfaction, of mounting frustration, as one ascends the ladder. Lewis says, "I had *pride* throughout every one of my ranks, from private thorugh colonel. Then, when I woke up one morning wearing a star, I suddenly found myself a target of criticism; identified as 'Pentagon brass.' I wondered, 'Where did I go wrong?' Then I found the ticket-punchers' conforming makes the system worse. I've honestly tried, but the frustrations at this management level are absolutely unbelievable."

Lewis considers the Army's adoption of its Officer Personnel Management System (OPMS) central to this malaise. "The centralized control of people's careers and assignments by the Army is making it more like the Civil Service with each passing day." And, where hope did once spring eternal if an officer could impress those for whom he worked, centralized command selection has stamped it out.

For example, an officer not selected for battalion command by the selection board considers himself a less-than-first-class officer, and may begin to behave accordingly. It affects his morale and performance. Before, he still maintained hope that if he got to a division, the commander might give him a battalion. Then, he could rise or fall based on how well he was doing his job—not on the total compendium of his past mistakes or accomplishments. "Also, no longer can a division commander straighten out a route-step outfit by assignment of a tough commander, because that selection is made months ahead of time in Washington."

And, mistakes are not tolerated in today's system, leading to "very conservative" actions, wherein responsibility is spread over everyone who concurred. Thus, no single person is really liable, but nothing dynamic ever gets done, either.

WHY NOT STAY IN AND FIGHT?

If Lewis is such a fighter, the Journal asked, why not then stay in the Army and try to change the direction it is headed? Why lay aside his dedication to his fellow soldier?

He said, "I had three choices. First, to agree with the system as it exists. Second, be convinced that I could change it. Third, get out." He obviously does not agree with the present trend. Could he change the Army? "I tried, believe me I tried," several things. But I had the impact of a one-gram weight on a hundred-pound mass—nil." What was the turning point; when did he realize that he couldn't change things? "Probably the XM–1 tank program last July, when it became clear that the tank design ultimately would be a political—not a military—result." For Lewis, that began the process which in his mind, inched him toward the decision he reached in April: to retire and to attend law school.

He told General Walter T. (Dutch) Kerwin, the Army's Vice Chief of Staff, of his decisions and the reasons therefor. He told his friends, too, and they urged him to stay on. But it was too late. For Vernon B. Lewis, Jr., found himself a general in the Army he perceived to have no backbone—one he could not love as passionately as he had done in years past.

So it was time to go, and he did.

HOW OTHERS SEE HIM

AFJ sought reactions to Maj. Gen. Lewis's retirement from seniors, subordinates, and peers. One three-star Army general said he felt like taking a protest sign to Lewis's retirement, saying: "No, don't let him go—he's a fighter." One of his peers wrote, "I could not even begin to guess how many thousands of people of all ranks he taught to be their own man and let the chips fall where they may." And from subordinates, the consensus: Lewis spoke frankly and fairly on all matters, they loved him, but felt that top Army leadership didn't back him on important issues.

SPACE SHUTTLE: EARTH'S LIFELINE INTO THE FUTURE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. TEAGUE. Mr. Speaker, for a number of years Mrs. Barbara Greenwood has been an articulate commentator on the significance of our national space

program. In a recent article in the Taunton Daily Gazette, Mrs. Greenwood has described what the Spacelab, being developed by the European Space Agency for use on the Space Shuttle, can contribute to science and technology. I am including Mrs. Greenwood's article in the RECORD for the benefit of my colleagues and the general public:

SPACE SHUTTLE: EARTH'S LIFELINE INTO THE FUTURE

(By Mrs. Barbara Greenwood)

It seems eons ago and yet it has been only 73 years since Orville and Wilbur Wright successfully achieved sustained flight in a power-driven aircraft. That flight lasted 12 seconds covering a distance of 120 feet which is about the length of our upcoming Space Shuttle Orbiter. And what is more unbelievable is that the initial notification of this truly great event to the world was a telegram to the Wright brothers' father!

Sixty-six years later, another American—Neil Armstrong—placed his foot on the lunar surface and this time an estimated 500 million people throughout the world saw the event on television or listened to it on radio as it happened. Historical events are exciting and awe-inspiring; however, our space program has been truly a television natural in that the visual sights produce a tickling of the mind that, at times, boggles our senses.

Our need for a new frontier is obvious to those who think of the future and that "tomorrow" is not so far away since our supply of resources and the spindly balance of Earth's atmosphere has, itself, imposed limits on the growth we can realize while bound to our plant's surface.

To restrict our civilization to Earth and thus to accept resultant limitations on our future development is illogical. (Mr. Spock, please rise!) The potential of using the abundance of materials and energy of the solar system has been already demonstrated by nearly two decades of space research.

OUR BABY STEP

We have at our fingertips the concerted effort to apply what has been learned, just yesterday, couple this with our accomplishments in space, and we can understand that the landing of the Eagle on the Moon was our "baby step" in a journey that will lead to actual colonization of first our moon and then the moons and planets of the solar system. Emigration into space will provide the peoples of our Earth options that are so desperately needed in a world that has lost the ability to expand. Such capacity for further growth is essential to human development to avoid stagnation.

High technology endeavors, of which the space program is clearly the largest, results in a significant rate of social return for this research investment spreads to other industries achieving higher industrial output and lower inflation due to the growth of labor productivity. Job spinoffs rarely occur automatically. They are an outgrowth of dynamic interactions of people—from space technologists and inventors to ultimate users of industry. A society can spend lavishly on social programs just to make jobs but, by investing in space, we are creating whole new industries.

Beginning with the next decade—1980—a promising new era of transportation will come into its own with the advent of the Space Shuttle and its ability to inexpensively transport a variety of payloads to orbit reducing the cost and increasing the effectiveness of using space for commercial, scientific and even defense needs. The very core of our Shuttle—its versatility and reusability—will command an open-seasame by Earth to an economical and routine use of space.

GOAL OUTLINED

A two-week ground turnaround is the goal for reuse of the Space Shuttle Orbiter. The nominal duration of the mission is seven days. The mission duration can be extended to as long as 30 days, if the necessary consumables are aboard. The Space Shuttle can be readied for a rescue mission launch from standby status within twenty-four hours after notification. For emergency rescue, the cabin can accommodate as many as ten persons thus, all occupants of a disabled Orbiter, could be rescued by another Shuttle. The Orbiter is designed to carry a crew up to seven including scientific and technical personnel—and the payloads.

The crew and passengers occupy a two-level cabin at the forward end of the Orbiter. The crew controls the launch, orbital maneuvering, atmospheric entry and landing phases of the mission from the upper level flight deck. Payloads handling is accomplished by crewmen of the aft cabin payload station.

And what will our Space Shuttle accomplish?

With the beginning of regularly scheduled runs of the Shuttle to and from Earth orbit in the 1980s, we will mark the coming of age in space for we now have the capability to conduct space missions in response to currently projected national and world-wide needs and the flexibility to respond to policy, discovery and innovation.

The Shuttle's primary mission right now is to deliver payloads into Earth orbit, payloads with propulsion stages to high Earth orbit or into lunar or planetary trajectories.

CAPABILITIES UNLIMITED

And it is more than a transport vehicle, for the Orbiter has the capability to carry out missions unique to our space program: to retrieve payloads from orbit for reuse, to service or refurbish satellites in space (a considerable savings in spacecraft costs), to operate space laboratories in orbit—even to revisit our own Skylab and to inspect its visible condition with the objective of reboosting it to a higher orbit with the thought of possible restaffing.

Among the kaleidoscope uses of our Space Shuttle during its operational life, which will extend beyond the 1990s, will be a wide range of applications of the environment of space and of space platforms. To begin with, we have one highly sophisticated deployment of the Space Shuttle and that is the launch of our 2.4 meter Space Telescope—our first permanent space astronomical facility.

Because of our Shuttle, we will be able to revisit our telescope at will for adjustment, maintenance and refurbishment. For the first time, we will have a telescope which will transport the astronomer's vision beyond Earth's hazy shroud; it will penetrate deep space—even to the outer fringes of the universe—and our knowledge will explode with fantastic photometric and a spectroscopic—measurements that will rapidly sort out truth and fiction.

The Spacelab, which is being developed by the European Space agency at a cost of over $600 million dollars and staffed by technically trained men and women of many nations, will be similar to earthbound laboratories but adapted to operate in weightlessness. It will provide shirtsleeve environment, suitable for working, eating and sleeping without the encumberance of special clothing or space suits. There will be facilities for as many as four laboratory specialists to conduct experiments in such fields as medicine, manufacturing, astronomy and pharmaceuticals.

EXPLORING THE UNKNOWN

Both satellites and men have special roles in exploring the other worlds of our solar system and this is where our vision must project us forward. Man goes into space to explore the unknown—to increase our understanding of the past, present and future of the universe and humanity's place in it. The exploration of the moon, during the Apollo years, has been compared to the daring conquest of the Arctic and Antarctic regions of Earth early in this century. You might say that our Apollo flights were, in reality, journeywork missions to build future manned space capability. Projects that only recently were considered impracticable now become feasible with the Space Shuttle. It seems inevitable that man will be carrying building blocks into space for solar power stations (a boom for our energy-hungry world), self-sustaining settlements into Earth orbit and surely we will return to the moon to establish permanent research bases in preparation for eventual odysseys to more distant worlds. Inhabitants of these first settlements in Earth orbit would be employed in such vital occupations as building and maintaining needed solar power stations, manufacturing of products both medicinal and industrial, thereby utilizing to the fullest potential the hard vacuum and—or zero gravity of space to the ultimate benefit of our peoples on planet Earth.

We should never forget that our space program is an essential element in keeping our nation strong—scientifically, technologically and economically—and in doing so, it is keeping us secure.

It would be prudent and wise for each individual in today's world to be ever mindful of a quotation accredited to Socrates: "Man must rise above the earth—to the top of the atmosphere and beyond—for only thus will he fully understand the world in which he lives."

H.R. 8966—THE SLUDGE MANAGEMENT ACT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. McKINNEY. Mr. Speaker, today I am joining my colleague, Congressman DRINAN, of Massachusetts, in sponsoring H.R. 8966, the Sludge Management Act. There is a vital need for this legislation, for the problems of sludge disposal transcend all physical and political boundaries, seriously affecting the cleanliness of our land, air, and water. I first sponsored sludge management legislation in 1976, and I believe there still exists a general lack of awareness regarding the severity of this problem.

All too often legislation based upon worthy goals becomes victims to a "Catch 22" situation—with the alleged solution only contributing further to the problem. Such is the case with the Federal Water Pollution Control Act (Public Law 92–500). In order to "restore and maintain the chemical, physical and biological integrity of the Nation's waters," this law requires that municipal wastewater be put through a secondary level of sewage treatment and that U.S. industries use the "best practical control technology currently available" for treatment of discharges. Unfortunately, these treatment processes create a hazardous byproduct—sludge. Sludge can be defined as a thick

foul-smelling mass made up of solid matter dispersed in many times its weight in sewage water. It consists of a mixture of organic and inorganic solids which usually make up 1 to 8 percent of the total aqueous solution. Elements often present include toxic metals, such as boron, cadmium, cobalt, copper, mercury, nickel, lead, and zinc along with various carcinogenics and pathenogenics.

The success met by municipalities and industries in cleaning our waters has resulted in enormous quantities of sludge. Municipalities produce over 300 million wet tons per year, and once all plants achieve secondary treatment the figure is projected to multiply. Moreover, industrial wet sludge production is roughly estimated to be 3 to 5 times that of municipal production.

Methods for sludge disposal include ocean dumping, incineration, landfill and land application, and each is overburdened with problems because almost all of the hazardous and toxic substances which are introduced into wastewater are concentrated in this mudlike residue. Various carcinogenic pesticides, including aldrin and dieldrin, are often present in sludge. In addition, sludge contains pathenogenic viruses and bacteria, street runoff containing automobile exhaust, and a wide range of heavy metals, many of which are unfit for consumption.

Ocean dumping, the most inexpensive method of disposal, may be the most harmful to our environment. There is strong evidence to suggest this method has resulted in the death of fish and the contamination of their environment, and it appears this residue is migrating across the sea floor back toward the shoreline.

Similarly, national efforts aimed at reducing air pollution have sharply reduced the feasibility of sludge incineration. While landfilling is a more acceptable alternative, there is a limited amount of undeveloped land available, and the area must have a water table located at least 5 feet below the bottom of the landfill to prevent contamination. The last method, land application, using sludge as a fertilizer/soil conditioner, may be the most attractive solution to the problem, primarily because it provides the potential for resource recovery. However, more research needs to be done regarding contamination of soil, crops, and ground water before a widespread land application program is instituted.

According to Environmental Protection Agency (EPA) officials, their sludge disposal program is funded at a relatively low level, somewhere around $13 million. Clearly more research and demonstration on the newest and fastest-growing environmental problem facing the United States today is needed. A sludge management program is essential, not only to regulate sludge determined to contain hazardous substances, but to determine its potential as a significant energy and materials resource.

In addition to the obvious benefits of sludge conversion to energy or fertilizer resources, the residue can also be used for the construction of containment islands. As you may know, in the past I have advocated the development of artificial islands in Long Island Sound, to provide an area for disposal of sludge and dredged materials while simultaneously developing commercial and recreational facilities for the region. Presently, the Army Corps of Engineers is conducting a feasibility study regarding this proposal and I am confident containment islands will prove to be an environmentally safe method of disposal. A comprehensive sludge management program would unquestionably aid those efforts.

H.R. 8966 is a comprehensive response to the problem of sludge disposal. It authorizes EPA regulation of potentially hazardous sludge, restoration of waterways adversely affected by improper disposal, and establishment of a research, development, and demonstration program on sludge management. I hope that more of my colleagues will join in supporting this bill, and that the Committee on Public Works and Transportation will expedite hearings. Unless serious attention is given to the problem of its disposal or resource, sludge will increasingly threaten our health and environment. It will be ironic indeed if the chemical byproduct of our water pollution control efforts is permitted to become the next generation's greatest environmental threat.

If more extensive information is desired, I recommend Congressman DRINAN's remarks inserted in the CONGRESSIONAL RECORD of July 1, 1976, page 21871, and October 1, 1976, page 35256.

ALTERNATIVES TO THE PLUTONIUM BREEDER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. BROWN of California. Mr. Speaker, on the op-ed page of today's Washington Post is a very succinct analysis of the reasons for the President's decision deferring the Clinch River breeder reactor demonstration project while at the same time broadening and strengthening our advanced nuclear research and development program. I urge every Member to read this short little article before the vote next week on my amendment to implement this very rational approach. The article follows:

ALTERNATIVES TO THE PLUTONIUM BREEDER

(By Harold A. Feiveson, Frank von Hippel and Robert H. Williams)

Opposition to the administration's decision to cancel the Clinch River Breeder Reactor Demonstration Project has now largely settled on two arguments.

The first is that a demonstrated breeder reactor deployment capability would provide crucial energy "insurance" should uranium and other fuel shortages occur toward the end of the century.

The trouble is that the price of this insurance would be sharply increased risks of worldwide nuclear-weapons proliferation. If the United States were to move ahead with its plutonium breeder demonstration program, it would be legitimizing efforts around the world, from Pakistan to Brazil, to establish nuclear-fuel cycles involving the processing of plutonium. This would allow nations to acquire nuclear-weapons materials without having to face up to the major political and security tradeoffs that have persuaded a number of technologically advanced nations not to become nuclear-weapons powers. At a moment of crisis, the decision to assemble and deploy nuclear weapons could be made and executed quickly by a small group before any political opposition—either external or internal—could get organized.

Fortunately, any real need for the breeder appears to be receding into the distant future. The likelihood that the United States or the world will run short of uranium in the next several decades now appears exceedingly remote as a result of drastic downward revisions of official growth projections for both total energy and nuclear-energy demand. In the United States, nuclear-capacity projections for the year 2000 have fallen threefold in three years.

Furthermore, it has become clear that it is possible to decrease the annual uranium requirements of currently commercialized reactors from twofold to fourfold over that being achieved with today's fuel-cycle practices.

The combination of these two developments makes it possible, therefore, for the United States to back away from the plutonium breeder demonstration program at this time and to broaden its nuclear research and development program into an examination of more proliferation-resistant technologies.

The second argument for going ahead with the Clinch River Breeder Reactor Project is that, regardless of U.S. concerns, France, Germany and Japan—all energy-poor nations—will continue development programs that will inevitably lead to the worldwide deployment of a plutonium economy.

This argument appears to us prematurely pessimistic. It is too early to judge what the ultimate response of the international community will be to the U.S. antiplutonium policy. Public debates over the breeder in France and Germany, for example, have only recently become heated enough to attract the attention of their policymakers. While breeder critics in these countries have not yet focused their arguments heavily on the proliferation issue, they are certain to do so soon.

As the concern over nuclear-weapons proliferation becomes more widely shared, the fact that there are fuel cycles more efficient in their use of uranium than present fuel cycles but considerably more proliferation-resistant than the plutonium fuel cycle will attract increasing interest. These fuel cycles, some of which utilize the relatively abundant element thorium, are well matched to currently commercialized reactors. As a result, a nation could for many decades have more uranium by shifting to these advanced fuel cycles in its current reactors than by waiting for a new generation of breeder reactors to take over.

In view of all the uncertainties surrounding the future of nuclear power, it appears likely that an evolutionary approach to uranium conservation and proliferation-resistance based on current reactor types will come to look more attractive worldwide than the economically, technically and politically more risky commitment to the plutonium breeder reactor.

Of course, it is possible that, despite all these considerations, a few nations will continue with the development and deployment of the plutonium breeder. This would make it all the more urgent, however for the United States to offer economical alternatives to the rest of the world so that the plutonium economy could be quarantined to as small a number of countries as possible. There is such a rich array of technological opportunities—both nuclear and nonnuclear—for meeting man's energy needs in the period well into the next century when the breeder could become important that we

are confident it will be possible to choose a course of energy development that allows for a more hopeful human prospect.

INTRODUCING H.R. 9054

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 16, 1977

Mr. CUNNINGHAM. Mr. Speaker, I recently introduced H.R. 9054, the Native American Equal Opportunity Act. This legislation when enacted into law will abrogate all treaties entered into by the United States with Indian tribes. All land now held in trust by the U.S. Government for Indians will be given to them.

This bill will resolve a 3-year nightmare in the State of Washington created when Federal District Court Judge George Boldt ruled that Indians are entitled by treaty rights to 50 percent of all the "harvestable" salmon and steelhead trout in the State.

After coming to Congress I found that Judge Boldt's decision is now having repercussions throughout the country. I am sorry to say this decision was made in Washington State.

It is unfair to non-Indian commercial fishermen, sport fishermen, and a dangerous threat to the preservation and protection of our fish and other wildlife. Judge Boldt's interpretation of Governor Stevens'—our first Governor of Washington territory—meaning is wrong.

Governor Stevens was asked by the U.S. Government to negotiate treaties, not declare war, on Indians in Washington territory. He created several reservations and tribes and appointed chiefs to sign treaties. The Indians demanded their continued right to fish as they always had. In turn, Geovernor Stevens also demanded fishing rights for non-Indians. In assuring Indians that though they were not losing their right to fish, Stevens wrote into the treaties that the right of taking fish off the reservation would be secured to Indians "in common with all citizens of the territory." It is this "in common" clause which Judge Boldt rested his case giving 50 percent of the fish to less than 3 percent of the commercial fishing population.

The weakness of Judge Boldt's interpretation becomes evident when one considers the wording of article III of the Yakima treaty which refers to "the right in common with citizens of the United States, to travel upon all public highways." The use of the words "in common" clearly meant, that all of us, including Indians were to have equal opportunity to use the highways. I do not think that even Judge Boldt would suggest that the Indians should have 50 percent of the highway for their exclusive use, and that non-Indians use only the other half of the highway.

Judge Boldt interpreted the treaties not as they were written but as he thinks they should have been written. The Native American Equal Opportunity Act will provide a solution to the problems created by the Boldt interpretation.

The Boldt decision is just the tip of the iceberg of Indian problems. These problems range from Indian land claims in the State of Maine to water right questions in the Southwest to tribal jurisdiction over individuals who own fee patent land on Indian reservations. H.R. 9054 gives Congress the opportunity to address these questions as well as the basic relationship between the Federal Government and Indians.

The Native American Equal Opportunity Act will end the paternal and protective role currently played by the Bureau of Indian Affairs (BIA). While intended to help Indians and Indian tribes, the BIA has inhibited the assimilation into the work force of those native Americans who wish to do so. The BIA sets Indians up as a special class of citizen which in turn leads to discrimination against native Americans.

This bill not only provides equal opportunity to Indians, it allows Indian tribes a chance to decide their own future instead of having it forced on them by the BIA. An Indian tribe may choose either to divide reservation land among its members or the tribe may form a tribal corporation to manage the land with tribe members as stockholders.

Termination of Indian treaties has a good deal of historical presidence. Teddy Roosevelt advised that we abolish the Indian reservation system long ago. During the 1950's and early 1960's termination of the Indian trustee relation with the U.S. Government was the official policy. Thirteen legislative acts established procedures for cessation of the Federal-Indian relationship with respect to particular tribes. More than 11,500 native Americans and 1½ million acres of land were affected by the termination policy.

The United States has always been a country of equals with no individual or group subjected to subordinate or special rights. Indian policy must reflect this same fairness and not continue the patchwork of separate governments scattered throughout this land.

Congress should undertake a reexamination of its role in Federal-Indian policy. At the present time the courts and the BIA are directing this policy. The Native American Equal Opportunity Act provides the perfect vehicle for the hearings-legislative process of the Congress. I invite my colleagues to study the following bill and join with me to provide an equal opportunity for all Americans.

H.R. 9054—NATIVE AMERICAN EQUAL OPPORTUNITY ACT

A bill to direct the President to abrogate all treaties entered into by the United States with Indian tribes in order to accomplish the purposes of recognizing that in the United States no individual or group possesses subordinate or special rights, providing full citizenship and equality under law to Native Americans, protecting an equal opportunity of all citizens to fish and hunt in the United States, and terminating Federal supervision over the property and members of Indian tribes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Americans Equal Opportunity Act"

SEC. 2. (a) The President of the United States shall, as soon as practicable after the date of enactment of this Act, abrogate all treaties entered into between the United States and any Indian tribe.

(b) The President, in carrying out the provisions of this Act, shall—

(1) provide that any real property which is held in trust by the United States on behalf of an Indian tribe and to which such Indian tribe is entitled, on the date of enactment of this Act, to exclusive use and occupancy shall be (A) allotted, fee simple and in severalty to the individual adult members of the tribe (as determined by an enrollment) with priority being given to those individuals with the greatest amount of Indian blood; or (B) conveyed, if a majority of the adult members of the tribe so indicate in an election, in fee simple to a tribal corporation for the purpose of enabling such corporation to hold such property in trust for the tribe;

(2) provide that all property allotted or conveyed under paragraph (1) (and all persons residing thereon and all acts committed thereon) shall be subject to the laws of Federal, State, and local governments;

(3) provide that any funds deposited to the credit of the tribe in the United States Treasury shall be (A) allotted to the individual adult members of the tribe; or (B) transferred, if a majority of the adult members of the tribe so indicate in an election, to the tribal corporation described in paragraph (1) for the purpose of enabling such corporation to hold such funds in trust for the tribe;

(4) provide that hunting and fishing rights derived by the Indian tribe from a treaty shall be abrogated, and the members of such tribe shall be subject to Federal, State, and local laws governing hunting and fishing; and

(5) provide that there be no taking without just compensation of any property right specifically created for a particular individual by any such treaty.

(c) After the completion of the abrogation of the treaties with an Indian tribe under this Act, the President shall publish in the Federal Register an appropriate proclamation of such completion. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(d) In the case of any Indian tribe with respect to which treaties have been abrogated prior to the date of enactment of this Act or with respect to which no treaties were entered into but which remain under the supervision of the Federal Government, the President shall, as soon as practicable after the date of enactment of this Act, take steps to assure that such supervision is terminated, the completion of such termination is published in the Federal Register, and the provisions of subsection (c) apply to the members of such tribe.

(e) The President shall issue whatever regulations are necessary to carry out the provisions of this Act.

(f) For purposes of this Act, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act.

SENATE—*Monday, September 19, 1977*

The Senate met at 12 noon and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Hear the words of the 71st Psalm:

In Thee, O Lord, do I put my trust: let me never be put to confusion.—Psalms 71 : 1.

Let us pray.

God of our fathers, known of old, and known to us, impart Thy grace to the people and the Government of this Nation. Deliver us from the worship of false deities and from the hypocrisy of pretending to be either better than we are or worse than we are. Make us to know who we are: simple, trustful human beings living under Thy care and Thy judgment. Be with all who serve in this Government: the President, that he may lead us wisely; the Congress, that its legislation may be in accord with Thy will; the judiciary, that they may serve mindful of Thy higher law; and be with those in the diplomatic and military services that they may be agents of peace and justice in the world. Instill in all of us that simplicity of life, that clarity of motive, that directness of speech, that trust in Thee, and love of country which were the marks of the Founding Fathers.

And to Thee we ascribe all thanksgiving and praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 19, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 16, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR COMMITTEE ON HUMAN RESOURCES TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Human Resources be authorized to have until midnight tonight to file a report on S. 1871, the minimum wage bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION TO MAKE CORRECTIONS—H.R. 422

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 422.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider routine nominations placed on the Secretary's desk in the Coast Guard and National Oceanic and Atmospheric Administration.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read sundry nominations placed on the Secretary's desk in the Coast Guard and National Oceanic and Atmospheric Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the nominations en bloc were confirmed and that the motion en bloc be in order.

The ACTING PRESIDENT pro tempore. Without objection, the motion is in order.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

HEARINGS ON MR. LANCE

Mr. STEVENS. Mr. President, in connection with the hearings on Mr. Lance, a substantial number of inquiries have come to members on the committee as to how we might vote in connection with whether Mr. Lance should be retained or not.

That issue is not before the committee. Mr. Lance has been confirmed and, as far as I am concerned, as one member of the committee, the question of whether he is retained in his position is a matter for him and President Carter to determine.

Some members of the committee are giving their advice to President Carter as to Mr. Lance, as is their prerogative. But I see no reason for us to presume that there is something that the Senate could vote upon in connection with Mr. Lance's hearings.

The only matter that could be voted upon is the question of whether the stock deadline—that is, the deadline for the sale of stock which was self-imposed by Mr. Lance—of December 31, 1977, should be extended.

I continue to hold the position that if he wishes to have that extended in order to prevent suffering a loss, because of his appointment, so long as the extension is a reasonable one, that he is entitled to that extension.

As far as I know, that is the only matter that could be voted upon by our committee.

There has been some comment made that these hearings have some relationship to the McCarthy hearings. I think the record ought to be very plain that Senator RIBICOFF, as chairman of the Government Affairs Committee, and Senator PERCY, as the ranking Republican, have been most fair. As a member of

that committee I know of no way that these hearings could be in any way associated with the tactics that were involved in the McCarthy hearings, particularly the Army McCarthy hearings.

The hearings were extended at Mr. Lance's request. He has had competent counsel in Mr. Clark Clifford. He has had an opportunity to confer individually with members of the committee. Any assertion that any member of the committee has exceeded his authority, or has conducted himself in an improper way, I think is unfounded.

Again, that is particularly so concerning Senator RIBICOFF and Senator PERCY who went to the President on their own initiative to discuss with him the question of Mr. Lance's retention in his present position.

That, I think, was a courtesy owed to the President of the United States by the chairman and ranking Republican of a committee that was about to initiate hearings into a series of charges that had been made concerning Mr. Lance's activities prior to his confirmation as the Director of the Office of Management and Budget.

But in particular, again, let me assert my position. That is, that since the Senate has nothing to vote upon, since the Senate committee has nothing to vote upon concerning Mr. Lance's position, I think it is strictly a matter between Mr. Lance and President Carter, and there should be no opinion as to how we might vote if we had a constitutional prerogative to vote.

He has been confirmed. He is the Director of the Office of Management and Budget. His continued service in that regard is a matter for the President to determine.

Mr. President, I yield back whatever time we might have remaining.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2104, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed the consideration of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for the purpose only of the receipt of committee reports, the insertion of statements, petitions, memorials, the introduction of bills and joint resolutions, and that any statements by Senators be limited to 3 minutes, and that the period not extend beyond 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements of Senators will be printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Steve McGregor and Malcolm Sterrett of the Commerce Committee minority staff and Ron Johnson of my staff be granted the privilege of the floor during the debate on S. 2104.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the following staff members of the Committee on Energy and Natural Resources be granted the privilege of the floor during consideration of S. 2104, the Natural Gas Policy Act: Daniel Dreyfus, June Diamond, R. D. Folsom, Grenville Garside, Mike Harvey, and Betsy Moler.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the following staff members may be accorded privilege of the floor during consideration of this measure: Danny Boggs, Fred Craft, Evich Evered, and Nolan McKean, Kathryn Bruner, of Senator HAYAKAWA's staff; and Doug Logan of Senator STEVENS' staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the legislation before the Senate today embodies one of the most difficult public policy problems facing our Nation.

Both the Senate and the House of Representatives have struggled for years to answer the question of how to assure availability of sufficient supplies of natural gas at an acceptable cost to the American consumer. I do not pretend that the answer to that question is an easy one. Nor do I pretend that we have all of the facts before us that are necessary to consider in answering this difficult question. But it is clear to me that we must act during this session of Congress, relying upon the facts and information that are available to us.

At the outset, it is important for Members of the Senate to see this debate in the proper context. The two issues that must be kept uppermost in our minds are: First, what must be done to assure that the Nation will have adequate supplies of natural gas in future years? Second, what will be the cost to the American economy and to American consumers of meeting that goal?

Many people believe, as an article of faith, if you deregulate the wellhead price of natural gas, thus allowing substantial price increases, plenty of gas will be available. Quite frankly, I simply do not believe that point of view. All sorts of studies have been made by both economists and geologists of what price will be necessary in the future to produce various amounts of natural gas. Simply put, neither the economists nor the geologists agree on what that magic price must be. For every study that shows prices must be deregulated, I can point to another study that shows that prices are already high enough.

I can remember when the average wellhead price of new natural gas was 19 cents per thousand cubic feet. The producers and the economists told the Federal Power Commission that 23 or 26 cents would provide sufficient incentive to produce more than enough natural gas to meet the Nation's needs. As recently as 1972, they testified that 52 cents per thousand cubic feet would again assure us of adequate supplies. Then the OPEC nations raised crude oil prices and the producers upped the ante, saying that prices in the $1.50 to $2 range were necessary. Between 1969 and 1976, interstate prices for new natural gas rose by more than 600 percent, from 19 cents per thousand cubic feet to $1.42 per thousand cubic feet. During the same period, intrastate prices rose at an even greater rate, from 18 cents per thousand cubic feet to as high as $2.39 per thousand cubic feet, better than a 1,200-percent increase.

Had the economists' predictions been borne out, we would be awash in natural gas. Instead, we have had a net decrease in natural gas production and in natural gas reserves. Even the intrastate market, which has had the 1,200-percent increase in new gas prices, has not substantially increased production. Intrastate production has remained relatively stable for the past several years, averaging approximately 7 trillion cubic feet per year.

Based on production and reserve statistics from the past few years, my skepticism about the view that increased prices will magically increase supply seems well founded. There has been no magic in the past and I can see no reason for pragmatic people to believe that the situation will change in the future.

If there is no guarantee that deregulation will produce substantially increased supplies, we must ask ourselves what is the best possible vehicle for increasing gas supplies without imposing unacceptable costs to both the American economy and to the American consumers. At my request, the Congressional Budget Office did a comparative analysis of natural gas price proposals. CBO's conclusions are extremely crucial to consider at this point. The analysis concludes:

That the size of consumer expenditures at risk under deregulation is large and that the likelihood that increased production will be substantial by 1985 is small.

CBO also concludes that deregulation of wellhead prices for new natural gas would accomplish an insignificant increase in gas production under the President's plan. The President's proposal, embodied in S. 2104, would produce 95 percent of the gas in 1985 that we would get with deregulation. However, it would siphon billions of dollars annually from the economy and from the pockets of consumers. The 5-percent increase in production would cost consumers an average of $10 billion annually between now and 1985.

Our weak economy simply cannot afford to pay the price tag of deregulation. Deregulation would mean economic devastation. We have barely recovered from the recession that resulted from the quadrupling of oil prices by the OPEC nations. The effects of deregulation would be similar. According to CBO, prices for deregulated gas would be likely to rise to between $3.50 and $5 per thousand cubic feet over the next year or two if deregulated. The Natural Gas Act as interpreted by the courts imposes wellhead price regulation solely upon gas produced in the interstate market. It leaves the intrastate market alone. As a result, there are serious aberrations in both the market and supply picture. The interstate market is hungry for natural gas. Taking the lid off all prices is not the answer. There must be a period of transition during which we can get both markets into balance. New gas prices of $3.50 or $5 are attractive to no one, least of all those of us charged with the responsibility of protecting our precarious economy.

Rampant inflation would be triggered by deregulation. CBO estimates that deregulation of new gas prices would increase inflation by 0.5 percent per year in 1977 and 1978. The inflationary impact from deregulation is equal to the inflationary impact of the entire national energy plan proposed by President Carter

In sum, deregulation of new gas prices is not the answer to this Nation's gas supply ills. It does not guarantee significant amounts of increased production when compared to the Carter plan. It does guarantee the return of a recession. I hope that in the days of debate ahead these and other important economic issues will be kept in mind by the Members of the Senate.

Mr. BARTLETT. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. BARTLETT. I thank the distinguished Senator and chairman of our committee.

The Senator said that deregulation would not do the job, that the geologists do not agree on just what price increase would come from deregulation.

I certainly agree with that statement. But I think that it is very obvious that nobody realized that OPEC was going to raise their prices. They were not anticipating those kinds of actions.

I do not think that any of the economists can or ever have been able to anticipate economic trends accurately, and sometimes they are most inaccurate. But I do not think that proves anything about deregulation.

I am trying to find another statement that the Senator made. The Senator mentioned that the prices went up in natural gas, both interstate and intrastate, and that the additions to reserves on the production did not go up.

That is true of interstate, but that is not true of intrastate.

In the State of Oklahoma, the price of natural gas went up over a period of years, and I would just bring this to the attention of the chairman.

Starting in 1972, the price average, wellhead, of new gas was 30 cents. In 1973, 51 cents; 1974, 80 cents; 1975, $1.36; 1976, $1.70; which I am sure the Senator knows.

The number of rigs during that period went up from 103 to 134 to 145 to 183 to 192, reflecting increased activity due to an increase of price of natural gas.

The additions to reserves in the first year was 393 billion cubic feet, 536 billion cubic feet, 823 billion cubic feet, 789 billion cubic feet, and finally, in 1976, 878 billion cubic feet.

The reserves in Oklahoma have increased. The production has increased. So, the free market has worked.

In the interstate market, what the chairman said is true, that the additions to reserves decreased as time went on. There was a decline, and still is, in production and, obviously, there has not been sufficient drilling to even stop the decline.

I know the Senator has made the statement many times that we are dealing with natural gas which, by its nature, as it is produced, continues to reduce the amount that can be produced the next day or the next year.

I would bring to his attention that starting in 1967 the production of natural gas was 18.2 trillion cubic feet and varied, increased gradually, during the latter part of 1960 and early 1970, up to 22 trillion cubic feet, and then has declined down now since 1973 from 22.6 trillion cubic feet to 19.2 trillion cubic feet.

But the sad thing is that during that period the additions to reserves has dropped very sharply and the percent of those additions that are interstate has dropped from 67 percent, until 1975, 13 percent, meaning that the intrastate market became more important.

But since the demand for the intrastate market is a small percentage of the demand of the United States for gas, it was not sufficient to make up for the decline.

I say to the Senator that I think that the fact that even though we have had an increase in rigs from 1970 to the present time of doubling them, obviously, it is not enough because we have had a continuing drop in production of natural gas.

We have not been able to add as many new reserves as we are producing in any recent year, and we are having less and less to produce because of the price controls on interstate gas.

I welcome the chairman's remarks on my comments.

Mr. JACKSON. I do not have available to me the figures on gas reserves in the intrastate market—the intrastate market—but I would only observe that production is not up.

Mr. BARTLETT. Will the Senator yield, just for a clarification?

Mr. JACKSON. Yes.

Mr. BARTLETT. Does he mean in the intrastate market?

Mr. JACKSON. In the intrastate market, production is not up.

Mr. BARTLETT. The production is up in Oklahoma.

Mr. JACKSON. I am talking about as a whole.

Mr. BARTLETT. It is my understanding it is in Texas, in spite of some testimony before the committee to the contrary.

Mr. JACKSON. Anyway, let me just finish what I understand, let us get the figures straight. Production in the intrastate market has averaged 7 trillion cubic feet annually over the last several years.

Mr. BARTLETT. All right.

Mr. JACKSON. But I would make this further observation. Assume the Senator is right on his reserve figures and I do not have the figures before me, but assume the Senator is right—to pay a 1,200-percent increase with no increase in production. To me, that is unconscionable, going from 18 cents per 1,000 cubic feet to $2.39 per 1,000 cubic feet.

It is a terrible price for the economy to bear, even if you assume the Senator's figures to be correct, and I would not dispute him as to Oklahoma, but the staff informs me that when you average it out, there is no really significant increase.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. HANSEN. Mr. President, it is my understanding that with respect specifically to the intrastate market, if we want to measure the effects of what might be expected from deregulation, we can very well observe what has happened in the intrastate market as the Senator from Oklahoma has been saying.

For the 5 years including 1966 through 1970, the average annual new supplies in the intrastate market were 4.9 trillion cubic feet. For the 5 years 1971 through 1975, the average new supplies discovered and developed in the intrastate

markets was 7.8 trillion cubic feet per year, or an increase of nearly 60 percent in the new supplies.

What has happened, as we make the comparisons between the first 5-year period and the second 5-year period, I think gives a signal and an illustration of what will happen with deregulation.

In other words, responding to the added incentive offered in the marketplace which was in effect in the intrastate system, the new supplies that were found went up nearly 60 percent, which is precisely the point that the Senator from Oklahoma is making.

I do not see any way that anyone can get around the argument and the inescapable conclusion that this is what the response was in the marketplace because there were no intrastate price controls.

I ask the Senator from Oklahoma if that is the point he is making.

Mr. BARTLETT. It certainly is. I thank my distinguished friend from Wyoming. He made very clearly the point I was trying to make.

I should like to go on with the additional point that the distinguished chairman, the Senator from Washington, made when he talked about the terrible price.

First, what about the people who lost their jobs last winter because of insufficient supplies of natural gas and layoffs and curtailments which would have been much worse without gas that was brought in from the producing States of Louisiana, Texas, Oklahoma, and others?

I also say to the Senator that what we are talking about here is getting additional amounts of gas to take care of the additional demand and the price of that gas under Pearson-Bentsen, which is the main vehicle that will be offered as a substitute for the administration bill or for the bill reported by the committee.

It does not have, as might have been intimated by an article in this morning's paper, contracts that would permit the new price of gas to be available for the contracts that expire.

Also, I point out that the price that would be generated for new gas available to the Eastern States and others would be slow in coming on, because only the new-found gas is going to receive a higher price from the consumers. So there is not going to be any huge amount of windfall profits, to begin with; nor, for that matter, eventually.

The Senator also knows that if there are large profits that are not reinvested in the ground for gas and development and exploration, Congress stands in the catbird seat right behind the industry; and if, in the judgment of Congress, the reinvestment of extra profits is not sufficient to find new reserves, Congress can relieve these companies of this money through taxes.

Also, I point out that what we are talking about is a wellhead price increase that will affect only the consumers price, which he pays if the utility company purchases this higher price gas. The consumer will pay only a price increase caused by deregulation, if and when the utility company from which he purchases his gas buys some new gas at this higher price.

If the utility company does not want to buy this gas, it does not have to, and it has other alternatives open to it. It can buy the gas from Canada at $2.50 a 1,000 cubic feet at the present time, which is considerably higher than most prices paid for any gas in the country and would certainly be higher no matter what the profit is. The same is true about Algerian gas priced at $3.50 a 1,000 and synthetic gas at $4 a 1,000. So the cheapest gas that will be available for increases to fill people's lines will be the domestic gas. That, we know, is going to be the case, regardless.

So I think the concern about price—and forgetting about increased supplies—is just looking at half the problem. I say to the Senator that Congress, in its wisdom, in approaching the question of natural gas, in its final decision as a group, apparently has looked at the price more than at supplies. The problem is supplies.

As the Senator knows, we need to redress the severe balance of trade deficit occasioned by the huge imports of oil that replace gas we do not find. This serious problem can be remedied only if we find additional supplies of natural gas.

I appreciate the Senator's comments. I understand that he has to leave the Chamber, and I fully agree. But I do believe that it is important to carry on this debate.

It is rather interesting to look at the number of rigs and well completions which peaked out in 1955, which was 1 year after price controls went into effect. An average of 2,686 rigs were operating that year. There were 55,922 well completions. More or less, every succeeding year there was a decline in rigs operated, almost without exception—just a few exceptions—until 1971, when there were less than 1,000; 975.

Today there are about 2,077, doubling what was operating in 1971, because of increased price mainly in the intrastate market, and showing what increased price will do.

But it is important to realize that at the time we had much more activity in oil and gas in the fifties the demand for oil and gas was only half what it is today. We also had a surplus at that time, and it is obvious that today we are not doing enough because our supplies continue to dwindle and drop off.

I know the distinguished Senator from Wyoming, the floor manager of the bill for the minority, has remarks to make and I will yield to him.

Mr. HANSEN. Mr. President, let me observe, first, that I know Senator JACKSON will be spending much time on the floor, and he regrets that he had to leave just when he did. I know he will be happy to respond to any questions that any member of the committee or any other Senator may have.

I do not believe, Mr. President, that I could do better in order to bring to the attention of the Senate the concerns I have, and shared, than to repeat the additional views of myself and Senators HATFIELD, MCCLURE, BARTLETT, WEICKER, DOMENICI, and LAXALT. Together we are the members on the minority side on the Committee on Energy and Natural Resources, and I think it is worth noting that all of us have joined together in these views.

On Tuesday, September 13, 1977, the Senate Energy and Natural Resources Committee reported without recommendation Part D of S. 1469. The committee acted after previous discussion and votes revealed that Mr. Carter's proposal would not receive the support of the committee. This should be viewed as a defeat for his gas regulation proposals. One-half of the committee members voted in favor of the Pearson-Bentsen bill, S. 256, and we are fully confident that it will prevail on the floor.

EFFECTS OF PRICE CONTROL

We have no need to recite here the problems with natural gas supplies in this country. Suffice it to say that shortages of the past winters will repeat themselves until new sources of gas come on the market.

The major cause of the shortages today, which exist only in the regulated interstate market, is the artificial pricing scheme imposed under the Natural Gas Act. This regulation has had several detrimental effects:

First, the investment in searching for new interstate reserves has declined until very recently. Reduced investment and the attendant reduction in drilling has produced additions to reserves that are substantially below the levels of consumption. The number of exploratory wells currently being drilled is well below the level of the 1950's and early 1960's. The number of rotary rigs in operation during the fourth quarter of 1976 was almost double the level of 1972, but still less than in 1961, and well below the levels of 1955-56.

Second, the artificially low price has encouraged the use of natural gas for purposes that could be served equally well by other fuels. The use of natural gas for electric generation is a direct result of low prices.

Third, artificially low prices induce waste. We are the least efficient users of energy of any industrial nation. Why? The market has not been allowed to make conservation economical. No one will pay two dollars in capital investment to save one dollar of fuel over the life of his investment. Conservation has not been allowed to pay for itself.

Deregulation would help to solve each of these problems. By providing more incentive to potential investors, more wells will be drilled and more gas will be provided. With gas priced at its true cost in the marketplace, users will be able to decide the proper type and amount of fuel based upon market forces, not on artificial Government regulation.

A Brookings Institute study of the 1978 budget stated:

The natural gas shortage is a case study of the potential for disruption when the need for adjustment to higher energy costs is camouflaged and response delayed. Because natu-

ral gas prices have been held down, more has been consumed, leaving less available for the future. The lower prices have also meant that less of the resource base has been explored and developed. The decline in available reserves has forced some consumers to do without. In the unregulated markets in the gas-producing states, on the other hand, everyone can get gas . . .

THE SUCCESS OF THE UNREGULATED MARKET

As just noted, the unregulated intrastate market for natural gas has been successful in providing additional gas and eliminating shortages. Although the gas being sold is more costly, the consumer has received a net benefit from deregulation.

With producing States, an essentially free market exists.

The rise in the price of alternative fuels and the rise in demand for gas have caused price increases. These price increases have brought forth additional supplies, have eliminated any spot shortages and have balanced the market. In fact, the market condition has been such that substantial additional gas was available on short notice—at a market price—for sale to the interstate market this past winter.

There are many dramatic examples of the increased supply made available. For the 5 years 1966–70, average annual new supplies in the intrastate markets were 4.9 Tcf. For the 5 years 1971–75, the average new supply discovered and developed in the intrastate markets was 7.8 Tcf per year—or a nearly 60 percent increase in new supplies.

In the Oklahoma intrastate market additions to reserves have exceeded production for the last 4 years, amounting to over 3.5 Tcf of reserves against 2.6 Tcf of consumption. Reserves added rose from 400 BCF in 1972 to over 900 BCF in 1974, 1975, and 1976.

In Texas, the results have been similar. There 1,056 well completions occurred in 1971. This number increased to 2,275 in 1975, and additions to reserves have increased concomitantly.

Industry and individuals have been "fleeing" toward the unregulated areas, not away from them. We believe the benefits of deregulation should be made available to all Americans. This is why we favor the Pearson-Bentsen bill.

Mr. Carter's program would extend regulation into the intrastate market. Not only would shortages in the interstate market continue, but the relatively efficient intrastate markets would be destroyed.

THE CARTER PROGRAM WILL NOT SOLVE THE PROBLEM

Mr. Carter's plan would be a harsh solution to the energy problem. He is telling us that we cannot supply fuel to heat homes, that we cannot provide the energy that is necessary for preserving our jobs, and that we will no longer pursue the amenities that make up the American dream.

Mr. Carter's plan would mean that governmental decisions would determine the uses of energy, and that other uses would have to be curtailed. While conservation is necessary, and indeed vital, given our current circumstances, we must recognize that conservation is only one part of the energy solution. We must find ways to provide the energy necessary for our use. Continued gas regulation will mean continued shortages. Deregulation under Pearson-Bentsen will provide new supplies of gas and end shortages. It is as simple as that.

The national energy plan is based on a totally fallacious premise: That every increase in the price of gas up to $1.75 would produce additional supplies, but at $1.75 the normal laws of supply are suspended. Above this price, he contends that little additional gas would be discovered until the price rises to the $4 range, when synthetic gas and other new technologies would provide new increments.

The administration's own figures belie this conclusion. As Congressmen BROWN and STOCKMAN have shown, in a report included in their views on H.R. 8444, the supply elasticities inherent in the administration's analyses indicate that up to 3 TCF in additional yearly production could be obtained by 1985 with deregulation. This conclusion is in accord with almost every other outside study that has been made.

The bill suffers from other defects. The definition of new gas would discourage the search for gas in the most promising areas for its discovery. Wells drilled within 2½ miles of an existing well would not be considered as producing new gas and would receive a price less than the $1.75 Btu related price. This definition is politically motivated, to keep as much gas as possible at low price levels, and bureaucratically motivated for ease of administration.

Unhappily, it ignores the geological facts of life. Governor Boren has pointed out that only 6 percent of the true exploratory wells drilled in Oklahoma would qualify as new wells under this definition. New gas prices should apply to any drilling that adds new additions to our reserves, whether or not it is within some arbitrary geographic limit.

While Mr. Carter's proposal is said to set a ceiling of $1.75, the Btu-related pricing policy would not allow the ceiling to rise to that level for some time. It appears that the price today under the bill would be about $1.62. While this is slightly above the maximum price now permitted by the FPC for gas wells drilled in 1975–76, it may be less than the price now being considered by the FPC for gas wells drilled in 1977 and 1978.

When the FPC set the 1975–76 price, it used estimates of drilling costs in 1976. Evidence has been filed with the FPC showing that using actual cost figures, the price for 1975–76 gas should be $1.75 and the price for 1977–78 gas should be $2.21.

The Brookings Institute also examined Mr. Carter's plan in its analysis of the 1978 budget. The analyst, Milton Russell of the environmental organization, Resources for the Future, concludes as follows, page 325:

[The Carter proposal] in some ways makes the situation worse than it is at present. If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled.

In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled.

And the well-respected National Journal, in an article by economics writer Robert Samuelson states:

Ultimately, Carter's natural gas program risks increasing dependence on high-priced energy imports, worsening pollution from coal and aggravating fuel scarcities.

We agree.

DEREGULATION WILL BENEFIT CONSUMERS

Opposition to Pearson-Bentsen has been concentrated on attacking its supposed damage to consumers. Nothing could be further from the truth. Pearson-Bentsen will aid the consumer in several ways.

First. Pearson-Bentsen will supply more gas.

As opposed to Mr. Carter's program, deregulation as proposed in Pearson-Bentsen will be of enormous benefit to the consumer. Consumers need gas. Deregulation and increased exploration will provide that gas.

USGS studies, National Academy of Science, studies, and industry studies, have all agreed that there is a great deal of gas remaining to be recovered if producers can charge a price that will justify drilling for that gas. Studies made by independent economists as well as industry experts are in broad agreement that several trillion cubic feet of additional yearly production can be obtained by 1985 under deregulated prices. This gas would go far toward reducing our current shortages.

Second. Pearson-Bentsen will save consumers money.

Congressmen STOCKMAN and BROWN completed an analysis of the data supplied in support of Mr. Carter's bill that showed a savings to consumers of $48 billion under deregulation as opposed to the White House proposal. Mr. Carter's figures claimed a $71 billion cost of deregulation, but were wrong in several areas: First, they allowed no increase in supply as a result of the increased prices and increased drilling. Second, they failed to calculate any cost for the replacement energy that the consumer must use in lieu of the shortage of natural gas. Any replacement fuel, whether it comes from oil, LNG, synthetic gas or electricity, would be substantially more expensive than the gas it would replace. And third, they failed to take into account the increases in the incremental cost of the remaining gas due to the necessity to pay for the transportation and distribution facilities through a small number of units of gas. The 13-year energy costs under deregulation were calculated to be $414.2 billion, as opposed to $461.8 billion under Mr. Carter's plan.

A study released this week by Professor Erickson of North Carolina State University, a witness before the House Subcommittee on Natural Gas, comes to

the same general conclusion, and shows that the ultimate cost to the consumer of continued regulation will approximate $100 billion between 1978 and 1990. Even deliberately choosing assumptions unfavorable to deregulation reduces this benefit only to about $50 billion.

Third. Deregulation will stem our increasing oil imports.

Deregulation will provide an alternative to increasing imports of Arab oil. Failure to increase our domestic production of gas leaves us only one alternative, and that is to increase the use of oil, or very expensive electricity. Failure to increase domestic production guarantees the Arabs a market for their oil.

The National Journal has stated:

> One almost certain consequence of holding down prices would be to fan demand for foreign fuel. . . . Unfortunately, all Congress can do to check foreign supplies is to assure maximum production from United States reserves. This it refuses to do.

And failure to increase domestic drilling creates jobs on drilling rigs in the Middle East, not in America. The effect on our balance of payments and our national security is devastating. This year's oil imports are estimated to cost $40 billion. A decrease in this figure as a result of deregulation would be welcome.

Fourth. Deregulation will save jobs.

American employment depends heavily on natural gas. As was shown this past winter, if the flow of gas stops, so do paychecks. A July 1977 analysis of natural gas policy by Prof. Robert Pindyck of MIT focused on the loss of employment and production caused by continued shortages under regulation. Those calculations show that the difference in gas supplies between Carter's plan and a plan of even phased deregulation would mean a difference of about one-half million man-years of employment and $33 billion in GNP between now and 1985.

Fifth. Deregulation will help the environment.

The National Journal has evaluated this fact succinctly:

> In the end, environmentalists may most regret Carter's policy. Natural gas is the nation's cleanest fuel, coal the dirtiest. Carter hopes to cure the natural gas scarcities through a rush to coal.

As Barry Commoner and other environmental spokesmen have noted, the more gas we can develop, the more we reduce the need for large new construction of nuclear and coal-fired electric generation and for other, more environmentally damaging exploration. By making full use of our existing gas network we diminish pollution and other future environmental impact.

The bottom line in the question of deregulation of natural gas is what will benefit the consumer. We will not benefit the consumer by depriving him of supplies. Forcing the consumer off of gas and onto electricity at three or four times the cost or onto oil at twice the cost will not save him one nickel.

A low price for home natural gas heating will not benefit a person who loses his job due to the lack of fuel for his plant. And it will not benefit his neighbor who cannot get a gas hookup and pays far more for electric heat. A lower pipeline price of gas will not compensate the consumer for the expensive pipeline cost of carrying fewer units of gas and the price of substitute oil and electricity.

THE SUPPOSED DRAWBACKS OF DEREGULATION ARE BASED OF FALSE ASSUMPTIONS AND BAD LOGIC

Much of the rhetoric supporting Mr. Carter's energy program has been couched in terms not of support for his concept of regulation, but in opposition to deregulation. This could be considered a flimsy basis for a legislative program. And most of this opposition is based on false premises or hasty conclusions that are not supported by the facts.

The administration originally attacked deregulation with the infamous $71 billion ripoff statement by the President. As it developed, this was premised on a study that assumed not one speck of gas would be found by any price above $1.75, and which assumed the rapid decontrol of gas under existing contracts. After the Stockman-Brown analysis of it, which we previously summarized, this fallacious material appears to have been given a quiet burial, and a study by the Congressional Budget Office has been exhumed to serve in its place.

This study suffers from similar deficiencies. The study uses a $4 price for new gas, which is unsupported by any previous analysis, and is far above the uncontrolled price anywhere. The study is based on allowing the full deregulated price for all expiring contracts, which is not contemplated by Pearson-Bentsen. This assumption alone invalidates most of the figures used in the conclusions. The study also uses a cost for replacement fuel approximately 56 cents per MCF equivalent. If replacement fuel is that cheap, why is anyone looking for gas? This is just another invalid assumption made in an attempt to discredit deregulation. Finally, the study assumes that even under deregulation, drilling could not increase beyond 10 percent per year. We increased total drilling more than that last year, and successful exploratory gas footage increased at more than 16 percent for each of the last 6 years on average.

The CBO study does show that there is considerable elasticity in gas supplies. Their own charts seem to indicate that deregulation would lead to finding enough gas each year by the early eighties to balance with what we use. This is something that we have not done since 1967.

One of the common fears expressed of deregulation is that it will lead to rapid escalation of consumer prices. While there will be price increases on the interstate market, several factors will help hold them down.

The existing lower prices of gas already under contract will protect the consumer from the full brunt of the increased wellhead price. The Pearson-Bentsen bill provides only for the deregulation of new gas. Thus, gas flowing under existing contracts will continue to be priced as it is now, and higher costs can occur only if new supplies are found. As new gas is slowly added to the system, the price will gradually increase.

There will be no drastic increase in consumer price. Additionally, the wellhead costs of the gas is only about 20 to 40 percent of the cost that residential consumer pays at the burner tip, depending on location. The remaining amount is the cost of transportation and distribution, which will not increase as a result of this legislation, and may even decrease somewhat through fuller use of existing facilities.

A further factor limiting price increases is the cost of other fuels. As gas prices rise toward Btu equivalent levels, users, especially industry, will examine other fuels. The price will be limited by consumers unwilling to pay costs higher than alternatives, and by decreases in demand as conversions occur. It should be noted that prices on the intrastate market have repeatedly stabilized at or below the Btu equivalent price of oil.

Also, the Pearson-Bentsen bill calls for phased deregulation. While price controls on new gas onshore would be lifted immediately, new gas offshore would remain under regulation for an additional 5 years. Since the Outer Continental Shelf offers the potential of the geratest additions to our natural gas supply, the phasing out of price controls on offshore gas will further soften any consumer cost impacts of deregulation.

The final fear expressed about deregulation is that gas companies will make windfall profits. The figures do not lend credence to this fear.

Despite the increase in prices on the intrastate market, no one has pointed out companies that are making exorbitant profits. The increases in income have by and large been returned to be invested in the search for new supplies. An examination of the rates of return on investment for major oil companies, who are also major producers of gas, shows that their rates of return are similar to those for all of American industry. A June 1977 FEA study showed that 44 representative oil companies returned 14.3 percent on stockholer's equity in 1976, compared to 15 percent for 2,000 nonpetroleum manufacturing companies. This also compares to 16 percent for major media companies, and 18.4 percent for the Washington Post.

CONCLUSION

The policy of Congress should be to help, not hinder, the energy production Americans need to pursue their needs, their hopes and aspirations, and to lessen, not increase, our dependence on foreign sources of energy. Deregulation is the only way to accomplish this end. We have argued that the horrible side effects conjured up by opponents are just that, conjury. But should abuses occur, this Congress is fully capable of taking the steps to redress such situations without leaving our usable resources in the ground while we ship our money (and jobs) to foreign countries.

Deregulation of new supplies of natural gas under the Pearson-Bentsen bill will help to solve the energy crisis. Deregulation will help to bring new sup-

plies of gas onto the market. Deregulation will help consumers make decisions on use of fuels based upon their true cost. Deregulation will save the consumer money in the long run by preventing costly conversions to alternate sources of fuel. Deregulation will help reduce our dependence on imported oil. And deregulation will help provide the energy to fuel industry, and provide jobs. We urge you to support the Pearson-Bentsen bill and deregulate new gas.

Even if you are not fully convinced of the merits of the Pearson-Bentsen approach, a choice must be made among uncertainties. An old story illustrates the point.

A lady went to the butcher for hamburger, and complained when she found it was $1 per pound. "But Smith down the street sells it for 50¢." The butcher acidly replied, "Then why don't you go to his shop?"

The lady sighed and said, "Because he doesn't have any." "Look, lady, when I don't have any, I sell it for 25¢!"

It may be politically attractive to mandate low prices today, but tomorrow we will pay the consequences. Which is worse—the prospect of slightly higher prices, with adequate supply, or low prices, with inadequate supply?

I yield to the distinguished Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I commend the Senator from Wyoming for a very fine statement that outlines the many and various reasons for deregulation and the reasons why a fixed price, controlled price, is unworkable.

Recent allegations that natural gas deregulation would amount to a ripoff of the American consumer are fraudulent, misleading, and unfair to the American people. Deregulation of new natural gas in interstate commerce is the only course of action which will guarantee adequate supplies of natural gas to the consumer at a fair and equitable price.

Because existing natural gas contracts will not be affected by deregulation of the price of new natural gas, the consumer will pay an increased price on only that portion of gas purchased by his supplier under new interstate contracts. In other words, the increased price is averaged, or rolled-in, with old, controlled prices. If the supplier cannot—or chooses not to—purchase additional, higher-cost gas supplies, the consumer's bill will not be increased by deregulation.

In an effort to justify its case for continued extended price regulation of natural gas, the administration has asserted that a rising price will elicit no substantial new supplies of natural gas. This assertion has been repeatedly refuted by producers, industry users, consumer groups, and the Federal Government itself. Study after study demonstrates the presence of enormous untapped domestic natural gas resources, which lack only a market-clearing price structure to turn them into reserves.

There is as much conventional natural gas—hundreds of trillions of cubic feet—awaiting discovery as we have ever used. Many an independent study has demonstrated this fact.

The President's national energy plan falls tragically short of fully confronting this Nation's energy problems. While recognizing the need for stringent energy conservation measures, the President totally ignores the need to spur energy production in this country. The President cannot possibly meet his stated goals through his proposed measures alone. Only by encouraging increased energy production through price incentives can the President hope to achieve his admittedly ambitious goals.

Perhaps the most nonsensical portion of the President's natural gas policy is the provision calling for the extension of Federal price controls to the intrastate natural gas market. The intrastate market, the only portion of this country's energy industry having escaped Federal regulation, is the only healthy segment of the energy economy. The free, unregulated intrastate natural gas markets of the producing States have clearly demonstrated the price responsiveness of natural gas supply. As demand rises, prices rise gradually with them, causing more wells to be drilled and more reserves to be found. Healthy intrastate natural gas demand is responsible for the recent upturn in natural gas exploration and drilling. Intrastate natural gas reserves in Oklahoma and Texas, for instance, responded to demand and when the market reached saturation, prices stabilized and fell. This is a clear demonstration of the free market at work, and an indication that not only are gas reserves price responsive, but that additional supplies are available at reasonable price levels.

The allegation that new natural gas deregulation would constitute a windfall profit scheme for a selected few large holders of natural gas reserves is fallacious for at least two reasons. First, there are around 10,000 natural gas producers in this country; no new companies dominate the market. Indeed, independents drill 85 percent of the wildcat exploratory holes in this country.

Second, existing natural gas reserves holdings are irrelevant to the question. What is proposed is the deregulation of the price of new natural gas. Thus, only newly discovered natural gas reserves would qualify for unregulated, market-clearing prices.

"Newly-discovered" natural gas must be defined realistically, according to historical industry tradition, rather than through a narrow and arbitrarily drawn geometrical delineation. Failure to do so will thwart the purpose of price incentives for new discoveries, and will work to reduce the potential natural gas supply additions.

In considering the true "cost" of deregulation, we must weigh not only the total number of dollars consumers will spend for natural gas in the years ahead, but we must also balance that against the costs of meeting our energy demand with other sources of energy. No one will argue the fact that the price of deregulated new natural gas will be much less than that of LNG, SNG, or heating oil, or any other substitute for natural gas. I know of no informed consumer who is unwilling to pay a little more to insure adequate future supplies of natural gas, rather than face worsening shortages due to a federally suppressed market, with markedly higher prices for whatever substitutes might be available.

With regard to producer profits, I am disconcerted and puzzled at the position taken by industry antagonists. Where else but through net income can operators in the energy industry accumulate the massive amounts of capital necessary to find and produce our future supplies? Companies are already stretching their borrowing capacity, and that capacity is constrained by corporate profitability. The only practical way industry will be able to form the hundreds of billions of dollars of necessary investment in the coming years is through the removal of artificial Federal controls on the prices of produced energy supplies.

To insure adequate future supplies of energy, to curtail our growing dependence on foreign energy sources, to maintain a stable economy and insure growth of job opportunities, to maintain a strong national defense and provide for the public welfare, we must free the energy marketplace of Federal intervention and control.

In just a few minutes, I shall yield the floor.

Mr. PEARSON. Mr. President, during the course of the next several days, we will be debating and voting on comprehensive natural gas legislation.

This issue is not new to the Senate. For the 5 years prior to 1977, the Senate Commerce Committee held numerous hearings and acted on a variety of natural gas bills pending before it. In October of 1975, the Senate passed by an overwhelming margin of 58 to 32 the so-called Pearson-Bentsen natural gas deregulation bill. In January of this year, the Senate passed the Emergency Natural Gas Act of 1977 which authorized temporary purchases of natural gas by interstate pipelines from the unregulated intrastate market. But still, we have failed to come forward with a permanent solution to overcome our spiraling natural gas shortages.

The need for comprehensive reform of the Natural Gas Act is well documented. No one can forget the hardship experienced last winter when gas-starved interstate pipelines were unable to meet customer demand. Had proper steps been taken prior to last January and February's record cold to assure adequate supplies of natural gas for the interstate marketplace, millions would not have been forced out of work, thousands of school closings would not have occurred, acceleration of foreign oil imports would not have been nearly as great, and extensive social and economic disruptions would not have taken place.

The situation facing many of our interstate pipelines remains dismal. Most recent FPC estimates indicate that natural gas curtailments will be 3.8 trillion

cubic feet for the year April 1977 through March 1978 compared to actual curtailments of 3.38 trillion cubic feet for the previous 12-month period. Pipelines will be able to deliver only 73 percent of the natural gas they are committed to deliver to customers this year.

Proved recoverable reserves of domestic natural gas were estimated at 290 trillion cubic feet in 1970. By the end of 1976, the same reserves had diminished to 215 trillion cubic feet, a decline of 26 percent over 6 years. In the period 1970 to 1975, natural gas reserves dedicated to interstate pipelines declined from 174 trillion cubic feet to 107 trillion cubic feet—a difference of 38 percent. Since 1967, U.S. consumption of natural gas has annually outstripped additions to reserves with the exception of 1970 when Prudhoe Bay gas was added to our reserve inventory.

Annual domestic natural gas production peaked in 1973 at 22.6 trillion cubic feet. In 1976, producer sales had dropped to 19 trillion cubic feet. At the same time, domestic producer sales to major interstate pipelines decreased from a high of 12 trillion cubic feet in 1973 to approximately 10 trillion cubic feet in 1976.

One need only look to the unregulated intrastate marketplace, which has not suffered from severe natural gas supply shortages, to realize the benefits of allowing competitive pricing for an available commodity. Investors are attracted to a free marketplace not hampered by Federal regulation and price controls. It is time to rectify the disparity between regulated and unregulated markets and to return certainty to the Nation's natural gas supply situation.

Mr. President, the natural gas supply crisis of last winter is strong evidence that the Congress no longer has the luxury of endless debate on the natural gas issue. We are less than 2 months away from the beginning of the new winter heating season.

Everyone in this Chamber will recall the pledges made during the debate last January on the Emergency Natural Gas Act—that prior to the end of this session the President would have on his desk a comprehensive natural gas policy passed by the Congress. This would be a policy that would assure adequate supplies of natural gas throughout the Nation at reasonable prices. This would be a policy that would reverse the deepening and pervasive trend of natural gas curtailments. This would be a policy that would assure efficient use and conservation of our most valuable energy commodity. This would be a policy that would promote the national interest and would be a key element of a workable national energy plan.

The Senate currently has two basic choices before it. The first is to remove restrictive Federal price controls from the wellhead production and sale of new natural gas in interstate commerce. The second is to perpetuate the current 23-year-oil policy which has resulted in severely diminished supplies of natural gas and to extend that policy to the previously unregulated but extremely productive intrastate natural gas market.

As I have mentioned, the Senate in October of 1975 passed the Pearson-Bentsen natural gas bill. Senator BENTSEN and I have joined together once again to set forth a proposal to deregulate the wellhead price of new natural gas produced from onshore reserves, to phase out the wellhead price regulation of new natural gas produced from the Outer Continental Shelf lands, to provide a statutory priority for essential uses of natural gas in agricultural and industrial processes, to extend certain provisions of the Emergency Natural Gas Act to assure that in the near term consumers who are dependent on gas-starved interstate pipelines will be adequately served, and to prohibit inflationary pressures wherever possible.

Also pending before the Senate is a measure supported by the President. The Administration proposal ignores the lesson of last winter when severe economic and social disruption was avoided only because regulated interstate pipelines were able to make emergency purchases of natural gas from the unregulated intrastate marketplace. The President's proposal would statutorily set prices that are inadequate for the exploration and development of new dedications of reserves to interstate pipelines and would extend the same restrictive price controls to the traditionally unregulated intrastate marketplace.

Mr. President, the proposal which Senator BENTSEN and I are supporting contains many provisions similar to the original Pearson-Bentsen bill which passed last Congress, but which have been refined and strengthened to reflect changes experienced over the past 23 months.

In order to alleviate the natural gas shortage over the long term, the wellhead price of new natural gas sales in interstate commerce would be decontrolled under our proposal. The impact on the consumer will be minimum by deregulating immediately only new natural gas sold from onshore lands and phasing in the decontrol of new sales from the Outer Continental Shelf. It is important to emphasize that if no new gas is found then no price higher than current FPC rates for regulated interstate sales will occur.

Old, flowing natural gas would remain under Federal rate regulation. There is no attempt to provide a windfall to producers of old natural gas. New wells in old reservoirs would be allowed new natural gas treatment only if the existing, dedicated reservoir is extended.

The Pearson-Bentsen proposal contains other provisions which will assure an adequate supply of natural gas for appropriate uses. The Emergency Natural Gas Act is extended for 2 years which will continue to facilitate immediate and substantial deliveries of surplus intrastate natural gas without jeopardizing the nonregulated status of the sellers. Provisions are contained in the bill which will prevent a shifting of the interstate shortage to the producing States.

Our proposal establishes priority-of-service categories for essential users in time of curtailment including high priorities for agricultural and essential industrial end-users. This provision will provide certainty for those end-use categories which rely upon an adequate supply of natural gas and which cannot shift to alternative fuels such as coal.

If the wellhead price of new natural gas is decontrolled, the consumer will benefit from increased supplies and reduced gas transportation charges per unit of delivery; the consumer will benefit from lower-priced natural gas when compared to alternate fuels due to the averaging-in of cheaper flowing gas; and the consumer will benefit from the renewed availability of clean, efficient fuel for a variety of industrial and commercial uses.

There is some question as to whether the Pearson-Bentsen proposal will cost consumers more for energy consumption, I would note that Secretary Schlesinger has claimed a $71 billion cost of deregulation.

These administration figures are totally off base; First, they allow for no increase in supply as a result of the increase in drilling due to the incentive of deregulation. Second, Secretary Schlesinger failed to calculate any cost for the replacement energy that the consumer must use in lieu of the shortage of natural gas. Any replacement fuel, whether it comes from oil, LNG, synthetic gas or electricity, would be substantially more expensive than the gas it would replace. Finally, the administration failed to take into account the increases in the incremental cost of the remaining gas due to the necessity to pay for the transportation and distribution facilities through a smaller number of units of gas.

Mr. President, a study released this week by Professor Erikson of North Carolina State University shows that the ultimate cost to the consumer of continued regulation will approximate $100 billion between 1978 and 1990. In addition, Congressmen STOCKMAN and BROWN recently completed an analysis of the data supplied in support of Mr. Carter's bill that showed a savings to consumers of $48 billion under deregulation as opposed to the White House proposal. The 13 year energy costs under deregulation were calculated to be $414.2 billion as opposed to $461.8 billion under President Carter's plan. These studies are strong evidence that the administration's allegations are without substance.

The administration's argument that there is little if any new natural gas to be found is ridiculous. I am convinced that deregulation of new natural gas will result in increased supplies of this essential commodity for domestic consumption. Most industry and government experts indicate that there are between 600 and 900 trillion cubic feet of conventional remaining recoverable reserves—volumes of gas which at present-rate consump-

tion will carry us well into the next century. Furthermore, we are told that nonconventional gas resources, such as Devonian shale and geopressurized brine, if and when they become technologically and economically recoverable, would significantly expand the known natural gas supply base.

Continuation of current policy concerning the pricing of natural gas production will not result in these reserves being developed. Unrealistically low Federal price controls over natural gas production have prevented the capital investment necessary to make an adequate supply of natural gas available to the interstate marketplace through expanded exploration and development efforts. Uncertainty as to future Federal policy has restrained the more costly production of natural gas from remaining reserves.

In contrast to the Pearson-Bentsen proposal, the administration's natural gas supply proposal will do little to reverse the critical natural gas supply situation. The administration's proposal—instead of deregulating the wellhead price of new natural gas—would expend Federal control to the previously unregulated intrastate market. If 23 years of Federal regulation over interstate natural gas production have demonstrated anything, it is the simple economic fact that price controls will impede supply and accelerate demand for cheap but nonexistent energy commodities. Adequate economic incentives will encourage development of more costly natural gas resources located deeper in the earth and further offshore than presently producing fields, and in frontier areas such as Alaska.

Other facets of the President's natural gas program are also counterproductive. Tying the price allowed for new natural gas to the weighted average price of all domestic crude oil would continue the policy of unrealistically low prices for our Nation's most efficient and desirable energy resource.

The definition of new gas is overly restrictive and when coupled with an unrealistically low price ceiling, will provide no incentive for developing new resources. Furthermore, restrictions placed on end-users of natural gas are overburdensome and impossible to administer. Finally, extensive mandatory interconnection and allocation authority would only further exacerbate the situation.

Mr. President, in summary, the natural gas proposals put forward by the administration:

Ignore the potential for finding, developing, and delivering new supplies of natural gas;

Extend to the entire national market permanent ceiling prices below the cost of finding and developing new supplies;

Write-off our domestic natural gas reserves and increase our already critical dependence on foreign energy supplies; and

Refuse to recognize that full development of domestic supplies will have the advantage of using existing pipelines and distribution systems, consumer investments, increased domestic employment, and improve the Nation's balance of payments, and enhance air and water quality.

I believe it is clear that we have only one choice with respect to formulation of a comprehensive and workable natural gas policy. The Senate has adopted such a policy in the past and I urge this body to do so now. A national energy policy that ignores the need for producing available domestic reserves is doomed to failure.

Mr. President, the only correct choice for the Senate in this matter is favorable passage of the Pearson-Bentsen natural gas proposal.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:30 p.m. today.

There being no objection, the Senate at 1:41 p.m. recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Mr. METZENBAUM is recognized.

Mr. METZENBAUM. Mr. President, today we commence a debate with respect to a matter of regulation and deregulation of natural gas, an issue that has been before this body, the Congress of the United States, for a period of better than 25 years. The issue relates to a question of how many dollars it will cost to deregulate natural gas. Will it cost any dollars to deregulate natural gas? And if we do or we do not, what will be the impact upon the economy, one way or the other?

There are those who have argued, over the years, that if we deregulate natural gas, it will produce more natural gas. There are many who take issue with that, including myself.

There are those who say if we deregulate natural gas, there will be more natural gas within a period of 5 years. There are some who have tongue in cheek about that approach.

The price of natural gas was 17 cents per thousand cubic feet, just a few years ago. Then the price went up to 51 cents per thousand cubic feet, as set by the Federal Power Commission. Did more natural gas come to the marketplace? Indeed, it did not.

Then the price was adjusted by a few cents, to a price of approximately 54 cents or 56 cents, for an inflationary factor. Again, there was not any more natural gas.

It was in 1976 that the Federal Power Commission threw aside the whole issue of cost-based pricing and said that the cost was not a factor and came to the conclusion to set the figure at $1.42 per thousand cubic feet. Again, there was not more natural gas.

There were those who argued, well, there were more holes dug and there was more effort to obtain more natural gas. But there also was a great body of evidence which indicated that, instead of more natural gas coming to the marketplace, there were those in the natural gas industry—principally the oil companies of this country—who, according to independent investigations, saw fit to withhold their product from the marketplace. When the Federal Power Commission made an investigation, they found that there was an unlimited—not an unlimited, but a tremendous—amount of natural gas available in some of the natural gas fields of this country, but it was not coming to the marketplace.

(Mr. DURKIN assumed the chair.)

Mr. METZENBAUM. When the U.S. Geological Survey made its study, the same conclusion was reached. When other studies were made by committees of the Senate, committees of the House, the Department of the Interior, and various other bodies who have given their attention to this subject, almost with no exceptions, every one of those studies indicated that there was natural gas available, but those who had control of it did not see fit to bring it to the marketplace.

Now, this issue has again come before the U.S. Senate and it has been debated at length, before the Committee on Energy. The Committee on Energy and Natural Resources was unable to resolve the fundamental question as to whether or not some form of Federal price regulation over new natural gas is in the best interest of the Nation. After carefully examining the arguments and the available data on this matter, certain other members of that committee and I have concluded that continued natural gas price regulation must be an essential part of our national energy program.

Advocates of deregulation maintain that an end to Federal price controls will provide gas producers with incentives they now lack to increase production. They concede that deregulation would mean higher prices for consumers, but they argue that these higher prices will induce producers to bring far greater supplies into the market. A careful look at recent history demonstrates that only part of this argument is unquestionably correct, that part about higher cost to consumers.

Time and again, independent analysts have concluded that deregulation would mean sharply higher gas prices. In January 1976, for example, the General Accounting Office estimated the cumulative additional consumer cost of deregulation for the 10 years between 1975 and 1985 at $75 billion in constant 1975 dollars. That is the cumulative additional consumer cost of deregulation.

On September 6, 1977, the Congressional Budget Office published another study of deregulation. According to the CBO researchers, by 1985, the national

cost of the same quantity of fuel would be more than 35 percent greater with deregulation than with the plan proposed by the administration, which, itself, provides the industry with what many consider to be excessively generous production incentives. Further, the CBO projects that, by 1980, deregulation will cost American consumers $162 billion more than the administration program.

Just this past weekend, the staff of the Joint Economic Committee provided another estimate of the enormous cost that deregulation would impose upon American consumers—an additional $25 billion per year as early as 1980.

Mr. BARTLETT. Will the Senator yield?

Mr. METZENBAUM. For a question or for a speech?

Mr. BARTLETT. It is a sort of stated question.

Mr. METZENBAUM. I yield to the Senator from Oklahoma.

Mr. BARTLETT. I point out to the Senator that in that figure of $25 billion extra cost, the comparison there apparently is made to a deregulation bill that, as far as existing contracts are concerned, would permit them to be considered as new gas. The principal amendment being offered for deregulation is the Pearson-Bentsen amendment, which does not have that provision in it. So I think that, when the statement is made just generally against deregulation, someone might think the Senator from Ohio is referring to the Pearson-Bentsen amendment. I just want to point out that that statement that was in the paper this morning would not be applicable to the Pearson-Bentsen amendment.

It also would not be applicable to other amendments because it does not consider the value to the consumer that comes from deregulation because of the reduction in the amortization of the pipeline, due to the fact that a larger percentage of the pipeline would be in use through deregulation—that is, in use without it; in other words, with the declining production at regulated prices, the cost to the consumer increases for the nonuse of that line.

Also, I think that there is no consideration given in that figure for the roll-in effect of the price which is only going to take effect with the new gas found and the roll-in with the existing contracts. I do not think it included that.

I think it also gives a fictitious picture of the impact of a deregulated price because of the fact that the increased price of deregulated gas is a small part of the total.

So when we think of percentages—and the Senator was using a round figure—the percentage increase is not so great in the total price.

The Senator is also not mentioning that there would be additional gas for that price regardless of the cost situation.

In other words, there is no cost increase unless someone receives gas for it.

Mr. METZENBAUM. I consider the Senator from Oklahoma quite an authority in this area, and many others as well. Would he be willing to indicate to the Senate what he has estimated would be the additional cost if the Pearson-Bentsen bill is passed as it pertains to the consumers of this country, how much would they pay in additional charges?

Mr. BARTLETT. I have always hestitated to use a figure because I do not think anybody really knows. So when someone else uses a figure, I do not necessarily pay too much attention to it.

But I think this, which I think is important, that it would very definitely be less than any other means of providing significant amounts of gas to a pipeline.

In other words, if we are going to supply those additional amounts by importing liquefied gas from Algeria, or imported gas from Canada, or synthesized gas from synthetic processes of coal, the price of the additional gas that would be available by deregulated price of natural gas would be cheaper, and I think far cheaper.

I think that is important because I know in Ohio, since Oklahoma happened to provide the use of gas this winter when they were in a great desperate situation, it was at the price which the people who sold it could find additional gas to replace that which they sold to Ohio, that it was available and it was needed.

I think it is impossible to tell exactly, but I have looked at lots of estimates and I think that the estimates vary considerably from one end of the spectrum to the other. I personally do not think it is going to be a very significant amount.

First, the amount of gas that comes on the first year, in my opinion, will be very small, because people will be trying to find gas because of new incentives and they will drill a bunch of dry holes. But they will find a few wells, I say to the Senator from Ohio.

But the few wells they find, the fields will not be fully exploited and developed, therefore the amount of gas coming on the first year will be rather insignificant. It will be a little more significant in succeeding years.

But I say this to the Senator in talking about the increase in cost, if in the opinion of the Congress the oil companies do not invest or reinvest the extra profits they get from the higher price by drilling in more fields and doing exploring work, the Congress is sitting in a catbird's seat where they can very easily remove those extra profits by taxes.

So if the deregulation does not work and does not bring on either additional activity in drilling, and that drilling is not successful, or of course, if it is not successful there will not be additional charges, but is not very successful, the Congress can take action if it so desires.

On the other hand, there is going to be opportunity for Ohio and the other States to have a chance of obtaining additional supplies if their utility companies want to pay for these additional supplies. If they do not want to, they do not have to. If they do, then the consumer in Ohio is only going to be paying a higher price on that gas that is charged at a higher price, that is new, and that would be rolled in to all the other existing contracts.

So it is going to be a rather small increase for him because the other contracts will still be valid and be at the lower price.

So I do not see the concern of a jump in the price to the consumers.

In other words, he is not going to be able, in most instances, to buy only new gas at the higher price. He would be buying a little bit of new gas as well as a lot of old gas at the old price.

So the higher-priced gas would be a rather small part of the total.

The impact will be a rolled in, gradual impact, and it is only going to be in effect on him if he has additional supplies available to him.

If there are no additional supplies found, or very few, as some people claim, there will be no higher price for that gas because it has not been discovered.

So the people that say there is not the gas there to discover, I think have nothing to worry about as far as the high price is concerned, because the new price is not affecting the existing contract.

Mr. METZENBAUM. Mr. President, I appreciate the comments of the distinguished Senator from Oklahoma.

I think that the issue of whether it will be $162 billion in additional costs for total deregulation, as the CBO stated the cost would be by 1990, or whether $25 billion a year, as the most recent estimate shows which was put out by the Joint Economic Committee, is correct, or whether it is something else, is not necessarily the issue.

The issue is, how much is enough? How much do we have to do for the natural gas producers until they say, "We are satiated, our profits are adequate"?

Of the 14 large natural gas producers in this country, 13 of them are oil companies.

Just today, there came to my attention a report indicating that of the 21 largest oil producers in this country, they earned more money in the first 6 months of 1977 than they did in all of the year 1972.

The American people are aware of that and they are not happy about it. The American people do not understand these numbers, $162 billion, $25 billion, whatever the number happens to be. Figures in the billions are difficult to comprehend. But when these numbers are broken down, their meaning to the American people becomes readily apparent. They can understand the CBO study that says that a typical homeowner in St. Louis, Mo., will receive a heating bill of $43.20 for the month of January 1980 under the administration's bill, but that with deregulation the bill will be $61.60.

For January 1985 the administration plan would confront the same homeowner with a bill for $47.20, and with deregulation the homeowner would pay $70.

I say to my friends across the aisle, and some on this side as well, that I do not argue the point that Pearson-Bentsen actually would cost something less than deregulation. But it would cost con-

siderably more than the administration bill, and the administration bill would cost considerably in excess of what we are paying at the present time.

Let us look at the figures again. It was 17 cents per thousand cubic feet in 1972. It was 51 cents per thousand cubic feet by 1976. Fifty-two cents became a reality at an earlier point. It went to $1.42 in 1976. It is up to about $1.46 now. The administration is advocating $1.75, and the gas industry still is not satisfied. They want Pearson-Bentsen, which provides for deregulation with respect to the price of new gas, and that is a certainty.

Deregulation would have dramatic effects on the natural gas industry revenues—an additional $76.5 billion by 1985, says the CBO, over what the industry would receive under the administration plan; but this windfall for the industry would have a negative impact on our economy as a whole.

Mr. BARTLETT. Mr. President, will the Senator yield with respect to the word "windfall?" I ask him why he calls deregulation a windfall with respect to the Pearson-Bentsen bill, because the companies are only going to receive a higher price for new gas found and developed and sold. Is that a windfall?

Mr. METZENBAUM. I think it is a windfall, particularly when we take into consideration that much of the new gas they are bringing online is already in lands and waters owned by the people of this country.

Mr. BARTLETT. I say to the Senator that "windfall" generally means that it is a bird in hand. I am talking about the new gas that would be found under Pearson-Bentsen and would qualify for the higher price. It has to be discovered prospectively, I believe, from the date of the enactment of this bill or from the first of this year. So it is prospective. It is not gas already in hand, and it is not gas that was found at a time of lower cost. It is gas found at the present time or prospective.

(Mr. ZORINSKY assumed the chair.)

Mr. METZENBAUM. Will the Senator from Oklahoma agree with the Senator from Ohio that some of the gas would not really be new gas as such, but it would be gas that otherwise would come online and onstream in wells that are close to the place where they are presently onstream, by sinking a new pipe in an area not far removed from the place of the present pipe, already defined under the Pearson-Bentsen proposal as new gas?

Mr. BARTLETT. It is my understanding that in the Pearson-Bentsen proposal, it would not mark the higher price unless it were in-fill drilling of a newly found reservior.

Mr. METZENBAUM. My understanding of the definition is such that it would be possible to do exactly what I suggested, and that is, by definition, gas which otherwise would be blowing through the pipes at the present time or could be blowing would be defined as new gas and therefore deregulated under Pearson-Bentsen.

MR. BARTLETT. If that is the case, it certainly would bring on additional gas supplies that are not available.

Mr. METZENBAUM. I do not think it would. I am saying that the gas is available.

Mr. BARTLETT. I am using the word "available" as meaning available to the consumer. I think the gas it is going to bring on—at least primarily—is going to be gas that is newly discovered by some extensions, some completely new reservoirs, but not by in-fill drillings or in-fill production from existing reservoirs. That is my understanding.

As the Senator knows, I favor complete deregulation of gas to maximize the speed with which we can deal with the problem of insufficient supply. I think the Senator from Ohio forgets about the fact that, whatever we might think of the price at the present time, those who have gas to sell will not sell it interstate because they get a higher price intrastate. They have not the incentive to drill off the narrow Continental Shelf, which is dedicated to the interstate system, because they can receive a higher price for oil and they would shift their exploration program to that.

So I think we are not going to solve the problem, and the problem is supplies. If we do not have deregulation of some sort, enough incentive, then Ohio will not have the opportunity for additional supplies at the deregulated price, the higher price. It will have the opportunity, as now, of paying $4 for synthetic gas; $3.50 for Algerian gas, and I think there is a little of that coming into Ohio—the Columbia system; and $2.50 a thousand for gas from Canada.

Another option would be open with deregulation. If Ohio does not want to take it, they do not have to—I mean, if the Columbia system does not want to take it. I imagine they do, because they will not be able to supply their people with gas.

The main problem is the one of supply at the best competitive price. If there were some replacement for the gas, which was cheaper than gas at a deregulated price, that would be fine. Bring it on.

However, I think the Senator wants something for nothing from the gas contractors, the producers, that he wants them to do something that is not economically sound for them to do.

Mr. METZENBAUM. I should like to address myself to two aspects of that.

First, the Senator commented on the question of competition. If this were a freely competitive market, I could understand the point of view of the Senator from Oklahoma; but the fact is that it is not a freely competitive market. The fact is that control of the natural gas supply of this country is totally vested in a very small group of natural gas companies and oil companies. As I mentioned previously, of the 14 largest natural gas producers in this country, 13 are oil companies. The figures I will get into at a later point will prove conclusively what an unbelievable percentage of the total gas in this country comes from just a few producers.

The Senator talked, also, about the question of the amount needed in order to produce the new gas. I point out to the distinguished Senator from Oklahoma that it was not many years ago, in the Louisiana rate case, that the natural gas producers settled that case and said that if they could get the munificent rate of 20 cents by 1977, that would be adequate to provide incentive and profit.

I want to be fair and make an allowance. There has been some inflation since that time. But to go from 27 cents to $1.75, which is almost seven times that amount, which is what the administration bill proposes, is a little more than inflation.

Then there was a study made on this whole issue which was released as of January 19, 1976, and was it made by some starry-eyed liberal organization? No, it was a study prepared by the prestigious accounting firm of Price Waterhouse, and it was made for Gulf Energy and Minerals Co. of the United States. It was a private study because they wanted to know what price did they need, what price was a fair price, and what were their costs related to their prices.

Even with respect to the leases that were made in the period between 1972 and 1975 it was indicated in that study that the actual costs for new gas found in certain south Louisiana fields, newly leased between the period 1972 and 1975, was 27.9 cents.

The average cost for those leases which were made in that area, including the 1972–1975 leases and some earlier made leases, was about 23.5 cents.

The point I make is that the oil companies, the natural gas producers, are indeed entitled to a profit, they are entitled to a good return on their investment, not alone a fair return on their investment. But the question is again and again and again how much is enough? A few years ago in the last case they said 27 cents would be enough. Back in the time when the FPC set the figure of 51 cents, they did it on the basis that the producers were entitled to a 15 percent return on their investment. Then the figure went to $1.42. Now the administration wants to go to $1.75, and that is still not enough.

What the American people would really like to know is what do we have to do in order to satisfy the natural gas producers of this country; how much do we have to pay for natural gas, and just once and for all have them satisfied they are getting not alone their fair share of the economic dollar but more than their fair share.

Deregulation would have dramatic effects on the natural gas industry. It would be an additional $76.5 billion by 1985, says the CBO, over what the industry would receive under the administration's plan.

Not alone would this provide dollars the industry is not entitled to, but it is the negative impact on our economy as a whole that is so important to us today. The economy of this country is not booming along. Unemployment has just gone up a bit. The GNP is not flying at a high rate, and we are trying to hold back on inflation.

I am not certain we can tolerate the increases provided for in the administration bill, but I am positive we cannot tolerate in the economy the increases that would be required for either the Pearson-Bentsen bill or, worse yet, total deregulation.

The CBO estimates that higher gas prices induced by deregulation would be inflationary, increasing consumer outlays by about $10 billion per year as manufacturers pass through higher energy costs. Ten billion dollars is not anything more than a figure. But when you realize that President Carter, and President Ford before him, both proposed a $12 billion tax cut as a stimulant to the economy, then an increase in the cost of natural gas by $10 billion becomes all the more significant.

As for employment, the CBO report says that deregulation would result in the loss of up to 360,000 jobs by 1980. Deregulation proponents do not dispute the fact that the policy they propose will mean real sacrifices for the American consumers, but they justify those sacrifices on the ground that they are necessary if we are to get the production we need.

Yet it is interesting to note in this connection in 1971, when that Southern Louisiana rate case was settled, nobody dissented. Nobody said that 26 cents—I said 27, it is actually 26—nobody took issue with that figure. But now as the price is rolling along at $1.46 at the present time, we are talking about natural gas prices going to $3.50 to $5 per mcf over the next 24 months.

By any normal business calculation $1.46 per mcf interstate price ought to be more than enough to provoke the most energetic supplier response on the part of companies that were willing to produce at 26 cents per mcf a few years ago. But, in fact, natural gas production has not been responsive to price incentives. Between 1972 and 1976, for examaple, new natural gas prices increased by 445 percent, and the weighted average price for interstate gas rose by 126 percent, and the profits of the top 20 producers went up by an average of 50 percent.

In that same period reported reserves fell by 19 percent, and production by 12 percent. In addition, production levels have shown little relationship to price in the unregulated Texas intrastate market. Field prices in Texas went up by nearly 1,000 percent in the 1970's, and the share of Texas gas devoted to the intrastate market rose from 53 to 61 percent. But in spite of unprecedented incentives for increased exploration and development, total Texas production dropped by 13 percent between 1971 and 1975.

Similarly, the CBO estimates that in return for the enormous cost and dislocation it would cause, deregulation would bring us less than 1 trillion cubic feet in additional production by 1985. One trillion cubic feet is a lot of natural gas, but in comparison to what the needs of this country are and our total consumption, which is running about 20 trillion cubic feet a year, 1 trillion cubic feet become rather insignificant, and the price proposed is too high to pay for it.

The joint economic study concurs in the matter pointing out that a tough price policy could do more than deregulation to provide incentives for additional production. "A firm price policy on natural gas," the joint economic study states, "even at prices significantly lower than deregulation, would end the incentive that currently exists for producers to withhold output in the hopes of higher future prices. Such a definitive price policy," the report continues, "could, in fact, yield some rise in production."

Mr. President, there is considerable evidence to indicate that producers have, in fact, withheld natural gas production in recent years in the hope of obtaining higher prices in the future. Among the many examples are the following: The Federal Power Commission conducted an investigation in January 1974 into offshore producing shut-in leases. The Federal Power Commission investigated all leases on which at least one well had been drilled and which were determined by the U.S. Geological Survey to be capable for being produced in paying quantities and for which a suspension of operation had been approved.

The investigation concluded that there were 4.71 trillion cubic feet of natural gas in proved reserves, and 3.27 trillion cubic feet in probable reserves.

A subsequent Federal Power Commission report on September 15, 1974, concluded that:

> 13 pipelines held about ten trillion cubic feet of gas off the market in "shut-in" wells in 1972 and 1973.

Ten trillion cubic feet of gas accounted for about half the amount the entire country consumed in 1974. They were dedicated reserves—pipelines that had already contracted for the gas, but not connected it to supply lines.

A February 1975 investigation by the Federal Power Commission into nonproducing gas reserves in the Gulf of Mexico indicated that:

> As of year-end 1973, nonproducing reserves amounted to 7.9 trillion cubic feet of gas. Approximately 6.5 trillion cubic feet of these reserves are located in the Federal Domain.

In other words, on Federal lands or water.

Continuing the quote:

> The 7.9 trillion cubic feet of nonproducing gas reserves is 26 percent of the total offshore gas reserves reported in 1973 by the interstate pipelines and may represent an important and potential natural gas supply for interstate consumers.

In June and July 1973, the Subcommittee on Antitrust and Monopolies held hearings on natural gas production. At the hearings, the FPC testified that as of January 1973, there were 167 offshore Louisiana Federal leases classified as producing "shut-in". The FPC testified that these leases represented:

> more than 743,000 nonproductive acres.

Further, the FPC testimony revealed that there:

> were 18 Federal leases in offshore Texas capable of producing in paying quantities.

On January 21, 1975, the Interior Department ordered 10 major companies that hold natural gas leases in the Gulf of Mexico to explain why they were not fully producing on these leases. The Department gave the companies 30 days to explain why the leases should not be put into production as soon as possible. It threatened to revoke the leases if the companies refused without adequate justification to place the leases in production. Former Department of Interior Secretary Rogers C. B. Morton in announcing the action said he:

> would not allow lessees to withhold their leases from production in hopes of getting a higher price at a later time.

The Department noted:

> in one group of leases, there was less production now than in the past, although new wells had been drilled.

In 1975, citing a General Accounting Office study, the distinguished Senator from Delaware, Senator ROTH stated that:

> 91 percent of the oil and gas leases let by the Interior Department were not producing. According to his figures, 92,244 of 103,502 Federal leases were not producing.

Walter S. Measday, Chief Economist of the Antitrust and Monopoly Subcommittee, in testimony before that subcommittee on September 23, 1975, stated that:

> there seems to be no question but that Federal lands which were leased out to companies to be developed, so the Nation can have the product, are not being developed expeditiously, and there seems to be no technological or geological reason for this. The conclusion to be drawn is, that companies have determined that it is not in their economic interests at this time to develop the leases * * *

In a July 1975, preliminary report by the House Subcommittee on Oversight and Investigations into delays in natural gas production by Cities Service Oil Co., the subcommittee found:

> that Cities Service had purposely delayed commencing the work-over of its wells, and that this delay disrupted deliveries of substantial quantities during the critical winter season.

In a later report by the same subcommittee, released in October 1976, the subcommittee concluded that:

> Interstate natural gas consumers have not received all the gas to which they are entitled.

In a January 21, 1976 hearing before the Subcommittee on Oversight and Investigations, Dr. John Galloway, a Special Assistant to the subcommittee, testified. He compared the gas reserves in 153 fields—covering two-thirds of the total fields—made by the AGA with the estimates of the U.S. Geological Survey—USGS—Dr. Galloway found:

> that AGA reserves were 37.4 percent lower than the USGA total for the same fields—that is, the USGS's figure of 23.47 trillion

cubic feet compared with the AGA figures of 14.7 trillion cubic feet. Dr. Galloway observed that if the 37.4-percent discrepancy existed nationwide, however, the AGA reserve shortfall would amount to 102.7 trillion cubic feet of nonassociated gas—enough to cover last winter's projected curtailments 100 times over.

In 1963, the Gulf Oil Corp. entered 20-year warranty agreement with Texas Eastern pipeline system for a minimum of 500,000 mcf per day. In addition, the agreement provided that at Texas' option, this amount could be increased to 625,000 mcf per day. In 1972, Gulf began to fall off in its deliveries, and by the summer of 1976, the deliveries had dropped to 350,000 mcf per day. On August 13, 1976, a Federal Power Commission administrative law judge issued an initial decision in a show cause proceeding. He found that Gulf:

was not in compliance with the contract, nor was Texas Eastern diligent in reporting the disruption of deliveries.

During the course of the Federal Power Commission hearings, Gulf continually defended itself on the basis that delivery at the contractual amount—500,000 mcf—625,000 mcf per day—was physically impossible. Gulf maintained that there simply were no available reserves. On November 7, 1976 the Federal Power Commission issued opinion No. 780 that stated:

Gulf was required to deliver the maximum amount (625,000 mcf per day) and that they must do so by December 1976.

Despite Gulf's protestations during the course of the hearings, within a month they were delivering 625,000 mcf per day to Texas Eastern pipeline systems.

And in addition, an audit completed for Gulf in January 1976 by the respected accounting firm of Price Waterhouse demonstrated that Gulf was able to meet its obligation to Texas Eastern at an average cost of production of 23.47 cents per mcf.

Further, I call the attention of the Senate to the fact that on January 31, 1977, I asked Interior Secretary Andrus to look into the possibility that producers may have withheld production from Federal offshore leases in the Gulf of Mexico during the severe gas shortage the Nation experienced last winter. On February 17, 1977, Secretary Andrus reported that a preliminary inquiry had produced sufficient evidence of possible withholding to justify a full scale investigation. That investigation is still in progress.

Mr. President, evidence indicating withheld reserves could go on and on. In the interest of time I will merely cite a few other sources: Federal Power Commission, order instituting investigation of status of nonproducing dedicated reserves and to show cause, Docket No. R175–112, February 20, 1975; Statement of David S. Schwartz, Assistant Chief, Office of Economics, Federal Power Commission before the Senate Antitrust and Monopoly Subcommittee, June 27, 1973, pages 22–23; Federal Power Commission, offshore investigation: producible shut-in leases—first phase—January 1974; House Subcommittee on Oversight and Investigation of the Committee on Interstate and Foreign Commerce, November 1975 report; and Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, hearings on S. 2310, February 2, 1976.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENTS NOS. 877 THROUGH 886

Mr. FORD. Mr. President, today I am filing a series of amendments to amendment No. 868 to S. 2104. Amendment 868, offered by the distinguished chairman of the Committee on Energy and Natural Resources (Mr. JACKSON), is the draft of the Natural Gas Policy Act that was before the committee for consideration.

Most of my amendments were filed in committee and set forth in the final committee print before a different bill was reported.

Mr. President, I propose to file these same amendments as appropriate to S. 2104 itself and to other substitute amendments.

I ask unanimous consent that these amendments, together with comments on each, be printed in the RECORD.

The PRESIDING OFFICER. The amendments will be received, printed, and will lie on the table; and without objection the amendments and the explanations will be printed in the RECORD.

AMENDMENT NO. 877

On page 7, line 2–3, insert the following: by striking lines 2 and 3 and inserting the following: "(m) The term 'new well' means a well which was completed after April 20, 1977."

AMENDMENT NO. 878

On page 7, line 4–6, insert the following: by striking lines 4–6 and inserting the following: "(n) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas."

AMENDMENT NO. 879

On page 8, line 6–7, insert the following: after line 6: "(w) The term 'maximum lawful price' as determined herein means the maximum price which a seller may receive and a purchaser may pay for natural gas and such price shall be all inclusive and shall not include any other financial consideration except for reimbursement of State severance or other similar taxes."

AMENDMENT NO. 880

On page 18, line 12, insert the following: after "Circuit"; or in any circuit wherein the person to whom the order relates is located or has his principal place of business".

AMENDMENT NO. 881

By inserting a new section to read as follows:

"Section . Not withstanding any other provision of this Act or other law, there shall be no limit to the maximum lawful price for natural gas produced from any well in quantities of less than 100 MCF per day on a yearly average."

AMENDMENT NO. 882

On page 24, line 22, and on page 25, line 3 by inserting after the word "Act" the following: ", *Provided, however*, That any sale of natural gas to which the provisions of Section 8(b)(b)(1) of the Natural Gas Policy Act apply shall be subject to the provisions of Section 7(b) of the Natural Gas Act during the term of the contract relating to such a sale, upon termination of such a contract, or prior to any subsequent sale from the same acreage"

AMENDMENT NO. 883

On page 25, insert the following between lines 14 and 15:

(b) Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned or operated, in whole or in part, by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline quality gas, and

"(iii) any natural-gas company, companies or their affiliates engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, deliver, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the manufacture of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocabon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application,

the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' shall mean a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) that is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

AMENDMENT NO. 884

By inserting a new section to read as follows:

"SECTION . The Commission's present policies encouraging the transportation of natural gas owned by an ultimate consumer shall continue in full force and effect under this Act, subject to terms and conditions the Commission deems appropriate to further these policies: *Provided, however,* That where the Commission approves the transportation of gas from reserves owned by an ultimate consumer, such transportation may be for a period of not less than the life of the reserves, or a shorter period as provided by contract between the consumer and the transporter."

AMENDMENT NO. 885

On page 13, line 6–7, insert the following after line 6:

(d) Nothing in this Act shall be deemed to preclude the sale, and transportation of natural gas purchased by an end-user at a price in excess of the price established by sections 5 through 7 where it is established to the satisfaction of the Commission that—

(1) approval of the transaction is consistent with the public convenience and necessity; and

(2) such gas will be consumed by the purchaser solely for high-priority needs as defined by the Commission.

AMENDMENT NO. 886

ESSENTIAL AGRICULTURAL USES

SEC. 12(a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES. Notwithstanding any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) IDENTIFICATION OF USES AND DETERMINATION OF REQUIREMENTS.

The Secretary of Agriculture shall, by rule:

(1) not later than 60 days after the date of the enactment of this Act, identify those agricultural uses for which an assured supply of natural gas is essential and with respect to which alternative fuels are not economically practicable or reasonably available, as determined by the Commission; and

(2) not later than 120 days after such date of enactment determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production, including irrigation and crop drying, and processing and to otherwise preserve public health, safety, and welfare.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which essential uses may be interrupted, or production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and natural fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) DEFINITIONS—For Purposes of this Section—

(1) The term 'agricultural use" means when used with respect to natural gas, a use related to agricultural production or natural fiber production and processing, or food processing, or food quality maintenance, including the use of natural gas—

A. for irrigation pumping;

B. for crop drying, or;

C. as a process fuel or feedstock in the production of fertilizer, agricultural chemicals or food, or;

D. for the preservation of food and food products prior to their distribution for final redistribution to the consuming public.

(2) The term "high-priority user" means any person who—

A. uses natural gas in a residence;

B. uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day or;

C. uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

(d) The Secretary of Agriculture shall not, for the purpose of restricting production of any crop or crops, limit or fail to make any determination provided for in either paragraph (b)(1) or paragraph (b)(2) of this section.

COMMENT ON FORD AMENDMENT

NEW WELL DEFINITION

The proposed changes in the "New Natural Gas" definition provides for regulatory review of the producer to determine if gas produced from a "new well" has been withheld from the market.

The proposed definition of a "new well" flows logically from the "New Gas Definition". This definition of a "new well" places the emphasis on completion rather than the date the well commenced.

NEWLY DISCOVERED RESERVOIR

This definition is identical to the definition of a "newly discovered reservoir" contained in H.R. 8444 as passed by the House of Representatives. This definition would permit a newly discovered reservoir to be one discovered after April 20, 1977, by the drilling of a well which may have been commenced prior to April 20, 1977, but the reservoir was not penetrated until after April 20, 1977. If this change is not made, wells commenced as late as April 19, 1977, would be precluded from discovery of a new reservoir even though such discovery was made well past April 20, 1977.

MAXIMUM LAWFUL PRICE

The Senate bill does not contain a definition of the term "maximum lawful price". In order to avoid the possibility of the Commission misinterpreting the Act, an amendment to the National Energy Act is appropriate. This amendment clearly defines "maximum lawful price" as embracing the concept of total compensation. Federal Power Commission has outlawed advance payments. This has led to the possibility of special treatment considerations.

JUDICIAL REVIEW

Amendment 868 requires all appeals to be heard by the United States Court of Appeals for the District of Columbia Circuit. Under certain circumstances, however, the convenience of the particular parties involved in an appeal may dictate that another circuit would be the more appropriate forum. The proposed section is patterned after the judicial review provisions of the Natural Gas Act and the Federal Power Act which give the aggrieved party a limited choice of forums.

STRIPPER WELLS

Stripper oil wells, less than 10 barrels per day, are exempt from regulation. I propose to afford like treatment for natural gas wells. My amendment would deregulate gas wells that produce less than 100 MCF/day. I realize that 100 MCF/day is a higher BTU value than 10 barrels per day but I also believe that the stripper oil exemption should be raised at the proper time.

The differential in price between natural gas and oil has widened with the continuation of cost based regulation of natural gas and with the fourfold rise in world oil prices in 1973 and 1974. As a result the incentives to find and develop new natural gas has declined.

Demand for this premium and artificially inexpensive fuel has increased while proven reserves have declined. It is important to provide the necessary incentives to find and develop new reserves of natural gas, and my proposal will do this.

This proposed amendment will provide needed incentives for small producers to not only find new gas but to develop programs for secondary and tertiary production as fields decline.

AMENDMENT

The proposed modification is needed in order to ensure that under Section 7(b) of the Natural Gas Act, abandonment authorization must be obtained by the producer prior to commencing a sale to a different purchaser. Otherwise, pipeline reliance on flowing supplies will be seriously disrupted if the producer is free to switch purchasers at will.

END-USERS

One of the many issues not dealt with by this Committee, which affects natural gas service to large numbers of end-users is the status of the Federal Power Commission's Order 533 program. This program, which was instituted by the FPC two years ago, permits commercial and industrial users to obtain additional natural gas supplies to offset the increasingly harsh curtailments of service by interstate pipelines. Specifically the Order 533 policy encourages high priority users to purchase natural gas directly from gas producers and to have such gas transported to the users' plants for consumption in such plants. The Order No. 533 policy also has been extended to include gas supplies purchased in place or discovered by the ultimate end user. Gas obtained under this program can only be consumed in "high priority end uses," e.g., industrial plant protection, process, and feedstock applications, which cannot use substitute fuels.

Although in effect for only two years, the Order 533 program already provides essential gas supplies to over 100 hospitals, schools and factories. These commercial and industrial users are located in many states, including Ohio, Pennsylvania, Kentucky, North Carolina, South Carolina, Indiana, New Jersey, New York, Tennessee, Virginia, West Virginia, Michigan, Illinois, Alabama, and Maryland. The program permitted many hospitals, schools, and industries in these states to remain open last winter during the natural

gas crisis and thousands of workers to remain employed. The Congress has already explicitly recognized the importance of this program in the Emergency Natural Gas Act of 1977 where it expressly excluded all Order 533 gas from the reallocation provisions of the Act.

My amendments assure that this valuable program will be continued during the future. I respectfully request the support of all members for these amendments which would assure the continuation of the Order 533 program and the continued availability to end-users of essential gas for their non-substitutable requirements.

COMMENT ON ESSENTIAL AGRICULTURE USES

The purpose of this amendment is to provide essential uses of natural gas related to Agriculture with the maximum amount of protection practicable against natural gas curtailments. Under this amendment, agricultural users of natural gas could obtain priority protection for their use of this resource by completing a two-step procedure:

First, the amendment requires the Secretary of Agriculture to identify within sixty days of this Section's enactment those uses of natural gas which are essential to the maintenance of a continuous flow of food through the food-supply system; and Second, this amendment would require the Federal Power Commission or its successor to determine within 120 days of this Section's enactment the natural gas use requirements of individuals identified by the Secretary of Agriculture as described previously.

Thus, this amendment employs the expertise of the Secretary of Agriculture to identify those uses of natural gas which are essential to the food-supply system and the expertise of the Commission in determining the volumes which are required to meet the needs identified by the Secretary as essential. It is my belief that this two-step process provides adequate protection to individuals to whom protection should be afforded while assuring that the priority created by this amendment will not be extended to users which do not need its protection. Under the provisions of this Amendment, uses identified as essential by the Secretary of Agriculture would be subject to curtailment only under circumstances in which such curtailment is necessary to continue supplies to residential and small commercial users of natural gas.

This amendment's language is very similar to language already adopted by the House of Representatives. The potentially substantive variances between this amendment and the House-passed version are as follows:

1. Subsection C has been expanded in a manner which insures that all levels of the food supply system from seed through distribution, are considered by the Secretary in his evaluation of the uses of natural gas which are essential within the meaning of this section. This expansion of the House language is clearly supported by the language of the Ad Hoc Committee on Energy's report as it relates to the corresponding section of the House legislation.

2. Clarifying language has been added to assure that the priority for which this section primarily is extended only to the production, processing and distribution of non-synthetic fibers; and

3. A new Subsection D has been added to assure that the Secretary of Agriculture can not use the provisions of this section to implement other programs or achieve objectives which are not the subject of this legislation.

These changes in the language already passed by the House of Representatives will insure the minimization of any threat which short supplies of natural gas could pose to the food supply system.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill:

S. 275. An act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

At 4:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the bill (S. 1731) extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services.

The House has passed the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, in which it requests the concurrence of the Senate.

The House recedes from its disagreement to the amendment of the Senate to the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, and the Asian Development Fund, and for other purposes, and concurs therein with an amendment in which it requests the concurrence of the Senate.

At 5:09 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-2012. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA) transmitting, pursuant to law, required information concerning the Department of the Army's proposed Letter of Offer to Israel for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC-2013. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA) transmitting, pursuant to law, required information concerning the Department of the Navy's proposed Letter of Offer to the United Kingdom for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC-2014. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA) transmitting, pursuant to law, required information concerning the Department of the Navy's proposed Letter of Offer to the United Kingdom for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC-2015. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA) transmitting, pursuant to law, required information concerning the Department of the Army's proposed Letter of Offer to Iran for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC-2016. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA) transmitting pursuant to law, required information concerning the Department of the Army's proposed Letter of Offer to the Netherlands for Defense Articles (with accompanying papers); to the Committee on Armed Services.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM-301. A resolution adopted by the Board of Trustees of the District 11 Area Agency on Aging, Inc. supporting the call of the steel communities coalition declaring the saving of the United States steel industry; to the Committee on Finance.

POM-302. A resolution adopted by the Council of the City and County of Honolulu, Hawaii, endorsing and supporting the sugar payment program as proposed by President Jimmy Carter and his administration; to the Committee on Agriculture, Nutrition, and Forestry.

POM-303. A petition from the Non Commissioned Officers Association of the United States transmitting their legislative goals for the year 1977-1978; to the Committee on Armed Services.

POM-304. Interim Resolution 77-10 adopted by the Legislative Council of the State of Arkansas urging officials of the U.S. Government not to relinquish the jurisdiction and authority of the United States over the

Panama Canal and Panama Canal Zone to any government other than by treaty authorized by the U.S. Congress and ratified by the United States; to the Committee on Foreign Relations.

POM-305. A petition from the Non Commissioned Officers Association of the United States transmitting their legislative goals the year 1977-78 concerning the veterans' community; to the Committee on Veterans Affairs.

POM-306. Senate Joint Resolution No. 18 adopted by the Legislature of the State of California relative to Fort MacArthur, Los Angeles, California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION No. 18

"Whereas, Fort MacArthur, situated in the San Pedro district of greater Los Angeles, adjacent to the Port of Los Angeles, is the only active Army installation in all of Southern California; and

"Whereas, Various areas of the original Fort MacArthur, known as the Upper and Lower Reservations, and the satellite areas thereto, have been declared excess to the Department of Defense needs; and

"Whereas, The excess areas, totaling over 400 acres, are currently being processed for disposition, but the main or 'middle' part of the Fort MacArthur reservation (97 acres) contains well-maintained permanent buildings and grounds; and

"Whereas, The current Fort MacArthur facility provides jobs for approximately 270 military and civilian personnel, with a payroll totaling over four million dollars, generating many more dollars indirectly into the local economy; and

"Whereas, Fort MacArthur provides an import base and support for army reservists and the California National Guard, whose numbers are in the thousands; and

"Whereas, The existing main or 'middle' Fort MacArthur reservation is an excellent installation, capable of improvement to accommodate additional Department of Defense activities at minimal costs; and

"Whereas, The City of Los Angeles has previously cooperated with business and government leaders to retain Fort MacArthur; and

"Whereas, A final decision on the future of Fort MacArthur will be made soon; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Secretary of the Army and Department of Defense to retain the existing main or 'middle' Fort MacArthur reservation; and be it further

"Resolved, That the Legislature of the State of California memorializes the President of the United States and the Congress to take whatever actions are necessary to retain Fort MacArthur as an active military installation at least at its present level and status; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Army, to the Department of Defense, and to each Senator and Representative from California in the Congress of the United States."

POM-307. Resolution No. 168 adopted by the Legislature of the Territory of Guam relative to expressing a warm Hafa Adai and Si Yuus Maase and to commend Mr. Peter J. McGovern, Chairman of the Board of Directors and past President of National Little League Baseball, for his efforts in the development of Little League Baseball in the territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 168

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, Little League Baseball is accorded one of the highest recognitions by the government of the United States; and

"Whereas, by virtue of legislation approved by both the House of Representatives and the Senate and signed into law by President Lyndon B. Johnson on July 16, 1964, Little League Baseball was granted a Congressional Charter of Federal Incorporation; and

"Whereas, Little League Baseball is a program for youth, geared towards providing an activity that develops wholesome competition and sense of good sportsmanship through community participation; and

"Whereas, the Board of Directors of Little League Baseball, Incorporated, administers international competition through its headquarters based in Williamsport, Pennsylvania; and

"Whereas, Mr. Peter J. McGovern is presently the Chairman of the Board of Directors who had served as past President and Chief Exectuive Officer of the corporation; and

"Whereas, Mr. McGovern has participated in Little League Baseball since it was chartered by Congress thirteen years ago; and

"Whereas, Mr. McGovern was instrumental in having Guam enter the Little League competition in 1967; and

"Whereas, since that time, Guam has had virtually little or no problems in registering its leagues annually; and

"Whereas, Mr. McGovern has, via the Guam Little League Association, encouraged our neighbors in the Northern Marianas to bring the Little League Baseball program to their youth; and

"Whereas, Mr. McGovern has also shown his special interest in Guam by actually taking time from his busy schedule to visit in 1972, 1973, and 1975 and had in-depth dialogues with local Little League officials; and

"Whereas, Mr. McGovern was instrumental in having a representative of a National Little League Committee come here last year to observe as Guam hosted the 1976 Pacific Far East Senior Little League Tournament; and

"Whereas, Mr. McGovern encouraged Guam's participation in the 1970 Little League Baseball Adult Leadership Seminar by having an invitation extended to Tamuning Commissioner Gregorio A. Calvo to take part in that event; and

"Whereas, Mr. McGovern has worked well with the former Guam Little League District Administrator, Ben Munoz from 1967 to 1976; and

"Whereas, Mr. McGovern also was instrumental in the appointment of Mr. Greg Borja of Santa Rita as the new Guam District Administrator; and

"Whereas, Mr. McGovern was also instrumental in the appointment of Tamuning Commissioner Greg Calvo as the new District Administrator for the Northern Marianas and Palau; now, therefore, be it

"Resolved, that the Fourteenth Guam Legislature does hereby express a warm HAFA ADAI (greetings) and sincere SI YUUS MAASE (appreciation) to Mr. Peter J. McGovern; and be it further

"Resolved, that the Legislature does also commend Mr. McGovern for his efforts in the development of Little League Baseball in the territory of Guam; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies be thereafter transmitted to Mr. Peter J. McGovern and Dr. Creighton J. Hale of the National Committee for Little League; Tamuning Commissioner Gregorio Calvo; Mr. Greg Borja of the Guam Little League Association; Chairperson Francine Malkin of the Guam Parks and Recreation Commission; Director Robert Cruz of the Guam Department of Parks and Recreation; Speaker of the U.S. House of Representatives; President Pro Tem of the U.S. Senate; President Jimmy Carter; and to the Governor of Guam."

POM-308. Resolution No. 5-172 adopted by the Legislature of the Northern Mariana Islands memorializing the U.S. Congress to expedite consideration of H.R. 6550; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 5-172

"Whereas, the enactment of the Micronesian Claims Act of 1971 (85 stat. 96) is evident that the United States Government recognizes its moral obligation to compensate for the damages of the innocent Micronesian victims of the war between Japan and the United States; and

"Whereas, at the time of the enactment of the Micronesian Claims Act of 1971, the U.S. Government did not have information regarding the type of damages and the amount of damages that were to be compensated for. Thus, the U.S. Government could not make an appropriation of funds that would fully or correctly pay for the unadjudicated damages; and

"Whereas, the Micronesian Claims Act of 1971 created the Micronesian Claims Commission and gave it the function of adjudicating and determining what damages were to be compensated for and the amount of such damages; and

"Whereas, the Micronesian Claims Commission has completed its work and has made a total award of $34,249,509.00 under Title I and a total award of $32,634,403.00 under Title II of the Micronesian Claims Act of 1971; and

"Whereas, there have been paid to the Micronesian claimants a total amount of $10,000,000.00 under Title I, and a total amount of $20,000,000.00 under Title II of the Act of 1971; and

"Whereas, there remains an unpaid balance of the total award in the amount of approximately $23,300,000.00 under Title I, and $12,634,000.00 under Title II of the Micronesian Claims Act of 1971; and

"Whereas, the United States Government now has the complete information necessary to fully and satisfactorily discharge its moral obligation towards the innocent Micronesian victims of World War II, by completing its compensation of the total adjudicated claims and awards made under the Micronesian Claims Act of 1971; and

"Whereas, the Micronesian innocent victims of the war between Japan and the United States are entitled to full payment of their damages as determined and awarded by the Micronesian Claims Commission; and

"Whereas, the Micronesian people have been awaiting compensation for their damages for over 30 years and are entitled to receive such compensation without any further delay;

"Now, therefore, be it resolved, by the Fifth Northern Mariana Islands Legislature, Second Regular Session, 1977, that the U.S. Congress is hereby respectfully requested and kindly urged to expedite its consideration of H.R. 6550, specifically Section 103 thereof, and to pass that bill as soon as practicable; and

"Be it further resolved that the Speaker shall certify and the Legislative Secretary shall attest to the adoption of this Resolution and transmit a copy to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, the U.S. President, the High Commissioner of the Trust Territory of the Pacific Islands, the Resident Commissioner of the Northern Mariana Islands, the Director of the Department of Territorial Affairs, the President and the Speaker of the Congress of Micronesia, and the Palau War Claims Committee."

POM–309. A resolution adopted by the Senate of the Commonwealth of Massachusetts memorializing the President of the United States and Congress to do nothing to compromise the freedom and security of the Republic of China; to the Committee on Foreign Relations:

"RESOLUTIONS

"Whereas, The Republic of China has been our friend and ally since before World War II; and

"Whereas, The United States has a moral duty to consider the interests of such friendly nations in our dealing with other nations; and

"Whereas, This country is presently engaged in an attempt to improve its relationship with the People's Republic of China; now therefore be it

"Resolved, That the Massachusetts Senate hereby respectfully urges the President of the United States and the Congress of the United States to do nothing to compromise the freedom and security of our friend and ally, the Republic of China, while engaged in a lessening of tensions with the People's Republic of China; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of the Congress, and to each member thereof from the Commonwealth."

POM–310. House Resolution 112 adopted by the House of Representatives of the State of Illinois opposing governmentally forced busing of school children; to the Committee on Human Resources:

"HOUSE RESOLUTION No. 112

"Whereas, The overwhelming majority of the citizens of Illinois believe in the system of neighborhood schools, and believe that good neighborhood schools help maintain strong and viable communities; and

"Whereas, The majority of Illinoisians believe that the quality of neighborhood schools is a major factor in determining whether families will move to or remain in a particular community, and thereby affects the entire stability of a neighborhood, including property values and the local tax base; and

"Whereas, Most Illinoisans believe that the neighborhood system of schools maximizes the accountability of school administrators through parent and local community involvement; and

"Whereas, Forced busing by court order for the sole purpose of promoting racial integration has been destructive of the neighborhood school system and threatens to undermine totally the community-based organization of our school system; and

"Whereas, Forced busing for integration purposes is neither the only, nor the best, nor the most efficient technique for desegregating the school system; and

"Whereas, The majority of Illinoisans do not feel that forced busing of students for desegregation purposes has improved the quality of education; and

"Whereas, Forced busing solely for desegregation is wasteful in terms of time, tax dollars and energy; and

"Whereas, The cost of forced busing for integration diverts millions of dollars from schools' budgets which otherwise could be committed directly to educational efforts such as more teachers and smaller classrooms, special programs and additional learning materials; and

"Whereas, It has been estimated that forced busing of only 20 percent of Chicago's 524,000 students would cost the taxpayers nearly $71.5 million annually; and

"Whereas, Most Illinoisans, of all races and ethnic backgrounds, are concerned primarily with the quality of education for students throughout the State and are also concerned with the fiscal pressures currently facing both local school districts and the State Treasury; therefore, be it

"*Resolved, by the House of Representatives of the Eightieth General Assembly of the State of Illinois*, That it is the sense of this House that the citizens of the State of Illinois are opposed to governmentally forced busing of school children away from their home neighborhoods for the sole purpose of promoting racial integration; and, be it further

"*Resolved*, That this House memorializes the Congress of the United States which establishes the laws of this Nation that govern Federal financial support for education as well as the jurisdiction of the Federal courts, that forced busing solely for integration purposes should not be imposed upon the school children and taxpayers of Illinois by the Federal government and that Congress should take action on this issue, for the reasons stated above; and, be it further

"*Resolved*, That the Clerk transmit a copy of this preamble and resolution to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to each member of the Illinois Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Appropriations:

With amendments:

H.R. 9005. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95–439).

By Mr. WILLIAMS, from the Committee on Human Resources:

With an amendment:

S. 1871. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees (Rept. No. 95–440).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary.

Ronald A. Angel, of Georgia, to be U.S. marshal for the northern district of Georgia.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

BILL PLACED ON THE CALENDAR

Under authority of the order of July 21, 1977, the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, was read twice by its title and placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PEARSON (for himself, Mr. MCCLURE, and Mr. SCHMITT):

S. 2109. A bill to develop a national helium conservation policy designed to encourage and facilitate the conservation and storage of the Nation's helium reserves; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. HATCH):

S. 2110. A bill to establish the Lone Peak Wilderness Area in the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. GRAVEL:

S. 2111. A bill to change the appraisal system used in determining stumpage rates on National Forest lands in Alaska; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON (for himself, Mr. MCCLURE, and Mr. SCHMITT):

S. 2109. A bill to develop a national helium conservation policy designed to encourage and facilitate the conservation and storage of the Nation's helium reserves; to the Committee on Energy and Natural Resources.

Mr. PEARSON. Mr. President, I am introducing today for myself, Mr. MCCLURE, and the Senator from New Mexico, Senator SCHMITT, a bill designed to establish a consistent and effective national policy with respect to one of our most unique and valuable natural resources—helium.

The Science, Space, and Technology Subcommittee of the Senate Committee on Commerce, Science, and Transportation, recently held 2 days of hearings for the purpose of examining the appropriate role of the Federal Government in national materials policy planning. As was highlighted by the testimony received, the effective management of our Nation's natural resources is vital to the United States and its general welfare. Recent shortages of critical materials and resources have demonstrated the potential impact on all sectors of the economy from the failure of the Government to exercise long-range planning and policymaking. Too often Government actions and policies fail to anticipate materials problems and are ineffective or counterproductive.

The bill I am introducing today addresses one aspect of the materials issue which I believe demands the immediate attention of Congress. I am referring to the conservation of our rapidly depleting reserves of helium.

Mr. President, because of its unique properties, helium is an essential ingredient in numerous existing and potential scientific, industrial, medical, military, and energy-related applications. Approximately $200 million is being spent

annually by the Federal Government on the development of superconducting technologies which will depend critically on the availability of large quantities of helium.

Unfortunately, helium is a nonrenewable resource which, unless conserved, will no longer be readily available when helium dependent energy-related technologies become technically and economically feasible.

Management of the Nation's helium conservation program has historically been under the direction of the Department of Interior. Pursuant to the authority of the Helium Act Amendments of 1960, the Federal Government entered into four long-term contracts for the purchase of helium from private producers and arranged for storage of the excess production in Government-owned facilities. These contracts were subsequently canceled by the Government in 1973 and Federal purchases of privately produced helium were discontinued.

Mr. President, as a result of the Government's action, over 2 billion cubic feet of helium is now being vented into the atmosphere and wasted each year, despite the existence of adequate pipeline and storage facilities to accommodate the excess production of helium at a relatively minor cost.

I am extremely disturbed by the present situation with respect to the wasting of our helium reserves, especially in light of the overwhelming evidence of the unique value of helium to current and emerging technologies.

I would remind my colleagues that the Senate recently passed Senate Resolution 253, expressing the sense of the Senate that the President direct the Secretary of the Interior to conserve the helium now being extracted and vented into the atmosphere. That measure has had little effect and helium continues to be wasted at an alarming rate.

My bill attempts to resolve this problem in the following ways. First, it would redefine and clarify the national policy goals and objectives with respect to the Nation's reserves of helium. The bill states as its policy that there is a need to encourage and facilitate the conservation and storage of the Nation's excess helium production for future national needs. Accordingly, the Secretary of the Interior is directed to take all reasonable and necessary steps to insure that the helium which is now being extracted and vented into the atmosphere is saved.

Second, my bill would eliminate disincentives to the storage of helium. This would affect existing Federal tax provisions, pricing policies, purchase requirements, and program management policies which operate to discourage the storage of the Nation's excess supply of helium.

Finally, my bill would require the Secretary of the Interior to report annually on the progress of the helium program, along with updated projections of the long-term helium demand and supply.

Mr. President, I am convinced of the need to conserve our depleting natural resources for future generations. Moreover, I believe it is imperative that the Federal Government reassess its objectives and policies relative to the conservation of the Nation's excess production of helium. To that end, I am offering this bill in the hope that it will initiate swift and comprehensive consideration of the Nation's helium policy. It is my hope that the Commerce Committee will hold hearings on the subject at the earliest possible date so that we may further explore the complex problems surrounding this subject.

Mr. President, I ask unanimous consent that the text of my bill, together with a section-by-section summary of its provisions, be inserted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Helium Conservation Policy Act."

TITLE I—HELIUM ACT AMENDMENTS

SEC. 101. DECLARATION OF POLICY.

The Helium Act (50 U.S.C. 161 et seq.) is amended by (a) redesignating sections 2 through 11 as sections 3 through 12, respectively, (b) striking sections 12 and 16, (c) redesignating section 17 as section 19, and (d) inserting the following new section:

"SEC. 2. (a) The Congress finds and declares that—

"(1) it is in the national interest to develop and maintain a national helium conservation policy designed to conserve a presently depleting natural resource and to anticipate future national helium requirements;

"(2) various existing and potential scientific and technological applications, and the formulation of appropriate science and technology policy relating thereto, are dependent upon a continued supply of helium;

"(3) helium is a unique, valuable, and nonrenewable natural resource which, unless conserved, will no longer be readily available to meet projected demand for critical developing technologies;

"(4) current Federal policy ignores projected national demand for helium, encourages waste of easily recoverable helium supplies, and fails to recognize the need for limited economic stockpiling of excess helium production;

"(5) as a result of the lack of an effective national helium conservation policy, critical supplies of helium are being wasted unnecessarily each year; and

"(6) there is a need to develop and maintain a consistent national helium policy designed to encourage and facilitate the conservation and storage of the Nation's helium reserves.

"(b) The Congress declares that it is the purpose of this Act to develop a national helium conservation policy designed to encourage and facilitate the conservation and storage of the Nation's helium reserves by—

"(1) clearly defining policy goals and objectives;

"(2) establishing a consistent management and pricing policy designed to preserve existing helium stockpiles and nondepleting reserves as far into the future as is economically justifiable;

"(3) encouraging private industry to conserve and store depleting helium reserves to the maximum extent practicable;

"(4) eliminating unnecessary disincentives to helium production and conservation; and

"(5) obtaining improved estimates of the Nation's actual helium reserves and the projected long-term demand for helium.".

SEC. 102. AUTHORITY OF THE SECRETARY.

(a) Section 3 of the Helium Act (50 U.S.C. 161 et seq.), as redesignated by section 101 of this Act, is amended by striking everything after the word "containing" in paragraph (3) of that section and inserting in lieu thereof the following: "such percentage concentration of helium as the Secretary shall deem appropriate, but in any case not less than one-tenth of 1 percent of helium by volume.".

(b) Section 4 of the Helium Act (50 U.S.C. 161 et seq.), as redesignated by section 101 of this Act, is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting therein the following new subsection:

"(b) For the purpose of conserving the Nation's excess helium supply to the greatest extent practicable, the Secretary is authorized and directed to make promptly all reasonable and necessary arrangements to insure that the helium which could be extracted by existing private and Government facilities is saved and not wasted into the atmosphere or reinjected into natural gas streams: *Provided,* That such authority shall include, but not be limited to—

"(1) the power to take all reasonable and necessary steps to encourage and facilitate the storage of privately-owned helium in Government-owned storage facilities, such as receiving payment in kind for services rendered to the private helium industry; and

"(2) the power to enter into just and reasonable contracts and agreements for the purchase of helium, helium-bearing natural gas, or helium-gas mixtures, except that such purchases shall not exceed $24,000,000 for each of the fiscal years 1979 through 1983, and a total of $120,000,000 for fiscal years 1984 through 1990, in such annual amounts as determined by the Secretary.".

(c) Section 6 of the Helium Act (50 U.S.C. 161 et seq.), as redesignated by section 101 of this Act, is amended (1) by deleting the words "defense, security" where they appear in the first sentence of subsection (a) and inserting in lieu thereof the words "national interest"; and (2) by deleting the words "defense and security" where they first appear in subsection (b) and inserting in lieu thereof "national interest"; and (3) by deleting the words "common defense and security as well as the" where they appear in the first sentence of subsection (c) and inserting in lieu thereof "national interest and".

(d) Section 7 of the Helium Act (50 U.S.C. 161 et seq.), as redesignated by section 101 of this Act, is amended—

(1) by striking subsection (a) and inserting in lieu thereof the following:

"(a) The agencies of the Federal Government shall, to the extent supplies are readily available at reasonable prices, terms, and conditions, purchase all major requirements of helium from non-Federal sources.";

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Secretary shall store and conserve helium produced by Government-owned facilities: *Provided, however,* That the Secretary may sell such amounts of helium as he determines necessary for essential Federal, medical, scientific, military, or commercial uses when supplies from other sources are otherwise unavailable at reasonable prices.";

(3) by striking subsection (c) and inserting in lieu thereof the following:

"(c) Sales of helium by the Secretary to the extent authorized under subsection (b) of this section shall be at prices designed to accomplish the purpose of this Act.";

(4) by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(5) by striking the words "and credited against the amounts required to be repaid to the Treasury under subsection (c) of this

section" where they appear in subsection (e) (as redesignated by subparagraph (4) of this section); and

(6) by adding the following new subsection at the end thereof:

"(f) The Secretary shall maintain in storage the Government inventory of helium until he determines it is in the national interest to sell stockpiled helium.".

(e) Section 8 of the Helium Act (50 U.S.C. 161 et seq.), as redesignated by section 101 of this Act, is amended by deleting the words "Chairman of the Atomic Energy Commission" and inserting in lieu thereof the words "Secretary of the Department of Energy".

(f) Section 15 of the Helium Act (50 U.S.C. 161 et seq.) is amended by striking everything after the word "development" and inserting in lieu thereof the following: ", distribution, conservation, and storage of helium, and at the same time provide, within economic limits, through the administration of this Act, a sustained supply of helium which, together with supplies available or expected to become available otherwise, will be sufficient to provide for existing and potential national needs.".

(g) The Helium Act (50 U.S.C. 161 et seq.) is amended by adding the following new sections:

"SEC. 16. The Secretary shall prepare and submit to the Congress, not later than January 30 of each year, a detailed report on the activities conducted pursuant to this Act during the preceding fiscal year. The report shall include—

"(1) updated estimates of national and international helium reserves;

"(2) updated estimates of projected long-range future demand for helium;

"(3) a summary and analysis of the progress made toward achieving the purpose of this Act; and

"(4) any recommendations for additional legislation or other action which may be necessary to carry out the purpose of this Act.

"SEC. 17. The Secretary of the Department of Energy shall annually review the research into, and development of, energy-related applications of helium and submit a report to the Congress containing his conclusions with respect to the effectiveness of the national helium conservation policy and any recommendations which would assist in better accommplishing the purpose of this Act.

"SEC. 18. There are hereby authorized to be appropriated to the Secretary for the purpose of carrying out the provisions of this Act not to exceed $240,000,000, to remain available until expended.".

SEC. 103. EFFECTIVE DATE.

The amendments made by this title shall become effective on January 1, 1978.

TITLE II—HELIUM INVENTORY DEDUCTION

SEC. 201. STORED HELIUM COSTS DEDUCTION.

Part VI of subchapter B of chapter 1 of the Internal Revenue Code (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 189. HELIUM PRODUCTION AND STORAGE EXPENSES.

"(a) IN GENERAL.—Any extraction and transportation costs attributed to helium produced and stored in facilities of the United States paid or incurred by a taxpayer during a taxable year beginning after December 31, 1978, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be deducted as an expense.

"(b) RECAPTURE OF AMOUNTS PREVIOUSLY DEDUCTED.—If a taxpayer sells or exchanges stored helium with respect to which a deduction was allowed under subsection (a), the taxpayer shall include in gross income for taxable year in which such sale or exchange occurs an amount equal to the amount of the deduction previously allowed with respect to the stored helium so sold or exchanged.".

SECTION-BY-SECTION ANALYSIS

TITLE I—HELIUM ACT AMENDMENTS

Section 101. Declaration of Policy.

Subsection 2(a) declares it is in the national interest to conserve depleting helium reserves; helium is a valuable natural resource which, unless conserved, will not be readily available to meet projected demand; Federal policy fails to encourage the conservation of the wasting helium supply; and, there is a need for a consistent national helium policy to encourage and facilitate the conservation and storage of the Nation's helium reserves.

Subsection 2(b) declares it is the purpose of this Act to develop a national helium conservation policy that will encourage and facilitate the conservation of the Nation's excess production of helium.

Section 102. Title Adjustments.

Subsection (a) amends the definition of "helium-bearing natural gas" and "helium-gas mixtures."

Subsection (b) amends the Helium Act by directing the Secretary of Interior to take all reasonable and necessary steps to insure that helium which could be extracted with existing facilities is saved. The Secretary of Interior is authorized to take all reasonable and necessary steps to encourage and facilitate storage of privately-owned helium in government-owned facilities and to enter into contracts for the purchase of helium.

Subsection (c) amends the Helium Act by substituting the words "national interest" for "defense, security" where they appear in section 6 of the Helium Act. This is intended to reflect the broad national demand for helium in non-military applications.

Subsection (d) amends the Helium Act by (1) eliminating the requirements that Federal agencies purchase helium from non-Federal sources, (2) requiring the Secretary of Interior to store and maintain in storage government-produced helium until such time as he determines it is in the national interest to sell the stockpiled helium, and (3) dismissing the helium Treasury debt.

Subsection (e) amends the Helium Act by substituting the Secretary of the Department of Energy for the Chairman of the Atomic Energy Commission.

Subsection (f) amends the Helium Act to specify that it is in the national interest to provide a sustained supply of helium that will be sufficient to provide for "existing and potential national needs."

Subsection (g) amends the Helium Act by (1) requiring the Secretary of Interior to submit a detailed annual report to Congress with updated estimates of helium supply and demand, (2) requiring the Secretary of the Department of Energy to submit an annual report to Congress on the energy-related applications of helium and the effectiveness of the Federal helium program, and (3) authorizing sufficient funds to carry out the provisions of the Act.

Section 103. Effective Date.

The effective date of the Act is January 1, 1978.

TITLE II—HELIUM INVENTORY DEDUCTION

Section 201. Stored Helium Costs Deduction.

Amends the Internal Revenue Code to permit (1) a taxpayer to deduct the costs of extracting and transporting helium stored during the taxable year, and (2) the recapture of amounts deducted under this section by including an equal amount in gross income when the stored helium is sold or exchanged.

By Mr. GARN (for himself and Mr. HATCH):

S. 2110. A bill to establish the Lone Peak Wilderness Area in the State of Utah; to the Committee on Energy and Natural Resources.

Mr. GARN. Mr. President, beginning this evening at 7:30 p.m., the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources will begin hearings on S. 1180 the Endangered American Wilderness Act. Therefore, Senator HATCH and I are taking this opportunity to introduce legislation designating the Lone Peak area in Utah as a Wilderness Area. It is our expectation that this bill will be considered by the subcommittee along with S. 1180, and will eventually be folded into S. 1180 when that bill is reported from subcommittee.

When Senator CHURCH first introduced S. 1180, he intended to include the Lone Peak area in it. However, at the request of Senator HATCH and myself, Lone Peak was left out of the bill. I would like to take a moment to explain why, and to explain why we are now requesting its inclusion.

The Lone Peak area lies in Salt Lake and Utah Counties. It is within a few miles of the city limits of Salt Lake City, within sight of the homes of half a million people. I have been into the Lone Peak area many times, and can testify as to its beauty and grandeur. It provides an easily accessible retreat from the crush and pace of city life, and as such should be preserved. However, I was convinced that it was too close to the city, too permeated with "evidences of man" to be considered "wilderness." I still think so.

In addition to its proximity to Salt Lake City, Lone Peak has another drawback as a wilderness area, which I considered even more serious. It forms a significant part of the watershed for Salt Lake City, and for some of the small towns in Utah County. As watershed, the area must be protected against the effects of overuse. Wilderness designation seemed to me to present two problems. First, I have the feeling that the designation itself encourages increased use. I am aware of the studies which indicate that the increased use was going to come anyway, but I am not persuaded. I know that within a month of the time Senator Moss introduced the first Lone Peak wilderness bill, the Forest Service received three applications from professional outfitters to conduct tours into the areas. It may be that this was a coincidence, but I am not sure.

Second, the wilderness designation, as traditionally understood, makes it difficult to provide the services people need where the use is heavy, and near population centers. It is very difficult to control access to the Lone Peak area. It may simply not be possible. When use becomes heavy, as it certainly will, toilet facilities will be needed if the watershed is not to become contaminated, with the threat to the population of Salt Lake City. Proper service of these toilets will require the use of helicopters, a use which is incompatible with wilderness status.

Helicopters have also been used in the past for avalanche control on the eastern side of the Lone Peak area. The area in question does not have ski lifts on it,

but is used for both helicopter skiing and for cross country. If these activities are to be done safely, proper avalanche control must be carried out. I am concerned that helicopters are necessary, and that they would be banned by the wilderness designation.

The watershed in question has also been improved with some primitive dams and terracing, and these facilities require some maintenance. No one expects that hundreds of tractors and graders would be brought into the area. In fact, no one expects that any motorized equipment would be needed, but it might conceivably be. The House of Representatives has passed a version of the endangered American wilderness bill which would provide for maintenance of existing facilities, but it might also happen that some construction of similar facilities in the future might be required. Again, no one expects it, but it might happen.

Mr. President, I was the water commissioner for Salt Lake City for 7 years, and as such this watershed was my responsibility. I am very familiar with the problems of protecting it, and I suppose I am somewhat protective. I saw the problems that might occur with a wilderness designation, and I sought from Senator CHURCH a delay, to see if I could work out some kind of compromise that would satisfy all parties. I am happy to say that Senator CHURCH cooperated, and that delay has produced the bill I am now introducing.

To be honest, I am not convinced that wilderness status is the best thing for the Lone Peak area. However, there is a significant minority in the State of Utah which would like to see the area protected in this way. I am willing to accommodate them, if it can be done without compromising the watershed values which are critical to the large majority. What I have done, Mr. President, is to draft a bill which designates the Lone Peak area as wilderness, but with some restrictive language preserving the rights in the area which the City of Salt Lake now has, and the right of the Forest Service to maintain the integrity of the watershed. The language makes plain that helicopters can be used in the area to service vault toilets, and preserves the right of the city to use motorized equipment to maintain the present facilities on Lone Peak, or to construct those in the future that might be needed to protect the watershed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(b) of The Wilderness Act (16 U.S.C. 1132(b)), certain lands in the Wasatch and Uintah National Forests, Utah, which comprise about twenty-nine thousand five hundred and sixty-seven acres, are generally depicted on a map entitled "Lone Peak Wilderness Area—Proposed," shall be known as The Lone Peak Wilderness: *Provided,* That the Forest Service is directed to utilize whatever sanitary facilities are necessary (including but not limited to vault toilets, which may require service by helicopter) to insure the continued health and safety of the communities serviced by the Lone Peak watershed; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist, or which may be necessary in the future to prevent the degradation of the water supply in the Lone Peak area.

By Mr. GRAVEL:

S. 2111. A bill to change the appraisal system used in determining stumpage rates on national forest lands in Alaska; to the Committee on Energy and Natural Resources.

Mr. GRAVEL. Mr. President, today I am introducing a bill which would alter the appraisal system presently used by the U.S. Forest Service to determine stumpage rates on forest lands in Alaska. The bill seeks a solution to a problem whose heart is jobs in my State, more specifically, jobs in a region of the State known as southeastern Alaska.

Southeastern Alaska is dominated by the 16.5 million acre Tongass National Forest and the 2.8 million acre Glacier Bay National Monument. There is very little State or private land in the area. Thus, the timber industry in that region is totally dependent upon the Forest Service for its timber supply.

The Forest Service in cooperation with others worked from the early 1920's forward to realize the potential of the timber resource of the Tongass National Forest. The idea was that the establishment of a timber industry would provide year-round employment for southeastern Alaska, which up to that point had been relying upon the seasonal fisheries for its economy. It was difficult to get lower 48 timber producers interested in establishing an industry because of the great risk and uncertainty connected with beginning a large-scale timber operation in southeastern Alaska. The shipping distances made it difficult to compete in the domestic market with the timber industry of the Pacific Northwest. Further, the preferred timber species in the domestic market was Douglas fir, as opposed to the spruce and hemlock available in southeastern Alaska. Finally, the Tongass timber was overmature, thus requiring a pulping operation to fully and economically utilize the pulp and saw timber mix found on the ground. In the early 1950's Ketchikan Pulp Co., which is now a division of Louisiana Pacific Co.—LPK—and Alaska Pulp Co., the parent of Alaska Lumber & Pulp Co. Inc.—ALP—made the capital expenditures necessary to enter the market.

Given the market situation, the economic reality is that Alaska's product is only salable in Japan. Given the need for year-round employment in the region, primary manufacture must remain a requirement. For full utilization of the wood, we must pulp those portions of timber stands which consist of decadent timber and cannot be sawn. Thus, we need companies with the pulping facilities not only to maintain the jobs related to their facilities, but also to provide a market for the pulp logs of the smaller companies which are all sawmills.

Alaskan companies with pulping facilities can compete effectively in the world markets only if adequate allowances are made for the operating costs and needed return on the enterprise. Since the costs tend to be higher than the lower 48, yet pulp markets are the same, the raw material must be relatively cheaper than for pulp enterprises elsewhere. Thus, since the industry is totally dependent upon the Forest Service for its supply, it is critical that the Forest Service maintain a reasonable stumpage rate policy which not only insures a fair rate of return to the United States, but alse concerns itself with the well-being of the industry and people of Alaska.

In the face of these market realities, and the economic situation, the Forest Service in April 1975, issued a new regional appraisal guideline, which in effect raised stumpage rates on all timber sales on the Tongass National Forest an average of 300 percent from what they had previously been. The average bid price for sales offered during the 12 months prior to April 14, 1975, was $27.77 per thousand board feet, while the average of sales appraised during the 12 months after April 14, 1975, was estimated to be $65.16 per thousand board feet. Since many sales were far above this average—the average was lowered by salvage timber sales—only two timber sales on the Tongass, based on the 1973 data—the 1975 handbook—have been sold. One of these, a blowdown sale, was sold at $7.95 per thousand. The other sale sold at $58.46 per thousand to a small logger who had an immediate outlet for the material.

As a result of the increased stumpage price, no other timber sales have been purchased in the Tongass National Forest since the fall of 1974. LPK and ALP have normally purchased independent sales to mix with their long-term allotment. However, they have been unable to do so since the fall of 1974.

The failure to purchase an independent sale since that tmie has put LPK and ALP in a position of logging solely on their allotment areas, rather than mixing in certain independent sales, as has been historically the case. There is thus, a tremendous "hole" in the raw material "pipeline" of all the mills in southeastern Alaska, which could prove distasterous to this vital region should we fail to act.

In addition to the need for an orderly flow of timber, there must be an orderly flow of sales so that when an operator finishers logging one sale, there will be another sale available to him. Only a few of the operators can move their camps in any 1 year or the flow of the timber from the stump to the mills would be disrupted. Added to this is the fact that 1 to 2 years leadtime prior to logging is needed to obtain all of the necessary government permits. Thus, timber sales must be prepared and sold on a yearly basis to prevent job disruption and "accordion-like" stops and starts of the raw material. To get an orderly flow of sales,

the pulp companies need to purchase independent sales on an orderly basis. Likewise, the smaller companies need to purchase independent sales in order to obtain the saw material they need, provide an outlet for the waste material from that sawn material, and provide a market for the pulp logs which they necessarily must purchase when they buy a forest service timber sale.

At the present time, we have an unhealthy situation brewing as a result of this "hole in the pipeline." ALP has a high inventory of logs in the water, and thus has enough timber to operate the pulp mill. However, that company will have a problem with its log supply starting in 1979. Given the approximately 2 year's required lead time, we must move to prevent that from happening now. LPK, on the other hand, has been purchasing chips from British Columbia at a cheaper rate than they can be obtained in the nearby Ketchikan area. This, of course, costs 10.4 jobs in the Tongass for every million board feet of timber LPK purchases outside of Alaska.

It probably would be useful at this point to explain how the appraisal system used by the Forest Service works. The Forest Service begins the process by determining the selling values of the products made from the logs.

As stated, in Alaska's case, they determine what pulp and cants are selling for on the world market. From this the Forest Service subtracts the manufacturing costs and logging costs to reach an answer known as the conversion return. From this conversion return a certain percentage goes to the purchaser as profit and risk and the remainder goes to the Forest Service as stumpage.

Until 1973, the Forest Service considered logs in the water at the purchaser's plant as the end product value. This is a simpler system than the end product pulp selling value computation because one need only subtract the logging cost from the log pond system, while it is necessary to determine and subtract the cost of manufacturing pulp from the pulp system. The problem of computing the pulp manufacturing costs is made difficult by the fact that the chemical process that makes up the pulp manufacturing constitutes about 70 percent of the value of the end product.

Not only is the end product pulp system more complicated, and thus more prone to error than the log pond value or the chip value system I am proposing, but also, in effect, it makes the purchaser a regulated business.

This is because there is no opportunity for the purchaser to make a profit by being efficient in his manufacturing process. Any efficiencies obtained in the manufacturing process of pulp will simply constitute a reduction in the manufacturing costs of the pulp, and thus result in a larger stumpage amount going to the Forest Service. This means that the purchaser's profit is limited by the profit and risk ratio allowed by the Forest Service in their regional appraisal guidelines. From this profit and risk, by the way, must come such items as taxes and interest. This results in a small net return to the purchaser and hardly gives him incentive to either expand his plant —which will require expensive environmental safeguards—or be efficient in his operation to increase profitability at present levels of production.

This problem needs to be resolved by giving the timber industry in southeastern Alaska renewed incentive to purchase timber in the Tongass National Forest and manufacture it in Alaska. This must be done of course in a complete accordance with strict environmental regulations. It must be also done with the recognition that the logging industry must renew its efforts to safeguard our fishery resources in southeastern Alaska.

The primary difference in the appraisal method in region 10 as compared to the rest of the United States is in the selection of pulp as the end product from which to appraise the stumpage value of pulp timber and to determine the realization value of wood chips. No other region of the Forest Service has based any stumpage values or chip realization values on pulp as an end product. The Canadians, likewise, do not use pulp as an end product. Rather, pulp logs and chips are considered to be the end products and thus the appraisal process is not carried through the manufacturing of pulp.

Thus, what I am proposing today is a change in the appraisal system in Alaska to make it similar to its closest American neighbor, namely region 6, the western district of Washington. The value for chips and pulp logs established by trading in that area approximates the high end of the range of fair market value for the same raw materials in Alaska. Thus, any chip and pulp log values established by the appraisal system in region 10, should be comparable to those in western Washington. Variations might occur to the extent that the raw materials are different distances from common end products and to the extent of the relevant scarcity of these raw materials in each area. It appears highly unlikely that chips and pulp wood in southeastern Alaska are so much closer to a common pulp market that their values would be significantly greater than those found in western Washington. On the contrary, it appears that the values for chips and pulp logs implied by the region 10 appraisal system would be somewhat less than the fair market value for those products in western Washington. Western Washington chip pulp log values with adjustments would be a logical valid starting point for Alaskan appraisals.

This approach I am proposing should produce stumpage that is at fair market value. Further, my bill would eliminate the complexity of pulp costing and the assignment of profit margins required to appraise from those selling values back to the stump. The appraisal process under my bill will begin with chip production as the final manufacturing stage. This would also place producers without pulp operations on an equal footing with those operators that produce pulp.

With respect to this last point, it is important to point out that within a short period of time the Alaskan Natives will be conveyed their timbered lands in the Tongass National Forest. In order to operate well on a sustained yield basis, these corporations will be looking toward mixing sales of their own timber with purchases of national forest timber. I believe it important that the Alaska Natives be able to buy timber on the same basis as the pulp producers. That is to say, that the price should be the same for all.

We do not believe that the measures we are taking here today will make Alaskan timber competitive with timber produced in the Puget Sound area. The problem with the Jones Act, and, just shipping costs, even if there were no Jones Act, would prevent this from occurring. What will happen, however, is that Alaskan products will be able to be competitive on what is now a stagnant world market and insure that the timber industry continues at its present level in southeast Alaska.

Mr. President, I urge my colleagues to act favorably on this legislation. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on National Forest lands in Alaska, public timber shall be appraised by the residual value method, provided, however, that for material to be used for pulp manufacture, the end-product used in such method shall be chips and/or pulpwood and provided, further, that such end-product values shall be no higher than actual market prices for similar products in Western Washington; and provided further that the cost, profit allowances and other factors used in such appraisals shall fully reflect Alaska conditions.

(b) The provisions of subsection (a) of this Act shall become effective on January 1, 1979, unless the Secretary of Agriculture makes a determination and reports to the Congress prior to such date that the application of the procedures set forth in such subsection would not be in the best interests of the United States. Any such determination by the Secretary shall be based on substantial evidence and shall be accompanied by recommended alternative methods for setting the end-product selling values used by the Forest Service in the residual value timber appraisal system on National Forests in Alaska. Such alternative methods shall take into account the need to maintain an economically viable forest products industry in the State of Alaska.

(c) There are hereby authorized to be appropriated such funds as may be required to carry out the provisions of this Act.

ADDITIONAL COSPONSORS

S. 1868

At the request of Mr. MELCHER, the Senator from Michigan (Mr. RIEGLE) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 1868, the National Crude Oil Supply and Transportation Act.

S. 2099

At the request of Mr. WEICKER, the Senator from Ohio (Mr. METZENBAUM)

was added as a cosponsor of S. 2099, to amend the Regional Rail Reorganization Act of 1973.

AMENDMENTS SUBMITTED FOR PRINTING

CONSUMER FINANCIAL SERVICES ACT—S. 2055

AMENDMENT NO. 869

(Ordered to be printed and to lie on the table.)

Mr. GARN. Mr. President, permit me but, by making a couple of references to the minority views which accompanied the Committee on Banking, Housing, and Urban Affairs Report 95–407 on S. 2055, I can best explain why my amendment should be adopted when the Consumer Financial Services Act of 1977 is considered by the Senate.

First, my concerns regarding NOW accounts were stated in the minority views and they are as follows:

We are opposed to the NOW account bill adopted by the committee. NOW accounts could cause borrowing costs to rise and service charges to increase, and they will not benefit the overwhelming share of depositors in this country who maintain small balances in active accounts. If depository institutions are not able to fully offset the higher costs of NOW accounts, their earnings will be reduced, their capital possibly impaired and their ability to continue meeting the financial needs of their communities adversely affected.

We are also opposed to the bill because it does not provide for competitive equality between competing institutions offering third-party payment services to the public. Furthermore, it seriously compromises the dual banking system, and fails to deal with the cumbersome procedure under which Congress must approve regulatory changes in the "differential" between what commercial banks and thrift institutions can pay on time and savings deposits. We supported amendments that would have remedied these problems. Unfortunately, they were rejected by the committee.

This legislation cannot be considered to be meaningful financial reform. It does not give depository institutions the flexibility or powers necessary to operate efficiently during periods of high interest rates and rapid inflation. It does not effectively deal with the problems associated with interest rate ceilings on deposits. As a result, "disintermediation" can be expected to plague the financial system in the future, as it has in the past, in spite of this legislation.

I am committed to a sense of fair play and competitive equity in this matter and, again, the minority views contain the appropriate analysis and review:

We supported a number of amendments to the bill that would have made it more acceptable, even in view of our overriding concerns regarding NOW accounts in general. These amendments were designed to: (1) place depository institutions offering similar types of financial services to the public on the same competitive footing; (2) preserve the dual banking system with respect to reserve setting authority and, (3) eliminate present procedures under which the regulatory agencies must operate in determining interest rate ceilings.

Unfortunately, the committee rejected these amendments, making the bill even more unacceptable.

The issue of NOW accounts and the payment of interest on transactions balances has overshadowed the more fundamental issue of granting thrift institutions third-party payments services. We recognize that technological developments and regulatory changes have already gone a long way toward giving thrift institutions third-party payment powers. The most significant developments in this area are: (1) the authorization of checking accounts for state-chartered thrift institutions in several states; (2) the authorization of bill paying services, which allow thrift institutions to pay bills out of a customer's savings account; (3) authorization of telephone transfers which allow thrift institutions to transfer funds from a savings account into a checking account at a commercial bank; (4) EFTS projects for savings and loan associations in several states which allow customers to access savings accounts for the purpose of making payment either at, or convenient to, the point of sale; (5) credit union share drafts authorized by the National Credit Union Administration.

These developments have gone a long way toward giving thrift institutions third-party payment services. Other technological and regulatory changes will undoubtedly extend this trend well into the future. The nationwide authorization of NOW accounts is a far-reaching extension of developments in this direction.

The extension of third-party payment services to thrift institutions, in the farm of NOW accounts or otherwise, significantly blurs one of the major distinctions between commercial banks and thrift institutions. Traditionally, commercial banks have been the only type of financial intermediary offering third-party payment services (checking accounts) to the public. Savings and loan associations have traditionally been viewed as safe places for the public to deposit savings and as a source for homeowners and the housing industry to obtain funds for housing. Credit unions have been viewed as a means of cooperative savings and as a source of funds for provident and productive purposes.

Indeed, when interest rate ceilings were first imposed on thrift institutions in 1966, the ceilings which applied to thrift institutions were set by regulation at three-fourth percent point higher than those applying to deposits at commercial banks. This so-called differential in interest rate ceilings was justified on the grounds that thrift institutions could not offer the full range of financial services which commercial banks could offer, particularly checking accounts. The "differential" as it came to be known, was viewed as necessary to maintain the competitive balance between "full service" commercial banks on the one hand and specialized mortgage-lending institutions on the other.

The extension of third-party payment services to thrift institutions calls into question the appropriateness of maintaining that "differential". For that reason, we supported an amendment that would have prevented thrift institutions from being allowed to pay a higher rate of return than commercial banks on their time and savings deposits if those thrift institutions chose to offer NOW accounts to the public. Under this amendment, thrift institutions would have a clear-cut choice of offering NOW accounts and losing the "differential" or not offering NOW accounts and maintaining the "differential". The choice would be entirely up to the institution.

This does not mean to say that the maximum rate that thrift institutions could pay on time and savings deposits would necessarily have to be reduced. The regulatory agencies could raise interest rate ceilings in general with the stipulation that thrift institutions offering NOW accounts could not raise their rates to the maximum permitted thrift institutions not choosing to offer NOW accounts. This would allow depositors at thrift institutions to avoid being penalized by a rate reduction should their thrift institution decide to offer NOW accounts.

We believe this amendment is needed to maintain competitive parity between depository institutions offering similar types of financial services to the public. Understandably, thrift institutions are reluctant to give up the "differential" in view of the impact this may have on savings flows. Under the amendment, of course, they would not have to give up the "differential" if they chose not to offer NOW accounts. Their reluctance to give up the differential may have been reduced somewhat if the legislation had included provisions that would have expanded their asset and liability powers, including authority to offer a full range of alternatives to the standard fixed-rate mortgage instrument. But, the committee unfortunately chose not to do so at this time.

As a result, resistance to alter the "differential" rates payable between competing institutions stiffened and the amendment we had offered failed to pass. In view of this, it would have been preferable to have delayed taking action on the issue of NOW accounts separately and to have waited until a broader, more comprehensive approach to financial restructuring could take place. The availability of alternative and more flexible mortgage instruments would have done a great deal to help move away from interest rate ceilings and the "differential" altogether.

We supported another amendment that would have preserved the present system under which the individual States are allowed to set reserve requirements on deposits held by State-chartered banks that are not members of the Federal Reserve System. Under the bill reported by the committee, the Federal Reserve would be authorized to set reserve requirements on NOW accounts of all depository institutions. The amendment we offered would have authorized the Federal Reserve to set reserve requirements only on NOW accounts of commercial banks that are members of the Federal Reserve System as is the case on other deposits. The amendment would also have authorized the Federal Reserve to set reserve requirements on NOW accounts at savings and loan associations that are members of the Home Loan Bank System and Federal credit unions. Under our amendment, the individual States would be allowed to set reserve requirements on NOW accounts of banks that are not members of the Federal Reserve System, savings and loan associations that are not members of the Home Loan Bank System and State-chartered credit unions.

We believe this amendment would help preserve the dual banking system under which the individual States are allowed to determine the reserve requirements for depository institutions under their regulatory jurisdiction. This is identical to the approach which the Senate adopted under the Financial Institutions Act in December, 1975.

We also supported an amendment that would have repealed the existing statutory rate differential. Under Public Law 94–200, any change in the rate differential between what commercial banks and thrift institutions can pay on time and savings deposits can only be made after obtaining approval from both the Senate and the House. We believe this is a cumbersome and unnecessary procedure that denies the regulatory agencies the flexibility they need in determining interest rate ceilings for competing depository institutions. We believe these amendments would have gone a long way toward making the legislation more acceptable.

I have not yet had time to review the language of this amendment with my colleagues on the Banking, Housing, and Urban Affairs Committee but I am confident that I will have the support of many. As a further aid to my colleagues and their staff members, I ask unanimous consent that the detailed comparison between titles I and II of S. 2055 and my amendment be printed together with the language of my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 869

Strike line 5 on page 1 and all that follows down through line 18 on page 18 and insert the following:

"TITLE I—PAYMENT OF INTEREST ON DEPOSITS OR ACCOUNTS

"SEC. 101. Section 2 of the Act of August 16, 1973 (Public Law 93–100; 12 U.S.C. 1832) is amended to read as follows:

"SEC. 2. (a) No depository institution shall allow the owner of any deposit or other account on which interest or dividends are paid to transfer funds from the account (by check, negotiable order of withdrawal, preauthorization, electronic instruction, or any other means) to third parties unless—

"(1) the account is owned by one or more natural persons and transfers from the account to third parties are made for personal purposes of the owner and not to make payments on behalf of any business or other organization;

"(2) payment and advertisement of interest or dividends on the account comply with applicable provisions of section 19(j) of the Fereral Reserve Act; and

"(3) if the institution is a member of the Federal Reserve System, a member of the Federal Home Loan Bank System, or a Federal credit union, reserves against the account are maintained, and reports are made, in accordance with applicable provisions of section 19 of the Federal Reserve Act.

"(b) For the purposes of this section, 'depository institution' means a bank (including a savings bank or industrial bank), a savings and loan association (including any other type of institution eligible for membership in a Federal Home Loan Bank), a credit union, or any other institution that accepts deposits or other accounts from which the owner is allowed to make withdrawals on demand or after notice of thirty days or less. The Board of Governors of the Federal Reserve System is authorized for the purposes of this section to define further the terms used in this section.

"SEC. 102. (a) The first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended to read as follows: 'The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration, prescribe rules governing the payment and advertisement of—

'(1) interest on time and savings deposits at members banks, and

'(2) interest or dividends on deposits from which transfers to third parties may be made at nonmember institutions that are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, or are otherwise subject to section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) or section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b), and

'(3) interest or dividends on all deposits at any other nonmember depository institution that allows the owner of any deposit to transfer funds from the deposit to third parties.,

including limitations on the rates of interest or dividends that may be paid on such deposits.'.

"(b) Section 19(j) of the Federal Reserve Act is further amended by adding at the end thereof the following new sentence: 'Compliance by nonmember institutions with rules prescribed under this subsection shall be enforced under—

'(1) section 8 of the Federal Deposit Insurance Act, by the Board of Directors of the Federal Deposit Insurance Corporation, in the case of any institution insured under that Act;

'(2) sections 6(i) and 17 of the Federal Home Loan Bank Act, section 5(d) of the Home Owners Loan Act of 1933, and section 407 of the National Housing Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

'(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration, in the case of any institution insured under that Act; and

'(4) section 8 of the Federal Deposit Insurance Act, by the Board of Governors of the Federal Reserve System, in the case of any other nonmember institution.

'The authority of the Board to prescribe rules under this subsection does not impair the authority of the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the Administrator of the National Credit Union Administration to make rules respecting their own procedures in enforcing compliance with such rules. For the purpose of their exercise of power under any Act referred to in this subsection, a violation of any rule prescribed under this subsection shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under such Act, each such agency may exercise, for the purpose of enforcing compliance with any rule prescribed under this subsection, any other authority conferred on it by law.'.

"SEC. 103. The second sentence of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended (1) by striking 'The' and inserting 'Except as otherwise provided in section 19(j) of the Federal Reserve Act, the' and (2) by striking 'and the Federal Home Loan Bank Board, and inserting a comma and the following: 'the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration'.

"SEC. 104. (a) The first sentence of subsection (a) of section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425(a)) is amended (1) by striking 'The' and inserting 'Except as otherwise provided in section 19(j) of the Federal Reserve Act, the' and (2) by striking 'and the Board of Directors of the Federal Deposit Insurance Corporation' and inserting a comma and the following: 'The Board of Directors of the Federal Deposit Insurance Corporation, and the Administrator of the National Credit Union Administration'.

"(b) The last sentence of paragraph (1) of section 5(b) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended to read as follows: 'Transfers to third parties may be made from any savings account on which interest or dividends are paid provided the requirements of section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) are met.'

"SEC. 105. (a) Paragraph (6) of section 107 of the Federal Credit Union Act, as amended (12 U.S.C. 1757), is amended by striking the period at the end thereof and inserting in lieu thereof a semicolon and the following: 'transfers to third parties may be made from share accounts provided the requirements of section 2(a) of Public Law 93–100, as amended (12 U.S.C. 1832(a)), are met.'.

"(b) Section 201(b) of the Federal Credit Union Act (12 U.S.C. 1781(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

'(7) to comply with rules prescribed by the Board of Governors pursuant to section 19(j) of the Federal Reserve Act and by the Administrator pursuant to section 209 of this Act regarding payment and advertisement of interest and dividends;'.

"(c) Section 209(a) of the Federal Credit Union Act (12 U.S.C. 1789(a)) is amended by adding at the end thereof the following new sentences: 'Such rules may contain provisions governing the payment and advertisement of interest and dividends (including limitations on the rates of interest and dividends that may be paid) on any accounts of any insured credit union other than accounts subject to regulation by the Board of Governors of the Federal Reserve System pursuant to section 19(j) of the Federal Reserve Act. The Administrator may prescribe different rate limitations for different classes of accounts, for accounts of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, or according to such other reasonable bases as he deems desirable in the public interest. Before prescribing rules governing payment and advertisement of interest or dividends, the Administrator shall consult with the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.'.

"SEC. 106. For all institutions that maintain any account (whether interest bearing or not) from which the owner is allowed to make transfers to third parties, limitations on rates of interest and dividends prescribed under section 19(j) of the Federal Reserve Act, section 18(g) of the Federal Deposit Insurance Act, section 5B of the Federal Home Loan Bank Act, and section 209(a) of the Federal Credit Union Act shall be the same. Different rate limitations may be prescribed for different classes of deposits at such institutions, but the limitation for any one class of deposit shall be the same for each such institution, whether it is a commercial bank, a savings and loan association, or another type of institution.

"SEC. 107. Section 102 of Public Law 94–200 (12 U.S.C. 461 note) is repealed.

"TITLE II—RESERVE REQUIREMENTS AND CLEARING FACILITIES

"SEC. 201. (a) the last sentence of subsection (b) of section 19 of the Federal Reserve Act (12 U.S.C. 461) is designated as paragraph (5) and that part of subsection (b) that precedes that sentence is amended to read as follows:

"'(b)(1) Every member bank shall maintain reserves against its demand deposits in such average ratio, not less than 5 per centum nor more than 20 per centum, as shall be determined by the Board.

"'(2) Every member bank, every member of a Federal Home Loan Bank, and every Federal credit union shall maintain reserves against its savings deposits from which transfers to third parties may be made in such average ration, not less than 2 per centum nor more than 12 per centum, as shall be determined by the Board. Such reserves shall be at the same level for all depository institutions.

"'(3) Every member bank shall maintain reserves against its time and savings deposits other than those referred to in paragraph (2), in such average ratio, not less than 1 per

centum nor more than 7 per centum, as shall be determined by the Board.

"'(4) Every depository institution that maintains reserves pursuant to this section shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require.'.

"(b) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended to read as follows:

"'(c) Reserves held by any depository institution to meet the requirement imposed pursuant to subsection (b) of this section shall be in the form of—

"'(1) balances maintained for such purpose for such institution as a Federal Reserve Bank, and

"'(2) the curency and coin held by such institution, and

"'(3) balances maintained by a depository institution in a Federal Home Loan Bank of which it is a member, if the Federal Home Loan Bank holds such balances in the form of currency and coin or at a Federal Reserve Bank.

Interest may be paid or required reserve balances maintained at Federal Reserve Banks, at a single, uniform rate to be prescribed by the Board, regardless of the size of the balance or the type of institution for which it is held. In determining the rate, the Board shall consider such factors as the effect on the Treasury of the United States, safety and soundness of depository institutions, and competitive balance among depository institutions. The interest paid by all Federal Reserve Banks on such balances in any fiscal year shall not exceed 5 per centum of total required reserve balances maintained at Federal Reserve Banks at the beginning of that fiscal year.'.

"(c) Section 19(f) of the Federal Reserve Act (12 U.S.C. 464) is amended by striking 'member bank' and inserting 'depository institution'.

"Sec. 202. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended as follows:

"'(1) by inserting after the words "member banks" the words "or other depository institutions".

"'(2) by inserting after the words "payable upon presentation" the first and third times they appear, the words "or other items, including negotiable orders of withdrawal or share drafts".

"'(3) by inserting after the words "payable upon presentation within its district," the words "or other items, including negotiable orders of withdrawal or share drafts".

"'(4) by inserting after the words "nonmember bank or trust company," wherever they appear the words "or other depository institution".

"'(5) by striking the words "sufficient to offset the items in transit held for its account by the Federal reserve bank" and inserting in lieu thereof the words "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate".

"'(6) by inserting after the words "nonmember bank" after the second colon the words "or other depository institution".'

"(b) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended as follows:

"(1) by striking out the words 'member banks' wherever they appear and inserting in lieu thereof 'depository institutions'.

"(2) by striking out the words 'member bank' wherever they appear and inserting in lieu thereof 'depository institution'.

"(3) by inserting after 'checks' wherever it appears the words 'and other items, including negotiable orders of withdrawal and share drafts'.

"(c) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248 (o)) is amended by striking out 'its member banks' and inserting in lieu thereof 'depository institutions'.

"SEC. 203. This Act shall take effect on the last day of the twelfth month that begins after it is enacted, except that—

"(1) section 107 and Title III shall take effect on enactment, and

"(2) with respect to institutions in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont Title I (other than section 107) and Title II shall take effect on the sixtieth day that begins after this Act is enacted."

LEGISLATION FOR NOW ACCOUNTS AND INTEREST ON RESERVES—TITLES I AND II OF S. 2055 COMPARED WITH AMENDMENT NO. 869 (SEN. GARN)

Subject	*Provisions of S. 2055—Senate Report No. 95-407*	*Amendment No. 869*
	TITLE I	
NOW Accounts and Share Draft Deposits:	1. Provides that Federally insured commercial banks, savings and loan associations and credit unions may offer NOW accounts; savings banks (insured or not) may also offer NOWs.	1. Permits commercial banks, savings and loan associations, mutual savings banks, credit unions, and other depository institutions (whether Federally insured or not) to transfer funds from accounts on which interest or dividends are paid.
	2. Provides that Federally insured credit unions may offer share draft accounts.	2. No comparable provision, but bill, by implication, permits accounts to be called by any name.
	3. Limits availability of NOWs and share draft accounts to individuals, except that institutions in New England may offer NOWs to nonprofit organizations and credit unions may offer share accounts to member credit unions.	3. Owner must be individual and account must be used for his personal purposes.
	4. Authorizes the Federal depository regulatory agencies to prevent evasions of interest rate limitations and reserve requirements by determining by similar regulation that any interest bearing account that is used to provide funds directly or indirectly for the purpose of making payments or transfers is a NOW account or share draft account.	4. Subjects all interest bearing accounts from which transfers to third parties may be made (by whatever means) to the regulation of the Federal depository regulatory agencies.
Rate Ceilings	5a. Provides that the ceiling rate for NOW and share draft accounts shall be uniform for all depository institutions and shall be at or below the ceiling set by the Board on interest rates paid by member banks on savings deposits.	5a. All savings accounts from which transfers to third parties may be made are subject to the same interest rate ceiling.
	5b. Authorizes the Federal Reserve, FDIC, FHLBB, and NCUA, jointly as a committee, with the Federal Reserve as Chairman, to prescribe interest rate limitations on NOW and share draft accounts for a period of 3 years, with standby authority to prescribe rates for the following 3 years if a majority determines that a continuation or reimposition of limitations is warranted.	5b. FRB sets ceiling after consulting other agencies, but other agencies enforce ceiling for institutions under their jurisdictions.
	5c. If the committee is unable to reach a majority decision on the maximum rate for NOWs within 6 months of enactment, the Federal Reserve will set the initial rate ceiling. Any subsequent change in rate must be determined by a majority vote of the committee.	5c. No such provision.

LEGISLATION FOR NOW ACCOUNTS AND INTEREST ON RESERVES—TITLES I AND II OF S. 2055 COMPARED WITH AMENDMENT NO. 869 (SEN. GARN)—Continued

Subject	*Provisions of S. 2055—Senate Report No. 95-407*	*Amendment No. 869*
	TITLE I	
	5d. In establishing the NOW rate, the agencies must give due consideration to such factors as monetary needs, benefits to consumers, safety and soundness of depository institutions and competitive balance among depository institutions.	5d. No such provision.
	5e. No comparable provision.	5e. If any institution offers third-party payment accounts, whether interest bearing or not, *all* its accounts are subject to the same interest rate ceilings as banks; statutory differential is repealed immediately.
	5f. No comparable provision.	5f. All Federally-insured credit unions are subject to interest rate ceilings on all accounts.
Grandfather Provisions:	6a. Grandfathers the present NOW account ceiling rate in New England.	6a. No provisions.
	6b. Any credit union that had authority to offer share draft accounts on August 1, 1977, may pay interest at rate paid then, or (if it did not pay interest then on share draft accounts) at rate it paid on regular accounts.	6b. No provisions.
	TITLE II	
Reserve Requirements	7a. Establishes reserve requirement range of 10 to 22 per cent as determined by the Board on demand deposits of member banks in reserve cities and a range of 7 to 14 percent for member banks not in reserve cities. Permits the Board to establish a reserve ratio as low as 4 per cent against demand deposits of $15 million or less so long as the average ratio for banks in reserve cities is not less than 10 per cent.	7a. Reserves on demand deposits set by FRB at not more than 20% nor less than 5% of demand deposits.
	7b. Establishes reserve requirement range on NOWs and share draft accounts offered by all depository institutions of 3 to 12 per cent as determined by the Board and requires the same level for all institutions.	7b. Reserves on NOWs and share drafts required only of Fed and FHLBB members and of Federal credit unions; range from not more than 12% to not less than 2% of NOWs share drafts or other interest-bearing transaction accounts.
	7c. Establishes reserve requirement range of 3 to 10 per cent on time and savings deposits of member banks but permits Board to establish a 1 per cent reserve ratio against combined savings and time deposits with initial maturities of 180 days or more, not exceeding $15 million.	7c. Reserves against other time and savings deposits of Fed members at not more than 7% nor less than 1% of time and savings deposits.
	7d. Requires every depository institution that maintains reserves to make reports to the Board.	7d. Same.
	7e. Provides for a 4-year phase-in of reserve requirements on NOWs and share draft accounts offered on the effective date of the Act by nonmembers.	7e. No phase-in provision.
	6. Provides that reserves against NOWs and share draft accounts shall be in the form of: (1) balances maintained at Federal Reserve banks or, to the extent permitted by the Board, vault cash so long as the proportion permitted to be maintained in vault cash is identical for all depository institutions. (2) balances maintained by nonmembers in a member bank or Federal Home Loan Bank so long as the funds are redeposited in a Federal Reserve Bank. Balances so maintained would not be subject to additional reserve requirements or FDIC assessment.	8. Reserves may be held as vault cash, at Federal Reserve Bank, or (for FHLB members) at Federal Home Loan Bank if it holds them as vault cash or at Federal Reserve Bank (bill has no requirements for reserves of State-chartered institutions not members of FRS or FHLB).
Interest on Reserves	9a. Authorizes the payment of interest on required reserve balances and authorizes the Board to prescribe the rates paid, except the rate paid on reserve balances against NOWs and share draft accounts shall not exceed the average rate paid during the preceding calendar quarter on 3-month Treasury bills.	9a. Federal Reserve banks may pay interest on required reserves they hold at rate fixed by Federal Reserve Board, and rate must be uniform regardless of size of reserve balance or nature of institution.

LEGISLATION FOR NOW ACCOUNTS AND INTEREST ON RESERVES—TITLES I AND II OF S. 2055 COMPARED WITH AMENDMENT NO. 869 (SEN. GARN)—Continued

Subject	Provisions of S. 2055—Senate Report No. 95-407	Amendment No. 869
	TITLE II	
	9b. Limits the total amount of interest that may be paid on all required reserve balances to 5 per cent of the net earnings of the Federal Reserve in the previous year.	9b. Limits total interest that may be paid to 5% of required reserves held by Federal Reserve banks at end of previous fiscal year.
Interest on Reserves—Continued	9c. Provides that in establishing the interest rate on reserve balances, the Board shall give due consideration to such factors as the effect on revenues of the Treasury, monetary and financial conditions, safety and soundness of financial institutions, competitive balance, benefits and costs of membership in the Federal Reserve System, the likelihood of membership attrition, and the circumstances surrounding depository institutions.	9c. Same, except that factors limited to effect on Treasury, safety and soundness of depository institutions, and competitive balance among depository institutions.
Clearing Facilities	10. Amends Federal Reserve Act provisions to facilitate clearing of items for nonmembers.	10. Same.
Effective Date	11. Provides effective date of one year after enactment.	11. Bill takes effect one year from enactment, except that titles I and II take effect 60 days from enactment in New England and repeal of the statutory differential takes effect on enactment.

NATIONAL ENERGY POLICY—H.R. 8444

AMENDMENTS NOS. 870 THROUGH 875

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted six amendments intended to be proposed by him to the bill (H.R. 8444) to establish a comprehensive national energy policy.

BREATHING LIFE INTO THE NATIONAL ENERGY PLAN

Mr. PACKWOOD. Mr. President, today I am introducing amendments to cure some of the deficiencies of the tax portion of President Carter's energy plan, title II of H.R. 8444. The Senate Finance Committee will mark up this legislation this week, and I intend to offer the amendments at that time.

At its heart, the Carter energy plan as passed by the House is anticonsumer, antismall business, and antinew technology. It promises only inflation, future energy shortages, and only the bare hope that if we keep sacrificing and trudging forward, we may just hold on.

I will suggest the following changes to H.R. 8444 this week in the Senate Finance Committee.

I. INDIVIDUAL ENERGY CONSERVATION

A. SIMPLIFY AND LIBERALIZE THE INDIVIDUAL CONSERVATION TAX CREDIT

This amendment to H.R. 8444 would combine the insulation, solar, and electric credits into one cumulative 25 percent credit up to $10,000 for a maximum tax savings of $2,500, to terminate December 31, 1990. Consolidation of the tax credits will simplify H.R. 8444 for individuals. It will give greater flexibility to indiviuals to use the credit for whatever conservation equipment they need. For example, many individuals have already purchased residential insulation, and they should not be penalized for having done so. The 1990 termination date encourages orderly growth and long-term planning by producers of conservation equipment as well as consumers.

In contrast, H.R. 8444 offers three narrow conservation tax credits for individuals—all subject to their own dollar ceilings, percentage rates, and termination dates. It creates a 20-percent insulation and residential conservation equipment credit up to $2,000, terminating in 1984; a solar and wind equpiment credit of 30 percent for the first $1,500 and 20 percent for the next $8,500, terminating in 1984; and a 100-percent electric car credit, up to $300, terminating in 1982.

B. Broaden Types of Equipment for Individual Conservation Credit

H.R. 8444 makes individual tax credits available only to a narrow range or property: insulation; six specific types of energy conservation equipment; wind and solar devices; and electric cars. This narrow listing is arbitrary, overly-technical, and will restrict and retard the logical development of new energy technology. As the Office of Technology Assessment stated in its "Analysis of the Proposed National Energy Plan" on page 80:

> The designation of a list of items that qualify for the tax credit probably will inhibit innovation in other technologies and processes that might be much more effective in reducing energy use.

It also presumes to dictate national conservation solutions without regard to unique regional and individual circumstances.

Therefore, I would broaden the list in several ways.

First, the Secretary of the Treasury would be directed to allow this credit for all property and equipment acquired and modifications made principally to conserve energy. This will encourage continued innovation and development of new energy equipment. Part V(A) of this statement establishes procedures to protect taxpayers under this rule.

Second, to help dollar conscious consumers gain some measure of control over their energy costs, the credit would be broadened to include electric, gas, and home heating oil meters that display the amount of energy consumed in dollars and cents in addition to the less meaningful readings of kilowatt hours and cubic feet. The Edison Electric Institute has been developing this type of equipment, and I request unanimous consent that an article describing these devices be included in the CONGRESSIONAL RECORD at the conclusion of these remarks.

Third, heat pumps would be added. Heat pumps have proven energy savings capability. According to the Energy Research and Development Administration, they offer an average of 20-percent savings over conventional heating and cooling systems. Furthermore, in some regions of the country the installation of a heat pump can reduce electricity bills by 35 to 45 percent.

Fourth, home energy equipment would be broadened beyond solar and wind to include geothermal energy.

Home geothermal equipment is not a pipe dream. Oregon's State Geologist, Ralph Mason, reports that hundreds of buildings in Oregon are now heated with geothermal resources, and that the potential exists for thousands more to convert.

Fifth, the credit would be broadened to cover "ineritial storage transmission systems." These devices have been developed by an Oregonian named Vincent Carman. They include a hydraulic cylinder as a part of the braking mechanism on vehicles. When the car is brought to a stop, energy is transferred to the hydraulic cylinder. The next time the car is started, the energy stored in the hydraulic cylinder is released. These devices achieve substantial energy savings in vehicles subject to constant start-and-stop driving situations, such as postal and newspaper delivery vehicles. Also, the device has potential benefits for private automobiles involved in city driving and commuting.

After examining 4,600 proposals, the National Bureau of Standards has listed the inertial storage transmission system as one of 22 energy-savings devices that merits the aid of the Federal Government. The NBS reports that 30 billion

gallons of fuel could be saved annually and $7.5 billion could be cut each year from the U.S. foreign oil expenditures if the IST were used for urban motor vehicle transportation.

Sixth, the credit would be broadened to cover attic and ceiling fans and ventilators.

II. TRANSPORTATION

A. VAN POOLING

President Carter proposed a van pooling program for Federal employees in the energy bill, but the House of Representatives rejected it. However, Representative HORTON, of New York, who proposed deletion of the Federal van pooling program, stated that—

> I can see very sensibly setting up a tax program to give incentives to people to buy vans and use vans to transport their people and we can give people incentives through a tax system to do that.

My proposal would increase the tax incentives for van pooling. Van pooling typically involves a company providing a 12-passenger van for employees to "van pool" to work in, as a type of mass transit. According to the Federal Energy Administration, a single van pool saves 5,000 gallons of gasoline per year, in addition to reductions in air pollution and traffic congestion. More than 100 U.S. companies now successfully use van pooling, but it needs encouragement to expand to its fullest potential.

My amendment would extend the full 10 percent investment tax credit to vans used for van pooling. Under current law, vans are eligible for only a 3⅓ percent investment tax credit because the useful life of a van is less than the full 7 years now required for the 10 percent investment tax credit. My amendment also says that the free or discount use of the van by the employee-driver is not treated as income to the employee.

This amendment will serve to encourage employers to provide vans for employees, at minimum expense to the Federal Government.

B. AUTOMOBILES

This amendment preserves the State and local gas tax deduction. The administration's proposal to eliminate this deduction represents a $1 billion per year tax increase—principally from homeowners, who normally itemize tax deductions. At best, it is misplaced in an energy bill. At worst, it is an improper means of sneaking a large tax increase on middle-income Americans.

C. GAS GUZZLER TAX

I believe the gas guzzler tax should be revised to take seating capacity into account. This is because a car seating six and station wagons have more potential for efficiency than a smaller car.

My amendment reduces the gas guzzler tax by 20 percent for low- and medium-priced cars seating six or more, and station wagons

D. TRANSPORTATION REVENUE SHARING

H.R. 8444 continues the 4 cents gas tax until 1985, but inexplicably fails to extend the highway trust fund or to otherwise continue the Federal commitment to support transportation.

I propose committing 5 percent of gas tax revenues to a transportation revenue sharing program to be administered by the Office of Revenue Sharing in the Treasury Department. States could use this amount of money for any transportation priority or need. This could include secondary road improvements in rural areas—a vital need in the West—and mass transit in urban areas.

The funds would be distributed under the highway trust fund formula. For the years the highway trust fund is extended, this sum of money would be diverted from the highway trust fund.

E. MASS TRANSIT

This amendment provides that employees would not be taxed on the value of bus or subway tickets or passes provided by employers to employees. This should encourage use of mass transit by commuters, with resulting savings in gasoline, air pollution, and traffic congestion. It is particularly important to Tri-Met, the bus system serving Portland, Oreg., which is seeking to encourage increased bus ridership through sales of monthly bus passes to employers to provide to the employee.

III. BUSINESS ENERGY USE

A. USER TAX

My amendment would delete the crude oil user tax. It does not delete the natural gas user tax, although the Finance Committee may wish to consider converting this to a natural gas equalization tax.

The user tax is a dud. It is inflationary. It attempts to stimulate conversion in many instances where conversion is not practical or affordable. Exports will be discouraged because U.S. manufacturers and workers will be forced to compete with foreign companies obtaining energy at the world price—in contrast to American companies which would be obtaining energy at the world price plus the user tax price. If adequate business energy credits are provided, conservation and conversion will occur to the maximum practical extent, with less disruption to our economy.

B. BUSINESS ENERGY CREDITS

This amendment would allow taxpayers to elect the user tax rebate without loss of the existing 10-percent investment tax credit. This provision is needed only if some form of the user tax is approved. This change avoids penalizing companies purchasing alternative energy property. Under H.R. 8444, if a company purchases alternative energy property—to convert to coal or to produce geothermal or for another purpose—and uses the cost as a credit against the user tax, it forfeits its regular investment tax credit. Thus the company would be worse off than it was before this energy bill was proposed.

The administration says this amendment is a double-dip, but that is wrong. The real double-dip in H.R. 8444 is the inequity of taxing people twice. It seems reasonable to me that two layers of taxes require two layers of credits.

This amendment would also make several other changes parallel to the simplifications and liberalizations of the individual conservation credit described above. Thus, it would extend the business energy credits to 1990, to allow orderly growth and planning in new and costly energy technologies. The credit would be broadened to include heat pumps and electric vehicles. Further, the Secretary of the Treasury would be directed to include in the category, "specially defined energy property," all property and equipment acquired, and modifications made, to conserve energy.

The overall effect of these business energy credit changes is to provide greater flexibility, greater conservation incentives, and to avoid hamstringing fledgling energy technologies.

IV. NEW ENERGY PRODUCTION

A. GEOTHERMAL

This amendment fixes percentage depletion for geothermal at 22 percent—rather than 10 percent as recommended in H.R. 8444. The 22-percent rate is the same as that assigned to uranium, a competing nonconventional energy source, and is necessary to provide an adequate incentive for geothermal, which is still a speculative energy source.

My proposal also eliminates the proposal in H.R. 8444 to restrict percentage depletion for geothermal to the taxpayer's basis. This rule in H.R. 8444 is not imposed on any other mineral, and would thus unfairly continue the tax discrimination against geothermal energy. If we are serious about exploring geothermal as an energy source, we must give it the incentives available to competing energy sources.

This amendment also broadens the tax credits available for production of hydroelectric and geothermal energy and for installation of equipment utilizing geothermal energy in homes and businesses.

B. RESEARCH AND DEVELOPMENT

H.R. 8444 fails to provide adequate incentive for energy research and development. According to the Office of Technology Assessment:

> The research and development philosophy of the Plan is too limited. The stated realinement of priorities "to meet the country's real needs" is commendable, but does not address the problem of basic research. Too narrow a focus on near-term "practical" goals could have serious consequences for future economic growth, which may depend on new science and technology.

My amendment would address this problem. It would provide a 50 percent tax credit—up to 50 percent of income—for energy research and development. If a taxpayer elects the 50-percent credit, he would not be permitted to deduct research and development expenses under section 174.

A 50 percent tax credit is not much more valuable to corporations in the 48-percent tax bracket because research and development is already deductible. Therefore, the principal beneficiary would be small corporations—now in the 20 or 22 percent tax credit.

C. NEW ENERGY PRODUCTION

H.R. 8444 fails to provide adequate incentives for increased production of new energy. According to the General Accounting Office, the administration plan actually cuts $13 billion out of production between now and 1985. According to the Office of Technology Assess-

ment study, this plan fails to adequately encourage new energy sources which will be vital to the Nation's economy after 1985.

To address this shortcoming, I am suggesting liberalizing portions of the tax credits in H.R. 8444. Specifically, I advocate adding more types of nonconventional energy to the alternative energy property category, and I would liberalize the tax credit options.

My amendment would broaden the types of nonconventional energy included in alternative energy property. Currently, that section includes limited credits for geothermal, hydroelectric, nuclear, and alternative fuel gassification. I believe it is shortsighted to single out only four types of new energy to encourage in this bill. Therefore, I would expand the alternative energy property to include other types of nonconventional energy, such as shale oil, solar, wind, tertiary production of oil and gas, production of oil and gas from sites not in production on or before April 20, 1977, and pollution control equipment, handling equipment, and plans and designs attributable to the above.

The geothermal credit would apply to both generation of electricity and any other kind of geothermal energy. The hydroelectric credit would apply to structures including dams, and all equipment up to the transmission line.

In addition, I would liberalize the credits available for expenditures for these new energy sources. Under H.R. 8444, the credit may be taken only for "equipment," and the credit may only be used as a user tax rebate or an additional 10-percent business energy credit. I would broaden that by allowing it as a credit for all tangible property. It would apply to equipment used in new as well as existing buildings. I would further broaden it by allowing it as a 25-percent income tax credit, or as a user tax rebate—applicable only if the user tax is approved; or, as a third option, as a credit against crude oil equalization tax attributable to the producer.

The credit against crude oil tax attributable to the producer would equal 15 percent for 1978; 30 percent for 1979; 45 percent for 1980; and 60 percent for 1981. The crude oil equalization tax would expire in 1981, as provided in H.R. 8444. Under present law, the President's power to continue oil price controls expires September 30, 1981.

The three-way credit option creates the maximum possible incentive to produce new energy. Oil companies may choose to use the credit against crude oil equalization tax attributable to them; however, individuals and companies other than oil companies, who should be encouraged to become active in energy to avoid excessive concentration in the energy industry, may prefer to elect the income tax or user tax rebate. The three-way option is important to encourage all persons, not simply those with crude oil equalization tax liability, to produce energy.

V. PROCEDURAL AMENDMENTS

A. ADMINISTRATIVE DISCRETION

H.R. 8444 gives the Secretary of the Treasury broad discretion, such as adding categories of equipment to lists eligible for the various credits; and granting exceptions to taxpayers or categories of taxpayers and uses or processes.

The Office of Technology Assessment study criticizes this aspect of the energy plan. It states:

It is likely that designating a specific list of qualifying investments, such as those listed in part C of the Administration draft of the National Energy Act, would foreclose many options for conservation. Innovation for increasing efficiency or outright elimination of energy use is discouraged because true breakthroughs in the future are not likely to be considered in a specific list drawn up today. At a minimum, procedures should be included in the Plan that allow new items to be added without delay. It is also important that investment in new processes or systems be included in the tax-credit provision, since the potential for energy savings is very substantial.

If we are to transfer this discretion to the executive branch, we should provide procedures to assure that affected persons will receive prompt and fair consideration. Therefore, this amendment requires the Secretary of the Treasury to make a final determination within 90 days after any affected person, such as an intended purchaser or manufacturer, has requested a determination. The affected person would be required to exhaust administrative remedies within the Treasury Department for the 90 days. At the end of the 90 days, if there is no final determination, the taxpayer would be authorized to go to the Tax Court for a declaratory judgment as to his entitlement to the exception, exemption, and so forth.

B. PRESIDENTIAL AUTHORITY

H.R. 8444 grants the President of the United States sole authority to reduce or eliminate both the crude oil equalization tax and the user tax. I believe this is an irresponsible delegation of legislative responsibility to the executive branch. Therefore, my amendment eliminates the President's authority to reduce or eliminate these taxes.

Mr. President, I request that a copy of the article describing the electric meters be included in the CONGRESSIONAL RECORD in connection with these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Electrical World, Sept. 1, 1976]

DEVICE TALKS TO CUSTOMERS IN DOLLARS AND SENSE

People who are bored with TV could, instead, watch their electric bills grow, on a new metering device recently displayed before the Executive Subcommittee of the Federal Energy Administration's State Regulatory Committee, in San Francisco.

The main idea of the device is to promote conservation. It computes the electricity bill before the consumer's eyes, as the power is used: It drew a fascinated but mixed response from members of the state regulatory bodies and other advisory-committee members.

Dan D. Kincheloc, president of Energy Conservation Systems Inc., Costa Mesa, Calif. described and exhibited a pre-prototype, which his company has been developing for 2½ years.

It would be installed inside the customer's house or place of business. Closely resembling a digital clock, the machine measures input of electrical power and displays in dollars and cents the amount the consumer owes at each moment on his monthly electric bill. It can be set to begin with a base rate, and the read-out changes and increases constantly as electricity is consumed. It is as accurate as the existing meter, and reads to 0.1 cents, the developer reported.

Installation would require only a simple retrofit on the existing meter; in new construction, it could be used instead of an outside meter. It could be used in business, industry, and homes.

Kincheloc believes there is a lot of elasticity in demand, particularly at peak periods, and quoted a Massachusetts Institute of Technology study, which indicates that most American consumers could reduce consumption from 30% to 60% without hardship. Using the metering device, a customer would be constantly aware of how much electricity he is using, thus would be motivated to try to cut back on consumption.

The new device "lets the consumer be aware."

The pre-prototype is programmed with Mylar tape, but the final version could use some other method. When a public utility committee authorizes a new electric rate, the device could be reprogrammed by inserting a new tape. Kincheloc said it also could accommodate step rates, such as those in California, or other special rate structures.

It could also be used with lifeline rates. When the user exceeds his lifeline rate, the dollar sign would begin to flash. The unit has a memory, and, in case of power failure, would resume counting at the point where it stopped. It could also have a double read-out to measure use of natural gas as well as electricity.

Two add-ons are on the drawing boards. The first is a self-billing function, which, at the end of the billing period, would print out consumption in kwhr, translate it to dollars and cents, and eject a paper strip. The customer would tear this off, write his check, and mail it to the utility. This would save utilities large sums by eliminating both meter readers and a major portion of billing, and would cut mailing costs significantly, Kincheloe said.

The second add-on would sense approaching peak power, or time-of-day rate changes, and would be programmed to raise rates for a specified period. It would issue a warning by inserting the word "change" under the flashing dollar sign, giving the consumer the option of delaying such tasks as electric clothes-drying or dishwashing until electricity is cheaper. The device would eliminate the need to install a time-of-day meter, Kincheloe explained.

He estimates that, in mass production, the device—the size of a cigar box—would sell for $100 to $150 per unit.

The company is looking for capital, and would like to get funding from both EPRI and individual utilities, for further research and development. Kincheloe described the need to study households on a test basis, and do market research.

"We know the system is technically feasible, and we have the in-house capability to do the job," he said.

Committee members wondered whether each of the millions of utility customers could be relied on to agree to installation of the devices, to reprogram them when necessary, to refrain from tampering with them, and to pay their bills voluntarily.

Gary Alexander, people's advocate from Maryland, questioned whether there is enough elasticity under the present rate structure to let people conserve more energy.

Some members approved the concept of the new devices, but said they anticipate administrative problems. The possibility of offering the units on a voluntary basis was

raised. Others thought the device might generate hostility to utilities—and even class-action lawsuits—as consumers see the dollars and cents race by before their eyes.

In other business before the committee, Martin Miller, chairman of the Vermont Public Service Board, reported on the progress of the joint rate-design study by EPRI and EEI, which is being made for the National Assn. on Regulatory Commissioners. The $1-million study, to determine the feasibility of use of time-of-day rates in the U.S., initially was intended to end this summer. But NARUC's executive committee has just approved an extension and directed EPRI to continue work it thinks necessary, Miller said.

An overview on the rate-design study will be filed with NARUC this fall, and a final report on the first phase will be presented in March 1977.

The ten industry-regulatory task forces have filed reports, said Miller, most of them on either an interim or a preliminary basis. Major areas of study included European experience in selling power; development by economists and rate designers on how to allocate costs in an electric utility; how those costs can be reflected in rates, with extensive development of available metering or central control equipment; and a look at customer acceptance of time-of-day rates. The study also is concerned with development methodology for future experiments, and assessment of elasticity.

Bob Uhler, director of the design study, reported on work with consulting firms. He said the "gut issues" are economic—marginal costing vs. average embedded costing, and time-differentiation of rates. NERA, one of the consultants on these issues, has turned in its reports, Uhler said. NERA was asked to set forth its best case for time-differentiated rates, based on long-run marginal costs, also considering revenue constraint, metering requirements, elasticity, revenue erosion, and peaking problems.

Another consultant, Ebasco Services, was asked to develop four methodologies for costing, dealing with historical and future test-period embedded costs, and short- and long-run marginal costs, and convert those costing techniques into rates.

Ebasco is working with five different utilities. Its reports are expected in about 2½ months.

Reporting on another of the study's topics, Uhler said four different consulting firms, paired with four electric utilities, are working to develop an analytical technique that would allow a state commission or a utility to assess costs and benefits of changing electric load patterns. The implications on changing loads will be "fairly specific," but the findings will not help much on the question of elasticity, which is an "intellectual quagmire," he said.

The National Study on Consumer Acceptance has been completed, but the text has not been written. Uhler said the conclusions are neither shocking nor dramatic, but do give some "strong signals" as to what regulators and utility executives should be looking at regarding acceptance of load controls.

"The first indication is that people want their electricity and are willing to pay for it," Uhler said. "Conversely, though, the customers don't want their rates based on costs."

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE—S. 2108

AMENDMENT NO. 876

(Ordered to be printed and referred to the Committee on Human Resources.)

EXTENSION OF THE INDOCHINA REFUGEE PROGRAM

Mr. KENNEDY. Mr. President, I am pleased to join with Senator CRANSTON in introducing today an amendment, in the nature of a substitute, on behalf of Senator HUMPHREY to extend the Indochina refugee assistance program for another 3 years. This legislation is urgently needed, since the current authorization expires in a matter of days—on September 30, 1977.

The purpose of this substitute amendment is to recognize the continuing Federal responsibility involved in helping to resettle the refugees who have come to our shores from Indochina under the Federal refugee parole program.

Action on this legislation is urgent, Mr. President, since the current program is due to expire at the end of this fiscal year. Such an arbitrary end to the refugee resettlement program would not only work undue hardship on the more than 30 States where some 150,000 refugees have been resettled—denying help to many refugees who still need it—but it would also deny assistance to the 15,000 additional refugees who will be arriving in the United States over the coming year to join close relatives and friends. Clearly, the Federal Government cannot deny Federal assistance to refugees which the Federal Government has brought, and is in the process of bringing now, for resettlement in the United States.

Mr. President, the substitute amendment we are introducing today will both satisfy the need for a continuing Federal program of refugee assistance, while at the same time avoiding the danger that the program may become institutionalized. It is a reasonable compromise between those who have advocated continuing the Indochina refugee assistance program (IRAP) as it is—risking another Cuban program—and the formula recently proposed by the administration which, in effect, would scuttle the program.

Our amendment provides for an orderly phase-down of the Federal program, integrating assistance to refugees into ongoing Federal or State programs over a 3-year period. It continues the Federal reimbursement to State and local governments at 100 percent for the first year, then scales the reimbursement down to 60 percent the second year, and 30 percent the final year. The program ends in fiscal year 1980.

The basic authority contained in the amendment for Federal reimbursement of State and local costs for medical and cash assistance, and for social services and administrative costs, remains the same as in the current law. Estimates of the cost of this program over the 3-year period are approximately $223 million.

In addition, the amendment authorizes $25 million for special projects to assist refugees in normalizing their lives and gaining skills and education necessary to become self-reliant. These projects have proven effective in helping to take refugees off the welfare rolls, rather than simply subsidizing the States while keeping them on. Funds for these special projects would be available to State or local public agencies, but especially to the private voluntary agencies participating in the Indochina refugee assistance program.

Regrettably, Mr. President, the administration's bill does not provide for such special projects, nor does it provide for an orderly phase-down of the program. By beginning with only a 75-percent reimbursement—rather than 100 percent—the administration would precipitously cut existing programs in many States this coming year. It would throw State and local programs into total chaos. In addition, the bill is unnecessarily cumbersome in distinguishing between groups of refugees—those who are already here, and the 15,000 due to arrive this year—creating an administrative nightmare in implementing the program. Finally, the administration's bill is self-defeating in its provisions for integrating refugees into on-going Federal programs. Their effect, in practice, would probably achieve just the opposite.

Mr. President, the legislation we are offering has the strong support of the voluntary agencies and local communities participating in the Indochina refugee assistance program, and of the ad hoc Coalition for the Effective Resettlement of the Indochinese Refugees. Regrettably, the need for urgent congressional action is required in the coming days because of the delay and the inadequacy of the administration's proposal—which was submitted only last week. I am hopeful that Congress can act on this legislation before the end of the month, when the program expires.

As a member of the Judiciary Committee and as chairman of the former Subcommittee on Refugees, I have closely followed developments in the Indochina refugee program from the earliest days in 1975. Like countless other Americans across our land, I have watched the remarkable progress of the refugees in becoming contributing and productive members of their adopted communities. The statistics over the past 2 years tell of an industrious and hard-working people, achieving an impressive record of assimilation into our society.

But the resettlement process is still in motion for many, and additional refugees are still arriving from Indochina. This requires a continuing Federal program, beginning at this year's level of support, with a view toward a complete phase-down in 3 years. The legislation we have introduced in behalf of Senator HUMPHREY will accomplish this end.

Mr. President, I ask unanimous consent that the text of our substitute amendment—which is cosponsored by Senators ANDERSON, HAYAKAWA, JOHNSTON, and MOYNIHAN—be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 876

Strike out all after the enacting clause, and insert in lieu thereof the following:

That this Act may be cited as the "Indochina Migration and Refugee Assistance Act of 1977".

SEC. 2. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"SEC. 2. (a) (1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such

sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1980.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2)) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 60 per centum, and

"(B) for the fiscal year ending September 30, 1980, 30 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant.".

SEC. 3. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"(b) Not later than December 31 of each year ending prior to January 1, 1981, the Secretary of Health, Education, and Welfare shall transmit to such Committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.".

(b) Section 4(c) of such Act is repealed.

Mr. KENNEDY. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, today Senators Kennedy and Cranston are introducing legislation on my behalf which would extend the Indochina Refugee Assistance Program for another three years.

The legislation proposes a three-year phase-out of the existing IRAP program. Under our proposal, federal reimbursement would be 100 percent for FY 1978, 60 percent for FY 1979, and 30 percent for FY 1980. The authority for federal reimbursement of State and local costs for cash and medical assistance, social services, and related administration costs would remain unchanged from the existing program, which is scheduled to expire on October 1 of this year.

The existing IRAP program, which has been in operation for two and one-half years, is scheduled to expire on October 1 unless the extension is authorized. Such an occurrence would work an undue hardship on some 30 states where nearly 150,000 Indochinese refugees have been resettled. Many refugee families still are in need of help despite the fact that these remarkable people have achieved an impressive record of economic assimilation into our society. More time is needed to complete the resettlement process if we are to avoid long-term dependency of these refugees on public assistance.

A planned phase-out of special services is necessary to prevent either an unwanted institutionalization of specialized services or an unnecessary burden of unemployment and welfare falling upon the states and upon the refugees themselves. While the Administration has offered its own proposal for a three-year extension of the IRAP program, I believe it is unsatisfactory in that it does not provide for continuation of social services and special projects. In addition, only 75 percent federal assistance would be provided in the first year, 50 percent in the second and 25 percent in the third.

As I mentioned earlier in my remarks, the Indochinese refugees have achieved an impressive record of economic assimilation into our society. As an example, the national unemployment is presently seven percent. Yet, the unemployment level among the refugees themselves is only 7.9 percent, a remarkable achievement in light of the fact that the IRAP program is only two and one-half years old. In addition, the number of refugees receiving direct cash assistance to bolster their income has been reduced to 34 percent. The vast majority of the refugees are receiving supplemental assistance only because their earning level is so low.

In light of these facts, it is obvious there is a need for the continuation of existing programs to enable the refugees to upgrade their skills. They are not sitting back on the dole. There is a demonstrated willingness on the part of these refugees to reduce their reliance upon federal, state and local assistance and to move into the mainstream of economic life in this country. They don't want to continue receiving such assistance, but they do need those programs which will enable them to become completely self-reliant.

Therefore, in light of the urgent need for a three-year extension of an adequate IRAP program, I would hope that this legislation would have the support of my colleagues.

Mr. ANDERSON. Mr. President, I am very pleased to join with Senator HUMPHREY as a cosponsor of legislation to extend the Indochinese refugee assistance program. This bill extends the program for 3 years, but provides for a reasonable phaseout of benefits, with the Federal reimbursement level remaining at 100 percent for fiscal year 1978, declining to 75 percent for fiscal year 1979, and to 50 percent for fiscal year 1980.

If the program is not extended, many Indochinese refugees will inevitably turn to State welfare assistance programs, at considerable cost to State and local governments. Of these some 17,000 Indochinese families, however, 60 to 70 percent, will be ineligible for any significant help if the program expires. The resulting burden of poverty, then, would be added to an already traumatic adjustment to a new land.

Mr. President, the Indochinese refugee program has been in operation for only 2½ years. Another 3 years of assistance, with the phaseout provisions embodied in the bill, is a modest investment when so much is at stake. Through this legislation we can help the nearly 150,000 Indochinese refugees in this country build productive and promising lives. Without it, they may well be condemned to an existence of hardship, disillusionment, and dependency.

NATIONAL ENERGY POLICY—S. 2104

AMENDMENTS NOS. 877 THROUGH 883

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted seven amendments intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 884 AND 885

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. MORGAN and Mr. HELMS) submitted two amendments intended to be proposed to the bill (S. 2104), supra.

AMENDMENT NO. 886

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. DOMENICI, Mr. BARTLETT, Mr. JOHNSTON, Mr. TOWER, and Mr. HUDDLESTON) submitted an amendment intended to be proposed to the bill (S. 2104), supra.

AMENDMENT NO. 887

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT (for himself, Mr. GARN, Mr. HANSEN, Mr. LAXALT, Mr. TOWER, and Mr. WEICKER) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, September 27, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Thomas Tang, of Arizona, to be U.S. circuit judge for the ninth circuit vice Richard H. Chambers, retired.

Edward H. Johnstone, of Kentucky, to be U.S. district judge for the western district of Kentucky vice James F. Gordon, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, on Wednesday, September 21, 1977, beginning at 9:30 a.m., in room 6202, Dirksen Senate Office Building, the Senate Committee on Veterans' Affairs will meet to hear testimony on S. 364, the Veterans' Administration Administrative Procedure and Judicial Review Act.

Mr. President, last fall Senator HART refrained from offering this measure as an amendment to the 1976 GI bill amendments after then-Chairman Hartke promised that comprehensive hearings would be held. I am pleased that the committee has been able to honor

that commitment to Senator HART. On June 3, 1977, I chaired a hearing on S. 364 in San Francisco, Calif., on August 25, 1977, Senator STONE chaired a hearing in Pensacola, Fla.; and on August 31, 1977, Senator THURMOND chaired a hearing in Columbia, S.C. Wednesday's hearing will be the fourth such hearing held on S. 364 by the Senate Committee on Veterans' Affairs. On October 10, at 9:30 a.m. in room 6226, Dirksen Senate Office Building, a fifth day of hearings will be held. On that date those testifying will include representatives from the Veterans' Administration and the Department of Justice.

Those scheduled to appear on September 21, 1977, to offer testimony on S. 364 include. Senator GARY HART; representatives from the American Bar Association; the American Legion; the Paralyzed Veterans of America; the National Association of Concerned Veterans; and the National Association of Veteran Program Administrators, and others.

Persons interested in presenting testimony should contact Jack Wickes of the committee staff at 224-9126.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. The Committee on Energy and Natural Resources will conduct hearings the week of September 26 on the President's forthcoming proposal to designate the Alcan Pipeline project for approval pursuant to the Alaska Natural Gas Transportation Act of 1976.

The hearings will convene daily at 8 a.m. in the committee's hearing room, 3110 Dirksen Senate Office Building. The President's official recommendation should be received by the Senate in the very near future. Witnesses, who will appear by invitation only, will include:

Monday:
Secretary Schlesinger.
Secretary Vance.
Comptroller General Staats.
Tuesday:
Senator Bayh.
Senator Stevens.
Senator Gravel.
Alcan.
Wednesday: El Paso.
Thursday:
Governor Brown.
Governor Hammond.
Ms. Barbara Graham (representing various environmental groups).

Any questions concerning these hearings should be directed to Elizabeth A. Moler, staff counsel, on 224-0611.

CANCELLATION

Mr. GLENN. Mr. President, the hearing schedule for 10 a.m., Wednesday, by the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Federal Services into H.R. 7792 and Senate use of the simplified form of address has been canceled due to the decision of the primary witness not to appear.

ADDITIONAL STATEMENTS

OLD SAILOR'S HOSPITAL IN HAWAII A REMINDER OF LONGSTANDING U.S. COMMITMENT TO ADEQUATE HEALTH CARE

Mr. MATSUNAGA. Mr. President, as a legislator dedicated to the improvement and extension of health care for all Americans, I am often surprised to find that many well-informed Americans are unaware that the Federal Government's commitment to adequate health care for its citizens is longstanding and dates back almost to the year that our Nation was founded.

I wish, therefore, to bring to the attention of my colleagues a bit of Hawaiian history which reveals the Federal Government's longstanding commitment to the health and welfare of its citizens even while traveling abroad.

That bit of history is connected with the Lahaina Marine Hospital in Hawaii which has recently been acquired by the Lahaina Restoration Society for preservation. The old building, located near the waterfront of the former whaling village of Lahaina, has a long and interesting history. Apparently owned by a friend of King Kamehameha III of Hawaii, it was leased to the Federal Government in 1844 under the provisions of the U.S. Marine Hospital Act of 1798. Signed into law by President John Adams, the Marine Hospital Act provided for the establishment of medical facilities for U.S. merchant seamen in the great ports of the world. Three such hospitals were established in the Kingdom of Hawaii, then known as the Sandwich Islands. Two of the hospital buildings have disappeared, but the one in Lahaina still stands, although it has not been used as a hospital since the 1860's when the American whaling fleets began to decline.

The opening of the three marine hospitals in Hawaii was especially significant because it marked the beginning of what eventually developed into the U.S. Public Health Service in the islands. Previously, sick and injured sailors had been treated in private homes and many of them were even "hospitalized" in a tavern in Honolulu.

Because of its historic role, the Lahaina Marine Hospital was the subject of remarks by Jerrold M. Michael, dean of the University of Hawaii School of Public Health, at ceremonies marking the school's 10th anniversary in December 1975. Dean Michael's remarks were recently reprinted in the Historic Hawaii News, the official publication of the Historic Hawaii Foundation.

The old Lahaina hospital building is undoubtedly one of the best remaining examples of early architecture in Hawaii. In addition, it is, and always should be, a reminder that the U.S. Government has been concerned about the health and welfare of its citizens since this Nation was founded. With the thought that my colleagues will find it of interest, I ask unanimous consent that the text of the Historic Hawaii News article by Dean Jerrold M. Michael be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Historic Hawaii News, September 1977]

SAILORS' HOSPITAL BEGAN HAWAII PUBLIC HEALTH

(By Jerrold M. Michael)

As we pause to reflect on the School of Public Health's accomplishments and prepare for a challenging future, the rich background of public health in Hawaii is well worth a look. Public health beginnings in Hawaii were pretty dramatic with roots going back to whaling days.

Young America was ten years old when President John Adams signed the Marine Hospital Act in 1798.

Adams understood the need: this energetic country already had a world trade supported by merchant ships. "Going before the mast" was a fierecely tough and rugged occupation. Care for sick and injured American sailors was sporadic at best and had to be provided for in our own port cities as well as ports throughout the world.

The Marine Hospital Act provided for this, and incidentally, was the beginning of what today is the U.S. Public Health Service. Seaman's Hospitals were established in China, South American and African ports. Three hospitals were opened in "The Sandwich Islands" at Honolulu, Hilo and Lahaina, Maui, because of the size of the American whaling trade. [Can you imagine 137 sailing ships in Honolulu harbor at one time?]

The Honolulu and Hilo facilities have long ago disappeared but, fortunately, the old Lahaina Marine Hospital still stands. Its history is fascinating, including a scandal regarding hospital funds. The scandal was intensified because a shipwreck took all available evidence—and the witnesses—to the bottom of the Pacific Ocean.

In appearance the old hospital is a fitting companionpiece to the well-preserved mission buildings near Kawaiahao Church in Honolulu, and deserves a better fate than slow disintegration. A two-story adobe building of New England character, it was imposing in its day. It is a mystery, therefore, that no records of its construction have been located. Who built it, and for what original purpose, is not known.

It enters Hawaiian history in 1840 as the "Armas Building" and was already standing on the Front Street property given by King Kamehameha III to one Joaquin Armas, a former California cowboy who ran cattle for the king.

As the Lahaina Commercial Agent was begging Honolulu authorities for a seaman's hospital, and as the Armas Building was sizable enough, the Government leased it. It opened as a seaman's hospital in 1844 and was filled quickly with patients.

Among ailments treated were fevers, "augues" galloping consumption and a great range of injuries. There was no psychiatric ward although early correspondence mentions one unfortunate mariner "chained to his bed because he'd been hit on the head by a whale and thereby lost his wits."

No one familiar with 19th century hospitals will expect them to resemble today's facilities. They were more nearly "havens" where the sick and injured could have a bed. A doctor visited daily, doing "surgery" and changing dressings. Nursing was often left to women volunteers whose home training and "gentle, sensitive natures were considered to be sufficient qualifications. The sailors were pleased to have the Lahaina Seaman's Hospital because it represented a considerable improvement over the pre-hospital days when sick sailors were contracted out to private families. (Before 1837, the sick and injured in Honolulu were lodged in a grog shop.)

Hospital administration was left to the doctor-in-charge, contracted for on a yearly basis by the Government. Nothing outraged the doctor more than the discovery that a medical colleague was meeting incoming ships and treating the sick as his funds were allocated on a per-patient basis.

This practice opened the door for the great hospital scandal. By 1860, Lahaina people were saying that the doctor was getting paid for patients who were dead or cured and gone away. In fact, the hospital's previous physician left the Islands a wealthy man.

In response, the U.S. Government sent an investigating committee to look into the matter. Apparently much incriminating evidence was turned up. Several witnesses were dispatched to Washington, D.C., along with the records of their ship, the LEVANT, went down somewhere off Panama and was never heard of again.

The hospital continued to function until 1862. By then, the great whaling fleet had dwindled, driven off the seas by the discovery of petroleum in a far-away Pennsylvania hamlet. Only a handful of ships continued to call at Lahaina, so the hospital was no longer needed. But it was clearly the scandal that hastened the end of its usefulness.

Later, the building was turned into a girls' school, then a church parsonage, and finally rented as a private dwelling. It has been purchased by the Lahaina Restoration Society which hopes to interest the public in preserving it as a valuable historical monument.

What stories of whaling days and early medical practice the old Seaman's Hospital could tell! And this is no idle conjecture, according to the Restoration Society which states that an architect's study of the structure and an archeological investigation of the grounds would reveal much useful information.

A TAX LAWYER HITS 1976 TAX ACT

Mr. HELMS. Mr. President, René Wormser is one of the Nation's foremost estate lawyers. His talents, however, go far beyond the area of estate planning and the legal work called for by this complicated field. Mr. Wormser has, for example, coauthored a treatise entitled, "Restoring 'Gold Clauses' in Contracts," a work I relied upon in drafting my bill, S. 79, which would restore the freedom of Americans to enter into contracts calling for payment in gold.

Recently, Mr. Wormser authored an article published in Trusts and Estates magazine entitled "Soak the Rich Legislation." In it, he speaks of the Tax Reform Act of 1976 and the problems it has caused. As Mr. Wormser points out, "attempts to soak the rich have always soaked the middle class.

I would go him one further, and say that some legislation aimed at increasing the tax burden of those in the top half of income levels, tends to reduce investment, and this reduces economic growth. A lower rate of economic growth also means fewer new jobs, and that translates into fewer opportunities for the poorest people in our society. Like other legislative remedies we have seen, some tax legislation has effects exactly counter to the intent of its sponsors.

One important item in the Tax Reform Act of 1976 in which I am interested is the so-called carryover basis means of evaluating assets in an estate. According to the 1976 act, inherited property must be valued according to the original purchase price. In many areas, of ccurse, such a determination is impossible. Collections, antiques, and family heirlooms are impossible to trace back in many instances. In response to this criticism, I have introduced S. 1696, a bill which would repeal those provisions of the 1976 bill which instituted the new, complicated procedure.

Mr. President, so that my colleagues may have the benefit of Mr. Wormser's views, I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORMSER ON TAX REFORM: "SOAK THE RICH LEGISLATION"

(By René A. Wormser)

The Tax Reform Act of 1976 was rushed to enactment with incredible speed by an overwhelming populist Congress. The process through which this measure, perhaps the worst piece of tax legislation in our history, was imposed on the public, was described by Mr. J. Thomas Eubank, Jr. in the Winter issue of Probate and Property, a publication of the American Bar Association:

"Let me tell you about the public hearings on this tax bill. Mr. Ullman scheduled the required hearings with minimum notice. Those few who were permitted to testify did so in a vacuum because there was no bill introduced or known on which they could comment. It is true that various hearings on various estate and gift tax subjects had been held since 1960; however, nobody knew at the time of the hearings which subjects were to be included and in what form or language. When the 1976 hearings were closed and before the transcripts were prepared, the bill was introduced. Obviously, the hearings, such as they were, meant nothing. There were then no hearings cn the actual bill; only executive mark up sessions with no testimony. And that is how this law was enacted. It is in sharp contrast to the '54 Code where there were full hearings after the bills were introduced and then hearings after the language was revised. I personally feel that the procedurecs followed by Chairman Ullman are totally inconsistent with our fundamental democratic processes."

It was indeed a shabby performance. And it produced, as might be expected in the circumstances, a shambles. There has long been a cry for a simplification of our tax system. Congress answered this by adding enormous length to an already gigantic Internal Revenue Code. There has been a cry also for clarity and common sense in our tax law. Congress has answered this by producing an Act which outdid any previous effort to confuse the public. I doubt that many, if any, senators and congressmen had read the Act before they voted on it. I doubt that many, if any, have read it in full since enactment and, if any did, understood it in full.

Many thousands of lawyers and accountants have poured over its provisions, again and again, in an attempt to fathom its intricacies. Thousands have attended lectures in the hope of acquiring illumination from others. Nor, after all their studies, do they feel secure. A mass of regulations will have to be uttered by the government to interpret obscurities and to solve ambiguities. A "Technical Changes Act" will have to be enacted, sooner or later, to correct serious errors in the Act.

The intricacy of the Act, highly confusing as it is, is not its worst fault. Insofar as it violates basic economic principles underlying the successful operation of our system of free enterprise, it endangers our society. Moreover, it continues, and exacerbates, the injustice of Congress in failing to adjust our tax system to the impact of an inflation which that body itself created and continues to promote. Inflation is not a mysterious social ailment. It is produced by government, through unsound monetary policies, through profligacy and through deficit financing.

The Act is egalitarian in its intent. It is "soak-the-rich" legislation. Its purpose was, in part, to grant certain benefits to the lower economic classes and, in a limited way, it did so. But, at the same time, it was intended to attack wealth. The last thing the majority of the legislators wanted was to reduce the tax take of the government. This might have curtailed Congressional spending. And so, the theory was: we will exact in taxes from the "rich" what we lose in revenue by granting any tax relief to the "poor." What has been pointed out frequently enough, however, is that attempts to soak the rich have always soaked the middle class.

Yes, the Act did give some desirable tax relief to the lower economic classes. These relief measures, however, were not only long overdue but far from an adequately equitable adjustment to the injury done to these classes by the inflation imposed on the public.

As inflation progresses, our income tax scale should be altered periodically (or by some appropriate index) to adjust inflation. If you will look at the curve represented by the progressive scale, you will see that it is convex, that it rises faster in the lower brackets than in the upper. The curve should be concave. As it is, when a taxpayer in the lower brackets manages to raise his income in some accord with inflation, he finds himself quickly piercing a higher tax bracket. So, in order not to fall behind, in order to maintain his purchasing power, he must strive to raise his income more than enough to keep pace with inflation, and this process, in turn, promotes further inflation.

An index type of inflation protection is now widely used elsewhere. It is used, for example, in some labor contracts and by landlords in their leases. It is used by Congress itself in protecting its own members against inflation, but Congress refuses to apply the same principle to the tax system, where it is desperately needed to protect the taxpayer, particularly the taxpayer in the lower brackets.

The failure to give us inflation-protection applies not only to the taxation of income but to the taxation of transfers as well. I shall come to that. As to both areas of taxation, the Act has given some minor relief through increases in exemption, but these are far from adequate concessions.

At New Haven, Connecticut, on March 6, 1860, Abraham Lincoln said: "It is best to leave each man free to acquire property as fast as he can. Some will get wealthy. I don't believe in a law to prevent a man from getting rich, it would do more harm than good. So while we do not propose any war on capital, we do wish to allow the humblest man an equal chance to get rich with everybody else."

The majority of our legislators do not agree with Abraham Lincoln. He saw that the creation of wealth was salutory in our society. The Congressional majority seems to believe that wealth is undesirable. The fact is that there is no way to increase the general standard of living except through the formation of new capital. And this can come about only through profits and savings. Yet Congress has decided to hamper the formation of capital and has even gone so far as to provide for capital confiscation. The '76 Act goes far in these directions. This is clear in the treatment of capital gains.

GOVERNMENTAL THEFT

To the extent that an inflationary increase in the dollar value of an item of property is treated as a profit and is subjected to a capital gains tax, the government is confiscating part of the taxpayer's capital. This should be obvious. Suppose you bought a house for $40,000 and, because of inflation, you are able to sell it now for $100,000. You would be held to have made a taxable capital gain of $60,000. Suppose the tax on that "profit" is $15,000 (it could be more). The $100,000 value at which you sold the house would have the same purchasing power as did the $40,000 when you bought the house. Therefore, in true value—purchasing power value—the government is depriving you of this pro

portion of your capital: $15,000 over $100,000 or 15 percent of your wealth represented by that house. That is capital confiscation under the guise of income tax. It is the equivalent of theft by your government.

Ah, but this was deemed not enough in the campaign to soak the rich. Through the operation of the "minimum tax" and "preference income" provisions of the Act, a heavy extra tax can be imposed on some capital gains. We have had a "preference income" provision in the law since 1969. The Act has increased the preference tax from 10 percent to 15 percent and materially reduced an exemption which applies. So it is now possible, in some instances, to have a Federal tax rate of as much as 50 percent imposed on a capital gain. Add to this a capital gain tax imposed by some states and we reach the possibility, for example in New York, of an aggregate tax on some capital gains of 56 percent. This in the face of the confiscatory element included in the tax!

Nor was this enough for the egalitarian designers of the Act. It was complained that, while a man who sold during life had to pay a capital gain tax, if he held the item until his death, he escaped capital gain tax. This, of course, was not true. Any gain in the value of an asset at death was taxed with estate tax as part of the death value of the asset and thus he did not escape tax at death. However, the proponents of the theory that a taxpayer should not be able to escape the separate taxation of capital gains by holding property unto death prevailed.

What we have now, through the Act, is a "carryover" mechanism. A recipient of property from an estate must pay a capital gain tax when he sells that property, if a "gain" results; and the estate itself is subjected to a similar tax imposition if it sells during administration. But here the Act gives us a break, for which, I suppose, we should thank the Lord. In the case of such a sale, the property receives a "stepped-up basis" in computing gain, but not loss. That stepped-up basis is the value of the asset on December 31, 1976, if acquired before that date.

The effective cost basis is easy enough to arrive as if we are dealing with listed and traded securities. We are to use the listed December 31 1976 market value. As to all other property, however (real estate, interests in closely held corporations, are objects, antiques, etc.), a cumbersome mechanism is prescribed for reaching the assumed December 31, 1976 value. It is a method which will drive many taxpayers and executors of estates into a decline.

First one must find the true, original cost basis. In countless instances this may be virtually impossible. In others, it can be ascertained only through arduous investigation and complex computations. One accountant, anticipating the need to produce the required cost figure relating to a closely held corporation in which there have been many changes in structure over the years, has spent days and days and days trying to reach the proper cost valuation. So that is that beginning, finding the true cost basis—and the problem is truly confused and complicated when, for example, additions of cost have occurred in the course of the development of a business.

The next step is to compute the number of days the property has been held from its acquisition (and there may be a multiplicity of separate acquisitions) up to December 31, 1976, and then the number of days held from that date to the date of death. It is assumed that the growth in value of the asset will be constant (a wholly unsound assumption), so that the part of the growth occurring until December 31, 1976 (computed by using a proportion of the entire holding period), is added to the true cost basis for carryover purposes tothe estate or beneficiary.

ORIGINAL COST BASIS

One can imagine the cost, in time and in money, involved in taxpayer efforts to establish original cost bases. As for the executors of estates, they are obliged to report these bases both to the I.R.S. and the heirs, under a penalty for failure to do so. Problems may arise in the selection of assets as a result of differing cost bases. This will be further complicated by the various tax brackets of the recipients. To whom would it be best to leave the antiques, as against the jewelry?

All sorts of new planning may come into play. For example, it might be advisable in some instances to sell property during life, rather than to keep it for estate use. There would be an overall tax saving, insofar as the capital gain tax paid on the sale would not be included in the taxable estate. Yet such a decision, in other cases, may be very ill-advised.

Yes, there is an adjustment for estate tax paid, but one certainly not intended materially to offset the carryover capital gain tax imposed.

Keep in mind that, in an era of inflation (and we have long been in one, are still in one, and see little hope of its curtailment) there is capital confiscation in the taxation of almost every capital gain.

The taxation of capital gains was intended, of course, to soak the rich. But it is not the rich alone who have capital gains. Many middle class estates consist principally of ownership or interests in small corporations. One of the problems faced by such a citizen is to plan a way for his estate to pay its debts, administration expenses and death taxes without destroying his business holding which he wishes to preserve for his family. And so the Act increases his burden.

Nor are the lower economic classes exempted from the cruelty of the capital gain tax confiscation. The person who has bought a home for a modest sum often finds that, because of inflation, it is now worth several times its initial cost. So, when he sells, or when his children sell, the same element of capital confiscation takes place.

It is difficult to understand why Congress has abandoned the separate taxation of transfers made during life (gifts) and those made at death. One would think that it would be a social objective to hope for more distributions of capital during life; indeed, this was intended by the differential in tax impact formerly allowed. But the Act, in establishing a "unified transfer tax" system, has brought gift and death transfers together, one progressive tax scale applying to all transfers after December 31, 1976, regardless of when made.

True, it has increased the exemption on transfers. That is, there used to be a $30,000 exemption on gifts and a $60,000 exemption to estates. Now, we have an overall "credit," the equivalent of an exemption of an additional $30,000, or a total of $120,000, which, over a period of years, will increase to $175,000. But, to treat the taxpayer fairly, to compensate for the impact of inflation, the aggregate exemption should now be some $360,000.

Ah, but Congress has been generous—it has still allowed us the annual $3,000 gift tax exclusion. How generous! The exclusion was $5,000 in 1932. In 1938 it was lowered to $4,000. In 1942 it was lowered to its present $3,000. To adjust for inflation, the gift tax exclusion should now be some $12,000. It is nothing short of astonishing that Congress has not recognized the cruelty of imposing a transfer tax on a gift of so little purchasing power today as $3,000.

SALE DURING LIFE

As in the case of a sale during life, a gift (if not made within three years of death) can effect an overall tax saving, insofar as the tax on the gift would not be included in the taxable estate. If this "loophole" was intended, in order to promote the idea of giving during life, why was the separate taxation of gifts abandoned?

An innovation of the Act limits "generation-skipping." Formerly, one could continue the operation of a trust, with no estate tax impact on successive benefactions, up to the limit of the rule against perpetuities. Now, not even one generation can be skipped. That is, you can, for example, run a trust for the life of your wife (same generation as you), and on her death carry the trust on for the life of your son. But at his death, the principal would be taxed with estate tax as though it had been part of the son's estate. One item of relief is given. If, at the death of the son, the principal passes to a grandchild, there is an exemption of $250,000. That exemption is one in the aggregate, however. If the principal passes to two grandchildren, the exemption is not doubled.

The draftmanship of the applicable provisions could not be more intricate and confusing. What is worse is that inflation is again ignored. Whenever a fixed sum is used in a tax rule to delineate an exemption or a measure, that figure may well become unrealistic through the future continued operation of inflation. And so, $250,000 today may be worth the equivalent of $50,000 or less in purchasing power, some day in the future.

The Act, so hastily enacted, has produced some really absurd results. I shall not attempt to describe them all. Here are but a few.

Formerly, if a death benefit under a profit sharing or pension plan were paid in a lump sum, other than to the estate, it was exempt from estate tax. Under the Act, if a lump sum is designated, the fund is taxed with estate tax. But a "lump sum" means payable within one year. Therefore, if the fund is paid out over, say, three years, it will not be taxed with estate tax. Can someone explain the logic of this? I cannot.

INEPT DRAFTING

Some of the hasty drafting in the Act was quite remarkably inept. Here is an example. Under the general title, "Inclusion of Stock in Decedent's Estate Where Decedent Retains Voting Rights," is this provision: "—the retention of voting rights in retained stock shall be considered to be a retention of the enjoyment of such stock"—and so be taxable in the estate of the grantor of an irrevocable trust. This obscure and ambiguous wording was included apparently to reverse a Supreme Court decision in the *Bynum* case. There, even though closely held stock was involved, the Court had held that reserving the right to vote the stock held in an irrevocable trust did not make it taxable with estate tax in his estate. But the Act went far beyond upsetting the *Bynum* case. It seemed to hold that, if the trust contains *any* stock (even General Motors or I.B.M.) and the grantor reserved the right to vote it, it would be taxed to his estate. (Recognizing the absurdity of the drafting, Congress is about to correct it by providing that the tax would fall only if the decedent and his family reained at least 20 percent voting control. Even so, further clarification may be necessary.)

There has been a great cry by "reformers" against the use of "tax shelters." Some were permitted by past law for desirable reasons; others were mere clever devices. The Act sought to distinguish between "good" shelters and "bad." Little change was made, for example, in the taxation of real estate shelters; some in connection with oil and gas shelters; but motion picture, equity-leasing, cattle feed operations and sports franchises were treated harshly. The distinctions arrived at by Congress were not always logical.

The exemption allowed Americans working abroad has been reduced materially. The result? Many of them are returning to the United States to escape this enactment.

Others remain because their employers have agreed to make up the difference to them. In this latter case, the general public will pay the bill, of course, insofar as this extra operating expense will be passed on in the cost of products and services.

Sections 303 and 6166, long in the *Code* to assist estates in providing enough liquidity to pay their obligations, including estate taxes, have been modified to make compliance more difficult. And onerous changes have been made in the taxation of sick pay exclusion, the use of offices in homes, the rental of vacation homes, etc.

One of the most unpleasant features of the Act is that varying "effective dates" were designated for respective provisions. In some instances, a new rule applies only after December 31, 1976. In others an earlier effective date is prescribed—in one case April 30, 1976, long indeed before any applicable bill was introduced in Congress. The most extreme use of this dating procedure was that the new provisions regarding the deductibility of a home office, the taxation of sick pay, the limitation on the deduction of investment interest and the introduction of new "preference income" items were made effective as of the beginning of 1976. (In a belated burst of virtue, Congress has now reversed itself and changed the effective date to December 31, 1976 as to some items)

Back-dating is an old Congressional practice in the tax field. Its alleged justification is that the public ought to know when Congress is taking up some "reform" seriously and, therefore, should not be permitted to take advantage of an existing rule in the period between such public notice and the actual enactment of a "reformed" law. This procedure amounts to ex post facto legislation and, I suggest, should be soundly condemned.

Congress has given birth to a monster. Aside from the economic unsoundness of the Tax Reform Act of 1976, and the harness of many of its provisions, its complexity could drive many taxpayers close to madness. it should certainly be an objective of government to produce tax laws which an intelligent layman could understand. Our Internal Revenue Code had already become so complex that no layman could possibly be expected to be able to fathom its mysteries. Now we have the 76 Act which has added stupendously to the Code's obscurity. Not even "expert" lawyers and accountants feel secure in dealing with its intricate and confusing provisions. Countless errors will be made, innocently, through inadvertance, at heavy cost to taxpayers and their heirs. A mass of tax cases will flood the courts in time. In many of these, the judges will warrant sympathy in trying to disentangle what Congress has so cavalierly entangled.

BURDEN ON THE PUBLIC

What a burden has been foisted on the public! Aggregate federal, state and local taxation—the total tax burden—is hard enough to take. It has been estimated that the average taxpaper must work for four months in every year for government before he can hope to get any direct personal benefit from his labors.

What is additionally distressing is that he is required to sacrifice so much time and money, and suffer such anxiety, in the task of providing government with the data upon which it is to tax him. The 1040 income tax return is now a masterpiece of confusion, with its cross-references, its many schedules and the supplemental material which often must be added to it. Nor are many of the state returns much easier to complete.

It is no wonder, then, that hundreds of thousands of taxpayers (perhaps millions) find that they cannot solve the riddles presented by the tax return. So they turn to presumed experts, and pay them, to complete their returns for them. They are even national organizations who have gone into the profitable business of preparing tax returns for troubled taxpayers.

The approach of D-day (April 15th) annually brings on worry, even trauma, and a feeling that government is not the taxpayer's friend, but his enemy.

What a frightful economic waste is involved! If statistics could be assembled showing the total cost to the taxpayers in hiring others to do their returns for them, the result would be shocking. Add the cost of the army of employees of government who will have to check the returns and deal with the problems this will disclose! And also the cost of other bureaucrats who will have to work at the preparation of the many regulations which will have to be issued in order to explain ambiguities in the law! And add too, the cost to government in contesting with taxpayers, in field auditing, in conferences and in the preparation and pursuing of litigation! All this will have to be paid for by the taxpayers through further tax impositions.

On top of all this waste, of money and manpower, the complexity and uncertainty built into our tax system has a retarding impact of the economy. Very often, a business or personal decision cannot be made without tax advice. The cost of this, if relating to business, is sometimes substantial indeed, and is passed on to the public in the cost of products and services.

The use of the term "Reform" in the title of the 76 Act is deceitful. Reform is very badly needed. The Act "changes" the rules of taxation (generally for the worse), but to denominate it as "reforming" the system is truly fraudulent. It is high time that a true reform were instituted, one which produces a system which does not devour us, one which does not promise the tax revolt which the oppressiveness of the current system is likely to precipitate.

MISTREATMENT OF BAPTISTS AND LITHUANIANS IN SOVIET UNION INDICATES CONTINUED DEFIANCE OF 1975 HELSINKI ACCORDS

Mr. CASE. Mr President, The Soviet record of compliance with the human rights obligations which it undertook with the Final Act of the Helsinki accords continues on an uneven course.

One cause for recent concern has been the treatment of Baptists in the U.S.S.R. An aspect of the Helsinki accords which has received less attention than other human rights provisions is a paragraph under basket I, principle VII, which states—

> The participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

Despite this provision, on August 27, 1977, in the town of Bryansk—220 miles southwest of Moscow—there were a series of clashes between the KGB and the Baptist congregation.

The conflict arose when the local authorities tried to take over a new Baptist prayer house which had been nearly completed at a cost of $66,000 to the congregation. According to the Moscow-based Christian Committee for the Defense of Believers' Rights, about 150 Baptists were beaten during the clash with the police and the KGB.

On the positive side, the artist Oskar Rabin was released September 14 after a detention of 36 hours. Also an exit visa was granted to Valentine Turchin, head of the official branch of Amnesty International, allowing him to take up an invitation to teach mathematics at Columbia University, and Ilya Levin, a Leningrad linguist now at the University of Texas. These moves were very very welcome.

But, the Soviet authorities earlier made three more arrests in their ongoing campaign against dissidents in their country. With the arrest of Viktoras Petkus on August 24, Lithuania joined the list of other Soviet republics—Russia, the Ukraine and Georgia—where members of unofficial groups which were monitoring Soviet compliance with the Helsinki accords have been arrested for their activities.

To give my colleagues a better idea of the scope of this campaign of repression, I would like to offer some statistics prepared by the Helsinki Commission: of the original 11 members of the Helsinki group in Moscow—two are in exile, three have emigrated, and three have been arrested; of the nine member Ukrainian group—two people are in exile and four have been arrested. Two of the five members of the group in Georgia are under arrest and of the original five people in the Lithuanian watch group, one has emigrated and one is under arrest.

Another Lithuanian dissident, Antanas Terleckas, was also arrested in Lithuania on August 24. Some press articles mistakenly reported that Terleckas was also a member of the Helsinki monitoring group in Lithuania. But he is a long time dissident—having been imprisoned three times already—the first time in 1945—when he was only 17—for supposed participation in an anti-Soviet partisan group. In an appeal to the KGB, Terleckas maintains that he has been persecuted by the secret police since he was 17, merely because of his pride in being Lithuanian and denies that he ever participated in any anti-Soviet group.

In Moscow, Feliks Serebrov was placed under arrest on the same day. Serebrov is a member of a subgroup of the Helsinki Monitoring Group in Moscow—the Working Committee to Investigate the Abuse of Psychiatry for Political Purposes. The leader of this committee, 23-year-old Aleksandr Podrabinek—whose book on the systematic abuse of psychiatry, "Punitive Medicine," has recently reached Amnesty International—was jailed and interrogated for 15 days in March and questioned in connection with the case in preparation against Yuri Orlov—head of the Moscow Helsinki group. Probably due to the press coverage given Podrabinek, the Soviet authorities decided to arrest Feliks Serebrov instead.

With these new arrests, the Soviet Union once again is showing its defiance of the humanitarian commitments it undertook by signing the Helsinki Final Act in August 1975. The fact that these new arrests took place 3 weeks after the closing of the preliminary session in Belgrade and 5 weeks before the convening of the review conference on October 4, seems to indicate that the Soviets hoped

these new repressive acts would go unnoticed. This we cannot allow. I must protest the most recent escalations in this repressive campaign.

GOOD-BYE, DR. McKELVEY

Mr. PACKWOOD. Mr. President, there have been serious questions asked by the press and in the Congress regarding the replacement of Dr. Vincent McKelvey as Director of the U.S. Geological Survey. Are we now watching our national energy program become injected with a dose of politics in the guise of science?

I ask unanimous consent that a recent editorial from the Wall Street Journal, entitled "Good-Bye, Dr. McKelvey," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOOD-BYE, DR. MCKELVEY

Dr. Vincent E. McKelvey for the last six years has been the director of the United States Geological Survey. The 61-year-old career scientist has been with USGS since 1941. In the tradition of the 98-year-old agency—which has had but nine directors in that time—Dr. McKelvey was nominated by the National Academy of Sciences and appointed, pro forma, by President Nixon.

Now, in an unprecedented move, Dr. McKelvey has been bounced by the White House. Technically, Interior Secretary Cecil Andrus pulled the trigger. USGS being an Interior line agency. The administration, he was told, "wanted its own team." But it is inconceivable that Mr. Andrus would take this step without orders from above, any more than we can imagine the Attorney General deciding on his own hook to replace the FBI Director.

In a way, it makes even less sense to fire Dr. McKelvey, because the administration will not replace him with one of its own team anyway, unless it violates tradition and does not accept the nominee of the National Academy of Sciences. Nor is he being fired for incompetence, being too distinguished for that charge to stick. In fact, he's getting back his old desk down the hall.

What's it all about? Plainly, this is Washington: Behind Closed Doors. Dr. McKelvey does not now and never has suited the Malthusian regulators who designed Jimmy Carter's energy plan. While you are trying to bulldoze a $100 billion tax/energy conservation program through Congress, it does not help to have the government's top expert on such matters running around talking about the vast resource base in the United States.

In his early years as USGS director, Dr. McKelvey incurred the displeasure of Rep. Morris Udall, who last year ran for the Democratic presidential nomination on the Club of Rome platform, i.e., the planet is doomed. Mr. Udall and his friends carried on a running debate with USGS over its estimates of natural-gas reserves, insisting that USGS was too optimistic.

In July, just as the Carter energy people were bulldozing the energy bill through the House, Dr. McKelvey was giving a speech in Boston, observing that as much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the geopressured zones underlying the Gulf Coast region. That's 3,000 to 4,000 times the amount of natural gas the United States will consume this year.

"This is an almost incomprehensibly large number," said Dr. McKelvey, noting that "even the bottom range represents about 10 times the energy value of all oil, gas and coal reserves of the United States." In the same speech, he also observed that "a large amount of oil is still to be found in the United States."

Tsk, tsk, Dr. McKelvey does not understand politics. Had he not seen what happened when the scientists of the Energy Research and Development Administration came to similar conclusions in April? The MOPPS I team estimated that if natural gas was deregulated, the nation would be drenched with the stuff at $2.50 per thousand cubic feet. The MOPPS I team was promptly dismantled and its findings adjusted posthumously.

At the same time, the White House thumped up a report of the Central Intelligence Agency that forecast the Russians would run short of energy in 1985 and have to import it from the Middle East. This, we were told, is further reason why Americans must conserve in a hurry by paying a lot more taxes.

Once again, Dr. McKelvey did not know enough to keep his mouth shut. The Russians, he said, are floating on a sea of oil. The Washington Post now reports that Energy Secretary James Schlesinger, who used to run the CIA, privately pooh-poohs the CIA report, saying the Russians wouldn't let themselves get boxed into a position where they'd have to buy oil from anyone.

The Carter people insist that the USGS will not be politicized. They will take just about anyone the National Academy of Sciences nominates, but withhold the right not to do so. Which means the NAS had better come up with a geologist who understands politics. If only Galileo had not been so impolitic as to insist that the earth revolves around the sun, think of the trouble he would have spared the Inquisition.

PERCY REMARKS ON LANCE HEARINGS

Mr. MATHIAS. Mr. President, earlier today Senator PERCY, the ranking Republican on the Government Affairs Committee, comprehensively summed up the issues that have caused this committee great concern about the qualifications of Bert Lance to be Director of the Office of Management and Budget. The statement is important for two reasons: First, it addresses the major problems that we have been struggling with in the past few weeks in determining whether Mr. Lance was forthright with this committee prior to his confirmation. Second, Senator PERCY addresses an issue that goes well beyond Bert Lance—and that is the confirmation process in the Senate. Clearly, as Senator PERCY says, the confirmation of Bert Lance was perfunctory. It is my hope and desire that a better method can be developed to assure us in the future that we have all relevant information as to the qualifications of a Presidential nominee.

Whether or not all Senators will agree with Senator PERCY's conclusion, his statement is significant and should have interest for the whole Senate and for the public.

I ask unanimous consent to print the text of Senator PERCY's comments to the Governmental Affairs Committee in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CLOSING STATEMENT OF SENATOR CHARLES H. PERCY

Mr. Chairman, this is an unfortunate moment in the history of this country.

Eight months ago, a new Administration came into office promising honesty, integrity, and the highest standard of ethics. As the Committee with jurisdiction over the Office of Management and Budget, we had the honor of considering the new Administration's first nominee to head the most important domestic policy-making agency in the government. After what we now agree were perfunctory two-day confirmation hearings, we quickly approved the nomination of Bert Lance to be Director of the Office of Management and Budget in full faith that his background had been subject to thorough scrutiny by the F.B.I. and by the President and White House staff who had known him so intimately for so many years in Georgia. Now, eight months later, Mr. Lance has again come before us—for the third time—to explain his past dealings as they relate to his qualifications for office and the President's request for this Committee to extend indefinitely the deadline for sale of his stock in the National Bank of Georgia, stock that is admitted by all parties to constitute a conflict of interest.

We are in this fix because we failed to do what we should have done in January: thoroughly review Mr. Lance's qualifications to direct the Office of Management and Budget. This is so because we have not established a reliable method to evaluate every Presidential nominee that comes before this Committee or any other committee of the Senate.

We have inadequate resources and procedures within the Senate to do the kind of intensive review that is so essential and which would have eliminated the need for us to be here today. For the future, Chairman Ribicoff, Senator Javits, and I have introduced comprehensive legislation aimed at correcting these defects.

The failure of the process has divided this Committee. My own relationship with the President, whom I profoundly admire and support on so many of the crucial issues facing this nation, may have been damaged by the events of the past few days. And relationships between members of this panel have suffered also. Most importantly, however, the American people have been let down by the evident failure of the confirmation process. This has not always been the case. When President Nixon nominated Clement F. Haynsworth, Jr., who had a conflict of interest problem, and G. Harrold Carswell, who was unqualified, for positions on the Supreme Court, I participated with my Senate colleagues in devoting the long and careful consideration that was expected of us before rejecting those nominations.

I understand that there is an extremely strong bond between the President and Bert Lance, cemented by their long business relationship and their days of service together in the Georgia state government. Mr. Carter's loyalty to his friend is unquestioned; he seems to view Mr. Lance almost as a member of his family. Sadly, however, the time has come for the President to make the painful decision between loyalty to a friend and his Constitutional duties and responsibilities to the American people.

The issue before us is not just Bert Lance. The respect and the good will accorded this new Administration by the American people, and its potential for success, have been compromised by the so-called "Lance Affairs."

In that light, let me review the facts that have only recently come before this Committee, often from unwilling sources in and out of government—facts which should have been before us when we favorably reported Mr. Lance's nomination to the full Senate. Had these facts been known to us then, I do not believe that we would be here today.

Let me sum up what we now know about Bert Lance:

I. OVERDRAFTS

For years, as chief executive of a bank, Mr. Lance used his position for personal gain by financing various enterprises—including his own gubernatorial campaign—through a pervasive pattern of huge, persistent, overdrafts. These overdrafts were not simple mistakes of a few dollars in balancing his checkbook. They were the equivalent of continuing loans, to build his own position of wealth, drawn by Mr. Lance from the very same assets depositors trusted him to manage and invest prudently. This breach of fiduciary responsibility to the stockholders raised in the minds of bank examiners serious questions about his managerial abilities and his business ethics. It also rubs off unfairly on the thousands of prudent bankers who are embarrassed by the revelation of these abuses and by Mr. Lance's assertions that they are acceptable banking practices.

Through his overdrafts on his own Calhoun Bank—obtaining extension of credit far in excess of the federal loan limit of $5,000 for officers of national banks—Mr. Lance may have violated federal law, and certainly the spirit of the law (12 U.S.C. 375a).

II. DOUBLE PLEDGING OF COLLATERAL

Mr. Lance breached a contractual obligation to deliver "forthwith" upon receipt, a very valuable block of stock to the Manufacturers Hanover Trust Company, legally due and payable to them as collateral on a $2.6 million loan. Meanwhile, he knowingly pledged that same stock a second time to get a secured loan from the Chemical Bank. A complex legal determination would be necessary to assess which of these banks would have the stronger legal claim on the stock had Mr. Lance defaulted on the loans. But the crucial issue is that Mr. Lance appears to have made false statements to one or both of these banks that may well have influenced their loan decisions. Chemical Bank's decision was based on an understanding that it would have a legal right to the collateral pledged by Mr. Lance.

In the case of Manufacturers Hanover, bank officials have stated that Mr. Lance repeatedly promised to deliver the stock, in spite of the fact that it was in Chemical's possession. Neither bank was ever informed of the other's claim. Under 18 U.S.C. 1014, criminal penalties apply against anyone who knowingly makes a false statement to influence the actions of a bank. It is not the duty of this Committee to determine whether Mr. Lance violated the statute. There is a real possibility, however, that a violation occurred—a possibility which should receive careful examination by the Justice Department. At the very least, Mr. Lance demonstrated an absence of ethical responsibility in this matter.

III. CEASE AND DESIST AGREEMENT

Despite a written pledge by Mr. Lance to the Regional Comptroller of the Currency in 1973 that "immediate action" had been taken to end the abusive practice of insider and family overdrafts at the Calhoun Bank, that practice actually increased in 1974 and continued in 1975. Finally, in 1975, Calhoun and Mr. Lance were forced by the Comptroller's Office to agree to halt abusive practices or submit to a cease and desist order.

IV. MANAGERIAL COMPETENCE

As to Mr. Lance's managerial competence, for years the Calhoun Bank's operations were the target of repeated and severe criticism by federal bank examiners, who cited abusive overdraft policies and a very high percentage of questionable loans. Indeed, we have learned that in a professional survey of 10 Georgia banks of comparable size—conducted by Keefe, Bruyette & Woods, Inc., an investment firm that specializes in bank stocks—Calhoun ranked last in earnings performance in 1972, last in 1973, last in 1974, and next-to-last in 1975 and 1976. No one disagrees that Mr. Lance was the dominant influence in this bank and must accept responsibility for its condition. At times, criticisms hit at Mr. Lance personally. One bank examiner termed him a "very weak" administrator. Another examination report said: "Mr. Lance is not considered a capable lending officer, and will hopefully limit his efforts more to business development and public relations functions." His actions were characterized by an attorney for the Comptroller as being "unsafe, unsound, imprudent, and irresponsible." As to Mr. Lance's use of the bank during his gubernatorial campaign, the same Comptroller's attorney criticized as follows: "A candidate for public office, by reason of his position, was able to conduct a political campaign free from financial worries, a benefit few others could enjoy."

V. BANK'S FAILURE TO COMPLY WITH F.B.I. SUBPOENA

While Mr. Lance was Chairman of the Bank in Calhoun, an agent from the Federal Bureau of Investigation presented the Bank with a federal grand jury subpoena for books and records in connection with a then-pending investigation into insider and Lance-family overdrafts. The President of the Bank, responsible to Mr. Lance, told the agent that the books and records were in Washington. We are now informed that they were right there at the Bank all the time.

VI. ABUSIVE USE OF CORPORATE AIRCRAFT

As a Bank officer, Mr. Lance engaged in self-dealing. For example, he caused the institution he headed to buy a plane from a partnership consisting of his wife and himself, the Lancelot Corporation. The partnership had acquired the plane, a 1966 model Beechcraft Queen Air, for $80,000 in January 1974, may or may not have depreciated it or added capital improvements (Mr. Lance couldn't recall), and then was paid $120,000 for it by the National Bank of Georgia only 18 months later—a profit of at least 50 percent. Mr. Lance then assumed exclusive control—carte blanche—over the operation of that very same plane. He continued using it extensively for his own personal purposes, and for some political trips, possibly in violation of campaign financing law (2 U.S.C. 4416). Expenses ended up being shared equally by the Bank and the United States Treasury, possibly in violation of 18 U.S.C. 656 on misapplication of bank funds and provisions of the Internal Revenue Code. Again, we find a double standard. Unlike ordinary citizens who pay for their personal or family travel, Mr. Lance had his own private airline to attend football games, the Mardi Gras, numerous trips to his Sea Island vacation weekend retreat, and political meetings and rallies—all courtesy of the bank's stockholders and the American people who paid 50 percent of the cost. As an added perk, in November 1976, NBG purchased a King Air plane at a cost of $800,000 (less trade-in), again under Mr. Lance's exclusive control.

VII. COMPENSATING BALANCES

The evidence demonstrably shows a pervasive pattern over the years as Mr. Lance established correspondent accounts at banks which lent him money. The Comptroller's report shows 13 instances of this in the two years he was President of the National Bank of Georgia. He steered his bank's business to those who gave him personal loans. At the same time, he had his bank maintain interest-free balances in those accounts in amounts that often exceeded the value of services provided. He thereby did a disservice to the stockholders of his bank, while staying narrowly within the law. In referring to Mr. Lance's activities, the Comptroller concluded: "This recurring pattern of shifting bank relationships and personal borrowing raises unresolved questions as to what constitutes acceptable banking practices."

VIII. FAILURE TO INFORM FELLOW DIRECTORS

By advising the directors of his two banks of only five of the 50 loans he had taken out with other financial institutions, Mr. Lance appears to have violated a legal obligation (12 U.S.C. 375a (6)). He conceded to Senator Mathias that he "did not do a good job" in meeting this absolute legal requirement.

IX. INCOMPLETE AND INACCURATE FINANCIAL STATEMENTS

The financial statement which Mr. Lance provided to this Committee in January—which he described as being "complete" and "in proper detail"—failed to mention major liabilities and included information on Mr. Lance's partnerships which his long-time friend and trustee, Thomas Mitchell, says was pulled out of the air. To this day, the trustee of Mr. Lance's so-called "blind trust" has failed, despite repeated requests for almost a month, to respond to the Committee's request for updated information on Mr. Lance's financial condition. So close is Mr. Lance to Mr. Mitchell that it is doubtful an arms-length relationship could actually exist between them. Mr. Lance's trust would not meet the standards established by the Senate Ethics Committee for a "blind trust." In fact, the two are actually partners in the L & M Company, whose assets, dealings, and purposes were never revealed during this Committee's confirmation process. I can only conclude that the failure to provide a recent statement of Mr. Lance's net worth has been condoned by Mr. Lance.

X. PREMATURE CLOSE-OUT OF JUSTICE DEPARTMENT CASE

In his prepared statement on Thursday, Mr. Lance told us that neither he nor his Atlanta lawyer, Judge Smith, had asked the United States Attorney in Atlanta whether he could close a pending criminal investigation targeted at Mr. Lance, involving possible violations of three criminal statutes (18 U.S.C. 610, 18 U.S.C. 656, and 18 U.S.C. 1005). In a sworn statement, his own lawyer admits that he made such a call: indeed, one day following the lawyer's call—when it was known that Mr. Lance was to be named OMB Director—the U.S. Attorney, who has admitted having a personal ambition to stay on, took the most unusual step of reassigning the case to himself and summarily closing it, the very same day, at the very time that the attorney-in-charge was actively pursuing the matter. Three subordinates of the U.S. Attorney who closed that case—all intimately familiar with the matter under investigation—believe it should now be reopened.

In summary, on the question of whether this Committee was misled in the course of the confirmation process, through concealment by Mr. Lance of so many of the above circumstances during discussions with Committee staff and Senators, I dare say that had all of these facts been made known to the Committee we would not have confirmed him. The testimony under oath which we have just heard from Committee staff differs substantially from that of Mr. Lance.

If all of these facts had been fully and completely revealed by Mr. Lance to Senators or staff prior to the confirmation proceedings—or if he had discussed them fully and completely with President Carter at that time—I can conceive of no way, absolutely no way, that he would have been nominated as Director of OMB, let alone confirmed.

By our not having this information, the Committee, President Carter, and the American people were misled.

If President Carter were presented with these facts today, I have to believe that he would step back from his statement, made last Friday, that "I don't know of anything

illegal that Bert Lance has done. I don't know of any unethical conduct on his behalf." If, upon being fully and completely informed of these facts, President Carter were to reiterate that position—a direct contradiction of the high ethical standards he has set for himself and this Administration—then I can only say that my own personal hopes and expectations for this Administration would be dashed.

The evidence aside, I would have to agree with President Carter's assessment that through his performance over the last three days, Mr. Lance enhanced his position. He is perhaps the most accomplished witness before a Senate Committee that I have ever seen. He is his own best defender. And I say that, notwithstanding what I know to be the superb counsel he received from his attorney, Clark Clifford, and the highly proper, above-board, and spirited defense he received from Senator Nunn, whom I believe to be one of the most competent members of the Senate.

But while polished, Mr. Lance's testimony was also evasive. On so many occasions, questions were deftly sidestepped. Answers were often not forthcoming or his memory was weak. He "didn't know" but would "provide later on." Mr. Lance's responses on his current financial situation were especially clouded, and he gave no reason for the peculiar reluctance of his trustee, Mr. Mitchell, to provide such information to the Committee. And strangely, Mr. Lance objected to Senator Javits' request of the Committee for an outside audit of his finances.

At times, Mr. Lance's answers were misleading. For example, Robert Strauss, riding on the National Bank of Georgia plane to the Carter campaign kick-off at Warm Springs, Georgia was, according to Mr. Lance's testimony, "a Texas lawyer;" what he failed to note, until pressed, was that Mr. Strauss was also Chairman of the Democratic National Committee at the time. That fact has a bearing on the political purpose of the trip, which would run counter to federal election law. As to whether Mr. Lance had ever been cited by federal bank examiners for violation of a law, he testified "never." But when reminded by Chairman Ribicoff that indeed he had been cited back in 1971, Mr. Lance recouped, saying that "never" really meant "not between 1972 and 1976."

Likewise, when asked by Senator Javits back in the January hearings, in sworn testimony, whether he had paid interest on "all" of his and his family's overdrafts, Mr. Lance responded that he had. But when Senator Javits asked the question again last Saturday, Mr. Lance admitted that no interest was paid on overdrafts prior to June 1974; his earlier answer had referred only to such extensions of credit occurring after that date.

No one denies that Mr. Lance is exceedingly skillful and clever in fielding questions. But perhaps he has been too clever for his own good. And more important, cleverness is no substitute for high moral standards. In the end, truth has a strange way of surfacing, often at inopportune times, causing agitation for all sorts of very clever men.

One thing has been demonstrated very clearly throughout the course of these hearings. Mr. Lance is not an evil man. He is loyal, witty, and compassionate. Moreover, I honestly think he believes that none of his actions were seriously wrong. But as Comptroller Heimann so aptly noted in a different context, it all depends on what you mean by "wrong."

Mr. Lance has lived by an ethical code which seems to be based on the assumption that it was all right to take advantage of his powerful positions for personal gain so long as no one was hurt in the end, by his own definition. But the American system of justice and ethics is not based on a standard that "the ends justify the means" or that "all's well that ends well." Rather, our system is based on the principle that no one should unwittingly be exposed to loss by the actions of another, and that persons entrusted with authority have a duty to protect those whose well-being is in their hands. Mr. Lance's rules do not always conform with those basic principles, and in several cases he may well have stepped beyond the law. We must abide by a higher standard than his in measuring those who hold positions of public trust.

In reviewing the credentials of Bert Lance for this high post, this Committee is belatedly attempting to fulfill its Constitutional duty to advise and consent. We have already consented. But now it is time to reflect on our action and to advise.

By failing to properly do our job the first time because of the faith we had that there was due diligence in the nominating process itself, we had to do it again, and again. Still, all the facts are not out. These include, for instance, Mr. Lance's current financial situation, and the need for an explanation of several transactions in early 1977, including the fact that checks were dated December 31, 1976 but not covered by Mr. Lance for weeks.

To me, what is most striking about Mr. Lance's own testimony and which weaves a common thread throughout his dealings as president of the Calhoun First National Bank and the National Bank of Georgia, is what appears to so many—including his banking peers—to be a pattern of "wheeling and dealing." As I have listened to testimony over the last week and a half, and as I have read the several Comptroller's reports on the financial affairs of Mr. Lance, I have been distressed by recurring evidence of a double standard which permitted Mr. Lance to conduct himself in questionable ways that the ordinary citizen could not get away with.

It is a pattern which was not, at all times, in the best interest of he banks he served and the shareholders of those banks.

It is a pattern, now denounced by fellow bankers, which establishes a poor example for the banking profession as a whole.

It is a pattern of cutting corners so very closely—perhaps too closely.

It is a pattern that, in most instances, may well have been within the scope of the law. But, it appears that Mr. Lance's business conduct often was, at best, only narrowly within the law—the very standard which President Carter indicated to the American people when he took office, and earlier during the campaign, would not be the standard for the appointment of officials to high office within his Administration. And most seriously, some of these matters may well be outside of criminal and civil laws, and the Department of Justice and other enforcement authorities have now been called in to decide. For Mr. Lance to excuse his conduct by asserting that "all's well that ends well" is to beg the question of his fitness to serve.

If Mr. Lance insists on remaining in office as he has asserted time after time that he will—and he is permitted to do so by President Carter—I see a rough period ahead for both. The questions we have raised did not all originate here with this Committee, nor will they end here. There are now three Congressional inquiries into this matter. There are six separate investigations or inquiries within the Executive Branch being conducted by the Justice Department, Internal Revenue Service, Federal Elections Commission, Securities and Exchange Commission, Federal Deposit Insurance Corporation, and the Comptroller's Office. There is simply no way that Mr. Lance can adequately respond to all these inquiries and still manage the affairs of one of the most important offices in the federal government.

Apart from what we already know, there are so many loose ends, so many leads to be followed, so much conflict of testimony, so much to do to untangle the intricate web of financial dealings surrounding Mr. Lance, that he cannot possibly devote his full time to managing the affairs of OMB. It is not a part-time job, and the American people have the right to demand the full energies and commitment of their public servants.

I deeply regret that a sharp disagreement has developed on this matter, that Senator Ribicoff and I tried so hard to avoid. We face major problems which are vital to the nation's welfare—inflation and unemployment, the energy crisis, balancing the budget, tax reform, welfare reform, and crime; and in foreign affairs, nuclear proliferation, the Middle East war potential, the Panama Canal, Salt II, the crisis in Africa, and critical international economic problems. The effort we have all devoted to the "Lance Affair" dissipates our strength to deal with these issues.

The important business of the Congress, the Carter Administration, and the American people should go forward without this tragic matter obstructing our national purpose.

In my judgment, Bert Lance should step down for the good of the country and the Administration to which he is so loyal and which has been so loyal to him. Most of all, this action would help to restore the faith of the American people in this still-young and promising Administration so that it can go ahead with the job of leading this nation.

In closing, I want to especially commend Chairman Ribicoff for the eminently fair and deliberate manner in which he conducted these hearings. At all times, he has displayed an unshakable sense of justice in his rulings and has maintained the decorum of these proceedings even during our most intense and emotional moments. I applaud him for his able performance and his deep devotion to the duties and responsibilities of his position as Chairman of one of the most productive, and until the "Lance Affair" the most non-partisan and harmonious, committees in the United States Senate.

RURAL HEALTH CLINIC BILL

Mr. LEAHY. Mr. President, I am in strong support of the rural health clinic bill as embodied in section II of H.R. 422, which was passed last Friday. Section II is, in essence, S. 708, which was introduced by Senator CLARK and me, and which now has 56 other cosponsors.

The bill is the result of a series of hearings, held by the Senate Rural Development Subcommittee, which explored the ways small rural communities are attempting to cope with the most serious health care problems facing rural America.

We discovered that many of those areas have come to rely on local clinics for their primary health care needs—clinics which are staffed by specially trained health professionals called nurse practitioners or physician assistants. Physicians in nearby communities provide both backup and audit services.

However, we also discovered a persistent obstacle to the maintenance of these clinics. This obstacle is created by a particular medicare regulation that requires a physician to directly supervise the services provided by nurse practitioners, and other nonphysician health personnel. This regulation may not be a problem in urban areas where there is an abundant supply of physicians to oversee these services. However, in rural areas the lack of physicians is precisely the reason for the extensive use of nurse

practitioners and because there are no physicians around to directly supervise, then the physician assistants and nurse practitioners are not reimbursed.

The lack of reimbursement clearly reinforces the already extreme maldistribution of primary health care personnel.

In addition, the lack of reimbursement adds to the financial instability of the clinics. This is a serious problem. Many rural clinics, which, in many cases, are the only primary care available in an area, are closing their doors, because of problems with long-term funding.

The bill before us is designed to change the medicare and medicaid reimbursement policies. This legislation provides medicare and medicaid reimbursement for rural health clinic services provided by nurse practitioners and physician assistants.

I fully believe that this change will provide rural Americans greater access to primary health care needs.

I am optimistic about the beneficial effects of the changes in reimbursement policy on rural clinics, because of the success of a pilot project developed by the Champlain Isles Health Center and Vermont/New Hampshire Blue Cross-Blue Shield, and my office.

Under this pilot project Blue Cross-Blue Shield changed their reimbursement policies to a system to that proposed in this bill. The project has proved to be a success for both the clinic and the insurance company. The clinic has definitely stabilized as a result of the reimbursement.

Mr. President, I ask unanimous consent to have printed in the RECORD a newspaper article which outlines the success of this project.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RURAL HEALTH PROJECT "HIGHLY SUCCESSFUL"

(By Andrew Nemethy)

GRAND ISLE.—A rural health care project here that carries nationwide significance for the delivery of medical services in rural areas has been declared "highly successful" by Blue Cross-Blue Shield officials in New Hampshire.

In possibly one of the first instances in the United States, Blue Cross-Blue Shield, which provides private medical insurance, is allowing direct reimbursement to nurse-practitioners for health care without direct supervision of a physician.

Blue Cross-Blue Shield spokesman Fred Kocher in Concord, N.H., said the pilot arrangement is being tested with the Champlain Islands Health Center, which is operated under the auspices of the Burlington Visiting Nurses Association and the Grand Isle Health Council.

Kocher called the program, which has been in effect for about a year, "a radical departure from the way we've done business in the past."

Granting direct reimbursement to nurse-practitioners is seen nationwide as a critical step in providing health care in rural areas that have been unable to obtain the services of a physician. The four-member staff at Champlain Islands Health Center has been able to handle about 90 percent of the patients it sees without referral to a doctor. Nurses operating the center also do referrals to doctors for additional treatment and to hospitals for tests they cannot perform themselves.

Grand Isle County, with a winter population of about 6,000 which swells to twice that size during the summer, does not have a resident practicing physician. The reason, said Kocher, is money: "Because doctors can't make $50,000–$100,000 in a place like Grand Isle."

"They won't locate in a place like that. There's got to be some alternative. That's why we see this as a real viable alternative," Kocher said.

Under present regulations, Blue Cross-Blue Shield will only reimburse directly to physicians or persons operating under a physician's supervision, Kocher explained.

U.S. Sen. Patrick Leahy (D-Vt.) has been directly involved in the Grand Isle project he is also sponsoring a bill in the U.S. Senate, along with Richard Clark, D-Iowa, that would allow direct reimbursement to qualified non-physicians under Medicare and Medicaid. While the Grand Isle center receives direct Blue Cross-Blue Shield reimbursement, federal regulations on Medicare and Medicaid still limit reimbursement to physicians only. As a result, the center is limited from being reimbursed for health care to low-income and elderly persons.

Leahy aide Paul Bruhn said the bill has been bogged down for more than a year in the U.S. Senate Finance Committee because of tax and energy legislation, but has collected over 50 cosponsors and has a good chance of passage this year or early next year.

Bruhn said Leahy's involvement in the rural health care area was prompted by hearings held in 1975 in Vermont on rural health. Bruhn said the obstacle created by lack of direct reimbursement "was raised as a particularly crucial problem to people trying to get primary care in rural areas." He called Blue Cross-Blue Shield's decision to approve the pilot project a "significant step" both for the company and the rural health care field.

Bruhn said the test project was a step at overcoming traditional dominance of the physician in the health care system, as well as an answer to the reluctance of physicians to set up practice in rural areas.

Since the clinic was opened approximately two years ago, it has been serving a growing number of patients. Between July, 1976, and June, 1977, there were 3,744 patient visits. Assistant Project Director Teresa Smyrsky said public reaction has been very encouraging. "Perhaps initially, when it first started, there was some reticence. But I think that acceptance has come to using nurses as providers of health care," she said.

Mr. LEAHY. Mr. President, I would like to commend Blue Cross-Blue Shield for their work with rural health clinics and I hope other companies will be encouraged by their success.

Finally, I would like to express my thanks to all those persons and groups who have supported and worked on this legislation. I especially thank my colleagues, Senators CLARK, LONG, and TALMADGE for their efforts.

SOVIET COMMITMENT TO HUMAN RIGHTS IS QUESTIONABLE

Mr. DOLE. Mr. President, I am increasingly distressed by press reports on the harassment the dissidents in the Soviet Union are being subjected to. On August 24, we learned that Felix Serebrov, a leader of the working group against abuses in psychiatry for political purposes, had been arrested in Moscow. At the same time, Viktoras Petkus and Antanas Terleckas were arrested in Lithuania for working with the unofficial organization to monitor Soviet compliance with the Helsinki accords on human rights. We know that Yuri Orlov, Mykhola Rudenko, Oleksa Tykhy, and Alexander Ginsburg are languishing in Soviet jails. Even prominent scientists such as Antoli Scharansky and Andrei Sakharov are under constant attack. Now we learn of further efforts by the Soviet Union to undermine the principles of the Helsinki Final Act.

KGB TRYING TO ENTRAP HUMAN RIGHTS ACTIVISTS

According to an Evans and Novak article in the Washington Post on September 16, the Soviet secret police, the KGB, exerted every effort to set up a fraudulent front for enticing anti-Soviet Estonians into the human rights movement and then expose and imprison them. Although this particular attempt occurred in Estonia, it is not unlikely that similar attempts are being made in other parts of the Soviet Union. The fact that a half a million dollars was allocated for this project, gives an indication of the seriousness with which the KGB is approaching the growing dissident movement. I want to share this article with my colleagues, therefore, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KGB ENTRAPMENT OFFER

(By Rowland Evans and Robert Novak)

Operating along lines laid down by the Kremlin's top spy, the Soviet KGB last year propositioned an Estonian nationalist with a $500,000 inducement to establish a fraudulent front for enticing anti-Russian Estonians into the human-rights movement—for exposure and imprisonment.

The entrapment offer to 44-year-old Erlik Udam puts into hard action the chilling anti-dissident harangues of top Soviet officials, including Yuri Andropov, a power in the ruling Soviet Politburo and head of the Soviet KGB.

As though making a virtue out of the huge financial offer secretly made to Udam by his agents in Talinn, Estonia, in the spring of 1976, Andropov himself delivered perhaps the harshest attack against the dissident movement early this month. With Andropov speaking in Moscow's Bolshoi Theater, party leader Leonid Brezhnev and other top Soviet officials were listening.

"Dissidence has become a kind of profession," Andropov said, "that is generously paid with foreign currency and other tips, which in essence is little different from the way imperialist services pay their agents."

The speech, marking the 100th anniversary of the birth of Felix Dzerzhinsky, notorious founder of the Soviet secret police, was ominous. It was the Kremlin's clearest warning that the October Belgrade Conference (convening to check compliance with the 1975 Helsinki agreements) will do nothing to halt Moscow's attack on the dissident movement.

The KGB's approach to Udam—news of which was smuggled out of Estonia—is a classic attempt to subvert an anti-Soviet nationalist with promised riches. It reads like a spy thriller.

Udam uncovered and removed a hidden bugging device in the electric meter box outside his Talinn apartment in March 1975. He was summoned to KGB headquarters and

interrogated about a missing "civil-defense device"—in fact, the bug.

The investigation, under command of a KGB major, ended with this offer to Udam: Give back the bug in return for immunity in a KGB investigation of the Estonian nationalist movement, of which he was a secret member. Udam accepted that offer, then rejected a KGB bid to become an undercover agent.

That was only the beginning. A year later, buoyed by the Helsinki accords, the dissident movement was gathering steam. The KGB major summoned Udam to three long conversations, on April 4, 11 and 14, each in a different location. His proposition: that Udam become (in Udam's words) "a prominent dissident and organize a dissident group."

"He offered me money for organizational expenses," Udam says. "On April 4, the sum he quoted to me was between 200,000 and 500,000 rubles" (around half a million dollars). The Udam dissident group would then offer foreign correspondents "information"—actually only information supplied by the KGB.

Udam said no such dissident group could possibly work and that he himself would risk quick exposure. Instead, testing KGB reactions, he proposed a Helsinki "monitoring" group. These groups, set up by dissidents after the Helsinki Conference, have become a top KGB target. Many prominent "monitors," such as Moscow's Yuri Orlov, are now in jail.

When Udam proposed a monitoring group "in conjunction with Finland," the KGB said there was "no sense in bringing the Finns into the plan." Instead, Udam "must deal with the Americans. They have the money for dissidents," and it would be Udam's job to talk American backers out of that money. He was offered 50 per cent of anything he got.

In the end, Udam said no. He refused to recommend anyone else for what he called "such gross deception." The KGB has not contacted him since.

Adding to the credibility of this chilling story, London Financial Times reporter David Satter had his briefcase stolen last February while riding the Riga-Talinn train. Taken by the KGB, it is known here, was a notebook containing Udam's name. Udam's own account, smuggled from Estonia, tells of that event and states that the KGB boasted it was their "personal achievement" that Satter never was able to contact Udam in 1976.

Planting *agents provocateurs* amidst dissidents and Helsinki monitors is nothing new. The outrageous charge of treason against scientist Anatoli Scharansky seems to have resulted from a denunciatory letter in Izvestia by Alexander Lipansky, another "dissident" who may be an undercover KGB man.

Moscow has made minimal internal human-rights improvements to ward off attacks at Belgrade: allowing some emigration of dissidents, giving early jail release to 13 Russian Baptists, permitting sale of 29,000 American paperbacks (in English). But behind these cosmetic improvements, the real work is unimpeded: expose and destroy the civil-rights movement, the dissidents and the brave souls who believe in Helsinki.

SOVIET HYPOCRISY IN SIGNING THE HELSINKI FINAL ACT

Mr. DOLE. Mr. President, it is most unfortunate that the Soviets have decided to follow this route. It indicates clearly that they have little intention of adhering to the principles they agreed to uphold in the Helinski Final Act. I would like to quote General Secretary Leonid Brezhnev who in August of 1975 said in Helsinki:

We assume that all countries represented at the conference will implement the undertaking reached. As regards (to) the Soviet Union, it will act precisely in this manner.

Yet, the Soviets are proceeding in precisely the opposite manner.

BELGRADE PROSPECTS LOOK UNCERTAIN

This attitude of the Soviets does not bode well for the resumption of the talks in Belgrade in the fall. The U.S. delegation will have to impress upon the Soviets that we are serious in our commitment to human rights. The Soviet Government cannot be allowed to adhere to only those provisions which it finds to its liking while affixing its signature to the complete document.

The U.S. delegation will have a very difficult task to perform, but it must stand firm. The conference will be reconvening in Belgrade on October 4 and it is charged with a "thorough exchange of views both on the implementation of the final act and of the tasks defined by the Helsinki conference."

HUMAN RIGHTS IS A CORNERSTONE OF U.S. FOREIGN POLICY

The delegation, however, does not stand alone in this. Human rights has become a cornerstone of American foreign policy with the full support of the Congress. On June 14, I introduced an amendment which was passed and which reiterated in precise and unequivocal terms the commitment of the American people to human rights and instructed the official U.S. delegation to articulate the significance of this commitment to security and cooperation in Europe. If the Soviet Union seeks respectability in our eyes and the eyes of the world, it must take our concern for human rights seriously.

It is for this reason that I would like to bring to the attention of my colleagues an article which appeared in the Wall Street Journal on August 4, 1977. It is by Rita E. Hauser, a former U.S. representative to the U.N. Commission on Human Rights and it analyzes the effects of the human rights struggle on the Soviet leadership. But more importantly, it provides a clear evaluation of the policy that we in America, and the U.S. delegation in Belgrade should be adopting; namely, a firm and unshakable stand on behalf of human rights.

I want to share this article with my colleagues, therefore I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY THE SOVIETS HATE HUMAN RIGHTS TALK

(By Rita E. Hauser)

At a recent high-level conference in which I participated between Americans and Soviets, held at a seaside resort in Latvia, the Russian delegation said detente was in danger of derailment because of a profound anti-Soviet bias on the part of President Carter. Speakers blamed his immediate advisers for "poisoning" his attitudes.

In fact, private conversations convinced me that few if any of the Soviet participants really believed this. What troubled them, rather, was their knowledge that America was now insisting that the Soviets adhere to the commitments implicit in a mutual process to relax tensions.

Yet everything said during five days of talks led me to believe that the Soviet Union still desires a cooperative relationship with the U.S. rather than a return to overt hostility, even though detente is causing internal strains for the Soviet leadership.

Nowhere are the strains more evident than in the area of human rights. While the Soviets at the conference argued with dispassion and logic their positions on Salt II, the Middle East, Africa and trade with the U.S., they contended that internal dissent and their restrictive emigration policy were domestic political matters not subject to outside interference.

Nevertheless, Soviets know that because of detente their acts of repression against dissidents are monitored, analyzed and criticized by the West, reported as world news and broadcast back to them by the Voice of America or the BBC.

They are capable of controlling any undesirable internal side effects caused by dissent. But they now realize they cannot get away with repression without losing the continued cooperation of the U.S. or without risking additional resistance to authority.

Criticism of repression and human rights violations drives the Soviets crazy because it rips open the network of lies and propaganda they have peddled for decades. In the heyday of detente, their representatives to any international forum could recite the Soviet constitution and list the many human rights treaties Russia has ratified, all without serious challenge by the West.

Now they simply do not know what the new rules are. I am convinced they are troubled more by this fact than anything else, and therefore they will continue to test again and again how far Mr. Carter will press them on the human rights issue. It is no accident that President Brezhnev took the unusual step of complaining about American policy to the leaders of France and West Germany, both of which nations he knows would readily abandon the campaign initiated by President Carter in order to obviate Soviet wrath.

The Soviets, in my opinion, will arrest more dissidents on the usual flimsy charges, threaten some with treason indictments and engage in the crude propaganda against Zionists and imperialists for which they are infamous.

Then more often than not they will relent somewhat in the face of external pressure, expecting credit for releasing someone from jail who never should have been arrested in the first place. But they will not resort to show trials, death sentences and wholesale intimidation. Nor will they close off scientific and intellectual exchanges with the West.

The current Soviet leadership believes the opening to the West, especially to the U.S., is beneficial. It is not prepared to junk these benefits in order to reassert total internal controls, provided we let them know unmistakably when the limits have been reached.

The long struggle for succession in the Soviet Union is obviously already under way, and for some time at least dramatic changes in Soviet policy are unlikely. The Soviets will cling to detente for the near future, no matter how painful it may become, both to justify the decision in the first place and to continue to derive real benefits from cooperation with the West.

Thus we must assert to the maximum, albeit with tact and care, our abiding concern for the breath of human freedom in Eastern Europe as the quid pro quo for Russian access to Western technology, admission into the international economic community and, yes, respectability in U.S. eyes.

Those who wring their hands worrying about Soviet sensitivity to our criticism of flagrant violations of individual liberty, simply do not understand that human freedom is a negotiable item for the Russians.

This has always been the case with totalitarian regimes. And failure to appreciate this fundamental point is to sacrifice an opportunity to alleviate repression in Eastern Europe and promote the seeds of dissent, change and agitation for liberty. President Carter owes no apologies for his human rights campaign, for the Soviets, unlike some in Washington, understand very well what it is all about.

KOREA—THE CHALLENGE TO U.S. POLICY

Mr. McGOVERN. Mr. President, we currently have underway in the Capitol what I consider to be a very stimulating and useful conference of United States and Japanese parliamentarians on all aspects of the situation in Korea. The conference was arranged by the Institute for Policy Studies.

I cannot help but remark that the sessions have been extremely well attended by members of the Japanese Diet, who traveled a minimum of some 7,000 miles to share their perceptions with us on a matter of serious joint concern to our two countries. I regret very deeply that I cannot say the same for Members of the U.S. Senate and House of Representatives, who would have had to walk a few yards at most, to take part. I particularly regret that so few of us have taken advantage of the opportunity to exchange views with some of the most thoughtful experts—both American and Japanese—on an issue which will remain troublesome and controversial for some years to come.

It was my privilege to deliver the keynote address to the opening session of the conference this morning. In those remarks I mentioned some of my own concerns about the nature of the Carter administration's withdrawal program, and about the need to accompany that initiative with something more—not a stimulus to a new arms race on the Korean penninsula, but with a serious appraisal of policy options which might lead to a political settlement. Because I believe that a number of my colleagues may be interested in these issues, I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A DURABLE PEACE IN KOREA—THE CHALLENGE TO U.S. POLICY

I am grateful for the opportunity to address this conference of Japanese and American parliamentarians on Korean problems. Both the conception and timing of this conference seem to me exceptionally fortuitous. American policy toward Korea has more and more in recent years been explained and justified in terms of the presumed interests and concerns of our Japanese ally. Yet communications between Japan and the United States on Korea have been by and large limited to those between the executive branches of the two countries. This conference is a rare opportunity for members of the U.S. Congress to engage in a frank discussion with our Japanese colleagues and to hear a broader range of views. Such discussions are valuable not only for the fresh insights and ideas which they offer us, but also to remind us that the interests and concerns of any country cannot be expressed by a single voice.

This conference also comes at a critical time in American relations with Korea. For the last several years, U.S. policy toward Korea has encountered a crisis because of changes in the Korean situation which have brought into question some of the basic premises of past policy. The Carter Administration has tried to deal with this crisis by its plan for the withdrawal of U.S. ground troops from South Korea. But because that plan is still based on the same political assumptions as the policies of previous administrations, it has not resolved the crisis in U.S. policy. It may actually deepen it.

There has been wide discussion in recent months on several aspects of U.S. relations with Korea—on troop withdrawal, the problem of human rights, and the South Korean scheme to influence the U.S. Congress. What has been missing in the debate over Korean-U.S. relations, however, is a searching reexamination of the premises which have determined our policy in the past. With the help of this distinguished delegation of Japanese parliamentarians and the specialists on Korea who have written papers for the conference, our discussions over the next two days can open a new debate within the Congress, the Executive branch and outside the government, on the direction of our Korea policy in the future.

The Korean conflict is the last cold war crisis issue over which the threat of war looms. The others—Berlin, Cuba, Vietnam, Taiwan—have all faded in importance in the wake of East-West detente or are the subject of quiet diplomatic negotiations. Of course, the Korean issue, like Vietnam before it, is difficult, complex and not subject to instant or easy solutions. But we must ask whether the U.S. has done everything it can to bring about a more durable peace on the Korean peninsula.

For more than twenty-four years, U.S. policy has been premised on the idea that the threat of war would remain for the indefinite future. The U.S. objective has not been to end the military confrontation but to maintain the patchwork truce from one year to the next.

This approach has not brought Korea any closer to a durable peace. The policy now being pursued by the Carter Administration will not only maintain the same high level of tension on the peninsula but is likely to increase it substantially. I am deeply concerned that the so-called "compensation" which the U.S. is now preparing to give South Korea, militarily and politically, in conjunction with the projected withdrawal of U.S. ground troops, will stimulate a new arms race between North and South Korea. During the next several years, as the conflict grows more intense, the U.S. will find itself even more strongly committed to the Park regime. This is a policy which is headed in the wrong direction.

There are, in my view, three major issues which must be raised about the Carter Administration's policy toward Korea. The first issue is whether the U.S. can afford to continue its present unconditional support, by its military presence, its mutual defense treaty, and its material aid, for a cruel dictatorship which mocks the values for which the U.S. claims to stand in the world.

The second issue is whether the proposed tradeoffs for the reduction in U.S. troops does not leave the U.S. even more heavily committed to the Park regime and even more exposed to the danger of an escalating North-South conflict.

The third issue is whether the U.S. should continue to permit the Park regime to block U.S. diplomatic talks to ease the threat of war through military agreement with North Korea.

Respect for human rights should be a vital part of U.S. policy in Korea and everywhere else in the world. It is thus disturbing to see the Park regime granted a blanket exemption from our overall human rights policy. South Korea is one of those countries where the U.S. stand on human rights is central to its relations with the government. Not only is the Park regime's violation of human rights clearly documented beyond any controversy; it is one of those governments which cannot afford to be indifferent to U.S. pressures on human rights. And the U.S. cannot avoid being identified by South Koreans with the tyranny, repression and torture of the regime.

Park has made it a crime not only to criticize the government but to criticize the 1972 Constitution which gave virtually absolute power to the Chief of State, or to call for its revision. In other words, it is now a crime to advocate the most elementary human rights.

Professor Jerome Cohen has carefully documented the human rights violations in his excellent paper for this conference. Did we not learn in Vietnam that supporting tyrannical regimes such as this is not only wrong but self-defeating?

In the post-Vietnam era, the American people are not going to support a U.S. intervention to defend a regime which they have difficulty distinguishing from its foe. A public opinion poll taken in April 1975 showed that only fourteen percent of Americans interviewed would support the dispatch of troops to fight in a new war in Korea. We do not know how much greater the support for the defense commitment to Korea would be if the South Korean government were not so oppressive. What we *do* know is that there is no broad public support for the commitment to South Korea as long as the Park dictatorship is the beneficiary.

It is time to come to terms with this reality. To attempt to maintain the artificial separation between the tyrannical character of the Park regime and U.S. concerns with "national security" cannot succeed in the long run. Supporting a regime which is based on fear rather than on positive support runs a high risk of a violent upheaval at some point in the future. The potential consequences of such an upheaval, whether disorder and chaos or a desperate move by Park to maintain power by dragging the U.S. into a war, represent a serious danger to the U.S. The time to put some distance between the U.S. and the South Korean regime is now—not when the crisis occurs. We should put General Park on notice that our mutual security treaty and other forms of support are predicated on a restoration of human rights, beginning with the revision of the 1972 Yushin Constitution.

I have supported the President's decision to withdraw U.S. ground forces, which I believe was a courageous act in the face of opposition from the national security bureaucracy.

But the implications of the withdrawal plan as it has now emerged are deeply disturbing.

Most disturbing to me is the compensation which the U.S. has been forced by the Park regime to pay for the privilege of withdrawing its ground troops within five years. The Carter Administration is prepared to request at least an additional $1.8 billion in arms for South Korea over the next five years. The plans for a further buildup of South Korean military capabilities include sending some 250 additional jet fighters, of which ninety would be new F-16's. These planes would give South Korea the capacity for offensive action against North Korea. This dramatic increase in South Korean air power is being planned in spite of the fact that North Korea has no planes in the same league as South Korea's Phantom jet, which has a combat range roughly three times greater than the North Korean planes.

South Korean officials look upon this new military buildup not as achieving a position of parity with the North but as establishing a clear military advantage. According to virtually every careful analysis of the military balance in Korea, there is already a rough equality between the two sides. If there has been any tipping of the balance in the past few years, it has been in Seoul's favor, thanks to its enormous advantage in gross national product, which is three times larger than that of the North, and its growth rate, which is double that of the North.

South Korea already considers itself to be superior to the North militarily. Last April twenty-ninth, the South Korean Defense Minister told the National Assembly that the Republic of Korea now surpasses North Korea in military power, that its defense industries were far superior to those of North Korea, and that North Korean military equipment is obsolete. In a few years, he said, with the completion of current plans for modernization, South Korea will be "completely superior" to the North.

In the context of South Korea's increasing self-confidence, the proposed compensation program seems clearly unnecessary and dangerous. A Pentagon witness testified earlier this year that, although the new military buildup would provide "some offensive capability", it would "not confer a degree of capability to make offensive action likely." I do not understand how we can be so casual about upsetting an already tense and tenuous military balance in the Korean peninsula. Park himself has made statements indicating that he does not rule out a surprise attack against the North.

In a speech at the graduation ceremony of South Korea's Air Force Academy on March thirtieth, he declared "Modern warfare is characterized by surprise air attacks and quick annihilation of the enemy. Therefore, success or failure in such a surprise attack in the initial stages of a war, in many cases, is an important factor influencing the course of the war. The air force's function and rule are great and unrivaled—especially your mission as leaders of our air force".

But even if the offensive capability we are going to provide the Park regime is not used, it is certain to make him more belligerent toward the North and to raise the level of tension substantially. It is going to be viewed by North Korea as a new threat from the South. We can be sure that North Korea will press the Soviet Union to provide more modern jets to offset South Korea's new advantage.

So one of the consequences of the compensation plan is going to be a new arms race between North and South Korea, and a higher level of tension on the peninsula. And if that tension escalates into an armed clash, U.S. ground troops could still become involved in South Korea during the next few years. Even after they are gone, the U.S. air force in South Korea could be drawn into a conflict.

Equally serious, in my view, is the price the Carter Administration is paying for the withdrawal in terms of reinforcement of American political support for the Park regime. Park has convinced American officials that his regime would be weakened by troop withdrawal and that it must be compensated by other signs of U.S. political support. Ironically, the troop withdrawal is having the effect of tightening the bonds between the U.S. and the Park regime.

Another aspect of the political compensation to Park which particularly disturbs me is the rejection by the Carter Administration of any diplomatic move which would offend the Park regime. It raises the third major issue of U.S. policy toward Korea: whether the U.S. should permit Park to block progress toward a diplomatic agreement which would ease the threat of war and promote a more durable peace.

I believe it is time for a complete reappraisal of the U.S. diplomatic policy toward Korea. U.S. policy has been based on the premise that there is no serious possibility for negotiations with North Korea and that the military confrontation between North and South Korea, along with some U.S. military presence, must remain for the foreseeable future. In an era of detente, in which the U.S. carries on negotiations on a wide range of issues with the Soviet Union, China, Cuba and Vietnam, it is a strange anomaly that, twenty-three years after the abortive Geneva Conference on Korea, there have been no negotiations between the U.S. and North Korea for a resolution of the Korean conflict.

Despite the fact that the history of U.S. relations with North Korea has been marked by bitterness and hatred on both sides, it is important that we be aware of precisely what North Korea has proposed to negotiate. Since 1972, it has offered to agree with South Korea on the reduction of forces on both sides to 100,000, the pullback of its own forces from the demilitarized zone, and an agreement that both sides would not use force against the other. North Korea has further proposed a ban on the introduction of new weapons to the peninsula and has called for an intermediary reduction of forces on both sides in the range of 150,000 to 200,000. In return, North Korea wants the U.S. to pull out its military forces.

It is not widely known in the United States that South Korea, with apparent U.S. support, has refused to discuss the North Korean proposal. The Park regime's refusal is not limited to any specific North Korean formula, but rejects any negotiations on these problems. This is an intransigence which can best be appreciated by imagining how we would interpret a Soviet refusal to negotiate with the U.S. on arms control or disarmament measures, on the grounds that they do not trust U.S. intentions.

I have not heard any convincing argument why an agreement between North and South Korea to reduce forces and pull them back from the demilitarized zone, to ease the threat of war and permit the U.S. to withdraw its military presence from Korea, would not be in the interests of the South Korean people and the people of the U.S. I can only conclude that the Park regime fears that any agreement with North Korea of this nature would take away its primary excuse for political repression in South Korea which is the specter of an invasion from the North.

So far the U.S. has been content to let South Korea have a veto over any concrete progress on a Korean peace settlement. The U.S. has refused North Korean offers to discuss a "peace agreement" on the grounds that the North will not let the South participate in such talks. But in fact the Carter Administration, like the Nixon and Ford Administrations before it, has done nothing either to push South Korea to negotiate on military matters or to define its own negotiating position on reducing tensions.

I believe the U.S. should take the diplomatic initiative for a more durable peace in Korea. It has a vital interest in easing tensions in the Korean peninsula as well as the primary responsibility for security in South Korea. Not only does the U.S. maintain combat troops and air power in South Korea and a defense treaty under which the U.S. could intervene militarily; it also maintains operational control over South Korea's forces through the commanding general of the United Nations command, who is always the commanding general of the U.S. 8th Army in South Korea.

Under these circumstances, it is not only legitimate but necessary for the U.S. to take the lead in starting talks with North Korea on military problems. Such talks should embrace all possible means of halting the military competition and reducing tensions between the North and the South: force reductions and pullbacks, arms control and disarmament measures, the withdrawal of all U.S. military forces, and an agreement on non-use of force should all be on the agenda.

Talks with North Korea can only by the starting point, of course, for an eventual agreement which must involve South Korea as well. Even the measures which North Korea has suggested be negotiated with the U.S., such as a prohibition on introduction of new arms into Korea, could not be implemented without some agreement between North and South Korea. Any U.S.-North Korean agreement must be linked with an agreement between North and South Korea.

But the U.S. cannot permit the Park regime's lack of interest in negotiations on these problems to block the beginning of talks between the U.S. and North Korea. What I propose, therefore, is that the U.S. announce its willingness to enter into exploratory talks with North Korea on these military problems, while inviting South Korea to join the talks as soon as it has formulated its own proposals for force reductions, arms controls, etc. In the meantime, the U.S. should enter into consultations with South Korea aimed at arriving at a common position on how to end military tensions on the peninsula and permit the withdrawal of all U.S. ground forces from the peninsula.

This formula for beginning negotiations on Korea would represent a fundamental reversal of the Kissinger formula of 1975, which is still accepted as U.S. policy by the Carter Administration. That formula puts the primary responsibility on South Korea and North Korea to negotiate an acceptable agreement, assigning to the U.S. only a passive and secondary role.

The formula which I am proposing would mean that the U.S. is putting both sides in the conflict on notice that the U.S. intends to explore every possibility for a diplomatic agreement which would take into account the legitimate concerns of all the parties and lead to a more durable peace. I believe that this initiative would offer a real incentive to both North and South Korea to enter into serious discussions on military issues and would produce the first movement toward a peace settlement since the end of the Korean War.

In the present situation, the U.S. policy faces a clear choice between continuation of its unconditional and all-out support of the Park regime, with the costs and risks which I have outlined, and an approach which puts priority on a concern for human rights and movement toward a durable peace on the peninsula. I hope that the discussions over the next two days will deepen our understanding of the choice facing us and illuminate an alternative to the present course.

THE 1902 RECLAMATION LAW

Mr. HAYAKAWA. Mr. President, I would like to bring to the attention of my distinguished colleagues the fact that Secretary Andrus of the Department of the Interior has proposed regulations for the 1902 reclamation law pursuant to a recent court ruling. I do not question the necessity for these regulations, nor the validity of the regulations in the light of the intent of the law. I do feel, however, that before these regulations are put into effect, an economic impact report and an environmental impact report must be made.

The 1902 reclamation law has been in effect for 75 years without regulations.

For Congress to allow regulations to be imposed without study at this time and date would be derelict. These regulations would be placed on over 11 million acres and would directly affect the following 17 Western States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

I am sending a "Dear Colleague" letter to the Senators from these 17 Western States, asking them to join with me in my appeal to Secretary Andrus of the Department of Interior and Secretary Bergland of the Department of Agriculture requesting such studies. I feel that it is the responsibility of Congress to be informed when so many people and States are involved.

THE RURAL HEALTH CLINIC BILL

Mr. CLARK. Mr. President, on Friday, September 16, the Senate passed H.R. 422, a bill that responds in an effective manner to a serious obstacle to basic health care services in small towns and rural areas. It recognizes the fact that small health clinics, and the physician assistants and nurse practitioners who furnish health services there, fulfill an extremely valuable role in bringing health care to those who are not fortunate enough to have easy access to physicians.

H.R. 422 is based upon a bill introduced by Senator LEAHY and me, S. 708, which now has 56 other cosponsors. I ask unanimous consent that a list of the Senators who have cosponsored S. 708 be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSPONSORS OF S. 708

Abourezk, Anderson, Baker, Bartlett, Bayh, Bellmon, Bentsen.

Bumpers, Burdick, Cannon, Chiles, Church, Clark, Cranston, Culver.

Danforth, DeConcini, Domenici, Durkin, Eagleton, Ford, Glenn, Gravel.

Hart, Haskell, Hatfield, Hathaway, Heinz, Hollings, Huddleston, Humphrey.

Inouye, Javits, Johnston, Kennedy, Leahy, Magnuson, Mathias, Matsunaga.

McGovern, McIntyre, Metcalf, Metzenbaum, Muskie, Packwood, Pearson, Randolph.

Riegle, Sarbanes, Sasser, Schweiker, Sparkman, Stafford, Stevens, Stone, Thurmond, Williams, Zorinsky.

Mr. CLARK. Mr. President, the bill is the outgrowth of an extensive inquiry into the status of rural health care that has been conducted by the Senate Rural Development Subcommittee over the past 2 years. Hearings held in Vermont, Iowa, and Washington, D.C., pointed to the urban-rural disparity in medicare benefits, largely due to the restrictive nature of the program's reimbursement policies.

The problem we discovered was that the medicare program, the medicaid program in many States, and most private health insurance companies refuse to allow payment for the basic health services of nurse practitioners and physician assistants, unless a supervising physician is present. Ironically, in many areas of this country, nurse practitioners and physician assistants are utilized precisely because of the unavailability of physicians.

So residents of those areas must bear a double burden—they are deprived of physician care and are also forced to pay insurance premiums for health services that are not reimbursable.

I am pleased to note that H.R. 422 expands the scope of S. 708 in a way that significantly improves it.

First, the bill would make rural health clinic services a mandatory medicaid benefit. Therefore, medicare and medicaid participants alike would have greater access to health services, and health clinics would have a greater opportunity to achieve financial self-sufficiency.

Second, H.R. 422 would initiate a large-scale demonstration program to reimburse clinics that are located in urban, medically underserved areas and that employ physician assistants or nurse practitioners. This demonstration project will permit the Department of HEW and Congress to evaluate the benefits and costs of extending the permanent program to urban areas.

I want to express my deep appreciation to Senator LONG, chairman of the Finance Committee, and to Senator TALMADGE, chairman of the committee's Health Subcommittee, for their concern for the needs of rural citizens. I also wish to thank a group of 20 organizations that helped in the formulation of the legislation and that worked for its enactment. I ask unanimous consent that a list of these groups be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING RURAL HEALTH CLINIC BILL

American Nurses' Association.
American Hospital Association.
American Public Health Association.
Appalachian Regional Commission.
Association of Physician Assistant Programs.
Friends Committee on National Legislation.
National Association of Community Health Centers.
National Association of Counties.
National Association of Farmworkers Organizations.
National Association of Social Workers.
National Council on the Aging.
National Council of Senior Citizens.
National Farmers Union.
National Retired Teachers Association/American Association of Retired Persons.
National Rural Center.
National Rural Electric Cooperatives Association.
Rural America, Inc.
United Mine Workers of America Health and Retirement Funds.
U.S. Catholic Conference.

PROVISIONS OF H.R. 422

Mr. CLARK. Mr. President, H.R. 422 provides coverage under medicare and medicaid for rural health clinic services. These services include physician services, services and supplies that would be covered as an incident to a physician's service, and additional services provided by physician assistants or nurse practitioners as authorized by State law and policies.

Rural health clinics are designated as such if they meet a number of requirements to insure high quality health care. These requirements are: Arrangements with physicians for the supervision of medical services; the preparation of protocols for medical care and treatment, mutually agreed upon by physicians, physician assistants, and nurse practitioners; the availability of physicians for referral, consultation, and emergency assistance; clinical records; arrangements with hospitals for referral or admissions; written management policies; appropriate drug policies; appropriate procedures for utilization review; and routine diagnostic services.

Since the legislation is directed at addressing the access problems of those with the greatest needs, clinics must serve patients who reside in areas that have been designated by the Department of HEW as "medically underserved areas." "Rural" would be defined in such a way as to include all communities that would be commonly considered as rural by size and by other characteristics. All communities that are not classified as "urbanized" by the Bureau of the Census—those of 50,000 population or more—would be considered "rural."

This legislation has the potential of assisting 31.6 million Americans who live in small towns and rural areas which are "medically underserved," in that health clinics that serve or will serve these people can be more financially viable.

I am hopeful that the final version of H.R. 422 will be amended in order to continue Federal reimbursement to clinics located in areas that lose their designations as "medically underserved." A grandfather clause, of permanent duration, is necessary, so that physician-shortage areas are not discouraged from attempting to attract doctors.

The bill defines "physician assistant" and "nurse practitioner" as health providers who perform, under the supervision of a physician, such services as legally authorized by State law or regulations. Therefore, reimbursement would be permitted in all States, except for those that specifically prohibit the provision of health services by nurse practitioners and physician assistants.

H.R. 422 would not invalidate any State law concerning the use of these health providers, although it would allow the Secretary of HEW to require standards for reimbursement that go beyond what some States now prescribe by law or regulation.

Reimbursement under both medicare and medicaid would be related on a reasonable basis to the actual costs of providing the covered health services. It is my hope that the Department of HEW will develop reimbursement procedures that do not produce administrative burdens upon the small health clinics that use nurse practitioners or physician assistants. I am especially attracted to the concept of a prospective system of payment, which would relieve clinics and HEW of much of the needless billing procedures that are associated with a retrospective approach.

Medicare and medicaid would cover the following costs: reasonable compensation for the services of physician assistants and nurse practitioners and any full-time physicians; the cost of services or supplies provided as an incident to the services of a physician, nurse practitioner, or physician assistant; overhead costs related to the provision of the covered services; the cost of the required supervisory services of a physician; and the patient care services provided by part-time physicians at the clinic. Covered services would include those services provided within the clinic and those provided outside the clinic walls, such as in-home services and nursing home services.

While this legislation is primarily directed toward alleviating the problem of access to health services in rural areas, the Finance Committee wisely decided to authorize a large-scale demonstration project in urban, medically underserved areas. The project would permit medicare payment, on a cost-related basis, for the health services of nurse practitioners and physician assistants in urban health clinics. Since several questions had been raised concerning the cost of an urban component of this reimbursement program and of its potential for abuse, the Committee required the Secretary of HEW to submit by January 1, 1981 a report to Congress that will consist of recommendations for the continuation of the urban program.

H.R. 422 would also help rural clinics become designated as home health agencies. If a clinic is located in an area that lacks a home health agency, it may be approved as such regardless of whether a physician accompanies the nurse practitioner or physician assistant during the provision of services.

Finally, H.R. 422 authorizes an HEW report on the feasibility of extending medicare coverage to mental health centers in urban and rural areas.

I am pleased that the House Ways and Means and Interstate and Foreign Commerce Committees are taking a very similar approach in dealing with this problem. I look forward to an early resolution of the minor differences between the House and Senate bills, so that this new program of medicare and medicaid reimbursement for rural health clinic services can be initiated in the first month or two of 1978.

EXPORT-IMPORT BANK LOAN TO JAPAN

Mr. STEVENSON. Mr. President, I bring to the attention of my colleagues a communication received Friday from the Export-Import Bank. The Bank indicates it will delay until at least October 14 a decision on a proposed $75,000,000 loan to Japan to buy U.S. raw cotton, although the 25-day congressional review period required by statute will expire October 1.

The additional period for review of the Bank's proposal will provide an opportunity to consider such questions as whether the Bank should lend money to a borrower able to obtain financing from other sources and to support cotton exports when it does not provide similar credits for exports of other agricultural commodities.

I ask unanimous consent that the letter from the Bank be printed in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 16, 1977.

ADLAI E. STEVENSON III,
Chairman, Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, the Board of Directors of Eximbank may not finally approve any loan or financial guarantee or combination thereof in an amount which equals or exceeds $60,000,000, until at least 25 days of continuous session of Congress have elapsed from the date Eximbank submits a detailed statement to Congress describing the transaction involved.

On September 7, 1977, Eximbank notified Congress that it is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton. While the 25 legislative day period for the subject transaction would run through October 1, 1977, please be advised that in response to your request, Eximbank will not take any action until after October 14, 1977.

Sincerely,

DELIO E. GIANTURCO.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Edward N. Keliikoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years vice Thomas K. Kaulukukui, resigning.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years vice Kenneth M. Link, Sr.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, September 26, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

FURTHER ROUTINE MORNING BUSINESS

ORDER FOR RECOGNITION OF SENATOR ALLEN ON TOMORROW, WEDNESDAY, AND THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, on Wednesday, and on Thursday, the Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR RIEGLE AND SENATOR ROBERT C. BYRD ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after Mr. ALLEN has been recognized under the order previously entered, Mr. RIEGLE be recognized for not to exceed 15 minutes, and that I be recognized for not to exceed 15 minutes immediately thereafter.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2104 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the completion of the order which has been previously entered for the recognition of Mr. ALLEN, the Senate resume its consideration of the unfinished business, the natural gas pricing bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON BUDGET TO HAVE UNTIL 10 O'CLOCK TONIGHT TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget have until 10 o'clock tonight to file a report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate

stand in recess until the hour of 10:30 tomorrow morning.

The motion was agreed to; and at 5:53 p.m., the Senate recessed until tomorrow, Tuesday, September 20, 1977, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, September 19, 1977:

UNITED NATIONS SESSION REPRESENTATIVES

The following-named persons to be Representatives of the United States of America to the Thirty-second Session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.
James F. Leonard, Jr., of New York.
Lester L. Wolff, U.S. Representative from the State of New York.
Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.
Coretta Scott King, of Georgia.

The following-named persons to be Alternate Representatives of the United States of America to the Thirty-second Session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.
Melissa F. Wells, of New York.
Allard Kenneth Lowenstein, of New York.
Marjorie Craig Benton, of Illinois.
John Clifford Kennedy, of Oklahoma.

THE JUDICIARY

Hugh H. Bownes, of New Hampshire, to be U.S. circuit judge for the first circuit, vice Edward M. McEntee, retired.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the third circuit, vice Francis L. Van Dusen, retired.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1983:

Lawrence Owen Cooper, Sr., of Mississippi, vice Ernest G. Spivey, term expired.

Edgar C. Rutherford, of California, vice Earl S. Smittcamp, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 19, 1977:

IN THE COAST GUARD

Coast Guard nominations beginning Timothy M. Armstrong, to be lieutenant, and ending Frank L. Whipple, to be lieutenant (j.g.), which nominations were received by the Senate on August 15, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginnnig Michael R. Johnson, to be lieutenant, and ending Jay P. Unwin, to be lieutenant (j.g.), which nominations were received by the Senate on August 25, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

HOUSE OF REPRESENTATIVES—*Monday, September 19, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, for I am with you; be not dismayed, for I am your God; I will strengthen you; yea, I will help you.—Isaiah 41: 10.

O God, make us mindful of Thy presence as we set out upon the work of this week. Sustain us when we do right, forgive us when we are wrong, strengthen us when we grow weak, and deepen our lives and the life of our Nation in justice, truth, and good will. Help us to be equal to our high tasks, just in the exercise of power, faithful in the promotion of human rights, humble in our greatness and great in our humility, generous in sharing our goods for the good of others, truehearted and wholehearted in all our dealings with each other and with other nations.

Grant us Thy wisdom that the decisions and deeds of this week may be for the good of our people and the good of all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2982. An act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate; and

H.R. 5037. An act for the relief of Jack R. Misner.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 274. An act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, and for other related purposes; and

S. 995. An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONTRACT WITH THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT OF NEW MEXICO FOR THE PAYMENT OF OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO INDIAN LANDS

The Clerk called the bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

There being no objection, the Clerk read the bill, as follows:

H.R. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of August 27, 1935 (49 Stat. 887), as amended by section 5 of the Act of June 20, 1938 (52 Stat. 779), the Act of April 24, 1946 (60 Stat. 121), the Act of May 29, 1956 (70 Stat. 221), and by the Act of July 27, 1965 (79 Stat. 285), is further amended by deleting the words "for a period of not to exceed five years."

With the following committee amendment:

Page 1, line 3, strike the words "the provisions of".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ELIMINATION OF APPORTIONMENT REQUIREMENT FOR FEDERAL EMPLOYMENT

The Clerk called the bill (H.R. 5054) to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

There being no objection, the Clerk read the bill, as follows:

H.R. 5054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3306 of title 5, United States Code, relating to apportionment of appointments in the departmental service in the District of Columbia among the States, territories, possessions, and the District of Columbia on the basis of population as determined at the last census, is repealed.

SEC. 2. (a) The section analysis for subchapter I of chapter 33 of title 5, United States Code, is amended by striking out the following:

"3306. Competitive service; departmental service; apportionment."

(b) Section 3302 of title 5, United States Code, is amended by striking out "3306(a)(1),".

(c) Sections 103(a)(4)(iv), 103(a)(5)(G), 203(a)(4)(iv), 203(a)(5)(G) of the District of Columbia Public Education Act are each amended by striking out "3306,".

Mr. HARRIS. Mr. Speaker, the bill before us today represents a real step forward in Government reform and for a change—instead of enacting laws—the House has taken a hard look at an "old" law and I believe we should repeal it.

I introduced H.R. 5054 on March 15, 1977, with Congressmen FISHER, FAUNTROY, and STEERS and Congresswoman SPELLMAN as cosponsors. The bill repeals the so-called apportionment requirement, which directs that hiring for Federal jobs in the Washington, D.C., area must include a consideration of an individual's residence. Complete hearings

were held in the Post Office and Civil Service Subcommittee on the Civil Service on May 26, 1977, and the bill was reported on July 27. I am also pleased that action has begun in the other body: Hearings were held in the Senate Civil Service Subcommittee of the Committee on Governmental Affairs on September 13.

Apportionment is obsolete, discriminatory, ineffective, and unnecessary. I urge my colleagues today to support H.R. 5054 and repeal this outdated law which has barred many individuals from jobs they otherwise were qualified to hold.

APPORTIONMENT OBSOLETE

The concept of apportionment—hiring on the basis of residence—has been tracked back as far as our first President George Washington, who expressed his view that appointments to Federal jobs should be distributed to people in different States of the Union. As one who reveres our first President and, in fact, represents the district in which his historic home Mount Vernon is located, I have to say—with all due respect to the "General," as we Virginians call him—that that position "doesn't wash" today. Apportionment is an anachronism.

I agree with the notion that in Government we need the best minds available and the widest possible diversity of viewpoints. But in 1977, this is accomplished because modern-day communications—unknown to George Washington—facilitate the rapid-fire dissemination of ideas. Interstate and transcontinental transportation and a mobile population—also rare at the end of the 17th century—foster the constant free flow of ideas. Additionally, the decentralization of agencies, the regionalizing of Government offices and the rotation of agency personnel open up opportunities for utilizing the talent and views of individuals from all parts of the country. The nationwide competitive examination encourages the hiring of qualified individuals from different parts of the country.

In 1883, when 40 percent of all competitive civil service jobs were concentrated in Washington, D.C., apportionment was considered a necessary, statutory insurance to attract citizens who because of poor transportation and distance might be remote from the central affairs of the Federal Government but whose talents should be utilized. The point here is that times have changed and the law should change to reflect the times. Simply put, apportionment no longer makes sense. It is out of step with the times.

APPORTIONMENT, A NONMERIT FACTOR

The Federal Government's personnel system is a merit system and it is my view that giving preferential treatment to persons because of their place of residence has no place in our merit system. What this law does in effect is set up "quotas" requiring agencies headquartered in the National Capital area to hire a certain number of people from the various States. We have asked our agencies to administer conflicting laws. We have said, "Hire the best qualified people based on their merit, but give them special treatment because of their State of residence." The result is often most unfortunate. Agencies who try to uphold the apportionment law feel they must hire marginal candidates from States in rears of their quotas over more qualified people from States whose quotas are filled. In other words, the Justice Department could refuse to hire Oliver Wendell Holmes as the best qualified applicant because he is from the wrong State or ERDA might pass over Albert Einstein were he alive. Do we really want to exclude these individuals? One of my constituents, a college graduate who conducted a 9-month search for a civil service job was told, "You are overqualified and we would like to hire you but it's too bad you're from Virginia."

Another adverse consequence of the apportionment law is that agencies sometimes use it as a cover. Over and over again I have heard from people in my area that they were told by hiring officials that they were from the "wrong State." It may be that the agency had another reason for not hiring the individual but did not want to be level with the applicant, that in fact, there were other, perhaps perfectly legitimate reasons for not hiring the person; but the agency chose to "hide" behind the apportionment requirement. I believe it is more honest to explain the real basis for refusing to hire someone, whatever that reason may be.

RESULTS INTENDED NOT ACHIEVED

In the last Congress, the Civil Service Commission testified that apportionment only applies to about 15 percent of the total 340,000 jobs in the metropolitan area. The law has become virtually meaningless because it is shot through with exceptions, for example:

First, veterans who make up more than half of the Federal work force;

Second, excepted service positions, such as those in the FBI, the CIA, or the Department of Medicine and Surgery of the Veterans' Administration, which account for about 70,000 jobs;

Third, shortage category jobs such as clerk-stenographers and certain scientific and professional positions;

Fourth, positions at GS–13 and above;

Fifth, positions in agency field offices in the Washington area;

Sixth, temporary, part-time and intermittent jobs; and

Seventh, positions in the Government Printing Office and in certain other activities outside the executive branch.

That means then that it applies to about 50,000 jobs. But even for those jobs it has not resulted in the kind of distribution intended. Thirteen States and territories and the District of Columbia are over their quotas; the remaining 43 are in "arrears." And those States over their quotas are not just the States bordering Washington, as is commonly assumed. For example, South Dakota is over its allotted positions, as are Kansas, Nebraska, Maine, and others. The Commission has said that this pattern has been true for the last 25 years which should be a clear indication that the apportionment requirement has not worked as intended. So what we have is a meaningless law on the books.

WOMEN HURT PARTICULARLY

The law exempts veterans from the apportionment requirement and 50 percent of all civil service employees are veterans. Because the veterans population is largely male, women have had to bear an unfair burden in the Federal job market. We have essentially said that women have to meet the apportionment requirement but veterans do not. Such discrimination should be removed.

A CUMBERSOME, WASTEFUL LAW

Just as apportionment is unfair to aspiring Federal employees, it is unfair to the citizenry at large because it is cumbersome, time consuming, and costly to administer. Personnel officials must go through a lot of paperwork and redtape to implement apportionment—which Civil Service Commission officials, who will also appear here this morning, can attest to better than I. I believe this antiquated law places an administrative burden on personnel officials whose time could be better spent.

The General Accounting Office in 1973 estimated that the cost of administering the apportionment law ranged from $450 to $13,000 per year. Here in Congress, amid the millions we must make decisions on daily, $13,000 may not sound like much money. But I am ready to cut Government waste wherever it exists, whether it is $13 or $14 million. For too long, we have let the dust gather on some old laws and programs without really asking, "Are they working? Are they necessary? Do they make sense? Is the taxpayer getting his or her money's worth?" I believe the apportionment law is one of those obsolete laws, consuming the time and energy of Federal agencies, a law whose time has come—for repeal. Elimination of it can save many headaches for those who have to implement it and many dollars for the Federal budget.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL EMPLOYEE WITHHOLDING ON LOCAL TAXES

The Clerk called the bill (H.R. 8342) to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal Employees who are residents of such locality.

There being no objection, the Clerk read the bill, as follows:

H.R. 8342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 5520(a) of title 5, United States Code, is amended to read as follows: "The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (1) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (11) is a resident of such city or county.".

(b) The last sentence of section 5520(a) of title 5, United States Code, is amended by striking out "not a resident of the State" and inserting in lieu thereof "not a resident of, or whose regular place of Federal employment is not within, the State".

SEC. 2. The amendments made by the first section of this Act shall take effect on the 90th day after the date of the enactment of this Act.

Mr. LOTT. Mr. Speaker, this bill provides for mandatory withholding of municipal or county income or employment taxes by Federal Government agencies for Federal employees who reside within a city or county that imposes such taxes.

Under current law, enacted as Public Law 93-340 in 1974, the various Federal agencies withhold local income taxes when both the worksite and the Federal employee's residence are within the local jurisdiction's boundaries. The withholding of local taxes for Federal employees who live within a locality but are employed elsewhere in the same State is voluntary.

This situation has led to problems for both Federal agencies and employees, as well as for the cities and counties which impose such local earnings taxes.

This bill, Mr. Speaker, would correct these problems by requiring the withholding of local earnings taxes from Federal employees who live within a locality, but work at a Federal agency located outside of that locality; as well as requiring withholding of local earnings taxes fron Federal employees who live outside of that locality, but work at a Federal agency within it.

The legislation is virtually identical to a bill the House passed in the last Congress, and is supported by the Department of the Treasury and the various cities and counties which impose local earnings taxes.

The 1974 law, Mr. Speaker, authorized the Department of the Treasury to enter into tax withholding agreements with cities. While that legislation provided for mandatory withholding from employees who worked in a taxing city, it did not require withholding from employees who resided in that city but worked elsewhere.

The Treasury Department and the Civil Service Commission did place in effect in 1975 some procedures which allowed employees who are not residents of cities, but who are subject to these earnings taxes by virtue of local ordinances, to have the city tax withheld on a voluntary basis.

This bill, Mr. Speaker, which I have cosponsored, would extend this type of withholding by making it mandatory rather than voluntary. I urge the enactment of H.R. 8342.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

AMENDING UNITED STATES CODE TO DISESTABLISH ONE OF THE POSITIONS OF DEPUTY SECRETARY OF DEFENSE

Mr. STRATTON. Mr. Speaker, I call up the Senate bill (S. 1372) to amend titles 10 and 5, United States Code, to disestablish one of the positions of Deputy Secretary of Defense and establish an Under Secretary of Defense for Policy, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, did I understand this is a reorganization?

Mr. STRATTON. Mr. Speaker, if the gentleman will yield, yes. This is a bill which provides for a modest reorganization of the Office of the Secretary of Defense. It was requested by Secretary Brown primarily because under the present arrangement he has some 36 people who report to him personally and directly. Under this bill there would be created two Under Secretaries eliminating one of the existing Deputy Secretaries of Defense. In the future the Secretary and the Deputy Secretary would deal with the Under Secretaries and thus the number of people reporting to the Secretary would be reduced. In fact, the Secretary of Defense indicated to us that he intended that this reorganization would result in fewer civilians in the Office of Secretary of Defense.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, it does sound like modest reorganization. We have had a lot of talk about reorganization. I would assume, this being a unanimous-consent request, it cannot be a major reorganization. It makes one wonder if we are going to have a major reorganization down the line if we have these small reorganizations nibbling away 20 or 30 positions at a time. Maybe it is necessary to clean out some of the previous administration employees. I do not know.

Mr. STRATTON. I think, obviously, any major reorganization of the Department of Defense would be a proper subject of consideration for our committee and for the House. But this executive restructure is something that the Secretary of Defense requested very early last spring. Because of other commitments, we have not been able to get to it earlier, but the Senate has already passed it. I think the gentleman will find that it is a step in the right direction, but certainly a very minor step.

Mr. ASHBROOK. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 4 of title 10, United States Code, is amended as follows:

(1) Section 134 is amended to read as follows and the corresponding item in the analysis is amended accordingly:

"§ 134. Deputy Secretary of Defense; Under Secretary of Defense for Policy; appointment; powers and duties; precedence

(a) There are a Deputy Secretary of Defense and an Under Secretary of Defense for Policy, each appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Deputy Secretary of Defense or Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force. The Deputy Secretary of Defense and the Under Secretary of Defense for policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(b) The Deputy Secretary of Defense shall act for, and exercise the powers of, the Secretary of Defense when the Secretary of Defense is disabled or there is no Secretary of Defense.

"(c) The Deputy Secretary of Defense takes precedence in the Department of Defense immediately after the Secretary of Defense. The Under Secretary of Defense for Policy takes precedence in the Department of Defense immediately after the Deputy Secretary and the Secretaries of the military departments.".

(2) Section 135 is amended by—

(A) amending the catchline to read as follows: "Under Secretary of Defense for Research and Engineering: appointment; powers and duties; precedence";

(B) striking out the terms "Director of Defense Research and Engineering" and "Director" wherever they appear and inserting the term "Under Secretary of Defense for Research and Engineering" in place thereof in each instance;

(C) striking out the words "a" in subsection (a) and inserting the word "an" in place thereof; and

(D) amending subsection (c) to read as follows:

"(c) The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretary for Policy.".

(3) Subsection (e) of section 136 is amended to read as follows:

"(e) The Assistant Secretaries takes precedence in the Department of Defense immediately after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.".

(4) The table of sections is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"135. Under Secretary of Defense for Research and Engineering: appointment; powers and duties; precedence.".

SEC. 2. Section 171 of chapter 7 of title 10, United States Code, is amended as follows:

(1) Clause (2) of subsection (a) is amended to read as follows:

"(2) the Deputy Secretary of Defense;".

(2) Clause (6) of subsection (a) is amended to read as follows:

"(6) the Under Secretary of Defense for Policy and the Under Secretary of Defense for Research and Engineering;".

SEC. 3. Subchapter II of chapter 53 of title 5, United States Code, is amended as follows:

(1) Section 5313 is amended by amending clause (1) to read as follows:

"(1) Deputy Secretary of Defense.".

(2) Section 5314 is amended by amending clause (32) to read as follows:

"(32) Under Secretaries of Defense (2).".

COMMITTEE AMENDMENT

The SPEAKER. The clerk will report the committee amendment.

Committee amendment: Strike out all after the enacting clause and insert:

S. 1372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 134 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "There are two Deputy Secretaries" in the first sentence and inserting in lieu thereof "There is a Deputy Secretary", and by striking out "a" in the second sentence immediately before "Deputy Secretary";

(2) in subsection (b), by striking out "Deputy Secretaries" in the first sentence and inserting in lieu thereof "Deputy Secretary" and by striking out "Deputy Secretaries, in the order of precedence, designated by the President" in the second sentence and inserting in lieu thereof "Deputy Secretary";

(3) in subsection (c), by striking out "The Deputy Secretaries take" and inserting in lieu thereof "The Deputy Secretary takes"; and

(4) in the section heading, by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(b) The item relating to section 134 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

"SEC. 2. (a)(1) Subsection (a) of section 135 of title 10, United States Code, is amended to read as follows:

"(a) There are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering. The Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed Under Secretary of Defense for Policy within ten years after relief from active duty as a commissioned officer of a regular component of an armed force.".

(2) Subsection (b) of such section is amended by striking out "The Director performs" and inserting in lieu thereof "The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform".

(3) Subsection (c) of such section is amended by striking out "Director" and inserting in lieu thereof "Under Secretary of Defense for Policy", by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary", and by adding at the end thereof the following new sentence: "The Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.".

(4) The section heading for such section is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

(b) The item relating to section 135 in the analysis of chapter 4 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Under Secretaries of Defense".

SEC. 3. (a) Section 136(e) of title 10, United States Code, is amended to read as follows:

"(e) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.".

(b)(1) Clause (2) of section 171(a) of title 10, United States Code, is amended by striking out "a" and inserting in lieu thereof "the".

(2) Clause (6) of such section is amended to read as follows:

"(6) the Under Secretaries of Defense;".

(c) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "Deputy Secretaries" and inserting in lieu thereof "Deputy Secretary".

(d)(1) Section 5313(1) of title 5, United States Code, is amended to read as follows:

"(1) Deputy Secretary of Defense.".

(2) Section 5314(32) of such title is amended to read as follows:

"(32) Under Secretaries of Defense (2).".

Mr. STRATTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Speaker, I rise on behalf of the Committee on Armed Services to urge prompt passage of S. 1372, a bill to reorganize the top civilian positions in the Department of Defense. This bill has already been passed by the other body. It is urgently wanted by the Secretary of Defense.

The bill would abolish one of the two Deputy Secretary of Defense positions. It would establish the new position of Under Secretary of Defense for Policy and would change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

This legislation is supported by the Secretary of Defense. In testimony before the subcommittee, Deputy Secretary of Defense Charles Duncan described it as the initial step in Secretary of Defense Brown's plan to restructure the staff of his office. The primary objective of that plan is to improve the management of the Department of Defense by reducing sharply the number of subordinates in the DOD who report directly to the Secretary of Defense, presently some 36 persons. Deputy Secretary Duncan said that this reorganization will eliminate confusion immediately below the Secretarial level caused by this large number of direct subordinates, and will clarify the role of the Deputy Secretary as the sole principal assistant and alter ego to the Secretary in all areas of defense management.

In this reorganization the Under Secretary of Defense for Policy will have responsibility for international political-military affairs and arms limitation negotiations, the intelligence analysis and requirement functions and the integration of Departmental plans and policies with overall national security objective.

The Under Secretary of Defense for Research and Engineering will be the Secretary's primary adviser and staff assistant on matters relating to research, engineering, acquisition, communications, command and control, and intelligence resources. He also has been designated responsibility for weapons system acquisition in order to insure effective integration of acquisition consideration with the research and engineering process.

The bill requires that both Under Secretaries of Defense shall be appointed from civilian life. It further provides that a person shall not be appointed Under Secretary of Defense for policy within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

Since this legislation is strongly desired by the Secretary of Defense to streamline his staff in the manner he believes to be most efficient and should ultimately result in a net reduction in the total number of civilian staff officials in the Pentagon, the Committee on Armed Services strongly supports this legislation and urges that it be approved at the earliest possible moment.

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An Act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.".

A motion to reconsider was laid on the table.

PRINTING AS HOUSE DOCUMENT OF REPORT ENTITLED "THE ROLE OF THE FEDERAL GOVERNMENT IN NUTRITION EDUCATION"

Mr. RICHMOND. Mr. Speaker, I call up the concurrent resolution (H. Con. Res. 263) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education".

SEC. 2. In addition to the usual number of copies, there shall be printed three thousand copies of the report referred to in the first section of this concurrent resolution for use by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New York for 1 hour.

Mr. RICHMOND. Mr. Speaker, our first printing of 1,000 copies was exhausted within two months.

Two-hundred fifty copies alone went to depository libraries; 50 copies were required by the committee, 50 were sent to the Library of Congress, 50 were sent to the agencies, and the remaining copies were mailed to one-fourth of our mailing list. At the present time we are receiving 30 and more requests a week for additional copies.

The report is the only one to ever offically review the Federal role in nutrition education and is therefore in demand among agency personnel in Washington and throughout the regions, professional nutritionists and health educators, Academicians and scientific researches, Federal, State and local planners, the press and the general public. We begin hearings on the 27th of September and the demand for this publication will intensify.

Government Printing Office estimates first 100 copies $1,949.58. Additional 100's $54.29.

The cost per 3,000 is $3,523.99.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mr. COHEN asked and was given persission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, I was necessarily absent on Thursday, September 15, and on Friday, September 16. I would like to state for the record how I would have voted on each of the rollcalls that I missed.

Rollcall No. 545: Conference report on the budget resolution; "nay."

Rollcall No. 546: Minimum wage Erlenborn indexing amendment; "yea."

Rollcall No. 547: Minimum wage Perkins Study Commission amendment; "yea."

Rollcall No. 548: Minimum wage Burton indexing amendment; "nay."

Rollcall No. 549: Minimum wage Quie tip credit amendment: "yea."

Rollcall No. 550: Minimum wage Milford park employees amendment; "yea."

Rollcall No. 551: Minimum wage Cornell youth differential amendment; "yea."

Rollcall No. 552: Minimum wage Meeds child labor exemption amendment; "yea."

Rollcall No. 553: Minimum wage Ashbrook exemption amendment; "nay."

Rollcall No. 554: Minimum wage Pickle small business exemption amendment; "yea."

Rollcall No. 555: Minimum wage final passage; "yea."

Rollcall No. 556: Quorum call.

Rollcall No. 557: Conference report on the Food and Agricultural Act; "nay."

Rollcall No. 558: Conference report on international financial institutions; "nay."

Rollcall No. 559: Final passage of D.C. appropriations bill; "yea."

EXTENDING SPECIAL PAY PROVISIONS FOR PHYSICIANS AND DENTISTS IN THE UNIFORMED SERVICES

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1731) extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. MITCHELL of New York. Mr. Speaker, reserving the right to object, would the gentleman from Alabama explain the provisions of the bill, and also explain why it is urgent that we proceed on this matter today?

Mr. NICHOLS. Will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman.

Mr. NICHOLS. Mr. Speaker, S. 1731 will extend for 1 year the current special pay and bonus provisions for uniformed doctors and dentists which will expire on September 30, 1977. In addition, it will authorize for those optometrists and veterinarians who came on active duty on or after July 1, 1975, the same $100 monthly special pay which is payable to optometrists and veterinarians who entered active duty before that date.

The amount of the special pays range from $100 to $350 monthly. In addition, there is a variable incentive pay ranging up to $13,500 annually for medical officers in pay grades O–3 through O–6. A special continuation pay of up to 4 months basic pay is authorized for dental officers and for those flag officers who are not entitled to the variable incentive pay.

S. 1731 is similar to the bill H.R. 8011—reported June 30—in all aspects except the type of extension authorizing special pay to optometrists and veterinarians. The House bill has no expiration date for these payments; the Senate-passed bill has an expiration date for all special pays and bonuses of September 30, 1978.

These special pay and bonus provisions are essential to the Department of Defense's ability to recruit and retain health professionals to meet the requirements of the Armed Forces.

The problem we face today is the immediate extension of the special pays and bonuses for physicians and dentists. In addition, as a matter of equity, the bill also reinstates special pays for optometrists and veterinarians. The need for action is urgent. My concern is with the potential impact on recruitment and retention efforts directed at physicians and dentists. I can think of nothing more discouraging to those efforts than to see headlines in the Stars and Stripes or the Service Times stating "Doctors' Bonuses in Doubt" or "Doctors' Bonuses Delayed." The doctor shortage is real. Although a Defense witness indicated that they expect an overall shortage of 6.4 percent, the shortage at particular bases will be much larger. I have seen this in my district as I am sure many of you have also. As a result, military hospital care is not available for retirees or their dependents at some locations. This situation will become worse if the extension is delayed.

Accepting the Senate bill will achieve the goal of extending the authority for payment in the most rapid manner.

Mr. MITCHELL of New York. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1731

A bill extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of May 6, 1974, Public Law 93–274, as amended (90 Stat. 926), is amended by striking out "September 30, 1977" and inserting in place thereof "September 30, 1978".

SEC. 2. (a) Section 302a of title 37, United States Code, is amended to read as follows:

"§ 302a. Special pay: optometrists

"(a) In addition to any other basic pay, special pay, incentive pay; or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty beginning on or after October 1, 1977:

"(1) a commissioned officer—

"(A) of the Regular Army, Regular Navy, or Regular Air Force who is designated as an optometry officer, or

"(B) who is an optometry officer of the Regular Corps of the Public Health Service;

"(2) a commissioned officer—

"(A) of a Reserve component of the Army, Navy, or Air Force who is designated an an optometry officer; or

"(B) who is an optometry officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year; and

"(3) a general officer of the Army or the Air Force appointed, from any of the categories named in cause (1) or (2), in the Army, Air Force, or the National Guard, as the case may be.

"(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

"(c) No special pay may be paid under this section for any month after September 1978.".

SEC. 3. Section 303 of title 37, United States Code, is amended to read as follows:

"§ 303. Special pay: veterinarians

"(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty beginning on or after October 1, 1977:

"(1) a commissioned officer—

"(A) of the Regular Army who is in the Veterinary Corps,

"(B) of the Regular Air Force who is designated as a veterinary officer, or

"(C) who is a veterinary officer of the Regular Corps of the Public Health Service;

"(2) a commissioned officer—

"(A) of a Reserve component of the Army who is in the Veterinary Corps of the Army,

"(B) of a Reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be, or

"(C) who is a veterinary officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year; and

"(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) and (2) of this subsection, in the Army, the Air Force, or the National Guard, as the case may be.

"(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized in any other provision of this title or in computing retired pay or severance pay.

"(c) No special pay may be paid under this section for any month after September 1978.".

SEC. 4. The amendments made by sections 2 and 3 of this Act become effective on October 1, 1977.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill H.R. 8011 and House Resolution 763 were laid on the table.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 560]

Abdnor	Drinan	Milford
Addabbo	Duncan, Oreg.	Moakley
Ambro	Early	Murphy, Ill.
Anderson, Calif.	Eckhardt	Murphy, N.Y.
	Edwards, Ala.	Neal
Anderson, Ill.	Evans, Ga.	Nowak
Andrews, N.C.	Fish	Oakar
Armstrong	Flowers	Obey
Ashley	Ford, Mich.	Pickle
AuCoin	Ford, Tenn.	Pursell
Badillo	Fraser	Risenhoover
Beard, R.I.	Gammage	Rodino
Biaggi	Gibbons	Roncalio
Boland	Goldwater	Rose
Bolling	Harrington	Rosenthal
Breckinridge	Harsha	Rousselot
Brodhead	Hightower	Sawyer
Brooks	Holland	Scheuer
Brown, Ohio	Holtzman	Shuster
Burke, Calif.	Ichord	Sikes
Burton, John	Jeffords	Smith, Nebr.
Burton, Phillip	Jenkins	Spellman
Carney	Johnson, Calif.	Staggers
Chappell	Johnson, Colo.	Teague
Clawson, Del	Jones, Tenn.	Tsongas
Collins, Ill.	Koch	Tucker
Conyers	Krueger	Udall
Corman	Lederer	Watkins
Cornwell	Lujan	Weaver
Cotter	Luken	Whitehurst
Cunningham	Lundine	Wiggins
D'Amours	Marlenee	Wilson, Bob
Dent	Mathis	Wolff
Derwinski	McHugh	Zeferetti
Dodd	Meeds	
Downey	Metcalfe	

The SPEAKER. On this rollcall 329 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 602, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-607)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Library Services and Construction Act Amenments of 1977".

SEC. 2. (a) Section 4(a)(1) of the Library Services and Construction Act (20 U.S.C. 351b(a)(1)) is amended by striking out "and" after "1975," and by inserting before the period at the end thereof the following: "$110,000,000 for fiscal year 1978, $140,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980 and each of the two succeeding fiscal years".

(b) Section 4(a)(2) of such Act (20 U.S.C. 351b(a)(2)) is amended by striking out "and" after "1975," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for fiscal year 1978 through fiscal year 1981, and $97,000,000 for fiscal year 1982".

(c) Section 4(a)(3) of such Act (20 U.S.C. 351b(a)(3)) is amended by striking out "and" after "1975," and by inserting before the period at the end thereof the following: "$15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979 and each of the three succeeding fiscal years".

(d) Section 4(a)(4) of such Act (20 U.S.C. 351b(a)(4)) is amended by striking out "for the fiscal year" and all that follows through "June 30, 1976" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1982".

SEC. 3. (a) The Library Services and Construction Act (20 U.S.C. 351 et seq.) is amended by inserting after section 7 the following new section:

"ADMINISTRATIVE COSTS

"SEC. The amount expended by any State, from an allotment received under this Act for any fiscal year, for administrative costs in connection with any program or activity carried out by such State under this Act shall be matched by such State from funds other than Federal funds.".

(b) Section 102(b) of such Act (20 U.S.C. 353(b)) is amended by inserting after "Subject to" the following: "the provisions of section 8 and".

SEC. 4. (a) Section 2(a) of the Library Services and Construction Act (20 U.S.C. 351(a)) is amended by striking out "and in promoting" and by inserting in lieu thereof "in promoting", and by adding before the period at the end thereof a comma and the following: "and in strengthening major urban resource libraries".

(b) Section 3 of such Act (20 U.S.C. 351(a)) is amended by adding at the end thereof the following:

"(14) 'Major urban resource library' means any public library located in a city having a population of 100,000 or more individuals, as determined by the Commissioner.".

(c) Section 101 of such Act (20 U.S.C. 352) is amended by striking out "and" the third place it appears in such section, and by inserting before the period a comma and the following: "and in strengthening major urban resource libraries".

(d) Section 102(a) of such Act (20 U.S.C. 353(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and";

(3) by adding at the end thereof the following new clause:

"(3) for supporting and expanding library services of major urban resource libraries which, because of the value of the collections of such libraries to individual users and to other libraries, need special assistance to furnish services at a level required to meet the demands made for such services."; and

(4) by adding at the end thereof the following new sentence: "No grant may be made under clause (3) of this subsection unless the major urban resource library provides services to users throughout the regional area in which such library is located."

(e) Section 102 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to such criteria as the Commissioner shall establish by regulation, in any fiscal year in which sums appropriated pursuant to paragraph (1) of section 4(a) exceed $60,000,000, each State which is subject to the provisions of this subsection shall reserve that portion of the allotment of each State attributable to the amount in excess of $60,000,000 in that fiscal year in the manner required in paragraph (2).

"(2)(A) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities does not exceed 50 percent of the total population of the State, the portion of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 103 in an amount which bears the same ratio to the total of such excess amount as the aggregate population of such cities bears to the total population of such State.

"(B) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Commissioner, and in which the aggregate population of such cities exceeds 50 percent of the total population of the State, 50 percent of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) in accordance with clause (2) of section 103.

"(C) Any State which does not include any city with a population of 100,000 or more individuals, as determined by the Commissioner, shall not be subject to the provisions of this subsection.".

(f)(1) Section 103(1) of such Act (20 U.S.C. 354(1)) is amended by inserting ", subject to clause (2) of this section," after "program" the first place it appears in such section.

(2) Section 103 of such Act (20 U.S.C. 354) is amended by redesignating clauses (2), (3), and (4) of such section as clauses (3), (4), and (5), respectively, and by inserting after clause (1) the following new clause:

"(2) set forth a program for the year submitted under which the amount reserved by the State under section 102(c), if applicable, will be used for the purposes set forth in clause (3) of section 102(a);".

(3) Section 103 of such Act (22 U.S.C. 354) is further amended by adding at the end thereof the following new sentence: "No State shall, in carrying out the provisions of clause (2) of this section, reduce the amount paid to an urban resource library below the amount that such library received in the year preceding the year for which the determination is made under such clause (2).".

SEC. 4. Section 103(3) of the Library Services and Construction Act (as so redesignated by this Act) is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof the following: "the second fiscal year preceding the fiscal year for which the determination is made".

SEC. 5. The second sentence of section 202 of the Library Services and Construction Act (20 U.S.C. 355b) is amended by inserting after "libraries" a comma and the following: "for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, and for remodeling designed to conserve energy in the operation of public libraries".

And the House agree to the same.

CARL D. PERKINS,
JOHN BRADEMAS,
EDWARD P. BEARD,
ALBERT H. QUIE,
Managers on the Part of the House.

CLAIBORNE PELL,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
TOM EAGLETON,
HARRISON A. WILLIAMS, Jr.,
ALAN CRANSTON,
ROBERT T. STAFFORD,
RICHARD S. SCHWEIKER,
S. I. HAYAKAWA,
J. K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) *Short Title.* The Senate bill provides for a short title. The House amendment does not provide for a short title. The House recedes.

(2) *Authorizations.* (a) The authorization of appropriations for Title I of the Act providing grants for library services as proposed by the Senate bill and the House amendment, and as agreed to in conference, are as follows:

	Fiscal year—				
	1978	1979	1980	1981	1982
Senate bill	$150,000,000	$150,000,000	$150,000,000	$150,000,000	$150,000,000
House amendment	110,000,000	130,000,000	Such sums	Such sums	
Conference agreement	110,000,000	140,000,000	$150,000,000	$150,000,000	150,000,000

(b) The authorization of appropriations for Title II of the Act providing grants for public library construction as proposed by the Senate bill and the House amendment, and as agreed to in conference, are as follows:

	Fiscal year—				
	1978	1979	1980	1981	1982
Senate bill	$97,000,000	$97,000,000	$97,000,000	$97,000,000	$97,000,000
House amendment	Such sums	Such sums	Such sums	Such sums	
Conference agreement	Such sums	Such sums	Such sums	Such sums	97,000,000

(c) The authorization of appropriations for Title III of the Act providing grants for interlibrary cooperation as proposed by the Senate bill and the House amendments, and as agreed to in Conference, are as follows:

	Fiscal Year—				
	1978	1979	1980	1981	1982
Senate bill	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000
House amendment	15,000,000	20,000,000	Such sums	Such sums	
Conference agreement	15,000,000	20,000,000	$20,000,000	$20,000,000	20,000,000

(d) The authorization of appropriations for Title IV of the Act providing grants for older readers services as proposed by the Senate bill and the House amendment, and as agreed to in conference, are as follows:

	Fiscal year—				
	1978	1979	1980	1981	1982
Senate bill	Such sums	Such sums	Such sums	Such sums	Such sums.
House amendment	Such sums	Such sums	Such sums	Such sums	

The House recedes.

(3) *Administrative Costs.* The House amendment, but not the Senate bill, provides for a new section 8 which would require States to match Federal funds spent for administrative costs with an equal amount of non-Federal funds. The Senate recedes.

(4) *Urban Resource Libraries.* (a) The Senate bill, but not the House amendment, adds to Title I an emphasis on urban resource libraries, to be implemented with respect to appropriations in excess of $60,000,000. Each State shall have at least one major urban resource library. States with no major urban area shall designate an area for this purpose. Grants made by the Commissioner pursuant to this provision would strengthen major urban resource library programs according to the State annual plan for library services. Libraries receiving these funds would use them: (1) to provide services to readers and to other libraries throughout the regional area in which such libraries are located; and (2) to meet the special demands made upon them by readers and by other libraries for special services as a result of the valuable nature of such extensive and special collections to those other libraries and readers throughout the region.

The Conference Agreement retains an emphasis on urban resource libraries but does not provide for the designation of a major urban resource library in the absence of a major urban area. The House recedes on the inclusion of an addition purpose for Title I of the Act, regarding use of funds for services provided by major urban resource libraries.

(b) Under the Senate provision all appropriations in excess of $60,000,000 would be divided in half. Half of the funds so divided would be allocated among the States according to the existing formula, and be used for grants according to the existing law. The other half would be allocated among the States on the basis of urban population, and be used for projects in urban resource libraries. Urban population is computed on the basis of the population in cities of over 100,000 persons with the exception that each State will be assumed to have at least one city with 250,000 persons. A hold harmless provision is included so that no State would receive less Title I funds than in FY 1977.

The Senate recedes on changing the allocation formula for appropriations in excess of $60,000,000. The Conference agreement provides that, in states with cities of popu-

lations of 100,000 or more individuals, where the aggregate population of such cities does not exceed 50% of the state's population, the amount reserved from appropriations in excess of $60,000,000 for urban resource library purposes shall bear the same percentage as such urban population bears to the total population of the state. Where such urban population exceeds 50% of a state's population 50% of the appropriations in excess of $60,000,000 shall be reserved for urban resource library purposes. If a state has no city with a population of 100,000 or more individuals, it shall not be subject to the provisions of this subsection.

The conferees expect that, in determining the existence of cities with a population of 100,000 or more individuals, the Commissioner shall determine such number on the basis of the most recent satisfactory data available from the Department of Commerce.

(c) The Senate provision includes a requirement that no State may use money received pursuant to an urban resource library program in place of existing funds spent on such programs. The House recedes.

(5) *Hold Harmless.* The Senate bill, but not the House amendment, revises the hold harmless base year date, regarding library services to the handicapped from FY 1971 to the second preceding fiscal year for which a determination is made. The House recedes.

(6) *Remodeling.* The Senate bill, but not the House amendment, provides for two new uses of funds for remodeling under library construction programs. These would be (1) to remove architectural barriers to the handicapped, and (2) to make library structures more energy efficient. The House recedes.

(7) *Urban Library Development Program.* The Senate bill, but not the House amendment, contains a new grant program to States which are either relatively densely populated or are relatively sparsely populated, but which contain intensively urban areas. States are to use funds in public libraries pursuant to the State long range program and annual plan to improve the capability of public libraries in densely populated urban areas. Such improved capability is to be achieved through demonstration and special development efforts.

The Senate recedes. However, the Conferees wish to stress that the White House Conference on Libraries consider the unique needs of libraries in densely populated areas and isolated rural areas.

CARL D. PERKINS,
JOHN BRADEMAS,
EDWARD P. BEARD,
ALBERT H. QUIE,
Managers on the Part of the House.

CLAIBORNE PELL,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
TOM EAGLETON,
HARRISON A. WILLIAMS, Jr.,
ALAN CRANSTON,
ROBERT T. STAFFORD,
RICHARD S. SCHWEIKER,
S. I. HAYAKAWA,
J. K. JAVITS,
Managers on the Part of the Senate.

BLACK LUNG BENEFITS REFORM ACT OF 1977

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4544 to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4544, with Mr. MCKAY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Monday, July 25, 1977, the Clerk had read through line 24 on page 5.

Are there any amendments to section 1?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON

Mr. THOMPSON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. THOMPSON:

AMENDMENT IN THE NATURE OF A SUBSTITUTE

SHORT TITLE

SECTION 1. This Act may be cited as the "Black Lung Benefits Reform Act of 1977".

EMPLOYMENT BEFORE 1970

SEC. 2. Section 414(a) of the Act (30 U.S.C. 924(a)) is amended by adding at the end thereof the following new paragraph:

"(4) A claim for benefits under this part may be filed at any time on or after the date of the enactment of the Black Lung Benefits Reform Act of 1977 by a miner (or in the case of a deceased miner, the eligible survivors of such miner) if the date of the last exposed employment of such miner occurred before December 30, 1969.'".

OFFSET AGAINST WORKMEN'S COMPENSATION BENEFITS

SEC. 3. The first sentence of section 412(b) of the Act (30 U.S.C. 922(b)) is amended by inserting immediately after "disability of such miner" the following: "due to pneumoconiosis".

CURRENTLY EMPLOYED MINERS

"SEC. 4. (a) The first sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by inserting immediately before the period at the end thereof the following: "or solely on the basis of employment as a miner if (1) the location of such employment has recently been changed to a mine area having a lower concentration of dust particles; (2) the nature of such employment has been changed so as to involve less rigorous work; or (3) the nature of such employment has been changed so as to result in the receipt of substantially less pay".

(b) Section 413 is further amended by adding at the end thereof the following new subsection:

"(d) No miner who is engaged in coal mine employment shall (except as provided in section 411(c)(3)) be entitled to any benefits under this part while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his employment terminates within the year after the date such determination becomes final."

ADVISORY OPINIONS

SEC. 5. Section 413 of the Act (30 U.S.C. 923) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any miner may file a claim for benefits whether or not such miner is employed by an operator of a coal mine at the time such miner files such claim.

(2) The Secretary shall notify a miner, as soon as practicable after the Secretary receives a claim for benefits from such miner, whether, in the opinion of the Secretary, such miner would be eligible for benefits, except for the circumstances of the employment of such miner at the time such miner filed a claim for benefits.

INDUSTRIAL NOTIFICATIONS

SEC. 6. Part B of title IV of the Act (30 U.S.C. 911 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 416. (a) For purposes of assuring that all individuals who may be eligible for benefits under this part are afforded an opportunity to apply for and, if entitled thereto, to receive such benefits, the Secretary shall undertake a program to locate individuals who are likely to be eligible for such benefits and have not filed a claim for such benefits.

"(b) The Secretary shall seek to determine, in cooperation with operators and with the Secretary of the Interior, the names and current addresses of individuals having long periods of employment in coal mining and, if such individuals are deceased, the names and addresses of their widows, children, parents, brothers, and sisters. The Secretary shall then directly, by mail, by personal visit by a delegate of the Secretary, or by other appropriate means, inform any such individuals (other than those who have filed a claim for benefits under this title) of the possibility of their eligibility for benefits, and offer them individualized assistance in preparing their claims where it is appropriate that a claim be filed.

"(c) Notwithstanding any other provision of this part, a claim for benefits under this part, in the case of an individual who has been informed by the Secretary under subsection (b) of the possibility of his eligibility for benefits, shall, if filed no later than six months after the date he was so informed, be considered on the same basis as if it had been filed on June 30, 1973.".

DEFINITIONS

SEC. 7. (a) Section 402(f) of the Act (30 U.S.C. 902(f)) is amended by adding at the end thereof the following new undesignated paragraph:

"With respect to a claim filed after June 30, 1973, such regulations shall not provide more restrictive criteria than those applicable to a claim filed on June 30, 1973.".

(b) Section 402 of the Act (30 U.S.C. 902) is amended by inserting immediately after paragraph (g) the following new paragraph:

"(h) The term 'fund' means the Black Lung Disability Insurance Fund established by section 423(a).".

EVIDENCE REQUIRED TO ESTABLISH CLAIM

SEC. 8. (a) Section 413(b) of the Act (30 U.S.C. 923(b)) is amended by inserting immediately after the second sentence thereof the following new sentence: "Where there is no relevant medical evidence in the case of a deceased miner, such affidavits shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis.".

(b) The last sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by striking out "and (1)," and inserting in lieu thereof "(1), and (n),".

(c) The second sentence of section 413(b) of the Act (30 U.S.C. 923(b)) is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided*, That unless the Secretary has good cause to believe (1) that an X-ray is not of sufficient quality to demonstrate the presence of pneumoconiosis, or an autopsy report is not accurate, or (2) that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such report, or in the case of the X-ray,

accept the opinion of the claimant's physician, concerning the presence of the pneumonoconiosis and the stage of advancement of pneumoconiosis.".

CLAIMS FILED AFTER DECEMBER 31, 1973

SEC. 9. (a)(1) The first sentence of section 422(a) of the Act (30 U.S.C. 932(a)) is amended—

(A) by inserting immediately before the period at the end thereof the following: ", or with respect to entitlements established in paragraph (5) or paragraph (6) of section 411(c) of this title"; and

(B) by inserting immediately after "except as otherwise provided in this subsection" the following: "and to the extent consistent with the provisions of this part,".

(2) The last sentence of section 422(a) of the Act (30 U.S.C. 932(a)) is amended—

(A) by striking out "benefits" and inserting in lieu thereof "premiums and assessments"; and

(B) by striking out "to persons entitled thereto".

(3) Section 422(b) of the Act (30 U.S.C. 932(b)) is amended by inserting "(1)" immediately after "(b)", and by adding at the end thereof the following new paragraph:

"(2)(A) During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of this part each operator of a coal mine in such State shall secure the payment of assessments against such operator under section 424(g) of this part by (i) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary; or (ii) insuring and keeping insured the payment of such assessments with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person, or fund is authorized under the laws of any State to insure workmen's compensation.

"(B) In order to meet the requirements of clause (ii) of subparagraph (A) of this paragraph, every policy or contract of insurance shall contain—

"(i) a provision to pay assessments required under section 424(g) of this part, notwithstanding the provisions of the State workmen's compensation law which may provide for payments which are less than the amount of such assessments;

"(ii) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for the payment of such assessments; and

"(iii) such other provisions as the Secretary, by regulation, may require.

"(C) No policy or contract of insurance issued by a carrier to comply with the requirements of clause (ii) of subparagraph (A) of this paragraph shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business."

(4) Section 422(b)(1) of the Act, as so redesignated by paragraph (3), is amended—

(A) by striking out "benefits" and inserting in lieu thereof "premiums and assessments"; and

(B) by striking out "section 423" and inserting in lieu thereof "section 424".

(5) Section 422(c) of the Act (30 U.S.C. 932(c)) is amended to read as follows:

"(c) Benefits shall be paid during such period under this section by the fund, subject to reimbursement to the fund by operators in accordance with the provisions of section 424(g) of this title, to the categories of persons entitled to benefits under section 412(a) of this title in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section, except that (1) the Secretary may modify any such regulation promulgated by the Secretary of Health, Education, and Welfare; and (2) no operator shall be liable for the payment of any benefits (except as provided in section 424(f) of this title) on account of death or total disability due to pneumoconiosis, or account of any entitlement based upon conditions described in paragraphs (5) and (6) of section 411(c), which did not arise, at least in part, out of employment in a mine during the period when it was operated by such operator.".

(6) Section 422(e) of the Act (30 U.S.C. 932(e) is amended—

(A) by striking out "required" and inserting in lieu thereof "made"; and

(B) by adding "or" immediately after the semicolon in paragraph (1) thereof, by striking out ", or " at the end of paragraph (2) thereof and inserting in lieu thereof a period, and by striking out paragraph (3) thereof.

(7) Section 422(f)(2) of the Act (30 U.S.C. 932(f)(2)) is amended—

(A) by inserting "paragraph (4), (5), or (6) of" immediately after "eligibility under";

(B) by striking out "section 411(c)(4)" the first place it appears therein and inserting in lieu thereof "section 411(c)";

(C) by striking out "from a respiratory or pulmonary impairment"; and

(D) by striking out "section 411(c)(4) of this title, incurred as a result of employment in a coal mine" and inserting in lieu thereof "any of such paragraphs".

(8) Section 424(h) of the Act (30 U.S.C. 932(h)) is amended by striking out the first sentence thereof.

(9) Section 422(i) of the Act (30 U.S.C. 932(i)) is amended to read as follows:

"(i)(1) The Secretary shall promulgate regulations providing for the prompt and expeditious consideration of claims under this section.

"(2)(A) The Secretary shall promulgate regulations providing for the prompt and equitable hearing of appeals by claimants who are aggrieved by any decision of the Secretary.

"(B) Any such hearing shall be held no later than forty-five days after the date upon which the claimant involved requests such hearing. A hearing may be postponed at the request of the claimant involved for good cause.

"(C) Any such hearing shall be held at a time and a place convenient to the claimant requesting such hearing.

"(D) Any such hearing shall be of record and shall be subject to the provisions of sections 554, 555, 556, and 557 of title 5, United States Code.

"(3)(A) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, may obtain a review of such decision by a civil action commenced no later than ninety days after the mailing to him of notice of such decision, or not later than such further time as the Secretary may allow.

"(B) Such action shall be brought in a district court of the United States in the State in which the claimant resides.

"(C) The Secretary shall file, as part of his answer, a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

"(D) The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by the weight of the evidence, shall be conclusive.

"(E) The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision.

"(F) The judgment of the court shall be final, except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this paragraph shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.".

(10) In the case of any miner or any survivor of a miner who is eligible for benefits under section 422 of the Act (30 U.S.C. 932) as a result of any amendment made by any provision of this Act, such miner or survivor may file a claim for benefits under such section no later than three years after the date of the enactment of this Act, or no later than the close of the applicable period for filing claims under section 422(f) of the Act (30 U.S.C. 932(f)), whichever is later.

(b) Section 423 of the Act (30 U.S.C. 933) is amended to read as follows:

"SEC. 423. (a)(1) There is hereby established in the Treasury of the United States a trust fund to be known as the Black Lung Disability Insurance Fund. The fund shall consist of such sums as may be appropriated as advances to the fund under section 424(e)(1) of this part, the assessments paid into the fund as required by section 424(g), the premiums paid into the fund as required by section 424(a), the interest on, and proceeds from, the sale or redemption of any investment held by the fund, and any penalties recovered under section 424(c), including such earnings, income, and gains as may accrue from time to time which shall be held, managed, and administered by the trustees in trust in accordance with the provisions of this part and the fund.

"(2) Fund assets, other than such assets as may be required for necessary expenses, shall be used solely and exclusively for the purpose of discharging obligations of operators under this part. Operators shall have no right, title, or interest in fund assets, and none of the earnings of the fund shall inure to the benefit of any person, other than through the payment of benefits under this part, together with appropriate costs.

"(b)(1)(A) The fund shall have seven trustees. Except as provided in subparagraph (B), trustees shall serve for terms of four years.

"(B) Of the trustees first elected under this subsection—

"(i) four shall be elected for terms of two years; and

"(ii) three shall be elected for terms of one year.

The Secretary shall determine, before the date of the first election under this subsection, whether each trustee office involved in such election shall be for a term of one year or two years. Such determination shall be made through the use of an appropriate method of random selection, except that at least one trustee nominated under paragraph (2)(A) shall serve for a term of two years.

"(C) Any trustee may be a full-time employee of an operator, except that no more than one trustee may be employed by any one operator or any affiliate of such operator.

"(2)(A) Two trustees shall be nominated and elected by operators having an annual

payroll not in excess of $1,500,000 (hereinafter referred to as 'small operators').

"(B) Five trustees shall be nominated and elected by all operators.

"(3) No later than 60 days after the date of the enactment of the Black Lung Benefits Reform Act of 1977, all operators shall certify to the Secretary their payrolls for the 12-month period ending December 31, 1976. The Secretary shall then publish a list setting forth the number of votes to which each small operator and each operator is entitled, computed on the basis of one vote for each $500,000 or fraction thereof of payroll. Trustees shall be elected no later than 180 days after the date of enactment of such act.

"(4) Candidates seeking nomination for election to the office of trustee under paragraph (2)(A) shall submit to the Secretary petitions of nomination reflecting the approval of small operators representing not less than 2 per centum of the aggregate annual payroll of all small operators. Candidates seeking such nomination under paragraph (2)(B) shall submit petitions reflecting the approval of operators representing not less than 2 per centum of the aggregate annual payroll of all operators.

"(5) The Secretary shall promulgate regulations for the nomination and election of trustees. Such regulations shall include provisions for the nomination and election of trustees, including the nomination and election of trustees to fill any vacancy caused by the death, disability, resignation, or removal of any trustee. The Secretary shall certify the results of all nominations and elections. Two or more trustees may at any time file a petition, in the United States district court where the fund has its principal office, for removal of a trustee for malfeasance, misfeasance, or nonfeasance. The cost of any such action shall be paid from the fund, and the Secretary may intervene in any such action as an interested party.

"(6) The trustees shall organize by electing a Chairman and Secretary and shall adopt such rules governing the conduct of their business as they consider necessary or appropriate. Five trustees shall constitute a quorum and a simple majority of those trustees present and voting may conduct the business of the fund.

"(c)(1) The trustees shall act on behalf of all operators with respect to claims filed under this part.

"(2)(A) Except as provided by subparagraph (B), the fund may not participate or intervene as a party to any proceeding held for the purpose of determining claims for benefits under this part.

"(B)(i) If the fund is dissatisfied with any determination of the Secretary with respect to a claim for benefits under this part, the fund may, no later than thirty days after the date of such determination, file with the United States court of appeals for the circuit in which such determination was made a petition for review of such determination. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination, as provided in section 2112 of title 28, United States Code.

"(ii) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, except that the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary thereupon may make new or modified findings of fact and may modify his previous determination, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(iii) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(iv) Any finding of fact of the Secretary relating to the interpretation of any chest roentgenogram or any other medical evidence which demonstrates the existence of pneumoconiosis or any other disabling respiratory or pulmonary impairment, shall not be subject to review under the provisions of this subparagraph.

"(3) No operator may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits under this part.

"(4) It shall be the duty of the trustees to report to the Secretary and to the operators no later than January 1 of each year on the financial condition and the results of the operations of the fund during the preceding fiscal year and on its expected condition during the current and ensuing fiscal year. Such report shall be included in a report to the Congress by the Secretary not later than March 1 of each year on the financial condition and the results of the operations of the fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year. The report of the Secretary shall be printed as a House document of the session of the Congress to which the report is made.

"(5)(A) The trustees shall take control and management of the fund and shall have the authority to hold, sell, buy, exchange, invest, and reinvest the corpus and income of the fund. All premiums paid to the fund under section 424(a)(1) shall be held and administered by the trustees as a single fund, and the trustees shall not be required to segregate and invest separately any part of the fund assets which may be claimed to represent accruals or interests of any individuals. It shall be the duty of the trustees to invest such portion of the assets of the fund as is not required to meet obligations under this part, except that the trustees may not invest any advances made to the fund under section 424(e). The trustees shall make investments under this paragraph in accordance with the provisions of section 404(a)(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(a)(1)(C)).

"(B) Any profit or return on any investment or reinvestment made by the trustees under subparagraph (A) shall not be considered as income for purposes of Federal or State income taxation.

"(6)(A) Amounts in the fund shall be available for making expenditures to meet obligations of the fund which are incurred under this part, including the expenses of providing medical benefits as required by section 432 of this title, and the operation, maintenance, and staffing of the office of the fund. The trustees may enter into agreements with any self-insured person or any insurance carrier who has incurred obligations with respect to claim under this part before the effective date of this paragraph, under which the fund will assume the obligations of such self-insured person or insurance carrier in return for a payment or payments to the fund in such amounts, and on such terms and conditions as will fully protect the financial interests of the fund.

"(B) Beginning on the effective date of this paragraph, payments shall be made from the fund to meet any obligation incurred by the Secretary with respect to claims under this part before such effective date. The Secretary shall cease to be subject to such obligations on such effective date.

"(7) The trustees shall keep accounts and records of their administration of the fund, which shall include a detailed account of all investments, receipts, and disbursements.

"(8) At no time during the administration of the fund shall the trustees be required to obtain any approval by any court of the United States or by any other court of any act required of them in connection with the performance of their duties or in the performance of any act required of them in the administration of their duties as trustees. The trustees shall have the full authority to exercise their judgment in all matters and at all times without any such approval of such decisions. The trustees may file an application in the United States district court where the fund has its principal office for a judicial declaration concerning their power, authority, or responsibility under this Act (other than the processing and payment of claims). In any such proceeding, only the trustees and the Secretary shall be necessary or indispensable parties, and no other person, whether or not such person has any interest in the fund, shall be entitled to participate in any such proceeding. Any final judgment entered in such proceeding shall be conclusive upon any person or other entity claiming an interest in the fund.

"(9) The trustees may employ such counsel, accountants, agents, and employees as they consider advisable. The trustees may charge the compensation of such persons and any other expenses, including the cost of fidelity bonds and indemnification and fiduciary insurance for trustees and other fund employees, necessary in the administration of the fund, against the fund.

"(10) The trustees shall have the power to execute any instrument which they consider proper in order to carry out the provisions of the fund.

"(11) The trustees may, through any duly authorized person, vote any share of stock which the fund may hold.

"(12) The trustees may employ actuaries to such extent as they consider advisable. No actuary may be employed by the trustees under this paragraph unless such actuary is enrolled under section 3042(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1242(a)).

"(d) Nothing in this Act or in the Black Lung Benefits Reform Act of 1977 shall be construed as exempting the fund, or any of its activities or outlays, from inclusion in the Budget of the United States or from any limitations imposed thereon or as authorizing outlays by the fund or the trustees except to such extent or in such amounts as are provided in advance in appropriation acts.".

(c) Section 424 of the Act (30 U.S.C. 934) is amended to read as follows:

"SEC. 424. (a)(1) During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b), each operator of a coal mine in such State shall pay premiums into the fund in amounts sufficient to ensure the payment of benefits under this part.

"(2) The initial premium rate of each operator shall be established by the Secretary as a rate per ton of coal mined by such operator. Beginning one year after the date upon which the Secretary establishes initial premium rates, the trustees may modify or adjust the premium rate per ton of coal mined to reflect the experience and expenses of the fund to the extent necessary to permit the trustees to discharge their responsibilities under this Act, except that the Secretary may further modify or adjust the premium rate to ensure that all obligations of the fund will be met. Any premium rate established under this subsection shall be uniform for all mines, mine operators, and amounts of coal mined.

"(3) For purposes of section 162(a) of the Internal Revenue Code of 1954 (relating to

trade or business expenses), any premium paid by an operator of a coal mine under paragraph (1) shall be considered to be an ordinary and necessary expense in carrying on the trade or business of such operator.

"(4) For purposes of this subsection—

"(A) the term 'coal' means any material composed predominantly of hydrocarbons in a solid state;

"(B) the term 'ton' means a short ton of two thousand pounds; and

"(C) the amount of coal mined shall be determined at the first point at which such coal is weighed.

"(b) The Secretary shall advise the Secretary of the Treasury of premium rates established under subsection (a)(1). The Secretary of the Treasury shall collect all premiums due and payable by operators under subsection (a)(1), and transmit such premiums to the fund. Collection shall be effected by the Secretary of the Treasury in the same manner as, and together with, quarterly payroll reports of employers. In order to ensure the payment of premiums of all operators, the Secretary, after consultation with the Secretary of the Interior, shall certify, not less than annually, the names of all operators subject to this Act.

"(c)(1) In any case in which an operator fails or refuses to pay any premiums required to be paid under subsection (a)(1), the trustees of the fund shall bring a civil action in the appropriate United States district court to require the payment of such premium. In any such action, the court may issue an order requiring the payment of such premiums in the future as well as past due premiums, together with 9 per centum annual interest on all past due premiums.

"(2) An operator who fails or refuses to pay any premium required to be paid under subsection (a)(1) may be assessed a civil penalty by the Secretary of the Treasury in such amount as such Secretary may prescribe, but not in excess of an amount equal to the premium the operator failed or refused to pay. Such penalty shall be in addition to any other liability of the operator under this Act. Penalties assessed under this paragraph may be recovered in a civil action brought by such Secretary and penalties so recovered shall be deposited in the fund.

"(d) The Secretary shall be required to make expenditures under this part only for the purpose of carrying out his obligation to administer this part. All other expenses incurred under this part shall be borne by the fund, and if borne by the Secretary, shall be reimbursed by the fund to the Secretary.

"(e)(1) There are hereby authorized to be appropriated to the fund such sums as may be necessary to provide the fund with amounts equal to 50 per centum of the amount which the Secretary estimates is necessary for the payment of benefits under this part during the first twelve-month period after the effective date of this section. Any amounts appropriated under this paragraph may be used only for the payment of benefits under this part.

"(2)(A) Sums authorized to be appropriated by paragraph (1) shall be repayable advances to the fund.

"(B) Such advances shall be repaid with interest into the general fund of the Treasury no later than five years after the first appropriation made under paragraph (1).

"(3) Interest on such advances shall be at a rate determined by the Secretary of the Treasury taking into consideration the current average yield during the month preceeding the date of the advance involved, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum.

"(f)(1) During any period in which section 422 of this title is applicable with respect to a coal mine, an operator of such mine who, after the date of the enactment of this title, acquired such mine or substantially all of the assets thereof from a person (hereinafter in this paragraph referred to as a "prior operator") who was an operator of such mine on or after the operative date of this title shall be liable for and shall, in accordance with this section and section 423 of this title, secure the payment of all benefits for which the prior operator would have been liable under section 422 of this title with respect to miners previously employed in such mine if the acquisition had not occurred and the previous operator has continued to operate such mine.

"(2) Nothing in this subsection shall relieve any prior operator or any liability under section 422 of this title.

"(g)(1) The fund shall make an annual assessment against any operator who is liable for the payment of benefits under section 422 of this title. Such assessment against any operator of a coal mine shall be in an amount equal to the amount of benefits for which such operator is liable under section 422 of this title with respect to death or total disability due to pneumoconiosis arising out of employment in such mine, or with respect to entitlements established in paragraph (5) or paragraph (6) of section 411(c) of this title.

"(2) Any operator against whom an assessment is made under paragraph (1) shall pay the amount involved in such assessment into the fund no later than thirty days after receiving notice of such assessment.

(d) Section 421(b)(2)(E) of the Act (30 U.S.C. 931(b)(2)(E)) is amended by striking out "section 422(1)" and inserting in lieu thereof "section 424(f)".

CLINICAL FACILITIES

SEC. 10. The first sentence of section 427 (c) of the Act (30 U.S.C. 937(c)) is amended by striking out "of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975" and inserting in lieu thereof "fiscal year".

MEDICAL FACILITIES

SEC. 11. (a) Part C of title IV of the Act (3 U.S.C. 931 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 432. The provisions of subsections (a), (b), (c), (d) and (g) of section 7 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 907 (a), (b), (c), (d), and (g) shall be applicable to persons entitled to benefits under this part on account of total disability or on account of eligibility under paragraph (5) or paragraph (6) of section 411(c), except that references in such section to the employer shall be considered to refer to the trustee of the fund.".

(b) The Secretary of Health, Education, and Welfare shall notify each miner receiving benefits under part B of the Black Lung Benefits Act on account of his total disability who the Secretary has reason to believe became eligible for medical services and supplies on January 1, 1974, of his possible eligibility for such benefits. Where the Secretary so notifies a miner, the period during which he may file a claim for medical services and supplies under part C of such Act shall not terminate before six months after such notification was made.

TRANSITIONAL PROVISIONS

SEC. 12. (a) The Secretary of Health, Education, and Welfare, and the Secretary of Labor shall disseminate to interested persons and groups the changes in the Black Lung Benefits Act made by this Act. Each such Secretary shall undertake a program to give individual notice to individuals who they believe are likely to have become eligible for benefits by reason of such changes.

(b)(1) The Secretary of Health, Education, and Welfare (with respect to part B of the Black Lung Benefits Act) shall review each claim which has been denied, and each claim which is pending, under such part, taking into account the amendments made to such part by this Act, and with respect to claims which have been denied taking into account the possibility of error or inappropriate denial of benefits in the initial processing of such claim. The Secretary shall approve any such claim forthwith if the provisions of such part, as so amended, require such approval or if in the initial processing of a denied claim there was error or inappropriate denial of benefits to such claimant.

(2) The Secretary of Labor (with respect to part C of the Black Lung Benefits Act) shall review each claim which has been denied, and each claim which is pending, under such part, taking into account the amendments made to such part by this Act, and with respect to claims which have been denied taking into account the possibility of error or inappropriate denial of benefits in the initial processing of such claims. The Secretary shall approve any such claim forthwith if the provisions of such part, as so amended, require such approval or if in the initial processing of a denied claim there was error or inappropriate denial of benefits to such claimant.

(3) Each Secretary, in undertaking the review required by paragrraphs (1) and (2), shall not require the resubmission of any claim which is the subject of any such review.

SHORT TITLE FOR ACT

SEC. 13. Section 401 of the Act (30 U.S.C. 901) is amended by inserting "(a)" immediately after "SEC. 401." and by adding at the end thereof the following new subsection:

"(b) This title may be cited as the 'Black Lung Benefits Act'.".

MINE ACCIDENT WIDOWS

SEC. 14. (a) If a miner was employed for seventeen years or more in one or more underground coal mines, and died as a result of an accident in any such coal mine which occurred on or before June 30, 1971, any eligible survivor of such miner shall be entitled to the payment of benefit under part B of the Black Lung Benefits Act.

(b) For purposes of this section, benefit payments to a widow, child, parent, brother, or sister of any miner to whom subsection (a) applies shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability laws of the miner's State.

(c) The Secretary of Labor shall be responsible for the administration of the provisions of this section.

ADMINISTRATION OF BLACK LUNG BENEFITS ACTS

SEC. 15. (a)(1) The Division of Coal Mine Workers' Compensation is hereby transferred to the Office of the Secretary of Labor.

(2) The Secretary shall act through the Division in carrying out the provisions of the Black Lung Benefits Act.

(b)(1) The Secretary, in carrying out the Black Lung Benefits Act, shall establish and operate such field offices as may be necessary to assist miners and other persons with respect to the filing of claims under such Act. Such field offices shall be established and operated in a manner which makes them reasonably accessible to such miners and other persons.

(2) The Secretary, in connection with the establishment and operation of field offices under paragraph (1), may enter into ar-

rangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies.

(c) For purposes of this section—

(1) the term "Division" means the Division of Coal Mine Workers' Compensation established in the Office of Workers' Compensation Programs by the Assistant Secretary of Labor for Employment Standards under the Secretary's Order No. 13-71 (36 Federal Register 8755); and

(4) the term "Secretary" means the Secretary of Labor.

EFFECTIVE DATES

SEC. 16. (a) This Act shall take effect on the date of its enactment, except that—

(1) no authority to make payments under this Act shall become effective before October 1, 1977;

(2) the amendments made by sections 2, 4, 5, and 8 shall be effective on and after December 30, 1969, except that claims approved solely because of the amendments made by such sections which were filed before the date of the enactment of this Act, shall be awarded benefits only for the period beginning on such date of enactment;

(3) the amendments made by section 6 shall not require the payment of benefits for any period before the date of the enactment of this Act; and

(4) the amendments made by section 9 shall take effect on October 1, 1977, except that (A) the Secretary of Labor shall establish initial premium rates for operators under section 424(a)(1) of the Black Lung Benefits Act, as added by section 9(c) of this Act, no later than October 1, 1977, and (B) such Secretary shall make the estimate required by section 424(e)(1) of such Act, as added by section 9(c) of this Act, as soon as practicable after the date of the enactment of this Act.

(b) In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Insurance Fund established by section 423(a) of the Act, as added by section 9(b) of this Act, the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before October 1, 1977, shall remain in force as rules and regulations of the Secretary of Labor, until such provisions are revoked, amended, or revised by law. Such Secretary shall make benefit payments to miners and to eligible survivors of miner or survivor before October 1, 1977.

(c) No benefits payable because of the enactment of this Act shall be paid to any miner or survivor before October 1, 1977.

WHITE LUNG STUDY

SEC. 17. (a) The Committee on Education and Labor of the House of Representatives is authorized and directed to conduct a study of white lung disease, also known as silicosis or talcosis, including, but not limited to, the extent and severity of the disease in the United States; the relationship, if any, between white lung disease and black lung disease; the adequacy of current workman compensation programs in compensating victims of white lung disease; a review of current mine safety and Occupational Safety and Health regulations relating to talc mining to determine whether such regulations are adequate to protect the safety and health of talc miners; and the need, if any, for Federal legislation to protect the safety and health of talc miners or to provide additional compensation for the victims of white lung.

(b) The Committee shall report its findings and any legislative recommendations to the Congress not later than one year after enactment of this Act.

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point. It was printed in the RECORD on July 25.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Chairman, I ask unanimous consent that I may proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Chairman, I have an amendment in the nature of a substitute. The amendment together with a brief statement was printed in the CONGRESSIONAL RECORD on July 25.

I talked to JOHNNY DENT in the hospital on Tuesday and this substitute has his full support. JOHNNY DENT is the father of the black lung program and only the fact that he is recuperating from a serious operation keeps him away today. It must be a serious disappointment to him that he cannot be here to manage this essential amendment to the black lung program.

I want to call the attention of all Members to the letter from the Department of Labor which gives the administration's official position, which is to oppose the Erlenborn substitute and to support the Thompson-Andrews substitute.

My substitute is identical to the committee bill with these five major changes:

First, in view of the widespread concern and apparent disagreement over that provision of the committee bill which would have created a black lung entitlement based on 30 years of service in a bituminous mine and 25 years of service in an anthracite mine——

Second, the committee bill is subject to the interpretation that a miner can receive black lung benefits while employed——

To completely eliminate the possibility of this, my substitute contains an absolute bar to receiving any black lung benefits as a result of the enactment of this bill while the miner is employed.

Third, much concern has been expressed about the committee bill in that it denies the Department of Health, Education, and Welfare the right to appeal from a favorable decision for a black lung claimant but permits at the same time such an appeal by the claimant when he has been denied by an administrative judge——

My substitute eliminates this provision so that an appeal may be taken by either party.

Fourth, this amendment responds to concerns expressed by the chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON), that benefits payable from the trust fund were not subject to prior appropriations.

A provision in my substitute makes them so subject the precise language has been worked out with the Appropriations Committee.

Fifth, the final amendment responds to concerns expressed by the chairman from the House Budget Committee, the gentleman from Connecticut (Mr. GIAIMO).

A provision in my substitute brings the bill in technical compliance with section 401(b) of the Congressional Budget Act and brings the bill's cost within the ceiling imposed by the first concurrent resolution of the budget for fiscal year 1978 by prohibiting the retroactive payment of black lung benefits generated as a result of this legislation.

Mr. Chairman, the parliamentary situation is such that Members have a simple choice. They can support my substitute and make needed improvements in the program and at the same time transfer the residual cost of the part C program from the Government to the industry.

The other choice is to support the substitute of the gentleman from Illinois which terminates the program and will leave miners afflicted with black lung and widows of those who are killed by this disease to the tender mercies of State workmen's compensation laws.

I do not need to remind Members of this body that it was because these laws were so inadequate that we enacted the black lung program in the first place. At the present time no single State law meets the standards of adequacy which are prescribed in the Black Lung Act.

I trust that Members will remember that the coal on which we have relied for so large a part of our energy needs from World War II to the present was produced at the cost of crippling lung disease for those who produced it, and they deserve the fair treatment that my substitute will give them.

AMENDMENT OFFERED BY MR. ERLENBORN AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON

Mr. ERLENBORN. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN as a substitute for the amendment in the nature of a substitute offered by Mr. THOMPSON: In lieu of the matter proposed to be inserted by the amendment in the nature of a substitute, insert the following:

That this Act may be cited as the "Black Lung Benefits Amendments Act of 1977".

SEC. 2. Part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended by striking out sections 421 through 425 and inserting in lieu thereof the following:

"SEC. 421. Claims for benefits in respect of death or total disability of any miner due to pneumoconiosis filed during the period which begins on the effective date of the Black Lung Benefits Amendments Act of 1977 and ends one year thereafter shall be paid by the Secretary in accordance with the provisions of this part. After the end of such period, claims for occupational disease or death of a coal miner may be treated in a manner similar to other claims under applicable State workers' compensation laws.

"SEC. 422. (a) Benefits shall be paid by the Secretary under this part to the categories of persons entitled to benefits under section 412(a) of this title during the same period

for which those categories of persons are entitled to receive those benefits in accordance with regulations of the Secretary.

"(b) The Secretary shall by regulation prescribe standards, which may include appropriate presumptions, for determining whether a miner is totally disabled due to pneumoconiosis, whether the death of a miner was due to pneumoconiosis, and whether pneumoconiosis arose out of employment in a coal mine or mines.

"(c) In prescribing such standards under subsection (b), the Secretary shall not apply the interim standards prescribed under section 411(b) of this title to determine whether a miner is totally disabled due to pneumoconiosis or whether the death of a miner was due to pneumoconiosis for purposes of payments of benefits.

"SEC. 423. Benefits payable under this part shall be paid on a monthly basis and shall be equal to the amounts specified in section 412(a) of this title.

"SEC. 424. No payment of benefits shall be required under this part except pursuant to a claim filed therefor in such manner, in such form, and containing such information as the Secretary shall by regulation prescribe.

"SEC. 425. The amount of benefits payable under this part shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis.".

SEC. 3. The amendment made by section 2 shall take effect with respect to claims for benefits under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 in respect of death or total disability of any miner due to pneumoconiosis filed during the period which begins on the effective date of this Act and ends one year thereafter, except that claims filed under part C as it existed before the effective date of this Act shall be paid in accordance with such part C, as amended by section 2, for periods beginning on or after the effective date of this Act.

SEC. 4. The provisions of this Act shall take effect thirty days after the date of enactment of this Act, or October 1, 1977, whichever is later.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, we are now considering the latest proposed amendments to the pneumoconiosis compensation, normally known as the black lung compensation law. This bill would make certain changes in the presently existing program of black lung compensation. The original program was enacted in the Coal Mine Health and Safety Act of 1969.

That bill was a direct outgrowth of a coal mine disaster approximately 1 year prior to the passage of the 1969 act. The 1969 act addressed itself to some of the causes, or supposed causes—I am not certain that we knew at that time what the causes of that accident were. That, of course, resulted in the safety portion of the bill, eliminating the gassy, nongassy classifications of mines, which required in some mines the use of what we call permissive equipment; generally in the safety area adding stringent safety requirements to do what we could as a Congress to see that no further such disasters occurred, which of course would be our fond hope. But, the expectation of achieving that would be rather slim in such a hazardous profession as coal mining, but certainly to do what we could considering the hazards that are part of that occupation.

Along with the safety provisions were proposed in that first bill, for the first time, a Federal black lung compensation program. I supported the bill when it came out of our committee. I supported it on the floor of the House. I did not support it when it came back as a result of the work of the conference. I will not go into details, but the bill was changed considerably, extending provisions beyond those who were totally disabled due to complicated pneumoconiosis, by putting in definitions that could lead to compensating those who were not totally disabled and removing the requirement that it be complicated pneumoconiosis as a basic for granting a claim.

The bill was signed into law, and the black lung compensation program became law in 1969. In 1972, we amended the program. We made it easier for claimants to have their claims approved. We introduced some presumptions that would make it easier for claimants. We extended the Federal responsibility. At that time, it was near the time when we would shift from part B, which was administered by the Social Security Administration and was the obligation of the Federal Government for not only administration but also the payment of the claims, we extended the period of time that this was applicable before part C, where responsibility was shifted to the employers, would take place.

That shift to part C has now taken place, and we have some experience under the Labor Department administration of part C claims. Part C claims, by the way, are the responsibility of the employers, the last responsible employer, unless the last responsible employer cannot be found or has gone out of business. Then, the Federal Government is responsible.

We have only a short period of experience under part C, and we have heard time after time, by the way, by some members of the committee who support the committee bill, that only a small number of claims are now being paid by the employers. As a matter of fact, the total number of claims has been not too large, but only a very small percentage of claims have been allowed because most of these are claims that had already been processed and denied under part B. Most are claims that ought not be allowed. Also, many of the claims have not been finally adjudicated through the court process, so it has not become the responsibility of the employers.

It has bothered me some that members of the committee would repeat these facts in a way that made it appear that the employers have no responsibility, have ignored the fact that the vast majority of claims have been denied, and ignored the fact that the vast number of these claims have not been finally adjudicated, even though initial determination has been made.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. ERLENBORN was allowed to proceed for 10 additional minutes.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to my colleague from Illinois.

Mr. SIMON. I think it would be interesting for the House if the gentleman would cite the specific statistics as to how many claims have been allowed, how many applications, and so forth.

Mr. ERLENBORN. I would be happy to do that for the gentleman, only I do not happen to have those statistics. I know the gentleman will raise that issue later in debate when he has an opportunity. I will allow it to be prepared.

I can go back to the desk there and dig them out of our copious files.

Mr. SIMON. All right.

Mr. ERLENBORN. I thank the gentleman.

In 1969, when we considered the initiation of this program, the movers and shakers were the gentleman from Pennsylvania (Mr. DENT), the gentleman from Kentucky (Mr. PERKINS), and the gentleman from California (Mr. PHILLIP BURTON). All three of these gentlemen time after time told our committee and told the House that there was a problem existing for getting compensation to black lung victims, that it was not recognized under workers' compensation in most States, and even if there were claims that had been pending up through exposure over decades prior to the coverage under State workers compensation, it would be impossible to determine who the worker's employer was and, therefore, there was a rationale for the Federal Government on a one-shot interim basis picking up the obligation for paying the claims for these workers who contracted the disease years ago and then seeing that the States covered this disease under workers' compensation, and then in the future, after this one-shot Federal responsibility was discharged, to treat these workers in all fairness and in equity as other workers are treated by seeing that they are covered by State workers' compensation and that the employer would be responsible through State workers' compensation for paying the claims.

Today we have before us a bill that is going to make the Federal black lung compensation program permanent. Gone is the rhetoric about seeing that these workers be treated equally with other workers. Gone is the rhetoric that these workers be covered under State workers' compensation. Gone is the premise that this would be a one-shot interim program. Along with the proposal that this be made a permanent Federal responsibility is the creation of a trust fund or industry fund supported by so-called premiums which amount to a severance tax on mining coal.

Gone, as I say, is the rhetoric about trying to treat these workers equally. In the bill as reported by the committee, gone, as a matter of fact, is the concept that this be compensation for disability.

At least in the past, those who filed a claim would have to say they were disabled and give some medical evidence that they were disabled. The bill as reported by the committee, which almost did not get out of the Committee on Rules because of the overreaching nature of that bill, would have given disability compensation to miners, regardless of the state of their health after 25 or 30 years, enjoying disability compensation for total disability without even having to claim that they had partial disability. Then another provision in the bill said that they did not even have to quit work, they could continue to work and draw compensation. In the bill is a provision that if a coal miner works for 17 or more years in the coal mines and he is killed in an accident his survivor will draw disability benefits.

Again there is no requirement that there even be a claim that the miner was in any way affected by pneumoconiosis. The proponents of this bill have claimed that anyone who works 17, 25, or 35 years in the coal mines is disabled, totally disabled. The medical facts before our committee indicate otherwise.

The National Academy of Sciences has reported that total disability from pneumoconiosis is in the range nationwide of something around 14 percent. Its investigation has shown that the incidence of disabling pneumoconiosis in the Midwest or in the West is about zero. So the medical facts just are not there to support what the sponsors of this bill have claimed.

I do not want to extend the debate on this matter too long. Let me say only this: I would like to see that the promises of the original sponsors of this bill, some of whom are here, are kept. I would like to see fairness and equity extended to the coal miners. I would like to see that they are treated exactly as other workers in business and industry are treated.

The substitute I have offered for the Thompson amendment will do just that. It will in time roll back the treatment of these claims, and we will restore the treatment of these claims under part (B) in social security. This allows for the liberal treatment under which more claims were allowed, and for the next year anyone who thinks he will have a claim will be able to file that claim with the Social Security Administration and have his claim treated under the liberal criteria.

Then at the end of the year the Federal program will terminate. At the end of the year this program will then be turned over to the States where workers' compensation covers these workers.

By the way, workers' compensation gives more generous benefits than does the black lung program. I will not go into great detail, but we can show here that in the coal-mining States which have workers' compensation programs the benefits are more liberal. In Pennsylvania the maximum weekly payment is $199; in West Virginia it is $208; in Kentucky, $104; and in Virginia, $175, as compared to current Federal black lung benefits of $47.40 for a claimant, $71.10 for a claimant with one dependent, and for a claimant with three dependents, $94.80. Every one of the State workers' compensation programs in force in the coal-mining States gives greater maximum weekly benefits, based, by the way, partially at least on the earnings of the coal miners, which are quite high—and, therefore, I think they would all qualify for the maximum. Every one of them give greater weekly benefits than they would get under the Federal black lung program.

So the substitute I am offering will deliver on the promise that was made. It will see that this does become a one-shot program to pick up old claims, it will be generous in the treatment of those claims and then it will see that these workers are treated just as other workers in business and industry are treated. They will have the same right to file, this will require the same quantum of proof, and the same benefits will follow.

I think this substitute does fairness and equity. If we do not adopt the substitute I am offering, we will have a big workers' compensation program for one specific disease at the Federal level, and that will lead, of course, to other diseases. It might cover those suffering from such diseases as byssinosis, for instance, because they may ask in fairness and equity that we create other Federal programs for white lung disease, for byssinosis, for asbestosis for asbestos workers, and for other diseases and injuries. I suppose that might go on until finally we may have a Federal workers' compensation program fragmented to the point where we would have separate funds for each industry. We might have something like a broken right finger injury, I suppose, in time. I do not think we want to see that happen. I do not think we want the kind of precedent this bill will set.

Mr. Chairman, I do hope that the Members will support my substitute. If they do, we will see that the promises made by the gentleman from Kentucky (Mr. PERKINS) and the gentleman from California (Mr. PHILLIP BURTON) are kept, and we will see that we do deal with all sections of business and industry in fairness and equity.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Illinois (Mr. ERLENBORN) has made reference to the original sponsors of the committee bill. I was not included among them.

After reading the committee-passed bill very seriously, the substitute which I have offered was developed to answer some of the criticisms which the gentleman has made. It is my considered judgment, with all due respect to him, that it is much more carefully worked out and much more constructive than is his substitute, which, in effect, would dump this problem into the hands of the States, not one of which can meet the criteria set forth in the existing law.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has again expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, I would just like to answer the gentleman's claim in that respect. He is right. The Federal program has certain presumptions in it that are not found in any State workers' compensation program; and the Department of Labor has not certified that any one of the State programs can qualify as being as liberal as our Federal program, and they never will. We just cannot afford to liberalize State workers' compensation programs to the point that we have already liberalized the black lung program. However, I see no reason that black lung victims should be treated any differently. I do not see why they should have presumptions not available to others.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman from New Jersey for a very brief time.

Mr. THOMPSON. Mr. Chairman, by the gentleman's own admission his amendment would dump this program back into the hands of the States. None of the States will ever enact programs.

Mr. ERLENBORN. Mr. Chairman, I do not yield to the gentleman from New Jersey any further.

Mr. THOMPSON. In other words, the gentleman is saying that the miners will suffer forever for lack of State programs.

Mr. ERLENBORN. They already do have programs that cover pneumoconiosis. They just do not have presumptions that people have pneumoconiosis without any medical proof, and that sort of thing they are not about to adopt.

Mr. Chairman, the substitute the gentleman has offered was offered for the reason that only one member of the Committee on Rules was willing to support the committee-reported bill. We had three hearings before the Committee on Rules. The Committee on Rules almost killed this legislation, and it was only after the gentlemen from Kentucky and New Jersey offered to take out the most egregiously bad parts of the bill, the entitlement provision and the prohibition against the coal mine operators having the right of appeal, which was obviously unconstitutional, that the substitute is out here on the floor, by virtue of action of the Committee on Rules, or all of the other bad provisions would have been here. It is only because of the substitute that the Committee on Rules saw fit to send what is still a bad bill out on the floor.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, here we are again considering the black lung bill.

This is not my first appearance on this bill, and I see sitting at this table and over here several Members who know that well.

At other times we have been through this matter and the Members know how and why. I stood here in this well 100 times and talked to the Members about black lung.

Mr. Chairman, I come from the hard coal fields, which produce anthracite.

When anyone talks about coal down here in Washington, many people cannot spell "anthracite." Some of my friends realize that very well. It is all soft coal.

When we talk about the elements of black lung disease, hard coal, in itself, defines the danger and the evils of those black particles of dust that go into the lungs.

Mr. Chairman, there is in this bill a provision with respect to 25 years. The miner works in the mines for 25 years and he has black lung, without a doctor's examination or anything else.

Mr. Chairman, some Members should visit my district, one of the hard coal fields, in which a man has worked in the hard coal mines for 25 years, day and night.

Let me take you by his kitchen window some summer when the window is up and there you will hear him breathing in and out. You hear him gasping for breath as he is sitting by an open kitchen window.

You want a doctor? You want nine X-rays? You want 2 years of study for that? That is black lung.

Well, we have been all through that. But, of course, there is a difference this time and that is that I am standing here also without my dear friend and colleague the gentleman from Pennsylvania, JOHN DENT. All of you are aware that JOHN DENT authored the original black lung bill back in 1969. He and the gentleman from Kentucky (Mr. PERKINS) the chairman of the full committee, and I and others worked to see the enactment of that legislation into law in 1969. Now, as amended by this, we have the Federal Coal Mine Health and Safety Act. That is the official title.

We used to talk about miner's asthma. In the hard coal country it is asthma, in that small mining portion of Pennsylvania, but black lung covers some 15 States so we now talk about black lung disease. We never talked about black lung disease until we passed this law, we merely talked about asthma.

Well, as amended in 1972, this remains the premier piece of workmen's compensation legislation passed by the Congress in the history of our Nation. So we owe JOHN DENT a debt of gratitude, as does the rest of the country.

Well, as good as this law is, the Committee on Education and Labor has done a splendid job in trying to perfect it further. I could not have done better myself. That is indeed praise from Caesar, on black lung. But, remember this, and do not lose track of this one, the number one domestic problem facing us in the United States for the next 25 years, and beyond, is energy. The solution to this problem, and you have heard this time and time again, is coal, black gold.

On that note, you can have all of the recoverable reserves of coal in the world and if you do not have the miners to get it out of the ground, you might as well forget about it.

Last week, Jack O'Leary, just nominated to be the Deputy Secretary of Energy in the Department of Energy, traveled with me last Friday to the heart of the anthracite coal fields in Hazleton, Pa., up near Wilkes-Barre. There he addressed a special group of industrial, union people, citizen people, quite an extensive group of people, known as the Anthracite Task Force, which is a task force that was set up at our request, to those in the Department of Energy, and his message, to sum it up, without more coal in this country, this country will suffer an economic catastrophe to surpass even the Great Depression. How right he is. Remember this, in the coal fields I represent, we have anthracite coal. This is hard coal, not soft coal, and the dust particles are hard.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. THOMPSON, and by unanimous consent, Mr. FLOOD was allowed to proceed for 3 additional minutes.)

Mr. FLOOD. My miners worked in the days before the safety requirements of the Coal Mine Health and Safety Act of 1969, before the dust and the ventilation standards. They fed their families by inhaling these hard dust anthracite particles. You could not believe it unless you were there to see them. This is no joke. You should have heard them, you should have seen them. I wish you could have taken a look at them—doctors, X-rays? Nonsense. To demand of these families that they send their sons into the mines, like their fathers before them, without fairly administering the existing black lung compensation program, would not only be a terrible injustice, but would damage our efforts to get more miners working and get more coal from the earth.

Let me make this clear: I am for the committee bill. I worked for the committee bill. I know the importance of those sections of the committee bill which are not in the Thompson substitute. I am speaking of the entitlement provisions—30 years for bituminous coal and 25 years for anthracite coal—the ban on Federal appeals—and the other sections which I would have preferred. I have gone through this before on the black lung cases by the thousands that are not being handled by social security, or being labeled on appeal, for years, waiting 3 or 4 years to have their applications handled, and they have not been approached.

But, we all must remember that legislation is the art of compromise. Let me tell you something about the high points of the Thompson substitute. This bill would transfer the financial liability to the coal companies. If you are up in the coalfields, you know what I mean.

This bill would guarantee a reexamination of all past claims denied by the Department of Labor and the Social Security Administration. For heaven's sake, if you know the facts and the statistics on that, what could be fairer than that?

This bill would prevent six different opinions from being rendered by six different doctors on the X-ray. You do not need X-rays. Half of those old doctors did not have X-rays. They did not even keep statistics on how much food they gave to their horses driving their carts.

Most importantly, this bill would mandate that the old claims, those prior to March 30, 1973, be examined under the standards set out by the Department of Health, Education, and Welfare as originally intended by the Congress. As they would say, what could be fairer than that?

Mr. Chairman, the Erlenborn substitute, which has been circulating around these Halls now for some time, is a thin charade which is designed to phase out and to kill this black lung program. Do not kid the troops. You know what I mean.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SARASIN, and by unanimous consent, Mr. FLOOD was allowed to proceed for 2 additional minutes.)

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Yes, indeed.

Mr. SARASIN. I thank the gentleman for yielding.

I would ask the gentleman from Pennsylvania if he is aware—and I am sure that he is—that the coal workers' pneumoconiosis exists in two forms: simple and complicated?

Mr. FLOOD. Pneumoconiosis? We never heard of the word before we got here in Congress. Miners' lung and black lung, but not pneumoconiosis.

Mr. SARASIN. The gentleman is aware that pneumoconiosis is a statutory term and not a medical term?

Mr. FLOOD. It is not a barroom term in the soft-coal fields.

Mr. SARASIN. Would the gentleman agree that the disease is simple or complicated? Will the gentleman agree that the disease is defined as being simple or complicated?

Mr. FLOOD. To me it is a very simple thing. You can make it complicated by the Social Security Administration.

Mr. SARASIN. Mr. Chairman, let the record show that the gentleman was unresponsive to the questions.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MCDADE, and by unanimous consent, Mr. FLOOD was allowed to proceed for 2 additional minutes.)

Mr. MCDADE. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. I thank the gentleman for yielding.

I want to commend my friend, the gentleman from Pennsylvania, who is from my neighboring congressional district for the statement he has given to the House today and for the tribute he has paid to our colleague, the gentleman from Pennsylvania (Mr. DENT) who did so much to get this program started so many years ago. I could not agree with him more when he says we have been up and down this hill 15 different times, and I could not agree with him more when he says the Erlenborn substitute

is nothing more than an effort to kill this entire program.

I have the same kind of constituency the gentleman has.

Mr. FLOOD. The gentleman is from Scranton. He was born and raised right in the middle of Scranton.

Mr. McDADE. Right in the middle of Scranton. I see the same people coming into and going out of my office every day, some of them unable to walk up four steps because of shortness of breath, because they spent 20 years doing what the gentleman says—digging anthracite coal.

If we do not get that coal, as the gentleman has stated, this Nation is doomed on its energy program. The President of the United States wants to triple the production of coal in the United States to try to head off the devastating price runup that the Arabic nations have imposed on us. The only solution we have at hand is our own reserves. The gentleman points out that the way we can do that is to recruit miners. The way we can do that is to make it safe. We have done that in the Federal Mine Safety Act. We have to take care of this dreadful disease, both for the present victims as well as looking down the road.

I concur with everything the gentleman has said.

Mr. FLOOD. I will tell you what the attitude in Washington about coal is. When they came to me about this terrible, terrible national energy problem, they came to me from the Federal Government. They said, "Where is that coal, FLOOD? We have got to have coal to save the Nation."

I said, "What about my railroads? You have taken them." They never thought of that. How are we going to get coal moved—with carrier pigeons? Oh, they never thought about that. They never thought about that. That was the attitude here. We have to change it.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the Thompson-Andrews substitute. I move to strike the requisite number of words.

Mr. Chairman, I cannot hope to match the eloquence of the two distinguished gentlemen from Pennsylvania who preceded me, but I would associate myself with their remarks, with the substance of the case they have made and with their tribute to our distinguished colleague, the gentleman from Pennsylvania, Mr. JOHN DENT.

Mr. Chairman, when the Congress passed the original black lung benefits legislation in 1969, it did so in recognition of the need for assistance for people working in the most debilitating occupation in the United States. As it was in 1969, mining remains the most dangerous profession in our Nation, not only pertaining to contraction of pneumoconiosis, but also allowing for the high incidence of death due to accidents, fires, cave-ins, slate-falls, and for bodily impairments such as loss of extremities in these accidents. The risk of death for those working in coal mines is twice that of the general population, and is higher than in any other occupational group in the United States.

During my years in the Congress, I have been approached for help by hundreds of men who have worked for decades in coal mines, and who have become sick and disabled with pneumoconiosis. Too many of these have been denied black lung benefits. The reasons given have been varied. They range from an appeal being filed after the deadline, ignorance of the opportunity to receive a hearing, or indeed to even file in the first place, to a "misreading" of X-rays made by private physicians. One particularly heartbreaking situation is when there is no existing medical evidence to prove a valid claim of a deceased miner, and survivors are not allowed to provide as proof affidavits of individuals who worked alongside the deceased miner and who could assert the validity of the claim. This fact, coupled with the dire need of the survivors for assistance, has sometimes led to the actual exhuming of bodies in order to prove disability.

It is a sad fact that of all of the persons who have contacted me since 1973 for assistance in obtaining black lung benefits, only three have been awarded favorable decisions, and one of these has not yet received any payments.

I believe that this track record is not unique, but is indicative of the problems that miners are still facing throughout our Nation. Every one of us who has had the privilege of representing a coal mining district has witnessed the tragedy of miners who were old and ill, and for whom there was no help prior to passage of the basic black lung legislation. Some of these persons have been helped by the 1972 amendments; there are many who still are unable to receive benefits. I personally have never yet met a miner who has worked in the mines for 25 years who, in my opinion, did not have pneumoconiosis. I believe that it is only equitable that these men, who have worked for so many years in an occupation which is so important to our Nation, especially in light of today's energy problems, should be provided for in their later years.

This bill being considered today is an attempt to provide such benefits. As passed by the House Education and Labor Committee, of which I am a member, it would provide for an automatic entitlement of benefits for all miners who worked in bituminous coal mines for 30 years prior to June 30, 1971, and for all who worked in anthracite coal mines for 25 years prior to that date. There are several reasons why automatic entitlement benefits should be enacted. Under the present law, many find it extremely difficult if not impossible to receive benefits.

The validity of the Department of Health, Education, and Welfare's reliance on X-rays in some of these black lung determinations is questionable. Physicians testifying on this question have stated that though coal dust causes permanent damage to the lungs, it may not show up on X-rays for several years, if at all. One physician noted for his work in the field of radiology indicated that doctors involved in radiology and chest disease may interpret X-rays differently. Radiology is known to be an inexact science, in that it is subject to human interpretation.

This means that first, it is possible and quite probable that many persons with black lung have been denied benefits unfairly. Indeed, due to the number of awarded claims which have been reversed when "reread" by the Government's consulting radiologists, the committee has included in this bill a requirement that the Secretary of Health, Education, and Welfare accept X-rays of good quality submitted by claimants' private physicians, except where a claim has been fraudulently represented. This practice of rereading has done more to destroy the Government's credibility in this program than anything else. Second, if a person's X-rays are read incorrectly, he might have to wait for years to get benefits due to him and he may never get them. He may have to work during this time when he is medically entitled to benefits, and is unable to perform work duties adequately.

A recent black lung study showed that 52 percent of those actively working in coal mines for 11 or more years had X-ray evidence of black lung. The rate for those who have worked in the mines for over 30 years is higher. The establishment of automatic entitlement would provide for a more objective application of this program. It would streamline its administration, thus saving time and money; reduce medical disputes and litigation, such as those involving X-ray readings; and provide benefits more quickly to those in need.

In addition to including an entitlement provision, the committee bill provides that a black lung determination favorable to a claimant would not be subject to review by the Bureau of Hearings and Appeals. At the same time, a claimant's right to appeal a denial is left intact.

This provision was included to reflect the committee's concern over its finding of a very high rate of reversals of favorable decisions by the Bureau. The Subcommittee on Labor Standards received data from the Social Security Administration which substantiates this finding. It indicated that the reversal rate approached 90 percent of all of the reviews completed at that point. While I can understand that the possibility of error in a small percentage of cases, I find it impossible to believe that 90 percent of the decisions made on a lower level could be incorrect. These decisions are made after extensive and, as you all know, extremely time-consuming investigation. At least, I suppose that to be the case. I hope that the long period which lapses between decisions is not wasted, but is spent investigating these claims. If this is true, then the administrative law judges must be wrong in reversing so many cases to thoroughly researched. If it is not true, then we should insure that the Social Security Administration is overhauled and made more competent.

In any event, there is obviously error somewhere. Hence, the committee's contention that it is at the higher level, and the resultant provision of the bill which eliminates the administrative law judge's ability to reverse favorable decisions.

Another serious issue this bill addresses is the employment status of claimants. While the present law implicitly allows that a working miner is eligible to receive benefits, the committee received testimony indicating that many times claims are denied solely on the basis that the claimant was working either at the time of application or at the time the award was granted. As you are aware, these dates could span well over a year's time.

As we all know, mining is not lucrative for the miner. Retirement benefits for many miners are nonexistent and the cost of living has risen greatly over the years. These factors make working full time a necessity for most miners.

If I were to become disabled, I personally would find it difficult to be unemployed either during the period of determination of my claim, or after I began receiving benefits. I believe that miners would find it even more difficult.

Even though mining does not pay well, disability benefits would not begin to compensate the loss of a salaried position in mining. Therefore, I strongly support the committee language which prohibits the denial of a claim solely on the basis of employment as a miner at the time of filing or at death. The provision would bar denial if, First, the location of employment was, after filing, changed to an area with a lower concentration of dust particles; second, the nature of the job was changed to a less rigorous type; and third, the nature of the job was changed so as to result in substantially less pay. I believe this to be an equitable provision.

In correcting inequities found in the present black lung law, the committee felt that some of the changes made by this bill should be retroactive. This would insure an objective application of the new provisions of the law. Persons having 25 or 30 years of service and whose prior applications for benefits were denied could under this bill receive benefits from the time the amendments were passed but could not receive any benefits for the months before the amendments were passed. Workmen's compensation benefits would no longer be offset, but a miner could not recover benefits that have been offset in the past. However, those with favorable hearing decisions which were reversed by the Appeals Council, and certain widows whose claims were denied, because of lack of medical evidence or because the miner was employed when he died would be allowed to receive benefits retroactively.

In my judgment this provision reflects the concern of the committee to insure a fair and equal application of the law for all coal miners and their families.

The provisions which I have mentioned today—automatic entitlement, prohibition of an appeals review in favorable cases, emplovment status of claimants, and retroactivity of certain provisions—are all provisions of H.R. 4544. I would support H.R. 4544 as reported by the House Education and Labor Committee.

These provisions, however, are the very ones to which many of my colleagues object. Therefore, the Thompson-Andrews substitute amendment is being offered. The Thompson-Andrews substitute bill meets the principal criticisms of the bill raised by those opposed to it, provides a means by which to extend more help to miners and their families, and does seem to be the only vehicle we can use under the circumstances to extend more protection to the many deserving people it will affect. Though I would prefer to do more, it is clear that this is all that can possibly be passed at this point, and I, therefore, support the substitute and urge all of my colleagues to join me in support of this substitute. There is not a congressional district in the United States that does not benefit from the hazards that are undertaken from the risks that are run in the work that is done by the coal miners, no matter whose district it may be. All of the people of the United States benefit from the work of the coal miners and rely upon them to help meet our vital energy needs. Just as we all benefit, whether we have sons, or not, from those who fought for our country in time of war.

I hope that Members of this House will understand the true situation. Those Members who have coal mining areas in their congressional districts know from their own casework the reality and the need of those coal miners who have not been deemed to qualify under the present law.

We are all aware as Members of the House of Representatives that in addition to our legislative responsibilities we do have a certain ombudsman function, and when someone needs help and is upset by the giant bureaucracy of this Federal Government, often that citizen will turn to his Congressman for assistance. And we know from the cases, the heartbreaking cases of individuals, that a need exists for this legislation.

I hope that my colleagues who represent districts which have no coal mines know that this is not a fight just for those of us who do represent districts with mines. It is the fight of all Americans, who all benefit from the work of coal miners. I hope that you will join me in standing up for the rights of these people whose work is too important to all of the people of our great Nation.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Erlenborn amendment and in support of the Thompson amendment.

I shall be very brief. I concur with the comments of the gentleman from Alabama (Mr. BUCHANAN), who has just spoken. I believe the Erlenborn amendment would be a major step backward.

I would just point out one simple statistic. Thirty-five of the 49 States have a 1-year limitation on applications for workmen's compensation. In fact, if you want to kill black lung benefits, vote for the Erlenborn amendment. If you believe the coal miners deserve some fairness and equity, then we go for the Thompson amendment.

Mr. Chairman, I go with the Thompson amendment with some reluctance, because automatic entitlements are ruled out. I think we could stand up here and support that, and do the right thing, but I also know, as my colleagues on the committee and the chairman of the committee knows, that in order to pass the bill we will have to knock out the automatic enttitlements; so the Thompson compromise, the Thompson amendment, is a step forward. It does not go as far as I would like, but it at least brings some justice to the coal miners of this Nation.

My colleague, the gentleman from Illinois, and I last week were fighting together on the youth differential. I oppose the gentleman now. The gentleman speaks about giving "fairness and equity" to the coal miners. I could not agree more.

The gentleman refers to the National Science Foundation report, a report compiled by a committee, incidentally, which did have industrial representatives, but no representatives from labor on it. Despite that skewed kind of representation, the committee talks in the report about "the largely ignored sufferings of coal miners." In one section of the bill it says as follows:

> The fatal accident rate of coal miners in the U.S. remains approximately 4 to 5 times that of miners in Europe.

We are talking about an industry with the highest mortality and injury rate of any major industry in the United States, and we are talking about an industry where the President and the people in the energy field say that we have to go out and get more coal from these coal mines. When we get that coal we also ought to be getting justice for the coal miners; where those coal miners have deaths from respiratory diseases five times that of the general population. The gentleman from Pennsylvania (Mr. FLOOD) was talking about talking to coal miners. When one talks to a coal miner who has a hard time breathing and has been turned down for black lung benefits, one knows that something is wrong.

We absolutely need the coal, but we should not extricate that coal from the bowels of the Earth at the expense of the health and breath and blood of the coal miners of this Nation. We have to go ahead. We ought to turn down the Erlenborn amendment, accept the Thompson amendment, and then pass the bill and move one step forward for justice for the coal miners of this Nation.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to the gentleman from Connecticut.

Mr. SARASIN. I thank the gentleman for yielding to me. I would ask him, referring to the National Academy of Sciences report, objecting to the personnel who made it, I wonder what is wrong with the Department of Geology and Geophysics, Yale University; the U.S. Geological Survey; or the other universities involved here, or what is wrong with the item on health provided by Dr. Kerr, speaking for Mr. Miller of the United Mine Workers? I do not understand why a report which was rather well documented, made by primarily academicians in the field, should somehow be suspect.

Mr. SIMON. First of all, I am aware that Dr. Kerr was permitted to testify, but if the gentleman will take a look at the membership, it is true that there are representatives of some of the universities, but when they have Anaconda, Occidental, and a petroleum consultant from New York—and it is an open secret that the oil companies own a good share of the coal mines of this Nation—it is obviously askew.

Mr. SARASIN. Out of the 15 members, I do not think that a skew of the committee by any stretch of the imagination. It is an objective report. The gentleman does not like the results of it, because it tells him, in fact, that the disease in order to be paid should be a disabling disease, and the gentleman wants to say they should be paid whether they have a disabling disease or not. That is wrong, and a very poor precedent for the future.

Mr. SIMON. Quite the contrary. I am not for paying anyone who does not have a disease.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. SIMON. If we look very carefully, we can find the facts in this report, but we have to look very carefully and very hard between the lines to find what is, in fact, the condition of the Nation's coal miners.

Mr. SARASIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think one thing we have to look at here is something which was pointed out the other day. This particular proposal was described as a model way to handle this problem. I do not think it is. The last gentleman in the well said this burden should be placed on the coal industry. I am not sure it should be. Are we then going to say, in the case of asbestosis, that the burden should be placed on the asbestos industry or the building industry? We are setting an extremely poor precedent for handling of occupational diseases with this bill. Black lung is a mistake, to start with. If we are going to continue this, it is going to come back and haunt us very quickly. The system cannot stand it. We cannot use it for the handling of byssinosis or a model for handling some of the carcinogens which are being discovered today, when the employer or industry, or anyone else, did not know they existed. I think at some point we are going to have to say that this will be a burden to society.

We should handle it on a disability basis but not on the basis of either years in the mines or years in employment. We should in fact say that we will pay people if they have the disease.

This bill is a charade, because one does not have to have the disease. One does not even have to show that he has the disease, and in fact, if there is evidence to show that he does not have it, the Government or the operator is precluded from offering it. That is a little bit ridiculous, it seems to me.

No one worries about tomorrow, it seems, nor about what we are doing today in the coal industry. Most of us care about the coal industry evidently, but yet there are very few Members on the floor listening to this debate.

Where do we go tomorrow if this is going to be the great guide for the handling of occupational diseases? This would be a great disaster.

Mr. Chairman, it is for those reasons that I believe the Erlenborn substitute certainly provides the logic and the reasoning to deal with this problem, and that is why I support it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I certainly associate myself with the comments of the gentleman from Connecticut (Mr. SARASIN), and I would like to ask one particular question.

After listening to the previous colloquy and the references made to the States' workmen's compensation funds, many Members might be led to believe that the State workmen's compensation funds should not be required to pay benefits. This seems like a rather strange argument. I thought that is what the State workmen's compensation funds were for.

Just over the weekend I was talking to several of my constituents who make very high contributions to the State workmen's compensation funds because they are in industries that traditionally have frequent injuries. Their risk is higher, so their contribution rate is higher.

Are we establishing the idea that State workmen's compensation funds are no longer going to be responsible for injuries or illnesses that take place in their States? The State obviously gets the benefit of the coal mines; it gets the benefit of the industry.

Are they trying to say now that we do not want the workmen's compensation funds to pay benefits for Pennsylvania or West Virginia or Ohio workers who are injured through activities that take place in those States?

The employers pay premiums into the workmen's compensation funds largely for that reason, and now we have arguments here that workmen's compensation funds should not cover this kind of an illness or injury.

I would like to have the comment of my colleague, the gentleman from Connecticut (Mr. SARASIN), who is one of the most learned members of the committee on this particular aspect in the area of workmen's compensation. I thought this was a rather curious idea, the thought that we might no longer make the workmen's compensation funds of the State pay for injuries that occur in that State. That is the usual reason for having a workmen's compensation program.

Mr. SARASIN. Mr. Chairman, that is the system under which we live now, unless we pass some of the legislation we hear about around here that would provide a Federal subsidy for workers in this circumstance.

Mr. ASHBROOK. Yes, that would be a Federal subsidy.

Mr. SARASIN. That would be a disaster, but this does the same thing indirectly, as I said, because with the Thompson substitute we would be placing on the industry that is now responsible for the State workmen's compensation premium the same kind of a burden, except that it would be under a Federal program.

I think that this goes beyond simply the placing of a burden. We are dealing again with a precedent for the State in the handling of occupational disease.

Frankly, I am not convinced that workmen's compensation is the answer, because I personally believe the workmen's compensation system fails when it comes to occupational disease. Perhaps we are getting a little off the track here.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. SARASIN) has expired.

(By unanimous consent, Mr. SARASIN was allowed to proceed for 1 additional minute.)

Mr. SARASIN. Mr. Chairman, just to complete the thought I was about to make, if one loses the tip of his finger, he know who to blame. He blames that company for which he works. But when we talk about occupational disease, which is a cumulative thing, there may also be present some great contribution to that disease by the individual himself. For example, the coal miner who smokes increases the possibility of respiratory disease, and the asbestos worker who also smokes greatly increases the possibility of occupational disease.

This is a question we have to resolve. Really the point is that usually it would require that the worker have the disease, but under that reasoning this fails, because one does not even have to have the disease to qualify for benefits.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. SARASIN) has again expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. SARASIN was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield further?

Mr. SARASIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would just ask the gentleman from Connecticut (Mr. SARASIN) to conitnue on this same train of thought.

As I understand it, then, what we would have in States where the black lung program applies would be a system where the coal miners and the employees would still be paying into a State workmen's compensation fund, presumably on a high level and a high-risk basis.

I know that in my own particular small business the premium amounts only to about 50 cents on a hundred dollars as a contribution. There are very few companies in that category, and the one I mentioned previously makes a $1,600 contribution.

I assume that coal mines would be in the category of high contributions, so they are then contributing to the workmen's compensation fund and now we are saying that we should not take the money out of that fund; we will let the Federal Government pay for it. So the State would get the money and yet not pay the benefits.

Mr. SARASIN. And they would be contributing again into another fund to take care of this particular provision for a very, very select category of workers in America, although the rest of the workers are not entitled to this kind of a benefit.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, as I have sat and listened on the floor and tried to understand the legislation, I believe the gentleman just made one of the strongest arguments that I have ever heard against the Erlenborn amendment by any Member.

That basically is that the workmen's compensation laws do not work as far as occupational hazards are concerned.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. SARASIN) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. SARASIN was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield further?

Mr. SARASIN. I yield to the gentleman from Missouri.

Mr. VOLKMER. To continue, Mr. Chairman, with respect to black lung, we do not have the incidence of a fall; we do not have the incidence of an injury, of a cut of the finger, or of a breaking of an arm. We do not have someone hit over the head. We have something which develops over a considerable period of time.

We do not know when that incident occured, or if it occurred 5 years ago or 10 years ago, and under workmen's compensation it is true that one has to file within a certain period of the incidence and that is by State law 1 or 2 years. Yet for a black lung disease we cannot say when the incidence first came about.

Mr. SARASIN. Mr. Chairman, if the gentleman will allow me to make my point, we are establishing a very poor precedent for the handling of an occupational disease such as this one. I do feel that the workmen's compensation system is not able to adapt itself to answer that problem. It is a mistake to assume that it has or it will.

One cannot really relate it. We cannot even relate coal mine pneumoconiosis to a particular period of employment, because it may be that the individual smokes or he does other things in his free time. Therefore, here we are trying to establish a system that ties it in and places the burden on an industry. I am not sure that that is right.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, right now I only have a choice on the next vote as to whether to accept the Erlenborn amendment or not accept it, and I am sure that the Erlenborn amendment is not the answer.

Mr. SARASIN. I cannot accept the Thompson amendment which compounds many of the problems in the original Perkins bill. We have the entitlement question. One is not allowed to show, in fact, that the individual does not have the disease. There is not even a requirement that he must show that he has the disease. He can do it by affidavit. It is set up to cover a particularly narrow class of workers, and that is wrong.

Mr. VOLKMER. I disagree, because I think the Thompson amendment is a lot better than what we have now.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 4544, the Black Lung Benefits Reform Act of 1977, with the substitute which was proposed by my distinguished colleague from New Jersey.

This bill has an estimated cost in fiscal year 1978 of $120 million in budget authority and outlays. This is the exact amount which was assumed for this bill in the conference agreement on the second budget resolution which you approved last week.

The history of this bill demonstrates the commitment of the Education and Labor Committee and its distinguished chairman, the gentleman from Kentucky, to the congressional budget process.

Last year, this House approved a bill (H.R. 10760), liberalizing benefits in the black lung program, which would have cost more than half a billion dollars in the first year. The bill reported out this spring by the Education and Labor Committee was significantly less costly than the bill approved by the House last year; yet the estimated fiscal year 1978 cost of $359 million was significantly above the estimate for the bill included in the first budget resolution. In the allocation of funds after the first budget resolution which the Education and Labor Committee made pursuant to section 302(b) of the Budget Act, that committee allocated itself $122 million for the bill.

The Education and Labor Committee subsequently adopted amendments which substantially reduced the cost of the bill; the Thompson substitute would reduce the cost even more. The result is that the Thompson substitute costs substantially less than the bill which this House approved last year and the bill which the committee reported this spring. I consider the $120 million cost in fiscal year 1978 a sound investment. The reforms included in this bill insure that benefits for most new claimants will be financed by coal mine operators, not by the American taxpayer as has been the case up to now.

I urge support of the Thompson substitute.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I would like to associate myself with the remarks of the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), and express my strong support for H.R. 4544.

In the long haul, I do believe it will transfer the burden of payments from the Federal taxpayer to the coal industry where these payments of black lung benefits entirely belong.

Furthermore, Mr. Chairman, in order to be fair and equitable toward our Nation's coal miners, we ought to realize the fact that a significant number of them are impaired and are unable to continue employment in the mines. Yet, they are denied Federal black lung benefits.

It has already been well documented that delays exist in the Department of Labor and in the Social Security Administration. With those facts before us and the fact that coal miners face, as a group, eight times more the danger of not surviving each day than any other group amongst our population, that then we ought to reject the Erlenborn substitute.

Mr. Chairman, the need to pass H.R. 4544 is clear. The need for automatic entitlement is clear. The need to pass a black lung reform bill is clear. Here is an example of hundreds of letters relating problems with the present system.

Congressman RAHALL,
Washington, D.C.

DEAR MR. RAHALL: For three years my father, Mr. John Bednar, tried to get his black lung benefits. He had been a coal miner almost forty of his sixty four years. Now, that is a long time to work in the coal mines. And, until just recently, not a very safe place to work, not to mention the hazards of the inhaled coal dust. But when you have seven kids to feed you don't have much choice but to take the most ready available job around, and around here it's the coal mines. He hadn't always worked in the better mines either, sometimes he would come home soaked where he had worked in a mine with water up to his waist or complaining with his back or knees where he had worked in twelve inch coal. So, after working in these horrible mines and often get laid up with a crushed leg for months at a time, he finally got a job at the Keystone mines for about 12 to 15 years. But, in 1973, he had to stop work because of a disability. It was then that he applied for his black lung. For three years he kept writing to all the people he thought would help him get his black lung benefits, Senator Byrd, our congressman, and anyone else he could think of that might be able to help him, except the lawyers. He must have taken fifty tests given by various doctors, including his own doctor, and they all told him that he was fine.

Now, you explain to me how in heaven's name can a man, who has worked inside the coal mines for almost forty years, can have lungs that are "just fine"? Try to tell me that those criminals they call doctors are not paid off by these mining companies to keep their mouth shut, not let the patients see their records and X-rays unless they have a lawyer beside them who is getting 25$ or more of this poor fellows black lung money. Take the word honesty out of the dictionary. There's no such word anymore. It's obsolete.

Well, all the income he had for the last three years was his social security check. And then when my youngest sister turned eighteen, both my mother and my sister was taken off the check (my mother is only 54) in August 1976. That cut his check from a little over $500 to only $350 a month. No

miners pension either. They were taking their time about that too. My mother doesn't work outside the home, she's a diabetic. And she doesn't drive either. So, instead of going to college, my sister gets a job to help out, which just about pays for her own keep. So, no black lung, no pension and a social security check just big enough to buy the food and pay the bills, barely.

Then, on January 28, 1977 at 3:30 a.m. in Stevens Clinic Hospital in Welch, without any bedridden illness, my father died. We haven't received the autopsy report yet. It takes a while. But what do you think he died of? Black lung? No, black lung is a slow killer, like cancer. But at 64 years old, God took him. Something killed him. What?

So where are we now? My mother a widow, not in the best of health, very little income. If not for my sister and my second eldest brother, she wouldn't even have a way to get food. So, it's too late, for my father anyway. Black lung benefits won't help him. It will never buy that workshop he wanted in the basement or fix up the house the way he had always dreamed of having it and he will never be around again to enjoy what little happiness it would have brought him.

But it would help my mother. Something besides sympathy. She's had enough sympathy. Sympathy doesn't buy food or pay the electric bill or fix the plumbing. So, if you, Mr. Rahall, think there is still such a word as honesty, how about some help? She needs it.

Yours truly,

LINDA BAILEY.

Mr. SARASIN. Mr. Chairman, if the gentlemen would yield, I would ask the gentleman that when he talks about significant involvement and personal danger, and so forth, let me say that we are talking about paying people for a disease. And I agree, let us pay those who have the disease. But, when the studies indicate that even before the dust standards were applied, that only 14.3 percent of the miners who worked in the anthracite region actually got progressive massive fibrosis, and only 2.1 percent in the Appalachian region incurred progressive massive fibrosis, then I believe that we are paying people for a disease that they do not have. And whereever you place the burden, whether on the taxpayers, on the compensation system, or the operators, I do not question paying the people who have the disease, but certainly only those people who do have it. with all of the areas for gimmicks and the liberality that exists under the Thompson substitute, which means that you will pay people who are not ill and that you will pay people who are still working in the coal mines and earning their full pay.

Mr. RAHALL. I disagree with the gentleman from Connecticut (Mr. SARASIN) in his position. I would point out that families are affected when the coal miner is unable to continue his employment, and they are affected when he is denied benefits by his Government for the daily abuse he must undergo with these risks. I believe we must take into consideration the Government safety regulations in his behalf.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in support of H.R. 4544, the Black Lung Benefits Reform Act of 1977, and urge my colleagues to support this meaningful measure. It will help to alleviate the many hardships now faced by miners afflicted with this disease, or their survivors who have lost loved ones due to the disease. These claimants now face one roadblock after another in trying to obtain the benefits to which they are entitled in order to continue their shortened lives with some measure of dignity.

Altogether too many eligible miners and widows do not receive benefit payments because of inequities and stumbling blocks in the present law, and this new legislation is designed to help these people by correcting some of these problems.

Passage of H.R. 4544, and the establishment of a permanent Federal program, would accelerate the process whereby claims for these benefits are decided. Moreover, the provisions relating to notification of miners and their survivors who may be eligible would greatly improve the effectiveness and usefulness of the program.

The committee bill also would correct a "Catch-22" situation faced by numerous miners who have applied for black lung benefits, and this problem is of great concern to me. Currently, a miner must work, due to basic economic considerations, until it is determined, over a long and arduous process, whether or not he qualifies for black lung benefits.

But if he is working, it is the rule that he cannot be declared disabled, and therefore not entitled to the benefits under the law, regardless of his medical status as to disability. H.R. 4544 would allow miners to apply for benefits while still working and be eligible for such benefits while still working. How many of us, whether sick or not, could leave a job not knowing if we would have any compensation upon leaving our place of employment, and knowing of our necessity to provide for our families.

The committee report on H.R. 10760, from the 94th Congress, includes the following statement in its discussion of current employment as a ban to benefits, section 4 of H.R. 10760, showing extremely sensitive insight into this problem:

> . . . it should be noted that the so-called "typical" coal miner, because of both the one-industry (coal) characteristic of his region and his socioeconomic circumstance, continues to engage in the rigorous activity of his employment beyond the point where prudence and human compassion would dictate otherwise. It is a sorry and unconscionable specter indeed to witness that self-destruction, which itself is most often compelled by considerations apart from the miner's control.

For the above reasons, I certainly prefer the committee bill over the Thompson-Andrews substitute being offered, since it also would prevent a miner from receiving any black lung benefits while employed.

Although the Thompson-Andrews substitute represents a compromise, which may be the best possible legislation to aid the coal miners that can win the approval of the Congress, it is not as far-reaching as the committee bill. I would prefer to see the automatic entitlements provision retained, and I do not feel that the arguments against such a provision are well founded.

It has been previously stated in debate on H.R. 4544 that black lung benefits average approximately 16 percent of a miner's earnings. I do not foresee a situation in which miners not actually suffering from this disease would try to obtain the benefits, even if they had the requisite number of years of employment for presumption of entitlement, because the average earnings of a working miner are far greater than the payments they would receive if they applied for and were approved for black lung benefits.

Our energy situation and overall coal supply can be affected by this reform measure. Coal miners are vital to this Nation and to our production of energy, and, in my opinion, they are due some assurances of protection for themselves and their families in continuing this extremely hazardous work.

I offer the following figures to show the value and importance of this program for the well-being of the coal miners in the Commonwealth of Virginia who are disabled by black lung disease.

In Virginia, from the inception of the title IV program until June 30, 1976, claims filed for black lung numbered 30,200. Approvals number 17,100 and denials number 13,100. Nine thousand three hundred miners are currently receiving benefits, with 6,400 survivors and 200 dependents receiving payments. Monthly benefits totaled $4,163,400 as of June 30, 1976, with a total of cumulative benefits paid in Virginia since the inception of the program of $244,325,000, thereby allowing these miners and their families to continue their contributions to the economy of the area and even of the Nation.

Although the Thompson-Andrews substitute would be an improvement in the program, I do not feel it goes far enough toward giving our coal miners who suffer from black lung disease the immediate and substantial relief which they deserve. If it is the best legislation we can pass, I will support it, but I would much prefer to see the Congress truly recognize the depth of the problem and compensate our coal miners accordingly by passing the committee bill.

I stated on March 2, 1976 during the debate on H.R. 10760, the Black Lung Benefits Reform Act of 1975, that "if any of my colleagues are in doubt or have second thoughts as to whether or not this bill should be enacted—I personally invite them to come to the coal mines of southwestern Virginia and see for themselves." This invitation is still open and I would welcome your participation in a visit to an underground coal mine, as I am sure would the other Members representing districts with such mining.

The dignity the black lung program offers to those disabled miners and their survivors who receive the benefits is beyond a price tag, but it is the least we can do and the price we should and must pay until the cause of black lung disease and the suffering it forces upon our miners are completely eliminated.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

With respect to the administration's position on this, the gentleman might not have had an opportunity to see in the RECORD of September 15 a very strong endorsement of the Thompson substitute. I think the substitute I have offered with the gentleman from North Carolina (Mr. ANDREWS) is a much better course to take. I thank the gentleman.

Mr. WAMPLER. I thank the gentleman for his contribution.

Mr. Chairman, let me close by making a statement I made when we had this matter before us previously. I recognize that those Members who do not represent coal-producing constituencies perhaps do not fully understand the uniqueness of the problems affecting the health and safety of coal miners. I believe if it were possible for every Member of this House to spend just one shift in an underground coal mine of this Nation to observe the conditions under which these men and women work, they would have a better appreciation for the danger of the work, because under ideal conditions coal mining is, indeed, a dangerous and hazardous occupation.

Mr. Chairman, in my congressional district—and I am sure this is typical of other coal-producing areas—there are hundreds of deserving individuals who, in my judgment, meet the requirements of the law but have been wrongfully denied their black lung benefits. They have become discouraged and disheartened. I believe it is up to Congress to carry out its mandates, and if we will adopt the legislation that is presently before us and reject this substitute that is now pending, offered by the gentleman from Illinois (Mr. ERLEBORN), it will go a long way toward removing these inequities and roadblocks, which have denied many of our disabled coal miners that to which the law entitles them.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, having always been sensitive to the need for black lung benefits, I rise today to ask the support of my colleagues for the Thompson-Andrews substitute to H.R. 4544, the Black Lung Benefits Reform Act of 1977.

This substitute addresses several controversial features of H.R. 4544, which was reported by the House Education and Labor Committee. At the same time, the Thompson-Andrews substitute leaves the basic structure of the committee bill intact, specifically the overriding theme of the legislation which is designed to transfer the responsibility for black lung benefits from the Federal Government to the coal industry through the creation of a coal industry trust fund.

The existing bill would have created black lung entitlement based on 30 years of service in a bituminous mine and 25 years of service in an anthracite mine. In view of widespread concern and disagreement over this provision, the Thompson-Andrews substitute deletes these all-inclusive entitlements.

There has been a great deal of concern as to the possibility of future interpretations of H.R. 4544 that would allow a coal miner to receive black lung benefits while still employed.

Certainly such an interpretation is not what the legislation proposes and to completely eliminate this possibility, the substitute for which I ask your support specifically bars the receiving of any black lung benefits while the miner is still employed.

Widespread concern has also arisen about language in H.R. 4544 which would prevent the Department of Health, Education, and Welfare from appealing a favorable decision for a claimant while at the same time permitting such an appeal by the claimant when he has been denied by an appropriate administrative law judge.

This substitute simply eliminates this provision so that an appeal may be taken by either party.

The question of whether or not benefits payable from the proposed trust fund are subject to prior appropriations is addressed with specific language in the Thompson-Andrews substitute, making the benefits subject. The substitute language was worked out with the Appropriations Committee.

Finally, the substitute to H.R. 4544 prohibits the retroactive payment of black lung benefits that will be generated by approval of this legislation. This provision is included in the substitute to bring the bill in compliance with the Congressional Budget Act.

Having grown up in a coal-mining community in northwest Alabama, I know firsthand of the pain many coal miners have endured as a result of black lung diseases. For many years, miners had no alternative but to accept the risk that went along with working in the dusty confines of underground mines.

The black lung benefits program, begun in 1970, has provided new hope for many miners and their families. Before the initiation of this program, many of these same people were subject to years of poverty when heads of households became unable to work as a result of black lung.

The legislation we are debating today, as you know, seeks to transfer the residual liability for black lung benefits from the Federal Government to coal operators. This is as it should be and I believe this will be a significant change for the better as far as the overall black lung program is concerned.

I am also hopeful this move will be of some help in reducing the backlog of black lung claim cases that grows daily. Thousands of deserving coal miners are finding themselves disabled with little means of financial support as a result of the tremendous amount of redtape that has become associated with black lung program in recent years.

Some people argue that the black lung benefits program is merely a pension. I strongly disagree with this theory. It has been estimated that a disabled miner who qualifies for black lung can at best expect only about 50 percent of what he would normally earn at his regular job in the mines. Furthermore, this percentage also takes into account various union pensions. So, it would seem that this estimate can be seen as a successful rebuttal to this argument.

It behooves this Congress to assist the thousands of coal miners who are afflicted with black lung diseases. These men have literally seen their lives ruined as a result of black lung.

With the grim picture of a disabled, coughing victim of black lung in mind, I ask your strong support for the Thompson-Andrews substitute to H.R. 4544. A vote for this legislation will be a vote for which thousands of families who have been affected by black lung will be forever grateful.

Mr. CORNWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to urge strong support of the Thompson substitute to H.R. 4544, the Black Lung Benefits Reform Act of 1977. If America hopes to become energy independent we will need a sound energy policy recognizing our coal reserves. In light of the fact that coal production has not significantly increased in the past 2 years, it is important that the methods of mining coal are improved. New mines must be opened to supply our projected future needs and more men will have to be attracted to mining.

There are many things which can and should be done to reach this goal, but one thing the man in the mine must know is that he and his family will be taken care of for his efforts in breathing coal dust day after day which will ultimately ruin his health and shorten his life. Improvements, then, in the black lung benefits system are essential to our national energy commitment.

The current system is clearly in need of reform. Thousands of worthy claims remain unresolved. Dust level controls in the mines, although somewhat improved since passage of the 1969 act, remain at injurious levels so that today's coal miner is still assured that he will contract black lung disease during his dedicated years in the mines. To even consider discontinuing the Federal black lung program in 1981, as proposed by Mr. ERLENBORN, is to exhibit our callousness to the sacrifices of the men and women whose hard and dedicated work provides the basis of our Nation's strength.

It is crucial that we support and pass the Thompson substitute to this bill. The creation of an industry-financed trust fund to meet payments for disabled or deceased miners appropriately takes the responsibility for black lung benefits out of the Federal Government and places it in the hands of the coal industry. Despite the obvious fairness of placing responsibility where it belongs, the coal industry will be more likely to take necessary steps to reduce coal dust levels when

it is forced to pay the black lung benefits.

In my opinion, it is unfortunate that we cannot pass H.R. 4544 as written. The bulk of medical evidence proves that miners who put in 25 years in the anthracite mine or 30 years in a bituminous mine will contract black lung. The mandatory entitlement provision of the bill is both justified and humane. Nonetheless, the Thompson substitute is a good first step. By making the program permanent and by expediting the processing of claims, we can at least assure our miners and their families that they will be compensated for their sacrifices. The Black Lung Benefits Reform Act can only help to attain our energy independence. It is a positive step forward and a rational and reasonable approach to a very serious human problem.

I urge you, my colleagues, to support the Thompson substitute and final passage of the bill.

Mr. PERKINS. Mr. Chairman, I move to strike the last word, and I rise in favor of the Thompson substitute amendment.

Mr. Chairman, I yield to the distinguished gentleman from North Carolina (Mr. ANDREWS), who is coauthor with Mr. THOMPSON of the substitute amendment.

Mr. ANDREWS of North Carolina. Mr. Chairman, I rise to associate myself with all Members who have spoken in favor of this substitute amendment. Let me say, if I may, that as a member of Chairman PERKINS' Committee on Education and Labor, it was a grievous thing to me 2 years ago not to support the black lung bill. I talked with my chairman last year, and I again had to say that with the entitlement in it, I could not support it.

The chairman and others managing the bill agreed to the substitute we now have before us, known as the Thompson-Andrews substitute, which totally modifies the objectionable portion of the bill to the end that I am proud to support it.

I might say that neither my district nor the State of North Carolina has any coal, so that I have no selfishness whatsoever in this matter. We just have a reasonable bill in the form of this substitute, which I implore everyone to support as being just that.

Mr. PERKINS. Mr. Chairman, I have been delighted this afternoon with the debate on this legislation. It proves one thing to me, that the House of Representatives, when it has complete debate on a subject matter, acts wisely. I feel confident that the Thompson-Andrews substitute will be adopted. If we intend to do something about the plight of the coal miners in this country who have given their lives and their health and have been denied black lung benefits, the best solution rests with the Thompson-Andrews substitute.

The best medical experts that we could find in this country testified in favor of the entitlements; that in 80 to 90 percent of their tests, the coal miners that had worked in the mines as long as 20 years were suffering from complicated pneumoconiosis. Those entitlements were dropped out of the bill, but here we have cases of miners who have worked 40 or 50 years in the coal mines, 30 years in the coal mines, suffering from pneumoconiosis, who will not be able to collect 1 dime under the Erlenborn substitute—not 1 penny will they allow miners who worked prior to January 1, 1970. In my judgment, they will not be able to collect under the Erlenborn substitute.

But, those cases will be reviewed under the Thompson-Andrews substitute. Basically, we place the burden of cost on the coal operators in this country. The burden of cost will be borne out of the trust fund.

The question has been referred to heretofore, that there are no State Workmen's Compensation laws; limitations would bar them all. In Kentucky, one can go back 3 years from the time that the miner was exposed to coal dust, if the Erlenborn substitute is adopted—3 years. No State Compensation statutes are adequate in this country. The Thompson-Andrews substitute provides that if the States adopt compensation laws adequate to meet the standards of the Federal Government, the standards that are provided in this bill, they will later be exempt. But, here we have a situation of justice, and the only way to obtain justice is under the Thompson-Andrews substitute.

I would urge all my colleagues in this body to vote for the Thompson-Andrews substitute, in justice to the coal miners who have worked a long period of years and in justice to those coal miners who are just going into the coal mines of this country. It is the most hazardous occupation in existence today.

Concern other groups of people, if the States do not have an adequate statute that they can be compensated under, naturally they should come to the Congress. If the asbestos workers do not have a State compensation statute, we should do something about that situation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) as a substitute for the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. THOMPSON).

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman. I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 108, noes 268, answered "present" 1, not voting 57, as follows:

[Roll No. 561]

AYES—108

Abdnor	Forsythe	Pettis
Andrews, N. Dak.	Frenzel	Pike
Archer	Frey	Poage
Armstrong	Gibbons	Pritchard
Ashbrook	Goodling	Quayle
Badham	Gradison	Quie
Bauman	Grassley	Quillen
Beard, Tenn.	Guyer	Regula
Bennett	Hagedorn	Rhodes
Broomfield	Hansen	Robinson
Brown, Mich.	Hillis	Rogers
Broyhill	Holt	Rudd
Burgener	Horton	Ruppe
Burke, Fla.	Hyde	Sarasin
Burleson, Tex.	Jeffords	Satterfield
Butler	Kasten	Schulze
Caputo	Kelly	Sebelius
Cederberg	Kemp	Snyder
Clausen, Don H.	Ketchum	Spence
Cleveland	Kindness	Stangeland
Cochran	Lagomarsino	Stanton
Coleman	Latta	Steiger
Collins, Tex.	Leach	Stockman
Conable	Lent	Stratton
Conte	Livingston	Symms
Corcoran	Lott	Taylor
Cotter	McDonald	Thone
Crane	McEwen	Treen
Daniel, Dan	McKinney	Trible
Daniel, R. W.	Mann	Vander Jagt
Devine	Marks	Waggonner
Dickinson	Martin	Walker
Dornan	Michel	Wiggins
Edwards, Okla.	Montgomery	Winn
Erlenborn	Moore	Wydler
	Moorhead, Calif.	Wylie
		Young, Fla.

NOES—268

Akaka	Edwards, Calif.	Jordan
Alexander	Eilberg	Kastenmeier
Allen	Emery	Kazen
Ambro	English	Keys
Ammerman	Ertel	Kildee
Andrews, N.C.	Evans, Colo.	Kostmayer
Annunzio	Evans, Del.	Krebs
Applegate	Evans, Ind.	LaFalce
Ashley	Fary	Le Fante
Aspin	Fascell	Leggett
AuCoin	Fenwick	Lehman
Baldus	Findley	Levitas
Barnard	Fish	Lloyd, Calif.
Baucus	Fisher	Lloyd, Tenn.
Beard, R.I.	Fithian	Long, La.
Bedell	Flippo	Long, Md.
Beilenson	Flood	Lundine
Benjamin	Florio	McClory
Bevill	Flynt	McCloskey
Bingham	Foley	McCormack
Blanchard	Ford, Mich.	McDade
Blouin	Ford, Tenn.	McFall
Boggs	Fountain	McHugh
Boland	Fowler	McKay
Bonior	Fuqua	Madigan
Bonker	Gaydos	Maguire
Bowen	Gephardt	Mahon
Brademas	Giaimo	Markey
Breaux	Gilman	Marriott
Brinkley	Ginn	Mathis
Brodhead	Glickman	Mattox
Brown, Calif.	Gonzalez	Mazzoli
Buchanan	Gore	Meeds
Burke, Mass.	Gudger	Meyner
Burlison, Mo.	Hall	Mikulski
Burton, John	Hamilton	Mikva
Byron	Hammer-schmidt	Miller, Calif.
Carney		Miller, Ohio
Carr	Hanley	Mineta
Carter	Hannaford	Minish
Cavanaugh	Harkin	Mitchell, Md.
Chisholm	Harrington	Mitchell, N.Y.
Clay	Harris	Moakley
Cohen	Hawkins	Moffett
Collins, Ill.	Heckler	Mollohan
Corman	Hefner	Moorhead, Pa.
Cornell	Heftel	Moss
Cornwell	Hightower	Motti
Coughlin	Holland	Murphy, N.Y.
Danielson	Hollenbeck	Murphy, Pa.
Davis	Howard	Murtha
de la Garza	Hubbard	Myers, Gary
Delaney	Huckaby	Myers, John
Dellums	Hughes	Myers, Michael
Derrick	Ichord	Natcher
Dicks	Ireland	Neal
Diggs	Jacobs	Nedzi
Dingell	Jenrette	Nichols
Drinan	Jones, N.C.	Nix
Duncan, Tenn.	Jones, Okla.	Nolan
Edgar	Jones, Tenn.	Nowak

O'Brien	Ryan	Tsongas
Oberstar	Santini	Tucker
Obey	Sawyer	Udall
Ottinger	Schroeder	Ullman
Panetta	Seiberling	Van Deerlin
Patten	Sharp	Vanik
Patterson	Shipley	Vento
Pattison	Shuster	Volkmer
Pease	Sikes	Walgren
Pepper	Simon	Walsh
Perkins	Sisk	Wampler
Pressler	Skelton	Watkins
Preyer	Skubitz	Waxman
Price	Slack	Weiss
Rahall	Smith, Iowa	Whalen
Railsback	Solarz	White
Rangel	Spellman	Whitley
Reuss	St Germain	Whitten
Richmond	Staggers	Wilson, C. H.
Rinaldo	Stark	Wilson, Tex.
Risenhoover	Steed	Wirth
Roberts	Steers	Wright
Rodino	Stokes	Yates
Roe	Studds	Yatron
Rooney	Stump	Young, Alaska
Rostenkowski	Teague	Young, Mo.
Roybal	Thompson	Young, Tex.
Runnels	Thornton	Zablocki
Russo	Traxler	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—57

Addabbo	Downey	Marlenee
Anderson, Calif.	Duncan, Oreg.	Metcalfe
	Early	Milford
Anderson, Ill.	Eckhardt	Murphy, Ill.
Badillo	Edwards, Ala.	Oakar
Biaggi	Evans, Ga.	Pickle
Bolling	Flowers	Pursell
Breckinridge	Fraser	Roncalio
Brooks	Gammage	Rose
Brown, Ohio	Goldwater	Rosenthal
Burke, Calif.	Harsha	Rousselot
Burton, Phillip	Holtzman	Scheuer
Chappell	Jenkins	Smith, Nebr.
Clawson, Del	Johnson, Calif.	Weaver
Conyers	Johnson, Colo.	Whitehurst
Cunningham	Koch	Wilson, Bob
D'Amours	Krueger	Wolff
Dent	Lederer	Zeferetti
Derwinski	Lujan	
Dodd	Luken	

The Clerk announced the following pairs:

On this vote:

Mr. Brown of Ohio for, with Mr. Addabbo against.

Mr. Del Clawson for, with Mr. Eckhardt against.

Mr. Cunningham for, with Mr. Zeferetti against.

Mr. Derwinski for, with Mr. Chappell against.

Mr. Goldwater for, with Ms. Holtzman against.

Mr. Rousselot for, with Mr. Wolff against.

Mrs. Smith of Nebraska for, with Mr. Lujan against.

Mr. BROWN of Michgan and Mr. STRATTON changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment in the nature of a substitute offered by Mr. THOMPSON: Strike out section 3 of the matter proposed to be inserted by the amendment in the nature of a substitute.

Redesignate the succeeding sections and references thereto accordingly.

Mr. ERLENBORN. Mr. Chairman, this amendment would delete the language of the bill that would in addition to the Thompson susbtitute which deletes some language from the committee-reported bill. This would add to that Thompson substitute a deletion of additional language in the committee-reported bill. The language that I have reference to is that which offsets part B, black lung benefits only by State black lung benefits.

The bill, in other words, as reported would allow black lung beneficiaries to draw double compensation. That would be completely contrary to the basic tenets of our workers' compensation system. Of course, if the House wants to do what the sponsors of the bill undoubtedly want to do, that is, make this a special pension program for coal miners, then, of course, the provisions of the bill would be consistent. Obviously, I do not want to turn this Federal industrial disease compensation program into a pension program. As I have told the House on many occasions, I supported it originally and would continue to support a temporary one-shot Federal program to compensate totally disabled victims of coal workers' pneumoconiosis. I think that is what all States now will do under their workers' compensation laws if we would allow them. Consistent with their goal, though, is the concept that no claimant can be disabled more than once. If one is drawing disability compensation for being totally disabled, it seems to me he could only be totally disabled once. If the worker is totally disabled as a result of two separate, distinct injuries or diseases, he does not receive double compensation. It is a sound rule, and it is a rule that we should continue to follow.

I cannot support my coal State colleagues who want to treat their coal miner constituents differently, who want to give them double compensation, who want to say that a disabled victim who suffers from pneumoconiosis should be treated differently from someone who suffers from silicosis or from some other industrial disease or injury.

The administration has furnished me with data that indicate that this provision will cost the Federal Government an additional $22 million over the next 5 years—the provision that is in the bill. It may seem like a very small sum, and if it were required to correct an injustice, I would have no objection to spending it. But I cannot agree to use Federal tax dollars to provide a windfall for a small group of individuals who are now receiving treatment no different from that accorded to all other disabled workers.

If you want to treat coal mine workers fairly, give them disability compensation when they are disabled. Do not give them compensation for total disability twice.

I want you to also understand that these workers already are treated better than other disabled workers. Someone collecting State workmen's compensation has an offset against the social security disability; but in the 1972 amendments we already have treated these coal miners more favorably. The original bill provided such an offset against social security disability. In the 1972 amendments, we said no offset, so coal miners drawing this compensation already get total disability compensation from social security disability compensation for black lung under this program. If this provision goes through, as it is in the bill, they will be able to draw a third total disability compensation. I think that is totally ridiculous and I hope you will agree with me and adopt my amendment.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is somewhat strange to me that the gentleman from Illinois by this amendment is trying to knock out of my substitute a provision which was in the gentleman's substitute, which we just defeated.

This provision in my amendment merely applies to part B what already is law under part C of the existing act. In 1972 the Congress decreed that black lung compensation should not be reduced by compensation based on entirely different conditions. That would be totally unfair. The effect of this amendment would be that it would be cruel and it is redundant, because of what is already in part C of the legislation.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I concur with my colleague, the gentleman from New Jersey.

I would point out, so there is no confusion on the part of the Members of the House, what my colleague, the gentleman from Illinois is suggesting, is that if one loses an arm in a coal mine and also has black lung, he cannot get compensated for both. I do not think that is justice for coal miners, any more than it would be justice for any other group.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. THOMPSON. I yield to the gentleman from Kentucky.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. PERKINS, and by unanimous consent, Mr. THOMPSON was allowed to proceed for an additional 2 minutes.)

Mr. PERKINS. Mr. Chairman, if the gentleman will yield further, in no case may a coal miner receive related double compensation. It is only unrelated matters that we are talking about. Assuming that a coal miner got an injury to his spine in the mid thirties and was compensated say at the rate of $8,000 or $10,000, compensation for permanent partial disability, and later worked in the mines another 20 years and now is suffering from black lung disease. The gentleman from Illinois (Mr. ERLENBORN) is asking us to go back and deduct from the miner's black lung payments if he is found to have black lung disease today,

to deduct those old workmen's compensation payments that are completely unrelated.

Now, if they are related compensation payments, we know that is unfair. We provide that any compensation that a miner may previously have received for related matters, even if it is unemployment compensation, certainly will be deducted as long as it is related to pneumoconiosis.

Mr. THOMPSON. Mr. Chairman, the chairman is exactly correct. Section 425 (a) of the Erlenborn substitute says that the amount of benefits payable under this section shall be reduced on a monthly or other appropriate basis by the amount of compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis.

So, the effect, as the gentleman from Illinois (Mr. SIMON) pointed out, is a potential amount of cruelty which is totally and absolutely unnecessary.

I urge the defeat of the amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask some questions. I would like to ask the gentleman from New Jersey or the gentleman from Illinois if I understand the provision correctly. There is great cogency in the argument that one cannot be permanently, totally disabled twice. Now, for example, suppose one had received an injury which resulted in total, permanent disability. One could not work for 20 years in the mines after having received permanent, total disability under a previous injury.

But, if I understood the gentleman from Kentucky correctly, and the gentleman from New Jersey, a partial injury such as the loss of two fingers, for which a person had received compensation, might well be followed by 20 years work in the mines, in which the person could be totally disabled by black lung disease. Then, of course I suppose the total disability would overcome the two finger partial disability and it would still happen even with the Erlenborn amendment. Am I correct in that?

Mr. THOMPSON. The gentlewoman is absolutely correct. There are all sorts of industrial injuries in mines. A person might have lost a couple of fingers in a factory, then go to a mine. This would deprive him of his disability to which he is entitled for a previous injury.

Mrs. FENWICK. Yes, but when he gets his total disability from black lung, he would lose his partial disability. He would not have to pay back, of course, but he would lose that partial disability.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield.

Mr. ERLENBORN. That is exactly what they do not want to have happen. That is why they have a provision in this bill stating that the only State benefits they can offset against black lung provisions are those that have been given to the man because of black lung disease. But, if we are discussing benefits for the loss of a leg, total, permanent disability, let us say there is an accident and a person files a claim and gets total, permanent disability for having lost his leg. He starts drawing that from the State, and then they can turn around and file a claim for black lung disease and get total, permanent disability compensation.

Mrs. FENWICK. If the gentleman will yield back my time, I would just like to say that a human being is more than a walking catalogue of disease. It just does not make sense to have continuing compensation for an earlier accident resulting in partial disability if one is now involved in a total disability situation. Obviously, total disability is paramount. One does not have to pay back because one has endured it all those years, but one should get permanent, total disability when it comes and not carry more than one disability payment.

Mr. PERKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Yes indeed.

Mr. PERKINS. Up until a few years ago, in my home State a total disability claim amounted to only about $10,000. A death benefit claim amounted to about $10,000. Under the Thompson-Andrews substitute not in one case out of a thousand will we have a total disability award on one cause and then a total disability for pneumoconiosis on top of it.

Mrs. FENWICK. Of course not, because if one is totally disabled, he could not be working in a mine.

Mr. PERKINS. The gentlewoman is exactly correct. We have drafted this legislation carefully. Unemployment compensation and any related workmen's compensation, insofar as pneumoconiosis is concerned, will be deducted, but not unrelated compensation.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. THOMPSON).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 14, noes 54.

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred twelve Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ERLENBORN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 268, answered "present" 1, not voting 59, as follows:

[Roll No. 562]

AYES—106

Abdnor	Bauman	Burke, Fla.
Andrews, N. Dak.	Beard, Tenn.	Burleson, Tex.
Archer	Bedell	Butler
Armstrong	Bennett	Caputo
Ashbrook	Brown, Mich.	Cederberg
Badham	Broyhill	Clausen, Don H.
	Burgener	
Cleveland	Ichord	Regula
Cochran	Jeffords	Rhodes
Coleman	Kelly	Rinaldo
Collins, Tex.	Kemp	Robinson
Conable	Ketchum	Rudd
Conte	Kindness	Sarasin
Corcoran	LaFalce	Satterfield
Coughlin	Lagomarsino	Schulze
Crane	Latta	Sebelius
Daniel, R. W.	Leach	Spence
Devine	Lent	Stangeland
Dickinson	Livingston	Stanton
Dornan	Lott	Steiger
Edwards, Okla.	McDonald	Stockman
Erlenborn	McEwen	Stratton
Evans, Colo.	McKinney	Symms
Evans, Del.	Mann	Taylor
Fenwick	Marriott	Thone
Forsythe	Martin	Treen
Frenzel	Michel	Trible
Frey	Moore	Vander Jagt
Gibbons	Moorhead, Calif.	Walker
Glickman	Myers, Gary	Wiggins
Goodling	Pease	Winn
Grassley	Pettis	Wydler
Hagedorn	Poage	Wylie
Hansen	Quayle	Young, Alaska
Heckler	Quie	Young, Fla.
Holt	Railsback	
Hughes		

NOES—268

Akaka	Fithian	Madigan
Alexander	Flippo	Maguire
Allen	Flood	Mahon
Ambro	Florio	Markey
Ammerman	Flowers	Marks
Andrews, N.C.	Flynt	Mathis
Annunzio	Foley	Mattox
Applegate	Ford, Mich.	Meeds
Ashley	Ford, Tenn.	Meyner
Aspin	Fountain	Mikulski
AuCoin	Fowler	Mikva
Baldus	Fuqua	Miller, Calif.
Barnard	Gaydos	Miller, Ohio
Baucus	Gephardt	Mineta
Beard, R.I.	Giaimo	Minish
Beilenson	Gilman	Mitchell, N.Y.
Benjamin	Ginn	Moakley
Bevill	Gonzalez	Moffett
Bingham	Gore	Mollohan
Blanchard	Gradison	Montgomery
Blouin	Gudger	Moorhead, Pa.
Boggs	Guyer	Moss
Boland	Hall	Mottl
Bonior	Hamilton	Murphy, N.Y.
Bonker	Hammer-schmidt	Murphy, Pa.
Bowen	Hanley	Murtha
Brademas	Hannaford	Myers, John
Breaux	Harkin	Myers, Michael
Breckinridge	Harrington	Natcher
Brinkley	Harris	Neal
Brodhead	Hawkins	Nedzi
Brown, Calif.	Hefner	Nichols
Buchanan	Heftel	Nix
Burke, Mass.	Hightower	Nolan
Burlison, Mo.	Hillis	Nowak
Burton, John	Holland	O'Brien
Byron	Hollenbeck	Oberstar
Carney	Howard	Obey
Carr	Hubbard	Ottinger
Carter	Huckaby	Panetta
Cavanaugh	Hyde	Patten
Chisholm	Ireland	Patterson
Clay	Jacobs	Pattison
Cohen	Jenrette	Pepper
Collins, Ill.	Jones, N.C.	Perkins
Corman	Jones, Okla.	Pike
Cornell	Jones, Tenn.	Pressler
Cornwell	Jordan	Preyer
Cotter	Kasten	Price
Daniel, Dan	Kastenmeier	Pritchard
Danielson	Kazen	Quillen
Davis	Keys	Rahall
de la Garza	Kildee	Rangel
Delaney	Kostmayer	Reuss
Dellums	Krebs	Richmond
Derrick	Le Fante	Risenhoover
Dicks	Lederer	Roberts
Diggs	Leggett	Rodino
Dingell	Lehman	Roe
Drinan	Levitas	Rogers
Duncan, Tenn.	Lloyd, Calif.	Rooney
Edgar	Lloyd, Tenn.	Rostenkowski
Edwards, Calif.	Long, La.	Roybal
Eilberg	Long, Md.	Runnels
Emery	Lundine	Ruppe
English	McClory	Russo
Ertel	McCloskey	Ryan
Evans, Ind.	McCormack	Santini
Fary	McDade	Sawyer
Fascell	McFall	Schroeder
Findley	McHugh	Seiberling
Fish	McKay	Sharp
Fisher		Shipley

Shuster	Stump	Watkins
Sikes	Teague	Waxman
Simon	Thompson	Weiss
Sisk	Thornton	Whalen
Skelton	Traxler	White
Slack	Tsongas	Whitley
Smith, Iowa	Tucker	Whitten
Snyder	Udall	Wilson, C. H.
Solarz	Ullman	Wilson, Tex.
Spellman	Van Deerlin	Wirth
St Germain	Vanik	Wright
Staggers	Vento	Yates
Stark	Volkmer	Yatron
Steed	Waggonner	Young, Mo.
Steers	Walgren	Young, Tex.
Stokes	Walsh	Zablocki
Studds	Wampler	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—59

Addabbo	Downey	Mazzoli
Anderson, Calif.	Duncan, Oreg.	Metcalfe
	Early	Milford
Anderson, Ill.	Eckhardt	Mitchell, Md.
Badillo	Edwards, Ala.	Murphy, Ill.
Biaggi	Evans, Ga.	Oakar
Bolling	Fraser	Pickle
Brooks	Gammage	Pursell
Broomfield	Goldwater	Roncalio
Brown, Ohio	Harsha	Rose
Burke, Calif.	Holtzman	Rosenthal
Burton, Phillip	Horton	Rousselot
Chappell	Jenkins	Scheuer
Clawson, Del	Johnson, Calif.	Skubitz
Conyers	Johnson, Colo.	Smith, Nebr.
Cunningham	Koch	Weaver
D'Amours	Krueger	Whitehurst
Dent	Lujan	Wilson, Bob
Derwinski	Luken	Wolff
Dodd	Marienee	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Broomfield for, with Mr. Luken against.

Mr. Brown of Ohio for, with Ms. Oakar against.

Mr. Del Clawson for, with Mrs. Burke of California against.

Mr. Cunningham for, with Mr. Addabbo against.

Mr. Derwinski for, with Mr. Zeferetti against.

Mr. Goldwater for, with Mr. Mitchell of Maryland against.

Mr. Rousselot for, with Mr. Badillo against.

Mrs. Smith of Nebraska for, with Mr. Lujan against.

Mr. Horton for, with Mr. Biaggi against.

Messrs. CAVANAUGH, KASTEN, UDALL, and FOUNTAIN changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment in the nature of a substitute offered by Mr. THOMPSON: Strike out subsection (c) of section 8 of the matter proposed to be inserted by the amendment in the nature of a substitute.

Mr. ERLENBORN. Mr. Chairman, first let me say that I do not want to take a good deal more time of the House. I sense that the House is anxious to move on to voting on this bill and other business. But I thought I would just try once more to see if anybody is listening or if they care.

The bill before us says that if the claimant's own family physician says he has the disease, the Government cannot reread the X-ray to question that and possibly deny the claim. They must just go ahead and take the claimant's family physician's word for it.

In other words, it is just another one of those provisions to make sure that every claim that is filed gets allowed and that triple compensation, which is the last amendment, will be then awarded to the claimant. I just think it makes no sense at all to prohibit the Government from protecting itself and to prohibit the coal-mine operator from protecting himself.

Mr. Chairman, I would hope that this amendment would be adopted to allow the law to remain as it is today, to let the Government read the X-rays and decide whether it is a valid claim, or to let the mine operator's attorney under the part C claim, if he is trying to resist the claim, have a physician reread the X-ray to see if it is a valid claim or not. We will try this and see how the Members like the idea of some limited amount of fairness on behalf of the Government and the coal-mine operators.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

I would like to assure my distinguished friend and colleague, the gentleman from Illinois (Mr. ERLENBORN), that we were listening and that we do care. We care so much that we want this amendment in all fairness to be defeated so that miners will get the fair treatment to which they are entitled.

Nothing has slowed down the claims processing time of the Department of Labor more than insistence on sending X-rays from one doctor to another doctor all around the country. The gentleman can have them sent all over the place and add at least 200 days to the time. The committee has made it plain time after time that the X-ray is only one of a number of diagnostic tools to determine the existence of black lung, and we hope that the provision will, first, speed up the processing of claims and, second, insure that other diagnostic tools are more regularly used to determine the presence of this disabling disease.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I was listening to the gentleman from Illinois. I would appreciate it if he would listen to me.

I doubt if there is a single Member of this House who has any coal miners or former coal miners in his district who has not, from personal experience, seen case after case of people whose family doctors and other doctors, have certified from X-rays and other examinations that they had black lung and somehow or other the bureaucracy manages to ignore them, and you have these people year after year being denied meritorious claims. Finally, they go to their Congressman and he tries, usually unsuccessfully, to reverse the process, because the system is stacked against the miner.

It is time we re-stack it just a little bit in favor of the coal miner, instead of waiting until he dies of black lung and frustration, then trying to help his family resurrect the claim.

Mr. THOMPSON. Mr. Chairman, on page 12 of the bill there is a proviso which provides perfectly adequate protection. It says:

. . . That unless the Secretary has good cause to believe (1) that an X-ray is not of sufficient quality to demonstrate the presence of pneumoconiosis, or an autopsy report is not accurate, or (2) that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such report, . . .

In other words, there are safeguards there which the gentleman from Ohio was trying to cite.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, the section that the gentleman from New Jersey read absolutely protects the Department. It protects the public in every respect.

Now, if the Secretary has doubt about the sufficiency of the X-ray and the quality, if it is not readable or if there is any fraud in any respect, then he can order another X-ray. But to send sick and old miners all around the country for one X-ray right after another and make it take 18 months to process his claim, this is the real reason we put this provision in here, so that we can get expeditious processing of the claim.

Mr. Chairman, this amendment should be voted down.

Mr. THOMPSON. Mr. Chairman, in conclusion, with the protections which are there, this could be characterized in one of two ways. This is either an anti-family doctor amendment or a fatten-up-the-radiologist amendment and it should be defeated.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, in addition to my support of the pending Erlenborn amendment, I am concerned by this vast expansion of the black lung program. It is a program which should be a part of the worker compensation plan.

Instead it is a special interest program laid on the general taxpayers; first, out of the general treasury, and, now, from a consumer tax on electric consumption.

Also, this bill takes us another step forward in the proponents' attempts to make black lung benefits automatic to any miner. One of this year's changes eliminates the current requirement that the Government review the X-rays of claimants.

I think the bill should be defeated, and black lung benefits become a part of the worker compensation program like benefits for other occupational injuries, diseases and disabilities.

I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Let me take just one moment to say this. The gentleman from Ohio talks about how great the difficulty is in having claims approved.

I remember in 1969 the sponsors of the original coal mine health and safety law said there would be 30 or 40 or 50,000 claims, that it could not cost more than $50 million a year and this really was not going to be a very extensive program, we were going to control coal dust in the mines and claims would be eliminated in the future by this temporary program.

Well, the coal dust is down. The program is now present law. There are over 500,000 claims approved. There is over $1 billion here going out of the Federal Treasury, not the $40 or $50 million that our friends claimed there would be.

We have in the part B administration a total of 80 percent of all claims that were filed were approved, even though the National Academy of Science tells us that nationwide there are only about 14 percent who could possibly qualify.

All I am saying is if the program is working that well, those half million claimants are getting that money and $1 billion is flowing out of the Treasury, we ought not to open it up that much more to see who is going to have a say about who is being compensated, except the family physician. Once the physician reads this under this bill and it becomes law finally, it will just increase the number of claims, regardless of whether these people have a decision or not.

If that is what we want, I suppose we should have gone in the initial instance in making this a pension plan, which is what the gentleman from Kentucky wanted, which is what the Rules Committee resisted. We are moving ever more inexorably toward making this a program, not for compensation, but a program to give benefits to ex-coal miners. This is one of the ways of doing it, unless the Members support my amendment to keep this on a medically sound basis.

Mr. FRENZEL. I thank the gentleman for his contribution.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first let me state that the gentleman from Illinois has been inaccurate on the cost of this program. The main thrust of the Thompson amendment is to make sure that miners disabled because of black lung get fair treatment in an expeditious manner.

In this amendment offered by Mr. ERLENBORN, he advances a proposal contrary to his own substitute, because it would have provided that the cost be paid directly out of the U.S. Treasury for 1 year. Then it would have been turned over to the States. So, the gentleman from Illinois is inconsistent.

But my great concern lies in the older miner who filed under part B. In most cases he spent 30 or more years in the mine. There is no way that State workmen's compensation or any other compensation program can reach his needs. He cannot find any responsible operator and he is barred by statutes of limitations. The reforms we make to part B in the Thompson-Andrews substitute is his only hope.

Mr. Chairman, let me emphasize that the Thompson-Andrews substitute retains those elements of reform to the black lung program which will result, in my judgment, in the approval of thousands of claims of miners suffering from pneumoconiosis who have previously been denied benefits.

In this regard I view as extremely important that the provisions of section 12(b) require the Secretary of Health, Education, and Welfare to review each claim which has been denied and each claim which is pending under part B "taking into account the amendments made to such part by this act, and with respect to claims which have been denied taking into account the possibility of error or inappropriate denial of benefits in the initial processing of such claim. The Secretary shall approve any such claim forthwith if the provisions of such part, as so amended, require such approval or if in the initial processing of a denied claim there was error or inappropriate denial of benefits to such claimant."

Mr. Chairman, I anticipate that there will be no delay in paying out of the Federal Treasury those miners who will now become eligible because of the reforms we will enact today. There are thousands of them and their widows who have filed prior to 1973 who by any equitable standard should already have been compensated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. THOMPSON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 242, present 1, not voting 55, as follows:

[Roll No. 563]

AYES—136

Abdnor	Daniel, R. W.	Kemp
Andrews, N. Dak.	de la Garza	Ketchum
Archer	Devine	Kindness
Armstrong	Dickinson	LaFalce
Ashbrook	Dornan	Lagomarsino
Badham	Edwards, Okla.	Latta
Bauman	Emery	Leach
Beard, Tenn.	Erlenborn	Lent
Bedell	Evans, Del.	Livingston
Bowen	Fenwick	Lott
Brown, Mich.	Fish	McClory
Broyhill	Forsythe	McCloskey
Burgener	Fountain	McDonald
Burke, Fla.	Frenzel	McEwen
Burleson, Tex.	Frey	McKinney
Butler	Gilman	Mann
Caputo	Goodling	Marks
Cederberg	Gradison	Marriott
Clausen, Don H.	Grassley	Martin
Cleveland	Gudger	Michel
Cochran	Hagedorn	Mitchell, N.Y.
Cohen	Hansen	Montgomery
Coleman	Heckler	Moore
Collins, Tex.	Hillis	Moorhead, Calif.
Conable	Hollenbeck	Mottl
Conte	Holt	Myers, Gary
Corcoran	Hughes	Pease
Cotter	Hyde	Pettis
Coughlin	Jeffords	Pike
Crane	Kasten	Poage
Daniel, Dan	Kastenmeier	Pressler
	Kazen	Pritchard
	Kelly	Quayle
	Quie	Sebelius
	Regula	Skubitz
	Rhodes	Snyder
	Rinaldo	Spence
	Roberts	Stangeland
	Robinson	Stanton
	Rogers	Steiger
	Rudd	Stockman
	Ruppe	Stratton
	Sarasin	Stump
	Satterfield	Symms
	Sawyer	Taylor
	Schulze	Thone
		Treen
		Trible
		Vander Jagt
		Waggonner
		Walker
		Walsh
		Whitley
		Wiggins
		Winn
		Wydler
		Wylie
		Young, Alaska
		Young, Fla.

NOES—242

Akaka	Gaydos	Nedzi
Alexander	Gephardt	Nichols
Allen	Giaimo	Nix
Ambro	Gibbons	Nolan
Ammerman	Ginn	Nowak
Andrews, N.C.	Glickman	O'Brien
Annunzio	Gonzalez	Oberstar
Applegate	Gore	Obey
Ashley	Guyer	Ottinger
Aspin	Hall	Panetta
AuCoin	Hamilton	Patten
Baldus	Hammer-schmidt	Patterson
Barnard	Hanley	Pattison
Baucus	Hannaford	Pepper
Beard, R.I.	Harkin	Perkins
Bellenson	Harrington	Preyer
Benjamin	Harris	Price
Bennett	Hawkins	Quillen
Bevill	Hefner	Rahall
Bingham	Heftel	Railsback
Blanchard	Hightower	Rangel
Blouin	Holland	Reuss
Boggs	Horton	Richmond
Boland	Howard	Risenhoover
Bonior	Hubbard	Rodino
Bonker	Huckaby	Roe
Brademas	Ireland	Rooney
Breaux	Jacobs	Rostenkowski
Breckinridge	Jenrette	Roybal
Brinkley	Jones, N.C.	Runnels
Brodhead	Jones, Okla.	Russo
Brown, Calif.	Jones, Tenn.	Ryan
Buchanan	Jordan	Santini
Burke, Mass.	Keys	Scheuer
Burlison, Mo.	Kildee	Schroeder
Burton, John	Kostmayer	Seiberling
Byron	Krebs	Sharp
Carney	Le Fante	Shipley
Carr	Lederer	Shuster
Carter	Leggett	Sikes
Cavanaugh	Lehman	Simon
Chappell	Levitas	Sisk
Chisholm	Lloyd, Calif.	Skelton
Clay	Lloyd, Tenn.	Slack
Collins, Ill.	Long, La.	Smith, Iowa
Conyers	Long, Md.	Solarz
Corman	Lundine	Spellman
Cornell	McCormack	St Germain
Cornwell	McDade	Staggers
Danielson	McFall	Stark
Davis	McHugh	Steed
Delaney	McKay	Steers
Dellums	Madigan	Stokes
Derrick	Maguire	Studds
Dicks	Mahon	Thompson
Dingell	Markey	Thornton
Drinan	Mathis	Traxler
Duncan, Tenn.	Mattox	Tsongas
Edgar	Mazzoli	Tucker
Edwards, Calif.	Meeds	Udall
Eilberg	Meyner	Ullman
English	Mikulski	Van Deerlin
Ertel	Mikva	Vanik
Evans, Colo.	Miller, Calif.	Vento
Evans, Ga.	Miller, Ohio	Volkmer
Evans, Ind.	Mineta	Walgren
Fary	Minish	Wampler
Fascell	Mitchell, Md.	Watkins
Findley	Moakley	Waxman
Fisher	Moffett	Weiss
Fithian	Mollohan	Whalen
Flippo	Moorhead, Pa.	White
Flood	Moss	Wilson, C. H.
Florio	Murphy, N.Y.	Wilson, Tex.
Flowers	Murphy, Pa.	Wirth
Flynt	Murtha	Wright
Foley	Myers, John	Yates
Ford, Mich.	Myers, Michael	Yatron
Ford, Tenn.	Natcher	Young, Mo.
Fowler	Neal	Young, Tex.
Fuqua		Zablocki

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—55

Addabbo	Badillo	Broomfield
Anderson, Calif.	Biaggi	Brown, Ohio
Anderson, Ill.	Bolling	Burke, Calif.
	Brooks	Burton, Phillip

Clawson, Del	Harsha	Pickle
Cunningham	Holtzman	Pursell
D'Amours	Ichord	Roncalio
Dent	Jenkins	Rose
Derwinski	Johnson, Calif.	Rosenthal
Diggs	Johnson, Colo.	Rousselot
Dodd	Koch	Smith, Nebr.
Downey	Krueger	Teague
Duncan, Oreg.	Lujan	Weaver
Early	Luken	Whitehurst
Eckhardt	Marlenee	Whitten
Edwards, Ala.	Metcalfe	Wilson, Bob
Fraser	Milford	Wolff
Gammage	Murphy, Ill.	Zeferetti
Goldwater	Oakar	

The Clerk announced the following pairs:

On this vote:

Mr. Brown of Ohio for, with Mr. Rosenthal against.

Mr. Del Clawson for, with Mr. Luken against.

Mr. Cunningham for, with Ms. Oakar against.

Mr. Derwinski for, with Mr. Biaggi against.

Mr. Goldwater for, with Mr. Wolff against.

Mr. Rousselot for, with Mr. Addabbo against.

Mrs. Smith of Nebraska for, with Mr. Eckhardt against.

Mr. Teague for, with Mr. Zeferetti against.

Mr. Broomfield for, with Ms. Holtzman against.

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. THOMPSON).

The amendment in the nature of a substitute was agreed to.

Mr. AMMERMAN. Mr. Chairman, the bill which the House is considering today, H.R. 4544, is the most important piece of legislation affecting coal miners to come before the House since the inception of the black lung program. As the representative of a district with hundreds of victims of this tragic disease, I am all too familiar with the deficiencies and inequities which now characterize this program and provide the impetus for consideration of the Black Lung Benefits Reform Act of 1977.

There are 1,402 residents of the 23d District of Pennsylvania who have claims pending with the Department of Labor under part C of the black lung benefits program as of August 6, 1977. In the 9 months since I came to Congress, I have heard from about 300 of them, as well as from a few who still have claims pending with the Social Security Administration which were filed prior to 1973. All told, I have been contacted by 305 of my constituents concerning black lung benefits. Of that number, just 24 have had their claims approved. And, of course, the experience of my district with this program is surpassed by those of several of my colleagues—at least in terms of claims filed. I am sure there are a number of congressional districts with more claims, though I doubt that many of them have had an appreciably higher proportion of them approved.

The conspicuous failures of this program have been well documented in the work of the Labor Standards Subcommittee of the House Committee on Education and Labor over the past 3 years. They led me and many other Members to support a major initiative in H.R. 4544 as it emerged from committee. As reported, the bill would establish a fundamental new principle in the law concerning black lung. It is that a certain period of employment would be accepted as sufficient evidence of lung damage from coal mining to qualify the miner for benefits. Under this provision, miners employed for 25 years in an anthracite coal mine or 30 years in a bituminous coal mine would automatically be entitled to disability benefits. In establishing their periods of service, miners could count only time in the mines prior to June 30, 1971, the date when Federal dust standards became fully effective.

I believe that accepting a certain period of service in the mines as an irrebuttable presumption of lung damage would be both fair and humane. This approach conforms with the overwhelming bulk of the evidence in terms of both the effects of mining on the lungs and the great burden of complexity which the current program places on our mining families. Such a provision would be simple to administer and would save both Government funds and the efforts of administrators, medical examiners, and miners.

Mr. Chairman, while the equity of such a principle of law is clear to many of us, it has also aroused great controversy. Much opposition has been registered to an approach which would base findings of occupational disability on length of service in the occupation in question rather than medical proof of the disability. Our committee now feels constrained to offer a substitute bill which excludes this and certain other provisions. I have decided to support the amendment in the nature of a substitute in the interest of securing passage of other needed reforms in the black lung benefits program because a head count shows that we cannot get the bill passed without yielding on this point, and, obviously, a half a loaf is better than none.

And it is also clear to me that, even as modified by the substitute, H.R. 4544 will provide some important reforms. One of its key provisions would establish a Federal trust fund to support the benefit payments. This black lung disability insurance fund would be financed by the assessments and premiums paid by coal operators and would be managed by trustees elected by the operators. The premium would be established by the Secretary of Labor as a rate per ton of coal mined.

The law would also be clarified to enable more of the widows of afflicted coal miners to qualify for benefits after their deaths. H.R. 4544 provides that, where there is no medical evidence of the miner's condition, affidavits could be accepted to establish the existence of the disease and the widow's claim.

I would note, in addition, that section 7 on medical standards will make it easier for miners to demonstrate that they have the disease and thus to some extent serve the purpose which was to have been fulfilled by the provision establishing the "irrebuttable presumption" based on length of service, which was dropped from the substitute. This section mandates that medical standards be applied to part C claims—those filed after 1973—which are no more stringent than the "interim" standards which are applicable to part B claims filed between 1969 and 1973. This provision should prevent the routine rereading of X-rays which has been the basis of many claim denials.

Mr. Chairman, there are many other provisions of this bill that are worthy of mention. Suffice it to say that H.R. 4544 will improve black lung benefits and will make permanent a program which would otherwise expire in 1981. Passage of such a law will demonstrate that we value the lives of those who mine the coal at least as much as we do the energy which that coal provides. I urge my colleagues to fulfill that commitment and support House Resolution 4544.

Mr. DRINAN. Mr. Chairman, I rise in support of the Black Lung Benefits Reform Act, H.R. 4544, as amended in the form of a substitute by the Committee on Education and Labor. In doing so, I am honored to join thousands of American coal miners and their families in seeking to provide an assured means of medical and financial support for those mineworkers disabled by pneumoconiosis—more commonly known as black lung.

Though opponents of this legislation have gone so far as to suggest that black lung does not exist, the experience is all too real for those thousands of mineworkers who must retire prematurely and agonize over their family's financial security. Black lung cripples and kills some of the proudest and hardest working members of our labor force—it is not a figment of someone's imagination.

Overwhelming medical evidence and decades of experience indicate that virtually all mineworkers who have worked in an underground coal mine for 20 years or longer have contracted pneumoconiosis or a similar chronic respiratory disease. We must confront the fact that for decades, coal mine operators refused to admit that black lung even existed, and refused to provide adequate workmen's compensation or consider it as a legitimate cost of doing business.

Blame is by no means limited to the coal industry, however, and to characterize as shameful the Federal Government's history of assisting black-lung victims is a generous assessment. As documented by GAO, the Nixon and Ford administrations were not only content to allow a backlog of 50,000 black-lung claims, but simultaneously transferred black-lung benefit funds to uses not authorized or intended by Congress. In the past 3 years of our existing black-lung benefit program, the Department of Labor has failed to make even an initial claim determination in 50 percent of the cases filed. Of those decided upon, 19 out of 20 applications for benefits were denied.

Knowing that it typically requires 18 to 24 months to get even an initial claims decision by the Federal Government, a mineworker with family responsibilities will stay on the job—contrary to a doctor's advice—because he cannot afford a year or more without income. It is even

more difficult to discontinue minework for health reasons when the prospect of receiving benefits is marginal at best.

Mr. Chairman, the legislation before the House is not a giveaway, as its critics have suggested, but a means of providing compensation quickly and equitably to those who are diagnosed as victims of black lung. By haggling over burdens of proof, we ignore our overwhelming burden of social responsibility. H.R. 4544 deserves the support of my colleagues, and I urge its passage.

Mr. MURTHA. Mr. Chairman, at long last, our Nation's leaders have realized the importance of coal as its primary energy mineral. Numerous studies have been prepared by both private firms and the Government to determine the amount of coal in the ground, the amount of coal that can be considered environmentally acceptable, and the tonnages of coal that must be mined in order to meet both "business-as-usual" and "accelerated" production goals. Unfortunately for the coal industry and America as well, many of these analysts mainly think all that is needed is recognition of the importance of the mineral and speculation about the production levels that will be necessary to achieve energy independence. Notwithstanding all of the recognition and the speculation, coal would never be moved to the boilers if it were not for the individual coal miner, the primary and indispensible link in the production chain.

A report on coal availability prepared by the National Petroleum Council in 1974 stated that the future overall ability of the coal industry to supply its share of U.S. energy supplies will depend on its ability to produce coal from deep mines. This conclusion is consistent with that of the recent comprehensive study prepared by the Workshop on Alternative Energy Strategies at the Massachusetts Institute of Technology. According to the figures in that report, the United States will require, in addition to 75 new Eastern surface mines and 232 new Western surface mines, the output of 377 new Eastern underground mines in order to meet the cumulative coal requirements by the year 2000.

The WAES study shows that development of high-cost underground coal is consistent with the rising energy price scenarios. Because of increasingly stringent mine safety regulations, associated declines in underground mining productivity, and the gradual depletion of readily accessible reserves, the relative costs of underground coal may continue to rise. The report concluded that development of Eastern underground coal would stimulate employment and economic activity in a region of the country that has had chronic economic development and employment problems for many years.

Several estimates of the manpower needs that will be generated by this increase in coal demand have been made. Because of the uncertainties associated with falling productivity in the deep mines, however, it is impossible to accurately determine the actual number of miners that will be needed.

One of these estimates, which was contained in a 1975 report on "An Analysis of Constraints on Increased Coal Production" by the Mitre Corporation, cast three demand scenarios for manpower in the underground coal mining industry in 1980 and 1985 business as usual, intermediate, and accelerated. In the first scenario, which assumes no significant expansion in the earlier years, because of the long leadtimes, manpower demand in the deep mining industry was projected to be approximately 145,000. In the intermediate demand scenario, which was "conditioned by the more realistic assumption that the estimates for the 'accelerated scenario' represented the maximum that could be expected under the most favorable circumstances" the report projected a slightly greater demand of 155,000 men. A demand of 220,000 miners by 1980 was projected in the "accelerated scenario," which assumed some relaxation of pollution control regulations, including variances, public land leasing practices as needed, and no seriously adverse limitations on surface mining. These same scenarios projected a demand for miners of approximately 170,000; 190,000; and 340,000 respectively in 1985.

The WAES study projects an increase in the requirements for underground miners from 50,000 man years per year in 1975 to 110,000 man years per year in 2000.

Although these manpower estimates vary, the fact remains that significantly greater numbers of underground miners will be needed to mine the coal. In order to recruit the necessary numbers, coal mining must be perceived as a more desirable profession by the young labor force that will be gradually replacing large numbers of older miners soon scheduled for retirement. According to the MITRE study:

> Public opinion is negative toward underground mining as a prospective profession. Adverse publicity resulting from mining disasters constitutes the major source of information to the average layman. Attention is also focused on the inconvenience generated by strikes when the mine workers dispute the provisions of both existing contracts and those under negotiation for renewal.
>
> It would appear from this narrow view of the mining industry that miners are either in constant danger of their lives or they are in constant conflict with the mine operators. It does not seem that this image will change in the near future unless a concerted effort is made to mount a public relations campaign which will be aimed at all public sectors, especially those in which potential new miners may be sought.

The recently enacted Surface Mining Control and Reclamation Act contains provisions for the establishment of mining research institutes in qualified colleges and universities around the United States and for the training of mining engineers, but little attention at the Federal level has been paid to the development of facilities for training actual equipment operators in the underground mines. Some States which have been sensitive to the immediate and long-range needs have already initiated programs in various vocational technical schools to prepare entrants into the mining profession for safe, challenging, and productive careers. With the cooperation of the mining industry, such schools offer courses in such crucial subjects as roof-bolting and equipment operation both in the classroom and in mining simulation setups, with the concept of "hands-on" training being emphasized. Through these efforts, the motivation and morale of the individual miner and, in turn, the mine productivity can be uplifted.

If this small and select segment of the total labor force is expected to serve as the keystone for our energy future, the profession must be afforded the respect that it rightfully deserves. Miners must be guaranteed safe working conditions and adequate health and retirement benefits. A fair black lung benefits program that is shorn of redtape and delay and adequately compensates a miner for the disabling effect of pneumoconiosis is essential. This legislation, H.R. 4544, therefore, becomes a must if we expect to be fair in our treatment of miners and attract the needed manpower to produce this abundant fuel for our national needs.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 4544, the Black Lung Benefit Reform Act of 1977 and to urge that the House give it quick and overwhelming approval.

This legislation is the product of a great deal of compromise which has become necessary in order to make some very basic improvements to existing law. It contains some reforms which have concerned the Members of this House since the enactment of the program some 8 years ago. It represents our best efforts to provide simple justice to a small group of Americans who have nowhere else to turn for relief.

Mr. Chairman, this bill finally transfers responsibility for past claims from the taxpayers to the coal industry. Such a transfer is not only proper, it is long overdue. The responsibility for providing the health benefits of coal workers belongs to the coal industry itself. Such was the original intent of Congress when the Coal Mine Health and Safety Act was first enacted.

I intend to support, and I urge my colleagues to do likewise, the Thompson-Andrews substitute which will be offered to the committee bill. These changes should answer all of the objections raised to the original bill. They will remove the automatic entitlement provisions. They will conform the bill to the Appropriations and Budget Committee guidelines. They will prohibit miners from obtaining benefits while working. And they will allow appeals on both denials and approvals by the claimant and HEW. Again, these provisions are far from perfect, and I worked for, supported, and would support today the committee bill. But there must be compromise.

Mr. Chairman, our Nation's history of neglect of the men who gave their health and in many cases their lives to mine coal is a well known and well documented fact. This program has provided very small compensation for thousands of families in the Nation's coalfields who

have received a very small benefit to compensate them for the ravages to their health or the loss of loved ones.

Even if we pass this bill, inequities still remain. Miners are being denied benefits through no fault of their own, because the coal company never kept records or because a potentially eligible miner was killed in a mine accident or because the miner may have had black lung but his family doctor is deceased. These are not isolated incidents, they are common throughout the Appalachian coal region. These people have turned to the industry for help and they have been given a deaf ear. So they turned to the Congress and we have tried to care for them. And this program has helped them to live their lives with greater dignity than would be possible without our help.

I trust that the Members of this House will not turn their backs upon the thousands of families who are dependent upon this bill. I urge its immediate approval.

I urge the defeat of the Erlenborn amendment.

BLACK LUNG BENEFITS REFORM ACT

Mr. CARTER. Mr. Chairman, I would like to insert into the RECORD my remarks on the House floor during last year's debate on the Black Lung Benefits Reform Act. I believe that they are very appropriate to today's discussion of this important matter.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. CARTER).

(Mr. CARTER asked and was given permission to revise and extend his remarks.)

Mr. CARTER. Mr. Chairman, on December 3, 1970, I received an urgent call from Harlan, Ky. There had been a mine disaster. That night I was there. I saw them as they brought 38 blackened and burned bodies out of that coal mine. I heard the distressed cries of the widows and orphans. I want to say that it is the most hazardous profession that we have in the United States today.

In Lynch, Ky., the United States Steel Co. has a mine which goes back under the mountains from 6 to 9 miles. These people go back there each day and stay 8 hours under that mountain back in that black hole. Any man in this country who has served 25 years back in a mine, back in a hole, deserves something for having done that. I think any miner who goes back under the mountains of Kentucky and digs coal to keep us warm in the winter, a man who stays there for 30 years, does deserve something.

I feel that, without a doubt, each one of these men in Kentucky or Pennsylvania, or wherever it may be, will show an X-ray with stippling and fibrosis in the lungs, which shows he has pneumoconiosis.

Over the years I have visited throughout the mining area of my State and it is just a very common thing when I see hands on those men with a missing finger or two fingers. I see them often with only one leg. I see them walking on crutches as the result of slate falls.

Just last week I saw a miner in Whitteyleity, Ky., which is in McCreary County. The man was disabled. I noticed his heaving respiration. His wife was with him and they thanked me for assisting them in getting their benefits.

His wife told me:

"My father was killed in a mine. My two brothers were killed in the mines."

This is what happens to so many of our people. They are killed. This is the most hazardous occupation that we have, from the viewpoint of accidents, accidental death, terrible death, fire, gas, cave-ins, slate falls; there is nothing to compare with it.

Now, I would hope that this House in its good judgment would not be so cold and calculating as to deny these people who go down into the bowels of the Earth to get the energy by which we keep warm in the winter, I hope that they will not be so cold as to forget these men who each day work that we may be warm or that we have the energy that we consume every day. As we know, the future of the energy supply of this country depends upon coal. As one of my good friends from Pennsylvania said, "C–O–A–L, coal."

We have not gone to the gasification, to the liquefaction of coal, but we must do so immediately so that this country can be eternally independent of the OPEC nations. Coal is the source of our future supply of energy. Why this House has delayed passing the gasification and liquefaction bill is beyond me. We must protect those men who supply our source of energy at the risk every day of their lives.

Mr. ALLEN. Mr. Chairman, will the distinguished gentleman from Kentucky yield?

Mr. CARTER. I am happy to yield to my good friend from Nashville.

Mr. ALLEN. Mr. Chairman, I would like to associate myself with the remarks of a man who not only is a distinguished Member of this body, but who is a distinguished member of the medical profession and a man who knows whereof he speaks. I concur 100 percent in the sentiments and remarks he has expressed before this Committee.

Mr CARTER. I want to thank the distinguished gentleman for his very kind remarks.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I too would like to associate myself with the remarks made by the distinguished gentleman from Kentucky. He has spoken with wisdom and with compassion. I fully support his case, and associate myself with him.

Every one of us who has had the privilege of representing a coal mining district has had the experience of witnessing the human tragedy of miners who were old and who were ill, for whom there was no help prior to the passage of this basic legislation There are still people in need whose needs will be met by the strengthening of this legislation, which we can do this day.

I believe the gentleman to be speaking the truth medically. I have never known a person who has worked for 25 or 30 years in a coal mine who did not have a health problem or a breathing problem. Perhaps it can be so, but I have never met that man.

Mr. CARTER. I must agree with the distinguished gentleman from Alabama. I do not believe it is possible for a man to work 25 years in an anthracite mine or 30 years in a bituminous mine without severe pneumoconiosis.

Mr. BUCHANAN. I thank the gentleman for his remarks.

Mr. DENT. Mr Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

(Mr. SIMON asked and was given permission to revise and extend his remarks.)

Mr. SIMON. Mr. Chairman and my colleagues of the House, I join my distinguished predecessor from Kentucky (Mr. CARTER), who hit it right on the head, along with the gentleman from Alabama. I heard my colleague from Pennsylvania (Mr. GOODLING)—I do not see him right now—say that this is an issue where there should be no emotionalism. It is pretty hard for me not to get a little emotional when I talk to coal miners who worked 20, 25 years, and they have health problems. There is just no question about it.

My friends who do not represent coal mining areas can talk in theory; I am talking facts.

But, let us talk statistics then if we want to avoid emotionalism. One is the reality mentioned by the gentleman from Kentucky (Mr. CARTER), Mr. Chairman, that coal mining is dangerous. There are 160,000 coal miners, roughly, in this country. Last year, 155 coal miners died. That means that one out of every thousand died in a coal mine accident. Further, 16,000—1 out of every 10—were injured in one way or another. Nine thousand—1 out of every 17—suffered a disabling injury. This is aside from pneumoconiosis, black lung, and this is January through October 1975 on injuries.

We are talking about a serious problem aside from black lung. Now, my good friend from Connecticut has said that this is unsound financially. The reality is, we are proposing a program that is eminently sound financially. The black lung recipient receives $2,800 a year against an average of $14,000 if he is mining. No one who is in good health is going to choose $2,800 in income when in fact he could otherwise get $14,000 in income. This bill does it in a sound way, putting it on a ton of coal mined, 14 cents a ton. Let us just assume that we are 100 percent wrong in that assessment of what the cost would be.

Let us assume that it is 28 cents a ton. So it is 28 cents a ton. Is that a reason to deny justice to people who eminently deserve that justice?

The CHAIRMAN pro tempore (Mr. LLOYD of California). The time of the gentleman from Illinois has expired.

Mr. DENT. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I will close in 1 minute.

The national coal workers autopsy study—and that is the real way to find out whether there is a problem—shows that 90 to 95 percent of the coal miners, where an autopsy has been performed, who had worked at least 20 years, had pneumoconiosis. I have some other facts here, but I would finally close with just an appeal that was sent to me by a Federal judge, who said:

"Somehow, something has to be done. I have to rule against these coal miners and their widows, when I know that simple justice requires just the contrary."

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would like to ask my distinguished friend, the gentleman from Illinois (Mr. ERLENBORN), how many able-bodied miners he knows, miners of either anthracite or bituminous coal, who have worked in the mines 25 or 30 years and who are still able to go about their business and to work at anything, let alone work in the depth of a mine.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield so I may reply?

Mr. ASHBROOK. I yield to my colleague, the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I think the question the gentleman from Kentucky should more properly be zeroing in on is the question of whether or not these people are entitled to a pension after working for long periods of time, and I think, yes, perhaps they should be. The simple justice of the situation would indicate that a pension should be made available to those who have spent long years in the coal mines, and many of the arguments that have been made on the floor have been made on that basis.

If we were talking about a coal mine pension bill and it were a bill that gave equal justice to all who worked in hazardous occupations, we might have some reason to be conducting this debate. But the fact is, Mr.

Chairman, that all the medical evidence before our committee indicates that periods of service in the coal mines bear no relation to disability based on complicated pneumoconiosis.

Mr. CARTER. Mr. Chairman, the gentleman has not yet answered my question as to how many able-bodied men he knows of who have worked for 25 years in an anthracite mine or for 30 years in a bituminous mine. If he can show me one, I would like to see him, and I would like to see one who is not disabled. I would like to locate that one man. It is my feeling that 25 years as an anthracite miner or 30 years as a bituminous miner will cause pneumoconiosis.

Mr. Chairman, if only some of you could see these men that we are trying to help here. They are good men. Men who have no other work besides the work that their region of the country gives them. Coal mining is a dangerous occupation. The coal dust, the long hours in the dark and the knowledge that they can expect to die from black lung early in their life or suffer from the various diseases associated with mining.

Mr. Chairman, another year has gone by without help to these miners. Why? In the Fifth District of Kentucky, we have had 3,000 black lung cases pending under the Labor Department since 1973. Only 17 cases have been approved, 8 have been initially approved and 3 are on pay status. This is far below even the poor national approval rate of 7 percent. Why has the Labor Department been so slow in its approval of black lung benefits?

Once again, I rise in support of H.R. 4544, the Black Lung Benefits Reform Act of 1977. It is a good bill which will finally bring help to these people. The bill should not be weakened.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I have a problem which I would like to bring to the attention of the committee.

Mr. Chairman, many of my fellow Alabamians who have spent their lives mining coal are benefiting from black lung legislation, and I am grateful for that. I have supported this legislation in the past and I will do so again here today.

But there are many other men in my region who have spent years in underground mining but who are not eligible for benefits under this legislation. I am speaking of those who were engaged in the mining of iron ore and who are afflicted with red lung disease as a result.

You do not hear as much about red lung because iron ore mining is more regional in scope than coal mining, but let me assure you that those with red lung suffer terribly, just as do those with black lung.

It is also important to consider the fact that because we no longer mine iron ore in the United States, most of the people I am talking about are quite old. Unless we help them soon, there will be no one left to help other than their widows and children.

I have a difficult time, Mr. Chairman, trying to explain to red lung victims why they cannot get benefits while black lung victims can. I hope I will not have to try much longer.

I note that the Senate has added language in their bill calling for a study of red lung disease.

Would the gentleman from Kentucky be disposed toward going along with the Senate provisions in this regard?

Mr. PERKINS. Mr. Chairman, let me say to the distinguished gentleman from Alabama that I have discussed this particular amendment with the gentleman from New Jersey (Mr. THOMPSON) and other members of the Committee on Education and Labor and I know of no opposition to this particular study. It is in the Senate bill. I personally will vote to retain the study in the conference between the House and the Senate.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, as a member of the Committee on Education and Labor, I simply wish to associate myself strongly with the concern of my colleague, the gentleman from Alabama (Mr. FLOWERS). This is a very serious problem.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCKAY, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes, pursuant to House Resolution 702, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ERLENBORN moves to recommit the bill H.R. 4544 to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 283, nays 100, answered "present" 1, not voting 50, as follows:

[Roll No. 564]

YEAS—283

Akaka	Evans, Colo.	Levitas
Alexander	Evans, Del.	Lloyd, Calif.
Allen	Evans, Ga.	Lloyd, Tenn.
Ambro	Evans, Ind.	Long, La.
Ammerman	Fary	Long, Md.
Andrews, N.C.	Fascell	Lujan
Annunzio	Fenwick	Lundine
Applegate	Findley	McClory
Ashley	Fish	McCloskey
Aspin	Fisher	McCormack
AuCoin	Fithian	McDade
Baldus	Flippo	McFall
Barnard	Flood	McHugh
Baucus	Florio	McKay
Beard, R.I.	Flowers	McKinney
Bedell	Foley	Madigan
Beilenson	Ford, Mich.	Maguire
Benjamin	Ford, Tenn.	Mahon
Bevill	Fountain	Markey
Bingham	Fowler	Marks
Blanchard	Fuqua	Mathis
Blouin	Gaydos	Mattox
Boggs	Gephardt	Mazzoli
Boland	Giaimo	Meeds
Bonior	Gibbons	Meyner
Bonker	Gilman	Mikulski
Bowen	Ginn	Mikva
Brademas	Glickman	Miller, Calif.
Breaux	Gonzalez	Miller, Ohio
Breckinridge	Goodling	Mineta
Brinkley	Gore	Minish
Brodhead	Gudger	Mitchell, Md.
Brown, Calif.	Guyer	Mitchell, N.Y.
Buchanan	Hall	Moakley
Burke, Mass.	Hamilton	Moffett
Burlison, Mo.	Hammer-schmidt	Mollohan
Burton, John		Moorhead, Pa.
Byron	Hanley	Moss
Caputo	Hannaford	Motti
Carney	Harkin	Murphy, N.Y.
Carr	Harrington	Murphy, Pa.
Carter	Harris	Murtha
Cavanaugh	Hawkins	Myers, John
Chappell	Heckler	Myers, Michael
Chisholm	Hefner	Natcher
Clausen, Don H.	Heftel	Neal
	Hightower	Nedzi
Clay	Holland	Nichols
Cohen	Hollenbeck	Nix
Coleman	Howard	Nolan
Collins, Ill.	Hubbard	Nowak
Conyers	Hughes	O'Brien
Corman	Hyde	Oakar
Cornell	Jacobs	Oberstar
Cornwell	Jenrette	Obey
Coughlin	Jones, N.C.	Ottinger
Danielson	Jones, Okla.	Panetta
Davis	Jones, Tenn.	Patten
de la Garza	Jordan	Patterson
Delaney	Kastenmeier	Pattison
Dellums	Kazen	Pease
Derrick	Keys	Pepper
Dicks	Kildee	Perkins
Dingell	Kindness	Pike
Drinan	Kostmayer	Pressler
Duncan, Tenn.	Krebs	Preyer
Edgar	LaFalce	Price
Edwards, Calif.	Le Fante	Pritchard
Eilberg	Leach	Quillen
Emery	Lederer	Rahall
English	Leggett	Railsback
Ertel	Lehman	Rangel

Regula	Sikes	Van Deerlin
Reuss	Simon	Vanik
Richmond	Sisk	Vento
Rinaldo	Skelton	Volkmer
Risenhoover	Slack	Walgren
Rodino	Smith, Iowa	Wampler
Roe	Solarz	Watkins
Rogers	Spellman	Waxman
Roncalio	St Germain	Weiss
Rooney	Staggers	Whalen
Rostenkowski	Stanton	White
Roybal	Stark	Whitley
Runnels	Steed	Whitten
Ruppe	Steers	Wilson, C. H.
Russo	Stokes	Wilson, Tex.
Santini	Studds	Wirth
Sawyer	Thompson	Wright
Scheuer	Thornton	Wylie
Schroeder	Traxler	Yates
Seiberling	Tsongas	Yatron
Sharp	Tucker	Young, Mo.
Shipley	Udall	Young, Tex.
Shuster	Ullman	Zablocki

NAYS—100

Abdnor	Frenzel	Poage
Andrews, N. Dak.	Frey	Quayle
	Gradison	Quie
Archer	Grassley	Rhodes
Armstrong	Hagedorn	Roberts
Ashbrook	Hansen	Robinson
Badham	Hillis	Rudd
Bauman	Holt	Ryan
Beard, Tenn.	Horton	Sarasin
Bennett	Huckaby	Satterfield
Brown, Mich.	Ichord	Schulze
Broyhill	Ireland	Sebelius
Burgener	Jeffords	Skubitz
Burke, Fla.	Kasten	Snyder
Burleson, Tex.	Kelly	Spence
Butler	Kemp	Stangeland
Cederberg	Ketchum	Steiger
Cleveland	Lagomarsino	Stockman
Cochran	Latta	Stratton
Collins, Tex.	Lent	Stump
Conable	Livingston	Symms
Conte	Lott	Taylor
Corcoran	McDonald	Thone
Cotter	McEwen	Treen
Crane	Mann	Trible
Daniel, Dan	Marriott	Vander Jagt
Daniel, R. W.	Martin	Waggonner
Devine	Michel	Walker
Dickinson	Montgomery	Walsh
Dornan	Moore	Wiggins
Edwards, Okla.	Moorhead, Calif.	Winn
Erlenborn		Wydler
Flynt	Myers, Gary	Young, Alaska
Forsythe	Pettis	Young, Fla.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—50

Addabbo	Diggs	Luken
Anderson, Calif.	Dodd	Marlenee
	Downey	Metcalfe
Anderson, Ill.	Duncan, Oreg.	Milford
Badillo	Early	Murphy, Ill.
Biaggi	Eckhardt	Pickle
Bolling	Edwards, Ala.	Pursell
Brooks	Fraser	Rose
Broomfield	Gammage	Rosenthal
Brown, Ohio	Goldwater	Rousselot
Burke, Calif.	Harsha	Smith, Nebr.
Burton, Phillip	Holtzman	Teague
Clawson, Del	Jenkins	Weaver
Cunningham	Johnson, Calif.	Whitehurst
D'Amours	Johnson, Colo.	Wilson, Bob
Dent	Koch	Wolff
Derwinski	Krueger	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Broomfield against.

Mr. Eckhardt for, with Mr. Del Clawson against.

Mr. Luken for, with Mr. Cunningham against.

Mr. Zeferetti for, with Mr. Rousselot against.

Mr. Wolff for, with Mrs. Smith of Nebraska against.

Mr. Biaggi for, with Mr. Teague against.

Until further notice:

Mr. Badillo with Mr. Anderson of California.

Mr. D'Amours with Mr. Brown of Ohio.

Ms. Holtzman with Mr. Dent.

Mr. Dodd with Mr. Anderson of Illinois.

Mr. Weaver with Mr. Diggs.

Mr. Early with Mr. Duncan of Oregon.

Mr. Gammage with Mr. Fraser.

Mr. Brooks with Mr. Goldwater.

Mr. Jenkins with Mr. Derwinski.

Mr. Downey with Mr. Pickle.

Mrs. Burke of California with Mr. Whitehurst.

Mr. Johnson of California with Mr. Edwards of Alabama.

Mr. Phillip Burton with Bob Wilson.

Mr. Koch with Mr. Harsha.

Mr. Krueger with Mr. Johnson of Colorado.

Mr. Metcalfe with Mr. Marlenee.

Mr. Murphy of Illinois with Mr. Milford.

Mr. Rosenthal with Mr. Rose.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 8422

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill (H.R. 8422) to amend title XVIII of the Social Security Act to provide payment for rural health clinic services.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 752, PROVIDING FOR TAKING OF DEPOSITIONS PURSUANT TO HOUSE RESOLUTION 252

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 95–608) on the resolution (H. Res. 752) to allow any attorney employed or retained by the Committee on Standards of Official Conduct to take the deposition of any person for the purpose of conducting any inquiry or investigation pursuant to House Resolution 252, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 8655, INCREASING THE TEMPORARY DEBT LIMIT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 764 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 764

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8655) to increase the temporary debt limit, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the Record at least two legislative days prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 764 provides for the consideration of H.R. 8655, a bill to increase the temporary debt limit. This is a modified rule providing for 1 hour of general debate to be divided and controlled in the customary manner by the Committee on Ways and Means. All points of order against the bill are waived for failure to comply with clause 5, rule XXI, which forbids appropriations in a legislative measure. This waiver is necessary to allow consideration of that portion of the bill which changes the appropriation contained in the original Second Liberty Bond Act.

The only amendments to this bill which are made in order are those amendments offered by the Committee on Ways and Means, or germane amendments which were printed in the RECORD at least 2 legislative days prior to the consideration of H.R. 8655. These amendments shall not be subject to amendment, but shall be debated by the offering of pro forma amendments.

At the conclusion of consideration of the bill, the previous question shall be considered as ordered on the bill and amendments thereto. There shall be no intervening motion before the previous question other than one motion to recommit.

Mr. Speaker, H.R. 8655 raises the total public debt limitation to $775 billion at the time of enactment of the bill to September 30, 1978. The permanent debt limitation remains unchanged at $400 billion, but the temporary debt limit is increased from 300 to $375 billion. The

Committee on Ways and Means found these figures to be consistent with expenditures, revenues and debt amounts contained in the second concurrent budget resolution.

In the area of debt management, the committee increased by $10 billion the amount of long term bonds which may be issued above the 4¼ percent interest rate ceiling. This brings the total up from $17 billion to $27 billion, and provides a sufficient amount to plan for the next two or three bond issues expected in fiscal year 1978. This increase will permit the Treasury Department to slow the rate at which the average maturity of total Federal debt is being reduced.

Mr. Speaker, I respectfully request that we adopt House Resolution 764 so that we may proceed to the consideration of this bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by my friend, the gentleman from Florida (Mr. PEPPER) describing the features of this rule; but let me say that I oppose this legislation.

I think the Members ought to take a look at the report of the Committee on Ways and Means to see what has been going on during the last 10 years. Believe it or not, this will be the 21st time in the last 10 years that we have had to raise the debt ceiling. Why? Because of the spending ways of this Democrat-Congress.

Mr. Speaker, today we are going to hear the same argument used again, that we have to pass this legislation because it is after the fact and we have to pay the bills.

These statements are usually made by some of the very same individuals who vote for every appropriation bill, without any sort of reduction, every time it comes onto the floor of this House.

Mr. Speaker, it is high time that we pay heed to what is happening to the debt of this country. When we look at a debt ceiling of $330 billion in 1967 and in 10 years request that it be increased to $775 billion, there is something wrong with spending policies in this Democrat-controlled Congress; and the American people should be becoming wise as to what it is doing. It promises everything to everybody. A majority votes for every gimmick which comes along in order to pass out the goodies, and then they pass on the bills to our children and give the people paying today's taxes the interest charges.

Mr. Speaker, we are not paying anything on the national debt. We are just passing it on to our kids. The majority pass bill after bill and then go back home and pat themselves on the back and talk of what great benefactors they are. They say, "Look what we are doing for you."

Mr. Speaker, we ought to tell the truth and say, "Look what the big spenders are doing to you, not for you," so that the people will have an opportunity to do something about them.

Mr. Speaker, I say turn this $775 billion figure down. We have turned it down before and they have come up with a lesser figure.

Mr. Speaker, maybe some of the Members read an item in the Washington Post this past weekend stating that the shortfall in Federal spending is going to be about $22 billion. This means they cannot spend the money as fast as this Congress appropriates it and sends it down town.

Mr. Speaker, I think it is time that we do something about all of this spending. When they can't borrow it, they can't spend it!

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

I would like to compliment the gentleman from Ohio (Mr. LATTA) for his remarks.

I would like to add further, Mr. Speaker, that what this really comes down to is a tax increase for the American people. Any way we look at it, it is a tax increase because the moneys either have to be printed, thereby diluting the value, or it has to be borrowed so as to monetize the system. We then have to raise revenues to pay the interest on this borrowed money and it becomes an added cost of Government and to the forever-paying taxpayer.

I might also say to the gentleman from Ohio that the Committee on Welfare Reform is now meeting in the House and we met this morning with Secretary Califano and he made no denials when Congressman BAFALIS and others pointed out that the new welfare reform or welfare "deform" program that President Carter is sending down will cost at least $14 billion. So I think the fears of the gentleman from Ohio about not being able to spend money fast enough will be pretty well taken care of when that new welfare reform program goes into effect, and that it may go even higher than the $14 billion, and that is just the first year.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Idaho for his comments, even though they scare me even more.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. LATTA. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 96, not voting 54, as follows:

[Roll No. 565]

YEAS—284

Akaka	Giaimo	Nowak
Alexander	Gibbons	O'Brien
Allen	Gilman	Oakar
Ambro	Ginn	Oberstar
Ammerman	Gonzalez	Obey
Andrews, N.C.	Goodling	Ottinger
Andrews, N. Dak.	Gore	Panetta
	Gudger	Patten
Annunzio	Guyer	Patterson
Applegate	Hagedorn	Pattison
Ashley	Hall	Pease
Aspin	Hamilton	Pepper
AuCoin	Hammer-schmidt	Perkins
Baldus		Pettis
Barnard	Hanley	Pike
Baucus	Hannaford	Poage
Beard, R.I.	Harkin	Preyer
Bedell	Harrington	Price
Beilenson	Hawkins	Pritchard
Bennett	Heckler	Quie
Bevill	Hefner	Rahall
Bingham	Heftel	Railsback
Blanchard	Hightower	Rangel
Blouin	Howard	Reuss
Boggs	Hubbard	Rhodes
Boland	Huckaby	Richmond
Bonior	Hughes	Rinaldo
Bonker	Hyde	Risenhoover
Bowen	Ireland	Roberts
Brademas	Jeffords	Rodino
Breaux	Jenrette	Roe
Breckinridge	Jones, N.C.	Rooney
Brodhead	Jones, Okla.	Rostenkowski
Brown, Calif.	Jones, Tenn.	Runnels
Brown, Mich.	Jordan	Ruppe
Buchanan	Kastenmeier	Russo
Burke, Mass.	Kazen	Ryan
Burleson, Tex.	Kelly	Sarasin
Burlison, Mo.	Keys	Sawyer
Burton, John	Kildee	Scheuer
Byron	Krebs	Schroeder
Carney	LaFalce	Seiberling
Carr	Le Fante	Sharp
Carter	Lederer	Shipley
Cavanaugh	Leggett	Sikes
Cederberg	Lehman	Simon
Chappell	Levitas	Sisk
Clay	Lloyd, Calif.	Skelton
Cleveland	Lloyd, Tenn.	Slack
Cohen	Long, La.	Smith, Iowa
Collins, Ill.	Long, Md.	Solarz
Conable	Lundine	Spellman
Conte	McClory	St Germain
Conyers	McCloskey	Staggers
Corcoran	McCormack	Stangeland
Corman	McDade	Stanton
Cornell	McEwen	Stark
Cornwell	McFall	Steed
Cotter	McHugh	Steers
Coughlin	McKay	Steiger
Daniel, Dan	McKinney	Stokes
Danielson	Madigan	Stratton
Delaney	Maguire	Studds
Dellums	Mahon	Thompson
Derrick	Mann	Thornton
Dicks	Markey	Traxler
Diggs	Mattox	Tsongas
Dingell	Mazzoli	Tucker
Drinan	Meeds	Udall
Edgar	Meyner	Ullman
Edwards, Calif.	Michel	Van Deerlin
Eilberg	Mikulski	Vander Jagt
Emery	Mikva	Vanik
Evans, Colo.	Miller, Calif.	Vento
Evans, Ind.	Mineta	Volkmer
Fary	Minish	Waggonner
Fascell	Mitchell, Md.	Walgren
Fenwick	Mitchell, N.Y.	Walsh
Findley	Moakley	Wampler
Fish	Moffett	Waxman
Fisher	Mollohan	Weiss
Fithian	Montgomery	Whalen
Flippo	Moorhead, Pa.	White
Flood	Moss	Whitley
Florio	Mottl	Whitten
Flowers	Murphy, N.Y.	Wiggins
Foley	Murtha	Wilson, C. H.
Ford, Mich.	Myers, Gary	Wirth
Ford, Tenn.	Myers, John	Wright
Forsythe	Myers, Michael	Wydler
Fountain	Natcher	Yates
Fowler	Neal	Young, Mo.
Fraser	Nedzi	Young, Tex.
Frenzel	Nichols	Zablocki
Fuqua	Nix	
Gephardt	Nolan	

NAYS—96

Archer	Frey	Moorhead, Calif.
Armstrong	Gaydos	Murphy, Pa.
Ashbrook	Glickman	Pressler
Badham	Gradison	Quayle
Bafalis	Grassley	Quillen
Bauman	Hansen	Regula
Beard, Tenn.	Harris	Robinson
Benjamin	Harsha	Rogers
Brinkley	Hillis	Rudd
Broyhill	Holland	Santini
Burgener	Hollenbeck	Satterfield
Burke, Fla.	Holt	Schulze
Butler	Ichord	Sebelius
Caputo	Jacobs	Shuster
Clausen, Don H.	Kasten	Skubitz
Cochran	Kemp	Snyder
Coleman	Ketchum	Spence
Collins, Tex.	Kindness	Stockman
Crane	Kostmayer	Stump
Daniel, R. W.	Lagomarsino	Symms
Davis	Latta	Taylor
de la Garza	Leach	Thone
Devine	Lent	Treen
Dickinson	Livingston	Trible
Dornan	Lott	Walker
Duncan, Tenn.	Lujan	Watkins
Edwards, Okla.	McDonald	Wilson, Tex.
English	Marks	Winn
Ertel	Marriott	Wylie
Evans, Del.	Martin	Yatron
Evans, Ga.	Mathis	Young, Fla.
Flynt	Miller, Ohio	
	Moore	

NOT VOTING—54

Abdnor	Dodd	Milford
Addabbo	Downey	Murphy, Ill.
Anderson, Calif.	Duncan, Oreg.	Pickle
	Early	Pursell
Anderson, Ill.	Eckhardt	Roncalio
Badillo	Edwards, Ala.	Rose
Biaggi	Erlenborn	Rosenthal
Bolling	Gammage	Rousselot
Brooks	Goldwater	Roybal
Broomfield	Holtzman	Smith, Nebr.
Brown, Ohio	Horton	Teague
Burke, Calif.	Jenkins	Weaver
Burton, Phillip	Johnson, Calif.	Whitehurst
Chisholm	Johnson, Colo.	Wilson, Bob
Clawson, Del	Koch	Wolff
Cunningham	Krueger	Young, Alaska
D'Amours	Luken	Zeferetti
Dent	Marlenee	
Derwinski	Metcalfe	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Brown of Ohio.
Mr. Badillo with Mr. Dent.
Mr. Luken with Mr. Goldwater.
Mr. Zeferetti with Mr. Derwinski.
Mr. Eckhardt with Mr. Broomfield.
Mr. Wolff with Mr. Rousselot.
Mr. Koch with Mr. Del Clawson.
Mr. Teague with Mrs. Smith of Nebraska.
Mr. Rosenthal with Mr. Cunningham.
Mr. Johnson of California with Mr. Abdnor.
Ms. Holtzman with Mr. Erlenborn.
Mr. Metcalfe with Mr. Horton.
Mr. Murphy of Illinois with Mr. Pursell.
Mr. Biaggi with Mr. Marlenee.
Mr. Phillip Burton with Mr. Young of Alaska.
Mrs. Chisholm with Mr. Whitehurst.
Mr. Jenkins with Mr. Milford.
Mr. Roncalio with Mr. Bob Wilson.
Mr. Dodd with Mr. Early.
Mr. Downey with Mr. Duncan of Oregon.
Mr. Brooks with Mr. Edwards of Alabama.
Mr. D'Amours with Mr. Anderson of Illinois.
Mrs. Burke of California with Mr. Rose.
Mr. Gammage with Mr. Pickle.
Mr. Weaver with Mr. Krueger.
Mr. Roybal with Mr. Anderson of California.

Mr. JACOBS changed his vote from "yea" to "nay."

Mr. NICHOLS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF ADJOURNMENT ON WEDNESDAY, SEPTEMBER 21, 1977

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.

Mr. WRIGHT. Mr. Speaker, I take this time to advise the Members that on Wednesday, because of the Jewish holidays, the House will adjourn at 3:30 p.m.

We do not know what time it will be necessary for us to come in. It is possible that we may come in at 10 o'clock. That has not been resolved as yet, but the Members should be advised that the House will adjourn at 3:30 on Wednesday in observance of the Jewish holiday.

INCREASING THE TEMPORARY DEBT LIMIT

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8655) to increase the temporary debt limit, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8655, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill, H.R. 8655, provides for an increase in the temporary limit on the public debt and also will allow the Treasury Department to increase the amount of long-term bonds with an interest rate above 4¼ percent that are in the hands of the public at any one time.

PUBLIC DEBT LIMIT

It is 15 months since the last public debt limit bill was before the House. That bill increased the debt limit in three stages to the present level of $700 billion. This level consists of a $400 billion permanent limit and a $300 billion temporary limit. The temporary limit of $300 billion expires after September 30, 1977, and must be extended and increased before October 1, 1977, in order to meet the Federal Government's financing requirements for fiscal year 1978.

The administration requested an $83 billion increase in the combined permanent and temporary debt limit through September 30, 1978. The major part of the increase is derived from the anticipated unified budget deficit of $61.5 billion for fiscal year 1978. OMB estimates that receipts of $401.4 billion will be $61.5 billion less than the outlays of $462.9 billion.

The balance of the requested debt limit increase, that is, the $21.5 billion which is the difference between the $83 billion requested and the $61.5 billion anticipated deficit, covers two items. First, $13 billion is to provide the authority for the mandatory investment in U.S. Government securities of the estimated surplus in the trust funds; and second, $8.5 billion is to finance the funding of the lending and loan guarantee activities of the off-budget agencies by the Federal Financing Bank.

The Committee on Ways and Means carefully examined the administration's projected debt limit needs in fiscal year 1978 on a monthly basis and determined that a $783 billion limit would be too high. Instead, the committee approved an increase in the combined limit to $775 billion through September 30, 1978. The committee took into account the fact that the administration public debt limit includes a $6-billion increase in the average cash balance to $12 billion and a $3 billion margin for contingencies.

The committee decision should not create difficulties for the administration, even under the administration's estimates of its budget and debt requirements. At the end of August 1978, the estimated debt will be $775 billion with a cash balance of $12 billion. Because there would not be authority to increase the outstanding debt above that level next September, the Treasury would have to reduce its cash balance by $5 billion during the course of the month so that it would fall to an end-of-the-month balance of $7 billion, an amount, however, that is greater than the $6 billion average cash balance that has been provided through this year. Treasury can manage with a smaller cash balance then because the uncertainties and the risks usually associated with meeting budget and financial targets can be expected to have slight impact in the last month of the fiscal year.

Should the Congress decision to increase the debt limit to $775 billion prove to be inadequate in September 1978 because of the restraints on the cash balance, ample accommodation can be made in a timely fashion when the Congress sets the public debt limit for fiscal year 1979.

This debt limit proposal also is consistent with the second budget resolution—that was passed last week—which provided for an increase to $775.45 billion. This increase is based on an estimated unified budget deficit of $61.25 billion and a surplus in the trust funds of $7 billion, which amount under present law must be invested in U.S. Government securities. Arithmetically, the unified budget deficit is equal to the Federal funds budget deficit less the trust fund surplus. If there were no legal requirement to invest the trust fund surplus in U.S. securities, the debt limit adjustment could be determined on the basis of the

net deficit in the unified budget. This debt limit also will accommodate financing off-budget agency credit programs of $7.7 billion. These increases are offset by a modest decrease of $500 million, attributed to a cash balance adjustment.

DEBT MANAGEMENT

The debt management provision of the bill will increase by $10 billion the authority of the Treasury to issue long-term bonds with interest rates above 4¼ percent. Present law allows up to $17 billion of such outstanding long-term bonds to be held by the public. An increase of $10 billion will raise the level to $27 billion. In June, the average interest rate paid on long-term bonds was 6.35 percent.

Since 1971 when the Treasury initially was given limited authority to issue these long-term bonds, it has carefully used the opportunity to develop a market for these issues. As a result, there is a better balance in the maturity distribution of outstanding issues, and the average maturity period of these issues no longer is becoming shorter. In fact, the average length of time to maturity presently is the highest it has been since fiscal year 1973, and it is still just short of 3 years—2 years and 11 months.

The committee has been sparing in its extension of this authority especially during the past 2 years. The committee has tried to avoid too great an increase in long-term issues during the recent recession so that the interest rates on long-term bonds—both corporate and Government—would continue to fall and major, private capital formation would become and remain economically viable.

Mr. Chairman, this bill provides the administration with enough additional borrowing authority to meet fiscal year 1978 needs within the limits set by the congressional budget resolution that was approved last week.

Mr. Chairman, I urge the adoption of this bill.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us, H.R. 8655, increases the temporary public debt by $75 billion, an obscene result of an altogether too natural process. It prompts several observations.

First, the inauguration of a new administration and President has done nothing to retard the rapid growth of public debt. Second, the debt ceiling remains at best a crude tool for limiting the amount of national debt. Third, Congress as a whole has no choice but to approve passage of this measure. While I can understand the reluctance of those who have taken a tough fiscal position on individual votes, a majority of the House voted to incur the costs, and a majority of the House should also vote for raising the debt ceiling.

The transition to a new administration, headed by a President who campaigned on an unequivocal pledge to balance the Federal budget, has not even slightly diminished the national debt. President Carter promises to balance the Federal budget by 1981, but he has just requested an increase of $83 billion for the Nation's indebtedness for next year. As the chairman of my committee stated, the Committee on Ways and Means has granted a $75 billion increase, feeling the $83 billion was more than we needed to carry us through the present year.

President Carter also forecasts a fiscal year 1978 budget shortfall of $61.5 billion, some $15 billion more than in fiscal year 1977. That, of course, is for the General Treasury only. Together these figures suggest that his promise to balance the Federal budget thus far has been much stronger in style than in substance.

This supports my second observation: that the debt limit continues to be a charade, an empty symbol of a laudable but seemingly unachievable goal. The dynamics never seem to change. Many otherwise responsible Members of Congress first vote to raise spending and then argue against taking responsibility for the resulting debt increases, comfortable in the knowledge that their more responsible colleagues will prevail in raising the debt limit to match the fiscal results of their largesse.

However, we have little practical choice but to repeat this ritual still another time. To do otherwise would have no fiscal credibility, though it might be viewed by some as forcing us to admit that only our own self-discipline, assisted by the congressional budget process, can curb the debt or reduce it.

I wish we would put more credence in the budget process. Obviously, because it deals with line items, it involves a much more detailed approach to the fiscal problems of the country than this after-the-fact type of debt ceiling increase.

Since we first imposed an $11.5 billion debt ceiling in 1917, the debt has mushroomed to $300 billion after World War II, $400 billion in 1971, $700 billion in 1977, and now to $775 billion for 1978. In 60 years the limit has neither curbed nor checked the debt; it has merely bounced upward along with the growing debt.

The notion that this statute in any way limits the debt is a charade. We ought to abandon it as an outworn anachronism and put our reliance on the budget process. The expiration of the temporary limit, however, backs us into a very real corner from which the only escape is to vote for yet another upward extension. We should not delude ourselves or our constituents into thinking this vote has anything whatsoever to do with balancing the budget or limiting the growth in public indebtedness.

I, therefore, Mr. Chairman, reluctantly support H.R. 8655 as an unpleasant but necessary measure, and I urge my responsible colleagues to do likewise unless they feel that their record in individual votes gives them personal justification in not doing so.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Maryland

Mr. BAUMAN. Mr. Chairman, the gentleman has called for a possible alternative in treating the problem of our national debt.

Has the Committee on Ways and Means considered the Bert Lance School of Economy Theory, allowing the Treasury to have the power of overdrafts conferred on Mr. Blumenthal, the Secretary of the Treasury?

Mr. CONABLE. I would judge that they have virtually that power now, because I think the majority of this body ultimately has no choice but to vote for H.R. 8655.

Mr. BAUMAN. And that would be a choice dictated by Treasury policy and not by our own feelings?

Mr. CONABLE. The gentleman is correct.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we come to what has become an annual—and it is often more than annual—unpleasant duty. This particular bill before us adds $75 billion to the currently outrageous national debt.

Mr. Chairman, it does have some redeeming features in it, one of which is that it extends the ability of the Treasury to manage its debt more efficiently by increasing by $10 billion the amount of debt which can be handled on a long-term basis.

Mr. Chairman, I hope that this particular feature of the bill will remain in it because I think this will give the taxpayers the best possible deal they can get in the management of a debt of this enormous size. It will enable us, I hope, over the long term to keep our interest rate at the lowest possible level.

Mr. Chairman, those who have voted for the budget resolution and those who have voted for the appropriations which are causing, or will soon cause, this enormous increase in the debt are those Members who in my judgment have the responsibility to pass this debt ceiling bill. It is true that the bills have to be paid. It is unthinkable that we cannot pass this bill. And yet, those of us who did not vote for the budget, who do not believe in the excessive spending that is guaranteed in the budget, and who do not support the excessive spending that is manifested in our appropriations bills, do not have the responsibility to pass this piece of legislation.

Mr. Chairman, as the gentleman from New York points out, it is an irrelevant exercise because the debt has already been provided for twice, once in the budget process and once in the appropriations process. It has already been ratified twice by this House.

Nevertheless, it is my hope that those who have voted to produce this enormous, whopping, overwhelming, excessive budget and those who have voted for the separate portions of it in each of the appropriations bills will enjoy voting for the debt ceiling.

Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. CONABLE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if there ever was a piece of legislation that completely characterizes this Congress, H.R. 8655 is that piece. It reflects the philosophy that we can indulge in the most uninhibited spending by simply raising the debt, that we can shovel money to all manner of nonproductive uses without suffering the political liability of taxing for it.

This legislation authorizes the national debt to soar by $75 billion to a smashing new record of $775 billion by the end of the next fiscal year. The Congress has already approved a fiscal 1978 budget with a deficit of more than $61 billion, and off-budget borrowing will certainly raise that sum significantly.

Do not blame the Federal Reserve Board for rising interest rates. Our record of financing Government operations with massive debt is directly to blame. When Government competes with private industry for the available capital, interest rates rise. The consequences are less capital investment and less job creation by private industry.

The weakest sector of our economy is capital investment. This Congress has done nothing to encourage capital investment in the private sector, but instead has pursued policies that will further handicap the ability of private industry to expand and provide jobs.

Years of huge budget deficits and fast-rising public debt have been a very harmful drain on the capital resources of the Nation. The large energy taxes recently passed by this House will be another crippling blow to private industry if we continue on the course of discouraging production and encouraging consumption with massive Government spending and debt.

On two occasions this year, many of us tried to amend the fiscal 1978 budget to cut spending and reduce taxes. Our economy desperately needs such a remedy to encourage capital formation, productive investments, and job creation.

The answer of the congressional majority was to increase spending and to float more debt. The consequences will not be pretty to behold.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, once again our friendly Committee on Ways and Means brings to us another temporary increase in the debt ceiling.

We have gone through this charade so many times that it is almost ridiculous to talk about it anymore.

Mr. Chairman, I was quite interested in the question of the gentleman from Maryland (Mr. BAUMAN) in his dialog with the gentleman from New York (Mr. CONABLE), the ranking minority member of our committee, when he asked if this had anything to do with the Lance affair.

I would say to the gentleman from Maryland that this is a little different. This is an overdraft, but the American people get to pay the interest.

Mr. Chairman, we are told, year in and year out, that the responsible thing to do is to vote for the debt ceiling. I take exception to that. I do think it is the responsible thing to do. I think the responsible thing to do is to start holding down spending.

Our new President says that he wants to balance the budget. We have already created one new agency, and God knows how many more we will create which will increase the budget rather than decrease it.

Therefore, Mr. Chairman, those individuals who are going to be responsible for making sure that we can pay bills should indeed be those individuals who have time and time and time again voted for one measure after another which far exceeds the budget. However, I would say to those individuals who have not voted for the increase, who have not voted for all of the ridiculous programs that we now enjoy, that they have absolutely no responsibility to vote for a temporary increase in the debt ceiling. I would certainly hope that they would vote against it rather than for it.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding.

I would like to associate myself with his remarks. I agree with him wholeheartedly.

Mr. Chairman, may I ask a question of my distinguished colleague on the Committee on Ways and Means. The administration has indicated its commitment to balanced budgets, as the gentleman has indicated; but at the same time, did not Treasury officials come down and ask for a $83 billion hike in the debt limit for next year?

Mr. KETCHUM. That is correct.

Mr. CRANE. I thank the gentleman for yielding.

Mr. KETCHUM. Mr. Chairman, I would only say to my colleagues in the House that this is their last chance this year. Formerly we had three or four chances a year. Our next chance will probably come along next September. I am sure that the constituencies of all of us, the American taxpayers, will be glad to see that happen in September next year just prior to the November election and we will see how the vote comes out.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the distinguished gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I would like to congratulate the gentleman from California (Mr. KETCHUM) on all that he has had to say in respect of this legislation, and especially on the minority views that that gentleman put in the committee report on page 17. At the proper time, Mr. Chairman, I will ask unanimous consent that those minority views of the gentleman from California (Mr. KETCHUM) be included as part of this RECORD at this point to make certain that the American people who do read the CONGRESSIONAL RECORD can see really what the Congress is doing to them today and not for them.

(The material referred to is as follows:)

MINORITY VIEWS OF HON. WILLIAM M. KETCHUM ON THE DEBT CEILING BILL

When will we ever learn that the only sound fiscal policy is one which mandates a balanced Federal budget? While paying lip-service to fiscal responsibility, the administration is in fact seeking to increase the size of the Federal debt. Once again, we have told our colleagues that the sky is the limit for Federal spending, since the Ways and Means Committee will obligingly lift the ceiling to fit the debt.

Since our colleagues seem never to tire of adding to the Federal debt, we must point out once again the dire consequences of this action. In 1970, just 7 years ago, the public debt subject to limitation was $372 billion. This was a debt that took 194 years to accumulate. We now have a debt ceiling of $700 billion—or a gain of $328 billion in just 7 years. Interest payments alone on our ballooning national debt come to $38 billion annually—that's equal to all Federal spending in 1949.

The bill adopted by this committee adds another $75 billion to our debt in the 12-month period between September 1977 and September 1978. The folly of this course must be apparent to even the most devoted admirers of deficit spending.

We cannot continue to print nonexistent "monopoly money" without forcing added inflation upon our citizens. By crowding private borrowers out of the money market to finance this colossal deficit, we shall touch off another round of inflation and recession, and foreclose much-needed business expansion. This committee could have taken a firm stand to ward off this danger. Had the majority refused to accommodate the big spenders of Congress, and kept a lid on the debt, Congress would have been forced to come to grips with its own profligacy. As it is, Government spending is increasing at a far greater rate than is our economy.

Congress has created 24 new Government agencies within the past 10 years. There are more than 1,000 Federal programs falling under the jurisdiction of some 80 regulatory agencies staffed by over 100,000 workers. The most of this overregulation runs as high as $130 billion per year—an amount of money which would feed every American family for a year. Every year we drag our taxpayers deeper into debt they do not want, to provide excessive regulations they do not need.

If any clear message has emerged from our citizens this year, it is that the growth of the Federal Government must be curtailed and spending be brought in line with income. I have consistently followed that course, and have opposed the massive deficits of the past several years. We have no obligation to incur more debt for our descendents based on our voting for bills that exceed the budget. We do have an obligation to restore fiscal integrity to Washington, and therefore most strenuously oppose this legislation.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman from Idaho for his contribution.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply would like to thank the distinguished chairman of the full committee, the gentleman from Oregon (Mr. ULLMAN) for his usual patience and forbearance on a matter of such comparatively troublesome dimensions.

which does require patience and forbearance.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me conclude by saying that if the Members believe in the budget process in this Congress, then they must vote for this legislation. What we are doing here is just providing the counterpart to the budget resolution that will provide a means for paying the bills when the budget that we have already adopted goes into effect.

I urge the support of the Members on this legislation.

I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, no amendments are in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments. Since no amendments were printed in the RECORD, the Clerk will read the bill.

The Clerk read as follows:

H.R. 8655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on September 30, 1978, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $375,000,0000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of June 30, 1976, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 94–334), is hereby repealed.

SEC. 3. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$17,000,000,000" and inserting in lieu thereof "$27,000,000,000".

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Are there any committee amendments?

Mr. ULLMAN. There are no committee amendments.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, the Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8655) to increase the temporary debt limit, and for other purposes, pursuant to House Resolution 764, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 180, nays 201, not voting 53, as follows:

[Roll No. 566]

YEAS—180

Akaka	Glaimo	Perkins
Alexander	Gibbons	Pettis
Ambro	Gonzalez	Pike
Ammerman	Hamilton	Poage
Annunzio	Hanley	Preyer
Applegate	Hannaford	Price
Ashley	Harrington	Pritchard
Aspin	Hawkins	Rangel
AuCoin	Hefner	Reuss
Baldus	Heftel	Rhodes
Beard, R.I.	Hightower	Richmond
Bedell	Howard	Rodino
Beilenson	Jeffords	Roe
Benjamin	Jones, N.C.	Roncalio
Bingham	Jordan	Rooney
Blanchard	Kazen	Rostenkowski
Boggs	Kildee	Roybal
Boland	Krebs	Ruppe
Bonior	LaFalce	Ryan
Bonker	Le Fante	Scheuer
Brademas	Lederer	Seiberling
Breaux	Leggett	Sharp
Breckinridge	Lehman	Shipley
Brodhead	Long, La.	Simon
Brown, Calif.	Long, Md.	Sisk
Burke, Mass.	Lundine	Slack
Burleson, Tex.	McCormack	Smith, Iowa
Burlison, Mo.	McFall	Solarz
Carney	McHugh	St Germain
Chisholm	McKay	Staggers
Clay	McKinney	Stanton
Cohen	Mahon	Stark
Collins, Ill.	Markey	Steed
Conable	Meeds	Steers
Conte	Meyner	Steiger
Conyers	Mikulski	Stokes
Corman	Mikva	Stratton
Cornell	Mineta	Studds
Cornwell	Minish	Thompson
Cotter	Mitchell, Md.	Thornton
Danielson	Moakley	Tsongas
Delaney	Moffett	Tucker
Derrick	Mollohan	Udall
Dicks	Moorhead, Pa.	Ullman
Diggs	Moss	Van Deerlin
Dingell	Murtha	Vander Jagt
Drinan	Myers, Michael	Vanik
Edgar	Natcher	Vento
Edwards, Calif.	Nedzi	Waggonner
Eilberg	Nix	Waxman
Evans, Colo.	Nolan	Weiss
Fary	Nowak	Whalen
Fascell	Oberstar	Wiggins
Findley	Obey	Wilson, C. H.
Fisher	Ottinger	Wilson, Tex.
Flood	Patten	Wirth
Ford, Mich.	Patterson	Wright
Fraser	Pattison	Yates
Fuqua	Pease	Young, Tex.
Gephardt	Pepper	Zablocki

NAYS—201

Abdnor	Bowen	Clausen,
Allen	Brinkley	Don H.
Andrews, N.C.	Brown, Mich.	Cleveland
Andrews, N. Dak.	Broyhill	Cochran
Archer	Buchanan	Coleman
Armstrong	Burgener	Collins, Tex.
Ashbrook	Burke, Fla.	Corcoran
Badham	Burton, John	Coughlin
Bafalis	Butler	Crane
Barnard	Byron	Daniel, Dan
Baucus	Caputo	Daniel, R. W.
Bauman	Carr	Davis
Bennett	Carter	de la Garza
Bevill	Cavanaugh	Dellums
Blouin	Cederberg	Devine
	Chappell	Dickinson
Dornan	Jones, Okla.	Quillen
Duncan, Tenn.	Jones, Tenn.	Rahall
Edwards, Okla.	Kasten	Railsback
Emery	Kastenmeier	Regula
English	Kelly	Rinaldo
Erlenborn	Kemp	Risenhoover
Ertel	Ketchum	Roberts
Evans, Del.	Keys	Robinson
Evans, Ga.	Kindness	Rogers
Evans, Ind.	Kostmayer	Rudd
Fenwick	Lagomarsino	Runnels
Fish	Latta	Russo
Fithian	Leach	Santini
Flippo	Lent	Sarasin
Florio	Levitas	Satterfield
Flowers	Livingston	Sawyer
Flynt	Lloyd, Calif.	Schroeder
Ford, Tenn.	Lloyd, Tenn.	Schulze
Forsythe	Lott	Sebelius
Fowler	Lujan	Shuster
Frenzel	McClory	Sikes
Frey	McCloskey	Skelton
Gaydos	McDade	Skubitz
Gilman	McDonald	Snyder
Ginn	McEwen	Spellman
Glickman	Madigan	Spence
Goodling	Mann	Stangeland
Gore	Marks	Stockman
Gradison	Marriott	Stump
Grassley	Martin	Symms
Gudger	Mathis	Taylor
Guyer	Mattox	Thone
Hagedorn	Mazzoli	Traxler
Hall	Michel	Treen
Hammer-schmidt	Miller, Calif.	Trible
	Miller, Ohio	Volkmer
Hansen	Mitchell, N.Y.	Walgren
Harkin	Montgomery	Walker
Harris	Moore	Walsh
Harsha	Moorhead, Calif.	Wampler
Heckler		Watkins
Hillis	Mottl	White
Hollenbeck	Murphy, Pa.	Whitley
Holt	Myers, Gary	Whitten
Horton	Myers, John	Winn
Hubbard	Neal	Wydler
Huckaby	Nichols	Wylie
Hughes	O'Brien	Yatron
Hyde	Oakar	Young, Alaska
Ichord	Panetta	Young, Fla.
Ireland	Pressler	Young, Mo.
Jacobs	Quayle	
Jenrette	Quie	

NOT VOTING—53

Addabbo	Dodd	Maguire
Anderson, Calif.	Downey	Marlenee
	Duncan, Oreg.	Metcalfe
Anderson, Ill.	Early	Milford
Badillo	Eckhardt	Murphy, Ill.
Beard, Tenn.	Edwards, Ala.	Murphy, N.Y.
Biaggi	Foley	Pickle
Bolling	Fountain	Pursell
Brooks	Gammage	Rose
Broomfield	Goldwater	Rosenthal
Brown, Ohio	Holland	Rousselot
Burke, Calif.	Holtzman	Smith, Nebr.
Burton, Phillip	Jenkins	Teague
Clawson, Del	Johnson, Calif.	Weaver
Cunningham	Johnson, Colo.	Whitehurst
D'Amours	Koch	Wilson, Bob
Dent	Krueger	Wolff
Derwinski	Luken	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Luken against.

Mr. Badillo for, with Mr. Cunningham against.

Mrs. Burke of California for, with Mr. Zeferetti against.

Ms. Holtzman for, with Mr. Wolff against.

Mr. Teague for, with Mr. Rousselot against.

Mr. Rosenthal for, with Mr. Gammage against.

Until further notice:

Mr. Eckhardt with Mr. Anderson of Illinois.

Mr. Anderson of California with Mr. Broomfield.

Mr. Biaggi with Mr. Del Clawson.

Mr. D'Amours with Mr. Derwinski.

Mr. Dodd with Mr. Edwards of Alabama.

Mr. Jenkins with Mr. Beard of Tennessee.

Mr. Brooks with Mr. Fountain.

Mr. Johnson of California with Mr. Brown of Ohio.

Mr. Phillip Burton with Mr. Goldwater.

Mr. Koch with Mr. Krueger.

Mr. Duncan of Oregon with Mr. Foley.
Mr. Maguire with Mr. Holland.
Mr. Dent with Mr. Marlenee.
Mr. Murphy of Illinois with Mr. Metcalfe.
Mr. Pickle with Mr. Pursell.
Mr. Downey with Mr. Rose.
Mr. Murphy of New York with Mr. Milford.
Mr. Early with Mrs. Smith of Nebraska.
Mr. Weaver with Mr. Bob Wilson.

Mr. CHARLES WILSON of Texas changed his vote from "nay" to "yea."

Mr. EVANS of Indiana and Mr. LLOYD of California changed their vote from "yea" to "nay."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. In view of the fact that this is the 4th consecutive year that the first time around this legislation has been defeated, the Chair would hope that the committee would report this bill and have it back on the floor of Friday, of this week, knowing that we have a time set when this expires.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, I wish the RECORD to show that on rollcall No. 566, the vote on H.R. 8655, increasing the temporary debt limit, had I been here, I would have voted "nay." I was inadvertently detained in a meeting of the Advisory Committee of Government Operations, and I did not receive word in time to cast my vote.

REQUEST FOR CHANGE IN HOUR OF MEETING ON WEDNESDAY, SEPTEMBER 21, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, it adjourn to meet at 10 o'clock a.m. on Wednesday, September 21, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from Illinois (Mr. ROSTENKOWSKI) tell us whether or not the resolution creating the Select Committee on Population is still scheduled to Wednesday?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, according to our schedule, it is. We intend to take that resolution up on Wednesday.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1977

(Mr. BLOUIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BLOUIN. Mr. Speaker, last week, my colleague from Minnesota, Congressman QUIE, and I introduced the Tribally Controlled Community College Assistance Act of 1977. The bill is the product of extensive research done by the advisory study group on Indian education. This group was created and mandated by the House Committee on Education and Labor this past January to conduct in-depth research within the field of Indian education and to recommend to the committee, and to the Congress, legislation in this vital and too long neglected area.

I have served as chairman of this group and have had the privilege of working closely with Congressman QUIE, the ranking minority member of the Education and Labor Committee. We concluded very early, that to legislate Indian education sitting in Washington, D.C., would be to legislate in a vacuum. Thus, we decided our first responsibility was to spend extensive time in the field. Beginning in February, and ending just last month, the group conducted field trips to Arizona, New Mexico, Iowa, North Dakota, South Dakota, Oklahoma, Utah, and Alaska to observe and discuss firsthand the education needs of Native Americans. In fact, as early as August of last year, the staff of the Education and Labor Committee spent in excess of 11 weeks in the field attempting to come to grips with the educational needs of the first Americans. It became quite obvious that in order to legislate education policy for the Indians, an understanding of Indian history, both as it pertains to the development of Indian life, and as it comprises the historical relationship between the Indian and the Federal Government, is an absolute necessity.

What I am trying to say, Mr. Speaker, is that the legislation introduced last week is a result of intense research and discussion with the Indian community. It is not legislation developed in a vacuum, or in a manner which reflects a digesting of the issues as told to us by either disinterested parties or by individuals or groups having a specific interest or bias. Special mention should be given to Ms. Jeannie Ortega, who worked long and hard on this project. The legislation Congressman QUIE and I introduced is an accumulation of ideas espoused by Indian leaders, organizations, educators, and so forth. We do not profess this legislation to be perfect, but we do feel that it represents an approach which will deliver education to the Indian community through a vehicle, which considers the attainment of a higher education, be it vocational or academic, as the top priority.

Mr. Speaker, this bill is written to reassert the Federal Government's trust responsibility, grounded in treaties, toward providing educational programs for the Native American, A similar, but by no means identical, Bill is currently before the Senate. We must remember that, unlike State or private institutions, the tribes have no other fountain of funding than the Federal government, a fountain too long dry at its source.

Title I of the bill is to address the need for the development of tribally controlled community colleges by providing grants for their operation and improvement, as well as to expand the educational opportunities for Indian students.

It is the intent of this title to provide financial assistance to tribally controlled community colleges by the Secretary of Interior, in terms to assure a tribe's control over the institution's policies. Priority in grants shall be given to institutions which are operating on the date of enactment of this legislation, and which have a history of service to the Indian people. The authorization level is to be $25,000,000 for each of the first 2 fiscal years following enactment, and $30,000,000 in the 3rd fiscal year. In addition, there is an authorization of $3,200,000 for each of the 3 fiscal years for technical assistance to these schools.

The funding concept is patterned after the Federal Government's funding program for higher education institutions within the States, in that the dollars are channeled directly to the institution. All such grants are subject to the approval of an application for funds provided to the Secretary of the Interior. In addition, the Secretary shall report to the Congress on the current status of tribally controlled community colleges each year and recommend any action that may be needed to enhance their development.

The legislation is drafted so as to meet the educational needs of the Indian student and to insure that those tribally controlled community colleges addressing those needs receive the financial assistance necessary to adequately develop the educational programs desired by the tribes being served.

Title II of the bill provides grants to governing bodies of tribally controlled community colleges for the preparation of construction plans for academic facilities and for the construction of those facilities if the plans for construction are approved by the Secretary of the Interior. The authorization for each of the three fiscal years following enactment shall be that which is necessary to carry out this title. None of the funds under Title II shall be used by the Navajo Tribe.

Title III of the bill addresses the construction needs of the Navajo Community College. The Navajo Tribe is considered separately for construction purposes because the Navajo Community College Act was initially passed in 1971. Since that time the tribe has established a community college within the boundaries of its reservation and is presently serving the population of the Navajo Tribe.

At present, the college is in need of expansion so as to better serve the needs of the tribe. Thus, title III authorizes a total of $60,000,000 for the 3 fiscal years following the enactment of the act.

In addition to a construction grant this title, like title I, allows the Navajo Community College to qualify for grants for operation and maintenance of the college. The amount received would be an amount equal to $125,000, plus $3,500 for each full time equivalent Indian student, which the Secretary of the Interior estimates will be in attendance during the academic year.

Mr. Speaker, as I said at the outset of my remarks, it is my feeling that this legislation represents the results of months of research and information gathering, and that its intent is to address the needs of the American Native in a very real and meaningful manner. I am hopeful that in the months to come my colleagues in the Congress will come to realize that its passage will help the American Indian to better equip himself/herself to make the decisions that must be made so as to insure for the Indian people, not only their economic existence, but also their cultural heritage as well.

If there are no objections, Mr. Speaker, I would like to include the text of the bill, and commend it to my colleagues' attention:

H.R. —

A bill to provide for grants to tribally controlled community colleges, and for other purposes

Be it eacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1977".

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes;

(5) "institution of higher education" means an institution of higher education as defined by section 1201 (a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian consistuency, and has expertise in the field of Indian education; and

(7) "full-time equivalent Indian student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time, in each tribally controlled community college.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary of the Interior is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray the expense of activities related to education programs for Indian students. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of which are Indians.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized to enter into an agreement with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the feasibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a feasibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and upon a positive determination, to aid in the preparation of grant applications and related budgets which will insure successful operation of such institution.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. The Secretary shall not consider any grant application unless a feasibility study has been conducted under section 105 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with the tribal governments chartering the institutions being considered.

(e) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

AMOUNT OF GRANTS

SEC. 107. (a) Except as provided in section 110, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him, an amount equal to $15,000 plus $3,500 for each full-time equivalent Indian student in attendance at such institution during such academic year, as determined by the Secretary in accordance with such regulations as he may prescribe.

(b) The Secretary may make payments pursuant to grants under this title in advance installments not to exceed 80 per centum of the funds available for allotment based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

EFFECT ON OTHER PROGRAMS

SEC. 108. Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

APPROPRIATIONS AUTHORIZED

SEC. 109. (a)(1) There are authorized to be appropriated, for carrying out section 106, $25,000,000 for each of the first two fiscal years beginning after the date of enactment of this title and $30,000,000 in the third fiscal year beginning after such date.

(2) There are authorized to be appropriated $3,200,000 for each of such three fiscal years, for the provision of technical assistance pursuant to section 104.

(b) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

GRANT ADJUSTMENTS

SEC. 110. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be ratably increased. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any fiscal year in which the amounts for which grant recipients are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis

proportionate to the amount which is unfunded as a result of the ratable reduction, except that no grant recipient shall receive more than the amount provided for under section 106(a) of this title.

REPORT ON CURRENT FACILITIES

SEC. 111. The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges, including in his report a survey of Bureau of Indian Affairs existing and planned facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

MISCELLANEOUS PROVISIONS

SEC. 112. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

RULES AND REGULATIONS

SEC. 113. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the grant program established by this title.

TITLE II—CONSTRUCTION GRANTS

STUDY OF FACILITIES NEEDS

SEC. 201. The Secretary shall conduct a detailed survey and study of the academic facilities needs of tribally controlled community colleges and shall report to the Congress not later than November 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of any such college and by the governing body of the tribe, and shall include detailed recommendations by the Secretary as to the number and type of academic facilities which are required, ranking each such required facility by relative need.

PLANNING GRANTS

SEC. 202. The Secretary is authorized to make grants to the governing body of tribally controlled community colleges for the preparation of construction plans for academic facilities determined to be required under section 201. The Secretary shall provide each grant recipient with such technical services and facilities as may be available to him. The Secretary shall periodically review the development of such plans and shall advise the grant recipient concerning the suitability of such plans for purposes of section 203.

CONSTRUCTION GRANTS

SEC. 203. (a) The Secretary is authorized, in accordance with this section, to make grants to tribally controlled community colleges for the construction of academic facilities. Such grants shall, from the sums available therefor, be allocated, to the extent practicable, in accordance with relative needs as established under section 201 among those tribally controlled community colleges having construction plans approved under subsection (c).

(b) The Secretary shall receive applications for grants under this subsection containing such information or assurances as he may by regulation prescribe to assure efficient and capable performance of the work proposed and to assure use of each academic facility for educational purposes for a period of not less than twenty years. Such application shall include a proposed construction plan which shall specify—

(1) the academic facility to be constructed;

(2) the estimated cost of such facility;

(3) the stages of construction and a schedule for completion of each stage;

(4) the capacity of such facility described by number of students to be served and the number and type of uses for which such facility will be used; and

(5) the labor and materials requirements for the construction of such facility and the extent to which such labor and facilities can be drawn from the local community.

(c) The Secretary shall review applications and plans submitted by a tribally controlled community college under subsection (b) and shall approve any such application and plan which—

(1) is for the construction of an academic facility for which funds are available under subsection (a);

(2) contains the information, assurances, and specifications required by subsection (b);

(3) the Secretary determines will contribute, in a significant and timely fashion, to the development of such tribally controlled community college; and

(4) has been reviewed and not disapproved by the governing board of the tribe.

(d) The Secretary shall have access to the books and records of any recipient of a grant under this section, and to the books and records of any contractor or subcontractor performing work with funds made available by such grant, for the purpose of auditing the efficiency and economy of the work in progress.

DEFINITIONS

SEC. 204. As used in this title, the terms "academic facilities" and "construction" have the meanings set forth in section 782 of the Higher Education Act of 1965 except that any determination required to be made under such section by the Secretary of Health, Education, and Welfare or by the Commissioner of Education shall be made for purposes of this title by the Secretary of the Interior.

AUTHORIZATION

SEC. 205. There are authorized to be appropriated for each of the three fiscal years beginning after the date of enactment of this Act, such sums as may be necessary to carry out this title.

MISCELLANEOUS PROVISIONS

SEC. 206. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

TITLE III—NAVAJO COMMUNITY COLLEGE

SHORT TITLE

SEC. 301. This title may be cited as the "Navajo Community College Assistance Act of 1977".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress after careful study and deliberation, finds that—

(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

(3) the population of the Navajo Tribe and the vast area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.

AMENDMENT

SEC. 303. Section 4 of the Navajo Community College Act (25 U.S.C. 640c) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 4. (a) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated a total of $60,000,000 for the three fiscal years beginning after the date of enactment of the Navajo Community College Assistance Act of 1977.

"(b) There is further authorized to be appropriated for grants to the Navajo Community College, for each fiscal year described in subsection (a), for operation and maintenance of the college, an amount equal to $125,000 plus $3,500 for each full-time equivalent Indian student which the Secretary of the Interior estimates will be in attendance at such College during such year.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries. No grant shall be made in excess of $125,000 plus $3,500 for each full-time equivalent Indian student in actual attendance at such college.

"(d) Sums appropriated pursuant to subsection (a) for construction shall remain available until expended.".

A FRIEND AND GREAT AMERICAN, WILLIAM M. MAGRUDER, IS BURIED AT ARLINGTON

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, America lost a great patriot last week with the death of William M. Magruder, a man whose contributions to aviation helped assure peace and make divergent points on our globe part of a single community.

I first met Bill Magruder and his wonderful wife Barbara, when he was director of the supersonic transport development program for the Department of Transportation. I followed the growth in his career as he moved from there to a position of broad and even more important responsibility in the Executive Of-

fice of the President of the United States and then to the executive vice presidency and board of directors of Piedmont Aviation, Inc.

Bill was a man who made deep and lasting impressions on the people with whom he worked. He was a true servant of the national interest with a deep sense of purpose for America. As our mutual friend Russ Roy of Eastern Airlines said last week in his beautiful eulogy to Bill,

> The persistence to stand for what is right, the character to sustain it under adversity, and the courage to never compromise principle.

His accomplishments in the field of aviation—civil and military—earned for him a star in the constellation of this country's air heroes. An aeronautical engineering graduate of the University of California, Bill also attended graduate school at Ohio State University. He completed his Army Air Corps training in 1944. He was a test pilot's test pilot. Between 1944 and his death, he had flown and tested 155 different types of aircraft, including bombers, transports, fighters, liaison aircraft and helicopters. He was the designer of the Lockheed L–1011 TriStar.

Bill had the privilege of hearing and receiving the accolades of the profession and industry when he was still alive. He received numerous aviation awards, including the coveted James Doolittle Management Award and the Octave Chanute Award for contributions to aerospace. He received the Air Force Legion of Merit for his work in the B–52 flight test program. He was elected a Fellow of the Society of Experimental Test Pilots and an Associate Fellow of the American Institute of Aeronautics and Astronautics.

But Bill Magruder was no "air jockey." He was a man of significant intellectual accomplishments. Over the course of his career, he authorized 32 technical publications, and still found time to invent the EPR gage—the jet engine thrust instrument now used in every free world jet airplane.

Bill Magruder believed in this country. He believed in the principles which had brought America to preeminence in the world community, and he saw no reason why those principles should be compromised and weakened in an era requiring a particularly strong sense of national identity and purpose.

That dedication and spirit will be missed, but he will never be forgotten. I was privileged to be among those close friends of Bill and Barbara Magruder who attended his interment in Arlington Cemetery last Friday, next to his beloved father, who is also buried at Arlington, Maj. Gen. Bruce Magruder.

At this point, Mr. Speaker, I would like to insert the eulogy of Russ Ray in the RECORD. It says far better than I what Bill means to all of us now and for the future.

In addition, I am inserting his biographical accomplishments from Who's Who in America:

EULOGY BY RUSSELL L. RAY, JR.

To speak words of tribute about Bill requires little thought really. They come very easily.

I lay awake last evening in a hotel room near a very busy airport—and with each wonderful sound of activity at the field—I thought of the times.

When you judge a man to be a friend, and you do so up close—and he passes—that bond is never ever broken. There may be interruptions in time, but the effects remain.

There is no way to fully repay this friend. The only one way I know is to try, really try to live and use the God-given talents which were given to me—just as Bill used his.

Abilities vary. His were unique. The capacity to prepare, the wisdom to have an opinion, the persistence to stand for what is right, the character to sustain it under adversity, and the courage to never compromise principle.

He had great affection for those he admired and even a little patience with those whom he endured. I will never forget his natural and real way of befriending the big and the small, the princes and the paupers of our industry and society with like enthusiasm.

I will always remember his brotherly advice and encouragement. I will never forget his deep affection and pride in Barbara, in Nancy and in Skeeter.

There were some words once spoken by an English philosopher which may well have been a description of Bill:

"As for myself, I want to be thoroughly used when my turn is up—for the harder I work, the more I live. Life is no brief candle for me—it's a torch which I want to burn as brightly as possible before I pass it on."

While Bill sleeps, his friends will repay his friendship with a small part of that flame.

WHO'S WHO IN AMERICA

Name: William Marshall Magruder.
Occupation: Airline executive.
Place of birth: Evanston, Illinois.
Date of birth: May 26, 1923.
Fathers' name: Major General Bruce Magruder.
Mother's name: Ferol Lott Magruder.
Married: Barbara Nethercutt Magruder.
Children: William M. Magruder, Jr. and Nancy Magruder.

BRIEF CAREER SUMMARY

Since April, 1973, Executive Vice President of Piedmont Aviation of Winston-Salem, North Carolina. From 1971 to 1973, Special Consultant to President Nixon for all science and technology, and Manager of the administration's technology opportunities project, the nation's greatest effort in technology stimulation and responsible for $17 billion in Federal R&D. From 1970–1971, Director, U.S. Supersonic Development on project terminated by the Congress in May 1971. From 1967 to 1970, Chief Commercial Design Engineer for Lockheed Aircraft Corporation and the designer of Lockheed L–1011 Tri Star. From 1963 to 1967, Technical Program Director of Lockheed Supersonic Transport and the inventor of the movable nose on most ST's. From 1956 to 1963, Chief Test Pilot, Douglas Aircraft Company and Director of Advanced Developments, responsible for certification of the DC–8 and the inventor of the Engine Pressure Ratio Gage. From 1951 to 1956, Test Task Force Director of the USAF B–52 project and the developer of the modern concept of Task Force Development utilized by all USAF airplane developments since 1955. (For this received the Legion of Merit in 1956).

CAREER RELATED ACTIVITIES

Board of Directors for Piedmont Aviation; American Institute of Aeronautics and Astronautics; National Aeronautics Association, Flight Safety Foundation; NASA Research Technical Advisory Committee; Federation of Americans Supporting Science and Technology Honorary Board Chairman; Past President of the Society of Experimental Test Pilots.

CIVIC AND POLITICAL ACTIVITIES

Winston-Salem, N.C. Chamber of Commerce Board of Directors; United Way of Forsyth County; South Eastern Contemporary Crafts and Arts Board of Directors; Forsyth County Republicans; Rotary Club of Winston-Salem.

PROFESSIONAL

American Institute of Aeronautics and Astronautics.
Society of Experimental Test Pilots.
Air Force Association, Iron Gate Chapter.
Rotary Club of Winston-Salem.
National Aeronautics Association.
Aero Club of Washington, D.C.
Wings Club.
International Order of Characters.

CLUBS

Old Town Club, Winston-Salem, N.C.; Sand and Sea Club, Santa Monica, California; Arcadian Country Club, Myrtle Beach, S.C.

WRITINGS AND SPECIAL ACHIEVEMENTS

As a test pilot and engineer, flew and analyzed over 155 types of experimental and production airplanes of all types and for all nations including the USAF SR–71 and the United Kingdom-French Concorde.

Numerous technical reports on all aspects of design, test, and operations of aircraft of all types.

Received the R. H. Burroughs Award in 1967 for work on the "jet upset" problem of early jets and for investigation into the "Tee" tail problem of early jet transports and industry designs.

Received the Legion of Merit in 1956 for developing and training the USAF in the test task force concept for developing major weapons system, the first of which he headed, the B–52A project at Edwards Air Force Base.

Conceived and developed the thrust device now used on all jet aircraft, the engine pressure ratio gap, when acting as USAF project engineer on the XB–52 in Seattle in 1952. Also conceived and developed the ram air temperature—EPR device to simplify thrust setting for commercial jet aircraft in 1959 while developing the Douglas DC–8.

Conceived and developed the moveable nose design now used in most supersonic transport design in 1963 at Lockheed Aircraft Corporation.

Numerous articles and composed testimony on Federal Research and Development concepts and management methods—1973.

Numerous articles about supersonic transport design, development and market requirements from 1963 to the present.

Conceived, organized, and obtained funding for the Climatic Impact Assessment Project providing $30 million for completion of upper atmosphere impacts from aircraft.

Developed and organized the report called RADCAP, "Research and Development Contributions applied to Aviation Programs" published in 1972 and providing the first definitive history of how U.S. commercial aviation manufacturing was derived from military projects—1972.

Conceived, organized, developed management system and obtained funding for a joint Naval Carry-On-Deck transport and Civil Air Transport project funded in 1976.

Developed the joint military/civil cost benefits project with USAF and NASA in 1972 that was responsible for government funding of the YC–14 and YC–125 STOL military transport program.

LEGISLATION TO ESTABLISH A SELECT COMMITTEE ON POPULATION

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, I will necessarily be absent in my capacity as delegate to the 32d session of the United Nations General Assembly when the resolution to create a Select Committee on Population will be considered later this week.

As a cosponsor and early supporter of this measure, I am deeply concerned about our Nation's lack of policy in an area the Malthusians called to our attention in the 18th century, a world population which is multiplying faster than its means of subsistence. Thus, I would like to take this opportunity to urge prompt passage of this resolution.

The population of the world has already reached 4 billion—double what it was 45 years ago—and is expected to double again in the next 35 years. The growth rate in developed countries is about 1 percent, and about 2.7 percent in less-developed countries. This rapid population growth concerns the whole world because it will affect the quality of life of future generations.

As the Agency for International Development pointed out in its November 9, 1976, report to Congress, excessive population growth—

Places additional burdens on food production;

Creates greater demands on inadequate health care and education facilities;

Increases unemployment;

Contributes to urban migration and attendant problems;

Accelerates the use of limited natural resources;

Could severely restrict the earth's ability to support life, and;

Is conducive to political and civil disorders;

The Worldwatch Institute in "Twenty Dimensions to the Population Problem" notes—

With the exception of the population-food relationship, population studies have been pursued mainly by demographers who have succeeded in clarifying those human aspects of the population equation that are quantifiable. . . . Because the implications of poplation growth embrace so many disciplines, they have been the primary focus of almost none.

The list of likely effects of continued accelerated population growth which is compiled by the Worldwatch Institute is even more disturbing than that of AID.

A recent National Academy of Sciences study, "In Search of Population Policy—Views From the Developing World," concludes:

An apparent point of consensus that did emerge [from international seminars sponsored by the NAS] was that national governments could and should use public policy to change demographic variables of their populations. Apart from this, however, there was great diversity of opinion on the types of policy instruments to use, the degree of coercion versus voluntary acceptance, and the objectives of populations policies. The Committee then perceived three major points of agreement on future policies:

1. There is a need for policies to deal with internal population distribution and effective means to implement them.

2. There is strong sentiment for better and more effective policies (and, by inference, expenditure) to reduce mortality and morbidity.

3. Regardless of a government's position on fertility, there must be policies and programs that are responsive to current existing problems created by rapid population growth.

In short, these organizations are all expressing the need for a population policy within our own Government.

The measure we are considering today would authorize a select committee of 16 members and their staffs to conduct a full and complete investigation of: First, the major adverse effects of current population growth throughout the world and their implications for the United States; second, approaches which have been shown to be effective in coping with excessive population growth, with emphasis on those measures designed to reduce the frequency of conception rather than the termination of pregnancy, and on educating populations to the need for such measures; and third, ways to encourage countries with excessive population growth rates to adopt those methods which have proven to be successful in reducing population growth rates.

It is apparent that without a meaningful population policy and cooperation on an international scale in this area the rest of our development assistance will have little impact.

Mr. Speaker, I urge the establishment of a Select Committee on Population in the House.

WELFARE REFORM SUBCOMMITTEE: ANNOUNCEMENT OF RULES AND HEARING DATES

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

Mr. CORMAN. Mr. Speaker, on September 7, the Speaker of the House announced the membership of the Welfare Reform Subcommittee of the Committee on Agriculture, Committee on Education and Labor, and Committee on Ways and Means. This subcommittee was established to initiate House consideration of the administration's welfare reform proposal.

The Welfare Reform Subcommittee held an organizational meeting on September 14 and approved certain rules and procedures to govern its deliberations. Following the rules of the House, I request permission to print the rules of the Welfare Reform Subcommittee, as approved on September 14, 1977, in today's RECORD.

I include in todays RECORD a press release announcing 2 days of hearings, September 29, 30, 1977, during which the subcommittee will receive testimony from Members of Congress.

RULES OF THE WELFARE REFORM SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE, THE COMMITTEE ON EDUCATION AND LABOR, THE COMMITTEE ON WAYS AND MEANS

RULE NO. 1. IN GENERAL

The Rules of the House are the rules of the subcommittee so far as applicable, except that a motion to recess from day to day is a motion of high privilege in subcommittee.

RULE NO. 2. REGULAR AND SPECIAL MEETINGS

(a) A minimum of 3 days notice of regular meetings and hearings of the subcommittee shall be given to all members, except that the chairman, acting on behalf of the subcommittee, may schedule a meeting or hearing for the consideration of emergency matters at any time. As much notice as possible will be given to all members when emergency meetings or hearings are called.

Copies of bills and reports or other written materials to be considered by the subcommittee are to be sent to members of the subcommittee at least one day in advance of consideration by the subcommittee, except in cases of emergencies.

(b) At all subcommittee meetings and hearings, the subcommittee members, after the chairman and ranking minority member of the subcommittee, shall be seated as follows: first, the committee Chairmen and ranking minority Members of the Committee on Agriculture, Committee on Education and Labor, and Committee on Ways and Means, in order of their seniority in the House; second, the subcommittee chairmen and ranking minority members of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture and the Subcommittee on Employment Opportunities of the Committee on Education and Labor, in order of their seniority in the House; followed by the other members of the Subcommittee, in order of their seniority in the House. Among members of equal seniority, seating shall be alphabetically.

RULE NO. 3. OPEN MEETINGS

As required by Clause 2(g), Rule XI of the Rules of the House, each meeting for the transaction of business, including the mark-up of legislation, of the subcommittee shall be open to the public except when the subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public. No person other than members of the subcommittee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public. This provision does not apply to any meeting that relates solely to internal budget or personnel matters.

RULE NO. 4. RECORDS AND ROLLCALLS

(a) The result of each rollcall vote in any meeting of the subcommittee shall be made available for inspection by the public at reasonable times at the subcommittee offices, including a description of the amendment, motion, order or other proposition; the name of each Member voting for and against, and whether by proxy or in person, and the Members present but not voting.

(b) All subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as Chairman of the subcommittee; and such records shall be the property of the House and all Members of the House shall have access thereto.

(c) A rollcall vote shall be demanded by one-fifth of the Members present, but no more than 4 members shall be required to demand a rollcall vote.

RULE NO. 5. PROXIES

A vote by any member in the subcommittee may be cast by proxy, but such proxy must be in writing and in the hands of the chief clerk of the subcommittee during each rollcall in which such member's proxy is to be voted. Each proxy shall designate the member who is to execute the proxy authorization and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assign-

ing his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. The member does not have to appear in person to present the proxy.

RULE NO. 6. QUORUM, AND QUORUM FOR TAKING TESTIMONY AND EVIDENCE

A majority of the subcommittee constitutes a quorum for business. Provided, however, that two members shall constitute a quorum at any regularly scheduled hearing called for the purpose of taking testimony and receiving evidence.

RULE NO. 7. WITNESSES

(a) Witnesses who are scheduled to appear before the subcommittee shall file with the clerk of the subcommittee at least 48 hours in advance of his appearance a written statement and written summary of his proposed testimony and shall limit his oral presentation to a summary of his statement unless this provision is waived by the Chairman. Witnesses shall provide sufficient copies of his statement to the clerk for distribution to members, staff and news media.

(b) When any hearing is conducted by the subcommittee upon any measure or matter, the minority party members on the subcommittee shall be entitled, upon request to the Chairman by a majority of those minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

RULE. NO. 8. QUESTIONING OF WITNESSES

Subcommittee members may question witnesses only when recognized by the Chairman for that purpose. All members shall be limited to five minutes on the initial round of questioning. In questioning witnesses under the five minute rule, the Chairman and the ranking minority member may be recognized first after which members may be recognized in the order of their arrival at the hearing. Among the members present at the time the hearing is called to order, seniority shall be recognized. In recognizing members to question witnesses, the chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority or the minority.

RULE 9. RECORDS OF HEARINGS

An accurate stenographic record shall be kept of all testimony taken at a public hearing. Witnesses may, in the presence of a member of the subcommittee staff and at reasonable times in the office of the subcommittee, examine the transcript of his own testimony and may make suggestions to the staff to correct grammatical or technical changes as will not substantially alter the record of the testimony. In instances where the witness is from out of town, and where it will contribute to a more complete record and/or expedite the printing of the hearing, the appropriate portion of the transcript may be transmitted to the witness by the staff for correction and immediate return. Members shall correct their own testimony and return transcripts as soon as possible after receipt thereof. The Chairman may order the printing of the hearing without the corrections of a witness or Member if he determines that such Member or witness has been afforded a reasonable time to make such corrections and that further delay would impede the consideration of the legislative action which is the subject of the hearing.

RULE NO. 10. BROADCASTING OF SUBCOMMITTEE HEARINGS

The rule for the broadcasting of subcommittee hearings shall be the same as Rule XI, clause 3 of the Rules of the House of Representatives.

RULE NO. 11. STAFF

The staff of the subcommittee in general shall consist of members of the staffs of the several committees represented as shall be detailed temporarily to this subcommittee. More particularly, the staff of the subcommittee shall consist of such staff members of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means as shall be designated by the Chairman of that Subcommittee; such staff members of the Committee on Agriculture as shall be designated by the Chairman of that Committee; and such staff members from the Committee on Education and Labor as shall be designated by the Chairman of that Committee. Minority staff members shall be those designated by the ranking minority member of each of the foregoing committees or subcommittee. Staff shall be under the general supervision and direction of the Chairman and Ranking Minority Member of this subcommittee.

RULE NO. 12. DESIGNATION OF CLERK OF THE SUBCOMMITTEE

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the subcommittee shall act as the clerk of the subcommittee.

RULE NO. 13. OTHER PROCEDURES AND REGULATIONS

The chairman of the subcommittee, in consultation with the ranking minority member when possible, may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the subcommittee, provided that such procedures and action are not inconsistent with the foregoing rules of the subcommittee or the rules of the House.

WELFARE REFORM

Representative James C. Corman (D., California), Chairman of the Welfare Reform Subcommittee, today announced that the Subcommittee will conduct two days of hearings on the Administration's welfare reform bill (H.R. 9030) on Thursday and Friday, September 29 and 30, 1977, to receive testimony from Members of Congress. Witnesses during these two days will be limited to Members of the House and Senate.

The hearings will begin at 10:00 a.m. each day. The hearing on Thursday, September 29, will be held in Room 1100 Longworth House Office Building, the Main Hearing Room of the Committee on Ways and Means. The hearing on Friday, September 30, will be held in Room 2175 of the Rayburn House Office Building, the Main Hearing Room of the Committee on Education and Labor.

The Welfare Reform Subcommittee will conduct further hearings later in the year to receive recommendations and comments from the general public. The dates of these additional hearings will be announced in a subsequent press release.

Those Members of Congress wishing to testify should submit their request to be heard to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, Room 1102 Longworth House Office Building (telephone: x53625) by the close of business Monday, September 26, 1977. Or, those Members of Congress who wish to do so may file a written statement for the printed record of the hearings. Those Members who will appear in person must submit 75 copies of their prepared statement, including a written short summary, to the Main Office of the Committee on Ways and Means, Room 1102 Longworth House Office Building, 48 hours in advance of the appearance. Those Members who will file a written statement for inclusion in the printed record should submit five copies to the above office by the close of business Friday, September 30.

Confirmation of date of appearance will be made to the Members' offices shortly after the cutoff date.

NEUTRON WARHEADS AND HOW OUR NATO ALLIES VIEW THEM: THE SITUATION IS FAR FROM CLEAR

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 10 minutes.

Mr. DODD. Mr. Speaker, one of the major questions regarding neutron warheads is what position our NATO allies, individually and collectively, have taken about production, deployment, and other issues related to these tactical nuclear weapons.

Congress has been unable to receive official, written confirmation of either endorsement or opposition by our allies to these enhanced radiation weapons.

We have had to rely primarily on statements by our own Government, mainly from the State and Defense Departments and the Army, and on press reports, as to how our NATO partners view the complicated issues surrounding enhanced radiation warheads.

I think Congress and the executive branch must carefully consider the positions of our allies about neutron warheads before we go forward with a decision to produce such weapons.

This is true, because the NATO countries, as the expected battleground for any tactical nuclear war, will be the most directly affected by the deployment and possible use of enhanced radiation weapons.

It is also true, because Congress has been urged to approve production funds for neutron warheads, in part because we have been told by the Army that our NATO allies are "enthusiastic" about these weapons and have "endorsed" them.

It is true, because what we are told in official statements from the State and Defense Departments, and the Army, appears to conflict in varying degrees with what we are officially told by the NATO governments and with what we are reading in the American and foreign press as of how NATO supposedly regards neutron warheads.

It is true. because there has been a report that indicates someone as knowledgeable as the last Secretary of State, Henry Kissinger, might have doubts about the wisdom of deploying neutron warheads. This would suggest that we ought to weigh more carefully whatever military benefits, if any, arise from these warheads against their possible diplomatic costs.

And it is further true, because when we finally decide whether to spend our taxpayers' hard-earned money, we should

do so knowing about the risks that we might waste it. I for one, would not appreciate spending millions of dollars on weapons of which our NATO allies want no part, thus necessitating they be stored here where they would be essentially useless.

I am not saying that this is the position of our allies toward these warheads, Mr. Speaker, but I am saying we should be a great deal more certain what is their true position before we march onward.

In that regard, I think that Congress needs more examination of the diplomatic and foreign policy implications of production and deployment of neutron warheads. The proper forum for that examination would be indepth hearings where representatives from the State and Defense Departments and the Army might be questioned.

It is partially for these reasons, and to allow Congress the time to conduct such further examination, that I will propose an amendment to H.R. 6566. The authorization for ERDA's national security programs including the neutron warhead.

I hope my colleagues will see fit to support my proposal, and I shall demonstrate the need for this additional congressional consideration as I continue my remarks on the views of our allies toward enhanced radiation weapons.

To better assess how NATO regards neutron warheads, and to provide this information to Congress, I requested statements from the Defense and State Departments, wrote personally to the governments of every NATO country, and began culling the American and foreign press for reports and comments.

The results of this effort have been intriguing to me, Mr. Speaker, and I shall share them with my colleagues.

From the State Department, I received a letter which describes what appear to have been comprehensive briefings and discussions among NATO allies about U.S. plans for production and deployment of neutron weapons.

From the Army, I received a neutron warhead fact sheet stating development of these weapons "is indorsed and supported by NATO allies."

The Office of the Deputy Assistant to the Secretary of Defense for Atomic Energy sent me extracts of the final communiques issued after six of the more recent half-yearly meetings of the NATO nuclear planning group, which deals with the alliance's nuclear deterrent and defense postures.

According to these statements, the nuclear planning group has been discussing technological improvements for NATO's nuclear weapons and the wider political and military implications of new weapons technologies as far back as a June 1974 meeting in Bergen, Norway, and as recently as its latest meeting on June 9, 1977, in Ottawa, Canada.

The technological improvements discussed included neutron warheads, a spokesman in that Office of the Defense Department indicated to me.

We have read in the newspapers that the NATO commander, our own Gen. Alexander M. Haig, has been quoted as saying the allies already have given "enthusiastic support" to the neutron warheads.

That is one side of the coin, Mr. Speaker—the more definite, and if we are to believe it, the more positive side.

There is a negative side, as indicated in official communications to me by key NATO nations, and in foreign and American press reports.

These communications and press reports raise serious questions as to the foreign policy and diplomatic ramifications of producing neutron warheads, the depth of commitment and agreement among NATO nations as to their utility and propriety, and the actual amount of consultation that has taken place so far about them between this country and its allies.

The conflicting versions of purported realities leave me with the feeling that Congress should spend more time and effort assessing what is the truth before we approve full-scale production of enhanced radiation weapons.

First, there is a July 19 article in the Washington Post entitled "Kissinger Reportedly Unaware of Neutron Weapons Decision."

This story quotes unnamed sources as saying the former Secretary of State has stated that difficult diplomatic problems would be caused by deployment of neutron warheads to NATO countries. The story continues:

He reportedly has said his decision on whether the weapons should be produced would hinge on weighing the additional deterrent value they create against the diplomatic problems they raise.

The Post article further quotes an unnamed, current White House aide who said the West Germans were "not tremendously enthusiastic" at U.S. briefings last year about neutron weapons. It quotes a present spokesman for the West German Embassy as disagreeing with General Haig's claim of enthusiastic support "as far as the German side is concerned."

I think Congress might find it instructive to ask former Secretary Kissinger and General Haig to testify at hearings to determine the accuracy of this report, to obtain their expert advice on these issues, and perhaps, in the general's case, to explain the basis for his "enthusiastic support" remark.

I would place this newspaper article in the RECORD at this point:

KISSINGER REPORTEDLY UNAWARE OF NEUTRON WEAPONS DECISION

(By Walter Pincus)

Former Secretary of State Henry A. Kissinger was not aware of the Ford administration's decision last November to produce a new generation of neutron weapons for use by NATO forces, according to informed sources.

Kissinger, according to these sources, has said that difficult diplomatic problems would be raised by deployment to NATO countries of neutron artillery shells and missile warheads designed to kill enemy forces primarily by radiation and thus reduce the collateral blast and thermal damage to Western European towns and cities adjacent to a battlefield.

Kissinger's reported concerns were echoed yesterday by a White House aide who said U.S. briefings of NATO allies on the neutron, or enhanced radiation, weapons last year found the West Germans "not tremendously enthusiastic."

With current nuclear weapons, the general public understanding in Europe is that they would be used in East Germany or other Communist countries.

"The neutron weapon decision," one Capitol Hill aide said yesterday, "will open up something kept under the rug—we're going to fight any tactical nuclear battle on West German soil."

In last week's Senate debate, which ended with a vote for funds for the neutron weapons, supporters argued that since the weapons could be used in allied territory, they were more credible deterrents.

Last week, when the Carter administration was pushing successfully for Senate approval of neutron weapon production money, NATO Commander Gen. Alexander M. Haig said the allies had given the neutron weapons "enthusiastic support."

A spokesman for the West German embassy yesterday took issue with Haig's remarks, saying, "I could not agree as far as the German side is concerned.

"Public discussion only now is picking up steam, and there is no clear-cut opinion yet."

During West German Chancellor Helmut Schmidt's visit to Washington last week, he twice ducked reporters' public questions on the neutron weapons. Both times he said more study was needed before any deployment took place.

On Sunday, Egon Bahr, executive secretary of the ruling Socialist Democratic Party, wrote in the party's newspaper that plans to produce a neutron weapon were "a symbol of mental perversion." It was the first critical comment on the issue by a major political figure in the Bonn coalition.

As long as the decision to produce and deploy neutron weapons was secret, there was no pressure to deal with the foreign policy implications of the weapons.

A White House spokesman emphasized yesterday that the neutron artillery shells and Lance missile warheads had been classified secret primarily "to protect nuclear weapons design" and not to hide their production from the U.S. or European public.

He noted, however, that in the past the United States has kept secret its deployment of nuclear weapons "because of their impact on the host government . . . Some have traditionally shown sensitivity to the idea of our nuclear weapons there."

Kissinger reportedly believes that sensitivity would be more severe with the neutron weapons since they are specifically planned for use on allied soil.

He reportedly has said his decision on whether the weapons should be produced would hinge on weighing the additional deterrent value they create against the diplomatic problems they raise.

The interagency discussions that preceded last year's Ford administration production decision reportedly did not center on whether conventional or neutron weapons should be built to meet the threat of Soviet tank forces in Central Europe.

"The State Department was always attentive to the basic deployment problem," a White House participant in the discussions said yesterday, "but Kissinger would not have been brought into the production decision. He was aware of the concept, however."

The emphasis, both in the White House process and in U.S. briefings to the NATO Planning Group, which is concerned with nuclear weapons, was "on numbers and safety features," an aide said, with less emphasis on the radiation features.

The NATO participants, which this source said were at the defense minister level, "were enthusiastic about the numbers of weapons to be produced, not what kind of weapons they were."

"They liked modernizing," the source said, "but that doesn't mean they were crazy about enhanced radiation."

Publicity about the new neutron weapons has forced the Carter administration to conduct a special study of the "questions [that] production and development of these [neutron] warheads pose," a White House aide said yesterday.

Senior policy officials from the State Department along with officials of the Arms Control and Disarmament Agency will be consulted, he said, although the primary agencies involved are the Defense Department and the Energy Research and Development Administration, which builds nuclear warheads.

The National Security Council will prepare the final report for the President by Aug. 15. Carter is to make his production decision after reviewing that study.

Under current planning, a decision to deploy the weapons, even if Carter decides to go ahead, will not be discussed officially with NATO allies until next year.

Full production of the neutron artillery shells and Lance warhead is not scheduled to begin until July, 1979. If an unexpected snag should develop during the deployment discussion, production could be held up.

"We wouldn't go ahead if we couldn't send them to Europe," an administration official said yesterday. "We certainly don't want them here."

My letter to the NATO governments produced equally ambivalent responses. The responses I have received have ranged from nonanswers to very cautiously worded statements about avoiding premature positions on the subject of neutron warheads.

The most direct responses would seem to indicate there has been little detailed consultation among the NATO countries about enhanced radiation devices, despite discussions in the nuclear planning group about modernizing our tactical nuclear forces.

I will add one caveat, to even further complicate the situation, however. It is in the form of paragraphs written by the Frankfurt, Germany, correspondent for the Toronto (Canada) Globe & Mail on August 8, 1977. In an article headlined "Will Neutron Bomb Tip the Deterrence Scales?" the correspondent, John Gellner writes:

Anybody who watched the reaction in NATO circles to U.S. announcements about the imminent availability of a "neutron bomb" must have been struck by the discrepancy between the official and the unofficial not-for-attribution reaction.

The official reaction was generally guarded, noncommittal. The unofficial was unreservedly enthusiastic. At that, it clearly expressed governmental attitudes better than the circumlocution indulged in at the highest political level . . .

So the question then becomes who knows who is telling whom the truth about NATO's reactions to neutron warheads? Which official statements are accurate reflections of governmental positions? Which newspaper correspondents are receiving, and printing, the "straight" story?

I present this caveat as yet another example of the confusion and indefinite information surrounding the production decision for neutron warheads, and I do not think Congress should make such a funding decision with this situation as a background.

I think it is sufficient to state now that the European ambivalence toward neutron warheads, or the question whether there is this ambivalence, is enough reason for Congress to refrain from approving production until more substantial discussions take place in NATO.

I understand that these discussions have just begun, and that is a productive development, but until they conclude, and until Congress can evaluate their outcome, we ought to move more deliberately toward our own production decision.

It might be constructive for us to question our Representatives to these talks during a hearing.

Let me place a copy of my letter to the NATO countries in the RECORD and I shall summarize the responses:

WASHINGTON, D.C.,
July 13, 1977.

Maj. C. J. DAWNAY,
Assistant to the Defense Attaché of Great Britain, Washington, D.C.

DEAR MAJOR DAWNAY: As I am sure you are aware, the House of Representatives currently is considering legislation authorizing funds for production of enhanced radiation tactical nuclear warheads, also known as "neutron" warheads, intended for deployment with United States forces in Europe. The decision whether to authorize the funds is a Congressional decision, while the decision whether to actually produce the warheads is a decision President Carter must make.

Unfortunately, during recent weeks, these decisions, and the enhanced radiation warheads themselves, have been the subject of much controversy, misinformation and misunderstanding by the public, the news media, and some Members of Congress. Reasoned debate has, at times, given way to misleading editorializing in the press, for example. Also, Congress has been unable so far to obtain as much information as I believe is needed to fully and thoughtfully consider all the military, economic and foreign policy issues surrounding enhanced radiation warheads and their production and deployment.

I have been working with the appropriate agencies of our government—the Department of Defense, Department of State, Arms Control and Disarmament Agency, the Energy Research and Development Administration, etc.—in an effort to gather the additional, dispassionate information Congress needs to consider these issues. I intend to insert this information into the *Congressional Record*, and to introduce it during floor debate on the funding legislation, so as to inform my colleagues in the Congress, and the American public, of the real facts and policy questions which should be considered about enhanced radiation weapons. I am respectfully requesting your assistance, and that of your government as a NATO member, in this effort.

One of the major questions regarding enhanced radiation warheads is what positions our NATO allies, individually and collectively, take about production, deployment, and other related issues, of these tactical nuclear weapons. Congress has been unable to receive official, written confirmation of either endorsement or opposition by our allies of enhanced radiation warheads for Europe, and we only have press reports on which to rely about this. To remedy this situation, I am writing to the Defense Attaches in Washington, D.C. of all NATO nations so as to obtain this necessary information from official sources, and I would greatly appreciate if you could provide answers to the following questions. Your responses will greatly assist Congress in reaching a decision that will be in the best interests of the NATO Alliance and its individual member nations:

(1) What is your government's official position regarding the production, and deployment with U.S. forces in Europe, of enhanced radiation (neutron) tactical nuclear weapons, especially the enhanced radiation warhead for the Lance missile?

(2) Does your government think enhanced radiation nuclear weapons will strengthen NATO's force structure against the Warsaw Pact?

(3) Does your government think enhanced radiation tactical nuclear weapons will increase NATO's deterrence against a WARPAC attack? Why or why not?

(4) Does your government think enhanced radiation tactical nuclear weapons in NATO raise or lower the nuclear threshold between use of conventional forces and initiation of tactical nuclear strikes?

(5) Have representatives of your government been consulted by the United States regarding production and deployment of U.S. enhanced radiation tactical nuclear weapons in Europe? Who has been consulted and when? What was the outcome of such consultations?

(6) Did your government give its approval to such production and deployment?

(7) Will production and deployment of U.S. enhanced radiation tactical nuclear weapons cause your government to re-evaluate its contributions to strengthening NATO's conventional forces? Its own conventional forces? Will it cause your country to decrease its efforts to strengthen NATO conventional forces? Its own conventional forces?

(8) What is your government's position as to how production and deployment of U.S. enhanced radiation devices will affect NATO's negotiating positions in the Mutual and Balanced Force Reductions Talks? How will production and deployment of these weapons affect your own country's negotiating positions in these talks?

Since Congress is expected to begin its debate on enhanced radiation devices in the near future, it would be extremely helpful if I could receive your responses as soon as possible. I apologize for any inconvenience this might cause, and if I can provide any assistance in this regard, or if you have any questions about my letter, please do not hesitate to contact me personally, or my Legislative Assistant for defense policy, Peter Lennon, at 225-2076.

My thanks in advance for your consideration of my request and for your help. I shall look forward to your reply, which can be sent to me at 224 Cannon H.O.B., Washington, D.C. 20515.

Most cordially,

CHRISTOPHER J. DODD,
Member of Congress.

The responses from the permanent European members of the nuclear planning group—Great Britain, West Germany, and Italy—are the most important and illustrative. News reports about the German and British reactions also are thought-provoking.

As late as August 5, 1977, the West German Government still had no official position regarding the neutron warheads. However, the defense attaché at the Embassy here, Rear Adm. Kurt F.

Seizinger, provided me with transcripts of several statements Chancellor Helmut Schmidt and Defense Minister Georg Leber have made to the German press.

On the one hand, Defense Minister Leber is quoted as saying his country has "continuously been kept posted on the development—of the neutron warheads—for the past years * * * (July 22, 1977, interview on the German television network). Admiral Seizinger says in a cover letter to me that this interview with a prominent Bonn journalist "can be regarded as competent."

On the other hand, the Defense Minister is quoted by the Embassy in an interview with a German newspaper as saying:

The Europeans have not yet dealt with this subject in any great detail and there is not one German official in Brussels who would have been authorized to express any kind of view with regard to the neutron bomb on behalf of the Federal Republic of Germany (West Germany) (July 21, 1977).

Chancellor Helmut Schmidt, in another news interview transcript provided by the Embassy, is quoted as saying:

So far as I know, there have only been preliminary briefings on the neutron weapon within the alliance up to now (July 18, 1977)....

The chancellor is quoted further as stating that—

This new type of warhead presents considerable psychological-strategic problems, and that within our own alliance as well as in our relationship with the Warsaw pact. This problem needs to be clarified in joint consultations within the alliance.

He also is quoted as saying that—

The stationing of new types of weapons systems on German soil, whether conventional or nuclear weapons systems, has always been preceded by extensive consultations within the alliance. Whenever American weapons were concerned, the consultations were especially thorough each time the intention was voiced in America to station these new types of weapons on German soil.

Further American and German press reports exhibit the pattern of seeming contradiction.

The weekly German news magazine, Der Spiegel, in an article translated for me by the Library of Congress, reports that Defense Minister Leber "said he was 'angry' over the lack of briefing by his U.S. colleagues on the subject of the neutron bomb."

A Baltimore Sun story headlined "West Germans Debating Neutron Warhead (July 22, 1977)" Reports that Mr. Leber stated NATO groups have not specifically addressed the matter of neutron weapons. However, it also refers to a Bonn newspaper which quotes several German generals as saying enhanced radiation weapons had been discussed at meetings of the NATO nuclear planning group, of which Mr. Leber is a member.

This same story says that the defense committee of the West German Bundestag, or lower house of parliament, has already scheduled a discussion of the weapon after the summer recess. Parliamentary defense experts, however, are characterized as conceding that they need more information on which to act.

In an article entitled "Debate on Bomb Crown in Bonn (July 24, 1977)," the Washington Post reports from Germany that—

Bonn's acquiesence in allowing a new version of these weapons (all tactical nuclear weapons) to be deployed here cannot be taken for granted.

This comprehensive article also provides the following information:

A former West German general, Wolf Count Baudissin, is asking whether the U.S. lead in neutron warhead technology will cause delays in the mutual and balanced force reduction talks between NATO and the Warsaw Pact and in negotiating a comprehensive nuclear test ban treaty.

The defense spokesman for the combined conservative opposition parties in Germany, Manfred Woerner, defended neutron warheads on the grounds that their damage-limiting characteristics made them a more effective deterrent to Soviet attack. Mr. Woerner is quoted as saying neutron warheads would benefit NATO's strategy and meet "German interests."

A defense specialist in Chancellor Schmidt's own party, Alfons Pawelczyk, criticized NATO General Haig for publicly supporting the neutron warhead and giving the impression that NATO had already decided on its deployment.

Egon Bahr, general secretary of Schmidt's Social Democratic Party and a left-of-center political strategist seen as a major political figure, sharply attacked the Carter administration's plans to produce and deploy neutron warheads.

Chancellor Schmidt has insisted that more information was needed, that no firm U.S. or NATO plan had emerged and that it was too early for Bonn to take a stand.

I shall place the Baltimore Sun article in the RECORD here:

WEST GERMANS DEBATING NEUTRON WARHEAD

(By Michael K. Burns)

Bonn—West Germany has opened debate on the United State's new neutron warhead in an effort to thrash out a position on the weapon before Washington proposes its deployment here.

The new tactical weapon, which limits blast and fire effects and radiation fallout, would likely be based in West Germany to counter aggression from Communist Warsaw pact forces.

If President Carter approves production of the weapon next month, the neutron warhead is expected eventually to replace many of the 7,000 U.S. nuclear weapons now in Europe.

The defense committee of the West German Bundestag, or lower house of parliament, has already scheduled a discussion of the weapon after the summer recess. Parliamentary defense experts concede, however, that they need more information on which to act.

Chancellor Helmut Schmidt pointed out that so far discussions of the neutron device have centered on domestic U.S. budgetary decisions. No decisions affecting West Germany or the North Atlantic Treaty Organization have been made, he said, and only preliminary briefings on the subject have been made to NATO partners.

Georg Leber, the defense minister, stated that NATO groups have not specifically addressed the matter. But several German generals told a Bonn newspaper that the neutron weapon had been discussed at meetings of the nuclear planning group, of which Mr. Leber is a member.

At NATO's headquarters in Brussels, Germans appeared to welcome the relatively clean weapon as one that could limit damage and civilian casualties with considerably more than existing tactical nuclear armaments. Sources said there had been prior discussion of the weapon before it was discovered as an energy agency budget item in the U.S. this month.

The German debate was opened this week by Egon Bahr, the executive secretary of the ruling Social Democratic party, who said that the neutron bomb is a symbol of perverted thinking.

Because the weapon aims at sparing buildings from destruction instead of people, Mr. Bahr wrote in a party newspaper the scale of values had been turned upside down.

Mr. Bahr, a representative of the party's left wing, drew an indirect rebuke from Chancellor Schmidt. Mr. Schmidt criticized those who characterized the neutron warhead as a terrible new weapon. This is a false concept, he said.

But, the chancellor conceded, this new type of warhead has raised serious psychological strategy problems, not only in the Western alliance but also in relation to the Warsaw Pact.

The defense expert of the opposition party, the Christian Democratic Union, argued that the neutron weapon in Europe would make Western deterrence more credible. Manfred Woerner, the opposition expert, said the warhead would meet German interests by limiting material damage.

Military experts generally welcomed the technical advantages of the new nuclear weapons, whose high-radiation range could be limited to 1,000 meters and a duration of one or two days.

"I cannot explain the predominantly emotional reaction to the neutron warhead," said Wolf Count Baudissin, former inspector general of the armed forces. "Perhaps it is traceable to the sudden awareness of existing dangers or to anti-American sentiments or to opposition to the government and the armed forces."

But Count Baudissin also noted that such technical superiority would likely hinder negotiations with the Soviet Union on reducing conventional forces in Central Europe or limiting strategic nuclear weapons.

Chancellor Schmidt noted that consultations on the stationing of nuclear weapons on German soil have always been painstaking and particularly intensive.

Sources close to the government expressed concern that the new weapon which NATO officials hope to have in place in Europe 18 months after production begins, could revive the old arguments against all nuclear weapons on German soil, a viewpoint apparently reflected in the article of Mr. Bahr.

The British reaction to my letter is that the Government there "is satisfied with the consultations that have taken place so far" and that "the question of enhanced radiation warheads has been included in recent briefings in NATO."

However, the British Government has not yet taken a position on the deployment of neutron warheads, apparently because it feels such a position would be premature until President Carter makes up his mind, according to a letter I received from R. M. Russell, counsellor and head of chancery at the British Embassy in Washington.

Mr. Russell also met with me in my office just before the August district work

period began, Mr. Speaker. He agreed with me that discussions among NATO countries about neutron warheads are at the preliminary stages.

He further said that the "exact role of the neutron bomb, or whether it will have any role, is at this stage impossible to tell." He said there has not been either an endorsement or nonendorsement of neutron warheads by NATO and that the weapon is "just being considered as one of the possibilities for enhancing nuclear capabilities in Europe."

The British Government has not yet decided whether neutron warheads will strengthen NATO's force structure against the Warsaw Pact, Mr. Russell said. I was unable to determine whether he meant this is because the Government felt such a decision is premature or whether it questioned the military utility of the weapons.

The ruling Labor Party in Britain also could be confronted with a neutron warhead debate, since the London Sunday Times defense columnist wrote last month that some trade unions will raise the issue at the party's conference in October.

Italy, the final permanent European member of the nuclear planning group, still has not provided a detailed response to my letter, which was forwarded to Rome for comment. The same can be said for France, Belgium, Greece, Turkey, and Portugal. Although my letter also was forwarded to the capitals of those nations.

The Government of Norway sent a confidential response which I am not free to indulge in this statement.

Denmark views the U.S. development of neutron warheads, as a "strictly national matter," while Iceland, which has no defense forces, has no official position, although it usually agrees with whatever NATO decides.

In Canada, the government informed me that parliament was told by Prime Minister Pierre Trudeau and Defense Minister Barney Danson that consultations with the United States have not taken place about neutron warheads.

The Government of the Netherlands informed me just last week that—

The Dutch Government has, at this moment, insufficient information about enhanced radiation tactical nuclear weapons to express a final opinion regarding this subject.

The Government said it is awaiting consultation with its NATO allies before taking a position. I shall insert the letter from the Dutch Government at this point in the RECORD:

WASHINGTON, D.C.,
September 12, 1977.

Mr. CHRISTOPHER DODD,
Member of Congress, Cannon H.O.B., Washington, D.C.

DEAR MR. DODD: Reference is made to your letter, dated July 13, 1977, regarding the position of the Dutch Government pertaining the enhanced radiation tactical nuclear weapons.

The Dutch Government has, at this moment, insufficient information about enhanced radiation tactical nuclear weapons to express a final opinion regarding this subject.

For this reason it is not yet possible to give you detailed answers to your questions at this time.

The Dutch Government will decide its position in due course when consultation of the NATO-allies has brought about more information and insight on this issue

Sincerely yours,

A. W. SCHULTE,
Colonel RNL Army, Military Attaché.

I also received a similar reply last week from the Government of Luxembourg.

Mr. Speaker, the record is clear that our allies are far from certain about either the advantages or disadvantages of neutron warheads. Adequate consultations among the NATO Governments do not seem to have occurred yet, and even President Carter has decided to postpone his production decision until he consults with our allies.

The NATO countries are devoting much more time and effort to studying this complicated issue before they take positions. I think that Congress, which has a responsibility to the American people—who will pay for the neutron warheads and rely on their military utility—should do likewise before approving production funding.

HUMAN RIGHTS AND CAPTIVE NATIONS: THEME OF 1977 WEEK

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, this past observance of Captive Nations Week stressed the intrinsic relationship of human rights and the captive nations. Those who unwittingly claim that we should be "even-handed" between the totalitarian Communist world and allies in our world as we pursue the objective of realized human rights are either ignorant of the former or guided by askewed motivations. The past Captive Nations Week has served to correct this unbalanced viewpoint somewhat.

As indicative of this, the following proclamation by Mayor William H. Hudnut III of Indianapolis and reports and articles in our media should be of interest to all Americans concerned with human rights on their largest scale—as appeared in the Kalamazoo Gazette, Santa Monica Evening Outlook, Whittier Daily News, the Rising Tide, New York News, the New York Times, Manchester Union Leader, Lexington, Ky. Herald, Knoxville News-Sentinel, Wheeling News-Register, and the Washington Star:

PROCLAMATION: "CAPTIVE NATIONS WEEK," JULY 17–23, 1977

Whereas: Peoples from the Danube to the Pacific and into the Caribbean are being held captive by totalitarian communist governments; and

Whereas: These peoples are being denied their human rights on all levels—the personal, the civil, and the national; and

Whereas: The captive nations concept and human rights are interlocked in our foreign policy, and these people look to the United States as the bastion of human rights; and

Whereas: The United States Congress, by unanimous vote, passed Public Law 86–90 establishing the third week in July each year as Captive Nations week and inviting the people of the United States to observe such a week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, therefore, I, William H. Hudnut, III, Mayor of the City of Indianapolis, do hereby proclaim July 17–23, 1977, as "Captive Nations Week" in Indianapolis, and call upon all citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

CAPTIVE NATIONS WEEK PROCLAIMED BY CARTER

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

CAPTIVE NATIONS WEEK PROCLAIMED

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

CAPTIVE NATIONS

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week." The week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

CARTER CUSHIONS CAPTIVE NATIONS COMMITMENT

(By William Gertz)

What do Dwight Eisenhower, John F. Kennedy, Lyndon Johnson, Richard Nixon, and Gerald Ford have in common? All of these former presidents issued proclamations of American solidarity with the cause of freedom for the Communized nations of Eastern Europe by designating the third week in July as National Captive Nations Week. Since 1959, when Congress passed Public Law 86–90 which "authorized and requested" the President to issue an annual proclamation, the Chief Executive has spoken out for millions of Americans whose ancestral homelands have been overrun by totalitarian Communism.

However, the President's commitment to the liberation of the captive nations seems to be tragically weakening. It was to Jimmy Carter's advantage when Gerald Ford flubbed a nationally televised debate by declaring that Eastern Europe was not dominated by Soviet armies. Yet, in a near-blunder, that would have been comparable to former President Ford's artless snubbing of Alexander Solzhenitsyn, President Carter, who later reversed his decision under pressure, had planned to become the first president in 18 years not to issue a Captive Nations Week proclamation.

Several months ago the chairman of National Captive Nations Committee, Prof. Lev E. Dobriansky, wrote President Carter on the significance of Captive Nations Week and the importance of the presidential proclamation. After weeks of bureaucratic runaround, the Committee was informed on July 15, two days prior to the observance, that no presidential proclamation would be issued.

Dobriansky expressed his dismay in a pointed letter to President Carter. In the letter, sent on Monday of Captive Nations Week, he stated: "Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your five predecessors, you chose to ignore this traditional annual observance of Captive Nations Week . . . We are appalled by your indifference."

The letter was the spearhead for a campaign by concerned ethnic groups and Congressional leaders to pressure Carter to change his mind. As a result, President Carter reversed his decision and on Wednesday, July 20, issued a proclamation. The proclamation, however, failed to mention the Soviet domination of Eastern Europe or the atheistic ideology of Communism that is forcibly imposed on the predominantly religious people of Eastern Europe.

Foreign policy analysts have indicated that the President's handling of the Captive Nations proclamation lends further evidence showing that the confrontation between Carter and Brezhnev is becoming a Carter Administration assuagement of the Soviet Union. Some suggest that Carter is attempting a last-ditch effort to save U.S.-Soviet detente. Other indications of the Administration's backsliding can be seen in recent events: the scrapping of the B–1 bomber and Minuteman III missile production and the elimination of a proposal that would have advanced the guidance system for the present Minuteman II ICBM's.

Carter Proclaims Captive Nations Week

WASHINGTON.—President Carter yesterday signed the annual proclamation designating Captive Nations Week. Acting belatedly, Carter proclaimed the week that began last Sunday is one calling for special observances "demonstrating America's support for those who seek national independence, liberty and human rights." Such proclamations have been issued each year since 1959.

It's Captive Nations Week

WASHINGTON, July 20.—President Carter today proclaimed this week as Captive Nations Week and asked Americans to demonstrate their support for peoples seeking national independence, liberty and human rights. His action was based on a resolution adopted by Congress in 1959 asking the President to designate the third week in July as Captive Nations Week to emphasize disapproval of the Soviet Union's takeover of the Baltic states and the emergence of Communist governments in Eastern Europe, China, Cuba, North Korea and North Vietnam.

Carter's Captive Nations Snub Sparks Dismay in Washington

(By Edith K. Roosevelt)

WASHINGTON.—Consternation and dismay is continuing to be registered in political circles here over President Jimmy Carter's unprecedented failure to issue a proclamation honoring Captive Nations Week which began last Sunday.

Captive Nations Week, based on a unanimous Congressional Resolution of July 17, 1959, which became public law 86–90, expresses the American government's appreciation of the plight of the nations under Communist domination. As expressed in the Ukrainian Bulletin of July–August 1968, "This proclamation has been a barometer of an administration's firmness towards communism," and as such has been of special interest to the approximately 5 million Americans with an ethnic heritage from lands under Communist domination.

Sen. John A. Durkin (D–N.H.) said "A failure by this Administration to recognize and honor captive nations week would be an insult to Polish Americans, Lithuanian Americans, Hungarian Americans, and all other American citizens who trace their roots to countries now enslaved by dictatorial rule."

In a strongly worded statement to the Union Leader, Durkin said, "I am personally shocked at this slap in the face to so many American citizens and I simply cannot understand how this Administration, which has professed a commitment to human rights, could ignore this important memorial week.

"I hope that other members of the Congress and the American public make it clear to the White House that a great disservice would be done to millions of ethnic Americans by a failure to commemorate Captive Nations Week."

Republican circles expressed astonishment concerning the lack of consistency involved in President Carter's seeming concern for human rights in foreign countries and his failure to express sympathy or recognition for the aspirations towards justice and freedom of persons under Communist rule. Rep. James C. Cleveland (R–N.H.) told the Union Leader in a personal statement:

"If President Carter has not or will not issue a statement, I am astonished. I am also perplexed. My reason for being astonished and perplexed is that I thought I heard President Carter make some remarks about human rights and as far as I am concerned that is what it is all about in Eastern Europe and elsewhere."

Pete Teeley, director of communications at the Republican National Committee, said that the Committee was preparing a statement on the issue. However, a committee spokesman and political analyst commented in a personal interview.

"The irony of this is that he (President Carter) was running around during the Presidential campaign criticizing President Ford's stand on Eastern Europe when he made a slip to the effect that the Poles were not under Russian domination . . . He (Carter) must have banged him (Ford) around on this for a week and yet how is it for the first time he has the opportunity to pay tribute to these heroic people and he ignores them?"

Knowledgeable obsevers in both parties believe that the omission, even if at this late date it is hastily rectified, is likely to cause second thoughts about the President among the nationality groups—Cubans, Poles, Ukrainians, Hungarians, and others who as a whole generally vote Democratic in such big cities as Philadelphia, Chicago, Detroit and St. Louis.

In a telegram sent to the President last Sunday, Dr. Lev H. Dobriansky, chairman of the National Captive Nations Committee which has chapters nationwide, said:

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly record, Dobriansky continued, "it may be a cosmetic 'first' but it also a new loss in this basic barometer of our foreign policy course toward the imperial, totalitarian part of the world."

Vera A. Dowhan, executive secretary of the National Captive Nations Committee, in writing to Carter, referred to the President's human rights policy as "inconsistent."

"You have earned for yourself a distinct privilege of being the first President ever to remove one of the Kremlin's greatest concerns, U.S. recognition of the existence of captive nations in the world. . . . It is small wonder then that your inconsistent attitude for 'human rights' pressed for diplomatic relations with Red China with its 'human rights' at the expense of a friend and ally, the Republic of China; friendship with Castro's Cuba with his 'human rights' policy; withdrawal of U.S. ground forces from South Korea so that the Communist North with its 'human rights' may liberate the South; and material assistance to Marxist Mozambique with its 'human rights'. . . . freedom loving peoples deserve more than your illogical 'human rights' patronage."

With each passing year, the Presidential Proclamation of Captive Nations Week has been progressively weaker, touched more and more in terms not to offend the Kremlin. But this would be the first year that issuance of the proclamation—always issued well in advance of the Captive Nations Week—is omitted altogether.

The annual Presidential proclamation has traditionally been succeeded by proclamations by state legislatures, governors, mayors and national leaders and U.S. organizations concerned with the national security.

Tirades and attacks on these observances from Moscow have been persistent and vehement and since 1959 the Soviets have—hitherto unsuccessfully—sought to dissuade our nation from recognition of the existence of these Captive Nations.

Captive Nations Week

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement after being reminded by the National Captive Nations Committee that the week traditionally is set aside for commemorating the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

Ethnics Force Carter To Issue Writ About Captive Nations

(By Ted Knap)

WASHINGTON.—President Carter changed his mind and issued a Captive Nations Proclamation because the Kremlin hath no fury like American ethnic voters scorned.

Every year since 1959, U.S. presidents have proclaimed the third week of July as Captive Nations Week, in accord with a joint resolution adopted by Congress.

Last week, when it became time to issue the proclamation, Carter decided to break with tradition.

A National Security Council official who worked on the matter said Carter decided not to issue the proclamation because he felt it

would be "superfluous and unnecessary" and because he was "a little bit" concerned it might further offend the Soviet Union.

The Soviets already had accused him of intervening in their domestic affairs with his publicized campaign for human rights. The campaign has become more subdued since the Kremlin called Carter an "enemy of detente" and rejected his proposals for a treaty limiting nuclear arms.

When American ethnic groups and congressmen representing ethnic districts heard of Carter's decision, they raised hell in several languages.

The National Captive Nations Committee said it was "appalled."

Chairman Lev. E. Dobriansky made public a strongly worded letter to Carter.

"Your indifference to this concrete issue," Dobriansky wrote, "reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

Dobriansky noted caustically that Carter had issued a Captive Nations Proclamation when he was governor of Georgia and had attacked President Ford for saying mistakenly in their second campaign debate that "there is no Soviet domination of Eastern Europe."

Republican ethnic leaders girded for attack. Rep. Edward J. Derwinski (R-Ill.) prepared a statement saying Carter's silence on Captive Nations Week was a "contradiction to his human rights crusade." Several Democratic congressmen warned the White House that Carter's refusal to issue the proclamation would be seen by American ethnic voters as a sign of weakness and abandonment of their cause. Rep. Daniel J. Flood (D-Pa.) reserved an hour of time in the House yesterday to talk about captive nations.

In face of such overwhelming political pressure, Carter changed his mind and issued a hurriedly drafted proclamation yesterday declaring Captive Nations Week retroactively to Sunday.

The proclamation simply reaffirmed the traditional American belief in national self-determination, liberty and human rights. It did not mention the Soviet Union.

When President Eisenhower issued the first Captive Nations Proclamation 18 years ago, it bristled with indignation over people having been "made captive by the imperialistic and aggressive policies of the Soviet Communists."

The language was softened during the Kennedy and Johnson administrations, and by the time President Nixon established detente, direct references to the Soviet Union had been dropped.

A White House official said Carter did not consider this the "right occasion" for making an abrasive statement.

"CAPTIVE NATIONS" WEEK PROCLAIMED

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

WHY NO CAPTIVE NATIONS DECREE?

(By William F. Willoughby)

This has been Captive Nations Week and the chairman of the National Captive Nations Committee, which annually brings the plight of nations dominated by outside Communist control before Congress and the nation, is in a quandary why President Carter failed to proclaim Captive Nations Week.

Dr. Lev. E. Dobriansky of Georgetown University still has the question even though Carter reiterated his stance on human rights in speeches in Charleston, S.C., and at Yazoo City, Miss. Dobriansky is chairman of the committee.

He said that Carter's failure to give official status to the commemoration is a "new low" in American foreign policy.

Carter, notwithstanding his declaration that human rights is an integral part of American foreign policy, is the first president since 1959 to fail to proclaim Captive Nations Week since it was enacted into law in 1959.

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad," Dobriansky wrote in a letter to Carter.

"Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly," he wrote.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your five predecessors you chose to ignore this traditional annual observance of Captive Nations Week that has consistently given coherent expression to human rights on the scale of over 27 nations held in Communist captivity."

Dobriansky said that Carter's "indifference to this concrete issue reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy. We are appalled by this indifference."

On record, Dobriansky said, it may be a "cosmetic" first, "but it is also a new low in this basic barometer of our foreign policy course toward the imperio-totalitarian part of the world."

AFL-CIO president George Meany is honorary chairman of the committee.

LEGISLATION PROVIDING FOR SELECTION OF TRANSPORTATION SYSTEMS FOR ALASKAN CRUDE OIL

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, I am introducing today legislation to provide for the selection of transportation systems for Alaskan North Slope crude oil, and to expedite the permits and development to establish those systems. We in the Congress have seen before the extraordinary efforts that are called for to move important oil and gas resources from the remote fields of Alaska to the Continental States. In 1973 we passed the Trans-Alaska Pipeline Act, to help expedite completion of a crude oil system that would move North Slope production to Pacific Ocean shipping lanes. Now the trans-Alaska pipeline is pumping 600,000 barrels of oil a day to tankers at Port Valdez. By the 1980's 1.6 million barrels a day will move through the line. But in the midst of this feast, certain areas of our country are experiencing crude oil famine. And the economy is being burdened with high oil transportation costs in order that our Gulf Coast and Midwest areas be able to take advantage of the North Slope supply.

To solve these problems, the Nation needs at least one and possibly two crude oil pipelines running from the west coast to gulf coast and other Inland States, where refining and nationwide distribution facilities are available. Facilities in California, where the supply is now being sent, can absorb only a small portion of the Alaskan oil, and there is already a surplus of 200,000 barrels of oil a day at California ports that must be shipped at great expense through the Panama Canal to Texas. By the 1980's that surplus is likely to reach 700,000 barrels a day. Meanwhile, in our Northern Tier States—Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio—oil refiners are facing serious crude shortfalls. Montana, hardest hit of the Northern Tier States, may be short 35 percent of its crude demand next year. The Canadian Government, forced like all of us to plan for the deepening fossil fuel crisis, has had to curtail the crude oil it had been supplying the Northern Tier. The Northern Tier refiners must gain new supplies of crude from the west coast, and they must receive them soon, if they are to stay in business and if the consumers and industries of the country are to continue receiving their important fuels and products.

In at least one way we are fortunate. The Federal Energy Administration has determined that several proposals for such west to east crude oil transportation systems exist, which would distribute equitably our North Slope supplies, and crude from other Indonesian sources. At least one of these proposals—a crude oil pipeline from the port of Long Beach in southern California to the Texas refining and distribution center—is quite well along in its planning and permitting procedures.

But the proposals for a northern line to supply the Northern Tier have been stalled in financial, regulatory and governmental uncertainties.

I have come to a conclusion, shared by the Federal Energy Administration, the Department of Interior, and several of my colleagues in the House and the Senate, that the Federal Government should now step in and insure that the best possible oil pipelines are built quickly and efficiently. My legislation would solve these oil distribution problems.

I must admit though, Mr. Speaker, to another more local concern. I have a special interest in the Long Beach to Texas pipeline, because it would send crude oil supplies through my own State of Arizona. We are among the largest States in the Union that do not have any

home refining capability. I would like some independent, enterprising group to step in and siphon off some of this black gold so we can use it right in our own neighborhood. I know that my colleagues in the House will sympathize with my desire to see some more industry and some more jobs nestled into our mountains, deserts, and blue skies.

At this point, we can only estimate the magnitude of the benefits Arizona might receive, based on situations in other areas. Our State might provide a good market for a 30- to 50-thousand-barrel-a day refinery. A facility like this might bring the State $100 million in property value, and employ up to 200 construction workers for a year or more. During its operation, such a refinery might lead to the employment of 200 people, and gross around $6 million a year, to be added to the State tax base.

Once a petroleum supply was refined, the products would likely be marketed in the area, possibly providing lower cost gasoline, heating oil, residual fuel, and other products as a result of lower transportation and middleman costs. With a refinery around, we might be seeing a petrochemical plant started up to take advantage of the local petroleum feedstock. In addition to that direct capital base and employment, markets would develop for its plastics, fertilizers, or other products.

Facilities like these take large amounts of capital, and no one at this time could guarantee that they will be built. But the market is there; and if the Southwest pipeline were built, the crude supply would be there, too. And so, if it were determined that a Southwest oil pipeline would benefit the country, I want to help it along, and do something to provide an excellent opportunity for the people of Arizona.

Under my bill, deadlines would be set for Federal decisions on pipeline permit applications. In setting these deadlines, I have kept two important things in mind. One is that the Long Beach to Texas line is almost through the process, and there would be no sense in delaying what is expected to be an October 15 decision on those applications by the Secretary of the Interior.

The other consideration is that the Federal Energy Administration, having studied the oil distribution problem thoroughly, has concluded that even despite Canadian supply curtailments our short-term transportation capabilities will be adequate to give up time to fully consider the environmental and other impacts of all the northern proposals. While their permit procedures must be expedited, this must not be done at the expense of thorough and conscientious study of the northern alternatives to provide for the most beneficial, and least harmful, crude oil route.

To meet both these objectives, my bill sets an October 15, 1977 deadline for decisions on the Long Beach to Texas line; and a deadline of October 15, 1978 for the northern proposals.

Upon completion of the permit process, the Secretary of Interior, in consultation with the Department of Energy, would be directed to study all transportation system proposals and make a determination as to which best meet certain environmental and economic criteria.

The line or lines selected by the Secretary would then receive expedited rights of way and other authorizations, and would be subject to expedited judicial reviews of any court proceedings which may arise.

Federal assistance for these long and expensive pipeline projects should be available as part of a consistent, comprehensive and forward-looking national energy policy. We must have our crude oil supplies where they are needed, when they are needed, and this can only be accomplished through the efficient construction of deliberately placed transportation systems. I hope that my colleagues will join me in support of this bill to involve the Federal Government in such essential and timely decisions.

THIRTY-YEAR HUNT FOR ALLEGED ROMANIAN WAR CRIMINAL

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, the Immigration and Naturalization Service is investigating an alleged former student leader in Romania's Iron Guard. The subject of this investigation, Valerian Trifa, allegedly carried out a brutal pogrom against Romanian Jews. The charges against him are a grim reminder that we have not yet thoroughly sifted through the ashes of the holocaust.

A recent article by Bert Gaster, editor of the Connecticut Jewish Ledger, was based on an interview with the retired dentist who brought the Trifa case to national attention. I would like to share this article with my colleagues:

30-YEAR HUNT FOR ALLEGED RUMANIAN WAR CRIMINAL FINALLY REACHING CLIMAX

(By Berthold Gaster)

HARTFORD.—An 80-year-old retired dentist who has devoted the better part of the past three decades of his life to hunting down the man he says is former Rumanian Iron Guard leader Viorel Trifa, a Nazi war criminal, is about to see his labors bear fruit.

Dr. Charles H. Kremer of New York City has spent most of his waking hours since 1952 trying to convince authorities that Bishop Valerian Trifa of the Rumanian Orthodox Episcopate of America falsely entered this country as Viorel Trifa, a Disolaced Person, from Italy in 1950 and was naturalized as an American in 1951 by falsifying his Iron Guard background.

En route to his exalted position as head of the Rumanian Orthodox Church of the United States and Canada, with headquarters in Grass Lake, Mich., Bishop Trifa was turned from layman to bishop within a year's time, Dr. Kremer told the LEDGER last week in an interview resulting from a special trip he made to Connecticut.

As part of a recently-launched overall program of tracking down some 109 Nazi war criminals in this country, the Immigration and Naturalization Service is preparing to bring Bishop Trifa to trial in order to denaturalize him. Deportation proceedings then would have to be undertaken separately.

PREPARING FOR TRIP

In connection with those denaturalization proceedings, Dr. Kremer is preparing to undertake yet another extensive trip to re-visit key witnesses and centers of documentation in Israel and four European countries—all in an effort to provide U.S. authorities with incontrovertible proof that his charges against Trifa, gathered over the past three decades, are indeed based on fact.

To make this trip Dr. Kremer will need funds he does not have, having spent most of his money over the past 25 years on an exhaustive and frustrating search for justice.

Strengthening the government's case have been Dr. Kremer's repeated contacts with world-renowned Nazi-hunter Simon Wiesenthal, whose headquarters are in Vienna. Discovering that Wiesenthal and Trifa were in Buchenwald at the same time—although under different circumstances, Dr. Kremer insists—has provided the investigating dentist with a key witness.

In a separate but related action, Dr. Kremer—through various contacts with the National Council of Churches and, finally, aided by a students' sit-in at NCC offices in New York last year—has been trying to convince national church leaders that Trifa not only should not hold a membership on the NCC board, from which he now stands suspended, but should be defrocked.

Advised by William P. Thompson, NCC president, that he should voice his concern with the Primate of the Orthodox Church in America, Dr. Kremer and his associate in the war against Nazi war criminals and on behalf of Soviet Jews, Rabbi Stanley Greenberg of New York, are in the process of arranging a visit with the leader of the Russian Orthodox Church whose offices are in Syosset, N.Y.

Dr. Kremer told the Ledger this week that such a meeting should be held before the end of this month.

REVIEWS "INS FAILURE"

Congressman Joshua Eilberg (D-Pa.), chairman of the House Subcommittee on Immigration, Citizenship and International Law, in a letter to Dr. Kremer Aug. 23, stated that his committee had held one day of hearings earlier in August to "review the status of the Immigration Service's investigation of this subject (alleged Nazi war criminals residing in the United States) and to receive testimony from the General Accounting Office on the failure of INS to diligently pursue this matter for the past three decades."

Congressman Eilberg also informed Dr. Kremer that he and a staff member had traveled to Rumania during the past month to discuss with officials there "the need for that government's cooperation in obtaining additional evidence" in the Trifa case.

FEDERAL EXECUTIVE REORGANIZATION

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, tomorrow September 20, I shall deliver an address on "Federal Reorganization and Its Likely Impact on State and Local Government," at a Conference on Government Reorganization sponsored by the Woodrow Wilson International Center for Scholars in association with the Center for the Study of Federalism. I take this opportunity to share this ad-

dress with my colleagues and insert the text at this point in the RECORD:

FEDERAL REORGANIZATION AND ITS LIKELY IMPACT ON STATE AND LOCAL GOVERNMENT

(An address by Congressman JOHN BRADEMAS)

This conference on government reorganization and the Federal system is most timely. That President Carter has placed a high priority in his new administration on reorganization of the Federal executive makes it so. As the President said on April 6, 1977 in signing the Reorganization Act:

"I think of all the campaign speeches that I made throughout the Nation, the most consistent commitment that was made to the American people was that I would move as quickly as possible to improve the efficiency and the effectiveness and the sensitivity of the Federal Government bureaucracy in dealing with the needs of the American people." [1]

"(M)y administration," the President continued, "is determined to reorganize and streamline the executive branch of our Government." [2]

As part of this effort, the President created within the Office of Management and Budget a Reorganization Project and assigned it an ambitious agenda.

Here are the objectives stipulated for the Project:

Ensuring maximum efficiency and economy in Government. . . .;

Promoting more effective planning and coordination of government activities;

Simplifying Government;

Making Government more responsive;

Opening Government's proceedings;

Reducing fragmentation, overlap, and unnecessary paper work;

Developing incentives for increased productivity;

Giving managers the authority necessary to do the job and then holding them accountable;

Increasing the predictability and consistency of Government;

And, I would note with particular relevance for this conference,

Improving the relationships between Federal, State and local governments to ensure a balanced partnership and better coordination.[3]

It is not surprising that as the first former governor to become President since Franklin D. Roosevelt, President Carter has emphasized improving relations between the Federal government and State and local governments.

Moreover, Mr. Carter served as governor of Georgia during a period of rapid expansion of Federal programs that have considerable impact on State and local governments, and a hallmark of his administration there was a reorganization of the executive branch of the State government.

So the issues of reorganization and Federal-State-local relations seem as important to the President as they do to State and local officials, and I want to commend the Woodrow Wilson International Center for Scholars and the Center for the Study of Federalism on convening this conference to discuss a major commitment of the Carter administration and one that should be of concern to the entire Nation.

THE CONTEXT OF REORGANIZATION

Let me say at the outset that it will be my purpose here not so much to attempt to measure impacts of Federal reorganization on State and local activities as to make some observations about reorganization which I hope will be helpful to anyone interested in the subject.

I want first to warn that we must avoid the danger of considering too narrowly the effects of reorganization of the executive branch of the Federal government on State and local governments.

Let me here suggest some of the factors that constitute the broader context within which we should consider the issue of rewriting the table of organization of the Federal executive.

THE AMERICAN POLITICAL SYSTEM

Point Number One. The American Constitution and the political system of which it is a part were unique, and they are complex.

They are characterized by separated institutions sharing powers. Although responsive to different if at times overlapping constituencies, the President, Congress and the courts all have real influence in the decision-making process.

For example, reorganization focuses on decisions taken by the executive yet actions of Congress can produce policy despite and over executive branch objections.

Congress has itself initiated reorganizations of the executive. It was Congress that, in opposition to the views of the Nixon administration mandated by the location in the Department of Health, Education and Welfare of both the Rehabilitation Services Administration and the Administration on Aging.

In addition to the separation of powers, our system of governing is made more complex by our decentralized political parties. Members of the House and Senate, like governors and mayors, are not beholden to the President or to a national party organization. Our national parties are not highly disciplined structures but rather loose coalitions linked by ties of history, ideology, self-interest and our electoral mechanism. American parties are not consistently effective instruments for setting national policies in clear directions.

A third element that enriches the complexity of our governing processes is our Federal system, an ingredient of particular relevance to this conference. For the Founding Fathers, the Federal system embraced a national government exercising a limited number of specific powers and state governments retaining all those powers not delegated to the national government.

It is a truism that our Constitution has proved flexible enough to accommodate the changing needs of the nation and that we now have a system in which the national and state governments share many powers rather than there being two rigidly confined and exclusive spheres of authority.

The late Morton Grodzins aptly characterized our Federal system as a "marble cake". Said Grodzins, "Whenever you slice through it, you reveal an inseparable mixture of differently colored ingredients. There is no neat horizontal stratification. . . . So it is with Federal, state and local responsibilities in the chaotic marble cake of American government." [4]

The reality is still more complex than Grodzins' analogy. We do not today enjoy even the simplicity of a Federal-state-local arrangement. There are school boards, metropolitan governments, regional compacts and a variety of other special authorities.

And although there may be some activities in which there is a clear delineation of powers—national defense, for example, at one end of the spectrum and fire protection at the other—the marbled layer cake metaphor is useful to describe the overlapping of authority in other areas like education, pollution control and economic development.

So separation of powers, decentralized parties and a Federal system in constant flux are three elements fundamental to the context of our consideration of the impact of reorganization of the Federal executive on state and local governments.

REORGANIZATION: ONE AMONG MANY FEDERAL POLICIES

Yet I must compound further the complexity of the context by reminding you that Federal executive reorganization is only one among Federal policies that affect what state and local governments do.

Statutory formulas for distribution of Federal grants, revenue sharing and overall Federal pastures on urban, suburban and rural problems have a direct and significant impact on state and local governments.

Moreover, many general policies of the Federal government, policies not adopted with specific state and local concerns in mind, can nonetheless powerfully influence them. I cite only two instances of what I mean: the President's commitment to a balanced budget and to zero-based budgeting.

It must be obvious, too, that political developments at the national level such as change, after years of divided government in the partisan pattern of control of the Federal executive and legislative branches to control by the same party can have significant impact on the relationships between states and localities and the Federal government.

REORGANIZATION AND THE BROADER ENVIRONMENT

There is a third kind of factor which can shape the impact of Federal reorganization—the entire range of non-governmental social, economic and human variables. The rates of inflation and of the growth of GNP, the level of unemployment, the birth rate, the supply and price of OPEC oil—these are all elements over which the Federal government is not sovereign but that nonetheless have a profound impact on the entire layer cake of Federalism.

Finally, we cannot forget that in discussing government generally and reorganization specifically, we must take into account human behavior and personal idiosyncrasy. Members of the same Cabinet in an administration committed to executive reorganization may seek to meet that commitment in radically different ways.

To summarize, reorganization of the Federal executive is not a phenomenon that occurs in isolation; it takes place in and through a set of extraordinarily complex institutions and processes. Reorganization is only one among many Federal policies that shape relations with states and localities, and these relations are significantly molded too by factors outside or beyond the control of government.

You will not, in view of my analysis so far, be surprised at my admonition that we must not rush to attribute direct cause and effect correlation between Federal executive reorganization and its impact on state and local governments.

In like fashion and without deprecating the potential significance of reorganization, I would warn against any easy assumption that the problems of states and cities can be cured by restructuring of the Federal executive.

One cannot then predict with confidence the consequences of any given reorganization scheme. The title of a 1966 book on the subject makes my point: "It All Depends." [5]

A FEDERAL LEGISLATOR'S PERSPECTIVE

Having attempted to place my analysis in this broader context, I should like now to address more directly the question of the impact of Federal executive reorganization on state and local governments. I shall here interject that I believe that most of my observations apply as well to the impact of Federal reorganization on non-govern-

Footnotes at end of article.

mental institutions that are also affected by Federal programs, such as colleges and universities, hospitals and social service agencies.

As you know, I speak to you not as part of the executive branch but as a legislator and more particularly still as a Member of Congress who chairs a subcommittee with jurisdiction over Federal programs for education of the handicapped, vocational rehabilitation, older Americans, arts and humanities, child abuse prevention and treatment, libraries, educational research, alcohol and drug abuse education, and environmental education. I also serve on the subcommittee with responsibility for Federal student assistance and a variety of programs assisting colleges and universities.

I address you then as one of those who helped write a number of programs which have given rise to the new relationships in the Federal system.

REORGANIZATION FOR "GOOD GOVERNMENT"

Now the announced objective of Federal reorganization is to improve the performance of government. Reorganization, we are told, will make government more efficient, economical and effective. It will produce greater simplicity, uniformity, consistency and predictability. It will make government more open and responsive to public concerns. It will enable Federal executives to plan more intelligently and to exercise better control over their programs. In short, reorganization promises to "make government work" and to produce "good government". These objectives for reorganization are succinctly set forth in the statement of purpose of the President's Reorganization Project, which statement I earlier cited.

It is at this point that I feel constrained to voice a degree of skepticism about the pretensions of the backers of executive reorganization to achieve this litany of "good government" goals.

Let me express some of my reservations.

First, in pressing for reorganization, we must be aware of seduction by simple mechanistic analogies.

MECHANISTIC ANALOGIES

If we see government as a machine, we have the comfort of believing that with relative ease we can rearrange the gears, levers and rods and can understand, control and predict the results of our handiwork. But government is not a tinker toy or erector set or even a computer. We should seek our analogies not in the precise worlds of mechanics or physics but in the organic one of biology; reorganization is less like changing a carburetor than performing a heart transplant.

TRADE-OFFS

A second reason we should be skeptical of accepting at face value the promises asserted for reorganization plans is that reorganization involves inevitable trade-offs. All of the objectives of reorganization cannot be achieved simultaneously. Some of these goals point in opposite directions and are incompatible with others. For example, grouping related programs in order to eliminate overlap and duplication clearly implies a centralization of authority. On the other hand, making government more open and responsive to citizens suggests decentralization.

There is another trade-off in reorganization. Although it is supposed to make government perform better in the long run, in the short run reorganization often means disruption of established relations. On-going delivery systems and familiar forms and phone numbers cannot be replaced without a measure of delay and confusion. Anticipated improvements must be weighed against such losses.

Some reorganizations may, indeed, prove capable of producing the results represented for them. Federal programs may be able to help state and local governments operate more effectively, smoothly and efficiently. It is possible to mesh Federal purposes and accountability with state and local flexibility without undue friction or burden.

The most thoughtful analysis of the trade-off phenomenon of which I speak is an essay on reorganization by Herbert Kauffman in the recent Brookings Institution volume, *Setting National Priorities: The 1978 Budget*. Kauffman's article is a map of the minefield that Federal reorganizers must cross and he warns them:

"No given administrative pattern will inevitably increase efficiency, effectiveness, or responsiveness. . . . (N)obody should expect sudden, swift, dramatic diminishment in the size and cost of the executive branch of the federal government as a result of reorganization. . . . The 1977–78 controversies over government reorganization are only the opening skirmishes in what promises to be a long, hard, and frequently futile endeavor."[6]

REORGANIZATION POLICY

Beyond my reservations about both mechanistic analogies and insensitivity to the inevitability of trade-offs, there is a third reason that I am apprehensive about the representations made for reorganization. It is that too often reorganizers omit—some of them perhaps deliberately—an explicit recognition that reorganization of the executive branch of the government of the United States is not simply an exercise in improving the efficiency of government.

Reorganization is a fundamentally political act, not political in the partisan sense (although it may be) but political in that every organization—and every reorganization—means a distribution—or redistribution—of power and influence over the substance of policy.

A given table of organization allows some people to be more easily heard while closing the door on others—and access is power. A given organization focuses on some approaches to dealing with problems while ignoring others. A given organization in practice defines the issues the government will address.

Organization is not just management. It is policy, and in the American democratic system, policy is politics.

THE VOCATIONAL REHABILITATION AND AGING PROGRAMS

Let me illustrate my point with an example. My education subcommittee had some protracted and bitter battles with the Nixon administration over the question of where in the Department of Health, Education and Welfare the vocational rehabilitation program and the Administration on Aging should be located. In both these cases, the Nixon administration was attempting to consolidate programs to serve handicapped adults and the aging with the welfare programs in the Department. Beneath a surface rationality for these organizational changes were some crucial policy implications. Both the vocational rehabilitation and aging programs serve their target groups without regard to income. Putting these programs in the welfare bureaucracy was a step in the direction of making eligibility for vocational rehabilitation and services for the aging subject to a needs or poverty test. If the two became welfare programs, their potential clientele would be reduced.

For example, only the aging poor rather than all of the aging would have been served. This organizational change would also have diminished the political power of the handicapped and the aging, for a program with only poor clients has much less political influence than one which includes some middle income constituents. They are the ones who are the most politically active and articulate. Exclude the middle income group from eligibility and political support for the programs would correspondingly wane. Then cutbacks in funds for them would become easier, the basic Nixon objective all along.

To counter these goals of the executive branch, Congress insisted by law that vocational rehabilitation and the aging programs be kept out of the welfare bureaucracy and that their administrators report directly to the Secretary of Health, Education, and Welfare.

Another dimension of the same story was the Nixon administration's attempt to dilute the vocational rehabilitation program under which social services to handicapped persons are provided through a counselor system. The administration proposed that these counselors offer services not only to the handicapped but also to welfare recipients and others. Once again, a plausible contention that better use be made of an existing and effective delivery system concealed an effort to slash funds by loading new tasks on the vocational rehabilitation counselors. The proposed change threatened to swamp them and the rehabilitation system with new clients and to produce less rather than more effective services for everyone.

This struggle between my subcommittee and the executive branch has several other chapters, including, in our view—and I here note that Republicans on our subcommittee joined Democrats in this attitude—deliberate attempts by the executive branch to evade Congressional intent as embodied in laws that ran contrary to the administration's policy preference.

My point here, I trust, is clear. Members of Congress become deeply involved in reorganizational issues not because we enjoy drawing up organizational charts but because reorganizations directly affect the allocation of dollars, the location of the authority to spend them, and, most important, the purposes for which money will be spent. These are all questions that involve public accountability for the use of tax dollars and are, therefore, questions of deep and legitimate concern to Congress. Congress acts in these instances because of the clear and substantial policy, that is to say, political, implications of reorganization.

One other illustration of the point I am making was the struggle between Congress and the Nixon administration over its reorganization of the Office of Economic Opportunity. The issue here was certainly not one of cutting red tape and improving efficiency but rather the more fundamental question of whether the War of Poverty should be consigned to an early grave.

In all these cases, again to quote Kauffman, "The calculus of reorganization is essentially the calculus of policies itself."[7]

THE OFFICE OF HUMAN DEVELOPMENT

Because I have here cited instances of reorganization in which a Democratic Congress was at odds with a Republican administration, I must make clear that the willingness of Members of Congress—at least of this one—to criticize a reorganization effort is not confined to administrations controlled by the opposite party.

Only last week my education subcommittee sharply criticized an Assistant Secretary of Health, Education, and Welfare about a major reorganization of the Office of Human Development which was announced in late July.

By way of background, I must explain that at a hearing before our subcommittee in March of this year, I had questioned the Assistant Secretary for Human Development, Ms. Arabella Martinez, about her reorganization plans which had not then, she told the subcommittee, been formulated.

After a reminder to her that the subcommittee has jurisdiction, both legislative and oversight, over a number of the programs for

Footnotes at end of article.

which she had administrative responsibility, Ms. Martinez assured the subcommittee that "We would be very pleased to have your involvement in our process." [9]

This response was certainly in keeping with President Carter's pledge of April 6, 1977, the day he signed the Reorganization Act. Said the President, "The reorganization process which is set into motion today will be an open one. We intend to involve the Congress, State and local governments, and individual groups and citizens who will be affected by change . . ." [9]

On the same day, the White House Press Office released a sheet containing questions and answers about the President's Reorganization Project.

Here are three of the questions and part of the answers to them:

Q. Will the Administration's commitments to openness extend to the reorganization project?

A. Hopefully, we have learned from the failure of previous reorganization proposals which were developed in a political vacuum or with only superficial outside input. A hallmark of our approach will be consultation with the Congress, affected interest groups, agency personnel, state and local government officials, and the public . . .

Q. Is the public going to be able to participate in the development of reorganization proposals?

A. Public hearings and a solicitation of views of affected groups will be a part of the program . . ."

Q. Won't an "open" reorganization process which involves the Congress and special interest groups tip your hand and stir up more opposition to your plans.

A. No. Opposition is most likely when Congress and interest groups are surprised by plans to which they have not contributed. An open process, by giving all interests a chance to be heard, should result in greater support in the long run. [10]

Now the reorganization of the Office of Human Development on which Assistant Secretary Martinez was asked by our subcommittee to testify embraces a wide range of Federal programs, including services for handicapped children and adults, child welfare, families, Native Americans, the aging, veterans—programs with an estimated annual budget totaling nearly five billion dollars.

Despite the Assistant Secretary's commitment in March and the clear language of the White House statement, there was no serious effort at all on the part of the HEW officials responsible for the OHD reorganization to consult with, in the language of the April 6 White House question and answer sheet, "Congress, affected interest groups, agency personnel, state and local government officials, and the public."

A few days before Ms. Martinez appeared before my Subcommittee, witness after witness representing groups of Americans directly affected by the reorganization of OHD testified to us that they had been given no opportunity to make any contribution to this effort.

The executive director of a coalition of local, state, and national organizations of and for disabled persons, having been told upon inquiry that they would be advised if any reorganization were undertaken, testified that the group next heard about the reorganization on the day it was announced. A spokesman for the state welfare administrators observed that not only were they not consulted about the reorganization but that one and a half months after the fact they still did not know with whom in the new structure they should now deal. A witness for the American Foundation for the Blind told the subcommittee, "There is no question in my mind that we have been confronted with a fait accompli." [11] A representative of another client organization summarized the theme of nearly all the spokesmen of the constituent groups affected by the OHD reorganization. He said, "It seems that administrators tend to take the view that the organization plan for service delivery rests within their private domain, where legislators and the public dare not tread." [12]

Aside from expressing their distrust of the reorganization because of the absence of consultation, the witnesses raised a host of substantive concerns. They questioned the effects on the priority and independence of various programs that would result from the new groupings and layering provided for in the reorganization.

Not a single member of our subcommittee (or the full Committee on Education and Labor) was consulted on the reorganization nor, I found on inquiry, were Senators on our counterpart committee, the Committee on Human Resources, asked for their opinions.

And in further questioning of some of my senior colleagues on the House Ways and Means Committee who have legislative and oversight responsibility for some of the programs in OHD, I discovered that none of them had been approached by HEW officials for their opinion on the reorganization.

Just as astonishing is that members of the President's OMB Reorganization Project did not learn of the OHD reorganization until one day before it was announced.

Our subcommittee meetings of last week, in light of this history, were not pleasant. Subcommittee members, including the chairman, were vigorously critical of the OHD reorganization—in several ways.

There was obviously indignation, not to say outrage, at the complete failure of HEW officials to engage in open consultation on the reorganization before it went into effect.

In view of the fact that the basic reorganization had already been put into place, subcommittee Members were clearly skeptical, indeed, incensed, at the Assistant Secretary's pledge after the fact of the reorganization "to work closely with Members of Congress and their staffs, constituent organizations and employee unions at every stage of implementation."

Subcommittee members also noted that staff members of the President's Reorganization Project had been in close touch with our subcommittee concerning their efforts and that officials in other divisions of HEW had not feared to talk with Members of Congress and interested groups. Here I would cite, for example, both the Commissioner of Education and the Director of the National Institute of Education.

Subcommittee Members raised other questions about the OHD reorganization, questions which, like the reorganization itself have, in my view, important relevance to efforts to reorganize the rest of the executive branch.

We wanted to know—and still do—if the reorganization will result in thinning personnel responsible for the delivery of services in order to fatten the Assistant Secretary's administrative staff.

We were all struck by the lack of awareness by the Assistant Secretary of the history of Congressional concern about the effects of reorganization on policy in her area of responsibility.

There are, it seems to me, two lessons here. First, there ought always to be by way of justification for a reorganization some hard-headed evidence and analysis that suggest that the change will on balance produce improved services to people and/or savings in cost. Simple assertions that these results will follow a modification of the table of organization won't do.

And we were given no such justification for the reorganization of OHD. Instead, we were told that "The present organization is unmanageable", as if that declarative statement and the fact that it was all in capital letters and underlined were enough to prove the case. [13]

The second lesson to be derived from the Assistant Secretary's inability to give a rationale for reorganization in terms of its impact on policy is the one I made earlier, namely, that every organization—and every reorganization—means a distribution—or redistribution—of power and influence over the substance of policy.

We also wanted to know—and still do—why HEW officials engaged in reorganization of OHD were not coordinating their efforts with those persons in the President's Reorganization Project who are charged with similar responsibilities.

Now I cite this particular example of reorganization for several reasons. It touches on an area with which I have some familiarity. It illustrates problems and pitfalls in executive reorganization that run across the entire spectrum of the Federal Executive. It is, indeed, a classic case of how not to reorganize.

And above all, it demonstrates the validity of the proposition that, as Kauffman said, "The calculus of reorganization is the calculus of politics itself."

QUESTIONS TO ASK CONCERNING REORGANIZATION

Here then are some questions that I believe are at least among those that should be directed to every proposed reorganization:

What are the policies that will be affected by the reorganization and how will they be affected?

For example, will the plan be likely to result in more effective delivery of services to the clientele? Will money be saved without dimunition in services? And where are the hard evidence and analysis to substantiate the change?

No one can object to making the bureaucracy tidier or the life of administrators easier so long as reaching these goals does not subvert the purposes of the programs they administer.

Another question: What are the trade-offs in a proposed reorganization?

For example, is location at a higher level in the bureaucracy to be the price paid for less adequate funding of the program?

Still another question: has the proposed reorganization been subjected to the consideration and questioning of Congress, state and local officials and others affected by the change?

Or has consultation been so lacking or so cosmetic as, despite the genuine merits of the reorganization, to arouse such suspicion and hospitality that the plan is crippled?

THE IMPACT OF EXECUTIVE REORGANIZATION ON STATE AND LOCAL GOVERNMENT

The kinds of questions I have been raising as a Member of Congress are, in my view, the same kinds of questions that state and local officials should ask in assessing the impact on their activities of a purposed reorganization.

If my analysis is not too far off the mark, it seems clear that reorganization will affect the capacity of state and local officials to get a hearing, to voice their concerns, to have access.

Because funds will flow through the channels established by reorganization, these officials must ask if these channels will move the money in different directions and ones important to states and localities.

In turn, the ways in which state and local governments organize themselves can also be significantly affected by changes in the organization of the Federal executive. There will usually be a pull toward paralleling the new Federal organization in order to be able effectively to take advantage of the Federal programs.

Footnotes at end of article.

It should be noted that legislation that follows a Federal reorganization often provides incentives or in some cases a mandate that states and cities develop organizational structures compatible with the Federal organization and the policies it reflects.

For example, the Rehabilitation Act of 1973 required as a condition for receiving Federal money for vocational rehabilitation of handicapped persons that each state administer with clear lines of accountability the federally funded vocational rehabilitation programs. Congress was concerned that money intended for services to the handicapped be spent for that purpose and not for some other. One state, for instance, ignored the law, insisted on a different organizational arrangement and is now facing the loss of millions of dollars. In this connection, I might note that the Auditor General of that state recently issued a report which concluded that the administration structure chosen by state officials produced waste, a loss of effective managerial and fiscal control and lower quality services to handicapped persons.

Now I have argued that reorganization usually involves substantive policy and it is for precisely this reason that there can be no simple prescriptions for an appropriate organization.

Decisions about reorganization often mean decisions about competing goods rather than discovering the one right answer. The preferred reorganization may therefore depend largely on one's judgment about preferred policy and in turn that judgment, understandably, will be significantly affected by where one sits. A President, OMB Director, Cabinet Secretary, Senator or Congressman, governor or state legislator, mayor or school board member are likely to have very different perceptions of the policy impact of a particular reorganization. The answer to the question of whether any reorganization is good from a policy perspective is again: "It All Depends."

I hope that it will be clear from what I have said why I believe that the process of reorganizing the Federal government would be greatly improved if it were to become more openly and explicitly political, to repeat, not in a partisan sense but in the simple acknowledgment that organization involves policy.

IMPROVING THE PROCESS OF REORGANIZATION

What does this conclusion mean for the purpose of my subject—from which, I am sure, you think I have long ago strayed—the impact of Federal reorganization on state and local governments?

It means that in evolving reorganization proposals, the Federal executive must be open, open to the realization that reorganization means policy, and open therefore to honest, de facto consultation with Members of Congress, interested groups, state and local officials and others affected by the proposed change.

Reorganizers should, therefore, abandon the view that, for example, Congressional concern with reorganization is tiresome meddling with matters that are none of Congress' business.

Even as the Federal executive must do much better in consulting Congress and the interest groups, reorganizers must be more sensitive to hearing the views of state and local officials.

And I believe that this exhortation applies equally to us in Congress whenever we consider legislation that affects state and local units of government and other institutions in society.

More specifically on this point, I believe that we in Congress should engage in more oversight hearings such as the ones my subcommittee has been holding on the Section 504 regulations under the Rehabilitation Act and that we shall conduct later this month on the implementation of the Education for All Handicapped Children Act.

I think that within the limits of our time and resources, Congressional committees should hold more hearings across the country, outside Washington, D.C., at which state and local leaders can voice their concerns and offer their recommendations.

More broadly, I believe that both Congress and the Federal executive should work more closely with organizations of governors, state legislators, school superintendents and teachers and parents, to cite only a few, in the continuing effort to build bridges for an on-going dialogue between and among the several partners in the Federal system.

Indeed, I would urge that there be more conferences like this one to bring together in a neutral setting government officials and scholars to discuss problems of reorganization and inter-governmental relations.

I shall take only a few seconds to sum up what I have tried today to say.

Reorganization of the executive branch of the Federal government must be viewed in the context of the American constitutional and political system.

Because of the many variables involved, predicting the impact of reorganization will not be easy.

Although traditionally discussed in terms of improving the performance of government, reorganization is not an exact science and often involves trade-offs among competing goals.

Above all, it must be understood that reorganization affects the distribution of power and influence over policy. For reorganization to be effective, therefore, at least in a democratic society, there must be open acknowledgement of this truism and a corresponding commitment to genuine involvement of the affected parties in the process that produces the change.

For reorganization of government, like government itself, should have as its principal purpose the service of the citizenry.

FOOTNOTES

[1] "Reorganization Act of 1977: The President's Remarks at the Bill Signing Ceremony, April 6, 1977," *Weekly Compilation of Presidential Documents*, v. 13, No. 15, p. 493.

[2] "Statement by the President on Signing S. 626 Into Law, April 6, 1977," *Weekly Compilation of Presidential Documents*, v. 13, No. 15, p. 494.

[3] "President's Reorganization Project," *Ibid.*

[4] Morton Grodzins, "Centralization and Decentralization in the American Federal System," in Robert A. Goldwin, ed., *A Nation of States: Essays on the American Federal System* (Chicago: Rand McNally & Co., 1961) pp. 3–4.

[5] Harvey Sherman, *It All Depends: A Pragmatic Approach to Organization* (University, Alabama: University of Alabama Press, 1966).

[6] Herbert Kauffman, "Reflections on Administrative Reorganization," in Joseph A. Pechman, ed., *Setting National Priorities: The 1978 Budget* (Washington, D.C.: The Brookings Institution, 1977) pp. 402, 417–18.

[7] *Ibid.*, p. 406.

[8] "Proposed Extension of the Child Abuse Prevention and Treatment Act," *Hearings Before the Subcommittee on Select Education of the House Committee on Education and Labor*, 95th Cong., 1st Sess. (1977) p. 142.

[9] "Statement by the President on Signing S. 626 Into Law, April 6, 1977," *Weekly Compilation of Presidential Documents*, v. 13, no. 15, p. 494.

[10] *President's Reorganization Project* (Executive Office of the President, April, 1977) pp. 10–11.

[11] Oral statement of Irvin P. Schloss, Director, Governmental Relations Office, American Foundation for the Blind, Hearings before the Subcommittee on Select Education on the Reorganization of the Office of Human Development, September 8, 1977.

[12] James Gashel, Chief, Washington Office National Federation of the Blind, "Testimony Before the Subcommittee on Select Education of the Committee on Education and Labor, U.S. House of Representatives," September 8, 1977, p. 1.

[13] "Statement of Arabella Martinez, Assistant Secretary for Human Development Services, before the Subcommittee on Select Education, Committee on Education and Labor, United States House of Representatives," September 12, 1977, Exhibit 2.

EXPLANATION OF AMENDMENT TO MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, this week the House will consider H.R. 3, the medicare-medicaid anti-fraud and abuse amendments. One of the most controversial parts of the bill is that dealing with confidentiality of medical records.

There are a number of different amendments on this issue. The best is an amendment identified with Representative ROGERS, the chairman of the Interstate and Foreign Commerce Subcommittee on Health and the Environment. It would require HEW to submit draft legislation based on the report of the Privacy Protection Study Commission. I fully support this amendment.

Mr. KOCH and I have introduced identical amendments which we intend to offer only if the Rogers substitute fails. The amendment is based on H.R. 8283, a bill that was introduced to implement the recommendations of the Privacy Protection Study Commission.

The amendment that I am introducing today is an amendment to the Rogers substitute. It is identical to the amendment I introducted on Friday as a substitute for the Crane amendment. Again, these amendments will be offered only if the Rogers substitute fails.

Mr. MEEDS. Mr. Speaker, the signing of an Interagency Agreement on the Young Adult Conservation Corps (YAAC) marks the beginning of an exciting new chaper in our Nation's employment and training efforts.

The YACC is the first of the youth programs to be implemented under the new Youth Employment and Demonstration Projects Act. At its current funding level, YACC will provide between 20,000 and 25,000 jobs for unemployed youth, teaching them useful work skills while they make a vital contribution to restoring and preserving our Nation's lands.

The Secretaries of Labor, Agriculture, and Interior have signed a balanced, workable tripartite interagency agreement, which all three agencies consider more than adequate as a foundation for the operations of the Young Adult Conservation Corps program. This inter-

agency agreement spells out Labor's responsibility for transfer of funds to Agriculture and Interior, for the enrollee referral mechanism, and for general oversight of the program, as well as for coordination with other young employment and training programs. It clearly defines the Agriculture and Interior responsibilities for selection of enrollees, management of the program on a day-to-day basis, selection of sites for camps, and management of the funds transferred by Labor.

The fact that Labor, Agriculture, and Interior have successfully completed their interagency agreement bodes well for continued efforts in the operation of the YACC program. This agreement between agencies is, I am sure, only the beginning of an ongoing spirit of cooperation between agencies that will be an essential element to the success of the program.

The YACC program, which serves unemployed youth whatever their socioeconomic background, is an integral part of a balanced attack on the labor market needs of youth. The success in launching YACC augurs well for the implementation of the other important programs which Congress created under YEDPA and for the doubling of the Job Corps. As YACC demonstrates its success, which I am sure it will, we must move to expand it and the other youth employment and training programs.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. WHITEHURST (at the request of Mr. RHODES), for today and the balance of the week, on account of being a delegate to the North Atlantic Assembly.

Mr. PHILLIP BURTON (at the request of Mr. WRIGHT), for September 19 and 20, on account of official business.

Mr. WHALEN (at the request of Mr. RHODES), for the period of September 20 to December 21, 1977, on account of his appointment as a congressional delegate to the 32d session of the United Nations General Assembly.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 5 minutes, today.
Mr. WHALEN, for 10 minutes, today.
Mr. CRANE, for 60 minutes, September 21, 1977.

(The following Members (at the request of Mr. KILDEE), to revise and extend their remarks, and to include extraneous matter to:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. CORMAN, for 5 minutes, today.
Mr. DODD, for 10 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. FRASER, for 15 minutes, on September 20.
Mr. PICKLE, for 60 minutes, on September 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RAHALL, and to include extraneous matter.

Mr. HARRIS, to revise and extend his remarks immediately prior to the passage of H.R. 5054 on the Consent Calendar today.

Mr. LOTT, to revise and extend his remarks immediately prior to the passage of H.R. 8342 on the Consent Calendar today.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. ERLENBORN.
Mr. DERWINSKI.
Mr. WINN.
Mr. RINALDO in two instances.
Mr. SNYDER in two instances.
Mr. CARTER.
Mr. CRANE.
Mr. KETCHUM.
Mr. WHALEN in two instances.
Mr. QUAYLE in two instances.
Mr. STANGELAND.
Mr. KASTEN.
Mr. RHODES.
Mr. SHUSTER.
Mr. SYMMS in two instances.
Mr. ASHBROOK in three instances.
Mr. LENT.
Mr. GRASSLEY.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. BARNARD.
Mr. RICHMOND in two instances.
Mr. KILDEE.
Ms. HOLTZMAN.
Mr. CHARLES H. WILSON of California.
Mr. CLAY.
Mr. WAXMAN.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. BEDELL.
Mrs. MEYNER.
Mr. COTTER in two instances.
Mr. EILBERG.
Mr. LEVITAS.
Mr. OBERSTAR.
Mr. RUSSO.
Mr. MOFFETT.
Mr. MILLER of California.
Mr. MCDONALD.
Mr. MAZZOLI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 274. An act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes; to the Committees on Armed Services and Post Office and Civil Service; and

S. 995. An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; to the Committee on Education and Labor.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 275. An act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 20, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2394. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell a naval vessel to the Republic of China, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2395. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Colombia, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2396. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to the Philippines, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2397. A letter from the Chairman, National Advisory Council on Child Nutrition, transmitting the sixth annual report of the Council, pursuant to section 14(f) of the National School Lunch Act, as amended (84 Stat. 213); to the Committee on Education and Labor.

2398. A letter from the Comptroller General of the United States, transmitting a report on competition for negotiated Government procurement (PSAD-77-152, September 15, 1977); to the Committee on Government Operations.

2399. A letter from the Chairman, Indian Claims Commission, transmitting the Commission's final determination in docket No. 363, second claim (1867 Treaty and 1972 Agreement) *the Lower Sioux Indian Community in Minnesota, et al., Plaintiffs, v. the United States of America, Defendant*, pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

2400. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Interntional Relations.

2401. A letter from the Secretary of Transportation, transmiting a report on the status of the Nation's highways, pursuant to section 3 of Pub'ic Law 89-139; to the Committee on Public Works and Transportation.

2402. A letter from the Secretary of Transportation, transmitting a report on resurfacing, restoring, and rehabilitating the Interstate System, pursuant to section 150(b) of Public Law 94-280; to the Committee on Public Works and Transportation.

2403. A letter from the Comptroller General of the United States, transmitting a report on the Department of Agriculture's past and current activities concerning food loss in the United States (CED-77-118, September 16, 1977); jointly, to the Committees on Government Operations, and Agriculture.

2405. A letter from the Comptroller General of the United States, transmitting a report on unionization of the Armed Forces (FPCD-77-55, September 16, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2404. A letter from the Comptroller General of the United States, transmitting a report on NASA's SEASAT-A project (PSAD-77-126, September 16, 1977); jointly, to the Committees on Government Operations, and Science and Technlogy.

2406. A letter from the Comptroller General of the United States, transmitting a report on the problems of disposal of radioactive wastes generated from commercial and military nuclear operations (EMD-77-41, September 9, 1977); jointly, to the Committees on Government Operations, Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

2407. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1979 appropriation request, pursuant to section 310(d)(1) of the Federal Election Campaign Act, as amended; jointly, to the Committees on House Administration, and Appropriations.

2408. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 77-19, and the justification therefor, waiving the limitation on the aggregate of military assistance granted under the Foreign Assistance Act of 1961, and of credits extended and loan guaranteed under the Arms Export Control Act for African countries during fiscal year 1977, pursuant to section 33(b) of the Arms Export Control Act; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 8422. A bill to amend title XVIII of the Social Security Act to provide payment for rural health clinic services; with amendment (Rept. No. 95-548, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on S. 602 (Rept. No. 95-607). Ordered to be printed.

Mr. MEEDS: Committee on Rules. House Resolution 752. Resolution to allow any attorney employed or retained by the Committee on Standards of Official Conduct to take the deposition of any person for the purpose of conducting any inquiry or investigation pursuant to House Resolution 252 (Rept. No. 95-608). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 6693. A bill to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act; with amendment (Rept. No. 95-609). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 9178. A bill to repeal the changes made by the Tax Reform Act of 1976 in the limitations on the deduction for interest on investment indebtedness; to the Committee on Ways and Means.

By Mr. BINGHAM (for himself, Mr. WHALEN, Mr. CAVANAUGH, Mr. IRELAND, and Mr. SOLARZ):

H.R. 9179. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on International Relations.

By Mr. COHEN (for himself, Mr. PEPPER, Mr. AKAKA, Mr. BADILLO, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. FARY, Mr. FASCELL, Mr. FRASER, Ms. HOLTZMAN, Mr. HUGHES, Mr. LE FANTE, Mr. LEHMAN, Mr. MIKVA, Mr. MOAKLEY, Ms. OAKAR, Mr. OTTINGER, Mr. PANETTA, Mr. TRIBLE, Mr. VENTO, Mr. WAXMAN, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, and Mr. KOCH):

H.R. 9180. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop and provide for the enforcement of standards relating to the rights of patients in certain medical facilities; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FASCELL:

H.R. 9181. A bill to provide that, in computing certain Federal payments to local governments based on amounts of Federal public land within their boundaries, certain amounts of such land which heretofore have been excluded shall be included, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FRENZEL:

H.R. 9182. A bill to amend the Internal Revenue Code of 1954 to provide for a reduction of individual income tax rates; to the Committee on Ways and Means.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. NOLAN):

H.R. 9183. A bill to encourage the establishment of wind erosion control and wildlife habitat areas which meet standards prescribed by the Secretary of Agriculture; to the Committee on Ways and Means.

By Mr. HALL (for himself and Mr. HAMMERSCHMIDT):

H.R. 9184. A bill to amend title XVI of the Social Security Act to provide that an alien is not qualified for supplemental security income benefits unless he has a permanent resident status in the United States and has continuously resided in the United States for at least 6 years, and to provide for the establishment of procedures which will more effectively prevent the payment of such benefits to individuals who become ineligible because of their departure from the United States; to the Committee on Ways and Means.

By Mr. IRELAND:

H.R. 9185. A bill to amend section 102 of the act of September 21, 1944, for the purpose of authorizing the Secretary of Agriculture to carry out operations to detect, eradicate, suppress, control, or prevent or retard the spread of the water weeds hydrilla and hyacinth; to the Committee on Agriculture.

By Mr. MURPHY of New York (for himself, Mr. LAGOMARSINO, Mr. BOWEN, Mr. HUGHES, Mr. BAFALIS, Mr. THONE, Mr. COLLINS of Texas, Mr. TRIBLE, Mr. KEMP, Mr. ROBINSON, Mr. EILBERG, Mr. BOB WILSON, Mr. HALL, Mr. CARTER, Mr. MOTTL, Mr. TREEN, Mr. LE FANTE, Mr. HAGEDORN, and Mr. MCDONALD):

H.R. 9186. A bill to amend the Canal Zone Code in order to establish procedures with respect to the disposition of land in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. PEPPER (for himself and Mr. BRADEMAS):

H.R. 9187. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 9188. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. RAILSBACK (for himself and Mr. MURPHY of Illinois):

H.R. 9189. A bill to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. VENTO:

H.R. 9190. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to require the Nuclear Regulatory Commission to establish and enforce standards for the safe, long term storage of high level radioactive wastes, spent fuel rods, and any other radioactive wastes containing transuranic elements; to require the Energy Research and Development Administration to restore the background radiation levels at abandoned uranium mine and mill sites to levels which existed before operations commenced at the sites; to permit the States to establish and enforce nuclear waste storage standards which are more stringent than Federal standards; and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WAGGONNER:

H.R. 9191. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. officers and employees routinely assigned to perform investigative, inspection, or law enforcement functions, and for other purposes; to the Committee on the Judiciary.

H.R. 9192. A bill to amend the Internal Revenue Code of 1954 to include the Banks for Cooperatives among the other financial institutions subject to the provisions of Subsection 582(c)(1) and Section 595(a) of such code; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.R. 9193. A bill to amend the Natural Gas Act to allow certain transportation and sales of natural gas to municipalities not subject to such act; to the Committee on Interstate and Foreign Commerce.

H.R. 9194. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that Federal employees who are 40 years of age or older shall be protected by the provisions of section 15 of such act, and for other purposes; jointly, to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. YATRON (for himself and Mr. AMMERMAN):

H.R. 9195. A bill to amend the Immigration and Nationality Act to change certain criteria for determining whether an alien is excludable from admission to, or deportable from, the United States as a public charge and to provide that an alien may not be admitted to the United States unless a citizen of the United States enters into an enforceable agreement to provide support to such alien for a period of 5 years after admission; to the Committee on the Judiciary.

By Mr. BRODHEAD (for himself, Mr. BONIOR, and Mr. FORD of Michigan):

H.R. 9196. A bill to amend the Equal Credit Opportunity Act to prohibit discrimination against any applicant for credit on the basis of the geographic location of the applicant's residence or the applicant's occupation or title; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONABLE (for himself and Mr. FRENZEL):

H.R. 9197. A bill to repeal the public debt limit; to the Committee on Ways and Means.

By Mr. ERLENBORN (for himself and Mr. ANDREWS of North Carolina):

H.R. 9198. A bill to amend the National Labor Relations Act to strengthen the remedies; to the Committee on Education and Labor.

By Mr. MILLER of California (for himself, Mr. BADILLO, Mr. BEDELL, Mr. JOHN L. BURTON, Mr. CORRADA, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. HARRIS, Mr. HOLLAND, Mr. LLOYD of California, Mr. MIKVA, Mr. MOFFETT, Mr. ROYBAL, and Mrs. SCHROEDER):

H.R. 9199. A bill to establish a loan program to provide financial assistance to drought-impacted water districts, to provide Federal assistance to water districts for acquisition and installation of residential and agricultural water conservation devices and equipment, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 9200. A bill to amend the International Travel Act of 1961 to provide for the registration of sellers of travel or travel services; to the Committee on Interstate and Foreign Commerce.

By Mr. OBERSTAR:

H.R. 9201. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction for individuals who rent their principal residences; to the Committee on Ways and Means.

By Mr. PRICE:

H.R. 9202. A bill to permit credit for civil service retirement purposes and in computing length of service for purposes of determining leave, health insurance, severance pay, tenure, and status in the case of certain individuals who performed National Guard technician service before January 1, 1969; to the Committee on Post Office and Civil Service.

By Mr. UDALL:

H.R. 9203. A bill to provide the means for selection of, and to expedite Federal permits and developments of, transportation systems to move Alaskan crude oil to northern tier and other inland States, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WHALEN:

H.J. Res. 596. Joint resolution authorizing the President to proclaim the third week of July of 1977, 1978, and 1979, as National Architectural Barrier Awareness Week; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURGENER:

H.R. 9204. A bill for the relief of Zora Singh; to the Committee on the Judiciary.

By Mr. McKAY:

H.R. 9205. A bill for the relief of Priscilo Sumawang Cantil; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

221. The SPEAKER presented a petition of Herbert A. K. Yuen, Honolulu, Hawaii, relative to his song "Don't Forget America"; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. KOCH:

Page 70, strike out line 6 and all that follows through line 19 on page 71, and insert in lieu thereof the following:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specified period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurance to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under

the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specially designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B),

with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"NOTICE OF USES AND DISCLOSURES OF PERSONAL MEDICAL INFORMATION WITHOUT A PATIENT'S AUTHORIZATION; ACCOUNTING OF CERTAIN DISCLOSURES

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintainted by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the informtaion relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2)

and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individuals' behalf, if the individual is—

"(I) legally incompetent or

"(ii) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

Page 71, line 20, strike out "(2)" and insert in lieu thereof "(4)".

By Mr. PEPPER:

Page 47, line 8, strike out the quotation marks and the period that follows them.

Page 47, insert after line 8 the following new subsection: "(d) Whoever knowingly and willfully—

"(1) charges, for any services provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

"(2) charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the patient)—

"(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

"(B) as a requirement for the patient's continued stay in such a facility,

when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

By Mr. PREYER:

Page 70, strike out line 6 and all that follows through line 19 on page 71 and insert in lieu thereof the following:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has

previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"NOTICE OF USES AND DISCLOSURES OF PERSONAL MEDICAL INFORMATION WITHOUT A PATIENT'S AUTHORIZATION; ACCOUNTING OF CERTAIN DISCLOSURES

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompentent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(ii) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure

is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

Page 71, line 20, strike out "(2)" and insert in lieu thereof "(4)".

H.R. 6693

By Mr. KILDEE:

At the end of section 6 add the following new section:

SEXUAL EXPLOITATION OF CHILDREN

SEC. 7. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue, and the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials, and specific legislation in this area is both advisable and needed.

(b) The Child Abuse Prevention and Treatment Act (Public Law 93-247, 88 Stat. 4) is amended by adding at the end thereof the following new sections:

"SEXUAL EXPLOITATION OF CHILDREN

"SEC. 8. (a) Any person who causes or willfully permits a child to engage in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends—

"(1) that such act will be photograhed, filmed, or electronically reproduced; and

"(2) that any photograph, printed material containing such photograph, film, or electronic visual image depicting such act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(b) Any person who photographs, films, or produces an electronic visual image of a child engaging a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends that any photograph, printed matter containing such photograph, film, or electronic visual image made by such person depicting such an act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(c) Any person who violates subsection (a) or (b) shall be fined not less than $5,000 nor more than $50,000, or imprisoned not more than 20 years, or both.

"REPRODUCTION, TRANSPORTATION, AND DISSEMINATION OF CERTAIN PHOTOGRAPHS, FILMS, AND ELECTRONIC VISUAL IMAGES

"SEC. 9. (a) Any person who—

"(1) manufactures, reproduces, or duplicates any photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, and who knows, has reason to know, or intends that the product resulting from such manufacture, reproduction, or duplication will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of such materials;

"(2) knowingly transports or ships through, or in such manner as to affect, interstate commerce or foreign commerce or knowingly mails any photograph, printed matter containing such photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, for the purpose of sale or resale;

"(3) knowingly receives for the purpose of selling or knowingly sells any photograph, printed matter containing such photograph, film, or electronic visual image which has been shipped or transported through, or in such manner as to affect, interstate commerce or foreign commerce or has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or

"(4) uses for profit, or makes available for profit, in any public showing any film or electronic visual image which has been transported or shipped through, in such a manner as to affect, interstate commerce or foreign commerce or which has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act,

shall be punished as provided in subsection (b).

"(b) Any person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 15 years, or both.

"ENFORCEMENT AUTHORITY

"SEC. 10. Enforcement authority for the provisions of sections 8 and 9 shall be vested in the Attorney General of the United States.

DEFINITIONS

"SEC. 11. For the purposes of sections 8 and 9—

"(1) the term 'child' means any individual who has not attained age 16;

"(2) the term 'prohibited sexual act' means sexual intercourse, anal intercourse, masturbation, fellatio, cunnilingus, sexually oriented sadomasochistic abuse, sexual bestiality, or a lewd exhibition of the genitals in the context of any sexual activity;

"(3) the term 'public showing' means any showing which is accessible to the general public for the payment of any direct or indirect fee or other consideration and includes any membership organization for which the qualifications are established for the primary purpose of making any individual who qualifies as a member eligible to attend such a showing; and

"(4) the term 'simulation' means the depiction of the genitals in explicit sexual activity which gives the appearance of the performance of any prohibited sexual act.".

H.R. 6796

By Mr. BROWN of California:

Page 23, beginning on line 9, strike out "$483,300,000" and insert in lieu thereof "$366,300,000".

Page 33, immediately following line 11, insert the following new secton:

SEC. 106. Section 106 of Public Law 91-273, as amended, is further amended by deleting the present text thereof and substituting therefor the following:

"SEC. 106. Liquid Metal Fast Breeder Reactor Demonstration Program—Fourth Round.—(a) The Energy Research and Development Administration (ERDA) is hereby authorized to enter into appropriate arrangements of essential elements of the system design for the Clinch River Breeder Reactor Project (CRBRP).

"(b) The ERDA is further authorized to agree, by modification to the Principal Project Agreements and all contracts and agreements subsidiary thereto reflecting such changes therein as it deems appropriate for the purpose, or otherwise, to the cancellation of all other activities related to the CRBRP. There are authorized to be appropriated such sums as may be necessary to carry out such cancellation and to carry out the purposes of subsection (a). Sums previously appropriated for the construction and operation of the CRBRP may, to the extent or in the amount provided in appropriations Acts, be used to carry out such cancellation and to carry out the purposes of subsection (a).".

By Mr. COUGHLIN:

Page 33, after line 11, add the following new section:

SEC. 106. Section 106(a) of Public Law 91-273 (as amended by section 103(d) of Public Law 94-187) is amended by adding at the end the following: "No sums are authorized to be appropriatad or otherwise made available for the purposes of the Clinch River Breeder Reactor to pay for more than that percent of any cost of such Reactor, after the total cost of such Reactor equals $2,000,000,000, which is determined as follows: 70 percent when the cumulative total cost equals or is less than $2,250,000,000; 60 percent when the cumulative total cost equals or is less than $2,500,000,000 but is greater than $2,250,000,000; and 50 percent when the cumulative total cost exceeds $2,500,000,000."

By Mr. GOLDWATER:

On page 51, between lines 20 and 21, insert the following new paragraphs:

"Notwithstanding the provisions of this subsection or any other provision of this section, nothing herein shall be construed as authorizing the Administrator to enter into or make any such guarantee for the purpose of financing the construction of any facility whose output is in excess of 90 million cubic feet per day, including the construction of any modular facility to a commercial or full sized facility, to convert coal, or shale, or other domestic resources into alternative fuels for sale in commercially marketable quantities: Provided, That this paragraph shall not preclude the incidental sale of such fuels or byproducts thereof produced from a demonstration facility financed in furtherance of the purposes of this section.

"Provided Further, That the Administrator may enter into a guarantee for the purpose of financing the construction of any full-sized facility whose output is in excess of 200 million cubic feet per day to convert coal, oil shale, or other domestic resources into alternative fuels for sale in commercially marketable quantities, if an application for a license has been filed on behalf of said facility with the Federal Power Commission, or Department of the Interior, or any other Federal Agency prior to the time of enactment of this section."

On page 23, line 10, add the following: *"Provided,* That at least $10,400,000 of the amount appropriated for the Liquid Metal Fast Breeder Reactor shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel deevlopment."

and,

On page 26, line 20, after "California," strike "(A-E only), $4,000,000" and insert in lieu thereof the following: "(to include A-E effort, Long Lead Procurement and Limited Construction), $9,000,000."

EXTENSIONS OF REMARKS

NATIONAL HISPANIC HERITAGE WEEK IN CONNECTICUT

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. COTTER. Mr. Speaker, September 11 through 17 was National Hispanic Heritage Week, an event that recognized the important role of Hispanic-Americans in our Nation's life. Connecticut, where the Hispanic community numbers approximately 300,000, marked the occasion with a legislative proclamation.

Connecticut public television aired a special series of programs during the week, with both the Hispanic and Anglo communities in mind. A recent letter from Frank Marrero of CPTV explains the bilingual series and other Spanish programs produced by public television. I would like to share this letter with my colleagues.

MUNDO REAL,
Hartford, Conn., September 6, 1977.

Hon. WILLIAM R. COTTER
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN COTTER: With the advent of the Carter Administration's focus on our relations with the countries of Latin America, there has been a rejuvenation of our awareness of the responsibility we share in meeting the needs of our own 11.7 million Hispanic citizens. Public dialogue is an unquestionable necessity to emphasize not only the richness and value of our cultural differences, but also to stress the overwhelming similarities which tie us together. Obviously, this responsibility is not unidirectional, and the Hispanic community also shares in the responsibility to enlighten the non-Hispanic to its Latin past and present. Any move toward meeting these goals must be a joint effort.

We are fortunate here in Connecticut to have been awarded four consecutive grants from the Department of Health, Education and Welfare, under the Emergency School Aid Act, to produce television programming designed to lessen minority group isolation (in our situation relating to Spanish-speakers). This June, "Mundo Real" was one of only two Regional Bilingual Projects to be funded for the 1977–78 fiscal year. The impact of the series can be shown not only in the viewership throughout the Northeastern Region of the country—both Hispanic and Anglo, child and adult—but also in the response from both public and commercial stations throughout the country, who have been or will be in the Fall airing the series. The quality of the series is well-documented in the list of national and international awards it has garnered and is an indication of the level of talent available in our Hispanic citizenry.

With an estimated 300,000 Hispanics in the state of Connecticut, the recent legislative proclamation designating the week of September 11th through the 17th as a National Hispanic Heritage Week is of special import and should be celebrated.

Connecticut Public Television, under the aegis of the "Mundo Real" staff, will be presenting a special selection of programs addressing the Hispanic and Anglo communities (bilingual) during the Hispanic week. This week will represent the beginning of an ongoing monthly program schedule introducing Hispanic artists and covering topics of national interest.

We trust that we can count on your support both at the Capitol and with your constituency here in Connecticut. As a resource, we know your office is invaluable to us; and if we can be of any assistance to you, in terms of disseminating information, please don't hesitate to contact our office.

Sincerely,

FRANK MARRERO,
Executive Producer, Project Officer.

UNITED STATES—MORE OIL AND GAS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. COLLINS of Texas. Mr. Speaker, here is an excellent summary of energy prospects for the United States. It was an Associated Press article quoting the report of Walt Rostow, William Fisher, and Herbert Woodson. The emphatic conclusion was that 50 percent more money must be spent now on domestic exploration and development.

They believe that the drain on the capital of the oil industry will prevent the drilling effort that is required to meet the planned 1985 oil and gas production requirements.

As the Senate continues to debate the energy bill, they must include the essential plowback provision. Then they can continue to improve the bill by eliminating the punitive crude oil equalization tax.

The article follows:

PROFESSORS URGE ALL-OUT ENERGY EFFORT

AUSTIN.—Unless an all-out effort to produce energy is launched in 1977, the United States "will face mortal risk to our economic prosperity," three University of Texas professors predicted last week.

"Every objective assessment," of President Carter's National Energy Policy NEP and the House proposal patterned on the policy indicate they "will fail to meet the 1985 energy consumption, production and balance of payments targets required in the national interest," the professors said.

They said the United States could be importing as much as 15 million barrels of oil a day by 1985, and added:

"Three independent estimates make it clear that a U.S. requirement of this magnitude will create a major international economic crisis."

The report—by Walt Rostow, William Fisher and Herbert Woodson—also concludes that this country has enough oil and gas to return production to the 1976 level—the NEP target, but up to 50 per cent more must be spent on exploration and development than set forth in the House proposal.

"One must conclude," the professors' report said that there exists a reasonable adequate reserve and resource base of oil and gas which is sufficient to support current rates of production for more than 50 years.

"It has been argued," the report added, "that the price structure proposed in the NEP and in HR–8444 is adequate for oil and gas operators to realize a sufficient profit.

"This may well be the case. But what is at stake for the nation is not the adequacy of current profits by business standards—it is rather the rate of drilling and production.

"Even if proposed pricing structures provided for sufficient profit, is the price structure adequate to generate the level of cash flow necessary to mount and sustain the drilling effort required to meet the planned 1985 oil and gas production goals? We conclude . . . that it is not, and that 1985 national oil and gas production will be as much as five million barrels a day below the NEP goal."

They said $699 billion in 1976 prices must be invested to fulfill production and conservation targets of NEP.

OIL AND PANAMA

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. BAUMAN. Mr. Speaker, during the debate on the President's proposed Panama Canal Treaty, Mr. Carter and his supporters have constantly told the American people that the canal is a "declining asset" in the world of the future. Because of the canal's declining value to America, the President tells us, we should not hesitate to give the international waterway to the Panamanian dictator, Torrijos.

In its issue of August 5, 1977, one of the largest daily newspapers in my district, the Banner, pointed an important reason why the President is simply wrong about the future value of the Panama Canal to our country. After noting that Mr. Carter had decided against allowing the oil companies to sell Alaskan oil to Japan, the editorialist for the Banner noted that the only way to move Alaskan oil to the east coast is through the canal. Obviously, such a situation can only magnify the strategic and economic importance of the canal to our Nation, which so desperately needs that Alaskan oil. We cannot move the Alaskan production through continental U.S. pipelines and that means we must have an assured canal route.

I commend the Banner's important thoughts on this issue to my colleagues:

OIL AND PANAMA

Bowing to political realities, President Jimmy Carter has backed away from a proposal to sell Alaskan oil to Japan. The oil industry has argued that refineries on the West Coast cannot handle all the oil expected to flow through the Alaska pipeline, and that East and Gulf Coast refineries can be supplied at less cost with oil purchased in the Middle East.

We believe the president has made the correct decision. Americans simply would not accept sale of Alaskan oil to Japan when, in Mr. Carter's own words, the country is engaged in a struggle for energy independence that is "the moral equivalent of war."

The surplus Alaskan oil must be moved east, however. Environmental restrictions in California make it most unlikely that it will move by pipeline. Shipment by large tankers

around Cape Horn is not economically feasible. And that brings us to the Panama Canal and a water route that is both practical and cheap.

And there's the rub. A new Panama Canal treaty is in the final stages of negotiation with the leftward-leaning government of Gen. Omar Torrijos, friend and admirer of Cuba's Fidel Castro. The terms of the treaty are expected to call for an immediate weakening and eventual surrender of U.S. control and defense of the canal. There will be a hard fight in the Senate to secure that body's consent to ratification of the new treaty.

How will the Carter Administration square its conception of the Panama Canal as a "declining asset" in the face of new requirements to use the canal for transport of Alaskan oil? Further, how can senators be assured that a canal increasingly under the control of an unstable Panamanian regime is as secure from the threat of sabotage by political terrorists as one manned and defended by the United States? Make no mistake about it—no treaty that the two governments negotiate is going to please extremists in either country.

Much has been made of the canal's vulnerability to "one stick of dynamite" in the hands of a Panamanian nationalist. We are not sure we buy that. We believe the canal is defensible. We are certain the threat to the canal is not going to disappear with the signing of a treaty surrendering to Gen. Torrijos.

SHORTCIRCUITING REFORM

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. MOFFETT. Mr. Speaker, the actions of the Senate regarding the electric utility section of the National Energy Act have been a major disappointment to those of us committed to the idea of serious rate reform. Indeed, its failure to adopt the provisions contained in the House-passed bill—provisions which would finally send the right economic signals to consumers who conserve—must be seen as a major setback in efforts to create a comprehensive and equitable energy program. I can only hope that the bill ultimately passed by Congress will include the necessary provisions so that real opportunities for rate reform will exist.

In light of this, I would like to draw my colleagues' attention to the following editorial from the Boston Globe which excellently describes the reasons why the Senate Energy and Natural Resources Committee's actions should be reversed:

SHORTCIRCUITING REFORM

The Senate Energy Committee has cut out an important innovation in energy management by excising from the Administration's bill a provision of national guidelines for the regulation of electric utilities. Unless the proposal can be restored by amendment on the floor of the Senate, the House version should prevail when the bill goes to conference.

The main thrust of the Administration proposal was to make electric utilities charge rates that reflect more accurately the actual costs of generating the electricity and getting it to customers. It would have banned automatic reductions in rates for large users except where actual economies of scale could be demonstrated. It would have encouraged higher rates for users during peak hours and peak seasons. And it would have expanded consumer-complaint opportunities and limited the domination by bankers and businessmen of the boards of directors of utilities.

Utilities have fought the proposal with great vigor. Their complaints have centered on the inability of a national regulatory policy to reflect local conditions that are well understood by state regulatory commissions. It is at least refreshing to hear words of support for state commissions—not often voiced in recent years.

But the important principle involved in the bill is one of treating electric-rate reform on a national rather than a state-by-state basis. Last year an attempt was made in Massachusetts to introduce flat rates. The Globe opposed that proposal on the grounds that it would tend to place Massachusetts industry at a disadvantage with industries in neighboring states. The Administration proposal gets around that problem by guaranteeing that no state would gain undue advantage over any other by structuring below-cost rates for business to lure it from other areas.

There are aspects of the bill that could be argued. The provisions for limiting directorships seem overblown, for example. But opposition from the utility industry is also overblown—a reflection of its conservatism and resistance to change. Congress has an opportunity to work real rate reform into the energy bill and it should reverse the Senate Energy Committee's stand as soon as possible.

BETTER IN THAN OUT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. WHALEN. Mr. Speaker, I would like to draw the attention of my colleagues to an editorial which appeared in the September 19, 1977, issue of Business Week magazine. In early August I signed a letter to the President urging him to consider carefully the consequences of a withdrawal from the ILO and to examine the alternative methods of putting effective pressure on members of that organization. The Business Week editorial, while conceding that the "United States has ample reason to wash its hands of the ILO," shares my conclusion that "walking out now will do little to change (ILO) attitudes or practices." For the benefit of my colleagues I am inserting at this point the full text of the Business Week editorial:

BETTER IN THAN OUT

The International Labor Organization's long record of irresponsible headline-hunting and political posturing forces the Carter Administration to make a hard choice. The U.S. can get out, as it is threatening to do, leaving the ILO without its strongest voice in support of labor and management autonomy. Or it can remain a member in spite of the efforts of the Communist nations and their Third World allies to turn the ILO into a three-ring circus. On the whole, the U.S. would do better to grit its teeth and stay on.

A U.S. pullout would reduce the effectiveness of the ILO in promoting such basic human rights as freedom of association, freedom of workers to organize, abolition of forced labor, and employment without discrimination. These principles and various other ILO conventions on labor relations, health and safety, and social relations are embodied in agreements that are ratified by member nations. The ILO's Committee of Experts, a group of 18 legal specialists, has so far managed to do a capable job of monitoring the extent to which member nations comply with the agreements. There is evidence that the objective reports of the committee do exert a moral force on nations that violate human rights.

The ILO's human rights machinery is by far the most effective in the U.N. system—in spite of the political capering of the Communist bloc. The ILO conventions have become, in effect, part of the Helsinki Agreement, and the Committee of Experts' reports may provide important support for the U.S. when compliance with the Helsinki principles is reviewed at the Belgrade Conference in October.

The U.S. has ample reason to wash its hands of the ILO after the majority's repeated attacks upon it and the calculated insults to Israel. But walking out now will do little to change attitudes or practices, and it might well hasten the movement of the Third World countries toward the totalitarian left.

AMENDMENT TO H.R. 8309

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. BEDELL. Mr. Speaker, it is expected that the House will soon consider H.R. 8309, the Navigation Development Act, which would authorize the replacement of lock and dam 26 at Alton, Ill., and which would establish a 6-cent-a-gallon tax on fuel used by commercial barges and tows on the Nation's inland waterway system.

I believe that title II of this bill, which is the fuel tax provision, does not go far enough in making commercial users pay a fair share of the cost of building, operating, and maintaining our inland waterways. It is estimated that the committee provision would recover only about 8 percent of these costs. I think that a much larger percentage recoupment is desirable, fair, and feasible, and that the full House should be afforded an opportunity to consider stronger provisions.

It is important to understand that the users of federally built and maintained inland waterways currently pay nothing for that privilege. In contrast, competing modes of transportation do pay charges for the use of Government-maintained facilities. Trucks pay license and fuel taxes, airplanes pay landing fees, and railroads provide their own roadbeds. Only the barge industry receives a free ride. A recent CBO study showed that Federal subsidies were equal to 42 percent of all barge revenues compared with 3 percent for railroads, 1 percent for trucking, and no subsidy at all for pipelines. Clearly, the time has come for the barge industry to begin paying a fair share of the cost of their facilities.

I am aware of and sensitive to the concern that such a program should be phased in gradually in order to insure that an unreasonable financial burden is not imposed on the barge industry. I also believe that such a program should allow for careful review of the impact and implications of the recovery schedule.

However, I do feel very strongly that the program should mandate a significant and set percentage of recovery because this will cause the users of these facilities to act as watch dogs against unnecessary construction.

Unfortunately, Mr. Speaker, title II of H.R. 8309 falls short of this standard. For that reason, I have proposed that users be required to pay charges which recover 25 percent of operation and maintenance costs and 25 percent of new construction costs.

Both would be phased in over a 5-year period. Such a program would clearly establish the principle that users of our inland waterways should bear a fair share of the cost of their facilities. It would establish the concept of users paying a set percentage of these costs—not just a fuel tax. And, it would provide incentive for the users to make sure that future construction costs are absolutely necessary, since they will be bearing a part of such costs.

Mr. Speaker, 1 week ago, I placed the text of my amendment in the CONGRESSIONAL RECORD. Since that time, it has come to my attention that I have used a different method than the Ways and Means Committee in computing the tax.

In order to avoid any debate over which method to use in figuring the tax, I have asked the Congressional Research Service to recomputate a tax based on the Ways and Means method which would recoup one-half of the 25 percent of operation and new construction costs—the other half to be recouped through other user charges such as licenses, lockage fees, and congestion fees. By using the Ways and Means assumptions, the tax rates in my amendment come out lower than in my original amendment. I am prepared to use these new figures because that way there can be no worry that I have used different data than the committee. For this reason, I would like to revise the tax rates in my amendment as follows:

In fiscal year 1979, the tax on a gallon of fuel would stay at 2 cents.

In fiscal year 1980, the tax on a gallon of fuel would be 4 cents, not 5 cents.

In fiscal year 1981, the tax on a gallon of fuel would be 6 cents, not 8 cents.

In fiscal year 1982, the tax on a gallon of fuel would be 8 cents, not 12 cents.

In fiscal year 1983, the tax on a gallon of fuel would be 10 cents, not 15 cents.

The full text of the amendment with these changes in it follows:

AMENDMENT TO H.R. 8309, AS REPORTED OFFERED BY MR. BEDELL

Page 13, strike out line 1 and all that follows down through line 19 on page 15 and insert:

TITLE II—IMPOSITION OF USER CHARGES FOR USE OF CERTAIN INLAND WATERWAYS

SEC. 201. IMPOSITION OF USER CHARGES.

(a)(1) Not later than the last day of the tenth month which begins after the date of enactment of this Act, the Secretary shall, after consultation with the Secretary of Transportation, and after conducting public hearings and permitting not less than forty-five days for public comment, promulgate, in accordance with the provisions of subsection (b) of this section, preliminary regulations establishing a schedule of user charges to recover 25 per centum of the Federal costs of each navigation project constructed, operated, rehabilitated, or maintained by the Secretary on any inland or intracoastal waterway of the United States, and shall publish such preliminary regulations in the Federal Register.

(2) After reviewing any comments on the schedule of user charges set forth in the preliminary regulations promulgated pursuant to paragraph (1), the Secretary, not later than April 1, 1979, shall, in accordance with the provisions of subsection (b) of this section, promulgate final regulations establishing such schedule of user charges, and shall publish such schedule in the Federal Register. The schedule of user charges set forth in such final regulations shall take effect October 1, 1979.

(b) The schedule of user charges established by the Secretary pursuant to subsection (a)—

(1) shall require the payment of user charges pursuant to such schedule by the owner or operator of any shallow-draft cargo vessel for the use by such vessel of any navigation project on any inland or intracostal waterway of the United States;

(2) shall be structured to collect—

(A)(i) in the fifth year beginning after the effective date of such user charges, and in each succeeding year, 25 per centum of the estimated Federal costs of the operation and maintenance of all navigation projects to be operated and maintained in such fifth year by the Secretary on any inland or intracostal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date, 5, 10, 15 and 20 per centum, respectively, of the estimated Federal costs; and

(B)(i) in the fifth year beginning after the effective date of such user charges, and each succeeding year, 25 per centum of the estimated Federal costs of the construction and rehabilitation of all navigation projects to be constructed and rehabilitated in such fifth year by the Secretary on any inland or intracoastal waterway of the United States; and

(ii) in the first, second, third, and fourth year beginning after such effective date, 5, 10, 15, and 20 per centum, respectively, of the estimated Federal costs;

(3) shall be appropriately adjusted for a year to reflect the amounts by which the amounts collected in any previous year were in excess of, or less than, the amounts required to be collected;

(4) shall take into account the volume of traffic and seasonal and other repetitive peak demands for use of the inland and intracoastal waterways of the United States;

(5) shall allow, as an offset or deduction against such user charges, the payment of any Federal tax (including tax imposed by section 4042 of the Internal Revenue Code of 1954) imposed on any vessel using the inland or intracoastal waterways of the United States enacted on or after the date of enactment of this Act; and

(6) may use, but is not limited to, one or more of the following mechanisms to collect the user charges established pursuant to this section:

(A) License fees.

(B) Congestion charges.

(C) Charges based on ton-miles over a given segment of an inland or intracoastal waterway.

(D) Lockage fees.

(E) Charges based on the capacity of cargo vessels, loaded or unloaded, over various segments of the inland or intracoastal waterways of the United States.

(c) Any owner or operator of a shallow-draft cargo vessel who fails to pay any user charge in accordance with the regulations promulgated pursuant to subsection (a)(2) of this section shall be subject to a civil penalty of not more than $5,000 per day for each day during the period for which such violation continues and, during such period, shall be prohibited from the use of any lock on any inland or intracoastal waterway of the United States.

(d) Not later than three years after the effective date of the schedule of user charges established pursuant to subsection (a)(2) of this section, the Secretary, in cooperation with the Secretary of Transportation, shall submit to the Congress a report on the implementation of the provisions of this section. Such report shall describe—

(1) the economic impact of user charges on the commercial users of and consumers of goods shipped on the system of inland and intracoastal waterways of the United States;

(2) the economic impact of user charges on a regional and national basis;

(3) the effectiveness of user charges in establishing a more balanced national transportation system;

(4) the effectiveness of user charges in promoting the more efficient use of public investments in the Nation's system of waterborne transportation and reliance on the private sector; and

(5) the effectiveness of user charges in providing for the balanced use of the Nation's water resources.

(e) For purposes of this section—

(1) the term "inland or intracoastal waterway of the United States" means any inland or intracoastal waterway of the United States which is subject to this Act by reason of section 103 of this Act (as in effect on the date of the enactment of this Act);

(2) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers; and

(3) the term "shallow-draft cargo vessel" means any cargo vessel other than a cargo vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

(f) Section 154 of the Federal-Aid Highway Act of 1976 is amended—

(1) in subsection (c), by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1979"; and

(2) in subsection (d), by—

(A) striking out "and" at the end of clause (E);

(B) striking out the period at the end of clause (F) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following new clause:

"(G) waterway user charges.".

SEC. 202. IMPOSITION OF TAX

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—There is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1980, 2 cents a gallon,

"(2) in the case of a use after September 30, 1980, and before October 1, 1981, 4 cents a gallon,

"(3) in the case of a use after September 30, 1981, and before October 1, 1982, 6 cents a gallon,

"(4) in the case of a use after September 30, 1982, and before October 1, 1983, 8 cents a gallon, and

"(5) in the case of a use after September 30, 1983, 10 cents a gallon.

"(c) Exemptions—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not ap-

ply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) or subsection (d)(1) shall not apply with respect to use by a State or political subdivision thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel an any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to the Navigation Development Act by reason of section 103 of such Act (as in effect on the date of the enactment of such Act).

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter."

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"SEC. 4042. Tax on fuel used in commercial transportation on inland waterways."

(d) The amendments made by this section shall take effect on October 1, 1979. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

JOHN "JAKE" HORN HONORED

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. MARKEY. Mr. Speaker, I would like to take this opportunity to commend John "Jake" Horn of Winchester, Mass., for his years of service on behalf of veterans. Himself a veteran of World War II, Jake served in the U.S. Navy and was posted in the Pacific theater.

Among other things, Jake has been a town meeting member for over 25 years and has been a member of the personnel board of the American Red Cross. He was also a past commander and quartermaster of the Veterans of Foreign Wars Post 3719.

John "Jake" Horn suffered a tragedy in November 1974. At that time he fell from a leaf machine and fractured four vertebrae. Despite the necessarily long convalescence period, Jake has continued his fine work. He is presently meeting with the board of selectmen and has been assisting in the acquisition of two new wings for the honor roll to honor those who served in Korea and Vietnam. I thank him for all that he has done through adversity and wish him continued success.

BILL TO DEAL WITH LABOR UNREST IN THE COAL FIELDS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. ERLENBORN. Mr. Speaker, I would like to bring to the attention of our colleagues a measure being introduced today by Mr. ANDREWS of North Carolina and myself, a bill to deal with labor unrest in the coal fields.

THE PROBLEM

Coal is an essential element in the lifeblood of our economic system. Its use will be increased dramatically in the coming years under a national energy policy now being formulated that will require new and existing electric power plants and major fuel-burning installations to use coal as their primary energy source. However, for many years labor unrest among the United Mine Workers has hampered the production of coal, a trend that is likely to worsen unless steps are taken by which the miners will be allowed to return to work.

The labor unrest is influenced by two factors—a strong adherence to union tradition, such as honoring another union's picket line, and roving stranger pickets who threaten to commit, and who do commit, violent acts upon those who would rather work than strike in support of a labor dispute at a distant mine.

THE REMEDY

The remedy we propose is twofold.

Federal courts would be empowered to enjoin sympathy strikes, and violent activity committed at or about a job site would be declared unlawful under the National Labor Relations Act (NLRA).

The problem addressed by Section (a) of our bill is best illustrated by *U.S. Steel Corp.* v. *UMW*, 93 LRRM 2945 (1976), in which roving stranger pickets threatened workers with threats of physical bodily harm or personal property damage. Despite efforts of the union leadership, the miners refused to cross the picket lines.

The court declined to order the miners back to work because there was no legal authority for it do so. The court described the situation as "alarming" and said that "under the current conditions legislative action may be necessary." Id. at 2948. Even though the miners themselves wanted to return to work, the court lamented:

> We cannot grant the injunction to help the unions combat the dissident few who apparently are on the threshold of making a mockery of our time-tested system of laws. Id.

The court concluded that it "now appears that the days of eradicating labor strife through peaceful arbitration are close to extinction." Id.

In *Boys Market, Inc.* v. *Retail Clerks Union*, 398 U.S. 235 (1970), the Supreme Court held that section 4 of the Norris-LaGuardia Act does not prohibit a Federal court from enjoining a labor strike if the underlying dispute which gave rise to the strike is subject to a mandatory grievance and arbitration procedure agreed upon by the employer and the striking union. However, in *Buffalo Forge Co.* v. *United Steelworkers*, 428 U.S. 397 (1976), the Court narrowed Boys Market by saying that even though the parties involved in a labor dispute are bound by a collective bargaining contract containing a no-strike/no-lockout provision, the union is still free to engage in a sympathy strike.

Section (a) seeks to reaffirm the more reasonable approach of encouraging, not hindering, the peaceful settlement of contract disputes by resolving differences privately through methods other than work stoppages. This is done by making clear that Federal courts have power to enjoin breach of contract strikes by amending section 10 of the Labor Management Relations Act to provide for specific enforcement of a no-strike/no-lockout clause irrespective of the wording of an arbitration clause that might also be included in the contract.

Although coal production per manday has declined dramatically in the past 10 years, President Carter wants to increase coal production to more than 1.1 billion tons a year by 1985, a level which will be difficult to attain under the most ideal of circumstances. One of the factors that will cause a shortfall is continued labor unrest in the coalfields. Despite the fact that the United Mine Workers (UMW) signed a contract with mine operators that contains a no strike/no-lockout provision, wildcat strikes permeated the coalfields. For example, the wildcat strikes this summer are estimated to have cost 11 million tons of production.

Under the labor contract between the United Mine Workers and the Coal Mine Operators, revenues paid into health and pension funds are based on royalties geared to coal production. A decline in coal production resulting from strikes means less money will be paid into the funds' assets. The loss from January through August of 1977 was $45 million. In June 1977 the decline in coal production due to work stoppages had become so severe that the funds no longer had sufficient income to provide cost-free medical coverage and, thus, benefits were reduced accordingly. The funds' reserves could no longer absorb the losses resulting from decreased revenue.

In July the wildcat strikes were particularly severe. Two hundred seventy-nine thousand man-days were not worked resulting in nearly 2½ million tons of coal not mined, over $17 million in wages not paid and about $5.3 million lost to the UMWA Health and Retirement Funds in just that 1 month.

The existing remedies available to persons harmed by violent activity engaged in during labor disputes are inadequate.

Although violent conduct may result in an unfair labor practice under section 8(a)(1) or 8(b)(1) of the NLRA the only remedy available from the National Labor Relations Board is a cease-and-desist order. The Board will not authorize even backpay for employees unable to work because of violent conduct by others during a labor dispute.

In essence, it is only the on-going continuing acts of violence or coercion for which the act affords any relief, as a cease-and-desist order offers no consolation to a victim injured by a one-time violent occurrence. Further, even in those situations in which there are continuous acts of violence, the Board, the General Counsel, and the courts, have demonstrated great reluctance to take aggressive action to halt such conduct.

Section (b) of our bill would correct this deficiency by making violent conduct an unfair labor practice warranting mandatory injunctive relief and providing the injured party compensation for any loss suffered as a result of such conduct. The amendment does not invade the legitimate rights of labor or management. It does, however, assure that those provisions of the NLRA which were meant to encourage unions and employers to pursue their own interests actively and vigorously do not also immunize the parties in a labor dispute from punishment when the welfare and property of the public are harmed.

It should be emphasized that this section is not intended to preempt State and local law enforcement mechanisms. Rather, it is intended to supplement those agencies.

As a footnote, according to a September 17 news report, a temporary emergency agreement to bridge the trust fund gap has been made between the UMW and the Bituminous Coal Operators Association. This agreement will not work, however, if we have more strikes in the coal fields.

NO. 893

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. CLAY. Mr. Speaker, as baseball has joined "apple pie" and "Mom" in importance to American life, I think it is significant to note the outstanding record of Lou Brock of the St. Louis Cardinals. Thus, I am anxious to share with my colleagues this article which appeared in the St. Louis Post-Dispatch on August 8, 1977:

No. 893

Lou Brock, officially, is now the greatest thief baseball has ever seen. And such has been the excitement generated by his quest to overtake Ty Cobb's record that when he reached base in the seventh inning of Monday's game the San Diego fans urged their opponent to go. And Lou went—base 893 was stolen. St. Louis fans can well understand it. They know the excitement Lou Brock generates any time he gets on base. The pitcher begins concentrating more on first base than home plate; the catcher appears poised to throw before he has the ball; the infield seems off balance as each member keeps an eye on the man who may run at any moment.

From the beginning of the season, this was to be the year the record was broken by the man who had made base stealing a science. He began his string of 12 consecutive seasons with more than 50 stolen bases in 1965. And during that season Post-Dispatch artist Amadee prophesied, "The Cardinals have had their share of swifties over the years but Lou Brock is poised to top them all." Top them all he has. Then when he got off to a slow start in 1973, Lou said some bench jockeys were saying "Old Man, you can't do it anymore." But the old man showed them. He stole 70 bases that year and during the next set the single season record of 118 thefts. Now at 38 he has the record and has time yet to run up the tally. How about a thousand, Lou?

RENTERS' TAX EQUITY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. OBERSTAR. Mr. Speaker, today I am introducing legislation to amend the Internal Revenue Code of 1954 to provide an itemized deduction equal to 75 percent of rent paid for a person's principal residence during the taxable year. This amendment would end the discriminatory treatment of renters in the current tax code.

Interest payments on home mortgages have long been deductible in our Federal income tax. Rent payments, however, are not deductible, which results in discrimination against renters. Two identical people with an equal sum to invest in residences will bear different tax burdens if one buys a house and the other rents a comparable house and invests his money—see table.

Not only is there no rationale for this bias, the unequal burden falls most heavily on low-income people. The majority of low-income housing is rented, houses are not in oversupply, and movement from city residences to suburban homes is not generally desirable.

Under my bill, homeowners will continue to have adequate compensation for the burden of property taxes, for it does not affect homeowners. When property tax rates, mortgage interest deductions, and taxes on alternative forms of investment are evaluated, it is clear that those who invest in homes do not bear an unfair tax burden. The 75-percent deduction figure in my bill amounts to a modest differential in the treatment of homeowners and renters for the purpose of equalizing to some extent the differences in property tax burdens.

Legislation of the kind I am proposing here has been opposed by the Treasury Department in the past on grounds that a rent deduction would cause a decrease in tax revenues. Greater revenues, however, do not justify unfair laws and unequal treatment.

Others in this body have introduced legislation which would provide a credit equal to 5 percent of qualified rent payments. This device would provide relatively more relief to low income than to high income groups. However, it is inconsistent with existing provisions of the tax code. Since mortgage interest payments are deductible and imputed rent is ignored, rent payments should be made deductible.

I urge support for my bill and for the equal tax treatment of renters and homeowners which it will provide. The following table illustrates the inequity of the current definition of taxable income and the effect of the proposed amendment.

(Assumption: each person has $40,000 to invest and wishes to live in a comparable home.)

	Renter	*Equity owner*	*Mortgage-owner*
Imputed rent	0	$2,000	$2,000
Interest paid	0	0	2,000
Dividends	$2,000	0	2,000
Taxable income under current law	2,000	0	0
Taxable income under amendment	0	0	0

ENVIRONMENTAL ACTION'S "DIRTY DOZEN" LIST

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. GRASSLEY. Mr. Speaker, recently I received a letter from the friendly, if misinformed, folks at Environmental Action's Dirty Dozen Campaign Committee. These self-styled environmentalists—although who they represent and from whence comes their authority escapes me—were kind enough to include my name on their 1976 "dirty dozen" list.

The communication concerned the upcoming vote on funding the controversial Clinch River breeder reactor. That is OK with me. Many individuals and groups contact me with regard to pending legislation and often are a source of valuable information.

Unfortunately, Environmental Action's latest effort at shaping the course of future events contained a paragraph which is inappropriate. The offending and offensive sentences follow:

From an environmental standpoint, the vote in September will be one of the most important votes you will cast in this session of Congress. I want to be perfectly frank in telling you that the Dirty Dozen Committee will use this vote (along with others) for the purpose of selecting the 1978 Dirty Dozen. I want to make sure that you are aware of this fact when you make your decision on the CRBR program.

The above language is pompous. The tone is self-righteous, all knowing and holier-than-thou. A reasonable person could well construe it as nothing more than a thinly veiled threat.

My vote with regard to the Clinch River breeder reactor will be based upon facts, evidence, and what I perceive to be

the best interests of the United States. Making Environmental Action's hit list for 1978 does not bother me in the least. Certainly I am not going to try and curry favor with this or any other special interest group. Perhaps the dirty dozen campaign ought to put its own house in order before attempting to clean out the House of Representatives.

AMENDMENT TO H.R. 6693 TO PROHIBIT SEXUAL EXPLOITATION OF CHILDREN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. KILDEE. Mr. Speaker, the House of Representatives will soon consider H.R. 6693 which will amend and extend the provisions of the Child Abuse Prevention and Treatment Act.

At that time, I intend to offer the text of the child exploitation prevention bill, which was introduced by Mr. MURPHY of New York and myself, as an amendment. This amendment would extend the original concept of H.R. 6693 by prohibiting commercial sexual exploitation of children.

Extensive hearings have been held on this legislation which is being sponsored by 126 Members of the House. Hearings were held in Los Angeles and New York in addition to hearings here in Washington. Among those who testified were people from the Justice Department, local law enforcement agencies, prosecutors' offices, treatment facilities, the media, and academic institutions. The final version of the bill incorporates some of the suggestions made by these witnesses.

The testimony demonstrated both the scope of the problem and the serious consequences for those children who are commercially sexually exploited. In the course of these hearings, we have discovered that the sexual abuse of children is a much more prevalent problem than many of us had suspected. I think that we also came to the conclusion that no single faceted approach will be sufficient to deal with this serious problem. Additional attention needs to be given to prevention, treatment, and rehabilitation on both the Federal and State levels. I envision this amendment as the beginning of a process in which we do much more to protect our children from sexual abuse and treat those who are the unfortunate victims.

This amendment will attack one of the most reprehensible aspects of this problem. It will provide punishments for those whose motivation for abusing a child is greed and profit.

I ask my colleagues to support this amendment, the text of which follows:

AMENDMENT TO H.R. 6693

(Offered by Mr. KILDEE)

Page ___, after line ___, add the following new section:

SEXUAL EXPLOITATION OF CHILDREN

SEC. 7. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue, and the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials, and specific legislation in this area is both advisable and needed.

(b) The Child Abuse Prevention and Treatment Act (Public Law 93-247; 88 Stat. 4) is amended by adding at the end thereof the following new sections:

"SEXUAL EXPLOITATION OF CHILDREN

"SEC. 8. (a) Any person who causes or willfully permits a child to engage in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends—

"(1) that such act will be photographed, filmed, or electronically reproduced; and

"(2) that any photograph, printed material containing such photograph, film, or electronic visual image depicting such act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(b) Any person who photographs, films, or produces an electronic visual image of a child engaging in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends that any photograph, printed matter containing such photograph, film, or electronic visual image made by such person depicting such an act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(c) Any person who violates subsection (a) or (b) shall be fined not less than $5,000 nor more than $50,000, or imprisoned not more than 20 years, or both.

"REPRODUCTION, TRANSPORTATION, AND DISSEMINATION OF CERTAIN PHOTOGRAPHS, FILMS, AND ELECTRONIC VISUAL IMAGES

"SEC. 9. (a) Any person who—

"(1) manufactures, reproduces, or duplicates any photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, and who knows, has reason to know, or intends that the product resulting from such manufacture, reproduction, or duplication will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of such materials;

"(2) knowingly transports or ships through, or in such manner as to affect, interstate commerce or foreign commerce or knowingly mails any photograph, printed matter containing such photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, for the purpose of sale or resale;

"(3) knowingly receives for the purpose of selling or knowingly sells any photograph, printed matter containing such photograph, film, or electronic visual image which has been shipped or transported through, or in such manner as to affect, interstate commerce or foreign commerce or has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or

"(4) uses for profit, or makes available for profit, in any public showing any film or electronic visual image which has been transported or shipped through, in such a manner as to affect, interstate commerce or foreign commerce or which has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act,

shall be punished as provided in subsection (b).

"(b) Any person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 15 years, or both.

"ENFORCEMENT AUTHORITY

"SEC. 10. Enforcement authority for the provisions of sections 8 and 9 shall be vested in the Attorney General of the United States.

"DEFINITIONS

"SEC. 11. For the purposes of sections 8 and 9—

"(1) the term 'child' means any individual who has not attained age 16;

"(2) the term 'prohibited sexual act' means sexual intercourse, and intercourse, masturbation, fellatio, cunnilingus, sexual oriented sadomasochistic abuse, sexual bestiality, or a lewd exhibition of the genitals in the context of any sexual activity;

"(3) the term 'public showing' means any showing which is accessible to the general public for the payment of any direct or indirect fee or other consideration and includes any membership organization for which the qualifications are established for the primary purpose of making any individual who qualifies as a member eligible to attend such a showing; and

"(4) the term 'simulation' means the depiction of the genitals in explicit sexual activity which gives the appearance of the performance of any prohibited sexual act.".

HELSINKI'S UNFULFILLED PROMISE

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. RUSSO. Mr. Speaker, I appreciate having the opportunity to join my distinguished colleague, Representative DRINAN, in a project he initiated entitled "Helsinki's Unfulfilled Promise." As we are all aware, in August of 1975, 35 nations signed the Helsinki Final Act which pledged to facilitate the reunification of families separated by political boundaries. It would appear that the Soviet Union's promise, however, is virtually meaningless as evidenced by the number of families who have been divided because of the U.S.S.R.'s harsh and discriminatory emigration policies.

I am deeply saddened by the need to call your attention, once again, to the case of Celia and Joseph Kats and their young son, Albert. Since 1973, the Kats family has attempted to leave the Soviet Union and join Celia's mother, Mrs. Goldetha Fooxman, who lives alone in Bat Yam, Israel. To date their request

has been refused 34 times under the pretext that Joseph served in the army and, therefore, his emigration would be a threat to State security. Supposedly, Joseph Kats could not leave the country for 5 years after his Army term—it should be noted that this period of time has already expired but no decision has been forthcoming from Soviet officials.

It is commendable that this family and others like them, continue to pursue their dream of being reunited with loved ones despite the overwhelming obstacles posed by their government. That the Soviet Union can continue to forcibly retain those citizens within their borders, however, is certainly a tragedy. I would urge every Member of Congress to look within his or her heart and, by joining this vigil, express concern and compassion for those who must always struggle for freedom.

DISTRICT OF COLUMBIA PENSION TIME BOMB DEMANDS IMMEDIATE ATTENTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to call the attention of my colleagues to a problem of particular concern to the cities of America: The runaway cost of public employee pension plans.

One of the more serious examples of this problem is found there in the District of Columbia.

For the benefit of my colleges—who will soon be voting on a measure to solve the District of Columbia's pension problem—I wish to insert in the RECORD two Washington Post articles.

The first, authored by Neil R. Peirce, outlines the general public pension problem. The second, a letter by David A. Ryan, focuses in on the District's pension problems.

We will have before us, on Monday, September 26, the bill, H.R. 6536, the District of Columbia Pension Reform Act. I am also inserting a fact sheet relating to H.R. 6536.

I helped draft the D.C. Pension Reform Act, I worked on it extensively in the 94th Congress and again, in this Congress.

I believe H.R. 6536 is a good, solid, defensible and prudent bill. I hope all my colleagues will look over these materials closely and support H.R. 6536 when it reaches the floor next Monday, September 26.

SIX STEPS TO PENSION SANITY

(By Neal R. Peirce)

DETROIT.—By the time he'd finished his first term in the Tennessee legislature, says State Rep. John Bragg, he'd learned two things: 1) where the men's room was and 2) that there was something wrong with Tennessee's state and local pension systems.

So, Bragg related at the recent Detroit meeting of the National Conference of State Legislatures, he proposed a study of Tennessee's government pensions. "When the results came out, I wished I hadn't learned what I learned."

Like almost every other state, Tennessee has built up huge unfunded pension liabilities. Politicians were receiving the accolades and votes for approving generous special-interest benefit packages. Fund investment practices were sloppy and "the hired help"—pension-plan trustees and administrators—"were employees who benefitted from the higher benefits and abuse of the systems. They weren't about to tell what was wrong because of their own vested interest.

Tennessee began broadscale reform under Bragg's leadership. Now, as chairman of the NCSL's public-pension task force, Bragg offers a checklist of six basic steps any state legislature can undertake to pull its state and local pension plans out of the trough of poor management, poor funding and political expediency:

1. Appoint a committee or council on pensions, made up of "hard-headed, thick-skinned legislators—preferably from safe districts, so they don't have to play to special interests—who are willing to work and learn about pensions and get some control of these programs." Without that first step, says Bragg, "you're dead—because nobody else cares."

Every proposed pension change must then be forced to run the gauntlet of that committee, Braggs says, so that it can be exposed to full actuarial analysis and the true costs revealed.

2. Eliminate pension hopping. Under this popular loophole, an employee may work years as a ditch digger, then get appointed to a higher-paying job just before he retires and get all his years at ditch digging credited at high salary to give him an inflated pension benefit. The most notorious example is New York's practice of using only an employee's last year of work—including overtime—to determine his pension base.

Now in Tennessee (and a few other states) a worker gets a pension based exclusively on the money he paid into the fund, plus the state or local government's matching contribution to the pension fund.

3. Eliminate double-dipping. The most notorious examples are federal laws that permit a person receiving a full military pension to go back to work for Uncle Sam drawing a full civilian salary at the same time. There are currently 150,000 double-dippers on federal payrolls, drawing $1 billion annually in pensions plus their current salaries.

Double-dipping is also a chronic problem in the states—highway patrolmen, for instance, who retire with pensions at 55 and then get elected local judges.

4. Examine disability procedures and rolls. It's generally much easier to qualify for a disability pension in government than private business, and the area is rife with abuses.

A favorite gambit of government administrators who want to reduce work forces or get rid of an employee they don't like is to discover he or she has some kind of disability and must be pensioned immediately. While drawing government pensions, "disabled" workers often go off and get other jobs, so that society pays for them twice.

Tennessee tackled the problem with a bill requiring examination of disabled government workers every five years by two physicians.

5. Insist on front-end funding. That means that when any new benefit is added, it's funded immediately on an actuarial basis. When Tennessee was asked to institute a 3 per cent annual cost-of-living allowance on its pensions, advocates said it would cost less than $500,000. But Bragg's committee found the cost would escalate to $100 million annually by the year 2000, and insisted it be funded immediately at an actuarily computed level of $20 million annually.

6. Integrate all public-pension funds with Social Security and place a cap on a pensioner's total benefits—Social Security plus his government pension—of about 70 per cent of pre-retirement income. A cap of 70 or at the most 80 per cent lets the average pensioner maintain his standard of living, analysts say, because of sharply reduced costs and taxes in retirement.

Only 30 per cent of state and local workers are now covered by Social Security, but most pension experts agree with Bragg that coverage should be universal and mandatory. It's short-sighted, Bragg says, for any state or local government to withdraw from Social Security—as several have in recent years.

Bragg says his NCSL pensions task force "will try to get these six reform points instituted in every state."

Other reforms, however, are likely to join the list. Minnesota State Rep. Donald Moe would prohibit collective bargaining on public pensions—a source of some of the worst abuses of recent years. Many legislators are interested in reversing the trend toward early retirements, which balloon pension costs at alarming rates.

Others are pushing for consolidation of myriad local pension plans into consolidated state plans, where the legislature and taxpayer groups can monitor them more easily and better management can increase investment yields. Interest is growing in the computerized data bank on all of a state's pension systems pioneered by Massachusetts.

Bragg reserves, however, the most revolutionary idea of all for himself. "Eventually," he says, "all federal, state and local plans will have to be combined in a single national system, on one master computer. You work for the taxpayer, and he's the ultimate employer."

[From the Washington Post, Aug. 27, 1977]

DEFUSING THE PUBLIC-PENSION TIME BOMB

(By Neal R. Peirce)

BOSTON.—Belatedly—and in the nick of time—state and local governments are starting to defuse the time bomb of widespread underfunded public-worker pensions.

The process is not going to be easy—or cheap. There are decades of neglect, of expedient political deals, of poor pension-fund management and unconscionable concessions to privileged classes of government workers to be paid off.

Massachusetts' solution, for instance, is a 40-year plan that will require—after a five-year phase-in to soften the fiscal blow—expending 26 per cent of state and local payrolls each year to cover the Bay State's huge $12.6-billion unfunded pension liability.

Officials of Boston and other hard-pressed localities worry whether they can afford the annual payments. But Carmen W. Elio, chairman of Massachusetts' Retirement Law Commission and chief architect of the reform plan, warns that if the pension plans aren't put on a sound basis, bankruptcy will be inevitable.

The pension commitments many states and cities have made to their workers, especially when an employee can retire with more money than he was making on the job, amount to "capital punishment of the taxpayer," says Tennessee State Rep. John Bragg, chairman of the public-pension task force of the National Conference of State Legislatures.

Bragg reports that in 16 states a school teacher who retires at 65 after 25 years' service will receive—combining pension and Social Security—an actual increase in after-tax disposable income.

A Philadelphia city worker who retires at 65 after 30 years on the job will draw 129 per cent of his final take-home pay through combination of his city pension and Social Security, pension expert Bernard Jump de-

termined. In Detroit the comparable figure is 116 per cent; in New York City 127 per cent.

There are some states and localities where employees are offered far less. But on the average, according to a Twentieth Century Fund report, pensions for state and local government workers are roughly double those the worker in private industry can expect. Many state and local government retirees are protected by automatic cost-of-living adjustments, for instance—features virtually non-existent in private industry pensions.

Sloppy actuarial work and fund management by political cronies have compounded the problem. The net result is that unfunded pension liabilities—obligations beyond accrued retirement funds—are at alarming levels from coast to coast. Examples: California, $13.6 billion; Illinois, $5.7 billion; New Jersey, $5.3 billion; Ohio, $3.5 billion; Florida, $2.8 billion; Maryland, $2.5 billion. Eventually, taxpayers are going to have to pay all those bills—plus the cost of the federal government's Civil Service and military benefits, an unfunded liability estimated as high as $700 billion.

Massachusetts' breakthrough came after Elio's Retirement Law Commission created a computerized data bank of the state's 101 state and local pension systems. The data bank, the first of its kind anywhere, can determine the cost of any proposed retirement-benefit change on short notice. A fiscal note is attached to any pension bill the legislature considers. One result: no pension liberalization since 1973.

"In the past," Elio says, "everyone used to say, 'Yes, pass a pension benefit today and worry about the cost tomorrow.' But tomorrow is today now, the costs are here, and they just can't keep being passed on."

Before the legislature accepted the new 40-year funding plan, Elio campaigned across Massachusetts for a year, persuading taxpayers and public employees that, without reform, the state's fiscal position would be dangerously weakened, with government workers in jeopardy of losing their pension benefits. Government-employee unions, previously hostile, dropped their opposition.

Massachusetts' data bank will now be expanded across New England under a grant from the U.S. Labor Department, permitting instant comparison of all six states' public-pension plans and effects of proposed changes.

At least half the states have started comprehensive pension reviews, moved to set up consolidated statewide retirement systems or begun, for the first time, to apply actuarial studies to proposed pension changes. Governors have started to veto pension "sweeteners" approved by state legislatures.

Delaware's legislature voted to limit new employees' total retirement benefits (including Social Security) to 75 per cent of final pay. New York began a reduced benefit plan for all new state and local government workers, which ties in Social Security benefits and is expected eventually to reduce pension costs by some 20 per cent.

Reduced benefits generally apply only to new employees, not workers already covered, on the legal theory—enforced vigorously by courts—that pension concessions once made are contracts a government can't break. But the Tennessee Supreme Court last year said that, if paying full pensions ever threatened the state's fiscal stability, the state might renege on its commitments.

With the pension debts states and localities must pay off in the next quarter century—in some cases exceeding active payrolls—there's a distinct chance of default in paying pensioners unless early reforms are made.

There have already been sufficient state reforms, however, to take the wind out of the sails of a congressional effort to impose on state and local pension systems many of the reporting, disclosure and fiduciary requirements already applicable to private-sector pension plans.

The House Pension Task Force last year issued a blistering critique of state and local plans, saying they lacked many of the basic safeguards required of private plans, often failed to inform participants of plan operations or the benefits they could expect, and in some cases were so poorly managed they "fairly reeked of culpability." State pension reformers smell gross hypocrisy in the idea of Washington applying private-sector standards to state and local governments while neglecting its own grossly overcommitted pension programs. It would be a classic case, says Elio, of "Don't do as I do; do as I say."

The best approach, Elio suggests, is to expand data banks across the country and foster frequent communication between the states on ways to improve their pension systems. That way, he believes, the states can achieve needed reforms without confusing federal regulations.

"I think we can put our own houses in order," Elio says. And while the states have a long way to go, the evidence suggests they are beginning to do just that.

FIRE FIGHTERS ASSOCIATION,
Washington, D.C., September 1, 1977.

EDITOR,
Washington Post,
Washington, D.C.

DEAR EDITOR: We read with great interest an article "Defusing the Public-Pension Time Bomb", by Neal R. Peirce, in your August 27th edition. There are many points raised by Mr. Peirce that we think need further elaboration as many have a very familiar ring to us. In the whole we agree with Mr. Peirce and it is obvious that many jurisdictions are reviewing their pension liabilities and how they will be met. We find it particularly interesting that this second look by Cities and States seems to have been brought about by the possibility of Congressional intervention. We don't doubt this is true but question whether "the pot is not calling the kettle black."

The District of Columbia firefighters, police officers, and teachers find themselves deeply involved in a pension morass similar to that described by Mr. Peirce. There is one basic difference in that our systems have been the sole responsibility of the Congress since their inception. Until the passage of the Home Rule Act in 1974, Congress alone determined the level of benefits for these District employees and also elected not to provide funds for these benefits so now the unfunded liability is over 2 billion dollars. Congress, being aware of this took action to correct this financial dilemma in 1974 and again in 1975 under the lead of Congressman Thomas Rees. Neither of Mr. Rees's bills were viewed favorably by the Administration and never were brought before the House. In 1976 Congressman Mazzoli took up the cause and his bill was unanimously reported out of Committee at about the same time the present Administration established a Task Force to study D.C.'s financial problems. The pension issue was to be a priority issue for the Task Force.

There have been several meetings of the Task Force and all of the Congressional and City representatives strongly support Mr. Mazzoli's bill. However, there has been no decision on this matter to date and all indications are that the recommendation is going to fall far short of what is needed for an actuarily sound system. The Carter administration has not been applauded for its strong support on behalf of cities and it appears Washington will be no exception. It is extremely disturbing in this instance as Mr. Mazzoli's bill, after much discussion, is supported by the employee groups as well as the Congressional and City representatives.

We can understand local and state officials resenting Congressional mandates affecting local issues, even though these local officials brought the problem upon themselves, but what really must arouse their ire is a look at who is pointing the finger. It appears the White House Task Force on the District of Columbia could easily espouse the quote from Mr. Peirce's article, "Don't do as I do; do as I say."

Sincerely,

DAVID A. RYAN,
President.

FACT SHEET ON H.R. 6536—DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Sponsored by Mr. Mazzoli and co-sponsored by Mr. Diggs, Mr. Rodino, Mr. Bauman, Mrs. Holt, Mr. Steers, Mr. Fraser, Mr. Fauntroy, Mr. Marks, Mr. Dellums, Mr. McKinney, Mr. Harris, Mrs. Meyner, Mr. Fisher, Mrs. Spellman, Mr. Whalen, Mr. Stark, Mr. Applegate, Mr. Simon, Mr. Badillo, and Ms. Mikulski.

1. Establishes separate retirement Funds for police and firefighters, teachers, and judges with District Government and employees contributing 80% and the Federal Government, 20%.

2. Establishes an independent Retirement Board to manage the Funds (11 members, 5 appointed by District, 6 elected by active and retired employees). Invests the Board with fiduciary responsibility over the Funds.

3. Requires the Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).

4. Prohibits investment of funds in D.C., Maryland, and Virginia securities, real estate, and agencies.

5. Provides the following changes in benefits for D.C. police and firefighters:

FOR PRESENT EMPLOYEES

a. Vesting in 5 years with right to deferred annuity at 55;

b. Biannual cost-of-living adjustment similar to current Civil Service system;

c. Eliminate disability retirement for aggravation of off-duty injuries;

d. Increases survivor annuities to conform with current Civil Service and Social Security practices.

FOR NEW HIRES

a. Base annuities on average of three year's pay (as opposed to one year's pay currently);

b. Changes eligibility for normal retirement to age 50 with 25 years service (as opposed to 20 years and out currently);

c. Bases disability annuities on a medically determined percentage of impairment and places a stronger outside earnings limitation on disability retirees;

d. Strengthens medical and income reporting for annuitants.

FOR TEACHERS AND JUDGES

a. Repeals 1% "add-on" provision in cost-of-living adjustments and provides for biannual cost-of-living adjustment described above;

b. If teacher has elected to receive a reduced annuity to provide for a survivor's annuity and spouse predecease annuitant, allows for the restoration of the full annuity.

Authorization.—The bill includes authorizations of $47.7 million in FY 1978 and a total Federal outlay of $768.9 million ending in FY 2003.

COMMUNICATIONS REFORM

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mrs. PETTIS. Mr. Speaker, our colleagues on the Communications Subcommittee are now engaged in the complex and arduous task of overhauling the

Communications Act of 1934 in order to bring it into line with today's technology. This question has sparked a great deal of interest throughout the Nation and we have all received voluminous correspondence on the importance of this legislation. Recently, the Board of Supervisors of San Bernardino County enacted the resolution below and I commend it to the attention of my colleagues:

RESOLUTION No. 77-175

Resolution of the San Bernardino County Board of Supervisors Relating to the Consumer Communications Reform Act of 1977

Whereas, the Consumer Communications Reform Act of 1977 has been introduced in the United States Congress to resolve uncertainties and to reaffirm to the intent of Congress with respect to the structure and direction of the common carrier telecommunications industry; and

Whereas, the San Bernardino County Board of Supervisors is in support of a telecommunications policy that would allow as many households as possible to have telephone service at affordable rates; and

Whereas, current policies of the Federal Communications Commission will have a tendency to significantly increase rates to private telephone customers.

Now, therefore, be it resolved, that the Board of Supervisors of the County of San Bernardino of the State of California, on behalf of the citizens of San Bernardino County, unanimously feels that the Consumer Communications Reform Act of 1977 should be given serious consideration, and that Congress should establish a policy that will give high quality telephone service at reasonable rates to the local telephone users.

Be it further resolved that copies of this resolution be forwarded to the county's Congressional representatives.

THE KATYN FOREST MASSACRE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. COTTER. Mr. Speaker, in May 1940, 15,000 Polish soldiers and officers were murdered and buried secretly in the Katyn Forest. Their mass grave was in Polish territory occupied by Soviet troops. There seems to be little doubt that the massacre was perpetrated by the Soviets, who had just cooperated with Nazi Germany to smash Polish independence.

On June 19, the State of Connecticut remembered the Katyn Forest massacre under a proclamation from our Governor. I would like to share this proclamation with you, along with a similar statement from the mayor of Hartford:

STATE OF CONNECTICUT OFFICIAL STATEMENT

(By Gov. Ella Grasso)

The citizens of Connecticut are proud of the many organizations throughout our state which dedicate themselves to the veterans of foreign wars and their families.

The Polish Army Veterans Post 119 is one of these outstanding associations. The members have risked their lives for freedom and have made significant contributions beyond their service in times of war.

Each year they display their devotion to the Polish Army Veterans through their observance of the anniversary of the Katyn Forest Massacre in Russia.

This year marks the 37th anniversary of this sorrowful event during World War II, when more than 10,000 Polish soldiers and officers were killed.

The graves of the soldiers were discovered three years later. An official investigation following the war placed responsibility in the hands of the Soviet Union's army which had held the victims captive.

War is the ultimate example of man's inhumanity to man. Through cooperation and communication between nations, we continue our struggle to prevent this evil.

The history of conflict is an invaluable lesson in the tragedy of war and personal loss.

I therefore designate June 19, 1977, as a day of remembrance for those who died in the Katyn Forest massacre, in the hope that humanity will not again be grieved by such acts of violence.

PROCLAMATION: KATYN FOREST MASSACRE DAY, JUNE 19, 1977

Whereas, On June 19, 1977, the Polish Army Veterans Post #119 will celebrate Holy Mass to commemorate the 37th anniversary of the massacre of some 15,000 Polish prisoners of War at Katyn Forest, Russia; and

Whereas, Polish people everywhere, especially Polish Army Veterans, cannot forget what happened at Katyn Forest 37 years ago; and

Whereas, The tragedy not only lies in the death of these Polish prisoners, but also in knowing that the guilty were never punished; and

Whereas, The organization of Polish Army Veterans, Post #119, of Hartford, Connecticut have initiated a program to honor the Polish soldiers murdered at Katyn;

Now, therefore, I, George A. Athanson, Mayor of the City of Hartford, do hereby proclaim Sunday, June 19, 1977, as "Katyn Forest Massacre Day in the City of Hartford," and urge people to honor and remember those 15,000 officers, doctors, professors and other intellectuals who gave their lives not only for Poland, but for the cause of freedom.

LAETRILE BANDWAGON DERAILED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. WAXMAN. Mr. Speaker, I would like to bring to the attention of my colleagues recent developments in the States indicating the laetrile legalization bandwagon has lost its momentum. During the August work period, I appeared before the health committee of the California assembly to stop an effort to legalize laetrile in my State. Before being elected to Congress, I was chairman of that committee, and I was dismayed by reports that reached me during the summer of high pressure lobbying tactics which could lead to laetrile legalization in California.

California had tremendous symbolic value to the prolaetrile forces. California was the very first State to outlaw laetrile just a few short years ago; California is our largest State by population, and its legislature is considered very sophisticated in health matters. For California to have legalized laetrile would have had a domino effect on legislation in a dozen other States.

I felt that if California and other States legalized laetrile that our food, drug and cosmetic law would be completely undermined, and the marketplace would be flooded with useless nostrums.

The arguments that I and Donald Kennedy, Commissioner of FDA, made were persuasive to the health committee of the California assembly which voted in August against legalization immediately after our presentation. The vote was 6 to 5.

Shortly thereafter, Gov. Hugh Carey, whose wife died of cancer in 1974, vetoed two measures permitting use of laetrile by patients signing a consent form for patients with a terminal condition.

What does this mean? It means that the lobbying effort of laetrile proponents is not invincible. A growing number of States have rejected laetrile: Hawaii, Illinois, Maryland, North Dakota, South Dakota, and West Virginia.

I have always believed that the best offense to high pressure lobbying is information. I have told my constituents not to be taken in by the slogan, "freedom of choice." The only meaningful choices are informed ones; therefore, I close my remarks today with an article appearing in the August issue of Consumer Reports entitled "Laetrile: The Political Success of a Scientific Failure." This article documents, in a format any layman can understand, why laetrile should not be legalized at this time.

LAETRILE THE POLITICAL SUCCESS OF A SCIENTIFIC FAILURE

(Copyright © 1977 by Consumers Union of United States, Inc. All rights reserved under international and Pan-American copyright conventions. Reprints available from Consumers Union of United States, Inc., 256 Washingon Street, Mount Vernon, New York 10550.)

Laetrile was discovered quite by accident in 1920 during an attempt to improve the flavor of bootleg whiskey. Supposedly "purified" in 1952, Laetrile has been struggling for respectability as a cancer remedy ever since.

Scientifically, it hasn't made it. But its political respectability is growing with stunning speed as state after state passes laws legalizing its use. If that trend continues, the Federal Government's 14-year-old ban on the importation and interstate shipment of Laetrile may well become as obsolete as Prohibition. More important, the Government's ability to rid the marketplace of quack remedies of all kinds may be jeopardized.

The power of political pressure is being felt even in the scientific world. Generally, major cancer-research centers consider it unethical to test a drug on humans unless it first shows promise in animals. Laetrile has shown no such promise. Nevertheless, the National Cancer Institute (NCI) and the Memorial Sloan-Kettering Cancer Center—two organizations that have conducted extensive animal tests of Laetrile and found it ineffective—say that controlled human tests of Laetrile may now be necessary.

"Laetrile is a highly emotional issue that will not soon go away," says an NCI official. "By conducting very careful human tests, we hope to prove once and for all time that the stuff is useless, and doesn't do anything that it's touted for." The NCI plans to begin tests with humans in a few months.

A bill currently before Congress would make such trials of drug efficacy very much beside the point. Drugs must now be proved safe and effective before they're marketed. But the "Medical Freedom of Choice" bill, which has more than 100 Representatives and Senators as cosponsors, would remove the

necessity for proving a drug effective, requiring only that it be proved safe. An aide to Representative Steven Symms of Idaho, who introduced the bill in the House, said the Laetrile was not a factor in drafting the legislation. But the bill is strongly supported by pro-Laetrile groups. Its passage would immeasurably help their cause—and immeasurably damage consumer-protection safeguards. Because removing the major obstacle to Laetrile marketing, such a law would legitimize countless other ineffective remedies as well.

Laetrile, a trade name coined by its developers, is the spiritual descendant of a long line of unproven cancer remedies, including such old-time favorites as turpentine and green frogs and such 20th-century hoaxes as Krebiozen and Harry Hoxsey's herbal remedy. In 1976, the American Cancer Society published a list of 71 would-be treatments promoted to help cancer sufferers but deemed valueless by the ACS. Those products, or products like them, could flood the market and compete with effective anticancer therapies if the "Medical Freedom of Choice" bill were passed.

LAETRILE, THE DRUG

When Laetrile was first discovered, its future impact could hardly have been foreseen. Derived mainly from crushed apricot pits, which contain traces of cyanide, Laetrile was considered too toxic for human use by its discoverer, Dr. Ernst Krebs, Sr., a California physician. But after his son, Ernst Krebs, Jr., claimed to have "purified" it, both father and son advocated Laetrile as an effective treatment for cancer. Laetrile was off, if not yet running.

The next step was to explain how Laetrile worked. With a little imagination, the younger Krebs came up with a "magic bullet" theory. Cancer cells, he said, contain an abundant amount of an enzyme that releases cyanide from Laetrile. The cyanide, in turn, kills off the tumor cells. Normal cells are low in that enzyme, the Krebs theory went, but rich in another enzyme that detoxifies the cyanide. So normal cells live while cancer cells die.

That's an interesting theory, and potentially life-saving, if right. But it's wrong. The supposedly abundant "releasing" enzyme is scarcer in cancerous tissues than in normal tissues and the "protective" enzyme is found in equal amounts in both tissues. Moreover, cyanide does not have bullet-like precision. Because it diffuses rapidly, any destructive effects would spread to both cancerous and noncancerous cells.

Once that initial theory was discredited, Laetrile proponents shifted ground, suggesting a more complex sequence of biochemical events. Again, the scientific community found that the proposed mechanism had no validity. But the most dramatic and effective change in promotional strategy was yet to come.

LAETRILE, THE VITAMIN

After nearly two decades of unsuccessful attempts to get Laetrile approved as a drug, its promoters embarked on another course. Laetrile, the drug, was suddenly transformed in 1970 into Laetrile, the vitamin.

Cancer, so the newest theory went, was a vitamin-deficiency disease. Laetrile, it went on, was "vitamin B–17," the missing vitamin needed to prevent and treat cancer. As a vitamin and not a drug, Laetrile would be exempt from the stringent drug laws enforced by the U.S. Food and Drug Administration (FDA).

Just one catch: Laetrile is not a vitamin. *No disease*, including cancer, has been associated with its lack in any animal; it is not an essential nutritional substance; it does not serve a unique bodily function, or, indeed, any bodily function at all.

The name change did not entice the FDA to look the other way. As CU reported in July 1974, the FDA took legal action against *Apriken and Bee-Seventeen*, two "health-food" products containing amygdalin, the technical name for Laetrile. In 1975, a Federal court in California placed the manufacturer of those products under permanent injunction. The judge found that "vitamin B–17" was not a recognized vitamin in human nutrition, and that both products were adulterated foods. The next year, a Federal court in New Jersey enjoined the distributors of *Bitter Food Tablets* from shipping that amygdalin-containing product across state lines. The court found that the promotion or sale of amygdalin as a food or drug constitutes a fraud on the public.

While the vitamin ploy did not win over Laetrile's opponents, it did place Laetrile in step with the "health-food" and mega-vitamin forces—forces that have already influenced Government policy. In 1976, an active lobbying effort by those groups succeeded in severely curtailing the FDA's regulatory power over vitamin products.

Laetrile advocates no longer push "B–17" as an isolated therapy for treating cancer. Instead, it's part of a "holistic" approach that may include large doses of vitamin C, enzymes, rest, exercise, and even transcendental meditation. The history of Laetrile is a history of change: changing theories, changing therapies, and finally, changing claims. Instead of being touted as a cancer "cure"—a word no longer on the lips of most Laetrile promoters—Laetrile is now being hawked on other grounds. It purportedly "prevents" cancer, "relieves pain," "slows" or "controls" the cancer, promotes "euphoria." But what is the real story?

THE SCIENTIFIC STORY

Despite frequent calls by Laetrile proponents for new tests, Laetrile is already one of the most tested cancer treatments ever. In 1953, the Cancer Commission of the California Medical Association investigated Laetrile and found it ineffective. As part of that study, the commission found that all but one of 44 patients treated with Laetrile were dead or still had an active form of cancer. A decade later, when the Cancer Advisory Council to the California State Department of Public Health reported that Laetrile had no value in treating or curing cancer, California banned the use of Laetrile. In 1965, investigators reporting in the Canadian Medical Association Journal found that two formulations of Laetrile—one manufactured in the United States and one in Canada—were both ineffective in cancer therapy.

All anticancer drugs effective in humans were first shown to be effective in animal experiments. Between 1957 and 1975, the National Cancer Institute tested Laetrile in animals on five different occasions. No evidence emerged that Laetrile was effective against cancer. Four independent cancer-research centers performed additional studies in 1975, with the same results.

The most comprehensive series of tests was recently completed by Sloan-Kettering in New York City. From 1972 to 1976, approximately 37 experiements were conducted using Laetrile on mouse and rat tumors. One researcher found evidence suggesting that Laetrile might inhibit the spread of tumors. But those results were not based on sufficiently sensitive techniques, and the findings could not be replicated by other investigators. In all the other animal trials at the New York cancer center, Laetrile neither prolonged life, nor reduced tumor size, nor checked the spread of cancer.

"Laetrile is not active against cancer," says Dr. C. Chester Stock, head of the laboratory conducting the experiments. "If something is *active we would see* it consistently active, which we have not seen with our Laetrile experiments."

Laetrile's claims have recently been challenged in Mexico, the major source of supply for clandestine traffic of Laetrile in the United States. The Mexican Department of Health banned the drug last October, after Mexican scientists said they found no clinical evidence that the compound works against cancer. One firm that appealed the decision lost, and another firm's appeal was still pending as we went to press.

THE TROUBLE WITH TESTIMONIALS

Scientifically, Laetrile just doesn't score; but emotionally, it's flying high. Men and women tell of miraculous cures with the drug, often crediting it with saving their lives.

Although such testimonials are rich in dramatic impact, they lack scientific validity. Medical records submitted by Laetrile proponents have never substantiated the claims made. Many cancer patients who believe they've been cured by Laetrile find out later that they still have the disease. Others didn't have cancer to begin with. Some cancer patients have temporary remissions—periods when symptoms may actually improve; if Laetrile use coincides with such a remission, the patient may think Laetrile did the job. In other instances, patients have taken Laetrile along with accepted medical treatment and attribute their recovery partially or entirely to Laetrile.

The current hero of the Laetrile movement seems to fall into the last category. Glen Rutherford of Conway Springs, Kansas, won the first court decision allowing a cancer patient to import Laetrile for personal use. (Several similar decisions across the country have followed.) Rutherford was diagnosed as having a form of rectal cancer in 1971. He refused surgery, choosing instead a trip to Mexico for Laetrile therapy. Just 15 days into his treatment there, his rectal polyp was cauterized—burned off—by Mexican surgeons. Rutherford continued to use Laetrile smuggled into the United States for several years after his return home. When his supply dried up during an FDA crackdown, Rutherford brought the suit that won him celebrity.

Rutherford attributes his current good health to Laetrile. But five-year survival rates for patients who have had the same type of polyp removed run as high as 90 percent.

In a search for objective evidence that Laetrile works, the FDA asked Dr. Ernesto Contreras, the head of a major Tijuana Laetrile clinic, to provide his most dramatic examples of success with the compound. He submitted 12 case histories. Of the nine whose records were available for review, six had died of cancer, one still had cancer, one had used conventional cancer therapy, and one had died of another disease after the cancer had been removed surgically.

A QUESTION OF SAFETY

The issue of effectiveness is only one part of the Laetrile controversy. A change in emphasis by Laetrile supporters began in 1972 when Dr. John Richardson, a California physician with a large Laetrile practice, was arrested on charges of violating that state's cancer quackery laws. His first trial resulted in a conviction; that ruling was overturned on appeal, and two subsequent retrials ended in hung juries. But the defendant's legal situation had reverberations beyond the courtroom. Dr. Richardson belonged to the John Birch Society, and many of his fellow members had united in his support. One of them, Robert Bradford, turned the ad hoc defense group into an organization working toward legalizing Laetrile: the Committee for Freedom of Choice in Cancer Therapy. That group, now claiming 450 chapters and 23,000 members, is spearheading the legalization fight.

The major thrust of the group's argument is that the Government should not interfere with an individual's choice of therapy, particularly if that therapy is without toxic side-effects and therefore "safe." Laetrile's purported lack of toxicity is not a point strenuously contested by the Government. The drug seems to be nontoxic in usual doses,

but large doses can cause cyanide poisoning. Accidental ingestion of Laetrile recently caused the death of a 10-month-old child.

Whether toxic or not, Laetrile is unsafe, many medical scientists contend, because it is ineffective. A recent FDA Drug Bulletin commented: "No worthless drug is without harm; a patient's choice of Laetrile, to the extent that such choice delays or interferes with swift diagnosis and prompt effective treatment, is potentially fatal."

Early diagnosis is important in most cancers, and swift treatment with such therapies as radiation, surgery, and drug offers the best hope for improvement and even cure. Since cancer is often a progressive illness, any loss of time can imperil those efforts.

Unfortunately, each of those proven methods of cancer treatment may involve some discomfort or pain. A film by Laetrile supporters takes dramatic license with that fact: "Surgery slashes," "Radiation burns," and "Chemotherapy poisons," the film charges. In comparison, Laetrile is promoted as a pleasant, risk-free way of "treating" cancer, two very appealing selling points.

But if Laetrile is taken instead of proven remedies, it presents the ultimate risk. In a number of cases documented by the American Cancer Society, patients with treatable cancer had abandoned conventional therapy for Laetrile. By the time they realized Laetrile wasn't working, their chances for recovery were poor or lost.

FALSE HOPE FOR THE DYING

A great deal of publicity about Laetrile has centered on "terminal" cases—advanced cancer patients who turn to Laetrile as their last chance for life, or at least as a way to ease the pain. For them, the issue seems to be hope, not safety, and the call for Laetrile legalization the most compelling. But the issue of safety still must be faced. According to Cancer News, a publication for the American Cancer Society, permitting Laetrile's use in patients with advanced cancer might give it an aura of legitimacy. "[Laetrile] supporters would be able to cite the fact that it was given by such-and-such a physician, in such-and-such hospital—and it would be available. This immediately would give it the status or a viable alternative to proved cancer treatments. And the danger is that patients whose cancers are discovered in early stages may think that Laetrile is a legitimate therapeutic opinion." Already, an estimated 50,000 Americans are taking Laetrile.

Laetrile is also being promoted for the relief of cancer pain. Some patients report a feeling of well-being and decrease in pain with Laetrile use. But its action as a pain reliever has never been validated. Patients often feel better if they and their doctors *believe* a particular treatment will be beneficial, regardless of whether the treatment has any genuine effect. That phenomenon, which is known as "the placebo effect," has been shown to occur, on average, in about one-third of patients treated with dummy medication.

But what about the right to hope? Even if a drug has no proved value, might it not have psychological benefit for a terminally ill cancer patient? In the debate over Laetrile, legislators have repeatedly confronted the FDA with that question. In a typical exchange, one New York State legislator put it this way: "When you drive your car out of a car wash, doesn't it seem to run better?"

"Maybe," replied the FDA official, "but my car would really run better if it had an engine job. And if anyone tells you a wash will improve your car's performance, he's committing fraud."

CU agrees. In our opinion, the use of Laetrile as a treatment for the terminally ill cancer patient stands in violation of basic patient rights against being duped and offered a false sense of hope. Some people who realize that Laetrile is worthless nevertheless argue that the terminally ill are in a special category and should have the right to choose whatever therapy they prefer. But those patients also have the right to responsible, honest medical care of high quality for as long as they live. The dying patient rarely, if ever, requires deceptive drug treatment. Rays of hope can be offered through words and attentiveness.

THERE'S MONEY IN LAETRILE

In addition to being deceived, the patients or their families have to pay dearly for the deception. Laetrile therapy is not cheap. The cost of a month's treatment at a Mexican clinic has been estimated at between $1500 and $2500. Laetrile smuggled into the United States is priced as high as $50 for a half-ounce vial for injection, compared with a $9 price tag in Tijuana. Tablets sell for nearly $2 in the U.S., but cost only about three cents to manufacture.

A lot of the money made from Laetrile seems to be concentrated in just a few hands—a fact brought to light last year when eight Americans, one Canadian, seven Mexicans, and three Mexican firms were indicted on 171 counts of smuggling Laetrile into the U.S. The indictment noted that Dr. John Richardson, the California physician whose earlier prosecution aroused the John Birch Society, banked more than $2.5-million for Laetrile treatments given over a 27-month period; Dr. Contreras, the Mexican physician with a Laetrile practice in Tijuana, deposited almost $2-million in bank accounts in San Ysidro, Calif., during that same time span. In addition, the indictment claimed, Robert Bradford, who organized the nationwide Freedom Choice group, had received $1.2-million for 700 shipments of Laetrile. (Four Americans were convicted last April in the smuggling case, including Bradford and Richardson.)

THE FORCES BEHIND IT

While some people are undoubtedly in Laetrile for the money, many proponents are true believers in the drug, and others are believers in the political idea that less government is better government. The Committee for Freedom of Choice in Cancer Therapy, the largest pro-Laetrile organization, emphasizes constitutional rights and freedoms. Headed by Bradford and Frank Salaman, another convicted Laetrile smuggler, the organization denounces the medical establishment and governmental intervention in private affairs.

Other organizations fighting for Laetrile legalization include the International Association of Cancer Victims and Friends, and the Cancer Control Society. The oldest pro-Laetrile group is the National Health Federation, a champion since 1955 of unorthodox or unproved medical treatments. Several of its leaders have been convicted of such offenses as misbranding dietary products, marketing electrical devices with false claims, or practicing medicine without a license.

Laetrile supporters have developed into a highly vocal and extremely effective political force. They sponsor conventions for cancer victims and their families. They distribute literature. They petition the Congress. They lobby for pro-Laetrile legislation. In Indiana, hundreds of Laetrile backers were bused to legislative hearings to argue for their cause. Their efforts paid off. The Indiana legislature overrode a Governor's veto, making that state the first to legalize the manufacture and sale of Laetrile. Ten other states—Alaska, Arizona, Delaware, Florida, Louisiana, Nevada, New Hampshire, Oklahoma, Texas, and Washington—have also legalized Laetrile use. As we went to press, similar bills were awaiting the Governor's action in Illinois and New York, and several additional states were considering such legislation.

By approaching the issue state by state, Laetrile proponents hope to bypass Federal food and drug laws prohibiting interstate shipment of the drug. Right now, the FDA has the authority to nullify much of the intent of the state legislation if there is an interstate element in the Laetrile traffic. But that authority may be short-lived if the "Medical Freedom of Choice" bill becomes law, opening the way for national Laetrile legalization.

THE REAL ISSUE: CONSUMER PROTECTION

The emotional push to legalize Laetrile has moved some thoughtful people to believe that little or no harm may come from accepting the pleas of terminally ill patients or their families for a worthless drug. But the issue is not so simple. Over the past seven decades, Congress has passed increasingly tough drug laws to protect consumers from the purveyors of quack remedies. Such laws are now being jeopardized by the pro-Laetrile forces and by the state legislatures that bow to their demands. In our opinion, approval of Laetrile as an anticancer drug would devastate the carefully structured consumer-protection drug laws enacted in modern times and would open the door to the legitimization of quackery. According to the evidence on hand, Laetrile has no place in the medical marketplace.

Even more important, the "Medical Freedom of Choice" bill has no place among the laws of the land. It would turn the clock back to a time when purveyors of worthless nostrums could prey freely on an unprotected public, exploiting the fears of the sick and the desperation of the dying. The fight against charlatans in medicine has been long and hard, and it is far from over. If the political victories of Laetrile turn the battle around, it is indeed a much more dangerous drug than anyone has imagined.

LEVITTOWN'S 30TH ANNIVERSARY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. LENT. Mr. Speaker, I would like to bring to the attention of my colleagues a coming anniversary of considerable pride to me, and of considerable significance to the Nation. On October 1, 1977, the community of Levittown, which was developed with more than 17,000 homes on farmland during the years immediately following World War II, begins a month-long celebration of the 30th anniversary of its founding. As the U.S. Representative for the Fourth Congressional District of New York, in which Levittown is located, I believe this is truly an anniversary worthy of recognition.

The community of Levittown was unique at the time it was begun, and it remains so to this day. Those whose memories go back to those early postwar years three decades ago will recall the terrible housing shortage. It was an especially trying time for millions of veterans whose dreams of homes of their own in which to raise their families were beginning to seem unattainable.

Then, like an answer to those dreams, came the vast development at Levittown, Long Island, N.Y. Levittown offered a house and lot that a family could afford, first at rentals of $60 per month, then for purchase at $6,990 and $7,990. Most of the homes were purchased with the help of GI mortgages. When the first 200 houses were offered for sale, long lines of veterans waited patiently at the sales offices. They ignored the seas of mud and

piles of construction material as they rented and bought homes they felt would help their dreams come true.

Almost all of those first residents of Levittown were veterans, most of them in the same age group, almost all of them with young children. No one was rich, no one was poor. Eighty percent of the early settlers commuted to New York City to work. And almost all of them came from crowded apartments or cramped trailer courts, or surplus military housing, and welcomed the sense of freedom and space their own homes, lawns, and gardens gave them.

This is why there was, for the most part, a calm acceptance among those first families of the seas of mud, the unsightly piles of construction materials scattered across the land, and the inconveniences of the lack of stores and lack of public transportation. They were looking into the future, were those first families.

They were confident that Levittown would become what it is today; a 7.3 square mile area of shrubbery-shrouded homes, winding tree-lined lanes, and carefully kept green lawns. It is a proud, vibrant, mature community of more than 65,000 people.

A good many of those first families still live in Levittown, one indication of the strong sense of community which envelopes those who live there. Some of those early settlers became active in government. Among them was Paul Widlitz. He is now Judge Widlitz, of the State supreme court. Judge Widlitz was the 107th person to buy a house in Levittown and still resides there. He was active in forming the first Levittown Civic Association to fight for civic recognition, parks, playgrounds, stop signs and traffic lights. Another early, and active resident of Levittown is county court judge Harold Collins, who worked with Judge Widlitz, and who still resides in Levittown and maintains an active interest in the community.

The first State legislator from Levittown was Assemblyman Francis P. McCloskey, who now lives in nearby Syosset. Frank McCloskey took many of Levittown's battles for State aid to education to the floor of the assembly, where, invariably, he was successful.

Because of the large number of veterans in the community, veterans affairs always were of importance. One of the most active in such work was Major John Kilbride, whose civic work and dedication to the Veterans of Foreign Wars continue to this day. Major Kilbride is chairman of the 30th anniversary celebration, and headed the 10th and 20th anniversary committees as well. Also still in Levittown is the first veteran to buy a home there, Phil Heron. Heron will raise the anniversary flag at the October 1 celebration, a flag flown over the U.S. Capitol; which I will be proud to present to Levittown at the ceremonies.

Newspapers are always important to any community, bringing a focus to community life and activities. This was especially true in Levittown, which had its own newspaper almost from the very beginning. The Levittown Tribune was published under that masthead for the first time in February of 1948. Since then the Levittown Tribune has continued to report the activities of the community and to play a role in its civic programs. Bill Bryson, the Tribune's current editor, has provided valuable assistance in the organization of the celebration.

One of the most important parts of any community is its school system. The Levittown school board was formed shortly after the families began moving in. In 1948, the first officers of the school board were elected, with the late Lyle Smith serving as the first president of the Levittown Board of Education. The Levittown School District has grown to include 15 schools and 11,750 pupils.

The community also moved quickly to organize a library for its citizens. Newman Baum, one of the founding members of the modern Levittown Library and one of its first trustees, still resides in the community and is active in library affairs.

Those are but a few of the many, many residents of Levittown who have helped in the early development and improvement of their community. They ignored the critics who derided the Levittown project as an "instant slum." Just how misguided and wrong those critics were can be understood by anyone who visits the Levittown of today. Almost all of the houses have been expanded with additional rooms and patios. And the individual landscaping and other improvements add to the beauty of the tree-lined prospect as one drives down the winding streets of Levittown.

But the neat, well-kept appearance of Levittown is just one indication of the community pride and community involvement which has been a Levittown tradition for 30 years. The schools, the library, Levittown Hall, the numerous playing fields, and the nine swimming pools which have been included in a unique park district, all represent that community spirit which has helped build Levittown into one of the largest communities in the Fourth Congressional District.

In a larger sense, Levittown today represents the spirit of dedication to community betterment and individual responsibility to community which has built, and continues to strengthen our Nation.

That fine spirit also represents a real promise for the future. So long as our citizens continue to help each other for the good of all, our Nation can face its problems with confidence they can and will be overcome. Levittown is a living example of the spirit of dedication and individual responsibility. It is fitting that we join in saluting Levittown as it marks its 30th anniversary, and looks forward to the future with confidence and expectation.

SOVIET ABUSE OF PSYCHIATRY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. ASHBROOK. Mr. Speaker, it is a well-known fact that the Soviet Union has massively abused the field of psychiatry. Soviet authorities have turned it into a political weapon against dissidents. Perfectly sane critics of the system are locked away in mental hospitals—all with the cooperation of the Soviet psychiatric profession.

I was pleased to see that the World Psychiatric Association has finally condemned such practices. The association recently censured the Soviet Union for "systematic abuse of psychiatry for political purposes." This is an important step since it focuses worldwide attention on the human rights violations that are occurring in the name of psychiatry inside the U.S.S.R.

At this point in the RECORD I would like to include a review from the Economist, of a book which presents a strong indictment of Soviet psychiatric practices:

THE SANITY OF DISSENT—RUSSIA'S POLITICAL HOSPITALS: THE ABUSE OF PSYCHIATRY IN THE SOVIET UNION

(By Sidney Bloch and Peter Reddaway)

One of the most attractive things about the contemporary Soviet dissident writing is its passion for hard, unadorned facts, coupled with an abhorrence of any kind of extravagance. It is no accident, as communists are fond of saying, that these qualities should be shared by this study, the first of its kind, of the abuse of psychiatry in the Soviet Union. Most of the material on which the authors, an Oxford psychiatrist and a London university specialist in Soviet politics, base their conclusions come from Soviet *samizdat* sources. But the 210 case histories of Soviet citizens who have in the past 15 years been interned in Soviet mental hospitals for reasons connected with their beliefs analysed in this book are only the tip of the iceberg. There have certainly been many more, but the authors did not feel that what they were able to learn about them could meet the rigorous standards they had set themselves. They have supplemented documents and pictures actually smuggled out of the Soviet Union by interviews with scores of witnesses—chiefly Soviet psychiatrists and former victims of psychiatric abuse who have emigrated to the west since 1971. But Mr. Reddaway and Dr Bloch have not neglected to study the official Soviet material on the subject. One of the best-known of the victims, Vladimir Bukovsky, who was exchanged for the Chilean communist Luis Corvalan last Christmas, has written a preface.

The result is a devastating indictment of the barbaric Soviet practice of locking away perfectly sane critics of the system in mental hospitals—an indictment all the more effective for being so calm in its tone and so factual in its presentation. The regime's ideological figleaf for this horrifying practice is the pretence that in a people's state only enemy agents and the insane could be opposed to the system. From the authorities' point of view, incarceration of politically inconvenient critics has a lot to recommend it and is certainly preferable to the politically much more damaging option of putting them on trial. Such trials attract attention both in Russia and abroad. Besides, facts (especially doctored ones) presented at the trial can subsequently be checked and shown to be untrue.

For this form of psychiatric warfare to be effective, however, the full co-operation of the psychiatrists is required and that, as the authors show, the Soviet government has had for years from the Soviet psychiatric profession. But not only the Soviet psychiatrists need feel guilty. Amazingly, the official western psychiatric bodies have over the years continued to ignore reports of ugly goings on

in Soviet mental hospitals and to give the official Soviet version of events the benefit of the doubt. That was the line taken by the World Psychiatric Association at its congress in Mexico in 1971.

The official Soviet version has now, however, been exploded, thanks largely to the efforts of the victims themselves to get the facts about the abuses across to the west. The most notable role here has been played by Vladimir Bukovsky and Semyon Gluzman. But they have had help from certain courageous psychiatrists, such as Dr. Marina Voikhanskaya, who, having once discovered the ugly truth, were not prepared to keep quiet. The scholarly work of Mr. Reddaway and Dr. Bloch crowns their achievements. In Russia, too, the worldwide publicity given to the psychiatric abuses has resulted in the practice being discontinued against well known dissidents. But the authors surmise that it might still be going on against more obscure victims.

Appropriately in his preface Mr. Bukovsky asks who would have guessed when Pinel first removed the chains from the mentally ill and stopped them being treated as criminals that 200 years later prisoners would look with fear at Pinel's successors, preferring chains to their "care".

ARMS REVERSAL PROGRAM

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mrs. MEYNER, Mr. Speaker, on September 14, 1977, my good friend and colleague, MICHAEL BLOUIN, addressed a conference on "Arms Control and Reduction: Problems and Prospects." In that address, Mr. BLOUIN suggests that the arms race has left the realm of United States-Soviet relations and that countries that did not previously participate in this deadly game are now competing to become nuclear powers. As Mr. BLOUIN indicates, this potential worldwide use of nuclear arms creates an unprecedented instability in trouble spots throughout the world.

Our future discussions on arms limitations should not focus solely on United States-Soviet relations, but on global disarmament as well. The concerns and interests of the rest of the world, concerns that have been largely ignored, will be addressed at the May 1978 United Nations General Assembly's special session on arms reduction. I share Mr. BLOUIN's belief that this forum can provide an invaluable tool in reducing the global arms race. I commend Mr. BLOUIN for his insights and I am inserting for the benefits of my colleagues, the text of Mr. BLOUIN's statement:

ARMS REVERSAL PROGRAM: "ARMS CONTROL AND REDUCTION—PROBLEMS AND PROSPECTS"

There can be little doubt that some kind of universal arms reduction is an idea whose time is long overdue.

For the past 35 years, ever since World War II, the United States and the Soviet Union have been engaged in an on-again, off-again game of armament chess.

First we developed one superweapon and then they come up with some equally deadly counterweapon and on it goes.

Imagine if you will the shape the world would be in today if just half of the money, time and resources this country and the Soviet Union have committed towards the purchase and development of arms had been directed towards solving the problems of poverty, hunger and social injustice.

The two superpowers have been able to avoid nuclear holocaust through various types of diplomatic manuevers such as brinksmanship, détente and bi-lateral treaties.

But those were and are only temporary solutions brought about by mutual states of fear.

The days of two superpowers monopolizing the arms trade and being able to decide things just between themselves are long gone.

We are no longer the only nations that need to and must reduce our armaments.

Expenditures on arms have more than doubled in the developing nations since 1960 and those countries spend as much on military programs as they do on education and health care combined.

It seems as if every country wants to become a nuclear power.

Great Britain, France, the Peoples Republic of China, India, Israel, Pakistan, Taiwan and South Africa are just some of the nations that either already have or reportedly are close to developing nuclear weapons capabilities.

India, for example, recently exploded what they called a peaceful nuclear device . . . whatever that is.

With many of the nations of the world constantly at each other's throats this nuclear proliferation can only increase the very real risk of nuclear mutual destruction.

The Mideast is a perennial tinderbox that could erupt into open warfare at the drop of a hat.

Sino-Soviet relations seem to always be on edge; Greece and Turkey aren't exactly the best of friends; the white-only governments in southern Africa don't make for a peaceful climate there either, and there is always the possibility of an unstable dictator along the lines of Uganda's Idi Amin deciding to get his hands on a nuclear device and then trying to flex his muscles.

If conventional warfare wasn't bad enough, the hot spots of the world carry the added potential for so-called tactical nuclear exchanges especially with the development of the "humane", people destroying, "building-saving", neutron bomb.

Perhaps if we could come up with a bomb that wouldn't hurt people but would only destroy buildings we might actually be making progress.

Ignoring the arms problem won't make it go away. Tragically it may take the first exchange of tactical nuclear weapons or a catastrophic accident before enough people begin to realize that.

Whether by accident or design, the result of such an exchange—the death of millions of people on both sides—would be the same.

I'm not sure we as Members of Congress can advocate that this country unilaterally take its weapons and toss them into the ocean.

Most authorities suggest that such a move probably would not bring the desired reaction by other nations and would not be the best course of action for this nation to follow.

Instead, we should be casting our eyes at the United Nations general assembly's special May 1978 session on arms reduction as a tool to achieve a reduction in armaments on a global basis.

While we have the long standing tendency to observe only Soviet policy in the arms control area, an effort must be made to apprise ourselves on the interests developing within the removed but concerned nations. The United Nations special session, requested by the Third World, provides an opportunity for an open forum by which these countries can take a rightful place in voicing their well founded concerns. Whether or not we and the Soviet Union will listen depends upon our receptivity and preparation for the session.

The Congress, executive branch, and perhaps most importantly the Department of State has the distinct option of leadership at this world conference if the concern and interest necessary is forthcoming. Members of Congress have the opportunity of working closely with the Department of State in developing the United States position. There is responsible leadership within our ranks as demonstrated by past years of foreign policy making and this leadership should and must be applied in this instance. Members may also join in participation at the session as observers which, I feel, would be most supportive of our representation.

This won't be an easy task but this country has a unique opportunity to take a leadership role in this conference.

But only if you and I are willing to help convince the general public of the dangers of the continued arms buildup.

There have been conferences in the past which have resulted in the nations moving closer to agreements because they were in the spotlight of public attention.

With the arms race now consuming more than $300 billion annually we can't afford to delay any longer.

The United Nations special session on disarmament may provide the open door and a fresh, enlightening look at one of the most pressing issues facing our world today.

EILBERG PAYS TRIBUTE TO LEOPOLD STOKOWSKI

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. EILBERG. Mr. Speaker, this past Tuesday the world of art suffered a great loss with the death of Leopold Stokowski.

This remarkable man, who occupied the conductor's platform of the Philadelphia Orchestra from 1912 to 1937, was active and still carrying on his passion with music right up to his death at the age of 95.

Under Mr. Stokowski's direction, the Philadelphia Orchestra achieved unparalleled excellence. It broke new ground in virtually every field related to music, whether it was as the first symphony orchestra to play a radio broadcast under commercial sponsorship, or whether it was engaged in such then-unique projects as the Disney film "Fantasia."

Mr. Speaker, a giant of our century has died, and in tribute I would like to insert these editorial comments on Mr. Stokowski from the September 15 Philadelphia Inquirer and Washington Post:

[From the Philadelphia Inquirer, Sept. 15, 1977]

AN INDOMITABLE GENIUS BOWS

Leopold Stokowski, an ageless genius, is dead at 95. He was a musician of such extraordinary brilliance as to defy comparison. Until he died in his sleep in his house near London Tuesday night, he was a person of such indomitable force as to appear to defy mortality. Still an active and imaginative conductor a quarter century beyond the Biblical three score years and ten, he was scheduled to lead a recording performance today, and would have surprised no one if he had lived to do one on his hundredth birthday.

Biographers and music historians of a generation hence will not lay to rest the controversies in which Mr. Stokowski delighted, sometimes perversely. In Philadelphia, where he raised a miserable symphony orchestra to the pinnacle of professional greatness and international celebrity, there are earnest people who still today will storm out of a dinner party at the praise of Mr. Stokowski—or at the criticism of him—and he left the podium here 36 years ago.

The obituaries and biographies are long and rich. They chronicle a life which leaves deep and indelible marks on the history of serious music and especially on the threatrical effects and public popularity of symphony orchestras. There is no responsible way to distill the lustrous legacies of that life into a succinct inventory of appreciation.

There is no way either to settle the disputes about Mr. Stokowski, as an interpreter of great music, as a flamboyant public figure, as a leader of many of this century's greatest orchestras, and as a man of flaming personal and public passions.

That is as he would want it. As a private person, he was a genius of irony, a man to whom there was in everything humor and the ambiguities and conflicts which are the heart of wit and of truth. To say that he despised orthodoxy, which is inviting, would be to miss the essence of the man: To him, orthodoxy did not exist.

None of the infinite ways in which Leopold Stokowski rejected orthodoxy was more dramatic than his defiance of the very idea of age. Finally, Tuesday night near London, mortality appeared to have won the argument, but if it did, the victory was over only the frailness of the human body. Leopold Stokowski's spirit has never flinched.

[From the Washington Post, Sept. 15, 1977]

LEOPOLD STOKOWSKI

When artists talk of productive periods, the idea is that these moments of high inspiration come and go. For Leopold Stokowski, productive periods only came and came and kept on coming. At his death on Tuesday, at age 95, his confidence in his abilities was so strong that he was in the second year of a five-year recording contract. Tireless and seemingly ageless, Mr. Stokowski enlarged the art of symphonic conducting to the point that his interpretations and improvisations of great music achieved a greatness of their own. Part Olympian and part prima donna (he said early in his career that he ought to be paid at least as much as Babe Ruth or Jack Dempsey), Mr. Stokowski became a worldwide figure through the universality of music. From his first time on the podium—while conducting a children's orchestra in London at age 12—till his last, he gave more than 7,000 performances.

Mr. Stokowski's earliest achievement was to bring a burst of culture to Philadelphia. From 1912 to 1937 he led the Philadelphia Orchestra, introducing spectacular premiers. Too proud to repeat the same old numbers and too daring not to be challenged by the opportunity to create masterpieces, Mr. Stokowski drew to the concert hall audiences that previously had paid no attention to, let alone much money for, symphonies. In a newly published book on Mr. Stokowski, Paul Robinson writes: "His concerts were often like dramatic events with musical accompaniment. . . . Stokowski had shown that he could reach people, particularly people who knew nothing about classical music."

Critics said that this reaching instinct got the better of Mr. Stokowski when he went to Hollywood in 1936 to make movies. Although the sight (in "100 Men and a Girl") of the dignified conductor trying to bring out the best in Adolph Menjou in the trombone section was perhaps closer to a comic opera than a symphony, Mr. Stokowski later joined with Walt Disney to produce "Fantasia." It is one of Hollywood's most enduring films, based on music from Beethoven, Bach, Tchaikovsky and Musorgski among others.

Mr. Stokowski's innovations—some of them bold, some of them whimsical—often drew criticism. But throughout his career, his passionate commitment was to elevating music. He not only accomplished that. In the process he also lifted the spirits of millions of listeners.

JUGGLING SOCIAL SECURITY

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. KETCHUM. Mr. Speaker, I am encouraged by the healthy debate which has ensued since a number of my colleagues and I offered a plan for financial restoration and equity strengthening of the social security system. Our proposal is one of several being considered by the House Ways and Means Subcommittee on social security.

Social security's immediate problem is that it is paying out more than it receives from the payroll tax, and consequently must draw on trust funds to make up the difference. If we continue to draw on social security at the present rate, it is estimated that the trust fund for disability payments will be exhausted by late 1978 or early 1979, and that the fund for old age payments will be exhausted by 1983.

Mr. Speaker, at this time I insert in the RECORD an editorial which appeared in the Washington Star on Friday, September 16, 1977, commenting on proposed solutions to the financial crisis faced by the social security system. It is obvious from this and other reports that now is the time to tackle many of the inequities which, coupled with the inadequate financial base already mentioned, have contributed to the ineffectiveness of the social security system.

The article follows:

JUGGLING SOCIAL SECURITY

The greatest vulnerabilities of the Social Security system in recent years have been intellectual poverty and political timidity. Democrats and Republicans alike have addressed the intimidating problems largely by calling for ever higher taxes on an ever rising wage base.

Into the leaking dike of Social Security President Carter has jammed these same two fingers—increasing taxes and wage ceilings—and added a third: Using general revenue to keep the trust funds from going broke. The general-revenue provision is one the President will "insist on," says HEW Secretary Joseph Califano.

That's a desperate lunge. It would require substantial borrowing by the Treasury and a consequent increase in the public debt and additional pressure for higher taxes. The general receptivity of Congress to the use of general revenue was indicated several weeks ago when the Senate Finance Committee by a convincing 11–3 vote rejected such tinkering.

But the most encouraging development on Social Security was the thoughtful reform package offered by six House Republicans, including Minority Leader John Rhodes. It marks a clear GOP alternative to the tattered amalion notions of the Democrats.

Made public just before the Social Security subcommittee of the Ways and Means Committee took up the issue this week, the Republican proposal would put the system on a sound financial footing for the next 75 years, its architects contend: It would solve the immediate shortfall in the two major trust funds and strengthen the insurance—as opposed to the welfare character—of Social Security.

Already this week, the subcommittee has approved two of the GOP plan's general provisions—to lift the ceiling on allowable earned income by beneficiaries, and to require federal, state and local municipal employes be in the Social Security system. Inclusion of federal workers would end a conspicuous inequity—the ability of federal workers rather easily through moonlighting or after the earlier retirement allowed by their pension plan to earn the minimum Social Security benefit.

The Republicans would prefer that their reform package be considered in its totality. But, of course, that will not occur. However, the GOP proposal should be, and seems to be, stimulating the members of the House subcommittee as they grapple with the severe deficiencies of the system—the Disability Insurance Fund expected to be exhausted by 1979 and the Old Age and Survivors Insurance Fund by 1983.

A major thrust of the plan would be "decoupling"—eliminating the redundant adjustments for both price and wage inflation in calculating benefits. These two changes, the Republicans say, would reduce the long-range Social Security deficit by "slightly more than half."

Another substantial change would be the gradual advancement, from 65 to 68, of the age for full retirement benefits—the change would not begin until 1990 and not reach maturity until 2001, a phasing that takes into account increasing longevity and health among the population. That seems eminently sensible.

There would be a tax increase under the GOP plan—as its sponsors correctly point out, "There are prices to pay for the problems [the plan] solves." This increase would come, for employes, employers and the self-employed, in three stages; 0.5 per cent in 1982; 0.3 per cent in 1990; and 0.4 per cent in 2000. "This means that tax rates would rise, under this proposal, less than 1¼ per cent over a 75-year span." Among the "obvious alternatives" noted by the Republicans, of course, is the Carter administration's hope of removing all wage ceilings and having taxes paid on total earnings. There may be better ways to discourage personal initiative, but an *ad infinitum* bite like that is a sure one.

There are terrible difficulties in reforming so massive a mechanism as Social Security. The tendency has been merely to shore up an eroding foundation. That is not what is needed, and the GOP proposal seeks to avoid delusory fiddling.

There is no compelling reason that major Social Security legislation be completed in this session of Congress. The very complexity of the issue argues for greater deliberation—to avoid, for a blatant example, the 1972 mistake of double indexing.

The administration calls Social Security action a "must" for this session. It should be no such thing.

Representative James A. Burke, D-Mass., chairman of the subcommittee, the other day doubted that "Solomon with all his wisdom could solve all the problems of Social Security before Congress adjourns this year."

The obvious moral: Don't try.

OUR NUCLEAR-POWERED NAVY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. RHODES. Mr. Speaker, last month I received a letter from Admiral Rickover regarding our nuclear-powered Navy. The letter was written at sea during the first trials of the nuclear aircraft carrier *Dwight D. Eisenhower*.

I think Admiral Rickover's letter provides important information and insight into our naval needs and insert it at this point in the RECORD for the benefit of all my colleagues:

NORTH ATLANTIC,
August 1, 1977.

DEAR MR. RHODES: We are returning from the first sea trials of the USS *Dwight D. Eisenhower* (CVN 69), our third nuclear powered aircraft carrier and our tenth nuclear powered surface warship. The purpose of the trials is to demonstrate the performance of her two reactor propulsion plant which produces about as much power as the eight reactor plants in the first nuclear carrier, the USS *Enterprise* (CVN 65). The *Dwight D. Eisenhower* was built by the Newport News Shipbuilding and Dry Dock Company, Newport News, Virginia. She is a sister ship of the USS *Nimitz* (CVN 68) which was delivered in 1975 and is now assigned to the U.S. Atlantic Fleet. One more ship of this class, the *Carl Vinson* (CVN 70), is also under construction at Newport News.

The *Eisenhower* has a length of 1.092 feet, a flight deck width of over 250 feet, and a combat load displacement of nearly 95,000 tons, and can provide sustained support for a naval air wing of about 100 aircraft. Her initial nuclear cores will provide her with enough fuel to carry out operations for the next 13 years, thus making her truly independent of propulsion fuel logistic support. These cores contain energy equivalent to over two million tons of coal or 11 million barrels of oil, enough oil to fill a train of tank cars stretching from Washington to Boston.

The *Enterprise* was delivered in 1961. She operated three years before her first refueling, including a 30,000 mile cruise around the world in 1964 without logistic support. She was accompanied by the nuclear cruisers *Long Beach* (CGN 9) and *Bainbridge* (CGN 25).

Following her first refueling the *Enterprise* operated four years, including four deployments to Vietnam, before her second refueling and overhaul in 1970. To date, the *Enterprise* has steamed almost one million miles. Her present reactor cores are expected to provide fuel for a total of at least 13 years.

We now have seven nuclear-powered guided-missile ships in operation; the cruisers *Long Beach* (CGN 9), *Bainbridge* (CGN 25), *Truxtun* (CGN 35), *California* (CGN 36), *South Carolina* (CGN 37), *Virginia* (CGN 38), and *Texas* (CGN 39). Two more are under construction; the *Mississippi* (CGN 40) and the as yet unnamed CGN 41. Congress has also authorized advance procurement funds for the first of four nuclear cruisers planned to have the AEGIS anti-air warfare weapons system.

When General of the Army Dwight D. Eisenhower became our 34th President in January 1953, the only nuclear warship under construction was the submarine *Nautilus*. The second nuclear submarine, the *Seawolf*, had been authorized by Congress a few months previously. Mrs. Eisenhower christened the *Nautilus* on January 21, 1954. President Eisenhower rode the *Seawolf* while submerged during naval exercises in the Atlantic in 1957. This was the first visit of a President to a nuclear-powered warship.

During President Eisenhower's Administration 27 more nuclear attack submarines were authorized for construction, including eight new designs.

The *Polaris* nuclear submarine program, which many believe to be our Nation's greatest deterrent weapon system, was started on a crash basis under him in the 1958 shipbuilding program, and the first 14 *Polaris* submarines were authorized in his Administration. President Eisenhower rode the *Patrick Henry*, the second *Polaris* submarine, in 1960

The nuclear surface Navy was also started while President Eisenhower was in office. The cruiser *Long Beach*, the carrier *Enterprise*, and the cruiser *Bainbridge* were authorized in 1957, 1958, and 1959 respectively.

Nuclear power in surface warships gives them the ability to operate continuously at high speed which affords them protection not available to non-nuclear ships. This could mean the difference between victory and defeat in battle. As the number of foreign bases and the size of our Fleet continue to decline and the availability of foreign oil becomes more tenuous, the need for ships not dependent on a logistic umbilical cord for oil will continue to increase.

Next to providing the major deterrent to all-out nuclear war, I believe that the most important mission of our Navy is to insure that our first line of naval striking forces can carry out their mission against threats developing from potential enemies. A significant portion of our major surface warships must be nuclear powered or we may end up without a credible deterrent to aggressions which do not warrant escalation to a nuclear war.

For the foreseeable future the aircraft carrier will be the principal offensive striking arm of the Navy in a non-nuclear war. No other weapon system under development can replace the long-range, sustained, concentrated fire power of the carrier air wing. Nuclear submarines and nuclear surface ships with anti-air and anti-submarine capabilities are all needed to supplement and augment the capabilities of the nuclear carrier.

Carriers are vulnerable to attack by Soviet sea-based cruise missiles—as are all surface ships. However, the first line of defense surface ships have against missiles and their launching platforms is carrier based aircraft. Without carriers and their aircraft, other surface warships, replenishment ships, and amphibious forces will all be much more vulnerable. The nuclear carrier task force with its capability of unlimited operation at high speed is the most powerful, least vulnerable surface ship force in the history of naval warfare.

Nuclear ships are often compared in cost with cheaper conventional ships of much less military capability, the argument being that we should build more of the cheaper conventional ships rather than fewer of the nuclear ships. Yet study after study has shown that when all costs are considered nuclear warships cost little more than conventional warships having the same weapons systems—the nuclear warships being far superior militarily.

Further, the cost of war itself far exceeds any cost needed to be prepared to prevent it. The best warships and ultimately the cheapest we can build are those which are never used in combat because they are adequate to prevent war.

With the heavy military and non-military demands on our budget, the United States must spend only where it is necessary and where the value received is clear. The true value of the Navy capable of countering the Soviet threat cannot be measured in dollars alone; survival may also depend on it.

The Soviets have recognized the importance of becoming the world's strongest sea power. We have chosen not to challenge them with numbers of ships. For this reason, I believe it essential that the ships we do build be the most powerful and effective weapons we know how to build. This requires nuclear propulsion for major warships. The penalty for any other approach is the steady erosion of our conventional military forces, with consequent reduction in our influence and in our "options" in world affairs. The alternative is to rely for our security solely on nuclear weapons; their use could mark the supreme failure of mankind.

Respectfully,

H. G. RICKOVER.

"STRAIGHT FROM THE SHOULDER"—VINCENT X. FLAHERTY

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. CHARLES H. WILSON of California. Mr Speaker, a few years ago, before sports reporting became so technical, with instant replays and expert commentators who analyze the game with the microscopic detail of a scientist reporting on an amoeba, there was a group of sports reporters who had the ability to transform the mortals on the field into legends. Last week, one of those reporters, Vincent X. Flaherty, died in Los Angeles. He was 68.

Vince Flaherty believed that if you "put a ball in a kid's hand, he is not going to have time to pick up a rock." Never mind the million dollar contracts, and the petty disputes; the game was to be played as a romantic adventure that every person could participate in, whether it be on the field or through the imagery of the printed word.

Born in Washington, D.C., Flaherty claimed his father "made more money during his lifetime than any millionaire." His dad worked as a printer for the Bureau of Printing and Engraving where U.S. currency is manufactured.

After writing a popular Washington column, "Straight From the Shoulder," Flaherty came West and joined the sports staff of the Los Angeles Examiner.

In the 1950's, Flaherty wrote a series of articles which claimed that a major league baseball team might be quite successful if a club allowed its eastern roots to be transplanted in southern California soil. Los Angeles Mayor Norris Poulson, and then-City Councilman Kenneth Hahn liked Flaherty's suggestion and traveled down to Florida spring training to visit various teams. Walter O'Malley, owner of the Brooklyn Dodgers thought it was a good idea, too.

Once the Dodgers moved to Los Angeles, Flaherty succeeded in organizing a special exhibition game at the Los Angeles Memorial Coliseum between the Dodgers and New York Yankees. The nighttime contest was played as a tribute to Roy Campanella, the great Dodger catcher who had been paralyzed in an automobile accident. And 100,000 persons, the largest crowd ever to see a baseball game, gave "Campy" the great-

est ovation the Coliseum has seen. Al Brine, now with the California Angels, and a longtime friend of Flaherty said of that evening, "the Dodgers, the Yankees, and Vince Flaherty made that special night possible."

I know my colleagues in the House of Representatives join me in expressing our sympathy to his wife, Kitty, his son Vincent, his brothers James and Leo, and his sister Beatrice Dangerfield.

Jim Murray, the noted sports columnists, recently described the career of "The Classy Vincent X." For the benefit of my colleagues, I insert Mr. Murray's article into the RECORD. We could use a few more writers like "The Classy Vincent X."

[From the Los Angeles Times, Sept. 13, 1977]

THE CLASSY VINCENT X

(By Jim Murray)

Vincent X. Flaherty was the first guy I ever saw write with his hat on. I thought that was real class. Here he was in a state where most guys don't even wear hats, and Vincent came and pecked his game story out like a guy who was double-parked.

Vince did everything with a flair. He had one of the earliest post-war cars once Detroit tooled up again, a Chrysler Town and Country, which was kind of a cross between a station wagon and a luxury sedan and there were, like, only three in the whole world at the time—Vincent X. Flaherty's, Louis B. Mayer's and one owned by the president of Chrysler, K. T. Keller.

I never knew a newspaperman who got manicures before. Vince got his shoes shined every hour. He really knew how to act the part out. He took Hollywood by storm. He had friends in high places. Every occupant of the White House from Hoover on down was a pal. John F. Kennedy was a special friend.

His house looked like a museum. He had Eddie Arcaro's Triple Crown saddle, Babe Ruth's bat, and I don't know what else.

He slept late. He was a nightly fixture on the old Sunset Strip at the Mocambo or the Troc. He was a visiting celebrity at the old Toots Shor's or Stork Club in New York.

Vincent came west from Washington in 1945 with the usual baggage of prejudices and misconceptions about Los Angeles. Like most Easterners, he thought it was just one big hotdog stand in the shape of a frog, an orange grove with delusions of grandeur.

But when he looked around he was offended that this metropolis should be scarred with minor league status. He was a whiskey-drinking pal of Bob Cobb, the owner of the old Pacific Coast League Hollywood Stars, but he would never set foot in a minor league park.

He rounded up a fraternity of millionaires like Ben Lindheimer, owner of race tracks in Chicago, and Mickey McBride, taxi tycoon from Cleveland, and he started up a rival professional football league to the NFL, the All-America Conference. It was an idea whose time had not yet come. Had he waited only two or three more years for television to grow up and the coaxial cable to be installed, Vince and his league would be winning Super Bowls by now instead of Lamar Hunt's.

Vince's writing style was like his lifestyle—flamboyant, to the point, purple and mostly unafraid. Physically imposing himself, a man who had once been a sparring partner for Young Stribling, and a tramp athlete who played football at four schools, he would crusade recklessly for what he believed in. He got bloodied up to the ears once defending the jockey, Jackie Westrope, but that didn't deter Vince. Vince went the distance.

I don't think he ever started writing till the deadline was past, and the editor was on the phone screaming for copy. Vince was like a ballplayer who was no good till he has two strikes on him.

He had the old St. Louis Browns signed, sealed, and all but delivered to Los Angeles one time in the mid-50's when the league moguls doublecrossed him at the 11th hour and shifted the franchise to Baltimore, where all it did was undermine Washington.

Vince thought he had Washington set for Los Angeles, too, but the Griffith family tarried. When Flaherty tried to tell baseball what a terrible mistake it was making, only one man was listening—Walter O'Malley.

Flaherty pointed out repeatedly that Los Angeles had supported not one but *two* minor league franchises (Hollywood is only a state of mind) and regularly drew more than a million customers—at a time when only one or two major league franchises could make that statement.

Vince Flaherty died last week, I hope with his hat on, and a story in the mill and the deadline coming up. The only sports figures I saw at his funeral were the O'Malleys—Walter and Peter. But, then, the other owners are very busy these days runnning the most-profitable big league franchises in the history of sports. Vincent X. would understand. He always told them they would be. When he came to the city, it was bush league. When he left it, it was big league.

NATIONAL BARRIER AWARENESS WEEK

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. WHALEN. Mr. Speaker, I am pleased to add my name to the long list of supporters of the House concurrent resolution to proclaim the third week of July 1978 and 1979 as "National Barrier Awareness Week." The purpose of the resolution is to bring greater public attention to the day-to-day obstacles handicapped persons face in activities most people take for granted. It is also designed to publicize recent congressional actions encouraging private establishments to become as accessible as possible to all citizens.

With the rush of energy, social security, and labor legislation now before Congress, it is certainly easy for a resolution of this sort to become lost in the shuffle. However, by the simple act of obtaining 105 additional signatures in support of the resolution, it automatically can be reported out of the Post Office and Civil Service Committee and brought to the floor for approval. Mr. Speaker, I believe the resolution I am reintroducing today is in accord with the policies set forth in recent years by Congress and the administration and thus deserves quick and positive action.

A National Architectural Barrier Awareness Week would encourage organizations and businesses concerned with the public interest to rethink and more carefully plan the construction of new structures as well as the modification of existing ones. Simple and inexpensive ideas, such as lowering control panels in automatic elevators and extending handrails to the bottom and top of stairwells for the blind and elderly, can be easily implemented. Indeed, many progressive establishments have already converted restrooms, set aside special parking areas, and lowered water fountains for the convenience of the handicapped. Other original ideas such as the use of nonslip flooring in lobbies and other public access areas, braille on elevator control panels, and strategically placed rest areas for the elderly could be shared among organizations interested in further serving the public.

I am sure that most of my colleagues have noticed the excellent work being done by the Architect of the Capitol in building ramps at all entrances of the Capitol building, lowering curbs at various crosswalks, and converting public restrooms. Passage of this resolution would further encourage all sectors of the public to formulate and execute similar plans.

Thus, Mr. Speaker, I believe the simple act of passing this concurrent resolution as expeditiously as possible would be an act and in the best interest of all people.

I have attached a copy of the resolution for the convenience of the Members wishing either to cosponsor or sign a letter to the House Post Office and Civil Service Committee in support of the resolution:

JOINT RESOLUTION

Authorizing the President to proclaim the third week of July of 1977, 1978, and 1979, as "National Architectural Barrier Awareness Week"

Whereas architectural barriers infringe upon the rights of the physically handicapped by impeding their access to buildings and other facilities in the United States; and

Whereas the Congress has enacted legislation requiring the removal of architectural barriers at institutions receiving Federal funds; and

Whereas the Internal Revenue Code of 1954 provides deductions of as much as $25,000 per year to taxpayers to encourage the removal of architectural barriers; and

Whereas public commitment is necessary to achieve the goal of removing architectural barriers from buildings and other facilities in the United States; and

Whereas public commitment to solve the problem of architectural barriers is based upon public awareness of such problem and the means to solve such problem; and

Whereas the American National Standards Institute has developed standards which, if implemented, would increase the accessibility of buildings and other facilities in the United States to the physically handicapped: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the third week of July of 1977, 1978, and 1979, as "National Architectural Barrier Awareness Week", and calling upon the people of the United States to observe such week with appropriate activities.

PROTECTION FOR BATTERED WOMEN AND ABUSED CHILDREN

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. KASTEN. Mr. Speaker, throughout the history of mankind, control of

violence between individuals has been a primary concern among those who create and enforce our laws. Yet, we have consistently failed to extend these legal protections to women and children who are continually subjected to physical and emotional abuses by members of their immediate families.

The problem has not necessarily been with our criminal justice system, but rather with basic cultural and societal attitudes which can be traced to prehistoric times. The concept that wives and offspring are property and therefore subject to the rules and laws dictated by the husband and/or father is as old as man.

Because of such attitudes, our courts and legislatures at all levels of government have been reluctant to intervene in what is perceived as an internal family matter. Indeed, even when legal and financial support is available, the victims' fears, more often than not, prevent them from seeking help.

BATTERED WOMEN

The tragedy of domestic violence, its emotional and legal complexities, is no more apparent than when trying to understand and deal with the problems of the battered wife. Considered by law enforcement officials to be the single most unreported crime in the country, "wife-beating" is almost impossible to document since it is most often listed by police under "assault and battery" or "disputes." Although estimates vary, experts believe that approximately 5 million women suffer brutal assaults by their husbands or mates each year.

It is only within the last few years that the courts, social service agencies and law enforcement officials, and society itself, have taken a new look at the problems of battered women. Traditionally, brutalized women have suffered in silence, fearing the loss of their economic security, the indifference of the criminal justice system, and ridicule by their families and friends.

Largely because of the women's movement, battered wives are beginning to look for help. Unfortunately, because the problem is only just beginning to be recognized and addressed, legal and financial support is virtually nonexistent. The Law Enforcement Assistance Administration has taken a first step with their recent approval of a $1 million grant for battered women's programs on the State level. Nevertheless, this is only token support considering the critical demand for emergency shelters, trained counselors, and legal advisers.

Even more frustrating is the judicial system, which categorizes wife beating as a low priority crime. State laws vary widely, and women find themselves shunted between civil, criminal, and family court—often advised not to press charges at all. If the case is particularly severe, the court may issue an injunction forbidding the husband to attack his wife for a certain period of time, usually no more than a year. If he violates the order, the woman can start arrest proceedings. However, the husband is customarily released on his own recognizance to return home, even more infuriated and violent.

In my own State of Wisconsin, wife battery is still considered a domestic problem and not as a serious criminal activity. It is only within the last year that the Milwaukee city attorney's office has been keeping records on battered women's cases. From September 1976 through July 1977, 1,321 cases were reported with 162 actually referred for criminal prosecution. Generally, the accused was charged with a misdemeanor, fined, and released.

All cases were scheduled for a hearing before a group of assistant city attorneys and law students from Marquette University. The majority of camplaints were dismissed due to insufficient evidence, because one or both parties failed to appear for the hearing, or because the woman dropped the charges against her husband or mate. The remainder were referred for counseling or resolved by having the couple advised by a legal intern or attorney.

Milwaukee, like many other large cities, is critically in need of facilities to assist battered women in coping with their problems. The Women's Coalition Task Force on Battered Women has been most active in trying to help these desperate women by providing counseling and psychological support and, when available, emergency shelter. Only one facility exists at this time, and it is overcrowded and in need of funds. Consequently, with so many obstacles facing them, most battered wives have little choice but to stay home and bear their husbands' abuse.

It is because of my deep concern for the plight of battered women that I am pleased to join in cosponsoring the Domestic Violence Prevention and Treatment Act of 1977. This long overdue legislation would provide supportive services, in the form of financial and technical assistance, for the creation of domestic violence prevention programs at the grassroots level. The majority of funds would be set aside for demonstration grants designed to provide for family rehabilitation and support, emergency shelter to house victims, and training of both professionals and volunteers who are primarily engaged in areas directly related to domestic violence. The remaining funds would be used to assist private and nonprofit organizations interested in developing a domestic violence prevention program.

This bill would also provide for a study of the effectiveness of present laws and programs relating to domestic violence, as well as for a review and coordination of ongoing Federal, State, and local efforts designed to identify, prevent, and treat the problem. In addition, a national clearinghouse would be established to collect and distribute information on domestic violence.

I am particularly pleased that this bill would allow communities to deal with the problems of battered women, with minimal control or interference from the Federal bureaucracy. The unique and highly sensitive social and emotional complexities involved in domestic violence require special handling, which only those with training and experience are able to provide.

ABUSED CHILDREN

When discussing the issue of family violence, it is important to note that women are not the only victims of abuse. Small children are often the target of their parents' anger and frustration.

Ironically, the lack of effective laws and programs to deal with child abuse may be partially attributed to the abhorrence of the problem. The very idea that a parent, who is supposed to love and protect his or her offspring, could be responsible for a child's physical injury or even death, is so repulsive that many are reluctant to believe it. The problem is compounded by the helplessness of the child who often will not, or cannot, testify against his or her attacker. In addition, the violence usually occurs in the privacy of the home, and even when it is reported, it is difficult to prove in the absence of eyewitnesses.

It was not until the latter part of the 19th century that New York passed this country's first child abuse law. However, the most definitive action in the area did not begin until the 1960s when all 50 States passed some type of child abuse law. These are basically concerned with reporting laws which encourage or require the reporting of suspected child abuse—usually by doctors and other professionals; criminal law provisions to punish those who abuse children; juvenile court acts, and State legislation to establish or authorize protective services for children.

On the Federal level, efforts to control child abuse have concentrated on financial assistance to the States for child welfare and social services and for research grants. Traditionally, the Federal Government has avoided specific legislation regarding child abuse, considering it a State matter. In the last few years, however, perhaps because of increasing awareness of the incidence of child beating and the resulting public outcry, a number of bills were introduced in Congress concerning mandatory reporting requirements and the creation of a National Center on Child Abuse and Neglect.

In 1974, Congress coordinated these measures into one comprehensive law entitled the Child Abuse Prevention and Treatment Act. The program, which is administered by the Department of Health, Education, and Welfare, provides financial and technical assistance to the States, public and nonpublic agencies for the development of child abuse prevention and treatment programs. All 50 States receive some funding from this program, and 30 States qualify for State matching funds.

Legislation to extend and reauthorize the Child Abuse Prevention and Treatment Act has passed the Senate and has received the House Education and Labor Committee's approval for full House consideration. Enactment of the legislation is necessary to ensure that States and localities can continue to work for more effective ways of protecting innocent children from parental maltreatment.

CHILD PORNOGRAPHY

A related, but certainly more depraved form of child abuse, involves the sexual exploitation of young children in pornographic films and publications. Within the last few months national attention has focused on this facet of commercial sex with the introduction of

several bills in Congress prohibiting the interstate sale and transportation of films and photographs which depict children in sexual activities.

While the Federal Government is limited in developing legal prohibitions against child beating, Federal legislation to discourage and prohibit child pornography is not only possible but necessary. Our society has tolerated a great deal from the producers of "smut," but we must draw the line when innocent children become the subject of such depravity.

The bill I am cosponsoring today, the Child Exploitation Prevention Act, prohibits the sexual exploitation of children and the interstate transportation and sale of photographs and films depicting children in sexual activities. Any individual convicted of the crime or crimes would be fined $25,000 or sentenced to 15 years in prison, or both.

The House Education and Labor Committee is currently considering legislation in this area. I hope the committee moves quickly to bring a bill before the full House. Our children deserve the fullest protection of the law from those who would rob them of their innocence in order to gain profit.

It is unfortunate that it has become necessary for us to deal with these problems through legislative action. However, it is unconscionable for us to continue treating abused children and battered women as problems beyond the scope of legal control. Our criminal justice system was designed to protect all individuals from violence, regardless of the source. And we, in turn, have an obligation to see that justice is carried out.

GRASSROOTS SENTIMENT AGAINST CONSUMER AGENCY

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. STANGELAND. Mr. Speaker, in the debate over the creation of a new consumer agency the views of the average citizen and small businessman has been overwhelmed by the highly polished and well financed votes of Ralph Nader and other professional consumers. I feel it is time for the people at the grassroots level to be heard. These are the people who will ultimately bear the burden of a new consumer advocacy agency either through increased taxes or increased regulation and paperwork.

The U.S. Chamber of Commerce has provided the opportunity for the grassroots to be heard through a recent survey it conducted of its membership regarding the creation of a new consumer agency. The Chamber's membership comprises a broad spectrum of American firms, large and small. To date the Chamber has received letters from 15,000 businesses who oppose any new super agency for consumers. I insert in the RECORD the names of those companies from the Seventh District of Minnesota who have spoken out against this unwarranted growth in a government that is already too big:

Gene L. Goedker, Goedker Realty, Insurance & Constr., Box 664, 514 E. 6th, Brainerd, Minnesota 56401.

D. B. Madison, Pres., Brainerd Recreational Supply, Inc., P.O. Box 311, Brainerd, Minnesota 56401.

Larry G. Mankin, Brainerd Area Chamber of Commerce, 6th & Washington, Brainerd, Minnesota 56401.

T. J. McCollough, Gen. Mgr., The Brainerd Daily Dispatch, 215 S. 6th St., Brainerd, Minnesota 56401.

Harvey Tanner, Pres., Tanner Motors, 217 Washington St., Brainerd, Minnesota 56401.

Leo Fraser, Crosslake Lbr. Co., Crosslake, Minnesota 56442.

Dennis L. Anderson, Pine Manors, Inc., Rt. 2, Nevis, Minnesota 56467.

Dr. Bottemiller, Homecrest Industries, Inc., Wadena, Minnesota 56482.

Don's "Friendly" Red Owl, 10–S. E. Aldrich N. 2022, Wadena, Minnesota 56482.

Leroy E. Anderson, Manufacturers Systems, Inc., Box 703, Detroit Lakes, Minnesota 56501.

Richard C. Dean, Red River Implt. Co., Hwy. 75 S., Breckenridge, Minnesota 56520.

Les G. Grosz, Pres, Farmers & Merchants State Bank of Breckenridge, 225 N. 5th St., Breckenridge, Minnesota 56520.

Clinton Grove, Pres., Cosmos Enterprises, Inc., 1213 Division E. Box 2013, Elbow Lake, Minnesota 56531.

Robert M. Bigwood, Otter Tail Power Co., 215 S. Cascade, Fergus Falls, Minnesota 56537.

Richard L. Erickson, Holiday Inn, Hwy. 210 & I–94, Fergus Falls, Minnesota 56537.

Don Luchman, H. L. OK Hardware, 120 W. Cavour, Fergus Falls, Minnesota 56537.

George C. Milton, Arneson-Larson-Milton, 101 W. Lincoln, Fergus Falls, Minnesota 56537.

Kenneth E. Neumann, Partner, Ness, Neumann, Wallert & Nygaard, 115 N. Court St., Fergus Falls, Minnesota 56537.

Chas. H. Peterson, Western Minn. Savings & Loan Ass'n, 225 W. Cavour, Fergus Falls, Minnesota 5653".

B. K. Soby, Soby Construction, Inc., P.O. Box 635, Fergus Falls, Minnesota 56537.

Donald M. Bishop, Glenwood Super Valu, 211 E. Minn. Ave., Glenwood, Minnesota. 56334.

R. E. Gandrud, Pope County State Bank, 2 S. Franklin, Glenwood, Minnesota 56334.

Grant Hustad, Grant Hustad Co., Hwy. 29 & 55, Glenwood, Minnesota 56334.

Myrl J. Johnson, Glenwood Development Corp., 414 E. Minn. Ave., Glenwood, Minnesota 56334.

Donald L. Miller, City of Glenwood, City Hall, Glenwood, Minnesota 56334.

David A. Tostenson, Agent for State Farm Ins. Cos., 12 S.E. 1st St., Glenwood, Minnesota 56334.

I. J. Arnquist, Arnquist Home Center, Inc., Hoffman, Minnesota 56339.

Verle R. Hammer, Pres., Farmers State Bank of Hoffman, 103 Main St., Hoffman, Minnesota 56339.

Leonard R. Green, Farmers Elevator of Kensington, Minn., Inc., Kensington, Minnesota 56343.

Ray J. Calhoun, Pres., Little Falls Granite Works, Lock Box 240, Little Falls, Minnesota 56345.

Roderick Grell, Sec. & Treas., Central-McGowan, Inc., P.O. Box 272, Little Falls, Minnesota 56345.

Willmar L. Holmquist, Lad 'N' Lassie, 113 E. Broadway, Little Falls, Minnesota 56345.

W. R. Olson, Minn. Power & Light Co., 1201 N.E. 11th St., Little Falls, Minnesota 56345.

T. J. Blais, Blais Motor Co., 114 Central Ave., Long Prairie, Minnesota 56347.

W. L. Peterson, Peterson's Variety, 267 Central Ave., Long Prairie, Minnesota 56347.

Pat Smith, Skogmo Dept. Store, 144 Central Ave., Lone Prairie, Minnesota 56347.

Virgil G. Mitzger, Homer's Lounge, 306 E. Main St., Melrose, Minnesota 56352.

R. C. Coborn, Sr., Coborn's, Inc., 106 S. 1st St., Sauk Rapids, Minnesota 56379.

Marvin R. Campbell, Citizens State Bank, 321 S. 7th St., Brainerd, Minnesota 56401.

M. K. "Dutch" Cragun, Cragun's on Pine Beach, Rt. 6, Box 484, Brainerd, Minnesota 56401.

Arvid P. Benson, Arvid Benson Supply, 900 Maon Ave., Moorhead, Minnesota 56560.

Norman Bertsch, Nelson Window & Glass, 303–N21 St., Moorhead, Minnesota 56560.

Edward A. Gudmunson, Moorhead Drug Co., Moorhead Center Mall, Moorhead, Minnesota 56560.

David J. Hanson, Abbott, Arne, Schwidt, Inc., Business Hwy. #94 S., Moorhead Minnesota 56560.

Marvin L. Lanning, Browser Bookshop, Holiday Mall, Moorhead, Minnesota 56560.

Jacob Sigmund, S & S Construction Co., 2215 12th Ave., S., Moorhead, Minnesota 56560.

James H. Stenerson, Stenerson Lumber, 1702 1st Ave. N., Moorhead, Minnesota 65660.

R. M. Stordahl, Pres., Silverline, Div. of Arctic Entr., Inc., 2300 12th Ave. S., Moorhead Minnesota 56560.

D. E. Carlson, Bemidji Clinic Ltd., 6th & Beltrami Ave., Bemidji, Minnesota 56601.

Donald V. Eng, Dist. Mgr., Otter Tail Power Co., 320 W. 4th St., Bemidji, Minnesota 56601.

C. D. Swedmark, Swedmark's Hardware Hank, 324 Minn., Bemidji, Minnesota 56601.

Sid Swedmark, Exec. V. P., Bemidji Area Chamber of Commerce, Box 806—3rd Bemidji Ave., Bemidji, Minnesota 56601.

James J. Walker, Stewart & Walker, Inc., 15th St. & Bemidji Ave., P. O. Box 634, Bemidji, Minnesota 56601.

Nick A. Welle, Chr., First National Bank, Bemidji, Minnesota 56601.

Harold L. Hanson, The First National Bank of Baudette, Drawer D, Baudette, Minnesota 56623.

Shumway Oil Co., Inc., Oil Jobber, Hwy. 5901 West, Thief River Falls, Minnesota 56701.

Duane Walton, Pres., Mr. Duane's Inc., 214 LaBree Ave., Thief River Falls, Minnesota 56701.

David G. Bang, Crookston Coca-Cola Bottling Co., 609 Martin Ave., Crookston, Minnesota 56716.

Mr Joe French, Poly-Paos Processing 312 N. Broadway, Crookston, Minnesota 56716.

Mrs. Chester E. Ramstad, Ramstad O.K. Hardware, 113 N. Broadwaf, Crookston, Minnesota 56716.

Harold Thomforde, Crookston Chamber of Commerce, Thomforde's Garden Center, 109 S. Main St., Crookston, Minnesota 56716.

Ivan Ferguson, Ivan Ferguson, Public Accountant, P.O. Box 460, East Gran Forks, Minnesota 56721.

Jerry Larson, Pres., Red River Valley Potatoe Growers Ass'n., P.O. Box 301, East Grand Forks, Minnesota 56721.

Marvin O. Mathiason, Farmers Elevator Co., P.O. Box 152, East Grand Forks, Minnesota 56721.

George Wikstrom, Jr., Wikstrom Telephone Co., Inc., 122 S. Main, Karlstad, Minnesota 56732.

Rodney L. Norquist, Prior Electric Inc., 110 2d St. N.W., Roseau, Minnesota 56751.

R. C. Johnson, Pres., Farmers State Bank of Stephens, Stephen, Minnesota 56757.

John R. Heneman, Pres., Security Bank of Warroad, Warroad, Minnesota 56763.

Martin Haar, Pres., Alexandria Bank & Trust Co., Alexandria, Minnesota 56308.

Richard Hagstrom, Hagstrom's, 525 Broadway, Alexandria, Minnesota 56308.

J. W. Juettner, Schwartzwald, 3d & Maple, Alexandria, Minnesota 56308.

James L. Roell, Pease's Champion Auto Stores, Inc., 426 Broadway, Alexandria, Minnesota 56308.

Leland Fashaug, Pres., Viking Office Supply, Inc., 614 Broadway, Alexandria, Minnesota 56308.

COLOR IT GREEN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. TEAGUE. Mr. Speaker, the Clinch River breeder reactor project has been criticized from every conceivable point of view. The only thing left to criticize is the color we intend to paint it. First it was proliferation, then cost benefit, then location, then design, and then value. I am beginning to believe the argument itself has become the issue—not the substance.

My comments to these arguments are:

A. The opposition argues, a vote against Clinch River was not a vote against the breeder.

First. A vote against Clinch River is a vote against the entire breeder program and is a vote against putting the Nation in a position to have power in the future when there could be no other option.

Second. ERDA's liquid metal breeder program has been carefully scheduled since 1965 to properly integrate component research into subsystem research and finally into a complete system. That system is the Clinch River project. The timing of Clinch River is critical. It makes little sense to say, "We are putting more money into breeder research, even without Clinch River, than any other foreign country." We would be, but that would be wasting money to further perfect individual components before we had the operational data from Clinch River. The evolutionary process of intelligently building, step by step, on experience gained at each level, from the laboratory bench to full scale systems, has successfully been used in aircraft, automotive, space craft, computers and every other modern development. I.B.M. has successfully developed generation after generation of computer systems, but had they continued putting their money into memory research, instead of developing complete systems, I.B.M. would no longer be in the computer business.

B. The opposition contends that R. & D. funds in fiscal year 1978 will insure that work will continue on two important breeder R. & D. projects, the Experimental Breeder Reactor II in Idaho, and the Fast Flux Test Facility in Washington.

First. The Experimental Breeder Reactor II in Idaho is 13 years old. Although it is still being used to perform certain research, it—in itself—is not the item that is being developed. It is a tool to use to develop other parts.

Second. The Fast Test Facility in Washington is not a breeder. It is to be a fuel test facility to develop breeder fuels for the future.

C. Clinch River has been cited as being out of date, expensive and uneconomical.

First. Both Germany and Japan are using the same design concept as Clinch River. The design of Clinch River is one of two most advanced competing liquid metal breeder concepts. If the design is out of date, what newer model is available? Why has not Germany or Japan stopped construction of their Clinch River size plants?

Second. The Clinch River project is expensive, but so is all energy plant development work. Clinch River is estimated at $2.2 billion less anticipated revenues of $700 million. The cost of Clinch River is $4 million per megawatt of installed capacity, compared to the $10 million price tag of the solar electric power tower in California.

Third. As for economics, Clinch River is the only inexhaustible dependable energy source that is ready for development. As expendable supplies; oil, natural gas and uranium are depleted, their price will rise dramatically. The life cycle cost of a breeder compared to the life cycle cost of a coal fired or conventional nuclear plant is extremely favorable. When coal prices rise to $50 per ton and uranium to $70 per pound the breeder wins. From the standpoint of economics, the breeder is far superior to every other option since it produces its own fuel. It is not dependent on mining, or drilling or finding new mineral deposits. It is the stability that the breeder brings to the energy supply stream in comparison to OPEC oil and other unreliable sources that make the breeder economically superior.

D. The opposition has contended that commercial breeder technology will be neither necessary nor economical in this country until after 2000.

Mr. Speaker, I certainly agree with that statement. Commercial breeders cannot be available in any significant number before that time assuming that we go ahead with Clinch River right now. I am glad that the opposition realizes they will be necessary and economical after 2000.

E. Supposedly there will be ample time to build a modern breeder reactor using up-to-date research knowledge.

This position is highly risky and dangerous on two counts. First, there will not be ample time to develop the breeder once we awaken to the seriousness of the energy shortage. It now takes 10 years to license and build a conventional plant of proven design and it will require more than one breeder to contribute to the energy supply stream. By contrast, the OPEC countries can shut the oil off in the time it takes to make one conference phone call.

Mr. Speaker, I suggest, we consider Clinch River for what it is, a vital step in arming this Nation against a potential economic nightmare. If in the year ahead, we find a better option, let us use it. In the meantime, let us authorize $150 million for next year's effort to provide project continuity.

Let us color it green and keep going.

SHORTAGE OF CLEAN WATER

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. BARNARD. Mr. Speaker, as we approach the many problems of a growing population in the United States, one of the most basic of man's needs appears in danger of short supply. I refer to clean water.

Not only can we see shortages of clean water for drinking and industrial use, but we also are encountering problems in disposing of wastewater products.

Now, research by Dr. Wade Nutter of the University of Georgia has resulted in a new method of purifying wastewater for reuse, which gives us fertilizer as a byproduct.

Ms. Lee Pilgrim has written an interesting account of this process for the university's research publication, Columns, and I insert it to be reprinted in the Extensions of Remarks:

NO REASON FOR WASTING WASTEWATER, SHOWS PROFESSOR

Fitting right into the national mood that nothing should go to waste—not even wastewater—a university forest resources professor has designed a treatment system which uses sewage to irrigate land, naturally fertilizing the soil and flushing out bacteria along the way.

The product is as inoffensive as a mountain stream.

Dr. Wade Nutter is a pioneer in the relatively new technology of wastewater treatment which started about 15 years ago at Penn State University where he was a graduate student. Now Nutter is Georgia's expert in the field.

Municipalities are required by federal law to discharge pollution-free wastewater back into streams and rivers. Some 20 Georgia municipalities are considering or already have a system for treating sewage effluent by land application. Engineers have depended on Nutter's research and experience for help in planning most of the projects.

One method of treatment is an expensive advanced wastewater treatment. The second method is called land treatment because the effluent is applied to the land via irrigation before it runs into the stream.

The purpose of such treatment is to rid the effluent of contaminants like nitrogen and phosphorus which remain in sewage even after it has undergone primary treatment to remove bacteria. Spilling the water over the land allows plants to take up and use the chemicals as fertilizing, one step in a complex combination of natural processes that work together to purify the water before it converges with the stream.

"Water discharged into streams after moving through the soil is equivalent in almost every way to rainwater," Nutter explained. "It requires the same treatment we would give normal streamwater to meet drinking water standards."

Among the recycling benefits, he cited land site improvement and increased growth of crops or forests without the expense of fertilizing.

But public acceptance, he said, "seems to be the biggest stumbling block for land treatment.

"No matter how much people read about it, they really don't believe it is acceptable until they see it in operation. They expect a foul odor and plenty of mosquitoes."

Nutter's first Georgia project, however, has already made a believer out of state officials who are now adopting the system in their municipalities.

Nutter's model system was developed at Unicoi State Park in the north Georgia mountains. It started in 1973 as a research project approved by Gov. Jimmy Carter. Nutter and colleagues from several other fields wanted to investigate the biological and physical impact on the forest land. The study involves local conditions such as climate, vegetation, soil, geology and topography, as well as wastewater constituents.

If the system proved feasible, they planned to develop guidelines for the mountain forest

conditions which could be adapted to other regions of the state. Then they hoped to make the Unicoi system a demonstration project for a yet uncommon practice.

The team especially wanted to impress municipal officers, engineers and state officials. They did.

"The state now recognizes land treatment as a viable alternative and the system is being encouraged whenever it fits the situation," Nutter said.

The state is also making efforts to educate engineers and consultants. Last month Nutter conducted seminars for state engineers to help them evaluate system proposals.

Clayton County will begin construction next year of a system designed by Nutter and a team composed of agronomists, soil scientists, climatologists, geologists, foresters, hydrologists and engineers. The system will be the largest in the country operating year-round.

Nutter is also helping plan a system for Watkinsville, which will be of special interest to him because the effluent will be used to irrigate the university's White Hall Forest near Athens.

FEDERAL NUTRITION PROGRAMS A SHAMBLES

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. RICHMOND. Mr. Speaker, human health problems have gained increasing importance in recent years. And as more and more Americans realize the risks of disease, they are demanding information about the food they eat and are beginning to recognize the interrelatedness of good nutrition and good health.

The Federal Government, as a national reservoir of knowledge, should play a vital role in providing the American public with nutrition information. In an effort to evaluate the effectiveness of the Government's nutrition education efforts, I recently requested the Congressional Research Service to investigate the scope and functions of Federal programs.

The final CRS document, "The Role of the Federal Government in Nutrition Education," reports there are at least 30 federally operated nutrition education programs in the United States operated by 11 agencies within two departments. Only 14 of these governmental units can identify the portion of their budget which is actually expended on nutrition education. The report further notes that these programs are largely uncoordinated, underfunded and misdirected, resulting in efforts that lack clear goals, firm resolve, or a workable strategy.

Mr. Speaker, it is time we ask why we cannot create coordinating mechanisms to gather information about our nutrition programs and search for ways to integrate and improve these programs; why we cannot agree on educational objectives and devise means for measuring their implementation; why we cannot use our extensive commercial, technological, and artistic resources in both the public and private sectors to convey concise, practical and memorable nutritional messages; and why "nutritional impact" statements cannot be mandated for all Federal food programs.

As chairman of the Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, I have called for extensive hearings to study Federal efforts in nutrition education. Beginning September 27 and 28, my subcommittee will call upon consumer witnesses for their evaluation of national nutrition education efforts. Then, on October 6, representatives of the departments and agencies administering nutrition programs will be called upon to tell us how they think they are meeting the needs of consumers.

As part of our continuing hearings, the subcommittee will call upon representatives of the food industry to evaluate their efforts in providing adequate nutrition information for consumers. The subcommittee will also conduct field hearings to provide us with information about the reach of such programs at the community level.

Mr. Speaker, the Wall Street Journal recently ran a series on food and nutrition. It provides an excellent overview of American eating habits, highlighting many issues that will be raised during our hearings. During the next 4 days, I would like to share this series with my colleagues as we take these initial steps toward providing a reliable foundation of information upon which we can plan, coordinate, and communicate a sound national nutrition policy:

[From the Wall Street Journal, June 16, 1977]

THE WAY WE EAT—AMERICAN DIETS TODAY ARE HIGH IN PROTEINS, FATS AND CONTROVERSY

(By Joann S. Lublin)

When it comes to eating, Roy F. Northrop is all-American.

Dining recently at a restaurant near his home in Acton, Mass., the 40-year-old stockbroker skipped the homemade bean soup and salad bar in favor of a draft beer and four pieces of buttered bread. Then he ate a rare, 10-ounce steak and a baked potato sprinkled with salt and topped with whipped butter. For dessert, he had coffee with cream and a large dish of chocolate ice cream.

The slightly overweight Mr. Northrop orders a similar meal whenever he goes out. "I'd be very happy to eat the same things forever," he declares.

So, apparently, would most of us. Since the beginning of this century, American patterns of food consumption have changed radically. But although we are heavier than ever before—at least 20% of us carry more weight than our physiques require—we don't eat any more than we used to. Rather, it's the components of the national dinner plate that are different. The average American today consumes proportionately more meat, dairy products, eggs, salt and sugar than his turn-of-the-century counterpart. And he eats less vegetables, fruits and grain products.

This regimen, high in protein as well as fat and colesterol, is controversial. It has, in the opinion of some authorities, increased our average height and lowered the age at which we reach sexual maturity. Others, however, are alarmed by the contrast between this enriched fare and the sedentary lives we lead these days. "Rather than eating well, most people are eating themselves to ill health," states D. Mark Hegsted, professor of nutrition at Harvard University.

Many physicians and nutritionists, in fact, urge that we change our way of eating. A recent U.S. Senate committee report on the subject went so far as to recommend that every family throw out the salt shaker, give up soft drinks, eschew those steaks and eat more vegetables, skimmed milk and fish.

The booming diet-book business and the "natural foods" movement suggest these warnings are being heard. But how well they are being heeded is another matter. Many of us like some foods too much to give them up. Even gender is involved. One nutritionist observes that women seem to prefer chocolate. Surveys by a chicken-industry trade group show that men don't find eating that bird "manly." And nutritionist Jean Mayer, president of Tufts University, believes that "the more men sit at their desks, the more they need reassurance of their maleness by eating red meat. It is the motorcycle of the middle-aged."

DINING AND DYING

Moreover, despite the concern with the state of the nation's eating habits, experts still can't agree on what kind of diet will permit healthy persons to stay that way, or what normal people should eat to function best at work and play. Only recently, for instance, have medical investigators begun to pin down evidence linking the way we dine with some of the ways we die.

Inquiries into how our personalities and our behavior are affected by food are also just getting underway. This area of research represents one of "the new frontiers of nutrition," says George Briggs, a nutrition scientist at the University of California at Berkeley. "The end result may be a healthier, more productive society."

Technology plays a big role in what we do eat these days. Industry's ability to preserve and transport foods has brought Boston scrod to Dallas and put tomatoes on Chicago tables in midwinter. Mass merchandizing helps too. Consider the taco, which 10 years ago was practically unheard of outside the Southwest. Now that the Mexican border fare has captured the interest of fast-food entrepreneurs, "tacos are standard food across the country," says Helen Ullrich, executive director of the Society for Nutrition Education.

THE PRICE OF PROGRESS

At the same time, regional and cultural differences in our eating habits are beginning to disappear. That may be simply the price of progress. However, Richard de Rochemont, coauthor of "Eating in America," a history of the nation's gastronomy, argues that it also means Americans' tastebuds are "infinitely less varied than they used to be." The problem, he says, is that the widespread use of sugar and salt in prepared and frozen foods "tends to level things out," making people less interested in eating foods with other tastes.

Bland though it might be, our diet today is suspected to be a factor in such illnesses as heart disease, cancer, stroke, diabetes, hardening of the arteries and cirrhosis of the liver. Specifically, scientists believe that meats and dairy products, which are high in both saturated fats and wax-like cholesterol, seem to lead to the buildup of fatty deposits in arteries. When these deposits block a heart artery, a heart attack occurs; a clogged artery to the brain causes a stroke.

Other researchers are trying to determine exactly how eating habits play a role in the nearly 400,000 annual cancer cases suspected to be related to nutrition. One theory: animal-fat-laden foods may trigger release of tiny amounts of cancer-causing substances in the colon as well as upset the delicate balance of hormones in the breast.

Cancers of the colon may also be related to our diet's lack of fibers, the tough structural portion of vegetables that's often lost during processing and cooking. Experts think that these fibers somehow dilute cancer-causing chemicals in the intestine while aiding elimination. But, concedes one food researcher, "we don't even know yet what it is" in fibrous foods that seems to benefit the digestive system.

Little is known about how to treat diseases wrought by overnutrition. However, a recent test conducted by a University of Southern California team indicates for the first time that fatty deposits in arteries can be reduced by restricting diet and providing special medication. Especially intriguing is the work of Procter & Gamble Co. researchers, who may have found a way for people to lower their cholesterol intake without radically changing what they eat.

The key in this instance is sucrose polyester, a noncaloric synthetic with the cooking properties of vegetable oil. For 10 days, the Procter & Gamble researchers fed 13 normal volunteers meals loaded with eggs, butter and other cholesterol-raising foods. The subjects' cholesterol levels should have skyrocketed by the end of the period; instead, they dropped 14%. The reason, the researchers believe, is that their foods were cooked with sucrose polyester.

It's too early to tell if these findings mean we will be able to improve our health by gorging on greasy hamburgers and cheese omlets. Nonetheless, the synthetic is a "potentially remarkable, extraordinary compound," says Dr. Charles J. Glueck, director of the University of Cincinnati's Clinical Research Center and a participant in the Procter & Gamble study.

SKIMPY DIETS BLAMED

Skimpy diets, the bane of Depression-era Americans, still affect some of us. The academic failure of many poor schoolchildren for instance, is partly blamed on a lack of nutritious food. Some say this malnutrition is severe enough to inflict brain damage, but other experts disagree. Made sluggish by iron deficiencies, these children "score poorly on intelligence tests because of low energy rather than because of direct effects on the brain," says Michael C. Latham, a professor at Cornell University's Graduate School of Nutrition.

Scientists have only a glimmer of understanding about how food affects moods. But they are beginning to explore the connection between diet and at least two areas of behavior: hyperactivity in children and emotional and mental disorders in adults.

"Wall climbers," or temperamental children who have trouble sleeping, learning and sitting still, are said to number at least 1.5 million, or 5% of all U.S. schoolchildren. In 1973, a San Francisco allergist, Dr. Benjamin F. Feingold, suggested that this hyperactivity could be due to the artificial dyes and colors found in dozens of foods. He kept his hyperactive patients away from more than 50 items, ranging from bologna to ice cream, and observed that more than half the youngsters began to calm down.

"A JOY TO BE AROUND"

Since then, word of the diet has spread among parents of hyperactive children—there are now 100 "Feingold Associations" in 25 states—and many swear by its effectiveness. One is Eugene Kuehnau of Schaumburg, Ill., who decided to try the regimen on her five-year-old son, Kenny, after medication failed to stop his series of angry fits. Since she removed flavored and dyed foods from Kenny's diet over a year ago, his behavior has been "just unbelievable," Mrs. Kuehnau says. "He listens to directions. He's a joy to be around instead of a pain."

Physician organizations, such as the American Medical Association and the American Academy of Pediatrics, remain skeptical about Dr. Feingold's hypothesis. Several federally funded experiments, under way in Pittsburgh and Madison, Wis., are attempting to compare children on the Feingold diet with those who eat the usual childhood foods. Results so far suggest that at best, artificial food colors can trigger hyperactivity in a small proportion of youngsters for a few hours at a time.

Another popular theory holds that an inadequate supply of vitamins, minerals and nutrients can wreak biochemical havoc in the minds of adults, causing everything from schizophrenia to headaches. The answer, proponents believe, is magavitamin therapy; there are about 800 orthomolecular psychiatrists—physicians who practice the megavitamin discipline—in the U.S. who treat patients with up to 200 times the normal dosages of some vitamins and minerals.

Adherents of the theory are enthusiastic about its potential. Megavitamin therapy "roughly doubles the recovery rate from mental illness in general," claims Dr David Hawkins, medical director of the North Nassau Mental Health Center in Manhasset, N.Y. Such "supernutrition" can help ordinary people "reach their potential in life," adds Dr. H. L. Newbold, a New York psychiatrist.

For instance, Dr. Newbold, who pops 10 grams of vitamin C daily to stay in shape, had one 57-year-old patient who kept losing his memory. The psychiatrist concluded the man wasn't getting enough vitamin B12, so he prescribed large doses of the substance, improving the man's recall. Dr. Hawkins says he treated a schizophrenic who had high levels of copper in her hair and urine by placing the woman on a diet low in copper and high in zinc and vitamins B6 and B7. "She improvel in six weeks and went home," he reports.

Critics charge that the megavitamin advocates have failed to test scientifically the theory's merit. "Unless they have hard evidence, they shouldn't make claims," contends Dr. Morris A. Lipton, psychiatry professor at the University of North Carolina's medical school. Other physicians point out that gulping down large doses of certain vitamins can cause harmful side effects, such as kidney stones.

There appears to be independent support for at least one aspect of the megavitamin theory, however, and that involves the way the brain responds to some foods. Until 1970, scientists believed that the brain was protected from blood-level variations in the intake of amino acids, which make up all protein. Then Massachusetts Institute of Technology investigators discovered that amino acids might indeed affect the output of brain chemicals.

Specifically, they found that when rats were fed a diet containing unusually small amounts of tryptophan, a key amino acid, the animals' brains produced less of one brain chemical, serotonin. As this output fell, the rats began to act meaner and more sensitive to pain. Fluctuations in serotonin also seemed to influence the animals' sleep habits, appetite and sex drive.

The researchers now believe the human brain may react in the same way. Will they come up with diets tailored to specific activities such as sex, sleep and work? "We can't do that now," says Loy Little, associate professor of pharmacology at M.I.T. "Someday we may be able to."

CAPITAL PUNISHMENT MAKES A COMEBACK

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. ASHBROOK. Mr. Speaker, capital punishment is making a strong comeback in this country. Under pressure from their constituents, legislators in State after State are voting for a return of the death penalty.

This is a sharp reversal of the previous trend. For approximately a decade the death penalty remained unused. The primary obstacle has been the U.S. Supreme Court. States watched helplessly as their death penalty statutes were declared unconstitutional.

Now the tide has turned. Aided by a more favorable court decision, Americans across the Nation are pushing for restoration of the death penalty. And their elected officials are responding.

One of the biggest victories for the proponents of capital punishment recently occurred in the State of California. In August of this year, the legislature overrode Governor Brown's veto and passed a measure restoring the death penalty.

I am encouraged by this trend. I have long supported capital punishment as a legitimate crime control measure. During this session of Congress I am sponsoring House Joint Resolution 30, a constitutional amendment specifically upholding the power of a State or Congress to impose the death penalty for any crime involving the deliberate taking of human life. This would free death penalty statutes from further court challenges.

For the information of my colleagues I am including a story from the San Francisco Chronicle on the restoration of the death penalty in California:

STATE DEATH PENALTY IS LAW—BROWN VETO OVERRIDDEN

(By Larry Liebert)

SACRAMENTO.—Death is again a penalty for murder in California.

At 3:02 p.m. yesterday, the Assembly voted to override Governor Brown's veto of a measure to restore the death penalty.

Like the Senate in June, the Assembly yesterday mustered just the two-thirds margin needed to override a veto. The vote was 54 to 26.

It was the first time one of Brown's vetoes was overridden—and only the third successful override in 31 years.

State officials said any murder committed after the moment of the Assembly's action could be subject to the penalty if it fell within the new law's specified categories of homicides.

The gas chamber at San Quentin prison has not been used since 1967 because past death penalty statutes were ruled unconstitutional by the courts.

Opponents of the death penalty already have vowed to go to court again to prevent the law passed yesterday from reopening the apple-green gas chamber.

The governor learned of the Assembly's action in Los Angeles, at his Space Day symposium. He said: "I'm not surprised. I don't believe in the death penalty, but the Legislature has spoken and now it's up to the courts.

"As long as it is a valid law, I will carry out my responsibilities to uphold it," said Brown, whose opposition to the death penalty may hurt him politically when he runs for re-election next year.

Brown had previously said he would not issue a blanket pardon to void all death sentences under a capital punishment law but has not indicated how he will handle individual cases.

For more than an hour yesterday, Assembly members debated life and death, crime and punishment, invoking the Bible, their own consciences and the will of voters who overwhelmingly favor capital punishment.

When Governor Brown vetoed the death penalty in May, he called his action "a matter of conscience" and said his hope is for "a society where we do not attempt to use death as a punishment."

On the Assembly floor, Assemblyman Alister McAlister (Dem-San Jose), who was

carrying the death penalty override effort, responded: "A civilization that lacks the will to protect itself against the barbarians within its walls is a decadent society."

McAlister insisted the death penalty deters "heinous murders" and "is a just penalty for those persons who show so little regard for their fellow human beings as to commit the atrocious crimes for which the death penalty is provided by this legislation."

California's previous death penalty statute was ruled unconstitutional last year by the state Supreme Court because it failed to give juries leeway to consider mitigating circumstances before handing down a punishment of death.

The law passed yesterday permits juries to weigh mitigating and aggravating circumstances before choosing between death and an alternative punishment of life imprisonment without possibility of parole.

The new law does not apply to all murders, only certain categories. Among the categories subject to death are: torture-murder and murder-for-hire, killing of a policeman or witness to a crime, murder during a rape, robbery or kidnapping; multiple murders; murder by explosive and perjury that results in death of an innocent defendant.

Yesterday's Assembly action was rich in political implications because opinion polls and a ballot initiative have shown voters in the state overwhelmingly favor the death penalty.

Republicans are certain to use the issue next year against those Democrats—including Brown and some legislators—who oppose capital punishment. Few Republican officials oppose the death penalty.

Legislators confirmed that Brown did virtually nothing to lobby against the Assembly's override of his veto. The governor said it would not be appropriate to pressure lawmakers on such an issue, but critics speculated that Brown preferred to have his veto overriden rather than to face a ballot initiative on the death penalty in next year's election.

The prime sponsors of the death penalty measure were two legislators who hope to run for attorney general next year, McAlister and Senator George Deukmejian (Rep-Long Beach.)

Attorney General Evelle Younger, who wants the Republican nomination for governor next year, praised the death penalty's enactment and said, "We now have a law which, if it is carried out, will help save innocent lives."

The Assembly action was also historic because a governor's veto is so rarely overridden, especially by a Legislature controlled by the governor's own party, as is now the case.

(The last two overrides occurred when Governor Earl Warren vetoed an appropriation to local governments in 1946 and when Governor Ronald Reagan vetoed a bill giving the Legislature the final say in the shutting down of state mental hospitals in 1974.)

McAlister told his colleagues: "The Legislature has been unduly deferential to our respective governors . . . Most of us received far more votes in our districts than the governor. Our ultimate responsibility is not to the governor but to the people and to our conscience."

He also attacked the courts for "judicial arrogance" in rejecting past death penalty statutes.

But much of the debate probed a basic philosophical question: Is a legislator's duty to a public that favors capital punishment or to his own conscience, which may be revolted by the idea of official killing?

Assemblyman Stan Statham (Rep.-Chico) said a vote against the death penalty represented "audacity" and "immorality" because "you're going against the will of the people."

Assemblyman Barry Keene (Dem.-Elk) responded, "If there were a majority view in this country to execute as 'animals' gays or hippies or racial minorities who happen not to be in favor . . . Would that too be justified as the will of the people?"

But other legislators debated the justice or effectiveness of the death penalty.

Among opponents, Assemblyman Howard Berman (Dem.-L.A.), said the death penalty creates "a false hope, an illusion that people will somehow be more secure."

And Assemblyman John Vasconcellos (Dem.-San Jose), said the death penalty obscures the real issue. "How in fact do we discover how to create a gentler society?" he asked. "How in fact do we overcome the violence that threatens all of us?"

But McAlister said such hopes to root out the deeper causes of crime may never be realized.

"There are people who for whatever reason do terrible things," he said. "Was it wrong to execute the Nazi war criminals? . . . Would it have been wrong to execute Adolf Hitler? Was there any conceivable hope for rehabilitation of people of that kind?"

HUD PROJECT DEBACLE COSTS TAXPAYER MILLIONS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. LEVITAS. Mr. Speaker, I wish to call to the attention of the Members of the House a matter which has cost the American taxpayer millions of dollars in waste and/or fraudulent loss. It concerns the demolition of a HUD-insured housing project, the Rockdale Apartments, in Atlanta, Ga., a mere 6 years after its construction. This affair demonstrates again how the bureaucracy has failed to properly implement important programs and failed to monitor and safeguard properly the taxpayers' investments in these programs.

In August 1976, after seeing newspaper stories on the destruction of the 6-year-old project. I asked the Secretary of Housing and Urban Development Carla Hills, to make a thorough investigation of how this could have happened. After several months of delay, the Secretary finally ordered the Inspector General of HUD to make a thorough investigation of the matter. That investigation took over 6 months to complete. After it was completed, the report was sent to the U.S. attorney in Atlanta for review.

Although I have not yet acquired a copy of the Inspector General's report, I have seen an analysis of that report by the U.S. attorney for the northern district of Georgia. Because of the shocking conclusions of the U.S. attorney, I have asked our colleagues, Congressman EDWARD BOLAND, chairman of the Appropriations Subcommittee on HUD and Independent Agencies, and Congressman THOMAS ASHLEY, chairman of the Housing Subcommittee on Banking, Finance and Urban Affairs, to conduct a full congressional investigation into the specific problems in the Atlanta project, and more importantly, into the problems within the Department of Housing and Urban Development which enabled such a debacle to occur. I want to know if such abuse of the public trust and moneys is a common problem in other HUD-insured public housing, and, if so, what can be done to prevent it in the future.

In the Rockdale apartments case, the taxpayers invested $4.3 million in buildings not fit for human habitation. At the time the order was given to demolish—just 6 years after its construction, I want to emphasize—it was estimated that it would take $1.4 million to rehabilitate the units in order for them to meet the Atlanta housing code standards.

The U.S. attorney's letter is a devastating indictment of the practices which brought about this fiasco, pointing out its structural deficiencies, inevitable deterioration and vandal-ridden desolation so utter and complete that its tenants for the most part had long since fled the premises prior to demolition.

Just as serious are the allegations that, had the statute of limitations not expired, there would have been grounds for prosecution. There are also allegations of kickbacks and collusion.

My main concern about this disaster includes an impression that nobody in HUD seemed to be terribly upset about this situation when I first brought it to their attention. The correspondence and contacts seemed to show that this wasteful boondoggle was accepted—albeit regrettably—as the normal, routine way of life and HUD personnel seemed prepared to move on to the next fiasco. I was outraged by this situation, and I thought they should be, too.

Throughout my concern with this matter, I have been encouraged and supported by our colleagues, Congressmen BOLAND and ASHLEY. I have asked each of them to read the letter from the U.S. attorney and to draw their own conclusions. It is clear that a thorough and complete congressional investigation of the entire matter is warranted, with the hope that problems of this sort can be avoided in the future so that the taxpaying American public is not victimized again in this way; so that the people who should benefit from this program by having decent housing will not be victimized; and so that public confidence can be restored.

I would hope that any other of my colleagues who are aware of such problems in their own districts, will make all such information available to the able chairman of the two committees so that a complete review of HUD related problems can be undertaken.

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. MILLER of California. Mr. Speaker, over 3 months ago, the House passed H.R. 7200, the most far-reaching reform of foster care and adoption in the Nation's history. The case for these

reforms was strongly made before the Ways and Means Committee, and the full House, on the basis of several major reports recently completed which document the terrible financial and human expense of the present system.

One of the very best of these studies was prepared by the New York City Comptroller's Office. It showed that the failure to provide appropriate services and periodic reviews of children in foster care frequently led to prolonged and needless placement, to the detriment of the child, his natural family, and the taxpayers who subsidize this system. Comptroller Goldin reported, in fact, that nearly two-thirds of the children in foster care in New York had spent an average of 5½ years too long in placement, at a cost of $23,000,000.

Other studies, by the General Accounting Office, the Department of Health, Education, and Welfare, the Regional Institute of Social Welfare Research, as well as the record of hearings before the House and Senate committees, have shown that the conclusions reached in the New York City study accurately represent the foster care crisis across the country. Similarly, demonstration programs in the areas of preventive and reunification services and periodic review of placement have proven their capacities, in a number of cities from New York to Nashville and San Francisco, for dramatically reducing the need for foster care, and its duration.

Soon, the full Senate will consider H.R. 7200, which includes some of the critical incentives for preventive service and accountability contained in the House bill and endorsed by the Carter administration in S. 1928 (Cranston). Passage of these reforms will help to reduce the seriousness of the crisis in foster care and save Federal money, as well as put the Senate in agreement with the scores of organizations and individuals concerned for children's welfare and the needs of troubled families, who have strongly endorsed the foster care and adoption sections of H.R. 7200.

George Strauss, who directed the study of New York City's foster care system, recently summarized his findings and recommendations in an article in Newsday. As the Senate prepares to consider H.R. 7200, I would like to share Mr. Strauss' conclusions with the Congress, for they make a powerful statement in support of a strong foster care and adoption reform bill.

In addition to Mr. Strauss' fine article, I want to share with my colleagues a news article from yesterday's Oakland (Calif.) Tribune. This article describes a report which has recently been completed which documents the severe shortcomings of the foster care system in Alameda county. The charges made about the failure of the program in Alameda County are nearly identical to testimony about the program in that area which was presented to the Select Education Committee over a year ago, and which was found in earlier studies.

By illustrating the continuing problems in Alameda, I do not mean to highlight their shortcomings as unique. The long public discusssion of these issues, in which the House, the Senate, the administration and I have been engaged for several years, have all pointed to the great need for remedial legislation nationwide. H.R. 7200 represents the greatest hope for foster children and their parents in over 40 years. Counties, like Alameda, and States also require the added assistance which the bill would provide in order to expand the preventive service programs and the accountability procedures which will reduce the need for foster care, and reduce its duration.

In the 3 months since House passage, the administration has produced a bill of its own, and the Senate Finance Committee has endorsed similar provisions. The children of this Nation cannot wait long for final passage of this largely noncontroversial bill, which virtually everyone knowledgeable in the field agrees will lead to an improved foster care system, and greater permanency for children in crisis. I call upon the Senate to approve swiftly this legislation, before another year passes, and tens of thousands of additional children needlessly enter, and often become locked into, the foster care system, a tremendous expense to the public treasury, and at tragic costs to themselves and their families.

The articles follow:

[From Newsday magazine, Aug. 9, 1977]

THE FOSTER CARE MESS

(By George H. Strauss)

William was a healthy 7-year-old when he was placed in a foster home in 1971 by a foster care agency in the New York-Long Island area. His parents were separated. His father drank heavily and his mother was on welfare, legally blind and unable to care for him. Five of William's brothers and sisters had spent most of their lives up to age 18 in the agency's care. His parents rarely visited him.

In 1972, William became uncontrollable in school, running wild and attacking other students. Weekends spent at the home of his eldest brother, Charles, seemed to have a calming effect on the boy, but he still had to remain in the custody of his foster parents. In 1973, his foster mother told Charles that William could not be discharged to him because the agency planned to have the boy adopted. The agency in fact had no such plans; presumably she just didn't want to lose William—and the monthly stipend his presence brought her.

Asked for the first time, in 1975, what he wanted to do, William told an agency social worker: "I want to live with Charles, he's my brother . . . and Jennie [Charles' wife] is just like a mother to me."

Later that year William got what he wanted. He was discharged into the care of his brother. Meantime, his four years in foster care had cost more than $18,000 in public funds for basic care alone. Half of that money went for agency administration and social services, the other half for payments to the foster parents, who housed five other foster care children besides William. If he had been discharged in 1973, when his brother first requested it, the public expense would have been only $7,500.

Among the 400,000 children in foster placement throughout the country, 31,200 of them are in foster homes and institutions in the New York-Long Island area—2,600 in foster care provided by Nassau and Suffolk County Departments of Social Services, 28,600 in care of New York City and its voluntary agencies.

Foster care is supposed to be a temporary expedient, designed primarily to reunite children with their biological family. Five years ago a Newsday article on foster care showed that many children remain in foster care homes or institutions for most of their childhood. Little has changed since then. Children remain in foster care for too many years, often moved around like chips on a checkerboard.

Foster children are frequently not visited by their parents, sometimes because agencies place them in distant foster homes. Too often, the agencies responsible for them make weak efforts to work with their parents and return them home or discharge them to interested relatives. For those who have no realistic hope of returning home, the agencies are often slow to free them for adoption or to recruit adoptive parents.

As the case of William illustrates, long-term foster care is frequently harmful to the emotional health of children, who need a feeling of stability and belonging that only a permanent home can provide, whether with their biological or adoptive parents. Foster care is also inordinately costly to the taxpayer. The current national price tag is at the $1 billion level. In Nassau and Suffolk Counties alone, more than $14 million was budgeted on foster care for the current fiscal year. The cost per child averages close to $6,000. In New York City, basic care costs are considerably higher—almost $8,000 per child.

Reuniting a child with his or her family is not only better for the child but also saves taxpayers money. And subsidized adoption by low and middle-income families typically costs less than half of what is annually expended for a child in foster care.

Agency practices differ sharply with respect to foster care versus adoption. Consequently, many Long Islanders are the subjects of discrimination. On the one hand, New York City agencies have more than 1,500 New York children placed in foster homes and institutions in Nassau and Suffolk Counties. But when Long Island families wish to adopt children from these same New York agencies, they are usually told: "You live outside our geographic area for adoption."

The causes of the foster care mess are varied. Public reimbursement systems favoring foster care over preventive services or adoption, organizational survival, interagency squabbling, and bureaucratic convenience are prime reasons why so many children get lost in the limbo of foster care.

As for the social workers involved, they are subject to the same inertia often found in bureaucratic situations; they are comfortable with established "clients" and so are sometimes predisposed not to discharge them and take on new ones. This tendency is reinforced by the disinclination of social workers to make crisp, timely decisions, particularly when they are given little guidance or direction by agency management.

An important secondary cause is lax governmental oversight and review of foster care practices at the local, state and federal levels. Government review and audit capabilities are typically fragmented, superficial and narrow in focus. Basic data about programs and their costs are often not even generated, let alone acted upon in significant ways by responsible public officials.

In New York City, for example, agencies with education, mental health, medical and basic maintenance programs are audited in a fragmented manner by the City Board of Education, State Department of Education, City Department of Mental Health, State Department of Social Services, and City Comptroller's Office. No one looks at the total picture.

Two other phenomena that are less often discussed are simple greed by a minority of operators of private foster care agencies, who skim public funds for the enrichment of

themselves, their friends or relatives; and the political power of private agencies and their federations. The latter is well illustrated by the New York City situation. There, private agencies care for 25,000 of the 29,000 foster children and received about $228 million in public funds for them this year, more than 90 per cent of their income. On the boards of trustees of the agencies and their federations sit influential politicians, lawyers, bankers and corporate executives. Traditionally, city policy toward the agencies has reflected the trustees' important but low-profile membership in New York's permanent government.

If the children and taxpayers are to be better served by foster care, a spectrum of corrective actions must be taken at all levels of government. Although there are partial or local success stories that give one some hope, foster care as both a local and national problem will only be solved when reforms such as these are widely implemented:

Public resources must be allocated to emphasize preventive services, short-term care and adoption. Long term foster care should no longer be funded on a general basis.

Children in care must have independent legal representation. This should not be left to the agencies responsible for their foster placements.

After 18 months of care, payment to an agency for a child should be terminated, unless exceptional circumstances warrant continued care. This would force agencies to find suitable permanent families for children within a reasonable period of time.

Agencies should not be left to evaluate their own performance. Independent audit and review of local foster care practice, with appropriate fiscal sanctions attached, must be instituted. Penalties must be invoked when agencies do not find permanent homes for children on a timely basis, where such actions are clearly called for.

At the national level, the White House should set up a Task Force on Foster Care and Adoption to direct and coordinate the many federal agencies involved with foster care administration and oversight.

More attention should be paid to criminal prosecution of the minority of agency operators who misuse public funds. Concomitantly, public officials should not be allowed to sit on agency or federation boards of trustees.

Finally, social service personnel should be better utilized, directed and trained for developing permanent homes for children in foster care, whether by return home, discharge to caring relatives or adoption.

Children are vulnerable. They must not be sacrificed for the convenience of the system.

[From the Oakland Tribune, Sept. 18, 1977]

FOSTER CARE PROGRAM ASSAILED

(By Ernie Cox)

Alameda County's sprawling foster care program for some 1,800 troubled youngsters, costing more than $7.5 million a year, is coming under attack this week in an investigation ordered by the board of supervisors.

The no-holds-barred report, which may startle some of the supervisors is sharply critical of three county offices dealing with juvenile foster care—the mental health service, probation department and children's protective services. It will be turned over to the supervisors Tuesday by Matt Golden, the board's independent evaluator of county programs.

Golden says he is going to recommend the supervisors establish an interagency committee at once to sit down with County Administrator Loren Enoch and work out a multitude of problems. He said the committee and Enoch should report back to the supervisors as soon as possible with solid information so the board can decide what changes to make in the care of foster children.

The work of the three agencies, said Golden, is so fragmented that he cannot find out much about the youngsters in foster homes, as a group, does not know how successful county programs are, why certain youngsters succeed in foster homes and others fail, and what to do about the situation. But he knows the cost to the taxpayers is mounting every year.

Part of the reason for mounting costs, he thinks, is that too little effort is being directed toward finding adoptive homes or guardianship arrangements for children—many of whom languish "in limbo" in county foster homes for years.

County officials who were targets of Golden's criticisms strongly disputed some of his findings.

The study, headed by Elizabeth Kearns of Golden's office found that while county costs for foster care are growing, "There is little understanding of how much and why they are growing." The 60-page report adds, "We do not know whether placement (in foster care) is a good thing or a bad thing for children and families. We do not know which types of placement have the best chance of success."

There are more than 1,300 children currently in licensed family foster homes and the cost per child ranges from $145 to $210 per month, said Golden. The length of stay runs anywhere from a few months to several years and, Golden adds, there is strong evidence that the countys' own procedures are prolonging the foster home stay for many children.

Moreover, Golden reported, many county social workers feel that few foster parents "possess any knowledge of abnormal behavior or are sensitive to the special problems foster children often bring with them to a new environment." And the county is doing next to nothing about training foster parents to fulfill their role, he adds.

As any parent knows, teenagers are a special problem. And so they are for the foster parents as well. Some 42 percent are "failures" in foster homes, leading Golden to conclude, along with many licensing and placement workers. "The traditional foster home setting may neither be suitable or desirable for many teen-agers."

Foster placement often requires coordination between two or more county agencies, but Golden said he found little evidence of such coordination. This was vigorously disputed by the agencies involved.

These agencies, Golden charged, rarely put forth much effort with the child's natural parents to facilitate the child's early return to his home. As a result, many children remain in foster homes longer than necessary, according to Golden.

Dangerously disturbed juveniles are sometimes placed in foster homes with little security and with free access to the community. This is particularly true in the Probation Department where, Golden says, the question becomes not "what is appropriate" but rather "who will take him?"

One branch of county government handles neglected and abused children, another the delinquent, and still another the mentally disturbed. Many children have overlapping problems in all three areas, yet the county system tends to "label" the child under a single category for purposes of placement. This "arbitrary" labeling, Golden charges, may well result in a youngster being placed in a wrong facility which only makes his problem worse.

He says the dollar costs of such failures on the part of the county "may be unclear, but one thing is certain—costs to children and families are high."

He said county workers assume that black children, the handicapped, and those over 9 years old are not adoptable. But he added, "Workers do not often make use of private adoption referral agencies which specialize in finding parents for this hard-to-adopt group."

County taxpayers, Golden said, are paying a high cost for foster placement failures "encouraged by unclear or nonexistent county policies."

Chief Probation Officer James D. Callahan said it "not true" that there is little coordination between his department and the other two agencies.

Dr. Susan Mandel, director of mental health services, said Golden was wrong on several counts. Her reply prepared to staff members, claimed workers spend much time with parents of foster children, that their services follow children when they get into the juvenile justice system, and that they try hard to restore family relationship to prevent out-of-home placements.

CAMBODIA: THE FORGOTTEN LAND

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. QUAYLE. Mr. Speaker, at a time when President Carter has made much of the human rights issue, when members of the fourth estate have publicized cases of brutalities in various countries of the world, it is surprising that both the administration and the majority of the media people have been strangely silent about the wave of terrorism that is enveloping Cambodia.

Mr. Speaker, at this time, I insert in the RECORD an article written by Nick Thimmesch which appeared in the Chicago Tribune on July 7 of this year. In his article, Mr. Thimmesch briefly touched upon some of the incidents of atrocities described by eye-witnesses who had managed to escape from Cambodia. I strongly recommend that my colleagues read this article and the book that Mr. Thimmesch referred to in his article, "Murder of a Gentle Land" by John Barron and Anthony Paul.

The article follows:

[From the Chicago Tribune, July 7, 1977]

THE HUMAN RIGHTS CLAMOR IGNORES CAMBODIA'S HOLOCAUST

(By Nick Thimmesch)

WASHINGTON.—One of history's infamous tyrants is reported to have once said, "One death is a tragedy; a million deaths are a statistic." Perhaps this cynicism also describes the world's attitude toward the slaughter of hundreds of thousands of Cambodians by the Communist Khmer Rouge regime—a story that most people want to ignore.

At a time when Jimmy Carter's shibboleth, "human rights," fills the air, it is incredible that advocates of humane treatment have focused very little attention on Cambodia where one-tenth of the people have perished in a holocaust which makes Hitler look like a piker.

It is also a bit remarkable that neither President Carter nor his appointees at the State Department have made any special effort to deplore the bloodbath which the Communists have systematically inflicted on the Cambodian people. Occasionally, in a congressional hearing, an official from State will mention the slaughter, but it gets scant attention in the public prints or broadcasts.

Now we have an excellent account of this Communist genocide, "Murder of a Gentle Land," by two Reader's Digest editors, John Barron and Anthony Paul, who spent a year interviewing some 300 eyewitnesses to the brutality and killing. Their book is a com-

pacted narrative of this grisly, and unfinished, episode.

Then, using the ruse that American bombers were coming [they never did], the Communists ordered a brutal evacuation of the city, jammed with inhabitants and refugees. Eventually, 3.5 million refugees, half of Cambodia's population, wandered toward the countryside, in pitiful columns of feeble elders, frightened women and children, and trembling men. Some 400,000 of these people are believed to have died.

Some refugees who feigned death escaped to tell of the massacres. One at Mt. Tippadei left hundreds of bodies rotting in the sun for weeks, causing an intimidating stench.

There was also an incident involving 88 Cambodians, mostly Air Force pilots, hailed at a ceremony as repatriates. After Thai photographers filmed this seemingly happy reunion, the 88 were driven to a nearby field, where each was clubbed or bayonetted to death.

When mass killings are the rule, the atrocities and the bodies almost lose identity. But a single wanton murder can still stand out. The book tells of a Communist soldier suddenly thrusting his bayonet into the stomach of a blind beggar, killing him. An onlooker asked, "Why?" The soldier answered: "He could never work in the fields. He was useless to society. It is better for him to die."

It began in April, 1975, with the fall of the besieged capital of Phnom Penh to the Khmer Rouge. The fearful populace waved white flags of greeting to the invaders, hoping for the best. Instead, in the name of "Angka Loeu" [Organization On High], the Khmer Rouge troops, some in their early teens, began killing the sick and wounded even shooting and beating to death hospital patients who had just come out of surgery.

Indeed, this is often the guiding force in regimes dedicated to "purification," whether they be Nazi or Communist. Through "re-education" [concentration] camps, constant indiscriminate killings, and warnings that with so many people dead, the living must work twice as long and hard, the Khmer Rouge rule Cambodia.

The Carter administration, if it is to maintain its credibility on "human rights," must quickly and publicly condemn the Cambodian regime, and detail the atrocity stories for the world to deplore. Moreover, it must be pointed out that the Cambodian Communist regime is Peking-oriented, and that there are at least 1,000 Chinese Communist military advisers in Cambodia. The Soviets were rudely expelled at the time of the takeover.

For all the high sounding talk of an administration wanting to establish diplomatic relations with every last nation on the globe, Cambodia is one which doesn't deserve even the remotest consideration. Finally, it would be good for all those antiwar columnists of yesteryear, Mary McGrory for one, who wrote so much hair raising stuff on the tiger cages of South Viet Nam to break their silence and write about the blood-soaked Communist regime of Cambodia.

SOCIALIST WORKERS PARTY 29TH NATIONAL CONVENTION MOVES TO HEAL QUARREL WITH ACTIVE TROTSKYITE TERRORISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. McDONALD. Mr. Speaker, the Socialist Workers Party (SWP), the U.S. section of the Fourth International (FI), which serves as the chief international coordinating body for Trotskyite Communist groups and parties, held its 29th annual convention as traditional at Oberlin College, Ohio, from Saturday, August 6 to Saturday, August 13. The main purposes of the convention were to coordinate and consolidate the SWP's penetration of U.S. trade unions, particularly of the steelworkers, and to heal a factional split within the Fourth International over whether to engage in revolutionary terrorism now, or to engage in party-building now and use terror tactics later. The "compromise solution" is to do both.

This year 1,685 persons registered for the SWP national convention, including 176 foreign Trotskyite observers headed by Charles Michaloux, alias "Duret," who was the official representative of the Fourth International's International Executive Committee (IEC), and of its ruling International Majority Tendency (IMT), which is actively engaged in terrorism in a number of countries. (Michaloux formerly used the name Aubin while his comrade Udry from Switzerland was called Duret).

Other foreign Trotskyite leaders attending included Chikara Sasaki, a leader of the Japanese section who under the revolutionary alias "Sakai" is a noted Trotskyite polemicist in favor of terrorism; veteran Trotskyite Harry Wicks, now a leader of the British FI section, the International Marxist Group (IMG), and a one-time member of the SWP, and Bernadette Devlin McAliskey, formerly associated with the leadership of such Irish pro-terrorist Trotskyite groups as People's Democracy and the Irish Republican Socialist Party (IRSP) and who now works with the Movement for a Socialist Republic (MSR), the Irish section of the Fourth International.

Another foreign Trotskyite leader present was Reza Baraheni, now operating as a leader of the Sattar League, the Iranian section of the Fourth International. Baraheni is head of a front group run by the SWP called the Committee for Artistic and Intellectual Freedom in Iran (CAIFI) which conducts a smear campaign against the Government of Iran, an important U.S. ally. The offices for Baraheni's CAIFI operation are in the suite of rooms occupied by the citywide SWP and Young Socialist Alliance at 853 Broadway, New York, N.Y. 10003. In his testimony before the House Subcommittee on International Organizations in September 1976, Baraheni attacked the Shah of Iran and the Iranian intelligence agency SAVAK as "torturers;" but made no mention of his prominent position in the Trotskyite terrorist Fourth International nor of the writings of his ideological mentor, Leon Trotsky, who organized for Lenin "the state terror of a revolutionary class."

Upon registration in the skating rink, SWP members attending were handed convention packets containing information and orientation sheets and picked up undistributed "members-only" discussion bulletins. It is noted that this year the convention packets were enclosed in red plastic folders marked "Postal Training & Development Institute Technical Center" and that a Postal Workers Fraction meeting took place during the convention.

From 1 to 5 p.m. on August 6, SWP members employed in the steel industry attended a Steelworkers Fraction meeting in room 306 of the King Building. The meeting was opened only to those currently employed in the industry. Thirty-six members attende .. Approximately 15 more could not attend as they were not able to leave their jobs.

Early arrivals who were not steelworkers spent the afternoon in the gymnasium swimming pool awaiting the evening's orientation session for new SWP members, observers from other Trotskyite groups in the United States and abroad hosted by veteran SWP member Evelyn Reed, the wife of George Novack; Hattie McCutcheon, an SWP member who is a leader of the front called the National Student Coalition Against Racism (NSCAR) and is running for the Boston School Committee; and Peter Camejo, of the SWP National Committee and supporter of the future use of terrorism.

On Sunday, August 7, the convention was opened by John Hawkins, who outlined for the delegates the procedures to be followed. He was followed by SWP National Secretary, Jack Barnes, who made the political report to the convention. It was entitled "U.S. Ruling-Class Offensive Abroad and at Home."

The major activity of the afternoon session was a report on SWP penetration of the labor movement given by Joel Britton. From 8:30 to 10:30 that evening the delegates participated in a discussion of SWP finances. The SWP has always demanded much of its members financially. The delegates were advised that this will increase in the future

Most of the session on Monday, August 8, was taken up by the report on women's liberation by Willie Mae Reid and a discussion on the report. From 8 to 10 p.m. that evening fraction meetings and workships were held. Attendance at the fraction meetings was limited to those persons who were actually members of the unions penetrated by the fraction. The fractions and workshops and the names of the leaders follow:

Steelworkers Fraction—led by Joel Britton and Andy Rose;

Public Employees Fraction (AFSCME, SEIU, AFGE)—led by Lynn Henderson;

Electrical Workers Fraction (UE, IBEW, IUEW)—led by Ellard Yow;

Hospital Workers Fraction—led by Jean Savage;

Communications Workers Fraction—led by Chris Hildebrand;

Printing Trades Fraction—led by Sarah Lovell;

Building the National Organization for Women Fraction—led by Marcia Gallo and Cathy Sedwick;

Defense Activities on Behalf of Soviet and Eastern European Dissidents Workshop—led by Peter Seidman;

Winning New Members to the SWP Workshop—led by Rich Finkel;

Building the Movement for Gay Rights Workshop—led by Susan LaMont;

Building the Southern Africa Campaign Workshop—led by Osborne Hart and Omari Musa;

Writing for the *Militant* Workshop—led by Steve Clark;

Standardizing Bookkeeping for the Party, A Workshop for Branch and Local Financial Directors—led by Mary Lou Montauk.

Selling the *Young Socialist* Workshop—led by Holly Harkness;

Election Campaign Workshop—led by Matilde Zimmermann.

The August 9 session opened with a report by Olga Rodriguez on the Chicano movement and the struggle against deportation. The report and the discussion centered around the defense of illegal aliens and support for militant Mexican-American groups.

The main activity of the afternoon session was the black liberation report by Malik Miah. That evening from 8 to 10 there were additional fractions and workshops. These were:

Railroad Workers Fraction—led by Ed Heisler;

Women's Liberation Work in the Trade Unions Workshop—led by Cindy Jaquith;

Postal Workers Fraction—led by Marty Pettit;

Auto Workers Fraction—led by Brian Elam;

Teachers Workshop—led by Lynn Henderson;

Textile Workers Workshop—led by Jim Gotesky;

Struggles of Chinese-, Filipino-, and Japanese-Americans Workshop—led by Diane Wang;

Supporting the Movement Against Nuclear Power Workshop—led by Mike Baumann;

How to Take Better Photos for the *Militant* Workshop—led by Susan Ellis.

Educational Needs of the Party Workshop—led by Fred Feldman and Paul Montauk;

Anti-deportation Campaign Workshop—led by Miguel Pendás and Miguel Zárate;

The Branch Bookstore and Its Relation to Party Activity Workshop—led by Peggy Brundy and George Bouse;

Defense Activities on Behalf of Latin American Political Prisoners Workshop—led by Mike Kelly;

Regional Work and Fall Traveling Teams Workshop—led by Rick Berman;

Campaign Finances and Disclosure Laws Workshop—led by Stacey Seigle;

Defense Activities on Behalf of Iranian Political Prisoners Workshop—led by Doug Jenness;

The YSA and the High Schools Workshop—led by Betsy Farely.

The August 10 session opened with a special report on Canada. The SWP considered it very significant that the two Canadian Trotskyite organizations, the League for Socialist Action and the Revolutionary Marxist Group, were now united. The RMG which has its main base among French speaking Canadians is part of the International Majority Tendency of the Fourth International. It advocates terrorism now. The LSA, like the Socialist Workers Party, adheres to the Leninist-Trotskyist faction of the Fourth International, and also advocates terrorism in the future but not under the present circumstances.

The next report for the morning was by Larry Seigle on the proposal to admit to membership a group called the Revolutionary Marxist Committee. The RMC, which came out of a Trotskyite tendency called the International Socialist opposes the SWP line on the nature of the Soviet Union. The Socialist Workers Party believes that the Soviet Union is a "workers state," although it is deformed. Therefore, revolutionaries must defend the Soviet Union against its enemies. The RMC, on the other hand, believes that the Soviet Union is ruled by a system of "state capitalism." Therefore, revolutionaries should not defend the Soviet Union. While to most people this difference of opinion sounds unimportant to Trotskyites it is vital. The nature of the Soviet Union is an article of faith in Trotskyite ranks. Therefore, the admission of the RMC members indicates how desperate the SWP is for new blood. The RMC consisted of 45 people, led by Bruce Landau and Shelly Kramer. Nineteen of their members belong to trade unions, five of them to the United Auto Workers.

During the afternoon, a series of special classes were held. These were:

A Panel Presentation on the Situation in Mexico Today;

Issues in the Middle East Today—by David Frankel;

The Advancing Revolution in Southern Africa—by Robb Wright;

A Panel Presentation on the Class Struggle in Spain;

How the International Trotskyist Movement Began—by Harry Wicks;

A Panel Presentation on Ireland;

Developments Toward the Political Revolution in Poland—by Gerry Foley;

Puerto Rico's Struggle for Independence—by a representative of the Internationalist Workers League of Puerto Rico;

The Fallacies of the Theory of State Capitalism—by Dick Roberts;

A Panel Presentation on the International Women's Liberation Movement;

Ethiopia and Eritrea: Upheaval in the Horn of Africa—by Ernest Harsch;

The Fight Against the Ultra-right in a Period of Growing Class Polarization: the Skokie Example—by Fred Feldman.

That evening from 8 to 10 the following workshops and fraction meetings were held:

Mineworkers Workshop—led by Ed Heisler;

Transit Workers Fraction—led by Steve Beumer;

Teamsters Fraction—led by Andy Rose;

Black Liberation Work in the Trade Unions Workshop—led by John Hawkins;

Building Trades Fraction—led by Frank Lovell;

NEA Fraction—led by Ed Fruit;

AFT Fraction—led by Jeff Mackler;

Building the Student Coalition Against Racism Workshop—led by Osborne Hart and Cathy Sedwick;

Building the Puerto Rican Movement Today Workshop—led by Catarino Garza;

Growing Feminism Among Women of Oppressed Nationalities, a Panel Discussion by Rashida Abdul-ahad, Magdalena González, and Katherine Pon;

Branch and Local Financial Directors Workshop—led by Dave Prince;

Party Campaigns for the *Militant*, *Perspectiva Mundial* and *Intercontinental Press* Workshop—led by Harvey McArthur;

Organizing the Fall Speaking Tours Workshop—led by Mike Maggi;

Workshop on Producing Better Branch Weekly Forums—led by Wendy Lyons;

Winning Artists to the Revolutionary Party Workshop—led by Thiago;

The Party's Fight for Civil Liberties Workshop—led by Syd Stapleton;

Workshop on YSA Finances—led by Brian Williams.

The August 11 session opened with a report on the Young Socialist Alliance by Cathy Sedwick. The YSA is the youth group of the Socialist Workers Party. The next report was by Nelson Blackstock on the Socialist Workers Party press.

The afternoon session heard the organization report by Mary-Alice Waters. That evening the delegates were entertained with music and poetry "in solidarity with political prisoners." Reza Baraheni played the role of an Iranian poet. For most of the convention, he appeared as a leader of the Iranian section of the Fourth International. The evening featured guitar playing by the Brazilian musician Guadencio Thaigo deMello.

The August 12 session featured a report on the world Trotskyist movement by Barry Sheppard. He pointed to the merger of the two factions in Canada as a good sign for the Fourth International. On behalf of the SWP, Sheppard urged that the two major international factions dissolve. The two factions are the LTF, led by the SWP, and the IMT, headed by Ernest Mandel and the other Fourth International leaders. At the last World Congress of the Fourth International in 1974, the IMT had only a slight majority. Since that time, however, the LTF has lost its largest group, the PST of Argentina, which together with its supporters in other countries has formed a third faction called the Bolshevik Tendency. This left the LTF with only the SWP and a few tiny grouplets in other countries. This of course is the reason for the desire of the SWP to abolish the factions. Nevertheless, Charles Michaloux representing the IMT at the convention stated that his faction also favored the dissolution of factions before the next World Congress of the Fourth International, which is scheduled for 1978.

From 9 to 11 that evening a rally was held within the convention on behalf of the SWP newspaper the Militant. Keynote speaker was Maceo Dixon, SWP leader in Boston. The featured speaker was Bernadette Devlin McAliskey, the Irish revolutionary who has collaborated with the Trotskyite terrorist in Northern Ireland. Other speakers were Shelley Kramer representing the Revolutionary Marxist Committee, which merged with the SWP at this convention; Holly Harkness, member of the National Executive Committee of the Young Socialist Alliance; Diane Sarge, SWP member from Houston, Tex., active in the United Steelworkers; and Manuel Archuleta of La Raza Unida, a Mexican-American group that has collaborated with the Socialist Workers Party for a number of years.

Greetings to the rally came from: Richard Mohawk and Paul Skyhorse, two members of the American Indian Movement on trial in Los Angeles for first degree murder in the stomping death of a taxi driver; Morris Kight, a leader of the homosexual movement in Los Angeles; Harry Edwards, black militant at the University of California, Berkeley; I. F. Stone, veteran journalist and Communist apologist; Emile deAntonio, film maker who produced the propganda film on behalf of the terrorist Weather Underground; Leonard Weinglass, leading National Lawyers Guild attorney who recently defended members of the terror-

ist Symbionese Liberation Army; Robert Meeropol, son of the convicted Soviet atomic spies Julius and Ethel Rosenberg; and Jose Angel Gutierrez, Texas judge founding member of La Raza Unida who is a strong supporter of the Castro dictatorship in Cuba.

This ended the sessions of the convention open to all members of the Socialist Workers Party, but, of course, closed to the public. On August 13, selected members of each SWP branch and foreign Trotskyite officials representing the Fourth International gathered to elect the national committee of the SWP and hear a report on the control commission by Linda Jenness. The control commission is the internal investigating arm of the SWP leadership.

Approximately 100 of the 1,600 members of the Socialist Workers Party did not attend the convention. These had to provide an acceptable excuse such as not being able to leave their jobs. The SWP Control Commission has had its job made easier by the fact that the FBI was forced to advise them that there had been 66 informants in the Socialist Workers Party. The Justice Department then ordered the FBI to terminate the informants and advise them not to attend SWP meetings, or to report anything to the FBI about the SWP.

Most of those in attendance at the convention were barred from the final closed session, which was opened only to "official delegates." These "official delegates" were handpicked by the leadership, each representing 12 members. New York for example, with approximately 300 members had about 25 delegates. Most of these were "leaders" and few rank and filers had the opportunity to be in on the real decisionmaking meeting. Smaller branches had one or two delegates who were almost invariably the top people in the branch closely associated with the national leadership.

Two major problems were raised at the convention. The first was financial, the second organizational. The SWP membership had previously been supplied with information concerning these problems. The financial problem was described in a report made to the SWP national committee by Barbara Matson on April 16, 1977.

Additional funds are necessary to carry out the work of the SWP. Those funds have to come from the membership. At this time, according to Matson, 50 percent of the expenses of the SWP newspaper the Militant have to come from the party. Seventy-five percent of the expenses of Intercontinental Press must also come from the party. Intercontinental Press is a weekly magazine published by the Socialist Workers Party on behalf of the Fourth International. The new Spanish language SWP publication Perspectiva Mundial is subsidized 100 percent. In addition the SWP pays 100 percent of all of the expenses of its members traveling abroad on Fourth International business. They also pay 100 percent of the expenses of the new national field organizers and of the Young Socialist Alliance organizer teams that travel around the campuses each spring and fall. According to Matson, "Even though the teams use the income they receive from sales to cover their expenses, we pay for and furnish the materials to them without charge." [1]

The organizational problem is even more serious. As a result of attempting to expand the SWP by breaking down the citywide locals into a number of smaller branches it was soon found that untrained cadre were not following instructions properly. The national office was not sufficiently informed about the work of some of the branches. Mary-Alice Waters in a report to the National Committee of the SWP on January 8, 1977, said:

> Most of the comrades probably read the article about the party that appeared in the *Nation* this fall, written by Walter and Miriam Schneir. Among other things, they describe how George Novack showed them around the national headquarters at 14 Charles Lane and they quote George as proudly commenting that the SWP has an infrastructure for a party of 100,000. I don't know if George actually said that. But knowing what our problems have been this fall, George's enthusiasm really made me laugh. I wish it were true. In reality, while some departments are ahead of the game, we don't yet have an adequate infrastructure for a party of 2,000. And that's one of the things we are proposing to change in the next months.

The solution was to send out eight national field officers, who could handle local problems in their own geographical area. Those chosen were:

LIST OF FIELD OFFICERS

1. Northeast—Doug Jenness (resident New York)
2. Mid-Atlantic—Andrea Morell (resident Washington)
3. South/Gulf Coast—Pearl Chertov (resident New Orleans)
4. Southwest—Peter Camejo (resident Los Angeles)
5. Pacific Coast—Tony Thomas (resident San Francisco)
6. Rocky Mountains/South Plains—Steve Chainey (resident Denver)
7. Midwest—Wendy Lyons (resident Minneapolis).
8. Great Lakes—Joel Britton (resident Chicago).[2]

The desire to recruit new members is complicated by two factors. One is that previously nonpolitical new members take a long time to learn the line and how to follow orders. The other is that members of rival political groups have their own ideological line and are usually a problem to integrate into the SWP structure. There were some misgivings concerning the plan to recruit the members of the Revolutionary Marxist Committee because they came into the SWP with a coherent political position on a number of questions different from that of traditional Trotskyism. The solution to this was not to allow them to all join the Detroit local but to scatter them around the country.

A group that is closer ideologically to the Socialist Workers Party and which has about 75 members has been rejected for membership for the last 2 years. This group called the Revolutionary Marxist Organizing Committee adheres to the positions of the International Majority Tendency of the Fourth International. This group, which has members in a number of cities, including New York and Baltimore, is centered around the Socialist Union in Los Angeles headed by Milton Zaslow, who in the late 1940's and early 1950's was organizer of the New York local of the Socialist Workers Party under the name Mike Bartell. He left the SWP during the 1953 split and supported entryism into the Soviet controlled Communist movement.

The Baltimore group calls itself the Baltimore Marxist Group. Its members are Rick Ehrmann, John Sinnigen, Lisa Sinnigen, and Star Bowie. The New York group calls itself the Marxist Education Collective and includes Murray Weiss and wife, Myra Tanner Weiss, both of whom were long time leaders of the Socialist Workers Party until the 1960's; as well as Art Felberbaum, and Hazel Daren.

The SWP has refused to admit the members of this group, some of whom had been expelled from the SWP in 1975 as part of the Internationalist Tendency. The leadership of the Fourth International, nevertheless, maintained close relationships with this group and Livo Maitan attended the November, 1975, conference at which the local groups were merged into the ROMC.[3] Due to a series of incidents this relationship has been terminated. As a result approximately 75 supporters of terrorism, many of whom have considerable organizational experience, are now unavailable to the Trotskyite movement.

The incidents that caused this began on July 24, 1975, when Herbert Romerstein, former minority chief investigator for the House Committee on Internal Security, testified before the Senate Subcommittee on Internal Security on the Trotskyite Terrorist International. That testimony and hundreds of pages of confidential SWP and Fourth International documents relating to terrorism were released by the committee in March 1976.

On April 6, 1976, Hedda Garza, who was expelled from the SWP in 1975 as a member of the International Tendency, called a press conference to answer the charges. Garza never said that the Fourth International opposed terrorism, instead, she claimed that it was the U.S. Government that engaged in terrorism and subversion, instead of her Marxist-Leninist comrades.

The Socialist Workers Party was furious at its former members purporting to speak on its behalf. An April 6, 1976, release issued by the New York SWP office and signed by Jack Barnes for the Political Committee of the Socialist Workers Party and Ernest Mandel for the United Secretariat of the Fourth International said:

> At a press conference held April 6 in New York, Hedda Garza purported to speak in defense of the Socialist Workers party and the United Secretariat of the Fourth International, although none of the groups or individual she represents are members of either of these organizations. Consequently neither the Socialist Workers party nor the United Secretariat of the Fourth International take

[1] Socialist Workers Party Discussion Bulletin, No. 3, June 1977, pp. 25 and 26.

[2] Socialist Workers Party Internal Information Bulletin, No. 1, February, 1977, pp. 18–35.

[3] Fourth International Internal Discussion Bulletin, No. 5, November 1976, pg. 7.

any responsibility for her declarations. Both disassociate themselves from them.

The RMOC wrote to the Fourth International leadership complaining about the repudiation. They received an answer which pointed out that the Socialist Workers Party is engaged in a "very delicate and complicated legal undertaking" in its lawsuit against the U.S. Government. The Hedda Garza press conference, "threatened to publicly pose spokespeople for the FI in the USA who were not part of that defense/offense effort, thus denying the SWP the right to maintain strict control of its own defense/offense." The letter went on to say, regarding Ernest Mandel that:

Ernest had agreed only to a general statement saying that nobody is a member of the FI in the USA because of the Voorhis Act, a kind of Orwellian legal formulation. That's not what came out in the wash, and an official statement by Ernest into the minutes of the USec condemning this trickery on the part of the SWP is now in the works; this clarifying statement will include the FI's leading bodies on the general conduct of the law suit.

The RMOC wrote back condemning this and other actions of the SWP. The material sent by RMOC to the International Majority Tendency was marked "This material and the information contained herein, should only be shared with reliable IMT supporters." Nevertheless, in January, 1977, Gus Horowitz, who is an SWP representative at the International Headquarters of the Fourth International in Brussels, Belgium, found this material "by accident" at the FI headquarters. This can be translated as found while rummaging through somebody elses papers.

The SWP responded by demanding that the IMT leadership cease their contacts with the RMOC and the Socialist Union. On March 24, 1977, at a meeting of the United Secretariat of the Fourth International, a resolution was passed placing the members of RMOC and SU "outside the framework of sympathizing supporters of the Fourth International" unless they leave their organization.

Barry Sheppard reported in a letter to Jack Barnes, "This motion clearly gets rid of any pretenses by the RMOC-Bartell gang that any of them are a fraternal part of the Fourth International. This should bring an unpleasant chapter of history to an end." [4]

The action by the IMT leaders against their American supporters is part of an attempt to defuse the international faction fight that has gone on since 1969. During the fight the SWP and its supporters in the Leninist-Trotskvist Faction (LTF) repeatedly and accurately accused the Fourth International leadership faction called the International Majority Tendency (IMT) of advocating and carrying out terrorism in Latin America and Western Europe. While the IMT continues to advocate terrorism, they have made some concessions to the LTF. They now agree that terrorism should be combined with "party building." While the LTF had argued that "party building" was impossible combined with terrorism because of the lose of cadre as a result of the violence. LTF, however, was glad to accept the compromise as their largest organization the PST of Argentina has left to organize the Bolshevik Tendency, a third faction in the Fourth International. (See International Internal Discussion Bulletin, No. 1, January 1977 for the Declaration of the Bolshevik Tendency.) [5] The plan is that all factions will be dissolved before the forth-coming 1978 World Congress. The LTF will cease its criticism of the IMT on the terrorism issue. The arguments at the Congress will be concerned mainly with the role of Trotskyites in coalition politics and their analysis of and relationship with the Soviet controlled Communist movement in various countries.

The SWP in trying to build support for its position would like to bring an international group called the Organizing Committee for the Reconstruction of the Fourth International (OCRFI) into the movement. OCRFI has its main base in France in a group called the Internationalist Communist Organization (OCI) lead by Pierre Lambert (aka Bleibtrae). This group goes back to the 1953 international split. It was then allied with the Socialist Workers Party. In 1963, SWP broke with the Lambertists to rejoin the Fourth International. The main rival in France to the OCI is the Ligue Communiste Revolutionnaire (LCR) which is the French section of the Fourth International. The two French groups have been bitter enemies for the past 15 years. They have engaged in acts of violence against each other on numerous occasions. The IMT has used this animosity as an excuse for continuing the split with OCRFI. During a discussion last December, Pierre Lambert admitted to a group of representatives of the Fourth International that OCI had planted spies in the LCR. Those who heard this admission were: Claude Chisserey, Stephane Just, Gus Horowitz, Charles Michaloux, and Olivier. Horowitz is the SWP representative to the Fourth International. This greatly upset the IMT leadership. They demanded that the OCI explain why they had spies in the French section of the Fourth International. F. de Massot answered for the OCRFI that, "given the type of relations that existed between the LCR and the OCI, no other solution was possible." He went on to say that the LCR had also sent spies into the OCI. He named a Comrad Carasso from Clermont-Ferrand. It is interesting to note that the Trotskyites spy on one another while condemning the U.S. Governments "spying" on them while gathering information on international terrorism. Unfortunately, the U.S. Government's surveillance of the SWP was canceled last year. The discussions between the FI and the OCRFI are continuing.[6]

The most significant result of the IMT rapprochement with the LTF has been the merger of the Canadian Trotskyites. The pro-terrorist Revolutionary Marxist Group and Groupe Marxiste Revolutionnaire has fused with the League for Socialist Action/Ligue Socialiste Ouvriere. The RMG and GMR are part of the IMT. LSA/LSO is part of the LTF. (Material on this merger may be found in the confidential International Information Bulletin of the Fourth International Nos. 4 and 5, both dated August 1977.)

One of the main points of differences between the LTF and IMT is on the question of the nature of various Communist regimes. The immediate case in point is the Government of Vietnam. In a draft resolution on the Indochinese Revolution submitted by the IMT for the next World Congress whole-hearted support is given to the Vietnamese regime. The resolution is signed by Aubin (Charles Michaloux) Duret (A Udry of Switzerland) Roman and Walter (Ernest Mandel). It appeared in the confidential International Internal Discussion Bulletin, No. , November 19776. It was answered by Fred Feldman of the SWP in the International Internal Discussion Bulletin, No. 6, July 1977. Feldman argued for critical support for the North Vietnamese and calls for the construction of "revolutionary Marxist parties in Indochina" to fight against the Stalinist regimes.

The IMT grew out of that section of the Fourth International which has advocated close cooperation with the Stalinists. This included the tactic of entryism which was to penetrate the Stalinist movements even if it meant giving up the independent existence of Trotskyite parties. The LTF, or at least most of its members, come out of the section of the Fourth International that opposed this. If the debate on terrorism ends, the debate on relations with the Stalinists will still be a major bone of contention.

The end of the debate on terrorism has great significance, however. As sections of the Fourth International continue to engage in terrorism in Latin America, Western Europe and the Middle East they will no longer be subject to criticism by the SWP. In fact, the SWP will increase the support given to these fraternal parties. The SWP in the past has supported speaking tours for foreign Trotskyite terrorists and fund raisers for the terrorists. This will continue, probably even on a larger scale. At the SWP convention four persons active in terrorism in Northern Ireland were present. These were Bernadette Devlin McAlisky of the Irish Independent Socialist Par-

[4] Fourth International International Internal Information Bulletin, No. 2, July, 1977.

[5] For a discussion of this matter see Fourth International International Internal Discussion Bulletin, No. 8, December, 1976, which contains the Self-Criticism on Latin America by the Steering Committee of the International Majority Tendency and a disagreement with the statement by Livio Maitan. See also the Fourth International International Internal Discussion Bulletin, No. 5, May, 1977 which contains an analysis of the self-criticism by Jack Barnes.

[6] Fourth International International Internal Discussion Bulletin. No. 3, May, 1977. pg. 32-33.

ty (ISP), Fergus O'Hare of the People's Democracy (PD), and Anne Farrelly and James McMahon of the Movement for a Socialist Republic (MSR), Irish section of the Fourth International.

On Friday, September 30, 1977, All Souls' Church in Washington, D.C., will be the scene of a meeting featuring the Peruvian Trotskyite Terrorist Hugo Blanco. The meeting is sponsored by the Socialist Workers Party front, USLA Justice Committee.

Blanco had been previously barred from the United States as a result of his terrorist activity. At the SWP Convention the boast was made that now Blanco would get a visa. Although, the SWP is already distributing leaflets announcing that Blanco will speak in Washington on September 30, the State Department claims that the visa has not yet been given. In light of the fact that the Irish terrorist supporter, Bernadette Devlin McAliskey, was given a visa to attend the SWP Convention, it is likely that other foreign terrorists will soon be in this country under the auspices of the SWP.

The Socialist Workers Party has strongly supported the terrorist activity of the Palestine Liberation Organization. Peter Seidman, an SWP activist in New York, has been assigned to co-ordinate activities with the PLO support apparatus in the United States. The two leaders of this support apparatus are James Zogby and Abdeen Jabara. Zogby has expressed some misgivings about the SWP taking over the PLO support apparatus. The SWP refers to its penetration and/or take-over of a movement as "an intervention." Seidman has tried to convince the PLO activists that the SWP only wants to help, not take over. Jabara and Zogby, however, have been carrying out their propaganda activities through the National Lawyers Guild. The Communist Party, USA recently consolidated its control over the NLG defeating a Maoist faction. The Communist Party does not like to collaborate with rival Marxist-Lenninist groups such as Maoists or Trotskyites.

The Socialist Workers Party is sponsoring a trip to the United States for Lea Tsemel, an attorney in Israel and a member of the Revolutionary Communist League, the Israeli section of the Fourth International. The RCL openly supports terrorism and has collaborated with the Palestine Lizberation Organization. Tsemel devotes her time to defense of Palestinian terrorists captured by Israel. She is scheduled to tour the United States in October under the auspices of Viewpoint Speakers Bureau, a front organization for the SWP. She is scheduled to speak in Boston, New York, Philadelphia, Washington, D.C., Atlanta, Detroit, Chicago, Seattle, San Francisco, and Los Angeles.

I will continue to report to my colleagues on the activities of the Socialist Workers Party in support of transnational terrorism. This continuing problem points up once again the need to re-establish the committee on Internal Security to investigate and propose legislation against terrorism.

HUMAN EVENTS EXPOSES ACHILLES HEEL OF PANAMA CANAL NEUTRALITY TREATY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. SNYDER. Mr. Speaker, the administration has been insisting the new treaties with Panama give the United States the right to indefinitely guarantee the Panama Canal's neutrality—that is, to intervene militarily to protect it from an aggressor.

This is not the way I see it.

This is not the way Panama sees it.

Nothing in the treaty texts spell out such a right.

Panama's top negotiator, Romulo Escobar Bethancourt, has said the United States has no such right.

Human Events, the national conservative weekly published in Washington, in its September 17 issue, made a simple, clear analysis of this fact, and quoted Escobar Bethancourt sufficiently to demonstrate that Panama officially denies what President Carter and Ambassadors Bunker and Linowitz would have Congress and the American people believe.

I urge my colleagues to study this excellent Human Events analysis printed below:

DO NEW TREATIES GIVE UNITED STATES RIGHT TO DEFEND CANAL?

With officials from 23 other hemispheric nations assembled at the headquarters of the Organizations of American States, President Carter and Panamanian strongman Gen. Omar Torrijos signed those two historic treaties last week that relinquish U.S. control over the Panama Canal. But the atmospherics and the President's rhetoric about a "new" relationship south of the border concealed a grim aspect about these ceremonies: that they cap a headlong U.S. retreat around the globe—from Asia, Africa and now even Latin America.

Not all the pomp and glitter that filled Washington can cloak the fact that the U.S., primarily because of a lack of will, is surrendering a strategic waterway to an untrustworthy, pro-Marxist government of just 1.8 million people.

A key selling point of the Administration's is that the Canal Zone and the waterway won't really be yielded to Panama until Dec. 31, 1999, and that the U.S., through the second "neutrality" pact, can unilaterally and legally reintervene to protect the canal's neutrality thereafter. But this is an extremely dubious argument, at best.

As the text of the treaties—divulged two days prior to the signing—makes clear, the Torrijos government will exert major control over both the Zone and the canal long before the year 2000. U.S. sovereignty over the Zone, for instance, dissolves upon ratification of the pacts.

The Torrijos government will take over approximately 65 per cent of the Zone immediately after the treaties take effect. Just 30 months from the day they become operative, immigration, customs, schools, courts, prisons and police—now in the hands of the Americans—will be run entirely by Panamanians under Torrijos's direction.

U.S. citizens remaining in what is now called the Zone—many of them ship pilots, engineers and managers absolutely essential to the smooth operation of the canal—will be suddenly subject to Panamanian rule. In short, effective control of the Zone will pass to Torrijos some 20 years before the U.S. is technically scheduled to leave.

A new Panama Canal Commission, comprised of five Americans and four Panamanians, will have the responsibility for canal operations until the year 2000. But the administrator of the canal—the man who will supervise the day-to-day operations—must be a Panamanian beginning Jan. 1, 1990. The Commission, furthermore, is charged with flushing out American workers and replacing them with Panamanians. Within the first five years of the treaties, for instance, the number of U.S. nationals working for the Canal Commission must be reduced by "at least 20 per cent. . . ."

Out of 14 military bases now in the Canal Zone, only four will remain after implementation, and these bases will be under direct Panamanian civil and political jurisdiction. The "implementation" agreements accompanying the treaties suggest that the Republic of Panama will share, with the U.S., "the responsibility for control of entry" to our defense sites.

In other words, there is a great myth in the making when the Administration says that the U.S. will "slowly" turn over the canal to Panama: the U.S., in fact, will surrender its interests quite quickly.

What is even more astonishing, however, is the language contained in the "neutrality" treaty that the White House and the State Department have repeatedly declared permanently gives the U.S. the unilateral right to reintervene to protect the canal and its neutrality after the year 2000. *But no such explicit right exists.*

The only reference to this "right" is contained in a vaguely worded passage. Article IV, which says: "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting parties."

As a Chicago *Tribune* correspondent noted: The wording leaves unclear what action the U.S. could take should the neutrality be threatened—could it use military force? Would it be restricted to using diplomatic persuasion?" Indeed, the wording even suggests the U.S. might not be able to act in any fashion without the cooperation of Panama.

In rebutting such criticism. Administration officials insist there is an understanding" with the Panamanians that Article IV means what U.S. officials say it means. If there is such an "understanding," however, Panama's chief negotiator, Romulo Escobar Bethancourt, is not letting on that he knows about it.

Appearing at an August 24 press conference before the Public Health Ministry in Panama City, Escobar was asked what rights the neutrality pact gave the United States.

"Now," said Escobar, "there is the question of whether this does or does not give the United States rights to intervene in Panama. Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word [intervention] was discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. . . ."

But the neutrality pact, Escobar continued, "does not provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States

to decide when neutrality is violated or not." Yet if the United States cannot unilaterally decide when neutrality is violated, our "right" to guarantee the canal's neutrality means nothing at all.

In a speech before the National Assembly of Panama on August 19, Escobar went even further in denying U.S. intervention rights. The Americans, said Escobar, "proposed that Panama and the United States declare that the canal was neutral and that the United States would guarantee that neutrality.

"Panama was opposed to this concept, explaining that we did not want that with the excuse of neutrality, the United States would maintain a guarantee over the state of Panama. This was another cause of discussion that kept the negotiations detained *until the United States gave up on the idea of its having a guarantee of neutrality over the canal* [emphasis added]."

Even if the Administration believes it has an "understanding" of some sort with Panama, how good can this be when Panama's chief negotiator is saying something quite different to his own people?

Moreover, Escobar isn't the only one who believes the U.S. has no legal right to reintervene to guarantee the canal's neutrality. Roger Fontaine, director, Latin American Studies, Center for Strategic and International Studies at Georgetown University, told Human Events last week—after the treaties were disclosed—"I see no legal right to intervene unilaterally to guarantee the canal's neutrality. We can do so by force of arms, but on no other basis. Which means we can only do so by going to war."

What is most disturbing about the treaties, however, has nothing to do with their actual wording, but the obvious lack of good faith of Panama's top leaders, including its key negotiator, Escobar. If Panama intends to open up a "new" and more "harmonious" relationship with the U.S. because of these treaties, why is it, then, that Escobar continues to defame the U.S. before his own people at every conceivable opportunity? Why is it that he feels compelled to fuel the volatile student leaders with combustible rhetoric, virtually inciting them to confront the U.S. even after treaties take effect?

Down in Panama, Escobar has yet to be caught flattering the Carter Administration for its munificent present. Instead, Escobar, while repeatedly condemning American "gringos," crows that whatever concessions were forthcoming from the United States were squeezed out of a reluctant and imperialist nation.

In his August 12 address to the Federation of Panamanian Students, as we disclosed last week, Escobar suggested that the students should strike out on their own if they are disenchanted with some of the "ugly" features of the treaties, such as the presence of U.S. military installations in Panama for 23 years.

"In the past," said Escobar in one of his most incendiary speeches, "when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. You have never asked anyone for permission. . . .

"When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation."

At the Organization of American States' ceremonies last week, Panama's strongman, Gen. Omar Torrijos, decided to imitate his chief negotiator by striking a sour note.

While President Carter was more than gracious, Torrijos stressed that despite the new treaties, the Panamanians would not be especially happy because "the 23 years agreed upon as a transition period means 8,395 days during which time United States military bases will remain, turning my country into a possible strategic target for reprisal." He also stressed he was fearful that the U.S. might try to exploit the neutrality treaty as "an instrument of permanent intervention." By this sort of rhetoric, of course, what Escobar and Torrijos have done is to set the stage for future confrontations and future negotiations.

President Carter, in truth, is asking the U.S. Congress to embrace two highly questionable treaties that will surrender one of the world's most strategic waterways to a nation ruled by dishonorable and disreputable men with mean and thuggish mentalities. The Congress should turn the treaties down flat.

ESCOBAR SAYS TREATIES CURB U.S. WARSHIPS

Romulo Escobar Bethancourt, Panama's chief negotiator, recently told newsmen in Panama that U.S. warships would not have the right to pass through the canal during wartime on a preferential basis. The neutrality treaty says that U.S. warships and auxiliary vessels will be entitled to transit the canal expeditiously." But this does not mean—contrary to interpretations placed on it by Administration sources in Washington—that such vessels would get to transit the canal before vessels from other nations, according to Escobar.

Responding to questions to newsmen in Panama City on August 24, Escobar, employing his customarily discourteous language, said the "gringos" would not have special rights under the "famous 'expeditious' passage."

"The United States," said Escobar, "wanted privileged passage through the canal as a means to seek support from the Pentagon in the negotiations with Panama. This is the truth . . . And when they saw that there was no way we would allow privileged passage, then they told us: We have to seek a formula so that the Pentagon will see that we are somehow taking them into consideration.

"This is how the expeditious passage came about. Now, I do not believe that when they explain the 'expeditious passage' term they will give the same explanation I am giving here. They will explain that this means privileged passage and they are entitled to go through first.

"They have to sell their merchandise. It is the same merchandise, but with different wrappings because they do not think as we do. They have to sell this treaty to their country, and for this reason you see that both of us give different information on the same provision."

HUMAN EVENTS ASKS: "ESCOBAR FUELS STUDENTS . . . IS PANAMA'S CHIEF NEGOTIATOR A COMMUNIST?"

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. SNYDER. Mr. Speaker, the weekly Washington publication, Human Events, has devoted much space to United States-Panamanian negotiations and the resulting new treaties signed by President Jimmy Carter and Dictator Omar Torrijos with much fanfare on September 7.

In its September 10 issue, Human Events devoted almost two complete pages to the activities of Torrijos' top adviser and chief negotiator, Romulo Escobar Bethancourt.

The publication details a recent incendiary speech to Panamanian students made by this top official, a speech which bodes little good for United States-Panamanian relations whether or not the treaties should be ratified.

My colleagues should be familiar with this key personality. We owe a debt of gratitude to Human Events for reporting on his thinking and activities. The following articles are from Human Events for September 10, 1977:

ESCOBAR FUELS STUDENTS—PANAMANIANS PLANNING POST-TREATIES VIOLENCE?

The new treaties surrendering the Panama Canal to Gen. Omar Torrijos are supposed to buy the U.S. peace with the Panamanians for at least another 23 years. But this Administration line—all-important in its hard-sell efforts with lawmakers and media apologists—seems to ignore a solid fact: Panamanian students, with obvious encouragement from the chief Panamanian negotiator, Romulo Escobar Bethancourt, are setting the stage for major confrontations with the U.S. following approval of the treaties. The major purpose of the students: to force the U.S. to close out all military installations in Panama long before Dec. 31, 1999, the date when such installations must be withdrawn under the new U.S.-Panama pacts.

While U.S. negotiators Sol Linowitz and Ellsworth Bunker have been diligently avoiding word or deed that could possibly offend the Torrijos government since the treaties in principle were announced, Escobar has been fueling the fiery and powerful Federation of Panamanian Students with high-octane rhetoric against the United States, even hinting that the Torrijos government would not oppose sabotage squads against American military installations after the treaties take effect. The Panamanian students have played an important role in triggering violent clashes against the U.S. and were involved in the famous 1964 riots in which 17 Panamanian students and four American soldiers were killed.

In his August 12 address to the student federation, Escobar issued what Latin American expert Roger Fontaine has termed a "barn burner." While making his pitch for endorsement of the treaties—which will have to be approved through a Panamanian plebiscite—Escobar also hyped his audience with talk of the "heroic and majestic" struggle of the 1964 students who "were massacred by the U.S. Army." He also favorably quoted Gen. Torrijos as saying: "I prefer a nation of Castroite youths to one of castrated youths. . . ."

But what was particularly disturbing to many observers was Escobar's calculated ambiguity involving the use of violence. Panama's chief negotiator stressed that the present treaties could have been obtained through violence, but that the Torrijos policy which secured them was far superior because it didn't involve a costly struggle.

Having said that, however, Escobar strongly suggested that the Torrijos government would not oppose violent actions by the students to correct what he said were some of the "ugly" features of the new treaties, including the stationing of U.S. military forces in Panama until the year 2000.

"There are still theories," Escobar added, "that we can get more, much more, through confrontation. I believe this is true. . . . We are not asking for confrontation, but neither will we give permission to anybody for a confrontation. Whoever wants to start a confrontation can do so himself.

"In the past, when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. . . .

"When one wants confrontation, one puts his knapsack on his back, his bomb at the

waist and goes to stage the confrontation. This is not written in any book. If one triumphs, one wins, and if one does not triumph, he dies." This passage, giving the green light to future violence, was met with a burst of applause.

Moreover, Escobar's "bomb-at-the-waist" speech followed on the heels of a short, volcanic address by Robert Gómez, the secretary-general of the Federation of Panamanian Students, who told his audience that while the treaties "resolve part of the problem . . . much remains to be done to totally eliminate the last symbol of the overwhelming presence of U.S. imperialism. The banners of the FEP [the federation] will not be lowered in the struggle, because this struggle will be continuous and prolonged until the last invading soldier leaves.

"Contrary to what many think, the new agreement will not, and cannot, signal the end of the process or of the struggle for national liberation. . . . Hail the unity of the patriotic forces and support for the liberating process! The struggle against imperialism and its internal allies will be continuous and prolonged. Liberation or death! The FEP is on the move! No one and nothing can stop it!"

While Panamanian officials in Washington dish out a far softer line, they also make it quite plain that they do not view the new treaties as eliminating their differences with the United States. When Human Events asked Panamanian press spokesman George Fisher about the agreements, Fisher stressed that Gen. Torrijos feels the pact guaranteeing a decreasing American presence in Panama until the year 2000 is "like a stone Panama will have to carry in her shoe for 20 years. . . ."

The Panamanian government, he said, "will not exaggerate Panama's gains," and he termed as distinct "disadvantages" the fact that the U.S. will still have military installations in his country and primary responsibility for operating the canal until the year 2000.

Fisher said that Gen. Torrijos has headed off street violence against the United States, but "we're not going to say that this [the treaties] ends all the problems with the United States." Fisher also said that the Panamanians can make "no guarantee" against violence, and that no government can guarantee to eliminate "violence against the U.S. presence either before the treaties or *after*" (emphasis ours).

While the U.S., in short, is peddling the new Panama treaties on the grounds that they will avert violence and harassment and secure a U.S. military presence in Panama until the year 2000, no such guarantees are being offered by the Panamanians. Indeed, the country's chief treaty negotiator seems to be encouraging future confrontations.

In the view of one U.S. Latin expert, in fact, Gen. Torrijos has every intention of removing that "stone" in his shoe before the year 2000.

Roger Fontaine, director, Latin American Studies, Center for Strategic and International Studies at Georgetown University, told Human Events last week that he thinks that when the Panamanian police control the Canal Zone—which will occur within three years after the treaties are ratified—the Panamanians "will encourage us to leave the Zone as soon as possible." Gen. Torrijos, he contends, wants to get the credit for our leaving, and doesn't want to sit around and wait.

IS PANAMA'S CHIEF NEGOTIATOR A COMMUNIST?

"The Panamanian Communist party . . . is firmly in control of Panama. Transformation to a Socialist state is still incomplete. The final steps in the process must await a treaty. The Communists are a little incredulous of their own success. . . .

"In order to make the revolution truly irreversible, they have to stop up some of the leaks in their control of the news, mails, radio and television, phone calls, meetings of people, etc. This requires that they obtain effective sovereignty over the Canal Zone and that they attempt to eliminate U.S. bases. As long as the Zone bases remain it is like a sword which threatens their permanency. It also delays further desired consolidations of power and societal transformation. . . .

"In February 1969, Torrijos managed to get control of the Junta Militar. He exiled Boris Martinez, Federico Boyd and others. He brought the Communists back to the University and turned it over to Dr. Romulo Escobar Bethancourt. Romulo is an avowed 'all-out' Communist. Ché Guevara was his house guest during a Panama visit. Bethancourt is a personal adviser to Torrijos. He is currently the chief treaty negotiator. He has also been made the Information/Newsmedia Czar of Panama."

Is Panama's chief negotiator a Communist? Many long-time observers suspect that he is. The information on Escobar Bethancourt quoted above is taken from an inch-thick document that originated from responsible attorneys in the Zone and is now in the hands of congressional staffers. Much of Escobar's pro-Communist record is bared in the publication, which includes a newspaper report disclosing that Escobar is a great admirer of North Korea's Communist dictator, Kim Il Sung

Indeed, when liberal-leaning columnist Charles Bartlett traveled to Panama in late February, he returned to write that: "Too many of the regime's key figures, including some principal negotiators, are commited to the hard left. . . . Torrijos' chief adviser, Escobar Bethancourt, turns up in such curious roles as head of the Panama-North Korean Association."

Escobar's support of Communist causes is believed to be extensive. Albert S. Adams enlisted in the Army Counter Intelligence Corps in 1955 and was assigned to the Canal Zone from 1956 through 1958. From 1958 through 1972, he worked for the Panama Canal Co. According to Adams, who contacted us earlier, Escobar's files that were kept by the U.S. military showed he was connected with numerous Communist groups and even acknowledged his Communist affiliations during the Remón assassination trial of 1957.

Escobar's left-wing stance is so pronounced that even Panamanian officials in the U.S. admit that he is always being "accused of being a Communist," but say that these charges stem from those who never wanted changes in the country's ruling oligarchy.

On August 9 of this year, the Star & Herald, an English language paper published in Panama, quoted a newspaper reporter asking Gen. Torrijos whether or not he was a Communist. At that point, Escobar cut off Torrijos and answered for the general.

"Look here," said Escobar, "we could answer negatively, but what happens is that we do not like to say no because we do not accept someone to self-appoint himself into an inquisitor into one's personality . . .

"Each individual has the right to choose the political ideology he likes, and to act in politics as he chooses. He also has the right to act and think and acquire the philosophical concepts more consonant with his education and social standing, or with what he thinks should be the relations between human rights.

"That question has been asked of the General and myself for many years. Of course, now that he is a General it becomes more outstanding, but the question has been asked of me ever since I was around 14 years old, when the Americans were beating us because we wanted to free our country; when we were jailed, when we were tortured; when we were hanged; when we were submitted to all kinds of humiliations the first question asked was whether we were Communists. And we never answered that we were not Communists; what we always said was that we wanted to defend our dignity and our motherland.

"We never accepted going to a confessionary to tell anyone whether we are or we are not Communists because we believe that a man's deeds, not what he says, are indicative of what he is."

Escobar, of course, did not answer the question. Clearly, however, the question should be vigorously pursued before the Senate ratifies the canal treaties transferring the canal to the Torrijos/Escobar government. Why don't Thurmond, Helms, et al., fly to Panama and rummage through U.S. intelligence files?

CREATIVE COMMUNITY EFFORTS FOR CONSERVATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. BROWN of California. Mr. Speaker, we have heard many people predict that the public will not adopt effective energy conservation measures, in spite of the obvious need for the public to do so. We may not know for several years whether energy conservation goals will be met, but we do know that to reach these goals, efforts must begin today.

It is for this reason that I am pleased to note some creative community efforts in my congressional district to get public support for energy conservation. The following article, from a weekly paper in my district, explains the details.

The article follows:

[From the El Chicano, Aug. 4, 1977]

WEATHERIZATION PROGRAM

(By Karen Bailey)

The Community Services Department (CSD) Weatherization Program is at it again. (They are the one's responsible for providing free insulation and weatherstripping services for the homes of those who qualify). In response to President Carter's Energy Saving push, Ms. Dina Hunter, the Weatherization Program Manager, has developed an educational program aimed at teaching San Bernardino County's "little ones" how to conserve energy, and how to get their "moms and dads" involved too.

An outreach team visits approximately one to two elementary schools per day and puts on a live puppet show for the children and teachers. The show is fun-lovingly aimed at arousing enough concern and awareness in the children as to stimulate the development of energy saving habits. In the script "Count Conservation," a character resembling a humorous Count Dracula, illustrates how he saves by proper use of appliances. (You may wish to note the Dracula figure is appropriate since it is common knowledge that all good vampires sleep during the day "giving their appliances the afternoon off" and concentrating energy use during the evening hours). The children really respond well to this and the question and answer periods before and after the puppet show.

The Southern California Edison Co. does their part by contributing a very interesting packet called "Energy Conservation Classroom Kits" for grades 1–3 and 4–6. A teacher

manual is included with a wall chart, booklets in English and Spanish, student certificates to be awarded at the completion of the conservation program and a cardboard attache case saying, "Project Energy." Response from teachers, students and parents has been excellent in accepting this form of training as it has such a positive appeal to viewers.

The goals of any project involving federal spending entails more benefits than the one service offered. Through the mutual cooperation of CSD and the CETA Division of San Bernardino County's Employment Office, the Weatherization Program has found CETA workers a large asset in its tremendous success. What this means is that by creating and implementing new and necessary programs CSD is helping to solve the major problem of unemployment in San Bernardino County by continually providing new jobs.

Another exciting new service you can look forward to from the Weatherization Program is the free installation of a reflective film called Aluma-Kook to mobile homes that qualify. It is a transparent sheet of mylar containing properties that reflect the sun's rays thereby keeping it cool in the summer; at the same time the reflective film is capable of shielding against the cold of winter by acting as insulation.

Social Security recipients and interested parties are encouraged to call 383-3561 or 383-1153 for further information or application for the services offered.

The chairperson of CSD's Administering Commission, Naomi Saylor and Executive Director Rodolfo Castro and all of the Community Services Department staff are hard at work thinking of new and vital ways to meet the needs of you and the communities it serves.

UNITED STATES-LATIN AMERICAN RELATIONS BY HON. ROBERT C. HILL

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. WINN. Mr. Speaker, during the past few months, much emphasis has been placed on our relationship with Latin America. I believe that it is appropriate to share with you the words of an individual who has had extensive experience in dealing with Latin American nations. The Honorable Robert C. Hill was appointed U.S. Ambassador to Costa Rica and El Salvador and served as Assistant Secretary of State for Congressional Relations under President Eisenhower. Since then he has also served the United States as Assistant Secretary of Defense, and U.S. Ambassador to Mexico, Spain, and finally, Argentina.

Not long ago, Mr. Hill expressed his views on U.S. relations with Argentina and Latin America to a large group at the Graduate School of Banking at the University of Wisconsin. The recent signing of the Panama Canal treaties underlines the need for a careful examination of our relations with all countries in Latin America as well as Central America. Therefore, I bring his perceptive comments to your attention:

REMARKS OF HON. ROBERT C. HILL

Having served the United States Government, as well as traveled on business, in Latin America for over three decades, I welcome the opportunity to meet and speak with those who share an interest in this important hemisphere. The pleasant nature of these university surroundings and the impressive assemblange make tonight's occasion particularly appealing to me.

General comments about any area of the world including Latin America are always dangerous. No matter how carefully stated, they tend to create the false impression of regional identity. They ignore, in the case of Latin America, its incredible diversity and too often reflect or encourage stereotyped thinking.

With this observation stated, I will nonetheless make some remarks about this important area. I think it is necessary to highlight important differences between Latin America and the developed countries. In global terms, Latin nations are not members of the developed countries club, with the exception of Brazil, but neither are they among the poorest of the poor. By any socio-economic criteria that you might choose, Latin American countries are members of the emerging nations, who have potentially great economic strength. We are speaking of countries that have achieved a significant, if uneven, level of industrialization; are fully integrated into the world economy; and look to a future in which their development will be intimately linked to that of the industrialized powers.

Latin America's status has important implications for the region's relations with the United States. It means that in this area of the world the United States can find constructive partners in the effort to solve the complex problems of the North-South relationship.

Many leaders in countries like Argentina, Brazil, Venezuela, and Colombia share the perception of global economic arrangements. They see an international economic structure rigged against their interests; one ordered and operating according to rules established at a time the developed countries forced their conception of world order on the less powerful. Nor surprisingly, they no longer want their fate determined in councils where they have no voice. They will use whatever economic clout they can muster to wrest concessions from the developed countries. Frankly, I don't blame them.

At the same time, however, Latin American nations have a major stake in finding pragmatic, reasonable solutions to North-South problems. Their future lies in equitably resolving international differences, not in achieving the psychologically pleasing but ultimately empty rhetorical victories often sought by radical Third World spokesmen.

While the opportunity for cooperation exists, United States' approaches to Latin America should emphasize bilateral rather than multilateral relationships. This ensures a proper framework for productive inter-American dealings. However, the record shows that U.S. attempts to deal with Latin America as a whole usually result in a "we-they" confrontation, with moderate Latin countries following the lead of the most strident U.S. critics in order to preserve Latin solidarity. It is a losing proposition for the United States. Furthermore, many Latin leaders dislike the multilateral setting because it does not permit adequate recognition of the individual interests of their separate states.

For these reasons, I applaud President Carter's statement made during his April 14 address before the Organization of American States:

"A single United States policy toward Latin America and the Caribbean makes little sense. What we need is a wider and more flexible approach. . . . (with) policies more suited to each nation's variety and potential."

Before leaving this question of multilateral relations, I would like to comment on a disturbing tendency among some observers to lump several Latin nations under the heading "Southern Cone" and advocate their treatment in essentially multilateral terms. Instead of being a geographical term, Southern Cone has become synonymous with right-wing, repressive military regimes and human rights violations. This is a dangerous oversimplification. It overlooks important differences among the peoples and governments of the southern South American nations and thus hides more than it illuminates. A "Southern Cone Policy" on the part of the United States would be as illusory and counterproductive as a general "Latin American Policy".

Human rights is the issue that has dominated U.S.-Latin American relations in recent months. I do not dispute the need for a strong moral basis for our foreign policy and I share the hope of all Americans that government leaders the world over will respect the rights of their citizens. As former Secretary of State Henry Kissinger so persuasively argued before the 1976 OAS General Assembly in Santiago:

"No government can ignore terrorism and survive, but it is equally true that a government that tramples on the rights of its citizens denies the purpose of its existence."

My reservations in the human rights area concern the policy instruments through which human rights compliance should be sought. I realize that developing policy strategies to this end is a difficult task, but I do not believe that the answer lies in bilateral economic sanctions. Neither do I believe that applying sanctions through votes in International Financial Institutions is a well advised tactic. The Carter administration has finally realized and wisely tried to discourage congressional efforts to legislate mandatory negative votes in the IFI's against human rights violators. Support from other nations that would be necessary to vote down loan requests would probably no be forthcoming. In the absence of such support, frequent U.S. negative votes would eventually reduce this country to the statute of an international scold and the cause of human rights would not have been advanced significantly.

The United States must also avoid human rights initiatives that imply an effort to export our democratic way of life. Democracy as we know it is a way of life rather than a simple political formula. It must be carefully nutured and developed in accord with the conditions that prevail in any given country. We can set a worthy example and encourage democratic tendencies where they emerge, but we cannot force our system on others.

May I read to you an informative and enlightened letter from a friend in Latin America:

"THE PRESIDENT OF THE UNITED STATES
The White House
Washington, D.C.

"DEAR MR. PRESIDENT: This is written to you as an open letter and sent to news media in the United States and elsewhere since I believe the subject to be such importance that the contents warrant the attention, not only of yourself, but of the public in general.

"The human rights problem has never been simplistic. As mankind slowly evolves toward universal justice, it becomes even more complex. As a Quaker I applaud your general direction in this area, but as a World War II Pacific Navy veteran who has been living and working in Latin America for twenty years I urge caution, especially in the manner in which your policy is being applied to the southern part of South America. I emphasize this area as it is my home, although I suspect that caution is warranted elsewhere in this troubled world.

"We have lived in six Latin countries over these years: Mexico, Nicaragua, Colombia,

Uruguay, Argentina, and finally, happily, in Paraguay. Five years ago we were transferred to Asuncion by my then employer, the InterAmerican Development Bank after two years of living in Uruguay during the height of the urban guerrilla Tupamaros crisis.

"The Tupamaros started with apparently legitimate aims: to thwart a corrupt hopelessly bureaucratic, one-party ruled "democratic" government. There is no way to reason with people who have elected to use violence; you cannot convince them by argument or prayer that they should not kidnap or kill. The Tupamaros murdered in cold blood. Nor could they easily be arrested and brought to justice. They hit and disappeared.

"In open rebellion, in which human rights are violated, it is not difficult to identify most of the violaters. But in the clandestine terrorism which pervades in so much of Latin America there is no way for a government to maintain order and preserve human rights for most of its citizens except by the unfortunate abrogation of the human rights of those who control by terror.

"There exists within much of Latin America, as elsewhere, great social inequality. This injustice, aggravated by the western nations desire for cheap raw materials, provides fertile ground for leftist agitation and violence. However, the arms and training which seed terrorist movement have for several decades been supplied mainly by communist sources.

"Military governments have emerged in this southern cone of South America for a variety of reasons: principally because the civilian governments were either too corrupt, too inept, or were trying to turn the countries over to communist control. There have been very few of the Batista or Trujillo ilk who have gained control in this area. The military people who have felt the responsibility to take over their governments have generally been civilized patriots.

"As you surely know, Mr. President, the development and support of terrorist organizations to overthrow existing Latin governments is part of communist strategy: Cuba . . . Castro established; Chile . . . Allende was moving toward complete communist control until the military intervened; Uruguay . . . havoc from Tupamaros terror, communist inspired and financed until the military stepped in; Argentina (a country with tremendous potential consistently frustrated political power seekers) now torn by secret armies which strike, kidnap, kill, and vanish. Argentina is beginning to recover since the military has removed Peron's inept third wife.

"Under its military government Uruguay has again become peaceful, but putting and keeping down a clandestine army requires continuing vigilance. The communists never give up just because they receive reverses.

"Mr. President, it would be helpful if you would give us your guidance. Just how can we protect the human rights of peaceful citizens? How can they be preserved from terrorists without depriving the terrorists of some of their rights? Especially so when the murdering of citizens is by underground sources supported from abroad.

"Certainly it is laudable that the United States should try to regain the moral standard and image it once had. And human rights is an ultimate objective. This is what humble people, wherever, seek. But an impractical and inconsistent application of a policy to implement this noble objective will only create increasing disorder in the western hemisphere, and for that matter, anywhere.

What Communist leaders have wanted since the Revolution after World War I is world domination. They make propaganda that sounds good to the young and innocent; and they abuse the U.S. sometimes with justification, since we have often exploited the powerless in many areas for our own profit over many years.

"The military take-over in Brazil, Uruguay, Chile and Argentina were motivated by extreme leftist action which would have made much of the southern part of the South America communist. The civilian governments of these countries either did not wish to resist these onslaughts: Brazil under Goulart; Chile under Allende; or as in Uruguay and Argentina were incapable of standing up to terrorism. The military had no other option. There is a good possibility that these governments will over the next decade have democratic evolution. Hopefully human rights will be automatic for all those who eschew terrorism.

"These factors lead to the conclusion, Mr. President, that in splite of your admirable and respected idealism for some reason you are attacking a symptom or a symbol, and not a basic human principal in the pursuit of your human rights objective. May I suggest that an ill-advised inconsistent U.S. policy on human rights, too rapidly organized and executed, will create disorder in the western hemisphere and elsewhere, and the result of this pursuit will be disaster.

"Mr. President, I suggest that the military governments of Brazil, Chile, Argentina, and Uruguay are led by persons dedicated to the well-being of the vast majority of the citizens of these countries, and that these governments should be supported by the U.S.A. That these leaders are sometimes harsh there is no question; but what alternative is there when violence is clandestine?"

Military assistance and bilateral armed forces' contacts are also subjects that have aroused some controversy, in connection with both the human rights issue and the administration's policy of diminishing foreign arms sales. All this is doing is driving the Latins to Europe and the Soviet Union for their arms. I believe it is important to maintain our military missions in Latin America. I refer not to military groups on a grandiose scale, but rather to the maintenance of missions of sufficient size to provide an adequate and appropriate liaison with host military services. The contacts afforded U.S. personnel are particularly important in cases where the host military establishment is responsible for governing the country.

It is also important to preserve training programs. They provide an opportunity to assist in upgrading the defense capabilities of the Latin American armed services and open channels through which future Latin leaders are exposed to, and hopefully, influenced by our society.

Along with the frequently cited arguments about the availability of alternate arms supplier and the possibility of Soviet sales as in the case of Peru, it is worth pointing out the impact of diminishing sales on longstanding U.S. efforts to promote regional arms standardization. These efforts will have been wasted if the United States abandons the Latin American market to other suppliers.

Reapproachment with Cuba and negotiation of a new canal treaty with Panama have headlined the list of the Carter administration's bilateral undertakings in Latin America. You must understand that Cuba today is not a friend. We should not delude ourselves on that score. Castro has some objectives which are in direct conflict with our own. At the same time, however, there are a number of issues between the two countries which could be resolved to our mutual advantage. It made sense, for example, to draw a maritime boundary between us in the Florida straits. We would like for Castro to allow American citizens resident in Cuba to be repatriated to the U.S. and bring their families with them. We also want political prisoners released. There are, then, possibilities for trade offs. We should approach any talks with the Cubans with this in mind. We must take a cautious, step-by-step approach, making sure we get something in return for any gesture or concession we make. There are some who wish to give everything away. They would lift the embargo, totally or at least in part without getting anything in return. They would give Castro the U.S. base at Guantanamo without first making sure American citizens have been compensated for the $2 billion dollars in goods and properties Castro confiscated in 1960. This is foolishly naive. There may be some benefits in beginning to talk to the Cubans, but we must be hard and pragmatic bargainers, and we must not forget who our real friends are and that Castro is not one of them.

In recent years, it had become evident that U.S. efforts to isolate Cuba in the inter-American framework were ineffective. It is now public knowledege that preliminary discussions to reverse that policy were initiated with Havana during President Ford's term. Protracted negotiations will be required to reach agreement on these difficult problems, and there is no reason why the United States should be in any great hurry. By all signs, therefore, restoration of full diplomatic relations with Cuba should be a long way off.

With respect to the Panama Canal, long negotiations appear to be nearing submission to the U.S. Senate in the form of a replacement for the 1903 canal treaty. When the draft treaty's contents become known in its entirety, we shall all be in a position to assess its acceptability. One of the most interesting congressional confrontations in years appears imminent as the battle lines are being drawn ever more clearly.

One of the most interesting comments on this issue was President Carter's reference in Mississippi last month to the possibility of constructing a second canal. I supported such an initiative years ago when I was Ambassador to Mexico, and later Assistant Secretary in the Department of Defense, and was gratified to hear the President's suggestion. However by no means should the second canal be constructed in Panama. I realize that extensive studies completed during the Johnson administration concluded that a second canal was not feasible for economic reasons. That was some time ago, however, and it might be wise to re-evaluate the proposition in the light of today's circumstances.

Aside from Panama and Cuba, our relations with Latin America are centering on economic questions. Socio-economic development is the top priority of the region's leaders, and the U.S. is the primary source of trade, financial, and technological opportunities from both the public and private sectors. We do not have time to review the many points at issue. However, I think that particular attention should be drawn to the question of raw materials, trade and the need for stability of both supply and price. Many Latin economies rise and fall with fluctuations in the price of a single export commodity. Chile's experience with copper and Bolivia's with tin are only two examples. Commodity agreements that guarantee to the producer a reasonable price and to the consumer a consistent supply represent a pragmatic and equitable solution to such difficulties. Further efforts should be made to conclude commodity agreements covering export items crucial to Latin American economies.

Another area that needs added attention is U.S.-Latin American cultural relations. I believe in cultural exchanges, a valuable and underutilized vehicle for promoting inter-American understanding and friendship. Increased funding should be supplied for government-sponsored programs run by USIA and other agencies. Whether it be symphony orchestras, dance companies, history lecturers, folk musicians, artists, or whatever, exchanges amount to a two-way street to mutual enjoyment, understanding and a better knowledge of each others cultures.

This has been a review of Latin America as I see it. In closing I would like to make

this observation: the United States, at times, has shown enlightened interest in Latin America in the 20th Century—begun under President Hoover, strengthened by the good neighbor policy of Franklin Roosevelt, and additional efforts of understanding by the Alliance for Progress by President Kennedy.

A new administration is in power today. As Americans we want to see the Carter administration a success. Yet in their desire to change the world, old relationships should not be trampled on. Human rights is a worthy objective, but its orchestration and application have to be accomplished quietly to be effective.

You cannot in the United States legislate reform in Latin America or any other country—yes, you can apply economic sanctions—deny military aid—influence normal banking channels. Will this produce results? No!! It will produce enmity that the United States will spend years recovering from.

In the meantime American business interests in Latin America will suffer. Our markets will dry up—business will move to Japan, to Europe and in some instances the Soviet Union.

Yet Latin America, I hope, will be patient and wait until experience takes over in the administration. Then hopefuly traditional friendships will be renewed. The ingenuity of the United States technicians will return hopefully to help fulfill the dream of a strong and powerful Latin America surging forward as equal partners in the common cause of a better world for all mankind.

CRITERIA FOR ACCREDITED NUTRITION PROGRAMS SHOULD BE EXPANDED

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. RICHMOND. Mr. Speaker, I would like to suggest that the criteria for determining an accredited program in public health nutrition (Public Law 94–484, section 792(b)(2)) be expanded.

It has come to my attention that through an omission and terminology, only nutrition programs in schools of public health are to be supported. I believe this is inconsistent with the intent of the law, section 792(a), which states "new and existing programs in dietetics and nutrition are to be supported."

I urge that eligibility for programs in in nutrition and dietetics be determined on the following criteria:

First. That the program in public health nutrition be in an accredited school or university in which the graduate school offers graduate study in nutrition as well as public health nutrition.

Second. That the educational program meets the guidelines for M.S. in public health nutrition published in Personnel in Public Health Nutrition.

Third. That graduates of such programs be expected to meet the qualifications for dietetic registration.

Fourth. That students applying for such graduate work should first, hold a baccalaureate degree in nutrition, dietetics or related field from an accredited university or college, and second, meet admissions standards for the graduate school.

The attached article published by the American Dietetic Association should further explain the criteria I have outlined. I hope my colleagues will read this material thoroughly:

II. GUIDELINES FOR MASTER'S DEGREE PROGRAM IN PUBLIC HEALTH NUTRITION

GENERAL BASIS

The basis for graduate programs in public health nutrition shall be consistent with the educational qualifications developed over a period of 30 years by The American Dietetic Association, American Home Economics Association, and the American Public Health Association. Published statements are:

(1) "Educational Qualifications of Nutritionists in Health Agencies." *American Journal of Public Health* 52:1, January 1962.

(2) "Objectives for Graduate Preparation of Public Health Nutritionists," *Journal of The American Dietetic Association* 28, April 1960.

(3) "Guidelines—Field Course in Public Health Nutrition," mimeographed, 1966. Available from Chairman, Faculties of Graduate Programs in Public Health Nutrition.

CURRICULUM FOR MASTER'S

Recommendations regarding curricula and standards for schools offering graduate training in general public health nutrition leading to advanced degree have been evaluated and summarized. Graduate programs in *general public health nutrition* should be in a school of public health that is accredited by the American Public Health Association or in an accredited school or university in which the graduate school offers graduate study in nutrition as well as training in public health nutrition. Strong recognized programs have been in existence for 25 years in several institutions other than schools of public health.

1. The graduate program in public health nutrition should be under the direction of a full-time faculty member who has had advanced preparation in the science of nutrition and broad experience in the field of applied human nutrition. This should include knowledge of public health administration and public health practice. Furthermore, the faculty should have members specifically educated in human nutrition at the advanced levels.

2. The graduate training program offered by the school should give evidence of providing and requiring courses in the areas of study conforming in general to those in "Objectives for the Graduate Preparation of Public Health Nutritionists," prepared by a subcommittee of the Joint Committee of the American Home Economics Association and The American Dietetic Association.

3. The courses will be apportioned to the curriculum approved by the Institution and according to its policies. This will allow the strengths of each type of institution to function unhampered by standardization. It is recommended that course content be as follows:

a. Approximately one-third in advanced nutrition, including the science of nutrition, nutritive needs in the life cycle, and special needs in disease and under varying conditions. It is essential that original research literature on nutrition be read and evaluated for basic foundation of knowledge.

b. Approximately one-third in public health areas, such as organization and administration of community health services, including program planning, environmental health, statistics, epidemiology, evaluation of nutritive status of individuals and communities as well as planning and evaluation of nutrition programs.

c. Approximately one-third in related courses in social and behavioral sciences and education.

4. Consideration of international health and nutrition is essential.

5. Learning and experience in clinical nutrition should be provided for those students who have not had such training.

6. Field work is an essential component of a program. It should be under the supervision of a public health nutritionist. The purpose of field work is to provide opportunity through observation, discussion, and participation in ongoing programs:

a. to gain a broad understanding of public health and the role of the public health nutritionist.

b. to provide the opportunity to integrate theory with professional practice.

c. to help students learn the practical aspects of assessing nutrition needs of a community, of planning, evaluating, and implementing programs to meet these needs.

d. to help students develop essential skills.

At least part of field work should be concurrent with academic study to facilitate integration of these two components. Some should be provided in a continuous block. While type and amount of field work will depend upon the total curriculum and student needs as determined by their faculty advisors, most students will probably need the equivalent of approximately two months full-time in the field.

Field experience appropriate to the function of a public health nutritionist should be included. The following are examples only:

1. Provide specific technical consultant services in nutrition to individuals, agency staff, or groups in the community.

2. Participate in a survey to assess nutritional status and to determine knowledge levels in a selected population concerning sound nutrition practices and attitudes or participate in any other survey the agency may be conducting.

3. Design and carry out nutrition education efforts directed to meet specific problems of selected groups such as clinic patients, consumer groups, health and nutrition aides, allied health personnel, elementary and secondary school teachers, nurses.

4. Prepare a program plan which includes a problem with stated objectives, using supporting statistical data, method of providing the service, and evaluating the outcome.

5. Evaluate and select appropriate nutrition education materials, including audiovisual aids for assigned activities.

6. Attend such community meetings as are appropriate to the functions of a public health nutritionist in the agency to which the student is assigned.

7. Participate in planning, functioning, and evaluating interdisciplinary teamwork in health service.

UNDERGRADUATE EDUCATION

Preparation for nutritionist positions in the field of public health requires academic education at both the undergraduate and graduate levels. The primary educational objective is to secure competence in the science of nutrition and to apply it in the lives of people.

The undergraduate educational background leading to a bachelor's degree should include appropriate courses in chemistry (including biological), physiology, and microbiology. The following subjects should also be included in order that there be adequate preparation for graduate education: basic normal nutrition, advanced human nutrition and nutrition in disease, principles of learning, behavorial sciences, food selection and preparation principles, and good service systems management. Undergraduate work in human growth and development and mathematics is highly desirable. It is understood that above-average undergraduate performance is usually prerequisite for admission to graduate education. Furthermore, some students may need to strengthen their background education and some graduate programs may have additional requirements in these and other areas.

Summer work, such as a practicum in hospitals dietetics, and/or work in health departments with nutritionists, would be helpful for students during their undergraduate years. It is suggested that undergraduate curricula include orientation to community and community organization.

CONTINUING EDUCATION

Every effort should be made by universities and agencies to provide refresher work. Much can be done cooperatively by health agencies and higher education in the areas of program planning, management techniques, health date systems and feedback, cost analysis, and budgeting health programs and personnel practices.

CALIFORNIA'S REDWOODS: A NATURAL RESOURCE

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. QUAYLE. Mr. Speaker, although California's Redwood National Park is 2,300 miles from my northeastern Indiana district, we all have a stake in the preservation of our natural resources.

Therefore the House is considering legislation which would allow the National Park Service to purchase a portion of the watershed nearest the 2,000-year-old trees while setting aside a portion of land for timbering.

Mr. Lou Wein, an editorial writer for the Fort Wayne Journal-Gazette, recently wrote an editorial which warrants the consideration of Members of the House as we discuss this legislation.

The editorial follows:

SAVE THE GIANT REDWOODS

Redwood National Park is 2,300 miles from Indiana on California's north coast, but distance and problems close to home shouldn't deter Hoosiers from safeguarding the park's grand forest of giant trees, a unique part of nature's gift to all Americans.

Right now, the redwoods, some of them among the world's tallest and oldest trees, are in mortal danger from nearby logging that is upsetting soil conditions and drainage inside the park. Right now, Indiana's congressional delegation should lend its full support to bills introduced by Rep. Philip Burton and Sen. Alan Cranston, both from California, to expand the park into a self-sustaining ecological unit. Right now, swift action by the Congress is needed because later could be too late to save the redwoods.

PARK BACKGROUNDS

Congress established the park in 1968 by purchasing 28,000 acres of timber company land in the lower end of Redwood Creek's 60-mile dash to the Pacific Ocean. Congress intended another 30,000 acres of state parks to merge with the federal park, but the Nixon-Ford years of neglecting the National Park System also neglected to negotiate the transfer with California.

As the national park ascends the creek, it narrows into a 2,500 acre corridor called the "worm" that is roughly eight miles long by a half-mile wide. The worm includes several groves of ancient "old growth" redwoods that as long as 2,000 years ago sunk their shallow roots into the special soil of the streamside flats formed by creek-deposited sediments. Located in one of the worm's sharp bends, the Tall Trees Grove contains the first, third and sixth tallest trees on earth.

Almost surrounding the park, up both sides of the creek valley and upstream from the worm, are timber company lands. These areas include select stands of old-growth redwoods principally located along the creek's many tributaries that together make up half of its 280-square-mile watershed.

Obviously the Congress made an ecological mistake in originally creating a park that did not cover both sides of Redwood Creek's watershed to the ridge tops, and that failed to provide a substantial buffer area upstream. The park's boundaries, however, were determined like truce lines in a congressional armistice. Neither the timber interests nor the national interest in the redwoods won a complete victory in the 1960s and the hostilities continue today.

LOGGING SPREE

Here's what the timber companies in the two north coast counties where the park is located are doing in their share of the Redwood Creek watershed.

The timber companies are clipping redwoods faster than they can replenish them, at a rate the United States Forest Service estimates will put the industry out of business by the 1990s. The loggers are in a race with the Congress to capture the valuable old growth trees in the 48,000 acres proposed for addition to the park, and they are exhibiting a gold-rush mentality in harvesting too fast to maintain a renewable resource base.

The redwood companies may deny it, but the industry appears trapped by its past greed. If the industry slows down, it risks having a smaller redwood supply price itself out of the market If timbering continues at its present pace, redwood can compete for another decade and then suddenly vanish from the marketplace.

Either way, the industry appears doomed, but it shouldn't drag the park along with it. The take-it-all approach is inflicting serious damage to the park and the cutover areas, while it also is setting the stage for an economic crisis in the redwood region when there's nothing left—inside or outside the park.

Heavily mechanized, the timbering operations are clearcutting and patchcutting in Redwood Creek's canyoned tributaries, up its old-growth-rich eastern slope and in some spots, like the Tall Trees Grove, right up to the park border. Unstable soils from steep terrain and the debris-strewn carnage from logging combine in a potentially lethal mixture that is carried by watershed streams and landslides into the park.

The buildup in Redwood Creek and the intense run-off from its denuded valley slopes threatened severe flooding that could topple the giant redwoods. On the park's edge, the clearcut view and the noise of logging blight the area's scenic beauty. And silt-filled streams endanger acquatic food chains, fish spawning and, ultimately, terrestrial wildlife in the entire watershed.

THE PARK BILL

Adding more acreage to the park and cushioning the impact from the redwood industry's inevitable decline is a far better alternative than the dangerous status-quo. Here's what the park legislation would accomplish.

The bill would purchase the park's watershed at a reasonable price from ridge to ridge and extend a few miles upstream from the worm's current limits. That would afford the smallest margin of erosion and scenic protection required to save the park and leave the greatest amount of land in the upper watershed for timbering under special federal controls.

The measure also would provide unemployment benefits for woods employes and offer them new jobs in reclaiming spoiled parkland and building improvements. As a strong recreational magnet, the enhanced park would contribute new jobs in the tourist industry and its related enterprises.

So here's the choice the Congress should make on behalf of everyone's redwoods.

Pass a park expansion bill that preserves nature's handiwork of the past two millenia and that encourages human activities in harmony with it—and pass it quickly.

AIRBAG CHEMICAL DANGEROUS—SCIENTISTS FEAR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. SHUSTER. Mr. Speaker, after I testified before the Subcommittee on Consumer Protection last week that sodium azide was a dangerous mutagen, William Haddon, Jr., of the Insurance Institute for Highway Safety, a group lobbying in support of the airbag, called my concern a "technological red herring." While such rhetoric makes good copy, it adds nothing constructive to this serious debate.

I insert in the RECORD today a memorandum setting forth the concern of leading scientists from around the country, including organic and nitrogen chemists from major universities. They share the view that a normal airbag inflation would produce residual particles which could, indeed, pose a serious health problem to passengers. As Dr. Peter A. F. Smith of the University of Michigan stated:

It is unavoidable to have residual azide . . . the only question is how much will you have.

Other comments include:

Prof. Michael King, George Washington University:

You're probably going to get residual azide in the car, but we don't know how much or for how long.

Dr. Richard Watson, Bureau of Mines, Explosives Division, U.S. Department of the Interior:

It is distinctly possible to have residue escape into the car. . . .

Dr. A. Kleinhofs, Washington State University:

The residual azide would definitely be harmful, even in very low concentrations where the toxic effects might be negligible.

The scientists cautioned that the amount of residual particles exposed to occupants would depend on the particular factors of the reaction, such as temperature, direction of impact, et cetera. But all agreed that there is a high likelihood of residue which could be harmful.

In view of the potent mutagenic properties of sodium azide, the scientists interviewed were unanimous in urging additional testing before proceeding with a standard which could result in hundreds of millions of pounds of this chemical traveling around our Nation's roadways.

I should also like to point out a danger expressed by Dr. Bruce Ames of the University of California at Berkeley—one of the world's leading geneticists. Dr. Ames called attention to the hazards sodium azide exposure would pose to employees in azide manufacturing plants. He said:

The workers would be exposed to this substance over a prolonged period of time, and we still don't know what the impact will be.

It is a very serious threat which should be addressed immediately.

Although there may be alternatives to sodium azide, it is the chemical referred to by NHTSA in their environmental impact statement and final order. Nevertheless, NHTSA's environmental impact statement completely failed to deal with the mutagenic and possible carcinogenic characteristics of sodium azide. That failure, by itself, is sufficient reason for disapproving the mandate at this time.

Ironically, the earlier statement I made that now appears to be inaccurate is that sodium azide presents no danger to occupants of cars when it inflates the airbag.

MEMORANDUM

To: Congressman Shuster.
From: Ron Ence.
Date: September 16, 1977.
Subject: Allegation by William Haddon, Jr., that sodium azide poses no danger to occupants of airbang-equipped cars.

1. Extensive telephone interviews were conducted with leading organic and nitrogen chemists from major universities to examine the nature of the reaction between sodium azide and other oxidizing agents such as perchlorate. Follow-up interviews were then conducted with Drs. Kleinhofs and Ames to explore the potential hazards to humans from sodium azide exposure in the passenger compartment of the automobile. The following summarize the interviews:

a. Dr. Alfred C. Boyd, Associate Professor Chemistry, University of Maryland, College Park, Maryland.

Dr. Boyd said, "It is unlikely that any chemical reaction would achieve the degree of completion that would absolutely preclude the emission of any residual reactants."

He said the danger would occur when residual sodium azide would be emitted outside the reaction sphere, i.e., the airbag, either through the pores in the airbag, the valve, or eruption of the bag. The amount of residual material, he said, would depend on the conditions of each individual reaction, such as temperature, direction of impact, etc.

"This is somethng that should definitely be checked," he said, "because sodium azide dust can be very dangerous."

Dr. Boyd explained that the residual azide would be in the form of dust, powder or crystals. It would not be emitted in gaseous form, he said.

b. Professor Michael King, Associate Professor of Chemistry, George Washington University, Washington, D.C.

Professor King confirmed that the reaction would probably not be complete, but added that the degree of danger would depend on the length of exposure to occupants of the car. "You're probably going to get residual azide in the car," he said, "but we don't know how much or for how long. However, these are things that should definitely be tested and resolved before going ahead with these systems."

Another concern expressed by Professor King is the long range effects of sodium azide in the airbag device. If the azide is never reacted, he felt that over time, it could react with the environment or the container. "This substance could be sitting around in cars for 5 or 10 years," he said. "What will happen down the road, nobody knows." (Note: 1.5 million vehicles are abandoned each year, according to the Government's Environmental Impact Statement, so the size of the problem could be enormous. It is unlikely that the container itself would decompose if made of stainless steel.)

c. Dr. Peter A. F. Smith, University of Michigan, Ann Arbor, Michigan.

Dr. Smith said, "There is a mechanical problem of getting everything mixed to get everything reacting properly with each other. Even if you have a theoretical complete reaction, you probably will have unreacted starting materials.

"It is unavoidable to have residual azide . . . the only question is how much will you have."

Dr. Smith said that in a closed container over a longer period of time, you probably could get close to a complete reaction. But with the airbag, since the reaction will take place in a fraction of a second, the emission of unreacted materials is unavoidable.

Dr. Smith said that on the basis of his knowledge of the chemical reaction, "There is a significant likelihood that sodium azide plus other unidentifiable byproducts will be inhaled by the occupants (in an airbag inflation.)" He agreed with the other chemists that the reaction would probably not be complete, since ". . . a number of factors, including the direction of impact, will affect the mix of the compounds."

He said that another problem was the potential energy of sodium azide riding around in the car. He equated the situation to ". . . like having a keg of dynamite sitting on your steering wheel," and said everyone should be concerned about the possible consequences. "Even if the chances are 1 in a thousand, what if you are that one," he said. (Note: 1 in a thousand equates to 100,000 in 100 million vehicles on the road. Nevertheless, there is no hard evidence to lead us to this conclusion.)

When informed that the airbag system would contain 1¼ pounds of sodium azide, he said, "Good God! The Post Office wouldn't allow you to mail that."

Dr. Smith feels strongly that the effects of sodium azide should be thoroughly examined before proceeding with the airbag mandate.

d. Dr. Richard Watson, Bureau of Mines, Explosives Division, United States Department of the Interior, Pittsburgh, Pennsylvania.

Dr. Watson said that ". . . it goes without saying that if the reaction is not complete, there would be a flow of reactants out of the cannister." He said the amount would depend on the particular configuration of the reaction, which would depend on a number of variables.

He added, "It is distinctly possible to have residue escape into the car . . . it depends on the configuration, but it's entirely possible.

He said the only way to determine the degree of danger is to check it through tests. "Geometry, energy source, strength of initiation . . . all are factors which should be examined carefully before mandating them in every car," he said, referring to the airbag systems.

After being informed of sodium azide's mutagenic properties, he said, "Sodium azide sounds kind of like a bad thing to be using."

e. Dr. A. Kleinhofs, Geneticist, Washington State University, Pullman, Washington.

"Is the residual sodium azide; That's the question that must be answered," Dr. Kleinhofs said. "It is my feeling that no chemical reaction is 100 percent complete; therefore, there would be residual azide which would pose a severe health problem to car occupants.

"The residual azide would definitely be harmful, even in very low concentrations where the toxic effects might be negligible," he added.

Dr. Kleinhofs also expressed serious concern about what happens to the azide when the cars are junked or abandoned. He felt that decomposition was a very real possibility over time, and the azide from decomposed systems could find its way into streams and water supplies and into the soil.

f. Dr. Bruce Ames, Chairman, Department of Genetics, University of California at Berkeley, Berkeley, California.

Dr. Ames feels that the amount of residual sodium azide should be determined before going ahead with the airbag program. He said that ingested azide would probably be metabolized by the body in a few days, "but some carcinogens can give you cancer in a very short period of time." He said this definitely should be tested.

Dr. Ames suggested that whatever substance is used as the detonator, "there should be enough of it tested on the road before actually settling on that substance for all cars."

Dr. Ames also expressed concern about the dangers to employes in sodium azide manufacturing plants. "The workers would be exposed to this substance over a prolonged period of time, and we still don't know what the impact will be. It is a very serious threat which should be addressed immediately."

DEFUSING THE PUBLIC PENSION TIME BOMB

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. BROWN of California. Mr. Speaker, we are all aware of the funding problems being encountered by the social security system. These same difficulties are appearing in state and local pension plans and must be examined if any serious effort at pension reform is to be made.

Legislators are caught between the need to assure a decent standard of living for pensioners and the need to maintain the fiscal integrity of the pension programs. There are some hard choices facing us as we decide these issues but these choices require a well researched data base. Planning for pension reform has begun in many States and can provide much needed information. The following article explores this need and is a good discussion of the issue.

[From the Washington Post, Aug. 27, 1977]

DEFUSING THE PUBLIC-PENSION TIME BOMB

(By Neal R. Peirce)

BOSTON.—Belatedly—and in the nick of time—state and local governments are starting to defuse the time bomb of widespread underfunded public-worker pensions.

The process is not going to be easy—or cheap. There are decades of neglect, of expedient political deals, of poor pension-fund management and unconscionable concessions to privileged classes of government workers to be paid off.

Massachusetts' solution, for instance, is a 40-year plan that will require—after a five-year phase-in to soften the fiscal blow—expending 26 per cent of state and local payrolls each year to cover the Bay State's huge $12.6-billion unfunded pension liability.

Officials of Boston and other hardpressed localities worry whether they can afford the annual payments. But Carmen W. Ello, chairman of Massachusetts' Retirement Law Commission and chief architect of the reform plan, warns that if the pension plans aren't put on a sound basis, bankruptcy will be inevitable.

The pension commitments many states and cities have made to their workers, especially when an employee can retire with more money than he was making on the job, amounts to "capital punishment of the taxpayer," says Tennessee State Rep. John Bragg, chairman of the public-pension task

force of the National Conference of State Legislatures.

Bragg reports that in 16 states a school teacher who retires at 65 after 25 years' service will receive—combining pension and Social Security—an actual increase in after-tax disposable income.

A Philadelphia city worker who retires at 65 after 30 years on the job will draw 129 percent of his final takehome pay through combination of his city pension and Social Security, pension expert Bernard Jump determined. In Detroit the comparable figure is 116 per cent; in New York City 127 per cent.

There are some states and localities where employees are offered far less. But on the average, according to a Twentieth Century Fund report, pensions for state and local government workers are roughly double those the worker in private industry can expect. Many state and local government retirees are protected by automatic cost-of-living adjustments, for instance—features virtually nonexistent in private industry pensions.

Sloppy actuarial work and fund management by political cronies have compounded the problem. The net result is that unfunded pension liabilities—obligations beyond accrued retirement funds—are at alarming levels from coast to coast. Examples: California, $13.6 billion; Illinois, $5.7 billion; New Jersey, $5.3 billion; Ohio, $3.5 billion; Florida, $2.8 billion Maryland, $2.5 billion.

Eventually, taxpayers are going to have to pay all those bills—plus the cost of the federal government's Civil Service and military benefits, an unfunded liability estimated as high as $700 billion.

Massachusetts' breakthrough came after Elio's Retirement Law Commission created a computerized data bank of the state's 101 state and local pension systems. The data bank, the first of its kind anywhere, can determine the cost of any proposed retirement-benefit changes on short notice. A fiscal note is attached to any pension bill the legislature considers. One result: no pension liberalization since 1973.

"In the past," Elio says, "everyone used to say, 'Yes, pass a pension benefit today and worry about the cost tomorrow.' But tomorrow is today now, the costs are here, and they just can't keep being passed on."

Before the legislature accepted the new 40-year funding plan, Elio campaigned across Massachusetts for a year, persuading taxpayers and public employees that, without reform, the state's fiscal position would be dangerously weakened, with government workers in jeopardy of losing their pension benefits. Government-employee unions, previously hostile, dropped their opposition.

Massachusetts' data bank will now be expanded across New England under a grant from the U.S. Labor Department, permitting instant comparison of all six states' public-pension plans and effects of proposed changes.

At least half the states have started comprehensive pension reviews, moved to set up consolidated statewide retirement systems or begun, for the first time, to apply actuarial studies to proposed pension changes. Governors have started to veto pension "sweeteners" approved by state legislatures.

Delaware's legislature voted to limit new employees' total retirement benefits (including Social Security) to 75 per cent of final pay. New York began a reduced benefit plan for all new state and local government workers, which ties in Social Security benefits and is expected eventually to reduce pension costs by some 20 per cent.

Reduced benefits generally apply only to new employees, not workers already covered, on the legal theory—enforced vigorously by courts—that pension concessions once made are contracts a government can't break. But the Tennessee Supreme Court last year said that, if paying full pensions ever threatened the state's fiscal stability, the state might renege on its commitments.

With the pension debts states and localities must pay off in the next quarter century—in some cases exceeding active payrolls—there's a distinct chance of default in paying pensioners unless early reforms are made.

There have already been sufficient state reforms, however, to take the wind out of the sails of a congressional effort to impose on state and local pension systems many of the reporting, disclosure and fiduciary requirements already applicable to private-sector pension plans.

The House Pension Task Force last year issued a blistering critique of state and local plans, saying they lacked many of the basic safeguards required of private plans, often failed to inform participants of plan operations or the benefits they could expect, and in some cases were so poorly managed they "fairly reeked of culpability." State pension reformers smell gross hypocrisy in the idea of Washington applying private-sector standards to state and local governments while neglecting its own grossly overcommitted pension programs. It would be a classic case, says Elio, of "Don't do as I do; do as I say."

The best approach, Elio suggests, is to expand data banks across the country and foster frequent communication between the states on ways to improve their pension systems. That way, he believes, the states can achieve needed reforms without confusing federal regulations.

"I think we can put our own houses in order," Elio says. And while the states have a long way to go, the evidence suggests they are beginning to do just that.

LET'S KEEP CONGRESS OUT OF WASHINGTON

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 19, 1977

Mr. CRANE. Mr. Speaker, the following column by Walter Wriston which appeared in the September 8, 1977, issue of the Washington Star is an eloquent plea for a return to a Congress responsible to the electorate. His comments demonstrate—with frightening explicitness—how far we have strayed from the intent of our Founding Fathers as the Federal legislative bodies, and the staff that supports them, have grown beyond the limits that permit a government to protect, rather than smother, the interests of its citizens. I fully subscribe to Mr. Wriston's recommendation for shorter sessions, and urge my colleagues to study this insightful column carefully:

[From the Washington Star, Sept. 8, 1977]

BEING SMOTHERED BY LAW

(By Walter B. Wriston)

Our free society is gravely imperiled and individual freedom itself is in danger of being smothered.

The rock on which we stand is voluntarism. Democracy can be based on no other presumption. The framework which supports our unique society is that until fairly recently most of us voluntarily conformed to the law. Today I believe that such voluntary conformity is becoming literally impossible for the majority of the American people.

Now only the very rich or the very poor have any possibility whatsoever of learning what the law is, surely a precondition to voluntary conformity. It is becoming increasingly true that the great bulk of our population has to ignore the law completely in order to survive. There are so many laws and regulations with the force of law that it is a fair bet that everyone is at present in violation of some statute—we just do not know which one.

Not only do we not know what the law is, we cannot afford to find out. The rich may be able to hire enough lawyers to read at least some of the laws and regulations that pour out of government at all levels, but the poor can only find out by being rousted in the street.

The web of laws is now so pervasive that much of it is useless. Since that is true, it puts the power of selective enforcement in the hands of the executive or a politican running for office or an investigative reporter looking for a story. Billy Carter found out that not having his fire extinguisher charged was a violation of law!

A dim bulb in the taillight of your car perhaps fails to pass the legal screen—the list runs on forever. It is so long that no index can be made even listing the subject covered, let alone what the law says.

It would be tragic if what began as the rule of law was in the end brought down through the sheer confusion the mass of law now creates. As more and more laws are put on the books each day. more and more people have to ignore them. We are training up an entire generation, who, with some justification, can have little respect for the law. Our free society, which is rooted in voluntary compliance, stands in danger of strangulation.

Madison warned that the "facility and excess of lawmaking seem to be the diseases to which our governments are most liable."

For all their insight, the framers of our Constitution could not foresee a day when approximately 500 legislators would employ 10,000 people to assist them in their legislative tasks. What they could have told their modern successors was that such a horde would purpose far too much legislation.

Last year there were 20,000 bills introduced in Congress. In a single day not less than 242 committees and subcommittees of the Congress were in session—all, under the rules, "for a legislative purpose." No wonder they produce such an indigestible mass of legislation.

Almost without being aware of it, we have ignored the basic intention of the Founding Fathers that we achieve a fair and equitable government through the separation of powers among the executive, legislative and judicial branches. We have forgotten John Locke's dictum that "the legislative cannot transfer the power of making laws to any other hands."

The executive, in the form of regulatory agencies, now fills the *Federal Register* day after day with explicit evidence that the separation of powers has eroded to an extent that constitutes a clear and present danger. What to do?

It used to be that the Congress was in session about three months each year. The rest of the time members were home listening to the people who elected them. Today Congress meets almost 12 months of the year with a few recesses, leaving a staff of 10,000 to dream up new laws.

Let us have a constitutional amendment that would limit the congressional session to six or seven months. A shorter session, more contact with the electorate, and less with the staff and the Washington press corps, might restore some sense of perspective to our legislative process.

If we continue to force an increasing majority of our population to ignore the law, we shall have neither law nor liberty, but we will run the risk that an authoritarian government will fill the void.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 15, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 21

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume hearings to receive testimony from FDA Commissioner Kennedy on the Federal Government's role in food safety and quality.
Until 10:00 a.m. 322 Russell Building
Energy and Natural Resources
To hold hearings on the nominations of John F. O'Leary, to be Deputy Secretary; Dale D. Myers, to be Under Secretary; Alvin L. Alm, to be Assistant Secretary for Policy and Evaluation; and Harry E. Bergold, Jr., to be Assistant Secretary for International Affairs; all of the Department of Energy.
3110 Dirksen Building

8:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on automatic auto crash protection devices.
5110 Dirksen Building

9:00 a.m.
*Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 1893, to establish a commission for the protection of human subjects of biomedical and behavioral research.
Until 12:30 p.m.
2228 Dirksen Building

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Department of the Interior.
1114 Dirksen Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4322 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To hold hearings to examine the erosion of law enforcement intelligence gathering capabilities.
4200 Dirksen Building
Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1 p.m. 6202 Dirksen Building
Special on Aging
To hold hearings to explore alternatives to hospital and nursing home care for older Americans.
1224 Dirksen Building

10:00 a.m.
Appropriations
Defense Subcommittee
To receive testimony on proposed reprogramming of funds for fiscal year 1977 for the Army, Navy, and Air Force.
1223 Dirksen Building
Appropriations
State, Justice, Commerce Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Departments of Justice and Commerce, and the SBA disaster loan fund.
S-146, Capitol
Banking, Housing, and Urban Affairs
To mark up Truth in Lending Simplification legislation, including S. 1312, S. 1501, S. 1653, and S. 1846.
5302 Dirksen Building
Energy and Natural Resources
To continue consideration of Part E—Electric Utility Rate Reform—of S. 1469, the proposed National Energy Policy Act, and other committee business.
3110 Dirksen Building
Finance
To continue mark up of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building
Foreign Relations
Foreign Economic Policy Subcommittee
To hold hearings on the IMF and the international debt.
4221 Dirksen Building
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue oversight hearings on the high cost of energy bills by consumers.
3302 Dirksen Building
Rules and Administration
To hold hearings on the subjects of contributions solicited from or made by members and employees of the Senate, and proper use of staff in political campaigns (in accordance with S. Res. 110).
301 Russell Building
Select Small Business
Government Regulation and Small Business Advocacy Subcommittee
To hold hearings on SBA suggestions for simplification of loan application forms.
424 Russell Building

10:30 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To hold hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

11:30 a.m.
Foreign Relations
Foreign Assistance and Near Eastern and South Asian Affairs Subcommittees
To hold hearings jointly to receive testimony on the sale of C-130 type aircraft to Egypt.
357 Russell Building

12:30 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Department of Labor and Office of Education.
S-146, Capitol

2:30 p.m.
Conference
On H.R. 7797, making appropriations for fiscal year 1978 for foreign assistance programs.
S-126, Capitol

3:00 p.m.
Appropriations
Hud-Independent Agencies Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Environmental Protection Agency.
1318 Dirksen Building

SEPTEMBER 22

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings to receive testimony from representatives of the drug industry, livestock groups, and public interest groups on the Federal Government's role in food safety and quality.
Until 10:00 a.m.
322 Russell Building
Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To hold hearings on S. 2073, Crude Oil Pricing Amendments of 1977.
3110 Dirksen Building

9:30 a.m.
Appropriations
Interior Subcommittee
To continue hearings on the proposed supplemental appropriations for fiscal year 1978 for the Department of the Interior.
1114 Dirksen Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 1460 and 2096, protecting the privacy of public financial records.
5302 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 473, 553, 624, 688, 824, 917, 920, 1000, 1318, 1403, 1744, 2033, 2034, 2101, H.R. 1403, 2501, 2527, and H.R. 4979; various land conveyance bills.
3110 Dirksen Building
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on the proposed increase in the temporary debt limit (as embodied in H.R. 8655).
2221 Dirksen Building
Governmental Affairs
To resume hearings on S. 80, S. 980, and H.R. 10, bills to amend the Hatch Act.
3302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
5202 Dirksen Building

2:00 p.m.
Select Intelligence
Special Investigations Subcommittee
Closed business meeting.
S-407, Capitol

SEPTEMBER 23

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1791, to establish the Chattahooche River National Recreation Area; S. 1156, to establish the San Antonio Mission National Historical Park; and S. 1671, to designate the Absaroka-Beartooth as a wilderness area.
3110 Dirksen Building

9:30 a.m.
Appropriations
Interior Subcommittee
To continue hearings on the proposed supplemental appropriations for fiscal year 1978 for the Department of the Interior.
1114 Dirksen Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Select Nutrition and Human Needs
To hold hearings on the role that nutrition plays in the needs of the elderly.
Until 12:30 p.m. 457 Russell Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 1460 and 2096 protecting the privacy of public financial records.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.
5110 Dirksen Building

Finance
To resume markup of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on the IMF and the international debt.
4221 Dirksen Building

11:00 a.m.
Appropriations
Agriculture Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Department of Agriculture.
1224 Dirksen Building

2:30 p.m.
Appropriations
Labor-HEW Subcommittee
To mark up proposed supplemental appropriations for fiscal year 1978 for the Department of Labor and the Office of Education.
S-128, Capitol

SEPTEMBER 26

8:00 a.m.
Energy and Natural Resources
To hold hearings on the proposed Alaska Natural Gas Pipeline route.
3110 Dirksen Building

9:30 a.m.
Foreign Relations
To hear testimony on the proposed Panama Canal treaties from Secretary of State Vance, Ambassador Ellsworth Bunker and Sol Linowitz, and Ambassador to Panama William Jorden.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1833 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 2016, to establish fees for services performed by U.S. marshals, and S. 2049, to allow per diem and mileage expenses for witnesses before U.S. courts.
2228 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Charles D. Ferris, of Massachusetts, to be a Member of the Federal Communications Commission.
5110 Dirksen Building

SEPTEMBER 27

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska Natural Gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on S. 533, Human Resources Development Act of 1977.
Until 1:00 p.m.
1224 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Foreign Relations
To hear Secretary of Defense Harold Brown and Chairman of the Joint Chiefs of Staff General George S. Brown on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's Report on OMB Director Lance.
5302 Dirksen Building

Governmental Affairs
Reports, Accounting, and Management Subcommittee
To hold hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

Select Indian Affairs
To hold hearings on S. 1633, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and S. 661, to restore Federal recognition of certain Indian tribes.
Room to be announced

SEPTEMBER 28

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

Rules and Administration
To hold hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs.
301 Russell Building

Select Nutrition and Human Needs
To hold oversight hearings on food quality in the Federal food program.
Until Noon
6202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
224 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
412 Russell Building

Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
457 Russell Building

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
457 Russell Building

10:00 a.m.
Governmental Affairs
Reports, Accounting, and Management Subcommittee
To resume hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 1920, relating to the Tlingit and Haida Indian Tribes; S. 2046, to enable Alaska Natives to maintain and consolidate tribal governing bodies; and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building

Conference
On S. 1019, authorizing funds for fiscal years 1978 and 1979 for certain maritime programs of the Department of Commerce.
S-126, Capitol

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:00 p.m. 6202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from executive branch officials on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
1202 Dirksen Building

OCTOBER 3

9:30 a.m.
Judiciary
Administrative practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

* Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
1202 Dirksen Building

OCTOBER 5

9:30 a.m.
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced

Commerce, Science, and Transportation
To continue hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
Room to be announced

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
Room to be announced

Select Small Business
To receive testimony on the implementation of that part of P.L. 95–89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

OCTOBER 11

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 21

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on H.R. 7792, to establish certain limitations on the use of franking privileges, and on simplifying mailing procedures.
154 Russell Building

OCTOBER 25

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To hold oversight hearings on drug enforcement policies.
2228 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

SEPTEMBER 29

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession.
Until 12:30 p.m.
457 Russell Building

SEPTEMBER 30

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings jointly with Antitrust and Monopoly Subcommittee of the Judiciary Committee on antitrust policies in the medical profession.
Until 12:30 p.m. 1202 Dirksen Building

10:00 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

OCTOBER 31

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on drug enforcement policies.
2228 Dirksen Building

SENATE—*Tuesday, September 20, 1977*

(Legislative day of Monday, September 19, 1977)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of our life, we know not what a day may bring forth, what disappointment or failure, what pain or sorrow. We only know that it is better to go with Thee than to walk alone. Come to us that we may be sure of Thy nearness. Help us to know Thee now, when peace and health are our portion, that we may look to Thee in the hour of need. Help us to store our minds with Thy truth and our hearts with Thy love, that we may be calm in crisis, strong under stress, triumphant in the storm, guided ever by Thy inner light which is sometimes dim but never extinguished.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, September 19, 1977, be approved.

The ACTING PRESIDENT pro tempore (Mr. ZORINSKY). Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today, to consider S. 1863, the fiscal year 1978 DOD supplemental authorization bill. This is a "must" measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Ronald E. Angel, of Georgia, to be U.S. marshal for the northern district of Georgia.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in view of the fact that the Committee on Finance is considering a very important part of the energy package, that the committee be authorized to meet during the sessions of the Senate daily during the remainder of the week.

Mr. STEVENS. There is no objection to that request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POSITION OF ASSOCIATE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 388, a measure which has been cleared for 2 days for passage by unanimous consent.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 31 of title 28, United States Code, is amended by adding immediately after section 504 the following new section:

"§ 504a. Associate Attorney General

"The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.".

(b) The section analysis at the beginning of chapter 31 of title 28, United States Code is amended by adding immediately after

"504. Deputy Attorney General."

the following new item:

"504a. Associate Attorney General.".

SEC. 2. Section 508(b) of chapter 31 of title 28, United States Code, is revised to read:

"(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.".

SEC. 3. Section 5314 of chapter 53 of title 5, United States Code, is amended by adding the following item at the end thereof:

"(66) Associate Attorney General.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-429), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

The Attorney General, by letter submitted to the President of the Senate, has requested that the position of Associate Attorney General within the Department of Justice be legislatively established.

The position of Associate Attorney General, which presently exists, was created in 1973 by Department Order No. 543-73 which implemented Executive Order No. 11736 dated August 6, 1973. The office was not filled by Attorney General Saxbe, but was reactivated by Attorney General Bell in March, 1977. As originally created, the purpose of the position was to provide a top level executive capacity to oversee the staff activities responsible to the Attorney General and to render general management advice and assistance to the Attorney General. The position was specifically designed to permit the Attorney General to devote primary attention to major policy questions and to increase his attention to the activities of the Department's bureau's, and to enable the Deputy Attorney General to devote full attention to coordinating the day-to-day operational activities of the Department's legal activities. Given the limited duties assigned to the Associate Attorney General and the limitations of his general authorities under the previous organization, Level IV of the Executive Schedule was considered to be the appropriate level, and authority for the position was assigned from the President's pool.

There have been significant changes in both the organization of the Department and the duties of the Associate Attorney General since the position was first established by Presidential direction in 1973. These changes no longer make it appropriate to continue the position as previously constituted.

The inadequacies in the Department's direction and program coordination are of long standing duration and have been noted in studies as far back as 1952. In the late 1960's a study which involved the participation of the Bureau of the Budget recommended a reorganization which would have created two Deputy Attorneys General. The reorganization of 1973 attempted to address these problems through the reorganization that established the Associate Attorney General position. Several former Attorneys General and Deputy Attorneys General have also identified the need for change. While the exact nature of reorganization has differed from time to time, a prime objective of each

of them has been to establish a realistic span of control for top management. The requirement that the Deputy Attorney General supervise the activities of ten offices, boards, and divisions and seven bureaus, as well as 94 United States attorney offices, is simply not realistic.

The incumbent Attorney General, upon assuming office, evaluated the needs of the Department of Justice and concluded that proper policy level supervision was not being given to the Department's activities and that the complexity and scope of demands on the time of the Attorney General and the Deputy Attorney General precluded proper policy level supervision. Consequently, on March 10, 1977 the Attorney General by Departmental Order No. 699–77 reactivated the dormant position of Associate Attorney General and reorganized the central management activities of the Department to place responsibility for coordinating programs in the criminal justice area with the Deputy Attorney General while assigning to the Associate Attorney General responsibility for coordinating the Department's civil activities. Two other major functions have been assigned to the Associate Attorney General. They are the coordination of the reorganization activities of the Department and the oversight of the Department's executive selection process.

Since the role of the Associate Attorney General has changed from that of basically a senior staff advisor to that of a major policy official of the Department, it is important that the position be constituted legislatively in the same manner as the major policy positions of the Government and be made subject to confirmation.

The major policy responsibilities to be assigned to the Associate Attorney General and establishment of the position as the third ranking one in the Department make it appropriate that the position be placed in Level III of the Executive Schedule, especially since the heads of organizations under the direct supervision of the Associate Attorney General are in the Level IV of the Executive Schedule.

Following enactment of the proposed legislation, the Level IV allocation from the Presidential pool will be revoked.

TRANSFER OF MEASURES TO THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the calendar which have been cleared for passage by unanimous consent. I ask that the clerk transfer to the Unanimous Consent Calendar the following calendar orders: Nos. 389, 390, and 397.

The ACTING PRESIDENT pro tempore. They will be so transferred.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for time.

The ACTING PRESIDENT pro tempore. Does the Senator from Alaska seek recognition?

Mr. STEVENS. Mr. President, I yield back the minority leader's time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, last Friday there was an interesting editorial in the Wall Street Journal by George F. Kennan, who is, I am sure, well known to Senators. Mr. Kennan is currently professor emeritus at the Institute for Advanced Studies in Princeton, N.J., and throughout his very distinguished diplomatic and academic career he has been a leading and very able apologist for Third World dictators and Soviet imperialism. Mr. Kennan's editorial was no doubt seen by many, but I feel its significance should be emphasized to all.

His subject was the proposed Panama Canal Treaty, and surprisingly he apparently shares my own opinion that the plan for joint United States/Panama operation of the canal—as set forth in the treaty—is totally unworkable. However, Mr. President, rather than concluding that the treaty should be rejected, Mr. Kennan recommends an immediate, total withdrawal from the Isthmus of Panama.

Prof. George Kennan has always stood, so to speak, at the head of the class, and I wonder if he is not setting the stage for the next act in the Panamanian road show. Would we ratify this proposed treaty only to face renewed demands by dictator Torrijos that the area be abandoned entirely and immediately? In my judgment, following ratification, such a result would be inevitable.

But, Mr. President, as I said, George Kennan does agree with the view held by many of us here in the Senate that the proposals for joint operation of the Panama Canal Company are going to cause more problems in our relations with Panama and Latin America than they would solve. As Mr. Kennan put it:

> . . . One can only quail at the prospect of attempting to operate and protect the canal in some sort of "partnership" with the Panamanians. An arrangement of this nature would weaken the American position without giving permanent and complete satisfaction to the Panamanians. It would be replete with possibilities for disagreement and minor conflict. . . .

Yes, Mr. President, this proposed solution would indeed be "replete with possibilities for disagreement" and with the possibility or probability of minor, even major, military conflict.

Surely, the Department of State must recognize the futility of undertaking to operate the Panama Canal on a joint basis with participation by two nations having wholly divergent political systems, national goals, technological ability, and national temperament. Rather than the "possibility of disagreement" suggested by Mr. Kennan, the United States and Panama would face the certainty of disagreement—virtually on a day-to-day basis—throughout any joint operation of the Panama Canal. These disagreements would range from what is a "reasonable" rent to be charged to occupants of housing which now belongs to the United States and is occupied by U.S. citizens to the proper level of transit shipping tolls to be charged in order to guarantee a profit to the new joint company so that Panama could be paid its $10 million kicker for a profitable year. We have not seen a spirit of conciliation or give-and-take from the Panamanians in the negotiations for this one-sided canal treaty, we have already seen that they disagree with our interpretation of it, and we ought not to be so naive as to expect a conciliatory attitude from the Panamanians in the joint operation of the canal.

Musing over these same problems, Mr. Kennan speculates as follows:

> . . . Could not the dilemma be better resolved, one wonders, by turning the Canal over entirely to the Panamanians . . .

He continues with this statement in a burst of candor:

> The proposal may sound extreme.

Yes, Mr. President, George Kennan's proposal does sound extreme because it is extreme. Would not a better option be exercised in a simple rejection by the Senate of this ludicrously inept document, the Panama Canal Treaty, which unfortunately the executive department is seeking to foist on the citizens of the United States and on the Congress?

But, Mr. President, George Kennan must be given due credit for recognizing what has seemingly eluded the leading active-duty military thinkers in our Defense Establishment. George Kennan accurately points out that the Panama Canal Treaty will not be a panacea guaranteeing our freedom from insurgent attack on Panama Canal installations or on U.S. Forces in the Isthmus of Panama. If the Canal Zone is already indefensible as many would have us believe, how much more indefensible will it be when the U.S. military presence is reduced to 4 bases, as against some 14 now and limited, more or less regardless of the circumstances, to present strength.

With deference to Mr. Kennan's peculiar perception of this fact, it does not take a visionary or a great military planner to be able to see that U.S. Forces—when confined to four small bases and associated military areas—are going to be particularly vulnerable to harassing attacks designed to hasten our withdrawal from Panama. Mr. Kennan seems to acknowledge that such attacks would be likely should the proposed treaty be ratified and should the United States thereby signal its complete lack of resolve to defend and protect the Canal.

In his testimony before the Subcommittee on Separation of Powers of the Committee on the Judiciary, Lt. Gen. Dennis McAuliffe, Commander in Chief of the Southern Command, including Panama, stated the mission of his troops as follows:

> The principal mission, sir, is that of defending the Panama Canal and the Canal Zone . . .

Thereafter, I pursued a line of questions which I am satisfied got answers demonstrating the present defensibility, not indefensibility, of the canal and lay-

ing to rest the myth that the canal cannot be defended by our forces in their present posture. Mr. President, Senators should find General McAuliffe's testimony decisive on this subject and, therefore, I quote from the pertinent record from the hearing:

Senator ALLEN. I assume, then, that if you concluded that you were unable to perform the mission of defending the Panama Canal you would so report to the Pentagon, would you not?

General MCAULIFFE. Absolutely. To the Joint Chiefs of Staff.

Senator ALLEN. Have you made any such report since you have been assigned there?

General MCAULIFFE. No, sir.

Senator ALLEN. I would assume, then, that you feel that you are adequately equipped and manned to perform that mission.

General MCAULIFFE. Again, if I may, Mr. Chairman, my answer is dependent upon the threat scenario. However, under the kind of threat scenarios that I see today or in the immediate future I can tell you that I have an adequate force to carry out this defense mission.

Senator ALLEN. Should you not be prepared for just routine defense, but for any emergency? We have seen our various bases attacked in the past by enemy nations. Should we not be able to react successfully to any conditions?

General MCAULIFFE. I can assure you, Mr. Chairman, that we are well trained and prepared to react to any contingency.

This is the general in charge of the defense of the Panama Canal in answer to the question of whether or not the canal is defensible.

Just to clarify my statement about needing reinforcements, let me say that my forces are able to react and, I think, do an adequate job of defending. However, sooner or later in an emergency period that relatively small force may be over-committed. Hopefully, within those couple of days or whatever period of time we may be talking about we might be able to bring in additional forces to help meet the requirement.

So ends the portion of the testimony to which I have alluded.

So, Mr. President, the canal is now defensible, but, as George Kennan points out, should this treaty be ratified, U.S. forces will more or less find themselves boxed up in small enclaves subject to terrorist attack by dissident elements in Panama and subject to the inflammatory polemic which has characterized pronouncements of the Panamanian Government and government-controlled press ever since the seizure of power by dictator Torrijos. Would such conditions present an emergency situation for which military reinforcements would be required? Would the United States be permitted to reinforce under the provisions of paragraph 5, article IV of the proposed treaty? Or would we prefer simply, as suggested by Mr. Kennan, to bug out?

Let us not kid ourselves, Mr. President. We do not solve a defense problem with this proposed treaty; we create instead a nightmare with a predictable result.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator not suggest the absence of a quorum at this time?

Mr. ALLEN. Yes, I withhold my suggestion. I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2104, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate continued with the consideration of the bill.

BLACK LUNG BENEFITS REVENUE ACT OF 1977

Mr. RANDOLPH. Mr. President, in accordance with the unanimous consent agreement of July 21 on the Black Lung Benefits Revenue Act of 1977, known as S. 1538, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 401, H.R. 4544.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. RANDOLPH. Mr. President, I move to strike all after the enacting clause of H.R. 4544 and insert in lieu thereof the text of S. 1538, as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read a third time, and passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that S. 1538 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. I thank the Chair.

Mr. President, it is gratifying that the Senate has approved the Black Lung Benefits Reform Act of 1977. As Senators know, the House of Representatives approved a black lung measure, H.R. 4544, on Monday. It is my genuine hope that final congressional action on this necessary legislation will come in the near future. As sponsor and floor manager of the Senate bill, it is my firm conviction that this action is vital for the protection of coal miners and their survivors.

Many Senators have participated in bringing this bill into being. I am grateful to the able majority leader, Senator BYRD, for his strong support and for expediting floor action, and to the minority leader, Senator BAKER, for his cooperation. My deep appreciation is expressed for the assistance and cooperation of the chairman of our Committee on Human Resources, Senator WILLIAMS, the ranking minority member, Senator JAVITS, and all members of our committee. I thank also Chairman LONG and the members of the Senate Finance Committee for their attention to this measure.

We must increasingly rely on a strong mining industry to fuel and energize America. And in the past our miners have paid a heavy price, because of black lung and injurious and fatal accidents in providing needed coal for the Nation. The black lung benefits program is a necessary endeavor by the Congress, the Federal Government, and industry, because a comprehensive health and safety effort to protect miners was not instituted years ago.

The Congress is moving toward final approval of needed improvements to the black lung program which was first enacted in 1969. A conference with the House to resolve differences between the two bills should come shortly so that a measure can be sent to the President for signature in the near future.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Ths second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, yesterday in connection with the debate on the pending legislation, S. 2104, I addressed myself to the subject of concerns that I think the consumers of this Nation have with respect to the enactment of new legislation in this area and the possible deregulation of the price of natural gas.

Mr. President, last winter's natural gas shortage highlighted our urgent need to make the best possible use of our natural gas resources. No State suffered from this crisis more cruelly than my own State of Ohio. Thousands were out of work, schools were closed, roads destroyed, and we experienced well over a billion dollars in damage to the State's economy.

What was the natural gas industry's response to this unprecedented disaster? They told us that only through higher prices will our country be able to obtain adequate supplies of natural gas.

It seems that every time our country faces an energy shortage the major energy producers cry out, "Give us the incentives and we will do the job."

It happened in the oil industry in 1974. It happened in the natural gas industry in 1977.

But what is a sufficient incentive? A look at the oil companies, the same companies who own 13 of the largest natural gas companies, shows that their 1977 profits were on the average 18 percenter higher than 1975. Clark Oil and Refining Co. had an 81-percent increase—Atlantic Richfield Co had a 64-percent increase—Sun Oil Co. a 62-percent increase—the list goes on. The same is true with the gas companies themserves—Houston Natural Gas Corp.'s earnings rose 61.4 percent in 1975—over its 1974 earnings. Texas Oil and Gas Corp.'s earnings rose 55 percent in the same period—Columbia Gas System, Inc.'s earnings per share rose 17 percent in 1976 over 1975—and Consolidated Natural Gas, the parent company to East Ohio Gas, saw 1976 earnings per share rise by an amazing 38 percent over the same period a year before.

Most of the American people faced a severe financial crisis during the natural gas shortage, but the natural gas companies themselves experienced a banner year.

Profits for the top 21 oil companies in the first 6 months of 1977 were greater than the profits for the same companies for all of 1972, the year before the Arab oil boycott. I repeat that statement: Profits for the top 21 oil companies in the first 6 months of this year were greater than the total profits those same companies made for all of the year 1972.

In a period in which the wages of the average wage earner increased by 38.5 percent, oil company profits rose by 103 percent. Gasoline prices rose by 77.4 percent, fuel oil by 140.4 percent. Taking inflation into account, the buying power of the average American wage earner actually declined between 1972 and 1975 by 4.8 percent. In that same period, oil company profits rose in real terms by 45 percent.

And yet, despite these increased profit figures, the industry and its apologists have continued to focus public debate and attention on the question of Federal price regulation, totally ignoring what I believe to be the real issue—the structure of the natural gas industry.

Nothing is more fundamental to the continued vitality of our economic system than free and vigorous competition. Only through free competition can we be sure of maximum supplies at fair prices.

In spite of general agreement on the theoretical value of competition, many industries have, in fact, become increasingly less competitive. The number of markets dominated by a single firm is surprisingly large. It includes consumer products such as photographic supplies, telephone equipment, and canned soup. It includes capital goods like buses, locomotives, computers, and photocopying equipment.

Numerous other markets are controlled by only a few dominant firms. These include automobiles, steel, chemicals, drugs, aluminum, metal containers, aircraft, aircraft engines, soaps and detergents, electric light bulbs, cereals, toothpaste, and camera film. The cost of lack of competition to the consumer and to the economy is astronomical—in 1975, the Department of Justice estimated this cost to be more than $75 billion. The natural gas industry is one of those industries that remains essentially devoid of competition.

The natural gas industry consists of three separate elements: Production; transportation; and marketing to local customers.

In a free market situation, each segment of the industry would have separate profit objectives, operate at maximum efficiency, and at the most competitive price. The marketers should seek to pay the lowest possible rate for its gas—the transmission companies should try to maximize their sales by seeking the most competitive prices from producers.

Unfortunately, a careful study of the natural gas market structure reveals that it does not operate in this fashion at all. For in highly concentrated and vertically integrated industries, such as natural gas, the contract or market price reflect conditions markedly different from prices that are obtained under competitive market norms. Elementary economic theory has taught us that the greater the degree of concentration and integration, the easier it is for a few firms to influence the price and quantity sold of a given product, and thereby obtain profits in excess of a normal rate of return. The natural gas industry is certainly no exception to this theory. In practice, the industry is highly integrated. For example:

First. Twenty-eight major natural gas producers also own part of pipeline systems which transmit their gas.

Second. Twenty-one interstate pipeline companies have acquired one or more exploring, developing, or producing affiliates.

Third. Twenty-five natural gas marketers now have producing affiliates.

Fourth. Data developed by the FPC's Office of Economics indicate that the top eight producers control between 75 and 100 percent of uncommitted reserves of natural gas in the major producing areas of the country.

Fifth. According to Library of Congress estimates, the top 20 natural gas producers account for 75 percent of all natural gas production.

One of the best illustrations of this kind of integration and concentration is Columbia Gas Systems, Inc. As the Nation's largest integrated natural gas company, in many States, such as Ohio, it controls natural gas from the wellhead to the stove. Columbia Gas development subsidiaries produce natural gas and sell it to Columbia Transmission Corp., the pipeline company. Columbia Gas Transmission Corp. sells this gas to Columbia Gas of Ohio, the marketer, which in turn sells it directly to local customers. This kind of total integration makes it difficult to imagine normal market competition between the separate segments of Columbia when they are all owned by the parent company—Columbia Gas Systems, Inc., instead of trying to keep prices and costs down, these subsidiaries all have the same objective—increased profits for the parent company.

In my own community, the local gas company tells its customers that higher rates do not increase their profits. For the most part, that is true. But what the local gas company does not say is that when producers increase costs upstream to consumers—these increases end up in the parent company which wholly owns both the marketer and the producer. In a competitive market, a local marketing company would not have to buy from its "sister" producing company. Instead, it could shop around for the lowest price. The net result of this kind of vertical integration has been greater profits for the gas companies, while consumers have been forced to pay skyrocketing gas rates.

Mr. President, evidence of the anticompetitive nature of the natural gas industry can also be found in the relationship between interstate pipeline companies and their producing affiliates. Twenty-one major interstate pipeline companies own 43 producing affiliates or producing divisions. These relationships have permitted serious abuses in supply commitments. Recently, Tenneco and Texaco, two of the Nation's largest natural gas producers, were discovered diverting natural gas supplies:

First. Tenneco admitted diverting more than 325 billion cubic feet of gas from the regulated interstate market to the unregulated intrastate market. They were able to do this through the use of Channel Industries Gas Company, one of Tenneco's wholly owned pipeline subsidiaries.

Let us appreciate the significance of what that is all about. What we are really saying is that Texaco and Tenneco, by their own devices, were supposed to be making gas available for the interstate market, but what were they doing with it? They were using it for their own purposes, contrary to the rules and regulations applicable to this industry.

When the matter was heard and determined by the Federal Power Commission some weeks or months later, what happened? They were slapped on the wrist and nothing more than that. It is these kinds of practices that have caused the American people to lose confidence in the natural gas industry, to say that the natural gas industry really is not concerned about the people of this Nation but only concerned about their own pocketbooks and their own treasuries.

Texaco, without approval or knowledge of the Federal Power Commission, had been burning enough natural gas at one of its refineries in Texas to heat 523,000 homes each year. The practice has been going on since 1964. They were able to transport the gas by the Sabine Pipeline Co., one of Texaco's wholly-owned subsidiaries.

That is the reason that, when we consider legislation of this kind, if we took the issue to the people generally and had a referendum on it, the people would be opposed to deregulating natural gas prices. The people would be opposed to the Pearson-Bentsen amendment. The people, in fact, would want to roll back the price of natural gas and, if they did so, they would be right, becaues the natural gas producers would still be making an adequate profit and a good return on their investment.

But that is not the way it is to be. Sadly, Mr. President, these examples of Tenneco and Texaco are not isolated examples. Mobil and other gas producers have also been the subject of FPC inquiry into diversion of natural gas supplies. These anticompetitive practices result in a disturbing amount of supply constraint. While the FPC has increased prices approximately 30 percent per year, new additions to the interstate market have declined. Normally, the reverse would be expected.

This trend, however, is not an unreasonable pattern where the prospects of potential deregulation provide incentive to hold back reserves.

It is increasingly apparent that the natural gas industry is not producing at its maximum capacity and one of the major reasons is because there is not sufficient competition to encourage them to do so.

Industry proponents argue that existing antitrust laws are sufficient to prevent undue concentration. But who can wait as long as a decade before a case will get to trial? Take the following antitrust cases as examples:

In 1969, the United States brought suit against IBM under section 2 of the Sherman Act. The Government is only this year scheduled to present its case. Before it is finished at the appellate level, it is likely to be at least 3 more years and maybe considerably beyond that before an ultimate resolution of the case is arrived at.

In 1971, the Federal Trade Commission brought suit against the Kellogg Corp. FTC against Kellogg et al. went to trial less than 1 year ago, 6 years after it had been filed.

In the summer of 1973, the Federal Trade Commission filed suit against Exxon. FTC against Exxon et al. has still not gone to trial.

What are the issues with respect to the Exxon case, as to why it has not gone to trial? Exxon, the largest corporation in the world, has used the power of its legal department and its unlimited financial resources to keep the case in court on the issue of quashing of subpenas. They do not want to make the information available. That is what it means to quash subpenas. Subpenas have to do with bringing out the information and the facts that the Government needs and that are in the corporation's records.

But is Exxon willing to do that? No, they are not. If they spend enough money, with their high-priced legal departments, they can keep the case pending in the courts, use the delays and the protracted procedures of litigation in order to stall the matter from coming to trial.

There is no end in sight with respect to the question of delaying antitrust procedures in the courtroom.

While these situations are very disturbing, in many cases conglomerate merger cases cannot be brought within existing antitrust theory. The results—highly anticompetitive practices continue unchecked.

Attorney General Griffin Bell highlighted this problem in testimony before the Judiciary Committee:

> The weakness in the (antitrust) system is that it is easy to beat the system. The court processes are so complicated, so slow, that once a case starts, it never seems to end. All you do is just stay in court. You can go on for years in court without anything being done . . . as long as the court system is not adequate to finish a case within a reasonable time, it is difficult to enforce the antitrust laws.

The conclusion is simple: Our present antitrust laws are wholly ineffective in combating integration and concentration in the natural gas industry.

It is imperative that we first restore competition to this industry before we approve substantial increases in the price of natural gas. We can no longer afford to wait the 5, 6, or 7 years necessary to stop practices in the natural gas industry that continue to cost consumers millions of dollars and discourage production of vitally needed energy resources.

In the Natural Gas Act of 1938, Congress recognized the dangers of concentrated market power in natural gas by stipulating that "consumers should be protected from exploitation by the natural gas companies." This absence of competition prompted Presidents Truman and Eisenhower to veto deregulation legislation.

The vast amount of evidence I have examined on the structure of the natural gas industry gives me no reason whatever to believe that market conditions have changed. In fact, concentration is clearly on the increase. Eight natural gas producers control between 75 percent and 100 percent of gas reserves in the principal producing areas of the country. Three oil companies control the vast Alaskan North Slope gas reserves. Thirteen of the top 14 gas producers are major oil companies and joint ventures establish a commonality between virtually all the major firms.

Without effective competition, production and prices are established arbitrarily rather than by the interplay of supply and demand. It is necessary only to look at the effect that the OPEC cartel has had on oil prices to determine what will happen if we deregulate this concentrated and highly integrated industry. In effect, deregulation would permit domestic natural gas producers to enjoy the same windfall profits that have accrued in recent years to OPEC.

As a businessman, I know from long experience that our system requires competition if it is to function in the public interest. When competition does not exist, Government intervention to protect the public from monopoly abuse is entirely proper. I believe that in natural gas, the case for intervention is overwhelming.

I believe that the law at the present time gives the natural gas producers really more than they need as an adequite return on their investment. I believe that the administration proposal, which is contained in S. 2104, also gives them even more money and probably gives them a greater return on their investment by a substantial number of dollars than they are presently receiving.

Again, it is the American consumer that will pay. But I am prepared to support the administration proposal, in contradistinction to the Pearson-Bentsen proposal, as a pragmatic matter. I think that what we ought to be doing is talking here, on this floor, about rolling back the price of natural gas, not increasing it at all. S. 2104 will, indeed, increase the price of natural gas. There is no reason for that increase. But, certainly, it is far better than the Pearson-Bentsen amendment, which would increase it still further, even though it is not total deregulation.

I believe that if we Members of the Senate are adequately to concern ourselves about the health and economic future of this Nation, then we must be concerned about the energy costs of this Nation. Natural gas is such an important ingredient in those total energy costs that I believe there is no room for further latitude and further increases. I think it is imperative that we defeat deregulation, as has been advocated by some Members of the Senate, and I think it equally imperative that we defeat the Pearson-Bentsen amendment when it is offered as a substitute to this legislation.

Mr. GOLDWATER. Mr. President, nearly 23 years of price control of natural gas have brought the American people only shortages and finally wintertime suffering in almost epidemic proportions. Now is the time to put an end to that.

It is also time to put an end to a policy that finds it acceptable to pay world market prices for oil to OPEC nations, but unacceptable to pay market prices to American producers of a natural resource we own.

During the 1976–77 heating season in my home state of Arizona, the major distributor of natural gas there was forced to curtail industrial users for a total of 94 days. Many industries had to shut down completely, and production suffered significantly. Workers were sent

home, and suffered loss of needed income.

Without deregulation, the outlook for the future is even worse because curtailments to industry are expected to increase. In the future, it appears that businesses, shops and even residences will be affected by curtailments.

All of this has come about because of the artificially low prices that have resulted from regulation. There is a huge potential reserve of this fuel available to us in the future, if we will just unfetter the market. By allowing prices to meet costs we will most surely encourage exploration and new supplies will be developed.

To do otherwise is to invite continuing higher costs to be heaped on consumers in the form of replacement fuel the consumer would have to use in place of natural gas. Whether it is oil, liquefied natural gas, synthetic gas or electricity, replacement energy will cost more—some say $48 to $50 billion more over the next 13 years.

Rapid escalation of consumer prices has been raised as an argument against deregulation. The facts are that most gas is now sold under long-term contracts which would remain under regulation. Prices to residential gas users, under new gas deregulation, as provided for in the Pearson-Bentsen bill, would rise only slightly because the price of the new gas would be rolled in with the lower price of the old gas, gradually. And at even higher costs, gas would still remain competitive in price to alternate fuels.

I also believe that we have an obligation to consider the national security aspects of new gas deregulation. Every reasonable opportunity we have to decrease dependence on foreign energy must be taken. The opening up of new natural gas supplies is one of those opportunities.

I, therefore, urge adoption of the Pearson-Bentsen bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CLARK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(During the call of the roll the following Senators sequentially assumed the Chair: Mr. SPARKMAN, Mr. HASKELL, and Mr. HATHAWAY.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THhe PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:30 p.m. today.

There being no objection, the Senate, at 12:46 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, during the debate on S. 2104, I ask unanimous consent that Barry Direnfeld, Roger Berliner and Dan Grady be granted privilege of the floor.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 887

Mr. BARTLETT. Mr. President, I call up my amendment No. 887 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) for himself, Mr. GARN, Mr. HANSEN, Mr. LAXALT, Mr. TOWER, and Mr. WEICKER proposes an amendment No. 887 in the nature of a substitute.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Natural Gas Act Amendments of 1977".

SEC. 2. Subsection 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended by inserting before the period at the end thereof the following: "or to the sale or delivery by a producer of new natural gas: *Provided, however*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas, or (B) regulate the sale for resale of natural gas by any natural gas company which transports natural gas in interstate commerce or by an affiliate thereof which transports natural gas in interstate commerce".

SEC. 3. Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by adding at the end thereof the following new subsections:

"(d) The Commission shall have no power to disallow, in whole or in part, in the rates and charges made, demanded, or received by any natural gas company the amounts actually paid for natural gas exempt from the Act pursuant to subsection (b) except as otherwise provided in subsection (e).

"(e) In any case where a natural gas company which transports natural gas in interstate commerce purchases natural gas from an affiliate or produces natural gas from its own properties, the Commission may not disallow any portion of the cost thereof in the rates or charges made by such company which is not in excess of current prices paid for comparable gas to non-affiliates.

"(f) Once a sale or delivery of natural gas in interstate commerce shall have been previously determined by the Commission to be just and reasonable and such determination has become final and no longer subject to judicial review, the Commission shall have no power to order thereafter a decrease in the rate or charges made.".

SEC. 4. Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding at the end thereof the following new paragraphs:

"(10) 'New natural gas' means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (five years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, (B) natural gas produced from any well initiated or completed on or after January 1, 1977, or from any well recompleted or deepened on or after January 1, 1977, and subsequently producing solely from any reservoir not theretofore produced in that well; or (C) natural gas continued in interstate commerce after the expiration of an existing contract by its own terms (and not through the exercise of any power to terminate or renegotiate contained therein).

"(11) 'Affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with such other person.

"(12) 'Producer' means a person who engages in the production, gathering, or processing of natural gas from wells or reserves in the United States.

"(13) 'Old natural gas' means natural gas sold in interstate commerce other than new natural gas.".

SEC. 5. Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not permit the Commission to condition the grant of or to deny a certificate of public convenience and necessity to a natural gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural gas company which transports natural gas in interstate commerce.".

Mr. BARTLETT. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. BARTLETT. Yes, I withhold my request.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator intend to speak on his amendment this afternoon?

Mr. BARTLETT. I am hoping a time certain may be reached and agreed to so that this amendment could be voted on tomorrow at noon with an hour's debate, equally divided prior to that. I would probably speak on it tomorrow.

Mr. ROBERT C. BYRD. I see. The Senator has no intention of speaking on it this afternoon?

Mr. BARTLETT. I can if the Senator would like that done. I would be happy to. But my intention was not to speak on it.

Mr. ROBERT C. BYRD. I see. The Senator has answered my question.

I wonder if the respective cloakrooms would inquire as to whether or not any Senator wished to come over and address remarks either to the pending amendment by Mr. BARTLETT or to other areas of the bill or to future amendments. We can ascertain that from the cloakrooms.

Mr. HANSEN. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. I certainly am not in position to speak for everyone on this side, Mr. President, but it is my understanding that the recommendation or the desire expressed by the Senator from Oklahoma fairly reflects the feeling of Members on this side.

We do not desire to delay action on this bill. I think the important thing is not to go through the charade of talking about something with no one here. Rather, if we could get agreement on a time certain to vote on it, I think it would be fair to say, and I would ask my good friend from Oklahoma if he does not share this view, that we would be very pleased if there could be a time certain agreed upon, and if time could be divided, and do it in a manner that would make it possible for interested Senators—and I would hope that might be most everyone—to be on the floor to hear the arguments both pro and con, and not to go on this afternoon.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BARTLETT. That expresses my opinion.

Mr. JACKSON. I thank the majority leader. I would be in a position at some appropriate time—and I will have to work it out here—to move to table the Bartlett amendment or the substitute—I gather it is an amendment in the nature of a substitute——

Mr. BARTLETT. That is correct.

Mr. JACKSON. So that in fairness I think we would have to indicate some time when that would occur so that Members on both sides could be here, and I hope that the actual determination of the time, hopefully tomorrow, could be worked out over the evening. It would be my intention to handle it that way. We would not have to have a unanimous-consent agreement on time because we have the problem of amendments to the substitute that would be involved as one part of the problem.

But my approach would be, Mr. President, to make a motion to table, with ample notice being given to our colleagues so they would know the exact time.

Mr. METZENBAUM addressed the Chair.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Ohio first.

Mr. METZENBAUM. Mr. President, if the distinguished majority leader, the distinguished chairman of the committee and the distinguished minority member will yield, I do not know exactly what the procedure would be tomorrow, but it is entirely possible that a number of amendments will be offered to the proposal of the distinguished Senator from Oklahoma.

So there will be no misinterpretation of my own position, I do not want my presence on the floor, without having been heard, to be assumed as an indication that I will be prepared to agree to vote on the Bartlett amendment tomorrow or at any time in the immediate future at a time certain.

I wish to study further the Bartlett amendment and also study the question of which, if any, of the amendments that I expect to offer this afternoon should be called up prior to the vote on that.

Will the distinguished Senator from Oklahoma, the majority leader, and acting minority leader, indicate, should we agree to a time certain with respect to the Bartlett amendment, whether they would be agreeable to a unanimous-consent agreement that should the Bartlett amendment be adopted—the substitute be adopted—there would be a rule that it would be without prejudice to offering amendments to the Bartlett proposal after the substitute had been agreed upon?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Oklahoma for his response and then to the distinguished Senator from Wyoming, who is serving at this time as manager of the bill on the other side of the aisle.

Mr. BARTLETT. Mr. President, it is a little difficult for me to respond to that. My purpose in offering the amendment is that I think it is a logical starting point for the consideration of the natural gas problem. I do not personally believe it has any chance of being agreed to.

I think the main thrust of the debate, argument, disagreement, controversy, and amendment will take place at such time as the Pearson-Bentsen amendment is offered.

If my amendment results in lengthy debate or amendment I would undoubtedly withdraw my amendment because I do not want it to be a vehicle for delay. That is not my point. That was why I asked for a time certain for the amendment.

I wish to think a little bit about the question the Senator posed. I realize I have not answered it. Let me think about it a second, and I will answer it.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Oklahoma.

Does the Senator from Wyoming have anything to say in response?

Mr. HANSEN. Not at this time.

Mr. ROBERT C. BYRD. Very well.

Mr. JACKSON. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

ORDER AUTHORIZING COMMITTEE TO HAVE UNTIL MIDNIGHT TO FILE REPORT ON S. 1469

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until midnight tonight to file the report as a clean bill in lieu of part E of S. 1469.

I might say that the bill was reported by the committee yesterday. The bill relates to the final part of our responsibility in the President's energy program in connection with the so-called electric utility rate reform proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Susman, Mr. Banta, and Mr. Brady be accorded the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I merely wish to say that I share the hope that the Senate can begin to develop some momentum in connection with the pending measure and I also share the hope that a vote can be reached at a reasonably opportune time with respect to the Bartlett amendment. Whether it be up and down on the amendment or on a tabling motion is agreeable to me.

I thank the distinguished Senator from Oklahoma for his willingness to achieve a vote on his amendment at the earliest reasonable moment. So I believe that the Senate will in due time reach decisions and move forward in the interests of the ultimate enactment of the legislation as it may be modified or amended in accordance with the will of the Senate.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. As the leadership plans the effort to expedite this legislation, particularly with the constraints of time that are imposed upon us, I might say that I am prepared, should the Bartlett amendment be defeated or tabled, as indicated by the Senator from Washington, to call up amendment No. 862 for myself and Mr. BENTSEN, and I am prepared to agree to a time limitation of 6 hours, or something of that nature.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his statement. I think it indicates not only a willingness but a desire to move forward under a reasonable timeframe in order to let the Senate work its will on the issue and other issues involved in this legislation.

Mr. BAKER. Mr. President, will the majority leader yield to me a moment?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I was on the floor at the time the distinguished Senator from Ohio made his query. Since that time I have had an opportunity to discuss this matter further with the distinguished Senator from Oklahoma, the distinguished manager of the bill on our side, the Senator from Wyoming, and others.

I wonder if I could inquire of the distinguished majority leader and the Senator from Ohio if we might turn that around a little and maybe accomplish the same purpose with a different technique. I wonder if we could agree on a time in which amendments to the Bartlett amendment would be offered and considered. At the ending of that time, then we proceed to a limited amount of debate on the Bartlett amendment, as amended, if amended, and with a vote on final passage of that amendment in the nature of a substitute at that time, say, on Thursday, or even on Friday.

I also wish to pick up the suggestion made by the distinguished Senator from Kansas (Mr. PEARSON). If the Bartlett amendment were not agreed to, on this side we would be more than willing to incorporate in the agreement, in order to expedite the business of the Senate, a proviso that if the Bartlett amendment were not agreed to, we proceed immediately to the next amendment, the Pearson amendment. We then set up a similar arrangement for allocating time for consideration of amendments to the Pearson-Bentsen amendment and set a time to vote on the Pearson-Bentsen amendment or a tabling motion if there is one.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the very helpful suggestions that have been made by the distinguished minority leader, and the spirit in which they were offered.

I would yield to Mr. JACKSON, Mr. METZENBAUM, and others to respond as they may wish.

Mr. METZENBAUM. Mr. President, I do not think the distinguished minority leader has really answered the question that was propounded, and that is, would the minority leader and other Members of the Senate be amenable to agreeing to a unanimous-consent request that would provide that in the event the Bartlett amendment in the nature of a substitute or the Pearson-Bentsen amendment in the nature of a substitute were agreed to, by unanimous consent it would be agreed that additional amendments could be offered without limitation?

That really is the specific question, rather than the opportunity to turn that around, because, as the distinguished minority leader knows, if the Curtis-Bartlett amendment or the Pearson-Bentsen amendment is adopted, then there is no further opportunity for amendment, absent a unanimous-consent agreement.

Mr. BAKER. Mr. President, if the distinguished majority leader will yield to me again so that I can answer the Senator from Ohio——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I must say that I did understand the question, and I suppose if I have to give an answer to it, the answer would be that I would prefer to do it the way I suggested instead, honoring the Standing Rules of the Senate, by which an amendment in the nature of a substitute is treated as if it were passage of the bill itself, which is not subject to further amendment.

I would prefer that we set aside a time for orderly consideration of all amendments to the Bartlett amendment, and then, after the expiration of the time on that, we have a vote on the Bartlett amendment as amended, if amended.

I suppose the concise answer to the question of the Senator from Ohio is, how about considering this counterproposal?

Mr. METZENBAUM. Mr. President, I have no difficulty in responding to the counterproposal. The answer is no, because, as I see the question, the question may very well be what amendment, if any, should be offered to the Bartlett proposal or the Pearson-Bentsen proposal. How persuasive can one be with respect to those amendments that have to do with the impact one upon the other? There are many Members of the Senate who do have amendments to both these proposals, and much concern about them. Some of them are not present. One Senator has offered a number of amendments today, and I have offered a number of amendments. I can well appreciate the interest in expediting the procedures, but we might not need extended debate with respect to the Bartlett amendment, for example, or the Pearson-Bentsen amendment, if it appeared they were not going to be adopted in the first instance; and then, if they were adopted, it might be, there will be reason to offer amendments to improve upon that situation.

So I would say to my good friend from Tennessee that absent that, I think that it does present a totally different picture, and I would have to discuss with a number of Senators who share my concern about the pending measure the resolution of the issue, even if your answer is in the affirmative. But I would want to get some information as soon as possible on that subject.

Mr. BAKER. Mr. President, will the majority leader yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It seems clear, from the statement of the Senator from Ohio, that we are not going to get an agreement here on the floor at this time. I understood him to say he would not agree, and would object to my suggestion. Under those circumstances, I think the legal and ordinary procedure under the Standing Rules of the Senate should prevail; and in that circumstance, I withdraw my suggestion.

Mr. BARTLETT. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BARTLETT. In response to the question of the Senator from Ohio, I would also say no, the reason being that I believe that the standing rules for the conduct of the business of the Senate should prevail, and I would hate to agree to anything that would change that precedent. I am not that eager to have my amendment voted on that quickly, or perhaps at all. I certainly would not want to be contributing to the delay of more important discussions with reference to the Bentsen amendment, but I would still like to have my amendment brought up. We can see how it goes, and I will decide, when the time comes, whether to call it down. But I am not interested in trying to call it down now, because I think the more important debate will probably take place on another amendment, and not this one.

Mr. ROBERT C. BYRD. I appreciate the sentiments the distinguished Senators have expressed.

Mr. HART. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HART. I ask unanimous consent that during the consideration of the pending bill and any and all amendments thereto, Peter Gold and Don Smith of my staff have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would again urge our respective cloakrooms to ascertain whether or not any Senators wish to come to the floor to deliver themselves of statements in regard to the pending matter; and while the cloakrooms are doing that, if no Senator seeks recognition, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Carol Sacchi, Faye Widenman, Ted Orf, Tom Imeson, and Judy Foley of the Energy and Natural Resources Committee staff may have the privilege of the floor during the debate and any votes on this bill and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, it is obvious that deregulation is a controversial subject. I think that perhaps the most damaging argument levied against deregulation is that it will cost the American consumer untold billions of dollars. Some have gone so far as to label deregulation a "ripoff" of the American public.

Thanks to a study recently released by the Joint Economic Committee, we are at last in a position to respond, once and for all, to the false data and misleading allegations concerning the cost of deregulation. The JEC study is a remarkable exercise in erroneous assumption. When the glaring errors in the report are corrected to make it consistent with the Pearson-Bentsen amendment, the study demonstrates that deregulation will at

the most cost the American consumer only about $3 billion in 1979.

Let us consider briefly the JEC report, the assumptions on which it is based, and the conclusions at which it arrives.

Contrary to the provisions of the Pearson-Bentson amendment, the study erroneously assumes unqualified deregulation of natural gas prices—that is, unqualified across-the-board deregulation. That is the assumption of that study, and that in no way resembles the Pearson-Bentsen deregulation proposal. In fact, Pearson-Bentsen would only deregulate new gas—perhaps 6 to 7 percent of the gas that will be made available to the American consumer in 1979. As I say, contrary to the provisions of the Pearson-Bentsen amendment, the study erroneously assumes that renegotiation clauses would be triggered by deregulation.

What do we mean by renegotiation clauses? It is the same thing as a favored nation clause. That is when the new price is arrived at in a region, that triggers the price in the old contract and raises the price to meet that particular new price.

But they would not be triggered. Pearson-Bentsen specifically bars such renegotiation. Contrary to the provisions of the Pearson-Bentsen amendment the study erroneously assumes that producers under deregulation could redrill the old fields. That means put some more wells down in the fields where they already had their reserves, and then charge the new gas for that product at a cost of $5 billion in 1979.

The Pearson-Bentsen amendment does not provide for that. In fact, it negates that. It sees that that is not done. That is not in the definition of new gas under the Pearson-Bentsen amendment. The Pearson-Bentsen amendment would specifically prevent this from occurring by deregulating only new reservoirs and extension of old reservoirs. By deleting infield wells from the definition of new gas we have eliminated even the remote possibility that old gas might benefit from new gas prices. We have vitiated any possibility of a windfall in that regard.

Contrary to the provisions of Pearson-Bentsen, the study erroneously assumes that interstate rollover contracts would be deregulated with a cost of $3.4 billion to the consumer.

The Pearson-Bentsen amendment provides no such thing. It does not touch the current price regulations on interstate rollover provisions in contracts.

Another myth: Contrary to the provisions of the Pearson-Bentsen amendment, the study erroneously assumes that deregulation would have an adverse price impact, $9.2 billion in 1979, on the intrastate market.

In fact, Pearson-Bentsen, by abrogating renegotiation clause provisions and limiting the power of the interstate pipeline to raid intrastate flowing gas, completely protects the intrastate market while providing the maximum possible gas supply for the interstate market.

According to the JEC study, deregulation of natural gas would cost the consumer $20 billion in 1979. The estimate, however, is without any basis in fact when it comes to the Pearson-Bentsen amendment which will be before the Senate this week, and which, in effect, was passed by this body in the fall of 1975.

When the figures and erroneous assumptions are adjusted to bring the study into conformity with the provisions of our amendment, we confront a maximum figure of $3 billion as the cost to the consumer in 1979 from the deregulation of new natural gas as proposed in this Chamber, a figure that is approximately 15 percent of that cited in the JEC study.

I have told the whole story before, but I think it is apropos. When they talk about trying to roll back the price, we are paying $2 and $2.25 for new gas in Texas, and as a result we have ample supplies. But now they say, "Why don't you roll it back to $1.75?" In effect, we put in jeopardy all of the contracts made at the $2 price and the $2.25 price and all the economic assumptions which were made.

We have not had shortages in Texas because we have let the marketplace dictate the price of finding the new gas. Do not visit the shortages of the rest of the country on us with bad regulation. See that we have the incentives in there to bring on these new reserves.

Mr. President, two facts become clear from any careful analysis of the JEC study. First, it does not deal with the Pearson-Bentsen amendment and, second, it bloats and distorts the true cost to the consumer of deregulation of new gas under the Pearson-Bentsen amendment.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I rise to speak in behalf of the so-called Pearson-Bentsen amendment. The Pearson-Bentsen amendment is what amounts to a compromise amendment which has been confected after some years of study in this body. I say a compromise amendment because in its original form as introduced the Pearson-Bentsen bill called for deregulation not only of new gas but deregulation of what we call rollover contracts, those contracts of natural gas which have already been committed to the interstate market which are up for renewal. In its original form, 2 years ago, the Pearson-Bentsen bill provided for such deregulation.

It also provided for deregulation of what we call infield drilling, that is, necessary extensions of drilling within the same reservior which are necessary properly to drain a reservoir.

Those two very important parts of the deregulation process in the original Pearson-Bentsen bill have been done away with. Now the Pearson-Bentsen bill provides for deregulation simply of new gas.

Mr. President, I submit that is a proper compromise, that is a compromise bill.

I would like to make very clear, Mr. President, that is my position, and I think that should be the position of the Senate.

There has been some conversation about various fallback positions which have been worked on by myself and other Senators. I would like to make it crystal clear that those so-called fallback positions have not been introduced either in committee or on the floor of the Senate, and there are no plans to do that. Such work as has been done on fallback positions is the same process in which all Senators always engage with respect to any major piece of legislation. That is to be prepared for the worst because this body has at times, at least from my point of view, done things with respect to natural gas that have not been desirable, wise, nor at all prudent for the national interest.

Why should we go with a Pearson-Bentsen amendment involving deregulation of natural gas?

Mr. President, obviously, natural gas is our most precious, our most environmentally sound of all fuels. It takes no refining capacity to make it ready to burn. A distribution system is already in place. It is sorely needed for residential use where it can be used without adding to the great burden of environmental pollution that is involved in every other fuel, with the possible exception of solar.

That means that the more gas we can get the better off we are. Reserves have been going down steadily. The expense of finding new reserves has been going up steadily. The chances of finding a new reserve have been getting smaller with each succeeding year.

The technology of finding those reserves, or the difficulty, shall I say, from an engineering standpoint, of finding those reserves increases geometrically each year as the availability of reserves goes down. That means that the key is to give incentive for finding additional reserves. Mr. President, there is no other effective way to find new reserves, in my view, but through the price mechanism. The Pearson-Bentsen bill provides that price mechanism, the mechanism of the free market.

If I were an economist teaching in a university, Mr. President, and wanted to give an example of the law of supply and demand and how the intervention of Government can disrupt that law in the most difficult sort of way, I would give the example of Federal Power Commission regulation of natural gas. It is the classic example: a price limitation set on the use of natural gas, keeping it too low, which, on the one hand, encourages wasteful consumption and on the other hand, discourages production. That is precisely what we have done in this country with Federal Power Commission regulation of natural gas. That conclusion, it seems to me, is totally unarguable, as an example.

The Pearson-Bentsen amendment does not seek to go in and totally unscramble that egg. It does not say, we are going to go back in and take all those contracts

that were made under the old system and deregulate those old contracts. We are willing, in the Pearson-Bentsen compromise—and it should be regarded as a compromise and as the compromise which will be accepted by the Senate for reasons I just spoke of. Under the compromise, we do not attempt to unscramble that egg. We do say that, henceforth, we ought to let the market mechanism find the gas that will not only increase the supplies, but will discourage the consumption of gas in this country.

Mr. President, anyone familiar with the oil and gas industry can tell that the reserves yet to be found of natural gas are going to be increasingly expensive. In my part of the country, those reserves to be found are increasingly in small reservoirs. They are deeper. They are in less permeable formations, which means that we have to go to brandnew techniques of what we call "cracking" the formation; that is, really exploding the formation so as to send little cracks out through it so it will allow for the flow of natural gas. That is going to take money.

We have heard all kinds of estimates as to the cost of deregulation. One was floated out recently in the press and to other Senators that "deregulation" would cost $25 billion. What the release did not make clear is that what they were referring to as total deregulation was deregulation of old contracts as they come up for renewal, not the Pearson-Bentsen bill. The Pearson-Bentsen bill will be much more modest in its cost.

What, precisely, is that cost? We cannot tell precisely. We are in good hope—in fact, we are confident—that if we put that incentive to work in the market place, it will produce additional supplies of natural gas, which, in turn, bring down the price of natural gas, or at least will impede its escalation in price.

One thing is for sure, Mr. President, that the only way that the Pearson-Bentsen bill can be costly is by being successful. That is to say, unless we find great quantities of natural gas, then its effect will be very, very minimal, because there will be no great quantity of gas to sell at this what some people regard as inflated price. I believe it will be successful. I believe it will bring on line additional supplies of natural gas, important additional supplies.

One thing we ought to keep in mind, Mr. President: This country is taking steps in the Senate to provide more natural gas that is presently being burned under boilers for use in residential areas. We have an amendment, which we propose to introduce to this bill, which will make it possible to take gas from boilers presently in use and sell it in intrastate sales, compensating, thereby, those who are using the gas but giving them the equivalent price, which will allow them, in turn, to use residual fuel oil. The way the amendment which I shall explain later on will work is that, if a person burning residual fuel has that boiler capability but cannot burn coal, he will be allowed, under this amendment, to sell the natural gas to someone else and receive all of the costs associated with making that conversion. These are situations where the burner of this natural gas, the consumer, would not otherwise be required to convert until 1990 under the coal conversion bill. That amendment, alone, would relieve something like a trillion cubic feet of natural gas for use in other markets. The coal conversion bill itself will release additional supplies—both by requiring conversions and by preventing new industries from coming in to use natural gas as boiler fuel.

The point is this: We shall have some movement to the interstate market of supplies of natural gas, which will be a factor which will hold down this feared escalation in natural gas prices. Mr. President, we believe very strongly that the modest proposals of the Pearson-Bentsen bill are the answer, the only answer, on the short term to this crippling shortage of natural gas—incentive on the one hand and a modest impact on the other hand; a modest impact in terms of price and a great impact, we believe, in terms of supply.

So, Mr. President, I want to make it very clear that the Senate ought to reaffirm what it did in 1975 by passing, by a margin of, I think, at that time, at least four votes, an excellent piece of legislation, the Pearson-Bentsen bill. That is a compromise because it has been considerably changed since it was passed even in this body in 1975. There are no plans—and I want to make it perfectly clear. No other amendment has been introduced, no other amendment is planned to be introduced, no other amendment is supported by anyone, in my view, or anyone that I am aware of, that is on the so-called regulation side. That should be very clear.

I say that, because, Mr. President, I have heard that there are some Senators who take the view that we should not go with Peason-Bentsen because it goes too far and there is a compromise that is being pushed by myself. I want to make it very clear that my position is totally in support of Pearson-Bentsen. That, in itself, is a compromise from what was in 1975. We have no plans to push anything else. Nothing else has been introduced.

I believe that the Senate will and can—and, according to my vote counts, we should, by a margin of—it is always hazardous to make an exact guess, but I would say by a margin of 4 votes, at least, we are going to pass Pearson-Bentsen, I think for the good of this country.

Mr. HANSEN. Mr. President, will the distinguished manager of the bill yield?

Mr. JOHNSTON. I am not managing it, but I am glad to yield to my good friend from Wyoming.

Mr. HANSEN. Mr. President, I am much impressed with the presentation that has just been made by the Senator from Louisiana. I should think that time certainly will vindicate every assertion and every prediction he has made.

When we first started talking about deregulation some several years ago, there really was not very much enthusiasm. And as we watched both the printed media and the electronic media, the campaign that was launched against oil companies, I became increasingly discouraged about the possibility of trying to see that reason prevailed.

During that time, the position of the United States has steadily worsened. Our balance of payments has increased. I understand this year the prediction by the Treasury, or at least some people in the administration, is that we may spend not less than $45 billion to $46 billion paying for the oil we are having to import.

I think the figures for the first 6 months indicated that we had been importing oil at a rate of about 8.8 million barrels per day.

Obviously, anyone can easily understand how this situation has undermined the national security of the United States.

As my friend and colleague from Wyoming has been quoted as saying, he has not seen any coal-fired airplanes flying around. Obviously, the point he makes is very clear. That is, that our whole military establishment is almost completely dependent upon petroleum for motivation, and for other functions it performs, as well.

Add to that the fact that we have seen a steady erosion of employment in this country as we have become more and more dependent on foreign nations.

Add to the fact that, given the natural gas shortage that we experienced last winter, no one should need to be reminded of the incentive to encourage the sort of activity that the Senator has spoken about, which will be to go out and explore the other 98 percent—I am told that about 98 percent of the United States has not yet been explored.

It can be argued that a few wells have been punched here and there, and that is true. But we are finding, as the Senator from Louisiana knows, the so-called overthrust belt, an area in Wyoming, Utah, and Idaho that had been looked at and rejected a long time ago because of its complicated geologic nature, now is promising to be a very important discovery as far as natural gas goes. The hitch is that it is very deep and expensive drilling.

Earlier this year, I was able to get a bill passed by the Congress that has since become law with the signature of President Carter having been affixed thereto which permitted a group of persons who had leases which would have expired to have those leases continued, so that one well that will cost in excess of $10 million can punch down deeply enough to test if there may be gas in that area.

I make this observation in order that Senators might understand that there is a lot of unexplored territory in the United States, but it is going to be costly to explore for it.

The statement has been made by administration representatives that there is no point at all in letting the price of natural gas exceed $1.75 a thousand. It has been contended that if we took the cap clear off and the price were to escalate, maybe, to $4 or $5 a thousand, that there might be possibly as much as a 5-percent increase in activity, but that would be about all.

I think that our experience in the marketplace, the experience of business generally, refutes that sort of assertion.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. HANSEN. I am happy to.

Mr. JOHNSTON. Is it not a fact that the administration study, the so-called MOPP study, shows the relationship between price and supply and, indeed, one of the points made, I know by one witness, was that if we increase a price a certain amount it will bring on so much additional natural gas that we do not need additional price over that.

In other words, that there is so much correlation between price and supply that we only need—I forget precisely what the figure was that they said we need—but that figure is enough to bring on adequate supplies.

Every study I have seen shows that relationship between price and supply. Some are more generous in the amount of supply they say certain prices would bring than others. But every study shows that relationship and shows that if we increase the price a reasonable amount, it will bring on additional supplies.

When we talk about reasonable price; for example, Alaskan gas which would be brought in over this Alaskan pipeline wherever it may ultimately be located, nobody ever says that is unreasonable.

But we know the prices they are talking about bringing that in, when it arrives, will be something like $4 a thousand, which is over twice as much as we would expect the price would be under Pearson-Bentsen.

This country has put millions of dollars into research and development and into demonstration projects to gasify coal, but gasified coal costs much more than any free market gas has ever been estimated to cost, or the alternative fuels would cost considerably more.

Algerian natural gas costs more than unregulated intrastate gas costs today. Indeed, the average price of unregulated intrastate gas today is only about $1.83, which I think is eloquent evidence that to deregulate interstate gas is not going to cause these huge price rises that some of the doomsayers would predict.

Mr. HANSEN. Mr. President, I thank my friend from Louisiana for his most incisive and perceptive comments. It underscores the fact that those of us who know him have recognized for a long time that he, indeed, is a very knowledgeable spokesman for the energy industry, and if we just have the good sense to heed what he is saying here today and pass Pearson-Bentsen, I think there is no question at all but it will redound to the benefit of the United States.

Mr. JOHNSTON. I thank my colleague.

Mr. HANSEN. Mr. President, the Senator from Louisiana spoke about this situation, making some comparisons between the intrastate market and the interstate market. The figures I have before me are official figures—FEA and FPC information has been used to put them together—and I ask unanimous consent that this chart be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

SALES OF NATURAL GAS

[Billion cubic feet]

	Interstate			Intrastate		
	1976	1977	Change from previous year	1976	1977	Change from previous year
2d quarter	2,524	[1] 2,365	−159	[2] 2,414	[1] 2,571	+157
June	815	[1] 767	(−48)	[2] 822	[1] 853	(+31)
May	860	[1] 808	(−52)	[2] 808	[1] 862	(+54)
April	849	[1] 790	(−59)	[2] 784	[1] 856	(+72)
1st quarter	2,638	[1] 2,479	−130	[2] 2,457	[1] 2,533	+117
March	894	[1] 834	(−60)	[2] 815	[1] 856	(+41)
February	850	[1 3] 838	(−12)	[2] 791	[1 3] 812	(+21)
January	894	[1] 836	(−58)	[2] 851	[1] 906	(+55)
	1975	1976		1975	1976	
4th quarter	2,633	[2] 2,553	−80	2,361	[2] 2,453	+92
December	903	[2] 872	(−31)	827	[2] 873	(+46)
November	853	[2] 841	(−12)	765	[2] 788	(+23)
October	877	[2] 840	(−37)	769	[2] 792	(+23)

[1] Projected by FEA.
[2] Revised.
[3] Adjusted because only 28 days in February 1977 versus 29 days in 1976.

Sources: Interstate sales, FPC. Total sales (intrastate represents difference), Bureau of Mines.

Mr. HANSEN. Mr. President, this clearly demonstrates that the interstate market which has been controlled shows a decline. When we take the second quarter of 1976, we find there were 2,524 billion cubic feet of gas produced in that second quarter of 1976.

Mr. President, for the second quarter for 1977, the amount of gas sold in that quarter was 2,365 billion cubic feet, or a decline of 159 billion cubic feet.

For the first quarter of 1976, comparable figures can be produced.

The amount of gas that was sold in that first quarter of 1976 came to 2,638 billion cubic feet. These are sales in the interstate market.

For 1977, the figure had dropped to 2,479 billion cubic feet, or a decline of about—I am rounding these figures—130 billion cubic feet.

The fourth quarter of 1975 shows sales of 2,633 billion cubic feet; whereas, in 1976 the sales for the comparable quarter were 2,553 billion cubic feet, or a decline of 80 billion cubic feet. That is in the interstate market; that is where the prices were controlled.

If we make comparison with what was going on in the intrastate market, we find that for the fourth quarter of 1975 there were sales of 2,361 billion cubic feet; whereas, the same quarter in 1976 showed total sales of 2,453 billion cubic feet, or an increase—not a decrease. In the intrastate market, where price could bring into effect the stimulation that came from the incentive to go out and find the gas and to produce the gas, sales increased in 1976, over the comparable quarter in 1975, by 92 billion cubic feet.

The first quarter of 1976 shows 2,457 billion cubic feet. For 1977, it increased 76 billion cubic feet to 2,533 billion cubic feet. The second quarter in 1976 showed sales of 2,414 billion cubic feet; whereas, in 1977, in the intrastate market, where price did come into play, sales increased by 157 billion cubic feet.

This simply bears out—and I appreciate that I may enter this entire chart into the record—the point I am making, which any businessman knows: That as something becomes more profitable, there certainly will be increased activity, there will be increased interest, and there will be incentive to find and produce it. That is exactly what is reflected by this chart. It reflects the response of business to provide gas for the intrastate market, where there were not the price caps that have deterred exploration and drilling and production in the interstate market.

Mr. President, I wish the Senator from Ohio (Mr. METZENBAUM) were on the floor at the moment, because he would like to respond to this. I wish he were here to hear what I have to say. He said that the FPC "threw aside the whole issue of cost-based pricing and said that cost was not a factor." Mr. President, that simply is not true. This FPC decision was strictly cost-based and was upheld by courts on this basis, but it was based on estimated cost data. Actual data are now available, and by the FPC's own method, it shows a cost for gas already drilled in 1975–76 of more than $1.75 per thousand cubic feet.

Point No. 2: Setting the ceiling price at the average cost guarantees that half of your gas will not be economical to produce. If anyone should wonder why I say that, I call attention to what we are talking about when I say "an average price."

If the average price at which something becomes profitable to produce includes the low-cost gas and the high-cost gas, obviously the low-cost gas will be produced because it is below the $1.75.

However, those who own the other half of the gas, the half that is above that, will not have the incentive to go out and try to find gas that costs $2 to produce, when $1.75 is all you can get for it. I have to say that anyone in the oil business—anyone in any kind of business—knows this is true.

In my State of Wyoming, we have oil fields that contain wells that are just about to be abandoned—not because there is not more oil that can be pumped, not because this Nation does not need the energy, but for one very good and compelling reason: You cannot make any money pumping it, and it is just that simple.

We have water floods in Wyoming; and in order to produce a typical barrel of oil in some of these fields, it is necessary to pump 11 barrels of fluid, 10 of which are water. The people in the business used to pump the water out on the ground. It is dry country. The water did not flow into any live stream. It simply went into the parched earth or evaporated. But now, to add to the troubles of trying to satisfy the energy this Nation needs, EPA says, "You can't do that any more." I am not arguing with EPA. I am just stating that it is a fact. The producers of that oil have to take that water and treat it, and dispose of it which is costly, too.

So that the $4.59 a barrel that they were able to get about a year ago for this oil—I do not know the price now; it may be in excess of $5. But it is still a very marginal operation, and it is dangerously close to the point where that field may be abandoned, simply because no one in his right mind is going to pump a barrel of oil for, say, $5.25 a barrel if it costs $5.25 a barrel to produce that oil. All you are doing in that kind of operation is wasting your time. There are better ways in which people can make money than to try to do it that way.

Mr. President, I appreciate very much what the distinguished Senator from Louisiana said in support of the Pearson-Bentsen bill. I appreciate his unqualified commitment to support that bill. I think that is important, too, because there have been many times in the last few days when all sorts of compromises were going to be offered. I suppose we can hear that just about anybody in the Senate has a bill or an amendment that will be offered.

What seems clear to me is to keep in mind, first, that Pearson-Bentsen has passed the Senate. It is a reasonable bill. It is not going to add great burdens upon the customers of natural gas in this country. It just deregulates new natural gas. It would phase in new gas under the terms of the bill. The impact of the old gas will continue to be felt, so that the overall price rise will be a very gradual one.

Yet, it does provide the incentive and the inducement which is desperately needed right now for industry to drill these deep wells that I spoke of, the overthrust belt in the West and other deep basins.

Second, it is important to understand that we should not go out in many different directions, trying to choose one bill or another that may have my particular blessing or your support or somebody else's support. Here is a bill that industry understands, people understand, the public understands. Its ramifications are clear. I believe it makes very good sense to stick with a piece of legislation that has been debated and is as clearly understood as this bill is.

I would hope that Senators would give those who support the amendment an opportunity to be heard. I know we should hear from everyone, and we will hear from everyone. Those who oppose it should be heard, but in time.

If the amendment offered by the distinguished Senator from Oklahoma, Senator BARTLETT, should fail—and I support that amendment because I think this can do more to help us than any other amendment in the shortest amount of time possible, but recognizing the political realities, I suspect that it could very well be that there will not be enough Members of the Senate who support the Bartlett amendment to secure its passage. I would hope and I appeal to Members of the Senate to look very carefully at Pearson-Bentsen and to support the kind of legislation that I think moves us in the direction we must move.

It has been contended that the extra costs that will result because of the provisions in this bill can bring about some unemployment.

I was talking with my good friend, the Senator from Ohio (Mr. METZENBAUM) about that, and he spoke about a possible job loss.

I think if Senators will examine the facts carefully they will find it will not bring about any loss of jobs at all. It will put people to work in the United States searching for more oil and gas. It will insure a turnaround in the balance-of-payments problems we have had in the past, and it will be a step in the direction of assuring an adequate supply of natural gas.

I said to my friend from Ohio (Mr. METZENBAUM) if one is concerned—and I know he is concerned, as am I—about unemployment in this country there is nothing that can be more devastating to jobs than to not have enough natural gas to go around. That is what we found out the hard way last winter. That is the reason why the Senator from Pennsylvania (Mr. SCHWEIKER) has changed his position. He will support Pearson-Bentsen—he tells me this—and he will speak for himself, of course, but he said, given the arctic winter that Pennsylvania experienced last winter, he knows perfectly well he can serve the people of the Commonwealth of Pennsylvania in no better way than to take steps which will insure the adequacy of our natural gas supply.

It is on that basis, and on that positive note, that I appeal to Members of the Senate to support Pearson-Bentsen.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business merely for the submission of committee reports, statements by Senators, introduction of bills, resolutions, petitions, and memorials.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (S. 1372) to amend titles 10 and 5, United States Code, to disestablish one of the positions of Deputy Secretary of Defense and establish an Under Secretary of Defense for Policy, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House has agreed to the concurrent resolution (H. Con. Res. 263) providing for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education," in which it requests the concurrence of the Senate.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2719. An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands;

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; and

H.R. 8342. An act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.

ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

S. 1731. An act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2017. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary, Security Assistance, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed Letter of Offer to Korea for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC–2018. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary, Security Assistance, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed Letter of Offer to Egypt for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC–2019. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary, Security Assistance, transmitting, pursuant to law, information concerning the Department of Navy's proposed Letter of Offer to Spain for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC–2020. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary, Security Assistance, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed Letter of Offer to Korea for Defense Articles (with accompanying papers); to the Committee on Armed Services.

EC–2021. A letter from the Acting Secretary of the Interstate Commerce Commission notifying the Senate that the Commission is unable to render a final decision in Docket No. 26491 (Sub-No. 1), What, Oklahoma and Kansas to Texas Gulf Ports within the initially specified 7 month period; to the Committee on Commerce, Science, and Transportation.

EC–2022. A letter from the Acting Secretary of the Interstate Commerce Commission reporting the Commission's determination to extend the time period for acting upon the section 5b application No. 8, Railroads Per Diem and mileage Rates for Trailers and Containers-Agreement; to the Committee on Commerce, Science, and Transportation.

EC–2023. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at the Thomas Circle South Building, 1121 Vermont Avenue, NW., Washington, D.C. (with an accompanying report); to the Committee on Environment and Public Works.

EC–2024. A letter from the Secretary of Transportation transmitting, pursuant to law, a report presenting a comparative assessment of the physical condition and characteristics of the functional highway systems for two points in time: 1970 and 1975 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2025. A letter from the Secretary of Transportation transmitting, pursuant to law, a report on resurfacing, restoring, and rehabilitating the Interestate System (with an accompanying report); to the Committee on Environment and Public Works.

EC–2026. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at 1919 M Street, NW., Washington, D.C. (with an accompanying report); to the Committee on Environment and Public Works.

EC–2027. A letter from the Assistant Administrator for Legislative Affairs, Department of State, Agency for International Development transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Sri Lanka (with accompanying papers); to the Committee on Foreign Relations.

EC–2028. A letter from the Assistant Administrator for Legislative Affairs, Department of State, Agency for International Development transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Nepal (with accompanying papers); to the Committee on Foreign Relations.

EC–2029. A letter from the Assistant Administrator for Legislative Affairs, Department of State, Agency for International Development transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Lesotho (with accompanying papers); to the Committee on Foreign Relations.

EC–2030. A letter from the Assistant Administrator for Legislative Affairs for the Department of State, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Kenya (with accompanying papers); to the Committee on Foreign Relations.

EC–2031. A letter from the Assistant Administrator for Legislative Affairs for the Department of State, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Bolivia (with accompanying papers); to the Committee on Foreign Relations.

EC–2032. A letter from the Assistant Administrator for Legislative Affairs for the Department of State, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1977 program in Peru (with accompanying papers); to the Committee on Foreign Relations.

EC–2033. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2034. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The SEASAT–A Project: Where it Stands Today" (PSAD–77–126, September 16, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2035. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Information on Military Unionization and Organization" (FPCD–77–55, September 16, 1977 (with an accompanying report); to the Committee on Governmental Affairs.

EC–2036. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Competition for Negotiated Government Procurement can and Should Be Improved" (PSAD–77–152, September 15, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2037. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Food Waste: An Opportunity to Improve Resource Use" (CED–77–118, September 16, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2038. A letter from the Attorney General of the United States transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts of omissions of U.S. employees, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

EC–2039. A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, the Federal Election Commission's fiscal year 1979 appropriations request for $8.624 million (with accompanying papers); to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Arthur J. Goldberg, of the District of Columbia, to be Ambassador at Large and U.S. representative to the Conference on Security and Cooperation in Europe and chairman of the U.S. delegation to the CSCE.

George W. Landau, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

The following-named persons to be Representatives of the United States of America to the 32d session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.

James F. Leonard, Jr., of New York.

Lester L. Wolff, U.S. Representative from the State of New York.

Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.

Coretta Scott King, of Georgia.

The following-named persons to be Alternate Representatives of the United States of America to the 32d session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.

Melissa F. Wells, of New York.

Allard Kenneth Lowenstein, of New York.

Marjorie Craig Benton, of Illinois.

John Clifford Kennedy, of Oklahoma.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur J. Goldberg, Ambassador-at-Large.

Post: U.S. Rep. CSCE.

Nominated: September 8, 1977.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and spouses names: My adult daughter and son, Barbara Goldberg Kramer and Robert M. Goldberg, have advised me that they and their spouses have from their own funds, made contributions to a Democratic candidate for the Senate and to a Democratic candidate for the House of Representatives, which in the aggregate have not exceeded $250.

4. Parents: (None). Names: (Deceased during applicable period.)

5. Grandparents names: None. (Deceased during applicable period.)

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

I have listed above the names of each member of my immediate family including

their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ARTHUR J. GOLDBERG.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: George W. Landau.
Post: Santiago, Chile.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

GEORGE W. LANDAU.

Mr. ANDERSON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Maj. Gen. George G. Cantlay, U.S. Army, to be lieutenant general; and Maj. Gen. Charles C. Pixley to be lieutenant general and 11 in the Army for promotion to brigadier general and major general—list beginning with Charles C. Pixley. Also, there are four in the Army National Guard for appointment in the grade of brigadier general and major general—list beginning with William E. Ingram; and Lt. Gen. Richard R. Taylor, age 54, U.S. Army, to be placed on the retired list in the grade of lieutenant general; and Maj. Gen. Abner B. Martin, U.S. Air Force, to be lieutenant general. Also, Brig. Gen. Walter D. Reed, U.S. Air Force, for promotion to the grade of major general as the Judge Advocate General, U.S. Air Force; and Lieutenant General Gonge, age 55, U.S. Air Force, for appointment to the grade of lieutenant general on the retired list; and Col. James J. Young, U.S. Army, for promotion to the grade of brigadier general. Also, Rear Adm. James B. Stockdale, U.S. Navy, for appointment to the grade of vice admiral and Rear Adm. William J. Crowe, Jr., U.S. Navy, for appointment to the grade of vice admiral. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDERSON. In addition, there are 2,303 in the Air Force for promotion to the grade of captain—list beginning with Peter J. Abadie; and there are 1,604 in the Army for promotion to the grade of lieutenant colonel—list beginning with Gasper V. Abene; and there are 393 in the Navy and Naval Reserve for permanent and temporary promotion to the grade of commander and below—list beginning with Farouk B. Asaad. Also, there are 2,088 in the Army for promotion to the grade of colonel and below—list beginning with Harold L. Albert; and there are 13 graduates from Naval Reserve Officer Training Corps for permanent appointment to the grade of second lieutenant in the Marine Corps—list beginning with Joseph P. Holt. Also, there are 309 in the Navy for temporary and permanent promotion to the grade of captain and below—list beginning with Thomas C. Adams; and there are 45 for promotion in the Reserve of the Air Force to colonel—list beginning with William D. Bates; and there are 1,031 for promotion in the Reserve of the Air Force to the grade of lieutenant colonel—list beginning with Alfred R. Abbatiello. Also, there are 1,575 for promotion in the Regular Air Force to the grade of first lieutenant—list beginning with Barry S. Abbott; and there are 308 in the Reserve of the Army for promotion to the grade of colonel and below—list beginning with James B. Baylor; and there are 63 in the Air Force for promotion to the grade of colonel and below—list beginning with Robert O. Osborne. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 1, 4, September 7, and 14, 1977, at the end of the Senate proceedings.)

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was referred to the Committee on Rules and Administration:

(H. Con. Res. 263) providing for the printing of three thousand additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education".

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 2719. An act to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands; to the Select Committee on Indian Affairs.

H.R. 5054. An act to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; to the Committee on Governmental Affairs.

H.R. 8342. An act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. YOUNG:

S. 2112. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation of a potential water resource development; to the Committee on Energy and Natural Resources.

By Mr. ALLEN (for himself, Mr. HEINZ, Mr. SPARKMAN, and Mr. THURMOND):

S. 2113. A bill to amend Chapter 25 of the Internal Revenue Code of 1954; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN (for himself, Mr. HEINZ, Mr. SPARKMAN, and Mr. THURMOND):

S. 2113. A bill to amend chapter 25 of the Internal Revenue Code of 1954; to the Committee on Finance.

COMPANION SITTER AMENDMENT

Mr. ALLEN. Mr. President, I am introducing today a bill which is similar to an amendment adopted by the Senate last year during consideration of H.R. 10612, the Tax Reform Act of 1976. In addition to the bill, I am also introducing the measure in the form of an amendment to each one of the five finance bills now on the calendar, H.R. 5289, H.R. 422, H.R. 1904, H.R. 2849, and H.R. 3373. The bill and each amendment are identical in form, and each is designed to permit employment agencies placing companion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to FICA—social security—and FUTA—unemployment—taxes. Each measure would also exempt such agencies from the requirement of withholding Federal income taxes on income earned by companion sitters inasmuch as the agencies involved are not the source of the wages paid and are not the taxpayer's employer.

This proposed legislation is made necessary by Revenue Ruling 74–414, which defines a companion sitter agency as an employer within the meaning of the employment tax regulations. In my judgment, the ruling was ill advised, because in practical effect it would drive out of business many agencies performing a valuable public service and because it fails to acknowledge the fact that sitter agencies are not employers but are rather agents acting either for the sitter or the party employing the sitter. The effect of the ruling has been to drive companion sitter agencies out of business or to bring them to the brink of bankruptcy.

Typically, a companion sitter agency will work from a list of names and phone numbers of persons willing to act as sitters. When contacted by an individual desiring a sitter, the agency will check from its list and put a sitter in touch with the person needing those services. Obviously, if a sitter agency is required to act as an employer for tax purposes of some 50 to 100 employees, then the administrative and financial burden is overwhelming. Unless Congress acts, in effect, virtually all such owner-operated agencies will fail and only those with substantial financial resources will be able to remain in business—with corresponding costs to the public in increased sitter fees to cover administrative overhead.

Although the companion sitter amendment adopted last year was dropped in conference with the House of Representatives, the conference agreement noted the seriousness of the problem and urged the Internal Revenue Service to withdraw Revenue Ruling 74–414. Yet, Mr. President, the IRS has not withdrawn the revenue ruling involved and, in fact, is pursuing vigorously many of these small sitter placement services and is demanding from them payment of the various taxes associated with their alleged status as employers.

From time to time, I have been advised that the IRS is reconsidering its position with respect to Revenue Ruling 74–414, and on the basis of such advice, I did not call up the companion sitter amendment I introduced on April 26, 1977, when the Senate was considering the tax bill, H.R. 3477. Yet, in spite of these assurances, I have continued to receive reports of IRS harassment of small sitter agencies, and it should now be obvious, Mr. President, that we were mistaken in our belief that the IRS would react favorably to the guidance set forth in the conference report on the Tax Reform Act of 1976. Apparently, the guidance and the desire of Congress expressed formally in a conference report are not going to be sufficient to get appropriate action. The matter is going to have to be nailed down and made crystal clear before the agents of the Service will relent. The IRS has never been noted for its flexibility, and I reckon this is going to be one more example of Congress being required to resolve fully, by statute, a problem which should never have existed in the first instance.

My hope is, Mr. President—and I might add that it is a hope shared by the distinguished cosponsors of this measure—my hope is that the Senate will again see the wisdom of adopting the measure I have proposed and that our efforts in this case will not again go down the drain as a result of a desire to accommodate the sensibilities of the one agency of the Federal Government whose attention is difficult to get except with a club.

Mr. President, I ask unanimous consent that the companion sitter bill introduced today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 25 of the Internal Revenue Code of 1954 (relating to the general provisions of employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—A person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated, for purposes of this chapter, as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITIONS.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

SEC. 2. The table of sections for such chapter is amended by adding at the end thereof the following new item:

"SEC. 3506. Individuals providing companion sitting placement services."

SEC. 3. This Act shall be applicable as to tax years commencing after December 31, 1974.

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. CLARK, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 708, to amend Title XVIII of the Social Security Act to provide payment for rural health clinic services.

S. 1582

At the request of Mr. DECONCINI, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1582, relating to the settlement between the United States and the Ak-Chin Indian community.

S. 1587

At the request of Mr. STONE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 1739

At the request of Mr. MCGOVERN, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 1739, the Postal Service Act of 1977.

S. 1785

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1785, the Lobbying Reform Act.

S. 2103

At the request of Mr. PACKWOOD, the Senator from Oregon (Mr. HATFIELD) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 2103, to remove the limit on disaster payments for the 1977 crops of wheat, feed grains, upland cotton, and rice.

S. 2107

At the request of Mr. JOHNSTON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2107, to amend the Emergency Petroleum Allocation Act of 1973.

AMENDMENT NO. 746

At the request of Mr. PERCY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Amendment 746, intended to be proposed to S. 1469, to promote and protect small electric power producers.

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL GAS POLICY—S. 2104

AMENDMENT NO. 888

(Ordered to be printed and to lie on the table.)

ENERGY STAMP AMENDMENT

Mr. WEICKER. Mr. President, I am today submitting an energy stamp amendment which is designed to provide low- and fixed-income households economic assistance in meeting residential energy costs. I have previously introduced this plan as an amendment to S. 2057, the energy conservation bill. I am submitting this amendment again to emphasize the serious difficulties which poor people encounter in paying their energy bills, and the need for governmental action. We are today discussing natural gas policy. Regardless of which natural gas pricing plan we eventually adopt, the cost of natural gas will rise. This price increase will inevitably have its greatest impact upon the poor people of the United States.

During the last few years, all Americans have been hard hit by the ever increasing costs of utility bills. For example, the average price of home heating oil increased by 19.2 percent in 1977 over the 1976 average price. The impact of the 1973 Arab oil embargo and subsequent OPEC price boosts have been felt in the pockets of American consumers, particularly the poor and elderly.

Mr. President, we must recognize the fact that a significant number of poor people in this country have been severely affected by runaway energy costs. Based upon figures compiled by the U.S. Census, 11 percent of all families nationwide live in poverty and 23 percent of all inner-city families are poor. Added to this is the startling fact that 57 percent of elderly unrelated individuals live in poverty. What is more, according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.

The amendment which I am introducing today will help alleviate the burden borne by poor and elderly citizens in meeting their fuel costs. It includes the following provisions:

1. The Director of the Community Services Administration, local community action agencies, and state economic opportunity offices will all be involved in the coupon program.

2. Both homeowners and apartments dwellers are eligible for energy stamp assistance.

3. Any household may receive energy coupons if it is eligible for benefits under Title IV or XVI of the Social Security Act or if it is eligible for benefits under the Food Stamp Act of 1964. In addition to, or in lieu of, these criteria, local agencies may suggest eligibility guidelines.

4. Energy stamps will be printed in $5 denominations and shall include explanatory words or illustrations as to their usage. In establishing standards for determining the number of coupons to be issued to eligible households, the Director shall consider household income, area climate conditions, the extent to which such households have participated in weatherization programs, and other noted factors. Each participating household must pay to the local agency 33⅓ percent of the total value of the stamps it will receive.

5. Redemption of the coupons will be provided by retail fuel outlets, landlords and the Director.

6. Each local agency desiring to participate in the Energy Stamp Program must submit to the Director a plan of operation as to how

it will carry out the assistance measures. Local agencies shall be held responsible for dutifully certifying applicant households, for undertaking extensive outreach publicity action, and for keeping a strict and accurate accounting of all transactions made pursuant to this Act. The federal government shall reimburse local agencies for the cost of administering the program and shall also finance the printing and issuing of the energy stamps.

7. This amendment authorizes $100 million to be appropriated for each of the next three fiscal years. For subsequent years, such sums as may be necessary for the Energy Stamp Program are to be appropriated.

The Federal Government has been slow to respond to the needs of the elderly and the poor in coping with inflationary fuel costs. I am introducing my amendment to demonstrate to the American poor and elderly that the Congress does indeed have a great deal of concern for their welfare. With the implementation of an energy stamp program, which is designed to complement weatherization plans, these citizens will not be forced to freeze in their homes, as was the case with many during the winter of 1976.

Mr. President, I ask unanimous consent that the text of my amendment to S. 2104 be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 888

On page 19, following line 18, add the following new section:

ENERGY STAMP PROGRAM

SEC. 18. (a) Notwithstanding any provision of this Act or any other provision of law, the Administrator of the Federal Energy Administration, or his successor in interest, shall not later than 180 days following the date of enactment of this section, promulgate such regulations as may be necessary to establish an energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

(b) As used in this section the term—

(1) "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

(2) "Director" means the Director of the Community Services Administration;

(3) "local agency" means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964;

(4) "household" means—

(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly, or indirectly by undesignated payments in the form of rent; or

(B) any individual living alone who purchases heating fuel, directly, or by undesignated payments in the form of rent;

(5) "coupon" and "stamp" mean any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

(6) "retail heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

(7) "wholesale heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(9) "bank" means any member or nonmember bank of the Federal Reserve System; and

(10) "landlord" means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant.

(c)(1) If the local agency plan described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households deemed eligible pursuant to subsection (d) will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

(A) Any eligible household may receive heating fuel coupon assistance—

(i) if such household purchases heating fuels; or

(ii) if such household makes undesignated payments for heating fuel in the form of rent, and the landlord to whom such rent is due consents to the making of such payments in coupons.

(B)(i) Coupons received by any eligible household described in subparagraph (A)(i) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

(ii) Coupons received by any eligible household described in subparagraph (A)(ii) shall be used only for payment of the appropriation portion of such household's rent related to heating fuel costs.

(d)(1) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

(2) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

(A) is eligible for benefits under title IV or XVI of the Social Security Act; or

(B) is eligible for benefits under the Food Stamp Act of 1964.

(3) In lieu of, or in addition to, the criteria described in paragraph (1) or (2), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households in the area serviced by such local agency.

(e)(1) Pursuant to subsection (g)(4) of this section, energy stamps shall be printed by the Bureau of Printing and Engraving of the United States in $5 denominations and shall be issued by a local agency only to households which have been duly certified as eligible to participate in the energy stamp program.

(2) Each coupon shall—

(A) bear the name of the local agency from where it was issued;

(B) stipulate that its monetary value is $5; and

(C) include any words or illustrations that are required to explain its purpose and use.

(3) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

(4) In establishing standards under paragraph (3) the Director shall consider—

(A) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

(B) the income of households within the area serviced by such local agency;

(C) the number of individuals in such households;

(D) the temperature and other climate conditions in the area in which such households reside;

(E) the type of heating fuel used by such households; and

(F) the extent to which such households have participated in weatherization programs.

(5) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ percent of the total value of the coupons to be received by such household.

(6) The value of the energy stamp assistance provided to an eligible household under this section shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

(f)(1) Coupons accepted by any retail heating fuel outlet or any person described in subsection (c)(2)(A)(i) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Treasury Department.

(2) Coupons issued and used in accordance with the provisions of this section shall be redeemable at face value by the Director through the facilities of the Treasury of the United States.

(g)(1) Each local agency desiring to participate in the energy stamp program shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation during which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

(2) The Director shall approve any local agency plan of operation which satisfies the provisions of paragraph (1) and which provides—

(A) that the local agency shall undertake the certification of applicant households in accordance with the eligibility requirements established by the Director under subsection (d);

(B) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this section;

(C) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations and benefits of the energy stamp program;

(D) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

(E) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this section;

(F) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

(G) that the local agency shall coordinate the energy stamp program with weatherization projects.

(3) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of this section or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such

agency until such time as satisfactory corrective action has been taken.

(4) The Director shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

(A) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

(B) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this section.

(h)(1) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this section—

(A) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than five years, or both; or

(B) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than one year, or both.

(2) If a local agency administering the energy stamp program finds (in accordance with the process described in subsection (g)(2)(F) of this section) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than twelve times the amount of the household's rent increase.

(i) The Director shall issue such regulations as he deems necessary or appropriate for carrying out the provisions of this section.

(j) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $100,000,0000, for the fiscal year ending September 30, 1979, the sum of $100,000,000, for the fiscal year ending September 30, 1980, the sum of $100,000,000, and for each fiscal year thereafter, such sum as may be necessary.

The Table of Contents of such Act is amended by adding at the end thereof the following:

"Sec. 18. Energy Stamp Program.".

AMENDMENT NO. 889

(Ordered to be printed and to lie on the table.)

A PUBLIC YARDSTICK ON ENERGY POLICY

Mr. McGOVERN. Mr. President, today, I am submitting a "yardstick" amendment to S. 2104, the Natural Gas Policy Act currently before the Senate. My amendment would establish a public corporation with limited authority to explore and develop natural gas and oil resources on Federal lands as a means of measuring costs and fair pricing in the energy field. I request that a copy of my letter to Senators outlining the rationale for this amendment be included in the RECORD.

In addition, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 889

On the first page, between lines 2 and 3, insert the following:

TITLE I—NATURAL GAS

At the end of the bill, add the following new title:

TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Oil and Gas Corporation Act".

PURPOSE

SEC. 202. The purpose of this title is to establish a public corporation to explore and develop all natural gas and oil resources on Federal lands to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices and to assure that the Nation's energy requirements are met without degradation to the environment.

ESTABLISHMENT OF THE CORPORATION

SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the "Federal Oil and Gas Corporation" which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment, shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

(e) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

(h) The Board shall direct the exercise of all the powers of the Corporation.

(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further to assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

OFFICERS AND EMPLOYEES OF CORPORATION

SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers.

(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

(d) In the appointment of officials and the selection of employees for the Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall

be given and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

CORPORATE POWERS GENERALLY

SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

(1) shall have succession in its corporate name;

(2) may sue and be sued in its corporate name;

(3) may adopt and use a corporate seal, which shall be judicially noticed;

(4) may make contracts, as herein authorized;

(5) may adopt, amend, and repeal bylaws;

(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided,* That exploration on State lands shall be in accord with leasing or other State land disposition or utilization program;

(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided,* That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

(13) shall have the power to sell commercially valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

(c) The Corporation shall maintain its principal office at a place determined by it.

(d) Section 101 of the Government Corporation Control Act is amended by inserting "Federal Oil and Gas Corporation;" after "Tennessee Valley Authority;".

(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

TRANSMISSION PIPELINES

SEC. 206. (a) In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

OBLIGATIONS

SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as "obligations").

(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided,* That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereinafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

(e) The Board may—

(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

(3) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Goverment Corporation Control Act;

(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having memberships in the Federal Reserve System; and

(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provded in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this section.

(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

(i) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of

such payments, with interest, from the Corporation or other persons liable therefor.

MISCELLANEOUS PROVISIONS

SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

(d) The provisions of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under section 203 of this title.

LEASES

SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

SALES OF NATURAL GAS

SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other supplies.

(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

TAXATION

SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

ROYALTY

SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

STATE AND LOCAL STATUTES

SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

ENVIRONMENTAL IMPACTS

SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinity and the region.

(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

(1) public interest and environmental groups having a regional or national scope; and

(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

ANNUAL REPORT

SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1st of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report.

Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

OFFENSES; FINES AND PUNISHMENT

SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporations.

(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

CONDEMNATION PROCEEDINGS

SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled "An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain", approved February 26, 1931 (46 Stat. 1421).

SEVERABILITY

SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATION

SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

REVIEW

SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., September 20, 1977.

DEAR COLLEAGUE: As you know, the Senate is currently considering S. 2104, the Natural Gas Policy Act. This bill would establish a new system for regulating the well-head price of natural gas.

Many of the key features of the bill call upon the President to "calculate" a variety of prices for new natural gas. In part, he is to "calculate" (1) Btu related price for new natural gas; (2) the maximum lawful price for new natural gas; (3) a special incentive price for "high cost" natural gas; (4) a price ceiling in the even of extraordinary supply and demand conditions.

To accurately "calculate" such prices requires intimate knowledge and collection of underlying economic data—data which is in addition to, but independent of, that provided by the energy companies themselves.

To generate such independent economic data, I intend to offer a "yardstick" amendment to S. 2104. My amendment would establish a public corporation with limited authority to explore and develop natural gas and oil resources on Federal lands.

This is not the first step to nationalize the energy industry. Rather it is to provide a competitive spur to the industry and to develop a "yardstick" by which the performance of the industry can be judged.

I hope that you will be able to support the McGovern "yardstick" amendment when it come up on the floor during consideration of S. 2104.

If you have any questions, or would like to cosponsor this amendment, please have your staff contact Paul Servelle at 4–3023 or 4–8409.

Sincerely,

GEORGE MCGOVERN.

AMENDMENT NO. 890

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 891 THROUGH 956

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 66 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NO. 957 AND NO. 958

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, the Senate has been through debate on natural gas pricing time and again. Each time the oil industry tells us that they need more money for the gas they are selling in order to promote greater exploration and production of gas. Each round the opponents of deregulation accuse the industry of holding back gas from the public—of gambling that the price will go up rapidly, even astronomically if deregulated.

The President's energy plan takes a new tack this year: hold the line against deregulation, but raise the price of new natural gas to a level providing revenues to the producers beyond their wildest dreams of a few years ago, when they were arguing that 52 cents per mcf would bring forth a gush of newly discovered and produced gas. The administration, and the bill we have before us, would set the rate at the Btu equivalency of U.S. crude oil, or about $1.75 per mcf.

The amendment I propose is very simple. It holds the line at the present price. It merely substitutes $1.45 per mcf—the price now established by the Federal Power Commission for new natural gas for the $1.75 figure in the bill before us. My amendment retains the cost-of-living inflator, allowing the price to rise with other costs in the economy.

The purpose of my amendment is likewise simple: to save consumers needless additional, inflationary costs for natural gas and to end the uncertainty which years of debate have created. The savings could eventually amount to $5 billion a year by 1983. The adoption of a clear policy could increase production.

On its fact, $1.45 would already appear to be a handsome price. This is the same commodity which 14 months ago was priced at 52 cents per mcf. In one jump, taken on July 27, 1966, the price of new natural gas was multiplied 3½ times by the Federal Power Commission. Since 1972 the price has increased 500 percent. Yet it has become the conventional wisdom that this price is still too low. By what logic could we arrive at this conclusion.

Producers say we must pay more if we want more output. In fact, they suggest that Congress should abandon consumers to take their chances in an unregulated market with the OPEC cartel and the prospect of rigid physical shortages of gas staring us right in the face. It seems to me that the Senate is being asked to add insult to the injury that each consumer already feels when he or she writes out that check to the local utility each month. The question which appears to be debated so hotly these days is not whether the consumer is going to be hurt by natural gas pricing legislation, but how much.

Will higher prices for natural gas really get us more gas? Most objective studies have concluded that they will not. A new Joint Economic Committee staff study looked at supply projections for gas made by the Federal Energy Administration. One was drawn up in 1974 as part of the ill-named Project Independence, and the other was contained in the National Energy Outlook published in 1976.

Project Independence indicated that almost no additional natural gas supplies would be available in 1985 for price increases above $1 per mcf. Since then, of course, costs in the oil and gas industries have risen sharply, because of the surfeit of money in that sector, but the new supply curve, while higher in price, promise no more gas than before. The Congressional Budget Office, in a recent report printed by the Senate Energy Committee, concurred that gas prices higher than today's would offer very little additional production.

How can it be that higher prices yield no more output? What about the alleg-

edly large volume of high-cost gas that we hear so much about?

To begin with, oil and gas producers already are engaged in a full-blown drilling boom in response to the enormous increases in prices and profitability that have taken place since 1972. The number of new gas wells drilled annually has risen by 85 percent since 1972 and has substantially more than doubled since 1971. In fact, the number of gas wells drilled set a new, all-time record in 1973 and in each year since that time.

In other words, oil and gas producers are drilling for all they are worth right now. The active rig count has risen steadily as new rigs become available. Producers could not drill much more if prices doubled than they are drilling now. The truth is that prices are plenty high already, profits are high, and there is ample capital in the industry to stretch the available physical resources as far as they will go. More money for the producers will just inflate costs in the industry again. Steel producers will be glad to raise the prices of oil field goods again. Shipyards and other steel fabricators will raise the prices of new drilling rigs. If there are excess profits left after these cost increases, landowners will charge more for mineral rights. But there will not be much more output to show for it. That is the evidence from the studies we have available.

AMENDMENT NO. 959

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

INTRAVENOUS FAT EMULSION—H.R. 1904

AMENDMENT NO. 960

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 1904) to suspend until July 1, 1960, the duty on intravenous fat emulsion.

RUBBER LATEX MATTRESSES—H.R. 2849

AMENDMENT NO. 961

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 2849) to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex.

YARNS OF SILK—H.R. 3373

AMENDMENT NO. 962

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

NOTICES OF HEARINGS

OVERSIGHT HEARINGS ON HEALTH PLANNING

Mr. KENNEDY. Mr. President, I wish to announce that the Subcommittee on Health and Scientific Research will hold an oversight hearing on the Implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93–641) on October 7, 1977, room 6202 of the Dirksen Senate Office Building at 10 a.m. Although the implementation of this law will be the main focus of this hearing, it is my intention to also explore alternatives to improving the entire health planning process.

All persons wishing to testify should contact Stuart H. Shapiro at the Subcommittee on Health and Scientific Research, Dirksen Senate Office Building, Washington, D.C. 20510, or by telephone at 224–7675.

FEES FOR U.S. MARSHALS AND WITNESSES

Mr. DECONCINI. Mr. President, I wish to announce that an open public hearing will be held by the Subcommitte on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2016, a bill to establish fees for services performed by U.S. marshals; S. 2049, a bill to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts; S. 2072, a bill to amend the Jury Selection and Service Act of 1968, as amended, to make the excuse of prospective jurors from Federal jury service on the grounds of distance from the place of holding court contingent upon a showing of hardship on an individual basis; S. 2074, a bill to amend title 28, United States, Code, to provide in civil cases for juries of six persons to amend the Jury Selection and Service Act of 1968, as amended, with respect to the selection and qualification of jurors, and to extend the coverage of the Federal Employees Compensation Act to all jurors in U.S. district courts; and S. 2075, to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge of an employee by reason of such employees's Federal jury service.

The hearing will be held on September 26, 1977, commencing at 9:00 a.m. in room 2228, Dirksen Senate Office Building.

Persons who wish to testify or submit a statement for inclusion in the record should communicate, as soon as possible, with the subcommittee office, 6306 Dirksen Senate Office Building, telephone 202/224–3618.

ADDITIONAL STATEMENTS

LEGISLATORS OF THE REPUBLIC OF CHINA REPLY TO ASIA SOCIETY SPEECH BY SECRETARY OF STATE VANCE

Mr. GOLDWATER. Mr. President, I was recently presented with an important statement relative to our China policy by a visiting member of the Legislative Yuan of the Republic of China on Taiwan, the Honorable Jen-chao Hsieh. In his capacity as coconvenor of the Foreign Affairs Committee, Mr. Hsieh delivered to me a declaration, signed by all 409 members who were present at the last session of the Legislative Yuan, which is addressed to U.S. Secretary of State Cyrus Vance.

The statement is in response to the speech which Secretary Vance gave on June 29 at the Asia Society in New York. That speech was note worthy for its unfortunate omission of any reference to the Republic of China and the tremendous progress in the economic and social welfare of the more than 16 million Chinese living on Taiwan.

The statement by the free Chinese legislators is a strong one, reflecting as it does the position of a people who believe that their most vital interests are at stake. It is important that the American public understands, however, that the statement accurately describes our China policy as involving not only the interests of the Republic of China, but the outcome of the struggle between the forces of freedom and slavery throughout the world, which is something that every American has a stake in.

Mr. President, in order that my colleagues may have the benefit of this important message from the Legislative Yuan of the Republic of China, I ask unanimous consent that it may be printed in the RECORD. Although I do not have available the names of the individual legislators who signed the statement, they represent the entire membership of the national assembly of the Republic.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

ROC LEGISLATORS PROTEST SECRETARY OF STATE VANCE'S SPEECH ON CHINA POLICY

We, members of the Legislative Yuan of the Republic of China, take the liberty of lodging a strong protest with U.S. Secretary of State Cyrus Vance for his statement on China policy, as reflected in his speech made on June 29, 1977, at the Asia Society in New York:

(1) The China problem is really a problem of struggle between democracy and communism, and between freedom and enslavement. At this juncture when the Chinese Communist regime on the mainland is facing chaos and disintegration and when the Republic of China in Taiwan, with growing strength, has won the allegiance and support of the Chinese people at home, abroad and on the mainland, Secretary of State Cyrus Vance is pushing ahead with a plan to achieve so-called "normalization of relations" with the Peiping regime based on the "Shanghai communique," by saying that "(Red) China's role in maintaining world peace is vital."

This move of the Carter Administration will not only strengthen the forces of tyranny and encourage aggression, but also dishearten free countries, and thus, make advocacy of morality and human rights a farce.

(2) There has long existed between the Republic of China and the United States a deep and sincere friendship. The two countries have diplomatic relations and are allies by virtue of the Mutual Defense Treaty.

The Republic of China in Taiwan, which occupies a key strategic position, has contributed much to the safeguarding of peace and security in the Western Pacific.

New war threats will loom in the Taiwan Straits, if the U.S. bows to the Chinese Com-

munists' demands for severing diplomatic relations, abrogating the Mutual Defense Treaty with free China, and withdrawing all U.S. military personnel and installations from Taiwan.

What role would the U.S. choose to play: a guardian of peace and freedom or a coward manipulated by the Chinese Communists?

We sincerely hope that Secretary of State Vance could become clearly aware of the true nature of communism, and weigh carefully the Asian situation, which is embroiled in a bitter rivalry for hegemony between the Soviet Union and the Peiping regime. Giving up the important strategic position of Taiwan would only lead to new crises and disturbances in the Pacific region.

(3) The government and people of the Republic of China, with rich experiences in fighting communism, dedicated to justice, freedom and democracy have given full support to the U.S. in the struggle against aggression and for world peace.

Unfortunately, since its advocacy of detente with international Communists the U.S. has taken a move to seek normalization of relations with the Peiping regime, which has always wanted to buy—what it calls "American imperialism."

To maintain world coexistence, the United States, under the administrations of former Presidents Richard Nixon and Gerald Ford, had restrained its approach toward Peiping, and continued to maintain friendly diplomatic relations with and honor its treaty commitments to the Republic of China.

President Jimmy Carter has repeatedly stated that he seeks normalization of relations with Peiping on condition that Taiwan's security must be assured. He has not ignored the existence of the Republic of China, and the policy it has taken.

But Secretary Vance's statement on China policy on June 29, with ambiguous words, distorting the "Shanghai communique," is tantamount to giving the Chinese Communist tyrannical rule the U.S. seal of approval, thus, placing the security of the Republic of China in Taiwan in jeopardy and dimming hopes of the people on the Chinese mainland for freedom.

This is contradictory to the glorious tradition of the U.S. We, legislators of free China, hope that Secretary Vance would clarify his points in this connection.

(4) The United States is a law-abiding country. Abrogation of any treaty which has been ratified by the U.S. Congress will need the approval of the Congress.

The "Shanghai communique" is not a legally binding document while the Sino-American Mutual Defense Treaty prevails, which has been formally ratified by the U.S. Senate. Honoring the former at the expense of the latter would not only erode the credibility of the U.S. among free countries, but also run counter to the wishes of the American people, a great majority of whom are supporting the Republic of China.

As for the so-called "Japanese formula," which some Americans favor to adopt for "normalization," we submit that because of the existence of the Sino-American Mutual Defense Treaty, the U.S. simply cannot follow it in normalizing relations with the Peiping regime. Even the Japanese now object to its adoption by the United States.

It is also sheer wishful thinking that the U.S. should maintain close relations with Peiping in order to use it as a counterweight against the Soviet Union.

The Americans should not forget the bloody lesson of the Vietnam War. Peiping and Moscow collusively supported the North Vietnamese and broke the Paris truce accord, consequently leading to the loss of South Vietnam to the Communists.

Therefore the U.S. attempt to embrace Peiping stems merely from illusions. It can only invite aggression of the Chinese Communists and the Russians against free countries.

We earnestly hope that the Carter Administration will reconsider its policy toward China and will continue to maintain its diplomatic relations with the Republic of China. The close cooperation and friendly diplomatic relations between the two countries will benefit both.

OBSERVATIONS ON THE STRATEGIC ARMS LIMITATION TALKS

Mr. MATHIAS. Mr. President, in July following my appointment as Senate adviser to the Strategic Arms Limitation Talks (SALT) I traveled to Geneva to participate in the deliberations of our delegation there and to observe the progress of the negotiations. I made visits to London, to SHAPE Headquarters in Mons, Belgium, and to Paris. I was accompanied by my legislative assistant, Casimir Yost. The purpose of my trip was to assess the progress of the ongoing strategic arms negotiations and to examine the reaction of our European allies to these talks. Since returning I have continued to meet with administration officials concerned with SALT. I submitted a classified report on my trip to the Governmental Affairs Committee which has been made available to all the Senate advisers. It is important, however, that the discussion of strategic arms issues be as open as possible. To facilitate this discussion, I take this occasion to present to the Senate and to the public an unclassified report of my trip beginning with some general observations and concluding with some general remarks and findings.

OBSERVATIONS

We are at a critical stage in our relations with the Soviet Union. Despite some positive comments in recent weeks by both President Carter and Secretary Brezhnev, détente is widely perceived as being at a low ebb. We are concerned about Soviet involvement in Africa and uneasy about the Soviet buildup of conventional arms in Eastern Europe. The Soviets criticize our human rights campaign, our relationship with the People's Republic of China, and what they see as our reneging on agreements made by the Ford administration.

The SALT talks are seen by both sides as one area where progress is not only possible but vital. If progress does not come in SALT, then the whole direction of Soviet-American relations could well be altered. Despite SALT I, the weapons race has intensified in this decade. Both sides have made enormous qualitative improvements in their nuclear arsenals. The pressures on one side or the other to launch a first strike in a crisis situation could become uncontrollable. Alternatively, George Kennan, in his latest book, "The Cloud of Danger," suggests that—

> The greatest danger inherent in the existing competition between the Soviet Union and the United States in the military field is not the danger of a Soviet attack on ourselves or on NATO; it is the danger that the momentum of this tremendous and infinitely dangerous weapons race will get out of hand, will become wholly uncontrollable, and will, either through proliferation or by accident, carry us all to destruction.

The issues are tough ones. We are sailing in uncharted waters. Shortly after the surrender of Japan I walked through the rubble of Nagasaki and Hiroshima. I have seen what a relatively small nuclear device can do to a city. No one can be completely certain of what a nuclear exchange between the United States and U.S.S.R. would bring. Some intelligent individuals, who have studied these issues for a long time, claim that the Soviets believe they can obtain a war-winning capability. According to their scenario, Moscow could, in the not too distant future, launch a crippling first strike on the United States leaving us with a retaliatory force incapable of significant response. Critics of this approach—also men and women of intelligence and experience—claim that this assessment of both Soviet intentions and capabilities is faulty. Neither side can refer to precedent. They are often talking about systems which have never been used in war. Trying to determine what will enhance our national security, and what will only fuel the strategic arms race is not easy. Simplistic answers claiming that a given system is good because it has more throw weight or bad because it is new and, therefore, destabilizing, do not help.

Congress is currently being asked to consider new weapons systems such as the cruise missile and the MX mobile missile. It is not clear that we are pressing the right questions on the Carter administration regarding these systems. Cruise missiles, if deployed, could present enormous verification problems—first for the Soviets and eventually for the United States. The MX missile could well be viewed by the Soviets as being capable of launching a successful first strike against their land-based ICBM's. Both systems, then, are potentially destabilizing, yet Congress has not focused its attention on this aspect of the controversy.

Part of the problem is that Soviets and Americans all too often look at each other through distorted lenses. Neither has any confidence that he truly understands what the other is trying to do. On any visit to the Soviet Union, trips to World War II cemeteries are invariably required. Time and time again you are told that the U.S.S.R. will do all it can to avoid repeating the horrors of that war. Yet such American analysts as Richard Pipes, professor of history at Harvard, suggest that Soviet tolerance for death may be very large, indeed. He suggests that they would be willing to expend millions of lives on a winnable war.

To cite another example, we consider Soviet arms shipments to Libya and Ethiopia destabilizing. Yet, we ignore the effect that selling billions of dollars of sophisticated military hardware to neighbors of U.S.S.R. must have on Moscow's perceptions of our intentions. A final example is the way President Carter's strategic arms proposals were presented to the Soviets in Moscow last spring. The administration saw great domestic political value in presenting its proposals

publicly. The Soviets saw only the attempt to score propaganda points. Neither really understood what the other was trying to do.

A story told me by one of the U.S. SALT delegates illustrates the gap in understanding that exists. The well-educated wife of a Soviet delegate came up to this American delegate at a party shortly after the 1976 election and asked if Mr. Kissinger would be staying on as Secretary of State. The American said he did not think it likely; he thought Mr. Carter would want his own man in that position. "But," replied the Russian lady, "Mr. Kissinger is so powerful, he can insist on retaining his position." Our own inability to understand the Soviet system is often even more serious, thanks to the Russian passion for secrecy. One of the most useful outcomes of the SALT process has been the mutual education that has gone on over the years between Soviet and American delegates.

An additional problem for the United States is how to relate our bilateral SALT discussions with the Soviet Union to our NATO responsibilities. We have attempted to keep our allies fully informed of the discussions, but apprehensions exist that the United States and Soviet Union will make a deal prejudicial to their interests. Many Western European governments feel that they are getting unclear or contradictory signals from the Carter administration. There is genuine lack of understanding of where the United States is heading. We, in turn, are very uneasy about the possibility of Communist participation in the Governments of Italy and France. These tensions have precipitated a mood of uncertainty which has hindered the efforts of the NATO command to redress the imbalance existing between the Warsaw Pact and the NATO forces.

It is in this uncertain atmosphere that we in Congress and the American people through us may soon be asked to pass judgment on a SALT agreement. A SALT II agreement will not be ready by the expiry of SALT I on October 3. But this is not serious. Our security will not be adversely affected provided the interim between the expiry of SALT I and the conclusion of SALT II is not protracted. Means can be found to cover the intervening period. If, as now seems possible, we have a SALT II agreement by the end of this year, then we in Congress will have our work cut out for us. In this connection, I have some recommendations both for the administration and for my colleagues which, I believe, will help smooth the path to ratification.

RECOMMENDATIONS

The Carter administration, which has just embarked on a major effort to obtain ratification of the Panama Canal Treaty, may shortly have to do the same with a SALT II agreement. It will not be easy. Hard questions have been asked by the committee on the present danger and others not only about our strategic posture but also the specifics of our negotiating positions. These critics certainly have supporters in the Senate. The administration must press the process of educating the country on what is to come. This process requires the participation and understanding of the legislative branch.

A bipartisan approach to obtaining a SALT II agreement is vital. This is one subject on which a broad national consensus is highly desirable. Unity is not only important to us as a nation, but a perception of unity is important around the world. On a political level, ratification requires 67 votes in the Senate which means Republicans as well as Democrats must support the ratification process to meet the constitutional requirement. Republicans will find it easier to be supportive if SALT is perceived as a continuing national policy bridging parties and administrations. Prominent members of the previous administration, including former President Ford and Henry Kissinger, sought a SALT II agreement at Vladivostok, and it will reassure the country if they support our current efforts at Geneva. Both President Ford and Secretary Kissinger should be consulted as the negotiations progress and their advice considered.

The administration must pay close attention to the sensitivities of our friends in Europe. Our signals to them must be clear and consistent. We cannot promote cruise missiles to them and at the same time discuss with the Soviets nontransfer and noncircumvention restrictions that would apply to cruise missiles. NATO faces serious problems. The political/economic stability of a number of our European allies is delicate. This is the time for prudent American leadership, not for rude shocks.

The Congress must be prepared to ask the right questions. There is a tendency on strategic arms issues to focus on parts of the whole without really understanding how the parts fit together. Often we debate the merits of individual weapons systems without examining the larger strategic implications of accepting or rejecting a given system. We are told now that the Soviet heavy ICBM's pose an increasing threat to our land-based missile systems, which in turn requires us to respond with an MX mobile missile system. Yet one analyst, Harvard Prof. Daniel Yergin, maintains that—

> Even if all our land-based ICBMs were destroyed in a Soviet first strike, all of our bombers, and three quarters of our submarines, we would still be able to deliver 1,600 warheads from surviving submarines—not only destroying Soviet society, but also making much of that land mass uninhabitable.

Clearly, the problem with the Yergin response, taken alone, is that it postulates a static situation. Over time, with improved Soviet antisubmarine warfare, the 1,600 warheads might not be available. Our questions then are important. We will ask them on behalf of the country, and the answers should be good ones.

Specific issues that we should examine carefully include the following:

First. The heavy missile program of the Soviet Union is of concern. Any agreement should put a cap on this program and point clearly toward eventual reductions in a SALT III agreement.

Second. The issue of verification is vital. The Senate must be convinced that the entire agreement is verifiable within acceptable limits.

Third. Arising from the verification issue is the question of constructing a mutually agreed data base. The SALT negotiations have been conducted using our terminology and numbers. This must stop. It is time for the Soviets to be more forthcoming in providing their own data on their force levels.

Fourth. It is most important that the Senate be convinced that issues, such as the cruise missile and the Backfire bomber, which are now being discussed only at senior levels, ultimately are given the same careful across-the-table examination that issues handled at the delegation level now receive. Nothing could doom an agreement quicker than the impression that parts of it were arrived at in haste.

Fifth. It is vital that the SALT process move in the direction of restricting qualitative improvements in strategic arms. It is this race that is truly getting out of control. To this end, any agreement should include provisions, such as test limitations, which address this problem.

REMARKS

Turning now to specific remarks about my trip. In Geneva, aside from joining the U.S. delegation in numerous meetings, I was able to participate in two plenary sessions with the Soviet delegation. I also met informally with members of the Soviet delegation. The U.S. delegation briefed me in depth on the issues under negotiation.

I came away greatly impressed with the professionalism and competence of our negotiating team. The U.S. delegation in Geneva is headed by the Director of the Arms Control and Disarmament Agency, Paul Warnke, and, in his absence, by Ambassador Ralph Earle, who brings great experience to the job. Director Warnke participates both in the technical discussions in Geneva and in the political discussions at the foreign minister level. The advantage of this connection between the two levels is obvious.

The Soviet delegation is headed by Deputy Foreign Minister, Vladimir Semenov, who has held the job for 8 years. I was told that the Soviets approach these negotiations seriously and with a sense of purpose. They are interested in obtaining an agreement. At the technical level, extraneous issues such as the American human rights campaign rarely if ever enter into the discussions. At the more senior level, the Soviets have been critical of what they see as President Carter's reneging on agreements made by the Ford administration.

It is general knowledge that an agreement is being drafted covering the period until 1985. Attached to it would be a 3-year protocol covering such contentious issues as the cruise missile. Finally, there would be a statement of principles aiming toward a SALT III agreement. At the political level, the Soviets continue to press for exclusion of their Backfire bomber from any restrictions, for limitations on cruise missiles, and for a ban on MX missile deployment. In addition,

they are urging inclusion of bombers carrying cruise missiles under the MIRV aggregate. We, in turn, are most concerned about the Soviet heavy missile program in general and the conversion of the SS–9 missile to the SS–18 in particular.

At the technical SALT delegation level we have been pressing the Soviets on the data base issue and on certain other related verification issues. One area of special interest to the Soviets is that the terms of a treaty not be circumvented through our allies and that systems restricted by any agreement not be transferred to other countries. Our NATO allies are particularly concerned on this score.

I came away from Geneva impressed with the meticulous care with which the issues are being addressed at the delegation level. The drafting of the joint draft text is a laborious but essential process. The greatest effort is expended to make sure that each party's understanding of what is agreed to is the same.

As noted above, I made stops in London, Paris, and at SHAPE headquarters in Mons, Belgium, in an effort to assess the European context in which our SALT talks are taking place. The Carter administration is making a major effort to keep our allies fully briefed on the negotiations. Nonetheless, I found several areas of concern. First, there is real apprehension over the possible disposition of so-called forward-based systems (FBS) in an eventual SALT agreement. Europeans would not be comfortable with any suggestion that tactical nuclear capabilities be reduced. Second, there is concern about Soviet-American discussions relating to nontransfer and noncircumvention. In particular, the British, who have worked closely with the United States in the nuclear weapons field, fear that their access to American nuclear technology might be restricted by a SALT agreement. Finally, a number of our NATO allies are keenly interested in the cruise missile. This is an interest which the United States has actively promoted in the past. Europeans see the cruise missile, and especially its ground launched version, as a counterweight to Soviet IRBM's. They are watching carefully our discussions with the Soviets on this system. On the other side of the coin, I understand that the Soviets are particularly disturbed by the prospect of West Germany acquiring the cruise missile.

Our SALT discussions are thus a potential source of irritation in our relations with our NATO allies. The image of big powers arbitrarily deciding the fate of lesser powers haunts them. This unease exists at a time when other divisive issues also cloud the horizon. NATO faces a considerable Soviet conventional arms buildup in Europe. At the same time, the political makeup of the Governments of both Italy and France could move considerably to the left. In the face of these difficulties we must act with wisdom and tact.

This report can only be considered an interim one. Important decisions may shortly be made opening the way for a SALT II agreement this year or early next year. We must be alive to the issues that such an agreement raises and be prepared to address them intelligently.

THE DEATH OF STEVEN BIKO

Mr. CLARK. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The tragic news of Steven Biko's death while in detention in South Africa was brought to my attention as I was recuperating at my home from surgery. I wanted to take this opportunity to express my profound concern and sadness and to share my personal thoughts on this matter with my colleagues.

I was shocked to learn of Steven Biko's death. He is the latest in a long line of Africans who have died in mysterious circumstances in South African prisons. The official explanation of these deaths—suicide or natural causes—can no longer be taken seriously by fair observers in the rest of the world.

Outright repression—and death—await those African leaders who protest too strongly South Africa's increasingly oppressive system of apartheid, or separate development. Mr. Biko was a man dedicated to a non-racial, non-violent society in South Africa. He was precisely the sort of leader with whom the South African government should have been discussing future change. Instead, they have chosen to shut off communication and close the door to any meaningful change for the majority African population. The students of Soweto and other African townships are left leaderless and totally frustrated in their efforts to secure even minor reforms—much less significant changes in their lives.

Members of my Foreign Assistance Subcommittee staff recently returned from southern Africa, where they interviewed refugee students from South Africa and Rhodesia. Student leaders have fled from possible detention—and in fear of their lives—while the South African government has systematically decimated the various levels of student leadership. Mr. Biko's tragic death will undoubtedly trigger another exodus of students who will become refugees in neighboring countries, themselves already struggling to provide better living conditions for their people while attempting to cope with the influx of refugees. It is a situation which can only grow more serious as long as the South African government chooses to repress the African population and kill off their most promising young leaders like Steven Biko.

GIVE OUR LEADERS A CHANCE

Mr. HAYAKAWA. Mr. President, a few weeks ago when the public debate about the suitability of Bert Lance as Budget Director began, I issued a press statement in which I suggested an immediate orderly investigation if Mr. Lance was indeed accused of serious wrongdoing. I added, and I am quoting:

Perhaps President Carter, by talking too loftily about how completely above suspicion his administration was going to be, has only himself to blame for Mr. Lance's present troubles. But enough is enough. Let's leave Mr. Lance alone now and let him get on with his important business, which is to serve the nation by helping, as best he can, his good friend Jimmy Carter.

I am impelled to make these remarks not out of any personal interest in Mr. Lance, whom I have never met and whom I had never heard of until recent months. What I am concerned about is that right now, men and women, fearing the attacks they will be subject to if they are appointed or elected to a position of responsibility, are saying to themselves, "No public office for me!"

When reading Sunday's papers, I noticed that the Washington Post—unexpectedly, I must admit—has come to my support. Henry Fairlie's excellent article "Give Our Leaders a Chance," which appeared in the Outlook section, reiterates some of the points I tried to make and expands on them most lucidly. Because of the importance of the issue and the perceptiveness of the author, I ask unanimous consent that Mr. Fairlie's article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIVE OUR LEADERS A CHANCE

(By Henry Fairlie)

At the risk of what may seem to some to be hyperbole, it nevertheless needs to be said that the presidency of the United States is in danger of being made the most degraded public office in the free world which an honorable man can be invited to occupy. It is hard to imagine anyone who is intent on the public good, but is not prepared to be sacrificed for it, being willing to run for the office in the future and suffers its attendant humiliations.

It may be said that President Carter has not been hounded for his defense of Bert Lance, but he has had to endure worse than hounding, a day-by-day trickle of sneers from people who ask with a snigger, "Why not the best?"; who recall his promise to clean up the government and smirk that it is just the same as before; who throw back in his face what they regard as his "holier-than-thou" stance in his campaign. (It is as if they—we—have waited in ambush, for the first sign of human frality, to topple him simply because he is the President, and pull down the office with him.)

This is a matter of the widest concern, far beyond the boundaries of the United States. America is the leader of a great alliance, and its allies in this always endangered, still embattled, free world are again and again confused by the apparent inability of the United States to provide even a half year of stable and assured leadership.

It is beginning to seem as if, once America elects a leader, it immediately sets about demolishing him, sprawling him across its front pages like an insect on a windshield. How can its allies trust the United States not to pull a President down into the gutter on the smallest pretext? It elects a leader—a leader of the free world, as well as of itself—and its allies then take the trouble to find out what he is like, and what he wants to do. But in a few months, the leader is humbled, and his capacity to govern is unnecessarily weakened.

I happen to think that Bert Lance should have resigned as soon as it was clear that he was the central figure in a story that was bound to spiral; not because he has been guilty of any very serious wrongdoing (I can find no evidence of that), but because in politics (of all activities) "life is unfair."

But once that moment had passed, and once President Carter had thrown the weight of his office behind his friend, there has been

no choice but to stick and fight it out. For his own sake, and for the sake of a basic standard of decency in our attitudes to government officials, he had to stay: he could not let it seem that he had been hounded from office by a hue and cry in Congress and the press, with yapping dogs at his heels.

One may regard Carter's behavior in all this as the conduct of a fool or of a noble man, and it may well be both, but it has certainly been the conduct of a human being. As we observe the anguish of decision, our own accents should be those of the chorus in a Greek tragedy. When our friends do wrong or disappoint, we are allowed to fight for them in privacy. Our loyalty to them is not made a scandal. We stand up for them in an office or a living room. But Jimmy Carter has had to fight for his friend in an atmosphere only of public scandal.

I would have thought that, in the matter of Bert Lance, Jimmy Carter deserves our prayers. Has no one who comments so lightly on his conduct ever had a friend who has appeared to let one down, and then fought for that friend with every weapon at one's own command against the contumely of others?

Friendship is as great a quality as we are likely to discover in ourselves and in others; and particularly at the top, in the hard business of politics, friendship is the most precious of boons. "Bert, I am proud of you": foolish words they may seem, a President going out on a limb for a friend, but in the end they will survive as words of unusual honor, with something of awe in them.

At the end of his opening statement in the Senate hearings on Thursday, Bert Lance said that a man should not be drummed out of office on the basis of mere allegations. "Drummed out" are the words that matter. The roll of drums as a man is dishonorably discharged from his regiment, the badges of his rank, his epaulettes, his medals, his sword, even the very insignia of the service, all stripped from him, as the drums roll: this sound is becoming too common in American life.

If there is an unusual violence in American life, it is best observed here in the intermittent but always repeated viciousness with which the American people, through their press, turn on their public figures, asking them to observe standards other than those that are imposed elsewhere.

The cost of being a President of the United States sometimes seems to be that the demoniacal *vox populi*, absurdly enshrined in a false reading of the First Amendment, must taint his family, taint his religion, taint his feelings, taint at last his capacity for friendship. Nothing that is sacred to a man is allowed to remain whole—if that man has the misfortune to have undertaken the tasks of the presidency.

The Americans are making of the presidency—and of other public offices in proportion—a position that no human being can be fit to hold; indeed, that no human being who wishes to remain a human being can wish to hold. It is no wonder that the allies of America ask anxiously if the United States ever will provide a leader again.

It matters little to the rest of the world if Bert Lance has indulged in peculiarly antic habits as a banker. He will be a footnote in history, unless he is permitted to remain and serve a full term and he is hardly more than a footnote even now.

But, no! America will not talk about NATO. It must talk about what entertains it. "Washington: Behind Closed Doors" is an obnoxious travesty of political life; but it is not half as obnoxious as the travesty of politics which is played out when the *vox populi* of the United States sniggers its mean complaints against the honorable and dutiful men and women who serve it in the government.

"We know no spectacle so ridiculous," said Macaulay, "as the British public in one of its periodical fits of morality." But when these fits overtake the American people, the spectacle is much more grotesque. The zeal with which the prosecutions are conducted does indeed remind one of witch-burnings.

The case of Bert Lance and Jimmy Carter has nothing to do with Watergate and Richard Nixon, yet the comparison is persistently drawn by Americans, even as they adeptly deny that they are drawing the comparison. The issues now are no more than those of human error and frailty and human friendship, unless one is prepared to say (as I would say in a different context) that corporate capitalism as it has developed is bound to infect the political process with its own diseases.

During the Profumo case in Britain, Harold Macmillan was criticized for accepting the personal word of John Profumo that he had not done the things of which he was accused. "I may come from a generation with different manners," he said to me one evening, "but I do not see how civilized behavior is possible unless one accepts the word of a colleague. Suppose your editor called you in and said that you had been accused of doing something that was embarrassing to the newspaper, and he asked you if it was true; would you not expect him to accept your word against that of everyone else when you denied it?"

Loyalty in public life, like loyalty in private life, is often a matter of giving someone the benefit of the doubt. If one cannot give to an elected leader the same benefit of the doubt, in a matter in which the issues of right and wrong are inevitably ambiguous, as President Carter has given to Bert Lance, then the stability which is required from the leader of a great alliance will be unattainable. Trust should not be given unreservedly. But never to trust is foolish and self-defeating.

ENERGY COMMITTEE RESOLUTION ON CRUDE OIL EQUALIZATION TAX

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources on Monday, September 19, 1977, during open business meeting approved by a vote of 13 to 1 a resolution recommending that the crude oil equalization tax proposed in the National Energy Act not be adopted. The resolution was offered by Senator METZENBAUM and cosponsored by Senators METCALF, BUMPERS, ABOUREZK, and DURKIN.

I ask unanimous consent that the text of the committee resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COMMITTEE RESOLUTION

Whereas, the stated purpose of the crude oil equalization tax proposed by the Administration is to save energy by raising the price of domestic oil to the OPEC cartel price and

Whereas, the amount of energy that would be saved is not significant, and

Whereas, the cost of collecting and rebating the tax would be an unnecessary expense and an additional bureaucratic layer of government,

Now, therefore, be it resolved that the Committee on Energy and Natural Resources recommends that the crude oil equalization tax not be adopted.

Adopted by the Committee on Energy and Natural Resources of the United States Senate in meeting assembled on the 19th day of September, 1977; Senators voting yea: Mr. Church; Mr. Metcalf; Mr. Abourezk (proxy); Mr. Bumpers (proxy); Mr. Ford; Mr. Durkin; Mr. Metzenbaum; Mr. Hansen (proxy); Mr. Hatfield; Mr. McClure; Mr. Bartlett; Mr. Weicker (proxy); and Mr. Domenici.

Senator voting nay: Mr. Matsunaga.

Senator voting present: Mr. Jackson.

UTAH AIR FORCE JUNIOR ROTC UNIT WINS AWARD

Mr. HATCH. Mr. President, for the second consecutive year, an Air Force Junior ROTC unit from Utah has been selected as the first place winner in the annual contest sponsored by the Aerospace Education Foundation. The Air Force Junior ROTC unit at the Intermountain Intertribal High School, Brigham City, Utah, placed first in this year's contest on "The Imperatives of National Readiness." Their entry, "Writings On The High Rock," is based upon the Indian heritage of the cadets.

Eleven cadets participated in the preparation of the color videotaped presentation which was selected as the best of entries submitted by 75 AFROTC units from throughout the United States and abroad. At a luncheon held in Washington, D.C., yesterday, four of these young people, Miss Barbara Newby, Miss Fraulein John, Mr. Darryl Long, and Mr. Kenneth Leslie, were honored for their unit's achievement.

At this same luncheon, the winning entry was viewed by those in attendance. The presentation will be shown again throughout the week at the Park Sheraton Hotel. I encourage all of my colleagues to take a few minutes and view this presentation, if the opportunity avails itself.

The school unit will receive a $4,000 scholarship to a post-secondary school which will be awarded to one cadet or shared by a maximum of four cadets. The recipient or recipients will be chosen by the unit. In addition, the unit will receive a plaque for permanent display. I wish to congratulate these young men and women at this time and I know that my colleagues here in the Senate join me in doing so.

JACOB JAVITS—A GOOD FRIEND AND GREAT SENATOR

Mr. PERCY. Mr. President, in the New York Times last week there appeared a tribute to my good friend and colleague, Senator JACOB JAVITS.

I have long been a great admirer of Senator JAVITS, and and have had the pleasure of working with him on both the Governmental Affairs and Foreign Relations Committees. We have also together sponsored many pieces of legislation, such as the Public Officials Integrity Act, the Department of Energy Act and the nuclear nonproliferation bill. I was pleased that his great ability and stamina were recognized through this article, as so many of us have for so long been aware of these qualities. As Warren Weaver states, "* * * recognition has come slowly for Senator JAVITS, but he never doubted that industry and in-

telligence would ultimately carry the day." Nor did I.

I ask unanimous consent that extracts from the New York Times article of September 5, 1977, entitled "JAVITS' Rise—Slow but on His Terms," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAVITS' RISE—SLOW BUT ON HIS TERMS

(By Warren Weaver, Jr.)

WASHINGTON, September 4.—In 20 years in the Senate, Jacob K. Javits has worked so hard and run so fast that he has outdistanced almost all of his critics, winning influence and respect in a body that barely tolerated him as a newcomer.

When Congress reconvenes on Tuesday, he will assume another major responsibility: He will preside over preparation of the national economic program that the Republicans will offer as an alternative to President Carter's proposals.

The New York Republican will confer with a group of distinguished economists, most of them likely to be more conservative than he, at the request of his party's Senate leaders. Earlier this year, acknowledging his political sagacity as well as his economic expertise, they chose him for a similar key role in drafting the Republican tax program.

This kind of recognition has come slowly for Senator Javits, but he never doubted that industry and intelligence would ultimately carry the day.

Shortly after he arrived in the Senate in 1957, Mr. Javits felt compelled to challenge, simultaneously, the rule of silence for freshmen as well as the Democratic majority leader, the authoritarian Lyndon B. Johnson.

The issue was the budget for the United States Information Agency. Senator Johnson had taken offense at what he deemed political activity by the director and proposed to slash the budget nearly in half. Senator Javits took the floor to defend the Eisenhower Administration and oppose the cuts.

"I got 19 votes," the New Yorker recalls, with the stubborn sense of combative pride that has characterized much of his Senate career. (The painful episode is somewhat vague in memory: the record shows he got only 15 votes.)

In 1965, having served eight years, Senator Javits finally managed to get assigned to a first-rank committee. Claiming the Judiciary seat of Kenneth B. Keating, his New York colleague who lost to Robert F. Kennedy in 1964, he plunged into the thick of the bitter battle over the Voting Rights Act, anathema to most Southern senators.

After two years of struggle, Senator Javits left the Judiciary Committee, having talked the Republican leadership into giving him a seat on the Appropriations Committee, where he felt he could provide more significant help for New York State.

But Mr. Javits had so provoked Senator Richard E. Russell of Georgia and the ruling Southern hierarchy with his persistence on civil rights that the leadership deliberately reduced the size of the committee, cutting the minority membership by one and thus eliminating Mr. Javits.

With the healing passage of time, much of that has changed. The Senate has changed: only a handful of the Southern patriarchs remain, and their power has been diluted. The issues have changed: civil rights no longer divides the chamber into armed camps.

And while most of his colleagues and aides do not feel that Senator Javits has changed much himself in two decades, the Senate perception of him as a member has changed remarkably.

OUTSIDE THE CLUB

"Jack Javits took on the whole Senate establishment and made it on his own terms," one of his Democratic colleagues observed the other day. "They wouldn't let him into the club, so he kept working outside while the club slowly disintegrated.

"By sheer dint of intellectual power, enormous energy, refusal to quit, refusal to put down, he has risen to the top, to membership in the Senate elite. I don't think any other member, with the exception of Hubert Humphrey, is as widely respected for scope and effectiveness."

Major factors in the Senate's gradual, sometimes grudging recognition of Mr. Javits have been his intelligence, good information, and a lawyer-like ability to cross-examine Congressional witnesses to get at the essence of a problem.

One major convert was Senator J. W. Fulbright of Arkansas, chairman of the Foreign Relations Committee until 1974. Not disposed to favor Mr. Javits when he arrived on the committee in 1969, the chairman became increasingly impressed with his skill until a bond of mutual respect and even admiration was formed between two very different Senators.

But beloved Mr. Javits still is not. When he is interested in a bill or an issue he has a tendency to be brusque, even peremptory. He has little time or inclination for conviviality in the traditional hands-across-the-aisle sense. He is not quick to see humor in situations, particularly if they involve him; he regards most of his concerns as serious and proceeds accordingly.

DISILLUSIONMENT AT HOME

At home in New York, measurable disillusionment with Senator Javits has developed in recent years, largely over his refusal to assume a leadership role in the protest against the Vietnam War or to come out against President Nixon during the Watergate investigation when even his conservative colleague, Senator James F. Buckley, was doing so.

But these are not concerns that appear to weaken his position in the Senate today. By capitalizing on his special political position—the liberal minority of the Republican minority—Senator Javits has managed to sponsor more significant and successful legislation than almost any other Republican in the body, and most of the Democrats.

In the 93d Congress, he played a major role in reasserting Congressional control over the Federal budget, in omnibus private pension legislation and in the war powers bill, a historic limitation on Presidential authority to wage war.

In the 94th Congress, as a member of the Government Operations Committee, he was instrumental in Senate passage of legislation on lobbying, gun control and open Government, plus the bill that established Government title to the Nixon White House tapes. This was more than most members achieve in two years out of all their committees combined.

As a liberal, Senator Javits has been able to form coalitions with like-minded Democrats and work his views into legislation in a way that is largely denied more conservative Republicans. As the Senate has become younger, more moderate and less subject to strict party discipline, his influence has multiplied.

SUCCESSFUL JEWISH LEADER

Although Mr. Javits is fifth in seniority among Senate Republicans (14th among all senators), his committee influence is among the strongest and broadest in his party. He is the top-ranking Republican on the Labor and Public Welfare Committee and on the Joint Economic Committee, and second on the Foreign Relations and Government Operations panels.

While not the first Jew to be elected to the Senate (David Levy Yulee of Florida preceded Mr. Javits by more than 100 years), the New Yorker is probably the most prominent and successful of the Jews who have served in that body in modern times.

His immediate predecessor, Herbert H. Lehman, Democrat, a former Governor of New York, was not a notably aggressive figure during his seven years in the Senate. He delivered occasional floor speeches but was not an active debater and generally went along peaceably with the leadership and the system.

Senator Javits presented such a startling contrast—constantly challenging leaders of both parties, championing the neglected cause of New York City—that he became the target of anti-Semitic comment among Senators and aids. His staff uniformly recalls this, but Mr. Javits does not.

"I have never felt any anti-Semitism in the Senate," he said. "I should warn you, I'm not quick to feel that sort of thing, but not in my worst struggles with Dick Russell did I ever feel it. The Senate is an admirable institution from that point of view."

NO FORMAL PARTY ROLE

Today, Mr. Javits is one of five Jewish Senators; the others are Howard Metzenbaum of Ohio, Abraham Ribicoff of Connecticut, Richard Stone of Florida and Edward Zorinsky of Nebraska. And anti-Semitism, while not wholly extinguished, is a waning factor in Senate life.

The one area where success still eludes Senator Javits is formal entry into the Republican Senate power structure. Two years ago he sought the post of chairman of the Republican Conference, which ranks fourth at best in the party hierarchy. It is a ceremonial title with almost no influence.

But his colleagues voted him down, 23 to 14, in favor of Senator Carl T. Curtis of Nebraska, a hard-line conservative whose chief claim to recognition was that he came from west of the Mississippi. Apparently, the New Yorker did not get a single vote outside the small coterie of Republican Senate liberals.

But this did not dampen his enthusiasm for his party. The following year he campaigned as hard for President Ford as any Republican member, and was one of a handful of Republicans invited to the White House on election night.

In 1968, by contrast, Mr. Javits was never admitted to the Waldorf-Astoria suite of Richard M. Nixon for the election night victory revels. One factor to consider, perhaps, was that he was carrying New York State by more than 1 million votes while Mr. Nixon was losing it by 370,000.

Senator Javits' ability to advance the cause of New York City and New York State in Washington has been bolstered this year by the arrival of Senator Daniel Patrick Moynihan. Mr. Javits finds it much easier to work with the Democrat than he did with Mr. Moynihan's Conservative-Republican, Senator Buckley.

The two New York Senators, who are considerably closer in political philosophy than their respective parties are, are working to take joint positions on all issues affecting their constituents and have hired a single staff member to facilitate that.

A source of current satisfaction to Senator Javits is his ability, as a member of the Foreign Relations Committee, to play a role in the efforts to achieve peace in the Middle East. On a recent trip to Israel and several Arab nations, he had ready access to the top leaders and clearly helped the proposal that

Prime Minister Menahem Begin brought to the White House.

DWINDLING VICTORY MARGIN

Another source of pride is the success achieved by staff aides who went on to prominent careers in public service. Among these are Richard R. Aurelio, former Deputy Mayor of New York City; Leslie H. Gelb, director of the State Department's Bureau of Politico-Military Affairs; Steven Kurzman, former Assistant Secretary of Health, Education and Welfare; Robert E. Patricelli, former head of the Urban Mass Transit Administration, and John E. Zuccotti, former First Deputy Mayor of New York City.

Since 1946 when he first ran for the House from a Democratic district in Manhattan, Mr. Javits has never lost an election. Four times he won for the House, once for Attorney General of New York and four times for the Senate, always with increasing success—until 1974.

Then his majority dropped from 1.1 million to 370,000, a reversal he now attributes to the effect on all Republican candidates of the threat of impeachment and finally the resignation of President Nixon and to an ill-advised but well-publicized trip he made to Cuba during the campaign.

Javits political advisers take a somewhat different view. They contend that the Senator's failure to speak out early and decisively on two critical issues—the war in Vietnam and Mr. Nixon's involvement in the mounting Watergate scandals—seriously eroded his constituency.

"If he had been running against anyone else but Ramsey Clark," one aide said, "he would have lost."

The Senator insists this was only a temporary political phenomenon. "I've got all my strength back and more", he says, "My approval ratio has never been higher." But the record of the 1974 election, in which his age may also have been a factor, cannot be dismissed when the question of his running for a fifth term in 1980 arises.

"I'm not even thinking about it yet," said Mr. Javits, who will be 76 then. "When I do, I'll have to think about my health, which is still very good, my faculties and what I see there is to do. I don't feel any need now to press myself on that decision."

NANCY HANKS, CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS

Mr. PELL. Mr. President, I am very pleased to extend my highest congratulations and commendations to Nancy Hanks, Chairman of the National Endowment for the Arts, for her achievements during these past 8 years in the development of our cultural life and well-being.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, and as one who helped originate in legislation the Arts Endowment, I have worked closely with Nancy Hanks during these 8 years. She has undertaken her important tasks with extraordinary vigor, perseverance, and dedication. She has proved a remarkable administrator and secured the administration and regard of all those with whom she has dealt and the loyalty and devotion of those who have worked for her.

In these years we have seen a great new impetus and development in the arts. To cite but a few examples, we have seen the development of many new institutions: opera companies increasing in number from 27 to 45, professional orchestras from 58 to 110, resident dance companies from 10 to 70, resident theater companies from 12 to 50. A strong State program has developed, bringing to the growth of the arts today close to $60 million in State-appropriated funds from an original $4 million. And community arts councils have grown in number from less than 150 to 1,800 nationwide.

Appropriations for the Arts Endowment have grown in like fashion during this time: from $8 million to almost $115 million. Through her hard work and leadership, Nancy Hanks helped develop a climate in which governmental support is increasingly beneficial to our country and increasingly well justified.

I am proud to have worked with Nancy Hanks during this historic time in which her diligent stewardship has accomplished so much for so many of our citizens.

She goes now toward new endeavors with my best wishes. In expressing my own admiration for her achievements, I know I reflect the regard of artists and arts organizations throughout our land.

AMERICA'S CUP

Mr. CHAFEE. Mr. President, we all have cause to be proud that, for the 24th consecutive time in 126 years, the America's Cup, emblematic of the "world series" of sailing, remains on American shores.

Ted Turner, and his entire crew of the *Courageous*, demonstrated outstanding skill and seamanship in sweeping the four-race series from the foreign challenger, *Australia*.

As Americans, we should be grateful that these men, and the scores of people associated with them, were willing to devote so much of their time and treasure to this historic contest.

Similarly, we salute the crews and syndicates from Australia, France, and Sweden, and the American boats *Enterprise* and *Independence*—all of whom fought for a place in the final series.

Since this internationally renowned event began in 1851, the U.S. boat has never lost a challenge to its right to hold the America's Cup. The foreign 12-meters have made valiant attempts, but have only won 7 of 81 individual races. In fact, in 7 of the last 10 challenges, the foreign boat has gone winless.

Nowhere, however, have the highest examples of sportsmanship been demonstrated than in this competition, a showcase of the finest sailing talent from around the world. Winners celebrate alongside the losers, with defenders and challengers alike joining in the camaraderie that characterizes sports people at the purest and most exemplary level of competition.

And so these races every 3 years are more than a showcase of the finest sailing talent, they are also a showcase of what sportsmanship ought to be.

We of Rhode Island proudly host this competition, just as we proudly toast the crew of the *Courageous*, and the challengers from the *Australia*.

To all our foreign friends who came to challenge the boat of the New York Yacht Club, we warmly say—come back. We enjoyed both your companionship and your competition.

THE HOSPITAL COST CONTAINMENT ACT OF 1977 (S. 1391)

Mr. KENNEDY. Mr. President, on April 26, 1977, I introduced with my distinguished colleagues Senators ANDERSON and HATHAWAY the "Hospital Cost Containment Act of 1977" (S. 1391) which was jointly referred to the Committee on Human Resources and the Committee on Finance.

The Subcommittee on Health and Scientific Research held 5 days of hearings on this legislation, considered the legislation in open executive session, and on July 26, 1977, ordered an amended bill reported to the Committee on Human Resources. The amended bill was considered in open executive session on July 29 and August 2, 1977, by the full committee and a further amended bill was ordered reported on August 2, 1977.

During the 5 days of hearings, a consensus was reached that health care costs are escalating at rates that are no longer acceptable. Without any intervention, it has been estimated, the $139 billion Americans spent on health care in 1976 will grow to more than $230 billion in 3 short years at which time the average hospital stay will then cost more than $2,000. Each and every witness made suggestions for changing our health care delivery system—some proposed radical change and others only marginal change.

I believe a major overhaul of the way we finance and deliver health care is needed. For too long we have paid hospital and doctors whatever they wanted. The costs of a hospital stay has risen 2½ times faster than the Consumer Price Index and doctor's fees have been going up at similar rates. Even the American Hospital Association acknowledges that it is not just the costs of supplies and equipment that is causing costs to go up. Hospitals continue to add expensive new facilities, personnel, technology, but few are asking, "Do we really need all this new personnel, laboratory tests, and X-rays?" Even though we spent nearly three times as much for laboratory tests in 1975 than we did in 1971, there is no evidence that all these extra tests affected the health of the American people.

Last year the Nation's total hospital bill jumped to $55.4 billion, or more than $1,000 per family. Next year, without any control, the figure is predicted to increase dramatically to almost $64 billion.

Since 1950 the cost of a day of hospital care has climbed more than 1,000 percent. The average cost per day has risen from $15 to $176. In the last decade the cost of an average hospital stay has skyrocketed from less than $300 to more than $1,300. Not many of us can afford to get sick and go to the hospital.

Right now medicare and medicaid pay approximately one-quarter of the bill for hospital services and this went up by $5 billion last year. Individual States paid twice as much for medicaid in 1976 than they did in 1971.

Mr. President, I believe that the bill ordered reported by the Committee on Human Resources is an important step toward more permanent reform in the financing and delivery of health care, and as chairman of the Subcommittee on Health and Scientific Research of the Committee on Human Resources, I am committed to the speedy passage of a bill that is administratively simple, does not create a new and expensive bureaucracy, and will result in significant savings next year. I believe that all of us can no longer afford to just sit back and watch hospital costs escalate as they have in the past.

The Congressional Budget Office has estimated that the program outlined in this bill would save well over $2 billion. including $1.24 billion in medicare and medicaid next year—1978, and the total savings over the next 5 years would be over $40 billion.

I am hopeful that the Committee on Finance will complete its hearings and executive sessions on the President's Hospital Cost Containment Act of 1977, and I look forward to working closely with Senator RUSSELL B. LONG the distinguished chairman of the Committee on Finance, Senator HERMAN E. TALMADGE, the distinguished chairman of the Subcommittee on Health, and other members of the Finance Committee in order that the two committees can jointly file S. 1391 and an accompanying report for consideration by the full Senate before the end of the session.

Mr. President, copies of the summary and analysis of consideration of S. 1391 prepared by the Committee on Human Resources and copies of S. 1391 as amended and ordered reported by the Committee on Human Resources are now available. They may be obtained from the Committee on Human Resources. Office of Publications, room 4230, Dirksen Senate Office Building, Washington, D.C. 20510.

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Mr. STEVENS. Mr. President, yesterday, Dr. Henry A. Kissinger addressed the New York University Graduate School of Business Administration.

In his remarks, Dr. Kissinger, a world-renowned expert in the field of foreign policy, was asked to deliver a "major appraisal" of the current administration's foreign policy proposals.

Dr. Kissinger's speech is very enlightening and comes just at a time when foreign policy decisions are before those of us in the Senate. I commend the address, in its entirety, to my colleagues and call particular attention to the following excerpt:

Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guessing. Eight months is after all but an instant in the life of nations . . .

I concur wholeheartedly with Dr. Kissinger's opinion that we should not be so quick to judge. It is much more important to obtain all the facts, to study the particular proposal, and then to come to a conclusion based on empirical data, regardless of how slow and arduous that approach might be. After all, the future of this great country is at stake, and we cannot allow ourselves to be rushed into foreign policy decisions.

Mr. President, I ask unanimous consent that Dr. Kissinger's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Distinguished guests, ladies and gentlemen:

Your request that I deliver a "major appraisal" of current American foreign policy presents me with a dilemma—a difficult choice between your interest in the subject on the one hand and the imperatives of responsibility on the other. Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guessing. Eight months is after all but an instant in the life of nations.

President Carter and Secretary of State Vance are on the verge of several weeks of delicate and important negotiations—with the Soviet Union on strategic arms limitation, with the Middle East foreign ministers on peace in that crucial area, and with other leaders attending the United Nations General Assembly on a variety of complex issues. The hopes of *all* Americans go with them. The success of the Administration in promoting peace and progress will be a success for the nation. Any setbacks of the Administration would affect the lives and prosperity of all Americans. When a performer is taking careful and complicated steps on a high wire, it is profoundly inappropriate, not to say dangerous, for a spectator in a seat far below to shout at him that he is putting his toe in the wrong place.

So I would like to speak to you today about some of the philosophical underpinnings from which tactical decisions derive: the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage.

THE NATURE OF BIPARTISANSHIP

The world marvels at America's extraordinary rebound from the agony of Vietnam and the constitutional crisis of Watergate. We have emerged from these traumas with our democratic institutions flourishing, our public debates vigorous, our economy expanding, our pride in our country intact. Our friends around the world were heartened by this, for they know better perhaps even than we do how vital a stake they have in America's confident leadership.

That leadership is not—nor should it be—the esoteric concern of specialists; it is the means by which the nation serves its interests and pursues its highest goals and affects all other nations. For thirty years the world balance of power, the cohesion of the democracies, the health of the world economy, the prospects for growth in Africa, Asia and Latin America, and the hopes for freedom everywhere have been sustained by the United States.

We have learned through many crises that upheavals thousands of miles away can threaten American lives or jeopardize American prosperity. The 1973 Middle East war ultimately forced us into a military alert. The oil embargo, lasting six months, cost half a million jobs and ten billion dollars in national output; it set the stage for a serious recession, in this country and worldwide. And the abrupt quadrupling of oil prices which followed added at least five percentage points to the price index, contributing to our worst inflation since World War II. We have not yet returned to the high growth rate and relatively low inflation which we enjoyed before 1973.

Now that the bitter passions of the foreign policy debate of the last ten years are hopefully behind us, it is time for thoughtful deliberation on what are, or should be, our basic premises about the world in which we find ourselves today.

Our foreign policy difficulties are often described as the legacy of Vietnam. But the Vietnam ordeal was not a cause but a symptom. The late 1960's, coinciding with Vietnam, marked the end of the period when America was overwhelmingly more powerful than any other nation, when we could assault problems alone and entirely with our own resources, when American initiatives were accepted without serious debate, when we could believe that our own domestic experiences, like the New Deal, were the automatic blueprint for economic development and political progress abroad. It marked above all the end of the era when we could imagine that any problem could be resolved once and for all and that solutions once achieved would permit us to end our international exertions.

Vietnam was a catharsis. It taught us that our power while great is finite, that our influence though crucial can be effective only if we understand our priorities and the world in which we live.

For a century and a half geography and resources combined to give us the luxury of waiting until threats became almost overwhelming before we committed ourselves. We always had the opportunity to compensate for our tardy involvement by the massive deployment of physical power. We could largely leave to others the burden of the day-to-day decisions that over time spelled war or peace, security or fear, for the global system and even for ourselves. We were spared the continuing agony of inescapable decisions that other nations always faced to assure their survival and their values. More than any other nation in history, we could avoid the dilemma of reconciling the ideal with the practical, of accommodating to limited means and contingent ends.

The post-World War II era was a remarkably creative period of American foreign policy. But our initiatives were explicitly justified as temporary measures to restore an underlying equilibrium. The Marshall Plan, our alliance commitments overseas, our international economic programs were all conceived as dealing with temporary emergencies which once overcome would excuse us from permanent direct involvement abroad.

The world of today is not the world of a generation ago. Geography no longer assures security. The American nuclear monopoly has given way to nuclear balance and to proliferating weapons capabilities. The United States is now as vulnerable as any other nation; indeed nuclear weapons con-

front all peoples everywhere with a threat to their survival unknown to any previous generation.

The world economy has become interdependent; our prosperity is to some extent hostage to the decisions on raw materials, prices and investment in distant countries whose purposes are not necessarily compatible with ours.

And the structure of relations between nations has fundamentally altered. In 1945, fifty-one nations joined to create the United Nations; today it comprises nearly 150 nations—many ideologically hostile. Just as two world wars shattered the Europe-oriented order of the last two centuries, so the postwar system of Cold War bipolarity has come apart—and a new pattern of world order must be shaped to take its place.

An increasing responsibility has fallen upon the United States. Without our commitment to international security, there can be no stable peace; without our constructive participation in the world economy there can be no hope for economic progress; without our dedication to human liberty the prospect of freedom in the world is dim indeed.

For the first time in American history we can neither dominate the world nor escape from it. Henceforth this country will be engaged in world affairs by reality and not by choice. America must now learn to conduct foreign policy as other nations have had to conduct it—with patience, subtlety, imagination, and perseverance.

The most fundamental challenge is thus not to our physical resources but to our constancy of purpose and our philosophical perception. Precisely because we can no longer wait for dangers to become overwhelming, they will appear ambiguous when they are still manageable. The case for ratifying the Panama Canal Treaties, for example, is not an immediate present danger in Panama but the need to forestall a united front of *all* the countries of Latin America against what they consider an American attempt to maintain inequity by force. The issue in Angola two years ago was not a direct threat to our security, but the long-term danger of allowing Soviet surrogate forces to intervene globally to tip the scales in local conflicts. The argument for a forthcoming American attitude in the North-South Dialogue is not to yield to the admittedly limited strength of the less-developed nations but to prevent the polarization of the world into a small minority of the rich isolated in an ocean of poverty and resentment.

It is a paradox of the contemporary world that if we wait until these dangers become realities we will lose the chance to do anything about them. At the moment when we still have great scope for creativity the facts are likely to be unclear or ambiguous. When we know all the facts, it is often too late to act. This is the dilemma of statesmanship of a country that is irrevocably engaged in world affairs—and particularly of one that seeks to lead.

America, therefore, can no longer afford the luxury of oscillating as it once did between brooding isolation and crusading intervention. Our biggest foreign policy challenge is to shape a concept of our international role that the American people will support over the long term; we must avoid dramatic swings between exuberance and abdication. Our responsibility is unending; our accomplishments are likely to be evertenuous. We must change our approach to international affairs from the episodic to the permanent; from the belief in final answers to the realization that each "solution" is only an admission ticket to a new set of problems.

In such an environment the conduct of foreign policy requires a fine balance between continuity and change. This is not easy for our democracy. Our two-party system, our constitutionally mandated balancing and separation of powers, our open political process create temptations for the simplified answer, the nostalgic withdrawal, or the moralistic sense of superiority.

Yet this free and open political process is also our greatest source of strength. The alternation of parties in office by free elections guarantees constant renewal, the infusion of fresh ideas and new blood into our national life. It presents a striking contrast with the gerontocracies that run the Communist world. These systems have no lawful regular process for replacing leaders; it is no coincidence that the stagnation of their aging leadership goes hand in hand with plodding bureaucracy and intellectual sterility, punctuated by periodic crises over succession.

The problem which our society faces is on the whole a far happier one. Insuring continuity amidst the constant process of renewal turns bipartisanship from a slogan into an imperative.

To be sure, all Administrations sooner or later appeal to the spirit of bipartisanship. This is partly because they come to share much the same perception of the nation's permanent interests as their predecessors and partly because bipartisanship can be a useful shield against excessive criticism. There is a natural tendency for the party in power to consider *any* criticism as excessive. I know these tendencies from experience, having indulged them myself. But the fact that there are also tactical benefits to the appeal to bipartisanship does not change the reality that to the world at large we are one nation which can have only one government.

And we are not just *any* nation. Our country cannot uproot its whole foreign policy every four or eight years—or imply that it is doing so—or else America will itself become a major factor of instability in the world. We must understand that foreign leaders who design their programs around our policies are staking their domestic positions on our constancy.

Radical shifts in our course inevitably affect the stability of especially friendly governments. If these changes are seen to occur largely for domestic effect, if our elections come to determine as well the stability of foreign governments, no nation that has a choice will readily cooperate with us.

Of course a foreign policy that stresses continuity above all else would be stultifying and would in time be overwhelmed by events. A new Administration is obviously not elected to carry out all the policies of its predecessor. But change in our policy should be seen as reflecting new circumstances and not change for its own sake. By the same token, critics have an obligation to see to it that our foreign policy debates reflect disagreements on major substance, not a request for partisan advantage or tactical second-guessing.

If our foreign policy is well conceived, it must reflect fundamental national purposes and not personal idiosyncrasy. Neither the Administration nor the opposition should nuture differences to score debating points. Both have an obligation to make clear that our foreign policy is a shared national enterprise. I might add parenthetically that bipartisanship would come easier if each new Administration resisted the quadrennial temptation of implying that conceptual insight, creativity and moral awareness begin anew every four years on January 20. Nor should history be rewritten in ways more suitable to faculty debates than to serious national dialogue.

The Administration, when it pursues the national interest, is entitled to the full measure of support from all who cherish the future of the country. For its challenges are great. The new Administration assumed responsibility when hopeful progress was being made in most areas of foreign policy—the Middle East, SALT, relations with both the industrialized and the developing world. But it faces a tremendous task in each, and in continuing to shape the new international order. We are on a journey no single Administration can possibly complete, whose beginning is an understanding of reality and whose goal is a better and more peaceful life for future generations.

MORALITY AND PRAGMATISM IN AMERICAN FOREIGN POLICY

In this spirit, I would now like to turn to one of the basic challenges of foreign policy, the perennial tension between morality and pragmatism. Whenever it has been forced to wield its great power, America has also been driven to search its conscience: How does our foreign policy serve moral ends? How can America carry out its role as humane example and champion of justice in a world in which power is still often the final arbiter? How do we reconcile ends and means, principle and survival? How do we keep secure both our existence and our values? These have been the moral and intellectual dilemmas of the United States for two hundred years.

From the time of the Declaration of our Independence, Americans have believed that this country has a moral significance for the world. The United States was created as a conscious act by men and women dedicated to a set of political and ethical principles they held to be of universal meaning. Small wonder, then, that Santayana declared that "being an American is, of itself, almost a moral condition."

At the same time, since Tocqueville, it has been observed that we are a pragmatic people, commonsensical, undogmatic, undoctrinaire—a nation with a permanent bent to the practical and an instinct for what works. We have defined our basic goals—justice, freedom, equality, and progress—in open and libertarian terms, seeking to enlarge opportunity and the human spirit rather than to coerce a uniform standard of behavior or a common code of doctrine and belief.

This duality of our nature is *not* at war with reality. For in international politics, our morality and power should not be antithetical. Any serious foreign policy must begin with the need for survival. And survival has its practical necessities. A nation does not willingly delegate control over its future. For a great power to remit its security to the mercy of others is an abdication of foreign policy. All serious foreign policy therefore begins with maintaining a balance of power—a scope for action, a capacity to affect events and conditions. Without that capacity a nation is reduced to striking empty poses.

But equally, our nation cannot rest its policy on power alone. Our tradition and the values of our people ensure that a policy that seeks only to manipulate force would lack all conviction, consistency, and public support.

This is why America has been most successful in our relations with the world when we combined our idealism and our pragmatism—from the days when our Founding Fathers manipulated the monarchical rivalries of Europe to secure our independence and launch the great democratic experiment to the creative American initiatives after the Second World War such as the Marshall Plan. Our modern efforts to achieve strategic arms limitation, peace in the Middle East and Southern Africa, the opening to China, recasting international economic relations based on the principle of interdependence—have also served both moral and practical ends and can be sustained only by a combination of moral conviction and practical wisdom.

THE ISSUE ON HUMAN RIGHTS

These considerations come to bear powerfully on the question of the relationship be-

tween human rights and foreign policy. The world needs to know what this country stands for. But we cannot rest on this; we must know how to implement our convictions and achieve an enhancement of human rights together with other national objectives.

Neither the issue nor the concern are new:

It was under the two previous Administrations that Jewish emigration from the Soviet Union was raised from 400 a year in 1968 to 35,000 by 1973. This resulted from a deliverate policy, as a concomitant to the process of improving US-Soviet relations.

The release of the courageous Soviet dissident Bukovsky in exchange for the Chilean Communist leader imprisoned in Chile was arranged in 1976 through American intercession. It was but one of many such acts which were not publicized in order to be able to continue to assist hardship cases.

American diplomatic action in the same period brought about the release of hundreds of prisoners from jails all over the world.

American foreign policy of the past decade helped enshrine basic principles of human rights in the Final Act of the Helsinki Conference on Security and Cooperation in Europe—providing the indispensable political and legal basis for pursuing the issue of human rights in East-West relations.

We also worked to improve the efforts of the United Nations Human Rights Commission; to upgrade the Commission on Human Rights of the Organization of American States. Common human rights policies were forged with the other democracies, and steps were taken to improve the institutional response of the international system to the challenge of human rights.

The accomplishment of the new Administration is not that it originated the concern with human rights but that free of the legacy of Vietnam and Watergate it has seized the opportunity to endow the policy with a more explicit formulation. The aim of the Carter Administration has been to give the American people, after the traumas of Vietnam and Watergate, a renewed sense of the basic decency of this country, so that they may continue to have the pride and self-confidence to remain actively involved in the world.

Having had to conduct American foreign policy in a period of national division and self-flagellation, I applaud and support this objective. The President has tapped a well-spring of American patriotism, idealism, unity, and commitment which are vital to our country and to the world. He has focused public concern on one of the geratest blights of our time.

The modern age has brought undreamt-of benefits to mankind—in medicine, in scientific and technological advance, and in communication. But the modern age has also spawned new tools of oppression and of civil strife. Terrorism and bitter ideological contention have weakened bonds of social cohesion; the yearning for order even at the expense of liberty has resulted all too often in the violation of fundamental standards of human decency.

The central moral problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces—witness aberrations of terrorism in even the most humane societies. Yet when the demand of order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of civil government. Respect for the rights of man is written into the founding documents of almost every nation of the world. It has long been part of the common speech and daily lives of our citizens.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy man during World War II vividly and ineradicably impressed on the world the enormity of the challenge to human rights. It was to end such abuses and to provide moral authority in international affairs that new institutions and legal standards were forged after that war—globally in the United Nations and in this hemisphere in a strengthened inter-American system.

The fact remains that continuing practices of intimidation, terror, and brutality, fostered sometimes from outside national territories and sometimes from inside, mark the distance yet to be traveled before the community of nations can claim that it is truly civilized. This is why the distinguished junior Senator from New York, Senator Moynihan, is surely right in stressing that human rights should be not simply a humanitarian program but a political component of American foreign policy.

For the difference between freedom and totalitarianism is not transient or incidental; it is a moral conflict, of fundamental historical proportions, which gives the modern age its special meaning and peril. Our defense of human rights reminds us of the fundamental reason that our competition with totalitarian systems is vital to the cause of mankind. There is no reason for us to accept the hypocritical double standard increasingly prevalent in the United Nations where petty tyrannies berate us for our alleged moral shortcomings. On this issue we are not—and have no reason to be—on the defensive. "The cause of human liberty," the poet Archibald MacLeish has written, "is now the one great revolutionary cause. . ."

And yet, while human rights must be an essential component of our foreign policy, to pursue it effectively over the long term we must take the measure of the dangers and dilemmas along the way.

First, any foreign policy must ultimately be judged by its operational results. "In foreign relations," Walter Lippmann once wrote, "as in all other relations, a policy has been formed only when commitments and power have been brought into balance."

To be sure, the advocacy of human rights has in itself a political and even strategic significance. But in the final reckoning more than advocacy will be counted. If we universalize our human rights policy, applying it indiscriminately and literally to all countries, we run the risk of becoming the world's policeman—an objective the American people may not support. At a minimum we will have to answer what may be the question for several friendly governments: How and to what extent we will support them if they get into difficulties by following our maxims. And we will have to indicate what sanctions we will apply to less well-disposed governments which challenge the very precepts of our policy.

If, on the other hand, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results, we run the risk of demonstrating that we are impotent and of evoking a sense of betrayal among those our human rights policy seeks to help. Such a course could tempt unfriendly governments to crack down all the harder on their dissidents, in order to demonstrate the futility of our proclamations—this indeed has already happened to some extent in the Soviet Union.

Nor can we escape from the dilemma by asserting that there is no connection between human rights behavior and our attitude on other foreign policy problems—by "unlinking," as the technical phrase goes, human rights from other issues. For this implies that there is no cost or consequence to the violation of human rights, turning our proclamation of human rights into a liturgical theme—decoupled, unenforced, and compromised. Or else we will insist on our values only against weaker countries, in Latin America or Asia, many of which may even be conducting foreign policies supportive of our own. This would lead to the paradox that the weaker the nation and the less its importance on the international scene, the firmer and more uncompromising would be our human rights posture.

Second, precisely because human rights advocacy is a powerful political weapon we must be careful that in its application we do not erode all moral dividing lines. We must understand the difference between governments making universal ideological claims and countries which do not observe all democratic practices—either because of domestic turmoil, foreign danger, or national traditions—but which make no claim to historical permanence or universal relevance. In the contemporary world it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men.

In recent decades, no totalitarian regime has ever evolved into a democracy. Several authoritarian regimes—such as Spain, Greece and Portugal—have done so. We must therefore maintain the moral distinction between aggressive totalitarianism and other governments which with all their imperfections are trying to resist foreign pressures or subversion and which thereby help preserve the balance of power in behalf of all free peoples. Our human rights policy owes special consideration to the particular international and domestic setting of governments important to our security and supportive of free world security interests.

There are, of course, some transgressions of human rights which no necessity—real or imagined—can justify. But there are also realities in the threats nations face, either from terrorism at home such as in Argentina or aggression across borders such as Iran or Korea. And we must keep in mind that the alternative to some governments that resist totalitarianism with authoritarian methods may not be greater democracy and an enhancement of human rights but the advent of even more repression, more brutality, more suffering. The ultimate irony would be a posture of resignation towards totalitarian states and harassment of those who would be our friends and who have every prospect of evolving in a more humane direction.

We must take care, finally, that our affirmation of human rights is not manipulated by our political adversaries to isolate countries whose security is important for the future of freedom, even if their domestic practices fall short of our maxims. The membership of the UN Human Rights Commission, composed as it is of a number of nations with extremely dubious human rights practices, does not augur well for an objective approach to this issue in the United Nations. and other Communist governments as well as the more repressive regimes of the less developed world have no moral standing to bring other nations to international account. We should not hesitate to say so.

Third, there is the ominous prospect that the issue of human rights if not handled with great wisdom could unleash new forces of American isolationism. This could defeat the Administration's goal of using it to mobilize support for continued American involvement in world affairs. That the human rights issue could develop a life of its own, regardless of the Administration's prudent sense of its aims and limits, is already evident from some developments in the Congress.

A distorted or misunderstood human rights policy can become the basis and justification of a modern isolationism. What ap-

peals to many as a useful impetus to resistance to the Communist challenge can be used by others to erase all the distinctions between totalitarians and those that resist them, to induce indifference to European Communist Parties' accession to power, or to disrupt security relationships which are essential to maintaining the geopolitical balance. Excuses can be found to deny help to almost any friendly country at the precise moment when it faces its mose serious external challenge. If conservatives succeed in unravelling ties with nations on the left and liberals block relations with nations on the right, we could find ourselves with no constructive foreign relations at all, except with a handful of industrial democracies.

The end result ironically could be the irrelevance of the United States to other nations of the world. A policy of moral advocacy that led to American abdication would surely condemn countless millions to greater suffering, danger or despair.

Fourth and most fundamentally, we should never forget that the key to successful foreign policy is a sense of proportion. Some of the most serious errors of our foreign policy, both of overcommitment and withdrawal, have occurred when we lost the sense of balance between our interests and our ideals. It was under the banners of moralistic slogans a decade and a half ago that we launched adventures that divided our country and undermined our international position. A few years later young people were parading in front of the White House carrying coffins and candles and accusing their government of loving war; the national leadership was denounced as excessively, indeed imperialistically, involved in the internal affairs of other nations. A few years later still, the government was attacked for sacrificing our ethical values on the altar of detente and being insufficiently concerned with the domestic behavior of other nations. Neither we nor the rest of the world can any longer afford such extreme fluctuations.

Human rights policy in this period of American responsibility must strengthen the steady purpose and responsible involvement of the American people. It can do so only if it is presented in the context of a realistic assessment of world affairs and not as the magic cure for the difficulties and shortcomings of mankind's contemporary experience.

The Administration is surely right in insisting that human rights is a legitimate and recognzed subject of international discourse; it is an object of international legal standards—importantly as a result of American initiatives by Administrations of both parties. At the same time we must recognize that we serve the cause of freedom also by strengthening international security and maintaining ties with other countries defending their independence against external aggression and struggling to overcome poverty, even if their internal structures differ from ours.

We cannot afford to subordinate either concern to the other. Morality without security is ineffectual; security without morality is empty. To establish the relationship and proportion between these goals is perhaps the most profound challenge before our government and our nation.

There is every indication that within the Administration rhetoric and capacity for action are being brought increasingly into balance. In an important speech in Athens, Georgia on April 30, 1977, Secretary Vance has wisely pointed out that "a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment. No mechanistic formula produces an automatic answer."

THE LINKAGE OF FOREIGN POLICY ISSUES

The inescapable relationship of our human rights objectives with other foreign policy goals is an example of a broader, virtually universal phenomenon of our contemporary world. Foreign policy issues are interrelated—"linked"—as never before. A consistent, coherent and moral foreign policy must be grounded in an understanding of the world in which we pursue our goals.

The concept of linkage—the suggestion that we should design and manage our policy with a clear understanding of how changes in one part of the international system affect other parts—was first put forth in 1969 in the context of US-Soviet affairs. We proceeded from the premise that to separate issues into distinct compartments would encourage the Soviet leaders to believe that they could reap the benefits of cooperation in one area, using it as a safety valve, while striving for unilateral advantages elsewhere. We considered this a formula for disaster.

So strong is the pragmatic tradition of American political thought that linkage was widely debated as if it were an idiosyncracy of a particular group of policy makers who chose this approach by an act of will.

But linkage comes in two forms: first, when policymakers relate two separate objectives in negotiation, using one as pressure on the other; or by virtue of reality, because in an interdependent world the actions of a major power are inevitably interrelated and have consequences beyond the issue or region immediately concerned.

If these two concepts of linkage, the latter is by far the more important. It says, in effect, that significant changes of policy or behavior in one region or on one issues inevitably affect other and wider concerns.

Our policy toward the Soviet Union cannot be treated in isolation from our relations with China; our relations with China, in turn, cannot be effective except to the extent that we maintain the geopolitical balance around the world, by which the People's Republic of China measures our ultimate relevance. Displays of American impotence in one part of the world, such as Southeast Asia or Africa, have a direct effect on our credibility in other parts of the world, such as the Middle East. Our policy toward Rhodesia and Namibia will inevitably determine the prospects of a peaceful evolution in South Africa, and vice versa. Our posture toward Korea cannot be separated from our interests in Japan and China, and the measures we adopt for one inevitably affect the other. The decision on the B–1 bomber resulted from complex and painful budgetary and technical considerations. I am not here arguing the merits of these considerations, but in the context of the Strategic Arms Limitation talks, the B–1 bomber decision did represent a unilateral unreciprocated concession. Finally, either our human rights policy has relevance to other areas of national policy—or it has no meaning at all.

Perception of linkage is, in short, synonymous with an overall strategic view. We ignore it only at our peril. It is inherent in the real world. The interrelationship of our interests, across issues and boundaries, exists regardless of the accidents of time or personality; it is not a matter of decision or will but of reality. And it cannot be ended by an act of policy. If we are to have a permanent conception of American foreign policy there must be an appreciation of the fact that merits of individual actions can be judged only on a wider canvas.

As you know I strongly support President Carter in his fight for ratification of the Panama Canal Treaties. I do so on their merits but also because of the profound consequences of a failure to ratify far beyond Panama. A defeat of the treaties would weaken the President's international authority at the beginning of his term. It would suggest to friends and foes around the world that the United States could not deliver on an agreement negotiated by four Presidents of both political parties over a period of thirteen years, that it could not perceive its own interests in Western Hemisphere cooperation, and that shifting emotions and institutional stalemates produced erratic behavior in the most powerful country in the world.

Linkage is not a natural concept for Americans, who have traditionally perceived foreign policy as an episodic enterprise. Our bureaucratic organization, divided into regional and functional bureaus, and indeed our academic tradition of specialization, compound this tendency to compartmentalization And American pragmatism produces a penchant for examining issues separately: to deal with issues individually as if they existed as abstractions without the patience, timing, or sense of political complexity which are so often vital to their achievement; to display our morality in the proclamation of objectives rather than in a commitment to the operational consequences of our actions in an inherently ambiguous environment.

A recognition of the importance of linkage—of the significance and role of the strategic vision to our future foreign policy—thus brings us back to where we began—to the need for patience, continuity, and, above all, for national unity in the conduct of international affairs. This responsibility must be shared by the Administration, the opposition, and the public. Modern foreign policy, by its very complexity, does not lend itself to instant successes. In domestic affairs the timeframe of new departures is defined by the legislative process; dramatic initiatives may be the only way to launch a new program. In foreign policy the most important initiatives require painstaking preparation; results may be months and years in becoming apparent.

Therefore, we should not demand of the new Administration instant results or an unbroken string of early successes; nor should the Administration seek such goals if it wishes to avoid a series of stalemates or worse. Foreign policy, if it is to be truly an architectural endeavor, is the art of building for the long term, the careful nurturing of the relationships, the elaboration of policies that enhance our options and constrain those of potential opponents. It requires the coherence that can only come from national unity, a strong leadership and a political process that reflects the recognition that we are all—the Administration as well as its opponents—part of a permanent national endeavor.

This country has no greater contribution to make in the service of its ideals than to help the world find its way from an era of fear into a time of hope. With our old idealism and our new maturity, we have the opportunity to fulfill the hopes as well as the necessities of a peaceful world. A century ago, Abraham Lincoln proclaimed that no nation could long endure "half slave and half free" and stirred the conscience of the nation. With a combination of lofty idealism and tough pragmatism, he saved the freedom of this nation. With a similar dedication—in a world that is "half slave and half free"—we in this era can be the champion and defender of the cause of liberty.

SOCIAL SECURITY INFLATION-FIGHTER NEEDS IMPROVEMENT

Mr. PELL. Mr. President, the social security system's automatic cost-of-living benefit escalator is a critically important piece of Federal law for millions of America's senior citizens. This law is designed to help older Americans

keep up with the ravages of inflation, by increasing social security benefits to match increases in the cost of living. Unfortunately, it does not work as well as it should.

I am happy to join with Senator CHURCH in cosponsoring legislation, S. 1243, to improve the social security cost-of-living system. I believe that the remedies contained in S. 1243 would make the automatic benefit increases what they were intended to be: an accurate and swift reflection of the true cost of living for the average senior citizen and a very helpful tool in keeping senior citizens' retirement benefits on a fair and decent level.

Unfortunately, this provision, as it is presently written, accomplishes too little, too late. The escalator is triggered only once each year, and therefore, if preceded by a full year of the type of rapid inflation we have experienced in the 1970's, it is really only a weak and inadequate catchup measure.

Further, the items which are measured to compute increases in the cost of living do not accurately portray the true cost of living for elderly persons. In the last several years the most rapid inflation has struck in just those areas where the elderly spend 80 percent of their money: housing, medical care, food, and transportation.

The average senior citizen cannot afford luxuries and must spend almost all of his budget on necessities, which have increased in cost faster than the average wide-spectrum marketbasket. Therefore, this legislation directs the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to develop a special, accurate consumer price index for senior citizens, an index which reflects the special inflation problems they must confront.

There is much evidence to justify this thoughtful legislation. We held a hearing of the Special Committee on Aging in Providence, R.I., last year on future directions in social security. Witness after witness testified that inflation was a major scourge of senior citizens today. For example, Mr. Clifford Shaw from Cranston said, "Inflation is one of the prime specters in the lives of retired people," and he was speaking of seniors in every income category. Dr. Mary Mulvey, vice president of the National Council of Senior Citizens, specifically spoke about the outrageous inflation in health care costs and the disproportionate expenditures that seniors face in this category.

I regret that I did not have the opportunity to place this statement in the RECORD yesterday, as I had planned, but I was delayed in Rhode Island.

I hope that the Finance Committee will hold hearings on this important legislation during this Congress and that we can put this into effect soon. Senior citizens deserve the protection and fairness that this measure would bring to the law. I am delighted to cosponsor it and look forward to voting for it in the Senate.

ARTIFICIAL ROOTS OF A "PALESTINIAN HOMELAND"

Mr. PACKWOOD. Mr. President, observers of the Middle East crisis agree that a peaceful solution to the conflict cannot be obtained until the so-called Palestinian issue is satisfactorily resolved. Unfortunately, the Carter administration continues to take policy positions which raise significant barriers to the attainment of this goal.

Of great concern is the President's repeated call for the creation of a "Palestinian homeland." This demand coming just prior to further negotiations between Israel and the Arab States has not only severely undermined Israel's bargaining position but also has increased intransigence on the part of the Arabs with regard to this issue.

Recently, an article by Michael Novak appeared in the Washington Star which provides a revealing look at the history of the Palestinian homeland question. Because of the importance of this issue to our Senate colleagues and because many may not have had an opportunity to see this article, I ask unanimous consent that Mr. Novak's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 4, 1977]

ARTIFICIAL ROOTS OF A "PALESTINIAN HOMELAND"

(By Michael Novak)

Everyone says that Carter is innocent of diplomatic history. But has it not, even once alone at night, occurred to the President that the Arab states controlled the Sinai, the West Bank and all the other presently disputed territories from 1948 until 1967? Not once in those 19 long and seminal years did the Arab states see any need for another "Palestinian homeland" or a "new Palestinian state."

During the same years, other nations around the world integrated into their societies millions of refugees of sharply different ethnic backgrounds. The Arab nations made no gesture to integrate their own brothers and sisters. If Arab brothers and sisters did not regularize the refugees, why should that burden now be placed on Israel?

For a thousand years and more, Arab peoples have borne insufferable condescension from European peoples. Should little Israel pay for that, too? Arab civilization was once the pride of the world. Scholarship flourished in Araby while Europe lay under the night of barbarian invasion. Now that Arab wealth and power are once again commanding worldwide respect—it is remarkable how intelligent and cultivated in the eyes of others one becomes, as one's bankroll fattens—an end to historical condescension is long overdue.

The pity shown by Carter, however, is a new form of condescension. When President Carter speaks in piteous tones of a "homeland" for "refugees," he should realize clearly (a) that Jordan is already a Palestinian homeland; and (b) that the "refugees" are indigenous peoples kept in the status of refugees by their own peoples, for political reasons. These political reasons include persuading the softhearted to do precisely what President Carter is doing.

To be sure, American motives—particularly those of elite banking interests—are not rooted only in pity. There is tremendous wealth in Araby, a percentage of which is coveted. There are also strategic interests in keeping Arab money in the western camp. The Arabs, too, have strategic reasons for staying with the West. Merchants for six thousand years, Arab leaders know that democratic capitalism will make them far wealthier (and freer) than the authoritarian, incompetent socialism of the East.

In 1948 the Arab states refused to accept the U.N. resolution establishing Israel. Ever since, they have been stubbornly intransigent. In biblical texts, Jewish leaders characterized their own people as "stiff-necked." This is the word Christian children learn in Sunday school. So it has been easy to picture the Israelis, rather than the Arabs, as stiff-necked. But compromises imperil Israel's survival, not the survival of the Arab states.

In fact, long-range Israeli interests depend on full commercial integration with neighboring Moslem nations. The Israelis do not fear harmonious and open relations. The Arab states do. Israeli skills, above all in social organization, but also in technology, could nourish vast rewards both for Israel and for its neighbors. Israeli technicians, merchants, teachers, military experts and others would tremendously enrich neighboring lands. The Near East could become the most prosperous and civilized area of the globe. The Arabs say no.

What is at stake is Arab pride. More than that, deeper than that, it is the inherited vision of Moslem sovereignty through the entire crescent. In the throat of that vision, Israel sticks like a stone of scandal. Often in history, the Arabs have been tolerant people. But pluralism in the modern sense—a pluralism of sovereignties, cultural systems and political liberties—is not yet part of their tradition. So the deep impulse in Arab culture is to eject the Israeli state, to get rid of it.

The Arabs can (and will) adjust to power realities, including the permanence of Israel. It is not, after all, so much to accept. Israel comprises less than one-hundredth of Near Eastern territories. It is not rich in oil or other natural riches, only in its people. President Carter and Secretary Vance are falling for a ploy, whose consequences for the world are incalculable. The "Palestinian movement" will collapse of its own weight once the leaders of Araby cease paying for it. Little Israel has assimilated millions of refugees—more Israelis come from Arab nations than from the West.

The only way to close the Palestinian question is to recognize its artificial sources. From 1948–1967, the Arab nations did not establish a "Palestinian homeland" on the West Bank, or in the deserts of the Sinai. Should Israel do what the Arabs themselves did not do?

STEVEN BIKO

Mr. PERCY. Mr. President, the distressing news of the death of Steven Biko, an influential black leader in South Africa, brings home to us once again the terrible price in humanity exacted by the abhorrent practice of apartheid.

Biko's death in police detention saddens all of us who seek for South Africa a more democratic society freed from its shackles of racism. It is a tragedy that South Africa continues its policy of human separation and alienation which denies it the benefits of its full human potential and does great injustice to the black population of the country.

CENTRAL INTELLIGENCE AGENCY MARKS 30 YEARS OF SERVICE—GORDON McLENDON ASSESSES ITS PERFORMANCE

Mr. RANDOLPH. Mr. President, history is not always written in the daily headlines or newscasts or commentaries. It is the result of reasoned analysis over many years. In the next century, history scholars may puzzle over some minor footnotes of our recent past. They may, for example, wonder how a hardening cold war slowly thawed in the 1970's. And what events transpired that averted major military confrontations?

In the daily chronicling of these events, I feel it is remiss for us to ignore the 30th anniversary of the Central Intelligence Agency. Certainly many men and women who have engaged in intelligence operations over the past three decades have performed with dedication and high honor. Recent happenings which have resulted in broad public disapproval cannot and should not obscure their service to our Nation. To maintain a balanced view, it is necessary that we recount known CIA activities in the perspective of the present world situation.

An excellent analysis of U.S. intelligence effectiveness is found in a recent speech by Gordon B. McLendon, a knowledgeable broadcasting executive and commentator of Dallas, Tex. He says that the United States "has the best intelligence in the world," and in his address before the Association of Former Intelligence Officers, he provides documentation for his claim.

Mr. President, I ask unanimous consent that Mr. McLendon's remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. INTELLIGENCE—AMERICA'S FIRST LINE OF DEFENSE

(By Gordon McLendon)

Before I conclude this speech thirty minutes from now, a missile could be launched from the Soviet Union, strike into this city and blow us all to kingdom come. I begin this way not because I believe such is going to happen—heaven forbid—but to point out to you that what we are going to discuss here is not in any sense some idle theory.

Take a look at your watch—it should say—P.M.—twenty-nine minutes from now, your life and that of your family could be over.

If you believe me, we can get on with this speech.

To quote that gifted pseudonym, Adam Smith, "we are all at a wonderful party, and by the rules of the game we know that at some point in time the Black Horsemen will burst through the great terrace doors to cut down the revelers; those who leave early may be saved, but the music and wines are so seductive that we do not want to leave, but we do ask, 'What time is it? What time is it?' Only none of the clocks have any hands."

It is my hope to talk to those of you who are not frozen at the party and then sliced apart by the Black Horsemen of greed at the end. I am sure I speak to most of you.

While it is not this speaker's purpose to argue the case for or against increased military spending, it is my function today to make the strongest case for the importance of U.S. intelligence forces. In order to do that, there are certain basic facts concerning our defense forces that must be known:

Vast numbers of Americans today cynically close their ears to all comparisons of U.S. vs. Russian military strength on the ground that both sides possess enormous overkill. Enough, they argue, becomes much, and much has long since become far too much. Mutual destruction can be accomplished but once, they argue, and both sides have long had that potential.

However understandable, such a point of view has blind spots. In the first place, massive new Soviet nuclear rockets (ICBM's), such as the SS–9, can easily destroy U.S. missiles in their silos—because present U.S. policy is to fire only after an enemy attack.

Furthermore, the Russians do not regard a nuclear war as either impossible, unthinkable or unsurvivable. They do not believe that the United States can destroy the Soviet Union either by first strike or retaliation. Over the last twenty years, the Russians have devoted great effort to enormous civil defense projects. They believe that their present civil defense capability may well keep Soviet losses in any nuclear war below 20 million people—fewer than Russian losses in World War II. They believe that the bulk of Russia's industry could also survive. But the Russians believe that the United States, which has no nuclear civil defense program, may lose as many as 100 million people and by far the greater part of our industry. Dr. Eugene Wigner, America's Nobel Prize winning nuclear physicist from Princeton, confirms the Russian view. "The total explosive power in Russian missiles," says Dr. Wigner, "is now about 6 times greater than the explosive power in our missiles. The maximum damage that we could inflict on them would be less than 4% of the Russian population; they could destroy or threaten to destroy 45% of our population."

If the Russians are indeed thinking this way, U.S. nuclear capability is not the deterrent to the Russians that most Americans believe.

Besides the Russian nuclear civil defense system, the Soviets count upon weapons to secure them against U.S. nuclear rocket attack. We refer to Russia's moving, and mobile, missile launchers. We cannot aim at these launchers on the ground because they are easily concealed from our satellites and can be rapidly moved. They are not restricted by the SALT I agreement. Yet the United States has no mobile missile launchers. These moving Russian launchers, such as the SS–16 and the SS–20 can head off across a field, set up and fire in minutes at targets anywhere in the world.

The United States Navy is down to only 438 ships, compared to Russia's 1440 active combat ships, including the new carrier *Kiev*.

The decay in readiness of our fleet was dramatically demonstrated during the *Mayaguez* incident. The U.S. carrier *Hancock*, 31 years old, which has been operating without one of its four shafts limped weakly out of Subic Bay toward the Gulf of Thailand, making only 23 knots—and never reached the *Mayaguez*. Our helicopter carrier *Okinawa* was on its way to the flash point but part of *Okinawa's* boiler plant was off the line. Struggling along at thirteen or fourteen knots, it also never got there. The escort ship *Holt* was the first U.S. ship at the scene, but it had power-supply problems and so *Holt's* main battery was down the night before the engagement.

The former U.S. Secretary of Defense, James Schlesinger, said, "clearly, this nation cannot long tolerate the present readiness condition of the U.S. Navy."

In submarines, the Russians have a 3 to 1 advantage over the United States and are turning out a new sub every 5½ weeks. The newest Russian Delta class submarine has the new SSN-8 ballistic missile with a range of over 4,000 nautical miles, capable of reaching any target in the United States from protected Russian waters. The United States won't have a comparable submarine missile until the first Trident submarine is ready in 1979.

In the air, the Soviets have the largest bomber force in the world—825 medium and heavy bombers—almost double the number of U.S. bombers. The United States may still enjoy a slight qualitative advantage in tactical air, but the Russians have now begun to deploy newer capable aircraft in great numbers—the Flogger, Foxbat, Fencer and Backfire. Ninety percent or more of these Soviet Backfire bombers are already in combat squadrons. The Soviet Backfire is far superior to any American bomber. It was the Backfire that we were building the B–1 to counter, and now we have cancelled the B–1. Soviet deep penetration capability in the air continues to grow rapidly.

The Soviets have 2600 fighter-interceptors. The United States has 315, a margin of over 8 to 1. In 1975, the United States Air Force produced only 181 aircraft of all sizes.

Perhaps the best summary of air comparison came at the end of 1976 when the authoritative "Jane's All the World's Aircraft" reported that Soviet airpower is outstripping the U.S. so swiftly that now the United States might have to use major nuclear weapons just to counter a conventional Communist air attack.

Russia outproduces the U.S. in all military hardware except helicopters. Russia's Warsaw Pact forces in Europe outnumber our NATO forces 3 to 1 in combat formations. The Soviets now have a force of over 12,000 surface-to-air missiles (SAMS ready and on launchers. The United States has dismantled all its strategic SAM defenses. Russia is now deploying its most advanced new intercontinental nuclear rocket, the SS–18 with a warhead of around 50 million tons of TNT—more than 2500 times as large as the bomb dropped on Hiroshima. Russia has a 3-to-5 to 1 advantage in missile explosive power.

As late as the early 1960's, the Russian navy was simply a small coastal defense force. Now, it is a formidable blue-water navy whose total active combat ships, large and small, outnumber the U.S. six to one!

Soviet fleets now roam the Indian Ocean, have begun to edge out the United States in the seas off Japan, and in the Mediterranean they now challenge the U.S. sixth fleet. The Supreme NATO Commander Atlantic, Admiral Kidd, said recently of the Mediterranean, "What used to be an Atlantic lake in the minds of the Alliance and the United States is now . . . an Atlantic moat, filled with predatory steel sharks, conceived and constructed in the Soviet Union."

On the ground, the Russians have nearly 4.5 million men under arms, well more than twice the U.S. military force. Russian combat ground forces outnumber us 3½ to 1. The Soviets—and no one who has just come from Russia, Siberia and Outer Mongolia, as I have, can miss this—devote at least 20% of their national product to defense. The United States devotes 5 percent. But the most distressing fact of all is this: of the total U.S. defense budget, costs at the Pentagon for wages and pensions take up 55 percent of our total military budget. Secretary of Defense Harold Brown says, "the whole pay structure needs to be looked at."

The point also should be made here that however we or our administration view our military capability, the rest of the world may view it quite differently. Regardless of what we feel to be our military strength, if certain of our marginal allies feel that we are vulnerable to Soviet power, the Russians may more easily intimidate them by their very mass of arms and thus extract political, economic and military concessions from them. For instance, Russia's nearer neighbors, along the vital Persian Gulf, may in-

terpret the very volume of Soviet weaponry and men as superiority per se and be far more willing to acquiesce in demands and offer concessions.

Then, of course, there is China. The most important of all factors in today's world balance of power is the continued tension between Russia and China. If those two patch up their differences, the U.S. power position in the world would be frightfully damaged. At this moment, the United States would seem far nearer to a reconciliation with China than the Soviet Union. But suppose that China—particularly after our oriental loss of face in Viet Nam—decides that the margin of Russian military superiority over the United States is increasing so rapidly that the United States can no longer be counted upon as a reliable counterweight to the Soviet Union? Fearing U.S. weakness, a Chinese rapprochement with Russia is easy to conceive. And thus, even if we Americans interpret our preparedness one way and see no shift in military balance with the Soviet Union, that does not mean that other countries, whose friendship we consider important, see our position to be the same versus that of the Soviets. As Alice might say to the Red Queen in Wonderland, "what's important is not, it's what seems to be that is."

You have to talk tough, and from strength, if you expect the Russians to listen.

As the Soviet historian Andrei Amalrik says, "The Russians despise you, consider you an idiot and they do exactly what they want if you talk to them with courtesy and tact."

Too many of our State Department theorists must know, but somehow forget, that when you deal with the Russian leaders, you are not dealing with the products of American Ivy League colleges or even public schools, men bred in the manners and traditions of Western civilization. Rather, in Russian leaders, you are talking to men whose heritage and views go back to the brutality of the czars and savage peasant bandits and Genghis Khan and the Tartars and ruthless conquerors of the past. You must talk to them hard and from strength.

Again, the purpose of this talk is to refocus attention on the importance of our intelligence forces. We make no excuses for past intelligence transgressions in domestic areas. There were FBI and CIA excesses and wrongs—abuses that were thoughtfully committed, and not by mistake. Such attacks on our domestic freedoms demand the most outraged resistance. But we have had that resistance, and hopefully the public and the Congress have made their point. It is important to note that our own intelligence revealed its own past mistakes—they did not have to be unearthed. Such candor by U.S. intelligence deserved nationwide applause. At any rate, explicit new legislation and tough congressional oversight committees have now been set up to protect our rights under the 1st and 4th Amendments. We must not continue what has at times since late 1974 become a destructive orgy within our intelligence community, for the attacks that have been made have not only revealed the questionable activities, but also have revealed intelligence sources, secrets and methods that took enormous time and money to build. These continued random attacks by publicity-seeking committees have damaged our first line of defense—U.S. Intelligence. To quote Secretary Schlesinger again, "It has caused delight and derision among our potential foes, concern among our friends, and wonderment on the part of all."

If you are a football coach and you find yourself operating with eight players to the opposition's eleven, you must change your game plan. You must operate far more strategically with your eight men—with far greater intelligence. And so just as the United States devotes less and less to defense relative to the Soviets, there is greatly increased need for accurate intelligence concerning potential enemies. With the volume of our defense going down, what we keep must be employed with maximum intelligence.

And even now, the United States has the best intelligence in the world. You get a lot for your intelligence dollar. The brilliant Lt. Gen. Sam Wilson, head of intelligence at the Defense Department, has pointed out vivid examples of American intelligence successes:

1. American intelligence spotted the Soviet nuclear missiles on their way to Cuba in 1962 and supported the President as he worked through 13 nightmarish days to force the Russians to remove them . . .

2. U.S. intelligence gave seven years warning on the development of Moscow's antiballistic missile system . . .

3. American intelligence pinpointed eight new Soviet intercontinental ballistic missiles and evaluated the development of each missile three or more *years* before it became operational . . .

4. U.S. intelligence anticipated two major new Soviet submarine programs well before the first boats slid down the ways . . .

5. U.S. intelligence revealed the status and design of two Soviet aircraft carriers well before the front one went into sea trials . . .

6. U.S. intelligence successfully monitors and predicts trends in oil prices and tracks the flow of petro dollars—vital to your pocketbook and everyday life.

7. American intelligence performs the vital task of assessing yearly world crop prospects—a key to strategic planning of all sorts.

8. U.S. intelligence monitors compliance with strategic arms limitation agreements. Our intelligence does not have to estimate, does not have to guess . . . our intelligence *knows* whether our possible opponents are keeping their agreements. And that's a new job for intelligence—keeping the peace and restraining the arms race.

9. U.S. intelligence experts are more than craftsmen, more than scientists, they are dedicated, talented artists. They are also brave people on perilous duty in strange lands, they are gifted analysts puzzling out mysterious actions by alien peoples in remote, closed and secretive societies. You do not want these courageous men and women who risk their lives for this country exposed and destroyed.

10. In 1942, the United States Navy cracked the most secret of Japanese codes, and we were thus able to crush the Japanese fleet at Midway, avenging Pearl Harbor and also turning the entire Pacific war around.

11. For nearly ten years before he was betrayed and executed in 1963, the famous Colonel Oleg Penkovsky, one of Russia's foremost intelligence officers, was also—to the bitter dismay of the Soviets—also a double agent for the CIA and, as such, played a key role for us in the Cuban missile crisis.

12. Had it not been for the joint effort of our intelligence with the celebrated British special intelligence service (MI–6) in 1953 Iran would likely have joined the Soviet Union. The demagogic premier of Iran, Mohammed Mossadegh, was on the very verge of overthrowing the Shah and making Iran part of Russia. However, the CIA, with British intelligence, toppled Mossadegh, restored the Shah to power, and saved that vital country and its great oil resources for the free world.

I hope that these examples illustrate the crucial place which U.S. intelligence occupies in the preservation of the American dream.

But that was yesterday. What about today? Take Africa—from which we import important minerals. Suppose our intelligence told you that the Russians—using Cuba as their cover—have not only reversed their promised withdrawal of troops in Angola but also increased them to between 14 and 15 thousand? This strong Soviet-Cuban force is intimidating to Southwest Africa—Namibia—which is scheduled for independence on 1 December. Through our intelligence, we know where these Cuban troops are:

Six thousand are infantry, there is a Cuban arsenal including an armored regiment with 120 T–54 and T–34 Soviet tanks and 1900 men, an armored car regiment with 70 Soviet-made vehicles and 1600 men, five regiments equipped with mobile rocket launchers. We know that the Cubans have at least a dozen MIG–4 fighters, helicopters and Antavos–2 light transport planes, and we know that Angolan airfields at Huando, Mocamedes and Cabo Linda are rapidly being modernized. The names of these cities may mean little to the average man until it is pointed out they are part of a potential Soviet staging area for a major offensive against Southwest Africa. Going northward into Central Africa, U.S. inteligence knows that Cuban and Soviet forces are using Brazzaville as the first stop for most Communist expeditionary forces before they fan out across the southern rim of Africa.

All too close to strategic areas of the Middle East, there are about 500 Cuban advisers in Somalia and they would like to take over Djibouti, the important Red Seaport long controlled by the French. We know that in Aden, which is already fully communist, there are 1000 Cuban advisers and more than twice that number of what the Russians like to call technicians—which means pilots, guerrilla trainers, doctors, economic experts and agricultural and educational teams.

All of this information is most important to us, particularly in a day when there are talks about re-establishing diplomatic and trade relations with Communist Cuba. And this information can only be supplied to Washington by a very able U.S. intelligence force. Whether Washington uses information intelligently is beyond the scope of this address.

As the director of Central Intelligence Agency advocates, Congress should change our security laws so that the charter of the CIA specifically refers to and limits the CIA to "foreign" intelligence wherever gathered?

The fact is that the service rendered this nation by our intelligence service during the past 30 years makes the few improprieties look small. Not that they should be ignored, but rather viewed in proper perspective. Spy stories in the morning paper make such juicy reading that they are publicized out of all proportion. In the process, enormously complex and expensive technical intelligence may be exposed and countered.

Again, abuses of our intelligence services did not have to be "discovered;" they were identified, revealed and made public by the intelligence community itself. Intelligence itself told the public about them. They have been ended.

When you approach the CIA headquarters building on the green lawns at Langley, Virginia, you will see a statue of Nathan Hale. That will probably call to memory his words, "I regret that I have but one life to give for my country." But there is something else significant about that statue of Nathan Hale at Langley. A close look will show you that Nathan Hale's hands are tied behind him and his legs are bound with a rope. He was bound just that way before the Redcoats hanged him for American espionage.

That is not the way Americans want their intelligence agents, like Nathan Hale. The American people must rally round our vital intelligence forces and insist on keeping the ropes off Nathan Hale.

If we do, the time tomorrow can be 0001 and not 2359. There need be no words from

the old years as evocative as Quisling, blitzkrieg, Sig Heil, stuka, panzer, Messerschmidt, or Coral Sea. The words of tomorrow can be as dazzling as the morning sun.

PROBLEMS FACING THE STEEL INDUSTRY

Mr. PERCY. Mr. President, the U.S. steel industry, like so many other critical industries in our country today, has been crippled by rising imports, resulting in the loss of jobs for thousands of American workers.

Just yesterday, for example, some 5,000 prime industrial jobs in steel were terminated in Youngstown, Ohio.

I submit, Mr. President, that such a condition is nothing less than a regional disaster. And there is every indication that this example in Youngstown may be repeated elsewhere, possibly in my own state of Illinois.

Given the nature of the steel industry, continued problems facing this vital sector of our economy could even have a direct impact on our national security.

I would point out that the steel industry is not advocating a protectionist solution. It welcomes free trade—a position which I wholeheartedly support and that the steel industry has been associated with since the Randall Commission was appointed by President Eisenhower in 1950 to chart a freer trade course for the United States—Mr. Clarence Randall was serving at the time as chairman of the board of Inland Steel Co.

While America welcomes fair and above-board competition in this or any other industry, unfair trade practices should not be tolerated.

The problem facing the steel industry is not restricted to the United States alone. It is a world problem. And because the problem is worldwide in scope, I urge a multilateral solution.

In the Trade Act of 1974, Congress delegated to the executive branch a wide latitude of trade authority.

Multilateral trade negotiations operating under the General Agreement on Tariffs and Trade provide an ideal opportunity for the U.S. Government to assume an imaginative initiative in solving this pressing trade problem. Rather than a continuing attitude of neglect, the administration must assume a leadership role, using steel as an example of how a tough trade issue can be solved without stimulating protectionism, thereby ultimately even contributing to trade expansion.

The governments of European nations and Japan are awaiting U.S. leadership on this issue. Given the accelerated timetable for multilateral negotiations announced recently by Ambassador Strauss, both short- and long-term relief for the industry can be realized quickly within the OECD and the GATT. If this does not occur, some form of legislative solution through quotas or tariffs—that would reverse a 20-year trend toward greater market freedom and lower tariffs—may be forthcoming. To me, this is not the answer.

Besides a multilateral solution, I believe that we can seek domestic remedies by encouraging capital formation and providing adequate investment tax credits. In addition, we need tax incentives for capital investment through accelerated depreciation for plants in high unemployment areas and for more rapidly recovering costs incurred through the installation of environmental controls. Last February 11, for example, I cosponsored S. 735, which would provide for accelerated depreciation for industries located in high unemployment areas.

This morning, I had the opportunity to discuss some of the problems facing the steel industry with Frederick G. Jaicks, a longtime acquaintenance, who is chairman of the board and chief executive officer of the Inland Steel Corp. in Chicago. Before a group of other House and Senate Members from the Illinois, Indiana, Ohio, and Pennsylvania delegations, Mr. Jaicks outlined for us just what the steel industry is faced with today.

I would like to share his thoughts with my colleagues, and ask unanimous consent that the remarks of Frederick Jaicks be inserted into the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY FREDERICK G. JAICKS

I thank you for your presence this morning. My company is one of seven steelmakers comprising the nation's largest steel producing and consuming region—the Midwest. And the very brief remarks I will make are on behalf of those steelmakers. They are represented here today, as is the Cold Finished Bar Association . . . whose member companies are important steel processors. All of these gentlemen will be prepared to participate in our discussion.

The Illinois-Indiana steel producers made more than 33 million tons of raw steel last year—some 26 per cent of the total domestic output. They employed more than 120,000 persons . . . far and away the largest industrial sector in the Midwest, and exceeded only by the 140,000 who work in the multi-faceted food business.

So this issue of imports, which brings us together, affects jobs in a most direct and significant way. In the greater Chicago District alone . . . more than 768 thousand tons of imported steel have been unloaded during the first seven months of 1977—an 83 per cent increase over the same period a year ago. For the nation, it's currently estimated that total steel imports will exceed 17 million tons for 1977 . . . or better than 18 per cent of what the domestic industry currently expects to make. The pace of the two most recent months reported is even higher.

So we're talking about steel made abroad, to keep foreign economies at full employment, shipped to the United States and sold at below full costs and at times below home prices. We're talking about American jobs lost; and an industry undergoing its most severe economic stress since the depression of the 30's.

And we're talking, I must say somewhat critically, about an industry that has been ignored by its own government. For contrary to prevailing public opinion—here and abroad—the American steel industry is beset by a flood of imported steel . . . NOT because it is inefficient, NOR technologically outdated, NOR uncompetitive, but rather because there is a *world* steel trade problem and the United States is the only "free" major market.

Frankly, we have been greatly disappointed by the indifference of our government since the clear re-emergence of the steel trade problem in 1975, following the steel crunch of 1973–74. With the Trade Act of 1974 on the books, American specialty steel producers filed for relief under the escape clause procedures by mid-1975 and the two principal exporting groups to our markets—the Japanese and the European Community—had instituted their agreement to restrain imports of Japanese steel into the EEC. Their agreement had a most unfortunate impact on U.S. markets thru diversion of Japanese steel here.

What has transpired since early 1975 is a government policy of postponed inaction. Here are a few brief examples. An effort in early '75 to get at a workable long-term program of steel trade through a framework of multilateral negotiations fizzled primarily as a result of U.S. indecision.

At the November 1975 OECD steel meeting, our representatives again failed to counter EEC initiatives for bilateral actions; and this inaction was followed a month later by the EEC-Japanese steel arrangement which limited Japanese exports into the Common Market to 1.2 million tons, and set the stage for Japan to open the flood gates and its diversion of more than 1.5 million tons into the United States.

And in a very real sense, it was the forerunner of stepped-up EEC penetration into the American open market this year, a phenomenon that has produced increases of Common Market steel during the first seven months of this year ranging between 59 per cent and 191 per cent for various products over the period a year earlier. The Japanese and Common Market nations seemingly could make discriminatory pacts with impunity while our government vacillated.

As you know, the steel industry's institute subsequently filed a Section 301 Complaint under the 1974 Trade Act, and 11 months later there is still no formal response to our complaint.

One can hardly escape the notion that our government has operated on the premise that the steel trade problems will gradually disappear if and when the world steel economy improves, and that it can wait it out. Or at the very best, it can take some minimal efforts to restrain labor and industry pressures directed toward a sustained and effective effort to bring about fair trade. So far as we can tell, the only positive action currently underway is a second meeting of an OECD steel group later this month, and while it may be premature to label this "tokenism" it does not appear to hold out great prospects for all parties in world steel trade to work through the problem to a long-lasting solution.

There is, nevertheless, still time for our government to exercise leadership that will preclude an inevitable drift toward protectionism and lead to a further growth in steel demand around the world.

Two years ago, the American Iron and Steel Institute set forth a longer term steel program within the framework of multilateral trade negotiations. Our recommendations were founded on the Trade Act of 1974. We believe they remain pertinent today. The key recommendation relates to steel sector trade negotiations, which the Congress—as we read the legislative history of the Act—intended for steel. They have not been realized under the GATT framework, partly through the intransigence of our trading partners and partly through our failure to exercise sufficient leadership. Our trading partners surely must recognize that the multilateral approach is clearly applicable to the resolution of outstanding difficulties, but they have resisted these efforts intensely while they continue to export their unemployment to our markets. Now it remains to be seen whether Ambassador Strauss can exercise the toughness requisite to getting them to sit still.

As we view the present situation, we cannot afford to delay efforts at securing short-term, temporary relief. We need your understanding—most importantly your help. Jobs and the economic vitality of your constituents are at stake.

Some of you already have indicated your intention to introduce bills to that end, and we welcome that prospect. We'll do all that we can to assist you however we can. Beyond that, and currently this, in my view is the bottom line: We would urge you to impress your views and concerns concerning American jobs and economic growth lost to steel imports to the Carter Administration, urging them to get on with the task of formulating sound and constructive trade alternatives and to pursue them forcefully at the bargaining table. I'd be most surprised if you do not see a considerable increase in the number of dumping charges initiated by basic producers in the relatively near future. This has been the line urged by Ambassador Strauss.

I'm grateful for your kind attention. Now, as indicated at the outset, it is time for an expression of your views, comments, questions, and I'll do my best to see that responses are forthcoming as required.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977—CONFERENCE REPORT

Mr. PELL. Mr. President, I submit a report of the committee of conference on S. 602 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. PELL. Mr. President, today we are considering the conference report on S. 602, the Library Services and Construction Act.

This bill is an important one, for it represents the major Federal effort to assist our Nation's public libraries. The bill extends the authorizations for the Library Services and Construction Act through 1982, and it provides a method of assisting major urban libraries. I think the bill takes an important step in providing this urban library assistance. The Subcommittee on Education, Arts, and Humanities, of which I am chairman, spent many days this past spring examining the problems confronting public libraries throughout this country. We held 3 days of public hearings, from which we learned that although the Library Services and Construction Act was working well, it needed to focus in on the major crisis facing our urban libraries. We found that these libraries, most of which serve as major resource libraries for the public libraries in their area, were facing desperate times, and that many of them were having to limit service. We decided to do something about this by adding an additional purpose to the act, focusing in on the needs of major urban resource libraries, and by providing that once appropriations for title I of the act exceed $60,000,000, a portion of the moneys beyond that figure will be reserved for urban libraries.

Mr. President, I think this act reaffirms our commitment to our Nation's public libraries. Those libraries are one of our greatest national resources, and I am proud that this bill will provide them with much needed Federal support.

Senator JAVITS prepared remarks regarding the Senate consideration of the conference report on the library bill (S. 602) prior to his departure for overseas. He is serving as a member of the Senate delegation to the North Atlantic Assembly, which is meeting in Paris, France. The Assembly is made up of Treaty Organization countries. He requested that these remarks be included.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR JAVITS

Today we are considering the Conference Report on S. 602, an important measure involving federal funding of our public libraries. This bill contains an important provision, which I initiated, to provide support for our urban libraries. The bill also extends through 1982 the authorization for grants for library services, library construction, inter-library cooperation, and library services for older persons.

I wish to commend our distinguished colleague, Senator Pell, the Chairman of the Education, Arts and Humanities Subcommittee. From the beginning of the Committee deliberations on the needs of public libraries, he has likewise stressed the unserved library users in our great cities. His support and cooperation in seeking to provide urban areas with needed assistance was a primary factor in the success of this conference.

I also thank our colleagues in the other body. All the conferees showed a sincere desire to create the best bill to help our libraries, and their work should be recognized by all supporters of our public libraries.

CONFERENCE AGREEMENT

The Library Services and Construction Act, as amended, will alleviate some of these problems threatening city libraries without disrupting the successes of the existing program.

The special needs of urban libraries will now be separately identified as a major purpose of the Act. I expect that wherever there are major urban areas that each state plan for library services shall include provisions to strengthen urban libraries. States may not reduce the urban share of Federal library funds when increased funding levels are attained. The upcoming White House Conference on Libraries is directed to examine further the needs of libraries in densely populated areas. Urban libraries will be encouraged to continue their sharing of services with other local libraries and users from outside our great cities.

Under the conference recommended approach, the intrastate distribution of funds will be altered when appropriations for Title I of LSCA are in excess of $60 million. Current appropriation for this title is $56.9 million. This excess over $60 million will be divided so that urban centers will be guaranteed a proportionate share in the same ratio as their population relates to the entire state population. Urban libraries receiving these funds will provide services to readers and to other libraries throughout the regional area in which it is located, and meet the demands for special services as a result of the valuable nature of their extensive and unique collections.

More specifically, funds will be used: First, to maintain access to out of print works and periodicals and preserve the continuity of urban library collections. Second, to expand an especially important role of the urban libraries in providing assistance to unemployed persons and underemployed persons seeking new work. One such program in New York provides information and counseling to persons seeking employment. At a time when unemployment is so high, this service is a vital one. Third, to provide funding for urban libraries which in hard-pressed major cities have been among the first to suffer cutbacks in competition for funds with demands of public safety, transportation, sanitation, health and education. Fourth, to support the unique role of providing continuing education opportunities and nontraditional modes of education for the rapidly expanding number of citizens who seek knowledge for personal advancement and a richer life. And lastly, to continue to provide facilities and resources for research by students and businesses with national or regional markets who rely heavily on libraries for up-to-date information.

NEED OF URBAN LIBRARIES

The severe erosion of the financial strength of these institutions is one of the great tragedies of the fiscal crises in our cities. This problem is not endemic just to the Northeast, as testimony in the Human Resources Committee revealed difficulties of libraries in Los Angeles, San Francisco, Portland, Chicago, Detroit and Denver as well. Hours of services in these urban libraries have been curtailed, employees discharged and vacancies not filled, and acquisition budgets pared to the bone. Testimony showed that Bookmobiles in Chicago sat unused in a storage garage. In Detroit there were not city funds in the library budget. No major city has a book budget which has increased in the last several years at a rate equal to the increase in book costs. Facilities are often inadequate and valuable collections are stored in warehouses out of reach to the public.

Growing public library usage due to a combination of the recession, energy costs and population shifts further aggravate the situation. The problem is compounded by the expense of delivering library service in the large cities, where concentrations of special populations often necessitate the purchase of foreign language books and library materials, generally at a cost nearly triple that of conventional books.

The inclusion of the urban emphasis to the Library Services and Construction Act is a step toward helping not just the libraries, but the cities themselves and the nation as a whole. Of primary importance is the fact that libraries in all parts of the country are increasingly dependent upon heavily centralized services and sharing operations from major libraries. Out of a total of 8,307 public libraries in 1974, there were 334 libraries in incorporations of over 100,000 persons. These few urban libraries, 4 percent of the national total provided almost 50 percent of the total interlibrary services provided in

the nation. Moreover, of the services provided by major urban libraries, one-half of the services are provided to rural libraries. As city library budgets falter, the proportion of use of city central libraries by residents from suburbs and even more distant points has risen, thus forcing the large cities to subsidize, in no small measure, library service to the surrounding area. Thus, this amendment aids not just our major resource libraries, but the entire network of interdependent library institutions, the core of which is the urban library.

Information output is expanding, the numbers of separate publications are increasing, and larger numbers of the population are not in school and thus more dependent upon the public library for information. The Federal Government itself contributes to the hardship in that there is an ever-increasing publication of documents, but a decrease in their free distribution, adding to the burden of city libraries most of which maintain deposits of federal documents.

This is not a solution, but a step. I am encouraged by the support my colleagues have shown for measures to provide more equitable federal funding for the cities to correct the disparities which have existed. I am especially pleased that the enactment of this bill shall demonstrate our support for one of our country's most valuable assets—the major public libraries.

Mr. PELL. Mr. President, I ask for approval of the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER VITIATING RECOGNITION OF SENATOR RIEGLE AND SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders entered yesterday for the recognition of Mr. RIEGLE and the junior Senator from West Virginia on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 2104 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order for the recognition of Mr. ALLEN, which has been previously entered for tomorrow, the Senate resume consideration of the unfinished business, S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10:30 tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized under a previous order for not to exceed 15 minutes; at the conclusion of which the Senate will resume consideration of the unfinished business, S. 2104, a bill to establish a comprehensive natural gas policy.

Hopefully, rollcall votes will occur in relation to that measure tomorrow.

Mr. President, what will be the pending question at that time?

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma, amendment No. 887, in the nature of a substitute.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. BAKER. Mr. President, will the majority leader yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I ask the majority leader if he has some estimate of the outlook for rollcall votes into the evening tomorrow or on the following day.

Mr. ROBERT C. BYRD. The Senate may vote by rollcall up until 6 o'clock tomorrow evening, but there will be no rollcall votes after 6 p.m. tomorrow.

On Thursday there will be no rollcall votes prior to the hour of 6 p.m., but rollcall votes may be ordered in the meantime. Voice votes may also occur in the meantime. Rollcall votes, if ordered prior to 6 p.m. on Thursday and subsequent to 6 p.m. on tomorrow, Wednesday, will occur beginning at 6 p.m. on Thursday.

Several votes by rollcall could, therefore, occur tomorrow prior to 6 p.m. Several rollcall votes could be ordered subsequent to the hour of 6 p.m. tomorrow and prior to the hour of 6 p.m. on Thursday to occur beginning at the hour of 6 p.m. on Thursday.

Mr. BAKER. Mr. President, if the majority leader will yield for one more moment, would it sound then that we might be in fairly late on Thursday?

Mr. ROBERT C. BYRD. Yes. And conceivably the Senate could be in late tomorrow, depending upon the progress being made or which might be in prospect at that time, but only voice votes and debate could go forward, amendments could be offered and rollcall votes could be ordered after 6 p.m. tomorrow to occur starting at the hour of 6 p.m. on Thursday or thereafter.

Thursday, especially, it would appear to me, would be a likely prospect for a late session. The same thing can be said for Friday. And if the pending measure has not been resolved by the close of business on Friday, the Senate will be in on Saturday.

ORDER FOR ADJOURNMENT FROM FRIDAY, SEPTEMBER 23 UNTIL SATURDAY, SEPTEMBER 24, 1977

By way of emphasis, may I say to the distinguished minority leader, I ask unanimous consent that when the Senate completes its business on Friday it stand in recess until the hour of 9 a.m. on Saturday. That order, of course, may be lifted at any time and hopefully the action on the pending business will be complete and we could joyfully enter into vitiating that order.

Mr. BAKER. Mr. President, I would devoutly wish for that result, and I would share with the majority leader the hope that it would not be necessary to have a Saturday session, but I might say to my friend, the majority leader, that I have today notified the Republican Senators that the prospects for a Saturday session for the first time this session appear to be almost certain and that while it is possible to avoid that by completing this bill certainly we are likely to have a Saturday session if we do not complete this bill.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered

ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:55 p.m., the Senate adjourned until tomorrow, Wednesday, September 21, 1977, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1977:

IN THE ARMY

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Donald Raymond Keith, [redacted] U.S. Army.

Lt. Gen. Howard H. Cooksey, Army of the United States, (major general, U.S. Army) (age 56) for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 3962.

Maj. Gen. Charles James Simmons, [redacted] U.S. Army.

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general, Dental Corps

Col. Joe Leonard Cheatham, [redacted], Army of the United States (lieutenant colonel, Dental Corps, U.S. Army).

CONFIRMATION

Executive nomination confirmed by the Senate September 20, 1977:

DEPARTMENT OF JUSTICE

Ronald E. Angel, of Georgia, to be U.S. marshal for the northern district of Georgia for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, September 20, 1977*

The House met at 12 o'clock noon.

Rabbi David M. Winter, Young Israel of Baychester Traditional Synagogue of Co-op City, Bronx, N.Y., offered the following prayer:

Our Father in Heaven, we invoke Thy blessings upon this gathering of Thy children dedicated to serve the manifold needs of our country.

Endow them with strength to live and labor with sincerity of purpose and conscientious endeavor. May honest convictions and sound moral judgment govern their actions.

Lord, grant them strength of body and health of mind. Thus enabling them to face the challenges of governing with faith and courage.

In issues of doubt, fortify their convictions; in moments of despair, illuminate their paths; faced with adversity and frustration, grant them patience and fortitude.

Above all, help and guide them in building a better tomorrow for all Thy children. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 17, answered "present" 2, not voting 32, as follows:

[Roll No. 567]

YEAS—383

Abdnor	Barnard	Brown, Ohio
Addabbo	Baucus	Broyhill
Akaka	Bauman	Buchanan
Alexander	Beard, R.I.	Burgener
Allen	Beard, Tenn.	Burke, Calif.
Ambro	Bedell	Burke, Fla.
Ammerman	Bellenson	Burke, Mass.
Anderson, Calif.	Benjamin	Burleson, Tex.
	Bennett	Burlison, Mo.
Anderson, Ill.	Bevill	Burton, John
Andrews, N.C.	Biaggi	Butler
Andrews, N. Dak.	Bingham	Byron
	Blouin	Caputo
Annunzio	Boggs	Carney
Applegate	Boland	Carr
Archer	Bolling	Carter
Ashbrook	Bonior	Cavanaugh
Ashley	Bonker	Cederberg
Aspin	Bowen	Chappell
AuCoin	Breaux	Chisholm
Badham	Breckinridge	Clausen, Don H.
Badillo	Brinkley	
Bafalis	Broomfield	Clay
Baldus	Brown, Calif.	Cleveland
Cochran	Huckaby	Panetta
Cohen	Hughes	Patten
Coleman	Hyde	Patterson
Collins, Ill.	Ireland	Pattison
Collins, Tex.	Jeffords	Pease
Conable	Jenkins	Pepper
Conte	Jenrette	Perkins
Corcoran	Jones, N.C.	Pettis
Corman	Jones, Okla.	Pickle
Cornell	Jones, Tenn.	Pike
Cornwell	Jordan	Poage
Cotter	Kasten	Pressler
Crane	Kastenmeier	Preyer
D'Amours	Kazen	Price
Daniel, Dan	Kelly	Pursell
Daniel, R. W.	Kemp	Quillen
Danielson	Ketchum	Rahall
Davis	Keys	Railsback
de la Garza	Kildee	Rangel
Delaney	Kindness	Regula
Dellums	Kostmayer	Reuss
Derrick	Krebs	Rhodes
Devine	Krueger	Richmond
Dickinson	LaFalce	Rinaldo
Dicks	Lagomarsino	Risenhoover
Diggs	Latta	Roberts
Dingell	Le Fante	Robinson
Dodd	Leach	Rodino
Dornan	Lederer	Roe
Downey	Leggett	Rogers
Drinan	Lehman	Rooney
Duncan, Oreg.	Lent	Rosenthal
Duncan, Tenn.	Levitas	Rostenkowski
Eckhardt	Livingston	Rousselot
Edgar	Lloyd, Tenn.	Roybal
Edwards, Calif.	Long, La.	Rudd
Edwards, Okla.	Long, Md.	Runnels
Eilberg	Lott	Ruppe
Emery	Lujan	Russo
English	Luken	Ryan
Erlenborn	Lundine	Santini
Ertel	McClory	Satterfield
Evans, Colo.	McCloskey	Sawyer
Evans, Del.	McCormack	Scheuer
Evans, Ind.	McDade	Schroeder
Fary	McDonald	Schulze
Fascell	McEwen	Sebelius
Fenwick	McFall	Seiberling
Findley	McHugh	Sharp
Fish	McKay	Shipley
Fisher	McKinney	Shuster
Fithian	Madigan	Sikes
Flippo	Maguire	Simon
Florio	Mahon	Skelton
Flowers	Mann	Slack
Flynt	Markey	Smith, Iowa
Foley	Marks	Snyder
Ford, Mich.	Marlenee	Solarz
Ford, Tenn.	Marriott	Spellman
Fountain	Martin	Spence
Fowler	Mathis	St Germain
Fraser	Mazzoli	Staggers
Frenzel	Meeds	Stangeland
Frey	Meyner	Stanton
Fuqua	Michel	Stark
Gaydos	Mikulski	Steed
Gephardt	Mikva	Steers
Giaimo	Milford	Stockman
Gibbons	Miller, Calif.	Stratton
Gilman	Miller, Ohio	Studds
Ginn	Mineta	Stump
Goldwater	Minish	Symms
Gonzalez	Mitchell, N.Y.	Taylor
Gore	Moakley	Teague
Gradison	Moffett	Thompson
Grassley	Mollohan	Thone
Gudger	Montgomery	Thornton
Guyer	Moore	Treen
Hagedorn	Moorhead, Calif.	Trible
Hall		Tsongas
Hamilton	Moorhead, Pa.	Tucker
Hammer-schmidt	Mottl	Udall
	Murphy, Ill.	Ullman
Hanley	Murphy, N.Y.	Van Deerlin
Hannaford	Murphy, Pa.	Vanik
Hansen	Murtha	Vento
Harkin	Myers, Gary	Volkmer
Harrington	Myers, John	Waggonner
Harris	Myers, Michael	Walgren
Harsha	Natcher	Walsh
Hawkins	Neal	Wampler
Hefner	Nedzi	Watkins
Heftel	Nichols	Waxman
Hightower	Nix	Weaver
Hillis	Nolan	Weiss
Holland	Nowak	White
Holt	O'Brien	Whitley
Holtzman	Oakar	Whitten
Horton	Oberstar	Wiggins
Howard	Obey	Wilson, C. H.
Hubbard	Ottinger	Wilson, Tex.
Winn	Wylie	Young, Tex.
Wirth	Yates	Zablocki
Wolff	Yatron	Zeferetti
Wright	Young, Fla.	
Wydler	Young, Mo.	

NAYS—17

Blanchard	Goodling	Quayle
Brown, Mich.	Heckler	Sarasin
Coughlin	Hollenbeck	Steiger
Evans, Ga.	Jacobs	Traxler
Forsythe	Lloyd, Calif.	Walker
Glickman	Mitchell, Md.	

ANSWERED "PRESENT"—2

Ichord	Moss

NOT VOTING—32

Armstrong	Edwards, Ala.	Rose
Brademas	Flood	Sisk
Brodhead	Gammage	Skubitz
Brooks	Johnson, Calif.	Smith, Nebr.
Burton, Phillip	Johnson, Colo.	Stokes
Clawson, Del	Koch	Vander Jagt
Conyers	Mattox	Whalen
Cunningham	Metcalfe	Whitehurst
Dent	Pritchard	Wilson, Bob
Derwinski	Quie	Young, Alaska
Early	Roncalio	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 422. An act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 262. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes.

RABBI DAVID WINTER

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, I am proud that Rabbi David Winter of the Traditional Synagogue of Co-op City in the Bronx, N.Y., is delivering today's invocation. Rabbi Winter is a graduate of Yeshiva University in New York. He received his B.A. in 1958; a bachelor of Hebrew literature from the Yeshiva University Teachers College in 1960; a master of science from the Ferkauf Graduate School of Yeshiva University in 1962; a master of Hebrew literature from the Yeshiva University Bernard Revel Graduate School in 1965; and a rabbinic degree from the Rabbi Isaac Elchanan The-

ological Seminary of Yeshiva University in 1965.

Rabbi Winter is spiritual leader of a congregation of 300 families. He is known, however, far beyond his congregation. He is a community leader whose influence is felt on all issues affecting the lives of the people of his area. He has received national awards from Israel Bonds—the Masada Award—and the United Jewish Appeal-Federation of Jewish Philanthropies. He is an honorary member of the Jewish War Veterans of the United States. He is director of special projects for the American Committee of the Shaare Tzedek Hospital in Jerusalem.

At this time, the holiest week of the year for Jewish people throughout the world, it is especially fitting that we have Rabbi Winter with us to offer the prayer. Joining Rabbi Winter are his wife, his parents, and his children.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE A REPORT

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on the bill H.R. 8390.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY UNDER THE 5-MINUTE RULE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs holding hearings on legislation to grant veterans' benefits to the women's Air Force Service Pilots may sit today while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO MEET DURING 5-MINUTE RULE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to meet during the deliberations of the House under the 5-minute rule on the afternoons of Tuesday and Wednesday, September 20 and 21, and on the mornings of Thursday and Friday, September 22 and 23, 1977, respectively.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

HOUR OF ADJOURNMENT ON WEDNESDAY

Mr. WRIGHT. Mr. Speaker, in order to facilitate the plans for adjournment at 3:30 tomorrow, so as to permit the observance of Yom Kippur, the high Jewish holiday which begins at sundown tomorrow, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I wonder if the gentleman from Texas would tell us whether or not there might be a change in the program tomorrow, in view of the fact that there are some more important bills than others listed for Wednesday.

Mr. WRIGHT. Mr. Speaker, I would respond to the gentleman, if the gentleman would yield, that there is no plan to change the program. Assuming that we can conclude today on schedule, we would plan to follow the program as announced for tomorrow and hope to conclude as much of it as possible.

This is the reason for the request that we adjourn to meet at 10 o'clock tomorrow, so that we can complete as much business as possible and therefore adjourn at 3:30 tomorrow, permitting Members of the Jewish faith to observe the Jewish High Holy Day.

Mr. BAUMAN. Further reserving the right to object, the program then will include adoption of three rules, and then the Select Committee on Population?

Mr. WRIGHT. It is the plan of the leadership to follow the program as scheduled for tomorrow, assuming we successfully conclude all the business scheduled for today. If the ERDA bill is not concluded today, it would be carried over into tomorrow.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO MEET DURING 5-MINUTE RULE

Mr. ADDABBO. Mr. Speaker, I renew my request and ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to meet during the deliberations of the House under the 5-minute rule on the afternoons of Tuesday and Wednesday, September 20 and 21, and on the mornings of Thursday and Friday, September 22 and 23, 1977, respectively.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CHRISTOPHER ROBERT WEST

The Clerk called the bill (H.R. 2662) for the relief of Christopher Robert West.

There being no objection, the Clerk read the bill as follows:

H.R. 2662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, Christopher Robert West may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Grosso-Padilla.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 4401) for the relief of Kwi Sok Buckingham (nee Kim).

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DR. JOHN ALEXIS L. S. TAM AND YEUT SHUM TAM

The Clerk called the bill (H.R. 2558) for the relief of Dr. John Alexis L. S. Tam and Yeut Shum Tam.

There being no objection, the Clerk read the bill as follows:

H.R. 2558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor John Alexis L. S. Tam and Yeut Shum Tam shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of each alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. HARRIS. Mr. Speaker, I am pleased that the House is considering today H.R. 2558, a bill providing for the relief of Dr. John Alexis L. S. Tam and his wife, Yeut Shum Tam. I introduced this bill on January 26, 1977. At a meeting of the Judiciary Committee on July 26, 1977, it was reported favorably to the House.

Dr. John Alexis L. S. Tam, a native of Hong Kong who resides in my district, is one of the few pediatric anesthesiologists in the United States. An eminently qualified physician, Dr. Tam has received certification from the American Board of Pediatrics and the American Board of Anesthesiology. He currently practices at the Children's Hospital National Medical Center in Washington, D.C.

Although Dr. Tam has a June 23, 1973, priority date for a third preference visa, no such visas are presently available to nationals of Hong Kong, and none are expected to be available in the near or distant future. My bill would provide permanent residence status for Dr. Tam and his wife and allow the doctor to continue his practice. Since Dr. Tam's skills have considerable usefulness to our country, I believe that it is in the public's interest that Dr. Tam be allowed to remain in the United States.

Dr. Tam's abilities were demonstrated recently in a historic operation at the Children's Hospital National Medical Center. On June 23, 1977, a team of seven surgeons successfully separated a pair of conjoined or Siamese twins.

Administering general anesthesia to Siamese twins presents unusual problems not seen in otherwise healthy infants. During the administration of any anesthetic, the job of an anesthesiologist is to begin anesthesia safely, keep the patient asleep and free from pain during surgery, and insure that adequate oxygen is supplied to and carbon dioxide removed from the body. It is the anesthesiologist's responsibility to replace blood and fluid and to monitor and control the heart rate, blood pressure, body temperature, and functions of other vital systems. Even in a normal infant, the performance of these tasks requires skill, experience, and knowledge of modern technology.

The challenge presented in anesthetizing Siamese twins is more than doubled because of their anatomic union. Although joined together, the twins are two separate individuals; acts performed on one twin do not significantly affect the other. Two teams of anesthesiologists are required at all times—one for each child. Dr. Tam, the beneficiary of this private bill, served as the leader of anesthesiologists during the June 23, 1977, operation, coordinating all activities. With his assistance and that of the teams of anesthesiologists, the surgeons were able to separate the twins successfully.

Dr. Tam entered the United States as an exchange student under a J–1 visa in June 1970. Upon his departure from Hong Kong, Dr. Tam received a letter from the government of the British Crown Colony of Hong Kong saying that his return was not required. Since his entry to the United States, Dr. Tam has not been the beneficiary of any grant by a Government aided program.

If it were not for the fact that he was born in Hong Kong, Dr. Tam would have no problem in obtaining permanent resident status. He enjoys an impeccable command of the English language; he is a highly qualified, skilled physician. It would be a terrible waste to deny the public the opportunity to benefit from his skills solely on the basis of his place of birth. I respectfully urge my colleagues to support H.R. 2558.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KWI BOK KIM

The Clerk called the bill (H.R. 3625) for the relief of Kwi Bok Kim.

There being no objection, the Clerk read the bill as follows:

H.R. 3625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kwi Bok Kim may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Scott L. Smith, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 4, strike out the name "Kwi Bok Kim" and insert in lieu thereof the name "Peter Neal Smith".

On page 1, at the end of the bill, add the following sentence:

Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Peter Neal Smith."

A motion to reconsider was laid on the table.

THE GIPPER GAP

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JOHN L. BURTON. Mr. Speaker, today I will introduce the measure creating "Reagan's Rough Riders." It follows:

JOINT RESOLUTION

A resolution to establish the Reagan's Rough Riders, a Panama expeditionary force to keep the Panama Canal open in the event of hostilities if the treaty is not ratified

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

There hereby is established an expeditionary force, known as Reagan's Rough Riders, comprised of volunteers for the purpose of ensuring the continued operation and neutrality of the Panama Canal in the event of hostilities if the treaty signed by the governments of the United States and Panama is not ratified by the Senate of the United States.

Further, this resolution provides for Ronald W. Reagan, former Governor of California, to command the Panama expedi-

tionary force after his commission as full Colonel in the United States Army.

There are authorized to be appropriated such funds as may be necessary for the provision of a white horse to Ronald W. Reagan in his capacity as commander of the Panama expeditionary force, and for carrying out all other provisions of this resolution, with the exception that, if Ronald W. Reagan chooses not to lead the Panama expeditionary force himself but to remain at rear headquarters, funds for the provision of his white horse shall not be authorized to be appropriated.

This measure in no way takes sides in the Panama Treaty dispute.

It merely seeks to create an expeditionary force of volunteers under the command of Governor Ronald W. Reagan to keep the Canal open in the event of hostilities if the treaty falls.

One of our colleagues suggested giving Governor Ronald W. Reagan a "Big Stick" as well as a white horse. Of course, that would be conditioned upon his "speaking softly".

There is also a movement to rename the Canal the "Gipper Gap" but it is highly questionable that the Notre Dame student body would ratify the giving away of the Gipper.

Co-authors are welcome to call my office.

CONSTITUENTS FROM BUCKS COUNTY, PA., VISIT NATION'S CAPITAL

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, today I am very proud to welcome a group of constituents who have traveled to Washington from lower Bucks County, Pa. They come from all walks of life, and they are spending the day in our Nation's Capital.

Mr. Speaker, they are glad to be with us today, and I am proud to welcome them to Washington.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO FILE REPORTS ON S. 1060, H.R. 7747, AND H.R. 7766

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight to file reports on three bills: S. 1060, H.R. 7747, and H.R. 7766.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, may I ask the gentleman what the second bill involves?

Mr. DIGGS. If the gentleman will yield, H.R. 7747 is a bill which passed before, I might say to the gentleman. It amends title XXIII of the District Code, with respect to the release or detention prior to trial of persons charged with certain violent or dangerous criminal offenses.

It is designed to tighten up the Bail Reform Act, which has to do with some of the problems of recidivism here in the District of Columbia.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that our side of the aisle is aware of this bill and that there is nothing unusual about this procedure?

Mr. DIGGS. If the gentleman will yield, yes, I can assure the gentleman that the rights of his side of the aisle have been fully protected.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR DISTRICT OFFICE SPACE FOR MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 687) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 687

Resolved, That, effective January 3, 1978, and until otherwise provided by law, the Clerk of the House may disburse funds from the contingent fund of the House on behalf of each Member of the House of Representatives, in accordance with the provisions of this resolution, to defray the cost of leasing suitable office space for use by such Member in the district from which he is elected or in any location which is in close proximity to such district.

SEC. 2. The annual amount which may be disbursed on behalf of each Member under this resolution shall be an amount equal to the product of two thousand five hundred square feet multiplied by the maximum applicable annual rate per square foot in the region encompassing the congressional district from which such Member is elected or in which the Member maintains a district office, as determined by the Administrator of General Services under section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (j)).

SEC. 3. Each Member who desires the Clerk to disburse funds under this resolution in connection with office space leased by such Member shall submit to the Committee on House Administration two copies of each lease agreement involved. If the committee determines that such lease agreement conforms with any requirements established by the committee by regulation, the committee shall authorize the Clerk to make disbursements on behalf of such Member.

SEC. 4. The Administrator of General Services shall, in accordance with regulations prescribed by the committee, furnish suitable office equipment, carpeting, and draperies for office space acquired under this resolution.

SEC. 5. The committee shall prescribe such regulations as may be necessary to carry out the provisions of this resolution.

SEC. 6. (a) (1) The eighteenth undesignated paragraph under the subheading "CONTINGENT EXPENSES OF THE HOUSE" under the heading "HOUSE OF REPRESENTATIVES" in the Legislative Appropriation Act, 1955 (2 U.S.C. 122), shall not be effective in the Ninety-fifth Congress beginning on January 3, 1978.

(2) If the provisions of this resolution are adopted after January 3, 1978, paragraph (1) shall be applicable beginning on January 3, 1978.

(b) Subject to the enactment of the provisions of this resolution as permanent law and effective on January 3, 1978, the Legislative Appropriation Act, 1955, is amended by striking out the eighteenth undesignated paragraph under the subheading "CONTINGENT EXPENSES OF THE HOUSE" under the heading "HOUSE OF REPRESENTATIVES" (2 U.S.C. 122). If the provisions of this resolution are enacted as permanent law after January 3, 1978, the amendment made by the preceding sentence shall be applicable beginning on January 3, 1978.

SEC. 7. For purposes of this resolution—

(1) the term "Clerk" means the Clerk of the House;

(2) the term "committee" means the Committee on House Administration; and

(3) the terms "Members of the House of Representatives" and "Member" mean any Representative in the Congress, the Resident Commissioner from Puerto Rico, and the Delegates from the District of Columbia, Guam, and the Virgin Islands.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, that it be considered as read, and printed at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON) for 1 hour.

Mr. THOMPSON. Mr. Speaker, House Resolution 687 provides that effective January 3, 1978, the multiplier in the formula for deriving the district office rental allowance be increased from 1,500 square feet to 2,500 square feet. This resolution is brought before the House to fulfill a commitment that the Committee on House Administration made to the Members when it revised the regulations last summer.

When we instituted transferability of allowance into the system, we also provided that Members would be charged for their Federal office space. This charge forced many Members over their allowance because they had previously been provided free Federal space.

Last summer we did not have the information necessary to adjust the allowance to compensate for this change in policy and, therefore, we grandfathered in those whose office space exceeded their allowance for 1 year until this coming January so that the committee would have sufficient time to arrive at a correct formula. This resolution represents the results of the committee's effort.

Our study shows that 88 percent of the Members presently occupy 2,500 or less square feet of office space, while only 45 percent are covered by the present multiplier of 1,500 square feet. Currently 140 Members are exceeding the dollar allowance, and 117 Members have more than 1,500 square feet of district office space. The first-term Members are not covered at all by the grandfather arrangement, so it is considered that this is absolutely necessary in order to avoid a tremendous number of Members having to readjust their total district office arrangements.

Mr. Speaker, I urge the adoption of House Resolution 687 because failure to do so may result in substantial disruption of constituent services of reduction in the accessibility of Members to their con-

stituents, overcrowding of staff in district offices, and other hardships, impinging on each of the Member's ability to carry on his or her own representation.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield, for the purpose of debate only, to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I have just one question at this point I would like to propound to the chairman of the committee.

One of the problems that Members experience—and it is one that this Member has experienced—is related to the question of parking. GSA in its controlled space also controls parking if it is owned by GSA in connection with that Federal building, and in some instances there is rental parking available; in many instances there is not.

Mr. Speaker, I am wondering if the chairman of the committee could state whether or not included in the rental of a district office there might be rental space, even if there were an additional charge for the rental space or for parking.

Mr. THOMPSON. Mr. Speaker, parking space rental in federally owned buildings is included.

Mr. DICKINSON. I understand. I am not sure of this, but perhaps GSA could set the dollar figure and make a charge for the space just as commercial enterprise would, but I wanted to ask the committee chairman specifically, if there were no GSA space available but there were commercial space available near the office facility, would the rental of parking space be included as a necessary adjunct and a part of the rental for the office space?

Mr. THOMPSON. We have not gotten to that point. I will say to my distinguished colleague on the committee. We will have to consider that matter separately.

Mr. DICKINSON. I will assume, then, if that point has not been specifically dealt with, that that would be considered a legitimate office expense and it might be paid for out of the office's district allowance?

Mr. THOMPSON. I think we would have to determine that by committee order. We have, in my judgment, no current authorization to do so.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman.

Has the gentleman finished his presentation on his time?

Mr. THOMPSON. Mr. Speaker, I am prepared to yield further to the gentleman from Alabama, if he desires.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, reluctantly and with some hesitation, I oppose this piece of legislation today.

I recognize the importance of the statistics that have been put forth by the chairman of our committee, and I recognize that some 80 percent-plus are in excess, either in footage or in dollar figures, of what they are allowed. I am one of those Members.

However, with the free transfer from the various office allowances which we have to take care of business expenses, I feel that there are adequate allowances available to me and to the Members for transfer for this purpose. I think that perhaps the biggest problem that this resolution gives me is the amount of the increase. We are going from 1,500 feet to 2,500, which is more than a 50 percent increase; and I am not convinced that that amount of increase is necessary.

I think that we on the Committee on House Administration and through the Obey reform measures have been more than generous with respect to our allowances to Members. I am afraid that this is just one more piece of tinsel on the tree and perhaps too big a piece of tinsel. I really think we are being too generous and excessive here. I think the Members have enough money to take care of a reasonable increase in their allowed footage or space within their accounts as they are presently constituted; and I really think we are being too generous with ourselves.

It is for that reason that I would oppose the resolution today.

Mr. Speaker, let me ask one question of the chairman, if I may.

Is there an estimated dollar figure as to what this is going to cost the taxpayer if we pass this resolution today?

Mr. THOMPSON. Mr. Speaker, yes, there is.

May I say in response to the gentleman that the current district office rental allowance is $5.1 million a year. A straight line extrapolation would give us a cost of $3.4 million.

This figure does not take into account, however, the fact that the Clerk is paying for office space for those Members who are covered by the grandfathering provision in effect now. That is in excess of $1.5 million.

The Clerk will not pay those amounts next year, so a portion of this figure simply represents a transfer from the Clerk's accounts to the Members and not an additional cost.

Further, a Member whose allowance is presently adequate and who does not require the total increase has the option of letting the unused portion revert to the Treasury, or it may be transferred to another allowance, in which case it may be used only for discharging his or her official duties.

Mr. Speaker, I would point out to my distinguished friend, the gentleman from Alabama, our ranking minority member, that more than 60 Members currently, in addition to the other statistics which I have given to the gentleman, have in excess of 2,500 square feet now. We did study this matter carefully. I do not think, with all due respect to the gentleman, that this is an excessive amount. We did a very careful study. We have available to each and every Member his or her district office rental allowance as it is now.

As the gentleman knows, the cost per square foot varies tremendously throughout the Nation. Virtually each district has a different per-square-foot cost; and we have taken all of that into consideration.

Mr. DICKINSON. I am well aware of that. I think it goes perhaps from as high as $25 per square foot down to $4 per square foot. I do not know what the highest figure is, but I know it is exceedingly high in some areas such as Manhattan.

Mr. THOMPSON. Mr. Speaker, I will say to the gentleman that the staff informed me that the rental allowances varied from a low of approximately $4 to a high of approximately $13.50 per square foot.

Mr. DICKINSON. I thought it was much higher than that.

However, let me give the chairman an example of why I oppose this resolution: In my own case—and I just had the staff work this out; if I am incorrect, I would like the chairman to correct me—in my conclusion here. I am short some $400 a year which I can transfer from another account to pay for my present space. If we increase this amount, I will have added to the amount available to me $5,600 or a little more.

If I need $400 more than I have got, and I am receiving $5,600, that makes $5,200 available to me, and if I do not use it for the space I could transfer it to another account: is that correct?

Mr. THOMPSON. You can revert it to the Treasury or to another account as long as it is a part of and necessary for you to discharge your official duties.

Mr. DICKINSON. I understand, but that has been very loosely interpreted. I think it is just another layer that has been added.

Mr. THOMPSON. I might say to my friend that it has not been loosely interpreted. Under the new system the vouchers are examined with great care. I would caution Members to make sure that their expenditures are indeed reflective of the costs of their official duties.

Mr. DICKINSON. If I might ask our chairman one more time, the total projected cost increase over what we presently have is how much? Three and a half million dollars?

Mr. THOMPSON. Three and a half million dollars, minus approximately one and a half million dollars which the Clerk is paying to those who are exceeding their allowances now. It is a little less than $2 million.

Mr. DICKINSON. It is a little less than $2 million?

Mr. THOMPSON. That is correct.

Mr. DICKINSON. I thank the chairman.

Let me say that I do have two Members of the committee and another Member on our side of the aisle that would appreciate being yielded some time.

Mr. THOMPSON. I will be glad to yield to them for debate only with the request that they try to expedite their remarks.

Mr. DICKINSON. I thank the chairman.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I want to ask the able chairman of the House Administration Committee to mull over with me the situation I face in my district office.

My office is in the Federal building in Austin, Tex. I have a little more square feet, counting some storage space, than the allowable. I moved to my office about 4 years ago when our Texas Senators moved their offices from the seventh to the ninth floor of the Federal building.

When I moved I had no renovation done, no money spent. I took my office as it came. I did not want any money spent on remodeling.

Under this bill, my office is too big and I will have to take money from other accounts maybe to pay for an office that I never dreamed would cause this problem. There is no way to change my office floor plan.

My office runs from one room to another with a restroom ending the office. To cut a room in half would be too expensive and would make no sense. Why go to the remodeling expense?

So, generally I hope this action is not going to force me out of my office or force me to cut up a room. Is there anything in this resolution that gives the House Administration Committee this kind of power?

Mr. THOMPSON. Mr. Speaker, the answer to the gentleman from Texas (Mr. PICKLE) is this: We are abandoning the grandfather concept, but we do have the authority to, and will exercise judgment on, individual cases as they are presented. We have that authority. In the case of the gentleman from Texas, I have little doubt but that the committee would recognize the inability to divide that space up and would grant an exemption.

Mr. PICKLE. I thank the chairman for his and the committee's understanding of this particular case.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND) for the purpose of debate only.

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding. I rise in opposition to this resolution. There are several reasons why I am opposed to the resolution. As a start, I would submit that in the committee report that accompanies House Resolution 687, when we get down to the "cost" section, we find the following language:

> The cost to the House of the proposed change is negligible, . . .

I do not think that $2 million or $3½ million per annum depending on which figure you are going to use, is particularly negligible. It may be smaller in comparison to some of the other bills we vote on, but it is still a substantial amount of money no matter how you slice it.

We have got to remember that just last spring the House gave each Member an extra $5,000. The justification was that when we passed the ethics legislation that this was sort of to make up for the fact that people could no longer have those office accounts, sometimes referred to as slush accounts. So, as I say, last spring each Member received an extra $5,000 which they can use almost any way they want to because under the new funding system you can switch from one account to another. That added up to $2 million each year.

In effect the Members are now getting at least an average of about $8,000 additional each year—not all of them, but most of them—and in my own case it will amount to another $8,000. I am one of those people who are actually going slightly over my office allowance.

Mr. THOMPSON. With all due respect to the gentleman, I do not think that that official expense allowance is relevant to this question. Surely, this amount of money is an awful lot to the individual Member, but to enable 435 Members of this body properly to serve their constituencies, I think it is very low. The problem has been, I might say to my friend, the gentleman from New Hampshire, exacerbated by the fact that the GSA has raised rent so high in so many areas that Federal offices are moving to private space. There is little or nothing that we can do about it.

Only yesterday the gentleman from Mississippi (Mr. WHITTEN) was describing a situation in the Department of Agriculture where the GSA raised Federal office space costs so high that they went to privately owned property.

Mr. CLEVELAND. This may be true, but we are faced here with a situation which, to all intents and purposes, if this resolution passes, is another substantial bonanza for the Members of Congress. I think it is very relevant to recite the fact that last spring the Members all got an extra $5,000, and they could use that for rent if they want to. Now they are getting another annual increase—depending on their situation but an average of about $8,000. Then, as the gentleman knows because the bill has been referred to his committee, we have the Obey Commission coming along. I have not finished my research on the Obey Commission bill, but I can tell the Members right now that that is going to weigh in at at least $20 million more for these congressional expenses and allowances and accounts.

What I am trying to say as a member of the House Committee on Administration and as a Member of this body that it seems unfortunate to me that these reforms—at least we call them reforms—have all followed on the recent scandals that we all know about, and all of these reforms seem to have a great big price tag. It seems to me that somewhere along the line we ought to have some reform improvement in the workings of Congress that did not have a great big, fat price tag on it; that the taxpayers have to pay for. The tragedy is that our system is so complicated the public does not know how expensive Congress has become—and the added expense has not resulted in a more efficient or effective operation.

I thank the gentleman from New Jersey (Mr. THOMPSON) for yielding to me.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California for debate only.

Mr. ROUSSELOT. I thank my colleague for yielding.

I have not heard the issue of the need to increase the square footage in district offices addressed. Can the gentleman tell us how many Members require additional square footage now because they maintain more than two or three offices because their districts are large in geographic miles? Does the gentleman know?

Mr. THOMPSON. A considerable number, but I do not have that particular statistic available. This is of particular importance not only to those 140 Members who are now over the dollar allowance but to those 117 who are over the space allowance.

Mr. ROUSSELOT. The gentleman means over the square-footage allowance?

Mr. THOMPSON. Yes.

Mr. ROUSSELOT. The 117 Members find that the square-footage allowance is not adequate?

Mr. THOMPSON. Yes, and then the first-term Members are not covered at all at the moment for anything in excess. Many of them in high-rent areas simply are not able to have the requisite number of district offices.

Mr. ROUSSELOT. I appreciate the gentleman's comments. My own present situation does not require any additional square footage. As a result of a court-directed reapportionment plan my district was made much more compact, but in previous times I had to maintain three offices. A Member who is required to do that, because of the great distance between a central office and other areas in his district, many times must have much more than 1,500 square feet.

If such a Member is in an area that has major metropolitan cities, he usually finds the dollar amounts for such square footage is higher. I think it is appropriate that we raise the level of square footage at this time, although somebody may be able to argue over how much extra square footage is allowable. But as one Member who has maintained more than one office in the past and further on the basis that such Member feels he wants to have adequate access to several offices for constituents, I think it is an important step, and I appreciate the action of the committee.

Mr. THOMPSON. The gentleman is quite correct. Otherwise, in districts which are really enormous in size, great difficulty is encountered.

My situation happens to be the exact reverse of the gentleman from California (Mr. ROUSSELOT). Under our reapportionment I was spread over all or parts of four counties. I had operated for many years with one office. It is absolutely essential now that I have three and even though my constituents are in a small State, the farthest distance from my former home office in my present district in the very small State of New Jersey is 60 miles. Nevertheless, I just do not think it is reasonable or fair for my constituents to have to make a round trip of 120 miles to see me in a very small State.

I thank the gentleman from California for his remarks.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

I want to express my thanks to the gentleman from California because he sums up my problems exactly. In my situation two congressional districts were put together. I do not need as much space. I am over, but when I took over the office in the other district, I found the rooms are large and we cannot cut the rooms in two. So that is the sole reason.

So I appreciate what the gentleman from California and the gentleman from New Jersey are doing for all of us.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California for purposes of debate.

Mr. ROUSSELOT. Mr. Speaker, if a Member objects to this bill and is concerned about the cost factor, and feels he might like to support the additional square footage provision that is needed for some but objects to the added cost, the Member does not have to apply to transfer money from the district lease account to other categories.

Mr. THOMPSON. He does not. And the money would stay in the Treasury.

Mr. ROUSSELOT. And so those who do need the extra space because they maintain several offices would be able to apply for it.

Mr. THOMPSON. Yes.

Mr. ROUSSELOT. But those who do not need the additional space would not have to apply for the additional amounts.

Mr. THOMPSON. That is quite so.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

Mr. Speaker, the House Resolution 687 increases the district office rental from 1,500 to 2,500 square feet. I believe that 138 Members or 31 percent of our membership exceeded their district office rental allowances at this time. Of that number, 110 are Democrats and 28 are Republicans. However 18 of these will not be fully covered even after the passage of this resolution.

The picture is a little bit clouded by the fact that some Members exceed their square footage allowance and some exceed their total dollar allowance. As a result of the tie-in of the price and square footage, as reported by GSA, it is not clear whether the number of Members to whom I refer as exceeding applies to square footage or to the dollar allowance.

This innocuous resolution will cost taxpayers $3.5 million, or $7 million per biennium. The chairman has informed us that there is $1.5 million now pending under this same resolution, so that perhaps that number should be called $2 million rather than $3.5 million, and I will accept that.

However, the resolution gives to all of us the ability to increase our consolidated accounts and in fact for 142 Members there will be another $10,000 added to that consolidated account which can be used either for district office space or for any other legislative expense. As a matter of fact, 33 of our Members will get $19,000 added to their consolidated allowance, and that spells bonanza any way we look at it.

Now for the really 70 percent of us who are not over the limit, and I might add that is a sizable majority, there will be added another unneeded increase in our consolidated account which we can use for newsletters or travel or any legislative expenses that our creative imaginations can justify.

The Commission on Administrative Review headed by our distinguished colleague, the gentleman from Wisconsin, recently commissioned a survey of 154 of our Members to determine congressional attitudes toward congressional expenses and procedures.

In response to the question: "What are the things about recruiting, training, or managing your personal staff that frustrate you the most?", only 7 percent volunteered the answer, "Lack of adequate space for staff," many of them were only talking about space in Washington. Only 6 percent of the Members expressed problems with inadequate, inappropriate space, when questioned directly about their district operation.

The same questions were asked of senior staff members. Six percent of them volunteered there were problems with space in response to another question regarding problems about the district office.

I am told that 138 Members—31 percent—exceeded their district office rental allowances. Of this number, 110 are Democrat and 28 are Republican. And 18 of these, however, will not be fully covered even after passage of this resolution. The picture is clouded by the fact that some members are over in square feet, and some are over in price.

The approximate breakdown of the total membership and the number of square feet of district office space is as follows:

Between	*percent*
0–500 square feet	5.2
500–1000 square feet	11.84
1000–1500 square feet	28.64
1500–2000 square feet	28.88
2000–2500 square feet	13.33
2500–3000 square feet	7.16
3000–3500 square feet	3.46
3500–4000 square feet	.74
4000–4500 square feet	.25
Over 5,000 square feet	.5

This chart does not tell us by how much money Members have exceeded their accounts but only indicates the percent that fall within each square foot category.

According to my calculations, which are probably low because they are based upon GSA rates at the beginning of this year, this innocuous resolution will cost the taxpayers $3.5 million per year or $7 million per Congerss.

Following is the approximate breakdown of the amount of increase.

Between	*Members*
$6,000–$9,000	168
$10,000–$12,000	142
$13,000–$15,000	83
$16,000–$18,000	12
$19,000 and up	33
Total	[1] 438

[1] Does not include the 2 ex-Speakers.

For the 69 percent who are not now over the limit, and I might add, the majority of us, this will be yet another unneeded bonanza into our consolidated account which can be used for newsletters, travel, or anything else.

The Commission on Administrative Review commissioned a survey of 154 Members to determine the congressional attitudes toward congressional operations and procedures.

In response to the question: "What are the things about recruiting, training, or managing your personal staff that frustrate you the most?", an overwhelming 7 percent volunteered the answer "lack of adequate space for staff." (Question 7a and 7b.)

Eight percent of the membership volunteered another reference to the inadequacy of office and committee space in response to a question about the administrative support system in the House. (Question 16a and 16b.)

A whopping 6 percent expressed problems with inadequate, inappropriate space when questioned directly about their district operation. (Question 19.)

The CAR also questioned 151 senior staff of Members offices and in response to a question about the administrative support system in the House, 9 percent volunteered problems with allocation, assignment of office space. (Question 25a and 25b.)

Six percent volunteered problems with space in response to another question regarding problems with respect to their district office. To that same question, 1 percent also volunteered that the recent increase in allowance for expenses in the district has added flexibility. (Question 29.)

In the portion of the survey of committee staff—42 were interviewed, 5 percent volunteered space as being a problem with the administrative support system. (Question 17.)

These percentages certainly indicate that once again, we are reacting to a problem by a small number of Members by raising the account to the highest denominator.

Mr. Speaker, when will this largesse end? When we were asked to accept the concept of the consolidated account, we were wooed by all of the "flexibility" verbiage. Under that system, if a Member chooses to have additional office space over and above the allotment, then a cutback is required in one of the other accounts. Now, instead of letting that system encourage budgetary restraint, we are ourselves encouraging excessive and wasteful spending. In each congressional expense category, we have raised the limit to the level of the highest spenders.

Instead of taking care of exceptional cases, we merely raise everybody.

Earlier this year, the House voted an unneeded $5,000 increase in our official expense account at a cost to the taxpayers of over $2 million. On that resolution, spenders could apologize for their votes by saving they had to vote for this. Next month, we will be asked to vote—probably again under a gag rule—for a series of recommendations by the Commission on Administrative Review to further expand House allowances by another $10 million. On that vote, spenders will probably try to justify their votes in the name of reorganization.

On this resolution, there is no excuse. It has no redeeming virtues. Here the vote means only that we are feathering our own nests. The taxpayers are tired of Government's excessive spending. Let us give them a break and defeat this unwarranted and unnecessary expenditure.

Mr. THOMPSON. Mr. Speaker, let me say to the gentleman, I am aware of those statistics, but let me ask this. Were the employees of the Members in each of the Members' district offices asked the question as to the suitability and the availability of their space?

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield further, they were not.

Mr. THOMPSON. Mr. Speaker, I yield the gentleman 1 more minute for debate only.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding this very small time.

I do have some statements I would like to make for the House. It will be unfortunate if I am not able to do so.

The point I am trying to make, Mr. Speaker, is that there is not an overwhelming demand for this kind of space. Some of our Members have exceeded their allowances, but when the distinguished gentleman from Wisconsin (Mr. OBEY) brought in his resolution last year, we all agreed that in going to the flexible amount those of us that had special office needs could borrow from other accounts. Those of us that had special travel needs could borrow from district office accounts and so on and that we would not press for every allowance every time there was a small need within the House.

Now, earlier this year the House voted an unneeded $5,000 increase in our official expense account at a cost to the taxpayers of over $2 million. Some of us justified that vote on the basis there was an ethics package tied to it. Next month the distinguished gentleman from Wisconsin will bring in the CAR report that will ask us to spend from $10 million to $20 million more on ourselves. On that one, those that wish to spend the money cannot justify it.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has expired.

Mr. THOMPSON. Mr. Speaker, I yield 2 additional minutes to the gentleman and then the gentleman can revise and extend and we will all get together later and economize.

Mr. FRENZEL. Mr. Speaker, those who want to vote for the additional $10 million or $20 million next month will be able to do so, justifying their vote on the basis of the reorganization; but today there is neither ethical justification nor a reorganization justification.

Mr. Speaker, on this resolution there are no redeeming virtues. This vote means only that we are feathering our own nests and the taxpayers are tired of our excessive spending. Let us give them a break and defeat this unwarranted and unnecessary expenditure.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN.)

Mr. COUGHLIN. Mr. Speaker, I rise in opposition to this additional raid on public funds.

Mr. Speaker, on behalf of the House Republican Task Force on Congressional Reform, I would like to discuss another move by the House of Representatives to sweeten allowances.

During the dog days of July, the Committee on House Administration approved House Resolution 687 which provides for an increase in the annual allowance for district office rental. In technical terms, House Resolution 687 increases the office rental allowance from 1,500 to 2,500 square feet. In dollars and cents, this amounts to an average of approximately $7,900 per Member or an additional cost of the taxpayer of nearly $3.5 million per year.

As a privileged resolution, House Resolution 687 will bypass the scrutiny of the Rules Committee. No doubt, it will be considered on the House floor in one of those lightning fast maneuvers so customary whenever the issue of raising House allowances is discussed.

The House Republican Task Force on Congressional Reform questions the need for any higher district rental allowance at this time. The procedure by which the House Administration Committee adopted this measure on July 19—less than a half hour notice being given to Members of the minority that House Resolution 687 would be on the agenda—is less than reassuring that the merits and defects of this proposal have been adequately assessed.

House Resolution 687 follows closely on the heels of $5,000 addition to office expenses granted each Member by the provisions of the March ethics resolution costing the taxpayer over $2 million. Within the weeks ahead, the House will be weighing a series of recommendations by the Commission on Administrative Review to further expand House allowances. The question can rightly be asked when, if ever, this avalanche of increased benefits is likely to stop.

The House Republican Reform Task Force believes that the underlying problem is the consolidated account system under which the House now operates. Established in 1976 in response to the House Administration Committee scandals, the consolidated account, which allows for almost unlimited transfers among specifically designated accounts, has given Members an unwarranted bonanza. In the case of House Resolution 687, Members who have no reason to utilize an increase in office rental space, will be allowed to transfer office rental funds to supplement travel accounts, stationery allowances, newsletter funds, or a number of other expenses.

Even though most Members are extremely careful in utilizing the money allocated to them, the consolidated account remains defective. First, it obscures from the press and the public the manner in which allowances can be used for other than their designated purposes. Second, and more importantly, the consolidated account allows a Member to maximize taxpayers' money to bolster the advantages of incumbency. Each addition to the House allowances weights the political process on the side of the incumbent, thereby discriminating against any potential campaign challenger. This House must exercise caution to ensure that increases adopted are necessary and not merely sleight-of-hand techniques to enhance the political fortunes of sitting Members.

The task force believes that before any more increases are instituted, the House should eliminate the transfer of moneys between the various accounts.

House Resolution 687 will probably slide through the legislative process. Yet at a time when the public complains about the runaway costs of government, when there is concern that generous House allowances are spent politically, the House should display restraint in adopting increases in Members' accounts.

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to the pending resolution which would increase Member's district office rental allowance from 1,500 to 2,500 square feet. It is not necessary to go into the overall impact and ramifications of this proposal. My colleague from Minnesota (Mr. FRENZEL) has done a good deal of research in this area. His conclusion was that House Resolution 687 will amount to an average of $7,900 per Member or, to put it another way, $7 million per Congress.

The information at hand indicates that 138 Members of the House exceed their square footage allotment. I am one of those with my three district offices occupying a total of 1,798 square feet. Nonetheless, my district office rental account has an excess, available for transfer, of $3,176. The point is that just because a Member may exceed the square footage allotment, it does not necessarily mean that he must transfer funds from other accounts to rent district offices.

My interest in this matter was aroused when I received a letter from Chairman THOMPSON, dated September 9, 1977, which stated that, and I quote:

> If H. Res. 687 does not pass, beginning January 1978, you will be required to transfer funds from other accounts to cover the deficit.

Subsequent communication between myself and my colleague from New Jersey bore out my contention that even though my district offices occupy 1,798 square feet, I do not exceed the dollar value of the allowance.

In summary, I just wanted to share with the other Members of the House my own personal circumstances. The situation as outlined above it not, I am

sure, unique to the Third Congressional District of Iowa. Let me conclude by urging my colleagues to carefully examine the need for increasing the rental allowance from 1,500 to 2,500 square feet. Having done so I believe they will agree that the pending resolution should be defeated. We in the Congress should practice what we preach. It is the taxpayers' money—not ours.

Mr. THOMPSON. Mr. Speaker, I think we all understand this very meritorious bill now.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 193, answered "present" 1, not voting 25, as follows:

[Roll No. 568]

YEAS—215

Addabbo	Ertel	Mahon
Akaka	Evans, Colo.	Markey
Alexander	Evans, Ga.	Mathis
Allen	Fary	Mattox
Ammerman	Fascell	Mazzoli
Anderson, Calif.	Flood	Meeds
	Florio	Mikulski
Andrews, N.C.	Flynt	Milford
Andrews, N. Dak.	Foley	Miller, Calif.
	Ford, Mich.	Mineta
Applegate	Ford, Tenn.	Minish
Aspin	Forsythe	Mitchell, Md.
AuCoin	Fraser	Mitchell, N.Y.
Badillo	Fuqua	Moakley
Baldus	Gammage	Moffett
Barnard	Gaydos	Mollohan
Beard, R.I.	Giaimo	Moore
Beilenson	Gibbons	Moorhead, Pa.
Biaggi	Ginn	Moss
Bingham	Goldwater	Murphy, Ill.
Blouin	Gonzalez	Murphy, N.Y.
Boggs	Gradison	Murtha
Bolling	Hamilton	Myers, Gary
Bonior	Hammer-schmidt	Myers, Michael
Brademas		Natcher
Breckinridge	Hanley	Neal
Brodhead	Harkin	Nix
Brown, Calif.	Harrington	Nolan
Brown, Mich.	Harris	Oberstar
Burke, Calif.	Hawkins	Obey
Burke, Fla.	Heckler	Ottinger
Burke, Mass.	Hightower	Patterson
Burlison, Mo.	Holland	Pattison
Carney	Holtzman	Pease
Carr	Horton	Pepper
Chappell	Howard	Perkins
Chisholm	Huckaby	Pettis
Clausen, Don H.	Hyde	Pickle
	Ireland	Preyer
Clay	Jenrette	Price
Collins, Ill.	Jones, Tenn.	Quillen
Conte	Jordan	Rangel
Conyers	Kazen	Reuss
Corman	Keys	Richmond
Crane	Krueger	Rinaldo
D'Amours	LaFalce	Roberts
Danielson	Le Fante	Rodino
Davis	Lederer	Roe
de la Garza	Leggett	Rooney
Dellums	Lehman	Rosenthal
Derrick	Lloyd, Calif.	Rostenkowski
Dicks	Lloyd, Tenn.	Rousselot
Diggs	Long, La.	Roybal
Dingell	Long, Md.	Runnels
Dodd	Lundine	Ryan
Downey	McCormack	Santini
Duncan, Tenn.	McFall	Scheuer
Eckhardt	McKay	Schroeder
Eilberg	McKinney	Seiberling
Emery	Madigan	Shipley
Sikes	Stokes	Waxman
Simon	Studds	Weaver
Skelton	Taylor	Weiss
Slack	Thompson	White
Smith, Iowa	Thornton	Whitten
Snyder	Tsongas	Wilson, C. H.
Solarz	Tucker	Wilson, Tex.
Spellman	Udall	Wirth
St Germain	Ullman	Wright
Staggers	Van Deerlin	Young, Alaska
Stark	Vento	Young, Mo.
Steed	Waggonner	Young, Tex.
Stockman	Wampler	Zeferetti

NAYS—193

Ambro	Fountain	Moorhead, Calif.
Anderson, Ill.	Fowler	Mottl
Annunzio	Frenzel	Murphy, Pa.
Archer	Frey	Myers, John
Ashbrook	Gephardt	Nedzi
Ashley	Gilman	Nichols
Badham	Glickman	Nowak
Bafalis	Goodling	O'Brien
Baucus	Gore	Oakar
Bauman	Grassley	Panetta
Beard, Tenn.	Gudger	Patten
Bedell	Guyer	Pike
Benjamin	Hagedorn	Poage
Bennett	Hall	Pressler
Bevill	Hannaford	Pritchard
Blanchard	Hansen	Pursell
Boland	Harsha	Quayle
Bonker	Hefner	Quie
Bowen	Heftel	Rahall
Breaux	Hillis	Railsback
Brinkley	Hollenbeck	Regula
Broomfield	Holt	Rhodes
Brown, Ohio	Hubbard	Risenhoover
Broyhill	Hughes	Robinson
Buchanan	Ichord	Rogers
Burgener	Jacobs	Rudd
Burleson, Tex.	Jeffords	Ruppe
Butler	Jenkins	Russo
Byron	Jones, N.C.	Sarasin
Caputo	Jones, Okla.	Satterfield
Carter	Kasten	Sawyer
Cederberg	Kastenmeier	Schulze
Cleveland	Kelly	Sebelius
Cochran	Kemp	Sharp
Cohen	Ketchum	Shuster
Coleman	Kildee	Spence
Collins, Tex.	Kindness	Stangeland
Conable	Kostmayer	Stanton
Corcoran	Krebs	Steers
Cornell	Lagomarsino	Steiger
Cornwell	Latta	Stratton
Cotter	Leach	Stump
Coughlin	Lent	Symms
Daniel, Dan	Levitas	Teague
Daniel, R. W.	Livingston	Thone
Delaney	Lott	Traxler
Devine	Lujan	Treen
Dickinson	Luken	Trible
Dornan	McClory	Vanik
Drinan	McCloskey	Volkmer
Duncan, Oreg.	McDade	Walgren
Edgar	McDonald	Walker
Edwards, Calif.	McEwen	Walsh
Edwards, Okla.	McHugh	Watkins
English	Maguire	Whitley
Erlenborn	Mann	Wiggins
Evans, Del.	Marks	Winn
Evans, Ind.	Marriott	Wolff
Fenwick	Martin	Wydler
Findley	Meyner	Wylie
Fish	Michel	Yates
Fisher	Mikva	Yatron
Fithian	Miller, Ohio	Young, Fla.
Flippo	Montgomery	Zablocki
Flowers		

ANSWERED "PRESENT"—1

Burton, John

NOT VOTING—25

Abdnor	Early	Sisk
Armstrong	Edwards, Ala.	Skubitz
Brooks	Johnson, Calif.	Smith, Nebr.
Burton, Phillip	Johnson, Colo.	Vander Jagt
Cavanaugh	Koch	Whalen
Clawson, Del	Marlenee	Whitehurst
Cunningham	Metcalfe	Wilson, Bob
Dent	Roncalio	
Derwinski	Rose	

The Clerk announced the following pairs:

Mr. Dent with Mr. Marlenee.

Mr. Early with Mr. Abdnor.

Mr. Brooks with Mr. Del Clawson.

Mr. Phillip Burton with Mr. Derwinski.

Mr. Johnson of California with Mr. Edwards of Alabama.

Mr. Metcalfe with Mr. Armstrong.

Mr. Roncalio with Mr. Skubitz.

Mr. Sisk with Mr. Bob Wilson.

Mr. Rose with Mr. Cunningham.

Mr. Koch with Mr. Vander Jagt.

Mr. Cavanaugh with Mr. Whalen.

Mrs. Smith of Nebraska with Mr. Whitehurst.

Messrs. RUSSO, PANETTA, WALGREN, and TRAXLER changed their vote from "yea" to "nay."

Mr. DON H. CLAUSEN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6796, ERDA authorizations for civilian research and development, fiscal year 1978.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER, pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, September 13, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read, by title, the committee amendment in the nature of a substitute recommended by the Committee on Science and Technology now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration for the fiscal year 1978, for energy research, development, and demonstration, and related activities, the sum of $6,740889,000.

TITLE I—ENERGY RESEARCH DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction, $109,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal) $73,900,000.

(D) Advanced power systems, $25,500,000.

(E) Direct combustion (coal) $59,200,000.

(F) Advanced research and supporting technology $59,000,000.

(G) Demonstration plants and major test facilities (coal), $70,900,000.

(H) Magnetohydrodynamics, $63,400000: *Provided,* That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Natural gas and oil extraction, $88,100,000.

(3) In-situ technology:

(A) Oil shale, $28,000,00.

(B) Coal gasification, $27,600,000.

SOLAR ENERGY DEVELOPMENT

(4) Solar Heating and Cooling, $91,900,000.

(5) Other Solar Energy Programs, $231,500,000, including $191,200,000 for solar electric applications.

GEOTHERMAL ENERGY DEVELOPMENT

(6) Geothermal Energy, $123,900,00.

CONSERVATION RESEARCH AND DEVELOPMENT

(7) Conservation Research and Development:

(A) Electric Energy Systems and Energy Storage, $85,300,000.

(B) End-Use Conservation and Imported Conversion Efficiency, $254,000,000.

(C) Energy Extension Service, $8,000,000.

(D) Small Grant Program for Appropriate Technologies, $10,000,000.

ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT.

(8) Environment and Safety Research and Development:

(A) Overview and Assement, $51,910,00.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

NUCLEAR RESEARCH AND DEVELOPMENT

(9) Nuclear Research and Development:

(A) Light Water Reactors, $313,600,000.

(B) Waste Management, $185,000,000.

(C) Liquid Metal Fast Breeder Reactor, $483,300,000.

(D) Other Advanced Reactor Concepts, $84,170,000.

(E) Advanced Fuel Cycle Concepts, $92,400,000.

(F) Nuclear Energy Assessments, $23,300,000.

(G) Uranium Enrichment, $913,985,000.

(H) Magnetic Fusion, $207,900,00.

ALL OTHER PROGRAMS, $874,807,000, including—

(i) not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) funds of reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (41 U.S.C. 5913);

(iii) funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iv) funds for administrative program support in th amount of $305,053,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78–1–a, a high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania locations, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A–E and long-lead procurement only), $6,000,000.

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof) (A–E and long-lead procurement only), $30,000,000.

(E) Project 78–2–e, high Btu coal gasification test facility, site undetermined (total estimated cost is $1,200,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undermined (A–E only), $3,500,000. (5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6–a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A–E only), $4,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78–7–a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Project 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(7) Environmental Research and Development:

(A) Project 78–9–a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78–10–a, accelerator improvements and modifications, various locations, $4,500,000.

(B) Project 78–10–b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78–11–a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78–12–a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78–12–b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78–13–a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78–13–b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78–14–a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78–14–b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78–15–a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and longlead procurement only), $5,000,000.

(13) Project 78–21, General Plant Projects, $44,265,000.

(14) Project 78–22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $9,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) All other programs, $214,019,000.

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71–1–f), authorized by section 101(b)(1) of Public Law 91–273.

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74–1–g), authorized by section 101(b)(1) of Public Law 93–60.

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76–1–b) authorized by section 101(b)(1) of Public Law 94–187.

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 76–1–c) authorized by section 101(b)(1) of Public Law 94–187.

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76–2–b), authorized by section 101(b)(2) of Public Law 94–187.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (project 76–5–a), authorized by section 101(b)(5) of Public Law 94–187.

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76–8–e), authorized by section 101(b)(8) of Public Law 94–187.

(8) There is authorized an additional sum of $180,000,000 for the enriched uranium production facilities, gas centrifuge (project 76–8–g), authorized by section 101(b)(8) of Public Law 94–187.

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77–1–d) authorized by Public Law 94–373.

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A–E only) (project 77–4–c).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77–4–d).

SEC. 103. Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104. The sum of $40,000,000, which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1–a (clean boiler fuel demonstration plan (A–E and long-lead procurement)) which remains unobligated and is no longer needed, is hereby authorized to be made available instead, in addition to any amounts appropriated for the purpose involved pursuant to this Act, for project 78–2–f (gasifiers in industry, various sites).

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a plan which considers the following options:

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such plan shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the plan. The plan shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the plan to the Congress the Administrator shall release the proposed plan for comment by interested parties, and such comments as are received shall be submitted as attachments to the final plan submitted to the Congress.

(d) Nothing in this section shall be construed as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will read the committee amendments to title I recommended by the Committee on Armed Services.

The Clerk read as follows:

Committee amendments: On page 23, at line 8, strike out the figures "$525,300,000," and insert in lieu thereof the figures, "$313,600,000."

On page 23, at line 18, strike out the figures "$879,372,000," and insert in lieu thereof the figures, "$874,807,000."

On page 24, at line 10, strike out the figures "$309,618,000," and insert in lieu thereof the figures, "$305,053,000."

On page 29, at lines 4 and 5, strike out the figures, "$47,065,000," and insert in lieu thereof the figures, "$44,265,000."

On page 29, at line 14, strike out the figures, "$229,169,000," and insert in lieu thereof the figures, "$214,019,000."

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that the committee amendments be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 22, lines 5 and 6, strike out "$231,500,000, including $191,200,000 for solar electric applications" and insert in lieu thereof the following: "$238,500,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $191,200,000 for other solar electric applications".

Mr. TSONGAS. Madam Chairman, I would like to address my initial remarks to the amendments that I am introducing and then specifically get to the one relating to wind energy.

The President has termed the energy crisis as the moral equivalent of war, as every schoolboy knows. The response, however, to that crisis is falling far short as any schoolboy is well versed. Conservation expectations are not being realized, and it serves no purpose here to argue who is at fault there. The shortfall makes viability of alternative energy sources all the more critical, and these will continue to be critical even if all of the President's requests were passed by the Congress and embraced by the American people.

My amendments are hardly the moral equivalent of war. They are, however, efforts to afford development of alternative energy sources that are virtually limitless and certainly pollution free. They are so-called solar derived methods, whether dealing with solar, wind or biomass conversion. It has become increasingly necessary to replenish our energy supplies. There is no time for tokenism and there is no time for long time development. To paraphrase a resident of the District of Columbia, one George Allen, on solar derived energy, their future is now.

When the energy crisis hits with fury—people argue whether it is going to be 1981 or 1985 or 1989, or whatever—the country will weather the impact far better if the solar-derived components are either in place or are able to be in place. In such an acute emergency it will be senseless to not have completed the necessary research and development.

The solar-deriving component of the ERDA budget is $323 million, but that is out of a total ERDA budget of $6.74 billion and of a total Federal budget of $458 billion. I think the word they use is "priorities." I think the word we use here is "imbalance."

Madam Chairman, I insist we do not have the time to mope along. Let me deal with the amendment before us relating to wind. A critical source of solar energy is obviously wind energy. As with solar cells, it is virtually limitless and actually offers no pollution threat. It is, like solar cells, not a currently self-supporting commercial enterprise. It requires government funding, and that funding at this point is inadequate.

Currently the focus of centralized electrical generation from wind involves the 1.5-megawatt, 200-foot-blade span prototype, the so-called Mod 1. This propeller-driven system is considered by

ERDA and the utilities to be the design most likely to be put into commercial production for utilities. Consequently, ERDA has begun the design and construction of this system, having granted said responsibilities to General Electric.

I might add that there is also what is called the Mod 2 system which is being developed by Boeing, which is a 300-foot span, 2-megawatt system, which ERDA considers to be highly experimental.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

I understand what the gentleman is trying to do is to add $7 million to the authorization for this purpose, but as a practical matter I think as we stand here today we know we are ready to pass the appropriations bill, and we know the appropriations bill did not carry this item. So the practical effect of putting this in at this time would really be to have this money compete for funds with other items in the authorization bill. Would that not be the practical effect of adding this to the authorization bill at this time?

Mr. TSONGAS. As the gentleman knows, there will be a supplemental appropriation that will be forthcoming soon, and that is the place where the $7 million would be included.

Mr. WYDLER. But, if the gentleman will yield further, there is no money for this in the appropriations bill; it has to be taken out of somebody else's program.

Mr. TSONGAS. If I may be allowed to proceed, if I may be able to reclaim my time, to go back, it is the Mod 1, the 200-foot, 1.5-megawatt system which is where we are putting our hopes. All the eggs, so to speak, are in that one basket.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. TSONGAS was allowed to proceed for 3 additional minutes.)

Mr. TSONGAS. This precarious situation is exacerbated by the fact that ERDA is limited to a single design procurement. Should GE encounter any difficulty, or should they decide upon one of the many designs which is not the most efficient, the entire program would be jeopardized.

What do we do in this case? The Senate has already acted. The Senate has put into their ERDA budget a parallel design, second-source system. My amendment does the same thing that the Senate has already done.

I have inquired of ERDA what their position would be relative to this amendment. Let me read the response. I quote:

> The General Electric Company is presently developing the 200-foot diameter, 1.5 megawatt (Mod 1) experimental system. Prior design studies have shown that energy cost should decrease with increasing size; however, the technical unknowns and challenges also increase with increasing size. In probing that frontier of technology, ERDA and NASA, which is supporting ERDA on the large wind turbine development, have recently selected Boeing Construction Company to investigate a 300-foot diameter, 2 to 3 megawatt (Mod 2) concept.
>
> While this shows considerable promise, it must be considered a highly experimental project, since rotating structures and rotors of this size have never been attempted before.

This is the point I was trying to make before:

> Thus in the MW size range of interest to utilities, and with a reasonable expectation of a near-term successful system for high wind zone applications, the program contains only one contractor and one system design and configuration.
>
> If a second contractor and design of the size and general functional requirements of the Mod 1 were undertaken, it would have 4 effects. It would introduce a healthy competition into the size range with the largest likelihood of early utility industry interest and would allow the utility industry some choice in the system they might wish to assess. Secondly, it would safeguard the schedule of determining the effectiveness of utility systems, in case any problems cause a delay in one design. Third, it would allow the investigation of more than one system concept and configuration at a meaningful size. This is important since, like an airplane, the overall performance is as much a function of configuration as of design details. Both the number of blades and the rotor location remain the subject of open discussion between different engineering groups, much as the subject of liquid versus aircooled engines was during the development of the aircraft engine.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent, Mr. TSONGAS was allowed to proceed for 2 additional minutes.)

Mr. TSONGAS. Madam Chairman, it goes on to say:

> Finally, the present Mod 1 was initiated early in the program in order to develop factual, operating hardware experience as soon as possible. Much has been learned in these first few years which the present Mod 1 is too far along in design and fabrication to incorporate. The initiation of a second design effort would allow the incorporation of the knowledge gained from the NASA Mod O Plum Brook test bed and the technology development elements of the program.

This amendment, what ERDA is talking about, is already in the Senate version. I think if wind energy at the utilities level is to be a serious consideraton for this in the future, the amendment must be adopted.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from New Mexico.

Mr. LUJAN. Madam Chairman, I want to support the gentleman. However, I look at the report where ERDA has supported the development for testing of these wind turbines and it says that these two different machines that the gentleman talks about of 200 kilowatts and 1½ megawatts, two of them are scheduled for building by ERDA in the 1978–79 time frame, and it is my impression the gentleman is talking about authorizing the second one, when the report seems to say there are already two in the planning stage.

Mr. TSONGAS. What I am dealing with is a parallel design, second source, so we would have in essence a third and fourth by a separate company, a second design and second source.

Mr. LUJAN. I thank the gentleman.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the amendment that is before us offered, by the gentleman from Massachusetts (Mr. TSONGAS), would add one large windmill to the program that is authorized by the bill before us. We have one large windmill in operation at Plum Brook, Ohio. It has a capacity of 100 kilowatts. We have three windmills under construction rated at 2 megawatts, one in New Mexico, one in Rhode Island, and one in Puerto Rico. They are being built.

We have one windmill being constructed by General Electric. That is the one the gentleman would duplicate by this amendment. Until yesterday, the General Electric Co. thought there would be two such machines built by them, but GE has now been informed by ERDA that they would only build one.

In addition, Boeing is building a machine that is slightly larger than the GE model. It would operate in a slower wind.

What we are talking about in this amendment is a windmill with a 200-foot wingspread as compared to one a bit larger that the Boeing team will build.

There is another large windmill planned beyond this in the future. In fiscal year 1977, we are spending $21.3 million for wind energy. The administration requested $24.3 million for fiscal year 1978.

The committee, in this bill authorized $28.3 million, but the Committee on Appropriations appropriated $33.3 million, $5 million more.

Now, the administration has indicated that after it finishes this series of machines, it will stress small machines. I think there is some question as to the value of these very large machines, but because of the fact that the Senate has already included this second 1.5 megawatt windmill in this bill, and also because of the fact that money is already appropriated for $5 million out of the $7 million requested, I will not oppose this amendment today. I do not really support it, but I do not feel there is any reason to oppose it. The Senate has already appropriated the funds. I do not think there is any chance for expenditure of these funds in fiscal year 1978, so this amendment is symbolic, suggesting that we have two parallel designs for this size windmill.

Mr. FLOWERS. Madam Chairman. will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, as a member of the gentleman's subcommittee, I support the gentleman on this. I think the danger in these things is that we are being offered well-sounding amendments but we do an injustice to a bill that has been considered in all its four corners by the subcommittee over a period of many months. The wind energy concept was fully explored and we did what we thought was appropriate in this regard.

It is the same with solar energy and the other aspects of our energy research program. If we deal out a few million dollars here, a few million dollars there, it simply adds up to more millions in the authorization process and tends to stir up the feeling of lack of credibility in the authorization process.

Madam Chairman, although we do not oppose the amendment, we do not have a strong feeling for it, either.

Mr. McCORMACK. Madam Chairman, I thank the gentleman. I want to agree completely with what he has said. I am generally in opposition to these amendments that add these attractive-sounding projects. In this case, the funding has already been authorized by the Senate. I can accept it.

I might say, the gentleman from Massachusetts has a series of amendments. I will accept one part of one other one. The others I will oppose.

I hope this puts my position on this amendment in context with what the gentleman has said.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: On page 23, lines 9 and 10, strike "$483,300,000", and insert in lieu thereof "$408,300,000".

Mr. DODD. Madam Chairman, my amendment is identical to the Church-Jackson amendment, which carried on the Senate floor in July. It would reduce the funding level of the Clinch River breeder reactor from $150 million allowed for by the Science and Technology Committee to $75 million for fiscal year 1978. Let me explain briefly what this amendment does and does not do.

The intent of this amendment is to allow for the continued design and procurement of component parts during this year. It would also allow for the maintenance of teams that are there working on the particular project. It would continue suspension of licensing, and no new construction or site preparation would go on during this period.

What this amendment does, in effect, is to provide for a continuation of the status quo during this hiatus period, in which those issues should be more closely debated. My amendment, in sum, would provide what is essentially a temporary extension of the status quo, thereby delaying any final determination of Clinch River breeder reactor for a period of 1 year.

I offer this as a compromise—a compromise that is the best and most responsible choice available to us today. Frankly, I do not believe that we should take immediate and definitive action to proceed or postpone indefinitely the commercialization of the breeder reactor. I feel this way not only because of the amount of confusion and controversy that has surrounded this entire issue, but most of all because, objectively speaking, this is a most inopportune time to make such a momentous decision.

Let me just briefly explain to my colleagues why this is such a bad time to make this decision, and why I favor a course of action that would give both the Congress and the administration the flexibility needed to make a better decision in the future. First of all, I feel that we owe the new administration a fair chance to test its nonproliferation strategy, in which our domestic restraint with respect to the commercialization of the breeder is viewed as a critical factor in the reaching of international agreements establishing more comprehensive safeguards on nuclear materials and facilities.

I think all of us in this Chamber are supportive of the administration's efforts in that field. Many of us may differ as to how the administration should best proceed, but I do think that we all agree that it is an enlightened move and is something that we should all support. I might point out that there does seem to be some movement on the part of the French, the Germans, and the British in this area.

Second, from an energy standpoint, it is still too early to determine whether there is a need for the early commercialization of the breeder, just as it is too soon to conclude that there will definitely not be a need for it until the end of the next century. Our first national energy program has just gotten underway, and its success or failure will greatly influence the energy policy we should follow in the years to come. Our conservation goals, for example, are aimed at dramatic energy savings, and yet we cannot set our energy production until such time as such conservation efforts have proven themselves.

It is also clear that many unknowns persist in our resource picture. We do not know how much uranium we can depend on to fuel conventional reactors, and thus at what point the breeder will become an economic proposition. Similarly, we still have a long ways to go before we can evaluate the real feasibility of alternative uranium-conserving, nonplutonium producing fuel cycles.

In short, the pros and cons are still largely undefined, and we should not be forced to make a conclusive determination at this point. There is no real urgency for this decision, but when it is made, it will be a monumental one; one that will affect not only this generation, but future generations yet to come, in this country and abroad. I feel that it is a decision that must be made deliberately and carefully, and in full realization of the fact that once it has been made it is something that we will have to live with for years and years to come.

We are committed to the development of the breeder technology. The administration has stated that on many occasions. Of that, there should be no doubt. The issue before us today is simply whether or not we should push forward with the rapid commercialization, having limited facts at hand. To do this, we need more time and more answers.

Keeping the Clinch River breeder reactor project stable for 1 year while relevant developments take place is, in my opinion, the prudent decision to make at this time. My compromise amendment is between the proposed amendment to be offered by the gentleman from California (Mr. BROWN) and the present position of the committee.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. DODD was allowed to proceed for 1 additional minute.)

Mr. DODD. Mr. Chairman, I will just reemphasize these points again for my colleagues during this 1 minute. At this particular point we should be more prudent. We are making here a definitive choice, whether to go forward or not to go forward. I think we should follow the action of the other body and hold off for 1 year, to give the President an opportunity to negotiate nonproliferation agreements. For us to develop a domestic policy which would be at variance with the administration's goals I think would be a mistake.

On the other hand, if we go forward with full funding and do not give careful consideration to our new energy policy and see if the energy conservation efforts are truly going to work, I think that would also be a hasty decision.

So I would ask, Madam Chairman, that this amendment be given serious consideration as a middle ground.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has expired.

(On request of Mr. FITHIAN and by unanimous consent, Mr. DODD was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. Madam Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

Madam Chairman, some of us understand there is money left over in the ERDA budget, and if this $75 million provided for in the Dodd amendment were indeed authorized, this would convey the impression that there is a consent of Congress to construct. Can the gentleman assure us that indeed this matter will be back before the House for debate, discussion and voting prior to the actual commencement of construction, if the gentleman's amendment were to carry?

Mr. DODD. I cannot give the gentleman that commitment. One, I am not a member of the committee which deals with this issue. But it would seem rather clear that, in light of the amount of money in this amendment, that would be a very strong likelihood.

Let me also state to the gentleman from Indiana the intention of the author of this amendment. It is not my intention that this amendment should be so construed as a green light for the commercialization of the breeder reactor.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. DODD) has again expired.

(On request of Mr. DICKS and by unanimous consent. Mr. DODD was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Madam Chairman, I want to rise in support of the amendment and express my deep appreciation to the gentleman from Connecticut (Mr. DODD) for offering this particular amendment.

Madam Chairman, I think it is a worthwhile compromise. I think it frees up and gives the President a chance diplomatically to see if he can deal with the question of plutonium proliferation. But at the same time it does not block this important program. I think the other body has demonstrated wisdom in adopting this approach.

Madam Chairman, I commend my colleague for presenting this amendment and I urge the Members to support it.

Mr. DODD. Madam Chairman, I appreciate the gentleman's comments.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Madam Chairman, I think we should point out to the Members of the House, because this amendment will come to a vote at some point or other, that this amendment would not be supported by the President. It certainly would not be supported by the members of the Committee on Science and Technology. It is a compromise. But the gentleman is dealing with the $150 million figure.

This program started this year as a $235 million program. It was President Carter who suggested we reduce it originally to $150 million. That, in and of itself, is a compromise. The figure the gentleman is suggesting is really not wanted by anybody. The only thing which recommends it is that we are going to cut it in half. That is the only thing that recommends it.

Mr. DODD. Madam Chairman, I would beg to differ with my colleague. I know of at least one Member who has an interest in it. I think this is sound ground to go on. I think if we are trying to allow the President some flexibility, if we still recognize—and I think most of us do in this Chamber—that we do not have all of the information on this program.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DODD

Mr. BROWN of California. Madam Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California as a substitute for the amendment offered by Mr. DODD: Page 23, beginning on line 9, strike out "$483,300,000" and insert in lieu thereof "$366,300,000".

Page 33, immediately following line 11, insert the following new section:

SEC. 106. Section 106 of Public Law 91-273, as amended, is further amended by deleting the present text thereof and substituting therefor the following:

"SEC. 106. LIQUID METAL FAST BREEDER REACTOR DEMONSTRATION PROGRAM—FOURTH ROUND.—(a) The Energy Research and Development Administration (ERDA) is hereby authorized to enter into appropriate arrangements of essential elements of the system design for the Clinch River Breeder Reactor Project (CRBRP).

"(b) The ERDA is further authorized to agree, by modification to the Principal Project Agreements and all contracts and agreements subsidiary thereto reflecting such changes therein as it deems appropriate for the purpose, or otherwise, to the cancellation of all other activities related to the CRBRP. There are authorized to be appropriated such sums as may be necessary to carry out such cancellation and to carry out the purposes of subsection (a). Sums previously appropriated for the construction and operation of the CRBRP may, to the extent or in the amount provided in appropriations Acts, be used to carry out such cancellation and to carry out the purposes of subsection (a).".

Mr. BROWN of California (during the reading). Madam Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Madam Chairman, I want to commend the gentleman from Connecticut (Mr. DODD) for offering his amendment, for which my amendment is a substitute. I think in the gentleman's remarks and in the thrust of his amendment he recognizes a need for a further consideration of the policy thinking that went into the present schedule for the Clinch River breeder reactor. That policy thinking has taken place in the administration, and it has come to a different conclusion with regard to what needs to be done.

However, I think that the gentleman from Connecticut is recognizing the reality of the fact that the Congress is always a little slow in proceeding with its reanalysis of any situation and requires perhaps some additional time.

I cannot support the gentleman's amendment, obviously, since I have offered a substitute for it. I cannot support his amendment, because I think it has very little to commend it other than providing for delay. My observation, in discussing his proposal with supporters of the present program, as well as opponents of it, is that the gentleman's amendment has the virtue of being equally disliked by both sides. That may be its one redeeming feature.

The amendment I am offering represents the administration's position. It substitutes $33 million for the $150 million for the Clinch River breeder reactor which is in the bill before us. The $33 million is to be used for two purposes: For the completion of the system design, which is now largely completed. We provide the funds to complete that design so that we will have a final product available for the money that has already been spent.

And then the remainder of the $33 million is to be used for the purposes of liquidating the contracts.

The question that has been raised is this: Is this an adequate amount? The answer is: No. But there are ERDA funds unexpended from prior appropriations of close to $100 million, and my amendment directs that that amount of money, together with a portion of the $33 million, be used for the purpose of buying out the existing uncompleted contracts. That is what the amendment does.

Now, the question is: Why should we do this? This has been a subject with which all the Members should be thoroughly familiar. All of us have been inundated with great numbers of "Dear Colleague" letters, and there has been a tremendous number of insertions, both pro and con, in the CONGRESSIONAL RECORD.

The distinguished chairman of the Committee on Science and Technology, who is leading the defense of the committee's bill, has in his usual fair and generous manner cooperated in making it possible to in some cases jointly send out pro and con material, with the fervent hope, which he and I both share, that regardless of which side the Members are on or which side a Member ultimately takes, if he or she is presently undecided, he or she will at least do justice to the importance of this policy decision by trying to absorb as many of the facts about this situation as is possible.

The facts, of course, do not dictate what the policy will be; but I must say that without the facts it is very difficult to come to a reasonable policy decision.

We have hoped that the rather complex problem of energy policy, breeder policy, and energy options would be more fully understood than it is now by most of the Members of this House. I want to touch just briefly on a few of these points.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. Madam Chairman, no one of the speakers on either side can begin to do justice to all of the points that need to be brought out; but it has been our hope that on both sides, a number of Members, in cooperation, could help to bring out all of the necessary points.

Essentially, the case for supporting the President rests on about two or three points. In broad outline, these points are first, that the Clinch River breeder reactor is not now needed to meet this country's energy needs. It was developed in 1972 on a projection of a need for 1,200 gigawatts of nuclear power in the year 2000. That means roughly 1,200 1,000 megawatt plants, and in the succeeding 5 years those estimates of the need for nuclear-generating capacity have successively dropped until today the figure being used by ERDA is 380 gigawatts instead of the former 1,200 gigawatts.

There is some feeling that this projected demand will continue to drop and may reach as low as 300 gigawatts. In some estimates it has gone to as low as 250.

Under these circumstances, of course, it is more economical, more cost effective to continue with the existing light-water reactor technology which has been proven to us over a number of years.

Madam Chairman, let me assure the Members that under those circumstances which I have described, with this kind of demand in the year 2000, if we could develop a full-size breeder plant built on the Clinch River model which worked perfectly and had no problems, still nobody would buy it. It is inherently more expensive than the light-water reactor or a coal-fired plant. Every economist would tell us this, and we could have this plant sitting at Clinch River or any place else and nobody would buy it.

The Clinch River plant is somewhere in the order—and this is not a fair comparison, of course—of being 10 times as expensive for the power produced as a light-water or coal-fired plant. This cost will come down, of course, and it is intended to come down; but it will always be more expensive and cannot be justified until we run out of uranium. Of course, we are not about to run out of uranium.

Mr. ANDERSON of Illinois. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Madam Chairman, I have been very interested in the revealing statement the gentleman from California just made that because of the high capital costs of the liquid metal fast breeder reactor, even if we were to develop it and it were to be foolproof, nobody would buy it.

There is not one line in this authorization bill that is going to require anybody to buy the breeder plant, and I would suggest that the gentleman has spoken the truth when he says that nobody is going to buy a breeder reactor if it is not economic. We are not going to commercialize this technology unless it does make economic sense. We are not going to, pell-mell, rush into a breeder technology and launch ourselves into a plutonium economy or anything else.

What we are doing is buying an insurance policy to the effect that if all of the speculative estimates which the gentleman has made about future consumption of energy in this country proved to be wrong and if all of the overly optimistic estimates of the proven availability of uranium resources in the future proved to be wrong, we would have on line at most, by 1984 or 1985, a demonstration model, and then 2 years hence we would perhaps make a decision as to whether or not we should go into the breeder economy.

But if we follow the gentleman's advice, if we totally cancel that program, we are going to find ourselves down the road in 1985 or 1990 without that option that we might then desperately need, because some of the estimates that you have given us today have been proven to be totally false. I do not want to rest the energy future of this country on such a basis as that.

Mr. BROWN of California. Madam Chairman, I appreciate the comments of the gentleman from Illinois (Mr. ANDERSON) in support of my argument. I will deal with the objection which he brings up of my estimates.

My estimates for the demand in the year 2000 are made by the same people who made the estimates 5 years ago which was the basis for the earlier decision. I will explain later on in the debate why if we were to cancel Clinch River we would be better off in buying an insurance policy. I will explain why the design is inadequate and another design done today would be considerably different, and why Clinch River reduces the option for developing this insurance plan the gentleman has referred to.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. Madam Chairman, I might state that I have only touched on one of my three main points.

Mr. WYDLER. While I will not interrupt the gentleman, and I will let him finish his statement, I am anxious to make a point here that originally the current President of the United States recommended to the Congress a program of $150 million, the very program that we on the Committee on Science and Technology now find ourselves supporting, and find ourselves in the odd position of dealing with a new program the President is supporting. He has now cut the program again. I feel that the original estimate the President made as to what we could properly use was the right estimate.

The gentleman, for example, tells us that under the President's program we are going to go ahead and complete, with this $33 million, the design of the project. Then the gentleman at the same time tells us that the project is poorly designed and could never be used effectively for any purpose. Why should we go ahead and spend part of the $33 million to complete the design of a project whose design is no good? Those are two statements the gentleman has made since he started talking. I wish the gentleman would tell the committee exactly why we should go ahead and spend $33 million for an unworthwhile purpose, which is what we seem to be proposing?

Mr. BROWN of California. The gentleman makes a good point. I would suggest that, in all probability, the main justification is because the design completed would probably be of more value than the design 90 percent completed. The same may be true of some of the equipment procurement. Instead of buying off the contract, if a piece of equipment is 90 percent completed we might save money actually to let it be completed and have the completed equipment instead of paying for it and not getting anything for it, anyway. That is the only justification I can make, and I frankly would leave this decision up to ERDA.

Madam Chairman, the second point I want to make has to do with the problem of nuclear proliferation around the world. I am not going to belabor the point. A number of people on the other side have said there is nothing to fear from a breeder economy, that a breeder does not produce any more plutonium than other nuclear reactors, and a number of statements of that sort which I am sure will be fully explained in the debate. There is always a grain of truth in most of the statements we have heard, but our problem is that they do not bring out the full picture with regard to the hazards produced by a widespread breeder economy, of which Clinch River is the prototype, and that nuclear fuel reprocessing and the daily shipment of plutonium in commerce does present a greater possibility for the proliferation of weapons than does the present situation which, admittedly, is hazardous enough.

That point I think needs to be expanded upon, plus the fact that the members of the Committee on Foreign Affairs voted almost unanimously, I understand, in support of the President's position, because of their concern of the problem of proliferation. I believe possibly we can expand on that.

Then the last point which I think is basically one of clarification of the debate.

Proponents on both sides of this issue have uniformly, although not invariably, tended to fall into the error of saying that this vote is a vote for or against the breeder program. This is totally and completely false. Some have gone even further and said this is a vote for or against nuclear power, and this is even more totally and completely false.

The President is committed to an improved and more efficient nuclear power program in this country. The President is committed to a breeder reactor program in this country. The facts of the situation are that the deletion of the funds for Clinch River still leaves a half billion dollars for the breeder program. It leaves a program greater in scope than the combined breeder program of all the European nations. The President is committed to going ahead with breeders. Breeders have been an implied element of our nuclear power program from the beginning of the nuclear age. No nuclear scientist has been unaware of the fact that we could continue to depend on nuclear power only if we went to breeders.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. Yet on both sides there are those who insist that this is the end of the breeder program. This is completely and totally fallacious. We are building a breeder right now in the district of the gentleman from Washington. The breeder is essentially the same size as Clinch River. We are using it for the purposes—it is about 90 percent complete—of testing materials and fuel elements, and it will give us the scientific information needed to design

the next generation of breeders, which I am convinced that ultimately we will have to do. The money is there.

Mr. FREY. Madam Chairman, will the gentleman yield on that point?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. FREY. I thank the gentleman for yielding.

If we start to go ahead with this so-called new breeder: First, how long would that take, and second, what effect would that have on the proliferation argument?

Mr. BROWN of California. We will elaborate on this in further detail. It is estimated that we have a minimum of 5 to 10 years before it is necessary to have a breeder, and that we can proceed on that kind of schedule with the deletion of Clinch River and with the benefit of the information that will be gained from the program.

Mr. FREY. I say to my good friend that certainly history would not back that up in terms of what we have done and what obviously is a question which individuals are going to have to decide.

Second, what about the argument on proliferation?

Mr. BROWN of California. Precisely. A major driving force behind the decision—not the primary one, in my opinion, to defer Clinch River, the primary reason being that it is not an effective means of meeting our energy problems—is proliferation. One recognizes the fact that we do not have in place in the world the capability to control the commerce in plutonium at the present time and that we need time to develop that. This is the reason why the President has moved aggressively to set up this international fuel cycle study process, which all the other breeder countries have joined in. They are as aware as we are that there are vast gaps not just in our ability to control the commerce in plutonium but there are vast gaps in our ability to safeguard and protect ourselves with the existing light water technology. There is no demonstrated waste disposal. There is no demonstrated way of protecting our reprocessing plants.

There is a whole host of technical problems which we are aware of but to which there are no definitive answers as yet.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. FREY, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 3 additional minutes.)

Mr. FREY. Madam Chairman, if the gentleman will yield, I would like to reply to the gentleman.

No. 1, in the argument he set forth that we have enough energy needs, I see we have canceled 193 nuclear plants and 43 fossil fuel plants and others. I look at the fact that we are not moving fast enough in solar areas. I would like to see more. The reason I must disagree with the gentleman is I do not think we have enough today to meet our energy needs, and if we are going to make an error in that area I would rather have the parachute in a fall-back position.

Mr. BROWN of California. We may have an honest disagreement. I appreciate the gentleman's point. I would like to point out the reason those plants were canceled, and if we talk about losing momentum in the nuclear program, those represent over 100-and-some-odd plants and they represent a very great loss of momentum. If that is not a loss of momentum, I do not know what it is.

This cancellation of plant orders stems from the projected drop in demand for electricity. If we can have that kind of drop in demand, and that kind of drop in orders for light water reactors, what does this say about the need for breeders? Do we have to go ahead on the same schedule? Obviously not.

It has been frequently said by many people that the breeder is going in some magic fashion to solve our problems on the importation of oil. The fact is that the breeder has no relationship whatsoever to the problems facing us with regard to the importation of oil. The breeder does not supply liquid transportable fuel. Only in the event we changed all of our cars to electric vehicles, and charged the battery with breeder electricity would it make any difference, and that is not going to happen. In the year 2000 there will be no oil-fired base electrical generation. And this breeder provides base electrical generation. There is no relationship to the oil crises. Those who say there is are making a distortion of the actual situation.

Mr. STOCKMAN. Will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Madam Chairman, we have heard twice about the insurance rationale for this project. We ought to look at the implications. If we look at the three kinds of fuels we have today, the solar and liquid and the gases, it is pretty clear the gases and liquid are in much greater danger of depletion. We have about 200 trillion feet of reserves. We will run dry in 1987 if we assume there are no more reserves found. Should we not spend $5 or $10 billion a year to convert the coal gasification industry if we are going to allow for a depletion of oil?

Mr. BROWN of California. The gentleman is absolutely correct. We will be discussing that program later today. It is far more important to give support to the rapid development of a synthetic fuels program which can be brought into existence in the 1980–90 time period than to build the Clinch River breeder. The breeder is a simple misallocation of $2 billion in scarce capital.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, as the gentleman concludes his remarks, I find the gentleman arguing on both sides of the issue. I think he has tried to present a very reasoned and careful position, but I find there are just basic inconsistencies.

On the one hand the gentleman is telling us the breeder is a misallocation of funds, that we do not need it, and we should be trying for other forms of energy. On the other hand he is telling us the President is committed to it. Is he or is he not? Does he want it or not? And then we should proceed on that basis. Is he for the breeder reactor or is he not?

Mr. BROWN of California. The gentleman has illustrated my point exactly. We have merged the discussion of the Clinch River project with the discussion of breeder reactors in general. This country has several breeder reactors in operation. We have more in construction. We have a $500 million basic research program on breeder reactors and the President is committed to going ahead with multiplying our operations. Admiral Rickover is building a reactor in Pennsylvania. We want to go ahead with that program. We want to go ahead with the breeder base program and cancel the Clinch River project.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DODD. Madam Chairman, I ask unanimous consent that the gentleman from California (Mr. BROWN) may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

Mr. TEAGUE. Madam Chairman, reserving the right to object, how much time has the gentleman from California consumed?

The CHAIRMAN. The gentleman from California has consumed 23 minutes.

Mr. TEAGUE. Madam Chairman, I shall not object but I would remind the gentleman from California that we have completed general debate.

Mr. BROWN of California. I was not present on the floor for general debate. I am making up for lost time.

Mr. DODD. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Connecticut.

Mr. DODD. Madam Chairman, I wonder if the gentleman is aware of the report done by the General Accounting Office on the total cost of eliminating this particular program, the estimated cost of what it would be to the taxpayers of this country?

Mr. BROWN of California. I am quite aware of the report; in fact, I have a chart, and I will bring in some other charts very shortly, which illustrate the cost of going ahead versus the cost of canceling. We save about $1.75 billion by canceling.

Mr. DODD. Madam Chairman, if the gentleman will yield further, is the gentleman aware the total cost of removing this project is between $500 million and $1 billion?

Mr. BROWN of California. The exact figures, I think, are somewhat debatable; but I think they are between $300 million to $400 million.

Mr. DODD. Madam Chairman, if the gentleman will yield further, I find myself in a quandary with what the administration is saying, is it in support of the breeder program or not? I find myself in a situation where I cannot say definitely, and no one in this Chamber can

either, where we will be by the year 2000 in terms of our energy needs. That is why I argue for the middle-ground position that would give us at least a chance to make that assessment.

Mr. BROWN of California These are the figures. The chart will be up here for all to examine. I think we can agree to stipulate to certain figures. These are ERDA's figures on going ahead versus the cost of tearing it down.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, as the gentleman puts the chart up there, for years I have seen these figures used to compare the case of going ahead with the case of stopping, so that the case for going ahead costs slightly more. If you do that, you have the technology; if you stop, you have nothing.

Mr. BROWN of California. Madam Chairman, I thank the gentleman for the comparison. I think the gentleman's question is rhetorical.

Mr. QUILLEN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the substitute amendment offered by the gentleman from California and urge its defeat. I support the Clinch River breeder reactor project because I believe it is essential that the United States possess the capability to proceed toward commercialization of breeder reactors by the end of this century should it become necessary to do so. There simply is no compelling reason to kill the Clinch River project now and thus deny ourselves this promising nuclear option in the 1990's.

The continuation of the Clinch River breeder reactor project near Oak Ridge, Tenn., is required to progress in our efforts to develop the concept of liquid metal fast breeder reactors, a nuclear process capable of producing more nuclear fuel than it consumes in the production of low-cost electric power.

Much has been said by those who wish to kill the Clinch River project about the fear that its continuation will increase greatly the spread of nuclear weapons throughout the world. But what is overlooked is the fact that breeder reactors are not the sole means of producing material for use in nuclear weapons. Conventional nuclear reactors also produce this material in abundance. It is true that the spread of nuclear power does contribute to the potential threat of proliferation. However, those wishing to obtain nuclear weapons do not need to have nuclear reactors to do so. A hard and realistic look at the situation reveals that the nuclear power age has already dawned, and the potential for nuclear proliferation already exists, with or without the breeder reactor.

Further, I think it is important to note that many nations, including Britain, France, West Germany, Russia, and Japan are pressing ahead with the development of breeder reactor technology. All of them have made it absolutely clear that they are going ahead with their own breeder reactor programs regardless of the position of the United States. This undisputed fact underlines the fallacy of the proliferation argument which has been advanced against the Clinch River.

A misguided policy of self-denial through abandonment of our breeder reactor option on the part of the United States just is not going to have any effect on the problem of nuclear proliferation. Other nations are going forward with its development without regard to what we do.

It seems to me that the best way to create a climate of trust and confidence to eliminate the threat of nuclear proliferation is through cooperation between suppliers and users of nuclear technology and materials. If we abandon the breeder reactor option all we are doing is withdrawing from the field and forfeiting whatever influence we might have in determining how the technology is to be used in the future by the other nations of the world.

I urge my colleagues to support the Clinch River project and to reject this amendment. Let us keep this promising energy option open for the future and let us retain American influence in regard to nuclear proliferation by pushing on with the Clinch River project. To decide otherwise would be a terrible mistake.

This Nation must become self sufficient energywise. We need the energy that would be produced by the breeder reactor. Yes, we need more electricity; we need to convert to coal; we need to stop the importation of oil to this Nation, and become self sufficient energywise. To kill the breeder reactor is a slap at the people of Tennessee. It is a slap at all people of this Nation, and I say that we should go full speed ahead and develop this great source of energy, which I am confident is perfectly safe.

Madam Chairman, I urge the defeat of the substitute amendment.

PARLIAMENTARY INQUIRY

Mr. TEAGUE. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TEAGUE. Madam Chairman, I am not going to have a lot to say, but I do not care to have what I do have to say distracted by a bunch of charts here. I think the gentleman from California should not bring those in. I ask the Chair if that is not proper.

The CHAIRMAN. The Chair would advise the gentleman from Texas that if he does object to the demonstrations or displays before the committee, he may do so. If he does object, the Chair would then put the question as to whether the Member having the floor should be permitted to use displays.

Mr. TEAGUE. Madam Chairman, I object to them until the gentleman is ready to speak. Then, I will ask unanimous consent that he be permitted to bring them in.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. TEAGUE. I yield.

Mr. BROWN of California. Madam Chairman, I want to do whatever the chairman thinks is fair. I want to point out that these charts were prepared for the purpose of assisting a number of speakers. We would be happy to put them all together and have them brought out one by one as the speakers prefer. I will not be able to use them, but others will.

Mr. TEAGUE. I think it is proper, as they come to the charts, to use them. I will not object to that, but I do think that if other people are making speeches, the charts should not be there.

Mr. BROWN of California. I will be happy to accede to the gentleman's objection.

The CHAIRMAN. That, the Chair thinks, resolves the question.

Mr. TEAGUE. Madam Chairman, I shall not give any statistics or any figures. I would like to talk a moment or two about the 99.99 percent of us who are laymen. What do laymen do to come to an honest decision about a question as important as the breeder reactor? This House, in adopting the rules in January, directed that the Science and Technology Committee has the responsibility for nonmilitary nuclear research.

POINT OF ORDER

Mr. OTTINGER. Madam Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Is the gentleman speaking to an amendment?

Mr. TEAGUE. Madam Chairman, I am speaking against the substitute and against the amendment.

The CHAIRMAN. The gentleman may proceed.

Mr. TEAGUE. At the time that this responsibility was given to our committee, I had a slight mobility problem. But, immediately after that happened, I began to hold afternoon and evening meetings at Bethesda Hospital with the great help of a man named John O'Leary, the Undersecretary to the new Energy Department, who I think is a great and distinguished American. I began thinking on their side. I began believing the President was right, but the further I went and the more I learned, the more I decided that the President was wrong.

In the beginning, we went back into the joint committee's hearings in 1972 on this question of a breeder reactor. One of the first things we ran into was that the committee voted unanimously for the breeder, and Dr. James Schlesinger, who at that time was on a different team and had a different quarterback, said:

> I am very enthusiastic about this project because of the inherent advantages in the breeder, which will produce more nuclear fuel than it consumes. The President referred to these advantages in his Energy Message last June 4.

Madam Chairman, in that same news release he gave about 30 names of prominent Americans who supported this viewpoint. The only Members today in this House who were on that committee are the gentleman from Illinois (Mr. ANDERSON), the gentleman from Illinois (Mr. PRICE), and the gentleman from Texas (Mr. YOUNG). I have called each of them, and each of them said they have not changed their position. There were 30 leaders in this country whose names

were attached to Dr. Schlesinger's news. We wired each one of them and said, "Have you changed your mind since 1972?" And they all said, "No".

The next thing we did was call two former Chairmen of the Atomic Energy Committee, John A. McCone (Chairman 1958 through 1960) and Glenn T. Seaborg (Chairman 1961 through 1971), and asked each of them personally, "Have you changed your mind about the breeder since 1972?" And they said, "No".

The next thing we did was hold hearings. I want to compliment the gentleman from Alabama (Mr. FLOWERS) who has done an outstanding job of leading the Fossil and Nuclear Subcommittee and the gentleman from Washington (Mr. MCCORMACK). Here are the hearings WALTER FLOWERS held. He went into this thing just about as much as a human being could possibly do, to come to some honest conclusion as to whether it was right or wrong.

After that, a group of us, not only our committee members, some of whom will have something to say later, I am sure, went to Vienna, Austria, to an organization this country created 20 years ago, and the first Director General was a very distinguished Member of this body, Sterling Cole. That organization is the International Atomic Energy Agency. We found they were 100 percent for the breeder and thought we should continue.

We next went to France, and talked to government officials there. We talked to West German and British officials. They all told us in no uncertain terms that they were going ahead with the breeder.

We came back to this country and we put together a committee print about our trip. It is on the record what we were told, what was said.

I then happened to have lunch with the Ambassadors from Japan, Great Britain, West Germany and France. I asked the Ambassadors if it was appropriate for me to ask their science advisors questions. I invited four science attachés up for lunch on June 6. The first thing we discussed was where we were on D–Day, June 6, 1944. We were in quite different places. Anyway, each of those four men said in no uncertain terms, "Our only hope for energy in the next century is the breeder, and we are going ahead with it."

So, Madam Chairman, I think our committee has made every honest effort that a committee could make to come to a responsible conclusion about a very, very important subject. Our decision may determine our energy resources in the next century. Dr. Schlesinger spoke positively for the breeder in 1972. I do not know whether he believes it or not today. Only he knows things which he has to determine. He has a new quarterback.

Mr. WYDLER. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I do not think there have been many issues that we have had presented to us this year on which we have received so much information. I know I have been guilty of sending a lot of that myself. A great deal of that is scientific and not terribly interesting to read.

I am not going to try to rehash the arguments that have been set forth in letters and reports to the Members about the merits of the breeder reactor. I am going to try to give the Members some insight, and it follows with what the gentleman from Texas (Mr. TEAGUE) said, regarding my own experience with the breeder reactor and why I feel that the decision we are about to make as a Congress and as a country will be the most important energy decision that we will probably make in the next 10 years.

I started out in the field of the breeder reactor, intending to oppose it. I did not understand it; I did not know much about it. I had listened to the gentleman from Pennsylvania make a very good case about how many dollars it was costing the American people. That is a very important issue, and his point was well taken. It is an extremely expensive undertaking, and it is going to cost us a lot more in the future than it has cost us in the past.

But we have to look at what we are buying in the energy field and what the nature of the problem is we are trying to solve. It is obviously not a problem that is going to be solved with a couple of million dollars spent here and there for somebody's pet project. We are going to have to do something that is dramatic, something that is important. It is going to be something that will cost us billions and billions of dollars, and we might as well face that fact at the outset and make up our minds whether we want to do it or whether we do not.

As I said, I started off slightly against the breeder reactor. I was not wholly committed against it, but I was far from convinced that it was a good idea. When I started, I read everything I could find on the subject, and I listened to the witnesses that appeared before the committee. What came through to me and what is still coming through to me is this:

When we take all the talk and put it aside and consider all the money we are spending on solar energy and how much chance there really is that we are going to get any real usable amount of energy out of that source, we may have some doubts about solar energy. I listened to all the talk about geothermal energy and realized finally that there is little chance we will ever get much usable energy out of that source.

But then I look at something like the breeder reactor, where the technology is almost developed and we have within it a means of meeting our energy requirements for all the electricity in our country for the next 20 years. We could be developing all our Nation's electrical power through this device, and it comes from a self-replenishing source.

Many conservationists always preach to me about the wonders of recycling material. They say we should use materials over and over again. But when it comes to taking the enormous amount of nuclear tailings that we have in this country and nuclear waste that is stored and that we hardly know what to do with, and we use these tailings in the breeder and reprocess the waste to create new energy we can recycle all the material but suddenly every conservationist gets up and says, "Don't do it."

I do not understand that kind of inconsistency.

If I needed one thing to tell me what to do on the question of the breeder reactor, it was a visit that I made with the chairman of our committee to the Administrator General of the Atomic Energy Commission in France, Mr. Andre Giraud. I am going to tell the Members what our conversation was, because, as a matter of fact, it happens to be recorded and it can be listened to by any Member of this body or by any citizen of the United States that wants to listen to it. I will tell the Members what I asked Mr. Giraud and what he said to me.

First of all, this was back in June. At that time the President had put forth his policy to stop the breeder reactor on the grounds of proliferation. That was the point then, proliferation concerns; it no longer is, but that was the big point at that time.

I said to Mr. Giraud, "The President has announced, Mr. Giraud, that he wants to stop the breeder reactor. He is very concerned about the proliferation question. How do you feel about that?"

Mr. Giraud said, "That is a very noble policy, a very admirable policy, a wonderful policy for your country."

I said, "Do you or does France intend in any way to change its development of its breeder reactors?"

He said, "Not in the slightest."

Let me repeat that. He said, "Not in the slightest." He did not say, "We are going to consider it." He did not say, "We will think about it." He said, "Not in the slightest."

The CHAIRMAN. The time of the gentleman from New York (Mr. WYDLER) has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 5 additional minutes.)

Mr. WYDLER. Madam Chairman, they are going ahead all over this world in every developed country where they have the know-how to do so to develop a breeder reactor. Our country is going to end up as the only developed country in the world without one. That means that our technology will be behind theirs, and that means that we are going to go to them and say, "We want you to change your policy. We want you to watch out what you are doing with nuclear material."

They will say this: "We don't have to listen to you. You aren't in the club anymore."

That is just what it amounts to. We are going to put ourselves out of this ballgame, if we are not careful in what we do.

President Carter now says he is for the breeder reactor. I read the letter submitted by the gentleman from California (Mr. BROWN), and as I read his

statement, he is for the breeder reactor; he just does not want to build it now.

I ask, why not? This is not something we are going to do in a few years. This is something that is going to take us 10 or 15 years to develop into a commercially viable item in our country. I say, let us not waste the time and the money, because if we were to stop this program, it is going to cost hundreds of millions of dollars.

No one can really tell us how much the cost would be or how many lawsuits there would be. We have contractual arrangements with many electrical companies, and they are going to sue. They do not talk about it, but they will sue. They would be crazy if they did not, because if we stop the program, we are going to go back on our contracts. We will end up with nothing that will amount to an end product. We will have nothing to show for all the great amounts of money we have spent.

It will all be down the tube, wasted and gone.

How would that advance or help our energy program? How would that help our country? What is the sense of that kind of policy? I ask this great question today.

Madam Chairman, I understand there are good arguments that can be made about the economics of this project. It is going to cost an awful lot of money, maybe too much. Maybe there has been waste. Probably there has been, just as there has been in many Federal programs; but this is one program that can give us something. It can really produce a lot of energy for our country 20 years or so from today.

None of the other things Members talked to us about can do that. Not one of those programs can do that. They are playing around the fringes, but here we come to the guts of the whole thing.

Where is the power? It is in the atom; and if we do not develop this source of energy, we are going to enter the next century in this country behind the rest of the world in energy production.

Madam Chairman, I hope that this body will not be a party to that kind of program.

Mr. MOFFETT. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Madam Chairman, we all have our inconsistencies, I am sure.

As I understand it, the gentleman went to the White House this morning to argue against the SST.

Mr. WYDLER. I did indeed.

Mr. MOFFETT. I would make the same argument against the SST; but when the gentleman is talking about world opinion and what the rest of the world is doing on the breeder reactor and says to his colleagues that we cannot do anything about France and the other countries going ahead with it, I think some of the arguments which the gentleman is making against the SST could be applied to the breeder reactor. We do not need to follow the rest of the world in what they do on the SST. We do not need to follow every kind of technology that comes along if it does not make sense to us.

I know that the gentleman from New York (Mr. WYDLER) makes a distinction because he thinks that this technology does make sense, but I do not think he should advance the argument that we should go ahead with the breeder reactor because of what other countries think.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, it is not a question of what the rest of the world thinks.

This committee went to the Oak Ridge plant in Tennessee, and we saw acres and acres of barrels of uranium tails stored as waste from the enrichment process. We were told that there is enough energy in those barrels to last this country as long as all the coal we have in our country, perhaps hundreds of years.

Again, Madam Chairman, it is not what the rest of the world does, but what our country does.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, the gentleman refers to the breeder reactor. Is the gentleman confining himself to only one breeder reactor, only one design, only one alternative?

The breeder reactor in this context is the Clinch River breeder reactor. The gentleman, I am sure, does not want to leave the impression that that is the only breeder reactor alternative; does he?

Mr. WYDLER. No, it is not the only one that has any really total potential, although I am going to leave that argument to the scientists in our group to make; but as I have read the scientific arguments, that is the only technology we know we can develop into useful energy. The rest of it is theory.

I am trying to deal today with the real thrust of this situation.

Madam Chairman, to answer the gentleman who asked about what foreign countries do, I say no, I would not follow their example unless I knew they were betting their whole national future on what they are doing in a case like that. It is one thing to build an SST at a cost of a few billion dollars, but Mr. Giraud told us in France they are going to produce all of the electrical power in that country, all of it, with the breeder reactor within the next 25 years. They are betting their nation's future on that.

Madam Chairman, on behalf of the minority side, let me express my support for H.R. 6796, the ERDA authorization bill for fiscal year 1978.

H.R. 6796 embodies constructive legislative direction for a strong program in energy research and development. It sets forth a balanced program of nuclear and nonnuclear programs with an authorization level of $6.7 billion. I can say with confidence that it provides the financial resources to pursue work on every reasonable energy technology each at its appropriate pace.

H.R. 6796 devotes $816 million to advanced energy technologies such as solar and geothermal energy and controlled the monuclear fusion. The American public has shown great enthusiasm for tapping these promising energy sources. The bill provides generous support to accelerate the development of solar and geothermal energy sources and proving the feasibility of fusion power generation.

The bill authorizes $492 million for energy conservation research. Energy conservation offers a means of achieving short-term energy savings. The program will investigate improved electric conversion efficiency, and transportation systems. The goal is to reduce energy waste and improve efficiency wherever possible. Conservation will help us "buy time" until the newer energy technologies are fully developed and capable of providing a meaningful contribution to our energy supply. Conservation should not be perceived as an end in itself, we cannot progress as a nation by an endless series of "near-term" fixes.

H.R. 6796 authorizes $904 million for fossil energy development. Coal is our Nation's most abundant resource, but we must learn how to use it more efficiently and cleanly. It would be unacceptable to increase our coal use in the cavalier manner of the past. The bill supports research on coal liquefaction and gasification. The conversion of coal to a liquid or gas would make it much easier to transport and to use on a large scale. Other fossil programs aim at improved combustion technology for coal in its solid form. They include fluidized bed technology and magneto-hydrodynamic (MHD) technology. The program also maintains our effort to develop successful techniques to extract oil from oil shale deposits and to extract gas from heretofore neglected reserves such as Devonian Shale and geopressured zones.

H.R. 6796 authorizes $3.4 billion for nuclear energy research. Nuclear energy has the capability to provide a significant share of our energy needs. It is already providing about 10 percent of our electrical energy. The complexity of nuclear technology makes it necessary to pursue an intensive, meticulous program of research. The program includes water reactor technology, waste disposal, safety, and advanced fuel concepts.

In particular, the Committee has endorsed continued work on the Clinch River breeder reactor project. The breeder reactor can extend our uranium resources by 60 times. Clinch River would be our first large-scale demonstration of breeder technology and environmental effects. Breeder technology is not something new. Small, experimental breeder reactors have operated in the United States since 1951. Foreign countries are pursuing breeder technology and are already ahead of the United States. While I share the President's concern over nuclear proliferation, I do not believe we should restrict our program unilaterally as he recommends.

Our committee has heard the administration's arguments for the termination of Clinch River and the overall slowdown of our breeder program. Frankly, their arguments are spurious and totally unconvincing. There is an alarming lack of consistency in the administration's position. One day the reason given is nuclear proliferation. Another day the reason is cost effectiveness. Most recently, the reason given was that the Clinch River plant was too small. In reality, there is no good reason to abandon Clinch River and retreat from the breeder reactor. It is not a question of "if" we will need this technology, but only "when." This country must pay this premium on its energy insurance policy.

A delay in our breeder development program would relegate the United States to enter the 21st century dependent on a 19th century fuel supply. The rest of the industrialized world would be using efficient, clean nuclear plants, while the United States would still be trying to perfect stack gas scrubbers.

Besides funding applied research programs, the committee has not neglected the need for strong support of the basic energy sciences. Almost $567 million is authorized for basic research in high energy physics, nuclear physics, and materials science. Progress in basic research often provides the breakthrough in knowledge which can then be expanded and applied to upgrading specific energy technologies.

Madam Chairman, I believe H.R. 6796 is a good legislative measure which will maintain our momentum in energy research and development. I compliment Chairman TEAGUE for his efforts in bringing this important energy bill to the floor, and in particular, his determination to see that every aspect of the Clinch River breeder reactor issue was explored by the committee. He has seen to it that the House has all the facts.

Mr. OTTINGER. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the Brown of California amendment and in opposition to the Dodd amendment.

Mr. WEISS. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to my colleague, the gentleman from New York (Mr. WEISS).

Mr. WEISS. Madam Chairman, I support the gentleman from California's amendment to phase out the Clinch River breeder reactor project; but this is only a first step. We should be going much further. We must recognize the dangers of the entire liquid metal fast breeder reactor (LMFBR) program.

My major objection to the LMFBR program is the use of plutonium in the reactor's fuel cycle. If this type of reactor becomes common, tons of plutonium will be dispersed throughout the world. Once reprocessed for use in the fuel cycle, diversion of only a few pounds of this deadly element would be sufficient for someone with little more than graduate school experience to fabricate a crude nuclear weapon capable of killing 30,000 people. Possession of such a weapon by a nation of questionable political stability or by a terrorist group would be quite possible.

Plutonium is also a highly toxic substance. Unlike most poisons, it can take from a few weeks to a few years for plutonium to have its toxic effect. Over a long period of time, according to the University of California's John Gofman, the release of 40 pounds of plutonium into the atmosphere could cause over 25,000 cases of cancer.

The LMFBR program would also increase the amount of nuclear waste in the atmosphere. The radiation produced by this waste and reactors is linked to genetic damage and cancer. As yet, we still have not developed a method of adequately disposing of this waste. If, for example, we were to close down every nuclear reactor in the country tomorrow, the problem of nuclear waste would remain. In the face of this problem, we would be remiss to exacerbate it by developing the LMFBR program.

I am afraid that it will take a major reactor accident—resulting in thousands of deaths and billions of dollars in damage—or the proliferation of several irresponsible nuclear powers before we realize how big a threat breeder reactors pose to our country. I believe we must reassess our position on nuclear energy and breeder reactors. As we all know, many energy problems confront us, but we should not let the urgency of solving them blind us to the fact that the LMFBR program is no solution at all. Indeed, it greatly exacerbates the problem of human survival on this planet.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Madam Chairman, I rise to strike the last word.

Madam Chairman, the debate today is not a debate for or against nuclear power. Even those who have major concerns about the safety, security, and reliability of nuclear plants, and I consider myself among their number, recognize that nuclear power generation is a very important component of our national energy policy. The debate today is not even to weigh the pros and cons of whether the breeder technology should be developed. Certainly, no amendment is being offered to delete the nearly half billion dollars in this legislation which will be obligated for furthering research and development of breeder technology.

What is being debated today is whether Government funds should be spent to further the commercial development of this technology. This entire construction project has a goal of demonstrating by 1986 that a plant can be built and licensed in a manner, and at a cost, which will encourage utilities to choose the breeder over other technologies to generate electricity.

Madam Chairman, I have listened to proponents of this amendment explain that deferral of the Clinch River breeder is an important symbol to other nations. They see it as an effective message that the United States considers a world plutonium economy to have grave world security implications. The argument goes that by delaying construction of this reactor, we are signaling Japan, Russia, Germany, France, England, and other nations that we are willing to sacrifice a promising technology. The implied quid pro quo for our restraint is for these nations to reassess the need for commercializing the breeder.

There is some sentiment in the House for delaying the breeder for this reason. The House International Relations Committee, by unanimous voice vote, endorsed arms control considerations as its reason for approving amendments deferring funds for this project. The committee wrote in its report:

> The Committee realizes that the U.S.-initiated international non-proliferation reappraisal may ultimately fail, either because of the possible inadequacy of alternative technologies, or because of an unwillingness of other states to commit themselves to such a reappraisal.
>
> But the committee believes that its potential contribution to security is significant enough for it to be afforded at least the most minimal conditions for success; and the most elemental of all such conditions is that U.S. domestic programs not proceed at variance with announced international intentions.

Madam Chairman, at the risk of temporarily surprising some of my colleagues who know of my strong opposition to the breeder, I must reject the arguments of those who believe that deferral of the Clinch River project will elicit a reconsideration of the breeder option by other nations. The fact is that authorizing construction of this reactor makes no sense at all at this time solely on an economic basis, as I will discuss later. There is no sacrifice if we approve this amendment. In fact, I believe that delaying construction will actually enhance the prospects for commercial acceptance of the breeder. When the time comes when the breeder is justifiable commercially, if it does come, utilities will be much more likely to have confidence in technology and licensing experience demonstrated just before commercialization, not thirty years previously.

If we expect other nations to delay their programs, we must do much more than approve this amendment. Other nations developing this technology have more at stake. No other nation can boast of our abundant source of coal. We still have large domestic sources of natural gas and oil. We have large reserves of uranium. Almost all of the breeder nations are dependent upon foreign nations for their energy, including uranium supplies for conventional nuclear reactors. No wonder these nations are pursuing the development of the breeder.

Madam Chairman, I believe that the economic arguments alone are convincing enough to merit approval of this amendment regardless of international security considerations. Unless we wish to consider the breeder as a public works jobs program, it is not cost-effective to authorize construction funds in this bill.

Virtually no one believes that utilities will choose a technology in 1986, or for that matter, in 2025, if it is not cheaper than competing technologies. We cer-

tainly have no shortage of energy in the absolute sense; we do have a shortage of energy which can be extracted and converted to usable forms without unacceptable economic, environmental, health, or safety effects. If a breeder reactor is less expensive in the long run than conventional plants, then no one expects the utility to choose the light water reactor. In the same way, a conventional nuclear plant will be chosen over a breeder if the nuclear plant can be built and operated more cheaply.

In 1972, when design proposals were requested for the Clinch River plant, it did appear that the breeder would have economic advantages over conventional nuclear plants. Disregarding the dangers of the plutonium economy to national security, the breeder reactor seemed to be inevitable as a necessary successor to conventional powerplants. First of all, projections of electrical demand were skyrocketing, and the cost of energy in all forms was much less expensive than it is today, when we have more of an incentive to conserve. Second, as hundreds of nuclear plants were being ordered, the supply picture for uranium looked bleak. Once these plants used our existing uranium supplies, which could be exhausted by early in the 21st century, nuclear power would be a lost option. The breeder, on the other hand, could use nonfissionable uranium, stored by the thousands of tons as uranium tailings, to create fissionable plutonium. Such a breeder could squeeze 70 times more energy out of uranium supplies than a conventional light water reactor. On an economic basis, in 1972, the breeder appeared not only attractive but a necessity in the long term.

The development of the Clinch River breeder was authorized, with utilities agreeing to finance 40 percent of the original $699 million estimate for the project. Since that time, the cost estimate has exceeded $2 billion even before the first spade of earth has turned. The cost increases have been absorbed by the taxpayers.

Madam Chairman, it is not 1972. It is 5 years later, and the energy picture has changed. Estimated capital costs for breeder reactors are estimated to exceed light water reactor capital costs by $150 per kilowatt in 1995. What once looked like a promising technology for the future now looks like a longshot well into the 21st century. Compared to conventional nuclear power, the breeder may not be economic on a commercial basis until 2025 or later. By then, the breeder may not be competitive with developing alternatives which are renewable, less centralized, and safer. Whatever the Clinch River breeder demonstrates, the experience may not be relevant when utilities decide that commercialization is not far off.

Other factors have made the breeder not economic in the short term. Electrical demand projections have plummeted. Breeders looked good when there were estimates of 1,200 nuclear plants by the year 2000. These conventional plants would have used up uranium supplies. A breeder could have fueled these plants for decades. Now, the best estimates are that there may be only 380 nuclear reactors by the year 2000. The reason for this is that official energy demand projections halved in just the last 3 years. Estimates of recoverable uranium supplies have also improved.

These two factors, in addition to revised capital cost estimates for breeder construction, have convinced me that utilities will not be counting on the breeder despite the investment of almost $3 billion so far by the Federal Government in developing this technology. Perhaps we have learned much from this $3 billion investment. But construction of a plant to demonstrate commercial feasibility of a technology which is not commercially feasible is pouring money down the drain. This money would be better used to fund promising technologies which have been starved for years because of the priority given to nuclear research and development.

Madam Chairman, I have obtained a copy of a cost-benefit analysis of this construction project. A 1974 analysis by ERDA calculated that the benefits of the liquid metal fast breeder reactor program, excluding research and development costs, was $19.4 billion. Using the same methodology, ERDA recalculated this benefit-cost factoring in new projections of some of the criteria used. Some factors, such as the higher cost of uranium enrichment, and the increase in uranium prices, tended to inflate the benefits of the program. Other factors such as the reduced electricity demand projection, the delay in commercialization, and the larger capital cost for these reactors, tended to decrease the benefit. The conclusion of the estimate is that the benefit of the program was reduced from $19.4 billion to zero.

I believe that we should continue to mount an effective research and development effort to increase energy technology which has promise. The Brown amendment will not delete funds for energy research and development of the breeder reactor. What it will do is delay construction of a plant that will generate a third of the electricity of a conventional nuclear plant.

Madam Chairman, I would like to share with my colleagues conclusions reached by the prestigious Mitre Corp./Ford Foundation study published this year entitled "Nuclear Power Issues and Choices":

CONCLUSION

There is no question that the present version of the breeder stressed in the U.S. program, the plutonium-cycle LMFBR, will successfully generate power. It thus provides insurance against very high energy costs in the future. The hard question concerns the timetable on which a breeder might have sufficient economic merit, compared with other sources, to outweigh the potentially large social costs associated with a plutonium fuel cycle.

On the basis of our analysis, we conclude that there is little advantage in terms of economics or energy supply assurance in early commercial introduction of LMFBRs. Introduction of the breeder may be deferred for ten, twenty, or more years without seriously affecting the economic health or energy security of the United States. As long as there is a world market in low-enriched uranium, a similar conclusion appears to apply to other countries. The social costs associated with breeder introduction argue strongly for deferral.

The relaxation in the breeder timetable recommended here has implications for the nature of the U.S. strategy in research and development on fission alternatives. There is time to pursue a broader research and development program on the breeders and on more efficient converter reactors. Delay will permit the development of more successful breeders should they be needed. In such a program, the Clinch River project, as presently conceived, is not necessary and could be canceled without harming the long-term prospects of breeders. In fact, a premature demonstration could even be detrimental to these prospects.

It is important to continue work on the breeder, with a longer time horizon and an emphasis on its role as insurance. The goal should be to provide a range of more attractive choices at a series of decision points extending into the early decades of the next century.

Madam Chairman, the cost/benefit of the constructing breeder reactors here is far less than that of other nations. It will be a tough battle for this administration to convince other nations that this technology is too dangerous. I think we can give the President a chance to try without any sacrifice on our part. The breeder is bad business, and it is also bad for world security. Perhaps in 10 years, economic considerations will change to make the commercialization of breeder technology more attractive. A delay now would hardly be any sacrifice, and it just might make the difference to bring some sanity in a world which is becoming increasingly insane.

Mr. OTTINGER. Madam Chairman, the gentleman from Texas (Mr. TEAGUE), the chairman of the Committee on Science and Technology cited the respected scientific community opinion which supports the Clinch River project and mentioned several sessions which he had held in his hospital room. As I understand it, although I was not there, one of the people to whom he had members of the committee listen in his hospital room was Edward Teller who is known as the father of the H-bomb.

Mr. TEAGUE. Madam Chairman, if the gentleman will yield, Dr. Teller was one of them, and he said that he believed it would be reasonably safer if we had the experience of nations such as France, Britain, Japan and others. He said let them go ahead and then in a few years we could do a better job by picking up where they left off.

Mr. OTTINGER. Dr. Teller stated:

I believe it is reasonable in every respect to pursue the path of international cooperation and I would like to suggest we put our strongest bets on the thorium cycle which will provide us with fuel, I estimate, to the coming of the next ice age at least, and that we can safely reduce the work on the fast breeder to a low inexpensive level on a cooperative basis. A consequence of this would seem to me that we can, with considerable saving of money and with practically no sacrifice, discontinue our present effort on the Clinch River Breeder.

Further, Madam Chairman, 21 eminent scientists in the Ford/MITRE report stated:

We believe therefore that the breeder program should deemphasize early commercialization and emphasize a more flexible approach to basic technology. In such a program, with a longer time horizon, the Clinch River project, a prototype demonstration reactor costing $2 billion, is unnecessary and could be canceled without harming the long-term prospects of breeders.

Secretary of Defense Harold Brown, a noted nuclear scientist also, said:

I believe there is a very clear increase in the risk of the proliferation of a nuclear weapons capability associated with the widespread use of plutonium-based fuel . . . The acquisition of a nuclear weapons capability by any additional countries certainly increases the possibility of a weapon being used and is clearly inconsistent with our national security interests. There are no compelling reasons to proceed with programs using plutonium-based fuels at this time.

Another one of the eminent nuclear scientists in the country, Hans Bethe has declared against the Clinch River breeder reactor.

Admiral Rickover, who is certainly well qualified in both nuclear science and in its defense applications, has spoken forcefully against the breeder reactor. Some of the best minds at the present time in the nuclear industry in this country have expressed themselves very strongly that this proposed Clinch River breeder reactor is wasteful and unwise and that there are safer and more economical alternatives that are available to us in the future. Indeed, Dr. Teller said:

Nothing has changed except, with respect to the Clinch River reactor, somebody has said the emperor has no clothes.

I went to see the Clinch River project with the committee, and I also went over this last recess with my colleague, the gentleman from California (Mr. BROWN) and my colleague, the gentleman from New York (Mr. AMBRO) and a number of staff members to the fast flux test facility (FFTF) in the district of the gentleman from Washington (Mr. MCCORMACK). We heard the experts at Hartford about the technical capability of the FFTF as opposed to the Clinch River breeder reactor. We were told unequivocally that there is nothing that can be learned technologically from the Clinch River breeder reactor that cannot be learned from the FFTF. And you should see the FFTF. It is the most gigantic structure imaginable, every acre of ground and hundreds of feet high, costing millions of dollars. The idea of duplicity is mind blowing.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. The experts at Hanford said there was nothing that cannot be learned in the FFTF of a technological nature that will not be learned from Clinch River, and that the only purpose of the Clinch River plant was to demonstrate to the utilities and to the banks, that we can do this thing on a large scale.

Indeed, with the cost escalation of this project, from $600 million in 1973 to $2.2 billion, so far to date, it is likely the project will prove its unfeasibility.

But here we have the leading nuclear scientists saying there are safer alternatives and cheaper alternatives in the future. They are recommending almost universally that we go to a thorium recycling. Why should we be demonstrating on a commercial-size scale something we are not going to be using in the future? And if, indeed, thorium is the answer and thorium is much more plentiful than uranium is, then we ought not to put $2 billion behind a commercial demonstration of an option that is not going to be the choice of the future.

I would just like to say a word about the chart that I put up. The chairman is a little sensitive about our use of these charts, and I can understand why. This chart shows the dramatic decline in ERDA's and the AEC's estimation of the demand for nuclear power for the future. We can see it goes from 1,200 gigawatts just 5 short years ago, in 1972, down to 300 or 400 gigawatts now. What that means is that we have plenty of time to make this decision. There is not going to be a demand for power that is going to require so many nuclear plants that we are going to have to have a breeder reactor before well into the next century. I think this is a very important thing to consider.

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Washington.

Mr. MCCORMACK. I thank the gentleman for yielding.

There are several points I think that should be clarified. First of all, clearly the potential for a thorium breeder is somewhere out in the future. We have done and are doing much research on the thorium fuel cycle, and we believe that there is a chance that thorium can actually be made a practical fuel. However, there are thousands of man-hours of work over the entire world that show that the thorium-uranium fuel cycle is far more difficult to handle both from the chemical and a radiological standpoint, than is the uranium-plutonium fuel cycle.

Mr. OTTINGER. I would like to resume unless the gentleman can get me more time.

(At the request of Mr. MCCORMACK, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I will.

Mr. MCCORMACK. Second, if we want to test thorium fuel elements, the best place in the world to try them would be in the Clinch River breeder plant. We can design thorium fuel that will fit right into that plant and save ourselves the $2 billion that it would take to build a separate thorium plant.

Next, the gentleman has used the word "safety" rather loosely. I do not know whether he is quoting somebody else or not, but the fact is that this is alluding to the idea of plutonium as weapons material not being present in the thorium cycle. Quite to the contrary, the thorium cycle produces plutonium—not as much as the uranium-plutonium cycle, but it produces plenty of plutonium for hundreds and hundreds of weapons, and it can be extracted from the thorium cycle just as it can be from any other fuel cycle.

In addition to that, uranium-233 can itself be used for weapons.

Finally, with respect to the fast flux test facility, the gentleman has used the expression that there are no technological gains, but this is a play on words, which the gentleman recognizes. As a matter of fact, he did not use the word "engineering," and he did it deliberately. The reason he did not use the word "engineering" is because that is what Clinch River is all about. There is a factor of three scale-up of the essential components of the CRBR over the FFTF: the pumps, the heat exchangers, and the steam generators. These are the areas where we are pioneering this technology. There must then be another factor of three scale-up from CRBR to a commercial plant. This is why we must have a CRBR. We cannot go all the way—a ninefold jump—at one time. Almost all engineers reject this. The fast flux test facility does not have a breeder blanket and does not produce electricity. As important as it is, it in no way replaces the Clinch River plant.

Mr. OTTINGER. That is not my understanding at all from talking to people either at Hanford or statements of Admiral Rickover or Dr. Teller. They say the thorium cycle is safer. They say thorium is available in infinite amounts, and that the thorium recycling is something which we can have in the near future. If that is the case and if indeed we are going to be demonstrating that at Hanford, I see no reason to commercialize a plutonium process which is what is intended to be done at Clinch River at the present time.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from California.

Mr. BROWN of California. Madam Chairman, I have in my hand a report from Admiral Rickover describing the thorium reactor which will be on line the latter part of this year and which Admiral Rickover said demonstrates a light water breeder using thorium that is a superior technology to the Clinch River plutonium reactor.

Mr. MCCORMACK. Madam Chairman, if the gentleman will yield, I would like to ask him what the breeding ratio of the thorium reactor is.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. WIRTH, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, I thank the gentleman for yielding.

I support the broad thorium alternative, and we are debating thorium, but other than to suggest it is a very good alternative, and I think while the gentleman from Washington (Mr. MCCOR-

MACK) has made some points about the production of a thorium reactor and we talk about the proliferation, it is very clear the production of a thorium reactor can be "poisoned" in such a way that it cannot be used as a weapons breeding material. It produces uranium-233 and we can add uranium-238 and the product becomes a nonweapons material, contrary to what was suggested by the gentleman from Washington (Mr. McCORMACK).

Mr. OTTINGER. If I have the time, let me just say the opponents of this project represent a great number of different points of view. Some favor the alternative breeder technologies and some feel, as I feel, that this whole subject of breeder technologies is going to get us into such high cost and such capital intensive and high concentration of power in the great energy companies that we ought to be, while we have the time, looking for alternatives, through solar energy and through making use of fuels that exist in nature from the organic wastes we presently have difficulty disposing of and from our forests and excess agricultural products. That is the avenue we should go.

Certainly if we do enough in the conservation field these fuel demands are going to drop. We have seen them drop so dramatically and they are going to drop even further as a result of the conservation provisions in the President's energy program. Demand is going to go down.

I think there are frightful dangers, whether from the thorium cycle or from the plutonium cycle, and these dangers should be avoided if at all feasible.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Madam Chairman, there are terrible problems within these technologies and if we can avoid them altogether we should do that. We should take advantage of the time given us by the reduction of demand to put real emphasis behind alternative energy technologies.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I want to say to the gentleman from Colorado (Mr. WIRTH), I do not know whether he was quoting one of the misleading ideas perpetrated in recent months on this particular subject. There is no breeder cycle that does not produce materials usable in weapons. The poisoned thorium cycle produces plutonium, too, not just uranium-233. Thorium has no advantage over any other breeder cycle in the world.

Mr. OTTINGER. If I can have some of my time back, Dr. Teller and Admiral Rickover made it quite clear in their statements that the thorium recycling was the safer alternative.

Mr. GOLDWATER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would rise in opposition to the amendment and the substitute amendment, and in support of the full funding for the Clinch River breeder reactor as recommended by the Committee on Science and Technology.

I do so after careful study and I conclude that this Nation can ill afford at this time the luxury of further delay in developing our breeder program. The Clinch River breeder reactor is a very natural progression in the research and development of an energy technology. Beginning 20 or 25 years ago, this Nation embarked upon the breeder program and it has developed over the years to the point where we are today, where it is necessary to take this technology and learn if it works on a medium scale economically and safely. We do so by a demonstration and that is precisely what the Clinch River breeder reactor is: a demonstration of the pumps, steam generators, heat exchangers, and other components to see if, in fact, when all the nuts and bolts are put together, they work as an integrated system.

Clinch River is only a third the size of a commercial plant. In addition to that, in order to find out whether a breeder demonstration plant would be compatible with our electrical utility system, over 740 utility companies have invested over $260 million in the Clinch River project, so that they themselves can have realtime experience in the development of this technology and perhaps potentially as an end use product. However, the bottom line is that Clinch River is only a demonstration of the technology. The final decision on its implementation will not be made by the Federal Government. It will be made in the future by the utility companies and by the public, based on knowledge gained from the demonstration and based on the fact that this technology does work. If we do not demonstrate it, we will never have those answers. We need them no later than the year 1990 to 2000 to know whether we should proceed with larger scale usage of breeder reactors.

Now, I am convinced that the breeder reactor is essential to meet our future energy needs because of the efficient use of our uranium supply. It has been shown, and I think it is accepted, that breeders obtain some 60 times more energy from uranium than conventional light-water reactors.

Thus, by sticking only to light-water reactor technology, we would be throwing away a good percentage of a potential energy resource. I do not think that makes much commonsense.

We have, as has been testified here, stockpiled some 250,000 tons of U-238 tails, which if used in breeder reactors represent some five times the estimated oil reserves in the Middle East. A price tag of some $20 trillion of equivalent coal is contained in this stockpiled uranium U-238 tails.

The administration has in essence put the kibosh on the Clinch River program over concerns for proliferation and diversion of plutonium to an unsavory country or sinister group that might use it for other than peaceful purposes.

I think the President was misled. I think after listening to hours of testimony, that his gesture was purely symbolic, and that is all.

Recently, I had an opportunity to meet with members of the Japanese Diet and the Federal Republic of Germany Parliament. I asked them the same questions that have been asked before: "Will you terminate your program by our example or because of our example?"

And the answer was, "No." They said, "We do not have the coal reserves that you have. We do not have the options that you do."

Nuclear energy is essential for our economic viability.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. GOLDWATER was allowed to proceed for an additional 2 minutes.)

Mr. GOLDWATER. Madam Chairman, nuclear power, after all, is really a fact of life. There are over 20 countries that are committed to it, and it is essential that as we pursue this nuclear economy we be concerned about questions of proliferation, about adequate controls and safeguards.

I would submit that it is because of the concern of the United States and its leadership that we have such things as a Nonproliferation Treaty, the International Atomic Energy Agency, and various bilateral treaties governing the use of uranium, plutonium and other materials.

The United States has spearheaded controls and safeguards because we were technically superior.

After all, if you do not play the game, you cannot make the rules.

The United States needs to continue to play the game in developing and refining breeder technology. If we do not, we give up our leadership worldwide. We give up the opportunity to guide the rest of the world in establishing strict guidelines and controls and cooperation.

Madam Chairman and my colleagues, again I do not think we can really afford this position for the future, nor for the rest of the world.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. NEAL and by unanimous consent Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. NEAL. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from North Carolina.

Mr. NEAL. I went to a meeting yesterday with Dr. Schlesinger, and we raised the question of the success of the President's nuclear nonproliferation attempts. He indicated to us that even though the Germans were going ahead with the sale to Brazil because they felt they had a moral commitment, they had signed contracts and had to go ahead with it. Dr. Schlesinger indicated that they were not going to sell any more breeder technology and reprocessing plants around the world.

It is my understanding from what he said that the French have essentially

agreed to this policy also, and also the Japanese.

Even though we are not going to stop them from building their own breeders, we have gotten, as I understand it, an agreement because of this initiative of the President. They told us that they were not going to sell this technology around the world.

Mr. GOLDWATER. I believe the administration has acted wisely in pursuing these things, but I contend that we do not have to pull the rug out from under own energy needs to do it. I would add too that the sale of German technology to Brazil is not for a breeder reactor, but for a light water reactor and its fuel cycle—an enrichment plant and a reprocessing plant. In general, however, I approach the question of proliferation control from two standpoints. One is the diplomatic. I appreciate what the President is doing in that regard. The second is from a technical standpoint. How can we make breeders safer and more proliferation-resistant for worldwide use?

We do not find that out unless we produce them.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. WYDLER. It has always struck me that the President has been operating, in his dealings with these foreign countries, from a position of strength. He is in a strong position because America has the most advanced technology in the world. That is why America can say something and the other countries listen. But, if we give up that advantage and let them get ahead of us—and I have even heard some people suggest that we can buy the technology from France; God forbid that such a day ever comes—if we lose the advantage these other countries are not going to pay any attention to what we are telling them. They are paying attention now because we are the world leaders in nuclear energy. We should maintain that position.

Mr. NEAL. If the gentleman will yield further, it is my understanding that the President had been able to make these gains because of the perceived seriousness with which he is approaching this question.

Mr. WYDLER. He made his point. I agree with the gentleman.

Mr. FUQUA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I approach this as a lay person and one that before did not have fixed opinions about whether we should continue with the Clinch River breeder reactor. I listened to a lot of people and I have read a lot, and I still am not convinced that I am totally right or that those who oppose this project are right. I certainly respect their views.

But, I think if we look at where this country is going and our demands for the future, that time is running out. This is only a research and development project. It is not a commercialization project. We are only trying to find out some of the answers that we all want to know.

I may be back in the well of this House in a few years, if I am still here, saying that we ought to scrub the whole thing, but I think that there are so many answers; for reliabilty, for safety, for environmental reasons, that we ought to look at and try to find out the right answers. We can also have influence on world opinion, and also on world decisions if we have accurate information that can answer some of these questions. How are we going to find out? Are we going to take some other country's word? Are we going to read about it in a book that so many authors have written, or a Dear Colleague letter? I do not think that is going to solve the problem. We need to find out this information and we need to be able to influence the world in the matter of proliferation, in the matter of safety and all of the other issues that we have concerning this.

Madam Chairman, I was very much impressed recently with a letter which was written to the distinguished Chairman of the committee by the Comptroller General of the United States, Mr. Elmer Staats, a man who I do not think is emotionally involved in this—and he, too, is a lay person, as many of us are. It was the opinion of the General Accounting Office and of Mr. Staats that we could not afford to do less than to continue with this project.

I think that it is so important to find out if it is feasible. This will take another 7 to 10 years to prove the feasibility of commercialization of the breeder reactor. I do not know what is going to happen in that period of time, and neither do the other Members here. But I do not think that we can afford not to take that chance. We can answer the question which disturbs me and which disturbs many people, the question of proliferation. I am very much concerned about that.

Also, we have people in the industrialized nations of the world who are less fortunate than we are in natural resources, who are moving ahead. But I think there are many unanswered questions. We as Members of the Congress, representing the people of the United States, can do no less than to try to find out the answers to these questions so that we can act in a responsible manner and so that we can act in a manner that is in the best interest of this country and our future needs of trying to solve our energy problem.

Mr. Staats, in a rather lengthy letter to the chairman, went into many of the issues and went into a study going back to 1975, the study that the General Accounting Office did, and its conclusions in 1975. He said that we should clearly not abandon nuclear fission at this time nor should research and development be slowed down.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

Madam Chairman, does the gentleman assume, as the gentleman from New York did earlier, that the breeder in question, the plutonium cycle breeder, is the only breeder, the only viable alternative?

Mr. FUQUA. No, sir, I do not think that is the only way to go. There is the thorium cycle. I think there are many others. We need more research on thorium. I will support that. That is another alternative. But I do not think we should abandon this until we find out more as to whether it is feasible.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FUQUA) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mr. FUQUA was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Madam Chairman, I cannot help wondering—I will ask this and let it go at that—if any of the Members who are today suggesting to this Committee that we should be developing the thorium breeder reactor, will really support that and really be for it; if in fact we later consider it. In other words, each time we get to the point where we really have something that seems to be commercially feasible, we turn our back on it and look somewhere else for the answer. We spent hundreds of millions of dollars developing the plutonium breeder reactor. We got it to where we possibly can break through and get money and power for our country, and now we want to turn our back on it and try some other idea. I do not think it makes very much sense.

Mr. FUQUA. Madam Chairman, I think the gentleman makes a point.

Mrs. LLOYD of Tennessee. Madam Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. I thank the gentleman for yielding.

Madam Chairman, I believe we have eight fuel cycles including the thorium cycle that can be tested in our breeder. If we want to go ahead with the thorium cycle, we will most certainly need the CRBR.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to both the amendment and the substitute amendment.

Madam Chairman, I think it is rather ironic that I was taking some notes down during the time the gentleman offered the original amendment to reduce the funding to $75 million and the notes happen to be on the back side of a Washington Post article which indicates the industrial countries are not meeting their objectives of conservation, and that during the last year the 24-member Organization of Economic Cooperation and Development rose in energy use by 6 percent while economic growth rose by 5 percent.

Even more surprising in that article was the statement that two countries that are usually glaring examples of good conservation outstripped other

countries in energy use. Those countries were Sweden and West Germany.

So I think that is one revelation we ought to keep in mind in our consideration of the CRBR today.

Another one is the evidence that recently appeared in the same newspaper that President Carter is preparing new initiatives in even stricter forced conservation efforts that are going to be placed upon the American people. In other words, he is saying that the American people are not willingly conserving energy and we are going to face rationing, allocation, power shortages, and a shifting of electrical power availability from one neighborhood to another around the communities of the United States.

I suggest that while we might have to do that on a short-term basis—and I believe most Americans will adjust to that rather reluctantly—if we allow this to be the pattern of energy availability throughout the time up to the end of this century and the beginning of the next century, there will be great internal frustration. We perhaps will be unable to deal with that frustration. It would appear to me that to adopt the amendment suggesting a standstill situation would do nothing more than add costs to the program would mean there will be a number of unanswered questions, questions that will not be answered in a year's period of time.

It seems to me that the Clinch River reactor should be looked at in the light of what it was meant to be. It was to be part of the process of a prudent development of a new energy source, demonstrating with about one-third of commercial size the technology to be applied and available. It was clearly emphasized that it does in no way commit us to commercial deployment of the breeder reactor process.

I continue to support the Clinch River breeder reactor, but I still stand on my feet and say that there is no reason I should predetermine my opinion as to whether it should be commercially deployed or not. All I am asking is that this Congress allow us to develop an energy source so that in 1986 or 1988 it be available to the President, whoever he or she might be at that date, so that the President can make a decision, based on the facts and not under the pressures of ever-increasing energy shortages and fewer places to provide for them. That decision should be done in a very prudent way, measuring the risks, along with the benefits.

I do differ to some degree with my colleague, the gentleman from California (Mr. GOLDWATER), because he indicated that the large corporations will be making the decision on commercial deployment. I think we should reserve that decision to the Government of the United States, and we should be prepared to make that decision. We can be prepared to make that decision in the proper time frame, but we cannot make the decision if we do away with the Clinch River breeder reactor.

The Clinch River breeder reactor, as I said, is an integrated part of the technology demonstration program. I have heard the gentleman from New York and a number of other Members talk about Shippingport. Shippingport was exactly the same thing.

When we build light-water reactors today, we do not build the design as we did in Shippingport. That design served its purpose. It was modified to a better design, it was recycled, and it has become a test bed for another technology today.

None of us would argue the Clinch River design is the most appropriate design or the most cost-effective design for a commercially deployed breeder reactor. We cannot view it in that way. We have to view it as a technological design to cover the design and development objectives and to minimize the risks of scaling up to commercial plant size.

We have to recognize that the technology has changed, and that there are particular problems that are not readily apparent in the development of individual components. We want to put the plant together completely to see how it works and to find out what the problems are.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 5 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, I think it is particularly important to recognize that the gentleman from North Carolina (Mr. NEAL) made a very good point, that the administration has made an effect on attitudes internationally in regard to proliferation. I think that in large part is the reason why Dr. Schlesinger, when he visited the committee after our trip to Europe, never mentioned in his report anything about proliferation as being the reason why we should do away with the Clinch River breeder reactor. He tried to argue only on the point of economics. If we argue only on the point of economics, that leaves a lot of questions open that are more open perhaps than if we were concerned only about proliferation.

Dr. Schlesinger said to the committee that today we do not need the Clinch River breeder reactor on the present schedule because we will not need commercial deployment of a breeder reactor until 7 years later than is now projected under the present schedule.

I hasten to add that 7 years is a very small span of time when we recognize the fact that we are dealing with a very complex technology that has not been proven to be able to be deployed.

Madam Chairman, I came from the steel industry in which I have seen rather insignificant programs compared to this, such as in starting up a hot mill or a cold mill technology that had been applied year after year, generation after generation. As a result of that experience, I want to point out to the committee that I have seen few projects come on line without involving significant delay and a need for time for adjustments and redesign at the end of the construction phase.

Madam Chairman, if we are to allow ourselves to be forced into such a narrow time frame on the back end of any research and development program so that we do not have enough time to make the reasonable and desirable adjustments necessary in the time permitted, I think we are going to be in a very unfortunate position.

I think Dr. Schlesinger is saying that the only difference between the administration and the Committee on Science and Technology is that there is a 7-year period of development which we can hold back on. I think the Members should be aware of that and take that into consideration with respect to any decision today on CRBR.

I think President Carter today would like to be able to know that lying over on the side of his desk is a proven design-tested technology of energy available to him if he wanted to make the commitment to commercialization and have it start to go forward in a reasonable time frame today. He does not have it.

However, why he should want to prohibit a President from having that luxury in 1986, 1988, or 1989, I do not know.

Madam Chairman, we have to put into context what a mistake on either side would mean to us. The shortfall of energy created by the oil embargo in 1973 affected our total energy supply by something in the neighborhood of 1 quad, while we are consuming a total of about 75 quads nationally. It put us into a very difficult economic situation.

The disruption of the natural gas supply last winter affected us by less than 1 quad; and yet the projection of the possible shortfalls of energy, after all of the most optimistic developments of solar, fossile, and other resources and after our conservation efforts, adds up to a possible shortfall of some 20 quads by the end of the century.

Madam Chairman, I think we should put this matter into perspective.

I am disturbed by the fact that the President, in concert with the recommendation to do away with the breeder reactor program, has also recommended a cut in our fusion program, the only other major viable program that seems to be able to be demonstrated in approximately the same time frame.

Madam Chairman, for those Members who are totally interested in the international implications of a breeder technology, I think they should not only look at international proliferation, but they also should look at our international actions with respect to how we derive energy out of the international community.

I think that a signal by the United States that we are not going to develop the breeder reactor and that we are going to look very selfishly to the continuation of consumption of a high proportion of the world's available sources of fossil energy is going to be a rather drastic signal to the developing world.

Madam Chairman, in our trip to Vienna, we asked, What are the characteristics of the developing world? We were told that the energy demands of the developing world are growing to be very much like ours. In other words, they

have central cities with large demands, high base loads, and so forth.

Madam Chairman, I am not suggesting in any way that we should adopt a program of deploying commercial breeder reactors throughout the world, throughout the developing world. What I am suggesting is that if we cannot rely toward the end of this century and after the turn of the century increasingly upon the atom, therefore, the breeder, that what we are going to be doing is starving those developing nations in the world with respect to any real growth and potential that they have.

Look at us today. We are able to absorb and compete against any other nation in the world and get all the oil or the fossil energy that we want.

Madam Chairman, I see no reason that we should continue and expand that policy.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Madam Chairman, in closing, I simply would like to say that delay would be costly because delay would throw us into a period of greater inflation. It would threaten industry's commitment to the breeder technology. It would threaten the educational community.

I suggest to those who criticize the program for its increased cost that some of the reason for increasing the cost is exactly what we are threatening to do today in that we continually delay a program from the time frame in which it was originally designed and this increases the costs.

The gentleman from Calfornia (Mr. BROWN) said he was going to tell us facts about the program. I happened to make a list, and I have one column headed "Facts" and one column headed "Assumptions." To be quite honest, I may differ with the gentleman and I may be remiss, but I must say that the only fact I found in his presentation was that commitment to CRBR was made on the assumption that there would be 1,200 plants on the line by the year 2000. All of the other points he made were assumptions, including the amount of uranium and the new assumptions of the number of light water reactors we will have. So, if the gentleman is going to give us facts to make this decision, then I would like to have him fill up the other side of the sheet.

Mr. TEAGUE. Madam Chairman, I wonder if we can get some idea as to how much longer we wish to go on this substitute amendment?

Madam Chairman, it appears from the number of Members standing that there is no limit in sight yet.

Mr. WIRTH. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, when the Clinch River project was originally proposed, one of the arguments for it was that we were running out of uranium. I noted today in the debate that that argument has not been raised by proponents of Clinch River. I had prepared an analysis of our supply and demand of uranium for the purpose of debating with those who were arguing for the Clinch River project because we were running out of uranium, but since that argument has not been raised, I will forgo that particular analysis.

Madam Chairman, of all the arguments we have heard for or against the Clinch River breeder reactor, one of the most telling, and one which should contribute to our decision here today, is: Will we have adequate supplies of uranium to fuel our nuclear reactors in the future?

Proponents of the breeder say no; they say that our uranium supplies will fall far short of our seeds. We need the breeder, they say.

Madam Chairman, the facts do not support the breeder arguments.

Current projections for the number of nuclear reactors that either will be operating or under construction by the year 2000, now stand at 380. This is, I remind my colleagues, much lower than what had been projected only a few years ago, and the new projection reflects the wholesale cancellations and slowdowns in our utilities' orders for new reactors.

Thus far in 1977, there has been only one new order for a nuclear reactor.

This new projected figure suggests that we can meet our uranium needs with far less than we originally assumed, approximately 1,900,000 tons, and current ERDA estimates for "proven" and "probable" reserves of uranium are now 2,350,000 tons. When additional reserves from extensions of existing areas or potential new fields are also calculated, ERDA's estimates rise to over 4 million tons.

Furthermore, Madam Chairman, the rate at which we are searching for uranium has gone up dramatically in the last few years, and at the same time we have also experienced a significant rise in the rate at which we are finding new reserves: from 4.5 lbs/ft drilled in 1974–75, to 6 lbs/ft drilled in 1975–76. This should give us a great deal of confiidence in ERDA's total projection, but again: Even if we consider only the "proven" and "probable" reserves, we have enough uranium to support all of the reactors that will be operating by the year 2000. The over 4 million tons of uranium will support 780 reactors.

In addition, a uranium recycling program would have the effect of increasing our supplies by 20 percent, giving us enough uranium to fuel 930 reactors.

I suppose that there are many who are questioning the accuracy of these figures. But, Madam Chairman, this is the one area of this issue where there is agreement between the proponents and opponents of the breeder: The report of the ad hoc subcommittee on the fast breeder, which was chaired by Mr. MCCORMACK, concludes:

> The Subcommittee believes that the ERDA forecast of 3,600,000 tons of uranium at a cost of $30 per pound, is the most prudent projection on which to base energy plants.

New exploration in the last year has in fact increased these projections. This is enough uranium to fuel over 700 reactors, almost twice the current projections. At the time of the subcommittee's report projections for reactors were much higher. But I see no reason to drop our projected estimates of reserves simply because our projected number of reactors has dropped.

Quite simply, the rationale for the breeder—that we are running out of uranium, is no longer valid.

Before I conclude, I would like to mention one other point: We have, in thorium another fuel which can be used in our nuclear reactors. The light water breeder in Shippingport, Pa., which should be operational this fall, use thorium and runs in the temperature and pressure range of existing reactors. Rather than build the expensive new breeder—and I remind our colleagues that we are talking about only a pilot model which will not immediately help our energy situation—we can use thorium technology to retrofit our current nuclear reactors, and assure ourselves of an adequate supply of reactor fuel for the future.

Thank you.

Mr. LUJAN. Madam Chairman, I move to strike the requisite number of words.

(Mr. LUJAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN of Tennessee. Madam Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Madam Chairman, I rise in opposition to the two amendments and in full support of the authorization for ERDA.

Madam Chairman, since President Carter announced his intention to terminate this Nation's breeder reactor program last spring, I have addressed this body several times in opposition to this proposed policy. As we discuss the funding authorization for the Clinch River breeder reactor project, I wish to ask the indulgence of my colleagues to again speak in support of this program.

My reasons for opposing the President on this issue remain the same, only reinforced with the passage of time and events which point out more and more clearly that stopping our breeder program will not appreciably affect in a positive way the proliferation of nuclear weapons, but undoubtedly will jeopardize this country's energy future.

There have been no indications that other nations possessing breeder technology are halting their programs in line with the President's pronouncement. On the contrary, France and Germany, and others may soon follow suit, are ready to accelerate their programs. I certainly share the President's concern over nuclear proliferation; however, nothing which has occurred to date, or would seem likely to occur in the future, would indicate to me that stopping our breeder program will help alleviate this problem. About all halting or deferring our breeder program will do is put us on record as ignoring an almost limitless and very much needed energy source. Such a decision would, I fear, cost us

more than we can afford to pay in the not too distant future.

We must face the fact that our supplies, and the world's supplies, of oil, gas, and coal are not inexhaustible. Solar and fusion power may be promising; however, our technology in these areas is still so limited that it is impossible to make an accurate assessment of the benefits those sources may bring. We need an energy source we can bring on line within the next 20 years or so, a source which is, for all practical purposes, renewable. We need an energy source for which there is technology available now, not 50 to 100 years from now. The breeder reactor uniquely satisfies all these requirements.

The bill before us now authorizes $150 million for the Clinch River breeder reactor project. CRBR is not to be a commercial breeder reactor. It is to be a demonstration project, a chance to refine our knowledge and explore new opportunities so that when we do need commercial breeders, as I am convinced we will, we will be ready to build them safely and efficiently.

I urge my colleagues to weigh all these issues carefully. When they have done so, I feel sure that their conclusion and vote will be like mine, in support of full funding for the Clinch River breeder reactor project.

Mr. LUJAN. Madam Chairman, we always seem to get things so complicated during our deliberations. One of the points made by the gentleman from New York (Mr. WYDLER) was that here we are, a Nation that began the entire nuclear development, the Nation that started the atoms for peace programs, and yet we will probably end up being the only Nation without a breeder technology if we proceed in the manner in which we are proceeding.

When I was home in August one of my constituents I believe put it as best as anyone could put it when he said:

Isn't this breeder reactor kind of like going down the road in your automobile and producing more gasoline than you use so that you can use that extra gasoline in the other car you have parked in your driveway?

I really think that a pretty good analogy, because we face a shortage of uranium regardless of how much reserve one might think there is, there is a limit to the amount of uranium that we have.

It has been said that it has no correlation to oil but certainly we are using it to generate electricity, and it is going to take the place of that. Natural gas, we refuse to deregulate natural gas, so we are going to see a shortage in that. One can go on and on. Coal has environmental problems. Solar energy, geothermal, fusion, all of those things are way, way in the future, and for the period in between I believe we are going to find that it is very necessary that we have the breeder. It has been said that we can learn nothing new from the CRBR. That is not correct, Madam Chairman. The CRBR is one step beyond. It is an essential part of the breeder technology. The fast flux test facility is for testing smaller components. We need the CRBR in order to test the larger components. Safety features that are not incorporated in the FFTF, such as the shutdown features in case something goes wrong, are not included in the FFTF. As a matter of fact, we cannot produce electricity from the fast flux test facility so the breeder, therefore, is a very essential step in my estimation, Madam Chairman, as a step to preserve the option.

I think that if we look at the proposals to do away with the Clinch River breeder reactor, if we follow that line of thinking that we will be sticking our heads in the sand, I do not think that that is what we ought to do.

Mrs. LLOYD of Tennessee. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Brown amendment. We are being asked to gamble the energy future of this country on the unsubstantiated assumption that there will be more uranium available to us than the best estimates of ERDA, the USGS, the private geological community, and the private uranium mining sector believe we have.

There is no disagreement between the supporters of the Clinch River breeder reactor, and its opponents on the numbers associated with the supply of uranium.

We agree that known producible reserves are 640,000 tons.

We agree that there is another 1.1 million tons in probable reserves which we can reliably depend upon to be available for production.

We even agree that there may be as much as 1.9 million tons in speculative resources.

What we do not agree on is the reliability of discovering and producing all of this uranium including the speculative category. We clearly do not agree on what prudence and responsibility call for.

The supporters of the Brown amendment cannot name a single geologist who has concurred in the Ford Foundation study. We do not know of even one geologist who was consulted in the preparation of the study.

The Committee on Nuclear and Alternative Energy Sources of the National Academy of Sciences, which incidentally consisted of a mining expert, a research director for the Bureau of Mines, a director of a worldwide uranium and thorium consulting firm, a geologist with expertise in the production of minerals and a professor of geology from California Institute of Technology, this panel concluded that the probability of discovering and producing less than the optimistic estimate of 3.7 million tons was 98 percent. Virtual certainty that we have less uranium than the levels conveniently assumed to exist by opponents of the breeder reactor.

Even the administration's own expert witnesses, Dr. Robert Nininger of ERDA, and Dr. Vincent McKelvey of the U.S. Geological Survey, were forced to concede that the resource base for planning purposes on the breeder reactor should be assumed to lie in the 1.8 million-ton range. I quote from the testimony of Dr. Nininger in response to the following question:

What would you recommend as a prudent planning level for this committee to use in deciding our breeder policy?

Dr. NININGER. . . . so a simple answer from our point of view is that the 1.8 million which is now really about 2 million recognizing that we feel that given our estimates of possible and speculative resources, that this is not the ultimate. This is only what we can very reliably count on, we think, at this time.

Dr. MCKELVEY. I like Dr. Nininger's statement and concur in it.

No one in the administration or the private sector, in a responsible position, is willing to state with absolute confidence we will have available the additional 1.9 million tons of speculative resources, which are essential to the administration's conclusion that it is possible to interrupt the development of the breeder option.

Yes, Madam Chairman, the administration formed its position using their judgments and these same basic estimates of uranium availability, but they seem more willing to gamble on future discoveries than we think prudent and yet they do not present any substantive geologic arguments to support their higher estimates.

To underscore the importance that the question of uranium resources has in determining the timing of the breeder option, I would like to quote the response of Dr. James Schlesinger to the following question from Mr. FLOWERS, chairman of the Subcommittee on Fossil and Nuclear Energy:

But, if you assume 1.8 million tons which is a whole lot less than 3.7, in fact it's less than 50 percent, you would have to come back down that line considerably wouldn't you?

Dr. SCHLESINGER. Yes sir, then you see a start up date of, I don't recall precisely, but I think it's on the order of 1992 or 1993.

The CHAIRMAN. The time of the gentlewoman from Tennessee has expired.

(By unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 2 additional minutes.)

Mrs. LLOYD of Tennessee. Madam Chairman, if anyone is under the impression that Dr. Schlesinger was referring to a startup date for the Clinch River facility, let me again quote the Secretary of Energy, clarifying this statement in a later exchange with Mr. Wydler:

At 1.8 million tons available uranium, the large demonstration plant would have to be ready in the early 1990's. If a smaller demonstration plant were built, it would have to be operating in the mid-1980's, and therefore begin construction in the next few years.

Finally, Madam Chairman, we are not in disagreement with even the most optimistic estimates of energy demand in 2000 which are now being presented by opponents of the breeder reactor. If growth is limited to 2 percent annually, as the President's plan calls for, and if growth in electrical energy is limited to the 4.7 percent estimated by ERDA, and if nuclear power accounts for one-half or less of electrical energy, we will still need between 400 and 500 light water reactors. At 40 GWe nuclear, we will require 2.2 million tons of uranium, and at 500 GWe nuclear, we will require 2.75 million tons

of uranium. This exhausts more than the experts, in the administration and in private life, tell us we can reasonably expect to have available.

Is this any way to plan the energy future of America?

The CHAIRMAN. The time of the gentlewoman from Tennessee has expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I want to congratulate the gentlewoman from Tennessee for putting this question of uranium supplies into the proper perspective. I think it is terribly important for us to recognize that the cost figures associated with getting the more expensive uranium out of the ground have nothing to do with the issue. They are total smoke screens.

We could easily use $100 a pound uranium without any problem at all economically in our program with the breeder reactor. It would be cheap at $100 a pound. But the limiting factor is: Is the environmental impact of mining that low-grade uranium permissible? We can be absolutely certain the people opposing the nuclear breeder today would be out there opposing the mining and milling of low-grade uranium at just exactly the same figures have been opposing the breeder and construction of conventional nuclear powerplants.

The CHAIRMAN. The time of the gentlewoman from Tennessee has expired.

(On request of Mr. WIRTH, and by unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, in response to what the gentleman just said, that there is no proper supply response, let me cite a recent visit to Mount Silo, Utah, where a great deal of uranium mining is going on. Twenty years ago because the price of uranium has gone up so sharply, they are now mining the tailings from previous uranium mining, because that is now worthwhile. That has nothing to do with environmental impact. That is simply responding to the price going up; consequently, they get a great deal more uranium.

Mrs. LLOYD of Tennessee. That is the point. This uranium is included in the higher rate level.

I would like to remind the gentleman also, according to our subcommittee, the cost of mining uranium is multiplied by 2½ times when they can get it out of the ground and process it out.

Mr. WIRTH. Of course it is; but as the price goes up, we are saying it is worthwhile for mining outfits to go after uranium that was previously not worth it. As the price goes up to $40 or $50, included in the response is the supply. As the price of oil and natural gas goes up, presumably there is a supply response to that increase.

Mrs. LLOYD of Tennessee. Would the gentleman be willing to say we should tear up the mountainsides of his district in Colorado to find uranium?

Mr. WIRTH. I am not suggesting we tear up the mountainside, but I am saying it is certainly worthwhile to the mining companies to mine as the price goes up. The previous argument suggested there was not any price response, which does not make any economic sense.

Mrs. LLOYD of Tennessee. I think if the gentleman will read the report, the gentleman will see that includes supplies generated by the higher price of uranium.

The CHAIRMAN. The time of the gentlewoman from Tennessee has again expired.

(At the request of Mr. FISH, and by unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. FISH. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from New York.

Mr. FISH. Madam Chairman, in the gentlewoman's statement the gentlewoman referred to 1.8 and 1.9 million tons of available uranium and included testimony on that.

Mrs. LLOYD of Tennessee. That is correct. That was when the gentleman was present.

Mr. FISH. What interested me, even after our hearings on the President's request in April, that sometime in the early summer ERDA came out and contested our figures on reserves and probable amounts of uranium based: First, on the estimates of cost per pound the gentlewoman just referred to; and, second, recent geological discoveries. They increased their estimate of reserves and probable amounts by 980,000 tons and 1.4 million tons respectively, bringing a total of 2.4 million tons of uranium. It seems to me that is an ERDA estimate we have had available since the hearings and testimony.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, this is true. ERDA has recently increased its projections of known and probable reserves. However, they have not documented these figures and these 2.4 million tons would only be enough for about 400 lightwater reactors. We would still need the breeder program.

Mr. FISH. Madam Chairman, if the gentlewoman will yield further, is the gentlewoman familiar with the most recent ERDA estimate that 380 lightwater reactors will be sufficient for our needs for the balance of this century. Therefore, with 2.4 million tons of uranium and with 550,000 tons of uranium needed for each lightwater reactor, we have more than enough to build the 380 reactors, plus an additional 50 reactors.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. DOWNEY. Madam Chairman, I move to strike the requisite number of words.

Let me begin by saying, I think it is a shame that the chairman of the full committee is retiring. I have found the gentleman to be a fair chairman. I found him that way in debate on the floor and I want to commend him.

May I say, had I known the gentleman better, I might have been able to convince the gentleman that he is incorrect on this subject.

One of the points that has been made, at least made by the President and an attempt to explain it here to Members of Congress is the question of nuclear proliferation, which we really have not dealt with thoroughly.

That concerns me. The President is concerned that if we do not, as a nation, set an example to the rest of the world, that our budgetary actions here will speak louder than any rhetoric, that the dawning of the age of the plutonium economy will be upon us; that the momentum will be such that we will not be able to stop it. This is one of those issues where we can line up experts on both sides of the issue, who will tell us that it is absolutely essential that we have the breeder for energy consumption in the future, that we need it, and without it we would not have enough energy. And, we have people that would say that is not the case.

There is one uncontrovertible fact. That is, if we do go ahead with the Clinch River breeder reactor program, we will no longer be able to hold ourselves out as an example to the rest of the world of restraint with respect to the future of the plutonium economy. That, to me, is the crux of the issue.

There is no question that our allies, the French and British, have not necessarily acted the way I would like to see them act, but they are showing some restraint. If we act today precipitously and approve this, we will not be able to go back to them and say, "Look, we have restrained ourselves and we would like you to do so."

One of the things I have wanted to do, and I suppose it will be lost on some Members who have already made up their minds, is to highlight just how simple it is to make a nuclear device. My friend from Washington (Mr. McCORMACK) will point out the fact that there are seven different ways in which one can fabricate a nuclear warhead. None of them would be simpler than if one has plutonium, used in the breeder, to build a nuclear bomb, taking the plutonium and diverting it from that fuel cycle.

Take 10 kilograms of it—I am sorry that I could not have a real nuclear weapon here, but ERDA would not allow that—take 10 kilograms, set it in a container about the size of a grapefruit, set it in this container vessel, encase it with a plastic explosive which one can purchase at any good hardware store dealing in explosives; encase it once again

with another plastic explosive, and one can produce with 10 kilograms a 10 kiloton warhead. It is pretty simple. There is no question that it can be done. It can be done very, very simply.

If we provide plutonium to a foreign power, there is no mystery that when the Indians exploded their nuclear device, that the Pakistanis right away wanted to get nuclear technology from the French so that they might be able to generate electricity. I daresay they were interested in generating a number of things. That is what we are talking about today.

We are talking about halting the momentum to the plutonium economy. If we do not do that, if we do not provide the method of making these weapons of destruction through the providing of plutonium, we will have an opportunity to thwart the Third World nations or other nations who want to produce nuclear weapons through international pressures. There will be the time to do that, to apply pressure, but if we go ahead, if we provide no example, we will not be in a position to pressure potential nuclear weapons developers.

So, I ask that the members of the Committee vote for the futures of their children and mine. This is more than just an issue of a commercialization project. This is an issue of whether or not the world will have a plutonium economy, and be a much more dangerous place in which to live.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, I think the gentleman from New York has gone to the heart of this issue, because if we do go ahead with the Clinch River project we are saying to the world that the United States does not really have any commitment to delaying commercialization of plutonium breeders until we develop controls that will prevent this technology from becoming a monster that may eventually engulf us.

There happens to be a Babcock & Wilcox factory in the next town to my own, and there are hundreds of people who are constituents of mine who work there. Of course, many have written me, asking me to support this project.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. SEIBERLING and by unanimous consent Mr. DOWNEY was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Will the gentleman yield further?

Mr. DOWNEY. I would be delighted to yield.

Mr. SEIBERLING. I have received many letters as to why I should oppose the Brown amendment and support the Clinch River breeder reactor and those who make equipment for that project. I do not lightly dismiss their entreaties. I have to think about the next election, as we all do. But we have obligations not only to our constituents but to future generations. I believe this is truly a watershed situation we are in. I would not want my children to look back on this moment and be able to say that Congress had an opportunity to keep the plutonium nightmare from becoming a reality and that their dad voted the wrong way. I hope we will all think about that and not the immediate problem situation which is presented by the fact that some plant in our district has a piece of this particular project.

The nuclear power industry will continue to grow just as fast throughout the rest of this century, whether the Clinch River project is completed or not. There will be plenty of work to occupy Babcock & Wilcox and other suppliers of equipment to the electric utilities. Both nuclear- and coal-fueled plants will be needed to meet projected demands. But these demands can be met without the costs or the risks that Clinch River involves.

Mr. DODD. Madam Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Connecticut.

Mr. DODD. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to compliment the gentleman from New York. He is highlighting the argument I make with my amendment; that is, the $75 million, the hiatus, the slowdown.

I think we should provide the President with some flexibility. We need to create a situation where nonproliferation agreements can go forward. I think for us to support the committee position of full funding would hurt that effort, just as I think the decision to cut the entire funding would hurt us in that effort. But I do think the gentleman from New York made some very good points, and I compliment the gentleman.

Mr. FRASER. Madam Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Minnesota.

Mr. FRASER. I thank the gentleman for yielding.

Madam Chairman, I just want to underscore the point that the gentleman made. The Europeans are not moving quite as firmly toward breeder reactors as we are led to believe. For awhile, for example, I understand the West German Parliament froze their funds. They agreed they are not going to go ahead with the funding until the parliamentary debate this fall. Sweden went through a national election with the question being there.

Mr. DOWNEY. Will the gentleman agree that the question can be determined by our budgetary action today?

Mr. FRASER. If we go ahead, it seems to me that we must consider the credibility of the position we take. The Europeans think what we are doing is to discourage them while we move ahead. If we do move ahead, we do need to consider credibility. I agree with the gentleman from Ohio that this is an enormously important issue for the people of the world.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman from yielding.

Madam Chairman, the gentleman gave us the example that plutonium would be readily available in the drug store and that this would be easy to assemble. Could the gentleman describe what maneuvers one would have to go through to acquire the plutonium and equipment?

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

Mr. GARY A. MYERS. Madam Chairman, I ask unanimous consent that the gentleman from New York (Mr. DOWNEY) be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LONG of Maryland. Madam Chairman, reserving the right to object, there are some Members on the floor who are not members of the committee who would like to have a chance to talk and say something on this question. I have sat here now through most of the afternoon while the committee members have taken additional time in many cases.

The CHAIRMAN. Does the gentleman from Maryland (Mr. LONG) object?

Mr. LONG of Maryland. Madam Chairman, I withdraw my reservation of objection, but if it keeps on like this I am going to start to object.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further, what maneuvers does one have to go through to acquire the plutonium and equipment, and what does one have to have to convert it into usable form? I do not think it is quite as simple as we are led to believe.

Mr. DOWNEY. Madam Chairman, let me answer the gentleman very quickly. There is a Los Alamos primer that is available to the gentleman which gives about 90 percent of what one needs to develop the nuclear weapon. There are literally thousands of physicists in this country and abroad with plutonium, with fissure materials, who could fabricate a bomb. Unfortunately, it is not that difficult a process.

Mr. COUGHLIN. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the Brown amendment.

Madam Chairman, for more than 5 years I have been raising red flags about the Clinch River demonstration project. They have been red flags against a bull, but in this case they are against a "Ferdinand," because it may smell the roses but it will never fight our energy problem.

Regardless of how we feel about nuclear power—and I favor it—and regardless of how we feel about the breeder program—and I am a skeptic—this project is a "Ferdinand." It is a loser.

I originally encountered the Clinch River breeder project back in 1971 as a founding member of the original Task

Force on Energy of the House and a member of the Committee on Science and Technology. In 1972 I testified as to my concerns about this project, and in 1974, 1975, and 1976 I offered amendments in connection with Clinch River.

This single project, this "Ferdinand," represents an inordinate amount of our energy research and development expenditures. It is plagued by huge cost overruns, and there are dubious cost benefits associated with it. The real bulls of industry have been reluctant to share in it.

Let me be clear that we are not talking about the entire breeder program. We are talking about a specific off-line demonstration plant. It was originally calculated to cost $700 million. The projected bill has now escalated to over $2 billion.

The need for this plant has been obviated, for three prominent reasons: First, the projections for electrical demand which originally escalated at about 7 percent a year into the year 2000 as a time frame have been substantially modified.

Second, uranium supplies for conventional light-water reactors will be adequate to meet electrical demand well into the 21st century.

Third, the escalating cost of the breeder will make it uneconomical well into the 21st century.

Let us look at the cost-benefit ratios. I have just had a chart posted here to demonstrate this.

Dr. Schlesinger, in testifying before the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, said on June 7, 1977:

> I told the staff to go away and to bring me a cost-benefit study on the (Clinch River) demo plant by itself, and one could not emerge from such a study with a positive benefit-cost ratio * * *

A study commissioned by the American Enterprise Institute in 1976 stated:

> It thus appears that the LMFBR's high efficiency in uranium utilization is not sufficient to compensate for its higher plant capital and program costs.

The distinguished nuclear physicist, Dr. Edward Teller, on June 15, 1977, said:

> The Clinch River breeder which is obsolete before it has been started, should certainly be cancelled.

A 1977 study financed by the Ford Foundation and conducted by the MITRE Corp. concluded:

> The Clinch River, a prototype demonstration reactor costing $2 billion, is unnecessary and could be cancelled without harming the long-term prospects of breeders.

The Council of Economic Advisers came to a similar conclusion about the cost benefits of the breeder.

There have been positive studies about the cost benefits of the breeder, and the Members can see them, but they have been made generally by industry. Industry is, of course, favorable because they are going to get a handout. But they are not interested in investing. Industry and Government originally were to share in the program 50–50. That was the law. We changed the law, and now the private industry portion is down to 11 or 13 percent.

Madam Chairman, to eliminate this Clinch River plant will not terminate the breeder. It will, however, save us $2 billion and enable us to devote substantial research and development funds to other projects which may be more worthwhile in the long run.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Madam Chairman, I thank the gentleman for yielding.

I would like to compliment the gentleman in the well. Over the past 5 years the gentleman has been one of the leaders on this issue and I believe it was his comments that helped to solidify my position on this issue. I would just like to commend the gentleman for his leadership, and I do support the Brown amendment.

Mr. COUGHLIN. Madam Chairman, I thank my colleague, the gentleman from Pennsylvania.

Mr. HILLIS. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Indiana.

Mr. HILLIS. Madam Chairman, I rise in opposition to the amendment. For a number of years the development of a liquid metal fast breeder reactor has been hotly debated. I believe we have all heard the arguments against the LMFBR: Proliferation of nuclear weapons, too expensive, unnecessary, too environmentally risky, and so on. However, none of the arguments against the LMFBR have been very convincing. None of the arguments against the LMFBR have adequately addressed the major questions on which the decision to proceed with the reactor should be based. Questions like, "What will our energy demands in the future be?" "How much uranium is available for mining in the United States?" "Are there any alternatives available to meet our future energy demands which should be supported in lieu of the LMFBR?"

In announcing his decision to postpone development of the Clinch River breeder reactor, President Carter was attempting to illustrate his strong feelings on nonproliferation. His decision was not based on—and perhaps did not even consider—the major issues which I have just mentioned. President Carter was playing politics with this Nation's future by taking this stand. It is apparent that the President failed in his attempt to stop other countries from proceeding with development of their breeder programs which weakens the nonproliferation argument tremendously. Regardless of what we do, France, Britain, and the U.S.S.R. will continue their commitments to developing LMFBR technology.

We all know what the major advantage of the LMFBR is over other nuclear reactors. Simply stated, the LMFBR produces more energy in the form of fissionable uranium that it uses during the reaction. Thus, once LMFBR's are developed to a full commercialization level, they will be able to supply a tremendous percentage of our electrical energy by producing plutonium which can be used to fuel existing nuclear reactors. Although no one knows exactly what our future energy demands will be, it is clear that the LMFBR has the capacity to extend the U.S. uranium resources by 70 times the current estimated reserves.

It is difficult to estimate the uranium reserves of the United States. Best current estimates are that there are between 1.8 and 2.0 million tons of uranium. If these estimates are correct, it is possible that the entire U.S. supply of known uranium reserves will be obligated by the year 2000. With electricity assuming a greater role in our total energy picture, it is vital that we do not limit ourselves to be dependent on foreign uranium supplies.

A number of people would prefer to see the United States spend more money and effort on the development of other sources of energy instead of nuclear energy. Solar energy is by far the most popular alternative source of energy. The United States is already spending millions of dollars on R. & D. solar technology. Hopefully, solar energy will begin to supply more and more energy in the next few years.

However, there is absolutely no assurance that this form of energy will come anywhere near meeting our future energy demands. Major improvements and major technological advancements must be made before solar energy can become a principal source of energy for the United States. We must continued to explore every possible option, including nuclear energy, if we are to insure adequate supplies of electricity during the early part of the next century, which is only 33 years from now.

Our national security, our high standard of living, our entire way of living depends on maintaining adequate supplies of energy. The stakes are too high, the consequences are too severe to limit our efforts to insure that this Nation will continue to be a major world power. Should we fail now to make every possible effort to produce new energy technology, we will endanger the entire future of the United States.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to gentleman from New York.

Mr. WYDLER. Madam Chairman, as I mentioned in my remarks, I too, was very much impressed by the gentleman's presentation in years past, and actually I supported some of the amendments the gentleman from Pennsylvania (Mr. COUGHLIN) offered in regard to the breeder reactor.

However, I have come to the conclusion, after really studying this issue, that we are not going to get anything to solve the energy problems of our Nation unless we spend billions and billions of dollars to do it. It is not going to be a cheap solution.

The bottom line is this, and I suggest this to the gentleman from Pennsylvania (Mr. COUGHLIN): that the figures I have are, I believe, the figures the gentleman from Pennsylvania sent around.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mr. COUGHLIN was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, the figures that I have on this project are as follows: As of today, to continue with the project and complete it would cost us $2.2 billion, a large sum of money. To terminate it would cost us $1.4 billion and maybe more. I would say that to terminate it is cheaper, but for the $1.4 billion we do not have anything.

Mr. COUGHLIN. Madam Chairman, Dr. Schlesinger said yesterday that the full termination cost would be in the neighborhood of $400 million, which is substantially less than the figure the gentleman is talking about. We would be throwing good money after bad.

Mr. WYDLER. Madam Chairman, if the gentleman will yield further, I am giving him the figures given to our committee. These are the latest figures that have been given to our committee as the cost of termination.

I will just tell the gentleman that they do not even include the costs of any lawsuits which are almost inevitable if we terminate this project.

Mr. COUGHLIN. Madam Chairman, I yield back the balance of my time.

Mr. LONG of Maryland. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the Brown of California amendment to cut funds for the Clinch River breeder reactor.

Madam Chairman, the real reason for containing nuclear proliferation and particularly the breeder is economic. There is no energy shortage. The Earth is bursting with energy: the Sun, the winds, the tides, the heat with the Earth, coal, oil, oil shale; the list is endless and the amounts enormous.

Where, then, is the shortage? The real shortage is in the capital needed to harness this energy and put it to work.

Quite aside from the dangers of pollution, of accident, and of weapons proliferation, it is a waste to spend billions of dollars on more breeder technologies when more energy can be gotten from other renewable sources with far less capital investment and when these billions of dollars are so urgently needed in fighting pollution, disease, poverty, and in providing a better standard of living for the American people.

Madam Chairman, I could construct a list of our capital shortfalls that would run into trillions of dollars. Of course, we need energy; but the real point is that we should get more energy and we shall get more energy from using our scarce capital to go after those energy sources which cost far less, in some cases one-tenth as much, than to develop the breeder reactor.

Madam Chairman, the real motive for promoting these nuclear projects is pork-barrel investment, profits, consulting fees for scientists, et cetera. We see this in the understandable nature of the people who are fighting so hard for these projects. They come from States where much of the funds will be spent.

Madam Chairman, I do not blame proponents of the breeder for that; the breeder is great for the people who are pushing it, but it is very expensive pork for the rest of us.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, the gentleman may be making a good point. I would point out to the gentleman, however, that I am trying to act as one of the proponents of the Clinch River breeder reactor; but in doing so, I am not aware of any dollar or business interest of myself or of anybody in my district in that project. I am doing it because I think it would do what the gentleman says should be done.

The gentleman's point may be well taken. There is no energy shortage, and we really do not have to worry about it. If we do, we should let the oil companies make the money instead of the nuclear people.

Nonetheless, I would just say that if what many people are telling us—that we have a potentially disastrous energy shortage in this world—is right, the best chance we have as a Nation—and if we look at it carefully, this would really be something that our own Government would control—would be to have developed the technology that would allow us to go out and generate the electricity we need in our country. It would be a very valuable thing to have.

Mr. LONG of Maryland. Madam Chairman, I yielded time to the gentleman to ask a question, not to make a speech.

However, would the gentleman not agree that there is a great capital shortage in this country?

Mr. WYDLER. There is indeed.

Mr. LONG of Maryland. Are there not far cheaper ways of getting energy than this most capital-intensive, most expensive, most sophisticated of all ways of getting energy?

Mr. WYDLER. No.

Mr. LONG of Maryland. The gentleman does not agree with the GAO. Its figures show that nuclear power is 10 to 20 times more costly than getting energy from other sources. Dr. Schlesinger has said that. Expert after expert have all testified to the very high cost of getting energy through the nuclear route.

Mr. WYDLER. I think it is probably one of the most economical ways to develop it, but the alternatives are to buy out oil.

Mr. LONG of Maryland. If the gentleman will let me have some of my time back. If it is so economical why is it we do not get more money from the private companies, why is it that the companies are only putting in 13 percent of their own money? If it is such a wonderful project why do they not spend their own money and not mine?

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MCCORMACK, and by unanimous consent, Mr. LONG of Maryland was allowed to proceed for 1 additional minute.)

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Washington who has been such a hard fighter for a nuclear project that is in his own district and who is doing a job for his constituents.

Mr. MCCORMACK. Madam Chairman, I thank the gentleman for yielding. I would like to point out, Madam Chairman, that the administration proposed that we move the components of the Clinch River Breeder to my district for testing, and add, in my district, a quarter of a billion dollars of additional construction rather than build the Clinch River plant. I rejected this suggestion.

Mr. LONG of Maryland. Well, the gentleman probably did not want the nuclear fall-out.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, the gentleman talked about the capital shortage if the Brown of California amendment passes, there will still be something like $70 million for research on the breeder, and yet the entire solar energy budget is half of that.

Mr. LONG of Maryland. Exactly.

Mr. TSONGAS. Madam Chairman, the justification of the breeder reactor which we—have heard, will hear—is based on the following:

First. The growth rate in the electric sector is continuing.

Second. The breeder is the best option to meet this demand.

Third. The LMFBR is the best breeder concept.

Fourth. The CRBR project is the best embodiment of that concept.

Madam Chairman, the validity of each of these points is questionable.

The electric demand growth is less than projected because of conservation and economic factors. The number of nuclear reactors projected is much lower than at the time Clinch River was originally authorized due to lower electric demand growth, increasing delays and rising nuclear plant costs.

The options which we have to help meet future demand include fission, fusion, solar, coal, renewables, and conservation. None should be dropped. All will be needed. The viability of the nuclear fission option requires stretching our uranium supply. The breeder reactor is only one option for doing this. Alternative fuel cycles is another.

For example, a denatured uranium-233–thorium fuel cycle can stretch uranium reserves by a factor of two. And it can be applied to existing pressurized water reactors (PWR) without modification. As the breeder turns abundant U^{238} into fissionable plutonium fuel, this alternate cycle turns abundant thorium

into fissionable U^{233} fuel. U^{233} is similar to plutonium in its proliferation characteristics, but the difference is that it can be denatured by mixing it with U^{238} and then can only be separated by sophisticated isotope separation processes. In this alternative fuel cycle, nuclear fuel going to and from nuclear reactors would be no more attractive a target to would-be bomb makers than the fuel of reactors operating on the current low enriched uranium fuel cycle. Plutonium mixed with U^{238} can be more easily separated by chemical means.

Madam Chairman, I do not mean to be interpreted as proposing this fuel cycle as the alternative. My point is that alternatives exist which carry far less risk in terms of proliferation.

It is questionable whether the LMFBR is the best option. R. & D. on alternative breeders has been too low since 1970 to realistically assess their merits. All the eggs have been put into one basket and it is no wonder that some will try to argue that the LMFBR is the only viable option. We need more diversity. Gas-cooled breeders can offer higher efficiency, molten-salt breeders may offer superior safety and nonproliferation characteristics, CANDU's and spectral shift reactors offer advantages, and accelerater breeders would require no reactors or enrichment. Again, I endorse none of these, my point is that potentially superior concepts exist. We have the time to consider theses alternatives and/or to improve the fast-breeder design.

The CRBR relies upon a 10-year-old design. It makes no sense to invest billions in this reactor design when experts have estimated that we could design a better one—if the fast breeder turns out to be the best option—in 3 years. The estimate is Rose's at MIT.

We have none of the urgency which was thought to exist when the project was conceived. We have breathing room even with the most pessimistic current estimates. Switching to more efficient advanced convertors or to the thorium cycle can buy us more time. The recent Ford Foundation MITRE study says that we could safely and wisely postpone development of a breeder reactor at least until 2025—see Globe article.

Too much is at stake to rush into a multibillion-dollar project which is out of date. Before we invest billions of the taxpayers' dollars in a project of questionable technical value, we must vigorously explore all options. This is the best insurance policy for the future. We risk far too much if we narrow our efforts at the very time that we should be broadening them.

Mr. LONG of Maryland. Madam Chairman, what we are doing in putting so much money into the nuclear field is stealing all of the best brains in the scientific world at $200 to $500 per day. They then come in and say how wonderful nuclear energy is instead of working on the real problem, of finding other less capital intensive sources of energy.

The CHAIRMAN. The time of the gentleman has again expired.

On request of Mr. GARY A. MYERS and by unanimous consent, Mr. LONG of Maryland was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, the gentleman from Maryland (Mr. LONG) made the statement implying that we should leave it up to the utility companies to decide whether they want to go ahead. I think that is a rather inappropriate suggestion because there are threats about commercial use in deploying our breeder technology. It is a Federal project.

Mr. LONG of Maryland. I thought the Members on the minority side believed in free enterprise.

Mr. GARY A. MYERS. I believe in the free enterprise system. But I say that this is a Government project and the Government makes the decision to prove we have the technology, and after they know the facts, then it should compete against other energy sources and I think it will compete rather well at that time. But it would be inappropriate to give to the bigger corporations today the decision about whether we are going to develop a very difficult technology or not.

Mr. LONG of Maryland. Why do we not let them spend their own money on this instead of ours?

Mr. GARY A. MYERS. If the gentleman will look at the facts he will see that this is a project that has some 373 electric utilities across the country who have made significant contributions to it.

Mr. LONG of Maryland. May I say that we have put billions and billions of dollars worth of Federal money into this. It is one of the most highly subsidized projects there is but still the companies keep canceling subsidized projects because even with the subsidy it is a loser. Why do we not face up to the fact that it is a loser? Why do we not pick a winner?

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, maybe just as a word of warning, I am afraid the gentleman is going to see some of his own arguments used against him the next time he brings up the foreign aid bill.

Mr. LONG of Maryland. Touché.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. NEAL. Madam Chairman, I move to strike the requisite number of words and I rise in support of the Brown of California amendment to delete from H.R. 6796 the sum of $117 million to be authorized for the Clinch River breeder reactor program.

I believe we should discontinue this project for what appears to me to be a variety of good and compelling reasons. First among them are the facts that the project is not needed; cannot be justified on a cost-effectiveness basis; employs a technology that is considered by many important scientists as obsolete; and raises some serious misgivings about its impact on the proliferation of weapons grade nuclear materials.

The issue here, Madam Chairman, is not the breeder reactor. We already have appropriated this year almost half a billion dollars for other liquid metal fast breeder reactor research and development. The issue here is whether we should leapfrog a vital link in the research and development chain—that is, the test facility at Hanford, Wash., and others—and commit ourselves to the Clinch River technology before fully testing its logical forerunner, the facility at Hanford.

There is absolutely no need to rush into a commitment to the Clinch River technology. Its primary purpose is to put into place a means of continuing our nuclear power production before our supplies of uranium are depleted. That, according to the latest estimates, will not occur before the year 2020. If we must move on to plutonium-powered fast breeders, we can delay the decision at least 10 years without jeopardizing our energy supplies, and without incurring the substantial cost of the Clinch River project.

Incidentally, the cost originally was estimated at $500 million, half of which was to have been furnished by private utilities. The current cost estimate is $2.2 billion, about 90 percent of which would be furnished by the Government.

We have the opinion of a great many experts to indicate that the Clinch River project should not be continued at this time:

James Schlesinger, Secretary of Energy and former head of the Atomic Energy Commission, says the project cannot be justified because it no longer is urgently required.

Secretary of Defense Harold Brown says he fears the project would endanger our national security.

Secretary of State Cyrus Vance warns that the project would cripple our nonproliferation policy, now taking its crucial first steps.

The Nuclear Energy Policy Group concludes, in its prestigious Ford-MITRE study, that CRBR is uneconomical, limits our options, and may undermine the development of more efficient nuclear reactors. the American Enterprise Institute concludes that the Clinch River project is not economically sound.

Finally, President Carter says that passage of the amendment which we are now considering is critical to the success of his efforts to halt the spread of nuclear weapons.

Perhaps the chance of nuclear proliferation is the most glaring problem with the Clinch River project. No matter how remote the chance of plutonium falling into the wrong hands might be, no one can deny that the possibility exists.

Fuel reload for a single commercial liquid metal fast breeder reactor would provide enough plutonium for 200 to 400 bombs. And if Clinch River proponents are correct, pure plutonium can be handled with only simple precautions. On the other hand, it would take at least a year for a country without nuclear weapons capability to make a bomb from the products of a light water reactor.

With plutonium, it could be done in a matter of days.

Madam Chairman, I believe very strongly that a commitment to the plutonium economy at this time is both unnecessary and unwise. We have plenty of time, and more satisfactory options, in making such a critical decision.

Solar can be the real breeder of the future. We eventually will be able to use photovoltaic solar cells to produce energy which in turn could be used to produce more solar cells. ERDA is now predicting that solar could provide up to 5 percent of our total energy needs in a little over 20 years. If we would give it the extra boost needed by passing my solar energy development bank bill, it could be considerably more.

In 1952, the Paley Commission, in a report to President Truman, warned of future oil shortages and a growing dependence on Middle East petroleum. The Commission recommended aggressive research into both the peaceful atomic and solar technologies. But succeeding policymakers heeded only half that advice. From 1953 to 1973, the U.S. Government spent more than $5 billion on nuclear research and development, but less than $1 million on solar R. & D.

This year, a record high of $368 million will be expended on solar research and development. Nevertheless, that effort will be dwarfed by the $3 billion earmarked for nuclear, including almost a half billion dollars for the fast breeder reactor programs, above and beyond the Clinch River project.

We concede that when the Clinch River concept was conceived, there appeared to be a need, far down the road, to find a new fuel for nuclear powerplants. It was then estimated that 1,200 nuclear plants would be on line by the beginning of the 21st century. Now, according to ERDA, it appears there will be only about 350. If we do a decent job of developing alternatives such as solar, the requirement for nuclear reactors may be reduced even further.

And so, Mr. Speaker, I say to my colleagues that we should not plunge ahead stubbornly with a program that is not needed, when we have so many others which are essential. Solar is one of them, but there are others. I say that we would do better to divert the $2.2 billion required by the Clinch River project to projects of higher priority; or, if we cannot determine those priorities, to keep it in the U.S. Treasury.

Mr. FISH. Madam Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from New York.

Mr. FISH. Madam Chairman, the gentleman from North Carolina has stated clearly the problem and has given the best statement we have had on this floor during the debate this afternoon. I particularly commend the gentleman for reminding us that the half billion dollars for non-Clinch River builder research in this year's budget is going up steadily over the next 4 years until it reaches $1 billion for fiscal year 1981.

In an earlier colloquy the gentleman brought out the point that we should be reminded of when we are talking about nuclear proliferation abroad. We are not talking about our friends, the Germans and the British and the Japanese having a breeder capacity. What we are trying to urge them to do is not to export this nuclear ability to unstable nations.

Mr. NEAL. That is correct. The administration says it has succeeded in that for several reasons.

Mr. FISH. I also thank the gentleman for his remarks about the role of the fast flux test facility in the various steps starting with research followed by the EBR–2 and the FFTF and finally the CRBR. It is important to proceed with fast flux. What if it is determined in fast flux testing a few years from now that the Clinch River design was faulty? It could be disastrous to have skipped one of the essential steps.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. NEAL) has expired.

Mr. OTTINGER. Madam Chairman, I ask unanimous consent that the gentleman from North Carolina may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. FLOWERS. Madam Chairman, reserving the right to object, I shall not object. I am chairman of the subcommittee that handled this bill and I have not even requested time to speak yet, but I think we are about to beat this horse to death, and the next request for additional time will have an objection from me.

Madam Chairman, I do not object at this particular time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from New York.

Mr. OTTINGER. Madam Chairman, I congratulate the gentleman for his fine statement.

There have been statements made in the House today about the contributions of private industry which originally were supposed to be 50 percent of the project and are now down to 12 percent. I would like to make it very clear that there is nothing being contributed by private industry. Most, in fact. of what is being contributed is being contributed by the private utilities and they are getting that from their ratepayers. This is, therefore, a 100-percent-supported project, and being the lemon that it is, it does not deserve the public support either from the Government funding or from the ratepayers of the private utilities.

Mr. FLOWERS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I will object to my own request for additional time if I decide to make the request.

It appears to me that we have got two opposing versions of the choir speaking to each other. Would it be out of order to ask if there is any Member in the room who has not made up his mind at this point? Please raise your hand. I see no hands raised. There is one or two. That might make the difference.

Well, I will go forward with my other 4½ minutes.

It is with great reluctance that I oppose my dear friends, the gentleman from California and the gentleman from Connecticut, but let me say to them they are in rarified company, because I am also opposing the President of the United States in this regard. This is not a one-sided issue. It is an issue on which there are experts for whatever point of view we want to subscribe to, for whatever point of view we find ourselves on or want to take a position on.

I approached this, believe it or not, just as the chairman of the committee did, with a completely open mind, so far as I could tell. I fell into the chairmanship of this subcommittee at the beginning of this Congress with no previous disposition on this issue. We searched into it as completely as we could. Not only did we have the normal hearings but also we had preliminary hearings and briefings on this in the subcommittee.

We then went through the normal ERDA authorization process where we were dealing with the Ford budget request. Then we dealt off of that onto the original revised Carter budget request, still withholding our final judgment until the President submitted his energy message on April 20. Subsequently thereto when he decided in that message and in his submission to the Congress to give us not only a cutback on the breeder program at Clinch River, but a complete cessation of it, we went into it in even greater detail. We spent an entire week, 4 days of separate hearings, which dealt with the breeder at Clinch River; not the breeder base program, but the Clinch River breeder project. We looked at this thing in all its parameters and anyone who says we did not simply does not know what he or she is talking about.

We considered it and the subcommittee came down firmly on the side of authorizing funding for the Clinch River project. Later the full committee went along with the subcommittee recommendation, with approximately a 2-to-1 margin.

A simple question is presented, although I say you can find an expert to suit whatever disposition you have on this, but it appears to me it is a very simple proposition. I think someone has already advanced this. Nothing anyone has said or will say from here on is going to be novel. I think we all realize that, but it is a simple question of whether we are going to go into this energy crisis with the intention and attitude of being prepared, of taking care of all the potential obstacles, of looking to the future, or will we just drift into the future with a great hope and a great desire that things might work out?

We know that breeder technology works. We know that we can virtually build a perpetual motion machine called a breeder reactor. We do not know exactly how to do it best. We need to build a demonstration machine and tinker with it a little bit for a long time before

we get into the commercialization of the project; but we know we can do it.

I say to you in all honesty that we are acting like an ostrich, instead of like an eagle, if we do not go forward with the Clinch River project. I hope we will not do that.

We hope there will be something called breeder power in the future. We hope we can achieve power from the geothermal levels, from the wind and from the tides. That will be worthwhile, but all this is not nearly as advanced as the breeder.

We know we can make electricity with a breeder reactor. What we need to do is get on with it. I think that the Clinch River project is the next logical step. I hope we will vote down both the amendments offered by my distinguished colleagues. Let us authorize $150 million, which is a minimal logical next step. We tried to figure a way to compromise off that figure. It does not make sense. The administration told us it did not make sense. You either ought to go with the $150 million or you ought to go with the $33 million.

I urge a no vote on both amendments.

Mr. ANDERSON of Illinois. Madam Chairman, I move to strike the requisite number of words.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the distinguished chairman of the committee.

Mr. TEAGUE. Madam Chairman, the gentleman from Illinois is one of the three Members, in fact, maybe two that heard all the hearings and voted at that time to authorize this project. I appreciate the gentleman speaking.

Mr. ANDERSON of Illinois. Madam Chairman, I thank the gentleman from Texas.

Given the response that the gentleman from Alabama elicited from his informal poll of the membership of the House a few minutes ago as to the number of Members that had not yet made up their minds on the issue, I feel a little embarrassed to be standing here in the well; but perhaps for the very reason just stated by the chairman of the committee, I feel some responsibility to state my views publicly and for the record. I will try not to take all the 5 minutes and put the speech I had prepared in the RECORD; but this is probably an issue on which men of conscience, men of reason, men of good will, can and do disagree. There is no Member of this House for whom I have more respect and genuine affection than the distinguished gentleman from California (Mr. BROWN), who is the author of the amendment that would simply wipe out the funds for this project.

Yet, I think he is wrong, egregiously wrong, in attempting to do that this afternoon. I say that because, regardless of the assumptions with which we begin this debate—and we all start from a different basis, we all have a different set of assumptions, such as do we have 1,800,000 tons of proven uranium reserves or is it 3.6 million tons? Are we going to continue to increase our use of electricity? Are we going to have an increase in the growth rate of 5½ percent a year between now and the year 2000, or is it going to be a smaller percentage? None of us really know. We are in the realm of speculation, but one thing we do know, and on one matter I do fundamentally agree with the President of the United States; that is, that there is an energy crisis.

I cannot agree with someone who stood here in the well a few minutes ago and made light of the idea that we face eventually a shortage of energy. I think there is an energy crisis, and I believe that just as we had the foresight more than a generation ago to begin with the development of the Manhattan Project to harness the destructive power of the atom to win World War II, and do it before Hitler had developed a superweapon of his own, I think this House has to demonstrate this afternoon the capacity to show that it has the foresight to continue with a program that gives us the capability of harnessing the peaceful—the peaceful—potential of the atom to generate the electricity, the power that we are going to need in the years ahead.

One point ought to be made clear, and that is that we can and we should decouple the argument that has been made that somehow, by proceeding with a demonstration project of the breeder, that we are mindlessly launching ourselves into a plutonium economy where proliferation is going to occur and where diversion its going to occur and terrorists are going to be seizing shipments of spent fuel rods, manufacturing weapons, and all the rest.

We are going to have a chance later this week, or at the latest, next week, to vote on a nuclear export control bill. Just today, earlier today, the Committee on Rules, on which I serve, granted a rule on the bill which has been reported by the House Committee on International Relations that will give this House an opportunity to consider that question of nuclear proliferation or nonproliferation, to adopt a legislative vehicle whereby we can take the necessary steps in the control of export sales to deal with this very critical problem.

But, in the very excellent letter that appeared—perhaps it has been referred to already in this debate—which appeared just a day or 2 ago, written by Eugene Wigner, who is the very distinguished professor emeritus at Princeton University and a Nobel laureate, he said:

SEPTEMBER 19, 1977.

The WASHINGTON POST,
Washington, D.C.

GENTLEMEN: A while ago, opponents of the Liquid Metal Fast Breeder Reactor created a marvelous picture of a menacing ogre and invited every one to oppose the threat. It is strange that they are even now persisting in their travels though their initial arguments have been shown incorrect or have been transcended by events.

We are told that LMFBR's will increase the risk of world-wide nuclear weapons proliferation. This argument is patently spurious in a world where fissionable uranium and plutonium can with great ease be obtained by the processing of raw materials or the reprocessing of fuels from conventional nuclear reactors. Atomic bombs were built before the development of power reactors and any country with the will to do so can make nuclear weapons without first having to acquire a conventional power reactor (not to mention the breeder). Consequently, to talk of "increased risks" in this world is to miss some fundamental verities of international political life. Risks can be reduced only if the United States enters the era of the breeder and participates meaningfully in the development of a controlled and safe world-wide plutonium economy. The alternative is a chaotic situation where by staying voluntarily out of the game the U.S. becomes only a complaining observer ridiculed by those who do better, while more active nations can easily exploit the energy-starved countries. Without competition, they would develop unsupervised plutonium programs with real risks for mismanagement. No amount of sophisticated rhetoric can alter these fundamental facts of life.

This leads us to our second point. By denying itself a sixtyfold increase in productivity of existing nuclear fuels and gambling on suggested alternative technologies which have not yet been tested, the United States will, we are assured, offer an example which will carry the world. The facts, however, speak otherwise. From the first Carter announcement of the new policy, not one single country has seconded the American motion. France, Germany, Britain, the Soviet Block, are all moving steadfastly in the direction of the Fast Breeder. If some writers are counting on the growth of French or German environmental opposition, they may be badly deceived. (As is well known, many politcal roads are open to certain West-European countries and if Euro-Communists become, for example, masters of the French destiny, antinuclear environmentalists in that country will have little influence on its nuclear future.) Even Japan, once symbol of opposition to all things nuclear (due to their wartime experience) has just twisted the U.S. arm enough to begin the operation of its nuclear reprocessing plant.

All this means that by denying ourselves the access to the LMFBR technology we would not only harm ourselves but also make it easier for less conscience-moved nations, particularly those of Eastern Europe, to make higher profits when providing their breeders to the less developed world.

We are fully in favor of the research on the thorium breeder but we do not know at present how successful it will be in practice or how far will it stretch out the existing resources. We do not argue for the introduction of commercial breeders a single day earlier than it is necessary, but we do want them to be available if they do become necessary. Nor do we belittle problems associated with nuclear safety and security. However, we are aware that all estimates and projections of resources are speculative and that one should not base the future of nations on assumptions which contain a great deal of uncertainties. Our continent needs only a succession of severe winters and dry summers to see a sharp upward revision of its energy needs. We do believe that the Fast Breeder is an exquisite energy-saving device and we do prefer to use the fuel which is already at hand than to send miners underground to dig more ore. If necessary, we need the LMFBR as a proven, commercially feasible energy producer to be available in case some of the other suggested possibilities do not materialize. We may debate later whether and to what extent we should utilize the breeder option. Not to complete the Clinch River Project now would be an unnecessary gamble, its completion good insurance.

Miro Todorovich—Teaches physics at the City University of New York and is the Executive Secretary of the Scientists and Engineers for Secure Energy.

Eugene Wigner—Professor Emeritus at Princeton University and Nobel Laureate in Physics is the first designer of a Slow Breeder Reactor.

Much more plutonium, incidentally, will be generated as a byproduct between

now and the end of this present century than could possibly be generated in all the breeder reactors that could possibly be constructed between now and the year 2000.

Madam Chairman, I urge the defeat of the Brown amendment.

Mr. HARKIN. Madam Chairman, I move to strike the requisite number of words, and I rise to support the amendment.

Madam Chairman, I guess when I first came to Congress 2½ years ago, I would say that my tilt was opposed to nuclear energy. I came with some preconceived ideas and notions about nuclear energy. However, after serving on the Committee on Science and Technology for the first year and a half, those attitudes and my tilt began to change considerably.

As I began to look at the problems associated with all the different energy sources we are going to need in the future, I began to see pollution problems with a wide variety of those, pollution problems of nuclear energy not being considerably more dangerous than those associated with some of the others. So, I began to change my mind very dramatically on that whole issue of nuclear energy, as it relates to our light water reactors.

I became convinced that in the future we are going to need a blend of energy systems to meet the demands that we have by the year 1990, by the year 2000. Just about the time that I began to change my mind and attitude on this, I then was confronted with the whole issue of the Clinch River breeder reactor. So I was determined not to get caught flatfooted and without adequate information on this issue, so I began studying it extensively. After looking at it for 2½ years, I am convinced that the Clinch River breeder reactor is to our energy program what the B–1 bomber is to our defense program. I opposed the B–1 bomber, but I support our defense. I believe one can oppose the B–1 bomber and still support an adequate defense of this country. The same is true of the Clinch River breeder reactor. To me, it is an extravagant total waste of money for something that is not going to return anything to our energy program by the year 2000, noting at the same time that our program of breeder research and development will go ahead full steam, unabated, next fiscal year, to the tune of almost one-half billion dollars.

I think the history of the Clinch River breeder reactor is very disturbing. There are red flags along the way that ought to alert the Members of this body as to what is happening.

When it initially came up in 1970, the total amount of money that this Government was going to put in was $70 million. There were criteria established.

I will read from a letter from Mr. Robert C. Seamans, Jr., to Senator Pastore, dated March 10, 1975:

> In general, such types of assistance corresponded to that furnished under earlier cooperative projects where it was contemplated that the demonstration plant would be financed and owned by the utility; that governmental assistance would be strictly limited as to type and amount; and without any open-end financial commitment by the government for overruns on the project.

That is how it was initially thought of. A year later, they came back and wanted more money, so we upped the ante to $73 million.

Further quoting:

> Thus, the authorizing legislation continued to contemplate strictly defined and limited government assistance to the project.

Another year later, we came up to $100 million, plus 50 percent of the estimated capital cost of plant, but no money for any capitalized items for the plant.

During that same year, the utilities raised $250 million for their part in this project.

A year later they came back, and we raised it once again to $181.5 million. Last year that has gone up again, and now we have come and we have asked now for $2 billion of taxpayers' money. But the utilities refuse to raise one more cent than they raised almost 4 years ago.

This was done last year. The legislation was changed last year to permit the Government to come in open-ended and fund this thing right up to the $2 billion level, and over the objections which were raised by the gentleman from Pennsylvania (Mr. COUGHLIN) and myself last year, trying to point out that this legislation was being changed very drastically.

So these red flags went up, and yet nothing was done.

What has caused the cost overruns of up to $2.2 billion was that the plant was ill-designed and ill-conceived at the beginning.

Here is a reprint of an article from the Washington Star, which said:

> A secret corporate memorandum for officials within the engineering firm that holds the $175 million government contract to design the controversial Clinch River breeder reactor predicted 4 years ago that because of the mismanagement, confusion, design mistakes and politics surrounding it, the project results will be extremely poor.

Let us not put all of our eggs in the nuclear basket, as we will be doing if we go ahead on this project. Two billion dollars of our taxpayers' money is too much to waste on this boondoggle.

Mr. GLICKMAN. Madam Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Madam Chairman, my opposition to the Clinch River project is contained in the committee report, and I will not amplify on it.

I rise to point out that this debate to some extent disturbs me, because it seems to be focused on the black or white issue of whether we have a pronuclear or an antinuclear attitude. I think that is unfortunate and not becoming of our responsibilities here.

A Member can be in favor of continuing nuclear power development and still be opposed to the Clinch River funding at this time. To be ideologically opposed to all forms of nuclear power at this stage of our country's development is senseless, and by the same token to be in favor of and sort of nuclear power development, in the name of energy independence, is equally senseless.

Mr. BINGHAM. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. BINGHAM. Madam Chairman, the gentleman from Illinois (Mr. ANDERSON) just mentioned the fact that we will have before us later this week the Antiproliferation Act. As the principal author of that bill, I would just like to say that a vote for that bill is certainly no substitute for supporting the Brown amendment today.

In fact, if we proceed with the full funding of the Clinch River breeder reactor, we will be making the job of the President, the Secretary of State, and Ambassador Smith in carrying out the program, which I hope the Congress will authorize in that legislation, far more difficult, perhaps even impossible.

It is my belief that the spread of nuclear weapons capability represents the single greatest threat to the continued existence of human civilization on this planet. Specifically, the danger is that terrorist organizations or irresponsible nations such as Uganda or Libya will gain possession of enough plutonium to readily manufacture nuclear weapons. The present generation of light water nuclear reactors do not present this danger: they use a slightly enriched uranium fuel which does not contain plutonium. After use in light water reactors, the spent fuel rods do contain some plutonium, but it is mixed in with lethally radioactive byproducts of the fission process and is thus relatively inaccessible.

President Carter is presently pursuing a courageous and far-reaching foreign policy initiative designed to curb the use of plutonium as a reactor fuel. At the heart of this difficult effort is the attempt to prevent premature commitment to reprocessing and to Purex-type breeder reactors. If the House were to encourage the commercialization of the plutonium breeder by approving full funding of the Clinch River project—which would use a pure plutonium fuel—this would undercut the administration's vital antiproliferation effort.

This is how the Secretary of State put the matter in a letter to our Speaker last June 14:

> If we were to proceed toward the early commercialization of the breeder at this time, by funding the Clinch River Breeder Reactor, it would undermine our credibility and call into question our motives in calling for a joint reassessment of the problems associated with early entry into a plutonium-based economy." ". . . to proceed with the Clinch River Breeder Reactor would adversely affect the chances of success of the Evaluation Program by sending precisely the wrong signal abroad at this time.

There can be no argument with the proposition that widespread use of plutonium throughout the world would represent a quantum jump in the danger of proliferation. Here is what the Secretary of Defense said on that subject in a letter

to my colleague from New York, Mr. DOWNEY, last June 9:

I believe there is a very clear increase in the risk of the proliferation of a nuclear weapons capability associated with the widespread use of plutonium-based fuel either in light water or breeder reactors. The acquisition of a nuclear weapons capability by any additional countries certainly increases the possibility of a weapon being used and is clearly inconsistent with our national security interests. There are no compelling reasons to proceed with programs using plutonium-based fuels at this time and I fully support the President's well reasoned and balanced nuclear policy.

The key point here is that through the introduction of commercial plutonium-fueled breeders such as Clinch River, the United States would sanction the use of plutonium as a legitimate article of daily commerce. It would take only 20 pounds of plutonium to fashion a nuclear weapon as destructive as the bomb dropped on Nagasaki. The acceptance of this pure weapons-grade material as a reactor fuel would encourage the development of a "plutonium economy" where pure nuclear bomb material would be in daily circulation throughout the globe; in such a world nuclear antiproliferation efforts would be completely hopeless, and international safeguards on plutonium diversions would be impossible to enforce. That is why the House International Relations Committee reported last year, after 2 years of study on international safeguards systems that—

Safeguards which are adequate and effective when applied to nuclear reactors are inadequate and ineffective when applied to nuclear reprocessing facilities.

The same rationale lay behind the International Relations Committee's vote on May 24 of this year to support President Carter's decision to terminate the Clinch River project and vigorously pursue development of more safeguardable alternatives.

Some of the supporters of the Clinch River breeder argue that the President's antiproliferation efforts are hopeless and indeed have already failed. Nothing could be further from the truth.

Although a number of nations have breeder reactors in operations, most of these are coming to share our deep concern over the dangers of plutonium as a basis for their energy supply. The response to President Carter's proposed international fuel cycle evaluation program has been overwhelming; among others Japan and France will participate. Pursuant to an agreement negotiated by Ambassador Smith in recent weeks, the Japanese will proceed to run tests at their Tokai plant using the PUREX process on 99 tons of U.S. exported fuel for a 2-year period, but they have agreed not to use the extracted plutonium for recycle in light water reactors and not to proceed at present with the construction of commercial-size reprocessing facility. Canada and Australia—two of the world's leading uranium producers—have strongly embraced U.S. anti-proliferation efforts. The British have initiated a far-reaching national debate on their breeder program. And in West Germany—where there is presently a moratorium even on light water reactor construction—a key committee of the Parliament has frozen funds for their breeder reactor research program.

Proponents of Clinch River have also greatly exaggerated the significance of other countries' breeder reactors. As Robert Fri of ERDA has testified in Senate hearings other countries may be ahead of us in running small scale breeders but not in breeder technology. As other members have already pointed out in this debate, the President intends that the United States should stay in the forefront in breeder technology and proposed a larger budget for breeder R. & D. than all the European countries combined.

Madam Chairman, the President deserves a chance to make headway with his campaign against the proliferation of nuclear weapons. As Secretary James Schlesinger wrote to me last May:

The President believes that continuing with the Clinch River Breeder Reactor program is unwise. The President believes that no commercialization should take place until we have the breeder technology or other advanced nuclear technology developed in such a way as to provide assurance of minimizing the risk of nuclear proliferation.

Let me conclude by quoting from a New York Times editorial of September 13, which eloquently summarizes the case against Clinch River:

President Carter has launched a courageous and overdue effort to curb the international proliferation of dangerous nuclear technologies, such as breeders which produce plutonium that can be fashioned into bombs. As an earnest show of American intentions, Mr. Carter announced that he would abandon the Clinch River project and seek alternative breeder designs that would not produce plutonium. His efforts to enlist the cooperation of other nations have thus far met only limited success but he has only just begun. Now is not the time to undermine him.

Mr. Carter is not seeking to abandon the breeder entirely. The energy authorization bill contains half a billion dollars for research and development on breeders and other advanced nuclear technologies that might prove vital for meeting energy sources toward the end of the century. The President simply wants to halt a demonstration project of dubious value and tremendous symbolic importance. Congress should think twice before sacrificing a major diplomatic effort for a project that offers so little gain.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the Brown substitute.

Madam Chairman, I am sorry that the gentleman from New York, the manufacturer of the paper nuclear weapon, is not present, because I am joining his club. I have made a paper SST, and I can guarantee the Members that my paper SST will be just as easy to convert to a real flying SST as his paper weapon will be to convert to a real weapon.

I am adequately informed on this subject to inform the Members that anyone who tells us that he can make a nuclear weapon in a garage is dreaming, even if he performs the incredible trick of obtaining the plutonium.

I must comment on the question of nuclear weapons proliferation as it relates to the breeder program. The fact is that there are about 3 dozen nations which could today make nuclear weapons, totally outside of the nuclear energy program, and do it for 5 percent of the cost of building one breeder plant.

A breeder plant costs at least $1 billion anywhere in the world. For $50 million there are three dozen nations in this world which could make nucear weapons using a small research reactor and a couple of hot cells. It would only take about 4 years, and cost only about 5 percent of the cost of one single breeder. Some could probably do it in secret, and all could do it totally independent of any damage the United States would do to its own energy program.

Madam Chairman, the reason nations do not make weapons from nuclear fuel is that it is not practical. Even with huge expensive equipment to handle these huge fuel elements, and even if they had the billion dollars to do it, they would still get extremely poor nuclear weapons material. Not a single weapon has ever been made anywhere in the world from nuclear energy fuel. A number of years ago the Atomic Energy Commission deliberately set out to see if we could make fuel from a nuclear energy cycle explode. It was found that a device could be made that would work, but the reaction was poor and the explosive yield was low. Everybody in the world knows this.

Madam Chairman, there are several other points to be made in the time I have. One is with respect to the argument that the breeder is not now needed.

I have here a summary sheet from the administration's own study, requested by President Carter from the Energy Research and Development Administration, done in the month of March, which shows that even if we have only 380 nuclear powerplants on the line in the year 2000, which is the administration's figure, and if we had 3.7 million tons of uranium, which is the administration's imaginary figure, we would still have to commit ourselves to breeder commercialization by the year 1990. There is no way to get to commercialization by 1990, without going ahead now with the Clinch River project.

Madam Chairman, the point was also made that future breeders will be more expensive than conventional nuclear plants. Certainly this is true. The point being ignored, however, is that LMFBR's are 25 percent more efficient in producing electricity. We talk about increasing efficiency. The breeder is a much more efficient nuclear reactor, 25 percent more efficient. That is aside from the fact that it generates more fuel than it uses, and gives us an essentially unlimited supply of fuel for this Nation and for other countries, all over the world.

Finally, Madam Chairman, there is a question that must be asked: Why should we be denying, or why should we be proposing to deny to the American people the technical and engineering information that we must have for adequate supplies of domestic energy?

Killing Clinch River would do that. It would deprive the United States of vital knowledge and experience which we must

have in order to make intelligent decisions about breeder commercialization.

Madam Chairman, no nation has ever progressed by depriving its own people of scientific knowledge and information. This is what we would do by killing the Clinch River project. Clinch River is designed to give us the engineering knowledge that we must have to move from this 300-megawatt size on to the commercial size, and to be able to make intelligent decisions in the year 1990.

Madam Chairman, if we kill the Clinch River project now, there is no way we can meet that schedule. What we get down to, then, is that killing Clinch River would constitute depriving our own people of the engineering knowledge we must have for adequate supplies of energy, economic stability, and jobs for our unemployed. That is why organized labor supports enthusiastically the Clinch River project and opposes the Brown amendment. In reality, this is a long-term jobs bill. There is a direct relationship between energy consumption in this country and employment levels.

Madam Chairman, we must remember these facts as we consider this bill today. I urge defeat of the Brown substitute.

Mr. PRICE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the position taken by my colleague, the gentleman from Texas (Mr. TEAGUE), the chairman of the Committee on Science and Technology.

Mr. TEAGUE. Madam Chairman, would the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, I would just like to point out that the gentleman from Illinois (Mr. PRICE) was the chairman of the Joint Committee on Atomic Energy that authorized this project.

Mr. YOUNG of Texas. Madam Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. YOUNG of Texas. Madam Chairman, it was my honor and privilege to serve under the gentleman from Illinois (Mr. PRICE) when he was chairman of the Joint Committee on Atomic Energy. There is no person in this House who knows more about this subject. I certainly would recommend that every Member of this House listen to what the gentleman has to say right now on the vital aspects of this project and what it means to the future of this Nation.

Mr. PRICE. Madam Chairman, I thank both of the gentlemen from Texas.

Madam Chairman, I want to say that this situation this afternoon is no different than the situation was 20 years ago when we were beginning the atomic age. Almost every project that we brought before the Congress met with serious opposition.

I strongly support Chairman TEAGUE and his committee in their advocacy of the liquid metal fast breeder reactor program including the construction and operation of the Clinch River demonstration reactor plant.

I believe that Chairman TEAGUE and his committee have done an outstanding job in picking up the responsibility for this new and complex research and development program. The hearings he has held this year have brought out the basic objectives of the liquid metal breeder program, some of which, quite obviously, appear to have been overlooked by the administration in its authorization request for this effort.

I also believe that the vision shown by my esteemed colleague, TIGER TEAGUE, in visiting the leading industrial nations of Europe in June to obtain firsthand information on how they view the growing world energy dilemma also provided an outstanding contribution to our understanding of the problems we face in common with them. As indicated in the comprehensive report of the meetings the committee held during this visit to Europe, all of these industrial nations are pursuing the liquid metal fast breeder reactor as a high priority effort. They made it very clear, according to the committee report, that the United States has the same problem that they do in providing for its future energy needs, and that in the face of reality, there is no alternative to the fast breeder reactor on the horizon.

Since the development of our nuclear power program, which occurred nearly 20 years ago, I believe it would be of value to relate some of the considerations which went into the development of the program. I recall, as a charter member of the Joint Congressional Committee on Atomic Energy, the consideration we gave in the late 1950's to what our energy research and development program should be. At that time, we were performing work on fission reactors and the technical feasibility of the reactor had been demonstrated. In fact, in the early 1950's the first breeder reactor experiment, the EBR–1 at the National Reactor Testing Station in Idaho, was first operated. We had also operated the prototype power reactor, which was developed for submarine propulsion. We were at the point of facing the decision as to whether or not we would proceed with the engineering development of nuclear power for civilian use.

The Joint Committee on Atomic Energy, in its early days, looked at the problem in proper perspective. We considered the energy problem relative to the availability of alternate energy sources. We were told we had nearly limitless supplies of fossil fuels. Looking at the long range, as we did in our effort to develop an energy program, the only significant fossil energy supply we had was coal. Our early look at the overall energy situation indicated to us that we would peak out in our domestic production of oil and gas by 1970. This we identified in the late fifties and, as we now know, our domestic production did in fact peak out in 1970.

In summary, with the best people in Government, industry, and the academic community contributing to the deliberations, we agreed that for the long range we must obtain a supplemental energy source to add to our resources of coal. We looked at all possible sources—nuclear fission, fusion, solar, et cetera. Complete agreement was reached that the only practical source we could consider to meet our future needs was nuclear fission. We all had hopes and continue to have hopes for the fusion reactor, but much work had to be done to first establish its scientific feasibility.

The committee then held extensive hearings in the early 1960's where every knowledgeable person that could contribute to our better understanding of the problem and its solution was given an opportunity to testify. To summarize the results of this extensive consideration of our future energy efforts, there was complete agreement that we must develop the nuclear fission reactor to supply the long-term needs of energy. The important thing to remember in this determination was that the fission nuclear reactor development program, upon which agreement was reached, included the breeder reactor. The data that we developed in those early days clearly showed that without the breeder reactor, our resources of uranium were inadequate to make an adequate contribution to our overall energy needs. With the breeder reactor, our review made it abundantly clear that the Nation would have, for practical purposes, an infinite supply of energy. In fact, with the breeder reactor utilizing only the uranium tailings available from our uranium enrichment efforts for our nuclear weapons program, would, if used in a breeder reactor, generate as much energy as is available from our total domestic reserves of coal.

The important point to remember from this summary of our development of the nuclear power program is that the breeder was an essential part of the effort from the start. In fact, it was essential and without it we clearly recognized the goal of a virtual limitless supply of clean, nonpolluting energy could not be attained. Contrary to this fact, there are those that believe the breeder reactor is an afterthought.

The breeder program, which TIGER TEAGUE and his committee are proposing, is directly aimed at carrying out the energy program which was developed in the early 1960's.

In my view the breeder reactor effort, including the demonstration plant phase, should receive the strong support of everyone who is sincerely concerned about solving our seriously growing energy dilemma. My long association with this problem has convinced me the solution of the energy problem is pivotal to our national security and welfare; and the support of this bill provides the most direct route to its solution.

Mr. TEAGUE. Madam Chairman, I ask unanimous consent that we vote by 5 o'clock on this amendment and all amendments thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Reserving the right to object, I, too, am aware of the Chairman's desire to vote by 5 o'clock and fully concur, but I would tell the chairman of the committee, as well as the Chair, that we had one more Member here, the gentleman from Michigan (Mr. STOCKMAN), who wished to be recognized for the full

5 minutes. He has been on his feet since we started here some 4 or 5 hours ago, but not being a member of the committee, he has not been recognized until this time.

My request is, Madam Chairman, can the gentleman from Michigan have 5 minutes?

Mr. TEAGUE. Does the gentleman have to have 5 minutes?

Mr. FISH. How about 3 minutes?

Mr. TEAGUE. It is my understanding, Madam Chairman, that if we cannot vote by 5 o'clock, we cannot vote this afternoon. That is the reason I am pushing.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DODD. Reserving the right to object, is my understanding correct that the ruling of the Chair is that this amendment and all amendments thereto would include all the amendments and the substitute pending before the House?

The CHAIRMAN. That is the request.

Mr. FISH. Madam Chairman, I withdraw my reservation of objection.

Mr. DODD. Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair will recognize those Members who were standing at the time the unanimous-consent request was agreed to.

(By unanimous consent, Messrs. FINDLEY, FISH, JEFFORDS, and BROWN of California yielded their time to the gentleman from Michigan (Mr. STOCKMAN).)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Madam Chairman, I have been intending this afternoon to say a few words on the economics of the breeder, because up until a month or so ago I was fairly supportive of the project until I really began to investigate the economics.

I think we have heard all afternoon an illusion that has been spread around that somehow the breeder is the energy equivalent of a perpetual motion, and it will actually breed more energy over a time period than it will consume. I think what we have to recognize is the breeder is merely replacing the fuel intensity or the heavy fuel costs of the light water reactor with more capital, more complex technology, more engineering, and more complicated cycles, both in the reactor and in the fuel cycles.

The only time the breeder will be a lower cost way of generating electric power is at that time when the uranium price reaches such a level that the substitution of capital and other material is cheaper than the uranium we have to use. That is not likely to happen until well into the next century. The realistic statistics we have before us are 350 gigawatts of nuclear capacity by the year 2000. On the uranium supply side, we know the prudent planning base is at least 2 million tons of uranium oxide—and the prudent planning base consists of what is already in stock either as a production inventory on or an extension reserve in the so-called probable category—both reflecting past exploration. If one wants to assume that there are only 2 million tons available, one has to assume that no further exploration really will take place in the future. So there is plenty of uranium available to supply those reactors at a price of under $50. And if the price stays under $50 for uranium oxide, there is no way the higher capital cost of the breeder, the 40 percent or 50 percent higher capital cost can be offset, and there is no way when we can expect the plutonium cycle to offset those higher capital costs. It is not a question whether we have adequate or inadequate electrical capacity but how we can reasonably meet our needs at the lower cost, given the economic trends we see today.

I think until the year 2000 or 2010 the light water reactor, the proven technology we have today, is that process.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. TSONGAS).

(By unanimous consent, Mr. TSONGAS yielded his time to Mr. STOCKMAN.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I want to say a word about the electrical power demands. Those were based on the continuation of the 6-percent and 7-percent growth rate we had in the sixties and seventies. Only one thing made that possible and that was the reduction in price of electricity for residential users, which went from 9 cents down 2 cents, so we had a tremendous increase in consumption accompanied by the reduction in real price, and that is not going to happen in the near future.

Mr. JEFFORDS. Madam Chairman, about everything possible has been said. I would, however, like to make a few comments.

First, recent demand for new nuclear plants indicates that the constraints on uranium supply are of no real importance in pushing breeder technology commercialization through the Clinch River plant: Congressman STOCKMAN's excellent analysis shows clearly that, because of the dropping off of orders for new plants, as well as promising new enrichment technologies, that the supply of uranium to fuel the lifetime of the new plants that we would reasonably expect to be put on line in the foreseeable future is such as to have more than adequate uranium supplies.

Is there anyone who can enlighten me as to the shortness of our uranium supply such that it would be an important reason to go forward with rapid commercialization of this very expensive project at this time?

We are all aware of how deceptive "reserve" figures for a fuel source can be—the reserve numbers are only, as DAVE STOCKMAN has said, a "production inventory," and cannot be used as a planning mechanism in and of themselves because new finds are probable, just as they are in oil and gas and every other extracted mineral.

Is it not true that ERDA projects the uranium resource base at 3.7 million tons, and that this base is more than enough, perhaps twice as much as necessary to fuel the needs of all the projected plants, that is, to sustain a 350-gigawatt scenario.

The second reservation I would have on economics is the opportunity costs of this particular project. $2.3 billion, now estimated is more than four times the size of the Federal solar program budget. When PAUL TSONGAS introduces his photovoltaic amendment, we will be able to show that with accelerated photovoltaic buys over the next 5–10 years, solar electric generation will be close to cost competitive with utility-sized applications of other fuel sources. Yet the entire bottom line to purchase this entire program will be but a fraction of the cost of Clinch River. Is there anyone who would be willing to say that the final cost will remain at the projected $2.3 billion? There are some who argue it may go as high as $3 billion when construction commences. This is a staggering figure, 10 times as high as for a conventional light-water reactor. I am deeply concerned that the opportunity costs involved in $2–$3 billion of Federal energy spending are too high—we are forgoing too many other options.

Third, the Council of Economic Advisers in late July provided a revised estimate of the economic case for the breeder in which, and I quote,

> There is a growing body of evidence which suggests that the case for the LMFBR program cannot be supported on economic grounds.

Fourth. What about the balance-of-payments argument? Some suggest that early commercialization will help our balance of payments. Yet the Council of Economic Advisers is saying that since breeders could not be expected to contribute to U.S. exports until well into the 21st century, other market forces—particularly the flexible exchange rate system will correct any major disequilibria "long before the breeder is available."

Fifth. Another change in our situation has to do with the slowdown in the demand for electricity. With the combination of skyrocketing electric prices and the renewed emphasis on conservation and alternative energy sources, the demand may well go to a growth rate at only half of that of the rate of the 1960's.

I was under the impression that massive subsidies for energy projects were for the purpose of creating a market which then propelled the technologies into economically attractive stages, or were otherwise in the national interest. Which of these reasons can be cited for continuation of the Clinch River project. A combination of energy growth slowdown, lack of demand pressure on uranium for light-water units, and large cost differentials between conventional and breeder plants does not promise economics which are attractive for a technology like Clinch River.

A final telling point is the attitude of electric utilities on the question of contributions. In 1973 the utilities were will-

ing to contribute about 50 percent of the cost of the project. Now they are willing to contribute 11 percent of the cost. Though the utilities sing the praises of the project, their business decisions tell us their real analysis of the worth of the project.

In summary, Madam Chairman, it appears we are being asked to start production on an Edsel at a time when the demand for Pintos is diminishing, or to put it another way, it is like choosing to buy a life insurance policy against smallpox when we could get policies against cancer or heart disease for the same dollars.

The Brown amendment should be supported.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, I want to say thanks to the gentleman from California for the contribution he made on the oversight trip. It was a real contribution.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Alabama.

(By unanimous consent, Mr. FLOWERS yielded his time to Mr. MINETA).

Mr. MINETA. Madam Chairman, I rise in opposition to the amendment offered by my distinguished colleague from California (Mr. BROWN).

A decision to terminate funding for the Clinch River breeder reactor project would be a serious mistake for this Nation's energy future.

I share the concern that many of my colleagues have about the safety and economics of the breeder reactor program. And in the past I have supported efforts to slow down the breeder program in order to allow sufficient time for scientists to adequately address the problems of safety and in order to insure that the most-cost-effective methods of design and construction be utilized.

However, I cannot support a decision to terminate the Clinch River project because I do believe it is a necessary component in the development of our liquid metal fast breeder reactor program.

Earlier this year I joined members of the House Science and Technology Committee and the Public Works and Transportation Committee in an oversight trip to Europe. The major emphasis of the trip was to study energy research and development in Germany, England, and France. We also visited the International Atomic Energy Agency in Vienna, Austria.

I was very impressed with the work that the French have done with their breeder reactor program. They presently have an operating breeder reactor, the Phénix, which is approximately the size of the proposed U.S. Clinch River project. The Phénix has been in operation for about 3 years. The French are extremely confident about the progress of breeder technology and feel that none of the problems encountered in Phénix operation are unsurmountable.

France, England, Germany, and Japan all started out later than we did in the development of breeder reactors. Using much of our technology, they have surpassed us with a continuous and concerted effort. The United States is 5 to 8 years behind the European nations in breeder technology and the gap is widening.

In our meetings with the International Atomic Energy Agency we found that many nations were confused and apprehensive about the Carter administration's policy on reprocessing and breeder technology development.

Members of the International Atomic Energy Agency and the French Atomic Energy Commission are unanimous in their decision to go ahead with the development of breeder technology. France, Britain, and the Soviet Union already have operational breeder reactors. Germany hopes to have a breeder demonstration in 1981 and the Japanese plan one in 1983.

The United States can be more effective in working toward the reduction of nuclear proliferation as an active participant in breeder development than from a position of isolation.

Finally, the amount of domestic uranium supply is in doubt. No one seems to be able to supply accurate and reliable figures on our remaining supply of uranium. Our supplies of oil and gas are dwindling rapidly—there's no argument on that fact. We must be able to produce the energy which will be necessary in the 21st century. We must not cut ourselves off from any potential source of fuel. And we must never again allow the United States to become overly dependent on a single energy source.

Breeder reactors will furnish this Nation with a tremendous additional source of electrical power. I believe we will jeopardize the availability of that source if we terminate the Clinch River project. I urge you to vote against the Brown amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Madam Chairman, let me begin with the first point: I want to make a general point on the question as to whether a U.S. decision to forgo the Clinch River breeder reactor will be followed by European decisions to postpone, cancel or slow down their programs.

First. From the beginning there has been rivalry between the United States and the Europeans over the commercialization of nuclear power. The Europeans now believe that they are ahead in a race to develop, manufacture and export breeder reactors. U.S. policy statements voicing a concern with nuclear proliferation and plutonium recycling are viewed with suspicion. The Europeans correctly note that if there is great danger of proliferation of nuclear weapons, it has been the U.S. effort to promote a market for its nuclear industry which has contributed to the present dangers. There are many that suspect that our statements of concern are only moves within a high stakes economic competition. A U.S. decision to forgo the Clinch River breeder reactor will be a decisive action that will demonstrate that the United States is serious when it voices its concern with proliferation. Furthermore, not going ahead with the CRBR will take the pressure off of the race to commercialize the breeder. With the United States adopting a go-slow approach, the Europeans will be able to do likewise. On the other hand, if the United States goes ahead with the CRBR, this will be interpreted as confirmation of suspicions of U.S. intentions.

Second. Despite claims to the contrary, the European commitment to the breeder is in a state of uncertainty. In some countries, such as Sweden, nuclear power itself has become a major political issue. In Germany numerous nuclear plants are presently blocked by court orders. For a short while last May, the German Parliament froze funds for breeder R. & D. While the freeze has been lifted, the Minister of Research and Technology has agreed to make no new funding commitments pending parliamentary debate this fall. In France, as is well known, there have been major public demonstrations at the site of the Super-Phénix, the French commercial prototype breeder. Francois Mitterand, whose Socialist Party may come to power in the parliamentary elections next March, has spoken of a national referendum on nuclear issues. In Great Britain, following upon a Royal Commission recommendation for postponement of work on their commercial prototype breeder, the government has announced a special public inquiry, a trial-type hearing, which will at the very least postpone a decision on their breeder—CFR–I—until 1979.

I do not claim that I know what the Europeans will do. I only claim that the situation is very uncertain, that no one knows for sure what they will do, and that U.S. restraint will encourage European restraint.

But even if the Europeans were not to follow the U.S. lead, a U.S. decision against construction of the CRBR will contribute to nonproliferation efforts. There are several reasons why this is so.

First. So long as the breeder reactor retains its aura as "the high technology of the future," the nonindustrialized countries will not allow themselves to be denied access to the breeder. At recent conferences of third-world nations there has even been discussion of establishing their own independent nuclear fuel cycle. The United States is the key to this symbolism. It is U.S. actions, more than those of any other country, which define the technologies which are sought after. A U.S. decision to not go ahead with the breeder would have an important impact in stripping breeder debates of their symbolic trappings. If this occurs, the basic economic and social costs of the breeder will become the dominant considerations, and the supposedly inevitable movement toward widespread use of the breeder will no longer appear so certain.

Second. It is a mistake to think of European decisions on the breeder as "yes" or "no" decisions. In more realistic

terms, the real choices may prove to be a matter of the speed of development, the specific kinds of projects, the single-mindedness of the commitment and the size of the investment effort. A U.S. decision to not construct the breeder may not produce a uniform European decision to follow suit, but it will affect these crucial variables which determine the size and scope of the problem.

Third. Furthermore, it should not be assumed that European efforts to develop a commercial breeder program will meet with either economic or technological success. It is worth remembering that the United States has already had a fast breeder reactor which was built for commercial power, the Fermi breeder reactor, which had a partial core meltdown and was later abandoned.

So we should not assume that continued European efforts will be successful. If the United States is not building a commercial breeder and if the Europeans do suffer setbacks and failures, a general reappraisal will be likely.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Madam Chairman, I rise again in opposition to the substitute amendment. It should be defeated. The breeder reactor at Oak Ridge should continue. It is a good thing for all the people of America in this great country of ours. Let us go forward and continue the breeder reactor and reduce the cost of electricity and make this Nation self-sufficient energywise.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Madam Chairman. I associate myself with the committee position and commend the chairmen of the committee and subcommittee for their work.

I guess at last when all the oil and gas in the Southwest and the South have been used up, when the area east of the Mississippi is becoming uninhabitable from the burning of coal, and the OPEC countries are bankrupt, at least we can say "we tried to keep them from freezing to death in the dark."

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Madam Chairman, I want to compliment my colleagues who have spoken for the past 3 hours. I think this debate has been most enlightening, but if one thing has been borne out to be true it is that no one really has all the answers. I have heard arguments made on both sides of this debate that only reinforce the position I am advocating, that is, a status quo position. There need be no rush to judgment on this issue. We can certainly wait a year before we make a definitive judgment on whether to proceed with construction of the CRBR. Prudence would dictate that the compromise $75 million for fiscal year 1978 is the best decision.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Madam Chairman, I think the amendment clearly should be adopted.

I would like to point out one thing that was misleading, said by the gentleman from Washington. The gentleman said that labor was 100 percent against the Brown amendment. That is not so. The United Steel Workers, the United Auto Workers, the United Mine Workers and many others support the Brown amendment because they know it is a tremendous capital intense project and will give a lot more jobs than going the alternative energy route.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Madam Chairman, I rise in support of the Brown amendment.

The construction of the Clinch River breeder reactor will take us a long way down the road toward a commitment to eventual dependence upon plutonium as the major nuclear fuel. The implications of such a commitment are sufficiently profound that we should think carefully before we proceed.

In considering this matter, we should keep foremost in our minds that the sole reason for developing breeder reactors is to provide nuclear fuels to replace our uranium reserves as they become depleted. Two factors affect the time when breeders might be needed. One is the extent of economically recoverable uranium. The other is the growth of nuclear generating capacity.

With regard to the avaliability of uranium, I refer to the recent Ford Foundation sponsored study, "Nuclear Power Issues and Choices." It concluded that there would be sufficient uranium to fuel reactors of the kind now in operation until well into the next century.

I also note that the Clinch River project was originally conceived at a time when nuclear power capacity was expected to grow at a much greater rate than is now forecast. In early 1975, ERDA estimated that between 850 and 1,450 megawatts of nuclear capacity would be installed by the year 2000. The current estimate is between 300 and 400 megawatts.

For these reasons, greater than expected uranium reserves and lower nuclear growth, we have time to defer an irrevocable commitment to the liquid metal breeder technology.

A vote for the Brown amendment does not of course mean that breeder research is being halted. The ERDA budget still provides nearly $500 million for this purpose. But enactment of the Brown amendment would allow us to make a more deliberate choice. It would allow us to devote more resources to development of solar technologies. It would also make possible to more seriously consider nuclear technologies which make more efficient use of uranium reserves without being as proliferation prone as is the technology represented in the Clinch River project.

The Brown amendment would give us time to think through for the first time in great detail where we want to go. We could then address systematically such questions as how much electric generating capacity do we need? Of this amount, how much should be nuclear? Of the nuclear capacity, what fraction should be breeders? If we are to have breeders, what is the best type?

In short, we should hold back on any further commitment to the liquid metal plutonium breeder technology until such questions are answered to our satisfaction. I urge support of the Brown amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Madam Chairman, I would like to express my support for the Brown amendment to H.R. 6796, to reduce by $117 million funding for the Clinch River breeder reactor project.

I have given a great deal of time and study to this very complex issue. This past weekend I met with a group of science advisers in my district to discuss their views. Those who argue that we should proceed with the demonstration phase of the Clinch River project advance some logical arguments why we should do so. As are they, I am convinced that we are going to need nuclear energy to meet our future energy needs. I am, however, concerned about several aspects of the Clinch River project which have led me to oppose continued funding for this project at this time.

The Clinch River project was designed to be an early commercialization effort for plutonium recycling. At the time the planning was done, it was estimated that we would need such a technology by the end of the present century. Reliable reassessments for the total electrical segment of our energy demand have dropped appreciably; and the nuclear segment of this portion of energy estimates has dropped even further. In fact AEC–ERDA projections of electrical demand have for the year 2000 dropped from 1972 estimates of 1,200 gwe to 1977 estimates of 400 gwe. Although the estimates of uranium resources vary, most indicate that we have adequate uranium supply to more then meet this electrical demand.

It is useful to try to place the Clinch River project into an overall scheme of our research in the area of nuclear energy. I believe strongly that we must aggressively pursue our research and development in this area to develop all of our breeder options. The CRBR is only a small portion of our total research and development effort into nuclear breeder technologies. One half billion dollars over and above the authorization for the CRBR will be approved for research into other breeder technologies in this ERDA authorization measure today.

The Clinch River project is costly, and the important question is one of priorities: Will we get a reasonable return on a present investment in the Clinch River project? There are strong evidences that we will not. The Ford-Mitre study has concluded that the net economic benefit of the CRBR during this century is questionable. Commercially, the higher capital costs of the plutonium breeder, and of reprocessing nuclear fuels make the light water reactor a major competitor of the breeder. In addition, the

Council of Economic Advisors has concluded that the Clinch River breeder reactor cannot be justified on economic grounds.

Reprocessing of spent fuel rods from the light water reactor, essential for a plutonium breeder reactor, has proven to be more difficult and expensive than originally anticipated. The people in my congressional district, and indeed the entire State of New York are acutely aware of the problems and expense of reprocessing nuclear fuels. The now defunct commercial reprocessing effort by Nuclear Fuel Services, a subsidiary of Getty Oil, is located in my congressional district. The problem-ladden operation has left behind a one-half billion dollar nuclear waste disposal problem from the nuclear reprocessing operations.

There are those who argue that it only makes sense to proceed to work out the bugs in this technology and close the backend of the fuel cycle if nuclear energy is to compete economically. I would agree that we must continue to work toward these goals, but the Clinch River project is actually a duplicative effort of what we have at the east flux test facility in Washington. We can obtain all the necessary knowledge about the plutonium breeder cycle from the fast flux test facility. In fact; both ERDA and NRC have indicated that future efforts should be made in the area of a new, more efficient "pool type" reactor design, instead of the "loop type" design that we have at the fast flux test facility and which is proposed at Clinch River.

We have made a great deal of progress in recent years toward making nuclear energy safe, and I believe that we can continue to make progress. At the same time, there are safety aspects of a plutonium economy which have not been addressed adequately. The transportation of plutonium, which would be necessary in a breeder economy would make plutonium an article of commerce, and substantially raise the probability that a portion of this could be sabotaged to produce bombs. Plans to safeguard against this type of plutonium diversion should be carefully examined before we lock ourselves into a technology like that which is proposed at Clinch River.

Finally, and perhaps most importantly, I have a major concern over the international security issues involved with this funding for the Clinch River project. The threat of the proliferation of nuclear weapons is serious, and we must take the time to reanalyze the nuclear fuel cycle and its impact on weapons proliferation.

I agree with those who argue that it is important that the United States demonstrate leadership on this important issue. This leadership must include a firm committment to a careful cooperative examination of all the possible ways the world can develop a breeder economy in a safer way.

In recent weeks, I have met with White House officials, and given very careful consideration to the President's position on this important issue. I believe now that we can make progress in the safeguards area, but we desperately need the time to establish an international framework to deal with the proliferation issues.

Countries around the world are beginning to rethink their hasty political commitments to a plutonium breeder technology. Strong citizens movements against the commercialization of the plutonium breeder and export of the technology have developed in France, West Germany, and Great Britain. And, just recently, Valery Giscard d'Estaing, President of France, has contacted President Carter expressing his willingness to participate in efforts to work out international safeguards against the spread of nuclear weapons. On October 19–21, President d'Estaing, President Carter, and officials from several other involved nations will meet in Washington to evaluate the nuclear fuel cycle. These are optimistic signs that the United States can assert leadership in this area, and the Congress, by proceeding with the Clinch River demonstration at this time should not undermine these important efforts.

In conclusion, I do not believe we are ready, or at this point in time do we need, to proceed with this costly demonstration project. A vote in favor of the Brown amendment to delete funds for the Clinch River breeder reactor is not an antinuclear vote, nor is it even a vote against nuclear breeder technologies. Rather, it is a vote that makes sense after considering a wide variety of political, economic, and social concerns.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. TEAGUE) to close debate.

Mr. TEAGUE. Madam Chairman, I ask the Members to vote down the amendments.

Mr. LEGGETT. Mr. Chairman, I have always been and will continue to be a strong supporter of nuclear power. The energy crisis has shown that we cannot rely only upon finite resources and undependable foreign sources of oil to meet our energy needs. Although we must continue to research alternative forms of energy, such as solar and geothermal power, it is clear that we must rely on nuclear energy to carry us through the hard times ahead.

However, nuclear power has many drawbacks. It would be foolish of us to ignore these problems. They are significant enough for us to avoid them if we can. We must continue to develop our nuclear capabilities, but as safely and intelligently as possible.

I consider further development of the Clinch River breeder reactor project to be inimical to our goal of safe and intelligent nuclear progress. Although we should continue to study the liquid metal fast breeder reactor as an option, continuation of the Clinch River reactor would commit us irrevocably to commercialization of a risky technology. The implications for our foreign policy and the future safety of the world lead me to believe that alternatives to the LMFBR must be explored.

There are certainly many strong arguments for development of the Clinch River breeder reactor. Let us examine them.

The proponents of Clinch River say our supply of uranium is short and so we need the breeder to produce more fuel. Well, the facts do not seem to bear out an immediate shortage. Earlier fears of such a shortage were based on huge overestimates of nuclear capacity in this century. Since growth of capacity will not be nearly as rapid as was previously thought, projected demand for uranium has dropped correspondingly.

The following chart illustrates the decline over the last 5 years in projected nuclear capacity and percentage of electrical capacity to be supplied by nuclear power:

Comparison of past AEC–ERDA forecasts of electrical capacity, nuclear capacity, and nuclear capacity as percentage of electrical capacity

Year [1]	Electrical capacity (GWe) [2]	Nuclear capacity (GWe) [2]	Nuclear capacity [3] (percent)
1972	2000	1200	60.0
1974	2030	1090	53.7
1975	1750	800	45.7
1976	1400	510	36.4
1977	1200	380	31.7

[1] Forecast made.
[2] GWe = Gigawatt or 1 billion watts.
[3] As percentage of electrical capacity.
Chart based on figures from Energy Policy and Planning, Executive Office of the President.

With the lower nuclear capacity illustrated by these figures, there is obviously less demand for uranium than anticipated in 1972, when the Clinch River breeder reactor program was begun.

Proponents claim that our uranium supply will not be adequate to carry us through this period and that we must therefore "breed" additional fuel. But ERDA is confident that at least 1.8 million tons of uranium oxide can be mined in the United States and estimate an additional 1.8 million tons of potential uranium resources. This supply is considered more than adequate to supply our light water reactors and continue further nuclear research. As James Schlesinger, the President's energy adviser, has said:

> The substantial reduction in projected need for uranium, coupled with the uranium resource estimates, permits a pause in the [LMFBR] commercialization program.

The proponents are correct in saying we should not abandon the breeder option. This bill still contains $483 million for breeder research and development. Elimination of the Clinch River project will give this research a broader focus, giving us a better chance to pursue non-LMFBR options.

Furthermore, we are not even abandoning the LMFBR. I am eager to see work continue on the fast-flux test facility in Washington State. This facility can easily be used to test breeder reactor fuel and materials, as well as plutonium and alternate fuel cycles. We can look forward to extremely valuable research upon its completion next year.

The Clinch River project differs from the fast-flux test facility in one major respect—it is a model for commercializa-

tion of the LMFBR. With commercialization, we would be taking a significant, and possibly dangerous, step.

The LMFBR is being urged upon us because it produces more fuel than it uses. But the end product of its fuel cycle is plutonium. The amount of plutonium discharged each year from just one plant could produce at least 100 nuclear bombs with the explosive power of those which destroyed Hiroshima.

Unlike the remains of the light water reactor and other alternatives, this plutonium would be a simple chemical process away from potential use in a nuclear weapon. The equivalent processes for other fuel cycles are much more complex and possible only with very sophisticated technologies.

Furthermore, the weapons use of this plutonium would not require a thriving nuclear weapons technology. A nonnuclear weapons country could build a bomb in a matter of days. I, for one, am concerned by the thought of an unstable government obtaining a nuclear weapon for use against an unfriendly neighbor. And, to go a step further, consider the possibility of terrorist groups obtaining a bit of this plutonium. This country or any country could virtually be held hostage to a group which had the plutonium and the know-how to use it.

With commercialization, estimates are that a market of up to one or two thousand breeders would be necessary to create a favorable benefit-to-cost ratio for the program. The amount of plutonium circulating from these plants would be very large, probably too large to effectively control.

Recognizing this threat, the administration has made the elimination of the Clinch River breeder reactor a key part of its nonproliferation policy. If we go forward with the commercialization of the LMFBR, we will undercut what I consider to be an effort well worth supporting. As the Secretary of Defense has written:

> The acquisition of a nuclear weapons capability by any additional countries certainly increases the possibility of a weapon being used and is clearly inconsistent with our national security interests.

It is true that other countries are moving ahead with breeder technology. But their efforts have not gotten as far as many have claimed, and it is clear that the administration's policy is giving them second thoughts. If we go ahead with Clinch River, we will destroy any chance we have for prevention of an international plutonium economy.

In summary, if we want to take the most rational action in regard to our nuclear policy and, at the same time, take a bold step toward halting the spread of nuclear weapons capability, we must terminate the Clinch River breeder reactor project.

Mr. SCHEUER. Madam Chairman, I rise in opposition to the amendment by my colleague from California, Mr. BROWN, and in strong support of a fully funded Clinch River breeder project. For a fully detailed description of my position on this issue I would refer my colleagues to the August 4, 1977, CONGRESSIONAL RECORD (pages 27128 and 27129). In brief, there are three critical reasons for my support of the breeder:

First. Abandoning the breeder by adopting the Brown amendment will not further the cause of nuclear nonproliferation. The General Accounting Office provided support for this position when it noted that—

> . . . continuation of research and development on the breeder enhances the United States' ability to affect discussion regarding nonproliferation in the crucial years ahead.

On May 28, 1977, along with my colleagues on the Committee on Science and Technology, I attended a conference in Vienna with the International Atomic Energy Agency—IAEA. Members of the staff of the IAEA told us in no uncertain terms that Western Europe is proceeding pellmell with the development of the breeder reactor and that regardless of how this Congress votes on Clinch River, France, Britain, and West Germany, for example, will continue their efforts to develop a commercial breeder.

In fact, the New York Times of July 6, 1977, reports that France, West Germany, and several other European nations have signed an accord for further research and development of the breeder and for its eventual sale abroad. The Times reported this as "a rejection of President Carter's call for at least a temporary moratorium on breeder development."

The IAEA officials reported to us the same basic facts presented in the newspaper accounts of this new European accord: France already has a 250 megawatt breeder reactor and has decided to move ahead with a commercial 1,200 megawatt breeder. West Germany, the Netherlands, and Belgium are constructing a 30 megawatt prototype breeder. The British already have two research breeders functioning in Scotland. And the Soviet Union operates a 350 megawatt breeder and is planning construction of a 600 megawatt reactor in the near future.

The United States just can not stick its collective head in the sand and pretend not to see what is going on in the rest of the world. Our best chances for remaining as the world's leader against nuclear proliferation is to remain as a partner in the world's nuclear development. A vote against the Brown amendment will help achieve this goal.

Second. A vote against the breeder reactor is a vote against energy independence for the United States. Sooner or later we all realize that we will exhaust our supplies of fossil fuels used to supply electrical power. Earlier this year, Richard Dunham, Chairman of the Federal Power Commission, endorsed the breeder as the solution to our long term power requirements:

> It seems abundantly clear that the Nation's electrical power needs cannot be satisfied by fossil fuels alone. The Liquid Metal Fast Breeder Reactor is the only option visible today which has the high assurance of commercial development in time to meet future demands.

The importance of this issue is only magnified when the sources of alternative energy supplies are analyzed. American dollars poured out of this country to the Arab countries at record rates last year as we imported more than $40 billion worth of oil. I personally do not understand how we can look at these figures and then vote to abandon a technology that would enable us, in the long run, to reduce our independence from foreign sources of oil.

Third. A vote for the Clinch River breeder reactor in 1977 is not a vote for commercialization of the breeder. The purpose of the 1977 funding level in the ERDA authorizations bill—$150 million—is simply to keep the project alive. The Clinch River breeder will not even be operational until 1984 and commercialization would not follow until the 1990's after additional votes by Congress. This period of 10 to 15 years provides more than ample time for adequate safeguards to be developed, for all interested parties to voice their concerns, and for proper administrative procedures to be set up to assure the breeder's safe and environmentally acceptable operation.

Thus, a vote against the Brown amendment is not a vote for commercialization. But what does a vote for the Brown amendment mean? The Comptroller General of the United States voiced one major problem:

> The most important disadvantage in slowing the program is that we run the risk of not knowing enough about the Liquid Metal Fast Breeder Reactor to make intelligent decisions on it in the near future.

Madam Chairman, I have opposed the development of Clinch River in the past. However, my experiences in Vienna and exposures to expert witnesses as a member of the Science and Technology Committee have convinced me that the Brown amendment must be defeated. I urge my colleagues to join me in preserving the option of the breeder reactor by continuing research into its advantages and disadvantages. In short, this is not the time to terminate Clinch River; we must wait until research on the breeder is completed.

Mrs. LLOYD of Tennesseee. Madam Chairman, as we make this critical decision today, we must seriously and realistically assess the role of the CRBRP, in relation to our overall energy requirements. It is essentially a 380 Mwe demonstration plant, a small-scale model, to prove the viability and the licensability of this concept operating on a utility grid. In the planned time frame, the CRBR is to be operational in 1985. The prototype large breeder, a 1,000 Mwe could be completed in 1988 or 1989. Only the larger PLBR is designed to provide evidence of the commercial advantages. The CRBRP is strictly a technology demonstration.

The CRBR is to be designed to demonstrate that a LMFBR can operate safely and reliably in a licensed, utility environment, and to better understand breeder technology. This plant will operate in an online mode, on the utility grid, just like any other licensed commercial powerplant. Through this, utilities will see, firsthand, the technical performance that could be expected from commercial-size plants, and reactor manufacturers

would be given the experience needed to design and construct future units. The CRBR is a test-bed reactor, an essential R. & D. component to demonstrate the integrated breeder technology in an orderly and responsible development pattern.

It can be used to provide essential information about all fast reactor designs, including those using advanced fuels on either the uranium-plutonium or the thorium fuel cycle. It is essential that the United States have available such a test-bed reactor to keep our nuclear program alive. We must have it to gain experience with sodium cooled systems under power generating conditions, experience from licensing, irradiated fuel to develop and demonstrate fuel recycling. Without the CRBR, there is no adequate fuel supply for testing the fuel cycles of breeders, either on advanced plutonium or denatured cycles using thorium. It will provide a test-bed for advanced components, and provide the basis for developing the manufacturing skills in the United States.

During the recent breeder program review, the CRBR was examined for operations on fuels other than plutonium. It will breed with a denatured uranium 233—uranium 238 core, and a thorium blanket. If there is concern about using plutonium initially, it can be fueled first with uranium 235. Thus, it is a versatile test-bed for fast breeders. To delay this project because of concern about plutonium is not realistically addressing the issue. Breeders only breed when more fissile material is produced than consumed. The development and demonstration of the processing and the fabrication of any breeder fuel, be it plutonium, or uranium, or thorium, is essential to any breeder operation.

But, to build the CRBR now is not a commitment to deploy on LMFBR. Based on national environmental policy act requirements, a final decision to proceed with commercial LMFBR plants will not be made until the late 1980's. At that time, the criteria will be 3-year operating experience; established licensing precedent; established basic technology; demonstrated fuel cycle technology, including recycling; resolved environmental issues such as safety and waste management; and a reevaluation of our reserves. Clinch River is now expected to start operation in 1985, which is a sufficient time frame in which proliferation questions can be met.

Do not be misled into thinking that only the uranium 238 system contains plutonium. Even thorium denatured cycle contains plutonium, and will require reprocessing and recycling of fuel. Even if we develop alternate fuel cycles, and I believe we will, we will need the CRBR for a test-bed to demonstrate their capabilities. So, let us get at the heart of the issue. We must not, as the leader of the free world, allow ourselves to become dependent on any one resource, particularly a depletable resource. And, because of the long lead time that is required to bring any new technology into useful maturity, vigorous development of alternate sources must be supported. Past experiences have shown that the lead time to develop a major technological option to maturity is about 20 to 25 years. Nuclear energy is needed to replace our rapidly diminishing supplies of oil and gas in their use to heat our homes and power our industry. To maintain the nuclear option, breeders are necessary. It will take us a minimum of 20 years to fully develop breeder technology, the only long-term energy source with real potential for reasonable cost prior to any widespread breeder use in this country. Therefore, prudent planning should include expeditious demonstration of the breeder option. I reject the assumption that we must continue to be a pawn of the OPEC countries or our allies. We must, and we will, assume our rightful role in energy technology. To base our national energy policy on hypothetical assumptions of more uranium supply is certainly not sound economic, social or moral policy.

The U.S. LMFBR program provides an energy source independent of foreign control if our capability is maintained and developed. An attempt to use and depend on foreign breeder technology would mean purchase of foreign design and components and subjecting the United States to potential outside control similar to our present situation with oil. It would mean loss of our industrial capacity for breeder reactors, and not only would our economy be hostage to foreign pwers, but our balance of trade would be seriously affected, and jobs would be created overseas instead of here. We must remember that no foreign design has ever been licensed in the United States and the detailed technical data flow required would be unlikely.

Finally, information exchange will not occur unless we have something of equal and near commercial value to exchange.

Without a strong position in applied technology, we cannot take the lead in assuring international safeguards against proliferation. We can lead the way to see that our reprocessing facilities and our breeders are more proliferation resistant than originally designed. We can insure that our fuel processing plants are not permitted to produce plutonium in pure form, but produce plutonium containing a decontaminated mixture of uranium and plutonium containing less than 20 percent of plutonium. This operation is perfectly feasible technically. We can also fabricate our enriched fuel into fuel assemblies at the same guarded site as reprocessing, to minimize the risk of diversion of pure plutonium in shipping. And we can, before shipping fuels, sufficiently irradiate them as a further safeguard. This will provide the same kind of deterrence of diversion of fresh fuel containing plutonium as the Carter administration now accepts for spent fuel from light water reactors.

If construction of the Clinch River plant is canceled or delayed, time and talent and money will be lost. The industrial teams which now have the training will be dispersed, costs incurred would be without return and future restoration of a similar project will be at a greater expense. The bad faith shown by the Government in terminating the single largest private venture in long-term energy development may mean that private money would never be available again.

Sure, if we should all of a sudden use less than the anticipated need of electricity, and low-cost uranium reserves in excess of 3 million tons are found, the breeder will not be cost effective. But, from all indications, the reverse is true. If electric demands continue to grow at a compound rate of 4 to 5 percent a year, and our uranium resources marketable at less than 100 per pound are limited to around 300 million tons, the discounted benefits from the breeder would be far greater than the cost of its development.

Continuation of the breeder should be regarded as insurance against either excessive costs or inadequate supplies of electricity, or both, in the years after 2000. Environmental concerns force even earlier introduction of the breeder in particular as a substitute for the fourfold increase in coal fired plants projected by the administration.

The risk of possible premature investment in the breeder is far surpassed by the risk to our economic development should the breeder not be available to provide adequate and reasonably priced electricity in the future.

The argument that since our uranium resources are probably adequate to fuel 300 or 400 light water reactors for 30 years, there is no urgency to proceed with operation of test-bed breeder reactors, fails to recognize the very long leadtime needed to prove out the new nuclear technology, to license it, to gain utility and public support, and to deploy it at a significant capacity level. We can't expect the country's utility companies 30 years from now to suddenly replace all their light water reactors with fast breeders. Investments in the private sector just aren't made that way. We must start now—we cannot slow down with Clinch River. We must have the experience with a sodium-cooled fast reactor generating electricity for a utility system; 1990 is a prudent target date by which nuclear plants will have to start being replaced by orders for breeder reactors if the nuclear option is to continue. Our consequences of inadequote action are high unemployment and social cost with greatest suffering by poor people; lack of competitiveness in world trade and lowered standard of living; inadequate national defense capability and security.

This Nation has never been known for retreating. Let us not make this the time we start. The benefits of nuclear power could be used as inducements to the international arrangements allowing for the orderly introduction of plutonium recycling, and actually reducing the problems of proliferation.

I believe that we will live up to our opportunities and abilities that can be equated at our responsibility. We will say to our allies that we are going to share the full benefits of nuclear energy. We will assume our responsibilities to work to make plutonium technology safe; to keep it out of terrorists hands. We will share both with our allies, and

in turn give them a stronger security than nuclear bombs could ever provide.

Mr. FISH. Madam Chairman, during the debate on the need for the continuation of the Clnich River breeder reactor, much attention was focused on the issues of proliferation, cost-benefit, cost-effectiveness of the project and I believe that these topics were more than adequately covered.

However, the proponents of the project have relied on information relating to our uranium supplies and our need for electrical generation by the end of the century and I feel that the figures employed are somewhat misleading. Additionally, the relationship of the fast flux test facility in Washington to the Clinch River breeder reactor may have confused the posture of this argument. For this reason I would like to take this opportunity to clarify the record on these points.

When the breeder program was initially formulated, it consisted of four specific steps, the second of which was the FFTF (fast flux test facility), demonstration program (CRBR), and finally commercial breeder construction.

It was the purpose of the FFTF to determine the performance of fuel elements, safety, economy, sodium cooling performance, and to see how fuels operate and react throughout their lifetime. Without having the results of these tests we are wasting money and taking chances. It is absolutely crucial to determine what these fuels will do and how they will react, in order to properly determine if the CRBR design, which is already 5 years old, is feasible.

The FFTF is not simply testing component parts as the proponents of CRBR would have you believe. We already know what our turbines are going to do, what we do not know is what our breeder fuel will do, or if the breeder design is adequate, which is why Congress established this program.

It is like testing a new engine for an automobile to determire if the block should be made out of aluminum or cast iron, what type of carburetor to use, and what the fuel mixtures should be. We know what the drive train and the transmission of the automobile will do, what we do not know is how the engine will perform. This is the purpose of the FFTF program.

The next point I wish to clarify concerns available uranium, and projected electrical demands.

Throughout the debate we have heard several figures thrown around which range from 1.8 million tons to 3.7 million tons. The question now arises, what do these figures mean and where did they come from.

We have heard several proponents of the CRBR quote the testimony of administrative sources during hearings before the House Science and Technology Committee as to what our energy demands are, and how much uranium is available. What the proponents have not mentioned is that subsequent to the hearings ERDA has published new data in this area.

In June of this year, ERDA as a result of new geological reports, and new estimates on the need for nuclear powerplants at 380 gigawatts—38 1,000-megawatt light water reactors—that we would not need a breeder until about the year 2005.

A light water reactor uses approximately 5,500 tons of uranium in its lifetime. When a reactor is put on line, all of the uranium that it will need in its lifetime is committed and subtracted from "available supplies."

The most recent ERDA figures on the available uranium supply have been revised upward due to two reasons. One, because of recent geological discoveries, and two, because of economics.

The old ERDA figures were based on $30 per pound price for uranium, and recently, uranium has been selling for $40 per pound, and is now close to $50 per pound. With this in mind, ERDA increased the "reserves" and "probable" amounts of uranium to 980,000 tons and 1.4 million tons respectively, bringing a total of 2.4 million tons of uranium available to be committed to our commercial light water reactors.

By simple arithmetic, this means that if we commit ourselves to the full 380 reactors needed by the year 2000, we will still have enough uranium for an additional 52 light water reactors.

What this means is that, contrary to what the proponents of the CRBR tell you, the urgency to go forward with the CRBR now does not exist. One, for economic reasons, two, for reasons of a decrease in energy demands, and three, because of safety and inadequate test information.

I commend the gentleman from California (Mr. BROWN) for offering his amendment, and urge its adoption.

Mr. DRINAN. Madam Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. BROWN).

There is no drastic nuclear shortfall which justifies premature demonstration of breeder technology, and no compelling economic need which justifies our irrevocable entry into a plutonium economy. The Brown amendment does not represent the negation of new technology, but an assertion of fiscal commonsense.

The prestigious Ford Foundation Nuclear Energy Policy Group—after thorough analysis in conjunction with the Mitre Corp.—concluded that deferral of the Clinch River project will result in cost savings for the American public, while leaving the door open for improved design and alternative technologies. A decision to proceed with commercial breeder demonstration was described by the Ford/Mitre group as a "premature" action which "does not have a value consistent with the likely cost."

I should note that an aggressive, $500 million breeder R.D. & D. program will continue to exist regardless of the outcome of the Brown amendment, including the improvement of design parameters and the development of breeder technologies which pose less risk of worldwide nuclear proliferation.

Madam Chairman, I would like to briefly expand on the reasons why the Clinch River project is technically premature, economically unnecessary, and a dangerous threat to international security.

First and foremost, there is widespread agreement that we will face a vastly different nuclear picture at the end of the century than was anticipated when planning for the Clinch River breeder reactor was begun. Official estimates of electrical generating capacity from light water nuclear reactors in the year 2000 have dropped by close to 70 percent since the go-ahead was granted Clinch River in 1972, as have overall projections of electrical energy demand. Under these circumstances, our current uranium reserves are more than adequate to fulfill generating requirements well into the 21st century—even without the introduction of breeders.

This changing picture of uranium demand has been recognized by many independent analysts, including the Ford/Mitre nuclear study group which found that there "is not an impending absolute shortage of energy necessitating early breeder introduction." Clearly, we can afford to postpone a vastly expensive decision on breeder commercialization until long-term energy options and circumstances are more clearly understood.

Second, there is considerable evidence that the liquid metal fast breeder reactor, as proposed for Clinch River, will become rapidly obsolete from the perspective of both economic viability and technological alternatives.

Dr. Edward Teller—the father of the hydrogen bomb, and no enemy of the nuclear industry—has stated that:

> We can, with considerable saving of money and with practically no sacrifice, discontinue our present effort on the Clinch River Breeder.

Dr. Teller believes that the thorium-cycle breeder, one alternative to Clinch River, can provide us with more than adequate generating capacity with substantially less risk of nuclear proliferation. The Ford/Mitre study concurs in this assessment, finding that "there has been an almost exclusive program emphasis on the plutonium fuel cycle . . . despite the fact that a thorium/uranium-233 cycle may offer some advantages in neutron efficiency, in reduced social costs, and in fuel availability."

Finally, it is important to recognize why a U.S. move toward early commercialization of plutonium breeders will counteract our efforts to prevent nuclear proliferation. Separated plutonium—which, by necessity, would become an item of commerce in order to fuel reactors similar to Clinch River—represents one of the final end-products necessary to construct small-scale nuclear weapons. We are all acutely aware that the Energy Research and Development Administration admitted, only yesterday, that it had successfully detonated a nuclear explosive device made from fuel-grade plutonium.

Even if we assume that breeder reactors are necessary to expand our uranium supply to meet energy demand early in the 21st century—an asump-

tion which is by no means certain—there are breeder technologies which do not rely on plutonium, and thus significantly reduce the danger of widespread nuclear capability. The Ford/Mitre project clearly identified thorium, gas-cooled, and molten-salt breeders as alternative technologies which pose substantially less danger of uncontrollable nuclear proliferation.

The end-products from a thorium-cycle breeder reactor would contain many times less plutonium than reactors of the Clinch River design, and require an extensive enrichment process—rather than mere reprocessing—to separate the weapons-grade material from spent fuel. Every fresh fuel for thorium breeders would not lend itself directly to weapons production, since it contains a mixture of isotopes, in lieu of pure plutonium.

A blank check for Clinch River is a premature decision, Madam Chairman. It will not result in any significant energy production for several decades, it is a technology in which private utilities are no longer willing to invest, and it poses grave threats to international security. If we do not acknowledge these problems and set out to resolve them, we are perpetrating a multi-billion-dollar fraud on the American taxpayers.

I urge adoption of the Brown amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of California. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 246, not voting 26, as follows:

[Roll No. 569]

AYES—162

Akaka	Conyers	Harrington
Allen	Corman	Hawkins
Ambro	Cornell	Heckler
Ammerman	Cotter	Hefner
Anderson, Calif.	Coughlin	Heftel
	D'Amours	Holtzman
Ashley	Delaney	Howard
Aspin	Dellums	Jacobs
AuCoin	Diggs	Jeffords
Badillo	Dingell	Jenkins
Barnard	Downey	Jordan
Beard, R.I.	Drinan	Kastenmeier
Bedell	Early	Keys
Beilenson	Eckhardt	Kildee
Biaggi	Edgar	Kostmayer
Bingham	Edwards, Calif.	Krebs
Blanchard	Emery	LaFalce
Blouin	Evans, Colo.	Leach
Boland	Fascell	Leggett
Bonior	Fenwick	Lehman
Bonker	Findley	Levitas
Brademas	Fish	Long, Md.
Brodhead	Fithian	Luken
Brown, Calif.	Ford, Mich.	Lundine
Burke, Calif.	Fowler	McDade
Burke, Mass.	Fraser	McHugh
Burton, John	Giaimo	Maguire
Carr	Gilman	Markey
Cavanaugh	Glickman	Marlenee
Chisholm	Gudger	Mattox
Clay	Hamilton	Meyner
Cohen	Hanley	Mikulski
Conte	Harkin	Mikva
Miller, Calif.	Pritchard	Steiger
Mitchell, N.Y.	Pursell	Stockman
Moakley	Quie	Stokes
Moffett	Rahall	Studds
Moss	Rangel	Thompson
Mottl	Regula	Traxler
Natcher	Reuss	Tsongas
Neal	Richmond	Udall
Nedzi	Rodino	Ullman
Nolan	Rogers	Van Deerlin
Nowak	Rosenthal	Vanik
Oakar	Roybal	Vento
Oberstar	Ruppe	Walgren
Obey	Ryan	Waxman
Ottinger	Schroeder	Weaver
Panetta	Seiberling	Weiss
Patterson	Sharp	Wirth
Pattison	Simon	Wolff
Pepper	Solarz	Wylie
Perkins	Spellman	Yates
Pike	St Germain	
Preyer	Stark	

NOES—246

Abdnor	Forsythe	Moore
Addabbo	Fountain	Moorhead, Calif.
Alexander	Frenzel	
Anderson, Ill.	Frey	Moorhead, Pa.
Andrews, N.C.	Fuqua	Murphy, Ill.
Andrews, N. Dak.	Gammage	Murphy, N.Y.
	Gaydos	Murphy, Pa.
Annunzio	Gephardt	Murtha
Applegate	Gibbons	Myers, Gary
Archer	Ginn	Myers, John
Armstrong	Goldwater	Myers, Michael
Ashbrook	Gonzalez	Nichols
Badham	Goodling	Nix
Bafalis	Gore	O'Brien
Baldus	Gradison	Patten
Baucus	Grassley	Pease
Bauman	Guyer	Pettis
Beard, Tenn.	Hagedorn	Pickle
Benjamin	Hall	Poage
Bennett	Hammer-schmidt	Pressler
Bevill		Price
Boggs	Hannaford	Quayle
Bowen	Hansen	Quillen
Breaux	Harris	Railsback
Breckinridge	Harsha	Rhodes
Brinkley	Hightower	Rinaldo
Broomfield	Hillis	Risenhoover
Brown, Mich.	Hollenbeck	Roberts
Brown, Ohio	Holt	Robinson
Broyhill	Horton	Roe
Buchanan	Hubbard	Rooney
Burgener	Huckaby	Rostenkowski
Burke, Fla.	Hughes	Rousselot
Burleson, Tex.	Hyde	Rudd
Burlison, Mo.	Ichord	Runnels
Butler	Ireland	Russo
Byron	Jenrette	Santini
Carney	Jones, N.C.	Sarasin
Carter	Jones, Okla.	Satterfield
Cederberg	Jones, Tenn.	Scheuer
Chappell	Kasten	Schulze
Clausen, Don H.	Kazen	Sebelius
	Kelly	Shipley
Cleveland	Kemp	Shuster
Cochran	Ketchum	Sikes
Coleman	Kindness	Skelton
Collins, Ill.	Krueger	Slack
Collins, Tex.	Lagomarsino	Smith, Iowa
Conable	Latta	Smith, Nebr.
Corcoran	Le Fante	Snyder
Cornwell	Lent	Spence
Crane	Livingston	Staggers
Daniel, Dan	Lloyd, Calif.	Stangeland
Daniel, R. W.	Lloyd, Tenn.	Stanton
Danielson	Long, La.	Steed
Davis	Lott	Steers
de la Garza	Lujan	Stratton
Derrick	McClory	Stump
Devine	McCloskey	Symms
Dickinson	McCormack	Taylor
Dicks	McDonald	Teague
Dodd	McEwen	Thone
Dornan	McFall	Thornton
Duncan, Oreg.	McKay	Treen
Duncan, Tenn.	McKinney	Trible
Edwards, Okla.	Madigan	Tucker
Eilberg	Mahon	Volkmer
English	Mann	Waggonner
Erlenborn	Marks	Walker
Ertel	Marriott	Walsh
Evans, Del.	Martin	Wampler
Evans, Ga.	Mathis	Watkins
Evans, Ind.	Mazzoli	White
Fary	Meeds	Whitley
Fisher	Michel	Whitten
Flood	Milford	Wiggins
Florio	Miller, Ohio	Wilson, C. H.
Flowers	Mineta	Wilson, Tex.
Flynt	Minish	Winn
Foley	Mollohan	Wright
Ford, Tenn.	Montgomery	Wydler
Yatron	Young, Mo.	Zeferetti
Young, Alaska	Young, Tex.	
Young, Fla.	Zablocki	

NOT VOTING—26

Bolling	Flippo	Rose
Brooks	Holland	Sawyer
Burton, Phillip	Johnson, Calif.	Sisk
Caputo	Johnson, Colo.	Skubitz
Clawson, Del	Koch	Vander Jagt
Cunningham	Lederer	Whalen
Dent	Metcalfe	Whitehurst
Derwinski	Mitchell, Md.	Wilson, Bob
Edwards, Ala.	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Koch for, with Mr. Dent against.

Mr. Sawyer for, with Mr. Cunningham against.

Mr. Whalen for, with Mr. Derwinski against.

Mr. SHIPLEY changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. DODD. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DODD. Madam Chairman, is my understanding correct that the pending amendment is an amendment that would reduce the committee expenditure of $150 million to $75 million? Is that a correct understanding?

The CHAIRMAN. The Chair will state that as the gentleman from Connecticut well knows, that is not a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DODD. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 277, not voting 28, as follows:

[Roll No. 570]

AYES—129

Addabbo	Dicks	Hughes
Akaka	Diggs	Jenkins
Allen	Dodd	Jordan
Ambro	Drinan	Kastenmeier
Ammerman	Eckhardt	Keys
Andrews, N.C.	Edgar	Kildee
Applegate	Eilberg	Krebs
Armstrong	Emery	LaFalce
Ashley	Evans, Colo.	Le Fante
Aspin	Evans, Del.	Leach
AuCoin	Fascell	Leggett
Baldus	Fenwick	Lehman
Baucus	Fithian	Levitas
Bedell	Florio	Long, Md.
Beilenson	Ford, Mich.	Lundine
Biaggi	Ford, Tenn.	McCloskey
Bingham	Fowler	McHugh
Blanchard	Fraser	McKinney
Blouin	Gephardt	Markey
Bonior	Giaimo	Marlenee
Bonker	Glickman	Mattox
Brodhead	Goodling	Meeds
Burke, Mass.	Gore	Meyner
Carr	Hamilton	Minish
Cederberg	Hannaford	Moorhead, Pa.
Cohen	Harkin	Mottl
Cornell	Harris	Natcher
Cotter	Heckler	Neal
Coughlin	Heftel	Nedzi
D'Amours	Howard	Nolan

Nowak	Pursell	Stockman
Oakar	Rahall	Studds
Oberstar	Reuss	Traxler
Obey	Rogers	Treen
Panetta	Russo	Tucker
Patterson	Schroeder	Van Deerlin
Pattison	Sharp	Vento
Pease	Smith, Iowa	Walgren
Pepper	Solarz	Weaver
Perkins	Spellman	Weiss
Pike	St Germain	Wirth
Pressler	Steed	Wylie
Pritchard	Steers	Yates

NOES—277

Abdnor	Flowers	Moffett
Alexander	Flynt	Mollohan
Anderson, Calif.	Foley	Montgomery
	Forsythe	Moore
Anderson, Ill.	Fountain	Moorhead, Calif.
Andrews, N. Dak.	Frenzel	
	Frey	Moss
Annunzio	Fuqua	Murphy, Ill.
Archer	Gammage	Murphy, N.Y.
Ashbrook	Gaydos	Murphy, Pa.
Badham	Gibbons	Murtha
Badillo	Gilman	Myers, Gary
Bafalis	Ginn	Myers, John
Barnard	Goldwater	Myers, Michael
Bauman	Gonzalez	Nichols
Beard, R.I.	Gradison	O'Brien
Beard, Tenn.	Grassley	Ottinger
Benjamin	Gudger	Patten
Bennett	Guyer	Pettis
Bevill	Hagedorn	Pickle
Boggs	Hall	Poage
Boland	Hammer-schmidt	Preyer
Bowen		Price
Brademas	Hanley	Quayle
Breaux	Hansen	Quie
Breckinridge	Harrington	Quillen
Brinkley	Harsha	Railsback
Broomfield	Hawkins	Rangel
Brown, Calif.	Hefner	Regula
Brown, Mich.	Hightower	Rhodes
Brown, Ohio	Hillis	Richmond
Broyhill	Hollenbeck	Rinaldo
Buchanan	Holt	Risenhoover
Burgener	Holtzman	Roberts
Burke, Calif.	Horton	Robinson
Burke, Fla.	Hubbard	Rodino
Burleson, Tex.	Huckaby	Roe
Burlison, Mo.	Hyde	Rooney
Burton, John	Ichord	Rosenthal
Butler	Ireland	Rostenkowski
Byron	Jacobs	Rousselot
Carney	Jeffords	Roybal
Carter	Jenrette	Rudd
Chappell	Jones, N.C.	Runnels
Chisholm	Jones, Okla.	Ruppe
Clausen, Don H.	Jones, Tenn.	Ryan
	Kasten	Santini
Clay	Kazen	Sarasin
Cleveland	Kelly	Satterfield
Cochran	Kemp	Scheuer
Coleman	Ketchum	Schulze
Collins, Ill.	Kindness	Sebelius
Collins, Tex.	Kostmayer	Seiberling
Conable	Krueger	Shipley
Conte	Lagomarsino	Shuster
Conyers	Latta	Sikes
Corcoran	Lent	Skelton
Corman	Livingston	Slack
Cornwell	Lloyd, Calif.	Smith, Nebr.
Crane	Lloyd, Tenn.	Snyder
Daniel, Dan	Long, La.	Spence
Daniel, R. W.	Lott	Staggers
Danielson	Lujan	Stangeland
Davis	Luken	Stanton
de la Garza	McClory	Stark
Delaney	McCormack	Steiger
Dellums	McDade	Stokes
Derrrick	McDonald	Stratton
Devine	McEwen	Stump
Dickinson	McFall	Symms
Dingell	McKay	Taylor
Dornan	Madigan	Teague
Downey	Maguire	Thompson
Duncan, Oreg.	Mahon	Thone
Duncan, Tenn.	Mann	Thornton
Early	Marks	Trible
Edwards, Calif.	Marriott	Tsongas
Edwards, Okla.	Martin	Udall
English	Mathis	Ullman
Erlenborn	Mazzoli	Vanik
Ertel	Michel	Volkmer
Evans, Ga.	Mikulski	Waggonner
Evans, Ind.	Mikva	Walker
Fary	Milford	Walsh
Findley	Miller, Calif.	Wampler
Fish	Miller, Ohio	Watkins
Fisher	Mineta	Waxman
Flippo	Mitchell, N.Y.	White
Flood	Moakley	Whitley
Whitten	Wolff	Young, Fla.
Wiggins	Wright	Young, Mo.
Wilson, C. H.	Wydler	Young, Tex.
Wilson, Tex.	Yatron	Zablocki
Winn	Young, Alaska	Zeferetti

NOT VOTING—28

Bolling	Holland	Sawyer
Brooks	Johnson, Calif.	Simon
Burton, Phillip	Johnson, Colo.	Sisk
Caputo	Koch	Skubitz
Cavanaugh	Lederer	Vander Jagt
Clawson, Del	Metcalfe	Whalen
Cunningham	Mitchell, Md.	Whitehurst
Dent	Nix	Wilson, Bob
Derwinski	Roncalio	
Edwards, Ala.	Rose	

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Dent against.

Mr. Sawyer for, with Mr. Cunningham against.

Mr. Whalen for, with Mr. Whitehurst against.

Messrs. MOAKLEY, MOSS, REGULA, and RUPPE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FUQUA. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. May I announce to the House that the House will meet at 10 o'clock tomorrow morning.

We will take up the three rules that are on the schedule and then come back to the bill H.R. 6796.

The House will rise tomorrow sometime between 3 o'clock and 3:30 p.m.

DISCHARGE FROM COMMITTEE AND RE-REFERRAL OF H.R. 5475

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance, and Urban Affairs be discharged from the further consideration of the bill (H.R. 5475) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to extend relocation assistance to persons displaced as the result of real property acquisitions by private persons for federally assisted programs or projects, and for other purposes, and that the bill be re-referred to the Committee on Public Works and Transportation.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain why this is necessary?

Mr. REUSS. Yes. I am embarrassed to explain that owing to one of those inadvertent clerical or parliamentary errors, the bill was referred to our Committee on Banking.

It should, under the rules, have been referred to the Committee on Public Works and this is the procedure necessary to get it re-referred.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8638, NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 95-613) on the resolution (H. Res. 767) providing for the consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. DODD. Mr. Speaker, I ask unanimous consent that all Members may be allowed to revise and extend their remarks on my amendment offered today to the bill, H.R. 6796.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

FEEDBACK EFFECTS OF FISCAL POLICY CHANGES

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, on September 9 a dispute arose on the floor of the Senate in the course of some tax reduction amendments to the second budget resolution, fiscal year 1978. The dispute concerned whether the Congressional Budget Office's estimates of the budgetary effects—that is, the effects on the deficit—of tax rate reductions include the feedback effects of the increased incentives on the tax base.

On February 25, 1977, I addressed this question to Dr Alice Rivlin, the Director of CBO, and on March 3, 1977, I asked Bert Lance, the Director of the Office of Management and Budget if the econometric models upon which the Government relies for forecasts and economic policy simulations take into account the feedback effects on tax revenues of the increased incentives that result from tax rate reduction.

The answer is: No, they do not. In her reply of March 11, 1977, Dr. Rivlin stated that—

The models do tend to neglect the influence of tax rates and other incentives on aggregate supply and capital formation.

OMB's reply under cover of Mr. Lance's letter of March 22, 1977, stated that the Chase, DRI, and Wharton models—

• • • do not include any relative price effects from an individual income tax rate reduction—no incentives to work longer, to work harder, to save more, to take greater risk, to be more innovative, etc. Disposable income is increased, which raises consumption, and that is the only direct effect.

The fact is that the supply side feedback effects of tax rate reductions or increases are not taken into account, and this fact is not in dispute. The only feedback effect of tax rate reductions on the tax base and on tax revenues that CBO estimates for changes in personal income tax rates is the effect on disposable income and spending—that is, on demand.

In June 1977 Chase Econometrics themselves stated that—

These models, which are now used by virtually all economic policymakers are constructed in a way such that they are much better able to simulate the effects of tax policies on aggregate demand than on aggregate supply. Thus the use of these models may have directed policymakers toward those policies which had visible short-term effects on aggregate demand without considering their likely intermediate and long-term effects on productive capacity.

Mr. Speaker, those of us who have been complaining about the policy bias in the budget resolutions that the Congress has been passing do, after all, know what we are talking about. The country is more likely to prosper if all the members of the House and Senate Budget Committees and the committee staff also become aware of the defects in the tools that they are using to shape the economic policy aspects of the budget resolutions that they bring to the floor.

U.S. PARTICIPATION IN ILO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 15 minutes.

Mr. FRASER. Mr. Speaker, during the August recess, members of the Cabinet-level committee consisting of representatives of the Departments of State, Labor, Commerce, the AFL–CIO and the chamber of commerce unanimously decided to postpone a decision on U.S. participation in the International Labor Organization until mid-October. The time for decision on this serious foreign policy issue—whether to stay in or withdraw from ILO—is rapidly approaching.

The pros and cons of our participation in ILO have been analyzed in an issue memorandum prepared by the Overseas Development Council which appeared in the CONGRESSIONAL RECORD, August 5, 1977. Various groups and individuals have in recent weeks announced their support for U.S. participation in the ILO: The United Auto Workers, the Machinists, the League of Women Voters, and the National Board of the YMCA. The Christian Science Monitor, the Los Angeles Times, and the New York Times have published editorials in support of our staying in ILO. These statements reflect several common concerns.

First, the ILO constitutes an important international organization for promoting human rights principles articulated by President Carter; second, the ILO continues to administer development assistance to meet basic human needs of people in Latin America, Africa, and Asia; third, the presence of the United States in ILO is necessary as a stabilizing influence within the ILO; and, fourth, withdrawal at this time would create a dangerous precedent for continued U.S. participation in other U.N. organizations. Each of these statements should be examined carefully and I respectfully request that they be inserted in the RECORD.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-UAW
Detroit, Mich., July 28, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have followed closly for several years the debate over the continued participation of the United States in the International Labor Organization (ILO.) Because you will soon be making a decision on this crucial issue, I would like to make you aware of my position.

Like many other American trade unions, the UAW has been proud that the ILO was created, in large part, at the urging of the labor movement. It was and is a unique tripartite world organization in which workers have an equal voice with government and management. Although we live today in a much different world than existed in 1919 when the ILO's charter was established, its goal of promoting the well-being of working people throughout the world remains valid today.

As President of the United States, you have made it clear that human rights is a cornerstone of our nation's foreign policy. I believe that the ILO has a significant role to play in the struggle of workers for human rights across the world. If the United States withdraws from the one international agency which has played such a central role in promoting human rights for workers, our hope of improving the lives of many will greatly diminish.

I have been distressed by the increased drift toward unconstructive politicization of the ILO and share the belief of many trade unionists that its greatest contribution must be in providing technical and developmental assistance to working people particularly in developing nations. The ILO cannot and should not be the forum for resolving broad, complex foreign policy issues confronting member states. If the ILO is to achieve its objectives, it will be essential that non-communist industrial nations and third world countries support efforts to limit the trend toward purely politically motivated resolutions.

My hope is that the U.S. will remain an active participant in the ILO and will press vigorously within that forum for the human rights principles you have so articulately presented as President. It is not clear to me that our goals can, in any way, be furthered by withdrawal. In fact, withdrawal will provide those with whom we strongly disagree an unobstructed path down which they will carry their effort to expand their influence, particularly in developing countries. In addition, I believe withdrawal will harm many member nations which have supported our positions, both on specific and general ILO issues.

The UAW has always been a friend of Israel, a nation with a strong, democratic trade union movement. We have deplored the condemnation by the ILO of Israel without even an effort to impartially investigate the charges as required under established ILO procedures. Yet neither that development nor the seating of Palestine Liberation Organization observers resulted in a decision by Israel to withdraw. Nor have any other western democracies which shared the U.S. position on these and other ILO issues chosen to withdraw.

In addition, I am concerned that U.S. withdrawal from the ILO could create preconditions for the unravelling of our involvement in other international forums that can and should move us closer to the goal of world peace. That goal can best be achieved by improving and strengthening these forums rather than abandoning them to countries with which we disagree.

I hope you share my belief that the concessions which we seek in order to have the ILO properly live up to its promise can best be achieved from within the organization. I would be happy to discuss this matter with you further should you wish and appreciate greatly the opportunity to express my views to you on this crucial subject.

Respectfully,
DOURLAS A. FRASER,
President,
International Union, UAW.

EXCERPTS FROM WILLIAM WINPINSINGER'S LETTER FROM JOHN HERLING'S "LABOR LETTER," AUGUST 20–27, 1977

For the Machinists, William (Wimpy) Winpinsinger dispatched the following letter to President Carter on August 15. Here are excerpts:

"I urge you to support continued U.S. participation in the International Labor Organization.

"I have just returned from extensive working sessions of the International Metalworkers Federation and the International Transportworkers Federation, where member-nation delegates expressed apprehension over the future of the ILO, should the U.S. withdraw.

"Perhaps the compelling argument against withdrawal is the ILO's crucial function in the world-wide struggle for human rights and economic and social justice. To abdicate our role in this agency to those nations less committed than America to these causes, would virtually guarantee their success in further politicizing and denigrating the ILO mission . . .

"With all due respect, I feel you would be ill-advised to plunge into withdrawal, based on the position of the leadership of the AFL-CIO, and based on a two-year-old notice initiated by the previous Administration, which was manifestly hostile to the interests of organized labor here at home. It was an Administration as well, whose international economic and trade policies ill-served working people abroad, particularly those in developing and underdeveloped countries.

"The ILO has an urgent and unfulfilled charter obligation to deliver economic and social justice. Continued U.S. participation can provide leadership essential to that delivery.

"There are alternatives to withdrawal. One is extension of the withdrawal notice for another two years, during which time the U.S. delegation can continue to pursue an agenda of acceptable economic and technical assistance, while maintaining its vigilant posture against overt political opportunism. This course of action would permit a continuing and intelligent evaluation of the ILO in an atmosphere more in keeping with freedom of

expression and democratic ideals, than would abrupt withdrawal.

"I am confident, given full exposure of the facts and review of ILO's historic role in world affairs, that other AFL–CIO affiliates will support a move for continued participation."

LEAGUE OF WOMEN
VOTERS OF THE UNITED STATES,
Washington, D.C., August 15, 1977.

Hon. CYRUS R. VANCE,
Secretary, Department of State, Washington, D.C.

DEAR SECRETARY VANCE: The League of Women Voters of the United States is gravely concerned about the possibility of United States withdrawal from the International Labor Organization (ILO).

While we recognize the problems within the ILO and the criticisms which led to the issuing of the U.S. letter of intent to withdraw, we do not think that leaving the organization is the solution to those problems. In fact, we believe that it can only exacerbate them.

During the last year, our 1259 local Leagues throughout the country have studied the United Nations in order to develop a new League position on U.S. participation in the U.N. The study was initiated specifically to see if League members believed we should reconsider our support of the United Nations in view of recent developments, such as the 1975 anti-Zionist resolution and politicization of specialized agencies.

The result of this comprehensive member study was an overwhelming reaffirmation of League support for the United Nations and its specialized agencies. The new League position on the U.N. states that the "United States should work actively and constructively within the U.N. system, exercising diplomatic leadership in advance of decision-making. The United States should not place conditions on its participation in the United Nations except in the most extreme cases."

We believe that the United States' role in the ILO can still be one of "diplomatic leadership," and that ILO problems do not at this time constitute a "most extreme case" justifying a U.S. pull-out. The League believes that it would be far wiser to use the United States' voice and vote to change the direction of some of the recent ILO actions rather than abandoning a valuable forum in which issues of concern to the United States and the rest of the world are discussed.

Moreover, it is not only the membership of the League of Women Voters that believes the United States should support the U.N. and its agencies, but the majority of the American people as well. A recent Roper opinion survey sponsored by the League of Women Voters Education Fund found that 70% of those polled feel the U.S. should continue to belong to the U.N. When probed to explain why they support U.N. membership, one of the major reasons people gave is that the U.N. provides a forum for discussion of world issues and a system for resolution of differences. When asked to think of areas where the U.N. has been successful, they tended to emphasize the value of the work of the specialized agencies.

The League of Women Voters believes that one of the most serious ramifications of withdrawing from the ILO is the dangerous precedent that would be established. Certainly other U.N. organizations will from time to time take actions the United States does not approve. In order to be consistent, will we pull out of one and then another until the entire U.N. system is completely crippled? In addition, other governments may decide to follow our example and withdraw from international organizations they don't like but which we support.

Finally, consideration must be given to the fact that our allies, including Great Britain, France and West Germany, have asked us to reconsider the wisdom of withdrawal. They believe, as does the League, that without the United States, there is little hope of solving the problems within the ILO. U.S. withdrawal would not only destroy the ILO but would tend to weaken the entire U.N. structure—a structure the League believes should be strengthened rather than weakened.

We urge you to use the opportunity you have as a new administration to try again to work within the ILO to change the directions that prompted the previous administration to issue the letter of intent. While it is perfectly realistic to reexamine our relationships with the ILO, to withdrawal at this time would close all the doors. At a minimum, we hope a way will be found to postpone U.S. withdrawal to give your administration adequate time to exhaust every effort to encourage the ILO to focus once again on the important functions for which it was founded.

Sincerely,

RUTH C. CLUSEN,
President.

NATIONAL BOARD OF THE YOUNG WOMEN'S
CHRISTIAN ASSOCIATION OF THE U.S.A.,
New York, N.Y., August 12, 1977.

President JAMES E. CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The decision of the United States to withdraw from the International Labor Organization is one we believe must be reversed. We see the victims of this decision as the poor of the world who are engaged in self-help efforts through the programs of job creation and training that ILO has sponsored in numerous developing countries.

One of these, in fact, is run by the YWCA of Fiji, and we know the great assistance it has been to women of the island area who are desperate for a little cash income to help their families, not only to buy basic necessities, but to go to school.

Aside from these individual human reasons for continuing to support the work of ILO and helping to guide its policies, there are others we hope you will consider before the announced withdrawal becomes final.

1. The United States cannot isolate itself from the UN system. Our withdrawal from a body of this system would be a dangerous precedent, especially at the present time of "schisms".

2. Continued United States membership in the ILO enables the United States to work with the moderates of the world community.

3. To quit over "defeats" is unsportsmanlike. Threats of withdrawal when decisions go against the desires of any one state are counterproductive. Cooperative efforts for constructive action have proven much more successful.

4. ILO work in the field of human rights is useful and proceeds through well-established machinery. It is far less subject to the political "double standard" than are UN actions.

5. ILO work in the field of employment production and human resources development (including vocational training) is important. ILO serves as a catalyst for the World Employment Programme.

6. ILO standards have a practical effect on people. Recent ones include those on migrant workers and safety and health. The 1975 conclusions of the Conference on Women are important. ILO leads in the fight against child labor. The 1977 Conference adopted standards on air pollution, noise and vibration, and on living and working conditions of nursing personnel.

7. ILO work to raise standards around the world is in the interest of United States labor and industry to the extent that United States goods will become more competitive in price.

8. What happened at the last session of the conference has been exaggerated. Public and press views of ILO have exaggerated several factors:

a. regarding Israel, there was no resolution or condemnation of any kind, such as happened elsewhere in the UN system. The only thing called into doubt was whether ILO's constitutional procedures about applying ratified conventions were valid with respect to occupied territories.

b. regarding the United States proposal to outlaw resolutions which condemn without prior investigation, the proposal was not only rejected, but had support from many quarters. But the majority of the conference was not prepared to be rushed into an insufficiently considered text and wishes to negotiate any text in the wider framework of structural reform of ILO organs.

We believe other departments and bureaus of the government have experience and information which could be useful in the developing of U.S./ILO policy.

We appreciate your attention to these views.

Sincerely,

ELIZABETH S. GENNÉ,
President.

[From the Christian Science Monitor, Aug. 22, 1977]

STAYING IN THE ILO

A difficult choice now faces the United States on whether or not to say in the much-criticized International Labor Organization. A case can be made for leaving the organization on grounds of its increased political activity, especially vis-a-vis Israel. And leaving is what a Cabinet-level committee has just reaffirmed by endorsing, for the time being, the Ford administration's earlier decision to part company with the ILO this November.

But the justifications for remaining in the ILO, at least for another trial period, seem to us to outweigh the disadvantages.

One valid reason for staying in, despite the fundamental disagreement about its role, is that the ILO needs the U.S. presence as a stabilizing influence more than ever, even though it votes down many American proposals. Withdrawal would only hasten the domination of the international labor field by those whose idea of labor progress differs radically from the Western concept. Another reason is that if the ILO loses its U.S. financial support—25 percent of its budget—it will have to curtail some of its worthwhile activities aimed at improving labor working conditions and living standards or promoting economic stability and social justice.

During its recent Geneva sessions, the ILO did not pass any more condemnatory political resolutions, although it did beat back U.S. efforts to change the rules and, in effect, "depoliticize" the agency. Moreover, the major Western industrialized powers now sound more ready to back up the U.S. in its attempt to prevent the organization from being used as a political forum. The nine European Common Market nations, for example, have urged Washington not to withdraw; they point out that the ILO still is an effective agency working against world poverty and for basic human rights in many areas. A group of U.S. congressmen and senators also has come out against a pullout.

Nonetheless, a number of formidable criticisms of the ILO should not be overlooked. The AFL–CIO, representing American labor unions, is convinced the ILO is no longer useful for furthering American objectives on the world scene. It contends that the agency has not changed its political objectives sufficiently to warrant the U.S. staying in—and, indeed, that the maintenance of American credibility requires withdrawal, as a form

of protest against political excesses in such a guise.

There also is the fact that a coalition of communist-bloc and third-world nations still can, and does, prevent ILO acceptance of any critical reports about labor conditions inside their countries. Congress, meanwhile, has already indirectly endorsed a U.S. withdrawal by eliminating funds for the ILO for next year.

Despite the ILO's indisputable dark side, the growing U.S. interest in third-world countries in Africa, Asia, and Latin America, as well as in human rights on a worldwide scale, does parallel the ILO's own gradual shifting of focus from the industrial powers to the developing nations.

Remaining in the ILO fold would have to be a calculated concession on the part of the United States, and the organization should be so advised. But staying in, it seems to us, is the best way to prevent the ILO from indulging in more political aberrations—and to encourage it to pursue a helpful role.

[From the Los Angeles Times, Aug. 15, 1977]

WHY QUIT THE WORLD LABOR ORGANIZATION?

(By David A. Kay)

In November, 1975, then-Secretary of State Kissinger formally gave the International Labor Organization the required two years' notice that the United States intended to renounce its membership in that body. On Tuesday, President Carter will meet with his Cabinet to decide whether to carry out that threat.

Founded in 1919 as part of the League of Nations, the ILO—it later became the first special agency associated with the United Nations—was originally dedicated to improving social and economic conditions around the world. In recent years, however, the organization has become somewhat of a political forum, not unlike its parent organization.

While America's continued membership in the ILO unquestionably is fraught with problems, it would be a grave mistake for the current Administration—which has outspokenly supported international efforts to solve global economic, social and scientific problems—to turn its back on one of the oldest groups designed to address just such issues.

Kissinger's letter specified three chief reasons for the U.S. intention to withdraw:

The ILO no longer fulfills its avowed goal of tripartite representation of workers, management and government. Instead, groups that purportedly represent workers and employers in a majority of member nations are really government-controlled, particularly the Soviet bloc and much of Africa and Asia.

The ILO shows only selective concern about human rights by concentrating on southern Africa and Israel while ignoring forced-labor conditions and restrictions on freedom of association in such countries as China, the Soviet Union and Uganda.

The ILO has become involved in political issues outside its established procedures.

These charges are substantially true. But the politicization of the ILO has not caused it to neglect its practical work. On the contrary, it has made notable progress.

For instance, the ILO has sponsored 1,000 experts on more than 400 technological programs in 115 developing countries, where projects have ranged from manpower training to the establishment of rural cooperatives.

In addition, it has conducted a much-lauded study on the problems of employment and human needs in developing countries and proposed standards for labor administration freedom of association for public employes.

These formidable achievements are eminently compatible with Carter's policies on human rights. U.S. session would cut the ILO's budget by 25%, or $20 million, severely hampering the very kind of work that the Administration professes to hold so dear.

Meanwhile, America has launched its own diplomatic initiatives to advance basic human needs throughout the developing world, to support minority rights in southern Africa and to pursue peace in the Middle East. If successful, these efforts will improve the international political atmosphere that played a significant part in contaminating the ILO.

It would be utterly inconsistent, therefore, for Carter to endorse and carry out a threat made under President Ford, whose foreign-policy goals were so different. Yet the feeling in Washington is that he will do just that.

If Carter does decide on U.S. withdrawal, he will do so for two reasons: First, the AFL-CIO strongly backs secession, for reasons outlined in Kissinger's letter. (The AFL-CIO nominates the labor member of the U.S. delegation, while the U.S. Chamber of Commerce and the federal government each nominate one delegate.)

But the President should realize that the ILO's makeup merely reflects an imperfect situation in the world at large. The cause of freedom of association surely will not be aided by abandoning a global body whose constitution formally enshrines this principle.

The second—and overriding—reason for the President's likely decision to withdraw is State Department concern that the United States will suffer a loss of diplomatic credibility within the United Nations if our government fails to act on its word. If we fail to stick by our guns—or, in this case, Kissinger's letter—on the ILO question, how can we expect the World Health Organization, not to mention the U.N. Food and Agricultural Organization, to take us seriously when we demand reform of their programs?

Unfortunately, this reasoning overlooks a larger issue: the integrity of an Administration whose President, secretary of state and U.N. ambassador have all gone on record in favor of meeting human needs through worldwide cooperation. How believable will our government seem if its first initiative in the United Nations is to withdraw from a major agency dedicated to that purpose? If the United States does make good its threat to secede, Ambassador Andrew Young's well-meant rhetoric will surely fall on deaf ears at this autumn's session of the General Assembly, for it is no longer enough just to speak of commitment.

But more is at stake than living up to our new Third World policies. We must also bear in mind that members of the European Common Market have urged the United States to withdraw its letter of intended resignation, as have other democratic countries among the ILO's 136 members. Our departure would mean increased domination in the ILO by Third World and Communist delegates—to the further detriment of its operations.

Instead of closing the door on future participation, Carter should instruct Secretary of State Vance to write a new letter to the ILO proposing a comprehensive review during 1979–80 of how well each delegate actually represents labor, management and government. The letter should also specify that the United States will reevaluate its decision on continued membership in light of the findings.

In the meantime, the Carter foreign policy will have had time to mature and temper the international climate. This more moderate course should satisfy those worried about the erosion of ILO principles, and at the same time allow the Administration to bring about reform on its own terms.

John McDonald, an American, is currently the ILO's deputy director. Seeing little usefulness in pulling out now, he asked: "If the United States chose to leave, what does it have to gain?

"The American tradition has been to stay and fight for what they think is right and not to run," McDonald added in assessing our dilemma. "It (quiting) would be a suggestion that the United States was returning to an attitude of isolationism."

[From the New York Times, August 14, 1977]

WHY STAY IN THE ILO?

A Cabinet committee meets this week to decide whether the United States will leave the International Labor Organization. In late 1975, Henry Kissinger officially informed the organization that unless it took steps to get politics out of its proceedings, the United States would withdraw after a mandatory two-year waiting period. Departure would give some moral satisfaction to some Americans. But it would be a mistake.

Without American participation, the I.L.O. would become even more ensnarled in political wrangling. And without America's financial support (currently a quarter of its budget), the organization would be forced to curtail useful and necessary work.

The I.L.O. was founded nearly six decades ago to improve the lot of working people by promoting international standards for working conditions. Through its promulgation of labor codes and its careful, well-publicized investigation of abuses, it has had an enormous impact on human rights worldwide. Its tripartite structure—each country sends two government representatives and one each from labor and management—reflects the democracy of its Western founders.

The American withdrawal notice was triggered by two actions concerning Israel. First was the passage in 1974 of a resolution criticizing labor conditions in Israel's occupied territories, adopted against the wishes of the organization's Governing Body, with none of the usual documentation of violations. Second was admission to observer status of the Palestine Liberation Organization. These actions were voted by a bloc led by the Arab states and the Soviet Union. They reinforced longstanding American complaints, especially on the part of the A.F.L.–C.I.O., against the introduction of "irrelevant" political issues into the I.L.O.'s proper business.

The A.F.L.–C.I.O. top leadership is evidently determined that the United States should now go through with its announced intention to withdraw. Yet the record of the past two years is largely good. In two regular and two special I.L.O. conferences, no resolution concerning Israel, Zionism or the Middle East has passed. Measures have been taken to strengthen tripartism, whose weakening through national bloc voting by government-controlled trade unions had particularly distressed American labor. And the governments of all the industrial democracies have urged Washington to stay in, saying that they now realize that its fight is their fight too. Where they once stood on the sidelines, they now promise vigorous support for America's stand against using the organization as an arena for political rhetoric.

These are favorable signs. But even the issue of "politics" has a new face and should be seen in perspective. The work of the I.L.O. is changing. Once mostly concerned with labor practices in industrial countries, it now increasingly focuses on pervasive unemployment and under-employment in poor countries. Its secretariat has done path-breaking work on development strategies designed to provide employment and meet what have come to be called "basic human needs." The issues raised by these new concerns—rural labor organization, land ownership, women's employment, technology transfer, the roles of multinational corporations—go to the heart of the way power is held and wielded in many countries.

The United States has much to contribute to this new I.L.O. agenda, not only expertise but political weight and financial resources.

This is particularly the case given the development policies and human rights goal of the Carter Administration. A number of influential Senators and Congressmen have urged the Administration to stay in the I.L.O. It should do so.

If it does, a real possibility remains that the American labor and management representatives will decide to leave their I.L.O. seats vacant. The Administration should try to persuade them to remain. But even if they departed, for two of the American chairs to remain temporarily vacant would be unfortunate, not disastrous. The vacancies would offer a useful demonstration to the world that the I.L.O. principle of tripartism is alive and well in the United States. And it would bear witness to the fact that the I.L.O. now focuses on development issues which, while not of immediate bread-and-butter importance to American labor and business, are nevertheless of profound long-range importance to the American Government and people.

PROPOSED PANAMA CANAL TREATIES: HEARINGS BEFORE SENATE COMMITTEE ON FOREIGN RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the CONGRESSIONAL RECORD of September 12, 1977, page 28700, Chairman SPARKMAN of the Senate Committee on Foreign Relations announced the start on Monday, September 26, of hearings on the proposed new Panama Canal Treaties. October 4 and 5 have been set aside for testimony from Members of the House and Senate.

As I have stated many times, the issues involved are not merely local ones between the United States and Panama, but questions of global significance affecting the future security of the entire free world as well as that of the United States. In this light, they are nonpartisan in character and must be resolved in the highest plane of national interest if our course is to be sound and our future well-being protected.

Mr. Speaker, I would urge all my colleagues interested in the security of the United States to request time with the Senate Committee on Foreign Relations to state their views on this vital matter.

For background information on the subject, attention is invited to the September 22 and 23, 1971, hearings on House Resolutions 74, 154, and 156 before the House Committee on Foreign Affairs when many Members of the House testified.

COSPONSOR'S NAME INADVERTENTLY OMITTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, last Friday when I introduced House Resolution 766, which encompasses the recommendations of the Commission on Administrative Review, I inadvertently omitted the name of Congressman PARREN J. MITCHELL of Maryland as cosponsor. With apologies for the oversight, I have today reintroduced the resolution with Mr. MITCHELL's name included.

INTRODUCTION OF LEGISLATION TO IMPROVE CONGRESSIONAL OVERSIGHT OF ARMS SALES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I am today introducing legislation to amend the Arms Export Control Act to extend the time period for congressional review of major weapons sales proposals from 30 calendar days to 45 days in which Congress is in continuous session.

As originally adopted in 1975, the landmark Arms Export Control Act provided Congress with 20 calendar days within which to disapprove major arms sales by adoption of joint resolutions of disapproval by the House and Senate. This time period proved inadequate, and last year Congress increased the time period from 20 to 30 calendar days. Recent experience, however, indicates clearly that this marginal increase is also insufficient to afford Congress the time necessary for careful consideration of weapons transfers which have major foreign policy implications. Moreover, the time period remained one of calendar rather than legislative days, thereby making no distinction between legislative sessions and recesses.

Events in the closing days of the last session dramatically demonstrated the shortcomings of the 30-calendar-day period. On September 1, 1976, just prior to the Labor Day recess, the President submitted to the Congress, pursuant to the terms of the Arms Export Control Act, proposals to sell arms to 11 separate nations at a total cost of over $6 billion contained in 37 separate transactions. Starting from the moment Congress received the executive announcement, the clock began ticking toward the 30-day deadline. Failure to act positively would mean that the sale would go forward exactly as proposed by the President. When Congress returned from the Labor Day recess, during the extremely busy closing days of the legislative session, the House and Senate had but 24 days within which to consider these 37 major arms sales.

The current proposal to sell AWACS to Iran is another example of the need for an extension of the congressional review period. The ongoing debate in Congress on the administration's proposal to sell seven E–3A airborne warning and control system (AWACS) to Iran for $1.2 billion has raised a number of very serious questions. Not the least of them is the ability of the Congress to be certain that it has enough time to debate fully and analyze thoroughly all major arms sales.

At present, there is nothing in the Arms Export Control Act which would prevent any administration from submitting a sale when Congress is not in session, thereby precluding the possibility of any congressional oversight or action. Only an unwritten, unspoken assumption that such action would violate the spirit of the act prevents such a decision by the executive to escape congressional oversight. It is time to write this assumption into law so that we do not confront the ever-present possibility that at some time in the future, some future President will be able to complete a major weapons sale which is opposed by the majority of the Congress and the American people by the simple expedient of proposing it during a congressional recess.

The legislation which I am introducing today is identical to a bill filed in the Senate by GAYLORD NELSON, who first introduced the requirement that the President report to Congress all major arms sales. The bill simply amends section 36(b) of the Arms Export Control Act to give the Congress 45 days during which it is in continuous session, rather than the present 30 calendar days, within which to consider and, if warranted, take action to disapprove by joint resolution all weapons sales in excess of $25 million. The only change is in the time period. "Forty-five days of continuous session" simply means that no days during a recess of either House of Congress of more than 3 days could count against the overall review period, in effect extending it for a corresponding amount of time. The legislative precedent for the continuous session formula is found in section 601 of the Arms Export Control Act of 1976. This proposed change in the language of the law would prevent a situation in which an administration could report one or several proposed weapons sales during the August recess, for example, and thus effectively prevent congressional review and a possible veto.

The bill would also provide for an increased review period in all instances. The complexity and significance of major arms transfers clearly mandates such an increase. If Congress is to act responsibly, hearings must be held and adequate time allotted for genuine debate of the merits of each side. It is unrealistic to expect that a resolution of disapproval of a proposed arms sale, a matter which requires comprehensive review and hearings in both Houses of Congress, could be passed in such a short period of time.

Increasingly, some of our Nation's most important foreign policy decisions take the form of arms transfers. We have witnessed an alarming increase in the volume of foreign military sales and a disturbing growth of sales to developing nations and those in very volatile parts of the world. In addition, the weapons which we sell are more sophisticated and destructive than ever before. In contrast to the days when we sold surplus stocks almost exclusively and confined these sales largely to traditional allies, today we sell our most advanced and deadly military weapons systems to nations throughout the world, many of which have traditionally been hostile to the policies and interests of the United States. If Congress is to exercise responsibly its oversight of American foreign policy, it must be able to analyze carefully and, if necessary, disapprove foreign military sales. This

is difficult if not impossible under the existing 30-calendar-day review period.

It is essential to note that major weapons sales are not the subject of spur of the moment decisions; they are discussed, planned, and negotiated months or years in advance of the actual commencement of the transfer. Moreover, arms sales contracts can extend over several years. There is, therefore, no reason to believe that a slightly extended period of time for congressional review would be onerous for the prospective arms buyer or for the Department of State or Defense. At the present time, $32 billion worth of foreign military sales have been approved by the Congress, but have yet to be delivered to the recipient nation. Clearly, the addition of a few days or weeks to the process of foreign military sales will not have any deleterious effect.

Nor does anyone need to fear that the additional review period might prevent the United States from providing military supplies to an ally during an emergency. The most recent example of such a situation was the Middle East War of 1973. At that time, Israel, under attack on two fronts by enemies who were being supplied with massive quantities of arms by the Soviet Union, needed replacement equipment. This was provided in the form of grants, not sales. Thus, any repetition of the emergency which occurred in the Middle East would result in U.S. arms transfers totally outside the scope of the Arms Export Control Act and the oversight mechanisms contained therein.

Mr. Speaker, there is simply no reason for us to delay in taking the necessary action to improve congressional oversight of major arms sales. At present, that oversight responsibility is seriously compromised by a time period which is too brief and method of computing that time period which is subject to abuse by the Executive. In order to permit Congress to review major arms sales effectively, we must amend the Arms Export Control Act so as to extend and revise the period of time within which Congress can act. S. 1973, introduced by Senator GAYLORD NELSON, would accomplish this most important goal. Today, I am introducing identical legislation in this body. It is my hope that the House and Senate will act promptly on these measures, so that Congress can assume its proper role in the oversight of all future arms sales.

The text of the legislation follows:

H.R. 9223

A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 36(b)(1) of the Arms Export Control Act is amended by striking out "thirty calendar days after receiving such certification" and inserting in lieu thereof "the first period of forty-five days of continuous session of Congress after the date on which Congress receives such certification."

REORGANIZING FEDERAL PROGRAMS FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, during the campaign, President Carter pledged that he would "coordinate and consolidate our Federal programs to serve the aged so that our effort is efficient, manageable, and most of all comprehensible to, and usable by those for whom it is intended." The members of the Select Committee on Aging, which I have the privilege of serving as chairman, have long advocated such a reorganization of Federal programs in order to better meet the needs of the elderly. Many of our committee's hearings have revealed that one of the major problems in getting necessary benefits and services to the elderly is the fragmented delivery system itself. The proliferation of uncoordinated programs creates a situation in which older persons are shuffled from office to office only to emerge confused, degraded, and still without the help they need.

When an older person has a need for a particular service, for example in-home health services, where can he turn for help? The answer, unfortunately, is "it all depends." Home health and supportive services are provided under medicare, medicaid, the social services program under title XX of the Social Security Act, home health demonstration grants under the Public Health Service Act, two different titles of the Older Americans Act, the senior companionship and RSVP volunteer programs under Action, the older Americans community service employment program, senior opportunities and services under the Community Services Act, and other statutes. All of this adds up to a bewildering maze of programs and regulations that is a nightmare for the elderly person trying to find a way through it.

During the transition from the Ford to the Carter Presidency, the Committee staff worked closely with the Carter transition team. At the then-incoming administration's request, I submitted an option paper containing possible recommendations for the reorganization and streamlining of Federal programs serving the elderly. I am pleased to report that a number of these options, including first steps toward combining medicare and medicaid under one administration, have since been implemented. However, there is much more work ahead before we can accurately claim that the Federal Government's efforts are "efficient, manageable, comprehensible to and usable by older persons themselves."

These remarks represent an update on the status of efforts to accomplish these objectives.

Before discussing specific recommendations, it is important to note that there is no single best way to reorganize the Federal Government. This might best be understood through a homely analogy. If a person wishes to purchase a pair of sneakers there are a number of different retail outlets from which he can get them—shoe stores, sporting goods stores, a PX, stores specializing in selling sneakers, department stores, or a general store. Who is to say which is the best at providing goods to the public since this will vary depending on such factors as whether it is an urban or rural area and the type of sneaker desired? Similarly, we approach efforts to streamline the Federal Government's delivery system by recognizing that to be successful it must combine a variety of approaches. On the one hand, we cannot simply expect the elderly to fend for themselves in trying to get needed services and benefits through programs that aim not just at the elderly, but other segments of the population. Such an approach is ruled out by their specialized needs and frequently by the added problem of lack of mobility. At the same time, we cannot simply construct a series of specialized delivery systems and individual bureaucracies for the elderly. That approach would in fact increase, rather than decrease, the kinds of proliferation of Federal programs that we are concerned about. For example, one large city administrator of aging programs told me that because of differing Federal programs, statutes, and regulations, his city must operate completely separate "meals on wheels" services for the homebound elderly, disabled, and other groups. The absurdity of a situation in which buses delivering meals pull out of a housing project after serving the elderly and pass another bus about to provide the same meals to other residents of the same housing project is evident. Clearly, the utilization of a combination of these mainline and specialized—as well as other—approaches, depending on the situation, is the only way of maximizing Federal efforts to aid the elderly.

It should be noted, Mr. Speaker, that this update touches only peripherally on the organizational changes needed in the structure administering the Older Americans Act, which is the principal vehicle for delivery of social services exclusively to the elderly.

This does not indicate a lack of interest in this area by the Select Committee on Aging. Rather, it reflects a desire by the committee to make considered, comprehensive judgments on these issues, as a result of the inquiry we are not undertaking into the act. Three days of hearings have already been held specifically on the Older Americans Act, and several more will be necessary before my committee settles on its recommendations.

With all of this in mind, Mr. Speaker, I make the following recommendations which have grown out of Aging Committee hearings to date:

(1) UPGRADING THE POSITION OF THE ADMINISTRATION ON AGING WITHIN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Congress clearly established the Administration on Aging with the intention that it should have high visibility within HEW, in order for it to effectively administer the various Older Americans Act programs and serve as a focal point for all aging programs in the Federal Government. In fact, in 1974 amendments to the Older Americans Act, language was included prohibiting delegation of the Commissioner on Aging's functions to any officer not responsible to the Commissioner. In addition, earlier congressional amendments—that were vetoed by then-President Nixon—required that the Commissioner would be responsible only

to the Secretary of Health, Education, and Welfare.

Unfortunately, the most recent reorganization of HEW seems to cast doubt on whether or not these requirements are being met and congressional intent ignored. The Administration on Aging has been designated as part of the Office of Human Development Services and, therefore, is under the direct supervision of the Assistant Secretary and Deputy Assistant Secretary. Furthermore, I understand that the Assistant Secretary has instructed AOA as to which aging research programs will receive funding despite the fact that clearly such direction is the job of the Commissioner on Aging himself.

The Aging Committee takes note of this issue and intends to focus on the bureaucratic limitations of AOA's effectiveness as part of its hearings on older Americans programs oversight. In addition, I am hopeful that next year, when the Older Americans Act reauthorization is before the Congress, an amendment will be added to require that the Commissioner is to be responsible only to the Secretary of Housing, Education, and Welfare.

I find it tragic that once again these badly needed aging programs seem to have been given such a low priority. One can only wonder if this latest subversion of congressional intent will result in a return to a situation resembling the way a 1971 advisory council characterized AOA:

. . . the AOA falls far short of being the Federal 'focal point on aging' sought by Congress. Instead its concerns are splintered and scattered; there are limited, if any, policies and few clear-cut goals. Recent reorganizations have not strengthened Federal programs and commitment in aging in any way. Rather, they have fragmented an already flawed and feeble agency still further. This situation has created chaos as well as a lack of direction in Federal and State programs.

(2) SINGLE PURPOSE APPLICATION WITH AUTOMATIC REFERRAL SYSTEM (SPAARS)

A direct result of the proliferation of programs affecting the elderly is the increased amount of paperwork required of elderly people trying to secure benefits and services. For example, at a recent committee hearing on "Weather Disasters and the Elderly" it was pointed out that older persons find that they are faced with a Federal Government unresponsive to their needs, burdening them with literally reams of often duplicative forms. Naturally, I am not implying that the Federal Government should cease collecting information vital to administering its programs, but it seems obvious that the Congress and executive agencies can take important steps to eliminate duplication among data requests by a single agency, by several agencies within a single Federal department, or between departments. A genuine commitment to techniques and methodologies which reduce paperwork while assuring that legitimate Government data needs are met is imperative in order to effectively assist the elderly while retaining their dignity and self-worth. Furthermore, as Representative FRANK HORTON, chairman of the Commission on Federal Paperwork, said in testimony before the Aging Committee, such a consolidation would also save enormous sums of money which could be devoted to providing services rather than to administration.

The Federal Government already has the capability to reduce the amount of paperwork associated with programs serving the elderly. For example, the SPAARS concept has been tested in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Based on that study, the idea has been endorsed by the States of Massachusetts and New York, and the counties of Los Angeles and San Diego. Their recommendations are especially significant since together their caseload of poor, elderly, and disabled persons accounts for over 50 percent of the Nation's total caseload. In addition, the Commission on Federal Paperwork has recommended the implementation of SPAARS and estimated that this could result in savings of up to $6 billion annually.

I feel strongly that there would be tremendous advantages in instituting such a system on a nationwide basis wherever feasible. For example, it has been pointed out in testimony before the Aging Committee that the average welfare recipient may be eligible for benefits from up to six separate existing programs. Under current procedures an individual would have to make six separate—and largely duplicative—applications to establish his eligibility.

Even if President Carter's welfare reform proposal is adopted—with its combining of various welfare programs—it will not be fully implemented until 1980 at the earliest. As such, unnecessary and duplicative paperwork would continue for at least 3 more years without the institution of SPAARs. Furthermore, SPAARS can and should go well beyond the President's welfare plan by consolidating application forms for other means-tested program. By combining all these program forms into one single application, individuals would be spared the frustration and humiliation of repeated and unnecessary questioning.

(3) INCREASED INTER-AGENCY COORDINATION

For existing Federal programs to be truly effective in aiding the elderly, it is essential that there be close cooperation among them. In this regard, I applaud President Carter's appointment of Nelson Cruikshank to the position of counselor to the President on Aging. The counselor should serve as a focal point for all executive departments and agencies administering programs related to older persons. These departments include Agriculture—food stamps, HEW, HUD, Labor, and DOT. Agencies include ACTION, Community Services Administration, Legal Services Corporation, Railroad Retirement Board, Small Business Administration, the Civil Service—retirement, and the Veterans' Administration.

As the President's counselor on aging, Mr. Cruikshank should have input into all regulations which affect the elderly that are promulgated by these departments and agencies. Beyond this, he should have the authority to better coordinate their activities. For example, the counselor could represent the President in achieving interagency agreements that would result in joint efforts to facilitate more effective delivery of services and benefits. This White House involvement in interagency agreements—including final approval of such agreements by the President and his staff—would be a significant improvement from the present system where the Commissioner on Aging, with his own low bureaucratic status in HEW, faces great obstacles in attempting to fill this role of advocate within the Federal Government.

When our committee met with President Carter at the White House on July 15, I was pleased that the President endorsed our committee's recommendations for direct White House involvement in interagency agreements.

(4) CREATION OF ASSISTANT SECRETARIES FOR ELDERLY HOUSING, TRANPORTATION, LABOR, AND HEALTH

To facilitate greater responsiveness by the Federal Government to the elderly and increased interagency cooperation it is necessary to create advocacy positions—that might be viewed as parallel to the counselor's role in the White House—within the various Federal agencies and departments. The current situation in many departments, where no one is specifically designated with such authority, means that, intentionally or unintentionally, there will be less concern with how various programs affect the elderly. It is also important that where a person has this role they also have the authority to be effective in carrying out these duties. For example, in the Department of Transportation there is an assistant to an assistant to an Assistant Secretary who deals with the concerns of the elderly.

The select committee has already cited four priority departments where this need for an advocate of the elderly is especially pronounced; the Departments of Health, Education, and Welfare; Transportation; Housing and Urban Development; and Labor. The committee has recommended that in each of them, an Assistant Secretary for the Elderly be appointed. For example, in an earlier report, the committee recommended the establishment of an Assistant Secretary for the Elderly in HUD who would have authority to plan and control the use of funds available for housing and related facilities for the elderly. In addition, this Assistant Secretary would have responsibiilty for developing policies and procedures supervising the operation of these elderly facilities. Where appropriate he could develop legislation. Most important, he would be an advocate, problem solver, and administrator within HUD for the elderly.

(5) MERGING MEDICARE AND MEDICAID

Currently the Federal Government operates two essentially independent programs aimed at helping the elderly afford needed health care—medicare, a federally funded program for all elderly persons, and medicaid, a joint Federal-State program which aids, among others, poor elderly persons. To a large degree, each of these programs has its own ad-

ministrators, regulations, application forms, and procedures for insuring quality and detecting fraud, although the operation of these programs involves many of the same providers, quality reviews, cost reviews, and payment agents. As HEW itself has conceded, "this duplication is a deterrent to prudent management of health care funds."

In March Secretary of Health, Education, and Welfare, Joseph A. Califano, announced the establishment of "a new organization to be known as the Health Care Financing Administration." He claimed this would "place under one Administrator the oversight of medicare and medicaid programs and related quality programs control staffs." While the first step is highly commendable, it is unclear at this time whether further action has been taken to realize the goal of continuing medicare and medicaid. I see no reason why HEW could not utilize combined claims forms for individuals, institutions, and professionals seeking reimbursement for services received or provided. According to the Paperwork Commission, such a uniform claims form would save "hospitals alone $80 million a year." Beyond that, other steps should be taken as soon as possible to facilitate such a merger. Nursing homes, for example, should no longer have to meet one set of regulations, because it has medicare patients and be subject to a second set if it also has medicaid patients.

(6) COMMUNITY LONG-TERM CARE CENTERS

The Committee on Aging has recommended that legislation be enacted to create a system of community long-term care centers. A means of coordinating the provision of the range of services that older Americans suffering from chronic illness or disability may require. Services would include home health care and homemaker support, nutrition, long-term institutional care, day care, foster homes, and outpatient mental health care. These centers would thus provide linkage among providers in the otherwise fragmented delivery system with the result being greater accuracy in matching persons with the type of care needed. Since the patient would be able to turn to a single source for information on the types of services available, they would be better able to choose, for example, whether or not institutionalization in a nursing home is really necessary.

The center would evaluate and certify older Americans' needs for services through a team composed of individuals with the skills necessary for such evaluation and certification. The care prescribed would be based on the maintenance of an individual in an independent living arrangement if reasonable, given the individual's state of health and other circumstances. Hospitals, skilled nursing facilities, or home health agencies would be considered to have a transfer agreement with a community long-term center when such transfer is deemed medically appropriate by the attending physician. Interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between such hospitals and other facilities would be provided for in determining whether patients can be adequately treated outside a hospital or skilled nursing facility.

(7) GREATER COORDINATION IN FEDERAL EFFORTS RELATED TO HOME HEALTH CARE

The Committee on Aging has strongly recommended as one of its highest priorities increased appropriations for home health care. Yet this will be ineffective if it is not coupled with coordination within the Federal Government among those funding sources involved. As I have already noted, such funding is currently available from at least eight different programs—each acting independently with little consideration of ways to reduce duplication and increase efficiency. The one limited arrangement—a task force which did not include representatives of many of these programs—was ironically, at one point, chaired by the Office of Nursing Home Affairs of HEW. I am pleased that was changed—at our committee's request—to avoid the apparent structural conflict of interest. However, with the increased amounts that Congress has appropriated for home health care; for example, the fiscal year 1978 appropriation for the demonstration and training programs administered by the Public Health Service was double that of fiscal year 1977—it has become imperative that still more effective coordination be instituted.

(8) IMPROVED COORDINATION AMONG TITLES OF THE OLDER AMERICANS ACT

The Committee on Aging is examining such issues as the need for closer coordination, or even a merging, among the service delivery titles of the act—III and VII—and the senior centers title (V); authority for area agencies on aging to comment on Federal outlays for the elderly outside the Older Americans Act; the conflict between coordination duties and service delivery duties imposed on agencies on aging; integration of a major new home-delivered meals effort into the current congregate meal program; proper placement of such activities as community service employment and older volunteer programs within the executive branch; coordination among various agencies performing or funding research to benefit the elderly; and many others.

In conclusion, I can only add that these recommendations do not represent the committee's definitive answers, but rather indicate some of the solutions that have grown out of our hearings, investigations, and reports. We will continue to pursue the need for legislative and executive changes to facilitate improvements in the delivery of services and benefits to the elderly. We look forward to continuing to work closely with the President and various other congressional committees in moving toward the day when the Federal Government's effort to aid the elderly really is "efficient, manageable, comprehensible to and usable by those for whom it is intended."

1978: ANOTHER YEAR OF RECORD TRADE DEFICITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 60 minutes.

Mr. VANIK. Mr. Speaker, as everyone knows, this year, because of declining exports and increasing imports—particularly oil imports—the U.S. trade deficit has reached record levels and will probably total $25 to $30 billion.

I have announced that on or around November 1, the Subcommittee on Trade of the Ways and Means Committee will hold hearings on the cause of this enormous deficit and the implications of this deficit for the domestic and world economy. At the request of the subcommittee, the Congressional Budget Office is preparing a major study of the trade deficit situation and its economic implications.

In order to obtain information on whether the 1977 deficits are likely to be a recurring problem, on August 22, I wrote to Treasury, Commerce, and the Federal Reserve System asking them to provide me with estimates on the probable U.S. trade deficit for next year.

The answers are not encouraging. While no one can predict precisely what will happen, it appears that the United States will have another year of $25 to $30 billion trade deficits. Secretary of the Treasury Blumenthal wrote:

Assuming a continuation of present slow recovery rates and balance of payments difficulties in many of our export markets—we would not expect to see much, if any, reduction in our deficit during 1978.

Stephen Gardner, Vice Chairman of the Federal Reserve System wrote:

. . . on the basis of foreseeable trends in economic activity and inflation rates here and abroad, our staff does not now expect a major change in the U.S. trade balance next year.

Stanley Katz, Deputy Assistant Secretary of Commerce for International Economic Policy and Research wrote warnings of the difficulties of making balance of trade estimates, but noting that:

. . . it appears unlikely at this time that foreign demand will intensify to the extent that the U.S. trade deficit will be reduced significantly.

I cannot believe that a 2-year deficit of $50 billion is wise or good for the United States. While oil imports are not the total picture, they are certainly the major cause of this enormous trade deficit. Unless the United States cuts down on its oil imports through conservation and the development of alternative sources of energy, it appears that we will be running $25 to $30 billion deficits indefinitely—or until we run out of means to pay for such extravagance.

The full text of the letters follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., September 6, 1977.

Hon. CHARLES A. VANIK,
Chairman, Committee on Ways and Means, Subcommittee on Trade, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: For this year, we expect that the U.S. trade deficit on a balance of payments basis will probably come out on the high side of $25 billion, but less than the $29½ billion annual rate which we reached during the first half.

This very large increase from last year's $9.2 billion deficit will be due roughly half

to increased volume and prices of oil imports, and half to unusually slow growth in our non-agricultural exports compared with a generally normal cyclical recovery in our aggregate volume of non-fuel imports.

For next year, we are not prepared to hazard a numerical estimate at this time. However—assuming a continuation of present slow recovery rates and balance of payments difficulties in many of our export markets—we would not expect to see much, if any, reduction in our deficit during 1978.

Sincerely,

W. MICHAEL BLUMENTHAL.

BOARD OF GOVERNORS,
OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., September 8, 1976.

The Honorable CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In Chairman Burns' absence, I am pleased to respond to your letter of August 22 requesting an estimate of the U.S. balance of trade in 1978.

The staff of the Board of Governors of the Federal Reserve System regularly prepares forecasts of the U.S. trade balance, although these estimates do not constitute official Federal Reserve forecasts. This work often involves consultation with staffs of other interested agencies, several of which I presume you have contacted.

In the first half of 1977, the United States had a merchandise trade deficit of $29.8 billion at an annual rate of an international accounts basis. In comparison, the U.S. trade deficit was $9.2 billion for all of 1976 and $12.7 billion at an annual rate in the second half of 1976. The swing in the U.S. trade deficit appears to have been the result of a rapid rise in U.S. oil imports, which in part was a consequence of our severe winter, a strong increase in non-oil imports associated with the expansion of our domestic economy, and relatively sluggish exports reflecting the slow rate of expansion of economic activity in most foreign countries. Our staff does not expect any significant change in the U.S. trade deficit during the remainder of 1977. Furthermore, on the basis of foreseeable trends in economic activity and inflation rates here and abroad, our staff does not now expect a major change in the U.S. trade balance next year. However, given the extreme volatility that has characterized trade patterns in recent years, such judgments are subject to very large margins for error and require frequent reevaluation.

I hope that these comments are helpful to you.

Best wishes,

Sincerely,

STEPHEN S. GARDNER.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 8, 1977.

Honorable CHARLES A. VANIK,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have been asked to respond further to your request of August 22 to Secretary Kreps for an estimate of the U.S. balance of trade in 1978.

We are unable to provide a precise quantitative estimate of next year's balance at this time because of the many uncertainties surrounding the foreign trade outlook. Among the major question marks which have arisen just in the past few days, for example, are the effects of new farm policy proposals on the price and supply of U.S. grain, and of measures that may be implemented by Germany and Japan, two of our major trading partners, to accelerate economic growth for the specific purpose of reducing their large trade surpluses. With exports and imports now of such a great magnitude that even a one percent shift in direction would amount to several billion dollars in the balance, it has become especially difficult to predict the difference with any degree of exactness.

We can, nevertheless, offer the following observations which may be helpful in foreseeing U.S. trade developments next year. It now appears quite probable that the U.S. trade deficit in 1977 will amount to more than $25 billion, based on f.a.s. trade values. Because imports are so much larger than exports, any substantial reduction in the 1978 deficit would require that the growth in exports exceed that in imports by a considerable margin. Such a development would imply a greatly accelerated increase in sales abroad over this year's 6½ percent rise through July and a significant slowdown in the rate of growth of purchases of foreign goods, which are now running 26 percent over the same period of 1976.

Based on current expectations, a lower rate of increase in imports in 1978 seems in prospect, given forecasts for a reduced pace of economic growth in the United States and the absence of this year's unusually large increases in the value of petroleum and coffee imports. Exports, on the other hand, may gain momentum if economic recovery picks up in industrial countries abroad and some of our major trading partners among the developing nations step up their purchases. Nevertheless, it appears unlikely at this time that foreign demand will intensify to the extent that the U.S. trade deficit will be reduced significantly.

I hope that these comments will be useful to you.

Sincerely,

S. STANLEY KATZ,
Deputy Assistant Secretary for International Economic Policy and Research.

EXIMBANK DELAYS LOAN DECISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I am inserting in the RECORD a further communication from the Eximbank concerning a proposed loan of $75 million to Japan for the purchase of raw cotton from the United States. Information on the proposed transaction appears on E5509 of the September 12 RECORD. The communication I am inserting today announces the Bank's intention to allow an additional 2-week period for congressional consideration of the proposed loan beyond the normal 25 days we are given under the statute.

The article follows:

The Honorable STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, the Board of Directors of Eximbank may not finally approve any loan or financial guarantee or combination thereof in an amount which equals or exceeds $60,000,000, until at least 25 days of continuous session of Congress have elapsed from the date Eximbank submits a detailed statement to Congress describing the transaction involved.

On September 7, 1977, Eximbank notified Congress that it is prepared to provide financing to assist The Bank of Tokyo, Ltd. in purchasing from the United States $75,000,000 worth of raw cotton. While the 25 legislative day period for the subject transaction would run through October 1, 1977, please be advised that in response to your request, Eximbank will not take any action until after October 14, 1977.

Sincerely,

DELIO E. GIANTURCO,
Vice President and Vice Chairman, Export-Import Bank.

TEXTILE IMPORTS—A PROBLEM FOR THE COTTON FARMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. BOWEN) is recognized for 5 minutes.

Mr. BOWEN. Mr. Speaker, when we hear the words "textile imports," most of us quickly picture in our minds a problem of the U.S. textile industry. This is indeed a correct picture. Our textile industry must obey wage/hour laws and spend billions to reduce dust, noise, water pollution, and meet other Government regulations which affect few if any of its overseas competitors. If our country has no textile trade agreements or has some which are overly permissive, then low-wage, unregulated countries can take our textile markets almost at will.

But the words "textile imports" should conjure up a broader image—one that also includes a big problem for U.S. cotton farmers, ginners, cottonseed crushers, warehousemen, merchants, and all who sell them supplies and services.

Last year 1½ million bales of cotton were imported in textile form. I am told that about 21 percent of the cotton in those textiles was grown in the United States, processed overseas, and sent back to us in textile form. The rest was grown in foreign countries. If domestic mills rather than imports had filled this demand, virtually the whole amount would have been U.S. cotton. This would have given farmers an additional market of 1.2 million bales—the portion of textile imports made from foreign cotton. That is more cotton than farmers in my home State of Mississippi grew in either of the last 2 years, and we are the third largest producing State.

Let us examine the effect that 1.2 million bale market would have had on our Nation's economy if it had gone to U.S. cotton growers rather than to foreign producers. USDA recently published an input-output analysis for cotton and some other crops. It showed that for every dollar's worth of added cotton production, another $2.32 in production is required from suppliers of goods and services to the cotton industry and their suppliers. The study also showed that cotton, in comparison with other crops, has an exceedingly high "ripply" effect on the Nation's economy.

If you value that extra 1.2 million bales at 60 cents a pound, it comes to $346 million. Multiply this figure by $2.32, and you find that more than $800 million in sales would have been generated through out our economy. This would have created more jobs, more consumer spending, and a healthier national economy. And it does not even take into account the additional jobs and economic activity which the textile industry itself would

have generated if the textiles had been produced here rather than abroad.

Textile imports also affect soybean and grain farmers. If the foreign cotton portion of the textile imports had been grown in the United States, the extra cotton acreage would have come largely out of soybeans and grains. As a result, these crops would now be enjoying somewhat higher prices. And the Federal budget might have been spared some of the deficiency payments and price support loans in grains that it will probably have to make this fall or early next year.

Actually, the 1.2 million bales of cotton that would have been needed without cotton textile imports is a conservative figure. In addition to cotton textiles, the equivalent of another million bales was imported as man-made fiber textiles. These textiles compete directly with our cotton on the domestic market. The extent to which they replaced cotton would have required an even larger acreage.

For many years, we have had some very mild restrictions on cotton textile imports under international agreements. Since 1965, these imports have almost doubled while the domestic market for cotton has dropped by a million bales. Last year, cotton textile imports accounted for more than 19 percent of the U.S. consumer market for cotton compared with less than 8 percent in 1965. If this trend continues, it can only lead to destruction of cotton farmers' best customers—the domestic mills.

Those of us concerned about textile imports are not asking that they be cut off completely or even rolled back. We appreciate the fact that developing countries need to export their products. For one thing, they need foreign exchange to buy our cotton. Therefore, we ask that textile imports be allowed to continue growing—but not at the rate of past years. We want to share our domestic market growth with these textile suppliers. But we do not want them to take all the growth and then some. We submit that textile imports should grow no faster than the domestic market grows. This is fair to them and reasonable for us. It is a position our negotiators should stand firmly on.

NATIONAL COUNCIL OF YOUNG ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York, (Mr. ADDABBO) is recognized for 5 minutes.

Mr. ADDABBO. Mr. Speaker, it has become the current vogue to criticize federally funded programs. It is equally important, therefore, that we give recognition to those programs which prove that progress and achievement can be obtained by organizations acting for and with the Federal Government. Such a program is coordinated by the National Council of Young Israel, and its division, the Young Israel Employment Bureau.

The council is a nonsectarian organization with an outstanding federally sponsored program in on-the-job training. Its achievements highlight not only its own exemplary record, but that of the U.S. Department of Labor.

Established in 1929, and operating out of its national headquarters in New York City, the National Council of Young Israel operates branches in 17 States and employment bureaus in 5 States. Its first employment bureau sought to aid the unemployed of all ethnic backgrounds, expanding to meet the needs of returning veterans after World War II. The year 1966 saw the beginning of a long and fruitful partnership with the Federal Government as the council initiated its first on-the-job training program under the auspices of the Department of Labor. Since that time, under the direction of the program's founder and director, Ephraim H. Sturm, the council has successfully implemented 12 employment contracts.

The council's national programs in California and Florida were instituted as independent CETA projects; subsequently similar programs were created in Ohio, Michigan, and Missouri. Each has shown that, when compared to local CETA programs, the council's ventures are more cost effective.

Consider the following statistics. The initial program called for the placement of 70 people in both California and Florida. Reimbursement for training costs was 50 percent; each area was manned by one job developer at an annual salary of $9,816 and a secretary earning $6,165. Actual reimbursement costs were $600 per trainee, or $300 per trainee on a one to one basis. Nationally speaking, CETA job developers average an annual salary of $15,000 with $8,500 for a secretary, and reimbursement costs soar well over $1,500. The council's program was completed in July of this year with a 120-percent performance record, CETA is happy with 80 percent; their average retention rate is over 90 percent, while CETA's is approximately 60 percent, with 70 percent considered a good overall figure. In addition, the council improved the job entrance rate of their trainees from $3 to $6 for reimbursable trainees and from $2.90 to $4. for non-reimbursable ones.

It should also be noted that all council trainees are placed in programs which will impart specific skills and talents. Among those trained are office machine mechanics, carpet cutters, clerk-typists, orthopedic shoe fitter, automechanics, secretaries, bookkeepers, metal fabricators, store managers, machinists, medical assistants, geriatric nurses, jewelers, store managers, security officers, and the like. All these areas have favorable job outlooks for the future.

Given these facts, it is not surprising that, this past summer, the U.S. Department of Labor elected to recycle the council's Young Israel Employment Bureau national program in Detroit, Cleveland, and St. Louis; nor is it surprising that the Department has singled out this viable program as a measure of evaluating the effectiveness of local CETA projects. The Assistant Secretary for Employment and Training, the Honorable Ernest Green, and his staff, deserve our commendation and appreciation for recognizing the contributions made by this organization. The experiences and achievements the Young Israel National OJT programs could well serve as a model for similar projects.

EXPERTS CRITICAL OF CANADIAN SACCHARIN STUDY

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, science does not have the data to state that there is a clear link to saccharin and human bladder cancer and Government action to ban the artificial sweetener based on limited—and possibly flawed—information is not justifiable.

This was the consensus of a panel of four leading medical researchers who appeared at a congressional briefing on saccharin held at the Rayburn House Office Building, September 15.

The researchers were: Dr. Philip Cole, associate professor of epidemiology at the Harvard School of Public Health; Dr. Irving Kessler, Johns Hopkins University; Dr. Ernst Wynder, of the American Health Foundation and Dr. John Bricker, director, Institute of Kidney Diseases, University of Miami School of Medicine.

Additionally, a new paper commenting on the U.S. saccharin action from Sir Richard Doll, head of the department of medicine at Oxford University, and a world-renowned epidemiologist, was also read by Dr. Cole.

In opening the session, I stated I have received more spontaneous mail on saccharin than on any other issue in the 10 terms I have served in the House. I criticized the Food and Drug Administration as unwilling to accept "uncritically" any information on saccharin which does not fit in with the agency's conclusions. Therefore it was important that Congress have access to all the facts if it is to act legislatively on this important subject before adjournment in October.

Dr. Kessler, who opened the discussion, directed a study of 1,038 human patients which concluded that saccharin is not carcinogenic in man and, in fact, found no significant differences between the patients and their controls.

Dr. Kessler said that the saccharin debate had produced more heat than light and that most scientists agree that one or two individual studies are not sufficient to show a causal relationship.

"Science takes many small steps, not one or two giant leaps forward," Dr. Kessler said, adding that while he was in favor of the aims of the Delaney clause, the rigidity of that clause mandates regulatory action based on a number of "dubious" scientific assumptions—such as that all species respond alike to environmental agents or that strains of test animals all react similarly to these agents.

Further, he said, a negative test response under Delaney could lead to the false assumption that all is safe and gives "a false sense of security." He recommends restructuring our regulatory system that relies on ad hoc professional panels, which can review problems and

make decisions flexibly, based on new information.

Referring to his own study of 519 patients and a like number of controls, Kessler said there was "remarkable similarity" between the way the bladder cancer patients and their controls used artificial sweetener. If saccharin had a significant impact, such a statistical pattern could not develop, he said. The relative risk in both sexes, he said, was insignificant—meaning no real difference in those who use saccharin or those who do not. Nor was any dose response manifested in the test sample.

Dr. Wynder referred to his editorial in the June issue of the Journal of Preventive Medicine, which also urged modification of the Delaney clause. The editorial urged that if a given material presents a risk to man, it should be weighted against cost/benefit.

Saccharin, he said, has had a long human experience but he felt the epidemiology is complex and requires more study. His own data thus far show no positive correlation of saccharin with cancer, Wynder said. A congressional moratorium would allow time for study, he added.

Dr. Cole noted that the original Canadian rat studies subjected the test animals to a 5-percent saccharin feeding ratio—a diet which he called "totally unreachable by humans," representing a 500-fold increase over what is tolerable. The difference between test results for male and female rats, he said, is "totally inexplicable."

He warned against generalizing from animal studies and added he could not see using these megadose studies as the basis for policymaking decisions.

According to Cole, seven studies have been made—two involving diabetics; three control studies and two time trend studies. The diabetic studies were negative, showed no increase in cancer; all three control studies were negative and the two time trend studies, one in the United States and one in the United Kingdom, also have failed to show any rise in cancer even though they cover a period following World War II when saccharin use increased.

As Cole indicated, the difficulty with lab tests is that there is no statistical way to show how like a rat is a male or female human. Thus generalization from these studies is difficult. While Dr. Cole did not read at length from Dr. Doll's paper because of time limitations, the audience got the impression that the dean of epidemiologists also looks with disfavor on accepting the Canadian test data as convincing.

Dr. Bricker, who is not an epidemiologist, announced the results of his new study on the kidney function of test animals. His studies show that the transfer of saccharin—renal extraction—is a function of the kidneys but that this capacity has a maximum rate which can become saturated or overloaded. "It seems likely that feeding (rats) at 5 percent provides levels high enough to saturate," he said.

Mr. Speaker, our colleague, Congressman JAMES MARTIN of North Carolina, an organic chemist and a leading opponent of the FDA saccharin ban, also noted that studies of animal test feedings at lower levels also showed no significant increase in cancer and suggested a possible threshold level of 2 percent. Cole warned, however, that the 2 percent threshold is "only reasonable because we are so ignorant."

In a question and answer period which followed, Dr. Kessler said animal studies involving major public policy questions should not be small test samples. The Canadian test involved 50 rats. "Society can afford 100 or even 1,000 rats if the problem is important enough," he said. He urged that society work to bridge the gap between laboratory tests and epidemiology.

In response to my question whether there is a risk to the public based on consumption of saccharin in today's products, Kessler, Cole, and Wynder were emphatically negative.

Cole said there is "no evidence at present of which I am aware that humans are placed at increased risk of cancer because of ingestion of saccharin."

Kessler said "a prudent answer is probably not."

Wynder added that he agreed with Cole and suggested that FDA Commissioner Kennedy, having had "sufficient time to reflect" would probably give a different response on the meaning of the Canadian tests, if asked today.

Both Kessler and Wynder decried the rigidity of the "box" that regulators are placed in by the Delaney clause.

PERSONAL EXPLANATION

(Mr. ABDNOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ABDNOR. Mr. Speaker, on Rollcall No. 565 of yesterday, I am advised that I am not recorded.

I was present, went through the usual procedure for voting with my voting card, and cannot understand why the computer failed to register my vote.

It was a vote on the rule to permit the consideration of H.R. 8655. I rarely interpose any objection to the consideration of any debate, and so I voted "aye," and I ask that the record so indicate.

OIL COMPANY PROFITS CONTINUE TO SOAR

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Energy Action Educational Foundation Sunday released its analysis of oil company profits for the first half of 1977. The analysis shows that the 21 largest oil companies had greater aggregate profits for the first 6 months of 1977 than for the entire year of 1972—the year before the Arab oil embargo. The analysis indicates that, in the aggregate, these companies' profits increased by 103 percent since 1972, while the average worker's earnings increased by 38.5 percent and energy price increases ranged from 77 percent for gasoline to 140 percent for fuel oil.

Although actual profit figures varied from company to company, all 21 showed sizable profits, and all showed increases in current dollars and all but one in constant dollars over 1972. While the profit picture is not the whole picture, the figures seem to bely the argument that the oil companies are not generating sufficient earnings to develop new oil resources. Certainly, they have not lacked capital to move into coal, uranium and other industries, as they have increasingly done in recent years.

This profit picture is particularly illuminating when we remember the dire predictions that were made by the oil industry when we repealed the oil depletion allowance several years ago. It also has an obvious bearing on the current effort of the industry to persuade the Senate to allow the crude oil tax in the House-passed energy bill to be offset as a credit against the oil industry's drilling costs. Such a credit would be merely a resurrection of the oil depletion allowance in a new form and would constitute another huge windfall to an industry already rolling in cash.

The text of the analysis follows these remarks:

ANALYSIS OF OIL COMPANY PROFITS FOR FIRST HALF OF 1977 MEASURED AGAINST 1972 PROFITS (CURRENT AND CONSTANT DOLLAR BASES) AND WORKER EARNINGS

Various measures of oil company profitability and profit trends are used to assess the status of the leading U.S. oil and gas producers. Individual companies and industry groups publish figures on "profit per gallon" of oil products sold, "return on total assets", "return on equity". From time to time in the past, the industry has issued reports showing the profit changes from period to period for the leading companies individually and as a group.

The figures on absolute profit changes are important and relevant not only because they provide a basis for assessing the impact of various external circumstances on the industry's profitability, but also because they can be compared with related trends in the status of other segments of the economy.

The recently released profit figures for the first half of 1977 reflect operations under existing U.S. energy policies, recent world crude oil pricing arrangements, and current energy industry structure. If these are measured against the profit figures for 1972, the last full year before the 1973 oil embargo and the related quadrupling of crude oil prices, rough assessments can be made as to how well the companies have done over this period, both with and without considering the impact of inflation, and how they have done in comparison to the income of the average American.

Worker earnings. According to the July 1977 "Economic Indicators", prepared for the Joint Economic Committee by the Council of Economic Advisers, the Average Weekly Earnings of workers in private nonagricultural industries in current dollars rose from $136.16 in 1972 to $188.60 in June 1977, an increase of 38.5%. In constant (1967) dollars, average earnings *declined* from $108.67 in 1972 to $103.68, a *decrease* of 4.8% in real earnings.

Energy prices. Department of Labor, Bureau of Labor Statistics "Retail Prices and Indexes for Fuels and Utilities" shows the following increases in retail oil and gas costs between 1972 and July 1977:

	1972 index	1977 index	Increase (percent)
No. 2 heating oil	116.6	280.3	140.4
Natural gas	120.5	216.0	79.3
Gasoline	107.6	190.9	77.4

Profits of 21 leading oil companies. Profit figures published by the companies (see chart 1) show that the profits of the 21 top oil companies increased from $2.822 billion in first half of 1972 to $5.740 billion in the first half of 1977 in current dollars, an increase of 103%.[1] In fact the reported profits for the first six months of 1977 exceeded the profits reported for all of 1972 by $30.3 million. Applying the Implicit Price Deflator for Gross National Product (from "Economic Indicators," *supra*) as the inflation index, according to which each 1977 dollar is worth 71¢ in 1972 dollars, the profits for the 21 companies increased in constant dollar terms from $2.822 billion for the first half of 1972 to $4.095 billion in the corresponding period of 1977, a rise in real terms of 45%.

Comparsion. In current dollars the respective changes for the period 1972 through the first half of 1977 were as follows:

[In percent]

Category:	Increase
Worker Earnings	38.5
Consumer Energy Price Index—Oil	140.4
Consumer Energy Price Index—Gas	79.3
Consumer Energy Price Index—Gasoline	77.4
Top Oil Company Profits (6 mos.)	103.0

[1] Although changes in accounting methods may introduce some comparability problems into individual company calculations, these are not likely to be significant in the context of the substantial increases for the group as a whole.

CHART I.—PROFITS OF 21 LEADING OIL COMPANIES

[Dollar amounts in millions]

Company	6 mo. 1977	12 mo. 1972	6 mo. 1977 (in 1972 dollars)	6 mo. 1972	Percent increase (decrease) 1977 versus 1972: Constant dollars	Current dollars
Exxon	$1,220.0	$1,532.0	$886.2	$687.8	29	77.4
Standard Indiana	521.5	374.4	370.3	188.0	97	177.4
Socal	505.0	547.1	358.6	251.5	43	100.8
Texaco	480.5	889.0	341.2	415.3	−18	15.7
Mobil	463.0	574.2	328.7	272.0	21	70.2
Gulf	382.0	700.0	271.2	246.6	10	54.9
Arco	336.5	195.6	238.9	78.6	204	321.1
Phillips	246.6	342.6	175.1	72.4	142	240.6
Conoco	219.2	170.2	155.6	84.0	85	160.6
Sun	174.2	154.7	123.7	68.7	80	153.6
Shell	164.9	260.5	117.1	111.7	5	47.6
Getty	157.6	81.2	111.9	33.1	238	376.1
Union	$146.0	$122.0	$103.7	$57.7	80	153.0
Amerada Hess	122.8	26.0	87.2	49.3	77	149.1
Cities Service	122.8	112.1	82.1	53.2	54	130.8
Ashland	108.0	68.1	76.7	27.7	177	289.9
Marathon	90.2	79.8	64.0	32.7	96	175.8
Occidental	83.3	10.4	59.1	9.7	509	758.8
Sohio	74.4	57.5	52.8	24.6	115	202.4
Kerr McGee	66.4	50.6	47.1	25.5	85	160.4
Pennzoil	62.3	58.7	44.2	31.4	41	98.4
Total	5,740.1	5,709.8	4,095.4	2,821.6	45	103.4

JAMES J. KILPATRICK SUPPORTS LIMITATIONS ON FURTHER OIL COMPANY EXPANSION IN THE COAL AND URANIUM INDUSTRIES

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, our Nation's energy resources have in recent years come increasingly under the control of the oil industry. Oil companies control over 50 percent of the privately held uranium reserves in the United States. Today, five of the seven largest coal companies are controlled by oil companies, and oil companies control over 35 percent of the privately held coal reserves including more than half of the uncommitted reserves. Fourteen of the top 20 owners of coal reserves are oil companies.

There is growing sentiment in this country for nationalization of the oil industry, a step which would, in my view, be counterproductive, to say the least. But as the oil companies move to take over more and more competing energy resources, they would do well to ask themselves how long the American public will tolerate a huge, conglomerate energy industry dominated by a handful of super corporations. I have long wondered how persons professing to be conservatives could fail to see that such developments literally pave the way to socialism. Yet it is largely not the conservative but the liberals who, of late, have been sounding the alarm and advocating restrictions on future acquisitions of coal and uranium by oil companies, and it is largely the conservatives who have blocked such restrictions.

Consequently, I was pleased to read the distinguished conservative writer, James J. Kilpatrick, in the September 17 Washington Star, endorsing limitations on future oil company acquisitions of coal and uranium resources. His article follows these remarks:

A CONSERVATIVE FRET OVER BIG OIL

(By James J. Kilpatrick)

Forgive me, mother, for what I am about to do: I am about to climb in bed with Teddy Kennedy, Birch Bayh, Howard Metzenbaum and 27 other dreadful people, and the prospect is dismaying. But in seeking to lay some restraints upon the great oil companies, the Senate liberals are right and my brother conservatives are wrong.

If that be heresy, make the most of it. The issue came to a head on Sept. 8, when Kennedy offered an amendment to a pending energy bill. He proposed to make it unlawful for any major petroleum producer "to acquire any interest in or control over any coal asset or uranium asset after the date of enactment of this act."

The amendment would not have required horizontal divestiture as such—that is, it would not have compelled the major companies to sell off the coal and uranium properties they now own—but it was a second cousin to such divestiture. I'm for it.

As it turned out, Kennedy's amendment was voted down, 62-30, on a motion to table. Every professing liberal was lined up behind the amendment, and every certified conservative was lined up against it. Tower of Texas had the purple conniption fits; he accused Kennedy of speaking "the language of expropriation, which should raise the hackles of very American who believes in the free enterprise system."

Thurmond of South Carolina, a true-blue conservative, called Kennedy's proposal radical." Opponents argued that only the giant petroleum companies have the capital and the expertise to produce the coal and uranium the nation needs.

As George Mason urged 200 years ago, let us recur to fundamental principles. A fundamental principle of conservatism is to fear concentrations of great power, and to seek ways to restrain them. That is one of the things our Constitution is all about. I had been taught, and until this debate 10 days ago I had truly supposed, that conservatives distrusted too much bigness wherever it exists—Big Government, Big Labor, Big Media, Big Bureaucracy, whatever. The conservative principle holds that bigness is not necessarily badness, but at some point a rebuttable presumption arises.

That point, in my view, assuredly has been reached in the matter of the great oil companies and competing energy sources. In warning against the concentration of economic power in this vital area, Kennedy, Bayh and the others were expounding sound conservative doctrine. They were the ones crying for greater competition. They made sense to me.

What has happened in recent years is that the petroleum giants have moved horizontally into the acquisition of coal and uranium. Gulf oil led off in 1963 with its acquisition of Pittsburgh Midway Coal Co. Continental Oil in 1966 took over Consolidation Coal, then the leading coal producer. Occidental Petroleum acquired Island Creek, which was number three. Standard Oil of Ohio acquired Old Ben, number 10. Meanwhile, Kerr-McGee moved heavily into uranium.

Fourteen of the top 20 owners of coal reserves today are oil companies. Nearly half of total coal reserves now are owned by the petroleum giants. The major companies dominate research and development in such areas as coal gasification and oil shale production.

Looking ahead, the prospect is not for giant oil companies, as such, but for energy conglomerates—for super-corporations effectively controlling every form of energy production, transportation and marketing.

Colorado's Floyd Haskell made his point sarcastically. It is absurd, he said, to suppose that a company making nice profits off of oil and gas is going to promote competitive fuels in order to drive those profits down. "To believe otherwise," said Haskell, "is sort of equivalent to believing in the tooth fairy."

To the argument that only the giant oil companies can provide the capital to meet goals for coal and uranium, let me make this response: Those who believe in the marketplace have to trust the marketplace. Assuming a demand for competing fuels, the capital will appear to supply that demand.

If we believe that competition is a good thing, let us put that conviction to work. If we are wary of excessive concentrations of power, let us halt this disturbing concentration before it grows still larger.

All this has nothing to do with vertical divestiture, which involves breaking up the great oil companies internally. No convincing case has been made to support such total disruption of an efficient and highly competitive industry.

But enough is enough. And horizontally speaking, the concentration is quite enough as it is.

ENERGY CONSERVATION DAY

(Mr. THONE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THONE. Mr. Speaker, it has long been my thought that America could do much to solve its energy problems through dramatic focusing of public attention on them.

To attempt to provide such a center of attention, in the 94th Congress I introduced House Joint Resolution 561 to designate November 26, 1975, as "Energy Day." Since Congress did not act on that resolution, on February 21, 1977, I introduced House Joint Resolution 266 to designate October 10, 1977, as "Energy Conservation Day."

In my remarks to this body at that time I said:

If we can achieve the level of participation in "Energy Conservation Day" in 1977 that was attained for "Earth Day" in 1970, we will make a lasting impact on our way of life.

In yesterday morning's Washington Post, I read that Denis Hayes, who coordinated "Earth Day" activities, is chairman of a group promoting observance of "Sun Day" on May 3, 1978. The stated purpose of the group is "promoting interest in renewable energy resources."

I am not acquainted with Mr. Hayes nor his background. I am, however, aware, as are all of you, of the results that were achieved through "Earth Day" in 1970.

Several million people took part in that observance. Many people for the first time became aware that our planet is fragile. Many people for the first time realized that man had the power to destroy himself through careless pollution of air and water.

Now, it is time for sober realization by the mass of American people that we have been using up the Earth's fossil fuels and other nonrenewable resources at an alarming rate.

We in the United States must mobilize to conserve our use of these resources that can not be replaced and to move quickly, and with national unity, to harness energy from renewable sources.

Therefore, I have introduced a proposed joint resolution to designate May 3, 1978, as "Sun Day." My resolution would call upon the President to proclaim that date as "Sun Day." It would instruct the Secretary of the Department of Energy to coordinate the efforts of all applicable segments of the Federal Government in cooperation with, and participation in, "Sun Day." My resolution urges all educational, conservation, business, labor, fraternal, civic and religious organizations to take part. Mr. Speaker, I urge the Members of this body to join in sponsorship and passage of this resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CAPUTO (at the request of Mr. RHODES), for today, on account of a death in the family.

Mr. RONCALIO (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. SAWYER (at the request of Mr. RHODES), after 2 p.m. today until 1 p.m. September 21, on account of official business.

Mr. WOLFF (at the request of Mr. WRIGHT), for today and the balance of the first session, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KELLY) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 5 minutes, today.

Mr. DON H. CLAUSEN, for 1 hour, today.

(The following Members (at the request of Ms. OAKAR) and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 5 minutes, today.
Mr. OBEY, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 15 minutes, today.
Mr. VANIK, for 60 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. BOWEN, for 5 minutes, today.
Mr. ADDABBO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCHEUER, to extend his remarks immediately preceding the vote on the Brown of California amendment.

(The following Members (at the request of Mr. KELLY) and to include extraneuos matter:)

Mr. SHUSTER in two instances.
Mr. O'BRIEN.
Mr. BEARD of Tennessee.
Mr. SARASIN in two instances.
Mr. ABDNOR in two instances.
Mr. CARTER.
Mr. CONABLE.
Mrs. HOLT.
Mr. PURSELL.
Mr. HILLIS.
Mr. CRANE in two instances.
Mr. HYDE.
Mr. WALSH.
Mr. CEDERBERG.
Mr. PRESSLER.
Mr. DORNAN.

(The following Members (at the request of Ms. OAKAR), and to include extraneous matter:)

Mr. AMBRO.
Mr. NOWAK in five instances.
Mr. MURTHA.
Mr. JOHN L. BURTON.
Mr. FISHER in 10 instances.
Mr. MAZZOLI.
Mr. EILBERG in 10 instances.
Mr. BENJAMIN.
Mr. JONES of Tennessee.
Mr. MOORHEAD of Pennsylvania in 10 instances.
Mr. IRELAND in two instances.
Mr. ST GERMAIN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BRECKINRIDGE.
Mr. RUSSO.
Mr. MCDONALD in five instances.
Mr. ROE in two instances.
Mr. VANIK.
Mr. UDALL.
Mr. APPLEGATE.
Mr. SIMON in four instances.
Mr. MANN.
Mr. ADDABBO.
Mrs. SCHROEDER.
Mr. EARLY.
Mr. WAXMAN.
Mr. BLANCHARD.
Mr. WEISS.
Mr. DODD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 262. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1731. An act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services.

ADJOURNMENT

Ms. OAKAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 21, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2409. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes; to the Committee on Agriculture.

2410. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

2411. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting a special report on U.S. participation in the Supplementary Financing Facility of the International Monetary Fund (H. Doc. No. 95–224); to the Committee on Banking, Finance and Urban Affairs and ordered to be printed.

2412. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting the second in a series of six reports on compensatory education programs, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2413. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of three new records systems for the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2414. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate George H. Landau, and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2415. A letter from the Administrator, Agency for International Development, Department of State, transmitting, an interim report on the Agency's plan for increased minority business participation in foreign assistance activities, pursuant to section 133 of Public Law 95–88; to the Committee on International Relations.

2416. A letter from the Assistant Administrator for Legislative Affairs, Agency for Internal Development, Department of State, transmitting notice of an increase in the funding level of the Agency's proposed fiscal year 1977 program in Jamaica, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2417. A letter from the Acting Deputy General Counsel, Federal Energy Administration, transmitting notice of a meeting related to the International Energy Program to be held on September 22, and 23, 1977, at New York; to the Committee on Interstate and Foreign Commerce.

2418. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting the second report on the operation of the speedy trail plans adopted by the U.S. district courts, and on the operation of the 10 demonstration pretrial services agencies, pursuant to 18 U.S.C. 3155 and 3167; to the Committee on the Judiciary.

2419. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Martins Creek, Bangor, Pa., in response to a resolution of the House Committee on Public Works adopted October 19, 1967 (H. Doc. No. 95–225); to the Committee on Public Works and Transportation and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee on the District of Columbia. H.R. 7747. A bill to amend title 23 of the District of Columbia Code with respect to the release or detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes; with amendment (Rept. No. 95–610). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 7766. A bill to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia (Rept. No. 95–611). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. S. 1060. An act to amend the act of February 9, 1821, to restate the charter of The George Washington University; with amendment (Rept. No. 95–612). Referred to the Committee of the Whole House.

Mr. PEPPER: Committee on Rules. House Resolution 767. Resolution providing for the consideration of H.R. 8638. A bill to provide for more efficient and effective control over the proliferation of nuclear explosive capability. (Rept. No. 95–613). Referred to the House Calendar.

Mr. PRICE: Committee on Armed Services. H.R. 8390. A bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes; with amendment (Rept. No. 95–614). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAFALIS (for himself, Mr. ADDABBO, Mr. ARMSTRONG, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. CUNNINGHAM, Mr. DERWINSKI, Mr. EDWARDS of Oklahoma, Mr. FARY, Mr. FORSYTHE, Mr. HAGEDORN, Mr. HUGHES, Mr. HYDE, Mr. LLOYD of California, Mr. LEHMAN, Mr. LOTT, Mr. MARLENEE, Mr. MOTTL, Mr. JOHN T. MYERS, Mr. PURSELL, Mr. ROGERS, Mr. STOCKMAN, Mr. YOUNG of Alaska, Mr. EVANS of Georgia, and Mr. TRIBLE):

H.R. 9206. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. BAFALIS (for himself, Mrs. COLLINS of Illinois, Mr. LENT, Mr. ERTEL, Mr. YOUNG of Missouri, Mr. GEPHARDT, and Mr. OBERSTAR):

H.R. 9207. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee:

H.R. 9208. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other purposes; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. BENNETT:

H.R. 9209. A bill to amend the Act of September 21, 1950 (64 Stat. 897) as amended April 11, 1972 (86 Stat. 120) to enlarge the boundary of Fort Caroline National Memorial, Fla., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARTER (for himself, Mr. CONTE, Mr. MOAKLEY, Mr. HILLIS, Mr. RODINO, Mr. ABDNOR, Mr. DUNCAN of Tennessee, Mr. CLEVELAND, Mr. KEMP, Ms. COLLINS of Illinois, Mr. MITCHELL of Maryland, Mr. PERKINS, Mr. WHITEHURST, Mr. BOB WILSON, Mr. HUGHES, Mr. MARKS, Mr. MCCLORY, Mr. HUCKABY, and Mr. BROYHILL):

H.R. 9210. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation amounts received under certain scholarship programs; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 9211. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. FITHIAN (for himself, Mr. JEFFORDS, Mr. PREYER, Mrs. MEYNER, and Mr. MOFFETT):

H.R. 9212. A bill to foster and continue the family farm in the United States by providing young farmers with the necessary assistance to purchase family farm units, and for other purposes; to the Committee on Agriculture.

By Mr. JONES of Tennessee (for himself, Mr. ANDREWS of North Carolina, Mr. BLOUIN, and Mr. RICHMOND):

H.R. 9213. A bill to provide a voluntary self-help program which is designed to assist producers of agricultural products to protect themselves against loss of cost of production when natural or uncontrollable conditions adversely affect production and which will assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. NEAL (by request):

H.R. 9214. A bill to amend the Bretton Woods Agreement Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

By Ms. OAKAR (for herself, Mr. FLORIO, Mr. LENT, Mr. EARLY, Mr. REGULA, Mr. ROE, Mr. WALSH, Mr. MITCHELL of New York, Mr. OTTINGER, Mr. HORTON, and Mr. PATTISON of New York):

H.R. 9215. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN (for himself, Mr. BURGENER, Mr. WINN, Mr. GUYER, Mr. KETCHUM, and Mr. JONES of North Carolina):

H.R. 9216. A bill to amend title 39, United States Code, to provide that controlled circulation publications relating to agriculture shall be eligible for reduced rates of postage on the same basis as science or agricultural publications, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RAILSBACK (for himself and Mr. FINDLEY):

H.R. 9217. A bill to amend title 23 to provide a comprehensive bridge replacement and rehabilitation program; to the Committee on Public Works and Transportation.

By Mr. RICHMOND (for himself, Mr. AUCOIN, Mr. BADHAM, Mr. BAUCUS, Mr. BRADEMAS, Ms. FENWICK, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. JENRETTE, Mr. LAFALCE, Mr. LLOYD of California, Mr. LUJAN, Ms. MEYNER, Mr. MIKVA, Mr. MOAKLEY, Mr. NEAL, Mr. NEDZI, Mr. PANETTA, Mr. PRICE, Ms. SPELLMAN, Mr. THOMPSON, Mr. UDALL, Mr. WALGREN, Mr. WAXMAN, and Mr. ZEFERETTI):

H.R. 9218. A bill to amend the Internal Revenue Code of 1954 to disregard, in the valuation for estate tax purposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the de-

cedent at its fair market value; to the Committee on Ways and Means.

By Mr. RODINO (by request):

H.R. 9219. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, and for other purposes; to the Committee on the Judiciary.

By Mr. SNYDER (by request):

H.R. 9220. A bill to extend veteran benefits to persons serving in the Armed Forces Occupation of Germany between November 12, 1918, and April 1, 1920; to the Committee on Veterans' Affairs.

By Mr. ALEXANDER:

H.R. 9221. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.R. 9222. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 9223. A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such act; to the Committee on International Relations.

By Mr. LEACH (for himself, Mr. BURGENER, and Ms. MIKULSKI):

H.R. 9224. A bill to provide for additional assistance for the preservation of historic structures under title I of the National Housing Act, section 312 of the Housing Act of 1964, and the Act of October 15, 1966 (80 Stat. 917); to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEACH (for himself and Ms. MIKULSKI):

H.R. 9225. A bill to prohibit any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compelled by a foreign state to take the action which is the basis of the proceeding; to the Committee on the Judiciary.

By Mr. RISENHOOVER:

H.R. 9226. A bill declaring the Grand (Neosho) River above the town of Fort Gibson, Muskogee County, Okla., to be not navigable water of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON:

H.R. 9227. A bill to provide for the purchase by the Federal Government of railroad rights-of-way, to provide jobs to unemployed persons for rehabilitating and improving such rights-of-way, to prohibit certain railroads from investing in securities issued by other corporations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.J. Res. 597. Joint resolution to designate May 3, 1978 as "Sun Day," and to direct the Department of Energy to coordinate Federal cooperation and participation in this observation; to the Committee on Post Office and Civil Service.

By Mr. KEMP (for himself, Mr. ABDNOR, Mr. ARCHER, Mr. BAFALIS, Mr. BLOUIN, Mr. BUCHANAN, Mr. CRANE, Mr. DAN DANIEL, Mr. DELANEY, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mr. FREY, Mr. GOLDWATER, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LEACH, Mr. LEDERER, Mr. LOTT, Mrs. LLOYD of Tennessee, Mr. MCCLORY, Mr. MOORHEAD of California, Mr. PREYER, Mr. RINALDO, and Mr. SANTINI):

H. Res. 768. Resolution to express the sense of the House with respect to administrative policy changes by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. PRICE, Mr. MEEDS, Mr. HAMILTON, Mr. D'AMOURS, and Mr. MITCHELL of Maryland):

H. Res. 769. Resolution providing for the reform of the administrative organization and legislative management services of the House of Representatives, and for other purposes; divided and referred as follows: Titles I, II, III, IV, V, and VII to the Committee on Rules; and title VI to the Committee on House Administration.

By Mr. THOMPSON:

H. Res. 770. Resolution dismissing the election contest of Albert Dehr against Robert L. Leggett; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

253. By the SPEAKER: Memorial of the Legislature of the State of Oregon, relative to adequate funding for student consumer information; to the Committee on Education and Labor.

254. Also, memorial of the Legislature of the State of Oregon, relative to claims for services rendered to the United States during the Civil War by the State of Oregon; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 9228. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. EVANS of Indiana:

H.R. 9229. A bill for the relief of Ramon Bautesta Martin; to the Committee on the Judiciary.

By Mr. GORE:

H.R. 9230. A bill for the relief of Imelda T. Santos, Lourdes G. Rulloda, and Norma Calica; to the Committee on the Judiciary.

By Mr. MARKS:

H.R. 9231. A bill for the relief of Dr. Rodolfo Abril Buiser and Proserfina Generoso Buiser; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

222. By the SPEAKER: Petition of the Southern Governors' Conference, Atlanta, Ga., relative to agriculture; to the Committee on Agriculture.

223. Also, petition of the Noncommissioned Officers Association of the U.S.A., Washington, D.C., relative to military pay, allowances, and benefits; to the Committee on Armed Services.

224. Also, petition of the AFL–CIO, Washington, D.C., relative to the Occupational Safety and Health Administration; to the Committee on Education and Labor.

225. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to the placement of Puerto Rico in Federal Region IV; to the Committee on Government Operations.

226. Also, petition of the AFL–CIO, Washington, D.C., relative to campaign financing; to the Committee on House Administration.

227. Also, petition of the Noncommissioned Officers Association of the U.S.A., Washington, D.C., relative to U.S. military superiority; to the Committee on International Relations.

228. Also, petition of the AFL–CIO, Washington, D.C., relative to the Panama Canal treaties; to the Committee on International Relations.

229. Also, petition of the board of supervisors, Dover Township, York County, Pa., relative to the Consumer Communications Reform Act of 1977; to the Committee on Interstate and Foreign Commerce.

230. Also, petition of the AFL–CIO, Washington, D.C., relative to public broadcasting; to the Committee on Interstate and Foreign Commerce.

231. Also, petition of the Kansas Independent Oil and Gas Association (KIOGA), Wichita, Kans., relative to aiding American oil production; to the Committee on Interstate and Foreign Commerce.

232. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to Federal funding of corrections construction programs; to the Committee on the Judiciary.

233. Also, petition of the AFL–CIO, Washington, D.C., relative to illegal aliens; to the Committee on the Judiciary.

234. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to the Federal highway aid system; to the Committee on Public Works and Transportation.

235. Also, petition of the Nonccmmissioned Officers Association of the U.S.A., Washington, D.C., relative to veterans' employment opportunities; to the Committee on Veterans' Affairs.

236. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to nondiscriminatory treatment for off-shore territories and commonwealths with respect to existing welfare programs and welfare reforms; to the Commitee on Ways and Means.

237. Also, petition of the AFL–CIO, Washington, D.C., relative to import controls on specialty steel; to the Committee on Ways and Means.

238. Also, petition of the Kansas Independent Oil and Gas Association, Wichita, Kans., relative to energy tax proposals; to the Committee on Ways and Means.

239. Also, petition of the AFL–CIO, Washington, D.C., relative to welfare reform; jointly, to the Committees on Agriculture, Education and Labor, and Ways and Means.

240. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to Federal response to disasters; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

241. Also, petition of the AFL–CIO, Washington, D.C., relative to community and economic development; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and Public Works and Transportation.

242. Also, petition of the AFL–CIO, Washington, D.C., relative to the National economy; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and Ways and Means.

243. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to International Trade Legislation; jointly, to the Committees on Banking, Finance and Urban Affairs, International Relations, the Judiciary, and Ways and Means.

244. Also, petition of the AFL–CIO, Washington, D.C., relative to energy; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Public Works and Transportation, and Ways and Means.

245. Also, petition of the Southern Governors' Conference, Atlanta, Ga., relative to a national energy policy; jointly, to the Committees on Banking, Finance and Urban Affairs, Government Operations, Interior and Insular Affairs, Interstate and Foreign Commerce, Public Works and Transportation, Science and Technology, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. COHEN:

Page 116, add after line 23 the following new section:

Patients' Rights in Certain Medical Facilities

SEC. 21. (a) Title XI of the Social Security Act is amended by adding after section 1126 (added by section 8) the following new section:

"DEVELOPMENT AND ENFORCEMENT OF STANDARDS RELATING TO THE RIGHTS OF PATIENTS OF CERTAIN MEDICAL FACILITIES

"SEC. 1127. (a) The Secretary, in prescribing standards under section 1861(c)(9) for hospitals, under section 1861(j)(15) for skilled nursing facilities, and under section 1905(c)(2) for intermediate care facilities, shall require that all such hospitals and facilities to which such sections apply (hereinafter in this section referred to as 'facilities') adopt and make public a statement of the rights and responsibilities of the patients who are receiving inpatient treatment or care in such facilities (hereinafter in this section referred to as 'patients') and deal with such patients in accordance with the provisions of such public statement.

"(b) The Secretary shall require that the statement referred to in subsection (a) include the following:

"(1) A guarantee that the patient's civil and religious liberties (including the right to independent personal decisions and knowledge of available choices will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights.

"(2) A guarantee of the patient's right to have private and unrestricted communications with his physician, his attorney, and any other person.

"(3) A guarantee of a married patient's right to privacy for visits by the patient's spouse, and, if spouses are inpatients of the same facility (other than a hospital) a guarantee of the right of the spouses to share the same room in the facility.

"(4) A guarantee of the right of each patient (and of a staff member of a facility on behalf of any patient) to present grievances for the patient or other patients to the facility's staff or administrator, to governmental officials, or to any other patients or individuals within or outside of the facility to work for improvements in patient care.

"(5) A guarantee of the patient's right to manage his own financial affairs, or to have a periodic accounting of any financial transactions in his behalf should the patient delegate such responsibility to the facility for any period of time.

"(6) A guarantee of the patient's right to receive adequate and appropriate medical, nursing, and supportive care as reimbursed, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions.

"(7) A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records (in accordance with the provisions of this Act), and security in storing and using personal possessions.

"(8) A guarantee of the patient's right to receive fair and equal treatment and services and a written statement of the services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under titles XVIII or XIX of this Act.

"(9) A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints.

"(10) A guarantee that the patient will not be transferred or discharged from the facility, or transferred from one room to another within the facility, except for good cause, without at least thirty days advance notice and an opportunity for a hearing. Any involuntary transfer or discharge shall be permitted only for medical reasons, for the patient's health and safety, or for the health and safety of the other patients; must be accomplished with adequate procedures to protect the physical, psychological, and social well-being of the patient involved, and shall be subject to the remedies and enforcement procedures established by or under subsection (d).

"(11) A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

"(12) A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

"(13) A guarantee of any other patient's rights the Secretary determines to be appropriate.

"(14) The guarantees specified in paragraphs (6) and (9) may be temporarily suspended by a facility with respect to a patient if—

"(A) the physician attending the patient determines that the suspension of such a guarantee for a specified and limited period of time is medically necessary and the physician records such determination (and the reasons therefor) in the patient's permanent medical record; and

"(B) the facility promptly notifies any sponsor or guardian of the patient of such suspension, its duration, and the reasons therefor.

"(c) The Secretary shall also require—

"(1) that each facility make available a copy of the statement, including a description of the remedies and enforcement procedures established by or under subsection (d), to each patient (or to the patient's guardian), as evidenced by the patient's written acknowledgment, at or prior to the time of admission to the facility or at the time of the initiation of the medical relationship between the facility and the patient, and to each member of the facility's staff, and post a copy of such statement in a public place within the facility; and

"(2) that each facility prepare a written plan and provide appropriate staff training to implement each paient's right included in the statement.

"(d) The procedure for enforcing a patient's rights guaranteed under subsection (a) shall be as follows:

"(1) The Secretary shall establish a procedure under which any patient, or any person acting on behalf of a patient, who believes that such patient (alone or along with other patients similarly situated) has been denied any right so guaranteed may submit a complaint, written or oral (by telephone or otherwise), with an appropriate State agency in the State in which the patient is situated (hereinafter in this subsection referred to as the 'State agency') which shall investigate the complaint, keeping confidential insofar as possible the identity of the complainant (and the name of the patient or patients involved if the complainant is not such a patient), and shall render a written report thereon to the complainant within ten working days. A copy of the State agency report, including the complaint (with identities of the complainant and any patients deleted), shall be made a permanent part of the file maintained on the facility by the State agency and shall be available to the public.

"(2)(A) If as a result of a State agency investigation conducted under paragraph (1), there is sufficient evidence of a violation, the State agency shall assess against the facility a civil penalty by an order made after notice (provided in accordance with subparagraph (B)) and after opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(B) The written notice referred to in subparagraph (A) shall include notice of the State agency's proposed order and notice of the facility's opportunity to request, within 15 days of the date the notice is received by the facility, a hearing on the proposed order.

"(C)(i) Any facility which violates any right of a patient guaranteed by the facility under this section shall be liable to the patient for a civil penalty in an amount not to exceed $500 for each such violation. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

"(ii) The imposition of a civil penalty under this subsection shall not preclude, and shall be in addition to, any other monetary damages recoverable by patients as a result of the violation.

"(D) Not later than 60 days after an order of assessment of a penalty against a facility becomes final under this paragraph, the facility must either—

"(i) file suit contesting such assessment in an appropriate court of competent jurisdiction and pay the amount of the penalty assessed into an escrow account established by the State agency; or

"(ii) pay the amount of such penalty to the patient whose rights were violated.

"(3) No sooner than 10 days after a State agency has been apprised of a complaint under this subsection (whether or not the State agency has acted on the complaint) and not later than 60 days after a final decision on such complaint has been made, the complainant may bring an original action in the appropriate United States District Court to enforce the guaranteed rights involved under this section. Such court shall have jurisdiction in any such action without regard to the amount in controversy. The complainant may join any additional causes of action which he (or the patient or patients involved), alone or along with other similarly situated, may have against the facility for enforcement or damages arising out of rights guaranteed under this subsection or otherwise. A complainant who prevails in court shall be awarded legal fees and costs, including reasonable attorney's fees, and shall be entitled to immediate release and payment of the statutory damages awarded from any escrow account established under paragraph (2)(D) by the State agency with respect to such complainant and, to the extent not so provided from the facility.

"(4) If any facility fails to pay, to a patient or into an escrow account, a civil penalty assessed under this subsection within 60 days of the final order of the State agency or the final judgment of a court imposing such assessment (as the case may be), the Attorney General of such State or of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the last date of such 60-day period) in an action brought in any appropriate district court of the United States or any State court of competetent jurisdiction. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5) In any case where the patient or facility brings an action under this subsection following a decision of a State agency which is not in favor of the patient or the facility,

respectively, and the action is determined to constitute harassment of the facility or patient, respectively, such patient or facility must pay all legal fees and costs (including reasonable attorney's fees) incurred by the State agency in connection with its decision.

"(6) In implementing the procedures established by or under this subsection for the enforcement of the patient's rights, the Secretary (utilizing existing procedures and instrumentalities whenever feasible) shall actively encourage, insofar as is possible depending on local circumstanecs, the involvement of nursing home patient advocates and ombudsmen (at the option of the patients or complainants involved) as representatives of individual patients.

"(7) The Secretary shall insure that individuals who invoke the enforcement procedures under this subsection, and patients for whom such procedures are initiated by third parties, are protected against retaliation in any form by the facility involved or by any of its employees, agents, or representatives. For this purpose the Secretary shall specifically provide that any act of such retaliation shall be subject to a civil penalty not to exceed $1,000 for each act of retaliation.

"(8) In order to determine whether a facility is adequately protecting its patients' rights, each routine certification survey of the facility shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility as regards rights under this section and compliance with standards generally.

"(9) The Secretary shall first publish proposed regulations for carrying out this subsection within 6 months after the date of the enactment of this section, and such regulations shall first become final and fully effective no later than nine months after such date.

"(10) Costs incurred by a State agency in carrying out its functions and responsibilities under this subsection shall be considered administrative costs incurred in carrying out functions and responsibilities under title XVIII or under the State's plan approved under title XIX or both (as determined by the Secretary) for purposes of Federal reimbursement.

"(11) Notwithstanding any other provision of law, civil penalties paid to any individual in accordance with this subsection shall not constitute income or resources or otherwise be taken into account (A) for purposes of determining the eligibility of such individual or his or her family or household for assistance under a State plan approved under title XIX, or for aid, assistance, or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household, or (B) for purposes of determining the amount or extent of such aid, assistance, or benefits.".

(b) Sections 1861(e)(9) and 1861(j)(15) of the Social Security Act are each amended by striking out "health and safety" and inserting in lieu thereof "health, safety, and rights".

By Mr. CRANE:

Page 67, beginning with line 3, strike SEC. 1125 and insert the following new section:

SEC. 1125. (a) Notwithstanding any other provision of this Act, no officer, employee, or agent of the United States, or department thereof, may inspect, acquire, or otherwise require for any reason whatever, any part of medical and/or dental records of patients whose medical and/or dental care was not, or will not be, provided directly by the Federal Government, or was not, or will not be, paid for (in whole or in part) under a Federal program or any other programs receiving Federal financial assistance, unless such patient has authorized such disclosure in accordance with subsection (b).

(b) The patient may authorize disclosure under section 1 if he furnishes a signed and dated statement in which he—

(1) authorizes such disclosure for a specific period of time;

(2) identifies the patient records which are authorized to be disclosed; and

(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

(c) Any person who violates subsection (a), upon conviction, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(d) In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

(e) Should any other law of the United States grant, or appear to grant, power or authority to any person to violate subsection (a) of this section, the provisions thereof shall supersede and pro tanto override and annul such law, except those statutes hereinafter enacted which specifically refer to this section.

(f) The provisions of this section shall become effective ninety days following the date of enactment.

By Mr. KOCH:

Page 70, strike out line 6 and all that follows through line 19 on page 71 and insert in lieu thereof the following:

(l)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of any individual identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance, unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs esetablished by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION—PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"Notice of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance wtih subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accorance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(II) is a minor and is not legally incompetent and the information does not relate

to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

Page 71, line 20, strike out "(2)" and insert in lieu thereof "(4)".

Page 71, beginning on line 24, strike out "three months after the date such Commission submits its final report" and insert in lieu thereof "June 1, 1978".

Page 72, beginning on line 6, strike out "(including draft legislation)".

Page 72, beginning on line 8, strike out "(including use of" and all that follows through "of such records" on line 16 and insert in lieu thereof "in order to carry out the amendment made by paragraph (2)(B).".

By Mr. PREYER:

Page 70, strike out line 6 and all that follows through line 19 on page 71 and insert in lieu thereof the following:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"Sec. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"Sec. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"Notices of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without

the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the insituation (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines, that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(II) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after January 1, 1979.

Page 71, line 20, strike out "(2)" and insert in lieu thereof "(4)".

Page 71, beginning on line 24, strike out "three months after the date such Commission submits its final report" and insert in lieu thereof "June 1, 1978".

Page 72, beginning on line 6, strike out "(including draft legislation)".

Page 72, beginning on line 8, strike out "(including use of" and all that follows through "of such records" on line 16 and insert in lieu thereof "in order to carry out the amendment made by paragraph (2)(B).".

By Mr. ROSTENKOWSKI:

Page 41, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 11.

Page 42, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 42, strike out lines 17 through 22 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

Page 45, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 11.

Page 46, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 46, strike out lines 17 through 21 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by an entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

By Mr. STARK:

In lieu of the matter (beginning on line 22 of page 66 and ending on line 5 of page 70) proposed to be inserted, substitute the following:

(1)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, employee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specific period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) The term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it mantains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"Notice of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availabiltiy of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is prop-

erly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosures may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(ii) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after July 1, 1979.

Page 71, strike out line 20 and all that follows through line 16 on page 72 and insert in lieu thereof the following:

(2) Title XI of such Act is further amended—

(A) by amending the heading to read as follows:

"GENERAL PROVISIONS, PROFESSIONAL STANDARDS REVIEW, AND PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION"

and

(B) by adding after part B the following new part:

"PART C—PROTECTION OF PRIVACY OF CERTAIN PERSONAL MEDICAL INFORMATION

"REQUIREMENT OF PRIVACY PROTECTION PROCEDURES FOR PERSONAL MEDICAL INFORMATION MAINTAINED BY MEDICAL CARE INSTITUTIONS; DEFINITIONS

"SEC. 1181. (a) The Secretary of Health, Education, and Welfare shall by regulation provide that each medical-care institution, as a condition of its participation in, or certification or recertification under, the programs established by title XVIII or XIX of this Act—

"(1) develop a specific plan for the implementation of procedures relating to maintenance of, access to, and disclosure of, personal medical information of the institution which meet the requirements specified in section 1182;

"(2) provide for regular assurances to the Secretary, in the form of surveys and other evidence, of the institution's compliance with the plan described in paragraph (1); and

"(3) provide that all surveys and other evidence of compliance (described in paragraph (2)) are made available for public inspection.

"(b) For the purposes of this part:

"(1) the term 'medical-care institution' means any facility or institution that provides medical-care services, and includes a hospital, skilled nursing facility, intermediate care facility, home health agency, and a health maintenance organization.

"(2) The term 'personal medical information' means data or information in any recorded medium that (A) relates to the medical (including dental and mental health) history, diagnosis, condition, treatment, or evaluation of an individual, (B) is created or maintained by a medical-care institution, and (C) is in a form which permits identification of the individual through means (whether direct or indirect) available to the public.

"SPECIFIC REQUIREMENTS FOR PRIVACY PROTECTION PROCEDURES OF MEDICAL-CARE INSTITUTIONS

"SEC. 1182. The requirements referred to in section 1181(a)(1) are as follows:

"Patient's Access to Personal Medical Information

"(a)(1)(A) Each medical-care institution shall, upon the request of an individual to inspect personal medical information it maintains relating to the individual, provide (i) the individual, or (ii) a responsible individual 18 years of age or older who is designated and authorized by the individual to inspect the information, or both (at the election of the individual, except as provided in subparagraph (B)) with a reasonable opportunity to inspect and copy the information (or a copy thereof) which relates to the individual and with a reasonable explanation of any part of the information which is not in a form intelligible or comprehensible to the average individual.

"(B) If a medical-care institution determines that an individual's inspection under subparagraph (A) of personal medical information it maintains relating to the individual will have an adverse effect on the individual, the institution may require that such inspection be conducted by an individual described in clause (ii) of such subparagraph.

"(2) In the case of personal medical information maintained by a medical-care institution and relating to an individual under the age of 18, the parent or lawful guardian of the individual shall be provided, upon request, with the opportunity and explanation described in paragraph (1) with respect to the information that relates to the individual, other than information that relates to any of the following services sought by or provided to the individual:

"(A) Venereal disease services.

"(B) Family planning services or abortion services.

"(C) Services related to alcohol or drug abuse.

"(D) Mental health services.

"(3) A medical care institution may charge a reasonable fee (not to exceed the fee charged insurers and other third-parties) for the copying of information requested under this subsection.

"Patient's Correction of His Medical Record

"(b) Each medical-care institution shall, within a reasonable period of time of an individual's request to have a change made in personal medical information it maintains pertaining to the individual, either—

"(1)(A) make the change so requested (or any portion thereof) which would make the information accurate, relevant, timely, or complete; and

"(B) notify any person, who is specifically designated by the individual and to whom the institution has previously disclosed the information so changed, of the change made; or

"(2)(A) inform the individual of—

"(i) its refusal to make any or all of the change requested,

"(ii) the reason for the refusal, and

"(iii) any procedures established by the institution for the individual to request a review of that refusal;

"(B) permit the individual to file a concise statement setting forth the reasons for his disagreement with the refusal of the institution; and

"(C) provide any person—

"(i) who is specifically designated by the individual and to whom the institution has previously disclosed the information in disagreement, or

"(ii) to whom the information in disagreement is disclosed after the filing of the statement described in subparagraph (B), with the statement of disagreement filed under subparagraph (B) and any statement the institution wants to provide with respect to its reasons for not making the requested changes.

It is the duty of each medical-care institution to maintain only personal medical information that is accurate, relevant, timely, and complete, and such an institution shall not refuse to make any change in any personal medical information pertaining to an individual requested by the individual under the previous sentence if the change would make the information accurate, relevant, timely, or complete.

"Notice of Uses and Disclosures of Personal Medical Information Without a Patient's Authorization; Accounting of Certain Disclosures

"(c)(1) Each medical-care institution shall provide, upon the creation and maintenance of personal medical information pertaining to an individual, written notice to the individual of the uses and disclosures which may be made of the information (in accordance with subsections (e)(4) and (f)) without the authorization of the individual (in accordance with subsection (g)) and the availability of a record of certain disclosures made under subsection (e) or under such an authorization.

"(2) The requirement of paragraph (1) shall not apply to the creation and maintenance of personal medical information pertaining to an individual, if the individual has been provided written notice with respect to the creation and maintenance by the institution, during the year ending on the date such information is created, of other personal medical information pertaining to the individual.

"General Limitation on the Uses and Disclosure of Personal Medical Information

"(d)(1) Except as provided in subsection (a), any inspection or disclosure of personal medical information maintained by a medical-care institution shall be limited to inspection or disclosure of such portions of the information as is necessary to accomplish the purpose for which the inspection or disclosure is made.

"(2) A medical-care institution shall not permit an individual to use or inspect personal medical information maintained by the institution unless the individual is properly identified, and, except as provided in subsection (a), unless the individual's legitimate duties require use or inspection of specific information contained in the information.

"Requirement of Authorization for Disclosure of Personal Medical Information

"(e)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual without the authorization (in accordance with subsection (g)) of the individual or of his representative for such disclosure, except in the cases and under the conditions specified in paragraph (4) and subsection (f) and subject to the other general limitations on disclosure specified in subsection (d).

"(2) A medical-care institution may not require any individual, as a condition of doing business with the institution or otherwise, to give the institution an authorization for disclosure of information in accordance with paragraph (1).

"(3) Paragraph (1) shall not preclude a medical-care institution from notifying appropriate officials of an individual's suspected violation of criminal law without the authorization of the individual.

"(4) An individual employed by or affiliated with a medical-care institution may use and inspect personal medical information maintained by the institution to the extent that the individual's legitimate duties require use or inspection of specific information contained in the information.

"Exceptions for Disclosure of Personal Medical Information Without the Authorization of the Patient

"(f) The exceptions referred to in subsection (e)(1) are as follows:

"(1) CONSULTATION.—A medical-care institution may disclose personal medical information to a person who is being consulted, with the permission of the individual to whom the information pertains, by the institution with respect to medical services being provided the individual.

"(2) COMPELLING CIRCUMSTANCES INVOLVING PERSON'S HEALTH AND SAFETY.—A medical-care institution may disclose to a person personal medical information pertaining to an individual if the person can show compelling circumstances affecting the health or safety of a person and if the institution (A) promptly either notifies the individual of the disclosure or transmits notification of the disclosure to the last known address of the individual, and (B) maintains an accounting, available to the individual for inspection, of the parts of the information pertaining to the individual which were disclosed, to whom they were disclosed, and the compelling circumstances shown to justify the disclosure without the individual's authorization.

"(3) AUDITS, EVALUATIONS, AND BIOMEDICAL AND EPIDEMIOLOGICAL RESEARCH.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual to a properly qualified person in the conduct of an audit or evaluation of the operation of the institution or of a biomedical or epidemiological research project, only if—

"(A) the institution determines that—

"(i) except in the case of an audit or evaluation, such disclosure in individually identifiable form does not violate any limitation under which the information was collected;

"(ii) except in the case of an audit or evaluation, such disclosure in such form is sufficiently necessary to perform the research project, and the purpose of the research project is sufficiently important so as to warrant the risk of exposure of personal medical information to a person not expressly authorized to inspect it; and

"(iii) the person conducting the audit, evaluation, or research project has provided adequate safeguards (including removal of individual identifiers) to prevent the use, inspection, or disclosure of the information, or any information derived therefrom in individually identifiable form by or to unauthorized individuals or for any purpose unrelated to the purpose of the audit, evaluation, or project; and

"(B) the institution maintains an accounting, available to the individual for inspection, of the parts of the personal medical information pertaining to the individual, which were disclosed, to whom they were disclosed, the reasons for the determination under subparagraph (A)(ii) and the audit, evaluation, or biomedical or epidemiological research project for which they were disclosed.

"(4) PUBLIC REPORTING STATUTES.—A medical-care institution may disclose personal medical information it maintains pertaining to an individual pursuant to a law which requires the institution to report—

"(A) information for vital statistical purposes to a governmental authority; or

"(B) specific diagnoses or medical conditions to a governmental public-health authority or specific items of information about the individual to a law enforcement authority, but only if the institution promptly notifies the individual in an appropriate manner of the fact of such disclosure.

"(5) ADMISSION AND HEALTH STATUS INFORMATION.—A medical-care institution may disclose facts related to the admission, location, and general health status of an individual

receiving medical services from the institution, but only to the extent that—

"(A) the institution has provided notice to the individual, in accordance with subsection (c)(1), that such disclosure may be made, and

"(B) the individual, or his authorized representative, has not notified the institution of an objection to disclosing part or all of such information.

"(6) LAWFUL JUDICIAL OR ADMINISTRATIVE PROCESS.—A medical-care institution may disclose personal medical information pertaining to an individual pursuant to a lawful judicial or administrative summons or subpena, and if such a disclosure is made the institution shall, for at least five years or the life of the information disclosed (whichever is longer), retain the summons or subpena with the information and permit inspection by the individual upon request.

"Contents of Authorization Form; Retention of Copy of Form

"(g)(1) A medical-care institution shall not disclose personal medical information pertaining to an individual pursuant to an authorization of the individual unless such authorization—

"(A) is in writing and is dated,

"(B)(i) is signed by the individual, if the individual—

"(I) is not a minor and is not legally incompetent, or

"(II) is a minor and is not legally incompetent and the information relates to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; or

"(ii) is signed by a person lawfully authorized to act on the individual's behalf, if the individual is—

"(I) legally incompetent or

"(II) is a minor and is not legally incompetent and the information does not relate to any of the services that are described in subparagraphs (A) through (D) of subsection (a)(2) and are sought by or provided to the minor; and

"(C) specifically authorizes that institution to disclose information of a specified nature to specified persons or entities for use only for specified purposes and only for a specified and reasonable period of time (which may not exceed one year),

and, if information is disclosed pursuant to such an authorization, the authorization (or a copy thereof) shall be retained by the institution with the information or in a form which permits inspection by the individual upon request for at least five years or the life of the information, whichever is longer. The individual may at any time revoke such an authorization with respect to information not yet disclosed.

"(2) A medical-care institution shall maintain, with respect to such an authorization for disclosure of personal medical information, an accurate accounting of (A) the date, nature, and purpose of each disclosure made pursuant to the authorization, and (B) the individual or entity to whom the disclosure is made, shall retain such accounting with the authorization, and shall permit the individual providing the authorization with the opportunity to inspect and copy such accounting.".

(3) The amendments made by paragraph (2)(B) shall apply to services provided by medical care institutions, under the programs established under titles XVIII and XIX of the Social Security Act, on and after July 1, 1979.

By Mr. VOLKMER:

Strike out paragraph (2) (that is, lines 12 through 14 on page 105) of proposed subsection (p) of section 1903 of the Social Security Act, and redesignate succeeding paragraphs accordingly.

Page 105, strike out lines 12 through 14, and redesignate succeeding paragraphs accordingly.

H.R. 595

By Mr. STEERS:

Strike section 2(a) and insert the following:

"SEC. 2. TERMINATION AND RE-ESTABLISHMENT OF THE RENEGOTIATION BOARD

(a) Section 102(c) of the Renegotiation Act of 1951 (50 U.S.C. App. 1221(c)) is amended by striking the entire subsection and inserting in lieu thereof the following language:

"SEC. 102. (c) TERMINATION AND RE-ESTABLISHMENT OF THE RENEGOTIATION BOARD

(1) The Renegotiation Board shall not accept any filings following September 20, 1976.

(2) The Renegotiation Act of 1951 (50 U.S.C. App. 1211 *et seq.*) shall remain in effect for one year following the date of enactment of this Section in order to clear or determine pending filings. During this one-year period, the Board shall be governed by, and operate pursuant to, the provisions of the Renegotiation Act of 1951 as amended through September 30, 1976.

(3) The Renegotiation Act of 1951 shall again become effective only when:

(a) The President finds that a national emergency exists in accordance with the terms of 90 Stat. 1255 or pursuant to:

(1) The outbreak of war declared by or against the United States, or

(2) The initiation of an overt military action by or against the United States, or

(3) The outbreak of a major insurrection with the United States, or

(4) The emergence of some other situation endangering the security of the United States;

and

(b) The President makes a determination that the operation of the Act is necessary to meet the national emergency declared according to the provisions of Subsection 1.

(4) Upon such finding and determination, the Renegotiation Act shall become effective as amended to the date it becomes effective.

(5) It shall remain in effect for one year following the date of termination of such national emergency."

H.R. 6796

By Mr. GARY A. MYERS:

On Page 23 after line 7, insert the following paragraph: *"Provided,* That prior to the obligation of any funds authorized pursuant to this Act for research, development, assessment, evaluation and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, a program plan be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate for their approvals. The Administrator is authorized to solicit proposals for any of the aforementioned activities. However, before any of these activities are undertaken, the Administrator is required to transmit the plan containing a description of such activities together with all pertinent data to such Committees and wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objections to the proposed action."

EXTENSIONS OF REMARKS

ANTHONY R. PUSKARZ, SR., MAN OF THE YEAR

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SARASIN. Mr. Speaker, on September 24, the Polish-American Business and Professional Association of New Britain, Conn., will be honoring Anthony R. Puskarz, Sr., as its 1977 Man of the Year. I would like to take this opportunity to congratulate Mr. Puskarz personally, and to inform all of my colleagues of the contributions and achievements of this worthy individual who has done so much for his community and fellow Polish-American citizens.

But first, I would like to tell you a little about this honor which Mr. Puskarz will be receiving. The Man of the Year Award is sponsored annually by the Polish-American Business and Professional Association to benefit their scholarship fund. Over the years, the PABPA has distributed over $23,000 in scholarships to students of Polish heritage going to college. The award serves to honor Polish Americans who have contributed of their time and effort in service to their local communities, and who also serve as fine examples to young Polish Americans.

No one could be more deserving of this honor than Anthony Puskarz, Sr. Currently, he is president of Art Press Inc., a commercial printing and lithography firm which he founded in 1932. At the same time, Mr. Puskarz serves as chairman of the printing craft committee of E. C. Goodwin Technical School and is an active member of the Printing Industry Association of Connecticut and Western Massachusetts. He is also a 35-year member of the International Typographical Union Local 679.

In addition, Mr. Puskarz serves his community in many diverse areas. He is a director and corporator of the Burritt Mutual Savings Bank and serves as chairman of the advisory board of the Slater Road branch of the bank. Moreover, he has a strong commitment to social service as witness by the fact that he serves on the advisory board of the New Britain Chapter of the Salvation Army and is a corporator of the New Britain General Hospital.

As for civic organizations, he is currently serving his 20th term as recording secretary for the Polish-American Business and Professional Association. In addition to this, he manages to find the time to remain active as a member and past president of the Kiwanis Club of New Britain, and a member of Falcons Nest 88, Fraternal Order of Eagles, Pol-

ish National Alliance Group 2093, and the Polish Roman Catholic Union.

But, perhaps, Anthony Puskarz is best known to most people for his music. As a former well-known orchestra leader, his DANA orchestra, later known as Tony Puskarz and the Diplomats, was popular among polka fans in the Northeast for over 25 years. He made over 40 records for Decca, Coral, Musico, Musicraft, Elite, Continental, and Polo recording companies. Among his many top hit recordings, the "Rain Rain Polka" was his most popular. For 38 years, he has been a member of the New Britain Musicians Union Local 440, contributing greatly to the vitality of the local music scene.

Puskarz's reputation in polka music was nationwide. He broadcast his first radio program over radio station WNBC, now WPOP. He was the first polka disc jockey on WKNB, now WRYM; he later broadcast from WHAY, now WRCQ. His broadcasts would feature live studio programs with his own orchestra playing the music.

Mr. Puskarz recently served as one of five members of the electoral college of the Polka Hall of Fame, a national organization which honors personalities who have made outstanding contributions to the advancement and promotion of polka music. Needless to say, his many fans were deeply disappointed at his retirement from the music field in the early 1960's.

It should be evident from all this that Anthony Puskarz, Sr. is by no means your average citizen, but rather a talented, gifted individual who has chosen to spend his life dedicated to the happiness and well-being of others. For this and all of his outstanding achievements, the choice of him for the Man of the Year Award can scarcely be challenged.

I would like to add my voice to the chorus of congratulations to Anthony Puskarz, Sr. for his personal achievements in the fields of art and music, and for all that he has contributed to the pride of the Polish-American community in New Britain, the State of Connecticut, and nationwide.

TRIBUTE TO MRS. CARMEN CIDDIO GALLEGOS

HON. PETE V. DOMENICI

OF NEW MEXICO

IN THE SENATE OF THE UNITED STATES

Tuesday, September 20, 1977

Mr. DOMENICI. Mr. President, in spite of this country's tremendous medical capabilities and its complex and elaborate health care delivery system, there are many women in the United States who for one reason or another do not deliver their children with the help of a physician or in a large sophisticated hospital. This may be due to location, for example, in rural areas; or simply because some people just cannot afford the services of a busy doctor or the facilities provided by city hospitals. These mothers often avail themselves of the services of a midwife as an alternative method of childbearing.

Having delivered over 5,000 babies, Mrs. Carmen Ciddio Gallegos is certainly experienced in her specialty. She has provided personal and concerned care to many mothers and infants in San Miguel County for many years. Her skill and expertise have undoubtedly instilled confidence in her patients.

A midwife has several responsibilities, some of which may be quite unexpected. She is called upon to offer advice, provide comfort, cope with adverse conditions, and sometimes provide prenatal and postnatal care as well as delivering the baby safely. She is "on call" night and day, and travels countless miles to offer her services throughout the community.

As for the patients of the midwife, an expectant mother frequently can expect more personal care than she might get from a busy physician or hospital staff. The prospective mother may feel more comfortable having her children in her own home, and asking her many questions to the midwife, for the midwife usually has a greater sensitivity to the mother's needs. The ability of the midwife to communicate with the members of the community provides the families with a secure feeling that might not be possible in the more impersonal and strange surroundings of a hospital.

Mrs. Carmen Ciddio Gallegos is an asset to San Miguel County. Over the years, she has faced many problems and unusual situations in delivering children and has always met the challenge. The respect she receives from her patients and the community attests to her skill and service to others. She should be proud of her achievements in a demanding, yet satisfying endeavor. I know that we here today are all very proud of Mrs. Carmen Ciddio Gallegos, and we are grateful for her service.

PUBLIC UTILITIES REGULATION POLICIES

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. WALSH. Mr. Speaker, the attached resolution adopted by the Tompkins County Chamber of Commerce summarizes the attitude of the body with respect to proposed changes suggested in this legislation with respect to public utility regulatory policies.

This resolution was adopted unanimously by the board of directors of the Tompkins County Chamber of Commerce on August 17, 1977. The resolution reads as follows:

RESOLUTION

Whereas, "A Bill to Establish a Comprehensive National Energy Policy" No. S-1469 was introduced in the U.S. Senate on May 5, 1977 by Senator Henry M. Johnson, and

Whereas, Part E of said S-1469 dealing with the "Public Utility Regulatory Policies" fails to recognize the many different types of elective requirements and consumer needs not only between the States but also within the States which are monitored adequately by respective State Utility Commissions which were established to monitor such needs on an individual and continuing basis, and

Whereas, to create a Federal organization to oversee and duplicate the efforts of the States in this area, such action can do nothing but add to consumers' costs and be contrary to President Carter's expressed desire to streamline the Federal bureaucracy, and

Whereas, The Federal Government will now become involved in the retail pricing of electricity in the interstate market. This pricing is effectively being accomplished by Public Utility Commissions in each State. This bill would in effect make the State Commissions a branch of the Federal Government with authority only over matters that are specifically filed with the Federal Energy Administrator or no authority if the Administrator feels that they are not following Federal guidelines. Is the Federal Government willing or does it have the manpower to accept this responsibility?

The bill intends that by adopting a national policy of marginal cost pricing no State will be placed at an economic disadvantage. It also assumes that each State if not mandated by Federal policy will not change historical design of rates. However, this is contrary to what is actually happening within the States. Many State Commissions, including New York's, are presently investigating the benefits of marginal cost pricing in rate design. Further, while marginal costing is desirable and theoretically possible, we must realize that theory and practical application do not always follow a logical and simple progression. To mandate a country-wide system of marginal costs and to couple it with non-declining rate blocks will have the effect of an immediate increase in the cost of electricity, to the business community.

The bill is contradictory in the fact that marginal cost pricing will not apply to the residential consumer. They are the only consumers whose rates can be set lower than marginal costs dictate. This assumes that they are not adding to the peak loads which in many cases is not factual.

The adoption of marginal cost pricing before a full economic study of its impact can be completed could cause a switch to other fuels by all consumers. This would be contrary to the stated national policy of reducing our dependence on the limited fossil fuels, oil and natural gas, in place of our abundant supplies of coal and uranium.

The criteria of sales of over 750 million KWH per year for non-regulated utilities before having to comply with the bill will exclude all but a few of the municipal and cooperative electrical systems. These systems historically have a higher growth rate than the regulated utilities and provide them a great economic advantage not by economic competition but by regulation.

The financial integrity of the regulated utilities will be greatly threatened by this legislation. Inflationary pressures have caused the utilities to seek rate hikes which presently contain long delays. The uncertainty of jurisdiction of rate cases between State Commissions and the Administrator and further delays can only lead to a further decline in investor confidence in utility stocks and bonds. Inability to raise capital will not only cause a curtailment of needed construction for new consumers but reduce the reliability of service to existing customers.

Now therefore be it resolved, that the Tompkins County Chamber of Commerce desires to express its opposition to Part E, S-1469 and urges you to vote against S-1469, Part E which deals with the "Public Utility Regulatory Policies."

The above resolution was passed unanimously by the Board of Directors of the Tompkins County Chamber of Commerce at its regular meeting in Ithaca, New York on August 17, 1977.

SOME SALARY CUTS WE CAN ALL SUPPORT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. HYDE. Mr. Speaker, last week I introduced legislation, H.R. 9040, which will drastically cut the salaries of official U.S. representatives to the World Bank, the International Monetary Fund, and the Asian and Inter-American Development Banks.

The current taxable equivalent salaries of some of these individuals are higher than that received by Treasury Secretary Blumenthal who earns $66,000 annually. The following table shows current tax-free net salaries, and the taxable gross equivalent:

SALARIES OF U.S. EXECUTIVE DIRECTORS AND ALTERNATES TO THE INTERNATIONAL FINANCIAL INSTITUTIONS AND TREASURY DEPARTMENT OFFICIALS

Position	Net salary	Taxable gross equivalent*
World Bank (IBRD):		
U.S. Exec. Dir.	$47,605	$83,830
Alt. U.S. Exec. Dir.	37,658	61,730
International Monetary Fund (IMF):		
U.S. Exec. Dir.	47,605	83,830
Alt. U.S. Exec. Dir.	37,658	61,730
Inter-American Development Bank (IDB):		
U.S. Exec. Dir.	44,985	78,820
Alt. U.S. Exec. Dir.	35,675	57,920
Asian Development Bank (ADB):		
U.S. Director	------	42,350
Alternate U.S. Dir.	------	36,550
U.S. Department of Treasury:		
Secretary of Treasury	------	66,000
Asst. Sec. of Treasury	------	50,000
Dep. Asst. Sec. of Treasury	------	47,500

*The figure for taxable gross equivalent salary for employees of the World Bank, the IMF and the IDB is the grossed-up salary figure paid to the U.S. representatives and assumes a spouse, two dependents and District of Columbia residence. The Asian Development Bank's U.S. Director does not enjoy "tax free" status, but receives added compensation to equate his salary with that of a Chief of Mission (Class 2) under the Foreign Service Act of 1946.

Source: Senate Report 95-352, Library of Congress and International Monetary Fund.

Mr. Speaker, the figures speak for themselves. The U.S. Executive Director of the World Bank earns a taxable equivalent salary of $83,830 annually, with take-home pay of $47,605; while his counterparts on the International Monetary Fund and the Inter-American Development Bank earn taxable equivalent salaries of $83,830 and $78,820, respectively, or take-home paychecks of $47,605 and $44,985 respectively.

Year after year Congress is asked to vote bigger and bigger foreign aid packages. Many of us in Congress view the high salaries of international bureaucrats with indignation and frustration. The enthusiasm of our constituents for foreign aid is limited enough, without having to explain these exorbitant salaries. Congress cannot touch the salaries of most of these organizations' employees because, as international organizations, they are not under direct congressional jurisdiction.

Defenders of the current salary levels make a variety of arguments in support of the high salaries including the need to attract highly competent employees, and the necessity of equating their pay levels with those of the best paid national bureaucracies. But the mission of these organizations—to channel international assistance to the poor in lesser developed countries—makes such high salaries repugnant to aid contributors and aid recipients alike. Put very simply, every dollar paid in salary is a dollar less for development aid.

I do not expect the employees of the World Bank to work for an unfair or inadequate salary, nor one that is not commensurate with their important responsibilities. But these goals can be obtained within sensible and prudent limits.

I have written to the House conferees on the foreign assistance appropriations bill, urging their support of the other body's language reducing salaries of official U.S. representatives at the multilateral development banks. While there is a minor problem with the language as it applies to our Asian Development Bank representative, on the whole it is an innovative approach which deserves the support, not only of the conferees, but of the full House. Should the Senate approach not find its way into law, I will urge quick hearings within the Banking Subcommittee on International Development Institutions on my measure, H.R. 9040.

This bill would prevent U.S. executive directors of the international financial institutions from accepting a salary greater than an Executive Level IV position, or $50,000. Alternate directors could accept only $47,500. The difference between these limits and what they now earn would revert to the institution.

Compared to the overall problem, this is almost a symbolic gesture. The more general problem of an overpaid international bureaucracy remains. But this does put other governments and the employees of these institutions on notice that the Congress will not keep funding institutions that lavish their employees with high salaries and benefits. Hopefully, other governments will follow our lead.

NOTICE OF HEARINGS ON PROPOSED NATIONAL DOMESTIC DEVELOPMENT BANK

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on October 4, 5, and 18, the House Subcommittee on Economic Stabilization, which I chair, will hold hearings on legislation proposing the establishment of a national domestic development bank and related proposals. It is our intention to hear testimony from a wide range of public and private individuals and organizations concerning the capital needs faced by local governments and a variety of public policy instruments proposed for meeting these requirements.

Because of time constraints, oral testimony will be received only from selected witnesses, which, in the opinion of the subcommittee, are likely to best represent the interests affected. However, written testimony will be accepted for the record. For further information, interested persons may contact the hearing clerk, Subcommittee on Economic Stabilization, Room 2220, Rayburn House Office Building, (202) 225-7145.

AGAINST MILITARY UNIONS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. BEARD of Tennessee. Mr. Speaker, as a member of the House Armed Services Committee, I have watched the development of the military unionization issue with deep concern, and I must note, growing concern.

From all indications, military unions have a serious detrimental impact on the over-all effectiveness, discipline and readiness of Armed Forces. Findings by Gen. George Brown, Chairman of the Joint Chiefs, has demonstrated that every country that has had a servicemen's union has paid a terrific price in operational effectiveness.

The Americn Federation of Government Employees (AFGE) at their recent national convention passed a resolution to accept military personnel into their ranks. A post convention poll of the entire union membership indicated that the rank and file overwhelmingly favor a moratorium on military unionization activities. However, opponents of military unionization should not be lulled into a false sense of security. These poll results reflect only a feeling among the AFGE membership that civilian issues are a more immediate concern than attempting to unionize the military. This is likely to be only a temporary condition. The AFGE leadership is not about to give up the substantial economic and political gains which would result from bringing the military into the union fold.

The Congress has already evidenced widespread concern for the problem posed by the threat of a military union. To date, 21 bills have been introduced in the House, and two in the Senate which seek to ban such unions. Of these bills, only one has been acted upon by either Chamber. That bill, S. 274 withstood the test of extensive Senate scrutiny and passed on September 16 by a vote of 72-3.

I have been an advocate of House action on this question for some time,

unfortunately, to no avail. However, it is now clear from the overwhelming Senate vote that speedy action by this House is essential.

Mr. Speaker, while I am a cosponsor of legislation to prohibit military unions, I will today introduce legislation identical to that already passed by the Senate. It is my hope that this will once again draw attention to the urgency of this issue and the need for immediate consideration of this question by this body.

CONGRESSIONAL SALUTE TO THE HONORABLE FRANK VON ATZINGER, ESTEEMED CHIEF OF POLICE OF NORTH HALEDON, N.J., OUTSTANDING CITIZEN AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ROE. Mr. Speaker, on Friday, September 23, the residents of North Haledon, my congressional district, State of New Jersey will gather in testimony to the outstanding public service rendered to our community, State, and Nation by one of our most distinguished public safety officers, the Honorable Frank von Atzinger, chief of the North Haledon Police Department, good friend, leading citizen, and great American.

As Chief von Atzinger retires from his law enforcement career, I am pleased to join with his many, many friends in deep appreciation of all of his good works and share great pride in the success of his achievements with his wife, Alice, and son, John.

Mr. Speaker, Chief von Atzinger has indeed earned the highest respect and esteem of all of us for the quality of his leadership and highest standards of excellence in seeking to achieve optimum public safety for all of our people. He was appointed to the North Haledon Police Department in 1947. He served in all official ranks of the North Haledon Police Department—sergeant to captain—and on January 1, 1967, attained his present high office of public trust as chief of the department.

Chief von Atzinger is a lifetime resident of my congressional district. He was born in North Haledon, N.J., and served overseas with the U.S. Army in World War II before joining the North Haledon Police Department.

Throughout his lifetime Chief von Atzinger has forged ahead with dedication, devotion, and sincerity of purpose in combatting crime and protecting the life of our people. We applaud his knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

He has won more than 1,000 trophies and medals in shooting competition and holds a highly coveted award in the Oldtimers Hall of Fame for national competition. He has received many decorations for distinguished public service including the Mayor's Medal, Unico Medal for law enforcement, and citizens' awards.

Chief von Atzinger has been a stanch supporter and active participant in many civic and community improvement programs and we applaud the quality of his leadership endeavors for three decades in the vanguard of our public safety officers.

Mr. Speaker, it is, indeed, appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I am honored and privileged to call your attention to his lifetime of outstanding public service. As Chief von Atzinger retires his official leadership badge of courage and valor as the esteemed chief of police of North Haledon, N.J., I respectfully seek this national recognition of his contribution to our country in placing others above self in providing safety on the streets, security in the home, and optimum public safety for all of our people. We do indeed salute Chief Frank von Atzinger of North Haledon, N.J., for his contribution to the quality of life for the people of our community, State, and Nation.

BALTIC HUMAN RIGHTS RALLY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. BLANCHARD. Mr. Speaker, world attention will soon be focused on an event which will play a future role in the nature of East-West relations. On October 4, the Conference on Security and Cooperation in Europe will convene in Belgrade, Yugoslavia, to review the implementation of the Helsinki Final Act, signed in 1975 by 33 European states and Canada and the United States. These 35 signatory nations have set the task for themselves of attempting to insure a stable, and above all, a just peace in Europe. Prominent matters of discussion will center on human rights, economic cooperation and the self-determination of peoples, all specified within the Helsinki Act.

To underscore the necessity of considering the just status of all European peoples, Americans of Estonian, Latvian, and Lithuanian descent from throughout the United States are gathering in Washington on September 24, to express their great concern for the Baltic States. Estonia, Latvia, and Lithuania, independent nations prior to World War II, since that time have been under the harsh rule of the Soviet Union and have not been accorded the free expression of their natural human and national rights, a continuing injustice which has not been lessened by the Soviet Union's agreement to the Helsinki Act.

The Baltic human rights rally will commence at 11 a.m. on September 24, by the Lincoln Memorial reflecting pool, with many prominent speakers as well as Baltic cultural performances. I urge my fellow Members to take note of this assemblage and of our duty to be mindful of the many European peoples and states which have not as yet been accorded their rights under the Helsinki Final Act. As this act makes clear, friendly relations among the participating states can come about only when there is a recognition of the "universal significance of respect for and exercise of equal rights and self-determination."

OFFSHORE OIL AND GAS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. BAUMAN. Mr. Speaker, as a member of the Ad Hoc Committee on the Outer Continental Shelf, I know offshore oil and gas exploration and production are crucial components of this Nation's drive to produce new energy sources. The Federal Government has played a determining role in the progress of this area of the energy situation. Whether that role will be a negative one depends a great deal upon the kind of legislation this Congress passes concerning Federal laws governing the Outer Continental Shelf.

The Banner, of Cambridge, Md., recently offered its many readers some thoughts on the bill soon to come out of the Senate. The Banner points out that all too often Government has impeded progress in this field rather than encouraged it. I commend the Banner's thoughts on this matter to my colleagues:

OFFSHORE OIL AND GAS

Most Americans would agree that this country needs more oil and gas to solve its energy problems. They would also acknowledge that exploration for oil and gas on the outer continental shelf should be an important part of America's drive for energy independence. The question of how such exploration should proceed is a matter on which there is a staggering diversity of opinion.

The U.S. Senate recently revised the Outer Continental Shelf (OCS) Lands Act by a vote of 60–18. Senate Majority Leader Robert Byrd, D-W. Va., said the measure would "enable our petroleum companies to accelerate their efforts to explore the outer continental shelf." Sen. Russell Long, D-La., contends the law will impede "production of oil and gas in areas where we are most likely to get them."

Who is correct? The Senate revision of the OCS act alters the bidding and leasing procedures and increases the number of regulations that oil companies would have to deal with. The industry believes that present regulations are acceptable and that more intervention by government will hamper operations.

It is easy to sympathize with these objections. Congressional approval would be required on a development and exploration plan submitted by the U.S. Geological Survey. Imagine some long-winded senator expounding on the merits of the plan. Multiply that by 100, include the in-house maneuvering which accompanies such proceedings and the oil companies' fears seem well-founded.

The OCS revision must now go to the House. We hope representatives recognize the pitfalls in the Senate measure. Government

has many strengths, but speed is not one of them. If this country truly is involved in the "moral equivalent of war," speed in developing domestic energy resources would seem to be of the essence.

THE MEANING OF OUR NATIONAL ANTHEM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SHUSTER. Mr. Speaker, I would like to submit to my colleagues an inspirational article by the Rev. Charles William Hanko, chaplain of the Pennsylvania Chapter of the American Legion. Reverend Hanko explained in an excellent manner the deep-seeded reasons why our National Anthem means so much to so many Americans:

THE PADRE'S CORNER

(By Rev. Charles William Hanko)

Recently, an outstanding television presentation carried an account of a woman's attempt to replace the present National Anthem due to its emphasis upon the heroic deeds of the American Military. She cannot realize why an anthem, symbolic of the Republic, should be based upon her military might and upon killing.

Need the American people be reminded that such thinking is far from the Spirit which Francis Scott Key imparts. It is not the glorification of war, but, the valor of those who were willing to sacrifice their lives that Free-Men, everywhere, might continue in this blessed state to which they were endowed by the Creator. It is their example which gives strength to the Nation and to Free-Men and insures that God-given "Rights of Life, Liberty, and the pursuit of Happiness" to all.

If one will only think, it is the willingness to sacrifice life upon the Altar of Freedom that brought the United States to her exalted position of world leadership. When certain would-be "leaders" failed to realize this, we began to lose the esteem of the international community. This Nation no longer presented the answer to their prayers as "the land of the Free and the home of the Brave."

The purpose of an anthem for any nation is to inspire men in "thought, word, and deed": to bring to him a willingness to exert his utmost endeavors in service to God and to Man. Jesus, by his death at Calvary for the sins of man, sacrificed His all to insure "Eternal Salvation" and changed the History of the World and set the foundations for Western Civilization. The American Youth—at Lexington and Concord, at New Orleans, at Vicksburg, at San Juan Hill, at Verdum, at Normandy and at Iwo Jima, at Kumwha, at Pleiku (among other battles)—gave hope to man of the American intention to insure Freedom to all by the sacrifice of their lives. These asked, not that someone else give to assure life: they gave their own lives that others might live and signed this binding obligation in blood.

What greater witness could be given to the world of the love of a Nation for humanity than the most beautiful word of "The Star Spangled Banner?" May she ever wave over "the land of the Free and the home of the Brave." May we ever sing these resolves with every effort that they require with meaning and in our every action.

May God continue to bless America that she might continue to be the hope of the World in the Spirit of Him who established her.

BOAT CASES FROM VIETNAM

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. EILBERG. Mr. Speaker, my Subcommittee on Immigration, Citizenship and International Law of the Committee on the Judiciary recently held hearings on granting parole to an additional 15,000 Indochinese refugees. Of these 15,000, some 7,000 are known as "boat cases," a term used to describe those Vietnamese nationals who risking their lives and the loss of all their worldly possessions, escape clandestinely from Vietnam by boat in the hopes that they will be picked up at sea and taken to an asylum area from where they can be resettled in a new country.

The article reprinted here which appeared in the New York Times on August 25, 1977, vividly depicts the inhumane attitude adopted by certain countries and ship captains which violates the traditional maritime concept of aiding persons in distress on the high seas.

Under this new program, the United States is providing for the resettlement of all "boat cases" presently found in some 11 countries in Asia. It by no means solves the problem.

These refugees will continue to come out and they will continue to be ignored by ships and countries until some permanent international solution is found.

Should we, as each buildup occurs, continue to authorize new refugee programs? Or should we seek to enlist the cooperation and good will of all countries to come up with some definite commitments for relief?

I have called for an international conference on Indochinese refugees to consider not only the "boat cases," but also the "in-camp" refugees in Thailand where that population continues to increase.

My appeal has fallen on deaf ears—no government department or international organization has deemed the question to be important enough to convoke such a conference preferring to seek solutions on an ad hoc situational basis.

I renew my appeal. The sooner this is done, the greater number of lives we will save.

[From the New York Times, Aug. 25, 1977]

MORE SHIPS IGNORING VIETNAM'S REFUGEES—CAPTAINS SAID TO SPURN APPEALS FOR FEAR OF REDTAPE AND LOSSES

(By Henry Kamm)

KOBE, JAPAN, Aug. 21.—The three groups of Vietnamese refugees sheltered in a Roman Catholic home in this port city have been recovering from their arduous escapes by small boat since May.

The 104 persons—about one-third of them children—spend their time learning English from a priest, watching television in a language they don't understand, reliving awful memories and waiting for an embassy to give them a visa to a place of permanent refuge.

Since Japan refuses to consider asylum for anyone, their hopes center on the United States, France and Australia. They have vaguely heard of the American decision last month to admit 7,000 "boat people," but no official has talked to them about it, and they can only hope.

Their memories are of fears of being caught, of drownings, of death of hunger, thirst or exposure and of constantly bailing out their rickety craft while retching with seasickness.

Those were the dangers they expected when they set out. And they can speak of them matter-of-factly. But they cover with smiles and little laughs their embarrassment over the anger they feel about the many ships that passed them by while they were adrift at sea.

ASIAN COUNTRIES RELUCTANT

Before they were rescued—each group by a Japanese merchant vessel—they had all tasted the bitterness of having ship after ship ignore their pleas and S.O.S. signals and abandon them to the sea, with food, water and fuel running low, passengers ill and the coast far off.

Since the heavy refugee flow from Vietnam began last year, there have been increasingly frequent reports of violations of the traditional requirement that all ships encountering others in distress come to their rescue.

In shipping circles here and in Southeast Asia, it is recognized that the violations have become everyday occurrences and suspicions are voiced that some companies may have ordered their captains not to pick up "boat people."

The reason is that almost all Asian countries are reluctant to grant refugees even temporary shelter and have made serious difficulties for captains wishing to let these passengers off at their next port of call.

Great losses of time, danger to cargoes and governmental bureaucratic complications have ensued for shipping lines. How many lives have been lost because of the reluctance of ports and ships to rescue these refugees will never be known.

Merchant vessels are not the only suspected offenders. The leader of a group of 28 refugees that set out from Saigon May 8 said that on May 10 their boat flashed an SOS to the Australian naval vessel Vendetta. The vessel pulled up by the fishing boat. The Vietnamese group leader—he did not want his name printed for fear of reprisals against his relatives in Vietnam—asked for help and said that some people aboard were ill.

PASSED BY 21 SHIPS

While Australian sailors leaned over the rail to photograph the scene, the captain replied that he regretted he could not take the refugees aboard because his ship was on patrol. The refugee leader said the Australians then lowered medicines, water and fruit juice to them and a map indicating that Malaysia was 20 hours away. The Vendetta, a large destroyer that is listed as carrying a crew of 320, returned to its patrol.

"We had hoped to be invited aboard," the refugee leader said.

The next day said the leader, a former Education Ministry specialist, 21 ships passed within their sight in 12 hours. The Vietnamese signaled with flares and homemade flags, but no ship acknowledged the signals.

"I thought that they were busy, or because they had to feed us, or because they had difficulties with governments for political reasons," the refugee leader said in apology for those who failed to try to save the lives of his group, which included three young children and a pregnant woman.

Members of one group that left Vietnam from Cam Ranh on July 12 reported having passed within 50 yards of a ship bearing an Esso band around its smokestack on July 14 and being ignored by its crew. The 56 refugees on the boat later narrowly escaped capture by Chinese in the Paracel Islands, where they stopped to ask for drinking water before being rescued by a Japanese freighter.

LET OUR ALLIES SHARE DEFENSE RESPONSIBILITIES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mrs. HOLT. Mr. Speaker, in the CONGRESSIONAL RECORD of September 13, our colleague from Massachusetts (Mr. STUDDS) inserted a newspaper editorial complaining that economic motivation enters American decisions to sell arms to other nations.

Our colleague obviously agrees with the editorial. In his own remarks for the RECORD, he says that economic considerations "should not be allowed to dictate foreign policy decisions in a manner which does harm to our long-range international goals."

Mr. Speaker, he does not identify those goals, nor does he identify where our foreign arms sales are conflicting with those goals. I believe that our arms sales have been entirely consistent with maintaining the collective security of the United States and her allies by deterring the aggressive military imperialism of the Soviet Union and its clients, and shoring up our faltering economy by maintaining a large volume of exports. These are very worthwhile goals.

I would emphasize, Mr. Speaker, that the collective security of the non-Communist world is of paramount importance, and my use of the term "security" includes economic concerns of extreme gravity.

For example, the Soviet Union has a foreign policy goal of gaining control of Mideast oil resources without which the free world economy would collapse. The survival of the free world depends absolutely on preventing that calamity. For this purpose we sell arms to our allies in the Mideast, and when we sell arms to oil-producing allies, we are helping to pay for the oil we buy from them.

There is nothing immoral in selling arms to American allies for the purpose of enabling them to defend their independence against potential aggressors. There is nothing immoral in assisting them to defend natural resources that are vital to the entire free world. There is nothing wrong with helping them to defend critical, strategic areas in our global defense system. And there is nothing wrong with selling arms for such purposes when those sales enable us to buy materials and products that we need.

Of course, we sell a wide variety of products to other nations, including food. Unfortunately, we are not selling enough. Even with arms sales, America will be losing an estimated $25 billion this year because our imports are so much greater than our exports. A continuation of this trend is a serious danger to our economy.

According to the editorial submitted by our colleague from Massachusetts, the Carter administration approved $3.4 billion in arms sales during its first 7 months. This gives us some idea of the importance of these sales to the American economy in terms of income and jobs.

The gentleman from Massachusetts has strongly objected to the proposed sale of seven AWACS aircraft to Iran for an estimated $1.2 billion. I cannot understand why he protests.

Iran is a longtime ally of the United States, a major oil producer for the free world, a stabilizing military power in the Mideast, and has a 1,250-mile border with the Soviet Union and an 873-mile border with Soviet-armed Iraq. Iran carries an awesome responsibility for the defense of the Persian Gulf states and Saudi Arabia with their enormous reserves of oil.

AWACS (Airborne Warning and Control System) will improve the air defense capability of Iran, and the defense of Iran is of critical importance to the United States and the Free World.

Mr. Speaker, we live in a dangerous era in which we should assist allies important to the collective security of the free world, and it is impossible to separate military security from economic security.

There was a time, even very recently in our history, when we responded to aggression by sending our troops. Today we have asked our allies to carry a greater burden for the common defense and supply them with the arms they need.

Where is the error in this? Where is the immorality in this? I do not see it, Mr. Speaker.

AN AGENCY WE DON'T NEED

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ABDNOR. Mr. Speaker, it is only going to cost each taxpayer a nickel a year.

That is what we are hearing about the proposed Consumer Protection Agency.

We have heard the same story before but the record shows: Equal Employment Opportunity Commission 1965 budget $2.5 million, 1977 budget $66.85 million, a 2,574-percent increase in 13 years; Environmental Protection Agency 1971 budget $1.29 billion, 1977 budget $2.76 billion, a 114-percent increase in 7 years; OSHA 1971 budget $15.2 million, 1977 budget $130.3 million, a 758-percent increase in 7 years; Consumer Product Safety Commission 1973 budget $13.55 million, 1977 budget $39.8 million, a 194-percent increase in 5 years.

With our past record, we can hardly hope that with modest beginnings a Consumer Protection Agency budget will remain modest.

Some other reasons we do not need this agency are reflected in this recent editorial from the Hot Springs (S. Dak.) Star. I commend it to the attention of my colleagues:

MORE "BIG BROTHER!"

Unless Congressmen hear otherwise from their constituents, a bill defeated last year calling for the creation of a new super-government agency will be passed this year.

The Senate and House will soon be asked again to act on legislation that would create another layer in the sandwich of Federal Bureaucracy.

The new Consumer Advocacy Agency and its army of lawyers would seek to oversee and intervene in the affairs of other layers of bureaucracy, the regulatory agencies, which have already been created by Congress.

Those in favor of such an agency say the people are demanding this new bureaucracy to "protect" them from the dishonest businessman, even though many of the existing regulatory agencies were set up to do just that. What about the Consumer Protection Agency, for example?

The crux of the problem seems to be this. Do the American people want to cure the problems of bureaucracy by creating more bureaucracy? We thought that just the opposite was true. The people are tired of government and want less of it, not more.

We hope the public is finally beginning to see the light. The federal government can "protect" us all right into bankruptcy. The average citizen today doesn't mind being protected. What he does object to is the government treating him like a dummy when it comes to consumerism.

We think the creation of the Consumer Advocacy Agency would be just another step closer to the Big Brother form of government illustrated so well in George Orwell's fictitious novel, "1984". We hope it never becomes a reality.

A MULTIFACETED APPROACH TO STEEL INDUSTRY PROBLEMS

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. NOWAK. Mr. Speaker, there has been a great deal of public debate recently on the problems confronting the domestic steel industry, including the rising tide of foreign imports. The reality of these problems was manifest in the 37th Congressional District of New York, which I am privileged to represent, when Bethlehem Steel Corp. last month announced plans to reduce production and drop 3,500 jobs at its facilities in Lackawanna, N.Y.

Mr. Speaker, following is a copy of a statement I submitted today to the House Ways and Means Committee whose Subcommittee on Trade is conducting a hearing on the world steel trade situation. This hearing is a most timely and urgently needed one, especially in light of the retrenchments and job reductions that have occurred recently in this essential domestic industry.

STATEMENT OF REPRESENTATIVE HENRY J. NOWAK OF NEW YORK

Mr. Chairman, I would like to commend the Subcommittee for convening this hearing on the world steel trade situation—a matter of vital interest to our nation's economy and that of the entire Free World. Few industries are as basic and essential as steel to the modern economy.

I hope that an immediate by-product of this one-day hearing will be a more extensive congressional review of this complex matter to continue focusing national and international attention on the need to seek positive, balanced solutions to the difficulties that have developed in world steel trade.

In terms of our domestic steel industry, it is clear that we are experiencing serious economic problems.

There has been much vocal debate in recent months on the extent and causes of the domestic steel industry's problems. The litany of alleged causes—foreign imports, federal tax policies and environmental regula-

tions, rising labor and material costs, disappointing productivity, government jawboning, plant obsolescence, corporate mismanagement, industry pricing practices, steel substitutes—is extensive and hotly debated.

It would take an enormous amount of study to be classified as an expert on the causes of the steel industry's difficulties. It does not take long, however, to understand clearly the effects of these difficulties.

The impact recently was felt most harshly in the 37th Congressional District of New York, which I am privileged to represent. Bethlehem Steel Corporation, the nation's second largest steel manufacturer, announced on August 18 that it was reducing steelmaking capacity at its Lackawanna, New York, complex from 4.8 to 2.8 million tons and cutting its work force from 11,500 to 8,000. In the late 1960s, employment at this plant was as high as 20,000.

Earlier, Bethlehem Steel had announced a similar cutback at its Johnstown, Pa., facilities, reducing production capacity from 1.8 million to 1.2 million tons and cutting the work force from 11,400 to 7600. Prior to these two cutbacks, Bethlehem Steel this summer had announced the closure of two bar mills at Bethlehem, Pa., rolling mills in Lackawanna and South San Francisco, an iron ore mine near Morgantown, Pa., an iron ore pelletizing plant at Cornwall, Pa., and a bolt plant in E. Chicago, Ind.

This retrenchment has not been limited to Bethlehem. In recent months, belt tightening measures have been announced by various steel manufacturers. U.S. Steel, warning that its South Works in Chicago was "in danger" of closing, confirmed a 10 to 20 percent reduction of salaried workers in its Chicago-based Central Steel Division.

Wheeling-Pittsburgh Steel Corp. announced it too was carrying out extensive cost-cutting operations that "will involve several millions of dollars." Lykes Corp. cut 150 salaried employees at a Youngstown, Ohio, facility. Jones & Laughlin Steel cut salaries of 350 management employees 10 per cent. Kaiser Steel Corp. said it will close three rolling mills affecting 300 jobs.

This pattern of retrenchment is most disturbing. The long-range implications to our national economy of these cutbacks in productive steelmaking capacity are also of deep concern. For example, Bethlehem Steel's production cutbacks at its Lackawanna and Johnstown plants alone represents a reduction of 10 per cent in its total steelmaking capacity.

Industry experts say the United States has become the only industrialized nation in the entire world that is not self-sufficient in steelmaking capacity. That means at times of peak demand our domestic industry cannot meet the need and we must rely on foreign imports.

Simultaneously, these same experts predict a need to increase—by as much as 25 to 30 million tons—our steelmaking capacity by the early 1980s to meet anticipated domestic market growth.

If this projection materializes and our domestic steelmaking capacity continues to erode, our nation would become more and more dependent on imported foreign steel. This gloomy prospect prompted one industry executive to suggest that continuation of current trends will lead the United States to an OPEC-oil-like situation regarding steel products. Under this scenario, we would face chronic domestic shortages of steel, pay premium prices for imports, fuel inflationary trends and add to our balance of payments deficit.

The bottom line is that an essential domestic industry is in trouble.

There are foreign and domestic policy ramifications to the problem to any possible solutions.

Perhaps the most volatile and visible ingredient in the current problem is the issue of steel imports.

I believe the federal government immediately must begin to demonstrate a greater sense of public urgency about the steel industry's difficulties.

The loss of jobs in the steel industry is as real and ruinous to our economy as job losses in the color-TV, shoe and textile industries. It is imperative to give as much attention to the problems confronting the steel industry as we have to these other commodities.

At a briefing the International Trade Commission (ITC) conducted last month for congressional staff members, it was pointed out that the following 17 unfair advantages are often cited by the domestic industry in their complaints about steel imports:

1. Predatory pricing;
2. Pricing in U.S. markets at below cost of production;
3. Selling in the U.S. market at less than fair value;
4. Price discrimination in sales to U.S. customers by importers;
5. Foreign producers often receive a variety of export incentives or subsidies, including depreciation bonuses based on percentage of export sales;
6. Border tax rebates;
7. The forming of cartels to allocate and limit production of particular products and to set prices; cartels are permitted for the group purchasing of scrap (illegal under U.S. law);
8. Market disruption by foreign suppliers—curtailing shipments into the United States during periods of peak demand such as 1974 when imported steelmill products often sold at premiums ranging from 20 to 50 percent over domestic articles but increasing shipments during recessionary periods at prices far below domestic prices;
9. Increased imports into the United States as a result of the bilateral agreement restricting Japanese exports to the EEC. Negotiations of the EEC to obtain similar agreements from Spain, Sweden, and Switzerland;
10. The growing cartelization of the EEC;
11. The rapid imposition of special surcharges on specific imports in the United Kingdom;
12. The inability of world producers to sell steel in Japan at any price;
13. Subsidization of coal production in Europe and the United Kingdom;
14. The flow of government funds into the foreign steel industry which allows for low or no interest government loans to steel producers;
15. The establishment of export cartels in Japan;
16. The manipulation of exchange rates;
17. Heavy financial losses that foreign producers sustain year after year operating as instruments of national policy—not on the same profit motive which U.S. producers operate.

These repeated industry allegations have been challenged in some circles.

However, the unquestioned fact remains that foreign imports are relentlessly acquiring a greater and greater share of our domestic market for steel. The ITC stated:

"In 1977, the level of imports have reached about 18 per cent of U.S. consumption; of course, in the Western U.S. market, import penetration is about 35 to 40 per cent of U.S. consumption and, needless to say, with respect to some product lines, imports exceed U.S. production."

In 1976, for comparison purposes, foreign steel accounted for 14 per cent of our domestic consumption.

I believe a case has been made for the seriousness of the import problem on our domestic industry and that case should be reviewed at the federal government level with more dispatch and with a greater degree, a much greater degree, of concern and urgency.

Serious questions have been raised. We should be more actively seeking answers.

The import question is a complex one, with vast international economic implications. The solutions lie somewhere between the extremes of free trade and protectionism. The steel industry has not sought new protectionist legislation, but rather asks that present laws be administered more expeditiously and more aggressively.

There is no sense pretending we are operating in a free market situation. With foreign governments directly or indirectly subsidizing exported steel products and our own government directly or indirectly affecting domestic production—via environmental control regulations, for example—we are hardly functioning in a laissez faire economic environment.

Government interference or involvement here and abroad is part of the problem. The government must also be part of the solution.

As the most immediate step, I would suggest that we in the Congress should urge the Administration to signal our trading partners strongly—particularly the Japanese and the European Economic Community—that world steel trade problems must be addressed posthaste.

That point can be made at the next scheduled session of the Organization for Economic Cooperation and Development (OECD), which includes representatives from the major industrialized nations, in Paris on Sept. 29. Exchanges of additional information on the various nation's steel-related problems and discussion of these problems are scheduled. We should emphasize that the time is overripe for seeking solutions to steel trade problems.

The European nations are reportedly experiencing steel industry problems too. Even the Japanese reportedly are troubled by sagging orders and bloated inventories. The steel problem is a global problem. The United States cannot solve it alone. We must have a multi-lateral discussion to establish more equitable trade practices. We need and want those discussions to begin now.

Certainly to be explored would be the possibility of voluntary export restraints, the type negotiated with Japan and the European Economic Community after the alarming increases in imported steel in the United States in the late 1960s.

The Trade Act of 1974 gave the President and the Executive Branch broad authority and flexibility in dealing with trade matters. In addition to pressing for immediate multilateral talks on steel, however, I would hope the Administration would also be urging the EEC and Japan—through whatever channels possible—to exhibit some interim voluntary restraint on steel exports.

Simultaneously, the President should urge the Treasury Department to accelerate its investigations of anti-dumping complaints and firmly administer these anti-dumping statutes as a clear signal that we do not intend to tolerate any unfair trade practices.

Ignoring the problem will not make it disappear. Continued retrenchment and job losses by the domestic steel industry can only increase demands for protectionist measures—like higher tariffs or countervailing duties—which could be counter-productive and prompt retaliation abroad.

On the domestic policy side, the Council on Wage and Price Stability reportedly is on schedule in meeting a Sept. 30 deadline for a study the President ordered of the domestic steel industry. The study is to identify the reasons for domestic steel price increases, examine the impact of federal poli-

cies on the industry and identify any actions Washington can take to moderate cost and price increases.

Certainly, air and water pollution abatement requirements figure largely in the steel industry's costs. I hope the Council will make some suggestions for potential relief in this area.

One industry suggestion that should be examined in the upcoming tax reform hearings before the Ways & Means Committee is that companies be allowed to write off immediately their investment costs in non-productive pollution abatement facilities and equipment.

Proposals for some reduction in the corporate income tax rate and a liberalization of the investment tax credit also could help the industry meet its modernization needs. For example, Bethlehem Steel Corp. officials have suggested that the investment tax credit be set permanently at 12 per cent.

I have introduced legislation that would provide a 15 per cent investment credit applicable to plant and equipment expenditures in high unemployment areas. I would respectfully urge the committee to seriously consider this concept of targeting business tax incentives. This would provide help where it is needed the most—in our aging cities and high unemployment areas.

The problems of our domestic steel industry are multi-faceted. While the federal government has a role to play, it is not a federal government job alone. State and local governments must review the impact of their environmental and taxing policies on industry. And labor and management have prime responsibilities to work jointly to improve the industry's condition.

Reviving the health of the steel industry long-term will require this very type of cooperative action on many fronts. The important thing is that we cannot allow the situation to deteriorate further. Action is long overdue.

ESTIMATES OF SOCIAL SECURITY RETIREMENT BENEFITS NOW AVAILABLE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. VANIK. Mr. Speaker, I am pleased to report that the Social Security Administration is adopting a new procedure to make it easier for people nearing retirement age to get a computerized estimate of their benefit rate.

Under the new procedure, a worker can determine his social security benefits upon retirement by writing to the Social Security Administration, P.O. Box 57, Baltimore, Md. 21203, requesting a statement of earnings and estimates of retirement benefits. The letter of request should include the worker's name, address, social security number, and date of birth.

Since actual social security benefits can not be determined until retirement, the estimate that will be given only takes into consideration social security earnings up to the date the estimate is requested. In addition, the estimates will be based on present law's benefit tables and will not take into account any future automatic increases due to rises in the cost of living.

The Social Security Administration plans to evaluate the procedures to see if it can also make the computerized benefit estimates available to people under age 55, and to provide advisory information to those uninsured workers who request a benefit estimate.

This additional service will be extremely worthwhile. It is important that our citizens who are nearing retirement age, know in advance what their social security retirement benefits will be since to many it is the only or main source of income upon retirement.

SALUTE TO WOMEN'S AMERICAN ORGANIZATION FOR REHABILITATION THROUGH TRAINING

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ADDABBO. Mr. Speaker, this October marks the 50th anniversary of the Women's American Organization for Rehabilitation Through Training (ORT). Appropriately, this golden jubilee will be celebrated at the 24th biennial convention to be held in the golden city of Jerusalem during October 23–27, 1977.

Founded in 1880, ORT is the largest nongovernmental vocational agency in the world. Created to provide skills and trades to Jewish people the world over, ORT now boasts 800 training units in 30 countries. Annually, more than 76,000 students are trained in 90 trades. Through the Women's American ORT, the expertise and experiences of the parent organization have flourished in America. Currently, there are 130,000 members across the United States, with 3,000 of these located in my home county of Queens, N.Y., alone.

In recent years, the terms "career" and "comprehensive" education have highlighted our discussions of the need for relevant and practical learning experiences. Women's American ORT can be credited with the foresight of recognizing this need since the time of its inception. At the forefront of the ongoing struggle for quality education, this exemplary organization is one of the finest examples of dedication and service to all mankind.

On this golden occasion, I urge you and my colleagues to join me in saluting Women's American ORT and its students everywhere.

ORGANIZATION FOR REHABILITATION THROUGH TRAINING,
Queens Region, N.Y., August 24, 1977.

DEAR FRIEND: The 3,000 members of the Queens Region join with 130,000 members across the United States in celebrating the 50th Anniversary of Women's American ORT. This Golden Jubilee will be celebrated at the 24th Biennial Convention in Jerusalem October 23–27, 1977.

For almost a century ORT has provided skills and trades to Jewish people wherever there is a need. The present ORT Network embraces 800 training units in 30 countries. More than 76,000 students are being trained annually in 90 trades. More than 1,500,000 people have been trained since its inception in 1880. ORT is the largest non-governmental vocational agency in the world.

Women's American ORT has championed the cause of bringing ORT's expertise and experience to the United States. It has become increasingly involved in promoting relevent quality education in this country with special emphasis on "Career" and "Comprehensive" education.

We will be compiling a Greeting Book and we would be most appreciative if you would join in the celebration of this Golden Anniversary in the Golden City of Jerusalem by saluting the work of Women's American ORT and its 50 years of service to mankind.

On behalf of the Queens Region and our students everywhere, my sincere thanks for your interest and support.

Kindest regards,

TERRY HOFFER,
Queens Region,
Parliamentarian, Publicity and
Public Relations Chairman.

SOME DEREGULATION DEEMED WISE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SIMON. Mr. Speaker, as chairman of the task force of the Budget Committee, which includes regulation, we held hearings to get some kind of feel for what is happening in the transportation area.

While the precise course the Nation should follow is not clear, it is obvious that the right form of deregulation can help the consumer, will not hurt the transportation industry, and can have a deflationary impact on the economy.

The aspect of the protection of the consumer was touched upon recently in a column in the New York Times of August 7, by Tom Wicker.

That column is worth reading, and I commend it to my colleagues who did not happen to see it when it appeared:

SPEAKING FOR THE PUBLIC

(By Tom Wicker)

In 1976, the eleven major American airlines spent $2.8 million for outside counsel to represent airline interests in regulatory proceedings before the Civil Aeronautics Board. That same year, public interest organizations spent the grand sum of $20,000 on representation at C.A.B. proceedings.

That's one of the findings in a report about to be released by the Senate Committee on Governmental Affairs. The report will detail findings of a study showing that regulated industries usually predominate over public interest advocates in both formal and informal regulatory agency proceedings.

In more than half the formal proceedings the committee studied, there appeared to have been no public interest participation at all. In informal proceedings there was virtually no such participation; and even when the public interest groups did enter particular cases—like that of the airlines—they were overwhelmed by the regulated industries involved.

That gives particular urgency to one bit of pending legislation to which Congress will return after its summer recess—the bill that would create an Agency for Consumer Protection. In its report the Governmental Affairs Committee strongly supports creation of such an agency as a means of increasing public interest participation in regulatory proceedings

That, of course, is also a major reason why business groups—particularly the Business Roundtable and the United States Chamber of Commerce—have so strongly opposed the consumer agency. This is the eighth year that the proposal has been before Congress, usually passing one or the other of the two houses, but always falling before the guarantee of a veto from Presidents Ford or Nixon.

Now, however, the Carter Administration is solidly behind the consumer agency bill. That gives the measure a chance that it has never had before, but it hasn't alleviated the powerful opposition of the business groups that have thwarted the proposal in the past. And no wonder.

The agency would be small by Washington standards—funded at $15 million the first year, $25 million thereafter—but it might well have considerable kick. Not only would it have the power to represent consumer interests before the regulatory agencies, cross-examining witnesses and examining documents, but it could appeal the decisions of those agencies to the Federal courts.

Nor would the agency's powers be purely reactive. It might, for example, petition the Food and Drug Administration to take a drug off the market if it believed the drug held some potential hazard to the public. It could act as a watchdog on, say, airline fares. It could make sure that various health and safety regulations were being complied with. And it would have a research component empowered to gather and publish information of interest to consumers.

Not unnaturally, business groups see in the proposed A.C.P. a potential threat to comfortable ways of doing business and to the cozy relationships some regulated industries have with their regulators. But the Carter Administration recently succeeded in squelching one of the long-standing arguments against the need for the agency—that it would create a costly new bureaucracy.

Budget Director Bert Lance announced that if the A.C.P. were approved, 26 separate consumer offices scattered through the Government could be eliminated, along with their 200 employees, at a savings of $11.6 million annually. Another $8.5 million would be saved, Mr. Lance said, by rescinding the "consumer representation plans" required of all Government agencies by the Ford Administration—plans Mr. Lance suggested had been meant only to forestall Congressional approval of the consumer agency.

If these savings materialize as promised, the A.C.P. actually would cost less in its first year than now is being spent on consumer "protection." Ralph Nader's organization recently generated an effective letter-writing campaign on behalf of the proposal, and polls by both Daniel Yankelovich and Louis Harris show overwhelming public support.

But in the Senate, that current master of the filibuster, Jim Allen of Alabama, is ready to do his stuff on behalf of business, so Majority Leader Robert Byrd won't even bring the bill to the floor until the House passes it. That body plans a vote in September or October—but only if the Administration and the bill's sponsors believe they have the votes to pass it. That's a big if, in a House that took ten years to pass the relatively weak legislation to control strip-mining that President Carter has just signed.

H.R. 4544—BLACK LUNG BENEFITS REFORM ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. PURSELL. Mr. Speaker, although I was unable to be present for the vote on final passage of H.R. 4544, the Black Lung Benefits Reform Act, due to pressing business in my district, I did want to indicate my full support of this bill. As a member of the Education and Labor Committee I voted to report the bill favorably, and it would have received my vote again on the House floor, had I been able to be present.

H.R. 4544 serves to correct many of the deficiencies and inequities of the black lung program which have surfaced since the inception of this program 7 years ago. Miners risk their lives daily to supply this country with energy and I believe justice is long overdue for them. I support the permanency of this program, but fervently hope that all concerned will continue to work for the prevention of this disease in the future.

I congratulate my colleagues on passage of this bill and again, reiterate my full support of it.

AIRBAG LOBBY STILL LONG ON RHETORIC, SHORT ON HARD EVIDENCE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SHUSTER. Mr. Speaker, I commend for my colleagues consideration a thoughtful article on the airbag which appeared in today's Wall Street Journal. I would take slight exception to their statement that the evidence that sodium azide has mutagenic properties is not a definite point. While it is true that there may be alternatives for inflating the airbag, none have been addressed in the NHTSA order. Only sodium azide has been dealt with in the final order and the environmental impact statement; and the EIS failed to even mention the mutagenic and possible carcinogenic problems. That failure, by itself, is sufficient reason to disapprove the order at this time.

The article follows:

[From the Wall Street Journal, Sept. 20, 1977]

CRASH COURSE

During our recent crash course on air bags, we learned more than we have had an opportunity to relate. Since Congress is currently studying whether or not to overturn the decision effectively mandating the device, perhaps it could use a review of the evidence on which that decision was based.

The chief evidence on effectiveness of the air bag, as it appears in the National Highway Traffic Safety Administration docket giving Transportation Secretary Adams's decision, is a study comparing the number of injuries in air bag cars with the number "expected" in conventional vehicles. NHTSA found that air bags would eliminate 58% of injuries in all accidents and 52% in frontal collisions. The order specifically rejects the argument that the device should not be mandated "in the absence of statistically significant real world data which confirm its estimates of effectiveness."

Since these numbers were not entered into the docket for examination and debate before the final decision, the details of the calculations are hazy. But a couple of things seem reasonably clear. First, the data are not statisically significant; that is, the observed differences between air bag and conventional cars could occur by chance. Second, the data suggest that air bags are less effective in frontal collisions, in which they deploy, than in non-frontal collisions, in which they do not deploy. On the basis of data that could occur by chance, and are obviously suspect besides, consumers are being asked to shell out $2 billion a year.

The decision also specifically rejected a General Motors study showing the air bag no more effective than seat belts used 20% of the time. GM matched all air bag crashes with similar crashes of conventional cars, selected by computer and experts who did not know what injuries had been sustained. After the matches had been made the injuries were compared, and the results suggest the air bag simply does not work very well. In rejecting this study and choosing the NHTSA one, the order says, "General Motors is a vastly interested party in these proceedings, and the positions that it adopts are necessarily those of an advocate for a particular result."

Joan Claybrook is head of NHTSA and Secretary Adams' chief adviser on the issue. Before joining the administration she was director of Ralph Nader's Congress Watch. More specifically, Ms. Claybrook was Mr. Nader's spokesman on air bags. She got into the issue as deputy to Dr. William Haddon, then in government and now the insurance industry lobbyist who runs around Washington telling his auto industry counterparts, "You have blood on your hands." Ms. Claybrook rejects GM's data on the grounds that GM is an interested party.

It would appear that until pressured by air bag opponents, NHTSA attempted to suppress one recent test unfavorable to its case. Calspan Corp. crashed four air bag cars into four conventional cars in slightly off-center frontal crashes, measuring the forces sustained by dummies and cadavers. None of the four occupants wearing seat belts sustained gravitational forces above the standard for fatality. But three of the four air bag cases showed fatal forces.

Rep. Bud Shuster, Congress's leading air bag opponent, seems to have turned up some trouble with sodium azide, a chemical currently used to explode the devices. It has shown mutagenic properties and may be carcinogenic. This revelation reduced Ralph Nader to all the same apologies polluters always offer (see quote on this page). It is scarcely a definitive point, since other explosive devices could be used. But as Rep. Shuster points out, that NHTSA worked up an environmental impact statement without discovering the problems is indicative of the haste with which this order was promulgated.

Now, none of the studies above is very conclusive. What we need most of all is more data, as former Transportation Secretary Coleman's previous decision recognized. But the data so far tend to suggest that the air bag's effectiveness has been greatly overrated. If Congress lets them, Secretary Adams and Joan Claybrook may be mandating the device just as we learn it doesn't work.

BERT LANCE'S TROUBLES

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. HILLIS. Mr. Speaker, the Bert Lance affair has received a great deal of publicity during the last few weeks. The Senate hearings on Mr. Lance were carried to the entire Nation live by the major TV networks. Major newspapers

and virtually every weekly newsmagazine, have carried feature articles on Mr. Lance's troubles. More importantly, the Bert Lance affair has preoccupied the attention of the President during a period when much more important matters are being neglected. You might think that everything that could have been said about this matter has already been published. However, I believe one important aspect of this entire matter has been overlooked.

There has been much speculation that some career civil servants, within the Justice Department and the Department of Treasury, neglected their duties and responsibilities in investigating Mr. Lance prior to his confirmation as Director of the Office of Management and Budget. There is evidence that this neglect was intentional in hopes of remaining in the good graces of the new administration. As a result, the entire Nation, including the President himself, has been subjected to a regrettable episode.

Perhaps even more than those of Mr. Lance, the activities and motives of these civil servants should be examined. The taxpayers of this Nation should not be forced to pay the salaries of Government employees who are more concerned with their own security and advancement than they are with the best interest of the United States.

H.R. 6216

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. O'BRIEN. Mr. Speaker, since 1968 second-class publications dealing with agriculture have been benefited from a "science of agriculture" postal rate which reduces their mailings below those for other second-class publications.

There are many other informative, high quality farm magazines that do not receive this preferential treatment. They are mailed free of subscription charges to persons associated with a particular commodity or segment of the agricultural industry. They do not qualify for the second-class mailing privilege but are charged the higher rate charged to controlled circulation publications.

In April I introduced H.R. 6216 which would simply make controlled circulation publications relating to farming eligible for a "science of agriculture" rate. Today I have reintroduced that measure with Congressmen CLAIR BURGENER of California, LARRY WINN of Kansas, TENNYSON GUYER of Ohio, BILL KETCHUM of California, and WALTER JONES of North Carolina as cosponsors.

When Congress initiated the science of agriculture rate in 1968 most second-class farm publications were locally owned publications mailed largely within their own and adjoining States. Many of them have since been acquired by large diversified corporations and their earnings are among the highest in the magazine field. Controlled circulation farm publications, on the other hand, are primarily owned by independent businessmen who cater to a specialty market. Under our bill they will continue to pay higher rates than the second-class farm publications but the extra advantage given the second-class magazines by the science of argiculture rate will be eliminated.

THE WAY WE EAT

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. RICHMOND. Mr. Speaker, the American public is becoming increasingly aware of the direct relationship between good nutrition and good health. I would like to share with my colleagues the second in a series on food and nutrition that recently appeared in the Wall Street Journal:

[From the Wall Street Journal, June 21, 1977]

THE WAY WE EAT—MORE FOODS TODAY ARE "FRESH" FROM FACTORIES AND QUICK TO PREPARE

(By Victor F. Zonana)

Fresh Horizons bread looked like a winner.

Perfected last year by the Continental Baking Co. unit of International Telephone & Telegraph Corp., Fresh Horizons is low in calories and high in natural-fiber content. Although priced at a premium 65-cents-a-loaf to reflect the cost of this fibrous material, the product seemed sure to appeal to the weight-conscious and to natural-food buffs.

For a while, it did. In the first several months following Fresh Horizons' nationwide introduction last fall, sales "far exceeded our expectations," a Continental Baking spokesman says.

Then in March, Sen. George McGovern, the the South Dakota Democrat who chairs the Senate Select Committee on Nutrition, announced he was "shocked" to learn that the source of Fresh Horizons' fiber content was "sawdust" and "woodpulp." Added the Senator: "As one who grew up in the Great Plains, I assumed that the fiber was the natural fiber found in wheat."

Indignant Continental Baking officials hurried to explain that Fresh Horizons doesn't contain sawdust or wood pulp, but highly refined cellulose powder derived from wood. (Natural fibers, whether from wheat, wood or vegetables, are thought to aid the human digestive process.) And in Fresh Horizons' case, substituting the powder for flour enabled the company to keep the product's calorie content 30% below that of white bread, officials argued.

The damage, however, was done. Fresh Horizons' sales, which had reached a high in February, fell across the country. "They are now rebounding," says Robert B. Keane, a Continental Baking vice president, "but we still aren't back up to the peak."

The Fresh Horizons episode is a sign of the times Today, more than half of what we eat already has been altered, "enriched" or otherwise changed by food manufacturers. And a study by Arthur D. Little, Inc., the consulting firm, calculates that about two-thirds of our food now comes frozen or refrigerated, while much of the balance—from cereal to instant soup—has been processed to the point that it needs no special care.

CONTROVERSIAL ALTERATIONS

Whether these alterations involve the addition of a single ingredient or the application of complex technology, they are increasingly controversial. Cyclamates, saccharin, and a number of other additives have come under fire as health hazards: never before, food industry executives complain, have Americans been so suspicious of how their food is made. Some critics, meanwhile, simply object to all changes modern foods undergo between the farm and the dinner table.

"Food should be a link to nature, especially for all our people who live in the big cities," says Michael Jacobsen, director of the Center for Science in the Public Interest. "The American public should feel and believe that food comes from farms, not factories."

The trend, however, has long been in the opposite direction. Humans have processed their food ever since cavemen started salting and smoking meats. A breakthrough in food preservation came in 1810, when Nicholas Appert showed Napoleon I how the French army's food could be preserved by storing it in airtight glass containers. Cans soon followed. By World War II, food scientists had learned how to reduce eggs, milk and juices to powdered form.

Now, many in the food business predict there soon will be even fewer "fresh" meats and "fresh" produce in the nation's supermarkets—and more chemically-treated hybrids designed to survive the rigors of long-distance transportation.

TECHNOLOGY'S ROLE

"Fresh foods spoil too fast," says Glenn Stelzer, sales director of the food and fragrance development department at Hercules, Inc., a chemical company. "You just can't move them to the consumer fast enough." Adds Ferguson Clydesdale, nutrition professor at the University of Massachusetts: "There's no possibility of feeding our nation without the use of technology, and that means processed foods."

Food manufacturers also stress technology's role in the ease with which many foods can be prepared these days. Yet there's often a trade-off involved. Agriculture Department economists, for instance, found that 64% of the processed foods examined in a recent study were priced higher than the equivalent amount of homemade foods. Some examples: Turkey tetrazzine costs about 42 cents a serving when prepared from scratch, but almost 79 cents a serving when purchased in a frozen package; homemade fried chicken is about one-third the price of chicken that comes covered with factory-prepared batter.

Larry G. Traub, who authored the government study, points out that the higher prices of processed convenience foods "reflect the extra labor and energy that go into them." Determining the consumer's actual cost of using them is also difficult, he adds, because many people aren't sure what their own time is worth in dollars and cents.

Industry critics, however, say that food manufacturers oversell convenience. Sidney Margolies, a syndicated columnist who writes on consumer-related issues, offers one striking example, canned franks-and-beans. "Franks and beans canned together cost more than if you buy the two separately," he says. "What the hell is the labor factor of boiling a frankfurter and mixing it with a can of beans?"

As food wends its way to the grocer's shelf, it is likely not only to be canned, frozen or refrigerated, but also flavored, colored, thickened or condensed; the average American, by one estimate, consumes nine pounds of additives alone every year. And to counter charges that they are selling "empty calories," cereal makers and other food manufacturers are also adding vitamins and minerals to their product. (Less frequently, however, are they removing the sugars that provoked those charges.)

Some additives, such as artificial colors, are used only to enhance the visual appeal—and thus the sales—of foods. Even nutritious

additives have their drawbacks. Kellogg Co., for instance, recently reduced the iron content of its Frosted Rice cereal to 10% of the government's "recommended daily allowance" from 25% after consumers discovered they could move flakes of the cereal around with magnets. As a company spokesman explains it, "we had problems evenly distributing the product's sugar coating," which contained microscopic, ground particles of pure iron, a common additive in flour and baked goods. Now, the spokesman avers, Frosted Rice can't be moved with magnets unless "they are very, very strong."

SEAFOOD IN KANSAS

But other additives are necessary if we are to keep eating the foods we do. Without preservatives, for instance, New Yorkers would have to give up most fruit in winter and Kansas Citians would have to forgo seafood. Often the only sacrifice is taste: Tomatoes, oranges and bananas picked green and then artificially ripened with gases may be able to withstand the journey to faraway markets, but when they get there, food critics say, their "fresh" flavor is missing.

The future promises even more highly-processed foods. Already, for instance, McCormick & Co., a supplier of additives to the convenience-food industry, has chemically recreated in its laboratories "almost every flavor known to man," a spokesman tells a visitor. "Meat, fruit, cheese, wine, vegetables—you name it, we've got it," he says, pointing to hundreds of vials stored on shelves.

Using chemicals like these, other scientists have created the first generation of "engineered foods"—artificial meats made from vegetable protein, cheese and egg substitutes, and other products. In a process that resembles the manufacture of nylon, the Worthington Foods division of Miles Laboratories has been taking protein-rich soybeans, refining them and spinning them into long-thin fibers. Then with flavorings, colors and texturizers, the soybean fibers are transformed into meatlike products, ranging from artificial chicken to artificial bacon. These items, Worthington officials say, contain far less cholesterol than do real meats.

This technology hasn't yet advanced to the point where the taste and texture of meats can be exactly duplicated. Scientists say they have had the best luck with imitating the texture of hamburgers and meatballs, but the ersatz steaks and roasts are still too grainy. (For this reason, Worthington's products are sold mostly in specialty stores to those who won't eat meat for religious or health reasons.)

PREDICTED: A COVERUP

Nonetheless, "all the big food companies are waiting for a technological breakthrough—or for the price of real meat to go through the ceiling—before introducing their own texturized soy protein," says William Hale of Arthur D. Little. He also predicts these meat substitutes will first enter the American diet through the institutional-foods market, where companies will be able to "sneak them in and cover them up with lots of sauce."

Not all the new food-processing technology has proved successful. Freeze-drying, a by-product of the space program that allows a manufacturer to condense and preserve foods by removing the water content, enjoyed a flurry of interest in the late 1960s. But because the process requires large amounts of what has become very expensive energy, it's now only used to make freeze-dried coffee and a few "instant" foods.

A more recent development is the "retort pouch," a packaging process that promises to both save energy and eliminate the need for cans and freezers. By placing foods in foil and plastic containers and then cooking them in large retorts, food manufacturers say they can reduce the time—and thus the amount of fuel—needed to sterilize foods in the canning process. The retort pouch also can accommodate foods such as gravy and meat slices that currently must be frozen to be preserved. The Food and Drug Administration, however, hasn't approved the process because of questions about the sealant that will be used to close the filled pouches.

Food manufacturers are also turning back to the farm, buying acreage outright or gaining control over crops through long-term contracts with growers. One reason they're doing so, industry analysts say, is to ensure steady supplies of foods at stable prices. Another reason: to begin manufacturing food before it reaches the factory.

"By producing many of our own ingredients, we can assure ourselves of the qualities we need at our own quality specifications," says a researcher at Campbell Soup Co. For instance, to turn out tomatoes with what it says are "superior flavor, nutrition and processing characteristics," Campbell supplies growers with seeds developed by its research department. Other food companies, meanwhile, are studying use of the "square" tomato, a laboratory breakthrough with a rectangular shape that's said to be easier to pack and more resistant to bruising.

SOUTH JERSEY HONORS NATIONAL GUARD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. FLORIO. Mr. Speaker, I am pleased to announce that September has been proclaimed "Get Your Guard UP" month in recognition of the fine service that the National Guard has provided to the State of New Jersey.

The National Guard is of critical importance to every citizen of our State—and every State. In times of national crisis, the National Guard is mobilized for the defense of the citizenry. When natural disasters strike, the National Guard provides well-trained units to establish order and organize relief efforts; services that are important to us all.

For these and other reasons, I urge all citizens to support the efforts of the National Guard, and I would like to call the attention of my colleagues to the following proclamation:

PROCLAMATION

Whereas, the citizens of South Jersey are active members of National Guard Units which train in New Jersey, while countless others are non-unit members or have served in the military at one time in their lives and

Whereas, these citizen soldiers of the National Guard both locally and nationally have been mobilized numerous times for national defense and civil disorders or disaster during the history of the national guard.

Whereas, these citizen soldiers of the National Guard have chosen to increase their ranks to be better prepared to serve the community, state, and nation in times of need.

Whereas, 50th Armored Division commanded by Major General Herman Tenkin is New Jersey's major National Guard unit.

Therefore we the elected representatives of South Jersey proclaim the month of September as "Get Your Guard UP" month, and we urge all citizens to support the National Guard in their effort to increase their ranks, enabling them to help in making this country a better place to live.

JUGGLING SOCIAL SECURITY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. CONABLE. Mr. Speaker, 10 days ago the minority leader joined with me and other House Republicans in presenting an alternative approach to solving massive twin problems involving financil restoration and equity strengthening of the social security system. In brief, our proposal suggested that: First, the system could be put on a sound financial footing for at least 75 years; second, that a number of inequities, especially with respect to the treatment of women could be corrected; and third, that the insurance character of the system could be strengthened—all without increasing taxes above present law levels until 1982 and with a total tax rate increase above present law of less than 1¼ percent per employer, employee, and self-employed person.

The proposal has met with some welcomed and encouraging response from public and press. Earlier, I asked that a Wall Street Journal editorial, commenting on the proposal, be included in the RECORD. Today, I ask unanimous consent that another editorial, this one from the Washington Star, be included in the RECORD.

The article follows:

JUGGLING SOCIAL SECURITY

The greatest vulnerabilities of the Social Security system in recent years have been intellectual poverty and political timidity. Democrats and Republicans alike have addressed the intimidating problems largely by calling for ever higher taxes on an ever rising wage base.

Into the leaking dike of Social Security President Carter has jammed these same two fingers—increasing taxes and wage ceilings—and added a third: Using general revenue to keep the trust funds from going broke. The general revenue provision is one the President will "insist on," says HEW Secretary Joseph Califano.

That's a desperate lunge. It would require substantial borrowing by the Treasury and a consequent increase in the public debt and additional pressure for higher taxes. The general receptivity of Congress to the use of general revenue was indicated several weeks ago when the Senate Finance Committee by a convincing 11–3 vote rejected such tinkering.

But the most encouraging development on Social Security was the thoughtful reform package offered by six House Republicans, including Minority Leader John Rhodes. It marks a clear GOP alternative to the tatterdamalion notions of the Democrats.

Made public just before the Social Security subcommittee of the Ways and Means Committee took up the issue this week, the Republican proposal would put the system on a sound financial footing for the next 75 years, its architects contend: It would solve the immediate shortfall in the two major trust funds and strengthen the insurance—as opposed to the welfare character—of Social Security.

Already this week, the subcommittee has approved two of the GOP plan's general provisions—to lift the ceiling on allowable earned income by beneficiaries, and to require federal, state and local municipal employees be in the Social Security system. Inclusion of federal workers would end a conspicuous inequity—the ability of fed-

eral workers rather easily through moonlighting or after the earlier retirement allowed by their pension plan to earn the minimum Social Security benefit.

The Republicans would prefer that their reform package be considered in its totality. But, of course, that will not occur. However, the GOP proposal should be, and seems to be, stimulating the members of the House subcommittee as they grapple with the severe deficiencies of the system—the Disability Insurance Fund expected to be exhausted by 1979 and the Old Age and Survivors Insurance Fund by 1983.

A major thrust of the plan would be "decoupling"—eliminating the redundant adjustments for both price and wage inflation in calculating benefits. These two changes, the Republicans say, would reduce the long-range Social Security deficit by "slightly more than half."

Another substantial change would be the gradual advancement, from 65 to 68, of the age for full retirement benefits—the change would not begin until 1990 and not reach maturity until 2001, a phasing that takes into account increasing longevity and health among the population. That seems eminently sensible.

There would be a tax increase under the GOP plan—as its sponsors correctly point out, "There are prices to pay for the problems [the plan] solves." This increase would come, for employes, employers and the self-employed, in three stages: 0.5 per cent in 1982; 0.3 per cent in 1990; and 0.4 per cent in 2000. "This means that tax rates would rise, under this proposal, less than 1¼ per cent over a 75-year span." Among the "obvious alternatives" noted by the Republicans, of course, is the Carter administration's hope of removing all wage ceilings and having taxes paid on total earnings. There may be better ways to discourage personal initiative, but an ad infinitum bite like that is a sure one.

There are terrible difficulties in reforming so massive a mechanism as Social Security. The tendency has been merely to shore up an eroding foundation. That is not what is needed, and the GOP proposal seeks to avoid delusory fiddling.

There is no compelling reason that major Social Security legislation be completed in this session of Congress. The very complexity of the issue argues for greater deliberation—to avoid, for a blatant example, the 1972 mistake of double indexing.

The administration calls Social Security action a "must" for this session. It should be no such thing.

Representative James A. Burke, D–Mass., chairman of the subcommittee, the other day doubted that "Solomon with his wisdom could solve all the problems of Social Security before Congress adjourns this year."

The obvious moral: Don't try.

SAN FRANCISCO CHRONICLE URGES PRESIDENTIAL ACTION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SIMON. Mr. Speaker, I was pleased to note that the San Francisco Chronicle editorially supported a move that many of us who are interested in history are making, requesting President Carter to formally declare Dr. Samuel Mudd innocent of a conspiracy against his country for having set the broken leg of John Wilkes Booth following the assassination of President Lincoln.

The Chronicle editorial is brief but to the point.

[From the San Francisco Chronicle, Aug. 22, 1977]

PLEA FOR DR. MUDD

It was a justifiable act of medical necessity and compassion that got Dr. Samuel Alexander Mudd in trouble for setting the broken leg of John Wilkes Booth after he had shot President Lincoln, and the doctor, perhaps even deceived as to Booth's identity by his bearded disguise, should never have been sent to prison for it.

There is now a move to reverse Dr. Mudd's conviction by a military court of conspiracy to assassinate the Civil War President. President Carter is asked to do this by executive order. Mr. Lincoln, we are sure, would approve.

THE REVOLUTIONARY COMMUNIST PARTY FORMS NEW VIOLENCE-ORIENTED FRONT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. McDONALD. Mr. Speaker, although the Maoist Communists of the Revolutionary Communist Party (RCP) headed by Robert Avakian is in apparent disfavor with Peking's new rulers over the "Gang of Four" controversy, the group continues to expand and build a clandestine apparatus of full-time revolutionaries preparing for an armed struggle to overthrow our Government. The RCP's belief that it will take from 10 to 15 years to be strong enough for such an attempt should not be grounds for disinterest by the U.S. law enforcement and intelligence communities.

The Revolutionary Communist Party was able to bring 3,000 militant and highly disciplined cadre/demonstrators to Philadelphia last July for a counter-Bicentennial march. The RCP leaders and their fronts such as the Revolutionary Student Brigade and the Vietnam Veterans Against the War have repeatedly engaged in violent physical confrontations with law enforcement officers as part of a deliberate strategy of building a reputation as "cop fighters."

I find it of more than passing interest that the featured speaker at the founding of a new RCP front, the National Workers Organization (NWO), in Chicago over the Labor Day weekend was one Buddy Cochran. Cochran is charged with assault after the car he was driving injured persons observing a rally put on by the Ku Klux Klan in Plains to embarrass not only the President and the citizens of Georgia, but all Americans. Cochran was quoted as having told the public rally:

The only mistake I made was misjudging my speed. I wanted to sideswipe the platform, not drive through it.

For additional background on the RCP and its latest front, I recommend the following article which apeared in the September 16 issue of the Information Digest, a newsletter which monitors many violence-prone and terrorist political and social movements. The article follows:

RCP FORMS NATIONAL WORKERS ORGANIZATION

The founding conference of the National Workers Organization (NWO) was held September 3–4, 1977, at the Pick Congress Hotel, Chicago, IL. Organized by the Revolutionary Communist Party (RCP) as a front principally for factory workers in the basic industries, the RCP established some thirty-one local Organizing Committees for a NWO, coordinated from 343 S. Dearborn St., Rm. 1405, Chicago, IL 60604 [312/663–4310, 4311]; 4409 West North Avenue, Milwaukee, WI 53208 [414/445–5816]; 164 11th Street, Oakland, CA 94607 [415/832–9749] and other locations.

Pointing to the weeks of demonstrations against evictions of residents at the decaying International Hotel in San Francisco, a pamphlet publicizing the conference stated "We, the individual workers and rank and file groups that make up the Organizing Committee For A National Workers Organization are a part of this resistance."

The purpose of forming the NWO is "to further promote this resistance, to deepen our roots among the working people of all industries, to add more fighters to the cause of the working class."

Tightly controlled by experienced RCP cadre, those attending were told in advance that the rank and file workers would "get together to share their experiences and anger from a thousand battles. And that is when the active fighters for the working class will sit down and decide what has to be done to advance in our common cause."

Following the conference a public rally was held. The featured speaker was a Buddy Cochran, 30, who is free on $50,000 bond while awaiting trial on eight counts of aggravated assault from an incident in which 32 persons were injured when Cochran's car rammed through a crowd of 250 persons observing a Ku Klux Klan rally on July 4 in Plains, GA. At the time of his arrest it was reported Cochran said he drove into the crowd to defend "black workers" who were "some of his best friends." Cochran told the National Workers Organization militants that in driving his sports car into the crowd. "The only mistake I made was misjudging my speed. I wanted to sideswipe the platform, not drive through it."

Violence was featured in a number of "building actions" to publicize the NWO. For example, in Houston, TX, on 8/2/77, Betty L. Sullivan, 28, and Joseph M. Sullivan, 27, a member of the United Steelworkers of America, were arrested on disorderly conduct charges in the disruption of a seminar being given by Advanced Management Research, a frequent target for NWO/RCP disruptions. The Sullivans were released after paying fines in court.

In San Francisco on 7/27/77, NWO activists Victor S. Sakellar, 28; Paul Kleinnan, 27; John Tompkins, 29; and George Casazza, 29, were arrested on battery on a police officer and other charges following an anti-Advanced Management Research demonstration at the Hyatt hotel in which some 70 NWO supporters participated.

The Revolutionary Communist Party (RCP) was founded as the Bay Area Revolutionary Union in 1968. From its beginning it professed Marxism-Leninism-Mao Tse Tung Thought and its ideology, supported "people's war," and its leading members, including chairman Robert Avakian, have frequently traveled to the People's Republic of China. In December 1975, the Revolutionary Union changed its name to RCP and appeared to receive Peking's approval as the leading contender for Maoist orthodoxy until the death of the Chinese Communist dictator last year. The RCP then supported the faction lead by Mao's widow, the "Gang of Four," and lost favor with the winning faction. The RCP's rival, the former October League, now

the Communist Party, Marxist-Leninist (CP-ML), is clearly Peking's choice at present among U.S. Maoist groups.

The RCP operates a number of front groups which are the recruiting ground and training center for candidates for RCP membership which is deliberately kept small in number. Principal RCP fronts include the Revolutionary Student Brigade (RSB), Vietnam Veterans Against the War (VVAW), the Bay Area and the NY-NJ United Workers Organizations; and the Unemployed Workers Organizing Committee (UWOC).

The RCP is organized along clandestine lines in preparation for an eventual armed revolution. The lowest level of membership in the RCP apparatus is a cell called a "collective," whose organizer is its "chairman." Frequently only the chairman and one or two others are RCP members with the rest being participants in fronts and study groups. An area's local Executive Committee (EC) is composed of the RCP organizers—the collective chairmen. Each EC has a subcommittee termed a "proficiency committee" that is responsible for developing methods of waging a violent revolutionary struggle such as accumulating firearms and explosives and training the membership in their use, physical training, and development of tactics for the frequent demonstrations and confrontations with law enforcement.

Above the EC is the Regional Committee formed from selected Executive Committee members within a region. These committees supervise the ECs and ensure that the directives of the National Committee headed by Chairman Avakian, are carried out.

The RCP and its subsidiary fronts are active in Seattle; San Francisco; Honolulu; Los Angeles; Chicago; Cincinnati; Detroit; Milwaukee; Cleveland; Buffalo; New York City; Philadelphia; Baltimore; Greensboro, N.C.; Atlanta; and Houston, Tex.

The RCP concentrates its recruiting in basic industries, with the United Steelworkers of America (USWA) and the United Auto Workers (UAW) being areas of concentration. In the UAW, the RCP operates the Auto Workers United to Fight (AWUF) caucus; and in the USWA runs several small caucuses in the locals such as Steelworkers on the Move, Steel Unity, and the Steelworker Organizing Committee. From its Greensboro base [919/273-3356], the NWO is attempting to recruit J. P. Stevens employees into its ranks and is planning to produce yet another industry-oriented newspaper, The Textile Workers Voice.

CONSTITUTION WEEK

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. BRECKINRIDGE. Mr. Speaker, I am pleased to rise today to honor a dedicated and loyal Lexington chapter of the Daughters of the American Revolution in my home town of Lexington, Ky. The ladies of the Lexington D.A.R. Chapter remind me that September 17, 1977 marks the 190th anniversary of the adoption of the Constitution of the United States of America. In order to accord official recognition of this memorable anniversary, and to the patriotic exercise that will form a noteworthy feature of the occasion, Public Law 915, signed by the President of the United States on August 2, 1956, guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

Mr. Speaker, I am honored to join with the D.A.R., and citizens everywhere in celebrating "Constitution Week." The resolution adopted by the Congress on July 23, 1956, and introduced by former Senator William F. Knowland is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to designate the period beginning September 17 and ending September 23 of each year as Constitution Week, and to issue annually a proclamation inviting the people of the United States to observe such week in schools, churches and other suitable places with appropriate ceremonies and activities.

1984 AT COORS: POLYGRAPHS ON DEMAND

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mrs. SCHROEDER. Mr. President, on August 30, 1977, the Denver Post printed a letter to the editor from a striking Coors brewery worker in which he explains the reasons for the strike, and refutes assertions made by the company in a recent full page ad.

On August 27, 1977, the Rocky Mountain News did an article in which the striking workers claim their Coors beer boycott is having an effect.

I commend both of these items to the attention of my colleagues:

[From the Denver Post, Aug. 31, 1977]

GOAL OF STRIKING EMPLOYES

To The Denver Post:

I would like to make some comments regarding the full page advertisement which appeared in The Denver Post Aug. 19 regarding the strike and boycott against Coors Brewery.

Before you decide not to support the boycott, please consider these facts, it is not true that 1,472 members of Brewery Workers Local 366 walked off their jobs on April 5, 1977. Some members never honored the strike for one hour or one day. When the strike vote was held by the union, 1,162 members voted, with 1,154 of that number voting to strike if Coors continued to insist on changing contract language pertaining to seniority rights and polygraph requirements, 8 members abstained and there were no votes to accept the company's proposal.

Due to a series of letters sent to the employes by Coors in which the employes were threatened with loss of their jobs, approximately 900 members eventually returned to work. Nearly 600 members have continued to strike for the issues that the original 1,154 voted to strike for.

It is a fact that Local 366 did not go on strike for 20 years, however, regressive contract language was not proposed during that time to the extent it was in the new contract proposal taking effect Jan. 1, 1977.

The contracts with Operating Engineers Local 9, Laborers Local No. 720, Construction Drivers and Transportation Drivers (who are both represented by Local No. 366) are probably basically the same as the latest proposal to Local 366 covering the production and maintenance workers in the Brewery. However, there are a couple of things which need to be pointed out.

1. These Locals never had any language protecting senior employes in the event of a lay-off.

2. There is basically no shift work involved so shift preference by seniority is not a factor.

Coors states that Local 366 doesn't have the support of the majority of its own members which is true to a degree, but 92.4 per cent of this membership voted for Local No. 366 to represent them in a Colorado Labor Peace Act Election in December 1976. While 900 members did not have the courage to support the strike they voted for, I believe there is more sentiment for the union among the non-strikers than Coors is aware of.

Coors is right when it claims thousands apply for jobs each year. In earlier statements Coors stated that the average annual income for production workers is $19,500. Now it says this figure is for a production worker on universal shift schedule. I have worked at Coors for nearly 18 years and never have approached an income of $19,500 per year. This is an excellent income but it should also be explained the hours required to earn this amount would include Saturdays, Sundays and holidays.

The latest contract proposal would require an employe to take a polygraph test at any time a supervisor requested him or her to do so. Refusal would be grounds for immediate discharge. This is an addition to the polygraph test required for preemployment tests. It is highly degrading for an honest, hard working employe to be forced to submit to such a test at the whim of his supervisor.

The striking employes are not out to break the Adolph Coors Company but only want to put enough economic pressure on the company to obtain a fair and equitable contract proposal which would recognize years of faithful and productive service with the company and eliminate some of the polygraph language, the results of which are not admissible in any court in the land.

DON JORGENSON.

Arvada.

[From the Rocky Mountain News, Aug. 27, 1977]

STRIKERS CLAIM BOYCOTT SUCCESSFUL

Striking employes of the Adolph Coors Co. claimed triumphantly Friday that the boycott of Coors beer appears to be a success in California.

Coors dropped to second place for June beer sales in California for the first time in several years.

Jim Silverthorn, president of Brewery Workers Local 366, said the drop can be attributed largely to the boycott instituted by the union shortly after the strike began in April.

Silverthorn said California sales figures for June, reported Aug. 19 by the U.S. Brewer's Association, have given strikers a tremendous "morale boost."

June was the third straight month in which Coors sales dropped in California, Silverthorn said. California sales account for 45 per cent of all Coors sales, he added.

Coors had 29.1 per cent of the California beer market in June, compared with 31.9 per cent for the Anheuser-Busch Co., Silverthorn said. He said this represents a Coors sales decrease of 134,355 barrels of beer from last June, which is a 23.7 per cent decline.

A spokesman for the Golden brewery Friday night said, "Coors still remains the sales leader in California in terms of accumulated sales for 1977.

"The figues for the second quarter, the 12 weeks to June 12, are the result of a variety of marketing factors, including more competitive conditions and price discounting by competitors and to a minimal degree to the production setback caused by the walkout in April and the resulting boycott."

HUMAN RIGHTS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. RINALDO. Mr. Speaker, on June 5 of this year, his eminence John Cardinal Krol, archbishop of Philadelphia, delivered a profoundly moving address on human rights to the sixth annual Polish Festival at the Garden State Arts Center, Holmdel, N.J.

This speech forcefully calls upon free people throughout the world to fight to preserve the religious, cultural, and political rights of all people; and more importantly, it is an open challenge to Communist regimes to live up to the "paper promises" they have made since the success of the Bolshevik revolution in 1917.

As Cardinal Krol stated, Poland today is a battlefield. And whether or not the forces of justice and freedom will win depends on our strength, our fortitude, and our faith in God.

Mr. Speaker, I would like to include the text of Cardinal Krol's speech with my remarks so that my colleagues will have the benefit of reading this important statement:

HUMAN RIGHTS

I express my very deep appreciation for the invitation to share with you at least this religious part of the Polish Cultural Foundation festival. I am humbled by the invitation to speak to you and I am quite sure that all the thoughts that have gone through my mind, and my attempt to set them into what might be a coordinated message, will probably not be as successful as I would like it to be.

But I speak to you today on a subject that is quite current, a subject which frequently finds its way into the headlines, into articles, into editorials, and that is the subject of human rights.

We know that the second Vatican Council brought in bold relief the insistence on the dignity of man and on the sacredness of human rights. It was at the synod of 1974 in Rome that the Holy Father, together with the bishops assembled in that synod, issued a message on human rights. The message said that no nation today is faultless where human rights are concerned. It called upon all to promote human rights and to give hope to those who suffer violation of their rights. In that brief message special attention is gvien to, first, the right to life which is being violated today by abortion, euthanasia, torture, acts of violence against innocent parties, the scourge of war. Secondly, the right to eat. Millions in the world today are undernourished. Millions face starvation, and die of it. The third was political-cultural rights, and the message insisted that individuals should have an effective role in shaping their own destinies. They have a right to participate in the political process freely and responsibly. They have the right to be educated and determine the education of their children. They have a right to be secure from arrest, torture, imprisonment for political or ideological reasons. And the fifth caption was the right of religious liberty. Today this right is denied or restricted by diverse political systems in ways which impede worship, religious education and social ministry. And the message says, "We call upon all governments to acknowledge the right of religious liberty in words, and foster it in deeds, to eliminate any type of discrimination, and to accord to all, regardless of their religious convictions, the full rights and opportunities of citizens."

We affirm our determination to foster human rights and reconciliation everywhere in the Church and the world today.

Why do I speak to you about human rights? Actually, the history of Poland has a brilliant jewel, a document submitted by Pawel Wlodkiewicz to the Council of Constance. That document came to full expresson 500 years later in the second Vatican Council's declaration on religious liberty. It has been a long Polish tradition that the violation of human rights anywhere in the world was the concern of everybody. And it was that kind of a conviction that brought Tadeusz Kosciuszko to these shores to fight according to the motto of Poland: 'For yours and our freedom.' There has been a deep appreciation of human rights throughout the history of Poland.

We can go back another 300 years to the Statutes of Kalisz in 1254. This federal statute made it a crime, severely punishable, for defacing or demarking a Jewish synagogue, a Jewish cemetery, or in any way taking actions against the Jewish residents of Poland. These statutes are a matter of historical record.

Even before the Magna Carta was signed in England there was a document which bound the nobility to respect the rights of the peasants in Poland. Human rights is something which is a part of us, and the importance of it in the life of every Pole is something that cannot be gainsaid. Life does not hold importance if there is no freedom.

In 1939, a few days before war broke out in Poland, I was walking in the uplands, as they call them, 'Pod Karpaty' section from which my dad emigrated. At this time practically all the manpower, the horsepower, had been drafted in preparation of the war which did take place in a matter of days. I ran into three relatively young men. They had been to the village tavern. They were returning to their homes. They were married men with families and children. On the eve of their departure for the army, they greeted me deferentially. I asked them, "You are going to war. Do you think you have any chance?" And they looked at me astonished! "That does not make a bit of difference! We must fight, chance or no chance!" I said, "What happens should you be attacked from the rear, by the Soviets?" "Then we will be fighting two devils instead of one."

The ideology of these people is absolutely unbelievable, and yet, that is the ideology which has a tradition of almost a thousand years in Poland.

The Church spoke about the human rights in a specific message in 1974. The Church does not have an army. It cannot impose its way. But moral persuasion is a factor in human life. I do not say that the Church's message of 1974 was the sole cause for the Helsinki meeting, but the reality is that on August 1st, 1975, there was an accord reached at Helsinki with 35 nations, including the Vatican, in which the nations pledged to respect fundamental rights, including the right of religious freedom. The communist countries agreed to open gradually their closed societies, and to permit freer exchange of ideas and information with the West. There was to be closer contact between peoples of the communist western worlds, more freedom to travel, to meet, to talk without government interference.

It would be pessimistic to say that the accord has not produced good results. And it would be untrue to say that all of the agreements have been respected. They have not. In spite of the Helsinki Agreement, Radio Free Europe is still being jammed, and the truth, freedom of expression, is not being recognized in Czechoslovakia, Bulgaria, Poland. The radio is being jammed. The people are being insulated against any information from the outside. In Czechoslovakia, Vasil Bilak, the propaganda chief, said, "The party does not ascribe any magical importance to the conclusions reached at Helsinki. Any overestimation of them could lead to unjustified illusions, and such illusions could be very dangerous and harmful." And we know that one of the party officials of Russia said that the Helsinki Agreement can in no way interfere with the ideology of the communist party.

But, we still speak out. The bishops of America have been eloquent and actually under the chairmanship of our Bishop Dougherty, the Commission on Justice and Peace in the world has spoken out strongly and positively. The Holy Father is doing that. Two months ago, on April 4th, in receiving the credentials of the Iranian ambassador, he said, "The Holy See carries the responsibility for a message of universal well-being. It takes to heart the rights of persons and peoples so that in liberty, justice and equality, they might reach the conditions which human development requires." And he said that all men must be firmly determined to consolidate through peace, which goes hand-in-hand with the advancement of human rights, the establishment of greater justice for everyone, and help to places and peoples less fortunate.

There is another great churchman who is speaking out for human rights, eloquently, forcefully, and wisely. Just a month ago on May 3, at the Marian Shrine of Our Lady of Czestochowa in Poland, Cardinal Primate of Poland, Cardinal Wyszynski, said, "It is not enough to pray for religious liberty." He said, "While we have rights, we also have the obligation to demand that in our nation, believers have the protection of law." He urged Catholics to remind law enforcers that each man should be assured that his ties to the Church, and his wish to profess Christ's Gospel, will be respected always. He urged all the Poles to assert their rights and to give their children a religious education. He said, "We cannot be made to become atheists in our country through force, through violence, or through a situation in which children hear nothing in schools about Jesus, the Gospel, or the history of the Church in Poland." He charged the government with trying to replace the Church's sacramental system, and its rituals, with secular ceremonies. He says, "No one can replace by force our sacramental system with secular ceremonies which for Catholics and Christians have no meaning. The bottom line of any discussion on justice and peace must be respect for human rights."

We are dealing internationally with an integrated philosophy of communism. The constitutions of communist nations do have the words guaranteeing freedom of expression. In fact, just yesterday, there was released a new draft of a constitution in the Soviet Union. This first revision of the 1936 Constitutional Charter of Joseph Stalin, like its predecessor, repeats the declarations about the guarantees of freedom of speech, assembly, religion, and other ostensible privileges. But it also adds, the exercise of rights and freedom shall be inseparable from the performance by citizens of their duties. It mentions obligations to Soviet laws, of all religious beliefs. But we must ask, how can a system that has declared war to death against religion and religious beliefs say that it does recognize something which it intends to destroy. Let us look at the record. Let's stop listening to the promises of communism, and let's look at their record of performance.

Poland, for almost 30 years, has been the battlefield of the two greatest ideologies of the world—atheism and belief in God. The government has control of the press, of the electronic media, of education, most of the charitable institutions. It exercises a tight

control on printing, duplicating materials. The Church has only a limited press and a limited opportunity of communications. And yet, after 30 years, that atheistic campaign has not succeeded. Not only is the faith of the people of Poland preserved, but the Church in Poland is strong. Today, over a thousand missionaries have left Poland in the past dozen years to serve in different parts of the world. Poland is helping the faith in other areas. The atheistic campaign is not succeeding.

We cannot panic or be scared by the progress of communism. It has made tremendous progress. It has since the last world war extended its control from 7 to 35 percent of the world's population, from 18 to 25 percent of the land area of the world. It has made progress. But, has it sold its doctrine to the people? That's another question. The fact is the campaign of atheism is not successful.

Communism says it's for the proletariat, for the working man, and according to the doctrine of Marx, it's the working man who must have the ownership, the control, and the use of the means of production. Communism is anti-capitalistic. But what has it achieved? It has merely exchanged private capitalism for state capitalism. To this day, after 60 years of experience, the working man in the communist nations does not own the means of production. He does not control it, and he does not have use of it for his own benefit.

Communism has conducted a systematic, intensive antireligion campaign. Has it succeeded? It hasn't. Svetlana Alliluyeva, the daughter of Stalin, when she came to the United States, one of the first things that she had to do was to embrace a religion. She made some beautiful statements, that she could not live without a God. While she has been totally isolated from any religious instruction or influences, yet, when she came to the United States, the greatest hunger that she had was for God, for religion.

And there are young people today in Russia under the Soviet domination who are bearing witness to the truth of what Saint Augustine said 15 centuries ago: "You have created us, for You, O Lord, and our hearts are restless until they repose in You." Communism has not succeeded in exterminating, extirpating a sense of religion. Furthermore, the Marxian system of collectivism makes the State all important and makes the individual subject to the demands and the needs of the State. That means since they deny the existence of God, that no man can claim God-given rights which our Constitution declares and protects. And secondly, because the State is important, the individual then becomes a servant, a slave of the State. That is a philosophic principle of Marxism which controls. For example, in the 80 years of Russian Czarism there were about eighty people executed a year. In the '37, '38 '39 disturbance under Stalin in Russia, there were 40,000 a month executed in Russia. Earlier in the twenties there was an artificially created famine which called for the extermination, the death, of some six million peasants in the Ukraine. That was supposed to set the whole economy proper. So these people became expendable.

Communism was the first in the history of the world to introduce the slave labor camps, the Siberian camps; the first one to introduce the practice of putting people on barges and sending them out to the open sea to be drowned; the first one to introduce an artificial type of registration so that the State can have full control of every individual. It was the first to introduce the system of hostages. If they could not reach an individual, they would reach his wife, his children, his parents.

The suppression and repression of human rights is not an accident of the system of communistic philosophy. It is a normal fruit, and a normal product of such a philosophy. For that reason, when we read about the guarantee of human rights under the Marxist system, we should understand that there are always the qualifications that collectivism and the State is more important than the individual. Since Marxists deny the existence of God, they must deny the claim of any human being that he has God-given rights, which governments must respect.

I speak to you about this today, and perhaps too long, but it is important for us, as Americans, to appreciate the freedom that we have here. It is important for us as Americans, and Catholics, to understand what is taking place not only in Poland, but in all of the areas occupied by the integrated, philosophical system called Marxism.

We are gathered here today, most of us Poles, most of us indebted to our religious and cultural heritage to Poland. I have tried, not by denouncing but by explaining some principles and some realities bearing on human rights. The first reason why we are here in this stadium is this altar. In the long tradition of Poland, in every trial, in every need, in every joy and every sorrow, Poles were at the altar begging God and His Blessed Mother. And just in case you're wondering, this extremely beautiful Chasuble is one which was presented to me at the time of the Eucharistic Congress by the bishops of Poland with the hope that it might inspire people to intensify their prayers to the Blessed Mother. This year we celebrate the 60th year of the Apparitions of Our Lady of Fatima, which occurred even before the Bolshevik revolution of 1917, of October. She has predicted what was going to happen. She asked for prayers. So we are assembled here for prayers, and I beg of you, my dear brothers and sisters, that during this Eucharistic Sacrifice, you do offer prayers to Almighty God for the protection of human rights everywhere in the world, but especially for religious freedom, freedom for the Church, in our beloved ancestral home of Poland. God bless you.

BLACK LUNG

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. APPLEGATE. Mr. Speaker, yesterday, September 19, 1977, the House of Representatives took the necessary steps in not only repairing a bureaucratic blunder, but also in recognizing and dealing with a dreaded disease, pneumoconiosis, commonly referred to as black lung.

Ever since the first black lung legislation was passed in 1965 and administered by the Department of HEW, the amount of redtape that had to be dealt with was overwhelming; indeed, too much so for some applicants. The situation deteriorated even more following the transferring of the program to the Department of Labor. Most recent counts estimate that of the 104,000 claims filed with the Department of Labor, 50,000 have been denied, 50,000 are backlogged and only 4,000 applicants are receiving their rightful benefits.

But, through this correcting piece of legislation, H.R. 4544, much of the redtape will be cut away to get the benefits to those people who need them, and need them now, not in 2 or 3 years.

This bill is a good bill, and is one that is equitable to all parties concerned. I believe the objective of the bill, that being the transfer of liability for benefit payments to the coal industry from the general taxpayer, can and will be achieved.

While obtaining black lung benefits may not be a cure for this awful disease, that eventually makes life not worth living, they certainly help to pay the way for the affected individuals who cannot work any longer because they cannot breath well enough.

Mr. Speaker, I commend my colleagues of the House for acting in a most diligent and responsible manner and I thank them on behalf of our coal miners.

AUTOMATIC SEAT BELTS SAVE LIVES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. WAXMAN. Mr. Speaker, on June 30, 1977, Secretary of Transportation Brock Adams issued DOT Standard 208, occupant crash protection. The regulation would require that by 1984 all automobile manufacturers must provide front seat occupants with passive restraint devices effective in 30-mile-per-hour frontal collisions. As my colleagues are aware, frontal collisions are responsible for over 70 percent of all automobile fatalities.

The passive restraint ruling is a performance standard which allows automobile manufacturers maximum engineering flexibility in incorporating passive crash protection in their products. Two passive restraint systems, the airbag and automatic seat belt, currently comply with the DOT standard and have been subjected to strenuous laboratory and on the road testing. This extensive test experience has demonstrated their value in saving lives and preventing serious injuries in automobile accidents.

The current debate over the passive restraint standard has focused attention on the airbag. While the airbag is, of course, an inexpensive and highly successful automobile safety device, many of my colleagues have expressed their interest in knowing more about the test experience and success of the automatic seat belt.

Recently I requested the Department of Transportation to prepare a summary of the test experience and safety record of the automatic seat belt. The DOT informed me that in the United States alone, over 79,000 Volkswagen "Rabbits" have been sold which utilize automatic seat belt systems. To date, United States on the road experience with these vehicles totals over 1.2 billion vehicle miles.

Accident data collected by the Fatal Accident Reporting System (FARS) of the National Highway Traffic Safety Administration documents the increased passenger safety of automobiles equipped with automatic seat belts. The fatality rate for "Rabbits" equipped with automatic seat belt systems was less than

one-third that of "Rabbits" equipped with conventional active seat belt systems.

The accident fatality data highlights the success of the automatic seat belt in reducing automobile fatalities as well as the overall reasonableness of Secretary Adams' decision. Like the airbag, automatic seat belts are a proven lifesaving device. I strongly urge my colleagues to support Secretary Adams' passive restraint decision and ask that the DOT's letter documenting the success of the automatic seat belt system be printed in the RECORD at this point.

The letter follows:

WASHINGTON, D.C.,
September 19, 1977.

Hon. HENRY A. WAXMAN,
U.S. Representative,
Washington, D.C.

DEAR MR. WAXMAN: You recently requested information on the field performance of passive belt systems in Volkswagen Rabbits. I am pleased to report that we have just completed an updated analysis of the performance of passive belts in comparison with active safety belts in Volkswagen Rabbits based on data contained in the Fatal Accident Reporting System (FARS) of the National Highway Traffic Safety Administration. This new information is that the fatality rate in passive belt Rabbits is less than one-third that in conventional Rabbits.

There as approximately 79,000 Rabbits with passive belts on the nation's highways that have traveled about 1.2 billion vehicle miles. Nearly 300,000 Rabbits with active systems have traveled about 4.8 billion vehicle miles. There have been only six reported fatalities in the passive restraint cars—a rate of .50 per 100 million vehicle miles—compared with 81 deaths in active belt cars for a rate of 1.7 per 100 million vehicle miles.

The passive safety belt is one system that can be used by auto manufacturers to meet the requirements of the Transportation Department's Standard No. 208, Occupant Crash Protection. This standard requires the installation of passive restraint systems to protect front seat occupants in crashes beginning with all full-sized passenger cars in model year 1982. All intermediate and compact cars would have to be so equipped in model year 1983, and all passenger cars would be required to have passive protection systems by model year 1984.

We have had some normal technical complications in determining compliance with the passive restraint standard in tests conducted in 1975 and 1976 on Volkswagen Rabbits. Out of a total of eight tests, two showed values of head injury criteria that exceeded the maximum allowed in the standard. A simple design change in the 1976 models eliminated any potential for a recurrence of this problem.

In two other tests, the instruments indicated a loading on one thigh bone of the passenger dummy that was above the maximum allowed in the standard. However, it was concluded that these readings were a result of instrumentation error rather than a non-compliance of the crash protection system. In the two most recent compliance tests on Rabbits, conducted earlier this year on 1975 models, the passive belt Rabbits were found to meet the requirements of the current standard.

Analysis of test data from Volkswagen and from the NHTSA contractor conducting the tests have convinced the agency that the Rabbits with passive safety belts meet the requirements of the passive occupant crash protection standard.

There have been other indications of the improved safety in Volkswagen Rabbits with passive belts. In a preliminary analysis of insurance claims data released last July, the Highway Loss Data Institute found a reduction of between 19 and 27 percent in the frequency of claims in passive belt Rabbits compared with active belt Rabbits, both overall and as a function of collision claims associated with injury.

I want to emphasize that while the information is preliminary, it tends to confirm the DOT's determination of the effectiveness of passive restraint systems in reducing deaths and serious injuries in automobile crashes.

The data on passive belts reflect the combined benefits of improved usage and the value of belt systems when used. This information clearly supports the wisdom of Secretary Adams' decision to require passive restraints in all new cars.

If we can provide you with any additional information, please let us know.

Sincerely,

HOWARD DUGOFF,
Acting Administrator.

KENNY O'DONNELL—CASUALTY OF HISTORY

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. EARLY. Mr. Speaker, on Friday, September 9, 1977, a dedicated public servant died. That man was Kenneth P. O'Donnell. He is best known, perhaps, for the time he served in President John F. Kennedy's administration. Listed officially as Appointments Secretary to the President, he was much more than that. Many consider him to have been one of President Kennedy's closest and most trusted friends and advisers. Yet in that time, he never allowed his position or power to get the better of him. Kenny, as he was known to all, always held fast to such cherished virtues as humility and a real sense of compassion for others. In a very real way, Kenny exemplified the ideals on which a democracy flourishes and he dedicated his life to public service to a degree which is rare.

A native of Worcester, Mass., and the son of a Holy Cross football coach, Kenny grew up with an Irish affection for sports and politics. His association with the Kennedys began during his Harvard days, where he was a close friend and roommate of Bobby's. They were teammates on the Harvard football team for several years, and Kenny ended his Ivy League career in grand style—by scoring the game winning touchdown against Yale, despite the fact that he was playing with a broken leg.

Upon his graduation from high school in 1942, he enlisted as a cadet in the Army Air Force. Kenny flew 30 missions as a bombardier in a B–17 squadron, and was shot down once but escaped. He emerged with the Distinguished Flying Cross and Air Medal with Four Oak Leaf Clusters.

Many of us will long cherish and remember the occasions when we sat, with mixed feelings of pain and joy, and listened to Kenny tell, with genuine pride, stories about the "days of Camelot." Always, these delightful stories seemed tainted with the sad recollection of that awful day in November of 1963, when our President, his boss—his friend, was murdered.

In a September 10 Boston Globe article, Mike Barnickle expressed a very accurate assessment of Kenny O'Donnell when he said:

> . . . Others wrote books and made money and floated into big jobs and traded on the years that poets now call Camelot. But Kenny came home and slugged away at life.

At a time when questions of morality and integrity in our Government arise, it is indeed comforting and reassuring to know that there are people like Kenny O'Donnell, who are willing to dedicate themselves to public service and the good of mankind. Coming from a middle-class family, Kenny had a special feeling for the goals and aspirations of the great mass of our people, and surely his presence in our Government served to enhance these. Kenny O'Donnell combined a highly developed knowledge of the political process with his remarkable sense of justice, compassion and integrity.

At funeral services held for Kenny on September 12, Senator EDWARD KENNEDY quoted from the poem, "Ulysses," by Alfred Lord Tennyson. He said that "its words symbolize the odyssey of public service undertaken by Jack and Bobby and Ken and all the others who sailed with them in search of a better future for their children and their country."

Kenny O'Donnell is dead at the age of 53. He will be sorely missed by those who knew him, but we shall all long cherish the memories of such a truly fine man.

I am pleased to call to the attention of my colleagues, the well-deserved tribute offered by Mike Barnicle in the Boston Globe on September 10:

KENNY O'DONNELL "CASUALTY OF HISTORY"

(By Mike Barnicle)

Kenny O'Donnell died at the Parkman Hospital in Dallas, a little after 1 o'clock on the afternoon of 22 Nov., 1963.

For the record, it will read that Kenneth P. O'Donnell, former appointments secretary to President John F. Kennedy, died on Sept. 9, 1977 at Beth Israel Hospital in Boston in the 54th year of his life, but that is just the sense of things medical.

Kenny O'Donnell, out of Worcester and Harvard and World War II, was not a sad man. He was just a man who walked well with the sadness around him.

"In a sense, he was a real casualty of history," Dick Goodwin, a friend who worked with the man in the White House years, was saying. "Maybe the one thing he really found meaningful was working for Jack Kennedy. He had his life invested in Jack Kennedy. You won't find many guys like Kenny."

Kenny O'Donnell went to Washington in the '50s to work for Robert Kennedy, who was then a counsel for a Senate committee investigating the rackets in America. On the disbursing rolls in the United States Senate the name was listed as Philip K. O'Donnell; but it was Kenny.

It was always "Kenny."

Later, in the White House, if you wanted to see the President about something as big as civil rights in Selma or as small as a postmastership in Salem, the answer was always the same: See Kenny.

Kenny O'Donnell was a guy who never

forgot who he was or where he came from. He sat in surroundings where grown men would put on airs and hold teacups, their pinky fingers pointed skyward, their minds on money or some special appointive job.

But Kenny O'Donnell was special. In a world where people would sell their souls and their ideals for a sneak peek at power, in a business where men think of resumes before reason, O'Donnell stood with his word and his word you could take to the bank.

"Yes" means "yes." "No" meant "no" and there were very few "maybes." Kenny O'Donnell was not a man of in betweens.

He had his troubles and found out in 1966, in a run for governor, that magic could not be transferred. He never made a lot of money because of who he was or where he worked. He knew the tough times of death and family sorrow but he never bent with the wind or the polls.

His friend, Junior Carr, used to call him "Blackface" and "Indian Eyes" and that he was. But, in the later years, sitting there at the front table in Duke Zeibert's restaurant in Washington, he could talk for hours, giving counsel, telling stories and all of it tempered with the tears that ran through his mind and colored his memories.

On a June night in 1968, in his room in the Mayflower Hotel in Washington, Kenny O'Donnell talked by phone to Bob Kennedy a few minutes before Kennedy descended to the ballroom of the Ambassador in Los Angeles and death. The two, brothers in a shared ordeal of pain, talked in the hardly verbal language of men chasing a dream: not one of restoration. One of doing things right.

A few days later, on Kennedy's funeral train, O'Donnell was sitting with someone else, his face one tight line, his eyes blank with a quiet pain. "He was one great son of a bitch," O'Donnell said. And that was all he said. That was enough. That was Kenny.

"There were always guys who would talk. Talk was cheap," his friend John Reilly, former Assistant Attorney General of the United States, was saying about O'Donnell. "Sorensen, Schlesinger, they would talk.

"There were guys who would go in to the President and say that we had to go easy on civil rights, that we should wait until after we got reelected in '64. But it was Kenny who would go in and say 'hey, Mr. President, we should do this now. We have to do it now because it's right.' "

In 1968, when all the politicians and family groupies were telling Bob Kennedy not to challenge Lyndon Johnson, it wasn't Ted Sorensen or McGeorge Bundy, or the other gilt-edged Ivy Leaguers who stood up in the room in the Regency Hotel in New York City. It was Kenny O'Donnell, son of Cleo, from Worcester and from common sense.

"You've got to run," he told the man. "This war is a terrible thing. Kids are dying who shouldn't be dying and you have to run, not for the country, not for yourself and not for anyone here in this room. You have to run to help end that war. Maybe you'll lose. But you've got to run."

That fall, when the air was full of Nixon and all the frauds and fakers were taking a walk from Hubert Humphrey because of their own self defined sense of virginity and righteousness, it was Kenny O'Donnell who was with Hubert Humphrey.

"Why?" he would say, when asked. "Because Hubert is a good man. He's just had a . . . job, that's all. But he's a good man and he's decent and he'll end the war. And what do you think Nixon will do? That's why."

Others wrote books and made money and floated into big jobs and traded on the years that poets now call Camelot. But Kenny came home and slugged away at life.

"I got to laugh at all these guys who talk about working in the White House," he used to say, "and what a tough job it is, all the hours and everything. Tough job my . . . It was the best job I ever had."

Kenny O'Donnell had nothing to prove, had no chip on his shoulder and didn't think that the world owed him a living. He had a healthy sense of what real things were all about.

"What would you have done with the tapes if you were in the White House?" he was once asked.

"Tapes?" O'Donnell asked. "What tapes? We had a terrible fire in the White House basement last night. Smoke. Confusion. God, it was awful."

After President Kennedy died, there were a ton of appointments pending on the new President's desk. John Reilly's was one of them, a nomination for a seat on the Federal Trade Commission.

"How'm I doing?" Reilly asked his friend O'Donnell one day.

"You're going to be all right, don't worry about it," Reilly was told at a time when there were fears of a New Frontier purge in Washington.

A few days later, Lyndon Johnson found Reilly's papers right at the top of the pile. He called O'Donnell into the oval office and asked him: "Who the hell is this Reilly?"

"Personal friend of Mayor Daley's," O'Donnell said. "Very close. A power."

"Oh sure," Johnson said meekly. "I remember him."

Reilly, bottom line, was only one thing: A friend of O'Donnell's and a Kennedy man early. That was enough.

So Kenny, you'll always be there, pal. Right at the front table in Duke's with your half smile and your bent hand in your pocket and your mind on what's right and your voice always able to be counted on in separating conscience from crap.

As his friend Junior Carr said of the man: "There was no whore in him."

SUPERINTENDENT SULLIVAN HONORED

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SARASIN. Mr. Speaker, today we hear a great deal about problems with law enforcement officers, poor community relations, a demoralized police force, a rising crime rate, and so forth. Because of this, we very seldom hear about those dedicated men and women who serve unstintingly as law enforcement officers. Thus, at this time, I would like to draw particular attention to one man who has done so much to bring credit to the profession of law enforcement and the respect and esteem it holds among law-abiding citizens. This man is a son of Waterbury, Conn., and he is Frederick T. Sullivan, superintendent of police of the Waterbury Police Department.

On September 12, Superintendent Sullivan was installed as the new president of the New England Association of Chiefs of Police, Inc., an organization dedicated to interstate cooperation in law enforcement. He was the unanimous choice of the Connecticut delegation and also of the association. At his installation in Bretton Woods, N.H., Superintendent Sullivan was presented with a resolution passed by the Connecticut State House of Representatives honoring his achievements in the law enforcement field. On September 23, he will be honored at the Waterbury Lodge of Elks No. 265 for his long career of dedicated service to the community.

Superintendent Sullivan has been with the Waterbury Police Department since 1939. Thereafter, he moved swiftly through the ranks until he became superintendent in 1968. He served in the U.S. Coast Guard during World War II, and later broadened his police training by attending the FBI National Academy in Quantico, Va.

Not only is the superintendent respected in Connecticut and New England for his professionalism and dedication, but he also has a strong following among the Federal law enforcement agencies. He has maintained his close ties with FBI Academy graduates, and in 1976, he was elected president of the Connecticut Chapter of the FBI National Academy.

This man has done a great deal to advance the cause of enlightened law enforcement in the State of Connecticut. He served on the first Connecticut Task Force on Narcotics, and is a past chairman of the task force. In recognition of all his activities on the State level, he was this year elected President of the Police Association of Connecticut.

Despite his involvement with Federal and State law enforcement, Superintendent Sullivan has maintained a high level of competence and effectiveness at the local level in Waterbury, Conn. Recently, he worked hard to obtain a new building in Waterbury to house the police headquarters. He has a strong and loyal following among the rank and file, and there can be no doubt that his leadership and command of his position is widely respected.

I want to take this opportunity to add my voice to the tribute that is being paid Superintendent Sullivan. I am proud that he is from Waterbury, and that he has dedicated his life to service not only to his home town, but also to the State of Connecticut, and the whole of New England. For through his outstanding contributions and achievements, he has served to enhance public trust and faith in effective, compassionate law enforcement. Beyond this, he is an outstanding individual for whom this honor is well deserved.

ITC INTEREST IN MEAT PRODUCTION

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. PRESSLER. Mr. Speaker, I would like to thank the International Trade Commission for the interest which it has shown in meat production, an industry which is critically important to my native State of South Dakota and to this country as a whole. I would like to expend my time before this body by discussing two major areas of concern: First, I would like to touch lightly upon the disastrous effects which are being

felt in the beef industry. Second, I would like to move on to two factors which I would like to see the Commission consider in its proceedings.

My initial subject—the harm being incurred by the meat producing industry—is a well-documented one. My staff contacts with the ITC have indicated to me that the Commission was generally convinced that harm was being incurred during its 201 investigation. Similarly, the Council on Wage and Price Stability in its comments during the 201 investigation tacitly admitted the need for a remedy by not addressing the damage being caused in the industry. They, instead, only addressed alternative remedies for the harm. Additionally, the Congressional Research Service, in its references to hearings held in 1975 on this subject—hearings, which, I might add, were held at the beginning of the current low side of the cattle cycle—noted the existence of "a general state of economic hardship and, in some cases, threatened insolvency among beef producers". Finally, there can be no more eloquent testimony to the hardship of producers than the fact that our cattle raisers have not been able to recoup their cost of production during the 1974–1977 timeframe.

I will not consume this body's time by repeating the remedies to this problem which have been more than adequately outlined in Senator McGOVERN's statement on this subject. It should be sufficient to note that I also support the solutions which are expounded upon therein to include a countercyclical quota formula, wider quota coverage, and more favorable activation and enforcement machinery.

With these thoughts in mind, I would like to move on to my second subject—two factors which I would like to see considered in this investigation:

Factor 1: Previous protection given to the producers of manufactured products has had an indirect, but nonetheless negative, effect upon beef producers. As we protect domestic manufacturers at the expense of labor-intensive foreign producers, we increase factor payment to American capital at the expense of foreign labor. This has an indirect negative effect on beef producers by reducing the scope of their market. As we take foreign exchange out of the hands of meat hungry individuals, especially in Asia, we reduce overall demand by paying a major component of that exchange to capital investment—which, of course, does not commensurately increase meat consumption. In that light, the great bulk of protection which has been provided for the domestic manufacturing industries of this country has been at the expense of meat producers. At this time, I do not feel able to discuss the comparative merits and demerits of such a policy in the manufactured products market. I suggest, however, that domestic beef producers should not be made to bear the brunt of trade barriers which are designed to reach the laudable goal of protecting domestic manufacturers. They should therefore be entitled to protection from foreign imports in the domestic market since our protective policies have reduced their foreign markets.

Factor 2: Trade policy in the past has been predisposed against agriculture. Examples of the industrial orientation of our policy are so numerous that they only bear cursory mention: The general agreement on trade and tariffs tariff schedules favor industrial products; we allow EEC importation of vast amounts of industrial products, yet we do not take substantive action when they reject our dairy exports; industrial imports must bear the label of the country of manufacture, yet agricultural imports do not; industrial imports must meet domestic quality standards, however, in many cases we accept foreign quality standards and/or inspection for agricultural imports; the United States insists on reciprocity with foreign governments on sales of industrial, but not agricultural, products; there is no single department which formulates agricultural trade policy as there is with industrial trade policy in the Commerce Department; and, finally, as grain embargoes in recent years demonstrate, there is unequal treatment under the law for agricultural and industrial embargoes.

In summary, Mr. Speaker, we—and I am referring to the Federal Government as a collective whole—must realize that the beef producers have borne the burden of a trade policy which is predisposed against them. The deleterious effect of this trade policy is now becoming apparent in unfair beef prices and the potential for the eventual collapse of the family farm in this area. Such an occurrence—resulting in greater market concentration, reduced supply and increased dependence on imports—can only precede a dark future for both consumers and producers.

ARE TEXTILE JOBS EXPENDABLE?

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. MANN. Mr. Speaker, it is my information that Burlington Industries plans to hold a press conference in New York City tomorrow morning to spotlight continuing concern over the textile and apparel import problem. Pursuant to this effort, Burlington delivered to me, in my capacity as chairman of the Informal House Textile Committee, a comprehensive position paper which forcefully points up the sensitivity of the textile and apparel industries to imports and the necessity for U.S. trade policies which will safeguard this vital economic sector.

As international trade negotiations in the coming months produce important agreements on future levels of foreign imports, it is important that Members are aware of the effect these decisions will have on the largest industrial employer in the United States—the textile and apparel industries. Therefore, I commend Burlington's position paper to Members' attention. The text follows:

ARE TEXTILE JOBS EXPENDABLE?

The Carter Administration appears increasingly to be placing creation of jobs at the top of its priority list; there's talk again of Humphrey/Hawkins; Chairman Ullman suggests that the new tax package be constructed to create incentives for business to provide more jobs; Vernon Jordan and other national leaders have expressed bitter disappointment over the job plight of minorities. But in the Administration's actions there is a great inconsistency. While a strong concern for jobs is being expressed by the Administration, its bilateral textile trade negotiators are preparing to export more jobs from the United States to the Far East. So, on the one hand there is a great hue and cry for the creation of jobs, yet on the other hand we see the systematic destruction of hundreds of thousands of jobs in the domestic textile and apparel industry.

This industry, which includes textiles plus related apparel, is highly labor intensive; indeed, it is the largest industrial employer in the United States. Moreover, 23 percent of its 2.3 million jobs are filled by minorities, and 65 percent are filled by women.

Because of the failure of the Administration through Ambassador Strauss and his trade negotiators to limit import growth to a level related to total U.S. market growth, the export of jobs from this industry to the Far East continues and will in all likelihood accelerate as more and more American producers are forced out of business. This prospect effectively prevents expansion of the domestic textile and apparel industry, thus further aggravating the unemployment situation through failure to provide jobs for a growing labor market. This uncertainty in the textile and apparel industry also contributes to the business downturn and does not bode well for any contribution from it toward full recovery of the U.S. economy.

We hear arguments put forth from the Administration and certain members of the academic community to rebut complaints of job loss and of business uncertainty. We are told that free trade is essential to the economic well being of the United States and of the rest of the world. We are also told that imports are essential in the battle against inflation.

We support the concept of "free trade" as a guide for international economic well being so long as the trade is "fair trade". The economic theory of the necessity for free trade fails, however, when the trade between nations is not in actuality free but rather involves foreign subsidies, national and international cartels of foreign producers and dumping practices of exporters, as well as exploitation of workers abroad who are forced to work long hours for subsistence wages.

In short, it must be recognized that textile products comprise the primary area in which developing countries aggressively seek exports without regard to profit. In a great many cases the free enterprise system of the U.S. textile industry is really competing head on with the monopolistic powers of foreign governments. Moreover, the export situation faced by domestic producers is not a free market since many of these exporting countries have closed their markets to United States textile and apparel products.

In the context of this imbalance we have to wonder why, after acknowledgment by the Administration of the critical situation facing the U.S. textile and apparel industry, agreements are still being negotiated by the Government which continue to permit imports to take more and more of the domestic market. Is the reason for permitting imports to grow at a rate greater than domestic market growth one of concern for the workers in these Far Eastern countries? If so, we call attention to a recent article from the Fair-

child news service entitled "Korea Seeks More U.S. Textile Makers." That article states that "Employment in the texitle industry [Korea] has been steadily increasing year after year." It points out that employment in this industry in Korea has increased since 1973 by 65½ percent. This vigorous growth is in marked contrast with the loss of more than 300,000 jobs in the textile and apparel industry in the United States during the seventies. Assuming there is no reduction in the rate of growth of imports, then the United States will suffer the loss of at least an equal number of textile and apparel jobs by 1985.

Thus, a major contribution of the United States to the economic growth of Korea does not take the form of direct foreign aid to which all U.S. taxpayers contribute, but rather consists of the sacrifice on the job of each and every displaced American textile worker.

It is argued that imports have a deflationary effect in the marketplace, and it is true that in some cases they supply the opening price points for apparel in the United States. However, as has been pointed out in a recent report by the Library of Congress, imports often reflect only a greater markup for retailers—not savings to the consumer. More than that, however, there is a point at which imports become inflationary, and the evidence is clear that this point has been reached. Our industry had an overall trade deficit of $2.8 billion in 1976 which could easily grow to twice that size in the next three or four years. Although Secretary Blumenthal has recently proclaimed that the U.S. trade deficits are beneficial for the U.S. economy, it appears that the rest of the world does not agree with him. Since making his statement, the dollar has fallen significantly in purchasing power, a situation which creates further inflationary pressures in this country.

When jobs are lost in the textile and apparel industry, the disruption to the U.S. economy is more severe than in other industries. The displaced workers are frequently entry-level people from minority groups, and the job market is inelastic. The payments to these displaced workers in the form of unemployment insurance and other welfare payments do not constitute payments for production and in themselves are inflationary. Also, the Administration's Adjustment Assistance Program assumes that displaced textile and apparel workers are both retrainable and relocatable and that more highly skilled jobs are available in industries not affected by imports. Experience does not substantiate these assumptions.

In addition, after imports capture a very substantial portion of a domestic market, their prices frequently begin to accelerate rapidly, as we have already seen in other businesses, such as the shoe industry. This is obviously because the United States industry has been damaged and the competitive element has been removed. This danger exists in the textile and apparel industry as we look down the road.

We have referred to the failure of the Administration and its trade negotiators to recognize the damaging impact of a growth rate of imports in excess of the growth rate of the domestic market. Let's be more specific. The Administration has recently taken much credit that in the Hong Kong bilateral the overall annual growth of imports has been reduced over a five-year period to an average of 4.8 percent and that certain highly impacted categories have been reduced to 3 percent annually during the last four years of the agreement. However, the 4.8 percent is still substantially higher than the U.S. textile and apparel annual growth rate of 2.9 percent during the last ten years.

Although the new Hong Kong Bilateral Agreements prohibit any growth in the first year of the extension, it jumps to 6 percent for the second, third, fourth and fifth years of the Agreement, on a compounding basis. The fallacy of claiming a beneficial aspect for this agreement on the basis of a 4.8-percent growth rate is that prudent businessmen don't make long-term investment decisions based on a one-year freeze or on misleading averages. Rather, they do so based on future expectations. The only thing we can anticipate for the future is that commencing in 1979 imports from Hong Kong can grow at the rate of 6 percent per annum overall. According to press accounts, the growth rate for Korea will be 6.5 percent per year. There is no assurance that any additional bilateral with other nations will contain a level more closely approximating total U.S. market growth.

Lastly, we read that President Carter's new man in Geneva, Alonzo S. McDonald, who was just sworn in August 30, has already taken a position regarding our industry on the issue of tariffs—a position which would have additional adverse consequences. In an interview with the Fairchild news service, Ambassador McDonald said that the textile industry and the apparel textile firms would be prime candidates for being placed on the duty chopping block. He stated, "they are in the best possible position to go into negotiations, far better than most industries. They are already protected by the Multi-Fiber Arrangement and by bilateral agreements and therefore are in a very favorable position."

This logic reflects a basic misunderstanding of tariffs and world textile trade. It fails to recognize that the bilateral agreements are temporary in nature while tariff cuts would be permanent. It also views tariffs solely as barriers to trade rather than leveling forces to permit domestic production to be competitive. Finally, it ignores the fact that the U.S. market disruption caused by imports from present exporting nations would be greatly aggravated by reducing U.S. textile tariffs. Other developing countries with which we have no bilateral agreements would take over additional portions of the domestic market. Imposing that additional injury on the U.S. textile and apparel industry would be highly inequitable.

Now what is Burlington's overall position in regard to this matter? Simply put, it is that, while we favor imports which benefit the United States, we think that the present level of duties should be retained and importation of textile and apparel products should grow only at the annual rate of growth of the U.S. textile and apparel markets, which has been 2.9 percent during the past ten years. Any growth above that figure will result in further loss of jobs. While this consequence poses a very serious problem for our industry, we respectfully suggest that the problem is equally as serious for the country and deserves a more realistic approach than has been in evidence to date.

AGEE/MARCHETTI DESTABILIZATION TEAM STRIKES OUT IN FRANCE AND NORWAY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. McDONALD. Mr. Speaker, working with groups which have documentable connections with the Soviet espionage empire, its Eastern European and Cuban subsidiaries, two defectors from the U.S. Central Intelligence Agency have spent August and September in attempts to destabilize two important countries in the NATO alliance, Norway and France.

Victor Marchetti was an employee of the CIA for some 14 years, eventually holding the position of executive assistant to the Deputy Director. Following his resignation from the CIA, Marchetti in 1972 became associated with the Institute for Policy Studies—IPS—and its efforts to destroy the U.S. intelligence community's capabilities. Marchetti is coauthor with John D. Marks, a former State Department employee, of "The CIA and the Cult of Intelligence" published in 1974 after a long court fight in which the CIA attempted to prevent Marchetti and Marks' disclosure of still sensitive information.

While Marks has gone on to become a prominent figure at the Center for National Security Studies—CNSS—a project of the Fund for Peace which works with the U.S.S.R.'s World Peace Council and which is staffed principally by veterans of the Communist-front National Lawyers Guild and the radical IPS think-tank whose staff has included KBG agents, Castroite revolutionaries and propagandists, and members of terrorist groups, Marchetti had faded from public view. Now he is back in the public eye in Norway.

Just prior to Norway's national parliamentary elections early this month, Marchetti repeated his claims previously made by him to the New Left, anti-U.S. SV party that CIA personnel were stationed at Norwegian military installations and that Norwegian monitoring stations "are linked technically and economically to the CIA and the American NSA security agency."

Norwegian defense chief Sverre Hamre bluntly said that Marchetti was lying. And later Defense Minister Rolf Hansen told a public election meeting that Marchetti's charges were untrue and concluded:

I leave it to those assembled here to decide whether a defense minister or a sensational author is the more reliable.

The Norwegian voters made their answer plain. Defense Minister Hansen's pro-NATO Labor Party won an additional 32 seats in the Storting—parliament. The radical SV lost all but 2 of its previous 16 seats; and the Norwegian Communist Party and the Peking-oriented "Red Election Alliance" won no seats.

Marchetti's failed test-flight as an anti-CIA "destabilizer" appears to have been an attempt to development of a replacement for Philip Agee, whose ties to the Soviet bloc's intelligence apparatus has become so obvious that his usefulness is ebbing.

In August, Agee attempted to enter France for another in his endless series of "CIA exposes." The French Government promptly deported him to Belgium where he held a press conference asserting that some 60 CIA employees "are now on the staff of the U.S. Embassy in Paris." It is noted that Agee received only minor publicity for his charge; however, the official Soviet "news agency" TASS gave Agee's statements extensive publicity for several days. TASS noted on

August 25 that Agee is working on a new book—with Steve Weissman, a writer long associated with the Havana-tied North American Congress on Latin America—NACLA—the "intelligence-gathering arm" of the U.S. Castroite movement. Said TASS, the new Agee/Weissman book will include a detailed list "of all organizations and persons that were connected with the U.S. intelligence services in the past 30 years."

It is noted that self-described "revolutionary socialist" Agee was reported visiting the Soviet Union in 1976, but that no expose of the KGB's activities followed. Deported from Great Britain in May of this year, Agee obtained residence in the Netherlands through the assistance of the Institute for Policy Studies' Transnational Institute—TNI—which has offices both in the main IPS headquarters in Washington, D.C., and in Amsterdam.

Moscow's propaganda mill also used Agee's allegations as the base on which to mount a smear campaign against third world students and professionals who have received an education in America. The Soviet claim is that "the majority of students dispatched to the United States for training or on a business trip" are "brainwashed" during their visit and forced to work for the CIA against their own countries.

Soviet propagandists have been making much use of the revelations of CIA drug and behavioral experiments. It is also noted in conclusion that what information is available has come from the highly selective releases by John Marks of CNSS of information obtained under the Freedom of Information Act. It is noted that careful analysis of the Soviet propaganda releases and comparison with the available released material indicates that some information attributed to Agee has no known provenance. It must, therefore, be presumed, if correct, and not "black propaganda," to have been provided by hostile intelligence sources.

ONE HOSPITAL'S STAND AGAINST INVASION OF PRIVACY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. CRANE. Mr. Speaker, this week the House will consider H.R. 3, a bill to control fraud and abuse in the medicare and medicaid programs. Congressman PETE STARK and I offered an amendment to this bill to prohibit the inspection, acquisition, or disclosure of any individually identifiable medical record of a patient by the Federal Government or its employees, without the patient's express written consent. The Crane-Stark amendment was adopted by the Ways and Means Committee on June 2 and is included in the committee's report, 95-393, part I.

This year both the National Bureau of Standards and the Privacy Protection Study Commission have issued reports which outlined the problems in protecting the confidentiality of medical records in a computer-oriented, information-gathering society. The greatest threat to our privacy is undoubtedly the Federal Government, with its vast array of departments, agencies and bureaus, many of whom have access to confidential medical records for one reason or another. If we are to assure the American people that their medical records will not be subject to wholesale invasions of privacy, we must first strictly control access to these records by Government officials. For that reason, I urge that the Crane-Stark amendment be adopted by the full House.

Right now a small hospital in Alaska is involved in a case which could have far-reaching effects. Cordova Community Hospital is appealing a decision by the State department of health and social services that would require the hospital to allow the department's surveyors access to all patient charts on a random selection without first obtaining the consent of each patient whose chart is selected. The hospital had refused to allow such access, and is now threatened with revocation of its license, for failure to comply with this decision. After a hearing in which there was overwhelming support for the hospital's 3-year stand against the invasion of privacy by government officials, the Cordova Community Hospital Board voted to appeal the decision. With the approval of the Cordova City Council, the hospital has decided to go to court, despite the costs of litigation.

I commend Cordova Community Hospital and the people of Cordova, Alaska, for having the courage to stand up against the invasion of privacy by government officials. Unless the power of government, whether Federal or State, is checked, there can be no guarantee of our fourth and fifth amendment rights to privacy.

For the benefit of my colleagues, I insert an article and an editorial from the June 23, 1977, Cordova Times, which give further details of this case:

[From the Cordova Times, June 23, 1977]

A SMALL PRICE FOR PRIVACY

In this day in time when personal privacy is being eroded by a torrent of bureaucratic paper shuffling it is indeed pleasant to see a small group of people willing to put their foot down and demand the process stop.

That is precisely the action taken by the Cordova Hospital Board last night at the urging of the majority of people who attended the public hearing on the question of confidentiality of medical records at the Cordova Community Hospital.

For over three years now the hospital has run against the current and forbidden access to medical records of private individuals to state hospital licensing officials. The officials have access to medical record of individuals whose medical bills are funded through a public programs such as Medicare and Medicaid because people seeking such aid have signed appropriate releases. The hospital contends that the officials have no right to records of those who pay their own medical costs unless the individuals grant the access.

The state recently issued an administrative order ruling against the hospital's contention and requiring that the hospital give access to all records on risk of losing its license.

Obviously the only sound alternative for the hospital is to continue the fight to honor the right to privacy of the individual.

However, that means court action. And court action costs money. According to the hospital board's legal representative, the court action would cost between three and six thousand dollars. That depends, of course, on whether the hospital wins or loses and how involved the case gets.

But isn't that a small price for this community to pay for the ability to protect the privacy of its individual citizens against arbitrary government surveillance?

We think so! And we urge the city council to underwrite the hospital decision to fight this senseless intrusion.

We see the right to privacy as a fundamental principle this great nation was founded on and are convinced that the state and federal constitutions will support this right in court.

When all other options are exhausted we recommend the hospital pursue its convictions in court. Surely, in the end, they should prevail and will. Of that we are so certain that we will pay $1,000 of thé cost incurred ourselves, if the courts should prevail against them.

[From the Cordova Times, June 23, 1977]

HOSPITAL BOARD VOTES TO APPEAL STATE DECISION

The Cordova Community Hospital board voted last night to appeal the state decision which requires the hospital allow examination of private medical records by state hospital examiners.

Failure to comply with the state administrative order or appeal it by June 30 will cause the hospital to run the risk of losing its license.

Since appealing the administrative order will cost the hospital money that isn't budgeted, the city council must approve the action. A special council meeting is being scheduled Saturday to handle the question in a timely manner.

The hospital board made its decision last night after listening to an hour and a half of testimony from nearly 30 Cordovans who attended the public hearing.

Several of those in attendance voiced opposition to the appeal calling the whole idea of not complying "ridiculous." However, the vast majority of those in attendance indicated their desire to see the private medical records kept confidential. There were several suggestions for taking action out of court to solve the problem including seeking help from the state Office of the Ombudsman, and pursuing changes in the regulations through the legislative branch of state government.

The Cordova Community Hospital has been challenging the state's demand for access to patients' private medical records without prior written consent of the patients for the past three years.

TRUCKING INDUSTRY

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. RUSSO. Mr. Speaker, next week the Subcommittee on Special Small Business Problems, which I am pleased to chair, will conclude its hearings on the regulatory problems of independent owner-operators in the Nation's trucking industry.

These hearings have proven to be highly instructive and because of the

importance of these final hearings, I would like to bring them to the attention of my colleagues.

The committee's recent press release, which I am inserting in the RECORD, provides some background as well as specific information on the hearings:

MARTY RUSSO ANNOUNCES CONCLUSION OF ICC/INDEPENDENT TRUCKER HEARINGS

The Honorable Marty Russo (D-Ill.), Chairman of the Subcommitee on Special Small Business Problems, announced today that hearings on the regulatory problems of the independent owner-operators in the nation's trucking industry will conclude with sessions on September 27 and 29.

On September 27, A. Daniel O'Neal, Chairman of the Interstate Commerce Commission, will appear before the Subcommittee. Mr. O'Neal will respond to several of the issues which have been discussed at earlier hearings. Among the problems to be addressed are skimming (with concentration on the regulated industry), unloading rackets at the nation's warehouses, lease irregularities, the value of ICC operating authority, ability to obtain new authority, various owner-operator reform proposals, carrier escrow funds and performance bonds, fuel tax credits and debits, detention time, household goods moves in urban areas, and finally the role the ICC should take in representing owner-operator interests. The hearing will begin at 9:00 AM in Room 2359 of the Rayburn House Office Building.

On September 29, the Subcommitee will listen to a unique three-way debate of the issues facing owner-operators. Participating will be Chairman O'Neal and high-level Commission staff, representatives of the American Trucking Associations, Inc., and a six-member panel representing owner-operator interests. Mr. Russo said:

When a Subcommittee holds a hearing, we are usually confronted with one side of the story. At a later hearing, we hear yet another side of the story. The problems we have heard over the last eighteen months have greatly distressed the Members of the Subcommittee. The complaints and tales we have heard cover the exempt area, the relationship between regulated carriers and leased operators, and the whole motor carrier transportation industry.

Prior testimony sparked a voluntary ICC study of 64 regulated carriers. Quite frankly, the subsequent Commission staff report tended to confirm owner-operator gripes issue after issue. Other testimony resulted in a Council on Wage and Price Stability report on ICC operating authorities which raised serious questions concerning the whole authority process and raised further questions on whether or not some carriers are merely brokers who are becoming wealthy by bartering public rights.

This historic debate of the issues will hopefully shed a lot of light on some very serious issues. It also should dispel the pervasive national myth of the independent trucker as a cowboy running over small towns at 85 miles per hour. Actually, we are talking about over 100,000 independent small businessmen and women working hard to earn a decent living.

The debate will begin at 9:00 AM in Room 2359 of the Rayburn House Office Building. The following six individuals have been invited to be part of the panel and to address the issues cited:

(In alphabetical order).

Ted Brooks, Baltimore, Maryland:
1. Fuel tax credits and debits;
2. License plates;
3. Other ripoffs.

C. H. Fields, American Farm Bureau:
1. Exempt brokers;
2. Unloading rackets;
3. Availability of trucks.

Joy Fitzgerald, Des Moines, Iowa:
1. State laws and regulations—the paperwork burden;
2. 80,000 pound limit;
3. IRP plan and its future.

William J. Hill, Pittsburgh, Pennsylvania:
1. The question of antitrust immunity.
2. The cost of being an owner-operator.

Mike Parkhurst, Los Angeles, California:
1. Skimming;
2. The question of deregulation.

Timothy D. Person, St. Louis, Missouri:
1. Minorities and access to operating authority;
2. Household goods moved in urban areas;
3. Minorities and access to government contracts.

In addition to Chairman Russo, Members of the Subcommittee are Rep. Ike Skelton (D-Mo.), Rep. Richard Nolan (D-Minn.), Rep. Andy Ireland (D-Fla.), Rep. Dale E. Kildee (D-Mich.), Rep. James C. Corman (D-Calif.), Rep. Wyche Fowler, Jr. (D-Ga.), Rep. William S. Broomfield (R-Mich.), Rep. Millicent Fenwick (R-N.J.), and Rep. Dan Marriott (R-Utah).

RETURN OF CONSTITUTIONAL GOVERNMENT TO NICARAGUA

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. CEDERBERG. Mr. Speaker, our discussions on foreign policy in the past year have placed a greater emphasis on human rights and have focused our attention on countries which have suppressed them. Like many other political issues, the subject of human rights has generated a more intense reaction the closer to home the problem has appeared.

Thus, we were sorry that terrorist conditions in 1974 forced Nicaragua to suspend constitutional rights and guarantees. However, conditions have improved in that country and President Anastasio Somoza has announced that the state of siege is being lifted. As I am sure this news is of interest to my colleagues, I would like to share with them the following press release from the Nicaragua Government Information Service on this action:

COMMUNIQUE—PRESIDENT SOMOZA LIFTS STATE OF SIEGE

MANAGUA, NICARAGUA, September 19.—President Anastasio Somoza today lifted the state of siege and martial law.

The President, after presiding over a meeting of the Council of Ministers, repealed Decree No. 5 of December 28, 1974, by which constitutional guarantees were suspended in accordance with provisions in the Constitution and established laws. In his televised statement to the nation, the President stressed the failure of those forces and interests which, responding to international instructions, had used the technique and the system of consistently violating constitutional guarantees through acts of terrorism.

Said the President, "for those who have fomented violence and bloodshed in our country, let it be known the Nicaraguan people are ready to defend the democratic and liberal nationalist system any time this is threatened by acts of terrorism."

This is in reference to acts such as the assault on the home of Dr. José María Castillo Quant on December 28, 1974, which caused the death of three persons including that of Dr. Castillo and the holding hostage of his guests. The systematic summary executions of over 100 innocent peasants; the practice of summary execution of terrorists by their own members; the placing of explosive devices in public places which endangered the lives of innocent men, women and children; the hold-up of banks and private businesses; the murder of policemen and workers; the burning to the ground of dwellings of humble peasants.

"The Guardia Nacional" said President Somoza, "with the cooperation of the democratic forces in the country, especially the peasants, have known how to defend the peace and order of the nation by repudiating subversion."

The Decree suspending constitutional guarantees was issued in the face of an existing conspiracy to subvert the constitutional order, the peace of the nation, the security of individual rights and property in different parts of the country, as was shown to have been the case.

In accordance with martial law, all persons committing crimes against the security of the State and public order have been tried by the military courts and given every recourse for defense as was their right. The sentences of these courts later appealed before the Supreme Court of Justice by the defense were upheld by the Supreme Court. Those cases of terrorists presently pending will be passed to the civil courts.

The President said that the circumstances which causd martial law to be brought in did not interrupt the life of the nation; nor the liberty of every citizen; nor the activity of the private sector; nor the practice of religion; nor the carrying out of common justice; nor the freedom of political parties. "At this time the country enjoys political, social and economic stability," said President Somoza.

The lifting of the state of siege follows the completion of the judicial process by the military court against the terrorists. It also fulfills the promise made by the President to the Nicaraguan people when on May 7 he said "the present state of siege will not last one minute longer than is strictly necessary."

ROGER BERMUDEZ,
Presidential Press Secretary.

MEDICAL RECORDS CONFIDENTIALITY AMENDMENT EXPLAINED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. CRANE. Mr. Speaker, later this week the House will be considering H.R. 3, the medicare/medicaid antifraud bill. The Ways and Means Committee version of this legislation contains language, which Mr. STARK and I offered, prohibiting the acquisition, inspection, or disclosure of individually identifiable medical records by Government agencies and their employees, without the consent of the patients. Exceptions to this authorization requirement would be made only for reimbursement and auditing procedures in cases where the patient's care is paid for or provided for by the Federal Government. The records of medicare, medicaid, military, and VA hospital patients would, therefore, be protected from indiscriminate use without preventing medical care practitioners from providing treatment or determining that our tax dollars are being wisely spent in these programs. Private care patients,

who receive no Federal assistance for their medical expenses, would be assured that their confidential medical records would not become part of the huge Federal record system, subject to inspection by Government employees and anyone else with access to such data.

Since the adoption of the Crane-Stark amendment by the Ways and Means Committee in June, a number of questions have been raised concerning the effect this amendment would have on medical research. For most research purposes, there is no need for the researchers to know the name of the patient, and either aggregate data or files with the names and other identifying data removed would suffice. In situations where patient names are either desirable or necessary for the purpose of the study, the third party maintaining the records—that is, hospitals or physicians—could contact the patients at the request of the researchers, without violating confidentiality. Patients would then have the opportunity to determine whether or not they wish to allow the researchers access to their confidential medical files.

The right of an individual to the privacy of his person and records is a basic one, which should not be violated on light or uncertain grounds. Just as one has the right to the privacy of one's banking or telephone records and income tax returns, one has the right to presume that the nature of one's medical treatment remain confidential. Federal agencies should have no more justification for obtaining medical records without the consent of the patients than for acquiring any other type of personal records.

Because the research issue has been at the center of the debate over the Crane-Stark amendment, I would like to request unanimous consent to insert a newspaper column and my response to it answering many of the objections in this regard. I feel this amendment would provide a necessary safeguard to the patients without unnecessarily impeding vital medical research. I urge my colleagues to examine carefully these arguments before voting on this amendment.

The letter and article follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C. August 8, 1977.

Mr. GERSHON FISHBEIN,
Care of The Washington Post Office of the Editor, 1150 15th Street NW., Washington, D.C.

DEAR MR. FISHBEIN: As one who has been concerned with the issue of the confidentiality of medical records as it relates to the Federal Government, I read your August 8 column in the Washington Post with a great deal of interest.

Leaving aside the possibility of hazardous conditions at the West Virginia plant or the Dupont Company's motives in contesting the NIOSH subpoena, I feel very strongly that the right to privacy should be upheld against government infringements for whatever reasons. If the National Institute for Occupational Safety and Health (NIOSH) should prevail in the case of Dupont v. Califano and Finkley, the entire country will be the real loser, not just the employees of Dupont. Any government agency, its employees or agents would then have a blank check to inspect, acquire or demand the personal and confidential medical records of any citizen, for any purpose it deems necessary, without that individual's knowledge or consent.

The fact that NIOSH has been able to cite a number of court rulings in support of its contention that the government's "duty" to protect the public health outweighs the rights of any individual only points out the deficiencies in existing law. I will not engage in a lengthy discourse here on instances throughout history where governments have trompled over individual liberties and (in some cases) extinguished lives in the "national interest", but the Gestapo tactics of Nazi Germany come to mind immediately. Lest I be accused of hyperbolizing, it should be noted that our courts have also approved the use of wiretapping by the government, a practice which I find abhorrent.

It is ironic that many of the same people who have decried violations of privacy by the FBI, CIA and IRS rally to the government's defense when these violations involve confidential medical information. Either it is morally correct for the government to inspect and/or acquire one's personal records in all cases, or it is morally wrong. The fact that the courts have been inconsistent in the degree to which they protect individual privacy should not be interpreted as approval of wholesale government snooping, unless specifically prohibited. To quote the Fourth Amendment of the Constitution:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

If we are to prevent the erosion of this fundamental right, we must insist that the law bend over backward to protect us against government intrusion. Otherwise, the concept of privacy becomes meaningless.

In the case in question, NIOSH attempted to obtain the medical records of Dupont employees without either the consent of the workers or a court order. Dupont, quite correctly, insisted that to allow NIOSH to inspect individually identifiable medical data without a warrant would be a breach of doctor-patient confidentiality. For the purpose for which NIOSH requested the records (i.e., to determine if the incidence of cancer among the plant's employees was abnormal, indicating the possibility that the disease was work-related) it is neither necessary for the investigators to have the names of the workers nor those portions of the medical records unrelated to the cancer cases. To determine if a higher-than-average number of these workers had developed cancer, it is irrelevant whether any had contracted venereal disease or had broken a limb while skiing.

In contending that it would be impossible to assess hazardous working conditions if the consent of each worker was required in advance, NIOSH has made it clear that it considers mere inconvenience an excuse to place itself above the individual's right to privacy. I wonder whether NIOSH's real fear is that such persons, if given the choice, would refuse such a request, even when their health and safety is at stake. I am sure that Dupont would have been more than happy to supply the names and addresses of present and former employees for this purpose, since it had been willing to provide copies of medical records from its employees files, albeit with names and nonessential data removed to protect the workers' privacy. In the event that the company refused, one would presume that the adverse publicity would have brought the employees to NIOSH's door in droves, with consent form in hand. NIOSH's attitude in this case is but one example of bureaucratic arrogance in the face of constitutional guarantees, which must be checked.

Despite the government's claim that HEW regulations expressly forbid the unauthorized disclosure of any medical records it obtains, I would remind you that the IRS is also prohibited from revealing income tax data, even to other government agencies, yet violations have occurred. Even under penalty of law, the tax records of former President Nixon were made public and the culprit has never been discovered, let alone punished for his misdeed. More than one administration has obtained IRS records for its own insidious purposes. With regard to medical records, it came to light just a few months ago that the New York State Health Department had been conducting a federally financed study of the effects of abortion, involving 48,000 women, without their knowledge or consent. Despite HEW's assurances that privacy is maintained in research conducted under its auspices, the data on these women was readily available to anyone with access to the Health Department's computer, and had been routinely handled by many personnel outside those conducting the study. Only recently the Social Security Administration was criticized for its inadequate safeguards to prevent the misuse or theft of data from its computers in Baltimore, which contain medical information on Medicare and Medicaid patients.

But the real issue, in my mind, is not whether the government insures that the confidential information it acquires will be protected from unauthorized access or public disclosure, but whether the government should be able to obtain that information without the individual's consent. I feel that, in the absence of statutes prohibiting government's access without express authorization, there can be no assurance that the Fourth Amendment guarantee can withstand repeated assault.

Consistent with my beliefs, I have introduced legislation which would prohibit government agencies and their employees from inspecting, acquiring, or requiring any part of the medical records of patients whose medical care was not provided or paid for under a Federal program, unless such patients have specifically authorized such disclosure. While it can be argued that the Federal Government has a reasonable need to inspect the records of those whose health care it provides—such as Medicare and Medicaid patients, the military and veterans—there is no justification for violations of privacy against private patients by government officials. This bill, HR 1816, was offered as an amendment to HR 3, the Medicare-Medicaid Anti-Fraud and Abuse bill. It was overwhelmingly adopted (as amended) by the Ways and Means Committee on June 2, despite heavy opposition from the Carter Administration.

Since its adoption, the pressure from HEW, its myriad agencies and its allies in the private sector to delete my amendment has constituted a veritable barrage. The irrational fear that my amendment will bring cancer research to a grinding halt has been a key weapon in the HEW arsenal, one which has apparently caused some defenders of privacy among my colleagues to wither. If government employees are involved, as in the NIOSH-Dupont example, such research can continue, without any undue inconvenience, provided that the consent of the individual is obtained in cases where identifiable data are used. Private researchers would not be subject to this requirement, though I would hope they obtain such authorization as a matter of pride in the strict code of ethics maintained by the medical profession.

In light of the concern for privacy in this post-Watergate era, the opposition to legislation which would protect the individual against government violations is incomprehensible to me. In the last seven months two government-sponsored studies outlining the problem and recommending corrective legislation have been published. In January the National Bureau of Standards released a two-year study on privacy and medical records by Alan F. Westin, "Computers, Health

Records, and Citizens Rights", and the Privacy Protection Study Commission made its report last month. Though HEW officials have made assurances they will propose legislation to deal with this issue by mid-October, their actions to date lead me to doubt that their concern for confidentiality is sincere. If anything, my belief that the government itself is the greatest threat to individual privacy has been confirmed.

At this point the case of Dupont v. Califano and Finkley (on behalf of NIOSH) is awaiting a decision from Justice Knapp of the Seventh District, West Virginia. I can only hope that the court realizes the full import of the consequences in this decision and that individual privacy prevails over government infringement. Should the government win this case, we might as well ask our physicians to mail copies of our medical records to HEW, for HEW will surely obtain them otherwise.

Cordially,

PHILIP M. CRANE,
Member of Congress.

JOB HAZARDS AND PRIVACY

(By Gershon Fishbein)

The question of whether the government's authority to investigate unhealthy and unsafe conditions in a work place is in conflict with the worker's right to privacy will soon be determined by a federal court in Charleston, W. Va.

The case goes directly to the issue of whether a government agency, in pursuit of information designed to protect the health of an individual, can claim access to personal medical records without the consent of that person. It is wrapped in the mystique of the physician-patient "confidential" relationship and assumes greater importance now that the institute investigate to determine hazards of his job is being upheld.

Earl McCue, a chemist and union safety chairman at DuPont's plant in Belle, W. Va., complained last year to the National Institute for Occupational Safety and Health (NIOSH) that a large number of his fellow workers were developing cancer and suggested that the institute investigate to determine if the cause could be related to occupational exposure.

At about the same time a House Commerce subcommittee, at the instigation of Rep. Andrew Maguire (D-N.J.), held hearings to investigate the abnormally high incidence of occupationally related cancer in Maguire's home state, and McCue was invited to testify on related conditions at Belle. He told the subcommittee he could account for 55 cases of cancer among past and present workers at the plant. When a DuPont official was spotted in the audience, he was asked to comment on McCue's testimony. Surprisingly, he said that the total was closer to 150 cases from 1956 to 1974.

This prompted the subcommittee to request DuPont to bring its records up to date and to release the records to NIOSH for its investigation. The company took a closer look at its records and compared the results with figures obtained by the National Cancer Institute in its national survey of all cancer cases from 1969 to 1971. On basis of that comparison, DuPont acknowledged an "excess" number of cancer deaths at the Belle plant, but insisted that it could not be proven that occupational exposure accounted for the higher rates.

After negotiating with DuPont attorneys for several months, NIOSH assumed that the road was clear for it to examine the medical records of 240 current and former employees and to make photocopies for statistical evaluation. However, last January, three days before a five-member government team was to visit the Belle plant, the manager wrote that individual medical records would "not be available for copying and inspection."

When they arrived, the investigators were denied direct access to the personnel records and were informed that only photostatic copies of selected portions would be supplied. DuPont demanded a subpoena, which NIOSH obtained. Again the company refused to provide the requested information on current employees, saying that to do so would breach the "confidentiality" of the physician-patient relationship without the consent of the workers.

DuPont offered to turn over whatever records it had, with the names of the workers deleted. Otherwise, it said, it would be obliged to seek the consent of each worker still on the payroll.

The government rejected the alternative, saying that only by knowing workers' names could the information be double-checked through personnel files. In a memo to the House subcommittee, NIOSH had said its earlier efforts to obtain even limited information about the incidence of cancer turned up discrepancies between the company's claims and the actual files.

DuPont then asked the federal court to rule on whether granting the information without consent of the employees would violate the workers' right of privacy. In its reply, filed with the court recently, the government noted that HEW regulations expressly forbid the unauthorized disclosure of medical information obtained during its investigations and said the company's claim of confidentiality would not survive legal scrutiny.

In fact, it cast considerable doubt on the entire question of how confidential the relationship between physician and patient really is or should be. It cited a number of court rulings to support the doctrine that the government's lawful interest in protecting public health takes precedence over any individual's claim that his medical history is his own business; this has been particularly true in cases that require a doctor to report the names of drug-dependent persons to a state health department.

"Disclosures of private medical information to doctors, to hospital personnel, to insurance companies and to public health agencies are often an essential part of modern medical practice even when the disclosure may reflect unfavorably on the character of the patient," the Supreme Court commented in a February ruling on a drug-abuse case. "Requiring such disclosures to representatives of the community does not automatically amount to an impermissible invasion of privacy."

NIOSH contends that requiring the consent of each worker in advance would make it impossible to carry out its responsibility for assessing health hazards in the work place. Obtaining accurate statistics is regarded as an indispensable basis for that task. DuPont insists that each person is entitled to be protected against disclosure and to do otherwise might subject the company to invasion-of-privacy lawsuits.

Meanwhile, the government has been forced to suspend similar fact-finding programs in other suspected industries until the court in Charleston rules on its authority. Unless it gets a legal green light to examine medical records of employees, NIOSH says, a lot of workers will continue to be exposed needlessly to on-the-job hazards.

THE PARALLEL BETWEEN TWO CANALS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. McDONALD. Mr. Speaker, we should always look for lessons in history and in debating the proposed new treaty with Panama, it would seem to be prudent to examine what happened to the Suez Canal when that canal was nationalized in 1956. Almost immediately there were problems. The Suez Canal was first closed for 5 months in 1956 and for a second time, as a result of the 1967 war with Israel, for 8 years.

The USSR played an important role in all of this trouble and it appears that the USSR is now waiting in the wings on the Panama situation. Unfortunately, we can recall how American intervention prevented France and Britain from retaking the canal and preventing its closure. The strategic position of the West has declined ever since in the Middle East, and while the Soviets have had their ups and downs in the area, its overall position has improved to the point where the West is forced to deal with the USSR on equal terms in any negotiations on a possible Middle East settlement. Therefore, I thought the "Rebuttal" column by Otto J. Scott that appeared in the San Diego Union on September 12, 1977, was particularly timely and ought to be brought to the attention of the Congress. The item follows:

THE PARALLELS BETWEEN TWO CANALS

When Lenin's representatives at the Treaty of Versailles in Paris in 1919, listed the "internationalization" of the Suez and Panama canals as one of the proposals of the new Soviet government, the world paid little attention. And when the huge and powerful Soviet government of the early 1950s raised the same demand again, it was widely dismissed as the usual Soviet propaganda line. But it is now clear that Soviet propaganda, like Hitler's, is not so much propaganda as prophetic outcries an rallying points for millions of its supporters and admirers throughout the world.

The clearest proof of that is in the Suez Crisis of 1956 which is now, oddly enough, seldom mentioned and never compared, so far as I can tell, with the present Panama Canal treaty. That is odd, because the parallels are so numerous as to be clearly beyond coincidence.

Since that crisis was 21 years ago, it may be worth brief recapitulation. First, we had the corrupt regime of King Farouk, overthrown by a clique of Puritanical army officers. That overthrow was hailed by our press, despite the fact that Farouk was a friend of the west, because his lifestyle offended people who today invest in pornographic movie productions. And the rise of army officers in charge of Egypt was called a triumph of democracy because they spouted left wing revolutionary nonsense. If they had been right wing they would clearly have been fascists.

But shortly after General Naguib, the front man for Nasser et al, achieved power, the new government of Egypt demanded control of the Suez Canal. It was by then clear, to the more observant, that they had been counseled and assisted by the Soviet in this demand. The timing of the demand was also interesting, for it came when the U.S.S.R. was confronting a problem in Eastern Europe, in its empire in that region, and especially in Hungary.

The demand that the British and French relinquish the Suez found many sympathetic echoes in the United States—as demands for the surrender of the west always seem to evoke. Britain, France and Israel decided, after Nasser seized control of the Suez by force, to regain it. Their joint invasion probably marks, I am sorry to say, the high mark of European-Israeli cooperation. Had it succeeded, Israel would have two firm and strong

allies in the Middle East, as well as the United States, and its present position would be infinitely more secure than it is.

The parallels between Suez and Panama are many. To call them coincidental would be naive—because both were linked, 58 years ago, by Lenin—and both remain linked as goals of Soviet foreign policy today.

In the case of Panama we are faced, as was Britain and France and Israel in 1956—with a revolutionary clique of army officers who orate about "democracy" and are guided by, and linked to, the U.S.S.R. In the instance of Egypt the Soviet link was, to an extent, covert—as it is today. In the case of Panama, the link is through a Soviet puppet regime in Cuba.

In the case of Suez its transfer opened the gates to Soviet expansion through all Africa and ushered a series of rebellions, coups, internecine wars, massacres and horrors that are not yet ended.

In the case of Cuba, transfer of the canal will open the gate to Soviet expansion, and usher scenes of disorder and intrigue to this hemisphere virtually unknown since it achieved continental solidarity and ended its Civil War.

In my opinion the Panama Canal issue represents one of President Carter's greatest challenges, and he has already failed to meet it. He resembles President Eisenhower in being braver and more threatening to our friends than to our enemies. Eisenhower, after all, threatened Israel with loss of its ability to raise tax-exempt funds from Americans, and with cancellation of all military and economic aid. His threats to Britain were open, unbridled and profane, and included economic sanctions and loss of military cooperation. His threats to France were on the same order. The decline in the ability of all three of these nations—Israel, France and Britain—to maintain their standing individually and collectively dates from that debacle. But while Eisenhower was brave to our allies, he cringed and remained silent before the simultaneous Soviet invasion of Hungary.

In the pattern of Eisenhower, President Carter threatens weaker allies in the west, while assisting the Soviet Union to achieve the goal of Lenin in 1919.

It is my hope, therefore, that The Union will review its hasty approval of the Panama Canal treaty and come to admit that it would be not only unwise, but dangerous to the people of the United States and the entire west if approved.

OTTO J. SCOTT.

PENSIONS IN THE DISTRICT OF COLUMBIA: AN UNSETTLING PROBLEM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. MAZZOLI. Mr. Speaker, after 3 years of research, hearings and markup, the Committee on the District of Columbia is preparing to present a bill to solve the pension dilemma now confronting the District of Columbia.

The problem is outlined in the following materials, a Washington Post editorial of April 1, 1977, and a letter—unpublished—which Chairman DIGGS and I sent to the Post earlier this year.

While, the Post suggests a course of action that would cost the Federal Government about $4 billion, the committee has devised a plan, outlined in the letter, that would cost the Federal Government only $768 million during the funding period.

This is a fiscally conservative program which has been pronounced sound by actuaries and pension consultants.

The material follows:

[From the Washington Post, Apr. 1, 1977]

CITY PENSIONS: AN UNSETTLING ACCOUNT

In an unfortunate fit of generosity more than 50 years ago, Congress decided to establish some impressive but fiscally unsound pension programs for certain categories of District of Columbia employees who weren't covered by federal retirement programs. These included police officers, firefighters, public school teachers and judges. In those days when Congress really ran things around here, you can imagine how lobbyists for these employee groups soon developed chummy relationships with members of key committees handling pensions. And the benefits grew and grew. What's harder to imagine, however, is that all these pension liabilities were never truly financed; there was no fund to take care of the costs.

Thus when the elected city government took office in 1975, it inherited unfunded pension liabilities totaling $1.7 billion. And the figure, according to Mayor Washington, has now hit a "staggering" $2 billion. But if that seems a hefty tab, there's more: City officials estimate that to assume this unfunded liability and to meet currently accruing and future liability over the next 40 years, the total—if financing were to begin right away—would be $9 billion for police and firefighter pensions alone.

At least there does seem to be some congressional recognition that the federal government has a financial responsibility to help the city undo this mess. A House District subcommittee is considering legislation that would make changes in the pension programs. Moreover, the city government has submitted proposals for a sharing of the pension burden.

Mayor Washington and city budget director Comer S. Coppie are suggesting that past liabilities be picked up by the federal government and that the city finance current and future liabilities. Over a period of 40 years, according to their actuarial estimates, the annual federal cost would be about $101.2 million; the city's cost would range from $41.6 million in the first year to $270 million in the year 2016. Thus the federal share of the $9 billion would come to about $4 billion the city's to about $5 billion. At the end of this period, the city would assume complete responsibility for the pensions.

This kind of arrangement—coupled with changes in certain pension provisions in the future and the establishment of a retirement board adequately reflecting the interests of employees and the city government—need prompt congressional consideration. While there may be some question about the precise cost calculations over a 40-year period, there should be no doubt that the fiscally treacherous pension programs the city inherited from Congress need federal attention as quickly as possible.

COMMITTEE ON THE
DISTRICT OF COLUMBIA,
Washington, D.C., April 18, 1977.

The WASHINGTON POST,
Washington, D.C.

GENTLEMEN: We welcome your April 1, editorial, "City Pensions: An Unsettling Account," calling attention to the District's unfunded pension plans for police and firemen, teachers, and judges. We agree that Congress should give the city financial help since it was Congress that established the plans and granted the benefits, but failed to provide funding. However, we must disagree with the method and cost of the solution proposed by the city and discussed in your editorial.

The city's proposal calls for a federal contribution of $4 billion for police and firemen only. If this is expanded to include teachers and judges, the cost balloons to $6.03 billion. In our judgment this approach has no chance of Congressional support.

The bill introduced by Congressman Mazzoli and now before the House District Committee, essentially the same bill the Committee passed last Congress, reforms several costly pension benefits and authorizes federal payments of $769 million for all three plans. The benefit reforms and funding method save $5.2 billion over the city's proposal.

The Committee bill—a product of three years of research and hearings—is designed to relieve the pressure that spiraling pension costs will have on the District's budget. With a declining population and a dwindling tax base, the District cannot afford the rapidly escalating pay-as-you-go costs of its pension plans.

At present, police and firemen's pension costs are $50 for every $100 of active payroll. By the early 2000's pension payments will exceed payroll. Clearly we must act now, for every year's delay adds $120 million to the unfunded liability.

The actuarially sound funding method in the Committee bill is one of three proposed by the District in their 1974 study of pension funding alternatives. Under this method a fixed percentage of payroll is contributed to each fund annually that will be sufficient, along with interest earned on investments, to pay all pension costs. Federal contributions to all three funds will cease in 2003.

In addition to its lower costs, this method has the advantage of equity. It places an equal burden on present and future taxpayers since the percentage remains constant so long as benefits do not change. Another feature of this method is that when benefits are increased, the cost is reflected immediately by an increase in the size of the contribution needed to keep the fund actuarially sound. Because the District must pay the full amount of any such increase, we believe this provides an incentive to the District to control pension costs.

The city testified during hearings held last Congress that this funding method was a "reasonable approach for building actuarially sound retirement funds over a realistic time period." Even though the District would contribute $4 for every $1 of federal aid, the city stated that they would support this plan. Actuaries and pension experts consulted during the development of this bill agreed that this was an acceptable method of funding.

This legislation has been carefully drafted to prohibit conflict of interest and to insure proper fund management. To guard against pressure to invest in potentially risky local ventures, the bill provides that no funds may be invested in bonds, real estate, or agencies of the District of Columbia, Maryland, or Virginia. These provisions were endorsed by pension management experts as a necessary safeguard.

The bill creates an independent Board of Trustees composed of five members appointed by the District government and six members elected by active and retired employees. Pension plan participants and beneficiaries have a majority on the Board.

To reduce future pension costs the Committee bill makes certain changes in benefits for police and firemen.

The primary reason for the burgeoning costs of the police and firemen's retirement system is the inordinate number of disability retirements. During 1969 disability retirements were 98 percent of total retirements. These rates have dropped to around 60 percent, but are still exorbitant compared to other cities, including New York.

The bill tightens regulations for present employees and institutes for new employees a system of percentage of disability. By moving the guarantee that a disability retiree

will receive—tax free—a full 66⅔ of his salary and establishing a ceiling on the amount of outside income he may earn, we hope to bring these figures in line with other jurisdictions.

Congress has attempted since 1974, when former Congressman Rees introduced his first pension bill, to pass legislation to establish funds for the District's retirement plans. But Mr. Rees' efforts were thwarted by opposition from the former Administration. We hope that the interest in pensions shown at our meeting with President Carter indicates his Administration's desire to help solve this pressing problem.

We view this bill as reasonable and equitable. Its passage will bring the city one step closer to financial health.

Sincerely,

CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia.

ROMANO L. MAZZOLI,
Chairman, Subcommittee on Judiciary (former Chairman, Subcommittee on Fiscal Affairs).

LEGISLATIVE ACCOMPLISHMENTS AND PERSONALITY OF TOM FOLEY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. JONES of Tennessee. Mr. Speaker, last week the Wall Street Journal printed a sensitive and perceptive article about the legislative accomplishments and personality of TOM FOLEY, the distinguished chairman of the Agriculture Committee and leader of the House Democratic Caucus.

As Karen Elliott House points out, it is often difficult to pin an ideological label on Chairman FOLEY, but after observing him at close quarters for 9 years on the Agriculture Committee, there are two labels which fit him perfectly—statesman and gentleman.

I think this article is well worth your time so I am inserting it in the RECORD at this point:

HOW REPRESENTATIVE FOLEY PLAYED A KEY ROLE IN SHAPING DISPUTED FARM BILL

(By Karen Elliott House)

WASHINGTON.—In a House full of flamboyant noisemakers, Rep. Thomas Foley stands out as a quiet lawmaker.

The Washington State Democrat is hardly known to the public, and he doesn't try to be. He is rarely partisan or pushy. And he spends much of his time working on unglamorous agricultural issues.

Yet he is one of the most influential members of the House. He is a leading contender to be the next Speaker. And his deft handling of a controversial farm bill recently won him a rare standing ovation on the House floor from both Democrats and Republicans.

"The only thing wrong with Tom Foley," one GOP strategist says, "is that a man that intelligent, that effective is neither conservative nor Republican." Indeed, about the only criticism of Mr. Foley is that he is too nice and too eager to seek legislative compromises.

At age 48, the seven-term Congressman is chairman of the caucus of House Democrats on policy and political issues, and he is a close ally of Speaker Thomas P. O'Neill. As chairman of the Agriculture Committee, Mr. Foley (who is the youngset committee chairman in the House) played the key role in shaping the farm bill that Congress is expected to send to the President Friday. Mr. Carter appears certain to sign the measure, which only three months ago seemed headed for a veto.

Mr. Foley's influence, however, stretches beyond farm matters. At Speaker O'Neill's request, he served on the special ad hoc energy committee and will be a member of a similar welfare committee. The Speaker also tapped Mr. Foley to keep him informed on the ethics committee's investigation of Korean influence peddling in Congress. (Mr. Foley himself received a $500 campaign contribution from South Koreans.)

"It's hard to say 'but for Tom Foley, something wouldn't have happened,'" asserts an aide to Speaker O'Neill, "but his influence is everywhere. It's the nature of his personality—the thoughtful, reasoned analysis—that makes him so respected, so influential."

A BROAD APPEAL

Indeed, a major reason for Mr. Foley's influence is his broad appeal. At once he is an urbane lover of African art and Mozart and an expert on agriculture.

Similarly, as an active reformer who has joined the ranks of committee chairmen, he bridges the gap between Young Turks and old-timers. Younger members admire him for his leadership two years ago in making House procedures more democratic and for his patience in listening to their ideas. Yet senior members recall that during the height of the reform movement, Mr. Foley opposed efforts by House reformers to dump Agriculture Committee Chairman Bob Poage of Texas. (After the 77-year-old Mr. Poage was voted out of the post, he made an emotional speech urging the election of Mr. Foley to replace him.)

If Mr. Foley has a major flaw, congressional observers say, it is that he is too eager to build bridges between extremes in order to accomplish legislative results. "Tom Foley is a beautiful bridge builder," one Democratic colleague says, "but he doesn't much care which way the traffic runs over his bridges." And some question whether he has the meanness to fight for the top House leadership job when Speaker O'Neill steps down one day. Some colleagues note that Mr. Foley shied away from a three-way race for House majority leader last year.

REACTING, NOT INITIATING

Some liberal Democrats also wonder what Mr. Foley stands for. They are unhappy that he abandoned efforts last year to revamp the food-stamp program after it became clear such a bill wouldn't pass the House; they wanted him to press for the bill anyway as a matter of principle. And they complain that he hasn't used his position as caucus chairman this year to push liberal causes. He reacts rather than initiates, they say. "There is a group of us who certainly don't want to see Tom as Speaker," a Democratic colleague says. "He isn't sensitive to the issues." (It should be noted that the 64-year-old Mr. O'Neill hasn't any plans to step down as Speaker anytime soon.)

Clearly, Tom Foley isn't an ideologue. He rarely takes the House floor to speak on any issue other than agriculture—and then only to analyze, not harangue. This approach is necessary in part because Mr. Foley, who two years ago headed the liberal House Democratic Study Group, respresents the most conservative district in Washington. (Three of his past opponents were John Birch Society members.) But it also reflects Mr. Foley's own doubts that big government programs are always the answer to social problems.

Still, he votes for food stamps, abortion (though he is Catholic) and enough other liberal causes to win a 55-percent favorable rating from the Americans for Democratic Action, a liberal lobbying group. "If you look closely," a GOP admirer says, "he dishes out the same old liberal medicine, but he does it so adroitly that it tastes good to conservatives, too."

Unquestionably, Tom Foley's forte is adroit legislating. Because his nature is to avoid confrontations, he rarely twists arms. Instead, he builds coalitions, but he does so by finding common interests rather than wheeling and dealing to balance opposing interests. And he eagerly includes Republicans in his coalitions.

The farm bill is a good example of the success of that formula. In May, Mr. Foley found himself and the House caught between sharply different farm proposals: The President demanded a relatively inexpensive bill, but the Senate already had passed a costly version that Mr. Carter had promised to veto. So, to keep alive the possibility of a compromise farm measure acceptable to the President, the House had to adopt a less expensive bill than the Senate version.

"Many people didn't believe the President's veto threats," Rep. Foley says "but I did." So he set out to hold down the spending impulses of Congressmen and to persuade the White House to accept a more generous farm bill.

One of Mr. Foley's most important early decisions was to forbid any member of the Agriculture Committee to introduce the President's farm bill. Because the bill would have been a target for partisan attack, he insisted that the committee work from a staff outline of tentative decisions made earlier in Agriculture subcommittees. This strategy kept partisanship at a minimum and helped create a collegial atmosphere. As the committee concluded sections of a bill that satisfied representatives of various commodities—peanuts, rice, tobacco, cotton and dairy products—the coalition for the bill grew stronger.

The biggest disagreement revolved around government price guarantees for wheat and corn—two crops whose market prices are severely depressed by huge surpluses. "Sure, I want higher price supports, too," Mr. Foley repeatedly told his colleagues. "But it won't help farmers for us to pass a bill the President won't sign." Mr. Foley didn't need to remind colleagues that, as a Representative from one of the nation's largest wheat-producing areas, he was putting aside his parochial interests and they should do the same.

To cement support of urban Congressmen, Mr. Foley dropped his opposition to a food-stamp proposal in the administration bill. The administration proposal, which wasn't part of last year's food-stamp revision bill, was to eliminate the present requirement that food-stamp recipients pay a small amount for stamps that bring them a greater dollar amount in food; instead, they would be given the stamps free.

And Speaker O'Neill helped nudge the President. During one dinner at the White House, Mr. O'Neill told President Carter that Rep. Foley was "working miracles" in persuading his committee to approve a lower-cost farm bill and that Mr. Carter ought to be grateful enough to accept some increases from his own proposals. In the end, the committee agreed by a wide 40-to-6 margin on a farm proposal the administration said was acceptable.

THE WHEAT-SUPPORT ISSUE

But big trouble lay ahead. Democratic Rep. Glenn English of Oklahoma, who had narrowly failed in committee to raise price supports for the 1977 wheat corp, now broadened his coalition to include corn-state Congressmen and prepared to fight again on the House floor. Mr. Foley believed that Mr. English would win on the floor. The reason: Farm-state Congressmen, eager to support their constituent interests, had teamed with Republicans, eager to test the President's veto threat.

Mr. Foley telephoned the President to tell him that the English amendment appeared likely to pass and that he wasn't going to try

to stop it. A bitter fight, he said, could so sour tempers that the House almost certainly would defiantly pass a bill far more costly than the President wanted. Even though the amendment would add $500 million to the bill's cost, Mr. Foley urged the President to go along.

During that conversation, the two men struck the most important deal in the farm bill's evolution. Mr. Carter indicated that he would accept the English amendment if the chairman could deliver several other things. The President wanted flexibility to lower the amount of government loans to farmers instead of having them set in the bill. And Mr. Carter wanted authority to withhold government subsidies on all crops from any farmer who didn't comply with a government order to "set aside" acreage planted to any one crop.

QUICK PASSAGE OF AMENDMENT

The next day, without ever mentioning his talk with President Carter, Mr. Foley surprised his colleagues by introducing the English amendment himself. The switch headed off a nasty floor fight between the English forces, on the one hand, and Mr. Foley and administration backers, on the other. Because the action was a clue that the President had agreed to accept some increase in price supports, the amendment quickly passed, and the mood of the House turned euphoric.

"This is a born-again administration, and I'd like to say praise the Lord and welcome back among those of us who saw the light long ago," Republican Rep. Charles Thone of Nebraska said good-naturedly.

Mr. Foley, who has a quick sense of humor, responded with his own Biblical reference: "I believe the Bible says there's more rejoicing over the one that returns than for the 99 who never strayed."

When the farm bill passed the House by a lopsided 294-to-114 vote, members stood to give Mr. Foley a burst of applause similar to that which follows a virtuoso artistic performance. In the conference between the House and the Senate to resolve differences in the farm bills, Mr. Foley helped reach a compromise that more closely resembled the cheaper House bill than the Senate version.

Of course, not everyone is pleased with the bill, which sets government subsidies to farmers for the next four years and determines food-stamp benefits for some 17 million recipients. The bill, which will cost the Treasury an average of $10.5 billion to $11.5 billion a year, is at least $2 billion a year more than the President wanted. But it is $1 billion less than the Senate measure. Conservatives believe that it is too costly, and some farm-state Congressmen believe that it is too niggardly.

But President Carter seems to approve of the final measure, which includes the two provisions he had sought for increased authority over government loans to farmers and over acreage "set-asides," as well as a provision for free food stamps. "If it weren't for Tom Foley," says Agriculture Secretary Bob Bergland, who worked closely with Mr. Foley to influence Congressmen and the President, "we wouldn't have a farm bill the President could sign."

THE JOHNSTOWN FLOOD OF 1977

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. MURTHA. Mr. Speaker, the terrible devastation of the floodwaters of July 19–20 in Pennsylvania have left their mark on an entire generation of Pennsylvanians. Besides the personal tragedy, the devastation tested the ability of many Federal agencies. For information of the Members, I insert into the RECORD an article written by Dave Leherr and Stuart Brown of the Pittsburgh Post Gazette, July 30, 1977, which provides an outstanding summary of the events and Government response to the situation. Because of the length of the article, I will be submitting it in five parts.

Part one follows:

THE JOHNSTOWN FLOOD: WHY?

(By Dave Leherr and Stuart Brown)

The sky was ominously dark and threatening as Don Wilson returned home from Johnstown on Tuesday afternoon, July 19.

He had been to Johnstown to perform a task he had performed hundreds of times before in scores of locations in Western Pennsylvania and West Virginia.

Don Wilson is a field man for the National Weather Service here and on Tuesday, July 19, he had gone to Johnstown to make a routine inspection of the rain gauge on top of the public safety building there.

The gauge is a galvanized tin drum two to three feet high that has a roll of graph paper something akin to the electro-cardiographs hospitals use to chart heart beats.

But on the way home, Don Wilson had a thought. The Boy Scouts of America were preparing for their national jamboree at Moraine State Park in Butler County and the dark sky and booms of thunder and lightning looked dangerous.

He diverted his trip to stop at Moraine and warn the advance guard setting up tents there that storms could be on the way and to beware of lightning.

"It was one of those things that could have really hit them, or it could have missed them completely," Wilson recalled, discussing his thoughts on that Tuesday afternoon.

What happened after that is history.

The storm skipped over Moraine State Park.

It stopped at Johnstown instead. Literally stopped. Hovering like a giant black raven, ready to pounce on its prey.

Twelve hours later, Johnstown—the city declared flood free in the late 1930s, the city declared an all-American city in 1972—Johnstown was a morass of destruction and human misery.

The flood-free city had been flooded again, worse than ever before in its history, except when 2,200 lives were snuffed out in the great floods of 1889.

Today, as residents of Johnstown and all the smaller Johnstowns in six other counties dig out from the flood disaster of 1977, as the death toll, now at 64 continues to mount, as close to one hundred people remain missing or unaccounted for, one question prevails.

Why?

Why did it take the National Weather Service in Pittsburgh until 2:40 a.m. Wednesday morning to issue an official flood warning for Indiana and Cambria counties, hours after the city of Johnstown already was up to five feet under water?

Why did the National Weather Service's radar indicate only a light line of moderate to heavy thundershowers in the devastated counties at 7:30 p.m. the night before?

Why were there no reports from the weather service's network of cooperative observers about the tremendous amounts of rain that were falling between the 7:30 p.m. report Tuesday night and the official flash flood warning issued at 2:40 a.m. Wednesday morning?

Why did the Laurel Run Dam, a privately owned, earthen dam, burst at 3 a.m. or thereabouts Wednesday morning sending cascading millions of gallons of water down through the village of Tanneryville at speeds of 70 to 80 miles an hour?

Why were spokesmen for the state police still denying that the Laurel Run Dam had even burst as late as 24 hours after it happened?

Why did five other privately owned earthen dams along the streams and tributaries in the Conemaugh River Basin also break apart causing similar chaos in other towns?

Why did those little communities, those little Johnstowns like Scalp Level, Windber, Seanor, Dunlo, Seward and many others—where death was prominent—not have some sort of alarm system or some sort of automatic triggering device setting off horns or whistles to warn residents that the water was rising?

Why doesn't the National Weather Service have automatic rain gauges in the area monitored directly from Pittsburgh that could give forecasters instant readings simply by dialing a telephone?

Why, why, why?

The questions are coming from people of all levels. Some people are angry. Most are more frustrated than anything else.

Some of the whys already have answers. Others haven't been. Some may never be answered.

And perhaps the biggest question of all. Would earlier warnings from the Weather Bureau have meant anything at all anyway? Would they have cut down on the death?

After all, Johnstown was a flood-free city, now, wasn't it? They said so after the St. Patrick's Day flood of 1936—after millions of dollars were spent to build a flood control project in Johnstown.

And the city itself said so after surviving Tropical Storm Agnes in 1972 when it ran a promotional ad in the New York Times that read:

"Flood Free Johnstown, Penna., is well and prospering."

CONGRESSMAN MURPHY DISCUSSES ILLEGAL ALIEN PROBLEM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SIMON. Mr. Speaker, from time to time I have inserted into the RECORD comments and articles on the complex illegal alien problem.

Today I am inserting the comments of my distinguished colleague, Representative MORGAN MURPHY, whose comments are significant because of the esteem he holds among his colleagues and because of his membership on the influential Rules Committee.

Precisely where the Nation should go on this difficult question I am not certain, but I appreciate the willingness of Congressman MURPHY and others to tackle this thorny problem.

One thing he mentions that I am certain is right; it is the same advice our colleague Representative KIKA DE LA GARZA has given us: Work with Mexico on her problems. Any rational analysis of the long-range nature of the problem suggests that believing we can solve this problem in isolation is politically attractive foolishness.

Congressman MURPHY hints at one other thing which has never bothered

me, though I know there are many who strongly oppose it: Some type of national identification card.

It is of interest to me that Roger Baldwin, the founder of the American Civil Liberties Union, a few years ago suggested that he saw no fundamental infringement of civil liberties with the use of a national identification card. As one who has been in many civil liberties battles, I share that opinion, though I know a great many of those who share civil liberties concerns do not have that opinion.

The article by Congressman MURPHY appeared in the Chicago Tribune of September 20:

CARTER PLAN FOR ALIEN AMNESTY RAISES SERIOUS QUESTIONS

(By MORGAN F. MURPHY)

This is the problem: illegal aliens are silently invading the United States in ever-increasing numbers. The Immigration and Naturalization Service (INS) estimates that 6-to-10 million are already here. At a time when our unemployment rate is 7.1 per cent (40.4 per cent for black teen-agers), illegal aliens hold one million good-paying jobs, and another million low-paying jobs. They depress wage scales and working conditions of other U.S. workers. They send home $3-$10 billion to their relatives each year, which aggravates the deficit in our nation's balance of payments. And illegal aliens cost American taxpayers $13 billion a year by getting on Medicare, Medicaid, and welfare rolls.

What is the solution? On Aug. 4, President Carter revealed his plan dealing with illegal aliens. The President rightly recommended that wage-and-hour laws be strictly enforced; that the border patrol be beefed up; and that fines be imposed on employers who hire illegal aliens.

But there are some major problems with the President's plan. On the surface, Carter's proposal to grant permanent residence [amnesty] to illegal aliens who have lived here more than seven years seems both reasonable and just.

It only seems right to legitimize the status of those who have lived here a long time.

Mass deportation, of course, is out of the question. It would be both inhumane and impractical. But amnesty raises such serious moral and practical questions that Congress should reject it.

First, the moral question. Is it fair to grant citizenship to those who live here illegally while the U.S. denies or delays entry [sometimes up to two years] to those who apply to come legally? This kind of justice would reward those who have broken our laws, and in effect "punish" those who have kept them.

Then there are the practical questions. It is doubtful whether the amnesty program can be administered fairly and efficiently. The success of Carter's plan depends on how well the INS can weed out those who don't qualify for amnesty from those who do. Because so many illegal aliens have counterfeit documents, one wonders how the INS can administer the amnesty program without resorting to guesswork.

Moreover, the social and economic consequences of amnesty could be staggering. Once an illegal alien is allowed to become a permanent resident, he can bring in his immediate relatives under present U.S. immigration law. According to a study done for the Labor Department, illegal aliens have an average of four to five dependents. This means that if 8 million illegal aliens were granted amnesty, 32 to 40 million persons could legally migrate to the U.S.

With our unemployment rate already high, how does the U.S. intend to provide jobs for this massive influx of people? What about homes, schools, welfare and medical services? Surely the U.S. owes jobs and a decent standard of living to those here legally more than it owes citizenship to those here illegally.

Carter's plan to fine employers who hire illegal aliens is greatly weakened by his failure to provide them with a reliable way to check a person's citizenship. While fully aware of the booming black market in fraudulent documents, Carter chose not to bite the bullet on the need for national ID cards.

To be sure, fears have been expressed that a national ID card could be misused by the government for political reasons. But every American is now issued a social security card widely used for identification purposes.

This is why I am sponsoring a bill that would require prospective employes to present a new, nonforgeable social security card as proof of citizenship before they could be hired.

Carter's plan also fails to deal with visa abusers. This is unfortunate, since about 600,000 foreigners overstay their visas each year. Many of these visa abusers are students and skilled persons who take good-paying jobs from legal residents. One of the reasons for visa abuse is the lack of coordination and cooperation among the State Department [which issues visas], INS [which enforces visas], and the Labor Department [which issues labor certificates]. To remedy this problem, I have sponsored a second bill that would consolidate visa issuance and enforcement into a single immigration agency.

The U.S. should help Mexico reduce its 40 per cent unemployment rate so that her citizens won't feel the "push" to migrate to the U.S. But unless the U.S. comes to grips with the illegal alien problem, the American Dream may become nothing more than an illusion for both legal and illegal residents alike.

ERADICATION OF WATER WEED HYDRILLA

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. IRELAND. Mr. Speaker, I have submitted the following remarks in written form in order to avoid tying up the House's time for oral discussion.

Yesterday, I introduced legislation which today, if enacted, will assist States and local governments in their efforts to control and eradicate the water weed hydrilla. Aquatic weeds have long been a problem in many areas of the Southern and Southeastern United States. However, the species of water weed known as hydrilla presents a unique and even more serious problem than the traditional, better known aquatic plants like hyacinth and alligator weed.

Hydrilla, which originates in Central Africa, was first introduced into Florida about 1960 as an aquarium plant. Since then, it has spread rapidly and extensively and, today, the weed infests between 200,000 and 700,000 acres of fresh water in Florida alone. Presently, hydrilla is found in almost every area of Florida and has recently infested such important fishing and recreation areas as Lake Okeechobee, Orange-Lochloosa Lake, and Lake Jackson. Unfortunately, hydrilla does not confine itself exclusively to lake systems. In some parts of the Withlacoochee River the plant has completely closed the channel, and it can be found fouling the drainage system—canals—throughout much of south central Florida.

Experts estimate that hydrilla is spreading at the rate of about 100,000 acres annually. In addition to interfering with navigation, irrigation, drainage, and recreation, many naturalists and biologists are concerned that, if not checked, hydrilla may ultimately upset the delicate natural balance between fish and other animal populations.

Although hydrilla quite clearly is a major problem for Florida, it is by no means unique to Florida. In fact, Mr. Speaker, hydrilla is a serious problem right now in Georgia, Alabama, Mississippi, Louisiana, Texas, Iowa, and is even now appearing in Colorado, Wisconsin, and California. Thus, Mr. Speaker, rather than a local problem, hydrilla is fast becoming a national problem.

The legislation which I have introduced today will not in itself wipe out hydrilla. Rather, it is an attempt to focus congressional attention on a problem, which, if neglected now, will become far more serious and difficult to deal with later on.

It is my hope, Mr. Speaker, that by bringing the seriousness of this situation to the attention of our colleagues in this manner, we can develop a dialog and work together toward a full solution to the problem of Hydrilla.

Accordingly, I plan to reintroduce this legislation in the very near future and would welcome cosponsorships and support from our colleagues.

This bill simply amends Public Law 94-231 by broadening the definition of plant pest to include both hydrilla and hyacinth, thereby bringing both within the scope of the act.

A copy of this bill is attached.

Thank you, Mr. Speaker.

H.R. —

A bill to amend section 102 of the Act of September 21, 1944, for the purpose of authorizing the Secretary of Agriculture to carry out operations to detect, eradicate, suppress, control, or prevent or retard the spread of the water weeds hydrilla and hyacinth

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(d)(1) of the Act entitled "An Act to provide for the control and eradication of certain animal and plant pests and diseases, to facilitate cooperation with the States in fire control, to provide for the more efficient protection and management of the national forests, to facilitate the carrying out of agricultural conservation and related agricultural programs, to facilitate the operation of the Farm Credit Administration and the Rural Electrification Administration, to aid in the orderly marketing of agricultural commodities, and for other purposes", approved September 21, 1944 (58 Stat. 735, as amended; 7 U.S.C. 147a(d)(1)), is amended by inserting immediately before the semicolon at the end thereof the following: ", and includes the water weeds hydrilla and hyacinth".

A PROMISING WAY TO BURN COAL—FLUIDIZED BED COMBUSTORS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. CARTER. Mr. Speaker, I am deeply concerned about the Nation's energy problems. Like most Members of the House, I have been involved in the formulation of the energy legislation, the National Energy Act, that is now before the Senate. We have all worked our will on this very important legislation with the greatest concern and attention to the energy needs of the people that we represent. Although I did disagree with the many tax provisions of the legislation and that the Republican minority was given little chance to amend the bill, I did agree wholeheartedly with the energy projections which call for a greater reliance on the use of other more abundant energy resources such as: solar, biomass, geothermal and "King Coal."

Coal is the most abundant energy resource that the world has, besides of course, the Sun. Many geologists predict that there may be over 400 years of coal to burn obtainable in the Earth. However, many uncertainties exist that are associated with achieving a greater reliance on the increased use of coal. Coal extraction and transportation, for example, are critical areas of concern. The increased use of coal is also limited by the high cost and uncertainty associated with its utilization. The environmental impact from direct utilization of coal is another primary concern.

With these problems in mind, how can we direct our national efforts toward the increased use of coal? As you know, coal is presently 18 percent of the Nation's energy use and with the passage of the National Energy Act, the percentage is projected to be an estimated 50.4 percent by the year 1985. I grant you that we are wise to partake in the abundance of coal but as in other forms of energy, there are problems that must be dealt with.

Mr. Speaker, I am an optimist. I believe in the future; a better future. A future where our children may live a better life than we. I believe that there are answers to our energy difficulties. Answers that will work. Answers that will give us a standard of living which provides for what we now enjoy and also an environment which is healthy and safe. A balance, Mr. Speaker, of industry expansion and sound economic growth and a true concern for the health and safety of our environment and people.

The increased demand for the use of coal as directed by the National Energy Act as a substitute for the use of oil and gas, make it vital for this Nation to investigate improved technology for direct utilization of coal. It is imperative for us to find cleaner, more efficient methods of burning coal. One such promising technology is known as the fluidized bed coal combustion system. Fluidized bed combustion is a major opportunity to realize improvements in cost, fuel resource utilization, while at the same time protecting the environment.

The FBC process promises low sulfur dioxide and nitrogen oxide emissions, coupled with high overall efficiency in generating electricity. In addition, FBC designs boast the capability of burning many types and grades of coal, including eastern coal—as well as municipal sludge and refuse, industrial and agricultural cellulosic waste material, oil shale, and petroleum fractions. Also, fluidized bed combustion offers lower capital and operating costs compared to conventional coal-fired boiler systems. They tell me at ERDA that they are even using the waste products as fertilizer.

If we are going to burn coal we must learn a better way to do it. I will be inserting this week into the RECORD, articles and updates on the fluidized bed combustion system for the attention of each Member and the public. I would appreciate any comments that you might have on this subject. The first paper is by Mr. Paul F. Rothberg, Analyst in Physical Sciences, Science Policy Research Division, CRS. It is entitled "Fluidized Bed Combustion: A Promising Way To Burn Coal."

[From the Library of Congress, Congressional Research Service]

FLUIDIZED BED COMBUSTORS: A PROMISING WAY TO BURN COAL

(By Paul F. Rothberg, Analyst in Physical Sciences, Science Policy Research Division)

INTRODUCTION

This report explains how fluidized bed combustors work, reviews the state of technology, summarizes ERDA's efforts in this area, discusses several environmental impacts associated with this technology, and lists significant advantages and disadvantages of burning coal in this manner.

HOW A FLUIDIZED BED COMBUSTOR WORKS

In a fluidized bed system, sized and crushed coal and limestone (or dolomite) are mixed in a heated chamber. Air is blown into the chamber in such a manner that the mixture of coal and limestone is aerated to produce a mass of particles that behave like a fluid. The coal is combusted and water flowing through coils submerged in the combustion chamber is heated into steam.

STATE OF TECHNOLOGY

There are two major types of fluidized bed combustors: atmospheric and pressurized systems. A major difference is that in the pressurized system, coal and the bed material is injected into a pressurized combustion chamber. Both of these technologies are now being tested and advanced primarily in experimental, pilot, and prototype plants.

ATMOSPHERIC SYSTEMS

The atmospheric fluidized bed probably offers the greatest potential for early commercialization, sometime during the 1980s. This technology can be used for industrial or utility applications. It is likely that atmospheric fluidized beds will first be used commercially in the United States for industrial purposes. According to a report issued by the House Committee on Science and Technology, this combustor improves combustion efficiencies, significantly reduces emission levels, has an attractive capital costing, and can use cheaper, high sulfur containing coal.

In the United States, an atmospheric fluidized bed boiler having a capacity of 5,000 lbs. of steam per hour has been operated successfully at furnace temperatures of approximately 1600 ° F.

A 30-megawatt atmospheric fluidized bed boiler, located at the Monongahela Power Company plant in West Virginia, has been constructed. Operation and testing of this pilot plant will be carried out during 1977 and 1978. In addition, ERDA has signed contracts with at least five groups to design, construct and test industrial boilers or industrial heaters using atmospheric fluidized bed combustors.

Atmospheric fluidized bed combustors have been used for industrial purposes in Europe. This existing technology may be transferred to the United States and used on a widespread basis as soon as the details of domestic operation are worked out. One uncertainty which still remains is the operation of these systems using American coals. In addition, European technology would also have to be adopted to handle domestic load requirements and U.S. environmental restrictions.

PRESSURIZED SYSTEMS

Advanced second generation combustors, called pressurized fluidized beds, are under development and may result in considerable increases in thermal and design efficiencies. Compared with atmospheric system, the developmental problems of pressurized beds are greater and more complex, and the first commercial pressurized units are expected to be operational at an appreciably later date.

ERDA EFFORTS ON FLUIDIZED BED COMBUSTORS

The Energy Research and Development Administration (ERDA) is conducting an extensive research and development program on fluidized bed combustion. These efforts are part of ERDA's program to advance technology for directly burning coal. An objective of this effort is to develop fluidized bed combustion systems capable of directly burning high-sulfur coals of all ranks and quality in an environmentally acceptable manner. This program is designed to demonstrate the application of the fluidized bed combustion process in heating a variety of fluids.

The following table summarizes the funding levels by category for the FY 1976 to FY 1978 period.

COAL DIRECT COMBUSTION

[In thousands of dollars]

Categories	Budget authority (fiscal years)				
	Actual, 1976	Actual, TQ	Estimate, 1977	Estimate, 1978	Increase (decrease)
Fluidized-bed boilers, atmospheric	16,000	6,000	21,165	21,500	335
Pressurized systems	11,396	3,500	17,200	15,229	(1,971)
Coal/oil mixtures	6,000	2,300	4,300	7,000	2,700
Support studies, engineer evaluations	12,700	1,700	9,236	9,471	235
Total	46,096	13,500	51,901	53,200	1,299

ENVIRONMENTAL CONCERNS

By maintaining the proper calcium to sulfur ratio within the fluidized bed, approximately 90 percent of the sulfur dioxide formed during combustion of coal is captured. The relatively low process temperature limits nitrogen oxide emissions within EPA standards. No wet sludges are produced during fluidized combustion.

Newer fluidized bed combustion systems generate increased emissions of hazardous organic material. Potential water pollution

from runoff and leaching associated with solid wastes from fluidized bed combustors would need to be controlled.

SELECTED ADVANTAGES OF FLUIDIZED BED SYSTEMS

Advantages cited for fluidized bed systems include:

1. Fluidized bed systems may allow increased utilization of coal in an environmentally acceptable manner, because of their ability to burn high sulfur coal with low sulfur dioxide and nitrogen oxide emissions.

2. The expensive and energy consuming costs of the flue gas desulfurization can be avoided, since emissions of sulfur oxides can be controlled in the boiler.

3. Fluidized bed boilers show potential for improving net power generation and heat transfer rates. These factors can reduce the boiler's size, weight, and cost.

4. High heat release allows the fluidized bed boiler to be more compact than a conventional boiler. The boiler can be built as factory-assembled, packaged units, and can be shipped to the site and constructed as required.

5. Fluidized bed combustors may prove to be less expensive than conventional boilers coupled to desulfurization equipment.

SELECTED DISADVANTAGES OF FLUIDIZED BED SYSTEMS

Selected disadvantages of fluidized bed systems include:

1. Fluidized bed combustion involving the use of limestone or limestone/dolomite as a scavenger for sulfur dioxide is still unproven from a practical standpoint. This technology has not yet gained widespread acceptance by utilities or industrial users in the United States.

2. The wastes from fluidized bed systems, possibly a mixture of calcium sulfate, magnesium sulfate and ash materials, must be disposed.

3. Considerable developmental problems remain with some fluidized bed systems.

OUTLOOK FOR FLUIDIZED BED SYSTEMS

It is difficult to specify when fluidized bed systems will be widely used in the United States. Thus far, this technology has not been adequately demonstrated as to reliability in service for a wide range of coal types or for effectiveness of pollution control relative to site-specific environmental requirements.

Future success of ongoing Federal programs on fluidized bed combustors may encourage application of this technology. For example, the 30 megawatt fluidized bed boiler now operating in Rivesville, West Virginia, might stimulate increased interest by the utility sector. This combustor may represent a building block for scale up to a 200 megawatt facility, and perhaps eventually to a 800 megawatt facility. The future of fluidized beds is also likely to be affected by the outcome of industrial applications program now being supported by ERDA. Many of these projects are scheduled to be completed by 1982.

As is the case with many new technologies, once fluidized bed combustion has been demonstrated, it will still require extra start-up effort (and thus cost) in the early stages of users acceptance. The ERDA program will not be able to test all foreseeable coal types, load variations, emission control needs, and other variables.

Economics of fluidized bed combustion (FBC) are currently unclear, but on the basis of design simplicity and smaller size, it should be considerably better than current coal-burning equipment. When the opportunity to avoid stack gas scrubbing is factored in, FBC becomes extremely attractive economically, provided that its emission control performance in practice is as good as it now appears to be in theory.

A CONSERVATIVE FRET OVER BIG OIL

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. UDALL. Mr. Speaker, it is not often that the eminent journalist, James J. Kilpatrick, and I reach agreement on issues of substance. Thus it was with surprise and delight that I came upon Jack Kilpatrick's September 17 column in the Washington Star on the subject of big oil and competition.

Kilpatrick's discussion of the question of horizontal divestiture by big oil is right on target. This issue of concentration of economic power in the hands of a few giant conglomerates is not one that ought to divide liberals and conservatives. All of us should be alarmed at the erosion of competition in the basic industries in this Nation. In addition to big oil, we have big automobiles, big chemistry, big steel, and big media. Some of our other basic institutions may be too concentrated as well and we ought to be looking at their impact on our society and our way of life.

I have long been especially concerned about the growing power of oil companies over competing fuel resources. While horizontal divestiture is probably the best solution, there are other ways to address the problem. The Committee on Interior and Insular Affairs is currently considering one of those alternative paths to restoration of competition in the energy marketplace: imposition of restrictions on the leasing of Federal energy resources. Most of the remaining reserves of coal and uranium, for example, are on Federal lands. We say to the energy giants in this proposal that if you want to exploit these resources, you cannot be horizontally integrated. I think this is a constructive approach which protects both the public interest and a vital growing industry.

Mr. Kilpatrick's article follows:

[From The Washington Star, September 17, 1977]

A CONSERVATIVE FRET OVER BIG OIL

(By James J. Kilpatrick)

Forgive me, mother, for what I am about to do: I am about to climb in bed with Teddy Kennedy, Birch Bayh, Howard Metzenbaum and 27 other dreadful people, and the prospect is dismaying. But in seeking to lay some restraints upon the great oil companies, the Senate liberals are right and my brother conservatives are wrong.

If that be heresy, make the most of it. The issue came to a head on Sept. 8, when Kennedy offered an amendment to a pending energy bill. He proposed to make it unlawful for any major petroleum producer "to acquire any interest in or control over any coal asset or uranium asset after the date of enactment of this act."

The amendment would not have required horizontal divestiture as such—that is, it would not have compelled the major companies to sell off the coal and uranium properties they now own—but it was a second cousin to such divestiture. I'm for it.

As it turned out, Kennedy's amendment was voted down, 62-30, on a motion to table. Every professing liberal was lined up behind the amendment, and every certified conservative was lined up against it. Tower of Texas had the purple conniption fits; he accused Kennedy of speaking "the language of expropriation, which should raise the hackles of every American who believes in the free enterprise system."

Thurmond of South Carolina, a true-blue conservative, called Kennedy's proposal "radical." Opponents argued that only the giant petroleum companies have the capital and the expertise to produce the coal and uranium the nation needs.

As George Mason urged 200 years ago, let us recur to fundamental principles. A fundamental principle of conservatism is to fear concentrations of great power, and to seek ways to restrain them. That is one of the things our Constitution is all about. I had been taught, and until this debate 10 days ago I had truly supposed, that conservatives distrusted too much bigness wherever it exists—Big Government, Big Labor, Big Media, Big Bureaucracy, whatever. The conservative principle holds that bigness is not necessarily badness, but at some point a rebuttable presumption arises.

That point, in my view, assuredly has been reached in the matter of the great oil companies and competing energy sources. In warning against the concentration of economic power in this vital area, Kennedy, Bayh and the others were expounding sound conservative doctrine. They were the ones crying for greater competition. They made sense to me.

What has happened in recent years is that the petroleum giants have moved horizontally into the acquisition of coal and uranium. Gulf Oil led off in 1963 with its acquisition of Pittsburgh Midway Coal Co. Continental Oil in 1966 took over Consolidation Coal, then the leading coal producer. Occidental Petroleum acquired Island Creek, which was number three. Standard Oil of Ohio acquired Old Ben, number 10. Meanwhile, Kerr-McGee moved heavily into uranium.

Fourteen of the top 20 owners of coal reserves today are oil companies. Nearly half of totaf coal reserves now are owned by the petroleum giants. The major companies dominate research and development in such areas as coal gasification and oil shale production.

Looking ahead, the prospect is not for giant oil companies, as such, but for energy conglomerates—for super-corporations effectively controlling every form of energy production, transportation and marketing.

Colorado's Floyd Haskell made his point sarcastically. It is absurd, he said, to suppose that a company making nice profits off of oil and gas is going to promote competitive fuels in order to drive those profits down. "To believe otherwise," said Haskell, "is sort of equivalent to believing in the tooth fairy."

To the argument that only the giant oil companies can provide the capital to meet goals for coal and uranium, let me make this response: Those who believe in the marketplace have to trust the marketplace. Assuming a demand for competing fuels, the capital will appear to supply that demand.

If we believe that competition is a good thing, let us put that conviction to work. If we are wary of excessive concentrations of power, let us halt this disturbing concentration before it grows still larger.

All this has nothing to do with vertical divestiture, which involves breaking up the great oil companies internally. No convincing case has been made to support such total disruption of an efficient and highly competitive industry.

But enough is enough. And horizontally speaking, the concentration is quite enough as it is.

REMARKABLE REVEREND DOUBLE HONOREE OF FREEDOMS FOUNDATION

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. BENJAMIN. Mr. Speaker, I ask my colleagues to join with me to honor the Reverend Jack H. Barrell of the First Presbyterian Church of Hammond, Ind., who was honored with the George Washington Honor Gold Medal from the Freedoms Foundation at Valley Forge, during the foundation's midwest convocation held at the Flick-Reedy Corp., Bensenville, earlier this year.

This is the second such award presented to Reverend Barrell, the first coming in 1973. His outstanding sermon was titled: "Liberty—Who Needs It?" The quote cited in the sermon was:

> The true secret of liberty isn't found in the Constitution . . . It's found in your heart. If you don't have a sense of freedom and hope in your own heart, you are not going to have a sense of freedom and hope in your life or the life of your nation.

Presenting the award was Kenneth Wells, vice president of Freedoms Foundation. The award was one of 21, in different categories, presented at the convocation. Awardee Rev. Harold Walker, emeritus minister of the First Presbyterian Church of Evanston, Ill., delivered the invocation and Reverend Barrell delivered the benediction.

Freedoms Foundation awards have been presented annually since 1949 to individuals and organizations making an outstanding contribution to the understanding of the American way of life. The annual awardees are selected from among thousands of entries by a National Awards Jury, independent of the Foundation and with new members each year.

The two-time honoree has been pastor and head of staff of the First Presbyterian Church of Hammond, Ind., since August 1967. Under his direction, the church has grown and expanded and is in the process of building a million dollar facility in downtown Hammond. The congregation, after intensive study, decided it wanted to remain in the urban scene and continue a strong ministry. At the present time, the First Presbyterian Church is attempting to secure housing for the elderly in the downtown Hammond area.

Reverend Barrell epitomizes what Americans should be. He founded the first police chaplaincy program to be recognized nationally as an outstanding program and served as the chief chaplain of the Hammond Police Department from 1968 to 1976.

Reverend Barrell also served as chairman of Hammond's Recycling and Solid Waste Handling Commission from its inception in 1971 until 1976. During that time, he developed a program for recycling newsprint. As a member of Hammond's Human Relations Council, and its chairman from 1972 until 1976, he helped to develop a program of community education on human rights. He also conducted seminars to encourage industry in hiring minorities and the handicapped and developed a positive system of human and civil rights within the Hammond community.

This outstanding and dedicated Hoosier is a graduate of Wayne State University with a B.A. degree in communication. He is also a graduate of the Louisville Presbyterian Theological Seminary with a B.D. degree in Ministry and the Christian Theological Seminary with a masters degree in communications, cum laude.

Reverend Barrell, Ruth Ann, his wife, and their children, Cheryl Anne and Jack Jr., deserve our recognition, congratulations and praise for a job well done. It was not merely words honored by the Freedoms Foundation—it was deeds, particularly those of Reverend Barrell, his family and his parishioners, all working together in love, faith and dedication to make the city of Hammond, State of Indiana and our country a better place in which to live. They prove that Reverend Barrell's award winning sermon is more than a dream.

CONGRESSIONAL SALUTE TO THE HONORABLE JOSEPH A. NEE, ESTEEMED CHIEF OF POLICE OF CLIFTON, N.J., OUTSTANDING CITIZEN AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ROE. Mr. Speaker, on Friday, September 23 the residents of Clifton, my congressional district, State of New Jersey will gather in testimony to the outstanding public service rendered to our community, State and Nation by one of our most distinguished public safety officers, the Honorable Joseph A. Nee, chief of the Clifton Police Department, good friend, leading citizen, and great American.

As Chief Nee retires from his law enforcement career, I am pleased to join with his many, many friends in deep appreciation of all of his good works and share great pride in the success of his achievements with his wife, Elizabeth, and his sons, Gerard, Richard and Joseph.

Mr. Speaker, Chief Nee has indeed earned the highest respect and esteem of all of us for the quality of his leadership and highest standards of excellence in seeking to achieve optimum public safety for all of our people. He was appointed to the Clifton Police Department on March 3, 1930, promoted to sergeant November 7, 1936, to lieutenant December 1, 1944, to captain May 8, 1951; assigned to detective bureau September 1, 1955, and attained his present high office of public trust as chief of the department January 1, 1959.

Throughout his lifetime Chief Nee has forged ahead with dedication, devotion, and sincerity of purpose in combating crime and protecting the life of our people. We applaud his knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

Chief Nee has been a staunch supporter and active participant in many civic and community improvement programs and we applaud the quality of his leadership endeavors for almost a half century in the vanguard of our public safety officers. He is presently a distinguished member of the Old Timers Club, the New Jersey State Association of Chiefs of Police, and Passaic County Police Chiefs Association.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I am honored and privileged to call your attention to his lifetime of outstanding public service. As Chief Nee retires his official leadership badge of courage and valor as the esteemed Chief of Police of Clifton, N.J., I respectfully seek this national recognition of his contribution to our country in placing others above self in providing safety in the streets, security in the home, and optimum public safety for all of our people. We do indeed salute Chief Joseph A. Nee of Clifton, N.J., for his contribution to the quality of life for the people of our community, State, and Nation.

OCS DEVELOPMENT

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ST GERMAIN. Mr. Speaker, H.R. 1614, the Outer Continental Shelf Lands Act Amendments of 1977, will soon be before the House for a vote. The importance of this bill cannot be overstated, with respect to our energy situation and, in the case of coastal States, to our economic health.

The OCS Act of 1953 has not proved to be the vehicle for offshore development that its drafters had hoped it would be. Numerous obstacles and diversions have hindered any work to the point where, 24 years later, little, if any, progress has been made.

I am sure that my colleagues agree with me that H.R. 1614 should not present further obstacles to offshore resources development. The Ad Hoc Select Committee on the Outer Continental Shelf has done an admirable job in dealing with the many complexities and intricacies of this problem. From oil spill liability to State and local involvement, the legislation demonstrates a high level of thought and care.

However, there are some points that may require reconsideration, particularly where a certain provision will again delay any actual development. Certainly, there is a need to use all due caution in

order to protect our environment; but once this need has been satisfied, we should not still take hesitating, faltering steps. My constituents have made clear to me their desire to see executed an energy plan, not merely in the discussion stage, but in the action stage, a point that not many of our energy proposals have yet reached. Therefore, I want to encourage my colleagues to look long and hard at H.R. 1614, to act favorably on those parts which will finally give some life to the Outer Continental Shelf Lands Act, and to weed out any provisions which serve only to slow down any progress toward offshore oil and gas development.

Rhode Island's Governor, J. Joseph Garrahy, has provided me with an extremely incisive and valuable letter of comment on H.R. 1614, which I would like to share with my colleagues. Many Members of the House are also representing coastal States and will certainly be giving some thought to the issues raised by Governor Garrahy with respect to this bill.

The text follows:

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
Providence, September 12, 1977.

Hon. FERNAND J. ST GERMAIN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: I am taking this opportunity to express my concerns regarding H.R. 1614, The Outer Continental Shelf Lands Act Amendments of 1977.

As you know, the State of Rhode Island has adopted a position which favors the expedient and orderly exploration and development of oil and gas reserves on the North and Mid Atlantic Outer Continental Shelf as long as such actions can occur without sacrificing environmental protection or the interests of our valued fishing industry.

The United States, through the Outer Continental Lands Act Amendments of 1977 should mandate a policy by which the OCS is made available for "expeditious and orderly development, subject to environmental safeguards." Further, we strongly favor any provision which ensures participation by the States in policy and planning decisions made by the federal government to explore, develop and produce OCS oil and gas and which grants to the States impact assistance to minimize the impacts of such development.

We also strongly oppose all provisions of the OCS Lands Act Amendments which would result in the likelihood of substantial delay. Specifically, we would like to see exploration and development proceed as soon as possible in the Baltimore Canyon and Georges Bank areas along the Atlantic Coast. As you know, the oil industry has agreed to support exploration and production activities in both areas from Quonset Point-Davisville. There are currently 29 leases at Quonset-Davisville taken by various ocean drilling support firms which would employ more than 800 persons on-shore in support of exploration and more than 3,000 on-shore workers in support of production. Exploration in the Baltimore Canyon has already been delayed for well over a year because of a law suit in New York. The Lease-sale for Georges Bank, originally scheduled for November, has been pushed back to January, 1978. In the meantime, several other states and communities are trying hard to lure away the 29 OCS firms which currently have leases in Rhode Island. It is obvious that the longer the delays the greater the danger that some or all of these firms might be attracted away from us. Consequently, we are very strongly opposed to any unnecessary delay that might be occasioned by provisions of this bill. Some minor delays will be necessitated by those provisions of the bill which are essential for greater environmental protection, protection of our fisheries, more extensive participation in OCS activities by the coastal states, and to make better information concerning oil and gas reserves available to the government and the people. But these delays must be kept to a minimum.

Permit me to first outline those sections of H.R. 1614 to which we are opposed:

1. We oppose, in Section 205, that provision which requires the Secretary of the Interior, to use new and experimental bidding procedures in leasing at least fifty percent of each new OCS area. We would support an amendment that would limit the use of new procedures to no more than one-third of acreage leased, at the Secretary's discretion. The bill is not explicitly clear that scheduled lease sales will not be delayed pending the writing of new regulations for experimental procedures. We would support language that would either delay implementation for a year or which would make it explicitly clear that the writing of regulations for the new procedures will not delay currently scheduled lease sales.

As a general rule we support those provisions which provide for alternative bidding methods which are intended to foster competition by allowing the smaller independent oil companies to participate in the bidding process with a reasonable chance of success. In the past the traditional cash bonus bidding method has limited the majority of lease holds to those huge companies with the massive amounts of capital needed to pay the cash bonus while maintaining sufficient funds for exploration and development. We are opposed to any bid methods which allow the bidder to abandon an exploration proposal. We feel that such actions can be avoided through the provision of a fixed cash bonus or a fixed work commitment based on the dollar amount for exploration or a combination of both. We encourage the use of alternative bid methods on an experimental basis in order to insure that the public receives its fair share of revenues from the development of the public lands. However, we support revised bidding procedures only if there are assurances that adoption of rules and regulations for experimental bidding systems will not further delay the Georges Bank lease sale.

2. We are opposed to Section 206, Sec. 11, (c)(1) which provides that lessees must submit exploration plans to the Secretary for approval before exploration can begin. The bill declares that the Secretary "shall" approve the proposed plan within 30 days but it does not say what happens if the Secretary does not take action. The potential for unnecessary delay is great. We oppose this section unless the language is clarified.

3. We are strongly opposed to any provision of, or amendment to H.R. 1614 that would substantially broaden the authority the Secretary now has to conduct OCS oil explorations. The potential for delay inherent in a program of expensive exploratory drilling by the government is serious and could jeopardize the State's competitive position in attracting on-shore, OCS support activities. We could support only the type of very limited, severely constrained authority provided by the Durkin amendment to S. 9 and only as a last resort for the purposes of obtaining more accurate information concerning OCS oil and gas resources.

4. We are opposed to those sections of the bill related to citizen suits. Sec. 23 of Section 208 provides unnecessary opportunities for an endless string of court actions which can only result in adding significant cost and delay to the development of the energy resources of the Outer Continental Shelf. When coupled with several ill-defined provisions of the new legislation, the citizen suits provisions provided opportunities for court actions which are often entered into as tactics to stall the development of our OCS resources. Such provisions, when combined with National Environmental Policy Act suit provisions, promise to bring significant delay or even a halt to present and proposed OCS development. Such actions work negatively against the national goal of decreased dependence on foreign energy resources and therefore must be opposed. There are adequate provisions in current law to guarantee every affected person his or her day in court.

We support Section 18 of Section 208 which directs the Secretary of the Interior to prepare and maintain a five year leasing program. Such a program will help us better plan for our nation's energy needs, will insure orderly development of OCS reserves and will serve to minimize environmental impacts. We particularly support those provisions of Section 18 which allow for significant participation by governors in OCS leasing programs and which provide for a mechanism for the Secretary to adopt a Governor's specific recommendations on proposed leasing programs. However, we must emphasize that we support this section only if there are assurances that the Georges Bank lease-sale will not be delayed while a long-range leasing program is being developed by the Secretary. (It will take up to 18 months, according to the bill, to develop a leasing program).

Furthermore, we strongly support those provisions of Section 19 of Section 208 which authorize governors of affected coastal states to submit recommendations concerning development and production plans, implementation of baseline and monitoring studies and preparation of environmental impact statements. This section gives coastal states an invaluable opportunity to affect OCS policies and it makes it impossible for the Secretary to arbitrarily ignore reasonable and justifiable state recommendations.

We support the separation of exploration from development and production as essential to the proper and adequate protection of our marine environment, coastal resources and fisheries. We also believe that this separation of the two activities is essential if the federal government is to receive fair market value for the oil and gas resources in OCS lands. We especially support those provisions of this section which provide governors of coastal states with the opportunity to make recommendations concerning the development and production plans which this section requires lessees to submit. Our support is contingent, however, upon assurances that such a markedly new departures as the separation of exploration from development not be permitted to delay OCS activities currently scheduled or underway.

We strongly support the Oil Spill Liability and Compensation Fund provisions which will be particularly important to an area such as Rhode Island where the potential for damage to our beaches, resorts, coastal communities and recreational boating will be serious.

S. 9 as passed contains a better and more comprehensive Fisherman's Contingency fund than H.R. 1614. S. 9 would maintain the fund at between 2–5 million dollars compared to one million dollars in H.R. 1614. In the Senate bill there is a presumption in favor of fishermen's claims which is not made in H.R. 1614. The Senate bill establishes a Fisherman's Claims Board with representatives of NOAA, the Coast Guard, BLM, and three representatives each of the fishing industry and oil industry whereas H.R. 1614 provides that the Secretary of Interior only will administer the fund. It is important to Rhode Island with its large and thriving fishing industry that the Fisherman's Contingency Fund be as strong as possible.

We are opposed to provisions in H.R. 1614 regarding the Coastal Energy Impact Program (CEIP), Title IV Section 401. We agree that revisions are needed to get a more timely and equitable distribution of funds to impacted states but feel this amendment needs significant revision to accomplish these ends. We oppose the thirty percent ceiling on the amount that any single state may receive in one year on the basis that it allows for too large a share for too few states. Lowering the ceiling would work more in Rhode Island's favor than either H.R. 1614 or the present statute. We would support any amendment which would provide for a more equitable distribution of funds among the states.

Further the formula for receiving grants required by H.R. 1614, (Sec. 401) (e) fails to consider those situations, and there are several, where oil and gas produced off a state's shores will be landed in another state. The bill considers only the oil and gas landed in the state. We would support an amendment which amends the "fifty percent weighted criterion for OCS oil and gas landed", as proposed in the bill, to a formula which allows a twenty-five percent weighted criterion for OCS oil and gas resources produced and an additional twenty-five percent weighted criterion for OCS oil and gas resources landed, as proposed in the Hughes Amendment.

The "spillover effect" provision (Sec. 401) (B)(i) which provides a floor grant of two percent of the total amount of grants available to any state in a region adjacent to OCS leasing but which is not actually receiving a grant is unacceptable as proposed. Under this provision a state such as Georgia would receive a guaranteed two percent of all available grant monies because it is in the same region which encompasses the proposed lease areas of the North Atlantic while it would be guaranteed nothing for OCS activities in the adjacent state of Florida simply because they are in different regions. We are not opposed to "spillover effect" provisions but do desire that such provisions consider the effects of OCS activities on adjacent states in order to determine who should receive the two percent minimum funding.

Finally, provisions in the bill which call for a proportional reduction in each state's allotment if insufficient funds are available in any fiscal year could result in severe impacts for those states receiving small shares of the total CEIP allocation. We would prefer to see an amendment which ensures that states with small CEIP allocations would receive a minimum dollar amount in the event of program funding shortages.

We support the Hughes Amendment regarding CEIP over the provisions of H.R. 1614. However, the CEIP provisions in H.R. 1614 are superior to those in S. 9.

In conclusion, we oppose those provisions of H.R. 1614 which mandate that new bidding procedures be used for fifty percent of new OCS acreage; which require oil companies to submit exploration plans; which would broaden the authority of the government to conduct exploratory drilling without severe constraints; and which provide for citizens suits. We oppose the bill's Coastal Energy Impact Program provisions in favor of the Hughes Amendment. We support, conditioned upon assurances of no delay, provisions which require a five-year leasing program and the separation of exploration from development. And we support a more comprehensive and stronger Fisherman's Contingency Fund.

I appreciate the opportunity of sharing my concerns with you and I am confident that the new OCS Lands Act will be a landmark piece of legislation.

Warm regards.

Sincerely,

J. JOSEPH GARRAHY,
Governor.

FAIR LABOR STANDARDS ACT AMENDMENTS OF 1977

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. FISHER. Mr. Speaker, last Thursday the House passed legislation to increase the Federal minimum wage, H.R. 3744, known as the Fair Labor Standards Act Amendments of 1977. The basic need for an increase in the minimum wage was not the central issue. Most people agreed that some increase was warranted at this time. Other surrounding issues generated much more debate. Among other things, questions of indexing the minimum wage automatically each year, increasing the small business exemption and permitting businesses to pay a subminimum for youth for a limited period of time, were discussed at length. Amendments relating to these issues were offered on the House floor and quite frankly, I voted for the legislation only after certain of these amendments were approved—ones which I considered to be important to business and labor alike. In the following paragraphs, I will explain my votes on several of these key amendments.

As presented by the Committee on Education and Labor to the House, H.R. 3744 called for an increase in the minimum wage in 1978 to $2.65 per hour with all future automatic increases indexed to a percentage of the average hourly earnings of industrial workers. This meant that in the future the minimum wage would increase automatically without action by the Congress. I could not support the indexing provision for several reasons. First, automatic increases are generally uncontrollable once enacted into law, and they tend, also, to prolong inflation. In an uncertain economy, Congress should have more control over the minimum wage increases. While future increases approved ultimately by Congress may be equal to or even higher than indexed increases, Congress should have a regular opportunity to weigh the economic impact of proposed increases before making such an important decision.

An amendment was offered on the House floor, and was subsequently approved, which deleted the indexing provision and, instead, called for only three annual statutory minimum wage increases in 20 cents increments beginning with $2.65 in 1978. After 1980, further increases would have to be approved by Congress. I supported this compromise amendment because the minimum increases it proposes will insure that the lowest wage earners do not fall too far behind the wage increases of the general labor force. It will also enable businesses to prepare for near term increases and, of course, will not commit Congress to automatic increases indefinitely into the future.

Another amendment to H.R. 3744 which generated considerable debate involved a subminimum wage for youth. The amendment offered would have permitted businesses to pay teenagers under the age of 19, 85 percent of the minimum wage for their first 6 months of employment. After 6 months, the employer would be required to pay this young person the minimum wage. While I note the good arguments against the youth differential, the advantages of this concept convinced me to support the amendment.

Youth unemployment in this country is extremely high. According to the Labor Department figures the youth unemployment level in August was 17.5 percent. Steps must be taken to reduce this figure. Congress recently approved the Youth Employment Act which is a good start. This is expected to afford young people new opportunities for employment and training. However, many new jobs created by this act will be in the public sector and the training programs apply to a limited number of industries. The youth differential could open new doors for young persons heretofore unable to find employment. Since their salaries will automatically increase in 6 months, these young employees would be encouraged to remain at one job, teaching them a sense of responsibility and loyalty toward their employers, and a feeling of worth.

The concern expressed by some that employers might use the subminimum to displace older workers is a legitimate one. However, the amendment specifically prohibits an employer from firing older workers for other than good cause and replacing them with young people at the subminimum. I am convinced the overwhelming majority of business firms would not subvert the youth employment purpose of the act. Furthermore, violations are subject to penalties. I understand that approving a subminimum for youth involves a certain amount of risk, but I thought this experiment was worthwhile. Unfortunately the amendment was defeated by a single vote.

A further amendment which was adopted by the House increases the small business exemption. Currently the Fair Labor Standards Act applies to businesses with gross annual sales exceeding $250,000. The amendment increases this exemption to $500,000. The small business exemption has not been raised since 1969. Since then, the value of the dollar has steadily eroded and our economy has become increasingly dominated by larger corporations. In an effort to assist small businesses to remain as viable competitors, I supported this amendment.

Another element of H.R. 3744 which was discussed at length involved the tip credit. Under existing law, an employer may deduct up to 50 percent of the minimum wage from tipped employees if they earn the difference in tips. For example, at the current minimum wage of $2.30 per hour, an employer has to pay his tipped employees as little as $1.15 per hour, if that individual receives at least $1.15 in tips. If the balance is not made up in tips, employer is required to pay the difference in salary.

H.R. 3744 as brought to the House would have phased down the tip credit from its current level—$1.15—in 5 cents annual increments from 1978 through

1981. After 1981, all future tips credit deductions could be no greater than $1.

An amendment was approved on the House floor to retain the tip credit at its current 50 percent level. I voted for this amendment, because tipped employees are virtually assured of being paid the minimum wage through a combination of salary and tips. A phasing down of the tip credit coupled with a minimum wage increase could force some businesses to raise their prices, eliminate some positions or, in the extreme, close down entirely if the increases could not be absorbed.

In the end, I voted for H.R. 3744, with the modifications adopted on the House floor, because I recognize the basic need for individuals who earn the minimum wage to receive an increase in their salaries to catch up with the inflation of the past several years. I was disappointed that the youth differential amendment was not approved because I think it could have put a dent in the deeply disturbing youth unemployment problem. However, the minimum increases included in the bill should help the lower paid workers keep up with the cost of living and they should not have a negative impact on businesses.

ERDA NATIONAL SECURITY PROGRAMS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. DODD. Mr. Speaker, I will be offering an amendment tomorrow to H.R. 6566—ERDA National Security Programs—which is intended to give Congress the time necessary to exercise its constitutional responsibility to the American people, and to itself, to participate fully in Government decisions which could have profound national security and foreign policy implications.

Specifically, my amendment would require the following actions by the executive branch and Congress before any funds can be expended for production of neutron weapons in fiscal year 1978:

The President certifies to Congress for each neutron warhead that its production is in the national interest;

The ERDA Administrator submits a complete arms control impact statement to Congress on each neutron weapon;

The President authorizes production of each neutron weapon, as required by the Atomic Energy Act;

The President studies and reports to Congress on the use of neutron weapons and their impact on the NATO strategies for conventional weapons, on the use of other tactical nuclear weapons, and on the deterrent effect of NATO forces in Europe;

The President reports the full reasons for any production decision to Congress; and,

Congress has 45 days after the filing of a production decision to overrule the decision by concurrent resolution.

One of the critical reasons why Congress should not adopt my amendment is the fact that neither President Carter nor our NATO allies have as yet reached positions on the issue of eventual deployment of enhanced radiation warheads. In fact, the Baltimore Sun reported this week that no final decision on use of the neutron warheads is expected prior to the meeting of the NATO Nuclear Planning Group on October 11 and 12.

I share the text of this article with my colleagues by inserting it at this point in the RECORD.

[From the Baltimore Sun, Sept. 18, 1977]

CARTER SAID TO DELAY ON NEUTRON BOMB

(By Charles W. Corddry)

WASHINGTON.—Government sources said yesterday that President Carter is delaying his decision on production of the controversial neutron bomb while the administration tries to get European allies lined up publicly in support of the weapon.

The North Atlantic Treaty Organization's European leaders are represented here as privately favoring deployment of the weapon for Western Europe's defense—but fearful, for domestic political reasons, of giving it much public emphasis.

Designed to increase radiation—its main killing agent—and to reduce blast effects, the neutron warhead is intended for ground force battlefield missiles and artillery shells, with enemy armor formations as one of its chief targets.

If produced, after a long-running controversy here, neutron warheads would be deployed in Western Europe as part of a program for modernizing the nuclear weapons stockpiled there now.

Administration sources said the issue of gaining public official support would be uppermost at a meeting of the NATO Nuclear Planning Group in Bari, Italy, October 11 and 12. Harold Brown, the Secretary of Defense, will represent the United States at the conference.

President Carter, who successfully sought congressional appropriations for neutron weapons before a production decision, had planned to decide the matter in mid-August but put it off.

A chief reason for the delay, administration sources said, is the effort to develop a public consensus among European defense leaders about using neutron warheads to replace some of the older and much more powerful (from the blast standpoint) weapons in the arsenal.

Neutron warheads are being developed for the Army's 80-mile range Lance missile and for both 8-inch and 155-mm. guns. Present atomic ammunition for 155-mm. guns is said to be inaccurate and unreliable, and Army leaders especially want it replaced.

Pentagon sources have said that neutron weapons could be ready for deployment in Europe within 18 months of the time a production go-ahead is ordered.

Congressional opponents contended during this summer's losing fight against the warhead development that NATO would be more likely to use the lower-blast neutron weapons than bigger types, and thus the barrier to nuclear war would be lowered.

The debate spilled into Western Europe, and defense leaders, who have supported the development, are leery of public emphasis now because of the reaction European Communists and Socialists can stir up.

With blast power reduced to about one-tenth that of the current Lance missile warheads, the neutron weapon would kill mainly with its enhanced radiation, which can penetrate enemy armor. Its backers say it would reduce damage to civilian populations and structures and risks to friendly troops.

In putting off his decision, President Carter told senators during the summer controversy that he believed the weapon was "in this nation's security interest." He disputed the contention that it would lower barriers against using nuclear weapons.

By increasing deterrence, Mr. Carter said, neutron weapons "could make it less likely that I would have to face . . . a decision" on nuclear use.

Under its new strategic decisions, the administration in fact is urging the importance of improving Western Europe's conventional defenses.

The nuclear stand-off between the U.S. and Russia makes the use of non-nuclear arms more likely and the need for conventional defense improvements the more urgent, Mr. Brown said in his major military policy speech Thursday night.

He noted the growing non-nuclear strength of the Soviet Union and its Warsaw Pact allies, and promised the U.S. would do its share to insure against attack, nuclear or non-nuclear.

GREENVILLE ADVOCATE SUPPORTS PANAMA TREATY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. SIMON. Mr. Speaker, the Greenville Advocate is one of the fine weekly newspapers in Illinois and recently had a column on the Panama Canal Treaty.

That column contains sound advice, and I hope that our colleagues in the Senate will heed its admonition:

THE PANAMA TREATY

When former President Ford spoke out in favor of President Carter's decision to relinquish U.S. control of the Panama Canal by the year 2000 he wasn't exactly plowing new ground.

Nor was former Secretary of State Henry Kissinger when he said that he will support the agreement negotiated by Ellsworth Bunker and Sol Linowitz.

On February 7, 1974, Kissinger signed a U.S.-Panama agreement on principles for canal negotiations. Among other things, the document said the 1903 Panama treaty should be abrogated. A new treaty, the United States agreed, should terminate this country's jurisdiction over Panama territory, give Panama an equitable share of canal benefits and assure joint Panama-United States defense of the waterway.

The Carter administration added specifics. But on the whole its conclusions are about the same as those held by the last two administrations.

Most Americans do not appear to share the official views if we are to believe the polls. They favor U.S. retention of canal ownership, sovereignty and defense for two basic reasons: it's ours and only the United States can defend the canal.

We do not believe we violated the sovereignty of Panama because we built a facility within its borders in accordance with a legal agreement, and we believe that the Panama Canal is essential to the defense and commerce of the United States.

The question then becomes whether the defense and commerce of the United States can best be served if we retain the present arrangements in the Isthmus of Panama. Or can our interests better be served if we approve the treaties advanced by the Carter administration?

Essentially, the treaties would give Panama control of the canal by 2000. The United States would retain a right to co-defend the canal. Neutrality of the waterway is guaranteed and new financial benefits will accrue to Panama.

Refining the basic question, we ask ourselves whether the canal can best serve the United States if it is a tiny enclave in a sea of hostile nations, or is it better if the waterway is kept open through the cooperative efforts of the same nations?

There is no doubt that this is the issue of the Panama treaty. Certainly, the United States could use its vast strength to keep and operate the canal. Equally certain is the fact that if we did so, our relations with the entire hemisphere, indeed the entire Third World, would be severely damaged for no good reason.

By the same token, we have no doubt that the United States could defend the canal under Panama's control—probably with all of the Latin American nations solidly behind us. And the hemispheric cooperation would enhance our defense of the strategic transportation link.

We have been persuaded that the direction taken by the proposed new Panama Canal treaty is correct. We hope that the American people and the Senate reach the same conviction.

The clock is running in Panama. If this Senate does not support the President, the next one, or the one after that, will.

The difference is that today we still can have a treaty with a reservoir of hemispheric good will as its foundation.

Tomorrow we might not be able to.

H.R. 9228—FOR RELIEF OF THE BOY SCOUTS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. ABDNOR. Mr. Speaker, today I have introduced H.R. 9228 for relief of the Black Hills Area Council of the Boy Scouts of America. This bill will provide reimbursement to the Scouts in the amount of $18,831 for expenses incurred in upgrading a road they use jointly with the U.S. Forest Service.

The Forest Service is the primary user of the road and has indicated a sincere desire to compensate the Scouts. A bureaucratic technicality prevents them from doing so, however, and enactment of H.R. 9228 is apparently the only way this matter can be satisfactorily resolved.

The Black Hills Area Council is badly in need of relief; and in reading the following correspondence my colleagues will, I am sure, agree they are most worthy of our rapid favorable consideration:

FOREST SERVICE,
Washington, D.C., August 25, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: Our letter to you dated March 31, 1977, regarding the access road to the Medicine Mountain Boy Scout Camp stated we would reimburse the Boy Scouts $10,000 for their work on the road.

We sincerely regret that closer examination of this claim reveals that we cannot pay it. We are legally bound to the terms of the special use permit issued to the Scouts on June 27, 1975.

We have written to William D. Cook, Chairman of the Council Properties Committee, explaining the situation. It appears now that the only way to reimburse the Scouts would be through a private relief bill. We would recommend to the Department that we not oppose such a bill.

Sincerely,

JOHN R. MCGUIRE,
Chief.

BRADY CONSULTANTS, INC.,
Spearfish, S.D., July 18, 1977.

Mr. JAMES R. MATHERS,
Forest Supervisor, U.S. Department of Agriculture, Forest Service, Black Hills National Forest, Custer, S. Dak.

Re Medicine Mountain Boy Scout Camp, Hill City, South Dakota.

DEAR MR. MATHERS: Attached see statements received and paid by the Black Hills Area Council for work on the Forest Service Road. These are tabulated as follows:

August 2, 4, 5 & 6, 1975; 14 hrs. Blade at $18	$252
July 31, 1975	9,000
October 23, 1975	3,000
October 3 & 6 1975; at 15½ hrs. Blade at $18	279
Hauling and Placing Gravel; 3000 tons 21 miles at .10/ton mile	6,300
Total	18,831

The gravel was hauled to the road by National Guard trucks during the summer training program. If they had not done this, they would have been bringing in building materials that we had to pay truckers to do.

The Boy Scouts requested that the road be upgraded through Mr. David Morin, District Ranger at Hill City. Initially, this road was to be built by the Forest Service by contract, but they did not receive funds to do this.

I met with Congressman James Abdnor and two representatives from Chief McGuire's office to discuss reimbursement to the Boy Scouts for monies spent on the road. Congressman Abdnor and myself were told that steps would be taken to pay for the work done. A copy of my letter requesting reimbursement is enclosed.

If further information is necessary, please contact me.

Yours truly,

WILLIAM D. COOK,
Chairman, Camp Development Committee.

FOREST SERVICE,
Washington, D.C., March 31, 1977.

Hon. JAMES ABDNOR,
House of Representatives

DEAR MR. ABDNOR: This is in response to our discussion on February 28 concerning the access road to the Medicine Mountain Boy Scout Camp in the Black Hills National Forest.

After reviewing the information available to us, we find that:

1. The Boy Scouts own a tract of land surrounded by National Forest land. A Forest Development road is the only access road to their land.

2. The access road was a very low standard road and it was in poor condition.

3. The Scouts asked the Forest Service to upgrade the road.

4. The Forest Service was unable to immediately grant the request due to a lack of funds.

5. The Forest Service, however, explained to the Scouts that we intended to reconstruct this road in conjunction with timber sales in the near future.

6. The Scouts wanted to improve the road in 1976 in time to meet their grand opening in the summer of 1976.

7. The Forest Service proposed a cooperative agreement whereby we would furnish the engineering services, survey, design and staking, culverts, gravel, and construction inspection and the Scouts would construct the road. This was agreeable to the Scouts.

8. The Forest Service issued a Class E permit (free permit) to the Scouts. This allowed them to reconstruct the existing Forest Development road.

Under the terms of the permit the Government retained the right to use and permit general use by others of the road reconstructed under the permit provided such use does not unreasonably interfere with the permittee's use.

9. Both the Scouts and the Forest Service fulfilled their commitments. The road is now complete and it serves the interests of both parties.

10. The Scouts recently asked the Forest Service to reimburse them for their share of the road costs, approximately $18,000.

In discussing this request with the Scouts it was pointed out that we will be the dominant road users during the upcoming timber sales and that our long range plans did call for reconstruction of this road. In fact, we had prepared the road plans before the Scouts contacted us. Therefore, we believe it is in the best interest of the Government to reimburse the Scouts the $18,000 requested.

However, our authority to reimburse for goods and services outside the competitive bidding process is limited to $10,000. We, therefore, are unable to reimburse the Scouts the full amount. They should submit a formal claim to the Forest Supervisor, P.O. Box 792, Custer, South Dakota, 57730. The claim will then be processed through normal channels.

Sincerely,

THOMAS C. NELSON,
(for John R. McGuire, Chief).

OUTLINE OF PROJECT ISABELLE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. AMBRO. Mr. Speaker, growing congressional sophistication in the area of energy research and development has led to direct congressional attention for projects which previously were strictly limited to discussion by academics. We have all seen that lack of long-range planning in the energy sector can create repercussions felt throughout the economy. And with this knowledge, it has become possible to actively promote those programs which will help assure continued U.S. leadership in energy supply and conservation technologies.

One such project has been under development at the Brookhaven National Laboratory for several years. It promises to greatly broaden the capabilities of U.S. research scientists and engineers by opening new avenues of exploration at the most basic, subatomic levels. Called an intersecting storage accelerator—and referred to by the acronym Isabelle—this machine would far surpass any similar research device in the world. The importance of the device is perhaps best reflected in a recent report by the High Energy Physics Advisory Panel of ERDA which urged near-term construction of Isabelle as well as further expansion of its capabilities.

The Committee on Science and Technology, in authorizing the project, formally reiterated that support and similarly called for examination of de-

signs that would yield higher energies for exploration of the atom. By doubling the current energy levels, a technically feasible approach, even greater benefits could be realized. Simultaneously, the committee also stressed the importance of this new project to the continued prominence of the U.S. science community in the area of research.

Having personally toured the facility and followed the numerous advances made in overall particle accelerator design coming from the project, I would like to urge prompt funding for construction of the Isabelle device. It will be an invaluable resource to both current and future researchers in the energy field.

To further illustrate the importance of this project, I have attached the letters of transmittal from the Chairman of the Subpanel on New Facilities, Jack Sandweiss, to Dr. Sidney Drell and also Dr. Drell's letter to the ERDA Deputy Assistant Administrator for Physical Research, Dr. James Kane. The full report of the High Energy Physics Advisory Panel (HEPAP) can be obtained from ERDA.

YALE UNIVERSITY,
New Haven, Conn., June 24, 1977.

Dr. SIDNEY DRELL,
Chairman, High Energy Physics Advisory Panel, in care of Stanford Linear Accelerator Center, Stanford, Calif.

DEAR SIR: I am writing to transmit the report of the 1977 HEPAP Subpanel on New Facilities which met in Wood's Hole from June 5 to June 11, 1977.

There is little that I can add, except to say that the subpanel was unanimous in its recommendations.

With best regards.

Sincerely,

JACK SANDWEISS.

STANFORD LINEAR ACCELERATOR CENTER,
Stanford, Calif., July 6, 1977.

Dr. JAMES S. KANE,
Deputy Assistant Administrator for Physical Research, Energy Research and Development Administration, Washington, D.C.

DEAR JIM: I am forwarding to you the report of the 1977 HEPAP Subpanel on New Facilities which was formed in response to the charge given to it by you at the HEPAP meeting of February 18–19, 1977, in Washington, D.C.

This report was discussed by HEPAP at its June 27–28 meeting in Washington; and the recommendations contained therein were unanimously endorsed. We urge you to take all possible steps to effect their realization.

The discoveries made in the last two years and the technical advances in the accelerator art have reenforced our view that the fundamental strategy of the approach to higher energy via development of electron-positron and proton-proton colliding beams and high energy fixed target facilities is essential to successful investigation of the fundamental structure of matter. ISABELLE is now the critical feature in this program and its construction should begin as soon as possible.

The ISABELLE proton-proton colliding beam facility provides an increase of a factor of more than ten in the center-of-mass energy over that available in the highest energy collisions that are now possible at Fermilab and at CERN.

With this advance of the high energy frontier we expect, on the basis of present theoretical ideas, to cross the threshold for producing the massive fundamental particles that are believed to be the quanta, or carriers, of the weak forces of β radioactivity. The observation of these hypothetical particles will be a major triumph for our current concepts; and the opportunity to explore their properties will be of fundamental importance. On the other hand, failure to confirm their existence in experiments at the very high energies of ISABELLE would also have a very major impact on our understanding of elementary particle interactions. The actual energy recommended by the Subpanel and endorsed by HEPAP, namely a maximum of about 400 GeV for each beam, is higher by a factor of two than that originally proposed for the ISABELLE project. This higher energy is justified by the greatly enhanced physics potential of the facility even though an increase in cost is required. The high luminosity expected coupled with the flexible design of the interaction regions will make possible a broad and rich program of experimentation at ultra high energy. As already emphasized in previous Facilities Subpanel reports, such a facility must be a major part of our future thrust in High Energy Physics.

Since the report of the 1975 Subpanel on New Facilities was issued there have been great strides in high energy physics, highlighted by the discovery of particles exhibiting the new quantum number "charm." We are very appreciative of the considerable efforts by ERDA and the Congress which reversed previously decreasing budgets and have provided a measure of increased support to the field of high energy research. We hope that this trend will continue in the future so that, within the given budgetary guidelines, we can maintain a balanced program utilizing existing facilities and taking advantage of the technical and scientific opportunities for new exploration. With the positron-electron project (PEP) now under construction we have made a start on the three-pronged program which is essential for exploring the fundamental structure of matter. Construction of ISABELLE is now the critical next step to be taken in implementing this strategy.

With best personal wishes.

Sincerely yours,

SIDNEY D. DRELL,
Chairman, High Energy Physics Advisory Panel.

[Appendix B]

PARTICIPANTS 1977 SUBPANEL ON NEW FACILITIES

Panel Members:

J. Sandweiss (Yale).[1]
B. Barish (Cal Tech).
J. Bjorken (SLAC).
T. H. Fields (ANL).
H. Frisch (Chicago).
G. Lambertson (LBL).
L. J. Laslett (LBL).
J. E. Leiss (NBS).[2]
F. E. Low (MIT).[3]
B. McDaniel (Cornell).[2]
H. Neal (Indiana).
P. Reardon (Princetan Plasma Physics Lab).
B. Richter (SLAC).
J. Rosner (Minnesota).
W. Schnell (CERN).
G. Trilling (LBL).
W. Willis (CERN).
R. Fricken (ERDA), Executive Secretary.

CONSULTANTS

R. Kropschot (NBS-Boulder).
M. McAshan (Stanford).
A. McInturff (BNL).
M. Month (BNL).
J. Simpson (ANL).
L. C. Teng (Fermilab).
A. Tollestrup (Fermilab).

OBSERVERS AND VISITING PARTICIPANTS

BNL Representatives

M. Barton.
H. Hahn.
T. Kycia.
R. Palmer.
R. Rau.
J. Sanford.
N. Samios.
G. Vineyard.

Fermilab Representatives

D. Cline (Wisconsin).
T. Collins.
J. Cronin (Chicago).
W. Fowler.
E. Goldwasser.
F. Huson.
P. Livdahl.
P. McIntyre (Harvard).
J. Peoples.
N. Ramsey (URA).
R. Wilson.

SLAC Representatives

J. Ballam and H. Wiedemann.

Other

M. Bardon (NSF).
S. Drell (SLAC, HEPAP).
D. Gould (MIT).
J. Kane (ERDA).
H. Kinney (ERDA).
D. Sutter (ERDA).
W. Wallenmeyer (ERDA).

[1] Chairman.
[2] Co-Chairman, Accelerator Subgroup.
[3] Chairman, Physics Subgroup.

CIVIL SERVICE RETIREMENT PROGRAM NOT THE ANSWER TO SOCIAL SECURITY'S ILLS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. HARRIS. Mr. Speaker, last week, the Ways and Means Subcommittee on Social Security adopted an amendment to H.R. 8218, the social security financing bill, which would require social security coverage for Federal employees. I strongly oppose this amendment and on September 16 urged the subcommittee to reverse this action before reporting the bill.

SEPARATE PROGRAMS JUSTIFIED

Currently, over 2.8 million Federal workers contribute 7 percent of their salary to retirement and agree to participate in the program when they enter Federal service. The subcommittee's amendment fails to recognize the distinctly different underlying purposes of civil service retirement and social security programs: The civil service retirement program was created by Congress in 1920 with the intent of providing a full retirement income based on salary and years of service; the social security program, on the other hand, was established in 1933 as an income assistance program, intended to supplement the earnings or savings of those who otherwise might not be able to support themselves. Therefore, because they are two different programs created for two different purposes, the two programs are not interchangeable. One is not a substitute for the other.

A MAJOR INCENTIVE TO FEDERAL SERVICE

Second, the civil service retirement program has been a primary employment

benefit provided to attract and retain high-caliber personnel. A sudden change in the program of this magnitude would represent a major change in an employee's benefit package and the agreed terms of employment. Upsetting the retirement system so dramatically could inspire a mass exodus from the civil service and induce many Government workers into early retirement. We should be providing positive incentives for people to serve their Government—not creating disincentives to drive them out.

NOT A COMPREHENSIVE SOLUTION TO FINANCIAL PROBLEMS

Third, the social security program is in need of overhaul—short range and long range—and I commend the efforts of the subcommittee to make the program sound, stable, and effective. However, it is unfair to ask those who have and are contributing to the civil service retirement program to bail out the social security program. The amendment, adopted by the subcommittee, appears to be a stopgap measure to bring in fast dollars to social security; it is not a substitute for a comprehensive solution to the system's long-range funding problems.

CIVIL SERVICE COMMITTEE REVIEWING RETIREMENT PROGRAM

I believe that much of the momentum for bringing Federal employees into the social security program stems from the recent and highly publicized controversy over certain retirees who earn Federal pay while receiving a Government pension. The Post Office and Civil Service Committee has in recent months conducted an investigation into "double dipping" and is preparing legislation to remove any inequities that may exist. I am greatly concerned that Federal employees might be used as scapegoats for problems they had no part in creating.

The Compensation and Employee Benefits Subcommittee of the House Post Office and Civil Service Committee, in our work with the Civil Service Commission and the General Accounting Office, is giving close attention to the problems and components of the civil service retirement plan. I am confident that the Ways and Means and Post Office and Civil Service Committees can work together to develop legislation that is consistent with the purposes of the two different programs and is in the national interest.

ESTIMATING THE DEFICIT FOR FISCAL YEAR 1978

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. FISHER. Mr. Speaker, while the debate on the second budget resolution is fresh in mind I want to share with my colleagues certain reflections and concerns regarding the authorization, outlay, revenue, deficit, and debt figures as established in this resolution. In particular, I want to comment on certain deficiencies that have come to light in our emerging budget process with which the House now has had 2 years of experience. The annual budget has become an extremely important instrument with which national priorities are set, expenditure and revenue guidelines established, and the Government's fiscal policy is related to economic conditions and prospects generally. It is also indispensable in maintaining a measure of financial discipline over Government programs.

The resolution in its present form reflects a disturbing trend: The deficit is expected to rise at a time when the economy is improving at a fairly impressive rate. By all existing economic doctrine and logic, it is reasonable to expect that, in a time of economic recovery, the deficit would be reduced from one year to the next. This is especially true when one starts with a large deficit in the base year; the $50 billion deficit provided for in the fiscal year 1977 budget resolution is very large and should be reduced when the economy perks up as revenues rise and recession-induced expenditures fall. I find the most distressing aspect of this budget resolution to be that more than 2 years into an economic recovery expenditures are still expected to rise faster than revenues. I am beginning to think that a ratchet has been built into the budget; with each economic recovery, it becomes increasingly difficult to regain a surplus position.

In general, I supported the Budget Committee's recommendations in the priorities it established for the various functions—defense, income security, agriculture, and others—in the resolution. This is why I voted for the resolution. It is my approval of these relative priorities among functions that leads me to speculate that an across-the-board cut in all functions may be the best way—perhaps the only way—to use the budget process to cut back on excessive outlays. This would maintain the relative priorities as established in the second resolution. I do not think that it is appropriate for the Budget Committee whose responsibility is to focus on the broad fiscal and program aspects to single out any one function to bear the brunt of cuts.

Nor do I believe that only controllable programs, such as many defense programs, should be the target for reductions. Experience shows that entitlement programs and outlays from prior year obligations are big factors in expenditure increases in recent years. In addition, economies can certainly be effected in the administrative costs of the so-called uncontrollable programs.

Proposals to cut the budget by as much as 10 percent—which have been made in the past—are totally unrealistic and would represent a meat-ax approach to budget cutting; the obligations of the Government do not permit such massive cuts in any short period of time. The same applies for a 5-percent cut.

But I believe that a 2-percent cut might be achievable, for two reasons. First, every program has a certain amount of fat, obviously some more than others. By lowering the projected amount available for expenditure by a small amount, program managers would be pushed to install efficiency measures in order to achieve the reduced targets. Second, I believe that Congress should anticipate expenditure shortfalls when formulating its budget resolutions. The inability to spend what is included in the budget resolution is not a temporary phenomenon and should be accounted for on a more permanent basis.

Actual cuts, if necessary, could be achieved in a number of ways: revised procedures in controllable programs, efficiencies in the administration of entitlement programs, slowdown in the spendout rate for obligations incurred in prior years, tightened enforcement of eligibility for entitlement programs. It is my belief that almost every program can achieve savings of 2 percent from the level of estimated outlays. Two cents saving out of a dollar is not unreasonable.

An argument that will be marshaled against this way of proceeding is that certain functional categories cannot sustain a 2-percent reduction below the targets established in the Budget Committee's recommendations. This might be especially true for functions that contain a heavy concentration of entitlement programs which are not amenable to short-run budgetary changes.

In this regard, it is important to remember that the functional targets in the budget resolution are not binding. Only the five aggregate totals—those for revenues, budget authority, expenditures, deficit, and public debt—are subject to points of order if violated. If, for example, a 2-percent reduction cannot be achieved in the level of veterans' benefits—which is mostly entitlement—as currently envisioned in the resolution, it would still be possible to effect more than a 2-percent reduction in some other function, and thereby still observe the binding figure for total expenditures.

But the real point of the matter is that in many cases actual cuts would not be necessary to achieve a 2-percent reduction. What we are talking about here is not a reduction in some amount already spent but simply a lower estimate of what will be spent. Since the introduction of the congressional budget process in 1974, it has become apparent that outlays as estimated by the executive branch cannot be expected to be fully expended by the end of the fiscal year. For fiscal year 1976, the shortfall was some $9 billion below the amount in the budget resolution that was passed on a trial basis in that year. In the current 1977 fiscal year, it now appears that expenditures will be $7 billion below the figures in the revised third resolution that was agreed to in May of this year, just 4 months ago.

Nobody is yet quite sure why the shortfall occurs. There is probably a tendency to overestimate the amount of money that can be spent in the early years of new programs; supporters tend to be optimistic as they try to sell the program. Similarly, in existing programs, expanded appropriations do not always spend out at the same rate as the base amount of dollars for more established activities.

My own view is that the shortfall is a natural consequence of an inherent characteristic of budgetmakers. Engrained in the soul of those responsible for preparing budgets is the dictum: never underestimate what you will spend and never overestimate what you will receive in revenues.

The Congressional Budget Act confirmed this tendency by calling for a ceiling on expenditures and a floor on revenues. This tendency is reinforced by the frequently successful efforts made on the floor at the very end of the budget process to push the outlay ceiling still higher so as to accommodate new or expanded programs just in case they might be authorized later on. Thus, it is reasonable to expect that there will continue to be an upward bias in estimates of expenditures—since you can spend less, but you cannot spend more—and a downward bias in estimates of revenues—since everything is fine if more revenues come in but there is much trouble if actual amounts fall short of estimates.

Several outside estimates predict that total Federal spending for next year will in fact fall short of the $450 billion mark. I am simply suggesting that such estimates might be incorporated into our budget resolution. With this sort of change the budget could be expressed in terms of realistic guidelines, rather than floors and ceilings.

Our experience in the past 2 years is that expenditure shortfalls have occurred in most functional categories: no one program or group of programs appears to be the culprit in the mystery of the shortfall. This is consistent with my hypothesis that shortfalls are endemic to the nature of Government budgeting, and cannot be attributed to the idiosyncracies of particular programs.

An approach such as I am considering here is consistent with the views I expressed in the committee report for this resolution and with remarks I made during the debate on the second resolution. I believe we must move in the direction of a declining deficit when the economy is doing reasonably well and the outlook is favorable. I believe that the budget process must impose a discipline on controllable and uncontrollable programs alike. And I believe that the budget resolution should present a realistic appraisal of what is expected to happen, not a pumped-up deficit that contemplates the worst that could happen.

All of this adds up to an expression of my concern for the integrity and usefulness of the budget process without which the Congress is thrown back to the earlier, untenable situation in which we lacked the capacity to deal sensibly with Government finance. Such a reversion must not be allowed to happen and this requires alertness to deficiencies in the process and its results, and a willingness to improve it. I intend to try to translate the concerns expressed here into changes in the way the House Budget Committee on which I serve and the Congress generally deals with the 1979 budget next year. I want to see improvements in the next first budget resolution that will be developed next winter and spring. Congress must reassert greater discipline over expenditures and deficit and must not again approve a budget resolution in which these two magnitudes are inflated as a result of unrealistic estimates.

NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 20, 1977

Mr. WEISS. Mr. Speaker, the neutron bomb or enhanced radiation weapon has raised a number of questions about U.S. nuclear weapon policy. My amendment, cosponsored by 23 Members of the House, deleting all funds for the neutron bomb has drawn opposition from five of my colleagues, Representatives ROBERT CARR, THOMAS DOWNEY, CHRISTOPHER DODD, LES ASPIN, and JOHN ANDERSON. They have voiced their case in letters to other Members of the House.

In Mr. CARR's letter, the gentleman from Michigan starts by stating that the "neutron warhead contains technological advances that render it many times more resistant than older weapons to use by terrorists or other unauthorized personnel."

I also believe all our weapons should be resistant to use by terrorists, but I do not think we can justify producing a new weapon just because the latest safety devices are absent in our existing weapons.

In fact, some of our present weapons already have these safety devices or ones very similar to them. The nuclear Lance warhead, for example, is already equipped with the PAL (Permissive Action Link) system, essentially a double-key entry system, which is intended for the enhanced radiation Lance warhead. In addition, another system called NEDS (nonviolent explosive destruct system), which automatically defuses a warhead, can be used on all nuclear weapons, not just those with enhanced radiation.

In his second point, Representative CARR says that the "neutron warhead is usable only in defensive situations. It has no significant application to offensive warfare."

This is misleading and inaccurate. The neutron bomb is obviously available for both offensive and defensive purposes, and its deployment could certainly be viewed as an offensive or as a counter-offensive action. The use, for example, of this weapon by NATO, which the Soviet Union views as an offensive alliance, could easily be regarded as an offensive tactic.

Representative CARR goes on to say that:

> If used in defensive battle—that is, on friendly soil—the neutron warhead will reduce civilian casualties and long-term radioactive contamination to a tiny fraction of that which would be incurred by the use of the older weapons it will replace. I see no morality in insisting on dirty weapons.

This argument loses impact when it is remembered that the use of an enhanced radiation weapon will not occur one warhead at a time. The Pentagon has said that an enhanced radiation warhead would come in a "package of nuclear weapons" and conventional arms. This package could include as many as 50 enhanced radiation warheads.

Army Field Manual 100–5, page 10–7, which describes tactics for planning nuclear strikes, also makes it clear that the Army would use a variety of warheads:

> Although many weapons will probably be available, release may be expected for only the numbers and types of weapons included in planned "packages" of nuclear weapons. A package is a group of nuclear weapons of specific yields for employment in a specified area, within a limited time frame, to support a tactical contingency.

Thus, while an individual enhanced radiation warhead may reduce collateral damage, the multiple use of such a weapon limits its usefullness in preventing collateral damage. Even the Army, in Field Manual 101–31–1, admits that some damage to populated areas should be expected.

In his final point, Representative CARR says that the "President and the Secretary of Defense fully and clearly understand that the neutron warhead is a nuclear weapon and should not be used except in the most dire of circumstances."

While our present President and Secretary of Defense may understand this, no one can guarantee the intentions of their successors. Representative CARR's final point also avoids the issue of lowering the threshold of nuclear warfare.

In deploying a nuclear weapon, we increase the likelihood of reaching "the most dire of circumstances." Until now, the use of nuclear weapons has been seen as a last resort, but the neutron warhead would be used before a truly last resort situation occurred. The tragedy, of course, is that a neutron bomb confrontation could be escalated to last resort proportions.

Furthermore, former Secretary of Defense James Schlesinger, in "The Theater Nuclear Force Posture in Europe: A Report to the U.S. Congress in Compliance with P.L. 365," has pointed out that U.S. deployment of a neutron warhead would be met with a Soviet or Warsaw Pact response that is not likely to be limited. According to Schlesinger, despite a recent trend to improve its conventional forces and recognize that a conventional war in Europe need not escalate to nuclear war, the Warsaw Pact strategy, doctrine and forces are still strongly oriented toward nuclear operations. Evidence suggests that the Warsaw Pact thinks in terms of employing all "weapons of mass destruction"—nuclear, chemical, biological, and conventional.

In his letter, the gentleman from New York, Representative DOWNEY, assumes a scenario in which the Soviets have invaded Western Europe, NATO conventional forces are unsuccessful in repelling the invasion, and West Germany prefers the use of nuclear weapons to the prospect of surrender.

Although all these assumptions are questionable, I disagree most with the assertion that West Germany would agree to the use of any nuclear weapon on its soil. For years, our European allies

have feared that their countries would once again be the site of a world war. Given the devastation caused by conventional weapons in World War I and World War II, it is difficult to envision them as ready to accept the destruction that would accompany the use of neutron warheads.

President Carter has already delayed his decision on the neutron bomb partly because the sharp criticism of the new weapon in West Germany. Egon Bahr, executive secretary of Prime Minister Helmut Schmidt's political party, vehemently opposed neutron weapons in his party's newspaper.

In his final point, Representative DOWNEY says that—

> Any nuclear weapon carries with it a high probability of escalation; whatever reduction in this probability can be achieved will be a function of where the weapon is used, not what type of weapon is used; the neutron warhead best lends itself to use on friendly soil.

I have already shown, in responding to Representative CARR, that the multiple use of these warheads causes much more damage than a single warhead. This damage could extend beyond the confines of friendly soil. Nor do I think we can seriously expect an enemy not to retaliate in kind after we have used a nuclear weapon on them, regardless of where the confrontation takes place.

The concern with the location of the use of the neutron warhead ignores two other effects of the weapon. The warhead being considered by President Carter delivers enough radiation to produce vomiting, diarrhea and other radiation sickness symptons. There is also some evidence that elements, such as carbon, would begin to emit lethal radiation as the result of a neutron blast. A tank's armor, according to a recent article in Army magazine, could also capture neutrons and radiate lethal radiation. United States and NATO equipment could become irradiated, posing a terrible threat to our own troops.

In their letter, the gentlemen of Connecticut, Wisconsin, and Illinois, Representatives DODD, ASPIN, and ANDERSON, state that their amendment is not "intended to express congressional opposition to neutron warheads, for we believe such opposition is premature at this time and that the pros and the cons involving these weapons do not now present us with a clear and convincing choice whether to approve or halt production."

A decision to stop deployment of the neutron bomb would not stop Congress from reconsidering the issue at some future date. There is no evidence suggesting that the weapon is crucial to our military arsenal at this time. I agree with Representatives DODD, ASPIN, and ANDERSON; we must give this issue careful consideration. The best way of assuring this, however, is to stop production now. The compromise proposed by Representatives DODD, ASPIN, and ANDERSON avoids confronting this important decision.

In closing, I would like to raise one point all three letters failed to mention: The difficult moral burden that goes with a decision to deploy the neutron bomb. Thirty years ago, the United States dropped an atomic bomb on Hiroshima, introducing the world to a new level of destruction and igniting a chain of events posing a constant threat to humanity. Since then, considerable effort has been made to limit nuclear proliferation and defuse this threat. Production and deployment of this weapon would be an unfortunate departure from this policy and could ignite the fuse leading to a nuclear holocaust. I do not think anyone should risk this possibility. I urge all Members to join me in deleting funds for the neutron bomb.

My amendment to H.R. 6566, which should be inserted on page 18 after line 3 as a new section, section 104, reads as follows:

> None of the funds authorized to be appropriated under this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation weapon or for research, development, test, or evaluation with respect to any such weapon.

COSPONSORS OF AMENDMENT ON NEUTRON BOMB

Mr. Speaker, on Wednesday I will introduce an amendment to delete all funds in the ERDA national security authorization (H.R. 6566) for the neutron bomb. Twenty-three of my colleagues in the House will join me in introducing this important measure.

The names of these cosponsors are printed below:

Representatives Herman Badillo, Berkley Bedell, William Brodhead, John Burton, John Conyers, Ron Dellums, Robert Drinan, Robert Edgar, and Don Edwards.

Representatives Dan Glickman, Elizabeth Holtzman, Robert Kastenmeier, Andrew Maguire, Edward Markey, Barbara Mikulski, George Miller, Parren Mitchell, Richard Nolan, Richard Ottinger, Leon Panetta, Fred Richmond, Fortney (Pete) Stark, and Henry Waxman.